



Environmental Review Board Agenda Report

ERB Meeting
12-07-16

**Item
3.A.**

To: Members of the Environmental Review Board

Prepared by: Adrian Fernandez, Senior Planner *AF*

Reviewed by: Dave Crawford, City Biologist

Approved by: Bonnie Blue, Planning Director *BB*

Date prepared: November 30, 2016 Meeting date: December 7, 2016

Subject: Malibu Memorial Park Project

Case Numbers: Coastal Development Permit No. 15-028
Variance No. 16-016
Site Plan Review No. 16-009
Minor Modification No. 16-010
Conditional Use Permit No. 15-011
Lot Merger No. 16-001
Initial Study No. 16-002
Mitigated Negative Declaration No. 16-001

Applicant: Bruce McBride
Owner: Green Acres, LLC
Location: 4000 Malibu Canyon Road
APNs: 4452-028-015, 4458-028-019, and 4458-030-007
Zoning: Commercial Visitor-Serving 2 (CV-2)

RECOMMENDED ACTION: Review the proposed project and initial study and provide recommendations to the Planning Commission.

DISCUSSION: The proposed project includes the construction of a new memorial park, including a new 6,000 square foot chapel, 673 square feet of ancillary spaces, 8,002 square foot subterranean parking lot and 1,346 square foot basement, 47 mausoleum structures with a maximum area of 200 square feet each for a total maximum of 9,400 square feet, approximately 28,265 in-ground burial plot spaces intermittently located throughout the property, 3,644 interments in above grade wall crypt structures, a circular

driveway, parking lot, entry gates, grading, landscaping and exterior lighting (Attachment 1 – Project Plans). The project is planned to connect to a future phase of the Malibu Civic Center Wastewater Treatment Facility (CCWTF).

According to the Local Coastal Program (LCP) Environmentally Sensitive Habitat Area (ESHA) and Marine Resources Map, a stream is identified across the northernmost corner of the subject property and parallel to Civic Center Way. However, the storm water that supported the stream was placed in an underground pipe circa 1990 and the stream no longer exists. Additionally, the Environmental Impact Report (EIR) for the CCWTF identified a stream at the southeasternmost corner of the subject property (Attachment 2 – ESHA Boundaries and Protected Walnut Tree Locations).

The Biological Inventory Report prepared by Rincon Consultants concluded that, even though the property contains sensitive habitat, the property is considered functionally isolated from the Santa Monica Mountains and Malibu Bluffs Park (Attachment 5 – Initial Study / Mitigated Negative Declaration). Therefore, the sensitive habitat on the property is not considered ESHA, except for the stream/riparian ESHA located at the southeasternmost corner of the subject property. No development is proposed within 300 feet of the stream/riparian ESHA and most of the sensitive habitat located on the site will be preserved. Nevertheless, the initial study includes mitigation measures to offset the impacts to the sensitive habitat and for the protection of wildlife and rare and special status plant species in the event any are discovered on the project site during the required pre-construction biological surveys.

At this time, a coastal development permit, conditional use permit and other discretionary requests are being processed for the memorial park and chapel. Separate administrative plan reviews and any other necessary entitlements would be processed for the mausoleums that are located near Pacific Coast Highway and elsewhere onsite to verify that these structure will not be visible from motorists traveling on Pacific Coast Highway from any vantage point immediately adjacent to the subject property or obstruct bluewater views of motorists traveling on Malibu Canyon Road. A complete list of project entitlements is provided in the *Required City Project Entitlements* section below.

Even though the project is not expected to impact ESHA, staff forwarded the project for Environmental Review Board (ERB) review because the project requires an initial study and underwent a Phase II archaeological study. The Planning Director requests the ERB, in its capacity as advisor to the Planning Commission, review the project, as well as the initial study, and make recommendations on the project and mitigation measures within the purview of the ERB, to ensure conformance with the LCP.

Environmental Review and Project Chronology

On April 13, 2015, Schmitz and Associates, Inc. submitted a request for determination of use.

