



Council Agenda Report

To: Mayor Silverstein and Honorable Members of the City Council

Prepared by: Raneika Brooks, Senior Planner

Reviewed by: Richard Mollica, Planning Director

Approved by: Steve McClary, City Manager

Date prepared: January 4, 2023 Meeting date: January 23, 2023

Subject: Appeal No. 21-011 - Appeal of Planning Commission Resolution No. 21-53 (23325 Malibu Colony Drive; Owner, Axel 23324, LLC; Appellant, Judith Israel)

RECOMMENDED ACTION: Adopt Resolution No. 23-02 (Exhibit A), determining the project is categorically exempt from the California Environmental Quality Act (CEQA), denying Appeal No. 21-011 (Exhibit B) and approving Coastal Development Permit (CDP) 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 (OWTS); including Variance (VAR) No. 19-062 to allow encroachment into the 100-foot buffer from an Environmentally Sensitive Habitat Area (ESHA) (Malibu Lagoon) and Demolition (DP) No. 18-010 for the demolition of the existing residence and associated development located in the Single-Family Medium Density (SF-M) zoning district within the Malibu Colony Overlay District at 23325 Malibu Colony Drive (Axel 23324, LLC).

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 2022-2023. Processing this application is part of normal staff operations.

DISCUSSION: The matter is an appeal of the Planning Commission's approval of CDP No. 18-035, VAR No. 19-062 and DP No. 18-010, an application for the demolition of an existing single-family residence and construction of a new two-story single-family residence, swimming pool, and associated development (Exhibit C – Planning Commission Resolution No. 21-53).

The subject property is a residentially developed lot in the Malibu Colony neighborhood. It is the last inland residential lot at the easternmost end of Malibu Colony Drive, as shown in Figure 1. The site is currently developed with a single-family residence, OWTS, a second unit, and a swimming pool. Sixty-nine percent of the lot is currently developed and impermeable, and if the project is approved, this would be reduced to 25 percent. The property is one of 14 developed properties that border the Malibu Lagoon ESHA to the north. Of these 14 developed properties, two are developed with one-story structures, nine are developed with structures with two or more stories, two are developed with tennis courts, and one is vacant.

Figure 1 – Project Area Aerial (brown is ESHA boundary per LCP Map)



Source: City of Malibu GIS 2020

The project is subject to the residential non-beachfront development standards contained in Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 3.6 which are supplemented by additional development standards that are specific to the Malibu Colony Overlay District.

The subject application was submitted to the Planning Department on August 28, 2018. On June 1, 2020, staff presented this project to the Planning Commission at a public hearing. After considering written reports, public testimony, and other information in the record, the Planning Commission adopted Resolution No. 20-18 approving the project (Exhibit D).

Staff met with and corresponded with Judith Israel, the appellant, several times before the Commission hearing to provide a review of the project plans and answer questions about view protection. The appellant expressed concerns about view blockage by the proposed project that has a height of 28 feet, 7 inches. These views are not protected by the Zoning Code because the non-beachfront residential development standards for the Malibu Colony Overlay District allow structure heights up to 24 feet for a flat roof and up to 30 feet for a pitched roof, by right, and without any discretion (such as a site plan review) or visual analysis of private view impacts. The appellant also spoke at the public hearing and primarily raised view concerns.

On June 11, 2020, the appellant appealed the project to the City Council. On November 9, 2020, staff presented the project and the following grounds for the appeal to the City Council¹:

1. Consistency with the City's LCP:
 - a. Increased ESHA illumination
 - b. Noncompliance with the required ESHA development area
 - c. Noncompliance with the maximum height allowed by the Scenic, Visual, and Hillside Resource Protection Ordinance
 - d. Failure to utilize the appropriate sea-level rise scenario
 - e. OWTS did not conform to the required setback
 - f. Noncompliance with requirements for archaeological review
2. Compliance with requirements for the project site's special flood hazard area;
3. Conceptual approval of the OWTS was inconsistent with the LCP and Malibu Municipal Code (MMC) requirements; and
4. Conceptual approval of the OWTS was approved contrary to the City's policy for the Civic Center Wastewater Prohibition Area Memorandum of Understanding (MOU) with the Los Angeles Regional Water Quality Control Board (RWQCB).

The Council discussion focused on the project's consistency with the MOU for the Civic Center Prohibition Area, the inclusion of the perimeter walls in the development area calculations, and the need for additional sea-level rise analysis for the 100-year economic life of the structure. The Council approved a motion to remand the project back to the Planning Commission after the following items had been addressed:

1. Written documentation to be obtained from the RWQCB to demonstrate consistency with the MOU;

¹ The November 9, 2020 City Council Agenda Report and attachments, which includes the June 1, 2020 Planning Commission Agenda Report for this project, can be accessed at the following link:
<https://www.malibucity.org/AgendaCenter/ViewFile/Item/4585?fileID=17567>

2. The development area was to be recalculated to include the perimeter walls; and
3. Review the applicability of sea-level rise analysis to address the 100-year economic life of the development based on the project location.

After the aforementioned items were addressed, ; this information was presented to the Planning Commission at the August 2, 2021 public hearing on the application and approved the project (Planning Commission Resolution No. 21-53 (Exhibit D)).

After the Planning Commission hearing, Ms. Israel submitted an appeal of the Planning Commission's decision to approve the project. The applicant subsequently submitted a response to the appeal, which is attached as Exhibit E.

This agenda report provides an analysis of the appellant's contentions against evidence provided to the Planning Commission. In addition, if new evidence has been provided after the Planning Commission hearing, staff provides an analysis if the information is consistent with the Planning Commission's action.

Project Description

The proposed scope of work is as follows:

- a. Demolition of an existing 1,581-square-foot, one-story single-family residence, three detached accessory buildings, and associated development, totaling 2,963 square feet of building area;
- b. Construction of a new two-story, 28-foot, 2-inch high, 5,146-square-foot single-family residence, including a 400-square-foot attached garage;
- c. New swimming pool and pool equipment;
- d. Exempt and non-exempt grading including:
 - i. Exempt - 37 cubic yards of understructure grading
 - ii. Non-exempt - 357 cubic yards
- e. New OWTS, with 3,000 gallons of storage in two tanks;
- f. New landscaping and hardscape, including a permeable driveway;
- g. Perimeter walls not to exceed six feet in height along the side property lines and a six-foot-high visually permeable auto gate in the front yard;
- h. VAR No. 19-062 for the reduction of the required 100-foot wetland buffer ESHA; and
- i. DP No. 19-003 for the demolition of the existing single-family residence and associated development.

The project plans are included as Attachment 5 in Exhibit E.

APPEAL TO THE CITY COUNCIL

The appellant contends that the Planning Commission's findings are not supported by the evidence and that the decision is not supported by the findings.

The appellant's specific arguments regarding the findings are summarized below in *italics* using phrases taken from the appeal. The full text of the appeal document can be found in Exhibit B. Following the appellant's stated appeal argument is a staff summary response.

The Planning Commission agenda report, in which staff recommends approval of the project, is included as Exhibit F. The Planning Commission agenda report includes a complete overview of the surrounding area, project conformance with the LCP and MMC, and a discussion of all findings required to approve the application. The adopted Planning Commission Resolution No. 21-53 approving the project is included to this report as Exhibit D.

APPEAL ITEM A: The Project's Development Exceeds Twenty-Five Percent of the Lot Area

Land Use Plan (LUP) Policies 3.10 and 3.12, and LIP Section 4.7.1 allow a 25 percent development area on parcels where all feasible building sites are in an ESHA or ESHA buffers to avoid a taking of private property.

Considering Ms. Israel's prior appeal, the City Council concluded that the project improperly omitted walls from the maximum allowable development area calculations. One of the clear specific instructions from the City Council, particularly from Councilmember Peak, was that the applicant include all structures in its allowable development area calculations, including all walls. Despite this explicit instruction, the project continues to fail to count all walls, coming up with unsupported exceptions to exclude portions of walls. Specifically, these excuses now include that the westerly wall is excluded because it is a shared wall.

Staff Response

As shown in Figure 1, Malibu Lagoon State Park abuts the Malibu Colony neighborhood and the subject property to the north and east. According to the LCP ESHA and Marine Resources Map, a wetland (Malibu Lagoon) is mapped immediately north and east of the subject parcel. In 2013, California State Parks completed a restoration project at the park that recontoured the lagoon and enhanced the habitat throughout the property. For this reason, the project conformance review assumed that the ESHA boundary coincides with the north and east property lines, which places the property entirely within the 100-foot ESHA buffer. It is not possible to develop the property without a variance to encroach into this buffer as a single-family residence is not a permitted use in the ESHA buffer. There is no evidence of ESHA on the project site itself.

The project's location within the 100-foot wetland ESHA buffer from Malibu Lagoon means the project is subject to the ESHA development standards which limit the project's development area² to 25 percent of the parcel size. The parcel size is 12,500 square feet, resulting in a maximum development area of 3,126 square feet.

The LIP's definition of development area³ allows the exclusion of one 20-foot-wide access driveway, one hammerhead turnaround, as required by the Los Angeles County Fire Department, and graded slopes, if it is demonstrated to be infeasible from an engineering standpoint to include them within the development area. The appellant contends that site and property line walls and hardscape were improperly excluded from the project development area calculation.

The purpose of the development area limit is to give a property owner reasonable use of land while minimizing impacts to ESHA. The project site plan is shown in Figure 2 below. The project proposes a development area of 3,076 square feet that is defined by the footprint of the residence. The entire remainder of the site consists of permeable ground with native plantings. The "hardscape" referenced by the applicant is not a paved patio, deck or other structure but consists of pavers placed on the permeable ground immediately adjacent to the structure which helps provide Fire Department required-access around the site. Subterranean facilities such as septic tanks, drain fields, and water quality facilities, including the proposed biofiltration system, may be located in Zone A of the irrigated fuel modification (which extends to 30 feet from the proposed residence) because these structures do not adversely affect the purpose or function of the ESHA buffer which is to provide "distance and physical barriers from human intrusion."⁴

When this project was first approved by the Planning Commission, the new perimeter block walls had been excluded from the development area calculations because the City's practice has been to exclude walls and fences from the development area calculations. Moreover, the new perimeter block walls proposed in the subject application are necessary to retain the grading that is required to minimize flooding as detailed in the wave uprush study and prevent runoff from the property intruding into the adjacent ESHA. According to the applicant's consulting engineer, the fully developed property is relatively flat but has little to no positive drainage from the rear (adjacent to the ESHA) of the property to the front. The rear of the property has an elevation of approximately 10.92 feet to 11.36 feet adjacent to the existing pool deck. The elevation slightly rises to an elevation of 12 feet

² Pursuant to LIP Section 4.7.1, the allowable development area (as defined in Malibu LIP Chapter 2) on parcels where all feasible building sites are ESHA or ESHA buffer shall be 10,000 square feet or 25 percent of the parcel size, whichever is less.

³ LIP Section 2 defines development area as the approved portion of a project site that is developed, including the building pad and all graded slopes, all structures, and parking areas. If it is demonstrated that it is not feasible from an engineering standpoint to include all graded slopes within the development area, then graded slopes may be excluded from the approved development area. The area of one access driveway or roadway not to exceed 20 feet wide, and one hammerhead safety turnaround, as required by the Los Angeles County Fire Department not located within the approved building pad shall be excluded from the total development area.

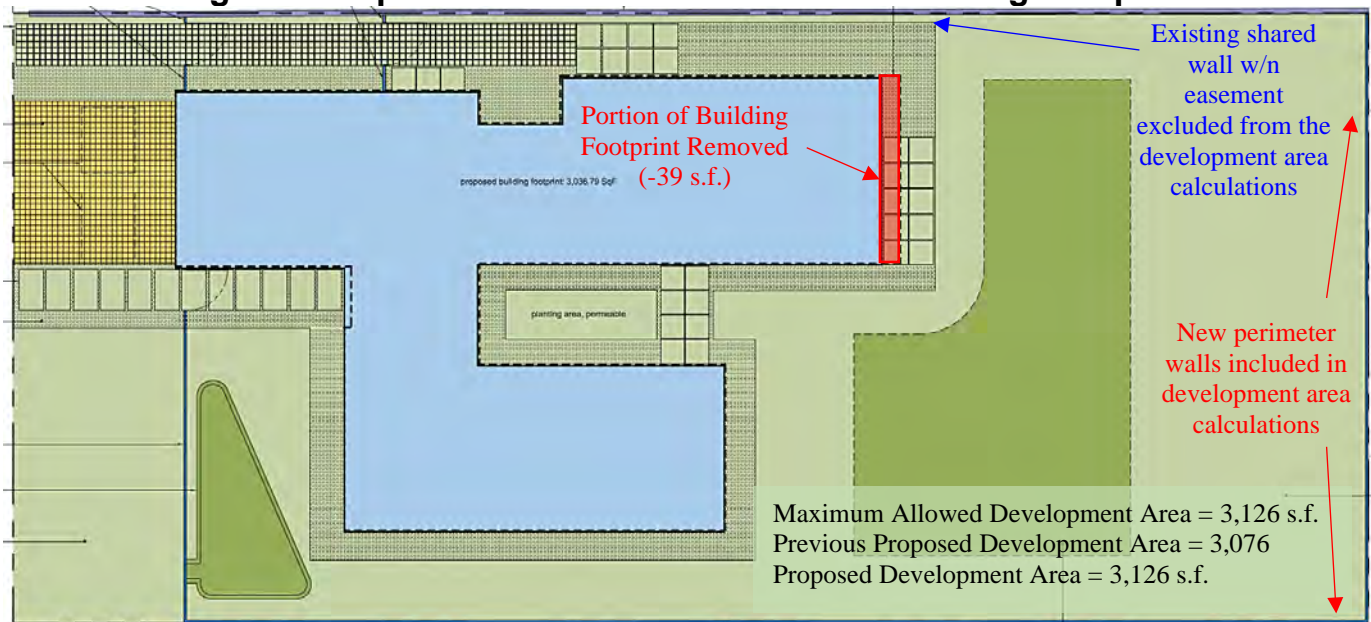
⁴ Per LIP Section 4.6.1, ESHA buffers meant to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the habitat they are designed to protect.

and lowers to 10.2 feet at the front of the property. The overall slope of the site is less than one percent. The additional fill is recommended for the site to comply with the current building code regulations, which requires a two percent slope across the site. Moreover, the coastal engineering analysis that addressed the potential for flooding concluded that the grade at the front of the property should be adjusted accordingly based on the fill proposed at the rear portion of the property.

After the Council discussed the proposed project's compliance with the maximum development area, specifically the new engineered walls that abut the ESHA, the Council determined these walls constituted development that should be included in the development area calculations.

On May 20, 2021, the applicant submitted modified project plans that included updated ESHA development area calculations which, after including the surface area of the new perimeter walls, resulted in an additional 89 square feet of development area. The inclusion of the footprint of the new perimeter walls resulted in a development area that exceeded the maximum allowed by 39 square feet. Accordingly, as illustrated in Figure 2 below, the footprint of the proposed residence was reduced by 39 square feet for the project to maintain its compliance with the maximum development area for new development within the ESHA buffer.

Figure 2 – Updated Site Plan with Reduced Building Footprint



Source: Kovac Design Studio

In the current appeal, the appellant argues that in addition to the wall directly abutting the ESHA, the existing westerly wall should also be counted towards the development area limit. The existing westerly wall is owned, and was built, by the applicant's neighbor in 1972 and is partially located on the subject property within an easement. As reflected in the project plans, this wall is existing and is not part of the subject application. In addition,

it appears that the western wall was permitted by the neighbor in 1972. In order for the property owner to be able to demolish or modify this wall the owner would need to seek permission from the owner of the wall. At the previous Council hearing, the discussion of the project's compliance with the maximum development area was focused on minimizing the redevelopment's impact on ESHA and the proposed new development, which includes the placement of additional fill and installation of new engineered walls to retain the fill. The issue of including the westerly property line wall was discussed at the most recent Planning Commission; however, the Planning Commission approved the project without the inclusion of the westerly wall in the development area. Nevertheless, should the Council determine it appropriate to include the pre-existing wall in the development area calculations, the applicant would need to reduce the size of the proposed home.

In summary, the project significantly reduces the current impermeable surface cover and lowers the development area from 69 percent to 25 percent. The project includes the use of a biofiltration system to treat stormwater runoff and reducing the vulnerability to flooding, whereas the existing development has no mechanism for treating stormwater runoff or protecting from flooding. Moreover, the project, as proposed, is the most compact footprint in which to accomplish this. As detailed above, while the grading that ensures the proper drainage away from ESHA and protection of the structure from flood risk are excluded from the definition of development area, the new perimeter walls have been included in the development area calculations. Based on review of the project plans, the project, as proposed, does not exceed the 25 percent development area limitation.

APPEAL ITEM B: The Project Failed to Provide Required Preliminary Approval from California Department of Fish and Wildlife

LIP Section 4.4.1 requires that "[a]pplications for new development on sites containing or adjacent to a stream or wetland shall include evidence of preliminary approval from the California Department of Fish and Game." Here, the project is adjacent to a wetland. However, the project did not provide the required preliminary approval. Adding a condition that allowed for the potential to override this clear LCP requirement is unacceptable. The City Council must request compliance with the LCP before any approvals.

Staff Response

Pursuant to LIP Section 4.4.1, preliminary approval from the California Department of Fish and Wildlife was provided for the proposed project and is included as Exhibit G.

APPEAL ITEM C: The Project Does Not Conform to the Scenic, Visual, and Hillside Resource Protection Height Restriction

Once again, the applicant did not seek site plan review for a structure over the 18-foot height restriction set by the Scenic, Visual, and Hillside Resource Protection Ordinance, which applies to the property. Nor did the applicant or City staff explain why the property is exempt from complying with all applicable development standards.

According to LIP Chapter 3 (the “Overlay Zone Regulations”), “[a]ll uses within the boundaries of an overlay zone shall comply with provisions of the overlay zone in addition to applicable standards in the underlying zone (unless otherwise specified), other provisions of this ordinance, and other provisions of law.” LIP Section 3.4. This is why the property, despite being within the Malibu Colony Overlay District needs to comply with the ESHA Overlay requirements and must also comply with the Scenic, Visual, and Hillside Resource Protection Ordinance. To find otherwise is a misreading of the LCP, exemplifying selective application of LCP provisions.

Staff Response

Although the proposed project is visible from a public viewing area, LUP Policy 6.4 clarifies that scenic areas do not include inland areas that are largely developed or built out, which is the case with the Malibu Colony Overlay District which is a largely built out beachfront neighborhood which specific design criteria. When viewed against the backdrop of the existing development pattern along Malibu Colony Drive, the proposed development does not obstruct public views of the ocean or mountains and therefore, the 18-foot limitation contained in the Scenic, Visual, and Hillside Resource Protection Ordinance LIP Section 6.5(B) does not apply to the proposed project.

Although the development within the Malibu Colony Overlay District does not meet the definition of a scenic area, the project has been designed and conditioned to minimize potential visual impacts from scenic areas. The applicant proposes to construct a two-story, 5,146 square foot residence with an attached garage and advanced OWTS on a 0.29-acre parcel within a built out residential neighborhood. Similar to neighboring properties, the subject property is bounded by existing residential development to the west and south, Malibu Lagoon State Park to the north and Malibu Colony Drive to the immediate south. The property is not located along the beachfront and would not obstruct ocean views from any public viewing areas. The subject property as well as the Malibu Colony neighborhood, is visible from Malibu Lagoon State Park, public parkland that is situated adjacent to the rear (north) property line and to east (the beach), and Pacific Coast Highway (PCH) (at a distance) but it does not block views of those scenic areas.

The appellant contends the project does not conform to the height standards of Chapter 6 and that the project should be limited to 18 feet in height despite the LIP’s overlay criteria for the Malibu Colony neighborhood which allows for structure height’s up to 30 feet. However, the applicant provided a visual impact analysis to assess potential visual impacts of the proposed development on the identified public views (Attachment 8 of Exhibit E). This analysis demonstrates that the backdrop of the existing development along Malibu Colony Drive obscures any views of the Pacific Ocean from the public viewing areas.

To further evaluate visual impacts of the proposed project on any scenic area, scenic road, or public viewing area, on February 21, 2020, and July 8, 2021, staff visited the site and

examined the potential impacts. Based on the site visit, existing development, project plans, and photographs taken during the site visit, it was determined that the proposed project would be visible from Malibu Lagoon State Beach and PCH, an LCP-designated scenic highway. However, the proposed development will be sited among existing development, and the development along the ocean side of Malibu Colony Drive already blocks views of the ocean.

Nevertheless, the project has incorporated the applicable development standards provided in LIP Chapter 6 by siting the footprint of the proposed residence closer to Malibu Colony Drive, and away from the southern boundary of Malibu Lagoon State Park that abuts the site. This reduces the structure's visibility from public viewing areas. The development also includes architectural articulation that breaks up the massing of the structure and will include the use of mechanical shades on the windows that will minimize the development's interior illumination at night. The mechanical shades are controlled by a Lutron Homeworks system that automatically lower 30 minutes after sunset.

A photometric light study for the proposed project, included as Exhibit I, graphically demonstrates that the exterior and interior lighting will not result in light migration beyond the property boundaries. Also, while the roof deck on top of the easterly portion of the first floor does contain a pool, since it is integrated into the flat roof of the structure, it does not have the same night lighting characteristics as a tennis court or sports field ("private recreational facilities").

Pursuant to the lighting restrictions outlined in LIP Section 4.6.2, 6.5(G) and MMC Chapter 17.41 (Malibu Dark Sky Ordinance), exterior lighting must be minimized, restricted to low-intensity features, shielded, and directed away from public viewing areas and must minimize light pollution of the night sky. The attached resolution includes the following conditions of approval related to lighting:

- 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.

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

The project complies with LCP regulations governing the maximum height limit and Dark Sky Ordinance provisions which govern exterior lighting. In addition, the appellant also has provided no evidence of an adverse impact from the project or that the second story would obstruct any significant or protected view.

As approved by the Planning Commission, the project is consistent with the Scenic, Visual, and Hillside Resource Protection Ordinance because the project is located in a fully developed and built out residential area and does not obstruct public scenic and visual qualities of coastal and mountain areas. Further, the project has incorporated design elements to reduce the massing and illumination of the residence and will be conditioned to comply with the Malibu Dark Sky Ordinance. The project will not cause adverse visual impact on public views. Moreover, the LCP excludes inland areas that area largely developed and built out from compliance with the scenic resource protection development standards, including the height limitation of 18 feet.

APPEAL ITEM D: The Project Violates City LIP Section 10.4 Failing to Account for Proper Sea Level Rise Scenarios

The City Council requested that the applicant provide and staff consider the 100-year analysis. The analysis is incomplete. Importantly, we highlight that this analysis does not require that the project design for such an event, but it is necessary to fully analyze the options and support the finding that the project is sited at the most landward feasible location. The lack of analysis highlights the gap in evidence needed to support the required findings. As before, the City Council must require that the applicant provide the requested 100-year analysis across the project.

Staff Response

LIP Chapter 10 (Shoreline and Bluff Development Chapter) governs those coastal development permit applications that include development on a parcel located along a beach, bluff or shoreline. Here the site is located on the landward side of Malibu Colony Drive with a row of beachfront homes in front of it. LIP Section 10.4(B) requires development located on a beach, bluff or shoreline to be analyzed for a projected 100-year economic life of the structure. Moreover, LIP Chapter 9 (Hazards) requires analysis of potential impacts to hazards to identify project conditions to minimize risks to life and property. LIP Section 9.4(H) requires residential structures be analyzed for a projected 100-year economic life when the property is located in Federal Emergency Management Agency (FEMA) Flood Zones A, AE, or AH.

Although the project site is not on the beach, bluff, or within FEMA Flood Zones A, AE, or AH, out of an abundance of caution the project was designed and reviewed in accordance with the standards of LIP Chapters 9 and 10.

The original coastal engineering report and supplemental reports submitted in response to AP No. 20-006, analyzed the potential for different inundation hazards using projected sea-level rise scenarios based on the California Coastal Commission Sea Level Rise Policy Guidance⁵ (November 2018). As summarized in the updated City Coastal Engineer Review Comment Letter, dated June 20, 2022 (Exhibit H), which is also illustrated in Figure 3 below, the inundation hazards analyzed for this project included:

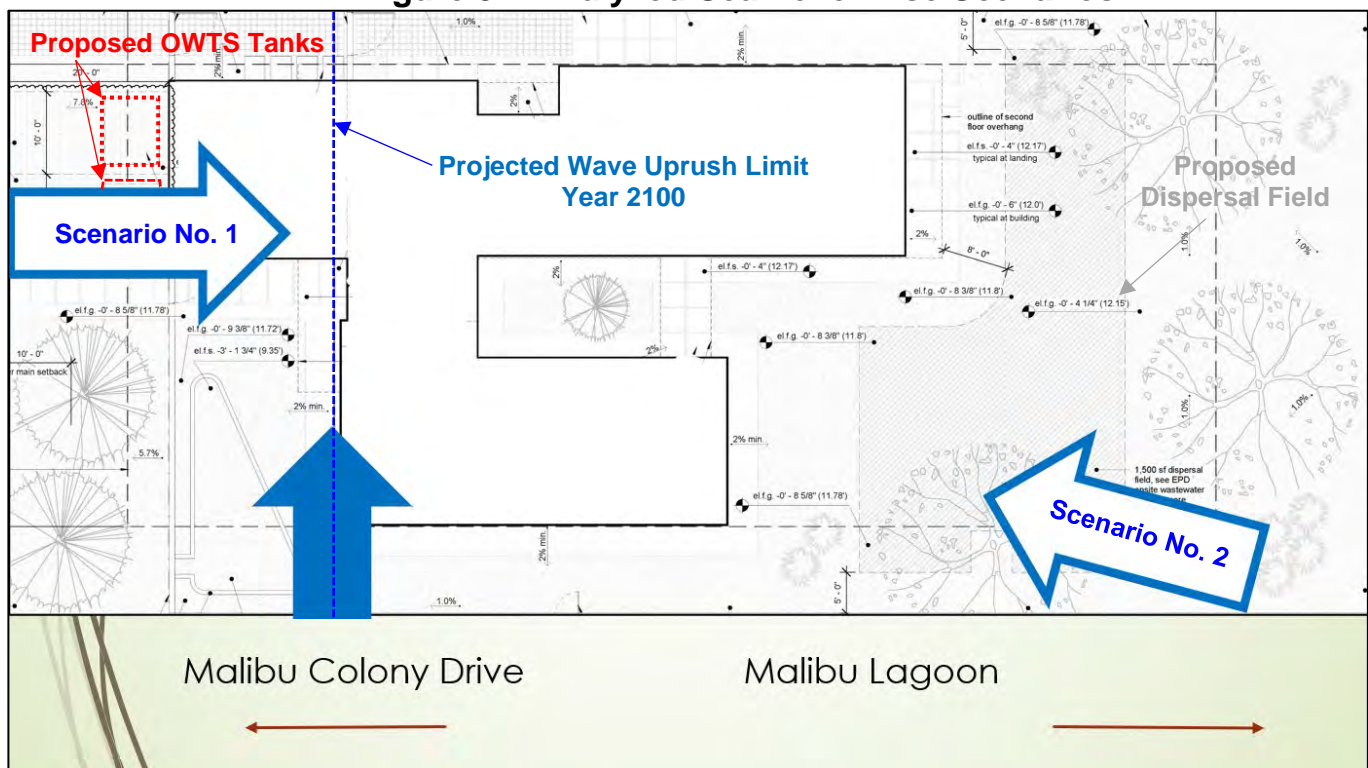
1. 100-year economic life of the proposed development using the low-risk aversion scenario assessed the potential impact from wave uprush from the south of the site. The 100-year economic life of the development is the standard of review used for potential impacts of typical wave action for beachfront development. The low-risk aversion was determined appropriate because the site is not on the beach or a coastal bluff and is buffered from the ocean by an existing shoreline protection device, existing beachfront development, and the existing 40-foot-wide Malibu Colony Drive. This analysis concluded that potential wave uprush would reach the proposed garage. As demonstrated in Figure 3 below, the proposed septic treatment tanks are located under the driveway within the wave uprush zone with the dispersal field located north of the proposed residence outside of the wave uprush zone. The new OWTS will include the use of sealed tanks to prevent the infiltration of any uprush waters. The underground tanks will also include flood-proofing and anchoring measures. These design features minimize the risk of wave run-up and flooding based on the sea level rise analysis.
2. An analysis of potential flooding from Malibu Creek was conducted. This analysis determined that flooding is unlikely because the topography surrounding the site

⁵ The California Coastal Commission Sea Level Rise Policy Guidance provides an overview of the best available science on sea level rise for California and recommended methodology for addressing sea level rise in Coastal Commission planning and regulatory actions. The document is not specific to a particular geographic location or development intensity, so the content is a menu of options to use only if relevant, rather than a checklist of required actions. The policy has not yet been adopted as a legal standard.

would impede the flow of water to the 14-foot-high elevation necessary to result in flooding at the site.

- 75-year economic life of the proposed development using the medium-high risk aversion assessed the potential impact of wave uprush from the southeast direction which according to the City Coastal Engineer, is an uncommon direction of wave action. After the Council hearing, the City Coastal Engineer Reviewer further assessed the applicability of the 100-year economic life of the development considering wave action from the southeast direction. Given LIP Section 10.4, and that the project site is not located on the beach or a coastal bluff, the City's Coastal Engineer recommended that a 75-year economic life and not a 100-year life of the development be used. Moreover, wave action from the southeast rarely travels that direction, and waves would have to cross Malibu Creek before reaching the project site. The medium-high-risk aversion was used for this analysis to conservatively account for the site's exposure to hazards from its location at the end of a sand spit and there are less obstructions between the development and the ocean to the east. This analysis concluded that eight inches of water depth at the east property line is well within the depths that can be mitigated as proposed. To ensure the protection of the development under the conservative projected sea-level rise scenario of 6.15 feet, a condition has been included in the attached resolution to require the incorporation of flood gates at any openings in the perimeter walls on the site that can be closed in the event of extreme hazard conditions in the future.

Figure 3 – Analyzed Sea-Level Rise Scenarios



Source: Kovac Design Studio – Propose Site Plan January 2020

As stated earlier, when the Council remanded the project back to the Planning Commission, a review of the applicability of additional sea-level rise analysis to address the 100-year economic life of the development was discussed; however, the action taken by the Council did not clearly state that applicant must provide a 100-year sea level rise study. Accordingly, prior to the most recent Planning Commission hearing, the City's Coastal Engineer Reviewers revisited the LCP requirements for coastal engineering analysis and confirmed there is no justification for requiring this site to be analyzed for a 100-year economic life of the structure because this analysis determines the design elements to consider for abating risks for beachfront or bluff development both of which do not apply to this project. Moreover, the coastal engineering analysis deemed acceptable by the City Coastal Engineer Reviewer for this project, included very conservative assumptions including the assumption that the beach is unprotected by the existing shoreline protection device, existing residential development, and 40-foot-wide road. The analysis also included conservative assumptions of atypical wave action from the southeast and that none of the volume of water potentially traveling toward the site would be lost to wave backwash or that none of the water would flow toward Malibu Creek or Malibu Lagoon.

This information was presented to the Planning Commission, and it was determined that the project applicant has properly analyzed wave uprush and sea level rise flooding hazards and that using the 75-year economic life of the structure was appropriate. The design elevates the development above the hazard to the maximum extent practicable and has been conditioned to incorporate flood gates to further avoid the hazard and minimize potential impacts. The proposed project, as designed and conditioned, is the most landward feasible and the most protective of ESHA given wave uprush, sea level rise and erosion hazards and complies with LIP Chapter 10. The appellant has not provided evidence that the project does not comply with the LCP.

APPEAL ITEM E: The Project Increases Illumination in ESHA and ESHA Buffer

The Project will increase lighting and introduce lighting at a higher elevation, including lighting around the property's proposed swimming pool. The Project fails to conform to LIP Section 4.6.2 and will install lighting in ESHA buffer, resulting in adverse biological and scenic impacts. Notably, the second-story addition also adds mass in an area currently open to those visiting and walking the public trail that wraps around the Project potentially blocking existing public views for those walking the trail and not able to or choosing not to continue down the path. Again, a reconfigured or smaller footprint will provide necessary environmental advantages and could potentially conform to applicable laws.

Staff Response

The subject site is one of 14 properties that border the Malibu Lagoon ESHA to the north. The applicant's lighting, as proposed and conditioned, is consistent with the night lighting

restrictions in the LCP and the MMC. As discussed previously, even though the City's lighting standards do not address indoor lighting, the proposed residence will include the use of mechanical shades on the windows that will minimize any interior illumination at night. The exterior lighting will be recessed and directed downward.

A photometric light study for the proposed project, included as Exhibit I, graphically demonstrates that the exterior and interior lighting will not result in light migration beyond the property boundaries or any illumination of ESHA. Also, while the roof deck on top of the easterly portion of the first floor does contain a pool, since it is integrated into the flat roof of the structure and has no pole lighting and, as shown in the photometric study, does not illuminate ESHA.

Pursuant to the lighting restrictions outlined in LIP Section 4.6.2, 6.5(G) and MMC Chapter 17.41 (Malibu Dark Sky Ordinance), exterior lighting must be minimized, restricted to low-intensity features, shielded, and directed away from ESHA and public viewing areas and must minimize light pollution of the night sky. The attached resolution includes the following conditions of approval related to lighting:

- 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.
- 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.
- 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.

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

The project, as proposed and conditioned, does not violate LCP lighting standards found in LIP Chapter 4 (ESHA), LIP Chapter 6 (Scenic and Visual Resources), or MMC Chapter 17.41 (Malibu Dark Sky Ordinance). Furthermore, no evidence of illumination of ESHA, or an adverse biological or scenic impact has been provided, and any such impacts would be prevented by the standard project conditions included in the resolution that prohibit perimeter lighting and require all lighting to be down shielded.

The appeal contends that complying with the Malibu Colony Overlay District standards pertaining to height are not sufficient to demonstrate that a one-story alternative is not required and that the project complies with the ESHA development standards. One-story and smaller alternatives to the proposed project were discussed in the Commission agenda report. As discussed above, the project complies with ESHA development standards due to the lighting design which avoids light trespass into ESHA and other properties (as demonstrated in the photometric study), is shielded and aimed downwards and is restricted by conditions of approval. In addition, the project is located in area generally developed with multi-story structures. Given these considerations and the evidence provided in the photometric report, there would be no environmental benefit to a reduction in the height or size of the residence. Finally, restricting the proposed project to one story with no evidence of a substantial adverse impact would not be consistent with the multi-story development enjoyed by nine other properties on the north side of Malibu Colony Drive that are similarly situated in terms of zoning and proximity to the lagoon.

APPEAL ITEM F: Cultural Resources

As written, Condition No. 13 only requires that a qualified archeologist be present at the Property to observe excavations and earthmoving activities until the upper two feet of soil have been removed, graded, or grubbed. However, as pointed out by Commissioner Hill, two feet is wholly inadequate. Pursuant to LUP Policy 5.64, new development should include on-site monitoring of all grading, excavation and site preparation that involve earthmoving operations by a qualified archeologist and appropriate Native American consultant. Limiting monitoring to two feet evades the intended purpose of the policy.

Staff Response

LIP Chapter 11 requires certain procedures to be followed to determine potential impacts on archaeological resources. LUP Policy 5.64 states that new development on sites identified as archaeologically sensitive shall include on-site monitoring of all grading, excavation and site preparation that involve earth moving operations. However, according to the City's Cultural Resources Map, the project site has a very low potential to contain

archaeological resources. The project site is located adjacent to an area that is subject to wave action and archaeological resources can erode or be displaced. Additionally, the proposed development is within an already disturbed and graded development pad. Therefore, staff has determined that no further archaeological study is required at this time.

Standard conditions of approval are included in the resolution requiring that should cultural resources be encountered during ground-disturbing activities, work shall immediately cease and a qualified archaeologist must provide an evaluation of the nature and significance of the resources, and work shall not resume until the Planning Director can review this information. The resolution also includes a protocol requiring that if a human bone is discovered during geologic testing or construction, work shall cease and the procedures described in Section 7050.5 of the California Health and Safety Code must be followed.

In addition, during the Planning Commission's deliberation on this project, concerns were raised about the potential for impacts to cultural resources and, in an abundance of caution, the following conditions of approval were added by the Planning Commission:

13. A qualified archaeologist shall be present onsite to observe grading, mechanical excavations and earth moving activities until the upper two feet of soil have been removed, graded or grubbed. Should the presence of important archaeological cultural resources be found, a Phase II Evaluation and Phase III Mitigation Program shall be conducted by a qualified archaeologist in consultation with a qualified Chumash cultural resource monitor. The Planning Director shall review and approve all design/work plans for Phase III Mitigation Programs and reports which detail the evaluative techniques and results.
14. A final report shall be prepared by the monitoring archaeologist and submitted to the Planning Department prior to the issuance of a certificate of occupancy.

The project has been properly reviewed for potential cultural resources impacts and conditioned to avoid any adverse impact, and the appellant has presented no evidence that such impacts are likely or reasonably foreseeable.

APPEAL ITEM G: Drainage Concerns to Malibu Colony Road

Before and at the Planning Commission hearing, issues were raised regarding flooding concerns to Malibu Colony Road. These concerns were not adequately addressed. The Project proposes to add fill to raise portions of the Property, leading to water flow draining south toward Malibu Colony Road. Malibu Colony Road experiences flooding issues, which the proposed plan could exacerbate. Further analysis and discussion should be had to inform potentially affected members of the community properly.

Staff Response

The City conducted all required flood hazard review pursuant to LIP Chapter 9 (Hazards) and made findings supported by substantial evidence. The project was reviewed by the City Coastal Engineer Reviewer, City geotechnical reviewers, and City Public Works Department to assess and minimize risks from flooding hazards, as documented in each department's review sheet (included as Attachment 7 to Exhibit F, the Commission Agenda Report). The appellant failed to identify specific concerns, nor was evidence provided demonstrating and exacerbation of drainage or flooding impacts on Malibu Colony Drive. Moreover, the proposed project, as designed and conditioned, will add 44 percent more permeable surface to the project site which will decrease the volume of runoff from the property toward the street. The findings and conditions of approval are also memorialized in the adopted Commission resolution. These findings and conditions of approval are also included in the attached resolution.

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

PUBLIC CORRESPONDENCE: Correspondence received as part of the previous Planning Commission hearings on June 1, 2020 and August 2, 2021 as well as the correspondence received for the City Council hearings on October 12, 2020 and November 9, 2020 are included as Attachment 10 of Exhibit F. The correspondence received after the publication of the August 2, 2021 Planning Commission staff report is included as Exhibit J.

PUBLIC NOTICE: On December 29, 2022, 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 (Exhibit K).

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 Resolution No. 23-XX, denying the appeal and approving CDP No. 18-035 VAR No. 19-062, and DP No. 19-003.

EXHIBITS:

- A. Resolution No. 23-02
- B. Appeal No. 21-011
- C. Planning Commission Resolution No. 21-53
- D. Planning Commission Resolution No. 20-18
- E. Applicant's Response to Appeal No. 21-011
- F. August 2, 2021 Planning Commission Agenda Report
 - 1. Draft Planning Commission Resolution No. 21-53
 - 2. Planning Commission Resolution No. 20-18
 - 3. Concurrence from Regional Water Quality Control Board (RWQCB)
 - 4. City Coastal Engineering Memo, dated February 17, 2021
 - 5. Project Plans
 - 6. Updated Story Pole Plan and Certification
 - 7. Department Review Sheets
 - 8. Visual Impact Analysis
 - 9. Photometric Study
 - 10. Public Correspondence
 - 11. Radius Map
 - 12. Public Hearing Notice
- G. Preliminary Approval from the California Department of Fish and Wildlife
- H. Updated City Coastal Engineer Review dated June 20, 2022
- I. Photometric Study
- J. Correspondence
- K. Public Hearing Notice

RESOLUTION NO. 23-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, DENYING APPEAL NO. 21-011 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 TO ALLOW ENCROACHMENT INTO THE 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 23349, LLC)

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

SECTION 1. Recitals.

A. On August 28, 2018, an application for Coastal Development Permit (CDP) No. 18-035 and associated requests were submitted to the Planning Department by applicant, Marny Randall, on behalf of property owner, Axel 23324, LLC. The application was routed to the City Biologist, City Environmental Health Administrator, City Coastal Engineer Reviewer, City Public Works Department, City geotechnical staff, Los Angeles County Waterworks District No. 29 (WD29), and the Los Angeles County Fire Department (LACFD) for review.

B. On October 25, 2018, Planning Department staff conducted a site visit to document site conditions, the property and the surrounding area.

C. On January 7, 2020, a Notice of Coastal Development Permit Application was posted on the property.

D. In February 2020, the applicant installed story poles to demonstrate the design of the project.

E. On February 12, 2020, the application was deemed complete for processing.

F. On February 20, 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.

G. On March 12, 2020, the Regular Planning Commission meeting of March 16, 2020, was adjourned to April 6, 2020 due to the COVID-19 pandemic.

H. On April 6, 2020, the Planning Commission continued to the item to a date uncertain due to the COVID-19 pandemic.

I. On April 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.

J. On May 4, 2020, the Planning Commission continued the item to the June 1, 2020 Regular Planning Commission meeting.

K. On June 1, 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, and adopted Planning Commission Resolution No. 20-18 approving the project entitlements.

L. On June 11, 2020, the neighbor to the west, Judith Israel, filed an appeal of the Planning Commission's action.

M. On September 17, 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.

N. On October 12, 2020, the City Council, upon approval of the agenda, continued the item to the November 9, 2020 Regular City Council meeting.

O. On November 9, 2020, 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 report for the June 1, 2020, Planning Commission Meeting, public testimony, and other information in the record. During its deliberations, the Council discussed the project's consistency with the Memorandum of Understanding (MOU) for the Civic Center Prohibition Area, the inclusion of the perimeter walls in the development area calculations, and the need to review the applicability of sea-level rise analysis to address the 100-year economic life of the development based on the project location. The Council unanimously approved a motion to remand the project back to the Planning Commission after the aforementioned items have been addressed.

P. On February 26, 2021, the staff received a response from the Regional Water Quality Control Board (RWQCB), where they concurred with staff's determination that the project did not increase wastewater flow.

Q. In May 2021, the applicant submitted modified project plans that included updated Environmentally Sensitive Habitat Area (ESHA) development area calculations that included the surface area of the new perimeter walls.

R. On February 17, 2021, the City's Coastal Engineer Reviewers, Michael B. Phipps, PG, CEG and Lauren J. Doyel, PE, GE, issued a memo that provided commentary and concurrence with additional data provided by the coastal engineering consultant, David C. Weiss (DCWSE) and the property owner's former legal counsel, Steven Kauffman, that addressed a series of issues that were discussed during the City Council appeal hearing, including councilmembers' concerns about sea-level rise over the expected 100-year economic life of the proposed structure.

S. On July 1, 2021, story poles were re-installed onsite. Staff visited the site and photo-documented the poles.

T. On July 8, 2021, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

U. On August 2, 2021, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record and adopted Planning Commission Resolution No. 21-53 approving the project entitlements.

V. On August 12, 2021, the neighbor to the west, Judith Israel, filed an appeal of the Planning Commission's action.

W. On September 29, 2022, 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.

X. On October 24, 2022, the City Council, upon approval of the agenda, continued the item to the November 14, 2022 Regular City Council meeting.

Y. On November 14, 2022, the City Council, upon approval of the agenda, continued the item to the November 28, 2022 Regular City Council meeting.

Z. On November 28, 2022, the hearing for this item was canceled.

AA. On December 29, 2022, 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.

BB. On January 23, 2023, 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 report for the August 2, 2021, Planning Commission Meeting, public testimony, and other information in the record.

SECTION 2. Appeal of Action.

The appeal filed by the appellant contends that the findings for approval of the project are not supported by the evidence, or the decision is not supported by the findings. Specifically, the appellant contends that the proposed project is not consistent with the City's Local Coastal Program (LCP) and that the project exacerbates drainage concerns along Malibu Colony Drive.

SECTION 3. Findings for Denying the Appeal.

Based on evidence contained within the record, including the content of the Council Agenda Report and Planning Commission Agenda Report, as well as the testimony and materials considered by the Planning Commission and the City Council, the City Council hereby makes the following findings of fact, denies the appeals, and approves the project.

A. The project complies with LCP Local Implementation Plan (LIP) Section 4.7.1 pertaining to the allowable development area of no more than 25 percent of the parcel size, which is the development standard that implements LCP Land Use Plan (LUP) Policy 3.10. Development area is defined as the approved portion of a project site that is developed, including the building pad and all graded slopes, all structures, and parking areas. If it is demonstrated that it is not feasible from an engineering standpoint to include all graded slopes within the development area, then graded slopes may be excluded from the approved development area. The area of one access driveway or roadway not to exceed twenty feet wide, and one hammerhead safety turnaround, as required by the Los Angeles County Fire Department not located within the approved building pad shall be excluded from the total development area.

The overall slope of the site is less than one percent. The additional fill is recommended for the site to comply with the current building code, which requires a two percent slope. Moreover, the project site is located within the wave uprush zone and is required to elevate the grade by one foot to minimize potential flood damage and to ensure proper drainage away from the ESHA at the rear of the property to the front of the property. As a result, it is not feasible from an engineering standpoint to include all of the graded slopes in the development area so these slopes have been excluded from the approved development area. The existing westerly wall is owned, and was built, by the applicant's neighbor in 1972 and is partially located on the subject property within an easement. As reflected in the project plans, this wall is existing to remain and not included in the scope of new development in the subject application. The existing westerly wall is not counted in the project's development area because it would improperly impose restrictions on the proposed development that are outside of the control of the applicant. The parcel size is 12,500 square feet, resulting in a maximum development area of 3,176 square feet, which this project complies with.

B. Pursuant to LIP Section 4.4.1, preliminary approval from the California Department of Fish and Wildlife was provided for the proposed project

C. The City Council finds that the project as designed and conditioned complies with the scenic and visual resource protection standards of LIP Chapter 6. The project is located within the built-out Malibu Colony neighborhood and is subject to the Malibu Colony Overlay District (LIP Section 3.4.1(E)). Although the proposed project is visible from public viewing areas, LUP Policy

6.4 clarifies that scenic areas do not include inland areas that are largely developed or built out, which is the case with the Malibu Colony Overlay District. This district prescribes special development standards for the neighborhood, including allowing a height limit up to 30 feet with a pitched roof and up to three stories for non-beachfront lots such as the subject property, and specifically notes that the requirement for a site plan review does not apply. The intent within this district, for which the California Coastal Commission certified the development standards, is to allow heights above 18 feet without evaluation pursuant to the site plan review findings. The purpose and intent of the Scenic, Visual, and Hillside Resource Protection Ordinance is to enhance and protect the scenic and visual qualities of coastal and mountain areas within the City of Malibu. The residential development within the Malibu Colony Overlay District is fully built out and, and when viewed against the backdrop of the existing development pattern, the proposed development does not obstruct public views of the ocean or mountains. Accordingly, the 18-foot-high maximum required in the development design criteria of the Scenic, Visual, and Hillside Resource Protection Ordinance does not apply to the proposed project. Although the development within the Malibu Colony Overlay District does not meet the definition of a scenic area, the project has been designed and conditioned to minimize potential visual impacts from scenic areas. The development includes architectural articulation that breaks up the massing of the structure and will include the use of mechanical shades on the windows that will minimize the development's interior illumination at night. Pursuant to the lighting restrictions outlined in LIP Sections 4.6.2 and 6.5(G) and Malibu Municipal (MMC) Chapter 17.41 (Malibu Dark Sky Ordinance), exterior lighting must be minimized, restricted to low-intensity features, shielded, and directed away from public viewing areas and must minimize light pollution of the night sky. As required by LIP Chapter 6, the project is conditioned to require neutral colors, control outdoor lighting, and prohibit non-glare glass and reflective materials. The appellant has provided no evidence of this project creating a significant adverse visual impact or of non-compliance with the LCP's scenic and visual resource standards.

D. The Council finds that the project has properly evaluated potential sea level rise impacts and addressed potential hazards. The project is not sited in a beachfront location and is not subject to direct wave uprush hazards. However, out of an abundance of caution due to the proximity of Malibu Lagoon State Beach to the north and east, the applicant conducted extensive analyses of sea level rise hazards from multiple directions. The most recent report used a medium-high risk aversion scenario from the California Coastal Commission Sea Level Rise Policy Guidance. The analysis adds additional detail on the potential for site flooding due to wave action on the east side in the form of a water "bore." The Project Coastal Engineer used the 75-year economic life of the structure because the site is not on the beach or an oceanfront bluff which resulted in a projected sea level rise of 6.15 feet. The report concluded that wave action will not directly impact the site under this sea level rise scenario. The subject parcel is also located within Phase 2 of the Civic Center Prohibition Area that prohibits the discharge of OWTS and is scheduled to be connected to a centralized sewer by November 24, 2024, or an extended date if the MOU is extended. However, the new OWTS will include the use of sealed tanks to prevent the infiltration of uprush and will be required to include flood-proofing and anchoring measures for the underground tank to mitigate potential inundation while the OWTS is in use. A condition to incorporate flood gates into the wall openings has also been included in this resolution at the suggestion of the project coastal engineer.

E. The Council finds that the project, as conditioned, does not violate LCP lighting standards found in LIP Chapter 4 (ESHA) or LIP Chapter 6 (Scenic and Visual Resources).

Further, no evidence of illumination of ESHA, or an adverse biological or scenic impact has been provided, and any such impacts would be prevented by the standard project conditions included in the resolution that prohibits perimeter lighting and require all lighting to be down-shielded. Also, the appellant acknowledges in the appeal document that the project plans specify all lighting to be aimed away from ESHA, as required, thereby avoiding any impacts. The entire southern boundary of the Malibu Lagoon is bordered by a portion of the Malibu Colony neighborhood, which consists of multistory homes as allowed by the Malibu Colony Overlay District of the LCP and the MMC. There is no basis for requiring the project to be limited to one-story when the majority of the neighborhood, including those properties abutting the Lagoon and the appellant's home, consist of multiple-story homes, nor was any environmental benefit demonstrated for such a limit.

F. The City Council finds that the project has been properly reviewed for potential cultural resources impacts and that the appellant has presented no evidence that such impacts are likely or reasonably foreseeable. The project site is located in an area which the appeal document acknowledges is subject to wave action and archaeological resources can erode or be displaced. In addition, the property has been developed since 1952 with a residence, swimming pool, septic system, and accessory building. Staff's initial evaluation was summarized in the Commission agenda report but took into consideration the physical setting of the project site and the likelihood of historic wave action affecting the site, and concluded that no further evaluation was required. In addition, Phase 1 Assessments conducted on nearby vacant/undeveloped sites have also concluded no evidence of prehistoric or historic archaeological resources and improvements will have no adverse impacts on known cultural resources. As such, no further review was required by the Planning Director.

No evidence has been presented that suggests that the project would have any impact on cultural, historical, archeological, or paleontological resources. Conditions of approval are included in the resolution requiring that, should cultural resources be encountered during ground-disturbing activities, work shall cease, and a qualified archaeologist must provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. The resolution also includes a protocol if a human bone is discovered during geologic testing or construction, that work shall cease, and the procedures described in Section 7050.5 of the California Health and Safety Code must be followed. Supplemental conditions of approval were also added with the Planning Commission's approval of the project. The conditions require the presence of a qualified archaeologist to observe grading, mechanical excavations and earth moving activities until the upper two feet of soil have been removed, graded or grubbed and subsequent, protocols for what must occur if important archaeological cultural resources are discovered during site disturbance, and the submittal of a final report to the Planning Director at the conclusion of the monitoring. The project has been properly reviewed for potential cultural resources impacts and conditioned to avoid any adverse impact, and the appellant has presented no evidence that such impacts are likely or reasonably foreseeable.

G. As required by LIP Sections 9.2(A)(1-7), the project was reviewed by the City Coastal Engineer Reviewer, City geotechnical staff, and City Public Works Department to assess and minimize risks from several hazards including flooding. The appellant failed to identify specific concerns that needed to be addressed, nor was evidence provided related to the exacerbation of drainage or flooding impacts on Malibu Colony Drive. Moreover, the proposed project, as designed and conditioned, will add 44 percent more permeable surface to the project site which

will decrease the volume of runoff from the property toward the street. The proposed finished floor elevation of the building pad has been reviewed by the City's Public Works Department and City Coastal Engineer Reviewer and has been given approval for conformance with all relevant policies and regulations of the LCP and the MMC.

In conclusion, as detailed above and in the record, the evidence supports the required findings for approval of the proposed Project and that it is consistent with MMC and LCP standards, and that the appeal should not be granted. Additional evidence in the record supports the findings required for the project, as discussed below.

SECTION 4. Environmental Review.

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

SECTION 5. Coastal Development Permit Findings.

Based on the evidence in the record (including the analysis, findings of fact, and conclusions set forth by staff in the Council Agenda Report and Planning Commission Agenda Report, as well as the testimony and materials considered by the Planning Commission and City Council) the City Council hereby makes the following findings of fact, denying the appeal and approving the project and finds that substantial evidence in the record supports the required findings for approval of the project.

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

A. General Coastal Development Permit (LIP Chapter 13)

1. The project is located in the SFM residential zoning district, an area designated for residential uses, and in the Malibu Colony Overlay District. The project has received an LCP conformance review from the Planning Department, City Biologist, City Environmental Health Administrator, City Coastal Engineer Reviewer, City Public Works Department, City geotechnical staff, WD29, and the LACFD. The project is consistent with the applicable residential development standards, and the policies and provisions of the LCP and MMC, with the inclusion of the variance.

2. The proposed project and related construction activities are not anticipated to interfere with the public's right to access the coast as adequate public access exists immediately

east of the project site at Malibu Lagoon (Surfrider Beach) State Beach. No public access will be blocked by the project.

3. Evidence in the record demonstrates that, as conditioned, the project will not result in adverse biological or scenic impacts. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment because the site has been fully disturbed since 1952, any development on the site would result in the encroachment into the 100-foot wetland buffer, the project complies with the 25 percent development area limit, and a reconfigured or smaller footprint would not provide any environmental advantages. The project is the least environmentally damaging alternative.

B. VAR No. 19-062 to allow encroachment into the 100-foot buffer from ESHA (Malibu Lagoon) (LIP Section 13.26.5)

1. A special circumstance and exceptional characteristic are applicable to the subject property, such that strict application of the zoning ordinance deprives the property of privileges enjoyed by other properties in the vicinity, in that the property is immediately adjacent to Malibu Lagoon State Beach to the north and east and the required 100-foot buffer from the wetland encompasses the entire project site. As such, there is no way to site the proposed residence to avoid encroachment into the buffer because the lot is 75 feet wide. The project proposes the demolition and reconstruction of a single-family residence. The residential properties in the vicinity are primarily developed under the identical zoning classification, with similar development limitations, related to development within the ESHA buffer. The neighboring developed properties immediately west of the project site located at 23331 Malibu Colony Drive, 23337 Malibu Colony Drive, 23351 Malibu Colony Drive, 23401 Malibu Colony Drive, 23405 Malibu Colony Drive¹, 23431 Malibu Colony Drive, and 23441 Malibu Colony Drive are located within the 100-foot buffer from the wetland, and each have a development area that exceeds 25 percent of the lot area. A strict application of the zoning ordinance would deprive the property owner of the same residential development configuration and siting enjoyed by other properties in the vicinity with the same zoning and constraints.

2. The project is designed to minimize grading and landform alteration and utilizes a previously disturbed area. The project has been designed to comply with all applicable standards of the Malibu Colony Overlay District. The project complies with the development area that is 25 percent the size of the parcel required for this variance to minimize impacts to ESHA. With the incorporation of the recommended conditions of approval, the granting of a variance 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 SFM zone district in which the property is located.

3. The granting of the variance will not constitute a special privilege to the applicant or property owner in that the neighboring properties to the west, which are developed with single-

¹ On June 3, 2005, a Wetland Delineation Study was prepared by TeraCor Resource Management for a project proposed at 23405 Malibu Colony Drive and found that the upland limit of the wetland boundary was approximately 65 feet from the rear property line of the subject property. However, with the completion of the Malibu Lagoon Restoration and Enhancement Project in 2013, the wetland delineation is expected to have shifted closer to the developed properties within the Malibu Colony Overlay District.

family residences, also include development within the ESHA buffer. In addition, the proposed single-family residence is consistent with the uses permitted in the applicable zoning designation.

4. Pursuant to LUP Policy 3.12 and LIP Section 4.7.1, the development is limited to 25 percent of the lot area in order to minimize ESHA impacts. LUP Policy 3.28 and LIP Section 4.6.4 prohibit a variance modification to the ESHA buffer except where there is no other feasible alternative to site development and the development does not exceed the maximum size allowed for the development area. There are no new ESHA impacts from the proposed residence as it decreases the development area to comply with the maximum size allowed, which is 25 percent the size of the parcel, and does not expand beyond the area that is already disturbed. There is substantial evidence in the record that demonstrates there is no other feasible location to site the development. The project will not be contrary to or in conflict with the general purposes and intent of the zoning provisions nor contrary to or in conflict with the goals, objectives and policies of the LCP.

5. The project consists of the demolition of a single-family residence and associated development and the construction of a new two-story residence and associated development on a previously disturbed building pad located entirely within the fuel modification of the existing surrounding residences. The granting of the variance will not increase ESHA or ESHA buffer impacts as the proposed development does not expand beyond an area that was already disturbed. Six to 12 inches of fill must be added to the site to ensure proper drainage. It is not feasible to include these graded slopes or the necessary retaining perimeter walls within the development area and they are allowed to be excluded. The project reduces the developed area of the site from the existing 69 percent to the proposed 25 percent. The proposed development area complies with the maximum allowable pursuant to LIP Section 4.7.

6. The subject property is zoned SFM which allows for residential development. The proposed project includes the construction of a single-family residence which is a permitted use in the subject zone. Approval of the variance would allow continued encroachment into ESHA buffer for the proposed residence as it is not possible to avoid encroachment. The use is consistent with the purpose and intent of the SFM Zone.

7. The project will consist of a replacement single-family residence on the subject property that is similar in siting to what was previously on the site. The subject property is physically suitable for the proposed residence because: 1) the subject property was physically suitable for the construction of the previous single-family residence; and 2) as designed, the wetland ESHA will be protected.

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

C. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

1. No alternative exists that would avoid encroachment into ESHA and ESHA buffer due to the 75-foot lot width and the 100-foot buffer from the Malibu Lagoon that encompasses the

entire project site. The strict application of the ESHA overlay ordinance would preclude replacing the single-family residential development on the property.

2. The proposed project is consistent with all applicable provisions of the LCP. In addition, the project complies with the maximum development area of 25 percent of the lot area pursuant to LIP Section 4.7.1. The proposed 3,076 square foot development area has been reviewed and was determined by the City Biologist to be in compliance based on the lot size and the exclusion of the graded slopes and retaining walls as allowed.

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

1. Although the proposed residence would be visible from the Malibu Lagoon State Beach, LUP Policy 6.4 clarifies that scenic areas do not include inland areas that are largely developed or built out, which is the case with the Malibu Colony Overlay District. Although the development within the Malibu Colony Overlay District does not meet the definition of a scenic area, the project has been designed and conditioned to minimize potential visual impacts from scenic areas. The proposed project includes the demolition and reconstruction of a single-family residence and associated development in an established residential neighborhood. The existing development area is sprawled over more than two-thirds of the property. The proposed development is contained within a development area 25 percent of the lot size with a footprint that will be relocated closer to Malibu Colony Drive away from the southern boundary of Malibu Lagoon State Beach that abuts the site. This results in the structure's decreased visibility from the public viewing area. The development includes architectural articulation that breaks up the massing of the structure and will include the use of mechanical shades on the windows that will minimize the development's interior illumination at night. The mechanical shades are controlled by a Lutron Homeworks system that automatically lower 30 minutes after sunset. As proposed, development on the site will not have significant adverse impacts on scenic and visual resources.

2. The project has been designed and conditioned to avoid any adverse or scenic impacts by requiring the structure to utilize colors and materials that will be compatible with the surrounding natural environment. Additionally, the project has been conditioned to restrict exterior lighting per the requirements of LIP Section 6.5(G). Therefore, the proposed development will not result in significant adverse scenic visual impacts.

3. As stated in Section A, Finding 3, the project, as conditioned, is the least environmentally damaging alternative. There is no way to design a project that is not visible from scenic areas. The project is located within the built-out neighborhood of the Malibu Colony which already contains multistory homes. There is no evidence that a reduction in the height or footprint of the project would be more protective of scenic and visual resources in this context.

4. There are no feasible alternatives to development that would avoid substantially lessen any significant adverse impacts on scenic and visual resources as no significant impacts are expected.

5. The project is designed to minimize impacts on sensitive resources. As conditioned, development on the site will not have significant adverse impacts on scenic and visual resources.

E. Hazards (LIP Chapter 9)

1 and 2. The record demonstrates that the project, as proposed and conditioned, will not adversely affect stability of the site or structural integrity from geologic, flood, or fire hazards in that the project complies with the recommended use of a pile foundation, is consistent with the recommended finish floor elevation, and requires that the certified engineering geologist and/or geotechnical engineer's recommendations and governing agency's building codes are followed. As a result of the septic treatment tanks' location under the driveway within the wave uprush zone, the OWTS will include the use of sealed tanks to prevent the infiltration of uprush and will be required to include flood-proofing and anchoring measures for the underground tanks. The project, as designed, conditioned, and approved by the City Coastal Engineer, City Geotechnical staff, City Public Works Department, and LACFD, does not have any significant adverse impacts on the site stability or structural integrity from geologic, flood or fire hazards due to the project design.

3, 4 and 5. As previously stated, the project, as proposed and conditioned, is the least environmentally damaging alternative. There are no alternatives that would avoid or substantially lessen impacts onsite stability or structural integrity as no such significant impacts are expected. No adverse impacts to sensitive resources are expected as the project complies with all development standards, inclusive of the variance.

F. Shoreline and Bluff Development (LIP Chapter 10)

1 and 2. The proposed project includes the replacement of a single-family residence and associated development on a lot that is not located on the beach but is partially located in the wave uprush zone. The proposed septic treatment tanks are located under the driveway within the wave uprush zone with the dispersal field located north of the proposed residence outside of the wave uprush zone. The new OWTS will include the use of sealed tanks to prevent the infiltration of uprush and will be required to include flood-proofing and anchoring measures for the underground tank. The OWTS has been determined to be sited in the most landward feasible location by the City Coastal Engineer Reviewer and City Environmental Health Administrator in compliance with LIP Section 10.4. The supplementary sea level rise analysis demonstrated a low risk of this hazard to the project as designed, and as conditioned, the design will incorporate flood gates into the perimeter walls that can be closed for any future flooding event. The proposed single-family residence and associated development, including the OWTS, have been designed to not require a shoreline protection device in that the residence has been designed to withstand the projected lateral force of any potential wave impact. Public access to the ocean exists immediately east of the project site at Malibu Lagoon (Surfrider Beach) State Beach. The project, as proposed, will have no significant adverse impacts on public access, shoreline sand supply or other resources.

3 and 4. As demonstrated in the record, the project is the least environmentally damaging alternative in that the design proposed is not expected to have any adverse impacts on shoreline sand supply, public access or other coastal resources. Since no significant adverse impacts are expected, there are no alternatives that would further reduce such impacts.

G. 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. 19-003, and approval of the demolition permit is subject to the approval of CDP No. 18-035.

SECTION 6. City Council Approval.

Based on the foregoing findings and evidence contained within the record, the City Council hereby approves CDP No. 18-035, VAR No. 19-062 and DP No. 19-003, 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. The approval of this application is to allow for the project described herein. The scope of work approved includes:
 - a. Demolition of an existing 1,581 square foot, one-story single-family residence, three detached accessory buildings, and associated development, totaling 2,963 square feet of building area;
 - b. Construction of a new two-story, 28-foot, 2-inch high, 5,146 square foot single-family residence, including a 400 square foot attached garage;
 - c. New swimming pool and pool equipment;
 - d. Exempt and non-exempt grading including:
 - Exempt*
 - 37 cubic yards of understructure grading
 - Non-exempt*
 - 357 cubic yards
 - e. Installation of a new OWTS, including a 1,500-gallon septic tank;
 - f. New landscaping and hardscape, including a permeable driveway; and
 - g. Perimeter walls not to exceed six feet in height along the side property lines and a six-foot-high visually permeable auto gate in the front yard.

Discretionary requests:

- a. VAR No. 19-062 for the reduction of the required 100-foot wetland buffer ESHA; and
 - b. DP No. 19-003 for the demolition of the existing single-family residence and associated development.
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 the architectural and grading plans on file with the Planning Department date stamped **May 20, 2021** and landscape plans dated **July 6, 2021**. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.
4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions of approval set forth herein. The applicant shall file this form with the Planning Department prior to the issuance of any development permits.
5. The applicant shall digitally submit a complete set of plans, 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 the 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 Reviewer, 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, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the coastal development permit approved by the City is void.
12. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

Cultural Resources

13. A qualified archaeologist shall be present onsite to observe grading, mechanical excavations and earth moving activities until the upper two feet of soil have been removed, graded or grubbed. Should the presence of important archaeological cultural resources be found, a Phase II Evaluation and Phase III Mitigation Program shall be conducted by a qualified archaeologist in consultation with a qualified Chumash cultural resource monitor. The Planning Director shall review and approve all design/work plans for Phase III Mitigation Programs and reports which detail the evaluative techniques and results.
14. A final report shall be prepared by the monitoring archaeologist and submitted to the Planning Department prior to the issuance of a certificate of occupancy.
15. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.
16. 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.

Special Conditions

17. To ensure the protection of the development under the projected sea-level rise scenario of 6.15 feet, the project shall incorporate the use of flood gates across any openings in the perimeter walls on the site.
18. 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.

Geology

19. 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.
20. 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

21. 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.
22. 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).
23. 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).

24. 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.
25. 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 drainage fixture equivalents, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;
 - b. Sewage and effluent pump design calculations (as applicable).
 - c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems;
 - d. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system's geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics; and
 - e. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department.
26. Prior to final Environmental Health approval, the construction plans for all structures and/or buildings with reduced setbacks must be approved by the City Building Safety

Division. The architectural and/or structural plans submitted to Building and Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives, etc.). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. The architectural/structural/waterproofing plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).

27. 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."
28. 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.
29. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.
30. 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.
31. 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.
32. 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.
33. 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.

34. All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. The floor plans must show all drainage fixtures, including in the kitchen and laundry areas. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.
35. The City Biologist's final approval shall be submitted to the City Environmental Health Administrator. The City Biologist shall review the OWTS design to determine any impact on Environmentally Sensitive Habitat Area if applicable.
36. The project geotechnical consultant, City geotechnical staff, project coastal engineering consultant, and City Coastal Engineer Reviewer, final approvals shall be submitted to the City Environmental Health Administrator.
37. 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 the continued operation, maintenance and monitoring of the OWTS.

Grading/Drainage/Hydrology (Public Works)

38. The non-exempt grading for the project shall not exceed a total of 1,000 cubic yards, cut and fill.
39. The total grading yardage verification certificate shall be copied onto the coversheet of the Grading Plan. No alternative formats or substitutes will be accepted.
40. 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.

41. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. 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 WQMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
- a. Site Design Best Management Practices (BMPs);
 - b. Source Control BMPs;
 - c. Treatment Control BMPs that retain on-site Stormwater Quality Design Volume (SWQDV). Or where it is technically infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDV that is not retained on-site;
 - d. Drainage improvements;
 - e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
 - f. Methods of onsite percolation, site re-vegetation and an analysis for off-site project impacts;
 - g. Measures to treat and infiltrate runoff from impervious areas;
 - 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 measure installed during construction prior to the issuance of grading or building permits; and
 - i. The WQMP shall be submitted to the Public Works Department 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. The WQMP shall be approved prior the Public Works Department's approval of the grading and drainage plan and/or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP's, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the Los Angeles County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the issuance of the certificate of occupancy.
42. 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.
43. A grading and drainage plan containing the following information shall be approved, and submitted to the Public Works Department, prior to the issuance of 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.
44. 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.
45. 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 with 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.

46. 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.”
47. 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.
48. 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.
49. The Building Official may approve grading during the rainy season to remediate hazardous geologic conditions that endanger public health and safety.

Pool / Spa / Water Feature

50. Onsite noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).
51. 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).
52. All swimming pools shall contain double walled construction with drains and leak detection systems capable of sensing a leak of the inner wall.
53. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, algaecides, or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:
 - a. The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
 - b. There are sufficient BMPs in place to prevent soil erosion; and
 - c. The discharge does not reach in to the MS4 or to the ASBS (including tributaries)
54. Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.
55. 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. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.
56. Pursuant to MMC Section 9.20.040(B), all ponds, decorative fountains shall require a water recirculating/recycling system.

Water Quality/ Water Service

57. Prior to the issuance of a building permit, the applicant shall submit Will Serve Letter from Los Angeles County Waterworks District No. 29 (WD29) to the Planning Department indicating the ability of the property to receive adequate water service.
58. Prior to final inspection (or project sign off, as applicable) by the Planning Department, the applicant shall demonstrate that all requirements of WD29 have been met, including installation of a meter, if applicable.

Coastal Protection (Coastal Engineer)

59. No stockpiling of dirt or construction materials shall occur on the beach or adjacent ESHA area.
60. Measures to control erosion, runoff, and siltation shall be implemented at the end of each day's work.
61. No machinery shall be placed, stored or otherwise located in the intertidal zone at any time, unless necessary for protection of life and/or property.
62. Construction equipment shall not be cleaned on the beach or the adjacent ESHA area.
63. Construction debris and sediment shall be properly contained and secured on site with BMPs to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking.

Construction / Framing

64. 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.
65. A construction staging plan shall be reviewed and approved by the Building Official prior to plan check submittal.
66. 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.
67. At no time shall any eastbound lane along Pacific Coast Highway be closed for construction staging related to this project between the hours of 7:00 a.m. and 9:00 a.m.
68. 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.
69. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural BMPs to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in LIP Chapter 17, including:

- a. Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
- b. Grading activities shall be planned during the southern California dry season (April through October).
- c. During construction, contractors shall be required to utilize sandbags and berms to control runoff during on-site watering and periods of rain in order to minimize surface water contamination.
- d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.

Demolition/Solid Waste

- 70. Prior to demolition activities, the applicant shall receive Planning Department approval for compliance with conditions of approval.
- 71. 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.
- 72. 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.
- 73. 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.
- 74. 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.
- 75. 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.
- 76. 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.
- 77. Upon completion of demolition activities, the applicant shall request a final inspection by the Building Safety Division.

Lighting

78. 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.
79. 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.
80. 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.
81. Motion sensor lights shall be programmed to extinguish ten minutes after activation.
82. Three violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

Biology

83. Prior to plan check approval, an updated landscape plan must be submitted to the City Biologist for review and approval that replaces the Monterey Cypress trees with California Sycamore trees as required by the LACFD.
84. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.
85. Except as permitted pursuant to the provisions in LUP policies 3.18 and 3.20, throughout the City of Malibu, development that involves the use of pesticides, including insecticides, herbicides, rodenticides or any other similar toxic chemical substances, shall be prohibited in cases where the application of such substances would have the potential to significantly degrade Environmentally Sensitive Habitat Areas or coastal water quality or harm wildlife. Herbicides may be used for the eradication of invasive plant species or habitat restoration, but only if the use of non-chemical methods for prevention and management such as

physical, mechanical, cultural, and biological controls are infeasible. 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 used for a limited time.

86. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner's signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22.
87. Invasive plant species, as determined by the City of Malibu, are prohibited.
88. 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).
89. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote or copper arsenate.
90. 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 violations of this condition will result in a requirement to permanently remove the vegetation from the site.
91. Grading and/or demolition shall be scheduled only during the dry season from April 1 – October 31. If it becomes necessary to conduct grading activities from November 1 – March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.

Fuel Modification

92. The project shall receive LACFD approval of a Final Fuel Modification Plan prior to the issuance of final building permits.

Fencing and Walls

93. 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 and LIP Section 6.5.
94. Fencing or walls shall be prohibited within ESHA, except where necessary for public safety or habitat protection or restoration. Fencing or walls that do not permit the free passage of wildlife shall be prohibited in any wildlife corridor.

95. Development adjacent to, but not within ESHA, may include fencing, if necessary for security, that is limited to the area around the clustered development area.

Colors and Materials

96. The project is visible from scenic roads or public viewing areas, therefore, shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
- a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.
 - b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
 - c. All windows shall be comprised of non-glare glass.
97. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color of driveways and retaining walls shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.

Deed Restrictions

98. 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.
99. The property owner is required to acknowledge, by recordation of a deed restriction, that the property is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.
100. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth above. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

101. 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.

Prior to Occupancy

102. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Planning Department the plumbing permit for the irrigation system installation signed off by the Building Safety Division.
103. Prior to Planning final inspection, the City Biologist shall inspect the project site and determine that all Planning Department conditions to protect natural resources are in compliance with the approved plans.
104. Prior to a final Building inspection, the applicant shall provide a Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Department. Applicant must provide haul tickets and diversion information. The final Summary Report shall designate the specific materials that were land filled or recycled, and state the facilities where all materials were taken.
105. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Building Safety Division. The Planning inspection may include photographs to document the as-built condition of the site. A building permit will not be finalized until the Planning Department has determined that the project complies with this coastal development permit.
106. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

Fixed Conditions

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

SECTION 8. The City Clerk shall certify the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 23rd day of January 2023.

BRUCE SILVERSTEIN, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

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

TREVOR RUSIN, Interim City Attorney

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

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.

August 12, 2021

VIA ELECTRONIC MAIL ONLY

Kathleen Stecko
City of Malibu
23825 Stuart Ranch Road
Malibu, California 90265
E-Mail: kstecko@malibucity.org

Re: Appeal of Resolution 21-53, Adopted by the Planning Commission on August 2, 2021, Approving Coastal Development Permit No. 18-035, Variance No. 19-062, and Demolition Permit No. 18-010

Dear Ms. Stecko:

In accordance with Malibu Municipal Code § 13.20.1, Ms. Judith Israel in her personal capacity and as Trustee of the Judith Israel Inter Vivos Trust, the owner of the real property located at 23349 Malibu Colony Drive ("Appellant's Property") submits this appeal of the Planning Commission's August 2, 2021, adoption of Resolution No. 21-53, which approved Coastal Development Permit No. 18-035, Variance No. 19-062, and Demolition Permit No. 18-010 for property located at 23325 Malibu Colony Drive.

Pursuant to Malibu Municipal Code § 13.20.1, Ms. Israel submits the required appeal forms and transmits the required fee for this appeal. As previously confirmed by you, submission of this appeal does not require the Certified Public Notice Property Owner and Occupant Addresses and Radius Map.

Please find enclosed in this letter the following:

1. Completed Appeal Checklist;
2. Attachment A in support of the Completed Appeal Checklist; and
3. \$750 Appeal Fee (*submitted in person).

4270767v1

Kathleen Stecko
August 12, 2021
Page 2

We appreciate the City's evaluation and analysis of this appeal and are available to answer any questions or discuss any of the provided information further.

Very truly yours,

A handwritten signature in blue ink, appearing to be 'Monica R. Brisen', with a stylized, cursive script.

MONICA R. BRISENO
Elkins Kalt Weintraub Reuben Gartside LLP

MRB



City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

PLANNING DEPARTMENT COASTAL DEVELOPMENT PERMIT NOTICE OF APPEAL CHECKLIST

Actions Subject to Local Appeal: Pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals), a decision or any portion of the decision of the Planning Director may be appealed to the Planning Commission by an aggrieved person, and any decision of the Planning Commission may be appealed to the City Council by an aggrieved person.

Deadline and Fees: Pursuant to LIP Section 13.20.1, an appeal shall be filed with the City Clerk within 10 days following the date of action for which the appeal is made, as indicated in the decision. If the tenth day falls on a weekend or a City-recognized holiday, the deadline shall extend to the close of business at City Hall on the first business day (whether whole or partial) following the weekend or a City-recognized holiday. Appeals shall be accompanied by the filing fee of \$750 as specified by the City Council.

To perfect an appeal, the form must be completed, together with all the necessary attachments, and must be timely received by the City Clerk either in person or by mail addressed to City of Malibu, Attn: City Clerk, 23525 Stuart Ranch Road, Malibu, CA 90265. For more information, contact Patricia Salazar, Senior Administrative Analyst, at (310) 456-2489, extension 245.

Part I. Project Information

1. What is the file number of the Coastal Development Permit you are appealing?
Coastal Development Permit No. 18-035, Variance No. 19-062, and Demolition Permit No. 19-003
2. On what date was the decision made which you are appealing?
August 2, 2021
3. Who made the decision you are appealing?

☐ Planning Director ☒ Planning Commission
4. What is the address of the project site at issue?
23325 Malibu Colony Drive , Malibu, CA 90265

Part II. Appeal Summary

1. Indicate your interest in the decision by checking the appropriate box.

☐ I am the Applicant for the project

☒ I am the neighbor

☐ Other (describe)

2. If you are not the applicant, please indicate the applicant's name:

Mandy Randall, on behalf of property owner, Axel 23324 LLC

3. Indicate the nature of your appeal.

a) Are you appealing the ☒ approval or ☐ the denial of the application or ☐ a condition of approval?

b) Each approval is accompanied by a list of specific conditions. If you are appealing one or more of the conditions of approval, list the condition number and state the grounds for your appeal. (Attach extra sheets if necessary.)

4. Check the appropriate box(es) to indicate which of the following reasons forms the basis of your appeal:

☒ The findings or conditions are not supported by the evidence, or the decision is not supported by the findings: or

☐ There was a lack of fair or impartial hearing: or

☒ The decision was contrary to law.

You must next provide a specific statement in support of each of the bases for appeal that you have checked above. Appeals that are stated in generalities, legal or otherwise, are not adequate. (Attach extra sheets if necessary.)

See Attachment A.

Each coastal development permitting decision made by the Planning Director or the Planning Commission is accompanied by written findings. The written findings set forth the basis for the decision. If you have checked the first box in this section as a ground for your appeal, you must indicate the specific finding(s) you disagree with and give specific reasons why you believe the finding(s) is/are not supported by the evidence or why the decision is not supported by the findings. Appeals stated in generalities, legal or otherwise, are not adequate. (Attach extra sheets if necessary.)

See Attachment A.

Part III. Appeal Checklist

ALL of the following must be timely filed to perfect an appeal.

1. ☒ Completed Appeal Checklist (This form with appellant's signature)
2. ☒ Appeal Fee \$750

The appeal fee must be submitted in the form of a check or money order made payable to the City of Malibu. Cash will not be accepted.

3. ☐ Mailing Labels and Radius Maps for Public Notice to Property Owners and Occupants

Public Notice of an appeal must conform to the manner in which the original notice was given. The notice radius for appealable CDPs and non-appealable CDPs that do not require a public hearing is 100 feet for property owners and residents. The notice radius for non-appealable CDPs that require a public hearing is 300 feet for property owners and 100 feet for residents.

The mailing labels and radius map **must be certified** by the preparer (a form is available at the public counter): certification may not be more than six months prior to the date of submittal; the radius map must be provided on an 8½" x 11" paper; the mailing labels must be printed on 8½" x 11" paper, 3 columns, 10 rows (e.g. Avery 5160).

Part IV. Signature and Appellant Information

I hereby certify that the appeal submittal contains all of the above items. I understand that if any of the items are missing or otherwise deficient, the appeal is ineffective and the filing fee may be returned. IN ORDER TO PERFECT AN APPEAL, ALL APPEAL SUBMITTALS MUST BE COMPLETE BY THE DEADLINE. NO EXTENSIONS WILL BE ALLOWED FOR APPELLANTS WHO ONLY PARTIALLY COMPLY WITH THESE REQUIREMENTS AS OF THE DEADLINE. IF AN APPEAL IS NOT PERFECTED BY THE DEADLINE, THE DECISION BECOMES FINAL.

JUDITH ISRAEL
PRINT APPELLANT'S NAME

[REDACTED]
TELEPHONE NUMBER

[Signature]
APPELLANT'S SIGNATURE

8/12/2021
DATE

Appellant's mailing address: [REDACTED]

Appellant's email address: [REDACTED]

OFFICE USE ONLY

Action Appealed: _____

Appeal Period: _____

Date Appeal Form and required documents submitted: _____ Received by: _____

Appeal Completion Date: _____ by: _____
(Name, Title)

**ATTACHMENT A
TO COASTAL DEVELOPMENT PERMIT APPEAL SUBMITTAL**

I. PROJECT INFORMATION

On August 2, 2021, the City of Malibu (the “City”) Planning Commission adopted Resolution No. 20-18, approving Coastal Development Permit No. 18-035, Variance No. 19-062, and Demolition Permit No. 18-01 for property located at 23325 Malibu Colony Drive (the “Property”) (approvals collectively referred to as, “Property Approvals”).

The Property Approvals authorized the demolition of an existing 2,963 square foot, one-story, single-family residence and associated development, and the construction of a new 5,146 square foot, two-story, single-family residence, swimming pool, decks, permeable driveway, new perimeter fencing and associated development, and replacement of the onsite wastewater treatment system on a 0.29-acre parcel (the “Project”). Because the Project constitutes a complete redevelopment, the new development must conform to the policies and standards of the City’s Local Coastal Program (“LCP”), which consist of a Land Use Plan (“LUP”) and a Local Implementation Plan (“LIP”). However, the Project violates the LCP as detailed below.

II. APPEAL SUMMARY AND PROJECT BACKGROUND

The Applicant first submitted a larger version of the Project to the City in 2018. This initial Project failed to comply with the development area restrictions set in the LCP for properties within Environmentally Sensitive Habitat Area (“ESHA”) buffers. Although the Applicant subsequently revised the Project, it continued to exceed the development area restrictions and failed to comply with other applicable aspects of the LCP. With a Planning Commission split on such failures, the Project was approved by a 3-2 vote on June 1, 2020. Ms. Israel appealed the Project to the City Council, which concurred with Ms. Israel that the Project did not meet all of the policies and standards of the City’s LCP, in part, due to its failure to calculate the allowed development area adequately.

Following the City Council, which required that the Applicant redesign the Project and go back to the Planning Commission, the Applicant, as before, revised the Project to appease the requests of the City Council but failed to revise the Project to comply with all applicable standards. As explained by Commissioner Hill during the August 2, 2021 Planning Commission hearing, the Applicant’s calculations continued to omit relevant development, which, if adequately calculated, put the Project over the applicable threshold. Various unanswered concerns raised by Commissioner Hill and Commissioner Mazza remained at the end of the Planning Commission

hearing. The Commission voted to approve the Project with a 3-2 vote. These unanswered questions highlight the continued problems with the Project, which for whatever reason continues to be pushed through despite such concerns.

Ultimately, the City Planning Commission's findings are inadequate and not supported by the evidence. The City Council should nullify the Property Approvals and require that the Project conform to all applicable laws and regulations.

III. BASIS FOR APPEAL

The Project continues to fail to conform to several provisions of the Malibu LCP, including those applicable to ESHA, scenic and visual resources, and shoreline development.

A. The Project's Development Exceeds 25 Percent of the Lot Area

City LUP Policies 3.10 and 3.12, and LIP Section 4.7.1 allow a twenty-five percent (25%) development area on parcels where all feasible building sites are in ESHA or ESHA buffers to avoid a taking of private property. LIP Section 4.7.1 provides that "the **allowable development area (as defined in Chapter 2 of the Malibu LIP)** on parcels where all feasible building sites are ESHA or ESHA buffer **shall be 10,000 square feet or 25 percent of the parcel size**, whichever is less." Chapter 2 of the Malibu LIP defines **development area** as "the approved portion of a project site that is development, including the **building pad and all graded slopes, all structures, and parking areas.**" It excludes the areas of one access driveway or roadway not to exceed twenty feet wide, one hammerhead turnaround, and graded slopes if it is demonstrated that it is not feasible from an engineering standpoint to include all graded slopes within the development area. Chapter 2 of the Malibu LIP defines structures as "anything construed or erected which requires a fixed location on the ground, or is attached to a building or other structure having a fixed location on the ground."

Considering Ms. Israel's prior appeal, the City Council concluded that the Project improperly omitted walls from the maximum allowable development area calculations. One of the clear specific instructions from the City Council, particularly from Councilmember Peak, was that the Applicant include all structures in its allowable development area calculations, including all walls. Despite this explicit instruction, the Project continues to fail to count all walls, coming up with unsupported exceptions to exclude portions of walls. Specifically, these excuses now include that the westerly wall is excluded because it is a shared wall.

When Commissioner Hill questioned the issues of the westerly wall at the Planning Commission hearing, the excuses continued to morph.

First, the Applicant and City staff claimed that the wall was exempt because it was “existing to remain.”¹ When it was pointed out that the LCP does not exempt development “existing to remain” from the calculation, the Applicant then stated that the wall was on the neighboring site and not the Property. When it was pointed out that the survey showed the wall on the Property, the excuse changed to the wall being exempt because it is subject to an easement with the neighbor. Then, the statement was made that the neighbor alone owns the wall.

Ultimately, no one could point to the LCP section that supported any of the changing exceptions. As Commissioner Hill correctly observed, a portion of the westerly wall sits squarely within the Property and is development as defined by the LCP. As such, the Applicant must count those portions of the wall within the Property. The Applicant, however, refuses to acknowledge this specific requirement because doing so places the Project over the allowed development area, which is currently at the maximum. This evident deception must stop.

The LCP does not differentiate between “new” or “existing” development for purposes of allowable development area calculations. It does not exclude development subject to an easement. The calculation is in place to protect ESHA by accounting for all development on a project site, with only a few limited exclusions. The LCP does not exclude new development. The Project must include all development, which in this case includes all walls – new and existing. Additionally, as noted by Commissioner Hill, the LCP does not exempt the requested fill and graded slopes for the Project, which the LCP explicitly requires be included in the maximum allowable development area.

Excluding the above development categories without adequate explanation and clear reference to the sections authorizing such exemptions is improper and contrary to the LIP and Municipal Code. This lack of evidence and rationale cannot support the City’s findings that the Project conforms to the allowable development area restrictions. It does not. The City Council should nullify the Property Approval.

B. The Project Failed to Provide Required Preliminary Approval from California Department of Fish and Wildlife

The Planning Commission acknowledged during the August 2, 2021 hearing that the Project likely requires preliminary approval from the California Department of Fish and Wildlife.

¹ Notably, Resolution No. 21-53 describes the work approved to include “[p]erimeter walls not to exceed six feet in height **along the side property lines** and a six-foot-high permeable auto gate in the front yard.” Resolution No. 21-53, pg. 8. There is no specification as to which property lines, leading the approval to include the westerly wall.

However, instead of requiring such approval to find the Project in conformance with the LCP, it provided a condition that allows the Planning Director to determine that preliminary approval is unnecessary. This approach and condition violate the clear language of the LCP.

LIP Section 4.4.1 requires that “[a]pplications for new development on sites containing or adjacent to a stream or wetland shall include evidence of preliminary approval from the California Department of Fish and Game.” Here, the Project is adjacent to a wetland. However, the Project did not provide the required preliminary approval. Adding a condition that allows for the potential to override this clear LCP requirement is unacceptable. The City Council must request compliance with the LCP before any approvals.

C. The Project Violates the 18-ft Height Restriction on Structures Subject to the Scenic, Visual, and Hillside Resource Protection Ordinance

Once again, the Applicant did not seek site plan review for a structure over the 18-ft height restriction set by the Scenic, Visual, and Hillside Resource Protection Ordinance, which applies to the Property. Nor did the Applicant or City staff explain why the Property is exempt from complying with all applicable development standards.

According to Chapter 3 of the LCP (the “Overlay Zone Regulations”), “[a]ll uses within the boundaries of an overlay zone shall comply with provisions of the overlay zone in addition to applicable standards in the underlying zone (unless otherwise specified), other provisions of this ordinance, and other provisions of law.” LIP § 3.4. This is why the Property, despite being within the Malibu Colony Overlay District needs to comply with the ESHA Overlay requirements and must also comply with the Scenic, Visual, and Hillside Resource Protection Ordinance. To find otherwise is a misreading of the LCP, exemplifying selective application of LCP provisions. If, as Applicant suggests, the Malibu Colony Overlay trumps all other development provisions, why must it comply with the ESHA development standards as well?

Importantly, the above does not result in every property in the Malibu Colony being subject to the Scenic, Visual, and Hillside Resource Protection Ordinance, just as not all are subject to the ESHA Overlay requirements. Rather, the overlay provides the modified baseline requirements for properties within the overlay. The City must then evaluate whether properties are subject to “other provisions of law” and standards not explicitly replaced by the Malibu Colony Overlay District. If the Overlay Zone Regulations intended to replace all other LIP provisions, the language in LIP § 3.4 regarding other provisions would be unnecessary.

Under the Scenic, Visual, and Hillside Resource Protection Ordinance, “[a]ll **Coastal Development Permit applications concerning any parcel of land that is** located along, within, provides views to or is **visible from any** scenic area, scenic road, or **public viewing area shall be governed by the policies, standards and provisions of this chapter** in addition to any other policies or standards contained elsewhere in the certified LCP which may apply.” LIP Section 6.2. Among other things, the chapter’s standards limit the height of non-beachfront structures to 18 feet above existing or finished grade, whichever is lower. LIP Section 6.5.B.1.

The Project is clearly visible from public viewing areas. Nothing prohibits the City from imposing, or the Project from complying with, both the Overlay Zone Regulations and the Scenic, Visual, and Hillside Resource Protection Ordinance.

D. The Project Fails to Account for Proper Sea Level Rise Scenarios

The City Council previously directed the Applicant to provide a 100-year sea-level rise analysis. However, the Applicant continues to provide a split analysis between 100 and 75-years of life for the structure, which results in a more favorable hazards prediction from the east – the more vulnerable side of the Property.

According to the California Coastal Commission’s (“CCC”) adopted Sea Level Rise Policy Guidance, the Applicant must have analyzed, and the City must have considered, the medium-high risk aversion, high emission sea level rise scenario of 8.5 feet by 2120 to inform design and siting of the Project over the entire projected 100-year economic life of the development. The Applicant did not provide the required analysis. Instead, the Project offers a two-pronged analysis with a 100-year, low-risk analysis of hazards from the south, and a 75-year, medium-high risk analysis from the east. Although the Applicant goes through great lengths to explain the “rationale” behind the two treatments of the structure, the bottom line is that such actions are simple gamesmanship. The City Council requested that the Applicant provide and staff consider the 100-year analysis. The analysis is incomplete. Importantly, we highlight that this analysis does not require that the Project design for such an event, but it is necessary to fully analyze the options and support the finding that the Project is sited at the most landward feasible location. The lack of analysis highlights the gap in evidence needed to support the required findings. As before, the City Council must require that the Applicant provide the requested 100-year analysis across the Project.

E. The Project Increases Illumination within ESHA and ESHA Buffer

The Project will increase lighting and introduce lighting at a higher elevation, including lighting around the Property’s proposed swimming pool.

City LIP Section 4.6.2 expressly prohibits night lighting for sports courts, sports fields, or other private recreational facilities in ESHA, ESHA buffer, or where night lighting would increase illumination in ESHA. Although staff attempted to differentiate between a swimming pool and a tennis court, which tend to feature pole lighting, the LIP does not exclude swimming pools from private recreational facilities, especially at a second-floor elevation. The swimming pool will introduce night lighting for a private recreational facility in ESHA buffer. We also note that the simulations provided are just that, simulations. Despite what these simulations attempt to show, the fact remains that a private recreational facility will contain night lighting in an ESHA buffer and at an elevation with the potential to spill into ESHA.

The Project fails to conform to LIP Section 4.6.2 and will install lighting in ESHA buffer, resulting in adverse biological and scenic impacts. Notably, the second-story addition also adds mass in an area currently open to those visiting and walking the public trail that wraps around the Project – potentially blocking existing public views for those walking the trail and not able to or choosing not to continue down the path. Again, a reconfigured or smaller footprint will provide necessary environmental advantages and could potentially conform to applicable laws.

F. Cultural Resources

Commissioner Hill expressed concern regarding the inadequate protection offered by the condition purported to protect Cultural Resources. As written, Condition No. 13 only requires that a qualified archeologist be present at the Property to observe excavations and earthmoving activities until the upper two feet of soil have been removed, graded, or grubbed. However, as pointed out by Commissioner Hill, two feet is wholly inadequate. Pursuant to LUP Policy 5.64, new development should include on-site monitoring of all grading, excavation and site preparation that involve earthmoving operations by a qualified archeologist and appropriate Native American consultant. Limiting monitoring to two feet evades the intended purpose of the policy.

G. Drainage Concerns to Malibu Colony Road

Before and at the Planning Commission hearing, issues were raised regarding flooding concerns to Malibu Colony Road. These concerns were not adequately addressed. The Project proposes to add fill to raise portions of the Property, leading to water flow draining south toward Malibu Colony Road. Malibu Colony Road experiences flooding issues, which the proposed plan could exacerbate. Further analysis and discussion should be had to inform potentially affected members of the community properly.

IV. Conclusion

As detailed above, the Project, as proposed, continues to violate numerous LCP policies and provisions. The proposed findings are clearly unsupported by evidence, and you must deny the Project as proposed.

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 21-53

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 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)

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

SECTION 1. Recitals.

A. On August 28, 2018, an application for Coastal Development Permit (CDP) No. 18-035 and Demolition Permit (DP) No. 19-003 was submitted to the Planning Department by applicant, Marny Randall, on behalf of property owner, Axel 23324, LLC. The application was routed to the City Biologist, City Environmental Health Administrator, City Coastal Engineer, City Public Works Department, City geotechnical staff, Los Angeles County Waterworks District No. 29 (WD29), and the Los Angeles County Fire Department (LACFD) for review.

B. On October 25, 2018, Planning Department staff conducted a site visit to document site conditions, the property and the surrounding area.

C. On January 7, 2020, a Notice of Coastal Development Permit Application was posted on the property.

D. In February 2020, the applicant installed story poles to demonstrate the design of the project.

E. On February 12, 2020 the application was deemed complete for processing.

F. On February 20, 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.

G. On March 12, 2020, the Regular Planning Commission meeting of March 16, 2020, was adjourned to April 6, 2020 due to the COVID-19 pandemic.

H. On April 6, 2020, the Planning Commission continued to the item to a date uncertain due to COVID-19.

I. On April 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.

J. On May 4, 2020, the Planning Commission continued the item to the Regular meeting of June 1, 2020.

K. On June 1, 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, and adopted Planning Commission Resolution No. 20-18 approving the project entitlements.

L. On June 11, 2020, the neighbor to the west, Judith Israel, filed an appeal of the Planning Commission's decision.

M. On September 17, 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.

N. On October 12, 2020, the City Council, upon approval of the agenda, continued the item to the November 9, 2020 Regular City Council meeting.

O. On November 9, 2020, 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 report for the June 1, 2020, Planning Commission Meeting, public testimony, and other information in the record. During its deliberations, the Council discussed the project's consistency with the MOU for the Civic Center Prohibition Area, the inclusion of the perimeter walls in the development area calculations, and the need for additional sea-level rise analysis for the 100-year economic life of the structure. The Council unanimously approved a motion to remand the project back to the Planning Commission after the aforementioned items have been addressed.

P. On February 26, 2021, the staff received a response from the Regional Water Quality Control Board (RWQCB), where they concurred with staff's determination that the project did not increase wastewater flow.

Q. In May 2021, the applicant submitted modified project plans that included updated ESHA development area calculations that included the surface area of the new perimeter walls.

R. On February 17, 2021, the City's coastal engineers, Michael B. Phipps, PG, CEG and Lauren J. Doyel, PE, GE, issued a memo that provided commentary and concurrence with additional data provided by the coastal engineering consultant, David C. Weiss (DCWSE) and the property owner's former legal counsel, Steven Kauffman, that addressed a series of issues that were discussed during the City Council appeal hearing, including councilmembers' concerns about sea-level rise over the expected 100-year economic life of the proposed structure.

S. On July 1, 2021, story poles were reinstalled onsite. Staff visited the site and photo-documented the poles.

T. On July 8, 2021, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

U. On August 2, 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.

SECTION 2. Environmental Review.

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

SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) including Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP 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 (OWTS); including Variance (VAR) No. 19-062 for the reduction of the required 100-foot buffer from an ESHA (Malibu Lagoon) and DP No. 18-010 for the demolition of the existing residence and associated development located in the Single Family, Medium Density (SFM) zoning district within the Malibu Colony Overlay District located at 23325 Malibu Colony Drive.

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 variance, 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 has received an LCP conformance review from the Planning Department, City Biologist, City Environmental Health Administrator, City Coastal Engineer, City Public Works Department, City geotechnical staff, WD29, and the LACFD. The project is consistent with the policies and provisions of the LCP and Malibu Municipal Code (MMC), with the inclusion of the VAR.

2. The proposed project and related construction activities are not anticipated to interfere with the public's right to access the coast as adequate public access exists immediately east of the project site at Malibu Lagoon (Surfrider Beach) State Beach.

3. Evidence in the record demonstrates that, as conditioned, the project will not result in adverse biological or scenic impacts. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment because the site has been fully disturbed since 1952, any development on the site would result in the encroachment into the 100-foot wetland buffer, the project complies with the 25 percent development area, and a reconfigured or smaller footprint would not avoid a variance or provide any environmental advantages. The project is the least environmentally damaging alternative.

B. VAR No. 19-062 to allow new development to encroachment into the wetland ESHA buffer (LIP Section 13.26.5)

1. A special circumstance and exceptional characteristic are applicable to the subject property, such that strict application of the zoning ordinance deprives the property of privileges enjoyed by other properties in the vicinity, in that the property is immediately adjacent to Malibu Lagoon State Beach to the north and east and the required 100-foot buffer from the wetland encompasses the entire project site. As such, there is no way to site the proposed residence to avoid encroachment into the buffer because the lot is 75 feet wide. The project proposes the demolition and reconstruction of a single-family residence. The residential properties in the vicinity are primarily developed under the identical zoning classification, with similar development limitations, related to development within the ESHA buffer. The neighboring developed properties immediately west of the project site located at 23331 Malibu Colony Drive, 23337 Malibu Colony Drive, 23351 Malibu Colony Drive, 23401 Malibu Colony Drive, 23405 Malibu Colony Drive¹, 23431 Malibu Colony Drive, and 23441 Malibu Colony Drive are located within the 100-foot buffer from the wetland and each have a development area that exceeds 25 percent of the lot area. A strict application of the zoning ordinance would deprive the property owner of the same residential development configuration and siting enjoyed by other properties in the vicinity with the same zoning and constraints.

2. The project is designed to minimize grading and landform alteration and utilizes a previously disturbed area. The project has been designed to comply with all applicable standards of the Malibu Colony Overlay District. The project complies with the development area that is 25 percent the size of the parcel required for this variance to minimize impacts to ESHA. With the incorporation of the recommended conditions of approval, the granting of a variance 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 SF-M zone district in which the property is located.

3. The granting of the variance will not constitute a special privilege to the applicant or property owner in that the neighboring properties to the west, which are developed with single-family residences, also include development within the ESHA buffer. In addition, the proposed single-family residence is consistent with the uses permitted in the applicable zoning designation.

¹ On June 3, 2005, a Wetland Delineation Study was prepared by TeraCor Resource Management for a project proposed at 23405 Malibu Colony Drive and found that the upland limit of the wetland boundary was approximately 65 feet from the rear property line of the subject property. However, with the completion of the Malibu Lagoon Restoration and Enhancement Project in 2013, the wetland delineation is expected to have shifted closer to the developed properties within the Malibu Colony Overlay District.

4. Pursuant to LUP Policy 3.12 and LIP Section 4.7.1, the development is limited to 25 percent of the lot area in order to minimize ESHA impacts. LUP Policy 3.28 and LIP Section 4.6.4 prohibit a variance modification to the ESHA buffer except where there is no other feasible alternative to site development and the development does not exceed the maximum size allowed for the development area. There are no new ESHA impacts from the proposed residence as it decreases the development area to comply with the maximum size allowed, which is 25 percent the size of the parcel, and does not expand beyond the area that is already disturbed. There is substantial evidence in the record that demonstrates there is no other feasible location to site the development. The project will not be contrary to or in conflict with the general purposes and intent of the zoning provisions nor contrary to or in conflict with the goals, objectives and policies of the LCP.

5. The project consists of the demolition of a single-family residence and associated development and the construction of a new two-story residence and associated development on a previously disturbed building pad located entirely within the fuel modification of the existing surrounding residences. The granting of the variance will not increase ESHA or ESHA buffer impacts as the proposed development does not expand beyond an area that was already disturbed. The proposed development area complies with the maximum allowable pursuant to LIP Section 4.7 and, therefore, would not exceed the limits of the development area.

6. The subject property is zoned SF-M which allows for residential development. The proposed project includes the construction of a single-family residence which is a permitted use in the subject zone. Approval of the variance would allow continued encroachment into stream ESHA buffer for the proposed residence. The use is consistent with the purpose and intent of the SF-M Zone.

7. The project will consist of a replacement single-family residence on the subject property that is similar in siting to what was previously on the site. The subject property is physically suitable for the proposed residence because: 1) the subject property was physically suitable for the construction of the previous single-family residence; and 2) as designed, the wetland ESHA will be protected.

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

C. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

1. No alternative exists that would avoid encroachment into ESHA and ESHA buffer due to the 75-foot lot width and the 100-foot buffer from the Malibu Lagoon that encompasses the entire project site. The strict application of the ESHA overlay ordinance would preclude replacing the single-family residential development on the property.

2. The proposed project is consistent with all applicable provisions of the LCP. In addition, the project complies with the maximum development area of 25 percent of the lot area pursuant to LIP Section 4.7.1. The proposed 3,126 square foot development area has been reviewed and was determined by the City Biologist to be in compliance based on the lot size. This project has been reviewed and approved by the City Biologist and therefore, complies with the criteria established in the LCP.

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

1. The proposed residence would be visible from the Malibu Lagoon State Beach, but would not block public bluewater ocean views from these areas as existing development already obstructs them. The proposed project includes the demolition and reconstruction of a single-family residence and associated development in an established residential neighborhood. The existing development area is sprawled over more than two-thirds of the property. The proposed development is contained within a development area 25 percent of the lot size with a footprint that will be relocated closer to Malibu Colony Drive away from the southern boundary of Malibu Lagoon State Beach that abuts the site. This results in the structure's decreased visibility from the public viewing area. The development includes architectural articulation that breaks up the massing of the structure and will include the use of mechanical shades on the windows that will minimize the development's interior illumination at night. As proposed, development on the site will not have significant adverse impacts on scenic and visual resources.

2. The project has been designed and conditioned to avoid any adverse or scenic impacts by requiring the structure to utilize colors and materials that will be compatible with the surrounding natural environment. Additionally, the project has been conditioned to restrict exterior lighting per the requirements of LIP Section 6.5(G). Therefore, the proposed development will not result in significant adverse scenic visual impacts.

3. As stated in Section A, Finding 3, the project, as conditioned, is the least environmentally damaging alternative. There is no way to design a project that is not visible from scenic areas.

4. There are no feasible alternatives to development that would avoid substantially lessen any significant adverse impacts on scenic and visual resources as none are expected.

5. The project is designed to minimize impacts on sensitive resources. As conditioned, development on the site will not have significant adverse impacts on scenic and visual resources.

E. Hazards (LIP Chapter 9)

1 and 2. The record demonstrates that the project, as proposed and conditioned, will not adversely affect stability of the site or structural integrity from geologic, flood, or fire hazards in that the project complies with the recommended use of a pile foundation, is consistent with the recommended finish floor elevation, and requires that the certified engineering geologist and/or geotechnical engineer's recommendations and governing agency's building codes are followed. As a result of the septic treatment tanks' location under the driveway within the wave uprush zone, the OWTS will include the use of a sealed tank to prevent the infiltration of uprush and will be required to include flood-proofing and anchoring measures for the underground tank. The project, as designed, conditioned, and approved by the City Coastal Engineer, City Geotechnical staff, City Public Works Department, and LACFD, does not have any significant adverse impacts on the site stability or structural integrity from geologic, flood or fire hazards due to the project design.

3, 4 and 5. As previously stated, the project, as proposed and conditioned, is the least environmentally damaging alternative. There are no alternatives that would avoid or substantially lessen impacts onsite stability or structural integrity as no such significant impacts are expected. No adverse impacts to sensitive resources are expected as the project complies with all development standards, inclusive of the variance.

F. Shoreline and Bluff Development (LIP Chapter 10)

1 and 2. The proposed project includes the replacement of a single-family residence and associated development that is not located on the beach but is adjacent to the Malibu Lagoon which is subject to tidal action. The proposed septic treatment tanks are located under the driveway within the wave uprush zone with the dispersal field located north of the proposed residence outside of the wave uprush zone. The new OWTS will include the use of a sealed tank to prevent the infiltration of uprush and will be required to include flood-proofing and anchoring measures for the underground tank. The OWTS has been determined to be sited in the most landward feasible location by the City Coastal Engineer and City Environmental Health Administrator in compliance with LIP Section 10.4. The proposed single-family residence and associated development, including the OWTS, have been designed to not require a shoreline protection device in that the residence is not subject to lateral force of wave impact. Public access to the ocean exists immediately east of the project site at Malibu Lagoon (Surfrider Beach) State Beach. The project, as proposed, will not have significant adverse impacts on public access, shoreline sand supply or other resources.

3 and 4. As demonstrated in the record, the project is the least environmentally damaging alternative in that the design proposed is not expected to have any adverse impacts on shoreline sand supply, public access or other coastal resources. Since no significant adverse impacts are expected, there are no alternatives that would further reduce such impacts.

G. 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. 19-003, and approval of the demolition permit is subject to the approval of CDP No. 18-035.

SECTION 4. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 18-035, VAR No. 19-062 and DP No. 19-003, subject to the following conditions.

SECTION 5. Conditions of Approval.

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

2. The approval of this application is to allow for the project described herein. The scope of work approved includes:
- Demolition of an existing 1,581 square foot, one-story single-family residence, three detached accessory buildings, and associated development, totaling 2,963 square feet of building area;
 - Construction of a new two-story, 28-foot, 2-inch high, 5,146 square foot single-family residence, including a 400 square foot attached garage;
 - New swimming pool and pool equipment;
 - Exempt and non-exempt grading including:
 - Exempt*
 - 37 cubic yards of understructure grading
 - Non-exempt*
 - 357 cubic yards
 - Installation of a new OWTs, including a 1,500-gallon septic tank;
 - New landscaping and hardscape, including a permeable driveway; and
 - Perimeter walls not to exceed six feet in height along the side property lines and a six-foot-high visually permeable auto gate in the front yard.

Discretionary requests:

- VAR No. 19-038 for the reduction of the required 100-foot wetland buffer ESHA; and
 - DP No. 17-013 for the demolition of the existing single-family residence and associated development.
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 the architectural and grading plans on file with the Planning Department date stamped **May 20, 2021** and landscape plans dated **July 6, 2021**. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.
4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions of approval set forth herein. The applicant shall file this form with the Planning Department prior to the issuance of any development permits.
5. The applicant shall digitally submit a complete set of plans, 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 the 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, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the coastal development permit approved by the City is void.
12. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

Cultural Resources

13. A qualified archaeologist shall be present onsite to observe grading, mechanical excavations and earth moving activities until the upper two feet of soil have been removed, graded or grubbed. Should the presence of important archaeological cultural resources be found, a Phase II Evaluation and Phase III Mitigation Program shall be conducted by a qualified archaeologist in consultation with a qualified Chumash cultural resource monitor. The Planning Director shall review and approve all design/work plans for Phase III Mitigation Programs and reports which detail the evaluative techniques and results.
14. A final report shall be prepared by the monitoring archaeologist and submitted to the Planning Department prior to the issuance of a certificate of occupancy.
15. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.

16. 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.

Special Conditions

17. To ensure the protection of the development under the projected sea-level rise scenario of 6.15 feet, the project shall incorporate the use of flood gates across any openings in the perimeter walls on the site.
18. 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.

Geology

19. 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.
20. 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

21. 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.
22. 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).

23. 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).
24. 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.
25. 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 drainage fixture equivalents, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;
 - b. Sewage and effluent pump design calculations (as applicable).
 - c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems; Specifications, supporting geology information,
 - d. and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system's geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics; and
 - e. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department.

26. Prior to final Environmental Health approval, the construction plans for all structures and/or buildings with reduced setbacks must be approved by the City Building Safety Division. The architectural and/or structural plans submitted to Building and Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives, etc.). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. The architectural/structural/waterproofing plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).
27. 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."
28. 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.
29. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.
30. 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.
31. 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.
32. 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.
33. 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.

34. All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. The floor plans must show all drainage fixtures, including in the kitchen and laundry areas. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.
35. The City Biologist's final approval shall be submitted to the City Environmental Health Administrator. The City Biologist shall review the OWTS design to determine any impact on Environmentally Sensitive Habitat Area if applicable.
36. The project geotechnical consultant, City geotechnical staff, project coastal engineering consultant, and City Coastal Engineering, final approvals shall be submitted to the City Environmental Health Administrator.
37. 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 the continued operation, maintenance and monitoring of the OWTS.

Grading/Drainage/Hydrology (Public Works)

38. The non-exempt grading for the project shall not exceed a total of 1,000 cubic yards, cut and fill.
39. The total grading yardage verification certificate shall be copied onto the coversheet of the Grading Plan. No alternative formats or substitutes will be accepted.
40. 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.

41. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. 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 WQMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
- a. Site Design Best Management Practices (BMPs);
 - b. Source Control BMPs;
 - c. Treatment Control BMPs that retain on-site Stormwater Quality Design Volume (SWQDV). Or where it is technically infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDV that is not retained on-site;
 - d. Drainage improvements;
 - e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
 - f. Methods of onsite percolation, site re-vegetation and an analysis for off-site project impacts;
 - g. Measures to treat and infiltrate runoff from impervious areas;
 - 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 measure installed during construction prior to the issuance of grading or building permits; and
 - i. The WQMP shall be submitted to the Public Works Department 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. The WQMP shall be approved prior the Public Works Department's approval of the grading and drainage plan and/or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP's, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the Los Angeles County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the issuance of the certificate of occupancy.
42. 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.
43. A grading and drainage plan containing the following information shall be approved, and submitted to the Public Works Department, prior to the issuance of 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.
44. 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.
45. 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.

46. 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."

47. 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.
48. 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.
49. The Building Official may approve grading during the rainy season to remediate hazardous geologic conditions that endanger public health and safety.

Pool / Spa / Water Feature

50. Onsite noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).
51. 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).
52. All swimming pools shall contain double walled construction with drains and leak detection systems capable of sensing a leak of the inner wall.

53. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, algaecides, or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:
 - a. The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
 - b. There are sufficient BMPs in place to prevent soil erosion; and
 - c. The discharge does not reach in to the MS4 or to the ASBS (including tributaries)
54. Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.
55. 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. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.
56. Pursuant to MMC Section 9.20.040(B), all ponds, decorative fountains shall require a water recirculating/recycling system.

Water Quality/ Water Service

57. Prior to the issuance of a building permit, the applicant shall submit Will Serve Letter from Los Angeles County Waterworks District No. 29 (WD29) to the Planning Department indicating the ability of the property to receive adequate water service.
58. Prior to final inspection (or project sign off, as applicable) by the Planning Department, the applicant shall demonstrate that all requirements of WD29 have been met, including installation of a meter, if applicable.

Coastal Protection (Coastal Engineer)

59. No stockpiling of dirt or construction materials shall occur on the beach or adjacent ESHA area.
60. Measures to control erosion, runoff, and siltation shall be implemented at the end of each day's work.
61. No machinery shall be placed, stored or otherwise located in the intertidal zone at any time, unless necessary for protection of life and/or property.
62. Construction equipment shall not be cleaned on the beach or the adjacent ESHA area.
63. Construction debris and sediment shall be properly contained and secured on site with BMPs to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking.

Construction / Framing

64. 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.
65. A construction staging plan shall be reviewed and approved by the Building Official prior to plan check submittal.
66. 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.
67. At no time shall any eastbound lane along Pacific Coast Highway be closed for construction staging related to this project between the hours of 7:00 a.m. and 9:00 a.m.
68. 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.
69. 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.

Demolition/Solid Waste

70. Prior to demolition activities, the applicant shall receive Planning Department approval for compliance with conditions of approval.
71. 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.

72. 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.
73. 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.
74. 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.
75. 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.
76. 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.
77. Upon completion of demolition activities, the applicant shall request a final inspection by the Building Safety Division.

Lighting

78. 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.
79. 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.

80. 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.
81. Motion sensor lights shall be programmed to extinguish ten minutes after activation.
82. Three violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

Biology

83. Prior to plan check approval, an updated landscape plan must be submitted to the City Biologist for review and approval that replaces the Monterey Cypress trees with California Sycamore trees as required by the LACFD.
84. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.
85. Except as permitted pursuant to the provisions in LUP policies 3.18 and 3.20, throughout the City of Malibu, development that involves the use of pesticides, including insecticides, herbicides, rodenticides or any other similar toxic chemical substances, shall be prohibited in cases where the application of such substances would have the potential to significantly degrade Environmentally Sensitive Habitat Areas or coastal water quality or harm wildlife. Herbicides may be used for the eradication of invasive plant species or habitat restoration, but only if the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls are infeasible. 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 used for a limited time.
86. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner's signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22.
87. Invasive plant species, as determined by the City of Malibu, are prohibited.
88. 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).
89. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote or copper arsenate.
90. 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 violations of this condition will result in a requirement to permanently remove the vegetation from the site.

91. Grading and/or demolition shall be scheduled only during the dry season from April 1 – October 31. If it becomes necessary to conduct grading activities from November 1 – March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.

Fuel Modification

92. The project shall receive LACFD approval of a Final Fuel Modification Plan prior to the issuance of final building permits.

Fencing and Walls

93. 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 and LIP Section 6.5.
94. Fencing or walls shall be prohibited within ESHA, except where necessary for public safety or habitat protection or restoration. Fencing or walls that do not permit the free passage of wildlife shall be prohibited in any wildlife corridor.
95. Development adjacent to, but not within ESHA, may include fencing, if necessary for security, that is limited to the area around the clustered development area.

Colors and Materials

96. The project is visible from scenic roads or public viewing areas, therefore, shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
- a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.
 - b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
 - c. All windows shall be comprised of non-glare glass.
97. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color of driveways and retaining walls shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.

Deed Restrictions

98. 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.

99. The property owner is required to acknowledge, by recordation of a deed restriction, that the property is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.
100. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth above. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.
101. 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.

Prior to Occupancy


102. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Planning Department the plumbing permit for the irrigation system installation signed off by the Building Safety Division.
103. Prior to Planning final inspection, the City Biologist shall inspect the project site and determine that all Planning Department conditions to protect natural resources are in compliance with the approved plans.
104. Prior to a final Building inspection, the applicant shall provide a Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Department. Applicant must provide haul tickets and diversion information. The final Summary Report shall designate the specific materials that were land filled or recycled, and state the facilities where all materials were taken.
105. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Building Safety Division. The Planning inspection may include photographs to document the as-built condition of the site. A building permit will not be finalized until the Planning Department has determined that the project complies with this coastal development permit.
106. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

Fixed Conditions

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

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

PASSED, APPROVED AND ADOPTED this 2nd day of August 2021.


JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

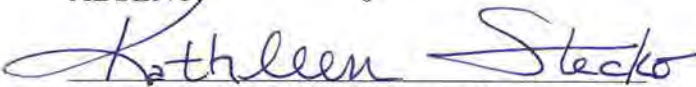

KATHLEEN STECKO, Recording Secretary

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

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

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 21-53 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting held on the 2nd day of August 2021 by the following vote:

AYES:	3	Commissioners:	Smith, Weil, Jennings
NOES:	2	Commissioners:	Hill, Mazza
ABSTAIN:	0		
ABSENT:	0		


KATHLEEN STECKO, Recording Secretary

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 20-18

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 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 5,220 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)

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

SECTION 1. Recitals.

A. On August 28, 2018, an application for Coastal Development Permit (CDP) No. 18-035 and Demolition Permit (DP) No. 19-003 was submitted to the Planning Department by applicant, Marny Randall, on behalf of property owner, Axel 23324, LLC. The application was routed to the City Biologist, City Environmental Health Administrator, City Coastal Engineer, City Public Works Department, City geotechnical staff, Los Angeles County Waterworks District No. 29 (WD29), and the Los Angeles County Fire Department (LACFD) for review.

B. On October 25, 2018, Planning Department staff conducted a site visit to document site conditions, the property and the surrounding area.

C. On January 7, 2020, a Notice of Coastal Development Permit Application was posted on the property.

D. In February 2020, the applicant installed story poles to demonstrate the design of the project.

E. On February 12, 2020 the application was deemed complete for processing.

F. On February 20, 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.

G. On March 12, 2020, the Regular Planning Commission meeting of March 16, 2020, was adjourned to April 6, 2020 due to the COVID-19 pandemic.

H. On April 6, 2020, the Planning Commission continued to the item to a date uncertain due to COVID-19.

I. On April 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.

J. On May 4, 2020, the Planning Commission continued the item to the Regular meeting of June 1, 2020.

K. On June 1, 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.

SECTION 2. Environmental Review.

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

SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) including Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP 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 5,220 square foot, two-story single-family residence, swimming pool, decks, permeable driveway and other associated development, and replacement of the onsite wastewater treatment system (OWTS); including Variance (VAR) No. 19-062 for the reduction of the required 100-foot buffer from an ESHA (Malibu Lagoon) and DP No. 18-010 for the demolition of the existing residence and associated development located in the Single-Family Medium Density (SF-M) zoning district within the Malibu Colony Overlay District at 23325 Malibu Colony Drive.

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 variance, 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 has received an LCP conformance review from the Planning Department, City Biologist, City Environmental Health Administrator, City Coastal Engineer, City Public Works Department, City geotechnical staff, WD29, and the LACFD. The project is consistent with the policies and provisions of the LCP and Malibu Municipal Code (MMC), with the inclusion of the VAR.

2. The proposed project and related construction activities are not anticipated to interfere with the public's right to access the coast as adequate public access exists immediately east of the project site at Malibu Lagoon (Surfrider Beach) State Beach.

3. Evidence in the record demonstrates that, as conditioned, the project will not result in adverse biological or scenic impacts. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment because the site has been fully disturbed since 1952, any development on the site would result in the encroachment into the 100-foot wetland buffer, the project complies with the 25 percent development area, and a reconfigured or smaller footprint would not provide any environmental advantages. The project is the least environmentally damaging alternative.

B. VAR No. 19-062 to allow new development to encroachment into the wetland ESHA buffer (LIP Section 13.26.5)

1. A special circumstance and exceptional characteristic are applicable to the subject property, such that strict application of the zoning ordinance deprives the property of privileges enjoyed by other properties in the vicinity, in that the property is immediately adjacent to Malibu Lagoon State Beach to the north and east and the required 100-foot buffer from the wetland encompasses the entire project site. As such, there is no way to site the proposed residence to avoid encroachment into the buffer because the lot is 75 feet wide. The project proposes the demolition and reconstruction of a single-family residence. The residential properties in the vicinity are primarily developed under the identical zoning classification, with similar development limitations, related to development within the ESHA buffer. The neighboring developed properties immediately west of the project site located at 23331 Malibu Colony Drive, 23337 Malibu Colony Drive, 23351 Malibu Colony Drive, 23401 Malibu Colony Drive, 23405 Malibu Colony Drive¹, 23431 Malibu Colony Drive, and 23441 Malibu Colony Drive are located within the 100-foot buffer from the wetland and each have a development area that exceeds 25 percent of the lot area. A strict application of the zoning ordinance would deprive the property owner of the same residential development configuration and siting enjoyed by other properties in the vicinity with the same zoning and constraints.

2. The project is designed to minimize grading and landform alteration and utilizes a previously disturbed area. The project has been designed to comply with all applicable standards of the Malibu Colony Overlay District. The project complies with the development area that is 25 percent the size of the parcel required for this variance to minimize impacts to ESHA. With the incorporation of the recommended conditions of approval, the granting of a variance will not be

¹ On June 3, 2005, a Wetland Delineation Study was prepared by TeraCor Resource Management for a project proposed at 23405 Malibu Colony Drive and found that the upland limit of the wetland boundary was approximately 65 feet from the rear property line of the subject property. However, with the completion of the Malibu Lagoon Restoration and Enhancement Project in 2013, the wetland delineation is expected to have shifted closer to the developed properties within the Malibu Colony Overlay District.

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 SF-M zone district in which the property is located.

3. The granting of the variance will not constitute a special privilege to the applicant or property owner in that the neighboring properties to the west, which are developed with single-family residences, also include development within the ESHA buffer. In addition, the proposed single-family residence is consistent with the uses permitted in the applicable zoning designation.

4. Pursuant to LUP Policy 3.12 and LIP Section 4.7.1, the development is limited to 25 percent of the lot area in order to minimize ESHA impacts. LUP Policy 3.28 and LIP Section 4.6.4 prohibit a variance modification to the ESHA buffer except where there is no other feasible alternative to site development and the development does not exceed the maximum size allowed for the development area. There are no new ESHA impacts from the proposed residence as it decreases the development area to comply with the maximum size allowed, which is 25 percent the size of the parcel, and does not expand beyond the area that is already disturbed. There is substantial evidence in the record that demonstrates there is no other feasible location to site the development. The project will not be contrary to or in conflict with the general purposes and intent of the zoning provisions nor contrary to or in conflict with the goals, objectives and policies of the LCP.

5. The project consists of the demolition of a single-family residence and associated development and the construction of a new two-story residence and associated development on a previously disturbed building pad located entirely within the fuel modification of the existing surrounding residences. The granting of the variance will not increase ESHA or ESHA buffer impacts as the proposed development does not expand beyond an area that was already disturbed. The proposed development area complies with the maximum allowable pursuant to LIP Section 4.7 and, therefore, would not exceed the limits of the development area.

6. The subject property is zoned SF-M which allows for residential development. The proposed project includes the construction of a single-family residence which is a permitted use in the subject zone. Approval of the variance would allow continued encroachment into stream ESHA buffer for the proposed residence. The use is consistent with the purpose and intent of the SF-M Zone.

7. The project will consist of a replacement single-family residence on the subject property that is similar in siting to what was previously on the site. The subject property is physically suitable for the proposed residence because: 1) the subject property was physically suitable for the construction of the previous single-family residence; and 2) as designed, the wetland ESHA will be protected.

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

C. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

1. No alternative exists that would avoid encroachment into ESHA and ESHA buffer due to the 75-foot lot width and the 100-foot buffer from the Malibu Lagoon that encompasses the entire project site. The strict application of the ESHA overlay ordinance would preclude replacing the single-family residential development on the property.

2. The proposed project is consistent with all applicable provisions of the LCP. In addition, the project complies with the maximum development area of 25 percent of the lot area pursuant to LIP Section 4.7.1. The proposed 3,076 square foot development area has been reviewed and was determined by the City Biologist to be in compliance based on the lot size. This project has been reviewed and approved by the City Biologist and therefore, complies with the criteria established in the LCP.

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

1. The proposed residence would be visible from the Malibu Lagoon State Beach, but would not block public bluewater ocean views from these areas as existing development already obstructs them. The proposed project includes the demolition and reconstruction of a single-family residence and associated development in an established residential neighborhood. The existing development area is sprawled over more than two-thirds of the property. The proposed development is contained within a development area 25 percent of the lot size with a footprint that will be relocated closer to Malibu Colony Drive away from the southern boundary of Malibu Lagoon State Beach that abuts the site. This results in the structure's decreased visibility from the public viewing area. The development includes architectural articulation that breaks up the massing of the structure and will include the use of mechanical shades on the windows that will minimize the development's interior illumination at night. As proposed, development on the site will not have significant adverse impacts on scenic and visual resources.

2. The project has been designed and conditioned to avoid any adverse or scenic impacts by requiring the structure to utilize colors and materials that will be compatible with the surrounding natural environment. Additionally, the project has been conditioned to restrict exterior lighting per the requirements of LIP Section 6.5(G). Therefore, the proposed development will not result in significant adverse scenic visual impacts.

3. As stated in Section A, Finding 3, the project, as conditioned, is the least environmentally damaging alternative. There is no way to design a project that is not visible from scenic areas.

4. There are no feasible alternatives to development that would avoid substantially lessen any significant adverse impacts on scenic and visual resources as none are expected.

5. The project is designed to minimize impacts on sensitive resources. As conditioned, development on the site will not have significant adverse impacts on scenic and visual resources.

E. Hazards (LIP Chapter 9)

1 and 2. The record demonstrates that the project, as proposed and conditioned, will not adversely affect stability of the site or structural integrity from geologic, flood, or fire hazards in that the project complies with the recommended use of a pile foundation, is consistent with the recommended finish floor elevation, and requires that the certified engineering geologist and/or geotechnical engineer's recommendations and governing agency's building codes are followed. As a result of the septic treatment tanks' location under the driveway within the wave uprush zone, the OWTS will include the use of a sealed tank to prevent the infiltration of uprush and will be required to include flood-proofing and anchoring measures for the underground tank. The project, as designed, conditioned, and approved by the City Coastal Engineer, City Geotechnical staff, City Public Works Department, and LACFD, does not have any significant adverse impacts on the site stability or structural integrity from geologic, flood or fire hazards due to the project design.

3, 4 and 5. As previously stated, the project, as proposed and conditioned, is the least environmentally damaging alternative. There are no alternatives that would avoid or substantially lessen impacts onsite stability or structural integrity as no such significant impacts are expected. No adverse impacts to sensitive resources are expected as the project complies with all development standards, inclusive of the variance.

F. Shoreline and Bluff Development (LIP Chapter 10)

1 and 2. The proposed project includes the replacement of a single-family residence and associated development that is not located on the beach but is adjacent to the Malibu Lagoon which is subject to tidal action. The proposed septic treatment tanks are located under the driveway within the wave uprush zone with the dispersal field located north of the proposed residence outside of the wave uprush zone. The new OWTS will include the use of a sealed tank to prevent the infiltration of uprush and will be required to include flood-proofing and anchoring measures for the underground tank. The OWTS has been determined to be sited in the most landward feasible location by the City Coastal Engineer and City Environmental Health Administrator in compliance with LIP Section 10.4. The proposed single-family residence and associated development, including the OWTS, have been designed to not require a shoreline protection device in that the residence has been designed to withstand the projected lateral force of wave impact. Public access to the ocean exists immediately east of the project site at Malibu Lagoon (Surfrider Beach) State Beach. The project, as proposed, will not have significant adverse impacts on public access, shoreline sand supply or other resources.

3 and 4. As demonstrated in the record, the project is the least environmentally damaging alternative in that the design proposed is not expected to have any adverse impacts on shoreline sand supply, public access or other coastal resources. Since no significant adverse impacts are expected, there are no alternatives that would further reduce such impacts.

G. 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. 19-003, and approval of the demolition permit is subject to the approval of CDP No. 18-035.

SECTION 4. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 18-035, VAR No. 19-062 and DP No. 19-003, subject to the following conditions.

SECTION 5. Conditions of Approval.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.
2. The approval of this application is to allow for the project described herein. The scope of work approved includes:
 - a. Demolition of an existing 1,581 square foot, one-story single-family residence, three detached accessory buildings, and associated development, totaling 2,963 square feet of building area;
 - b. Construction of a new two-story, 28-foot, 2-inch high, 5,220 square foot single-family residence, including a 400 square foot attached garage;
 - c. New swimming pool and pool equipment;
 - d. Exempt and non-exempt grading including:
 - Exempt*
 - 37 cubic yards of understructure grading
 - Non-exempt*
 - 357 cubic yards
 - e. Installation of a new OWTS, including a 1,500-gallon septic tank;
 - f. New landscaping and hardscape, including a permeable driveway; and
 - g. Perimeter walls not to exceed six feet in height along the side property lines and a six-foot-high visually permeable auto gate in the front yard.

Discretionary requests:

 - a. VAR No. 19-038 for the reduction of the required 100-foot wetland buffer ESHA; and
 - b. DP No. 17-013 for the demolition of the existing single-family residence and associated development.
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 the architectural plans on file with the Planning Department date stamped **January 10, 2020** and grading and landscape plans dated **October 21, 2019**. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.

4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions of approval set forth herein. The applicant shall file this form with the Planning Department prior to the issuance of any development permits.
5. The applicant shall digitally submit a complete set 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 the 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, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the coastal development permit approved by the City is void.
12. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

Cultural Resources

13. A qualified archaeologist shall be present onsite to observe grading, mechanical excavations and earth moving activities until the upper two feet of soil have been removed, graded or grubbed. Should the presence of important archaeological cultural resources be found, a Phase II Evaluation and Phase III Mitigation Program shall be conducted by a qualified archaeologist in consultation with a qualified Chumash cultural resource monitor. The Planning Director shall review and approve all design/work plans for Phase III Mitigation Programs and reports which detail the evaluative techniques and results.
14. A final report shall be prepared by the monitoring archaeologist and submitted to the Planning Department prior to the issuance of a certificate of occupancy.
15. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.
16. 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.

Building Plan Check

Geology

17. 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.
18. 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

19. 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.

20. 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).
21. 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).
22. 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.
23. 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 drainage fixture equivalents, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;
 - b. Sewage and effluent pump design calculations (as applicable).
 - c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems; Specifications, supporting geology information,
 - d. and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system's geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design

hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics; and

- e. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department.
24. Prior to final Environmental Health approval, the construction plans for all structures and/or buildings with reduced setbacks must be approved by the City Building Safety Division. The architectural and/or structural plans submitted to Building and Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives, etc.). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. The architectural/structural/waterproofing plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).
25. Prior to final Environmental Health approval, the applicant shall provide engineer's certification for reduction in setbacks to buildings or structures: All proposed reductions in setback from the OWTS to structures (i.e., setbacks less than those shown in MMC Table 15.42.030(E)) must be supported by a letter from the project structural engineer and a letter from the project soils engineer (i.e., a geotechnical engineer or civil engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the OWTS, and will not adversely affect the structural integrity of the structures for which the Table 15.42.030(E) setback is reduced. Construction drawings submitted for plan check must show OWTS components in relation to those structures from which the setback is reduced. All proposed reductions in setback from the OWTS to buildings (i.e., setbacks less than those shown in Table 15.42.030(E)) also must be supported by a letter from the project architect, who must certify unequivocally that the proposed reduction in setbacks will not produce a moisture intrusion problem for the proposed building(s). If the building designer is not a California-licensed architect, then the required architect's certification may be supplied by an engineer who is responsible for the building design with respect to mitigation of potential moisture intrusion from reduced setbacks to the wastewater system. In this case, the engineer must include in his/her letter an explicit statement of responsibility for mitigation of potential moisture intrusion. If any specific construction features are proposed as part of a moisture intrusion mitigation system in connection with the reduced setback, then the architect or engineer must provide associated construction documents for review and approval during Building Safety Division plan check. The wastewater plans and the construction plans must be specifically referenced in all certification letters.

26. 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."
27. 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.
28. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.
29. 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.
30. 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.
31. 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.
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. All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. The floor plans must show all drainage fixtures, including in the kitchen and laundry areas. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.
34. The City Biologist's final approval shall be submitted to the City Environmental Health Administrator. The City Biologist shall review the OWTS design to determine any impact on Environmentally Sensitive Habitat Area if applicable.
35. The project geotechnical consultant, City geotechnical staff, project coastal engineering consultant, and City Coastal Engineering, final approvals shall be submitted to the City Environmental Health Administrator.
36. 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 the continued operation, maintenance and monitoring of the OWTS.

Grading/Drainage/Hydrology (Public Works)

37. The non-exempt grading for the project shall not exceed a total of 1,000 cubic yards, cut and fill.
38. The total grading yardage verification certificate shall be copied onto the coversheet of the Grading Plan. No alternative formats or substitutes will be accepted.
39. 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.

40. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. 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 WQMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
 - a. Site Design Best Management Practices (BMPs):
 - b. Source Control BMPs;
 - c. Treatment Control BMPs that retain on-site Stormwater Quality Design Volume (SWQDv). Or where it is technically infeasible to retain on-site, the project must biofilter 1.5 times the SWQDv that is not retained on-site;

- d. Drainage improvements;
 - e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
 - f. Methods of onsite percolation, site re-vegetation and an analysis for off-site project impacts;
 - g. Measures to treat and infiltrate runoff from impervious areas;
 - 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 measure installed during construction prior to the issuance of grading or building permits; and
 - i. The WQMP shall be submitted to the Public Works Department 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. The WQMP shall be approved prior the Public Works Department's approval of the grading and drainage plan and/or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP's, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the Los Angeles County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the issuance of the certificate of occupancy.
41. 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.
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 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 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.
44. 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.

45. 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:
- Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside the disturbed area
 - Methods used to protect native vegetation and trees
 - Sediment / erosion control
 - Controls to prevent tracking on- and off-site
 - Non-stormwater control
 - Material management (delivery and storage)
 - Spill prevention and control
 - Waste management
 - Identification of site risk level as identified per the requirements in Appendix 1 of the Construction General Permit
 - 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."

46. 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.
47. 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.
48. The Building Official may approve grading during the rainy season to remediate hazardous geologic conditions that endanger public health and safety.

Pool / Spa / Water Feature

49. Onsite noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).
50. 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).
51. All swimming pools shall contain double walled construction with drains and leak detection systems capable of sensing a leak of the inner wall.
52. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, algaecides, or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:
 - a. The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
 - b. There are sufficient BMPs in place to prevent soil erosion; and
 - c. The discharge does not reach in to the MS4 or to the ASBS (including tributaries)
53. Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.

54. 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. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.
55. Pursuant to MMC Section 9.20.040(B), all ponds, decorative fountains shall require a water recirculating/recycling system.

Water Quality/ Water Service

56. Prior to the issuance of a building permit, the applicant shall submit Will Serve Letter from Los Angeles County Waterworks District No. 29 (WD29) to the Planning Department indicating the ability of the property to receive adequate water service.
57. Prior to final inspection (or project sign off, as applicable) by the Planning Department, the applicant shall demonstrate that all requirements of WD29 have been met, including installation of a meter, if applicable.

Shoreline Protection (Coastal Engineer)

58. No stockpiling of dirt or construction materials shall occur on the beach or adjacent ESHA area.
59. Measures to control erosion, runoff, and siltation shall be implemented at the end of each day’s work.
60. No machinery shall be placed, stored or otherwise located in the intertidal zone at any time, unless necessary for protection of life and/or property.
61. Construction equipment shall not be cleaned on the beach or the adjacent ESHA area.
62. Construction debris and sediment shall be properly contained and secured on site with BMPs to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking.

Construction / Framing

63. 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.
64. A construction staging plan shall be reviewed and approved by the Building Official prior to plan check submittal.
65. 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.

66. At no time shall any eastbound lane along Pacific Coast Highway be closed for construction staging related to this project between the hours of 7:00 a.m. and 9:00 a.m.
67. 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.
68. 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:
- Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
 - Grading activities shall be planned during the southern California dry season (April through October).
 - 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.
 - Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.

Demolition/Solid Waste

69. Prior to demolition activities, the applicant shall receive Planning Department approval for compliance with conditions of approval.
70. 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.
71. 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.
72. 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.
73. 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.

74. 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.
75. 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.
76. Upon completion of demolition activities, the applicant shall request a final inspection by the Building Safety Division.

Lighting

77. 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.
78. 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.
79. 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.
80. Motion sensor lights shall be programmed to extinguish ten minutes after activation.
81. Three violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

Biology

82. Prior to plan check approval, an updated landscape plan must be submitted to the City Biologist for review and approval that replaces the Monterey Cypress trees with California Sycamore trees as required by the LACFD.

83. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.
84. 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.
85. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner's signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22.
86. Invasive plant species, as determined by the City of Malibu, are prohibited.
87. Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth).
88. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote or copper arsenate.
89. 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 violations of this condition will result in a requirement to permanently remove the vegetation from the site.
90. Grading and/or demolition shall be scheduled only during the dry season from April 1 – October 31. If it becomes necessary to conduct grading activities from November 1 – March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.

Fuel Modification

91. The project shall receive LACFD approval of a Final Fuel Modification Plan prior to the issuance of final building permits.

Fencing and Walls

92. 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 and LIP Section 6.5.

93. Fencing or walls shall be prohibited within ESHA, except where necessary for public safety or habitat protection or restoration. Fencing or walls that do not permit the free passage of wildlife shall be prohibited in any wildlife corridor.
94. Development adjacent to, but not within ESHA, may include fencing, if necessary for security, that is limited to the area around the clustered development area.

Colors and Materials

95. The project is visible from scenic roads or public viewing areas, therefore, shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
- a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.
 - b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
 - c. All windows shall be comprised of non-glare glass.
96. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color of driveways and retaining walls shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.

Deed Restrictions

97. 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.
98. The property owner is required to acknowledge, by recordation of a deed restriction, that the property is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.
99. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth above. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

Prior to Occupancy

100. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Planning Department the plumbing permit for the irrigation system installation signed off by the Building Safety Division.
101. Prior to Planning final inspection, the City Biologist shall inspect the project site and determine that all Planning Department conditions to protect natural resources are in compliance with the approved plans.
102. Prior to a final Building inspection, the applicant shall provide a Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Department. Applicant must provide haul tickets and diversion information. The final Summary Report shall designate the specific materials that were land filled or recycled, and state the facilities where all materials were taken.
103. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Building Safety Division. A building permit will not be finalized until the Planning Department has determined that the project complies with this coastal development permit.
104. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

Fixed Conditions

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

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

PASSED, APPROVED AND ADOPTED this 1st day of June 2020.


JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

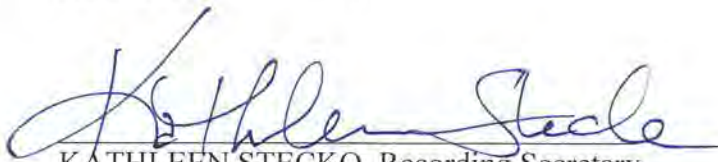

KATHLEEN STECKO, Recording Secretary

Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeals shall be emailed to psalazar@malibucity.org and the filing fee shall be mailed to Malibu Planning Department, attention: Patricia Salazar, 23825 Stuart Ranch Road, Malibu, CA 90265. Appeal forms may be found online at www.malibucity.org/planningforms. If you are unable to submit your appeal online, please contact Patricia Salazar by calling (310) 456-2489, extension 245, at least two business days before your appeal deadline to arrange alternative delivery of the appeal.

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

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-18 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting held on the 1st day of June 2020 by the following vote:

AYES:	3	Commissioners:	Marx, Weil, Jennings
NOES:	2	Commissioners:	Mazza, Uhring
ABSTAIN:	0		
ABSENT:	0		



KATHLEEN STECKO, Recording Secretary

RECEIVED
MAY 5, 2022
PLANNING DEPT.

May 4, 2022

Client-Matter: 65367-030

VIA E-MAIL: rbrooks@malibucity.org

Raneika K. Brooks
City of Malibu, Planning Department
23825 Stuart Ranch Road
Malibu, CA 90265-4861

Re: 23325 Malibu Colony Road - Response to Appeal of Planning Commission Resolution 21-53 (Coastal Development Permit No. 18-035, Variance No. 19-062, and Demolition Permit No. 18-010)

Dear Ms. Brooks:

This firm represents Axel 23324, LLC (the “Applicant”), the owner of 23325 Malibu Colony Road (the “Property”) proposing the new single family home (the “Project”) that was approved by the City Planning Commission on August 2, 2021, by the adoption of Resolution No. 21-53. Resolution No. 21-53 approved Coastal Development Permit No. 18-035, Variance No. 19-062, and Demolition Permit No. 18-010 (the “Project Approvals”).

This letter responds to the appeal filed on August 12, 2021 (the “Second Appeal”) by attorneys for the Appellant, the owner of 23349 Malibu Colony Road (the “Appellant’s Property”), which is four parcels to the west of the Property. The process leading to this Second Appeal has been a long one. The Project’s application was filed in August, 2018 and was initially approved by the Planning Commission on June 1, 2020. The initial approval was appealed (the “First Appeal”) and then heard by the City Council on November 9, 2020 (the “First Appeal Hearing”). The City Council remanded the Project back to the Planning Commission with instructions to the Project Applicant to (i) obtain written documentation from the Regional Water Quality Control Board of the Project’s consistency with the City’s Memorandum of Understanding (“MOU”), (ii) recalculate the development area to include the perimeter walls adjacent to ESHA, and (iii) provide clarification as to the results of a 100-year sea level rise analysis for the Project.

On August 2, 2021, the Planning Commission, having determined that all of the City Council’s requests had been fulfilled, approved the Project for a second time. And then, after three hearings, countless staff hours, hundreds of pages of technical reports, and the testimony of

May 4, 2022

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multiple consultants, Appellant's attorneys filed the Second Appeal.

We should note that for several months prior to the last Planning Commission hearing, the Applicant's team made a sustained effort to work with the Appellant to resolve the view issue that led to the Appeal. The Project's architects and I met with the Appellant and one of her attorneys at the Appellant's home to discuss the Appellant's concerns regarding the Project's impact on a portion of the view from her second story bedroom. In response to those concerns, the Applicant's architects modified the design, as shown in Exhibit A, to create a large window that would serve as a view corridor through the Project. We also explained that the Project's height envelope, as shown in Exhibit B, is significantly reduced from the potential maximum height scenario, which would block much more of the Appellant's view. And we again emphasized that the overwhelming majority of her view from the second story would be preserved, as shown in Exhibit C. Unfortunately, however, it has become clear that nothing but a one-story home will satisfy the Appellant, and our client is thus forced to continue with yet another appeal.

This Second Appeal is a grab bag of re-argued points long since resolved along with haphazardly selected new ones. Faced with the obvious fact that no provision of the Malibu Municipal Code ("MMC") or the Malibu Local Coastal Program ("LCP") offers any protections to private second story views, the First and Second Appeal have consisted of attempts to obstruct and stymie the Project on any and all possible pretextual bases, in order to hold the Project hostage and seek to achieve by delay and frustration what cannot be obtained on the merits.

Our client is trying to build a family home and truly appreciates the constraints that are placed on new construction in the Malibu Colony – they are, after all, meant to protect the neighborhood and the environment where their family hopes to reside; however, the Project has been thoroughly vetted and re-vetted from every possible angle and will be a beautiful home that would be a net positive to the Malibu Colony and the environment. It merits the City Council's approval.

As explained below, none of the allegations raised in the Second Appeal are supported by substantial evidence, and we therefore respectfully request that the City Council uphold the Project's Approvals and deny the Second Appeal.

I. RESPONSE TO SECOND APPEAL

1. The California Department of Fish and Wildlife Has Stated That They Have No Jurisdiction Over the Project.

The Second Appeal asserts that the Project requires preliminary approval from the California Department of Fish and Wildlife ("CDFW") pursuant to LIP Section 4.4.1, which states that "[a]pplications for new development on sites containing or adjacent to a stream or

wetland shall include evidence of preliminary approval from the [CDFW].” Throughout the Project’s approval process, up to the most recent second Planning Commission appeal hearing when the Appellant lobbed this red herring at the eleventh hour, no one, including the Appellant, City staff, consultants, all City decisionmakers that have considered the Project, etc., had ever suggested that the Project required any type of CDFW approval. That is because the Project ***does not include CDFW jurisdictional lands where a streambed alteration permit would be required.*** The Project would be built on an existing, already fully disturbed single-family lot, and the Property neither contains nor is adjacent to a stream or wetland.

The Second Appeal’s request for “pre-approval” strains credulity and common sense given that there is no way for CDFW to provide “preliminary approval” of a project that does not require CDFW approval. It is only possible to receive “preliminary approval” for something that will require a subsequent approval in the future.

Despite the above, and significant concerns about the delays that might result, our client explained the appeal situation to CDFW and decided it would be prudent to go through the ridiculous exercise of applying for a CDFW streambed alteration permit. Fortunately, the application was such a no-brainer for CDWF staff that the Project obtained confirmation from CDFW on January 12, 2022 – a mere four business days after the application was filed on January 18, 2022 – that CDFW has no jurisdiction over the Project and that no CDFW approvals are required (the “CDFW Letter, attached as Exhibit D.”). The CDFW Letter notes that “[t]he impacts from this project will be limited to the land within the boundaries of [the Property] and will not extend into Malibu Lagoon, Malibu Creek, or the Pacific Ocean.” (CDFW Approval, p.1) CDFW further stated it would refund the application fees, something the Applicant’s biologist said was almost unheard of, and perhaps the clearest possible indication of CDFW’s total disavowal of jurisdiction over the Project.

While the CDFW Letter confirmed what the Applicant has stated about this issue all along, it is nonetheless concerning that the Appellant has been able to delay the Project by continuously casting aspersions through false statements about what non-City of Malibu agencies will state about the Project. The Appellant first argued that the Project was inconsistent with the Regional Water Quality Control Board’s (the “Regional Board”) Memorandum of Understanding for the Civic Center area, forcing the Regional Board to write the City on February 26, 2021 and make clear that it had no objection to the Project. (The “Regional Board Letter of Concurrence” is attached as Exhibit E.”) Likewise, the Appellant continues to claim that the Project’s sea level rise analysis is deficient and will not pass California Coastal Commission muster, yet the Coastal Commission has received notice of this Project’s three public hearings and has been completely silent every single time, which the City knows does not happen when Coastal Commission staff has reservations about a project’s sea level rise analysis.

2. The Project Complies with the Applicable 28-foot Height Requirement.

The Second Appeal dusts off the exact same losing argument about height and repeats it again even though it notably was not taken up at all by the City Council in their direction to the Applicant following the First City Council Hearing. According to the Appellant, who lives in a 29-foot tall house subject to the exact same standards as the Property, the Project is subject to an 18-foot height restriction in Chapter 6 of the LIP, the Scenic, Visual, and Hillside Resource Protection Ordinance (the “Scenic Ordinance”). Anyone who has visited Malibu Colony knows this is obviously false. The LCP clearly exempts the Project, and the entire Malibu Colony, from the 18-foot height restriction, instead imposing Malibu Colony Overlay District development criteria.

The Appellant states that the Project is subject to the Scenic Ordinance because, as noted in the Second Planning Commission Staff Report, it “would be visible from Malibu Lagoon State Beach and the Pacific Coast Highway (PCH), an LCP-designated scenic highway.” (Second PC Staff Report, p. 20) This is also true of the project a few houses down at 23405 Malibu Colony Road approved at **29-feet** in 2008, on appeal to the **Coastal Commission** (the “23405 Project”), and it is true of the Appellant’s own property, which has a 29-foot tall house. But the very clear reason that the Appellant’s property, the 23405 Project, and the Project are all subject to the Malibu Overlay District’s 30-foot height limit for flat roofs rather than the Scenic Ordinance’s 18-foot height limit is clearly stated in the Second Planning Commission Staff Report: “[LUP] Policy 6.4 clarifies that scenic areas ***do not include inland areas that are largely developed or built out***, which is the case with the Malibu Colony Overlay District.” (Id.)

3. The Project Complies with Coastal Commission Guidance On Sea Level Rise.

The Second Appeal asserts that the Project’s sea level rise analysis, which accounts for a 100 and 75-year life of the structure depending on the angle of wave uprush, is insufficient under the California Coastal Commission’s Sea Level Rise Policy Guidance (the “Sea Level Rise Policy Guidance”). This is simply false. The Applicant has provided significantly more information than is required for a non-beachfront home and submitted overwhelming evidence in support of the Project’s sea level rise analysis.

A. The Applicant has Provided Both 100 and 75-year Sea Level Rise Studies.

Even though the Project is not located directly on a beach, but is instead located inland on the north side of Malibu Colony Road, the Applicant has provided three separate sea level rise analyses: (i) a 100-year analysis from the south, done to a Low-Medium Risk Aversion scenario,

(ii) a 75-year analysis from the east, done to a Medium-High Risk Aversion scenario, and (iii) an analysis of potential flooding from the lagoon side.¹ All are extremely conservative.

A 100-year analysis from the south was done because waves from the south do head in the general direction of the Project. However, the analysis is extremely conservative because it assumes that none of the existing houses on the beachfront side of Malibu Colony exist, that none of the existing seawalls that protect them exist, and that the 40 foot wide road between those houses and the Property does not exist. Even with these assumptions, the analysis has shown that the Project would not be adversely impacted by wave uprush from the south.

A 75-year analysis was done from the east because there are no waves from the east that head in the general direction of the Project and this is consistent with Coastal Commission precedent for inland properties that do not receive direct wave action. Nonetheless, the 75-year analysis from the east is even more conservative, as it assumes an even more fantastic situation, namely that after sea level rise, waves breaking hundreds of feet from the Property would not back-rush into the ocean as they always do. Instead, the analysis assumes that these waves would make an incredibly strange left turn toward the Malibu Colony, an event that 75 years from now has a ***1 in 20,000 chance of ever happening***. Expressed differently, this is a ***0.00005% chance***. This absurd standard is what the Project has been designed to withstand, and as the Project's study has shown, if this freak incident ever occurred, eight inches of sheet flow would head toward the Property without any adverse impacts.

Both scenarios also assume that all of the land over which waves will uprush is smooth and impermeable, an extremely conservative assumption in both instances.

B. None of the Coastal Act, the LCP, or Coastal Commission Staff Guidance Call for the Studies Requested by the Appellant.

1. *The LCP actually does not require any sea level rise studies for the Project.*

As a threshold matter, the LCP does not require ***any*** sea level rise study for this Project. Sea level rise analysis is required by two provisions of the LCP:

- LIP Section 10.5.A.10, including among the reports required for new development “on a beach, beachfront, or bluff-top property” a report addressing and analyzing the effects of the development in relation to “[f]uture projections in sea level rise.”

¹ The analysis from the lagoon side is not even in question as there is no way flooding would rise above the berms that separate the lagoon from the Property.

- LUP Policy 4.16.i, stating essentially the same thing as LIP Section 10.5.A.10 above, requiring a wave uprush and impact report for projects “on a beach, beachfront, or blufftop” for “future projections in sea level rise.”

Since the Project is not located “on a beach, beachfront, or blufftop,” these sections of the LCP are not applicable. However, staff believed it would be prudent for the applicant to prepare a study showing how sea level rise might impact the Project in case questions were raised. Because no good deed goes unpunished, however, now that *optional* sea level rise analyses were undertaken at staff’s request, the Appellant would like to impose non-existent LCP standards on them—never mind that such studies are not even required by the LCP.

2. *The sea level rise study from the east does not require a 100-year analysis.*

As stated above, the Project has been engineered to withstand a sea level rise and wave uprush scenario from the east with a 1 in 20,000 chance of ever occurring, and City staff and all City reviewers of the submitted analysis have stated that they believe the analysis to be more than sufficient given the location of the Property. Coastal Commission staff too, which reviews applications and generally provides comments to the City when concerned, has been completely silent for over three years now. Nevertheless, the Second Appeal calls the use of a 100-year study from the south and a 75-year study from the east “gamesmanship” and argues that the LCP and Sea Level Rise Policy Guidance require a 100-year study from the east as well. Notably, however, the Second Appeal provides no citations to either the LCP or the Sea Level Rise Policy Guidance in support of its position. This is because neither document contains any requirements or regulations remotely connected to the Second Appeal’s assertions.

Once again, a 100-year study was done for any waves coming from the south. With respect to any waves coming from the east, neither the LCP, Sea Level Rise Policy Guidance, or Coastal Commission precedent require a 100-year sea level rise analysis for non-beachfront properties. To the contrary, the Applicant has previously submitted three Coastal Commission decisions to the City involving inland properties that are unprotected by an oceanfront bulkhead or seawall and which have water bodies on each side which actually do, from time to time, cause flooding. In those three cases, the Coastal Commission has used a 75-year life span and medium-high risk aversion, exactly what was used here, and why the Project’s study was done in this fashion for waves coming from the east. The Appellant has not offered any evidence to refute this clear Coastal Commission precedent.

In prior correspondence regarding the Project, the Appellant’s attorneys referenced a Coastal Commission staff letter on a project at 31340 Broad Beach Road as support for the assertion that the Sea Level Rise Policy Guidance requires a 100-year study for waves coming

from the east. But 31340 Broad Beach Road is a beachfront property, a crucial distinction. And for this reason—unlike 31340 Broad Beach Road—there is no Coastal Commission staff letter for *this* Project. Once again, nothing in the text of the Sea Level Rise Policy Guidance requires a 100-year study for non-beachfront properties, and no prior actions or interpretations of the Coastal Commission support the Second Appeal’s contentions regarding the applicability of a 100-year study requirement to the Project.

3. *The sea level rise study from the south does not require a medium-high risk aversion analysis.*

The Second Appeal further asserts that the Project’s sea level rise analysis for waves coming from the south was required to consider the “medium-high risk aversion, high emission sea level rise scenario of 8.5 feet[,],” but again fails to provide any citation to the LCP or Sea Level Rise Policy Guidance provisions that supposedly contain this mandate (entirely ignoring the fact that a sea level rise analysis is not required for this non-beachfront Project). That is because not a single section of the LCP requires any specific level of risk aversion for sea level rise analyses. Rather, it is accepted practice that Coastal Commission and expert guidance inform the specific type of analysis based on the location of any given property and expected wave action. In this case, a low-medium risk analysis was done because there are seawalls, large homes, and a road between the beach and the Project—*all of which were assumed to be nonexistent in the analysis*. And, again, this sea level rise analysis was requested by City staff to be ultra-conservative—not because the LCP requires it.

Even if the LCP did require a sea level rise analysis for the Project, the Sea Level Rise Policy Guidance provides that “LCPs and CDPs should analyze the medium-high and/or extreme risk aversion projections...of sea level rise, *as appropriate*, in order to understand the implications of a worst case scenario.” (Sea Level Rise Policy Guidance, p. 37)(Emphasis added.) The plain meaning of this sentence and the surrounding context make it clear that this is not a blanket requirement that all projects use a specific level of risk analysis. First of all, the word “should” and phrase “as appropriate” make it clear that the Coastal Commission is providing policy guidance that discretion should be applied on a case-by-case basis to determine the level of analysis, and here the LCP does not even require *any* analysis given all the intervening land and structures between the beach and the Project.

C. The Planning Commission’s Decision is Supported by Substantial Evidence.

At this point, the sea level rise analysis submitted for the Project vastly exceeds any rational level of analysis that would be considered prudent for a non-beachfront Property. The City’s reviewers and the Planning Commission have reviewed the analysis and determined that it is more than sufficient. But the Second Appeal claims that even this absurdly conservative level of analysis is inadequate, and that an even higher standard is required “to fully analyze the

options.” Having failed to cite to any applicable regulations or provide any substantial evidence, the Second Appeal’s vague suggestion provides no basis for overturning the decision of the Planning Commission.

4. The Project Will not Increase Illumination Within ESHA and ESHA Buffer.

The Second Appeal alleges that the Project will introduce night lighting that will introduce illumination into ESHA, contrary to LIP Section 4.6.2. As discussed above, in many respects the Second Appeal is wrong on the law, completely mischaracterizing or ignoring clear language of the LCP. Here, it is simply wrong on the facts. As shown in the simulations attached as Exhibit F, none of the Project’s night lighting will increase illumination in ESHA, and the Project will in fact reduce nighttime illumination in ESHA relative to existing conditions.

Further, the Appellant’s argument that a swimming pool should be classified as a “private recreational facility” pursuant to LIP Section 4.6.2 strains credulity. The City has traditionally interpreted “private recreational facility” as referring to tennis courts or similar facilities that are commonly illuminated from above with tall pole lighting. The Appellant provides no rational explanation for an interpretation of LIP Section 4.6.2 that would encompass a residential swimming pool, nor can any City precedent be pointed to in this regard.

5. The Project Complies with Applicable LCP Provisions Regarding the Protection of Cultural Resources.

The Second Appeal takes issue with the Project’s Condition of Approval 13, which requires that an archeologist be present onsite to observe grading and excavation work until the upper two feet of soil have been removed, stating that LUP Policy 5.64 requires “on-site monitoring of all grading, excavation and site preparation that involve earthmoving operations by a qualified archeologist and appropriate Native American consultant.” (Emphasis in original) However, the Appellant’s interpretation ignores the complete text of LUP Policy 5.64, which calls for on-site monitoring of grading and excavation for new development only when such development is located “on sites identified as archaeologically sensitive.” As noted in the Staff Report for the Second Planning Commission hearing, the City’s Cultural Resources Map identifies the Property as having a very low potential to contain archaeological resources, and LUP Policy 5.64 therefore has no application to the Project. Yet, according to the Appellant, LUP Policy 5.64 requires both an archeologist and Native American consultant to be physically present to observe all grading and excavation activities at any site in the Coastal Zone during the entirety of those activities. In addition to being contrary to the plain meaning of LUP Policy 5.64, which limits monitoring to sites identified as archaeologically sensitive, it is unreasonable to assume that the LUP intended to require such extensive monitoring for sites that are extremely unlikely to contain any archaeological resources, and it is most certainly not the City’s practice.

In light of the Property being identified as having a very low potential to contain archaeological resources, Condition No. 13 represents a conservative approach. The Second Appeal offers no evidence that any additional requirements are necessary to comply with the LCP or to protect cultural resources.

6. The Project's Development Area Does Not Exceed 25 Percent of the Lot Area.

The Second Appeal asserts that the Project exceeds the maximum allowable twenty-five percent of development area. It does not. After this exact same issue was raised in the First Appeal, the City Council instructed the Project Applicant to return to the Planning Commission with specific information about how the walls included in the Project are incorporated into the maximum development area. The new site plan submitted for the Project specifically includes all new site wall footprints, resulting in a total development area of 3,126 square feet.

In an attempt to pour old wine into a new bottle, the Second Appeal now focuses on the existing wall (the "Western Wall") along the shared boundary between the Property and the neighbor's tennis court located immediately to the west at 23331 Malibu Colony Road (the "Tennis Court"). But as the Project Applicant explained at the Second Planning Commission Hearing, the Western Wall belongs to the neighbor and was built pursuant to a building permit issued to *the owner of the Tennis Court in 1972* (attached as Exhibit G). It has nothing to do with the Project.

The Second Appeal argues that a survey indicated that a small portion of the Western Wall could potentially encroach on the Property, but the wall is owned by the neighbor and simply is not part of the Project. As the City Council is well aware, boundary walls extending partially onto neighboring properties are an extremely common occurrence in Malibu and practically everywhere else.

Further, contrary to the Second Appeal's suggestion that the Western Wall is somehow part of the Project, the Project's site plan clearly indicates that the Western Wall is not to be removed or altered in any way. The language from Resolution No. 21-53 that is quoted in the Second Appeal to support the Appellant's argument that the Project's scope of work includes the western wall is: "perimeter walls not to exceed six feet in height along the side property lines[]," a statement which refers only to *new* walls which are part of the Project and which common sense dictates is to be read in connection with the site plan showing that the Western Wall will not be altered. It is absurd to suggest that the resolution language quoted by the Appellant should be read as imposing a "not to exceed six feet" height limit on an existing wall owned by a neighbor.

Importantly, the Western Wall's building permit indicates that it was constructed in 1972, prior to the 1976 adoption of the Coastal Act and even prior to the January 1, 1973

implementation of Proposition 20 which established regional coastal commissions. The Western Wall therefore falls outside the scope of “development” as defined in the Coastal Act and LCP, and is exempt from the provisions of the LCP, including the 25% development area maximum.

Finally, the Second Appeal also appears to suggest, although in a strangely indirect and opaque way, that the Project also exceeds the maximum Development Standard on the basis of “graded slopes” which should be included in the Project’s total. Simply put, there are no “graded slopes” on the Property at all, and none are proposed to be created as part of the Project.

7. The Project’s Drainage Complies with all Applicable Provisions of the MMC and LCP.

The Second Appeal states that “issues” and “concerns” have been “raised regarding flooding...to Malibu Colony Road,” but fails not only to specify what those concerns and issues are, but who supposedly raised them. The Second Appeal offers no evidence to support the absurd suggestion that stormwater drainage from a single residential lot in Malibu Colony could somehow create a flood or substantially worsen flooding conditions. Offering only a vague insinuation that the Project’s drainage could “exacerbate” flooding on Malibu Colony Road, the Second Appeal cites to no authority that relates to drainage, and calls for nothing other than “[f]urther analysis and discussion.” Absent any explanation of how the Project’s drainage violates any provision of the LCP or other City ordinances, a request for further discussion is not a legitimate basis for an appeal.

The Project includes changes to the Property that will significantly improve existing stormwater treatment and drainage conditions by removing large amounts of existing impermeable surface, and will result in drainage from the Property going onto Malibu Colony Road as it does with other Malibu Colony properties, including the Appellant’s Property.

II. CONCLUSION

As explained above, none of the assertions in the Second Appeal are supported by substantial evidence, and the Project complies in every respect with the MMC and LCP. The Appellant has had multiple hearings in front of the Planning Commission and City Council over the course of several years, each one taken as a new opportunity to impose delay and attempt to hold the Project hostage. In every instance, the issues raised have been conclusively resolved, and the Project’s compliance with the MMC and LCP has been confirmed. In those instances when the Appellant has raised questions about the Project’s compliance with regulations pertaining to authorities other than the City, such as the Regional Water Quality Control Board or CDFW, those agencies have unequivocally confirmed the Project’s compliance. The Project has now been vetted and scrutinized from every possible angle, multiple times. No questions can possibly remain regarding compliance with the MMC and LCP. We respectfully request that the

May 4, 2022

Page 11

City Council uphold the Planning Commission's decision and bring this long process to a conclusion.

Thank you very much for your time and consideration. Should you have any questions, please do not hesitate to contact me at (310) 312-4305.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Victor De la Cruz', with a stylized, cursive script.

Victor De la Cruz
Manatt, Phelps & Phillips, LLP

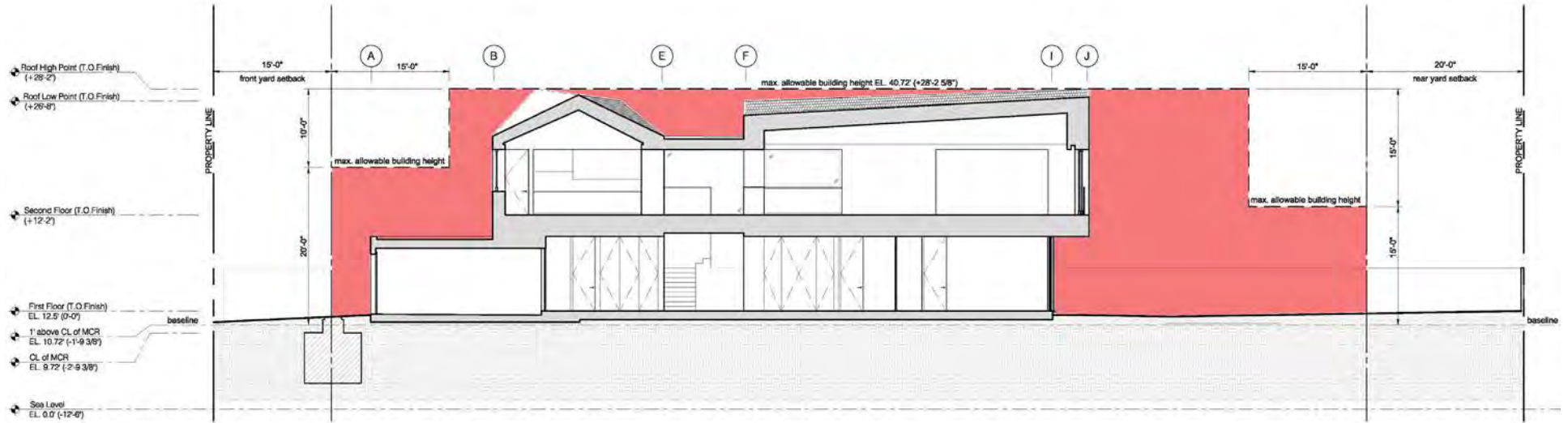
Enclosures

EXHIBIT A



Modified Design with Large Window Serving as View Corridor

EXHIBIT B



Comparison of Proposed vs. Maximum Height

EXHIBIT C



View from Ms. Israel's 2nd Floor Balcony with Story Poles Showing Location of Project

EXHIBIT D



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, California 92123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



January 18, 2022

Carl Lisberger
2049 Century Park East, Suite 1700
Los Angeles, CA 90067
clisberger@manatt.com

Lake or Streambed Alteration Notification Not Required, EPIMS Notification No. LAN-26837-R5, 23325 Malibu Colony Road

Dear Mr. Lisberger:

The California Department of Fish and Wildlife (CDFW) reviewed your Lake or Streambed Alteration (LSA) Notification. CDFW has determined that the project described in your LSA Notification is not subject to the notification requirement in Fish and Game Code section 1602 and that your fee will be refunded.

