

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**W7a**

Filed: May 9, 2011
49th Day: June 27, 2011
180th Day: November 5, 2011
Staff: John Del Arroz - LB
Staff Report: September 15, 2011
Hearing Date: October 5-7, 2011
Commission Action:

STAFF REPORT: CONSENT CALENDAR**APPLICATION NUMBER:** 5-11-093**APPLICANT:** Barry Chamberlaine**AGENT:** Richard Olander**PROJECT LOCATION:** 15337 De Pauw Street, Pacific Palisades, Los Angeles County.**PROJECT DESCRIPTION:** Demolition of the existing single family residence, and construction of a new, 3,988 sq. ft., 27.5 foot high, single family residence. Grading consists of 420 cubic yards of balanced cut and fill.**LOCAL APPROVAL:** City of Los Angeles Approval In Concept**SUMMARY OF STAFF RECOMMENDATION**

Staff is recommending that the Commission **APPROVE** a coastal development for the proposed development with six (6) special conditions regarding: 1) Conformance with Geotechnical Reports; 2) Assumption of Risk for the development; 3) Storage of materials, construction debris, and best management practices; 4) Conformance with landscaping and drainage plans; 5) Future Development; and 6) Deed Restriction.

As conditioned, the proposed development does not adversely affect visual resources or public access and recreation. **See Page Two for the motion to carry out the staff recommendation.** The applicant agrees with the staff recommendation. Staff recommends that the Commission find that the proposed development, as conditioned, conforms with the Chapter 3 policies of the Coastal Act and previous Commission approvals, and will not prejudice the City's ability to prepare an LCP.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles Approval in Concept

LIST OF EXHIBITS:

1. Vicinity Map
2. Site Plan

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolutions to **APPROVE** the coastal development permit with special conditions:

MOTION: *I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

I. Resolution: Approval with Conditions

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. 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 on which the Commission voted on the application. 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. 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.
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 property to the terms and conditions.

III. Special Conditions

1. Conformance of Design and Construction Plans to Geotechnical Reports

A) All final design and construction plans and grading and drainage plans shall be consistent with all recommendations contained in the Geologic and Soils Engineering Exploration Update report by The J. Byer Group, Inc., dated August 12, 2008, and with the conditions imposed by the City of Los Angeles Department of Building and Safety, Geologic/Soils Review Letter No. 73189, dated March 9, 2011.

B) 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 required.

2. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from landslide activity, erosion and/or earth movement, and wildfire; (ii) to assume the risks to 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. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

A. The permittee shall comply with the following construction-related requirements:

- (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to erosion or runoff;
- (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed of outside the coastal zone.
- (4) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement

of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and

- (5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

- (1) The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;
- (2) The applicant shall develop and implement spill prevention and control measures;
- (3) The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50-feet away from a storm drain, open ditch or surface water; and
- (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction

4. Landscaping and Drainage Plans

The applicant shall conform to the proposed Drainage Plan received in the Commission's office on May 9, 2011 and the Landscape Plan received in the Commission's office on September 15, 2011. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Future Development

This permit is only for the development described in coastal development permit No. 5-11-093. 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 the development governed by coastal development permit No. . 5-11-093 Accordingly, any future improvements to the single family residence authorized by this

permit, including but not limited to clearing or installation of vegetation on the canyon slopes, grading, or repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. 5-11-093 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

6. 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 landowners have 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.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The subject site is located at 15337 De Pauw Street in the Pacific Palisades region of the City of Los Angeles. The site is an 8,722 sq. ft. lot located directly adjacent to Potrero Canyon and approximately one half mile from the beach. The site is located within a developed single family residential neighborhood.

Potrero Canyon has been the site of significant geotechnical hazards. A number of landslides have occurred within the canyon, which jeopardized a number of residences along the canyon edge. The Potrero Canyon fill project (CDP No. 5-91-286) was developed to stabilize the canyon sides and protect the existing single-family homes on the canyon edge. Before the fill occurred there was a blue line stream and 3.64 acres of riparian vegetation, primarily willow woodland at the bottom of the canyon. The fill project resulted in the importation of fill to raise the canyon bottom. When completed, riparian habitat will be recreated and a public trail will run along the canyon bottom. The project site will overlook the new Potrero Canyon Park recreational area when the Potrero Canyon fill project reaches completion.