On September 21, 2015, the Planning Commission adopted Planning Commission Resolution No. 15-89 determining that a cemetery/memorial park with an assembly structure is a conditionally permitted use in the CV-2 zoning district.

On April 28, 2015, Bruce McBride of Green Acres, LLC submitted a letter requesting to withdraw an application for the construction of a hotel and associated development and submitted an application for the proposed memorial park and chapel.

On April 11, 2016, story poles were placed on the subject property representing the location, height, mass and bulk of the proposed chapel and a sample of the proposed mausoleums. The placement of the story poles was certified by a professional land surveyor.

On November 10, 2016, a Notice of Intent to Adopt a Mitigated Negative Declaration was published in a newspaper of general circulation within the City of Malibu. The 30-day public review period began on November 14, 2016 and is set to end on December 14, 2016. Also, on November 18, 2016, the Governor's Office of Planning and Research distributed the mitigated negative declaration to responsible agencies for a 30-day public review period, from November 18, 2016 to December 19, 2016 (SCH No. 2016111054).

Required City Project Entitlements

The proposed project requires the following City entitlements:

1. Coastal Development Permit (CDP) No. 15-028: In accordance with LCP Local Implementation Plan (LIP) Section 13.3.
2. Variance (VAR) No. 16-016 for non-exempt grading in the amount of 16,985 cubic yards in excess of the maximum allowed. This is needed in order to cap the archaeologically sensitive area.
3. Site Plan Review (SPR) No. 16-009 for height over 18 feet but less than 28 feet for the chapel's pitched roof.
4. Minor Modification (MM) No. 16-010 for the mausoleums to have a less than 50 percent reduction of the required front yard setback.
5. Conditional Use Permit (CUP) No. 15-011 for the proposed memorial park and chapel in the CV-2 zoning district.
6. Lot Merger (LM) No. 16-001 for consolidation of the three existing legal lots into one legal lot.

Site Description and Project Setting

The subject property includes three adjacent vacant parcels, totaling 27.8 acres, which are located in a triangle-shaped area. All three parcels (APNs 4458-030-007, 4458-028-015 and 4458-028-019) are designated CV-2 in the Malibu General Plan, Zoning Map and LCP.

The project site is an elevated coastal terrace bordered by Malibu Canyon Road to the north and west, Pacific Coast Highway to the south, and Civic Center Way to the north and east. The central portions are generally level, but drop steeply 60 to 80 feet into Winter Canyon and the road cut for PCH on the southeastern portions of the project site. The project site is vacant; however, several dirt driveways traverse the site with trees and shrubs located intermittently throughout the project site. Approximately seven acres of the 27.8-acre site contain sensitive habitat and are considered unusable because of steep slopes; therefore, development is proposed on the remaining 21 acres.

Currently, a variety of native and non-native trees, coastal sage scrub, and native grasses are located on the project site. While coast live oak, Southern California black walnut, and toyon trees were recorded on the site, none of these trees meet the size requirement for protection under LIP Chapter 5 Native Tree Protection.

The subject property is bordered by Malibu Canyon Road and Pepperdine's' Alumni Park to the north and west, Civic Center Way and mixed institutional and residential uses to the north, the CCWTF to the east, and Pacific Coast Highway, Malibu Bluffs Park and the undeveloped Crummer site to the south. Nearby land uses include Pepperdine to the north and west, the Los Angeles County Road Maintenance Yard, Webster Elementary School, Our Lady of Malibu Catholic Church and School, and three condominium complexes off of Vista Pacifica and De Ville Way to the east. The site borders the low-lying lands of the Civic Center area and is visible from nearby neighborhoods, portions of the Civic Center area, the Pepperdine campus, Pacific Coast Highway and Malibu Canyon Road. In the foothills to the north and east of the site are the Malibu Knolls, a single-family residential neighborhood, and the structures and faculty housing of Pepperdine. Further to the east is the Civic Center area, including City Hall, various County buildings, the Malibu Library, three commercial shopping centers, and Legacy Park.

