

CALIFORNIA COASTAL COMMISSION

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Th10a

Filed: 08/31/2017
180th Day: 02/27/2018
270th Day: 05/28/2018
Staff: S. Vaughn-LB
Staff Report: 09/21/2017
Hearing Date: 10/12/2017

STAFF REPORT: PERMIT AMENDMENT

Amendment

Application No.: 5-07-032-A1

Applicant: Diane Waingrow

Agent: Diane Waingrow

Project Location: 1014 Maroney Lane/929 N. Las Lomas Avenue, Pacific Palisades, City of Los Angeles
Los Angeles County (APN: 4420-009-020)

Description of Previously Approved Project: Construction of a 1,140 sq. ft., 21-ft. high, one-story with split levels, accessory building with a 300 sq. ft. deck, on a 19,144 sq. ft. canyon lot with an existing single-family residence and a 10-foot high, 33-foot long retaining wall.

Description of Amendment: Interior remodel and change of use of the 1,140 sq. ft. accessory structure to an accessory dwelling unit (ADU).

SUMMARY OF STAFF RECOMMENDATION

The Commission approved Coastal Development Permit (CDP) No. 5-07-032 (Waingrow) in May, 2007 for the construction of an accessory structure on a 19,144 square-foot lot with an existing single-family residence and an attached two-car garage. CDP 5-07-032 was approved subject to five special conditions, including Special Condition 4, which prohibited the use of the accessory structure as a secondary residence, and Special Condition 5, which required a deed restriction to inform future property owners of all conditions of approval. Since the approval of CDP 5-07-032, state law (AB 2299 and SB 1069) regarding accessory dwelling units (ADU) has changed, notably with regard to parking requirements.

5-07-032-A1 (Waingrow)

The applicant is requesting to amend Special Condition 4 of CDP 5-07-032 to allow a change in use of the accessory structure to an ADU, consistent with AB 2299's and SB 1069's purpose to encourage more ADUs to address California's housing shortage. The applicant is also requesting interior modifications to the accessory structure including: new appliances, cabinetry, countertops, remodeled bathroom, and a new partition wall.

Commission staff recommends modifying Special Condition 4 of CDP 5-07-032 to allow the accessory structure to be converted to an ADU, and to add [Special Condition 5](#), which will require amending the existing deed restriction to reflect changes in [Special Condition 4](#) of CDP 5-07-032-A1 and to add new special conditions. Commission staff recommends **approval** of CDP application amendment 5-07-032-A1 with no modification to Special Conditions 1-3, new language for [Special Condition 4](#), an amended deed restriction ([Special Condition 5](#)), and [Special Condition 6](#) which maintains the Special Conditions of the underlying permit with the exception of changes made to Special Conditions by this permit amendment.

The City of Los Angeles does not have a certified Local Coastal Program (LCP) for the Pacific Palisades area and the standard of review for the proposed project is the Chapter 3 policies of the Coastal Act.

PROCEDURAL NOTE

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

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EXHIBITS

[Exhibit 1 – Vicinity Maps](#)

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I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** the proposed amendment to Coastal Development Permit No. 5-07-032-A1 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve a Permit Amendment:

The Commission hereby approves the Coastal Development Permit Amendment on the grounds that the development as amended and subject to conditions, 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. Approval of the permit amendment 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 will substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit amendment is granted subject to the following 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

A. UNMODIFIED SPECIAL CONDITIONS UNDER ORIGINAL PERMIT (Note: These conditions have already been satisfied and the required documents have already been recorded)

1. Conformance with Geotechnical Recommendations

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, The applicant shall conform to the submitted grading and foundation plans for the review and approval of the Executive Director. The approved foundation plans shall include plans for the retaining walls, and friction piles. These plans shall include the signed statement of the geotechnical consultant certifying that these plans incorporate the recommendations contained in the Geotechnical Report prepared by Schick Geotechnical, Inc. dated March 12, 2006. The approved development shall be constructed in accordance with the plans approved by the Executive Director. Any deviations from said plans shall be submitted to the Executive Director for a determination as to whether the changes are substantial. Any substantial deviations shall require an amendment to this permit or a new coastal development permit.

2. Erosion and Runoff Control Plans

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and approval of the Executive Director, final erosion and runoff control plans. The plans shall include:

1) Erosion and Drainage Control Plan (Construction Phase)

- 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.
 - 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.
 - Permanent erosion and drainage control measures shall be installed to ensure the stability of the site, adjacent properties, and public streets.
 - The erosion and drainage control plans shall show all roof drainage from the structure.
- b. The erosion control 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 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 and drainage control measures shall be required to be in place and operational on the project site prior to or concurrent with the initial grading operations and maintained throughout 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.
- d. The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils, and cut and fill slopes with geotextiles and/or mats, sand bag barriers, and/or silt fencing; and include temporary drains and swales and sediment basins. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

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. Drainage and Landscape Plans