The proposed project would demolish the existing single family residence and construct a new, 3,988 square foot, 27.5 foot high single family residence. The applicant's proposed house is set back approximately 28 feet from the edge of slope (Exhibit No. 2). The new residence is

not located closer to the canyon edge than the previous residence. No development is proposed on the rear slope of the property, and the existing retaining walls on site are not proposed to be altered. The applicant proposes the use of a drain and filter system to divert all water to the public storm drain system. Grading consists of 420 cubic yards of cut and fill to be balanced on site.

Section 30600(b)(1) of the Coastal Act allows local government to assume permit authority prior to certification of a Local Coastal Program. Under this section, local government may establish procedures for the filing, processing, review, modification, approval, or denial of coastal development permits within its area of jurisdiction in the coastal zone. Section 30601 establishes that in certain areas, and in the case of certain projects, a permit from both the Commission and local government will be required. Section 30602 states that any action taken by a local government on a coastal development permit application can be appealed by the Executive Director of the Commission, any person, or any two members of the Commission to the Commission within 20 working days from the receipt of the notice of City action.

In 1978, the City of Los Angeles opted to issue its own coastal development permits. The Commission staff prepared maps that indicate the area in which Coastal Development Permits from both the Commission and the City are required. This area is commonly known as the "Dual Permit Jurisdiction." Areas in the coastal zone outside the dual permit jurisdiction are known as the "Single Permit Jurisdiction". The City assumes permit jurisdiction for projects located in the single permit jurisdiction. This project (5-11-093) is located within the "Single Permit Jurisdiction". In certain instances, when the City determines that the project conforms with City land use regulations, an Approval In Concept is issued and the City directs the applicant to apply for a permit from the Coastal Commission. The City, therefore, relinquishes its Coastal Development Permit issuing authority to the Commission.

B. Access and Recreation

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The Coastal Act provides for the protection of public access to the coastline, and encourages the use of upland areas for recreation. The lot subject to this application has been a private, subdivided residential lot for many years. The lot has not been used for recreation. In

approving the project that protects this lot from landslides [Coastal Development Permit No. 5-91-286 (City of Los Angeles recreation and Parks), the Commission required the City to construct and maintain a public park in the canyon adjacent to this lot. The park includes a 7.9 acre reconstructed riparian habitat and additional acreage of coastal sage scrub. The City proposed and the Commission approved a public trail to link the Pacific Palisades recreation center to the coastline. The recreational experience proposed by the City is a mountain trail along an artificial mountain stream. The slopes along the canyon and the proposed stream will be revegetated with local native plants. The subject lot does not provide trail access to the public park and trails in the canyon.

The proposed project is consistent with the proposed park plan, as the project will not result in encroachment of development towards the coastal canyon and will not impact public access to and along the canyon trail and park. Therefore, the Commission finds that the proposed project, as conditioned, conforms with the public access and recreation policies of the Coastal Act.

C. Development

Coastal Act Section 30251 states:

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 subordinate to the character of its setting.

Coastal Act Section 30253 states in part:

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, geologic 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.

Section 30251 of the Coastal Act requires that scenic and visual qualities of coastal areas be protected. The landscaping choices, retaining walls, decks, and grading choices of the lot owners along the rim will affect the City's efforts to create a replacement for the stream and creation of a mountain hiking experience in the park. Future development on the site, such as the installation of large walls, residential structures that extend into the canyon, grading, and clearing or installation of landscaping would result in visual impacts to pedestrians walking along the bottom of the canyon. Therefore, the Commission imposes Special Condition 5 requiring a new Coastal Development Permit or an amendment to this permit for future development on the site. As conditioned, the development will not result in impacts to the

scenic and visual qualities of the canyon and public park, significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Sections 30210, 30211, 30223 and 30251 of the Coastal Act.

