

**CALIFORNIA COASTAL COMMISSION**

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Filed: 8/13/02  
49th Day: 10/1/02  
Open & Cont. 9/9/02  
Staff: AM-LB **AM**  
Staff Report: October 17, 2002  
Hearing Date: November 5, 2002  
Commission Action:

**Tu 14a****STAFF REPORT: APPEAL/SUBSTANTIAL ISSUE**

**LOCAL GOVERNMENT:** City of Los Angeles

**LOCAL DECISION:** Approval with Conditions (ZA-2001-1780-CDP)

**APPEAL NUMBER:** A-5-PPL-02-276

**APPLICANT:** Ben Leeds

**PROJECT LOCATION:** 17633 Castellammare Drive, Pacific Palisades,  
City of Los Angeles.

**PROJECT DESCRIPTION:** Construction of a two-story, 3,100 square foot single family home with five parking spaces and a two-story accessory building on a 4,287 square foot vacant lot.

**APPELLANTS:** Pacific Palisades Residents Association  
Pacific Palisades Community Council  
Palisades Preservation Association  
William J. Clearihue III  
Marianne Perls

**APPELLANTS' AGENT:** Jack Allen

**SUMMARY OF STAFF RECOMMENDATION**

The staff recommends that the Commission, after public hearing, determine that **a substantial issue exists** with respect to the proposed project's conformance with the Chapter 3 policies of the Coastal Act for the following reasons:

The local coastal development permit allows construction of a single family home on an active landslide. While the permit acknowledges the difficulties of construction in a hazardous location, the City of Los Angeles did not adequately assure that the proposed project would minimize the risk to life and property in an area of high geologic hazard and assure stability and structural integrity, nor does the permit assure that the proposed project would not contribute to erosion, geologic instability, or destruction of the site or surrounding areas. Finally, the permit requires the

construction of protective devices that would substantially alter natural landforms along the coastal bluff.

The motion to carry out the staff recommendation is on **Page 6**.

#### **SUBSTANTIVE FILE DOCUMENTS:**

1. City of Los Angeles Local Coastal Development Permit No. ZA-2001-1780 (CDP)
2. City of Los Angeles Planning Department, Administrative Record for Local Coastal Development Permit No. ZA-2001-1780 (CDP)
3. Report On Landslide Study, Pacific Palisades Area, by the U.S. Army Corps of Engineers and the U.S. Geological Survey, September 1976

#### **I. APPELLANTS' CONTENTIONS**

City of Los Angeles Local Coastal Development Permit No. 2001-1780 (CDP) approved by the West Los Angeles Area Planning Commission on May 1, 2002, has been appealed by Pacific Palisades Residents Association, Pacific Palisades Community Council, Palisades Preservation Association, William J. Clearihue III, and Marianne Perls.

As summarized below, the grounds for the appeal by the above appellants (see Exhibit #10) are:

- The City failed to find that the development shall minimize risks to life and property in an area of high geologic hazard and that the development shall assure integrity, and neither create nor contribute significantly to geologic instability or destruction of the site or surrounding areas.
- The City failed to require that an environmental impact report be prepared as required by the California Environmental Quality Act where both a substantial public controversy and an expert opinion were submitted that controverts evidence that the project will not result in a significant adverse environmental impact, both of which are involved in this case.
- The appellants were denied due process and a fair hearing before the West Los Angeles Planning Commission
  - a. Appellants were not provided with a copy of the April 15 Supplemental Geology Report submitted by Mr. Leeds as Mr. Leeds was directed to do by the Commission and were denied a continuance so that the appellants could obtain a copy and file a response with the Commission.
  - b. Appellants were not told that Mr. Leeds had submitted an eight page ex parte communication to the Commission and were not permitted a continuance to read and respond to the communication.

- c. Dr. Clearihue was not called to speak even though he had submitted a written request to speak while every person who submitted a request to speak on behalf of Mr. Leeds were called to speak.

## **II. LOCAL GOVERNMENT ACTION**

The development approved by the City of Los Angeles Local Coastal Development Permit No. 2001-1780 (CDP) is for the construction of a two-story, 3,100 square foot single family home with five parking spaces and a two-story accessory building on a 4,287 square foot vacant lot.

On August 16, 2001, the City of Los Angeles Planning Department, Office of Zoning Administration issued a determination of approval for Local Coastal Development Permit No. 2001-1780 (CDP) with special conditions. Jack Allen appealed the Zoning Administrator's decision on August 27, 2001 to the West Los Angeles Area Planning Commission. The Determination Report for local coastal development permit No. ZA-2001-1780 (CDP) states, in its Summary of the Hearing section, "At the October 17, 2001, December 05, 2001, January 16, 2002 and March 20, 2002 meetings it was determined additional time was needed to address the concerns of grading, to provide the opportunity for the Department of Building and Safety Grading Section to comment, to allow all interested individuals time to review submitted materials, and to allow the Appellant and Applicant an opportunity to meet and address the issues."

On May 1, 2002, the West Los Angeles Area Planning Commission denied the appeal, sustained the Zoning Administrator's action, and granted Local Coastal Development Permit ZA-2001-1780 (CDP) with modified conditions (Exhibit #11).

On July 19, 2002, a valid Notice of Final Local Action for Local Coastal Development Permit No. ZA-2001-1780 (CDP) was received in the Commission's South Coast District office in Long Beach, and the Commission's required twenty working-day appeal period commenced.

Jack Allen, representing Pacific Palisades Residents Association, Pacific Palisades Community Council, Palisades Preservation Association, William J. Clearihue III, and Marianne Perls, filed an appeal on August 13, 2002. The Commission's required twenty working-day appeal period closed on August 16, 2002.

Pursuant to Section 13112 of Title 14 of the California Code of Regulations, the Commission opened and continued the Substantial Issue Hearing of Local Coastal Development Permit No. ZA-2001-1780 (CDP) at its September 9, 2002 meeting in Los Angeles because the South Coast District office had not received the City's administrative record for Local Coastal Development Permit No. ZA-2001-1780 (CDP).

Because the proposed project is located in the City and Commission's "Dual Permit Jurisdiction" area (see Section IV on Page #5), the applicant is required to submit a separate coastal development permit application to the Coastal Commission for the

proposed development. The "dual" coastal development permit application was submitted to the South Coast District office on September 25, 2002 (CDP application No. 5-02-334).

If possible, the public hearings and actions for both the de novo portion of this appeal (if the Commission finds that a substantial issue exists) and the "dual" Coastal Development Permit application with the Coastal Commission (No. 5-02-334) will be combined and scheduled for concurrent action at the same future Commission meeting in Southern California.

### **III. APPEAL PROCEDURES**

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program (LCP), a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local coastal development permits.

Sections 13302-13319 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows any action taken by a local government on a coastal development permit application to be appealed to the Commission. Pursuant to Section 30604(a) of the Coastal Act, the standard of review for such an appeal is the Chapter 3 policies of the Coastal Act.

After a final local action on a coastal development permit, the Coastal Commission must be noticed within five days of the decision (Section 30620.5(c) of the Coastal Act). After receipt of such a notice that contains all the required information, a twenty working-day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission (Section 30602 of the Coastal Act).

The appeal and local action are then analyzed to determine if a substantial issue exists as to the conformity of the project to Chapter 3 of the Coastal Act [Section 30625(b)(1)]. If the Commission finds that the appeal raises a "substantial issue", the Commission then holds a public hearing in which it reviews the coastal development permit as a de novo matter.

In this case, a valid Notice of Final Local Action was received on July 19, 2002. The appeal was filed on August 13, 2002. Section 30621 of the Coastal Act states that the appeal hearing must be scheduled within 49 days of the receipt of a valid appeal unless the applicant waives the 49-day requirement. In this case, the Commission opened and continued the public hearing on the appeal on September 9, 2002, at its meeting in Los Angeles.

At this point, the Commission may decide that the appellants' contentions raise no substantial issue as to conformity with the Coastal Act, in which case the action of the local government stands, or the Commission may find that a substantial issue exists with respect to the conformity of the action of the local government with the Coastal Act if it finds that the appeal raises a significant question regarding consistency with the Chapter 3 policies of the Coastal Act. If the Commission finds that a substantial issue exists, then the hearing will be continued as a de novo permit request. Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Section 13114 and 13057-13096 of Title 14 of the California Code of Regulations.

#### IV. DUAL PERMIT JURISDICTION

Section 30601 of the Coastal Act states:

*Prior to certification of the Local Coastal Program and, where applicable, in addition to a permit from local government pursuant to subdivision (b) or (d) of Section 30600, a coastal development permit shall be obtained from the Commission for any of the following:*

- (1) Developments between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.*
- (2) Development not included within paragraph (1) located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream or within 300 feet of the top of the seaward face of any coastal bluff.*
- (3) Any development which constitutes a major public works project or a major energy facility.*

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 that receives a local coastal development permit also obtain a "dual" coastal development permit from the Coastal Commission. For projects located inland of the areas identified in Section 30601 (*Single Permit Jurisdiction*), the City of Los Angeles' local coastal development permit is the only coastal development permit required.

The proposed development is located on the face of a coastal bluff, separated from Will Rogers State Beach by Pacific Coast Highway, Porto Marina Way, and Castellammare Drive. This area is located within the coastal zone area of the City of Los Angeles that has been designated in the City's permit program as the "*Dual Permit Jurisdiction*" area pursuant to Section 13307 of Title 14 of the California Code of Regulations.

The Commission's standard of review for the proposed development in the *Dual Permit Jurisdiction* area of Los Angeles is the Chapter 3 policies of the Coastal Act. The City of Los Angeles does not have a certified Local Coastal Program for the Pacific Palisades.

In regards to this appeal, if the Commission finds that a substantial issue exists with respect to the City's approval of the Local Coastal Development Permit No. ZA-2001-1780 (CDP), the subsequent de novo action on the local coastal development permit will be combined with the required "dual" Coastal Commission coastal development permit application (which has not been submitted by the applicant). The Commissions' *de novo* review of the appeal of this local permit and the "dual" Coastal Commission coastal development permit application will ensure that the proposed project will protect public access and coastal resources as required by the Coastal Act.

If the Commission finds that no substantial issue exists in regards to the City's approval of the local coastal development permit, then the local coastal development permit approved by the City will be final, and the Commission will act on the required "dual" Coastal Commission coastal development permit application as a separate agenda item at a later Commission hearing.

#### **V. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE**

The staff recommends that the Commission determine that a substantial issue exists with respect to whether the approval of the project is consistent with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to Public Resources Code Section 30625(b)(1).

Staff recommends a **NO** vote on the following motion:

#### **MOTION**

*"I move that the Commission determine that Appeal No. A-5-PPL-02-276 raises **NO** substantial issue with respect to conformity with the Chapter 3 policies of the Coastal Act."*

A majority of the Commissioners present is required to pass the motion.

#### **Resolution to Find Substantial Issue**

The Commission hereby finds that Appeal No. **A-5-PPL-02-276** presents a substantial issue with respect to conformity with the Chapter 3 policies of the Coastal Act.

## **VI. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

### **A. Project Description**

The proposed project is the construction of a two-story, 3,100 square foot single family home with five parking spaces and a separate, two-story accessory building on a 4,287 square foot vacant lot. 48 caissons (five rows) up to 70 feet below finished grade are proposed to support the single family home. In addition, four vertical and four horizontal de-watering wells are proposed across the subject property. The applicant has also proposed the installation of two inclinometers that will monitor the movement of the active landslide on and surrounding the subject property. The applicant's geotechnical consultant and the City of Los Angeles, Department of Building and Safety required the caissons, de-watering wells, and inclinometers, due to the subject property being located on a potentially unstable location.

The subject site is located on lot 6, block 10 in the Castellammare tract of Pacific Palisades, on a steep coastal bluff (Exhibit #1 thru #4). The Castellammare area of Pacific Palisades is a prominent coastal bluff stretching from Sunset Boulevard to Surfview Drive. Pacific Coast Highway was constructed at the toe of this bluff, between the bluff face and the beach. Unlike most coastal bluffs in Southern California, this bluff face has undergone extensive development. In the mid 1920's several streets were constructed parallel to Pacific Coast Highway following the contours of the bluff, which are lined with one to four-level single-family homes. These roads (namely Castellammare Drive, Posetano Road, Revello Drive, Stretto Way, and Porto Marina Way) were graded on the face and top of the coastal bluff (Exhibit #1). The subject property is located on one of the remaining vacant parcels in this area, approximately 240 feet inland of Will Rogers State Beach, and is highly visible from Pacific Coast Highway and the State Beach below. Posetano Road borders the property on the upslope side and Castellammare Drive on the down slope side. From prehistoric times to the present, this area of Pacific Palisades has witnessed several landslides, some of which have lead to catastrophic destruction and loss of property and life.<sup>1</sup>

Currently, the Castellammare area is developed with one to four-level single-family homes. There are, however, existing pockets of open areas across the portion of the bluff from Sunset Boulevard to Surfview Drive. Typically, these remaining open areas were left undeveloped due to massive earth movement. In some cases, portions of the bluff were developed then destroyed by landslides, leaving behind such open areas. For example, a large landslide temporarily blocked Tramonto Drive and permanently destroyed a large section of Revello Drive, Posetano Road, and Castellammare Drive located approximately 230 feet east (down coast) of the subject site. This slide is shown as landslide #123 of Exhibit #3 and on the location map, Exhibit #1.

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<sup>1</sup> Pacific Palisades Area - Report on Landslide Study; U.S. Army Corps of Engineers and U.S. Geological Survey; September 1976

**B. Factors to be Considered in the Substantial Issue Analysis**

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with Chapter 3 of the Coastal Act. The term "*substantial issue*" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it "finds that the appellant raises no significant questions". In previous decisions on appeals, the Commission has been guided by the following factors.

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises local issues, or those of regional or statewide significance. (See A-5-PPL-99-225, A-5-PPL-00-028, A-5-PDR-077, A-5-VEN-01-262, A-5-PDR-01-442, A-5-PPL-02-162)

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate with the appropriate court pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that a **substantial issue** does exist with respect to whether the approval of the project is consistent with the provisions of Chapter 3 of the Coastal Act for the reasons set forth below.

**D. Substantial Issue Analysis**

As stated in Section III of this report, the standard of review for an appeal of a coastal development permit issued by the local government prior to certification of its Local Coastal Program (LCP) are the Chapter 3 policies of the Coastal Act. Any such local government coastal development permit may be appealed to the Commission. The Commission shall hear an appeal unless it determines that no substantial issue exists as to conformity with the Chapter 3 policies of the Coastal Act. In this case, staff has recommended that the Commission find that a substantial issue does exist.

The appellants contend that the local coastal development permit does not adequately analyze and mitigate the potential impacts of the proposed project on development in a hazardous area (Exhibit #10). The appellants state, "The City failed to find that the



development shall minimize risks to life and property in an area of high geologic hazard and that the development shall assure integrity, and neither create nor contribute significantly to geologic instability or destruction of the site or surrounding areas".

The appellants raised two additional grounds for their appeal (Exhibit #10). They contend, "The City failed to require that an environmental impact report be prepared as required by the California Environmental Quality Act where both a substantial public controversy and an expert opinion were submitted that controverts evidence that the project will not result in a significant adverse environmental impact, both of which are involved in this case" and "The appellants were denied due process and a fair hearing before the West Los Angeles Planning Commission." The standard of review for an appeal of a coastal development permit issued by the local government prior to certification of its Local Coastal Program (LCP) are the Chapter 3 policies of the Coastal Act. A decision by the City to require an Environmental Impact Report (under CEQA) and an allegation that the appellants were denied due process at the local hearings are not Coastal Act related issues and therefore cannot be found as adequate grounds for appeal. The following analysis is based solely on the appellants' contention that the local coastal development permit approved by the West Los Angeles Area Planning Commission is inconsistent with Section 30253 of the Coastal Act.

#### Hazards

Section 30253 of the Coastal Act states, in part:

*New development shall:*

- (1) Minimize the risk to life and property in areas of high geologic, flood, and fire hazard.*
- (2) 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 coastal bluffs.*

The proposed project is located in an area subject to natural hazards (Exhibit #3). The Pacific Palisades area has a long history of natural disasters, some of which have caused catastrophic damages. Such hazards common to this area include landslides, erosion, flooding, and wildfires. The subject property is located on a sloping coastal bluff lot (Exhibit #1 thru #4). Total relief across the property is approximately 50 feet with the slopes encountered on the property ranging from 2:1 (horizontal to vertical) to almost vertical. The applicant's geotechnical reports indicate that the subject property lies on both an active and ancient landslide (Exhibit #4 thru #6). The project consists of the construction of a single family home, an unattached recreation room, jacuzzi, and fountain. 850 cubic yards of cut and 50 cubic yards of fill are required to create a "stepped" building foundation. The applicant has provided geology and soils reports from the consulting firms of MEC/Geotechnical Engineers, Inc., West Coast Geotechnical, and Mountain Geology from 1991 to the present. Initially the applicant received a geologic approval letter from the Grading Division of the City of Los Angeles, Department of

Building and Safety on September 10, 1999, indicating that the geotechnical reports were acceptable provided that the City's recommendations were complied with during site development. However, after public hearings for local coastal development permit No. ZA-2001-1780-CDP, the City received information from opponents and their consultant that led to the City requesting additional information from the applicant demonstrating that the proposed project would ensure geologic stability. After reviewing 13 addenda to the geotechnical reports, the Department of Building and Safety issued their final approval letter on April 17, 2002 (Exhibit #12). The West Los Angeles Area Planning Commission approved Local Coastal Development Permit No. 2001-1780 (CDP) on May 1, 2002.

The applicant's geotechnical reports indicate that the subject property is located on an active and ancient landslide. The active landslide completely surrounds the subject property and extends across Posetano Road (on the upslope side of the property), across Castellammare Drive (on the downslope side of the property), approximately 150 feet from the southeast side of the property, and approximately 30 feet from the northwest side of the property (Exhibit #5). The City has required and/or the applicant has proposed 48 caissons (five rows). The caissons would be drilled below and penetrate the potential high water table (between 0 and approximately 23 feet below the property), the historic slide plane, the ancient slide plane, and the approximate level of ground water (as shown on section D-D, Exhibit #6). Moreover, to avoid the destabilizing effects of groundwater, the applicant was required by the Department of Building and Safety to install four vertical and four horizontal de-watering wells across the subject property. The horizontal de-watering wells would be installed at the toe of the slope along Castellammare Drive, beneath the subject property and Posetano Road. The vertical de-watering wells would be installed 10 feet below the bottom of the ancient slide plane. The applicant has also proposed the installation of two inclinometers that will monitor the movement of the active landslide across the subject property. They would be located a minimum of 20 feet below the bottom of the ancient slide plane.

