

CALIFORNIA COASTAL COMMISSION

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



W5a

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49th Day: 6/6/11
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Staff: Al J. Padilla-LB
Staff Report: 8/17/11
Hearing Date: 9/7-9/11

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-11-095

APPLICANT: Mark E. Pollack

AGENT: Lynn Heacox

PROJECT LOCATION: 831 N. Paseo Miramar, Pacific Palisades

PROJECT DESCRIPTION: Demolition of an existing two story 617 square foot accessory building and construction of a 1,306 square foot, 28 feet high above existing grade, one story plus basement accessory building that includes guest room, exercise room, study, and mechanical room.

Lot Area	20,395 square feet
Building Coverage	688 square feet
Parking Spaces	5 existing
Zoning	RE-15-1-H (Residential Estate)
Ht above final grade	28 feet

LOCAL APPROVALS RECEIVED: City of Los Angeles Approval In Concept No. ZA 2011-483

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission approve the proposed project with special conditions requiring: 1) conformance with geologic and soil recommendations; 2) erosion and runoff control plans; 3) future Improvement restriction; 4) assume the risk; 5) recordation of a deed restriction against the property referencing all of the Standard and Special Conditions contained in this staff report.

I. STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application:

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

Staff recommends a **YES** vote. Passage of this motion will result in approval of all permits included on the consent calendar. An affirmative vote of a majority of the Commissioners present is needed to pass the motion.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California 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. 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 alternative 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 Report

A) All final design and construction plans and grading and drainage plans, shall be consistent with all recommendations contained in Geotechnical Engineering Investigation, by Coastline Geotechnical Consultants, Inc., dated February 2, 2009, supplemental report dated August 2, 2010, and with the conditions imposed by the City of Los Angeles Department of Building and Safety, Geologic/Soils Report Approval Letter No. 72918, dated February 2, 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. Erosion and Drainage Control

A) PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, a plan for erosion and drainage control.

1) Erosion and Drainage Control Plan

(a) The erosion and drainage control plan shall demonstrate that:

- During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and public streets.
- The following temporary erosion control measures shall be used during construction: temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible.
- Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and public streets.
- Permanent erosion and drainage control measures shall be installed to ensure the stability of the site, adjacent properties, and public streets.
- All drainage from the lot shall be directed toward the street.

(b) The plan shall include, at a minimum, the following components:

- A narrative report describing all temporary run-off and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control.
 - A site plan showing the location of all temporary erosion control measures.
 - A schedule for installation and removal of the temporary erosion control measures.
 - A site plan showing the location of all permanent erosion and drainage control measures.
 - A schedule for installation and maintenance of the permanent erosion and drainage control measures.
 - A written review and approval of all erosion and drainage control measures by the applicant's engineer and/or geologist
 - A written agreement indicating where all excavated material will be disposed and acknowledgement that any construction debris disposed within the coastal zone requires a separate coastal development permit.
- (c) These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from the runoff waters during construction. All sediment shall be retained on-site unless removed to an appropriately approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

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.

3. No Future Improvements Restriction

This permit is only for the development described in coastal development permit No. **5-11-095**. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the density or intensity of use land, shall require an amendment to Permit No. **5-11-095** from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

4. 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, (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.

5. 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.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant proposes to demolish an existing two story 617 square foot accessory building and construct a 1,306 square foot, 28 foot high (above existing grade), one story plus basement accessory building on a caisson foundation, with approximately 245 cubic yards of grading (cut). The new accessory building will consist of a guest room, exercise room, study, and mechanical room.

The existing accessory building drops down along the slope in the northwest portion of the property and is built to the rear western property line. The new building will be setback 5 feet from the rear property line, consistent with City requirements, with a foundation consisting of 8 30-inch caissons. Since the proposed project will be sited in the location of the existing accessory building and is currently surrounded by existing hardscape, the applicant is not proposing any additional landscaping associated with this accessory structure.

The subject site is located on the west side of Paseo Miramar, near its terminus, in the Pacific Palisades area of the City of Los Angeles and abuts the eastern boundary of Topanga State Park (see Exhibit No. 1 and 2). The subject lot is developed with a two-story single-family residence, detached accessory building, sports court, retaining walls, hardscape, and landscaping. Topographically the site is relatively level. The western portion of the property descends offsite to the west where the slope continues to descend 220 feet at an average angle of 39 degrees to the bottom of a drainage ravine. Paseo Miramar is situated along a ridge and is developed with single-family residences along both sides of the street.

The proposed building will be located in the area of the existing accessory building to be demolished, utilizing the cut slope and existing retaining walls that supported the existing structure, which will minimize the amount of grading.