A small section of the California Coastal Commission's (CCC)'s appeal jurisdiction is located in the northern portion of the project site. The area marks a mapped blue line stream depicted on the City's LCP ESHA Overlay Map. After reviewing onsite conditions, the City Biologist has confirmed that this stream no longer exists and its storm water was placed in an underground concrete pipe. The CCWTF EIR identified a stream along the southeasternmost portion of the subject property. However, the proposed development will maintain a minimum of a 100-foot buffer from the stream/riparian ESHA, as required in the LCP.

Project Description

The Malibu Memorial Park Project consists of a chapel, subterranean parking, 47 freestanding mausoleum structures, approximately 28,265 in-ground burial plot spaces intermittently located throughout the property, 3,644 interments in above grade wall crypt structures, surface guest parking, and walking trails on approximately 21 acres of the 27.8-acre site. Visitor access will be provided by a system of pedestrian and golf cart

trails used to access the individual mausoleums and burial plots. A sloping waterfall would mark the primary entrance from Malibu Canyon Road, with an additional water feature in the median of the entry driveway and fountains throughout the project site.

Below the chapel would be an 8,002 square foot 19-stall subterranean garage and a 1,346 square foot basement. The subterranean garage would be used for service ingress/egress while the basement area would include bathrooms, storage, elevators and a casket lift car to the main floor. A public mausoleum would be located directly behind the chapel, to the east, and would accommodate caskets. Forty-seven freestanding private mausoleums would be located throughout the site and would be available for purchase. The 47 mausoleums would range in size from 140 square feet to a maximum of 200 square feet each.¹ These mausoleums are approximately 14 feet in width and length, and 12 to 14 feet in height. The majority of these mausoleums would be located in the south and east portions of the site.

Pursuant to LIP Sections 6.5(A)(1) and (3), new development must be sited and designed to minimize adverse impacts on scenic areas and site selection to avoid visual impacts is preferred over landscaping. To meet these standards, the mausoleums must maintain a certain setback from the top of slope along Pacific Coast Highway and southeast corner of the project site to minimize adverse impacts from Pacific Coast Highway, Malibu Canyon Road, Malibu Bluffs Park and Legacy Park, which are designated scenic areas. The applicant revised the site plan to site the mausoleums further away from the top of slopes along Pacific Coast Highway and the southeast corner of the project site.

Mitigation measures were added to the project for the erection of story poles representing the location and height of the mausoleums to verify that these structures are sited far enough from the top of the slope to avoid visibility from motorists traveling on Pacific Coast Highway from any vantage point immediately adjacent to the subject property and bluewater view impacts from motorists traveling on Malibu Canyon Road. Additionally, subsequent administrative plan review applications will be required for the mausoleums to verify compliance with this mitigation measure. As redesigned and with implementation of the mitigation measure, the proposed project will have a less than significant impact on applicable design and development standards.

The total proposed floor area ratio (FAR) is approximately 16,073 square feet (6,000 square foot chapel, 673 square feet of accessory uses and 9,400 square feet of mausoleums), excluding the subterranean garage and basement.² Such FAR consists of 1.3 percent.

¹ The total square footage attributed to the private mausoleums is approximately 9,400 square feet and is counted as gross floor area in the floor area ratio calculation.

² FAR does not include underground floor area, interior parking spaces, and spaces with floor-to-ceiling height less than six feet.

To comply with the City's landscape and open space regulations, 40 percent of the site must be landscaped (approximately 11 acres) and 25 percent must be used as open space (approximately 7 acres). The applicant is proposing that approximately 57 percent of the project site be landscaped (approximately 16 acres) and 35 percent be left as open space (approximately 10 acres).³

A more detailed project description is provided in the initial study.

Cultural Resources

Field surveys, literature reviews, and cultural resource reports have been completed on the project site and the surrounding area as early as 1962.⁴ The most recent records search completed for the project site and surrounding area (e.g., within 0.5-miles of the project site) was completed on September 20, 2012 at the South Central Coast Information Center (SCCIC), California State University, Fullerton. The records search indicated that 42 cultural resource reports have been completed within a 0.5 mile of the project site; nine of which included at least a portion of the project site.

