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

Th11a&b

Appeal Filed:	2/2/2011
Applic. Filed:	4/1/2011
180th Day:	Waived
270th Day:	12/27/11
Staff:	Charles Posner-LB
Staff Report:	11/18/2011
Hearing Date:	December 8, 2011

Click here to go to the staff report addendum.

STAFF REPORT: DE NOVO & REGULAR CALENDAR

APPLICATION NUMBER: 5-11-056 **APPEAL NUMBER:** A-5-PPL-11-028

APPLICANTS: Robert Dolbinski & Jeanne Chen
APPLICANTS' AGENT: Sherman L. Stacey, Gaines & Stacey, LLP

APPELLANT: Gerald B. Kagan, Friends of Our Environment
APPELLANT'S AGENT: Melvin L. Nutter, Attorney at Law

PROJECT LOCATION: 370 Vance Street, Pacific Palisades, City of Los Angeles.

PROJECT DESCRIPTION: Construction of a three-story, 1,966 square foot single-family residence on a vacant 3,170 square foot lot.

Lot Area	3,170 square feet
Building Coverage	950 square feet (approx.)
On-site Parking	2-stall carport
Zoning	R1-1
Building Height	45 feet
Grading	660 cu. yards (approx.) export

SUMMARY OF STAFF RECOMMENDATION

On March 9, 2011, the Commission determined that a substantial issue exists with respect to the grounds on which the appeal was filed because the proposed development site is located within an area subject to geologic hazards, flooding, and fire danger. On October 5, 2011, in Huntington Beach, the Commission held a public hearing on the proposed project and voted to continue the matter.

The appellant, the appellant's agents, and other opponents from the neighborhood raised several issues during the City of Los Angeles hearings on the matter, in letters, and at the Commission's October 5, 2011 hearing. The opponents assert that the proposed project is not safe and should be denied because the site is too steep and that flooding of adjacent properties could occur in the event that construction causes debris to fall into the flood control channel (Rustic Creek) that runs below the project site. While the project design (the proposed house and its foundation) has been shown to be structurally sound (i.e., meets a minimum Factor of Safety against sliding of 1.5), the opponents argue that the process of excavating the slope and constructing the foundation involves a significant risk to the surrounding neighborhood because of the potential for slope failure. They have also raised concerns about construction staging and equipment storage on Vance Street, that the proposed project will not increase the Factor of Safety for the entire lot to a value of 1.5, and about the ability of the applicants to use City streets to transport materials and equipment to the project site.

The primary Coastal Act issue is whether the proposed development minimizes risks to life and property and assures stability and structural integrity as required by Section 30253 of the Coastal Act. The applicants' geotechnical analysis indicates that the proposed project will meet the minimum Factor of Safety of 1.5 for the developed part of the site, and also indicates that construction of the proposed pile-supported foundation will improve the stability of the upper slope and provide structural support for Vance Street. The opponents do not disagree with these conclusions. To address the risks of flooding, the applicants have submitted a construction sequencing plan which includes measures to minimize the amount of debris that falls into the flood control channel and methods for removing debris from the channel. In addition, all excavation and the construction of the foundation would be done only during the dry season (April 1 – October 31).

Staff is recommending that the Commission **APPROVE** two coastal development permits – one on de novo review of an appeal (A-5-PPL-11-028) and one dual permit application (5-11-056) – for the proposed development with special conditions. The recommended special conditions begin on **Page Eight.** As conditioned, the proposed project minimizes risks to life and property and assures stability and structural integrity as required by Section 30253 of the Coastal Act, and will not prejudice the City of Los Angeles' ability to prepare an LCP that is consistent with Chapter 3 of the Coastal Act. **See Page Seven for the motions to carry out the staff recommendation.** The applicants agree with the recommendation.

STAFF NOTE - LEGAL DISCUSSION

At the October 5, 2011 hearing on this item, the Commission raised concerns about the constructability of the proposed project and whether or not a denial of the project would constitute a taking of the property, in violation of the United States and California Constitutions and Section 30010 of the Coastal Act. Staff finds that the proposed project is entirely consistent with the relevant Coastal Act policies and, therefore, it is unnecessary for the Commission to approve this project as a "takings approval"—which would consist of a finding that the project is inconsistent with a Coastal Act policy but the Commission has to approve the project nonetheless because a Commission denial would constitute a taking of the applicant's property. Notwithstanding the project's consistency with the relevant Coastal Act policies, since the Commission directed staff to evaluate whether a denial would constitute a taking of the property, it is including a brief analysis of the issue as a staff note.

Here, since a proposal for a smaller home would raise the same geologic issues and constructability concerns, redesigning the home would not necessarily change the Commission's action on this item. Given that, if the Commission denies this project because of geologic concerns, it will likely not change its action if the applicant's proposed a smaller house—a denial of this project will effectively be a denial of any other redesign of the project since the Commission's concerns at the prior hearing on this item were based on building anything on this steep slope, not necessarily the building a home of a certain size on the slope. Therefore, the Commission's denial of this project would likely constitute a categorical regulatory taking of the applicant's property because the Commission, through its action, will deny all economically viable use of the property since it will effectively find that there is no home design for this site that would satisfy its Coastal Act concerns. (See, *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003.)

Lucas provides that a regulatory action does not constitute a taking if the restrictions inhere in the title of the affected property; that is, "background principles" of state real property law

would have permitted government to achieve the results sought by the regulation. (*Lucas, supra*, 505 U.S. at pp. 1028-1036; *Monks v. City of Rancho Palos Verdes* (2008) 167 Cal.App.4th 263, 305 (*Monks)*.) These background principles include a State's traditional public nuisance doctrine or contract law (*Monks, supra,* 167 Cal.App.4th at p. 305.). Here, the proposed project, if allowed, would not constitute a public nuisance, and thus the Commission's denial of the project would still constitute a taking.

California Civil Code Section 3479 defines a nuisance as follows:

> *Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.*

California Civil Code Section 3480 defines a public nuisance as follows:

> *A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.*

To succeed in a public nuisance finding, a governmental agency would have to show that, under common law nuisance principles, it could obtain an injunction against the construction of homes on an applicant's lot which entails a finding that it can establish reasonable probability of prevailing on the merits of a public nuisance claim, not merely that there is a "possibility of damage" in the distant future. (*Monks, supra*, 163 Cal,App.4th at p. 270, 305.) In essence, an agency will have to support its decision with substantial evidence showing that the construction of an applicant's home will pose a significant harm to persons or property of an entire community, neighborhood or considerable number of persons. (Id.; Civil Code, § 3480.) Substantial evidence includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. (*Center for Biological Diversity v. County of San Bernardino* (2010) 185 Cal.App.4th 866, 884.) Thus, an agency must establish that there are facts to support a "reasonable probability of significant harm" to obtain an injunction. (*Monks, supra*, 163 Cal,App.4th at p. 306.) While an administrative action does not constitute a court proceeding, should an agency decide to deny a project, it will have to establish the aforementioned burden of proof in the event that its decision is challenged in court.

In *Monks*, the City of Rancho Palos Verdes enacted a moratorium that prohibited development in an area, broken down into different zones, susceptible to landslides unless landowners in each zone established a certain factor of safety for the entire zone even if the extent of property ownership didn't extend to all of the parcels in their relevant zone. (*Monks, supra*, 163 Cal,App.4th at pp. 269-279.) The plaintiffs could not meet the city's standard because it did not own all the parcels within its zone, effectively denying the plaintiffs of any economically viable use of their property. (*Monks, supra*, 163 Cal,App.4th at pp. 269, 303-305.) The plaintiffs sued the city, arguing that its moratorium over plaintiffs' property constituted a taking. (*Id*. at p. 269.) The court agreed, finding also that the moratorium was not justified by public nuisance law, thereby preventing the city from justifying its taking of the plaintiffs' property under background principles of state law. (*Id*. at p. 305.) To support its nuisance decision, the court found that a report by hired experts that was submitted to the city, concluding that the plaintiffs could build

the on their lots because such development wouldn't destabilize the geology in the area, constituted substantial evidence whereas the city council's rejection of that conclusion did not rise to the level of substantial evidence. (*Id.* at p. 308.) Furthermore, the court noted that state nuisance law must focus on actual harm posed by a developer's intended use of his or her property, "not scientific labels that merely reflect the uncertainties of the situation," concluding that "risk of property damage and personal injury… is not sufficient in any practical sense to justify" a nuisance finding that enables the government to escape liability under regulatory takings principles. (*Id*. at p. 308-309.) There must be a nuisance finding that goes beyond "fear of personal injury or significant property damage." (*Id*. at p. 270.)

Here, the applicants have provided substantial evidence to support staff's conclusion that the proposed project will not cause actual significant harm to the entire community or neighborhood. As discussed in more detail below, the applicants have submitted plans and reports from their consulted experts, all of which support a conclusion that the proposed project will not cause geologic hazards on the site. The opponents' geotechnical consultant, Dr. Pradel, did not present any facts at the October 5, 2011 hearing that the proposed project will actually cause any geologic hazards. Rather, based on re-reviewing the hearing webcast, Dr. Pradel uses terms such as "challenging", "difficult" and "vulnerable" to qualify his concerns regarding the proposed project's geologic conditions but did not present any conclusive facts that there is a reasonable probability that the project will cause slope failure and actual significant harm to the neighborhood or community. Dr. Pradel's reports also do not present any facts to suggest that there is a reasonable probability that the proposed project will cause actual significant harm to the entire community or neighborhood. While his reports and testimony may infuse some uncertainty regarding the safety of the project, scientific reports that only create uncertainty without actual facts to counter existing expert facts are not sufficient to support a nuisance finding. Thus, given the applicants' extensive scientific evaluation of the site conditions and mitigation proposals to ensure safety of the construction and the built development, there is substantial evidence to support a finding that the proposed project does not constitute a public nuisance.

STAFF NOTE - DUAL PERMIT JURISDICTION

On January 5, 2011, the City of Los Angeles issued Local Coastal Development Permit No. ZA-2007-5584 for the proposed project with special conditions. On February 2, 20011, the appellant (Gerald B. Kagan) appealed the City-approved local coastal development permit to the Commission. On March 9, 2011, the Commission determined that a substantial issue exists with respect to the grounds on which the appeal was filed because the proposed development site is located within an area subject to geologic hazards, flooding, and fire danger.

Pursuant to Coastal Act Section 30600(b), any development which receives a local coastal development permit from the City must also obtain a second (or "dual") coastal development permit from the Coastal Commission if the development is within the areas specified in Section 30601 (e.g., within three hundred feet of the beach or sea, or within one hundred feet of a stream). The areas specified in Section 30601 are known in the City of Los Angeles permit program as the *Dual Permit Jurisdiction* area. For projects located inland of the areas identified in Section 30601 (i.e., projects in the *Single Permit Jurisdiction*), the City of Los Angeles local coastal development permit is the only coastal development permit required. The local coastal development permits in both the single and dual jurisdiction areas are appealable to the Commission.

As a result of the project site being located within one hundred feet of a stream (Rustic Creek), the proposed development is located within the *Dual Permit Jurisdiction*. On March 3, 2011, the applicant submitted the required "dual" Coastal Commission coastal development permit application (Application No. 5-11-056) for Commission review and action. In order to minimize duplication, Commission staff has combined the de novo appeal permit (A-5-PPL-11-028) and the dual coastal development permit application (5-11-056) into one staff report. The public hearings for the "dual" application (5-11-056) and the de novo review of the appeal of the local coastal development permit (Appeal No. A-5-PPL-11-028) will also be combined.

Because there are two permits involved, the Commission's approval, modification or disapproval of the proposed project will require two separate Commission actions: one action for the de novo review of the appeal of the City's permit and one action for the dual coastal development permit application. Staff is recommending that the Commission approve both permits with the following identical special conditions and findings. The Commission's standard of review for the proposed development in the *Dual Permit Jurisdiction* area of the City of Los Angeles is the Chapter 3 policies of the Coastal Act, because there is no certified Local Coastal Program.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles Local Coastal Development Permit No. ZA-2007-5584.
2. City of Los Angeles Mitigated Negative Declaration No. ENV-2007-5585-MND-REC1.
3. Coastal Development Permit 5-90-473 (Lederer - 390 Vance St., Pacific Palisades).
4. City of Los Angeles Street Services, Permit to Maintain Materials and Equipment in Street (ME2011002299), 370 N. Vance Street, March-April, 2012.
5. City of Los Angeles Department of Building and Safety Geology and Soils Report Approval Letters dated January 27, 2006 and November 12, 2009.
6. T.I.N. Engineering Company, 2004, "Soil engineering investigation and report for proposed new residential development at 375 East Rustic Road, Pacific Palisades, California", 14 p. geotechnical report dated 3 April 2004 and signed by T.S.C. Lee (RCE 44045).
7. T.I.N. Engineering Company, 2005, "Addendum letter No. 1 - Response to City comments, dated March 30, 2005, for proposed new residential development at 375 East Rustic Road, Pacific Palisades, California", 3 p. response letter dated 8 July 2005 and signed by T.S.C. Lee (RCE 44045).
8. Grover Hollingsworth and Associates, 2007, "Geologic and soils engineering exploration, Proposed three-story residence, Lot 24, Tract 1719, 375 N. East Rustic Road, Los Angeles, California", 37 p. geotechnical report dated 30 March 2007 and signed by S.M. Watry, D.J. Grover (CEG 1095), and R.A. Hollingsworth (GE 2022 CEG 1265).
9. Grover Hollingsworth and Associates, 2007, "Change of consultant letter and response to City correction letter, Proposed three-story residence, Lot 24, Tract 1719, 375 N. East Rustic Road, Los Angeles, California", 2 p. letter dated 14 May 2007 and signed by R.A. Hollingsworth (GE 2022 CEG 1265).
10. Grover Hollingsworth and Associates, 2007, "Response to City correction letter #2, Proposed three-story residence, Lot 24, Tract 1719, 375 N. East Rustic Road, Los Angeles, California", 2 p. letter dated 7 August 2007 and signed by R.A. Hollingsworth (GE 2022 CEG 1265).
11. Grover Hollingsworth and Associates, 2007, "Response to City correction letter #3, Proposed three-story residence, Lot 24, Tract 1719, 375 N. East Rustic Road, Los Angeles,

California", 2 p. letter dated 25 October 2007 and signed by R.A. Hollingsworth (GE 2022 CEG 1265).

12. Slosson and Associates, 2008, "Engineering geology review of proposed development at 375 East Rustic Road", 10 p. review letter dated 10 October 2008 and signed by T.L. Slosson (CEG 1327).
13. Grover Hollingsworth and Associates, 2009, "Response to third-party engineering geologic review, Proposed three-story residence, Lot 24, Tract 1719, 375 N. East Rustic Road, Los Angeles, California", 4 p. response letter dated 13 January 2009 and signed by R.A. Hollingsworth (GE 2022 CEG 1265).
14. Grover Hollingsworth and Associates, 2009, "Comments regarding reported post-Northridge Earthquake ground crack on Vance Street, Proposed three-story residence, Lot 24, Tract 1719, 375 N. East Rustic Road, Los Angeles, California", 4 p. letter report dated 14 January 2009 and signed by R.A. Hollingsworth (GE 2022 CEG 1265).
15. Grover Hollingsworth and Associates, 2009, "Site visit and revised seismic design, Proposed three-story residence, Lot 24, Tract 1719, 375 N. East Rustic Road, Los Angeles, California", 3 p. letter report dated 15 January 2009 and signed by R.A. Hollingsworth (GE 2022 CEG 1265).
16. Praad Geotechnical Inc., 2009, "Geotechnical investigation of the proposed development at 375 East Rustic Road", 15 p. geotechnical report dated 22 April 2009 and signed by D. Pradel (GE 2242).
17. Grover Hollingsworth and Associates, 2009, "Response to fourth-party engineering geologic review, Proposed three-story residence, Lot 24, Tract 1719, 375 N. East Rustic Road, Los Angeles, California", 4 p. response letter dated 29 July 2009 and signed by R.A. Hollingsworth (GE 2022 CEG 1265).
18. Grover Hollingsworth and Associates, 2009, "Additional response to fourth-party engineering geologic review, Proposed three-story residence, Lot 24, Tract 1719, 375 N. East Rustic Road, Los Angeles, California", 4 p. response letter dated 15 September 2009 and signed by R.A. Hollingsworth (GE 2022 CEG 1265).
19. Praad Geotechnical Inc., 2010, 2 p. letter addressed to Jonathan Hershey dated 27 September 2010 and signed by D. Pradel (GE 2242).
20. Praad Geotechnical Inc., 2011, 15 p. letter report to Charles Posner dated 15 April 2011 and signed by D. Pradel (GE 2242).
21. Grover Hollingsworth and Associates, 2011, "Additional response #2 to fourth-party geotechnical review, Proposed three-story residence, Lot 24, Tract 1719, 375 N. East Rustic Road, Los Angeles, California", 2 p. response letter dated 19 September 2011 and signed by R.A. Hollingsworth (GE 2022 CEG 1265).
22. Grover Hollingsworth and Associates, 2011, "Summary of Comments Regarding Reported Post-Northridge Earthquake Ground Crack on Vance Street, Proposed three-story residence, Lot 24, Tract 1719, 375 N. East Rustic Road, Los Angeles, California", 3 p. letter dated 24 October 2011 and signed by R.A. Hollingsworth (GE 2022 CEG 1265).
23. Grover Hollingsworth and Associates, 2011, "Additional response #3 to fourth-party geotechnical review, Proposed three-story residence, Lot 24, Tract 1719, 375 N. East Rustic Road, Los Angeles, California", 3 p. response letter dated 7 November 2011 and signed by R.A. Hollingsworth (GE 2022 CEG 1265).

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolutions to **APPROVE** the coastal development permits with special conditions:

MOTION I: *"I move that the Commission approve with special conditions Coastal Development Permit Application No. A-5-PPL-11-028 per the staff recommendation."*

MOTION II: *"I move that the Commission approve with special conditions Coastal Development Permit Application No. 5-11-056 per the staff recommendation."*

The staff recommends two **YES** votes. Passage of the motions will result in **APPROVAL** of the de novo permit (A-5-PPL-11-028) and dual coastal development permit application (5-11-056) with identical special conditions, and adoption of the following resolutions and findings, as set forth in this staff report. Each motion passes only by an affirmative vote of a majority of Commissioners present.

