



Commission Agenda Report

To: Chair Jennings and Members of the Planning Commission

Prepared by: Kathleen Stecko, Administrative Assistant

Approved by: Richard Mollica, Planning Director

Date prepared: August 5, 2021 Meeting date: August 16 2021

Subject: Approval of Minutes

RECOMMENDED ACTION: Approve the minutes for the June 30, 2021 Special Planning Commission meeting and the July 19, 2021 and August 2, 2021 Regular Planning Commission meetings.

DISCUSSION: Staff has prepared draft minutes for the above-referenced Planning Commission meeting and hereby submits the minutes for the Commission's consideration.

ATTACHMENTS:

1. June 30, 2021 Special Planning Commission Meeting
2. July 19, 2021 Regular Planning Commission Meeting
3. August 2, 2021 Regular Planning Commission Meeting

MINUTES
MALIBU PLANNING COMMISSION
SPECIAL MEETING
JUNE 30, 2021
TELECONFERENCED – VARIOUS LOCATIONS
6:30 P.M.

The following meeting was held pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

CALL TO ORDER

Chair Jennings called the meeting to order at 6:30 p.m.

ROLL CALL

The following persons were recorded in attendance via teleconference by the Recording Secretary:

PRESENT: Chair Jeffrey Jennings, Vice Chair David Weil, and Commissioners Kraig Hill, John Mazza, and Dennis Robert Smith

ALSO PRESENT: Patrick Donegan, Assistant City Attorney; Richard Mollica, Planning Director; Tyler Eaton, Assistant Planner; Adrian Fernandez, Principal Planner; Lilly Rudolph, Contract Planner; and Kathleen Stecko, Administrative Assistant

APPROVAL OF AGENDA

MOTION Commissioner Mazza moved and Vice Chair Weil seconded a motion to approve the agenda. The question was called, and the motion carried unanimously.

REPORT ON POSTING OF AGENDA

Administrative Assistant Stecko reported that the agenda for the meeting was properly posted on June 25, 2021.

ITEM 1.A. PUBLIC COMMENTS

Scott Dittrich stated he would like to see community supported projects such as the Sea View Hotel project avoid delay as they were a benefit to the community.

ITEM 1.B. COMMISSION / STAFF COMMENT

Commissioner Mazza stated he wanted the public to know that the time spent discussing projects at Planning Commission meetings was necessary to fairly render decisions.

Commissioner Hill stated issues discussed at Planning Commission meetings regarding utility poles may have seemed trivial, however the Planning Commission had limited discretion on more consequential aspects of the projects given the Federal Communications Commission rules.

In response to Vice Chair Weil, Planning Director Mollica stated the City was

working toward a remedy to the safety hazard created by the removal of the fence at the end of La Costa Beach.

ITEM 2 CONTINUED PUBLIC HEARINGS

- A. Coastal Development Permit No. 17-086, Conditional Use Permit No. 21-001, General Plan Amendment No. 21-001, General Plan Map Amendment No. 17-002, Local Coastal Program Amendment No. 16-006, Zoning Map Amendment No. 17-002, Zoning Text Amendment No. 20-001, Development Agreement No. 21-001, Lot Merger No. 20-002, Demolition Permit No. 20-19, Initial Study No. 21-001, and Mitigated Negative Declaration No. 21-001 – An application for the conversion of an existing office building and gas station into a hotel, including new development (Continued from June 21, 2021)

Locations: 22729 and 22741 Pacific Coast Highway, within the appealable coastal zone

APNs: 4452 022-010 and 4452-022-017

Owners: Grey Granite, LLC; Las Tunas Beach, LLC; and Sea View Terrace, LLC

Case Planner: Contract Planner Rudolph, 456-2489, ext. 250

Recommended Action: Adopt Planning Commission Resolution No. 21-47 recommending to the City Council the adoption of Initial Study No. 21-001 and Mitigated Negative Declaration No. 21-001 prepared for the project pursuant to the California Environmental Quality Act and approval of Coastal Development Permit No. 17-086, Conditional Use Permit No. 21-001, General Plan Amendment No. 21-001, General Plan Map Amendment No. 17-002, Local Coastal Program Amendment No. 16-006, Zoning Map Amendment No. 17-002, Zoning Text Amendment No. 20-001, Development Agreement No. 21-001, Lot Merger No. 20-002, and Demolition Permit No. 20-19 to rezone and change the land use designation of the properties from Community Commercial to Commercial Visitor Serving-Two a new Sea View Hotel Overlay District with associated development standards, including the proposed floor area ratio of 0.52 for the public benefits provided by the project, and a new 26,734 square foot, 39-room hotel, involving the remodel of an existing four-story, 15,392 square foot commercial building and a 9,500 square foot parking level at 22741 Pacific Coast Highway (PCH) and construction of a new two-story, 11,342 square foot addition plus a basement on an adjacent parcel at 22729 PCH, and authorizing the Planning Director to submit a letter of public convenience or necessity for the use. The project includes a restaurant/bar, spa, rooftop deck, swimming pool, new surface parking lot, hardscape, landscaping, grading, retaining wall, lighting, utilities, and an upgrade and expansion of the existing onsite wastewater treatment system and associated lot merger of the two involved (Grey Granite, LLC; Las Tunas Beach, LLC; and Sea View Terrace, LLC).

Contract Planner Rudolph presented the staff report.

Disclosures: Commissioners Hill and Mazza, Vice Chair Weil, and Chair Jennings.

The Commission directed questions to staff.

As there were no further questions for staff, Chair Jennings opened the public comment portion of the public hearing.

Speakers: Norman Haynie, Jordan Sisson, Jonah Breslau, Aura Garcia, Otilia Toledo, Marina Zepeda, Lupe Stevenson, Edith Garcia, Ligia Rivas, Sandra Ramirez, Rene Trotter, Julio Lopez, Hamish Patterson, Jefferson Wagner, Vitus Matare, Bill Curtis, Lynn Norton, Ryan Embree, and Jose Calderon.

As there were no other speakers present, Chair Jennings closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff.

RECESS At 8:45 p.m. Chair Jennings recessed the meeting. The meeting reconvened at 8:57 p.m. with all Commissioners present.

The Commission directed questions to staff and Mr. Haynie.

