

HEARING OFFICER'S FINDINGS AND ORDER:

REQUEST: Minor modification to conditions of approval to previously approved Conditional Use Permit No. 03-084.

Findings

1. The applicant, Ahmad Babeh Khoshkish, requests a minor modification to the conditions of approval for Conditional Use Permit No. 03-084 to modify the expiration date of the permit to a period of six years or until October 26, 2014.
2. The project was approved on October 26, 2005 to allow the construction of a 3,950 square-foot single-family dwelling located in the Santa Monica Mountains between Latigo Canyon Road and Birdella Road in the A-1-5 (Light Agricultural – Five Acre Minimum Area) Zone.
3. The previous application approved a conditional use permit (“CUP) and an oak tree (“OAK”) permit concurrently. The request for a minor modification to extend the expiration date of the permit only covers the CUP portion of the approval as per Code Section 22.56.1600. However, the Title 22 provisions do not allow modifying the oak tree portion of this approval.
4. The approval to construct a single-family residence in 2005 indicates that the applicant proposed a hook-up to a private community sewage facility. This community wastewater treatment system that provides wastewater disposal service to the Malibu Highlands Homeowners failed to operate. Subsequently, the Public Health Department issued a conceptual approval based on conditions and contingent upon the following additional conditions:
 - a. This conceptual approval is intended for the project review process only, it encompasses the requirements applicable to Land Use Program and does not authorize any development until final approval has been issued.

Public Health has no objection to extending the expiration date for CUP 03-084, which authorizes the construction of a single-family dwelling. The subject property is included in the planned use of the community wastewater treatment system that was conceptually approved by Public Health.
 - b. In order to issue a final approval for this project, all conditions of CUP200800102 must be fulfilled and a Waste Discharge Requirement permit must be obtained from Los Angeles Regional Water Quality Control Board.
 - c. Prior to final approval the applicant shall provide a certified copy of the Covenant and Agreement and Owners Declaration

duly notarized and recorded with the County Recorder, and also provide a separate Service Provider Agreement, signed by both parties.

The owner of the subject property has not yet signed/recorded a covenant and agreement and owners declaration.

5. The previous approval conditioned that no building permit be issued for the single-family residences unless and until the Department of Public Health certifies that a functioning sewage disposal facility is available. (Condition no. 22.d). The Department of Regional Planning approved CUP200800102 in 2008, which would entitle the Malibu Highlands Maintenance Corporation (MMHC) to repair and upgrade the community system. However, the Regional Water Quality Control Board (RWQCB) has not issued the final authorization to MMHC for the project.
6. The approval of this minor modification is consistent with the previous CUP 03-084 approval and addresses condition number 22.d concerning the sewage disposal system.
7. The original condition number 6 read as follows:

This Grant shall expire unless within two years from the date of approval. A one-year time extension may be requested, in writing with the payment of the applicable fee, at least six months before the expiration date.
8. The Hearing Officer granted a one-year extension to this period extending the expiration date to October 26, 2008.
9. The proposed modification of condition #6 of the CUP 03-084 to eliminate the expiration date after two years and to extend the expiration date to additional six-years after the expiration date does not bear any alteration or change in the previously approved plans. There are no modifications in terms of the development standards, and the request is consistent with the previous CUP; therefore, the applicant's burden of proof for a conditional use permit previously submitted is valid.
10. This minor modification would allow a reasonable timeframe to meet the above requirements and obtain permits from Public Health and the Department of Public Works.
11. In accordance with the requirements specified in Section 22.56.1620 of the County Code, notices were sent to homeowners within a 500-foot radius of the subject property, legal advertising was placed in The Malibu Times and LA Opinion

Newspapers, and the subject property was posted for a 30-day period.

12. Staff received two phone calls concerning this project. The concern was the subject property's address and there was no opposition to granting an extension. Staff has not received any written protests to the extension.
13. Pursuant to Section 22.56.1630 of the County Code, if more than one protest to the request for a minor modification to a conditional use permit is not received during the appeal period the Hearing Officer shall approve the request.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

REGARDING THE MINOR MODIFICATION OF THE CONDITIONAL USE PERMIT:

- A. That not more than one protest to the granting of the application was received within the specified protest period;
- B. That the burden of proof for the conditional use permit as modified has been satisfied as required by Los Angeles County Code Section 22.56.040;
- C. That approval of the application will not substantially alter or materially deviate from the terms and conditions imposed in the granting of the previously approved conditional use permit; and
- D. That approval of the application is necessary to allow the reasonable operation and use granted in the conditional use permit.

AND, THEREFORE, the information submitted by the applicant and presented at the hearing substantiates the required findings for a minor modification to a conditional use permit as set forth in Section 22.56.1630, Title 22, of the Los Angeles County Code (Zoning Ordinance).

HEARING OFFICER ACTION:

1. The Hearing Officer finds that the project is categorically exempt (Class 1 – Existing Facilities) from the requirements of the California Environmental Quality Act and that the project will not have a significant effect on the environment.

In view of the findings of fact presented above, the requested minor modification to Conditional Use Permit No. 03-084 is approved subject to the attached conditions.

c: Zoning Enforcement, Building and Safety
MM:JN