

(R-96-682)

RESOLUTION NUMBER R-286492

ADOPTED ON OCTOBER 30, 1995

WHEREAS, GEORGE FLEMING and MARTY BOHL, appealed the decision of the Planning Commission in approving a request for Coastal Development Permit No. 95-0215 submitted by DAVID and JEAN PURCELL, Owners/Permittees, to develop property located in the Peninsula Community Plan area, at 741 Rosecrans Street, also described as a portion of the North Half of Pueblo Lot 175, and a portion of Pueblo Lot 176, of the Pueblo Lands of San Diego, according to map thereof made by James Pascoe, in the R1-5000 Zone; and

WHEREAS, on October 30, 1995, the City Council of the City of San Diego considered Coastal Development Permit No. 95-0215 pursuant to Section 105.0202 of the Municipal Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Council of The City of San Diego, that this City Council adopts the following findings with respect to Coastal Development Permit No. 95-0215:

**COASTAL DEVELOPMENT PERMIT FINDINGS:**

- A. THE PROPOSED DEVELOPMENT WILL NOT ENCROACH UPON ANY EXISTING PHYSICAL ACCESSWAY LEGALLY UTILIZED BY THE PUBLIC OR ANY PROPOSED PUBLIC ACCESSWAY IDENTIFIED IN AN ADOPTED LCP LAND USE PLAN; NOR WILL IT OBSTRUCT VIEWS TO AND ALONG THE OCEAN AND OTHER SCENIC COASTAL AREAS FROM PUBLIC VANTAGE POINTS.

The subject property is not identified as a public accessway in either the Peninsula Community Plan or the Local Coastal Program Land Use Plan. Public views will not be obstructed by the demolition of an existing residence and the construction of the new residence.

- B. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT MARINE RESOURCES, ENVIRONMENTALLY SENSITIVE AREAS, OR ARCHAEOLOGICAL OR PALEONTOLOGICAL RESOURCES.**

The replacement of a single-family residence is exempt from the California Environmental Quality Act and the proposed development will not adversely affect marine resources, environmentally sensitive areas, or archaeological or paleontological resources.

- C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REQUIREMENTS RELATED TO BIOLOGICALLY SENSITIVE LANDS AND SIGNIFICANT PREHISTORIC AND HISTORIC RESOURCES AS SET FORTH IN THE RESOURCE PROTECTION ORDINANCE, CHAPTER X, SECTION 101.0462 OF THE SAN DIEGO MUNICIPAL CODE, UNLESS BY THE TERMS OF THE RESOURCE PROTECTION ORDINANCE, IT IS EXEMPTED THEREFROM.**

The proposed development will not negatively impact biologically sensitive lands and significant prehistoric and historic resources as described in the Resource Protection Ordinance. With the exception of a five-foot-high wrought iron fence at the rear property line the proposed rear yard improvements will be modified so that they do not occur within the dripline/root zone of the existing 60-foot-high Torrey Pine tree located on Port District property adjacent to the rear property line of subject property. The permit conditions require that the existing tree be replaced with two 60-inch (minimum) box Torrey Pine trees should the proposed improvements cause the tree to die.

- D. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT RECREATIONAL OR VISITOR-SERVING FACILITIES OR COASTAL SCENIC RESOURCES.**

The project site is located in an urbanized residential area and will not adversely affect recreational or visitor-serving facilities or coastal scenic resources.

- E. THE PROPOSED DEVELOPMENT WILL BE SITED AND DESIGNED TO PREVENT ADVERSE IMPACTS TO ENVIRONMENTALLY SENSITIVE HABITATS AND SCENIC RESOURCES LOCATED IN ADJACENT PARKS AND RECREATION AREAS, AND WILL PROVIDE ADEQUATE BUFFER AREAS TO PROTECT SUCH RESOURCES.**

The permit conditions require that the existing 60-foot-high Torrey Pine tree, situated off-site, immediately east of the rear property line, be replaced with two 60-inch box size (minimum) Torrey Pine trees should the proposed construction kill the Torrey Pine tree. In addition, grading or the construction of yard improvements, except for a wrought-iron fence to be located on the rear property line, will not be permitted within the dripline of the tree (shown on Exhibit "A") located on the subject property.

