

**CALIFORNIA COASTAL COMMISSION**

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# Th19f

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Staff: J. Doyle -LB  
Staff Report: 08/20/2020  
Hearing Date: 09/10/2020

## STAFF REPORT: REGULAR CALENDAR

**Appeal Number:** 5-20-0237

**Applicant:** 222 Marguerita Ave LLC, Attn: Kapil Munjal

**Agent:** Raymond Tran

**Project Location:** 222 Marguerita Ave, Santa Monica, Los Angeles County

**Project Description:** Demolition of an existing two-story, 4,111 sq. ft. single-family residence with a pool (after-the-fact) and construction of a two-story, approximately 25-ft. high (above finished grade), 14,495 sq. ft. single-family residence with a basement, 3-car garage, and new pool on a 13,520 square foot lot.

**Staff Recommendation:** Approve with conditions

## **SUMMARY OF STAFF RECOMMENDATION**

The project was originally reported to the Commission as a de minimus waiver at the August 2020 Commission meeting. However, four Commissioners requested that the waiver not be effective; as a result, pursuant to Section 30624.7 of the Coastal Act, the development requires a coastal development permit. Commission staff is recommending approval of a coastal development permit for the project, which is scheduled to be heard as a regular calendar item at the September 2020 Commission meeting. Potential issues raised by the proposal concern community character and specifically the large square footage of the proposed single family residence. The proposal is consistent with all certified LUP policies and is consistent with all City zoning requirements. The certified LUP does not limit FAR or square footage for this particular area of the City's coastal zone, but does regulate height and development type. The project is consistent with the single family residence use and is below the height limit.

While the home, if constructed, would be 14,495 square feet in size, some of the square footage included in that calculation includes outdoor patio space and a large subterranean parking garage and basement. In addition, the overall square footage of the first two floors as visible from the street will only be approximately 6,300 square feet of the structure, because the project includes construction of a large below-grade basement and three-car garage. As explained in the findings, the average square footage of the homes on this block is approximately 6,300 square feet, while there is a large range in square footage across the neighborhood. Lastly, staff recently became aware that the original structure was demolished without benefit of the necessary coastal development permit. However, approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent performance of the work authorized by the permit in compliance with all of the terms and conditions thereof will result in resolution of a Coastal Act violation described below.

Approval of the proposed project will not set a precedent, will not impact the community character nor have adverse impacts on coastal resources, individually or cumulatively, and will not prejudice certification of the City's LCP. The project is fully consistent with the LUP policies, the City's zoning requirements, and all Chapter 3 policies of the Coastal Act.

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**APPENDICES**

Attachment 1- Table- Square footage of large homes in the area

**EXHIBITS**

[Exhibit 1 – Vicinity Map and project location](#)

[Exhibit 2 – Photo](#)

## I. MOTION AND RESOLUTION

**Motion:** I move that the Commission approve Coastal Development Permit **5-20-0237** pursuant to the staff recommendation.

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

**Resolution:**

The Commission hereby approves the Coastal Development Permit for the proposed project 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 that conforms 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 applicant 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

**1. Payment of Fees.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the applicant must submit \$9,368. Because demolition of the existing house has already occurred, the applicant is required to pay two times the application fee for the house.

### IV. FINDINGS AND DECLARATIONS

#### A. Project Description and Location

The project site is a 13,520 square foot lot in the North Side Residential area of the City of Santa Monica. The site is located approximately 1/4 mile inland of the public beach ([Exhibit 1](#)). The Certified Santa Monica LUP designates this area as single family residential. The project is located in subarea 4, North side residential. The LUP provides that that two story structures are appropriate for this area, and 1 unit per parcel may be constructed. Unlike the other land use designations, this particular area does not contain a FAR (Floor Area Ratio) limit, which usually helps determine the general scale of development for the neighborhood. In this case, because there is no FAR in the certified LUP, there is no specific limit on the square footage.