The proposed project is located in an area subject to natural hazards. The Pacific Palisades area has a long history of natural disasters, some of which have caused catastrophic damage. Hazards common to this area include landslides, erosion, flooding, and wildfires. As mentioned above, Potrero Canyon is the site of several landslides and several areas of slumping. This landslide activity was attributed to the build-out of the subdivision (specifically along the canyon edge), which increased the nuisance flow into the stream below.

The proposed residence is not located closer to the canyon edge than the previous residence. No development is proposed on the rear slope of the property, and the existing retaining walls on site are not proposed to be altered. The applicant has submitted a report from J Byer Geotechnical, dated August 25, 2011, stating that the existing retaining walls on the site are in good physical condition. Drainage on site will be diverted to a drain and filter system to divert runoff to the public storm drain system to ensure that runoff does not contribute to slope instability.

The applicant received an Approval In Concept letter (ZA-2011-871-AIC) from the City of Los Angeles Planning Department on April 6, 2011 for a new two story single family home with attached garage. The applicant's geologist recommends that the applicant support the house with conventional footings into the compacted fill provided the geologist's recommendations are followed. The applicant's geologist and the City's geologist and geological engineer have approved the applicant's proposed project. To ensure that the project does not result in additional geologic stability, the Commission imposes Special Condition 1, requiring conformance with geotechnical recommendations.

Under Section 30253 of the Coastal Act new development in areas of high geologic, flood, and fire hazard may occur so long as risks to life and property are minimized and the other policies of Chapter 3 are met. The Coastal Act recognizes that new development may involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his/her property.

The Geotechnical report by J. Byer Group have stated that the subject property is suitable for the proposed development. However, development adjacent to slopes such as those found on canyons is inherently hazardous. The proposed project may still be subject to natural hazards such as slope failure, erosion, and wild fire. Due to the inherent risks to development situated on a canyon edge, the Commission finds that the proposed project is subject to risk from landslides, erosion and/or wild fire and that the applicant should assume the liability of such risk. Therefore the Commission imposes Special Condition 2, requiring the applicant to assume the risk for development. As conditioned, the Commission finds that the project conforms with Section 30253 of the Coastal Act.

D. Deed Restriction

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes an additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development.

E. Water Quality

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health

F. Local Coastal Program

Section 30604 (a) of the Coastal Act states:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development 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 (commencing with Section 30200).

In 1978, the Commission approved a work program for the preparation of Local Coastal Programs in a number of distinct neighborhoods (segments) in the City of Los Angeles. In the Pacific Palisades, issues identified included public recreation, preservation of mountain and hillside lands, and grading and geologic stability.

The City has submitted five Land Use Plans for Commission review and the Commission has certified three (Playa Vista, San Pedro, and Venice). However, the City has not prepared a Land Use Plan for Pacific Palisades. In the early seventies, a general plan update for the Pacific Palisades had just been completed. When the City began the LUP process in 1978, with the exception of two tracts (a 1200-acre and 300-acre tract of land) which were then undergoing subdivision approval, all private lands in the community were subdivided and built out. The Commission's approval of those tracts in 1980 meant that no major planning decision remained in the Pacific Palisades. The tracts were A-381-78 (Headlands) and A-390-78

(AMH). Consequently, the City concentrated its efforts on communities that were rapidly changing and subject to development pressure and controversy, such as Venice, Airport Dunes, Playa Vista, San Pedro, and Playa del Rey.

As conditioned, to address the geologic stability, landscaping, and water quality issues related to the project, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program in conformity with Chapter 3 of the Coastal Act. The Commission, therefore, finds that the proposed project is consistent with the provisions of Section 30604 (a) of the Coastal Act.