I. Resolution: Approval with Conditions of Permit A-5-PPL-11-028

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Resolution: Approval with Conditions of Permit 5-11-056

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

III. Standard Conditions of Permits A-5-PPL-11-028 & 5-11-056

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

IV. Special Conditions of Permits A-5-PPL-11-028 & 5-11-056

1. Approved Development - Permit Compliance

Coastal Development Permit 5-11-056/A-5-PPL-11-028 permits the construction of a single-family residence consistent with the following special conditions. All development must occur in strict compliance with the proposal as set forth in the application, subject to the special conditions. Any proposed change or deviation from the approved plans shall be submitted to the Executive Director to determine whether an amendment to this permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Local Government Approval

The proposed development is subject to the review and approval of the local government (City of Los Angeles). This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act, including the conditions of the City of Los Angeles Department of City Planning Case No. ZA-2007-5584. The permittees shall abide by all City rules and regulations regarding the use of City streets for transporting equipment and construction materials to and from the project site. In the event of conflict between the terms and conditions imposed by the local government and those of this coastal development permit, the terms and conditions of Coastal Development Permit 5-11-056/A-5-PPL-11-028 shall prevail.

3. Plans Conforming to Geotechnical Engineer's Recommendations

By acceptance of this coastal development permit, the applicants agree to comply with the recommendations set forth in the geotechnical, engineering and soils reports prepared for the project by Grover Hollingsworth and Associates, Inc. (which are referenced in this report as Substantive File Documents). These recommendations, including recommendations concerning excavation, foundations and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultants (by Grover Hollingsworth and Associates, Inc.) prior to commencement of development. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial change in the proposed development approved by the Commission that may be required by the consultants shall require an amendment to the permit or new coastal development permit.

4. Interim Erosion Control and Construction Responsibilities

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for review and written approval of the Executive Director, two copies of an Interim Erosion Control and Construction Best Management Practices Plan, prepared by licensed civil engineer or qualified water quality professional. The consulting civil engineer/water quality professional shall certify in writing that the Interim Erosion Control and Construction Best Management Practices (BMPs) Plan is in conformance with the following requirements:

A. Erosion Control Plan

1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the plan and on-site with fencing or survey flags.

2) Include a narrative report describing all temporary run-off and erosion control measures to be used during construction.

3) The plan shall identify and delineate on a site or grading plan the locations of all temporary erosion control measures.

4) The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time for the protection of life or property, if approved by the Executive Director. The applicants shall install temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches and holes as soon as possible.

5) The erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction.

6) The plan shall include the installation of a temporary fence at the toe of the slope (next to the channel bank) to reduce the potential for debris to enter the stream bed channel.

7) The applicants shall immediately remove any debris that falls from the project site into the channel. The stream bed shall be checked daily to ensure that it is kept clear of sediment and debris from the project site.

8) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than thirty (30) days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

B. Construction Best Management Practices

1) No construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.

2) No construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.

3) Construction debris and sediment shall be removed from work areas each day that construction occurs to prevent the accumulation of debris that may be discharged into coastal waters.

4) All trash shall be disposed in the proper trash and recycling receptacles at the end of every construction day.

5) The applicants shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

6) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.

7) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.

8) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.

9) The discharge of any hazardous materials into any receiving waters shall be prohibited.

10) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.

11) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity.

12) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

C. Construction Sequence Plan. The applicants shall undertake the approved development in accordance with the Construction Sequence Plan attached as **Exhibit #10 to the staff report dated November 18, 2011**. Any changes to the Construction Sequence Plan required by the City or County of Los Angeles shall be reported to the Executive Director. No changes to the Construction Sequence Plan shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

The permittees shall undertake development in accordance with the final Interim Erosion Control and Construction Best Management Practices Plan and the Construction Sequence Plan approved by the Executive Director. The final Interim Erosion Control and Construction Best Management Practices Plan shall be in conformance with the project plans approved by the Coastal Commission. Any changes to the Coastal Commission approved plans required by the consulting civil engineer/water quality professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

5. Permanent Drainage and Run-off Control Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for review and written approval of the Executive Director, two copies of a final Drainage and Runoff Control Plan for the post-construction project site, prepared by a licensed civil engineer or qualified licensed water quality professional. The plan shall include detailed drainage and runoff control plans with supporting descriptions and calculations. The plan shall incorporate Best Management Practices (BMPs) including site design, source control and treatment control measures designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather runoff leaving the developed site. The consulting licensed civil engineer or qualified licensed professional shall certify in writing that the final Drainage and Runoff Control Plan is in substantial conformance with the following minimum requirements:

A. The plan shall incorporate appropriate Best Management Practices (BMPs) into the development, designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site. The drainage system shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner;

B. Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized through the use of low-maintenance landscaping and efficient irrigation technology or systems;

C. Trash, recycling and other waste containers, as necessary, shall be provided. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals;

D. All slopes shall be stabilized in accordance with provisions contained in the Landscaping and/or Interim Erosion and Sediment Control Condition for this coastal development permit. The final drainage plans shall be designed and installed in conformance with the recommendations of the project consulting geotechnical engineer; and,

E. Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the permittees or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicants shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

The permittees shall undertake development in accordance with the final Drainage and Runoff Control Plan approved by the Executive Director. The final Drainage and Runoff Control Plan shall be in conformance with the development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved plans required by the consulting licensed civil engineer, or qualified licensed professional, or engineering geologist shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

6. Landscaping and Fuel Modification Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for review and written approval of the Executive Director, two sets of Landscaping and Fuel Modification Plans, prepared by a licensed landscape architect or a qualified resource specialist. The Landscaping and Fuel Modification plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The consulting landscape architect or qualified landscape professional shall certify in writing that the final Landscape and Fuel Modification plans are in conformance with the following requirements:

A. Landscaping Plan

1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within thirty (30) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society (http://www.CNPS.org/), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (http://www.cal-ipc.org/), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property.

2) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;

3) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

B. Fuel Modification Plans

Vegetation within a one hundred-foot radius of the structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur.

C. Conformance with Commission Approved Site/Development Plans

The permittees shall undertake development in accordance with the final Landscape and Fuel Modification Plans. The final Landscape and Fuel Modification Plans shall be in conformance with the site/development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

D. Monitoring

The permittees shall undertake development in accordance with the final Landscaping and Fuel Modification Plans approved by the Executive Director. Three years from the date of the receipt of the Certificate of Occupancy for the house the permittees shall submit to the Executive Director, a landscape

monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the Landscaping Plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the requirements specified in this condition, the permittees, or successors in interest, shall submit, within thirty (30) days of the date of the monitoring report, a revised or supplemental landscaping plan, certified by a licensed Landscape Architect or a qualified Resource Specialist, that specifies additional or supplemental landscaping measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. This remedial landscaping plan shall be implemented within thirty (30) days of the date of the final supplemental landscaping plan and remedial measures shall be repeated as necessary to meet the requirements of this condition.

7. Assumption of Risk, Waiver of Liability and Indemnity Agreement

By acceptance of this coastal development permit, the applicants acknowledge and agrees (i) that the site may be subject to hazards from wildfire, landsliding, and erosion; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

8. Deed Restriction

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this coastal development permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel governed by this coastal development permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this coastal development permit shall continue to restrict the use and enjoyment of the subject property so long as either this coastal development permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

V. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The project site is a steeply sloped vacant lot in Santa Monica Canyon, about one-quarter mile inland of the beach (See Exhibits). The applicants propose to develop property with a three-story, 45-foot tall, 1,966 square foot single-family residence. The 3,170 square foot lot is situated between Vance Street and East Rustic Road. The upper part of the lot abuts Vance Street, which would provide vehicular access to a two-stall carport. The house would be terraced down the slope from Vance Street level. About fifty feet below the elevation of Vance Street, the lower portion of the site abuts the Los Angels County Flood Control Channel (Rustic Creek) that runs between the site and East Rustic Road (Exhibit #3). Rustic Creek is a cement-lined (thirty feet wide and eight feet deep) stream that runs directly below the site and south to the ocean. The lower level of the proposed structure would be about 24 feet higher than the top of the channel walls. A friction-pile foundation system is proposed that would be embedded below the ground surface approximately 35-to-40 feet. The property is zoned R1-1 (single-family residential). The surrounding properties are vacant or developed with single-family residences. The lot that abuts the northwestern side of the applicants' property was constructed in 1991 under Coastal Development Permit 5-90-473 (Lederer - 390 Vance St.).

On October 16, 2008, the City of Los Angeles Office of Zoning Administration held a public hearing during which several local residents spoke in opposition to the proposed project. As a result of the issues brought up at the hearing (geologic safety and impacts to the adjoining flood control channel), the Zoning Administrator on October 31, 2008 remanded the case to the Advisory Agency (the Environmental Review Section of the City Planning Department) for further review and consideration.

On January 7, 2009, the County of Los Angeles Department of Public Works issued a letter stating that there would be no negative impact to the Rustic Canyon Channel if the development proceeds in compliance with the City's review and approval process, site drainage is handled properly, and if appropriate measures are taken to ensure that construction debris does not enter the channel.

On November 12, 2009, the City of Los Angeles Department of Building and Safety issued a Geology and Soils Report Approval Letter imposing 45 conditions of approval, superseding a prior approval letter dated January 27, 2006.

On August 30, 2010, the City Planning Department Environmental Staff Advisory Committee (ESAC) issued Mitigated Negative Declaration No. ENV-2007-5585-MND-REC1 (the reconsideration of the Mitigated Negative Declaration previously-issued on September 29, 2008). The City determined that the proposed project's impacts could be reduced to a level of insignificance by imposing specific conditions.

On September 30, 2010, the City of Los Angeles Office of Zoning Administration held another public hearing during which several residents again raised concerns about the geologic safety

of the proposed project and its potential impacts to the adjoining flood control channel. On November 19, 2010, the City of Los Angeles Office of Zoning Administration approved Local Coastal Development Permit No. ZA-2007-5584 with special conditions.

On December 6, 2010, Gerald B. Kagan appealed the City Zoning Administrator's approval of the local coastal development permit to the City of Los Angeles West Los Angeles Area Planning Commission. On January 5, 2011, after a public hearing, the West Los Angeles Area Planning Commission denied the appeal and upheld the City Zoning Administrator's approval of the local coastal development permit.

The City's Notice of Final Local Action for the Planning Commission's approval of the local coastal development permit was received in the Commission' South Coast District Office on January 12, 2011, and the Commission's required twenty working-day appeal period commenced. On February 2, 2011, the appeal by Gerald B. Kagan was filed in the South Coast District Office. The grounds for the appeal relate primarily to the geologic safety of the proposed project and landform alteration (See Exhibit #7). The appeal also contends that the proposed development violates Section 30251 of the Coastal Act because it is not visually compatible with the character of the surrounding area, and that the proposed development would prejudice the ability of the City of Los Angeles to prepare a Local Coastal Program in conformity with Chapter 3 of the Coastal Act [Section 30604(a) of the Coastal Act].

On March 9, 2011, the Commission determined that a substantial issue exists with respect to the grounds on which the appeal was filed. On October 5, 2011, in Huntington Beach, the Commission held a public hearing on the proposed project and voted to continue the matter.

B. Hazards

The primary Coastal Act issue is whether the proposed development minimizes risks to life and property and assures stability and structural integrity as required by Section 30253 of the Coastal Act. Section 30253 of the Coastal Act states that new development must minimize risks to life and property and not create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

Section 30253 of the Coastal Act states, in part:

> New development shall:
>
> a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
>
> b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The appellant, the appellant's agents, and other opponents from the neighborhood contend that the proposed development does not minimize risks to life and property or assure stability and structural integrity as required by Section 30253 of the Coastal Act (Exhibit #7). The appeal states that the nearly vertical slope on which the project is proposed has a history of landslides, including a failure in 1994; and that the Mitigated Negative Declaration for the

project states that the site is located within a “Very High Fire Hazard Severity Zone,” a “Liquefaction Zone,” and a “Fault Zone.” These factors are particularly significant, the appeal asserts, because the lower portion of this very steep slope is bordered by Rustic Creek, a flood control channel that overflowed its banks when the 1994 landslide filled it with debris. While the project design (the proposed house and its foundation) has been shown to be structurally sound (i.e., meets a minimum Factor of Safety against sliding of 1.5), the opponents argue that the process of excavating the slope and constructing the foundation involves a significant risk to the surrounding neighborhood because of the potential for slope failure. They have also raised concerns about construction staging and equipment storage on Vance Street, and about the ability of the applicants to use City streets to transport materials and equipment to the project site. The appeal also asserts that the proposed project is inconsistent with Section 30253(b) of the Coastal Act because it involves substantial alteration of the “bluff face” (i.e., cuts and terracing, and construction of retaining walls).

Landslide Zone, Liquefaction Zone, and Fault Zone

Contrary to the opponents’ claims, the site contains no part of a landslide, although some surficial erosion is evident. No known earthquake fault traverses the site. The City record states that the site and surrounding area is not within a designated geologically hazardous area such as a landslide or liquefaction zone.[1] The project site is mapped as being at the edge of a zone of potential liquefaction on the official state Seismic Hazard Map. The project geologist asserts that this is most likely because of the small scale of the map and the steepness of the slope above the stream channel. As the key on the official state Seismic Hazard Map indicates, the area identified as a liquefaction zone means only that the potential exists for liquefaction, and that a site-specific soils investigation is required. A site-specific investigation was done during the initial City review of the site, and the hazard was shown not to exist due to the dense nature of the materials and the unlikelihood that ground water could be found near the surface. [T.I.N. Engineering Company, 2005, "Addendum letter No. 1 - Response to City comments, dated March 30, 2005, for proposed new residential development at 375 East Rustic Road, Pacific Palisades, California", 3 p. response letter dated 8 July 2005 and signed by T.S.C. Lee (RCE 44045)]. The Commission’s staff geologist, Dr. Mark Johnsson, has reviewed the geology reports and agrees with the conclusion that a liquefaction hazard does not exist on the project site.

Slope Stability

Assessing the stability of slopes against landsliding is undertaken through a quantitative slope stability analysis. In such an analysis, the forces resisting a potential landslide are first determined. These are essentially the strength of the rocks or soils making up the slope. Next, the forces driving a potential landslide are determined. These forces are the weight of the rocks as projected along a potential slide surface. The resisting forces are divided by the driving forces to determine the “Factor of Safety (FOS).” A FOS value below 1.0 is theoretically impossible, as the slope would have failed already. A value of 1.0 indicates that failure is imminent. Factors of Safety at increasing values above 1.0 lend increasing confidence in the stability of the slope. The industry-standard for new development is a FOS of 1.5, and many local grading ordinances in California and elsewhere require that artificial slopes meet this factor of safety.

---

[1] City of Los Angeles Letter of Determination for Coastal Development Permit Case No. ZA-2007-5584 (p.22), Department of City Planning, November 19, 2010.

A slope stability analysis is performed by testing hundreds of potential sliding surfaces. The surface with the minimum FOS will be the one on which failure is most likely to occur. This "minimum factor of safety against sliding" is used to characterize the stability of the slope.

The City of Los Angeles Municipal Code specifies a Factor of Safety (FOS) of 1.5 as the minimum acceptable static factor of safety for cut, fill and buttress fill slopes, and for natural slopes where construction is proposed. The Commission also has required that building sites must meet a minimum FOS of 1.5.

The site is steep (fifty-to-sixty degrees) and currently has a static FOS of about 1.16, which is marginally stable [T.I.N. Engineering Company, 2004, "Soil engineering investigation and report for proposed new residential development at 375 East Rustic Road, Pacific Palisades, California", 14 p. geotechnical report dated 3 April 2004 and signed by T. S. C. Lee (RCE 44045).]. There are remnants of a concrete structure or sidewalk on the top portion of the site (Vance Street level), the flat part of which is only about two-to-five feet in width. The slope descends down fifty feet from Vance Street elevation to Rustic Creek, the Los Angeles County Flood Control Channel (Exhibit #3). The proposed project includes an engineered pile-supported foundation which would increase the stability of the hillside and Vance Street. The applicants' consultants (Grover Hollingsworth and Associates, Inc.) have completed geology and soils studies for the project site, and have completed a detailed geotechnical analysis for the proposed project (See Substantive File Documents, Page 2).

The applicants' geotechnical studies have been subjected to intensive third party review and have been approved by the City of Los Angeles Department of Building and Safety (Exhibit #15). The proposed building foundation would consist of fifteen friction piles that would be embedded below the ground surface approximately 35-to-40 feet in order to bring the upper portion of the property (the site of the proposed house and its foundation) to a FOS of 1.5. As a result of the proposed project, the stability of the lower 24 feet of the slope (the portion of the property below the proposed structure) will be improved to a FOS of 1.28 due to the removal of approximately six hundred cubic yards of soil.

The applicants' consultants and the City geologists all concur that the project, with the proposed friction-pile foundation system, would improve the stability of the entire slope and provide structural support for Vance Street, and that the proposed house and its foundation would meet a FOS of 1.5. The Commission's staff geologist, Dr. Mark Johnsson, has reviewed the substance of the geotechnical analysis, thoroughly evaluated that substance (data, analysis, conclusions, etc), has visited the site, and also concurs with the findings of the applicants' consultants.

The appellant and other opponents object to the fact that the proposed project s not being required to bring the lower part of the slope up to a FOS of 1.5 (instead of the proposed FOS of 1.28). In this case, the City has waived its policy to require that the entire project site be brought up to an FOS of 1.5 based on the finding that the proposed house can be constructed on an area of the site with a FOS of 1.5 and the project will not pose a hazard to adjacent properties. Therefore, the City Department of Building and Safety approved the development with a waiver of the requirement that requires stabilization of the entire project site.

The Commission requires that new development meet a FOS of 1.5, but it does not require applicants to install additional piles or construct protective devices in order to bring an entire

property up to a FOS of 1.5. In a nearby project [Coastal Development Permit 5-05-253 (Flury - 14868 Corona Del Mar, Pacific Palisades)], the Commission in 2006 required the applicant to modify a proposed residential project so that only the portion of the property where the residence was proposed, and not the entire site, would be graded and brought up to a 1.5 FOS. Although it is feasible for the entire property (not just the development site) to be engineered to meet an FOS of 1.5, such a project would result in significantly more grading and greater construction impacts. It would also have little practical effect since the adjacent properties would remain at their lower factors of safety. In addition, it must be noted that proposed development, once completed, is not expected to reduce the stability of any part of the slope, and the lower portion of the subject site would be above a FOS of 1.28. The Commission's staff geologist, Dr. Mark Johnsson, states that it is not protective of coastal resources to require that the entire site be brought up to FOS of 1.5 as the appellants and opponents are asking. Therefore, the Commission concurs with the City's decision not to require that the lower part of the slope up be brought up to a FOS of 1.5.