As described in your Notification, the project is located at 23325 Malibu Colony Road, Malibu, Los Angeles County, California 90265; Assessor's Parcel Number (APN) 4452-010-017. The project description includes the demolition of the existing improvements and structures at the project site and the construction of a new single-family home with guest house, garage, pool, pool house, and on-site wastewater treatment system. The impacts from this project will be limited to the land within the boundaries of the property lines for APN 4452-010-017 and will not extend into Malibu Lagoon, Malibu Creek, or the Pacific Ocean.

CDFW finds that the project will not substantially divert or obstruct the natural flow of any river, stream, or lake; substantially change or use any material from the bed channel or bank of any river, stream, or lake; or deposit or dispose of debris, waste, or other material where it may pass into any river, stream, or lake.

A copy of this letter and your submitted Notification shall be available at all times at the work site. This letter and the Notification for this project can be accessed any time by following the steps below:

1. Log into EPIMS at <https://epims.wildlife.ca.gov/index.do>.
2. From the Main Menu, select Permit Tracking.
3. Select the project associated with the permit number listed in this email.
4. From the Permit Components list, click on the Correspondence form.
5. Under the Documents from CDFW section, click on the blue hyperlink file name ending with NNR.

Conserving California's Wildlife Since 1870

Carl Lisberger
January 18, 2022
Page 2 of 2

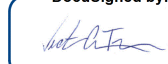
When the signed letter is available, go to Permit Tracking, click on your Project Title, select the LSA Notification Not Required Letter from the permit components, and click Print at the top of the page to print your final letter. Once you have printed your Letter, you are authorized to begin your project activities. A copy of this letter, submitted Notification, and all associated attachments must be available at the project site at all times. You are responsible for complying with all applicable local, state, and federal laws in completing your work.

Please note that if you change your project so that it differs materially from the project you described in your original Notification, you will need to submit a new Notification and corresponding fee to CDFW.

Your refund may take from four to six weeks to process and a check will be sent to the applicant address provided in your notification.

If you have any questions regarding this matter, please contact Frederic (Fritz) Rieman, Environmental Scientist, at (562) 619-0605 or by email at Frederic.Rieman@wildlife.ca.gov.

Sincerely,

DocuSigned by:

5991E19EF8094C3...

Victoria Tang
Senior Environmental Scientist (Supervisory)

cc: California Department of Fish and Wildlife

Frederic (Fritz) Rieman, Environmental Scientist
Frederic.Rieman@wildlife.ca.gov

Victoria Tang, Senior Environmental Scientist (Supervisory)
Victoria.Tang@wildlife.ca.gov

Susan (Sue) Howell, Staff Services Analyst
Susan.Howell@wildlife.ca.gov

WRA, Inc.

Mike Nieto, San Diego Office Director
nieto@wra-ca.com

EXHIBIT E

From: Kang, Jim@Waterboards
To: [Melinda Talent](#); [Yolanda Bundy](#)
Cc: Froelich, Sophie@Waterboards; Newman, Jenny@Waterboards
Subject: 23325 Malibu Colony Rd. - Letter of Concurrence
Date: Friday, February 26, 2021 9:44:33 AM
Attachments: [image001.png](#)

Dear Melinda and Yolanda,

The Los Angeles Regional Water Quality Control Board (Regional Water Board) staff has reviewed the following documents:

- *City of Malibu Memorandum Regarding Actions from the November 9, 2020 Malibu City Council Regular Meeting*, Prepared by Heather Glaser, City Clerk, Dated November 10, 2020;
- *City of Malibu Staff Report: Appeal No. 20-006 - Appeal of Planning Commission Resolution No. 20-18 (23325 Malibu Colony Drive; Owner, Axel 23324, LLC; Appellant, Judith Israel)*, Prepared by Raneika Brooks, Associate Planner, Dated October 21, 2020;
- *City of Malibu Policy for Environmental Health Review of Development Projects Within the Civic Center Prohibition Area, Revised May 2020*;
- *Proposed Replacement of Existing Residence, 23325 Malibu Colony Road, Malibu, CA 90265*, submitted by Kevin Poffenbarger, EPD Consultants, Inc., Dated December 10, 2020; and
- *Addendum II Water Balance Report, 4452-010-017, 23325 Malibu Colony Road #118A, Malibu, CA 90265*, Prepared by Kevin Poffenbarger, EPD Consultants, Inc., Dated August 7, 2020.

After reviewing the above documents, the Regional Water Board staff concurs with the City of Malibu that there is no increase in wastewater flow from the proposed project in conformance with the City's Prohibition Policy pertaining to development in the Prohibition Area.

Please note that the subject property is located within the Phase Two boundaries, as shown in Exhibit A – Boundary Map of the 2017 Memorandum of Understanding (2017 MOU) between the City of Malibu and the Regional Water Board and State Water Resources Control Board regarding phased implementation of the Basin Plan Amendment prohibiting Onsite Wastewater Treatment Disposal Systems in the Malibu Civic Center area. Per Article II.B. of the 2017 MOU, by November 5, 2024, the City shall require all those properties within Phase Two Boundaries to be connected to the Malibu Civic Center Wastewater Treatment Facility (CCWTF).

The Regional Water Board continues to support the City's efforts to achieve the goal on connecting additional properties within Phases Two and Phase Three boundaries to the CCWTF ahead of schedule.

Please do not hesitate to contact me if you have any questions.

Regards,

Jim

James Kang, Ph.D., P.E.
Chief of Groundwater Permitting Unit

Senior Water Resource Control Engineer, Supervisory
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013
Tel: (213) 576-6683
Jim.kang@waterboards.ca.gov

Due to COVID-19, I am teleworking on a full-time basis.
E-mail is the best way to reach me for immediate assistance.



From: Melinda Talent <mtalent@malibucity.org>
Sent: Thursday, February 4, 2021 4:18 PM
To: Kang, Jim@Waterboards <Jim.Kang@Waterboards.ca.gov>
Cc: Yolanda Bundy <ybundy@malibucity.org>
Subject: 23325 Malibu Colony Rd. - Letter of concurrence

EXTERNAL:

Hi Jim,

Pursuant to our phone conversations today and to summarize the request from City Council for input from the Los Angeles Regional Water Board, the City needs documentation from your office that there is no increase in wastewater flow from the proposed project in conformance with the City's Prohibition Policy pertaining to development in the Prohibition Area.

The City provided you with the wastewater design reports, appeal documents with supporting materials and City Council staff report, including a discussion of Environmental Health determination that the wastewater flow calculations by the applicant's wastewater designer met the criteria in the Prohibition Policy. In addition, a letter dated December 10, 2020, from the applicant's wastewater system designer outlining the calculations of wastewater flow was sent to you by the applicant's OWTS designer.

At this time, the City is requesting concurrence from your office that there is no increase in wastewater flow from the proposed project based on the water balance calculations in conformance with the City's Prohibition Policy.

Thank you for your assistance with this request. Please contact me if you have any questions.

Regards,

Melinda Talent, REHS

Environmental Health Administrator

City of Malibu

23825 Stuart Ranch Rd.

Malibu, CA 90265

310/456-2489 ext. 364

www.malibucity.org

EXHIBIT F

Existing Nighttime Lighting



Proposed Nighttime Lighting



EXHIBIT G

APPLICATION FOR BUILDING PERMIT

COUNTY OF LOS ANGELES
DEPARTMENT OF COUNTY ENGINEER
BUILDING AND SAFETY DIVISION

COLEMAN W. JENKINS, S.E., LOT BUILDING

FOR APPLICANT TO FILL IN
(Print or type only)

BUILDING ADDRESS	73331 MALIBU CANYON DR		
LOT NO.	41 + 42	BLOCK	
TRACT	12097		
SIZE OF LOT	73 x 166	NO. OF BLDGS NOW ON LOT	NONE
USE OF EXISTING BLDG.	NONE		
OWNER	RW Kiewit Jr & O Kiewit INC 4568525		
ADDRESS	23334 MALIBU CANYON DR		
CITY	MALIBU CA 90261		
ARCHITECT OR ENGINEER	JAMES MOUNT AIA TEL NO.		
ADDRESS	401 WILSHIRE BLVD SANTA MONICA		
CONTRACTOR	RW KIEWIT JR NO 158465		
ADDRESS	15233 VENTURA BLVD NO 245647		
CITY	SHERMAN OAKS CA 91403 CLASS B-1		
CONSTRUCTION LEADER NAME AND BRANCH	NONE		
ADDRESS	NONE		
SO. FTS. OF LOT	OF SERIES	NO. OF FAMILIES	NEW <input checked="" type="checkbox"/>
SIZE OF LOT	7	high	ALTER <input type="checkbox"/>
USE OF STRUCTURE	WALL		
SIGNATURE OF APPLICANT	RW Kiewit Jr		
VALUATION \$	3000		

P.C. FEE \$	1140	PMT. FEE \$	1900
<p>I HEREBY ACKNOWLEDGE THAT I HAVE READ THIS APPLICATION AND STATE THAT THE ABOVE IS CORRECT AND AGREE TO COMPLY WITH ALL ORDINANCES AND LAWS REGULATING BUILDING CONSTRUCTION. I CERTIFY THAT IN DOING THE WORK AUTHORIZED HEREBY I WILL NOT EMPLOY ANY PERSON IN VIOLATION OF THE LABOR CODE OF THE STATE OF CALIFORNIA IN RELATION TO WORKMEN'S COMPENSATION.</p>			
SIGNATURE OF PERMITTEE	RW Kiewit Jr		
ADDRESS	15233 Ventura Blvd		

ASSESSOR MAP BOOK	PAGE	PARCEL
BUILDING ADDRESS	23331 Malibu Canyon	
LOCALITY	Malibu	
NEAREST CROSS ST.	P.C. W.	
DISTRICT NO.	GROUP	TYPE CONST.
5.2 (Walls)		PROCESSED BY
STATISTICAL CLASSIFICATION	SEWER MAP	
CLASS NO. 20	DWELL. UNITS =	BX 30
USE ZONE	MAP NO.	SPECIAL CONDITIONS
R-1	123-077	CE 13532
PP 19005		
BLDG. SETBACK FROM FRONT PROP. LINE OF	MALIBU CANYON	
TYPE OF EXISTING SETBACK FROM C.L.	HIGHWAY	YARD = TOTAL
140	10 + 20 = 30	
BLDG. SETBACK FROM SIDE PROP. LINE OF	(STREET)	
TYPE OF EXISTING SETBACK FROM C.L.	HIGHWAY	YARD = TOTAL
CORNER CUTOFF	YES <input type="checkbox"/>	NO <input type="checkbox"/>
SEE REVERSE SIDE FOR SPECIAL APPROVALS		
APPROVALS	DATE	INSPECTOR'S SIGNATURE
FOUNDATION: LOCATION FORMS, MATERIALS	5/27/72	Lawrence
FRAME: FIRE STOPS, BRACING, BOLTS		
FURNACE: LOCATION, GAS VENT, DUCTS		
LATH, INT.	5/27/72	Lawrence
LATH, EXT.		
HOUSE NUMBER CORRECT AND POSTED		
FINAL	5/27/72	Lawrence

JOHN F. LEWIS, PRINCIPAL SURVEYOR ENGINEER
PERMIT VALIDATION

PLAN CHECK VALIDATION

1066002 MAY 1973

1140

1066002 MAY 1973

1900

135 of 709

INSPECTOR COPY



Commission Agenda Report

To: Chair Jennings and Members of the Planning Commission

Prepared by: Raneika Brooks, Associate Planner

Approved by: Richard Mollica, Planning Director

Date prepared: July 22, 2021 Meeting date: August 2, 2021

Subject: 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

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 21-53 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA) and approving Coastal Development Permit (CDP) 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 (OWTS); including Variance (VAR) No. 19-062 for the reduction of the required 100-foot buffer from an Environmentally Sensitive Habitat Area (ESHA) (Malibu Lagoon) and Demolition Permit (DP) No. 18-010 for the demolition of the existing residence and associated development located in the Single Family, Medium Density (SFM) zoning district within the Malibu Colony Overlay District located at 23325 Malibu Colony Drive (Axel 23324, LLC).

DISCUSSION: The subject parcel is a residentially developed lot on a relatively level pad located on the north side of Malibu Colony Drive. The parcel is surrounded by Malibu Lagoon State Beach on the north and east, which contains wetland ESHA; however, the subject site is fully disturbed and is devoid of any ESHA. As shown in Figure 1, the existing

single-family residence and associated development cover approximately two-thirds of the site.

Figure 1 – Project Area Aerial



Source: City of Malibu GIS 2020

The subject application was submitted to the Planning Department on August 28, 2018. On June 1, 2020, staff presented this project to the Planning Commission at a public hearing. After considering written reports, public testimony, and other information in the record, the Planning Commission voted to approve the project (Attachment 2).

On June 11, 2020, the neighbor to the west, Judith Israel, appealed the project to the City Council. On November 9, 2020, staff presented the project and the following grounds for the appeal to the City Council¹:

1. Consistency with the City's Local Coastal Program (LCP):
 - a. Increased ESHA illumination
 - b. Noncompliance with the required ESHA development area
 - c. Noncompliance with the maximum height allowed by the Scenic, Visual, and Hillside Resource Protection Ordinance
 - d. Failure to utilize the appropriate sea-level rise scenario

¹ The November 9, 2020 City Council Agenda Report staff report and attachments, which includes the June 1, 2020 Planning Commission Agenda Report for this project, can be accessed at the following link: <https://www.malibucity.org/AgendaCenter/ViewFile/Item/4585?fileID=17567>

- e. OWTS did not conform to the required setback
 - f. Noncompliance with requirements for archaeological review
2. Compliance with requirements for the project site's special flood hazard area;
 3. Conceptual approval of the OWTS was inconsistent with the LCP and Malibu Municipal Code (MMC) requirements; and
 4. Conceptual approval of the OWTS was approved contrary to the City's policy for the Civic Center Wastewater Prohibition Area Memorandum of Understanding (MOU) with the Los Angeles Regional Water Quality Control Board (RWQCB).

The Council discussion focused on the project's consistency with the MOU for the Civic Center Prohibition Area, the inclusion of the perimeter walls in the development area calculations, and the need for additional sea-level rise analysis for the 100-year economic life of the structure. The sentiment of Councilmember Peak and Councilmember Wagner was that the project should be remanded to the Planning Commission after 1) written documentation was obtained from the RWQCB to demonstrate consistency with the MOU, 2) development area was recalculated to include the perimeter walls, and 3) the review of additional sea-level rise analysis to address the 100-year economic life of the development. After the aforementioned items had been addressed, the Council approved a motion to remand the project back to the Planning Commission.

On February 4, 2021, the City Environmental Health Administrator reached out to the RWQCB and requested a concurrence on the City's determination that the proposed project would not result in an increase in wastewater flow, based on the original wastewater design reports, appeal documents, City Council staff report, and supplemental data provided by the applicant's wastewater system designer. On February 26, 2021, staff received a response from the RWQCB, where it concurred with staff's determination that the project did not increase wastewater flow (Attachment 3).

On February 17, 2021, the City's coastal engineering reviewers, Michael B. Phipps, PG, CEG and Lauren J. Doyel, PE, GE, issued a memo that provided a review of and concurrence with additional data provided by the coastal engineering consultant, David C. Weiss (DCWSE) and the property owner's former legal counsel, Steven Kauffman. The additional information submitted addressed a series of issues that were discussed during the City Council appeal hearing, including Councilmembers' concerns about sea-level rise over the expected 100-year economic life of the proposed structure. The applicant's supplemental data provided additional details regarding the two sets of scenarios of sea-level rise analyses prepared for the project: 1) the effect of wave action from the south of the property that utilized the low-risk aversion scenario over a 100-year economic life of the structure and 2) the effect of surface water reaching the site from the east that utilized a medium-high risk aversion over the expected 75-year economic life of the structure. The memo from the City coastal engineers, which includes supplemental data from DCWSE,

Steven Kaufman, and the California Coastal Commission (CCC), is included as Attachment 4.

DCWSE's memo discussed the CCC Sea Level Rise Policy Guidance (November 2018) and the recommended use of the medium-high risk aversion scenario for beachfront residential development. The memo references additional CCC correspondence, which is included as part of Attachment 4, that identifies the medium-high risk aversion scenario as the recommended "precautionary projection" because beachfront properties are less adaptive and more vulnerable to hazards caused by wave action. The City coastal engineering reviewers concur with DCWSE's conclusion that the subject non-beachfront property does not have the same vulnerability to hazards caused by direct wave action from the south because the property is protected by an existing bulkhead, existing beachfront residences, and a 40-foot-wide improved road. Accordingly, the low-risk aversion sea-level rise scenario projected over an assumed 100-year economic life of the project was deemed appropriate because of the site's decreased vulnerability to hazards caused by wave action. It is important to note that, although the subject property is non-beachfront, DCWSE conservatively used the 100-year economic life of the proposed structure assuming there were no barriers of the existing bulkhead, existing residences, or the existing 40-foot-wide improved road (i.e., an unprotected beach condition).

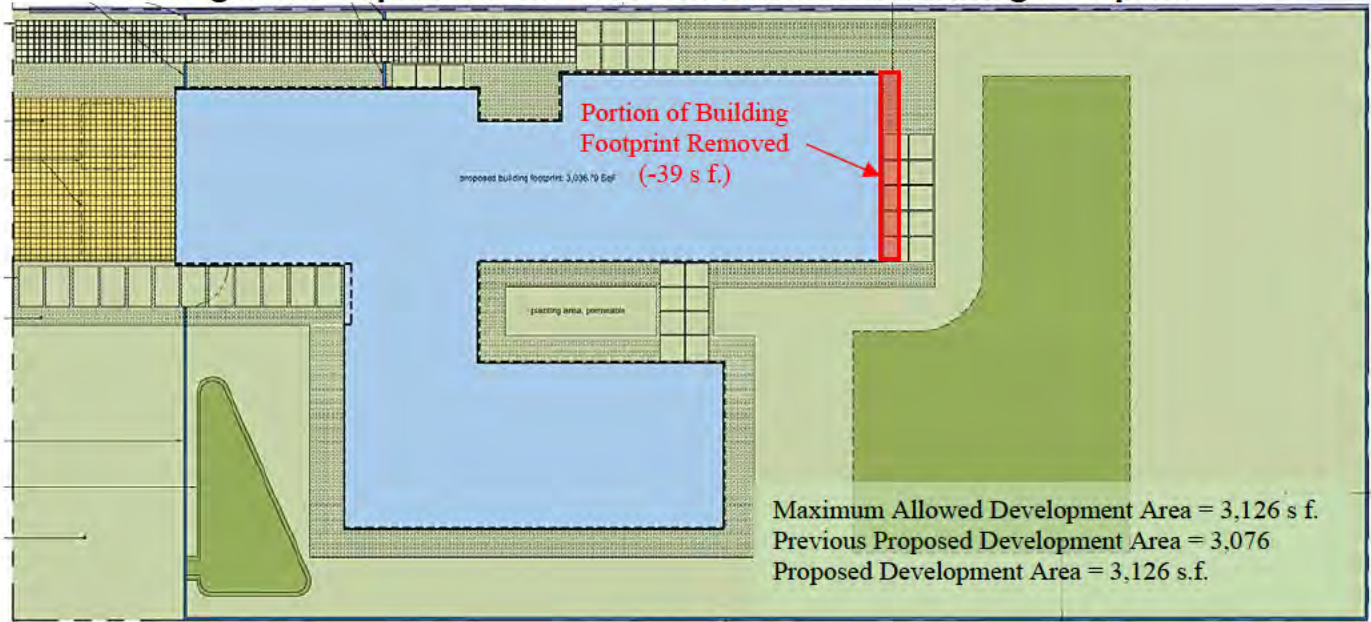
DCWSE's supplemental submittal goes on to discuss the analysis of potential impacts of wave uprush on the east side of the property. This analysis used a medium-high risk aversion scenario because there are no physical barriers to protect the property in the event wave run-up and overtopping water reaches the site from the east. The City coastal engineering reviewers concur with DCWSE's use of the expected 75-year economic life of the proposed non-beachfront structure, rather than the 100-year economic life of the structure because the property is not located on the shoreline, beach, or coastal bluff. The analysis of the potential impact of waves from the east concluded that the waves would break hundreds of feet away from the subject site, resulting in eight inches of flooding from a minor water bore dissipating at the subject property.

During the City Council hearing on the appeal, Councilmember Wagner expressed a concern that the proposed perimeter wall and the associated fill on the property would create a "hardened island" that has the potential to redirect water flow to the east and exacerbate erosion occurring at the Adamson House. DCWSE reviewed this concern and the City coastal engineering reviewers concurred with the conclusion that, because the project site is 1,500 feet west of the Adamson House, which includes the 700-foot wide mouth of Malibu Lagoon/Creek, the proposed project has no impact on the erosion occurring at the Adamson House.

On May 20, 2021, the applicant submitted modified project plans that included updated ESHA development area calculations which, after including the surface area of the new perimeter walls, resulted in an additional 89 square feet of development area. The updated project plans are included as Attachment 5 and the updated story pole plan and

certification are included as Attachment 6. As illustrated in Figure 2 below, the footprint of the proposed residence was reduced by 39 square feet for the project to maintain its compliance with the maximum development area for new development within the ESHA buffer.

Figure 2 – Updated Site Plan with Reduced Building Footprint



Source: Kovac Design Studio

Project Overview

The residential non-beachfront development standards contained in LCP Local Implementation Plan (LIP) Section 3.6 are supplemented by additional development standards that are specific to the Malibu Colony Overlay District. The subject application complies with the development standards applicable to the Malibu Colony Overlay District, as later demonstrated in Table 3.

ESHA

As shown on the LCP ESHA and Marine Resources Map, a wetland (Malibu Lagoon) is mapped immediately north and east of the subject parcel. After years of stakeholder efforts to restore the degraded lagoon, the California Department of Parks and Recreation (State Parks) completed the Malibu Lagoon Restoration and Enhancement Project in 2013, which was an effort to improve the function of the lagoon ecosystem. According to the Final Comprehensive Monitoring Report prepared by State Parks for the restoration project, the lagoon's restoration has resulted in improved water quality, improved circulation, removal of excess sedimentation issues, and increased resiliency of the diverse native ecosystem.

The project site is fully disturbed and there is no potential for sensitive resources to occur on the project site. However, the project's location within the 100-foot wetland ESHA buffer from Malibu Lagoon means the project is subject to the ESHA development standards. Pursuant to LIP Section 4.4.4(C), the project did not require the submittal of a detailed biological study nor did it require review by the Environmental Review Board (ERB) because the project consists of the demolition and the reconstruction of the residence within the existing building pad area and will not require additional fuel modification in ESHA. Since the boundary of the Malibu Lagoon Restoration and Enhancement Project abuts the property lines for the project site, staff assumed the ESHA area to abut the property boundary.

The setback requirements that are specific to the Malibu Colony Overlay District supersede those provided in LIP Section 3.6, including those requiring a 100-foot setback from parkland². Accordingly, a parkland setback variance is not included.

The application does, however, include VAR No. 19-062 to allow encroachment into the ESHA buffer for the residence and fuel modification. Given the lot size and dimensions, it is not feasible to avoid encroachment into the ESHA buffer because the entire property is within the 100-foot buffer from Malibu Lagoon. The Los Angeles County Fire Department (LACFD) requires a fuel modification plan identifying specific zones within a 200-foot radius of proposed structures³. Under Government Code Section 51184(a), fuel modification does not apply to open space lands that are environmentally sensitive parklands. Therefore, the fuel modification of the proposed project will not be required to extend into the adjacent parkland and no new fuel modification impacts will result.

As demonstrated in the project plans, the existing development includes four detached buildings that are sprawled across the property with existing hardscape between and around the buildings that cover approximately 69 percent of the lot. The proposed project will reduce the encroachment into the ESHA buffer by reducing the development area to 25 percent of the lot size. Accordingly, the project meets the maximum allowed size for the development area⁴ as required by LIP Section 4.7.1, which is based on 25 percent of the lot size. Because the encroachment into ESHA buffer does not change from the

² Pursuant to LIP Section 3.6(F)(6), new development adjacent to parklands, where the purpose of the park is to protect the natural environment and ESHA, shall be sited and designed to minimize impacts to habitat and recreational opportunities, to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall they be less than 100 feet in width.

³ The fuel modification zones are strips of land where combustible vegetation is modified and/or partially or totally replaced with drought-tolerant, low-fuel-volume plants.

⁴ Pursuant to LIP Section 4.7.1, the allowable development area (as defined in Chapter 2 of the Malibu LIP) on parcels where all feasible building sites are ESHA or ESHA buffer shall be 10,000 square feet or 25 percent of the parcel size, whichever is less. The development area is defined as the approved portion of a project site that is developed, including the building pad and all graded slopes, all structures, and parking areas. The area of one access driveway or roadway not to exceed 20 feet wide, and one hammerhead safety turnaround, as required by the Los Angeles County Fire Department not located within the approved building pad shall be excluded from the total development area.

existing residence, and the project meets the 25 percent development area limit of the LIP, the variance findings can be made.

View Impact Concerns

After viewing the installed story poles for the original proposed project, two neighbors expressed concerns about obstructed private scenic views. The concerned neighbors reside at 23338 Malibu Colony Drive and 23349 Malibu Colony Drive which are both located west of the project site and have views of Surfrider Beach, the Malibu Pier, and the mountains from second and third story decks.

As stated earlier, the residential non-beachfront development standards contained in LIP Section 3.6 are supplemented by standards specific to the Malibu Colony Overlay District. The standard non-beachfront residential development standards allow structure height increases above 18 feet up to 24 feet for a flat roof and up to 28 feet for a pitched roof with the approval of a site plan review. To approve a site plan view for a height increase above the base of 18 feet, staff must assess the potential obstruction of scenically impressive views of the Pacific Ocean, off-shore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area⁵ of an affected residence.

However, the non-beachfront residential development standards for the Malibu Colony Overlay District allow structure heights up to 24 feet for a flat roof and up to 30 feet for a pitched roof, by right, and without any discretion or visual analysis to assess the obstruction of scenically impressive private views. In any event, the view impact concerns expressed by the neighbors were based on views that were from second and third story decks which per the MMC do not qualify as primary viewing areas.

Surrounding Land Uses and Project Setting

The residential properties on Malibu Colony Drive, a private, gated street, are zoned SF-M and are developed with one-, two-, and three-story single-family residences, most of which have minimal setbacks from Malibu Colony Drive. The subject parcel is the northeastern-most property within the Malibu Colony Overlay District. It is bordered by Malibu Lagoon State Beach to the north and east, to the south by Malibu Colony Drive, and to the west by single-family residences. On the south side of Malibu Colony Drive are beachfront single-family residences. Table 1 summarizes the surrounding land uses.

⁵ CDP's that require a site plan review for structure height include the protection of scenically impressive views from private residences as established in the MMC. Pursuant to MMC Section 17.40.040(A)(17), the "main viewing area" shall be limited to the ground floor of the principal residence, or the primary living area (excluding bedrooms) if not located on the ground floor, or abutting outdoor deck or patio area at relatively the same elevation as the ground floor of the principal residence whichever has the superior view corridor. Hallways, closets and mechanical rooms shall not be considered main viewing areas.

Table 1 - Surrounding Land Uses				
Direction	Address	Lot Size	Zoning	Land Use
North	Malibu Lagoon State Beach	35.09 acres	POS**	State Beach
East	Malibu Lagoon State Beach	35.09 acres	POS	State Beach
South	23330 Malibu Colony Drive	0.19 acres	SF-M	Two-story SFR
	23334 Malibu Colony Drive	0.36 acres	SF-M	Two-story SFR
West	23331 Malibu Colony Drive	0.28 acre	SF-M	Tennis Court

** POS = Public Open Space; SFR = Single-Family Residential

Table 2 provides a summary of the lot dimensions and lot area of the subject parcel.

Table 2 – Property Data	
Lot Depth	166.70 feet
Lot Width	75 feet
Area Comprised of 1:1 Slopes and Road Easement	0 square feet
Gross / Net Lot Area	12,503 square feet (0.29 acre)

*Net Lot Area = Gross Lot Area minus the area of public or private future street easements and 1:1 slopes.

The proposed project is located within the appealable zone as depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map. The LCP Park Lands Map does not include any mapped trails on or adjacent to the subject property, but as also demonstrated in Visual Impact Analysis in Attachment 8, it does include Malibu Lagoon State Beach that surrounds the subject site to the north and east.

The proposed residence would be visible from Malibu Lagoon State Beach and PCH which are public viewing areas, but the development would not block bluewater views because there are no bluewater views over the site from these areas.

Project Description

The proposed scope of work is as follows:

- a. Demolition of an existing 1,581 square foot, one-story single-family residence, three detached accessory buildings, and associated development, totaling 2,963 square feet of building area;
- b. Construction of a new two-story, 28-foot, 7-inch high, 5,146 square foot single-family residence, including a 400 square foot attached garage;
- c. New swimming pool and pool equipment;
- d. Exempt and non-exempt grading including:
 - Exempt*
 - 37 cubic yards of understructure grading
 - Non-exempt*
 - Not to exceed 1,000 cubic yards
- e. Installation of a new OWTS, including a 1,500-gallon septic tank;

- f. New landscaping and hardscape, including a permeable driveway; and
- g. Perimeter walls not to exceed six feet in height along the side property lines and a six-foot-high visually permeable auto gate in the front yard.

Discretionary requests:

- a. VAR No. 19-038 for the reduction of the required 100-foot wetland ESHA buffer; and
- b. DP No. 19-003 for the demolition of the existing single-family residence and associated development.

LCP Analysis

The LCP consists of the Land Use Plan (LUP) and the LIP. The LUP contains programs and policies implementing the Coastal Act in Malibu. The LIP contains provisions to carry out the policies of the LUP to which every project requiring a coastal development permit must adhere.

There are 14 LIP chapters that potentially apply depending on the nature and location of the proposed project. Of these, five are for conformance review only and contain no findings: 1) Zoning, 2) Grading, 3) Archaeological/Cultural Resources, 4) Water Quality and 5) OWTS. These chapters are discussed in the *LIP Conformance Analysis* section.

The nine remaining LIP chapters contain required findings: 1) Coastal Development Permit; 2) ESHA; 3) Native Tree Protection; 4) Scenic, Visual and Hillside Resource Protection; 5) Transfer of Development Credits; 6) Hazards; 7) Shoreline and Bluff Development; 8) Public Access; and 9) Land Division. For the reasons described in this report, including the project site, the scope of work, and substantial evidence in the record, only findings in the following chapters are applicable to the proposed project: General Coastal Development Permit (including the VAR), ESHA, Scenic, Visual, and Hillside Resource Protection, Hazards, Shoreline and Bluff Development, and Public Access.⁶ These chapters are discussed in the *LIP Findings* section of this report.

The findings required by MMC Section 17.70.060 for the demolition permit are also discussed.

LIP Conformance Analysis

The proposed project has been reviewed by the Planning Department, City Biologist, City Environmental Health Administrator, City Coastal Engineer, City Public Works Department, City geotechnical staff, Los Angeles County Waterworks District No. 29 (WD29), and the Los Angeles County Fire Department (LACFD) (Attachment 7 –

⁶ The Native Tree Protection, Transfer of Development Credits, and Land Division findings are neither applicable nor required for the proposed project.

Department Review Sheets). The project, as proposed and conditioned, has been found to be consistent with all applicable LCP codes, standards, goals, and policies.

Zoning (LIP Chapter 3)

The proposed project is subject to development and design standards set forth under LIP Sections 3.5 and 3.6, and the Malibu Colony Overlay in LIP Section 3.41(E). Table 3 provides a summary and indicates the proposed project meets those standards.

Table 3 – LCP Zoning Conformance – Malibu Colony Overlay District			
Development Requirement	Allowed	Proposed	Comments
SETBACKS			
Front Yard	15'	15'	Complies
Rear Yard	20'	20'	Complies
Side Yard (Minimum 10% of lot width)	7'-6"	7'-6"	Complies
Side Yard (cumulative)	18'-9"	18'-9"	Complies
ESHA (wetland)	100'	11'-3"	VAR No. 19-062
PARKING	2 enclosed 2 unenclosed	2 enclosed 2 unenclosed	Complies
Development Area (25% of lot area)	3,126 square feet	3,126 square feet	Complies
HEIGHT⁷	20' maximum height for horizontal distance of 15' from the front setback, 15' in height for a horizontal distance of 15' from the rear yard setback, 24' max height (flat) for remaining building envelope and 30' max height (pitched) for remaining building envelope	9' in height for horizontal distance of 15' from the front setback, 0' in height for a horizontal distance of 15' from the rear yard setback, 28.7' (pitched) in height for remaining building envelope	Complies
NON-EXEMPT GRADING	1,000 cu. yds.	351 cu. yds.	Complies
Fence/Wall Height			
Front	42" impermeable 30" permeable	None proposed	Complies
Side(s)	6'	6'	Complies
Rear	6'	6'	Complies

⁷ All structure heights are measured from one foot above the centerline of Malibu Colony Drive to the highest point on the roof pursuant to the overlay district.

As shown in Table 3, the proposed project conforms to the development standards as set forth under LIP Chapter 3. The proposed project has been determined to be consistent with all applicable LCP codes, standards, goals, and policies, inclusive of the requested VAR.

Grading (LIP Chapter 8)

LIP Section 8.3 ensures that new development minimizes the visual resource impacts of grading and landform alteration by restricting the amount of non-exempt grading to a maximum of 1,000 cubic yards for a residential parcel. As summarized in Table 4 and on the Total Grading Yardage Verification Certificate on the grading plan cover sheet in Attachment 5, the total amount of proposed non-exempt grading is 351 cubic yards, which is less than the maximum allowable. The project complies with grading requirements set forth under LIP Section 8.3.

Table 4 – LCP Grading Conformance						
	Exempt**			Non-Exempt	Remedial	Total
	R&R*	Understructure	Safety***			
Cut	0	98	0	42	0	140
Fill	0	82	0	309	0	391
Total	0	180	0	351	0	531
Import	0	0	0	267	0	267
Export	0	16	0	0	0	16

All quantities listed in cubic yards unless otherwise noted

*R&R= Removal and Re-compaction

**Exempt grading includes all R&R, understructure and safety grading.

***Safety grading is the incremental grading required for Fire Department access (such as turnouts, hammerheads, and turnarounds and any other increases in driveway width above 15 feet required by the LACFD).

Archaeological / Cultural Resources (LIP Chapter 11)

LIP Chapter 11 requires certain procedures to be followed to determine potential impacts on archaeological resources. According to the City's Cultural Resources Map, the project site has a very low potential to contain archaeological resources. Additionally, the proposed development is within an already disturbed and graded development pad. Therefore, staff has determined that no further archaeological study is required at this time.

Nevertheless, a condition of approval is included that states that if potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Also, during the Planning Commission's deliberation on this project on June 1, 2020, concerns were raised about the potential for impacts to cultural resources and, in

an abundance of caution, the following conditions of approval were added by the Planning Commission in approval of Resolution No. 21-53:

13. A qualified archaeologist shall be present onsite to observe grading, mechanical excavations and earth moving activities until the upper two feet of soil have been removed, graded or grubbed. Should the presence of important archaeological cultural resources be found, a Phase II Evaluation and Phase III Mitigation Program shall be conducted by a qualified archaeologist in consultation with a qualified Chumash cultural resource monitor. The Planning Director shall review and approve all design/work plans for Phase III Mitigation Programs and reports which detail the evaluative techniques and results.
14. A final report shall be prepared by the monitoring archaeologist and submitted to the Planning Department prior to the issuance of a certificate of occupancy.

The project has been conditioned to meet this requirement and complies with LIP Chapter 11.

Water Quality (LIP Chapter 17)

The City Public Works Department has reviewed and approved the project for conformance to LIP Chapter 17 requirements for water quality protection. Standard conditions of approval require that prior to grading permit issuance, a local storm water pollution prevention plan, and final grading and drainage plan must be approved by the City Public Works Department. With the implementation of these conditions, the project conforms to the Water Quality Protection standards of LIP Chapter 17.

Wastewater Treatment System Standards (LIP Chapter 18)

LIP Chapter 18 addresses OWTS. LIP Section 18.7 includes specific siting, design, and performance requirements. The proposed project includes an upgraded OWTS to serve the replacement residence. This new OWTS consists of a 1,500-gallon Mid State advanced treatment system with an ultraviolet disinfection unit and will be re-sited from the eastern portion of the property to below the proposed driveway within the front yard setback.

The subject parcel is located within the Civic Center Prohibition Area that prohibits the discharge of existing OWTSs based on a three-phased schedule to cease discharges from Phase One systems by September 30, 2018, Phase Two systems by November 24, 2024, and Phase Three systems by November 5, 2028. The prohibition is not intended to prevent repairs, maintenance, and upgrades to existing OWTSs provided that they do not expand the capacity of the systems or increase flows of wastewater. The subject property is located within Phase Two of the prohibition zone and the RWQCB has concurred that the

project can be approved because the proposed system will not result in an expansion of the current daily wastewater disposal capacity of the site consistent with the MOU between the City of Malibu and the RWQCB.

The system has been reviewed by the City Environmental Health Administrator and found to meet the requirements of the Malibu Plumbing Code, MMC, and LCP (See Environmental Health Review Sheet in Attachment 7). An operation and maintenance contract and recorded covenant covering such must comply with City of Malibu Environmental Health requirements. Conditions of approval have been included in Resolution No. 21-53, which requires continued operation, maintenance, and monitoring of onsite facilities.

LIP Findings

A. Coastal Development Permit (LIP Chapter 13)

LIP Section 13.9 requires that the following four findings be made for all coastal development permits.

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.

The project is proposed on a non-beachfront lot located in the SF-M zoning district within the Malibu Colony Overlay District in an area designated for single-family residential uses. The proposed single-family residence and associated development are permitted uses. The project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City Coastal Engineer, City Public Works Department, City geotechnical staff, WD29, and the LACFD. As discussed herein, based on submitted reports, project plans, visual analysis and site investigations, the proposed project, as conditioned, conforms to the LCP and MMC in that it meets all applicable residential development standards, inclusive of the requested VAR.

Finding 2. If the project is located between the first public road and the sea, that the project is in conformity to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

The project is located between the first public road and the sea. However, the subject property fronts landward of Malibu Colony Drive, a private street, which does not provide public access to the beach. The only vehicular and pedestrian access into the neighborhood is provided through a manned security gate, with entry limited to residents and approved guests. Public access to the ocean is available immediately east at Malibu Lagoon (Surfrider Beach) State Beach. The location of the proposed project and related construction activities will not interfere with the public's right or existing ability to access

the coast. The project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976.

Finding 3. The project is the least environmentally damaging alternative.

This analysis assesses whether alternatives to the proposed project would significantly lessen adverse impacts on coastal resources.

Alternative Location – Staff conducted an initial visual analysis of the project site on October 25, 2018. Staff visited the property again on February 21, 2020 and again on July 8, 2021 to document the erected story poles and reviewed alternate site locations for the proposed project. An alternative location of the residence could be proposed; however, the lot is only 75 feet wide and 166.70 feet deep and has been fully disturbed since 1952. The proposed development is sited 20 feet from the southern property line to accommodate the required two unenclosed parking spaces and approximately 57 feet from the northern property line which borders the ESHA boundary. Relocating the residence would result in siting it closer to the Malibu Lagoon ESHA.

Smaller or One-Story Project – A smaller or one-story project could be proposed, but a variance would still be required because the entire property is located within the ESHA buffer. Moreover, the proposed project complies with the Malibu Colony Overlay District development standards that were specifically designed for this neighborhood. The subject parcel is 0.29 acre with existing development that has a nonconforming development area of approximately 69 percent of the lot area. The proposed project's development area has been limited to 25 percent of the lot area per LIP Section 4.7.1. It is not anticipated that a smaller footprint would provide any environmental advantages and the project, as designed and conditioned, is not expected to have significant environmental impacts.

Less Than 50 Percent Remodel of the Existing Residence - The applicant could elect to remodel the existing residence, but given the substandard structural integrity of the development, the applicant determined this alternative would be cost-prohibitive and infeasible. A remodel of the existing residence would not meet the property owner's objectives. It would also result in maintaining a nonconforming development area within the ESHA buffer.

Proposed Project – The proposed project consists of the construction of a new 5,220 square foot, two-story single-family residence, including a 400 square foot attached garage, swimming pool, decks, permeable driveway and other associated development, including the replacement of the OWTS that utilizes superior technology and is more beneficial for water quality than the existing OWTS. Moreover, the project will add more permeable surface and includes the use of a biofiltration system to treat stormwater runoff, while the existing development has no mechanism for treating stormwater runoff. The project significantly reduces the development area from approximately 69 percent to 25 percent and increases landscaping that will result in the removal of exotic and invasive

plant species to be replaced with native, drought-tolerant, and non-invasive plant species. The proposed project complies with the height and development area requirements of the LCP. The proposed location has been reviewed and conditionally approved by the City Biologist, City Environmental Health Administrator, City Coastal Engineer, City Public Works Department, City geotechnical staff, WD29, and the LACFD, and meets the City's residential development policies of the LCP and the MMC. The proposed project has been determined not to result in adverse biological, scenic or visual resource impacts, and is the least environmentally damaging feasible alternative.

Finding 4. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.

Pursuant to LIP Section 4.4.4(C), the project was not required to be reviewed by the ERB because the demolition of the structure and the construction of the residence is within the existing building pad area and will not require additional fuel modification in ESHA or ESHA buffer.

B. Variance to allow encroachment into ESHA/ESHA buffer (LIP Section 13.26.5)

The proposed variance would allow continued encroachment into the ESHA buffer for the residence. The Planning Commission may approve and/or modify an application for a variance in whole or in part, with or without conditions, only if it makes all of the following findings of fact supported by substantial evidence. The findings required to approve VAR No. 19-062 may be made as follows:

Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, 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.

There are a special circumstance and exceptional characteristic applicable to the subject property, such that strict application of the zoning ordinance deprives the property of privileges enjoyed by other properties in the vicinity. The property is immediately adjacent to Malibu Lagoon State Beach to the north and east and the required 100-foot wetland ESHA buffer encompasses the entire project site. There is no way to develop the property without encroaching into the ESHA buffer.

The properties in the vicinity are primarily developed under the identical zoning classification, with similar development limitations, related to the development and fuel modification within the ESHA buffer. As demonstrated in Figure 1, the neighboring developed properties west of the project site that are also located on the north side of

Malibu Colony Drive and adjacent to Malibu Lagoon, are also developed within the 100-foot buffer from the wetland. These developed properties are located at 23331 Malibu Colony Drive, 23337 Malibu Colony Drive, 23351 Malibu Colony Drive, 23401 Malibu Colony Drive, 23405 Malibu Colony Drive⁸, 23431 Malibu Colony Drive, and 23441 Malibu Colony Drive and each have a development area that exceeds 25 percent of the lot area. Strict application of the zoning ordinance would deprive the property of privileges enjoyed by other developed properties in the vicinity with the same zoning and constraints.

Finding 2. The granting of such variance 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.

The project is designed to minimize grading and landform alteration and utilizes a previously disturbed area. The project complies with a development area that is 25 percent of the size of the parcel to minimize impacts to ESHA and will be smaller than the existing development area. The project has been designed to comply with all applicable standards of the Malibu Colony Overlay District. Therefore, the granting of a variance 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 SF-M zone district 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.

The granting of the variance will not constitute a special privilege to the applicant or property owner in that the neighboring properties to the west, which are developed with single-family residences, also include development and fuel modification within the ESHA buffer. Also, the proposed single-family residence is consistent with the uses permitted in the applicable zoning designation. Therefore, 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.

The LCP contains several policies and standards to ensure that allowing the project's encroachment into the wetland ESHA buffer will still allow for the protection and preservation of ESHA. Pursuant to LUP Policy 3.12 and LIP Section 4.7.1, the development is limited to 25 percent of the lot area to minimize ESHA impacts. LUP Policy

⁸ On June 3, 2005, a Wetland Delineation Study was prepared by TeraCor Resource Management for a project proposed at 23405 Malibu Colony Drive and found that the upland limit of the wetland boundary was approximately 65 feet from the rear property line of the subject property. However, with the completion of the Malibu Lagoon Restoration and Enhancement Project in 2013, the wetland delineation is expected to have shifted closer to the developed properties within the Malibu Colony Overlay District.

3.28 and LIP Section 4.6.4 prohibit a variance modification to the ESHA buffer except where there is no other feasible alternative to site development and the development does not exceed the maximum size allowed for the development area. The project complies with all these policies and standards.

A photometric light study for the proposed project, included as Attachment 9, graphically demonstrates that the exterior and interior lighting will not result in light migration beyond the property boundaries or any illumination of ESHA. Also, while the roof deck on top of the easterly portion of the first floor does contain a pool, since it is integrated into the flat roof of the structure, it does not have the same night lighting characteristics as a tennis court or sports field ("private recreational facilities") which would feature pole lighting, and as shown in the photometric study, does not illuminate ESHA.

Pursuant to the lighting restrictions outlined in LIP Section 4.6.2, 6.5(G) and MMC Chapter 17.41 (Malibu Dark Sky Ordinance), exterior lighting must be minimized, restricted to low-intensity features, shielded, and directed away from ESHA and public viewing areas and must minimize light pollution of the night sky. the attached resolution includes the following conditions of approval related to lighting:

- 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.
- 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.
- 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.

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

The project, as proposed and conditioned, does not violate LCP lighting standards found in LIP Chapter 4 (ESHA), LIP Chapter 6 (Scenic and Visual Resources), or MMC Chapter 17.41 (Malibu Dark Sky Ordinance). Furthermore, no evidence of illumination of ESHA, or an adverse biological or scenic impact has been provided, and any such impacts would be prevented by the standard project conditions included in the resolution that prohibit perimeter lighting and require all lighting to be down shielded.

The project, as proposed and conditioned, does not violate LCP lighting standards found in LIP Chapter 4 (ESHA), LIP Chapter 6 (Scenic and Visual Resources), or MMC Chapter 17.41 (Malibu Dark Sky Ordinance). Furthermore, no evidence of illumination of ESHA, or an adverse biological or scenic impact has been provided, and any such impacts would be prevented by the standard project conditions included in the resolution that prohibit perimeter lighting and require all lighting to be down shielded.

There are no new ESHA impacts from the proposed residence as it does not expand beyond the area that is already disturbed. Moreover, the overlapping 200-foot fuel modification radii for the existing residential development located west and south of the project site, entirely encompass the project site. There is substantial evidence in the record that demonstrates there is no other feasible location to site the development. Accordingly, the project will not be contrary to or in conflict with the general purposes and intent of the zoning provisions nor contrary to or in conflict with the goals, objectives and policies of the LCP.

Finding 5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in LIP Section 4.7.

The subject parcel is located entirely within the 100-foot wetland ESHA buffer. The project consists of the demolition of a single-family residence and associated development and the construction of a new two-story residence and associated development on a previously disturbed building pad located entirely within the fuel modification of the existing surrounding residences. The granting of the variance will not increase ESHA or ESHA buffer impacts as the proposed development does not expand beyond an area that was already disturbed. The proposed development area of 3,126 square feet complies with the maximum allowable pursuant to LIP Section 4.7 of 3,126 square feet and, therefore, would not exceed the limits on development area.

Finding 6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by LIP Chapter 12.

This finding does not apply as the variance does not pertain to stringline standards.

Finding 7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The subject property is zoned SF-M, which allows residential development. The proposed project includes the construction of a single-family residence, which is a permitted use in the subject zone. Approval of the variance would allow continued encroachment into wetland ESHA buffer for the proposed residence. The use is consistent with the purpose and intent of the SF-M Zone.

Finding 8. The subject site is physically suitable for the proposed variance.

The project will consist of a replacement single-family residence on the subject property that is similar in siting to what was previously on the site. The subject property is physically suitable for the proposed variance because: 1) the subject property was physically suitable for the construction of the previous single-family residence; and 2) as designed, the wetland ESHA will be protected and there is no way to avoid the variance.

Finding 9. The variance complies with all requirements of state and local law.

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

Finding 10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

This finding does not apply as the variance does not pertain to public parking.

C. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

As discussed above, the LCP ESHA and Marine Resources Map indicates the project site is adjacent to a wetland, known as Malibu Lagoon. Given the nature of the existing development on the site, there is no potential for sensitive resources to be found on the project site. The project's location within the 100-foot buffer from the Malibu Lagoon results in the project being subject to the ESHA development standards. Therefore, the

supplemental ESHA findings are applicable and the three findings set forth in LIP Section 4.7.6 are hereby made as follows:

Finding 1. The application of the ESHA overlay ordinance would not allow construction of a residence on an undeveloped parcel.

A wetland ESHA exists immediately north and east of the existing single-family residence, which is less than the required 100-foot buffer from the boundary of the Malibu Lagoon. The strict application of the ESHA and ESHA buffer setbacks would preclude the replacement of a residence on the project site due to the required 100-foot buffer from the Malibu Lagoon because a residence is not a permitted use in the wetland ESHA buffer.

Finding 2. The project is consistent with all provisions of the certified LCP with the exception of the ESHA overlay ordinance and it complies with the provisions of Section 4.7 of the Malibu LIP.

As previously stated in Section A, the proposed project is consistent with all applicable provisions of the LCP. In addition, the project complies with the maximum development area of 25 percent of the lot area pursuant to LIP Section 4.7.1. The proposed 3,072 square foot development area has been reviewed and was determined by the City Biologist to be consistent with the LIP. This project has been reviewed and approved by the City Biologist and, therefore, complies with the criteria established in the LCP.

D. Native Tree Protection (LIP Chapter 5)

There are no native trees on or adjacent to the subject parcel. Therefore, the findings of LIP Chapter 5 are not applicable.

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

The Scenic, Visual, and Hillside Resource Protection Chapter governs those CDP applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road or public viewing area. On February 21, 2020 and July 8, 2021, staff visited the site to determine potential visual impacts of the proposed project on any scenic area, scenic road, or public viewing area. Based on the site visit, existing development, project plans, and photographs taken during the site visit, it was determined that the proposed project would be visible from Malibu Lagoon State Beach and Pacific Coast Highway (PCH), an LCP-designated scenic highway. Although the proposed project is visible from a public viewing area, Land Use Plan (LUP) Policy 6.4 clarifies that scenic areas do not include inland areas that are largely developed or built out, which is the case with the Malibu Colony Overlay District. However, the findings in LIP Section 6.4 are made for the proposed project as follows:

Finding 1. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

The proposed residence would be visible from Malibu Lagoon State Beach and PCH, but would not block public bluewater ocean views from these locations. The proposed project includes the demolition and reconstruction of a single-family residence and associated development in an established residential neighborhood. The footprint of the proposed residence will be relocated closer to Malibu Colony Drive away from the southern boundary of Malibu Lagoon State Beach that abuts the site, which slightly reduces the structure's potential visibility from public viewing areas. Reducing the proposed structure to one story, or 18 feet in height, or reducing the structure footprint, would not significantly reduce adverse visual impacts. The development includes architectural articulation that breaks up the massing of the structure and will include the use of mechanical shades on the windows that will minimize the development's interior illumination at night. The project would comply with LCP regulations governing the maximum height limit and Dark Sky Ordinance provisions which govern exterior lighting. As such, the project has been designed to minimize any adverse or scenic impacts.

Staff analyzed the project's visual impact from public viewing areas through site reconnaissance and architectural plans and an investigation of the neighborhood. As demonstrated in the Visual Impact Analysis provided in Attachment 8, the backdrop of the existing development along Malibu Colony Drive obscures any views of the Pacific Ocean from the public viewing area. As proposed, the project would not cause a visual impact on public views from the beach.

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

As discussed in Finding 1, the proposed residence would be visible from the Malibu Lagoon State Beach and PCH, but would not block public bluewater ocean views because of the nature of the existing development pattern in the area. The project has been designed and conditioned to avoid any adverse or scenic impacts by requiring the structure to utilize colors and materials that will be compatible with the surrounding natural environment. Additionally, the project has been conditioned to restrict exterior lighting per the requirements of LIP Section 6.5(G). Therefore, the proposed development will not result in significant adverse scenic visual impacts.

Finding 3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As discussed in Section A, Finding 3, the project, as conditioned, is the least environmentally damaging feasible alternative.

Finding 4. There are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

As discussed in Finding 1, the project, as conditioned, will result in a less than significant impact on scenic and visual resources. There are no siting alternatives that would avoid visibility from scenic areas.

Finding 5. Development in a specific location on the site may have adverse scenic and visual impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

As discussed in Finding 1, as conditioned, development on the site will not have significant adverse impacts on scenic and visual resources.

F. Transfer of Development Credit (LIP Chapter 7)

According to LIP Section 7.2, transfer of development credits only applies to land divisions and multi-family development in specified zones. The proposed project does not include a land division or multi-family development. Therefore, LIP Chapter 7 findings do not apply.

G. Hazards (LIP Chapter 9)

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood and fire hazards, structural integrity or other potential hazards must be included in support of all approvals, denials or conditional approvals of development located in or near an area subject to these hazards. The project has been analyzed for the hazards listed in LIP Sections 9.2(A)(1-7) by the City Coastal Engineer, City geotechnical staff, and City Public Works Department, and has been reviewed and approved for conformance with all relevant policies and regulations of the LCP and the MMC.

Finding 1. The project, as proposed will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.

The applicant submitted geotechnical and soils reports prepared for the project that include: Preliminary Geologic and Soils Investigation, prepared by GeoConcepts, Inc., dated August 10, 2018, Supplemental Report No. 1, dated October 23, 2018; Coastal Engineering Report, prepared by David C. Weiss, dated December 13, 2018, Response to Coastal Engineering Review Sheet, dated February 8, 2019, prepared on June 12, 2019; Response to Coastal Engineering Review Sheet, dated July 30, 2019, prepared on September 3, 2019, and supplemental coastal engineering data prepared in response to the appeal dated August 3, 2020 and December 3, 2020; and Preliminary OWTS Plan prepared by GeoConcepts, Inc., dated August 13, 2018, Supplemental Report No. 1, dated October 18, 2019. These reports are on file at City Hall. The reports evaluate site-

specific conditions and recommendations are provided to address any pertinent issues. Potential hazards analyzed include geologic, seismic and fault rupture, liquefaction, landslide, groundwater, tsunami, flood, and fire hazards.

Liquefaction

The geotechnical reports indicate that, according to the State of California Seismic Hazard Map, the project site is located within a liquefaction hazard zone. Accordingly, the geotechnical consultant recommends the proposed structures and swimming pool be supported on a pile foundation and the incorporation and maintenance of a comprehensive drainage plan to reduce the accumulation of water on the site.

Wave Uprush / Sea Level Rise

The Response to Coastal Engineering Review Sheet, dated July 30, 2019, prepared on September 3, 2019, addresses the mean high tide line (MHTL) and assessed possible storm wave damage to the proposed structures. The study also addresses questions regarding sea level rise and provides a recommended finished floor elevation (+12.5 feet NAVD88⁹). The City Coastal Engineer has reviewed and conditionally approved the proposed project based on the CCC Sea Level Rise Policy Guidance (November 2018) estimate of sea-level rise of four feet over a 100-year period.

The estimated sea-level rise is not anticipated to affect the recommended finish floor elevation of +12.5 feet since the maximum storm wave uprush is projected at an elevation of +12.61 occurring at 18 feet north of the southern property line. Therefore, the projected wave uprush limit is not anticipated to affect the proposed building envelope.

As discussed earlier, in response to the appeal, the applicant provided additional sea-level rise analysis of potential impacts of wave action on the east side of the property. This analysis estimated sea-level rise to be 6.15 feet using the medium-high risk aversion over an expected 75-year economic life of the structure which considered scenarios on the frequency of this potential occurrence, and the direction and volume of water flow if it were to occur.

To conservatively model the likely path of a water bore, the project coastal engineer used the breaking wave scenario that provides the greatest volume of water, used the existing and proposed (graded) topography, and assumed no water volume was lost to backwash. The report concludes that wave action will not directly impact the site under the sea level rise scenario. For wave run-up on the east side of the property, the majority of water would return to the ocean as backwash. In a conservative scenario where it is assumed no water is lost to backwash or to natural gravity flow to Malibu Colony Drive, which is at a lower elevation, the resulting water bore at the east property line would be only 8 inches deep.

⁹ North American Vertical Datum 1988 (NAVD88) is the vertical control datum of height established for surveying in the US.

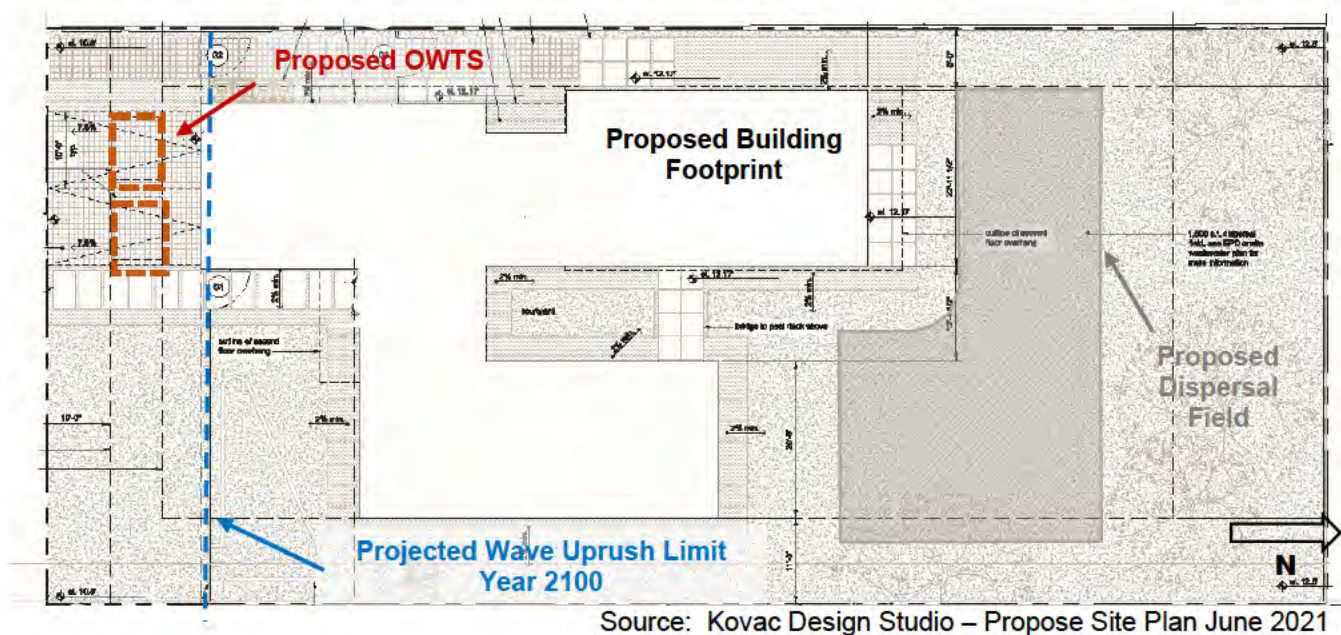
The project coastal engineer concludes that these hazards pose a small risk to the site given the infrequency with which this conservative scenario would occur.

Despite the conclusion that the analyzed scenario poses little risk to the site, in an abundance of caution the project coastal engineer has provided additional adaptive mitigation measures that could be implemented in the event they are needed. Specifically, the solid block walls will be designed to accommodate “flood gates” at the driveway opening and any side opening that could be put in place to block water inundation of the site should such flooding occur in the future.

As demonstrated in Figure 2 below, the proposed septic treatment tanks are located under the driveway within the wave uprush zone with the dispersal field located north of the proposed residence outside of the wave uprush zone. The new OWTS will include the use of a sealed tank to prevent the infiltration of uprush and will be required to include flood-proofing and anchoring measures for the underground tank.

An alternative location for the OWTS was considered that was further landward outside of the wave uprush zone, but this alternative would have required an additional sewage pump tank in the area currently proposed for treatment tanks. However, given the shallow groundwater table on the subject property, the increased distance to gravity drain the wastewater from the pump station on the southern portion of the property to the treatment tanks on the northern portion of the property, this alternative location would increase the risk of groundwater contamination. Neither the proposed residence nor the OWTS requires the use of a shoreline protection device.

Figure 2 – Proposed Site Plan



Flood Hazard/Tsunami

As confirmed by the new Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map, the site is adjacent to, but not located in the FEMA Zone VE. The proposed finished floor elevation of the building pad has been reviewed by the City's Public Works Department and City Coastal Engineer and has been given conditional approval. The proposed residence is designed to meet the lowest recommended finish floor elevation (+12.5 feet NAVD88) as outlined in the Response to Coastal Engineering Review Sheet dated July 30, 2019, prepared on September 3, 2019.

Based on a review of the project plans, Coastal Engineering Report, and associated geotechnical reports by City Coastal Engineer, City Environmental Health Administrator, City Public Works Department, and City geotechnical staff, these specialists determined that adverse impacts to the project site related to the proposed development are not expected. The proposed project, including the proposed residence, the upgraded OWTS and the pool, will neither be subject to nor increase the instability from geologic, flood, or fire hazards. In summary, the proposed development is suitable for the intended use provided that the certified engineering geologist and/or geotechnical engineer's recommendations and governing agency's building codes are followed.

The project, as conditioned, will incorporate all recommendations contained in the above cited geotechnical reports and conditions required by the City Coastal Engineer, City Public Works Department, and City geotechnical staff, including OWTS and drainage. As such, the proposed project will not increase the instability of the site or structural integrity from geologic, flood, or any other hazards.

Fire Hazard

The entire city limits of Malibu are located within a high fire hazard area. The City is served by the LACFD, as well as the California Department of Forestry if needed. In the event of major fires, the County has "mutual aid agreements" with cities and counties throughout the state so that additional personnel and fire-fighting equipment can augment the LACFD. Nonetheless, a condition of approval has been included which requires that the property owner indemnify and hold the City harmless for wildfire hazards to the project.

Finding 2. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to required project modifications, landscaping or other conditions.

As stated in Finding 1, the project as designed, conditioned, and approved by the City Coastal Engineer, City geotechnical staff and the City Public Works Department, does not have any significant adverse impacts on the site stability or structural integrity from geologic, flood or fire hazards due to the project design.

Finding 3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As discussed in Section A, Finding 3, the project, as designed and conditioned, is the least environmentally damaging alternative.

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

As discussed in Finding 1, the project, as designed, and conditioned, and approved by the City geotechnical staff and the City Public Works Department does not have any significant adverse impacts on the site stability or structural integrity.

Finding 5. Development in a specific location on the site may have adverse impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified Malibu LCP.

As discussed in Finding 1, the proposed development is sited where it is not expected to have an adverse impact on sensitive resources.

H. Shoreline and Bluff Development (LIP Chapter 10)

The Shoreline and Bluff Development Chapter governs those coastal development permit applications that include development on a parcel located along the shoreline as defined by the LCP. The project includes the demolition and reconstruction of a single-family residence. Although the project site is a non-beachfront property, it is located immediately adjacent to Malibu Lagoon State Beach to the north and east and is subject to coastal hazards. The lagoon is subject to tidal fluctuations. No construction on the beach is proposed. In accordance with LIP Section 10.2, the requirements of LIP Chapter 10 are applicable to the project, and the required findings are made as follows.

Finding 1. The project, as proposed, will have no significant adverse impacts on public access, shoreline sand supply or other resources due to project design, location on the site or other reasons.

The proposed project includes the replacement of a single-family residence and associated development. The proposed septic treatment tanks are located under the driveway within the wave uprush zone with the dispersal field located north of the proposed residence outside of the wave uprush zone. As discussed in Section G, Finding 1, the location of the OWTS was considered further landward outside of the wave uprush zone, but this OWTS layout would have resulted in an increased risk of groundwater contamination. Accordingly, the OWTS has been determined to be sited in the most landward feasible location by the City Coastal Engineer and City Environmental Health Administrator in compliance with LIP Section 10.4. The proposed single-family residence

and associated development, including the OWTS, have been designed to not require a shoreline protection device because the residence has been designed to withstand the projected lateral force of wave impact. Public access to the ocean exists immediately east of the project site at Malibu Lagoon (Surfrider Beach) State Beach. Therefore, no significant adverse impacts on public access, shoreline sand supply or other resources are anticipated due to project design and location on the site.

Finding 2. The project, as conditioned, will not have significant adverse impacts on public access, shoreline sand supply or other resources due to required project modifications or other conditions.

The project, as designed and conditioned, is not expected to have any significant adverse impacts on public access or shoreline sand supply or other resources.

Finding 3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As discussed in Section A, Finding 3, the development is the least environmentally damaging alternative and no adverse impacts to sensitive resources are anticipated.

Finding 4. There are no alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources.

As discussed in Finding 1, the project is not anticipated to negatively impact public access, shoreline sand supplies or other sensitive resources. As such, no project alternative would further avoid or substantially lessen impacts on these resources.

Finding 5. If the development includes a shoreline protective device, it is designed or conditioned to be sited as far landward as feasible, to eliminate or mitigate to the maximum feasible extent adverse impacts on local shoreline sand supply and public access, there are no alternatives that would avoid or lessen impacts on shoreline sand supply, public access or coastal resources and is the least environmentally damaging alternative.

The proposed project does not include a shoreline protection device or any bluff slope protection device and therefore, this finding is not applicable.

I. Public Access (LIP Chapter 12)

LIP Section 12.4 requires public access for lateral, bluff-top, and vertical access near the ocean, trails, and recreational access for the following cases:

- A. New development on any parcel or location specifically identified in the Land Use Plan or in the LCP zoning districts as appropriate for or containing a historically used or suitable public access trail or pathway.

- B. New development between the nearest public roadway and the sea.
- C. New development on any site where there is substantial evidence of a public right of access to or along the sea or public tidelands, a blufftop trail or an inland trail acquired through use or a public right of access through legislative authorization.
- D. New development on any site where a trail, bluff-top access or other recreational access is necessary to mitigate impacts of the development on public access where there is no feasible, less environmentally damaging, project alternative that would avoid impacts to public access.

The proposed project is new development between the nearest public roadway and the sea but does not result in blockage of public access. As described herein, public access to the ocean exists immediately east of the project site at Malibu Lagoon State Beach via a pedestrian pathway that meanders through Malibu Lagoon. Therefore, adequate ocean and recreational access exist nearby and additional access is not required for the proposed project.

J. Land Division (LIP Chapter 15)

This project does not include a land division. Therefore, the findings of LIP Chapter 15 are not applicable.

K. Demolition Permit (MMC Section 17.70)

MMC Section 17.70 states that a demolition permit shall be required for the demolition of any building or structure, or for a substantial remodel, except for a demolition initiated by the City and ordered or authorized under the provisions of the building code. The proposed project includes the demolition of the existing single-family residence and associated development. The findings for DP No. 19-003 are made as follows.

Finding 1. The demolition permit is conditioned to assure that it will be conducted in a manner that will not create significant adverse environmental impacts.

Conditions of approval included for this application ensure that the project will not create significant adverse environmental impacts.

Finding 2. A development plan has been approved or the requirement waived by the city.

A CDP application is being processed concurrently with DP No. 19-003. Therefore, approval of the demolition permit is subject to the approval of CDP No. 18-035.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Planning Department has analyzed the proposed project. The Planning Department has found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment and categorically

exempt from the provisions of CEQA according to CEQA Guidelines Sections 15301 (I) – Existing Facilities and 15303(a) and (e) – New Construction. The Planning Department 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).

CORRESPONDENCE: Correspondence received as part of the Planning Commission hearing and also for the City Council meeting is attached as Attachment 10.

PUBLIC NOTICE: On July 8, 2021, staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu and mailed the notice to all property owners and occupants within a 500-foot radius of the subject property (Attachment 11).

SUMMARY: The required findings can be made that the proposed project complies with the LCP and MMC. Further, the Planning Department's findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report and the accompanying resolution, staff recommends approval of this project, subject to the conditions of approval contained in Section 5 (Conditions of Approval) of Planning Commission Resolution No. 21-53. The proposed project has been reviewed and conditionally approved for conformance with the LCP by Planning Department staff and appropriate City and County departments.

ATTACHMENTS:

1. Planning Commission Resolution No. 21-53
2. Planning Commission Resolution No. 20-18
3. Concurrence from Regional Water Quality Control Board (RWQCB)
4. City Coastal Engineering Memo, dated February 17, 2021
5. Project Plans
6. Updated Story Pole Plan and Certification
7. Department Review Sheets
8. Visual Impact Analysis
9. Photometric Study
10. Public Correspondence
11. Radius Map
12. Public Hearing Notice

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 21-53

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 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 LOCATED AT 23325 MALIBU COLONY DRIVE (AXEL 23324, LLC)

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

SECTION 1. Recitals.

A. On August 28, 2018, an application for Coastal Development Permit (CDP) No. 18-035 and Demolition Permit (DP) No. 19-003 was submitted to the Planning Department by applicant, Marny Randall, on behalf of property owner, Axel 23324, LLC. The application was routed to the City Biologist, City Environmental Health Administrator, City Coastal Engineer, City Public Works Department, City geotechnical staff, Los Angeles County Waterworks District No. 29 (WD29), and the Los Angeles County Fire Department (LACFD) for review.

B. On October 25, 2018, Planning Department staff conducted a site visit to document site conditions, the property and the surrounding area.

C. On January 7, 2020, a Notice of Coastal Development Permit Application was posted on the property.

D. In February 2020, the applicant installed story poles to demonstrate the design of the project.

E. On February 12, 2020 the application was deemed complete for processing.

F. On February 20, 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.

G. On March 12, 2020, the Regular Planning Commission meeting of March 16, 2020, was adjourned to April 6, 2020 due to the COVID-19 pandemic.

H. On April 6, 2020, the Planning Commission continued to the item to a date uncertain due to COVID-19.

I. On April 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.

J. On May 4, 2020, the Planning Commission continued the item to the Regular meeting of June 1, 2020.

K. On June 1, 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, and adopted Planning Commission Resolution No. 20-18 approving the project entitlements.

L. On June 11, 2020, the neighbor to the west, Judith Israel, filed an appeal of the Planning Commission's decision.

M. On September 17, 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.

N. On October 12, 2020, the City Council, upon approval of the agenda, continued the item to the November 9, 2020 Regular City Council meeting.

O. On November 9, 2020, 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 report for the June 1, 2020, Planning Commission Meeting, public testimony, and other information in the record. During its deliberations, the Council discussed the project's consistency with the MOU for the Civic Center Prohibition Area, the inclusion of the perimeter walls in the development area calculations, and the need for additional sea-level rise analysis for the 100-year economic life of the structure. The Council unanimously approved a motion to remand the project back to the Planning Commission after the aforementioned items have been addressed.

P. On February 26, 2021, the staff received a response from the Regional Water Quality Control Board (RWQCB), where they concurred with staff's determination that the project did not increase wastewater flow.

Q. In May 2021, the applicant submitted modified project plans that included updated ESHA development area calculations that included the surface area of the new perimeter walls.

R. On February 17, 2021, the City's coastal engineers, Michael B. Phipps, PG, CEG and Lauren J. Doyel, PE, GE, issued a memo that provided commentary and concurrence with additional data provided by the coastal engineering consultant, David C. Weiss (DCWSE) and the property owner's former legal counsel, Steven Kauffman, that addressed a series of issues that were discussed during the City Council appeal hearing, including councilmembers' concerns about sea-level rise over the expected 100-year economic life of the proposed structure.

S. On July 1, 2021, story poles were reinstalled onsite. Staff visited the site and photo-documented the poles.

T. On July 8, 2021, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

U. On August 2, 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.

SECTION 2. Environmental Review.

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

SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) including Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP 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 (OWTS); including Variance (VAR) No. 19-062 for the reduction of the required 100-foot buffer from an ESHA (Malibu Lagoon) and DP No. 18-010 for the demolition of the existing residence and associated development located in the Single Family, Medium Density (SFM) zoning district within the Malibu Colony Overlay District located at 23325 Malibu Colony Drive.

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 variance, 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 has received an LCP conformance review from the Planning Department, City Biologist, City Environmental Health Administrator, City Coastal Engineer, City Public Works Department, City geotechnical staff, WD29, and the LACFD. The project is consistent with the policies and provisions of the LCP and Malibu Municipal Code (MMC), with the inclusion of the VAR.

2. The proposed project and related construction activities are not anticipated to interfere with the public's right to access the coast as adequate public access exists immediately east of the project site at Malibu Lagoon (Surfrider Beach) State Beach.

3. Evidence in the record demonstrates that, as conditioned, the project will not result in adverse biological or scenic impacts. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment because the site has been fully disturbed since 1952, any development on the site would result in the encroachment into the 100-foot wetland buffer, the project complies with the 25 percent development area, and a reconfigured or smaller footprint would not avoid a variance or provide any environmental advantages. The project is the least environmentally damaging alternative.

B. VAR No. 19-062 to allow new development to encroachment into the wetland ESHA buffer (LIP Section 13.26.5)

1. A special circumstance and exceptional characteristic are applicable to the subject property, such that strict application of the zoning ordinance deprives the property of privileges enjoyed by other properties in the vicinity, in that the property is immediately adjacent to Malibu Lagoon State Beach to the north and east and the required 100-foot buffer from the wetland encompasses the entire project site. As such, there is no way to site the proposed residence to avoid encroachment into the buffer because the lot is 75 feet wide. The project proposes the demolition and reconstruction of a single-family residence. The residential properties in the vicinity are primarily developed under the identical zoning classification, with similar development limitations, related to development within the ESHA buffer. The neighboring developed properties immediately west of the project site located at 23331 Malibu Colony Drive, 23337 Malibu Colony Drive, 23351 Malibu Colony Drive, 23401 Malibu Colony Drive, 23405 Malibu Colony Drive¹, 23431 Malibu Colony Drive, and 23441 Malibu Colony Drive are located within the 100-foot buffer from the wetland and each have a development area that exceeds 25 percent of the lot area. A strict application of the zoning ordinance would deprive the property owner of the same residential development configuration and siting enjoyed by other properties in the vicinity with the same zoning and constraints.

2. The project is designed to minimize grading and landform alteration and utilizes a previously disturbed area. The project has been designed to comply with all applicable standards of the Malibu Colony Overlay District. The project complies with the development area that is 25 percent the size of the parcel required for this variance to minimize impacts to ESHA. With the incorporation of the recommended conditions of approval, the granting of a variance 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 SF-M zone district in which the property is located.

3. The granting of the variance will not constitute a special privilege to the applicant or property owner in that the neighboring properties to the west, which are developed with single-family residences, also include development within the ESHA buffer. In addition, the proposed

¹ On June 3, 2005, a Wetland Delineation Study was prepared by TeraCor Resource Management for a project proposed at 23405 Malibu Colony Drive and found that the upland limit of the wetland boundary was approximately 65 feet from the rear property line of the subject property. However, with the completion of the Malibu Lagoon Restoration and Enhancement Project in 2013, the wetland delineation is expected to have shifted closer to the developed properties within the Malibu Colony Overlay District.

single-family residence is consistent with the uses permitted in the applicable zoning designation.

4. Pursuant to LUP Policy 3.12 and LIP Section 4.7.1, the development is limited to 25 percent of the lot area in order to minimize ESHA impacts. LUP Policy 3.28 and LIP Section 4.6.4 prohibit a variance modification to the ESHA buffer except where there is no other feasible alternative to site development and the development does not exceed the maximum size allowed for the development area. There are no new ESHA impacts from the proposed residence as it decreases the development area to comply with the maximum size allowed, which is 25 percent the size of the parcel, and does not expand beyond the area that is already disturbed. There is substantial evidence in the record that demonstrates there is no other feasible location to site the development. The project will not be contrary to or in conflict with the general purposes and intent of the zoning provisions nor contrary to or in conflict with the goals, objectives and policies of the LCP.

5. The project consists of the demolition of a single-family residence and associated development and the construction of a new two-story residence and associated development on a previously disturbed building pad located entirely within the fuel modification of the existing surrounding residences. The granting of the variance will not increase ESHA or ESHA buffer impacts as the proposed development does not expand beyond an area that was already disturbed. The proposed development area complies with the maximum allowable pursuant to LIP Section 4.7 and, therefore, would not exceed the limits of the development area.

6. The subject property is zoned SF-M which allows for residential development. The proposed project includes the construction of a single-family residence which is a permitted use in the subject zone. Approval of the variance would allow continued encroachment into stream ESHA buffer for the proposed residence. The use is consistent with the purpose and intent of the SF-M Zone.

7. The project will consist of a replacement single-family residence on the subject property that is similar in siting to what was previously on the site. The subject property is physically suitable for the proposed residence because: 1) the subject property was physically suitable for the construction of the previous single-family residence; and 2) as designed, the wetland ESHA will be protected.

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

C. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

1. No alternative exists that would avoid encroachment into ESHA and ESHA buffer due to the 75-foot lot width and the 100-foot buffer from the Malibu Lagoon that encompasses the entire project site. The strict application of the ESHA overlay ordinance would preclude replacing the single-family residential development on the property.

2. The proposed project is consistent with all applicable provisions of the LCP. In addition, the project complies with the maximum development area of 25 percent of the lot area pursuant to LIP Section 4.7.1. The proposed 3,126 square foot development area has been reviewed and was determined by the City Biologist to be in compliance based on the lot size. This

project has been reviewed and approved by the City Biologist and therefore, complies with the criteria established in the LCP.

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

1. The proposed residence would be visible from the Malibu Lagoon State Beach, but would not block public bluewater ocean views from these areas as existing development already obstructs them. The proposed project includes the demolition and reconstruction of a single-family residence and associated development in an established residential neighborhood. The existing development area is sprawled over more than two-thirds of the property. The proposed development is contained within a development area 25 percent of the lot size with a footprint that will be relocated closer to Malibu Colony Drive away from the southern boundary of Malibu Lagoon State Beach that abuts the site. This results in the structure's decreased visibility from the public viewing area. The development includes architectural articulation that breaks up the massing of the structure and will include the use of mechanical shades on the windows that will minimize the development's interior illumination at night. As proposed, development on the site will not have significant adverse impacts on scenic and visual resources.

2. The project has been designed and conditioned to avoid any adverse or scenic impacts by requiring the structure to utilize colors and materials that will be compatible with the surrounding natural environment. Additionally, the project has been conditioned to restrict exterior lighting per the requirements of LIP Section 6.5(G). Therefore, the proposed development will not result in significant adverse scenic visual impacts.

3. As stated in Section A, Finding 3, the project, as conditioned, is the least environmentally damaging alternative. There is no way to design a project that is not visible from scenic areas.

4. There are no feasible alternatives to development that would avoid substantially lessen any significant adverse impacts on scenic and visual resources as none are expected.

5. The project is designed to minimize impacts on sensitive resources. As conditioned, development on the site will not have significant adverse impacts on scenic and visual resources.

E. Hazards (LIP Chapter 9)

1 and 2. The record demonstrates that the project, as proposed and conditioned, will not adversely affect stability of the site or structural integrity from geologic, flood, or fire hazards in that the project complies with the recommended use of a pile foundation, is consistent with the recommended finish floor elevation, and requires that the certified engineering geologist and/or geotechnical engineer's recommendations and governing agency's building codes are followed. As a result of the septic treatment tanks' location under the driveway within the wave uprush zone, the OWTS will include the use of a sealed tank to prevent the infiltration of uprush and will be required to include flood-proofing and anchoring measures for the underground tank. The project, as designed, conditioned, and approved by the City Coastal Engineer, City Geotechnical staff, City Public Works Department, and LACFD, does not have any significant adverse impacts on the site stability or structural integrity from geologic, flood or fire hazards due to the project design.

3, 4 and 5. As previously stated, the project, as proposed and conditioned, is the least environmentally damaging alternative. There are no alternatives that would avoid or substantially lessen impacts onsite stability or structural integrity as no such significant impacts are expected.

No adverse impacts to sensitive resources are expected as the project complies with all development standards, inclusive of the variance.

F. Shoreline and Bluff Development (LIP Chapter 10)

1 and 2. The proposed project includes the replacement of a single-family residence and associated development that is not located on the beach but is adjacent to the Malibu Lagoon which is subject to tidal action. The proposed septic treatment tanks are located under the driveway within the wave uprush zone with the dispersal field located north of the proposed residence outside of the wave uprush zone. The new OWTS will include the use of a sealed tank to prevent the infiltration of uprush and will be required to include flood-proofing and anchoring measures for the underground tank. The OWTS has been determined to be sited in the most landward feasible location by the City Coastal Engineer and City Environmental Health Administrator in compliance with LIP Section 10.4. The proposed single-family residence and associated development, including the OWTS, have been designed to not require a shoreline protection device in that the residence has been designed to withstand the projected lateral force of wave impact. Public access to the ocean exists immediately east of the project site at Malibu Lagoon (Surfrider Beach) State Beach. The project, as proposed, will not have significant adverse impacts on public access, shoreline sand supply or other resources.

3 and 4. As demonstrated in the record, the project is the least environmentally damaging alternative in that the design proposed is not expected to have any adverse impacts on shoreline sand supply, public access or other coastal resources. Since no significant adverse impacts are expected, there are no alternatives that would further reduce such impacts.

G. 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. 19-003, and approval of the demolition permit is subject to the approval of CDP No. 18-035.

SECTION 4. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 18-035, VAR No. 19-062 and DP No. 19-003, subject to the following conditions.

SECTION 5. Conditions of Approval.

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

2. The approval of this application is to allow for the project described herein. The scope of work approved includes:
- a. Demolition of an existing 1,581 square foot, one-story single-family residence, three detached accessory buildings, and associated development, totaling 2,963 square feet of building area;
 - b. Construction of a new two-story, 28-foot, 2-inch high, 5,146 square foot single-family residence, including a 400 square foot attached garage;
 - c. New swimming pool and pool equipment;
 - d. Exempt and non-exempt grading including:
 - Exempt*
 - 37 cubic yards of understructure grading
 - Non-exempt*
 - 357 cubic yards
 - e. Installation of a new OWTS, including a 1,500-gallon septic tank;
 - f. New landscaping and hardscape, including a permeable driveway; and
 - g. Perimeter walls not to exceed six feet in height along the side property lines and a six-foot-high visually permeable auto gate in the front yard.

Discretionary requests:

- a. VAR No. 19-038 for the reduction of the required 100-foot wetland buffer ESHA; and
 - b. DP No. 17-013 for the demolition of the existing single-family residence and associated development.
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 the architectural and grading plans on file with the Planning Department date stamped **May 20, 2021** and landscape plans dated **July 6, 2021**. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.
4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions of approval set forth herein. The applicant shall file this form with the Planning Department prior to the issuance of any development permits.
5. The applicant shall digitally submit a complete set of plans, 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 the 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, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the coastal development permit approved by the City is void.
12. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

Cultural Resources

13. A qualified archaeologist shall be present onsite to observe grading, mechanical excavations and earth moving activities until the upper two feet of soil have been removed, graded or grubbed. Should the presence of important archaeological cultural resources be found, a Phase II Evaluation and Phase III Mitigation Program shall be conducted by a qualified archaeologist in consultation with a qualified Chumash cultural resource monitor. The Planning Director shall review and approve all design/work plans for Phase III Mitigation Programs and reports which detail the evaluative techniques and results.
14. A final report shall be prepared by the monitoring archaeologist and submitted to the Planning Department prior to the issuance of a certificate of occupancy.
15. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.

16. 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.

Special Conditions

17. To ensure the protection of the development under the projected sea-level rise scenario of 6.15 feet, the project shall incorporate the use of flood gates across any openings in the perimeter walls on the site.

Geology

18. 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.
19. 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

20. 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.
21. 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).
22. 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).
23. 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.
24. 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 drainage fixture equivalents, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;
 - b. Sewage and effluent pump design calculations (as applicable).
 - c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems; Specifications, supporting geology information,
 - d. and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system's geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics; and
 - e. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department.
25. Prior to final Environmental Health approval, the construction plans for all structures and/or buildings with reduced setbacks must be approved by the City Building Safety Division. The architectural and/or structural plans submitted to Building and Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives, etc.). For complex waterproofing installations,

submittal of a separate waterproofing plan may be required. The architectural/structural/waterproofing plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).

26. 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."
27. 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.
28. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.
29. 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.
30. 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.
31. 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.
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. All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. The floor plans must show all drainage fixtures, including in the kitchen and laundry areas. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.
 34. The City Biologist's final approval shall be submitted to the City Environmental Health Administrator. The City Biologist shall review the OWTS design to determine any impact on Environmentally Sensitive Habitat Area if applicable.
 35. The project geotechnical consultant, City geotechnical staff, project coastal engineering consultant, and City Coastal Engineering, final approvals shall be submitted to the City Environmental Health Administrator.
 36. 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 the continued operation, maintenance and monitoring of the OWTS.

Grading/Drainage/Hydrology (Public Works)

37. The non-exempt grading for the project shall not exceed a total of 1,000 cubic yards, cut and fill.
38. The total grading yardage verification certificate shall be copied onto the coversheet of the Grading Plan. No alternative formats or substitutes will be accepted.
39. 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.

40. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. 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 WQMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
 - a. Site Design Best Management Practices (BMPs):
 - b. Source Control BMPs;

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- c. Treatment Control BMPs that retain on-site Stormwater Quality Design Volume (SWQDv). Or where it is technically infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site;
 - d. Drainage improvements;
 - e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
 - f. Methods of onsite percolation, site re-vegetation and an analysis for off-site project impacts;
 - g. Measures to treat and infiltrate runoff from impervious areas;
 - 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 measure installed during construction prior to the issuance of grading or building permits; and
 - i. The WQMP shall be submitted to the Public Works Department 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. The WQMP shall be approved prior the Public Works Department's approval of the grading and drainage plan and/or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP's, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the Los Angeles County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the issuance of the certificate of occupancy.
41. 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.
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 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 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.
44. 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.

45. 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.”
- 46. 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.
 - 47. 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.
 - 48. The Building Official may approve grading during the rainy season to remediate hazardous geologic conditions that endanger public health and safety.

Pool / Spa / Water Feature

- 49. Onsite noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).
- 50. 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).
- 51. All swimming pools shall contain double walled construction with drains and leak detection systems capable of sensing a leak of the inner wall.
- 52. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, algaecides, or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:
 - a. The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
 - b. There are sufficient BMPs in place to prevent soil erosion; and

- c. The discharge does not reach in to the MS4 or to the ASBS (including tributaries)
53. Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.
54. 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. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.
55. Pursuant to MMC Section 9.20.040(B), all ponds, decorative fountains shall require a water recirculating/recycling system.

Water Quality/ Water Service

56. Prior to the issuance of a building permit, the applicant shall submit Will Serve Letter from Los Angeles County Waterworks District No. 29 (WD29) to the Planning Department indicating the ability of the property to receive adequate water service.
57. Prior to final inspection (or project sign off, as applicable) by the Planning Department, the applicant shall demonstrate that all requirements of WD29 have been met, including installation of a meter, if applicable.

Coastal Protection (Coastal Engineer)

58. No stockpiling of dirt or construction materials shall occur on the beach or adjacent ESHA area.
59. Measures to control erosion, runoff, and siltation shall be implemented at the end of each day's work.
60. No machinery shall be placed, stored or otherwise located in the intertidal zone at any time, unless necessary for protection of life and/or property.
61. Construction equipment shall not be cleaned on the beach or the adjacent ESHA area.
62. Construction debris and sediment shall be properly contained and secured on site with BMPs to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking.

Construction / Framing

63. 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.

64. A construction staging plan shall be reviewed and approved by the Building Official prior to plan check submittal.
65. 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.
66. At no time shall any eastbound lane along Pacific Coast Highway be closed for construction staging related to this project between the hours of 7:00 a.m. and 9:00 a.m.
67. 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.
68. 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.

Demolition/Solid Waste

69. Prior to demolition activities, the applicant shall receive Planning Department approval for compliance with conditions of approval.
70. 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.
71. 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.
72. 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.

73. 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.
74. 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.
75. 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.
76. Upon completion of demolition activities, the applicant shall request a final inspection by the Building Safety Division.

Lighting

77. 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.
78. 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.
79. 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.
80. Motion sensor lights shall be programmed to extinguish ten minutes after activation.
81. Three violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

Biology

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82. Prior to plan check approval, an updated landscape plan must be submitted to the City Biologist for review and approval that replaces the Monterey Cypress trees with California Sycamore trees as required by the LACFD.
 83. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.
 84. Except as permitted pursuant to the provisions in LUP policies 3.18 and 3.20, throughout the City of Malibu, development that involves the use of pesticides, including insecticides, herbicides, rodenticides or any other similar toxic chemical substances, shall be prohibited in cases where the application of such substances would have the potential to significantly degrade Environmentally Sensitive Habitat Areas or coastal water quality or harm wildlife. Herbicides may be used for the eradication of invasive plant species or habitat restoration, but only if the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls are infeasible. 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 used for a limited time.
 85. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner's signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22.
 86. Invasive plant species, as determined by the City of Malibu, are prohibited.
 87. Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth).
 88. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote or copper arsenate.
 89. 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 violations of this condition will result in a requirement to permanently remove the vegetation from the site.
 90. Grading and/or demolition shall be scheduled only during the dry season from April 1 – October 31. If it becomes necessary to conduct grading activities from November 1 – March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.

Fuel Modification

91. The project shall receive LACFD approval of a Final Fuel Modification Plan prior to the issuance of final building permits.

Fencing and Walls

92. 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 and LIP Section 6.5.
93. Fencing or walls shall be prohibited within ESHA, except where necessary for public safety or habitat protection or restoration. Fencing or walls that do not permit the free passage of wildlife shall be prohibited in any wildlife corridor.
94. Development adjacent to, but not within ESHA, may include fencing, if necessary for security, that is limited to the area around the clustered development area.

Colors and Materials

95. The project is visible from scenic roads or public viewing areas, therefore, shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
 - a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.
 - b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
 - c. All windows shall be comprised of non-glare glass.
96. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color of driveways and retaining walls shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.

Deed Restrictions

97. 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.
98. The property owner is required to acknowledge, by recordation of a deed restriction, that the property is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

99. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth above. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

Prior to Occupancy

100. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Planning Department the plumbing permit for the irrigation system installation signed off by the Building Safety Division.
101. Prior to Planning final inspection, the City Biologist shall inspect the project site and determine that all Planning Department conditions to protect natural resources are in compliance with the approved plans.
102. Prior to a final Building inspection, the applicant shall provide a Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Department. Applicant must provide haul tickets and diversion information. The final Summary Report shall designate the specific materials that were land filled or recycled, and state the facilities where all materials were taken.
103. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Building Safety Division. The Planning inspection may include photographs to document the as-built condition of the site. A building permit will not be finalized until the Planning Department has determined that the project complies with this coastal development permit.
104. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

Fixed Conditions

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

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

PASSED, APPROVED AND ADOPTED this 2nd day of August 2021.

JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

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

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

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 21-53 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting held on the 2nd day of August 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

KATHLEEN STECKO, Recording Secretary

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 20-18

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 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 5,220 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)

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

SECTION 1. Recitals.

A. On August 28, 2018, an application for Coastal Development Permit (CDP) No. 18-035 and Demolition Permit (DP) No. 19-003 was submitted to the Planning Department by applicant, Marny Randall, on behalf of property owner, Axel 23324, LLC. The application was routed to the City Biologist, City Environmental Health Administrator, City Coastal Engineer, City Public Works Department, City geotechnical staff, Los Angeles County Waterworks District No. 29 (WD29), and the Los Angeles County Fire Department (LACFD) for review.

B. On October 25, 2018, Planning Department staff conducted a site visit to document site conditions, the property and the surrounding area.

C. On January 7, 2020, a Notice of Coastal Development Permit Application was posted on the property.

D. In February 2020, the applicant installed story poles to demonstrate the design of the project.

E. On February 12, 2020 the application was deemed complete for processing.

F. On February 20, 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.

G. On March 12, 2020, the Regular Planning Commission meeting of March 16, 2020, was adjourned to April 6, 2020 due to the COVID-19 pandemic.

H. On April 6, 2020, the Planning Commission continued to the item to a date uncertain due to COVID-19.

I. On April 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.

J. On May 4, 2020, the Planning Commission continued the item to the Regular meeting of June 1, 2020.

K. On June 1, 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.

SECTION 2. Environmental Review.

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

SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) including Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDP 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 5,220 square foot, two-story single-family residence, swimming pool, decks, permeable driveway and other associated development, and replacement of the onsite wastewater treatment system (OWTS); including Variance (VAR) No. 19-062 for the reduction of the required 100-foot buffer from an ESHA (Malibu Lagoon) and DP No. 18-010 for the demolition of the existing residence and associated development located in the Single-Family Medium Density (SF-M) zoning district within the Malibu Colony Overlay District at 23325 Malibu Colony Drive.

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 variance, 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 has received an LCP conformance review from the Planning Department, City Biologist, City Environmental Health Administrator, City Coastal Engineer, City Public Works Department, City geotechnical staff, WD29, and the LACFD. The project is consistent with the policies and provisions of the LCP and Malibu Municipal Code (MMC), with the inclusion of the VAR.

2. The proposed project and related construction activities are not anticipated to interfere with the public's right to access the coast as adequate public access exists immediately east of the project site at Malibu Lagoon (Surfrider Beach) State Beach.

3. Evidence in the record demonstrates that, as conditioned, the project will not result in adverse biological or scenic impacts. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment because the site has been fully disturbed since 1952, any development on the site would result in the encroachment into the 100-foot wetland buffer, the project complies with the 25 percent development area, and a reconfigured or smaller footprint would not provide any environmental advantages. The project is the least environmentally damaging alternative.

B. VAR No. 19-062 to allow new development to encroachment into the wetland ESHA buffer (LIP Section 13.26.5)

1. A special circumstance and exceptional characteristic are applicable to the subject property, such that strict application of the zoning ordinance deprives the property of privileges enjoyed by other properties in the vicinity, in that the property is immediately adjacent to Malibu Lagoon State Beach to the north and east and the required 100-foot buffer from the wetland encompasses the entire project site. As such, there is no way to site the proposed residence to avoid encroachment into the buffer because the lot is 75 feet wide. The project proposes the demolition and reconstruction of a single-family residence. The residential properties in the vicinity are primarily developed under the identical zoning classification, with similar development limitations, related to development within the ESHA buffer. The neighboring developed properties immediately west of the project site located at 23331 Malibu Colony Drive, 23337 Malibu Colony Drive, 23351 Malibu Colony Drive, 23401 Malibu Colony Drive, 23405 Malibu Colony Drive¹, 23431 Malibu Colony Drive, and 23441 Malibu Colony Drive are located within the 100-foot buffer from the wetland and each have a development area that exceeds 25 percent of the lot area. A strict application of the zoning ordinance would deprive the property owner of the same residential development configuration and siting enjoyed by other properties in the vicinity with the same zoning and constraints.

2. The project is designed to minimize grading and landform alteration and utilizes a previously disturbed area. The project has been designed to comply with all applicable standards of the Malibu Colony Overlay District. The project complies with the development area that is 25 percent the size of the parcel required for this variance to minimize impacts to ESHA. With the incorporation of the recommended conditions of approval, the granting of a variance will not be

¹ On June 3, 2005, a Wetland Delineation Study was prepared by TeraCor Resource Management for a project proposed at 23405 Malibu Colony Drive and found that the upland limit of the wetland boundary was approximately 65 feet from the rear property line of the subject property. However, with the completion of the Malibu Lagoon Restoration and Enhancement Project in 2013, the wetland delineation is expected to have shifted closer to the developed properties within the Malibu Colony Overlay District.

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 SF-M zone district in which the property is located.

3. The granting of the variance will not constitute a special privilege to the applicant or property owner in that the neighboring properties to the west, which are developed with single-family residences, also include development within the ESHA buffer. In addition, the proposed single-family residence is consistent with the uses permitted in the applicable zoning designation.

4. Pursuant to LUP Policy 3.12 and LIP Section 4.7.1, the development is limited to 25 percent of the lot area in order to minimize ESHA impacts. LUP Policy 3.28 and LIP Section 4.6.4 prohibit a variance modification to the ESHA buffer except where there is no other feasible alternative to site development and the development does not exceed the maximum size allowed for the development area. There are no new ESHA impacts from the proposed residence as it decreases the development area to comply with the maximum size allowed, which is 25 percent the size of the parcel, and does not expand beyond the area that is already disturbed. There is substantial evidence in the record that demonstrates there is no other feasible location to site the development. The project will not be contrary to or in conflict with the general purposes and intent of the zoning provisions nor contrary to or in conflict with the goals, objectives and policies of the LCP.

5. The project consists of the demolition of a single-family residence and associated development and the construction of a new two-story residence and associated development on a previously disturbed building pad located entirely within the fuel modification of the existing surrounding residences. The granting of the variance will not increase ESHA or ESHA buffer impacts as the proposed development does not expand beyond an area that was already disturbed. The proposed development area complies with the maximum allowable pursuant to LIP Section 4.7 and, therefore, would not exceed the limits of the development area.

6. The subject property is zoned SF-M which allows for residential development. The proposed project includes the construction of a single-family residence which is a permitted use in the subject zone. Approval of the variance would allow continued encroachment into stream ESHA buffer for the proposed residence. The use is consistent with the purpose and intent of the SF-M Zone.

7. The project will consist of a replacement single-family residence on the subject property that is similar in siting to what was previously on the site. The subject property is physically suitable for the proposed residence because: 1) the subject property was physically suitable for the construction of the previous single-family residence; and 2) as designed, the wetland ESHA will be protected.

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

C. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

1. No alternative exists that would avoid encroachment into ESHA and ESHA buffer due to the 75-foot lot width and the 100-foot buffer from the Malibu Lagoon that encompasses the entire project site. The strict application of the ESHA overlay ordinance would preclude replacing the single-family residential development on the property.

2. The proposed project is consistent with all applicable provisions of the LCP. In addition, the project complies with the maximum development area of 25 percent of the lot area pursuant to LIP Section 4.7.1. The proposed 3,076 square foot development area has been reviewed and was determined by the City Biologist to be in compliance based on the lot size. This project has been reviewed and approved by the City Biologist and therefore, complies with the criteria established in the LCP.

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

1. The proposed residence would be visible from the Malibu Lagoon State Beach, but would not block public bluewater ocean views from these areas as existing development already obstructs them. The proposed project includes the demolition and reconstruction of a single-family residence and associated development in an established residential neighborhood. The existing development area is sprawled over more than two-thirds of the property. The proposed development is contained within a development area 25 percent of the lot size with a footprint that will be relocated closer to Malibu Colony Drive away from the southern boundary of Malibu Lagoon State Beach that abuts the site. This results in the structure's decreased visibility from the public viewing area. The development includes architectural articulation that breaks up the massing of the structure and will include the use of mechanical shades on the windows that will minimize the development's interior illumination at night. As proposed, development on the site will not have significant adverse impacts on scenic and visual resources.

2. The project has been designed and conditioned to avoid any adverse or scenic impacts by requiring the structure to utilize colors and materials that will be compatible with the surrounding natural environment. Additionally, the project has been conditioned to restrict exterior lighting per the requirements of LIP Section 6.5(G). Therefore, the proposed development will not result in significant adverse scenic visual impacts.

3. As stated in Section A, Finding 3, the project, as conditioned, is the least environmentally damaging alternative. There is no way to design a project that is not visible from scenic areas.

4. There are no feasible alternatives to development that would avoid substantially lessen any significant adverse impacts on scenic and visual resources as none are expected.

5. The project is designed to minimize impacts on sensitive resources. As conditioned, development on the site will not have significant adverse impacts on scenic and visual resources.

E. Hazards (LIP Chapter 9)

1 and 2. The record demonstrates that the project, as proposed and conditioned, will not adversely affect stability of the site or structural integrity from geologic, flood, or fire hazards in that the project complies with the recommended use of a pile foundation, is consistent with the recommended finish floor elevation, and requires that the certified engineering geologist and/or geotechnical engineer's recommendations and governing agency's building codes are followed. As a result of the septic treatment tanks' location under the driveway within the wave uprush zone, the OWTS will include the use of a sealed tank to prevent the infiltration of uprush and will be required to include flood-proofing and anchoring measures for the underground tank. The project, as designed, conditioned, and approved by the City Coastal Engineer, City Geotechnical staff, City Public Works Department, and LACFD, does not have any significant adverse impacts on the site stability or structural integrity from geologic, flood or fire hazards due to the project design.

3, 4 and 5. As previously stated, the project, as proposed and conditioned, is the least environmentally damaging alternative. There are no alternatives that would avoid or substantially lessen impacts onsite stability or structural integrity as no such significant impacts are expected. No adverse impacts to sensitive resources are expected as the project complies with all development standards, inclusive of the variance.

F. Shoreline and Bluff Development (LIP Chapter 10)

1 and 2. The proposed project includes the replacement of a single-family residence and associated development that is not located on the beach but is adjacent to the Malibu Lagoon which is subject to tidal action. The proposed septic treatment tanks are located under the driveway within the wave uprush zone with the dispersal field located north of the proposed residence outside of the wave uprush zone. The new OWTS will include the use of a sealed tank to prevent the infiltration of uprush and will be required to include flood-proofing and anchoring measures for the underground tank. The OWTS has been determined to be sited in the most landward feasible location by the City Coastal Engineer and City Environmental Health Administrator in compliance with LIP Section 10.4. The proposed single-family residence and associated development, including the OWTS, have been designed to not require a shoreline protection device in that the residence has been designed to withstand the projected lateral force of wave impact. Public access to the ocean exists immediately east of the project site at Malibu Lagoon (Surfrider Beach) State Beach. The project, as proposed, will not have significant adverse impacts on public access, shoreline sand supply or other resources.

3 and 4. As demonstrated in the record, the project is the least environmentally damaging alternative in that the design proposed is not expected to have any adverse impacts on shoreline sand supply, public access or other coastal resources. Since no significant adverse impacts are expected, there are no alternatives that would further reduce such impacts.

G. 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. 19-003, and approval of the demolition permit is subject to the approval of CDP No. 18-035.

SECTION 4. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 18-035, VAR No. 19-062 and DP No. 19-003, subject to the following conditions.

SECTION 5. Conditions of Approval.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.
2. The approval of this application is to allow for the project described herein. The scope of work approved includes:
 - a. Demolition of an existing 1,581 square foot, one-story single-family residence, three detached accessory buildings, and associated development, totaling 2,963 square feet of building area;
 - b. Construction of a new two-story, 28-foot, 2-inch high, 5,220 square foot single-family residence, including a 400 square foot attached garage;
 - c. New swimming pool and pool equipment;
 - d. Exempt and non-exempt grading including:
 - Exempt*
 - 37 cubic yards of understructure grading
 - Non-exempt*
 - 357 cubic yards
 - e. Installation of a new OWTS, including a 1,500-gallon septic tank;
 - f. New landscaping and hardscape, including a permeable driveway; and
 - g. Perimeter walls not to exceed six feet in height along the side property lines and a six-foot-high visually permeable auto gate in the front yard.

Discretionary requests:

 - a. VAR No. 19-038 for the reduction of the required 100-foot wetland buffer ESHA; and
 - b. DP No. 17-013 for the demolition of the existing single-family residence and associated development.
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 the architectural plans on file with the Planning Department date stamped **January 10, 2020** and grading and landscape plans dated **October 21, 2019**. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.

4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions of approval set forth herein. The applicant shall file this form with the Planning Department prior to the issuance of any development permits.
5. The applicant shall digitally submit a complete set 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 the 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, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the coastal development permit approved by the City is void.
12. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

Cultural Resources

13. A qualified archaeologist shall be present onsite to observe grading, mechanical excavations and earth moving activities until the upper two feet of soil have been removed, graded or grubbed. Should the presence of important archaeological cultural resources be found, a Phase II Evaluation and Phase III Mitigation Program shall be conducted by a qualified archaeologist in consultation with a qualified Chumash cultural resource monitor. The Planning Director shall review and approve all design/work plans for Phase III Mitigation Programs and reports which detail the evaluative techniques and results.
14. A final report shall be prepared by the monitoring archaeologist and submitted to the Planning Department prior to the issuance of a certificate of occupancy.
15. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.
16. 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.

Building Plan Check

Geology

17. 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.
18. 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

19. 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.

20. 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).
21. 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).
22. 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.
23. 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 drainage fixture equivalents, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;
 - b. Sewage and effluent pump design calculations (as applicable).
 - c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems; Specifications, supporting geology information,
 - d. and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system's geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design

hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics; and

- e. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department.
24. Prior to final Environmental Health approval, the construction plans for all structures and/or buildings with reduced setbacks must be approved by the City Building Safety Division. The architectural and/or structural plans submitted to Building and Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives, etc.). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. The architectural/structural/waterproofing plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).
25. Prior to final Environmental Health approval, the applicant shall provide engineer's certification for reduction in setbacks to buildings or structures: All proposed reductions in setback from the OWTS to structures (i.e., setbacks less than those shown in MMC Table 15.42.030(E)) must be supported by a letter from the project structural engineer and a letter from the project soils engineer (i.e., a geotechnical engineer or civil engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the OWTS, and will not adversely affect the structural integrity of the structures for which the Table 15.42.030(E) setback is reduced. Construction drawings submitted for plan check must show OWTS components in relation to those structures from which the setback is reduced. All proposed reductions in setback from the OWTS to buildings (i.e., setbacks less than those shown in Table 15.42.030(E)) also must be supported by a letter from the project architect, who must certify unequivocally that the proposed reduction in setbacks will not produce a moisture intrusion problem for the proposed building(s). If the building designer is not a California-licensed architect, then the required architect's certification may be supplied by an engineer who is responsible for the building design with respect to mitigation of potential moisture intrusion from reduced setbacks to the wastewater system. In this case, the engineer must include in his/her letter an explicit statement of responsibility for mitigation of potential moisture intrusion. If any specific construction features are proposed as part of a moisture intrusion mitigation system in connection with the reduced setback, then the architect or engineer must provide associated construction documents for review and approval during Building Safety Division plan check. The wastewater plans and the construction plans must be specifically referenced in all certification letters.

26. 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."
27. 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.
28. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.
29. 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.
30. 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.
31. 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.
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. All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. The floor plans must show all drainage fixtures, including in the kitchen and laundry areas. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.
34. The City Biologist's final approval shall be submitted to the City Environmental Health Administrator. The City Biologist shall review the OWTS design to determine any impact on Environmentally Sensitive Habitat Area if applicable.
35. The project geotechnical consultant, City geotechnical staff, project coastal engineering consultant, and City Coastal Engineering, final approvals shall be submitted to the City Environmental Health Administrator.
36. 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 the continued operation, maintenance and monitoring of the OWTS.

Grading/Drainage/Hydrology (Public Works)

37. The non-exempt grading for the project shall not exceed a total of 1,000 cubic yards, cut and fill.
38. The total grading yardage verification certificate shall be copied onto the coversheet of the Grading Plan. No alternative formats or substitutes will be accepted.
39. 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.

40. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. 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 WQMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
 - a. Site Design Best Management Practices (BMPs);
 - b. Source Control BMPs;
 - c. Treatment Control BMPs that retain on-site Stormwater Quality Design Volume (SWQDv). Or where it is technically infeasible to retain on-site, the project must biofilter 1.5 times the SWQDv that is not retained on-site;

- d. Drainage improvements;
 - e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
 - f. Methods of onsite percolation, site re-vegetation and an analysis for off-site project impacts;
 - g. Measures to treat and infiltrate runoff from impervious areas;
 - 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 measure installed during construction prior to the issuance of grading or building permits; and
 - i. The WQMP shall be submitted to the Public Works Department 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. The WQMP shall be approved prior the Public Works Department's approval of the grading and drainage plan and/or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP's, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the Los Angeles County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the issuance of the certificate of occupancy.
41. 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.
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 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 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.
44. 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.

45. 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:
- Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside the disturbed area
 - Methods used to protect native vegetation and trees
 - Sediment / erosion control
 - Controls to prevent tracking on- and off-site
 - Non-stormwater control
 - Material management (delivery and storage)
 - Spill prevention and control
 - Waste management
 - Identification of site risk level as identified per the requirements in Appendix 1 of the Construction General Permit
 - 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."

46. 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.
47. 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.
48. The Building Official may approve grading during the rainy season to remediate hazardous geologic conditions that endanger public health and safety.

Pool / Spa / Water Feature

49. Onsite noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).
50. 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).
51. All swimming pools shall contain double walled construction with drains and leak detection systems capable of sensing a leak of the inner wall.
52. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, algaecides, or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:
 - a. The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
 - b. There are sufficient BMPs in place to prevent soil erosion; and
 - c. The discharge does not reach in to the MS4 or to the ASBS (including tributaries)
53. Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.

54. 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. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.
55. Pursuant to MMC Section 9.20.040(B), all ponds, decorative fountains shall require a water recirculating/recycling system.

Water Quality/ Water Service

56. Prior to the issuance of a building permit, the applicant shall submit Will Serve Letter from Los Angeles County Waterworks District No. 29 (WD29) to the Planning Department indicating the ability of the property to receive adequate water service.
57. Prior to final inspection (or project sign off, as applicable) by the Planning Department, the applicant shall demonstrate that all requirements of WD29 have been met, including installation of a meter, if applicable.

Shoreline Protection (Coastal Engineer)

58. No stockpiling of dirt or construction materials shall occur on the beach or adjacent ESHA area.
59. Measures to control erosion, runoff, and siltation shall be implemented at the end of each day’s work.
60. No machinery shall be placed, stored or otherwise located in the intertidal zone at any time, unless necessary for protection of life and/or property.
61. Construction equipment shall not be cleaned on the beach or the adjacent ESHA area.
62. Construction debris and sediment shall be properly contained and secured on site with BMPs to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking.

Construction / Framing

63. 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.
64. A construction staging plan shall be reviewed and approved by the Building Official prior to plan check submittal.
65. 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.

66. At no time shall any eastbound lane along Pacific Coast Highway be closed for construction staging related to this project between the hours of 7:00 a.m. and 9:00 a.m.
67. 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.
68. 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:
- Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
 - Grading activities shall be planned during the southern California dry season (April through October).
 - 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.
 - Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.

Demolition/Solid Waste

69. Prior to demolition activities, the applicant shall receive Planning Department approval for compliance with conditions of approval.
70. 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.
71. 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.
72. 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.
73. 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.

74. 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.
75. 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.
76. Upon completion of demolition activities, the applicant shall request a final inspection by the Building Safety Division.

Lighting

77. 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.
78. 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.
79. 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.
80. Motion sensor lights shall be programmed to extinguish ten minutes after activation.
81. Three violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

Biology

82. Prior to plan check approval, an updated landscape plan must be submitted to the City Biologist for review and approval that replaces the Monterey Cypress trees with California Sycamore trees as required by the LACFD.

83. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.
84. 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.
85. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner's signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22.
86. Invasive plant species, as determined by the City of Malibu, are prohibited.
87. Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth).
88. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote or copper arsenate.
89. 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 violations of this condition will result in a requirement to permanently remove the vegetation from the site.
90. Grading and/or demolition shall be scheduled only during the dry season from April 1 – October 31. If it becomes necessary to conduct grading activities from November 1 – March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.

Fuel Modification

91. The project shall receive LACFD approval of a Final Fuel Modification Plan prior to the issuance of final building permits.

Fencing and Walls

92. 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 and LIP Section 6.5.

93. Fencing or walls shall be prohibited within ESHA, except where necessary for public safety or habitat protection or restoration. Fencing or walls that do not permit the free passage of wildlife shall be prohibited in any wildlife corridor.
94. Development adjacent to, but not within ESHA, may include fencing, if necessary for security, that is limited to the area around the clustered development area.

Colors and Materials

95. The project is visible from scenic roads or public viewing areas, therefore, shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
- a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.
 - b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
 - c. All windows shall be comprised of non-glare glass.
96. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color of driveways and retaining walls shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.

Deed Restrictions

97. 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.
98. The property owner is required to acknowledge, by recordation of a deed restriction, that the property is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.
99. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth above. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

Prior to Occupancy

100. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Planning Department the plumbing permit for the irrigation system installation signed off by the Building Safety Division.
101. Prior to Planning final inspection, the City Biologist shall inspect the project site and determine that all Planning Department conditions to protect natural resources are in compliance with the approved plans.
102. Prior to a final Building inspection, the applicant shall provide a Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Department. Applicant must provide haul tickets and diversion information. The final Summary Report shall designate the specific materials that were land filled or recycled, and state the facilities where all materials were taken.
103. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Building Safety Division. A building permit will not be finalized until the Planning Department has determined that the project complies with this coastal development permit.
104. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

Fixed Conditions

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


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

PASSED, APPROVED AND ADOPTED this 1st day of June 2020.



JEFFREY JENNINGS, Planning Commission Chair

ATTEST:



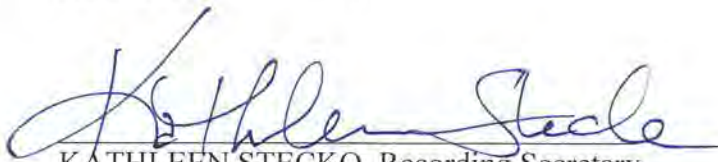
KATHLEEN STECKO, Recording Secretary

Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeals shall be emailed to psalazar@malibucity.org and the filing fee shall be mailed to Malibu Planning Department, attention: Patricia Salazar, 23825 Stuart Ranch Road, Malibu, CA 90265. Appeal forms may be found online at www.malibucity.org/planningforms. If you are unable to submit your appeal online, please contact Patricia Salazar by calling (310) 456-2489, extension 245, at least two business days before your appeal deadline to arrange alternative delivery of the appeal.

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

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-18 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting held on the 1st day of June 2020 by the following vote:

AYES:	3	Commissioners:	Marx, Weil, Jennings
NOES:	2	Commissioners:	Mazza, Uhring
ABSTAIN:	0		
ABSENT:	0		



KATHLEEN STECKO, Recording Secretary

From: Kang, Jim@Waterboards
To: [Melinda Talent](#); [Yolanda Bundy](#)
Cc: Froelich, Sophie@Waterboards; Newman, Jenny@Waterboards
Subject: 23325 Malibu Colony Rd. - Letter of Concurrence
Date: Friday, February 26, 2021 9:44:33 AM
Attachments: [image001.png](#)

Dear Melinda and Yolanda,

The Los Angeles Regional Water Quality Control Board (Regional Water Board) staff has reviewed the following documents:

- *City of Malibu Memorandum Regarding Actions from the November 9, 2020 Malibu City Council Regular Meeting*, Prepared by Heather Glaser, City Clerk, Dated November 10, 2020;
- *City of Malibu Staff Report: Appeal No. 20-006 - Appeal of Planning Commission Resolution No. 20-18 (23325 Malibu Colony Drive; Owner, Axel 23324, LLC; Appellant, Judith Israel)*, Prepared by Raneika Brooks, Associate Planner, Dated October 21, 2020;
- *City of Malibu Policy for Environmental Health Review of Development Projects Within the Civic Center Prohibition Area, Revised May 2020*;
- *Proposed Replacement of Existing Residence, 23325 Malibu Colony Road, Malibu, CA 90265*, submitted by Kevin Poffenbarger, EPD Consultants, Inc., Dated December 10, 2020; and
- *Addendum II Water Balance Report, 4452-010-017, 23325 Malibu Colony Road #118A, Malibu, CA 90265*, Prepared by Kevin Poffenbarger, EPD Consultants, Inc., Dated August 7, 2020.

After reviewing the above documents, the Regional Water Board staff concurs with the City of Malibu that there is no increase in wastewater flow from the proposed project in conformance with the City's Prohibition Policy pertaining to development in the Prohibition Area.

Please note that the subject property is located within the Phase Two boundaries, as shown in Exhibit A – Boundary Map of the 2017 Memorandum of Understanding (2017 MOU) between the City of Malibu and the Regional Water Board and State Water Resources Control Board regarding phased implementation of the Basin Plan Amendment prohibiting Onsite Wastewater Treatment Disposal Systems in the Malibu Civic Center area. Per Article II.B. of the 2017 MOU, by November 5, 2024, the City shall require all those properties within Phase Two Boundaries to be connected to the Malibu Civic Center Wastewater Treatment Facility (CCWTF).

The Regional Water Board continues to support the City's efforts to achieve the goal on connecting additional properties within Phases Two and Phase Three boundaries to the CCWTF ahead of schedule.

Please do not hesitate to contact me if you have any questions.

Regards,

Jim

James Kang, Ph.D., P.E.
Chief of Groundwater Permitting Unit

Senior Water Resource Control Engineer, Supervisory
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013
Tel: (213) 576-6683
Jim.kang@waterboards.ca.gov

Due to COVID-19, I am teleworking on a full-time basis.
E-mail is the best way to reach me for immediate assistance.



From: Melinda Talent <mtalent@malibucity.org>
Sent: Thursday, February 4, 2021 4:18 PM
To: Kang, Jim@Waterboards <Jim.Kang@Waterboards.ca.gov>
Cc: Yolanda Bundy <ybund@malibucity.org>
Subject: 23325 Malibu Colony Rd. - Letter of concurrence

EXTERNAL:

Hi Jim,

Pursuant to our phone conversations today and to summarize the request from City Council for input from the Los Angeles Regional Water Board, the City needs documentation from your office that there is no increase in wastewater flow from the proposed project in conformance with the City's Prohibition Policy pertaining to development in the Prohibition Area.

The City provided you with the wastewater design reports, appeal documents with supporting materials and City Council staff report, including a discussion of Environmental Health determination that the wastewater flow calculations by the applicant's wastewater designer met the criteria in the Prohibition Policy. In addition, a letter dated December 10, 2020, from the applicant's wastewater system designer outlining the calculations of wastewater flow was sent to you by the applicant's OWTS designer.

At this time, the City is requesting concurrence from your office that there is no increase in wastewater flow from the proposed project based on the water balance calculations in conformance with the City's Prohibition Policy.

Thank you for your assistance with this request. Please contact me if you have any questions.

Regards,

Melinda Talent, REHS

Environmental Health Administrator

City of Malibu

23825 Stuart Ranch Rd.

Malibu, CA 90265

310/456-2489 ext. 364

www.malibucity.org



City of Malibu

23825 Stuart Ranch Road • Malibu, California • 90265-4861
Phone (310) 456-2489 • Fax (310) 456-3356 • www.malibucity.org

MEMORANDUM

To: Yolanda Bundy, Building Official; Richard Mollica, Planning Director; Raneika Brooks, Case Planner

From: Michael B. Phipps, PG, CEG, Lauren J. Doyel, PE, GE, Coastal Engineering Reviewers, Environmental Sustainability Department

Date: February 17, 2021

Re: Coastal Engineering Review and Commentary, Appeal of 23325 Malibu Colony Road

At the request of the Planning and Environmental Sustainability Departments, and the Applicant, we are responding to a memorandum from the Coastal Engineering Consultant (David C. Weiss Structural Engineer; hereafter, "DCWSE") for the above referenced project dated December 3, 2020, as well as an email from attorney Steven Kaufmann dated December 17, 2021.

The referenced project was originally approved in planning from a coastal engineering perspective on December 5, 2019 and reapproved on August 18, 2020. City Council directed the project back to the Planning Commission to address the 100-year projected sea level rise. (Response to City Council Motion directing project back to Planning Commission to address 100-yr. Sea Level rise analysis/November 9, 2020, Item 4A Appeal No. 20-006 – Appeal of Planning Commission Resolution No. 20-18 23325 Malibu Colony Road, Owner, Axel 23324, LLC: Appellant, Judith Israel).

With respect to DCWSE's memorandum dated December 3, 2020 our commentary is as follows on his responses, numbered in the same order:

1. Item Number One - Appellant's Contention that the Coastal Engineering Analyses Were Not Proper. The City coastal engineering consultants concur with DCWSE's conclusion that the Medium to High Risk aversion Sea Level Rise (SLR) of 6.15' is appropriate for the project, based on the location of the project (not beach front) and design life (75 years). In the most extreme scenario, the project will not be subject to wave action but will be subject to minor flooding on the order of 8 inches deep at the east property line. Utilizing build in barriers that can be easily slid into place across openings in the property line walls is no different than the homeowner manually piling sandbags or utilizing inflatable rubber barriers to protect their property. It is not required, but rather a forward-thinking design solution to a potential minor hazard.
2. Item Number Two – Potential Additional Coastal Engineering Analysis. The City coastal engineering consultants concur with DCWSE's conclusion that no additional coastal engineering analysis is required or needed. The project coastal engineering consultant has already taken the extra step and provided analysis based on conservative assumptions with respect to the potential flooding of the property from the east. Potential for flooding of the property from the Lagoon (north)

is addressed by FEMA flood projections, and as stated in the DCWSE report, the flooding does not reach the property due to existing topographic barriers. As an aside, comparing occurrence intervals (i.e., probability of exceedance), the analysis provided by DCWSE for potential flooding from the east side identifies this event that has been modeled as having a 1 in 20000 chance of occurrence. This is a smaller exposure than the design requirements for other geohazards (such as earthquakes) which in fact are more likely to be the controlling hazards for design consideration. We note that the SLR having 0.5% probability of exceedance in 100 years is a higher standard than either seismic or flooding.

3. Item Number Three – Economic Life of Structure Used for Coastal Engineering Analysis. Based on standards set forth in the City of Malibu LCP, LIP and Coastal Engineering Guidelines, properties that are not beachfront address a 75-year design life. If a longer design period is addressed voluntarily in addressing some hazards, this does not become the new de facto design standard for approval. This comment is applicable to the analysis of flooding from the east side.
4. Item Number Four – Characterization of The Proposed Block Perimeter Wall As a “Seawall” or Shore Protection Device. The block wall is not a seawall or shoreline protection device, nor is it designed to be, nor does it need to be. It is not protecting a shoreline, there is no wave action on the wall, and it is not founded on piles below a “scoured” beach profile, as sea walls are required to be. The perimeter wall does not interact nor interfere with supply or littoral transport of the coastal sand supply. All the above are considerations when approving sea walls or defining what a seawall is. The subject proposed wall is a perimeter privacy wall that, in the event of flooding that is conservatively estimated at 8 inches deep under an extreme scenario, offers protection for the property incidentally.
5. Item Number Five – Potential of Perimeter Property Line Wall to Deflect Water Flows Coming from Either the Ocean or Malibu Creek Back Across the Creek Mouth to The Eastern Bank of Malibu Creek at the Adamson House. The City coastal engineering reviewers concur with DCWSE that there is no impact on the Adamson House by this project. The project is 1500 feet away from the Adamson House, and the approximately 700-foot-wide Malibu Lagoon/Creek mouth is located between the two locations. By contrast, the Adamson House is only 80 feet away from the Pacific Ocean edge and less than 500 feet away from the Malibu Lagoon. Under the conditions that would cause flooding at the project site, the impacts to the Adamson House from those same conditions would remain unchanged whether the house and the privacy walls were present or not.

The email from Steve Kaufmann dated December 17, 2020 appears to provide precedent founded in recent Coastal Commission decisions for an applicable design life of 75 years and addresses the definition of sea wall. His commentary supports the analysis and design recommendations presented by DCWSE, that were reviewed and approved by the City's coastal engineering reviewers. The City's coastal engineering reviewers have nothing to add to Mr. Kaufmann's commentary, other than it appears to provide some context as to how the Coastal Commission may view this project in terms of design life.

Attachment 1: *David C. Weiss, S.E., Coastal Engineering Consultant Memorandum, December 3, 2020.*

Attachment 2: *Steve Kaufmann Email dated December 17, 2021.*

Attachment 3: *Coastal Engineering Review approval letter dated December 5, 2019.*

Memo

TO: Mr. Michael Phipps, City of Malibu Coastal Consultant

CC Yolanda, Building Official
Richard Mollica, Planning Director
Raneika Brooks, Associate Planner

From: David C. Weiss, Structural Engineer

Subject: 23325 Malibu Colony Road, Malibu, CA
Response to City Council Motion directing project back to Planning Commission to address 100 yr. Sea Level rise analysis/November 9, 2020, Item 4A Appeal No. 20-006 – Appeal of Planning Commission Resolution No. 20-18 (23325 Malibu Colony Road, Owner, Axel 23324, LLC: Appellant, Judith Israel)

Date: December 3, 2020

Reference: Number One
State of California Sea Level Guidance, 2018 Update

Number Two
Memo - Rational for Using “Medium-High Risk Aversion” Sea-Level Rise Scenario
From: Carey Batha, Statewide Planning Unit, Coastal Commission
Dated: August 30, 2019

Number Three
Sea Level Rise and Wave Water Bore at
23325 Malibu Colony Road, Malibu, CA
By: David C. Weiss, Structural Engineer & Associates, Inc.
Dated: August 3, 2020

Since I did not have a chance to respond (it seems my microphone was on permanent “mute”) to various comments concerning the coastal engineering aspects of the subject project made by participants in the council meeting of November 9, 2020. I would like to take this opportunity to respond to them now.

Item Number One - Appellant’s Contention that the Coastal Engineering Analyses Were Not Proper

The statements by the appellant's attorney, regarding criteria used in the project coastal engineering reports, are dead wrong. The following premises used in the various reports are correct:

- A) Because this property is not on the beach, 75 years is an adequate, conservative project life span.
- B) 6.15' is the proper sea level rise magnitude to be used with a Medium-High Aversion to Risk Scenario, 75 years life span.
- C) The project will not be subjected to wave action. The waves break hundreds of feet away from the property. The property will be subject to minor water bore over flow.
- D) Adding flood gates across wall openings do not make it a de-facto seawall, since the property is not on the beach, sea or ocean!

The intimation that the coastal engineering analyses performed for this project were somehow improper is fallacious. The criteria used in the report of Reference Number Three above are correct. There is no requirement that a lot such as the subject lot, not on the beach or a coastal bluff, be designed for any particular economic life span. Further, I know of no codified requirement that one must use the criteria of the Medium-High Aversion to Risk Scenario of Reference Number One be used in an analysis. I have attached the memo of Reference Number Two above. Specifically, Item 3 of that memo explains why designing to the Medium-High Aversion to Risk scenario is not mandatory.

It is expected that an ocean front property unprotected by a shoreline protective device one would use the Medium-High Aversion to Risk scenario. The subject property is inland of Malibu Colony Road, landward of the ocean front residences and bulkheads which protect them. Because those homes could be rebuilt if ever destroyed by a natural disaster, the 100 Yr. Low Aversion to Risk Sea Level Rise scenario was used in analyzing direct wave uprush to the site, while the Medium-High Aversion to Risk Scenario was used for surface water that might circuitously come from the east of Malibu Colony.

The various documents published by state agencies are mainly meant as guides for public projects that have to receive input from multiple agencies. The purpose is for multiple agencies to have common sets of standards from which to coordinate the project.

Item Number Two – Potential Additional Coastal Engineering Analysis:

There is no need for any more coastal engineering analysis. The site has been analyzed considering wave action:

1. Directly from the south (assuming there are none of the existing houses or the existing bulkheads that protect them or the 40' wide road between the site and the waves)
2. From the Lagoon, where tall berms created during the State Park restoration project protect the properties on the north side of Colony Road
3. From the east, assuming that a broken wave water bore will propagate up the beach along the east boundary of the Colony (but not back-rush to the ocean) and then turn left down the Malibu Colony Road (a 1:20000 occurrence 75 years from now).

The attached photograph "Sea Level Rise Scenarios Addressed" shows the direction from which each of those scenarios would approach the site. To further analyze waves approaching along the beach, from the Lagoon or from the east would be a waste of time. First, the design waves one would consider would have to travel too far to travel to reach the site. Secondly, there are no waves that come from Lagoon or the east on this beach.

Item Number Three – Economic Life of Structure Used for Coastal Engineering Analysis

The standard for review for this project is the LCP. The economic life of the proposed house need not be any longer than 75 years. A 100-year life span is considered in Chapters 10 of the LCP and Chapter 4 of the LUP, and then, only for ocean front and blufftop properties. The subject property is not on the shoreline, the beach or a blufftop. The configuration and contours of this lot do not depend upon coastal processes. No part of the subject lot is bounded by ocean wave action. While it can be argued that no coastal hazard analysis is required for this inland property, whatever water from the ocean that could reach this site has been assumed without regard to existing circumstances and under, frankly, unrealistically assumed scenarios that:

1. The design wave(s) would uprush directly to the site over a beach area where the oceanfront houses and bulkheads on Malibu Colony Road they protect, as well as the 40' wide road that serves all the inland homes on Malibu colony Road no longer exist.
Or
2. A wave bore would propagate up the east boundary of the Malibu Colony, turn left at the east end of the Colony and flow down the Colony Road if or when sea-level rises 6.5' above today's levels in 75 years (a 1:20000 even at that time).

3. Both scenarios assume that the terrain over which the wave(s) will uprush is smooth and impermeable (such as the troughs used in the laboratory tests to determine the wave uprush design parameters). This is not the case! The terrain located seaward of this site is covered with wave obstructing structures – the houses and bulkheads).

I reiterate, this is not a shoreline or beach front lot! Therefore, a 100- year design life is not required for this property, but was used anyway at the request of staff when calculating the scenario of wave uprush directly to the site from the beach. The Medium-High Aversion to Risk category for that analysis was not used to account for the bulkhead sections, substantial structures and 40' wide street, all seaward of this non-beachfront subject site. A 75-year design life, however, is "the most common value" used by the Coastal Commission as evidenced by many of its decisions.

Item Number Four – Characterization of The Proposed Block Perimeter Wall As a "Seawall" or Shore Protection Device

The proposed wall around the site should not be considered a "shoreline protective device" or "seawall". As demonstrated in Item Three above, this property is not on the beach or shore, nor will it be subjected to direct wave action during its 75-year lifespan. Nearly all of the houses on the inland side of Malibu Colony Road have perimeter walls or some sort of privacy wall. The proposed block property line wall here is not intended to act as a shoreline protective device or engineered to serve as one. In the case of surface sheet flow or rising sea level rise, it would only aid in blocking rising water from entering the site. it would neither block the flow of sand along the beach, block public lateral access along the beach or cause any of the negative impacts to the immediate or beach environment that the restrictions on protective devices are meant mitigate.

Item Number Five – Potential of Perimeter Property Line Wall to Deflect Water Flows Coming from Either the Ocean or Malibu Creek Back Across the Creek Mouth to The Eastern Bank of Malibu Creek at the Adamson House

The concern that was voiced in the Council meeting that water might deflect off the proposed block wall and cause erosion at the Adamson Ranch Site on the east side of Malibu Creek, give or take 1000 feet away, is a non-issue. The velocity of any water that might impinge on the proposed block perimeter wall will be so low that it would not even reach the top of the berms protecting the north side of the Colony, and this property, from possible Lagoon flooding, much less somehow then flow across an additional 1000 +/- feet of water, again, over tall berms to the Adamson Ranch on the east side of the creek.

Finally, all of the reports were submitted to, reviewed and ultimately approved by various City agencies. The technical personnel in these agencies are highly trained and knowledgeable with regard to their fields. The City Governing Commissions (bodies) should therefore give preference to the recommendations and determinations made by the agencies' technical staff, not lay parties with unrelated agenda.

Thank you for your consideration of these matters, if you have any questions, please contact me.

Encl.:

California Coastal Commission Memo dated Aug. 30, 2019

Photograph: Sea Level Rise Scenarios Addressed

CALIFORNIA COASTAL COMMISSION

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August 30, 2019

To: Coastal Commission staff and interested parties
From: Carey Batha, Statewide Planning Unit, Coastal Commission

Re: Rationale for using the “medium-high risk aversion” sea level rise scenario

The [Coastal Commission Sea Level Rise Policy Guidance](#) (2018) recommends that site-specific hazard reports for residential and commercial development include an analysis of the “medium-high risk aversion” sea level rise (SLR) scenario, which has an associated probability of 0.5%. A common question that arises regarding the use of this projection is:

The medium-high risk aversion scenario sounds very unlikely. There is only a 0.5% chance that SLR will reach or exceed those values, according to the climate models that informed the development of the probabilities. Why, then, does the Commission’s guidance recommend using it to inform planning for commercial and residential development?

The purpose of this memo is to respond to this common question. There are several components to the answer:

1. **Using this scenario is consistent with statewide guidance.** The recommendation to use SLR projections associated with the 0.5th percentile stems from the [2018 State Sea Level Rise Guidance](#), which was developed by the Ocean Protection Council at the direction of Governor Brown. This document provides statewide guidance on sea level rise projections and adaptation planning for use by state agencies and local jurisdictions, establishing a consistent statewide approach on sea level rise. It states that the medium-high risk aversion scenario is “a precautionary projection that can be used for less adaptive, more vulnerable projects or populations that will experience medium to high consequences as a result of underestimating sea-level rise (e.g. coastal housing development).” In other words, the combination of the relatively low adaptive capacity of homes and businesses and the high consequences that would occur if they were to flood make it appropriate to use a relatively high SLR projection within the range of possible future SLR amounts even though it has lower probability. The [Coastal Commission Sea Level Rise Policy Guidance](#) was updated to be consistent with the State Guidance, and that update was adopted by the Coastal Commission in 2018. In summary, by applying this recommendation, the Coastal Commission is being consistent with guidance from the State, and helping to ensure that local jurisdiction planning efforts are consistent as well.
2. **Using the medium-high scenario is a precautionary approach.** The Coastal Commission, in line with statewide guidance, generally advocates for a precautionary

approach to sea level rise adaptation planning. This approach stems from the overall importance of keeping development safe from coastal hazards and protecting coastal resources, consistent with the Coastal Act. It also derives from the fact that the costs and consequences associated with inadvertently underestimating SLR hazards could be quite high. To rephrase, we should use a relatively high projection even though it has lower probability because of the high consequences to precious coastal resources, valuable development, and life and safety that would occur if we underestimate future SLR.

Guiding Principle #4 in the Coastal Commission Sea Level Rise Policy Guidance states, “Use a precautionary approach by planning and providing adaptive capacity for the higher end of the range of possible sea level rise.” This and the other Guiding Principles have been adopted by the Commission since 2015. Using the medium-high risk aversion scenario is consistent with this principle.

3. **Evaluating this SLR scenario does not necessarily mean a project must be *designed* for it.** It is important to remember that *evaluating* the medium-high risk aversion scenario does not necessarily mean that a project must be *designed and constructed* to completely avoid hazards associated with that exact amount of sea level rise. The Coastal Commission Sea Level Rise Policy Guidance states, “In some cases, it may be appropriate to *design* for the local hazard conditions that will result from more moderate sea level rise scenarios, as long as decision makers and project applicants *plan* for adaptation pathways that would allow for the implementation of alternative strategies if conditions change more than anticipated in the initial design.”

In other words, it may be appropriate to *design* for a lower amount of SLR, but ensure there is a *plan* in place to respond to the medium-high risk aversion SLR scenario. In line with this recommendation, it is common for Coastal Commission decisions to include reasonable siting and design requirements to minimize risks from hazards as much as is feasible, and also require the applicant to assume the risk of developing in an area that could be impacted by sea level rise and agree to triggers for removal of the development, or other types of adaptation options. (See the draft [Adaptation Guidance for Residential Development](#) for more detail on these potential conditions.)

4. **Developing science on extreme SLR was not accounted for in the development of the probabilities.** Emerging science on ice sheet melt (e.g., DeConto & Pollard 2016) has indicated that sea level rise may occur faster than previously thought. This emerging science was *not* incorporated into the climate models used to generate the probabilities in the State and Coastal Commission guidance documents. Therefore, the sea level rise projections that are assigned a 0.5% probability in the guidance documents may, in reality, be *more likely*. In fact, this finding was made in [California’s Fourth Climate Change Assessment](#), which *did* incorporate extreme ice sheet melt into probabilistic projections and found higher likelihoods for SLR projections similar to the medium-high risk aversion scenario.

Please consult the Coastal Commission’s [Sea Level Rise Policy Guidance](#) for additional information about addressing SLR in Coastal Commission planning and regulatory actions.

Sea Level Rise Scenarios Addressed

23



From: "Kaufmann, Steven H." <skaufmann@nossaman.com>
Subject: CDP 18-036, 23325 Malibu Colony Road (AXEL 23324, LLC)
Date: December 17, 2020 at 2:24:28 PM PST
To: Yolanda Bundy <ybundy@malibucity.org>, "mphpipps@cottonshires.com" <mphpipps@cottonshires.com>, Richard Mollica <rmollica@malibucity.org>, "Adrian Fernandez" <afernandez@malibucity.org>, Raneika Brooks <rbrooks@malibucity.org>
Cc: Marny Randall <marnyrandall@gmail.com>, David Weiss <dave@dcwse.com>

Good afternoon, All,

Marny Randall, David Weiss and I had the opportunity on Tuesday to touch base with Yolanda Bundy and Mike Phipps concerning a couple of issues relating to sea level rise. I thought it would be helpful to pass on my thoughts to you as well.

As you know, for this Project, David analyzed in depth three sea level rise scenarios – (1) directly from the south, assuming no bulkhead, no oceanfront houses protected by the bulkhead, and an assumed smooth path to the inland lot at issue, (2) from the State Park and created lagoon, and (3) from east of Malibu Colony Road.

As to the last scenario analyzed, David explained that the waves at that location would be farther out and would arrive at the beach at the wrong angle. Nevertheless, he assumed that the water would run up beach and he purposely ignored that water would also run back to the ocean. Instead, he conservatively assumed that all of the surface water (not waves) would continue towards the existing high berms in the State Park and beyond, and some water would “turn left” and disperse along the Applicant’s downcoast wall and down Colony Road, and end up at about 8” high at the entrance to the property. He noted this would be a one-time event that has a 1 chance in 20,000 of ever occurring, but if it did, that worst case scenario would happen towards the end of the Century.

By letter and at the hearing, the Appellant’s attorneys argued that David should have assumed a 100-year design life because, by letter from Coastal Commission staff to the City on another project, Commission staff had advised that a 100-year economic life of the new house should be used. We were asked to analyze the 100-year scenario as to David’s third scenario. The Commission letter on which Appellant’s counsel relied, however, dealt with a *beachfront* property on Broad Beach, and it advised the City to use the 100-year design life and with good reason. The LCP requires it.

With respect to the third scenario, David used the 75-year design life, and that was legally proper, consistent with the LCP, and consistent with Coastal Commission decisions. The certified LCP is, of course, the standard of review for both the City and Coastal Commission in reviewing this type of residential project. All of the relevant LCP provisions that reference the 100-year design life pertain only to beachfront development – but not here:

LUP Policy 4.23: “*New development on a beach or oceanfront bluff* shall be sited outside areas subject to hazards (beach or bluff erosion, inundation, wave run-up) at any time during the full projected 100 year economic life of the development.” (Italics added.)

LUP Policy 10.4(B): “*New development on a beach or oceanfront bluff* shall be sited outside areas subject to hazards (beach or bluff erosion, inundation, wave run-up) at any time during the full projected 100 year economic life of the development.” (Italics added.)

LIP Section 10.4(H): “*All new beachfront and bluff-top development* shall be sized, sited and designed to minimize risk from wave run-up, flooding and beach and bluff erosion hazards without requiring a shoreline protection structure at any time during the life of the development.” (Italics added.)

While the LCP does dictate a 100-year economic life of a beachfront or oceanfront bluff development, neither is present here, and, as you know, the LCP cannot, in effect, be amended in the context of a permit application to create a standard that does not currently apply. In what may only be interesting to the lawyers, in *Security National Guaranty v. California Coastal Com.* (2008) 159 Cal.App.4th 402, 422-423, the Court of Appeal overturned a Coastal Commission decision, holding that an LCP can’t be amended in the context of an appeal from a local government CDP decision. The same would apply to the local government decision itself.

There is a further legal principle set forth in Coastal Act Section 30625(c), which states: “Decisions of the commission, where applicable, shall guide local governments or port governing bodies in their future actions under this division [the Coastal Act.” While there may be a handful of LCPs which use a 100-year design life, the vast majority of Coastal Commission decisions do not. They use a 75-year design life. The question is, what does the Commission use for an inland, or interior, lot, as here?

There are only a couple of Commission decisions to draw from, but they are recent. Here are links to three Commission decisions, all from the Sunset Beach area and involving inland properties not protected, as here, by an oceanfront bulkhead or seawall and which have water bodies on each side which actually do, from time to time, cause flooding:

<https://documents.coastal.ca.gov/reports/2019/3/F5.1a/F5.1a3.2019--report.pdf> (*Seidner*)

<https://documents.coastal.ca.gov/reports/2019/7/W27g/W27g-7-2019-%20report.pdf> (*Tomlinson*)

<https://documents.coastal.ca.gov/reports/2019/7/W27a/W27a-7-2019-report.pdf> (*Nerja Investments, LLC*)

Seidner involved a commercial project on Pacific Coast Highway in Sunset Beach. The Commission noted that the location historically experienced flooding and damage from storm waves, and areas adjacent to the harbor can flood now during high tides, or high tides combined with storms.

Nerja Investments involved a single-family residence proposed on an inland lot in Sunset Beach. The Commission noted that at 3.3 feet of sea level rise, the entirety of the lot could inundated from the San Gabriel River.

Tomlinson involved an addition and major remodel of a single-family residence on an interior lot as well. The Commission noted, as in *Seidner*, that property could be subject to flooding from both the ocean and the harbor inland of the site.

The Commission did not apply a 100-year design life. In each case, it applied the 75-year economic life of the development and the medium-high risk aversion, just as David did here in analyzing the Applicant's property. Indeed, in *Nerja Investments*, the Commission noted "the projected lifespan of the project is 75 years, which is consistent with the Commission guidance's recommended range of 75-100 years for residential development." (Page 8.) The difference between the Sunset Beach inland lots and the Applicant's lot and proposed development here is that this property is protected by an existing bulkhead and oceanfront homes from the south and the probabilistic chance of a surface water "bore" (not a wave) of approximately 8" approaching the front of the residence has a 1 in 20,000 chance of occurrence.

Thus, David's analysis of the third scenario was more than proper, contrary to the Appellant's effort, in effect, to concoct a new standard for the LCP. It is also worth mentioning that all three decisions included conditions that I would consider to be "belt and suspenders," essentially placing the risk on the Applicant. In *Tomlinson*, for example, the Commission noted that "the site is only expected to be safe for roughly 60 years, 15 years short of the 75 year expected life of the development." (Page 14.) Nonetheless, the Commission approved the application, and in fact all three decisions included special conditions as follows:

1. A deed restriction that the applicant would not request a shoreline protective device or seawall in the future to protect the development;
2. An assumption of the risk condition; and
3. The applicant's agreement to remove the development if threatened in the future because it is structurally unsound or unsafe – i.e., if it's red-tagged.

Staff may wish to consider conditions to that effect, and we have attached those Commission's decisions and tailored them to the City.

There is one other issue that we discussed with Mike and that concerns the so-called "flood gate." This, too, was a "belt and suspenders" suggestion with which Mike agreed in his memo to the Council. The Appellant's attorney mischaracterized this gate as a shoreline protective device. By no stretch of the imagination is it a shoreline protective device. In fact, nearly every property on the inland side of Malibu Colony Road includes a similar, substantial perimeter wall facing the street. In *Seidner*, above, a "flood wall" was proposed and the Commission was careful to emphasize that the "flood wall" was not a shoreline protective device:

"Further, it is important to note that the proposed flood wall would not act as a shoreline protection device (SPD) because it is not intended or engineered to act as one. It would not be constructed at a low enough elevation to stop erosion from wave activity or scour, which a SPD would. As proposed, this flood wall would act similarly to the placement of sandbags during an anticipated flooding episode." (Page 21.)

We do not anticipate flooding here and there is no FEMA requirement applicable to this property. The "flood gate" proposed has no deepened foundation; it would simply act much as sandbags would act to protect against surface water entering the property under the extraordinarily remote circumstances noted above. Unlike a shoreline protective device, the gate

obviously would not impede public access or cause beach erosion, the primary concerns associated with an SPD.

We hope this further information is helpful to you.

~ Steve

Steven H. Kaufmann

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COASTAL ENGINEERING REVIEW SHEET

Project Information

Date: December 5, 2019
Site Address: 23325 Malibu Colony
Lot/Tract/PM #:
Applicant: Marny Randall
Phone #: 310-395-2615
Project Type: Demolish existing Single Family Residence, construct new Single Family Residence, pool and AOWTS

Lat:
Review Log #: C582
Lon:
Planning #: CDP 18-035
BPC/GPC #: N/A
Planner: R. Brooks
Email: marnyrandall@gmail.com

Submittal Information

Consultant(s): David C. Weiss, S.E. (Weiss, SE 1867)
Report Date(s): September 3, 2019, June 12, 2019; December 10, 2018
Project Plan(s): Topographic Survey (February 2018, rev. 10-26-18, Peak Surveys), Architectural Plans (Kovac, 13 sheets, dated 10-21-19), Grading Plans (RJR Engineering, 12 sheets, 10-16-19), AOWTS plans (EPD Consultants, rev. 10-19-19, 6-27-18)
Previous Reviews: 7-30-19, 2-8-19
FEMA SFHA: VE (BFE = +19 ft NAVD88, FEMA 2016)

Review Findings

Planning Stage

- ☒ **APPROVED** in **PLANNING**-stage from a coastal engineering perspective, with conditions. The listed Building Plan-Check Coastal Review Comments shall be addressed prior to Building Plan-Check approval.
- ☐ **NOT APPROVED** in **PLANNING**-stage from a coastal engineering perspective. The listed Planning Stage Coastal Review Comments shall be addressed prior to Planning-stage approval.

Building Plan-Check Stage

- ☒ **Awaiting Building plan check submittal.** The listed 'Building Plan-Check Stage Review Comments' may be deferred for Planning Stage approval but shall be addressed prior to Building Plan-Check Stage approval.

Remarks:

The referenced plans and reports were reviewed by the City from a coastal engineering perspective relative to the requirements of the following City codes and guidelines:

- City of Malibu Local Coastal Program – Land Use Plan and Local Implementation Plan (LCP-LUP and LCP-LIP)
- Malibu Municipal Code – Title 15, Buildings and Construction
- City of Malibu Guidelines for the Preparation of Coastal Engineering Reports and Procedures for Report Submittal. (referred to herein as *Coastal Engineering Report Guidelines*), and
- California Coastal Commission Sea Level Rise Policy Guidance, Final Adopted Science Update, November 7, 2018

The proposed project consists of demolition of an existing single-family residence, garage and pool, construction of a new single-family residence with basement and pool, and installation of a new onsite wastewater treatment system. The current elevation of the property is between 10.6 and 11 feet (NAVD 1988). The proposed finished floor elevations (FFE) are +7.5 feet for the basement level located under the pool (outside the wave uprush zone), +12.0 feet for the garage, and +12.5 feet for the top of the basement wall and the first floor of the house. The finished surface (FS) pool will be located above grade at elevation 18.39 feet. The limit of the VE Special Flood Hazard Area, with a determined Base Flood Elevation of +19 feet NAVD88, is located at or near the southern edge of the property.

The property is located at the eastern end of Malibu Road, on a sand spit that is exposed to the Malibu lagoon on the north, and the lagoon barrier beach on the east. The most landward limit of the projected wave uprush, assuming an unprotected beach, is located approximately 18 feet north of the south property line, and intersects the southern edge of the proposed residence location at approximate elevation 11.6 feet NAVD88. The Consultant has revised the project life to 100 years and provided revised wave uprush elevation to approximately elevation 12.61 ft NAVD88, based upon 4 feet of sea level rise by the year 2120. It appears that a portion of the dispersal field and the tank may be inundated in the design storm event to a depth of less than 0.5 feet under this scenario in 100 years. According to probabilistic sea-level rise projections for the Santa Monica Tide Gauge, a 4.0 foot sea level rise has an approximately 17% probability of being exceeded (83% probability of not being exceeded) at the year 2120 for a low-risk aversion scenario, and an approximately 0.5% probability of being exceeded (99.5% probability of not being exceeded) by around the year 2076 for a medium-high risk aversion scenario.

The latest plan revision depicts the revised location of the dispersal field, which has been moved to the rear of the property between the house and the existing pool, outside the wave uprush zone. The tank location has not been revised and remains in the driveway within the upper limits of the wave uprush zone.

NOTE: The project coastal engineering consultant states that no data are available from the NOAA Coastal Mapping link at (<https://coast.noaa.gov/dataviewer/#/lidar/search/>), however the reviewer has downloaded data for this project area from this link as recently as July 29, 2019. The data is provided in GIS/AutoCAD format, not readily viewable maps. Nonetheless, topographic and nearshore bathymetric data is available for the years 2009 through 2016 and earlier. The reviewers agree that obtaining the publicly funded USACE resurveyed LA County Beach Profile dataset from the early to mid-2000's would be very useful.

Planning Stage Conditions of Approval:

1. The property owner shall comply with the requirement for a recorded document and deed restriction outlined in Section 10.6A of the City of Malibu LCP/LIP. This comment shall be made a planning stage condition of approval. Evidence of completion of this item should be submitted to the reviewers in the Building Plan Check stage. A template for this document is available from City coastal engineering review staff.

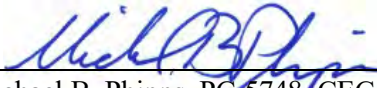
Building Plan Check Comments

1. The Project Coastal Engineer's recommendations shall be incorporated into the plans as notes and details, and referenced on the project plans, including the project wastewater disposal plans. One set of plans with elevations referenced to NAVD88, shall be submitted to the coastal engineering reviewers for Building Plan Check, along with a building plan check fee of \$750. The Project Coastal Engineer shall review, wet sign and stamp the final building plans.

2. The proposed new tank is located within the upper limits of inundation due to wave uprush. Include flood-proofing and anchoring measures for the below-ground tank as notes and details on the plans in accordance with current ASCE and USACE Coastal Engineering Manual standards.
3. Print the name, address, and phone number of the Project Coastal Engineering Consultant on the final plan and permit documents.

If you have any questions regarding this review letter, please contact the undersigned reviewers.

Reviewed by:



Michael B. Phipps, PG 5748, CEG 1832
Coastal Engineering Review Consultant (x269)

12-5-2019

Date

Reviewed by:



Lauren J. Doyel, PE 61337, GE 2981
Coastal Engineering Review Consultant (x384)

12-5-2019

Date

This review sheet was prepared by representatives of Cotton, Shires and Associates, Inc. and GeoDynamics, Inc., contracted through Cotton, Shires and Associates, Inc., as an agent of the City of Malibu.



COTTON, SHIRES AND ASSOCIATES, INC.
CONSULTING ENGINEERS AND GEOLOGISTS



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23325 Malibu Colony Rd.
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MALIBU COLONY ROAD
23325 Malibu Colony Road, Malibu CA 90465

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Abbreviations

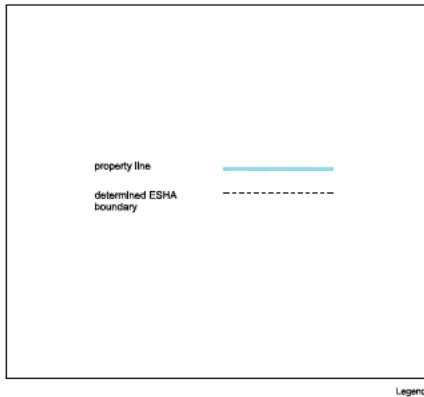
Symbols Legend

Development Area

Applicable Codes

Project Information

Sheet 1 of 2



Legend



KOVAC

ISSUANCE	DATE
CDP Original	14 June 2021
CDP Update	30 Apr 2021
CDP Submittal	21 Oct 2019

CDP Submittal

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A0.1b
ESHA diagram

ESHA Diagram
1/32"=1'-0"

01



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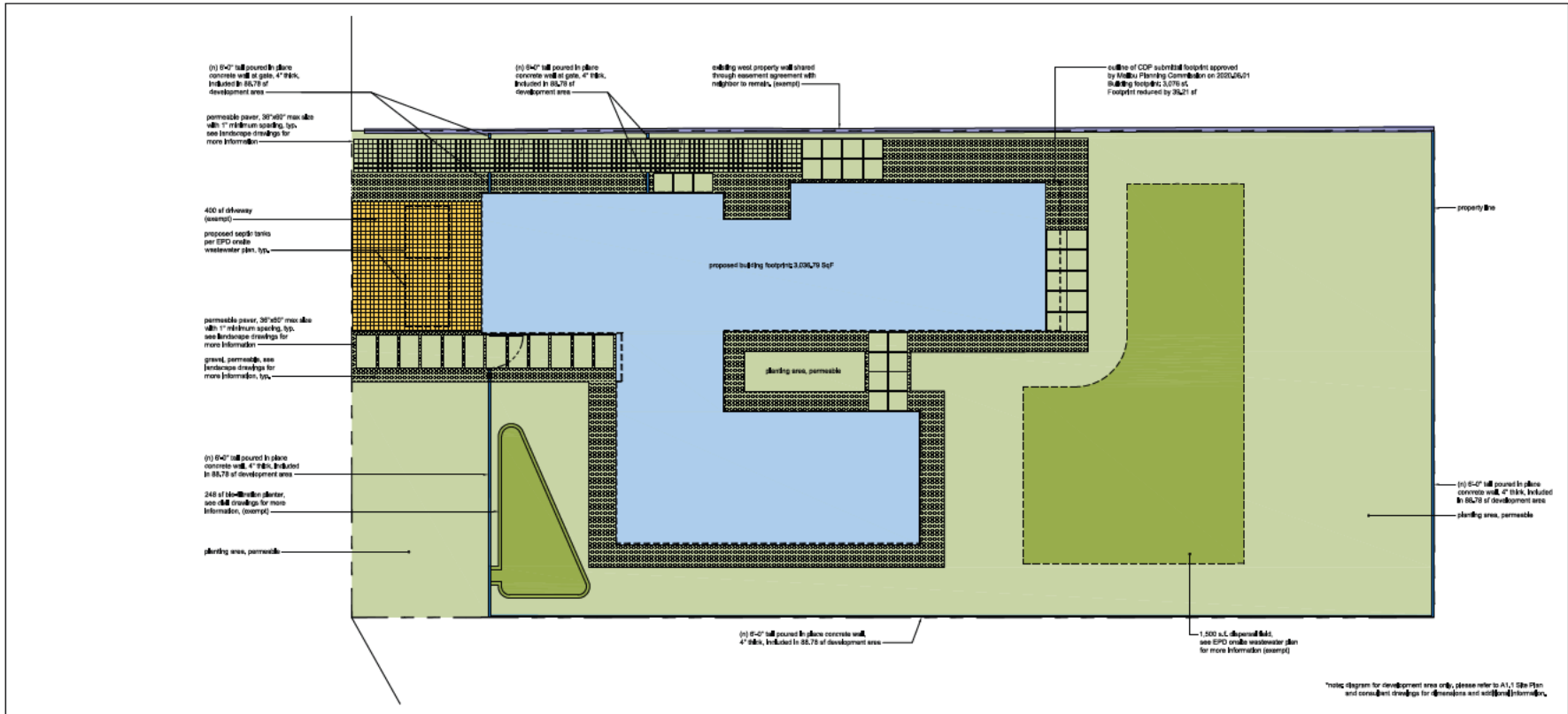
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A0.1c
 ESHA Development Area



Development Area Site Plan Diagram 01

<div>Project Areas</div> <div>Lot Depth: 186.70 feet</div> <div>Lot Width: 75.00 feet</div> <div>Lot Area (Gross): 12,503 sf</div>	<div>DEVELOPMENT AREA</div> <div>Approved Development Area within ESHA Setback: 3,125.79 sf</div> <div>50% of lot area within ESHA setback</div> <div>within 12,503 sf to within ESHA setback</div>		
<div>Existing Development Areas</div> <div>Existing Building Footprints (single story residence, guest house, pool house, and garage): 2,963 sf</div> <div>Existing Impermeable Hardscape (driveway, walkways, pool deck, and patio, excluding 400 sf for the exempt driveway): 5,691 sf</div> <div>Total Existing Development Areas (all structures and hardscape to be removed): 8,654 sf</div> <div>Existing Development Area: 88% of lot</div>	<div>Development Area Exemptions per Malibu Planning Department</div> <div>Driveway (2 uncovered parking spaces) including ADWT/septic tanks: 400 sf</div> <div>ADWTS - approved: 1,900 sf</div> <div>WQMP - filter (including 10' driveway center curb): 246 sf</div> <div>existing west property wall shared through easement agreement with neighbor.</div> <div>Permeable areas: landscaping, gravel walkways, permeable hardscape pavers.</div>	<div>Previously Approved Development Area approved 2020.08.01 by Malibu Planning Commission</div> <div>Previously Approved Building Footprint (new two story single family residence with attached two-car garage): 3,078 sf</div> <div>(49.2% of less than allowed development area)</div> <div>*Site walls were not included in approved Development Area determination: 0 sf</div> <div>Impermeable Hardscape (see exemptions): 0 sf</div> <div>Previously Approved Development Area (49.7% of less than allowed 3,125.79 sf): 3,078 sf</div>	<div>Proposed Development Areas</div> <div>Proposed Building Footprint (new two story single family residence with attached two-car garage): 3,036.79 sf</div> <div>(39.21 sf reduction from 2020.08.01 approved building footprint)</div> <div>New Site Wall Footprints (4" thick poured in place concrete walls): 88.78 sf</div> <div>Impermeable Hardscape (see exemptions): 0 sf</div> <div>Total Proposed Development Area (18 sf less than allowed 3,125.79 sf): 3,125.57 sf</div>

Development Area Notes

0 8

[illegible]

C	CLUSTER
P	PALM
T	TREE

A.P.N. 4452-007-903

THIS VE ZONE IS FROM PRELIMINARY FEMA FLOOD MAP NO. 08037C15430
DATED OCTOBER 28, 2016. AS OF THE DATE OF THIS SURVEY, IT HAS NOT
BEEN ADOPTED BY THE CITY OF MALIBU.
FOR MORE INFORMATION, VISIT FLOOD PLAIN MANAGEMENT
AT WWW.CLEARBIRL.CALIS OR CALL THE OFFICE OF PEAK
SURVEYS, INC.

THOMAS BROTHERS GRD	A7-829
ASSESSOR PARCEL NO. (APN)	4452-010-017
ZONE	SPM
ZONE DESCRIPTION	SINGLE FAMILY RESIDENTIAL-MEDIUM
APPLIC JURISDICTION	YES
FINI PARCEL	08037C1541/
PARCEL AREA (SQ FT)	13,542 SQ FT (CALCULATED)
LOCAL COASTAL PROGRAM	HTTP://CD06E.US/CODES/MALIBU-COASTAL
MALIBU MUNICIPAL CODE	HTTP://CD06E.US/CODES/MALIBU/

MORE INFORMATION AT [HTTP://WWW.CLAMALIBU.CA.US](http://WWW.CLAMALIBU.CA.US)

MICHAEL SMITH INC.
1648 18TH STREET
SANTA MONICA, CA 90404

LOT 43, TRACT NO. 12087 (MS 234/26-27)

BME DY 10048 ELEV-18.029
LAIN IN S CR 300MM(1') E/O BOR @ SE COR PACIFIC
COAST HWY @ W200 BY
NAD 1983 DATUM

DATE OF SURVEY: FEBRUARY 6, 2018

THIS MAP WAS PREPARED USING TITLE REPORT NO. NINE-ROBERT1, PREPARED BY FIRST AMERICAN TITLE COMPANY, DATED SEPTEMBER 26, 2014.

SETBACKS AND OTHER REPORTS SHOWN HEREON ARE SUBJECT TO INTERESTION BY CITY PLANNER AND SHOULD BE REVIEWED PRIOR TO DESIGN.

UNDERGROUND UTILITIES SHOWN HEREON ARE FROM RECORD INFORMATION AND HAVE NOT BEEN REVERSED. PRIVATELY OWNED AND/OR CONTACT UNDERGROUND SERVICE ALERT AT "DIG ALERT" 1-800-422-4133.

CITY OF MALIBU
TOPOGRAPHY

23325 MALIBU COLONY DRIVE		
DRAWN BY / DATE C.D. FEBRUARY 2000	CHECKED BY / DATE	SHEET 1 OF 1

©\projects\18-6194\18-6194.doc 10/17/2019

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THIS IS NOT A MAP OF A BOUNDARY SURVEY. NO PROPERTY CORNERS HAVE BEEN SET AS PART OF THIS WORK.

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RELATION OF TOPOGRAPHIC FEATURES (FENCES, WALLS, TREES, POWER POLES, ETC.) TO PROPERTY LINES AS SHOWN ON THIS MAP IS SUBJECT TO THE ADJUSTMENTS THAT A BOUNDARY SURVEY MAY REQUIRE.