The proposal includes a request for after-the-fact approval of demolition of the existing two-story, 4,111 sq. ft. single-family residence. The demolition occurred without the benefit of a coastal development permit. The proposal also includes approval of the development of the new house, which has not yet occurred, to construct a new two-story over basement, approximately 25-ft. high (above finished grade), 14,495 sq. ft. single-family residence and new pool. The proposal includes removal of 17 trees onsite, and proposes to retain the existing street trees in front of the house. Commission staff requested a bird survey to determine if there are nests present on the site, which there are not. August is the end of bird nesting season.

#### B. New Development and Community Character

Policy 56 of the LUP states:

Whenever the Local Coastal Program or implementing documents set forth development standards, the development standard shall not be considered entitlements but shall be considered the maximum development intensity that may be authorized.

Policy 58:

New development 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 a significant adverse effects, either individually or cumulatively, on coastal resources.

Policies specific to Subarea 4:

Policy 68:

The residential area north of Wilshire Boulevard to the north side of Montana Avenue shall contain medium density residential. East of Ocean Avenue between the north side of Montana and the northern city limits, the area shall consist of single family residential, and along San Vicente up to the coastal zone boundary low density residential.

Policy 69:

Development in the single-family residential areas shall not exceed two stories, 28 feet in height and one dwelling unit per parcel. Development in the low-density multiple-family residential areas shall not exceed two stories, 30 feet in height and a unit density of one dwelling unit per 1,500 square feet of parcel area. Development in the medium-density multiple-family residential areas shall not exceed three stories, 35 feet with a flat roof, 40 feet with a pitched roof and a unit density of one dwelling unit per 1,250 square feet of parcel area. Development in the high-density multiple-family residential areas shall not exceed four stories, 45 feet in height with a unit density of one dwelling unit per 900 square feet of parcel area.

Section 30250 of the Coastal Act states, in part:

(a) 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. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30251 of the Coastal Act states, in part:

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....

Section 30253(e) of the Coastal Act states:

Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Section 30105.5 of the Coastal Act states:

"Cumulatively" or "cumulative effect" means the incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

The proposed project complies with the above LUP policies, as well as all requirements of the uncertified municipal zoning code. As stated in Policy 56 of the LUP, the standards of the LUP represent the maximums, but are not automatic entitlements. In this case the proposed development has been designed to stay within, and in some cases, remain under the maximums outlined in the standards.

According to the LUP, structures in this area are limited to 28 feet high. Several redeveloped homes in this area contain subterranean basements, which allows for more square footage while keeping with the height requirements, such as the proposed project. The proposed project is 25 feet high, above existing grade, which is below the height maximum.

The square footage of the residential structure is proposed to be 14,495 square feet (which includes covered outdoor living space). There are two outdoor decks proposed to be 116 and 282 square feet. The proposal includes 98,683 cubic yards of grading for construction of the basement. The basement and subterranean 3 car garage combined would be approximately 7,740 square feet, which means that the first two levels of the home, as visible from the street, only represent approximately 6,300 total square footage of the development. From the street level it will appear substantially similar to the other homes in the area in terms of size, bulk, and scale.

Using LandVision and records of past Commission action, Commission staff conducted a survey of single-family residences within the subject neighborhood. This survey included single-family residences along the subject street, Marguerita Ave, and along the neighboring street Georgina Ave between 4<sup>th</sup> street (the edge of the coastal zone) and 1<sup>st</sup> court (where the zone and land use designation changes). Immediately to the north of Georgina is San Vicente Blvd, which is in a different zone and land use designation entirely and therefore structures on San Vicente Blvd were excluded. However, to the north of San Vicente is Adelaide Dr., which according to the survey, does contain large single family homes. The neighboring streets to the south of Marguerita Ave are Alta Ave and Palisades Ave. These two streets contain largely older and therefore smaller homes than the homes found along Adelaide, Marguerita and Georgina.

Other homes specifically between Georgina Ave and Palisades Ave. range in square footage from approximately 2,000 square feet up to 22,000 square feet. Most of the older homes that have not been significantly altered or redeveloped are in the range of 2-4,000 square feet, while the newer homes which have been redeveloped range from 6,000-10,000 square feet (see attachment 1 for square footage of similar sized homes in the area). The average sized home on this block is 6,300 square feet. The homes immediately next door (228 and 234 Marguerita Ave) are 9,848 and 10,090 square feet respectively.