MOTION Vice Chair Weil moved to adopt Planning Commission Resolution No. 21-47 recommending to the City Council the adoption of Initial Study No. 21-001 and Mitigated Negative Declaration No. 21-001 prepared for the project pursuant to the California Environmental Quality Act and approval of Coastal Development Permit No. 17-086, Conditional Use Permit No. 21-001, General Plan Amendment No. 21-001, General Plan Map Amendment No. 17-002, Local Coastal Program Amendment No. 16-006, Zoning Map Amendment No. 17-002, Zoning Text Amendment No. 20-001, Development Agreement No. 21-001, Lot Merger No. 20-002, and Demolition Permit No. 20-19 to rezone and change the land use designation of the properties from Community Commercial to Commercial Visitor Serving-Two a new Sea View Hotel Overlay District with associated development standards, including the proposed floor area ratio of 0.52 for the public benefits provided by the project, and a new 26,734 square foot, 39-room hotel, involving the remodel of an existing four-story, 15,392 square foot commercial building and a 9,500 square foot parking level at 22741 Pacific Coast Highway (PCH) and construction of a new two-story, 11,342 square foot addition plus a basement on an adjacent parcel at 22729 PCH, and authorizing the Planning Director to submit a letter of public convenience or necessity for the use. The project includes a restaurant/bar, spa, rooftop deck, swimming pool, new surface parking lot, hardscape, landscaping, grading, retaining wall, lighting, utilities, and an upgrade and expansion of the existing onsite wastewater treatment system and associated lot merger of the two involved (Grey Granite, LLC; Las Tunas Beach, LLC; and Sea View Terrace, LLC); 2) Add condition of approval to require payment of in-lieu fee for overnight luxury accommodations of \$110,000; 3) Add condition of approval to grant authority to the Planning Director to approve the relocation of the restaurant from the first level to the fifth level; 4) Amend Condition No. 30 to require installation of the check valve replacement at the time of certificate of compliance; 5) Amend Condition No. 35 to allow the incorporation of colors including light shades consistent with the existing colors; and 6) Add condition of approval to require adequate staff shall be provided to manage traffic entering and existing the site to ensure that traffic does not back up onto Pacific Coast Highway.

FRIENDLY AMENDMENT

Chair Jennings seconded and amended the motion to require temporary use permits for all events. The amendment was accepted by the maker of the motion.

The Commission directed questions to staff and Mr. Haynie.

FRIENDLY AMENDMENT

Commissioner Mazza amended the motion to require all valet parking.

The amendment was accepted by the maker and the seconder.

AMENDMENT

Commissioner Mazza moved and Commissioner Hill seconded a motion requiring a guaranteed public benefit of a minimum of one half of the \$1,300,000.00 proposed by the applicant, indexed to inflation with a provision that the business has to be open a minimum of 50 percent of the year.

The Commission discussed the amendment.

The question was called and the amendment failed 2-3, Commissioner Smith, Vice Chair Weil, and Chair Jennings dissenting.

FRIENDLY AMENDMENT

Commissioner Mazza amended the motion to: 1) Add conditions of approval regarding sound: a) No amplified sound, including a pager system, is permitted which creates a nuisance. All sound emanating from the site shall comply with MMC Chapter 8.24 (Noise Ordinance); b) All speakers shall be down facing and the sound limiter built into the sound system shall be used at all times; c) The Planning Director shall have the ability to lower the approved sound level if verified complaints are received; d) The operator shall cease the use of the amplified music/sound system upon notice by the Planning Director of three sequential violations of the noise conditions; 2) Add a condition of approval to require the Planning Department staff conduct a review of hotel operations and compliance with conditions of approval one year and five years after hotel operations commence; 3) Add a condition of approval to grant the Planning Director authority to review monument signs, with lighting type determined by safety alternatives; 4) Prohibit a joint use parking; 5) Add a condition of approval to require delivery trucks to park onsite, not in median; 6) Prohibit off-site sales of alcohol, require that all alcohol purchased is consumed onsite; 7) Add a condition of approval requiring exterior walls must be sound tight should the service area of the restaurant be reconfigured to be indoor-outdoor; 8) Add a condition of approval to prohibit use of the private patios for public use, patios attached to hotel rooms may be accessed by hotel patrons only; and 9) Add a condition of approval to require that the five car lifts are removed from the project plans.

The amendment was accepted by the maker and the seconder.

FRIENDLY AMENDMENT

Commissioner Mazza amended the motion to require a generator adequate to operate for two days in order for the facility to be used as a shelter during an emergency.

The Commission discussed the amendment.

The amendment was withdrawn.

FRIENDLY AMENDMENT

Commissioner Hill amended the motion requiring the in lieu of fee to be allocated for improvements and not placed into the General Fund.

The Commission discussed the amendment.

The amendment was withdrawn.

FRIENDLY AMENDMENT

Commissioner Mazza amended the motion prohibiting linens from being laundered onsite.

The amendment was accepted by the maker and the seconder.

The question was called and the amended motion carried unanimously.

Item Nos. 2.B., 2.C., and 2.D. were heard concurrently.

- B. Wireless Communications Facility No. 18-008, Coastal Development Permit No. 18-032, Variance No. 18-039, and Site Plan Review No. 18-034 - An application for a new wireless communications facility on top of a replacement streetlight pole, including a ground-mounted backup power battery unit, in the public right-of-way (Continued from June 21, 2021)

Location: 22651.5 Pacific Coast Highway, within the appealable coastal zone

Nearest APN: 4452-022-005

Geo-coordinates: 34°02'22.07"N, 118°40'05.2"W

Applicant: Eukon Group for Verizon Wireless

Owner: California Department of Transportation Public Right-of-Way

Case Planner: Assistant Planner Eaton, 456-2489, ext. 273

Recommended Action: Adopt Planning Commission Resolution No. 21-40 determining the project is categorically exempt from the California Environmental Quality Act, and approving Wireless Communications Facility No. 18-008 and Coastal Development Permit No. 18-032 for Verizon Wireless to install an omnidirectional canister antenna on top of a replacement streetlight pole reaching a maximum height of 32 feet, 3 inches and electrical support equipment, including Variance No. 18-039 to permit a streetlight pole over 28 feet in height and Site Plan Review No. 18-034 to install and operate a wireless communications facility within the public right-of-way located at 22651.5 Pacific Coast Highway (Verizon Wireless).

- C. Wireless Communications Facility No. 19-020, Coastal Development Permit No. 20-019, Variance No. 19-049, and Site Plan Review No. 20-020 – An application for an upgraded wireless communications facility on a new replacement wooden utility pole in the public right-of-way (Continued from June 21, 2021)

Location: 18921.5 Pacific Coast Highway, within the appealable coastal zone

Nearest APN: 4449-009-012

Geo-coordinates: 34°02'22.03"N, 118°35'16.10"W

Applicant: Motive for Verizon Wireless

Owner: California Department of Transportation Public Right-of-Way

Case Planner: Assistant Planner Eaton, 456-2489, ext. 273

Recommended Action: Adopt Planning Commission Resolution No. 21-42 determining the project is categorically exempt from the California Environmental Quality Act, and approving Wireless Communications Facility No. 19-020 and Coastal Development Permit No. 20-019 for Verizon Wireless to install replacement wireless communications facility antennas at a height of 30 feet, 6 inches and electrical support equipment mounted on a 39-foot tall replacement wooden utility pole, including Variance No. 19-049 to permit an upgraded wireless communications facility mounted over 28 feet in height and Site Plan Review No. 20-020 to install and operate a wireless communications facility within the public right-of-way located at 18921.5 Pacific Coast Highway (Verizon Wireless).