In their appeal to the Coastal Commission, the appellants submitted a report in which their contracted registered geologist, E.D. Michael, responded to outstanding questions posed by the appellants (December 27, 2001; August 1, 2001; March 30, 2002; August 8, 2002). Mr. Michael's responses were based on his review of the applicant's geotechnical reports and the City's geologic review letters. In his most recent report (August 8, 2002), Mr. Michael concluded, based on all the geologic and soil reports and references reviewed that the project as approved by the City of Los Angeles does not minimize the risks to life and property in an area of high geologic hazard. In addition Mr. Michael states, "... there is a serious risk that as proposed, [the project] will result in increased geologic instability and possibly an episode of catastrophic movement of the Posetano Road landslide mass with a consequent loss of structural integrity, such as it is, of the Posetano roadbed and the slope above it, as well as the likelihood of serious damage or even destruction of existing improvements in adjacent properties" (Exhibit #13). As of the date of this staff report, Commission staff is not aware of a response given by the applicant's geologist or the City addressing the appellants' concerns in the August 8, 2002 report by E.D. Michael. Therefore, there is a discrepancy between the applicant's and City's geotechnical analysis and the analysis conducted by the appellant's contracted registered geologist.

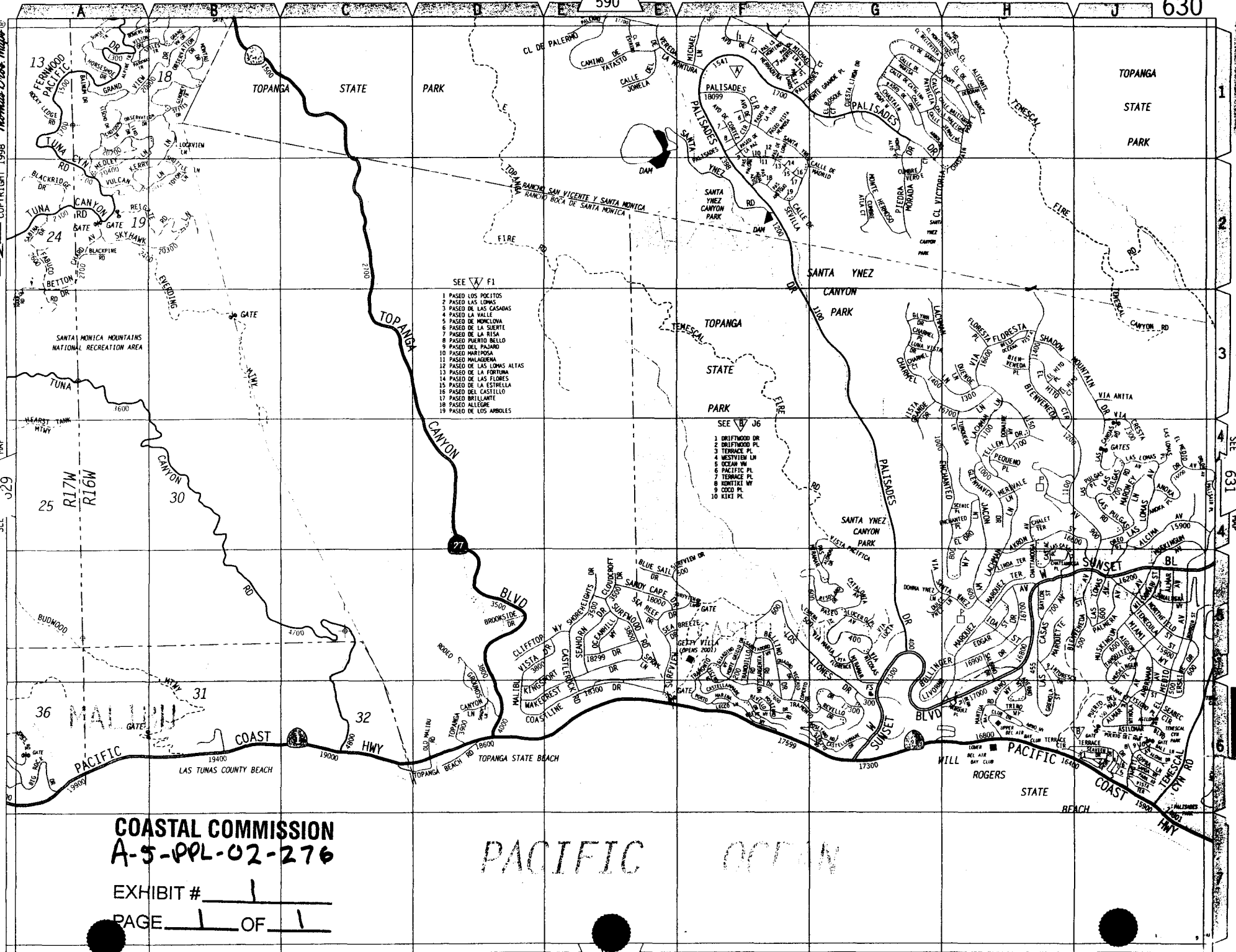
Because of the outstanding issues relating to the geotechnical analysis and the fact that the site is located entirely on an active landslide, the City's approval cannot adequately assure that the project (as approved under local coastal development permit No. ZA-2001-1780-CDP) is consistent with Section 30253 of the Coastal Act, which requires in part that development "minimize the risk to life and property in areas of high geologic... hazard" and "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 coastal bluffs".

Therefore, based on the issues discussed above, the Commission finds the West Los Angeles Area Planning Commission's approval of Coastal Development Permit No. ZA-2001-1780-CDP raises a substantial issue of consistency with Chapter 30253 of the Coastal Act.

**E. Conclusion**

Because of the importance of the Coastal Act issues raised by the appellants, the proposed project must be reviewed and considered by the Commission pursuant to the Chapter 3 policies of the Coastal Act. The Commission finds that a substantial issue exists with respect to the proposed project's conformance with the Chapter 3 policies of the Coastal Act because the local coastal development permit does not adequately analyze and mitigate the potential impacts that the proposed project may have with respect to developing in a hazardous location.

End/am



COASTAL COMMISSION  
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EXHIBIT # 1  
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PACIFIC

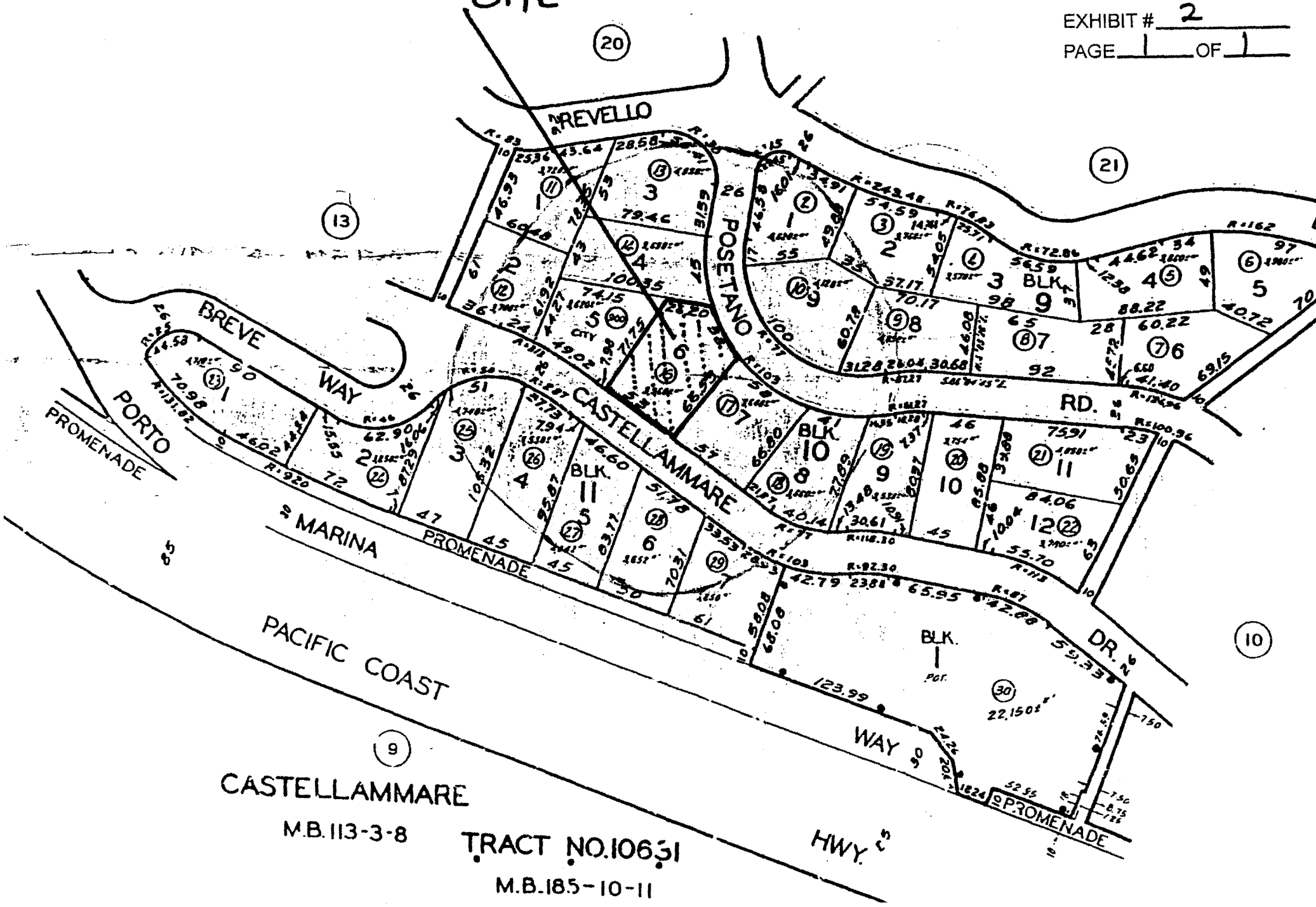
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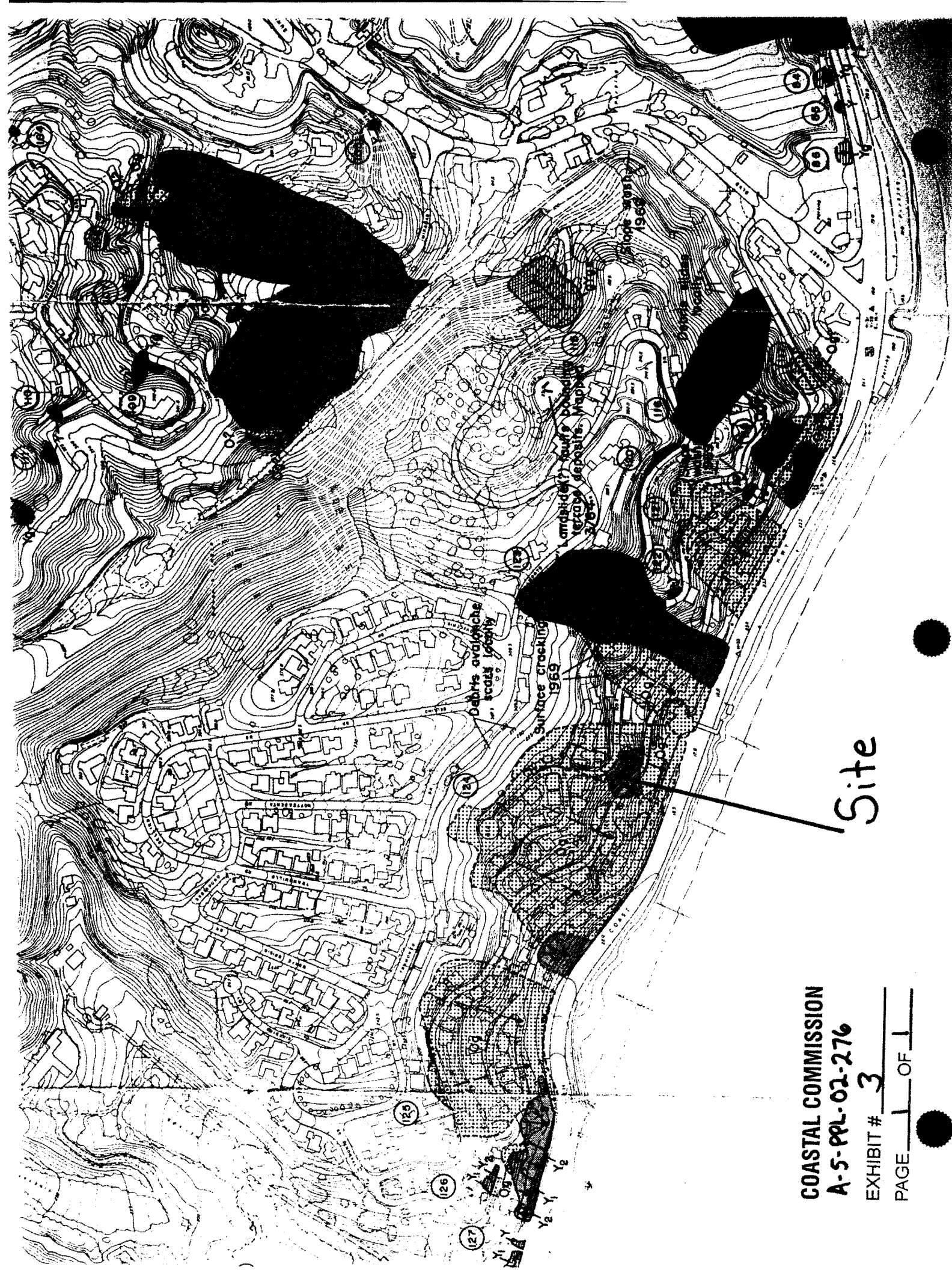
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EXHIBIT # 2

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Site





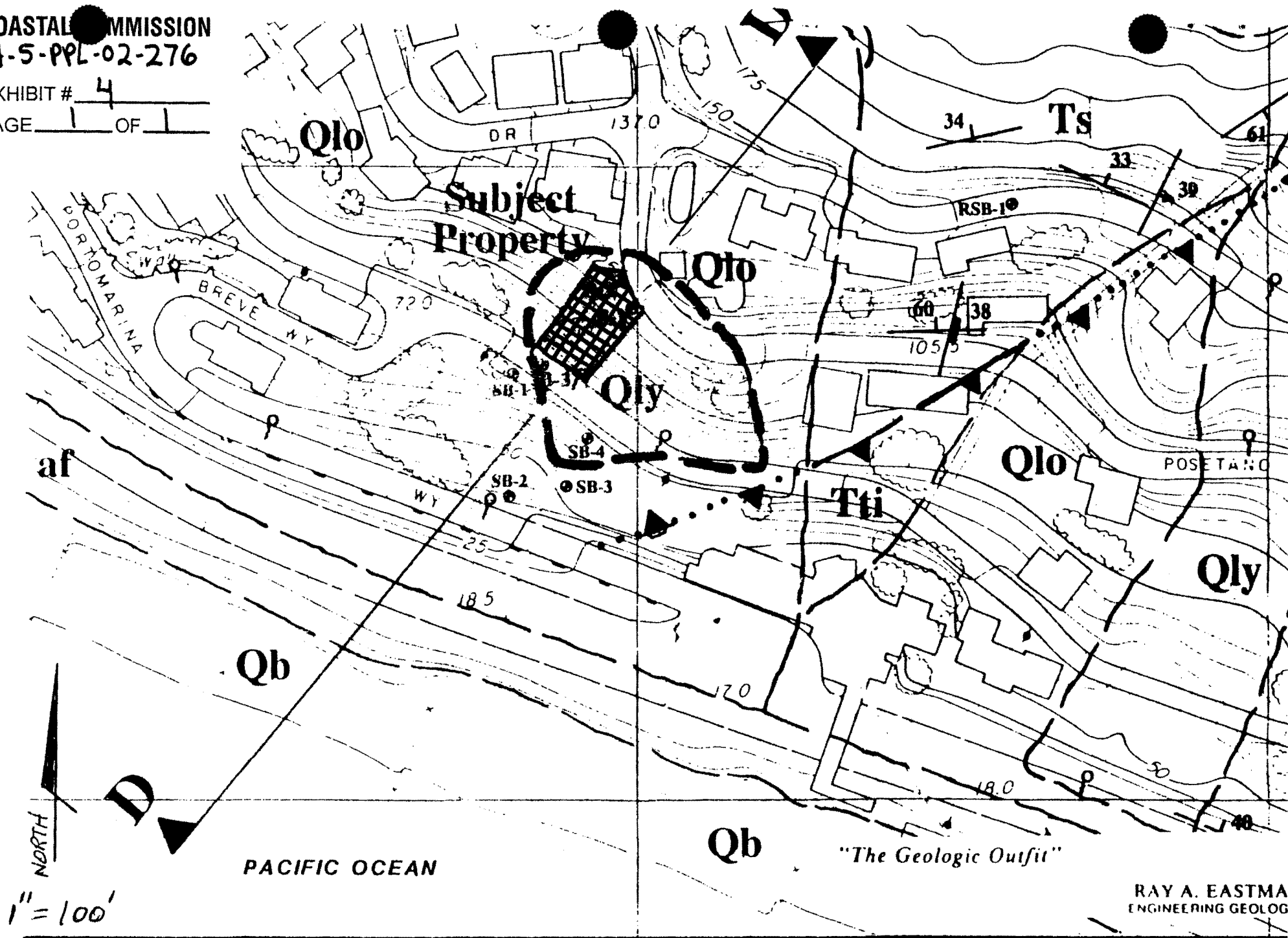
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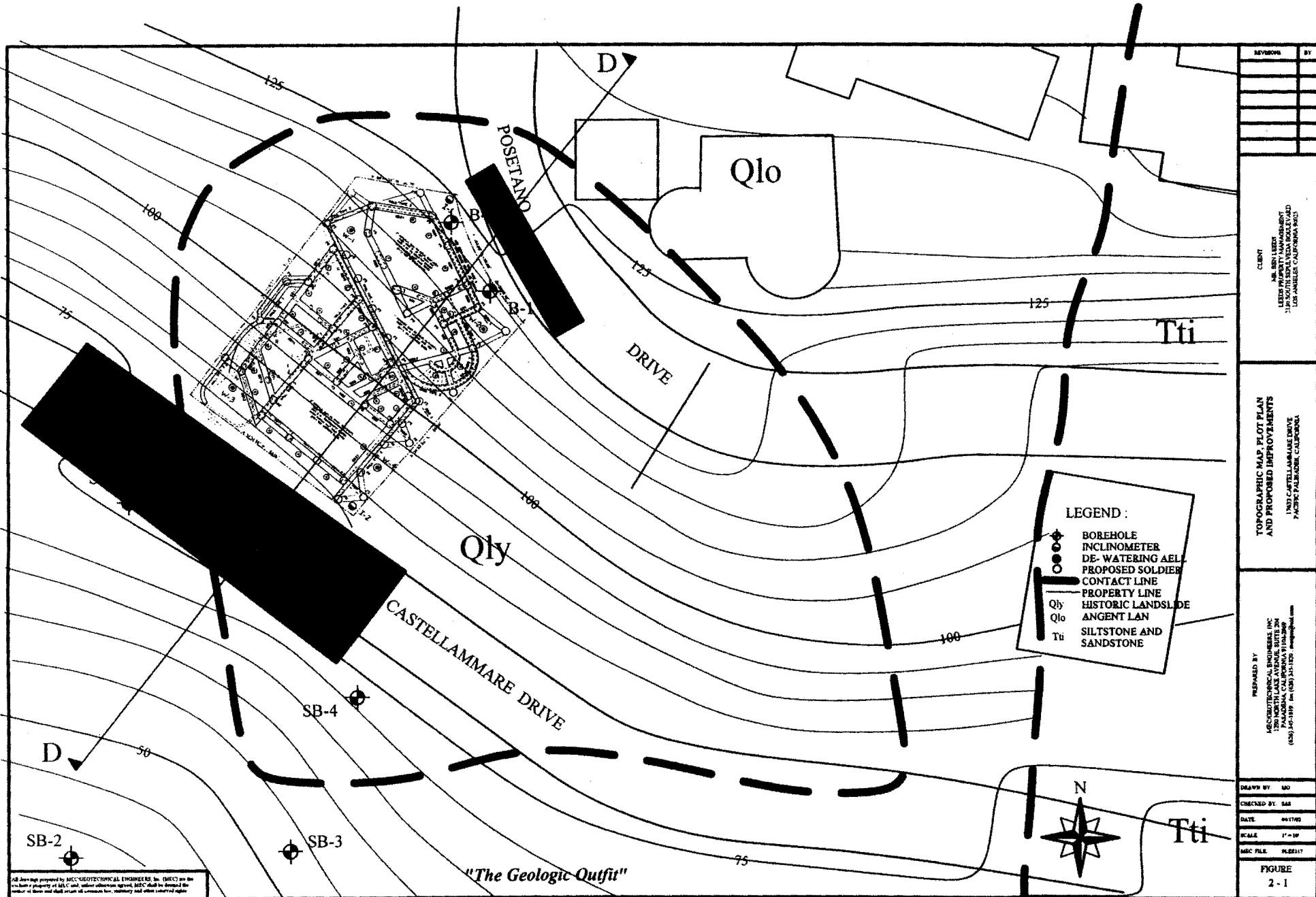
EXHIBIT # 3