[illegible]

235 of 709

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+1 310 310 8438
Contact : Kevin Tanchanco

A1.1

Site Plan



- | | | | |
|----|---|-----|--|
| 1. | All statements to be new construction unless noted otherwise. | 8. | The construction shall meet a free float and unbalanced amounts in any water or power distribution facilities (power cables, pipelines, transformers, valves, pumps, valves, meters, separators, etc.) or the location of this item(s). The construction shall be in full contact with any free power line whether or not the line are located on the property. (F) to correct any fault condition and/or other electrical problems. |
| 2. | Approved (C) to be set of all items of the first level of items see level (C) MAXIMUM. The Contractor shall be responsible for the knowledge of the conditions between them connecting works. Drawings (including existing conditions) are based on actual drawings for the construction. The Contractor shall be responsible for the knowledge of the conditions between them connecting works. The Contractor shall verify all drawings, item, brand, and dimensions on the drawings and shall be responsible for the knowledge of the conditions between them connecting works. The Contractor shall be responsible for the knowledge of the conditions between them connecting works. | 9. | drawings at 1/4"=1'-0" |
| 3. | Base notes on ALL for additional requirements. | 10. | drawings at 1/4"=1'-0" |
| 4. | All new drawings are required subject to reference to see level (C) MAXIMUM. The Contractor shall be responsible for the knowledge of the conditions between them connecting works. The Contractor shall be responsible for the knowledge of the conditions between them connecting works. The Contractor shall be responsible for the knowledge of the conditions between them connecting works. | 11. | drawings at 1/4"=1'-0" |
| 5. | See specific drawings for more information on all construction management elements such as, but not limited to, specific items and dimensions. | 12. | drawings at 1/4"=1'-0" |
| 6. | See specific drawings for more information on all construction management elements such as, but not limited to, specific items and dimensions. | 13. | drawings at 1/4"=1'-0" |
| 7. | See specific drawings for more information on all construction management elements such as, but not limited to, specific items and dimensions. | 14. | drawings at 1/4"=1'-0" |

Site Plan Notes & Legend

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 New York, NY 10019

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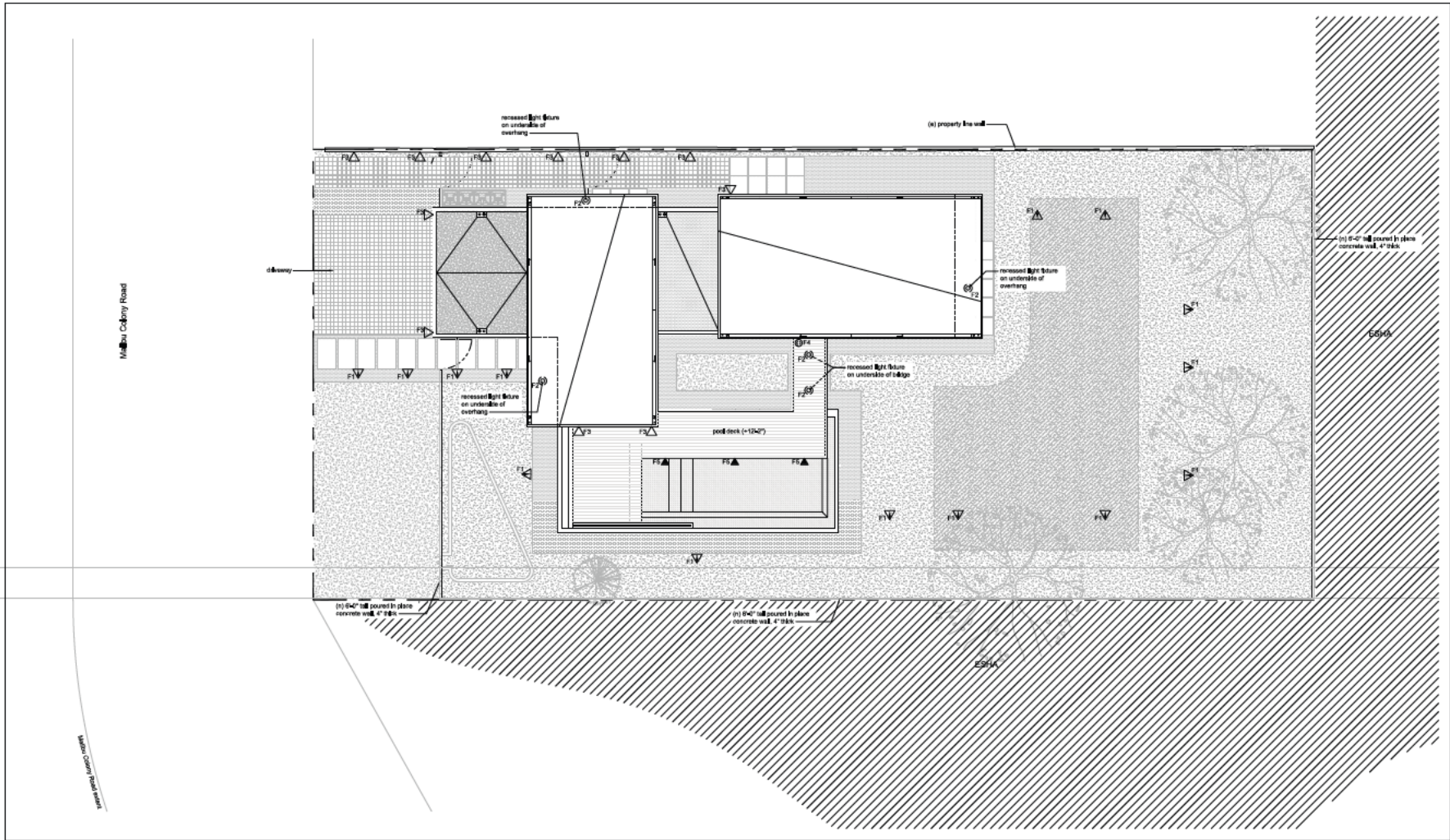
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 Contact : Kevin Tachanaka

23325 Malibu Colony Rd.
 Malibu, CA 90465

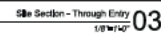
A1.2
 Outdoor Lighting Plan

Outdoor Lighting Plan Notes & Legend

0 8 16



1. All light fixtures are new light fixtures, unless noted otherwise.
 2. All dimensions are to centerline of fixture, unless noted otherwise.
 3. All light fixtures are to be installed on a non-reflective surface and be 5.1 feet from the ground.
 4. All light fixtures are to be installed on a non-reflective surface and be 5.1 feet from the ground.
 5. All light fixtures are to be installed on a non-reflective surface and be 5.1 feet from the ground.
 6. No light source to exceed 300 lumens.
 7. No light source to exceed 3000 lumens.
 8. Outdoor lighting shall be used within 10'-0" of a residential building or pool deck. Exceptions are necessary security lighting and lighting for signage and wayfinding.
 9. All light fixtures adjacent to ESRNA to be 10' away from ESRNA.
 10. No lighting of the shore to be installed, except as required for security lighting purposes.
 11. For the lighting only, for all other information refer to A1.1 Site Plan.
- Abbreviations**
- F1 path light Bega 74207 LED
 130 lumens 3000 K (40° beam)
 quantity 14
- F2 recessed downlight Bega 22 216 LED, 172 lumens 3000 K
 quantity 11
- F3 recessed downlight Bega 22 216 LED, 172 lumens 3000 K
 quantity 11
- F4 recessed downlight Bega 22 216 LED, 172 lumens 3000 K
 quantity 11
- F5 pool light Hydrex 4800 LED SWM, white, 3000K, at 18" below pool deck level
 quantity 3



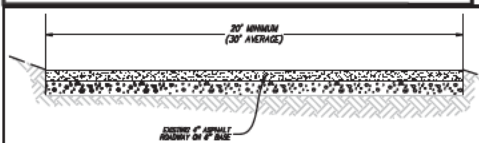
Notes

0 8

**NO
PARKING
FIRE
LANE**

- FIRE DEPARTMENT NOTES:**

- [illegible]



NOT TO SCALE

[illegible]

FIRE ACCESS DIAGRAM
SCALE: 1/8" = 1'

A1.2

REQUIRED FIRE FLOW CALCULATION

THE REQUIRED FIRE FLOW IS BASED ON THE FOLLOWING CALCULATION:

TYPE OF CONSTRUCTION PER BUILDING CODE: _____

WINDSPEED: _____

SIZE OF LOT (ACRES): _____

AND UNDER THE HORIZONTAL PROJECTIONS OF THE ROOF OF THE BUILDING
REDUCTION FOR THE FIVE SPRINKLERS (MAXIMUM CODE): _____

TOTAL FIRE FLOW REQUIRED: _____

TYPE	W8
1635	
0.38	ACRES
2250	gpm
1000	gpm
1250	gpm

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PREPARED FOR

STAN DRUCKENWALLER
117 EAST 72 STREET
NEW YORK, NY 10021

LEGAL DESCRIPTION

LDT 4.3, TRACT NO. 18087 (WP 934/26-27)

BENCH MARK

REF ID: A66468
LASH IN 5 CB 300MM(1") E/O BCR @ SE COR PACIFIC
CONST HWY & INTER HWY
NAVD 1988 DATUM

[illegible]

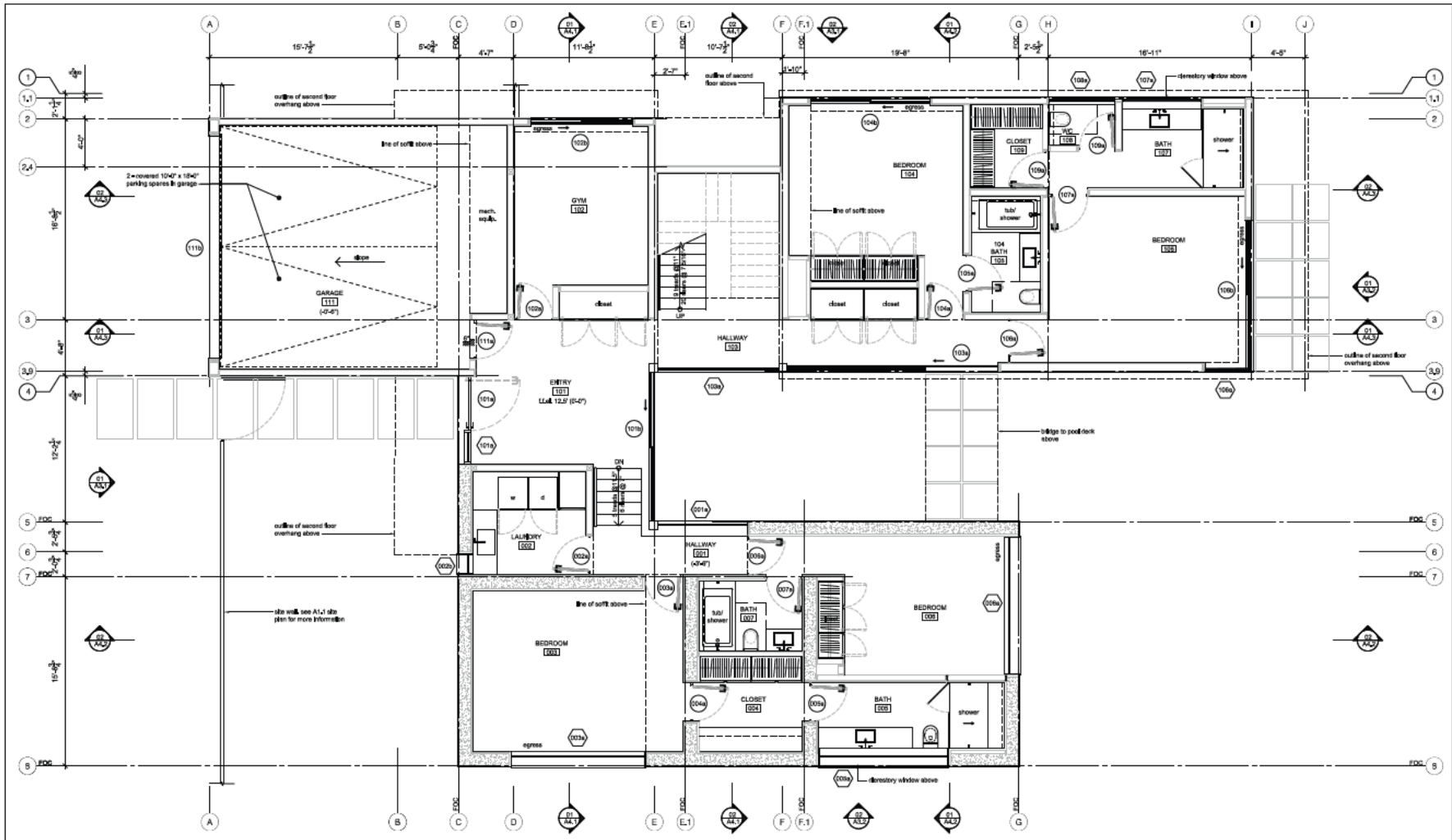
Prepared by:
PEAK
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WESTLAKE VILLAGE, CA 91361
P: 805.497.0102 F: 805.495.7014
www.peakinc.com

CITY OF MALIBU
FIRE EXHIBIT

23325 MALIBU COLONY DRIVE

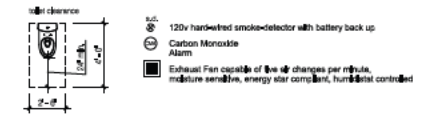
DRAWN BY / DATE G.D. OCTOBER 1968	CHECKED BY / DATE G.D. OCTOBER 1968	SHEET FD1 OF FD3
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Q:\projects\18-0194\FIRE.dwg 10/17/2019



First Floor Plan 01

1. All structures to be new construction unless noted otherwise.
2. Architectural (A/C) is set to top of the first floor at 12.0' above sea level.
3. See notes on A/C for additional requirements.
4. See A/C for finish schedule.
5. See A/C for finish schedule.
6. See A/C for finish schedule.
7. All dimensions to face of framing/concrete unless noted otherwise.
8. Verify location of load-bearing walls, columns, and footings with Architect prior to construction.
9. All new walls to be 2x4 wood stud walls unless noted otherwise. See A/C for finish schedule.
10. All exterior doors, walls, and roofs shall meet the requirements of the 1991 IRC.
11. All exterior doors and windows shall meet the requirements of the 1991 IRC.
12. For temperature/humidity control on doors and windows see columns "Temperature/Humidity" on other Door Schedule or
13. Window Schedule on A/C.
14. See reflected ceiling plans (RCP) for all ceiling related items such as, but not limited to, ceiling heights, soffits, ceiling fans, diffuser grilles, and smoke detectors.
15. Provide hardware for doors and windows with battery backup. See reflected ceiling plans (RCP) for details.
16. Separation between dwelling and garage shall be constructed in accordance with Table R302.4.
17. Every space intended for human occupancy shall be provided with natural light by means of exterior glazed openings in accordance with section R302.4 or shall be provided with artificial light that is adequate to provide an average illumination of 1 foot-candle over the area of the room at a height of 30 inches above the floor level (R302.4).
18. Enclosed accessible space under stairs shall have walls, unobstructed surfaces, and any soffit protected on the enclosed side with 1/2 inch gypsum board.
19. Provide bridge at exterior doors equal to the width of the door and a length in the direction of travel equal to 30 inches. Slope of exterior bridge shall not exceed 1/4 inch per foot (2% slope). (R310.1, C101)
20. The bridge shall be at least 36 inches high and shall not be less than 36 inches high.
21. Exterior doors shall be operable from inside the dwelling without the use of a key or special knowledge or effort.
22. Provide corrosion-resistant weep screeds below stone walls of house. Provide a minimum of 4 inches above adjacent earth and a minimum of 2 inches above paved area.
23. All shower and tub draining fixtures to be temperature balancing type.
24. Kitchen sinks, lavatories, showers, tubs, laundry tubs, and washing machine outlets shall be provided with hot and cold water and connected to an approved water supply (R302.4).
25. Bathrooms and shower floors, walls above bathtubs with a shower head, and shower compartments shall be finished with a non-slip-resistant floor. Bath walls and surfaces shall extend not less than 6 feet above the floor (R307.2).
26. All penetrations between the dwelling and the garage, including but not limited to, doors, windows, vents, pipes, ducts, cables, and wires at ceiling and floor level, with an approved material to meet the fire passage of items and products of combustion. The material shall be installed in accordance with ASTM E 136 requirements.
27. Crown and crown-molded materials to be polished where possible. All concrete to be locally sourced, carbon-sequestered concrete.



Floor Plan Notes & Legend

KOVAC

BSUANCE DATE
CDP Submittal 30 Apr 2021
CDP Submittal 21 Oct 2019

CDP Submittal

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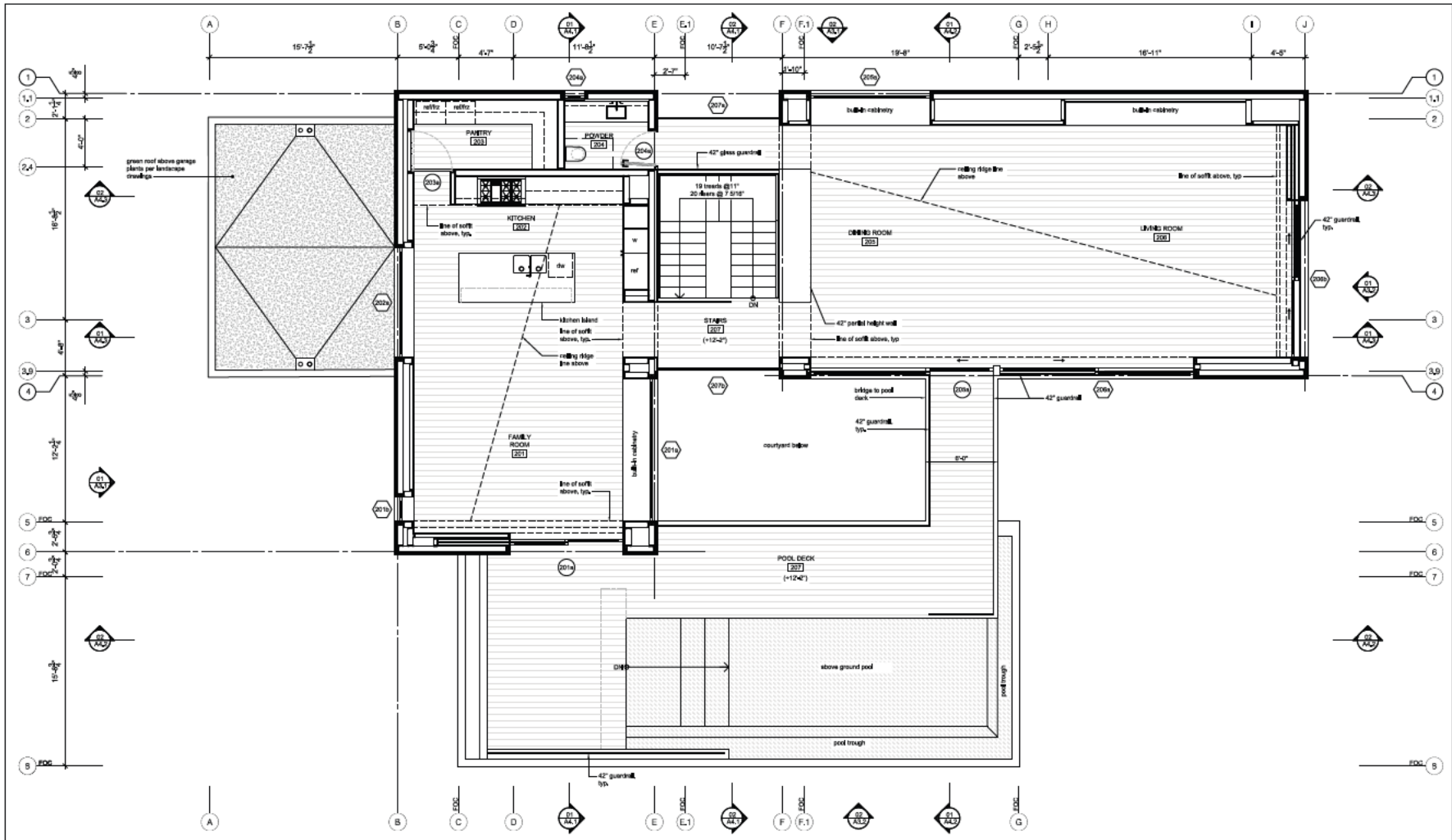
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A2.1
First Floor Plan

0 4

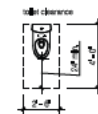


Second Floor Plan
1/4" = 1'-0"

1. All structures to be new construction unless noted otherwise.
2. Architectural (A/C) is set to top of 1st floor at 12.0' above sea level.
3. See notes on A/C for additional requirements.
4. See A/C for finish schedule.
5. See A/C for finish schedule.
6. See A/C for finish schedule.
7. All dimensions to face of framing/concrete unless noted otherwise.
8. Verify location of load-bearing walls, columns, and walls shown on Architect prior to construction.
9. All new walls to be 2x6 wood studs at 16" o.c. unless noted otherwise. See A/C for Type and structural details for more information.
10. Provide 1/2" thick concrete foundation (footing) at all interior partitions, exterior walls, and columns.
11. All exterior doors, walls and roofs shall meet the requirements of the 1991 24 report.
12. All exterior doors and windows shall meet the requirements of the 1991 24 report.
13. For temperature/humidity control on doors and windows see columns "Temperature/Humidity" on other Door Schedule or

14. See referenced ceiling plans (R/C) for all ceiling related items such as, but not limited to, ceiling heights, soffits, ceiling fans, ceiling lights, and smoke detectors.
15. Provide 1/2" thick concrete foundation (footing) at all interior partitions, exterior walls, and columns.
16. Separation between ceiling and garage shall be constructed in accordance with Table R302.4.
17. Every space intended for human occupancy shall be provided with natural light by means of exterior glazed openings. In accordance with section R302.4, or shall be provided with artificial light that is adequate to provide an average illumination of 1 foot-candle over the area of the room at a height of 30 inches above the floor level (R302.4).
18. Enclosed accessible space under stairs shall have walls, unobstructed surfaces, and any soffit protected on the enclosed side with 1/2" thick gypsum board.
19. Provide 1/2" thick concrete foundation (footing) at all interior partitions, exterior walls, and columns.
20. The height of the ceiling shall not exceed 14 feet per foot (2x6 studs, R311.1, C/C).
21. Egress doors shall be operable from inside the dwelling without the use of a key or special knowledge or effort.

22. Provide noncombustible weep screeds below stone walls of house. Provide a minimum of 4 inches above adjacent earth and a minimum of 2 inches above paved area.
23. All shower and tub draining fixtures to be temperature balancing type.
24. Kitchen sinks, lavatories, bathtubs, showers, toilets, laundry tubs, and washing machine outlets shall be provided with hot and cold water and connected to an approved water supply (R302.4).
25. Bathtubs and shower floors, walls above bathtubs with a shower head, and shower compartments shall be finished with a non-absorbent finish. Such wall surfaces shall extend not less than 6 feet above the floor (R307.2).
26. All penetrations between the ceiling and the garage, the ceiling shall be protected at openings around vents, pipes, ducts, cables, and other at ceiling and floor level, with an approved material to meet the fire passage of items and products of combustion. The material in this enclosure space shall not be required to meet ASTM E 136 requirements.
27. Crown and crown-mould materials to be prohibited where possible. All crown to be locally sourced, carbon-sealed concrete.



- 1/2" 120v hardwired smoke-detector with battery back up
- Carbon Monoxide Alarm
- Exhaust Fan capable of 1/2" changes per minute, moisture sensitive, energy star compliant, humidity resistant

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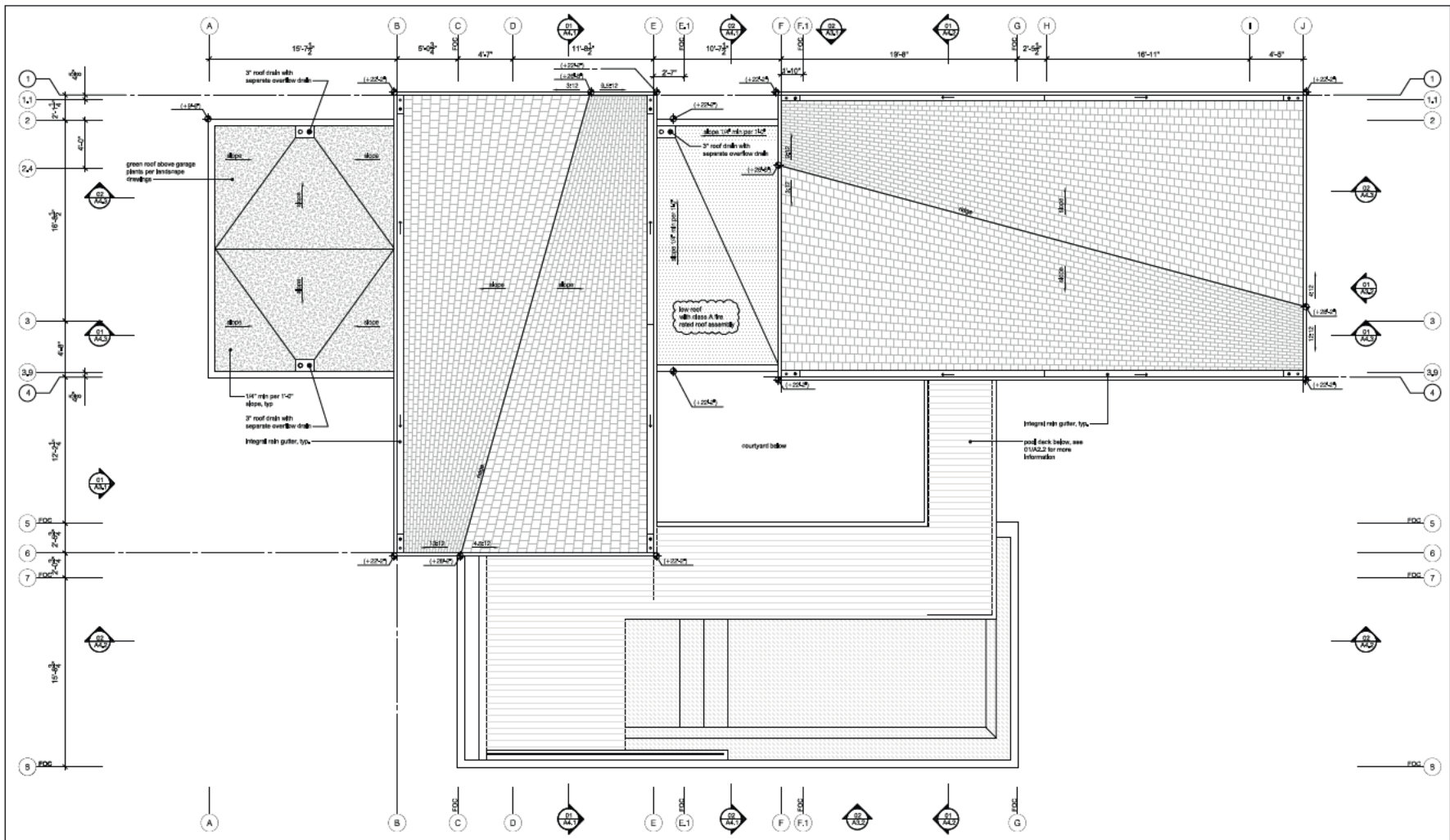
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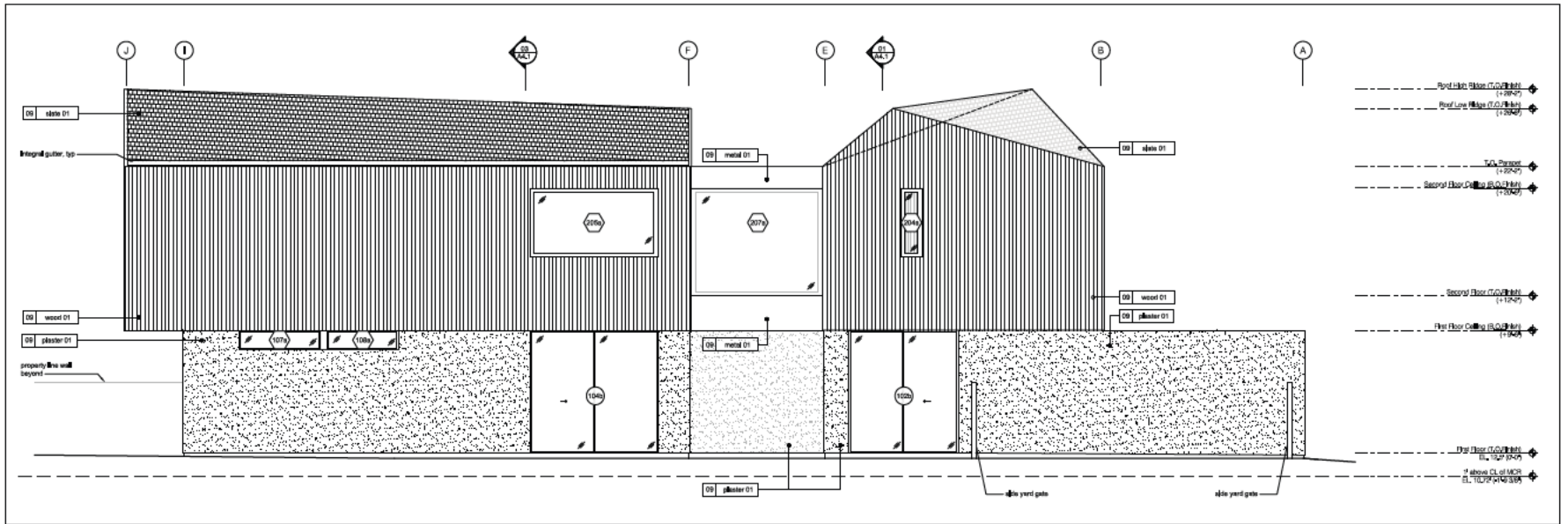
A2.3



Roof Plan 01

1. All structures to be new construction unless noted otherwise.
2. All steel elevators are to be designed in light of the Architectural "D-4" which is set to top of 3rd floor of the 3rd floor at 12.5' above sea level.
3. See General Notes on AG-4 for additional requirements.
4. See AG-2a for 3rd keynotes.
5. See AG-3 for 3rd schedule.
6. See Specifications for 3rd and related information.
7. All dimensions to face of transposition unless noted otherwise.
8. Verify location of steel beams, columns, and hold downs with Architect prior to construction.
9. All exterior doors, walls and roofs shall meet the requirements of the 2014 report.
10. Provide rain gutters as indicated and convey rain water to the street.

Roof Plan Notes and Legend



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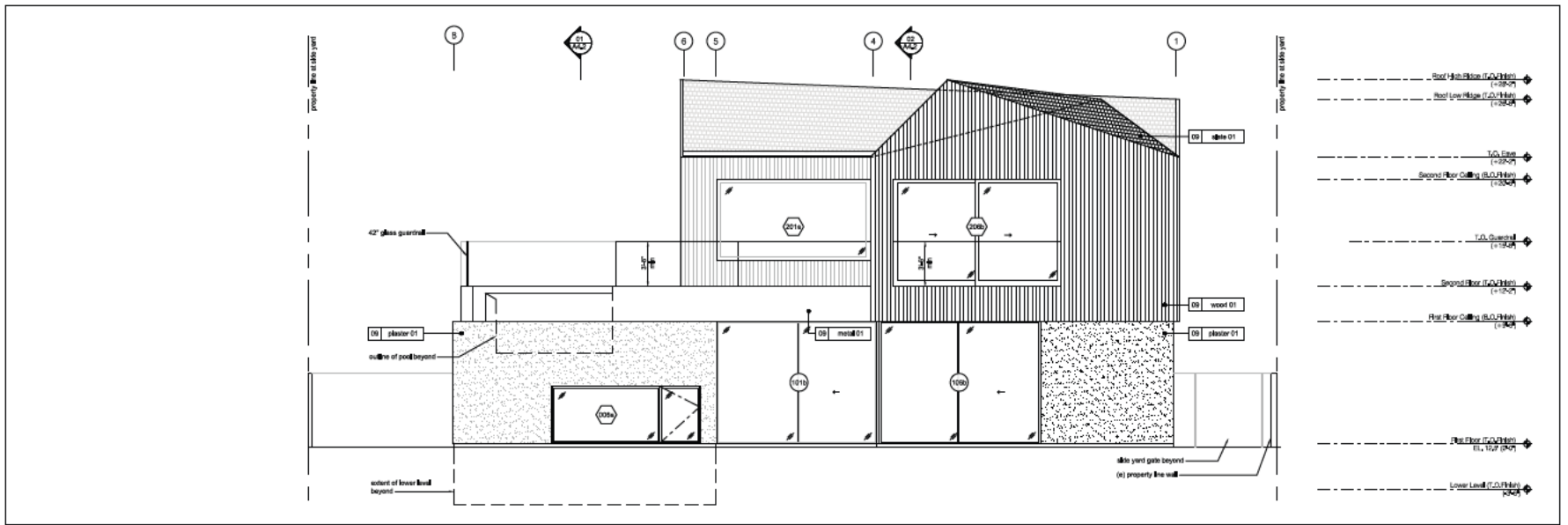
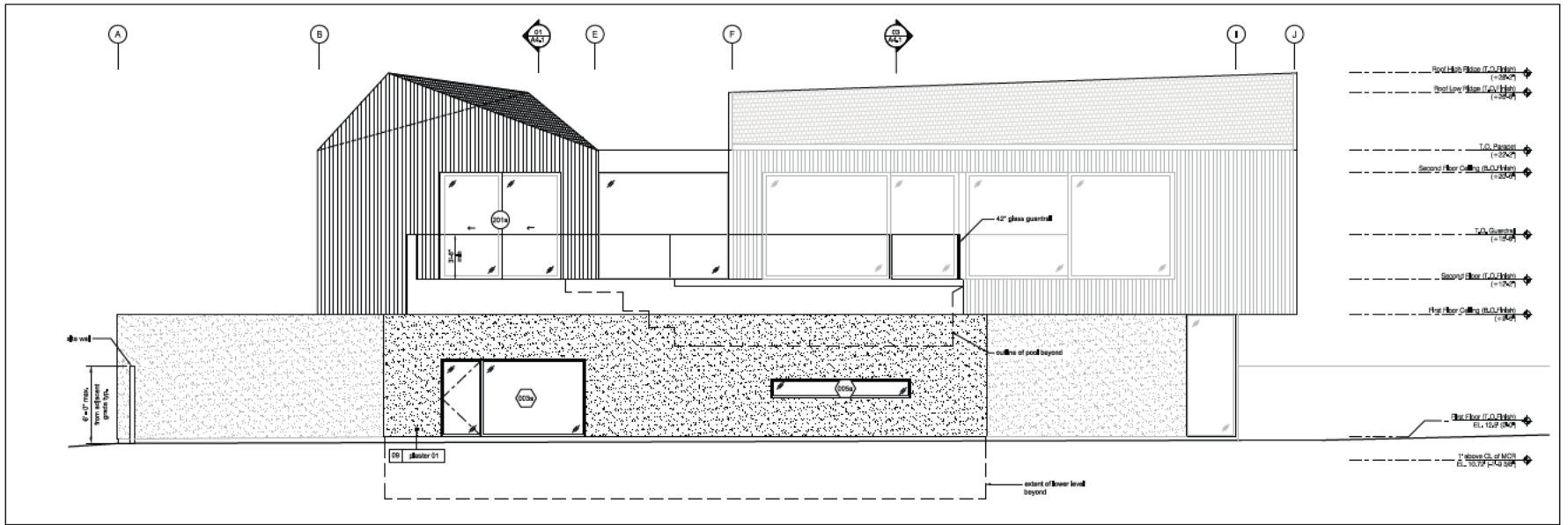
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Whittier Village, CA 91381
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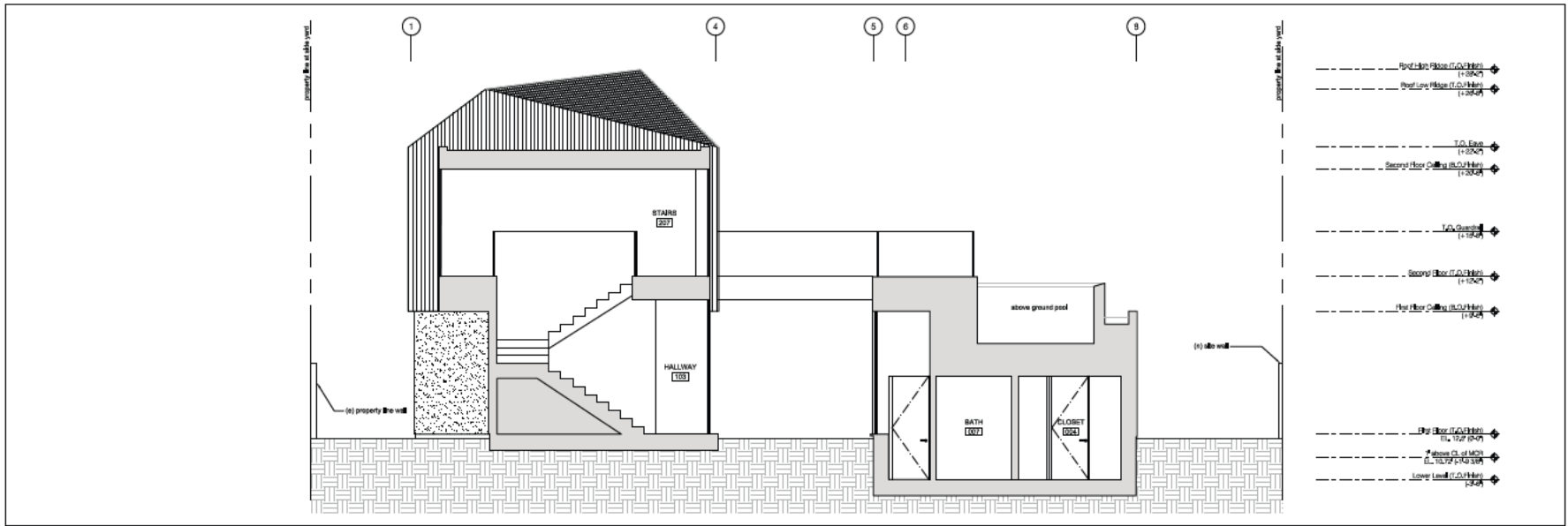
LANDSCAPE
Stephen Allings Landscape
Architecture APC
1815 Shepherd Street
Santa Monica CA 90404
+1 310 310 8428
Contact : Kevin Tanchanco

23325 Malibu Colony Rd.
Malibu CA 90465

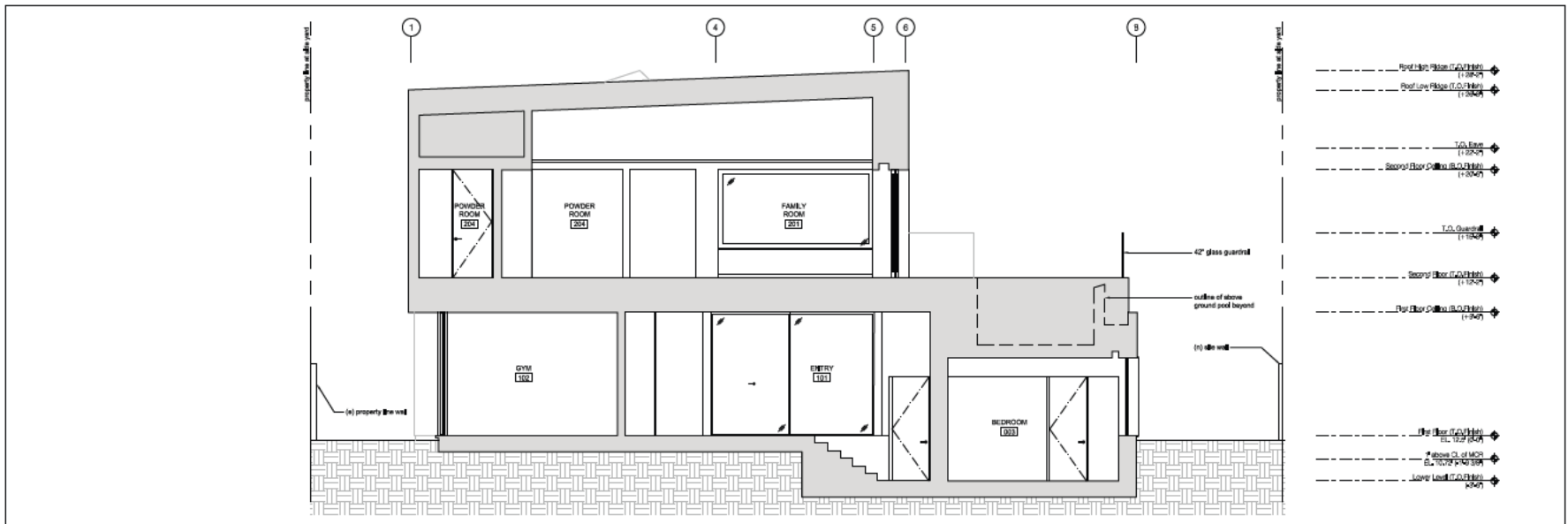
A3.2
Exterior Elevations

0 4

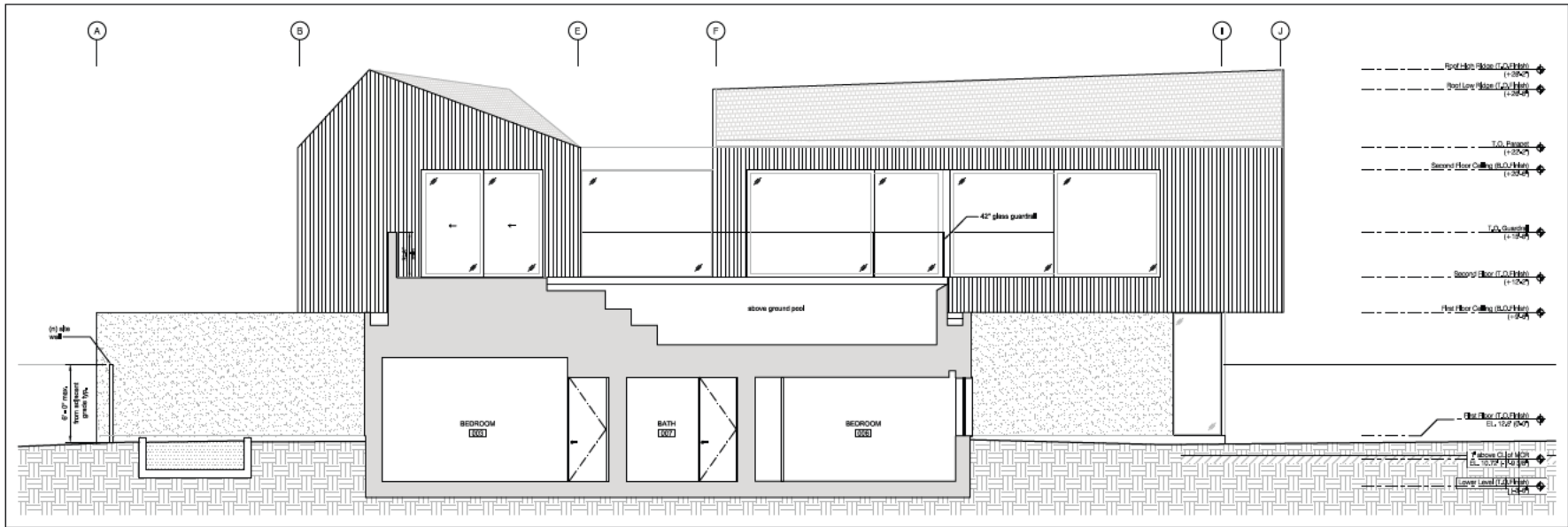




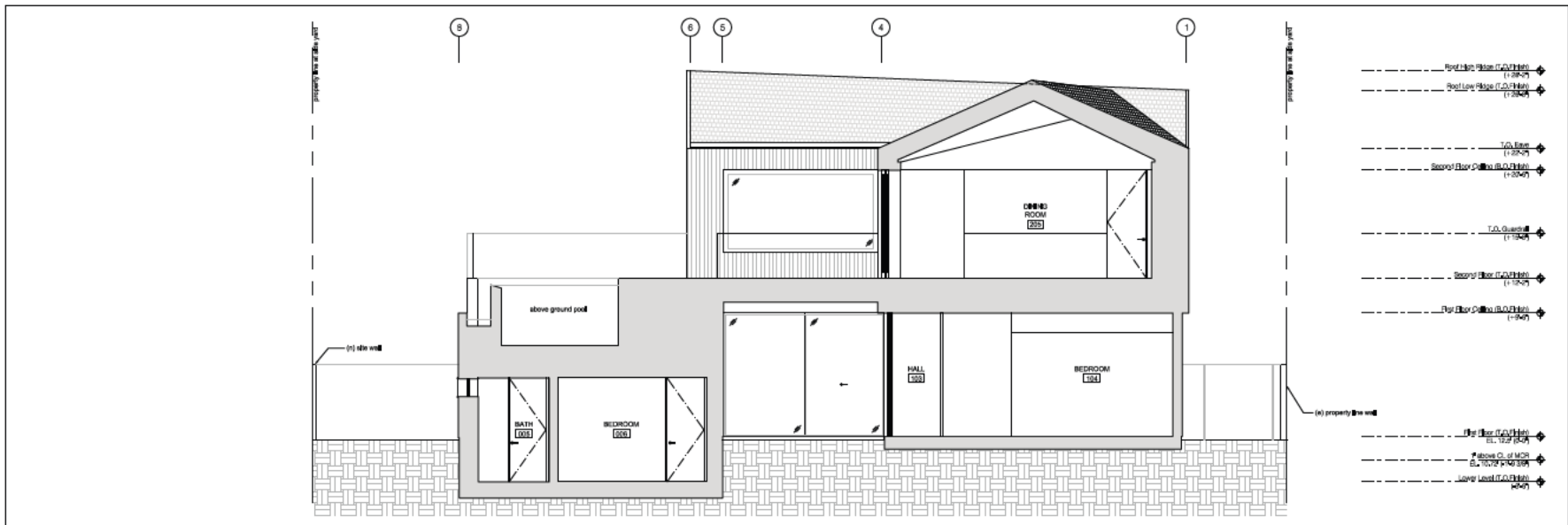
EAST WEST SECTION FACING NORTH THRU POOL 02
1/4"=1'-0"



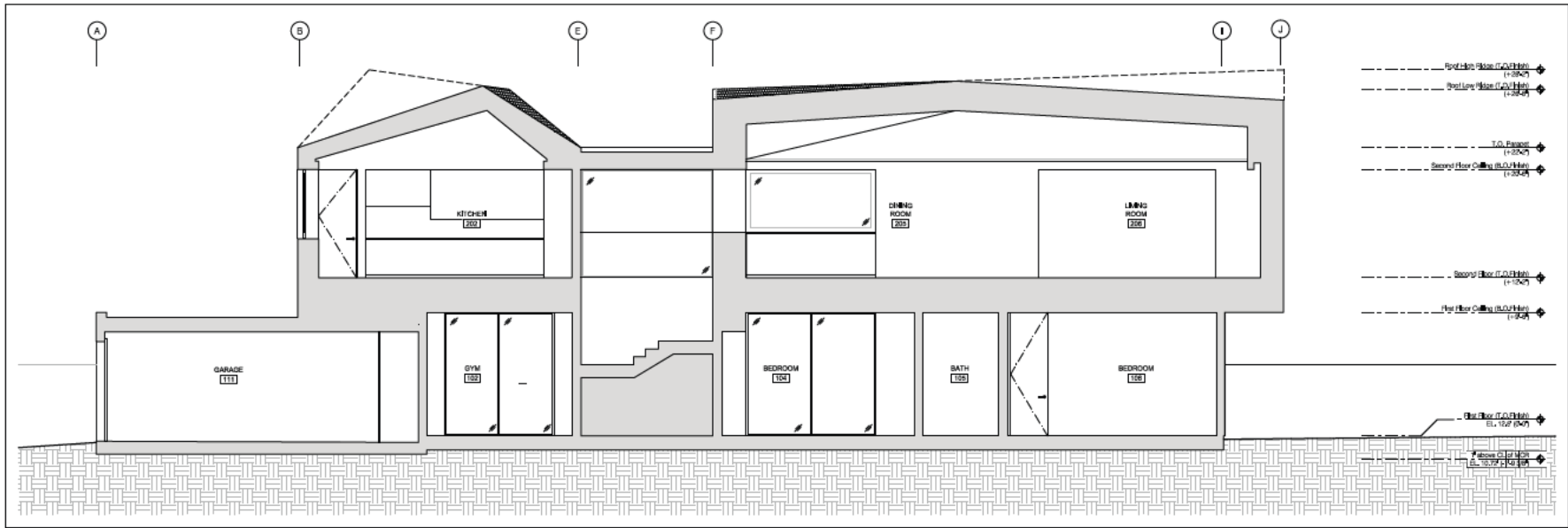
EAST WEST SECTION FACING NORTH 01



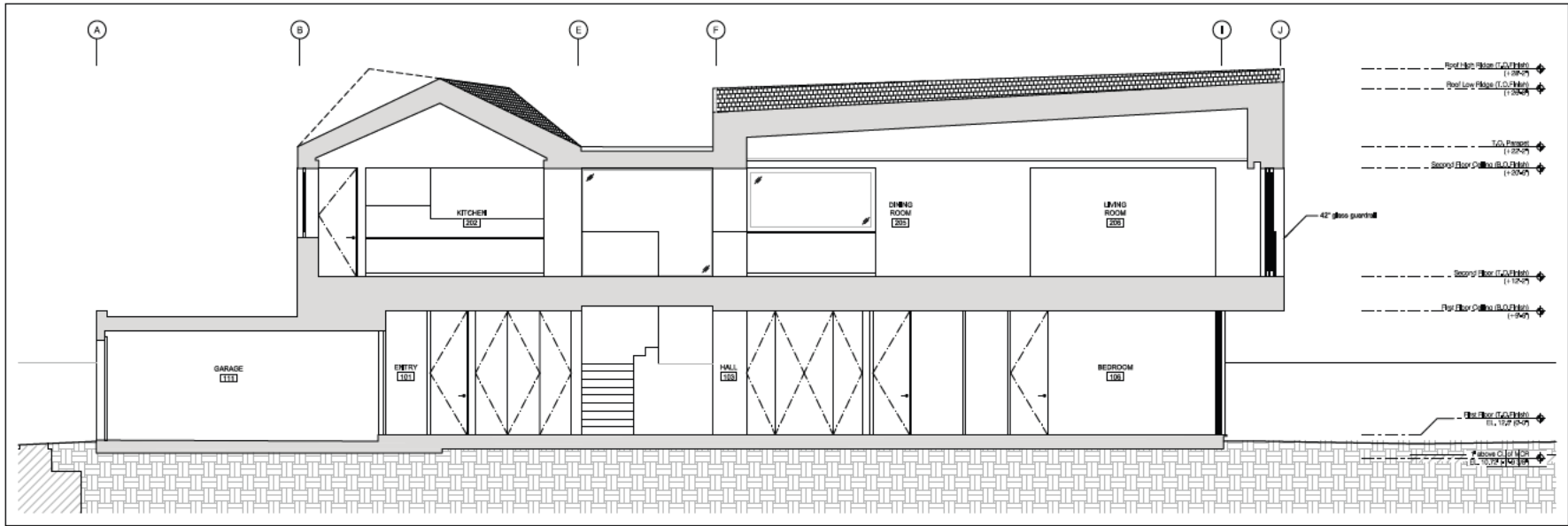
NORTH SOUTH SECTION FACING WEST THRU POOL
02



EAST WEST SECTION FACING SOUTH THRU POOL
01



NORTH SOUTH SECTION FACING WEST THRU GARAGE 02



NORTH SOUTH SECTION FACING WEST THRU GARAGE 01

KOVAC

BSUANCE Δ DATE
 CDP Submittal 30 Apr 2021
 CDP Submittal 21 Oct 2019

CDP Submittal

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 New York, NY 10019

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 Contact: Angie Kovac

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 Engineering
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 +1 310 478 8872
 Contact: Bruce Randell

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 Contact: Mark Barrett

CIVIL
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 Contact: Rick Niles

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 Malibu, CA 90465

A4.3
 Building Sections

0 4

CITY OF MALIBU GRADING NOTES

- STANDARD NOTES
1. ANY MODIFICATIONS OF, OR CHANGES IN, APPROVED GRADING PLANS, MUST BE APPROVED BY THE BUILDING OFFICIAL.
2. A COPY OF THE GRADING PERMIT AND APPROVED GRADING PLANS MUST BE IN THE POSSESSION OF A RESPONSIBLE PERSON ON-SITE AVAILABLE AT THE SITE WHILE WORK IS IN PROGRESS.
3. ENGINEER MUST SET GRADE STAKES FOR ALL DRAINAGE DEVICES AND OBTAIN INSPECTION APPROVAL BEFORE POURING.
4. PROVISION SHALL BE MADE FOR CONTRIBUTORY DRAINAGE AT ALL TIMES.
5. SECURE PERMISSION FROM CITY ENGINEER, EASEMENT GRANTEE, STATE HIGHWAY DEPARTMENT, AND/OR HOMEOWNERS ASSOCIATION FOR CONSTRUCTION, GRADING AND/OR DISCHARGE OF DRAINAGE WITHIN STREET RIGHT-OF-WAY.
6. GRADING SHALL NOT BE STARTED WITHOUT FIRST NOTIFYING THE GRADING INSPECTOR. A PRE-GRADING MEETING ON THE SITE IS REQUIRED BEFORE START OF GRADING WITH THE FOLLOWING PEOPLE PRESENT: OWNER, GRADING CONTRACTOR, DESIGN CIVIL ENGINEER, SOIL ENGINEER, GEOLOGIST, GRADING INSPECTOR, AND WHEN REQUIRED, THE ARCHAEOLOGIST AND PALEONTOLOGIST. THE REQUIRED INSPECTIONS FOR GRADING WILL BE EXPLAINED AT THIS MEETING.
7. THE BUILDING OFFICIAL SHALL BE NOTIFIED 24 HOURS BEFORE THE GRADING OPERATION IS READY FOR EACH OF THE INSPECTIONS: (310) 456-2488 EXT.312
8. INITIAL INSPECTION: WHEN THE PERMITTEE IS READY TO BEGIN WORK AND BEFORE ANY GRADING BEFORE ANY GRADING OR BRUSHING IS STARTED.
9. INSPECTION: AFTER THE NATURAL GROUND IS EXPOSED AND PREPARED TO RECEIVE FILL AND BEFORE ANY FILL IS PLACED.
10. EXCAVATION INSPECTION: AFTER THE EXCAVATION IS STARTED AND BEFORE THE DEPTH OF EXCAVATION EXCEEDS 10 FEET.
11. FILL INSPECTION: AFTER THE FILL REPLACEMENT IS STARTED AND BEFORE THE VERTICAL HEIGHT OF THE LIFTS EXCEEDS 10 FEET.
12. DRAINAGE DEVICE INSPECTION: AFTER FORMS AND PIPE ARE IN PLACE AND BEFORE ANY CONCRETE IS POURED.
13. ROUGH GRADING: WHEN ALL ROUGH GRADING HAS BEEN COMPLETED AND ALL STORM WATER CONTROL MEASURES ARE IN PLACE PER CITY OF MALIBU, ORDINANCE NO. 11.
14. FINAL INSPECTION: INCLUDING INSTALLATION OF ALL DRAINAGE STRUCTURES, LANDSCAPE MATERIALS FOR EROSION CONTROL, AND OTHER PROTECTIVE DEVICES, HAS BEEN COMPLETED AND THE AS-GRADED PLAN AND REQUIRED REPORTS HAVE BEEN SUBMITTED.
15. IF THE LIFTS EXCEEDS 10 FEET, IT IS NOT NECESSARY TO WAIT FOR THE INSPECTOR TO ARRIVE BEFORE PROCEEDING WITH WORK.
16. CUT AND FILL SLOPES SHALL BE NO STEEPER THAN 3' HORIZONTAL TO 1' VERTICAL (3:1) EXCEPT WHERE SPECIFICALLY APPROVED OTHERWISE.
17. FILL PLACED OVER EXISTING TERRAIN 5:1 AND STEEPER MUST BE SUPPORTED ON HORIZONTAL BENCHES CUT INTO BEDROCK OR OTHER FIRM MATERIAL.
18. FILL SHALL BE COMPACTED THROUGHOUT TO A MINIMUM OF 90% RELATIVE COMPACTION. AGGREGATE BASE FOR ASPHALTIC AREAS SHALL BE COMPACTED TO MINIMUM OF 95% RELATIVE COMPACTION. MAXIMUM DENSITY SHALL BE DETERMINED BY ASTM STANDARD TEST D1557 OR APPROVED EQUIVALENT. ORIGINALS OF ALL REPORTS SHALL BE PROVIDED TO THE BUILDING OFFICIAL.
19. EQUALS TO RECEIVE FILL SHALL BE PROPERLY PREPARED AND APPROVED, IN WRITING, BY THE SOIL ENGINEER AND THE BUILDING OFFICIAL PRIOR TO PLACING FILL.
20. FILL SHALL BE BENCHED INTO COMPETENT MATERIAL PER CITY OF MALIBU STANDARD OR SOILS ENGINEER'S DIRECTIONS. NO ROCK OR SIMILAR MATERIAL GREATER THAN 4" IN DIAMETER WILL BE PLACED IN FILL UNLESS RECOMMENDED FOR SUCH PLACEMENT HAVE BEEN SUBMITTED BY THE SOIL ENGINEER AND APPROVED IN ADVANCE BY THE BUILDING OFFICIAL.
21. ALL EXISTING LIFTS SHALL BE APPROVED BY THE BUILDING OFFICIAL OR REMOVED PRIOR TO PLACING ADDITIONAL FILLS.
22. ANY EXISTING IRRIGATION LINES AND CISTERNS SHALL BE REMOVED OR CRUSHED, IN PLACE, AND APPROVED BY THE BUILDING OFFICIAL AND SOILS ENGINEER.
23. STOCK PILING OF EXCESS MATERIAL SHALL BE APPROVED BY THE BUILDING OFFICIAL PRIOR TO EXCAVATION.
24. THE DESIGN ENGINEER, AS A CONDITION OF ROUGH GRADE APPROVAL, SHALL PROVIDE A BLUE TOP WITH ACCOMPANYING WITNESS STAKE, SET AT THE CENTER OF EACH PAD REFLECTING THE PAD ELEVATION OR PROPOSE PERMITS AND A BLUE TOP WITH WITNESS STAKE SET AT THE DRAINAGE SWALE HIGH POINT REFLECTING THE HIGH POINT ELEVATION FOR PRELIMINARY PERMITS.
25. ALL TRENCH BACK FILLS SHALL BE TESTED AND APPROVED BY THE SOIL ENGINEER PER THE MALIBU BUILDING CODE.
26. THE ENGINEERING GEOLOGIST AND SOIL ENGINEER SHALL AFTER CLEARING AND PRIOR TO THE PLACEMENT OF FILL IN CANYONS, INSPECT EACH CANYON FOR AREAS OF ADVERSE STABILITY AND TO DETERMINE THE PRESENCE OR ABSENCE OF SUBSURFACE WATER OR SPRING FLOW. IF NEEDED, SUBDRAINS WILL BE DESIGNED AND CONSTRUCTED PRIOR TO THE PLACEMENT OF FILL IN EACH RESPECTIVE CANYON.
27. SUBDRAIN OUTLETS SHALL BE COMPLETED AT THE BEGINNING OF THE SUBDRAIN CONSTRUCTION.
28. THE EXACT LOCATION OF THE SUBDRAINS SHALL BE SURVEYED IN THE FIELD FOR LINE/GRADE AND REFLECTED ON AS-GRADED PLANS. CONTINUOUS INSPECTION BY THE SOILS ENGINEER OR HIS RESPONSIBLE REPRESENTATIVE SHALL BE CONDUCTED DURING ALL SUBDRAIN INSTALLATIONS OR WHEREVER DETERMINED TO BE NECESSARY BY THE BUILDING OFFICIAL.
29. ALL CUT SLOPES SHALL BE INVESTIGATED BOTH DURING AND AFTER GRADING BY THE ENGINEERING GEOLOGIST TO DETERMINE IF ANY SLOPE STABILITY PROBLEM EXISTS. SHOULD EXCAVATION DISCLOSE ANY GEOLOGICAL HAZARDS OR POTENTIAL GEOLOGICAL HAZARDS, THE ENGINEERING GEOLOGIST SHALL SUBMIT RECOMMENDED REMEDIATION TO THE BUILDING OFFICIAL FOR APPROVAL.
30. WHERE SUPPORT OR BUTTRESSING OF CUT AND NATURAL SLOPES IS DETERMINED TO BE NECESSARY BY THE ENGINEERING GEOLOGIST AND SOIL ENGINEER, THE SOIL ENGINEER SHALL SUBMIT DESIGN, LOCATIONS, AND CALCULATIONS TO THE BUILDING OFFICIAL PRIOR TO CONSTRUCTION. THE ENGINEERING GEOLOGIST AND SOIL ENGINEER SHALL INSPECT AND CONTROL THE CONSTRUCTION OF THE BUTTRESSING AND CERTIFY TO THE STABILITY OF THE SLOPE AND ADJACENT STRUCTURES UPON COMPLETION.
31. WHEN CUT PADS ARE BROUGHT TO NEAR GRADE, THE ENGINEERING GEOLOGIST SHALL DETERMINE IF THE BEDROCK IS EXTENSIVELY FRACTURED OR FAULTED AND WILL READILY TRANSMIT WATER. IF CONSIDERED NECESSARY BY THE ENGINEERING GEOLOGIST AND SOIL ENGINEER, A COMPACTED FILL BLANKET WILL BE PLACED.
32. THE ENGINEERING GEOLOGIST SHALL PERFORM PERIODIC INSPECTIONS AND SUBMIT A COMPLETE REPORT AND MAP UPON COMPLETION OF THE ROUGH GRADING.
33. THE COMPACTION REPORT AND APPROVAL FROM THE SOIL ENGINEER SHALL INDICATE THE TYPE OF FIELD TESTING PERFORMED. EACH TEST SHALL BE IDENTIFIED WITH THE METHOD OF OBTAINING THE IN-PLACE DENSITY. FIELD DENSITY SHALL BE DETERMINED BY SAND CONE METHOD, ASTM D1556 OR NUCLEAR GAUGE ASTM D2922 AND D3017 REQUIRED DENSITY TESTS, UNIFORMLY DISTRIBUTED.
34. THE GRADING CONTRACTOR SHALL SUBMIT A WRITTEN STATEMENT VERIFYING THAT THE WORK WAS DONE UNDER HIS DIRECTION WAS PERFORMED IN ACCORDANCE WITH THE APPROVED PLANS AND REQUIREMENTS OF CHARTERED CITY OF MALIBU OR DESCRIBING ALL VARIANCES FROM THE APPROVED PLANS AND REQUIREMENTS OF THE CODE.
35. SUFFICIENT TESTS OF SOIL PROPERTIES, INCLUDING SOIL TYPES AND SHEAR STRENGTH, SHALL BE MADE DURING GRADING. THE RESULTS OF THE TESTING SHALL BE SUBMITTED TO THE BUILDING OFFICIAL UPON COMPLETION OF GRADING OPERATIONS, OR WHEN NECESSARILY BY FIELD CONDITIONS UPON REQUEST OF THE BUILDING OFFICIAL. ONE FIELD DENSITY TEST TO BE MADE AS FOLLOWS:
 - ONE TEST FOR EACH 2' VERTICAL LIFT.
 - ONE TEST FOR EACH 1,000 CUBIC YARDS OF MATERIAL PLACED.
 - ONE TEST WILL BE MADE AT POINT APPROXIMATELY 1' BELOW THE FILL SLOPE SURFACE ON THE BASIS OF ONE TEST FOR EACH 1,000 SQUARE FEET OF SLOPE SURFACE BUT NOT LESS THAN ONE TEST FOR EACH 10' OF VERTICAL ELEVATION.
36. THE UNDERSIGNED DESIGN ENGINEER VERIFIES THAT THIS GRADING PLAN WAS PREPARED UNDER MY SUPERVISION IN ACCORDANCE WITH THE MALIBU BUILDING CODE. ALL SOILS ENGINEER AND ENGINEERING GEOLOGY RECOMMENDATIONS WERE INCORPORATED IN THE PLAN. (MUST BE SIGNED AND DATED BY THE DESIGN ENGINEER).
37. GRADING OPERATIONS MUST BE CONDUCTED UNDER PERIODIC GEOLOGIC INSPECTION WITH INSPECTION REPORTS TO BE SUBMITTED TO THE BUILDING DEPARTMENT.

- EXPORT SOIL MUST BE TRANSPORTED TO A LEGAL DUMP OR TO A PERMITTED SITE SHOWN CLEARLY ON APPROVED PLANS.
- SLOPES SHALL BE PLANTED WITH AN APPROVED PLANT MATERIAL AND PROVIDED WITH AN APPROVED IRRIGATION SYSTEM, UNLESS AN ALTERNATIVE HAS BEEN APPROVED BY THE CITY BIOLOGIST.
- THE PLANS FOR A DESIGNED IRRIGATION SYSTEM FOR FULL COVERAGE OF ALL PORTIONS OF THE SLOPES SHALL BE SUBMITTED AND APPROVED PRIOR TO ROUGH GRADING APPROVAL BY THE CITY BIOLOGIST.
- THE ENGINEER SHALL SUBMIT A LETTER OF CERTIFICATION TO THE BUILDING OFFICIAL STATING THAT THE GRADING WAS DONE IN COMPLIANCE WITH THE APPROVED GRADING PLAN.
- PRELIMINARY SOIL AND GEOLOGY REPORTS AND ALL SUBSEQUENT REPORTS, AS APPROVED BY THE CITY OF MALIBU, ARE CONSIDERED A PART OF THE APPROVED GRADING PLAN. ALL RECOMMENDATIONS CONTAINED ARE TO BE COMPLIED WITH OR REVISIONS SUBMITTED FOR REVIEW.
- ALL EXISTING DRAINAGE COURSES THROUGH THIS SITE SHALL REMAIN OPEN UNTIL FACILITIES TO HANDLE STORM WATER DRAINAGE ARE INSTALLED. IF THE CITY OF MALIBU IS NOT PERMITTED SHALL BE HELD LIABLE FOR ANY DAMAGE DUE TO OBSTRUCTING NATURAL DRAINAGE PATTERNS.
- GRADING OPERATIONS, INCLUDING MAINTENANCE OF EQUIPMENT, SHALL BE ACCOMPLISHED WITHIN THE CONFINES OF THE CONFINES OF THE CONFINES AND POLICIES OF THE CITY OF MALIBU.
- ROOF GUTTERS SHALL BE INSTALLED TO PREVENT ROOF DRAINAGE FROM FALLING ON MANUFACTURED SLOPES. GUTTERS SHALL BE CONNECTED TO NON-EROSIVE PIPING OR OTHER METHOD ACCEPTABLE TO THE BUILDING CODE.
- ANY EXCAVATIONS ADJACENT TO OTHER PROPERTY OR STRUCTURES ARE SUBJECT TO THE PROVISIONS OF CALIFORNIA CIVIL CODE, SECTION 832, AND IS THE RESPONSIBILITY OF THE PERMITTEE AND/OR OWNER.
- ALL CONCRETE PLACED ON GRADE SHALL BE COLORED TO MATCH NATURAL CONDITIONS ADJACENT TO THE STRUCTURES. SURFACE PAINT IS NOT ACCEPTABLE. ALL COLORS ARE TO BE INCORPORATED INTO THE MIX AND BLENDED UNIFORMLY.
- SHOW THE FINISH ELEVATIONS AT THE CORNERS OF LOT PAD (BUILDING SITE) SO THAT SUCH PAD AREA WILL HAVE A MINIMUM SLOPE OF 2% TOWARD THE INTENDED DRAINAGE OUTLET.
- SHOW THE GRADED SWALE, HIGH POINT ELEVATION, AND SWALE ELEVATIONS AT PROPOSED BUILDING CORNERS. ALL GRADED SWALES MUST HAVE A MINIMUM SLOPE OF 1% TOWARDS THE STORM OR DESIGNED DRAINAGE OUTLET.
- FIELD DENSITY SHALL BE DETERMINED BY SAND CONE METHOD, ASTM D1556 OR NUCLEAR GAUGE ASTM D2922 AND D3017 REQUIRED DENSITY TESTS, UNIFORMLY DISTRIBUTED, ARE BY THE SAND CONE METHOD. THE METHOD OF DETERMINING FIELD DENSITY SHALL BE IN THE COMPACTION REPORT. OTHER METHODS MAY BE USED IF RECOMMENDED BY THE SOILS ENGINEER AND APPROVED, IN ADVANCE, BY THE BUILDING OFFICIAL.
- COMBINATION FILL-OVER-CUT SLOPES CANNOT BE APPROVED UNLESS SPECIFICALLY RECOMMENDED BY THE SOILS ENGINEER AND GEOLOGIST AND A CROSS-SECTIONAL DETAIL OF EACH SLOPE IS SHOWN ON THE PLAN.
- ORIGINAL OF ALL REPORTS SHALL BE PROVIDED TO BUILDING OFFICIAL FOR ALL COMPACTED FILL.
- ALL BORINGS AND TEST PITTS GREATER THAN 6" SHALL BE EXCAVATED AND BACKFILLED DURING GRADING PER GEOTECHNICAL ENGINEER.
- SUBGRADE SOILS SHALL BE TESTED FOR EXPANSION INDEX PRIOR TO POURING FOOTINGS OR SLABS. FOUNDATION PLANS SHALL BE REVIEWED AND REVISED BY THE GEOTECHNICAL CONSULTANT, AS APPROPRIATE.
- ALL FOUNDATION EXCAVATIONS MUST BE OBSERVED AND APPROVED BY THE GEOTECHNICAL CONSULTANT PRIOR TO PLACEMENT REINFORCING STEEL.
- PLANTING AND IRRIGATION NOTES
 - CUT AND FILL SLOPES SHALL BE PLANTED WITH AN APPROVED GROUND COVER AND PROVIDED WITH AN IRRIGATION SYSTEM AS SOON AS PRACTICAL DURING GRADING. IN ADDITION TO THE GROUND COVER PLANTS SHALL BE INSTALLED ON ALL SLOPES. ALL PLANTING SHALL BE OF A TYPE APPROVED BY THE CITY BIOLOGIST.
 - THE PLANS FOR A DESIGNED IRRIGATION SYSTEM FOR FULL COVERAGE OF ALL PORTION OF THE SLOPES SHALL BE SUBMITTED AND APPROVED PRIOR TO ROUGH GRADING APPROVAL BY THE CITY BIOLOGIST.
 - PLANTING AND IRRIGATION PLANS FOR SLOPES MUST BE PREPARED AND SIGNED BY A CIVIL ENGINEER OR LANDSCAPE ARCHITECT.
 - FINISH GRADING WILL BE COMPLETED AND APPROVED AND SLOPE PLANTING AND IRRIGATION SYSTEMS INSTALLED BEFORE OCCUPANCY.
- FINISH GRADING VOLUME QUANTITIES
 - THE EARTHWORK SUMMARY IS PROVIDED AS A COURTESY AND CONVENIENCE TO THE OWNER AND IS FOR BONDING AND PLAN CHECK PURPOSES ONLY. THE YARDAGE FIGURES SHOWN ARE APPROXIMATE CALCULATIONS BASED ON THE EXISTING GROUND AND PROPOSED FINISHED GRADE. IT DOES NOT ACCOUNT FOR STRIPPING, BENCHING, KEYWAYS AND SUBEXCAVATIONS. FOR THIS REASON AND BECAUSE OF THE VARIABILITIES WITH GRADING AND COMPACTION, THE VOLUME OF MATERIALS MOVED IN THE FIELD WILL LIKELY VARY FROM THE CALCULATED VOLUMES. THE EARTHWORK SUMMARY QUANTITIES DO NOT RELIEVE THE CONTRACTOR OF HIS RESPONSIBILITY TO DETERMINE THE ADJUSTED QUANTITY OF MATERIALS THAT WILL BE REQUIRED FOR COMPLETING THE NECESSARY GRADING.
- QUANTITIES:

NON-EXEMPT CUT	42	cy	EXEMPT CUT	98	cy	TOTAL CUT	140	cy
NON-EXEMPT FILL	309	cy	EXEMPT FILL	82	cy	TOTAL FILL	391	cy
NON-EXEMPT TOTAL	351	cy	EXEMPT TOTAL	180	cy	TOTAL	531	cy
IMPORT	267	cy	EXEMPT IMPORT	0	cy	IMPORT	251	cy
EXPORT	0	cy	EXEMPT EXPORT	16	cy	EXPORT	0	cy
- SCHEDULING
 - THE FOLLOWINGS ARE THE ESTIMATED STARTING AND COMPLETION DATES FOR THE GRADING OF THE PROJECT.

STARTING DATE:	APRIL 2020
COMPLETION DATE:	APRIL 2021
 - STORMWATER POLLUTION PLAN NOTES
 - EVERY EFFORT SHOULD BE MADE TO ELIMINATE THE DISCHARGE OF NON STORMWATER FROM THE PROJECT SITE AT ALL TIMES.
 - ERODED SEDIMENTS AND OTHER POLLUTANTS MUST BE RETAINED ON-SITE AND MAY NOT BE TRANSPORTED FROM THE SITE VIA SHEETFLOW, SWALES, AREA DRAINS, NATURAL DRAINAGE COURSES OR WIND.
 - STOCKPILES OF EARTH AND OTHER CONSTRUCTION RELATED MATERIALS MUST BE PROTECTED FROM BEING TRANSPORTED FROM THE SITE BY THE FORCES OF WIND OR WATER.
 - STOCKPILES OF EARTH AND OTHER CONSTRUCTION RELATED MATERIALS MUST BE PROTECTED FROM BEING TRANSPORTED FROM THE SITE BY THE FORCES OF WIND OR WATER.
 - FUELS, OILS, SOLVENTS, AND OTHER TOXIC MATERIALS MUST BE STORED IN ACCORDANCE WITH THEIR LISTING AND ARE NOT TO CONTAMINATE THE SOIL AND SURFACE WATERS. ALL APPROVED STORAGE CONTAINERS ARE TO BE PROTECTED FROM THE WEATHER. SPILLS MUST BE CLEANED UP IMMEDIATELY AND DEPOSITED INTO THE PUBLIC WY. SPILLS MAY NOT BE WASHED INTO THE DRAINAGE SYSTEM.
 - EXCESS OR WASTE CONCRETE MAY NOT BE WASHED INTO THE PUBLIC WY OR ANY OTHER DRAINAGE SYSTEM. PROVISIONS SHALL BE MADE TO RETAIN CONCRETE WASTES ON-SITE UNTIL THEY CAN BE DISPOSED OF AS SOLID WASTE.
 - TRASH AND CONSTRUCTION RELATED SOLID WASTES MUST BE DEPOSITED INTO A COVERED RECEPTACLE TO PREVENT CONTAMINATION OF RAINWATER AND DISPERSAL BY WIND.
 - SEDIMENTS AND OTHER MATERIALS MAY NOT BE TRACKED FROM THE SITE BY VEHICLE TRAFFIC. THE CONSTRUCTION ENTRANCE ROADWAYS MUST BE STABILIZED SO AS TO INHIBIT SEDIMENTS FROM BEING DEPOSITED INTO THE PUBLIC WY. ACCIDENTAL DEPOSITIONS MUST BE SWEEP UP IMMEDIATELY AND MAY NOT BE WASHED DOWN BY RAIN OR OTHER MEANS.
 - SLOPES WITH DISTURBED SOILS OR DENuded OR VEGETATION MUST BE STABILIZED SO AS TO INHIBIT EROSION BY WIND OR WATER.
 - AS THE PROJECT OWNER OR OR AUTHORIZED AGENT OF THE OWNER, I HAVE READ AND UNDERSTAND THE REQUIREMENTS LISTED ABOVE, NECESSARY TO CONTROL STORM WATER POLLUTION FROM SEDIMENTS, EROSION, AND CONSTRUCTION MATERIALS, AND I CERTIFY THAT I WILL COMPLY WITH THESE REQUIREMENTS.
- SIGNATURE _____ FIRST LAST (OWNER IF APPLICABLE) _____

- SUSMP NOTES
 - DETERMINE AND PROVIDE THE PRE AND POST DEVELOPMENT PERVIOUS AND IMPERVIOUS AREAS CREATED BY THE PROPOSED DEVELOPMENT. MEASURED FROM MEAN HIGH TIDE LINE.
- POST DEVELOPMENT

IMPERVIOUS AREA	0.27	ACRES,	PERCENT IMPERVIOUS	24%	%
PERVIOUS AREA	0.22	ACRES,	PERCENT PERVIOUS	76%	%
- PRE DEVELOPMENT

IMPERVIOUS AREA	0.21	ACRES,	PERCENT IMPERVIOUS	74%	%
PERVIOUS AREA	0.08	ACRES,	PERCENT PERVIOUS	26%	%
- ANY MODIFICATIONS TO THE APPROVED SUSMP PLAN MUST BE RESUBMITTED TO THE PERMITTING DISTRICT OFFICE OF BUILDING AND SAFETY DIVISION FOR APPROVAL.
- A COPY OF THE APPROVED SUSMP PLAN MUST BE IN THE POSSESSION OF A RESPONSIBLE PERSON AND AVAILABLE AT THE SITE AT ALL TIMES.
- ALL STRUCTURAL BMP'S SHALL BE ACCESSIBLE FOR INSPECTION AND MAINTENANCE.
- PRIOR TO COMMENCEMENT OF ANY WORK WITHIN THE ROAD RIGHT OF WAY AND/OR CONNECTION TO COUNTY MAINTAINED STORM DRAIN, AN ENCROACHMENT PERMIT FROM CONSTRUCTION DIVISION, PERMIT SECTION IS REQUIRED (626) 458-3129.
- PRIOR TO COMMENCEMENT OF ANY WORK AND/OR DISCHARGE OF DRAINAGE TO A WATERCOURSE, A PERMIT FROM BOTH THE CALIFORNIA DEPARTMENT OF FISH AND GAME AND U.S. ARMY CORPS OF ENGINEERS MAY BE REQUIRED.
- STATEMENT OF UNDERSTANDING
AS THE _____ CIVIL ENGINEER _____ OF THE PROJECT, I HAVE REVIEWED THE DEVELOPMENT PLANNING OR STORM WATER MANAGEMENT _____ A MANUAL, FOR THE STANDARD URBAN STORMWATER MITIGATION PLAN (SUSMP), AND HAVE PROPOSED THE IMPLEMENTATION OF THE PERMANENT BEST MANAGEMENT PRACTICES (BMP'S) APPLICABLE TO EFFECTIVELY MINIMIZE THE NEGATIVE IMPACTS OF THE PROJECT'S STORMWATER RUNOFF. THE SELECTED BMP'S WILL BE INSTALLED PER THE APPROVED PLANS AND AS RECOMMENDED BY THE PRODUCT MANUFACTURER AS APPLICABLE.
- ROBERT W. ANDERSON, R.C.E.
RJR ENGINEERING GROUP
- GENERAL PERMIT INFORMATION
GRADING PLAN CHECK NO.: _____
GRADING PERMIT NO.: _____
TOTAL DISTURBED AREA 0.29 ACRES
WASTE DISCHARGE IDENTIFICATION NUMBER (WD#): N/A
INTENDED LAND USE: SFR
COASTAL DEVELOPMENT PERMIT: _____
THIS PLAN CONFORMS TO THE COASTAL DEVELOPMENT PERMIT CONDITIONALLY APPROVED BY THE CITY FOR _____ ON _____ AND AMENDED ON _____
- ADDITIONAL NOTES:
 - EXPANSION INDEX TESTING SHOULD BE PERFORMED DURING SITE PREPARATION TO VERIFY AS-GRADED SITE CONDITIONS. THE RESULTS OF THE TESTS AS WELL AS SPECIFIC RECOMMENDATIONS FOR REMEDIATION AND IMPROVEMENTS MUST BE SUBMITTED TO THE CITY FOR REVIEW AT THAT TIME.
 - PRIOR TO FINAL APPROVAL OF THE PROJECT AN AS-BUILT COMPACTION REPORT PREPARED BY THE PROJECT CONSULTANT MUST BE SUBMITTED TO THE CITY FOR REVIEW. THE REPORT MUST INCLUDE THE RESULTS OF ALL DENSITY TESTS AS WELL AS A MAP DESCRIBING THE LIMITS OF FULL LOCATIONS OF ALL DENSITY TESTS, LOCATIONS OF ELEVATIONS OF KEYWAYS AND BACKDRAINS, LOCATIONS AND ELEVATION OF ALL REMOVAL BOTTOMS (INCLUDING THE RESULTS OF ALL TESTING PERFORMED TO VERIFY COMPACT BOTTOMS) AND LOCATIONS AND ELEVATIONS OF ALL RETAINING WALL, BACKDRAINS AND OUTLETS. GEOLOGIC CONDITIONS EXPOSED DURING GRADING MUST BE DEPICTED ON AN AS-BUILT GEOLOGIC MAP.
- PUBLIC WORKS DEPARTMENT GENERAL NOTES
 - ALL WORK WITHIN PUBLIC STREETS OR PUBLIC EASEMENTS SHOWN ON THESE PLANS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CURRENT EDITION OF THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION (SSPWC) "GREEN BOOK".
 - CONTRACTORS SHALL COMPLY WITH ALL APPLICABLE DIVISION OF INDUSTRIAL REGULATIONS (CAL-OSHA) SAFETY STANDARDS. IF REQUESTED BY THE INSPECTOR, THE CONTRACTOR SHALL PROVIDE PROOF OF A PERMIT FROM SAID DIVISION.
 - CONTRACTOR SHALL CALL THE PUBLIC WORKS INSPECTOR AT (310) 456-2489, EXT 235 FOR PRE-CONSTRUCTION MEETING PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION OR GRADING OPERATIONS. CONTRACTOR SHALL NOTIFY THE CITY PUBLIC WORKS INSPECTOR 48 HOURS PRIOR TO COMMENCING ANY CONSTRUCTION AND 24 HOURS IN ADVANCE OF SPECIFIC INSPECTION NEEDS DURING THE COURSE OF THE WORK.
 - NO IMPROVEMENTS ARE PROPOSED WITHIN THE PUBLIC RIGHT OF WAY.
 - STORAGE OF ANY CONSTRUCTION MATERIALS, CONSTRUCTION TRAILER, AND/OR PARKING AND ANY WORK WITHIN THE CITY PUBLIC RIGHT OF WAY SHALL REQUIRE A CITY ENCROACHMENT PERMIT. CALL THE PUBLIC WORKS INSPECTOR AT (310) 456-2489, EXT 341 TO APPLY FOR A PERMIT.
 - STORAGE OF ANY CONSTRUCTION MATERIALS, CONSTRUCTION TRAILER, AND/OR PARKING AND ANY WORK WITHIN THE CALTRANS PUBLIC RIGHT OF WAY SHALL REQUIRE A CALTRANS ENCROACHMENT PERMIT. SUBMIT A COPY OF THE CALTRANS ENCROACHMENT PERMIT TO THE PUBLIC WORKS DEPARTMENT.
 - ALL WORK SHALL BE PERFORMED DURING CITY WORKING HOURS AND IN COMPLIANCE WITH THESE PLANS.
 - CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AND SHALL REPORT ANY DISCREPANCIES TO THE ENGINEER PRIOR TO THE COMMENCEMENT OF ANY WORK.
 - CONTRACTOR SHALL LOCATE, PROTECT, AND SAVE ANY AND ALL SURVEY MONUMENTS THAT WILL BE OR MAY BE DAMAGED OR DESTROYED BY THEIR OPERATIONS. ONCE FOUND, THE CONTRACTOR SHALL THEN NOTIFY BOTH THE DEVELOPER'S SUPERVISING CIVIL ENGINEER AND THE PUBLIC WORKS INSPECTOR. THE SUPERVISING CIVIL ENGINEER SHALL RESET ALL SAID MONUMENTS PER THE REQUIREMENTS OF THE PROFESSIONAL, LAND SURVEYOR'S ACT.
 - THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL PUBLIC AND PRIVATE PROPERTY INsofar AS IT MAY BE AFFECTED BY THESE OPERATIONS.
 - IF EXISTING TRAFFIC SIGNS ARE NOT TO BE REMOVED WITHOUT PRIOR NOTIFICATION AND APPROVAL OF THE CITY ENGINEER. AS A MINIMUM, CONSTRUCTION WORK ZONE TRAFFIC SIGNS AND STRIPING SHALL BE FURNISHED, INSTALLED, AND MAINTAINED IN ACCORDANCE WITH THE "WORK AREA TRAFFIC CONTROL" MANUAL, 1994 EDITION, PUBLISHED BY THE CALIFORNIA BUILDING INDUSTRY, INC. THE CITY MAY REQUIRE A TRAFFIC CONTROL PLAN, PREPARED BY THE DEVELOPER.
 - DUST CONTROL SHALL BE MAINTAINED AT ALL TIMES.
 - PLAN DISPOSITION: ALL PLANS SHALL BE KEPT UPON ALL PROJECTS. GRADING AND CLEARING IS PROHIBITED FROM NOVEMBER 1 TO MARCH 31 FOR ALL DEVELOPMENTS WHEN ADJACENT TO ESHA AND/OR INCLUDING GRADING ON SLOPES GREATER THAN 4:1.
 - ALL UNDERGROUND UTILITIES AND SERVICE LATERALS SHALL BE INSTALLED PRIOR TO CONSTRUCTION OF CURBS, GUTTERS, SIDEWALKS, AND PAVING UNLESS OTHERWISE PERMITTED BY THE ENGINEERING GEOLOGIST.
 - THE DEVELOPER SHALL COMPLY WITH NPDES REQUIREMENTS. THE STORM WATER POLLUTION CONTROL PREVENTION PLAN (SWPPP) SHALL BE AVAILABLE AT THE CONSTRUCTION SITE AT ALL TIMES AND SHALL BE KEPT UPON ALL PROJECTS.
 - ALL RECOMMENDATIONS MADE BY THE GEOTECHNICAL/SOILS ENGINEER (AND ENGINEERING GEOLOGIST, WHERE EMPLOYED), AND CONTAINED IN THE REPORTS REFERENCED HEREON, AS APPROVED BY THE CITY OF MALIBU, SHALL BE CONSIDERED A PART OF THE GRADING PLAN.
 - ALL STORM DRAIN PIPE WITHIN THE PUBLIC RIGHT OF WAY AND EASEMENTS SHALL BE REINFORCED CONCRETE PIPE (RCP).
 - TERRACE DRAINS, INTERCEPTOR DRAINS, AND DOWN DRAINS SHALL BE CONSTRUCTED OF 3" P.C.C. REINFORCED WITH 6"x6"x10 W.W.M. AND SHALL BE EITHER SEMICIRCULAR OR TRIANGULAR CROSS SECTION. CONCRETE COLOR SHALL BE "DAMA TAY" OR APPROVED EQUIVALENT.
- CIVIL ENGINEER/ LAND SURVEYOR (STAMP AND SIGNATURE) _____ DATE _____

23325 MALIBU COLONY ROAD
MALIBU, CALIFORNIA

ARCHITECT	KOVAC DESIGN STUDIO 11828 W PICO BOULEVARD LOS ANGELES, CA 90064 (310) 575-3621 ATTN: SHAWN BROWN
CIVIL ENGINEER	RJR ENGINEERING GROUP 2340 PALMA DRIVE, SUITE 200 VENTURA, CA 93003 (805) 486-3935 ROBERT W. ANDERSON, R.C.E. 58383
ENGINEERING GEOLOGIST	GEO CONCEPTS, INC. 14428 HAMLIN STREET, SUITE 200 VAN NUYS, CA 91401 (818) 994-8895 SCOTT WALTER, G.E. 2476
SURVEYOR	PEAK SURVEYS INC. 2488 TOWNSGATE ROAD, SUITE D WESTLAKE VILLAGE, CA 91361 (805) 497-0102

INDEX TO PROJECT DRAWINGS	SHEET NO.
GENERAL NOTES & PROJECT INFORMATION	CE-1
EXISTING SURVEY	CE-2
OVERALL SITE PLAN - 10 SCALE	CE-3
GRADING AND DRAINAGE PLANS - 5 SCALE	CE-4
CIVIL CROSS SECTIONS	CE-5
DETAILS	CE-6 & CE-8
SWPPP	SW1-SW4
EARTHWORK VOLUME	EV-1

NOTE:
THIS PLAN IS A PRELIMINARY GRADING AND DRAINAGE PLAN FOR PLANNING PURPOSES ONLY. THE CALLOUTS AND DETAILS ON THIS PLAN ARE PROVIDED FOR FEASIBILITY PURPOSES ONLY. CONSTRUCTION DRAWINGS WILL REQUIRE ADDITIONAL DESIGN DETAILS, SPECIFICATIONS AND MAY BE SUBJECT TO DESIGN CHANGES.



19. ROUGH GRADING QUANTITIES:	FILL 391 CU.YD.
CUT 140 CU.YD.	IMPORT 251 CU.YD.
EXPORT 10 CU.YD.	
20. TOTAL DISTURBED AREA: TOTAL 0.29 ACRES	
TOTAL EXISTING IMPERVIOUS SURFACE AREA 3.192 SQ.FT.	
TOTAL PROPOSED IMPERVIOUS SURFACE AREA 3.043 SQ.FT.	
FLOOD ZONE ON FIRM MAP	
21. ALL SLOPES ON PRIVATE PROPERTY ADJOINING STREETS, DRAINAGE CHANNELS, OR OTHER PUBLIC FACILITIES SHALL BE GRADED NOT STEEPER THAN 2:1 FOR CUT AND FILL UNLESS STRUCTURALLY APPROVED BY THE CITY ENGINEER ON RECOMMENDATION OF THE PROJECT'S GEOTECHNICAL/SOILS CONSULTANT.	
22. ALL CATCH BASINS AND DRAINAGE INLETS SHALL BE STENCILED WITH THE CITY OF MALIBU STORM DRAIN LOGO.	

"AS CIVIL ENGINEER/ LAND SURVEYOR OF THIS PROJECT, I HAVE IDENTIFIED THE LOCATION OF ALL EASEMENTS WHICH ARE LOCATED ON THESE PLANS. I HAVE REVIEWED THE PROPOSED EASEMENT DOCUMENTS AND VERIFIED THE PROPOSED CONSTRUCTION DOES NOT CONFLICT OR INTERFERE WITH THE INTENDED EASEMENT USE."

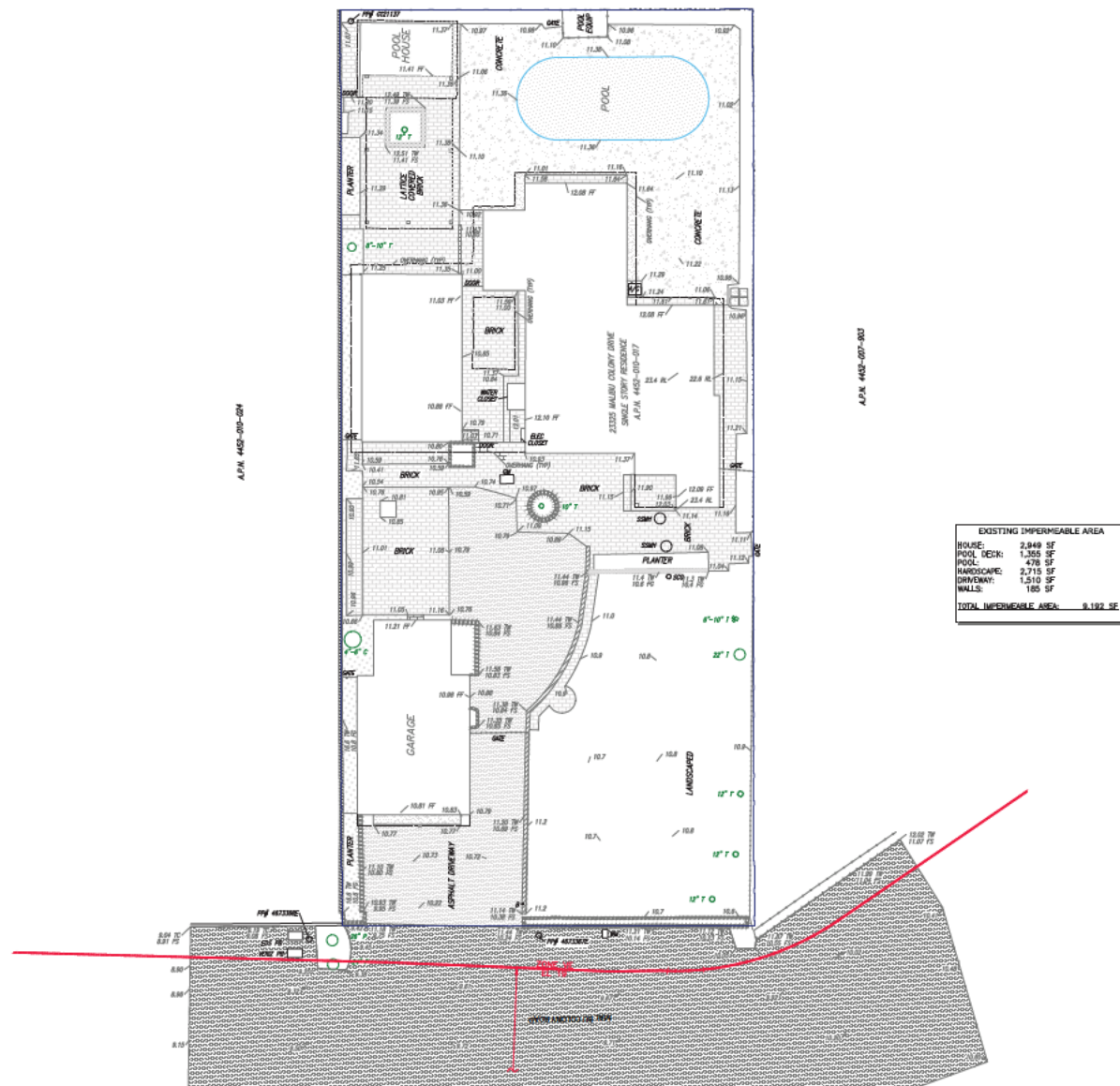
CIVIL ENGINEER/ LAND SURVEYOR (STAMP AND SIGNATURE) _____ DATE _____

GENERAL NOTES & PROJECT INFORMATION	SHEET
SINGLE FAMILY RESIDENCE 23325 MALIBU COLONY ROAD MALIBU, CALIFORNIA	CE-1 OF CE-8
DRAWING NO.	

D	DESCRIPTION OF REVISION	RCE	APP.	DATE
C				
A				
Δ				

Prepared by: RJR ENGINEERING & CONSULTING, INC. 2340 Palma Dr. Ste. 200, Ventura, CA 93003 E-mail: info@rjr.com	APR: 4452-010-017	PROJ. NO.: 6060.60
Robert W. Anderson R.C.E. NO.	12-31-20 EXP. DATE	OWNER:

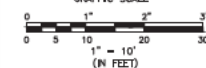
City of Malibu	PROJ. NO.: 6060.60
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LEGEND

[illegible]

GRAPHIC SCALE



FLOOD ZONE

THIS USE ZONE IS FROM PRELIMINARY FLOOD MAP NO. 08037C15430
DATED OCTOBER 28, 2014. AS OF THE DATE OF THIS SURVEY, IT HAS NOT
BEEN ADOPTED BY THE CITY OF MAUI.
FOR MORE INFORMATION, VISIT FLOOD PLAN MANAGEMENT
AT [WWW.DANMARIOKAUI.ORG](http://www.danmariokaui.org) OR CALL THE OFFICE OF PWG

PLANNING PROFILE INFORMATION:

THAMES BROTHERS LTD	AP-BEN
ADDRESS: PARCEL NO. (P#)	4452-015-017
ZONE	SPW
ZONE DESCRIPTION	SPW FAMILY RESIDENTIAL-GARDEN
APPROVAL JURISDICTION	NEC
FIRM NAME	DRACOSTY/MT
PARCEL/LIST AREA	13.824 SQ. FT. (CALCULATED)
LOCAL COASTAL PROGRAM	MTW/00000/LC/COGAD/NAHUBI-COASTAL
APPLICANT MUNICIPAL CODE	MTW/00000/LC/COGAD/NAHUBI/

MORE INFORMATION AT [HTTP://WWW.CLINICALTRIALS.GOV](http://www.clinicaltrials.gov)

PREPARED FOR:

WFOHNE, SETH INC.
1048 18TH STREET
SANTA MONICA, CA 90404

LEGAL DESCRIPTION

LOT 43, TRACT NO. 12087 (MD 234/26-27)

BENCH MARK

HAZ 1000 DARTON


NOTE:

DATE OF SURVEY: FEBRUARY 8, 2018

THIS MAP WAS PREPARED WITHOUT BENEFIT OF A
TERRAIN REPORT, BOUNDARY AND CASUALTIES (IF ANY)
HAVE BEEN DERIVED FROM SECONDARY INFORMATION.

BOUNDARIES AND OTHER REPORTS SHOWN HEREIN ARE
SUBJECT TO INTERPRETATION BY CITY PLANNER
AND SHOULD BE REVIEWED PRIOR TO DESIGN.

UNDERGROUND UTILITIES SHOWN HEREIN ARE
NOT SECONDARY INFORMATION. THEY HAVE NOT
BEEN FIELD VERIFIED. PRIOR TO ANY DIGGING
CONTACT UNDERGROUND SERVICE ALERT AT
"THE ALERT" 1-800-422-4133.

D				Survey Prepared by:	 CIVIL ENGINEERING & LAND SURVEYING 2408 TOPFISCATE RD. Suite D WESTLAKE VILLAGE CA 91361 (805) 497-0102 FAX (805) 495-7011 www.peakinc.com	SPN _____ TWT _____ ELEV. 6060.60 DATE _____	APN: <u>4452-010-017</u> LOT _____ AREA _____	City of Malibu	PAR DATE NO. _____ EXISTING SITE SURVEY SINGLE FAMILY RESIDENCE 23325 MALIBU COLODY ROAD MALIBU, CALIFORNIA	SHEET <u>CE-2</u> of <u>CE-5</u> DRAWING NO. _____
C										
B										
A										
	DESCRIPTION OF REVISION	REV	APP	DATE						

GRADING PLAN NOTES

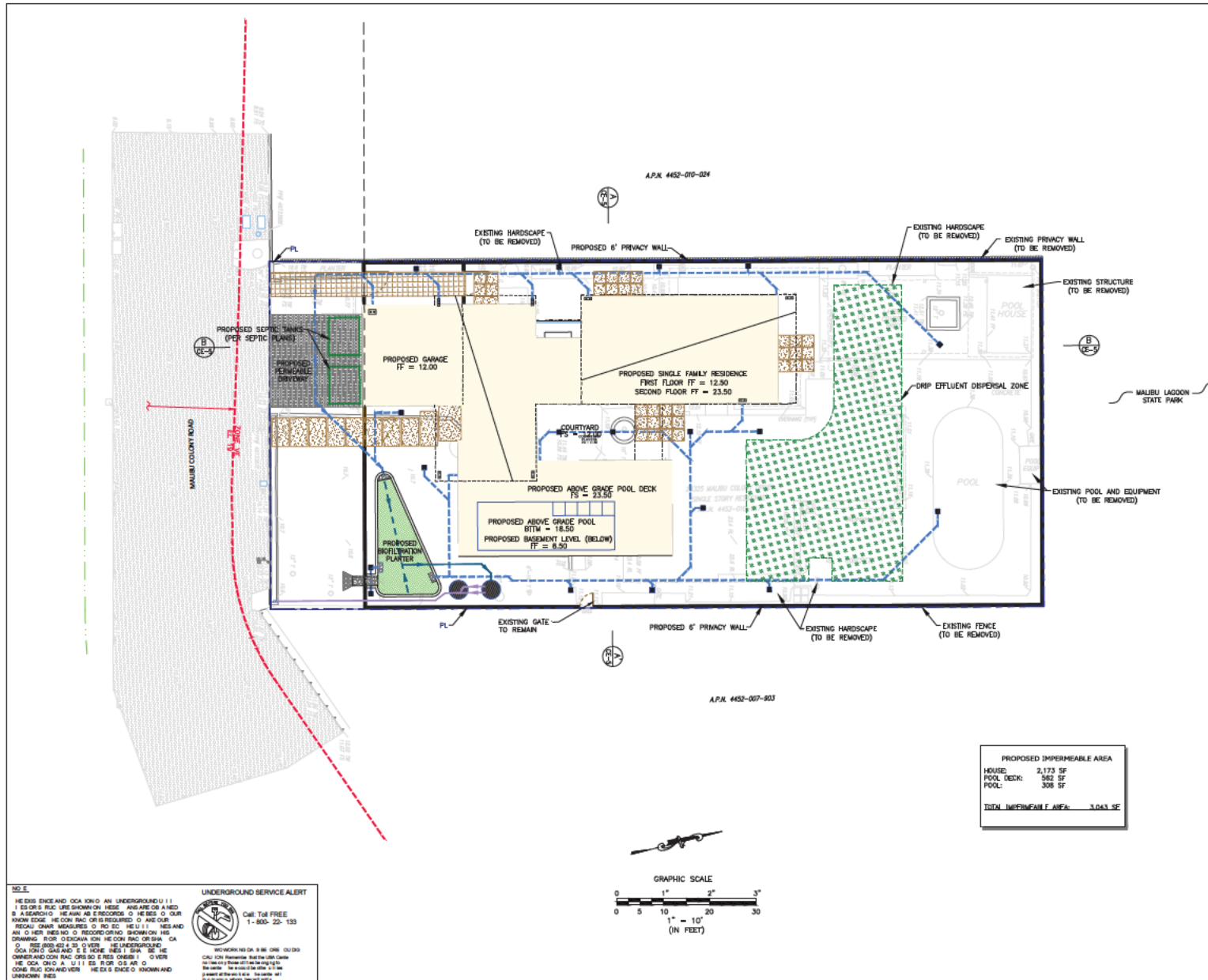
1. THE CONTRACTOR SHALL VERIFY ALL EXISTING TOPOGRAPHY AND GRADES PRIOR TO GRADING. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO NOTIFY THE PROJECT CIVIL ENGINEER OF ANY DISCREPANCIES OR REQUIRED DESIGN CHANGES SO THE APPROPRIATE ADJUSTMENTS CAN BE MADE.
2. THE CONTRACTOR SHALL ENSURE THAT ALL EASEMENTS ARE ADEQUATELY LOCATED AND STOWED PRIOR TO ANY GRADING.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL UNDERGROUND UTILITIES. UNDERGROUND ALERT SHALL BE NOTIFIED A MINIMUM OF 48 HOURS PRIOR TO DIGGING.
4. THE APPROVED GEOLOGY AND GEOTECHNICAL REPORTS SHALL BE CONSIDERED A PART OF THESE PLANS. COPIES OF THESE REPORTS SHOULD BE MAINTAINED ON SITE DURING SITE DEVELOPMENT.
5. THE PROJECT CIVIL ENGINEER SHALL BE NOTIFIED AND APPROVE ANY DESIGN CHANGES PRIOR TO IMPLEMENTATION DURING SITE DEVELOPMENT.
6. ALL RETAINING WALLS ARE UNDER SEPARATE DESIGN AND PERMIT BY OTHERS.
7. ALL REQUIREMENTS AND SPECIFICATIONS OF THE GEOLOGY AND GEOTECHNICAL REPORT ARE CONSIDERED A PART OF THESE PLANS.
8. CHEMICAL TESTING OF ON-SITE SOILS PER USC REQUIREMENTS WILL BE PERFORMED AT ROUGH GRADE CERTIFICATE.
9. ALL BUILDING DIMENSIONS, ELEVATIONS, AND LOCATIONS PER ARCHITECTURE PLANS.
10. REFER TO PROJECT ARCHITECTURAL PLANS FOR ADDITIONAL SITE STRUCTURE AND HARDSCAPE DETAILING.
11. CONSTRUCTION SEQUENCING SHALL BE DETERMINED BY CONTRACTOR.
12. SEPTIC SYSTEM ADDED AS REFERENCE. SEE SEPTIC ENGINEERING PLANS FOR DESIGN AND CONSTRUCTION DETAILS.
13. ENCROACHMENT PERMIT SHALL BE OBTAINED PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITIES WITHIN PUBLIC RIGHT OF WAY.
14. UNLESS OTHERWISE APPROVED BY THE PROJECT GEOTECHNICAL ENGINEER, ALL SUBGRADES UNDER DRIVEWAYS AND PARKING AREAS SHALL BE COMPACTED TO 95% RELATIVE COMPACTION.
15. POOL DESIGNED BY OTHERS. SEE POOL CONSULTANT PLANS FOR DESIGN AND CONSTRUCTION DETAILS.

HATCH LEGEND

- EXISTING RESIDENCE - TO BE DEMOLISHED
- PROPOSED CONCRETE - FINISH PER ARCHITECTURAL PLANS
- PROPOSED PERMEABLE DRIVEWAY - FINISH PER ARCHITECTURAL PLANS
- PROPOSED PRIVACY WALL
- PROPOSED RETAINING WALL
- EXISTING FENCE TO BE REMOVED
- PROPOSED PVC PIPE
- EXISTING SPOT ELEVATION
- PROPOSED FINISHED GRADE
- PROPOSED FINISHED SURFACE

NOTES TO CONTRACTOR

1. THE CONTRACTOR SHALL INSTALL A NEW SIGN STATING "IT IS ILLEGAL TO DISCHARGE POOL, SPA OR WATER FEATURE WASTES TO A STREET, DRAINAGE COURSE OR STORM DRAIN PER MMC 13.04.060(D)(5)." THE SIGN SHALL BE POSTED IN THE INFILTRATION AND/OR PUMPING AREA FOR THE PROPERTY.
2. ALL SUBGRADES OF PROPOSED BUILDING STRUCTURES ARE TO BE COMPACTED TO 95% RELATIVE COMPACTION PER GEOTECHNICAL RECOMMENDATIONS.
3. PRIOR TO THE PLACEMENT OF CONCRETE SLABS, THE SUBGRADE SOILS SHALL BE PRE-MOISTENED TO AT LEAST 120% OF THE OPTIMUM MOISTURE CONTENT TO THE DEPTH SPECIFIED BY THE GEOTECHNICAL ENGINEER WITHIN ONE DAY PRIOR TO THE PLACEMENT OF THE MOISTURE BARRIER AND SAND.
4. THIS PLAN IS A PRELIMINARY GRADING AND DRAINAGE PLAN FOR PLANNING PURPOSES ONLY. THE CALCULATIONS AND DETAILS ON THIS PLAN ARE PROVIDED FOR FEASIBILITY PURPOSES ONLY. CONSTRUCTION DRAWINGS WILL REQUIRE ADDITIONAL DESIGN DETAILS, SPECIFICATIONS AND MAY BE SUBJECT TO DESIGN CHANGES.
5. AREA DRAINS AND FINISH GRADING: ALL GRADES ON THE GRADING PLAN ARE RELATIVE TO THE TOP OF SLAB. FIELD VERIFICATION OF THE TOP OF SLAB ELEVATION IS REQUIRED. SUBCONTRACTOR IS TO ADJUST THE ADJACENT FINISHED GRADE AND AREA DRAIN ELEVATION ACCORDINGLY SO THAT THE RELATIVE GRADE AS IT PERTAINS TO THE TOP OF THE SLAB REMAINS THE SAME AS SHOWN ON THE GRADING PLANS. ALL DRAINAGE STRUCTURES AND FINISHED GRADE SHOULD BE VERIFIED BEFORE FINAL APPROVAL.



NOTES

HE EXISTENCE AND OCCUPANCY OF AN UNDERGROUND UTILITY SHALL BE DETERMINED BY THE CONTRACTOR PRIOR TO ANY GRADING OR CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF MALIBU AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF MALIBU AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES.



NO.	DESCRIPTION OF REVISION	DATE	APP.	CHK.
D				
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1				

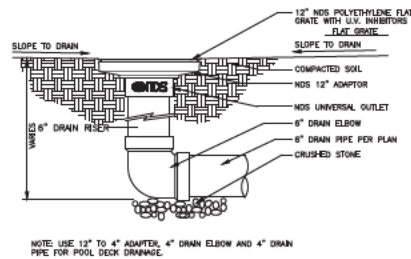
Prepared by:	RJR ENGINEERING & CONSULTING, INC.
Drawn by:	ROBERT W. ANDERSON
Checked by:	C-28383
Scale:	12-31-20
Date:	10-16-19

APR: 4452-010-017	UT: 6060.60
UT: 6060.60	OWNER: 6060.60

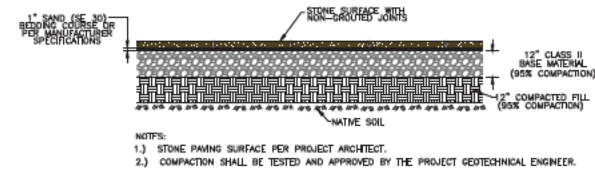
City of Malibu

RJR DWS NO.	6060.60
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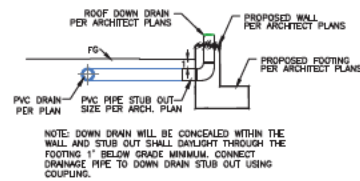
OVERALL GRADING AND DRAINAGE PLAN	SHEET CE-3
SINGLE FAMILY RESIDENCE	OR CE-6
23525 MALIBU COLONY ROAD	DRAWING NO.
MALIBU, CALIFORNIA	



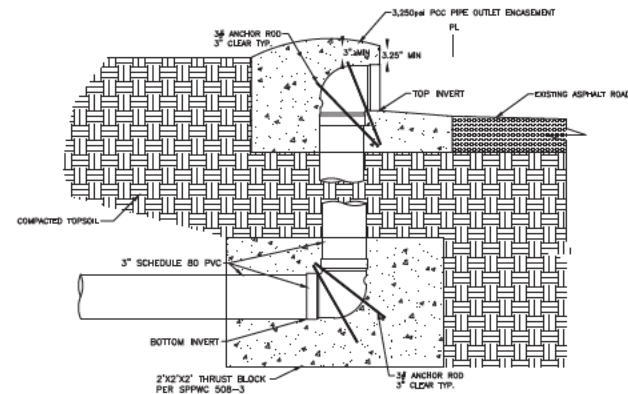
A 12"x12" CATCH BASIN FLAT GRATE
CE-6 W/ 12" ADAPTER N.T.S.



B STONE DRIVEWAY SECTION
CE-6 N.T.S.



C ROOF DRAIN DETAIL
CE-6 N.T.S.




D PRESSURIZED SURFACE OUTLET
CE-6 N.T.S.

NOTE:
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D	Prepared by: RJR ENGINEERING & CONSULTING, INC.	GPR: _____	APR: 4452-010-017	RJR DWG. NO.	GRADING AND DRAINAGE DETAILS	SHEET CE-6
C	2345 Paloma Dr., Ste. 205, Van Nuys, CA 91411 • 818-708-0000 • 11500 Van Nuys Blvd., Ste. 400, Van Nuys, CA 91411 • 818-708-0000	TMT: _____	UT: _____	PROJ. NO.	SINGLE FAMILY RESIDENTIAL REMODEL	OF CE-6
B	C-58383	12-31-20	10-15-19	6060.60	23325 MALIBU COLONY ROAD	DRAWING NO.
A	ROBERT W. ANDERSON	R.C.C. NO.	EXP. DATE	OWNER	MALIBU, CALIFORNIA	DETAILS

City of Malibu



D				Prepared by	RJR ENGINEERING & CONSULTING, INC.	DATE	4452-010-017		PLR DWG. NO.	GRADING AND DRAINAGE DETAILS SINGLE FAMILY RESIDENTIAL REMODEL 23325 MALIBU COLONY ROAD MALIBU, CALIFORNIA	SHEET	CE-7
C				Reviewed by	2345 Palms Dr., Ste. 200, Van Nuys, CA 91411 805-445-3000 805-445-3001 805-445-3002	DATE	12-31-20		PLR DWG. NO.		CE-8	
B				Drawn by	2345 Palms Dr., Ste. 200, Van Nuys, CA 91411 805-445-3000 805-445-3001 805-445-3002	DATE	12-31-20		PLR DWG. NO.		CE-9	
A				Check by	2345 Palms Dr., Ste. 200, Van Nuys, CA 91411 805-445-3000 805-445-3001 805-445-3002	DATE	12-31-20		PLR DWG. NO.		CE-10	
Δ				Approved by	2345 Palms Dr., Ste. 200, Van Nuys, CA 91411 805-445-3000 805-445-3001 805-445-3002	DATE	12-31-20		PLR DWG. NO.		CE-11	
DESCRIPTION OF REVISION				RSE	APP	DATE					DRAWING NO.	

BIOFILTRATION NOTES:

DESIGN NOTES:

1. THE BIORETENTION BMP FACILITY SHALL HAVE A MAXIMUM PONDING DEPTH OF 18" WITH 6" OF FREE BOARD.
2. SIDE SLOPES OF THE FACILITY SHALL NOT EXCEED 2:1 (HORIZONTAL TO VERTICAL). SLOPES SHALL BE PLANTED ACCORDING TO THE PLANTING REQUIREMENTS HEREON.
3. ANY SPECIFIED UNDERDRAIN SHALL BE 6" SLOTTED PVC. SLOTS SHALL BE .04 TO .1 INCH WIDE AND BE 1 TO 1.25 INCHES LONG. SPACING SHALL BE SUCH THAT PIPE HAS A MIN. OF 1 SQUARE INCH OPENING PER LINEAL FOOT. SLOPE UNDERDRAIN AT 0.005 MIN.
4. A VERTICAL 12" PVC TESTING WELL SHALL BE INSTALLED WITHIN THE BIORETENTION FACILITY. THE PIPE SHALL EXTEND 24" ABOVE THE SURFACE AND BE EQUIPPED WITH A REMOVABLE PVC CAP AT THE SURFACE.
5. A FIRESTONE POND LINER SHALL BE PLACED VERTICALLY ALONG THE SIDE ADJACENT TO THE PUBLIC RIGHT OF WAY. THE LINER SHALL NOT BE PLACED OR LAP TO THE BOTTOM OF THE BIO-RETENTION UNIT.
6. PLANTING MEDIA SHALL BE PER PLAN AND BE IN CONFORMANCE WITH THE PLANTING SPECIFICATIONS LISTED HEREON.
7. THE GRAVEL LAYER SHALL BE CLEAN GRAVEL WITH A VOID RATIO OF 30% TO 40%. THE GRAVEL LAYER SHALL BE COMPLETELY WRAPPED IN WRAP 140N FILTER FABRIC AND BE PLACED ON NATURAL EARTH. ALL WRAP ENDS SHALL BE OVERLAPPED A MIN. OF 18".

PLANTING MEDIA NOTES:

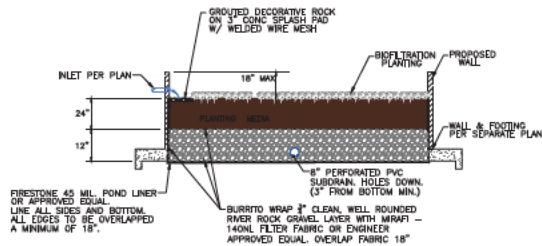
8. THE PLANTING MEDIA PLACED IN THE BIOFILTRATION UNIT SHALL BE HIGHLY PERMEABLE AND HIGH IN ORGANIC MATTER. PLANTING MEDIA SHALL CONSIST OF
 - A. 60% TO 80% FINE SAND
 - B. 20% TO 40% COMPOST
 - C. ORGANIC MATERIAL SHALL BE 35% TO 75% DRY WEIGHT BASIS
 - D. PH RANGE SHALL BE 6.5 TO 8.0
9. SAND MIXED IN THE PLANTER MEDIA SHALL BE FREE OF STONES, STUMPS, ROOTS OR OTHER SIMILAR OBJECTS LARGER THAN 5 MILLIMETERS.
10. COMPOST SHALL BE FREE OF STONES, STUMPS, ROOTS OR OTHER SIMILAR OBJECTS LARGER THAN 2".
11. MULCH MAY BE PLACED AT A DEPTH OF 2 TO 4 INCHES. MULCH SHALL BE WELL ADDED, SHREDDED OR CHIPPED WOODY DEBRIS OR PLANT MATERIAL AND BE FREE OF WEED SEEDS, SOIL, ROOTS, BARK OR BRANCH WOOD. GRASS CLIPPINGS OR BARK SHALL NOT BE USED.
12. PLANTING MEDIA SHALL BE PLACED TO ACHIEVE A LONG TERM INFILTRATION RATE OF 5 INCHES PER HOUR. SOIL SHALL ALSO RETAIN SUFFICIENT MOISTURE RETENTION TO SUPPORT VIGOROUS PLANT GROWTH.
13. THE CONTRACTOR SHALL OBTAIN SOIL ANALYSIS AND TESTING BY A GEOTECHNICAL LAB FOR MOISTURE AND COMPACTION. COMPACTION SHALL BE 85 PERCENT (MAXIMUM).

PLANTING NOTES:

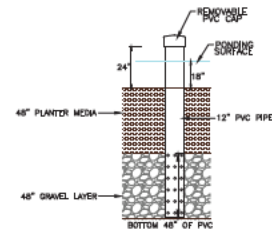
14. PLANT MATERIALS SHALL BE TOLERANT OF SUMMER DROUGHT, PONDING FLUCTUATIONS AND SATURATED SOIL CONDITIONS FOR 48 TO 96 HOURS.
15. IT IS RECOMMENDED THAT A MINIMUM THREE TYPES OF TREE, SHRUBS AND/OR HERBACEOUS GROUNDCOVER BE INCORPORATED TO PROTECT AGAINST FACILITY FAILURE DUE TO DISEASE AND INSECT INFESTATIONS OF A SINGLE SPECIES.
16. NATIVE PLANT SPECIES AND/OR HARDY CULTIVARS THAT ARE NOT INVASIVE AND DO NOT REQUIRE CHEMICAL INPUTS SHOULD BE USED TO THE MAXIMUM EXTENT PRACTICABLE.
17. PLANT ROOTING DEPTHS SHALL NOT DAMAGE UNDERDRAIN.
18. PRIOR TO INSTALLATION, A LICENSED LANDSCAPE ARCHITECT SHALL CERTIFY THAT ALL PLANTS, UNLESS SPECIFICALLY PERMITTED CONFORM TO THE ABOVE STANDARDS.

IRRIGATION NOTES:

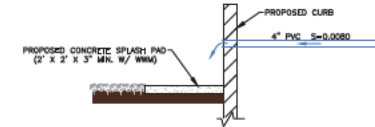
19. IRRIGATION WILL BE REQUIRED UNTIL PLANTS ARE ESTABLISHED AND MAY BE REQUIRED DURING PROLONGED DRY PERIODS.
20. AN IRRIGATION SYSTEM SHALL BE DESIGNED AND MAINTAINED TO PREVENT OVER WATERING. REGULAR WATERING SHALL BE HALTED WHEN PLANTS HAVE BECOME ESTABLISHED. (2-3 YEARS).
21. GOVERNMENT AGENCIES WITH JURISDICTION MAY HAVE ADDITIONAL REQUIREMENTS FOR LANDSCAPING AND IRRIGATION. IT IS THE RESPONSIBILITY OF THE APPLICANT TO COORDINATE WITH OTHER AGENCIES TO MEET THEIR REQUIREMENTS WHILE MAINTAINING COMPLIANCE WITH THE COUNTY OF LOS ANGELES.



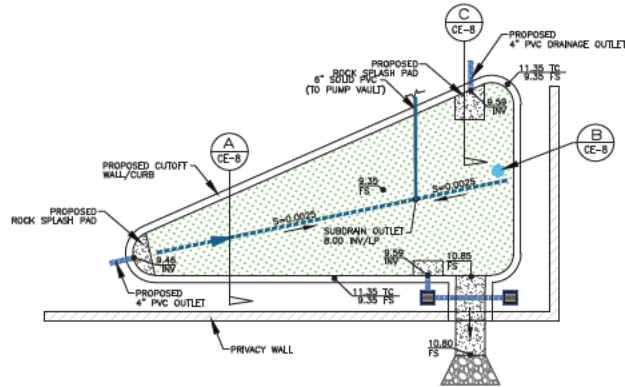
A BIOFILTRATION PLANTER
CE-8 N.T.S.



B MONITORING WELL
CE-8 N.T.S.



C BIOFILTRATION PLANTER INFLOW DETAIL
CE-8 N.T.S.



D BIOFILTRATION PLANTER
CE-8 N.T.S.

NOTE:
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D				Prepared by: RJR ENGINEERING & CONSULTING, INC.	DATE: 12-31-20	10-16-19	DATE	PRJ. NO. 6060.60	OWNER	RJR ENG. NO.	GRADING AND DRAINAGE DETAILS	SHEET CE-8
C				2345 Malibu Dr., Ste. 205, Malibu, CA 90263	1.6 (Santa Monica Blvd., Ste. 400, Santa Monica, CA 90401)	1-800-451-7272					SINGLE FAMILY RESIDENTIAL REMODEL	OF CE-8
B				2345 Malibu Dr., Ste. 205, Malibu, CA 90263	1.6 (Santa Monica Blvd., Ste. 400, Santa Monica, CA 90401)	1-800-451-7272					23325 MALIBU COLONY ROAD	DRAWING NO.
A				2345 Malibu Dr., Ste. 205, Malibu, CA 90263	1.6 (Santa Monica Blvd., Ste. 400, Santa Monica, CA 90401)	1-800-451-7272					MALIBU, CALIFORNIA	
Δ	DESCRIPTION OF REVISION	REV	APP	DATE	ROBERT W. ANDERSON	RJC	DATE	PRJ. NO. 6060.60	OWNER	RJR ENG. NO.		

City of Malibu

EROSION AND SEDIMENT CONTROL PLAN / LOCAL SWPPP

CITY OF MALIBU

23325 MALIBU COLONY ROAD
MALIBU, CALIFORNIA

EROSION AND SEDIMENT CONTROL PLAN (ESCP) GENERAL NOTES

- IN CASE OF EMERGENCY CALL _____ ROBERT W. ANDERSON AT 805-65-1095
- TOTAL DISTURBED AREA 0.29 ACRES WDID# _____
- A STANDBY CREW FOR EMERGENCY WORK SHALL BE AVAILABLE AT ALL TIMES DURING THE RAINY SEASON (NOVEMBER 1 TO APRIL 15). NECESSARY MATERIALS SHALL BE AVAILABLE ON-SITE AND STOCKPILED AT CONVENIENT LOCATIONS TO FACILITATE RAPID CONSTRUCTION OF EMERGENCY DEVICES WHEN RAIN IS IMMINENT.
- EROSION CONTROL DEVICES SHOWN ON THIS PLAN MAY BE REMOVED WHEN APPROVED BY THE BUILDING OFFICIAL IF THE DRAINAGE OPERATION HAS PROCEEDED TO THE POINT WHERE THEY ARE NO LONGER REQUIRED.
- GRADED AREAS ADJACENT TO FILL SLOPES LOCATED AT THE SITE PERIMETER MUST DRAIN AWAY FROM THE TOP OF SLOPE AT THE CONCLUSION OF EACH WORKING DAY. ALL LOOSE SOILS AND DEBRIS THAT MAY CREATE A POTENTIAL HAZARD TO OFF-SITE PROPERTY SHALL BE STABILIZED OR REMOVED FROM THE SITE ON A DAILY BASIS.
- ALL SILT AND DEBRIS SHALL BE REMOVED FROM ALL DEVICES WITHIN 2 HOURS AFTER EACH RAINSTORM AND BE DISPOSED OF PROPERLY.
- A GUARD SHALL BE PORTED ON THE SITE WHENEVER THE DEPTH OF WATER IN ANY DEVICE EXCEEDS TWO FEET. THE DEVICE SHALL BE DRAINED OR PUMPED DRY WITHIN 2 HOURS AFTER EACH RAINSTORM. PUMPING AND DRAINING OF ALL BASINS AND DRAINAGE DEVICES MUST COMPLY WITH THE APPROPRIATE BMP FOR DRAINAGE OPERATIONS.
- THE PLACEMENT OF ADDITIONAL DEVICES TO REDUCE EROSION DAMAGE AND CONTAIN POLLUTANTS WITHIN THE SITE IS LEFT TO THE DISCRETION OF THE FIELD ENGINEER. ADDITIONAL DEVICES AS NEEDED SHALL BE INSTALLED TO RETAIN SEDIMENTS AND OTHER POLLUTANTS ON-SITE.
- DESIGN BASINS MAY NOT BE REMOVED OR MADE INOPERABLE BETWEEN NOVEMBER 1 AND APRIL 15 OF THE FOLLOWING YEAR WITHOUT THE APPROVAL OF THE BUILDING OFFICIAL.
- STORM WATER POLLUTION AND EROSION CONTROL DEVICES ARE TO BE MODIFIED AS NEEDED AS THE PROJECT PROGRESSES. THE DESIGN AND PLACEMENT OF THESE DEVICES IS THE RESPONSIBILITY OF THE FIELD ENGINEER. PLANS REPRESENTING CHANGES MUST BE SUBMITTED FOR APPROVAL IF REQUESTED BY THE BUILDING OFFICIAL.
- EVERY EFFORT SHOULD BE MADE TO ELIMINATE THE DISCHARGE OF NON-STORM WATER FROM THE PROJECT SITES AT ALL TIMES.
- ERODED SEDIMENTS AND OTHER POLLUTANTS MUST BE RETAINED ON-SITE AND MAY NOT BE TRANSPORTED FROM THE SITE VIA STREET FLOW, SWALES, AREA DRAINS, NATURAL DRAINAGE COURSES OR WIND.
- STOCKPILES OF EARTH AND OTHER CONSTRUCTION RELATED MATERIALS MUST BE PROTECTED FROM BEING TRANSPORTED FROM THE SITE BY THE FORCES OF WIND OR WATER.
- FUELS, OILS, SOLVENTS AND OTHER TOXIC MATERIALS MUST BE STORED IN ACCORDANCE WITH THEIR LISTING AND ARE NOT TO CONTAMINATE THE SOILS AND SURFACE WATERS. ALL APPROVED STORAGE CONTAINERS ARE TO BE PROTECTED FROM THE WEATHER. SPILLS MUST BE CLEANED UP IMMEDIATELY AND DISPOSED OF IN A PROPER MANNER. SPILLS MAY NOT BE WASHED INTO THE DRAINAGE SYSTEM.
- EXCESS OR WASTE CONCRETE MAY NOT BE WASHED INTO THE PUBLIC WAY OR ANY OTHER DRAINAGE SYSTEM. PROVISIONS SHALL BE MADE TO RETAIN CONCRETE WASTES ON-SITE AND DISPOSED OF IN A PROPER MANNER.
- DEVELOPER/CONTRACTORS ARE RESPONSIBLE TO INSPECT ALL EROSION CONTROL DEVICES AND BMPs ARE INSTALLED AND FUNCTIONING PROPERLY IF THERE IS A 50% OR GREATER PROBABILITY OF PREDICTED PRECIPITATION AND AFTER ACTUAL PRECIPITATION. A CONSTRUCTION SITE INSPECTION CHECKLIST AND INSPECTION LOG SHALL BE MAINTAINED AT THE PROJECT SITE AT ALL TIMES AND AVAILABLE FOR REVIEW BY THE BUILDING OFFICIAL. COPIES OF THE SELF-INSPECTION CHECK LIST AND INSPECTION LOGS ARE AVAILABLE UPON REQUEST.
- TRASH AND CONSTRUCTION RELATED SOLID WASTES MUST BE DEPOSITED INTO A COVERED RECEPTACLE TO PREVENT CONTAMINATION OF RAINWATER AND DISPERSAL BY WIND.
- SEDIMENTS AND OTHER MATERIALS MAY NOT BE TRACKED FROM THE SITE BY VEHICLE TRAFFIC. THE CONSTRUCTION ENTRANCE ROADWAYS MUST BE STABILIZED SO AS TO INHIBIT SEDIMENTS FROM BEING DEPOSITED INTO THE PUBLIC WAY. ACCIDENTAL DEPOSITIONS MUST BE SWEEP UP IMMEDIATELY AND MAY NOT BE WASHED DOWN BY RAIN OR OTHER MEANS.
- ANY SLOPES WITH DISTURBED SOILS OR DEVELOPED OF VEGETATION MUST BE STABILIZED SO AS TO INHIBIT EROSION BY WIND AND WATER.
- AS THE ENGINEER/OWNER OF RECORD I HAVE SELECTED APPROPRIATE BMPs TO EFFECTIVELY MINIMIZE THE NEGATIVE IMPACTS OF THIS PROJECT'S CONSTRUCTION ACTIVITIES ON STORM WATER QUALITY. THE PROJECT OWNER AND CONTRACTOR ARE AWARE THAT THE SELECTED BMPs MUST BE MAINTAINED, MONITORED AND MAINTAINED TO ENSURE THEIR EFFECTIVENESS.

CIVIL ENGINEER QSD _____ DATE 10-19

31. AS THE PROJECT OWNER OR AUTHORIZED AGENT OF THE OWNER, I CERTIFY THAT THIS DOCUMENT AND ALL ATTACHMENTS WERE PREPARED UNDER MY DIRECT OR SUPERVISION IN ACCORDANCE WITH THE SYSTEM DESIGNED TO ENSURE THAT A QUALIFIED PERSONNEL PROPERLY GATHER AND EVALUATE THE INFORMATION SUBMITTED. BASED ON MY REVIEW OF THE PERSON OR PERSONS WHO MADE THE SYSTEM OR THE 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 UPDATE THE ESCP TO REFLECT CURRENT CONDITIONS OR FAILING TO PROPERLY AND/OR ADEQUATELY IMPLEMENT THE ESCP MAY RESULT IN REVOCATION OF GRADING AND/OR OTHER PERMITS OR OTHER SANCTIONS PROVIDED BY LAW.

OWNER OR AUTHORIZED REPRESENTATIVE _____ DATE _____

22. DEVELOPER/CONTRACTORS ARE RESPONSIBLE TO INSPECT ALL EROSION CONTROL DEVICES AND BMPs ARE INSTALLED AND FUNCTIONING PROPERLY AS REQUIRED BY THE STATE CONSTRUCTION GENERAL PERMIT. A CONSTRUCTION SITE INSPECTION CHECKLIST AND INSPECTION LOG SHALL BE MAINTAINED AT THE PROJECT SITE AT ALL TIMES AND AVAILABLE FOR REVIEW BY THE BUILDING OFFICIAL.

23. THE FOLLOWING BMP FROM THE 2009 CONSTRUCTION BMP HANDBOOK/PORTAL MUST BE IMPLEMENTED FOR ALL CONSTRUCTION ACTIVITIES AS APPLICABLE. AS AN ALTERNATIVE, DETAILS FROM CALTRANS STORM WATER QUALITY HANDBOOK CONSTRUCTION SITE BEST MANAGEMENT PRACTICES (BMP) MANUAL MAY BE USED. ADDITIONAL MEASURES MAY BE REQUIRED IF DEEMED APPROPRIATE BY THE BUILDING OFFICIAL.

STORM WATER POLLUTION CONTROL PLAN - STANDARD NOTES

This SWPPP Plan has been provided to address a local storm water requirements and supplement the SWPPP report where applicable.

Flow on and sediment controls are required to provide effective reduction or elimination of sediment related pollutants in stormwater discharges and authorized non-stormwater discharges from the site. Non-stormwater discharges consist of discharges which do not originate from precipitation events. Where appropriate, erosion and sediment control measures and erosion BMPs should be implemented to reduce the potential for sediment related pollutants from being discharged from the site.

The following is a list of construction materials that will be used and activities that will be performed that will have the potential to contribute pollutants other than sediment to stormwater runoff:

- Vehicle fluids including oil, grease, petroleum, and coolants
- Soil erosion
- Concrete curing compounds
- Concrete materials including underground structures and above ground structures
- General litter, tires and sub-base materials
- Paints, sealers and thinners
- Mortar mix
- BMP materials
- Treated lumber
- PCC rubble
- Landscape materials (Fertilizers)

Construction activities that have the potential to contribute sediment to stormwater discharges include:

- Clear and grub operations
- Grading operations
- Soil import operations
- Utility (excavation and underground operations)
- Landscaping

1. EROSION CONTROL MEASURES

Flow on control also referred to as soil stabilization consists of source control measures that are designed to prevent soil particles from being washed and becoming transported in stormwater runoff. Erosion control BMPs protect the soil surface by covering and binding soil particles.

Only areas that will be subject immediate construction activities (within 7 days) will be clear and grubbed. The primary goal of this plan will be to prevent erosion and sediment control measures where possible to reduce the potential for sediment related pollutants from being discharged from the site.

This construction project will implement the following practices to provide effective erosion control:

- Prevent erosion by maintaining vegetation where required and when feasible.
- The area of soil disturbing operations shall be controlled such that the Contractor is able to implement erosion control BMPs quickly and effectively.
- Apply temporary erosion control to remaining areas of non-vegetated areas as required. Reapply as necessary to maintain areas.
- Stabilize non-vegetated areas within 3 days of completion of construction activities or sooner if stipulated by local rules or other methods.
- Use soil erosion control blankets to stabilize disturbed areas.
- Apply seed planting, mulch and other erosion control measures to areas disturbed by construction activities.
- Prevent the completion of construction activities to remaining areas of non-vegetated areas.

Sufficient erosion control materials shall be maintained on-site to allow implementation in accordance with this Stormwater Management Plan (Table 1). Table 1 provides a list of approved erosion control measures and the corresponding specifications from CASQA.

Table 1: Standard Erosion Control BMP

CASQA Fact Sheet	BMP Name
EC-1	Scheduling
EC-2	Preservation of Existing Vegetation
EC-3	Hydraulic Mulch
EC-4	Hydroseed
EC-5	Soil Blanks
EC-6	Stem Mulch
EC-7	Geotextiles and Mats
EC-8	Wood Mulching
EC-9	Earth Dike and Drainage Swales
EC-10	Vehicle Displacement Devices
EC-11	Slope Drains
EC-12	Stream Bank Stabilization
EC-13	Compost Disks
EC-14	Soil Preparation/Regrading
EC-15	Non-Vegetated Stabilization
EC-16	Wind Erosion Control

Special attention is drawn to the following minimum measures:

- Scheduling
- Major grading operations are scheduled to occur during non-eroding periods.
- Erosion and sediment control practices are conducted year-round.
- Soil exposure shall be limited and staged as appropriate.

- Schedule road grading and hauling during dry periods.
- Implement temporary erosion control practices prior to the rainy season.

EC-2 Finalization of Existing Vegetation

- Existing vegetation shall be preserved to the maximum extent practicable.
- Approximately 80% of the project area will be left undisturbed.
- Minimize contractor access through construction areas to prevent erosion during operation on side of the road grading and lay-down areas.

EC-3 Hydro and Mulch

- Use of non-paper based hydraulic mulch should be used for temporary erosion control on exposed areas prior to significant forecasted rain events.
- Apply hydraulic mulch to stockpiles or other exposed soils adjacent to access roads for temporary erosion control.
- Allow 24 hours for drying prior to a forecasted rain event.

EC-4 Hydro and Mulch

- Contractor should consult the local NICS office for seed mixtures.
- Apply hydro mulch prior to rain events on final graded areas.
- Hydro mulch should be used in conjunction with EC-3 for temporary erosion control.
- Additional applications may be necessary until adequate vegetation is established (70% coverage).

EC-5 Soil Blankets

- Soil blankets may be applied to any areas that will remain disturbed for more than two weeks.
- Soil blankets shall be applied as needed.
- Apply soil blankets for temporary wind erosion protection.
- Apply soil blankets on access roads for wind erosion protection and erosion.
- Use of soil binder material shall be selected by the contractor for particular application and also meet CASQA standards and specifications.

EC-7 Geotextiles and Mats

- Erosion control blankets may be used to stabilize areas that will remain disturbed for more than two weeks.
- Erosion control blankets may be used in areas of constant flow which has.
- Erosion control blankets may be used for areas around the Access Crossing.
- Erosion control blankets will be repaired or replaced as needed.
- Spilling and material of blankets shall be selected by the contractor applied according to CASQA standards and specifications.
- Use of 10-mil plastic sheeting may be used for temporary erosion control on stock piles or spoil piles of material should be secured with geotextiles and/or be secured around the base perimeter control shall be implemented in accordance with CASQA requirements.

The SWPPP will implement erosion control BMPs as needed to minimize or prevent soil loss from water forces from the disturbed limits of the project. BMPs will be applied following program of grading operations.

The locations of erosion control BMPs may change as the project progresses and disturbed areas are expended. Copies of this plan shall be maintained as required.

2. SEDIMENT CONTROL

Sediment controls are temporary or permanent structural measures that are intended to complement the selected erosion control measures and reduce sediment discharges from construction areas. Sediment control measures are designed to intercept and settle out soil particles that have been detached and transported by the force of water.

Sufficient quantities of temporary sediment control materials will be maintained on-site throughout the duration of the project to allow implementation of temporary sediment controls in the event of predicted rain and for rapid response to failures or emergencies in accordance with other permit requirements (and as described in this SWPPP where applicable). This includes implementation requirements for sediment control measures before the onset of rain.

Sufficient sediment control measures should be in place at all times to control sediment on the construction site. Table 2 provides a list of approved sediment control measures and the corresponding specifications from CASQA.

Table 2: Standard Sediment Control BMP

CASQA Fact Sheet	BMP Name
SE-1	Silt Fence
SE-2	Sediment Basin
SE-3	Sediment Trap
SE-4	Check Dam
SE-5	Fiber Rolls
SE-6	Geotextile Bag Berms
SE-7	Straw Bunting
SE-8	Sandbag Barrier
SE-9	Stream Bank Protection
SE-10	Manufactured Linear Sediment Controls
SE-11	Compost Sock and Berms
SE-12	Builder Bags

These temporary sediment control BMPs shall be implemented on-site as necessary in accordance with the guidelines within these plans and in accordance with the BMP Fact Sheets. Where conflicts exist, the interpretation and recommendations of the QSD (for CUP or other) or registered engineer shall govern. Special attention is drawn to the following measures:

ARCHITECT

KONAC DESIGN STUDIO
11828 PICO BOULEVARD
LOS ANGELES, CA 90064
(310) 573-2621
ATTN: SHAWN BROWN

CONTRACTOR

TBD
TBD
TBD
TBD
TBD

Civil Engineer

RJR ENGINEERING GROUP
2340 PALMA DRIVE, SUITE 200
VENTURA, CA 93003
(805) 485-5935
(805) 485-6498 FAX

QSD/QSP

ROBERT W. ANDERSON
RJR ENGINEERING GROUP
3520 CAMINO AVE.
OXFORD, CA 93030
(805) 485-3535
(805) 485-6498 FAX

INDEX TO PROJECT DRAWINGS	
DESCRIPTION	SHEET NO.
ESCP GENERAL NOTES	1
ESCP NOTES AND DETAILS	2
ESCP DETAILS	3
EROSION AND SEDIMENT CONTROL PLAN	4

Total Disturbed Area = 0.29 Acres

State WDID No. N/A

City of Malibu

RJR ENG. NO.

PROJ. NO.

6060.60

EROSION & SEDIMENT CONTROL PLAN/LOCAL SWPPP

STORMWATER NOTES & DETAILS

SINGLE FAMILY RESIDENTIAL REMODEL

23325 MALIBU COLONY ROAD

MALIBU, CALIFORNIA

SHEET

OF

DRAWING NO.

SWPPP

STORM WATER POLLUTION CONTROL PLAN - STANDARD NOTES (CONTINUED)

- SE-1 Site fence**
- Site fence may be used as a perimeter where conditions warrant such as around the staging / lay down area along contour only.
 - Site fence could be used in areas of short flow to protect adjacent easements and is not permitted in areas of concentrated flow.
 - Site fence will be repaired and replaced as needed according to findings of inspections.

SE-4 Check dams

- Check dams (and similar devices) shall not be composed of sand, but will be filled with granular material only.
- Spacing and bag placement shall be per specific design herein or per CASQA.
- Check dams shall be installed and maintained according to CASQA.

SE-5 Filter Rolls

- Filter rolls may be used around temporary stockpiles for perimeter control.
- Filter rolls may be used as perimeter control for short duration exposed areas in place of site fences.
- Filter rolls shall be installed and maintained according to CASQA specifications.

Note: All bags used in sediment control measures shall be used as directed and no sand will be permitted.

1. TRACKING CONTROL MEASURES

Table 3 provides a list of approved tracking control measures and the corresponding specifications from CASQA that shall be implemented on the project.

Table 3: Standard Tracking Control BMP Measures

CASQA Fact Sheet	BMP Name
TC-1	Stabilized Construction Entrance and Exit
TC-2	Stabilized Construction Roadway
TC-3	Entrance/Exit Tire Wash

Special attention is drawn to the following to reduce sediment tracking from the construction site onto site or public road:

TC-1 Stabil and control access

- A stabilized construction entrance will be installed where project ends to minimize tracking.
- On-site stockpiles shall be placed to a depth of 12 inches shall be used for stabilized entrance. Specific dimension will vary per location.
- On-site stockpiles will be cleaned and maintained as needed.
- Shovel piles will be installed on the grade and shall be located at least 10 feet from the roadway, extend to within 10 feet of the termination of the layout to a low adequate thickness of sediment and debris.

TC-2 Stabil and control access: roadway

- A stabilized construction roadway will be used for access and hauling.
- Use of WET or EC-1 will likely be needed to minimize wind erosion.
- Minimum site speed to prevent erosion during construction along roads.

The SWPPP shall construct stabilized construction entrances / exits for the project site. Stabilized construction roadways will be implemented by the SWPPP as necessary to minimize potential dust and erosion of exposed soils during construction.

2. WIND EROSION CONTROL

Special attention is drawn to the following BMPs to control dust for construction sites:

WE-1 Wind erosion control

- Potable water will be applied to the soil as soon as the project is started to control dust and maintain moisture for site compaction.
- Water will be applied by water trucks as needed. Water application rates will be concentrated during the summer and fall months.
- Water conservation practices will be used in conjunction with dust control measures to prevent discharges associated with dust control applications.
- Plastic covers shall be used to prevent dust dispersal of sediment from stockpiles as necessary.

EC-3 Soil Binders

- Soil binders may be applied to any areas that will remain disturbed for more than two weeks.
- erosion control shall be applied at sites as sufficient enough to adequately control wind erosion. Additionally, vehicle traffic speed limits should be kept low to minimize dust generation. application of dust palliatives on to haul roads or access roads shall be implemented at sites as sufficient enough to minimize dust generation from vehicle traffic.
- Soil binders shall be reapplied as needed.
- Apply soil binders for temporary wind erosion protection.
- Apply soil binders on access roads for wind erosion protection and erosion control.
- Use of soil binder material shall be selected by the contractor for particular application and shall meet CASQA standards and specifications.

Application of water shall be used to minimize dust generation from wind erosion forces. During windy conditions (forecasted and / or actual at 20 mph or greater) wind erosion shall be applied at sites as sufficient enough to adequately control wind erosion. Additionally, vehicle traffic speed limits should be kept low to minimize dust generation. application of dust palliatives on to haul roads or access roads shall be implemented at sites as sufficient enough to minimize dust generation from vehicle traffic.

3. NON-STORMWATER CONTROLS AND WASTE AND MATERIALS MANAGEMENT

The following non-stormwater control BMP selection table indicates the BMPs that shall be implemented to control sediment on the construction site.

Table 4: Standard Non-Stormwater and Waste and Materials Management

CASQA Fact Sheet	BMP Name
NS-1	Water Conservation Practices
NS-2	Decontaminating Operations
NS-3	Paving and Grading Operations
NS-4	Temporary Stormwater Control
NS-5	Clear Water Discharge
NS-6	Illicit Connection Discharge
NS-7	Potable Water Irrigation
NS-8	Vehicle and Equipment Cleaning
NS-9	Vehicle and Equipment Fueling
NS-10	Vehicle and Equipment Maintenance
NS-11	File Drilling Operations
NS-12	Concrete Curing
NS-13	Concrete Finishing
NS-14	Material and Equipment Use Over Water
NS-15	Decontamination Adjacent to Water
NS-16	Temporary Bath Plants

Non-stormwater as applicable BMPs shall be implemented at all times during site activities.

4. MATERIALS MANAGEMENT AND WASTE MANAGEMENT

Materials management control practices consist of implementing procedural and structural BMPs for handling, storing and using construction materials to prevent the release of these materials into stormwater discharges. The amount and type of construction materials to be utilized at the site will depend upon the type of construction and the length of the construction period. The materials may be used continuously, such as fuel for the engine or equipment, or the materials may be used for a specific period, such as soil binders for temporary stabilization.

Waste management consists of implementing procedural and structural BMPs for handling, storing and ensuring proper disposal of waste on or pre the release of these wastes into stormwater discharges.

Materials and waste management pollution control BMPs shall be implemented to minimize stormwater contact with construction materials waste and soil or use areas and to prevent materials and wastes from being discharged off-site. The primary mechanisms for stormwater or contact that shall be addressed include:

- Do not contact with precipitation.
- Consistently with stormwater run-on and runoff.
- Wind dispersion of loose materials.
- Do not discharge to the storm drain system through spills or dumping.
- Extended contact with some materials and wastes, such as asphalt cold mix and treated wood products which can leach pollutants into stormwater.

Table 5: Standard Temporary Materials Management BMPs

CASQA Fact Sheet	BMP Name
WM-01	Material Delivery and Storage
WM-02	Material Use
WM-03	Stockpile Management
WM-04	Spill Prevention and Control
WM-05	Solid Waste Management
WM-06	Hazardous Waste Management
WM-07	Contaminated Soil Management
WM-08	Concrete Waste Management
WM-09	Sanitary-Septic Waste Management
WM-10	Liquid Waste Management

5. POST CONSTRUCTION STORMWATER MANAGEMENT MEASURES

Post construction BMPs are permanent measures installed during construction designed to reduce or eliminate pollutant discharges from the site after construction is completed.

Where the site is subject to an MS4, an approved SWMP report and plan is required.

Post-Construction BMPs are noted on the plan (or as specified per the SWPPP).

6. BMP INSPECTION AND MAINTENANCE

Routine weekly inspections of BMPs, along with inspections before / during (as applicable) and after qualifying rain events are required (or as specified by the SWPPP if applicable). A BMP inspection checklist must be filled out for inspections and maintained on-site with the SWPPP when required.

BMPs shall be maintained regularly to ensure proper and effective functionality and as soon as practicable after a rain event. If necessary, corrective actions shall be implemented within 72 hours of identified deficiencies.

7. CONSTRUCTION SITE MONITORING PROGRAM

This Construction Site Monitoring Program was developed to address the following objectives:

- To demonstrate that the site is in compliance with the intent of these plans and erosion discharge (or standards established under the SWPPP if applicable) are maintained.
- To determine whether non-stormwater pollutants are present at the construction site and are causing or contributing to non-stormwater water quality violations.

- To determine whether immediate corrective actions, additional Best Management Practices (BMP) implementation, or SWPPP revisions are necessary to reduce pollutants in stormwater discharges and authorized non-stormwater discharges.
- To determine whether BMPs are effective in preventing or reducing pollutants in stormwater discharges and authorized non-stormwater discharges.

8. ROUTINE SITE OBSERVATIONS AND INSPECTIONS

Unless otherwise determined by a SWPPP, the site will be required to undergo the following:

- Visual inspections of Best Management Practices (BMPs)

- Visual monitoring of the site for storm related runoff to determine if excess stormwater discharges are occurring that require additional or modifications to the plan.

- Visual monitoring of the site for non-stormwater discharges

9. ROUTINE BMP INSPECTIONS

Inspections of BMPs are conducted to identify and record:

- BMPs that are properly installed.
- BMPs that need maintenance to operate effectively.
- BMPs that have failed or
- BMPs that could fail to operate as intended.

Table 6 provides a general checklist for use in routine inspections.

Table 6: General Checklist for Review of Site Conditions

NO.	DESCRIPTION
1.	Are all erosion control devices in place and functioning in accordance with the SWPPP and erosion control site map?
2.	Are all sediment traps, barriers, and basins clean and functioning properly?
3.	Are sediment controls in place at the site perimeter and storm drain inlets?
4.	Are all discharge points free of any noticeable pollutants?
5.	Are construction accessways stabilized adequately?
6.	Is sediment, debris, or mud being cleaned from public roads where they intersect with site access roads?
7.	Are all exposed slopes protected from erosion?
8.	Are all temporary stockpiles or construction materials located in approved areas (as shown on map) and protected from erosion?
9.	Are dust control measures being appropriately implemented?
10.	Are all materials and equipment properly covered?
11.	Are all material (paint, fuel, oil, etc.) handling and storage areas clean and free of spills and leaks?
12.	Are all equipment storage and maintenance areas clean and free of spills and leaks?
13.	Are all on-site traffic routes, parking, and storage of equipment and supplies restricted to designated areas as shown on site map?
14.	Is concrete washing conducted on-site? If so, are wash-out areas defined and maintained properly?
15.	Are there areas where construction activities have temporarily or permanently ended?
16.	Is construction debris or other litter being blown off-site?
17.	Are fuel storage areas equipped with secondary containment?
18.	Are off-site material storage areas being managed properly?
19.	Is the Notice of Permit Coverage posted in a location where the public can view it without entering the site?
20.	Other:

9.1 NON-STORMWATER DISCHARGE OBSERVATIONS

Each drainage area will be inspected at for the presence of or indications of prior unauthorized and authorized non-stormwater discharges.

Inspections will record:

- Presence or absence of any non-stormwater discharge (authorized or unauthorized).
- Pollutant characteristics (floating and suspended material, stream discoloration, turbidity, odor, etc.) and
- Source of discharge.

Table 7 provides a list of non-stormwater pollutants that may be encountered at sites that should be of particular concern. (See Adjacent Columns)

10. CONTRACTOR LIST

General Contractor

Sub-Contractor Responsible for Stormwater Management Implementation

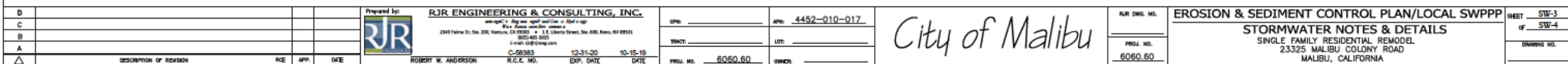
Table 7: Common Non-Viable Pollutants and Water Quality Indicator Constituents Worksheet

General Waste Activity / Potential Pollutants	Water Quality Indicators of Potential Constituents
Adhesives	COD, Phenols, SVOCs
Asphalt Work	VOC
Cleaning	pH
Acids	pH
Blindings	Residual Chlorine
TPSP	Phosphate
Solvent	VOC's, SVOC
Detergents	MMA's
Concrete / Masonry Work	
Sealers (Methyl methacrylate)	SVOC
Curing Compounds	VOC's, SVOC's, pH
Asb, Slag, Sand	pH, Al, Ca, V, Zn
Drywall	Cu, Al, General Minerals
Framing / Carpentry	
Treated Wood	Cu, Cr, As, Zn
Particle Board	Formaldehyde
Untreated Wood	ROD
Gravel / Earthwork	
Grasses / Lawn Amendments	pH
Contaminated Soil	Constituents Specific to Contaminant
Heating Ventilation, Air Conditioning	Iron
Insulation	Al, Zn
Landscaping	
Pesticides / Herbicides	Product Dependent - See Label
Fertilizer	TKN, NO ₃ , BOD, COD, DOC, Sulfate, NH ₄ , Phosphate, Potassium
Aluminum Sulfate	Al, TDS, Sulfate
Liquid Waste	Constituents specific to product
Painting	
Resin	COD, VOCs
Thinners	COD, SVOCs
Paint Strippers	VOCs, SVOCs, Metals
Lacquers, Varnishes, Enamels	COD, VOCs, SVOC
Sealers	COD
Adhesives	Phenols, SVOCs
Planting / Vegetation Management	
Vegetation stockpiles	ROD
Fertilizer	
Pesticides / Herbicides	Product Dependent
Plumbing	
Solder, flux, pipe fitting	Cu, Pb, Sn, Zn
Pipe and Fittings	Residual Chlorine, Cu, Chloramines
Removal of EXISTING STRUCTURES	Zn, VOCs, PCBs, Also See Other Applicable Activity Categories Below
Roofing	Cu, Pb, VOCs
Sanitary Waste (sewer Line Breaks and Portable Toilets)	ROD, Total / Total Coliform
Soil Preparation / Amendment / Dust Control	
Polymer / Co-polymer	TKN, NO ₃ , BOD, COD, DOC, Sulfate, N
Liquid Sulfate	TKN, Ammonia
Pillars	COD, TOC
Cover / Plant Grows	COD, TOC, Ni
Solid Waste (Landfill)	ROD
Utility Line Testing and Flushing	Residual Chlorine, Chromium
Vehicle and Equipment Use	
Batteries	Sulfuric Acid, Pb, pH

Adapted from Attachment 5, California SWPPP/BMP Preparation Manual, February 2003, and CASQA Construction BMP Handbook, 2003.



D	C	B	A	DESCRIPTION OF REVISION	REV	APP	DATE	Prepared by: RJR ENGINEERING & CONSULTING, INC. 2345 Palms Dr., Ste. 205, Torrance, CA 90503 • 1.6. Liberty Street, Ste. 400, Torrance, NY 09031 P: 310.201.1000 F: 310.201.1001 E: info@rjr.com	GPR: _____ TMT: _____ PRL NO.: 6060.60	APR: 4452-010-017 UTM: _____ OWNER: _____		RJR DWS NO.: _____ PRL NO.: 6060.60	EROSION & SEDIMENT CONTROL PLAN/LOCAL SWPPP STORMWATER NOTES & DETAILS SINGLE FAMILY RESIDENTIAL REMODEL 23325 MALIBU COLONY ROAD MALIBU, CALIFORNIA	SHEET SW-2 OF SW-4
									DRAWING NO.: _____					



CONTRACTOR TO USE NECESSARY MEANS TO ENSURE ZERO SEDIMENT IS TRANSPORTED OFF SITE. VEHICLE TIRES ARE TO BE WASHED FREE OF SEDIMENT. CONSTRUCTION ENTRANCE AND OR DAILY STREET SWEEPING SHOULD BE UTILIZED IF NECESSARY.

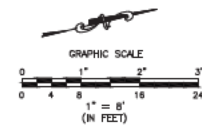
NOTE: THE CONTRACTOR SHALL INSTALL A NEW SIGN STATING "IT IS ILLEGAL TO DISCHARGE POOL, SPA OR WATER FEATURE WATERS TO A STREET, DRAINAGE COURSE OR STORM DRAIN PER MMC 13.04.060(D)(5)." THE SIGN SHALL BE POSTED IN THE FILTRATION AND/OR PUMPING AREA FOR THE PROPERTY.

EROSION CONTROL LEGEND

- X—X— SILT FENCE PER DETAIL (F)
- (A)— GRAVEL BAGS (A) MODIFIED AS SHOWN
- (P)— INLET PROTECTION PER (P) MODIFIED AS SHOWN
- (B)— GRAVEL BAGS (B) MODIFIED AS SHOWN

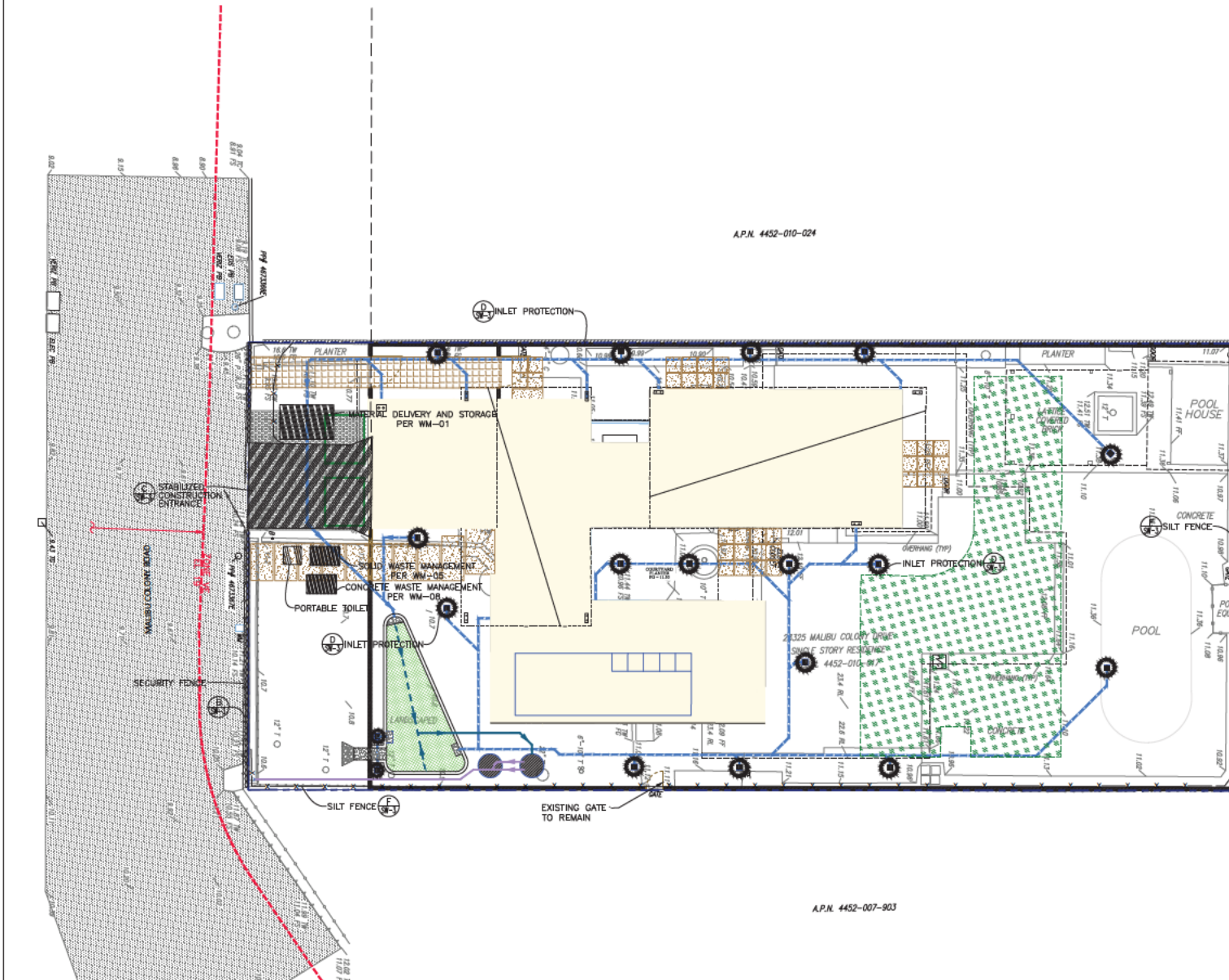
NOTE: THE EROSION AND SEDIMENT CONTROL MEASURES SHOWN HEREON MAY REQUIRE ADJUSTMENTS AND/OR ADDITIONAL MEASURES DUE TO FIELD/WEATHER/CONSTRUCTION PHASING CONDITIONS. THE CONTRACTOR SHALL BE PREPARED TO MAKE THE APPROPRIATE ADJUSTMENTS AS REQUIRED.


NOTE: THE CONTRACTOR SHALL INSTALL INLET PROTECTION ON ALL DOWNSTREAM INLETS.

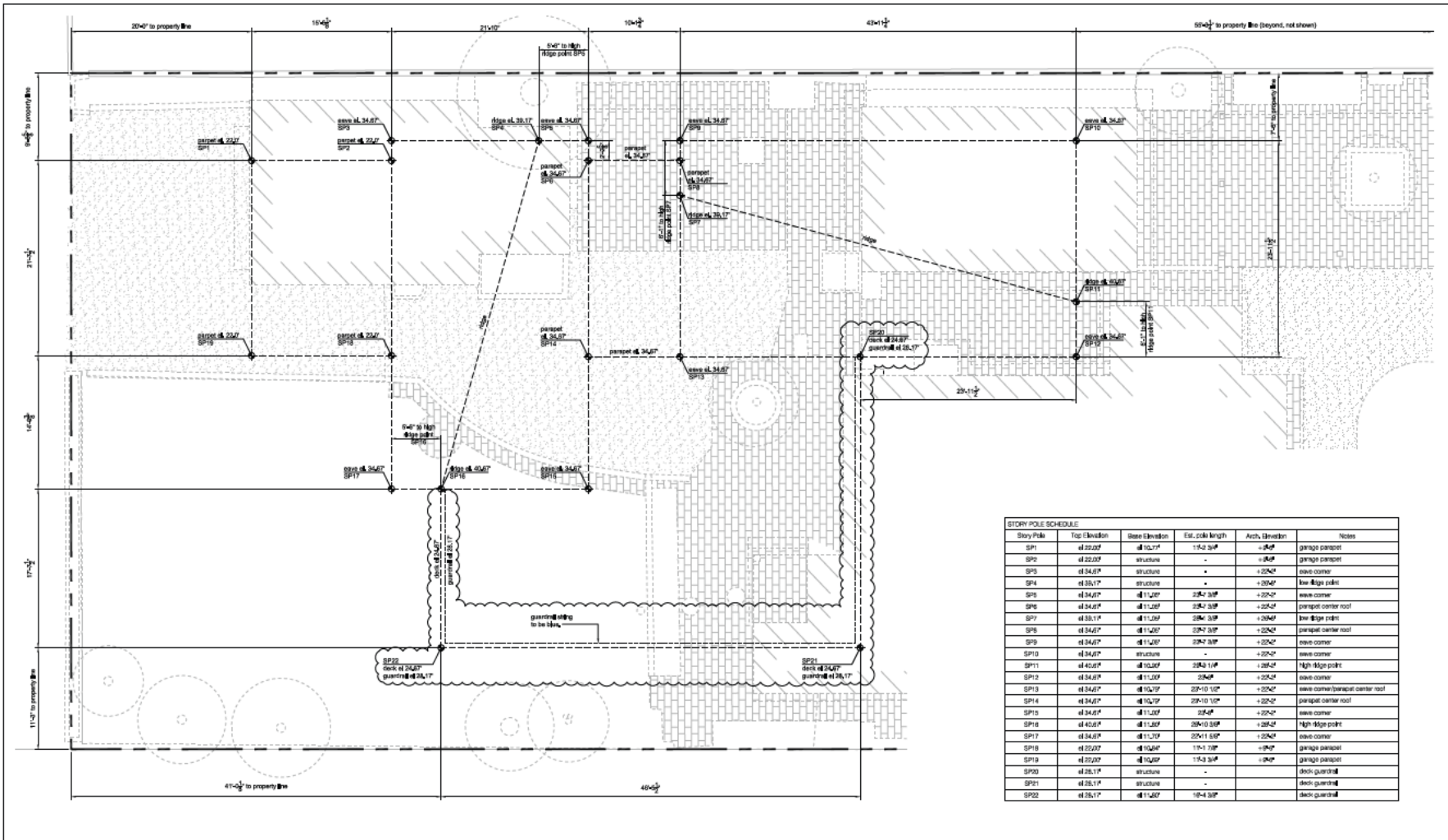


A.P.N. 4452-010-024

A.P.N. 4452-007-903



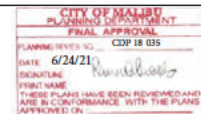
D					<div>Prepared by: RJR ENGINEERING & CONSULTING, INC.  2345 Palms Dr., Ste. 205, Van Nuys, CA 91411 P: 818-708-1111 F: 818-708-1112 E: info@rjr-engineering.com C-56363 R.C.C. NO. EXP. DATE ROBERT W. ANDERSON 12-31-20 10-15-19</div>	GP#:	APR#:	<div>City of Malibu</div>	<div>RJR DWS. NO. 6060.60</div>	<div>EROSION & SEDIMENT CONTROL PLAN/LOCAL SWPPP STORMWATER PLAN SINGLE FAMILY RESIDENTIAL REMODEL 23325 MALIBU COLONY ROAD MALIBU, CALIFORNIA</div>	SHEET	SW-4
C						TRACT#:	LOT#:				OF	SW-4
B						PROJ. NO.:	CHECK#:				DRAWING NO.	
A												
Δ	DESCRIPTION OF REVISION	REV	APP.	DATE								



Story Pole	Top Elevation	Base Elevation	Est. pole length	Arch. Elevation	Notes
SP1	+12.00'	+12.00'	14'-0"	+12.00'	garage ramp
SP2	+12.00'	-	-	+12.00'	garage ramp
SP3	+13.40'	-	-	+13.40'	base corner
SP4	+13.40'	-	-	+13.40'	base corner
SP5	+13.40'	+11.20'	2'-2"	+13.40'	base corner
SP6	+13.40'	+11.20'	2'-2"	+13.40'	garage center roof
SP7	+13.40'	+11.20'	2'-2"	+13.40'	base corner
SP8	+13.40'	+11.20'	2'-2"	+13.40'	garage center roof
SP9	+13.40'	+11.20'	2'-2"	+13.40'	base corner
SP10	+13.40'	-	-	+13.40'	base corner
SP11	+13.40'	+10.00'	3'-4"	+13.40'	high ridge point
SP12	+13.40'	+11.20'	2'-2"	+13.40'	base corner
SP13	+13.40'	+11.20'	2'-2"	+13.40'	base corner/garage center roof
SP14	+13.40'	+11.20'	2'-2"	+13.40'	garage center roof
SP15	+13.40'	+11.20'	2'-2"	+13.40'	base corner
SP16	+13.40'	+11.20'	2'-2"	+13.40'	high ridge point
SP17	+13.40'	+11.20'	2'-2"	+13.40'	base corner
SP18	+12.00'	+11.20'	1'-8"	+12.00'	garage ramp
SP19	+12.00'	+11.20'	1'-8"	+12.00'	garage ramp
SP20	+12.00'	-	-	+12.00'	deck guardrail
SP21	+12.00'	-	-	+12.00'	deck guardrail
SP22	+12.00'	+11.20'	1'-8"	+12.00'	deck guardrail

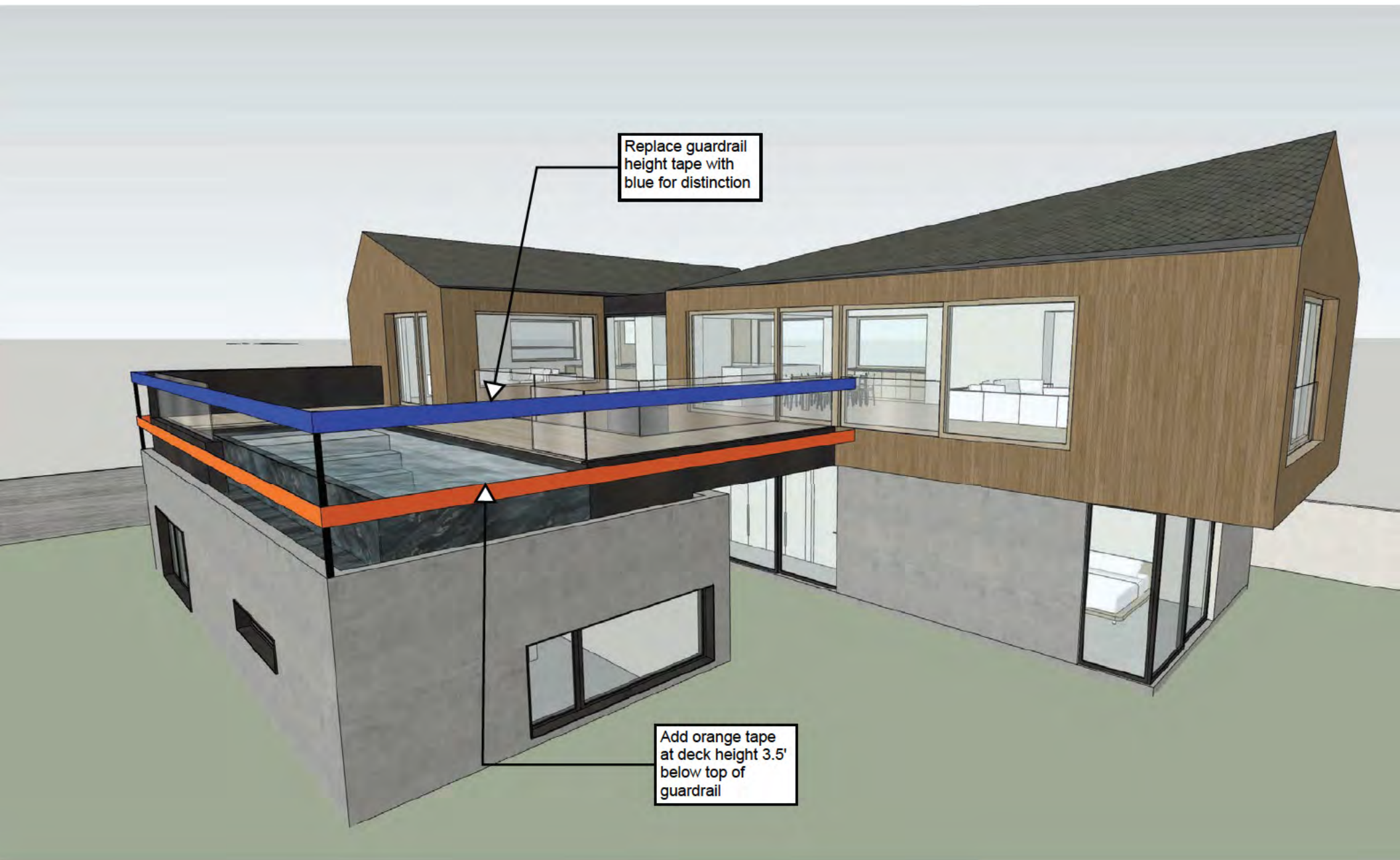
Story Pole Plan and Schedule
 3/16"x11" 01

- The top one foot (1'-0") of the story pole shall be painted with a double white/black paint. Markings shall also be made at 1' above finished or natural grade, whichever results in a lower building height, and at one foot (1'-0") increments above 10 feet. Sight orange construction mesh approximately one foot (1'-0") in width shall be placed around poles to show proposed roof and heights.
- If at any time the story poles become unsafe, they shall be repaired and reinstalled. The story poles shall be removed immediately if determined by the city to be a public safety issue.
- Materials: Story poles shall be constructed of 2"x4" lumber or other sturdy building material. PVC pipe is not acceptable. Story poles should be braced at base by use of guy wires or supports to ensure that they will withstand weather and all remain cornered. The guy wires should be tagged for safety purposes.
- Indication of story pole height: The elevations of the height of each story pole and the natural and finished grades shall be indicated on the plans, if requested by the case planner. The applicant shall also provide a detail on the plans showing the elevation of a typical story pole.
- Refer to D Survey for all existing site elevations.
- All of said elevations are the elevations in feet above sea level.