Section 30253 of the Coastal Act requires that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard, and assure stability and structural integrity. The proposed project, with the construction of the detailed foundation design recommended by a state-registered geotechnical engineer (Grover Hollingsworth and Associates, Inc.), complies with this Coastal Act policy. The appropriate City and County departments have thoroughly reviewed the consultant's geotechnical reports and have approved the proposed project. The City's review of the reports include the analysis of cracks in the Vance Street pavement above the slope where the house is proposed [Grover Hollingsworth and Associates, 2009, "Comments regarding reported post-Northridge Earthquake ground crack on Vance Street, Proposed three-story residence, Lot 24, Tract 1719, 375 N. East Rustic Road, Los Angeles, California", 4 p. letter report dated 14 January 2009].

With the implementation of the proposed recommendations for the foundation design, the geotechnical engineer asserts that the slope on which the house will be constructed will be stabilized and strengthened to a FOS of 1.5. The Commission staff geologist, Dr. Mark Johnsson, and the Commission's staff engineer, Lesley Ewing, have reviewed and analyzed the applicants' soils and geotechnical reports and the proposed project and agree that the reports conform to the industry standards and that proposed foundation design is adequate to provide the requisite geologic FOS. Commission staff has confirmed that the FOS calculations are based on saturated soil conditions, and not dry conditions as alleged by the appellant. Therefore, as designed and conditioned herein, the proposed project will minimize risks to life and property and will not significantly contribute to erosion or destruction of the area. In fact, Commission staff concurs with the applicants' assertions that the proposed project will actually improve the stability of the slope and thus the stability of Vance Street, the public street on top of the slope.

Section 30253(b) Natural Landforms

The Commission disagrees with appellant's position that the proposed project will substantially alter natural landforms along bluffs and cliffs and that the proposed project is inconsistent with Section 30253 (Exhibit #7, p.2). Section 30253(b) provides that "[n]ew development shall do all of the following:...(b) [a]ssure stability and structural integrity, and neither create nor contribute significantly to erosion…or in any way require the construction of protective devices

that would substantially alter natural landforms along bluffs and cliffs." Thus, to establish that new development would be inconsistent with this section by virtue of its effects on natural landforms along bluffs and cliffs, it is necessary first to establish that the new development would require the construction of a protective device (before one can even assess whether any such required device would substantially alter natural landforms along bluffs and cliffs). The subject site is sloped in a manner that leaves the applicants no option but to build the proposed house on the slope. The proposal includes the excavation of a notch in order to create a flat spot in the slope for the floor of the proposed house, done in the same manner as many of the neighbors' houses all around the hillsides of Pacific Palisades and the Santa Monica Mountains. Since there is no allegation of a protective device, this (the part about protective devices substantially altering natural landforms) is inapplicable. The applicant does not propose building any protective device outside of the residential structure's footprint to control erosion or otherwise assure stability and structural integrity. Therefore, based on these grounds, the Commission further finds that the project as conditioned is consistent with Section 30253.

Fire Hazard

In regards to fire danger, the construction of the proposed project is an infill project within a densely populated residential area. The project site is in a lushly landscaped canyon that is a fire hazard zone. The proposed project will not increase or contribute to the risk of fires.

Construction Methods

The appellant and the other opponents also assert that the proposed project should be denied because of the potential for slope failure during construction. They assert that a slope failure could result in the flooding of adjacent properties in the event that construction causes debris to fall into the flood control channel (Rustic Creek) that runs below the project site. They also have questioned where the construction equipment and materials will be stored and how the foundation will be constructed on such a steep building site (Exhibit #8). These details are in the scope of local government review which has the staff, expertise, permitting and inspection requirements and personnel, and in general the ability to deal with the issues which are raised.

The opponents' geotechnical consultant, Dr. Pradel, did not present any facts at the October 5, 2011 hearing that the construction of the proposed project will actually cause any geologic hazards. Rather, Dr. Pradel uses terms such as "challenging", "difficult" and "vulnerable" to qualify his concerns regarding the proposed project's geologic conditions but did not present any conclusive facts that there is a reasonable probability that the project will cause slope failure and actual significant harm to the neighborhood or community. Dr. Pradel's reports also do not present any facts to suggest that there is a reasonable probability that the proposed project will cause actual significant harm to the entire community or neighborhood.

While the opponents' testimony may infuse some uncertainty regarding the safety of the project, the applicants have provided substantial evidence to support staff's conclusion that the proposed project will not cause actual significant harm to the entire community or neighborhood. The applicants have submitted plans and reports from their consulted experts, all of which support a conclusion that the proposed project will not cause geologic hazards on the site. Even though the appellant is seeking a level of detail concerning construction methodology which goes beyond that normally within the scope of Coastal Commission review,

the applicants have provided a detailed construction sequencing plan to explain how the project will be constructed (Exhibit #10). The plan describes the sequencing for the construction of the proposed foundation, including the excavation, drilling and pouring of concrete necessary for the piles.

In regards to the flooding concern, all excavation and the construction of the foundation would be done only during the dry season (April 1 – October 31). It is highly unlikely that any flooding would occur, even if the channel is blocked, during the dry season. To address the risks of flooding, the County of Los Angeles Department of Public Works issued a letter dated January 7, 2009 stating that, "*Based on our review of the reports, plans and a field review, we conclude that if the project is constructed per the plans in compliance with the City's review and approval process, if appropriate measures are taken during construction to ensure that construction debris does not enter the channel, and if site drainage is handled properly, there will be no negative impact to the Rustic Canyon Channel.*"

To minimize the amount of debris that may fall into the flood control channel, the applicants' construction sequencing plan includes the use of a series of debris fences and includes a plan for the immediate removal of debris from the channel should any fall in. The applicants have permission to access the channel to remove debris, and they can also utilize a crane to clear debris that falls into the Flood control Channel (Exhibit #10, p.25). Finally, the local government (e.g., City Department of Building and Safety) will monitor and inspect the construction project to ensure that the work, including grading, excavation and construction of foundations, is done in a safe and legal manner.

A concern has also been raised that the proposed project could be stopped in the middle of the grading or foundation construction phase, thus leaving the hillside in a vulnerable condition that could result in erosion. The City Department of Building and Safety has extensive experience in this matter, and prevents this scenario by requiring a bond for each grading permit it issues for work on hillsides like the project site. Pursuant to Los Angeles Municipal Code Section 91.7006.5, the applicants must post a bond to ensure that there are funds available to complete the foundation for the project and stabilize the slope to assure stability and prevent erosion. The amount of the required bond is 150 percent of the City's estimated cost to complete the project.

Use of the City Streets

In regards to the staging area, the applicants have obtained a permit from the City to use a portion of the Vance Street right-of-way for project staging and equipment storage. The applicants will be able to obtain additional street-use permits for the various stages of the project once the specific dates and areas needed are known by the builders (those specific dates are not yet certain). The City routinely permits builders to use portions of City streets during construction projects. Because of this, buildings of all sizes are constructed throughout the City, even along small streets within the most congested beach communities (e.g., Venice Beach) and along narrow hillside streets (Pacific Palisades) without significantly impacting the surrounding area. The Commission does not typically regulate the City's issuance of street-use permits.

The City imposes weight limits and use restrictions on the use of Chautauqua Boulevard in the project area. Discussion between Commission and City staff indicate that the limitations are

needed to prevent congestion and dangerous driving conditions along certain windy and narrow streets (e.g. Chautauqua Boulevard) that can be caused by large trucks and buses (i.e., supermarket deliveries and tour buses). The applicants and the appellant debate whether the City will permit the applicant to use Chautauqua Boulevard to bring building materials and construction equipment to the project site. The applicants assert that the City will allow the use Chautauqua Boulevard once they obtain their building permit, and they point to several construction projects that have been recently undertaken in the area. Staff has had independent discussions with the City Department of Public Works, Bureau of Engineering staff concerning this project and City staff have provided verbal confirmation that trucks associated with permitted construction projects can use Chautauqua Boulevard and other City streets that are normally restricted to smaller vehicles. The applicants have also shown that the site can be accessed from Corona del Mar Street, thus avoiding the use of Chautauqua Boulevard (except for one crossing).

In any case, the Commission is not in a position to know which streets the City will permit or not permit the applicant to use, and the use of the City streets for this proposed project is not a Coastal Act issue. It is known that construction projects do get completed in the Pacific Palisades, and it is the City that regulates the use of its streets and the City may impose restrictions on the frequency or timing of vehicle traffic for construction activities. As stated above, the Commission does not typically regulate the City's issuance of street-use permits. The Commission does, however, impose a condition on this permit which requires that the applicants abide by the City's use restrictions on the City Streets (Special Condition Two).

Conclusion

Section 30253 of the Coastal Act requires that new development minimize risks to life and property in areas of high geologic, flood, and fire hazard, and assure stability and structural integrity. The Coastal Commission imposes special conditions on the permit in order to ensure that the development minimizes risks to life and property. Special Condition Three requires the applicants to comply with the recommendations contained in the consultants' geotechnical, engineering and soils reports. These recommendations, including recommendations concerning excavation, foundations and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultants prior to commencement of development. The Commission finds that, as conditioned, the proposed project will not 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.

Special Condition Four requires the applicants to implement construction best management practices to control erosion during construction, and to undertake the approved development in accordance with the Construction Sequence Plan. Special Condition Five requires permanent drainage control and run-off plans. Special Condition Six requires that a landscaping plan shall be submitted so that the site is landscaped with low-water native plants. The use of low water plants on the slope is necessary to eliminate the need for irrigation so that overwatering will not result in bluff failure due to the infiltration of irrigation water into the bluff.

As designed and conditioned herein, the proposed project will minimize risks to life and property and will not significantly contribute to erosion or destruction of the area. However, no development on the site can be guaranteed to be safe from hazard. All development located

at the foot of geologically active hillsides has the potential for damage caused by landslides, floods, seismic events, storms and erosion. The project area is susceptible to natural hazards. Special Condition Seven requires that the permittee assume the risks of the potential unforeseen hazards associated with development, and indemnifies the Commission against liability with respect to the approval of the proposed project.

Additionally, the Commission requires the applicants to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property, and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property. This deed restriction is required by Special Condition Eight. The Commission finds that, as conditioned, the project is consistent with Section 30253 of the Coastal Act.

C. Visual Resources

The appeal also contends that the proposed development violates Section 30251 of the Coastal Act because it is not visually compatible with the character of the surrounding area,

Section 30251 of the Coastal Act states:

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

Although the project site and the adjacent lots are vacant, nearly all of the properties in Santa Monica Canyon are developed with one and two-story single-family residences. The proposed 1,966 square foot house is relatively small compared to the other homes in the area. Because the proposed project is on the slope above the street, it will be visible from East Rustic Road like the other homes on the street. In order to minimize the alteration of the landform and reduce the visibility of the structure, the proposed house will be notched into the descending slope. The proposed design will lower the profile of the residence as opposed to a raised foundation with a large under floor area or an above grade pile/pier supported design that would appear much larger than the proposed design. The proposed project will not be visible from any public park lands, trails or major scenic roads, and it will not obstruct any public views of the ocean. The proposed project will be visually compatible with the surrounding residential development. The alteration of natural landforms has been minimized. Therefore, as conditioned, the proposed project consistent with Section 30251 of the Coastal Act.

D. Marine Resources – Water Quality

The proposed project involves hillside grading and foundation work. The grading and construction have the potential to pollute the waters of Rustic Creek and the Pacific Ocean. Rustic Creek, a cement-lined stream, runs directly below the slope that the site is on, and the ocean is located about one-half mile hundred feet south of the project site (Exhibit #1). Coastal Act Sections 30230 and 32031 require that the proposed development be carried out in a manner that protects water quality, biological productivity and marine resources.

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

Specific mitigation measures must be implemented in order to ensure that water quality, biological productivity and marine resources are protected as required by the above-stated Coastal Act policies. Erosion control measures must be implemented during the construction of the project, and landscaping must be installed to reduce erosion once the grading is complete. Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column.

In order to avoid adverse construction-related impacts upon marine resources, the Commission imposes three Special Conditions upon the applicant for approval of the project. Special Condition Four requires the applicant to submit an erosion control plan and implement construction Best Management Practices (BMPs) in order to protect water quality and biological productivity. In order to minimize erosion, grading shall take place only during the dry season (April 1 – October 31). Special Condition Six requires the applicant to prepare a landscape plan to vegetate the disturbed areas with plants that are appropriate for the area (Santa Monica Mountains). The use of any vegetation that is considered to be invasive and which could supplant native vegetation is prohibited.

Most of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from land-based development. Reductions in the amount of pollutants in the existing runoff would be one step to begin to reduce cumulative adverse impacts to coastal water quality. Therefore, appropriate measures must be taken to assure that adverse affects on water quality are minimized. In order to deal with these post construction water quality impacts, the Commission imposes Special Condition

Five which requires the submittal of final drainage and run-off control plans and the implementation of ongoing Best Management Practices (BMPs) to minimize the amount of pollutants that leave the site and adversely affect water quality and biological productivity. The post-construction BMPs include the minimization of irrigation and the use of fertilizers and other landscaping chemicals through the use of low-maintenance landscaping and efficient irrigation technology or systems, and that trash, recycling and other waste containers shall be provided on site.

Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

E. Recreation and Public Access

The proposed project must conform with the following Coastal Act policies which protect public access and encourage recreational use of coastal areas.

Section 30210 of the Coastal Act states:

> In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

> Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30213 of the Coastal Act states:

> Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30222 of the Coastal Act states:

> The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30252 of the Coastal Act states:

> The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or

providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The project site is located one-half mile inland of Pacific Coast Highway and will not interfere with the public's ability to access the sea. Vance Street, a portion of which will be used temporarily as a project staging area, does not provide public access to the shoreline or any public recreation area. In regards to off-street parking, the proposed project meets the City's and Commission parking standards for a single-family residence by providing two parking stalls within a carport. The carport will be accessed from Vance Street. Therefore, the proposed project will provide adequate parking facilities.

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

F. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program (LCP) which conforms with Chapter 3 policies of the Coastal Act:

(a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The City of Los Angeles does not have a certified LCP for the project area. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of this project will not prejudice the City of Los Angeles' ability to prepare an LCP that is consistent with Chapter 3 of the Coastal Act.

G. Deed Restriction

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this coastal development permit, the Commission imposes one additional condition which requires the property owners to record a deed restriction against the property, referencing all of the above special conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development.

H. California Environmental Quality Act (CEQA)

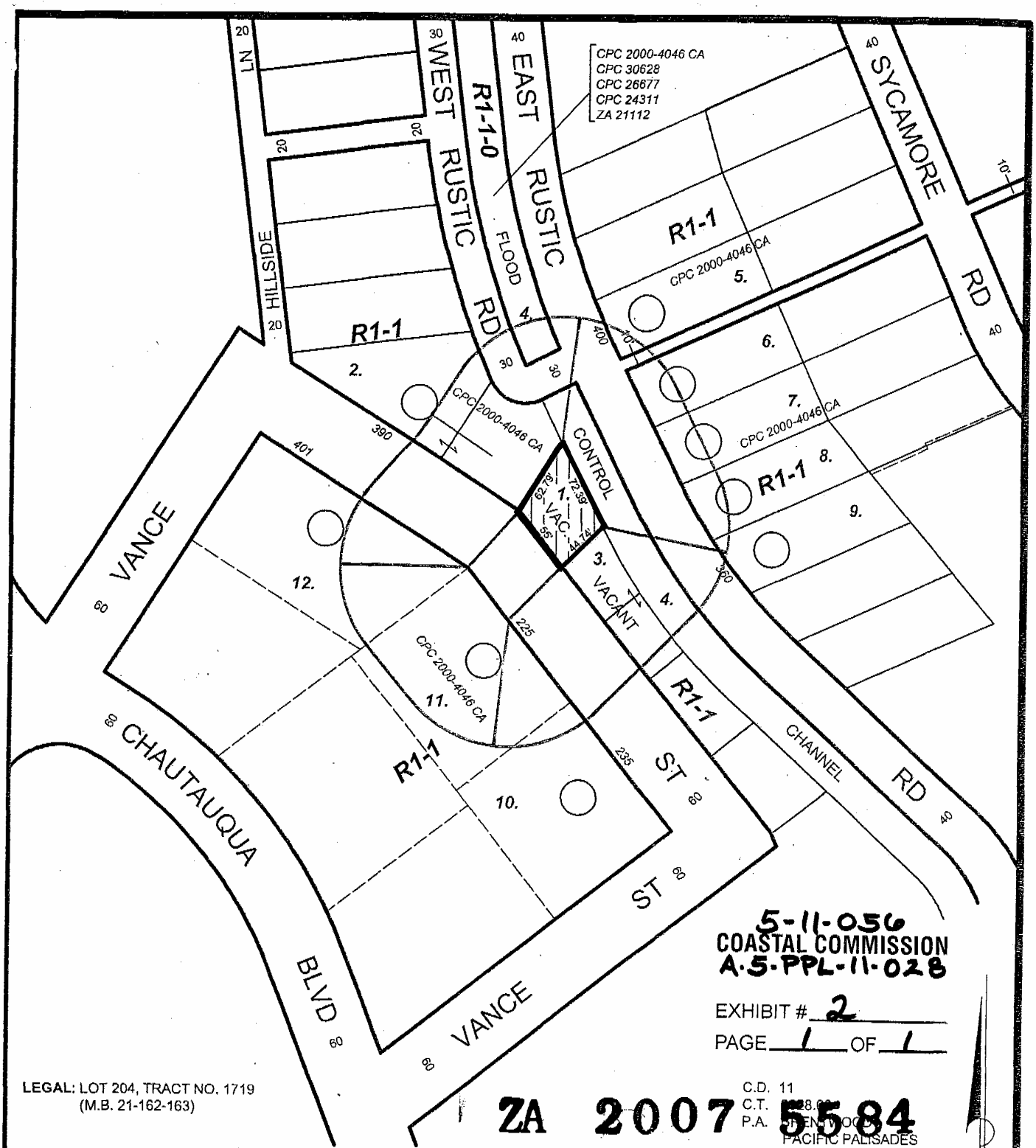
Section 13096 of the California Code of Regulations requires Commission approval of coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

In this case, the City of Los Angeles is the lead agency and the Commission is the responsible agency for the purposes of CEQA. On August 30, 2010, the City Planning Department Environmental Staff Advisory Committee (ESAC) issued Mitigated Negative Declaration No. ENV-2007-5585-MND-REC1 (the reconsideration of the Mitigated Negative Declaration previously-issued on September 29, 2008). The City determined that the proposed project's impacts could be reduced to a level of insignificance by imposing specific conditions.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, in the form of special conditions, require that the slope stabilization plans shall conform with the recommendations of the consulting geotechnical engineer, and the implementation of construction and post-construction best management practices to protect water quality and marine resources.

