

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071

Appeal Filed: July 14, 2008  
49<sup>th</sup> Day: September 1, 2008  
180th Day: N/A  
Staff: Gabriel Buhr-LB  
Staff Report: July 17, 2008  
Hearing Date: August 6-8, 2008  
Commission Action:



# Th17c

## **STAFF REPORT: APPEAL/SUBSTANTIAL ISSUE**

**LOCAL GOVERNMENT:** City of Los Angeles

**LOCAL DECISION:** Approval with Conditions

**APPEAL NUMBER:** A5-PPL-08-192

**APPLICANT:** Tom and Elizabeth Giovine

**AGENT:** Shannon Nonn

**APPELLANT:** California Coastal Commission, Executive Director

**PROJECT LOCATION:** 14984 Corona Del Mar, Pacific Palisades, (Los Angeles County)

**PROJECT DESCRIPTION:** Appeal of City of Los Angeles Local Coastal Development Permit ZA-2008-0353 (CDP) for the construction, use and maintenance of an underground soldier piles and grade beam system to increase the factor of safety of an existing two-story single family residence located on a 31,856 square foot lot on the south side of Corona Del Mar just north of Pacific Coast Highway, in the Pacific Palisades area of the City of Los Angeles.

### **SUMMARY OF STAFF RECOMMENDATION**

The staff recommends that the Commission, after public hearing, determine the appeal raises **a substantial issue** with respect to the grounds on which the appeal has been filed because the local coastal development permit does not require a setback of the proposed development at a minimum of 25 feet from the bluff edge and therefore may result in future visual impacts if the proposed soldier piles are exposed due to expected future bluff face erosion. The stated goal of the proposed project, to stabilize the existing single family residence can still be achieved if the proposed soldier pile system would be shifted landward, and out of the 25 foot blufftop setback for development as described in the Regional Interpretative Guidelines established by the Commission for this region. The motion to carry out the staff recommendation is on page 4.

## **SUBSTANTIVE FILE DOCUMENTS:**

1. City of Los Angeles Local Coastal Development Permit ZA 2008 0353 (CDP).
2. Geotechnical and Geologic Engineering Investigation and Report for Proposed Necessary Site Stabilization Improvement and Pool at Corona Del Mar, Los Angeles, California, prepared by Ralph Stone and Company Inc. dated November 30, 2007.
3. Seismic Slope Stability Analyses and Report for 14984 Corona Del Mar, Los Angeles, California, prepared by Ralph stone and Company Inc. dated January 29, 2008.
4. Addendum No. 1 Response to City Correction Letter, to Geotechnical and Geologic Engineering Investigation and Report for Proposed Necessary Site Stabilization Improvement and Pool at Corona Del Mar, Los Angeles, California, prepared by Ralph Stone and Company Inc. dated March 31, 2008.
5. Geology and Soils Approval Report Approval Letter, City of Los Angels, dated May 22, 2008
6. Regional Interpretive Guidelines, South Coast Region, Los Angeles County, adopted by the Commission October 14, 1980

## **I. APPELLANT'S CONTENTIONS**

City of Los Angeles Local Coastal Development Permit ZA-2008-0353 (CDP), approved by the Department of City planning on May 23, 2008, has been appealed by The Executive Director (Exhibit #4).

The existing residence on the subject site is located approximately 70 feet landward from the bluff edge; however the proposed plans include a row of soldier piles to be installed ten feet from the bluff edge thus encroaching within the 25-foot blufftop development setback line established within the Commission's Guidelines for the region. This outer row of soldier piles is designed to stabilize the rear yard of the existing residence, and another landward row of piles is proposed to stabilize the residence itself above a 1.5 building safety factor. There is significant distance between the bluff edge and the residence to allow for a row of piles to be installed 25 feet from the bluff edge, and still provide for another approximately 45 feet of rear yard without constructing any new development within the 25-foot blufftop setback area, therefore allowing the proposed development to be consistent with Sections 30251 and 30253 of the Coastal Act.

The second aspect to be considered in the establishment of a development setback line from the edge of a coastal bluff is the issue of more gradual, or "grain by grain" erosion. Section 30251 of the Coastal Act states that *the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance*. Over time due to erosion processes the bluff will retreat, eventually exposing the proposed soldier piles installed below grade. Siting the proposed soldier piles further landward at the 25 foot blufftop setback line for development will help ensure that any potential future visual impacts associated with bluff erosion and retreat are less probable and would again allow for the proposed development to be consistent with section 30251 of the Coastal Act.