Although the property is located adjacent to Topanga State Park the project will not have a significant visual impact from the park. The nearest trail is approximately 600 feet down slope, and because of the distance from trails, and the fact that the accessory structure is adjacent to the existing residential building that is larger in scale than the proposed accessory structure and neighboring residences, any potential views of the building will not be significant.

The applicant has had the State of California Department of Parks and Recreation review the proposed project and after reviewing the plans State Parks determined that the project would not adversely impact State property, would not require brush clearance (fuel modification) on State lands, and supports the "Early California/Mission Revival" design (see Exhibit No. 5). The applicant has also received City of Los Angeles Fire Department plan approval. The City's Fire Department does not require brush clearance for fuel modification purposes on State property, and any brush clearance in the adjacent park would be the responsibility of State Parks and Recreation. As proposed, the accessory structure would be located within the overlapping fuel modification zones of the existing on-site residential structure and the adjacent neighboring residence. Therefore, the reconstructed accessory structure will not expand the fuel modification zone any further into the park than the existing residences.

A Geotechnical Engineering Investigation report was prepared by Coastline Geotechnical Consultants, Inc. dated February 2, 2009, with supplemental reports. The reports indicate that the proposed development is feasible provided the advice and

recommendations contained in their report are included and implemented. The City of Los Angeles' Department of Building and Safety reviewed and approved the report.

B. Development

The development is located within an existing developed area and, as proposed, will not affect the visual appearance of the surrounding area. The project has been designed to assure structural integrity, and will not have any significant adverse impacts on public coastal views or public beach access. Therefore, the Commission finds that the development, as conditioned, conforms with Sections 30250, 30251, 30252, 30253 and the public access provisions of the Coastal Act.

C. Geologic Hazard

Under Section 30253 of the Coastal Act new development may occur in areas of high geologic, flood, and fire hazard so long as risks to life and property are minimized and the other policies of Chapter 3 are met. 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. To minimize risks to life and property and to minimize the adverse effects of development on areas of high geologic, flood, and fire hazard, the development has been conditioned to require one or more of the following: adherence to the geotechnical recommendations, for a drainage and runoff plan to minimize the percolation of water into the hillside or bluff, to submit landscape plans consisting primarily of native drought tolerant plants, to submit a plan for erosion and drainage control, and to require that the landowner or any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in hazardous locations.

D. Water Quality

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. Furthermore, uncontrolled runoff from the project site and the percolation of water could also affect the structural stability of bluffs and hillsides. To address these concerns, the development, as proposed and as conditioned, incorporates design features to minimize the infiltration of water and 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 and 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.

E. Future Improvements

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition must be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

F. 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 one 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, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

G. Local Coastal Program

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Pacific Palisades area of the City of Los Angeles has neither a certified LCP nor a certified Land Use Plan. As conditioned, the proposed development will be consistent with Chapter 3 of the Coastal Act. Approval of the project 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 of the Coastal Act.

H. California Environmental Quality Act

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



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EXHIBIT NO. 1

Application Number

5-11-095

Vicinity Map

California Coastal Commission

CALIFORNIA
COASTAL COMMISSION[illegible]

APPROVED

EXHIBIT NO.

Application Number

5-11-095

Site Plan

California Coastal Commission

BRUSH CLEARANCE

A.01.7

831
N. PASEO MIRAMAR
SUITE 302 ROCKFORD HILLTOP/VALE CHARTERS



DEPARTMENT OF PARKS AND RECREATION
Angeles District Office
1925 Las Virgenes Road
Calabasas, CA 91302

Ruth Coleman, Director

July 20, 2011

Lynn Heacox
209 Avenida San Pablo
San Clemente, CA 92672

Dear Mr. Heacox,

Thank you for hosting the site visit and giving us the opportunity to review Mark Pollack's restoration project at 831 Paseo Miramar, Pacific Palisades. It appears, as you stated, that your work and the completed product, will not adversely affect State land. You are not staging materials or equipment on State land. Your modifications to the structure will enhance Mr. Pollack's grounds and the view from the State Park. State Parks will not be asked to approve brush clearance (fuel modification) in the future, on the State land that is adjacent to Mr. Pollack's property.

I feel we had a productive meeting and that both parties mutually support our respective missions. We commend you on the extra work you are doing to restore your property to authentic 'Early California/Mission Revival' standards, for it is akin to the restoration work we perform at the Adamson House, Hearst Castle, and several Missions owned by the State. It appears that you also respect State Park's efforts to maintain virgin land in its unaltered state. It's good to have conscientious and complimentary neighbors.

Good luck with your project, and feel free to contact me with any issues regarding State Parks, as we manage land next to your property, or throughout the State.

Sincerely,

Tom Dore
Associate Parks and Recreation Specialist
(818) 880-0365

EXHIBIT NO. 5
Application Number 5-11-095
Letter from State Dept. of Parks & Rec.
California Coastal Commission