As conditioned by this permit, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

5-11-056
COASTAL COMMISSION
A-5-PPL-11-028
EXHIBIT # 1
PAGE 1 OF 1



5-11-056
COASTAL COMMISSION
A-5-PPL-11-028

EXHIBIT # 2
PAGE 1 OF 1

LEGAL: LOT 204, TRACT NO. 1719
(M.B. 21-162-163)

C.D. 11
C.T. [illegible]
P.A. [illegible]
PACIFIC PALISADES

ZA 2007 5584

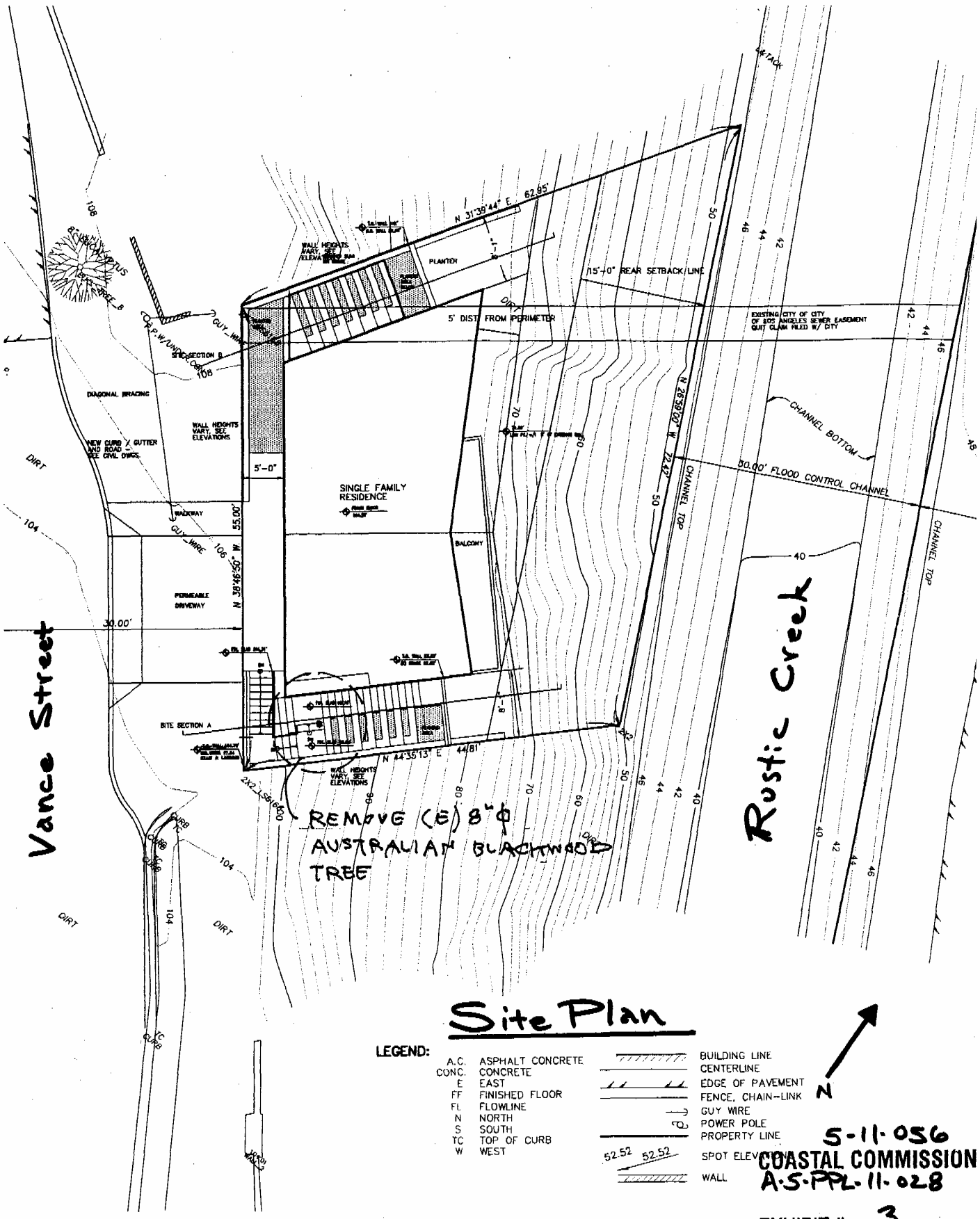
COASTAL DEVELOPMENT PERMIT

L.A. MAPPING SERVICE
1384 RANGETON DRIVE
WALNUT, CA 91789
(909) 595-0903

0.07 NET AC.

CASE NO.
DATE: 9 - 11 - 07
SCALE: 1" = 100'
USES FIELD
D.M. 123 B 129

T.B. PAGE: 631 GRID: B-7



Site Plan

LEGEND:

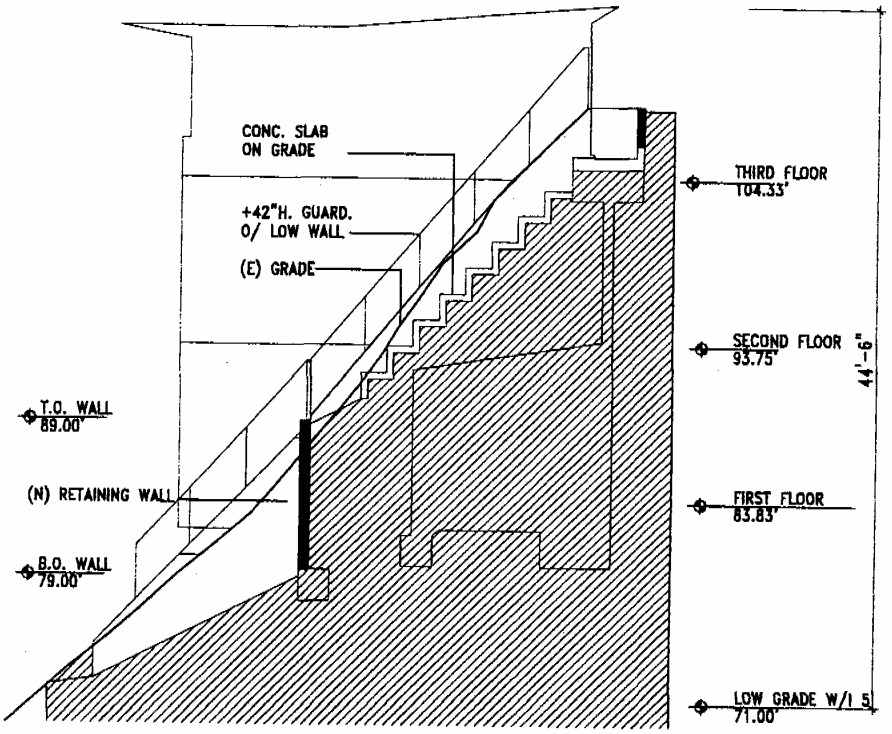
A.C.	ASPHALT CONCRETE
CONC.	CONCRETE
E	EAST
FF	FINISHED FLOOR
FL	FLOWLINE
N	NORTH
S	SOUTH
TC	TOP OF CURB
W	WEST

BUILDING LINE
CENTERLINE
EDGE OF PAVEMENT
FENCE, CHAIN-LINK
GUY WIRE
POWER POLE
PROPERTY LINE
52.52 52.52 SPOT ELEVATION
WALL

N

5-11-056
COASTAL COMMISSION
A-5-PPL-11-028

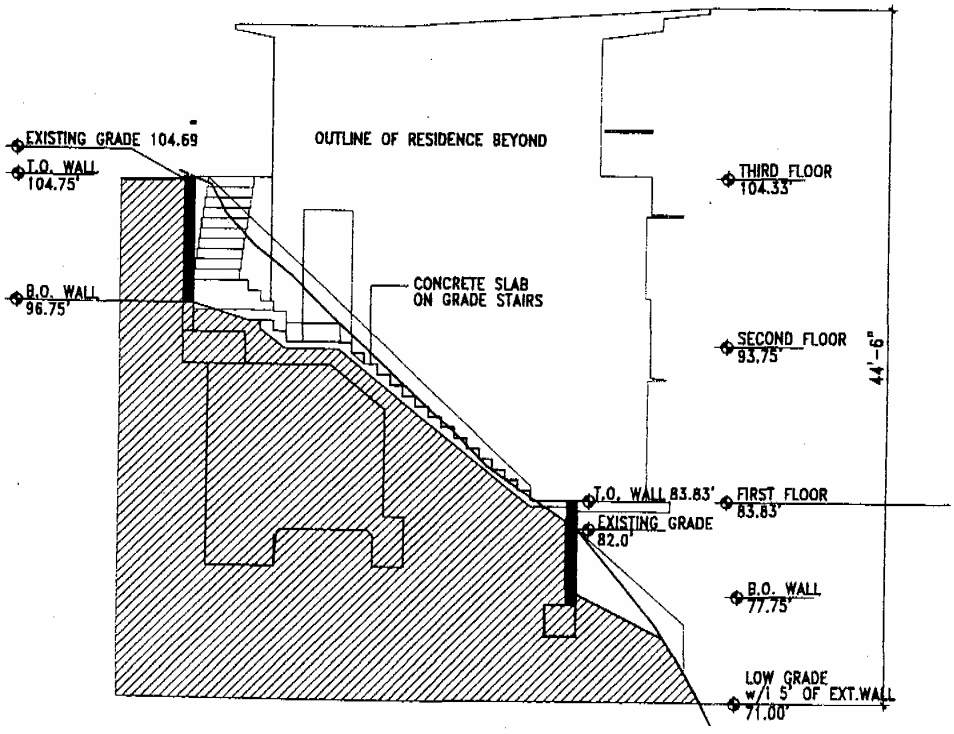
EXHIBIT # 3
PAGE 1 OF 1



RETAINING WALL HEIGHTS / NORTH

NORTH RETAINING WALL: 1 @ 10' H.

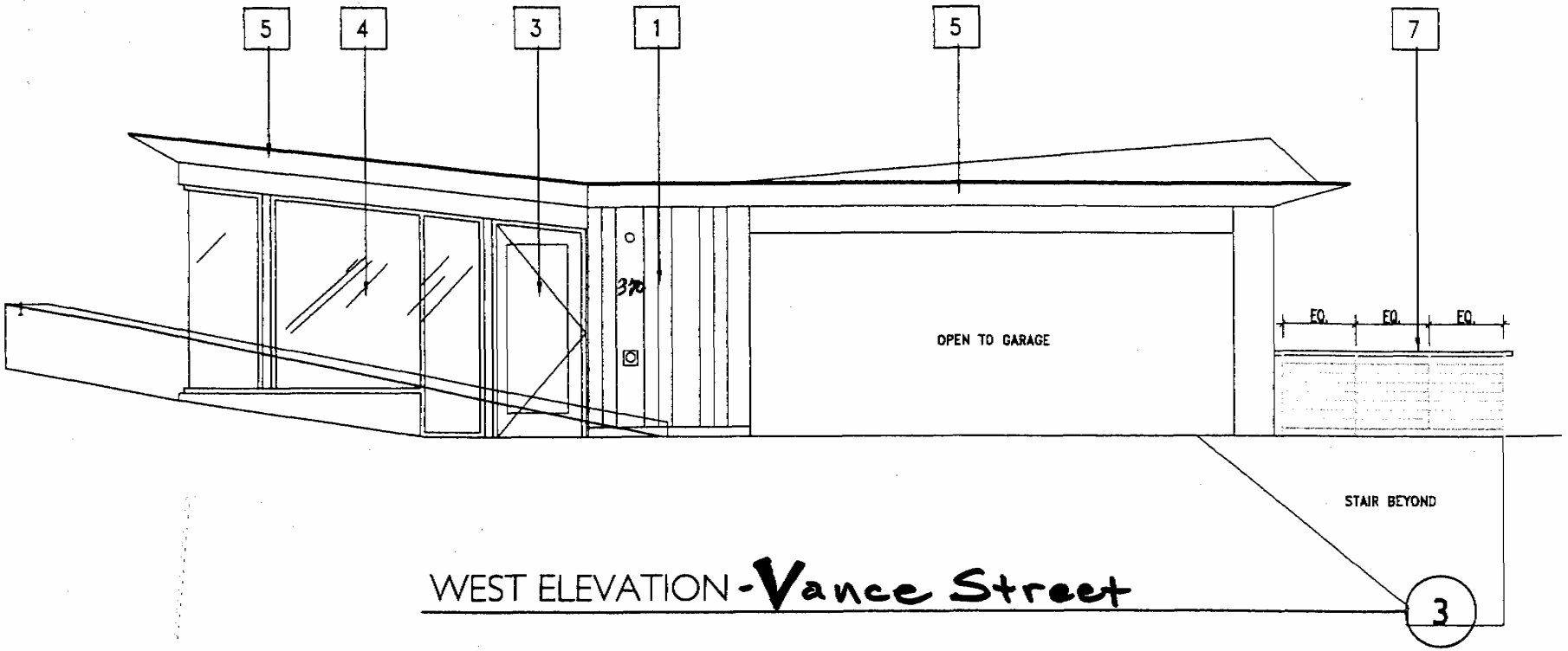
4



A-5-PPL-11-028
COASTAL COMMISSION
5-11-056

EXHIBIT # 4

PAGE 1 OF 1



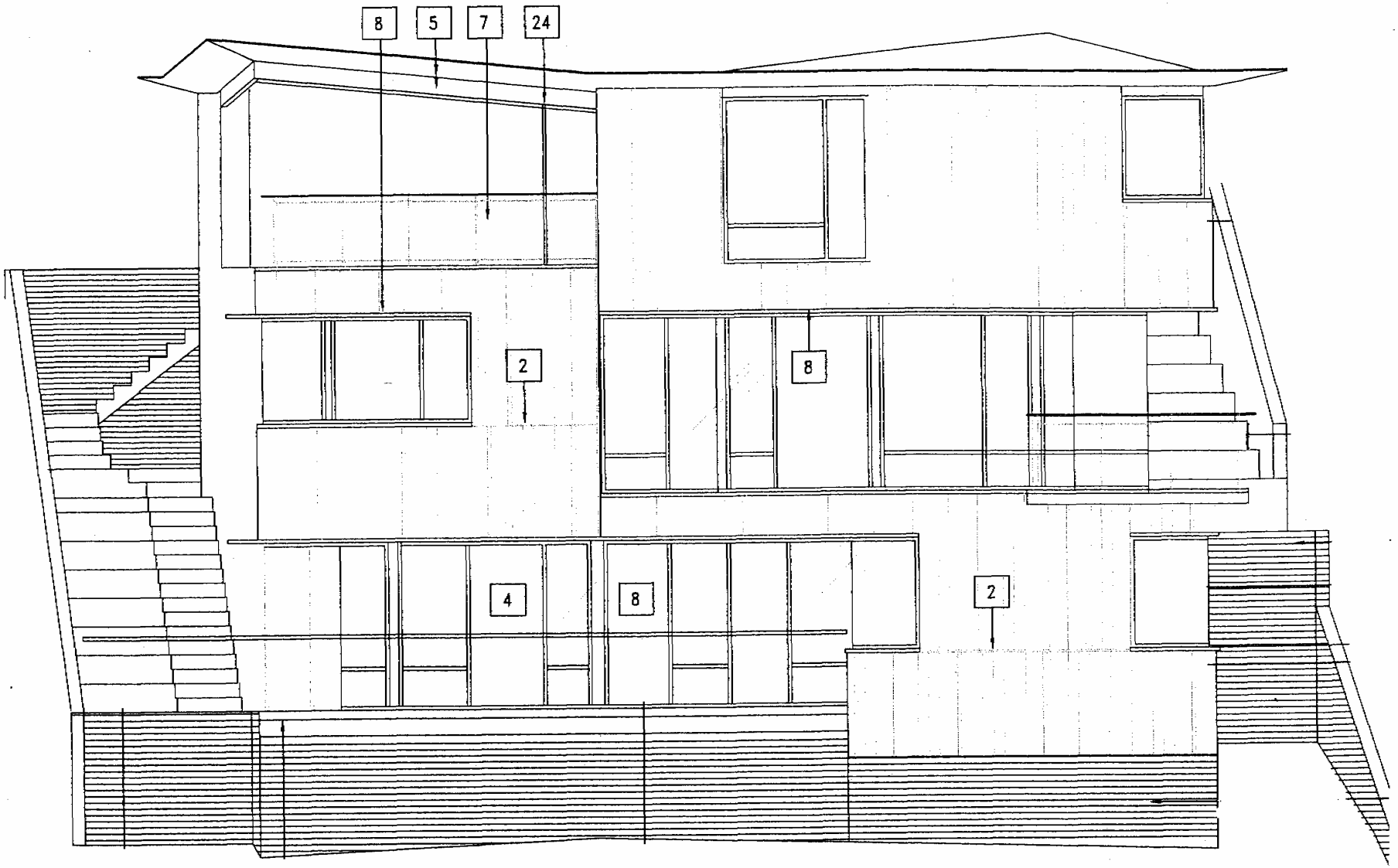
WEST ELEVATION - Vance Street

3

5-11-056
COASTAL COMMISSION
A-S-PPL-11-028

EXHIBIT # 5

PAGE 1 OF 1



SEE UNFOLDED ELEVATIONS FOR GUARDRAIL ELEVATIONS

EAST ELEVATION - East Rustic Road (2)

5-11-056
COASTAL COMMISSION
A.S.PPL-11-028

EXHIBIT # 6
PAGE 1 OF 1

STATE OF CALIFORNIA – THE RESOURCES AGENCY

RECEIVED
South Coast Region

ARNOLD SCHWARZENEGGER, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4416
VOICE (562) 590-5071 FAX (562) 590-5084

FEB - 2 2011

CALIFORNIA
COASTAL COMMISSION

5-11-028

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: GERALD B. KAGAN, FRIENDS OF OUR ENVIRONMENT

Mailing Address: 380 EAST RUSTIC ROAD

City: SANTA MONICA, CA Zip Code: 90402 Phone: (310) 230-8333

SECTION II. Decision Being Appealed

1. Name of local/port government:

CITY OF LOS ANGELES

2. Brief description of development being appealed:

CONSTRUCTION OF A 1966 SQUARE-FOOT THREE STORY SINGLE-FAMILY DWELLING BUILT INTO A NEAR-VERTICAL HILLSIDE ON A 3,170 SQUARE-FOOT LOT.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

375 NORTH EAST RUSTIC ROAD and 370 NORTH VANCE STREET, PACIFIC PALISADES,, CA 90402

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ 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.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-5-PPL-11-028

DATE FILED: 2/2/11

DISTRICT: Long Beach / South Coast

COASTAL COMMISSION

EXHIBIT # 7

PAGE 1 OF 3

STATEMENT OF REASONS FOR SUPPORTING THIS APPEAL

The City of Los Angeles does not have a certified Local Coastal Program. Therefore, before the proposed development can be approved, it must be found to be in conformity with the policies set forth in Chapter 3 of the Coastal Act. The W.L.A. Area Planning Commission, (on a split vote), denied an appeal of the L.A. City Zoning Administrator's (the "ZA") approval of the project. As approved, the project does not conform to the policy requirements of the Coastal Act. A copy of the decision being appealed (the "Decision") is attached.

