

MINUTES
MALIBU PLANNING COMMISSION
REGULAR MEETING
OCTOBER 2, 2023
COUNCIL CHAMBERS AND TELECONFERENCED
6:30 P.M.

The following meeting was held in a hybrid format that allowed members of the public to participate in-person and remotely via Zoom pursuant to AB 361.

CALL TO ORDER

Chair Peak called the meeting to order at 6:36 p.m.

ROLL CALL

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

PRESENT: Chair Skylar Peak, Vice Chair John G. Mazza, Commissioners Kraig Hill, Jeffrey D. Jennings, Dennis R. Smith

ALSO PRESENT: Pat Donegan, Assistant City Attorney; Richard Mollica, Planning Director; Adrian Fernandez, Assistant Planning Director; Parker Davis, Media Technician; and Rebecca Evans, Recording Secretary

PLEDGE OF ALLEGIANCE

Norman Hainey led the Pledge of Allegiance.

APPROVAL OF AGENDA

MOTION Vice Chair Mazza moved and Chair Peak seconded a motion to approve the agenda.

The question was called and the motion carried unanimously.

REPORT ON POSTING OF AGENDA

Recording Secretary Evans reported that the agenda for the meeting was properly posted on September 22, 2023; the amended agenda was properly posted on September 29, 2023

ITEM 1 CEREMONIAL/PRESENTATIONS

None.

ITEM 2.A. PUBLIC COMMENTS

Jo Drummond commented on a letter written by Attorney Ravel and requested Chair Peak and Commissioner Smith resign based on the potential for conflict of interest.

Norman Haynie noted there had frequently been experts in the field of development who served on the Planning Commission and their knowledge base was beneficial to deliberations.

ITEM 2.B. COMMISSION / STAFF COMMENTS

Commissioner Hill indicated that the League of California Cities' guidance suggested either the Commissioners must resign or obtain written consent from the Fair Political Practices Commission (FPPC), but stated he expected they would stay. The League of California Cities produced a guide on the subject, which stated for a conflict to be present there was no requirement that misconduct occurred. He stated the concept of innocence before being proven guilty was irrelevant and the focus should be on the Commissioners' economic positions in the community. Commissioner Hill stated potential consequences included invalidation of any decision the Commissioners had been involved in and lawsuits against the City.

Vice Chair Mazza asked Assistant City Attorney Donegan if there was a way to insulate cases being heard now from future challenges based on the potential for all decisions rendered by those Commissioners to be invalidated by a court. He suggested that if an item had clear approval by a majority, the Commissioners named in Attorney Ravel's letter could abstain from the vote.

In response to Vice Chair Mazza, Assistant City Attorney Donegan stated it was unlikely that all decisions made by the Commissioners would be overturned by a court of law and he advised against the limited votes. He was in regular contact with all Commissioners and notified any Commissioner who should recuse themselves from a hearing.

Commissioner Jennings stated he had read Attorney Ravel's letter and noted two things in particular which were unusual. There was a lack of transparency regarding the identity of her paying client and a failure to note past statements made by the Commissioners in question that they would recuse themselves from projects which posed a conflict of interest. He added if any possibility of future economic benefit were to be eliminated, only those with no professional career could serve on the Planning Commission. He noted that when Chair Peak ran for City Council, some of the people who requested his resignation today backed his election at that time.

Commissioner Smith stated he would not vote on proposed developments he intended to bid on and noted he valued both his service to the City and his professional reputation.

Chair Peak requested Commissioner Hill and Jo Drummond reveal the identity of the person who paid for Attorney Ravel's letter publicly and noted it was difficult to believe they had no knowledge.

Assistant City Attorney Donegan stated that Ms. Ravel would receive a response letter from the City Attorney's office.

Commissioner Hill expressed that the discussion was not about direct conflicts, rather about broader participation within the economic community.

Vice Chair Mazza asked whether any decisions regarding recusals or continued service on the Planning Commission was within the purview of the City Council rather than the Planning Commission.

In response to Vice Chair Mazza, Assistant City Attorney Donegan confirmed that the Commissioners serve at the pleasure of the City Council.

Commissioner Smith expressed concern that he and Chair Peak seemed to be found guilty of wrongdoing simply because they were contractors without any actual evidence of wrongdoing.

Assistant City Attorney Donegan noted a speaker stated there may be a formal FPPC letter coming and should that occur, the City would respond. However, the issue could not be litigated that evening.

ITEM 3 CONSENT CALENDAR

The Consent Calendar consisted of the following items:

- A. Previously Discussed Items
None.
- B. New Items
 - 1. Approval of Minutes
Recommended Action: Approve the minutes of the September 05, 2023 Regular Planning Commission meeting.
Staff Contact: Senior Administrative Analyst Evans, 456-2489, ext. 246

MOTION Vice Chair Mazza moved and Commissioner Jennings seconded the motion to approve the minutes of September 05, 2023 Regular Planning Commission meeting.

The question was called and the motion carried unanimously.