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MAP REFERENCE: GEOLOGIC MAPS OF THE PACIFIC PALISADES  
AREA, LOS ANGELES, CALIFORNIA, BY JOHN T. MCGILL, 1989.

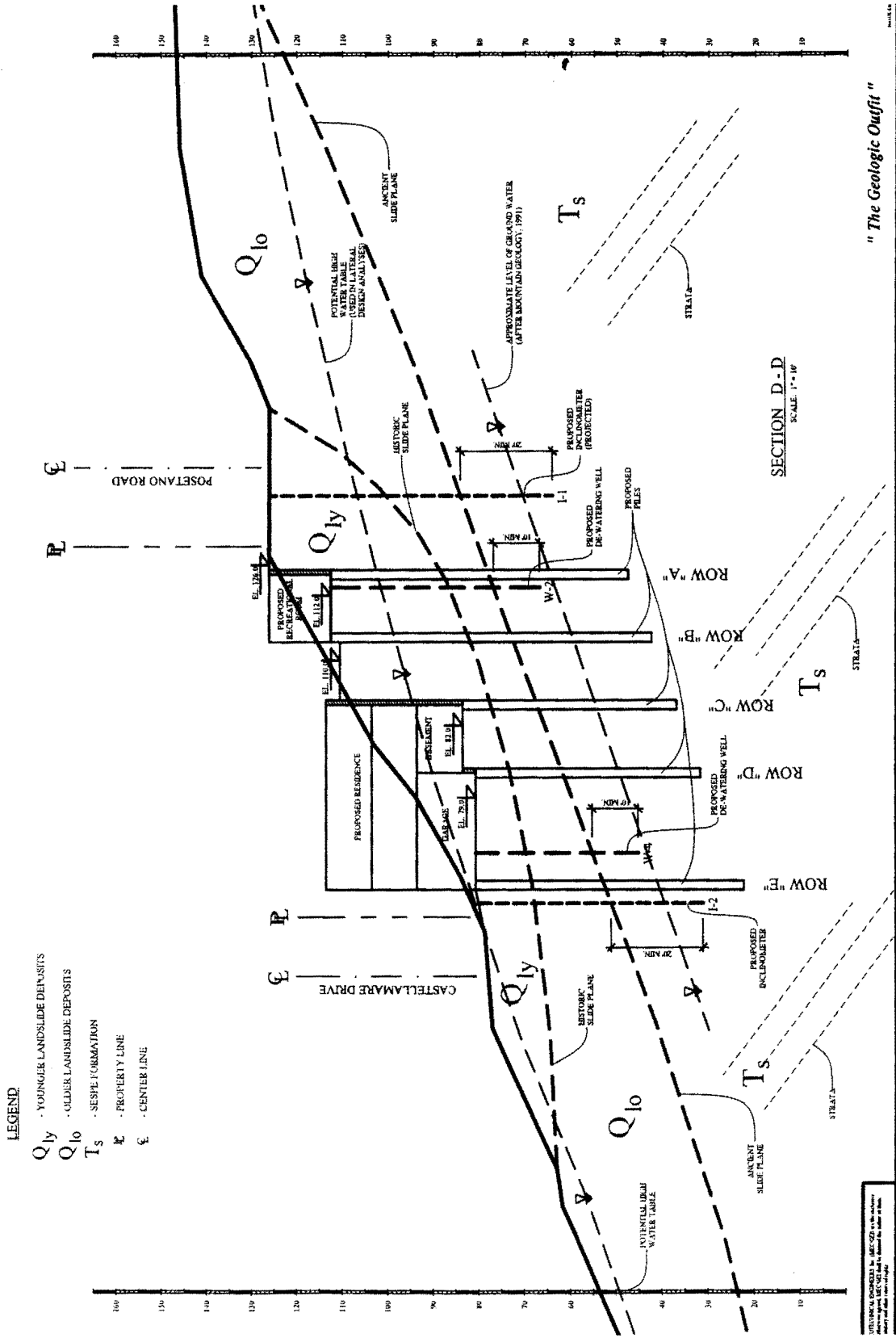




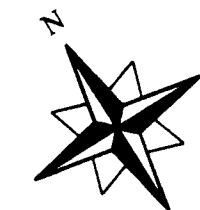
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**EXHIBIT #** 5  
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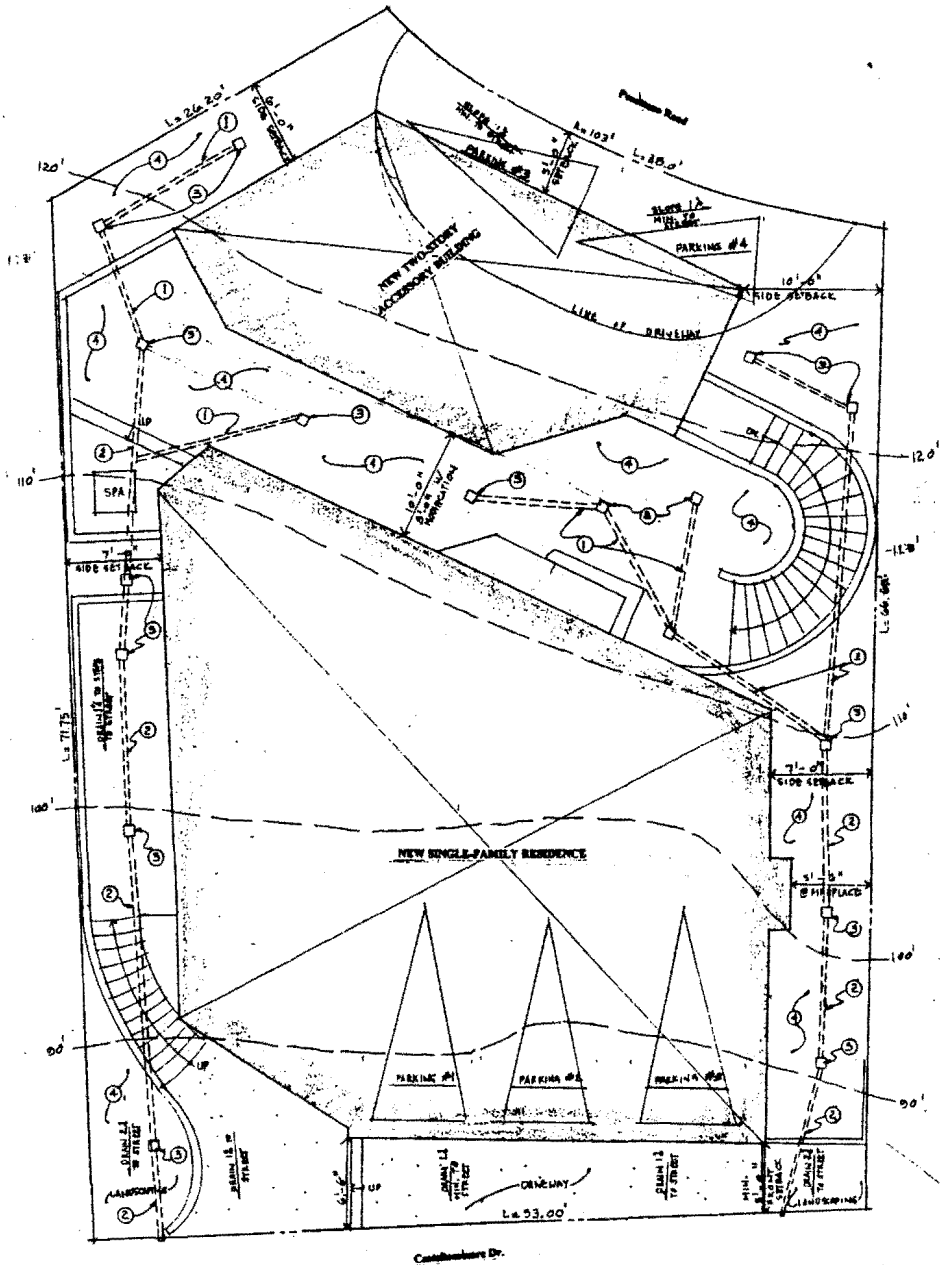


-  PILE LOCATIONS  
 INCLINOMETER LOCATIONS  
 DE-WATERING WELL LOCATIONS

SCALE: 1" = 10'

**RAY A. EASTMAN**  
ENGINEERING GEOLOGIST

"The Geologic Outfit"



**SITED/RAINAGE PLAN**

LOT AREA = 4289 FT<sup>2</sup> LOT COVERING = 44.1 PARKING = 5 SPACES TOTAL PAVED AREA = 5100 FT<sup>2</sup> (INCLUDES 450000)

NEW SINGLE-FAMILY RESIDENCE FOR  
**MR. BEN LEEDS**  
1981

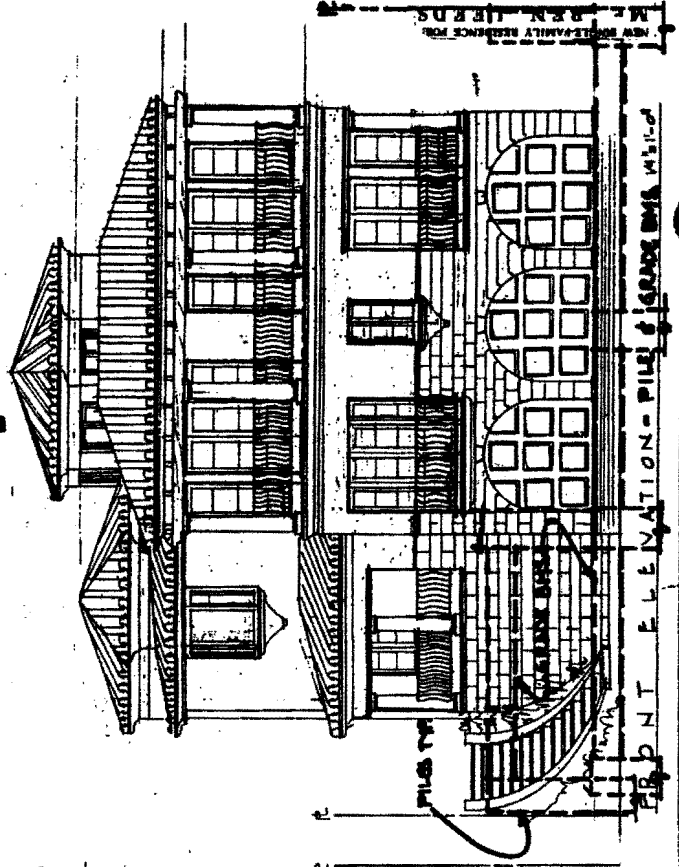
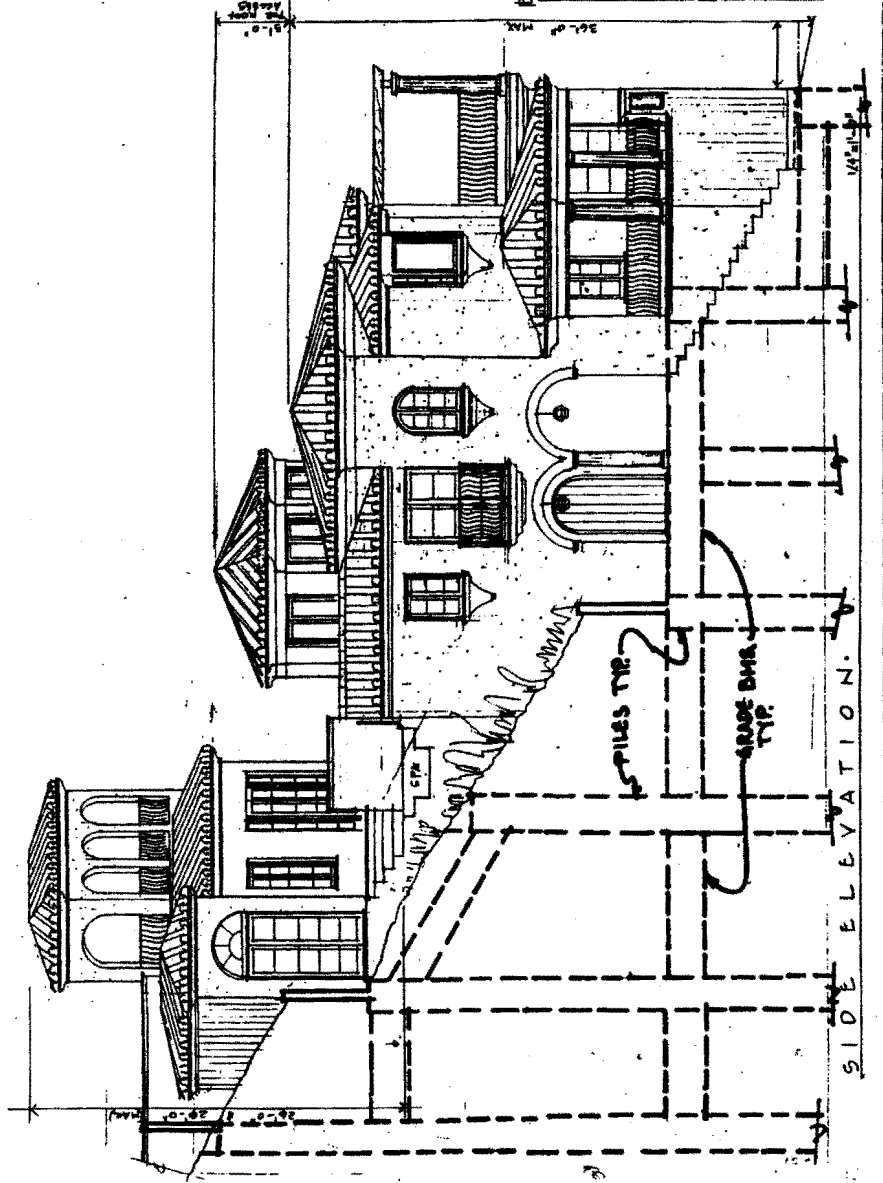
COASTAL COMMISSION 1.  
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EXHIBIT # 9

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(NW)

View from Castellammare Drive



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Cont.)

Permit No. 5-00-407

LA File No. ZA 2001-1780 (CDP)

Applicant: Ben Leeds,

Location: 17633 Castellammare Drive, Pacific Palisades

**GROUNDS FOR APPEAL**

Appellants Pacific Palisades Residents Assn., Pacific Palisades Community Council, Palisades Preservation Assn., Marianne Perls, and Dr. William J. Clearihue III submit the following grounds for contending that the West Los Angeles Planning Commission abused its discretion and erred in granting the Applicant a Coastal Development Permit.

The subject property is located in a geologically unstable and hazardous zone. Not only is it part of an ancient slide, two active slides have occurred on the subject property since 1960 and it is conceded by all parties that the active slides have combined and have expanded across Posetano Road above the subject property. Both Posetano Road and Castellammare Drive are unstable. Both streets have been removed by the City from public use and are not on the repair rolls. Both are shored up with minimal shoring. Utilities on both streets are above ground. Both streets are only 20 feet in width both streets show signs of earth movement with many cracks.

Appellants are aggrieved for the following reasons. Marianne Perls lives and owns a home on the north side of Posetano Road directly across from the subject property. Dr. Clearihue owns a home in which he lives just west and above the subject property. Should one or both streets or the subject property become unstable either during construction or after construction as the result of the construction of the proposed dwelling, it could cause severe damage to their properties and the homes thereon. In April of this year it was discovered that the scarp of the active slide which covers the subject property had advanced uphill and was causing cracking not only of Dr. Clearihue's home but of the home across the street from Dr. Clearihue and Mr. Leeds' property at 17627 Posetano Rd. He is in danger of losing his home.