## **II. LOCAL GOVERNMENT ACTION**

On May 8, 2008, the City of Los Angeles Department of City Planning held a public hearing and approved City of Los Angeles Local Coastal Development Permit ZA-2008-0353 (CDP), for the construction, use and maintenance of an underground soldier piles and grade beam system to increase the factor of safety of an existing two-story single family residence located at 14984 Corona Del Mar. The City established a twenty-day appeal period, which ended without an appeal on June 9, 2008.

On June 13, 2008, the Commission's South Coast District office in Long Beach received the City's Notice of Final Local Action (dated June 11, 2007) for Local Coastal Development Permit ZA-2008-0353 (CDP), and the Commission's required twenty working-day appeal period commenced. The appeal by the Executive Director was submitted in the Commission's South Coast District office in Long Beach on July 14, 2008, the last day of the appeal period (Exhibit #5). No other appeals were received.

Because the proposed project is located in the City and Commission's "Dual Permit Jurisdiction" area (see Section IV on page four) the applicant has submitted a separate coastal development permit application to the Commission for the proposed development (Coastal Development Permit Application 5-08-191). 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 Coastal Development Permit Application 5-08-191 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 13301-13325 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 by a local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act. [Cal. Pub. Res. Code § 30200 and 30604.]

After a final local action on a local coastal development permit application, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice which 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. [Cal. Pub. Res. Code § 30602.]

Any appeal of the local action is then analyzed to determine if a substantial issue exists as to the approved project's conformity with Chapter 3 of the Coastal Act (Sections 30200-30265.5). [Cal. Pub. Res. Code § 30625(b)(1).] Unless the Commission finds that the appeal raises no substantial issue, the Commission then holds a public hearing in which it reviews the coastal development permit as a *de novo* matter. [Cal. Pub. Res. Code § 30621 and 30625.]

At this point, the Commission may decide that the appellant's contentions raise no substantial issue as to conformity of the approved project with Chapter 3 of 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 Chapter 3 of 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 Sections 13114 and 13057-13096 of the Commission's regulations.

### **IV. DUAL PERMIT JURISDICTION**

The proposed development involves the City's and Commission's "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 the development which 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 property is located within 300 feet of the top of the seaward face of a coastal bluff. Therefore, the proposed project is a dual permit jurisdiction project. The Coastal Development Permit approved by the City, which is the subject of this appeal, is for the construction of an underground bluff stabilization project designed to protect the existing single family structure located on the subject site.

In this case, the required "dual" Coastal Commission coastal development permit application has also been submitted for Commission review and action by the applicant (Coastal Development Permit Application 5-08-191). The Commission's standard of review for the proposed development in the Dual Permit Jurisdiction area is the Chapter 3 policies of the Coastal Act. The Regional Interpretive Guidelines adopted by the Commission for this region are advisory in nature and may provide guidance.

In regards to this appeal, if the Commission finds that a substantial issue exists in regards to the City's approval of the Local Coastal Development Permit ZA-2008-0353 (CDP), the subsequent de novo action on the local coastal development permit will also be combined with the required "dual" Coastal Commission coastal development permit application (Coastal Development Permit Application 5-08-191). The matter will not be referred back to the local government.

Alternatively, 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 as a separate agenda item (Coastal Development Permit Application 5-08-191).

In order to minimize duplication, Commission staff intends to combine the de novo permit action for this appeal (if the Commission finds that a substantial issue exists) and Coastal Development Permit Application 5-08-191 into one staff report and one hearing for concurrent Commission action. If the Commission finds that a substantial issue exists, staff will schedule a combined hearing at a future Commission meeting in Southern California.

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

The staff recommends that the Commission determine that **a substantial issue exists** with respect to whether the local government's approval of the project is consistent with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to PRC 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-VEN-07-397 raises **no** substantial issue with respect to conformity of the local approval with the policies of Chapter 3 of the Coastal Act."*

Failure of the motion will result in a de novo hearing on the application and adoption of the following resolution and findings. A majority of the Commissioners present is required to pass the motion.

### **Resolution to Find Substantial Issue for Appeal A-5-VEN-07-397**

The Commission hereby finds that Appeal No. **A-5-PPL-08-192** presents a substantial issue with respect to conformity of the local government approval with the Chapter 3 policies of the Coastal Act.