THE PROPOSED DEVELOPMENT WILL INCREASE, NOT MINIMIZE, RISKS TO LIFE AND PROPERTY IN AN AREA OF HIGH GEOLOGIC, FLOOD, AND FIRE HAZARDS AND WILL NOT ASSURE STABILITY OR STRUCTURAL INTEGRITY TO THE SURROUNDING AREA, AS REQUIRED BY PUB. RES. CODE, § 30253.

The Decision acknowledges that the nearly vertical slope on which the Site is situated failed in 1994 but does not mention the history of landslides affecting the Site and the four adjoining vacant lots (which also failed in 1994). In addition, the Decision fails to note that the L.A.-adopted Mitigated Negative Declaration states that the Site is located within a "Very High Fire Hazard Severity Zone," a "Liquefaction zone," and a "Fault Zone." Further, the Site has almost no flat land and no portion of it has a safety factor of 1.5 for stability. The Decision ignores the applicable 2008 ZA Investigative Staff Report (the "2008 Report"), that found the CDP application to be "inadequate" for numerous reasons related to steepness/stability and the "applicant's failure to include any aspect of hillside developments." Nothing has changed since the 2008 Report, yet neither the Decision nor the 2010 staff report addresses the issues in the highly critical 2008 Report.

These factors are particularly significant because the lower portion of this very steep slope is bordered by a watercourse known as Rustic Creek. The creek, which functions as a flood control channel, was filled with debris during the 1994 landslide. Earlier, it overflowed its banks causing severe flood damage to homes on East Rustic Road.

Pub. Res. Code § 30253(b) prohibits the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed project contemplates substantial cuts and terracing of the bluff face, construction of retaining walls to allow the development to cascade down the near-vertical slope to within 30 feet of the flood control channel, and building the structure **into**, not atop, the bluff.

Attached is a copy of the text from a comprehensive 4/22/09 report of Daniel Pradel, PE, GE, of Praad Geotechnical, Inc. ("Praad"), highlighting evidence of serious prior landslides on the Site (i.e., "clearly visible erosion scars and surficial failures"), and other geological hazards, and raising geotechnical questions (page 5) regarding the stability of the Site and the vacant adjoining lots. Praad stresses the absence of any specific construction methodology as to how the Site can be safely developed without threat of harm to neighboring persons and properties, and states that "...it is difficult to envision how the contractor will be able to build on it [the

Site]." Also attached is a copy of Praad's follow-up letter to the Planning Department (9/27/10) again raising its concerns and again asserting that its safety questions remain unanswered.

THE PROPOSED DEVELOPMENT IS NOT VISUALLY COMPATIBLE WITH THE CHARACTER OF THE SURROUNDING COASTAL AREA, AS REQUIRED BY PUB. RES. CODE § 30251.

The site of the proposed development, on a nearly vertical bluff slope, is readily visible from East Rustic and other area roadways. It is currently vacant, as are the equally vertical four adjacent vacant hillside lots that cascade down from North Vance Street. The 2008 Report states that the proposed project is based on the assumption that there are "prevailing developments of eight surrounding properties" and that "the design ...will ensure compatibility with developments... in the neighborhood," as misrepresented by the applicant in its CDP application, in which there is no response to the question regarding "visual{ly} compatibil[ity] with the character of the surrounding area".... In fact, there are **NO** properties in the area compatible with, or similar to the proposed project. See the attached aerial photograph. The development would create a substantial visual intrusion on the coastal bluff as it rises above Rustic Creek and East Rustic Road, incompatible with the structures in the nearby surrounding area.

THE PROPOSED DEVELOPMENT WOULD PREJUDICE THE ABILITY OF LOS ANGELES TO PREPARE A LOCAL COASTAL PROGRAM IN CONFORMITY WITH CHAPTER 3 OF THE COASTAL Act, (PUB. RES. CODE § 30604), AND THEREFORE SHOULD NOT BE APPROVED.

The W.L.A. Area Planning Commission has noted many times that there are numerous steeply sloping lots in the City's Coastal Zone (including Pacific Palisades) such as the four vacant lots adjacent to the Site. The Decision acknowledges that the four vacant lots adjacent to the site, and Vance Street and East Rustic Road, are all substandard. The Planning Commission noted that approval of the proposed project could set a precedent for the approval of other projects (i.e., on the adjacent lots) that implicitly might be inconsistent with the requirements of the Coastal Act. In any event, the City should be encouraged to incorporate appropriate policies into a certifiable Local Coastal Program.

Attached is a December 6, 2010 letter from the appellants to the West L.A. Planning Commission setting forth in further detail the reasons justifying this appeal.

FRIENDS OF OUR ENVIRONMENT
380 East Rustic Road
Santa Monica, CA 9040

August 5, 2011

Charles Posner, Staff Analyst
California Coastal Commission
South Coast Regional Office
200 Oceangate Suite 1000
Long Beach CA 90802

Re: CDP Application No. 5-11-056 (the "CDP")
Appeal No. A-5-PPL-11-028 (the "Appeal")

Dear Mr. Posner,

The undersigned urges the California Coastal Commission ("CC") to deny the above referenced CDP because the Project violates the Coastal Act. In March 2011, The CC determined that our Appeal of the City's approval of a CDP raised a "Substantial Issue."

The proposed development (the "Project") (1) does not minimize risks to life and property in an area of high geologic, flood, and fire hazard and will not assure stability or structural integrity to the surrounding area (Pub. Res. Code sec. 30253); (2) is not visually compatible with the character of the surrounding area (Pub. Res. Code sec. 30251), and (3) would prejudice the ability of the City of Los Angeles ("the City") to prepare a local coastal program (Pub. Res. Code sec. 30604).

The Reports of Praad Geotechnical, Inc. (collectively, "*Praad*" or "*Praad Report*"), listed on Exhibit 4, repeatedly stress the severe instability of the slope on which the Site is located, describing it as "precarious and prone to failures," and a potential source of danger to area persons and properties. *Praad* questions how "the contractor will be able to build on the [Site]," finds applicant's submissions "insufficient to assess the Project safety," and emphasizes that no minimum FOS will be met on the most problematic portion of the Site, even after this high-risk project is completed. The City Zoning Department expressed even greater concerns in 2008 (never answered). Exhibit 1(b).

This Project's safety (during and after construction), has been questioned for many years, and, despite promises, applicant has never filed written reports (i.e., staging, earth disposal, erosion, FOS compliance) showing how such safety issues will be ameliorated.

Description of Project, Site and Surrounding Area

(a) The Project involves a 22' excavation cut, and drilling for multiple pilings, to support a 3-story new residence in the Pacific Palisades, built almost entirely *into* and terraced

Attached is a list of referenced exhibits. All but exhibit 1(a), also attached, are in the CC files. Unless otherwise attributed, quoted material is from City documents identified on Exhibit 1(a). Other emphasis is mine. *Praad* has merged into and is now known as Group Delta Consultants.

Charles Posner, Staff Analyst
August 5, 2011

down the face of landslide-prone "**steep hillside** with a **near vertical slope**" that is **undeveloped**, "**substandard**" and **unstable,** lying just above Rustic Creek (the "Site"). The lot size is 3,127 square feet with virtually no flat land. Exhibits 1(a) & 3.

(b) The Site is within a "**Very High Fire Hazard Severity Zone**," a "**Liquefaction zone**" and a "**Fault Zone.**" The upper end of the Site from which the construction will conducted (Vance Street) has **flat land** that *Praad* states is **"at most ...only a couple of feet wide." Vance is largely unpaved and substandard; yet there is no plan on file as to how this project can be safely staged. *Praad* notes that the Project does not meet the generally accepted minimum value required to ensure slope stability (1.5 Factor of Safety) on the entire Site either before or after development** (not even on the most problematic lower portion that continues to erode). Exhibit 1(a), 2 (b) & 4. None of the 5 adjoining vacant hillside lots differ in any of these respects.

The Site is on the only significant bluff slope in the area. The vacant, near-vertical lots on the slope closely face homes on East Rustic Road, immediately across from Rustic Creek, a flood drainage channel. One nearby hillside residence, north of the Site at 390 Vance, but not adjacent to the Site, is built *atop* a lesser slope. Exhibit 3.

(c) The developer continuously represents that the **Surrounding Area** contains *multiple* (at least 8) properties similar to the Project ("surrounding" or "within 100 feet" of the Site), and that the Project's "architecture and engineering will be compatible" with them. Exhibit 1. Aerial photographs clearly show that there are **no such similar developments,** compatible or not. Exhibit 3. Most area homes are built on flat lots. All construction activities would have to be conducted from atop the Site where there is little flat land, staged from the extremely narrow, substandard, Vance Street right of way (which would be improved only immediately in front of the proposed residence). Exhibit 3(a) & 4.

Prior attempts to develop the Site, previously considered unbuildable, have been unsuccessful. A portion of the foundation of a home apparently built on one of the slope's lots adjacent to the Site, lies just above Rustic Creek, having slid down the slope. Exhibit 6. This latest attempt to develop the Site started in 2006.

Section 30253 of the Coastal Act

Section 30253 of the Coastal Act requires that new development in the coastal zone minimize risks to life and property in high hazard areas, and assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. Much of the Pacific Palisades area in the Coastal Zone is in a high hazard area and has a long history of damaging natural disasters from landslides, flooding and wildfires. Here:

Charles Posner, Staff Analyst
August 5, 2011

1. The history of landslides on the near-vertical steep slope where the Project is proposed, and the Site's location in a very high severity fire zone, a liquefaction zone and a fault zone, certainly qualifies it as being in a "high hazard area." *Praad* notes the evidence of landslide activity (i.e., surficial failures, erosion scars), the instability of the slope and the fact that the entire slope is comprised of soils with no evident bedrock. *Praad* further states that "geotechnical investigations of the [S]ite and its vicinity have raised serious doubts about the stability of the slope during and after construction." A recent photograph (Exhibit 2 (b) shows the continued erosion on the lower third of the Site which Praad describes as "particularly steep" with "weaker materials" and where "neither retaining walls nor caissons have been proposed...." Exhibit 4.

The most notable landslides at the Site occurred (a) in 1994 when the entire slope failed and completely blocked Rustic Creek just below the toe of the Project and a mere 40 feet from the East Rustic Road properties. Exhibit 2 (a). Fortunately, 1993/1994 was a dry winter, and there was not a high level of water in the Creek when the failure occurred, unlike when (b) earlier, a slide caused the Creek to overflow its banks, damaging neighborhood residences. Exhibit 5 (video available at the Staff's request). *Praad* notes that "a failure of the slope would reduce the capacity of the flood control channel, rendering the residences east of the channel below vulnerable to flood..." with "potential damage to persons and property along East Rustic Road." Exhibits 4 & 5. Such failure could occur during or after construction because, among other things, the lower portion of the Site and none of the adjoining vacant lots, are or will be stabilized.

In the 1994 failure, the improved property at 390 Vance, and the vacant lot (lot 205) that lies between it and the Site, suffered significant damage, requiring City ordered geology reports that stated, among other things, that the major failure had occurred on lots 205 and those south of it (including the Site). And, as previously noted, a home previously built on another Vance slope lot slid, with a portion of the foundation lying just above Rustic Creek (Exhibit 6). Erosion continues, evidencing the slope's fragility and the damage that could result from the occurrence of natural events, let alone from stress caused by the harsh requirements of construction with deep piles and massive cuts.

2. As noted above, The *Praad Report* specifies (1) the evidence of past failures (i.e., surficial failure, erosion scars); (2) the lack of the industry and building code standard 1.5 FOS on the entire Site both before and after construction; (3) the dangers associated with construction on a site with virtually no flat land to support construction and other equipment and storage of spoils (and on a substandard street), and (4) the dangers of construction on such a fragile, steep slope, on which all of the lots are near-vertical and vacant with regularly eroding soils and slides. Exhibits 2(a) & (b) and 4.

Praad's concerns about whether the Project can be safely built (it says, "it is difficult to envision how the contractor will be able to build on it"), remain unresolved because *Praad's* questions as to safety and staging are always deflected, rather than adequately

answered by the developer. Exhibit 7. *Praad* emphasizes that such failure to respond "makes a comprehensive safety analysis [of the Project] impossible." *Praad* notes the developer's concurrence with its concerns ("We agree that the construction will be difficult and the contractor will need to exercise care to collect debris before it reaches the channel."). Letter dated 9/29/10 from Grover Hollingsworth.

All of the developer's geology reports are similar, and according to *Praad*, **do not support a waiver of the minimum FOS required for slope stability**. *Praad* disputes the developer's claims that it will be able to remove debris from the Creek resulting from raveling during construction, particularly during heavy rains. ***Praad* emphasizes the significance of the lack of a planned minimum FOS on the lower third of the Site (that *Praad* calls "precarious") after construction** and that the developer has never responded to the safety questions repeatedly raised. Exhibits 4 & 7.

The developer argues, without support of filed written plans, that the Project will somehow stabilize the entire Site, the adjacent vacant lots and the neighborhood. Its geology engineer attempts to justify the lack of a minimum FOS by stating that "...the planned development [after completion] clearly increases the stability of the site and reduces ... the risks...," a statement that *Praad* disputes.

There is nothing here to suggest that a seismic or other destabilizing event (including the construction itself) during or after construction, would not cause a landslide fracturing the entire hillside as in the past, and damage area property. Even if the Project is completed without such a slope failure, only the residence area on the Site would be stabilized. Nothing is proposed that indicates stabilizing the near-vertical adjacent lots, or, as noted above and most importantly, the bottom third of the Site, leaving it vulnerable to events that could injure people and damage property on East Rustic Road. Specific engineering recommendations describing how the potential impacts of construction would be mitigated and proof of FOS compliance on the entire Site should be required, at a minimum, *before* a CDP is considered. Anything less simply defies logic. The potential for damage to the slope, nearby homes and their residents, and even the Site, is too great.

If there is another location, or manner, to complete and maintain the Project safely, to provide a FOS that meets minimum standards on the entire Site, and to minimize the risks to the remaining hillside and area properties, it has not yet been set forth.

3. Two identical City MNDs (2008 & 2010), related to the project state that the Site is in a "Very High Severity Zone," a "Liquefaction zone" and a "Fault Zone." See Exhibits 1(a) & 1(b).

4. The 10/15/08 City ZA Staff Investigative Report (Exhibit 1(b), concluded that the CDP application to the City was "**inadequate**," because, among things, the applicant (i) indicated that the Project was based on and would be designated and built compatible to

similar properties in the area of the Site (none of which exist—Exhibits 1(a) & 3); and (ii) failed to include any of the determinants of hillside developments. This highly critical report has never been responded or even referred to in later documents, and the "inadequate" CDP application to the City was never amended. Exhibit 1(b).

No plans have been filed dealing with such things as (i) staging of the Project (including avoiding blockage of Vance Street); (ii) erosion and drainage control; (iii) disposal of exported soil; (iv) hillside stabilization during construction; (v) foundation piling to bedrock as claimed (no bedrock is noted at the Site); (vi) satisfaction of minimum industry standard and code-required FOS on the *entire* hillside even after construction (vital here because of the near vertical slope); or (vii) Site landscaping.

Instead, for several years, developer's agents have stated *orally* that the Project can be completed safely, and that plans proving so "will be filed soon." For example, applicant's foundation engineer, Robert Holcomb (Holcomb Engineering Contractors) has often testified that he has completed many challenging projects throughout the State to the satisfaction of multiple agencies. Yet he has never provided any plan to show how he would complete *this* Project safely. Further, the CC cited Mr. Holcomb and his company (Cease & Desist Order CCC-08-CD-06) for hauling and dumping debris and dirt in a blue line stream and environmentally-sensitive riparian and coastal sage scrub habitat, and consequent destruction and removal of major vegetation, on multiple occasions.

We have searched for like projects in the Pacific Palisades where the Staff recommended approval of a CDP, but have not found one. The closest (in substance, and location to the Site), was an application for a 3,497 square foot residence at 17632 Castellamarre Drive, Pacific Palisades (application 5-10-008 filed 1/14/10), where the Staff recommended approval with special conditions. However, such project was proposed (1) *on a relatively flat pad,* (2) *on a far lesser slope with no noted landslide history* that had (3) *undergone extensive development.* Piles were to be lowered (4) to *bedrock* to satisfy (5) *the minimum FOS of 1.5 on the entire site.* Here, none of such ameliorating factors are present

Section 30251 of the Coastal Act

Section 30251 requires new development to be visually compatible with the character of the surrounding area. The Project is proposed to be built on the only bluff face in the area, prominent with respect to its steepness (nearly vertical) and, literally, approximately than 40 feet from homes on East Rustic Road. The project would be "in the face" of residents unlike any other developments in the area. The City Report referred to above finding the CDP application "inadequate," (Exhibit 1(b), notes applicant's assertion that the project is based on the assumption that there are "prevailing developments of eight surrounding properties," and that "the design will ensure compatibility with developments...in the neighborhood...." Neither is true. Exhibit 3.

Charles Posner, Staff Analyst
August 5, 2011

The development would create a substantial visual intrusion on the bluff face as it rises above Rustic Creek (it is proposed for the face, not the top of the slope). Certainly, it is incompatible with residences in the nearby surrounding area.

Section 30604 of the Coastal Act

Section 30604 requires that new development not prejudice the ability of a locality to prepare a Local Coastal Program in conformity with Chapter 3 of the Coastal Act. The City Planning Commission has often noted the numerous steeply sloping lots in the City's Coastal Zone (including Pacific Palisades) such as the substandard, landslide-prone vacant lots on the subject slope. In this case, the dangerous precedent that could be set by the Project was discussed at the Planning Commission meeting on January 5, 2011.

The City has not adopted a Local Coastal Program. The Pacific Palisades is not included in programs for the preparation of local development programs in district segments of the City primarily due to issues of geologic stability. Given that a stated purpose of the Coastal Act is to *encourage* adoption of Local Coastal Programs, not yet adopted by the City, it seems inappropriate for the CC to consider CDPs for projects, such as the subject one, that do not provide such "encouragement."