The other appellants are watch dog agencies concerned with the welfare of the residents and the community, each of which have members who live who live in the affected area. Each is concerned that the potential for a geological disaster resulting on this property will block streets for residents who live to the east of the subject property. Further, the City of Los Angeles has spent over \$50 million in condemning or repairing damaged properties and public facilities in Pacific Palisades, all because building permits were issued by the Department of Building and Safety based on faulty geologic and soil reports. These expenditures have resulted in the community being deprived of parks and other public facilities and reduced public services.

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- 1. The City Failed to Find That the Development Shall Minimize Risks to Life and Property in an Area of High Geologic Hazard and That the Development Shall Assure Integrity, and Neither Create Nor Contribute Significantly to Geologic Instability or Destruction of the Site or Surrounding Area.**
- 2. The City Failed to Require That an Environmental Impact Report Be Prepared as Required by the California Environmental Quality Act Where Both a Substantial Public Controversy and an Expert Opinion Were Submitted That Controversy Evidence That the Project Will Not Result in a Significant Adverse Environmental Impact, Both of Which Are Involved in this Case.**
- 3. The Appellants Were Denied Due Process and a Fair Hearing Before the West Los Angeles Planning Commission:**
  - a. Appellants Were Not Provided With a Copy of the April 15 Supplemental Geology Report Submitted by Mr. Leeds as Mr. Leeds Was Directed to Do By the Commission and Were Denied a Continuance So That the Appellants Could Obtain a Copy and File a Response With the Commission.**
  - b. Appellants Were Not Told That Mr. Leeds Had Submitted an Eight Page Ex Parte Communication to the Commission and Were Not Permitted a Continuance to Read and Respond to the Communication.**
  - c. Dr. Clearihue Was Not Called to Speak Even Though He Had Submitted a Written Request to Speak While Every Person Who Submitted a Request to Speak On Behalf of Mr. Leeds Were Called to Speak.**

**Background.**

Early in the summer of 2000, Appellant Dr. Clearihue was approached by a man who identified himself as Ben Leeds who said he was planning to build a new home on the lot adjoining Dr. Clearihue's and wanted Dr. Clearihue to sign off "as a good neighbor." Mr. Leeds admitted that it was to be a "spec" home. Dr. Clearihue, whose familiarity with the area goes back to 1949, pointed out that there was an active spring and landslide on the property and that in light of the fact that the area was extremely unstable, he would have difficulty in getting the Coastal Commission and the Los Angeles Department of Building and Safety to approve the project. Mr. Leeds replied that "*The Coastal Commission was not a problem for him and that an approval was easy.*" (Declaration of Dr. Clearihue attached hereto, page 1)<sup>1</sup>.

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<sup>1</sup> Appellants are submitting testimony using sworn declarations. This is because so many false statements were made by Mr. Leeds and his witnesses during the hearings that Appellants believe that

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Mr. Leeds prediction was correct. Mr. Leeds, an experienced developer, succeeded in getting the Zoning Administrator of the City of Los Angeles to waive holding a hearing on the application for a Coastal Development Permit in violation of the Municipal Code and send the Application on to the Coastal Commission where it received preliminary approval by the Staff and it would have been approved except that Dr. Clearihue received a Notice of Hearing on March 2, 2001, ten days prior to the scheduled hearing before the Commission.

Dr. Clearihue called Mr. Jack Allen, who as an Advisor to Pacific Palisades Community Council on Coastal Commission and geologic matters. Puzzled because any application for a Coastal Permit is required to be first approved by the City of Los Angeles, and Dr. Clearihue had not received any Notice of a City hearing Mr. Allen then contacted the Coastal Commission staff and learned that the City had provided the Coastal Commission with an Approval in Concept. Noting that there is no authority in the Los Angeles Municipal Code for issuing an Approval in Concept for a Coastal Permit, Mr. Allen requested that the Coastal Commission staff send him a copy of the Approval in Concept.

Mr. Allen noted that on the face of the Approval it states that it cannot be issued for single family dwellings that are in geologically unstable areas and this property is located in the Castellammare area which is obviously a geologically unstable area. Mr. Allen then contacted Robert Janovici, the Chief Zoning Administrator and asked him how such an Approval could be issued when there is no authority. Mr. Janovici admitted that the Approval was mistakenly issued.

The City then notified the Coastal Commission that the Approval had been erroneously issued and requested that the Approval be withdrawn and the matter be referred back to the City. Subsequently early in May, the Office of Zoning Administration issued a Notice of Hearing for a Coastal Development Permit for the subject property for May 31, 2001.

In preparing for the hearing Mr. Allen examined the file in the Office of Zoning Administration. In the file, Mr. Allen found no evidence of any environmental review. He found a one volume Geologic Report with charts. Mr. Allen, though not a geologist by trade, had become knowledgeable of geology having defended cities being sued for damages that resulted from landslides for 20 years. In preparation he had taken several advanced courses in geology including courses on preparing and reading geology reports, engineering geology and hydrogeology. He had also worked with geologists as expert witnesses. He was involved in over two dozen cases with the City of Los Angeles over proposed developments in the Pacific Palisades and had worked with geologists on those cases, becoming familiar with the geology in the Palisades.

With this background he examined the geology report and maps that were in the Zoning Administrators file. After examining the report and maps, Mr. Allen had a number of concerns. While he felt that the concepts employed had merit, he was concerned that there was

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by using a higher standard of proof under the penalty of perjury the evidence will be more credible.

insufficient data to support the City Grading Division's approval of the project. Moreover, the geological report in the file was dated in 1991 which predated the Northridge earthquake. Mr. Allen knew that the Northridge earthquake had caused problems in the Pacific Palisades and that the City Division of Grading had required pre-earthquake geology reports to be updated.

He then contacted Mr. Leeds and discussed the concerns that he had. While Mr. Leeds provided answers to some of the concerns, other concerns remained questions to Mr. Allen. However, in response to Mr. Allen's concerns about the outdated geology report, Mr. Leeds stated that he had submitted updated reports to the Grading Engineering Section. He promised to provide copies of the updated reports at the Community Council meeting.

Mr. Leeds could not attend the Council meeting but sent his architect to represent him, however, when the architect arrived at the meeting, he did not have the additional reports, but instead provided Mr. Allen a two-page list of additional geology documents which he stated had been submitted to the City as well as to the Coastal Commission.

Appellant Pacific Palisades Residents Assn. then retained E. D. Michaels, as an independent geologist to review the geology and soils reports submitted by Mr. Leeds to the City and to the Coastal Commission. Mr. Michael has considerable experience in the Palisades area and is a state certified Hydrogeologist, a qualification particularly needed in the Palisades. Mr. Leeds, however, did not fulfill his promise and provide the missing supplemental reports and eventually copies were provided by the City. This was to become a specific tactic of his throughout the proceedings which caused considerable delays.

On August 1, 2001, Mr. Michael submitted his Report based on 33 documents.<sup>2</sup> He found a number of fundamental errors in the interpretation of the geological character of the property and the immediate adjacent properties. Primarily, Mr. Leeds geologists had used an out of date 1959 U. S. Geological Survey Landslide Map (McGill) which only showed two small slides at the base of the subject property. However, revised maps in 1973, 1982, and 1989 showed not only that the slide had expanded to cover the entire property but that there were also springs on lower portion of the property.

Moreover, on an inspection of the property and its vicinity, Mr. Michael determined that since 1989, the headward expansion of the slide had reached further north of Mr. Leeds' property and had crossed to the north side of Posetano Rd. Given the new parameters of the slide mass, Mr. Michael concluded that the previous geological reports were no longer relevant. He also found gross errors in the use of the Strength Parameters and in the calculating of the Effective Stress as well as a questionable Foundation System Design.

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<sup>2</sup>Copies of Mr. Michael's Reports are in the Administrative Record of the City of Los Angeles. When the Record is filed with the Commission, Appellants will examine the file and provide any missing documents.

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The Grading Engineering Section of the Department of Building and Safety had approved Mr. Leeds' geology and soils reports on September 10, 1999. It is the policy of that Section never to rescind approval because it is an admission that the staff geologists made a mistake in approving the reports. But on August 13, 2001 the Grading Section issued a Notice of Intent to Rescind Departmental Approval of Geological and Soil Engineering Reports for 17633 Castellammare Drive.

Mr. Hsu advised Appellants that a copy of the August 13 letter was delivered immediately to the Zoning Administrator. However, ignoring the letter the Zoning Administrator issued his Decision letter approving the issuance Coastal Development Permit of the on August 16 and he made no mention of having received the letter. Although requested to do so by the Appellants, the Administrator did not make findings pursuant to Public Resources Code (Coastal Act) Section 30253 as to whether the development would minimize risks to life and property in an area of high geological hazard and whether the development would assure stability and structural integrity, and neither create or contribute significantly to the geologic stability, or destruction of the site or surrounding area. Obviously in light of the Notice of Intention to Rescind, he could not do so.

In the Notice of Intention to Rescind, Mr. Leeds is told that unless further calculations were provided, similar to the ones Mr. Michael had suggested in part needed to be done were provided by August 28, the Approval would be rescinded. This led the Appellants to believe that the Notice was the result of Mr. Michael's report of August 1. However, the Notice to Rescind was the result of the staff geologist reviewing the project noting that the calculations submitted for 17633 Castellammare Drive were identical to the calculations for a house being built at 17711 Revello Drive. (Jerry Moss) across from Dr. Clearihue's home.<sup>3</sup> The same geologist MEC/Geotechnical is involved for both projects.

In response to the Notice of Intent to Rescind letter, Mr. Michael submitted a Critique dated August 20, 2001. Believing that the Grading Engineering Section letter was based on his Critique Mr. Michael stated that his concerns had not been addressed in the Grading Engineering Section letter.

Subsequently on August 20, Appellants received copies of two more supplemental reports from Mr. Leeds' geologist that had not been previously provided by the Grading Section. Mr. Michael responded on August 24. Mr. Michael concluded that one report in particular strengthened the conclusions in his Critique.

The Appellants then timely appealed to the West Los Angeles Planning Commission. However, the hearing on the appeal was continued because Mr. Leeds was unable to provide the additional information required by the Grading Engineering Section to re-approve his reports.

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<sup>3</sup> Mr. Moss was not required by the City to get a Coastal Development Permit even though the house is in the Coastal Zone.

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Subsequently, on November 29, 2001, the Grading Engineering Section issued a letter approving the geology and soils reports. However, again Appellants were not provided with the six supplemental reports that Mr. Leeds had submitted although the Planning Commission had instructed him to supply them to the Appellants concurrently with their submission to the City. A continuance was granted to permit Appellants to obtain copies and respond.

Mr. Michael responded on December 28, 2001 stating that Mr. Leeds had not responded to the problems he had identified in his previous Reports as well as to questions sent to Mr. Leeds subsequently by the Grading Engineering Section, setting forth in detail the failures. He particularly stated that "the design criteria indicate a fundamental misunderstanding of hydrogeology."

On January 10, 2002 and February 14, 2002, the Grading Engineering Section sent a letter to Mr. Leeds requesting responses to the technical issues raised by Mr. Michael. When Mr. Leeds failed to adequately respond to those issues, the Grading Engineering Section sent another letter on February 14, 2002 requesting more information. Appellants learned that Mr. Leeds had submitted six supplemental reports without providing them to Appellants concurrently and on March 20, asked the WLA Planning Commission for a continuance until May 1, 2002 of the hearing to obtain and respond to the reports. The Commission granted the continuance and at the same time told Mr. Leeds that he was to provide copies of any reports he filed with the Grading Engineering Section simultaneously to the Appellants.

The supplemental reports were delivered to Mr. Allen at the Commission meeting. The next day as Mr. Allen was making arrangements with Mr. Michael to deliver the reports to him, Mr. Michael told Mr. Allen that he had just inspected the area and that he had found new cracking on the property at 17627 Posetano Road which indicated that the active slide had expanded headward. Mr. Allen visited the property and found new cracking in the brick building which neither he or Mr. Michael had observed in their previous inspections. Dr. Clearihue was advised of this information. Dr. Clearihue had noticed extensive new cracking in his back yard, patio, and kitchen also which was an indication that the slide had expanded upward and laterally onto his property which is across the street from 17627 Posetano Rd.

Dr. Clearihue, Mr. Allen, and Mr. Michael met on Saturday at Dr. Clearihue's home two days later to inspect the cracks in Dr. Clearihue's home and across the street and photograph them. Mr. Michael was of the opinion the expansion of the slide indicated that the slide was so sensitive that it could be triggered by any increase in ground water through a rainstorm, or the slide movement causing the water main to break, or an earthquake and that if triggered it would cause a massive landslide which could take all the homes above it on Revello Drive all the way to the Pacific Coast Highway below. Any slide would eliminate any access to homes east of the subject property on both Posetano Road and Castellammare Drive.

Los Angeles City officials in the Building and Safety Department, Public Works Department, Department of Water and Power, and City Council were notified of the problem. The response has been there is no money to fix the problem.

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Mr. Michael also submitted a response to the six supplemental reports on March 31, 2002, stating that the reports were irrelevant because of the substantial change in the slide parameters and that "the grading necessary to install the foundations as planned could only exacerbate conditions."

With the hearing approaching and time running out on the requirement that documents be submitted to the Commission ten days prior to the hearing, Mr. Allen, on April 15, called Mr. David Hsu, the Chief of the Grading Engineering Section to find out what was the progress on Mr. Leeds geology reports. Mr. Hsu told Mr. Allen that the Section was about to approve Mr. Leeds' geology and soils reports despite Mr. Michael's latest report. On April 18, 2002 a copy of the Letter of Approval was faxed to Mr. Allen.

When Mr. Allen received the Letter, he noted that Mr. Leeds had provided two additional supplemental reports dated April 14 and April 15, 2002 in response to Mr. Michael's report but neither had been transmitted to the Appellants. Allowing time for the reports to arrive, Mr. Allen waited until April 22, the last day to submit documents to the WLA Planning Commission, before delivering a letter requesting a further continuance in order to obtain copies of the supplemental reports and respond to them.

The next week Mr. Leeds delivered a copy of the April 14<sup>th</sup> Report to Dr. Clearihue but without the April 15<sup>th</sup> Report it was impossible for the Appellants to determine what information they contained that would cause the City to ignore the new cracking and approve the Report. Appellants clearly were entitled to a continuance and expected one. However, when the WLA Planning Commission commenced, it was apparent that one was not going to be granted. Mr. Leeds stated that his geologist had mailed copies of the missing reports to Mr. Allen but submitted no proof or testimony from his geologist, who was present, to substantiate his statements. The continuance was not granted.

During the hearing, Mr. Leeds referred to a letter he had sent to the Commission. That was the first the Appellants had heard of the letter. When Appellants asked for a continuance to read and respond to the letter, it was not granted.

Further during the hearing, which was conducted in a very unordered fashion, Dr. Clearihue was not allowed to testify even though he had submitted a written request to speak prior to the beginning of the hearing. All the speakers who submitted requests to speak on behalf of Mr. Leeds were permitted to testify.

One of those speakers was Maged Guriguis who resides at 17616 Posetano Road, two lots away to the east of the subject property. In 2000 he bought his new home which was constructed without a Coastal Development Permit. On September 21, 2001 there was a meeting regarding the Leeds development on Posetano at the Leeds property involving several neighbors and Victoria Minetta, the Planning Deputy for Councilwoman Cindy Miscikowski. Mr. Guriguis joined the group and spontaneously stated that he was having problems with his house and that when he bought it he had problems with the fences and gates, cracks in his walls, and moisture in his basement, and that he had to have repairs made.

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geologist told him that this was due to excessive settlement and that he needed to have eight additional soldier piles installed to correct the problem. (See Declaration of Dr. Clearihue, pp. 1, 2; Declaration of Joyce Aldrich.)

Later, Dr. Clearihue told this to Mr. Allen who at the time considered it significant to show the instability of the geology in the area and that it was another example of the Grading Engineering Section approving faulty geology reports which had been submitted by the same geologist being used by Mr. Leeds. Mr. Allen told Dr. Clearihue that it would be helpful if Mr. Guriguis testified at the coming hearing before the Zoning Administrator.

When Dr. Clearihue asked Mr. Guriguis to testify, Mr. Guriguis refused stating that Mr. Leeds had told him not to do so or otherwise he would lose a million dollar deal with Mr. Leeds. (Declaration of Dr. Clearihue, p. 2). Later, Mr. Leeds confirmed that this happened when he approached Mr. Allen after a meeting in November 2001 and told Mr. Allen he could not use his conversation with Mr. Guriguis because it was heresy. (Declaration of Mr. Allen, pp. 2-3).

Mr. Guriguis did not appear at the hearing before the Zoning Administrator. However, to the surprise of the Appellants he did appear at the hearing before the WLA Planning Commission and he testified that he had not had problems with his house. Either his statement to his neighbors was false or his testimony before the Commission was false. Mr. Allen argued in rebuttal that his testimony was false but since Mr. Allen had expected that the hearing would be continued, he was not prepared to submit proof, and the only witness present, Dr. Clearihue was not called to testify.

Nevertheless, it was clear that Mr. Leeds was very concerned about what Mr. Guriguis had told the neighbors and deliberately threatened Mr. Guriguis in order to suppress his testimony.

The WLA Planning Commission approved the issuance of the Coastal Development Permit with conditions.

After a long delay the Appellants were finally able to obtain a copy of Mr. Leeds April 15, 2002 supplemental report and submitted it along with the April 14 Report to Mr. Michael. Based on questions asked by Mr. Allen, Mr. Michael prepared a letter dated August 24, 2002, a copy of which is attached hereto. In response to the questions therein he found nothing in the two supplemental reports that would cause him to change his conclusions set forth in his March 30, 2002 Report. In fact he found serious problems in those Responses. He concluded that the project as approved by the City of Los Angeles will not minimize the risks to life and property in an area of high geological hazard. He further concluded that:

"...there is a serious risk [that the project] as proposed, ... will result in increased geologic instability and possibly an episode of catastrophic movement of the Posetano Road landslide mass with a consequent loss or structural integrity, such as it is, of the

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Posetano roadbed and slope above it, as well as the likelihood of serious damage or even destruction of existing improvements in adjacent properties."