This particular neighborhood is primarily two-story single family homes. Larger structures and some multi-family developments are present along Ocean Blvd and San Vicente Blvd, within a few blocks of the subject site. The homes along the subject street represent a mix of various architectural styles, however they are all similar in size and scale. The architectural style of the subject proposal could generally be described as modern.

The LUP does not discuss community character. However, the City of Santa Monica does have an Architectural Review Board to “assure that structures, signs or other developments are in good taste, good design, harmonious with surrounding developments, and in general contribute to the preservation of Santa Monica’s reputation as a place of beauty, spaciousness and quality.” The ARB approval is required for new construction, additions or remodel of an existing building, in all zones except R1 (Single Unit Residential), which is the zoning for the subject site. The uncertified City zoning code has further requirements for appropriate setbacks, percentage of parcel coverage, basements and parking. Development in R-1 zones does not require Architectural Review, unless it does not meet the zoning requirements and the applicant requests a variance. In this case, the project fully meets the zoning requirements and has not sought a variance. Therefore, no architectural review is needed. The City of Santa Monica did review and stamp the plans with approval in concept on April 6, 2020. The City planner noted that the only further approvals needed from the City was a standard site plan review.

Section 30250 of the Coastal Act discusses density and requires new residential to be located contiguous with other existing development and where it can be accommodated without adverse effects. The site supported a single family residence in the past and is able to support a new single family residence in the same location. There will be no adverse effects, individually or cumulatively, as a result of the current proposal. It does not impact any sensitive habitat, coastal resources, agricultural lands, and development need not be limited due to a lack of public services or utilities.

Section 30251 of the Coastal Act requires that development be designed to protect scenic coastal areas and be visually compatible with the surrounding areas. There was some question of the proposal setting a precedent that may have a negative impact cumulatively with future Commission actions. As explained above, while it is true that many of the older homes nearby are smaller in size, the neighborhood supports existing large single family homes and already contains some outliers that were approved by the Commission (for example the home on Marguerita Ave that was approved at approximately 22,000 square feet.) Given that the home will appear much smaller in size than its actual square footage, the proposed home would not contribute to a change in community character. In contrast to setting a precedent or a new pattern of development, the current proposal follows the existing pattern in the neighborhood by proposing home above ground that matches the average square footage for this block, while also proposing a large basement which increases the overall square footage but does not change the character of the house visible from the street. As such, it does not set a new precedent, does not contribute to an adverse cumulative effect, and is compatible with the surrounding area.



Section 30253(e) of the Coastal Act requires protection of special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses. This particular neighborhood is not known as a destination point for recreation uses, in contrast to the nearby “stairs” on Adelaide Dr. and the nearby Palisades Park overlooking Santa Monica Beach. Those attractions are on neighboring streets, but are not visible from the subject site. The particular street or neighborhood is not known as a “special community” in any way related to coastal resources. As such, Section 30253(e) is not applicable to the subject site.

As discussed above, the proposed project is consistent with all relevant policies of the certified LUP and is consistent with the Chapter 3 policies of the Coastal Act.

## **C. Access and Recreation**

### Section 30210

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

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.

Three onsite parking spaces will be provided on the site that will not impact public beach access parking spaces. Access to parking will be taken from the rear of the lot, and the existing curb cut along Marguerita Ave will be restored to allow for additional public parking on the street. The proposed development will not affect the public's ability to gain access to, and/or to make use of, the coast and nearby recreational facilities. Therefore, as proposed the development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

The proposed development, as submitted, does not interfere with public recreational use of coastal resources and conforms with Sections 30210 through 30214 and Sections 30220 through 30223 of the Coastal Act regarding the promotion of public recreational opportunities.