The Project is not a "run-of-the-mill" development and is opposed by most area residents. It neither complies with the intent of the Coastal Act, (particularly because of the slope's landslide, and other hazard, proclivity), nor the City's Building Code, the purpose of which is to "safeguard life, limb, health, property and public welfare by regulating...the design, construction...[of]... buildings... erected in the City...." Section 101.2.

This Project is simply an attempt to build on an unstable, substandard, slope site with harsh topography and a history of hazard damage. It has been branded "high risk" by the City Planner and "precarious" by *Praad*, and as proposed it does not and will not meet the required minimum FOS on the entire Site. This is not a site on which to conduct a construction "experiment." Under the circumstances, a CDP should be denied for the project the applicant proposes to build.

Sincerely,

Gerald B. Kagan

Gerald B. Kagan
Individually and on behalf of *Friends of Our Environment*

Encls: List of Exhibits; Attachment--Exhibit 1(a).
cc: Melvin N. Nutter, Esq.; Dr. Daniel Pradel.

AUGUST 5, 2011 LETTER TO CHARLES POSNER, STAFF ANALYST CALIFORNIA COASTAL COMMISSION *

OPPOSITION TO CDP APPLICATION 5-11-056
APPEAL A-5-PPL-11-028

EXHIBIT 1 (a)

CITY OF LOS ANGELES DOCUMENTS FROM WHICH QUOTATIONS TAKEN

Document	Statement
11/19/10 City ZA Approval of Project, p. 15	"a steep hillside with a near vertical slope" "substandard"
8/30/10 City Mitigated Negative Declaration (same as 2008 MND), Page 9.	"the property is within ... a Very High Hazard Severity Zone, a Liquefaction zone, and a Fault Zone"
CDP Application dated 11/30/07 & Env. Assessment Form dated 11/30/07, pages 1 & 4.	"8 similar properties" "surrounding" "within 100 feet" "architecture and engineering will be compatible"
City Planning Department Staff Investigator Report dated October 10, 2008, Page 2.	"CDP application "inadequate;" "... applicant indicated that his proposal is based on the prevailing developments of 8 surrounding properties and reiterated that the proposed building will be very similar to developments in the area." It is indicated that the engineering and architectural design of the building ensured compatibility with developments of other properties in the neighborhood."

LIST OF EXHIBITS TO AUGUST 5, 2011 LETTER TO CHARLES POSNER, STAFF ANALYST CALIFORNIA COASTAL COMMISSION *

OPPOSITION TO CDP APPLICATION 5-11-056
APPEAL A-5-PPL-11-028

1(a). REFERENCE LIST OF CITY DOCUMENTS AND STATEMENTS THERFROM.

1(b) CITY PLANNING DEPARTMENT STAFF INVESTIGATOR REPORT 10/10/08.

2. PHOTOGRAPHS OF (a) 1994 SLOPE FAILURE and (b) RECENT EROSION.

3. AERIAL PHOTOGRAPHS OF AREA OF PROPOSED PROJECT.

3(a) PHOTOGRAPHS OF VANCE STREET (IN PRAAD REPORT).

4. REPORTS OF PRAAD GEOTECHNICAL, INC. (INITIAL REPORT 4/22/09; UPDATES 3/15/11, 7/11/11, and 9/29/09).

5. PHOTOGRAPHS OF OVERFLOWING RUSTIC CREEK.

6. PHOTOGRAPH OF HOUSE FOUNDATION.

7. QUESTIONS IN PRAAD GEOTECHNICAL, INC. REPORT REGARDING SAFETY OF PROJECT AND RELATED MATTERS.

8. CEASE & DESSIT ORDER.

* All Exhibits (other than exhibits 1(a) and 2(b) that are attached) are in the Coastal Commission Staff File and incorporated herein by reference

GROUP DELTA CONSULTANTS

Geotechnical Engineering
Geology
Hydrogeology
Earthquake Engineering
Materials Testing & Inspection
Pavement Services

July 11, 2011

Mr. Gerald B. Kagan
380 East Rustic Road
Santa Monica CA 90402

GDC Project No.: L-967

SUBJECT: 375 NE Rustic Road//370 N. Vance St.
Pacific Palisades, CA (the "Site")

Mr. Kagan,

I enjoyed seeing you again when we met informally at the Site on 6/14/11, in the company of the Coastal Commission Staff and various representatives including you and the applicant. I have already sent to the Coastal Commission Staff an update (4/15/11) to my original geotechnical report (dated 4/14/09) regarding the project, but I want to emphasize herein a few points related to the safety, risks and practicality of the proposed project.

As we have previously discussed, the stability of slopes is generally described using Factors of Safety (FOS). A minimum FOS of 1.5 is required by the Los Angeles Building Code for new construction and a FOS of 1.0 means failure. The owner's engineer calculated a dry FOS of 1.276 and lower values will be expected during rainstorms. Hence, it is undisputed that even after construction is completed the minimum FOS will not exist on the most problematic lower third of the site. Please note that the closer the FOS is to 1.0 the higher the risk of slope failure. In my opinion, it is essential that a minimum (FOS) of 1.5 be required here on the entire Site. This is not only a Building Code requirement, but the standard of practice in my profession.

The FOS is particularly crucial for this project due to the presence of the Rustic Creek drainage channel below the Site and the high potential for resulting damage to neighboring persons and property. In my opinion, this project demands a minimum FOS of 1.5 for the entire site

Additionally, we have often discussed the lack of any flat land on the Site, the extreme steepness of the soil slope and the substandard nature of Vance Street from where the construction will be conducted. In the absence of a detailed staging plan, the safety questions in my prior reports remain unanswered.

Thank you for this opportunity to be of professional service to you in this matter. If you have any questions, please do not hesitate to call me.

Sincerely,
Group Delta Consultants, Inc.

Daniel E. Pradel
No.2242
Exp. 12/31/11
Geotechnical
REGISTERED PROFESSIONAL ENGINEER
STATE OF CALIFORNIA

Dr. Daniel Pradel, P.E.
Principal Engineer

370 Amapola Avenue, Suite 212 ▲ Torrance, California 90501 ▲ (310) 320-5100 voice ▲ (310) 320-2116 fax
Irvine, California (949) 450-2100 ▲ Ontario, California (909) 605-4300 ▲ San Diego, California (858) 524-7500
www.GroupDelta.com

COASTAL COMMISSION

EXHIBIT # 8
PAGE 9 OF 9

CITY OF LOS ANGELES
DEPARTMENT OF CITY PLANNING
OFFICE OF ZONING ADMINISTRATION

STAFF INVESTIGATOR REPORT

October 10, 2008

Robert Dolbinstri (A)(O)
1122 Idaho Avenue
Santa Monica, CA 90403

CASE NO. ZA 2007-5584(CDP)(MEL)
COASTAL DEVELOPMENT PERMIT
375 North East Rustic Road
Brentwood-Pacific Palisades
Planning Area
Zone : R1-1
D. M. : 123B129
C. D. : 11
CEQA : ENV 2007-5584-MND
Legal Description : Lot 204, Tract 1719

Request

A Coastal Development Permit, pursuant to the provisions of Sections 12.20.2 of the Los Angeles Municipal Code, to allow the construction, use and maintenance of a 1,966 square-foot, three level, single-family dwelling with two parking spaces located within the dual jurisdiction of the California Coastal Zone. Mello Act compliance determination is also requested.

Property Description

The subject property is vacant irregular-shaped, interior, upslope hillside lot that is located along a Hillside Limited Street. It is measured at 71 feet in the front, 51 feet at the rear, 63 feet northerly and 44 feet southerly sides for a total gross floor area of 3,176 square feet. Presently, like the abutting properties, the subject property is vacant and has overgrown shrubs.

The property is in the dual jurisdiction of the Coastal Zone.

The Project

This is a coastal development permit application for the construction, use and maintenance of a three-story, 1,966 square-foot single-family building on a lot that is located both along a Substandard Hillside Street and in the dual jurisdiction of the coastal zone within the Brentwood-Pacific Palisades Community Plan Area. It should be pointed out that this application does not address development of properties on a designated Hillside Limited Street.

It should be noted that the primary purpose for this request is to ensure that the proposed development is in conformity with Chapter 3 of the California Coastal Act of 1976. As

such, prior to the approval of this request, the applicant must take into account the rigorous checklist from the California Coastal Act that was meant to ensure compliance of the detailed and stringent requirements of developments within the dual coastal zone. By so doing, it would satisfy the safety and environmental concerns accordingly. Thus, in the absence of a Specific Plan for this portion of the Coastal Zone the, general intent, layout and configuration of the proposed project falls within the dictates of the zoning code.

The applicant indicated that his proposal is based on the prevailing developments of eight surrounding properties and reiterated that the proposed building will be very similar to developments in the area. Details of the development include a 21-foot cut into the hill that would amount to 692 cubic yards, the construction of a three-story building (45-foot high building when measured 5 feet away from the lowest point) with an attached two-car garage with a total lot coverage of 28 percent. It is indicated that the engineering and architectural design of the building ensures compatibility with developments of other properties in the neighborhood. According to him, like the surrounding properties, the envelope of the proposed building will be strengthened by a series of concrete pilasters that will be erected with deep foundation footings in the ground. Also, the proposed retaining walls will by combination serve as protective barriers that would prevent unforeseeable calamities that might emanate from mudslides in case of a heavy down pour of rain or earthquakes. However, the tendered elevation plans lack any site developments that would show the areas of the lot that would be excavated, the number and height of the retaining walls and depth of the five concrete pilasters for the foundation.

This property is situated on a hillside grading area and along a designated Limited Hillside Street. In that vein, it should be noted that development standards of hillside properties arose because of the peculiar nature of such properties. Thus, it will be almost impossible and cost prohibitive to subject the applicant to meet all the established requirements as stipulated in the hillside ordinance. Therefore, the applicant's failure to include any aspect of the determinants of hillside developments renders this application to be inadequate. During site inspection, it was discovered that like the adjoining properties on the same side of the street, the topography of the subject lot is very steep with a slope of about 66 percent. The steepness of the lots make it almost impossible to build without resorting to excavations and erection of retaining walls that would hold the soil intact. However, such developments must be within the stipulated requirements of the hillside ordinance.

Surrounding Land Uses

Adjoining properties to the north across Rustic Road and to the south across Vance Street are in the R1-1 Zone and developed with large two-story single-family dwellings.

Adjoining properties to the east and west of the subject property along the same side of the street are in the R1-1 Zone and are vacant

Previous Cases, Affidavits, Permits, and Orders On the Applicant's Property

There are no similar or relevant ZA or CPC cases.

Previous Cases, Affidavits, Permits, and Orders On Surrounding Properties

No similar or relevant cases were found.

General Plan, Specific Plans and Interim Control Ordinances

Community Plan:

The Brentwood-Pacific Palisades Community Plan Map designates the property for Low Residential land uses with corresponding zones of RE, RS, RU, and RW1, and Height District No. 1.

Specific Plans and Interim Control Ordinances:

The property is not currently within the area of any specific plans or interim control ordinances.

Streets

East Rustic Road, adjoining the property, to the north is a Hillside Limited Street with a paved road width of less than 20 feet and improved with asphalt with no curb or sidewalk.

Flood Hazard Evaluation

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. 172,081, have been reviewed and it has been determined that the property is located in Zone C, areas of minimal flooding.

Environmental Clearance

On September 29, 2008, the City Planning Department Environmental Staff Advisory Committee (ESAC) issued Mitigated Negative Declaration No. ENV 2007-5585-MND (Article V – City CEQA Guidelines) and determined that by imposing conditions the impacts could be reduced to a level of insignificance.

Comments from Other Departments or the General Public

At the time of report preparation, no public agency had submitted any written comments but a letter from the Law Firm of Chatten-Brown and Carstens was received in which it was indicated that the application had several shortcomings and therefore suggested a deferment of the hearing to another date. The letter is attached to the file

ANDREW BANGALI-PESSIMA.
Zoning Investigator

ABP:rg

CITY OF LOS ANGELES
DEPARTMENT OF CITY PLANNING
OFFICE OF ZONING ADMINISTRATION

STAFF INVESTIGATOR REPORT

September 28, 2010

Robert Dolbinski (A)(O)(R)
1122 Idaho Avenue
Santa Monica, CA 90403

CASE NO. ZA 2007-5584(CDP)(MEL)
COASTAL DEVELOPMENT PERMIT
375 North East Rustic Road
and 370 North Vance Street
Brentwood-Pacific Palisades Planning Area
Zone : R1-1
D. M. : 123B129
C. D. : 11
CEQA : ENV 2007-5585-MND
Legal Description: Lot 204, Tract 1719

Request

A coastal development permit, pursuant to the provisions of Sections 12.20.2 of the Los Angeles Municipal Code, to allow the construction, use and maintenance of a 1,966 square-foot three level single-family dwelling with two parking spaces located within the dual jurisdiction of the California Coastal Zone. Mello Act compliance determination is also requested.

Property Description

The property is an irregular-shaped, upward-sloping interior lot consisting of approximately 3,170 square feet. The property has a frontage of approximately 72 feet along the west side of Rustic Road and a frontage of 55 feet along the east side of Vance Street. The northerly and southerly property lines are approximately 63 feet and 45 feet, respectively. The property is currently vacant and contains vegetation and shrub. The property is located within the Brentwood-Pacific Palisades Planning Area and is within the dual jurisdiction of the Coastal Zone

The Project

The applicant is seeking authorization for the construction, use and maintenance of a new 1,966 square-foot, three-story, 45-foot high single-family dwelling, with a total of five parking spaces including three enclosed parking spaces and two uncovered parking spaces. In conjunction with the construction of the home, the applicant requires the granting of a Costal Development Permit. Additionally, the applicant is seeking review of compliance with the Mello Act.

This case had a hearing on October 16, 2008 in which the same subject matter/requests were discussed. At the time of the hearing many groups and residents came to speak in opposition. As a result of the many environmental issues brought up during testimony, the Zoning

Administrator issued a Remand of Environmental Clearance to the Advisory Agency (the Environmental Review Section of the City Planning Department) on October 31, 2008. The Zoning Administrator stated the following:

> *"By this letter I am remanding the subject file, and more particularly the Environmental Clearance action taken under Case No. ENV 2007-5585-MND to you for your further review and consideration, and most particularly to consider the numerous issues raised by Chaten-Brown & Carstens in their letter of October 15, 2008 and its extensive number of attachments and photos of the subject site. Further, I also ask that you review the County of Los Angeles, Department of Public Works letter of October 15, 2008 in which they have asked for additional time (30 days) in order to evaluate the project and any potential impacts it may have on the nearby flood control channel. Input from that agency should be received and considered prior to re-issuance of any future environmental clearance action by your office...*
>
> *...Prior to opening the hearing to public input on the merits of the project, I became aware of the substantial challenge being made to the Environmental Clearance for the subject project. I reviewed the materials from both Chaten-Brown & Carstens and the County of Los Angeles, and determined that they were of sufficient breadth, scope and complexity that they went beyond my ability to respond to them at that time."*

The Zoning Administrator believed that it would be the public's best interest for all the material submitted to be carefully reviewed and responded to by the City Planning Department's Environmental Unit. According to the Zoning Administrator, both the applicant and those opposed to the project were in support of returning the file to the Environmental Unit for another review.

In regards to the coastal development permit, it appears that the proposed new single-family dwelling will have no impacts in regards to the California Coastal Act and that no access to the coast will be hindered nor will there be any increase in traffic in the area, specifically to the coast.

The Mello Act is a statewide law that requires local governments to comply with certain provisions designed to preserve and increase the supply of affordable housing in California's Coastal Zone. The Mello Act applies to any proposal to convert or demolish existing housing, or to develop new housing in the Coastal Zone. Planning counter staff reviewed the case and found that the applicant's request is subject to a Mello Act compliance review because the project will result in the construction of one or more "whole" residential units through new construction.

At the time of the Zoning Investigator's site visit on September 28, 2010, an official Notice of Public Hearing was posted on the property, in accordance with the code requirement to post the ZA notice at least ten days prior to the scheduled hearing date. The Office of Zoning Administration also receiving received confirmation from BTC that the applicant and all parties required by the Municipal Code were mailed a notice of hearing regarding the subject property on August 30, 2010. Additionally, the Office of Zoning Administration received a Certificate of Posting dated September 20, 2010 for the Public Hearing notice with photographic evidence.

Surrounding Land Uses

Surrounding properties are within the R1-1 Zone and are developed with moderate to large one-, two- and three-story single-family dwellings with several vacant properties.

Previous Cases, Affidavits, Permits, and Orders on the Applicant's Property

There are no similar or relevant Office of Zoning Administration, Area Planning Commission, or City Planning Commission cases on the applicant's property.

Previous Cases, Affidavits, Permits, and Orders on Surrounding Properties

Case No. ZA 2008-1554(CDP) – On February 12, 2009, the Zoning Administrator denied a coastal development permit authorizing two carports and bridges, portions of which were to be located over the Los Angeles County Flood Control Channel in the R1-1 Zone within the dual permit jurisdiction of the California Coastal Zone; denied a variance authorizing the construction, use and maintenance of two carports and bridges for off-site parking on the Los Angeles County Flood Control Channel without an associated main use on the same lot; denied an adjustment authorizing a 0-foot side yard setback in lieu of the required 6 feet for the carports and bridges; and denied an adjustment authorizing said carports and bridges to be located within the required front and side yards in lieu of the rear one-half of the lot. (309 North East Rustic Road)

Case No. ZA 2001-5296(CDP) – On July 31, 2002, the Zoning Administrator approved a coastal development permit authorizing the construction of a single-family dwelling located within the single jurisdiction of the California Coastal Zone. (338 Chautauqua Boulevard)

General Plan, Specific Plans and Interim Control Ordinances

Community Plan:

The Brentwood-Pacific Palisades Community Plan Map designates the property a R1-1 for Low Residential land uses with corresponding zones of RE9, RS, R1, RU, RD6 and RD5 and height limited to District No. 1.

Specific Plans and Interim Control Ordinances:

The property is not currently within the area of any specific plans or interim control ordinances.

Streets

Rustic Road, adjoining the property to the northeast, is a Hillside Local Street with a width of 40 feet and is improved with asphalt roadway.

Vance Street, adjoining the property to the southwest is a Hillside Local Street with a width of 60 feet and is improved with asphalt roadway.

Flood Hazard Evaluation

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. 172,081 have been reviewed and it has been determined that the property is located in Zone C, areas of minimal flooding.

Environmental Clearance

On August 30, 2010, the City Planning Department Environmental Staff Advisory Committee (ESAC) issued a Reconsideration of previously issued Mitigated Negative Declaration – No. ENV 2007-5585-MND-REC1 (Article V – City CEQA Guidelines) and determined that by imposing conditions the impacts could be reduced to a level of insignificance.