- D. Wireless Communications Facility No. 20-005, Coastal Development Permit No. 20-031, Variance No. 20-021, and Site Plan Review No. 20-037 – An application for a new wireless communications facility on top of a replacement streetlight pole in the public right-of-way (Continued from June 21, 2021)

Location: 22340.5 Pacific Coast Highway, within the appealable coastal zone

Nearest APN: 4452-001-019

Geo-coordinates: 34°02'21.70"N, 118°39'41.47"W

Applicant: Eukon Group for Verizon Wireless

Owner: California Department of Transportation Public Right-of-Way

Case Planner: Assistant Planner Eaton, 456-2489, ext. 273

Recommended Action: Adopt Planning Commission Resolution No. 21-52 determining the project is categorically exempt from the California Environmental Quality Act, and approving Wireless Communications Facility No. 20-005 and Coastal Development Permit No. 20-031 for Verizon Wireless to install a new omnidirectional canister antenna on top of a replacement streetlight pole reaching a maximum height of 32 feet, 3 inches and, pole-mounted electrical support equipment, including Variance No. 20-021 to permit a new wireless communications facility mounted over 28 feet in height and Site Plan Review No. 20-037 to install and operate a wireless communications facility within the public right-of-way located at 22340.5 Pacific Coast Highway (Verizon Wireless).

Assistant Planner Eaton presented the staff report.

Disclosures: Vice Chair Weil.

As there were no questions for staff, Chair Jennings opened the public comment portion of the public hearing.

Speakers: Bardo Osorio and Daisy Uy Kimpang.

As there were no other speakers present, Chair Jennings closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff.

MOTION Commissioner Mazza moved and Chair Jennings seconded a motion to adopt Planning Commission Resolution No. 21-40, as amended: 1) determining the project is categorically exempt from the California Environmental Quality Act, and approving Wireless Communications Facility No. 18-008 and Coastal Development Permit No. 18-032 for Verizon Wireless to install an omnidirectional canister antenna on top of a replacement streetlight pole reaching a maximum height of 32 feet, 3 inches and electrical support equipment, including Variance No. 18-039 to permit a streetlight pole over 28 feet in height and Site Plan Review No. 18-034 to install and operate a wireless communications facility within the public right-of-way located at 22651.5 Pacific Coast Highway (Verizon Wireless); and 2) eliminating Condition of Approval No. 30, which states: "If not already completed, permittee shall enter into the appropriate agreement with the City, as determined by the City, prior to constructing, attaching, or operating a facility on municipal infrastructure. This permit is not a substitute for such agreement."

The Commission discussed the motion.

The Commission directed questions to staff, Ms. Uy Kimpang, and Mr. Osorio.

The question was called, and the motion carried unanimously.

MOTION Commissioner Mazza moved and Chair Jennings seconded a motion to adopt Planning Commission Resolution No. 21-42, as amended: 1) determining the project is categorically exempt from the California Environmental Quality Act, and approving Wireless Communications Facility No. 19-020 and Coastal Development Permit No. 20-019 for Verizon Wireless to install replacement wireless communications facility antennas at a height of 30 feet, 6 inches and electrical support equipment mounted on a 39-foot tall replacement wooden utility pole, including Variance No. 19-049 to permit an upgraded wireless communications facility mounted over 28 feet in height and Site Plan Review No. 20-020 to install and operate a wireless communications facility within the public right-of-way located at 18921.5 Pacific Coast Highway (Verizon Wireless); and 2) eliminating Condition of Approval No. 30, which states: "If not already completed, permittee shall enter into the appropriate agreement with the City, as determined by the City, prior to constructing, attaching, or operating a facility on municipal infrastructure. This permit is not a substitute for such agreement."

The question was called, and the motion carried unanimously.

MOTION Commissioner Mazza moved and Chair Jennings seconded a motion to adopt Planning Commission Resolution No. 21-52, as amended: 1) determining the project is categorically exempt from the California Environmental Quality Act, and approving Wireless Communications Facility No. 20-005 and Coastal Development Permit No. 20-031 for Verizon Wireless to install a new omnidirectional canister antenna on top of a replacement streetlight pole reaching a maximum height of 32 feet, 3 inches and, pole-mounted electrical support equipment, including Variance No. 20-021 to permit a new wireless communications facility mounted over 28 feet in height and Site Plan Review No. 20-037 to install and operate a wireless communications facility within the public right-of-way located at 22340.5 Pacific Coast Highway (Verizon Wireless); and 2) eliminated Condition of Approval No. 30, which states: "If not already completed, permittee shall enter into the appropriate agreement with the City, as determined by the City, prior to constructing, attaching, or operating a facility on municipal infrastructure. This permit is not a substitute for such agreement."

The question was called, and the motion carried 4-1, Commissioner Hill dissenting.

MOTION Commissioner Mazza moved and Chair Jennings seconded a motion recommending staff recommend City Council create a Telecommunications Commission.

The question was called and the motion carried unanimously.

ITEM 6 OLD BUSINESS

None.

ITEM 7 NEW BUSINESS

None.

ITEM 8 PLANNING COMMISSION ITEMS

None.

ADJOURNMENT

MOTION At 10:47 p.m., Commissioner Mazza moved and Chair Jennings seconded a motion to adjourn the meeting. The question was called, and the motion carried unanimously.

Approved and adopted by the Planning Commission
of the City of Malibu on _____.

JEFFREY JENNINGS, Chair

ATTEST:

KATHLEEN STECKO, Administrative Assistant

MINUTES
MALIBU PLANNING COMMISSION
REGULAR MEETING
JULY 19, 2021
TELECONFERENCED – VARIOUS LOCATIONS
6:30 P.M.

The following meeting was held pursuant to the Governor’s Executive Orders N-25-20 and N-29-20 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

CALL TO ORDER

Chair Jennings called the meeting to order at 6:34 p.m.

ROLL CALL

The following persons were recorded in attendance via teleconference by the Recording Secretary:

PRESENT: Chair Jeffrey Jennings, Vice Chair David Weil, and Commissioners Kraig Hill, John Mazza, and Dennis Robert Smith

ALSO PRESENT: Trevor Rusin, Assistant City Attorney; Richard Mollica, Planning Director; Rob Duboux, Public Works Director / City Engineer; Didier Murillo, Associate Planner; Lilly Rudolph, Contract Planner; Troy Spayd, Assistant Public Works Director/Assistant City Engineer; Kathleen Stecko, Administrative Assistant; and Jessica Thompson, Associate Planner

APPROVAL OF AGENDA

MOTION Commissioner Mazza moved and Chair Jennings seconded a motion to approve the agenda. The question was called, and the motion carried unanimously.

REPORT ON POSTING OF AGENDA

Administrative Assistant Stecko reported that the agenda for the meeting was properly posted on July 9, 2021.

ITEM 1 CEREMONIAL/PRESENTATIONS

None.

ITEM 2.A. PUBLIC COMMENTS

None.

ITEM 2.B. COMMISSION / STAFF COMMENT

Commissioner Mazza stated there had been a fire earlier in the day just outside of the Malibu city limits and cautioned the community to be mindful of fire safety.

Commissioner Hill stated he did not receive the emergency notification in response to a fire that occurred earlier in the week at approximately 2:00 a.m. until 7:30 a.m. and that he would follow up with Malibu Public Safety Manager Susan Duenas. He stated he would like the public participants to have the option to be seen on video during teleconference Planning Commission meetings and to have an early cut-off time for submission of correspondence. He stated his appeal to the California Coastal Commission (CCC) was heard during the past week and although they determined no substantial issue existed, they agreed with his interpretation of wave uprush and the two-thirds rule.