**DETAILED DISCUSSION OF THE GROUNDS FOR APPEAL**

- 1. The City Failed to Find That the Development Shall Minimize Risks to Life and Property in an Area of High Geologic Hazard and That the Development Shall Assure Integrity, and Neither Create Nor Contribute Significantly to Geologic Instability or Destruction of the Site or Surrounding Area.**

Clearly prior to the granting of a Coastal Development Permit a finding must be made regarding Public Resources Code (Coastal Act) Section 30253 that a development located in an area of high geologic will minimize risks to life and property in that area and that the development will assure integrity, and neither create nor contribute significantly to geologic instability or destruction of the site or surrounding area. As stated previously, Mr. Michael concluded that it would not. (Michael letter, page 4). He based his conclusion on all the documents submitted by Mr. Leeds and other information in other geological studies of the landsliding in the Pacific Palisades area. He explains why he finds the approval of the project by the Grading Engineering Section of the City as inadequate in response to a series of questions in his letter of August 7, 2002.

In answer to Question No. 1,

"Having examined the Responses to City Questions for 17633 Castellammare Drive prepared by MEC/Geotechnical Engineers, Inc. dated April 14, 2002 and April 15, 2002, which were submitted after your March 30, 2002 Report, is there any information in those Responses that would cause you to change your conclusion in your Report that the criteria for the Leeds foundation design is probably invalid?"

he states that the two Responses in addition to two other reports only raise additional questions. He states that the calculations of the seepage forces are seriously in error and that in preparing the April 14 Responses, Mr. Leeds geologist did not take into consideration the recent extension of the landslide into Dr. Clearihue's property.

In answer to Question No. 2,

"Is there any information in the said Responses that would change your conclusion that the grading necessary to install the foundations as shown in the Responses could only exacerbate the conditions you have described in your Report?"

he states "No" giving an explanation in answer to Question No. 4.

In answer to Question No. 3,

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"In its Response dated April 15, 2002, MEC states in response to Question No. 4 that they have reviewed and responded to all the concerns raised by Mr. E. D. Michael. Is that statement correct and if not, in what respects has MEC failed to respond to any of your concerns?"

he states

"No. There has been no adequate response to the matter of dewatering (see Recommendation 2, p. 13, Ref. [6]). Section D-D' of Reference [3] shows two dewatering wells, although their proposed locations are not given in any of the reviewed references. In any event, it is doubtful that such an installation would effectively dewater the slope below the elevation of the MEC-postulated "potential water table." The apparent positions of the two wells, one directly downslope from the other, are highly inadvisable, because the upper well would interfere with the lower and therefore vitiate the latter's effectiveness. Furthermore, the cone of depression that a well normally produces might not extend any significant distance laterally from the wellhead. Consequently, it would have no effect on increasing the effective stress over more than a small area of the property"

"The idea, employed here by MEC, of regarding a dewatering well as a shelf item, and locating it apparently using a dart board, is absurd. No thought should be given to the number, spacing, or depths of a dewatering well system until values for hydraulic conductivity and storage coefficient or specific yields have been determined or at least estimated based upon some sort of reasonable data."

In answer to Question No. 4,

"In its Response dated April 14, 2002, MEC states in response to Question No. 4 asking how the grading sequence will allow excavations in excess of five (5) feet that after installation of the piles, a five-foot excavation will be performed and a gunite retaining wall between the soldier piles on the vertical cut would be constructed and then only after the completion of this gunite wall will the next five foot excavation commence. Considering the maps in Attachment No. 1 thereto showing the distance between soldier piles and any other relevant information, will this method of excavation be adequate to support the slide mass above? Please give an explanation for your answer."

his answer is:

"No. The proposal announced in A4 (p. 4, Ref. [4]) Ref. to install a "gunite retaining wall" in a 5-foot vertical cut upslope of installed soldier piles is highly questionable for the following reasons:

(a) Generally, gunite has almost no value as a retaining structure and none at all for a vertical cut. The first 5-foot cut would present no particular problem, but increasing its height in additional 5-foot increments would introduce a condition of potential instability that a gunite cover could not prevent.

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(b) An assumed temporary stability of the cut appears to be based upon back-calculated strength parameters contained in Table 1 of Reference [4]. Those data necessarily assume a present safety factor of unity. Such an assumption is unwarranted in an active slide debris mass, the safety factor of which, by definition, is less than unity. A safety factor of unity assumes equal driving and resisting forces. In an active system there is no such equality, and consequently, the back-calculation cannot be applied. The problem has no solution."

Based on this letter and on Mr. Michael's Report of March 30, 2002, the Coastal Commission has substantial evidence to grant the approval and deny a Coastal Development Permit to Mr. Leeds.

**The Commission Should Rely On Mr. Michael's Opinion Because He Is the Only State Certified Hydrogeologist.**

In deciding this appeal the Commission is acting in a quasi-judicial capacity. It is entitled to assert its independent judgement. It can accept or reject staff recommendations. If it has before it adequate expert evidence, it then has enough substantial evidence to deny a permit and have its decision sustained in court.

In this case, Mr. Michael's reports constitute more than adequate expert evidence. Mr. Michael is a State Certified Hydrogeologist. None of the geologists who prepared reports for Mr. Leeds are State Certified Hydrogeologists nor are any of geologists in the Grading Engineering Section who reviewed the reports. In fact the City geologists are not certified by the State even as geologists.

According to the California Code of Regulations, Section 3003(h), Hydrogeology:

"...means the application of the science of geology to the study of the occurrence, distribution, quantity and movement of water below the surface of the earth, as it relates to the interrelationships of geologic materials and processes with water, with particular emphasis given to groundwater quality."

Because the Grading Engineering Section does not have a licensed Hydrogeologist may explain why so many of the structures approved by it have ended up sliding and why the City has spent so many millions buying up damaged homes and property and repairing the damage in the Pacific Palisades. Water is the principal culprit and the failure of the Grading Engineering Section to require adequate designs in geologically hazardous areas has contributed significantly to this problem. The Section lacks the qualified geologists to do the necessary hydrogeological analysis which is clearly demonstrated in this case.

Using a geologist that is not certified by the State as a Hydrogeologist is like using a general practitioner to do brain surgery. Many geologists are qualified to do hydrogeological work even though they are not certified. But neither the Commission nor the City have any way of knowing whether any particular geologist is qualified. The only way either the

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Commission or the City can have any confidence in a geologist to work in a geologically hazardous area, especially along the bluffs west of Santa Monica Canyon, where ground water is a particular problem, is to have a licensed hydrogeologist certify any project that is located in a geologically hazardous area. Developers have and will object strenuously to such a requirement because developers will take every shortcut they can to get their geologic and soils reports approved and a licensed hydrologist is unlikely to take short cuts.

The answer given by Mr. Michael to Question No. 3 above illustrates how important it is to have a qualified hydrogeologist on a project in the Castellammare area. In response to earlier concerns raised by Mr. Michael about groundwater the Grading Engineering Section requested that MEC/Geotechnical Engineers revise its design to install dewatering wells, which MEC did. But lacking any expertise in hydrogeology, MEC located the dewatering wells without first collecting and analyzing data that MEC did not have to determine the number of wells required and the proper location for such wells. As Mr. Michael aptly points out, just willy nilly placing one well at the top of the property and one well at the bottom of the property can cancel out the effectiveness of the wells.

Obviously MEC/Geotechnical Engineers lack a geologist qualified in hydrogeology and it is just as obvious that they take shortcuts. Errors such as using an outdated landslide map and an inability to get it right is evidence of questionable qualifications. One example is Boring Hole No. 3. It is referred to in the 1991 Geological Report in the Boring Logs (not prepared by MEC) but does not appear in any of the maps of the borings. It has wandered and in Attachment No. 1 to the April 15, 2002 supplemental report prepared by MEC, it appears in the middle of Castellammare Drive, which never happened. There is a serious question whether it was ever bored.

The purpose of Boring No. 3 was to show the conditions near the base of Leeds property. For some reason, only two borings were made on the property, both at the top of the property at Posetano Road. None were done at the bottom of the property at Castellammare Drive. That is why the geologists never discovered the springs on the property and never were able to ascertain the extent of the groundwater or the base of the slide.

However, on October 3 and 4, 2001 borings were taken on the adjacent lot to the east both at Posetano Road and Castellammare Drive (which proves that Leeds geologists could have done a boring on the bottom of the property). One boring was approximately four feet of Posetano approximately 15 feet from the eastern boundary of Mr. Leeds' property. Ground water was encountered at approximately 30 feet. Another boring was done approximately four feet north of Castellammare Drive and approximately 15 feet from the eastern boundary of Mr. Leeds' property. Water was encountered at approximately 35 feet. A photograph of that boring showing a very wet muddy bit is on page 2 of the Appellants' letter to the WLA Planning Commission dated January 4, 2002. This indicates that there was high levels of ground water on the Leeds property which his geologists never identified.

But it is typical of MEC. There are problems on Mr. Guriguis' property which MEC is the geologist. MEC was the geologist on the Jerry Moss property on Revere which MEC is

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fake the geology there. The City had problems with MEC on property located at 17807 Castellammare Drive as stated in an August 9, 2001 letter by Tom Whelan. One of the problems identified in the letter was that on:

“On October 31, both the LADBS [Los Angeles Department of Building and Safety] Engineering Geologist and the Geotechnical Engineer visited the site. They discovered that the soil, as exposed in the vertical excavation, was not congruent with the type of soil previously submitted to, and approved by LADBS. The exposed soil reflected a lower strength, thus further calling into question the slope stability of the excessive excavation.”

Since MEC was the supervising geologist on this project and allowed this to happen, it raises the question whether the Commission or the City can depend on MEC to supervise such a sensitive project as the Leeds property. It certainly gives the surrounding neighbors and the community as sense of no confidence in its abilities to do so.

Nor do the Appellants have confidence that the Dana Prevost, an engineering geologist for the Grading Engineering Section, is qualified to perform the necessary review of the geology reports on the Leeds property. He has a history of less than stellar performances in his work in the Palisades. He approved the geology reports on Mr. Guriguis' house. But more telling is that he approved the geology and soils reports for the subject property in 1999 despite the gross errors therein. As the geologist responsible for the Palisades, he should have known about the McGill maps and should have seen that Mr. Leeds geologists had used the wrong landslide map. He should have known that the slide had expanded to the edge of Posetano Road from the 1989 McGill map. He should have noted the defects in the calculations.

Most importantly, he too is not a qualified hydrogeologist because he did not see the problems with the design of the dewatering wells. Nor did he see how serious the seepage problems were.

However, his crowning statement was what he told the WLA Planning Commission at its hearing on May 1, 2002. Mr. Prevost had inspected both Dr. Clearihue's home and the brick home across the street during the second week in April. When asked about the cracking in the Posetano home, he replied that he believed it was the result of the normal settling of the brick structure. He also stated that he thought that cracks in Dr. Clearihue's home were from settling and that he was aware of Dr. Clearihue's geology report prepared in 1991 which indicated pre-existing cracking.

His statements are clear evidence of his incompetence. First, the house at 17627 Posetano Road was built in 1927. Anyone knowledgeable knows that houses usually complete their settling in the first ten years of their life unless there is an excavation near the house's foundation or there is a geological event such as an earthquake. In this case neither of these have occurred since 1994.

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In July 2001, both Mr. Michael and Mr. Allen inspected the house and found no cracking that had not been repaired and nothing has occurred since that date that would explain the cracking in that house except an expansion of the slide.

Moreover, why would the cracking appear simultaneously on both properties. That alone makes Mr. Prevost's statements ludicrous. Moreover, the type of cracking on the house at 17627 Posetano is not the type of cracking found in houses that are settling normally. Such cracking usually only occurs on the mortar lines and is mostly lateral but the cracks above the garage doors are in the bricks themselves and are vertical cracks. (See pages 19 and 20 hereto).<sup>4</sup> What it indicates is that the cracks are the result of torque of the building as the slide twists the front of the house putting such pressure on the building that the bricks crack apart.

Additionally, if Mr. Prevost had done any investigation he would have determined that the cracks on Dr. Clearihue's property had nothing to do with the 1991 geology report. The geology report found cracking in the driveway which are quite normal in the Palisades and minor cracking in the kitchen. This was repaired. Where the new cracking has appeared is in the rear patio and the addition that was added on as part of major remodel in 1992. (Dr. Clearihue's Declaration, p. 4) (See page 21 hereto)<sup>5</sup>. Only an idiot would think that a geology report prepared in 1991 would include cracks that happened subsequent to the date of the geology report. But both Mr. Prevost and Mr. Leeds have so concluded.

One would have thought that it was so obvious that the 1991 geology report was so irrelevant that Mr. Leeds would have even made an issue of it because it could only further damage his credibility. But then he threatened retaliation against Mr. Guriguis if he testified. He also threatened Dr. Clearihue when he and Dr. Clearihue first met telling him that if he was not a good neighbor and approved the building of the house that he would build a 52 foot house on Posetano Road rather than on Castellammare Drive and block Dr. Clearihue's view. (Dr. Clearihue's Declaration, p. 1) Later he threatened Dr. Clearihue by stating that he would grow 80 foot high bamboo trees to block his view. (Declaration of Dr. Clearihue, p.4).

It has been Mr. Leeds' contention from the beginning that the only reason that Dr. Clearihue and Mrs. Perl are objecting to his development is that it will block their views. In fact, as proposed, it will not block their views so the contention is absurd. Both Dr. Clearihue and Mrs. Perl are well aware of the geological instability of the properties below them and that unless properly constructed, the development could end up collapsing and become not only another home that the City has to condemn but that any resulting slide could damage or destroy their homes in which both have lived for most of their lives.

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<sup>4</sup>The photographs on pages 19 and 20 are only a few of the cracks discovered.

<sup>5</sup>The photographs on page 21 represent only a few of the cracks discovered. Numerous additional cracks have appeared since the photos were taken and previously discovered cracks have widened.

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In fact Mr. Leeds has much more reason to lie than any of the Appellants. Because damage is now occurring to homes above his property as a result of the slide on his property, he faces considerable liability for failure to provide adequate support. Mr. Leeds argues that is what he is trying to do but if he were serious, he would stop trying to cut costs and do an adequate geology report and proper design, if there is anyway possible to stop the slide. The problem may well be that while Mr. Leeds bought the property for only \$107,000 according to the Assessor's records, the costs for a properly designed and constructed development would be so great that it would leave little or no profit.

Mr. Prevost never explained how his attention was drawn to Dr. Clearihue's geology report. It can be fairly argued that either Mr. Prevost made the report available or that either Mr. Leeds or someone on his behalf, called his attention to the report.

A basic problem is that the Grading Engineering Section has lower standards for approval of single family lots in geologically hazardous areas than it does for larger projects, partly to keep the development costs down. It does not require as many borings to determine the extent of slide materials and the water tables. It does not require monitoring of the water tables over a period of years to determine the mean water tables so as to reflect the effect of wet and dry years.

Considering that about all the land left is in geologically hazardous areas which have a history of landslides and geologic instability, and areas where solid bedrock does not exist except below sea level, tougher standards need to be applied and more professional review of data should be required. It is not that the City standards are weak. The City has adopted tougher standards in the past ten years and has intensified its review of projects in hazardous areas. But the standards and the review are not tough enough considering how hazardous the properties are such as the Leeds property.

In summary, the evidence before the Commission shows that there are serious problems to be resolved regarding the adequacy of the geology and soils reports and the design of the development submitted by Mr. Leeds and approved by the City and unless those problems are resolved, there is ample evidence to support findings that the development as designed will only exacerbate the risks to life and property in the area and that it will only contribute to the geologic instability of the site and the surrounding area.

2. **The City Failed to Require That an Environmental Impact Report Be Prepared as Required by the California Environmental Quality Act Where Both a Substantial Public Controversy and an Expert Opinion Were Submitted That Controverses Evidence That the Project Will Not Result in a Significant Adverse Environmental Impact, Both of Which Are Involved in this Case.**

Appellants asserted to the Zoning Administrator that an Environmental Impact Report was required. Instead the Zoning Administrator adopted a Mitigated Negative Declaration. His decision was appealed to the WLA Planning Commission and the Commission denied the appeal.

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Given the proceedings below if there ever was a project that cries out for an EIR it is this one. The geology issues never were resolved satisfactorily below and are still open. The WPC Planning Commission members thought that because this was only a house requiring an EIR was not appropriate. But this is not just a house. This is a house that is located on an active landslide which is in danger of creating a catastrophic slide that has the potential of wiping out not only the homes above it but taking out Posetano Road and Castellammare Drive, the only access homeowners to the east have. It is possible it could temporarily close Pacific Coast Highway. The potential adverse impacts on the environment are substantial.

A project under CEQA can not qualify for a Negative Declaration even if mitigated because there is substantial evidence in the form of an expert opinion by an independent geologist that if approved the project may result in a significant adverse impact on the environment.

14 Cal. Code Reg §§15300.(a)(1) (State Guidelines) states:

"(1) If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, the agency shall prepare a draft EIR."

Sub-section (f)(5) provides:

"Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion support by facts."

In the comments to sub-section 15070 regarding the issuance of Mitigated Negative Declarations echos §§15300.(a)(1) in that it also states in the comment that:

"... if there is any substantial evidence before the Lead Agency that the project as proposed or revised may have a significant effect, an EIR must be prepared."

The facts are clear that the property is located both on a recent slide and an ancient slide and is in a geologically hazardous area. This is supported by the record and by the expert opinion of Mr. Michael, a registered geologist and his assumptions. If substantial evidence supports a "fair argument" that a project may have a significant environmental effect, the City must prepare an EIR even if it is also presented with other substantial evidence indicating that the project will have no significant effect. 14 Cal. Code Regs. §§15064(g)(1); *No Oil, Inc. v. City of Los Angeles*, (1974) 13 Cal.3d 68, 83; *Brentwood Assn. For No Drilling, Inc. V. City of Los Angeles*, (1982) 134 Cal.App.3d 491, 503-507 (City issued Negative Declaration, court held that evidence that there would be "some adverse environmental implications" because as many as four truck trips per day would be added to the Los Angeles public streets to undertake this temporary drilling project and that the neighboring landowners' opposition constituted public controversy as to the project.) In *Brentwood*, the court held that evidence from an expert showing that significant adverse impacts could occur was sufficient to require an EIR even though the City relied on its own experts that no impacts would occur.

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Generally the courts have held that when qualified experts present conflicting evidence on the nature or extent of the projects impacts, the agency must accept the evidence tending to show that a significant impact might occur.