Prior field surveys completed from 1961 through 1984 by various qualified archaeologists resulted in a majority of the artifacts being removed from the project site. However, a report documenting the results of this investigation was not produced and little is known about the artifacts collected from the site. Therefore, a new Phase II investigation was recently undertaken and the consulting archaeologist concluded that the data potential of the site appears to have been exhausted and no additional data recovery phase is recommended. However, a prior Phase II investigation prepared in May 1995 by Robert J. Wlodarski recommended in-situ preservation or capping the site with a layer of imported soil (fill).

Construction activities would require grading and excavation to construct a driveway, chapel, the public mausoleum, 47 freestanding mausoleums, approximately 28,265 in-ground burial plot spaces, 3,644 interments in above grade wall crypt structures and parking. During construction, all grading activities and surface modifications would be confined to only those areas of absolute necessity to reduce any form of impact on unrecorded (buried) cultural resources that may exist within the confines of the project site. However, due to the fact that the project site has yielded archeological finds in the past and even though most has been collected from the site, it is possible that additional archeological resources could be located below the surface.

Mitigation measures have been added to the project to include a three-foot deep layer of soil over a 99,406 square foot (2.28 acre) archaeologically sensitive area, as well as cultural resources sensitivity training for all construction personnel, and archaeological

³ The percentage of open space includes hardscape and landscape areas as allowed by LIP Section 3.8(A)(5)(b).

⁴ [Cultural Resource Summary for the Rancho Malibu EIR, May 1996, prepared by Historical Environmental Archaeological Research Team.](#)

and Native American monitoring for all ground-disturbing activities. No in-ground burials will be allowed in the archaeologically sensitive area. The archaeologically sensitive area will accommodate only above-grade wall crypt structures and one freestanding mausoleum. The maximum depth of the footings for these structures would be 24 inches and there would be an additional 12 inches of cover for a total capping depth of 36 inches. With the implementation of these mitigation measures, the potential impacts to cultural resources are expected to be less than significant. The project, as conditioned, complies with the City's cultural resources protection policies.

Water Quality

Construction

Standard conditions of approval require that prior to grading permit issuance, final grading and drainage plans incorporating construction-phase Erosion and Sediment Control Plan and Storm Water Management Plan (SWMP), as well as post-construction storm water management plan and a Water Quality Mitigation Plan (WQMP) 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.

The SWMP and the proposed project's site design shall incorporate Source Control Best Management Practices (BMPs) to mitigate increased runoff generated by the increase of impervious surfaces on the project site. As stated in LIP Section 17.4.2, post-construction phase water quality requirements requires post-construction plans detailing how stormwater and polluted runoff would be managed or mitigated during the life of the project. A WQMP requires the implementation of appropriate site design and source control BMPs from LIP Section 17.6 to minimize or prevent post-construction polluted runoff. Applicable regulations and standard conditions of approval will ensure that the proposed project's construction-related water quality impacts would be less than significant.

Operation

Embalming would not be completed on the project site. Furthermore, concrete vaults will be used exclusively for the proposed project; this will limit the potential transfer of leachates from the remains to the surrounding soil. The use of the concrete vault will greatly limit the potential of leachate contaminating the surrounding soils. As the depth of groundwater onsite is in excess of 60 feet below the surface, groundwater contamination is highly unlikely. Therefore, based on the depth of groundwater below the surface and the legally required design conditions associated with burials, it is unlikely that decomposition byproducts would contaminate the local groundwater.

DEPARTMENT REVIEWS: The following is a discussion of the environmental issues pertaining to the proposed project as reviewed by City Departments and their corresponding approval. Department Review Sheets are included as Attachment 3.

Biology

On May 3, 2016, the City Biologist determined that the project was in compliance with the goals and policies related to the protection of biological resources. It was determined that the landscaping plan complies with the Landscape Water Conservation Ordinance. The allocated water service to the project is primarily from the Los Angeles County Waterworks District No. 29. Additionally, the land benefits from an allocation of potable water from the Pepperdine University property which could be utilized if necessary. Should non-potable recycled water from the CCWTF become available, it may be used to irrigate the landscaped areas and operate the water features. However, the City staff is uncertain when this recycled water would become available and how much of it could be allocated to this project.