Chair Jennings agreed with Commissioner Hill regarding the two-thirds rule and stated that the Commission could make their own determinations about application of the Local Coastal Program (LCP). He stated a court of appeal decision determined that the CCC and the State of California Department of Housing and Community Development had concurrent jurisdiction at mobile home parks.

In response to Commissioner Hill, Planning Director Mollica stated the two-thirds rule in the LCP was taken from the Malibu Municipal Code and research would need to be conducted to determine the reason why floor area was used versus total development square footage and that the Zoning Ordinance Revisions and Code Enforcement Subcommittee could explore the implications the CCC's interpretation would have on future development. In response to Chair Jennings he stated Malibu's zoning ordinances only addressed clubhouses at mobile home parks and that if the City was responsible for regulating the mobile homes, it was possible that new ordinances would need to be adopted.

Assistant City Attorney Rusin stated there was likely not going to be any impact on the construction of the units but the ruling might involve unit placement or wastewater issues.

Commissioner Mazza stated there might be a requirement that the units met the Department of Transportation standards.

ITEM 3 CONSENT CALENDAR

Commissioner Hill pulled Item No. 3.B.5. from the Consent Calendar.

MOTION Commissioner Mazza moved, and Chair Jennings seconded a motion to approve the balance of the Consent Calendar. The question was called, and the motion carried unanimously.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

None.

B. New Items

1. Approval of Minutes

Recommended Action: Approve the minutes for the June 7, 2021 Regular Planning Commission meeting.

2. De Minimis Waiver No. 21-008— An application for a new onsite wastewater treatment system for a Woolsey Fire affected parcel
Location: 5841 Busch Drive, partially within the appealable coastal zone
APN: 4469-012-022
Case Planner: Contract Planner Shah, 456-2489, ext. 385
Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 21-008 for a new onsite wastewater treatment system for a Woolsey affected parcel.
3. De Minimis Waiver No. 21-013— An application for a new onsite wastewater treatment system for a Woolsey Fire affected parcel
Location: 6100 Via Cabrillo Drive, not within the appealable coastal zone
APN: 4469-016-027
Case Planner: Planning Technician Carr, 456-2489, ext. 295
Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 21-013 for a new onsite wastewater treatment system for a Woolsey affected parcel.
4. Administrative Coastal Development Permit No. 20-054 – An application for the construction of a replacement water well on a property developed with a single-family residence
Location: 31534 Anacapa View Drive, not within the appealable coastal zone
APN: 4470-007-013
Owners: David and Alisha Hirsch
Case Planner: Planning Technician Allen, 456-2489, ext. 233
Recommended Action: Receive and file the Planning Director's report on the approval of Administrative Coastal Development Permit No. 20-054.

The following item was pulled from the Consent Calendar for individual consideration:

5. Administrative Coastal Development Permit No. 19-004 – An application for the construction of a new second unit, new onsite wastewater treatment system, and associated development, including a site plan review for a Fire Department access walkway on slopes steeper than 3 to 1, but less than 2.5 to 1
Location: 3343 Rambla Pacifico Street, not within the appealable coastal zone
APN: 4451-011-020
Owner: Lynn M Maccuish Trust
Case Planner: Associate Planner Murillo, 456-2489, ext. 353
Recommended Action: Receive and file the Planning Director's report on the approval of Administrative Coastal Development Permit No. 19-004.
The Commission directed questions to staff.

The Commission received and filed the Planning Director's report on Administrative Coastal Development Permit Amendment No. 19-004.

ITEM 4 CONTINUED PUBLIC HEARINGS

- A. Coastal Development Permit No. 17-075, Variance Nos. 17-024, 18-022 and 20-042, and Offer-to-Dedicate No. 20-002 – An application for a new two-story single-family residence with attached two-car garage and associated development (Continued from June 21, 2021)

Location: 18868 Pacific Coast Highway, within the appealable coastal zone

APN: 4449-001-023

Owner: Farshid Etaat

Case Planner: Contract Planner Rudolph, 456-2489, ext. 250

Recommended Action: Adopt Planning Commission Resolution No. 21-11 determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 17-075 for the construction of a new 3,778 square foot, two-story, single-family beachfront residence with attached garage, decks, retractable beach stairs, onsite wastewater treatment system, grading, retaining walls, hardscape, and seawall; including Variance (VAR) No. 17-024 for the single-family residence to extend seaward of the building stringline, VAR No. 18-022 for the first and second floor decks to extend seaward of the deck stringline, and VAR No. 20-042 for a greater than 50 percent reduction of the front yard setback, and Offer-to-Dedicate No. 21-002 for a lateral access easement across the property located in the Single-Family Medium Density zoning district at 18868 Pacific Coast Highway (Etaat).

Contract Planner Rudolph presented the staff report.

Disclosures: Commissioners Hill, Mazza, and Smith, and Vice Chair Weil.

The Commission directed questions to staff.

As there were no further questions for staff, Chair Jennings opened the public comment section of the public hearing.

Speakers: Dustin Woomer, Jason Ventress, and Lloyd Ahern.

Mr. Woomer provided rebuttal to public comment.

As there were no other speakers present, Chair Jennings closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff and Mr. Woomer.

MOTION Commissioner Mazza moved and Commissioner Smith seconded a motion directing staff to return with a resolution denying Coastal Development Permit No. 17-075 for the construction of a new 3,778 square foot, two-story, single-family beachfront residence with attached garage, decks, retractable beach stairs, onsite wastewater treatment system, grading, retaining walls, hardscape, and seawall; including Variance (VAR) No. 17-024 for the single-family residence to extend

seaward of the building stringline, VAR No. 18-022 for the first and second floor decks to extend seaward of the deck stringline, and VAR No. 20-042 for a greater than 50 percent reduction of the front yard setback, and Offer-to-Dedicate No. 21-002 for a lateral access easement across the property located in the Single-Family Medium Density zoning district at 18868 Pacific Coast Highway (Etaat) based upon the inability to make the following finding for the coastal development permit: Finding 1) "That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program" and the inability to make the following findings for both the building and the deck stringline modifications: Finding 1: "There are special circumstances or exceptional characteristics applicable to the subject property, including size, topography, location or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification;" Finding 2: "The granting of such variance or modification will not be detrimental to the public interest, safety, health or welfare and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located;" Finding 3: "The granting of the variance will not constitute a special privilege to the applicant or property owner;" Finding 4: "The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this chapter, nor to the goals, objectives and policies of the LCP;" Finding 8: "The subject site is physically suitable for the proposed variance;" and Finding 9: "The variance complies with all requirements of State and local law."

FRIENDLY AMENDMENT

Commissioner Hill amended the motion to include failure to make the finding for the project as designed was the least environmentally damaging alternative.

The amendment was accepted by the maker and the seconder.

The question was called and the amended motion carried 4-0, Vice Chair Weil abstaining.