A. The landscape and drainage control plan shall:

- Use efficient irrigation systems to minimize nuisance water runoff.
- Minimize to the maximum extent practicable the use of chemical pesticides, herbicides and fertilizers on all landscaped areas.
- No less than 80 percent of vegetation shall be low water use plants for southern California coastal areas as defined by the University of California Cooperative Extension and the California Department of Water Resources in their joint publication: "*Guide to estimating irrigation water needs of landscape plantings in California*".
- The applicant shall employ no invasive, non-indigenous plant species, which tend to supplant native species as identified on the California Native Plant Society publication "California Native Plant Society, Los Angeles -- Santa Monica Mountains Chapter handbook entitled *Recommended List of Native Plants for Landscaping in the Santa Monica Mountains*, January 20, 1992 "and/or by the California Invasive Plant Council.

- Use of California native plants indigenous to the Santa Monica Mountains is encouraged. As much as possible, local seed sources shall be used.
- All required plantings shall be installed within 60 days of the receipt of the certificate of occupancy for the structure. Plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan.

B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

B. SPECIAL CONDITION OF ORIGINAL PERMIT MODIFIED HEREIN

Deletions Shown in ~~Strike-Out~~, Insertions Shown in **Bold Italic Underline**

4. **Land Use.** By acceptance of this permit, the applicant acknowledges and agrees that the site is subject to local zoning regulations related to allowable uses for accessory buildings. Pursuant to those regulations ~~the~~ accessory building may **also** ~~shall not~~ be permitted for use as a secondary residence **consistent with AB 2299 and SB 1069, but shall not be permitted** ~~or~~ as the primary location for a home occupation or other commercial application.
5. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants 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 new Special Conditions of this permit **amendment** as **additional** 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 **and amendment**. 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 **and amendment** shall continue to restrict the use and enjoyment of the subject property so long as either this permit, **including this amendment**, or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

C. ADDITIONAL SPECIAL CONDITIONS

6. **Prior conditions.** Unless specifically altered by this amendment, all regular and special conditions attached to coastal development permit 5-07-032 remain in effect.

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION, PROJECT DESCRIPTION, AND AMENDMENT DESCRIPTION

The subject site is located at 1014 Maroney Lane and 929 N. Las Lomas Avenue in Pacific Palisades, City of Los Angeles, Los Angeles County ([Exhibit 1](#)). The lot is developed with a single-family residence with an attached two-car garage and an accessory structure and is zoned RE11-1 by the City of Los Angeles Zoning Code. The subject site consists of a single 19,144 square-foot lot located on the south side of Maroney Lane. The southern edge of the project site is bordered by Las Lomas Avenue, and an existing gate on the lot perimeter provides access to this street at the address of 929 N. Las Lomas Ave. The property is on a sloping lot of a small canyon that descends approximately 70 feet from Las Lomas Avenue to Maroney Lane below. The slope above the existing primary residence where the accessory building is located descends approximately 35 feet at a gradient of approximately 2:1 (horizontal to vertical). There is no blue line stream within the canyon. The surrounding area is residentially developed with single-family residences on hillside and canyon lots. The subject site is located approximately one mile inland from the beach and a half mile west of Temescal Gateway Park. There are some trail access points to the Santa Monica Mountains at the terminus of Las Lomas Avenue. The local neighborhood is comprised of narrow local streets utilized primarily by residents and those accessing the local mountain trails.

In May 2007, the Commission approved CDP 5-07-032 for the construction of a single-story, split level, 21-foot high, 1,140 square-foot accessory building, with a 300 square-foot attached deck, and an associated 10-foot high, 33-foot long retaining wall. No improvements to the single-family residence that already existed on the project site were proposed or approved by the Commission at that time. CDP 5-07-032 was approved subject to five special conditions including Special Condition 4, which prohibited the use of the accessory structure as a secondary residence, and Special Condition 5, which required a deed restriction to inform future property owners of all conditions of approval. Since the approval of CDP 5-07-032, state law (AB 2299 and SB 1069) regarding ADUs has changed.

Effective January 1, 2017, the State Legislature amended Government Code section 65852.2 to modify the requirements that local governments may apply to ADUs, most notably with respect to parking. The Legislature specified that local ADU ordinances enacted prior to 2017 that do not meet the requirements of the new legislation are null and void. (Gov. Code, § 65852.2, subd. (a)(4).) However, the statute states that it shall not be interpreted to “supersede or in any way alter or lessen the effect or application of the California Coastal Act...” Accordingly, local zoning ordinances governing ADUs are null and void if they do not comply with the standards contained in Government Code section 65852.2, and local jurisdictions are required to implement the standards in section 65852.2 until such time as the jurisdiction adopts a new, compliant ADU ordinance. However, local jurisdictions and the Commission must still apply ADU and other more general coastal protection policies in certified LCPs and the Coastal Act when considering ADU projects.