The initial study includes a biological resource analysis. As previously stated in the *Discussion* section, the mapped ESHA on the property corresponds to a stream that no longer exists and the onsite sensitive resources do not qualify as ESHA because the property was determined to be functionally isolated from the Santa Monica Mountains and Malibu Bluffs Park. However, the EIR for the CCWTF identified a stream at the southeasternmost corner of the property that qualifies as a stream/riparian ESHA. The proposed development will maintain the required 100-foot buffer from ESHA and most of the sensitive habitat located on the site's surrounding steep slopes will be preserved. Although most of the on-site habitat is not considered ESHA, the dense, intact coastal sage scrub, foothill needlegrass patches and successional coastal sage scrub with ornamental habitats are considered sensitive and mitigation through restoration or in lieu fee is recommended for the sensitive habitat areas that are proposed to be affected by the proposed development.

Two California Native Plant Society List 4 species were observed on-site: Plummer's baccharis (*Baccharis plummerae* var. *plummerae*) and southern California black walnut (*Juglans californica* var. *californica*). Both species are on the Watch List as "limited in distribution" in California. No special status wildlife species, nesting birds or raptors, were observed on-site. However, a moderate potential exists that three special status wildlife species may occur within the property, including the coastal whiptail (*Aspidoscelis tigris stejnegeri*), Bryant's [San Diego desert] woodrat (*Neotoma bryanti* [*N. lepida intermedia*]), and coast horned lizard (*Phrynosoma blainvillii*). The loggerhead strike (*Laninus ludovicianus*), which is a California species of special concern, is a potentially sensitive wildlife that is likely to use the isolated coastal sage scrub habitat on-site while nesting. As most of the existing sensitive habitat will be preserved and the majority of the developed portion of the property will be preserved as private open space, the impacts to the three special status wildlife species that may be present at the property is considered minimal with mitigation.

Mitigation measures were added to offset any identified and potential impacts to sensitive biological resources. These mitigation measures include a survey conducted during the blooming periods of rare and special status plant species, nesting bird survey, and fencing off habitat and sensitive plant species during construction are required. Following implementation of the recommended mitigations, no significant impacts to special status resources and riparian and other sensitive habitats are anticipated.

Fuel Modification

Review of the proposed fuel modification plan for the CDP by the Los Angeles County Fire Department (LACFD) is still pending. However, the proposed chapel is located approximately in the middle of the site and its fuel modification area is not expected to extend into the adjacent sensitive habitats that are located onsite.

Geology

The geotechnical and soils reports prepared by GeoSoils Consultants, Inc. for the proposed project along with the project plans and initial study have been reviewed by City geotechnical staff (Attachment 4 – Geotechnical Reports). On September 21, 2016, City geotechnical staff issued a geotechnical review letter stating that the project is approved from a geotechnical perspective. Standard conditions of approval will be included to require that all recommendations of the consulting Certified Engineering Geologist, Geotechnical Engineer and/or City geotechnical staff shall be incorporated into all final design and construction plans including foundations, grading, and drainage. Final plans shall be reviewed and approved by City geotechnical staff prior to the issuance of a grading permit.

The reports indicate that the site is not located in an area susceptible to liquefaction and has no active or potentially active known faults. Landslides and other types of slope failures, such as rock falls and mud and debris flows, can result in areas with varying topography in the event of an earthquake or wet winters. The perimeter of the project site is generally surrounded by natural descending slopes, with the steepest slopes located along the site's northern and eastern boundaries. A landslide is located along the eastern portion of the project site, however soil testing and slope stability analyses completed in 2007 indicated that alluvium has buttressed the toe of the landslide and has stabilized the area. These slopes along the site's northern and eastern boundaries would remain and the proposed improvements include a row of soldier piles and a three foot tall retaining wall at the top of the slope to protect the unstable portions of the slope that are outside the landslide area that was analyzed to be stable. Additionally, the proposed project would be required to implement the engineering design specifications included in the California Building Code and approved geotechnical report.