B. Coastal Development Permit No. 17-111 – An application for the interior and exterior remodel of an existing two-story single-family residence new swimming pool and associated development (Continued from June 7, 2021)

Location: 27493 Calicut Road, not within the appealable coastal zone

APN: 4460-034-009

Owner: 27493 Calicut LLC

Case Planner: Associate Planner Murillo, 456-2489, ext. 353

Recommended Action: Adopt Planning Commission Resolution No. 21-50 determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 17-111 to allow an interior and less than 10 percent exterior remodel of an existing two-story, single-family residence, new swimming pool and spa, relocate garage doors and new hardscape, located in the Rural Residential–Twenty Acre zoning district at 27493 Calicut Road (27493 Calicut LLC).

Associate Planner Murillo presented the staff report.

Disclosures: Commissioners Hill, Mazza, and Smith, and Vice Chair Weil.

As there were no questions for staff, Chair Jennings opened the public comment section of the public hearing.

Speaker: Matt Jewett.

As there were no other speakers present, Chair Jennings closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff.

MOTION Commissioner Mazza moved and Vice Chair Weil seconded a motion adopt Planning Commission Coastal Development Permit No. 21-50, as amended: 1) determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 17-111 to allow an interior and less than 10 percent exterior remodel of an existing two-story, single-family residence, new swimming pool and spa, relocate garage doors and new hardscape, located in the Rural Residential–Twenty Acre zoning district at 27493 Calicut Road (27493 Calicut LLC); and 2) amending Condition 38 to state: “No new landscaping other than the 1,330 square feet of grass, is proposed with this project. Should the applicant intend to plant any new vegetation with a potential to exceed six feet in height or an area of 2,500 square feet or more, a detailed landscaping plan shall be submitted for review and approval prior to any planting”

The question was called and the motion carried unanimously.

RECESS At 8:58 p.m. Chair Jennings recessed the meeting. The meeting reconvened at 9:07 p.m. with all Commissioners present.

C. Coastal Development Permit No. 16-012 and Lot Merger No. 20-001 – An application to merge two lots for a new single-family residence, basement, swimming pool, grading, onsite wastewater treatment system and associated development (Continued from June 7, 2021)

Location: 31573 Sea Level Drive, within the appealable coastal zone

APN: 4470-022-041

Owner: Keane Real Estate Holdings I LLC

Case Planner: Associate Planner Murillo, 456-2489, ext. 353

Recommended Action: Adopt Planning Commission Resolution No. 21-24 determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 16-012 to construct a new 2,684 square foot, single-story (not to exceed 18-feet in height with a flat roof), single-family residence with a 432 square foot attached garage, including a 997 square foot basement, swimming pool, grading, onsite wastewater treatment system, and associated development; including Lot Merger No. 20-001 for a lot merger of two lots located in the Single-Family Medium zoning district at 31573 Sea Level Drive (Keane Real Estate Holdings I LLC).

Associate Planner Murillo presented the staff report.

Disclosures: Commissioners Hill and Smith and Vice Chair Weil.

The Commission directed questions to staff.

As there were no further questions for staff, Chair Jennings opened the public comment section of the public hearing.

Speakers: Scott Halley, Suzanne Furst, Dana Glantz, Michael Glantz, and Cheri LaFayette.

Mr. Halley and Thomas Keane provided rebuttal to public comment.

As there were no other speakers present, Chair Jennings closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff.

MOTION

Vice Chair Weil moved, and Commissioner Mazza seconded a motion adopt Planning Commission Coastal Development Permit No. 21-24, as amended: 1) determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 16-012 to construct a new 2,684 square foot, single-story (not to exceed 18-feet in height with a flat roof), single-family residence with a 432 square foot attached garage, including a 997 square foot basement, swimming pool, grading, onsite wastewater treatment system, and associated development; including Lot Merger No. 20-001 for a lot merger of two lots located in the Single-Family Medium zoning district at 31573 Sea Level Drive (Keane Real Estate Holdings I LLC); 2) adding Condition 21 which states, "Any future rooftop deck lighting must comply with the Dark Sky Ordinance and must be equipped with motion detector and timer. No string lights are permitted on the rooftop deck, except for seasonal lights from November 15 to January 15 only;" 3) adding Condition 32 which states, "The proposed chimney shall be replaced with a side vented system;" 4) and adding Condition 34 which states, "Noise emitted from the rooftop deck may not exceed 40 decibels at the property line;"

AMENDMENT

Commissioner Mazza moved, and Commissioner Smith seconded a motion to add Condition 33 which states, "Nothing left overnight on the proposed rooftop deck may exceed 18 feet in height above finish or natural grade, whichever is lower."

The Commission discussed the amendment.

The question was called and the amendment carried 4-1, Vice Chair Weil dissenting.

FRIENDLY AMENDMENT

Commissioner Hill amended the motion adding Condition 31 which states, “The proposed exterior staircase shall be constructed of fireproof material, shall be reduced to a minimum width of 36 inches and shall be view permeable.”

The amendment was accepted by the maker and the seconder.

FRIENDLY AMENDMENT

Commissioner Hill amended the motion adding Condition 58 which states, “The proposed roof mounted air condition units shall be relocated on the ground floor and enclosed and 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)”

The amendment was accepted by the maker and the seconder.

The Commission directed questions to staff, Mr. Halley, Mr. Keane, and Ryan Levis.

The question was called and the amended motion carried 3-2, Commissioner Smith and Chair Jennings dissenting.

ITEM 5 NEW PUBLIC HEARINGS

- A. Coastal Development Permit No. 21-027 and Temporary Use Permit No. 21-005 – An application for the 39th Annual Chili Cook-Off and Carnival, a four-day event, Labor Day weekend, and a one-day private fundraising event

Event Location: 23575 Civic Center Way, not within the appealable coastal zone

APN: 4458-022-907

Property Owner: City of Malibu

Applicant: The Boys and Girls Club of Malibu

Parking Locations: 23519 W. Civic Center Way (APN 4458-022-906)

23825 Stuart Ranch Road (APN 4458-021-901)

23805 Stuart Ranch Road (APN 4458-021-173)

3542 Coast View Drive (APN 4458-021-003)

3806 Cross Creek Road (APN 4452-011-035)

Case Planner: Associate Planner Thompson, 456-2489, ext. 280

Recommended Action: Adopt Planning Commission Resolution No. 21-56 determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 21-027 and Temporary Use Permit No. 21-005 to allow for the 39th Annual Chili Cook-Off and Carnival proposed to take place Friday, September 3, 2021, through Monday, September 6, 2021 (Labor Day Weekend) and a private fundraising event to take place Thursday, September 2, 2021, located in the Community Commercial zoning district at 23575 Civic Center Way (City of Malibu) and nearby offsite parking lots.

Associate Planner Thompson presented the staff report.

Disclosures: Commissioners Hill, Mazza, and Smith and Vice Chair Weil.
As there were no questions for staff, Chair Jennings opened the public comment section of the public hearing.

Speakers: Kasey Ernest, Ashlen Kernes, and Ryan Embree.

Ms. Earnest provided rebuttal to public comment.

As there were no other speakers present, Chair Jennings closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff and Ms. Earnest.

