

CALIFORNIA COASTAL COMMISSION

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**W13b**

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Hearing Date: 10/10/2018

STAFF REPORT: REGULAR CALENDAR

Application No.:	5-18-0253
Applicant:	David H. Jacobs
Agent:	Jason Herriven, J. Herriven Architect, Inc.
Location:	201 N. Entrada Drive, Pacific Palisades, City of Los Angeles, Los Angeles County (APN: 441-001-011)
Project Description:	After-the-fact approval of demolition of a one-story, approximately 1,800 sq. ft. building and construction of a 4-level, 33 ft.-high, 2,922 sq. ft. single-family residence with 666 sq. ft. of covered parking.
Staff Recommendation:	Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

On March 17, 2004, the City of Los Angeles Zoning Administrator approved a Coastal Development Permit (CDP) for the construction, use, and maintenance of a single-family dwelling with at least four parking spaces not to exceed 1,800 sq. ft. excluding basement and garage areas or 33 ft. in height. The resulting development on site included the demolition of a one-story, approximately 1,800 sq. ft. building and construction of a 4-level, 33-ft. high, 3,588 sq. ft. (1,707 excluding basement and garage areas) single-family home (**Exhibit 3**) in a residential neighborhood within the Brentwood area of the Pacific Palisades community of the City of Los Angeles. In the City of Los Angeles, the Coastal Zone is divided into single and dual permit jurisdiction areas. The subject site is located within the dual permit jurisdiction area; however, during the local permit process, the City incorrectly identified the property as being located within the single permit jurisdiction and, additionally, the City did not provide notice of the final local action to the Coastal Commission. Subsequent to obtaining a coastal development permit from the City, the applicant did not obtain the necessary coastal development permit from the Commission, and undertook the project without the required authorization from the Commission. On November 14, 2017, the

Commission's Long Beach office received the City's notice of final local action and established the 20-working day appeal period. On April 5, 2018, the applicant submitted the dual CDP application for after-the-fact approval of the demolition of a one-story, approximately 1,800 sq. ft. building and construction of a 4-level, 33-ft. high, 3,588 sq. ft. (1,707 sq. ft. excluding basement and garage areas) single-family home.

The subject site is located in a developed residential neighborhood adjacent to a commercially zoned area. The site is located approximately 550 ft. from PCH and is not significantly visible from public vantage points. The proposed project is compatible with the character of the surrounding community. The residence does not affect the public's ability to gain access to, and/or to make use of, the coast and nearby recreational facilities. The proposed residence was constructed between 2007 and 2010 in accordance with the City-issued CDP and revised plans approved by the City in 2007. A Geologic and Soils Engineering Investigation, dated April 19, 2005, and addendum dated October 29, 2007 were prepared for the site and concluded the proposed development is feasible from a geotechnical engineering standpoint if the report's recommendations are incorporated into project plans and implemented during construction. A geotechnical engineer conducted field investigations throughout construction and issued a certificate of compliance for compliance for compacted earth fills on September 17, 2010. The drainage associated with the proposed development includes roof drains and down spouts that direct water to the side yards and street. There is no runoff directed from the site to the adjacent creek. While the proposed project does not have significant adverse impacts on public access, visual resources, geologic stability, and water quality, there are issues in the general area with the proliferation of invasive species and drought. Therefore, **Special Condition 1** is imposed to require all future landscaping to be non-invasive and primarily drought tolerant to minimize water use and adverse impacts to native species.

Pursuant to section 13055 of the California Code of Regulations, fees for an after-the-fact development are five times the amount required for the development under normal circumstances; however, the Executive Director can reduce the after-the-fact fee to as low as two times the amount normally required if significant additional staff review time is not necessary or the development was not undertaken by the applicant. In this case, no significant additional staff review time was necessary. Therefore, the after-the-fact application fee was reduced from five times to two times the normal application fee for the proposed residence and associated grading.

Staff is recommending **approval** of the proposed coastal development permit with the **one (1)** aforementioned special condition.