- F. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATIONS OF NATURAL LANDFORMS AND WILL NOT RESULT IN UNDUE RISKS FROM GEOLOGIC AND EROSIONAL FORCES AND/OR FLOOD AND FIRE HAZARDS.

The minor grading that is proposed will occur primarily within the footprint of the building and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards.

- G. THE PROPOSED DEVELOPMENT WILL BE VISUALLY COMPATIBLE WITH THE CHARACTER OF SURROUNDING AREAS, AND WHERE FEASIBLE, WILL RESTORE AND ENHANCE VISUAL QUALITY IN VISUALLY DEGRADED AREAS.

The building bulk and setbacks conform to the City of San Diego Zoning Ordinance and are consistent with other residences in the neighborhood. The proposed project will be visually compatible with the character of development in the surrounding area.

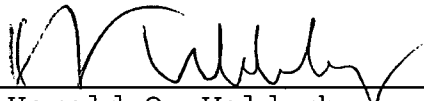
- H. THE PROPOSED DEVELOPMENT WILL CONFORM WITH THE GENERAL PLAN, THE LOCAL COASTAL PROGRAM, AND ANY OTHER APPLICABLE ADOPTED PLANS AND PROGRAMS.

The project conforms to the General Plan, the Local Coastal Program, the Peninsula Community Plan, the R1-5000 Zone, and the Proposition D Building Height Limitation Ordinance.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the City Council, the appeal of GEORGE FLEMING and MARTY BOHL is denied, the decision of the Planning Commission is sustained, and Coastal Development Permit No. 95-0215 is hereby granted to DAVID and JEAN PURCELL, Owners/Permittees, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By

  
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Harold O. Valderhaug  
Chief Deputy City Attorney

HOV:ps  
01/29/96  
Or.Dept:Clerk  
R-96-682

R-286492

RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES DEPARTMENT

AND WHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 95-0215  
PURCELL RESIDENCE  
CITY COUNCIL

This Coastal Development Permit is granted by the City Council of the City of San Diego to DAVID and JEAN PURCELL, Owners/Permittees, pursuant to Section 105.0202 of the Municipal Code of the City of San Diego.

1. Permission is hereby granted to Owners/Permittees to partially remove and demolish an existing single-family home and construct a new single-family residence located at 741 Rosecrans Street, also described as a portion of the North Half of Pueblo Lot 175, and a portion of Pueblo Lot 176, of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to map thereof made by James Pascoe, in the Peninsula Community Planning area, in the R1-5000 Zone.

2. The facility shall consist of the following:

- a. A 5,224-square-foot single-family residence with three-car garage;
- b. Landscaping;
- c. Off-street parking; and
- d. Incidental accessory uses as may be determined incidental and approved by the Development Services Director.

3. Not fewer than two off-street parking spaces shall be maintained on the property in the location shown on Exhibit "A," dated October 30, 1995, on file in the office of the Development Services Department. Parking spaces shall be consistent with San Diego Municipal Code Chapter X, Article 1, Division 8, and shall be permanently maintained and not converted for any other use. Parking space dimensions shall conform to Zoning Ordinance standards.

4. No permit shall be granted nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Owners/Permittees signs and returns the permit to the Development Services Department; and
- b. The Coastal Development Permit is recorded by the Development Services Department in the office of the County Recorder.

5. Before issuance of any building permits, complete grading and working drawings shall be submitted to the Development Services Director for approval. Plans shall be in substantial conformance to Exhibit "A," dated October 30, 1995, on file in the office of the Development Services Department. No change, modifications or alterations shall be made unless findings of substantial conformity or amendment of this permit shall have been granted.

6. The rear yard improvements, to include backfilling, landscaping, hardscape, retaining walls, swimming pool and spa, shall be designed and installed so that no construction or improvements other than a five-foot-high wrought iron fence at the rear of the property line shall be placed within the dripline of the existing Pinus Torreyana, Torrey Pine tree shown on Exhibit "A" plans dated October 30, 1995. The existing Torrey Pine tree is located directly adjacent to the east side of the subject property on land under Port District jurisdiction with roots and canopy extending onto the subject property.