## **VI. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE**

The Commission hereby finds and declares:

### **A. Project Description**

The Coastal Development Permit approved by the City is for the construction, use and maintenance of an underground soldier piles and grade beam system to increase the factor of safety of an existing two-story single family residence located on a 31,856 square foot lot on the south side of Corona Del Mar just north of Pacific Coast Highway, in the Pacific Palisades area of the City of Los Angeles.

The proposed project stabilization plans include the installation of two rows of soldier piles. One row of piles would be placed near the residence, and tied back to a row of dead man piles in order to raise the safety factor of the residence above a 1.5 building factor of safety. The second row of piles would be placed approximately ten feet from the bluff edge in order to stabilize the rear yard.

### **B. Substantial Issue Analysis**

As stated in Section III of this report, the grounds 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

the local government action raises no substantial issue as to conformity with Chapter 3 policies of the Coastal Act. In this case, staff has recommended that a substantial issue does exist in the local government's approval of the project.

The appeal raises two issues. The first issue involves whether or not the Coastal Act includes provisions that would allow for bluff stabilization in order to protect the rear yard of a single family residence. The second issue is the potential for future visual impacts by allowing for development within the 25-foot blufftop setback established for the area.

Section 30251 of the Coastal Act states in part:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...*

Section 30253 of the Coastal Act states in part:

*New development shall:*

- 1) *Minimize risks 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 bluffs and cliffs.*

The Commission has generally interpreted Section 30251 and 30253 to require the Commission to approve protection of development only for existing principal structures. The construction of a protective device to protect accessory structures including a rear yard would not be required by these Sections of the Coastal Act.

The Regional Interpretative Guidelines from the Commission for the County of Los Angeles describe that any new bluff top development be set back at a minimum of 25 feet from the edge of any coastal bluff in accordance with Sections 30251 and 30253 of the Coastal Act.

The existing residence on the subject site is located approximately 70 feet landward from the bluff edge; however the proposed plans include a row of soldier piles to be installed ten feet from the bluff edge thus encroaching within the 25-foot blufftop development setback line established within the Commission's Guidelines for the region. This outer row of soldier piles is designed to stabilize the rear yard of the existing residence, and another landward row of piles is proposed to stabilize the residence itself above a 1.5 building safety factor. There is significant distance between the bluff edge and the residence to allow for a row of piles to be installed 25 feet from the bluff edge, and still provide for another approximately 45 feet of rear yard without constructing any new development within the 25-foot blufftop setback area, therefore allowing the proposed development to be consistent with Sections 30251 and 30253 of the Coastal Act.

The second aspect to be considered in the establishment of a development setback line from the edge of a coastal bluff is the issue of more gradual, or "grain by grain" erosion. Section 30251 of the Coastal Act states that *the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance*. Over time due to erosion processes the bluff will retreat, eventually exposing the proposed soldier piles installed below grade. Siting the proposed

soldier piles further landward at the 25 foot blufftop setback line for development will help ensure that any potential future visual impacts associated with bluff erosion and retreat are less probable and would again allow for the proposed development to be consistent with section 30251 of the Coastal Act.


In conclusion, the proposed project is not consistent with the Chapter 3 policies of the Coastal Act (Sections 30200-30265.5). Therefore, staff recommends that the Commission find that a substantial issue exists with approved local Coastal Development Permit ZA-2008-0353 (CDP) on the grounds that it raises a substantial issue as to conformity with the Chapter 3 policies of the Coastal Act.