## **D. Marine Resources and Water Quality**

### Section 30230

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

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 waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed drainage system consists of collecting runoff through an infiltration pit with a catch basin, a new curb drain and trench drain. All existing landscape will be covered in a 3-inch layer of mulch. In general residential development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development as proposed incorporates design features to minimize the effect of construction and postconstruction 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 noninvasive drought tolerant vegetation to reduce and capture runoff before being discharged from the site, and for the use of postconstruction 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. Coastal Act Violations**

Violations of the Coastal Act that are associated with the subject property have been undertaken including the unpermitted demolition of the original structure without benefit of the necessary coastal development permit.

Staff recently became aware that the original structure was demolished without benefit of the necessary coastal development permit. However, approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent performance of the work authorized by the permit in compliance with all of the terms and conditions thereof will result in resolution of a Coastal Act violation described herein.

Consideration of the permit application by the Commission has been based solely on consistency of the proposed development with the policies of Chapter 3 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 (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the legality of the development undertaken on the subject site without a coastal permit, or of any other development.

Section 13055 of the regulations state:

(d) Fees for an after-the-fact (ATF) permit application shall be five times the amount specified in section (a) unless such added increase is reduced by the Executive Director when it is determined that either:

(1) the ATF permit application can be processed by staff without significant additional review time (as compared to the time required for the processing of a regular permit,) or

(2) the owner did not undertake the development for which the owner is seeking the ATF permit, but in no case shall such reduced fees be less than double the amount specified in section (a) above. For applications that include both ATF development and development that has not yet occurred, the ATF fee shall apply only to the ATF development. In addition, payment of an ATF fee shall not relieve any persons from fully complying with the requirements of Division 20 of the Public Resources Code or of any permit granted thereunder or from any penalties imposed pursuant to Chapter 9 of Division 20 of the Public Resources Code.

In this case, the applicant has paid the Regular Calendar fee for the development of the home and the grading. The Executive Director has agreed that the demolition of the existing home without a coastal development permit did not require significant additional staff time. Therefore, the permit condition requires payment of the remaining application fee balance for two times the fee.

## **F. Local Coastal Plan**

Coastal Act section 30604(a) states that, prior to certification of an 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 Land Use Plan (“LUP”) for Santa Monica was effectively certified on September 15, 1992 upon the City’s adoption of the Commission’s suggested modifications. The City does not yet have a certified Implementation Plan. Therefore, the Chapter 3 policies of the Coastal Act are the standard of review and the certified LUP is used as guidance. The proposed development is 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 an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

## **G. California Environmental Quality Act**

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by findings showing the approval, as conditioned, 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. The Commission’s regulatory program for reviewing and granting CDPs has been certified

by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c).)

In this case, the City of Santa Monica is the lead agency and the Commission is a responsible agency for the purposes of CEQA. The City of Santa Monica determined that the proposed development is exempt from CEQA review (Class 1) in a determination. As a responsible agency under CEQA, the Commission has determined that the proposed project, as conditioned, is consistent with the marine resources, water quality, and public access policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment, either individually or cumulatively with other past, present, or reasonably foreseeable probable future projects. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

# ATTACHMENT 1

## HOMES WITH SIMILAR SQUARE FOOTAGE

Coastal Commission data:

Permit Number	Address	Project description	Square footage (result)
5-10-187-W	228 Marguerita	New Single Family	9,848
5-99-029-X	211 Marguerita	Addition to single family	9,646
5-15-1350-W	307 Marguerita	New single family	8,419
5-16-0704-W	327 Marguerita	New Single Family	9,106
5-18-307-W	234 Marguerita	New Single Family	10,090
5-18-0781-W	310 Marguerita	New Single Family	22,187
5-04-086-X	147 Georgina	Addition to single family	9,810
5-15-2070-W	208 Adelaide	New Single Family	11,819
5-19-0016	220 Adelaide	New Single Family	11,925
5-00-046-X	436 Adelaide	Addition to single family	8,311
5-09-106-X	436 Adelaide	Addition to single family	8,522

Land Vision data:

Address	Square Footage
420 Georgia	7,115
436 Georgia	11,028
502 Georgia	12,014
518 Georgia	12,925
608 Georgia	7,594
415 Georgia	7,051
141 Georgia	7,524

The smallest home in the neighborhood is 1,900 SF and the largest is approximately 22,000 Sf.