7. If the existing Torrey Pine tree is damaged such that more than one-half of its foliage dies during construction or within a five-year period following completion of construction, it shall be replaced with two 60-inch box size (minimum) Torrey Pine trees which shall be planted adjacent to the east side of the subject property. A yearly inspection of the existing Torrey Pine tree shall be administered by the Development Services Department to assure that at least one half of the living needles still exist on the tree. If less than half of the living needles remain on the tree, the damaged Torrey Pine tree shall not be removed without the approval of the Development Services Director. The Owners/Permittees shall maintain the two replacement trees in a disease, weed and litter free condition at all times during the five-year period required to establish the trees.

8. Prior to the issuance of any building or grading permits, or the beginning of any construction related activities on or adjacent to the property, the Owners/Permittees shall submit to the satisfaction of the Development Services Director building/construction plans which shall clearly state that no construction staging nor storage of building materials shall occur within the dripline of the existing Torrey Pine and that the area is not to be disturbed in any way. Additionally, such plans shall show the method of installation, construction and removal of a fence to be erected at the dripline of the tree. A preconstruction conference with Development and Environmental Planning Division/Development Services Department staff shall be

required to determine the exact location of the fence. Excavation for any post holes to install this construction fence shall be performed manually and shall avoid disturbing any roots over one inch in diameter.

9. The property included within this Coastal Development shall be used only for the purposes and under the terms and conditions set forth in this permit unless authorized by the Development Services Director or the permit has been revoked by the City of San Diego.

10. This Coastal Development Permit may be canceled or revoked if there is a material breach or default in any of the conditions of this permit. Cancellation or revocation may be instituted by the City of San Diego or Permittee.

11. This Coastal Development Permit is a covenant running with the subject property and shall be binding upon the Owners/Permittees and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

12. The use of textured or enhanced paving shall be permitted only with the approval of the City Engineer and Development Services Director, and shall meet standards of these departments as to location, noise and friction values, and any other applicable criteria.

13. If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind per the approved plans.

14. Prior to the issuance of any building permits, the Owners/Permittees shall enter into an agreement with the City waiving the right to oppose future sidewalk improvements in the form of a special assessment proceeding initiated for the future improvements to Rosecrans Street.

15. Prior to the issuance of any building permits, the Owners/Permittees shall:

- a. Ensure that building address numbers are visible and legible from the street (UFC 10.208).
- b. Show the location of all fire hydrants on the plot plan (UFC 10.301).
- c. Install a residential fire sprinkler system per NFPA 13-D.

16. This development may be subject to a building permit park fee in accordance with San Diego Municipal Code Section 96.0401 et seq.

17. This development may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.

18. Unless appealed, this Coastal Development Permit shall become effective on the eleventh working day following receipt by the Coastal Commission of the Notice of Final Action.

19. This Coastal Development Permit must be utilized within 36 months after the effective date. Failure to utilize the permit within 36 months will automatically void the permit unless an extension of time has been granted as set forth in Section 111.1122 of the Municipal Code.

20. All of the conditions contained in this permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this permit be required to comply with each and every condition in order to be afforded special rights which the holder of the permit is obtaining as a result of this permit. It is the intent of the City that the owner of the property which is the subject of this permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property, or the special and extraordinary rights conveyed by this permit, but only if the owner complies with all the conditions of this permit.

In the event that any condition of this permit, on a legal challenge by the Owners/Permittees of this permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this permit shall be void. However, in such event, the Owners/Permittees shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition back to the discretionary body which approved the permit for a determination by that body as to whether all of the findings necessary for the issuance of the permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed permit and the condition(s) contained therein.

APPROVED by the Council of The City of San Diego on  
October 30, 1995, by Resolution No. R-286492.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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The undersigned Owners/Permittees, by execution hereof, agrees to each and every condition of this permit and promise to perform each and every obligation of Owners/Permittees hereunder.

DAVID PURCELL  
JEAN PURCELL  
Owners/Permittees

By \_\_\_\_\_

By \_\_\_\_\_

NOTE: Notary acknowledgments  
must be attached per Civil  
Code Section 1180, et seq.  
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01/29/96