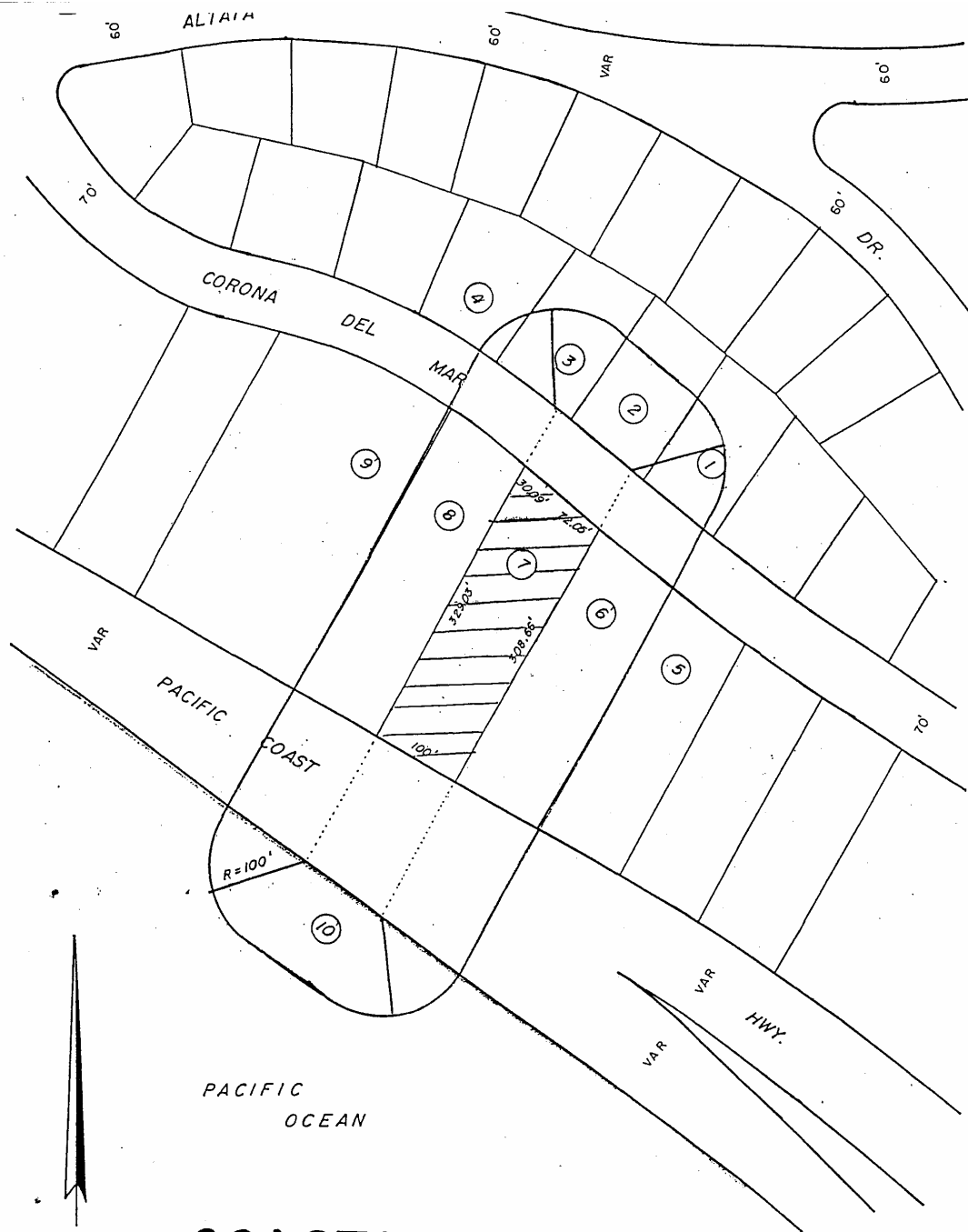
**EXHIBIT# 1**

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Application Number:  
**A-5-PPL-08-192**

 California Coastal  
Commission






0.73 AC.

## COASTAL PERMIT

LEGAL: LOT 6, BLOCK 1, TRACT NO. 9377

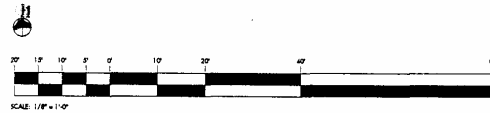
CASE NO.

<b>EXHIBIT# 2</b>
Page 1 of 1
Application Number:
<b>A-5-PPL-08-192</b>
 California Coastal Commission



- SITE PLAN NOTES:**

- LEGAL DESCRIPTION**  
Lot 21, B&B of Block:  
Tract: 5277  
Acre: None



**GIOVINE RESIDENCE**  
1 AMIA CORONA DEL MAR, PACIFIC PASEADERS, CA

**WILLIAM HEPNER**  
ARCHITECTURAL FOTOTECNIC LABORATORY  
12300 BEL - 12300 street  
12300 BEL - 12300 street  
12300 BEL - 12300 street

10000 Boulevard Street 10000  
Los Angeles California 90000

**PLOT PLAN OF SITE STABILIZATION**

DATE: 10 JUNE 2008

SCALE: 1"=10'

SHEET: A 0.13

THIS DRAWING IS THE PROPERTY OF WILLIAM HEPNER ARCHITECTURAL FOTOTECNIC LABORATORY. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF WILLIAM HEPNER ARCHITECTURAL FOTOTECNIC LABORATORY.