Because neighboring landowners including other neighbors who have submitted opposition as well as the Palisades Preservation Association, PPRA, and the Pacific Palisades Community Council are opposed there is a "serious public controversy." 14 Cal. Code Reg. §§15064(h). As the court stated in *Brentwood Assn.*, if either substantial evidence that there is a "fair argument" that there may be a significant environmental impact *or* if there is a public controversy, either is sufficient to require the preparation of an EIR.

The reason that an EIR is required is that: (Public Resources Code §21061)

"An environmental impact report is an informational document which, when its preparation is required by this division, shall be considered by every public agency prior to its approval or disapproval of a project. The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project."

The process for preparing an EIR provides the opportunity for public input and analysis that is not provided for in a Mitigated Negative Declaration. The EIR process calls for the preparation of a draft EIR by the City. In this case it would provide for a geological analysis of the project be included in the draft. Then the public and the applicant would be able to submit comments, including the expert comments from a certified geologist. The City then would have to submit a reply to those comments in its Final EIR. Thus, the decision maker would have that information already digested to make its decision. Moreover, at the hearing both the applicant and the public have an opportunity to challenge the information in the EIR which further benefits the decision maker.

A focused EIR is required to be prepared. The focus should not just be on the geological concerns but also on the problems which will be caused by the construction on the site. The streets involved are at the most 20 feet wide and are clearly unstable. Further, there is no place to turn around trucks which means that they will have to be backed into the site. The construction calls for the removal of materials from the site over these streets. Further, the use of construction equipment to excavate the materials, drill the holes for the caissons, cranes used to unload and install the steel, and the extensive use of trucks to deliver the massive amounts of concrete and steel needed for construction will not only subject these already fragile streets to heavy abuse, but the parking of the equipment on the streets next to the site could obstruct the use of the streets for residents who have to use these streets. It may also obstruct passage for emergency vehicles. The applicant should submit a complete plan for how he intends to deploy construction equipment and also provide for the parking of construction workers and other visitors to the construction site.

The EIR should consider mitigation measures such as prohibiting the storage of

construction materials on streets, using the streets for refuse bins or construction offices, or the parking of any vehicles on the streets except during the loading or unloading of materials or refuse or while actually being used in the construction. Any such vehicles must be removed from the streets during any time they are not in operation. Because it is very possible that the heavy construction equipment will damage Castellammare Drive between from Breve Way to the site and Posetano Road between Revello Drive and the site, it should be required that the Applicant repave these portions after construction is completed.

**3. The Appellants Were Denied Due Process and a Fair Hearing Before the West Los Angeles Planning Commission**

In the Background section, the Appellants have discussed the instances where they were denied due process and a fair hearing. The Commission could remand this case back to the City of Los Angeles, require that an EIR be prepared, and/or require a rehearing to permit the Appellants the opportunity to present the evidence it was not given at the first hearing.

Alternatively, the Commission can grant a hearing de novo but the Appellants would request that if so, that the decision of the WLA Planning Commission be disregarded since it was not a fair hearing.

**The Appeal Presents a Substantial Issue.**

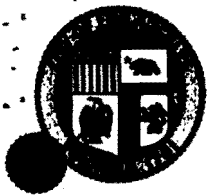
The failure of the City of Los Angeles to make findings pursuant to Public Resources Code Section 30253 presents a substantial issue particularly when the City failed to give the Appellants the opportunity to adequately respond to supplemental geologic reports provided by Mr. Leeds to the City just before the City hearing which were the basis of the City's approval of Mr. Leeds geologic and soils reports. The report of independent geologist E. D. Michael attached hereto show that there were serious deficiencies in the supplemental reports and that the City should not have approved the development. He also provides his expert opinion that the development will not comply with Public Resources Code Section 30253.

**Conclusion**

For all the foregoing reasons the Commission should grant the appeal and deny the issuance of a Coastal Development Permit or it should refer the matter back to the City of Los Angeles for preparation of an EIR and a rehearing.

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# West Los Angeles Area Planning Commission

200 North Spring Street, Room 532, Los Angeles, CA 90012-4801 (213) 978-1300  
Website: www.cityofla.org/PLN/index.htm

## DETERMINATION OF THE WEST LOS ANGELES AREA PLANNING COMMISSION

**RECEIVED**

**Mailing Date:** June 21, 2002 South Coast Region

**Case No.:** ZA 2001-1780(CDP)-A1 JUL 19 2002

**COASTAL DEVELOPMENT PERMIT** CALIFORNIA

**CEQA:** ENV 2000-0649-MND

COASTAL COMMISSION

**Location:** 17633 Castellammare Dr.

**Council District:** 11

**Plan Area:** Brentwood-Pacific Palisades

**Zone:** R1-1

**CDM:** 126 B 117

**Legal Description:** Lot 6, Block 10, Castellammare Tract

**Applicant:** Benjamin Leeds

**Appellant:** Pacific Palisades Residents Association, Pacific Palisades Community Council, Palisades Preservation Association, Marianne Peris, Anne E. Peris, William Clearihue

At the meetings on October 17, 2001, December 05, 2001, January 16, 2002, March 20, 2002 and continued to May 01, 2002, the West Los Angeles Area Planning Commission:

**Denied** the Appeal

**Sustained** the action of the Zoning Administrator

**Granted** the Coastal Development Permit

**Modified** prior Conditions

**Adopted** the Findings of the Zoning Administrator

**Adopted** ENV 2001-1781-MND

This action was taken by the following votes:

Moved: Krisiloff

Seconded: Ritter Simon

Ayes: Rodman, Hall

**Effective Date:**

Coastal Development Permit effective at the City level upon the mailing of this report unless appealed to the California Coastal Commission

**Appeal Status:**

Coastal Development Permit is not further appealable at City level but appealable only to the California Coastal Commission - South Coast District office California Coastal Commission upon receipt and acceptance of this Determination will establish start of the 20-day appeal period

Greg Bartz, Commission Executive Assistant  
West Los Angeles Area Planning Commission

Attachment(s): Finding, Conditions of Approval,  
cc: File Distribution

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**WEST LOS ANGELES AREA PLANNING COMMISSION DETERMINATION REPORT**

**BACKGROUND AND APPEAL REQUEST:**

1. On August 16, 2001, Zoning Administrator David Kabashima, pursuant to Los Angeles Municipal Code Section 12.20.2-G approved a Coastal Development Permit to permit the construction, use and maintenance of a 3,100 square-foot, two-story, single-family dwelling with five parking spaces and two-story accessory building located within the ~~single permit jurisdiction~~ of the California Coastal Zone.
2. The Appellant appealed the entire determination of the Zoning Administrator's approval.

**FINDINGS:**

1. The Commission determined that the Zoning Administrator did not err or abuse his discretion, but erred in certain Conditions of Approval.
2. The Mandatory Findings of the Zoning Administrator were adopted by the Commission and are delineated in ZA 2001-1780(CDP) as indicated below.

**A. The development is in conformity with Chapter 3 of the California Coastal Act of 1976 (commencing with Section 30200 of the California Public Resources Code).**

Chapter 3 of the Coastal Act contains the various policy provisions of such legislation. The project relates to these policies as follows:

1.) Shoreline access

The subject project is located on two local hillside streets within a relatively secluded residential neighborhood away from any access point to the shoreline used by the public.

2.) Recreation and visitor serving facilities

The proposed single family dwelling is not located so as to affect any recreation or visitor serving facilities.

3.) Water and marine resources

The project will not impact any marine resources. The project is well above the high tide line and will not have any identifiable effect on the Pacific Ocean or on the sandy intertidal zone.

4.) Environmentally sensitive habitat areas

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This project area has not been identified as an environmentally sensitive habitat area and is a vacant parcel located between two developed parcels.

5.) Development

The Coastal Act provides that new 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. The project is so located and as noted above will not have significant adverse effects on coastal resources. Soil and geologic reports as well as runoff and drainage issues will be handled administratively.

6.) Industrial Development

This is not an industrial development.

**B. The development will not prejudice the ability of the City of Los Angeles to prepare a Local Coastal Program (LCP) that is in conformance with Chapter 3 of the California Coastal Act.**

Currently, there is no adopted LCP for this portion of the Coastal Zone; therefore, the adopted Brentwood-Pacific Palisades Community Plan serves as the functional equivalent.

The proposed three-story dwelling will not encroach into any required setback and will therefore not intrude or be otherwise incompatible with the neighborhood. The garage is set back 5 feet from the front property line, as is the facade of the dwelling.

The Brentwood-Pacific Palisades District Plan designates the property for Low Residential Density corresponding to the RE9, RS, R1 and RD6 Zones. The request is consistent with the Plan designation. There is no Plan Text which specifically relates to the request. The Hillside Ordinance requires two parking spaces for the first 2,400 square feet of main building and one for each additional 1,000 square feet of floor area to a maximum of five spaces. Condition No. 7 requires the provision of same with at least two spaces being in a garage. The submitted plans indicate 7-foot side yards. The provisions of the Municipal Code regarding hillside development require 7-foot side yards due to the proposed 36-foot height.

The applicant has indicated he will abide by the Municipal Code provisions regarding hillside development as further determined by the Department of Building Safety. Three parking spaces in the garage are at the Castellammare Drive. There are two open parking spaces at the Posetano Drive rear of the residence.

As the City's adopted General Plan indicates, only one dwelling unit is permitted on the property and only one dwelling unit is approved. Given the development pattern in the surrounding area and similar Plan and zoning limitations, it can be reasonably be

Determination Report: 17633 Castellammare Dr.

concluded that such a project will not prejudice the City's ability to prepare and adopt a Local Coastal Program for the affected property as conditioned.

- C. **The Interpretive Guidelines for Coastal Planning and Permits as established by the California Coastal Commission and any subsequent amendments thereto have been reviewed, analyzed and considered in making this determination.**

Such Guidelines are designed to provide direction to decision makers in rendering discretionary determinations on requests for Coastal Development Permits pending adoption of an LCP. In this instance, the Guideline standards for the Pacific Palisades area concerning the following are relevant:

Alteration of Landform - The Guidelines recommend that landform alteration be minimized by concentrating development on level areas and minimizing grading and house pad sizes. The proposed project will have the appearance of minimal grading and will have a cascading project design. The limited size of the parcel limits landform alteration to a minimum except for the remedial grading required which, though significant, will not appear so as it is primarily within the building footprint.

The referenced interpretive guidelines are designed to provide direction to the decision making authority in rendering discretionary determinations on requests for coastal development permits pending adoption of a Local Coastal Program. The project does not conflict with any of the guideline provisions for the involved area.

- D. **The decision herein has been guided by applicable decisions of the California Coastal Commission pursuant to Section 30625(c) of the California Public Resources Code.**

The Commission has consistently indicated concerns for views of important resources, parking, stability of land, accessibility and good design. The project will provide a new single-family dwelling which will observe 5-foot front setbacks on Castellammare Drive and Posetano Drive as this is a through lot with two required front yards and no rear yard.

According to the zoning analyst report, the applicant's architect has indicated that the required setbacks and required height from the street are being met. The Zoning Administrator disagrees with that statement. First, the plans indicate that the dwelling will have a height of 36 feet above the adjacent Castellammare Drive. However, the Zoning Administrator notes that the elevator shaft exceeds that 36-foot limit without the corresponding setbacks from the building edge as required by Section 12.21.1, B, 3(a), of the Los Angeles Municipal Code.

Second, the applicant is relying on a building separation modification in order to separate the upper accessory building and guest parking area from the building height measurement and thus can start a new height measurement without exceeding the 36-foot limit. The plans indicate that the 10-foot building separation will be 8 feet with a modification. As no related cases or pending cases were noted on the application, it is not known whether that modification has been obtained. Certainly, this Zoning Administrator would have reservations about this modification as it permits this accessory structure to partially

obstruct the view of the ocean surf from the public street. In light of this and that the guest parking railing were it solid and the gazebo would obstruct the public view of the ocean from Posetano Drive, it is reasonable to compensate by prohibiting the gazebo structure above the accessory structure and to require the railing around the guest parking to be of an open railing construction.

Soils reports and review by the Department of Building and Safety will assure improvements are properly sited and safe. Information subsequent to the public hearing have challenged the reports of the applicant and the clearance by the Department of Building and Safety Grading Section relying on those reports. A condition has been imposed to require that the Department of Building and Safety review the information received and submit a clearance letter specifically referencing that information.

- E. **The development is not located between the nearest public road and the sea or shoreline of any body of water located within the Coastal Zone.**

The project site is not so located, it is located landward of Pacific Coast Highway.

#### ADDITIONAL MANDATORY FINDINGS

- F. **Mello Finding:** This is a permit for the construction of one single family dwelling with no demolition of a previous structure. Based on the Coastal Commission Guidelines, Council has found that it is generally infeasible for small New Housing Developments to provide Inclusionary Residential Units. Such New Housing Developments are Categorically Exempt from further Mello Act compliance review.
- G. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 154,405, have been reviewed and it has been determined that this project is located in Zone C, areas of minimal flooding. (No shading)
- H. On May 23, 2001, the City Planning Department Environmental Staff Advisory Committee (ESAC) issued Mitigated Negative Declaration No. ENV-2000-1781-MND (Article V - City CEQA Guidelines) and determined that by imposing conditions the impacts could be reduced to a level of insignificance. The Zoning Administrator, however, notes that significant damage could occur on the narrow hillside streets from the export of approximately 800 cubic yards of earth and from the incompleteness of the project should difficulties arise. Therefore mitigation measures to require bonding of both the potential road damage and completion of the grading have been added.

I hereby adopt that action. The records upon which this decision is based are with the Environmental Review Section in Room 763, 200 North Spring Street. The Zoning Administrator and the Commission certifies that this mitigated negative declaration reflects the independent judgement of the lead agency. In accordance with Section 21081.6 of the Public Resources Code (AB3180), the Zoning Administrator has assured that the mitigation measures identified in the mitigated negative declaration will be implemented

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by the building permit approval process, by the recordation of those measures with the County Recorder's Office and by the nuisance abatement provisions of the Municipal Code.

- I. Fish and Game: The subject project, which is located in Los Angeles County, will not have an impact on fish or wildlife resources or habitat upon which fish and wildlife depend, as defined by California Fish and Game Code Section 711.2.
3. The prior conditions and limitations were modified in part for the following reason:
  - A. To protect the surrounding community and environment.
  - B. To assure a project as described by the Applicant.
4. The Commission arrived at its determination based upon its review of available records and evidence contained in the subject and related files and upon testimony and evidence provided at the Commission's hearing on the subject matter.

**SUMMARY OF THE HEARING:**

At the October 17, 2001, December 05, 2001, January 16, 2002 and March 20, 2002 meetings it was determined additional time was needed to address the concerns of grading, to provide the opportunity for the Department of Building and Safety Grading Section to comment, to allow all interested individuals time to review submitted materials, and to allow the Appellant and Applicant an opportunity to meet and address the issues.

At the May 01, 2002 meeting, Zoning Administrator David Kabashima summarized the request, the facts surrounding the case, the action taken, and the Findings made. He indicated:

- Project can move forward with Building and Safety's clearances;
- Appellant desires a continuance based upon not receiving geology reports to review and comment; and
- Recommend approval of the request.

A Representative from Building and Safety indicated:

- The Department completed their review of the soils and geology reports and issued their approval of the project;
- Analysis for piles took into consideration the potential for landslides;
  - piles are to withstand earth movement;
  - designed to handle lateral load;
  - analysis comprehensive enough to approve;
  - highly unlikely drilling will cause any earth movement;
- Age of cracks in structures indicate;
  - ongoing settlement; and
  - buildings "performed well."

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Issues addressed by a Representative from the Council Office include but are not limited to:

- Conditions of Approval;
- Architectural features (pergola) that should be deleted;
- Access and parking along Posetano Dr; and
- Enforcement.

The Appellants and those individuals who support the appeal opposing the granting of the Coastal Development Permit indicated:

- Strongly object to not continuing this item;
  - lack of due process;
  - Appellant and his Representative were not given the opportunity to review the latest documents "approved" by Building and Safety;
  - unprepared to move forward without the necessary documents to provide comments;
- Their geologist indicated this area is an active slide area;
- Cracks in existing buildings are growing due to earth movement;
- Grading can affect the slope stability in the area;
- There is a serious problem of who to believe;
- Conditions to consider if appeal is denied;
  - removal of the pergola;
  - access and parking prohibited from Posetano Dr.;
- Method how Building and Safety measures height;
- Modifications are needed to address height;
- Application can proceed to the Coastal Commission;
- Structures will be affected by earth movement;
- Structure will not support the slide mass; and
- Grant appeal to deny the request.

The Applicant, his Representatives and residents of the area who oppose the appeal indicated:

- Necessary "paperwork" were submitted in a timely manner;
- This is the fifth continuance;
- Have gone beyond what City requires to satisfy the City;
- Homes along Posetano Dr. have no new cracks;
- Accessory structure is a separate structure that conforms to the Los Angeles Municipal Code (LAMC)
- Pergola will;
  - take parking off the streets;
  - be a sheltered area used for guest parking;
  - be higher than the home;
  - be connected to the home by a stairway down to the home;
  - not be a room
  - be 13 feet high from the property line;
  - cover approximately 30% of the Posetano Dr. frontage along the property line;
  - be needed as an entrance to the home from Posetano Dr.;
- No problems with the hillside with Building and Safety approvals;
- Parking off Posetano Dr. will provide relief to traffic along other streets;

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- Applicant's onsite parking will be off Castellammare Dr.
- Applicant is a responsible person;
- Off-street parking should be "welcomed";
- The foundation work and addressing the drainage concerns will help stabilize the slope;
- The area will be better with the project moving forward;
- Site investigation entailed over ten years of effort; and
- An EIR is not needed for a residential development that complies with all the regulations.

After closing the public hearing, the Commission deliberated and the following points were made:

- Lot coverage is 40%;
- Site is a through lot with two front yards;
- Lack of on-street parking and a turnaround for vehicles;
- Access and parking off Posetano Dr. are not problems but concerns include but not limited to long term parking and/or storage of vehicles;
  - additional onsite parking;
    - desired and preferred;
    - can be provided without an accessory structure;
  - limit parking off Posetano Dr. to guest parking only;
- Luxury to have a pergola for guest parking;
- Satisfied with the condition of the soils in a hillside area based upon Building and Safety's staff approval;
- Building and Safety:
  - will enforce the height and zoning regulations;
  - determined there are two structures on the site when a modification was issued for an eight-foot separation between the buildings;
  - will require Applicant to file for an adjustment if the project needed it;
- Unreasonable to say you cannot build in an area that continues to be built up over a "long period of time";
- Preservation of views along the coastline;
  - outweighs and unable to justify the construction of a pergola;
  - necessity of complying with the intent of the Coastal Act; and
- Modification of the Conditions of Approval.