In this case, the City of Los Angeles has determined that its preexisting ADU ordinance is null and void¹. Special Condition 4 of the original permit, which forbids use of the accessory unit as a second residence due to the restrictions of the City’s ADU ordinance, is therefore no longer appropriate and may be modified. In determining whether to issue a CDP amendment here, the Commission does

¹ See: <https://planning.lacity.org/documents/Citywide/MemoAB2299.pdf>

not need to determine whether the permit amendment would comply with Government Code 65852.2, but only whether it complies with the Coastal Act. The City will still need to determine if the project complies with state ADU law if and when it issues a building or other local permit for the project.

The Coastal Act requires the Coastal Commission to encourage housing opportunities for low and moderate income households and calls for the concentration of development in existing developed areas. (Pub. Resources Code, §§ 30250, subd. (a); 30604, subd. (f).) The creation of a new ADU in an existing residential neighborhood will increase the supply of lower-cost housing in the coastal zone in a way that avoids significant adverse impacts on coastal resources. In addition, because it is located in a developed, residential neighborhood approximately one mile inland from the beach, the construction and use of the unit as a second residence—including use of any nearby street parking by a potential new resident—will not impact public access. Likewise, because the proposed development consists of interior renovations, it will not result in impacts to habitat, aesthetics or other coastal resources.

The applicant is requesting to amend Special Condition 4 of CDP 5-07-032 to allow a change in use of the accessory structure to an ADU consistent with AB 2299 and SB 1069. The applicant is also requesting interior modifications to the accessory structure including: new appliances, cabinetry, countertops, remodeled bathroom, and a new partition wall. No changes are proposed to the other underlying special conditions of CDP 5-07-032: 1) conformance to geotechnical recommendations; 2) erosion control runoff plan; 3) drainage and landscaping plans; and 5) deed restriction. The Special Conditions of CDP 5-07-032 were satisfied by the applicant prior to issuance of CDP 5-07-032, including a deed restriction. Because the applicant proposes changes to Special Condition 4 of CDP 5-07-032, an amended deed restriction will need to be recorded to reflect the changes to [Special Condition 4](#) of CDP 5-07-032-A1. Therefore, the Commission requires modifications to [Special Condition 5](#) and imposes a new special condition, [Special Condition 6](#), which requires the applicant to adhere to the special conditions of CDP 5-07-032, unless they are specifically altered by this permit amendment.

The proposed project will not result in the removal or replacement of any major structural components (e.g. roof, exterior walls, foundation), but proposes interior modifications to the existing accessory structure only. The proposed amendment is not consistent with Special Condition 4 of the underlying permit approval (CDP 5-07-032), which prohibited the conversion/use of the accessory structure to/as an ADU, which was consistent with state and local laws at the time of its approval in 2007. However, with the passage of AB 2299 and SB 1069, the conversion of the accessory structure to an ADU is a currently legal use of the existing accessory structure. Modifying Special Condition 4 of the original permit will therefore not lessen the intended effect of the condition, which had been imposed in order to comply with then-existing ADU ordinances.

The proposed development will not result in adverse impacts to marine resources, water quality, biological resources, public access, or recreation. The proposed amendment is consistent with underlying permit approval with regard to continued conformance with geotechnical recommendations, the approved erosion control plan, and a permanent drainage and runoff control and landscaping plan that are designed to control volume, velocity, and pollutant load runoff leaving the site during and after construction activities. The proposed project will not affect the community

character of the area and will not result in a significant visual impact. The amended project, as conditioned, is consistent with the underlying CDP and with Chapter 3 policies of the Coastal Act.

B. SINGLE/DUAL PERMIT JURISDICTION AREAS

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the *Dual Permit Jurisdiction* area, the Coastal Act requires that any development which receives a local CDP also obtain a second (or “dual”) CDP from the Coastal Commission. For projects located inland of the areas identified in Section 30601 (i.e., projects in the *Single Permit Jurisdiction*), the City of Los Angeles local coastal development permit is the only CDP required. The subject project site herein is located within the *Single Permit Jurisdiction Area*. The Commission is acting on this project even though it is in the *Single Permit Jurisdiction Area* because the Commission approved the underlying permit, which includes special conditions that will be amended as a result of approval of the CDP amendment application. The Commission's standard of review for the proposed amendment is the Chapter 3 policies of the Coastal Act.

C. PUBLIC ACCESS

The project is located approximately one mile inland of the beach in a developed residential neighborhood and will not remove any of the existing on-site parking spaces. Additional on-site parking to support the proposed ADU is not proposed at this time, which is consistent with AB 2299 and SB 1069 because public transportation is located less than ¼ of a mile from the site along Sunset Boulevard. Furthermore, the proposed project is located approximately one mile inland of the beach and is not anticipated to have a negative impact on the public beach parking supply. As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and Section 30252 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 a special condition requiring that the property owner amend the 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.

E. 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, 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.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications 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.

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. The project also has no significant impacts on the environment within the meaning of CEQA. Therefore, the Commission finds that the proposed project, as submitted, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A

SUNSTANTIVE FILE DOCUMENTS

CDP 5-07-032