FOR STORY POLE INSTALLATION ONLY

Notes



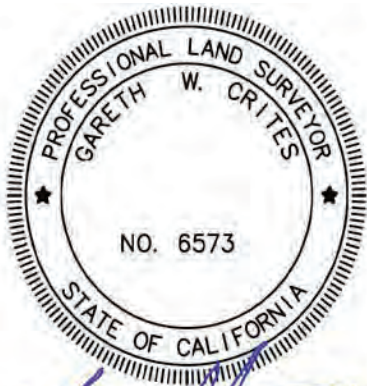
PEAK
SURVEYS INC.
Since 1976
CIVIL • SURVEY • DESIGN

STORY POLE ELEVATIONS CERTIFICATION

RE: 23325 Malibu Colony Rd, Malibu CA.

Date of Survey: 7/01/2021

Peak Surveys Inc. measured the height of the story poles/flag lines and found the elevations are set at the correct heights and locations per the revised "Story Pole Plan" from Kovac Design Studio, revised 6/23/2021, approved 6/24/2021.



Date 7/01/21

Gareth Crites, PLS 6573

JN 18-6194.SP



City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489 FAX (310) 456-7650

BIOLOGY REVIEW REFERRAL SHEET

TO: City of Malibu Biologist

FROM: City of Malibu Planning Department

REVISED DATE 07/06/2021

PROJECT NUMBER: CDP 18-035

JOB ADDRESS: 23325 MALIBU COLONY

APPLICANT / CONTACT: Marny Randall

APPLICANT ADDRESS: 909 Euclid Street, Suite #6
Santa Monica, CA 90403

APPLICANT PHONE #: (310)386-5521

APPLICANT FAX #:

APPLICANT EMAIL: marnyrandall@gmail.com

PLANNER: Raneika Brooks

PROJECT DESCRIPTION: Demo ESFR, NSFR and AOWTS

TO: Malibu Planning Department and/or Applicant

FROM: City Biologist, Dave Crawford

☐ The project review package is INCOMPLETE and; CANNOT proceed through Final Planning Review until corrections and conditions from Biological Review are incorporated into the proposed project design (See Attached).

☒ The project is APPROVED, consistent with City Goals & Policies associated with the protection of biological resources and CAN proceed through the Planning process.

☐ The project may have the potential to significantly impact the following resources, either individually or cumulatively: Sensitive Species or Habitat, Watersheds, and/or Shoreline Resources and therefore Requires Review by the Environmental Review Board (ERB).


Signature

7/8/21
Date

Additional requirements/conditions may be imposed upon review of plan revision

Contact Information:

Dave Crawford, City Biologist, dcrawford@malibucity.org, (310) 456-2489, extension 277



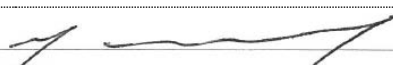
City of Malibu

Biology • Planning Department

23825 Stuart Ranch Road • Malibu, California • 90265-4861
Phone (310) 456-2489 • Fax (310) 456-3356 • www.malibucity.org

BIOLOGY REVIEW SHEET

PROJECT INFORMATION

Applicant: (name and email)	Marny Randall marnyrandall@gmail.com	
Project Address:	23325 Malibu Colony Malibu, CA 90265	
Planning Case No.:	CDP 18-035	
Project Description:	Demo ESFR, NSFR and AOWTS REVISED LANDSCAPING	
Date of Review:	July 8, 2021	
Reviewer:	Dave Crawford	Signature: 
Contact Information:	Phone: (310) 456-2489 ext 277	Email: dcrawford@malibucity.org

SUBMITTAL INFORMATION

Site Plan:	
Site Survey:	
Landscape Plan:	7/6/21
Hydrozone Plan:	7/6/21
Irrigation Plan:	7/6/21
Fuel Modification Plan:	
Grading Plan:	
OWTS Plan:	
Bio Assessment:	
Bio Inventory:	
Native Tree Survey:	
Native Tree Protection Plan:	
Miscellaneous:	
Previous Reviews:	

REVIEW FINDINGS

Review Status:	<input type="checkbox"/> <u>INCOMPLETE</u> : Additional information and/or a response to the listed review comments is required.
	<input checked="" type="checkbox"/> <u>APPROVED</u> : The project has been approved with regards to biological impacts.
	<input type="checkbox"/> <u>CANNOT APPROVE AS SUBMITTED</u> : The proposed project does not conform to the requirements of the MMC and/or LCP.
	<input type="checkbox"/> <u>ERB</u> : This project has the potential to impact ESHA and may require review by the Environmental Review Board pursuant to LIP Section 4.4.4



DISCUSSION:

1. The Maximum Applied Water Allowance (MAWA) for this project totals 125,749 gallons per year (gpy). The Estimated Applied Water Use (EAWU) totals 100,990 gpy. Therefore, the project meets the Landscape Water Conservation Ordinance Requirements.
2. This review is for the revised landscaping only. All previously stated conditions of approval remain in effect.

RECOMMENDATIONS:

1. The revised landscaping is recommended for **APPROVAL** with the following conditions:
 - A. Prior to installation of any landscaping, the applicant shall obtain plumbing permit for the proposed irrigation system from the Building Safety Division.
 - B. Prior to or at the time of a Planning final inspection, the property owner/applicant shall submit to the case planner a copy of the plumbing permit for the irrigation system installation that has been signed off by the Building Safety Division.
 - C. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner's signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22. (form attached)
 - D. Prior to Final Plan Check Approval, if your property is serviced by the Los Angeles County Waterworks District No. 29, please provide landscape water use approval from that department. For approval contact:

Nima Parsa

Address: 23533 West Civic Center Way, Malibu, CA 90265-4804

Email: Nparsa@DPW.LACOUNTY.GOV (preferred)

Phone: (310) 317-1389

Please note this action may require several weeks. As such, the applicant should submit their approved landscape plans to DPW as soon as feasible in order to avoid a delay at plan check.

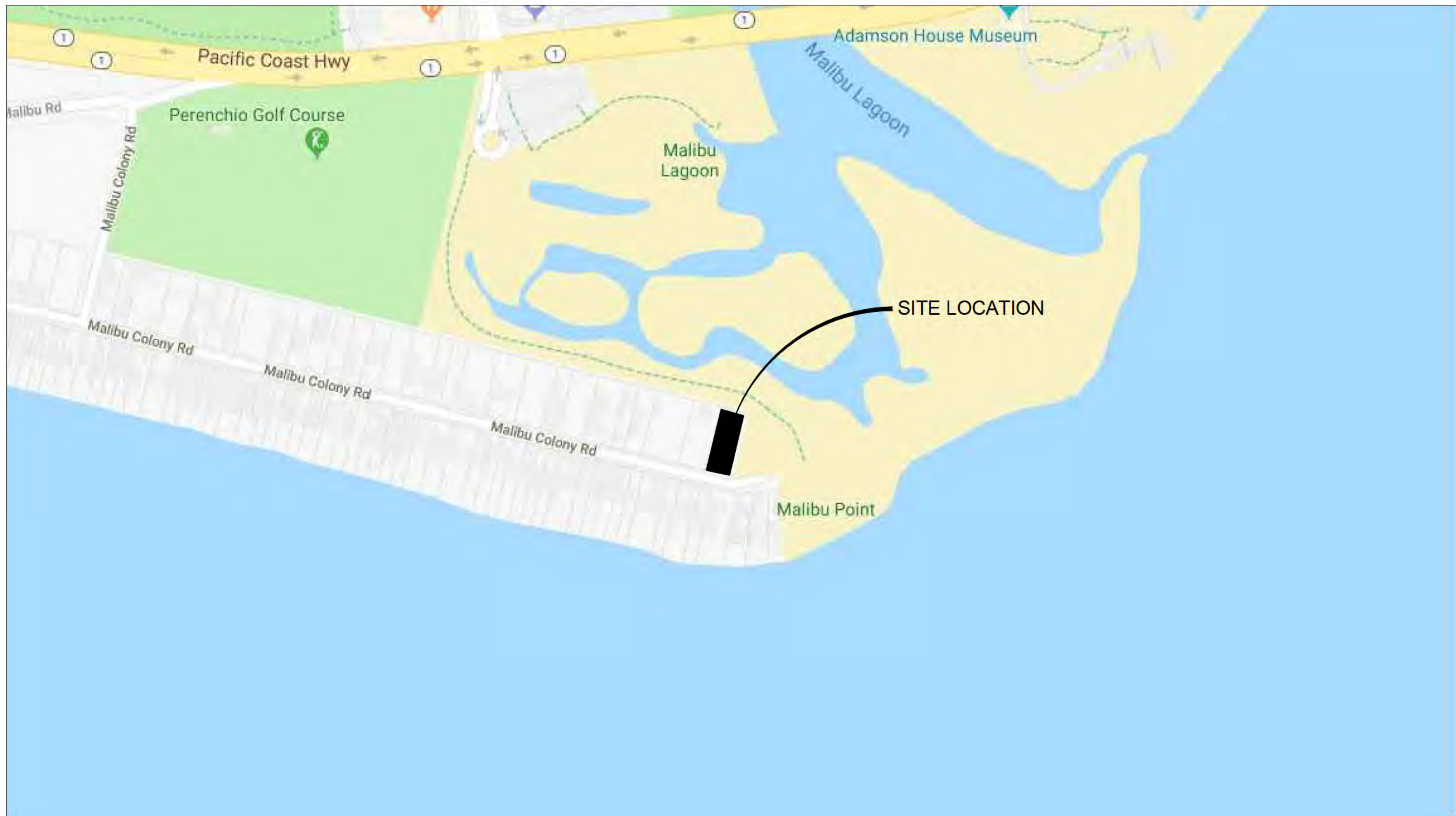
- E. Vegetation forming a view impermeable condition (hedge), serving the same function as a fence or wall, occurring within the side or rear yard setback shall be maintained at or below six feet in height. View impermeable hedges occurring within the front yard setback serving the same function as a fence or wall shall be maintained at or below 42 inches in height.
- F. Vegetation shall be situated on the property so as not to obstruct the primary view from private property at any given time (given consideration of its future growth).

- G. Invasive plant species, as determined by the City of Malibu, are prohibited.
 - H. No non-native plant species shall be approved greater than 50 feet from the residential structure.
 - I. No trees or shrubs shall be situated within 5 feet of any structure.
2. **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.

-o0o-

If you have any questions regarding the above requirements, please contact the City Biologist office at your earliest convenience.

cc: Planning Project file
Planning Department



VICINITY MAP



COLONY LAGOON RESIDENCE
23325 MALIBU COLONY ROAD
MALIBU, CA 90465

SHEET LIST

L0.0 COVER SHEET AND GENERAL NOTES

L1.0 HYDROZONE PLAN - GROUND FLOOR
L1.1 HYDROZONE PLAN - LEVEL 2

L2.0 HARDSCAPE PLAN

L3.0 IRRIGATION PLAN
L3.1 IRRIGATION LEGEND
L3.2 IRRIGATION DETAILS
L3.3 IRRIGATION DETAILS
L3.4 IRRIGATION DETAILS

L4.0 PLANTING PLAN
L4.2 FUEL MODIFICATION PLAN
L4.3 FUEL MODIFICATION PLAN NOTES

L6.0 HARDSCAPE DETAILS
L6.1 PLANTING DETAILS

GENERAL NOTES

1. ALL CONSTRUCTION SHALL COMPLY WITH ALL LOCAL GOVERNING AGENCIES REQUIREMENTS AND CODES.
2. CONTRACTOR AND/OR SUBCONTRACTORS SHALL EMPLOY NO PERSONS NOT PROVIDED WITH APPROPRIATE WORKMAN'S COMPENSATION INSURANCE AS REQUIRED BY THE STATE OF CALIFORNIA .
3. UPON COMPLETION OF THE WORK, CONTRACTOR AND/OR SUBCONTRACTORS SHALL LEAVE THE SITE AND BUILDING CLEAN AND SUITABLE FOR OCCUPANCY .
4. CONTRACTOR AND /OR SUBCONTRACTORS SHALL VERIFY ALL DIMENSIONS AND SITE CONDITIONS AND SHALL NOTIFY THE OWNER AND LANDSCAPE ARCHITECT OF ANY DISCREPANCIES IN PLANS PRIOR TO COMMENCING OR CONTINUING WORK.
5. ALL OMISSIONS OR CONFLICTS BETWEEN THE VARIOUS ELEMENTS OF THE WORKING DRAWINGS AND/OR SPECIFICATIONS SHALL BE BROUGHT TO THE ATTENTION OF THE LANDSCAPE ARCHITECT BEFORE PROCEEDING WITH ANY WORK SO INVOLVED.
6. THE LANDSCAPE ARCHITECT OR ENGINEER SHALL BE NOTIFIED OF ANY UNUSUAL OR UNFORESEEN SITUATIONS OR CONDITIONS WHICH AFFECT THE STRUCTURAL STABILITY OR SAFETY OF THE SITE AND/OR BUILDING PRIOR TO CONTINUING WITH CONSTRUCTION.
7. CONTRACTOR AND/OR SUBCONTRACTORS SHALL PROTECT EXISTING CONSTRUCTION AND LANDSCAPING, AS SPECIFIED BY THE OWNER, FROM DAMAGE DURING CONSTRUCTION.
8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL SHORING AND BRACING REQUIRED TO PROTECT PERSONNEL AND ADJACENT PROPERTY DURING CONSTRUCTION. THE CONTRACTOR SHALL ADEQUATELY BRACE ELEMENTS OF THE STRUCTURE DURING CONSTRUCTION TO ENSURE THE SAFETY OF THE SITE AND/OR STRUCTURES.
9. THERE SHALL BE NO DEVIATIONS FROM STRUCTURAL DETAILS WITHOUT THE WRITTEN APPROVAL OF THE STRUCTURAL ENGINEER.
10. NO STRUCTURAL MEMBER SHALL BE CUT, NOTCHED, BORED OR OTHERWISE WEAKENED, EXCEPT AS ALLOWED BY THE UNIFORM BUILDING CODE, UNLESS OTHERWISE NOTED ON THE PLANS.
11. CONTRACTOR SHALL SUBMIT COPIES OF ALL SHOP DRAWINGS TO LANDSCAPE ARCHITECT PRIOR TO CONSTRUCTION OF RELATED WORK, AND ALLOW AMPLE TIME FOR LANDSCAPE ARCHITECT'S REVIEW AND COORDINATION.

12. THE CONTRACTOR SHALL CAREFULLY STUDY AND COMPARE THE CONTRACT DOCUMENTS WITH EACH OTHER AND WITH INFORMATION FURNISHED BY THE OWNER AND SHALL AT ONCE REPORT TO THE LANDSCAPE ARCHITECT ERRORS, INCONSISTENCIES OR OMISSIONS DISCOVERED. THE CONTRACTOR SHALL NOT BE LIABLE TO THE OWNER OR LANDSCAPE ARCHITECT FOR DAMAGE RESULTING FROM ERRORS, INCONSISTENCIES OR OMISSIONS IN THE CONTRACT DOCUMENTS UNLESS THE CONTRACTOR RECOGNIZED SUCH ERROR, INCONSISTENCY OR OMISSION AND KNOWINGLY FAILED TO REPORT IT TO THE LANDSCAPE ARCHITECT. IF THE CONTRACTOR PERFORMS ANY CONSTRUCTION ACTIVITY KNOWING IT INVOLVES A RECOGNIZED ERROR, INCONSISTENCY OR OMISSION IN THE CONTRACT DOCUMENTS WITHOUT SUCH NOTICE TO THE LANDSCAPE ARCHITECT, THE CONTRACTOR SHALL ASSUME APPROPRIATE RESPONSIBILITY FOR SUCH PERFORMANCE AND SHALL BEAR AN APPROPRIATE AMOUNT TO THE ATTRIBUTABLE COSTS FOR THE CORRECTION.

13. THE CONTRACTOR SHALL TAKE FIELD MEASUREMENTS AND VERIFY FIELD CONDITIONS AND SHALL CAREFULLY COMPARE SUCH FIELD MEASUREMENTS AND CONDITIONS AND OTHER INFORMATION KNOWN TO THE CONTRACTOR WITH THE CONSTRUCTION DOCUMENTS BEFORE COMMENCING ACTIVITIES. ERRORS, INCONSISTENCIES OR OMISSIONS DISCOVERED SHALL BE REPORTED TO THE LANDSCAPE ARCHITECT AT ONCE.

14. THE CONTRACTOR SHALL SUPERVISE AND DIRECT THE WORK, USING THE CONTRACTOR'S BEST SKILL AND ATTENTION. THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR AND HAVE CONTROL OVER CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES AND PROCEDURES AND FOR COORDINATING ALL PORTIONS OF THE WORK UNDER THE CONTRACT.

15. THE CONTRACTOR IS REQUIRED:
(1) TO REVIEW A SPECIFIED CONSTRUCTION OR INSTALLATION PROCEDURE (INCLUDING THOSE RECOMMENDED BY THE MANUFACTURERS);
(2) TO ADVISE THE LANDSCAPE ARCHITECT (A) IF THE SPECIFIED PROCEDURE DEVIATES FROM GOOD CONSTRUCTION PRACTICE, (B) IF FOLLOWING THE PROCEDURE WILL AFFECT ANY WARRANTIES, INCLUDING MANUFACTURERS' WARRANTIES AND THE CONTRACTOR'S GENERAL WARRANTY, OR (C) OF ANY OBJECTIONS THE CONTRACTOR MAY HAVE TO THE PROCEDURE; AND (3) TO PROPOSE ANY ALTERNATIVE INSTALLATION WHICH THE CONTRACTOR WILL WARRANT .

16. THE CONTRACTOR SHALL BE RESPONSIBLE TO THE OWNER FOR ACTS AND OMISSIONS OF THE CONTRACTOR'S EMPLOYEES, SUBCONTRACTORS AND THE AGENTS AND EMPLOYEES, AND OTHER PERSONS PERFORMING PORTIONS OF THE WORK UNDER A CONTRACT WITH THE CONTRACTOR.

17. THE CONTRACTOR SHALL NOT BE RELIEVED OF OBLIGATIONS TO PERFORM THE WORK IN ACCORDANCE WITH THE CONTRACT DOCUMENTS EITHER BY ACTIVITIES OR DUTIES OF THE LANDSCAPE ARCHITECT IN THE LANDSCAPE ARCHITECT'S ADMINISTRATION OF THE CONTRACT, OR BY TESTS, INSPECTIONS OR APPROVALS REQUIRED OR PERFORMED BY PERSONS OTHER THAN THE CONTRACTOR.

18. THE CONTRACTOR SHALL BE RESPONSIBLE FOR INSPECTION OF PORTIONS OF THE WORK ALREADY PERFORMED UNDER THIS CONTRACT AND PREVIOUS WORK BY OTHERS, TO DETERMINE THAT SUCH PORTIONS ARE IN PROPER CONDITION TO RECEIVE SUBSEQUENT WORK.

19. THE CONTRACTOR SHALL TAKE ADEQUATE SAFEGUARDS AGAINST HARM TO OCCUPANTS DURING CONSTRUCTION. THIS INCLUDES, BUT IS NOT LIMITED TO SAFE AND ADEQUATE ACCESS INTO AND OUT OF THE BUILDING DURING CONSTRUCTION. ACCESS TO THE BUILDING SHALL BE VERIFIED BY BOTH THE LANDSCAPE ARCHITECT AND THE OWNER.

20. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL EXISTING STORM WATER DRAINAGE CONNECTIONS, GRADING, ETC TO ENSURE PROPER DRAINAGE.

CITY OF MALIBU NOTES

1. NO HIGH INTENSITY LIGHTING OF THE SHORE SHALL BE PERMITTED
2. NO INVASIVE PLANT SPECIES AS DETERMINED BY THE CITY OF MALIBU, HAVE BEEN USED.
3. VEGETATION PROVIDED FOR IN THE PLAN SHALL BE SITUATED ON THE PROPERTY SO AS TO NOT AT ANY TIME (GIVEN CONSIDERATION FOR FUTURE GROWTH) TO OBSTRUCT SIGNIFICANTLY THE PRIMARY VIEW OF PRIVATE PROPERTY.
4. THE LANDSCAPE PLAN SHALL COMPLY WITH ALL SPECIAL CONDITIONS TO PRESERVE ARCHEOLOGICAL RESOURCES.
5. THE USE OF BUILDING MATERIALS TREATED WITH TOXIC COMPOUNDS SUCH AS COPPER ARSENATE IS PROHIBITED.

MWELO NOTES

1. I AGREE TO COMPLY WITH THE REQUIREMENTS OF THE WATER EFFICIENT LANDSCAPE ORDINANCE AND SUBMIT A COMPLETE LANDSCAPE DOCUMENTATION PACKAGE.
2. A MINIMUM 3-INCH LAYER OF MULCH SHALL BE APPLIED ON ALL EXPOSED SOIL SURFACES OF PLANTING AREAS EXCEPT TURF AREAS, CREEPING OR ROOTING GROUNDCOVERS, OR DIRECT SEEDING APPLICATIONS WHERE MULCH IS CONTRAINDICATED.
3. FOR SOILS LESS THAN 6% ORGANIC MATTER IN THE TOP 6 INCHES OF SOIL, COMPOST AT A RATE OF A MINIMUM OF FOUR CUBIC YARDS PER 1,000 SQUARE FEET OF PERMEABLE AREA SHALL BE INCORPORATED TO A DEPTH OF SIX INCHES INTO THE SOIL.
4. RECIRCULATING WATER SYSTEMS SHALL BE USED FOR WATER FEATURES.
5. PRIOR TO CONSTRUCTION OF LANDSCAPED AREA OR IRRIGATION, THE CONTRACTOR MUST OBTAIN AND REVIEW A COPY OF THE WATER-EFFICIENT LANDSCAPE AND IRRIGATION STANDARDS.
6. A DIAGRAM OF THE IRRIGATION PLAN SHOWING HYDROZONES SHALL BE KEPT WITH THE IRRIGATION CONTROLLER FOR SUBSEQUENT MANAGEMENT PURPOSES.
7. A CERTIFICATE OF COMPLETION SHALL BE FILLED OUT AND CERTIFIED BY EITHER THE DESIGNER OF THE LANDSCAPE PLANS, IRRIGATION PLANS, OR THE LICENSED LANDSCAPE CONTRACTOR FOR THE PROJECT.
8. AN IRRIGATION AUDIT REPORT SHALL BE COMPLETED AT THE TIME OF FINAL INSPECTION.

SWL
11/08/19

Stephen Billings Landscape Architecture

12818 Venice Boulevard
Los Angeles, CA 90066
T: (310) 310-8438
E: sbillings@sblastudio.com

OWNER

Stan and Fiona Druckenmiller
117 East 72nd Street
New York, New York 10021
917.379.4908 T

ARCHITECT

Kovac Design Studio
11828 West Pico Boulevard
Santa Monica, CA 90064
310.575.3621 T

CIVIL ENGINEER

RJR Engineering
2340 Palma Drive, #200
Ventura, CA 93003
805 485 3935

EXPEDITER

Marny Randall
909 Euclid Street, #6
Santa Monica, CA 90403
310.395.2615 T

SURVEYOR

Peak Surveys
2488 Townsgate Rd, Suite D
Westlake Village, CA 91361
805.497.0102

Rev	Date	Issue
	10.21.19	CDP Submittal
	12.26.19	CDP Submittal
A	06.21.21	TREE UPDATE

NOT FOR CONSTRUCTION

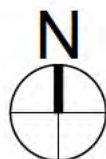
Colony Lagoon

23325 Malibu Colony Drive
Malibu CA 90465

COVER SHEET
AND GENERAL NOTES

L0.0

DATE: 2021.06.21
SCALE: AS NOTED
DRWN BY: LJ, KT
CHKD BY: SB



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Landscape Architecture

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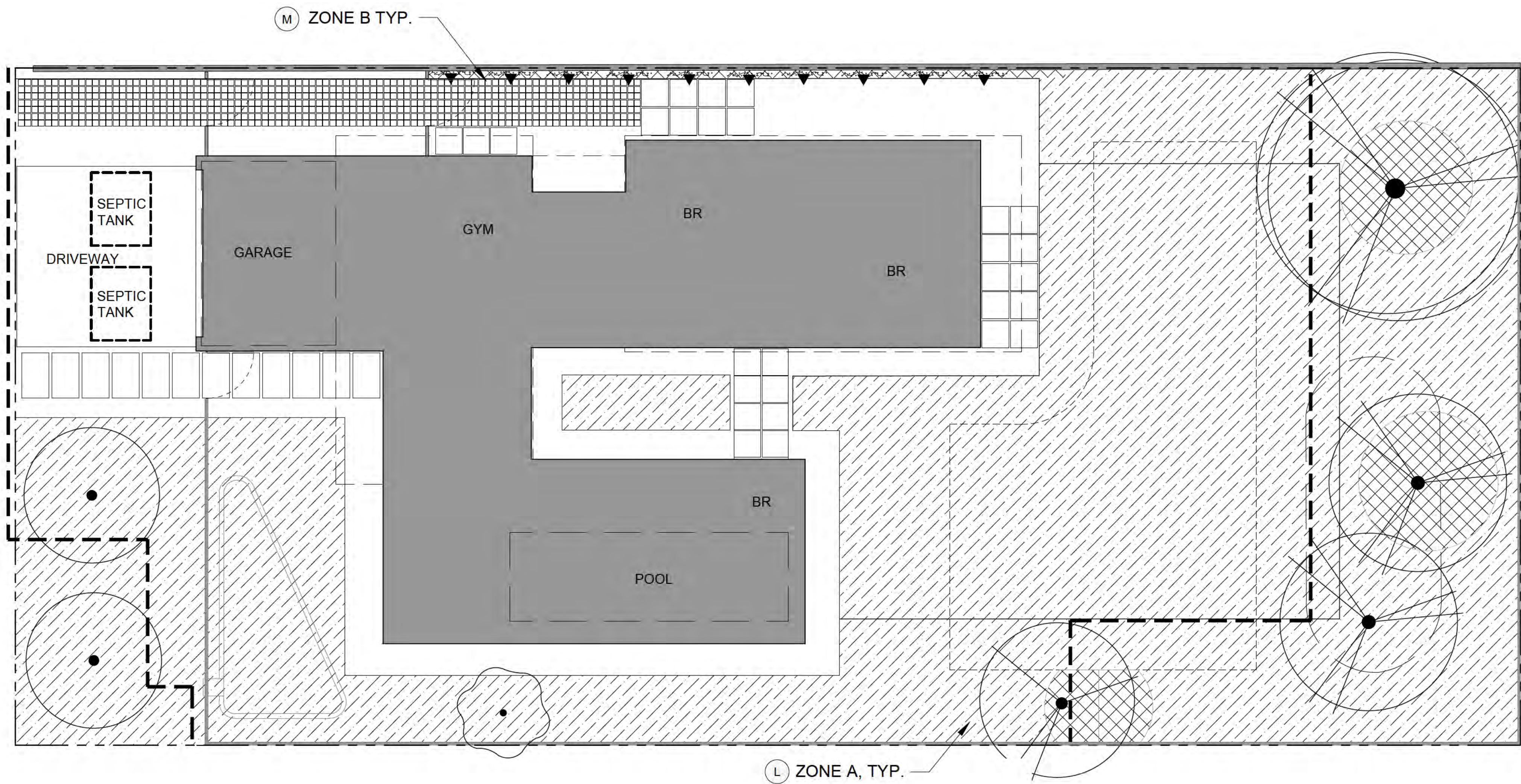
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Westlake Village, CA 91361
805.497.0102



KEY:
L = LOW WATER USE PLANTING
M = MODERATE WATER USE PLANTING
H = HIGH WATER USE PLANTING OR WATER FEATURES

Hydrozone:
High Water Use; PF 0.8
Moderate Water Use; PF 0.4
Low Water Use; PF 0.2

Irrigation Method:

MS = Micro-spray
S = Spray
R = Rotor
B = Bubbler
D = Drip
O = Other

Includes wall-mounted Smart Irrigation Controller

Zone	Water Use	Irrigation Method	Area (Square Feet)	% of Landscape Area
A	LOW WATER USE	D	5758	85%
B	MODERATE WATER USE	D	698	10%
C	HIGH WATER USE (POOL)	D	302	5%
		TOTAL LANDSCAPE AREA:	6,758	100%

*NOTE: See L1.1 for pool layout and hydrozone area

MWELO NOTES

- I AGREE TO COMPLY WITH THE REQUIREMENTS OF THE WATER EFFICIENT LANDSCAPE ORDINANCE AND SUBMIT A COMPLETE LANDSCAPE DOCUMENTATION PACKAGE.
- A MINIMUM 3-INCH LAYER OF MULCH SHALL BE APPLIED ON ALL EXPOSED SOIL SURFACES OF PLANTING AREAS EXCEPT TURF AREAS, CREEPING OR ROOTING GROUNDCOVERS, OR DIRECT SEEDING APPLICATIONS WHERE MULCH IS CONTRAINDICATED.
- FOR SOILS LESS THAN 6% ORGANIC MATTER IN THE TOP 6 INCHES OF SOIL, COMPOST AT A RATE OF A MINIMUM OF FOUR CUBIC YARDS PER 1,000 SQUARE FEET OF PERMEABLE AREA SHALL BE INCORPORATED TO A DEPTH OF SIX INCHES INTO THE SOIL.
- RECIRCULATING WATER SYSTEMS SHALL BE USED FOR WATER FEATURES.
- PRIOR TO CONSTRUCTION OF LANDSCAPED AREA OR IRRIGATION, THE CONTRACTOR MUST OBTAIN AND REVIEW A COPY OF THE WATER-EFFICIENT LANDSCAPE AND IRRIGATION STANDARDS.
- A DIAGRAM OF THE IRRIGATION PLAN SHOWING HYDROZONES SHALL BE KEPT WITH THE IRRIGATION CONTROLLER FOR SUBSEQUENT MANAGEMENT PURPOSES.
- A CERTIFICATE OF COMPLETION SHALL BE FILLED OUT AND CERTIFIED BY EITHER THE DESIGNER OF THE LANDSCAPE PLANS, IRRIGATION PLANS, OR THE LICENSED LANDSCAPE CONTRACTOR FOR THE PROJECT.
- AN IRRIGATION AUDIT REPORT SHALL BE COMPLETED AT THE TIME OF FINAL INSPECTION.

scale: 1/8" = 1'-0"
0 1 2 4 8



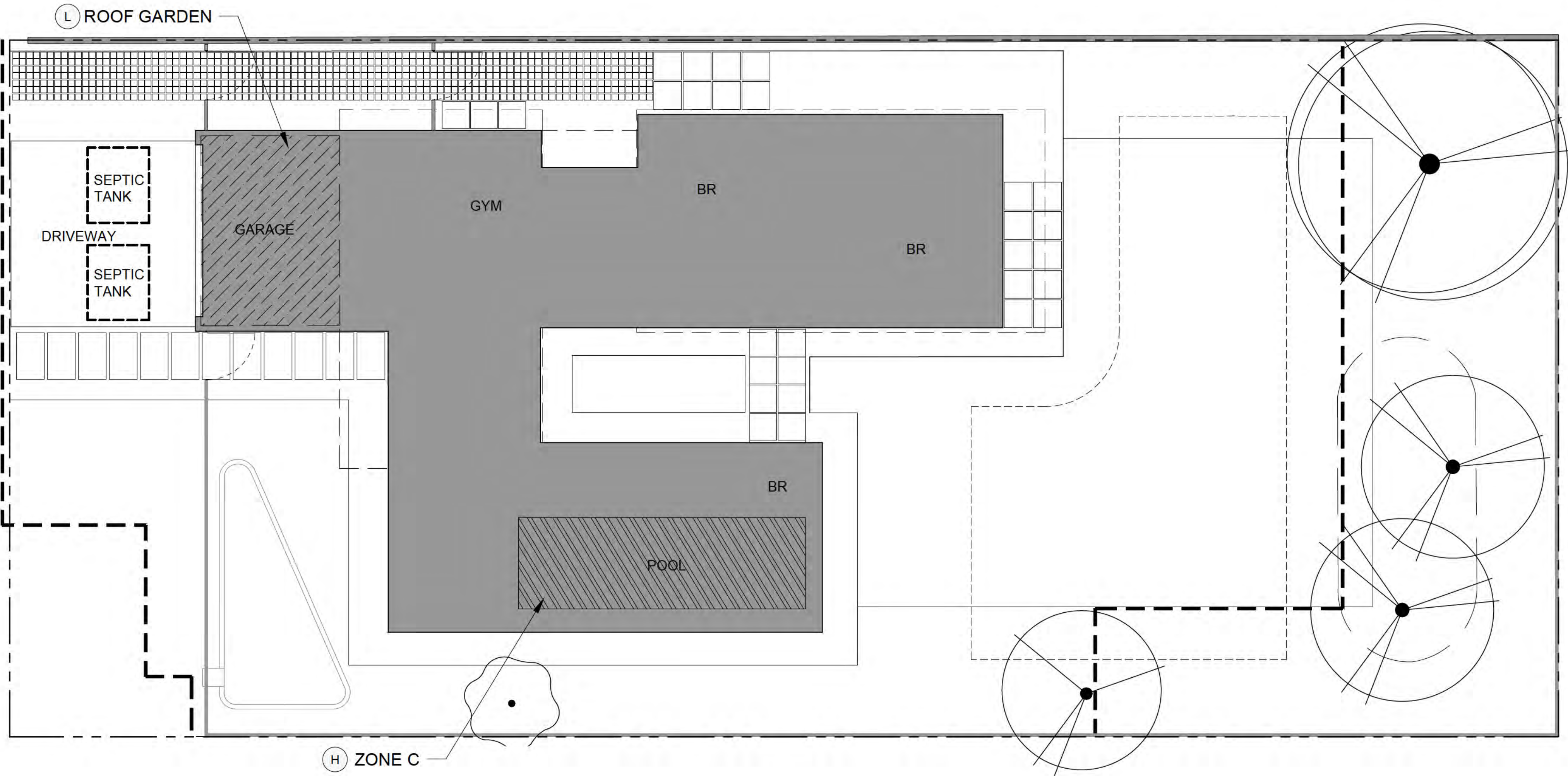
NOT FOR CONSTRUCTION

Colony Lagoon
23325 Malibu Colony Drive
Malibu CA 90465

HYDROZONE PLAN
GROUND FLOOR

L1.0

DATE: 2021.06.21
SCALE: AS NOTED
DRWN BY: IJ, KT
CHKD BY: SB



KEY:
L = LOW WATER USE PLANTING
M = MODERATE WATER USE PLANTING
H = HIGH WATER USE PLANTING OR WATER FEATURES

Hydrozone:
High Water Use; PF 0.8
Moderate Water Use; PF 0.4
Low Water Use; PF 0.2

Irrigation Method:
MS = Micro-spray
S = Spray
R = Rotor
B = Bubbler
D = Drip
O = Other

Includes wall-mounted Smart Irrigation Controller

Zone	Water Use	Irrigation Method	Area (Square Feet)	% of Landscape Area
A	LOW WATER USE	D	5758	85%
B	MODERATE WATER USE	D	698	10%
C	HIGH WATER USE (POOL)	D	302	5%
		TOTAL LANDSCAPE AREA:	6,758	100%

*NOTE: See L1.0 for ground floor hydrozone areas

MWEO NOTES

- I AGREE TO COMPLY WITH THE REQUIREMENTS OF THE WATER EFFICIENT LANDSCAPE ORDINANCE AND SUBMIT A COMPLETE LANDSCAPE DOCUMENTATION PACKAGE.
- A MINIMUM 3-INCH LAYER OF MULCH SHALL BE APPLIED ON ALL EXPOSED SOIL SURFACES OF PLANTING AREAS EXCEPT TURF AREAS, CREEPING OR ROOTING GROUNDCOVERS, OR DIRECT SEEDING APPLICATIONS WHERE MULCH IS CONTRAINDICATED.
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- AN IRRIGATION AUDIT REPORT SHALL BE COMPLETED AT THE TIME OF FINAL INSPECTION.

scale: 1/8" = 1'-0"
0 1 2 4 8
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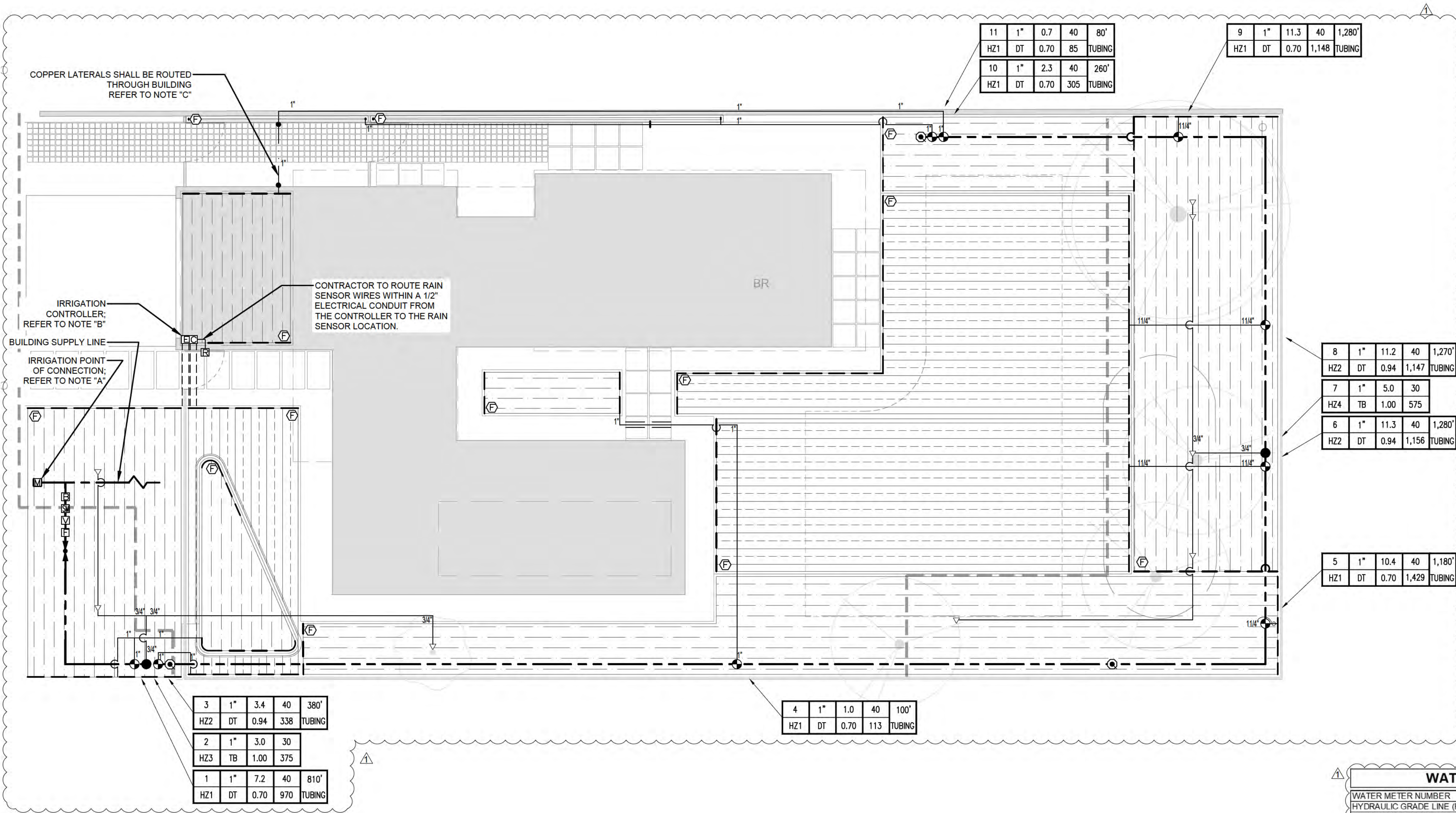
NOT FOR CONSTRUCTION

Colony Lagoon
23325 Malibu Colony Drive
Malibu CA 90465

HYDROZONE PLAN
LEVEL 2

L1.1

DATE: 2019.10.21
SCALE: AS NOTED
DRWN BY: IJ
CHKD BY: SB



NOTE A:
POINT OF CONNECTION (POC) #1 SHALL BE A TEE OFF OF THE BUILDING SUPPLY LINE DOWNSTREAM OF 1" DOMESTIC METER. THE CONTRACTOR SHALL VERIFY THE ACTUAL LOCATION, WATER TYPE, METER SIZE AND WATER PRESSURE IN THE FIELD PRIOR TO STARTING WORK. MEASUREMENT OF THE STATIC (NO WATER MOVING) WATER PRESSURE IS ACCEPTABLE FOR POTABLE WATER SYSTEMS WHERE NO PUMP HAS BEEN INDICATED ON THESE PLANS. WHEN USING RECYCLED WATER, OR ON POTABLE WATER SYSTEMS REQUIRING A PUMP, ONLY THE MEASUREMENT OF DYNAMIC (WATER MOVING THROUGH THE METER) WATER PRESSURE, SHALL BE ACCEPTABLE. THE DYNAMIC WATER PRESSURE SHALL BE MEASURED AT THE MAXIMUM SYSTEM DEMAND AS INDICATED BELOW. IF ANY OF THE POC INFORMATION SHOWN ON THESE DRAWINGS IS FOUND TO BE DIFFERENT THAN THE ACTUAL POC INFORMATION GATHERED IN THE FIELD, IMMEDIATELY NOTIFY THE LANDSCAPE ARCHITECT AND IRRIGATION CONSULTANT. SHOULD THE CONTRACTOR FAIL TO VERIFY THE POC INFORMATION AS SHOWN HEREIN, ANY CHANGES REQUIRED BY LOW PRESSURE OR VOLUME SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR.

WATER PRESSURE AT POC:
DESIGN WATER PRESSURE: 95 PSI (STATIC)
MAXIMUM SYSTEM DEMAND: 75 PSI
RESIDUAL WATER PRESSURE: 20 PSI

NOTE B:
CONTROLLER SHALL BE OF THE BRAND, MODEL AND STATION SIZE AS INDICATED ON THE IRRIGATION MATERIALS LEGEND. THE CONTROLLER SHALL BE INSTALLED IN THE APPROXIMATE LOCATION SHOWN. THE CONTRACTOR SHALL COORDINATE THE REQUIRED ELECTRICAL POWER SUPPLY AT THIS LOCATION WITH THE OWNER'S AUTHORIZED REPRESENTATIVE. FINAL LOCATION OF CONTROLLER AND ELECTRICAL POINT OF CONNECTION SHALL BE CONFIRMED WITH OWNER'S AUTHORIZED REPRESENTATIVE PRIOR TO STARTING WORK.

NOTE C:
LATERAL LINE PIPING WITHIN BUILDING SHALL BE A TYPE K COPPER AND IS SHOWN FOR CLARITY ONLY, ACTUAL DESIGN AND ROUTING SHALL BE COMPLETED BY PLUMBING ENGINEER AND INSTALLED BY PLUMBING CONTRACTOR. EACH STUB-OUT WITHIN EACH PLANTER SHALL HAVE A COPPER FEMALE ADAPTER FOR THE LANDSCAPE CONTRACTOR CONNECTION. ALL PIPING THROUGH BUILDING TO EXTERIOR AND THROUGH BUILDING TO UPPER FLOOR SHALL BE PROVIDED BY PLUMBER.

NOTE D:
PRIOR TO START OF CONSTRUCTION THE CONTRACTOR SHALL SUBMIT TO THE OWNER AND LANDSCAPE ARCHITECT A SCALED SHOP DRAWING INDICATING THE PROPOSED LOCATIONS FOR THE IRRIGATION EQUIPMENT LISTED BELOW. THE SHOP DRAWING SHALL BE PREPARED TO THE SATISFACTION OF THE OWNER AND LANDSCAPE ARCHITECT. SHOP DRAWINGS MUST INCLUDE THE PROPOSED LOCATIONS FOR THE FOLLOWING ITEMS:

1. POINT OF CONNECTION (INCLUDING WATER POC, BACK FLOW DEVICES, MASTER CONTROL VALVES, FLOW SENSORS, ETC.)
2. ISOLATION VALVES
3. AUTOMATIC CONTROL VALVES (INDICATE STATION NUMBER)
4. QUICK COUPLING VALVES
5. IRRIGATION CONTROLLER(S)
6. RELATED EQUIPMENT (AS MAY BE DIRECTED).

EACH PIECE OF AFOREMENTIONED EQUIPMENT SHALL HAVE IT'S PROPOSED INSTALLED LOCATION SHOWN ON THE SHOP DRAWINGS. THE SYMBOL FOR EACH PRODUCT SHALL BE A SCALED REPRESENTATION OF THE FOOTPRINT OF THE EQUIPMENT OR THE VALVE BOX IN WHICH THE EQUIPMENT IS INSTALLED. CONTRACTOR SHALL INSTALL ALL VALVE BOXES AND RELATED EQUIPMENT PER THE OWNER APPROVED SHOP DRAWINGS. ONCE THE SHOP DRAWING LOCATIONS ARE APPROVED, THE LANDSCAPE ARCHITECT OR OWNER'S AUTHORIZED REPRESENTATIVE WILL ALLOW NO ADJUSTMENTS TO THE APPROVED VALVE BOX PLACEMENT WITHOUT PRIOR WRITTEN ACCEPTANCE. ANY IRRIGATION EQUIPMENT INSTALLED WITHOUT PRIOR APPROVAL WITH SHOP DRAWINGS WILL BE SUBJECT TO RELOCATION BASED ON DIRECTION BY THE LANDSCAPE ARCHITECT AT THE CONTRACTOR'S EXPENSE.

WATER PRESSURE LOSS CALCULATIONS				
WATER METER NUMBER	1	WATER METER SIZE (Inches)	5/8	
HYDRAULIC GRADE LINE (FT)	0	WATER METER ELEVATION (FT)	0	
ELEVATION DIFFERENCE (FT)	0	STATIC PRESSURE (PSI)	95.0	
REMOTE CONTROL VALVE #	6	REMOTE CONTROL VALVE SIZE (In.)	1.00	
R.C.V. DEMAND (GPM)	11	TOTAL DEMAND (GPM)	11	
HIGHEST HEAD SERVED (FT)	0	STATIC PRESSURE AT HIGHEST HEAD	0.0	
PRESSURE LOSS CALCULATION IS PROVIDED FOR THIS PROJECT BY SWEENEY & ASSOCIATES, INC. UNAUTHORIZED USE BY ANY OTHER PERSON, COMPANY OR PROJECT IS FORBIDDEN WITHOUT WRITTEN PERMISSION.				
SIZE (Inches)	DESCRIPTION	FLOW	#	LOSS
1.00	SERVICE LINE (50 FT OF TYPE K COPPER)	11	1	2.12 PSI
5/8	WATER METER (XXXX TYPE)	11	2	3.70 PSI
1.00	BACKFLOW PREVENTER (R/P TYPE)	11	3	12.00 PSI
1.00	FILTRATION (WYE FILTER)	11	4	0.30 PSI
1.00	PRESSURE REGULATOR (WILKINS 500HLR)	11	5	3.00 PSI
1.00	BFD ASSEMBLY PIPING (BRASS W/ 4 ELLS)	11	6	2.54 PSI
1.00	MASTER CONTROL VALVE	11	7	1.50 PSI
1.00	FLOW SENSOR	11	8	1.00 PSI
1.50	ISOLATION VALVES (BALL TYPE)	11	9	1.00 PSI
1.50	75 FEET OF MAINLINE SC 40 PVC	11	10	0.44 PSI
1.50	10 - 90 DEGREE ELBOWS	11	13	0.99 PSI
1.00	REMOTE CONTROL VALVE ASSEMBLY	11	14	2.20 PSI
10%	LATERAL LINE LOSSES	11	15	4.00 PSI
20%	FITTING LOSS (IN ADDITION TO ELBOWS SHOWN)	N/A	16	0.09 PSI
0.00	ELEVATION CHANGE (P.O.C. TO HIGHEST HEAD)	N/A	17	0.00 PSI
TOTAL SYSTEM PRESSURE LOSS (SUM OF #1 THRU #17)		18	34.9	PSI
PRESSURE REQUIRED AT HEAD (OPERATING PRESSURE)		19	40.0	PSI
TOTAL PRESSURE REQUIRED (SUM OF #18 AND #19)		20	74.9	PSI
STATIC WATER PRESSURE (FROM ABOVE)		21	95.0	PSI
RESIDUAL PRESSURE (SUBTRACT #20 FROM #21)		22	20.1	PSI
SET PRV OR MCV AT (#20 PLUS 10 PSI)		23	84.9	PSI
PRESSURE BOOST, IF REQUIRED (SET TO ACHIEVE 20 PSI RESIDUAL)		24	N/A	PSI

IRRIGATION CONTROLLER IS A WEATHER BASED CONTROLLER.

BUILDINGS ON SITES WITH OVER 2,500 SQ. FT. OF CUMULATIVE IRRIGATED LANDSCAPED AREAS SHALL HAVE IRRIGATION CONTROLLERS WHICH ARE EITHER WEATHER OR SOIL BASED (PER SECTION 4.304.2)

SEPARATE SUBMETERS SHALL BE INSTALLED IN ANY NEW ADDITION OR SPACE WITHIN THE ADDITION THAT IS PROJECTED TO CONSUME MORE THAN 1,000 GAL/DAY.

DEDICATED WATER SERVICE METERS OR PRIVATE SUB-METERS ARE TO BE INSTALLED FOR ALL NON RESIDENTIAL IRRIGATED LANDSCAPES 1,000 SQUARE FEET UP TO 5,000 SQUARE FEET AND RESIDENTIAL IRRIGATED LANDSCAPES OF 5,000 SQUARE FEET OR GREATER.

PRESSURE REGULATING DEVICES ARE REQUIRED IF WATER PRESSURE IS BELOW OR EXCEEDS THE RECOMMENDED PRESSURE OF THE SPECIFIED IRRIGATION DEVICES.

ALL IRRIGATION EMISSION DEVICES WILL MEET THE CRITERIA AS SET FORTH IN MWEO SECTION 492.7(a)(1)(M) AND SHALL BE INSTALLED AND OPERATED ACCORDING TO MANUFACTURER'S INSTRUCTIONS/RECOMMENDATIONS.

NO OVERHEAD IRRIGATION WITHIN 24" OF ANY NON-PERMEABLE SURFACE

AUTOMATIC LANDSCAPE IRRIGATORS SHALL BE INSTALLED IN SUCH A WAY THAT IT DOESN'T SPRAY ON THE BUILDING.

AREAS LESS THAN 10-FEET IN WIDTH IN ANY DIRECTION SHALL BE IRRIGATED WITH SUBSURFACE OR DRIP IRRIGATION.

CHECK VALVES OR ANTI-DRAIN VALVES ARE REQUIRED ON ALL SPRINKLER HEADS WHERE LOW POINT DRAINAGE COULD OCCUR.

MATERIALS DELIVERED TO THE CONSTRUCTION SITE SHALL BE PROTECTED FROM RAIN OR OTHER SOURCES OF MOISTURE.

RECIRCULATING WATER SYSTEMS SHALL BE USED FOR WATER FEATURES

FOR PROJECTS THAT INCLUDE LANDSCAPE WORK, THE LANDSCAPE CERTIFICATION, FORM GRN 12, SHALL BE COMPLETED PRIOR TO FINAL INSPECTION APPROVAL. (PER STATE ASSEMBLY BILL NO. 1881)

AN OPERATIONS AND MAINTENANCE MANUAL INCLUDING, AT MINIMUM, THE ITEMS LISTED IN SECTION 4.410.1, SHALL BE COMPLETED AND PLACED IN THE BUILDING AT THE TIME OF FINAL INSPECTION.

AN OPERATIONS AND SYSTEMS MANUAL, SHALL BE PROVIDED TO THE OWNER OR REPRESENTATIVE AND TO THE FIELD INSPECTOR AT THE TIME OF FINAL INSPECTION.

A CERTIFICATION OF COMPLETION SHALL BE FILLED OUT AND CERTIFIED EITHER BY THE DESIGNER OF THE LANDSCAPE PLANS, IRRIGATION PLANS, OR THE LICENSED LANDSCAPE CONTRACTOR FOR THE PROJECT.

A DIAGRAM OF THE IRRIGATION PLAN SHOWING HYDROZONES SHALL BE KEPT WITH THE IRRIGATION CONTROLLER FOR SUBSEQUENT MANAGEMENT PURPOSES.

AN IRRIGATION AUDIT REPORT SHALL BE COMPLETED AT THE TIME OF FINAL INSPECTION.

AT THE TIME OF FINAL INSPECTION, THE PERMIT APPLICANT MUST PROVIDE THE OWNER OF THE PROPERTY WITH A CERTIFICATE OF COMPLETION, CERTIFICATE OF INSTALLATION, IRRIGATION SCHEDULE OF LANDSCAPE AND IRRIGATION MAINTENANCE.

FOR SOILS LESS THAN 6% ORGANIC MATTER IN THE TOP 6 INCHES OF SOIL, COMPOST AT A RATE OF A MINIMUM OF FOUR CUBIC YARDS PER 1,000 SQUARE FEET OF PERMEABLE AREA SHALL BE INCORPORATED TO A DEPTH OF SIX INCHES INTO THE SOIL.

A MINIMUM 3-INCH LAYER OF MULCH SHALL BE APPLIED ON ALL EXPOSED SOIL SURFACES OF PLANTING AREAS EXCEPT TURF AREAS, CREEPING OR ROOTING GROUNDCOVERS, OR DIRECT SEEDING APPLICATIONS WHERE MULCH IS CONTRAINDICATED.

A FINAL REPORT FOR THE TESTING AND ADJUSTING OF ALL NEW SYSTEMS SHALL BE COMPLETED PRIOR TO FINAL APPROVAL BY THE FIELD INSPECTOR. THIS REPORT SHALL BE SIGNED BY THE INDIVIDUAL RESPONSIBLE FOR PERFORMING THESE SERVICES.

I AGREE TO COMPLY WITH THE REQUIREMENTS OF THE WATER EFFICIENT LANDSCAPE ORDINANCE AND SUBMIT A COMPLETE LANDSCAPE DOCUMENTATION PACKAGE

SIGNATURE: *David J. Miller* DATE: 9-26-19



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Rev	Date	Issue
	10.21.19	CDP Submittal
	12.26.19	CDP Submittal
A	06.21.21	TREE UPDATE

NOT FOR CONSTRUCTION

Colony Lagoon

23325 Malibu Colony Drive
Malibu CA 90465

IRRIGATION PLAN

L3.0

DATE: 2019 09 23
SCALE: AS NOTED
DRWN BY: CB
CHKD BY: DZ

WATER AUDIT AND MAINTENANCE SCHEDULE

THE CONTRACTOR WILL CONDUCT AN IRRIGATION AUDIT USING A CERTIFIED IRRIGATION AUDITOR. AFTER THE FINAL FIELD OBSERVATION HAS BEEN COMPLETED AND ALL IRRIGATION COMPONENTS ARE INSTALLED IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS AND THE IRRIGATION SYSTEM IS ACCEPTED BY THE PROJECT ARCHITECT FOR MAINTENANCE.

THE IRRIGATION AUDIT WILL BE CONDUCTED IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

1. PLACE FLAGS AT EACH HEAD IN THE ZONE
2. MEASURE SPACING AND MARK MID POINTS BETWEEN HEADS.
3. PLACE WATER MEASURING RECEPTACLES.
4. TAKE READINGS OF WATER LEVEL IN RECEPTACLES AND RECORD RESULTS.
5. MEASURE HEAD PRESSURE IN EACH ZONE AND RECORD RESULTS.
6. AFTER COMPLETING ZONE ADVANCE TO NEXT ZONE AND REPEAT PROCEDURE.
7. SUBMIT THE RESULTS OF THE AUDIT TO THE PROJECT ARCHITECT.

THE IRRIGATION MAINTENANCE SCHEDULE TASKS LISTED BELOW ARE INTENDED AS MINIMUM STANDARDS AND MORE FREQUENT ATTENTION MAY BE REQUIRED DEPENDING ON THE PARTICULAR SITE CONDITIONS.

MAINTENANCE TASK

1. CONTROLLER CABINET - OPEN CABINET AND CLEAN OUT DEBRIS AND REPLACE BATTERY AS NECESSARY. CHECK WIRING AND REPAIR AS NEEDED AND CHECK CLOCK AND RESET IF NECESSARY. FREQUENCY: QUARTERLY

2. IRRIGATION SCHEDULE - ADJUST SCHEDULE FOR SEASONAL VARIATIONS AND OTHER CONDITIONS WHICH MAY AFFECT THE AMOUNT OF WATER NEEDED TO MAINTAIN PLANT HEALTH ADJUST AS NECESSARY. FREQUENCY: MONTHLY

3. POC - VISUALLY INSPECT COMPONENTS FOR LEAKS, PRESSURE SETTINGS, SETTLEMENT OR OTHER DAMAGE AFFECTING THE OPERATION OF A COMPONENT. REPAIR AS NEEDED. FREQUENCY: QUARTERLY

4. REMOTE CONTROL VALVES, ISOLATION VALVES AND QUICK COUPLER VALVES - VISUALLY INSPECT FOR LEAKS, SETTLEMENT, WIRE CONNECTIONS AND PRESSURE SETTINGS. REPAIR OR ADJUST AS NEEDED. FREQUENCY: QUARTERLY

5. MAINLINE & LATERALS - VISUALLY INSPECT FOR LEAKS OR SETTLEMENT OF TRENCH. FREQUENCY: QUARTERLY

6. SPRINKLERS - VISUALLY CHECK FOR ANY BROKEN MISALIGNED OR CLOGGED HEADS. HEADS WITH INCORRECT ARC, INADEQUATE COVERAGE OR OVERSPRAY AND LOW HEAD DRAINAGE. REPAIR AS NEEDED. FREQUENCY: WEEKLY

7. FILTERS AND STRAINERS - VISUALLY CHECK FOR LEAKS, BROKEN FITTING, CLEAN AND FLUSH SCREENS.

AUDIT SHALL BE IN ACCORDANCE WITH THE LATEST STATE OF CALIFORNIA LANDSCAPE WATER MANAGEMENT PROGRAM AS DESCRIBED IN THE LATEST LANDSCAPE IRRIGATION AUDITOR HANDBOOK. THE LANDSCAPE IRRIGATION AUDITS TO BE CONDUCTED BY A QUALIFIED INDIVIDUAL AND THE AUDIT SCHEDULE SHALL BE CONDUCTED AT LEAST ONCE EVERY FIVE YEARS IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 20, DIVISION 1 OF THE LOS ANGELES COUNTY CODE.

MAINTENANCE SCHEDULES. A REGULAR MAINTENANCE SCHEDULE SATISFYING THE FOLLOWING CONDITIONS SHALL BE SUBMITTED AS PART OF THE LANDSCAPE DOCUMENTATION PACKAGE.

LANDSCAPE SHALL BE MAINTAINED TO ENSURE WATER EFFICIENCY. A REGULAR MAINTENANCE SCHEDULE SHALL INCLUDE, BUT NOT BE LIMITED TO, CHECKING, ADJUSTING, AND REPAIRING IRRIGATION EQUIPMENT, PREVENTING THE AUTOMATIC CONTROLLER, AERATING AND DETHATCHING TURF AREAS, REPLENISHING MULCH, FERTILIZING, PRUNING, AND WEEDING IN ALL LANDSCAPE AREAS.

WHENEVER POSSIBLE, REPAIR OF IRRIGATION EQUIPMENT SHALL BE DONE WITH THE ORIGINALLY SPECIFIED MATERIALS OR THEIR EQUIVALENTS.

A LANDSCAPE IRRIGATION AUDIT SCHEDULE AS REQUIRED IN CHAPTER 20.09 OF TITLE 20 MAY BE RECOMMENDED. THE MAXIMUM PERIOD BETWEEN AUDITS SHALL BE FIVE YEARS.

LANDSCAPE IRRIGATION AUDIT SCHEDULES. A SCHEDULE OF LANDSCAPE IRRIGATION AUDITS OF AT LEAST EVERY FIVE YEARS MUST BE ESTABLISHED, FOR ALL BUT SINGLE-FAMILY RESIDENCES, AND OTHER PROJECTS WITH LANDSCAPE AREA LESS THAN 1 ACRE (0.405 HAI). AS REQUIRED IN CHAPTER 20.09 OF TITLE 20 (UTILITY CODES), AN AUDIT SATISFYING THE FOLLOWING CONDITIONS SHALL BE SUBMITTED TO THE COUNTY AS PART OF THE LANDSCAPE DOCUMENTATION PACKAGE.

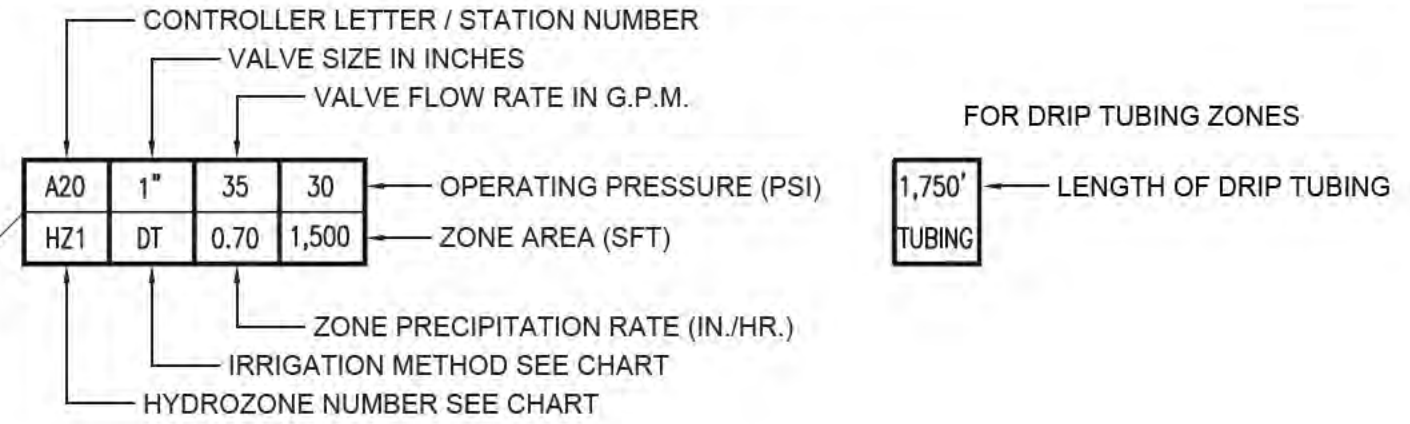
AT A MINIMUM, AUDITS SHALL BE IN ACCORDANCE WITH THE LATEST STATE OF CALIFORNIA LANDSCAPE WATER MANAGEMENT PROGRAM AS DESCRIBED IN THE LANDSCAPE IRRIGATION AUDITOR HANDBOOK. PREPARED FOR THE CALIFORNIA DEPARTMENT OF WATER RESOURCES, WATER CONSERVATION OFFICE, THE ENTIRE DOCUMENT, WHICH IS HEREBY INCORPORATED BY REFERENCE.

THE SCHEDULE SHALL PROVIDE FOR LANDSCAPE IRRIGATION AUDITS TO BE CONDUCTED BY A QUALIFIED INDIVIDUAL AS DETERMINED BY THE DIRECTOR AT LEAST ONCE EVERY FIVE YEARS IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 20, DIVISION 1 OF THE LOS ANGELES COUNTY CODE.

IRRIGATION NOTES

1. ALL LOCAL MUNICIPAL AND STATE LAWS, RULES AND REGULATIONS GOVERNING OR RELATING TO ANY PORTION OF THIS WORK ARE HEREBY INCORPORATED INTO AND MADE A PART OF THESE SPECIFICATIONS AND THEIR PROVISIONS SHALL BE CARRIED OUT BY THE CONTRACTOR.
2. THE CONTRACTOR SHALL VERIFY THE LOCATIONS OF ALL EXISTING UTILITIES, STRUCTURES AND SERVICES BEFORE COMMENCING WORK. THE LOCATIONS OF UTILITIES, STRUCTURES AND SERVICES SHOWN IN THESE PLANS ARE APPROXIMATE ONLY. ANY DISCREPANCIES BETWEEN THESE PLANS AND ACTUAL FIELD CONDITIONS SHALL BE REPORTED TO THE OWNER'S REPRESENTATIVE.
3. THE CONTRACTOR SHALL OBTAIN THE PERTINENT ENGINEERING OR ARCHITECTURAL PLANS BEFORE BEGINNING WORK.
4. THE CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS REQUIRED TO PERFORM THE WORK INDICATED HEREIN BEFORE BEGINNING WORK.
5. THIS DESIGN IS DIAGRAMMATIC. ALL EQUIPMENT SHOWN IN PAVED AREAS IS FOR DESIGN CLARITY ONLY AND IS TO BE INSTALLED WITHIN PLANTING AREAS.
6. THE CONTRACTOR SHALL NOT WILLFULLY INSTALL ANY EQUIPMENT AS SHOWN ON THE PLANS WHEN IT IS OBVIOUS IN THE FIELD THAT UNKNOWN CONDITIONS EXIST THAT WERE NOT EVIDENT AT THE TIME THESE PLANS WERE PREPARED. ANY SUCH CONDITIONS SHALL BE BROUGHT TO THE ATTENTION OF THE OWNER'S REPRESENTATIVE PRIOR TO ANY WORK OR THE IRRIGATION CONTRACTOR SHALL ASSUME ALL RESPONSIBILITY FOR ANY FIELD CHANGES DEEMED NECESSARY BY THE OWNER.
7. INSTALL ALL EQUIPMENT AS SHOWN IN THE DETAILS AND SPECIFICATIONS. CONTRACTOR SHALL BE RESPONSIBLE TO COMPLY WITH LOCAL CITY, COUNTY AND STATE REQUIREMENTS FOR BOTH EQUIPMENT AND INSTALLATION.
8. ACTUAL LOCATION FOR THE INSTALLATION OF THE BACKFLOW PREVENTER AND THE AUTOMATIC CONTROLLER IS TO BE DETERMINED IN THE FIELD BY THE OWNER'S AUTHORIZED REPRESENTATIVE.
9. CONTRACTOR IS TO PROVIDE AN ADDITIONAL PILOT WIRE FROM CONTROLLER ALONG ENTIRETY OF MAIN LINE TO THE LAST RCV ON EACH AND EVERY LEG OF MAIN LINE. LABEL SPARE WIRES AT BOTH ENDS.
10. ALL PIPE UNDER PAVED AREAS TO BE INSTALLED IN SLEEVEING TWICE THE DIAMETER OF THE PIPE CARRIED. SEE LEGEND FOR TYPE. ALL WIRE UNDER PAVED AREAS TO BE INSTALLED IN A SCH. 40 SLEEVE THE SIZE REQUIRED TO EASILY PULL WIRE THROUGH. ALL SLEEVES TO BE INSTALLED WITH A MINIMUM DEPTH AS SHOWN ON THE SLEEVEING DETAILS. SLEEVES TO EXTEND AT LEAST 12" PAST THE EDGE OF THE PAVING.
11. ALL QUICK COUPLER AND REMOTE CONTROL VALVES TO BE INSTALLED IN SHRUB OR GROUND COVER AREAS WHERE POSSIBLE. ALL QUICK COUPLER AND REMOTE CONTROL VALVES TO BE INSTALLED AS SHOWN ON THE INSTALLATION DETAILS. INSTALL ALL QUICK COUPLER AND REMOTE CONTROL VALVES WITHIN 18" OF HARDSCAPE.
12. ALL HEADS ARE TO BE INSTALLED WITH THE NOZZLE, SCREEN AND ARCS SHOWN ON THE PLANS. ALL HEADS ARE TO BE ADJUSTED TO PREVENT OVERSPRAY ONTO BUILDINGS, WALLS, FENCES AND HARDSCAPE. THIS INCLUDES, BUT NOT LIMITED TO, ADJUSTMENT OF DIFFUSER PIN OR ADJUSTMENT SCREW, REPLACEMENT OF PRESSURE COMPENSATING SCREENS, REPLACEMENT OF NOZZLES WITH MORE APPROPRIATE RADIUS UNITS AND THE REPLACEMENT OF NOZZLES WITH ADJUSTABLE ARC UNITS.
13. CONTRACTOR SHALL INSTALL ADDITIONAL CHECK VALVES TO HEADS AND LATERALS AS REQUIRED TO PREVENT LOW HEAD DRAINAGE.
14. THE CONTRACTOR SHALL USE PROPER GROUNDING TECHNIQUES FOR GROUNDING THE CONTROLLER AND RELATED EQUIPMENT PER MANUFACTURERS SPECIFICATIONS. SWEENEY AND ASSOCIATES RECOMMENDS MEASURING FOR PROPER GROUND AT LEAST ONCE ANNUALLY, AND NECESSARY ADJUSTMENTS MADE TO COMPLY WITH MANUFACTURER SPECIFICATIONS.
15. THE CONTRACTOR IS REQUIRED TO CONTACT DIGALERT OR 811 A MINIMUM OF TWO (2) DAYS PRIOR TO THE START OF ANY EXCAVATIONS ON THE PROJECT AND SPECIFICALLY PRIOR TO THE INSTALLATION OF ANY GROUNDING RODS. DIAL 811 OR LOG ONTO WWW.DIGALERT.ORG TO START A PROJECT TICKET. DIGALERT AND 811 IS A FREE SERVICE PROVIDED TO THE PROJECT. FAILURE TO CONTACT AND HAVE THE EXISTING UTILITIES IDENTIFIED, LOCATED AND MARKED SHALL MAKE THE CONTRACTOR SOLELY RESPONSIBLE FOR ANY AND ALL DAMAGES.

VALVE CALLOUT LEGEND



HYDROZONE DESCRIPTION CHART			
NUMBER	DESCRIPTION OF THE HYDROZONE	WUCOLS	PLANT FACTOR
HZ 1	LOW WATER USE PLANTINGS	L	0.30
HZ 2	LOW WATER USE GRASSES	L	0.30
HZ 3	LOW WATER USE TREES	L	0.30
HZ4	MODERATE WATER USE TREES	M	0.40

IRRIGATION METHOD DESCRIPTION CHART			
LETTERS	DESCRIPTION OF THE IRRIGATION	TYPE	IR. EFFICIENCY
DT	DRIP TUBING	DRIP	0.81
TB	TREE BUBBLERS	DRIP	0.81

IRRIGATION CONTROLLER RUN TIMES																															
POC or Controller		JAN		FEB		MAR		APR		MAY		JUN		JUL		AUG		SEP		OCT		NOV		DEC		Total / Avg.					
1	Eto / Month (inches)	1.80	2.10	3.30	4.50	4.70	5.00	5.40	5.40	3.90	3.40	2.40	2.20	44.10																	
	Eto / Day (inches)	0.06	0.08	0.11	0.15	0.15	0.17	0.17	0.17	0.13	0.11	0.08	0.07	6.12																	
	Irrigation Days / Week:	3	3	3	4	4	5	5	5	4	4	3	3																		
Plant / Irrig. Type		AKC		Pr Rate		IE		JAN		FEB		MAR		APR		MAY		JUN		JUL		AUG		SEP		OCT		NOV		DEC	
Low Water Use Plant		0.30	0.70	0.81	4.3	5.6	7.9	8.3	8.4	7.4	7.7	7.7	7.2	6.1	5.9	5.3	Min./Day/Zone														
Drip Tubing		Number of Zones:		6	25.8	33.3	47.3	50.0	50.5	44.4	46.5	46.5	43.3	36.6	35.6	31.5	Total Min./Day														
Low Water Use Gr		0.30	1.04	0.81	3.2	4.1	5.9	6.2	6.3	5.5	5.8	5.8	5.4	4.5	4.4	3.9	Min./Day/Zone														
Drip Tubing		Number of Zones:		3	9.6	12.4	17.6	18.6	18.8	16.5	17.3	17.3	16.1	13.6	13.2	11.7	Total Min./Day														
Moderate Water Use		0.30	3.00	0.81	1.0	1.3	1.8	1.9	2.0	1.7	1.8	1.8	1.7	1.4	1.4	1.2	Min./Day/Zone														
Bubblers		Number of Zones:		1	1.0	1.3	1.8	1.9	2.0	1.7	1.8	1.8	1.7	1.4	1.4	1.2	Total Min./Day														
Moderate Water Use		0.40	3.00	0.81	1.3	1.7	2.5	2.6	2.6	2.3	2.4	2.4	2.2	1.9	1.8	1.6	Min./Day/Zone														
Bubblers		Number of Zones:		1	1.3	1.7	2.5	2.6	2.6	2.3	2.4	2.4	2.2	1.9	1.8	1.6	Total Min./Day														
Total Number of Zones:		11		38	49	69	73	74	65	68	68	63	53	52	46	Total Min./Day															
Total Controller Run Time in Hours:		0.63		0.81	1.15	1.22	1.23	1.08	1.13	1.13	1.06	0.89	0.87	0.77	Total Hrs./Day																
				JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC																

Note: These schedules are intended only for compliance with local municipal codes and the water efficient landscape ordinance. These calculations represent the MAXIMUM REASONABLE run times and are used to ensure that all irrigation may be completed during the specific watering window allowed. These schedules do not include rainfall, site soil types, specific exposures (shade versus sun), actual irrigation days, or specific slope position. It is solely the responsibility of the irrigation contractor to program the controller as required to apply the correct amount of irrigation water for the landscape. All smart controllers shall be programmed using the specified ET or weather sensing equipment, satellite provided ET data, soil moisture sensors, and rain shut off devices as required. Contractor shall provide a controller schedule inside the controller cabinet prior to final turnover of the project to the owner.

IRRIGATION MATERIAL LEGEND

SYMBOL	MANUFACTURER	MODEL NO. / DESCRIPTION	FLOW RATE (GPM)	PSI	RADIUS	P.R. (TRI.)	DETAIL
	RAIN BIRD	RD-06-S 6" POP-UP BUBBLER HEAD WITH A HUNTER MSBN-50Q STREAM BUBBLER NOZZLE EACH SYMBOL REPRESENTS TWO (2) BUBBLER TO PROVIDE A TOTAL OF TWO (2) BUBBLERS PER TREE. PLACE THE BUBBLER HEADS SIX (6) INCHES FROM THE ROOT BALL OF THE TREE AND ON OPPOSITE SIDES OF TREE. ADJUST BUBBLER STREAMS TO WET THE ROOT BALL AND ADJACENT AMENDED SOIL WITHOUT HITTING THE TRUNK OF THE TREE.	.50 (1.0 TOTAL)	30	1 FT	1.00 IN./HR.	A,B
	NETAFIM	TLHCVXR5-12 SUBSURFACE DRIP TUBING WITH 0.53 GPH, PRESSURE COMPENSATING EMITTERS INTERNALLY INSTALLED IN THE DRIP TUBING AT 12" O.C. SPACING. DRIP TUBING SHALL BE EQUIPPED WITH COPPER OXIDE INFUSED EMITTERS AND A PHYSICAL BARRIER TO PREVENT ROOT INTRUSION INTO THE DRIP EMITTER. DRIP EMITTERS SHALL BE CONTINUOUS FLUSHING TYPE AND EQUIPPED WITH A CHECK VALVE AND ANTI-SIPHON FEATURE. DRIP TUBING SHALL BE INSTALLED 4" (6" IN GRASS AREAS) BELOW FINISHED SOIL GRADE (NOT COUNTING MULCH) AND IN PARALLEL ROWS A MAXIMUM OF 16" (12" IN GRASS AREAS) ON CENTER. THE PERIMETER ROW OF DRIP TUBING SHALL BE INSTALLED A MAXIMUM OF 4" FROM THE EDGE OF ANY HARDSCAPE OR GRASS EDGE. ALL SUBSEQUENT INTERIOR ROWS SHALL BE ADJUSTED TO PROVIDE AN EVEN SPACING ACROSS THE PLANTER WITHOUT EXCEEDING 16" (12" IN GRASS AREAS) MAXIMUM SPACING. INSTALL 9" PVC COATED GALVANIZED TUBING STAKES A MAXIMUM OF FIVE (5) FEET ON CENTER ALONG THE LENGTH OF THE TUBING. TUBING STAKES SHALL BE MODEL #GDT5140900 AS MANUFACTURED BY GPH IRRIGATION PRODUCTS (868) 582-9684. THE HATCH PATTERN SYMBOLS ON THE PLANS REPRESENT THE APPROXIMATE DIRECTION AND SPACING OF THE DRIP TUBING ROWS, SEE SPACING REQUIREMENTS ABOVE AND IN DETAILS.					C,D,E
	NETAFIM	CONNECTION BETWEEN HCXVR DRIP TUBING AND PVC SUPPLY AND DISCHARGE HEADERS SHALL BE MADE USING SCH. 40 PVC SXT FITTINGS, TL BARBED DRIP TUBING FITTINGS AND BLANK DRIP TUBING. WHEN THE CONNECTION IS AT THE END RUN OF THE TUBING USE A SCH. 40 PVC LATERAL X LATERAL X 1/2" SxSXT TEE (OR A LATERAL X 1/2" SxT 90° ELBOW) FITTING ON THE PVC LATERAL LINE HEADER, A TL050MA BARB X 1/2" MALE ADAPTER, A SHORT LENGTH OF BLANK DRIP TUBING, AND A TLELL BARBED 90° ELBOW FITTING. WHEN THE CONNECTION IS IN THE MIDDLE OF THE TUBING RUN USE A SCH. 40 PVC LATERAL X LATERAL X 1/2" SxSXT TEE (OR A LATERAL X 1/2" SxT 90° ELBOW) FITTING ON THE PVC LATERAL LINE HEADER, A TL050MA BARB X 1/2" MALE ADAPTER, A SHORT LENGTH OF BLANK DRIP TUBING, AND A TLTEE BARBED TEE FITTING. ALL END RUNS OF TUBING SHALL BE CONNECTED WITH A PVC DISCHARGE HEADER. NO HEATING OF TUBING SHALL BE ALLOWED FOR ASSEMBLY.					C,D,E
	NETAFIM	TL SERIES 17mm BARBED FITTINGS FOR CONNECTIONS BETWEEN DRIP TUBING (TUBING-TO-TUBING ONLY). NO HEATING OF TUBING SHALL BE ALLOWED.					C,D,E
	AS APPROVED	PVC SUPPLY AND DISCHARGE HEADERS SHALL BE PVC LATERAL LINE PIPE (AS SHOWN BELOW), 1" MINIMUM SIZE WITH SCH. 40 PVC FITTINGS.					C,D,E
	GPH IRRIGATION / RAIN BIRD	GDFN DRIP FLUSH / INDICATOR NOZZLE, ORANGE IN COLOR, INSTALLED ONTO A RAIN BIRD 1812 12" POP-UP SPRINKLER BODY (NO PRS OR CHECK VALVE). THE FLUSH NOZZLE SHALL BE CLOSED FOR NORMAL OPERATION OF THE DRIP SYSTEM.					D,F
	P.O.C.	5/8" POTABLE (DOMESTIC) WATER METER WITH 1" SERVICE LINE. VERIFY SIZE, LOCATION AND PRESSURE IN FIELD.					N/A
	WILKINS	975XLS, 1" R/P BACK FLOW PREVENTION DEVICE WITH WYE STRAINER, INSTALL WITH BRASS NIPPLES, UNIONS AND FITTINGS, SIZED PER DEVICE					G
	WILKINS	500XL-HLR 1" BRONZE, HIGH LOW RANGE (10-125 PSI) PRESSURE REGULATOR, WITH SINGLE UNION FIPT X FIPT CONNECTIONS, INSTALL PRESSURE REGULATOR ON THE DOWNSTREAM SIDE OF THE BACK FLOW DEVICE. SET WATER PRESSURE TO 10 PSI ABOVE DESIGN PRESSURE SHOWN ON POC NOTES.					G
	NETAFIM	WM-100-0.1-ER-P 1" LANDSCAPE WATER SUB-METER. INSTALL INSIDE A STANDARD RECTANGULAR VALVE BOX.					H
	BUCKNER	3200-100 1" NORMALLY CLOSED, BRASS MASTER CONTROL VALVE. WIRE MCV TO THE CONTROLLER USING A SEPARATE PILOT AND GROUND WIRE, ROUTE INSIDE A 1" SCH. 40 PVC (GRAY) ELECTRICAL CONDUIT. INSTALL INSIDE A STANDARD RECTANGULAR VALVE BOX.					I
	HYDROPOINT / WEATHERTRAK	WT-FS-100-CST 1" PVC TEE, CST TYPE FLOW SENSOR, WIRE TO CONTROLLER USING TWO (2) #14UF AWG WIRES INSIDE A 1" SCH. 40 PVC (GRAY) ELECTRICAL CONDUIT. INSTALL PER MANUFACTURER'S RECOMMENDATIONS AND INSIDE A STANDARD RECTANGULAR VALVE BOX. MULTIPLE FLOW SENSORS SHALL REQUIRE SEPARATE CONDUIT RUNS. CONTACT CREATIVE SENSOR TECHNOLOGY'S REPRESENTATIVE, GENTILE & ASSOCIATES (STEVEN KIM) AT (760) 214-5734 FOR FURTHER INFORMATION.					J
	LASCO	V17101N-SC 1 1/2" SLO-CLOSE SCH. 80 PVC, TRUE-UNION BALL VALVE WITH SOLVENT WELD SOCKET CONNECTIONS, LINE SIZE PER MAINLINE. INSTALL INSIDE A 10" ROUND VALVE BOX.					K
	RAIN BIRD	44LRC 1" QUICK COUPLER VALVE WITH LOCKING VINYL COVER AND A LASCO G13S-218 SWING JOINT. INSTALL INSIDE A 10" ROUND VALVE BOX.					L
	RAIN BIRD	100-PESB-PRS-D PRESSURE REGULATING, PLASTIC REMOTE CONTROL VALVE (RCV), SIZE AS SHOWN (1" SIZE), SET PRS-D PRESSURE REGULATOR TO PROVIDE THE OPERATING PRESSURE OF THE SPRINKLER / BUBBLER HEAD AT THE HIGHEST OR FARTHEST HEAD ON THE CONTROL VALVE ZONE (MEASURE PSI AT HEAD). INSTALL THE RCV INSIDE A STANDARD RECTANGULAR VALVE BOX.					M,N
	RAIN BIRD	PLASTIC DRIP REMOTE CONTROL VALVE ASSEMBLY, SIZE AS SHOWN (1" SIZE). COMPLETE WITH PLASTIC CONTROL VALVE, DRIP FILTER AND PRESSURE REGULATION, AS SHOWN BELOW BY SIZE:					N,O
	RAIN BIRD	FOR 1" DRIP ZONES: 100-PESB VALVE AND A PRB-QKCHK-100 PRESSURE REGULATING, 200 MESH BASKET FILTER. IN A STANDARD RECTANGULAR BOX.					N,O
	HYDROPOINT / WEATHERTRAK	WTL-C-18-PL-F 18 STATION CONTROLLER COMPLETE WITH FLOW KEY OPTION, AN INTERNET COMMUNICATIONS CARD AND A PLASTIC WALL MOUNTED ENCLOSURE. CONTRACTOR TO SUBSCRIBE TO (CIMAYA) WEATHERTRAK CENTRAL SERVICE FIVE (5) YEAR OF INTERNET BASED CENTRAL CONTROL AND DAILY WEATHER DATA DOWNLOAD SERVICES. THE CONTRACTOR TO REGISTER THE CONTROLLER SOFTWARE AND FULLY PROGRAM THE CONTROLLER FOR AUTOMATIC PROGRAM ADJUSTMENT. THE CONTRACTOR SHALL PROVIDE PROOF OF REGISTRATION AND PROGRAMMING TO THE OWNER.					P
	PAIGE ELECTRIC	THE CONTROLLER SHALL BE GROUNDED USING A #182000 5/8" X 8 FOOT COPPER CLAD GROUND ROD, A #182005 CAST BRONZE ROD CLAMP AND THE REQUIRED LENGTH OF #8AWG BARE, SINGLE STRAND COPPER GROUND WIRE. INSTALL INSIDE A 10" ROUND VALVE BOX.					Q
	RAIN MASTER	RS-500 WIRED RAIN SENSOR, MOUNT IN RGVRSS ENCLOSURE ON THE EVE OF ROOF. WIRE BACK TO THE CONTROLLER WITHIN 1/2" CONDUIT.					R
	N/A	120 VOLT ELECTRICAL POWER FOR CONTROLLER, PROVIDED BY ELECTRICIAN, VERIFY ACTUAL LOCATION IN FIELD					N/A
	AS APPROVED	PVC PIPE 3/4" - 1 1/4" SCH. 40, SOLVENT WELD WITH SCH. 40 PVC FITTINGS, AS LATERAL LINES INSTALLED 12" BELOW FINISHED GRADE					S
	AS APPROVED	PVC PIPE 1 1/2" SCH. 40, SOLVENT WELD WITH SCH. 80 PVC FITTINGS, AS MAINLINES INSTALLED 18" BELOW FINISHED GRADE					S
	AS APPROVED	PVC PIPE SCH. 40 AS SLEEVEING, 2 TIMES THE DIAMETER OF PIPE OR WIRE BUNDLE CARRIED (2" MINIMUM SIZE) INSTALL ALL PIPE AND WIRE UNDER PAVING, HARDSCAPE, ETC. (OR AS DIRECTED BY OWNER'S AUTHORIZED REPRESENTATIVE) INSIDE SLEEVES. SLEEVES UNDER PEDESTRIAN PAVING SHALL BE INSTALLED 24" BELOW FINISHED GRADE. SLEEVES UNDER VEHICULAR PAVING SHALL BE INSTALLED 36" BELOW FINISHED GRADE.					T
	LASCO	ALL FITTINGS USED WITH SOLVENT WELD MAINLINE PIPE SHALL BE SCH. 80 PVC FITTINGS, GRAY IN COLOR, AND SIZED TO MATCH THE MAINLINE PIPE. ALL FITTINGS USED WITH SOLVENT WELD LATERAL LINE PIPE SHALL BE SCH. 40 PVC, WHITE IN COLOR, AND SIZED TO MATCH THE LATERAL LINE PIPE. ALL THREADED PVC NIPPLES SHALL BE SCH. 80 PVC PIPE, DARK GRAY IN COLOR, WITH MOLDED THREADS.					N/A
	AS APPROVED	ALL SOLVENT WELD CONNECTIONS FOR BOTH MAINLINE AND LATERAL LINE SHALL BE MADE USING THE TWO-STEP PROCESS OF PRIMER AND SOLVENT CEMENT. PRIMER SHALL BE LOW VOC "PURPLE PRIMER". MAINLINE SOLVENT CEMENT SHALL BE LOW VOC, "GRAY-HEAVY BODY" CEMENT. LATERAL LINE SOLVENT CEMENT SHALL BE LOW VOC, GRAY OR BLUE COLORED MEDIUM BODIED CEMENT. USE DAUBERS SIZED AT LEAST ONE-HALF THE SIZE OF THE LARGEST PIPE BEING JOINED. ALL SOLVENT CEMENTED JOINTS SHALL BE MADE PER THE PIPE AND FITTING MANUFACTURER'S RECOMMENDATIONS.					N/A
	AS APPROVED	TYPE 'K' COPPER PIPING ROUTED BETWEEN PLANTERS, AND THROUGH BUILDING AND GARAGES. COPPER PIPING SHALL BE DESIGNED BY THE PLUMBING ENGINEER AND BE SHOWN ON THE PLUMBING PLANS. COPPER PIPING SHALL BE INSTALLED BY THE PLUMBER. COPPER PIPING SHOWN IS FOR REFERENCE ONLY. VERIFY LOCATION, SIZE AND STUB-OUTS OF COPPER PIPING IN THE FIELD PRIOR TO STARTING WORK.					N/A
	AS APPROVED	CONNECTION POINT BETWEEN COPPER PIPING (PROVIDED BY PLUMBER) AND PVC IRRIGATION PIPING. COPPER PIPE STUB-OUT SHALL HAVE A LINE SIZED SWEAT X FIPT COPPER ADAPTER PROVIDED FOR CONNECTION TO THE IRRIGATION PIPING. USE A LINE SIZED X 6" SCH. 80 T.O.E. PVC NIPPLE AND A LINE SIZED PVC COUPLER FOR THE CONNECTION. VERIFY LOCATION, SIZE AND STUB-OUTS OF COPPER PIPING IN THE FIELD PRIOR TO STARTING WORK.					N/A
	AS APPROVED	1" SCH. 40 PVC, GRAY ELECTRICAL CONDUIT FOR FLOW SENSOR, PROVIDE PULL BOX AT A MAXIMUM OF 200 FEET ON CENTER FOR A 3 FOOT WIRE LOOP OR ANY SPLICES. INSTALL INSIDE A STANDARD RECTANGULAR VALVE BOX.					N/A
	PAIGE ELECTRIC	P7079D POLYETHYLENE INSULATED, SOLID COPPER CONDUCTOR IRRIGATION CONTROL WIRE #14UF AWG DIRECT BURIAL (U.L. APPROVED). PILOT WIRES SHALL BE RED IN COLOR, COMMON GROUND WIRE SHALL BE WHITE IN COLOR, SPARE WIRES SHALL BE YELLOW IN COLOR. WHERE MULTIPLE CONTROLLERS ARE USED ON THE PROJECT, EACH CONTROLLER SHALL HAVE A DIFFERENT COLOR FOR PILOT WIRES. THE CONTRACTOR SHALL ROUTE TWO (2) SPARE CONTROL WIRES (YELLOW) FROM THE CONTROLLER ALONG THE MAINLINE IN ALL DIRECTIONS AWAY FROM THE CONTROLLER. LOOP SPARE WIRES UP AND INTO EACH VALVE BOX ALONG THE MAINLINE, PROVIDING A 3 FOOT MINIMUM LOOP.					S,T,U
	GPH IRRIGATION	GDBRY6 DIRECT BURIAL, 100% SILICONE GEL, WATER-PROOF WIRE CONNECTORS FOR USE ON ALL WIRE SPLICES AND CONNECTIONS					U
	NDS (K.B.I.)	KSC-XXX-S SWING CHECK VALVE, LATERAL LINE SIZE. INSTALL ONE (1) ON THE DOWNSTREAM SIDE OF EACH RCV WHEN THE RCV IS LOWER THAN THE SPRINKLERS, BUBBLERS OR DRIP EMITTERS. INSTALL WITHIN SPRINKLER / BUBBLER / DRIP ZONES AS REQUIRED TO PREVENT LOW HEAD DRAINAGE.					N/A
	NDS (K.B.I.)	KC-XXX-S SPRING CHECK VALVE, LATERAL LINE SIZE. INSTALL ONE (1) ON THE DOWNSTREAM SIDE OF EACH RCV WHEN THE RCV IS HIGHER THAN THE SPRINKLERS, BUBBLERS OR DRIP EMITTERS. INSTALL WITHIN SPRINKLER / BUBBLER / DRIP ZONES AS REQUIRED TO PREVENT LOW HEAD DRAINAGE.					N/A
	RAIN BIRD	ALL VALVE BOXES SHALL BE VB SERIES, PLASTIC TYPE WITH OVERLAPPING LIDS. VALVE BOX BODIES SHALL BE BLACK IN COLOR. LIDS FOR VALVE BOXES					V

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CIVIL ENGINEER

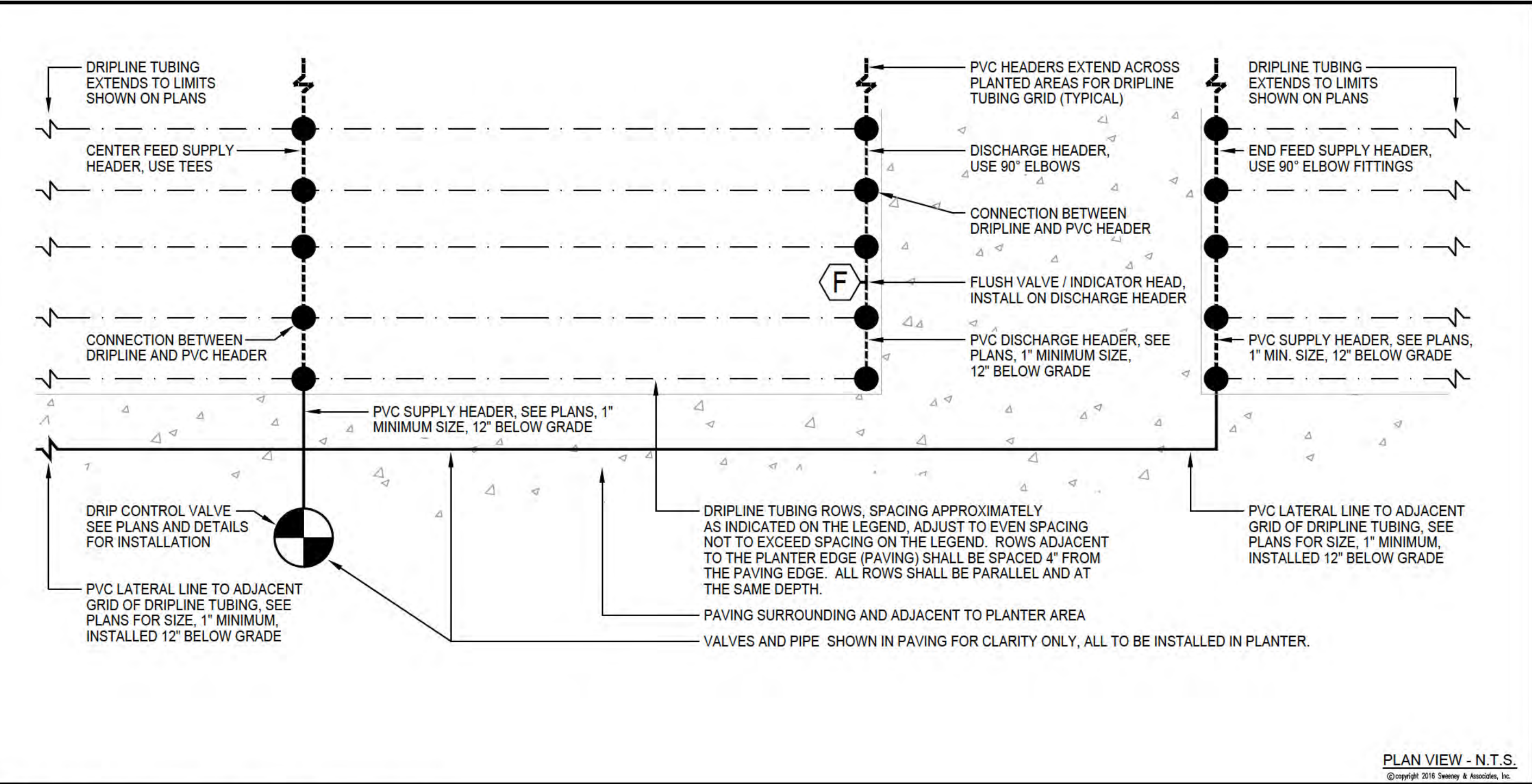
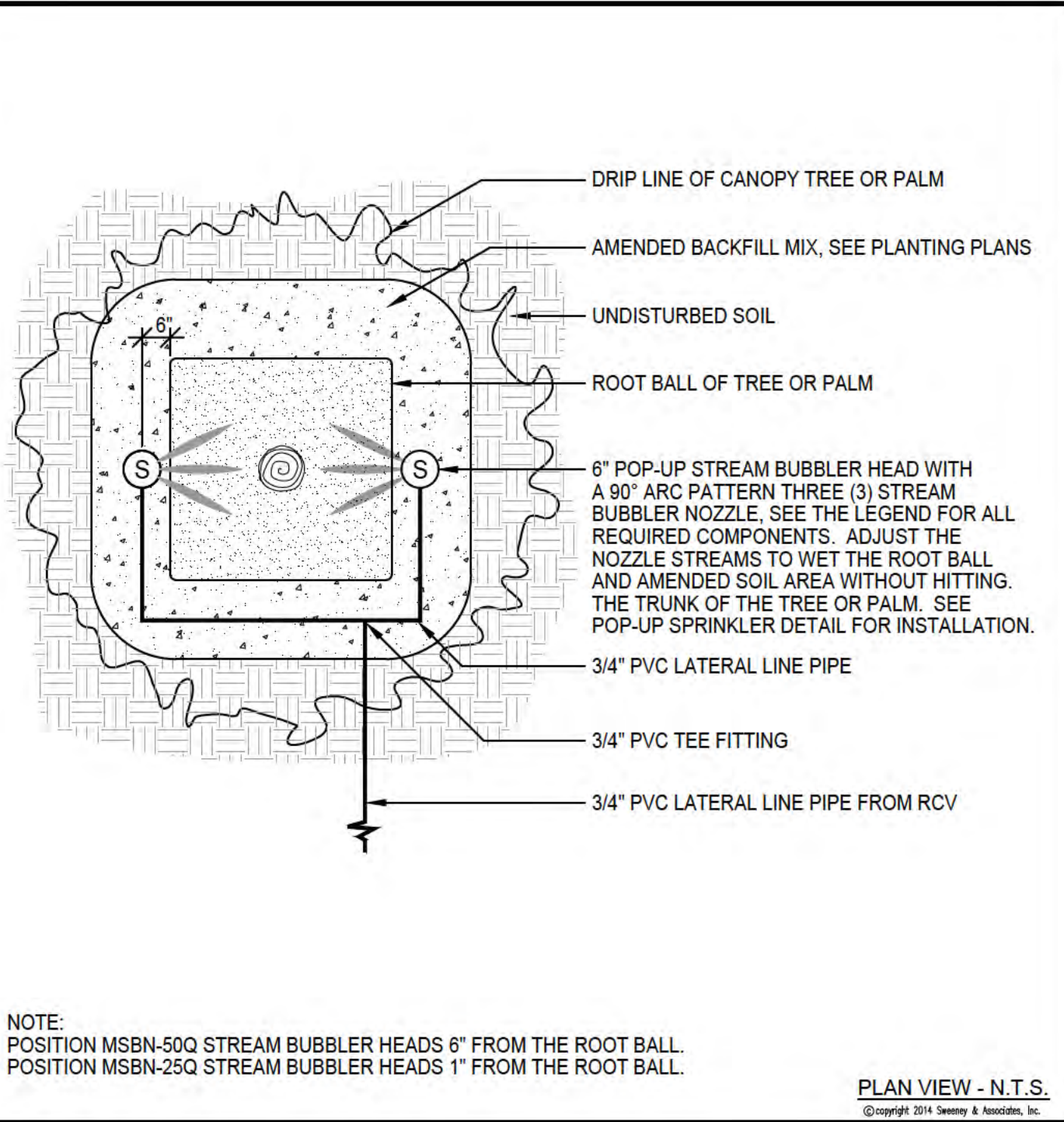
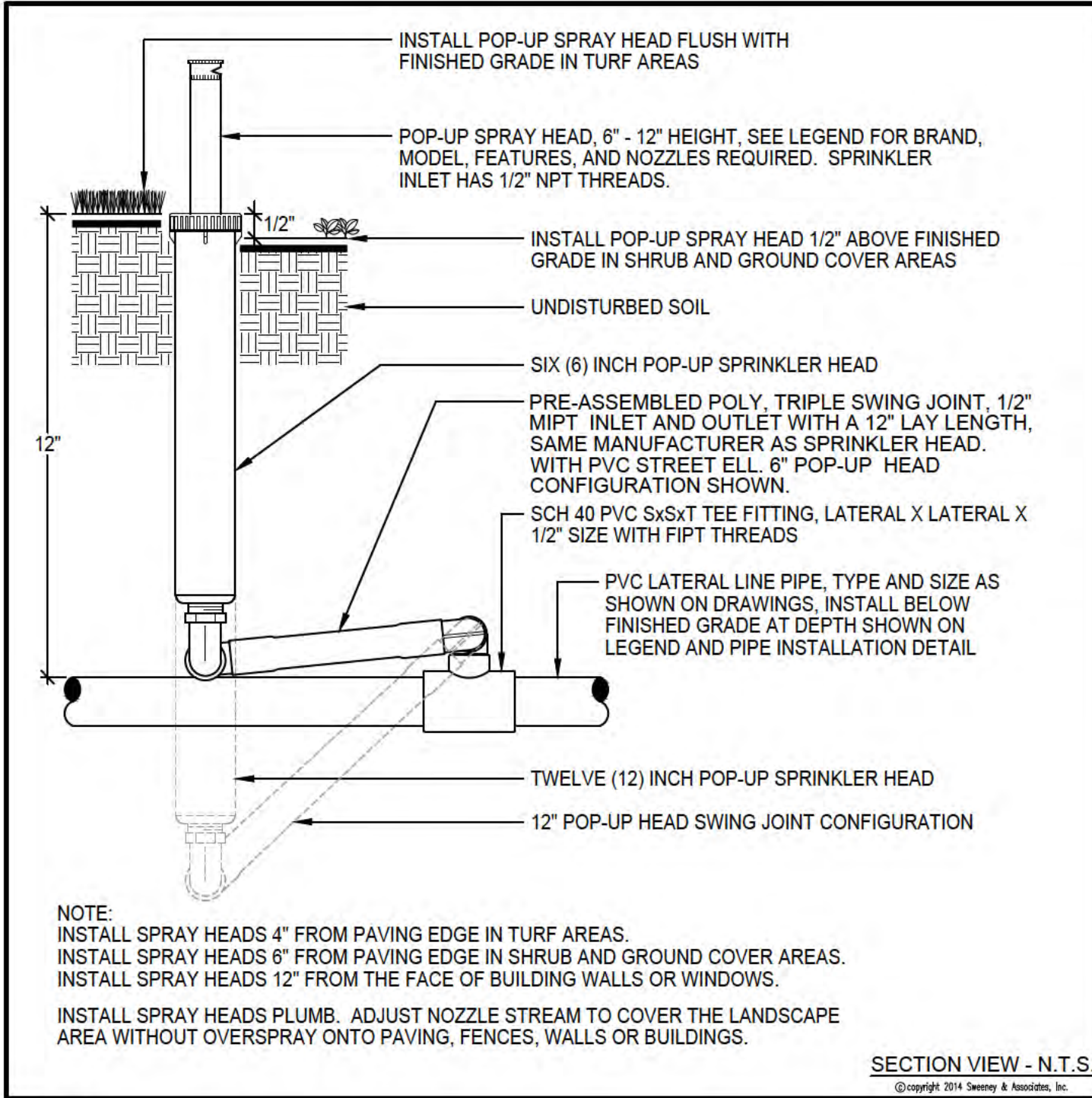
RJR Engineering
2340 Palma Drive, #200
Ventura, CA 93003
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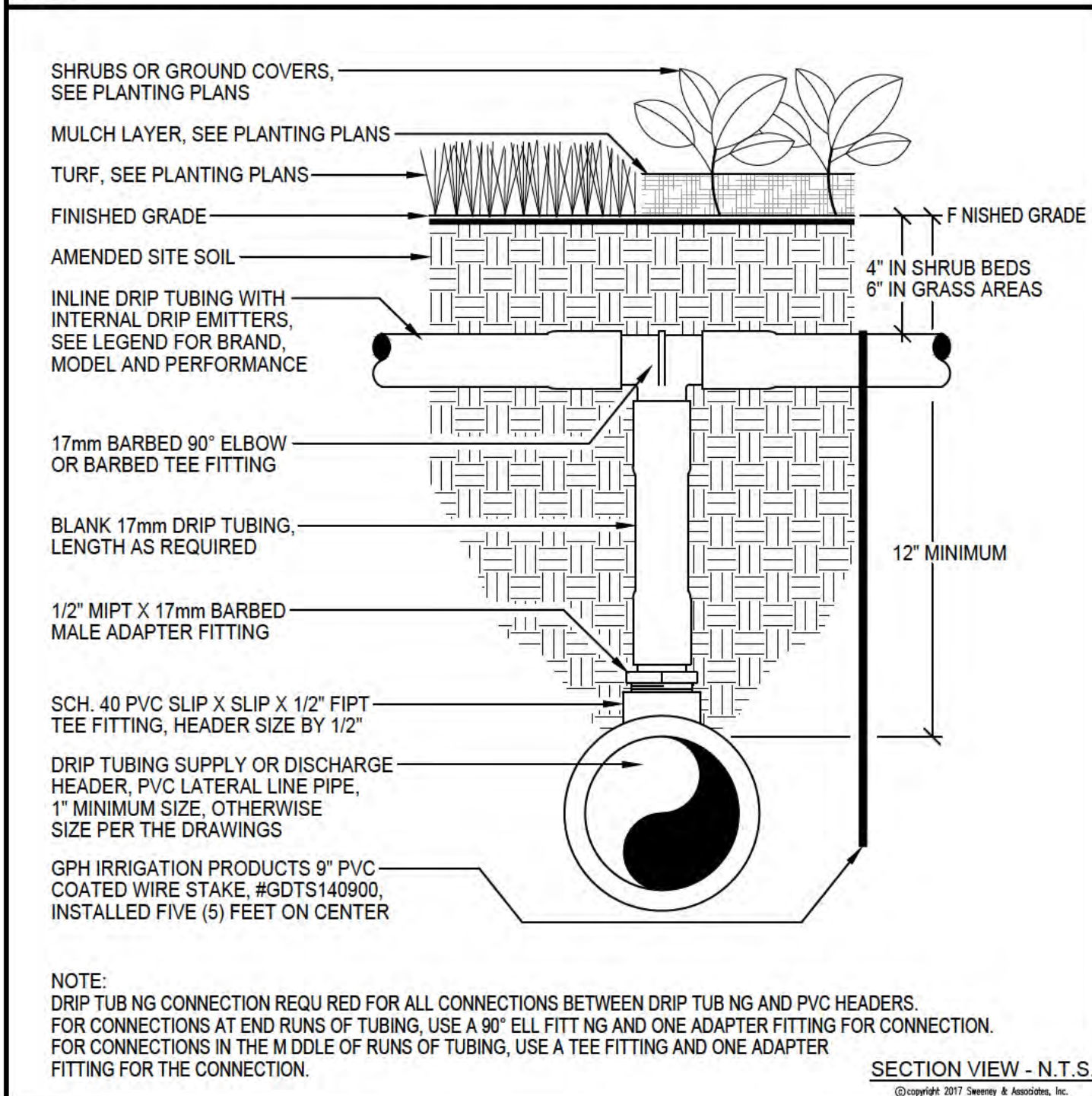
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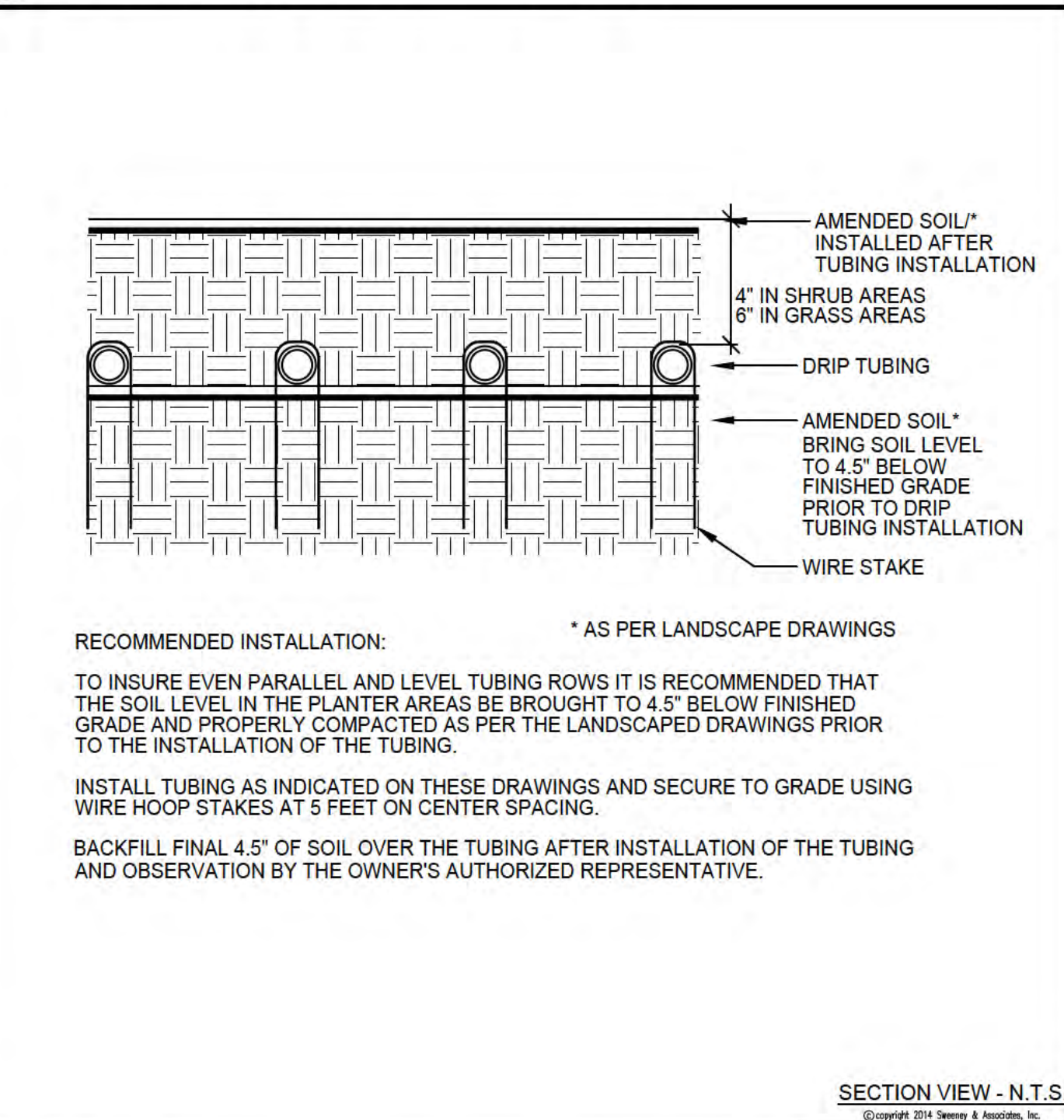


A POP-UP SPRINKLER HEAD



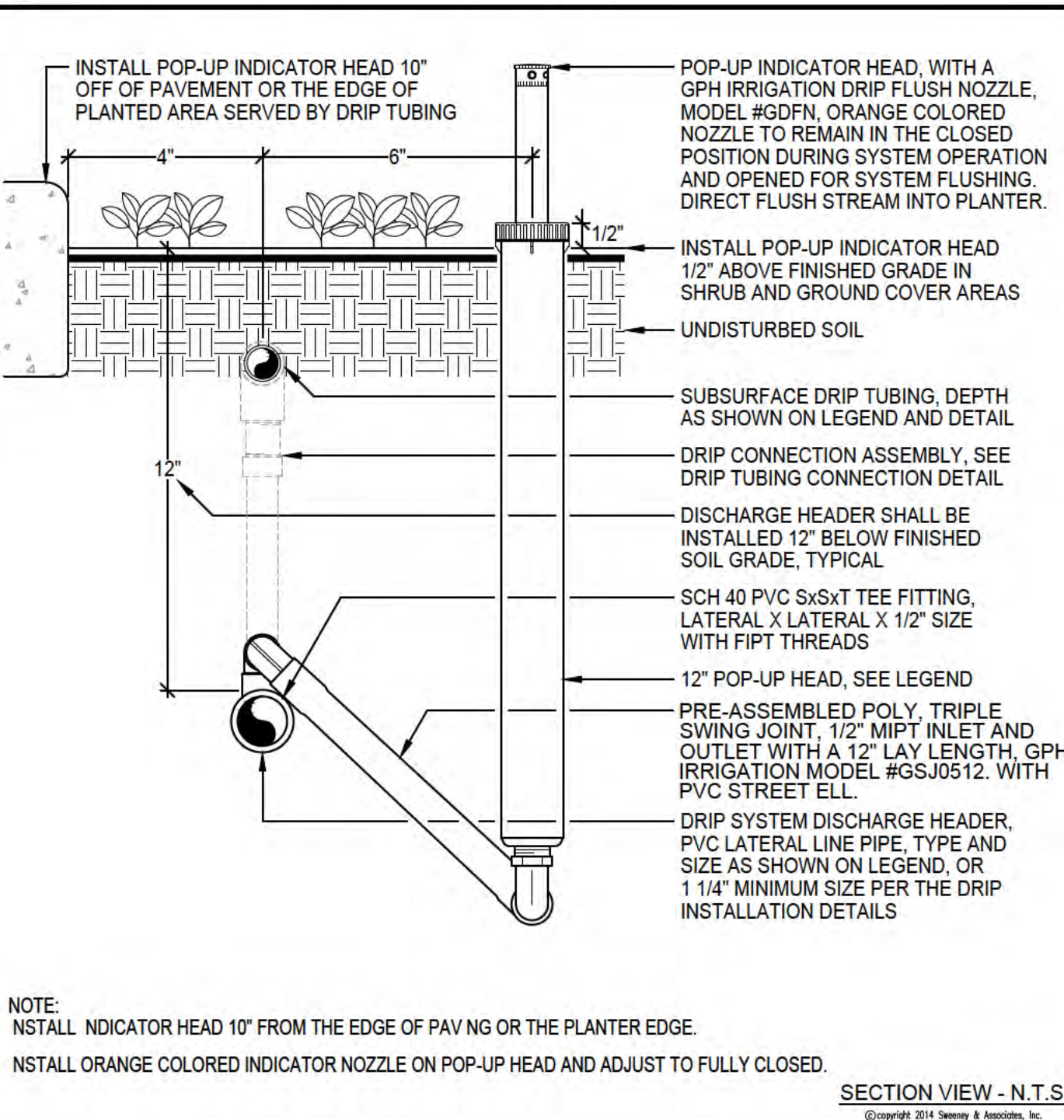
D DRIP CONNECTION

B TREE BUBBLER LAYOUT

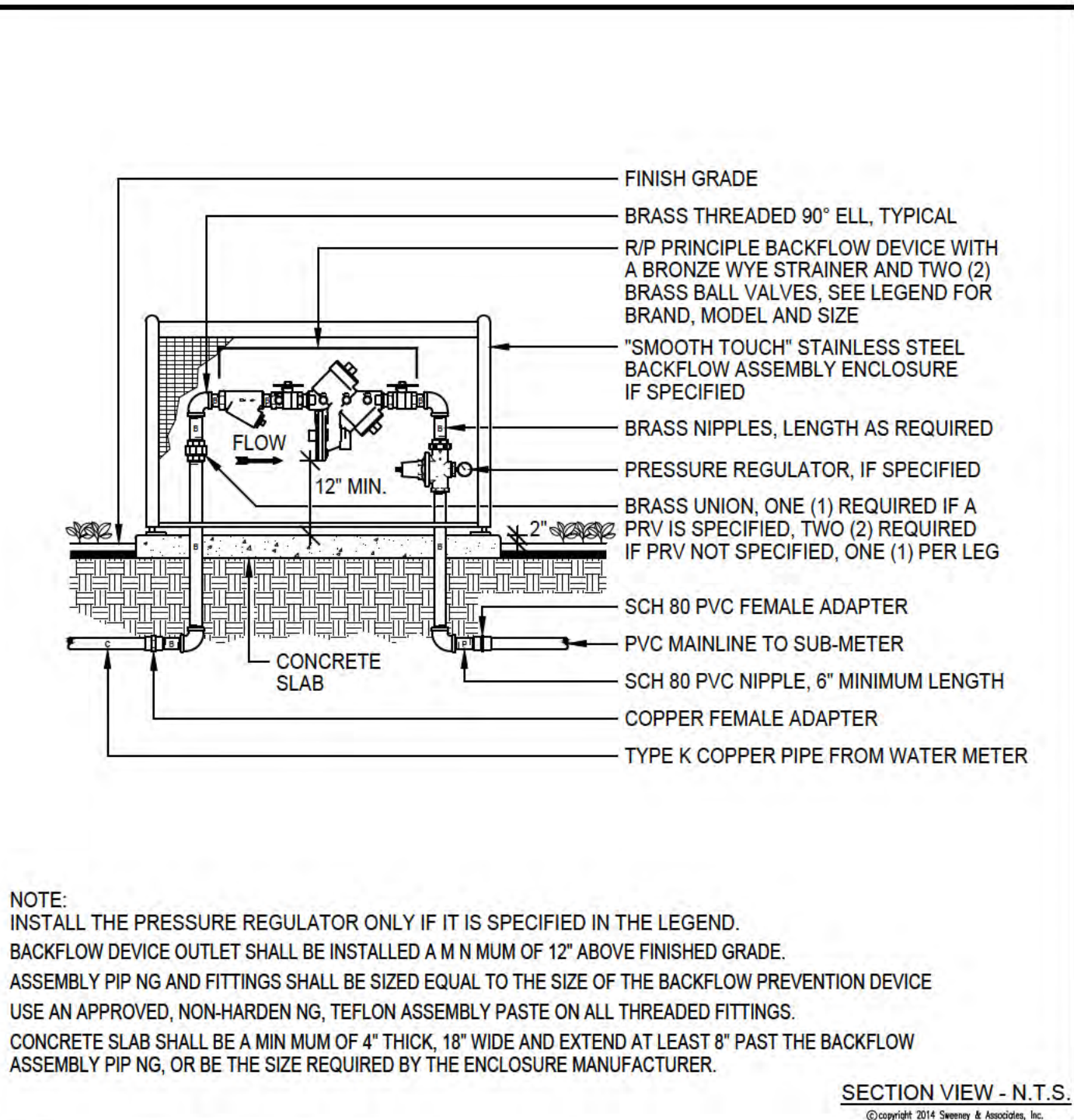


E DRIP TUBING LAYOUT (SECTION)

D DRIP TUBING LAYOUT



F FLUSH VALVE/INDICATOR HEAD



G BACKFLOW DEVICE

I HAVE COMPLIED WITH THE CRITERIA OF THE IRRIGATION GUIDELINES AND APPLIED THEM ACCORDINGLY FOR THE EFFICIENT USE OF WATER IN THE IRRIGATION DESIGN PLAN



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IRRIGATION
DETAILS

L3.2

DATE: 2019.09.23
SCALE: AS NOTED
DRAWN BY: CB
CHKD BY: DZ

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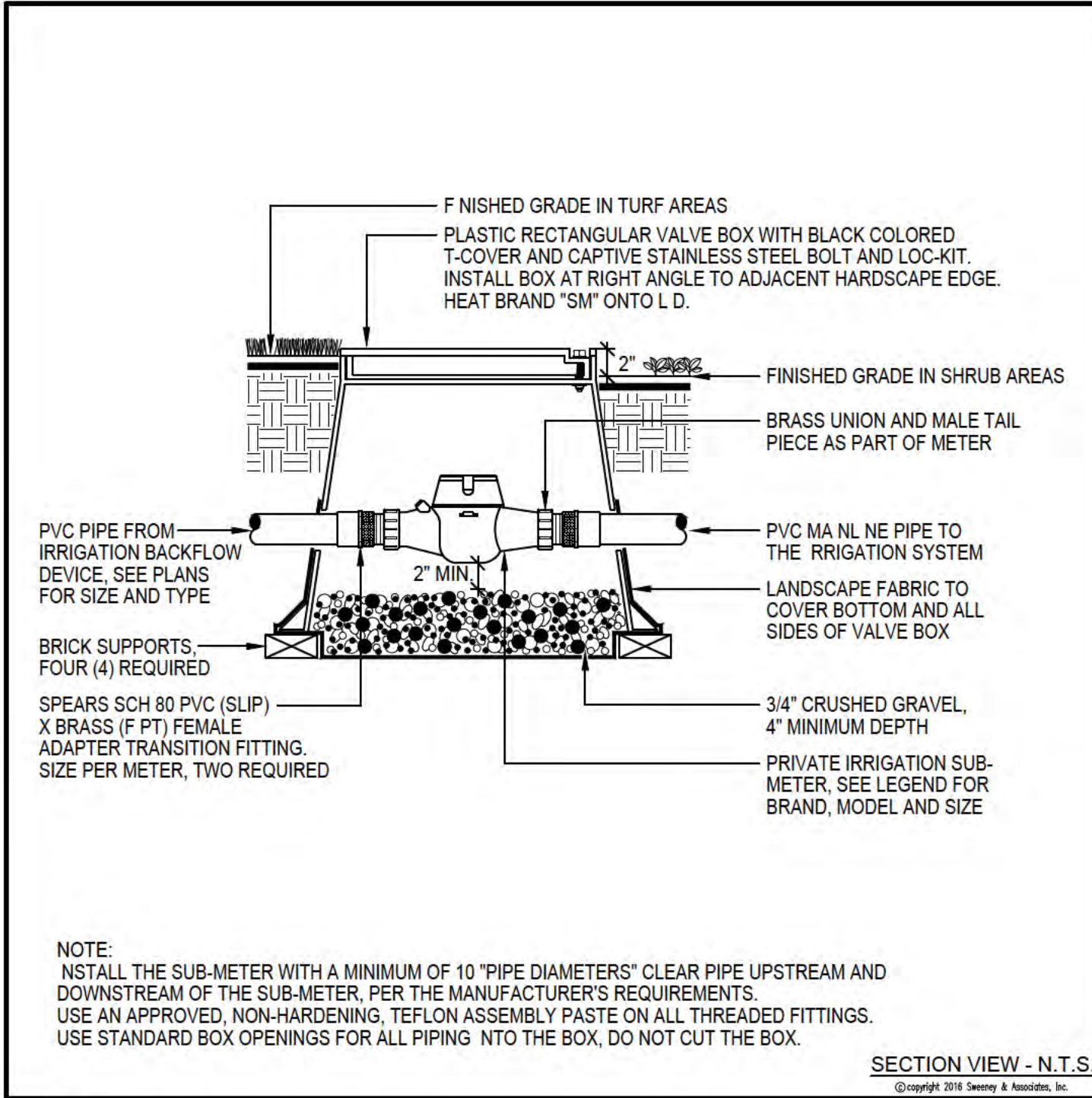
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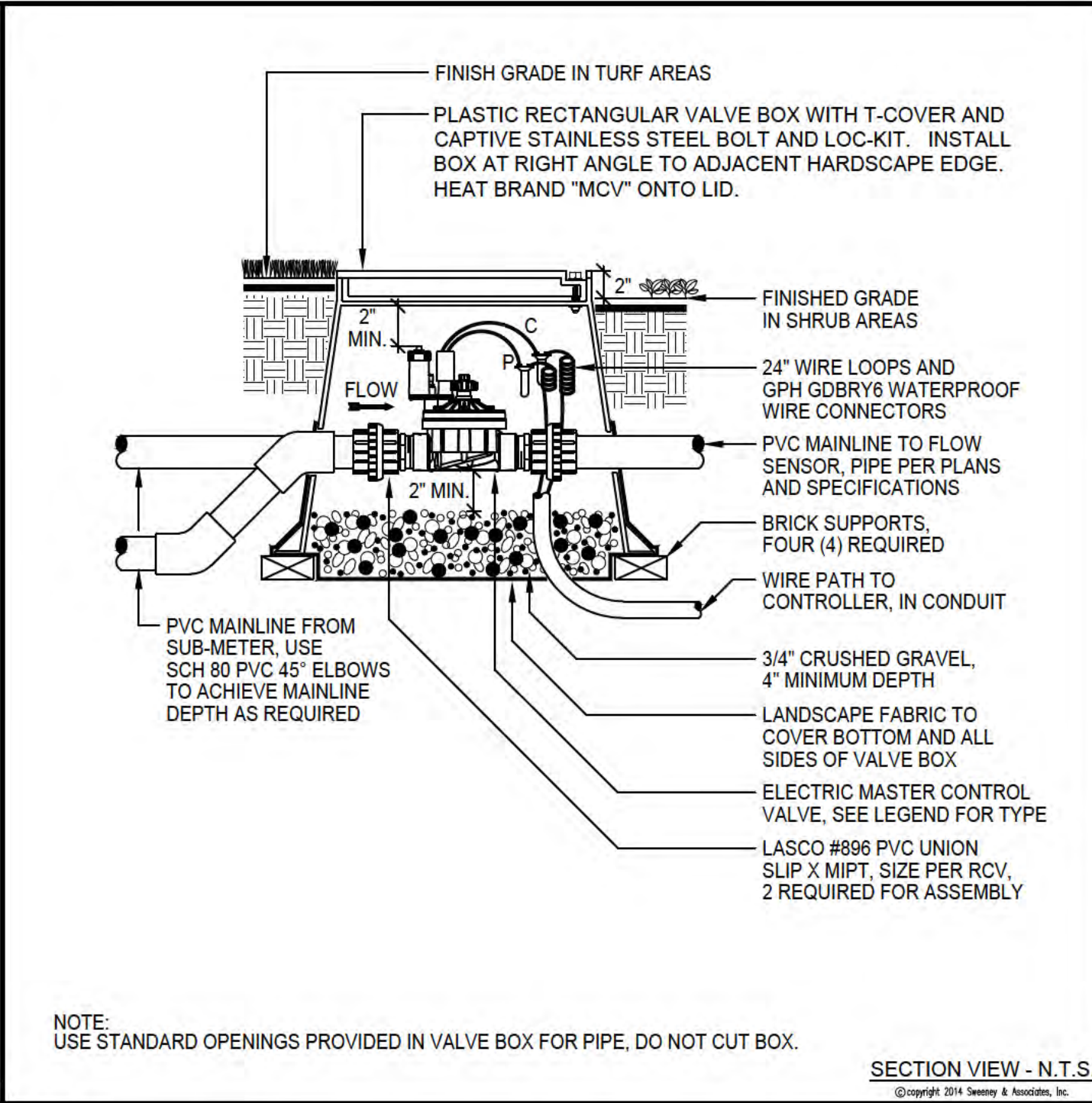
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SURVEYOR

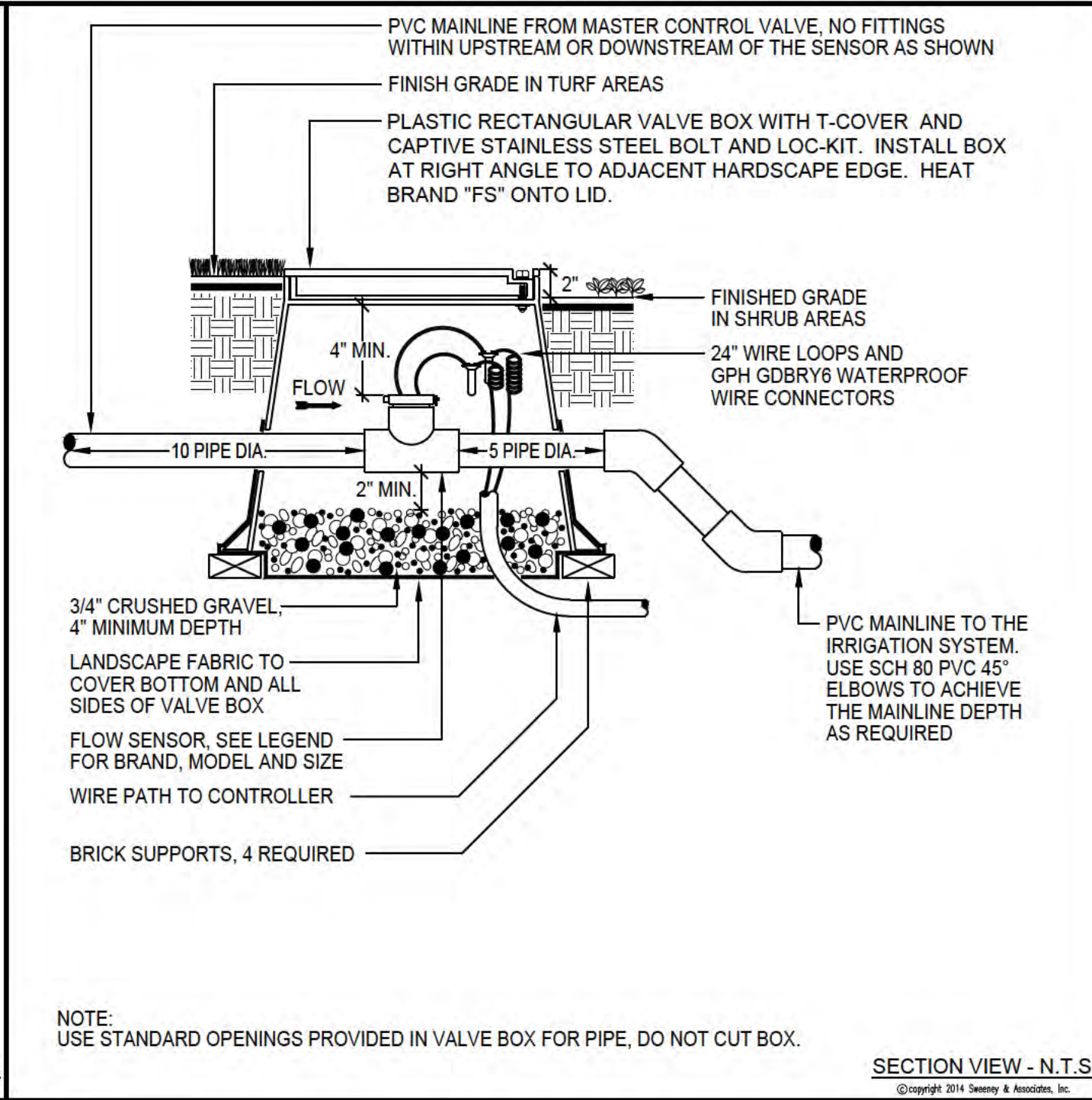
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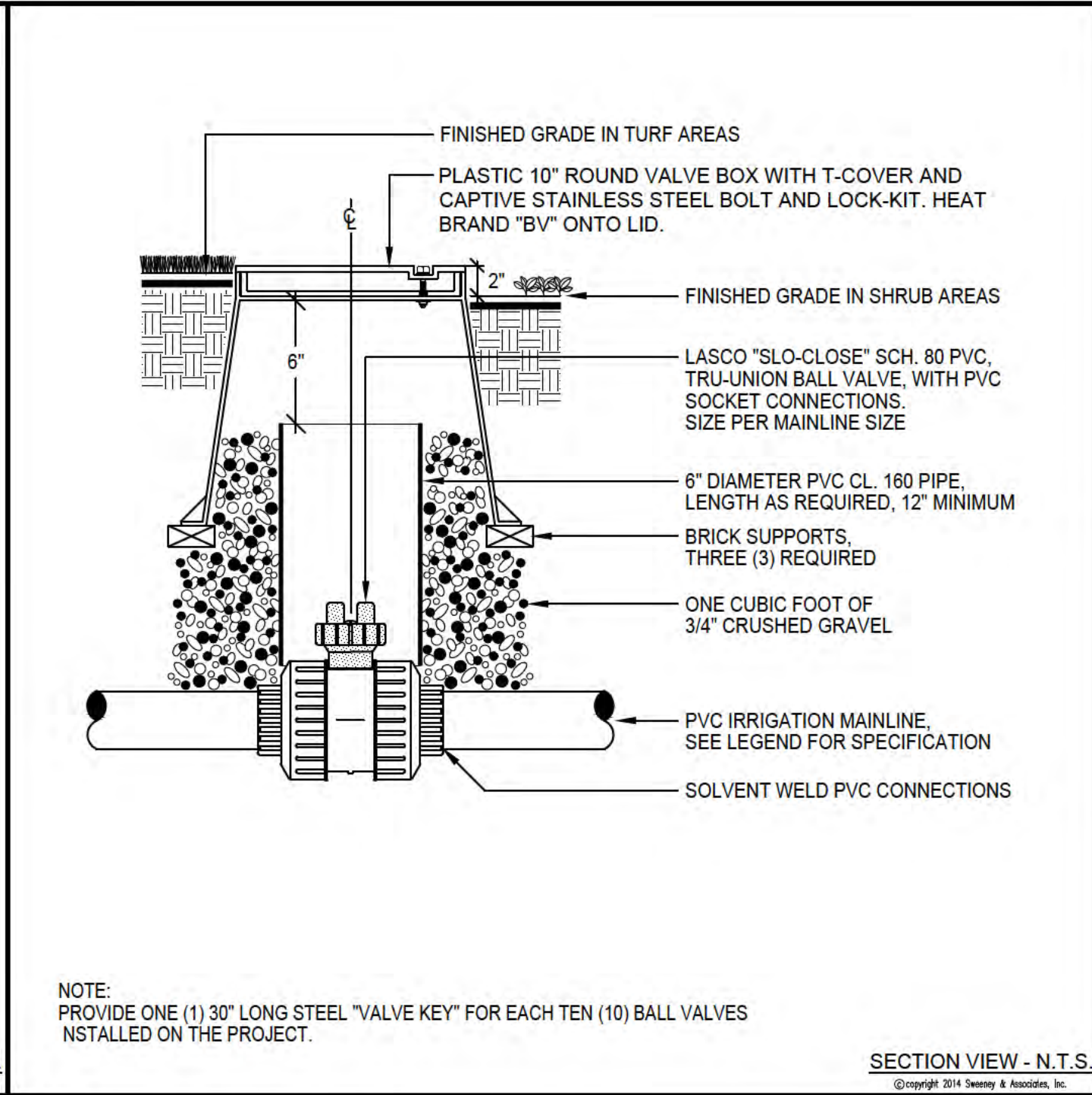
(H) SUB-METER LAYOUT



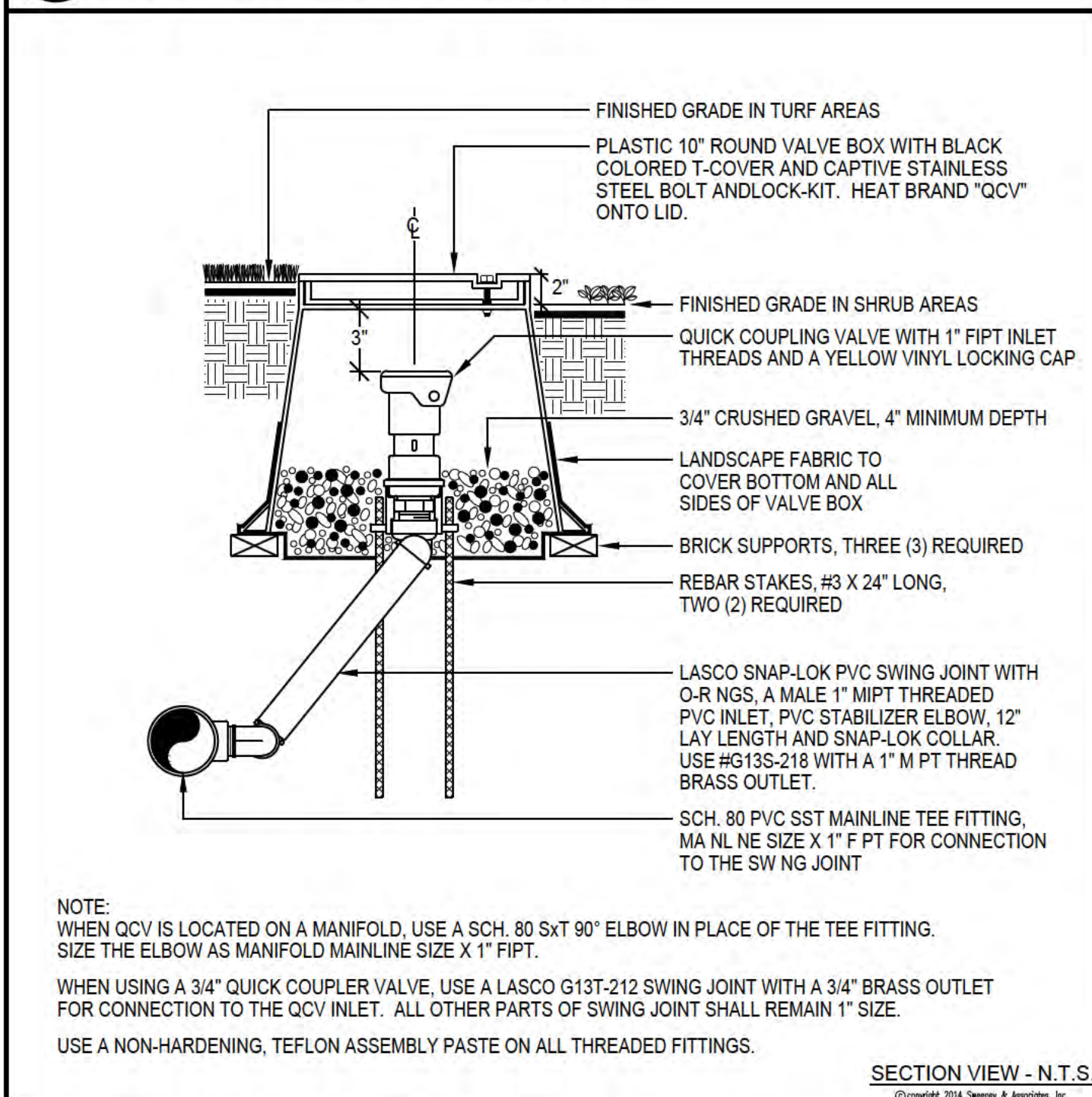
(I) MASTER CONTROL VALVE



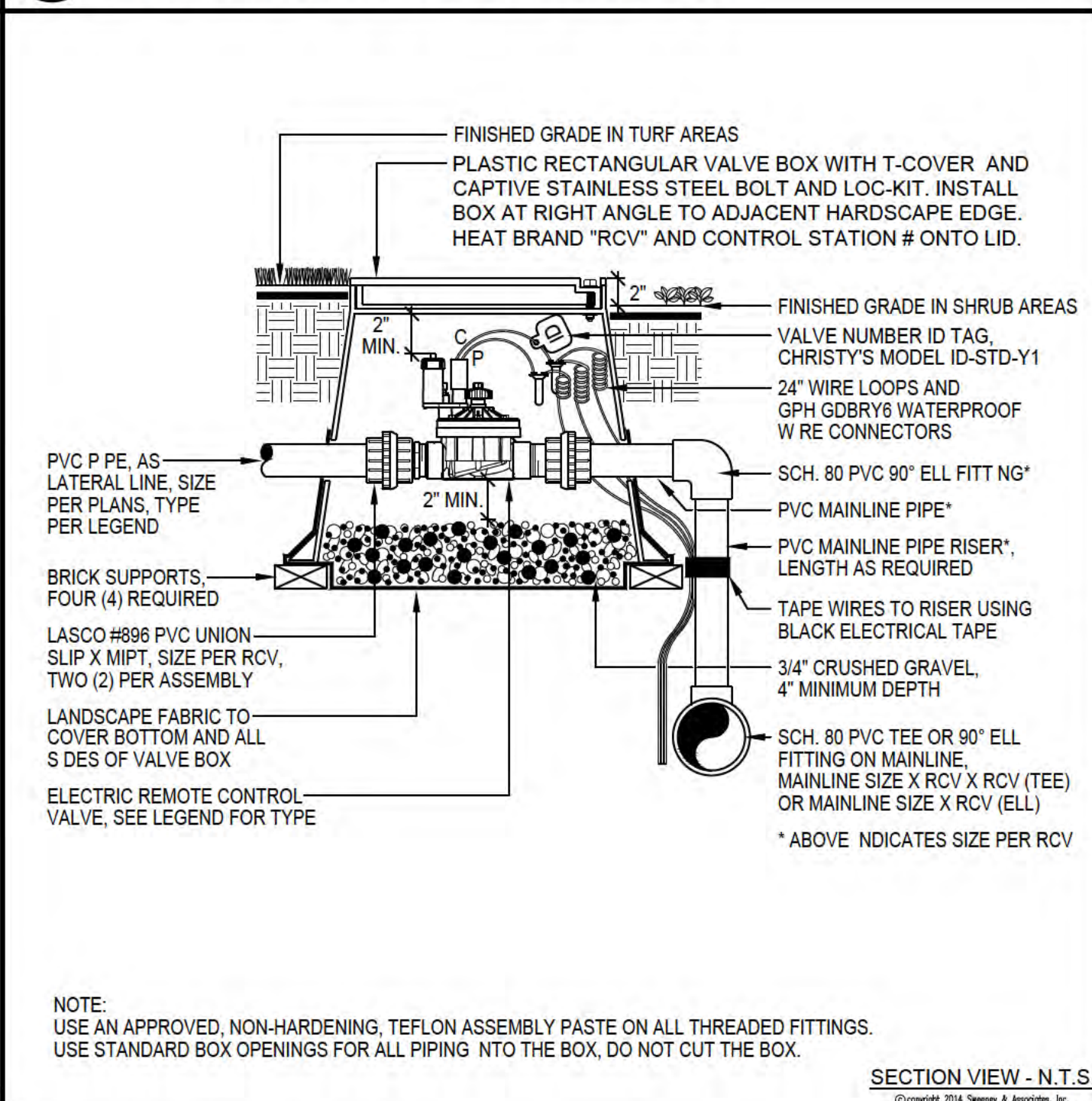
(J) FLOW SENSOR



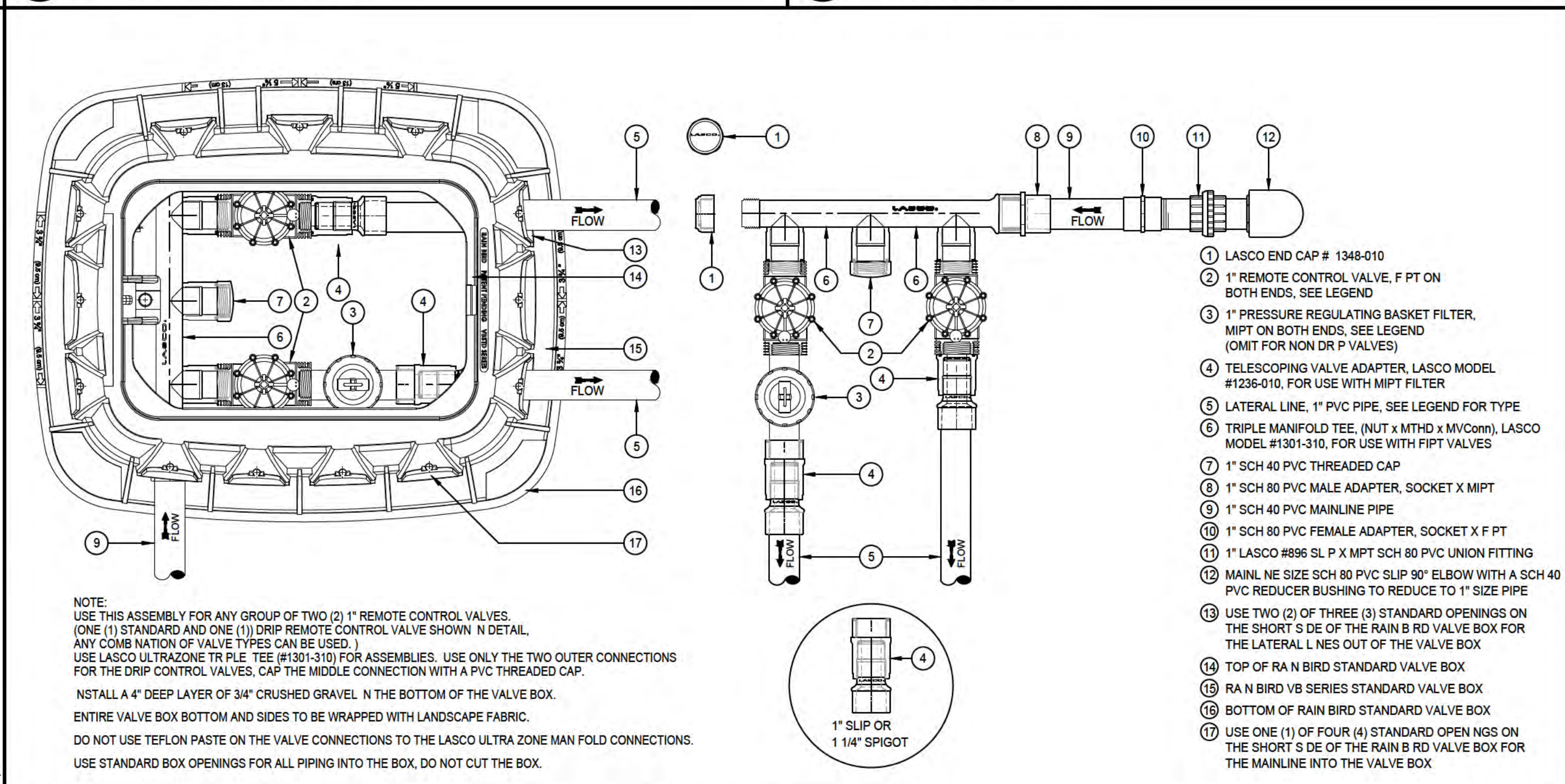
(K) BALL VALVE



(L) QUICK COUPLER VALVE



(M) REMOTE CONTROL VALVE



(N) COMBINED REMOTE CONTROL VALVE ASSEMBLY

Rev	Date	Issue
	10.21.19	CDP Submittal
	12.26.19	CDP Submittal
Δ	06.21.21	TREE UPDATE

NOT FOR CONSTRUCTION

Colony Lagoon

23325 Malibu Colony Drive
Malibu CA 90465

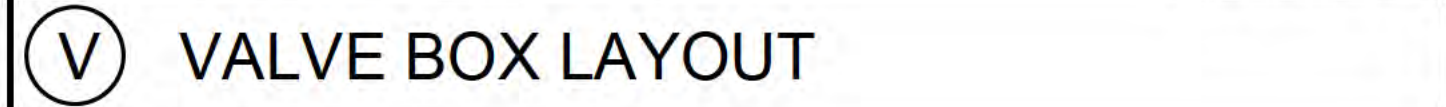
IRRIGATION
DETAILS

L3.3



sweeney + associates
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DATE: 2019 09 23
SCALE: AS NOTED
DRAWN BY: CB
CHKD BY: DZ



NOT FOR CONSTRUCTION

Colony Lagoon
23325 Malibu Colony Drive
Malibu CA 90465

IRRIGATION DETAILS

L3.4

DATE: 2019 09 23
SCALE: AS NOTED
DRWN BY: CB
CHKD BY: DZ

I HAVE COMPLIED WITH THE CRITERIA OF THE IRRIGATION GUIDELINES AND APPLIED THEM ACCORDINGLY FOR THE EFFICIENT USE OF WATER IN THE IRRIGATION DESIGN PLAN



sweeney + associates
IRRIGATION DESIGN AND CONSULTING

38730 Sky Canyon Drive, Suite 100
Murrieta, Ca 92561

e: info@sweeneyassoc.com t: (951) 461-6830
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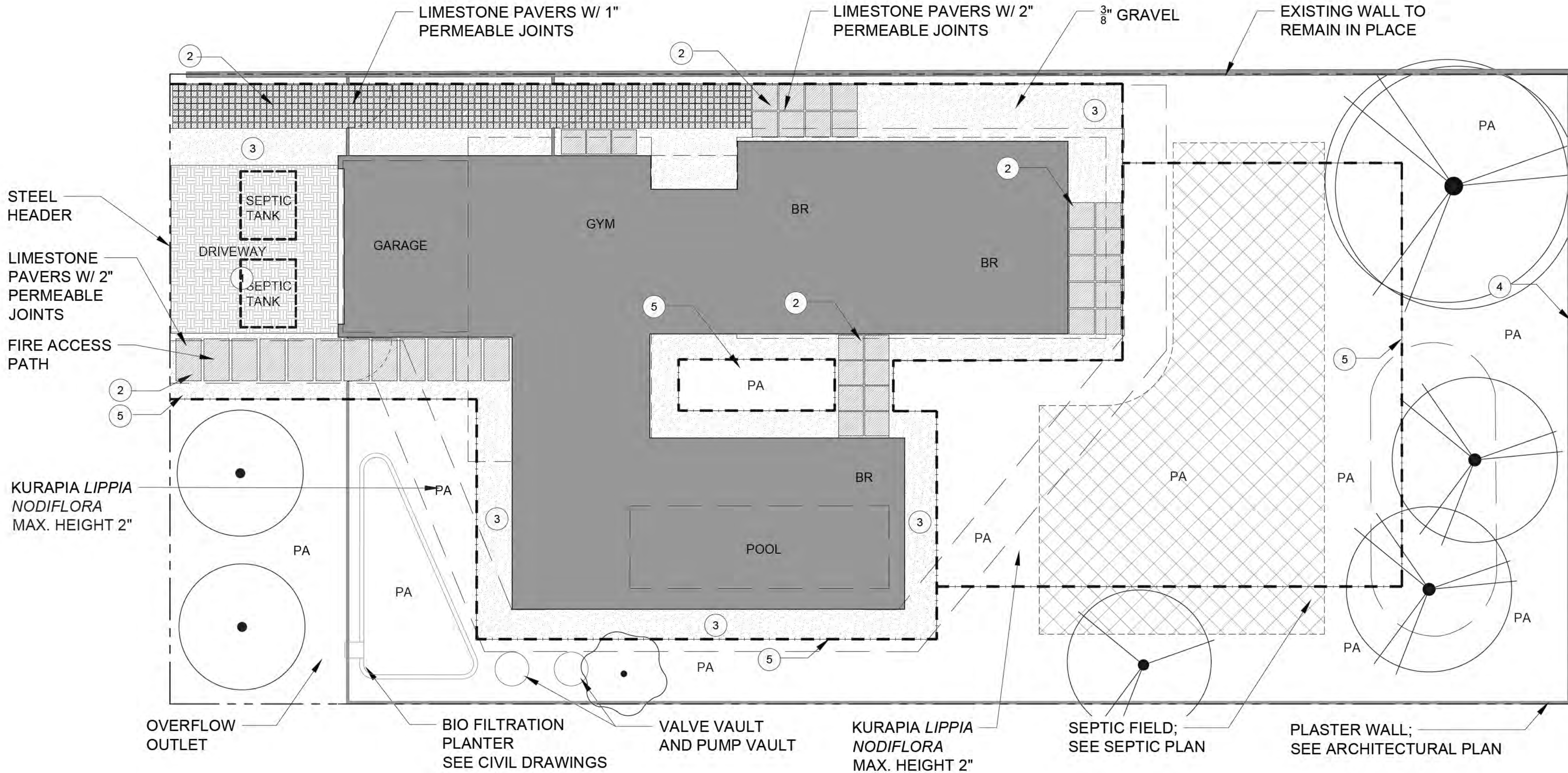
NOT FOR CONSTRUCTION

Colony Lagoon
23325 Malibu Colony Drive
Malibu CA 90465

HARDSCAPE PLAN

L2.0

DATE: 2021.06.21
SCALE: AS NOTED
DRWN BY: IJ, KT
CHKD BY: SB



CITY OF MALIBU
PLANNING DEPARTMENT

CITY BIOLOGIST APPROVAL

DATE 7/8/21

PLANNING REVIEW NO. CDP 18-035

SIGNATURE [Signature]

PRINT NAME Crawford

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SYMBOL	#	DESCRIPTION
[Symbol]	1	GRAVELPAVE 2 SYSTEM COLOR: SALT & PEPPER SIZE: 3/8" PROVIDED BY: INVISIBLE STRUCTURES
[Symbol]	2	LIMESTONE PAVERS W/ PERMEABLE JOINTS SIZE: PER PLAN PROVIDED BY: ECO OUTDOORS
[Symbol]	3	GRAVEL COLOR: SALT & PEPPER SIZE: 3/8" PROVIDED BY: TBD
[Symbol]	4	CMU/PLASTER WALL SEE ARCH. PLAN
[Symbol]	5	STEEL METAL HEADER COLOR: RAW STEEL SIZE: SEE DETAILS
[Symbol]	6	SEPTIC FIELD SEE SEPTIC PLANS

HARDSCAPE AREA TABLE

MATERIAL	AREA	PERCENTAGE	SOLAR REF.	PERMEABLE
LIMESTONE PAVING W/ OPEN JOINTS	777 SF	29%	.42	YES
GRAVEL WALKWAYS	1465 SF	55%	.29	YES
GRAVEL PAVE	398 SF	16%	.37	YES
TOTAL	2640 SF	100%	-	-

*TOTAL PERCENTAGE OF PERMEABLE HARDSCAPE MATERIALS: 58.2%

MWELO NOTES

- I AGREE TO COMPLY WITH THE REQUIREMENTS OF THE WATER EFFICIENT LANDSCAPE ORDINANCE AND SUBMIT A COMPLETE LANDSCAPE DOCUMENTATION PACKAGE.
- A MINIMUM 3-INCH LAYER OF MULCH SHALL BE APPLIED ON ALL EXPOSED SOIL SURFACES OF PLANTING AREAS EXCEPT TURF AREAS, CREEPING OR ROOTING GROUNDCOVERS, OR DIRECT SEEDING APPLICATIONS WHERE MULCH IS CONTRAINDICATED.
- FOR SOILS LESS THAN 6% ORGANIC MATTER IN THE TOP 6 INCHES OF SOIL, COMPOST AT A RATE OF A MINIMUM OF FOUR CUBIC YARDS PER 1,000 SQUARE FEET OF PERMEABLE AREA SHALL BE INCORPORATED TO A DEPTH OF SIX INCHES INTO THE SOIL.
- RECIRCULATING WATER SYSTEMS SHALL BE USED FOR WATER FEATURES.
- PRIOR TO CONSTRUCTION OF LANDSCAPED AREA OR IRRIGATION, THE CONTRACTOR MUST OBTAIN AND REVIEW A COPY OF THE WATER-EFFICIENT LANDSCAPE AND IRRIGATION STANDARDS.
- A DIAGRAM OF THE IRRIGATION PLAN SHOWING HYDROZONES SHALL BE KEPT WITH THE IRRIGATION CONTROLLER FOR SUBSEQUENT MANAGEMENT PURPOSES.
- A CERTIFICATE OF COMPLETION SHALL BE FILLED OUT AND CERTIFIED BY EITHER THE DESIGNER OF THE LANDSCAPE PLANS, IRRIGATION PLANS, OR THE LICENSED LANDSCAPE CONTRACTOR FOR THE PROJECT.
- AN IRRIGATION AUDIT REPORT SHALL BE COMPLETED AT THE TIME OF FINAL INSPECTION.

GREEN BUILDING NOTES

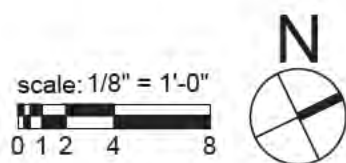
- TOTAL HARDSCAPE AREA: 3182 SF
TOTAL PAVING WITH SOLAR REFLECTANCE > 0.30: 2251 SF
51.5% OF HARDSCAPE MATERIAL HAS A SOLAR REFLECTANCE OF > 0.30
MORE THAN 25% OF PATHWAYS, PATIOS, DRIVEWAYS, AND OTHER PAVED AREAS COMPLY WITH THE REQUIREMENT FOR REDUCTION OF HEAT ISLAND EFFECT FOR NON-ROOF AREAS.
- PAVING MATERIAL SATISFIES REQUIREMENTS FOR GREEN BUILDING CODE.
- SRI VALUES REFERENCED FROM:
"CASE STUDY: NATURAL STONE SOLAR REFLECTANCE INDEX AND THE URBAN HEAT ISLAND EFFECT." NATURAL STONE COUNCIL, THE UNIVERSITY OF TENNESSEE CENTER FOR CLEAN PRODUCTS. JULY 17, 2009.

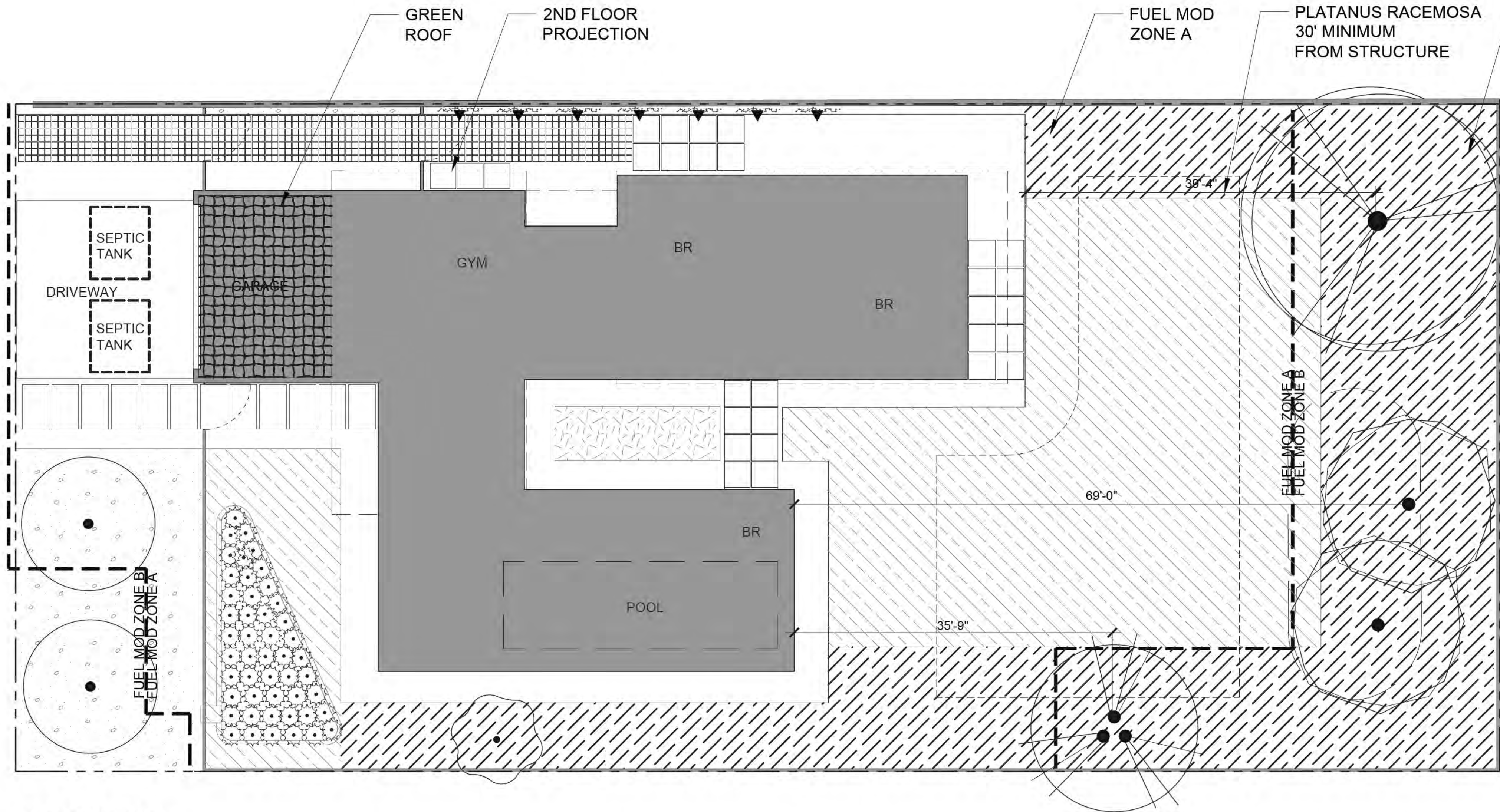
"SOLAR REFLECTANCE INDEX VALUES FOR COLORED CONCRETE." DAVIS COLORS. APRIL 4, 2014.

HARDSCAPE NOTES

- NO TRENCHES OR EXCAVATIONS 5 FEET OR MORE IN DEPTH INTO WHICH A PERSON IS REQUIRED TO DESCEND ARE PERMITTED UNLESS THE NECESSARY PERMIT IS OBTAINED PRIOR TO THE ISSUANCE OF A BUILDING OR GRADING PERMIT. CONFIRM WITH SOILS ENGINEER.
- CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING AND STAKING ALL SEWER, UTILITY AND WATER MAIN LINES PRIOR TO PROCEEDING WITH WORK. CONTRACTOR SHALL ASSUME SOLE RESPONSIBILITY FOR ANY COST INCURRED DUE TO DAMAGE AND REPLACEMENT OF SAID UTILITIES.
- CONTRACTOR SHALL REVIEW EXISTING SITE CONDITIONS PRIOR TO BID SUBMITTAL AND COMMENCEMENT OF WORK. ANY DISCREPANCIES BETWEEN CONTRACT DOCUMENTS AND SITE CONDITIONS SHALL BE BROUGHT TO THE IMMEDIATE ATTENTION OF THE OWNER, ARCHITECT AND LANDSCAPE ARCHITECT. CONTRACTOR SHALL ASSUME ALL NECESSARY REVISIONS IF HE/SHE FAILS TO GIVE SUCH NOTICE.
- CONTRACTOR SHALL CONFIRM ALL DIMENSIONS IN THE FIELD PRIOR TO CONSTRUCTION. DISCREPANCIES BETWEEN CONTRACT DOCUMENTS AND SITE CONDITIONS WILL BE BROUGHT TO THE ATTENTION OF THE LANDSCAPE ARCHITECT FOR RESOLUTION.
- SPOT ELEVATIONS AND GRADES SHOWN ON THE DRAWINGS ARE BASED ON SURVEY INFORMATION AND NOT CONDUCTED AS A PART OF THIS WORK AND ARE FOR REFERENCE ONLY. CONTRACTOR SHALL VERIFY EXISTING GRADES IN THE FIELD AND REPORT DISCREPANCIES TO THE LANDSCAPE ARCHITECT PRIOR TO ANY GRADING AND/OR CONSTRUCTION.
- LARGER SCALE DRAWINGS TAKE PRECEDENCE OVER SMALLER SCALE DRAWINGS OR PLANS.
- CONTRACTOR SHALL COORDINATE SECURE STORAGE AND STAGING FACILITIES WITH THE OWNER PRIOR TO DEMOLITION AND/OR CONSTRUCTION.
- CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING GRADES 20" AND ASSURING PROPER DRAINAGE AWAY FROM BUILDINGS AND WALKWAYS AT ALL TIMES.
- ALL PROPERTY LINES AND LOT LINES SHALL BE VERIFIED PRIOR TO COMMENCING WORK. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ANY REQUIRED PERMITS.
- CONTRACTOR SHALL VERIFY ALL GRADES AND DIMENSIONS IN THE FIELD AND NOTIFY THE LANDSCAPE ARCHITECT PRIOR TO

- PROCEEDING WITH WORK SHOULD ANY DISCREPANCIES ARISE.
- CONTRACTOR SHALL COORDINATE ALL GRADING WITH REQUIREMENTS ELSEWHERE IN THE DRAWINGS AND SPECIFICATIONS. PROVIDE DUST CONTROL FOR ALL GRADING OPERATIONS. CONTRACTOR SHALL CONFIRM STATUS OF ALL EXISTING PLANT MATERIAL WITH LANDSCAPE ARCHITECT PRIOR TO DEMOLITION. ALL DEMOLITION DEBRIS IS TO BE DISPOSED OF IN A TIMELY MANNER AND TRANSPORTED TO A LEGAL DUMPING GROUND.
- REFER TO CITY AND/OR COUNTY STANDARD PLANS AND SPECIFICATIONS WHERE APPLICABLE.
- ALL WRITTEN DIMENSIONS SHALL SUPERCEDE SCALED DIMENSIONS UNLESS OTHERWISE NOTED.
- THE LOCATION OF FEATURES TO BE CONSTRUCTED NOT SPECIFICALLY DIMENSIONED MAY BE DETERMINED BY SCALE. IF CONFLICTS ARISE IN FIELD, CONTACT LANDSCAPE ARCHITECT FOR RESOLUTION.
- CONTRACTOR SHALL BE RESPONSIBLE FOR REPLACEMENT OF ANY EXISTING MATERIALS THAT ARE DAMAGED DURING CONSTRUCTION.
- FORMWORK: CONSTRUCT CAREFULLY SO THAT STRAIGHT LINES ARE PERFECTLY TANGENT TO RADII, CURVES ARE SMOOTH AND FLOWING, AND TRANSITIONS BETWEEN CHANGES IN VERTICAL AND HORIZONTAL GRADIENT OF CURBS, WALKS AND PAVING ARE SMOOTH AND GRADUAL WITH NO ABRUPT OR SHARP CHANGES. METAL HEADER, ROOT BARRIER LOCATIONS, AND PATH CENTERLINES SHALL BE MARKED BY THE CONTRACTOR ONSITE, AND VERIFIED BY THE LANDSCAPE ARCHITECT ONSITE OR BY PHOTOGRAPH PRIOR TO INSTALLATION.
- CONTRACTOR TO PROVIDE (2) SAMPLES OF EACH HARDSCAPE TYPE, SIZE FOR EACH SAMPLE TO BE 48" X 48".
- FINISH ELEVATIONS PER CIVIL DRAWINGS.
- RECIRCULATING WATER SYSTEMS SHALL BE USED FOR WATER FEATURES.