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071



## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

**SECTION I.****Appellant(s)**

Name, mailing address and telephone number of appellant(s):

Executive Director, California Coastal Commission200 Oceangate, Suite 1000Long Beach, CA 90802(562) 590-5071**SECTION II.****Decision Being Appealed**

1. Name of local/port government: City of Los Angeles
2. Brief description of development being appealed: Construction, use and maintenance of underground soldier piles and grade beam system to increase the factor of safety of an existing single family residence on a 31,856 square foot parcel of land located within the dual permit area of the California Coastal Zone.
3. Development's location (street address, assessor's parcel no., cross street, etc.): 14984 Corona Del Mar, Pacific Palisades
4. Description of decision being appealed:
  - a. Approval; no special conditions: \_\_\_\_\_
  - b. Approval with special conditions: XX
  - c. Denial: \_\_\_\_\_

**NOTE:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

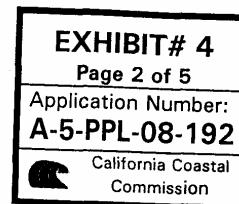
**EXHIBIT# 4**

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Application Number:

**A-5-PPL-08-192**California Coastal  
Commission

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**TO BE COMPLETED BY COMMISSION:**

APPEAL NO: A-5-PPL-08-192

DATE FILED: July 14, 2008

DISTRICT: South Coast

5. Decision being appealed was made by (check one):
- a. Planning Director/Zoning Administrator: XX
  - b. City Council/Board of Supervisors: \_\_\_\_\_
  - c. Planning Commission: \_\_\_\_\_
  - d. Other: \_\_\_\_\_
6. Date of local government's decision: May, 23 2008
7. Local government's file number: ZA 2008-0353 (CDP)

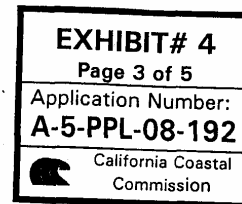
**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties.  
(Use additional paper as necessary.)

1. Name and mailing address of permit applicant:
- Tom and Elizabeth Giovine  
14984 Corona Del Mar  
Pacific Palisades, CA 90731
2. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.
- a. none
  - b. \_\_\_\_\_

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#### SECTION IV.

#### Reasons Supporting This Appeal

**Note:** Appeals of local government Coastal Permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page. Please state briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

1. The Coastal Development Permit approved by the City is for the construction, use and maintenance of an underground soldier piles and grade beam system to increase the factor of safety of an existing two-story single family residence located on a 31,856 square foot lot on the south side of Corona Del Mar just north of Pacific Coast Highway, in the Pacific Palisades area of the City of Los Angeles.

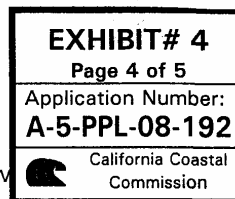
The proposed development is within the coastal zone of the City of Los Angeles. Section 30600(b) of the Coastal Act allows local government to assume permit authority prior to certification of a local coastal program. Under that section, the local government must agree to issue all permits within its jurisdiction. In 1978, the City of Los Angeles chose to issue its own coastal development permits.

Within the area 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 the development which receives a local Coastal Development Permit also obtain a permit from the Coastal Commission. Section 30601 requires a second coastal development permit from the Commission on all lands located (1) between the sea and the first public road, (2) within 300 feet of the inland extent of a beach, or the sea where there is no beach, (3) on tidelands or submerged lands, (4) on lands located within 100 feet of a wetland or stream, or (5) on lands located within 300 feet of the top of the seaward face of a coastal bluff, or (6) any development which constitutes a major public works project.

The proposed property is located within 300 feet of the top of the seaward face of a coastal bluff. Therefore, the proposed project is a dual permit jurisdiction project. The Coastal Development Permit approved by the City, which is the subject of this appeal, is for the construction of an underground bluff stabilization project designed to protect the existing single family structure located on the subject site.

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The proposed project stabilization plans include the installation of two soldier piles. One row of piles would be placed near the residence, and tied back to a row of dead man piles in order to raise the safety factor of the residence above a 1.5 building factor of safety. The second row of piles would be placed approximately ten feet from the bluff edge in order to stabilize the rear yard.

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Because of the concerns raised above, a determination of consistency for the project as it relates to Chapter 3 policies of the California Coastal Act can not be made at this time.

#### SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Teresa Henry  
Signature of Appellant(s) or Authorized Agent

7/14/08  
Date