Comments from Other Departments or the General Public

At the time of report preparation, no public agency had submitted any written comments and no correspondence from the general public had been received. It should be noted, while no correspondence from the general public was received during the preparation of the most current staff report, correspondence from several groups and residents in opposition to the project were received previously at the time leading up to and possibly after the previously scheduled hearing. Previous correspondence is located in the case file.

DANIEL E. GORNITSKY
Zoning Investigator

DEG:aln

Jeanne Chen - Robert Dolbinski
1122 Idaho Avenue
Santa Monica, CA 90403

September 6, 2011

Chuck Posner
California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Re: Site Grading and Concrete Pile Construction Sequence Plan
Application No. 5-11-056 / Appeal A5-PPL-11-028

Chuck,

Per your request, we have developed a sequence of construction and erosion control for the single family residence at 370 N. Vance Street, as well as a contingency plan for removal of debris from the Los Angeles County flood control channel adjacent to the site.

We have consulted with a concrete contractor, Robert Holcomb, of Holcomb Engineering, who has extensive experience with hillside grading and construction on similar sites in the neighborhood and across Southern California, to develop the construction and erosion control description.

A series of plan and section diagrams accompany the description to illustrate the proposed construction process. There are a variety of construction methods available to construct the foundation system. The attached description is our best estimate of how the project will proceed in order to safely and efficiently construct the project. The specified equipment models may be revised as construction progresses, but we anticipate that the proposed process and measures will remain the same.

Please review and let us know if you have any questions or comments.

Regards,

Robert Dolbinski
Jeanne Chen
Architects / Owners
310-450-1400 ext. 246
310-383-2171 cell

Cc: Sherman Stacey
Encl.: Construction Sequence Narrative and Diagrams

ROBERT G. HOLCOMB II

"A GENERAL ENGINEERING CONTRACTOR"

Ca, license # 491269

6206 HETTY STREET FONTANA, CALIFORNIA 92336

Phone 909 463-0498 * cell 626 487-5233 * fax 909 463-1043

****

California Coastal Commission

RE: ZA-2007-5584-CDP-MEL
Single Family Residence
370 North Vance Street

Site Grading and Concrete Pile Construction Sequence

Site Preparation: *(refer to Drawings 1A and 1B attached)*

1. DWP to remove the existing diagonal bracing cable and replace with vertical support. This work has been reviewed with the DWP. Temporarily relocate cable TV and phone line.

2. Construct upper debris fence below top of slope. The intent of the fence is to catch spoils that aren't immediately collected from the drill.

3. Debris fence to consist of 2 inch steel pipe embedded 3 feet into competent soil or concrete, spaced at 8 ft on center across entire width of work area and at the perimeter of the site.

4. Install chain link fence 5 ft tall between posts. Install plywood on uphill face of the chain link, with continuous line of sandbags placed at base of the uphill side of the fence.

5. Place secondary debris fence at middle of slope above the flood control channel, and at side property lines, using the same fence design per no. 3 above.

Top Bench Excavation: *(refer to Drawings 2A and 2B attached)*

1. Excavate top bench with *Caterpillar 320* excavator, from top of slope.

2. Start with a 5' cut along the top slope to form a bench approximately 6' in width, along the length of Vance Street.

3. Excavated spoils will be brought up to the top of the site and placed in the steel roll off bins.

4. The bench will allow the piles to be drilled and to allow for any spoils that drop off the drill to be retained, prevent spoils movement down the hillside.

5. The debris fence will be located close to the edge of the bench on the downhill side to collect any spoils that move beyond the bench.

6. Load spoils into an eight cubic yard steel roll off bin.

7. Two bins may be located at the top of the slope – one for pick up and one for progress filling with spoils.

8. The bins will be removed as they are filled and sent to an approved landfill.

9. Trucks hauling the roll off bins will be scheduled to limit waiting in the immediate neighborhood.

10. Remove soil that reaches the debris fencing at the end of each construction day. The soil will be removed by hand – hauled from the fence to the top of the slope in the bucket of the excavator.

Formwork:

1. Some of the piles may project out of the top of bench or slope and may require circular formwork. The formwork will consist of a product manufactured by *Sonatube* or equal, and will be installed after the piles are drilled.

Drill Upper Piles: *(refer to Drawings 2A and 2B attached)*

1. Set drilling rig on the top portion of the site.

2. Proposed drilling rig: *Caterpillar 315 Lodrill*, or equivalent.

2. Spoils from piles will be dropped off for pick up, by maneuvering the drill over the top of the site. The spoils will be moved into the roll off bin either by hand, or with a small skid steer loader as they are dropped off.

3. Any spoils that don't land on the top of the site, will land on the top bench, and will be collected and moved to the top of the site.

4. When the pile excavation is complete, the LADBS and soils engineer will inspect for conformance with the drawings and approved soils report.

5. Piles will be drilled, reinforced and filled with concrete on an alternate spacing in order to maximize the volume of soil between piles during excavation.

6. Remove soil that reaches the debris fencing on a weekly basis per City of LA requirements.

Placement of Pile Reinforcement: *(refer to Drawings 3A and 3B attached)*

1. Upon acceptance by LADBS and the soils engineer, the steel reinforcement will be placed within the drilled pile holes.

2. The steel reinforcement may be fabricated either on or off site.

3. If fabricated off site, the steel reinforcement will be delivered using a flat bed truck and lifted into the excavation by a crane.

Proposed crane: Grove RT-40 or equal.

Pour Concrete Piles: *(refer to Drawings 3A and 3B attached)*

1. When the steel reinforcement cage is placed into the excavation, the LADBS and geologist and structural engineer will review the installation.

2. When the installation is approved, the concrete can be poured.

3. A deputy inspector will be required for inspection of the placement of the high strength concrete.

4. The concrete will be pumped from a concrete truck parked on Vance Street, approximately 25' from the top edge of the slope.

5. The intent is to pour each pile within 24 hours of its excavation and inspection, in order to optimize the structural strength of the foundation and expedite the stability of the slope.

   Estimated duration to completion / pouring of top row of piles: 3- 4 weeks, depending on availability of inspections.

Excavate Lower Bench at Lower Row of piles: *(refer to Drawings 4A and 4B attached)*

1. Excavate lower bench, approximately 10' wide, parallel to the lower row of concrete piles.

2. The lower bench will be excavated either manually, or with a mini excavator. The mini excavator will either be lifted down to the level of the lower bench, which would be manually prepared, or be driven down diagonally on the site to the lower level.

3. The bench will allow the piles to be drilled and to allow for the spoils dropping off the drill to be retained, preventing their movement down the hillside. The lower debris fence will be located adjacent to the lower bench to prevent spoils that land beyond the bench from moving down the hillside.

4. Spoils from the bench excavation will be lifted up to the top of the slope via crane using a 1.5 yard bucket.

5. When the bench is completed, a mini drill will be placed with a crane or driven down the slope for the purpose of drilling the lower row of piles.

5. Drill pile holes using the mini drill.

6. Spoils to be removed via bucket on a crane to the top of the site, and placed in the steel roll off bins.

Placement of Lower Pile Reinforcement: *(refer to Drawings 5A and 5B attached)*

1. Install steel reinforcement cages by lifting them via crane into the excavated hole.

2. LADBS, structural and soils engineer inspect the installation.

3. When approved, pour high strength concrete into the piles.

4. Concrete will be pumped from a truck located on Vance Street, at the top of the slope.

5. Remove soil that reaches the debris fencing on a weekly basis per City of LA requirements.

   Estimated duration to completion / pouring of bottom row of piles: 4- 5 weeks, depending on availability of inspections.

Drill and Pour the North and South Row of Piles *(refer to Drawings 6A and 6B attached)*

Complete the Lower Bench Excavation and Infill Walls between Piles

1. Infill walls between the piles at the back and side walls are poured as the remaining soil on the lower bench is excavated.

2. Spoils to be removed via bucket on a crane to the top of the site, for placement in the steel roll off bins.

Excavate grade beams

1. Excavate grade beams between upper and lower row of piles, using hand labor.
2. Place steel reinforcement in grade beams.
3. LADBS, structural and soils engineer inspect reinforcement, excavation and installation.
4. When approved by LADBS and engineers, pour concrete.

Above Grade House Construction *(refer to Drawings 7A and 7B attached)*

1. When below grade foundations, grade beams, slab and below grade drainage / utilities are completed, the construction of the wood frame residence will begin on top of the concrete foundation system.
2. Storm water drain connection made to the flood channel.
3. Remove upper debris fence once backfill above the lower bench is completed and finish grading and planting commences.
4. Planting on slopes will commence as soon as practical to limit erosion on the slope.

Contingency Plan for removal of debris from the flood channel:
(refer to Drawings 8A and 8B attached)

1. The grading and concrete foundation work is intended to be completed during the dry months of the calendar year. The installation of the two layers of debris fencing will limit the possibility that debris will fall into the channel.
2. The procedure to remove debris includes two options, depending on the amount of debris that passes through two debris fences and enters the flood channel.
3. In the event that debris less than 6 cubic yards enters the channel, the debris can be extracted from the bottom of the channel using manual labor. Workers will enter the flood channel and place the debris into the bucket, so that no equipment will need to enter the flood channel. The debris would lifted to the side of Rustic Canyon Road (at the low part of the site), and transferred to a truck parked alongside the channel.

4. In the event that debris greater than 6 cubic yards enters the channel, a 1.5 yard flat bucket will be lowered into the channel by crane. The crane, located at the top of the site, will have sufficient reach to reach the channel below. The debris will be shoveled into the bucket and lifted up to the top of the site, and placed in the steel roll off bins.

   The crane could also be used in the event that smaller debris passes through two debris fences and enters the channel.

5. Note that the storm water connection permit to be issued by LA County Department of Public Works will allow for access by the contractor into the flood channel.

Inspections:

The approved soils report requires a minimum of 16 separate inspections. Grading and foundations will also be reviewed by the soils engineer, structural engineer, the LADBS Grading Inspector, City Building Inspector, the architect and the civil engineer, in addition to the Contractor's staff.

Noise:

The Mitigated Negative Declaration requires non-moving trucks to be turned off to limit idling, with limits on the number of hauling trucks.

Piles will be drilled, not pounded.

The average distance to adjacent houses is on average over 100 feet, which will help limit increases in the ambient noise level during construction.

Structural Support of Vance Street:

The structural system of vertical concrete piles combined with lateral grade beams is designed to be completely below grade. The site's stability will immediately improve as each individual concrete pile is drilled, reinforced and poured with high strength concrete.

All piles will be tied together with a series of concrete grade beams.

The project is designed to the 2010 California Building Code and is designed to resist the forces resulting from earthquakes.

The City and County have reviewed the Civil Engineering drawings. Both the County and the City have requirements for Stormwater Pollution Measures, which are summarized below and will be included in the permit set of drawings for the project:

Stormwater Pollution Measures Required by City of Los Angeles:

Equipment and workers for emergency work shall be available at all times during the rainy season (Nov. 1 to April 15) Necessary materials shall be available on-site and stockpiled at convenient locations to facilitate rapid construction of emergency devices when rain is imminent.

Erosion control devices shall not be moved or modified without the approval of the Building Official.

Stockpiled materials shall be placed to be accessible by vehicle during periods of precipitation and protected from precipitation and runoff at the end of each working day.

All removable erosion protective devices shall be in place at the end of each working day. After a rainstorm, all silt and debris shall be removed from streets, check berms and basins.

Graded areas on the permitted area perimeter must drain away from the face of slopes at the conclusion of each working day. Drainage to be directed toward desilting facilities. The permitted and contractor shall be responsible and shall take necessary precautions to prevent public trespass onto areas where impounded water creates a hazardous condition.

Issuance of a grading permit does not eliminate the need for permits from other agencies with regulatory responsibilties for construction activities associated with the work authorized on this plan.

Erosion control measure and planting shall be installed and maintained as soon as practical, in areas not subject to frequent traffic.

All erosion control, desilting basin, silt fences and other storm water and/or erosion control features shall be inspected by the responsible party, on a weekly basis, cleaned, and maintained to ensure these features function as designed.

Civil Engineer shall inspect the erosion control work and ensure that the work is in accordance with the approved plans.

Eroded sediments and other pollutants must be retained on site and may not be transported from the site via sheet flow, swales, area drains, natural drainage courses, or wind.

Stockpile of earth and other construction related materials must be protected from being transported from the site by the forces of wind or water.

Fuels, oils, solvents and other toxic materials must be stored in accordance with their listing and are not to contaminate the soil and surface waters. All approved storage containers are to be protected from the weather. Spills must be cleaned up immediately and disposed of in a proper manner. Spills may not be washed into the drainage system.

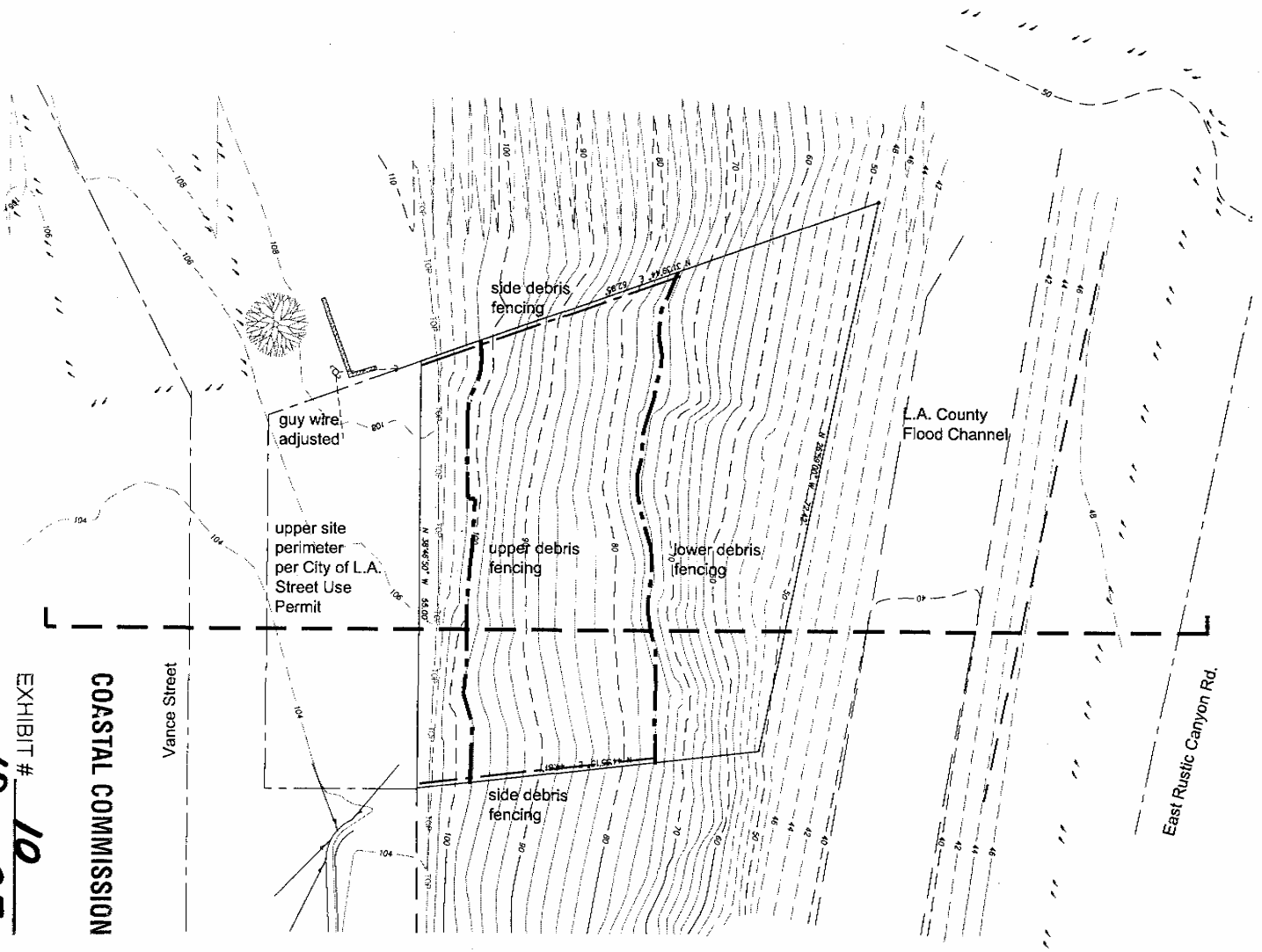
Excess or water concrete may not be washed into the public way or any other drainage system. Provisions shall be made to retain concrete wastes on site until they can be disposed of as solid waste.

Trash and construction related solid wastes must be deposited into a covered receptacle to prevent contamination of rainwater and dispersal by wind.

Sediments and other materials may not be tracked from the site by vehicle traffic. The construction entrance roadways must be stabilized so as to inhibit sediments from being deposited into the public way. Accidental depositions must be swept up immediately and may not be washed down by rain or other means.

Any slopes with disturbed soils or denuded of vegetation must be stabilized so as to inhibit erosion by wind and water.

BMPs as outlined in, but not limited to, the CA Stormwater Best Management Practices Handbook, January 2003, or latest edition, may apply during the construction of this project (additional measures may be required if deemed appropriate by the Project Engineer or the Building Official).