CITY OF MALIBU
PLANNING DEPARTMENT

CITY BIOLOGIST APPROVAL

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PLANTING NOTES

- QUANTITIES GIVEN FOR PLANT MATERIALS SPECIFIED FOR "ON CENTER" SPACING ARE SHOWN FOR CONVENIENCE ONLY AND ARE SUBORDINATE TO THE SPACING GIVEN. VERIFY AND SUPPLY SUFFICIENT NUMBER OF PLANTS TO FULFILL SPACING REQUIREMENTS.
- ALL SIZES SHOWN FOR PLANT MATERIALS ON THE PLAN ARE TO BE CONSIDERED MINIMUM AND SAMPLES WILL REQUIRE ACCEPTANCE BY THE LANDSCAPE ARCHITECT PRIOR TO PLANTING.
- NOTE ADDITIONAL REMARKS ABOUT SPECIFIC PLANTS IN PLANT LIST.
- NO CHANGES TO THE PLANS ARE TO BE MADE WITHOUT PRIOR CONSENT OF THE LANDSCAPE ARCHITECT. PLANT MATERIAL IS SUBJECT TO AVAILABILITY AT THE TIME OF INSTALLATION. SUBSTITUTIONS MAY BE MADE AFTER CONSULTATION WITH THE LANDSCAPE ARCHITECT.
- EXACT LOCATIONS OF PLANT MATERIALS TO BE APPROVED BY THE LANDSCAPE ARCHITECT IN THE FIELD. CONTRACTOR TO STAGE ALL PLANT MATERIAL ONSITE PER PLAN, IN THE PLANT CONTAINERS. CONTRACTOR TO NOTIFY LANDSCAPE ARCHITECT OF PLACEMENT 48 HOURS PRIOR TO REQUIRED INSPECTION BY LANDSCAPE ARCHITECT. LANDSCAPE ARCHITECT RESERVES THE RIGHT TO ADJUST PLANT PLACEMENT WHILE STILL IN THE CONTAINERS, BEFORE GIVING APPROVAL TO CONTRACTOR FOR PLANTING.
- CONTRACTOR TO COORDINATE WITH OTHER SUBCONTRACTORS AND TRADES TO ENSURE PROTECTION OF GROWING CONDITIONS AND PLANT MATERIALS. LANDSCAPE CONTRACTOR TO COORDINATE HIS/HER WORK WITH THE GENERAL CONTRACTOR, IRRIGATION CONTRACTOR, AND ELECTRICAL CONTRACTOR FOR ITEMS NOT IN HIS/HER SCOPE.
- LANDSCAPE CONTRACTOR TO VERIFY AND COORDINATE WORK AROUND ALL UNDERGROUND UTILITIES BEFORE EXCAVATION. NOTIFY ALL UTILITY PROVIDERS AT LEAST TWO (2) WORKING DAYS PRIOR TO BEGINNING WORK.
- TREES SHALL BE IN PLACE PRIOR TO INSTALLATION OF DRAIN LINE. DRAIN LINE PLACEMENT SHALL BE ADJUSTED AS NECESSARY AROUND TREES.
- LANDSCAPE CONTRACTOR TO VERIFY THAT THE CONDITIONS ARE SUITABLE TO PROMOTE HEALTHY PLANT GROWTH. DO NOT PROCEED IF CONDITIONS DETRIMENTAL TO HEALTHY GROWING ENVIRONMENT ARE PRESENT, INCLUDING, BUT NOT LIMITED TO, OVER-COMPACTED SOILS, ADVERSE DRAINAGE CONDITIONS, DEBRIS, OR OTHER HARMFUL CIRCUMSTANCES. PROCEEDING WITHOUT NOTIFICATION DENOTES ACCEPTANCE.
- ALL SOIL PREPARATION AND BACKFILL SHALL ADHERE TO THE REQUIREMENTS OF THE DRAWINGS AND SPECIFICATIONS.
- ALL SOIL CONDITIONING AND AMENDMENT SHALL ADHERE TO THE REQUIREMENTS OF THE DRAWINGS AND SPECIFICATIONS.
- CONTRACTOR TO VERIFY LOCATIONS OF PERTINENT SITE IMPROVEMENTS INSTALLED UNDER OTHER SECTIONS. IF ANY PART OF THIS PLAN CANNOT BE FOLLOWED DUE TO SITE CONDITIONS, CONTACT LANDSCAPE ARCHITECT PRIOR TO COMMENCING WORK.
- REFER TO SURVEY FOR UTILITY LOCATIONS, AND FOR GRADING AND DRAINAGE INFORMATION. IF ACTUAL SITE CONDITIONS VARY FROM WHAT IS SHOWN ON THE PLANS, OR IF THERE ARE DISCREPANCIES BETWEEN THE PLANS, CONTACT THE LANDSCAPE ARCHITECT FOR DIRECTION ON HOW TO PROCEED.
- ALL EXISTING TREES AND VEGETATION OUTSIDE LIMIT OF WORK WILL REMAIN. CONTRACTOR IS RESPONSIBLE FOR HEALTH OF ALL VEGETATION THAT IS TO REMAIN DURING CONSTRUCTION AND DURING THE PLANT ESTABLISHMENT PERIOD.
- ALL PLANT MATERIAL TO BE GUARANTEED FOR 6 MONTHS FROM THE DATE OF ACCEPTANCE BY OWNER. TREES TO BE GUARANTEED FOR 1 YEAR.
- ANY EXISTING LANDSCAPING INDICATED ON THE APPROVED LANDSCAPE PLAN FOR RETENTION THAT IS DAMAGED OR REMOVED DURING CONSTRUCTION SHALL BE REPAIRED OR REPLACED IN KIND WITH PLANTS OF EQUIVALENT SIZE.
- CONTRACTOR SHALL STORE PLANT MATERIAL IN SHADE AND PROTECT FROM THE SUN. ENSURE ON SITE WATERING PRIOR TO PLANTING.
- ALL PLANT MATERIAL TO BE FERTILIZED AT TIME OF INSTALLATION.
- ALL PLANTING AREAS SHALL BE EQUIPPED WITH A PERMANENT AUTOMATED IRRIGATION SYSTEM, TO BE FUNCTIONAL AT THE TIME OF PLANTING.
- CONTRACTOR IS RESPONSIBLE FOR WATERING AND MAINTAINING ALL LANDSCAPE MATERIALS UNTIL FINAL ACCEPTANCE.
- REMOVE ALL EXISTING VEGETATION IN PLANTED AREAS, EXCEPT AS NOTED. ROTOTILL THE SOIL MINIMUM 12" DEEP. APPLY NUTRIENT-RICH TOPSOIL AS REQUIRED.
- PROVIDE SOIL ANALYSIS TO LANDSCAPE ARCHITECT FOR REVIEW. AMEND AND CONDITION SOIL PER SOIL TEST RECOMMENDATIONS.
- ALL PLANTING BEDS AND TREE SAUCERS TO RECEIVE 3" OF SHREDDED BARK MULCH. FINISHED GRADE OF MULCH TO BE 1" BELOW ADJACENT EDGES; TYPICAL. TAPER MULCH DEPTH AS NECESSARY ALONG HARDSCAPE EDGES TO ACHIEVE THIS.
- REVIEW LOCATIONS IRRIGATION VALVE-BOXES WITH LANDSCAPE ARCHITECT PRIOR TO INSTALLATION. LOCATE VALVE BOXES AND UTILITY BOXES IN AREAS THAT ARE LESS VISIBLE TO PEDESTRIANS. VALVE BOXES TO BE PAINTED BROWN TO BLEND WITH BARK MULCH, UNLESS OTHERWISE NOTED.

PLANT SCHEDULE

SHRUBS	CODE	BOTANICAL / COMMON NAME	QTY	WUCOLS	SIZES
	CHO ELC	CHONDROPETALUM TECTORUM 'EL CAMPO' CAPE RUSH	48	LOW	5 GAL
	STE FLO	STEPHANOTIS FLORIBUNDA MADAGASCAR JASMINE	7	MEDIUM	15 GAL
SHRUB AREAS	CODE	BOTANICAL / COMMON NAME	QTY		
	FRO SXX	GREEN ROOF MIX SEE MIX #2	305 SF	LOW	
	REA PLA	REAR YARD PLANT MIX SEE MIX #1	2,948 SF	LOW	
GROUND COVERS	CODE	BOTANICAL / COMMON NAME	QTY		
	CAR TUM	CAREX TUMULICOLA BERKELEY SEDGE	113 SF	LOW	5 GAL
	KUR GRO	KURAPIA GROUNDCOVER SOD	338 SF	LOW	SOD
	SAL RIR	SALVIA LEUCOPHYLLA 'POINT SAL SPREADER' POINT SAL SPREADER PURPLE LEAF SAGE	763 SF	LOW	15 GAL

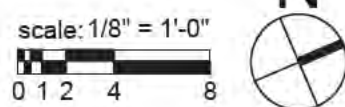
TREES	CODE	BOTANICAL / COMMON NAME	SIZE	WUCOLS	QTY
	ARB HYB	ARBUTUS UNEDO ARBUTUS STANDARD	48"BOX		1
	LAU NOB	LAURUS NOBILIS SWEET BAY	48"BOX	LOW	2
	PLA RA2	PLATANUS RACEMOSA CALIFORNIA SYCAMORE	48"BOX	MEDIUM	2
	PLA SYC	PLATANUS RACEMOSA CALIFORNIA SYCAMORE MULTI-TRUNK	48"BOX	MEDIUM	1
	PLA RAC	PLATANUS RACEMOSA CALIFORNIA SYCAMORE	60"BOX	MEDIUM	1

PLANT MIXES

MIX	BOTANICAL NAME	SIZE	SPACING	% AREA	WUCOLS
	PENSTEMON SPECTABILIS	5 GAL	24" O.C.	17%	L
	ACHILLEA MILLEFOLIUM	5 GAL	12" O.C.	17%	L
	ERIOGONUM FASCICULATUM	5 GAL	24" O.C.	17%	L
	FESTUCA MAIREI	1 GAL	24" O.C.	33%	L
	YUCCA WHIPPLEI	15 GAL	30" O.C.	16%	L
	SEDUM RUBROTINCTUM	1 GAL	18" O.C.	20%	L
	SENECIO MANDRALISCAE	1 GAL	18" O.C.	40%	L
	EUPHORBIA TIRUCALLI	1 GAL	30" O.C.	20%	L
	AEONIU 'KIWI	5 GAL	18" O.C.	20%	L

CITY OF MALIBU NOTES

- NO HIGH INTENSITY LIGHTING OF THE SHORE SHALL BE PERMITTED
- NO INVASIVE PLANT SPECIES AS DETERMINED BY THE CITY OF MALIBU, HAVE BEEN USED.
- VEGETATION PROVIDED FOR IN THE PLAN SHALL BE SITUATED ON THE PROPERTY SO AS TO NOT AT ANY TIME (GIVEN CONSIDERATION FOR FUTURE GROWTH) TO OBSTRUCT SIGNIFICANTLY THE PRIMARY VIEW OF PRIVATE PROPERTY.
- THE LANDSCAPE PLAN SHALL COMPLY WITH ALL SPECIAL CONDITIONS TO PRESERVE ARCHEOLOGICAL RESOURCES.
- THE USE OF BUILDING MATERIALS TREATED WITH TOXIC COMPOUNDS SUCH AS COPPER ARSENATE IS PROHIBITED.



Stephen Billings
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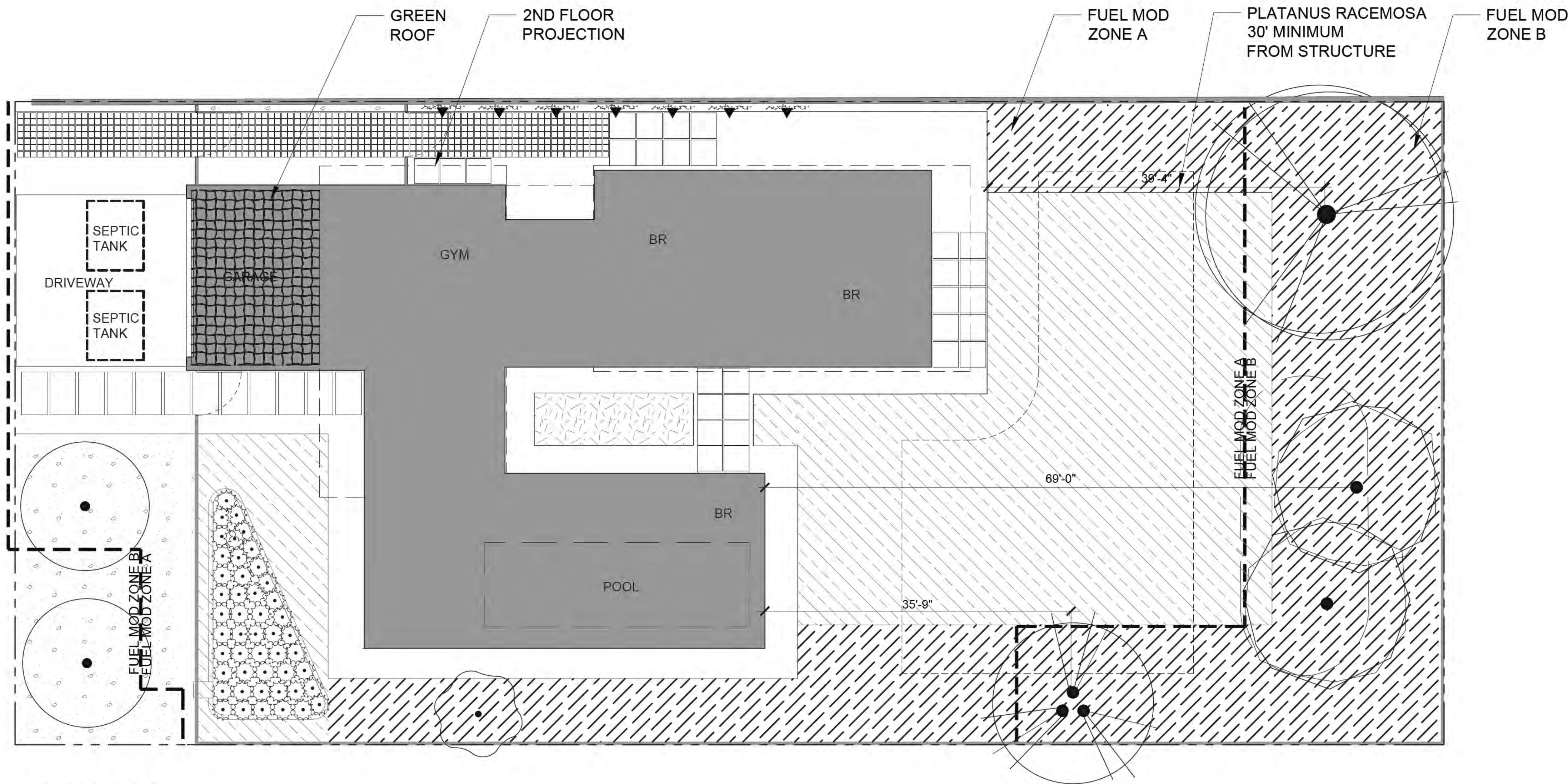
Colony Lagoon

23325 Malibu Colony Drive
Malibu CA 90465

PLANTING PLAN

L4.0

DATE: 2021.06.21
SCALE: AS NOTED
DRWN BY: IJ, KT
CHKD BY: SB



PLANT SCHEDULE

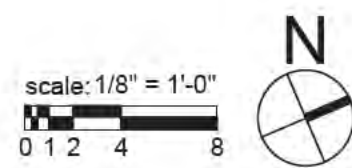
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NOTE:
FOR FUEL MODIFICATION NOTES SEE L4.3



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CITY OF MALIBU
PLANNING DEPARTMENT

CITY BIOLOGIST APPROVAL

DATE 7/8/21

PLANNING REVIEW NO. CDP 18-035

SIGNATURE

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Rev	Date	Issue
	10.21.19	CDP Submittal
	12.26.19	CDP Submittal
	06.21.21	TREE UPDATE

NOT FOR CONSTRUCTION

Colony Lagoon
23325 Malibu Colony Drive
Malibu CA 90465

FUEL MODIFICATION PLAN

L4.2

DATE: 2021.06.21
SCALE: AS NOTED
DRWN BY: IJ, KT
CHKD BY: SB

Vegetation shall be maintained as approved. The following notes shall be adhered to.

Zone 1

- Zone 1 should be planted "lean" and plant selections should consist of small herbaceous or succulent plants less than 2'-3' in height or regularly irrigated and mowed lawns.
- It is best not to use woody trees, shrubs and perrenial species or masses of un-mowed grasses within 10 ft. of the structure.
- Provide for 5ft fire department walk around immediately abutting any structure to allow for firefighter access.
- Occasional accents of woody plants can be used sparingly to soften hard edges of structures if the selections are widely spaced and zone appopiate.
- Consider locating hardscape features such as walkways., patios, driveways, sports courts etc. so they abut the structure itself. Potted plants can be used to soften walls if necessary.
- Use inorganic mulches such as gravel within 10 feet of the structure.

Maintenance Zone 1: From Edge of The Structure to A Distance of 30 Feet.

- - Provide for 5ft fire department walk around with herbaceous plants
- - Recommended to place walkways, patios, sports courts etc. abutting structure
- - Avoid planting woody plants within 10 feet of structure.
- - Use herbaceous plants, succulents, low growing grasses and grass like plants
- - use inorganic mulches such as gravel within 10 feet of the structure. Do not use recycled rubber
- - Small tree species (15'-25' in height) may be planted 10' from structure if used sparingly
- - no climbing vines on structures
- - Remove dead and down plant material, wood piles, patio furniture, etc.

Zone 2

- 30'-100' from any qualifying structure or the property line whichever is first.
- Zone 2 can be planted with slightly higher density than Zone 1. However, care should be taken not to create any horizontal or vertical fuel ladders (see basic fire behavior graphics).
- Screen plantings can be used to hide unsightly views.
- Zone 2 is the ideal location to introduce larger shade trees provided they are zone appropriate and the canopies are not continuous.
- Avoid planting woody plant species larger than 3' (in height) at maturity directly beneath any tree canopy.
- Zone 2 may not be landscaped but is still subject to hazard reduction requirements (brush clearance). Do not denude the property.
- If landscaping Zone 2, avoid creating a landscape that is as dense and hazardous as the native or existing vegetation.
- Irrigation of existing vegetation including native plants is beneficial in small amounts 1-2 times per month during summer months.

Maintenance Zone 2: 30-100ft. From Building

- Arrange plants and limit densities so not to create ladder fuels or dense thickets of vegetation
- Densities can be increase d slightly in this zone

Maintenance: Year Round

- Clear all leaves, litter and debris from from rain gutters and roof
- Regularly remove all dead vegetation, flammable debris, flammable patio furniture from landscape
- Store wood piles, compost bins, mulch bins etc. 30' from structures
- Cut and remove annual grasses down to 4 inches
- Irrigation of any form shall be applied to maintain high fuel moisture. Irrigation to native plants is beneficial in small amounts 1-2 times per month during summer months

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Santa Monica, CA 90403
310.395.2615 T

SURVEYOR
Peak Surveys
2488 Townsgate Rd, Suite D
Westlake Village, CA 91361
805.497.0102

Rev	Date	Issue
	10.21.19	CDP Submittal
	12.26.19	CDP Submittal
	06.21.21	TREE UPDATE

NOT FOR CONSTRUCTION

Colony Lagoon
23325 Malibu Colony Drive
Malibu CA 90465

FUEL MODIFICATION
PLAN NOTES

L4.3

DATE:
SCALE: AS NOTED
DRWN BY: LJ
CHKD BY: SB

OWNER
Stan and Fiona Druckenmiller
117 East 72nd Street
New York, New York 10021
917.379.4908 T

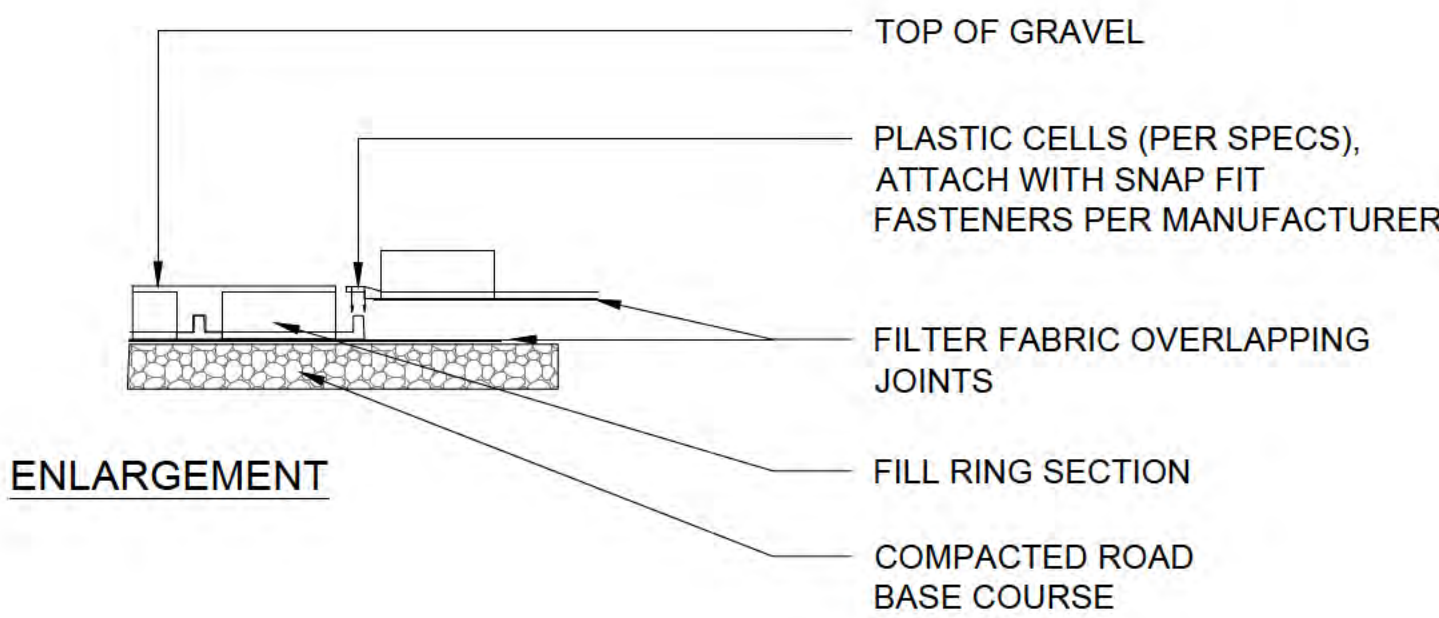
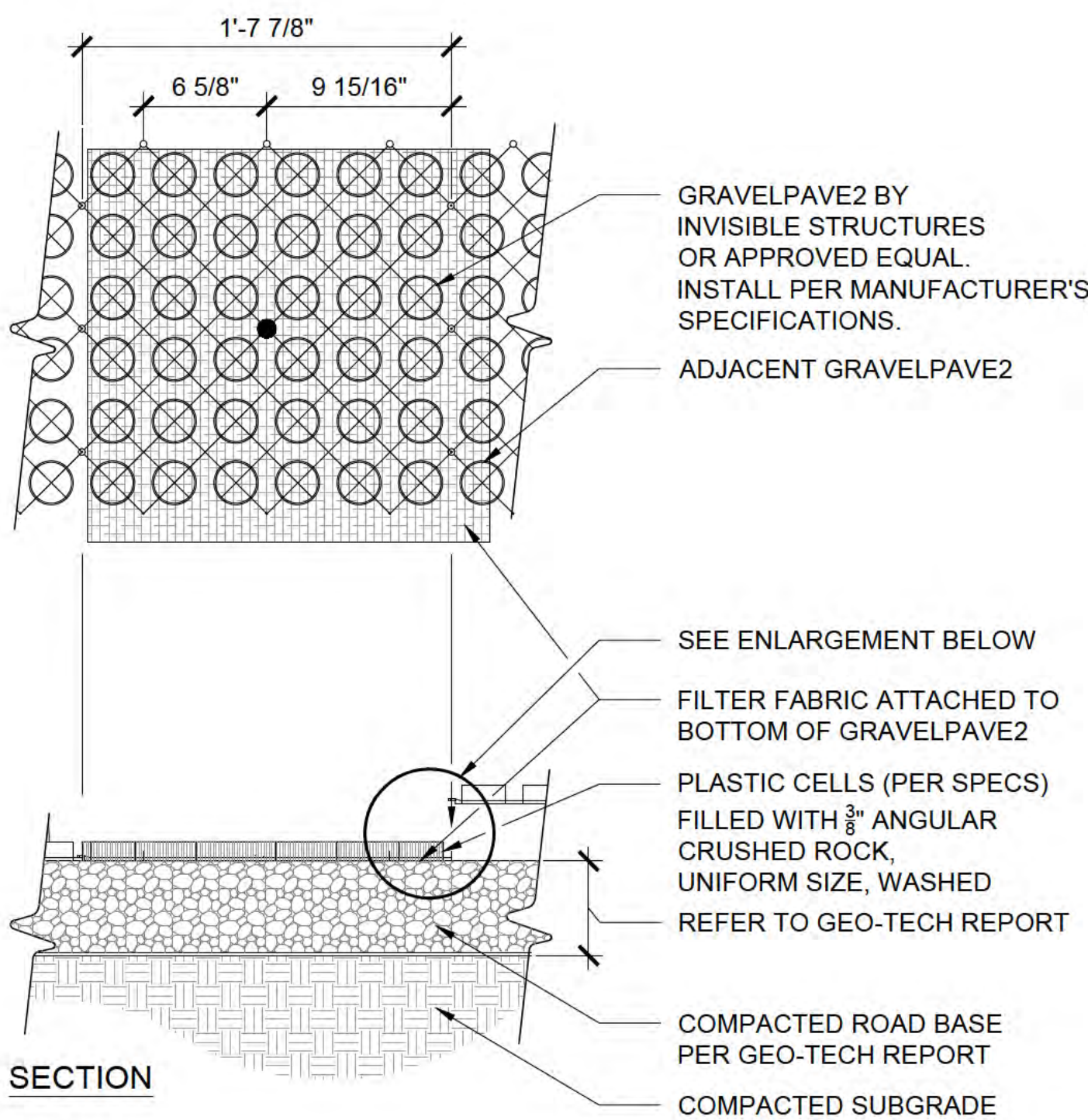
ARCHITECT
Kovac Design Studio
11828 West Pico Boulevard
Santa Monica, CA 90064
310.575.3621 T

CIVIL ENGINEER
RJR Engineering
2340 Palma Drive, #200
Ventura, CA 93003
805 485 3935

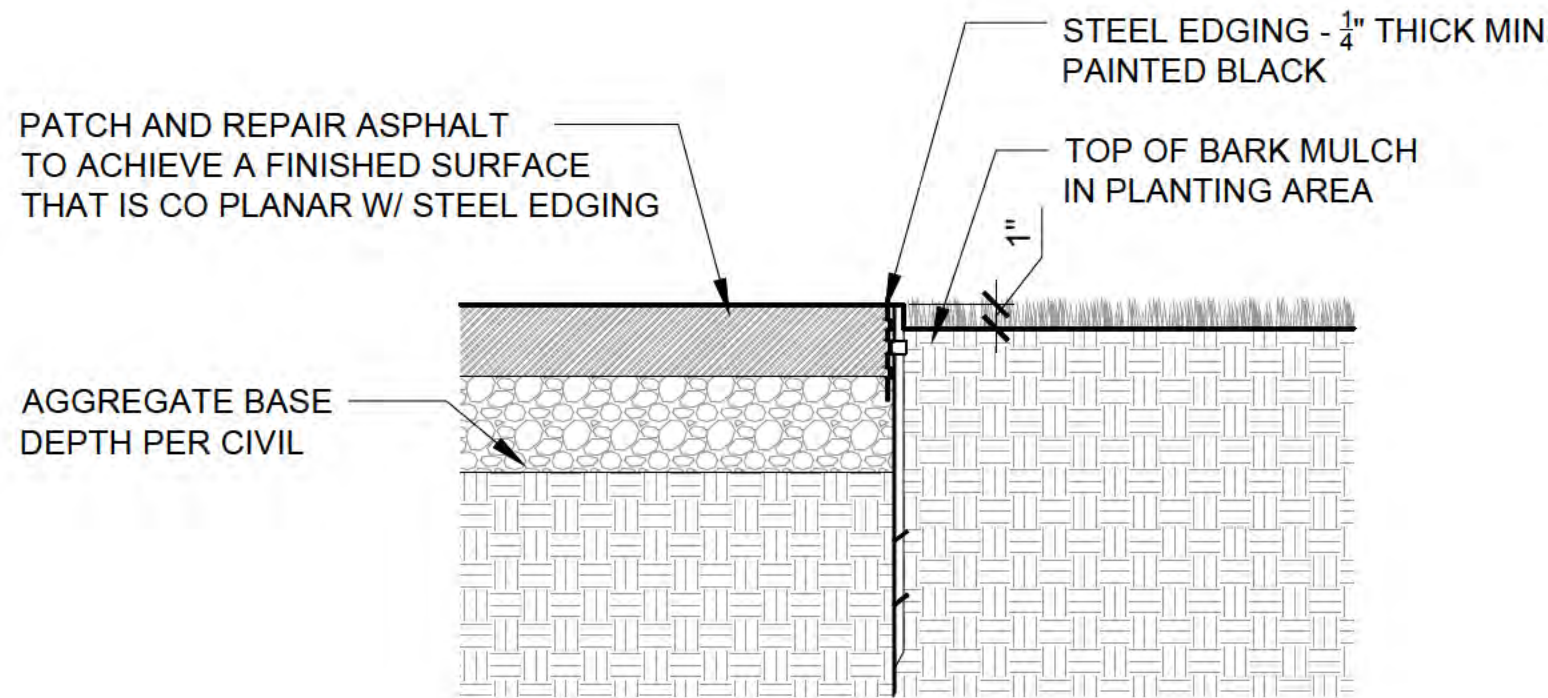
EXPEDITER
Marny Randall
909 Euclid Street, #6
Santa Monica, CA 90403
310.395.2615 T

SURVEYOR
Peak Surveys
2488 Townsgate Rd, Suite D
Westlake Village, CA 91361
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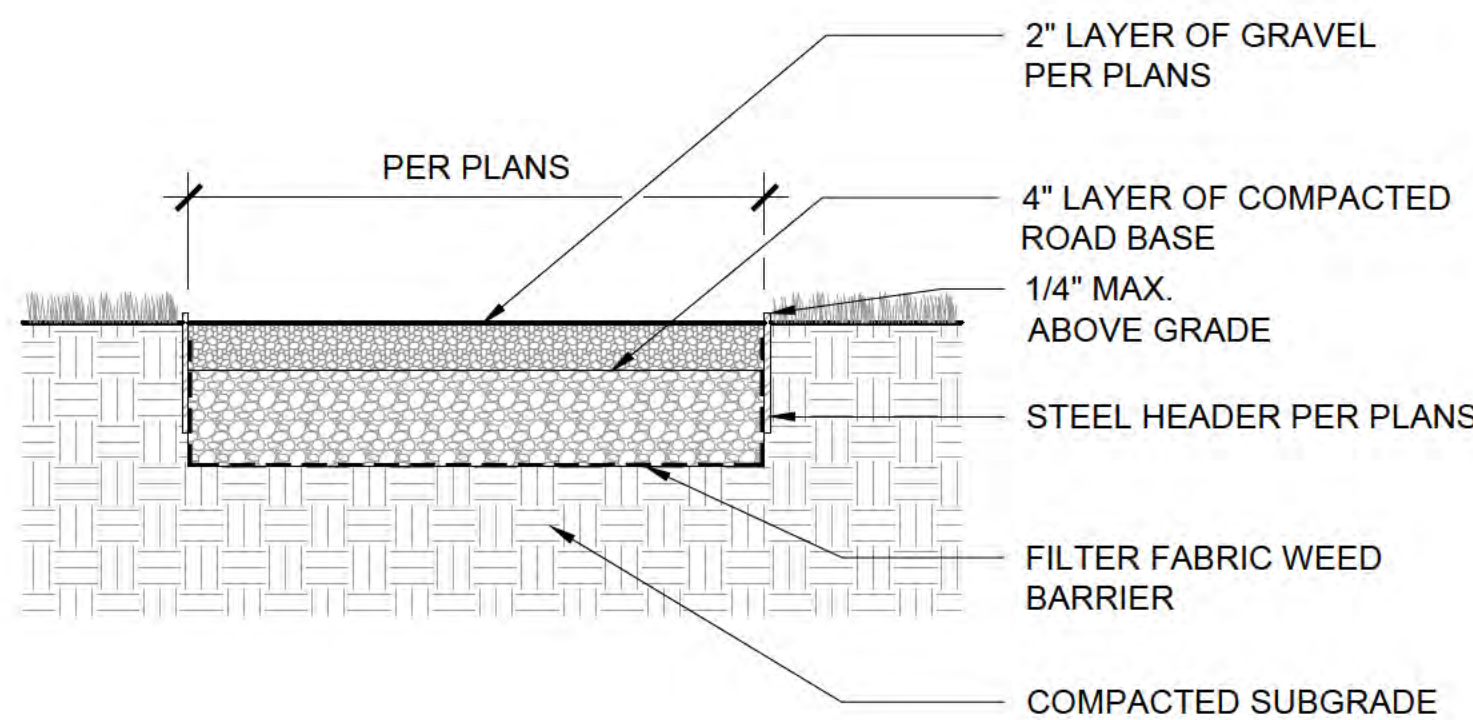
PLAN



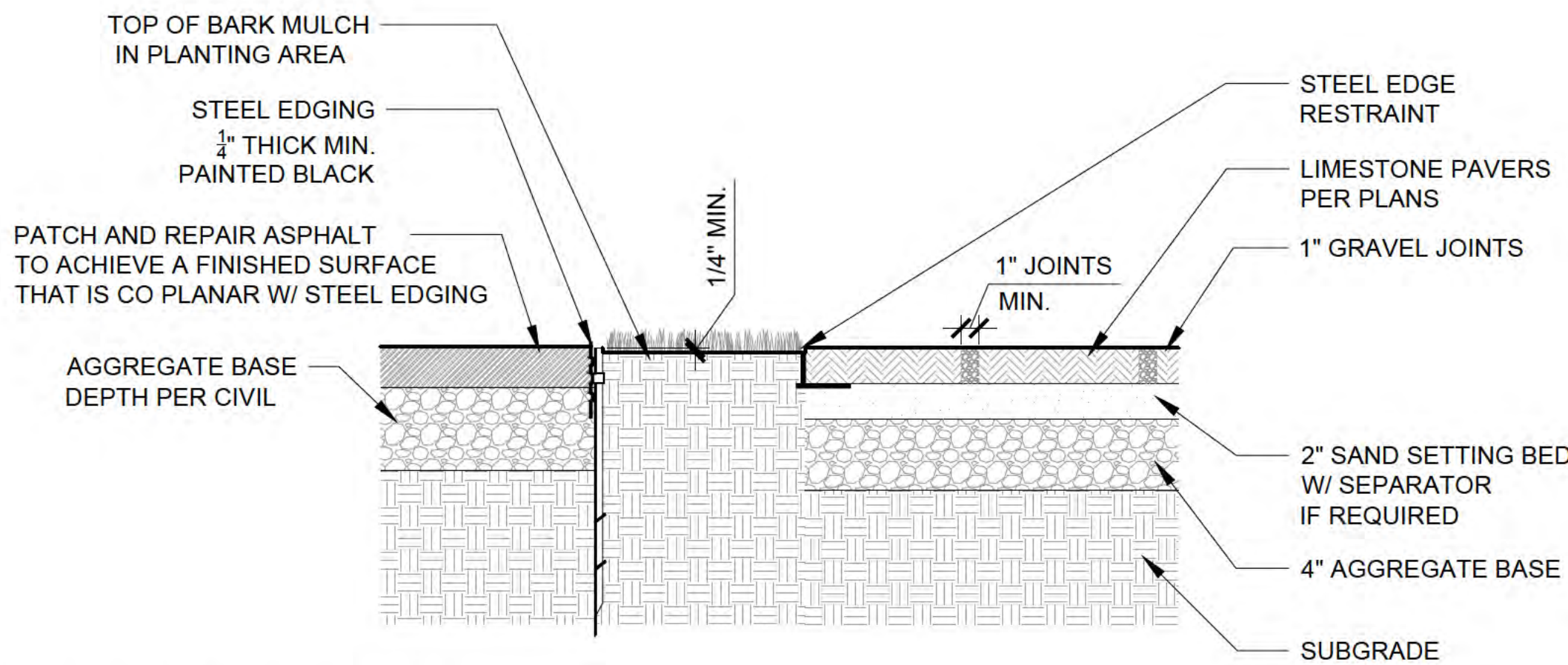
5 REINFORCED GRAVEL PAVEMENT
1 1/2" = 1'-0"



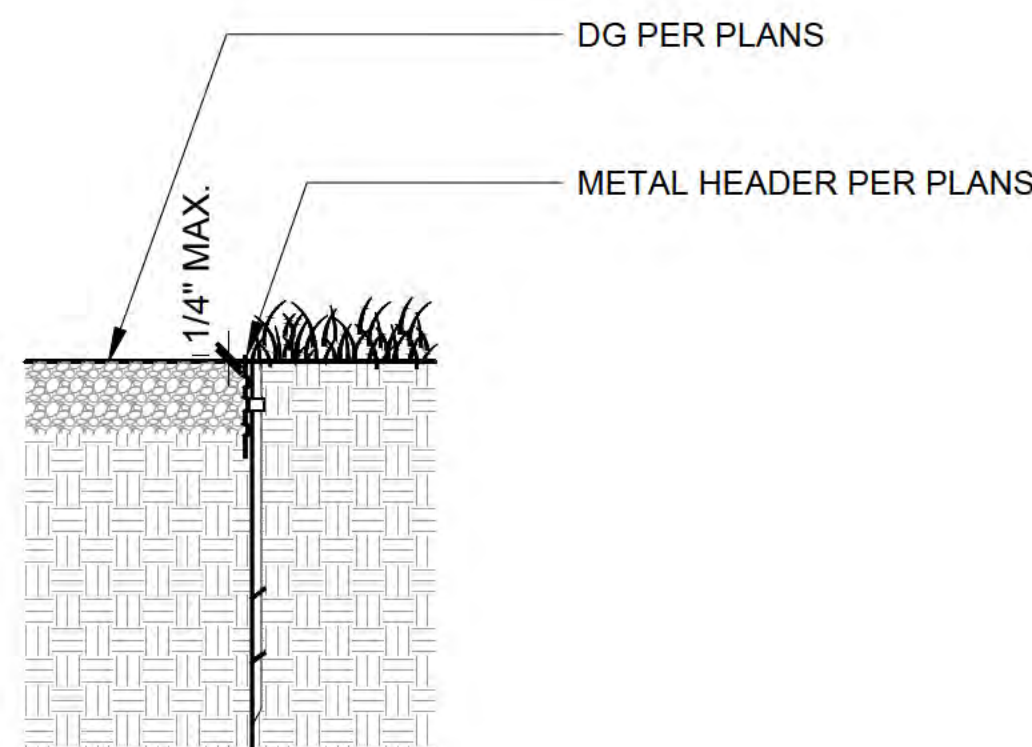
3 ASPHALT AT PLANTING AREA
1 1/2" = 1'-0"



2 GRAVEL PATH
1 1/2" = 1'-0"



4 PLANTING AT GRAVEL
1 1/2" = 1'-0"



1 METAL HEADER AT DECOMPOSED GRAVEL
1 1/2" = 1'-0"

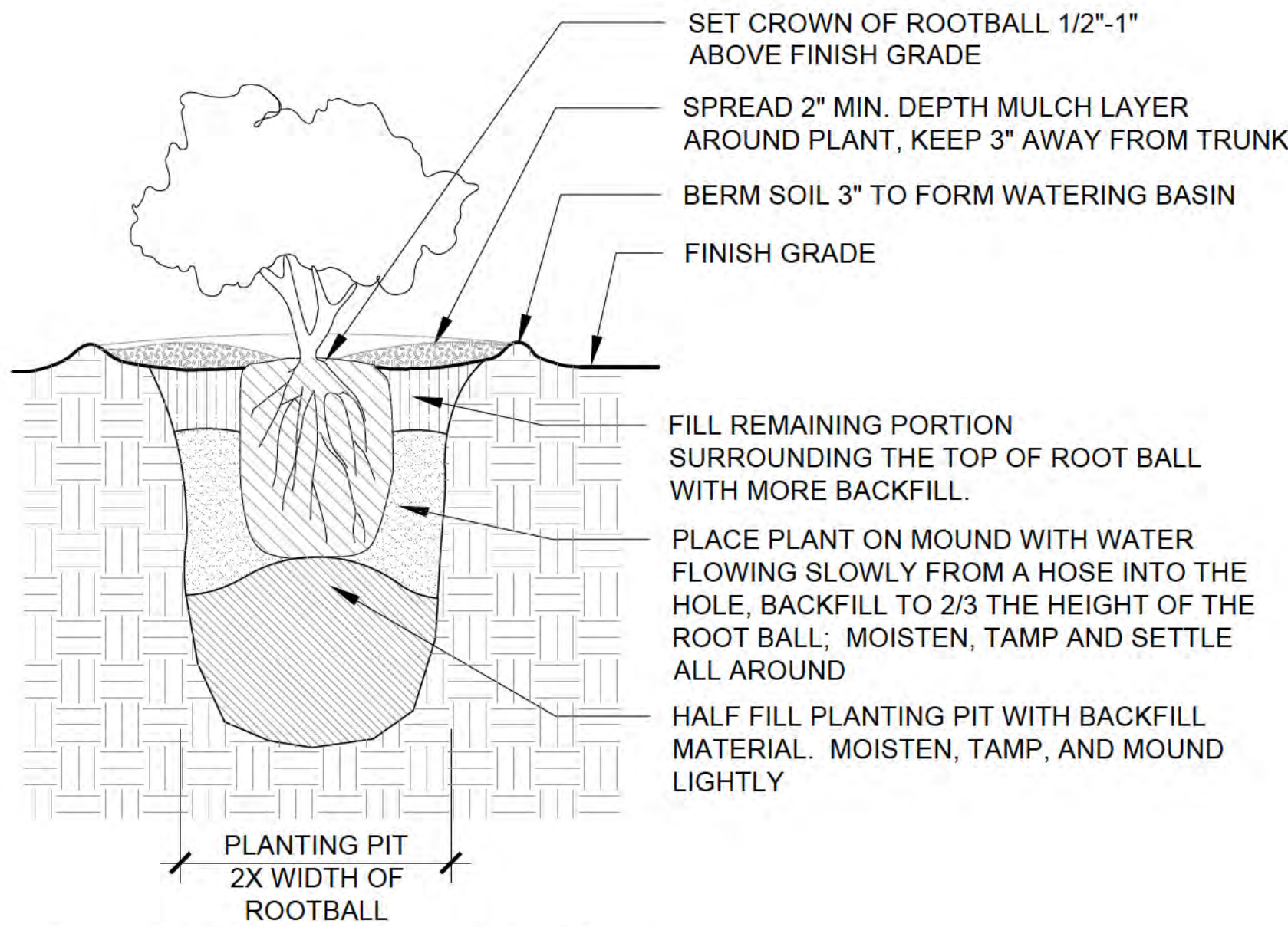
NOT FOR CONSTRUCTION

Colony Lagoon
23325 Malibu Colony Drive
Malibu CA 90465

HARDSCAPE DETAILS

L6.0

DATE: 2021.06.21
SCALE: AS NOTED
DRWN BY: IJ, KT
CHKD BY: SB



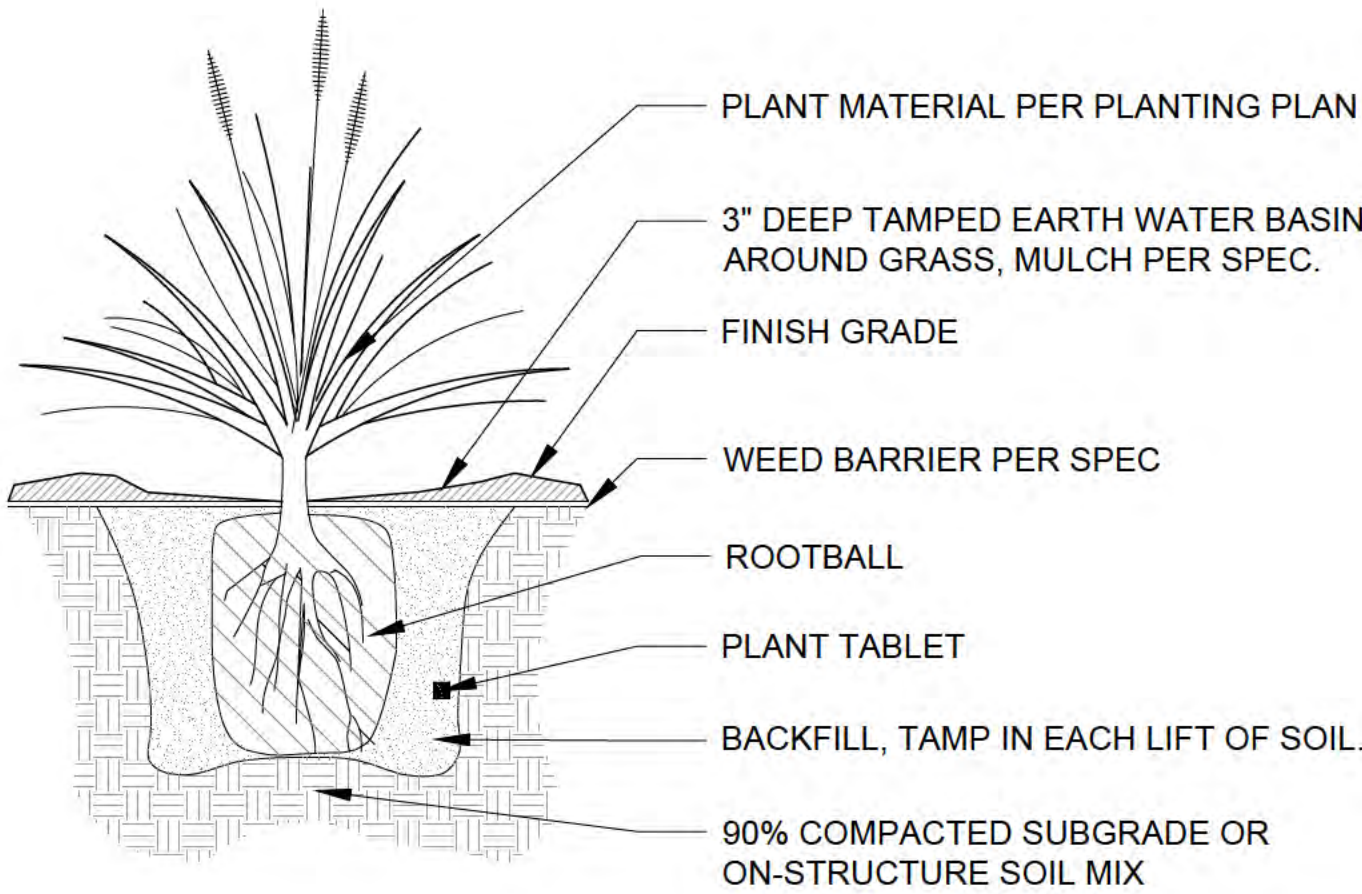
9 NATIVE SHRUB PLANTING
3/4" = 1'-0"

BACKFILL AMENDMENTS

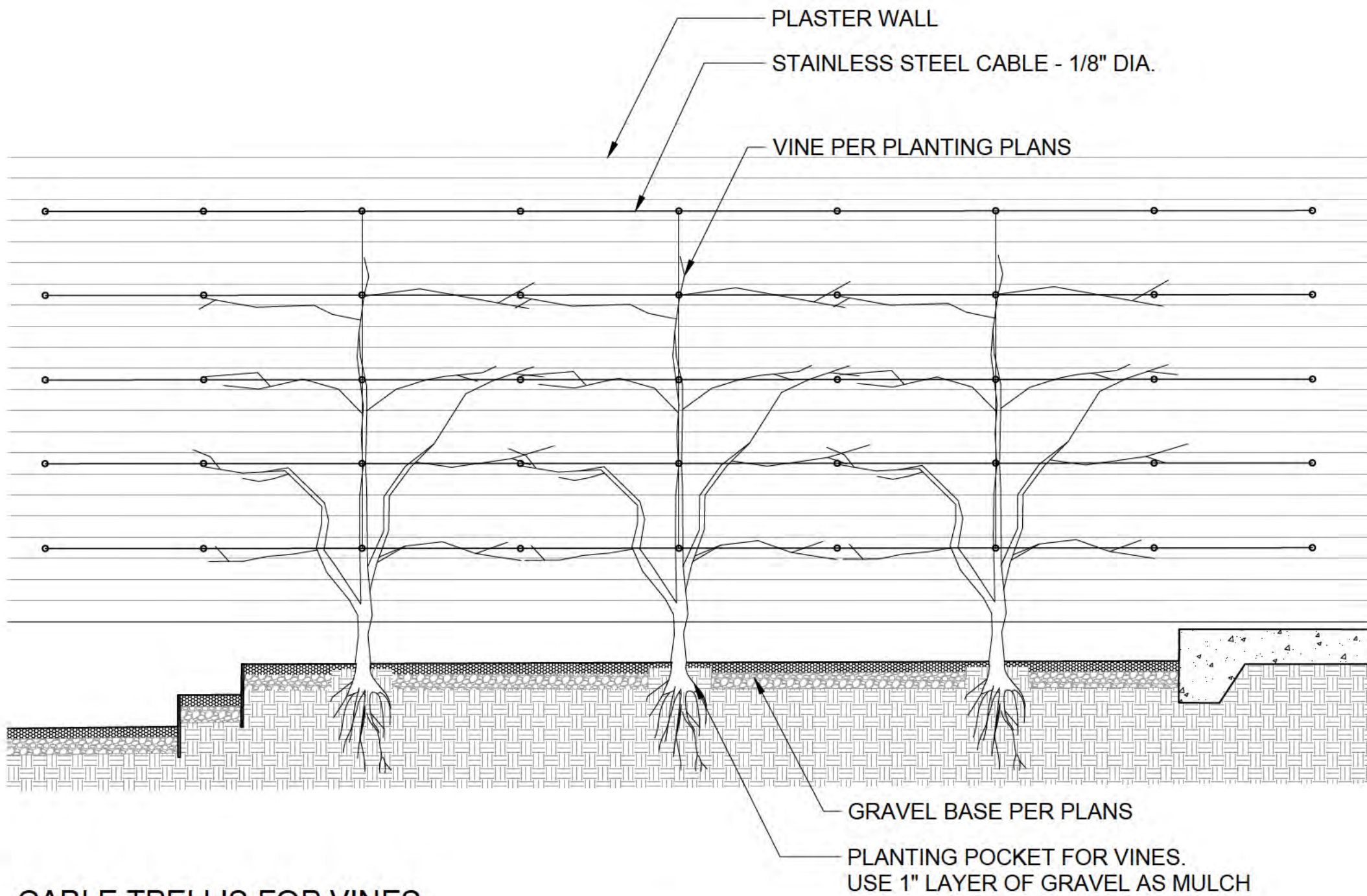
- A) WHERE NATIVE TOP SOIL IS PRESENT IN PLANTING AREAS, NO SOIL AMENDMENT IS RECOMMENDED. THE NATIVE SOIL SHOULD BE SOFT AND FRIABLE. LARGE ROCKS AND CLODS ARE TO BE REMOVED FROM BACKFILL.
- B) WHERE NATIVE TOP SOIL HAS BEEN REMOVED, USE A BACKFILL MIX OF 1/3 COMPOSTED OR NITROLIZED FOREST HUMUS TO 2/3 TOPSOIL TO BE BLENDED OUTSIDE OF PLANTING PIT.
- C) FERTILIZER:
- SLOW RELEASE FERTILIZER GRANULES OR TABS MAY BE INCORPORATED WITH THE BACKFILL, OR PLACED IN THE BOTTOM OF THE HOLE. TABS SHALL NOT TOUCH THE ROOT BALL.
 - PRE-PLANT FERTILIZER APPLICATION RATE SHALL BE LOWER THAN THAT FOR GENERAL LANDSCAPE ORNAMENTALS.

NOTES

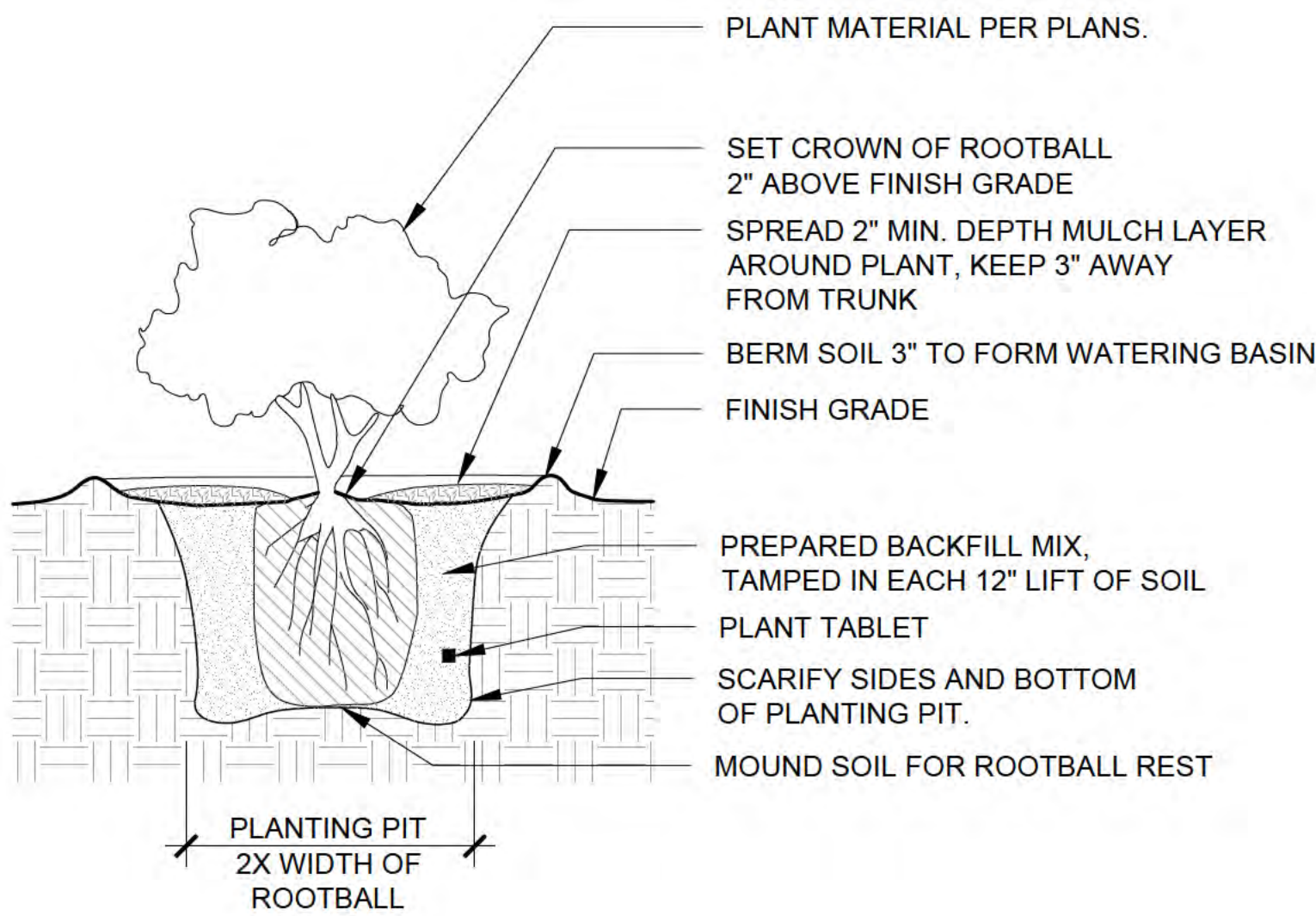
- A) PLANT PIT TO BE DUG TWICE AS DEEP AND TWICE AS WIDE AS PLANT CONTAINER.
- B) PRIOR TO ANY BACKFILLING, FILL PLANTING PIT WITH WATER AND ALLOW TO PERCOLATE INTO SUBSOIL
- C) FORM WATERING BASIN USING REMAINING BACKFILL AND NATIVE SOIL
- D) WATER THOROUGHLY, FILLING THE BASIN WITH WATER AND SPRINKING AROUND TO SETTLE BACKFILL, MULCH AND BERM.
- E) ALLOW TO SOAK IN AND REPEAT.



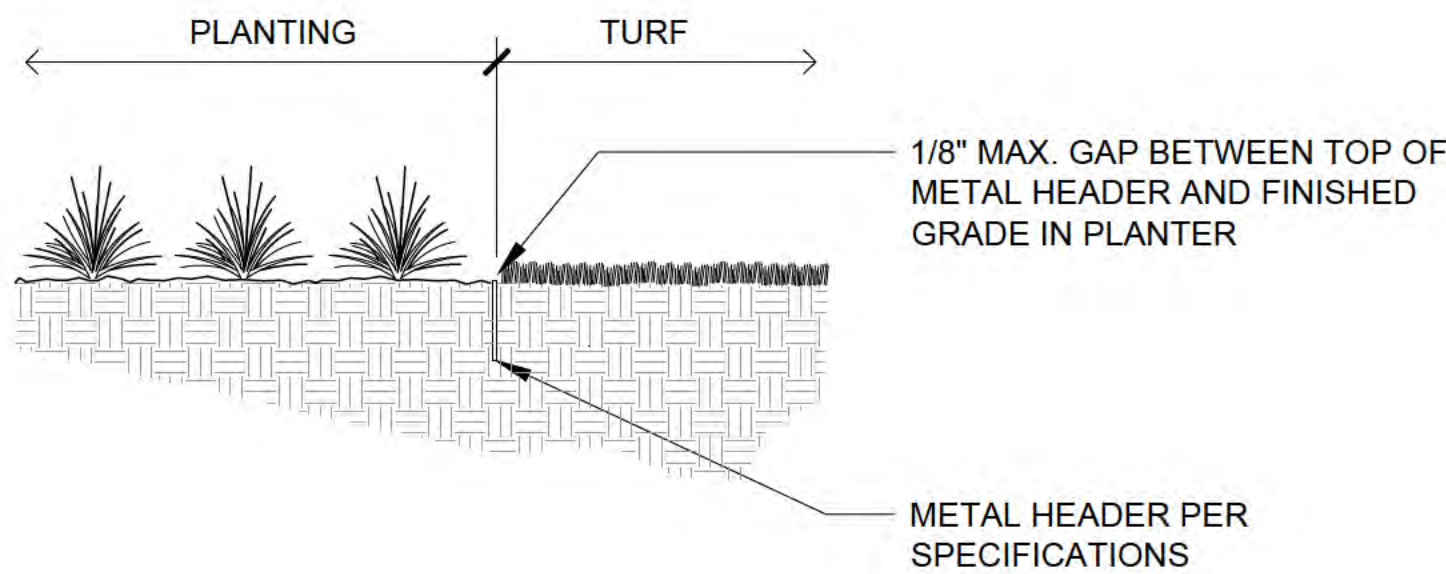
3 ORNAMENTAL GRASS PLANTING
3/4" = 1'-0"



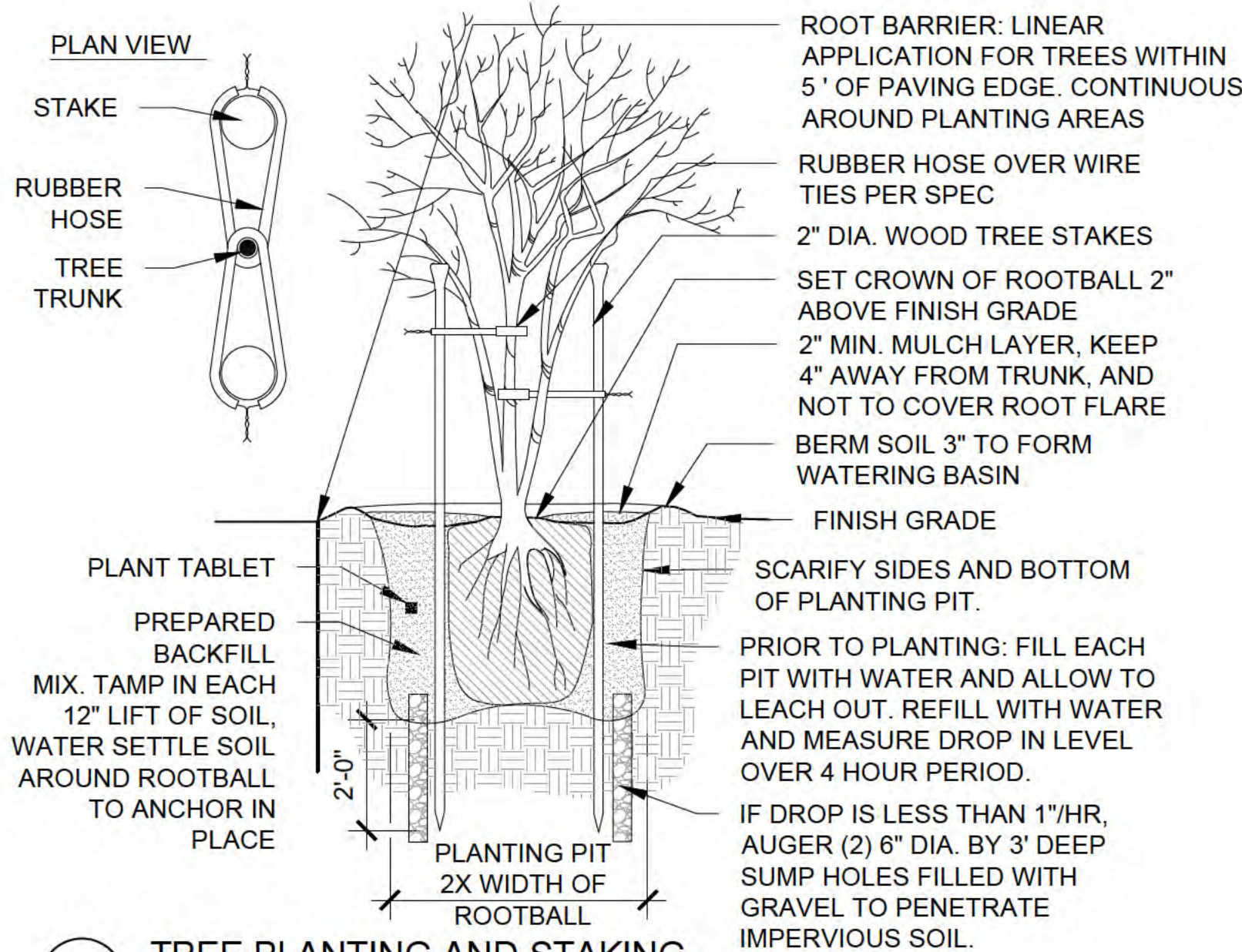
5 CABLE TRELLIS FOR VINES
1/2" = 1'-0"



2 SHRUB PLANTING
3/4" = 1'-0"



4 METAL HEADER AT TURF
1" = 1'-0"



1 TREE PLANTING AND STAKING
3/8" = 1'-0"

Stephen Billings
Landscape Architecture

12818 Venice Boulevard
Los Angeles, CA 90066
T: (310) 310-8438
E: sbillings@sblastudio.com

OWNER
Stan and Fiona Druckenmiller
117 East 72nd Street
New York, New York 10021
917.379.4908 T

ARCHITECT
Kovac Design Studio
11828 West Pico Boulevard
Santa Monica, CA 90064
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CIVIL ENGINEER
RJR Engineering
2340 Palma Drive, #200
Ventura, CA 93003
805.485.3935

EXPEDITER
Manny Randall
909 Euclid Street, #6
Santa Monica, CA 90403
310.395.2615 T

SURVEYOR
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805.497.0102

Rev	Date	Issue
	10.21.19	CDP Submittal
	12.26.19	CDP Submittal
A	06.21.21	TREE UPDATE

NOT FOR CONSTRUCTION

Colony Lagoon
23325 Malibu Colony Drive
Malibu CA 90465

PLANTING DETAILS

L6.1

DATE: 2019.10.21
SCALE: AS NOTED
DRWN BY: IJ
CHKD BY: SB



CDP 18-035

City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489 FAX (310) 456-3356

COASTAL ENGINEERING REVIEW SUBSTANTIAL CONFORMANCE REVIEW

TO: City of Malibu Coastal Engineer Staff

FROM: City of Malibu Planning Department

SUBMITTAL DATE 05/20/2021

PROJECT NUMBER: CDP 18-035

JOB ADDRESS: 23325 MALIBU COLONY

APPLICANT / CONTACT: Marny Randall

APPLICANT ADDRESS: 909 Euclid Street, Suite #6
Santa Monica, CA 90403

APPLICANT PHONE #: (310)386-5521

APPLICANT FAX #: _____

APPLICANT EMAIL: marnyrandall@gmail.com

PROJECT DESCRIPTION: Demo ESFR, NSFR and AOWTS

TO: Malibu Planning Division and/or Applicant

FROM: Coastal Engineering Reviewer

_____ The project is feasible and CAN proceed through the Planning process.

_____ The project **CANNOT** proceed through the planning process until coastal engineering feasibility is determined. Depending upon the nature of the project, this may require submittal of coastal engineering reports and/or wave run-up studies which evaluate the coastal environment setting, processes, and hazards.

SIGNATURE

DATE

Determination of Coastal Engineering feasibility is not approval of building and/or grading plans. Plans and/or reports must be submitted for Building Department approval, and may require approval of both the City Geotechnical Engineer, and City Coastal Engineer. Additional requirements/conditions may be imposed at the time of building and/or grading plans are submitted for review. Geotechnical reports may also be required.

City Coastal Engineering Staff may be contacted on Tuesday and Thursday between 8:00 am and 11:00 am at the City Hall Public counter, or by calling (310) 456-2489, extension 269.



City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

COASTAL ENGINEERING REVIEW SHEET

Project Information

Date: May 31, 2021
Site Address: 23325 Malibu Colony Road
Lot/Tract/PM #:
Applicant: Marny Randall
Phone #: 310-395-2615
Project Type: Demolish existing single family residence, construct new single family residence, pool, and NAOWTS

Lat:
Review Log #: C582
Lon:
Planning #: CDP 18-035
BPC/GPC #: N/A
Planner: R. Brooks
Email: marnyrandall@gmail.com

Submittal Information

Consultant(s): David C. Weiss, S.E. (Weiss, SE 1867)
Report Date(s): 12-3-2020 (memorandum), 8-3-2020, 9-3-2019, 6-12-2019; 12-10-18
Project Plan(s): Topographic Survey (February 2018, rev. 10-26-18, Peak Surveys), **Architectural Plans (Kovac, 18 sheets, rev. 4-30-21)**, Grading Plans (RJR Engineering, 12 sheets, 10-16-19), AOWTS plans (EPD Consultants, rev. 10-19-19, 6-27-18)
Previous Reviews: 2-17-21 (memorandum); 8-18-20, rev. 10-22-20 (memorandum)
12-5-19, 7-30-19, 2-8-19
FEMA SFHA: VE (BFE = +19 ft NAVD88, FEMA 2016)

Review Findings

Planning Stage

- ☒ **APPROVED** in **PLANNING**-stage for substantial conformance with previously approved plans, from a coastal engineering perspective, with conditions. The listed Building Plan-Check Coastal Review Comments shall be addressed prior to Building Plan-Check approval.
- ☐ **NOT APPROVED** in **PLANNING**-stage from a coastal engineering perspective. The listed Planning Stage Coastal Review Comments shall be addressed prior to Planning-stage approval.

Building Plan-Check Stage

- ☒ **Awaiting Building plan check submittal.** The listed 'Building Plan-Check Stage Review Comments' may be deferred for Planning Stage approval but shall be addressed prior to Building Plan-Check Stage approval.

Remarks:

The referenced revised plans (Kovac, 4-30-21) were reviewed for substantial conformance with the previously approved plans. The proposed revised project consists of demolition of an existing single-family residence, garage and pool, construction of a new single-family residence with basement and pool, and installation of a new onsite wastewater treatment system. The proposed building footprint has been reduced in size by 39.21 square feet, to 3,036.79 square feet. The current elevation of the property is between 10.6 and 11 feet (NAVD 1988). The proposed revised finished floor elevations (FFE) are +9.0 feet for the basement level located under the pool (outside the wave uprush zone), +12.0 feet for the garage, and +12.5 feet for the top of the basement wall and the first floor of the house. The second floor and pool deck FFE are +24.67 feet. The finished surface (FS) pool will be located above grade at

elevation 24.07 feet. The limit of the VE Special Flood Hazard Area, with a determined Base Flood Elevation of +19 feet NAVD88, is located in Malibu Colony Road near the southern edge of the property.

The property is located at the eastern end of Malibu Road, on a sand spit that is exposed to the Malibu lagoon on the north, and the lagoon barrier beach on the east. The most landward limit of the projected wave uprush, assuming an unprotected beach, is located approximately 18 feet north of the south property line and intersects the southern edge of the proposed residence location at approximate elevation 11.6 feet NAVD88. The Consultant has revised the project life to 100 years and provided revised wave uprush elevation to approximately elevation 12.61 ft NAVD88, based upon 4 feet of sea level rise by the year 2120. It appears that the septic tank area may be inundated in the design storm event to a depth of less than 0.5 feet under this scenario in 100 years. According to probabilistic sea-level rise projections for the Santa Monica Tide Gauge, a 4.0 foot sea level rise has an approximately 17% probability of being exceeded (83% probability of not being exceeded) at the year 2120 for a low-risk aversion scenario, and an approximately 0.5% probability of being exceeded (99.5% probability of not being exceeded) by around the year 2076 for a medium-high risk aversion scenario.

The proposed OWTS dispersal field will be located at the rear of the property between the house and the existing pool, outside the wave uprush zone. The septic tank location remains in the driveway within the upper limits of the wave uprush zone.

Planning Stage Conditions of Approval:

1. The property owner shall comply with the requirement for a recorded document and deed restriction outlined in Section 10.6A of the City of Malibu LCP/LIP. This comment shall be made a planning stage condition of approval. Evidence of completion of this item should be submitted to the reviewers in the Building Plan Check stage. A template for this document is available from City coastal engineering review staff.

Building Plan Check Comments

1. The Project Coastal Engineer (David C. Weiss Structural Engineer & Associates, Inc.) should be added to the project consultants identified on the architectural and grading/drainage plans.
2. The Project Coastal Engineer's recommendations shall be incorporated into the plans as notes and details, and referenced on the project plans, including the project wastewater disposal plans. One set of plans with elevations referenced to NAVD88, shall be submitted to the coastal engineering reviewers for Building Plan Check, along with a building plan check fee of \$750. The Project Coastal Engineer shall review, wet sign and stamp the final building plans.
3. The proposed new tank is located within the upper limits of inundation due to wave uprush. Include flood-proofing and anchoring measures for the below-ground tank as notes and details on the plans in accordance with current ASCE and USACE Coastal Engineering Manual standards.
4. Print the name, address, and phone number of the Project Coastal Engineering Consultant on the final plan and permit documents.

If you have any questions regarding this review letter, please contact the undersigned reviewers.

Reviewed by:

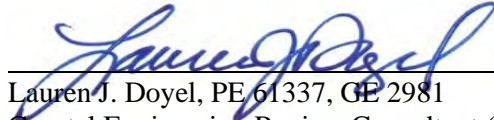


Michael B. Phipps, PG 5748, CEG 1832
Coastal Engineering Review Consultant (x269)

5-31-2021

Date

Reviewed by:



Lauren J. Doyel, PE 61337, CE 2981
Coastal Engineering Review Consultant (x384)

5-31-2021

Date

This review sheet was prepared by representatives of Cotton, Shires and Associates, Inc. and GeoDynamics, Inc., contracted through Cotton, Shires and Associates, Inc., as an agent of the City of Malibu.



COTTON, SHIRES AND ASSOCIATES, INC.
CONSULTING ENGINEERS AND GEOLOGISTS





City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4861
(310) 456-2489 FAX (310) 456-3356 www.malibucity.org

ENVIRONMENTAL HEALTH REVIEW SUBSTANTIAL CONFORMANCE REVIEW

TO: City of Malibu Environmental Health Administrator 6/11/2021
FROM: City of Malibu Planning Department **SUBMITTAL DATE** 05/20/2021

PROJECT NUMBER: CDP 18-035
JOB ADDRESS: 23325 MALIBU COLONY
APPLICANT / CONTACT: Marny Randall
APPLICANT ADDRESS: 909 Euclid Street, Suite #6
Santa Monica, CA 90403
APPLICANT PHONE #: (310)386-5521
APPLICANT FAX #:
APPLICANT EMAIL: marnyrandall@gmail.com
PROJECT DESCRIPTION: Demo ESFR, NSFR and AOWTS

TO: Malibu Planning Department and/or Applicant
FROM: City of Malibu Environmental Health Reviewer

✓ **Conformance Review Complete** for project submittals reviewed with respect to the City of Malibu Local Coastal Plan/Local Implementation Plan (LCP/LIP) and Malibu Municipal Code (MMC). The Conditions of Planning conformance review and plan check review comments listed on the attached review sheet(s) (or else handwritten below) shall be addressed prior to plan check approval.

_____ **Conformance Review Incomplete** for the City of Malibu LCP/LIP and MMC. The Planning stage review comments listed on the City of Malibu Environmental Health review sheet(s) shall be addressed prior to conformance review completion.

OWTS Plot Plan: ☐ **NOT REQUIRED**
☒ **REQUIRED (attached hereto)** ☐ **REQUIRED (not attached)**

Melinda Tallent

Signature

6/15/2021

Date

The applicant must submit to the City of Malibu Environmental Health Specialist to determine whether or not an onsite wastewater treatment system (OWTS) Plot Plan approval is required.

The Environmental Health Specialist may be contacted Tuesday and Thursday from 8:00 am to 11:00 am, or by calling (310) 456-2489, extension 364.



City of Malibu

Environmental Health • Environmental Sustainability Department

23825 Stuart Ranch Road • Malibu, California • 90265-4861

Phone (310) 456-2489 • Fax (310) 456-7650 • www.malibucity.org

ENVIRONMENTAL HEALTH REVIEW SHEET

PROJECT INFORMATION

Applicant: (name and email address)	Marny Randall marnyrandall@gmail.com	
Project Address:	23325 Malibu Colony Road Malibu, California 90265	
Planning Case No.:	CDP 18-035 substantial conformance	
Project Description:	Demo ESFR, NSFR and AOWTS	
Date of Review:	June 15, 2021	
Reviewer:	Melinda Talent	Signature: <i>Melinda Talent</i>
Contact Information:	Phone: (310) 456-2489 ext. 364	Email: mtalent@malibucity.org

SUBMITTAL INFORMATION

Architectural Plans:	Kovac: Plans dated 8-29-2018; revised plans dated 11-5-2018; revised plans dated 10-21-2019. Revised project plans dated 4-30-21, 6-14-21.
Grading Plans:	RJR: Plans dated 8-13-2018; revised plans dated 11-7-2018, 10-16-2019
Structural Plans:	Parker Resnick: Foundation plan dated 8-28-2018; revised Foundation plan dated 10-22-2018, 10-17-2019
Landscape Plans:	Stephen Billings: Plans dated 8-24-2018; revised plans dated 11-8-2018, 10-21-2019
OWTS Plan:	EPD: OWTS plans dated 6-27-2018 and 8-8-2018; revised OWTS plans dated 11-5-2018, 2-26-2019, 10-17-2019, 6-10-21.
OWTS Report:	EPD: Conceptual Engineering Feasibility Reports dated 6-27-2018 and 8-24-2018; Water Balance Report dated 6-28-2018; Add. I Water Balance Report dated 10-29-2018; Add. I Engineering Feasibility report dated 11-5-2018; Add. II Engineering Feasibility report dated 12-24-2018; Add. III Engineering Feasibility report dated 2-26-2019; Add. IV Engineering Feasibility report dated 10-18-2019. Add II Water Balance Report dated 8-7-20. Updated Fixture unit letter dated 6-4-21.
Geology Report:	GeoConcepts: OWTS report dated 8-13-2018; Update report dated 10-18-2019
Miscellaneous:	City of Malibu: Prohibition Acknowledgment form dated 8-17-2018. David C. Weiss: Coastal engineering report dated 12-10-2018. GeoConcepts: Reduced setback letter dated 10-25-2018. Kovac: Reduction in setback letter dated 10-22-2018. LA County Plumbing permits dated 11-6-1957, 8-15-1966. Parker Resnick: Reduction in setback letter dated 10-22-2018. Los Angeles Regional Water Quality Control Board Correspondence dated 2-26-21.
Previous Reviews:	9-11-2018, 12-4-2018, 1-17-2019, 3-5-2019, 10-31-19, 6-11-21

REVIEW FINDINGS

Planning Stage:	<input checked="" type="checkbox"/> CONFORMANCE REVIEW COMPLETE for the City of Malibu Local Coastal Program/Local Implementation Plan (LIP) and Malibu Municipal Code (MMC). The listed conditions of Planning stage conformance review and plan check review comments shall be addressed prior to plan check approval.
	<input type="checkbox"/> CONFORMANCE REVIEW INCOMPLETE for the City of Malibu LIP and MMC. The listed Planning stage review comments shall be addressed prior to conformance review completion.
OWTS Plot Plan:	<input type="checkbox"/> NOT REQUIRED
	<input checked="" type="checkbox"/> REQUIRED (attached hereto) <input type="checkbox"/> REQUIRED (not attached)



Based upon the project description and submittal information noted above, a **conformance review** was completed for a new advanced onsite wastewater treatment system (OWTS) proposed to serve the onsite wastewater treatment and disposal needs of the subject property. The proposed advanced OWTS meets the minimum requirements of the Malibu Municipal Code (MMC) and the City of Malibu Local Coastal Program (LCP)/Local Implementation Plan (LIP). Please distribute this review sheet to all of the project consultants and, prior to final approval, provide a coordinated submittal addressing all conditions for final approval and plan check items.

The conditional conformance findings hereby transmitted complete the Planning stage Environmental Health review of the subject development project. In order to obtain Environmental Health final approval of the project OWTS Plot Plan and associated construction drawings (during Building Safety plan check), all conditions and plan check items listed below must be addressed through submittals to the Environmental Health office.

Conditions of Planning Conformance Review for Building Plan Check Approval:

1) Final Onsite Wastewater Treatment System (OWTS) Plot Plan: A final plot plan prepared by a City Registered OWTS Designer shall be submitted showing an OWTS design meeting the minimum requirements of the Malibu Municipal Code (MMC) and the Local Coastal Program (LCP)/Local Implementation Plan (LIP). The plans must include all 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, existing improvements, and proposed/new improvements. The plot plan must fit on an 11" x 17" sheet leaving a 5" left margin clear to provide space for a City-applied legend. If the plan scale 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" x 22" for review by Environmental Health).

2) Final OWTS Design Report, Plans, and System Specifications: A final OWTS design report and large set of construction drawings with system specifications (four sets) shall be submitted to describe the OWTS design basis and all components proposed for use in the construction of the OWTS.

All plans and reports must be signed by a City Registered OWTS Designer and the plans stamped by the project Geologist, Coastal Engineer, and Structural Engineer as applicable. The final OWTS design report and construction drawings shall be submitted with the designer's signature, professional registration number, and stamp (if applicable).

The final OWTS design submittal 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 (gpd), and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing drainage fixture units, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design.
- b. Sewage and effluent pump design calculations (as applicable).



- c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter, ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for “package” systems; and the design basis for engineered systems.
 - d. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit, subsurface drip, etc.) as well as the system’s geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day (gpd) and gallons per square foot per day (gpsf). 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 gpd). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units, and building occupancy characteristics.
 - e. All OWTS design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the plan scale is such that more space than is available on the 11” x 17” plot plan is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18” x 22” for review by Environmental Health).
[Note: For OWTS final designs, full-size plans for are also required for review by Building & Safety and Planning.]
- 3) Existing OWTS to be Abandoned:** 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 Malibu Municipal Code.
- 4) Worker Safety Note and Abandonment of Existing OWTS:** 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 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.”*
- 5) Building Plans:** All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.
- 6) Traffic-Rated Slab Plan(s):** All project traffic rated slab plans shall be submitted for Environmental Health review and approval. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.



7) Architect / Engineer Certification for Reduction in Setbacks to Buildings or Structures:

All proposed reductions in setbacks from the OWTS to structures or other features less than those shown in Malibu Municipal Code (MMC) Section 15.42 must be supported by letters from the project consultants. The wastewater plans and the construction plans must be specifically referenced in all certification letters. The construction plans for all structures and/or buildings with reduced setback must be approved by City of Malibu Building Safety prior to Environmental Health final approval. The architectural and/or structural plans submitted for Building Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. All plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).

- Structures – All proposed reductions in setback from the OWTS to structures (i.e., setbacks less than those shown in MMC Section 15.42) must be supported by a letter from the project Structural Engineer and a letter from the project Soils Engineer (i.e., a Geotechnical Engineer or Civil Engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the OWTS, and will not adversely affect the structural integrity of the structures for which the setback is reduced.
- Buildings – All proposed reductions in setback from the OWTS to buildings (i.e., setbacks less than those shown in MMC Section 15.42) also must be supported by a letter from the project Architect, who must certify unequivocally that the proposed reduction in setbacks will not produce a moisture intrusion problem for the proposed building(s). If the building designer is not a California licensed architect, then the required Architect's certification may be supplied by an Engineer who is responsible for the building design with respect to mitigation of potential moisture intrusion from reduced setback to the wastewater system; in this case the Engineer must include in the letter an explicit statement of responsibility for mitigation of potential moisture intrusion. If any specific construction features are proposed as part of a moisture intrusion mitigation system in connection with the reduced setback(s), then the Architect (or Engineer) must provide associated construction documents for review and approval during Building Plan Check.

8) Proof of Ownership: Proof of ownership of subject property shall be submitted.

9) Operations & Maintenance Manual: An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed advanced OWTS.

10) Maintenance Contract: A maintenance contract executed between the owner of subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed advanced onsite wastewater treatment system shall be submitted prior to Environmental Health approval. **Please note only original "wet signature" documents are acceptable.**

11) Advanced Onsite Wastewater Treatment System (OWTS) Covenant: 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 Malibu Municipal Code. Said covenant shall be provided by the City of Malibu Environmental Health Administrator. **Please submit a certified copy issued by the City of Malibu Recorder.**

- 12) **Covenant to Forfeit 100% Expansion Effluent Disposal Area:** A covenant running with the land shall be executed by the property owner and recorded with the City of Malibu 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% 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 an 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 use of the private sewage disposal system and, therefore, any building(s) served by the private sewage disposal system may become non-habitable during any required future maintenance and/or repair. Said covenant shall be in a form acceptable to the City Attorney and approved by the Environmental Sustainability Department. **Please submit a certified copy issued by the City of Malibu Recorder.**
- 13) **Project Geologist/Geotechnical Consultant Approval:** Project Geologist/Geotechnical Consultant final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.
- 14) **City of Malibu Geologist/Geotechnical Approval:** City of Malibu geotechnical staff final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.
- 15) **Project Coastal Engineer Approval:** Project Coastal Engineer Consultant final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.
- 16) **City of Malibu Coastal Engineering Approval:** City of Malibu Coastal Engineering final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.
- 17) **City of Malibu Planning Approval:** City of Malibu Planning Department final approval of the OWTS plan shall be obtained.
- 18) **Environmental Health Final Review Fee:** A final fee in accordance with the adopted fee schedule at the time of final approval shall be paid to the City of Malibu for Environmental Health review of the OWTS design and system specifications.
- 19) **Operating Permit Application and Fee:** In accordance with Malibu Municipal Code, an application shall be made to the Environmental Health office for an Onsite Wastewater Treatment System operating permit. An operating permit fee in accordance with the adopted fee schedule at the time of final approval shall be submitted with the application.

-o0o-

If you have any questions regarding the above requirements, please contact the Environmental Health office at your earliest convenience.

cc: Environmental Health file
Planning Department



23325 MALIBU COLONY ROAD (CDP 18-035)
MALIBU, CA 90265

SUPERSEDES ALL PRIOR APPROVALS

S.F.D.: 4 Bedroom/52 Fixture Units (N)
PRIMARY: 1,500 Gallon Midstate Precast Tank (N)
SECONDARY: SeptiTech STAAR0.75UV Processor inside 1,500 Gallon Tank (N)
TERTIARY: Pentair E50S UV Disinfection (N)
ACTIVE: 1,500-sf Drip Dispersal Field (N)
FUTURE: N/A
PERC RATE: 0.50 gpf peak; 0.28 gpf average
DESIGNER: Kevin Poffenbarger, PE (69089)
REFERENCE: EPD: Conceptual Engineering Feasibility reports dated 6-27-18, 8-24-18, 11-5-18, 2-26-19, 10-18-19; Water Balance Reports dated 6-28-18, 10-29-18. Updated Fixture unit letter dated 6-4-21.
GeoConcepts: OWTS reports dated 8-13-18, 10-18-19

NOTES:

1. This conformance review is for a 4 bedroom (64 fixture units) new single family dwelling. The advanced onsite wastewater treatment system conforms to the requirements of the City of Malibu Municipal Code (MMC) and the Local Coastal Plan (LCP).
2. This review relates only to the minimum requirements of the MMC, and the LCP, and does not include an evaluation of any geological or other potential problems, which may require an alternative method of review treatment.
3. This review is valid for one year, or until MMC, and/or LCP, and/or Administrative Policy changes render it noncomplying.

LEGEND:

- PROPERTY LINE
EASEMENT
(E) WATER MAIN (APPROXIMATE)
(P) RESIDENCE
LIMITS OF (P) SECOND FLOOR ABOVE
LIMITS OF (P) SDI FIELD
LIMITS OF (P) REMOVAL & REPLACEMENT (SEE SDI FIELD CONSTRUCTION NOTES, SHEET W0.02)
GEOLOGIC TEST PIT (TP-X), APPROXIMATE PER GEOCONCEPTS, INC.
GEOLOGIC BORING (B X), APPROXIMATE PER GEOCONCEPTS, INC.

ABBREVIATIONS:

AF ARTIFICIAL FILL
CONC. CONCRETE
(E) EXISTING
E.F. ENGINEERED FILL
EG EXISTING GRADE
FF FINISHED FLOOR
FG FINISHED GRADE
FS FINISHED SURFACE
GW GROUNDWATER
O.C. ON CENTER

OWS ONSITE WASTEWATER SYSTEM
(P) PROPOSED
PERF. PERFORATED
PROJ. PROJECTED
Qal ALLUVIUM
Qb BEACH DEPOSITS
SDI SUBSURFACE DRIP IRRIGATION
VIF VERIFY IN FIELD
WS WATER SURFACE

- 1 (P) MIDSTATE H-20 TRAFFIC RATED PRECAST CONCRETE 1,500-GALLON PRIMARY SEPTIC TANK W/ (2) 24" H 20 TRAFFIC RATED LIDS/RISERS TO GRADE PER MFR, 2-CHAMBERED, GAS AND WATERTIGHT, VENT TO ROOF PER MPC.
- 2 (P) SEPTITECH STAAR0.75 PROCESSOR IN 1,500 GAL MIDSTATE PRECAST H-20 TRAFFIC RATED CONCRETE TANK W/ (2) 24" H-20 TRAFFIC RATED LIDS/RISERS TO GRADE PER MFR, TWO CHAMBERED, SPECIFIED GAS AND WATERTIGHT. VENT TO ROOF PER MPC. SHALL BE PROVIDED PREASSEMBLED BY MFR W/ LOW HEAD DUPLEX EFFLUENT PUMPS, PRESSURE UV DISINFECTION UNIT, 2-CHAMBERED, GAS AND WATERTIGHT, VENT TO ROOF PER MPC.
- 3 (P) SDI EFFLUENT DISPERSAL FIELD, W/ AIR VACUUM RELIEF VALVES INSTALLED AT HIGH POINTS. TO BE CONSTRUCTED OVER APPROX. ONE FOOT OF ENGINEERED FILL, W/ ABSORPTIVE CAPACITIES EQUIVALENT TO NATIVE SOIL, CHARACTERIZED BY PROJECT GEOLOGIST. REFER TO SHEETS W0.02 & W0.03.

1. THESE PLANS ARE ACCURATE FOR PROPOSED ONSITE WASTEWATER SYSTEM (OWS) ONLY.
2. PRELIMINARY ARCHITECTURAL PLANS PROVIDED BY KOVAC DESIGN STUDIO, DATED JUNE 20, 2018; REVISED AUGUST 15, 2018; OCTOBER 22, 29, 2018; FEBRUARY 4, 2019; SEPTEMBER 4, 2019; APRIL 30, 2021; JUNE 10, 2021. TOPOGRAPHIC SURVEY PROVIDED BY PEAK SURVEYS, INC., DATED FEBRUARY 6, 2018; REVISED OCTOBER 17, 2019. PROPERTY LINES & ELEVATIONS ARE APPROXIMATE PER THE REFERENCED PLANS. CONTRACTOR TO VERIFY EXACT LOCATION OF PROPERTY LINES.
3. TOTAL PROPOSED GEOFLOW SUBSURFACE DRIP IRRIGATION (SDI) EFFLUENT DISPERSAL AREA (APPROXIMATELY 1,500 SF) SHALL BE SET BACK A MINIMUM 10.0 FT FROM WATER MAIN NEAR SOUTHERN PROPERTY LINE, AND 5.0 FT FROM PROPERTY LINES ABUTTING PRIVATE PROPERTY. REFER TO DETAILS 1 & 2, THIS SHEET, AND ALL NOTES ON THESE PLANS.

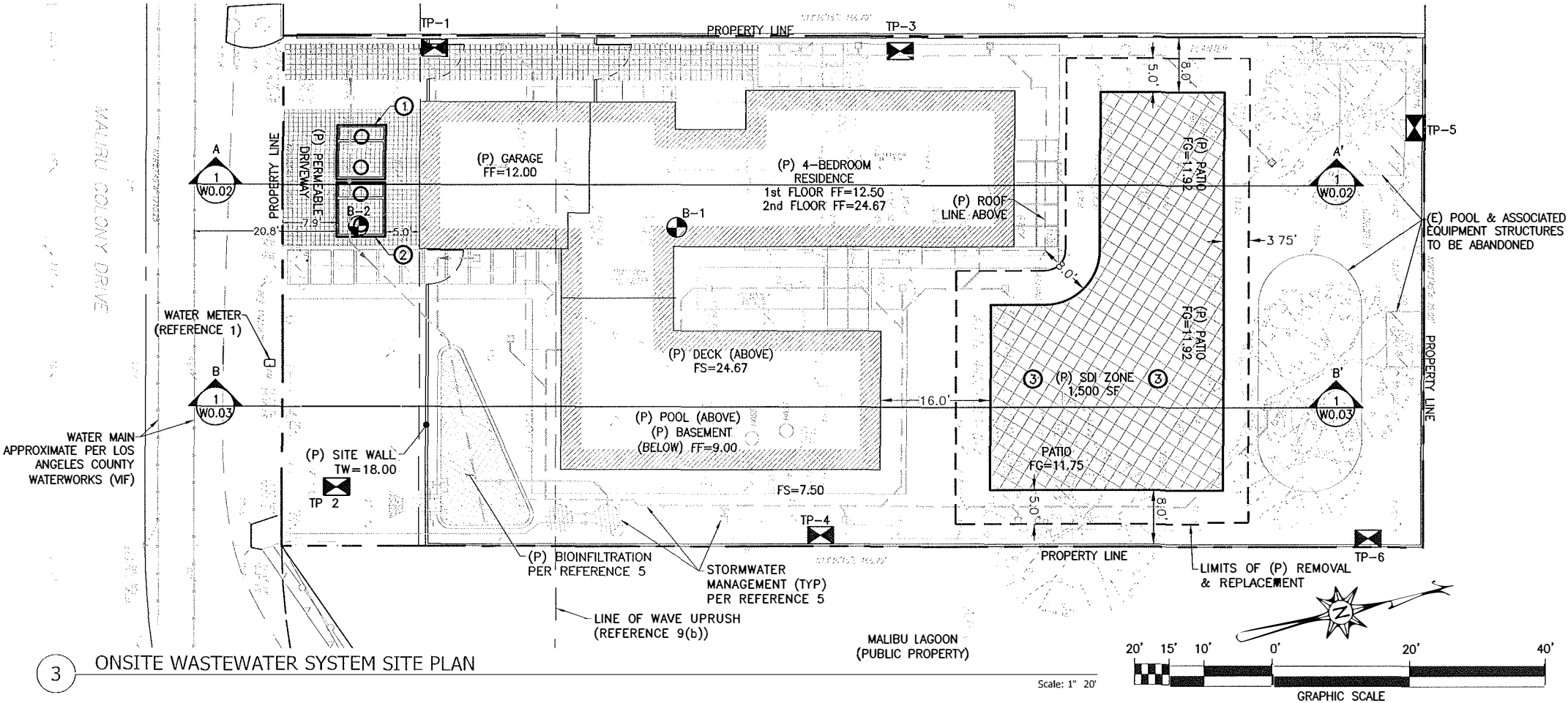
1 ONSITE WASTEWATER SYSTEM KEYNOTES

Scale: N.T.S.

2 ONSITE WASTEWATER SYSTEM (OWS) GENERAL NOTES

Scale: N.T.S.

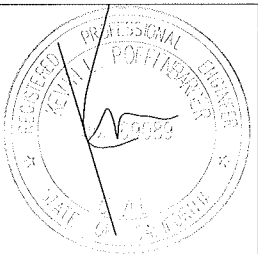
PRELIMINARY NOT FOR CONSTRUCTION



3 ONSITE WASTEWATER SYSTEM SITE PLAN

Scale: 1" = 20'

GRAPHIC SCALE



NO.	REVISIONS:	DATE:	BY:
7	ARCH & CIVIL SITE PLAN REVISIONS	10/17/19	WHA
8	UPDATE WAVE UPRUSH LIMIT	8/7/20	CL
9	ARCH FLOOR PLAN REVISIONS	5/11/21	WHA
10	LEACH FIELD CHANGES	6/10/21	CB

SHEET TITLE: ONSITE WASTEWATER SYSTEM		
PROJECT: 23325 MALIBU COLONY ROAD #118A MALIBU, CA 90265		
DATE 6/27/18	SCALE AS SHOWN	DRAWN BY WHA

PROJECT NO. A498
DRAWING NO. W0.01
SHEET 2 OF 4 SHEETS



City of Malibu

23825 Stuart Ranch Road • Malibu, California 90265-4861
(310) 456-2489 • Fax (310) 456-3356 • www.malibucity.org

GEOTECHNICAL REVIEW SHEET

Project Information

Date:	June 7, 2021	Review Log #:	4189
Site Address:	23325 Malibu Colony Drive		
Lot/Tract/PM #:	n/a	Planning #:	CDP-18-035
Applicant/Contact:	Marny Randall, marnyrandall@gmail.com	BPC/GPC #	
Contact Phone #:	310-386-5521	Fax #:	Planner: Raneika Brooks
Project Type:	Revisions: New single-family residence, Swimming Pool, Onsite Wastewater Treatment System (OWTS)		

Submittal Information

Consultant(s)/Report Date(s):
(Current submittal(s) in **Bold**.)

GeoConcepts, Inc. (Barrett, CEG 2088; Walter, GE 2476): 10-18-2019, 10-23-2018, 8-10-2018, 8-13-2018
EPD Consultants, Inc. (RCE # 69089): 10-18-2019, 8-24-2018, 11-5-2018

Architectural Plans prepared by KOVAC, dated April 30, 2021.
Topography Survey Map by Peak Surveys, Inc. August 14, 2018.
Grading & Drainage (Civil) Plans by RJR Engineering & Consulting, Inc. dated October 15, 2019.
Planning Submittal Foundation Plan by Parker-Resnick Structural Engineering dated April 30, 2021.
Landscape Plans by Stephen Billings Landscape Architect dated October 21, 2019.
OWTS plans prepared by EPD Consultants dated October 17, 2019.

Previous Reviews: 11-1-19, 11-30-18, 9-28-18, Geology Review Referral Sheet dated 8-29-07; Environmental Health Review Letters dated 10-31-19 and 9-11-18.

Review Findings

Coastal Development Permit Review

- ☒ The revised residential development is **APPROVED** from a geotechnical perspective, with the following comments to be addressed prior to building plan check stage approval.
- ☐ The revised residential development is **NOT APPROVED** from a geotechnical perspective. The listed 'Review Comments' shall be addressed prior to approval.

Building Plan-Check Stage Review

- ☒ Awaiting Building plan check submittal. Please respond to the listed 'Building Plan-Check Stage Review Comments' AND review and incorporate the attached 'Geotechnical Notes for Building Plan Check' into the plans.
- ☐ **APPROVED** from a geotechnical perspective. Please review the attached 'Geotechnical Notes for Building Plan Check' and incorporate into Building Plan-Check submittals.

☐ **NOT APPROVED** from a geotechnical perspective. The listed 'Building Plan-Check Stage Review Comments' shall be addressed prior to Building Plan-Check Stage approval.

Remarks

The referenced architectural plans, grading plans, and structural plan were reviewed by the City from a geotechnical perspective. The revised project includes the demolition of the existing one-story single-family residence and detached garage, guest house, swimming pool, pool house, and hardscape and the construction of a new 5,146 square foot two-story single-family residence and attached garage with a swimming pool and pool deck on the roof, flatwork and access driveway, decks, and landscape areas. Grading consists of 140 yards of cut, 391 yards of fill, and 251 yards of import. A new Onsite Wastewater Treatment System (OWTS) will be installed on the property that consists of a treatment tank system and 1,500 square foot Geoflow subsurface drip irrigation effluent dispersal area. All non-beach sand category soils shall be removed a minimum of one foot into native beach sands by the contractor and replaced with clean double-washed sand.

Building Plan Check Review Comments:

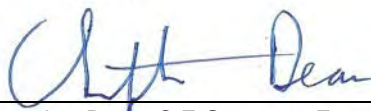
1. Please submit a fee of \$1,016.00 to City geotechnical staff for building plan check review.
2. Please provide an update geotechnical report that addresses the current site conditions, revisions to the proposed development, current building codes, comments to the plan check comments below, and provides additional/revised recommendations, as appropriate.
3. The Project Geotechnical Consultant used a correction factor for the borehole diameter of 1.15. A correction factor that corresponds to the inside diameter of the hollow-stem auger should be used (see page 8 & 9 of the *SCEC 1999* document "*Recommended Procedure for Implementations of DMG Special Publication 117, Guidelines for Analyzing and Mitigating Liquefaction in California.*") Please revise analyses using the appropriate correction factor and revise recommendations, if necessary.
4. The Project Geotechnical Consultant recommends Class F to be used for the site. Based on California Building Code and ASCE-7, a seismic site-specific seismic study would be needed for Site Class F. Please provide further discussions regarding this issue.
5. Please provide reduced setback letters from the OWTS, geotechnical and structural consultants for any reduced setbacks between the OWTS components and foundations, as applicable.
6. Section 7.4 of the City's geotechnical guidelines requires a minimum thickness of 10 mils for vapor barriers beneath slabs-on-grade. Building plans shall reflect this requirement.
7. Please include the following note on the plans: "*The Project Geotechnical Consultant shall prepare an as-built report documenting the installation of the pile foundation elements for review by City Geotechnical staff. The report shall include total depths of the piles, minimum depth into the recommended bearing material, actual depth into the recommended bearing material, and a map depicting the locations of the piles.*"
8. Include a note on the OWTS plans stating, "*The Project Engineering Geologist shall observe and approve the installation of the Geoflow drip dispersal area and provide the City inspector with a field memorandum(s) documenting and verifying that the OWTS components and sand replacement grading were installed/completed per the approved OWTS plans.*"
9. The following note needs to be included on the grading plans. '*Prior to the placement of concrete slabs, the slab subgrade soils shall be pre-moistened to at least 120% of the optimum moisture*

content to the depth specified by the geotechnical engineer. The pre-moistened soils should be tested and verified by the geotechnical engineer within one day prior to the placement of the moisture barrier and sand.'

10. **HARD COPY PLANS:** Three sets of grading and residence plans (**APPROVED BY BUILDING AND SAFETY**) incorporating the Project Geotechnical Consultant's recommendations and items in this review sheet must be **reviewed and wet stamped and manually signed by the Project Engineering Geologist and Project Geotechnical Engineer**. City geotechnical staff will review the plans for conformance with the Project Geotechnical Consultants' recommendations and items in this review sheet.
11. **ELECTRONIC PLANS:** If final foundation and civil plans are digitally signed and stamped by the Project Geotechnical Consultant, as allowed under Board of Registration for Professional Engineers and Land Surveyors (2020 PE & PLS Board Rules (16 CCR §§400-476), the Plan Review Letter must contain the following:
- Project description – Address, scope, including structures being permitted (e.g., pool, guest house etc.).
 - Plan set information - The date and preparer of the plan set reviewed; this must match the plan set that was submitted to the city for final approval.
 - Report references -All applicable geotechnical or coastal engineering reports need to be referenced.
 - Approval of specific plan sheets reviewed – List all plan sheets approved, e.g. civil (grading and drainage) as well as structural.
 - Licensed Professional signature and stamp - The letter must be signed and stamped by all licensed professionals who signed the reports.

Please direct questions regarding this review sheet to City Geotechnical staff listed below.

Engineering Geology Review by:



Christopher Dean, C.E.G. #1751, Exp. 9-30-22
Engineering Geology Reviewer (408-656-3210)
Email: cdean@malibucity.org

6-7-2021
Date

This review sheet was prepared by representatives of Cotton, Shires and Associates, Inc. and GeoDynamics, Inc., contracted through Cotton, Shires and Associates, Inc., as an agent of the City of Malibu.



COTTON, SHIRES AND ASSOCIATES, INC.
CONSULTING ENGINEERS AND GEOLOGISTS





City of Malibu

- GEOTECHNICAL -

NOTES FOR BUILDING PLAN-CHECK

The following standard items should be incorporated into Building Plan-Check submittals, as appropriate:

1. One set of grading and residence plans, incorporating the Project Geotechnical Consultant's recommendations and items in this review sheet, must be submitted to City geotechnical staff for review. **Additional review comments may be raised at that time that may require a response.**
2. Show the name, address, and phone number of the Project Geotechnical Consultant(s) on the cover sheet of the plans.
3. Include the following note on the Foundation Plans: *"All foundation excavations must be observed and approved by the Project Geotechnical Consultant prior to placement of reinforcing steel."*
4. The Foundation Plans for the proposed residence shall clearly depict the embedment material and minimum depth of embedment for the foundations in accordance with the Project Geotechnical Consultant's recommendations.
5. Show the onsite wastewater treatment system on the Site Plan.
6. Please contact the Building and Safety Department regarding the submittal requirements for a grading and drainage plan review.
7. A comprehensive Site Drainage Plan, incorporating the Project Geotechnical Consultant's recommendations, shall be included in the Plans. Show all area drains, outlets, and non-erosive drainage devices on the Plans. Water shall not be allowed to flow uncontrolled over descending slopes.

grading plans.

Retaining Walls (As Applicable)

1. Show retaining wall backdrain and backfill design, as recommended by the Project Geotechnical Consultant, on the Plans.
2. Retaining walls separate from a residence require separate permits. Contact the Building and Safety Department for permit information. One set of retaining wall plans shall be submitted to the City for review by City geotechnical staff. Additional concerns may be raised at that time which may require a response by the Project Geotechnical Consultant and applicant.

Grading Plans (as Applicable)

1. Grading Plans shall clearly depict the limits and depths of overexcavation, as applicable.
2. Prior to final approval of the project, an as-built compaction report prepared by the Project Geotechnical Consultant must be submitted to the City for review. The report must include the results of all density tests as well as a map depicting the limits of fill, locations of all density tests, locations and elevations of all removal bottoms, locations and elevations of all keyways and back drains, and locations and elevations of all retaining wall backdrains and outlets. Geologic conditions exposed during grading must be depicted on an as-built geologic map. This comment must be included as a note on the



City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4861
(310) 456-2489 FAX (310) 456-7650

PUBLIC WORKS REVIEW SUBSTANTIAL CONFORMANCE REVIEW

TO: Public Works Department

FROM: City of Malibu Planning Department **SUBMITTAL DATE** 05/20/2021

PROJECT NUMBER: CDP 18-035
JOB ADDRESS: 23325 MALIBU COLONY
APPLICANT / CONTACT: Marny Randall
APPLICANT ADDRESS: 909 Euclid Street, Suite #6
Santa Monica, CA 90403
APPLICANT PHONE #: (310)386-5521
APPLICANT FAX #: _____
APPLICANT EMAIL: marnyrandall@gmail.com
PROJECT DESCRIPTION: Demo ESFR, NSFR and AOWTS

TO: Malibu Planning Department and/or Applicant

FROM: Public Works Department

_____ The following items described on the attached memorandum shall be addressed and resubmitted.

X
_____ The project was reviewed and found to be in conformance with the City's Public Works and LCP policies and CAN proceed through the Planning process.

SIGNATURE

07/08/21

DATE



City of Malibu

MEMORANDUM

To: Planning Department

From: Public Works Department
Danh Duong, Assistant Civil Engineer

Date: July 8, 2021

Re: Proposed Conditions of Approval for 23325 Malibu Colony Dr CDP 18-035

The Public Works Department has reviewed the plans submitted for the above referenced project. Based on this review sufficient information has been submitted to confirm that conformance with the Malibu Local Coastal Plan (LCP) and the Malibu Municipal Code (MMC) can be attained. Prior to the issuance of building and grading permits, the applicant shall comply with the following conditions.

GRADING AND DRAINAGE

1. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development LIP Section 17.3.1 that:
 - Is located within or adjacent to ESHA, or
 - Includes grading on slopes greater than 4:1
 - Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4:1 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

STORMWATER

2. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading/Building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:



3.

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

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.

4. A Water Quality Mitigation Plan (WQMP) is required for this project. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The WQMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:

- Site Design Best Management Practices (BMP's)
- Source Control BMP's
- Treatment Control BMP's that retains on-site the Stormwater Quality Design Volume (SWQDv). Or where it is technical infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site.
- Drainage Improvements
- A plan for the maintenance and monitoring of the proposed treatment BMP's for the expected life of the structure.
- 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.
- The WQMP shall be submitted to Public Works Department and the fee applicable at time of submittal for the review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior to the Public Works Department's approval of the grading and drainage plan and or building plans. The



Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP's, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the County Recorder. A copy of the WQMP shall be submitted to the Public Works Department prior to the certificate of occupancy.

MISCELLANEOUS

5. The developer's consulting engineer shall sign the final plans prior to the issuance of permits.
6. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, alagecides or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:
 - The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
 - There are sufficient BMPs in place to prevent soil erosion; and
 - The discharge does not reach into the MS4 or to the ASBS (including tributaries)

Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.

The applicant shall also provide a construction note on the plans that directs the contractor to install a new sign stating **"It is illegal to discharge pool, spa or water feature waters to a street, drainage course or storm drain per MMC 13.04.060(D)(5)."** The new sign shall be posted in the filtration and/or pumping equipment area for the property. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.

7. The applicant shall provide a section detail with dimensions of the proposed permeable driveway. Proposed material shall be included along with product manufacturer specification sheet. Please include the proposed driveway area.





City of Malibu

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(310) 456-2489 FAX (310) 456-7650

FIRE DEPARTMENT REVIEW REFERRAL SHEET

RECEIVED

OCT 21 2019

PLANNING DEPT.

TO: Los Angeles County Fire Department

DATE: 8/29/2018

FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 18-035

JOB ADDRESS: 23325 MALIBU COLONY DR

APPLICANT / CONTACT: Marny Randall

APPLICANT ADDRESS: 909 Euclid Street, Suite #9
Santa Monica, CA 90403

APPLICANT PHONE #: (310) 395-2615

APPLICANT FAX #: (310) 395-2368

PROJECT DESCRIPTION: Demo ESFR, NSFR and AOWTS

RECEIVED

JAN 23 2020

PLANNING DEPT.

TO: Malibu Planning Department and/or Applicant

FROM: Fire Prevention Engineering Assistant

Compliance with the conditions checked below is required prior to Fire Department approval.

The project DOES require Fire Department Plan Review and Developer Fee payment

✓

The project DOES NOT require Fire Department Plan Review

The required fire flow for this project is 1,250 gallons per minute at 20 pounds per square inch for a 1 hour duration. (Provide flow information from the water dept.)

✓

The project is required to have an interior automatic fire sprinkler system.

✓

Final Fuel Modification Plan Approval is required prior to Fire Department Approval

✓

Conditions below marked "not approved" shall be corrected on the site plan and resubmitted for Fire Department approval.

Required Fire Department vehicular access (including width and grade %)

App'd

N/app'd

as shown from the public street to the proposed project.

✓

Required and/or proposed Fire Department Vehicular Turnaround

✓

Required 5 foot wide Fire Department Walking Access (including grade %)

✓

Width of proposed driveway/access roadway gates

✓

*County of Los Angeles Fire Department Approval Expires with City Planning permits expiration, revisions to the County of Los Angeles Fire Code or revisions to Fire Department regulations and standards.

**Minor changes may be approved by Fire Prevention Engineering, provided such changes achieve substantially the same results and the project maintains compliance with the County of Los Angeles Fire Code valid at the time revised plans are submitted. Applicable review fees shall be required.

C. KENNELLY

1.22.2020

SIGNATURE

DATE

Additional requirements/conditions may be imposed upon review of complete architectural plans.
The Fire Prevention Engineering may be contacted by phone at (818) 880-0341 or at the Fire Department Counter:
26600 Agoura Road, Suite 110, Calabasas, CA 91302; Hours: Monday - Thursday between 7:00 AM and 11:00 AM

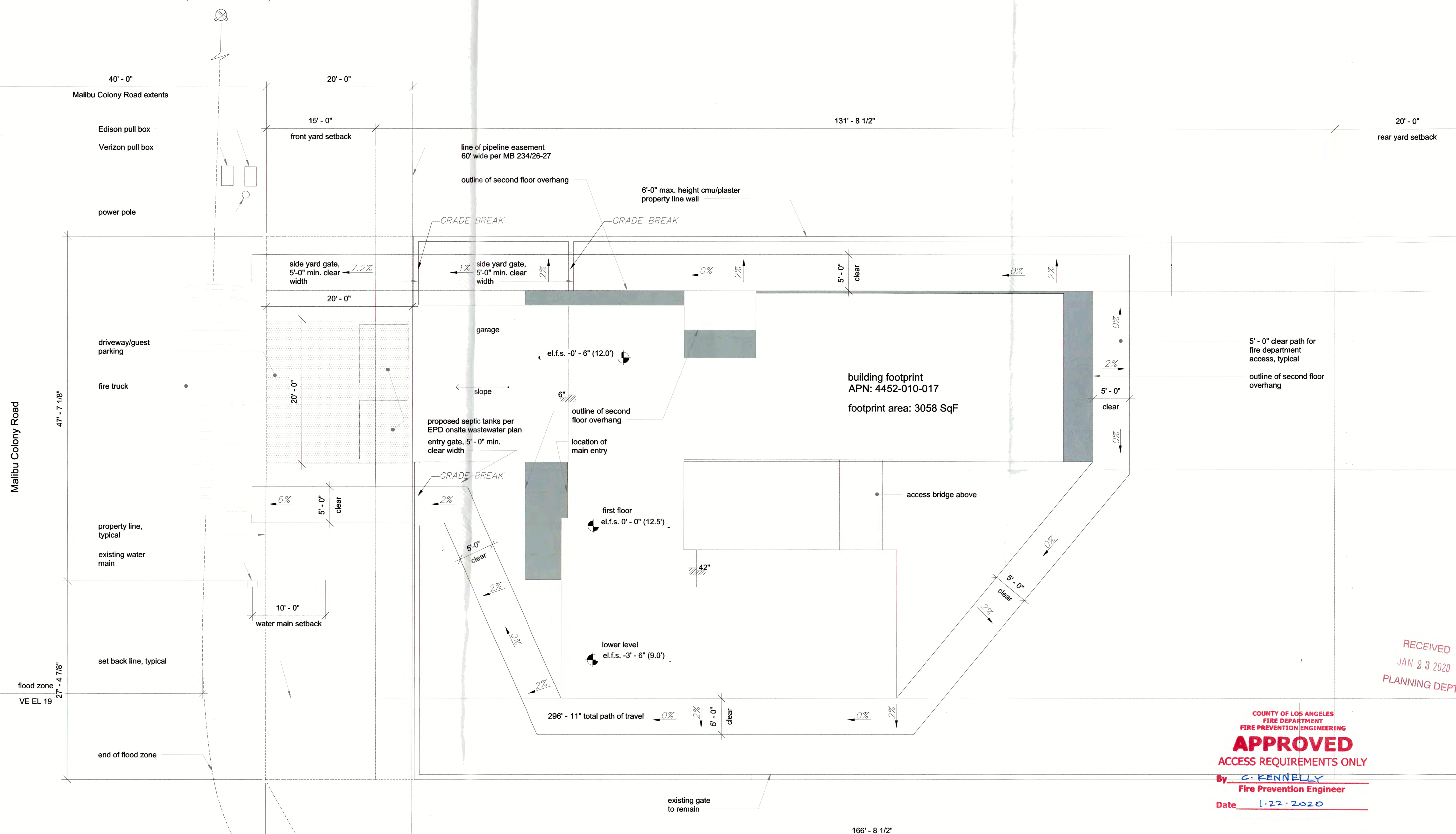
NO
PARKING
FIRE
LANE

- FIRE DEPARTMENT NOTES:

-

NOT TO SCALE

Malibu Colony Road



FIRE ACCESS DIAGRAM

SCALE: $1/8" = 1'$

A1.2

REQUIRED FIRE FLOW CALCULATION

THE REQUIRED FIRE FLOW IS BASED ON THE FOLLOWING CALCULATION:

TYPE OF CONSTRUCTION PER BUILDING CODE:.....	TYPE VB
W/H/SHZ.....	YES
SIZE OF LOT (ACRES).....	0.28 ACRES
AND UNDER THE HORIZONTAL PROJECTIONS OF THE ROOF OF THE BUILDING:.....	2250 gpm
REDUCTION FOR THE FIRE SPRINKLERS (MAXIMUM 50%):.....	1000 gpm
TOTAL FIRE FLOW REQUIRED:.....	1250 gpm

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PREPARED FOR

STAN DRUCKENMILLER
117 EAST 72 STREET
NEW YORK, NY 10021

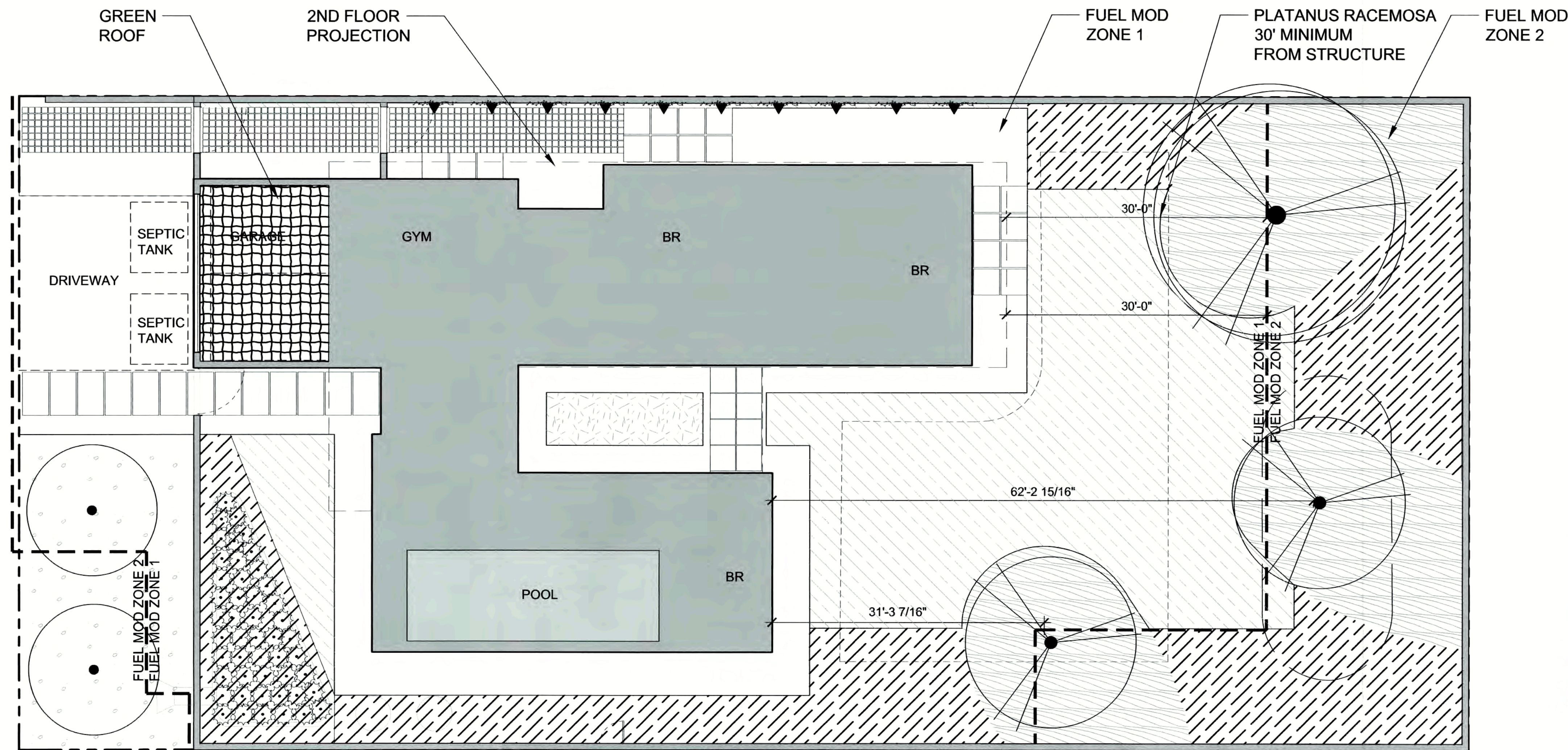
LEGAL DESCRIPTION
LOT 43, TRACT NO. 12097 (MB 234/26-27)

BENCH MARK

BM# DY 10046 ELEV=18.025
L&BN IN S CB 300MM(1') E/O BCR @ SE COR PACIFIC
COAST HWY & WEBB WY
NAVD 1988 DATUM

#	REVISIONS	DATE	Prepared by:	CITY OF MALIBU		
			<div>PEAK SURVEYS INC. Since 1976 CIVIL • SURVEY • DESIGN 2488 TOWNSGATE RD., Suite D WESTLAKE VILLAGE, CA 91361 P: 805.497.0102 F: 805.495.7014 www.peakinc.com</div>	FIRE EXHIBIT		
				23325 MALIBU COLONY DRIVE		
				DRAWN BY / DATE	CHECKED BY / DATE	SHEET FD1 OF FD3
			GO OCTOBER 2018	GO OCTOBER 2018		

G:\projects\18-6194\FIRE.dwg 10/17/2019



7226
COUNTY OF LOS ANGELES
FIRE DEPARTMENT
PREVENTION SERVICES BUREAU
FINAL
FUEL MODIFICATION PLAN
APPROVED

By R. Walson Date 12/26/19
FUEL MODIFICATION UNIT
The stamping of this plan and specifications
SHALL NOT be held to permit or to be an
approval of the violation of any provisions of
any County/City or State law

PLANT SCHEDULE

SHRUBS	CODE	BOTANICAL / COMMON NAME	QTY	WUCOLS
	CHO ELC	CHONDROPETALUM TECTORUM 'EL CAMPO' CAPE RUSH	48	LOW
	STE FLO	STEPHANOTIS FLORIBUNDA MADAGASCAR JASMINE	10	MEDIUM
SHRUB AREAS	CODE	BOTANICAL / COMMON NAME	QTY	
	FRO SXX	GREEN ROOF MIX SEE MIX #2	298 SF	LOW
	REA PLA	REAR YARD PLANT MIX SEE MIX #1	1,645 SF	LOW
GROUND COVERS	CODE	BOTANICAL / COMMON NAME	QTY	
	CAR TUM	CAREX TUMULICOLA BERKELEY SEDGE	110 SF	LOW
	KUR GRO	KURAPIA GROUNDCOVER SOD	179 SF	LOW
	MUH RIG	MUHLENBERGIA RIGENS DEER GRASS	1,547 SF	LOW
	SAL RIR	SALVIA LEUCOPHYLLA 'POINT SAL SPREADER' POINT SAL SPREADER PURPLE LEAF SAGE	867 SF	LOW

TREES	CODE	BOTANICAL / COMMON NAME	SIZE	WUCOLS	QTY
	LAU NOB	LAURUS NOBILIS SWEET BAY	60"BOX	LOW	2
	PLA SYC	PLATANUS RACEMOSA CALIFORNIA SYCAMORE MULTI-TRUNK	48"BOX	MEDIUM	2
	PLA RAC	PLATANUS RACEMOSA CALIFORNIA SYCAMORE	60"BOX	MEDIUM	1

PLANT MIXES

MIX	BOTANICAL NAME	SIZE	SPACING	% AREA	WUCOLS
	PENSTEMON SPECTABILIS	5 GAL	30" O.C.	25%	L
	ACHILLEA MILLEFOLIUM	5 GAL	18" O.C.	25%	L
	FESTUCA MAIREI	1 GAL	24" O.C.	35%	L
	YUCCA WHIPPLEI	15 GAL	30" O.C.	15%	L
	SEDUM RUBROTINCTUM	1 GAL	18" O.C.	20%	L
	SENECIO MANDRALISCAE	1 GAL	18" O.C.	40%	L
	EUPHORBIA TIRUCALLI	1 GAL	30" O.C.	20%	L
	AEONIUUM 'KIWI	5 GAL	18" O.C.	20%	L

NOTE:
FOR FUEL MODIFICATION NOTES SEE L4.3

Stephen Billings
Landscape Architecture

12818 Venice Boulevard
Los Angeles, CA 90066
T: (310) 310-8438
E: sbillings@sblastudio.com

OWNER
Stan and Fiona Druckenmiller
117 East 72nd Street
New York, New York 10021
917.379.4908 T

ARCHITECT
Kovac Design Studio
11828 West Pico Boulevard
Santa Monica, CA 90064
310.575.3621 T

CIVIL ENGINEER
RJR Engineering
2340 Palma Drive, #200
Ventura, CA 93003
805.485.3935

EXPEDITER
Marny Randall
909 Euclid Street, #6
Santa Monica, CA 90403
310.395.2615 T

SURVEYOR
Peak Surveys
2488 Townsgate Rd, Suite D
Westlake Village, CA 91361
805.497.0102

Rev	Date	Issue
	10.21.19	CDP Submittal
	12.26.19	CDP Submittal

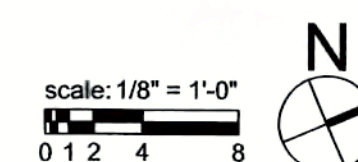
NOT FOR CONSTRUCTION

Colony Lagoon
23325 Malibu Colony Drive
Malibu CA 90465

FUEL MODIFICATION PLAN

L4.2

DATE: 2019.12.12
SCALE: AS NOTED
DRWN BY: IJ
CHKD BY: SB



Vegetation shall be maintained as approved. The following notes shall be adhered to.

Zone 1

- Zone 1 should be planted "lean" and plant selections should consist of small herbaceous or succulent plants less than 2'-3' in height or regularly irrigated and mowed lawns.
- It is best not to use woody trees, shrubs and perennial species or masses of un-mowed grasses within 10 ft. of the structure.
- Provide for 5ft fire department walk around immediately abutting any structure to allow for firefighter access.
- Occasional accents of woody plants can be used sparingly to soften hard edges of structures if the selections are widely spaced and zone appopiate.
- Consider locating hardscape features such as walkways., patios, driveways, sports courts etc. so they abut the structure itself. Potted plants can be used to soften walls if necessary.
- Use inorganic mulches such as gravel within 10 feet of the structure.

Maintenance Zone 1: From Edge of The Structure to A Distance of 30 Feet.

- - Provide for 5ft fire department walk around with herbaceous plants
- - Recommended to place walkways, patios, sports courts etc. abutting structure
- - Avoid planting woody plants within 10 feet of structure.
- - Use herbaceous plants, succulents, low growing grasses and grass like plants
- - use inorganic mulches such as gravel within 10 feet of the structure. Do not use recycled rubber
- - Small tree species (15'-25' in height) may be planted 10' from structure if used sparingly
- - no climbing vines on structures
- - Remove dead and down plant material, wood piles, patio furniture, etc.

Zone 2

- 30'-100' from any qualifying structure or the property line whichever is first.
- Zone 2 can be planted with slightly higher density than Zone 1. However, care should be taken not to create any horizontal or vertical fuel ladders (see basic fire behavior graphics).
- Screen plantings can be used to hide unsightly views.
- Zone 2 is the ideal location to introduce larger shade trees provided they are zone appropriate and the canopies are not continuous.
- Avoid planting woody plant species larger than 3' (in height) at maturity directly beneath any tree canopy.
- Zone 2 may not be landscaped but is still subject to hazard reduction requirements (brush clearance). Do not denude the property.
- If landscaping Zone 2, avoid creating a landscape that is as dense and hazardous as the native or existing vegetation.
- Irrigation of existing vegetation including native plants is beneficial in small amounts 1-2 times per month during summer months.

Maintenance Zone 2: 30-100ft. From Building

- Arrange plants and limit densities so not to create ladder fuels or dense thickets of vegetation
- Densities can be increase d slightly in this zone

Maintenance: Year Round

- Clear all leaves, litter and debris from from rain gutters and roof
- Regularly remove all dead vegetation, flammable debris, flammable patio furniture from landscape
- Store wood piles, compost bins, mulch bins etc. 30' from structures
- Cut and remove annual grasses down to 4 inches
- Irrigation of any form shall be applied to maintain high fuel moisture. Irrigation to native plants is beneficial in small amounts 1-2 times per month during summer months

Stephen Billings
Landscape Architecture

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805.497.0102

Rev	Date	Issue
	10.21.19	CDP Submittal
	12.26.19	CDP Submittal

NOT FOR CONSTRUCTION

Colony Lagoon
23325 Malibu Colony Drive
Malibu CA 90465

FUEL MODIFICATION
PLAN NOTES

L4.3

DATE:
SCALE: AS NOTED
DRWN BY: LJ
CHKD BY: SB

City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489 FAX (310) 456-7650

RECEIVED
OCT 21 2019
PLANNING DEPT

LOS ANGELES COUNTY WATERWORKS DISTRICTS REVIEW REFERRAL SHEET

TO: Los Angeles County Waterworks District No. 29, Malibu DATE: 8/29/2018
FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 18-035
JOB ADDRESS: 23325 Malibu Colony Drive
APPLICANT / CONTACT: Marny Randall
APPLICANT ADDRESS: 909 Euclid Street, Suite #9
Santa Monica, CA 90403
APPLICANT PHONE #: (310) 395-2615
APPLICANT FAX #: (310) 395-2368
PROJECT DESCRIPTION: Demo ESFR, NSFR and AOWTS

TO: Malibu Planning Department and/or Applicant
FROM: Los Angeles County Waterworks District No. 29, Malibu

Compliance with the conditions checked below is required prior to Waterworks Districts approval.


The project **DOES NOT** require any system improvements for domestic and/or fire flow conditions _____
The project **DOES NOT** require capital improvement fees and/or participation fees _____
The project **DOES** require a Will Serve Letter X
The project **DOES** require capital improvement fees and/or participation fees _____
The project **DOES** require the owner to execute an agreement and participate financially in the design and construction of a future water system to increase local storage and conveyance capacity in the event of an interruption of the primary water supply X*
The project **DOES** require private contract water system improvements for domestic and/or fire flow conditions _____

The required fire flow for this project set by the Fire Department is 1,250 gallons per minute at 20 pounds per square inch for a 2 hour duration

Scope of water system improvements required:

*Approximately 5,000 feet of 12-inch water main, pump station upgrades, a regulating station, and an approximately 800,000-gallon water storage tank

Note: Los Angeles County Waterworks District No. 29, Malibu approval expires upon the earliest of the following: 1) Two years from the date of this form; 2) Expiration date of the City Planning permit(s), or 3) Date County adopts changes to the County of Los Angeles Fire Code and/or makes revisions to applicable Fire Department regulations and standards.


SIGNATURE

2/10/2020
DATE

23325 Malibu Colony Road :: Visual Impact Exhibits





23325 Malibu Colony Road 2021.07.16

1 : Story Poles
From PCH, east end of bridge adjacent to Adamson House property.

KOVAC





23325 Malibu Colony Road 2021.07.16

2 : Story Poles
From PCH, west end of bridge with observation platform in foreground.

KOVAC



23325 Malibu Colony Road 2021.07.16

2 : Render in Context
From PCH, west end of bridge with observation platform in foreground.

KOVAC



23325 Malibu Colony Road 2021.07.16

3 : Story Poles
From observation platform.

KOVAC





23325 Malibu Colony Road 2021.07.16

4 : Story Poles
From path along picnic area adjacent to parking lot.

KOVAC



23325 Malibu Colony Road 2021.07.16

4 : Render in Context
From path along picnic area adjacent to parking lot.

KOVAC



23325 Malibu Colony Road 2021.07.16

5 : Story Poles
From shade veranda adjacent to parking lot.

KOVAC



23325 Malibu Colony Road 2021.07.16

5 : Render in Context
From shade veranda adjacent to parking lot.

KOVAC







23325 Malibu Colony Road 2021.07.16

7 : Story Poles
From lookout at lower path.

KOVAC



23325 Malibu Colony Road 2021.07.16

7 : Render in Context
From lookout at lower path.

KOVAC



23325 Malibu Colony Road 2021.07.16

8 : Story Poles
From turn in path at picnic area adjacent to the Colony. (Proposed development not visible)

KOVAC



23325 Malibu Colony Road 2021.07.16

9 : Story Poles
From path along the Colony.

KOVAC



23325 Malibu Colony Road 2021.07.16

9 : Render in Context
From path along the Colony.

KOVAC



23325 Malibu Colony Road 2021.07.16

10 : Story Poles
From path to Watershed Overlook.

KOVAC



23325 Malibu Colony Road 2021.07.16

10 : Render in Context
From path to Watershed Overlook.

KOVAC



23325 Malibu Colony Road 2021.07.16

11 : Story Poles
From Watershed Overlook. (proposed development obscured by land mass and park vegetation)

KOVAC



23325 Malibu Colony Road 2021.07.16

12 : Story Poles
From final segment of path to beach, in front of informational placards.

KOVAC



23325 Malibu Colony Road 2021.07.16

12 : Render in Context
From final segment of path to beach, in front of informational placards.

KOVAC



23325 Malibu Colony Road 2021.07.16

13 : Story Poles
From beach next to lifeguard structure.

KOVAC



23325 Malibu Colony Road 2021.07.16

13 : Render in Context
From beach next to lifeguard structure.

KOVAC



23325 Malibu Colony Road 2021.07.16

14 : Story Poles
From beach near lifeguard.

KOVAC



23325 Malibu Colony Road 2021.07.16

14 : Render in Context
From beach near lifeguard.

KOVAC



23325 Malibu Colony Road 2021.07.16

15 : Story Poles
From beach.

KOVAC





23325 Malibu Colony Road 2021.07.16

16 : Story Poles
From end of beach, towards Adamson House.

KOVAC



23325 Malibu Colony Road 2021.07.16

16 : Render in Context
From end of beach, towards Adamson House.

KOVAC

Colony Lagoon Photometric Analysis

Project:	Colony Lagoon
Project Location:	Malibu, California, United States of America
Document Ref:	360/04563/FM
Date of Issue:	22 June 2021
Revision Number:	02

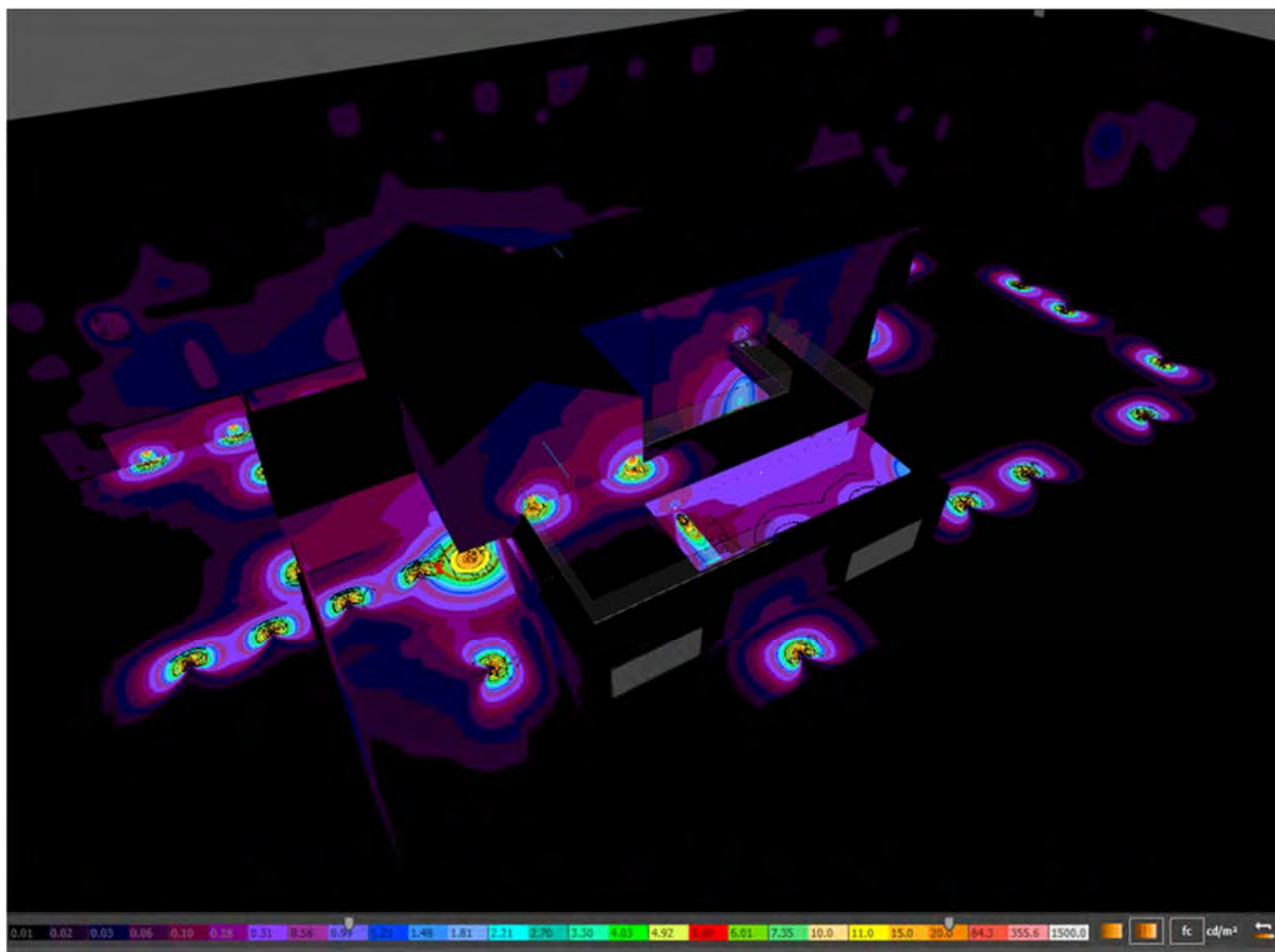
Photometric Calculations

DESCRIPTION:

False color calculation shows the light levels reached with proposed lighting fixtures

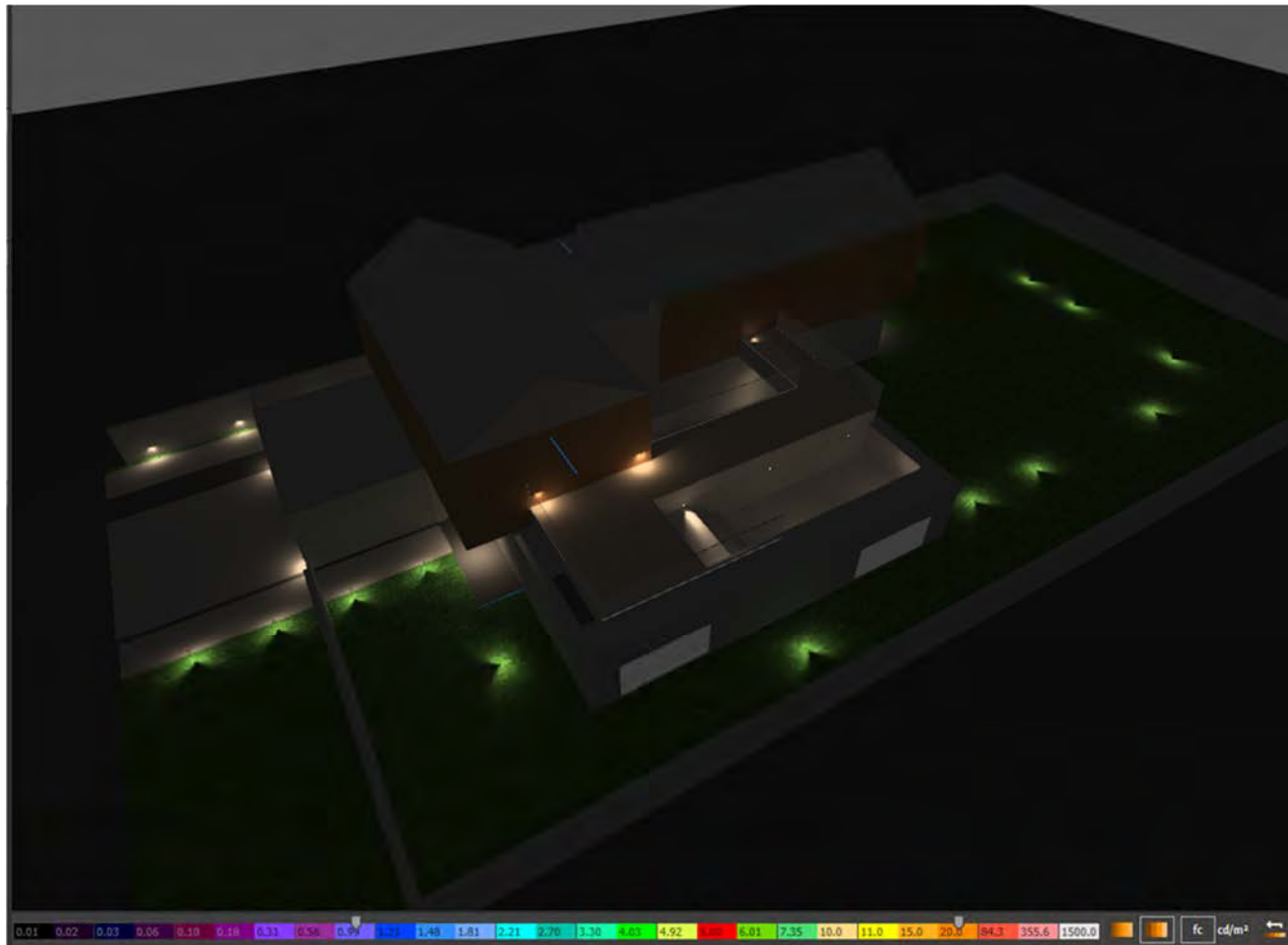
VIEW:

3D model false color calculation



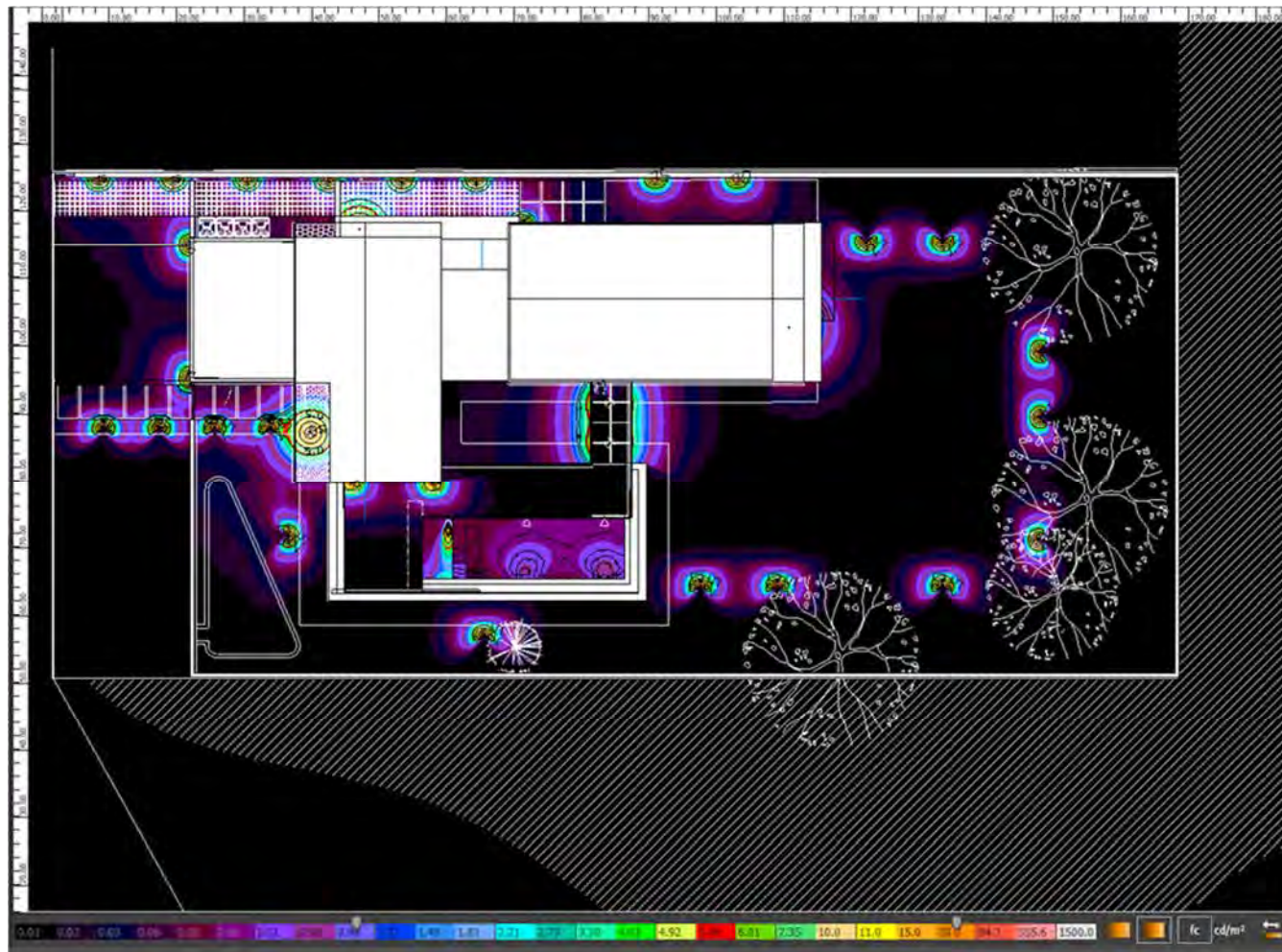
DESCRIPTION: True color calculation shows the light levels reached with proposed lighting fixtures

VIEW: 3D model true color lighting rendering



DESCRIPTION: False color calculation shows the light levels reached with proposed lighting fixtures

VIEW: Plan view false color lighting calculation



Lux Populi SA de CV

Arteaga 27

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Del. Álvaro Obregón

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FL

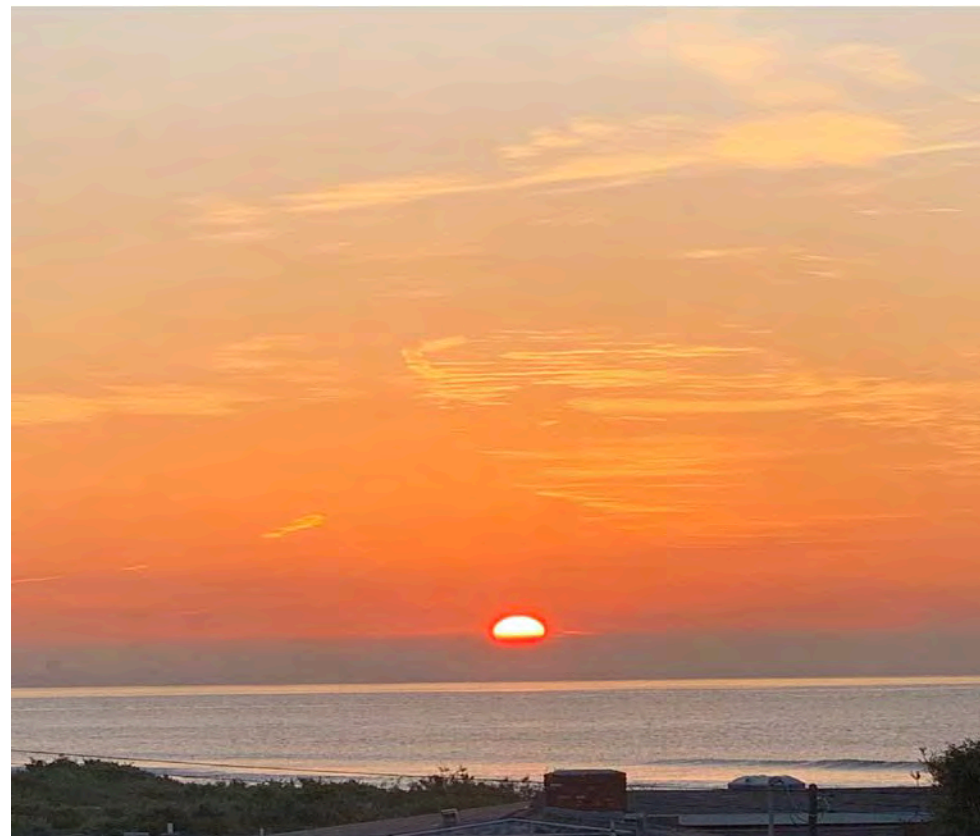
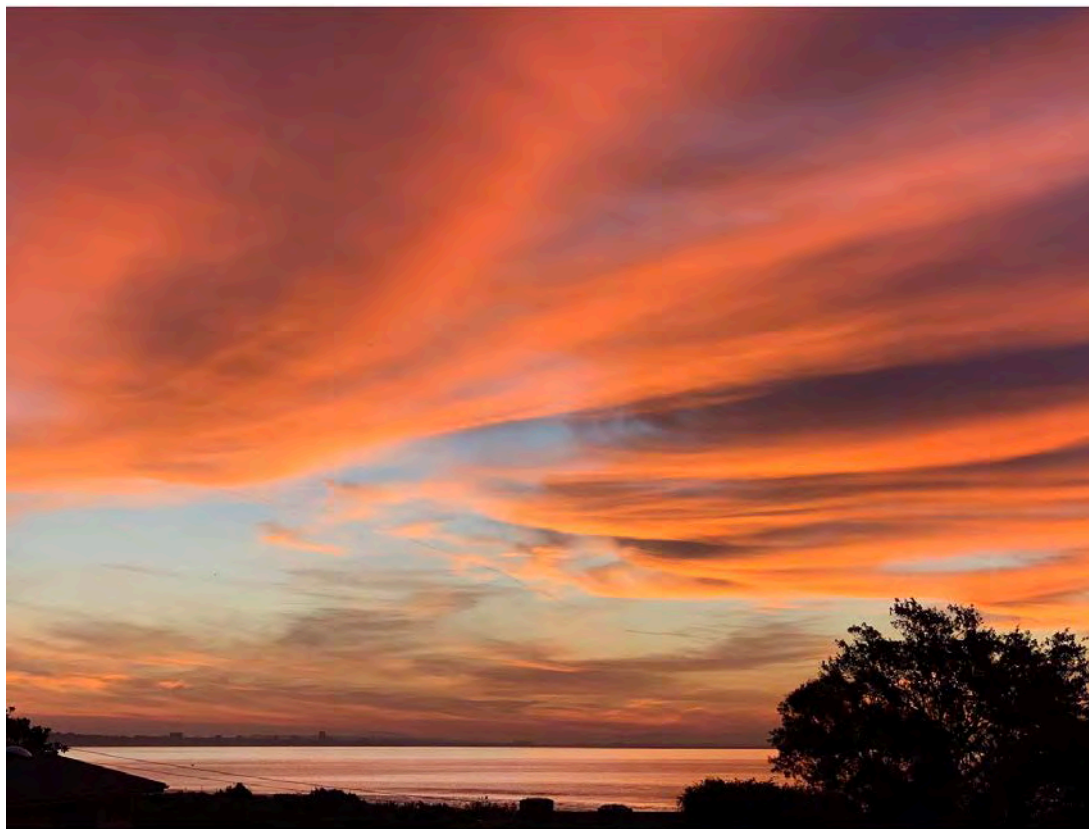
+1 305 831 4956

Development Effects On My Beloved View, Trails and Beach

23325 Malibu Colony Rd

Submitted by: Judith Israel

Sunrise View



White Water Surf and Sailing Views



Beach Views



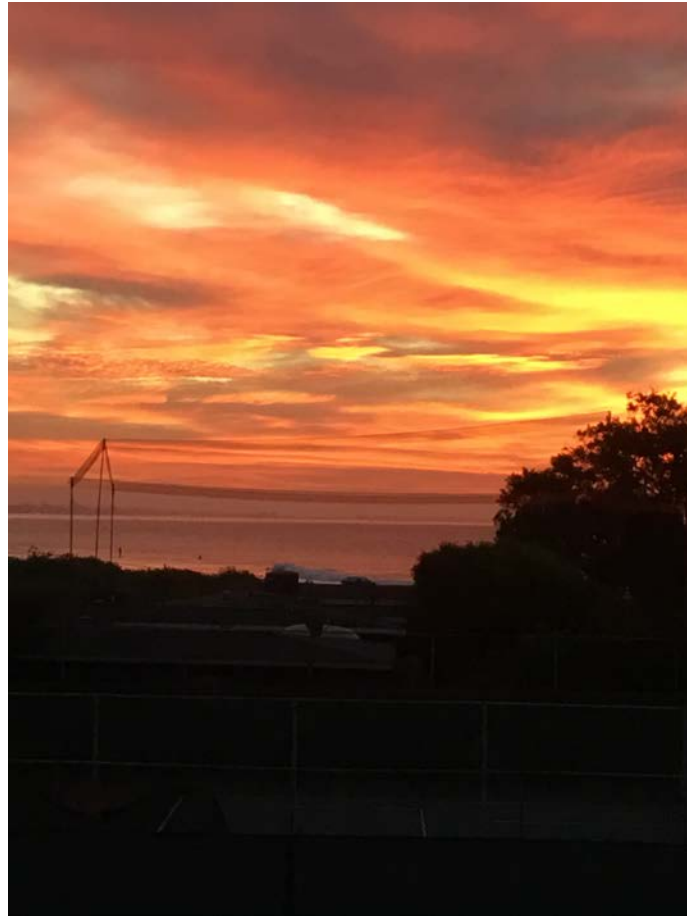
Moon Glow and City Lights



Development Poles

23325 Malibu Colony Rd

Sunrise



Day Time Development View



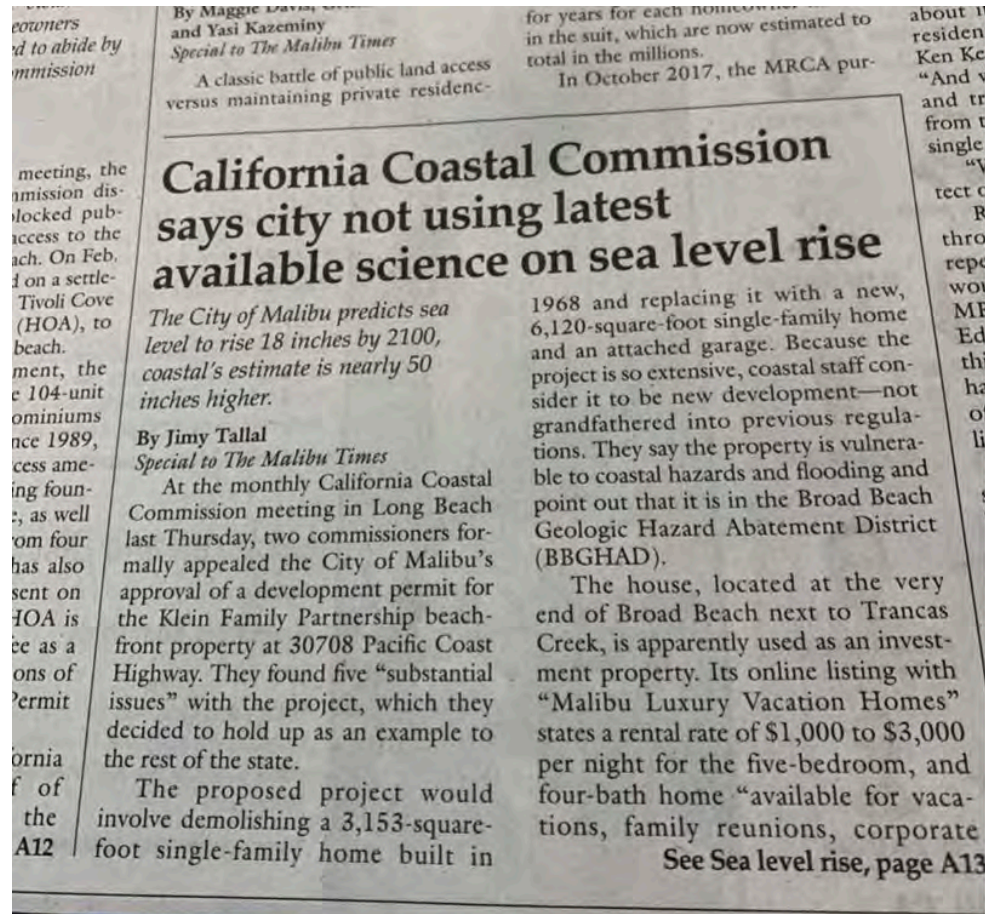
Night and Queens Necklace City Light View



Proximity to Historic Surf Rider Beach Views, Trails and Recreation Area



Proximity to Beach, ESHA and Sea Level Rise.



Proximity to The Lagoon State Park Trails, Views and Recreational Area



Kathleen Stecko

Subject: 23325 Malibu Cony Rd Development

From: Judith ISRAEL
To: John Mazza
Sent: Mon, Apr 27, 2020 6:50 pm
Subject: 23325 Malibu Cony Rd Development

Dear Vice Chairman Mazza,

I am writing concerning the proposed 5500 ft residential development at 23325 Malibu Colony Rd. My 3100 foot house is four properties to the west.

Not only will this development completely devastate my beloved east facing view but also there are numerous negative impacts to the character and nature of the larger Malibu Community.

Firstly, The house will be exceptionally large at 5500 feet on an original 1050 ft footprint . The second story alone is about 25 feet high with far reaching spiked / slanted roof lines .

Secondly, There will be impacts on the State Parks Lagoon Trail, views and to the Historic Third Point Public Beach . With or without the 100 foot ESHA setback ,the house is merely feet away from both the Lagoon trail to the beach and the actual public beach to which it abuts. It will be obtrusively visible with its towering and extensive second story 25 foot glass windows and an infinity pool that expands out to the the property limits, overlooking Surfrider Beach. Moreover the house and occupants will be visible and likewise their voices and music from the pool will be audible and disturbing to the hundreds of public beach goers including myself. Additionally, there will be negative impacts from house and pool lights at night .

Thirdly, no other house in the entire Colony is visibly exposed to the public especially on both the State Parks Lagoon and the Historic Third Point Beach public view and recreation areas. When State Parks renovated the Lagoon,they made every Colony yard facing the Lagoon and trail obscure their homes from distracting Park visitors with an 7 foot green fence. State Parks initially wanted to put a 12 foot WALL covering and walling in the Colony's historic access . Eventually, we fought and State Parks compromised by letting us build the fence and giving us a 3 foot emergency access walkway, covered from public view with native vegetation.

Fourthly, there is the consideration as to whether the development, feet from the sand , has conformed to the "latest available science on sea level rise " .

Lastly, in 2018 when the Developers bought the house I wrote a letter introducing myself and welcoming them to the Colony community. At the same time, I asked if they had plans to rebuild because as I explained, if they did, it could jeopardize my precious view. I suggested we meet and discuss ways to mitigate the view loss but I never received a reply .

That being said , I know and support that everyone has the right to build on their properties but I also believe that neighbors in a small community should follow the requirements, restrictions, be conscious and considerate of the negative impacts to others and all should work together to possibly prevent some of the devastating effects from a development .

If possible, please come to visit my house and the development site.

Sincerely,

Judith Israel

P.S sending a following email with additional photos to illustrate some points in the letter .

Sent from my iPad

Kathleen Stecko

Subject: 23325 Malibu colony Rd development
Attachments: IMG_5597.jpg; IMG_5509.JPG; IMG_5531.JPG; IMG_5593.jpg; IMG_5669.jpg; IMG_5764.jpg; IMG_5573.jpg; IMG_5758.jpg; IMG_6076.MOV

From: John Mazza
Sent: Monday, April 27, 2020 8:28 PM
To: Kathleen Stecko
Subject: Fwd: 23325 Malibu colony Rd development

I received this today re the colony house on Mondays agenda. Please forward images to those involved

John mazza

-----Original Message-----

From: Judith ISRAEL
To: John Mazza
Sent: Mon, Apr 27, 2020 6:52 pm
Subject: 23325 Malibu colony Rd development

Sent from my iPad





California Coastal Commission says city not using latest available science on sea level rise

The City of Malibu predicts sea level to rise 18 inches by 2100, coastal's estimate is nearly 50 inches higher.

By Jimmy Tallal

Special to The Malibu Times

At the monthly California Coastal Commission meeting in Long Beach last Thursday, two commissioners formally appealed the City of Malibu's approval of a development permit for the Klein Family Partnership beach-front property at 30708 Pacific Coast Highway. They found five "substantial issues" with the project, which they decided to hold up as an example to the rest of the state.

The proposed project would involve demolishing a 3,153-square-foot single-family home built in

1968 and replacing it with a new, 6,120-square-foot single-family home and an attached garage. Because the project is so extensive, coastal staff consider it to be new development—not grandfathered into previous regulations. They say the property is vulnerable to coastal hazards and flooding and point out that it is in the Broad Beach Geologic Hazard Abatement District (BBGHAD).