G. California Environmental Quality Act (CEQA)

Section 13096 Title 14 of the California Code of 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 which the activity may have on the environment.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

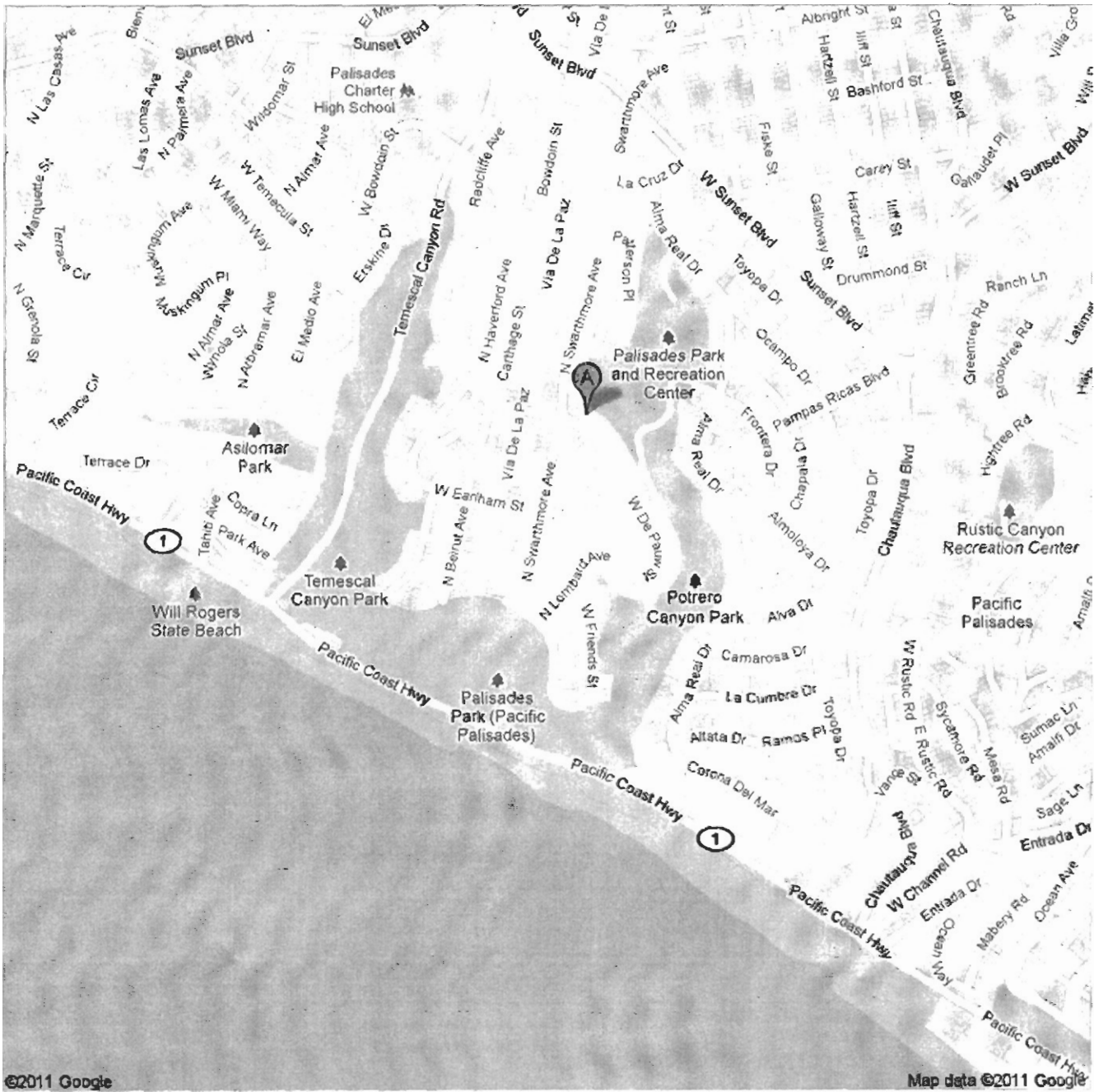