MOTION Commissioner Mazza moved and Commissioner Hill seconded a motion adopt Planning Commission Coastal Development Permit No. 21-56, as amended: 1) determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 21-027 and Temporary Use Permit No. 21-005 to allow for the 39th Annual Chili Cook-Off and Carnival proposed to take place Friday, September 3, 2021, through Monday, September 6, 2021 (Labor Day Weekend) and a private fundraising event to take place Thursday, September 2, 2021, located in the Community Commercial zoning district at 23575 Civic Center Way (City of Malibu) and nearby offsite parking lots; 2) require drop-off and pick-up areas to be relocated; 3) amend Condition 11 to prohibit the traffic signal at the intersection of Stuart Ranch Road and Civic Center Way from being placed on all flashing reds on weekdays; 4) require all residents within 1,000 feet of the event or parking areas to be sent a notification providing the telephone numbers for both the Los Angeles County Sheriff Department Lost Hills Station and a City Code Enforcement officer that would be available during event hours; 5) amend Condition 54 to state attendees will be offsite by 10:30 p.m.; 6) require lighting, except for security lighting, shall be extinguished by 11:00 p.m.; and 7) require the event to be compliant with all State of California and Los Angeles County COVID-19 social distancing requirements.

The question was called and the motion carried 3-2, Commissioner Smith and Vice Chair Weil dissenting.

- B. Coastal Development Permit No. 21-008 – An application to construct median improvements to widen the outside shoulder for a distance of approximately two miles along Pacific Coast Highway between Webb Way and Puerco Canyon Road
Location: 24201.5 Pacific Coast Highway, approximately two miles along Pacific Coast Highway between Webb Way and Puerco Canyon Road, within the appealable coastal zone
Applicant: City of Malibu Public Works Department and Caltrans
Case Planner: Associate Planner Thompson, 456-2489, ext. 280
Recommended Action: Adopt Planning Commission Resolution No. 21-57 determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 21-008 to construct median improvements to widen the outside shoulder for a distance of approximately two miles along Pacific Coast Highway between Webb Way and Puerco Canyon

Road located entirely within the California Department of Transportation (Caltrans) public right-of-way to better allow a combination of bicycle use and on-street parking (Caltrans).

MOTION Commissioner Mazza moved and Commissioner Hill seconded a motion to continue to the September 8, 2021 Adjourned Regular meeting – Coastal Development Permit No. 21-008, an application to construct median improvements to widen the outside shoulder for a distance of approximately two miles along Pacific Coast Highway between Webb Way and Puerco Canyon Road located entirely within the California Department of Transportation (Caltrans) public right-of-way to better allow a combination of bicycle use and on-street parking (Caltrans).

The Commission discussed the motion and directed questions to staff.

The question was called and the motion carried unanimously.

ITEM 6 OLD BUSINESS

None.

ITEM 7 NEW BUSINESS

None.

ITEM 8 PLANNING COMMISSION ITEMS

None.

ADJOURNMENT

MOTION At 11:00 p.m., Commissioner Mazza moved and Chair Jennings seconded a motion to adjourn the meeting. The question was called, and the motion carried unanimously.

Approved and adopted by the Planning Commission
of the City of Malibu on _____.

JEFFREY JENNINGS, Chair

ATTEST:

KATHLEEN STECKO, Administrative Assistant

MINUTES
MALIBU PLANNING COMMISSION
REGULAR MEETING
AUGUST 2, 2021
TELECONFERENCED – VARIOUS LOCATIONS
6:30 P.M.

The following meeting was held pursuant to the Governor’s Executive Orders N-25-20 and N-29-20 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

CALL TO ORDER

Chair Jennings called the meeting to order at 6:30 p.m.

ROLL CALL

The following persons were recorded in attendance via teleconference by the Recording Secretary:

PRESENT: Chair Jeffrey Jennings, Vice Chair David Weil, and Commissioners Kraig Hill, John Mazza, and Dennis Robert Smith

ALSO PRESENT: Patrick Donegan, Assistant City Attorney; Richard Mollica, Planning Director; Raneika Brooks, Associate Planner; Adrian Fernandez, Assistant Planning Director; Justine Kendall, Associate Planner; and Kathleen Stecko, Administrative Assistant

APPROVAL OF AGENDA

MOTION Commissioner Mazza moved and Chair Jennings seconded a motion to approve the agenda, continuing Item No. 3.B.2. to a date uncertain.

The question was called, and the amended motion carried unanimously.

REPORT ON POSTING OF AGENDA

Administrative Assistant Stecko reported that the agenda for the meeting was properly posted on July 23, 2021.

ITEM 1 CEREMONIAL/PRESENTATIONS

None.

ITEM 2.A. PUBLIC COMMENTS

None.

ITEM 2.B. COMMISSION / STAFF COMMENT

In response to Commissioner Hill, Planning Director Mollica stated the City had no established binder policy and that he would consult with the City Manager whether City resources and staff could be allocated toward providing tabs in the Planning Commission meeting materials binders. He stated that the City was working on a survey on what wireless sites have battery backup and that formation of a Telecommunications Commission would be pursued should the City Council provide that direction.

Planning Director Mollica announced, following months of recruitment efforts, Adrian Fernandez had been appointed Assistant Planning Director. In response to Commissioner Mazza he stated a recruitment would be conducted to fill the Principal Planner position vacated by Assistant Planning Director Fernandez.

In response to Commissioner Hill, Assistant City Attorney Donegan stated Senate Bill 83, the Sea Level Rise Revolving Loan Program, was working its way through the legislature.

Vice Chair Weil stated there was a fire near Las Virgenes Road and Highway 101 earlier in the day.

ITEM 3 CONSENT CALENDAR

Commissioner Hill pulled Item No. 3.B.4. from the Consent Calendar.

MOTION Commissioner Mazza moved, and Chair Jennings seconded a motion to approve the balance of the Consent Calendar. The question was called, and the motion carried unanimously.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

1. Coastal Development Permit No. 17-075, Variance Nos. 17-024, 18-022 and 20-042, and Offer-to-Dedicate No. 20-002 – An application for a new two-story single-family residence with attached two-car garage and associated development (Continued from July 19, 2021)

Location: 18868 Pacific Coast Highway, within the appealable coastal zone

APN: 4449-001-023

Owner: Farshid Etaat

Case Planner: Contract Planner Rudolph, 456-2489, ext. 250

Recommended Action: Adopt Planning Commission Resolution No. 21-02 determining the he California Environmental Quality Act does not apply to the project and denying Coastal Development Permit No. 17-075 for the construction of a new 3,778 square foot, two-story, single-family beachfront residence with attached garage, decks, retractable beach stairs, onsite wastewater treatment system, grading, retaining walls, hardscape, and seawall; including Variance (VAR) No. 17-024 for the single-family

residence to extend seaward of the building stringline, VAR No. 18-022 for the first and second floor decks to extend seaward of the deck stringline, and VAR No. 20-042 for a greater than 50 percent reduction of the front yard setback, and Offer-to-Dedicate No. 21-002 for a lateral access easement across the property located in the Single-Family Medium Density zoning district at 18868 Pacific Coast Highway (Etaat).

B. New Items

1. Approval of Minutes

Recommended Action: Approve the minutes for the June 21, 2021 Regular Planning Commission meeting.