The house, located at the very end of Broad Beach next to Trancor Creek, is apparently used as an investment property. Its online listing with "Malibu Luxury Vacation Homes" states a rental rate of \$1,000 to \$3,000 per night for the five-bedroom, four-bath home "available for vacations, family reunions, corporate

See Sea level rise, page

















Submitted by: **Marny Randall**











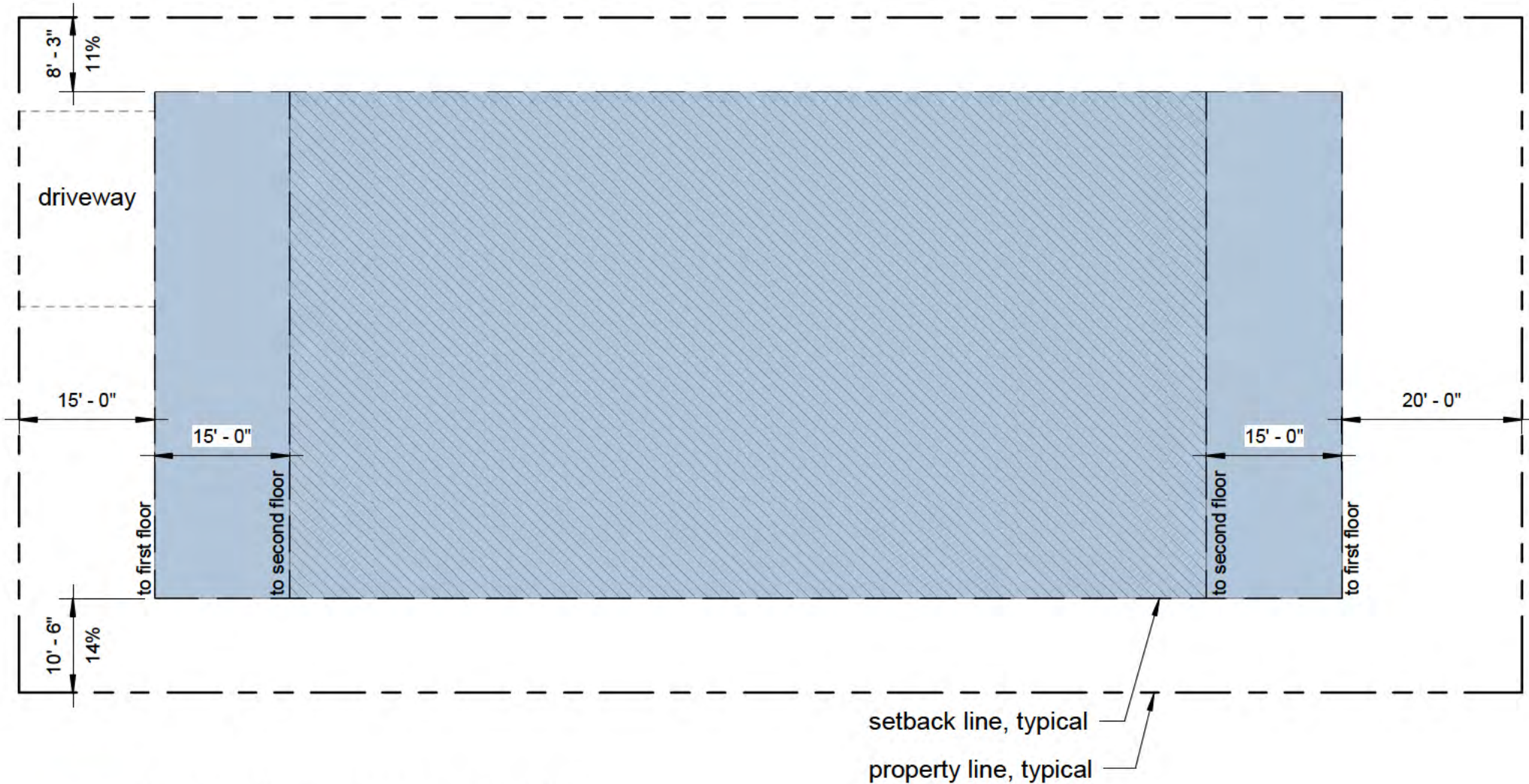








**SQUARE FOOTAGE ANALYSIS:
MAX. ALLOWABLE PER MALIBU COLONY OVERLAY DISTRICT**

APN: 4452-010-017



	first floor (building foot print): 7,408 SqF
	second floor: 5,721 SqF
total:	13,129 SqF

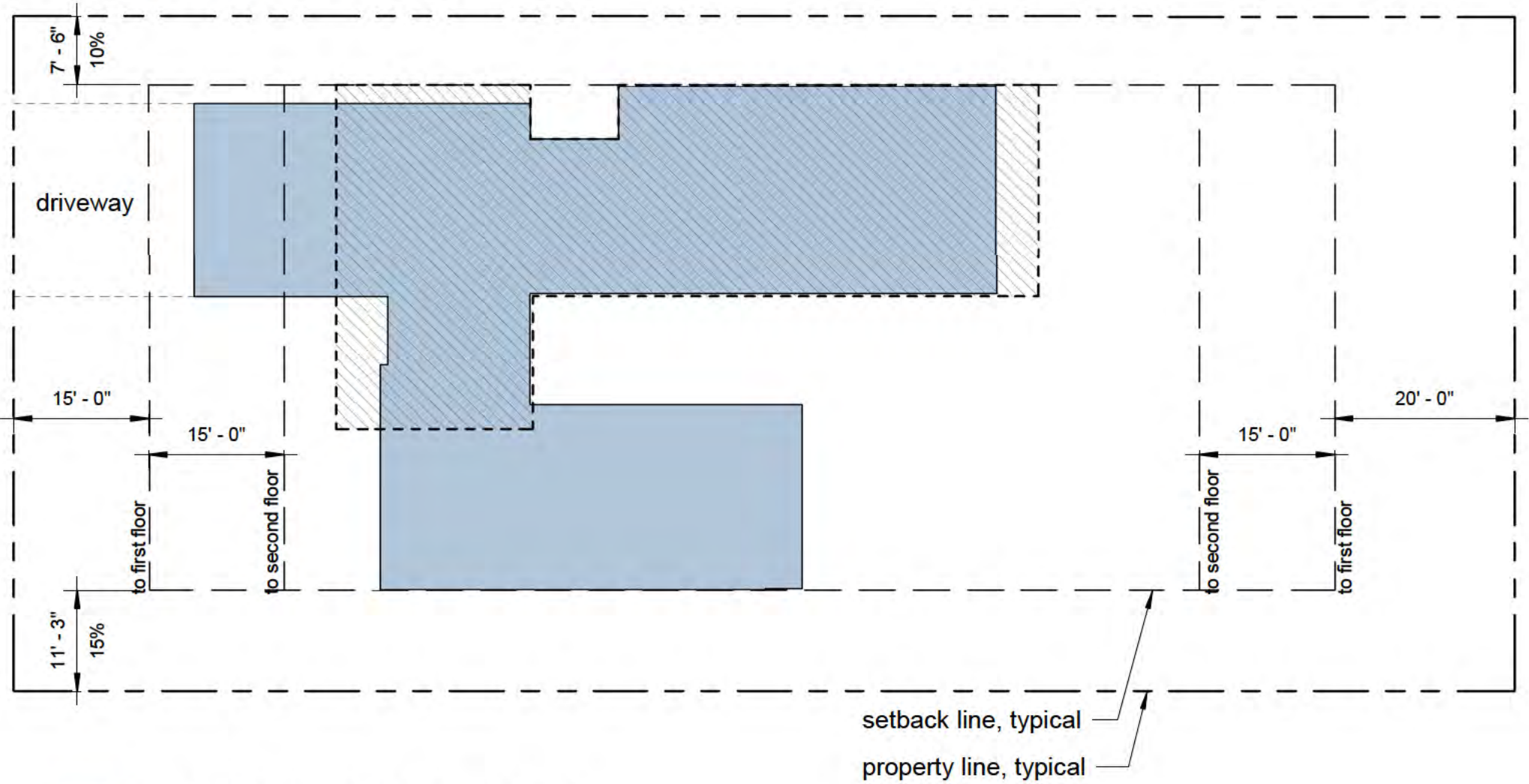
MALIBU COLONY ROAD
Square Footage Analysis



KOVAC

1/16" = 1'-0"

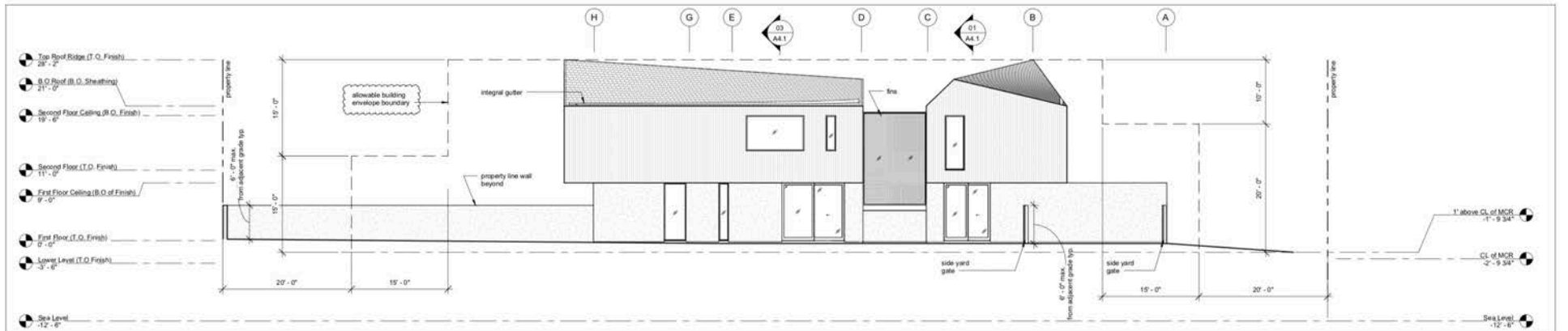
**SQUARE FOOTAGE ANALYSIS:
CURRENTLY PROPOSED DESIGN**

APN: 4452-010-017



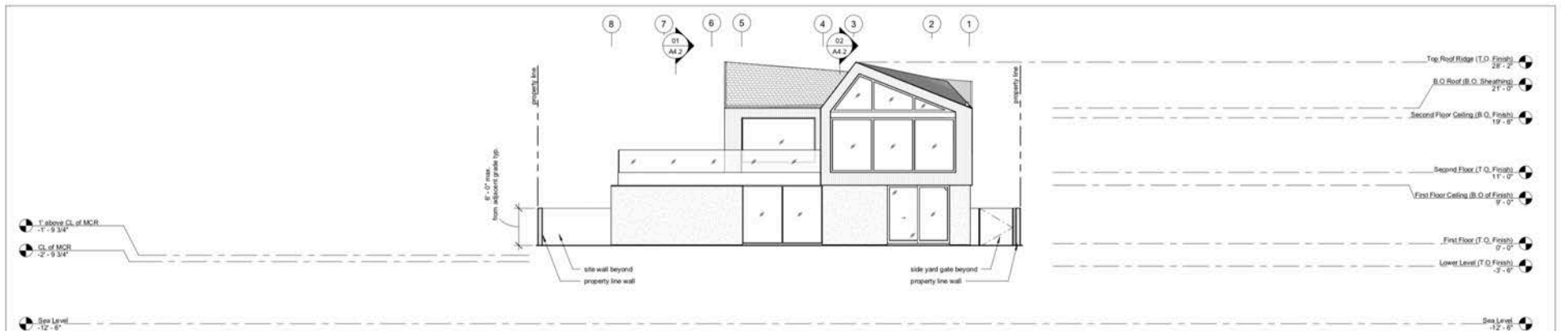
	first floor (building foot print): 3,076 SqF
	second floor: 2,144 SqF
total:	5,220 SqF

1/16" = 1'-0"



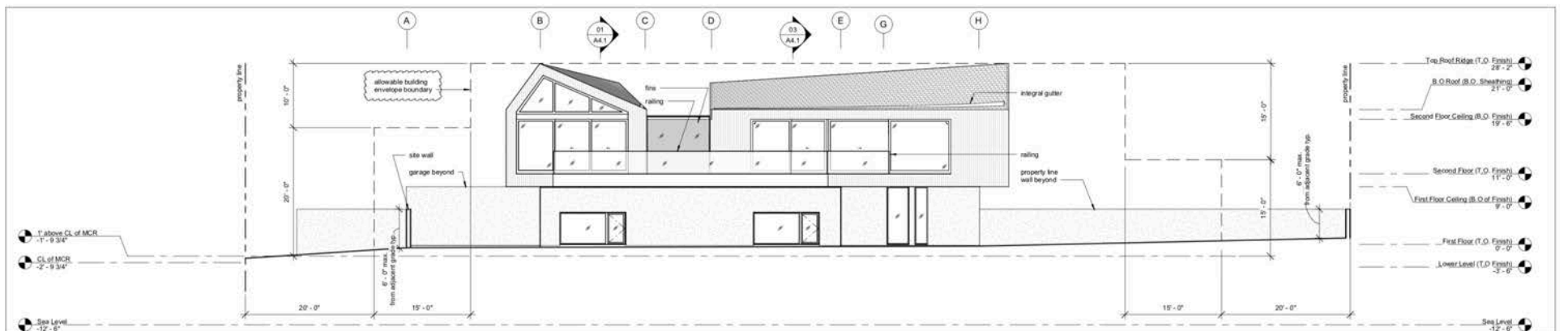
West
1/8" = 1'-0"

01



North
1/8" = 1'-0"

02



East
1/8" = 1'-0"

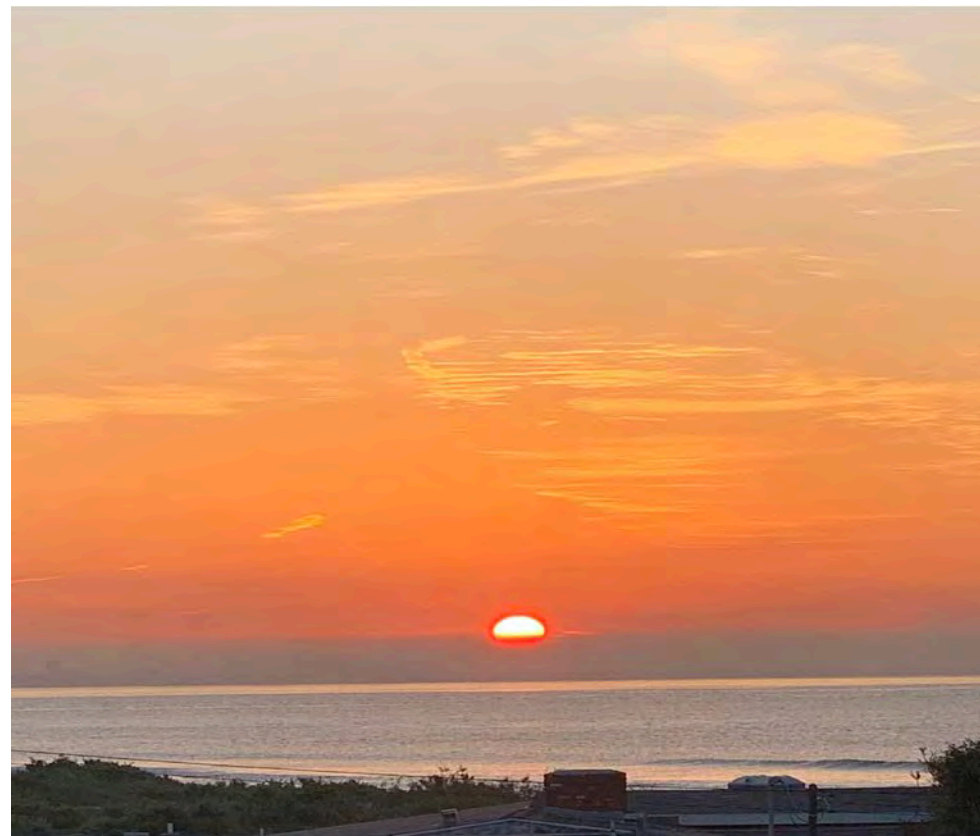
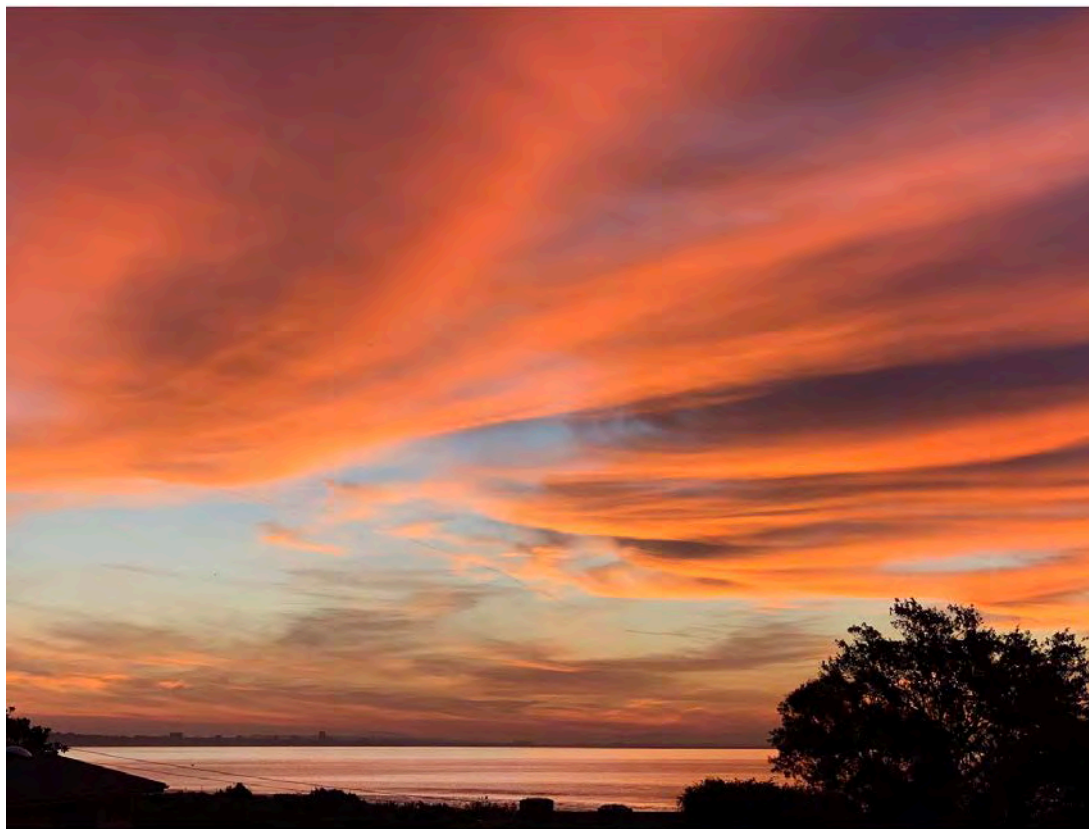
03

Development Effects On My Beloved View, Trails and Beach

23325 Malibu Colony Rd

Submitted by: Judith Israel

Sunrise View



White Water Surf and Sailing Views



Beach Views



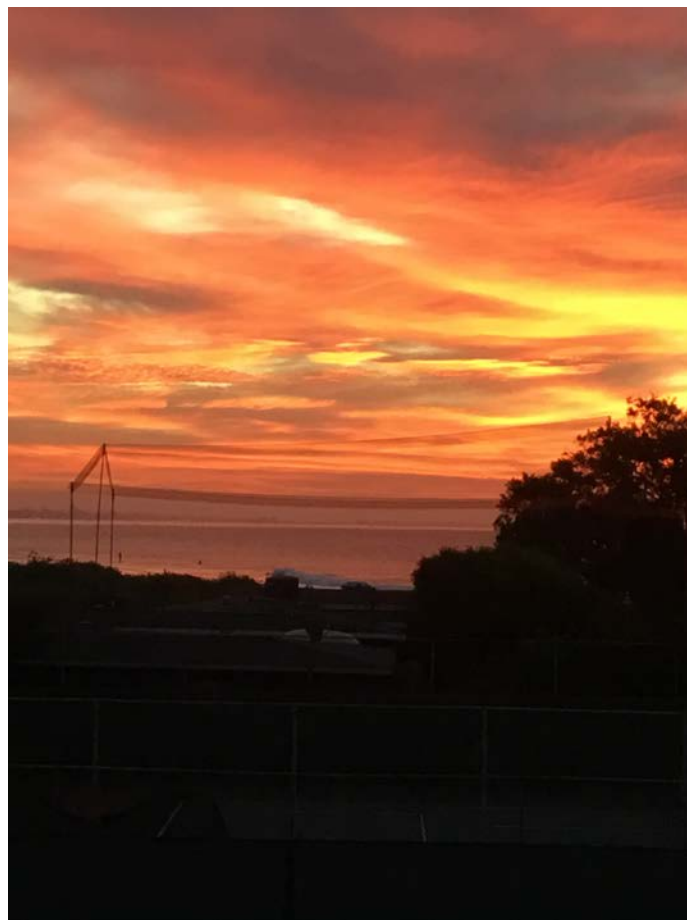
Moon Glow and City Lights



Development Poles

23325 Malibu Colony Rd

Sunrise



Day Time Development View



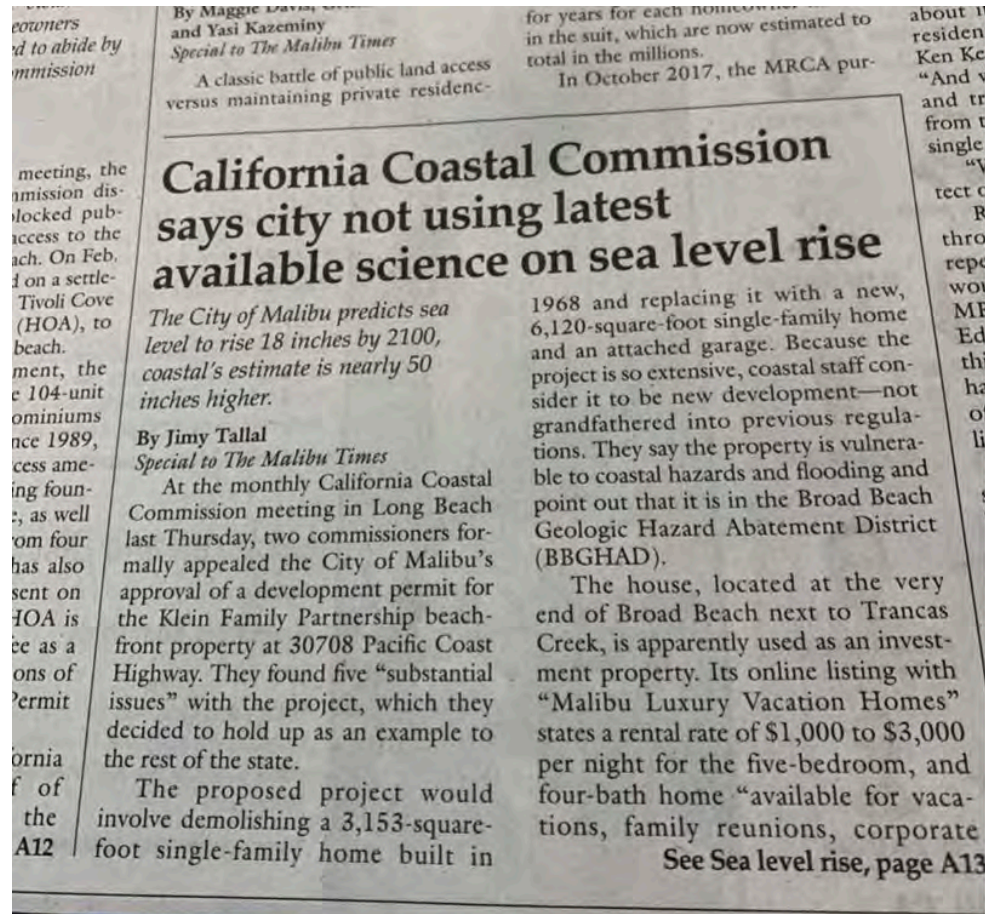
Night and Queens Necklace City Light View



Proximity to Historic Surf Rider Beach Views, Trails and Recreation Area



Proximity to Beach, ESHA and Sea Level Rise.



Proximity to The Lagoon State Park Trails, Views and Recreational Area



Received
6/1/20
Planning Dept.



From Ms. Israel's 2nd floor balcony

Date Received 6/1/20 Time 6:30 PM
Planning Commission meeting of 6/1/20
Agenda Item No. 4A
Total No. of Pages 19













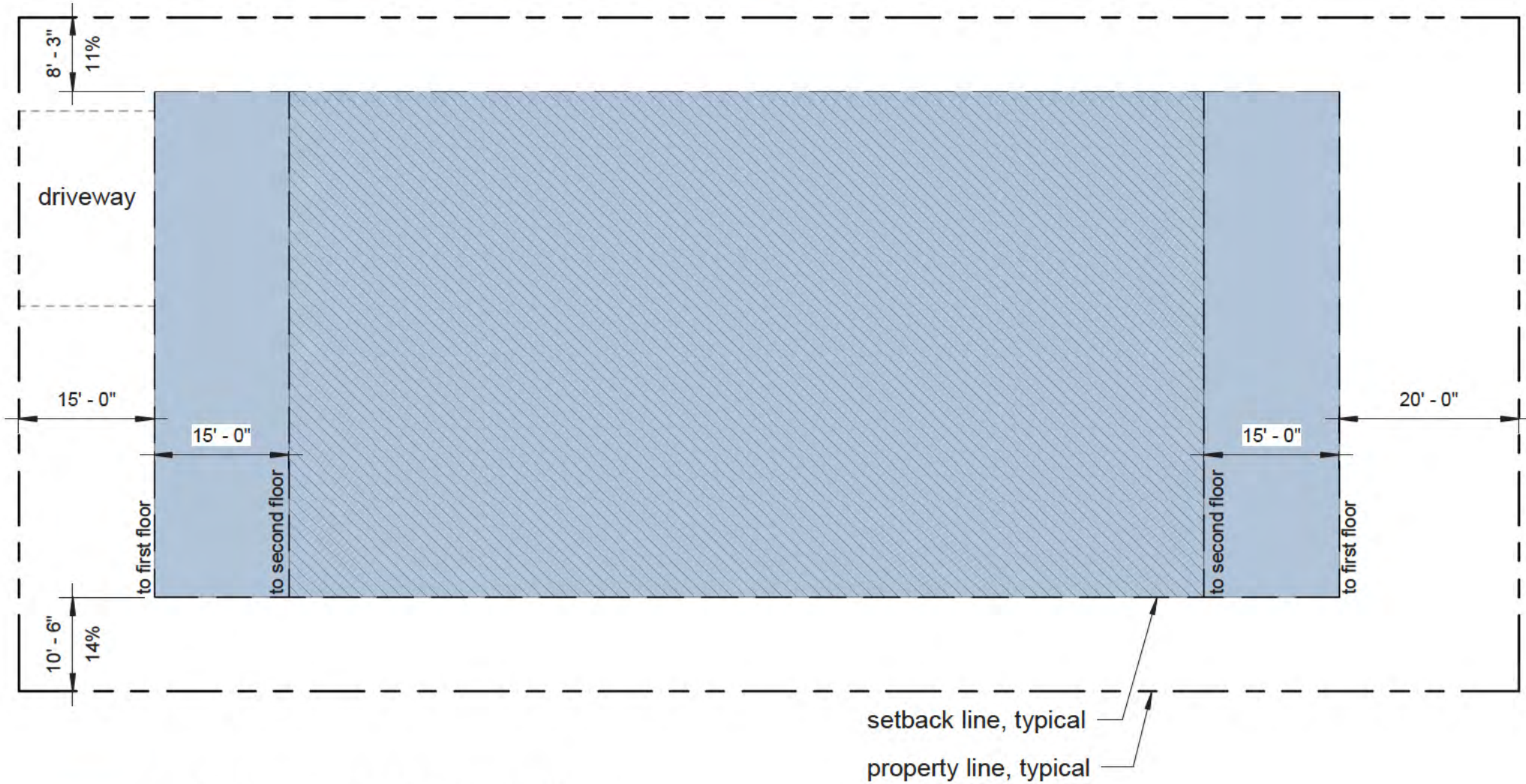






**SQUARE FOOTAGE ANALYSIS:
MAX. ALLOWABLE PER MALIBU COLONY OVERLAY DISTRICT**

APN: 4452-010-017



first floor (building foot print): 7,408 SqF
 second floor: 5,721 SqF
 total: 13,129 SqF

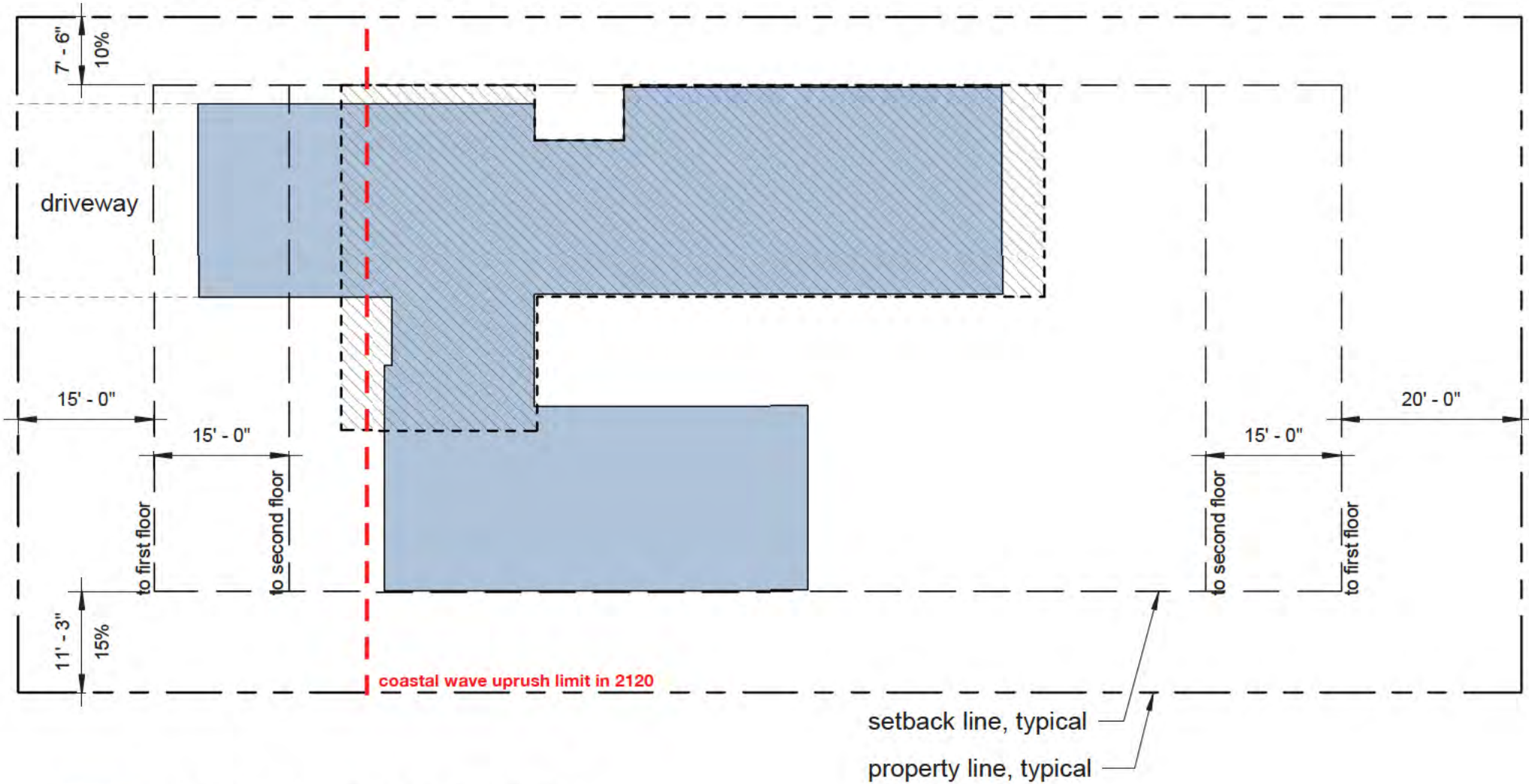
1/16" = 1'-0"



MALIBU COLONY ROAD
 Square Footage Analysis

KOVAC

**SQUARE FOOTAGE ANALYSIS:
CURRENTLY PROPOSED DESIGN**

APN: 4452-010-017



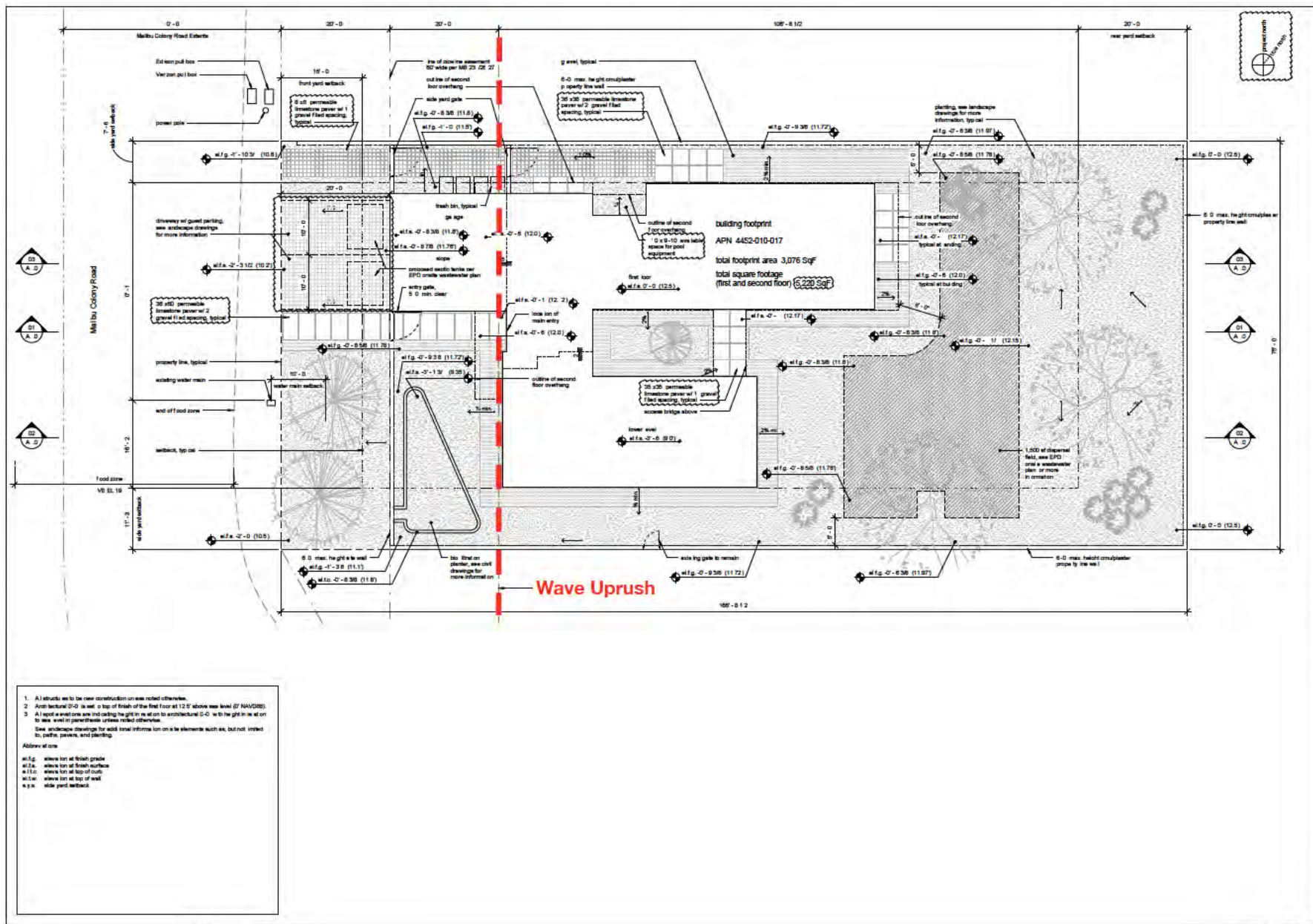
	first floor (building foot print): 3,076 SqF
	second floor: 2,144 SqF
	total: 5,220 SqF

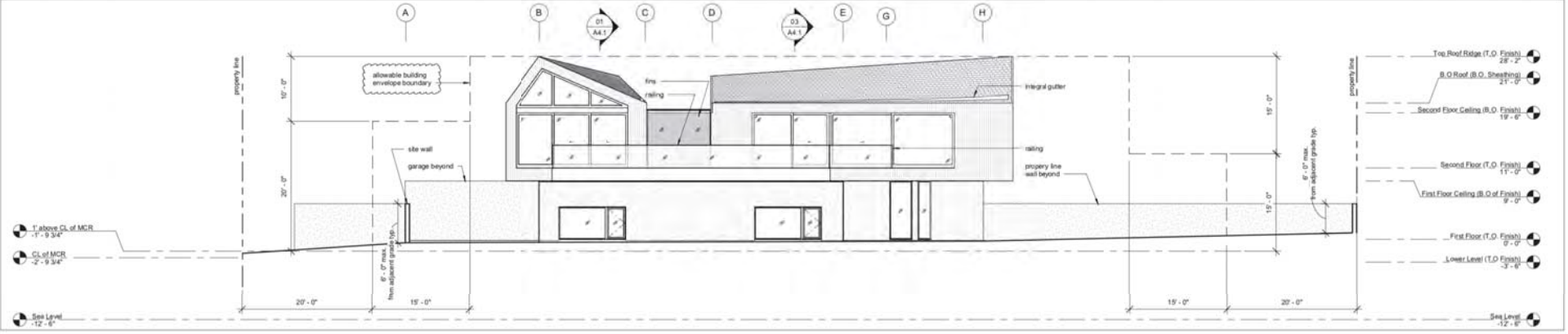
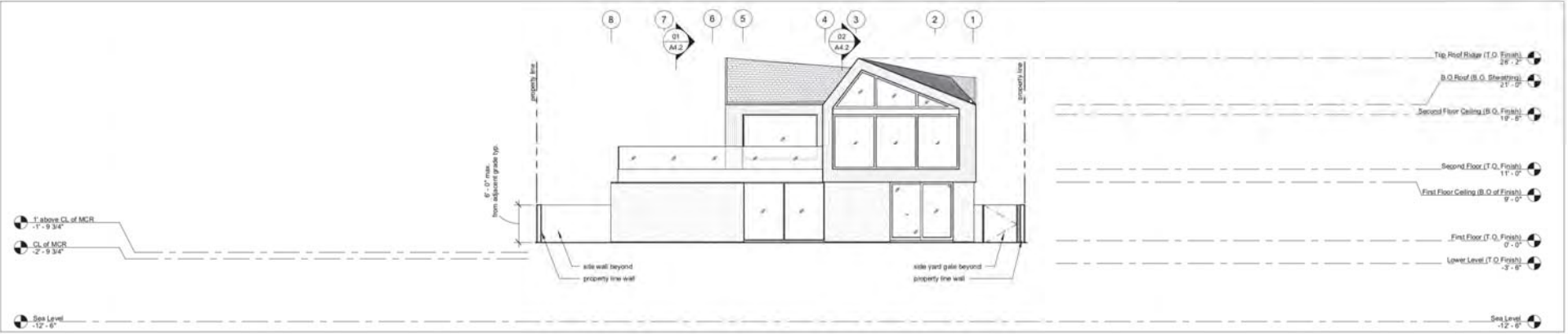
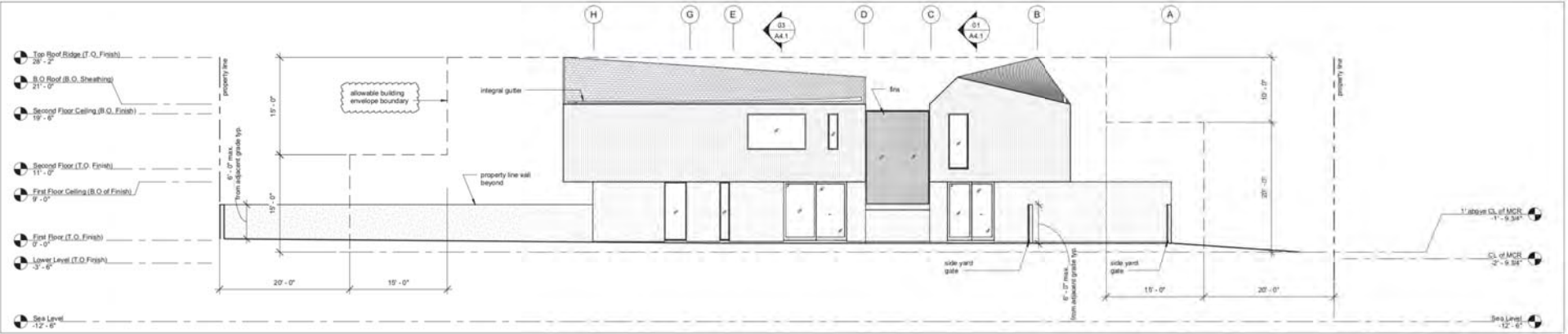
1/16" = 1'-0"

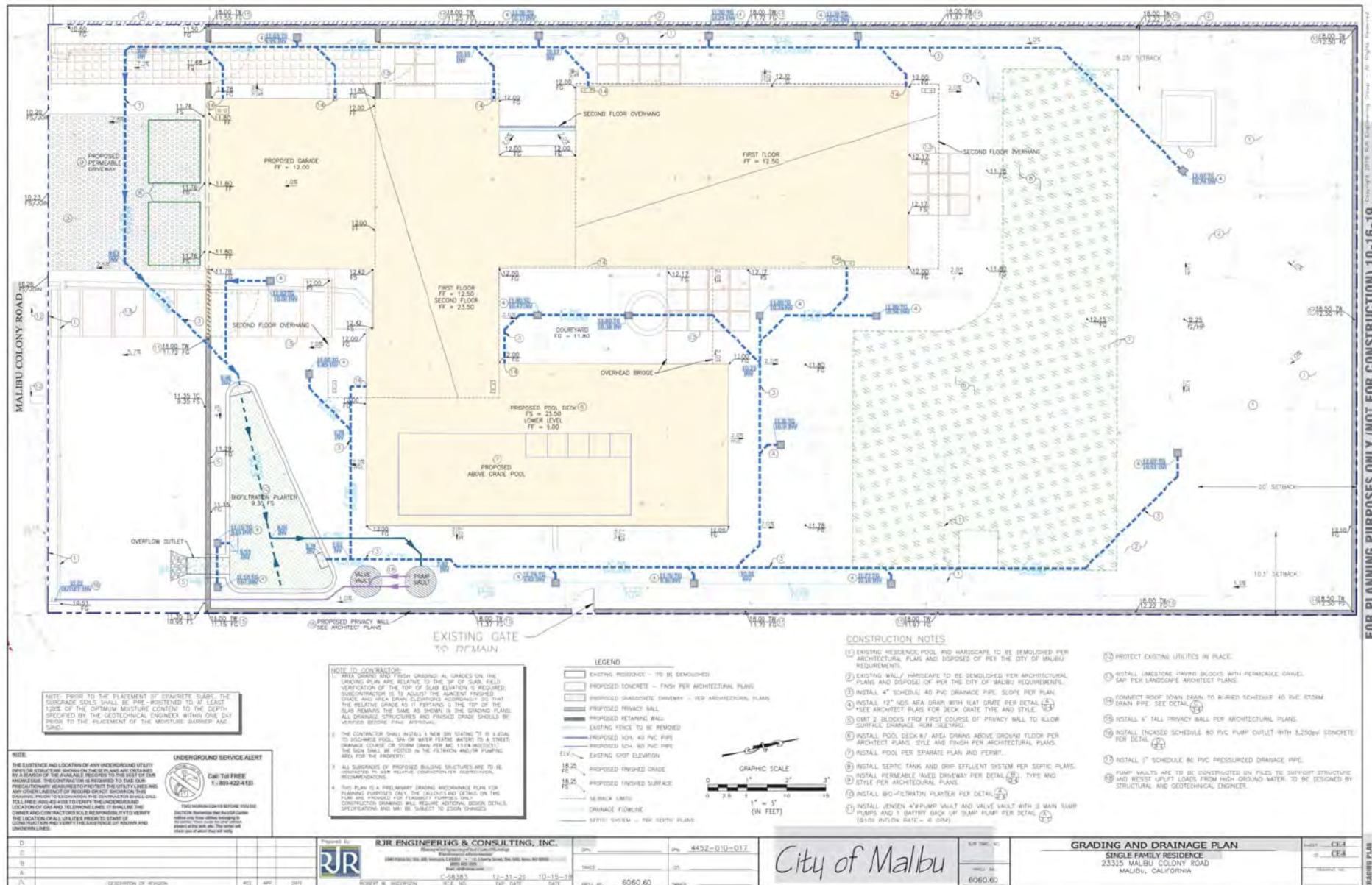
MALIBU COLONY ROAD
Square Footage Analysis

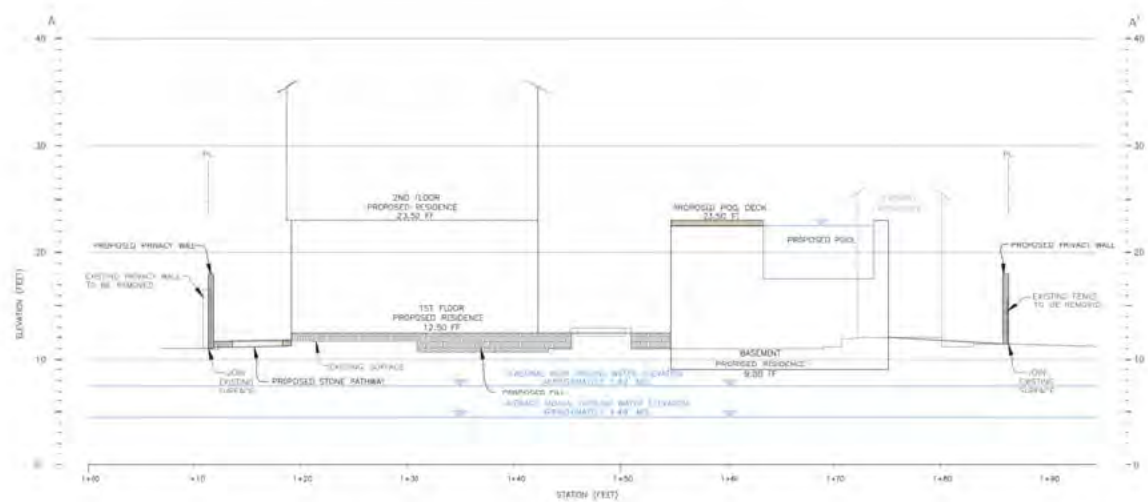


KOVAC

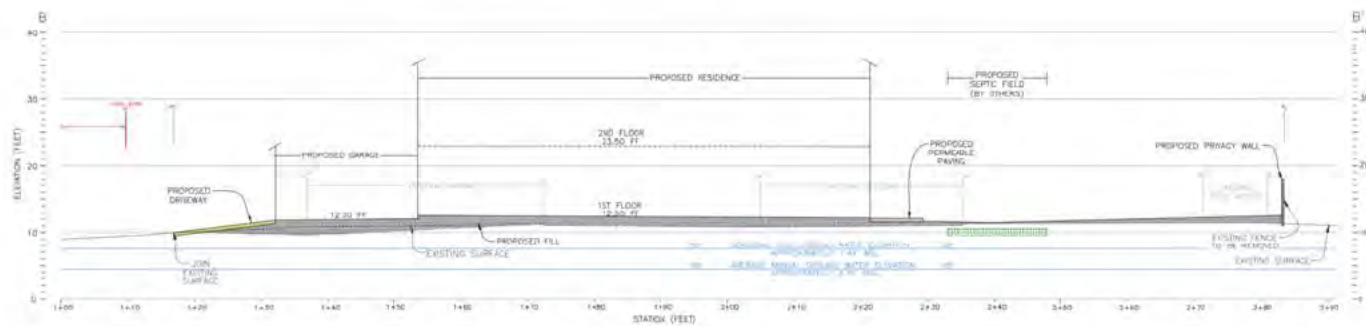








CROSS - SECTION A-A'
SCALE: 1" = 5'



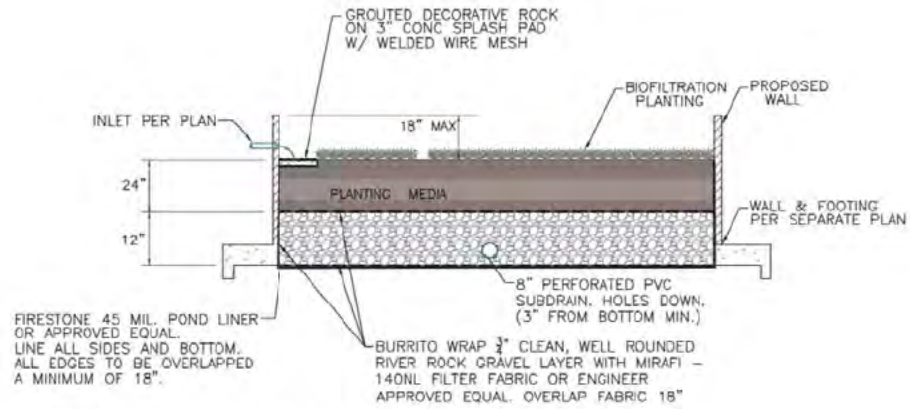
CROSS - SECTION B-B'
SCALE: 1" = 5'

NOTE:
THE EXISTENCE AND LOCATION OF ANY UNDERGROUND UTILITY LINES ARE SHOWN ON THESE PLANS AND OBTAINED BY A SEARCH OF THE AVAILABLE RECORDS TO THE BEST OF OUR KNOWLEDGE. THE CONTRACTOR IS REQUIRED TO TAKE CARE IMMEDIATELY MEASURES TO PROTECT THE UTILITY LINES AND ANY OTHER LINES NOT OF A KNOWN OR IDENTIFIED ORIGIN ON THE PLANS. PRIOR TO ANY CONSTRUCTION, THE CONTRACTOR SHALL BE RESPONSIBLE TO VERIFY THE UNDERGROUND LOCATION OF GAS AND TELEPHONE LINES. IT SHALL BE THE OWNER'S AND CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION OF ALL UTILITIES PRIOR TO START OF CONSTRUCTION AND NOTIFY THE EXISTENCE OF ANY GAS AND UNDERGROUND LINES.

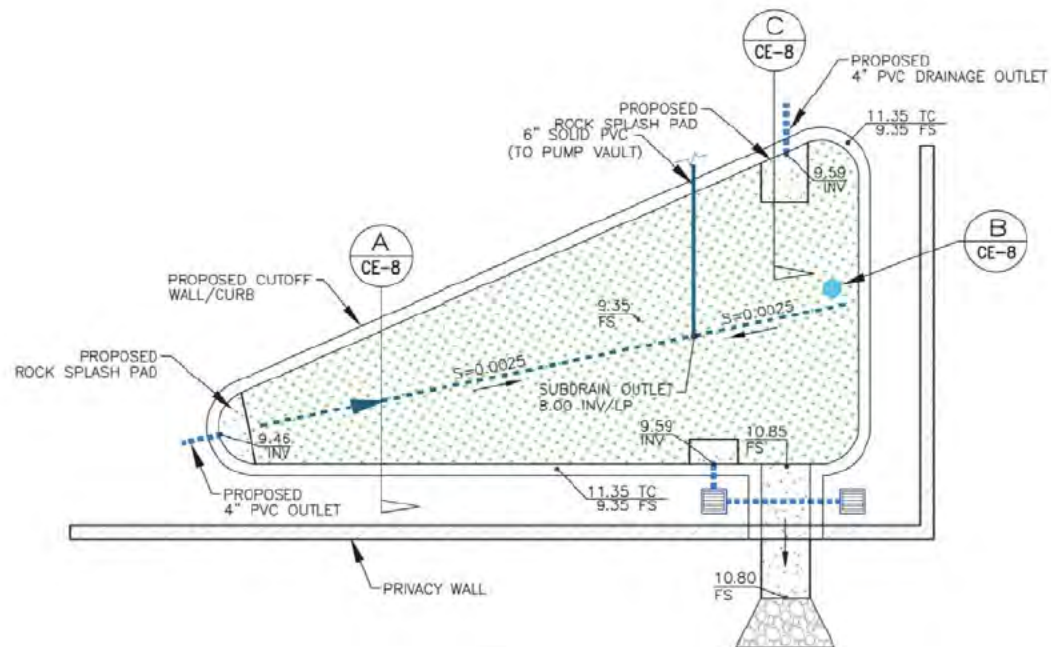


GROUNDWATER ELEVATIONS ARE FROM THE "WATERLOGS, COLLAGE & GEOTECHNICAL ENGINEERING INVESTIGATION REPORT", DATED 8/10/18, AND THE "TWO-STEP WATERLOG ELEVATION SYSTEM REPORT", DATED 8/13/18, PREPARED BY GSI CONSULTING.

										<div>Prepared by RJR ENGINEERING & CONSULTING, INC. <small>Professional Engineers and Surveyors 12445 Wilshire, Suite 200, Los Angeles, CA 90025 (310) 441-1111 Fax: (310) 441-1112</small></div>										<div>4452-010-017</div>										<div>City of Malibu</div>										<div>4452-010-017</div>										<div>CROSS SECTIONS SINGLE FAMILY RESIDENCE 23325 MALIBU COLONY ROAD MALIBU, CALIFORNIA</div>										<div>CE-2 CE-3</div>									
										<div>1-2-2015 11-18-15</div>										<div>6060.60</div>										<div>6060.60</div>																																							



BIOFILTRATION PLANTER



BIOFILTRATION PLANTER

**MEMORANDUM OF UNDERSTANDING
REGARDING PHASED IMPLEMENTATION OF BASIN PLAN AMENDMENT
PROHIBITING ON-SITE WASTEWATER DISPOSAL SYSTEMS
IN THE MALIBU CIVIC CENTER AREA**

This Memorandum of Understanding (MOU) is revised, and supersedes the MOU originally signed in August 2011 and revised in December 2014, entered into by and between the CITY OF MALIBU (City) on the one hand and the REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION, and the STATE WATER RESOURCES CONTROL BOARD on the other hand (together the Water Boards), collectively referred to herein as the "Parties" or individually as "Party."

WHEREAS, On November 5, 2009, over the City's objections, the Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board) adopted Resolution R4-2009-007 approving an amendment to Chapter IV of the Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties (Basin Plan), to prohibit on-site wastewater disposal systems (OWDSs) in the Malibu Civic Center Area, as defined in Resolution R4-2009-007, (Basin Plan Amendment).

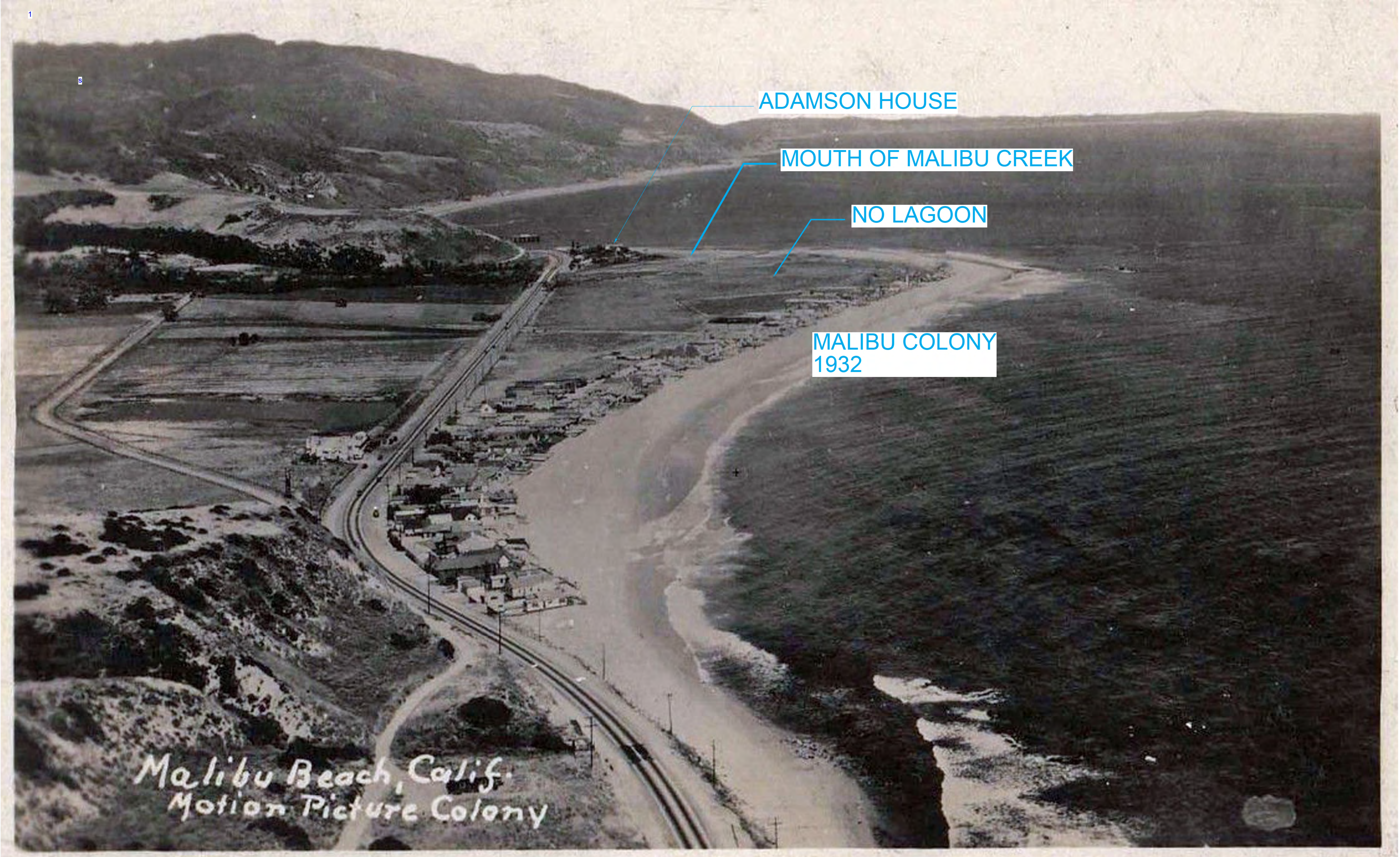
WHEREAS, On September 21, 2010, over the City's objections, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2010-0045 approving the Basin Plan Amendment.

WHEREAS, On December 23, 2010, the Office of Administrative Law approved the regulatory provisions of the Basin Plan Amendment, the final step for the amendment to take effect.

WHEREAS, the Basin Plan Amendment prohibits all new OWDSs in the Malibu Civic Center Area and prohibits the discharge from existing OWDSs based on a phased schedule to cease discharges from Phase One systems by November 5, 2015 and Phase Two systems by November 5, 2019. The Basin Plan Amendment does not prevent repairs, maintenance, and upgrades to existing OWDSs, provided that they do not expand the capacity of the systems or increase flows of wastewater.

WHEREAS, in October 2010, the City and the Water Boards entered into a tolling agreement by which they agreed to extend the time within which the City must bring an action against the Water Boards challenging their actions to approve the Basin Plan amendments, which agreement was extended and now due to expire October 2011. The purpose for the tolling agreement was to afford the parties an opportunity to reach agreement on a phased implementation, boundaries and other matters related to the substance of Basin Plan Amendment. This MOU extends the tolling agreement while the MOU is in effect.

WHEREAS, the Parties have provided interested persons with an opportunity to comment on the MOU and have considered those comments prior to execution by the Parties.



NO LAGOON

MOUTH OF MALIBU CREEK
1947

ADAMSON HOUSE

LAGOON

GOOGLE 07/89

3

1

Malibu Lagoon

Legend

-  Adamson House Museum
-  Feature 1
-  Feature 2
-  Malibu Coast Animal Hospital
-  Malibu Shell
-  Perenchio Golf Course
-  Prudential Malibu Realty

PRE-ENHANCEMENT
ESHA WETLAND BOUNDARY
JULY 1989

SUBJECT PROPERTY

Malibu Colony Rd

Google Earth

Image U.S. Geological Survey



700 ft



- Feature 2
- Malibu Coast Animal Hospital
- Malibu Shell
- Perenchio Golf Course
- Prudential Malibu Realty

PRE-ENHANCEMENT
ESHA WETLAND BOUNDARY
DECEMBER 2003

SUBJECT PROPERTY

Malibu Colony Rd

Google Earth

Image U.S. Geological Survey

700 ft

- Malibu Coast Animal Hospital
- Malibu Shell
- Perenchio Golf Course
- Prudential Malibu Realty

PRE-ENHANCEMENT
ESHA WETLAND BOUNDARY
MARCH 2006

SUBJECT PROPERTY

Malibu Colony Rd

Google Earth

Image U.S. Geological Survey



700 ft



GOOGLE 04/11

Malibu Lagoon

Legend

- Adamson House Museum
- Feature 1
- Feature 2
- Malibu Coast Animal Hospital
- Malibu Shell
- Perenchio Golf Course
- Prudential Malibu Realty

PRE-ENHANCEMENT
ESHA WETLAND BOUNDARY
APRIL 2011

SUBJECT PROPERTY

Malibu Colony Rd

Google Earth

700 ft

N



Kathleen Stecko

Subject: Item 4A colony house 6-1-20 hearing
Attachments: colony house 6-1-20.pdf

From: healypatt

Sent: Sunday, May 31, 2020 4:44 PM

To: jjennings@malibucity.org; John Mazza; Chris Marx; steve.uhring@gmail.com

Cc: Kathleen Stecko

Subject: Item 4A colony house 6-1-20 hearing

Dear Commissioners Attached please find comments from MCSG.

To Members of the Planning Commission

From: Malibu Coalition for Slow Growth (MCSG) by Patt Healy

Re: item 4A

Date: June 1,2020

Honorable Members of the Planning Commission,

The MCSG has the following concerns about this project.

1. It appears that the applicant didn't use the Coastal Commission formula to measure sea level rise and the project is deficient in this area and therefore the project will be denied by the Coastal Commission on appeal for this reason as was the recent proposed project along Trancas Creek and Lagoon
2. The increase in the number of water fixtures is troubling. Even if applicant install low flow fixtures as required, there is no guarantee the resident will not replace the shower heads and faucets with fixtures that increase the flow.
3. It appears the size of the OSWTS is undersized for a project of this square footage.
4. Because of this project's proximity to the ocean and Surfrider Beach it is very probable that resident will have lots of guests that could overwhelm the wastewater system.
5. Because this property borders the lagoon, it is very likely archeological artifacts could exist there. For that reason a study should have been required. The condition of approval doesn't appear to require a Chumash monitor on site to oversee grading therefore there is nothing to insure that artifacts will be preserved.

Where is the assurance that neither the proposed residence nor the OSWTS will not require shoreline protection device in the future.

6. Because of the proximity to the lagoon all pesticides, including insecticides, herbicides, rodenticides or any toxic chemical substance which has the potential to significantly degrade biological resources shall be prohibited without exception.
7. Fencing should be such that it allows for the free movement of wildlife through the property including foxes and coyotes who may use the lagoon area for foraging.

Thank you for considering our comments. Patt Healy

8.

Proposed Project – The proposed project consists of the construction of a new 5,220 square foot, two-story single-family residence, including a 400 square foot attached garage, swimming pool, decks, permeable driveway and other associated development, including the replacement of the OWTS that utilizes superior technology and is more beneficial for water quality than the existing OWTS. Moreover,

Lighting 75. 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:

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

Kathleen Stecko

Subject: 23325 Malibu Colony - water balance
Attachments: Addendum IV eng feas rpt 23325.pdf; Water bal rpt 23325.pdf; Addendum III eng feas rpt 23325.pdf; Addendum I water bal rpt 23325.pdf; 191031_23325 Malibu Colony Rd_CDP 18-035_EH Conf rev_CRC.pdf

From: Andrew Sheldon <asheldon@malibucity.org>
Sent: Monday, May 11, 2020 2:27 PM
To: Steve Uhring
Cc: Bonnie Blue <bblue@malibucity.org>; Yolanda Bundy <ybund@malibucity.org>
Subject: 23325 Malibu Colony - water balance

Hi Steve,

I have attached here copies of the water balance reports submitted for 23325 Malibu Colony along with the last two engineering feasibility reports and the Environmental Health conformance review sheet. This project went through several rounds of review with Environmental Health prior to receiving an Environmental Health conformance determination in 10-31-2019. I will briefly summarize how Environmental Health reviewed the project with respect to the requirement for no increase in flow/discharge quantity.

The original water balance report and an addendum water balance report were dated 2-28-2018 and 10-29-2019, respectively. The original report was submitted as part of a pre-application project review (PA 18-002) and Environmental Health rejected the project (6 bedrooms, 68 low flow fixture units). The project was revised and resubmitted with the application for CDP 18-035, which included revised building plans along with the Addendum I water balance report. The amended water balance reported that document that a 5-bedroom residence (66 fixture units) would not increase the amount of waste discharge, and Environmental Health did not approve this version of the project either.

The original engineering feasibility report for the onsite wastewater treatment system dated 8-24-2018 was submitted with the pre-application for the 6-bedroom project. Four amendments to the report were submitted to support the CDP conformance review, concluding with Addendum IV. The modified version of the project for which Environmental Health made its conformance determination on 10-31-2019 has 4 bedrooms and 64 fixture units. The reasoning behind this determination was that flow/discharge will not increase: the pre-existing residence (2 bedroom house plus one bedroom guest house) was calculated at 5 occupants discharging 150 gallons per day each, and the proposed residence (4 bedrooms with no guest house) was calculated at 5 occupants with the same (pre- as post-) amount of waste discharge. For more than 15 years wastewater discharges for City of Malibu projects with new OWTS have been calculated based on 2 occupants per master bedroom and one occupant for subsequent bedrooms. LA County Environmental Health calculated flow for new advanced wastewater systems the same way. The use of water conserving plumbing fixtures is accounted for in the water balance report.

Please let me know if you have questions after looking over all this.

Regards,

Andrew Sheldon
Environmental Sustainability Manager/
Deputy Building Official
City of Malibu
(310) 456-2489 x251

October 9, 2020

VIA E-MAIL AND U.S. MAIL

City Council
City of Malibu
c/o City Clerk, Patricia Salazar
23825 Stuart Ranch Road
Malibu, California 90265-4861
E-Mail: psalazar@malibucity.org

Re: Appeal (AP) No. 20-006; 23325 Malibu Colony Drive

Appealing Planning Commission Resolution No. 20-18, approving Coastal Development Permit No. 18-035, Variance No. 19-062, and Demolition Permit No. 18-010 to demolish an existing 1,080 square foot house and construct a new 5,220 square foot, two-story, single-family residence, swimming pool, decks, permeable driveway, and associated development, and replacement of the onsite wastewater treatment system (the “Project”)

Dear Mayor, Mayor Pro Tem, and City Council Members:

We represent Ms. Judith Israel in her personal capacity and as Trustee of the Judith Israel Inter Vivos Trust (the “**Appellant**”) in connection with the above-referenced appeal. Appellant requests a continuance of the hearing of the appeal in order to review the hundreds of pages provided in support of a denial of the appeal from both the applicant and the City, which we saw for the first time yesterday, October 8, 2020-- only 4 days before the scheduled hearing.

Support for Continuance

The hearing for Appeal No. 20-006 (the “**Appeal**”) is currently scheduled to occur on October 12, 2020. However, only yesterday October 8th, Appellant learned that City staff obtained in August 2020 a response to the Appeal and prepared revised memoranda to support the Project. **Incredibly, Appellant was not made aware of any of these documents, nor were any of the documents provided to Appellant.** Instead, City staff elected to wait until our office pressed to view a complete staff report on the Appeal to provide any of the relevant documents.

Staff’s black-box approach serves only to erode public confidence in a planning process intended to be transparent and fundamentally fair. Withholding information from aggrieved

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persons is unacceptable, and Appellant's due process rights require the provision of additional time to review the provided materials. The last-minute document dump unfairly hinders Appellant's ability to effectively review, analyze and respond to staff's recommendation to deny the Appeal, the additional engineering reports, City memoranda, and the applicant's contentions, as well as present evidence in response to the same. We would expect such actions from applicant and its counsel, but not the City.

A continuance to November 2020 or thereafter is fair under the circumstances, and would provide Appellant with a meaningful opportunity to participate and be heard. We respectfully request that this Appeal be heard at or after the November 23, 2020 City Council meeting.

Background

Appellant filed the Appeal on June 11, 2020, and on June 17, 2020, promptly contacted City staff to inquire as to the potential hearing date for the Appeal as a next step. We attach a copy of our email as **Exhibit A** to this letter.

On June 17, 2020, City Planning Director Bonnie Blue informed our office that the City did not yet know when the hearing would occur, but that the City would "contact [us] before confirming the date." City staff did not contact Appellant or our office despite being aware of our request to be kept informed of developments. Instead, on September 17, 2020, our office received a general notice that the hearing on the Appeal would take place on October 12, 2020; **the notice did not contain a staff report or any of the materials the City received and developed in August 2020.**

On October 1, 2020, the City posted a copy of the agenda for the October 12, 2020 meeting; however, the agenda did not contain a staff report for the Appeal. The available document only noted that a staff report would be provided under separate cover, representing that one was not yet available.

On October 6, 2020, after continuing to check for a staff report and finding none available, our office contacted City staff to ask about the staff report. We attach a copy of our email to staff as **Exhibit B** to this letter. The City responded and indicated that the "report ha[d] not been published," and that they would look into it.

On October 8, 2020, only two business days before the hearing, the City posted a 385-page staff report.¹ The staff report includes, among other things, the applicant's response to the Appeal, applicant's supplemental coastal engineering reports, supplemental City coastal engineering reports, supplemental lighting plans, supplemental City environmental health administrator reports, and revised project plans (apparently correcting certain issues raised in the Appeal). The documents bear dates of July and August 2020, indicating that the City had these documents for months, but did not provide any of the documents to Appellant, despite the City Planning Director's noting that it would keep Appellant abreast of the Appeal. An appellant in an appeal from the Planning Commission to the City Council should not need to revert to a Public Records Act request to obtain relevant documents!

Conclusion

The Appeal raises numerous issues of LCP and Municipal Code conformance – some of which the Project attempts to correct in response to the Appeal. However, City staff's decision to withhold relevant documents from the Appellant until only a couple days before the hearing significantly impedes Appellant's ability to prepare evidence and participate in the hearing meaningfully. **Fundamental fairness requires the granting of a continuance to allow Appellant adequate time to review the City and applicant's response to the Appeal, prepare evidence, and participate in the hearing meaningfully.**

We appreciate your consideration of the above request. Please contact our office with questions or comments.

Very truly yours,



KENNETH A. EHRLICH,
a Professional Corporation of
Elkins Kalt Weintraub Reuben Gartside LLP

KAE

¹ The supplemental Council Agenda Report for the Appeal shows a date prepared of October 7, 2020, but it was not readily available to Appellant or the public until October 8, 2020. Appellant continuously checked the City's website until 9:00 pm on October 7, 2020.

City Council
October 9, 2020
Page 4

cc: Mike Pierson (via e-mail mpierson@malibucity.org)
Skylar Peak (via e-mail speak@malibucity.org)
Karen Farrer (via e-mail kfarrer@malibucity.org)
Jefferson Wagner (via e-mail jwagner@malibucity.org)
Rick Mullen (via e-mail rmullen@malibucity.org)
Bonnie Blue (via email bblue@malibucity.org)
Reva Feldman (via email rfeldman@malibucity.org)
Raneika Brooks (via email rbrooks@malibucity.org)
Christi Hogin (via email Christi.Hogin@bbklaw.com)
Trevor Rusin (via email Trevor.Rusin@bbklaw.com)

Monica R. Briseno

From: Bonnie Blue <bblue@malibucity.org>
Sent: Wednesday, June 17, 2020 6:43 PM
To: Kenneth A. Ehrlich; Patricia Salazar
Cc: Monica R. Briseno; Judith Israel
Subject: RE: Appeal of Planning Commission Resolution No. 20-18

External Sender

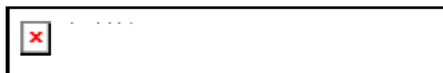
We do not know yet. We will contact you before confirming a date.

Bonnie Blue
Planning Director
City of Malibu
310-456-2489 ext. 258

From: Kenneth A. Ehrlich
Sent: Wednesday, June 17, 2020 11:57 AM
To: Patricia Salazar <psalazar@malibucity.org>
Cc: Monica R. Briseno; Judith Israel; Bonnie Blue <bblue@malibucity.org>
Subject: Re: Appeal of Planning Commission Resolution No. 20-18

Patricia-
Any idea when the City Council May hear this appeal? Thanks.

Sent from my iPhone
Kenneth A. Ehrlich

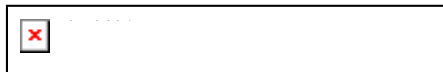


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On Jun 11, 2020, at 5:20 PM, Kenneth A. Ehrlich wrote:

Thanks Patricia!

Sent from my iPhone
Kenneth A. Ehrlich



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On Jun 11, 2020, at 5:06 PM, Patricia Salazar <psalazar@malibucity.org> wrote:

External Sender

Received.

Thank you.

Patricia Salazar | Senior Administrative Analyst | Planning Department
23825 Stuart Ranch Road, Malibu CA, 90265
(310) 456-2489 extension 245

Connect with the City of Malibu!

[<image002.png>](#)

[<image003.jpg>](#)

[<image004.png>](#)

From: Monica R. Briseno
Sent: Thursday, June 11, 2020 4:31 PM
To: Patricia Salazar <psalazar@malibucity.org>
Cc: Kenneth A. Ehrlich; [Judith Israel](#)

Subject: Appeal of Planning Commission Resolution No. 20-18

Ms. Salazar:

Attached please find Ms. Judith Israel's complete Coastal Development Permit Appeal Submittal in connection with the Planning Commission's June 1, 2020, adoption of Resolution No. 20-18, approving Coastal Development Permit No. 18-035, Variance No. 19-062, and Demolition Permit No. 18-010.

As requested, we are emailing copies of the appeal documents, including a copy of the mailed appeal fee check. However, at your direction, we are not sending hard copies of the attached materials (other than the physical check).

If you could kindly confirm receipt of this email and the appeal materials, that would be much appreciated.

Best,

From: Patricia Salazar <psalazar@malibucity.org>
Sent: Tuesday, October 6, 2020 1:46 PM
To: Kenneth A. Ehrlich <KEhrlich@elkinskalt.com>
Subject: RE: Malibu City Council October 12, 2020 Meeting- Staff Report for Agenda Item 4A (Appeal of Planning Commission Resolution No. 20-18) [IWOV-dms-01.FID350577]

External Sender

Good afternoon, if you are referring to 23325 Malibu Colony, the report has not been published. I'll look into it.

Patricia

From: [Kenneth A. Ehrlich](#)
Sent: Tuesday, October 6, 2020 12:42 PM
To: [Reva Feldman](#); [Bonnie Blue](#); [Patricia Salazar](#); [Kathleen Stecko](#)
Cc: [Kenneth A. Ehrlich](#); [Monica R. Briseno](#)
Subject: Malibu City Council October 12, 2020 Meeting- Staff Report for Agenda Item 4A (Appeal of Planning Commission Resolution No. 20-18) [IWOV-dms-01.FID350577]

Is a Staff Report available for this Council item? Thanks.

Kenneth A. Ehrlich

kehrlich@elkinskalt.com

Direct Dial: (310) 746-4412 | **Cell:** (310) 962-4100 | **Fax:** (310) 746-4462 | [Download VCard](#)

Elkins Kalt Weintraub Reuben Gartside LLP
10345 W. Olympic Boulevard, Los Angeles, CA 90064
www.elkinskalt.com



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City Council Meeting, 10-12-20
ITEM 4.A

Applicant's Briefing Book

Appeal from Planning Commission
Resolution No. 20-18, Approving a
Single-Family Residence

23325 Malibu Colony Drive,
Owner: Axel 23324, LLC

A copy of these briefing materials has been provided to Staff.

Project Description

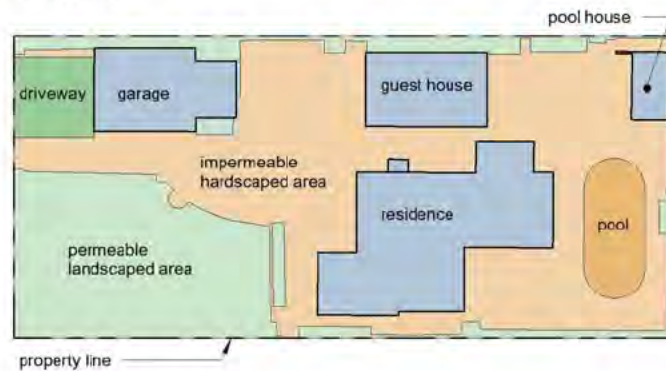
2

- Demolition of existing one-story single-family residence and associated development totaling 2,963 sf over 70% of the property
- Construction of new 5,220 sf, two-story single-family residence, swimming pool, decks, permeable surfaces and driveway with a Development Area limited to 25% of the property
- Replacement of existing septic system and untreated effluent with Advanced Onsite Wastewater Treatment System and tertiary treatment
- Addition of biofilter and green roof

Existing vs. Proposed

3

EXISTING



total lot area: 12,503 sf
total existing development area: 8,654 sf
total development percentage of lot area: 69 %

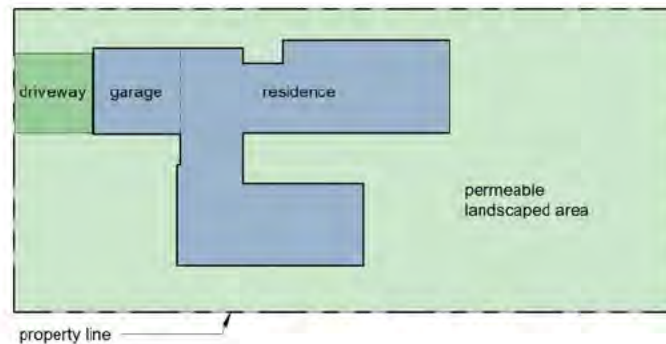
development area:

building footprint: 2,963 sf
impermeable hardscape: 5,213 sf
pool: 478 sf
total: 8,654 sf

items/area exempt from development:

driveway: 400 sf
permeable landscaped area: 3,449 sf
total: 3,849 sf

PROPOSED



total lot area: 12,503 sf
allowable development area - 25% of lot area: 3,125 sf
total proposed development area: 3,076 sf
total proposed development percentage of lot area: 24.6 %

development area:

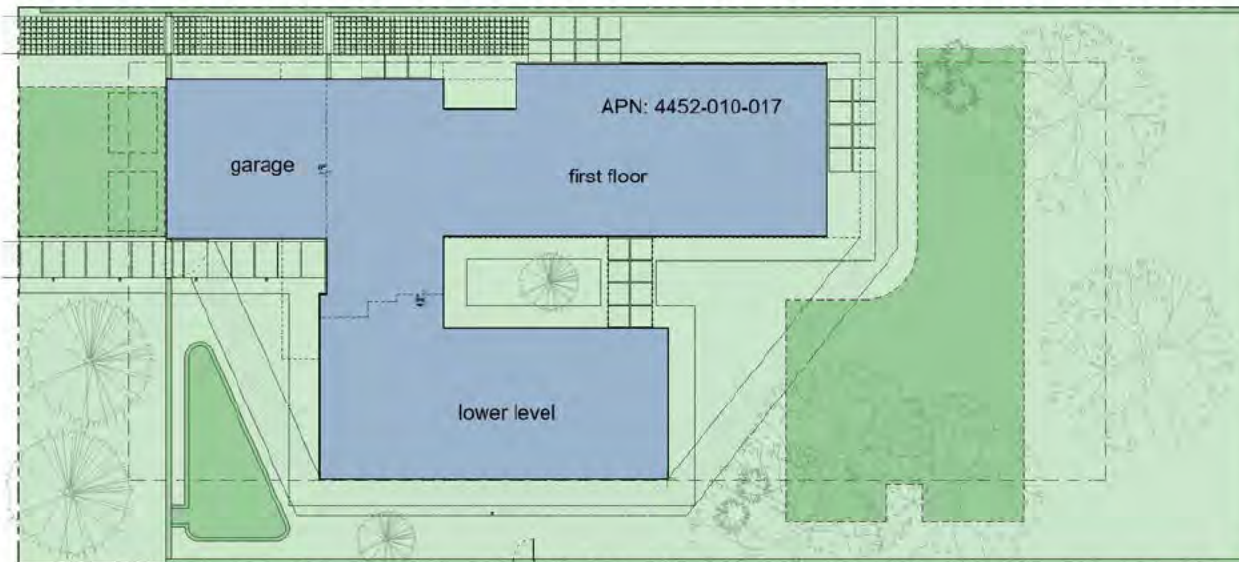
building footprint: 3,076 sf
total: 3,076 sf

items/area exempt from development:

driveway: 400 sf
permeable landscaped area: 9,027 sf
(proposed permeable area 72 % of lot area)
total: 9,427 sf

Site Plan and 70% Permeable Areas

4



total lot area: 12,503 sf
allowable development area: 3,125 sf (25% of total lot area)
total development area: 3,076 sf (24.6% of total lot area)

development area	items/area exempt from development area	landscaped area	
building footprint: 3,076 sf	driveway (including AOWTS - septic tanks): 400 sf	impermeable: 0 sf	
	property line walls: 260 sf	permeable (exempt from development area): 6,987 sf	
	site walls: 32 sf		
	AOWTS - dispersal field: 1,500 sf		
	WCMP - filter (including bio-filtration planter): 248 sf		
sub-total: 3,076 sf	2,440 sf	6,987 sf	total: 12,503 sf (equals lot area)

Project Benefits

5

- ❑ Compliance with 25% “development area” requirement to reduce ESHA buffer encroachment
- ❑ Change from 70% impervious surfaces to under 30%, greatly increasing permeable surfaces, greatly decreasing runoff in 100-year storm
- ❑ Addition of biofilter and green roof for improved water quality
- ❑ Replacement of conventional septic system and discharge of untreated effluent into water table with Advanced OWTS providing tertiary effluent treatment and shallow dispersal system, drastically reducing discharge volume and pollutants.
- ❑ Strict compliance with City’s Dark Sky/Night Lighting Ordinance

Project Conforms with Scenic, Visual and Hillside Resource Protection Height Requirements

6

- Appellant incorrectly argues 18' height limit applies – 30' height limit in Malibu Colony Overlay governs
- Applicant proposes 28'8" high residence, with massing of the house broken in middle of structure
- Proposed house no more visible from public locations, including the beach, than any other Colony house
- Appellant's second-story view is not an LCP-protected view, but Appellant retains sweeping, postcard views of Carbon Beach, Malibu Pier, Adamson House, PCH bridge, and Malibu Lagoon State Park

Visual Impact Study – From Lagoon Path

7



Visual Impact Study – From Lagoon Observation Deck

8



Visual Impact Study – From Lagoon Path

9



Visual Impact Study – From the State Park

10



Applicant's Visual with Telephoto vs. Actual View

11



Image provided by Judith Israel



Photo montage of proposed residence, rectangle represents area of J. Israel's image.

View From Appellant's Second Story

12



Project Conforms with LCP's ESHA Overlay Night Lighting Provisions

13

- Project lighting strictly controlled to comply with City's Dark Sky Ordinance, as proposed and conditioned
- Mechanical window shades, controlled by a timer, greatly minimize night interior illumination
- Exterior lighting to be recessed, including walkway lighting (no more than 2' high), directed downward and restricted in intensity
- No perimeter lighting
- Photometric Light Study demonstrates interior and exterior lighting will prevent light migration to offsite areas, and house will block uncontrolled lighting from the Colony houses behind it

Photometric Night Lighting Study - Existing

14



Photometric Night Lighting Study - Proposed

15



Photometric Night Lighting Study- Existing

16



Photometric Night Lighting Study- Proposed

17



Project Conforms with LCP's 25% Development Area Limitation

18

- ❑ Eliminates development over 70% of the site to conform to 25% “development area” limitation
- ❑ Appellant incorrectly contends cement block perimeter wall must be included in “development area”
- ❑ Neither City nor Coastal Commission include perimeter fences in the 25% “development area” limitation
- ❑ Cement block wall serves multiple important purposes: (1) more effective than chain link, wrought iron or wood in protecting State Park ESHA and ESHA buffer, (2) prevents light spillover, (3) attenuates noise, (4) prevents migration from ornamental plants, and (5) prevents offsite damage from domestic pets

Project Conforms with LCP's 25% Development Area Limitation

Page 2

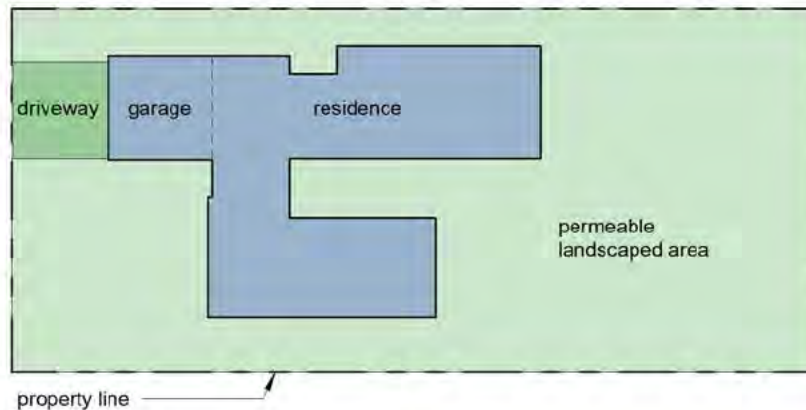
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- LCP definition of “development area” excludes:
 - graded slopes – site grading here raised to accommodate remote possibility of wave uprush
 - fuel modification area – cement wall essential feature of fuel mod because Government Code (GC) requires property owner to maintain a defensible space of 100' from structure, BUT GC section 51184 prohibits off-site brush clearance on parkland
- Cement block wall essential to hold back the raised grade
- Cement block wall necessary to provide non-combustible separation between onsite vegetation and native/weedy plants in State Park
- Fuel Modification Unit of County Fire Dept. recommended and approved cement block wall

Project Conforms with LCP's 25% Development Area Limitation

20

PROPOSED



total lot area: 12,503 sf
allowable development area - 25% of lot area: 3,125 sf
total proposed development area: 3,076 sf
total proposed development percentage of lot area: 24.6 %

development area:

building footprint: 3,076 sf
total: 3,076 sf

items/area exempt from development:

driveway: 400 sf
permeable landscaped area: 9,027 sf
(proposed permeable area 72 % of lot area)
total: 9,427 sf

Project Conforms with LCP Section 10.4 -- All Sea Level Rise Scenarios Addressed

21

- Applicant's coastal engineer analyzed 3 different SLR scenarios – All highly unlikely occurrences – City Engineer approval
- 1st – Assumed no oceanfront homes or existing bulkhead protecting them
 - Concluded maximum uprush would barely reach the garage in front of residence
 - Finished floor elevation of house raised above assumed maximum wave uprush elevation
 - AOWTS tanks sealed, flood proofed and anchored; dispersal field at rear of property out of uprush zone
- 2nd – No wave uprush issue from Malibu Lagoon State Park – earthen berms creating lagoon sections significantly higher than property elevation, protecting against future SLR in the Lagoon

Project Conforms with LCP Section 10.4 – All Sea Level Rise Scenarios Addressed

Page 2

22

- 3rd, assumed possible maximum wave uprush/SLR from downcoast beach – an isolated, one time event with a 1/20,000 (.00005%) chance of occurring
 - waves come from wrong direction and break too far out to create wave uprush
 - some water would return to the ocean
 - some water would continue north towards State Park/elevated berms
 - some water would turn left and disperse toward the eastern property wall
 - some water would turn left and disperse down Colony Road, which is lower than site elevation – about 8” at the property entrance
 - Staff Engineer agrees – one time event near 2095 easily addressed by sand bags, inflatable dam, temporary flood gate to block entry of water
 - AOWTS protected from flooding, and non-issue due to sewer in 2024

Sea Level Rise Scenarios Addressed

23



Project Conforms with LCP/MC Requirements for Replacement of Septic System with AOWTS

24

- Replacement of conventional septic system discharging untreated effluent into water table with Advanced Onsite Wastewater Treatment System (AOWTS) providing tertiary effluent treatment and shallow dispersal system, drastically reducing discharge volume and pollutants.
- Capacity of Advanced OOWTS – complies with MC and LCP
 - 4 bedrooms – requires design flow of 750 gals/day; Project = 750 gals/day
 - 64 drainage fixtures –min. septic tank capacity of 2500 gals required; Project has 2 tanks – septic tank and treatment tank, with combined volume of 3000 gals/day
 - LIP requires low-flow plumbing fixtures – MC requires residence not exceed max no. of fixtures or bedrooms that can support max. daily flow
 - With modern, low-flow plumbing fixtures, Project complies with max. flow of 750 gals/day

Project Conforms with LCP/MC Requirements for Replacement of Septic System with AOWTS Page 2

25

- Conforms with “Civil Center Prohibition Area Policy” -- development in Civic Center can occur until 2024 if AOWTS does not expand system capacity or increase wastewater flows
 - City “Policy for Environmental Health Review of Development Projects in Civic Center Prohibition Area – as alternative to bedroom/fixture analysis, engineer’s report that Project will produce no discharge of wastewater exceeding quantity discharged from septic system prior to 2009
 - Water Balance Report – approved by City Staff
 - Prior to 2009: guest house with kitchen sink = 300 gals/day for first bedroom of guest house, master bedroom in main house = 300 gals/day, second bedroom = 150 gals/day -- total of 750 gals/day
 - Proposed: for four bedroom house, same occupancy load – guest house = 2 persons, main house = 3 person (master and second bedroom) = total of 5 persons at 150 gals/day per person, or 750 gals/day

Project Conforms with MC Requirements within Special Flood Hazard Areas

26

- City's Coastal Engineer, Geotechnical Staff, Public Works Department and County Fire all determined – no “significant adverse impacts on site stability or structural integrity from “flooding”
- MC designates City Floodplain Administrator, Rob Duboux, to make the flood map determination, which he properly did based on flood zones shown on updated 2018 FEMA map
- House anchored to prevent flotation, collapse or lateral movement and designed to minimize flood damage
- AOWTS designed to be flood proofed; underground tanks anchoring

Project Conforms with LCP Archaeological Requirements

27

- Property developed for decades – no archaeo found on property
- Area studied at length – no evidence of known archaeo resources in vicinity
- One much studied site – LAN 264 on the NE side of Lagoon, encompassing Adamson House, Surfrider Beach parking lot, area north of PCH
- EIR for State Park – reviewed 20 archaeo investigations – no archaeo resources
- LIP – When Planning Manager – as here – determines Project will not have archaeo impacts, no further cultural resources review or notice required
- Conditions 13-16 require presence of qualified archaeologist during construction in any event

Conclusion

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- The Applicant appreciates Staff's efforts in reviewing the Project and appeal
- The Applicant supports the Staff Recommendation
- The Applicant requests:
 - Adoption of Reso. No. 20-55, determining the Project to be categorically exempt from CEQA
 - Approval of CDP No. 18-035
 - Approval of Variance No. 19-062
 - Approval of Demolition (DP) No. 18-010

THANK YOU



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Refer To File # 503892-0001

VIA EMAIL AND U.S. MAIL

October 9, 2020

City Council
City of Malibu
c/o City Clerk, Patricia Salazar
23825 Stuart Ranch Road
Malibu, CA 90265-4861
E-Mail: psalazar@malibucity.org

**Re: Agenda Item 4.A – City Council Meeting 10-12-20
Appeal (AP) No. 20-006; 23325 Malibu Colony Drive (Axel 23324, LLC)**

Dear Mayor, Mayor Pro Tem, and City Council Members:

Marny Randall and I represent the Applicant in connection with the above appeal, Axel 23325 LLC. I write to respond to the October 9, 2020 letter to you from Kenneth Ehrlich, counsel for Appellant/Neighbor Judith Israel, who has requested a continuance of Monday night's hearing. We oppose the continuance request.

On June 1, 2020, the Planning Commission approved this application to demolish an existing single-family Colony residence and to construct new single-family residence compliant with the City's LCP and Municipal Code. Ms. Israel filed her appeal on June 11, 2020.

Mr. Ehrlich's letter to you states that he checked with your Staff on July 17, 2020 to inquire as to the potential hearing date on the appeal. He clearly had no trouble reaching Staff because the very same day he says he inquired, Ms. Blue responded in the e-mail attached to his letter. Mr. Ehrlich is a very experienced land use lawyer. He had every opportunity to check in with Staff regarding the hearing and whether and how the Applicant responded to the appeal filed. He just did not do so.

The Applicant responded to the appeal by letter on August 13, 2020, and is included in the Staff Report at pages 121-133. The Applicant also provided additional materials in response to Ms. Israel's appeal, also attached to the Staff Report. An experienced land use lawyer would reasonably have anticipated that the Applicant would respond and defend the Planning Commission's decision and checked in with Staff periodically to that end. Instead, Mr. Ehrlich notes that on September 17, 2020, his office received a general notice that a hearing on the Appeal would take place on October 12, 2020. That notice, three weeks before the hearing, made

City Council
City of Malibu
c/o City Clerk, Patricia Salazar
October 9, 2020
Page 2

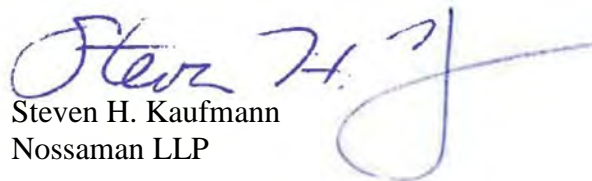
very clear that the preparation of the Staff Report was underway. At the very least, at that point, he should have checked in with Staff, but it is very clear that he did not.

Then, Mr. Ehrlich's letter shifts his own responsibility to check in with Staff – as the Applicant did – to determine what additional submittals might have been provided in response to their appeal. That would have been simple: “Has the Applicant submitted anything in response to our appeal?” He asserts that Staff had a “black box” approach to this matter. It bears emphasis that your Staff on this and other matters has been commendably accessible, even during COVID. The suggestion that Appellant might have been forced to make a Public Records Act request to obtain information on the appeal is, frankly, absurd. The suggestion that City staff had an obligation somehow to proactively make Appellant aware of documents submitted by the Applicant and to provide Appellant the documents is equally absurd.

The responsibility to stay on top of one's own appeal lies squarely with the Appellant.

The filing of the appeal forced the Applicant to diligently respond and to demonstrate why this Project is consistent with the LCP and Municipal Code. Appellant has not been equally diligent, and the Applicant should not be forced to bear further delay as result of that. We therefore respectfully request that the hearing proceed on Monday night, as noticed.

Sincerely,



Steven H. Kaufmann
Nossaman LLP

SHK:jpr

cc: Mike Pierson (via e-mail mpierson@malibucity.org)
Skylar Peak (via e-mail speak@malibucity.org)
Karen Farrer (via e-mail kfarrer@malibucity.org)
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Trevor Rusin, Esq. (via e-mail Trevor.Rusin@bbklaw.com)
Marny Randall [REDACTED]

October 29, 2020

VIA E-MAIL AND U.S. MAIL

City Council
City of Malibu
c/o City Clerk, Patricia Salazar
23825 Stuart Ranch Road
Malibu, California 90265-4861
E-Mail: psalazar@malibucity.org

Re: Appeal (AP) No. 20-006; 23325 Malibu Colony Drive

Appealing Planning Commission Resolution No. 20-18, approving Coastal Development Permit No. 18-035, Variance No. 19-062, and Demolition Permit No. 18-010 to demolish an existing 1,080 square foot house and construct a new 5,220 square foot, two-story, single-family residence, swimming pool, decks, permeable driveway, and associated development, and replacement of the onsite wastewater treatment system (the “Project”)

Dear Mayor and City Council Members:

We represent Ms. Judith Israel in her personal capacity and as Trustee of the Judith Israel Inter Vivos Trust (the “**Appellant**”) in connection with the above-referenced appeal. The Appellant is the owner of the real property located at 23349 Malibu Colony Drive (“**Appellant’s Property**”) and brings forth this appeal because the Project is inconsistent with and, in some instances, directly contradicts various Local Coastal Program policies and provisions.

As detailed below, the City of Malibu (the “**City**”) findings in support of the Project continue to be inadequate and not supported by the evidence. For whatever reason, City staff goes through great lengths to ensure that the City’s Local Coastal Program (“**LCP**”) and Municipal Code conform to the Project, bending and twisting laws and regulations at will-- rather than have the Project conform to the LCP and Municipal Code. The City Council should nullify the Project approvals.

I. Background

On June 1, 2020, the City of Malibu (the “**City**”) Planning Commission adopted Resolution No. 20-18, approving Coastal Development Permit No. 18-035, Variance No. 19-062, and

1501632v3

Demolition Permit No. 18-01 for property located at 23325 Malibu Colony Drive (the “**Property**”) (approvals collectively referred to as, “**Property Approvals**”).

The Property Approvals authorize the demolition of an existing 1,080 square foot, one-story, single-family residence¹ and associated development, and the construction of a new 5,220 square foot, two-story, single-family residence, swimming pool, decks, permeable driveway and associated development, and replacement of the onsite wastewater treatment system on a 0.29-acre parcel (the “**Project**”). Because the Project constitutes a complete redevelopment, **the new development must conform to the policies and standards of the City’s LCP**, which consist of a Land Use Plan (“**LUP**”) and a Local Implementation Plan (“**LIP**”). **It does not.** The Project violates the LCP and other applicable laws and regulations, as detailed below.

On June 11, 2020, the Appellant filed this appeal, challenging the Property Approvals. On June 17, 2020, Appellant’s representative promptly contacted City staff to inquire as to the potential hearing date for the Appeal as a next step.

On June 17, 2020, City Planning Director Bonnie Blue informed our office that the City did not yet know when the hearing would occur, but that the City would “contact [us] before confirming the date.” City staff did not contact Appellant or our office despite being aware of our request to be kept informed of developments. Instead, weeks after the City received volumes of new analyses from applicant (which was not shared with Appellant) on September 17, 2020, our office received a general notice that the hearing on the Appeal would take place on October 12, 2020; the notice did not contain a staff report or any of the materials the City received and developed in August 2020.

On October 1, 2020, the City posted a copy of the agenda for the October 12, 2020 meeting; however, the agenda did not contain a staff report for the Appeal. The available document only noted that a staff report would be provided under separate cover, representing that one was not yet available.

On October 6, 2020, after continuing to check for a staff report and finding none available, our office contacted City staff to ask about the staff report. City staff informed our office that the “report has not been published.”

¹ The County Assessor Map identifies the building square footage as 1,080 square feet. The Applicant plans, and the City staff report, incorrectly state that the home is 1,581 square feet.

On October 8, 2020, only two business days before the original hearing date, the City posted a 385-page staff report.² The staff report includes, among other things, the applicant's response to the Appeal, applicant's supplemental coastal engineering reports, supplemental City coastal engineering reports, supplemental lighting plans, supplemental City environmental health administrator reports, and revised project plans. It appears that the Applicant changed certain Project features, such as the septic system location and certain wall designs, in response to the Appeal. The documents bear dates of July and August 2020, indicating that the City had these documents for months, but did not provide any of the documents to Appellant, despite the City Planning Director's noting that it would keep Appellant abreast of the Appeal. The Appellant appreciated the City Council's granting of additional time to address the City's response to the Appeal.

II. Appeal Summary

Despite the various linguist machinations and attempts to correct violations by revising the Project plans, the proposed Project continues to be inconsistent with and, in some instances, directly contradicts various LCP policies and provisions, including, but not limited to, those related to shoreline development, scenic and visual resources, and environmentally sensitive habitat areas ("ESHA").

The Project also fails to conform to the City's Civic Center Prohibition Policy in connection with the development of the Onsite Wastewater Treatment System ("OWTS").

A. The Project Violates Malibu's LCP

1. The Project Fails to Account For Proper Sea Level Rise Scenarios, Risking Inundation of the Proposed Septic System

The City improperly relied on a wave uprush study based on a sea-level rise assumption less stringent than the California Coastal Commission's required legal standards.³ In a blatant

² The supplemental Council Agenda Report for the Appeal shows a date prepared of October 7, 2020, but it was not readily available to Appellant or the public until October 8, 2020. Appellant continuously checked the City's website until 9:00 pm on October 7, 2020.

³ The staff report notes that the California Coastal Commission's Sea Level Rise Guidance does not contain required actions, but rather a "menu of options to use only if relevant." We believe the California Coastal Commission begs to differ in such an interpretation. The California Coastal Commission has made its' position clear to staff before; it requires the analysis of residential

disregard of the City's prior position that the Project must follow the CCC-imposed legal standard, the City disregarded its prior requirement that the Project analyze sea-level rise using the full projected 100-year economic life for the new structure. Instead, the City staff does an about-face, abandons its prior position, and reduces the projected economic life of the structure, in contradiction to the LCP's clear definition of "life of the project," in order to minimize the required sea-level rise analysis. Such gamesmanship with the code is outrageous and must not be allowed. The City should either commit to following applicable CCC-imposed sea level rise guidance and its LCP or develop alternative policy; it should not selectively decide its policy depending on the project.

According to the California Coastal Commission's ("CCC") adopted Sea Level Rise Policy Guidance and recent interpretation, the applicant must have analyzed, and **the City must have considered**, the **medium-high risk aversion, high emission sea level rise scenario of 8.5 feet by 2120** to inform design and siting of the Project over the full projected 100-year economic life of the development. **The applicant did not provide the required analysis.** We attach as **Exhibit A** to this letter a copy of California Coastal Commission correspondence outlining the proper sea level rise scenario for residential structures, such as the Project.⁴

Astonishingly, the City not only accepts the 6.15 foot sea level rise analysis as adequate, but it does so after requiring the Project to include "flood gates" at the driveway (same location as the combined 3,000 gallon septic tanks) to handle future water inundation. Installing "flood gates" does not adequately address alternative siting and design of the development. In fact, the flood gates highlight that the solid perimeter walls will essentially function as a seawall/shoreline protective device, which the City's LCP strictly prohibits.⁵ LIP Section 10.4(H). This analysis is clearly not sufficient to support a finding that the Project is sited at the most landward feasible location and further highlights the inadequacy of the sea level rise analysis.

properties that may be potentially subject to hazards to account for the medium-high risk aversion scenario over the life of the project, i.e., 100-years.

⁴ We note that City staff indicated reliance on an older Coastal Commission letter, which does not reflect the correct definition of "life of the project" found in the City's LCP. The City must adhere to the City's LCP.

⁵ LIP Section 10.4(H) clearly states that "[a]ll new beachfront and bluff-top development shall be sized, sited and designed to minimize risk from wave run-up, flooding and beach and bluff erosion hazards without requiring a shoreline protection structure at any time during the life of the development." The LCP, in turn, defines the "life of the project" as 100 years. LIP Section 2.

Allowing for a Project with a known threat of septic system failure without further analysis, including alternative siting and design, goes against set protocols. It represents poor and arguably ignorant public policy, creating an unreasonable danger to the Property, the surrounding environment, coastal access, and the general public. The City Council should intervene and reject the Project as presented.

2. The Project Exceeds the 25% Allowable Development Area in ESHA Buffers

The City improperly omitted development categories, including property walls and site walls, from the maximum allowable development area calculations. Rather than acknowledge this straightforward oversight, City staff adopted a rationale that equates to “walls are not walls” if they are on a graded slope. This position is not only nonsensical, it highlights the root problem of this Project: staff is not applying the LCP to the Project, but rather attempting to bend the LCP language to accommodate the Project. **The LCP is clear on what counts as development area, and walls count.**

City LUP Policies 3.10 and 3.12, and LIP Section 4.7.1 allow a twenty-five percent (25%) development area on parcels where all feasible building sites are in an ESHA or ESHA buffers to avoid a taking of private property. LIP Section 4.7.1 provides that “the **allowable development area (as defined in Chapter 2 of the Malibu LIP)** on parcels where all feasible building sites are ESHA or ESHA buffer shall be **10,000 square feet or 25 percent of the parcel size, whichever is less.**” Chapter 2 of the Malibu LIP defines development area as “the **approved portion of a project site** that is developed, **including the building pad** and all graded slopes, **all structures**, and parking areas.” It excludes the areas of one access driveway or roadway not to exceed twenty feet wide, and one hammerhead safety turnaround. Chapter 2 of the Malibu LIP defines **structure** as “**anything construed or erected which requires a fixed location on the ground**, or is attached to a building or other structure having a fixed location on the ground.”

The City staff calculated the twenty-five percent area and the total proposed development area to be 3,125 and 3,076, respectively. However, the **City staff's calculations of total proposed development area excludes property line walls, site walls, and septic tanks** – all of which require fixed location on the ground or are attached to other structures. **Adding the walls alone exceeds the 25 percent limit.** The City's attempt to reclassify certain walls as “graded slopes” is absurd, especially considering that the solid perimeter walls clearly do more than retain fill at 6 feet in height. Excluding such areas is improper and contrary to the City's LCP. Again, the City Council needs to intervene, set the appropriate precedent for City staff to follow, and nullify the Property Approvals.

B. The Project Violates Malibu Municipal Code Requirements

1. The Proposed Wastewater System Does Not Conform with the City's Civic Center Prohibition Area

The Property lies within the Civic Center Prohibition Area, which prohibits the discharge of wastewater from existing OWTs based on a three-phased schedule designed to cease all discharges from OWTs by November 5, 2028. The Civic Center Prohibition Area does not prohibit the development of OWTs in the area. **Development can occur as long as it does not expand the capacity of the systems or increase wastewater flows.**

Defying logic, City staff now argues that the 5,220 square foot Project will not necessarily have less wastewater flows (as originally argued), but, based on bedroom count, it will have the same flows as the original 1,080 square foot house. While the Appellant understands that new technology allows for wastewater systems to become smaller and use less water than their predecessors, it defies logic and common sense for a modern 5,000+ square foot house with 64 water fixtures, 5 bathrooms, a pool, and pool amenities to produce the same wastewater flow than 1,080 square foot house.⁷ It is also concerning that the analysis appears to change in this recent iteration, which represents yet another example of staff attempting to conform set standards to the Project, as opposed to the Project conforming to the standards.

The continued acceptance of the Applicant's "rational analysis" arguing that the Project's nearly doubling of bedrooms and fixtures will not result in additional wastewater violates the Civic Center Wastewater Prohibition. **Any rational reading of the evidence leads to the conclusion that, as approved by the Planning Commission, wastewater flows at the Project will exceed historic flows.** This fact violates the Wastewater Prohibition and should serve as the basis for nullifying the Property Approvals.

C. The Revised Project

For purposes of the record, we note the revised Project appears to address certain LCP violations through revisions under the guise of merely improving an already conforming Project. That is simply incorrect. By way of example, we note that the Project now conforms with LIP Section 18.6(M) by locating the septic tanks five (5) feet from the garage. The septic tanks' previous placement immediately next to the garage was in direct conflict with the LIP. The

⁷ Appellant's initial appeal documents incorrectly noted that the existing house does not contain a pool. We correct the record to indicate that the existing house does have a pool.

3. The Project Violates the 18-ft Height Restriction on Structures Subject to the Scenic, Visual, and Hillside Resource Protection Ordinance

The City did not make the required findings, and the applicant did not seek site plan review for a structure over the 18-ft height restriction set by the Scenic, Visual, and Hillside Resource Protection Ordinance.

Under the Scenic, Visual, and Hillside Resource Protection Ordinance, “[a]ll Coastal Development Permit applications concerning any parcel of land that is located along, within, provides views to or is **visible from any** scenic area, scenic road, or **public viewing area shall be governed by the policies, standards and provisions of this chapter** in addition to any other policies or standards contained elsewhere in the certified LCP which may apply.” LIP Section 6.2. Among other things, the chapter’s standards limit the height of non-beachfront structures to 18 feet above existing or finished grade, whichever is lower. LIP Section 6.5.B.1.⁶

The Project is clearly subject to the Scenic, Visual, and Hillside Resource Protection Ordinance. It violates the height restriction and there is absolutely no evidence of a Site Plan Review application to allow for a variance in height. While some may not like the document, the LCP exists for a reason— to govern development in a coastal setting. Staff and the applicant cannot pick and choose which development standards they wish to apply.

For clarity, staff cites to a 2007/8 CDP approved by the California Coastal Commission to support coastal residential heights over 18-feet. However, the cited CDP does not apply here as the residence in question was not surrounded on two sides by public viewing areas. The Project is different. It has the unique position of being situated at the end of Malibu Colony Drive and visible from public viewing areas, unlike neighboring properties flanked on three sides by development.

Ultimately, the Property Approvals allowing for a 28-foot high structure without any discussion of LIP Section 6.5.B or required findings fail to comply with the Scenic, Visual, and Hillside Resource Protection Ordinance. Nothing in the Supplemental Staff Report rectifies this deficiency.

⁶ LIP Section 6.5.B.1 allows for a maximum height of 24 feet (flat roofs) or 28 feet (pitched roofs) on beachfront lots or where found appropriate through Site Plan Review, according to Section 13.27 of the Malibu LIP. The Project applicant did not apply for site plan review, and the City did not make the required findings.

4. The Project Increases Illumination within ESHA and ESHA Buffer

The City staff failed to properly examine the new ESHA impacts from increased lighting and lighting at a higher elevation, including lighting around the Property's proposed swimming pool. In another example of staff contorting the LCP to conform to the Project, the supplemental discussion fails to discuss the prohibition of lighting impacts on ESHA-buffer.

City LIP Section 4.6.2 **expressly prohibits night lighting for sports courts, sports fields, or other private recreational facilities in ESHA, ESHA buffer, or where night lighting would increase illumination in ESHA.** LIP Section 4.6.2.E also **expressly prohibits lighting around the perimeter of a site.** Despite such clear prohibitions, the Project proposes outdoor lighting, including at the new second-floor level, which includes a private recreational facility (swimming pool) and lighting along the perimeter of the Property. The proposed lighting lies immediately adjacent to (i.e., within the ESHA-buffer) and, in some instances, directly in an ESHA.

In an attempt to downplay the impact, the applicant claims that all fixtures adjacent to ESHA will "aim away from ESHA." Project Plans, Sheet A1.2, Note 9. However, this does not adequately address the impacts or analyze other feasible alternatives for siting and designing the development, including reducing the height of the residence to avoid new light impacts, as required by the City's LCP. Indeed, in improperly dismissing a one-story Project alternative, City staff again exclusively focused on the development area and the Project's compliance with the Malibu Colony Overlay District development standards without mentioning that the Project failed to comply with ESHA development standards, which are not superseded by the Malibu Colony Overlay District and which take priority over other development standards. City LIP Section 4.6.4. Such disregard for the clear LCP language remains unacceptable.

The Project fails to conform to LIP Section 4.6.2 and will install lighting in ESHA and ESHA buffer, resulting in adverse biological and scenic impacts. The second-story addition also adds mass in an area currently open to those visiting and walking the public trail that wraps around the Project – potentially blocking existing public views for those walking the trail and not able to or choosing not to continue down the path. Again, a reconfigured or smaller footprint will provide necessary environmental advantages and could potentially conform to applicable laws. However, staff does not address this option.

Applicant and, unexplainably, City staff attempt to explain away such a violation by pointing to an inapplicable footnote.

According to the staff report and the Applicant, Footnote 9 to Table 15.42.030(E) provides that "[s]etback distances may be reduced in accordance with recommendations provided in a geotechnical report prepared by a civil engineer or professional geologist and addressed in the OWTS design report and accompanying geotechnical report." City Staff and Applicant state that this footnote supported the reduced setback approved by the Planning Commission. Such an interpretation is wrong. Footnote 9 to Table 15.42.030(E) does not relate to setbacks from buildings or structures; it refers to setbacks from unstable land masses. The table makes this clear.

Since the initial filing of this Appeal, Appellant appreciates the attempted compliance with the City's LCP and Municipal Code on certain issues, but cautions that characterizing required modifications as completed "out of an abundance of caution" or to "eliminate issues" instead of admitting initial errors serves only to erode the public's trust in the planning process.

III. Conclusion

As detailed above, the Project, as approved by the Planning Commission, and as now proposed, violates numerous LCP policies and provisions, and does not meet City Municipal Code requirements. The City's findings are clearly unsupported by evidence, and the City should deny the Project as proposed.

Very truly yours,



KENNETH A. EHRLICH,
a Professional Corporation of
Elkins Kalt Weintraub Reuben Gartside LLP

KAE

City Council
October 29, 2020
Page 10

cc: Mike Pierson (via e-mail mpierson@malibucity.org)
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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



July 17, 2020

Lilly Rudolph
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Subject: Coastal Development Permit 19-007, Variance No. 20-010 and Demolition Permit No. 19-010 for 31340 Broad Beach Road

Dear Ms. Rudolph:

Commission staff has reviewed the staff report for the subject permit application that is scheduled to be considered by the City of Malibu Planning Commission on July 20, 2020, and we have several comments. The subject permit application includes the demolition of a 2,400 square foot, two-story, single family residence with a 772 square foot carport, and the construction of a new 5,245 square foot, two-story, single family residence with a 742 square foot attached garage, landscaping, hardscape, grading, retaining walls and onsite wastewater treatment system located at 31340 Broad Beach Road.

Although the staff report concludes that the proposed project will not have significant adverse impacts on public access, shoreline supply or other resources, and that the project is the least environmentally damaging feasible alternative, we do not agree that this has been adequately demonstrated. The staff report states that a Coastal Engineering Report, dated May 4, 2019, was prepared for the proposed project which looked at the proposed development in relation to coastal hazards under a range of sea level rise projections and provides a recommended finished floor elevation. However, we would note that the Commission's Sea Level Rise Guidance (2018) reflects the current best available science regarding sea level rise projections stemming from two reports from the California Ocean Protection Council (OPC), the State Sea Level Rise (OPC 2018) and Rising Seas in California (Griggs et al. 2017). This best available science on sea level rise indicates that in this area, sea levels may rise between 4.0 and 14 feet by the year 2120. Using the appropriate medium-high risk aversion and high emissions scenario, for the 100-year life of the proposed project, sea level rise is projected to be 8.5 feet by year 2120. The difference in sea level rise between the projection used in the Coastal Engineering Report, dated May 4, 2019 (4 feet) over the 100-year life of the project and the updated science (8.5 feet) is more than 4.5 feet, which is significant and would change the conclusions of the analysis about the required finished floor elevation and the safety of the proposed structure from extreme events and sea level rise. Thus, we recommend the staff report analysis address the medium-high risk aversion, high emission sea level rise scenario of 8.5 feet by 2120 to better inform design and siting considerations for the proposed structure.

Malibu LUP Policy 4.23 and LIP Section 10.4 (B) requires that new development on a beach or oceanfront bluff shall be sited outside areas subject to hazards (beach or bluff erosion, inundation, wave run-up) at any time during the full projected 100 year economic life of the development and if complete avoidance of hazard areas is not feasible, all new development shall be elevated above the base flood elevation and sited as far landward as possible to the maximum extent practicable. Furthermore, LIP Section 10.4 (H) requires all new development to be sized, sited and designed to minimize risk from wave run-up, flooding and beach erosion hazards without requiring a shoreline protection structure at any time during the life of the development. Additionally, Malibu LIP Section 10.4 (L) states that “accessory structures, including but not limited to patios, stairs, recreational facilities, landscaping features, and similar design elements shall be constructed and designed to be removed or relocated in the event of threat from erosion, bluff failure or wave hazards”.

The subject property is vulnerable to coastal hazards and flooding and is a part of the Broad Beach Geologic Hazard Abatement District (BBGHAD). It is also clear from the analysis provided to-date that the proposed project would be vulnerable to coastal hazards over its expected life. The proposed new residence would be significantly larger than the existing residence in terms of footprint, floor area and height. Furthermore, the proposed pile supported patio and residence are located within the maximum expected wave uprush limit line. As a result, the development will be increasingly acted upon by wave uprush and increased wave action in the future due to anticipated sea level rise, and therefore is likely to exacerbate beach erosion and affect the sand supply beach profile, thereby impacting the public’s ability to gain access along the beach.

The staff report fails to indicate if the proposed development (including all accessory development such as patios, decks, etc.) is sited as far landward as possible and does not specifically address how the proposed patio has been designed and conditioned to be removed or relocated when threatened by coastal hazards, consistent with the above noted shoreline development provisions of the Malibu LCP. The proposed patio deck would extend approximately 20 feet further seaward than the existing deck. We recommend that the staff report include additional information and analysis in order to fully address the project’s consistency with the policies and provisions of the Malibu Land Use Plan and Chapter 10 (Shoreline and Bluff Development Ordinance) of the Local Implementation Plan. Specifically, the City should analyze a range of siting and design alternatives that site development as far landward as feasible, minimize risk from wave run-up, flooding and beach erosion hazards as beach conditions change with anticipated sea level rise (without reliance on shoreline protection), and that eliminate or mitigate adverse impacts to local shoreline sand supply and public access. The findings need to explain the basis for the conclusions and decisions of the City and to be supported by substantial evidence in the record.

Additionally, Malibu LIP Section 10.4(G) states that in existing developed areas where new beachfront development is found to be infill, a new residential structure shall not extend seaward of a stringline drawn between the nearest adjacent corners of the enclosed area of the nearest existing residential structures on either side of the subject lot. Similarly, a proposed deck or other accessory structure shall not extend seaward of a stringline drawn between the nearest adjacent

corners of the nearest deck or other accessory structure on either side. The staff report states that the applicant is requesting to use a building stringline measured from an alternative structure corner as measured from the closest upcoast property (31346 Broad Beach Road) instead of the nearest corner (Stringline Modification Review No. 20-005). However, we do not think this request is appropriate because this results in the subject development extending further seaward than the nearest adjacent corner of the adjacent upcoast property (31346 Broad Beach Road) and does not site the development as far landward as feasible, and therefore is inconsistent with the intent of the stringline provision. Staff recommends that the building stringline be drawn using only the nearest adjacent building corners of the upcoast and downcoast properties to ensure that no portion of the building extends further seaward than the building development on the most adjacent properties. Again, the stringline drawn from the adjacent buildings and decks should be considered the maximum allowable seaward extent of development. It may be necessary to further limit the seaward extent of development to comply with the other LIP provisions described earlier in this letter.

Moreover, the Malibu LCP contains several policies to ensure the protection and provision of public access in new development along the shoreline, in consideration of public safety needs, private property rights, and the protection of natural resources, where applicable (Land Use Plan (LUP) Policies 2.63 – 2.86 and LIP Sections 12.4 and 12.7). Specifically, LUP Policy 2.64 requires that an Offer-to-Dedicate (OTD) an easement for lateral public access shall be required for all new ocean fronting development causing or contributing to adverse public access impacts. The approved project, involving construction of a new residence and patio would constitute occupation of sandy beach area by a structure and would affect shoreline sand supply, which sustains public access opportunities, in contradiction of the public access and recreation policies of the certified LCP. Given the narrow width of Broad Beach, particularly coupled with projected sea level rise, it is likely that the proposed development will be subject to wave action and will affect the beach profile, and thereby impact the public's ability to gain access to the beach. In order to minimize potential adverse impacts to public access, it is appropriate in this case to require a lateral public access easement as a condition of approval of the coastal development permit, consistent with Policies 2.63 and 2.64 of the Malibu LUP, and Chapter 12 of the Malibu LIP.

Thank you for your consideration of our comments. Please feel free to contact me if you have questions.

Sincerely,

Denise Venegas

Denise Venegas
Coastal Program Analyst

cc: Bonnie Blue, Planning Director, City of Malibu

Kelsey Pettijohn

Subject: November 9, 2020 Council Meeting Agenda, Item 4A, Supplemental materials
Attachments: Applicant's Letter to the City Council.pdf; Item4AResponseToAppealBriefingBooklet.pptx

From: Marny Randall [REDACTED]
Sent: Tuesday, November 3, 2020 10:35 AM
To: Heather Glaser <hglaser@malibucity.org>
Cc: Raneika Brooks <rbrooks@malibucity.org>; Steven H. Kaufmann [REDACTED]
Subject: November 9, 2020 Council Meeting Agenda, Item 4A, Supplemental materials

Hello Heather,

It just occurred to me that you might be awfully busy today because of the election. If you're too busy to distribute this letter and the attached Briefing Booklet to the Council members and city staff who are listed on the letter to be copied, please let me know, and I can send these two items directly to them.

This letter is response to the Appellant's attorney's letter to the Council, dated October 29, 2020. We are also including the Briefing booklet that we provided to the Council members through you prior to the original hearing date of October 12, 2020. This booklet has not been changed since it was submitted on October 8, 2020, but we feel that it can be helpful to Council Members, along with our written response to the Appellant's attorneys contentions.

Please let me know if you can distribute these items by tomorrow, and, if not, I can follow up and do that directly if you don't mind.

I want to make sure that the Council members all have time to review this letter and the booklet in response to the Appellant's attorney's October 29 submittal prior to the Council meeting on November 9.

Thank you very much for your time, and I look forward to hearing back from you.

Best regards,

Marny

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Refer To File # - 503892-0001

VIA E-MAIL AND U.S. MAIL

November 2, 2020

City Council
City of Malibu
c/o City Clerk, Heather Glaser
23825 Stuart Ranch Road
Malibu, CA 90265-4861
E-Mail: hglaser@malibucity.org

Re: Appeal of Resolution No. 20-18, Adopted by the Planning Commission on June 1, 2020, approving CDP No. 18-035, Variance No. 19-062, and Demolition Permit No. 18-010 (Axel 23324, LLC) – 23325 Malibu Colony Drive

Hearing Date: November 9, 2020

Dear Mayor Pierson and Members of the City Council:

Next Monday night, you will hear the above appeal, filed by appellant Judith Israel. Ms. Israel resides three lots upcoast of the Applicant's lot, and both properties are on the inland side of Malibu Colony Road. Your Staff's Council Agenda Report does an excellent and remarkably thorough job of analyzing the Project and responding to each and every issue raised by the appeal. The Applicant supports the analysis in the Council Agenda Report and the staff-recommended conditions.

On October 29, 2020, Ms. Israel's counsel submitted a letter in response to the Staff Report issued last month and our attached August 13, 2020 letter concerning the appeal. There should be no illusion regarding the neighbor's issue with the Project. It is solely her disagreement with the Planning Commission's approval that the now reduced-size residence proposed will block a very small portion of her downcoast view. She could not possibly be concerned about sea level rise because her house is similarly situated – or the height of the residence proposed because her house exceeds the height limit she erroneously suggests is applicable and is the same height or taller than the Applicant's proposed house – or the extensive night lighting restrictions imposed on this Applicant which she does not have to live with – or the 25% development limitation which her project undoubtedly exceeds – or the far superior advanced wastewater treatment system proposed, which likewise is superior to her existing septic system.

In addition to our more detailed letter in the Council Agenda Report (pp. 121-133) and the accompanying briefing book, we offer the following further response to the letter submitted by Ms. Israel's counsel.

The 18 Foot Height Limit Does Not Apply to the Malibu Colony Overlay District

Ms. Israel's counsel argues the Project violates the 18-foot height restriction on structures subject to the scenic, visual, and hillside resource protect ordinance.

The simple response is that the 18-foot height limit does not apply in the Malibu Colony Overlay District. The development standards in the Colony Overlay District "replace" the general residential property development and design standards set forth in the LCP. (LIP Section 3.4.1.)

On non-beachfront lots in the Colony, "the maximum structure height shall not exceed 24 feet for flat roofs, or 30 feet for pitched roofs" (LIP Section 3.4.1.E.1.iii.) The proposed new residence has a pitched roof, the height and massing of the house are broken up in the middle of the residence. The maximum height of the structure is 28 feet, seven inches – less than 30 feet, but it also is not a "boxy" structure. As reflected in the Project plans, the peak in the front and back of the house is 28 feet, seven inches, but the house dips several feet in both locations towards the middle of the house residence. It obviously complies with the Colony height limit.

Counsel's letter avoids the view blockage issue. Nonetheless, our more detailed letter explains that the Project would be no more visible from public viewing areas than any other house in the Colony, including Ms. Israel's house. In addition, her second story view is not a protected view, but in any event she still would retain a "postcard" view – a sweeping view of Carbon Beach, the Malibu Pier, the Adamson House, the bridge at PCH, and the ocean.

The Project More than Amply Accounts for Proper Sea Level Rise Scenarios

This Project has undergone a comprehensive analysis of the three possible sea level rise scenarios. No other non-oceanfront project has provided such an extensive analysis. The sea level rise analysis here was provided out of an abundance of caution, but it bears emphasis that the house is located on the inland side of Malibu Colony Road and already is protected by a bulkhead on the beach, the oceanfront houses (which the bulkhead protects), and the road.

a. The 75-Year Design Life

Ms. Israel's counsel offers three arguments, none of which has merit. Counsel first argues that the sea level rise analysis must utilize a projected 100-year economic life of the new structure. (Page 2.) This is incorrect.

For purposes of addressing sea level rise, the Coastal Commission most often uses a 75-year design life for residential structures. The Commission's Sea Level Rise guidance explains:

"Residential or commercial structure will likely be around for some time, so a time frame of 75 to 100 years may be appropriate. A longer time frame of 100 years or more should be considered for critical infrastructure like bridges or industrial facilities. Resource protection or enhancement projects such as coastal habitat conservation or restoration projects should also consider longer time frames of 100 years or more, as these types of projects are typically meant to last in perpetuity." (Pages 101-102.)

On this issue, Ms. Israel's counsel accuses Staff of "outrageous" "gamesmanship," but his argument simply misreads the LCP. The Malibu LCP is one of the few certified LCPs that uses a 100-year design life, but only for oceanfront properties, not an inland property, as here. In attaching a letter from the Coastal Commission, counsel confuses this Project, which is on the inland side of Malibu Colony Drive (just like her property), with another project on the oceanfront on Broad Beach. With the oceanfront project, the Commission's staff made reference to the 100-year design life of the proposed project because, as shown below, that is what the LCP requires.

All of the relevant LCP provisions which reference the 100-year design life pertain exclusively to oceanfront development:

LUP Policy 4.23: "*New development on a beach or oceanfront bluff* shall be sited outside areas subject to hazards (beach or bluff erosion, inundation, wave uprush) at any time during the full projected 100-year economic life of the development." (Italics added.)

LIP Section 10.4(B): "*New development on a beach or oceanfront bluff* shall be sited outside areas subject to hazards (beach or bluff erosion, inundation, wave run-up) at any time during the full projected 100 year economic life of the development." (Italics added.)

LIP Section 10.4(H): "*All new beachfront and bluff-top development* shall be sized, sited and designed to minimize risk from wave run-up, flooding and beach and bluff erosion hazards without requiring a shoreline protection structure at any time during the life of the development."

b. The Low Risk Aversion, High Emissions Scenario

Ms. Israel's counsel next argues that under the Coastal Commission's Sea Level Rise guidance, the Applicant's sea level rise analysis should have considered the "medium-high risk aversion, high emission" sea level rise scenario, not the "low risk aversion, high emissions" scenario. However, he misplaces reliance on the Coastal Commission staff letter attached to his

response letter. The Commission staff's letter pertained to a new beachfront residence proposed on Broad Beach. If this Project were proposed on the oceanfront, it would have been appropriate to utilize the medium-high risk aversion, high emission scenario. But it is not. It is located inland of the oceanfront, like all of the homes on inland side of Malibu Colony Road, again including Ms. Israel's. The low risk aversion, high emission's scenario was appropriately used because the proposed residence is located landward of the existing bulkhead on the beach, the homes protected by the bulkhead, and Malibu Colony Road.

c. The "Flood Gates"

Finally, Ms. Israel's counsel seizes on the condition recommending a "flood gate," and he claims that is insufficient to support a finding that the Project is sited at the most landward feasible location and it highlights the inadequacy of the sea level rise analysis. First, this assertion does not help his client. The Project is sited away from the State Park to best protect the ESHA in the State Park and widen the ESHA buffer to the extent practicable. If the house were to move further "landward," it would create significantly greater view blockage from Ms. Israel's second story – not a result that either the Applicant or Ms. Israel would want.

The "flood gate" also had nothing to do with the sea level rise scenario discussed above. It was suggested by the Applicant's coastal engineer, and accepted by City engineering staff, as a belt and suspenders approach in connection with the indirect sea level rise scenario coming from wave action east (downcoast) of the Colony. That analysis noted that the waves at that location would be farther out and would arrive at the beach at the wrong angle. He assumed, nevertheless, that the water would run up the beach and he purposely ignored that most of the water would then run back to the ocean. Instead, he conservatively assumed that all of the surface water (not waves) would continue toward the high berms in the State Park and beyond, and some water would "turn left" and disperse to the Applicant's downcoast wall and Colony Road, and end up at about 8" high at the entrance to the property. He noted this would be a one-time event which has a 1 chance in 20,000 of ever occurring, and, if it did, that worst case scenario would happen towards the end of the Century.

Contrary to counsel's suggestion, this would have no impact on the Advanced Treatment System tanks in the driveway because they are proposed and required to be anchored and flood-proofed. Further, under the MOU between the City and Regional Water Quality Control Board, this area, including this property, is supposed to be on sewers by 2024. It is, therefore, a non-issue.

Finally, counsel characterizes the "flood gate," which simply a gate, and the perimeter privacy walls at the front of the house as some sort of "seawall/shoreline protective device, which it not. Nearly all of the homes on the inland side of Malibu Colony Road have privacy walls. The apparent suggestion of counsel that the Applicant should not be permitted to have a privacy

wall, the consequence of his characterization of the wall as a “seawall/shoreline” protective device, is nonsense.

The Project Conforms to the LCP’s ESHA Overlay Provisions for Night Lighting

Ms. Israel has a two-story house that abuts the State Park and has no night lighting restrictions at all. Yet, her counsel argues the alternative of a one-story house should have been considered on this property (to protect her view) and not dismissed, and she claims the Project will increase illumination within the ESHA and ESHA buffer.

Unlike the other 13 properties that border the State Park, including Ms. Israel’s, the Applicant’s proposed home will strictly conform to the City’s Dark Sky Ordinance. The conditions require it (Conditions 77-81). The house has no perimeter lighting. It will use mechanical shades that greatly minimize interior illumination at night. Exterior lighting will be recessed and directed downward. The photometric lighting study submitted demonstrates that in contrast to Ms. Israel’s residence, the Applicant’s exterior and interior lighting will prevent light migration to the offsite areas and effectively block the uncontrolled lighting from the residences behind it. It will serve as a model for how the City’s Dark Sky Ordinance is intended to work.

The Project Complies With the 25% Allowable Development Area in ESHA Buffers

Ms. Israel’s counsel next argues that the property line walls, site walls and septic tanks should have been included in the calculation of the 25% allowable development area. The definition of “development area” specifically excludes all three from the allowable development area calculation.

The LUP definition of “development area” allows exclusion of one 20-foot wide access driveway.” The Project proposes a 20-foot wide access driveway. The advanced treatment tanks are sited within that allowable driveway, and the tanks are subsurface and would not be counted as part of the development area in any event.

The “development area” definition also provides that “[i]f it is demonstrated that it is not feasible from an engineering standpoint to include all graded slopes within the development, then graded slopes may be excluded from the approved area.” The grade on this site will be raised to accommodate wave uprush, as required in the coastal engineering report and for drainage purposes as shown on the grading and drainage plans. The walls are necessary to contain that raised grade and they serve to protect the development from flooding in the distant future due to sea level rise.

Counsel states the solid perimeter walls do more than retain fill at 6 feet in height. On this point, he is correct. The perimeter wall is necessary to contain the raised grade. However, one does not build a 2-foot high retaining wall on the perimeter of a lot to provide privacy or ESHA and ESHA buffer protection. The standard 6 foot high block perimeter wall here ensures protection of the habitat offsite and is far more effective than chain link, wrought iron or wood fencing in containing the grade, preventing ground lighting spillover, noise, migration of ornamental plants due to site landscaping, and damage or disruption to offsite flora and fauna caused by domestic pets.

Lastly, the definition of “development area” excludes “the fuel modification area required by the Los Angeles County Fire Department for approved structures that may extend beyond the limits of the approved development area.” A property owner is required to maintain defensible space of 100 feet from the rear of an occupied structure, but offsite brush clearance is not permitted on Parkland. (Gov. Code, §§ 51182, 51184.) Here, it is not possible to maintain 100 feet of defensible space. The block wall provides the necessary non-combustible separation between the native/woody, non-irrigated vegetation in the Park and the on-site vegetation. Thus, it was the Fire Department that suggested the block wall and approved it on the fuel modification plans as an essential, permitted feature of the exempt fuel modification area.

The Project Complies with the Wastewater System Requirements of the LCP, the Municipal Code, the City’s “Policy for Environmental Health Review of Development Projects Within the Civic Center Prohibition Area.”

Appellant’s counsel erroneously contends the proposed wastewater system does not conform to the City’s Civic Center Prohibition Area. He offers no facts or analysis, but simply states it “defies logic” that a 5,220 sf house will have the same wastewater flows as the existing residential development on the lot.¹ The issue is not measured by square footage, and the Project strictly conforms to the standards in the LCP, the Municipal Code, and the City’s recent “Policy for Environmental Health Review of Development Projects,” which Applicant’s wastewater engineer carefully analyzed and the City’s technical staff reviewed and approved.

Under the MOU between the City and the Regional Water Quality Control Board, development in the Civic Center Prohibition Area can occur in the interim as long as it does not expand the capacity of the systems or increase water flows. With approval of the Regional Board, in May 2020, City staff clarified the “Policy for Environmental Health Review of Development Projects Within the Civic Center Prohibition Area.” For residential occupancies, that Policy first

¹ Counsel inaccurately draws comparison to the original house. The existing house, however, is approximately 1260 sf and the existing guest house (bedroom and kitchen) on the property is approximately 500 sf.

provides that any increase in the number of existing bedrooms or plumbing fixture units is considered a new discharge of sanitary waste. The Policy, however, further provides:

“As an alternative to bedroom and fixture unit analysis, an applicant may submit an engineering report to identify waste discharge quantities (flow and pollutant loading) for a specific proposed development project to identify waste discharge quantities (flow and pollutant loading) for a specific proposed development project versus those existing prior to the Prohibition, to demonstrate that the project will produce no discharge of wastewater exceeding the quantity discharged from the OWTS existing prior to the Prohibition.”

The Applicant’s Wastewater Engineer, Kevin Poffenbarger, of EPD Consultants provided a detailed Water Balance Report specifically analyzing the proposed four bedroom Project. The report demonstrated that the advanced treatment system does conform to the City’s Civic Center Prohibition Area Policy. The City’s Environmental Health Administrator reviewed that engineering report and succinctly responded to appellant’s contention as follows:

“The proposed flow from the number of bedrooms is consistent with the existing use. The property currently has a main house with 2 bedrooms and a guest house. Each dwelling has 1 master (300 gpd – based on occupancy of 2 people) and the main house has 1 additional standard bedroom (150 gpd). The main house has a flow of 450 gpd and the guest house has 300 gpd for a total of **750 gpd**. The proposed single house has 4 bedroom with a master (300 gpd) plus 3 standard bedrooms (150x3 = 450 gpd) for a total of **750 gpd**. The proposed flow is equal to the existing use with no increase in wastewater flow.

“The drainage fixture unit values for the existing use was difficult to determine due to lack of complete records and was based on best available estimates through county, city, assessor and owner records. Although the proposed fixture unit calculation exceeds the existing use, discussions with the Regional Water Board allows the Applicant to provide additional data to support no increase in flow from fixture units for the proposed project. The proposed flow from fixture units was limited to no more than 750 gpd. A water balance report was prepared by the OWTS design engineer (EPD) who is experienced in water and wastewater calculations. The information provided in the water balance report was supported by EPA data and methodology. The report demonstrated that the proposed project will not result in an increase in wastewater flow. Environmental Health in consultation with the Regional Water Board determined that the provisions of the Civic Center Prohibition Area Policy Was demonstrated and met the requirements for conformance review.” (Council Agenda Report, p. 305.)

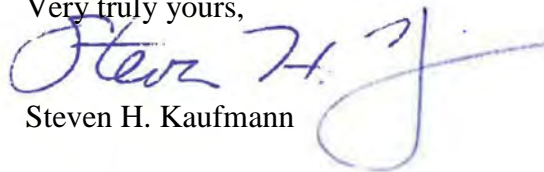
The Revised Project – the Moving of Septic Tanks 5 feet From the Garage – Was Not Required but Was Undertaken Simply to Eliminate a Makeweight Issue

Ms. Israel's counsel ends his letter by complaining about the location of the septic tanks in relation to the garage, a non-issue. LIP section 18.6(M) requires that the septic tanks be located 5 feet from the garage. But even counsel points out that Footnote 9 to Table 15.42.030(E) provides "[s]etback distances may be reduced in accordance with recommendations provided in a geotechnical report prepared by a civil engineer or professional geologist and addressed in the OWTS design report and accompanying geotechnical report." The Applicant provided the required letter from the project architect, structural engineer and soils engineer certifying that the location of the Advanced OWTS next to the garage is appropriate and safe because it will use a sealed tank to prevent infiltration of water and will include flood-proofing and anchoring measures for the underground tank. The Applicant fully complied with the LIP. But, it was a simple matter to move it five feet from the garage, so the Applicant did that to eliminate the issue.

Conclusion

As noted above, the Council Agenda Report addresses each of the foregoing issues in detail and demonstrates why they have no merit. The Applicant accepts all of the conditions recommended by Staff and respectfully requests your adoption of Resolution No. 20-55, determining that the Project is categorically exempt and approving CDP No. 18-035, Variance No. 19-062, and Demolition Permit No. 18-010.

Very truly yours,



Steven H. Kaufmann

ccs: Mike Pierson (via e-mail mpierson@malibucity.org)
Skylar Peak (via e-mail speak@malibucity.org)
Karen Farrer (via e-mail kfarrer@malibucity.org)
Jefferson Wagner (via e-mail jwagner@malibucity.org)
Rick Mullen (via e-mail rmullen@malibucity.org)
Reva Feldman (via e-mail rfeldman@malibucity.org)
Christi Hogin, Esq. (via e-mail Christi.Hogin@bbklaw.com)
Trevor Rusin, Esq. (via e-mail Trevor.Rusin@bbklaw.com)
Richard Mollica (via e-mail rmollica@malibucity.org)
Raneika Brooks (via e-mail rbrooks@malibucity.org)
Mike Phipps (via e-mail mphipps@malibucity.org)
Melinda Talent (via e-mail mtalent@malibucity.org)
Marny Randall (via e-mail [REDACTED])

City Council Meeting, 10-12-20
ITEM 4.A

Applicant's Briefing Book

Appeal from Planning Commission
Resolution No. 20-18, Approving a
Single-Family Residence

23325 Malibu Colony Drive,
Owner: Axel 23324, LLC

A copy of these briefing materials has been provided to Staff.

Project Description

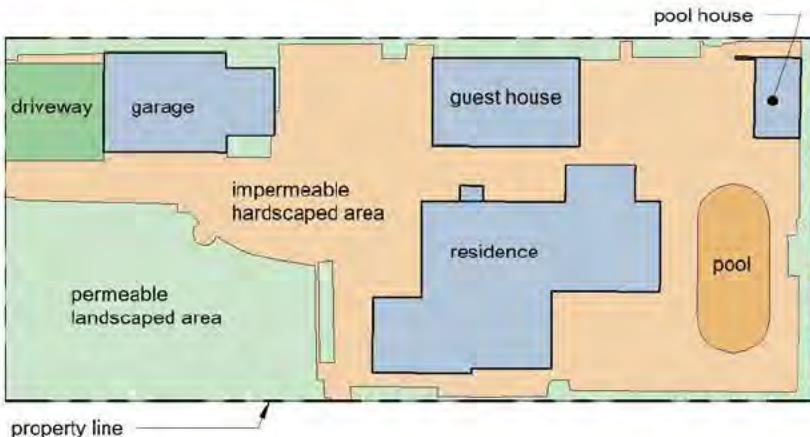
2

- ❑ Demolition of existing one-story single-family residence and associated development totaling 2,963 sf over 70% of the property
- ❑ Construction of new 5,220 sf, two-story single-family residence, swimming pool, decks, permeable surfaces and driveway with a Development Area limited to 25% of the property
- ❑ Replacement of existing septic system and untreated effluent with Advanced Onsite Wastewater Treatment System and tertiary treatment
- ❑ Addition of biofilter and green roof

Existing vs. Proposed

3

EXISTING

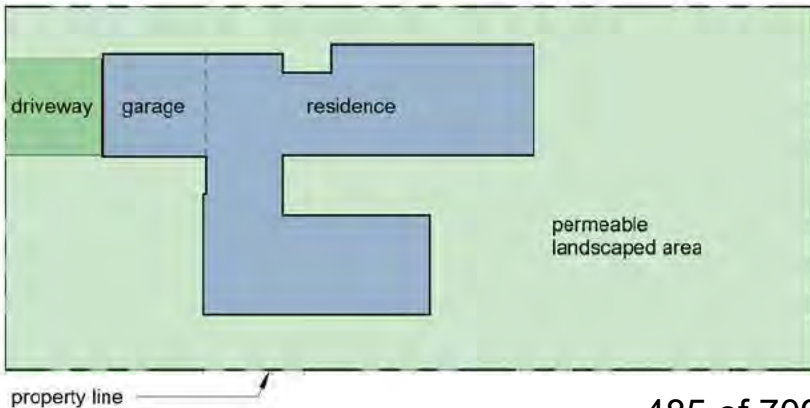


total lot area:	12,503 sf
total existing development area:	8,654 sf
total development percentage of lot area:	69 %

<u>development area:</u>	
building footprint:	2,963 sf
impermeable hardscape:	5,213 sf
pool:	478 sf
total:	8,654 sf

<u>items/area exempt from development:</u>	
driveway:	400 sf
permeable landscaped area:	3,449 sf
total:	3,849 sf

PROPOSED



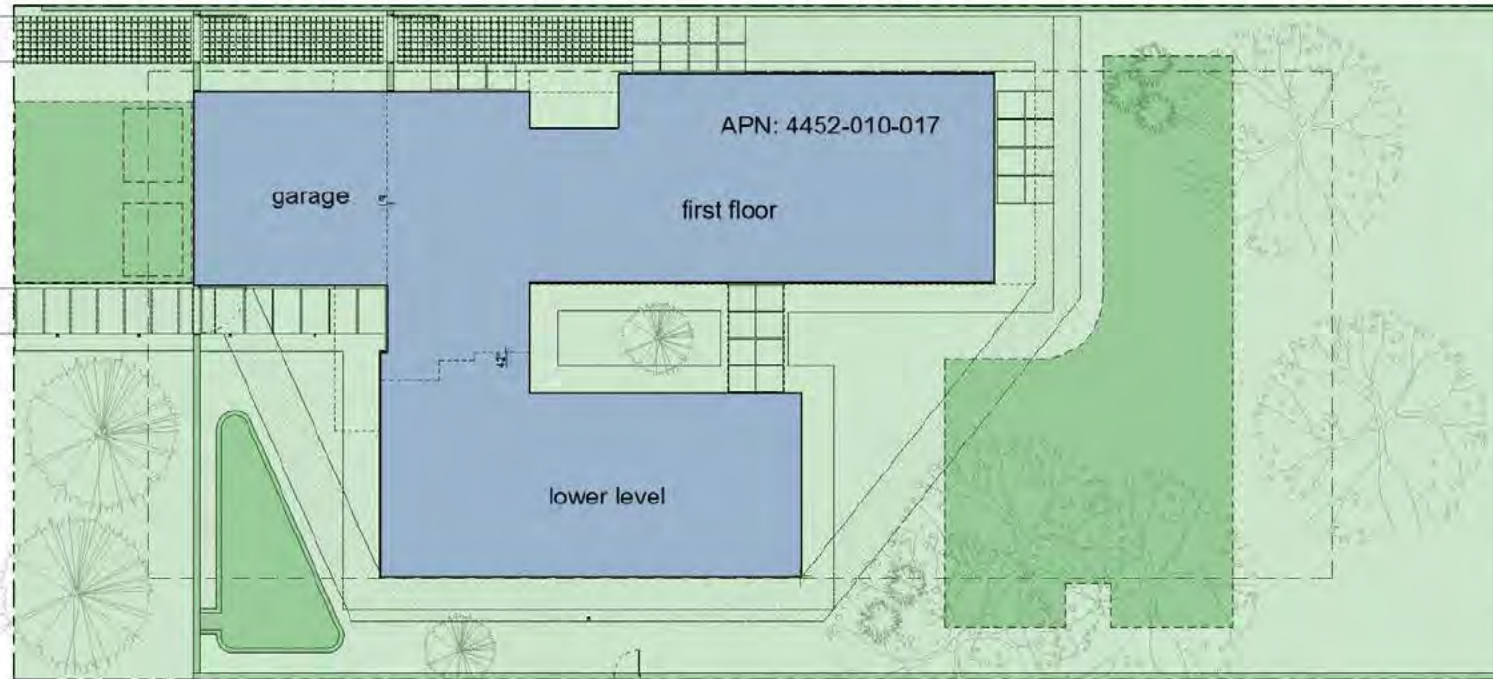
total lot area:	12,503 sf
allowable development area - 25% of lot area:	3,125 sf
total proposed development area:	3,076 sf
total proposed development percentage of lot area:	24.6 %

<u>development area:</u>	
building footprint:	3,076 sf
total:	3,076 sf

<u>items/area exempt from development:</u>	
driveway:	400 sf
permeable landscaped area:	9,027 sf
(proposed permeable area 72 % of lot area)	
total:	9,427 sf

Site Plan and 70% Permeable Areas

4



total lot area: 12,503 sf
 allowable development area: 3,125 sf (25% of total lot area)
 total development area: 3,076 sf (24.6% of total lot area)

development area

building footprint: 3,076 sf

items/area exempt from development area

driveway (including AOWTS - septic tanks): 400 sf
 property line walls: 260 sf
 site walls: 32 sf
 AOWTS - dispersal field: 1,500 sf
 WQMP - filter (including bio-filtration planter): 248 sf

landscaped area

impermeable: 0 sf
 permeable (exempt from development area): 6,987 sf

sub-total: 3,076 sf

486 of 709

6,987 sf

total: 12,503 sf (equals lot area)

Project Benefits

5

- ❑ Compliance with 25% “development area” requirement to reduce ESHA buffer encroachment
- ❑ Change from 70% impervious surfaces to under 30%, greatly increasing permeable surfaces, greatly decreasing runoff in 100-year storm
- ❑ Addition of biofilter and green roof for improved water quality
- ❑ Replacement of conventional septic system and discharge of untreated effluent into water table with Advanced OWTS providing tertiary effluent treatment and shallow dispersal system, drastically reducing discharge volume and pollutants.
- ❑ Strict compliance with City’s Dark Sky/Night Lighting Ordinance

Project Conforms with Scenic, Visual and Hillside Resource Protection Height Requirements

6

- Appellant incorrectly argues 18' height limit applies – 30' height limit in Malibu Colony Overlay governs
- Applicant proposes 28'8" high residence, with massing of the house broken in middle of structure
- Proposed house no more visible from public locations, including the beach, than any other Colony house
- Appellant's second-story view is not an LCP-protected view, but Appellant retains sweeping, postcard views of Carbon Beach, Malibu Pier, Adamson House, PCH bridge, and Malibu Lagoon State Park

Visual Impact Study – From Lagoon Path

7



Visual Impact Study – From Lagoon Observation Deck

8



Visual Impact Study – From Lagoon Path

9



Visual Impact Study – From the State Park

10



Applicant's Visual with Telephoto vs. Actual View

11



Image provided by Judith Israel



Photo made of proposed residence, rectangle represents area of J. Israel's image.

View From Appellant's Second Story

12



Project Conforms with LCP's ESHA Overlay Night Lighting Provisions

13

- ❑ Project lighting strictly controlled to comply with City's Dark Sky Ordinance, as proposed and conditioned
- ❑ Mechanical window shades, controlled by a timer, greatly minimize night interior illumination
- ❑ Exterior lighting to be recessed, including walkway lighting (no more than 2' high), directed downward and restricted in intensity
- ❑ No perimeter lighting
- ❑ Photometric Light Study demonstrates interior and exterior lighting will prevent light migration to offsite areas, and house will block uncontrolled lighting from the Colony houses behind it

Photometric Night Lighting Study - Existing

14



Photometric Night Lighting Study - Proposed

15



Photometric Night Lighting Study- Existing

16



Photometric Night Lighting Study- Proposed

17



Project Conforms with LCP's 25% Development Area Limitation

18

- ❑ Eliminates development over 70% of the site to conform to 25% “development area” limitation
- ❑ Appellant incorrectly contends cement block perimeter wall must be included in “development area”
- ❑ Neither City nor Coastal Commission include perimeter fences in the 25% “development area” limitation
- ❑ Cement block wall serves multiple important purposes: (1) more effective than chain link, wrought iron or wood in protecting State Park ESHA and ESHA buffer, (2) prevents light spillover, (3) attenuates noise, (4) prevents migration from ornamental plants, and (5) prevents offsite damage from domestic pets

Project Conforms with LCP's 25% Development Area Limitation

Page 2

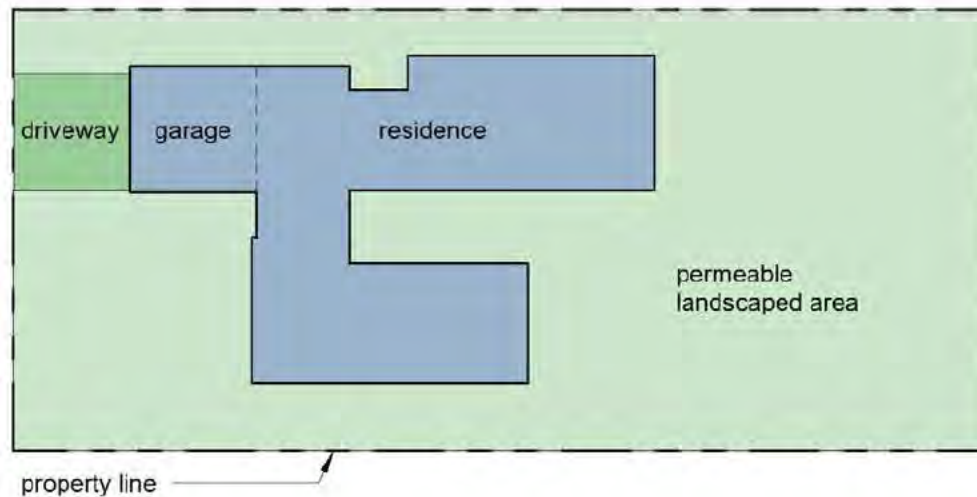
19

- LCP definition of “development area” excludes:
 - graded slopes – site grading here raised to accommodate remote possibility of wave uprush
 - fuel modification area – cement wall essential feature of fuel mod because Government Code (GC) requires property owner to maintain a defensible space of 100' from structure, BUT GC section 51184 prohibits off-site brush clearance on parkland
- Cement block wall essential to hold back the raised grade
- Cement block wall necessary to provide non-combustible separation between onsite vegetation and native/weedy plants in State Park
- Fuel Modification Unit of County Fire Dept. recommended and approved cement block wall

Project Conforms with LCP's 25% Development Area Limitation

20

PROPOSED



total lot area:	12,503 sf
allowable development area - 25% of lot area:	3,125 sf
total proposed development area:	3,076 sf
total proposed development percentage of lot area:	24.6 %

<u>development area:</u>	
building footprint:	3,076 sf
total:	3,076 sf
<u>items/area exempt from development:</u>	
driveway:	400 sf
permeable landscaped area: (proposed permeable area 72 % of lot area)	9,027 sf
total:	9,427 sf

Project Conforms with LCP Section 10.4 -- All Sea Level Rise Scenarios Addressed

21

- Applicant's coastal engineer analyzed 3 different SLR scenarios – All highly unlikely occurrences – City Engineer approval
- 1st – Assumed no oceanfront homes or existing bulkhead protecting them
 - Concluded maximum uprush would barely reach the garage in front of residence
 - Finished floor elevation of house raised above assumed maximum wave uprush elevation
 - AOWTS tanks sealed, flood proofed and anchored; dispersal field at rear of property out of uprush zone
- 2nd – No wave uprush issue from Malibu Lagoon State Park – earthen berms creating lagoon sections significantly higher than property elevation, protecting against future SLR in the Lagoon

Project Conforms with LCP Section 10.4 – All Sea Level Rise Scenarios Addressed

Page 2

22

- 3rd, assumed possible maximum wave uprush/SLR from downcoast beach – an isolated, one time event with a 1/20,000 (.00005%) chance of occurring
 - waves come from wrong direction and break too far out to create wave uprush
 - some water would return to the ocean
 - some water would continue north towards State Park/elevated berms
 - some water would turn left and disperse toward the eastern property wall
 - some water would turn left and disperse down Colony Road, which is lower than site elevation – about 8” at the property entrance
 - Staff Engineer agrees – one time event near 2095 easily addressed by sand bags, inflatable dam, temporary flood gate to block entry of water
 - AOWTS protected from flooding, and non-issue due to sewer in 2024

Sea Level Rise Scenarios Addressed

23



Project Conforms with LCP/MC Requirements for Replacement of Septic System with AOWTS

24

- Replacement of conventional septic system discharging untreated effluent into water table with Advanced Onsite Wastewater Treatment System (AOWTS) providing tertiary effluent treatment and shallow dispersal system, drastically reducing discharge volume and pollutants.
- Capacity of Advanced OOWTS – complies with MC and LCP
 - 4 bedrooms – requires design flow of 750 gals/day; Project = 750 gals/day
 - 64 drainage fixtures –min. septic tank capacity of 2500 gals required; Project has 2 tanks – septic tank and treatment tank, with combined volume of 3000 gals/day
 - LIP requires low-flow plumbing fixtures – MC requires residence not exceed max no. of fixtures or bedrooms that can support max. daily flow
 - With modern, low-flow plumbing fixtures, Project complies with max. flow of 750 gals/day

Project Conforms with LCP/MC Requirements for Replacement of Septic System with AOWTS Page 2

25

- ❑ Conforms with “Civil Center Prohibition Area Policy” -- development in Civic Center can occur until 2024 if AOWTS does not expand system capacity or increase wastewater flows
 - City “Policy for Environmental Health Review of Development Projects in Civic Center Prohibition Area – as alternative to bedroom/fixture analysis, engineer’s report that Project will produce no discharge of wastewater exceeding quantity discharged from septic system prior to 2009
 - Water Balance Report – approved by City Staff
 - Prior to 2009: guest house with kitchen sink = 300 gals/day for first bedroom of guest house, master bedroom in main house = 300 gals/day, second bedroom = 150 gals/day -- total of 750 gals/day
 - Proposed: for four bedroom house, same occupancy load – guest house = 2 persons, main house = 3 person (master and second bedroom) = total of 5 persons at 150 gals/day per person, or 750 gals/day

Project Conforms with MC Requirements within Special Flood Hazard Areas

26

- ❑ City's Coastal Engineer, Geotechnical Staff, Public Works Department and County Fire all determined – no “significant adverse impacts on site stability or structural integrity from “flooding”
- ❑ MC designates City Floodplain Administrator, Rob Duboux, to make the flood map determination, which he properly did based on flood zones shown on updated 2018 FEMA map
- ❑ House anchored to prevent flotation, collapse or lateral movement and designed to minimize flood damage
- ❑ AOWTS designed to be flood proofed; underground tanks anchoring

Project Conforms with LCP Archaeological Requirements

27

- ❑ Property developed for decades – no archaeo found on property
- ❑ Area studied at length – no evidence of known archaeo resources in vicinity
- ❑ One much studied site – LAN 264 on the NE side of Lagoon, encompassing Adamson House, Surfrider Beach parking lot, area north of PCH
- ❑ EIR for State Park – reviewed 20 archaeo investigations – no archaeo resources
- ❑ LIP – When Planning Manager – as here – determines Project will not have archaeo impacts, no further cultural resources review or notice required
- ❑ Conditions 13-16 require presence of qualified archaeologist during construction in any event

Conclusion

28

- The Applicant appreciates Staff's efforts in reviewing the Project and appeal
- The Applicant supports the Staff Recommendation
- The Applicant requests:
 - Adoption of Reso. No. 20-55, determining the Project to be categorically exempt from CEQA
 - Approval of CDP No. 18-035
 - Approval of Variance No. 19-062
 - Approval of Demolition (DP) No. 18-010

THANK YOU



Santa Ynez Band of Chumash Indians
Tribal Elders' Council

P.O. Box 517 ♦ Santa Ynez ♦ CA ♦ 93460

Phone: (805) 688-7997 ♦ Fax: (805) 688-9578 ♦ Email: elders@santaynezchumash.org

October 16, 2020

City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Att.: Raneika Brooks, Associate Planner

Re: 23325 Malibu Colony Demolition and Rebuild of One Story Single Family Residence

Dear Ms. Brooks:

Thank you for contacting the Tribal Elders' Council for the Santa Ynez Band of Chumash Indians. We would like to have a formal consultation with regards to the above mentioned project.

We would like to have a formal consultation concerning this project. Please contact Culture Director, Nakia Zavalla at your earliest availability for a time and date. You may contact her via email, phone or mail. See below for contact information.

NZavalla@santaynezchumash.org, (805) 688-7997
P.O. Box 517, Santa Ynez, CA 93460

Thank you for your time and attention to this matter.

Sincerely Yours,

Susan Arakawa

Administrative Assistant for/
The Tribal Elders' Council Governing Board
Tribal Hall
100 Via Juana Road
P.O. 517
Santa Ynez, CA 93460
(805) 688-7997 ext. 4119

**NOTICE OF PUBLIC HEARING
CITY OF MALIBU
PLANNING COMMISSION**

The Malibu Planning Commission will hold a public hearing on **MONDAY, August 2, 2021, at 6:30 p.m. in the Council Chambers, Malibu City Hall**, 23825 Stuart Ranch Road, Malibu, CA, on the project identified below.

COASTAL DEVELOPMENT PERMIT NO. 18-035, VARIANCE NO. 19-062, AND DEMOLITION PERMIT NO. 19-003 - An application 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 a variance for the reduction of the required 100-foot buffer from an Environmentally Sensitive Habitat Area (Malibu Lagoon). On November 9, 2020, City Council remanded to the Planning Commission.

Location:	23325 Malibu Colony
APN:	4452-010-017
Zoning:	Single-family Medium Density (SFM)
Applicant:	Marny Randall
Owner:	AXEL 23324, LLC
Appealable to:	City Council and California Coastal Commission
Environmental Review:	Categorical Exemption CEQA Guidelines Sections 15301(l), 15303(e), and 15303(a)
Application Filed:	August 29, 2018
Case Planner:	Raneika Brooks, Associate Planner (310) 456-2489, extension 276 rbrooks@malibucity.org

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Director analyzed the proposed project and found that it was 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. The Planning Director has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

A written staff report will be available at or before the hearing for the project. All persons wishing to address the Commission regarding this matter will be afforded an opportunity in accordance with the Commission's procedures.

Copies of all related documents can be reviewed by any interested person at City Hall during regular business hours. Oral and written comments may be presented to the Planning Commission on, or before, the date of the meeting.

LOCAL APPEAL – A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within ten days following the date of action for which the appeal is made and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org/planningforms or in person at City Hall, or by calling (310) 456-2489, extension 245.

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

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

Richard Mollica, Planning Director

Publish Date: July 8, 2021



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3883 Ruffin Road
 San Diego, California 92123
 (858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
 CHARLTON H. BONHAM, Director



RECEIVED
 JANUARY 19, 2022
 PLANNING DEPT.

January 18, 2022

Carl Lisberger
 2049 Century Park East, Suite 1700
 Los Angeles, CA 90067
clisberger@manatt.com

Lake or Streambed Alteration Notification Not Required, EPIMS Notification No. LAN-26837-R5, 23325 Malibu Colony Road

Dear Mr. Lisberger:

The California Department of Fish and Wildlife (CDFW) reviewed your Lake or Streambed Alteration (LSA) Notification. CDFW has determined that the project described in your LSA Notification is not subject to the notification requirement in Fish and Game Code section 1602 and that your fee will be refunded.

As described in your Notification, the project is located at 23325 Malibu Colony Road, Malibu, Los Angeles County, California 90265; Assessor's Parcel Number (APN) 4452-010-017. The project description includes the demolition of the existing improvements and structures at the project site and the construction of a new single-family home with guest house, garage, pool, pool house, and on-site wastewater treatment system. The impacts from this project will be limited to the land within the boundaries of the property lines for APN 4452-010-017 and will not extend into Malibu Lagoon, Malibu Creek, or the Pacific Ocean.

CDFW finds that the project will not substantially divert or obstruct the natural flow of any river, stream, or lake; substantially change or use any material from the bed channel or bank of any river, stream, or lake; or deposit or dispose of debris, waste, or other material where it may pass into any river, stream, or lake.

A copy of this letter and your submitted Notification shall be available at all times at the work site. This letter and the Notification for this project can be accessed any time by following the steps below:

1. Log into EPIMS at <https://epims.wildlife.ca.gov/index.do>.
2. From the Main Menu, select Permit Tracking.
3. Select the project associated with the permit number listed in this email.
4. From the Permit Components list, click on the Correspondence form.
5. Under the Documents from CDFW section, click on the blue hyperlink file name ending with NNR.

Conserving California's Wildlife Since 1870

Carl Lisberger
January 18, 2022
Page 2 of 2


When the signed letter is available, go to Permit Tracking, click on your Project Title, select the LSA Notification Not Required Letter from the permit components, and click Print at the top of the page to print your final letter. Once you have printed your Letter, you are authorized to begin your project activities. A copy of this letter, submitted Notification, and all associated attachments must be available at the project site at all times. You are responsible for complying with all applicable local, state, and federal laws in completing your work.

Please note that if you change your project so that it differs materially from the project you described in your original Notification, you will need to submit a new Notification and corresponding fee to CDFW.

Your refund may take from four to six weeks to process and a check will be sent to the applicant address provided in your notification.

If you have any questions regarding this matter, please contact Frederic (Fritz) Rieman, Environmental Scientist, at (562) 619-0605 or by email at Frederic.Rieman@wildlife.ca.gov.

Sincerely,

DocuSigned by:

5991E19EF8094C3...

Victoria Tang
Senior Environmental Scientist (Supervisory)

ec: California Department of Fish and Wildlife

Frederic (Fritz) Rieman, Environmental Scientist
Frederic.Rieman@wildlife.ca.gov

Victoria Tang, Senior Environmental Scientist (Supervisory)
Victoria.Tang@wildlife.ca.gov

Susan (Sue) Howell, Staff Services Analyst
Susan.Howell@wildlife.ca.gov

WRA, Inc.

Mike Nieto, San Diego Office Director
nieto@wra-ca.com



City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

COASTAL ENGINEERING REVIEW SHEET

Project Information

Date: June 20, 2022
Site Address: 23325 Malibu Colony Road
Lat:
Lot/Tract/PM #:
Applicant: Marny Randall
Phone #: 310-395-2615 **Email:** marnyrandall@gmail.com
Project Type: Demolish existing Single-Family Residence, construct new 2-story Single-Family Residence, pool, perimeter privacy wall and NAOWTS
Review Log #: C582
Lon:
Planning #: CDP 18-035
BPC/GPC #: N/A
Planner: R. Brooks

Submittal Information

Consultant(s): David C. Weiss, S.E. (Weiss, SE 1867)
Report Date(s): 12-3-2020, 8-3-2020, 9-3-2019, 6-19-2019, 12-10-2018
Project Plan(s): Topographic Survey (February 2018, rev. 10-26-18, Peak Surveys), Architectural Plans (Kovac, 18 sheets, rev. 4-30-21), Grading Plans (RJR Engineering, 12 sheets, 10-16-19), AOWTS plans (EPD Consultants, rev. 10-19-19, 6-27-18)
Previous Reviews: 5-31-2021 (Substantial Conformance), 2-17-2021 (Appeal Memo), 10-22-2020 (Planning memo) 12-5-19, 7-30-19, 2-8-19
FEMA SFHA: VE (BFE = +19 ft NAVD88, FEMA 2021)

Review Findings

Planning Stage

- ☒ **ACCEPTABLE** in PLANNING-stage for substantial conformance with previously approved plans, from a coastal engineering perspective, with conditions. The listed Building Plan-Check Coastal Review Comments shall be addressed prior to Building Plan-Check approval.
- ☐ **NOT ACCEPTABLE** in PLANNING-stage from a coastal engineering perspective. The listed Planning Stage Coastal Review Comments shall be addressed prior to Planning-stage approval.

Building Plan-Check Stage

- ☒ **Awaiting Building plan check submittal.** The listed 'Building Plan-Check Stage Review Comments' may be deferred for Planning Stage approval but shall be addressed prior to Building Plan-Check Stage approval.

The referenced revised plans and report were reviewed from a Coastal Engineering perspective relative to the requirements of the following City codes, guidelines and CCC recommended guidance:

- City of Malibu Local Coastal Program – Land Use Plan and Local Implementation Plan (LCP-LUP and LCP-LIP)
- Malibu Municipal Code – Title 15, Buildings and Construction
- City of Malibu Guidelines for the Preparation of Coastal Engineering Reports and Procedures for Report Submittal. (referred to herein as *Coastal Engineering Report Guidelines*), and
- California Coastal Commission Sea Level Rise Policy Guidance, Final Adopted Science Update, November 7, 2018

Background: The subject property, with site elevations ranging from +10.6 feet to +11.0 feet (NAVD88), has a unique low-elevation location on a sand spit at the eastern end and north side of Malibu Colony Road, generally bounded by Malibu Lagoon, Malibu Creek, and a row of existing beachfront residential developments that have an existing shoreline protection device. More specifically, the site is immediately bounded on the north and east by vegetated lagoon margin maintained by the state park, on the south by Malibu Colony Road, and on the west by existing residential development. The property does not front the ocean and is not considered “beachfront” because it is not subject to coastal processes, oceanographic hazards, and coastal resource concerns that are typical to a *beachfront* property (e.g., wave action, breaking waves, wave uprush, littoral drift, beach scour (avulsion) and aggradation, sand supply, migration of the mean high tide line, and lateral public access). The entire property is located outside the FEMA Special Flood Hazard Areas for Malibu Lagoon and Creek (Zone AE, El. +8 ft NAVD88) and coastal flooding (Zone VE, El. +19 ft NAVD88) updated April 21, 2021 (FIRM panel 06037C1541G). The site is located within the state-mapped tsunami inundation zone, as is all of Malibu Colony. Notwithstanding the site’s location outside of the FEMA Special Flood Hazard Areas, the primary concern for the new proposed single-family residence and new onsite wastewater treatment system at the site is the potential for coastal flooding related to sea level rise. Considering the site location, and prevailing public sentiment and recent Coastal Commission analyst commentary regarding sea level rise for *beachfront* projects within the City, an evaluation of coastal hazards, principally wave uprush and the potential for coastal flooding at the site and impacts to the NSFR and NOWTS, was requested by City staff and subsequently addressed by the applicant. The following sections summarize the project review to date from a coastal engineering perspective, and conclusions with respect to project conformance to City-adopted standards.

Existing Development: The property is located at the eastern end of Malibu Colony Road, bordered on the north by a vegetated trail along the edge of the Malibu Lagoon (California State Parkland), to the east by vegetated backland and Surfrider Beach/Malibu Point access trail bordering Malibu Creek (also California State Parkland), and on the south by Malibu Colony Road and the parking area at the eastern end of the road. Developed lots south of Malibu Colony Road and the parking area are occupied by single family homes protected by a continuous shoreline protection device (bulkhead seawall) running along the south edge of the developed properties. Existing development on the subject property consists of a single-family residence, surrounded by at-grade patios, a detached garage, an accessory dwelling unit, a pool, and detached pool house at the rear of the property. The current elevation of the property is between +10.6 and +11 feet (NAVD 1988).

Proposed Development: The revised proposed project consists of demolition of all existing structures, and construction of a 2-story new single-family residence and pool, and installation of a new advanced OWTS utilizing drip dispersal. Eventually the project will connect to the Malibu Civic Center Wastewater Treatment Plant. The proposed building footprint has been reduced in size by 39.21 square feet, to 3,036.79 square feet. The proposed revised finished floor elevations (FFE) are +9.0 feet for the first level located under the pool, +12.0 feet for the garage, and +12.5 feet for the top second level of the house. The second floor and pool deck FFE are +24.67 feet. The finished surface (FS) pool will be located above grade at elevation +24.07 feet. All elevations are referenced to NAVD88 vertical datum.

Project Evaluation: City coastal engineering staff initially conducted a planning-stage review of CDP 18-035, a proposed demolition of an existing Single-Family Residence (SFR) and construction of a new SFR, Onsite Wastewater Treatment System (OWTS) and pool, and provided planning-stage approval on December 5, 2019. That approval was based upon review of an initial coastal engineering report (DCWSE, 12-10-18) and two response reports (DCWSE, 6-19-19 and 9-3-19). Two additional reports were prepared by DCWSE in response to questions raised during the appeal process and were reviewed

by coastal engineering staff via memoranda to the planning department. Those reviews are incorporated herein. The project has been evaluated with regard to wave uprush and sea level rise impacts from several different perspectives and time frames, and additional analyses were presented in response to questions raised during the coastal engineering review to date. Regardless of the various sea level rise parameters analyzed, in the coastal engineering peer review, the project is not considered “beachfront” and is therefore not subject to strict adherence to LCP or MMC requirements for coastal hazard and wave uprush analysis.