Google maps

Address 15337 De Pauw St
Los Angeles, CA 90272

Get Google Maps on your phone



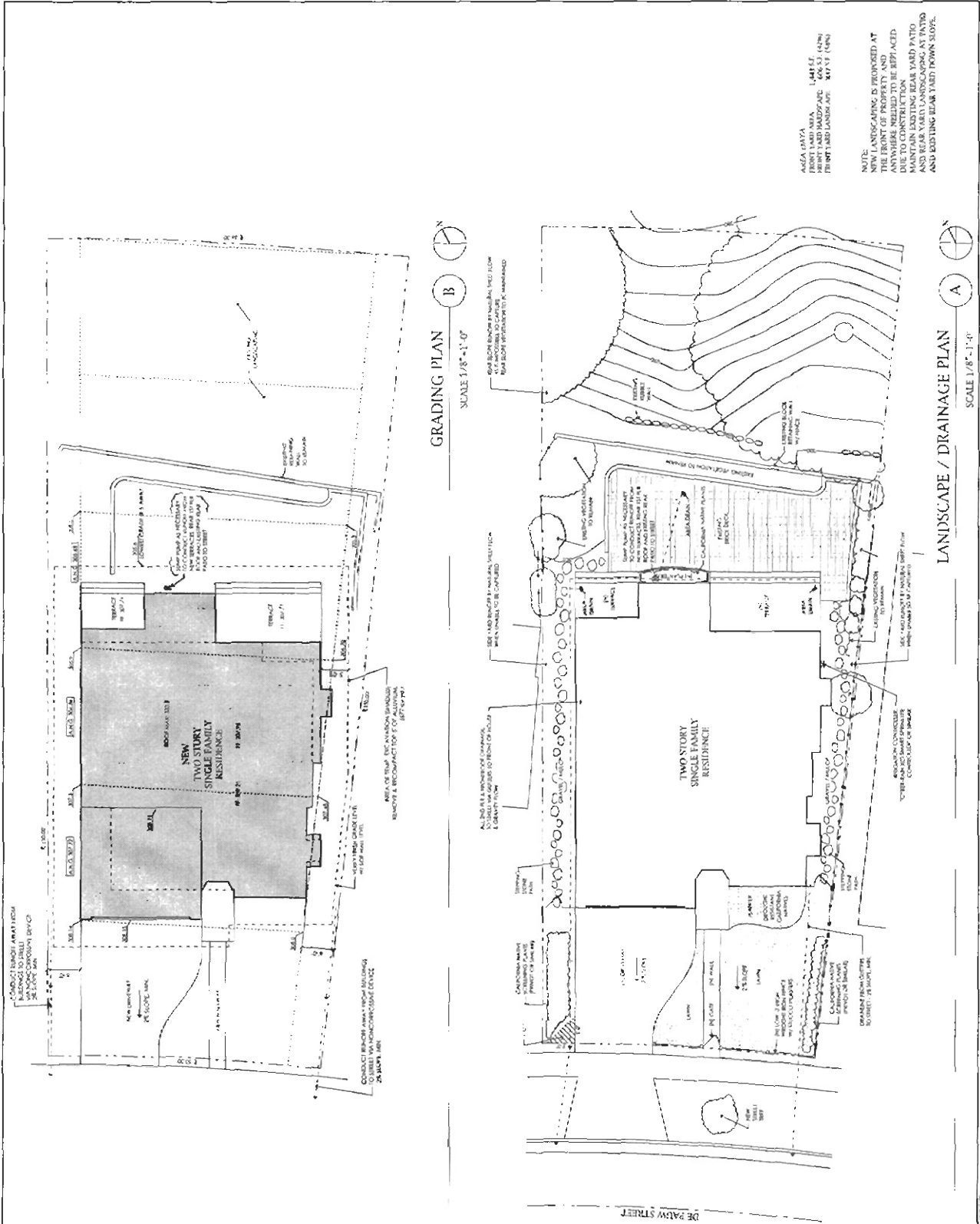
Text the word "GMAPS" to 466453



Vicinity Map

COASTAL COMMISSION

EXHIBIT # 1
PAGE OF



Site Plan

COASTAL COMMISSION

EXHIBIT # 2

PAGE OF