2. De Minimis Waiver No. 21-005— An application for a new onsite wastewater treatment system for a Woolsey Fire affected parcel

Location: 6603 Dume Drive, not within the appealable coastal zone

APN: 4468-009-012

Case Planner: Contract Planner Shah, 456-2489, ext. 385

Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 21-005 for a new onsite wastewater treatment system for a Woolsey affected parcel.

This item was continued to a date uncertain upon approval of the agenda.

3. De Minimis Waiver No. 20-032 — An application for a new onsite wastewater treatment system for a Woolsey Fire affected parcel

Location: 31113 Bailard Road, not within the appealable coastal zone

APN: 4470-011-038

Case Planner: Associate Planner Murillo, 456-2489, ext. 353

Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 20-032 for a new onsite wastewater treatment system for a Woolsey affected parcel.

The following item was removed from the Consent Calendar for individual consideration:

4. De Minimis Waiver No. 20-024 — An application for a new onsite wastewater treatment system for a Woolsey Fire affected parcel

Location: 29257 Bluewater Road, not within the appealable coastal zone

APN: 4468-007-013

Case Planner: Planning Technician Carr, 456-2489, ext. 295

Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 20-024 for a new onsite wastewater treatment system for a Woolsey affected parcel.

The Commission directed questions to staff.

CONSENSUS

By consensus, the Commission received the Planning Director's report on De Minimis Waiver No. 20-024 for a new onsite wastewater treatment system for a Woolsey affected parcel.

ITEM 4 CONTINUED PUBLIC HEARINGS

- A. Malibu Country Inn and Restaurant Project - Coastal Development Permit No. 17-089, General Plan Map Amendment No. 21-002, Local Coastal Program Amendment No. 17-004, Zoning Map Amendment No. 17-005, Lot Line Adjustment No. 17-002, Conditional Use Permit No. 17-011, Variance Nos. 18-038, 20-034 and 21-010, Site Plan Review No. 19-008, Minor Modification No. 19-007, Demolition Permit No. 20-026, and Code Violation No. 17-011 – An application to replace the existing restaurant, lot line adjustment to expand the lot into the adjacent mobile home park and after-the-fact consideration of unpermitted restaurant expansion and ground-floor decking (Continued from June 21, 2021)
- Locations: 6506 Westward Beach Road, 29500 Heathercliff Road and various addresses in the Point Dume Club mobile home park, within the appealable coastal zone
- APNs: 4468-013-012, 4468-013-011 and various APNs in the Point Dume Club mobile home park
- Owners: Malibu Country Inn, Corp and Corp, and Point Dume, LTD
- Case Planner: Principal Planner Fernandez 456-2489, ext. 482
- Recommended Action: Adopt Planning Commission Resolution No. 21-54 recommending the City Council find that the project and proposed map amendments are exempt from the California Environmental Quality Act and approves Coastal Development Permit No. 17-089, Lot Line Adjustment No. 17-002, Demolition Permit No. 20-026, General Plan Map Amendment No. 21-002, Zone Map Amendment No. 17-011 and Local Coastal Program Amendment 17-004 to increase the lot area of the Malibu Country Inn lot with land from the Point Dume Club mobile home park, change the General Plan land use designation, Zoning Map and Local Coastal Program maps from Commercial Visitor Serving—one to Commercial Visitor Serving—two (CV-2) and the increased Malibu Country Inn lot area from Mobilehome Residential to CV-2, replace the existing restaurant, after-the-fact approval of a deck attached to the restaurant and replace a 200 square foot unpermitted storage shed with a 100 square foot storage shed; including Conditional Use Permit No. 17-011 for the hotel and restaurant uses and sale of alcohol for room service and restaurant; Variance (VAR) No. 18-038 for construction of Fire Department stairs on slope steeper than 2.5 to 1; VAR No. 20-034 for legal, non-conforming parking spaces in terms of size, number and aisle width to remain; VAR No. 21-010 from the City’s geotechnical standards for factor of safety; Site Plan Review No. 19-008 for the reconstruction of the restaurant in excess of 18 feet; and Minor Modification No. 19-007 for the replacement restaurant to provide a 50 percent reduction of the required front yard setback, located at 6506 Westward Beach Road and 29500 Heathercliff Road (Malibu Country Inn, Corp and Corp, and Point Dume, LTD).

Assistant Planning Director Fernandez presented the staff report.

Disclosures: Commissioners Hill, Mazza, and Smith and Vice Chair Weil, and Chair Jennings.

As there were no questions for staff Chair Jennings opened the public comment section of the public hearing.

Speakers: Lynn Heacox, Jo Drummond, Salvatore Fish, Rosemarie Ihde, Georgia Goldfarb, and Patt Healy.

As there were no other speakers present, Chair Jennings closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff.

MOTION Commissioner Smith moved and Vice Chair Weil seconded a motion to adopt Planning Commission Resolution No. 21-54, as amended: 1) recommending the City Council find that the project and proposed map amendments are exempt from the California Environmental Quality Act and approves Coastal Development Permit No. 17-089, Lot Line Adjustment No. 17-002, Demolition Permit No. 20-026, General Plan Map Amendment No. 21-002, Zone Map Amendment No. 17-011 and Local Coastal Program Amendment 17-004 to increase the lot area of the Malibu Country Inn lot with land from the Point Dume Club mobile home park, change the General Plan land use designation, Zoning Map and Local Coastal Program maps from Commercial Visitor Serving—one to Commercial Visitor Serving—two (CV-2) and the increased Malibu Country Inn lot area from Mobilehome Residential to CV-2, replace the existing restaurant, after-the-fact approval of a deck attached to the restaurant and replace a 200 square foot unpermitted storage shed with a 100 square foot storage shed; including Conditional Use Permit No. 17-011 for the hotel and restaurant uses and sale of alcohol for room service and restaurant; Variance (VAR) No. 18-038 for construction of Fire Department stairs on slope steeper than 2.5 to 1; VAR No. 20-034 for legal, non-conforming parking spaces in terms of size, number and aisle width to remain; VAR No. 21-010 from the City's geotechnical standards for factor of safety; Site Plan Review No. 19-008 for the reconstruction of the restaurant in excess of 18 feet; and Minor Modification No. 19-007 for the replacement restaurant to provide a 50 percent reduction of the required front yard setback, located at 6506 Westward Beach Road and 29500 Heathercliff Road (Malibu Country Inn, Corp and Corp, and Point Dume, LTD); 2) adding Condition 34 which states, "No amplified sound may be used unless otherwise permitted with a temporary use permit;" and 3) adding Condition 35 which states, "The swimming pool may only be used by hotel guests unless otherwise permitted with a temporary use permit."

The Commission discussed the motion.

The question was called and the motion carried 3-2, Commissioners Hill and Mazza dissenting.