ITEM 5 NEW PUBLIC HEARINGS

A. Coastal Development Permit Amendment No. 22-007 – An application to amend Coastal Development Permit No. 19-052 to remove Condition of Approval No. 22 of Resolution No. 21-39

Location: 25429 Malibu Road, within the appealable coastal zone

APN: 4459-014-014

Owner: The Celestial Trust

Case Planner: Assistant Planning Director Fernandez, 456-2489, ext. 482

Recommended Action: Adopt Planning Commission Resolution No. 23-41 determining that the project is categorically exempt from the California Environmental Quality Act and approving Coastal Development Permit Amendment No. 22-007 to amend Coastal Development Permit No. 19-052 to remove Condition of Approval No. 22 of Planning Commission Resolution No. 21-39 regarding the requirement to widen Bayshore Drive in the Rural Residential, Two-Acre zoning district at 25429 Malibu Road (The Celestial Trust).

Assistant Planning Director Fernandez presented the staff report.

Disclosures: Jennings, Hill, Smith

Chair Peak opened the public comment portion of the hearing.

Speaker: Alex DeGood

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

The Commission directed questions to staff.

MOTION Vice Chair Mazza moved and Commissioner Jennings seconded the motion to adopt Planning Commission Resolution No. 23-41 determining that the project is categorically exempt from the California Environmental Quality Act and approving Coastal Development Permit Amendment No. 22-007 to amend Coastal Development Permit No. 19-052 to remove Condition of Approval No. 22 of Planning Commission Resolution No. 21-39 regarding the requirement to widen Bayshore Drive in the Rural Residential, Two-Acre zoning district at 25429 Malibu Road (The Celestial Trust).

The question was called and the motion carried unanimously.

- B. Lechuza Beach Public Access Improvements Project - Coastal Development Permit No. 07-087, Mitigated Negative Declaration No. 19-001 and Initial Study No. 19-001, Conditional Use Permit No. 21-010, Variance Nos. 21-022, 21-023 and 23-029, and Sign Permit No. 19-004 – An application for public access improvements at Lechuza Beach to improve accessibility consistent with the Americans with Disabilities Act (ADA) including installation of a new ADA accessible single-stall restroom, onsite wastewater treatment system (OWTS), gate, access improvements, ADA van parking space and access aisle, and reconstruction of existing view platforms and staircases; including a conditional use permit for an OWTS to be located on separate properties, variances for locating improvements on a steep slope, for a reduction in the blufftop setback, and for retaining wall heights in excess of six feet, and a sign permit for the installation of information signs

Location: 31720.5 Broad Beach Road, within the appealable Coastal Zone

APNs/Owners: 4470-026-003 / Kiefer Family Trust
4470-021-008 / Malibu Encinal Homeowners Association (MEHOA)
4470-021-007 / Alibrandi Family Trust
4470-021-900 / Mountains Recreation and Conservation Authority (MRCA)
4470-028-918 / MRCA
4470-028-917 / MRCA
4470-028-915 / MRCA
4470-021-009 / MEHOA
4470-024-901 / MRCA
4470-024-062 / Valerie Bertinelli Trust / Carvin Decd Trust

Recommended Action: Adopt Planning Commission Resolution No. 23-33 determining the proposed project is consistent with Negative Declaration No. 19-001 and Initial Study No. 19-001 previously adopted by the MRCA Governing Board, and approving Coastal Development Permit No. 07-087 for the construction and installation of public access improvements at Lechuza Beach to improve accessibility consistent with the Americans with Disabilities Act (ADA) including installation of a new ADA accessible single-stall restroom, onsite wastewater treatment system (OWTS), gates, pathways, signs, access improvements, ADA van parking spaces and access aisles, reconstruction of existing view platforms and staircases, and modifications to two Fire Department turnarounds; a Conditional Use Permit No. 21-010 for an OWTS and leachfields to be located on separate properties; including Variance (VAR) No. 21-022 for construction on steep slopes, VAR No. 21-023 for a reduction in the blufftop setback and VAR No. 23-029 for an increase in retaining wall height; and Sign Permit No. 19-004 for informational signs; located

in the Single Family Medium zoning district at 31720.5 Broad Beach Road (Mountains Recreation and Conservation Authority)

Planning Director Mollica presented the staff report.

RECESS Chair Peak recessed the meeting at 7:26 p.m. due to technical difficulties. The meeting resumed at 7:31 p.m. with all Commissioners present.

Disclosures: Mazza, Smith, Jennings, Hill, Peak

Chair Peak opened the public comment portion of the hearing.

Speakers: Elena Eger, Tracy Lovric, Cathleen Summers, Jo Drummond, Robert Marin, Ken Ehrlich, Norm Hainey, Patrick Crowley, Seena Samimi, Allen Abshaz,

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

The Commission directed questions to the applicant team and staff.

MOTION Vice Chair Mazza moved and Commissioner Hill seconded the motion to continue the item to a date uncertain.

The question was called and the motion carried unanimously.

ITEM 6 OLD BUSINESS
None.

ITEM 7 NEW BUSINESS
None.

ITEM 8 PLANNING COMMISSION ITEMS
None.

ADJOURNMENT

MOTION At 9:08 p.m., Vice Chair Mazza moved and Commissioner Smith seconded a motion to adjourn the meeting.

The question was called and the motion carried unanimously.

Approved and adopted by the Planning Commission
of the City of Malibu on October 16, 2023.



SKYLAR PEAK, Planning Commission Chair

ATTEST:



REBECCA EVANS, Recording Secretary