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EXHIBITS

- Exhibit 1 – Vicinity Map
- Exhibit 2 – As-Built Project Plans
- Exhibit 3 – Local CDP No. ZA-2003-1708 & City Staff Report

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 5-17-0253 subject to the conditions set forth in the staff recommendation.*

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

Resolution:

The Commission hereby approves Coastal Development Permit 5-18-0253 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. 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

This permit 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 of 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

This permit is granted subject to the following special condition:

1. **Landscaping.** Any future landscaping of the site shall be consistent with the following:
 - A. Vegetated landscaped areas shall consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).
 - B. Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or microspray irrigation systems may be used. Other water conservation measures shall be considered, such as weather based irrigation controllers.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION & LOCATION

The applicant is requesting after-the-fact approval for the demolition of a one-story, 1,800 sq. ft. structure and construction of a four-level, 33-ft. high single family residence with four on-site parking spaces accessed by two driveways, a 38-ft. high roof access structure, and an approximately 844 sq. ft. basement (**Exhibit 2**). The proposed residence is 33 ft. tall with the maximum height of the stairway housing on the roof deck reaching 38 ft. Approximately 5.5-ft. high walls and raised grade side yards approximately 5.5 ft. in height are proposed. The proposed landscaping includes additional low planters and a grasscrete or equivalent driveway accessed from Entrada Drive. On-site drainage includes roof drains and down spouts that direct water to the side yards and street.

The project site is located on the corner of Entrada Drive and Short Street at 201 N. Entrada Drive within the Dual Permit Jurisdiction Area of the City of Los Angeles in the Brentwood area of Pacific Palisades, approximately 550 ft. northeast of Pacific Coast Highway (PCH) and 650 ft. inland of Will Rodgers State Beach (**Exhibit 1**). The subject property is an approximately 2,400 sq. ft. lot designated R1-1 (Low Density Residential) in the City of Los Angeles' zoning code and abuts the Rustic Creek flood control channel. The surrounding neighborhood immediately north and east of the project site is composed of largely one- and two-story single-family residences. The residence is also directly across the street from a commercial neighborhood with multi-family residences and mixed commercial uses.

The City approved Coastal Development Permit No. ZA-2003-1708-CDP-YV-ZAA on March 17, 2004 for a single-family dwelling not to exceed 1,800 sq. ft. (excluding basement and garage areas), nor a height of 33 ft. In addition, the City required a minimum 10-ft. front yard and 15-ft. rear yard. At the time, the City incorrectly identified the property as being located within the single permit

jurisdiction area and did not provide notice of the final local action to the Coastal Commission. This error was discovered when the Coastal Commission received a CDP application for a project located at 211 N. Entrada Drive on October 5, 2017. After the Commission notified the City, the City sent a Notice of Final Local Action (NOFA) to the Commission's Long Beach office on November 14, 2017, along with the 13 year-old local CDP. After receipt of the NOFA, the 20 working-day appeal period was established. No appeals of the local CDP were filed.

The City's permit included a condition requiring the use and development of the property to be in substantial conformance with the plans dated January 15, 2004 (**Exhibit 3**). The 2004 plans reflected the applicant's proposal for a 33-ft. high (plus roof access structure), approximately 2,500 sq. ft. single-family residence with four levels (three above-grade) including one open-air level on the third floor. On January 11, 2007, the City approved final plans that proposed a 4-level, 33-ft. tall (plus roof access structure), 2,551 sq. ft. single-family residence (1,707 sq. ft. excluding basement and garage areas). Although the 2007 plans do not include an open-air level and the rear yard is only ten feet, the City found these plans to be in substantial conformance with the 2004 plans. The applicant subsequently developed the home in accordance with the 2007 plans. The applicant's proposal, as described above, is consistent with the 2007 project plans.

B. PUBLIC 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.

The proposed development, which is located in a neighborhood inland of PCH and approximately 650 ft. from Will Rodgers State Beach, will not affect the public's ability to gain access to, and/or to make use of, the coast and nearby recreational facilities. In addition, four new on-site parking spaces are proposed. Therefore, as proposed, the development conforms with the coastal access and recreation policies of the Coastal Act, including Sections 30210 and 30211.