After deliberating the Commission unanimously passed a motion to:

- Deny the appeal;
- Sustain the action of the Zoning Administrator;
- Grant the Coastal Development Permit;
- Adopt the Findings of the Zoning Administrator;
- Modify the Conditions of Approval as follows to include:
  - a Deputy Grading Inspector be onsite whenever grading occurs;
  - covenants and agreements be recorded for each of the following:
    - that the accessory structure will not be used as a dwelling or a bedroom and that the structure shall not contain a bath, shower or kitchen;
    - that the Applicant and successors hold the City harmless from reports provided to the City by the Applicant in the City's approval of the project based upon those

Case No. ZA 2001-1780(CDP)-A1

Determination Report: 17633 Castellammare Dr.

EXHIBIT #

11

PAGE

9

OF 17

- reports;
- parking off Posetano Dr.:
  - shall be strictly limited to parking for guests and that no long term parking be allowed in those parking spaces;
  - parking surface shall not exceed the grade of Posetano Dr. and shall be as shown in Exhibit "A";
- a completion bond be provided in the amount equal to 150% of the estimated total costs of the grading and foundation work; and
- Adopt ENV 2001-1781-MND.

APPEAL RIGHTS:

Coastal Development Permit is appealable. The determination in this matter is only appealable to the California Coastal Commission. Said determination by the West Los Angeles Area Planning Commission will become effective on the date indicated on the front page of this report unless an appeal is filed with the California Coastal Commission in accordance with their procedures. They can be reached at:

California Coastal Commission - South Coast District Office  
200 Oceangate - 10<sup>th</sup> Floor  
Long Beach, CA 90802  
(562) 590-5071  
Attention: Pam Emerson / Charles Posner

Furthermore, this Coastal Development Permit shall be subject to revocation as provided in Section 12.20.2-J of the Los Angeles Municipal Code, as authorized by Section 30333 of the California Public Resources Code and Section 13105 of the California Administrative Code.

A copy of the permit will be sent to the California Coastal Commission. Unless an appeal is filed with the California Coastal Commission before 20 working days have expired from the date the City's determination is deemed received by such Commission, the City's action shall be deemed final.

EFFECTUATION OF THE ACTION:

## 1. Coastal Development Permit:

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within two years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void. Zoning Administrator may extend the termination date for one additional period not to exceed one year, if a written request on appropriate forms, accompanied by the applicable fee is filed in a public office of the Department of Planning setting the reason for said request and a Zoning Administrator determines that good and reasonable cause exists therefore.

2. Time Extension: A request for permit utilization time extension:
- a. Must be filed at a public counter of the Planning Department, and
  - b. The extension application must be accepted prior to the expiration of the time to utilize the grant or other authorization.
  - c. The extension application must be accompanied by the appropriate fee payment and substantial evidence that unavoidable delay has prevented or will prevent the Applicant from taking advantage of the grant or authorization within the specified time limits.
  - d. WARNING: IF more than one permit is involved, be sure you secure an extension of time for each separate permit, as may be required by law. Often permits have different time limits and extension allowances.

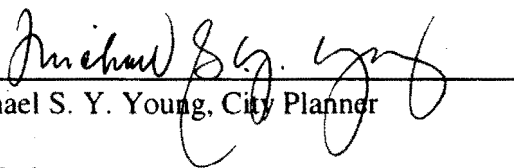
AMERICANS WITH DISABILITIES ACT (ADA) NOTICE:

As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services, and activities.

REFERENCED EXHIBITS and ATTACHMENT:

Exhibit No. B-1: Conditions of Approval (attached).

Exhibit No. A-1: Applicant's plot plan (file copy only).

  
\_\_\_\_\_  
Michael S. Y. Young, City Planner

MSY:gb



**CONDITIONS OF APPROVAL**

The Conditions and requirements of ZA 2001-1780(CDP) have not been modified substantially, except as indicated below.

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A" - Proposed Site Plan, except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective conditions, if, in the Administrator's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all conditions and/or any subsequent appeal of this grant and its resultant conditions and/or letters of clarification shall be included in the "notes" portion of the building plans submitted to the Zoning Administrator and the Department of Building and Safety for purposes of having a building permit issued.
- 6a. Prior to the issuance of any permits relative to this matter, an acknowledgment and agreement to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office.
- b. Prior to the issuance of any permits relative to this matter, a covenant and agreement shall be recorded in the County Recorder's Office indicating that the accessory structures will not be used as a dwelling or a bedroom and that the accessory structure shall not contain a bath, shower or a kitchen.
- c. Prior to the issuance of any permits relative to this matter, a covenant and agreement shall be recorded in the County Recorder's Office indicating that the Applicant and successors hold the City harmless from reports provided to the City by the Appellant in the City's approval of the project based upon those reports.

The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreements with the Conditions of Approval attached must be submitted to the Zoning Administrator for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

7. Prior to the issuance of any permits, the applicant shall submit plot plans to the Fire Department, Bureau of Fire Prevention and Public Safety approval clearance. Fire sprinklers will be required

due to the location within the mountain fire district. The applicant shall obtain a clearance letter for this condition from the Fire Department.

- 8a. Prior to the issuance of any permits, the Department Building and Safety Grading Section shall provide a clearance letter which specifically acknowledges review of "Critique of Development Documents" prepared by E.D. Michael, Consulting Geologist.
- b. A Deputy Grading Inspector from the Department of Building and Safety shall be onsite whenever grading occurs.
- 9a. There shall be no structure above the guest parking spaces adjacent to Posetano Drive except for the required safety railing around the guest parking which shall be of an open railing construction so as to maintain the views of the ocean from the street.
- b. Parking off Posetano Drive shall be strictly limited to parking for guests and that no long-term parking shall be allowed in those parking spaces.
- c. Parking surface off Posetano Drive shall not exceed the grade of Posetano Drive and shall be as shown on Exhibit "A".
10. During the entire period of construction, the applicant shall insure that a minimum 10-foot wide clear road shall be provided at all times for both Posetano Drive and Castellammare Drive to provide emergency and resident access.
11. Notwithstanding the provisions of the grading regulations, the applicant shall be required to post bonds in the amount equal to 150% of the estimated total costs of the grading and foundation work with the Department of Building and Safety Grading Section for completion of the grading and foundation work to the Department of Building and Safety Grading Section satisfaction and a surety bond shall be posted in an amount satisfactory to the City Engineer for maintenance of haul route streets. The forms for the bond will be issued by the West Los Angeles District Engineering Office, 1645 Corinth Avenue, Room 209, Los Angeles, CA 90025. Further information regarding the bond may be obtained by calling (213) 312-8368.
12. Environmental Conditions
  - a. Cultural Resources (Archaeological):
    - 1) If any archaeological materials are encountered during the course of the project development, the project shall be halted. The services of an archaeologist shall be secured by contacting the Center for Public Archaeology - Cal State University Northridge, or a member of the Society of Professional Archaeologist (SOPA) or a SOPA-qualified archaeologist to assess the resources and evaluate the impact.
    - 2) Copies of the archaeological survey, study or report shall be submitted to the UCLA Archaeological Information Center.
    - 3) A covenant and agreement shall be recorded prior to obtaining a grading permit.

b. Seismic:

The design and construction of the project shall conform to the Uniform Building Code seismic standards as approved by the Department of Building and Safety.

c. Erosion/Grading/Short-Term Construction Impacts:

1) Air Quality:

- a) All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403. Wetting could reduce fugitive dust by as much as 50 percent.
- b) The owner or contractor shall keep the construction area sufficiently dampened to control dust caused by grading and hauling, and at all times provide reasonable control of dust caused by wind.
- c) All loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.
- d) All materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amount of dust.
- e) All clearing, grading, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph), so as to prevent excessive amounts of dust.
- f) General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions.

2) Noise:

- a) The project shall comply with the City of Los Angeles Noise Ordinance Nos. 144,331 and 161,574, and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible.
- b) Construction shall be restricted to the hours of 7 a.m. to 6 p.m. Monday through Friday, and 8 a.m. to 6 p.m. on Saturday.
- c) Construction activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously, which causes high noise levels.
- d) The project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices.

- e) The project sponsor must comply with the Noise Insulation Standards of Title 24 of the California Code Regulations, which insure an acceptable interior noise environment.
- 3) Grading:
- a) Excavation and grading activities shall be scheduled during dry weather periods. If grading occurs during the rainy season (October 15 through April 1), construct diversion dikes to channel runoff around the site. Line channels with grass or roughened pavement to reduce runoff velocity.
  - b) Incorporate appropriate erosion control and drainage devices to the satisfaction of the Building and Safety Department shall be incorporated, such as interceptor terraces, berms, vee-channels, and inlet and outlet structures, as specified by Section 91.7013 of the Building Code, including planting fast-growing annual and perennial grasses in areas where construction is not immediately planned. These will shield and bind the soil.
  - c) Stockpiles and excavated soil shall be covered with secured tarps or plastic sheeting.
- 4) General Construction:
- a) All waste shall be disposed of properly. Use appropriately labeled recycling bins to recycle construction materials including: solvents, water-based paints, vehicle fluids, broken asphalt and concrete; wood, and vegetation. Non recyclable materials/wastes must be taken to an appropriate landfill. Toxic wastes must be discarded at a licensed regulated disposal site.
  - b) Clean up leaks, drips and spills immediately to prevent contaminated soil on paved surfaces that can be washed away into the storm drains.
  - c) Do not hose down pavement at material spills. Use dry cleanup methods whenever possible.
  - d) Cover and maintain dumpsters. Place uncovered dumpsters under a roof or cover with tarp or plastic sheeting.
  - e) Use gravel approaches where truck traffic is frequent to reduce soil compaction and limit the tracking of sediment into streets.
  - f) Conduct all vehicle/equipment maintenance, repair, and washing away from storm drains. All major repairs are to be conducted off-site. Use drip pans or drop clothes to catch drips and spills.

d. Single Family/Multi Family Hillside Dwelling

Potential impacts will be mitigated to a level of insignificance by incorporating stormwater pollution control measures. Ordinance Nos. 172,176 and 173,494 specify Stormwater and Urban Runoff Pollution Control which requires the application of Best Management Practices (BMPs). Chapter IX, Division 70 of the Los Angeles Municipal Code addresses grading, excavations, and fills. Applicants must meet the requirements of the Standard Urban Stormwater Mitigation Plan (SUSMP) approved by Los Angeles Regional Water Quality Control Board, including the following: (A copy of the SUSMP can be downloaded at: <http://www.swrcb.ca.gov/reqcb4/>).

- 1) Project applicants are required to implement stormwater BMPs to retain or treat the runoff from a storm event producing 3/4 inch of rainfall in a 24 hour period. The design of structural BMPs shall be in accordance with the Development Best Management Practices Handbook Part B Planning Activities. A signed certificate from a California licensed civil engineer or licensed architect that the proposed BMPs meet this numerical threshold standard is required.
- 2) Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rates and shall not exceed the estimated pre-development rate for developments where the increase peak stormwater discharge rate will result in increased potential for downstream erosion.
- 3) Concentrate or cluster development on portions of a site while leaving the remaining land in a natural undisturbed condition.
- 4) Limit clearing and grading of native vegetation at the project site to the minimum needed to build lots, allow access, and provide fire protection.
- 5) Maximize trees and other vegetation at each site by planting additional vegetation, clustering tree areas, and promoting the use of native and/or drought tolerant plants.
- 6) Promote natural vegetation by using parking lot islands and other landscaped areas.
- 7) Preserve riparian areas and wetlands.
- 8) Cut and fill slopes in designated hillside areas shall be planted and irrigated to prevent erosion, reduce runoff velocities and to provide long term stabilization of soil. Plant materials include: grass, shrubs, vines, ground covers, and trees.
- 9) Incorporate appropriate erosion control and drainage devices, such as interceptor terraces, berms, vee-channels, and inlet and outlet structures, as specified by Section 91.7013 of the Building Code. Protect outlets of culverts, conduits or channels from erosion by discharge velocities by installing rock outlet protection. Rock outlet protection is physical device composed of rock grouted, riprap, or concrete rubble placed at the outlet of a pipe. Install sediment traps below the pipe-outlet. Inspect, repair and maintain the outlet protection after each significant rain.

- 10) Any connection to the sanitary sewer must have authorization from the Bureau of Sanitation.
- 11) All storm drain inlets and catch basins within the project area must be stenciled with prohibitive language (such as "NO DUMPING - DRAINS TO OCEAN") and/or graphical icons to discourage illegal dumping.
- 12) Signs and prohibitive language and/or graphical icons, which prohibit illegal dumping, must be posted at public access points along channels and creeks within the project area.
- 13) Legibility of stencils and signs must be maintained.
- 14) Materials with the potential to contaminate stormwater must be: (a) placed in an enclosure such as, but not limited to, a cabinet, shed, or similar stormwater conveyance system; or (b) protected by secondary containment structures such as berms, dikes, or curbs.
- 15) The storage area must be paved and sufficiently impervious to contain leaks and spills.
- 16) The storage area must have a roof or awning to minimize collection of stormwater within the secondary containment area.
- 17) The owner(s) of the property will prepare and execute a covenant and agreement (Planning Department General form CP-6770) satisfactory to the Planning Department binding the owners to post construction maintenance on the structural BMPs in accordance with the standard Urban Stormwater Mitigation Plan and/or per manufacturer's instructions.

e. Public Services (Fire):

The following recommendations of the Fire Department relative to fire safety shall be incorporated into the building plans, which includes the submittal of a plot plan for approval by the Fire Department either prior to the recordation of a final map or the approval of a building permit. The plot plan shall include the following minimum design features: fire lanes, where required, shall be a minimum of 20 feet in width; all structures must be within 300 feet of an approved fire hydrant, and entrances to any dwelling unit or guest room shall not be more than 150 feet in distance in horizontal travel from the edge of the roadway of an improved street or approved fire lane.

f. Utilities (Local or Regional Water Supplies):

- 1) The project shall comply with Ordinance No. 170,978 (Water Management Ordinance), which imposes numerous water conservation measures in landscape, installation, and maintenance (e.g. use drip irrigation and soak hoses in lieu of

sprinklers to lower the amount of water lost to evaporation and overspray, set automatic sprinkler systems to irrigate during the early morning or evening hours to minimize water loss due to evaporation, and water less in the cooler months and during the rainy season).

- 2) If conditions dictate, the Department of Water and Power may postpone new water connections for this project until water supply capacity is adequate.

BOARD OF  
BUILDING AND SAFETY  
COMMISSIONERS

ILAN ISRAELY  
PRESIDENT

WILLIAM J. ROUSE  
VICE-PRESIDENT

EFREN R. ABRATIQUE, P.E.  
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CITY OF LOS ANGELES  
CALIFORNIA



JAMES K. HAHN  
MAYOR

DEPARTMENT OF  
BUILDING AND SAFETY  
201 NORTH FIGUEROA STREET  
LOS ANGELES, CA 90012

ANDREW A. ADELMAN, P.E.  
GENERAL MANAGER

TOM WHELAN  
EXECUTIVE OFFICER

April 17, 2002

Log # 35867-01  
SOILS/GEOLOGY FILE - 2  
For clarity this letter  
supercedes the prior  
Department approval letters  
dated 9/10/99 and 11/29/01.

Ben Leeds  
2130 S. Sepulveda Blvd.  
Los Angeles, CA 90025

TRACT: Castellammare (MP 113-3/8)  
BLOCK: 10  
LOT: 6  
LOCATION: 17633 Castellammare Dr

<u>CURRENT REFERENCE</u> <u>REPORT/LETTER(S)</u>	<u>REPORT</u> <u>NO.</u>	<u>DATE(S) OF</u> <u>DOCUMENT</u>	<u>PREPARED BY</u>
Geology/Soil Report	9LEE117	02/28/02	MEC
"	"	03/08/02	"
"	"	03/18/02	"
"	"	03/19/02	"
"	"	04/14/02	"
Oversz Doc	"	"	"
Geology/Soil Report	"	04/15/02	"
Oversz Doc	"	"	"
Geology	--	03/30/02	E. D. Michael

<u>PREVIOUS REFERENCE</u> <u>REPORT/LETTER(S)</u>	<u>REPORT</u> <u>NO.</u>	<u>DATE(S) OF</u> <u>DOCUMENT</u>	<u>PREPARED BY</u>
Geology/Soil Report	9LEE117	09/20/01	MEC
"	"	10/08/01	"
"	"	10/11/01	"
"	"	11/08/01	"
"	"	11/28/01	"
"	"	11/29/01	"
"	"	02/01/02	"
Soil Report	2539	08/30/99	West Coast Geotech.
"	"	04/26/99	"
"	"	08/19/96	COASTAL COMMISSION
"	"	05/08/95	A-5-PPL-02-276
"	"	01/04/95	"
"	"	08/17/94	EXHIBIT # 12
"	"	05/01/92	PAGE 1 OF 5
"	"	02/14/92	"





Geology Report  
**COASTAL COMMISSION**

**A-5-PPL-02-276**

EXHIBIT # 12

PAGE 2 OF 5

Department letter

2703r	09/20/91	Mountain Geology
2703	10/30/96	
	04/03/96	
	02/09/96	
	10/12/95	
2703i	06/28/94	
2703f	11/03/92	
2703e	04/06/92	
2703c	01/06/92	
2703b	09/09/91	
2703	05/30/91	
27841-01	09/10/99	LADBS
34764-02	11/29/01	
35867	02/14/02	

The referenced reports concerning additional recommendations for a proposed single-family residence located on a site with historic and prehistoric landslides have been reviewed by the Grading Section of the Department of Building and Safety. According to the reports, five rows of piles are proposed to support the dwelling and stabilize the site. The pile design accounts for active landslide movement and for potential high groundwater conditions. De-watering measures are incorporated into the proposed construction as an additional stabilization element. The pile design, however, does not rely upon the de-watering system to provide site stability. This letter supercedes the prior Department approval letters dated 9/10/99 and 11/29/02. The reports are acceptable, provided the following conditions are complied with during site development:

1. Prior to the issuance of any permit, the owner shall file a notarized Covenant and Agreement with the Office of the Los Angeles County Recorder and the Department, regarding the proposed single-family dwelling to be constructed over a landslide and bordered by active and prehistoric landslides, stating that they are aware that the site is located in an area subject to landslides and unstable soil and that there is a potential for re-activation of the landslides bordering the property and that they agree to assume the responsibility for any necessary construction, maintenance or repair of the earth between the piles in the event the adjacent landslides remove lateral support. (Note: The Agreement must be approved by the Grading Section prior to being recorded.)
2. Prior to the issuance of any permit, the owner shall file a notarized Covenant and Agreement with the Office of the Los Angeles County Recorder and the Department, regarding the four proposed horizontal dewatering wells and four proposed vertical de-watering wells stating that they are aware that the wells may be important for assuring future site stability and that they agree to assume responsibility for periodic maintenance and/or repair and that they shall have the wells inspected, cleaned and repaired a minimum of once every five years or as deemed necessary, and that the pumps on the vertical wells shall be checked at the beginning of every official rainy season to verify that they are functioning properly. (Note: The Agreement must be approved by the Grading Section prior to being recorded.)
3. The five rows of soldier piles shall be designed for a minimum EFP times the pile spacing, as recommended in the reports and outlined below:
  - a) Piles located along row "A" shall be designed for a minimum EFP of 85 pcf applied to a depth of 48 feet below the top of the piles as shown on section D-D and in Table 1 of the report dated 11/08/01.
  - b) Piles located along row "B" shall be designed for a minimum EFP of 72 pcf applied to

EXHIBIT # 12 a depth of 40 feet below the top of the piles as shown on section D-D and in Table 2  
 PAGE 3 OF 5 of the report dated 02/28/02.