ITEM 5 NEW PUBLIC HEARINGS

- A. Coastal Development Permit No. 18-035, Variance No. 19-062, and Demolition Permit No. 19-003 – An application to demolish an existing single-family residence and associated development and construct a new single-family residence and associated development

Location: 23325 Malibu Colony Drive, within the appealable coastal zone

APN: 4452-010-017

Owner: Axel 23324, LLC

Case Planner: Associate Planner Brooks, 456-2489, ext. 276

Recommended Action: Adopt Planning Commission Resolution No. 21-53 determining the project is categorically exempt from the California Environmental Quality Act and approving Coastal Development Permit No. 18-035 for the demolition of a one-story, single-family residence and associated development, totaling 2,963 square feet, and construction of a new 5,146 square foot, two-story single-family residence, swimming pool, decks, permeable driveway, and other associated development, and replacement of the onsite wastewater treatment system; including Variance No. 19-062 for the reduction of the required 100-foot buffer from an Environmentally Sensitive Habitat Area (Malibu Lagoon) and Demolition Permit No. 18-010 for the demolition of the existing residence and associated development located in the Single Family, Medium Density zoning district within the Malibu Colony Overlay District at 23325 Malibu Colony Drive (Axel 23324, LLC).

Associate Planner Brooks presented the staff report.

Disclosures: Commissioners Hill, Mazza, and Smith, and Vice Chair Weil.

The Commission directed questions to staff.

As there were no further questions for staff Chair Jennings opened the public comment section of the public hearing.

Speakers: Victor de la Cruz and Carl Lisberger.

Additional Disclosure: Commissioner Mazza.

Speakers: Monica Breseno and Judith Israel.

Mr. de la Cruz provided rebuttal to public comment.

As there were no other speakers present, Chair Jennings closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff, David Weiss, and Mary Randall.

MOTION Commissioner Smith moved and Vice Chair Weil seconded a motion to adopt Planning Commission Resolution No. 21-53; as amended: 1) determining the project is categorically exempt from the California Environmental Quality Act and approving Coastal Development Permit No. 18-035 for the demolition of a one-story, single-family residence and associated development, totaling 2,963 square feet, and construction of a new 5,146 square foot, two-story single-family residence, swimming pool, decks, permeable driveway, and other associated development, and replacement of the onsite wastewater treatment system; including Variance No. 19-062 for the reduction of the required 100-foot buffer from an Environmentally Sensitive Habitat Area (Malibu Lagoon) and Demolition Permit No. 18-010 for the demolition of the existing residence and associated development located in the Single Family, Medium Density zoning district within the Malibu Colony Overlay District at 23325 Malibu Colony Drive (Axel 23324, LLC; 2) correcting Finding 1 of Shoreline and Bluff Development Findings to state, "The proposed single-family residence and associated development, including the onsite wastewater treatment system, have been designed to not require a shoreline protection device in that the residence will not be subject to lateral force of wave impact;" 3) adding Condition 101 which states "The property owner is required to record a deed restriction (1) ensuring no shoreline protection structure shall be proposed or constructed to protect the development approved and (2) waiving any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235."

The Commission discussed the motion.

AMENDMENT

Chair Jennings moved and Vice Chair Weil seconded to amend the motion to add Condition 18 which states, "Prior to submittal to plan check, the applicant must provide evidence of preliminary approval from the California Department Fish and Wildlife or a determination by the Planning Director that the preliminary approval is unnecessary."

The Commission discussed the amendment.

The question was called and the amendment carried 3-2, Commissioners Mazza and Smith dissenting.

The Commission directed questions to staff.

AMENDMENT

Commissioner Hill moved and Commissioner Mazza seconded to amend the motion to require an archeologist be present during excavation.

The Commission discussed the amendment.

The question was called and the amendment failed 2-3, Commissioner Hill, Vice Chair Weil, and Chair Jennings dissenting.

The Commission directed questions to staff and Ms. Randall.

The question was called and the amended motion carried 3-2, Commissioners Hill and Mazza dissenting.

- B. Coastal Development Permit No. 16-008, Code Violation No. 16-002, and Demolition Permit No. 20-012 – An application for the demolition of work conducted without the benefit of permits, construction of a new swimming pool and landscaping, relocation of the existing onsite wastewater treatment system and restoration of Environmentally Sensitive Habitat Area and related buffer

Location: 28305 Via Acero Street; within the appealable coastal zone

APN: 4467-033-009

Owners: Joseph and Pamela Bouganim

Case Planner: Associate Planner Kendall, 456-2489, ext. 301

Recommended Action: Adopt Planning Commission Resolution No. 21-59 determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 16-008 for a slope restoration and revegetation, removal of unpermitted fill, and demolition of a retaining wall constructed without the benefit of permits within an Environmentally Sensitive Habitat Area buffer, after-the-fact planting of a ficus tree hedge, relocation of the existing onsite wastewater treatment system, and a new swimming pool, spa, and pool equipment; including Demolition Permit No. 20-012 for the removal of the development constructed without the benefit of permits at an existing single-family residence located in the Rural Residential–Five Acre zoning district at 28305 Via Acero Street (Bouganim).

Associate Planner Kendell presented the staff report.

Disclosures: Commissioners Hill, Mazza, and Smith, Vice Chair Weil, and Chair Jennings.

The Commission directed questions to staff.

As there were no further questions for staff Chair Jennings opened the public comment section of the public hearing.

Speaker(s): None.

As there were no speakers present, Chair Jennings closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff.

MOTION Commissioner Mazza moved and Vice Chair Weil seconded a motion to adopt Planning Commission Resolution No. 21-59; as amended: 1) determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 16-008 for a slope restoration and revegetation, removal of unpermitted fill, and demolition of a retaining wall constructed without the benefit of permits within an Environmentally Sensitive Habitat Area buffer, after-the-fact planting of a ficus tree hedge, relocation of the existing onsite wastewater treatment system, and a new swimming pool, spa, and

pool equipment; including Demolition Permit No. 20-012 for the removal of the development constructed without the benefit of permits at an existing single-family residence located in the Rural Residential-Five Acre zoning district at 28305 Via Acero Street (Bouganim); 2) amending Condition 2.c. to state, “Grading to remove unpermitted fill behind the retaining wall;” 3) adding Condition 30 which states, “No development, including landscaping, is permitted within the recorded fifteen-foot-wide private access easement along the northernmost property boundary; and 4) adding Condition 31 which states, “All landscaping which does not conform to the landscape plan approved by the City of Malibu on December 5, 2005, and which does not meet the standards of Ordinance No. 461 (Fire-Resistant Landscaping Ordinance) must be removed” (Associate Planner Kendell).

The Commission discussed the motion.

FRIENDLY AMENDMENT

Commissioner Hill amended the motion to add to Condition 7 “The CDP shall expire if the project has not commenced to the satisfaction of City Code Enforcement staff within six months after issuance of the permit, unless a time extension has been granted;”

The amendment was accepted by the maker and the seconder.

The question was called and the amended motion carried unanimously.

ITEM 6 OLD BUSINESS

None.

ITEM 7 NEW BUSINESS

None.

ITEM 8 PLANNING COMMISSION ITEMS

None.

ADJOURNMENT

MOTION At 10:47 p.m., Commissioner Mazza moved and Vice Chair Weil seconded a motion to adjourn the meeting. The question was called, and the motion carried unanimously.

Approved and adopted by the Planning Commission
of the City of Malibu on _____.

JEFFREY JENNINGS, Chair

ATTEST:

KATHLEEN STECKO, Administrative Assistant