The following table shows the various conditions evaluated relative to wave uprush and sea level rise, requested as part of the hazard evaluation, but NOT required to be utilized for design, and is based on the Sea Level Rise Policy Guidance adopted by the CCC (2018) *that should be considered for all beachfront or blufftop development*.

Sea Level Rise	Project life (wave uprush)	Design Year represented by SLR (Risk Aversion)	Resulting wave uprush elevation	Probability of being exceeded (a)	Reference Report
4 feet ^(b)	100-year	2120 (<i>Low</i>) 2076 (<i>Med. to High</i>)	12.61 ft NAVD88, (potential wave uprush just reaches garage)	17% <i>0.5%</i>	DCWSE 12-10-18, 6-19-19, 9-3-19; City Coastal Eng. review letter dated 12-5-2019
6.15 feet ^(c)	75-year	2095 (<i>Med. to High</i>)	Wave uprush does not reach property. Potential for 8-inch flood water bore on east property line.	<i>0.5%</i>	DCWSE, 8-3-20; City Coastal Eng. review Memo 8-18-2020
(a) The probability of exceedance assumes that sea level rise is on track and follows the curves published by the Ocean Protection Council (2012), which assumes a sea level rise of approximately 8 mm/year. Scripps has collected 20 years of data indicating that the current sea level is tracking well below the scenarios presented, and for the last 4 years has been on the order of 1.4 to 1.5 mm/yr.					
(b) Typical uprush scenario for beachfront properties: Wave uprush analysis assumed wave direction perpendicular to Malibu Colony beach and road, a fully scoured beach profile, and the very conservative assumption of an unprotected beach (i.e., that NO shoreline protection device or existing beach front development is present, when in reality, there are legal permitted structures and shoreline protection device). A 100-year timeframe was applied as if project were beachfront. Because property is not beachfront, and there is a permitted shoreline protection device and residential structures located between the site and the ocean, Low risk aversion sea level rise acceptable under this scenario.					
(c) Alternative design scenario with multiple conservative assumptions: Wave uprush from southeast direction (across creek mouth, atypical), existing topography, assumed highest breaking storm wave of 11.7 feet, all water volume assumed to advance landward toward property (no loss to wave backwash, or flow towards creek or lagoon). 75-year time frame for Medium-High risk aversion is acceptable, as project is NOT beachfront.					

The design scenarios evaluated varying project time frames and conditions for potential coastal flooding. The scenarios evaluated (including conservative assumptions of an unprotected beach) indicate that within the life of the project, it will not be subject to wave action, but portions of the property (driveway) may be subject to minor temporary flooding under extreme conditions. It appears that the proposed location of the OWTS treatment tanks within the driveway may be inundated in the design storm event to a depth of less than 0.5 feet under this scenario in 100 years (end of project life). By that time, the project will be connected to the Civic Center WWTP, and therefore the tank location is not a long-term design consideration.

Additionally, during the last two years of hearings and appeals, multiples parties (including the Planning Commission and the City Council) have made assertions or raised concerns which have been answered as follows:

- Economic Life of Structure Used for Coastal Engineering Analysis should be 100 years: Life of the Structure definition within the LCP appears to be applicable to beachfront properties. This property is NOT a beachfront property. The Project Coastal Engineer evaluated a 100-year wave uprush scenario using a 4-foot sea level rise *for design purposes* including some very conservative assumptions (unprotected beach) that are not necessarily required to be made for a non-beachfront property and are also contrary to the actual site conditions (i.e., the site is protected by existing structures south of the project). The Project Coastal Engineer also evaluated a higher sea level rise (6.15 feet) having a much lower probability of exceedance for an atypical direction of wave attack (direction without shoreline protective device, from the southeast, across the mouth of Malibu Creek). These approaches were found to be reasonable and acceptable, considering the non-beachfront site location, and the conditions incorporated into the design.
- Proposed Block Perimeter Wall is a “Seawall” or Shore Protection Device: The property is not located on the shoreline and is not beachfront. The perimeter block privacy wall is not a seawall or shoreline protection device, nor is it designed to function as such, because 1) the design wave uprush does not reach the property line, and 2) the perimeter wall would not “pin” the shoreline position in place (definition of seawall/shoreline protection device) when the shoreline is 150-200 feet away. The perimeter wall does not interact nor interfere with sediment supply or littoral transport of the coastal sand supply. The subject proposed wall is a perimeter privacy wall that coincidentally, in the event of temporary flooding under extreme conditions that is conservatively estimated at 8 inches deep, would offer protection for the property from minor flooding by redirecting overland flow around the wall to the storm drain system on Malibu Colony Road.
- Proposed Block Perimeter Wall will “deflect water” and cause erosion at the Adamson House: The perimeter wall is not subject to wave actions or flood waters. Under the extreme scenario with potential temporary flooding conservatively estimated at 8” deep at the property line, the water would be flowing due to the gradient of land surface, with low velocity at the subject site. The 1,300-foot distance and barriers to water flow in a northeasterly direction across the mouth of Malibu Creek, as well as perpendicular to the likely Malibu Creek flow conditions under the flooding circumstance, make this scenario extremely improbable (i.e., it would have to defy the laws of physics) and thus does not warrant further consideration under any standard of practice in coastal engineering or flood hydrology.
- To summarize, although the project is not considered beachfront, the project has been reviewed with respect to respective LCP/LIP conditions in Chapter 10.4 considered applicable for prudent project design:
 - The site has been evaluated for multiple inundation hazards (wave uprush, FEMA flooding) and is either outside the inundation limits or designed to be above potential future temporary flooding elevations, except for tsunamis.

- The site is within the state mapped Tsunami hazard area with a modeled 975-year return period, well outside the 75 – 100-year time covered by the LCP/LIP). All properties south of Pacific Coast Highway in the Malibu Beach area are subject to tsunami inundation under this scenario.

Furthermore, during the City Coastal Engineering reviewers technical meetings with the California Coastal Commission (CCC) staff, the CCC staff reiterated that their standards do NOT include a specified project life, rather they re-emphasized projects should be designed to conform to Coastal Act Policies (Sections 30235, 30253 and 30610(g)), i.e., to minimize risks to life and property in areas of high geologic, flood or fire hazards; and designed to be constructed without contributing to erosion or instability, or require protective devices that would alter landforms. The project meets these standards. Additionally, when evaluating the project utilizing the coastal flooding models (as recommended by Coastal Commission technical staff for project screening), the site is outside the wave uprush zone. The non-erodible shoreline position is located east and south of the project, along the Malibu Point/Surfrider beach access trail and south of the existing protective structures on the beachfront lots on the south side of Malibu Colony.

Planning Stage Conditions of Approval:


1. The property owner shall comply with the requirement for a recorded document and deed restriction outlined in Section 10.6A of the City of Malibu LCP/LIP. This comment shall be made a planning stage condition of approval. Evidence of completion of this item should be submitted to the reviewers in the Building Plan Check stage. A template for this document is available from City coastal engineering review staff.

Building Plan Check Comments

1. The Project Coastal Engineer (David C. Weiss Structural Engineer & Associates, Inc.) should be added to the project consultants identified on the architectural and grading/drainage plans.
2. Under the extreme conditions considered in evaluation of the project, the proposed new tank and potentially a portion of the garage may be inundated by coastal flooding near the end of the project life. As appropriate, at grade and ground floor elements of the project should be designed in accordance with ASCE 24-5 Flood Resistance Design and Construction. The Project Coastal Engineer shall review the project plans in conjunction with the other project design team professionals and incorporate these design measures as notes and details on the plans.
3. The Project Coastal Engineer's recommendations shall be incorporated into the plans as notes and details, and referenced on the project plans, including the project wastewater disposal plans. One set of plans depicting relevant Finished Floor and other design critical elevations referenced to NAVD88, shall be submitted to the coastal engineering reviewers for Building Plan Check, along with a building plan check fee of \$750. The Project Coastal Engineer shall review, wet sign, and stamp the final building plans

If you have any questions regarding this review letter, please contact the undersigned reviewers.

Reviewed by:



Michael B. Phipps, PG 5748, CEG 1832
Coastal Engineering Review Consultant

6-20-2022

Date

Reviewed by:



Lauren J. Doyel, PE 61337, GE 2981
Coastal Engineering Review Consultant (805-496-1222)

6-20-2022

Date

This review sheet was prepared by representatives of Cotton, Shires and Associates, Inc. and GeoDynamics, Inc., contracted through Cotton, Shires and Associates, Inc., as an agent of the City of Malibu.



COTTON, SHIRES AND ASSOCIATES, INC.
CONSULTING ENGINEERS AND GEOLOGISTS



GeoDynamics, Inc.
Applied Earth Sciences
Geotechnical Engineering & Engineering Geology Consultants

Colony Lagoon Photometric Analysis

Project:	Colony Lagoon
Project Location:	Malibu, California, United States of America
Document Ref:	360/04563/FM
Date of Issue:	22 June 2021
Revision Number:	02

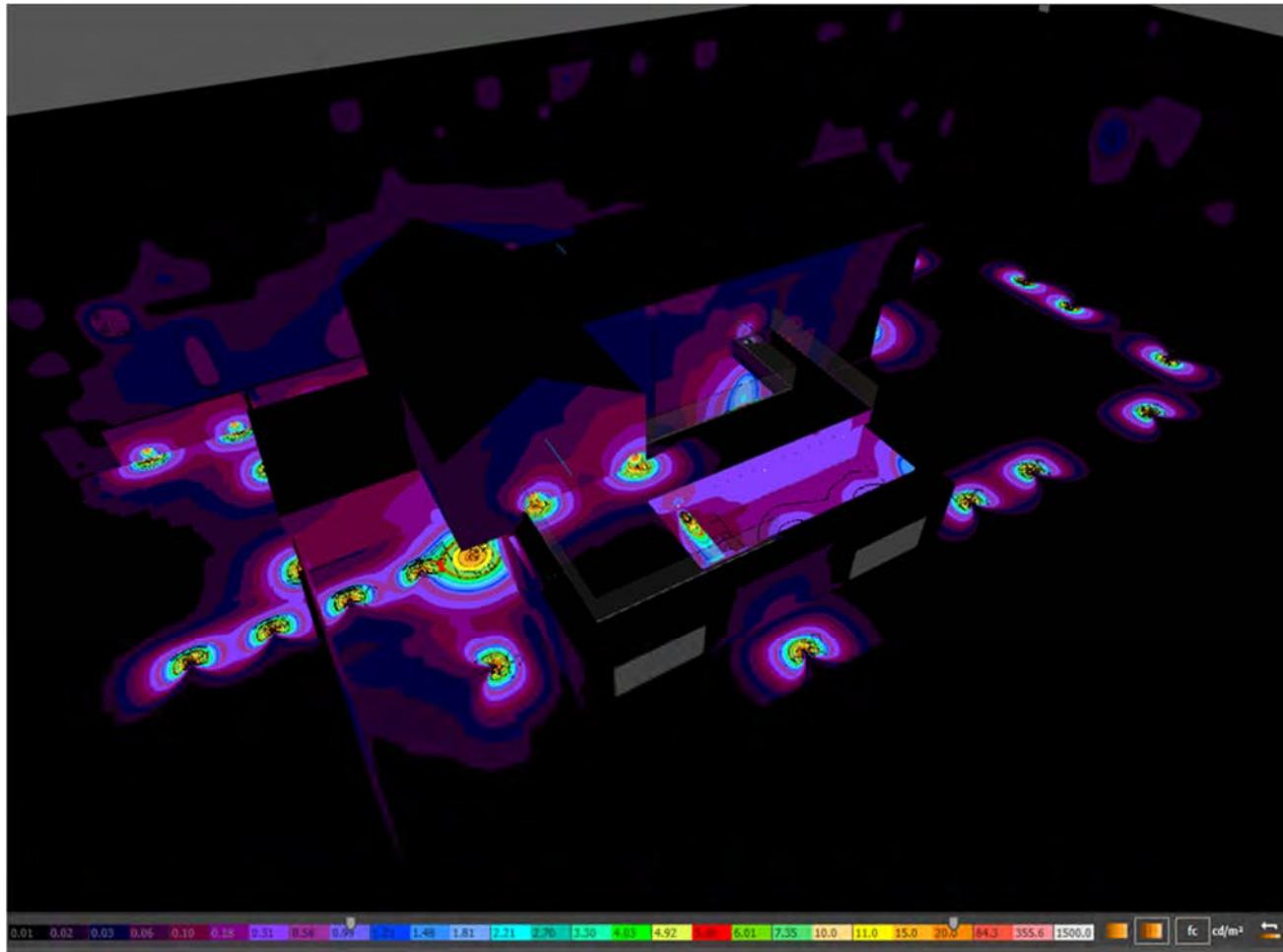
Photometric Calculations

DESCRIPTION:

False color calculation shows the light levels reached with proposed lighting fixtures

VIEW:

3D model false color calculation

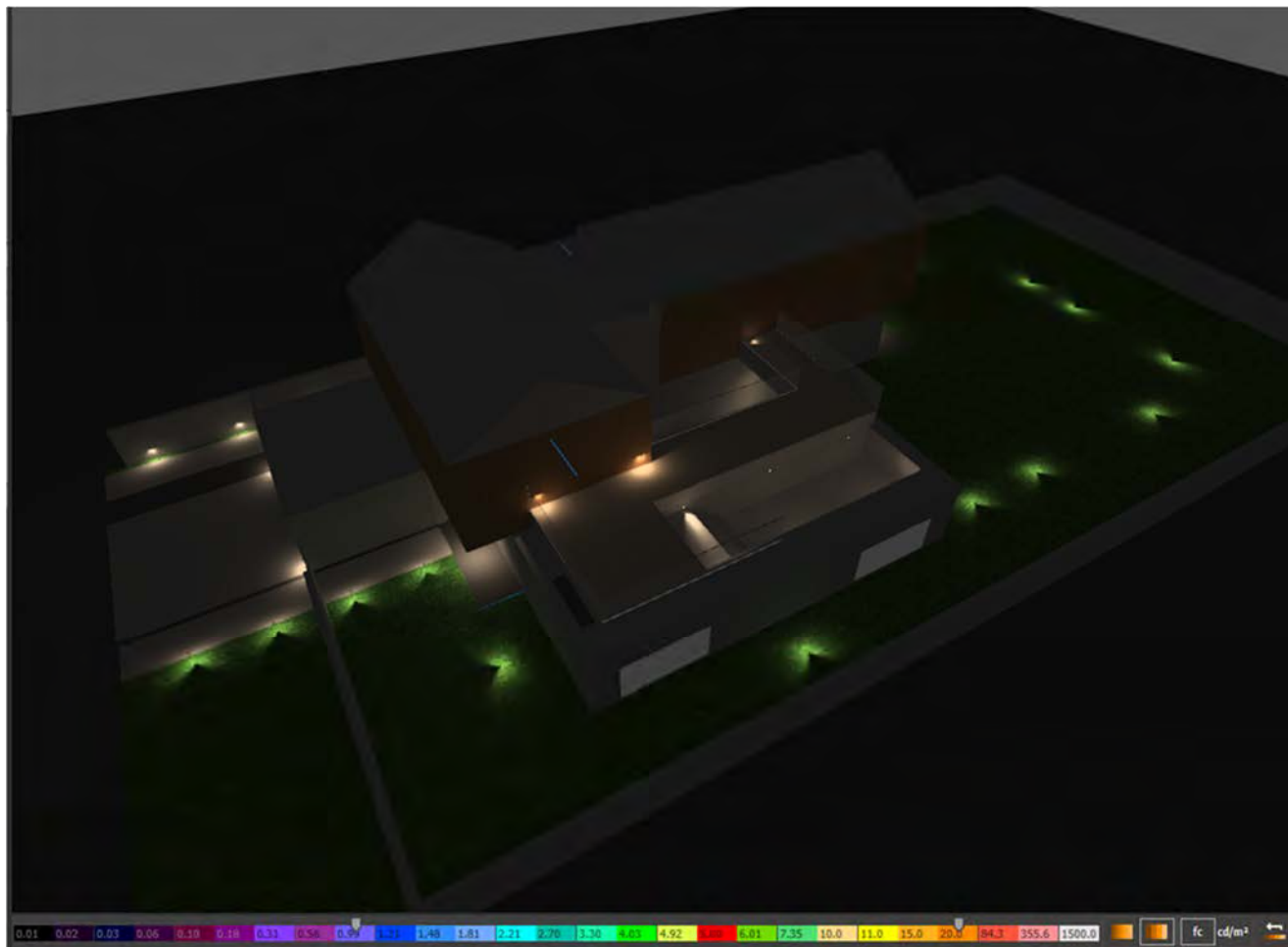


DESCRIPTION:

True color calculation shows the light levels reached with proposed lighting fixtures

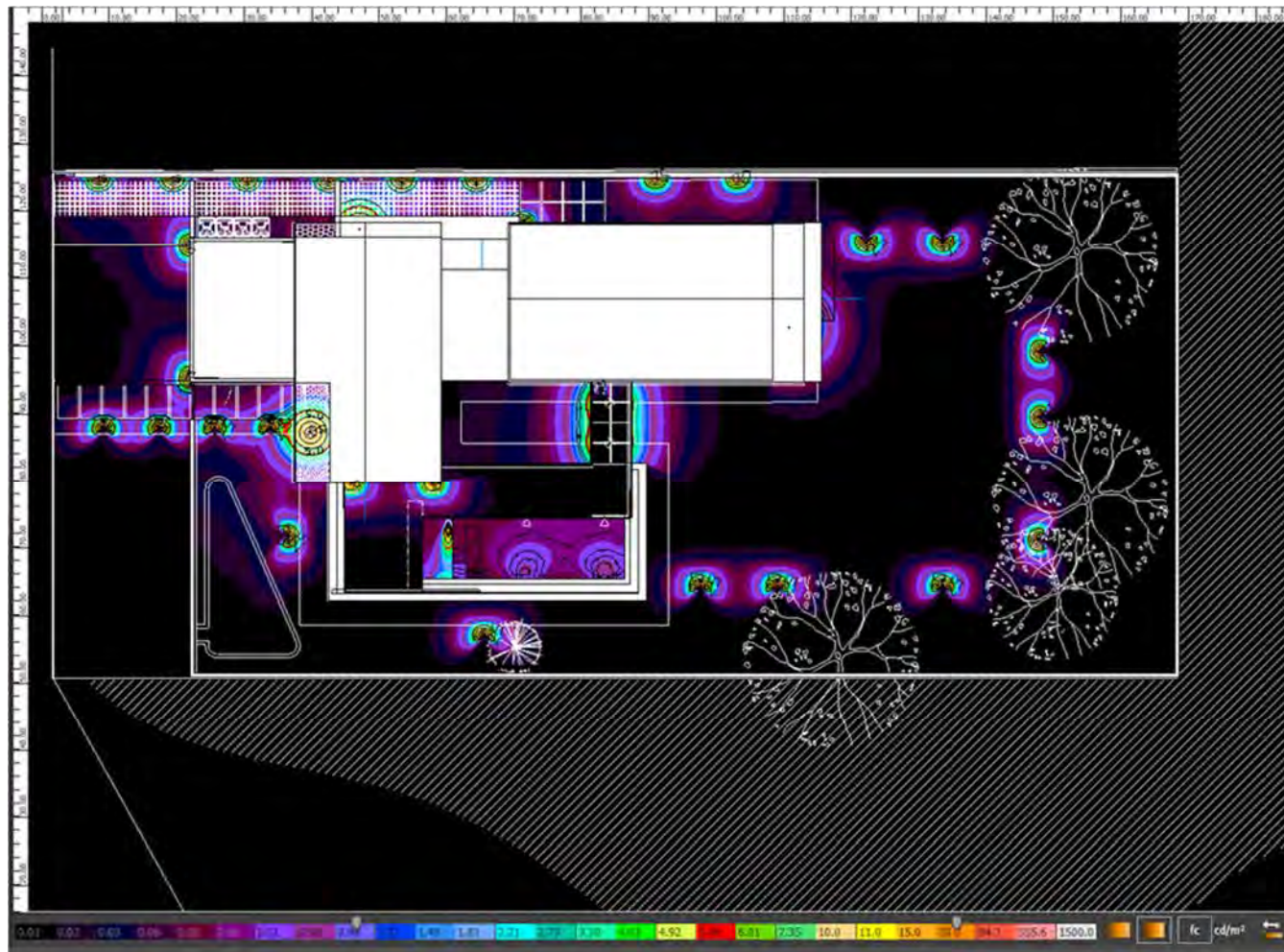
VIEW:

3D model true color lighting rendering



DESCRIPTION: False color calculation shows the light levels reached with proposed lighting fixtures

VIEW: Plan view false color lighting calculation



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FL

+1 305 831 4956

Aaron Gribben

Subject: correspondence to Planning Commission - 23325 Malibu Colony Drive

From: Lisberger, Carl

Sent: Friday, July 30, 2021 6:37 PM

To: Kathleen Stecko <kstecko@malibucity.org>

Cc: Kraig Hill <kraig.malibu@gmail.com>; Jeffrey D Jennings <jdjenningslaw@gmail.com>; David Weil <davidweil@gmx.com>; John Mazza <Res02igz@gte.net>; Raneika Brooks <rbrooks@malibucity.org>; De la Cruz, Victor

Subject: correspondence to Planning Commission - 23325 Malibu Colony Drive

Dear Ms. Stecko,

Commissioner Hill requested that we send him the attached documents and information below. Thank you for your assistance.

Best,
Carl

Commissioner Hill,

Thank you again for taking the time to meet with us yesterday for a site visit at 23325 Malibu Colony Drive. You had asked about the issue raised by Judith Israel, the project appellant, regarding the applicable height limit. As we discussed, the applicable height limit is 30 feet per the Malibu Colony Overlay District.

As requested, a copy of the Coastal Commission staff report for the nearby project at 23405 Malibu Colony Drive (also on Malibu Colony Drive and adjacent to Malibu Lagoon parkland) is attached. As I mentioned, this project was approved by the City of Malibu with 30 feet of height, and then appealed to the Coastal Commission and ultimately approved in 2008. Height was addressed by the Coastal staff report, and the relevant language can be found on page 85 of the pdf:

"The proposed project has also been designed to conform to the scale and character of the other residences in the neighborhood. The proposed 5,200 sq. ft. residence is two-story *and 30 feet in height*. Although the structure will be visible from parkland, reducing the proposed structure further to one-story, or 18 feet in height, or reducing the structure footprint, would not significantly reduce adverse visual impacts." (emphasis added)

As this language demonstrates, this project, located a few doors down, was approved by both the City and the Coastal Commission at a height of 30 feet in accordance with the Malibu Colony Overlay. Ms. Israel's position that an 18-foot height limit applies therefore flies in the face of the clear meaning of the LCP, and the consistent practice of both the City and Coastal Commission.

You had also asked for information about the height of Ms. Israel's home at 23349 Malibu Colony Drive. I've attached the Coastal Development Permit application for her home, which indicates (on page 3 of the pdf) that the "[m]aximum height of structure as measured from centerline of frontage road" is 29 feet. Ms. Israel's position seems to be that although her home is 29 feet high, all other homes on the lagoon side of the colony should be limited to 18 feet. I have also attached the issued Coastal Development Permit document for your reference, although please note that the project's height is not specifically referenced in that document.

If I can provide any further information about these issues please let me know.

Carl Lisberger
Associate

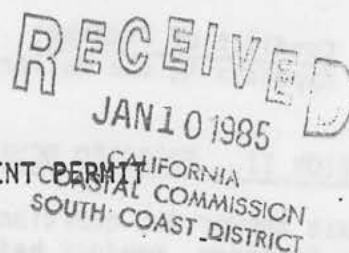
Manatt, Phelps & Phillips, LLP

manatt.com



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State of California, George Deukmejian, Governor
California Coastal Commission
South Coast District
245 West Broadway, Suite 380
P.O. Box 1450
Long Beach, California 90801-1450
(213) 590-5071



APPLICATION FOR COASTAL DEVELOPMENT PERMIT

Type of application:

Standard Permit

Administrative Permit: (May be applicable if development is one of the following:

- (a) improvement to any existing structure;
- (b) any new development costing less than \$100,000;
- (c) single family dwelling; (d) four dwelling units or less, within any incorporated area, that does not require demolition or subdivision of land; or (e) development authorized as a principal permitted use and proposed in an area for which the Land Use Plan has been certified.

SECTION I. APPLICANT

1. Name, mailing address and telephone number of all applicants.

Colony Development c/o Richard Ehrman

P.O. Box 446

Malibu, CA

90265 213-456-3336

(Area code/daytime phone number)

2. Name, mailing address and telephone number of applicant's representative, if any.

Same as above

(area code/daytime phone number)

For office use only

Application Number 5-85-25

(1) Project cost

Received 1/10/85 Filed 1/16/85

Jurisdiction code (3)

Fee 25.00 Date paid 1/10

LCP segment (4)

Tentative hearing date 2/27-3/1/85

Geo Ref Code (5)

X (6) Y (7)



3. Conflict of Interest. All applicants for the development must complete Appendix A, the declaration of campaign contributions.

SECTION II. PROPOSED DEVELOPMENT

Please answer ALL questions. Where questions do not apply to your project (for instance, project height for a land division), indicate "Not Applicable" or "N.A."

1. Project Location. Include street address, city, and/or county. If there is no street address, include other description such as nearest cross streets.

23349 Malibu Colony Drive

number (8)

street (9)

Malibu

Los Angeles

city (10)

county (11)

Assessor's Parcel Number 4452 Page 010 Parcel 14

2. Describe the proposed development. Include secondary improvements such as septic tanks, water wells, roads, etc.

Single Family Home with septic system

- a) If residential, state:

1) Number of units one (28)

2) Number of bedrooms per unit three (28)

3) Type of ownership proposed: ☐ rental
☐ condominium
☐ stock cooperative
☐ time share
☒ other Fee Simple

b) Number of boat slips, if applicable N/A (29)

c) If land division, number of lots to be created and size

N/A

3. Present use of property.

- a) Are there existing structures on the property? ☐ Yes ☒ No
If yes, describe (including number of residential units, occupancy status, monthly rental/lease rates for each unit) and schedule of rents for past year.

- b) Will any existing structures be demolished? ☐ Yes ☒ No
Will any existing structures be removed? ☐ Yes ☒ No
If yes to either question, describe the type of development to be demolished or removed, including the relocation site, if applicable.

(31)

4. Estimated cost of development (not including cost of land) \$150,000 (32)

5. Has any application for a development on this site been submitted previously to the California Coastal Zone Conservation Commission or the Coastal Commission? ☐ Yes ☒ No

If yes, state previous application number _____

6. Project height: Maximum height of structure 26' ft

Maximum height of structure as measured
from centerline of frontage road 29' ft

7. Total number of floors in structure, including subterranean floors, lofts, and mezzanines Two

8. Gross floor area including covered parking and accessory buildings 3816 sq ft

Gross floor area excluding parking 3368 sq ft

9. Lot area (within property lines) 6644 sq ft or acres

<u>Lot coverages:</u>	<u>Existing</u>	<u>New proposed</u>	<u>Total</u>
Building coverage	_____ sq ft	<u>1588</u> sq ft	<u>1588</u> sq ft
Paved area	_____ sq ft	<u>3728</u> sq ft	<u>3728</u> sq ft
Landscaped area	_____ sq ft	<u>1228</u> sq ft	<u>1228</u> sq ft
Unimproved area	_____ sq ft	<u>0</u> sq ft	<u>0</u> sq ft

10. Parking: number of spaces existing 0
 number of new spaces proposed 2
 Total 2
 no. of covered spaces 2 no. of uncovered spaces 0
 no. of standard spaces 2 size 9x19
 no. of compact spaces 0 size _____
 Is tandem parking existing and/or proposed? ☐ Yes ☒ No
 If yes, how many tandem sets? _____ size _____

11. Are utility extensions for the following needed to serve the project?

- a) water ☐ Yes ☒ No d) sewer ☐ Yes ☒ No
 b) gas ☐ Yes ☒ No e) telephone ☐ Yes ☒ No
 c) electric ☐ Yes ☒ No

I yes to any of the above, would extensions be above ground? ☐ Yes ☒ No

12. Is the project site adjacent to a public maintained road? ☐ Yes ☒ No
 If yes, how far is the nearest public road. _____

SECTION III. ADDITIONAL INFORMATION

The relationship of the development to the applicable items below must be explained fully. Attach additional sheets if necessary.

1. If the development is between the first public road and the sea, is public access to the shoreline and along the coast currently available near the site? ☐ Yes ☐ No If yes, indicate the location of the nearby access, including the distance from the project site.

N/A

2. Is any grading proposed? ☐ Yes ☒ No If yes, complete the following.

- a) amount of cut _____ cu yds
 b) amount of fill _____ cu yds
 c) maximum height of fill slope _____ ft
 d) maximum height of cut slope _____ ft
 e) amount of import or export _____ cu yds
 f) location of borrow or disposal site _____

Grading and drainage plans must be included with this application. In certain areas, an engineering geology report must also be included. See Section V, paragraph 11 for the specifics of these requirements.

3. Does the development involve diking, filling, dredging or placing structures in open coastal waters, wetlands, estuaries, or lakes?

a) diking ☐ Yes ☒ No c) dredging ☐ Yes ☒ No
b) filling ☐ Yes ☒ No d) placement of structures ☐ Yes ☒ No

Amount of material to be dredged or filled _____ cu yds.

Location of dredged material disposal site _____

Has a U.S. Army Corps of Engineers permit been applied for? ☐ Yes ☒ No

4. Will the development extend onto or adjoin any beach, tidelands, submerged lands or public trust lands? ☐ Yes ☒ No

For projects on State-owned lands, additional information may be required as set forth in Section V, paragraph 10.

5. Will the development protect existing lower-cost visitor and recreational facilities? ☐ Yes ☒ No

Will the development provide public or private recreational opportunities? ☐ Yes ☒ No If yes, explain.

6. Will the proposed development convert land currently or previously used for agriculture to another use? ☐ Yes ☒ No

If yes, how many acres will be converted? _____ acres.

7. Is the proposed development in or near:

a) sensitive habitat areas ☐ Yes ☒ No (biological survey may be required)
b) 100-year floodplain ☐ Yes ☒ No (hydrologic mapping may be required)
c) park or recreation area ☒ Yes ☐ No

8. Is the proposed development visible from:

a) US Highway 1 or other scenic route ☒ Yes ☐ No
b) park, beach, or recreation area ☒ Yes ☐ No
c) harbor area ☐ Yes ☒ No

9. Does the site contain any:

a) historic resources ☐ Yes ☒ No
b) archaeological resources ☐ Yes ☒ No
c) paleontological resources ☐ Yes ☒ No

If yes to any of the above, please explain on an attached sheet.

10. Where a stream or spring is to be diverted, provide the following information:

Estimated streamflow or spring yield N/A gpm

If well is being used, existing yield N/A gpm

If water source is on adjacent property, attach Division of Water Rights approval and property owner's approval.

SECTION IV. OTHER GOVERNMENTAL REQUIREMENTS

The Local Agency Review Form, Appendix E, must be completed and signed by the local government in whose jurisdiction the project site is located. The completed and signed form must be submitted with this application for the application to be considered complete.

SECTION V. ADDITIONAL ATTACHMENTS

The following items must be submitted with this form as part of the application.

1. Proof of the applicant's legal interest in the property. (A copy of any of the following will be acceptable: current tax bill, recorded deed, signed Offer to Purchase along with a receipt of deposit, signed final escrow document, or current policy of title insurance. Preliminary title reports will not be accepted.)
2. Assessor's parcel map(s) showing the applicant's property and all other properties within 100 feet (excluding roads) of the property lines of the project site. (Available, along with owner's names/addresses, from assessor's office.)
3. Copies of required local approvals for the proposed project, including zoning variances, use permits, etc., as noted on Local Agency Review Form, Appendix B.
4. Stamped envelopes addressed to each property owner and occupant of property situated within 100 feet of the property lines of the project site (excluding roads), along with a list containing the names, addresses and assessor's parcel numbers of same. If the application qualifies for an administrative permit, envelopes are not required unless specifically requested. However, a mailing list is required on all applications. The envelopes must be plain (i.e., no return address), and regular business size (9½" x 4 1/8"). Include first class postage on each. Metered stamped envelopes cannot be accepted. The words "Important Public Hearing Notice" must be on the front of each envelope. (An appropriate stamp is available in the District Office. Use Appendix C, attached, for the listing of names and addresses. (Alternate notice provisions may be employed at the discretion of the District Director under extraordinary circumstances).)
5. Stamped, addressed envelopes and a list of names and addresses of all other parties known to the applicant to have an interest in the proposed development (such as persons expressing interest at a local government hearing, etc.).
6. Development location and vicinity maps. Maps should show precisely where the development is proposed and present land and water uses in the project vicinity. U. S. Geological Survey 7½ minute series quadrangle map, Thomas Brothers map, road map or area maps prepared by local governments may provide a suitable base map.

7. Two copies of project plans, except for projects located in the City of Los Angeles where three sets are required, stamped and signed "Approved in Concept" by the local building department, drawn to scale, including site plans, floor plans, elevations, grading and drainage plans, landscape plans, and septic system plans. A reduced site plan, 8½" x 11" must also be submitted. Reduced copies of complete project plans will be required for large projects. Trees to be removed must be marked on the site plan. For demolitions, include a site plan showing the placement and dimensions of existing development on subject lot. Photographs may be submitted to show elevations and demolitions.
8. Where septic systems are proposed, evidence of County approval or Regional or Regional Water Quality Control Board approval. Where water wells are proposed, evidence of County review and approval.
9. A copy of any Final Negative Declaration, Final Environmental Impact Report (FEIR) or Final Environmental Impact Statement (FEIS) prepared for the project. Comments of all reviewing agencies and responses to comments must be included.
10. Verification of all other permits, permissions or approvals applied for or granted by public agencies (e.g., Dept. of Fish and Game, State Lands Commission, U.S. Army Corps of Engineers, U.S. Coast Guard).
11. For development on a bluff face, bluff top, or in any area of high geologic risk, a comprehensive, site-specific geology and soils report (including maps) prepared in accordance with the Coastal Commission's Interpretive Guidelines. Copies of the guidelines are available from the District Office.

SECTION VI. NOTICE TO APPLICANTS

Under certain circumstances additional material may be required prior to issuance of a coastal development permit. For example, where offers of access or open space dedication, preliminary title reports, land surveys, legal descriptions, subordination agreements, and other outside agreements will be required prior to issuance of the permit.

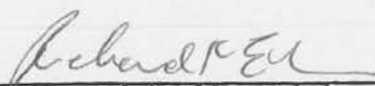
The Commission may adopt or amend regulations affecting the issuance of coastal development permits. If you would like notice of such proposals during the pendency of this application of such proposals that are reasonably related to this application indicate that desire.

☐ Yes

☐ No

SECTION VII. AUTHORIZATION OF AGENT

I hereby authorize _____
to act as my representative and to bind me in all matters concerning this
application.




Signature of Applicant(s)

SECTION VIII. CERTIFICATION

1. I hereby certify that I, or my authorized representative, will complete and post the Notice of Pending Permit card in a conspicuous place on the property within 3 days of receipt of the card and notification of filing of this application.
2. I hereby certify that I understand the Commission may impose reasonable conditions that must be satisfied by persons that are not a party to this application and that prior to issuance of the permit, I must submit evidence that the conditions will be satisfied by the appropriate parties.
3. I hereby certify that I have read this completed application and that, to the best of my knowledge, the information in this application and all attached appendices and exhibits is complete and correct. I understand that any misstatements or omission of the requested information or of any information subsequently requested shall be grounds for denying the permit, for suspending or revoking a permit issued on the basis of these or subsequent representations, or for seeking of such further relief as may seem proper to the Commission.
4. I hereby authorize representatives of the California Coastal Commission to conduct site inspections on my property. Unless arranged otherwise, these site inspections shall take place between the hours of 8:00 a.m. and 5:00 p.m.

SECTION XIV. COMMUNICATION WITH COMMISSIONERS

Decisions of the Coastal Commission must be made on the basis of information available to all commissioners and the public. Therefore permit applicants and interested parties and their representatives are advised not to discuss with commissioners any matters relating to a permit outside the public hearing. Such contacts may jeopardize the fairness of the hearing and result in invalidation of the Commission's decision by court. Any written material sent to a commissioner should also be sent to the commission office for inclusion in the public record and distribution to other Commissioners.



Signature of Authorized Agent or Applicant(s)

Date: February 13, 1985

California Coastal Commission
SOUTH COAST DISTRICT
245 West Broadway, Suite 380
P.O. Box 1450
Long Beach, California 90801-1450
(213) 590-5071

Permit Application No. 5-85-25 GG:sjl

CORRECTED COPY
ADMINISTRATIVE PERMIT



APPLICANT: Colony Development

PROJECT DESCRIPTION: Construction of a 3368 sq. ft., 2 story single family dwelling and septic system on a vacant lot.

PROJECT LOCATION: 23349 Malibu Colony Drive, Malibu, Los Angeles County

EXECUTIVE DIRECTOR'S DETERMINATION:

Pursuant to PRC Section 30624, the Executive Director hereby determines that the proposed development, subject to Standard and Special Conditions as attached, is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. Any development located between the nearest public road and the sea is in conformity with the public access and public recreation policies of Chapter 3.

Additional reasons for this determination, and for any special conditions, may be discussed on the reverse (Page 2).

NOTE: The Commission's Regulations provide that this permit shall be reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, a permit will not be issued for this permit application. Instead, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

Wednesday, February 27, 1985 at 9:00 a.m.

Holiday Inn - LAX, 9901 La Cienega Blvd., Los Angeles

IMPORTANT - Before you may proceed with development the following must occur:

For this permit to become effective you must sign Page 2 of the enclosed duplicate acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, we will send you an authorization to proceed with development.

Send 2/29/85

MICHAEL L. FISCHER
Executive Director

by:

Gary G. Larson



STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

see page 3

SPECIAL CONDITIONS:

none

ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

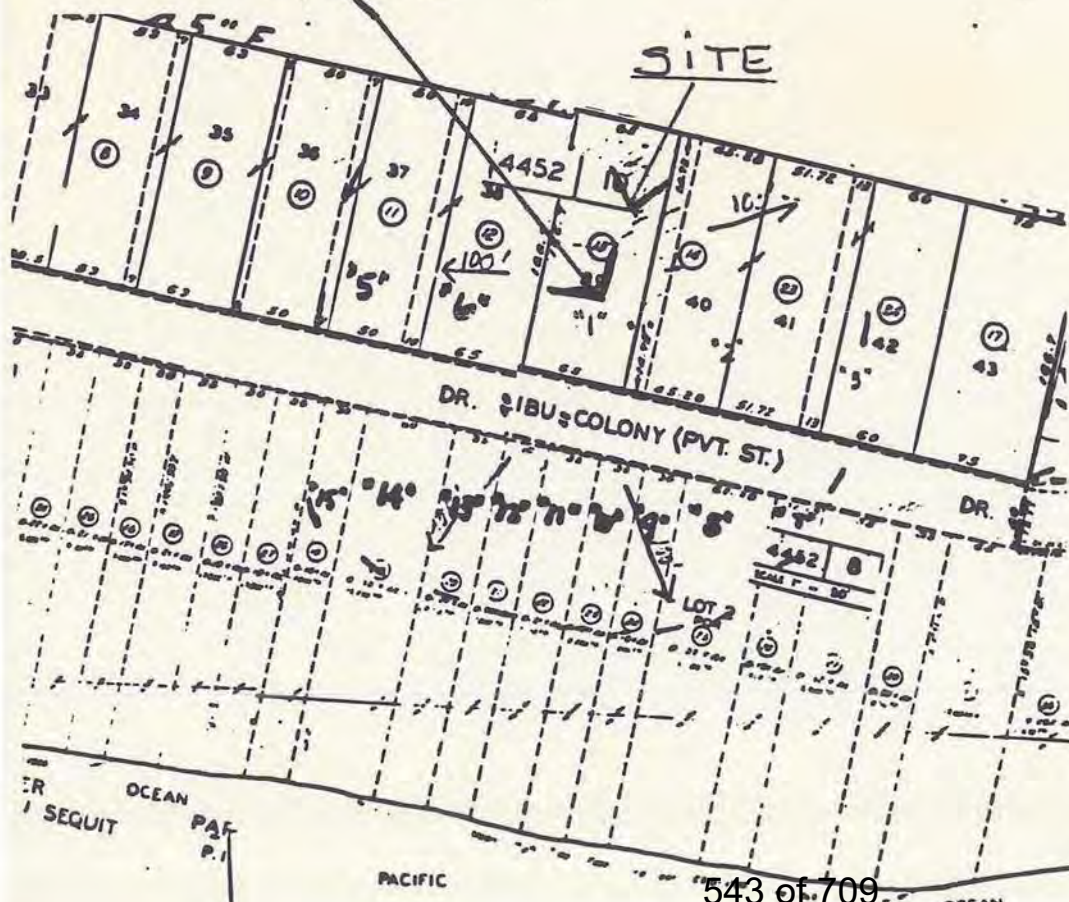
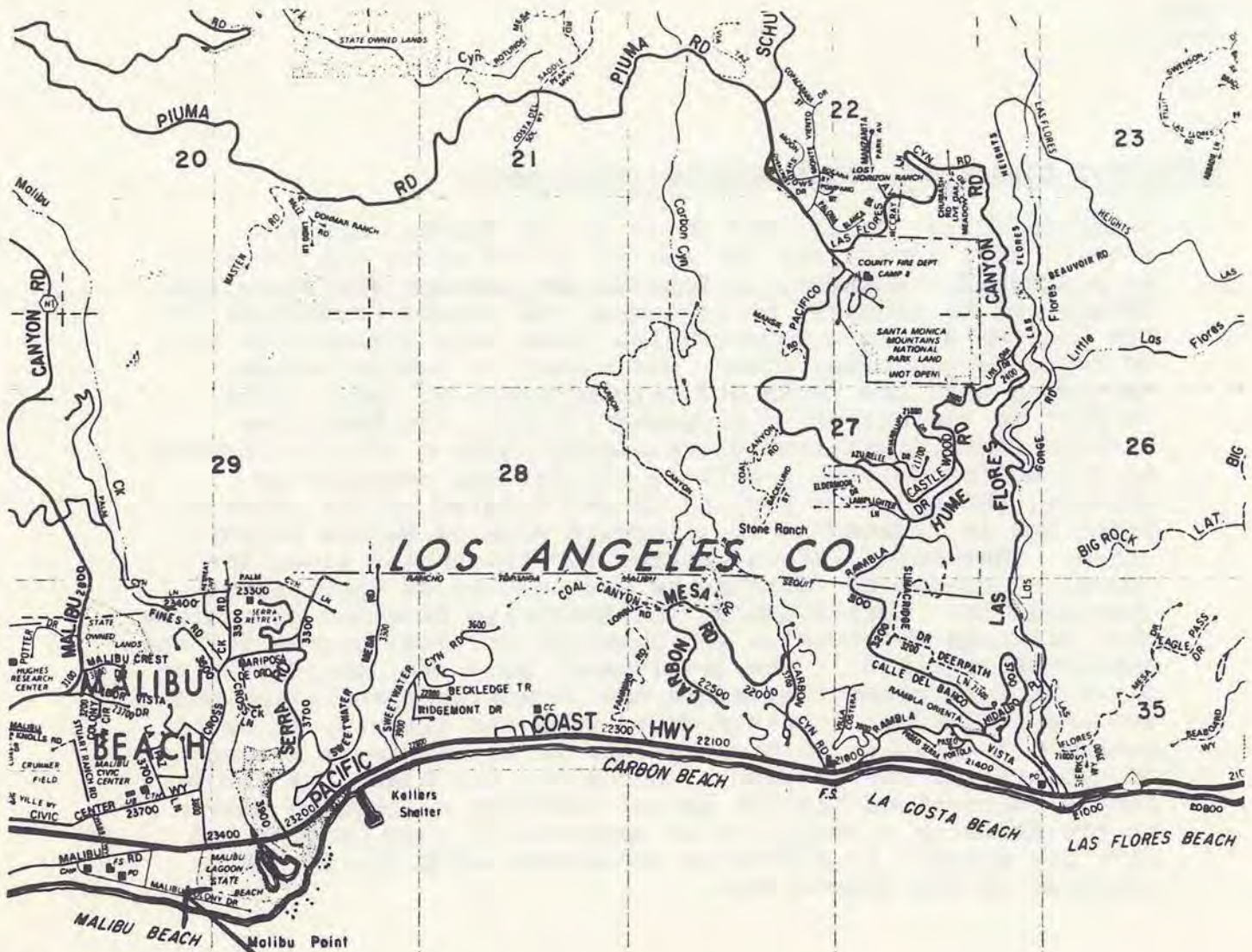
I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Richard K. Ehr
Applicant's Signature

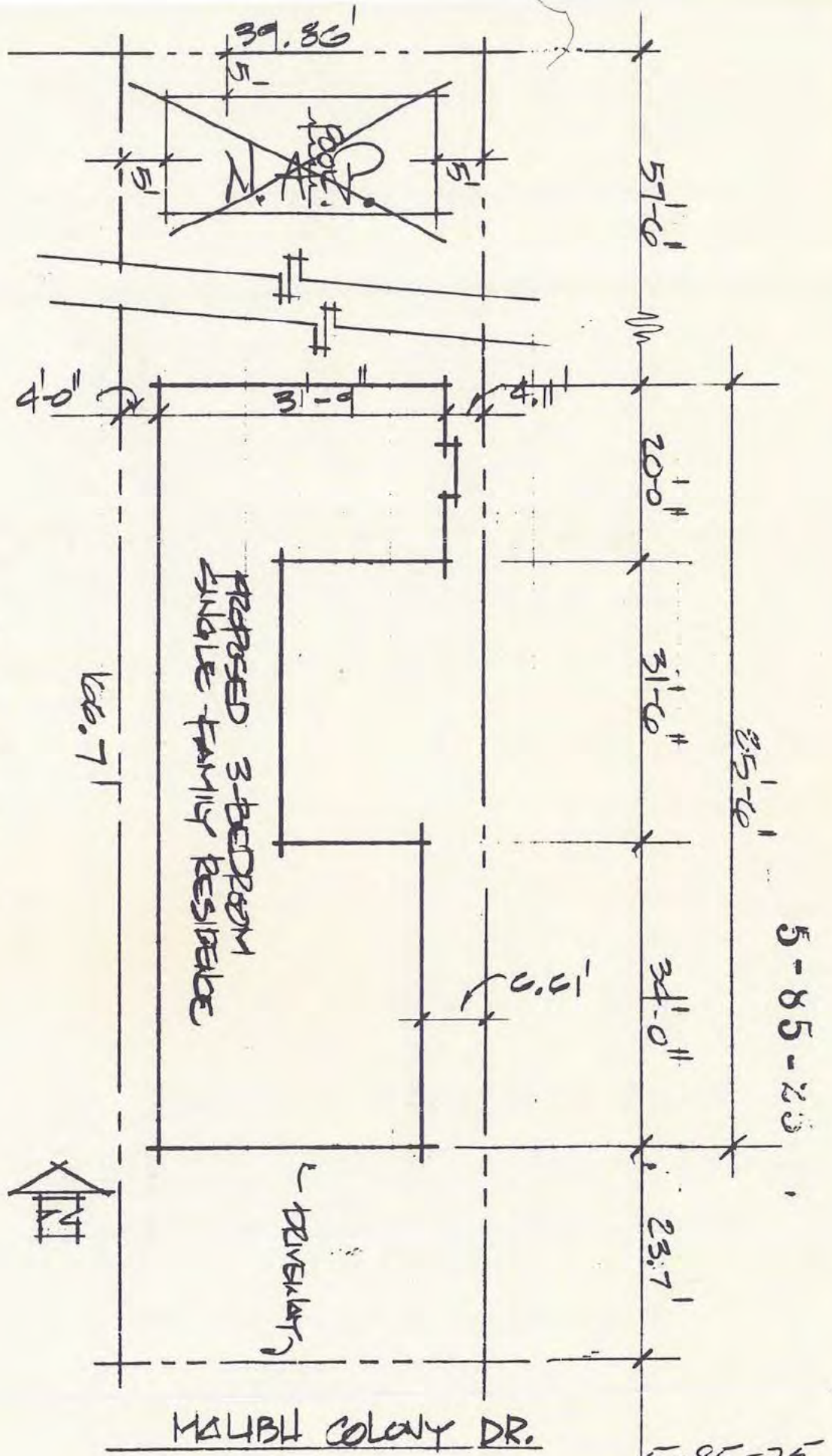
3-5-85
Date of Signing

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

Sections 30210, 30211, and 30212 of the Coastal Act, all require that access for the public to and along the shoreline be maximized. However, in Coastal Act section 30214(a), the Commission is required to implement the access provisions of the Coastal Act in a manner which takes into account the need to regulate the time, place, and manner of public access depending upon the facts and circumstances of case. With respect to the currently proposed project, the Executive Director determines that the proposed project site is located in the Malibu Colony, a private residential association. However, the proposed project is not located on the shore or beach but is located on the landward side of Malibu Colony Drive. Therefore, lateral access for the public along the shoreline cannot be required as a condition of approval of this project. Additionally, the Executive Director determines that although the Coastal Act requires vertical access for the public be required in new development projects, the Executive Director determines that since the community association and not the individual property owner owns the streets, it is not feasible to require vertical access to the shore as a condition of approval of the project. Therefore, the Executive Director further determines that it is not feasible to require access to the shore as a condition of approval of this project and that the project is otherwise consistent with the access policies of the Coastal Act.



5-85-25
EXHIBIT 1
LOCATION MAP



Colony Development
 23349 Malibu Colony Dr.
 Malibu, CA

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



ADDENDUM

DATE: July 9, 2008
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Agenda Item 11a, Thurs., July 10, 2008, Appeal No. A-4-MAL-07-095 (Margolis)

The purpose of this addendum is to:

- 1) Attach and respond to correspondence in opposition to the staff recommendation received from both of the appellants in this case, Steve Littlejohn and Malibu Coalition for Slow Growth (Patt Healy).

Mr. Littlejohn's correspondence, dated June 30, July 3, and July 6, 2008, is attached as Exhibit 1. Mr. Littlejohn contends that the distance between the delineated off-site ESHA boundary and the applicant's rear property line was mismeasured by TeraCor, the applicant's consulting biologist. Mr. Littlejohn believes that TeraCor's measurement is off by 18 feet, thereby, he contends the proposed development extends 18 feet into the required 100-ft. ESHA buffer. Mr. Littlejohn has attached photographs of his measurement to demonstrate his finding. However, staff cannot confirm the accuracy of Mr. Littlejohn's measurement because he is speculating on where the actual rear property line and ESHA line are located. There is no evidence that the stake referenced by Mr. Littlejohn was placed by the applicant's biologist to delineate the ESHA boundary. Staff has analyzed the relative locations of the delineated ESHA boundary, the property boundary, and the location of the proposed development based on a surveyed, to-scale, site plan and the biologist's measured ESHA delineation map. Additionally, staff has reviewed TeraCor's ESHA delineation report and visited the site. As described in the staff report, Commission staff biologist Dr. Engel concurs with TeraCor's delineated ESHA and ESHA buffer.

Mr. Littlejohn also contends that a caisson/above-grade beam foundation would be more protective of the Cypress tree roots than the proposed mat foundation design. According to the consulting geotechnical engineer, Grover Hollingsworth & Associates, in their May 10, 2007 "Revised Geotechnical Recommendations" for the subject development, the mat foundation may be inset from the building perimeter, as proposed, in order to avoid excavation within the root protection zones of off-site trees. As such, a portion of the residence nearest the trees will cantilever beyond the edge of the mat foundation. As described in the staff report, the proposed foundation will serve to adequately protect the adjacent Cypress tree stand.

Patt Healy of Malibu Coalition for Slow Growth contends in her correspondence, received July 7, 2008 and attached as Exhibit 2, that the Cypress trees should be considered ESHA and receive additional protections. This issue is discussed on pages 28-30 of the staff

report. Like Mr. Littlejohn, Ms. Healy also contends that the 100-ft. ESHA buffer was mismeasured by TeraCor.

- 2) Attach correspondence received from the law office of Frank Angel, dated July 8, 2008 (Exhibit 3 of this addendum).
- 3) Provide clarification regarding Exhibit 4 (revised septic system plan) of the staff report. The black-and-white copy of the plan is of poor quality and the bounds of the septic dispersal field are not discernable from other site features. Attached as Exhibit 4 of this addendum is a revised version of the plan in which staff has highlighted the important elements. Staff would also note that the Cypress tree root protection zones indicated on the plan, which extend out three times the tree trunk diameter, was recommended by the consulting arborist for tree protection and the applicant has designed the project to avoid subsurface work within those zones.
- 4) Attach the written disclosures of ex-parte communications received by the date of this addendum (Commissioners Blank and Neely). Communications are attached as Exhibit 5 of this addendum.
- 5) The staff report erroneously indicates the lot size of the subject property. Make the following correction to the project description on page 11 of the staff report, as well as where referenced elsewhere on pages 11, 14, 18, 22, and 23. Deletions shown in ~~strikethrough~~, additions shown in underline:

The applicant proposes to construct a two-story, 5,200 sq. ft. single-family residence, with attached six-car (1,368 sq. ft.) garage, pool, spa, and alternative onsite wastewater treatment system on a ~~0.41-acre~~ 0.19-acre parcel at 23405 Malibu Colony Drive, Malibu (**Exhibits 1-10**).

- 6) Make the following correction to the fourth paragraph on page 23 of the staff report, to clarify that the City of Malibu approved the proposed development with a proposed 100-foot ESHA buffer, but did not specifically require the 100-foot buffer (deletions shown in ~~strikethrough~~, additions shown in underline):

As mentioned previously, a June 3, 2005 delineation of the off-site wetland prepared by TeraCor found that the upland limit of the off-site wetland ESHA was 65-67 feet from the rear property line of the subject parcel. The City Biologist concurred with this ESHA delineation and a 100-foot ESHA buffer that extends 33 feet onto the subject property was ~~required~~ approved by the City (Exhibit 3). The wetland ESHA determination was based upon a wetland delineation conducted by the applicant's consulting biologist. The biologist's 2005 report states that the delineation was prepared using the U.S. Army Corps of Engineers' Wetland Delineation Manual in conjunction with the wetland delineation provisions contained in the Malibu LCP (LIP Section 4.4.3), in which a wetland and its upland limit are defined as follows (in accordance with Public Resources Code Section 13577(b)(1)):

- 7) Make the following modifications to Special Condition No. Ten (Landscaping Plans) on pages 8-10 of the staff report (deletions shown in ~~strikethrough~~, additions shown in underline):

10. Landscaping Plans

Prior to issuance of the coastal development permit, the applicant shall submit landscaping plans for all graded or disturbed areas on the project site, prepared by a licensed landscape architect or a

qualified resource specialist for the review and approval of the Executive Director. The landscaping plans shall include a scale map of the project site that shows the location, species, and size of each plant to be included in site landscaping. All development shall conform to the approved landscaping plans. The plans shall incorporate the criteria set forth below:

A. Plant Species

1. Plantings shall be native, drought-tolerant plant species, and shall blend with the existing natural vegetation and natural habitats on the site, except as noted in Section 3.10.1(A)(3) of the Malibu LIP. The native plant species shall be chosen from those listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996. All native plant species shall be of local genetic stock.
2. Invasive plant species, as identified by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996 and identified in the *City of Malibu's Invasive Exotic Plant Species of the Santa Monica Mountains*, dated March 17, 1998, that tend to supplant native species and natural habitats shall be prohibited.
3. Non-invasive ornamental plants and lawn may be permitted in combination with native, drought-tolerant species within the irrigated zone (Zone A) required for fuel modification nearest approved residential structures. Irrigated lawn, turf and ground cover shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B. Timing of Landscaping

1. All cut and fill slopes shall be stabilized with landscaping at the completion of final grading.
2. The building pad and all other graded or disturbed areas on the subject site shall be planted within sixty (60) days of receipt of the certificate of occupancy for the residence.

C. Landscaping Coverage Standards

Landscaping or revegetation shall provide 90 percent coverage within five years, or that percentage of ground cover demonstrated locally appropriate for a healthy stand of the particular native vegetation type chosen for revegetation.

D. Cypress Tree Trimming

The landscape plans shall include tree trimming provisions for all existing Cypress trees situated on or immediately adjacent to the subject site for the express purpose of ensuring that potential nesting birds are not adversely impacted. Specifically, tree trimming shall only be done during the non-nesting season (October through December) to the maximum extent possible. All tree trimming shall be overseen by a qualified arborist. The arborist and a qualified biologist shall evaluate and provide recommendations to ensure that the proposed tree trimming would not compromise the tree's ability to support future nests.

If tree trimming activities cannot feasibly avoid the nesting season due to an immediate danger to health, safety, or property, a qualified biologist shall conduct a survey of nesting activities within the adjacent Cypress tree stand. If an active raptor, rare, threatened, endangered, or species of concern nest is found, then the applicant must obtain an amendment to this permit or obtain an emergency permit for such trimming, unless the Executive Director determines that no such permit or amendment is necessary.

D E. Landscaping Monitoring

1. Any landscaping or revegetation shall be monitored for a period of at least five years following the completion of planting. Performance criteria shall be designed to measure the success of the plantings. Mid-course corrections shall be implemented if necessary.
2. Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies that the on-site landscaping is in conformance with the approved landscape plan. The monitoring report shall include photographic documentation of plant species and plant coverage.
3. If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. If performance standards are not met by the end of five years, the monitoring period shall be extended until the standards are met.

- 8) The following findings shall be added to the first paragraph on page 30 of the staff report (additions shown in underline):

To ensure that the proposed project does not impact potential nesting birds in on-site or adjacent trees, **Special Condition Twelve (12)** requires a qualified biologist with experience in conducting bird surveys to conduct bird surveys 30 days prior to construction, grading, or tree pruning/trimming to detect any active bird nests in all trees on and adjacent to the project site. The last survey should be conducted 3 days prior to the initiation of clearance/construction. If an active nest is located, clearing/construction shall be postponed until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. In addition, Special Condition Ten (10) requires that tree trimming provisions for all existing Cypress trees situated on or immediately adjacent to the subject site be included in submitted landscape plans for the express purpose of ensuring that potential nesting birds are not adversely impacted. Specifically, tree trimming shall only be done during the non-nesting season (October through December) to the maximum extent possible. All tree trimming shall be overseen by a qualified arborist. The arborist and a qualified biologist shall evaluate and provide recommendations to ensure that the proposed tree trimming would not compromise the tree's ability to support future nests. A conservative non-nesting season, at which point all late clutches would have fledged, extends from October through December. Therefore, all tree trimming should occur during this timeframe. If tree trimming activities cannot feasibly avoid the nesting season due to an immediate danger to health, safety, or property, a qualified biologist shall conduct a survey of nesting activities within the adjacent Cypress tree stand. If an active raptor, rare, threatened, endangered, or species of concern nest is found, then the applicant must obtain an amendment to this permit or obtain an emergency permit for such trimming, unless the Executive Director determines that no such permit or amendment is necessary.

Hi Dianna and Barbara:

In reviewing the YES recommendation for item 11a,

I was wondering if you could address the following issues:

1. If this is approved without the foundation that I am asking for (my engineer will be presenting the caisson/above grade beam foundation at the hearing and explaining why it is better for the applicant and the trees both) and what you approve causes the trees to die and fall on this development, who is liable?

2. The wrong foundation from #1 above, the placement of the leech field on the north end of the house, an in ground pool, and the MM that allows the structure to be built even closer in the side yard adjacent to the trees is in direct conflict with what is written on p13 of the Staff Report about section 4.2 of the LCP policies:

4.2 All new development shall be sized, designed and sited to minimize risks to life and property from geologic, flood, and fire hazard.

I would like to point out that Monterey Cypress tree needles are full of highly combustible sap along with the other problems we are pointing out to you with this design.

3. On page 14 and 23, the report states that the project site is located on a .41 acre parcel. This is erroneous as it states on the plans that is is .19 acres (8412 square ft). As I will be presenting that about 5600 square ft of this lot (that is 2/3) will be covered in paving of some kind, this is a gross error of fact. That doesn't even cover the paving in the parking area in the front yard.

4. You are making a condition to this permit the replacement of any of the 6 major trees should they die, and since they are on Bill Littlejohn's property, then a replacement must be planted on someone else's property? Can you explain how you can actually make a condition like this? Isn't it trespassing? Did you get permission from Mr. Littlejohn to do this? Are you proposing a deed restriction as a condition for Margolis to develop on the neighbor's property?

5. On page 12 of the Staff Report you make mention:

In addition, the proposed project provides a 5 foot setback from the west property line where the Cypress tree windrow is located and the foundation of the residence has been designed to avoid impact to the root zones of the Cypress trees.

We have read all the consultant's reports and where is any evidence that supports this statement that the proposed mat foundation will avoid impact to the root zone? What I have determined (and will be presented in detail at the hearing) is that this proposed mat foundation will most likely kill off the roots from 3 directions: from cutting them off from oxygen, smothering them to death under the thick concrete mat placed on top of them and cutting them with the 4 foot deep trenches parallel to Windrow of Cypress.

When an extensive root mass dies, the volume of the root mass disappears creating

EXHIBIT 1
A-4-MAL-07-095
7.9.08 Addendum
Steve Littlejohn
Correspondence

variable shrinkage under this mat which could cause it to tilt (not to mention the trees will likely fall on his house about this time). Couple this with the differential settlement that will occur when the soils under this mat liquefy during a massive earthquake which alone would likely tilt this slab, why would the owner want to pinch pennies on his foundation on such an expensive development? We are going to show that a caisson/above grade beam foundation eliminates almost all of these troubling problems and should add only a very small percentage in the overall development of this site. Even the pool should be above grade and on caissons.

6. I have measured the plans and came up with 1870 square feet of living space on the first floor (vs the 1682 stated) and 3688 sq ft on the 2nd (vs the 3548 stated) for a total of 5558 sq ft (not the 5200 as stated). I don't know if this makes any difference to you, but this should be checked. The garage measures 1323 sq ft. But then I measured 702 sq ft of terrace (not including walks in the side yard clearance) on the 1st floor, 869 sq ft of terrace and a big void space on the 2nd floor which totals 1571 sq ft of terraces and void space. Then add in the approx 1220 sq ft of paving for the walk ways and about 500 sq ft for pool and deck, we tip the scales at 10,173 sq ft of development on a 8412 sq ft lot. I didn't even include the paving in the parking area out front. This development overpowers the lot. I also noticed that there is encroachment into the side yard clearance (1st floor by the east side of the garage and the office on the 1st floor on the east side and encroachments on the east side 2nd floor terrace and bedroom) Why are these encroachments into the side yard set back being allowed?

7. Please address my concerns about the ESHA boundary itself that I presented in a separate email earlier today. Essentially why is only the wetlands portion of the Malibu Lagoon Park the ESHA when considering the buffer for this project? Why isn't it the entire park?

8. Most OSTs (on site treatment systems) require future expansion area. Has it been officially determined that none is required? If so where is it?

9. On p23 of the Report, it is stated:

A June 3, 2005 Wetland Delineation Study prepared by the applicant's consulting biologist, TeraCor Resource Management, found that the upper limit of the Malibu Lagoon ESHA is 10 feet from the lagoon waterline recorded on May 22, 2005 by TeraCor's wetland specialists. The City Biologist concurred with the TeraCor delineation. The ESHA boundary, as determined by the applicant's biologist and the City, is located 65-67 feet from the rear property line. As such, 33 feet of the required 100 foot wetland ESHA buffer is situated on the subject parcel.

Can anyone show me where Teracor is measuring to and from exactly? I have a photo (see attached) where I photographed the high tide water line at 55 ft from the chain link fence of the park (54.5 ft from the property line). How can this be 67 ft to where a wetland boundary exists if it is defined when under: **The California Code of Regulations Section 13577(b) of Title 14, Division 5.5, Article 18:**

(1) Measure 100 feet landward from the upland limit of the wetland. Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. For purposes of this section, the upland limit of a wetland shall be defined as:

- (A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;***
- (B) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or***
- (C) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.***

Again, tell me where Teracor's marker is? I have water at 54.5 ft from the rear property line. As I believe there has never been a rear property line survey marker at the site, does Teracor show what they were measuring to? How did they get 67 ft to the rear yard from the ESHA boundary as 67 feet would be 12 or 13 ft into the water when measured from the property line at the time I took this photo?

10. Why is it when I base my appeal for a de novo hearing that I mentioned this mis-measurement as one of the major reasons and yet nobody came to the site to measure and it just gets approved anyway?

11. On p28 of the report it is stated:

A December 5, 2006 Biological Study prepared by TeraCor found that the trees were being utilized by Osprey, Great Egret, Black-crowned Night Heron, Great Blue Heron, Red-shouldered Hawk, Cooper's Hawk, Red-tailed Hawk, and Great-horned Owl. In particular, the herons and egrets roost in the trees when not actively feeding in the Malibu Lagoon estuary. The Osprey is a California Department of Fish & Game "Species of Special Concern". Great Egret is not a listed species, but they are uncommon in Southern California.

Yet under 4.3.A.3 of the LIP defines ESHA as: ***Any habitat area that contributes to the viability of species that are designated "fully protected" or "species of special concern" under State law or regulations.***

Wouldn't it follow that the Cypress trees are indeed ESHA?

Under 4.3.C.1 of the LIP: *Any area mapped as ESHA shall not be deprived of protection as ESHA, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.*

Lastly under 4.5.3A, C and D we have more guides to make all of the Malibu Lagoon Park ESHA:

4.5.3. Other types of environmentally sensitive habitat

A. Public accessways and trails, including directional signs

C. Restoration projects where the primary purpose is restoration of the habitat.

D. Invasive plant eradication projects if they are designed to protect and enhance habitat values.

As this is one of the largest and greatest ESHAs in the Malibu area, please explain why isn't it ESHA to all of this park's boundaries? Considering the major trail to the beach for the public and the proposed restoration for the whole Lagoon Park, why isn't the entire park ESHA?

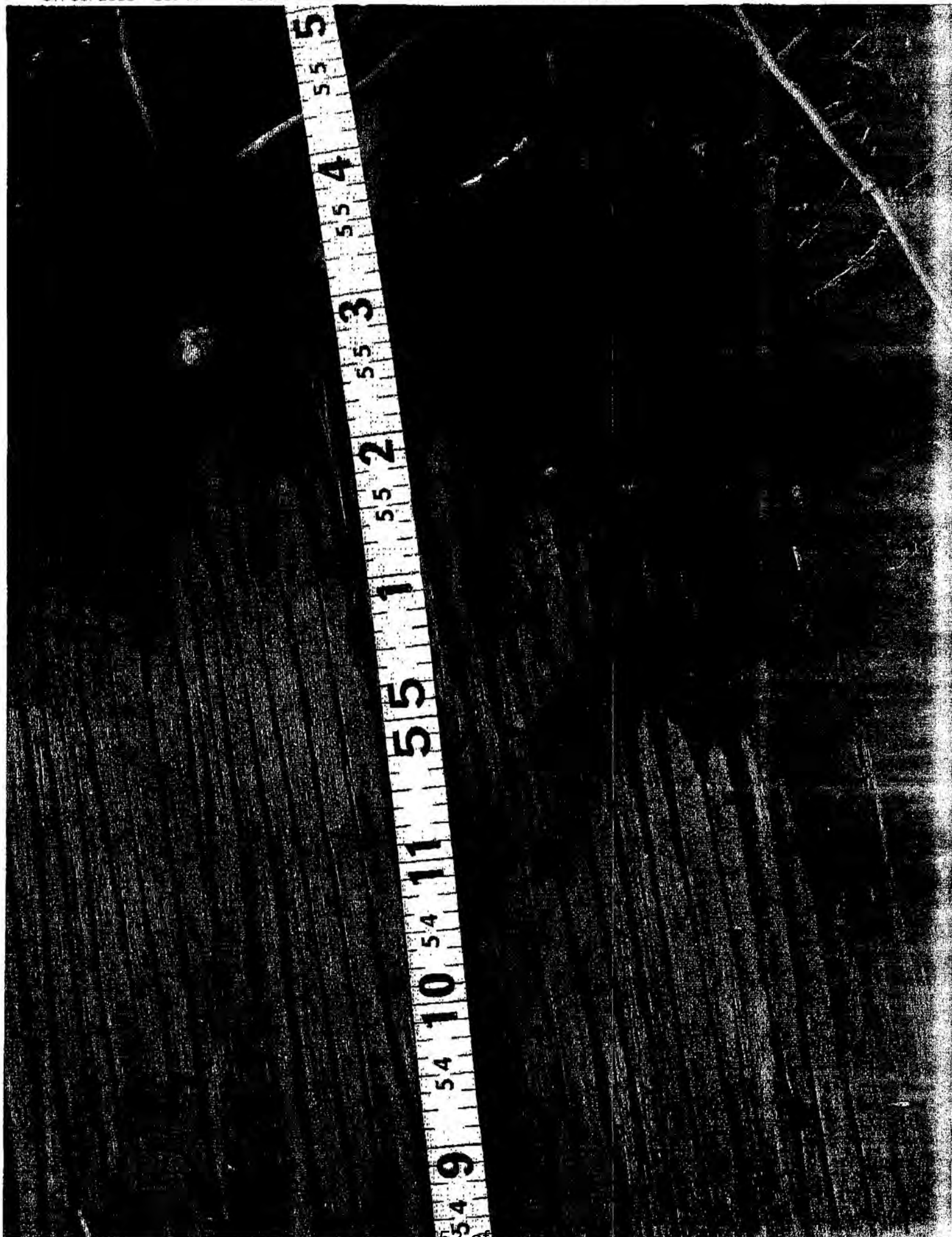
12. On p 35 of the Staff Report is states: *Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.*

We have been presenting all this evidence to the contrary (alternative plot plans, moving the leech field to the front of the house, reducing the side yard MM, asking for a caisson foundation, etc.) to mitigate the impact on this site and the environment, yet you approve this development as though none of this was ever presented to you. Isn't this a violation of CEQA?

13. Good job with the Malibu Colony overlay district 20 ft rear yard set back not dominating the Malibu LIP's 100 ft ESHA buffer rules!

Regards,

Steve Littlejohn
7/5/08



Deanna Christensen

From: Steve Littlejohn [REDACTED]
Sent: Monday, June 30, 2008 12:24 PM
To: Steve Littlejohn
Cc: Barbara Carey; Deanna Christensen; Frank Angel; Marcia Hanscom; richard Ibarra; Roy van de Hoek; Toni Littlejohn; Bill Littlejohn; Joanne Ventresca; Patt Healy; chester nite
Subject: Margolis residence buffer photo



48 ft -6.5 inches to
ESHA boun...



62 ft to water.jpg
(113 KB)



tape on boundary
fence.jpg (22...



detail of ESHA
boundary.jpg (6...

Hi Dianna:

Here are the photos that we spoke about (all taken on Sunday, 6/29/08).

(see the titles of the photos).

Tape of boundary fence = I hooked the tape measure to the park boundary fence which shows on the survey as being 0.7 feet outside (toward the lagoon) the rear property line. please note on the survey there is a 2nd chain link fence that is 18'-6" toward the proposed house at the west corner of this inner fence which is what I am contending is what Teracor measured to instead of the rear property line (it measures 67 feet to the stake described below to this west corner of the inner fence). By the way, I have never seen a rear property line survey stake at this site, so I don't know what Tercor was measuring to.

62 ft to water = self explanatory. This photo measures from the park boundary fence to the actual lagoon water's edge at this moment in time. This water level rises and falls with the tides and the state of the berm at the mouth of the lagoon. It is variable. The important thing here is how can it be 67 feet to a point where the earth is so dry that the hydrophytes cannot survive?

48' -6.5" to the ESHA boundary (also see the cropped photo that shows a magnified detail) = There has always been a wooden stake (it has a little red plastic tie on the top) marking a steel pin that was driven into the earth at this point that was spray painted day glow orange. When you read the consultant's report it describes what you see here perfectly. there is the water of the lagoon, then about 2 ft of mud flat or so, then about 10 feet up from the edge of the mud flat, you can see that the growth of the hydrophytes seems to stop right at this stake. You can see that the tape is measuring about 48' - 6.5" at this point (to this stake). If you do the math, this puts the rear property

line at 49 feet from the ESHA boundary. The project needs to be 51 feet back from this point, not 33 feet.

I hope that you will find this important enough to come and measure yourself. Perhaps have a representative from Teracor there as well?

If you verify that this fact, then it would seem logical that the applicant must design for a 51 ft rear yard set back and you cannot approve the incorrect design on July 10th. It would be logical to have this de novo hearing continued to allow the applicant the time to re-design.

Please call me after you review this.

Regards,

Steve Littlejohn

[REDACTED] = cell

[REDACTED] = office

[REDACTED] = morning office (cell doesn't work here)









Deanna Christensen

From: Steve Littlejohn [REDACTED]
Sent: Thursday, July 03, 2008 9:07 AM
To: Frank Angel; Marcia Hanscom; Patt Healy; Toni Littlejohn; chester nite; richard Ibarra; Roy van de Hoek; Marcia Hanscom; Barbara Carey; Deanna Christensen
Subject: engineer's letter

Hi Dianna:

Here is a letter (see the attachment) about why the caisson above grade beam foundation would not only be better for the ecosystem, but for the applicant himself. The applicant appears to be making a classic penny wise but pound foolish mistake here.

Please address these concerns. I am having my engineer come to the hearing unless it get continued over the mis-measurement to the ESHA boundary. Please let me know about that.

Regards,

Steve Littlejohn

THE ROLIN PARTNERSHIP

Architectural Engineering
P.O. Box 2408 Pismo Beach, CA 93448
805/481-5170 805/481-5270 fax

Mr. Steve Littlejohn
Re: 23405 Malibu Colony Drive
Malibu, CA

July 2, 2008

Dear Mr. Littlejohn,

I have reviewed the soils report by Grover Hollingsworth & Associates dated January 19, 2006 and the addendum of May 10, 2007. The addendum also had a plan of the proposed residence with schematic sections.

The soils have been analyzed and discussed in the referenced reports. My concerns would be the following:

a) If a ribbed mat footing is approved how can anyone guarantee that the ribs or mat will not cut any of the tree roots ?

b) If there is liquefaction and it occurs locally, what criteria can be used to guarantee minimum deflection or rotation ?

c) If 1" to 3" of settlement or 1 1/4" of differential settlement could occur, how do you insure the structural capacity of the building above the footings. If a mat slab rotates or tilts, and the walls stay perpendicular to the slab, then the walls are now tilted, or out of plumb, and the vertical loads imposed no longer are concentric with the walls and could cause out of plane bending. This could cause wall failure if not addressed. This is a structural engineering issue and not a geotechnical issue; but one that needs to be taken care of.

d) Also, I'm not an arborist but would the lack of oxygen or moisture to the tree roots affect their health ?

page 2

e) From a structural engineering standpoint, it would seem that a "poured in place" pile and grade beam foundation system would solve a lot of problems. Rotation would not be an issue. Vertical or lateral deflections could be reduced significantly and the magnitude of those moments reduced to very little. Furthermore the grade beams could be above grade, therefore not affecting the tree root structure.

f) Even with a well designed ribbed mat, you are guessing what would happen under earthquake conditions. Why would anyone want to take that chance ?

g) If the assumption is basically that the soil turns to "jello" during an earthquake, how do you develop friction at the bottom of the mat slab, or passive pressure to keep the building from moving laterally ?

Sincerely,



A handwritten signature in black ink, appearing to read "Kenneth W. Rolin", written over a horizontal line.

Kenneth W. Rolin

Design and Construction of Mat Foundations.

Accession Number : ADA216450

Title : Design and Construction of Mat Foundations.

Descriptive Note : Final rept.,

**Corporate Author : ARMY ENGINEER WATERWAYS EXPERIMENT
STATION VICKSBURG MS GEOTECHNICAL LAB**

Defense Technical Information Center

Personal Author(s) : Johnson, Lawrence D.

Report Date : NOV 1989

Pagination or Media Count : 356

Abstract : Mat foundations commonly support all types of structures. Flat mats from 2 to 8 ft in thickness often containing two-way steel reinforcement top and bottom usually support multistory or heavy structures. Mats less than 1 ft thick often constructed with steel reinforced ribs or stiffening crossbeams usually support light one or two story structures. Many of these mats have been designed and constructed for supporting permanent military facilities, particularly in heavy/shrinking and compressible soil. Some of these mats have experienced significant differential movement leading to cracking in the structure and have required costly remedial work. Attempts to reduce such maintenance expenses of some structures have lead to substantially increased design and construction costs for mat foundations. This report provides information on serviceability of structures, guidelines for evaluation of soil, and some structure input parameters for design analysis and guidelines for design and construction of ribbed mat foundations in expansive soils. Methods have been developed for evaluation of effective soil elastic moduli and stiffness of structures. New concepts are proposed for determining some soil input parameters for design in expansive soils such as the depth of the active zone for heave and edge moisture variation distance. Several case history studies of ribbed and flat mat foundations have been investigated to assist determination of suitable procedures for calculating deformation behavior of mat foundations. (jhd)

Descriptors : *FOUNDATIONS(STRUCTURES), *MATS, CASE STUDIES, COMPRESSIVE PROPERTIES, CONSTRUCTION, COSTS, CRACKS, DEFORMATION, DETERMINATION, MAINTENANCE, MILITARY FACILITIES, MODULUS OF ELASTICITY, REINFORCING MATERIALS, RIBS, SOILS, STEEL, STIFFNESS, STRUCTURES, THICKNESS, FIELD EQUIPMENT.

Subject Categories : CONSTRUCTION EQUIPMENT, MATERIALS & SUPPLIES
SOIL MECHANICS

Distribution Statement : APPROVED FOR PUBLIC RELEASE

Search DTIC's Public STINET for similar documents.

Members of the public may purchase hardcopy documents from the National Technical Information Service.

To Members of the Coastal Commission

From: Patt Healy on behalf of the Malibu Coalition for Slow Growth (Appellant)

Re Th 11a A-4 MAL -07-095 23405 Malibu Colony Rd. 7-10-08

Date Written: July 2, 2008

Dear Commissioners:

We are appealing this project since its rear yard borders the Malibu Lagoon an ESHA. If not constructed properly this project will have serious negative impacts on the Malibu Lagoon ecosystem. This lagoon is of regional and statewide importance. As you are aware ninety five percent of our Coastal Wetlands have been destroyed and this particular wetland is one of the last remaining functioning wetlands and a major stopover for migrating birds as well as habitat for native species.

The Cypress trees that abut the western property line of this lot are an integral part of the lagoon ecosystem and we believe, that even though they are on private property in a residential area they should be considered ESHA. They are the roosting sites and possible nesting sites for Blue Herons, Egrets and other birds of prey including the Osprey, a species of special concern, that has been documented roosting in the Cypress. (photo 1 and 2, Ex1). Because of the trees special role in the ecosystem, they are in desperate need of preservation and will be destroyed if proper conditions are not imposed upon this property. Staff has imposed some conditions but not all that are needed to ensure the survival of the Cypress.

ESHA

If you find the Cypress trees are ESHA, the appeal should be upheld, the project denied and the project redesigned to meet the ESHA requirements of the LCP.

Wetland Buffer

There is a legitimate conflict over the measurement of the required 100 foot setback buffer from the wetland boundary. Appellants' biologist and Applicant's consultant have a legitimate dispute as to the actual boundary. In fact the city biologist, at one time, until the applicants biologist decided otherwise, thought the wetland setback was further upland. (Ex 2)

Coastal Staff biologist Jonna Engels never measured the setback per Appellants request of Staff, rather relied solely on the Applicant's consultant's determination without the necessary site visit needed to make the proper buffer determination. This doesn't seem right and a site visit should take place by the Coastal biologist prior to your approving this project.

We ask that your decision be postponed until 100 foot setback from ESHA is measured by Coastal Staff to insure that the proposed development is set back 100 ft from the Malibu Lagoon wetland as required under the LCP.

If the Applicant is incorrect in its measurements, the mistake should be corrected otherwise it will set a precedent for the other lots that are yet to be built on and for the remodel/ tear down of the existing older residences that border the Malibu Lagoon.

If our assessment is correct the project should be redesigned to meet the required 100 foot setback buffer from the Malibu Lagoon.

1/3

EXHIBIT 2
A-4-MAL-07-095
7.9.08 Addendum
Patt Healy
Correspondence

Additional conditions

City staff and elected officials , City environmental Review Board, Coastal staff, the Applicant , the Appellants all agree that the Cypress trees need to be preserved and not destroyed by the development of this project even if it is determined they are not ESHA.

There are 3 ways that the Cypress will die if the project is constructed without proper precautions. They are 1. Trimming the canopy, 2. Injury to the root system and 3. interruption of ground water flow and elevation of the water table. (Ex 3) Replacement trees will not make up for the destruction of 80 year old Cypress trees.

Trimming the canopy can't be avoided due to the height of the proposed structure and fire department requirements requiring clearing the canopy to 10 ft above the structure. This alone will weaken the trees but probably not kill them if pruning is done in the proper manner.

In order to not destroy these important trees and displace the birds that depend on them, the following added conditions need to be placed on this project and fulfilled prior to the issuance of a coastal permit.

1 In order to best protect the root systems of the Monterey Cypress trees and for safety reasons , we ask that the Applicant be required to utilize caissons with above the grade beams instead of its currently proposed foundation. Not only is it better for the trees but it is also a safer alternative for the residence since a matt foundation as proposed could end up tilting during a massive earth quake in-a liquefaction area.

2. In order to protect the Cypress tree root system , the pool be placed above ground. The excavation for the pool will destroy the Cypress root system in the vicinity of the pool and will likely lead to the trees demise and endanger the residence as the severed roots will likely destabilize these 80 ft. tall trees and could cause them to topple in the direction of the structure..

3. The leech field for the residence should be placed at the front of the house to protect the root system of the trees. If it is placed at its currently proposed location, the construction of the leech field will require roots to be cut , harming the trees and the effluent from the leech fields will cause a rise in the water table causing the roots to rot, further contributing to the trees demise.

4. Also it would help the continuing existence of the trees, if the Minor Modification for the side yard be denied and the 2.5 ft of requested reduction of the set back be given to the west side (7 ½ ft rather than 5 ft being asked for under this Minor Modification and let the east side be allowed to be 5 ft)

5. LIP section 4.4.1 requires applications for a coastal development^{Permit} require preliminary approval from the California Department of Fish and Game if new development is on a site that is adjacent to a stream or a wetland. There is no evidence in the city or Coastal Commission record that this approval has been obtained. A letter dated 3-28-07 from Fish and Game seems to indicate that this needed approval has never been obtained. Please condition this project to require that this approval be obtained. (Ex 4)

Not in Opposition to Project

We are not opposing the project. We are simply balancing the protection of the environment with the protection of private property rights.

These are all relatively simple fixes that will give the applicant his home and yet protect the Lagoon, the Cypress trees (and their continuing unique role in the ecosystem of the Malibu Lagoon).

This is fair to both the environment and to the Applicant.

We would like the opportunity to speak to you on this matter prior to the hearing and will try to reach you before then .

Thank you for considering our comments.

Exhibits

Photo 1 (Indicates Cypress trees proximity to Malibu Lagoon and birds roosting in them
Contrary to Staff report even though they are in a developed residential area and are allegedly regularly disturbed they have adapted well to any alleged disturbance see
(ex 1)

Photo 2 (Shows that birds roosting are Osprey a species of special concern that is rare)

Ex 1 (Contrary to staff report , Applicant's consultant in a 11-3-06 letter indicates that the Cypress could be nesting sites. "Due to the seasonal timing of their investigation nesting sites could not be confirmed" Also states that birds flushed from the trees returned quickly and that herons exhibited tolerance for construction noise and vehicular noise.)

Ex 2 (The city biologist believed the wetland boundary was further upland and only changed his mind when he read the Applicant's report)

Ex 3 (Frederick Roth consulting arborist in a 10-17-06 letter states how trees will be harmed and can die. which prompts our asking for the 5 special additional conditions.)

Ex 4 (3-27-7 letter from California Fish and Game . It indicates that Fish and Game may not be aware that under the LIP 4.4.1 before a coastal permit application can be processed their preliminary approval is required as part of the application process.)



Note Roosting
Birds in
Cypresses

Show how
Cypresses are
part of Lagoon
ecosystem

1972
ex.2



Egrets +
Osprey
Herring
species

Photo
2
43

03 November 2006

Rick Margolis
Colony House I, LLC
2910 Valmere Drive
Malibu, California 90265

Date Received 11/7/06 Time 3:00 PM
Planning Commission meeting of 11/7/06
Agenda Item No. 6-E
Total No. of Pages 2

NOV 07 2006

RE: **GREAT BLUE HERON (*Ardea herodias*) AND BLACK-CROWNED NIGHT-HERON (*Nycticorax nycticorax*) PRESENCE ADJACENT TO A SINGLE FAMILY RESIDENTIAL LOT IN MALIBU, CA**

Dear Mr. Margolis:

This letter has been prepared in response to your inquiry regarding the presence of great blue heron (*Ardea herodias*) and black-crowned night-heron (*Nycticorax nycticorax*) roosting in trees on and adjacent to your residential lot property in the Colony in Malibu. On 13 October 2006 S. Reed, Principal Biologist, **TERACOR Resource Management (TERACOR)**, conducted a targeted biological evaluation of the subject property to confirm the species and disposition of wading birds/shorebirds on or near the subject vacant property. This analysis is based on our knowledge of 1) avian resources generally, 2) the Malibu lagoon area specifically, 3) field reconnaissance of your property, 4) designated "sensitivity levels" of the known species in question, and 5) City of Malibu and related project processing requirements.

Life History Parameters

The **great blue heron** is the largest heron in North America. The species is characterized by a short tail, long bill, occipital plumes and long rounded wings. They are known to nest as single pairs and small colonies. In the West, the range of the great blue heron stretches from the southeast Alaskan and northern British Columbian coasts to Baja California and southward into Central America. The great blue heron feeds in slow moving waters and seacoasts. Their diet consists of fish, amphibians, invertebrates, reptiles, small mammals, and even small birds. They nest in trees, shrubs, or on the ground near a water source.

The **black-crowned night heron** is a moderately-sized wading bird. They are characterized by a short neck, short legs, and a stocky frame. The range of the black-crowned night-heron stretches across North America from Washington to New Brunswick, and South through coastal Mexico, though they are known to breed on every continent with the exception of Australia and Antarctica. The black-crowned night-heron is a nocturnal and crepuscular feeder, and has a diet that consists mainly of fish, though they are also known to ingest invertebrates, mollusks, crustaceans, amphibians, reptiles, small mammals and plant materials. They prefer to nest near tree trunks, off distal forks of branches, in the open, or deep in foliage. They also exhibit a preference for islands and swamps for nesting due to the decrease of predatory threat, and nests are normally found near a water source.

Neither bird is protected under the federal or state Endangered Species Act.

1 of 2

CC: PC, CC, CA, PM, ECD Director, Planner, File,
Counter, PC Corres., Rec. Secretary

Ex 1

See page 2

Findings and Recommendations

TERACOR's site evaluation confirmed great blue heron and black-crowned night-heron utilizing the Monterey cypress, Ficus and coral trees present on or near the Margolis property. We also observed a number of passerine birds in migration moving through the Colony generally. We observed that the resident herons exhibited a high tolerance for human presence (e.g., Colony construction and vehicular noise). Specifically we noted that birds flushed from the trees during our investigation returned quickly. Nesting could not be confirmed due to the seasonal timing of our investigation. The proximity of the Colony, however, to the Malibu Lagoon renders many trees throughout the Colony potential heron nesting sites.


Great blue heron rookeries (nest sites) have been designated as a California Species of Concern (CSC) locale by the California Department of Fish and Game (CDFG). Night herons have no designation by the State CDFG. Neither species or their nest sites are designated as sensitive by the U.S. Fish and Wildlife Service due to their overall abundance and adaptability to various wetland environments across the nation. In CEQA analyses, lead agencies generally take these designations into consideration even though CEQA specifically exempts single family homes on existing lots from this level of analysis.

The federal Migratory Bird Treaty Act (Act) specifically requires that no "take" of migratory species may occur directly to any bird or its active nest without federal authorization. "Take" occurs only if the bird is physically harmed or killed, or its active nest and eggs removed or destroyed. If the cluster of non-native trees on or near the Margolis property are to be trimmed or thinned, these activities should occur outside of the breeding season (breeding/nesting generally occurs in late Winter, Spring and early Summer). Tree removal/thinning activities should be monitored by a biologist or ecologist during any tree trimming work to avoid "take" of any bird protected under the Act.

It is our opinion that development of the property as planned can proceed as long precautionary measures described above are taken to minimize effects to roosting sites in the area. If you have any questions please contact me at 951.694.8000. You may also reach me via email at sam@teracor.net.

Respectfully,

TERACOR Resource Management


Samuel Reed
Principal

H:\Active Projects\Margolis - Malibu Colony\Reports\Heron Letter Nov 2006.wpd

2 72

City of Malibu

23815 Stuart Ranch Road, Malibu, California 90265
(310) 456-2489 Fax (310) 456-7650

Planning Department

BIOLOGICAL REVIEW

Site Address: 23405 Malibu Colony

Applicant/Phone: Darren Domingue/ 310.452.9703

Project Type: Pre-application site meeting - ESHA Buffer determination

Project Number: PA 05-014

RESOURCES: Malibu Lagoon ESHA

SUMMARY OF DETERMINATION

On March 14, 2005 I met with the applicant and the prospective property owner to evaluate existing conditions on the subject parcel. The site is a narrow infill lot on the north (inland) side of Malibu Colony Road. North of the property boundary exists an access road for public utilities and the Malibu Lagoon. At that time, I made a determination that the ESHA boundary was likely adjacent to the north edge of the existing maintenance road. In my initial review for this pre-app, I mistakenly stated that the applicant had hired an independent biologist. However, since that time the applicant has hired the services of an independent biologist.

The applicant had the independent biologist make a determination regarding the limits of the Lagoon ESHA based on the results of focused surveys including an US Army Corps of Engineers protocol wetlands delineation. Based on the site visit and a meeting with the biologist, I concur with their biologist's determination that the nearest limits of ESHA to the subject property occur approximately 8 feet outside of the high tide line. Based on that determination, the required 100-foot ESHA buffer extends approximately 33 feet into the approximately 166.7-foot deep lot.

Pursuant to LIP Section 4.6.1 (B), new development shall provide a buffer of no less than 100 feet from the upland limit of the wetland. LIP Section 4.5 limits development within ESHA or ESHA buffer to aquaculture, wetlands-related scientific research, wetlands-related educational uses and incidental public service purposes.

Therefore, any other development shall occur outside of the 100-foot buffer. As defined in Chapter 2 of the LIP, development includes the placement or erection of any solid material or structure; and/or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste. As such, any proposed design for a residential structure must exclude any portion of the structure or septic system from the ESHA buffer zone.

Reviewed By: _____

Dave Crawford, City Biologist

310-456-2489 ext.227 (City of Malibu); e-mail dcrawford@ci.malibu.ca.us

Available at Planning Counter Mondays and Thursdays 8:30 a.m. to 12:30 p.m.

Date: 6/9/05

Ex 2

Experts disagree
as to setback
Coastal Commission
needs to measure

ex. 2

Frederick Roth, Ph.D.
Consulting Arborist

October 17, 2006

Bill Littlejohn
98A Malibu Colony Drive
Malibu, CA 90265

Dear Mr. Littlejohn:

The following letter is my assessment of the damage that development of the property to the east of your residence is likely to do to the Monterey cypress trees that line the east side of your property. It is based on my visit to the site on October 14, 2006.

Background: My survey identified 12 Monterey cypress trees of varying size, numbers of trunks and quality. Six of these trees are in good health and have good structure, and would be a significant loss to your property if damaged. These trees vary in trunk diameter from 29.3 to 42.2 inches at standard height. I estimated the value of these trees as landscape specimens, using standard methods prescribed by the Council for Tree and Landscape Appraisal to be in excess of three hundred thousand dollars.

The property line was clearly marked by survey stakes. Based on these stakes, the line varies from 10 feet from the tree's trunk on the north side of the property to approximately 12 inches inside the buttress roots on the south side.

Potential Damage: The impact of development would result from three distinct sources. These are:

- The need to prune the crowns of the trees in order to fit the proposed residence under the trees. The clearance needed was clearly indicated by the placement of "story poles" which literally tangled with tree crowns in some areas.
- Root injury caused by compaction of building pads, excavation for and construction of building footings and similar damage by footings of retaining walls if needed.
- Interruption in ground water flow and elevation of the water table due to construction of raised building pads if needed.

Assessment: Most of the tree crowns that appear to conflict with the story poles are of trees of poorer condition or structure, and clearance could be gained with relatively little damage to the more desirable trees. However, pruning at the property line to the tree's height would be highly destructive to the trees. Thus, if the proposed building is constructed as indicated, it would require that the trees overhang the structure.

6276 Mayberry Avenue
Alta Loma, California 91737
(909) 987-7165 (voice)
(909) 980-7995 (fax)

102

572 of 709

EX 3

DAMAGE / Death
to Trees

ex. 2

It is generally recognized that roots of trees should not be pruned closer than 3 trunk diameters. This is possible at the north end of the line of trees, but there is far less clearance from the property line on the south end of the line of trees and it is questionable if building footings can be installed without seriously damaging at least some of the trees. It is clear that any root pruning on the east side of the trees would reduce their stability and increase the threat of their toppling to the east onto the newly constructed residence. I note that the trees already lean distinctly in that direction.

It is my understanding that the ground water in this location is frequently only a few feet from the surface and that installation of sanitation systems frequently requires that the building grade be raised to allow proper installation. Such raising of the grade could potentially damage the trees by severing roots for installation of retaining walls and by alteration of the water table, possibly resulting in saturated conditions in the current root zone. Under these conditions, the trees would be subject to root death due to anaerobic conditions and promotion of root rots.

The trees are approximately 80 years old, relatively old by the standards of the species, and thus are less able to tolerate significant changes in their environment than younger trees. The impact of the construction I have discussed above could easily cause the decline and death or structural failure of the trees.

Thank you for inviting my assistance with this situation, and please call me if you have any questions regarding this letter.

Best regards,

Frederick Roth, Ph.D.
Consulting Arborist

**DEPARTMENT OF FISH AND GAME**<http://www.dfg.ca.gov>

South Coast Region

4949 Viewridge Avenue

San Diego, CA 92123

(858) 467-4201



March 28, 2007

RECEIVED

APR 04 2007

Mr. Evan Langan
City of Malibu
23405 Malibu Colony Road
Malibu, CA 90017

**Draft Mitigated Negative Declaration
23405 Malibu Colony Road Single Family Home
SCH # 2007031038, Los Angeles County**

Dear Mr. Langan:

The Department of Fish and Game (Department) has reviewed the Initial Study (IS) and draft Mitigated Negative Declaration (SMND) for the above referenced project. The project consists of an application for a coastal development permit proposing construction of a new 5,200 square foot two-story single family home and a 1,368 square foot attached garage, pool/spa, grading and onsite wastewater treatment system. The project is located at 23405 Malibu Colony Drive within the coastal zone, City of Malibu. The site is vacant and located within a residential area. The site supports on site cypress trees providing roosting habitat for herons and raptors and is located near Malibu Lagoon.

The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Guidelines (CEQA), Section 15386).

Impacts to Biological Resources

Impacts to Native Birds - The Initial Study states that Malibu Lagoon is located to the north of the project site and that the site supports cypress trees that provide habitat for roosting herons and raptors, however no herons or raptors have been documented to have ever nested in the trees. The IS states that "several of these trees are proposed to be pruned under the proposed scope of the project".

- a. The Project will result in the removal and/or disturbance to nesting bird habitat and therefore has the potential of impacting nesting native birds. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918(50 C.F.R. Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA).

Ex 4

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- b. Proposed project activities (including disturbances to native and non-native vegetation, structures and substrates) should take place outside of the breeding bird season which generally runs from March 1- August 31 and as early as February 1 for raptors to assist in the avoidance of take (including disturbances which would cause abandonment of active nests containing eggs and/or young). Take means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill (Fish and Game Code Section 86). Great Blue Herons have been documented to begin nesting as early as December within some coastal areas of Los Angeles County such as Marina Del Rey.
- c. If project activities cannot feasibly avoid the breeding bird season, the Department recommends that beginning thirty days prior to the disturbance of suitable nesting habitat the project proponent should arrange for weekly bird surveys to detect any protected native birds in the habitat to be removed and any other such habitat within 300 feet of the construction work area (within 500 feet for raptors) as access to adjacent property allows. The surveys should be conducted by a qualified biologist with experience in conducting breeding bird surveys. The surveys should continue on a weekly basis with the last survey being conducted no more than three days prior to the initiation of clearance/construction work. If a protected native bird is found, the project proponent should delay all clearance/ construction disturbance activities in suitable nesting habitat or within 300 feet of nesting habitat (within 500 feet for raptor-nesting habitat) until August 31 or continue the surveys in order to locate any nests. If an active nest is located, clearing and construction within 300 feet of the nest (within 500 feet for raptor nests) or as determined by a biological monitor shall be postponed until the nest is vacated and juveniles have fledged and when there is no evidence of a second attempt at nesting.

Limits of construction to avoid a nest should be established in the field with flagging and stakes or construction fencing. Construction personnel should be instructed on the sensitivity of the area. The project proponent should record the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to the protection of native birds.

- d. Tree pruning should be minimized to the extent necessary to protect public safety and property value while not precluding continued use by avian species for roosting and nesting sites as feasible.
- e. Landscaping on the proposed project site should consist of native species which will facilitate use by avian species.
- f. Artificial night lighting should use shields which direct light away from any wildlife habitat areas on or adjacent to the site including upward into roost trees.

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Mr. Evan Langan
March 28, 2007
Page 3

The Department recommends that the above concerns are addressed prior to lead agency approval of the proposed project.

Thank you for this opportunity to provide comment. Questions regarding this letter and further coordination on these issues should be directed to Mr. Scott Harris, Associate Wildlife Biologist, at (626) 797-3170.

Sincerely,



Larry L. Eng, Ph.D.
Regional Manager

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ANGEL LAW Law Offices of Frank P. Angel

2601 Ocean Park Blvd., Suite 205
Santa Monica, CA 90405
Tel: (310) 314-6433
Fax: (310) 314-6434

July 8, 2008

Deanna Christensen, Coastal Program Analyst
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001-2801

VIA E-mail: dchristensen@coastal.ca.gov, and Fax: (805) 641-1732

Re: Appeal number A-4-MAL-07-095 (Margolis, Malibu)

Dear Ms. Christensen:

Please see the attached letter, submitted by our office to the Malibu Planning Commission on June 4, 2007, for purposes of the above-referenced project. Although this letter is already part of the record of proceedings for the project, in an abundance of caution, we are resubmitting the letter to your office for purposes of exhaustion of our administrative remedies. After reviewing the staff report for the upcoming Coastal Commission hearing of July 10, 2008 regarding the project, we feel that all of the issues raised in the attached letter are still valid and, thus, warrant resubmission.

Sincerely,

ANGEL LAW



Erin Ganahl

Enclosures (1)

EXHIBIT 3
A-4-MAL-07-095
7.9.08 Addendum
Frank Angel
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June 4, 2007

Planning Commission
City of Malibu
23815 Stuart Ranch Road
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Re: Coastal Development Permit No. 06-023, Initial Study No. 07-001, Negative Declaration No. 07-001 and Minor Modifications Nos. 06-049 and 07-016 -- Planning Commission June 5, 2007 Public Hearing

Dear Planning Commissioners:

We offer these comments on behalf of our client Bill Littlejohn, concerning the Initial Study and Negative Declaration (ISND) prepared for the project applications submitted by Darren Domingue for Richard Margolis (referenced above). To the extent planning staff still claims that the project is exempt from the California Environmental Quality Act (CEQA), as was already brought to your attention at the previous hearing and further explained below, this project is not exempt from CEQA. Thus, staff's decision to provide CEQA review, i.e., prepare an initial study was a correct, albeit late, decision.

Unfortunately, the ISND at issue fails to comply with CEQA's information disclosure requirements. Furthermore, the project, as sited and designed, fails to conform with the Malibu Local Coastal Program (MLCP), including strict environmentally sensitive habitat area (ESHA) protection provisions contained in both the MLCP land use plan element (MLUP) and the MLCP implementation plan ordinances (MLIP). For these reasons, we respectfully request that the Planning Commission (Commission) deny the project applications, and order preparation of a revised, adequate ISND.¹

¹ Denial of the applications is mandated by CEQA, because under CEQA, a legally sufficient environmental document is a precondition to the legality of the public agency's approval decision. (See *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 204.) Denial of the coastal development permit and the minor modifications is also mandated by the state coastal and planning laws -- including the California Coastal Act of 1976 (see Pub. Resources Code, § 30604, subd. (b)) -- and the MLCP. Under these laws, development must conform to the applicable local coastal program. The MLCP specifically states that development "shall be consistent with the [MLUP] map, and all applicable [M]LCP policies." (MLUP, ch. 5, subpart C.1; see also MLIP, § 13.3(C); see

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The ISND's informational and analytical shortfalls, in summary, include the following:

- The ISND fails to describe the project and its unique environmental setting -- Malibu Lagoon and Surfrider Beach, a setting of statewide significance -- with sufficient detail for your Commission and the public to see and weigh all relevant direct and cumulative environmental impacts of the project;
- The ISND mischaracterizes and fails to disclose biological (land and marine) resources that are part of the project's environmental setting, and fails to adequately address all relevant direct and cumulative project impacts on these resources (e.g., septic system outflows in relation to ground water table; impacts to roosting bird colonies); and
- The ISND fails to point out any of the project's substantial inconsistencies with the Malibu Local Coastal Program (MLCP).

Furthermore, the Commission should note that substantial evidence is on record with the city, showing a fair argument that the project's adverse impacts on the environment are potentially significant. Therefore, and given the fact that the ISND proposes little mitigation to reduce these impacts to a level of insignificance, the Commission should order preparation of an environmental impact report (EIR). An EIR would truly disclose the project's adverse, potentially significant environmental impacts.² An EIR would also offer the Commission and the Environmental Review Board (ERB) project design alternatives to consider, as required by the ESHA policies of the MLCP.³

CEQA EXEMPTIONS DO NOT APPLY

In its ISND regarding this application, staff states that the project qualifies for class 3 and class 32 categorical exemptions from CEQA. Not so.

also Malibu Mun. Code, § 17.02.040(A)(1) ("no building may be erected ... nor shall any land, building or premises be used, designed or intended to be used for any purpose or in any manner which is in conflict with the purposes and intent of the city's general plan; see *id.*, § 17.02.040(A)(2); see *Land Waste Management v. Contra Costa County Bd. of Supervisors* (1990) 222 Cal.App.3d 950, 957-959 ("under established law, local government agencies are powerless to issue land-use permits which are inconsistent with governing legislation").)

² Adverse environmental effects of a project that are *potentially* substantial must be treated as "significant" within the meaning of CEQA. (See *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 448 & fn. 17.)

³ If the Commission orders preparation of an EIR, it will not need to order a revised ISND. (See CEQA Guidelines, § 15063, subd. (a).)

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In order to qualify for the class 32 exemption, the project must have "no value as habitat for endangered, rare or threatened species." (CEQA Guidelines. § 15332, subd. (c).) As will be discussed below, there are 15 healthy, mature cypress trees whose branches and roots are partially on the subject property. As explained below, the trees provide essential roosting habitat for a number of rare and protected bird species, and will likely suffer substantial damage from the proposed project. Further, in order to qualify for a class 32 exemption, the project must be consistent with all applicable land use plans and zoning regulations. (CEQA Guidelines. § 15332, subd. (a).) As will be discussed below, this project is inconsistent with the MLCP on many fronts. Finally, in order to qualify, approval of the project must not result in any significant effects on water quality. (CEQA Guidelines. § 15332, subd. (d).) As will be discussed, there is a substantial likelihood that the project, as currently proposed, will harm water quality in the Malibu Lagoon by placing a pool, spa and a septic leach field adjacent to the lagoon in an area with a high water table. For all of these reasons, the class 32 categorical exemption is totally inapplicable here.

Further, the project does not qualify for the class 3 categorical CEQA exemption because exceptions to that (and exemption 32) apply. According to CEQA Guidelines section 15300.2, subdivisions (b) and (c), a categorical exemption may not be used where the cumulative impact of successive projects of the same type in the same place, over time is significant, or where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."

Clearly there are "unusual circumstances" in this case that result in a substantial likelihood, if not certainty, that the project will have significant direct or cumulative effects on the environment. First, the project site's location is highly unusual: it borders on Malibu Lagoon (part of state parkland), and is immediately adjacent to a MLCP-designated ESHA (the lagoon and state parkland). Second, will impact the Cypress trees on the adjacent property, which have roots and branches extending far into the development site. As the Commission was apprized at the last hearing, these trees serve as a roosting habitat for a myriad of birds, at least two of which are California species of special concern -- the Osprey and the Sharp-shinned Hawk. The trees represent an important ecological feature due to their support of the birds; they qualify as an ESHA, as explained below.

For these reasons, the project is subject to CEQA. The exemptions cited by staff are simply inapplicable.

THE INITIAL STUDY/NEGATIVE DECLARATION IS INADEQUATE

The ISND for the project fails to meet the content requirements for initial studies. These are set forth in CEQA Guidelines section 15063. Its requirements must be met before the Commission may approve the project.

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CEQA Guidelines section 15063, subdivision (a)(1) states that “[a]ll phases of project planning, implementation and operation must be considered in the Initial Study of the project.” Here, the project description is inadequate. The ISND fails to describe and consider relevant aspects of the project. It offers little information regarding specific siting and design of project-related structures, including, importantly, the septic system/leach field. All we know is that it will likely be placed within the lagoon ESHA buffer. Further, the ISND should disclose impacts from all phases of development, including impacts from the construction phase, such as noise, where the staging area will be and increased vehicle traffic. There must be scientific evidence showing at what decibel level, noise impacts are considered insignificant in relation to parkland uses and the roosting habitat.

The ISND also fails to disclose likely impacts to local biological resources, such as severe damage to or death of the stand of mature cypress trees, as evidenced by two letters from professional arborists (see 12/19/06 letter from Richard Ibarra, pp60-61 of June 5, 2007 Meeting Agenda Item 6F attachment Part 2; 10/17/06 Letter from Fred Roth, pp57-59 of June 5, 2007 Meeting Agenda Item 6F attachment Part 3). The damage to these trees will result in harm to local migratory bird populations that are found to roost there. The ISND fails to even mention over half of the bird species that have been frequently observed in cypress trees (as described in a November 5, 2006 letter from the Audubon Society, p62 of June 5, 2007 Meeting Agenda Item 6F attachment Part 3), and summarily dismisses the near certain significant disruption to these birds through harm to the cypress trees, their roosting habitat (discussed in detail below), stating that the “proposed improvement of the subject property ‘would have no discernable effect to area habitat or wildlife.’ ” (ISND at 13.) Statements of “no discernable effect” without accompanying evidentiary support or analysis are unacceptable. (See *Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, ____.)

According to section 15063, subdivision (d) of the CEQA Guidelines, the IS must also include: (1) a description of the project including the location of the project, and (2) an identification of the environmental setting. Without an accurate, definite project description, and without an adequate description of the setting, impacts analysis will be skewed and the environmental document inadequate. (*City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406.) Here, the location and parameters of septic system in relation to Monterey cypress tree root system, groundwater and groundwater flows, are not described or dealt with. Further, the Lagoon and its ecological functions and recreational uses are not described in any detail whatsoever. Also, there is no discussion in the ISND of whether the cypress trees qualify as ESHA, despite a substantial evidence to support such a finding. [CCC biologist letter re Villa Venetia.] Thus, the environmental setting is inadequately described. As a result, impacts analysis necessarily could not be thorough.

CEQA Guidelines section 15063, subdivision (d)(4) requires a discussion of the ways to mitigate potentially significant effects. The ISND dismisses all impacts as being either

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nonexistent or less than significant, and thus states that no mitigation measures are required. This conclusion stands in direct contrast to comments provided by the California Coastal Commission, California Department of Fish and Game, two professional arborists, an ecologist, the Audubon Society, and other concerned citizens. What thresholds of significance did staff use for its conclusion that no aspect of this project would have a significant environmental impact, with or without mitigation? The likely damage to and potential death of many roosting trees (explained below) adjacent to an important avian feeding ground can hardly be considered insignificant by this standard. (See CEQA Guidelines, § 15065, subd. (a).) The placement of a sewage drainage field adjacent to an ESHA (likely inside of the buffer), which also happens to be a state park and an extremely important ecological feature for the southern California coast, can hardly be considered insignificant. As a result, the ISND again fails as an adequate disclosure and analysis under the requirements of CEQA.

CEQA Guidelines section 15063, subdivision (d)(5) requires an examination of whether the project would be consistent with existing zoning, plans, and other applicable land use controls, i.e., MLCP. The ISND fails to discuss many of the relevant sections of the MLCP. (See Exhibit 8 to April 26, 2007 comment letter from the Malibu Coalition for Slow Growth/Patt Healy, found at pp12-37 of June 5, 2007 Meeting Agenda Item 6F attachment Part 2). As will be discussed below, the project is indeed inconsistent with important, mandatory policies and regulations of the MLCP, yet the ISND claims that the project is consistent with the MLCP.

For the foregoing reasons, the ISND fails to meet the requirements of CEQA. This Commission, therefore, should not approve the project unless and until the project application complies with CEQA and adequately discloses and truthfully describes the project's environmental impacts.

AN ENVIRONMENTAL IMPACT REPORT IS REQUIRED

CEQA requires an EIR whenever substantial evidence supports a fair argument that the proposed project may produce significant environmental effects. (CEQA, §§ 21080, subdivision (d) and 21082.2, subdivision (d); CEQA Guidelines, § 15064(f)(1).) Under well-settled CEQA case law, where a fair argument, based on substantial evidence, of a substantial impact on the environment or of local plan inconsistencies is presented, an EIR is required. (See *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 930-931.) As explained next, this EIR standard is met in this case.

The Project is Inconsistent with the MLCP.

Section 30240, subdivision (a) of the Coastal Act requires that ESHAs "be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas." Section 30240, subdivision (b) states that "[d]evelopment in areas adjacent to environmentally sensitive habitat areas *and parks*

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and recreation areas shall be sited to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas." (Emphasis added.) To this end, the MLCP has designated certain areas as ESHA (MLUP Policy 3.1), and has established that any other area that contributes to the viability of plant and animal species that is rare, threatened, endangered or of "Special Concern" is also to be considered ESHA (MLUP Policy 3.4).

The proposed project abuts a designated ESHA: the Malibu Lagoon State Park. According to MLUP Policy 3.14, any new development must be sited and designed to avoid ESHA impact. There is some discrepancy in the record regarding the delineation of the ESHA boundary. On one hand, the applicant's consultant (and the City Biologist) place the boundary at 33 feet past the Margolis property line. On the other hand, letters that have been submitted by the California Coastal Commission (11/6/06, attachment 2 to 5/31/07 Supplemental Commission Agenda Report, and 12/27/06, found at pp46-47 of June 5, 2007 Meeting Agenda Item 6F attachment Part 2) and numerous citizens (Steve Littlejohn, 11/7/06, found at pp62-66 of June 5, 2007 Meeting Agenda Item 6F attachment Part 2 and 4/23/07, found at pp8-11 of June 5, 2007 Meeting Agenda Item 6F attachment Part 2; Patt Healy, 11/6/06, found at pp63-65 of June 5, 2007 Meeting Agenda Item 6F attachment Part 3) proffer substantial evidence that the ESHA extends substantially closer to the property line, and likely includes the stand of cypress trees. A December 27, 2006 letter from Barbara Carey, Supervisor of Planning and Regulation for the Coastal Commission, to the Malibu Planning Commission (found at pppp46-47 of June 5, 2007 Meeting Agenda Item 6F attachment Part 2) states that "it is unclear from the staff report whether the upland portion of the wetland/lagoon was surveyed for habitat that meets the definition of ESHA, or whether the ESHA boundary was based solely upon the wetlands delineation." In fact, the ISND and the June 2005 report by the applicant's biologist (Terracor), relied on by the ISND, makes it quite clear that the ESHA boundary determination was based solely on the Terracor wetlands delineation, and does not take any other considerations into account that might establish science-based ESHA boundaries. The Coastal Commission's wetlands delineation guidelines provide helpful guidance in this regard. The Coastal Commission letter goes on to state that "[c]onsideration should be given to whether these [cypress] trees are ESHA, pursuant to LUP Policy 3.4." Still, the ISND fails to even mention, much less inquire into, this issue. Indeed, the ISND flatly ignores all evidence presented by all parties other than the applicant's biologist as to where the ESHA boundary lies, despite the highly credible evidence presented that the upland portion of the Lagoon area and the cypress trees themselves are likely ESHA. This runs directly counter to the policies of the MLUP and thus puts the proposed project out of conformity with the MLCP.⁴

Furthermore, MLUP Policy 3.23 dictates that "development adjacent to ESHAs shall minimize impacts to habitat values or sensitive species to the maximum extent feasible"

⁴In *City of Carmel-by-the-Sea v. Board of Supervisors* (1986), 183 Cal. App. 3d 229, the court found that an EIR is especially useful when there is a dispute over the boundaries of a sensitive environmental area (wetlands).

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(emphasis added); to that end, "buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect." (MLUP, Policy 3.23) These buffers, at a minimum, must be 100 feet in width. (Id.) Issues were raised at the ERB meeting of December 20, 2006 regarding the apparent conflict between the smaller ESHA buffer required by the Malibu Colony Overlay District and the minimum 100-foot buffer required by the Malibu LUP. Contrary to staff, Malibu Colony Overlay District standards do not trump these ESHA standards. The more restrictive ESHA standards control.⁵ (See 12/27/06 letter from California Coastal Commission.)

As a result of the discrepancy in ESHA delineation, there is a discrepancy with respect to acceptable, science-based ESHA boundaries. The applicant has designed the proposed project to be built out as close to the ESHA boundary (applicant's version) as could possibly be allowed (and possibly within the ESHA buffer, as the septic system is likely within the ESHA buffer). Thus, if it is determined (as it should be) that the ESHA boundary is actually closer to the Margolis property, the proposed project will be found to be within the ESHA buffer.

Second, as the project is currently planned, though it is never mentioned or analyzed, it appears as though the septic leach field will be constructed within the ESHA buffer (given the ESHA boundary as delineated by the city/applicant). (See p.20 of June 5, 2007 Meeting Agenda Item 6F attachment Part 3.) This is completely unacceptable and in contrast with the clear dictate of the MLUP. The city biologist stated, in a June 9, 2005 letter to the applicant (p52 of June 5, 2007 Meeting Agenda Item 6F attachment Part 2), that according to Chapter 2 of the MLIP "development includes the placement or erection of any solid material or structure; and/or disposal of any dredged material or of gaseous liquid, solid, or thermal waste."⁶ Thus, "any proposed design for a residential structure must exclude any portion of the structure or septic system from the ESHA buffer zone." (Id.) The ISND completely fails to mention or analyze the septic system for the proposed project (in violation of CEQA disclosure requirements, as discussed

⁵ According to Malibu LUP Policy 3.30, "[p]rotection of ESHA and public access shall take priority over other development standards and where there is any conflict between general development standards and ESHA and/or public access protection, the standards that are most protective of ESHA and public access shall have precedence." Further, section 17.04.070 of the Malibu Municipal Code's zoning regulations states: "Where conflicts occur between the regulations of this title and the building code or other regulations effective within the city, the more restrictive of any such regulations shall apply."

⁶ LIP 2.1 ("General Definitions") defines "development" as "on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in density or intensity of use of land."

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above); however, as discussed in the November 7, 2006 letter from Steve Littlejohn to the Commission, it appears extremely likely that the septic drainage field will, in fact, be sited in the ESHA buffer. Clearly, installation of a septic system/leach field on undeveloped land would constitute disposal of liquid/solid/thermal waste, and would certainly constitute a change in intensity of land use. It represents "development" under MLUP section 2.1, and thus violates the MLCP's ban on development within an ESHA buffer.

Finally, MLUP Policy 3.4 dictates that "[i]f there is no feasible alternative that can eliminate all [ESHA] impacts, then the alternative that would result in the fewest or least significant impacts shall be selected."⁷ The project violates this policy, as its size, design and siting on the property are such that it will not result in the fewest or least significant impacts. The ISND summarily dismisses the mere possibility of alternative project designs with only the most cursory discussion, and no supporting evidence. Strangely, on pages 13-14 of the Commission Agenda report regarding this project, staff states that concerns brought up in comment letters were addressed and "resulted in changes to the design of the project including proposals for alternative foundation designs that may minimize any possible impacts to the referenced Cypress trees." Did staff analyze alternatives? If so, where is the analysis and why was it not disclosed?

In a letter from staff to the applicant (7/8/06), staff required a feasible alternatives report, the purpose of which is to demonstrate that the project is the least environmentally harmful alternative. The applicant, in turn, did submit such a report (8/9/06). However, the report merely discusses the fact that alternative designs were considered and rejected based on stylistic preference; the report does not even mention environmental impacts of the proposal, let alone discuss or analyze alternatives that might have a reduced environmental impact.⁸ Importantly, the applicant's stylistic or size preferences are not a

⁷ MLUP Policy 3.14, in its entirety, states:

"New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impacts shall be selected. Impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be fully mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site or where off-site mitigation is more protective in the context of a Natural Community Conservation Plan that is certified by the Commission as an amendment to the LCP. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA."

⁸ According to the National Association of Homebuilders, the average size of a home in the United States was 2,330 square feet in 2004. Applicant proposes a home nearly three times this size, with an additional six car garage (and two more outdoor parking spaces,

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legally sustainable ground for rejecting alternatives. (See *Mein v. San Francisco Bay Conservation Etc. Com.* (1990) 218 Cal.App.3d 727, 735; see also *Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1180-1182, 1185, 1187.) Moreover, review of the applicable MLCP policies shows that the duties of staff and the Commission go far beyond rubber-stamping, or deference to, the applicant's desired size, design or site planning. Contrary to the views expressed by one planning commissioner at the last hearing on the project, the Commission has the authority and, indeed, the duty, under the MLCP, to critique project design and call for a smaller, environmentally superior re-design, as necessary to meet all applicable ESHA policies. This is not "social engineering." This is enforcing the MLCP and state CEQA policy, especially the policy "that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment for every Californian, shall be the guiding criterion in public decisions." (Pub. Resources Code, § 21001, subd. (d).)⁹ Again, the *Mein* case referenced above, and common sense, indicate that a "decent home" need not be a 6568-square foot mansion, including a six-car garage, pool and spa, as desired by the applicant. (See also fn. 8, *ante*.)

The apparent lack of consideration of alternatives presents an extremely compelling reason for the preparation of an EIR. An essential element of an EIR is the consideration of project alternatives. (See CEQA Guidelines, § 15126.6.) As such, an EIR would

totaling eight), a pool and a spa. To maintain that any reduction whatsoever in the footprint or interior area of the home is not feasible is simply ludicrous. How can such a position possibly be justified, particularly when the environmental sensitivity of the area are taken into account?

⁹ Another relevant CEQA policy is to "[r]equire governmental agencies at all levels to consider qualitative factors as well as economic and technical factors and long-term benefits and costs, in addition to short-term benefits and costs and to consider alternatives to proposed actions affecting the environment." The Commission cannot satisfy its duty under MLUP policy 3.14 to consider alternatives, unless alternative plans are actually presented to it and the public for comment. CEQA (and, for that matter, the MLCP, given its policy requirements) require the ERB, the Commission, the city council (in case of an appeal), and the public to have before them the basis for staff's opinions so as to enable them to make an independent, reasoned judgment. (See *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 831.) Mere say-so by staff/applicant is not enough. The IS must disclose the data and evidence relied on for the city's findings concerning the project. (*Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 171-172.) In this case, the ISND does not disclose any data or evidence that would show why there is no feasible, environmentally superior alternative to the project as designed and sited -- nor is there an EIR to offer that information. To show compliance with MLCP policy 3.14, the ISND cannot simply ignore feasible alternatives. The ISND must inquire into whether the project would be consistent with the MLCP. (See CEQA Guidelines, § 15064, subd. (d) (5).)

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assist the Commission and the applicant with bringing the project proposal into conformity with the MLCP by helping to achieve the requirement that the chosen project plan have the least impact on ESHA, and would assist the Commission in making a fully informed decision on the project.

The ISND is also inconsistent with the MLCP because standards for many of the findings required for approval of this project are not met.

In order to issue a coastal development permit (as requested in this case), four findings must be made (MLIP 13.9), including that the project is the least environmental damaging alternative, and, under circumstances that apply in this case, that the project conforms with the recommendations of the ERB or findings explain why it cannot. As will be explained below, the project is not the least environmentally damaging alternative. Furthermore, the ERB recommended that the foundation for the proposed recommendation be designed to minimize impacts to the Cypress stand. This has not been done, and no explanation is given as to why it cannot be done (see Agenda Report p7). Clearly, then, a coastal development permit may not be issued unless and until these defects are cured.

One finding that must be made in order to grant the two requested Minor Modifications is that the project is consistent with the policies of the MLCP. (MLIP 13.27.5) As discussed, the project is not consistent with the MLCP. Thus, the two requested minor modifications must not be granted unless and until these defects are cured.

A development permit for use in the ESHA overlay district (which applies within 200 feet of a designated ESHA) must be accompanied by three findings, one of which is that the use proposed is consistent with applicable zoning (MLIP 4.7.6). As has been explained, the proposed project is inconsistent with the MLCP, and is thus inconsistent with applicable zoning regulations.

Finally, at least two required agency approvals do not appear to have been secured for this project. MLIP Policy 4.4.1 requires that applications for development on sites containing or adjacent to a wetland include evidence of at least preliminary approval from the California Department of Fish and Game (CDFG). CDFG has commented on this proposed project, but the letter cites problems with the project (as yet unresolved) and in no way suggests approval of the project. This deficiency must be cured before the project may be approved.

MLUP policies 3.60 and 4.49 (MLUP, at 60, 90) require development applications to include a fuel modification plan approved by the County Fire Department's Forestry Division, including a site plan depicting possible brush clearance on adjacent properties. As we have not been able to locate any such approval in the record, there appears to be no evidence of Forestry Division approval of any fuel modification plan for any on-site development.

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The project proposal is also inconsistent with the MLCP's zoning conformance standards for parking. According to the Commission Agenda Report of May 3, 2007, the MLCP allows two indoor and two outdoor parking places. The project proposal includes six indoor and two outdoor parking places, according to the plan drawings contained in Commission Resolution 07-29. Why is it, then, that the Agenda Report states that the project proposes six parking places (total), and states that this is consistent with the MLCP?

The Project Will Have a Significant Effect on the Environment.

According to the *Pocket Protectors* case, if "there is substantial evidence in the whole record supporting a fair argument that a project may have a significant nonmitigable effect on the environment, the lead agency shall prepare an EIR, even though it may also be presented with other substantial evidence that the proposed project will not have a significant effect." (*Pocket Protectors*, 124 Cal.App.4th at 927.) "Substantial evidence" is defined as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." (CEQA Guidelines, § 15384, subd. (a).) Notably, "personal observations of area residents on nontechnical subjects may qualify as substantial evidence for a fair argument." (*Pocket Protectors*, 124 Cal.App.4th at 928.)

Here, it is clear that the Commission must prepare an EIR. Substantial evidence exists throughout the record of a fair argument that the project will have a substantial impact on the environment.

There is substantial evidence that the stand of mature cypress trees adjacent to the project will be damaged and even killed by construction of the project due to grading and compacting of the soil in the root area, substantial pruning of branches, and creation of anaerobic conditions due to construction of the septic system.

The December 2006 biological study by Terracor, the applicant's consultant, on pages 26 and 27, acknowledges that there will be grading and removal of "non-native plant species," and on page 3 mentions that there are "mature, non-native Coral and Cypress trees on the adjoining properties." However, this is as close as the biological study comes to acknowledging any impact to the Cypress stand. The biological study suggests, with no foundation or factual basis, that it might be ecologically more "appropriate" if the Cypress trees were *not* present. Not only is this a non sequitur, it runs directly contrary to the MLCP's ESHA requirements which mandate protection of habitat for protected and special concern species, at least two of which are found to roost in the Cypress stand (discussed below).

Similarly, the ISND mentions that the trees are proposed to be pruned (page 13), but never mentions that the pruning will necessarily be drastic due to placement of the building envelope and the 10-foot minimum fuel modification zone around it, and that

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additional project impacts are likely to kill the trees. Instead, the ISND says that any such impact will "have no discernable effect to area habitat or wildlife." (ISND page 13.) To support this conclusion, the ISND asserts that 1) the trees will not be removed entirely, and 2) that the area has already been disturbed by decades of development. The assertion that there will be no impact because the trees will not be removed entirely lacks any scientific foundation. The assertion that there will be no impact from the proposed project because the trees have already been disturbed is factually wrong; the development has been in place (including the next door tennis court) since before the trees were planted (see Littlejohn letter, 4/23/07), and the tennis court is never used. Moreover, nearby development does not physically affect these trees.

Furthermore, to say that the area around the proposed project site is already degraded improperly downplays the migratory bird habitat values directly threatened by the project, the larger, tremendously significant ecosystem values of Malibu Lagoon, and, most significantly, the adverse cumulative or incremental effects of the project in relation to environmentally sensitive habitat, parkland and water quality baseline conditions.

The Coastal Act's ESHA protection policy (Public Resources Code, section 30240) "does not permit its restrictions to be ignored based on the threatened or deteriorating condition of a particular ESHA." (*Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal.App.4th 493, 507-508.) The adverse impacts of a new project, if viewed in isolation, might be individually minor. (See CEQA Guidelines, section 15355.) But the more stressed or degraded a natural resource is, the more serious the cumulative effect of the harm (resource degradation or disturbance, any form of take) will be, and the greater the need to protect the resource. (*Kirkorowicz v. California Coastal Com.* (2000) 83 Cal.App.4th 980, 994-995; *Bolsa Chica*, 71 Cal.App.4th 493, 507-508; *Sierra Club v. California Coastal Com.* (1993) 12 Cal.App.4th 602, 615, fn. 11; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718.) In brief, the initial study cannot sweep under the proverbial rug the project's potentially significant cumulative biotic or ecosystem impacts, which already are more serious than the cumulative biological impacts of other Malibu Colony single-family residences due to the project's specific location in the Malibu Colony. The IS must assess the level of significance of these impacts, rather than simply making unfounded claims that there will be no impact because there is already development nearby.

With the only two "facts" used to justify the conclusion that there will be no discernable effect on wildlife being shown as false, how can the conclusion be justified? Answer: it cannot. What threshold of significance is the Commission utilizing in making this determination? Once again, it most certainly must be a different threshold than that utilized by other agencies, the public, and CEQA.

Two letters and one email from two professional arborists make it abundantly clear that the Cypress trees will suffer severe damage, including high likelihood of mortality, if the project is approved as proposed. Frederick Roth's October 17, 2006 letter states that the pruning of the tree crowns, the excavation and compaction of the tree roots, and

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interruption of groundwater flow and raising of the water table, which would result from this project "could easily result in the decline and death or structural failure of the trees." Steve Ibarra's December 19, 2006 letter states that pruning would "severely" impact the majority of the trees, that at least 50% of the trees' roots would have to be removed, and that the potential value loss with respect to the trees could be approximately \$545,340. Furthermore, in a March 28, 2007 letter from California Department of Fish and Game (CDFG), CDFG regional manager Larry Eng recommends, prior to lead agency approval, that tree pruning should be minimized to protect continued use by avian species for roosting and nesting. Where is any of this evidence of substantial environmental impact mentioned in the ISND? Where is even the possibility of severe negative impact to the Cypress trees mentioned in the ISND or the biological study? Where is there any attempt in the ISND to prescribe "minimal" level of pruning, in consultation with CDFG. It appears that such consultation has not occurred. This, in and of itself, violates CEQA. (Pub. Resources Code, § 21080.3, subd. (a); see also, *id.*, § 21081.6; *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 340 ("[o]ur conclusion that a fair argument can be made that the project may have a significant impact on animal wildlife also compels the conclusion that the city was required to consult with the Department of Fish and Game, a trustee agency ..., before conducting an initial study, and subsequently was required to notify the department of the city's intention to adopt a mitigated negative declaration").)

Substantial evidence clearly makes a fair argument that this project will have a significant environmental impact. Thus, an EIR is required for this proposed project.

Furthermore, as mentioned, the Cypress stand supports a large number of birds through providing roosting habitat close to the Malibu Lagoon, an extremely important feeding ground for the birds. Substantial evidence supports a fair argument that these birds will be significantly impacted by the proposed development.

Because the Cypress trees are likely to suffer significant damage and/or mortality as a result of the proposed project, as explained above, the birds will be driven away from this important roosting habitat. The ISND ignores impacts to the birds. As it's only two justifications for its finding that there will be no impact on local wildlife, as explained above, only two "facts" are given in the ISND: 1) the trees will not be removed entirely, and 2) that the area has already been disturbed by decades of development. As explained above, these statements are not only false, they run directly contrary to the law. With no true facts to support its assertion that there will be no impact to wildlife, how can staff conclude that there will be no impact to wildlife? Again, what threshold of "significance" is being utilized?

According to Barbara Carey of the Coastal Commission, the Cypress trees "contribute to the viability of these bird species in that they provide roosting habitat near the areas where they forage in Malibu Lagoon." (12/27/06 letter.) She explains:

The height of these trees and the dense foliage provide some protection from disturbance and predators. Osprey, Great Egrets (and other herons)

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are especially valuable because of their special nature or role in the ecosystem. These bird species are top predators that maintain a balance in prey populations. Finally, they are easily disturbed by human activity. They appear to choose roosting locations as far from disturbance as possible, including in the highest trees.

(Ibid.) Clearly, then, severe pruning of the trees will be highly disturbing to the birds and may likely drive them away. Further, if these trees die or fail structurally, the birds will lose their habitat entirely. The March 28, 2007 letter from Larry Eng of CDFG states that "[t]he project will result in the removal and/or disturbance to nesting bird habitat and therefore has the potential of impacting nesting native birds." Biologist Roy van de Hoek, in his December 20, 1006 letter to the ERB (found at pp53-55 of June 5, 2007 Meeting Agenda Item 6F attachment Part 2), based on his extensive and long-standing knowledge of the Cypress stands and the roosting colonies it supports and his scientific understanding, explains in detail that the Cypress stand is vitally important to the roosting birds, and that the harm the proposed project will cause to the trees will have a severe negative impact on the roosting birds, which in turn has serious potential consequences to ardeid and raptor (the types of birds found in the Cypress stand) populations in Southern California. (See Id.)

How can the loss of important habitat to numerous large bird species and the resulting harm to the birds not be a significant environmental impact?

Barbara Carey also suggests conditions to be placed on the project to mitigate negative impacts on the birds, including providing an adequate buffer between the development and the trees, avoiding impacts or damage to the trees, and restricting construction to times that would be least disturbing to the birds. (12/27/06 letter.) Larry Eng (CDFG) also suggest that tree pruning should be minimized to protect roosting/nesting by avian species in the Cypress stand. (3/28/07 letter.) Have these mitigation members been required and incorporated into the final project plan? From the current record of the project proposal, it appears that they have not.

The biological study and ISND also fail to discuss the variety of bird species found to nest in the trees. The Audubon Society letter (11/5/06) lists the following species as being the most commonly spotted among the numerous large birds that roost in the cypress stand: great blue heron, great egret, snowy egret, black-crowned night heron, osprey, red-tailed hawk, red-shouldered hawk, cooper's hawk, sharp-shinned hawk and American kestrel. The biological study and the ISND reference less than half of these species, even though the Commission was in possession of the Audubon Society's letter for nearly five months prior to issuing the ISND. Why did staff downplay the quantity and variety of birds found to roost in the Cypress stand when more complete evidence regarding the variety of bird species found there was presented by the Audubon Society over six months ago?

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Two of these species, Osprey and Sharp-shinned Hawk, are California Species of Special Concern (CSC). The ISND ignores this fact, stating that only rookeries are of "special concern." (ISND p13.) The ISND thus concludes that there will be "less than significant impact" on any special status species (including CSC), either directly or through habitat modification. How can this be, when the project will substantially modify and potentially destroy the birds' important roosting habitat?

According the MLIP Section 4.4.2, "[w]here trees suitable for nesting or roosting, or significant foraging habitat is present, a formal raptor survey will be required." There is no dispute as to whether raptor roosting habitat is present. The LIP states that in some cases the raptor survey may be more appropriately conducted immediately prior to permitted site grubbing/grading activities. (MLIP 4.2.2.) This situation, however, where it is known that the Cypress stand is a significant roosting area for many large bird/raptor species next to an ESHA is clearly not an appropriate case for postponing such a study. Where is this raptor study?

Furthermore, aside from presenting evidence that an EIR is necessary under CEQA, the potential harm to these birds might also violate other laws. For example, the California Code of Regulations, title 14, section 251.1 states that: "no person shall harass, herd or drive any game or nongame bird For the purposes of this section, harass is defined as an intentional act which disrupts an animal's normal behavior patterns, which includes, but is not limited to, breeding, feeding, or sheltering." There can be no doubt that removing and destroying a bird's roosting habitat next to a feeding area will interrupt its normal behavioral patterns, especially with respect to feeding and sheltering.

Additionally, the Migratory Bird Treaty Act (MBTA) (16 U.S.C.S. § 703 et seq.) is a criminal statute that prohibits the taking of listed migratory birds. Many birds listed by the MBTA have been found roosting in the Cypress stand at issue, including great blue heron, black-crowned night heron, snowy egret, osprey, red-tailed hawk, red-shouldered hawk, cooper's hawk, sharp-shinned hawk, and American kestrel. Though courts are split on the meaning of "take" under the MBTA, it has been held that the act prohibits take "by any means or in any manner." (See *United States v. Moon Lake Electrical Association* (D. Colo. 1999), 45 F. Supp. 2d 1070.)

The ISND also improperly downplays the significance of the project with respect to water quality. It fails to mention the significant ecosystem values of Malibu Lagoon, and, most significantly, the adverse cumulative or incremental effects of the project in relation to environmentally sensitive habitat, parkland and water quality baseline conditions.

The Malibu Lagoon is a unique and important ecological feature, supporting the tidewater goby, a federally listed endangered fish species, as well as numerous other fish species, migratory bird populations, and the general coastal ecosystem. Malibu Creek/Lagoon is also home to the southernmost population of steelhead trout. Steelhead are particularly sensitive to certain types of pollution, including ammonia, low dissolved

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oxygen, and hydrogen sulfide, all of which are often caused by sewage effluent. (Ambrose, Richard F. and Orme, Antony R., Lower Malibu Creek and Lagoon Resource Enhancement and Management, UCLA 2000, pp.3-4 – 3-13; cited portions attached hereto as Exhibit 1).

The Lagoon is currently listed under section 303(d) of the Federal Clean Water Act as water quality impaired, particularly for coliform/pathogens and nutrients/eutrophication. Eutrophication includes overenrichment of a waterbody by nutrients (particularly nitrogen and phosphorous), which can cause hypoxia, algal blooms and changes in species diversity and abundance. (Id. at p.5-1.) Development throughout the Malibu Creek watershed has caused increased eutrophication in Malibu Lagoon. (Id.)

Wastewater treatment, including residential septic systems, is a major issue in terms of contribution to eutrophication in the Malibu Creek watershed, particularly due to the high groundwater levels of the area. (Id. at 5-5.) Furthermore, the "combination of a high, fluctuating water table and coarse soils and beach sands may limit filtration capabilities of on-site wastewater systems." (Id. at 5-13.)

The ISND's discussion of water quality impacts is completely lacking in analysis and acknowledgement of impacts to water quality. The ISND states that all water quality impacts will be less than significant. (ISND pp. 22-23). In its cursory discussion of water quality, the ISND states that a Best Management Practice would be implemented and, though "potential exists for runoff to occur," a drainage plan is required to be prepared by a qualified expert and submitted for approval by Malibu Public Works Department. Where are these plans? What will they consist of? What are their basic parameters? How will they ensure that there will be no runoff, despite the project's potential for runoff, and how will they guarantee that the project will have a less than significant impact on water quality in the ESHA?

Although the septic system is strangely, and completely, left out of the water quality discussion in the ISND (and indeed any discussion whatsoever), as mentioned above, an onsite wastewater treatment system (OWTS) is proposed for this project (ISND page 4), including a large drainage field which appears to be proposed directly adjacent to the wetland within the ESHA buffer (Commission Resolution 07-29 map A-3). The project has a high groundwater table, approximately 4-6 feet below the surface (ISND page 23). Considering this fact, and what is known about water quality issues facing the Lagoon, how can there be no significant impact to water quality in the Malibu Lagoon from placing a septic system drainage field only feet from the Lagoon?

Impacts to water quality are particularly important when considered cumulatively with other development in the Malibu Creek Watershed, which the ISND fails to do. As stated above, the adverse impacts of a new project, if viewed in isolation, might be individually minor. (See CEQA Guidelines, section 15355.) But the more stressed or degraded a natural resource is, the more serious the cumulative effect of the harm will be, and the greater the need to protect the resource. (*Kirkorowicz v. California Coastal Com.* (2000) 83 Cal.App.4th 980, 994-995; *Bolsa Chica*, 71 Cal.App.4th 493, 507-508; *Sierra Club v.*

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California Coastal Com. (1993) 12 Cal.App.4th 602, 615, fn. 11; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718.) The ISND may not ignore the project's potentially significant cumulative biotic or ecosystem impacts, which already are more serious than the cumulative biological impacts of other Malibu Colony single-family residences due to the project's specific location in the Malibu Colony. The IS must assess the level of significance of these impacts.

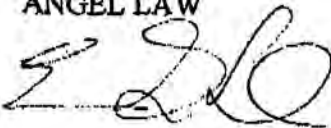
CONCLUSION

We urge the Commission to deny the project applications, and order preparation of a revised, adequate initial study. Furthermore, the Commission should order preparation of an environmental impact report (EIR). An EIR would truly disclose the project's adverse, potentially significant environmental impacts, and would also offer the Commission and the Environmental Review Board (ERB) project design alternatives to consider, as required by the ESHA policies of the MLCP. Finally, the matter should be referred back to the ERB so that the ERB might consider all of the evidence presented in light of the proper legal standards.

Thank you for this opportunity to comment on the ISND for the proposed project.

Sincerely,

ANGEL LAW



Erin Ganahl

cc: Evan Langan (via email attachment)

3.2.3. Species Accounts

In this section, we first discuss tidewater gobies and steelhead in detail, followed by summaries for the other indicator species. Information about the physical tolerances of the indicator species (along with appropriate literature citations) for salinity, temperature, ammonia, pH, dissolved oxygen, nitrate, nitrite, and sulfide are presented in the text and summarized in Table 3-2.

3.2.3.1. Tidewater Goby

3.2.3.1.1. Introduction

The tidewater goby, *Eucyclogobius newberryi*, is a small (≤ 50 mm), benthic fish endemic to California's coastal estuaries from the Agua Hedionda Lagoon, San Diego County, in the south to the Smith River, Del Norte County, in the north (Moyle et al. 1989). It is the only species in the genus *Eucyclogobius* (Moyle et al. 1989), but is closely related to several eastern Pacific species (bay goby, arrow goby *Clevelandia ios*, cheekspot goby *Ilypnus gilberti*, shadow goby *Quiatula y-cauda*) (Swenson 1995). Most individuals complete their life cycle within one year (Capelli 1997), although laboratory specimens have survived up to three years (Swenson 1995). Habitat loss and degradation, and predation by exotic fishes have reduced the number of tidewater goby populations to fewer than 50, leading to its designation as a federally endangered species in 1994 (USFWS 1994). The tidewater goby is known to be a weak swimmer (Swenson 1995), and is therefore easily swept into the ocean during periods of heavy flow. For example, winter storms in 1972-73 caused the elimination of a tidewater goby population from Wadell Creek (Swenson 1995). Populations are considered to be genetically isolated (Crabtree 1985), as the goby lacks a marine phase in its life history and is therefore limited in its dispersal ability. However, tidewater gobies have been recorded at sites where they were reportedly eliminated by the 1987-92 drought (Capelli 1997). This suggests that recolonization and/or genetic exchange between neighboring populations may indeed occur. A short life span, narrow habitat requirements, and isolation of populations are all factors which, combined, increase the tidewater goby's susceptibility to natural and anthropogenic environmental change.

3.2.3.1.2. Life History

Although the tidewater goby may spawn at any time of year, spawning is most prevalent from spring to mid-summer (Capelli 1997). This period coincides with the time during which most California estuaries are naturally closed to the ocean and brackish water conditions prevail. Spawning activity may continue into fall and even winter if water temperatures remain warm and the berms found at the mouths of estuaries are not breached (Capelli 1997).

Of interest to behavioral ecologists, the breeding behavior of the tidewater goby is remarkable for the dominance and aggressiveness displayed by females. Unlike other gobies, females compete for access to burrows occupied by territorial males (Swenson 1995). Furthermore, females have highly developed black breeding coloration are

reported to initiate courtship more frequently than males (Swenson 1995, Swift et al. 1989)

Males excavate 10-20 cm burrows in coarse sand and protect a clutch of 300-500 eggs (Lafferty et al. 1996) until they hatch 9-11 days later (Swenson 1995). Newly hatched fry measure 4-5 mm TL (Swenson 1995), lack distinct coloration, and begin a pelagic existence. At 15-18 mm SL juveniles assume a benthic lifestyle (Moyle et al. 1989).

Tidewater gobies are known to live in a variety of habitats, although adults seem to prefer vegetated areas, which provide both cover from predators and substrate for crustacean prey (Swenson 1995). The tidewater goby feeds primarily on small crustaceans (mysid shrimp, ostracods, amphipods, etc.), aquatic insects (chironomid and diptera larvae), and molluscs (Irwin and Soltz 1984, Moyle et al. 1989), with diet depending on season and habitat (Swenson 1995).

Other gobies native to California estuaries are not thought to compete with the tidewater goby for food, as they spend portions of their lives in the ocean. However, introduced species, particularly the yellowfin goby, *Acanthogobius flavimanus*, and shiofuri goby, *Tridentiger bifasciatus*, are trophic competitors of the tidewater goby. Furthermore, these fish also prey on tidewater gobies (Wang 1984, Saiki 1993, Swenson 1995). The diet overlap between the three gobies may increase their encounter rate, and is thought to enhance the predation risk for the tidewater goby (Swenson 1995).

Resulting extinctions of tidewater goby populations could have significant impacts upon estuarine trophic dynamics. The tidewater goby is often one of the most abundant small fish population in estuaries where it is present (Lafferty et al. 1996). As secondary consumers and a prey item for larger fish and piscivorous birds, tidewater gobies are an important part of estuarine food webs (Swenson 1995).

3.2.3.1.3. Reasons For Using The Tidewater Goby as an Indicator Species

The tidewater goby *Eucyclogobius newberryi* appears to be an ideal indicator organism. A comprehensive review of the scientific literature pertaining to this species has produced a substantial amount of information regarding its habitat requirements and life history. Similar data on other Malibu Creek and Malibu Lagoon fish species, with the exception of the steelhead trout (*Oncorhynchus mykiss*), was scarce.

Eucyclogobius newberryi is also important in that it holds a unique position among California fish. The tidewater goby is one of only seven species of gobies native to California estuaries (Capelli 1997), and also belongs to a group of just three fish species living along the Pacific coast dependent upon a low salinity habitat (Swift et al. 1989).

Also of interest for using the tidewater goby as an ecological indicator is its status as a federally endangered species. Since 1900, habitat loss and degradation have resulted in its disappearance from 74% of the coastal lagoons south of Morro Bay (Moyle et al. 1989). Competition with and predation by non-native fish such as the yellowfin goby

(*Acanthogobius flavimanus*), shimofuri goby (*Tridentiger bifasciatus*), striped bass (*Morone saxatilis*), largemouth bass (*Micropterus salmoides*), white catfish (*Ameiurus catus*), tilapia (*Tilapia* spp.), and western mosquitofish (*Gambusia affinis*), may also be responsible for extinctions of tidewater goby populations (Saiki 1994, Lafferty and Page 1997, Wang 1984, Swenson 1995).

The native fish fauna of California is in serious decline, with 63% of its 155 taxa already extinct or in danger of becoming extinct (Moyle 1995). Introduced fish species are at least partially responsible for this trend, the plight of the tidewater goby serving as a prime example. In the San Francisco Bay area, invasions by the predatory yellowfin goby *Acanthogobius flavimanus* (Brittan et al. 1970, McGinnis 1984) and the rainwater killifish *Lucania parva* (Lafferty and Page 1997) may have permanently eliminated local tidewater goby populations. In southern California, where the tidewater goby has disappeared from 74% of the coastal lagoons south of Morro Bay since 1900 (Moyle et al. 1989), over 100 non-native fish species have been reported, giving this region the distinction of exceeding all other areas of the state in numbers of successful invaders (Swift et al. 1993).

3.2.3.1.4. Habitat Requirements

Unlike virtually all other Malibu Creek and Malibu Lagoon fish, the tidewater goby has narrow habitat requirements. It is restricted to coastal brackish-water areas of coastal streams, marshes, lagoons, and estuaries in California (Swenson 1995, Swift et al. 1989, Lafferty and Page 1997).

3.2.3.1.5. Dissolved Oxygen

The EPA recommends dissolved oxygen levels ≥ 6.5 mg/L for early life stages of nonsalmonid fish. For all other life stages, the EPA recommends levels ≥ 6 mg/L (U.S. EPA 1986). The dissolved oxygen concentration range under which the tidewater goby is reported to live varies from 4-19 mg/L (Saiki 1994).

3.2.3.1.5.1. Recommendation

While early life stages of *Eucyclogobius newberryi* are present in Malibu Creek and Malibu Lagoon, dissolved oxygen levels should not fall below 6.5 mg/L. During all other times, the dissolved oxygen content should be ≥ 6 mg/L, and should never exceed 19 mg/L.

3.2.3.1.6. pH

For the maximum protection of freshwater aquatic life, the EPA recommends pH values in a range of 6.5-9.0. The recommendation for marine aquatic life is slightly narrower, at 6.5-8.5 (U.S. EPA 1986). *Eucyclogobius newberryi* is reportedly able to survive in waters with a pH range of 6.8-9.5 (Saiki 1994).

3.2.3.1.6.1. Recommendation

To best protect the tidewater goby, pH levels in Malibu Creek and Malibu Lagoon should always range from 6.8-9.0.

3.2.3.1.7. Salinity

The tidewater goby can survive in salinities from 0 to 53 ppt (Capelli 1997) and has been reported to spawn over a range of 2-27 ppt (Swenson 1995). However, most estuaries providing suitable habitat have salinities of 5-20 ppt, with the goby preferring a much narrower range of 10-15 ppt (Capelli 1997). For this reason, the tidewater goby is usually associated with estuaries that develop seasonal sand and cobble berms at their mouths, thus eliminating tidal action. Estuaries with a permanent connection to the ocean typically have higher salinities (20-33 ppt) and rarely support tidewater goby populations (Capelli 1997).

3.2.3.1.7.1. Recommendation

In areas of Malibu Creek and Malibu Lagoon where the tidewater goby is known to occur, water salinity should never fall below 2 ppt nor exceed 27 ppt, with an optimum range of 5-15 ppt.

3.2.3.1.8. Temperature

Water temperature is an important physical parameter affecting the metabolism, respiration, behavior, distribution, feeding rate, growth, and reproduction of aquatic organisms (U.S. EPA 1986).

The tidewater goby is capable of surviving in water having a temperature range of 8°C (Swift et al. 1989) to 25°C (Swenson 1995), and spawning may occur in temperatures of 9-25°C (Swenson 1995). Peak spawning reportedly occurs in 18-22°C water (Moyle et al. 1989).

3.2.3.1.8.1. Recommendation

Water temperature should be maintained between 8°C and 25°C, except during late spring through mid summer, when peak spawning occurs. During this period, temperatures should be 18-22°C, and should never fall below 9°C or exceed 25°C..

3.2.3.2. Steelhead

3.2.3.2.1. Introduction

The species *Oncorhynchus mykiss* includes both steelhead and rainbow trout native to the eastern Pacific Ocean and the coastal drainages of North America extending from the Santo Domingo River in northern Baja California (USDA 1995) to Alaska (Emmett et al. 1991). Since 1874, rainbow trout have been introduced in streams and lakes worldwide, and are currently found on every continent with the exception of

Antarctica (MacCrimmon 1971). Steelhead have a much narrower distribution, currently ranging from southern California to the Gulf of Alaska and interior British Columbia, from the coast to as far inland as Idaho (Di Silvestro 1997). Steelhead are also reportedly found in Kamchatka and Okhotsk Sea drainages in Siberia (McPhail and Lindsey 1970). Presently, Malibu Creek is the southern-most stream known to contain steelhead, with a population of up to 60 spawners (USDA 1995) and 145 juveniles (Keegan 1990). This population historically had about 1,000 adults (Nehlsen et al 1991).

Although this species was formerly known as *Salmo gairdneri*; the name was recently changed to *Oncorhynchus mykiss* due to its closer phylogenetic relationship to Pacific salmon (*Oncorhynchus*) than to Atlantic salmon (*Salmo*) (Thomas et al. 1986). *Salmo gairdneri* is the name typically encountered in the scientific literature.

Steelhead and rainbow trout frequently coexist and are distinguished not by their genetic composition, but by their life histories and behaviors. Steelhead are anadromous, meaning that they spend portions of their lives in both sea and freshwater. In contrast, rainbow trout spend their entire lives in freshwater. Interestingly, rainbow trout can give birth to anadromous fish and vice versa (Di Silvestro 1997). Why some fish go to sea and others do not is still unknown (Douglas 1995).

3.2.3.2.2. Life history

Steelhead begin life as eggs laid in the gravel of streams, where they incubate up to four months before hatching (Di Silvestro 1997). After hatching, juveniles spend one to three years in fresh water before migrating downstream, undergoing dramatic physiological changes, and entering the ocean (Carpanzano 1996). Steelhead from Oregon and Washington appear to head north to the Gulf of Alaska, while steelhead from southern Oregon and California tend to remain in offshore waters. Commercial fishing vessels have caught these steelhead as far as 3,000 miles out to sea (Di Silvestro 1997).

After spending one to five years in the ocean (Emmett et al. 1991), adult steelhead return to their natal streams to spawn. Unlike other Pacific salmonids which die immediately after spawning, approximately 20% of breeding steelhead return to the ocean and later spawn again, up to six times per individual (Carpanzano 1996). These repeat spawners are mostly female (Di Silvestro 1997).

Steelhead are known for their excellent homing abilities, a trait that has led to the development of unique stocks or races of steelhead in specific streams (Moyle 1976). At least two races are known to exist and are distinguished by when adult fish enter fresh water to spawn (Smith 1960). The summer run migrates during spring, summer, and early fall, while the winter run migrates during fall, winter, and early spring. In some large rivers with many tributaries, steelhead are presumed to migrate year-round. In California, some river mouths are closed during spring and summer, and steelhead may return only in fall after heavy rains (Fry 1973).

In freshwater and estuarine habitats, steelhead feed primarily on gammarid amphipods, small crustaceans, insects, and small fishes (Moyle 1976, Wydoski and

Whitney 1979). In the ocean, juveniles and adults feed on crustaceans, insects, squid, and fishes (LeBrasseur 1966, Wydoski and Whitney 1979).

In freshwater, steelhead are fed upon by coho salmon, char, mergansers, gulls, belted kingfisher, bears, marten, otter, and other steelhead. Its main predators in the ocean are the Pacific lamprey, seals, sea lions, and killer whales (Scott and Crossman 1973).

Mature steelhead are typically 45-70 cm in length and weigh 2-5 kg, but can reach up to 122 cm and 19.5 kg. Fish in the southern part of the range are typically smaller and spend less time in the ocean than those in the north. In a recent study, adult steelhead averaged 58.1 cm in length in California, 66.7 cm in Oregon, and 71.0 cm in British Columbia (Withler 1966).

Virtually all natural mortality (97%) occurs in the egg and larval stages, which are strongly affected by dissolved oxygen, water temperature, velocity, turbidity, depth, competition with other fishes, and pollution (Emmett et al. 1991, Shapovalov and Taft 1954).

The adult winter run of steelhead in Malibu Creek is from December to March, with the peak run in February and March (Fukushina and Lesh 1998).

3.2.3.2.3. Reasons For Using Steelhead Trout as an Indicator Species

An important reason for using the steelhead trout as an indicator species is the vast amount of information available in the scientific literature regarding its environmental requirements, a sharp contrast to virtually all other species inhabiting Lower Malibu Creek and Malibu Lagoon. For example, relevant information pertaining to both the mosquitofish, *Gambusia affinis*, and topsmelt *Atherinops affinis*, was limited to only salinity and temperature requirements. A review of the literature concerning the killifish, *Fundulus parvipinnis*, only yielded information on salinity, temperature, pH, and sulfide requirements. In comparison, relevant information concerning *Oncorhynchus mykiss* included over 100 references and information on the following water quality parameters: temperature, dissolved oxygen, ammonia, pH, salinity, nitrate, nitrite, and hydrogen sulfide. For each of these parameters, numerous studies exist.

Its narrow habitat requirements are yet another reason for choosing the steelhead trout. In Malibu Creek and Malibu Lagoon, almost all fish taxa are highly tolerant to environmental variability. For example, the killifish, *Fundulus parvipinnis*, can live in water ranging from completely fresh to that having salinities as high as 128 ppt (Moyle 1976), while the topsmelt, *Atherinops affinis*, tolerates water temperatures up to 33°C (91.4°F) (Carpelan 1955). Thus, it is difficult, if not impossible, to use these and other species as indicators of water quality in Malibu Creek and Malibu Lagoon.

Another reason for using the steelhead as an indicator species is the important role it presumably plays in southern California estuarine food chains. Research has demonstrated that salmon significantly enrich carbon and nutrient cycles near their spawning sites (Kline et al. 1990, Bilby et al. 1996). In fact, salmonids are regarded as

keystone species in maintaining biodiversity, especially in areas where they are abundant (Allendorf et al. 1997).

The tremendous decline of natural populations of steelhead trout, particularly in southern California, is another important reason for choosing it as an indicator species. Despite lacking a predictable water supply, southern California's streams once sustained large runs of steelhead and resident rainbow trout. Recent estimates suggest that annual runs of 30-35,000 steelhead were found in the Santa Inez, Ventura, and Santa Clara rivers during the late 19th century (Douglas 1995). The combined effects of dam construction, stream channelization, urbanization, and water development reduced these numbers to as few as 500 individuals by 1995 (Douglas 1995). Today, steelhead are rarely found south of the Ventura River (Emmett et al. 1991), with Malibu Creek representing the southernmost stream known to contain steelhead (USDA 1995).

Since 1900, more than 23 endemic steelhead stocks have disappeared, and 43 other stocks face a moderate to high risk of extinction (Di Silvestro 1997). The Endangered Species Committee of the American Fisheries Society recently listed 214 native stocks of Pacific salmon (*Oncorhynchus* spp.), steelhead (*O. mykiss*), and coastal cutthroat trout (*O. clarki clarki*) as being at risk of extinction in California, Oregon, Idaho, and Washington (Nehlsen et al. 1991).

Due to declining natural populations, stocks have been augmented by hatchery production. In 1987, up to 17 million steelhead smolts were planted in the Columbia River Basin (Emmett et al. 1991). However, the mass release of hatchery fish may have negative effects on wild populations. Studies have shown that hatchery fish have lower survival and reproduction rates than wild fish (Chilcote et al. 1986). Interbreeding with hatchery fish has led to reduced genetic diversity among wild populations and given rise to offspring with lower disease resistance (Reisenbichler and Phelps 1989).

Furthermore, anadromous salmonid species are composed of stocks that originate from specific watersheds and usually return to their natal streams to spawn, resulting in a large degree of reproductive isolation between populations. Because anadromous salmonid stocks are adapted to local environmental conditions, the loss of individual populations is likely to cause changes in genetic composition and loss of genetic diversity (Nehlsen et al. 1991).

Southern California steelhead populations frequently experience environmental conditions not encountered by northern populations. Rainfall and streamflow in southern California are highly variable and unpredictable, and long drought periods are not uncommon. Many streams dry up completely each year, and water temperatures periodically reach or exceed the upper lethal limit. These factors may in part explain recent data demonstrating significant genetic differences between populations of steelhead and rainbow trout in southern California and those north of San Simeon (Douglas 1995, Marx 1996).

3.2.3.2.4. Ammonia

The toxicity of ammonia to steelhead and rainbow trout has been studied extensively, as it is one of the two most significant water quality parameters limiting the production this species in aquaculture (Colt et al. 1980). The effects of ammonia on *Oncorhynchus mykiss* include decreased growth (Burkhalter and Kaya 1977, Rice and Stokes 1975), reduced nitrogen excretion (Fromm and Gillette 1968, Olson and Fromm 1971), increased incidence of disease (Burkhalter and Kaya 1977, Larmoyeux and Piper 1973), gill damage (Rice and Stokes 1974), and other sublethal physiological effects (Larmoyeux and Piper 1973, Mayer and Kramer 1973).

Ammonia is a naturally occurring product of biological metabolism, but high concentrations are often associated with human sources such as sewage treatment plants, agricultural and feedlot runoff, coal coking and gasification plants, and fertilizer manufacturing plants (Burkhalter and Kaya 1977).

Ammonia exists in both ionized (NH_4^+) and unionized (NH_3) forms, with its toxicity dependent on the concentration of the unionized ammonia (UIA) fraction (U.S. EPA 1986, Hofer et al. 1995). The proportion of ammonia present in the unionized form is largely determined by two other water quality parameters, pH and temperature (Alabaster and Lloyd 1982a, Trussel 1972).

Results indicate that the toxicity of ammonia, in terms of NH_3 , increases at lower pH values (U.S. EPA 1984). Similarly, it has been shown that elevated water temperature increase the proportion of UIA present in an ammonia solution (Alabaster and Lloyd 1982a).

Other water quality parameters also affecting the lethal toxicity of ammonia to aquatic life include dissolved oxygen (Downing and Merckens 1955, Merckens and Downing 1957), salinity (Herbert and Shurben 1965), and carbon dioxide (Lloyd and Herbert 1960).

The toxicity of ammonia to rainbow trout has been widely studied, with 96-hr LC50 values ranging from 0.16 to 1.1 mg/L NH_3 (U.S. EPA 1984). Among numerous salmonid species tested by the EPA for ammonia toxicity, rainbow trout were the most sensitive, with lethal concentrations of ammonia as low as 0.32 mg/L (U.S. EPA 1984). The tolerance of rainbow trout to ammonia appears to increase as the fish develop through the larval stages, is greatest at the juvenile and yearling stages, and decreases thereafter (Thurston and Russo 1983).

Ammonia seems to have especially significant effects on developmental stages of *Oncorhynchus mykiss*. Growth and development of rainbow trout fry have been shown to be inhibited by long-term exposures to concentrations of ammonia as low as 0.05 mg/L (Burkhalter and Kaya 1977).

3.2.3.2.4.1. Recommendation

Following a comprehensive review of studies on *Oncorhynchus mykiss* and other salmonids, the EPA issued detailed guidelines in 1984 for ammonia in surface waters containing salmonids (U.S. EPA 1984). These criteria are based on both water temperature and pH, the two water quality parameters most strongly influencing ammonia concentration. Guidelines are listed for both 1-hour and 4-day exposure to ammonia. Criteria include both total ammonia concentration and the concentration of unionized ammonia, the portion responsible for adverse effects on aquatic life. Based upon our thorough literature review, we believe that adherence to these guidelines will be protective of steelhead trout in Malibu Creek and Malibu Lagoon.

3.2.3.2.5. Dissolved Oxygen

Dissolved oxygen (DO) is often a limiting factor in maintaining freshwater aquatic life. Low oxygen levels have a significant effect on many physiological, biochemical, and behavioral processes in fish. Depletion of oxygen levels is a common result of many forms of water pollution, and the effects on *Oncorhynchus mykiss* have been extensively studied (Alabaster and Lloyd 1982b, Barton and Taylor 1966, Davis 1975, Downing and Merckens 1955, Garside 1966, Jones 1971, Lloyd 1961, Matthews and Berg 1997, Nebeker and Brett 1976, Rombough 1988, Silver et al. 1963, Thurston et al. 1981).

Reduced dissolved oxygen concentrations are known to increase the toxicity of various poisons (e.g., ammonia, hydrogen sulfide, cadmium, cyanide, zinc, lead, copper, phenols) to freshwater aquatic life (Thurston et al 1981, Davis 1975). Studies have demonstrated low dissolved oxygen levels to increase the toxicity of ammonia (Downing and Merckens 1955, Merckens and Downing 1957), cyanide (Downing 1954), and zinc, lead, copper, and phenols (Lloyd 1961) to rainbow trout. Sublethal effects of low DO levels in steelhead trout include retarded development, reduced growth, and premature hatching and emergence of embryos (Rombough 1988).

Rainbow trout and steelhead reportedly require well-oxygenated (5-11 ppm) water (Douglas 1995). Another recent study found the optimal DO levels for rainbow trout to be ≥ 7 mg/L at temperatures $\leq 15^{\circ}\text{C}$, and ≥ 9 mg/L at temperatures $>15^{\circ}\text{C}$ (Barton and Taylor 1996). Spawning steelhead require at least 80% saturation, with temporary levels not lower than 5.0 mg/L (Moyle et al. 1989). The incipient lethal level for adult and juvenile rainbow trout is approximately 3 mg/L, depending on environmental conditions, especially temperature (Matthews and Berg 1997).

The extreme sensitivity of salmonids to low dissolved oxygen levels during early life is well-documented (Davis 1975, Alabaster and Lloyd 1982b, Rombough 1988). The lower threshold for the incubation of salmonid embryos is reported to be 5.0 mg/L (Reiser & Bjornn 1979), with 100% mortality of embryos occurring at 1.6 mg/L (Garside 1966, MacCrimmon 1971, Shumway et al. 1964).

A comprehensive review of the minimum oxygen requirements of Canadian aquatic life (Davis 1975) recommends DO levels ≥ 9.74 mg/L to provide the maximum level of protection for salmonid larvae and mature eggs. Symptoms of oxygen distress in larvae and eggs were reportedly noticeable at levels below 8.69 mg/L (Davis 1975). In a more recent review, the EPA recommends DO levels ≥ 11 mg/L to protect salmonid embryo and larval stages (U.S. EPA 1986).

With regards to juvenile and adult life stages, the EPA has designated levels ≥ 8 mg/L as sufficiently protective (U.S. EPA 1986), while Davis proposes DO levels ≥ 7.84 mg/L (Davis 1975).

Streams with oxygen-supersaturated water may also adversely affect steelhead trout, but such conditions are rarely encountered in nature. Elevated oxygen levels can lead to gas-bubble disease in fish, especially when accompanied by high pH values (Alabaster and Lloyd 1982b). One study found the 96-hr LC50 value for steelhead to be 116% saturation, while the 30-day LC50 was 114% (Nebeker and Brett 1976).

3.2.3.2.5.1. Recommendation

Dissolved oxygen criteria in Malibu Creek and Malibu Lagoon for *Oncorhynchus mykiss* should depend upon the life stages present, since young fish are especially sensitive to low oxygen levels. Therefore, we recommend DO concentrations ≥ 9 mg/L while embryo and larval stages are present, with levels never lower than 7 mg/L. For all other life stages, we recommend DO levels ≥ 6 mg/L, with temporary levels never to fall below 4 mg/L.

3.2.3.2.6. Hydrogen Sulfide

Hydrogen sulfide is an anaerobic degradation product of both organic sulfur compounds and inorganic sulfates, including those in sewage, algae, and other naturally deposited organic material (U.S. EPA 1986). It is a soluble, highly poisonous gas having a characteristic rotten egg odor, and can be detected in the air by humans at a concentration as low as 0.002 ppm (U.S. EPA 1986).

Data concerning the effects of hydrogen sulfide on *Oncorhynchus mykiss* was scarce. One study reported the 96-hr LC50 for rainbow trout to be 0.4 μ M (Bagarinao 1991). Another researcher reports rainbow trout survival in hydrogen sulfide concentrations as high as 0.45 mg/L (Ortiz et al. 1993), but this study was based on short-term (8-hour) exposure. Recent long-term field and laboratory studies demonstrate hydrogen sulfide toxicity at much lower concentrations (U.S. EPA 1986). Accordingly, the EPA recommends levels no higher than 2 μ g/L of hydrogen sulfide for the protection of fish and other aquatic life (U.S. EPA 1986).