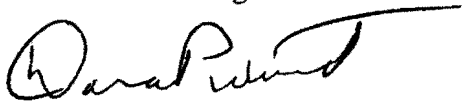
- c) Piles located along row "C" shall be designed for a minimum EFP of 69 pcf applied to a depth of 42 feet below the top of the piles as shown on section D-D and in Table 2 of the report dated 02/28/02.
  - d) Piles located along row "D" shall be designed for a minimum EFP of 82 pcf applied to a depth of 22 feet below the top of the piles as shown on section D-D and in Table 1 of the report dated 03/19/02.
  - e) Piles located along row "E" shall be designed for a minimum EFP of 91 pcf applied to a depth of 29 feet below the top of the piles as shown on section D-D and in Table 1 of the report dated 03/19/02.
4. All piles shall derive passive resistance below the ancient landslide plane as shown on section D-D' and shall be embedded a minimum of 10 feet below the plane. The depth to the ancient landslide plane (lower plane) coincides with the depth to which the EFP outlined in condition #4 applies. The passive pressure shall not exceed 600 psf per foot of depth and to a maximum of 10,000 psf. The passive pressure may be doubled for isolated piles. Piles are considered isolated when spaced more than 2½ diameters on center, as recommended, as specified in the report dated 8/17/1994 by West Coast Geotechnical.
  5. The construction of the piles and walls shall follow the sequence of construction that is recommended in the report dated 11/28/01, however, the maximum height of the temporary unsupported vertical cuts between the piles shall be no more than 5 feet. The gunite retaining wall shall then be constructed between the piles before the next 5-foot vertical cut is made, as recommended in the report dated 04/14/02.
  6. The five rows of piles shall extend across the entire site, with the end piles located at the side-yard property lines.
  7. A minimum of four horizontal dewatering wells shall be installed at the toe of the slope, along Castellammare Drive; the drains shall extend beneath the entire site and under Posetano Road, as shown on the geologic map dated May 1991, by Mountain Geology.
  8. The horizontal dewatering wells shall be installed under the supervision of the geologist and shall be completed prior to beginning framing of the dwelling.
  9. In addition to the horizontal drains, a minimum of four vertical de-watering wells shall be installed, as recommended; the wells shall extend to a minimum depth such that the sump pumps operate a minimum of 10 feet below the bottom of the landslide plane, as recommended in the report dated 10/11/01 by MEC.
  10. A minimum of two slope inclinometers shall be installed and monitored, as recommended in the report dated 04/15/02; a minimum of three monthly readings shall be taken before construction begins. At conclusion of the three readings and prior to start of construction, a report containing the inclinometer data results, consultants findings, and recommendations shall be submitted to the Department for approval. Additional readings may be required as determined by the Department.
  11. A report containing the inclinometer data results, consultants findings, and recommendations shall be submitted to the Department within 7 days of each reading during construction. The inclinometers may be abandoned 24 months after installation upon Department approval of

a favorable report by the consultants.

12. Existing wooden walls within the property boundary shall be removed.
13. A grading bond shall be posted for the proposed grading and pile-supported walls.
14. A bond shall be posted with the Department of Public Works, Street Maintenance Division, for the street.
15. Suitable arrangements shall be made with the Department of Public Works for the proposed removal of support and/or retaining of slopes adjoining the public way.
16. For grading involving import or export of more than 1000 cubic yards of earth materials within the *grading hillside area*, approval is required by the Board of Building and Safety. Application for approval of the haul route must be filed with the Grading Section. Processing time for application is approximately 8 weeks to hearing plus 10-day appeal period.
17. The geologist and soils engineer shall review and approve the detailed plans prior to issuance of any permits. This approval shall be by signature on the plans which clearly indicates that the geologist and soils engineer have reviewed the plans prepared by the design engineer and that the plans include the recommendations contained in their reports.
18. Any recommendations prepared by the consulting geologist and/or the soils engineer for correction of geological hazards found during grading shall be submitted to the Department for approval prior to utilization in the field.
19. All new fill slopes shall be no steeper than 2:1.
20. All graded, brushed or bare slopes shall be planted with low-water consumption, native-type plant varieties recommended by a landscape architect.
21. Adequate temporary erosion control devices acceptable to the Department, and if applicable the Department of Public Works, shall be provided and maintained during the rainy season.
22. All recommendations of the reports which are in addition to or more restrictive than the conditions contained herein shall be incorporated into the plans.
23. The applicant is advised that the approval of this report does not waive the requirements for excavations contained in the State Construction Safety Orders enforced by the State Division of Industrial Safety.
24. A grading permit shall be obtained.
25. A copy of the subject and appropriate referenced reports and this approval letter shall be attached to the District Office and field set of plans. Submit one copy of the above reports to the Building Department Plan Checker prior to issuance of the permit.
26. The geologist and soil engineer shall inspect all pile excavations and retaining wall excavations to determine that conditions anticipated in the report have been encountered and to provide recommendations for the correction of hazards found during construction.
27. At the conclusion of pile drilling, an as-built report shall be submitted to the Department containing the location, depth, and the geologic conditions encountered during the inspection of the excavations.

28. All man-made fill shall be compacted to a minimum 90 percent of the maximum dry density of the fill material per the latest version of ASTM D 1557; or 95 percent where less than 15 percent fines passes 0.005mm.
29. All roof and pad drainage shall be conducted to the street in an acceptable manner.
30. Continuous gravel drainage blanket shall be provided behind the pile supported retaining walls as part of the retaining wall subdrainage system.
31. Prior to issuance of the building permit, the design of the subdrainage system required to prevent possible hydrostatic pressure behind retaining walls shall be approved by the soils engineer and accepted by the Department. Installation of the subdrainage system shall be inspected and approved by the soils engineer and by the City grading inspector.
32. Pile caisson and/or isolated foundation ties are required by Code Section 91.1807.2. Exceptions and modification to this requirement are provided in Rule of General Application 662.
33. Prior to the placing of compacted fill, a representative of the consulting Soils Engineer shall inspect and approve the bottom excavations. He shall post a notice on the job site for the City Grading Inspector and the Contractor stating that the soil inspected meets the conditions of the report, but that no fill shall be placed until the City Grading Inspector has also inspected and approved the bottom excavations. A written certification to this effect shall be filed with the Department upon completion of the work. The fill shall be placed under the inspection and approval of the Foundation Engineer. A compaction report shall be submitted to the Department upon completion of the compaction.
34. Prior to the pouring of concrete, a representative of the consulting Soil Engineer shall inspect and approve the footing excavations. He shall post a notice on the job site for the City Building Inspector and the Contractor stating that the work so inspected meets the conditions of the report, but that no concrete shall be poured until the City Building Inspector has also inspected and approved the footing excavations. A written certification to this effect shall be filed with the Department upon completion of the work.
35. The dwelling shall be connected to the public sewer system.
36. A registered grading deputy inspector approved by and responsible to the project geotechnical engineer shall be required to provide continuous inspection for the proposed shoring and site grading.

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Chief of Grading Section

  
DANA PREVOST  
Engineering Geologist II

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Geotechnical Engineer I

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Pacific Palisades Residents Association  
Post Office Box 617,  
Pacific Palisades, California 90272

**Subject:** Response to Questions by Jack Allen re: Coastal Commission No. 5-00-407,  
17633 Castellammare Drive, Pacific Palisades.

Dear Sirs:

Mr. Jack Allen, on behalf of PPRA, has requested from me answers to the following questions, given *verbatim* in italics below, regarding the subject project. My answers to those questions are based upon a review of my file on the matter and the following four references:

[1] Salehipour, Sassan A., and Ray Eastman, 2001, Response to Department's review letter dated 10/3/01 for 17633 Castellammare Drive, Pacific Palisades: MEC/Geotechnical Engineers, Inc. rpt. (MEC File Number 9LEE117) to Mr. Ben Leeds, October 8.

[2] \_\_\_\_\_, 2002, Response to City review letter dated 02/14/02 for 17633 Castellammare Drive, Pacific Palisades: MEC/Geotechnical Engineers, Inc. rpt. (MEC File Number 9LEE117) to Mr. Ben Leeds, March 8.

[3] \_\_\_\_\_, 2002, Response to City review letter dated 02/14/02 for 17633 Castellammare Drive, Pacific Palisades: MEC/Geotechnical Engineers, Inc. rpt. (MEC File Number 9LEE117) to Mr. Ben Leeds, March 18.

[4] \_\_\_\_\_, 2002, Response to City questions for 17633 Castellammare Drive, Pacific Palisades: MEC/Geotechnical Engineers, Inc. rpt. (MEC File Number 9LEE117) to Mr. Ben Leeds, April 14.

In reviewing these references, the contents of my reports to the Pacific Palisades Residents Association dated December 27, 2001, August 1, 2001, and March 30, 2002, hereinafter Reference [5], [6], and [7] respectively, are incorporated herein by reference.

1, *Having examined the Responses to City Questions for 17633 Castellammare Drive prepared by MEC/Geotechnical Engineers, Inc. dated April 14, 2002 and April 15, 2002, which were submitted after your March 30, 2002 Report, is there any information in those responses that would cause you to change your conclusions in your Report and that the criteria for the Leeds foundation design is probably invalid?*

**Answer:** No. In fact, References [1] - [4] raise additional questions. Seepage forces calculated in Attachment 3 of Reference [1] are seriously in error. Furthermore, Reference [4] is unsatisfactory in two respects. First, it contains a basic error, and second,

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being limited to specific questions most recently raised by City personnel, it appears to presuppose that the responses contained References [1] - [3] have been found acceptable by the City which I find questionable. This latter matter is more or less demonstrated my answers to questions 2 through 5.

### Reference [1] Error

The seepage force problem is especially serious. The seepage force is a surface force present wherever there is ground water in motion. In slopes, it acts to reduce stability by pushing and dragging the soil skeleton downslope. Although the seepage force reduces slope stability in a manner quite independent of the effective stress mechanism, Reference [1] considers it only with respect to its effect on the proposed soldier-pile system. It does this by calculating the horizontal component of a seepage force acting in each of five partially saturated blocks of earth materials parallel to a basal landslide debris shear surface.

A comparison of seepage forces presumed to act in the five blocks specified in Reference [1], with those as normally calculated is given in the following table.

Block	MEC Net Seepage Force lbs/ff	$i$ ( $\tan \gamma$ )	$V$ ( $\text{ft.}^3$ )	$F$ lbs/ff ( $F=62.4iV$ )
5	-1019	0.3443	624	13,406
6	1100	0.2754	566	9,727
7	-7251	0.2217	419	5,796
8	-3362	0.1584	209	2,066

In this table, the second column is the MEC-calculated net seepage force acting in each of the blocks obtained by subtracting a "Proj. Hyd-stat. Force,  $F_{hd}$ ", which is presumed to act downward parallel to the basal surface, from a "Proj. Hyd-stat. Force,  $F_{hr}$ " which is presumed to act upward parallel to the basal surface and hence resist the driving force. The "lbs/ff" dimension refers to force acting along any foot of horizontal pile surface.

That the MEC values are incorrect is obvious from the fact that three of them are negative which arises from the fact that the resisting forces are calculated as greater than the opposing driving forces. Apparently, this error is due to the assumption that the system is static so that hydrostatic conditions prevail. In such a case, downslope in the block where the saturated zone is thicker, the hydrostatic force would be greater than upslope in the block where the saturated zone is thinner. This situation could arise only in a static closed section, and does not reflect conditions in the vicinity of Posetano Road.

The ground-water system in the vicinity of Posetano Road system is dynamic. In a saturated zone of landslide debris, the seepage force acts in the direction of ground-water movement, i.e., downward along the basal shear surface. If that were not true, the ground water would move upslope. Under some conditions, ground water can move upward, but that certainly is not the case for the Posetano Road landslide mass.

The correct calculation of the seepage force,  $F$ , is given in the fifth column of the table. It is the product of the hydraulic gradient,  $i$ , the volume,  $V$ , of the material through which seepage is occurring, and the unit weight of water, taken here as 62.4 pounds per cubic foot. In the table,  $i$  is the tangent of the MEC "water table angle,"  $\gamma$ , and  $V$  is a unit-wide

volume of saturated area,  $A_2$ , given by MEC for each of the blocks. ~~It is obvious that~~ <sup>4</sup> the seepage forces and any horizontal components derived therefrom, are vastly greater than those utilized in the current soldier-pile design. In view of this, no other consideration is given here to other aspects of the MEC lateral load analysis or to slope stability in general. In both however, careful reexamination taking into account seepage is needed.

#### Reference [4] Error

The geologic map of Reference [4] shows a distribution of historic landslide debris, designated by the symbol "Qly," modified from that of McGill's 1989 map, which recognizes that the original Mountain Geology interpretation is incorrect and places the upper contact well into the property at 17627 Posetano Road. However, it does not recognize that the upper contact also enters the property in Lot 4 (see Fig. 2, Ref. [5] Fig. 2, Ref. [6]). In preparing Reference [4], MEC personnel apparently were not aware of Reference [7] that discusses the recent extension of the Posetano Road landslide into Lot 4.

2. *Is there any information in the said Responses that would change your conclusion that the grading necessary to install the foundations as shown in the Responses could only exacerbate the conditions you have described in your Report?*

**Answer:** No. For explanation, see the answer to question 4, below.

3. *In its Response dated April 15, 2002, MEC states in response to Question No. 4 that they have reviewed and responded to all the concerns raised by Mr. E. D. Michael. Is that statement correct and if not, in what respects has MEC failed to respond to any of your concerns?*

**Answer:** No. There has been no adequate response to the matter of dewatering (see Recommendation 2, p. 13, Ref. [6]). Section D-D' of Reference [3] shows two dewatering wells, although their proposed locations are not given in any of the reviewed references. In any event, it is doubtful that such an installation would effectively dewater the slope below the elevation of the MEC-postulated "potential water table." The apparent positions of the two wells, one directly downslope from the other, is highly inadvisable, because the upper well would interfere with the lower and therefore vitiate the latter's effectiveness. Furthermore, the cone of depression that a well normally produces might not extend any significant distance laterally from the wellhead. Consequently, it would have no effect on increasing the effective stress over more than a small area of the property.

The idea, employed here by MEC, of regarding a dewatering well as a shelf item, and locating it apparently using a dart board, is absurd. No thought should be given to the number, spacing, or depths of a dewatering well system until values for hydraulic conductivity and storage coefficient or specific yield have been determined or at least estimated based upon some sort of reasonable data.

4. *In its Response dated April 14, 2002, MEC states in response to Question No. 4 asking how the grading sequence will allow excavations in excess of five (5) feet that after installation of the piles, a five-foot excavation will be performed and a gunite retaining wall between the soldier piles on the vertical cut would be constructed and then only after the completion of this gunite wall will the next five foot excavation commence. Considering the maps in Attachment No. 1 thereto showing the distance between soldier piles and any other relevant information, will this method of excavation be adequate to support the slide mass above? Please give an explanation*

for your answer.

**Answer:** No. The proposal announced in A4 (p. 4, Ref. [4]) Ref. to install a "gunite retaining wall" in a 5-foot vertical cut upslope of installed soldier piles is highly questionable for the following reasons:

(a) Generally, gunite has almost no value as a retaining structure and none at all for a vertical cut. The first 5-foot cut would present no particular problem, but increasing its height in additional 5-foot increments would introduce a condition of potential instability that a gunite cover could not prevent.

(b) An assumed temporary stability of the cut appears to be based upon back-calculated strength parameters contained in Table 1 of Reference [4]. Those data necessarily assume a present safety factor of unity. Such an assumption is unwarranted in an active slide debris mass, the safety factor of which, by definition, is less than unity. A safety factor of unity assumes equal driving and resisting forces. In an active system there is no such equality, and consequently, the back-calculation cannot be applied. The problem has no solution.

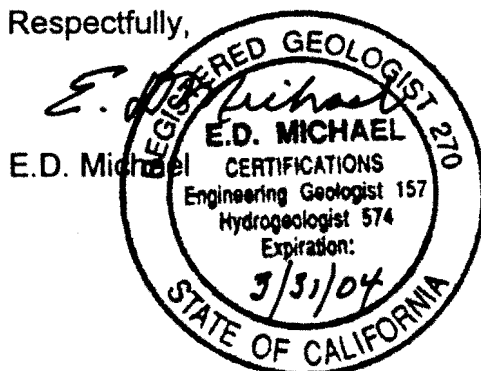
5. In your professional opinion, based on all the geologic and soil reports and references that you have reviewed concerning this project, will this project as approved by the City of Los Angeles minimize risks to life and property in an area of high geological hazard?

**Answer:** No, for the reasons discussed herein.

6. In your professional opinion, based on all the geologic and soil reports and references that you have reviewed concerning this project, will this project as approved by the City of Los Angeles assure stability and structural integrity, and neither create or contribute significantly to erosion, geologic stability, or destruction of the site or surrounding area?

**Answer:** No. The project will not contribute to erosion. However, there is a serious risk that as proposed, it will result in increased geologic instability and possibly an episode of catastrophic movement of the Posetano Road landslide mass with a consequent loss of structural integrity, such as it is, of the Posetano roadbed and the slope above it, as well as the likelihood of serious damage or even destruction of existing improvements in adjacent properties.

Respectfully,



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