Grading quantities associated with the project are summarized in Table 2. The proposed project includes approximately 44,735 cubic yards of non-exempt grading of which 16,985 cubic yards is for capping the archaeologically sensitive area and 27,750 cubic

yards for the rest of the project. LIP Section 8.3(B) allows for 1,000 cubic yards per acre of commercial or institutional development, which for the 27.8-acre site would equal 27,800 cubic yards. Without the non-exempt grading related to the capping area, the project is in compliance with the maximum allowed. VAR No. 16-016 is requested to permit the non-exempt grading related to the capping area. Additionally, a total of 95,310 cubic yards of exempt (understructure) grading is proposed from burials for the life of the project of which a total of 76,625 cubic yards⁵ is export. The Public Works Department has reviewed the proposed project for conformance with LCP grading requirements, and has deemed the project consistent with these requirements.

Table 1 – LCP Grading Conformance						
	Exempt**			Non-Exempt	Remedial	Total
	R&R*	Understructure	Safety***			
Cut	70,045	106,367	1,172	12,168	0	94,442
Fill	70,045	0	231	32,567	0	85,856
Total	140,090	106,367	1,403	44,735	0	180,298
Import	0	0	0	20,399	0	0
Export	0	106,367	941	0	0	86,909

All quantities listed in cubic yards.

*R&R= Removal and Recompaction

**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).

Based on review of the submitted information, City geotechnical staff determined that the project is consistent with LCP policies, and development and design standards, subject to conditions.

Public Works

The City Public Works Department has reviewed the initial study and project plans, and on May 16, 2016, determined that the proposed project is in conformance with the LCP and Malibu Municipal Code (MMC) and can proceed through the Planning Department process. Standard conditions of approval are identified to be implemented during construction and operation, including requiring that a final grading and drainage plan be approved prior to issuance of grading permits. The plan must include storm water management to mitigate increased runoff associated with site development, a storm water pollution prevention plan and a wet weather erosion and sediment control plan. The project is also conditioned to include offsite improvements to the surrounding streets.

⁵ This amount of export was adjusted to include a 10 percent of shrinkage based on the geotechnical reports. Shrinkage is the amount of soil volume lost to an increase rate of soil recompaction.

Wastewater Treatment

The subject property is not included in the Phase 1 assessment district for the CCWTF; however, wastewater collection and recycled water distribution lines for Phase 1 are being constructed in the public rights of way adjacent to the project site. The overall flow capacity and design calculations for the CCWTF accounted for commercial use on the subject property and connection during Phase 2. The proposed project will be included in a subsequent assessment district/phase of the CCWTF, and would pay the assessment and connection charges. With payment of fees to connect to the CCWTF, impacts would be less than significant and no mitigation is required.

SUMMARY: The proposed project has been reviewed and conditionally approved for conformance with the LCP by staff, appropriate City departments and County agencies. The required findings can be made that the project complies with the LCP and MMC.

STAFF FOLLOW-UP: Following review by the ERB, staff will prepare a summary of ERB recommendations. Subsequently, a staff report will be prepared that includes all required project findings and analysis, and the mitigated negative declaration will be scheduled for a public hearing before the Planning Commission. The recommendations of the ERB will be incorporated into the Planning Commission agenda report for the project. The public review for the project's initial study and mitigated negative declaration period closes on December 14, 2016.

EXHIBITS:

Unless otherwise noted, the following exhibits are available on the City's Website: <http://www.malibucity.org/index.aspx?NID=572> and are available for public review by contacting the Planning Department at (310) 456-2489, extension 245 or visiting the Planning Department public counter.

1. Project Plans (hardcopies distributed)
 - a. Architectural Plans
 - b. Civil Plans
 - c. Landscaping Plans
 - d. Lighting Plans
 - e. Color-Coded Slope Analysis
 - f. Fuel Modification Plan
2. [Department Review Sheets](#)
3. [Geotechnical Reports](#)
4. [Initial Study / Mitigated Negative Declaration](#)