C. WATER QUALITY AND LAND RESOURCES

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Act section 30253 states, in part:

New development shall do all of the following:

(e) Minimize energy consumption and vehicle miles traveled.

The subject property is located immediately adjacent to the Rustic Creek flood control channel. Rustic Creek flows through Santa Monica Canyon to Will Rogers Beach. The drainage associated with the subject development includes roof drains and down spouts that direct water to the side yards and street. Concentrated drainage on the street is directed toward exit drain lines at the curb. There is no runoff directed from the site to the adjacent creek. Therefore, as proposed, the project conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality.

Issues in the general area include the proliferation of invasive species and drought. Thus, **Special Condition 1** is imposed to require all future landscaping to be non-invasive and primarily drought tolerant to minimize adverse impacts to native species. In addition, **Special Condition 1** encourages the use of water conservation techniques and requires irrigation with potable water to utilize drip or microspray systems, reducing energy consumption. As conditioned, the development would be consistent with Section 30253(e) and would not adversely impact coastal resources.

D. VISUAL RESOURCES

Coastal Act section 30250 states, in part:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

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.

Coastal Act section 30252 states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The surrounding neighborhood is composed of largely one- and two-story single-family residences with multi-family residences and mixed commercial uses seaward of the project site. The project would be consistent with the size and scope of the surrounding development. Given the project's distance from PCH and its location within an existing developed area, the proposed project is not significantly visible from public vantage points and is compatible with the character of the surrounding community. Furthermore, the side yard walls are not out of character with other residences surrounding the proposed project site and do not impact public views of the ocean. Thus, the subject development will have minimal impacts on visual resources protected by the Coastal Act. Therefore, the Commission finds that the development, as conditioned, conforms with Sections 30250, 30251, and 30252 of the Coastal Act.

E. HAZARDS

Coastal Act Section 30253 states:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (b) 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...*

A Geologic and Soils Engineering Investigation, dated April 19, 2005, and addendum dated October 29, 2007 were prepared by Rybak Geotechnical, Inc. According to these geotechnical engineering studies, the proposed development is feasible from a geotechnical engineering standpoint if the report's recommendations are incorporated into project plans and implemented during construction. According to the applicant, these recommendations including, ensuring there are positive surface gradients adjacent to all structures and that all excavations be observed by a geotechnical engineer, were adhered to. In fact, a geotechnical engineer from Rybak Geotechnical Inc. prepared a Compaction and Retaining Wall Backfill Report that indicates field investigations were conducted throughout construction and issued a certificate of compliance for compacted earth fills on September 17, 2010. Therefore, the development conforms with Section 30253 of the Coastal Act.

F. UNPERMITTED DEVELOPMENT

Unpermitted development has occurred on the property, including, but not necessarily limited to demolition of a one-story, approximately 1,800 sq. ft. building and construction of a 4-level, 33 ft.-high, 3,588 sq. ft. single-family residence. Although the City approved Local CDP No. ZA-2003-1708 on March 17, 2004 and approved final plans on January 11, 2007 for this said development, the applicant did not obtain the necessary authorization from the Coastal Commission. The City incorrectly identified the property as being located within the single permit jurisdiction area and did not provide notice of the final local action to the Coastal Commission. Subsequently, the applicant undertook the development at issue without the necessary authorization from the Coastal Commission. Coastal Commission staff identified the unpermitted development during an analysis of community character in the subject neighborhood related to a proposed project at 211 Entrada Drive (CDP No. 5-17-0830) and formally notified the City on October 25, 2017. In response, the City corrected the action on Local CDP No. ZA-2003-1708 (**Exhibit 3**) and provided the NOFA 13 years after the City's action and nearly 10 years after the subject single-family residence had been constructed in accordance. The applicant is requesting after-the-fact approval of the unpermitted development that is the subject of this application. Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent compliance with all terms and conditions of the permit will result in resolution of the unpermitted development described above going forward.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implied statement of the Commission's position regarding the legality of development, other than the development addressed herein, undertaken on the subject site without a coastal permit.

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, as conditioned, 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 (CEQA)

The City determined the proposed project to be categorically exempt from CEQA (Section 15100, new construction of small structures). 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 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.