3.2.3.2.6.1. Recommendation

The scarcity of data concerning the toxicity of hydrogen sulfide to *Oncorhynchus mykiss* precludes us from drawing any definite conclusions. We recommend following

5.1 Introduction

Malibu Lagoon is a small estuary located within the City of Malibu, approximately 35 miles (56 km) west of Los Angeles, California. The lagoon is a seasonal brackish marsh that is generally closed from the ocean by a sand barrier in the dry season, and open to the ocean in the wet season. It is the receiving water of the 109 square mile (282 km²) Malibu Creek Watershed. The main channel is Malibu Creek, which receives waters from several lakes and tributaries, and drains into Malibu Lagoon, then empties into Santa Monica Bay (Figure 1) (Warshall 1992).

Water resource management of Malibu Lagoon is concerned with the potential problems associated with eutrophication (Warshall 1992). Eutrophication includes overenrichment of a waterbody by nutrients, primarily nitrogen and phosphorus. Nutrients limit the growth of phytoplankton (algae) and macrophytes (larger aquatic plants). Excessive levels of nutrients can cause overstimulation of aquatic plant growth, resulting in algal blooms and other detrimental consequences (Kiorboe 1996). Effects include hypoxia, algal blooms, and changes in species diversity and abundance. These changes are considered undesirable because they can affect beneficial uses and reduce biological diversity (Richardson and Jorgensen 1996). The recommended level of nutrients in estuaries and coastal ecosystems to avoid algal blooms is 0.01 to 0.1 mg P/L and 0.1 to 1.0 mg N/L (10:1 of N:P). The higher concentrations support less diversity (NOAA/EPA, 1988).

Eutrophication can be caused by either natural or anthropogenic processes. Anthropogenic, or cultural, eutrophication can proceed at an accelerated rate compared to the natural phenomenon and is a major form of water pollution (NOAA/EPA 1988). Urbanization causes an increase in cultural eutrophication by increasing the sources and delivery of nutrients to a receiving water. Evidence of eutrophication at Malibu Lagoon includes the observance of persistent algal blooms. These blooms are more likely to occur when the sand barrier restricts tidal flushing; however, a study by Ambrose et al. (1995) noted dense, floating algal mats in the Lagoon during mid-to-late summer 1994 even with the Lagoon mouth open.

Urbanization throughout the Malibu Creek watershed has caused an increase in flow of water in Malibu Creek from runoff and wastewater discharges (USDA 1995). The additional freshwater changes the character of the lagoon, and brings with it elevated concentrations of nutrients (Ambrose et al. 1992). Historically, there was little creek flow in the summer months, but water imported to support the urbanization of the watershed has altered the natural hydrology and changed the lagoon habitat (USDA 1995).

use types throughout the watershed was beyond the scope of work but may be helpful in future research efforts.

5.2.1 Sources of Nutrients

Potential sources of nutrients in the Malibu Creek watershed include: (1) fertilizer, (2) onsite wastewater systems (i.e., septic effluent or seepage), (3) Tapia tertiary-treated wastewater, (4) confined animal facilities (i.e., corrals) (5) road surfaces from automobile deposits, and (6) soils. Nutrients from these sources can enter surface or groundwater and then flow into Malibu Lagoon (USDA 1995). The amount of nutrients carried is determined by the landuse and management practices of the area from which it originates.

Wastewater treatment is a major issue in the Malibu Creek Watershed. The Tapia Wastewater Treatment Facility discharges into the creek. This tertiary-treated water contains nutrients. There are also approximately 2,300 on-site wastewater systems (i.e., septic systems) of varying capacities within the watershed. Concentrations of residential septic systems occur throughout the watershed and near the lagoon, including within Cold Creek Canyon, Serra Retreat, and Malibu Colony (USDA 1995). A concentration of large commercial septic systems also occur near the lagoon.

Septic seepage can enter the creek through subsurface transmission. Effluent can enter groundwater and effluent mixed with groundwater can reach surface waters through subsurface flow (Valiela et al, 1997). These septic systems can be influenced by large fluctuations of groundwater in the Malibu area (USDA 1995).

In the City of Malibu, groundwater fluctuates dramatically with drought, storms, effluent, and spray (i.e., landscaping) irrigation, and is considered to flow in the general direction of the topography. Soils in the area range from pure sands to pure clays. Malibu Colony septic systems are placed on an old delta with a mixture of silts, sands and clays or on imported or rearranged soils. There may also be highly transmissive layers of cobbles or gravel instead of bedrock. These soils, along with high groundwater, can contribute to high infiltration of septic seepage and/or golf course irrigation water into the Malibu Lagoon (USDA 1995).

Phosphorus in soils reach the lagoon when sediment is carried in surface waters. Most soils naturally contain phosphorus; it can also be artificially present in soils through fertilizer application, septic system failure, or as a component of the fire retardant, Phoscheck. Much of the Malibu Canyon is steep, and sediment can be loosened and carried with storm water runoff.

5.3.3 Groundwater Inputs

Groundwater and soil characteristics are important in Malibu because of onsite wastewater disposal systems and the golf course in proximity to the creek and lagoon. Nutrients from (G1-1) commercial and (G1-2) private septic system effluents and from (G2) Malibu Colony Golf Course fertilizer can leach into the groundwater in the lagoon vicinity and then flow into the lagoon.

In order to accurately estimate the magnitude of sources, it is necessary to know the amount, direction and quality of the water flows, and the distance to the water table. However, for the Malibu area, no comprehensive studies or map of the hydrogeology of the Malibu area are available that provide detailed site specific information (Warshall 1992). Therefore, flow of groundwater and influence of groundwater inputs can only be estimated from reported values.

Groundwater flow into the Lagoon can be estimated by the Darcy equation:

$$Q = K \times A \times \text{slope},$$

where:

Q: water flow

K: hydraulic conductivity

A: cross-sectional area that water passes through

slope: slope of water gradient

The values for slope and hydraulic conductivity (K) reported in Warshall (1995) are slope = 0.0016 and $K = 1.0 - 10.0 \text{ meters d}^{-1}$. The calculated flow from these values is $156 \text{ m}^3 \text{ d}^{-1}$. However, because the slope can be artificially increased more than an order of magnitude due to saturated soils from septic or other influences occurring near the lagoon, the daily flows from the septic systems and golf course can be used to approximate the total daily flow of groundwater into the lagoon.

5.3.3.1 Septic Seepage-(G1)

The combination of a high, fluctuating water table and coarse soils and beach sands in the Malibu area may limit filtration capabilities of on-site wastewater systems; however, studies have not been done to document these impacts. Currently available information does not provide useful information to allow evaluation of the effectiveness and conditions of each system (USDA 1992). Therefore, the complexity of groundwater characteristics in the Lagoon vicinity allows only generalizations regarding the fate of effluent following ground disposal or movement from existing sources.

EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc. **A-4-MAL-07-095, Margolis Thurs 11a**

Date and time of receipt of communication: **July 3, 2008 @ 3:00pm.**

Location and type of communication: **Café Borrone, Menlo Park – in person**

Person(s) initiating communication: **Toni Littlejohn**

Detailed substantive description of content of communication:

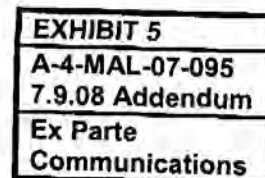
Appellant raised the following issues:

The Monterey Cypress trees growing on their father's property just to the west of Mr. Margolis' property need to be protected.

1. The measurement of the ESHA boundary to Mr. Margolis' property line is inaccurate.
2. There are alternative foundations using caissons with above grade beams instead of the proposed mat foundation that would be less destructive to the Cypress roots.
3. Placing the pool above ground would be less destructive to the Cypress roots..
4. Moving the leach field to the front of the house away from the western property line would be less destructive to the Cypress roots..
5. Denying Mr. Margolis' request to reduce the side yard set back from 6.25' to 5' on the western edge of the property line.
6. In case any of the Monterey Cypress trees die - the staff report states that Mr. Margolis is required to replace the tree(s) even though they are not located on his property.

7/6/2008
Date


Signature of Commissioner



EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc. **A-4-MAL-07-095, Margolis Thurs 11a**

Date and time of receipt of communication: **July 6, 2008 @ 11:30am**

Location and type of communication: **Telephone conversation**

Person(s) initiating communication: **Sean B. Doherty, The Donegal Group**

Detailed substantive description of content of communication:

Sean called and expressed his overall satisfaction with the staff report and appreciation for the staffs diligent work and conclusions. He accepts the special conditions and looks forward to an uneventful hearing on the 10th.

7/6/2008
Date


Signature of Commissioner

FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION

RECEIVED
JUL 03 2008
CALIFORNIA
COASTAL COMMISSION

Date and time of communication:

Wednesday, July 2nd, 2008, 3:00 pm
Phone Call Meeting

(For messages sent to a Commissioner by mail or facsimile or received as a telephone or other message, date time of receipt should be indicated.)

Location of communication:

Commissioner Neely's Office
Eureka, CA

(For communications sent by mail or facsimile, or received as a telephone or other message, indicate the means of transmission.)

Person(s) initiating communication:

Don Schmidt

Person(s) receiving communication:

Commissioner Neely

Name or description of project:

July Agenda Item Th11a, Margolis Single Family Home, Malibu

Detailed substantive description of content of communication:

(If communication included written material, attach a copy of the complete text of the written material.)

Spoke with applicant's representative regarding the Margolis home. Mr. Schmidt discussed the project from an historical perspective. The Commission found substantial issue during last September's hearing. Since then the applicant has been working with staff to address all issues, including the Monterey Cypress Trees and the setback from the lagoon. The applicant is agreeing with the staff recommendations.

7/2/08

Date


Signature of Commissioner Neely

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceedings and provide the Executive Director with a copy of any written material that was part of the communication.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

Appeal Filed: 8/6/07
49th Day: 9/24/07
Substantial
Issue Found: 9/5/07
Staff: D. Christensen
Staff Report: 6/25/08
Hearing Date: 7/10/08



STAFF REPORT: APPEAL **DE NOVO REVIEW**

LOCAL GOVERNMENT: City of Malibu

LOCAL DECISION: Approval with Conditions

APPEAL NO.: A-4-MAL-07-095

APPLICANT: Colony House 1, LLC (Richard Margolis)

AGENTS: Darren G. Domingue and Don Schmitz

APPELLANTS: Malibu Coalition for Slow Growth (Patt Healy) and Steve Littlejohn

PROJECT LOCATION: 23405 Malibu Colony Drive, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of a two-story, 5,200 sq. ft. single-family residence, with a six-car (1,368 sq. ft.) attached garage, pool, spa, alternative onsite wastewater treatment system, and minor modifications for reductions in front and side yard setbacks.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu LCP; CCC Appeal No. A-4-MAL-07-095 Substantial Issue Determination Hearing Staff Report, dated August 23, 2007, prepared by D. Christensen; June 5, 2007 City of Malibu Staff Report for Coastal Development Permit No. 06-023, Minor Modification Nos. 06-049 and 07-016, and Initial Study/Negative Declaration No. 07-001; City of Malibu Planning Commission Resolution No. 07-29; July 23, 2007 Staff Report for Appeal No. 07-005 of CDP 06-023; City of Malibu City Council Resolution No. 07-37; Environmental Review Board Revised Recommendation dated March 15, 2007; "Biological Study", prepared by TeraCor, dated December 5, 2006; "Delineation and Determination of Recommended Setback of a Single Family Residence to an ESHA", prepared by TeraCor, dated June 3, 2005; "Addendum Analysis" prepared by TeraCor, dated February 6, 2008; TeraCor Response Letter to the CCC Regarding Substantial Issue Staff Report, dated September 2, 2007; "City of Malibu Environmental Health Department approval of revised on-site wastewater treatment system plan, dated November 13, 2007.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **Approval** of the proposed project with **Twelve (12) Special Conditions** regarding geologic and engineering recommendations, assumption of risk, erosion control, drainage and polluted runoff control plans, on-site wastewater treatment system, lighting restriction, structural appearance, future improvements restriction, deed restriction, pool and spa drainage and maintenance, landscaping plan, cypress tree protection and monitoring, and nesting bird protection measures. As conditioned, the proposed development will be consistent with all applicable policies and standards of the certified City of Malibu Local Coastal Program (LCP) and with the public access and public recreation policies in Chapter 3 of the Coastal Act.

The Commission previously found that this appeal raised a substantial issue with respect to the project's consistency with the applicable environmentally sensitive habitat policies and standards of the LCP. The standard of review for the de novo review of the project is whether the proposed development is in conformity with the certified City of Malibu Local Coastal Program and the public access and public recreation policies in Chapter 3 of the Coastal Act. During the De Novo hearing, testimony may be taken from all interested persons.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. A-4-MAL-07-095 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development on the ground that the development is located between the sea and the first public road nearest the shoreline and, as conditioned, will conform with the policies of the certified Local Coastal Program for the City of Malibu and the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act since feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** These permits are not valid and development shall not commence until copies of the permits, signed by the permittee or authorized agent, acknowledging receipt of the permits and acceptance of the terms and conditions, are returned to the Commission office.
2. **Expiration.** If development has not commenced, the permits will expire two years from the date on which the Commission voted on the de novo appeal of the permits. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application(s) for extension of the permit(s) must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permits may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permits.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject properties to the terms and conditions.

III. SPECIAL CONDITIONS

1. **Plans Conforming to Geotechnical Engineer's Recommendations**

By acceptance of this permit, the applicants agree to comply with the recommendations contained in the submitted geotechnical and soils engineering reports ("Soils Engineering Exploration", dated January 30, 2002, and "Response to City Geotechnical Review Sheets", dated January 19, 2006 and May 22, 2006, prepared by Grover-Hollingsworth and Associates Inc.; "Revised Geotechnical Recommendations", dated May 10, 2007, prepared by Grover-Hollingsworth and Associates Inc.; and "Proposed Dispersal Field," dated August 31, 2007, prepared by Grover-Hollingsworth and Associates Inc.). These recommendations, including recommendations concerning foundations, grading, footings, drainage, and septic system, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultants prior to commencement of development.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, septic, foundations, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultants shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

2. Assumption of Risk

By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from flooding, liquefaction, and wildfire; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

3. Erosion Control, Drainage and Polluted Runoff Control Plans

Prior to issuance of the Coastal Development Permit, the applicants shall submit for the review and approval of the Executive Director: a) a ***Local Storm Water Pollution Prevention (SWPPP) Plan*** to control erosion and contain polluted runoff during the construction phase of the project; and b) a ***Stormwater Management Plan (SWMP)*** for the management and treatment of post-construction storm water and polluted runoff. The plans shall be certified by a California Registered Civil Engineer or Licensed Architect and approved by the City's Department of Public Works, and include the information and measures outlined below.

a) ***Local Storm Water Pollution Prevention Plan (SWPPP)***, for the construction phase of the project, shall include at a minimum the following:

- Property limits, prior-to-grading contours, and details of terrain and area drainage
- Locations of any buildings or structures on the property where the work is to be performed and the location of any building or structures of adjacent owners that are within 15 ft of the property or that may be affected by the proposed grading operations
- Locations and cross sections of all proposed temporary and permanent cut-and-fill slopes, retaining structures, buttresses, etc., that will result in an alteration to existing site topography (identify benches, surface/subsurface drainage, etc.)
- Area (square feet) and volume (cubic yards) of all grading (identify cut, fill, import, export volumes separately), and the locations where sediment will be stockpiled or disposed
- Elevation of finished contours to be achieved by the grading, proposed drainage channels, and related construction.
- Details for the protection of existing vegetation from damage from construction equipment, for example: (a) grading areas should be

minimized to protect vegetation; (b) areas with sensitive or endangered species should be demarcated and fenced off; and (c) native trees that are located close to the construction site should be protected by wrapping trunks with protective materials, avoiding placing fill of any type against the base of trunks, and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees.

- Information on potential flow paths where erosion may occur during construction
- Proposed erosion and sediment prevention and control BMPs, both structural and non-structural, for implementation during construction, such as:
 - Stabilize disturbed areas with vegetation, mulch, geotextiles, or similar method.
 - Trap sediment on site using fiber rolls, silt fencing, sediment basin, or similar method.
 - Ensure vehicles on site are parked on areas free from mud; monitor site entrance for mud tracked off-site.
 - Prevent blowing dust from exposed soils.
- Proposed BMPs to provide adequate sanitary and waste disposal facilities and prevent contamination of runoff by construction chemicals and materials, such as:
 - Control the storage, application and disposal of pesticides, petroleum and other construction and chemical materials.
 - Site washout areas more than fifty feet from a storm drain, open ditch or surface water and ensure that runoff flows from such activities do not enter receiving water bodies.
 - Provide sanitary facilities for construction workers.
 - Provide adequate disposal facilities for solid waste produced during construction and recycle where possible.

b) **Storm Water Management Plan (SWMP)**, for the management of post construction storm water and polluted runoff shall at a minimum include the following:

- Site design and source control BMPs that will be implemented to minimize or prevent post-construction polluted runoff (see 17.5.1 of the Malibu LIP)
- Drainage improvements (e.g., locations of diversions/conveyances for upstream runoff)
- Potential flow paths where erosion may occur after construction
- Methods to accommodate onsite percolation, revegetation of disturbed portions of the site, address onsite and/or offsite impacts and construction of any necessary improvements
- Storm drainage improvement measures to mitigate any offsite/downstream negative impacts due the proposed development, including, but not limited to:

- Mitigating increased runoff rate due to new impervious surfaces through on-site detention such that peak runoff rate after development does not exceed the peak runoff of the site before development for the 100 year clear flow storm event (note; Q/100 is calculated using the Caltrans Nomograph for converting to any frequency, from the Caltrans "Hydraulic Design and Procedures Manual"). The detention basin/facility is to be designed to provide attenuation and released in stages through orifices for 2-year, 10-year and 100-year flow rates, and the required storage volume of the basin/facility is to be based upon 1-inch of rainfall over the proposed impervious surfaces plus 1/2-inch of rainfall over the permeable surfaces. All on-site drainage devices, including pipe, channel, and/or street & gutter, shall be sized to cumulatively convey a 100 year clear flow storm event to the detention facility, or;
- Demonstrating by submission of hydrology/hydraulic report by a California Registered Civil Engineer that determines entire downstream storm drain conveyance devices (from project site to the ocean outlet) are adequate for 25-year storm event, or;
- Constructing necessary off-site storm drain improvements to satisfy the above, or;
- Other measures accomplishing the goal of mitigating all offsite/downstream impacts.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. On-site Wastewater Treatment System

Prior to the receipt of the certificate of occupancy for the proposed residence, the applicant shall submit for the review and approval of the Executive Director verification that they have obtained a valid Standard Operating Permit from the City for the proposed OSTs. This permit shall comply with all of the operation, maintenance and monitoring provisions applicable to OSTs contained in policies 18.4 and 18.9 of the Malibu LIP.

5. Exterior Lighting Restriction

By acceptance of this permit, the applicants acknowledge and agree that the only exterior, night lighting that is allowed on the site is the following:

- 1) The minimum necessary to light walkways used for entry and exit to the structures, including parking areas, on the site. This lighting shall be limited to fixtures that are directed downward, and use bulbs that do not exceed 60 watts, or the equivalent, unless a higher wattage is authorized by the Executive Director.
- 2) Security lighting attached to the residence that is controlled by motion detectors and is limited to 60 watts, or the equivalent.
- 3) The minimum lighting necessary for safe vehicular use of the driveway. The lighting shall be limited to 60 watts, or the equivalent.

No light source will be directly visible from public viewing areas such as Pacific Coast Highway, Malibu Lagoon State Park, or the beach and ocean area and that no lighting around the perimeter of the site or for aesthetic purposes shall be allowed.

6. Structural Appearance

Prior to issuance of the coastal development permit, the applicants shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of Coastal Development Permit No. A-4-MAL-07-095. The palette samples shall be presented in a format not to exceed 8½" x 11" x ½" in size. The palette shall include the colors proposed for the roof, trim, exterior surfaces, driveways, retaining walls, or other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by Coastal Development Permit No. A-4-MAL-07-095 if such changes are specifically authorized by the Executive Director as complying with this special condition.

7. Future Development Restriction

This permit is only for the development described in Coastal Development Permit No. A-4-MAL-07-095. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to any future development on any portion of the parcel. Accordingly, any future improvements to any of the property, including but not limited to the single family residence, garage (including conversion of the structure to habitable space), septic system, driveway, new or replacement landscaping, hardscape, and removal of vegetation or grading other than as provided for in the approved fuel

modification/landscape plan, shall require an amendment to Coastal Development Permit No. A-4-MAL-07-095 from the Commission or shall require an additional coastal development permit from the City of Malibu.

8. Deed Restriction

Prior to issuance of the Coastal Development Permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

9. Pool and Spa Drainage and Maintenance

By acceptance of this permit, the applicant agrees to install a no chlorine or low chlorine purification system and agrees to maintain proper pool water pH, calcium and alkalinity balance to ensure any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat areas. In addition, the applicant agrees not to discharge chlorinated or non-chlorinated pool water into a street, storm drain, creek, canyon drainage channel, or other location where it could enter receiving waters.

10. Landscaping Plans

Prior to issuance of the coastal development permit, the applicant shall submit landscaping plans for all graded or disturbed areas on the project site, prepared by a licensed landscape architect or a qualified resource specialist for the review and approval of the Executive Director. The landscaping plans shall include a scale map of the project site that shows the location, species, and size of each plant to be included in site landscaping. All development shall conform to the approved landscaping plans. The plans shall incorporate the criteria set forth below:

A. Plant Species

1. Plantings shall be native, drought-tolerant plant species, and shall blend with the existing natural vegetation and natural habitats on the site, except as noted in Section 3.10.1(A)(3) of the Malibu LIP. The native plant species shall be chosen

from those listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996.

2. Invasive plant species, as identified by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996 and identified in the *City of Malibu 's Invasive Exotic Plant Species of the Santa Monica Mountains*, dated March 17, 1998, that tend to supplant native species and natural habitats shall be prohibited.
3. Non-invasive ornamental plants and lawn may be permitted in combination with native, drought-tolerant species within the irrigated zone (Zone A) required for fuel modification nearest approved residential structures. Irrigated lawn, turf and ground cover shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B. Timing of Landscaping

1. All cut and fill slopes shall be stabilized with landscaping at the completion of final grading.
2. The building pad and all other graded or disturbed areas on the subject site shall be planted within sixty (60) days of receipt of the certificate of occupancy for the residence.

C. Landscaping Coverage Standards

Landscaping or revegetation shall provide 90 percent coverage within five years, or that percentage of ground cover demonstrated locally appropriate for a healthy stand of the particular native vegetation type chosen for revegetation.

D. Landscaping Monitoring

1. Any landscaping or revegetation shall be monitored for a period of at least five years following the completion of planting. Performance criteria shall be designed to measure the success of the plantings. Mid-course corrections shall be implemented if necessary.
2. Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies that the on-site landscaping is in conformance with the approved landscape plan. The monitoring report shall include photographic documentation of plant species and plant coverage.

3. If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. If performance standards are not met by the end of five years, the monitoring period shall be extended until the standards are met.

11. Monterey Cypress Tree Protection and Monitoring

By acceptance of this permit, the applicant agrees to have a certified arborist survey the project site prior to any construction activities, to flag the construction work area and to flag the on-site and adjacent Cypress trees and their minimum root protection zones to be avoided during all work.

The applicant shall retain the services of a certified arborist to be present on-site during grading and tree trimming/pruning operations to monitor the work and ensure the six healthy Cypress trees (Tree Nos. 41, 42, 43, 47, 49, and 52) are protected. The applicant shall direct the monitoring arborist to notify the Executive Director immediately if any of the six healthy Cypress trees are adversely impacted, damaged, or removed. The monitoring arborist shall have the authority to require the applicants to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise, and shall be directed to exercise that authority if either of those conditions occurs. Should any of the six healthy Cypress trees identified above be lost or suffer worsened health or vigor as a result of the project, at least one replacement tree (that is at least 48-inch box in size) for every one lost shall be planted on the project site as mitigation. In that case, the applicant shall submit, for the review and approval of the Executive Director, a Cypress tree replacement planting program, prepared by a qualified biologist, arborist, or other qualified resource specialist, which specifies replacement tree locations, planting specifications, and a ten-year monitoring program to ensure that the replacement planting program is successful. An annual monitoring report on the replacement Cypress tree replacement area shall be submitted for the review and approval of the Executive Director for each of the 10 years. Upon submittal of the replacement planting program, the Executive Director shall determine if an amendment to the subject permit, or an additional coastal development permit, is required.

12. Nesting Bird Protection Measures

A qualified biologist, with experience in conducting bird surveys, shall conduct bird surveys 30 days prior to construction to detect any active bird nests in the trees on and adjacent to the project site. The last survey should be conducted 3 days prior to the

initiation of clearance/construction. If an active nest is located, clearing/construction on the project site shall be postponed until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. Construction personnel shall be instructed on the sensitivity of the area. The project biologist shall record the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to protection of nesting birds.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION

The applicant proposes to construct a two-story, 5,200 sq. ft. single-family residence, with attached six-car (1,368 sq. ft.) garage, pool, spa, and alternative onsite wastewater treatment system on a 0.41-acre parcel at 23405 Malibu Colony Drive, Malibu (**Exhibits 1-10**).

B. BACKGROUND

1. Project Site

The subject property lies within the City's Malibu Colony Overlay District, an overlay zoning district wherein certain development standards (including, building height, front, rear, and side setback standards) substitute for the general residential standards that apply City-wide. The subject 0.41-acre parcel is 167 feet deep by 50 feet wide and is bounded by existing residential development to the west, a tennis court and residential development to the east, and Malibu Colony Drive to the south (**Exhibit 2**). Malibu Lagoon State Park, a wetland/estuary environment that is mapped as an Environmentally Sensitive Habitat Area ("ESHA") on the Malibu LCP ESHA maps, lies to the north of the property. A portion of the subject parcel is situated within the 100-foot ESHA buffer. The site is currently vacant and is comprised of ornamental landscaping, including two Monterey Cypress trees and two Ficus trees. Several mature Monterey Cypress trees exist on the adjoining property to the west, all of which are clustered along their shared property line (**Exhibits 2, 3**).

The subject property is visible from Malibu Lagoon State Park, public parkland that is situated adjacent to the applicant's north (rear) property line. However, no trails or access ways are located on the property. As such, the proposed project has no impact on public access, and is thus consistent with the public access and recreation policies of the Malibu LCP and the Coastal Act.

2. Local Government Action and Filing of Appeal

On June 5, 2007, the City of Malibu Planning Commission voted unanimously to adopt Resolution No. 07-29 approving Coastal Development Permit No. 06-023, Minor Modification Nos. 06-049 and 07-016, and Initial Study/Negative Declaration No. 07-001 for the construction of a two-story, 5,200 sq. ft. single-family residence, 1,368 sq. ft. attached garage, pool, spa, and alternative onsite wastewater treatment system at 23405 Malibu Colony Drive, Malibu. Minor modifications for a 47 percent reduction in the required front yard setback and a 20 percent reduction in the cumulative side yard setback (the total of both side yard setbacks) were also approved. Prior to that, on December 20, 2006, the City's Environmental Review Board reviewed the proposed project, heard testimony, and forwarded a recommendation to the Planning Commission for consideration.

On June 15, 2007, Steve Littlejohn, representing adjacent property owner Bill Littlejohn, filed a local appeal (Appeal 07-005) of the Planning Commission's action on June 5, 2007, within the City's appeal period. The City of Malibu City Council denied Appeal 07-005 on July 23, 2007, upholding the Planning Commission's action.

The Notice of Final Action for the project was received by Commission staff on August 3, 2007. A ten working day appeal period was set and notice was provided beginning August 6, 2007. The final day of the appeal period was August 17, 2007. The Notice of Final Action identified the project as appealable to the Coastal Commission, since the project is located within the Commission's appeal jurisdiction. Appeals of the City's action were filed by Patt Healy and Malibu Coalition for Slow Growth (August 6, 2007), and Steve Littlejohn (August 10, 2007), during the appeal period. Commission staff notified the City, the applicant, and all interested parties that were listed on the appeals and requested that the City provide its administrative record for the permit. The administrative record was received on August 13, 2007. The appeal was scheduled for a substantial issue determination at the Commission's September 2007 meeting. On September 5, 2007, the Commission found that Appeal No. A-4-MAL-07-095 presented a substantial issue with respect to the grounds on which the appeal was filed under §30603 of the Coastal Act regarding consistency with the ESHA protection policies of the certified Local Coastal Plan. The appeal hearing was continued for the Commission's de novo review of the project.

Correspondence received since the Commission's September 5, 2007 appeal hearing on substantial issue is attached as **Exhibit 13**. One of the letters is from Steve Littlejohn, one of the appellants in this case. Mr. Littlejohn suggests an alternative siting and design plan for the project in which no development is within 100 feet of the applicant's rear property line or within 5 feet of the west property line where the Cypress tree windrow is located. Mr. Littlejohn believes that the applicant's rear property line is where ESHA shall be delineated. As described later in this report, the proposed project provides the required 100 foot buffer from off-site Malibu Lagoon ESHA, as determined by a site-specific biological assessment. In addition, the proposed project provides a 5 foot setback from the west property line where the Cypress tree windrow is located and the foundation of the residence has been designed to avoid impact to the root zones of the Cypress trees.

C. CONSISTENCY WITH LCP POLICIES – STANDARD OF REVIEW

After certification of a Local Coastal Program (LCP), Section 30603 of the Coastal Act provides for appeals to the Coastal Commission of a local government's actions on certain types of developments (including new development located between the first public road and the sea or within 100 feet of a wetland, such as the proposed project). In this case, the proposed development has been previously appealed to the Commission, which found, during a public hearing on September 5, 2007, that a substantial issue was raised.

At this stage of the appeal hearing, the Commission conducts a “de novo” review of the permit application, and the standard of review for the proposed development is the policies and provisions of the City of Malibu Local Coastal Program (LCP), which was certified by the Commission on September 13, 2002, and the public access and public recreation policies in Chapter 3 of the Coastal Act. The LCP consistency issues raised by the proposed development are discussed in the following sections.

D. HAZARDS

The proposed development is located on a bluff top lot in Malibu, an area generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Malibu area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property. The Malibu Local Coastal Program (LCP) contains the following development policies related to hazards that are applicable to the proposed development.

Section 30253 of the Coastal Act, which is incorporated as part of the Malibu LCP, states in pertinent part that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.***
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

In addition, the following LCP policies are applicable in this case:

- 4.2 All new development shall be sized, designed and sited to minimize risks to life and property from geologic, flood, and fire hazard.***
- 4.5 Applications for new development, where applicable, shall include a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a***

statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such reports shall be signed by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE) and subject to review and approval by the City Geologist.

- 4.10 New development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams.***
- 6.29 Cut and fill slopes and other areas disturbed by construction activities shall be landscaped or revegetated at the completion of grading. Landscape plans shall provide that:***
- Plantings shall be of native, drought-tolerant plant species, and blend with the existing natural vegetation and natural habitats on the site, except as noted below.***
 - Invasive plant species that tend to supplant native species and natural habitats shall be prohibited.***
 - Non-invasive ornamental plants and lawn may be permitted in combination with native, drought-tolerant species within the irrigated zone(s) required for fuel modification nearest approved residential structures.***
 - Lawn shall not be located on any geologically sensitive area such as coastal blufftop.***
 - Landscaping or revegetation shall provide 90 percent coverage within five years. Landscaping or revegetation that is located within any required fuel modification thinning zone (Zone C, if required by the Los Angeles County Fire Department) shall provide 60 percent coverage within five years.***

The proposed project site is located on a 0.41-acre parcel within the City's Malibu Colony Overlay District. The subject 0.41-acre parcel is 167 feet deep by 50 feet wide and is bounded by existing residential development to the west, a tennis court and residential development to the east, and Malibu Colony Drive to the south. Malibu Lagoon, a wetland/estuary environment lies to the north of the property. A portion of the subject parcel (33 feet of property's rear yard) is situated within 100 feet of the upland limit of the adjacent wetland. The site is currently vacant and is comprised of ornamental landscaping.

The Malibu LCP requires that new development be sited and designed to minimize risks to life and property from geologic, flood, and fire hazard. In addition, the LCP requires a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. According to submitted geotechnical and soils engineering reports ("Soils Engineering Exploration", dated January 30, 2002, and "Response to City Geotechnical Review Sheets", dated January 19, 2006 and May 22, 2006, prepared by Grover-Hollingsworth and Associates Inc.; "Revised Geotechnical Recommendations", dated May 10, 2007, prepared by Grover-Hollingsworth and Associates Inc.; and "Proposed Dispersal Field," dated August 31, 2007, prepared by Grover-Hollingsworth and Associates Inc.), the subject site is underlain by a minor amount of fill over beach deposits and alluvium at depth. Groundwater is present at a

depth of five feet. A liquefaction analysis performed for the site indicates that the beach deposits below the groundwater table is liquefiable. However, the geologic consultants conclude that the subject property is a suitable site for the proposed development and will be safe against hazards from excessive settlement or slippage. The Commission is aware of no evidence contesting the findings in these studies, and thus, accepts their conclusions. As such, the Commission finds that the proposed project will serve to ensure general geologic and structural integrity on site. However, the Commission also finds that the submitted geotechnical and soils engineering reports include a number of recommendations to ensure the geologic stability and geotechnical safety of the site. To ensure that the recommendations of the geologic and geotechnical engineering consultants are incorporated into all new development, the Commission finds it necessary to impose **Special Condition One (1)**, which requires the applicant to incorporate all geologic and geotechnical recommendations of the consulting geologist and geotechnical engineer into the final project plans to ensure structural and site stability. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, foundations, grading, drainage, and septic. Any substantial changes to the proposed development approved by the Commission that may be recommended by the consultants shall require an amendment to the permit or a new coastal permit.

As discussed above, the applicant's engineering consultants have indicated that the proposed development will serve to ensure relative geologic and structural stability on the subject site. However, the proposed development is located on a parcel adjacent to Malibu Lagoon that possesses a high water table and liquefiable substrate. The Commission finds that because there remains some inherent risk in building on the subject site, and due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from flooding, liquefaction, and wildfire, the Commission can only approve the project if the applicant assumes the liability from the associated risks as required by **Special Condition Two (2)**. The assumption of risk will show that the applicant is aware of and appreciates the nature of the hazards that exist on the site and that may adversely affect the stability or safety of the proposed development. In addition, the Commission finds it necessary to impose **Special Condition Eight (8)**, as required by Malibu LUP Policy 4.42. **Special Condition Eight (8)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

The Commission also finds that the minimization of site erosion will add to the stability of the site. In addition, the Malibu LCP requires that graded and disturbed areas be revegetated to minimize erosion. Erosion can best be minimized by requiring the applicant to landscape all disturbed and graded areas of the site with native plants compatible with the surrounding environment. Invasive and non-native plant species are typically characterized as having a shallow root structure in comparison with their high surface/foliage weight and/or require a greater amount of irrigation and maintenance than native vegetation. The Commission finds that non-native and invasive plant

species with high surface/foilage weight and shallow root structures do not serve to stabilize bluff slopes and bluff top areas and that instead such vegetation adversely affects the geologic stability of the project site. In comparison, the Commission finds that native plant species are typically characterized not only by a well developed and extensive root structure in comparison to their surface/foilage weight, which helps to stabilize the soils, but also by their low irrigation and maintenance requirements. Malibu LCP policy 3.119 requires that landscaping for erosion control purposes consist entirely of native or drought-tolerant non-invasive plants. Within Zone A, as designated on the fuel modification plan, non-invasive ornamental plants are acceptable. Typically, Zone A is a 20 foot irrigated zone immediately surrounding the structure. Therefore, in order to ensure the stability and geotechnical safety of the site, **Special Condition Ten (10)** requires that all proposed disturbed and graded areas on the subject site are stabilized with native and limited non-invasive ornamental vegetation.

The project will increase the amount of impervious coverage on-site, which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff will result in increased erosion, adversely affect site stability, and degrade water quality. The applicant's geologic / geotechnical consultant has recommended that site drainage be collected and distributed in a non-erosive manner. In addition, the Malibu LCP Policy 4.10 requires that "new development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams". Therefore, to ensure that drainage is conveyed off site in a non-erosive manner, the Commission finds that it is necessary to require the applicant, as required by **Special Condition Three (3)**, to prepare and implement drainage and polluted runoff management plans for the construction and post-construction phases of development that are prepared by the consulting engineer.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the applicable policies of Chapter 4 (Hazards and Shoreline/Bluff Development) of the Malibu LUP, including Section 30253 of the Coastal Act, which is incorporated as part of the LUP, and applicable standards of Chapter 9 (Hazards) of the Malibu LUP.

E. VISUAL RESOURCES

The Malibu LCP provides for the protection of scenic and visual resources, including views of the beach and ocean, views of mountains and canyons, and views of natural habitat areas. The LCP identifies Scenic Roads, which are those roads within the City that traverse or provide views of areas with outstanding scenic quality that contain striking views of natural vegetation, geology, and other unique natural features, including the beach and ocean. The Malibu LCP requires that new development not be visible from scenic roads or public viewing areas. Where this is not feasible, new development must minimize impacts through siting and design measures.

Section 30251 of the Coastal Act, which is incorporated as part of the Malibu LCP, requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored. Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting.

In addition, the following LCP policies are applicable in this case:

- 6.1** *The Santa Monica Mountains, including the City, contain scenic areas of regional and national importance. The scenic and visual qualities of these areas shall be protected and, where feasible, enhanced.*
- 6.2** *Places on and along public roads, trails, parklands, and beaches that offer scenic vistas are considered public viewing areas. Existing public roads where there are views of the ocean and other scenic areas are considered Scenic Roads. Public parklands and riding and hiking trails which contain public viewing areas are shown on the LUP Park Map. The LUP Public Access Map shows public beach parks and other beach areas accessible to the public that serve as public viewing areas.*
- 6.4** *Places on, along, within, or visible from scenic roads, trails, beaches, parklands and state waters that offer scenic vistas of the beach and ocean, coastline, mountains, canyons and other unique natural features are considered Scenic Areas. Scenic Areas do not include inland areas that are largely developed or built out such as residential subdivisions along the coastal terrace, residential development inland of Birdview Avenue and Cliffside Drive on Point Dume, or existing commercial development within the Civic Center and along Pacific Coast Highway east of Malibu Canyon Road.*
- 6.5** *New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.*
- 6.6** *Avoidance of impacts to visual resources through site selection and design alternatives is the preferred method over landscape screening. Landscape screening, as mitigation of visual impacts shall not substitute for project alternatives including resiting, or reducing the height or bulk of structures.*

6.13 New development in areas visible from scenic roads or public viewing areas shall incorporate colors and exterior materials that are compatible with the surrounding landscape. The use of highly reflective materials shall be prohibited.

6.15 Fences, walls, and landscaping shall not block views of scenic areas from scenic roads, parks, beaches, and other public viewing areas.

6.23 Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity fixtures, shielded, and concealed to the maximum feasible extent so that no light source is directly visible from public viewing areas. Night lighting for sports courts or other private recreational facilities in scenic areas designated for residential use shall be prohibited.

Section 30251 of the Coastal Act, which is incorporated as part of the Malibu LCP, requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored.

The applicant proposes to construct a two-story, 5,200 sq. ft. single-family residence, with attached 1,368 sq. ft. garage, pool, spa, and alternative onsite wastewater treatment system on a 0.41-acre parcel within a residential neighborhood. The subject property is bounded by existing residential development to the west and east, Malibu Lagoon State Park to the north, and Malibu Colony Drive to the south. The property is not located along the beachfront and would not obstruct ocean views from any public viewing areas. The subject property is, however, partially visible from Malibu Lagoon State Park, public parkland that is situated adjacent to the applicant's north (rear) property line. The proposed project is sited in line with existing residential development and would not be significantly visible from public parkland. The proposed project has also been designed to conform to the scale and character of the other residences in the neighborhood. The proposed 5,200 sq. ft. residence is two-story and 30 feet in height. Although the structure will be visible from parkland, reducing the proposed structure further to one-story, or 18 feet in height, or reducing the structure footprint, would not significantly reduce adverse visual impacts.

Since the project site will be visible from a public viewing area, mitigation to address potential visual impacts is needed for the proposed residence. The visual impact of the proposed structure can be minimized by requiring the structure be finished in a color consistent with the surrounding natural landscape and, further, by requiring that non-reflective materials are used. To ensure visual impacts associated with the structure's appearance are minimized, the Commission requires the applicant to use colors compatible with the surrounding environment and non-reflective materials, as detailed in **Special Condition Six (6)**.

In addition, Policy 6.23 of the Malibu LCP specifically restricts exterior lighting to be minimized and restricted to low intensity fixtures, shielded, and concealed to the maximum extent feasible so that no light source is directly visible from public viewing areas or the beach and ocean area in order to eliminate the adverse individual and cumulative visual impacts associated with the lighting of such areas visible from public

areas. In order to mitigate any potential future visual and environmental impacts of the proposed project, the Commission finds it necessary to require that exterior lighting to be minimized and restricted to low intensity fixtures, shielded, and concealed to the maximum extent feasible so that no light source is directly visible from public viewing areas or the beach and ocean area, as specified in **Special Condition Five (5)**.

Special Condition Eight (8) requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

In summary, the proposed project, as conditioned, will not result in any significant adverse impacts to scenic public views or the character of the surrounding area in this portion of Malibu. In addition, the project, as conditioned is the least environmentally damaging alternative and there are no alternatives that would lessen any significant adverse impact on scenic and visual resources. Thus, the Commission finds that the proposed project is consistent, as conditioned, with applicable policies of the Malibu LCP.

F. ENVIRONMENTALLY SENSITIVE HABITAT AND WATER QUALITY

The following policies of Chapter Three of the Coastal Act are incorporated as part of the City of Malibu LUP:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

In addition, the City of Malibu certified LUP contains policies that protect the environmentally sensitive habitat areas of the City. LUP Policy 3.8 states that Environmentally Sensitive Habitat Areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. The LUP policies also establish the protection of areas adjacent to ESHA through the provision of buffers. Natural vegetation buffer areas must be provided around ESHA that are of sufficient size to prevent impacts that would significantly degrade these areas. Development, including fuel modification, shall not be permitted within required buffer areas.

LUP Policy 3.23 states the following:

Development adjacent to ESHAs shall minimize impacts to habitat values or sensitive species to the maximum extent feasible. Native vegetation buffer areas shall be provided around ESHAs to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. All buffers shall be a minimum of 100 feet in width, except for the case addressed in Policy 3.27.

Policy 3.31 of the LUP states that permitted development located within or adjacent to ESHA and/or parklands that adversely impact those areas may include open space or conservation restrictions or easements over ESHA, ESHA buffer, or parkland buffer in order to protect resources.

The certified Local Implementation Plan (LIP) contains standards and policies to implement the Land Use Plan. Chapter 4 of the LIP specifically addresses environmentally sensitive habitat areas (ESHA). The ESHA overlay provisions apply to those areas designated ESHA on the Malibu LIP ESHA overlay map and those areas within 200 feet of designated ESHA. Additionally, those areas not mapped as ESHA, but found to be ESHA under the provisions of Section 4.3 of the Malibu LIP are also subject to these provisions. The purpose of the ESHA overlay zone is to protect and preserve areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities and development. The environmentally sensitive habitat overlay zone not only extends over an ESHA area itself but also includes buffers necessary to ensure continued protection of habitat areas. Only uses dependent on the environmentally sensitive habitat areas and which do not result in significant disruption of habitat values are permitted in the ESHA overlay zone.

Section 4.6.1 of the Malibu LIP states, in part, the following with regard to buffers:

New development adjacent to the following habitats shall provide native vegetation buffer areas to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the habitat they are designed to protect. Vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation shall not be permitted within buffers except as provided in Section 4.6.1 (E) or (F) of the Malibu LIP. The following buffer standards shall apply:

B. Wetlands

New development shall provide a buffer of no less than 100 feet in width from the upland limit of the wetland.

The Commission recognizes that new development in Malibu and the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems.

The Malibu LCP incorporates Section 30231 of the Coastal Act, which states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.

Further, the following LUP water quality policies are applicable:

- 3.100 New development shall be sited and designed to minimize impacts to water quality from increased runoff volumes and nonpoint source pollution. All new development shall meet the requirements of the Los Angeles Regional Water Quality Control Board (RWQCB) in its the Standard Urban Storm Water Mitigation Plan For Los Angeles County And Cities In Los Angeles County (March 2000) (LA SUSMP) or subsequent versions of this plan.***
- 3.102 Post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate, or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs and/or the 85th percentile, 1-hour storm event (with an appropriate safety factor, i.e. 2 or greater) for flow-based BMPs. This standard shall be consistent with the most recent Los Angeles Regional Water Quality Control Board municipal stormwater permit for the Malibu region or the most recent California Coastal Commission Plan for Controlling Polluted Runoff, whichever is more stringent.***
- 3.110 New development shall include construction phase erosion control and polluted runoff control plans. These plans shall specify BMPs that will be implemented to minimize erosion and sedimentation, provide adequate***

sanitary and waste disposal facilities and prevent contamination of runoff by construction chemicals and materials.

- 3.111** *New development shall include post-development phase drainage and polluted runoff control plans. These plans shall specify site design, source control and treatment control BMPs that will be implemented to minimize post-construction polluted runoff, and shall include the monitoring and maintenance plans for these BMPs.*
- 3.125** *Development involving onsite wastewater discharges shall be consistent with the rules and regulations of the L.A. Regional Water Quality Control Board, including Waste Discharge Requirements, revised waivers and other regulations that apply.*
- 3.126** *Wastewater discharges shall minimize adverse impacts to the biological productivity and quality of coastal streams, wetlands, estuaries, and the ocean. On-site treatment systems (OSTSs) shall be sited, designed, installed, operated, and maintained to avoid contributing nutrients and pathogens to groundwater and/or surface waters.*
- 3.127** *OSTSs shall be sited away from areas that have poorly or excessively drained soils, shallow water tables or high seasonal water tables that are within floodplains or where effluent cannot be adequately treated before it reaches streams or the ocean.*
- 3.131** *The construction of private sewage treatment systems shall be permitted only in full compliance with the building and plumbing codes and the requirements of the LA RWQCB. A coastal development permit shall not be approved unless the private sewage treatment system for the project is sized and designed to serve the proposed development and will not result in adverse individual or cumulative impacts to water quality for the life of the project.*
- 3.138** *New septic systems shall be sited and designed to ensure that impacts to ESHA, including those impacts from grading and site disturbance and the introduction of increased amounts of groundwater, are minimized. Adequate setbacks and/or buffers shall be required to protect ESHA and other surface waters from lateral seepage from the sewage effluent dispersal systems.*
- 3.141** *Applications for a coastal development permit for OSTs installation and expansion, where groundwater, nearby surface drainages and slope stability are likely to be adversely impacted as a result of the projected effluent input to the subsurface, shall include a study prepared by a California Certified Engineering Geologist or Registered Geotechnical Engineer that analyzes the cumulative impact of the proposed OSTs on groundwater level, quality of nearby surface drainages, and slope stability. Where it is shown that the OSTs will negatively impact groundwater, nearby surface waters, or slope stability, the OSTs shall not be allowed.*

Analysis

The applicant proposes to construct a two-story, 5,200 sq. ft. single-family residence, with attached 1,368 sq. ft. garage, pool, spa, and alternative onsite wastewater treatment system on a 0.41-acre parcel at 23405 Malibu Colony Drive, Malibu (**Exhibits 1-10**). The subject property lies within the City's Malibu Colony Overlay District, an

overlay zoning district wherein certain development standards (including, building height, front, rear, and side setback standards) substitute for the general residential standards that apply City-wide. The subject 0.41-acre parcel is 167 feet deep by 50 feet wide and is bounded by existing residential development to the west, a tennis court and residential development to the east, and Malibu Colony Drive to the south. The site is currently vacant and is comprised of ornamental landscaping, including two Monterey Cypress trees and two Ficus trees. Several mature Monterey Cypress trees exist on the adjoining property to the west, all of which are clustered along their shared property line (**Exhibits 2, 3**). Malibu Lagoon, a wetland/estuary environment that is mapped as an Environmentally Sensitive Habitat Area (“ESHA”) on the Malibu LCP ESHA maps, lies to the north of the property.

A June 3, 2005 Wetland Delineation Study prepared by the applicant’s consulting biologist, TeraCor Resource Management, found that the upper limit of the Malibu Lagoon ESHA is 10 feet from the lagoon waterline recorded on May 22, 2005 by TeraCor’s wetland specialists. The City Biologist concurred with the TeraCor delineation. The ESHA boundary, as determined by the applicant’s biologist and the City, is located 65-67 feet from the rear property line. As such, 33 feet of the required 100 foot wetland ESHA buffer is situated on the subject parcel.

ESHA Delineation

In its September 2007 substantial issue determination on the subject appeal, the Commission found a lack of adequate analysis regarding the boundaries of the off-site ESHA and a misapplication of the LCP policies raised a substantial issue in terms of the project’s conformance with the ESHA protection provisions of the Malibu LCP.

As mentioned previously, a June 3, 2005 delineation of the off-site wetland prepared by TeraCor found that the upland limit of the off-site wetland ESHA was 65-67 feet from the rear property line of the subject parcel. The City Biologist concurred with this ESHA delineation and a 100-foot ESHA buffer that extends 33 feet onto the subject property was required by the City (**Exhibit 3**). The wetland ESHA determination was based upon a wetland delineation conducted by the applicant’s consulting biologist. The biologist’s 2005 report states that the delineation was prepared using the U.S. Army Corps of Engineers’ Wetland Delineation Manual in conjunction with the wetland delineation provisions contained in the Malibu LCP (LIP Section 4.4.3), in which a wetland and its upland limit are defined as follows (in accordance with Public Resources Code Section 13577(b)(1)):

Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to,

vegetated wetlands or deep-water habitats. For purposes of this section, the upland limit of a wetland shall be defined as:

- A. the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;
- B. the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric
- C. in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.

Based on that definition, if hydric soils or hydrophytic vegetation predominate, or if the relevant surface hydrology is present, then the area is considered part of the "wetland". In the case of the subject wetland delineation report, the biologists identified a 1-2 foot strip of unvegetated mudflat adjacent to the water's edge that was bordered by an approximately 10 foot wide strip of coastal salt marsh vegetation. It was determined that both the salt marsh and mud flat areas meet all three wetland parameters and are recommended by the biologist to be considered wetland ESHA (**Exhibit 11**).

The delineation report identifies the area upslope of the delineated salt marsh area as consisting of predominantly upland vegetation (a mosaic of saltbush, mulefat, and non-native grasses) and non-hydric soil (**Exhibit 11**). However, Commission staff biologist, Dr. Jonna Engel, reviewed the 2005 wetland delineation report and concluded that there were flaws in the biological consultant's analysis of the upslope area that indicated the delineated upland limit of the wetland might not be accurate.

Three separate vegetative communities were delineated within the area defined by the consulting biologist as upland: saltbush scrub, saltbush/mulefat scrub, and non-native grassland (see polygons on Exhibit 11). Six sampling plots were utilized to analyze vegetation, soils, and hydrology. The location of these plots are also indicated on Exhibit 11. In sampling plot #6 within the saltbush/mulefat scrub polygon, the data sheet indicates that saltbush, a dominant species within the plot, is an upland indicator species and since less than 50% of the dominant species within the plot are wetland indicators, it was concluded that the area was not wetland based on vegetation. However, saltbush is a wetland indicator species that is found 50% of the time in wetlands. TeraCor biologist, Timothy Searl, clarified this issue for Commission staff in his September 2, 2007 letter which states that the data form for sampling plot #6 indicated only the genus for saltbush and not the species. There were actually two saltbush species present in that polygon: Big Saltbush (native) and Waxy Saltbush (non-native). Waxy saltbush is not listed as a wetland indicator species in the 1988 *National List of Plant Species That Occur in Wetlands*. Therefore, the lack of dominant listed wetland indicator species and lack of hydrology and hydric soils in this polygon resulted in TeraCor's determination that the area is not a wetland. Commission staff biologist Dr. Engel has reviewed TeraCor's September 2, 2007 letter and found it provided the necessary additional information to support the non-wetland determination.

The other information that had previously raised an issue regarding the accuracy of the ESHA delineation had to do with the fact that no sampling was conducted within the polygon labeled saltbush scrub on the 2005 wetland delineation map. Since saltbush is a wetland indicator species, the lack of any analysis of the soil and vegetation characteristics within this polygon is a significant omission in the study that raises an issue regarding the accuracy of where the boundary between predominately wetland and predominately upland was delineated. To clarify this issue, TeraCor performed a field assessment within the saltbush scrub polygon on January 31, 2008. An addendum report on the results of the assessment was received by Commission staff on February 11, 2008. The report states that the saltbush scrub polygon does not qualify as a wetland because upland vegetation was dominant, hydrology was absent, and soils were non-hydric. Commission staff biologist Dr. Engel has reviewed TeraCor's sampling report and concurs with the conclusions of the wetland delineation.

Lastly, issue was raised in the subject appeal regarding whether the identified upland habitat adjacent to the property and Malibu Lagoon wetland met the definition of ESHA. When the proposed project was considered by the City of Malibu, the "upland" area was not analyzed by the City or the biological consultant for inclusion as ESHA itself. The scope of the 2005 biological consultant's assessment was limited to discerning wetland ESHA. The biologist's 2005 ESHA report concludes that:

It is the opinion of TeraCor that the upper limit of the Malibu Lagoon wetland ESHA is 10 feet from the lagoon water line recorded on 22 May 2005 by TeraCor wetland specialists. It is also our opinion that the upland limit of the wetland boundary is 65-67 feet from the Margolis property line. A standard 100 foot structural setback to the wetland ESHA is recommended.

In their September 2, 2007 response letter to Commission staff regarding the appeal, the applicant's consulting biologist, TeraCor, states that the upland areas adjacent to the property and lagoon are disturbed, consist largely of non-native vegetation, and do not support sensitive bird, reptile, or mammal species. TeraCor concludes that the upland areas do not meet the definition of ESHA. The area between the subject property and the lagoon is bisected by a State Parks public access/maintenance road. The relatively small strips of upland vegetation on either side of the road is disturbed and contains predominantly non-native vegetation according to TeraCor's surveys. Commission staff is currently processing a coastal development permit application for a large-scale restoration project at Malibu Lagoon State Park. To enhance lagoon habitat value and function, the proposed restoration project involves changing the lagoon's configuration, planting native species and removing non-native species. While the upland areas adjacent to the applicant's property and Malibu Lagoon possesses important transitional habitat value and wetland buffer function, the upland areas currently do not contain plant or animal life, or habitat for plant or animal life, that is either rare or especially valuable because of its special nature or role in the ecosystem. Based on the available information, the Commission concludes that the upland-vegetated areas adjacent to the site do not meet the definition of ESHA and the delineated off-site ESHA boundary (65-67 feet from the applicant's rear property line) is indeed accurate. The project approved by the City was designed such that the proposed

pool, spa, residence, garage, and septic system are all situated at least 33 feet from the rear property line that fronts the lagoon in order to provide a 100-foot buffer from adjacent ESHA on State parkland. However, a 493 sq. ft. subsurface dispersal field associated with the proposed alternative onsite wastewater treatment system was located within the ESHA buffer area on-site, adjacent to the rear property line. The applicant has since re-designed the project to relocate the septic system outside the ESHA buffer area. As such, all proposed development will provide the required 100-foot buffer from ESHA.

Although the applicant is providing the 100-foot buffer from ESHA as required by the LCP, it should be noted that the Commission disagrees with an LCP interpretation the City of Malibu made during their consideration of the project. The City made the argument that the ESHA buffer provisions of the LCP were not applicable in this case because the property lies within the Malibu Colony Overlay District, an area that possesses a unique set of development standards. The City claims that the overlay district development standards take priority over any inconsistent development standards found in the LCP, including ESHA standards. The rear yard setback requirement for non-beachfront lots in the Malibu Colony is twenty (20) feet, as measured from the property line to the wall of the structure. The City asserts that this setback is the only setback required for the rear yard of the subject parcel that fronts Malibu Lagoon, and a 100-ft. buffer from off-site ESHA is no longer required.

As detailed in LIP Section 3.4.1, the Malibu Colony overlay provisions replace the City-wide residential development standards found in LIP Section 3.6. However, as stated in LIP Section 3.4: "All uses within the boundaries of an overlay zone shall comply with the provisions of the overlay zone in addition to applicable standards of the underlying zone, other provisions of this ordinance, and other provisions of law". So, it is clear that the Malibu Colony overlay standards do not override those of the ESHA Overlay. Furthermore, as provided in Malibu Land Use Plan (LUP) Policy 3.30:

Protection of ESHA and public access shall take priority over other development standards and where there is any conflict between general development standards and ESHA and/or public access protection, the standards that are most protective of ESHA and public access shall have precedence.

The City referred to the "specific" standards of the Malibu Colony Overlay District as though they are distinct from the "general" development standards referred to by LUP Policy 3.30. However, the LCP makes no such distinction. Rather, it is clear that the standards contained in the Malibu Colony Overlay District are the same type of standard as, and substitute for, the general development standards that apply City-wide. They are specific to this overlay district, but their subject-matter is still such that they are "general" development standards for that unique location. Moreover, in the first line of Policy 3.30, as quoted above, it refers simply to "other development standards," with no reference to "general" or "specific." Thus, neither the standards in the Malibu Colony Overlay District nor any other development standards in the LCP supplant the ESHA requirements. Therefore, even if there were a conflict between the provisions of the

Malibu Colony Overlay District and the ESHA policies and provisions, the more restrictive ESHA buffer standards must be applied.

ESHA Buffer

Malibu Lagoon, a wetland/estuary environment that is mapped as an Environmentally Sensitive Habitat Area (“ESHA”) on the Malibu LCP ESHA maps, lies to the north of the subject property. Section 4.3 of the Malibu LIP states that the actual physical extent of habitat meeting the definition of “environmentally sensitive area” shall be based on a site-specific biological study and available independent evidence. As mentioned previously, a site-specific biological assessment for the project found that a portion of the subject parcel is situated within 100 feet of off-site ESHA. The applicant designed the project such that the proposed pool, spa, residence, and garage are all situated at least 33 feet from the rear property line that fronts the adjacent lagoon ESHA in order to provide the required 100-foot buffer. However, as approved by the City of Malibu, the project previously included a 493 sq. ft. subsurface dispersal field associated with the proposed alternative onsite wastewater treatment system (OWTS) that was located within the ESHA buffer area on-site, adjacent to the rear property line. Septic system dispersal fields meet the definition of “development” under the LCP and are not a permitted use in an ESHA buffer pursuant to Section 4.5.4 of the City’s LIP. The City did not analyze siting and design alternatives to avoid placement of the OWTS and dispersal field within the ESHA buffer during their review of the project. The Commission concluded at the substantial issue determination hearing on the subject appeal in September 2007 that, at a minimum, the location of the OWTS aspect of the approved project presented a substantial issue with respect to whether it provides an adequate buffer from the adjacent wetland ESHA. The applicant has since provided Commission staff with a revised OWTS plan in which the subsurface septic dispersal field on the property has been relocated outside of the 33 foot ESHA buffer area on the property (**Exhibit 4**). The City of Malibu Environmental Health Department has reviewed and approved the revision. As such, the proposed project is consistent with Section 4.6.1 of the Malibu LIP, in that the development will provide a sufficient buffer from the off-site ESHA.

In order to ensure that no additions or improvements are made to the property without due consideration of the ESHA impacts, the Commission finds it necessary to require a future development restriction, which requires the applicant to obtain an amended or new coastal permit if additions or improvements to the site are proposed in the future, as detailed in **Special Condition Seven (7)**. In addition, **Special Condition Eight (8)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

The Commission has determined that in conjunction with siting new development to avoid impacts to ESHA, additional actions can be taken to minimize adverse impacts to ESHA. The Commission finds that the use of non-native and/or invasive plant species

for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area, **Special Condition Ten (10)** requires that landscaping consist primarily of native plant species and that invasive plant species shall not be used.

Monterey Cypress Trees

There is a windrow of approximately 14 Monterey Cypress trees that line the western property line of the subject parcel. One of the appellants, Steve Littlejohn, is the son of the neighboring property owner whose property contains the Cypress tree grove. While most of the Cypress tree trunks reside on the neighboring property, the tree roots and canopies extend over the west edge of the subject property (**Exhibit 10**). According to the consulting arborist of the applicant, in a March 16, 2007 letter, only 6 of the 14 Cypress trees are in a healthy condition (**Exhibit 12**). A December 5, 2006 Biological Study prepared by TeraCor found that the trees were being utilized by Osprey, Great Egret, Black-crowned Night Heron, Great Blue Heron, Red-shouldered Hawk, Cooper's Hawk, Red-tailed Hawk, and Great-horned Owl. In particular, the herons and egrets roost in the trees when not actively feeding in the Malibu Lagoon estuary. The Osprey is a California Department of Fish & Game "Species of Special Concern". Great Egret is not a listed species, but they are uncommon in Southern California.

At the substantial issue determination hearing on the subject appeal, the Commission found that the appellants contention that the approved project does not conform to the ESHA protection policies and provisions of the certified LCP with regard to the Cypress trees raised a substantial issue. The City did not analyze whether the trees met or failed to meet the definition of an environmentally sensitive habitat area (ESHA). Section 4.3 of the Malibu LIP states that the City shall determine the physical extent of habitat meeting the definition of "environmentally sensitive area" on the project site, based on a site-specific biological study, as well as available independent evidence.

Monterey Cypress trees are not native to this region of California, and are not afforded protection under the City's Native Tree Protection Ordinance (LIP Chapter 5). However, evidence in the record suggests the trees provide a valuable role in the estuary ecosystem. The trees provide benefits to the bird species that utilize them, one of which is a species of special concern in California, in that they provide roosting habitat near the areas where they forage in the Malibu Lagoon estuary. The height of the trees and the dense foliage provide protection from disturbance and predators. However, the trees have not been used as a nesting site. A California Department of Fish & Game

comment letter to the City of Malibu, dated March 28, 2007, states that the Cypress trees provide roosting habitat for herons and raptors, but nesting activity has never been documented there. The trees are located in a built-out residential neighborhood subject to regular disturbance and neither the trees or bird species that use them are rare, easily disturbed, or especially valuable because of their special nature or role in the ecosystem. Therefore, the Commission finds that the subject Cypress trees do not meet the definition of ESHA under the Malibu LCP. However, the trees do provide habitat value for roosting native birds (herons and raptors), and potentially nesting native birds, that warrants protection to the maximum extent feasible.

The California Department of Fish & Game March 28, 2007 letter recognized that there was a potential for the project to impact nesting native birds and provided six recommendations regarding construction avoiding the breeding bird season, bird surveys prior to disturbance activities, minimize tree pruning as feasible, native landscaping, and night lighting. Also recognizing the biological importance of the Cypress trees, the City of Malibu imposed special conditions on the proposed project to address foundation design to protect tree roots, avoidance of construction during nesting season, replacement of Cypress trees at a 1:1 ratio as mitigation should any trees die as a result of project construction, and limitation on night lighting.

The proposed 5,200 sq. ft. residential structure with attached 1,368 sq. ft., 6-car garage will be a maximum of 30 feet tall and be situated 5 feet from the west property line. The applicant requested a "minor modification" to reduce the required cumulative side yard setback (25% of total lot width provided by the two side yard setbacks combined) from 12 feet, 5 inches to 10 feet. The applicant proposes a side yard setback of 5 feet on each side, instead of the required 6.25 feet on each side. The applicant's request for a 17% reduction in the cumulative side yard setback requirement is within the parameters of a minor modification. In addition, the proposed project will meet the minimum single side yard setback requirement of 5 feet. The proposed project site is relatively constrained given the width and size of the parcel and proximity to Malibu Lagoon ESHA. However, the side yard setback reduction places the proposed residence 5 feet from the western property line where the windrow of Cypress trees is located. The applicant has modified the design of the structure's foundation in order to avoid destruction to the root zone of one of the adjacent Cypress trees that the building will encroach upon. Although none of the trees will require removal as a result of the proposed project, the applicant will need to prune several of the Cypress trees to accommodate the proposed structure. Since the trees possess biological value and should be protected to the maximum extent feasible, the Commission finds it necessary to require the applicant to have a certified arborist survey the project site prior to any construction activities and flag the construction work area and the Cypress trees and their minimum root protection zones to be avoided during all work, as detailed in **Special Condition Eleven (11)**. The arborist is to be present on-site during grading and tree trimming/pruning operations to monitor the work and ensure the six healthy Cypress trees are protected. Should any of the six healthy Cypress trees identified above be lost or suffer worsened health or vigor as a result of the project, at least one

replacement tree (with at least a 48-inch box size) for every one lost shall be planted on the project site as mitigation.

To ensure that the proposed project does not impact potential nesting birds in on-site or adjacent trees, **Special Condition Twelve (12)** requires a qualified biologist with experience in conducting bird surveys to conduct bird surveys 30 days prior to construction, grading, or tree pruning/trimming to detect any active bird nests in all trees on and adjacent to the project site. The last survey should be conducted 3 days prior to the initiation of clearance/construction. If an active nest is located, clearing/construction shall be postponed until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting.

The Commission finds that the proposed project, as conditioned, will not result in adverse impacts to ESHA and is consistent with the applicable policies of the Malibu LCP.

Water Quality

The Commission recognizes that new development in Malibu and the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems.

The Malibu LCP incorporates Section 30231 of the Coastal Act, which states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.

Further, the following LUP water quality policies are applicable:

- 3.100** *New development shall be sited and designed to minimize impacts to water quality from increased runoff volumes and nonpoint source pollution. All new development shall meet the requirements of the Los Angeles Regional Water Quality Control Board (RWQCB) in its the Standard Urban Storm Water Mitigation Plan For Los Angeles County And Cities In Los Angeles County (March 2000) (LA SUSMP) or subsequent versions of this plan.*
- 3.102** *Post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate, or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs and/or the 85th percentile, 1-hour storm event (with an appropriate safety factor, i.e. 2 or greater) for flow-based BMPs. This standard shall be consistent*

with the most recent Los Angeles Regional Water Quality Control Board municipal stormwater permit for the Malibu region or the most recent California Coastal Commission Plan for Controlling Polluted Runoff, whichever is more stringent.

- 3.110** *New development shall include construction phase erosion control and polluted runoff control plans. These plans shall specify BMPs that will be implemented to minimize erosion and sedimentation, provide adequate sanitary and waste disposal facilities and prevent contamination of runoff by construction chemicals and materials.*
- 3.111** *New development shall include post-development phase drainage and polluted runoff control plans. These plans shall specify site design, source control and treatment control BMPs that will be implemented to minimize post-construction polluted runoff, and shall include the monitoring and maintenance plans for these BMPs.*
- 3.125** *Development involving onsite wastewater discharges shall be consistent with the rules and regulations of the L.A. Regional Water Quality Control Board, including Waste Discharge Requirements, revised waivers and other regulations that apply.*
- 3.126** *Wastewater discharges shall minimize adverse impacts to the biological productivity and quality of coastal streams, wetlands, estuaries, and the ocean. On-site treatment systems (OSTSs) shall be sited, designed, installed, operated, and maintained to avoid contributing nutrients and pathogens to groundwater and/or surface waters.*
- 3.127** *OSTSs shall be sited away from areas that have poorly or excessively drained soils, shallow water tables or high seasonal water tables that are within floodplains or where effluent cannot be adequately treated before it reaches streams or the ocean.*
- 3.128** *New development shall be sited and designed to provide an area for a backup soil absorption field in the event of failure of the first field.*
- 3.130** *Subsurface sewage effluent dispersal fields shall be designed, sited, installed, operated, and maintained in soils having acceptable absorption characteristics determined either by percolation testing, or by soils analysis, or by both. No subsurface sewage effluent disposal fields shall be allowed beneath nonporous paving or surface covering.*
- 3.131** *New development shall include the installation of low-flow plumbing fixtures, including but not limited to flow-restricted showers and ultra-low flush toilets, and should avoid the use of garbage disposals to minimize hydraulic and/or organic overloading of the OSTs.*
- 3.132** *New development may include a separate greywater dispersal system where approved by the Building Safety Department.*
- 3.133** *The construction of private sewage treatment systems shall be permitted only in full compliance with the building and plumbing codes and the requirements of the LA RWQCB. A coastal development permit shall not be approved unless the private sewage treatment system for the project is sized and designed to serve the proposed development and will not result in adverse individual or cumulative impacts to water quality for the life of the project.*

- 3.140** *New septic systems shall be sited and designed to ensure that impacts to ESHA, including those impacts from grading and site disturbance and the introduction of increased amounts of groundwater, are minimized. Adequate setbacks and/or buffers shall be required to protect ESHA and other surface waters from lateral seepage from the sewage effluent dispersal systems.*
- 3.141** *Applications for a coastal development permit for OSTs installation and expansion, where groundwater, nearby surface drainages and slope stability are likely to be adversely impacted as a result of the projected effluent input to the subsurface, shall include a study prepared by a California Certified Engineering Geologist or Registered Geotechnical Engineer that analyzes the cumulative impact of the proposed OSTs on groundwater level, quality of nearby surface drainages, and slope stability. Where it is shown that the OSTs will negatively impact groundwater, nearby surface waters, or slope stability, the OSTs shall not be allowed.*

The project site is a vacant infill parcel located in the Malibu Colony residential neighborhood adjacent to Malibu Lagoon State Park. The proposed development will result in an increase in impervious surfaces, which in turn decreases the infiltrative function and capacity of existing permeable land on the project site. The reduction in permeable surface area therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. The cumulative effect of increased impervious surface is that the peak water discharge is increased and the peak occurs much sooner after precipitation events. Additionally, grading, excavation and disturbance of the site from construction activities and runoff from impervious surfaces can result in increased erosion.

In addition, pollutants commonly found in runoff associated with new residential development include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter and organic matter; fertilizers, herbicides, and pesticides from household gardening; nutrients from wastewater discharge, and animal waste; and bacteria and pathogens from wastewater discharge and animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity, which both reduce the penetration of sunlight needed by aquatic vegetation which provides food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and human diseases such as hepatitis and dysentery. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

The LCP water quality policies cited above are designed to protect water quality and prevent pollution of surface, ground, and ocean waters. The Malibu LCP requires the

preparation of a Storm Water Management Plan (SWMP) for all projects that require a coastal development permit. A SWMP illustrates how the project will use appropriate site design and source control best management practices (BMPs) to minimize or prevent adverse effects of the project on water quality. Therefore, pursuant to the requirements of the Malibu LCP, and to ensure the proposed project will not adversely impact water quality or coastal resources, the Commission finds it necessary to require the preparation of a SWMP for the subject site, that utilizes site design, source control and treatment control BMPs, as specified in **Special Condition Three (3)**.

Furthermore, erosion control and storm water pollution prevention measures implemented during construction will serve to minimize the potential for adverse impacts to water quality resulting from runoff during construction. The Malibu LCP requires that a Local Storm Water Pollution Prevention Plan (SWPPP) be prepared for all development that requires a Coastal Development Permit and a grading or building permit, and it be applied to the construction phase of the project. The SWPPP includes measures and BMPs to prevent erosion, sedimentation and pollution of surface and ocean waters from construction and grading activities. In this case, the proposed project does involve grading and construction that requires grading and building permits. Therefore, pursuant to the Malibu LCP and to ensure the proposed development does not adversely impact water quality or coastal resources during the construction phase of the project, the Commission finds it necessary to require the applicant to submit a Local SWPPP for the subject site, consistent with the requirements specified in **Special Condition Three (3)**.

As stated previously, the proposed project includes a swimming pool and spa. Malibu LUP policies 3.95 and 3.96 require that new development be sited and designed to protect water quality and not result in the degradation of surface waters, including the ocean, coastal streams or wetlands. There is the potential for pools and spas to have deleterious effects on aquatic habitat if not properly maintained and drained. In addition, chlorine and other chemicals are commonly added to pools and spas to maintain water clarity, quality, and pH levels. Further, both leakage and periodic maintenance of the proposed spa, if not monitored and/or conducted in a controlled manner, may result in excess runoff and erosion potentially causing instability of the site and adjacent properties and may result in the transport of chemicals, such as chlorine, into coastal waters, adversely impacting sensitive wetland and marine habitats. Therefore, in order to minimize potential adverse impacts from the proposed pool and spa, the Commission finds it is necessary to require the applicant to submit a pool and spa drainage and maintenance plan, as detailed in **Special Condition Nine (9)**.

Finally, the proposed development includes the construction of a new on-site wastewater treatment system (OSTS) to serve the residence. The Malibu LCP includes a number of policies and standards relative to the design, siting, installation, operation and maintenance of OSTs to ensure these systems do not adversely impact coastal waters. The proposed OSTs was previously reviewed and approved in concept by the City of Malibu Environmental Health Department, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with

the provisions of the plumbing code is protective of resources. In order to ensure the OSTs is maintained and monitored in the future to prevent system failures or inadequate system performance, the Malibu LCP includes policies and standards requiring the regular maintenance and monitoring of the OSTs. Therefore, the Commission finds that it is necessary to require the applicant to submit verification that they have obtained a monitoring, operation and maintenance permit from the City, as outlined in **Special Condition Four (4)**.

The Commission finds that based on the above findings, the proposed project, as conditioned, will not result in adverse impacts to ESHA or water quality and is consistent with the applicable policies of the Malibu LCP.

G. MINOR MODIFICATION (LIP SECTION 13.27.5)

Section 13.27 of the Malibu LIP states that the Planning Manager may consider and approve minor deviations from standards or requirements of the LCP as applied to a coastal development permit for specific situations, such as reduced setbacks. The applicant requests a "minor modification" to reduce the required front yard setback from 15 feet to 8 feet, and the required cumulative side yard setback (25% of total lot width provided by two side yard setbacks combined) from 12 feet, 5 inches to 10 feet. The applicant proposes a side yard setback of 5 feet on each side, instead of the required 6.25 feet on each side. The Malibu LCP specifies that a minor modification may not reduce setbacks by more than 20%, except for front yard setbacks, which may not be reduced by more than 50%. In the case of the proposed project, the applicant's request for a 17% reduction in the cumulative side yard setback requirement and a 47% reduction in the front yard setback requirement is within the parameters of a minor modification. In addition, the proposed project will meet the minimum single side yard setback requirement of 5 feet.

Section 13.27.5(B) of the LIP states that a minor modification may only be approved if the project is also consistent with the policies of the LCP, does not adversely affect neighborhood character, and complies with all applicable requirements of state and local law.

The proposed project site is relatively constrained given the width and size of the parcel and proximity to Malibu Lagoon ESHA. The proposed reduction in yard setbacks is consistent with other properties in the neighborhood and will not adversely affect neighborhood character. As discussed in the preceding sections of this staff report, the proposed project, as conditioned, is consistent with all relevant policies of the LCP. In addition, the project is consistent with the applicable requirements of state and local law.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding



showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

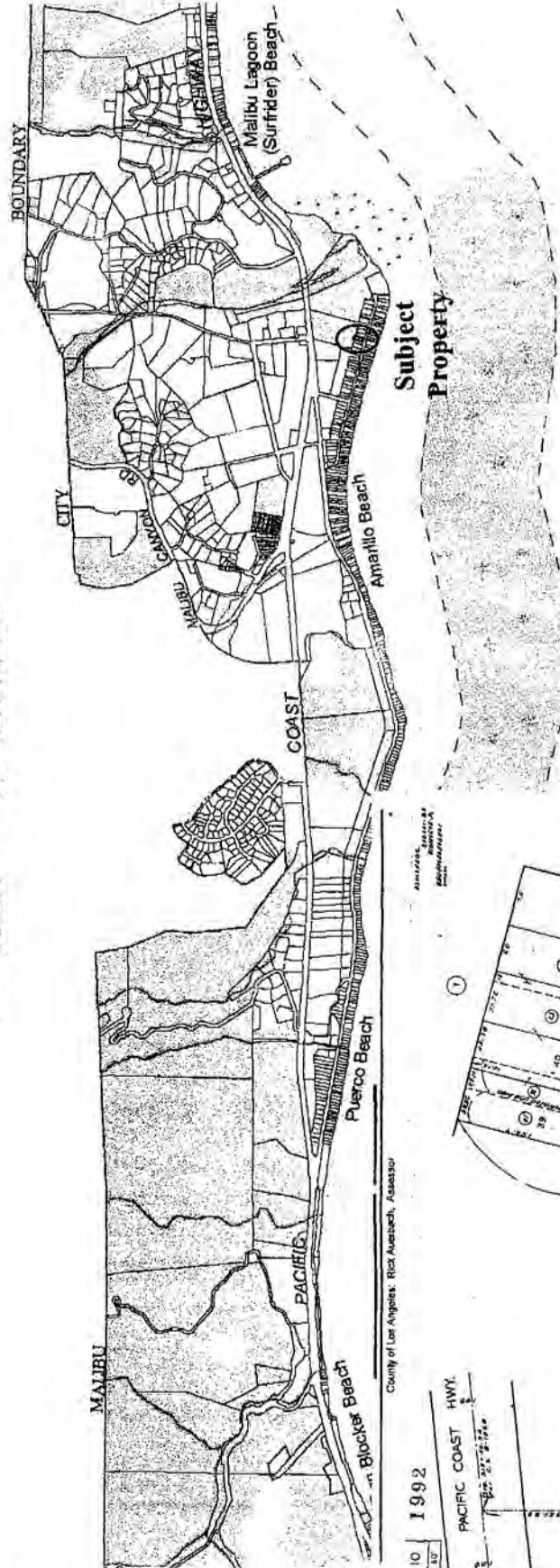
The Commission incorporates its findings on Local Coastal Program consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development, as conditioned, is consistent with the policies of the Certified Local Coastal Program and the recreation and access policies of the Coastal Act. Feasible mitigation measures which will minimize all adverse environmental effects have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

Local Coastal Program - City of Malibu

ESHA and Marine Resources Map 3: Dan Blocker to Malibu Pier

Match Line to Map 2

- Environmentally Sensitive Habitat Areas**
Includes areas identified as coastal sage scrub and/or
chaparral, riparian areas and wetlands.
- Kelp Beds**  **Near Shore Shallow-water Fish Habitat**
- Streams**  **Clam Habitat**

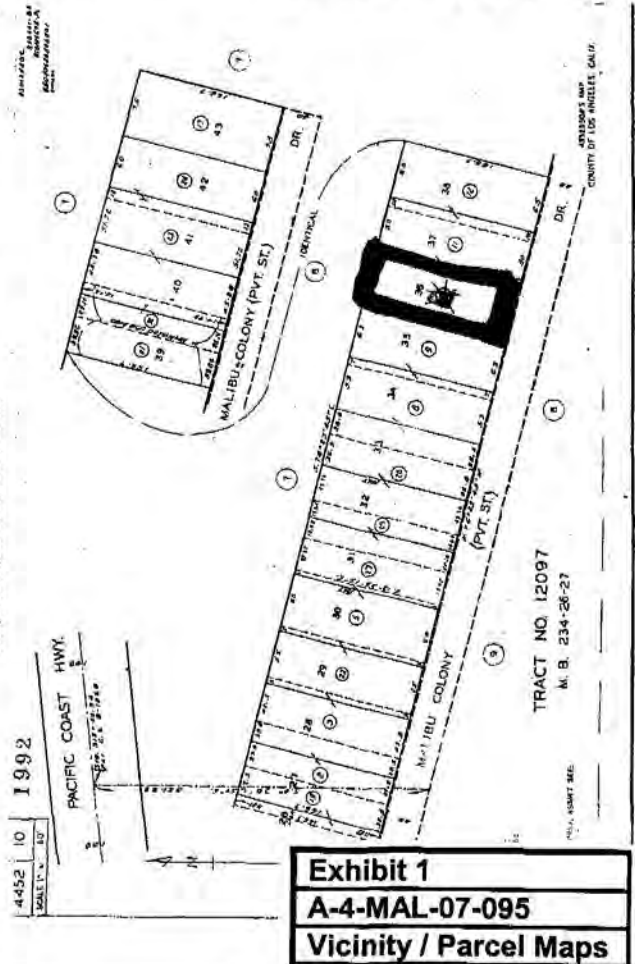


Ocean

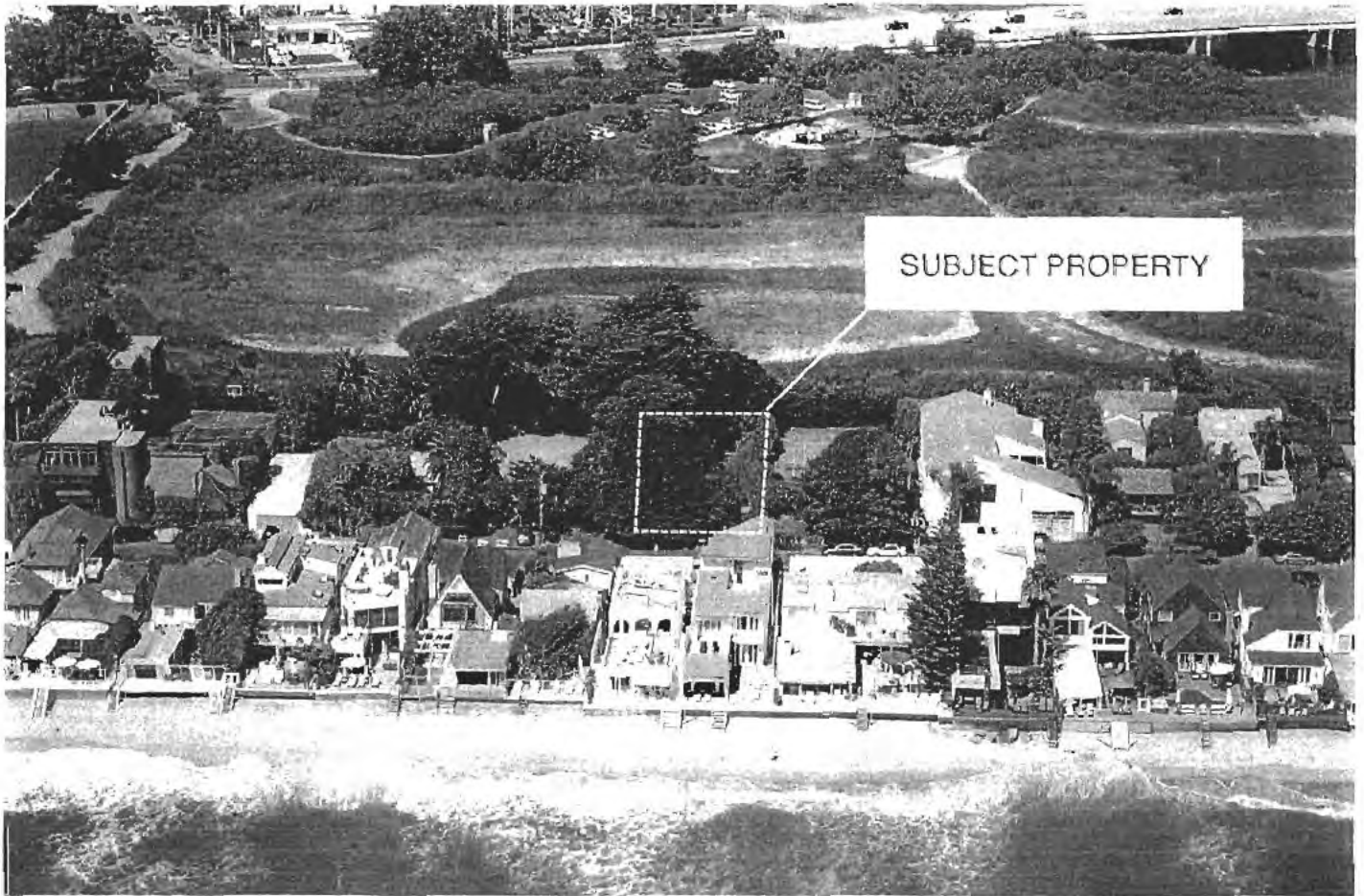
*Boundaries of ESHA's may change location over time due to varying circumstances. This map is not intended to depict fixed boundaries of ESHA's or marine resources and may not include all areas that are ESHA. This map does not establish any final boundary lines or constraints on the Commission's ability to identify, map and regulate ESHA's and Marine Resources in the City of Malibu.

Sources: Malibu/Santa Monica Mountains Area Plan, Marine Resources map, LA County LCP, 1987; LA County Parks and Recreation, 1983, OCC Staff, 2001-2002.

DSM, JVC R/W 9/01



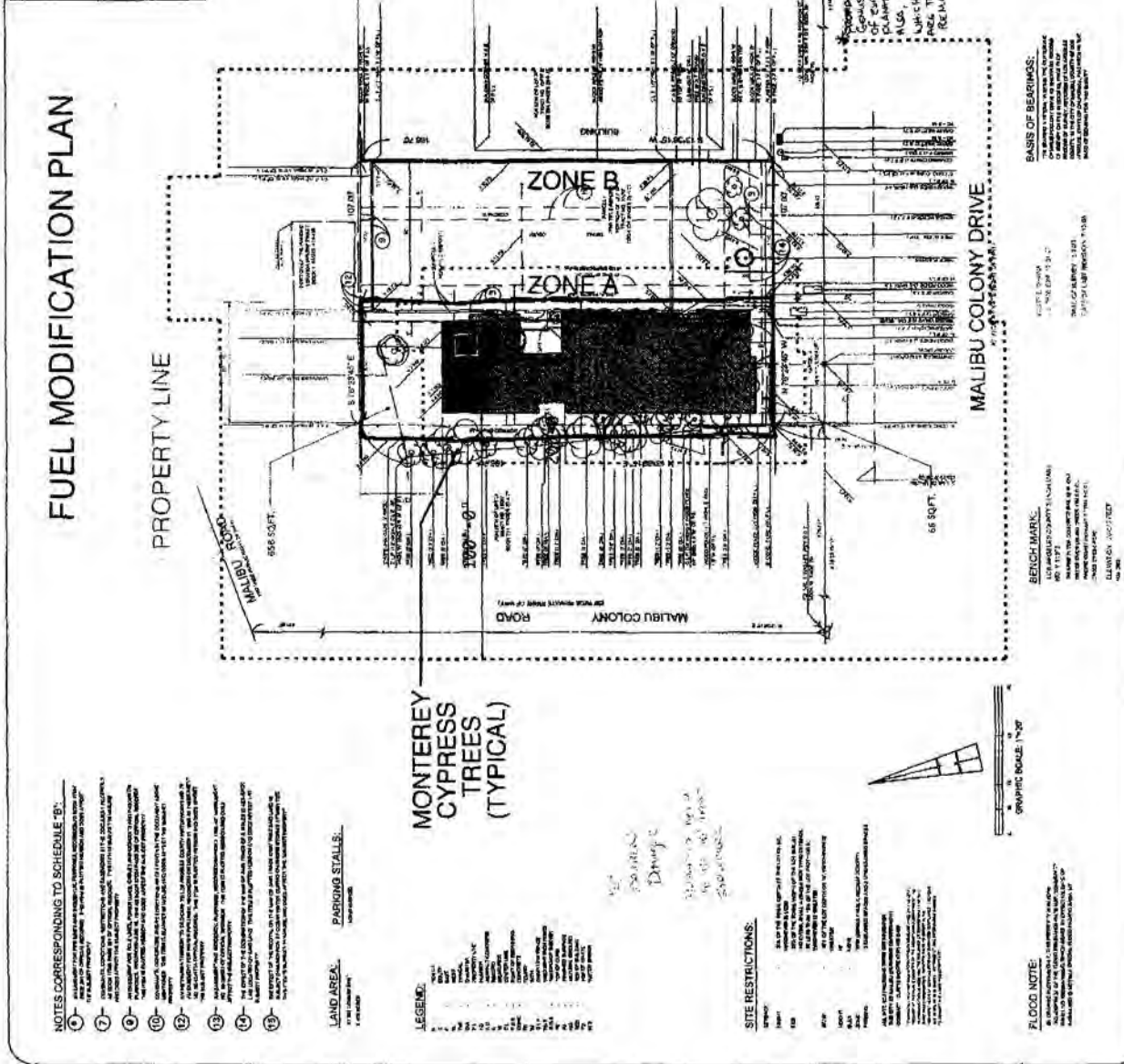
23405 MALIBU COLONY RD.



1) AERIAL PHOTOGRAPH

Exhibit 2
A-4-MAL-07-095
Oblique Aerial Views





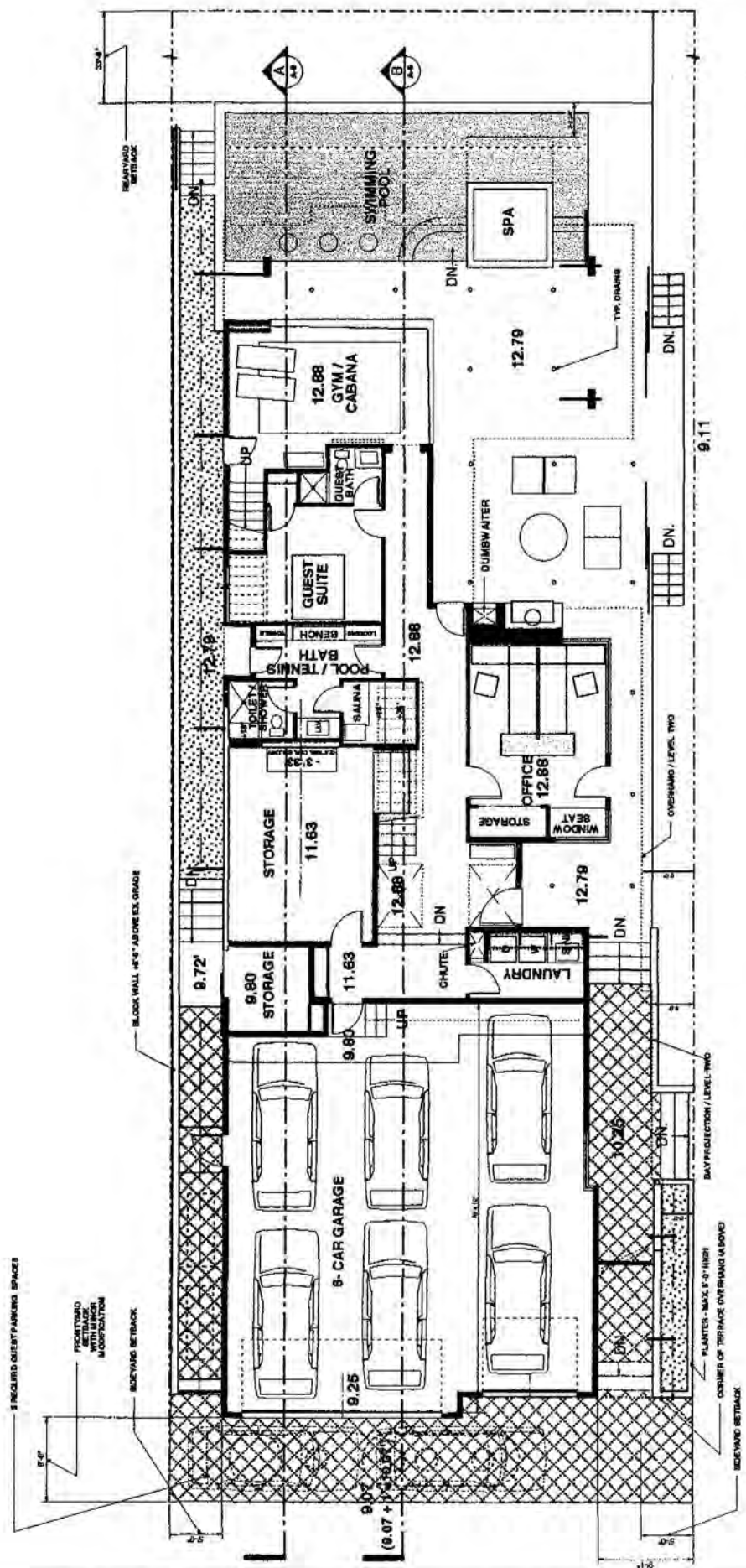
REVISION	NO.	DATE	DESCRIPTION

MARGOLIS RESIDENCE
23405 MALIBU COLONY DRIVE
MALIBU, CA 90265

DATE: 03/04/07
SCALE: 1/4" = 1'-0"
DRAWN: JAC
CHECK: JAC
SHEET: A-4



HOUSE - 1652 SQ.FT.
GARAGE - 1368 SQ.FT.



LOOR PLAN - LEVEL ONE

(WITH PARTIAL SITE PLAN)
1/4" = 1'-0"

(SEE SHEET A-1 FOR DIAGRAM OF STRUCTURE SETBACKS)

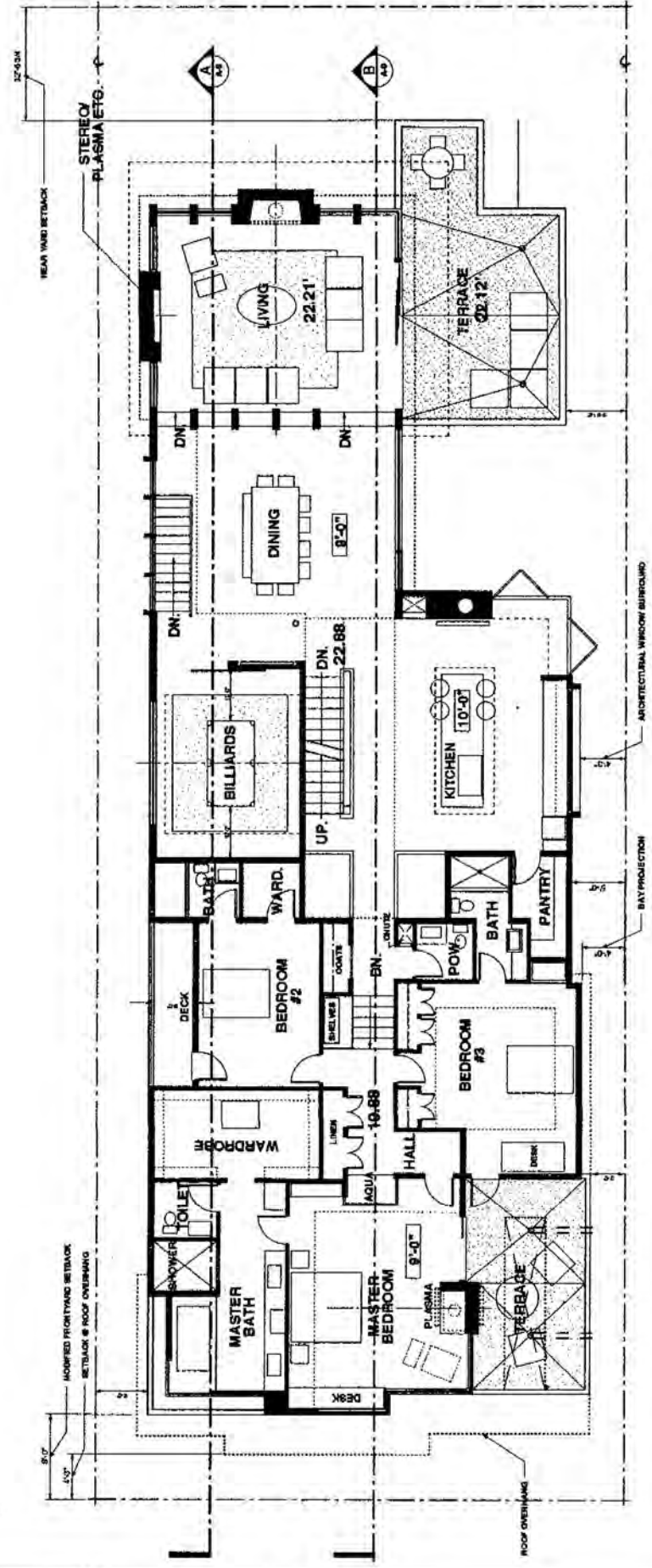
Exhibit 5
A-4-MAL-07-095
1 st Floor Plan

REVISION	NO.	DATE
1	10/10	2007
2	10/10	2007
3	10/10	2007
4	10/10	2007
5	10/10	2007
6	10/10	2007
7	10/10	2007
8	10/10	2007
9	10/10	2007
10	10/10	2007

MARGOLIS RESIDENCE
23405 MALIBU COLONY DRIVE
MALIBU, CA 90265

DANIELA A. DOMINICK, AIA
ARCHITECT
10111
QUANT STREET
MALIBU, CA 90265
TEL: 310.316.8888
FAX: 310.316.8889
WWW.DANIELADOMINICK.COM

DATE: 10/10/07
SCALE: 1/4" = 1'-0"
SHEET: 02/10
A-5



HOUSE - 3,548 SQ.FT.

FLOOR PLAN - LEVEL TWO 1/4" = 1'-0"

(SEE SHEET A-1 FOR DIAGRAM OF STRUCTURE SETBACKS)

Exhibit 6
A-4-MAL-07-095
2 nd Floor Plan

--

CARRON & DOMINALE
 ARCHITECT
 1000 CALIFORNIA STREET
 1000 CALIFORNIA STREET
 SANTA MONICA, CALIF 90401
 310 318 1111

NAME	DATE
GRADE	PER
CLASS	PER
AGE	
SEX	

ROOF PLAN
1/4"=1'-0"

Exhibit 7
A-4-MAL-07-095
Roof Plan

DATE	2007.07.09
BY	ARCHITECT
CHECKED	ARCHITECT
SCALE	1/4" = 1'-0"
PROJECT	MARGOLIS RESIDENCE
SHEET	A-7

MARGOLIS RESIDENCE
23405 MALIBU COLONY DRIVE
MALIBU, CA 90265

TERROR ELEVATIONS
(11H / NORTH / WEST)

ARCHITECT
DANIEL O. COHEN, AIA
10000 WILSON BOULEVARD
SUITE 1000
LOS ANGELES, CA 90024
TEL: 310.551.1000
FAX: 310.551.1001
WWW.DANIELCOHEN.COM

DATE	2007.07.09
BY	ARCHITECT
CHECKED	ARCHITECT
SCALE	1/4" = 1'-0"
PROJECT	MARGOLIS RESIDENCE
SHEET	A-7

A-7

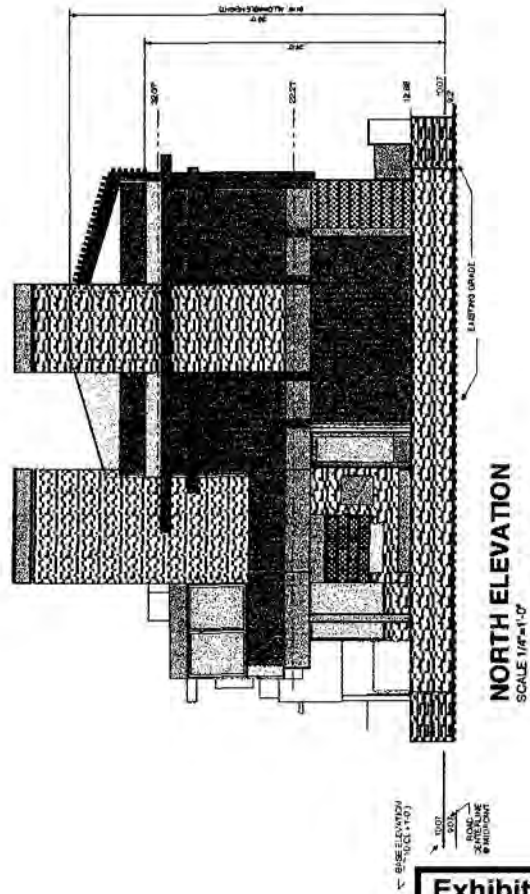
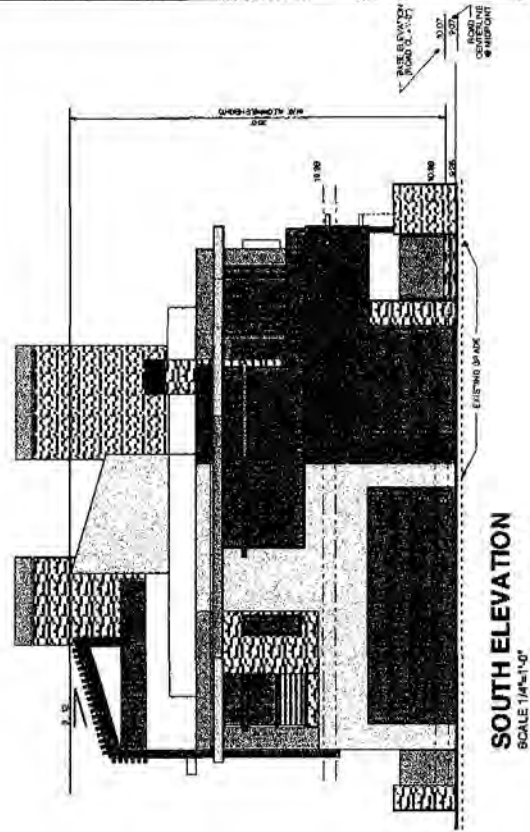
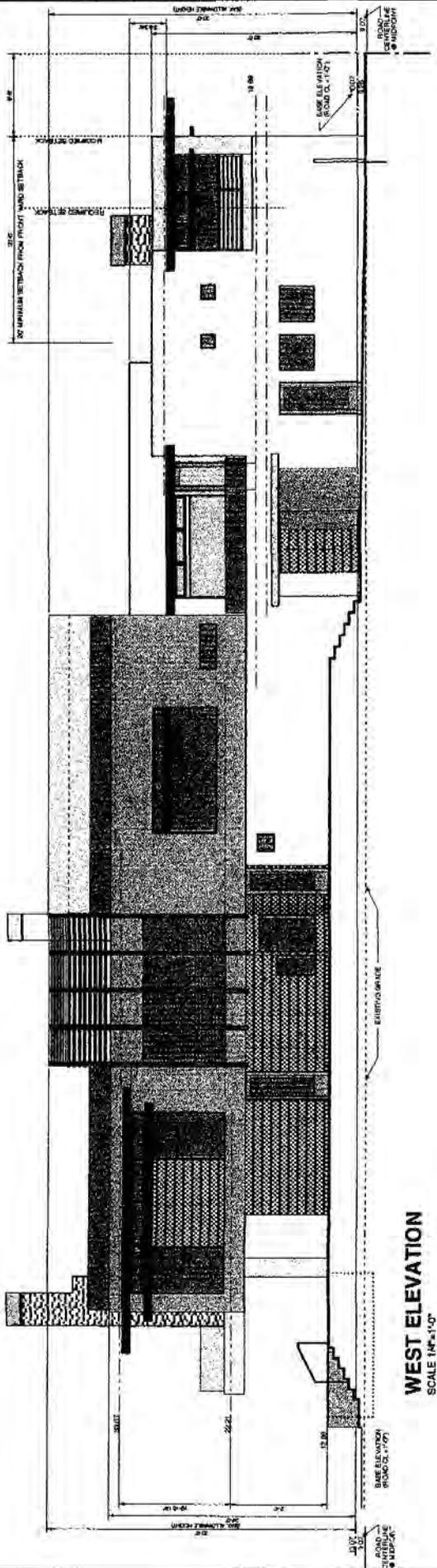


Exhibit 8
A-4-MAL-07-095
Elevations

DATE	2007.07.10
BY	DAVID H. DORRANCE
CHECKED	DAVID H. DORRANCE
SCALE	1/4"=1'-0"
PROJECT	MARGOLIS RESIDENCE
SHEET	A-9

MARGOLIS RESIDENCE
23405 MALIBU COLONY DRIVE
MALIBU, CA 90265

DATE	2007.07.10
BY	DAVID H. DORRANCE
CHECKED	DAVID H. DORRANCE
SCALE	1/4"=1'-0"
PROJECT	MARGOLIS RESIDENCE
SHEET	A-9

A-9

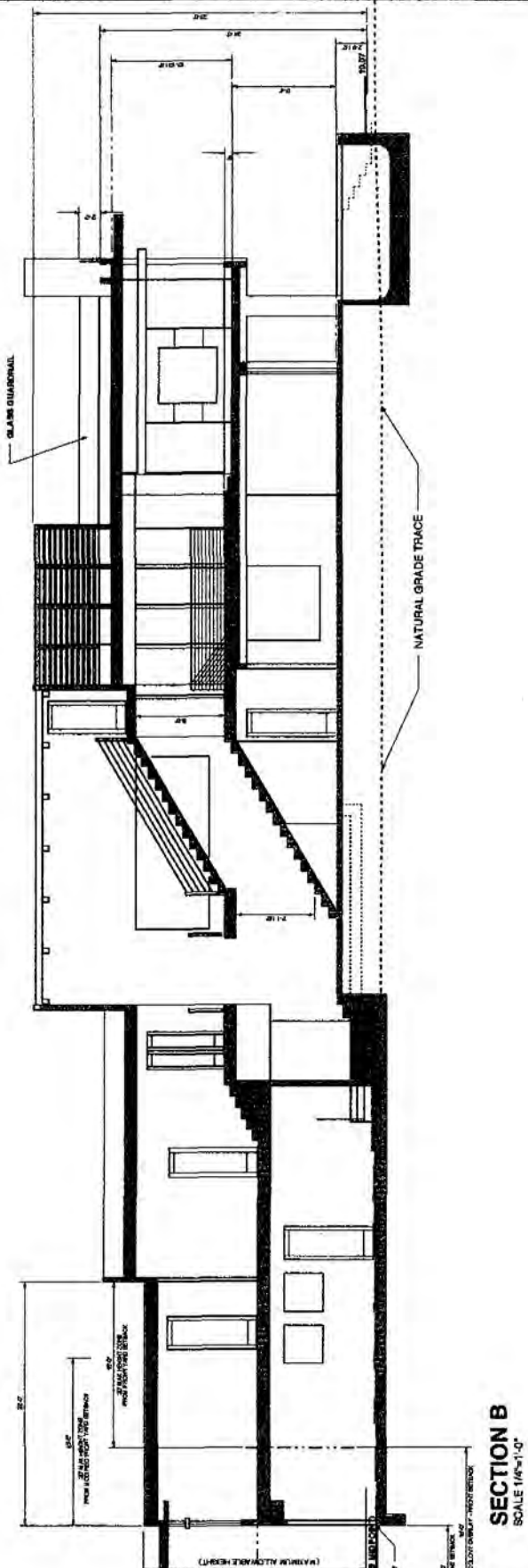
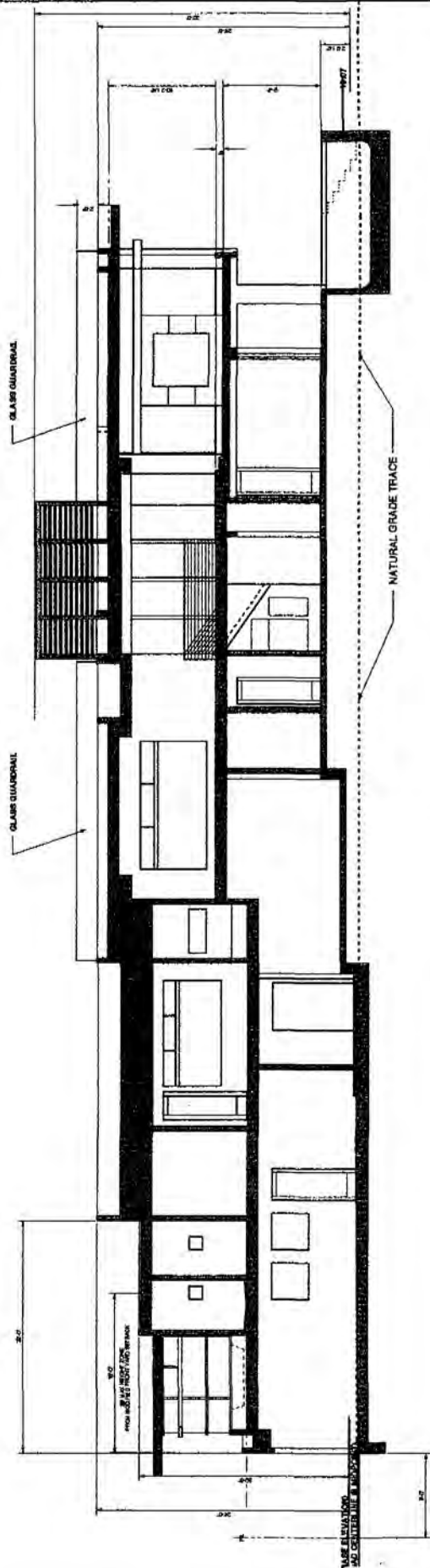


Exhibit 9
A-4-MAL-07-095
Cross-sections

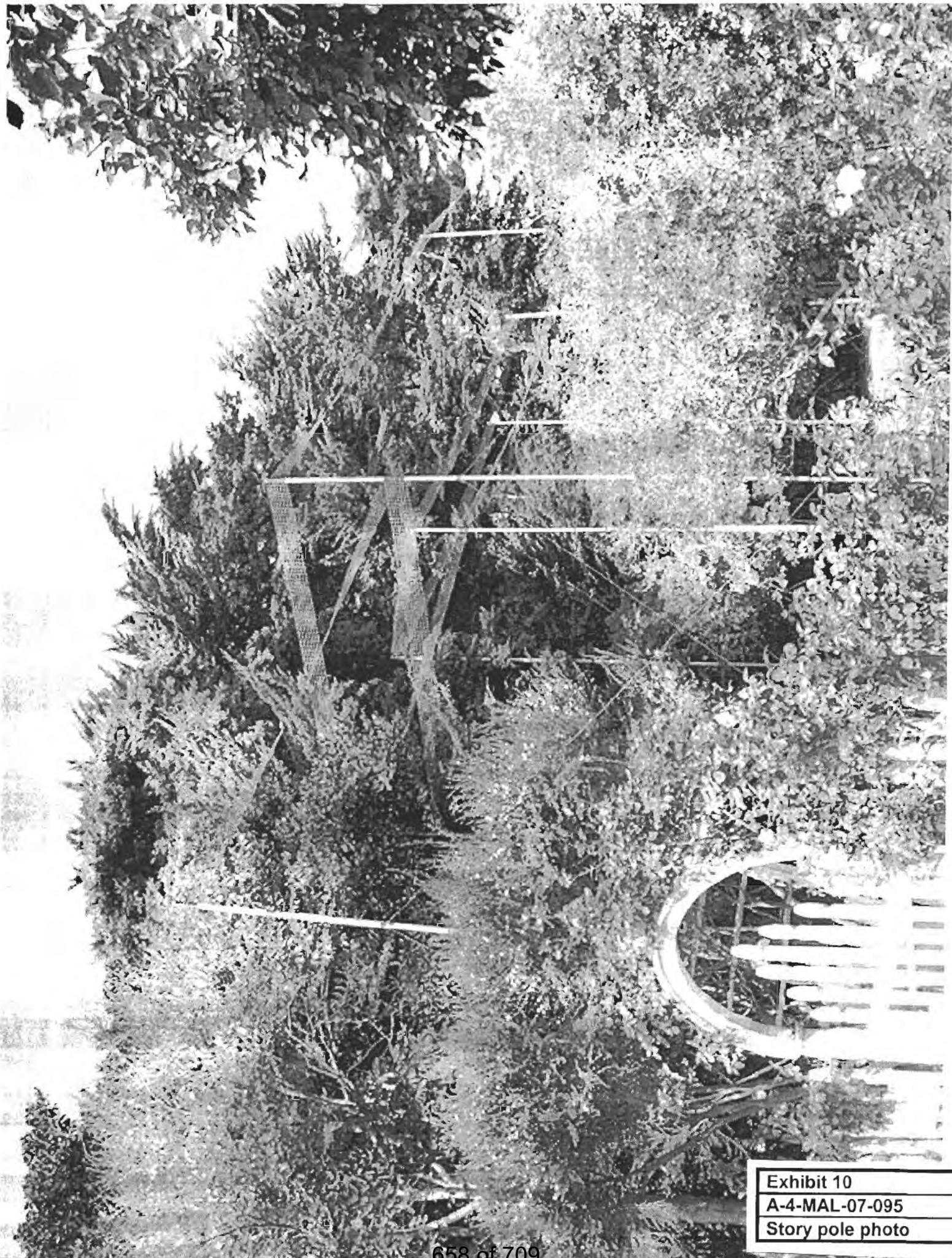
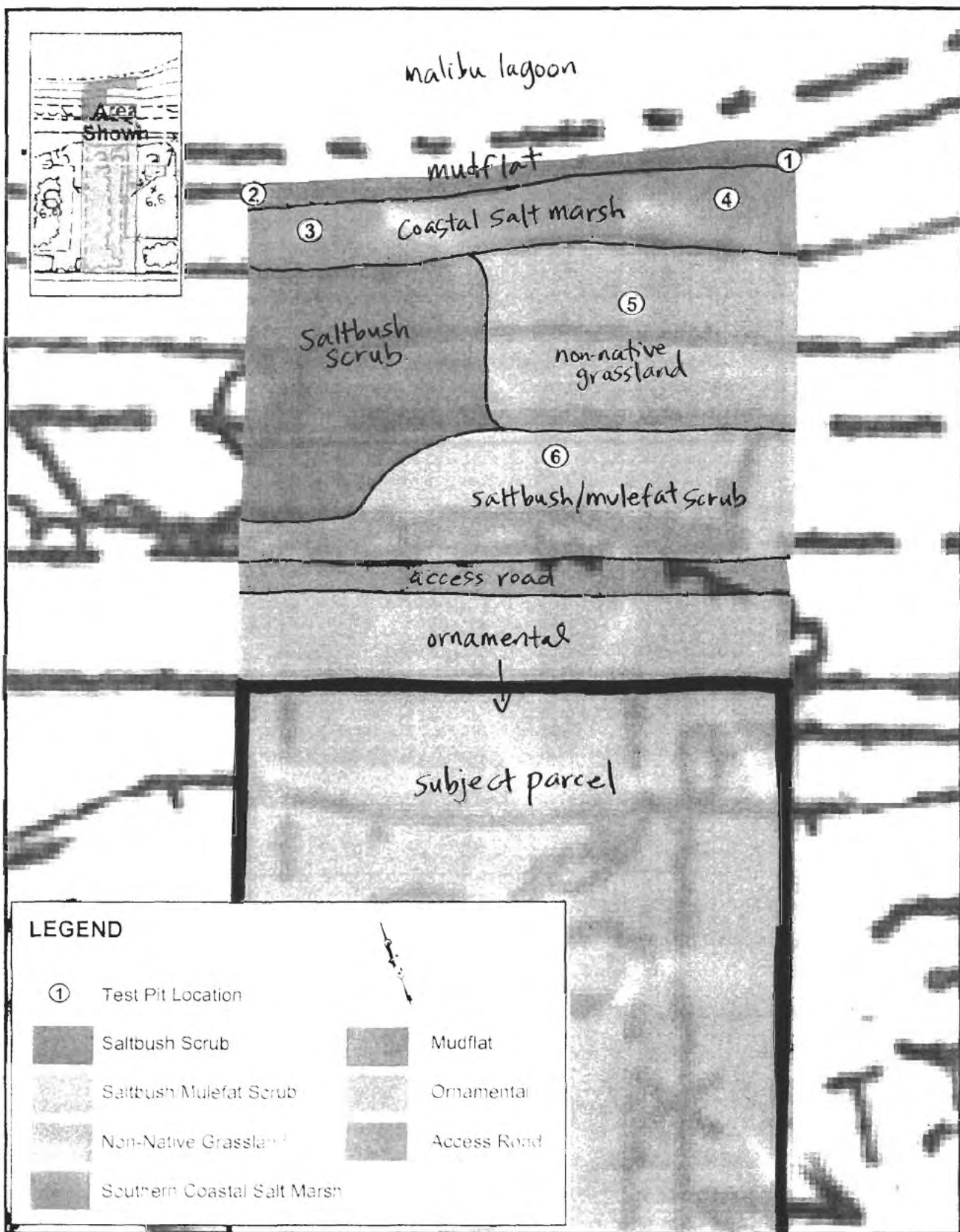


Exhibit 10
A-4-MAL-07-095
Story pole photo

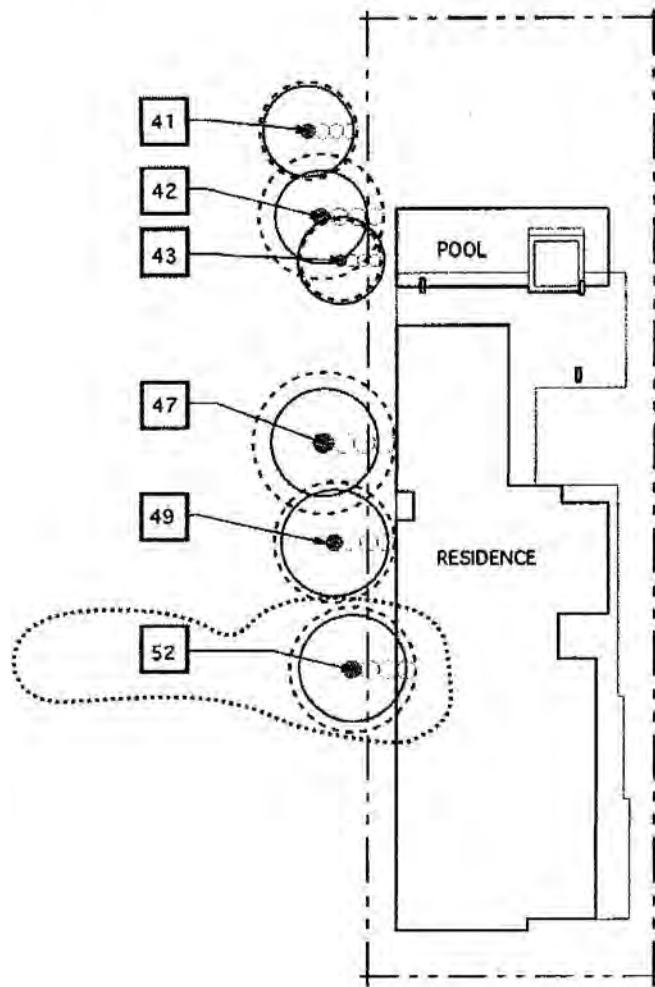


TERACOR
RESOURCE MANAGEMENT

MARGOLIS - MALIBU COLONY
MAY 2005

Exhibit 3
Test Pit Locations

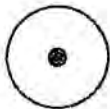
Exhibit 11
A-4-MAL-07-095
Vegetation Map



5 of the 6 healthy trees have the preferred 3 tree trunk diameter spacing from proposed structure.

TREE LEGEND

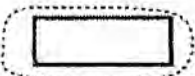
(6 HEALTHY OFF-SITE TREES AS IDENTIFIED BY DR. FREDERICK ROTH / NEIGHBOR'S CONSULTING ARBORIST)



CYPRESS TREES / TREE TRUNK DIAMETERS TO SCALE / FIELD VERIFIED



OFF-SITE TREES / NO ENCROACHMENT



OFF-SITE TREES / ENCROACHMENT



TREE ROOT MINIMUM PROTECTION ZONE
(3 TREE TRUNK DIAMETERS)

Exhibit 12

A-4-MAL-07-095

site plan with
cypress trees

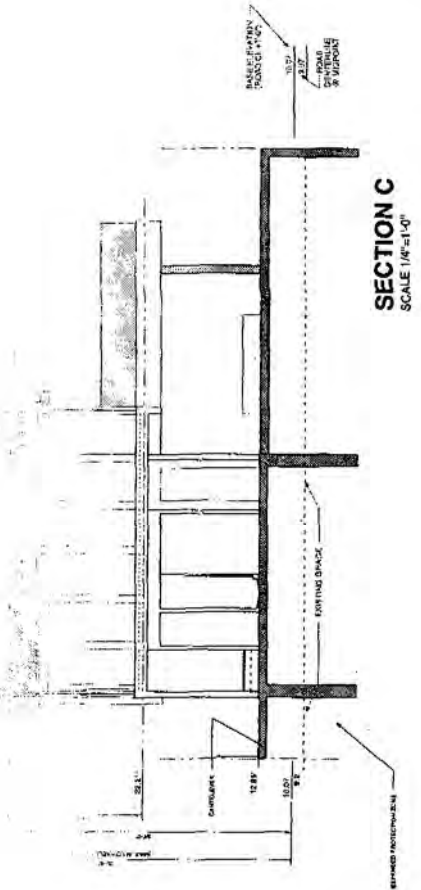
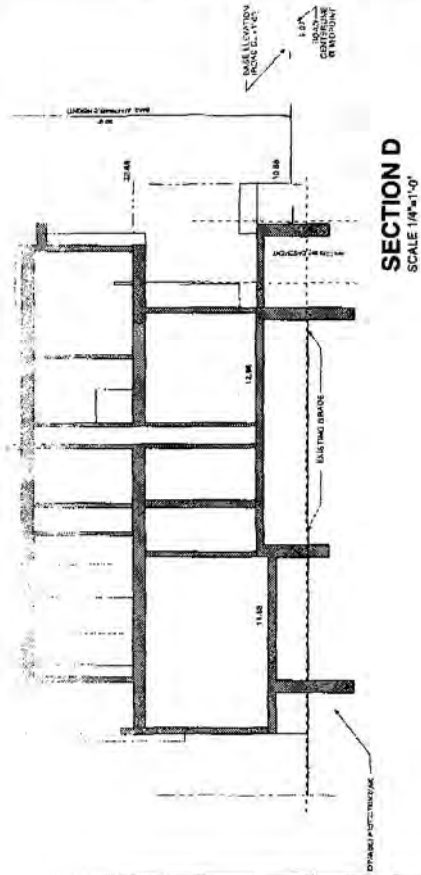


HOUSE - 1652 SQ.FT.
GARAGE - 1368 SQ.FT.

(SEE SHEET A-1 FOR DIAGRAM OF STRUCTURE SETBACKS)

FLOOR PLAN - LEVEL ONE
(VERSION A)

(WITH PARTIAL SITE PLAN)
1/4"=1'-0"



RECEIVED
JUN 20 2008CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT4093 Oakmont Lane
Shingle Springs, CA 95682Office: (916) 719-5343
Fax: (530) 676-1747*Air Conditioning Trade Association*

June 18, 2008

Commissioner Patrick Kruer, Chairman
California Coastal Commission
c/o The Monarch Group
7727 Herschel Ave.
La Jolla, California 92037

Re: Local Coastal Permitting Authority

Dear Chairman Kruer:

I represent the Air Conditioning Trade Association, a statewide association of sheet metal and air conditioning contractors. Our member contractors are concerned about the California Coastal Commission (CCC) permitting process and implications, especially regarding recent actions taken relating to the purpose and goals of the Local Coastal Programs (LCP). The August 2007 appeal and pending De Novo hearing on appeal No. A-4-MAL-07-095 for a proposed single-family home is an example of CCC taking action beyond what the Coastal Act allows pursuant to PRC Section 30004 (a) Local Action.

In the case of A-4-MAL-07-095 records reveal the project met the standards of the Malibu LCP (which the CCC approved) and the CDP application was approved by the local authority. As required in PRC Section 30004 (a) of the Coastal Act, deference should be given to the local approval process. The courts reaffirmed this bedrock principle of the Coastal Act this year in the Security National Guaranty, Inc. case, which is published. The court's ruling specifies that the CCC cannot revise or reinterpret the adopted LCP in the course of a de novo hearing. Accordingly, the CCC is banned from redefining the ESHA boundaries as established by the LCP, and cannot reinterpret the language in the overlay districts, which establish specific setbacks and development standards.

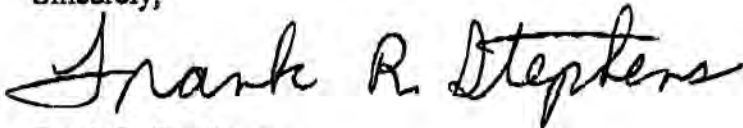
When the Coastal Act of 1976 was enacted by the Legislature, it was the intent of the Legislature that LCP provisions for counties and cities required them to implement Coastal Act policies with an understanding of local issues and that "each LCP reflects unique characteristics of individual coastal communities" as stated by CCC. It is to everyone's understanding that the purpose of LCPs is to allow for local control on discretionary approvals whether for a single-family home, commercial or a public project. This process has been extremely effective since its adoption

because it allows local decision makers who have the greatest knowledge and stake of an area and/or particular project involved in the development and to be the final arbiter in the approval process pursuant to LCP standards.

If the Coastal Commission has the final vote to potentially deny a project that the City ultimately approved, this will send a clear statement that no county or city can ever be secure in their knowledge of their own planning process or the vote of the local planning authority. Despite having a LCP that must be approved by the Coastal Commission to begin with, no agency or project manager could be certain that the guidelines they followed in the LCP would be honored. Needless to say it would bring projects to a halt and throw the planning process up and down the state into chaos.

We would urge you to continue to protect local control by supporting the City of Malibu and, without delay, approve this project. This would send a resounding message that local control is to be respected as established by the legislature in the Coastal Act, and that it is not to be unjustly usurped by the Coastal Commission.

Sincerely,



Frank R. Stephens
Government Affairs Director

Deanna Christensen

From: Steve Littlejohn [REDACTED]
Sent: Tuesday, June 24, 2008 4:28 PM
To: Barbara Carey; Deanna Christensen; Frank Angel; Marcia Hanscom; richard Ibarra; Roy van de Hoek; littlejohn
Subject: please give this to Dianna



Margolis 2nd fl
alternative pl...



Margolis 1st floor
alternative...

Hi Barbara:

Would you be sure to forward this to Dianna Christensen for me? I am just guessing at her email address.

I had presented this alternative plan for the Margolis Residence in the Malibu Colony in Eureka, but I just want to make sure it gets into the file. This plan represents the proper set back from the Malibu Lagoon Esha and helps mitigate the issues of the applicant's proposed design (which will result in the death of most of the large cypress trees next door). The main points include:

1. It still is a good sized home that sets back properly from this great Esha.
2. It puts the leech field out by the street where there are no tree roots and creates off street parking without having so much of the foot print taken up by a 5 car garage as proposed.
3. I would suggest that a caisson with an above grade beam foundation be required (that way very minimal tree roots are cut)
4. I would also suggest that the pool be built above grade (again to not cut tree roots) or be built on the roof.

Please have Dianna call me when she has a moment. I will be out of town, but my cell should work 213-500-0442. Next wk, in the mornings I am reachable until about 11AM or so: 310-457-5431 and on my cell or at the office 310-457-9198 after that.

Regards,

Steve Littlejohn

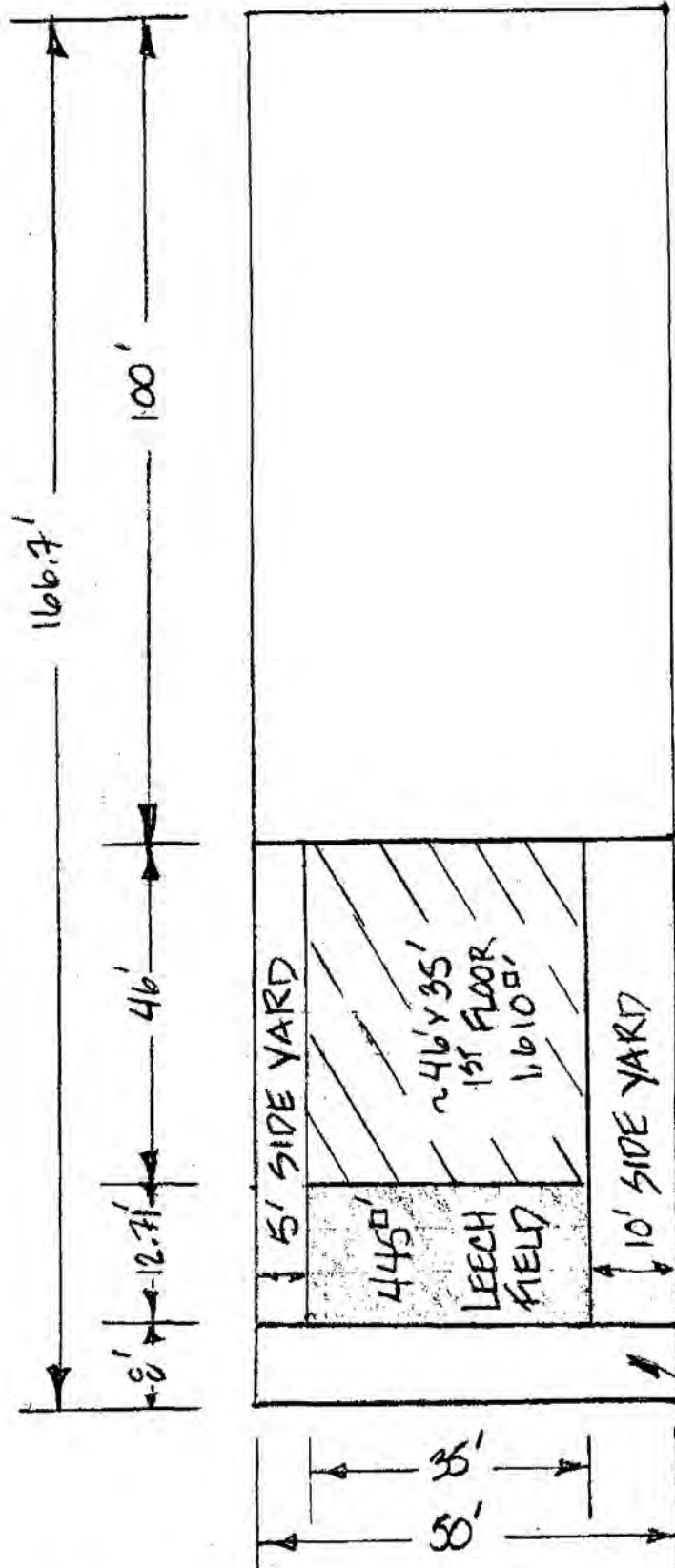
MALIBU LAGOON/ESHA

23405 MALIBU COLONY DR

1ST FLOOR

TOTAL BUILDING ENVELOPE 3930^{sq}
 1ST FLOOR 1610^{sq}
 2ND FLOOR 2320^{sq}
 LESS 400^{sq} GARAGE = 3530^{sq}

50' x 166.7' LOT

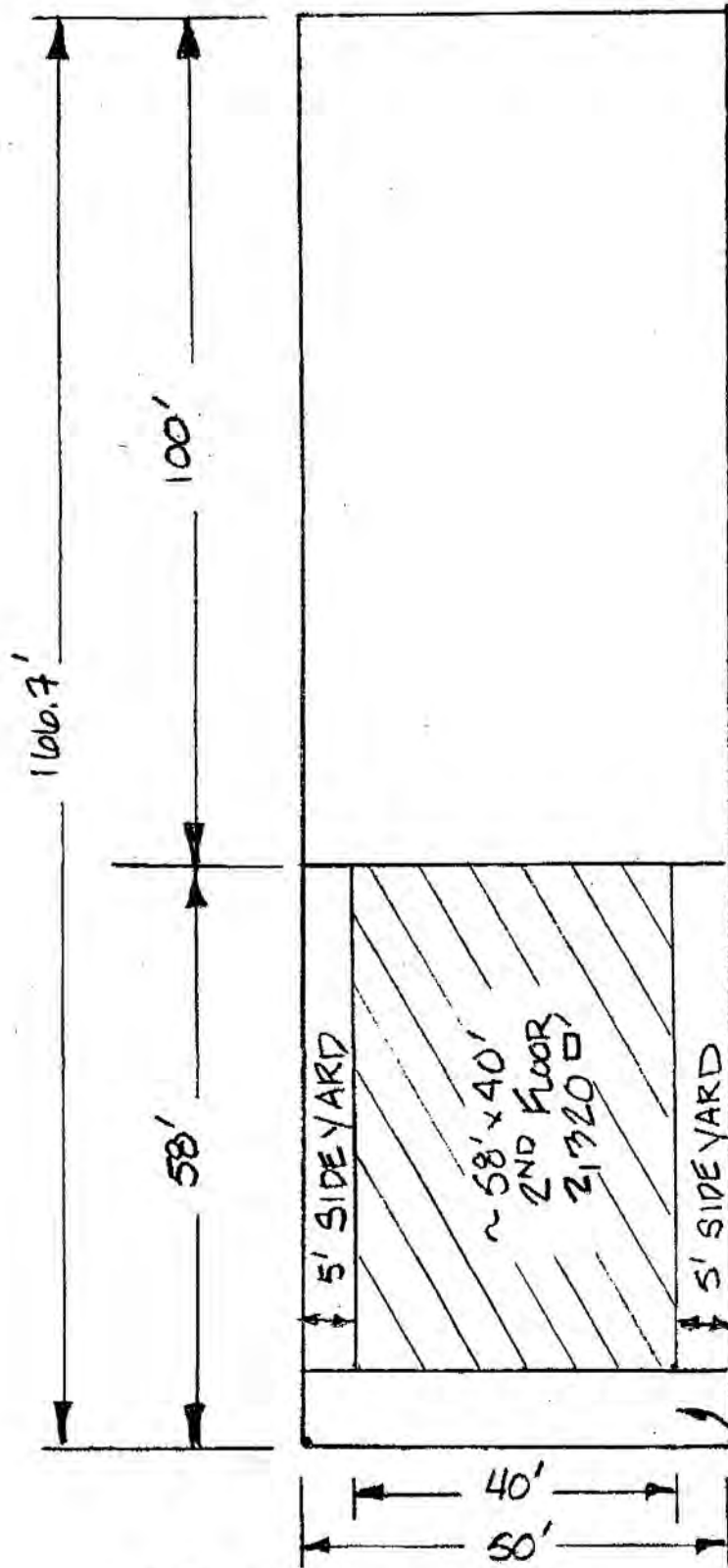


9' FRONT YARD SETBACK

- MALIBU COLONY DR -

ex. 13

MALIBU LAGOON/ESHA



23405 MALIBU COLONY DR

2ND FLOOR

78' FRONT YARD SETBACK

MALIBU COLONY DR

ex. 13

From: [Clifford Waeschle](#)
To: [Planning Commission](#)
Subject: Objection to 23325 Malibu Colony proposed project for the meeting on August 2, 2021
Date: Friday, July 30, 2021 1:19:37 PM

Dear Sir/Ms,

Our property address is 23338 Malibu Colony Rd.

We sent an objection of behalf of Mrs. Catherine von Furstenberg-Dusmann on the initial proposed construction. Kathleen Stecko & Raineke Brooks are aware of our previous correspondance. We have also corresponded with the attorney for Mr. Druckenmiller who is the owner of 23325 Malibu Colony Rd.

Suffice to say that this project will block a view of the pier and surfrider beach from the master bedroom, 3rd floor deck and other rooms. This view has been in place since the homes were built in the Malibu Colony.

The proposed construction is too high so we are lodging an objection to said project.

They should keep the existing one floor house footprint.

Not only that but the project is in a sensitive ESHA zone and also the area is subject to major flooding in the lagoon area as witnessed this year and 2007.

Sincerely,

Clifford R Waeschle



SUBMITTED BY JUDITH ISRAEL





From: JAY MCINERNEY

Sent: Friday, July 30, 2021 6:44 AM

To: Kathleen Stecko <kstecko@malibucity.org>

Subject:

July 30, 2021

VIA E-MAIL

City Planning Commission
City of Malibu
c/o Kathleen Stecko
2385 Stuart Ranch Road
Malibu, CA 90265
kstecko@malibucity.org

**RE: 23325 Malibu Colony Drive (“Property”); Item 5.A. August 2,
2021 Planning Commission Meeting**
*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 (the “Project”)*

Dear Planning Commissioners:

I am a resident of Malibu and member of the Malibu Colony community. I write to express my opposition to the Project and urge you to deny the Project as proposed as it does not conform to the City of Malibu's Local Coastal Program.

The Project is immediately adjacent to the Malibu Lagoon, a recognized wetland Environmental Sensitive Habitat Area (“ESHA”). As a result of its location, the Project must conform to the LCP provisions applicable to ESHA. It does not. Among other things, the Project exceeds the maximum allowable development area of 25 percent. The Planning Commission cannot approve a project that does not follow each one of the applicable regulations.

The Project similarly fails to conform to the standards applicable to properties that are visible for scenic areas or public viewing areas. The Project does not conform to the height restrictions of the City's Scenic, Visual, and Hillside Resource Protection Ordinance. Again, the Planning Commission cannot approve a project that does not follow each and every of the applicable regulations.

As a concerned community member of Malibu, I ask that you deny the Project as proposed and ensure that all projects in Malibu strictly adhere to the City's LCP.

Thank you.

Sincerely,

Anne Hearst McInerney
Jay McInerney

Patricia Salazar

Subject: FW: Planning Commission Meeting August 2, 2021; Item 5.A; 23325 Malibu Colony Drive
Attachments: Message to Owner of 23325 Malibu Colony Road; 7.30.21 Transmittal Ltr to PC re Israel Correspondence.pdf

From: Monica R. Briseno
Sent: Friday, July 30, 2021 1:01 PM
To: kstecko@malibucity.org
Cc: Kenneth A. Ehrlich <KEhrlich@elkinskalt.com>
Subject: Planning Commission Meeting August 2, 2021; Item 5.A; 23325 Malibu Colony Drive

Ms. Stecko –

I hope all is well. Attached, please find correspondence related to the above-referenced Planning Commission item for distribution to the Planning Commission. Because the attachment referenced in the letter contains a video, I am attaching it as a separate file to this email. Please let me know if you have any issues opening the file.

Best,

Monica R. Briseno

MBriseno@elkinskalt.com

Direct Dial: (310) 746-4479 | Fax: (310) 746-4499 | [Download VCard](#)

Elkins Kalt Weintraub Reuben Gartside LLP
10345 W. Olympic Boulevard, Los Angeles, CA 90064
www.elkinskalt.com



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July 30, 2021

VIA E-MAIL AND U.S. MAIL

City Planning Commission
City of Malibu
c/o Kathleen Stecko
23825 Stuart Ranch Road
Malibu, California 90265-4861
E-Mail: kstecko@malibucity.org

Re: Planning Commission Meeting August 2, 2021; Item 5.A; 23325 Malibu Colony Drive (the “Property”)

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 (the “Project”)

Dear Planning Commissioners:

We represent Ms. Judith Israel in her personal capacity and as Trustee of the Judith Israel Inter Vivos Trust. Ms. Israel owns the real property located at 23349 Malibu Colony Drive and appealed a previous version of the Project to the City Council. On behalf of Ms. Israel, we enclose a recent letter from Ms. Israel to the Property owners regarding the Project.

We ask that you please accept and consider this letter as part of the record as we believe it provides insights into Ms. Israel’s interest in this matter.

Very truly yours,



MONICA R. BRISENO
Elkins Kalt Weintraub Reuben Gartside LLP

4250758v1

Patricia Salazar

From: Kenneth A. Ehrlich <KEhrlich@elkinskalt.com>
Sent: Monday, July 12, 2021 10:21 AM
To: De la Cruz, Victor
Cc: Monica R. Briseno; Kenneth A. Ehrlich
Subject: Message to Owner of 23325 Malibu Colony Road
Attachments: IMG_1589.MOV

Victor-

Ms. Israel asked us to forward her letter to you client. We respectfully ask that you share the attached and the letter below with your client. Thank you.

Dear Mr. Drunkemuller ,

I am your neighbor at 109a , Judith Israel, and I have been challenging your proposed Malibu Colony development. I think we met 3 years ago, the day the Woolsey Fire started , when you walked over, asked to use the phone and invited us over for a whiskey. I wish we had that drink and established a friendly relationship where we were able to discuss what your devastating development plans would have on my beloved view.

Although we didn't meet, in 2018, when you bought the property, I reached out and wrote you a letter, gave it to your caretaker to deliver but I never received a reply. I'm very sorry we are in this disagreeable situation, but I'm sure you would be just as distressed if someone was destroying your precious view corridor and a part of your soul for the past 15 years !

Unfortunately, the story poles for the "revised" design still consumes my entire ocean view. I had hoped this design would preserve my white water view and mitigate my entire view loss by having two wings with the middle being the patio area and pool .

On Friday, June 25 , my lawyer and I met on-site with your lawyers and architects then visited my home and viewed the development from my vantage point. Your team seemed pleasant and respectful, and I appreciated their time and considerations .

As you may know, I have retained counsel and my lawyers have articulated various legal arguments against your project. Our position prevailed at the City Council a few months ago. I respect and adopt these legal points, and I intend to continue to challenge your proposed project with credible legal principles as long as it continues to block my ocean views and violate applicable laws. Nonetheless, I am writing, as your neighbor in this small Colony community, to ask and plead with you to consider a remedy or compromise where you can build a house you'll love while also protecting my beloved view. If possible, I would be grateful for a meeting with you to go over design alternatives that consider all the building restrictions and ordinances. Since I'm highly motivated and have quite a few innovative design ideas, I'm hopeful that we can find a solution that allows us to "share" this magnificent Malibu view ! To this end, I hope that you would agree to a short continuance of the scheduled August 2, 2021 Planning Commission hearing to allow the parties to discuss and consider project alternatives.

I hope to hear from you soon and wish you and your family a happy July 4th holiday !

Sincerely yours,

Judith Israel

Kenneth A. Ehrlich

kehrlich@elkinskalt.com

Direct Dial: (310) 746-4412 | Cell: (310) 962-4100 | Fax: (310) 746-4462 | [Download VCard](#)

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Patricia Salazar

From: Vivian Cha <VCha@elkinskalt.com>
Sent: Friday, July 30, 2021 2:54 PM
To: Kathleen Stecko; Patricia Salazar
Cc: Trevor Rusin; Raneika Brooks; Richard Mollica; Kenneth A. Ehrlich; Monica R. Briseno
Subject: Planning Commission Meeting August 2, 2021; Item 5.A; 23325 Malibu Colony Drive
Attachments: Letter to Planning Commission re PC Meeting 8.2.21 Item 5.A.pdf; Ex. A. to Planning Commission Letter.pdf

Dear Ms. Stecko and Ms. Salazar,

Attached please find a letter and its corresponding Exhibit A from Monica Briseno, regarding the Planning Commission Meeting on August 2, 2021; Item 5.A; 23325 Malibu Colony Drive.

Regards,
Vivian

Vivian Cha

vcha@elkinskalt.com

Direct Dial: (310) 746-4475 | Main: (310) 746-4400 | Fax: (310) 746-4499

Elkins Kalt Weintraub Reuben Gartside LLP
10345 W. Olympic Boulevard, Los Angeles, CA 90064
www.elkinskalt.com

July 30, 2021

VIA E-MAIL AND U.S. MAIL

City Planning Commission
City of Malibu
c/o Kathleen Stecko
23825 Stuart Ranch Road
Malibu, California 90265-4861
E-Mail: kstecko@malibucity.org

Re: Planning Commission Meeting August 2, 2021; Item 5.A; 23325 Malibu Colony Drive (the “Property”)

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 (the “Project”)

Dear Planning Commissioners:

We represent Ms. Judith Israel in her personal capacity and as Trustee of the Judith Israel Inter Vivos Trust. Ms. Israel owns the real property located at 23349 Malibu Colony Drive and appealed a previous version of the Project to the City Council. Ms. Israel’s appeal raised inconsistencies with and, in some instances, direct contradictions of the Project against various Local Coastal Program policies and provisions. The City Council agreed with several of Ms. Israel’s arguments, requested modifications to the Project, and for the Project to be reevaluated by the Planning Commission.

Although the Project made some slight modifications, the Project continues to fail to conform to the City of Malibu’s (“City”) Local Coastal Program (“LCP”). For whatever reason, City staff goes through great lengths to ensure that the City’s LCP conforms to the Project, bending and twisting laws and regulations at will-- rather than have the Project conform to the LCP and Municipal Code. The Planning Commission must deny the Project.

I. Background

The Applicant first submitted the Project to the City in 2018. We understand from staff comments that the initial iteration was for a substantially larger project that did not comply with

4250052v2

the development area restrictions set in the LCP for properties within Environmentally Sensitive Habitat Area (“**ESHA**”) buffers. Applicant had to subsequently revise the Project to comply with the LCP’s ESHA development standards, as the Project is located entirely within the 100-foot buffer from Malibu Lagoon, an identified wetland ESHA. However, the Applicant did not revise the Project to comply with all applicable aspects of the LCP – perhaps hoping other inconsistencies were overlooked, which, unfortunately, was the case when the Project came before the City Planning Commission on June 1, 2020.

On June 1, 2020, the Planning Commission approved a prior version of the Project by a 3-2 vote. As approved, the Project did not conform to the policies and standards of the City’s LCP. On June 11, 2020, Ms. Israel appealed the Project to the City Council. On November 9, 2020, the City Council considered the appeal, and among other things, concurred with Ms. Israel that the Project did not meet all policies and standards of the City’s LCP, in part due to its failure to adequately calculate the allowed development area.

The Project continues to violate the LCP and other applicable laws and regulations, as detailed below.

II. The Project Violates Malibu’s LCP

A. The Project Exceeds the 25% Allowable Development Area in ESHA Buffers

The Project continues to improperly omit development categories from the maximum allowable development area calculations.

City LUP Policies 3.10 and 3.12, and LIP Section 4.7.1 allow a twenty-five percent (25%) development area on parcels where all feasible building sites are in an ESHA or ESHA buffers to avoid a taking of private property. LIP Section 4.7.1 provides that “the **allowable development area (as defined in Chapter 2 of the Malibu LIP)** on parcels where all feasible building sites are ESHA or ESHA buffer shall be **10,000 square feet or 25 percent of the parcel size, whichever is less.**” Chapter 2 of the Malibu LIP defines development area as “the **approved portion of a project site that is developed, including the building pad** and all graded slopes, **all structures**, and parking areas.” It excludes the areas of one access driveway or roadway not to exceed twenty feet wide, and one hammerhead safety turnaround. Chapter 2 of the Malibu LIP defines **structure** as “**anything construed or erected which requires a fixed location on the ground**, or is attached to a building or other structure having a fixed location on the ground.”

Considering Ms. Israel’s appeal, the City Council correctly concluded that the Project improperly omitted walls from the maximum allowable development area calculations. One of the specific instructions from the City Council was that the Applicant include all structures in its

allowable development area calculation. Despite the clear instruction, the Project continues to fail to count all walls, and, for whatever reason, City staff aids in an apparent attempt to manipulate the LCP to fit the Project.

A review of the prior calculations shows the thinly-veiled attempt to continue to exclude structures from the maximum allowable development area. As stated in the staff report, the maximum allowable development area is 3,126 sq. ft.¹ The previously proposed development area was 3,076 sq. ft, improperly excluding 260 sq. ft. of perimeter walls and 32 sq. ft. of site walls.² To address the City Council's directive, the Applicant removed 39 sq. ft. from the building footprint and added the "new" perimeter walls, which it claims amount to 88.7 sq. ft. This is problematic for various reasons.

First, the LCP does not differentiate between "new" or "existing" development for purposes of allowable development area calculations. The calculation is meant to protect ESHA by accounting for all development on a project site, with only a few limited exclusions. The LCP does not exclude new development. The Project must include all walls in its allowable development area calculations – new and existing. It does not.

Second, it defies logic that the perimeter walls and site walls, which were 260 sq. ft. and 32 sq. ft., respectively, were somehow reduced to only amount to 88.7 sq. ft, when the only change in the plans is a reduction of 39 sq. ft. in the proposed building footprint. Adding just the walls to the previously proposed development would result in a total development area of 3,368 sq. ft – 242 sq. ft. over the allowed area. Reducing the total development area by the adjusted 39 sq. ft. results in a total development area of 3,329 sq. ft., which is still 203 sq. ft. over the allowed 25% development area.

This is another example of the Applicant's attempts to game the LCP. It must stop. The Applicant must count all structures, which includes all walls, new and existing. This Planning Commission must intervene, hold Applicant accountable to the LCP requirements, and set the appropriate precedent for City staff to follow.

B. The Project Fails to Comply with the LCP Application Requirements for Properties Located within an ESHA Buffer

As is made clear in the staff report, the Project is adjacent to the Malibu Lagoon, a wetland ESHA. Based on its' location, the Property is subject to the ESHA Overlay requirements, which

¹ Twenty-five percent of the lot size is 3,125.75 sq. ft. There is nothing in the LIP that provides for rounding up. Regardless, the Project, as proposed, is far above the threshold.

² We attach a copy of the previously proposed development calculations as Exhibit A.

include the above-discussed 25% allowable development area limit. LIP Chapter 4. The ESHA Overlay requirements also require that “[a]pplications for **new development on sites** containing or **adjacent to** a stream or **wetland** shall **include** evidence of **preliminary approval from the California Department of Fish and Game.**” LIP § 4.4.1. The Project is adjacent to a wetland. However, nowhere in the staff materials is there a mention or evidence of preliminary approval from the California Department of Fish and Game (“CDFG”).

As with the above, the Applicant cannot pick and choose which sections it will consider and how it will comply with the LCP. It must comply with all applicable policies and provisions. Absent preliminary approval from CDFG, the Project does not conform to the LCP.

C. The Project Violates the 18-ft Height Restriction on Structures Subject to the Scenic, Visual, and Hillside Resource Protection Ordinance

The City did not make the required findings, and the applicant did not seek site plan review for a structure over the 18-ft height restriction set by the Scenic, Visual, and Hillside Resource Protection Ordinance, which applies to the Property.

As with its initial incorrect interpretation that the Malibu Colony Overlay District trumped the LCP’s ESHA Overlay requirements, the applicant and staff incorrectly found that the Malibu Colony Overlay District trumps the Scenic, Visual, and Hillside Resource Protection Ordinance. Nothing in the LCP supports such an interpretation. The opposite is true.

According to Chapter 3 of the LCP (the “Overlay Zone Regulations”), “[a]ll uses within the boundaries of an overlay zone shall comply with the provisions of the overlay zone in addition to applicable standards in the underlying zone (unless otherwise specified), other provisions of this ordinance, and other provisions of law.” LIP § 3.4. This is why the Property, despite being within the Malibu Colony Overlay District needs to comply with the ESHA Overlay requirements and must also comply with the Scenic, Visual, and Hillside Resource Protection Ordinance. To find otherwise would be a misreading of the LCP, exemplifying selective application of LCP provisions.

We note that this position does not result in every property in the Malibu Colony being subject to the Scenic, Visual, and Hillside Resource Protection Ordinance, just as not all are subject to the ESHA Overlay requirements. Instead, the overlay provides the modified baseline requirements for properties within the overlay. The City must then evaluate whether properties are subject to “other provisions of law” and standards not explicitly replaced by the Malibu Colony Overlay District. Importantly, if the Overlay Zone Regulations intended to replace all other LIP provisions, the language in LIP § 3.4 regarding other provisions would be unnecessary.

Here, the Property lies within the Malibu Colony District and is “along, within, provides views to [and] is visible from [] scenic area . . . [and] public viewing area,” namely the Malibu Lagoon. LIP § 6.2. At the end of Malibu Colony Drive, the Property is surrounded on two sides by public viewing areas. Therefore, the Property is subject to both the Overlay Zone Regulations and the Scenic, Visual, and Hillside Resource Protection Ordinance.

Under the Scenic, Visual, and Hillside Resource Protection Ordinance, “[a]ll **Coastal Development Permit applications concerning any parcel of land** that is located along, within, provides views to or is **visible from any** scenic area, scenic road, or **public viewing area shall be governed by the policies, standards and provisions of this chapter** in addition to any other policies or standards contained elsewhere in the certified LCP which may apply.” LIP Section 6.2. Among other things, the chapter’s standards limit the height of non-beachfront structures to 18 feet above existing or finished grade, whichever is lower. LIP Section 6.5.B.1.³

Nothing prohibits the City from imposing, or the Project from complying with, both the Overlay Zone Regulations **and** the Scenic, Visual, and Hillside Resource Protection Ordinance. While some may not like the document, the LCP exists for a reason— to govern development in a coastal setting. Staff and the applicant cannot pick and choose which development standards they wish to apply.

D. The Project Fails to Account For Proper Sea Level Rise Scenarios

Although the City Council directed the applicant to provide a 100-year sea-level rise analysis, the revised analysis continues to split the analysis between 100 and 75-years of life for the structure, which results in a more favorable hazards prediction from the east – the more vulnerable side of the Property.

According to the California Coastal Commission’s (“CCC”) adopted Sea Level Rise Policy Guidance, the applicant must have analyzed, and **the City must have considered, the medium-high risk aversion, high emission sea level rise scenario of 8.5 feet by 2120** to inform design and siting of the Project over the full projected 100-year economic life of the development. **The applicant did not provide the required analysis.** Instead, the Project provides a two-pronged analysis with a 100-year, low-risk analysis of hazards from the south, and a 75-year, medium-high risk analysis from the east. Although the Applicant goes through great lengths to explain the “rationale” behind the two treatments of the structure, the bottom line is that

³ LIP Section 6.5.B.1 allows for a maximum height of 24 feet (flat roofs) or 28 feet (pitched roofs) on beachfront lots or where found appropriate through Site Plan Review, according to Section 13.27 of the Malibu LIP. The Project applicant did not apply for site plan review, and the City did not make the required findings.

such actions are simple gamesmanship. The City Council requested that the applicant provide and staff consider the 100-year analysis. The analysis is incomplete.

Relatedly, the gaming of the analysis highlights the concerns with the Project. Under the less stringent 75-year analysis, the Project continues to include “flood gates” at the driveway (same location as the septic tanks) to handle future water inundation. Installing “flood gates” does not adequately address alternative siting and design of the development. In fact, the flood gates highlight that the solid perimeter walls will essentially function as a seawall/shoreline protective device, intended to protect the structure from water intrusion, which the City’s LCP strictly prohibits.⁴ LIP Section 10.4(H). This analysis is clearly not sufficient to support a finding that the Project is sited at the most landward feasible location and further highlights the inadequacy of the sea level rise analysis. The Planning Commission must require that the applicant provide the requested and required 100-year analysis across the Project.

E. The Project Increases Illumination within ESHA and ESHA Buffer

The Project will increase lighting and introduce lighting at a higher elevation, including lighting around the Property’s proposed swimming pool. The staff report, for whatever reason, fails to discuss the prohibition of lighting impacts on ESHA-buffer, despite acknowledging throughout that the Property is entirely within ESHA-buffer.

City LIP Section 4.6.2 **expressly prohibits night lighting for sports courts, sports fields, or other private recreational facilities in ESHA, ESHA buffer, or where night lighting would increase illumination in ESHA.** LIP Section 4.6.2.E also **expressly prohibits lighting around the perimeter of a site.** Despite such clear prohibitions, the Project proposes outdoor lighting, including at the new second-floor level, which includes a private recreational facility (swimming pool) and lighting along the perimeter of the Property. The proposed lighting lies immediately adjacent to (i.e., within the ESHA-buffer) and, in some instances, directly in an ESHA.

In improperly dismissing a one-story Project alternative, City staff focused exclusively on the development area and the Project’s compliance with the Malibu Colony Overlay District development standards without mentioning that the Project failed to comply with ESHA development standards, which are not superseded by the Malibu Colony Overlay District and

⁴ LIP Section 10.4(H) clearly states that “[a]ll new beachfront and bluff-top development shall be sized, sited and designed to minimize risk from wave run-up, flooding and beach and bluff erosion hazards without requiring a shoreline protection structure at any time during the life of the development.” The LCP, in turn, defines the “life of the project” as 100 years. LIP Section 2.

which take priority over other development standards. LIP § 4.6.4. Such disregard for the clear LCP language remains unacceptable.

The Project fails to conform to LIP Section 4.6.2 and will install lighting in ESHA and ESHA buffer, resulting in adverse biological and scenic impacts. The second-story addition also adds mass in an area currently open to those visiting and walking the public trail that wraps around the Project – potentially blocking existing public views for those walking the trail and not able to or choosing not to continue down the path. Again, a reconfigured or smaller footprint will provide necessary environmental advantages and could potentially conform to applicable laws. However, staff does not properly address this option.

III. Conclusion

As detailed above, the Project, as proposed, violates numerous LCP policies and provisions. The proposed findings are clearly unsupported by evidence, and you must deny the Project as proposed.

Very truly yours,



MONICA R. BRISENO
Elkins Kalt Weintraub Reuben Gartside LLP

MRB

cc: Richard Mollica (via e-mail rmollica@malibucity.org)
Trevor Rusin (via e-mail trevor.rusin@bbklaw.com)
Raneika Brooks (via e-mail rbrooks@malibucity.org)
Kenneth A. Ehrlich (via e-mail kehrlich@elkinskalt.com)

Exhibit A

2020 Project Plans, Sheet A0.1a

Total Proposed Impermeable Area: 3,076 sf

Allowable Development Area within ESHA Setback: 3,125 sf - 25% of lot area within ESHA setback; entire lot is within ESHA setback

item description	development	exempt per Malibu Planning Department
<u>Proposed Development Area:</u>		
building footprint	3,076 sf	-
driveway (including AOWTS - septic tanks):	-	400 sf
property line walls:	-	260 sf
site walls:	-	32 sf
AOWTS - dispersal field:	-	1,500 sf
WQMP - filter (including bio-filtration planter):	-	248 sf
impermeable landscaped area:	0 sf	-
landscaped area (including permeable pavers and gravel):	-	6,987 sf

Total Area: 12,503 sf (equals lot area)

Total Proposed Development Area: 3,076 sf



23325 Malibu Colony Road

August 2, 2021

Coastal Development Permit No. 18-035, Variance No. 19-062
Planning Commission Meeting

From: Kang, Jim@Waterboards <Jim.Kang@Waterboards.ca.gov>
Sent: Friday, February 26, 2021 9:44 AM
To: Melinda Talent <mtalent@malibucity.org>; Yolanda Bundy <ybund@malibucity.org>
Cc: Froelich, Sophie@Waterboards <Sophie.Froelich@Waterboards.ca.gov>; Newman, Jenny@Waterboards <Jenny.Newman@waterboards.ca.gov>
Subject: 23325 Malibu Colony Rd. - Letter of Concurrence

Dear Melinda and Yolanda,

The Los Angeles Regional Water Quality Control Board (Regional Water Board) staff has reviewed the following documents:

- *City of Malibu Memorandum Regarding Actions from the November 9, 2020 Malibu City Council Regular Meeting*, Prepared by Heather Glaser, City Clerk, Dated November 10, 2020;
- *City of Malibu Staff Report: Appeal No. 20-006 – Appeal of Planning Commission Resolution No. 20-18 (23325 Malibu Colony Drive; Owner, Axel 23324, LLC; Appellant, Judith Israel)*, Prepared by Raneika Brooks, Associate Planner, Dated October 21, 2020;
- *City of Malibu Policy for Environmental Health Review of Development Projects Within the Civic Center Prohibition Area, Revised May 2020*;
- *Proposed Replacement of Existing Residence, 23325 Malibu Colony Road, Malibu, CA 90265*, submitted by Kevin Poffenbarger, EPD Consultants, Inc., Dated December 10, 2020; and
- *Addendum II Water Balance Report, 4452-010-017, 23325 Malibu Colony Road #118A, Malibu, CA 90265*, Prepared by Kevin Poffenbarger, EPD Consultants, Inc., Dated August 7, 2020.

After reviewing the above documents, the Regional Water Board staff concurs with the City of Malibu that there is no increase in wastewater flow from the proposed project in conformance with the City's Prohibition Policy pertaining to development in the Prohibition Area.

Please note that the subject property is located within the Phase I boundaries, as shown on the City of Malibu and the Regional Water Board and State Water Resources Control Board records. The property is not connected to the Malibu Civic Center Wastewater Treatment Facility.

The Regional Water Board continues to support the City's efforts to achieve the schedule.

Please do not hesitate to contact me if you have any questions.

Regards,

Jim

James Kang, Ph.D., P.E.
Chief of Groundwater Permitting Unit
Senior Water Resource Control Engineer, Supervisory
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013
Tel: (213) 576-6683
Jim.Kang@waterboards.ca.gov

“After reviewing the above documents, the Regional Water Board staff concurs with the City of Malibu that there is no increase in wastewater flow from the proposed project in conformance with the City’s Prohibition Policy pertaining to development in the Prohibition Area.”













Sea Level Rise Analysis

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Sea Level Rise Scenarios Addressed



Source: City of Malibu Memorandum Re: Coastal Engineering Review and Commentary, Appeal of 23325 Malibu Colony Road, February 17, 2021

Assumptions

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- 1 Sea level will rise 6.5 feet above today's level And...
- 2 Waves will NOT back-rush to the ocean And...
- 3 Waves will make left turn toward the Colony

0.00005% chance of occurring in 75 years.

Lagoon Spoils

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Lagoon Spoils

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PROPOSED DEVELOPMENT AREA



outline of CDP submittal footprint approved by Malibu Planning Commission on 2020.06.01, Building footprint 3,076 sf.

New proposed footprint reduced by 39.21 sf

Development Area Exemptions		Previously Approved Development Area: approved 2020.06.01 by Malibu Planning Commission		Proposed Development Area:	
	Driveway (2 uncovered parking spots): including AOWTS-septic tanks	400 sf		Previously Approved Building Footprint (new two story single family residence with attached two car garage)	3,076 sf
	AOWTS - dispersal field:	1,500 sf		(49.75 sf less than allowed development area)	
	WQMP - filter (including bio-filtration planter curb):	248 sf		*New project site walls were not included in approved Development Area determination.	0 sf
	Permeable areas: landscaping, gravel walkways, permeable landscape pavers.			Impermeable Hardscape: (see exemptions)	0 sf
			Previously Approved Development Area: (49.75 sf less than allowed 3,125.75 sf)		3,076 sf
			Proposed Building Footprint (new two story single family residence with attached two car garage)		3,036.79 sf
			(39.21 sf reduction from 2020.06.01 approved building footprint)		
				New site project wall footprint: (4" thick poured in place concrete walls)	88.78 sf
			Impermeable Hardscape: (see exemptions)		0 sf
			Total Proposed Development Area: (.18 sf less than allowed 3,125.75 sf)		3,125.57 sf

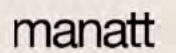


From Ms. Israel's 2nd floor balcony





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Existing Developed Area vs. Proposed

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EXISTING DEVELOPMENT AREA



total lot area: 12,503 sf
total existing development area: 8,654 sf
total development percentage of lot area: 69%

development area:

building footprint:	2,963 sf
impermeable hardscape:	5,213 sf
pool:	478 sf
total:	8,654 sf

exempt from development area:

driveway:	400 sf
permeable landscape area	

PROPOSED DEVELOPMENT AREA



total lot area: 12,503 sf
total proposed development area: 3,125.67 sf
total development percentage of lot area: 25%

development area:

building footprint:	2,963 sf
new site project wall footprint:	88.78 sf
total:	3,125.67 sf

exempt from development area:

driveway:	400 sf
permeable landscape area	

Existing Nighttime Lighting

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Proposed Nighttime Lighting

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Thank You

**NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL**

The Malibu City Council will hold a public hearing on **MONDAY, January 23, 2023, at 6:30 p.m.** on the project identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to AB 361 and the County of Los Angeles Public Health Officer's Safer at Home Order. All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

How to View the Meeting: No physical location from which members of the public may observe the meeting and offer public comment will be provided. Please view the meeting, which will be live streamed at <https://malibucity.org/video> and <https://malibucity.org/VirtualMeeting>.

How to Participate Before the Meeting: Members of the public are encouraged to submit email correspondence to citycouncil@malibucity.org before the meeting begins.

How to Participate During the Meeting: Members of the public wishing to speak or defer time to another speaker during the meeting must participate through the Zoom application and must be present in the Zoom conference to be recognized. The City requests that you sign up to speak before the item you would like to speak on has been called by the Mayor. For those wishing to defer time, you are not required to sign up to speak. At the start of public comment for the item, the Mayor shall ask members of the public wishing to defer time to raise their hands in the Zoom meeting using the reactions button. Each person will be called to verify their presence in the Zoom meeting and their intent to donate time.

Please visit <https://malibucity.org/VirtualMeeting> and follow the directions for signing up to speak and downloading the Zoom application.

APPEAL NO. 21-011 – An appeal of 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

Location:	23325 Malibu Colony Drive
APN:	4452-010-017
Zoning:	Single-family Medium (SFM)
Applicant:	Marny Randall
Appellant:	Judith Israel
Owner:	AXEL 23324, LLC
Appealable to:	California Coastal Commission
Environmental Review:	Categorical Exemption CEQA Guidelines Sections 15301(I), 15303(a), and 15303(e)
Application Filed:	August 29, 2018
Appeal Filed:	August 17, 2021
Case Planner:	Raneika Brooks, Senior Planner (310) 456-2489, ext. 276

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission previously analyzed the proposed project and found that it 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 CEQA Guidelines Sections 15301(l) – Existing Facilities and 15303(a) and (e) – New Construction or Conversion of Small Structures. The Planning Commission further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

A written staff report will be available at or before the hearing for the projects. All persons wishing to address the Council regarding these matters will be afforded an opportunity in accordance with the Council's procedures.

Copies of all related documents can be reviewed by any interested person at City Hall during regular business hours. Oral and written comments may be presented to the City Council on, or before, the date of the meeting.

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

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

Richard Mollica, Planning Director

Publish Date: December 29, 2022