0 10'

370 N. Vance Street
A5-PPL-11-028
9.6.11

1A: UPPER / LOWER /SIDE DEBRIS FENCES INSTALLED . TOP OF SITE SECURED

COASTAL COMMISSION

EXHIBIT # 10
PAGE 10 OF 35

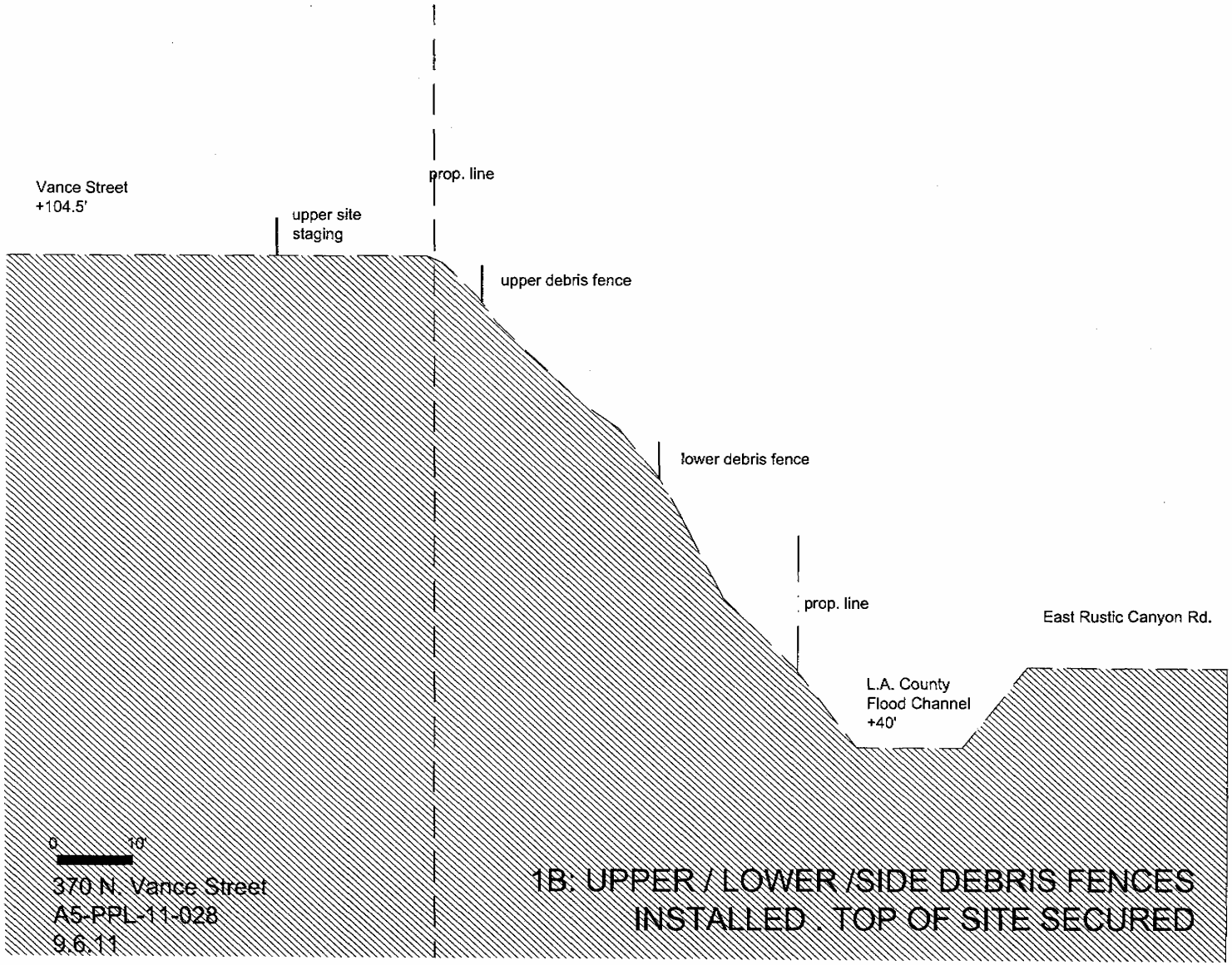
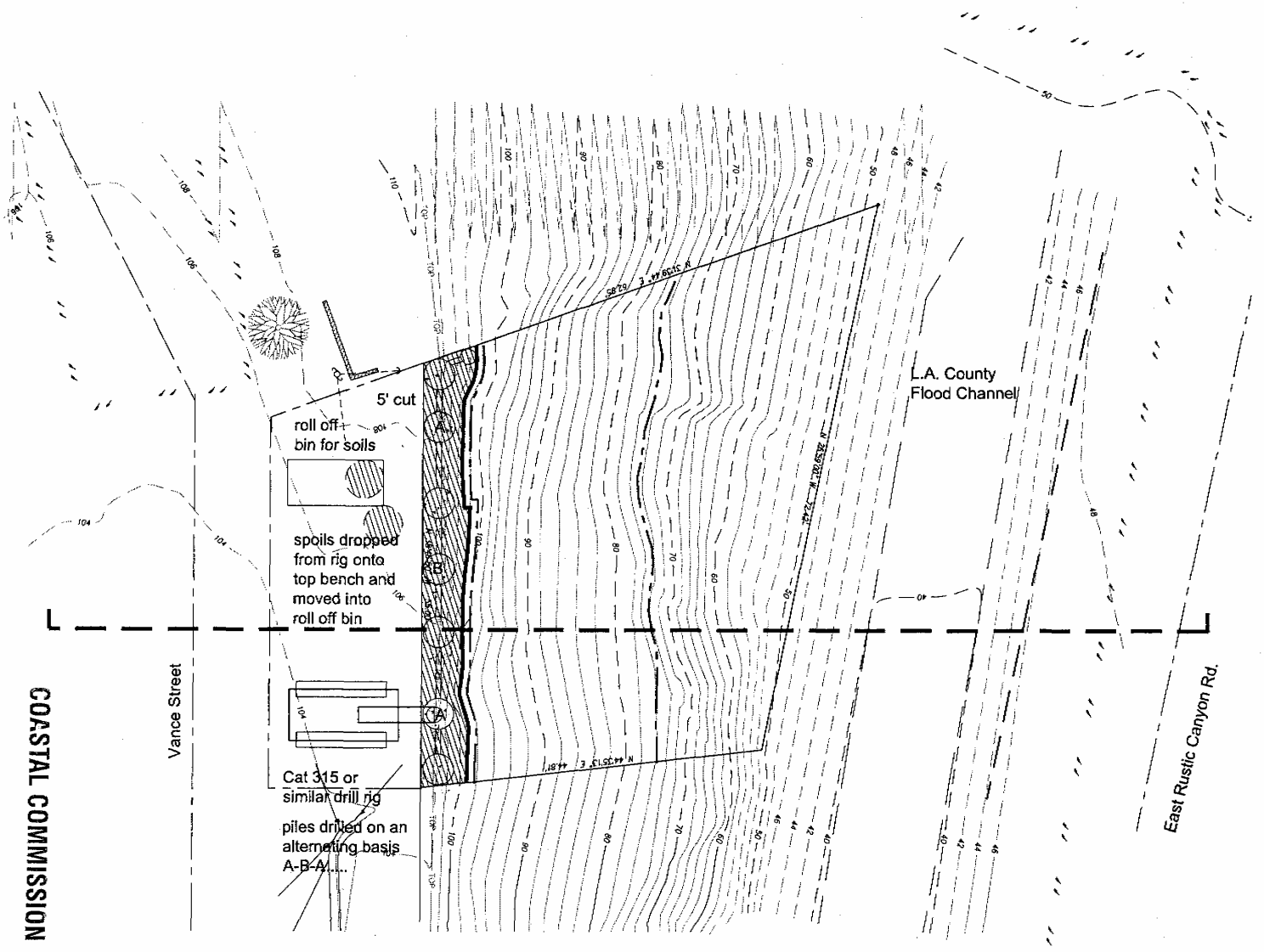


EXHIBIT # 10
PAGE 11 OF 25



0 10'

370 N. Vance Street
A5-PPL-11-028
9.6.11

2A: TOP BENCH BENCH EXCAVATED W/ 5' CUT, TOP ROW OF PILES DRILLED

COASTAL COMMISSION

EXHIBIT # 12
PAGE 10 OF 25

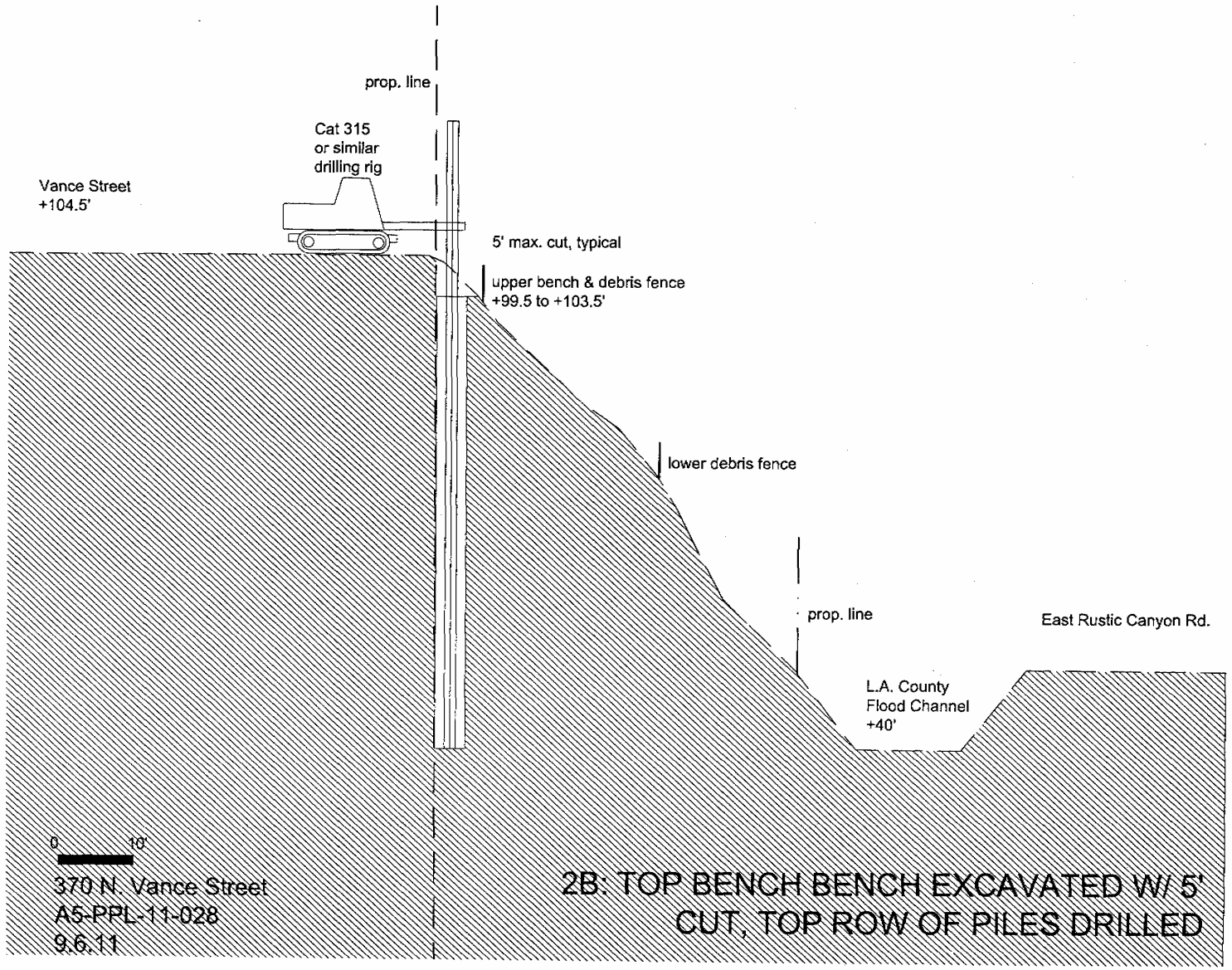


EXHIBIT # 10
PAGE 13 OF 25

3A: REBAR PLACED IN
TOP ROW OF PILES, FOLLOWED
BY INSPECTION AND CONCRETE POUR

370 N. Vance Street
A5-PPL-11-028
9611

COASTAL COMMISSION

EXHIBIT # 10
PAGE 14 OF 25

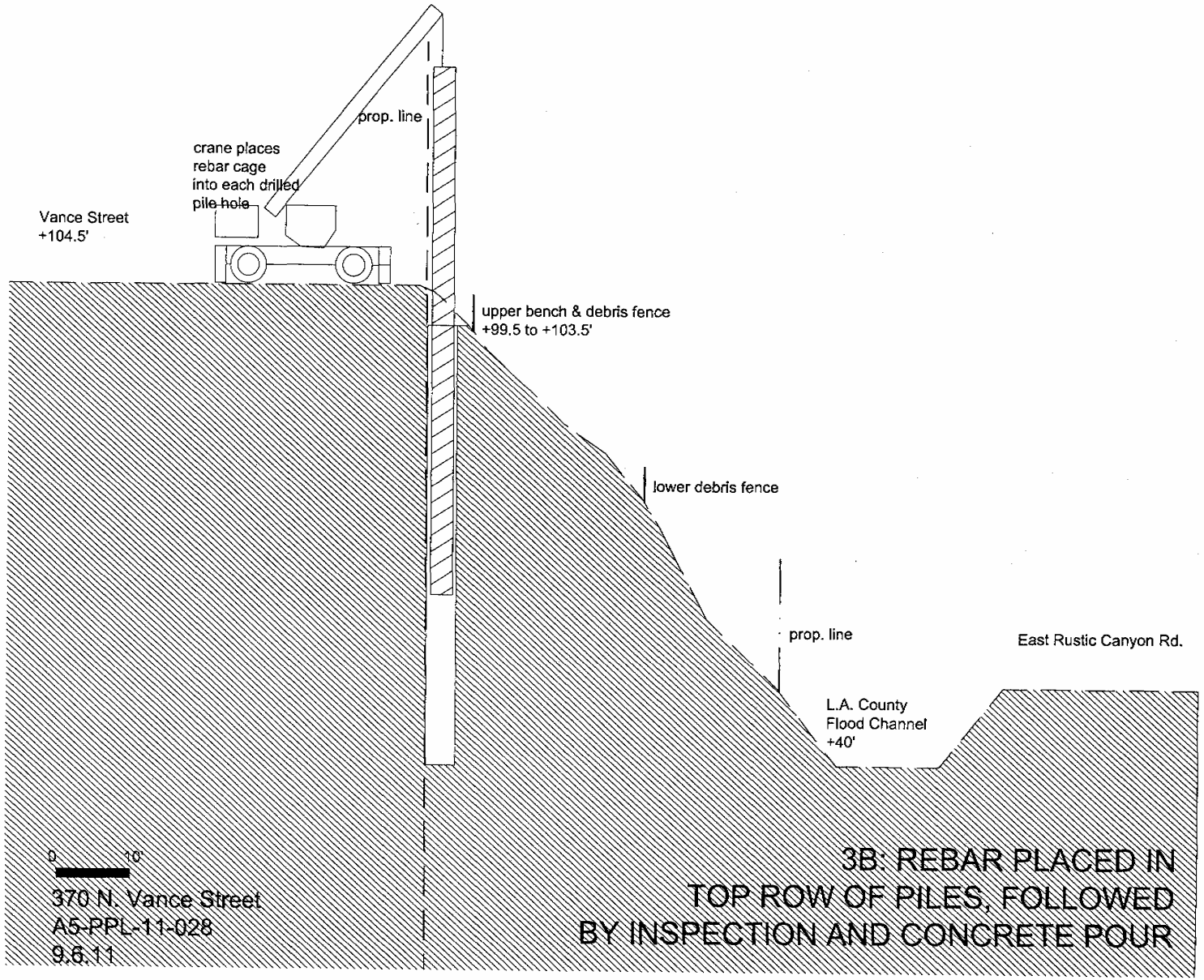
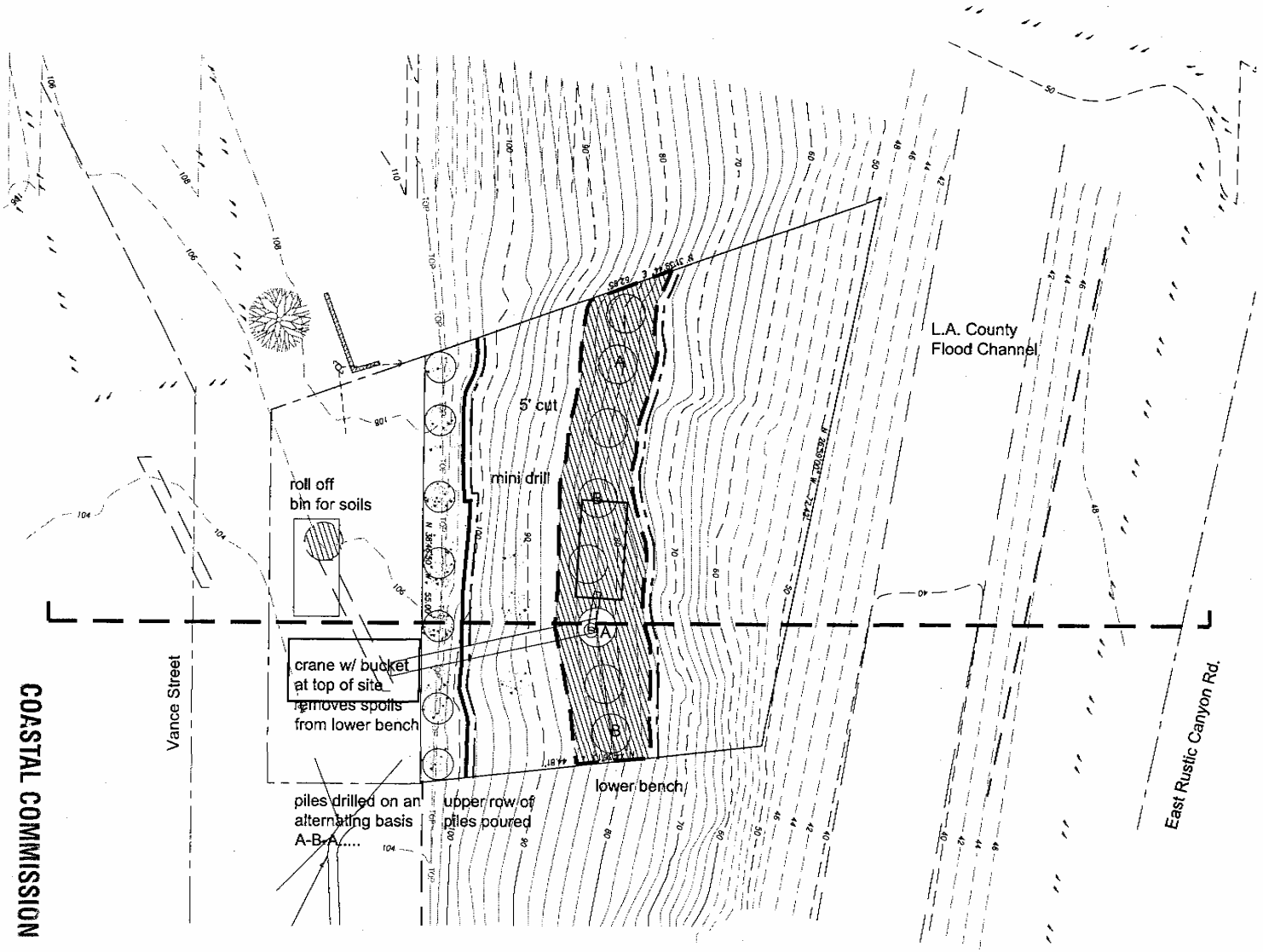


EXHIBIT # 10
PAGE 15 OF 25



COASTAL COMMISSION

EXHIBIT # 10
PAGE 16 OF 25

0 10'

370 N. Vance Street
A5-PPL-11-028
9.6.11

4A: LOWER BENCH BENCH EXCAVATED W/ 5' CUT LOWER ROW OF PILES DRILLED

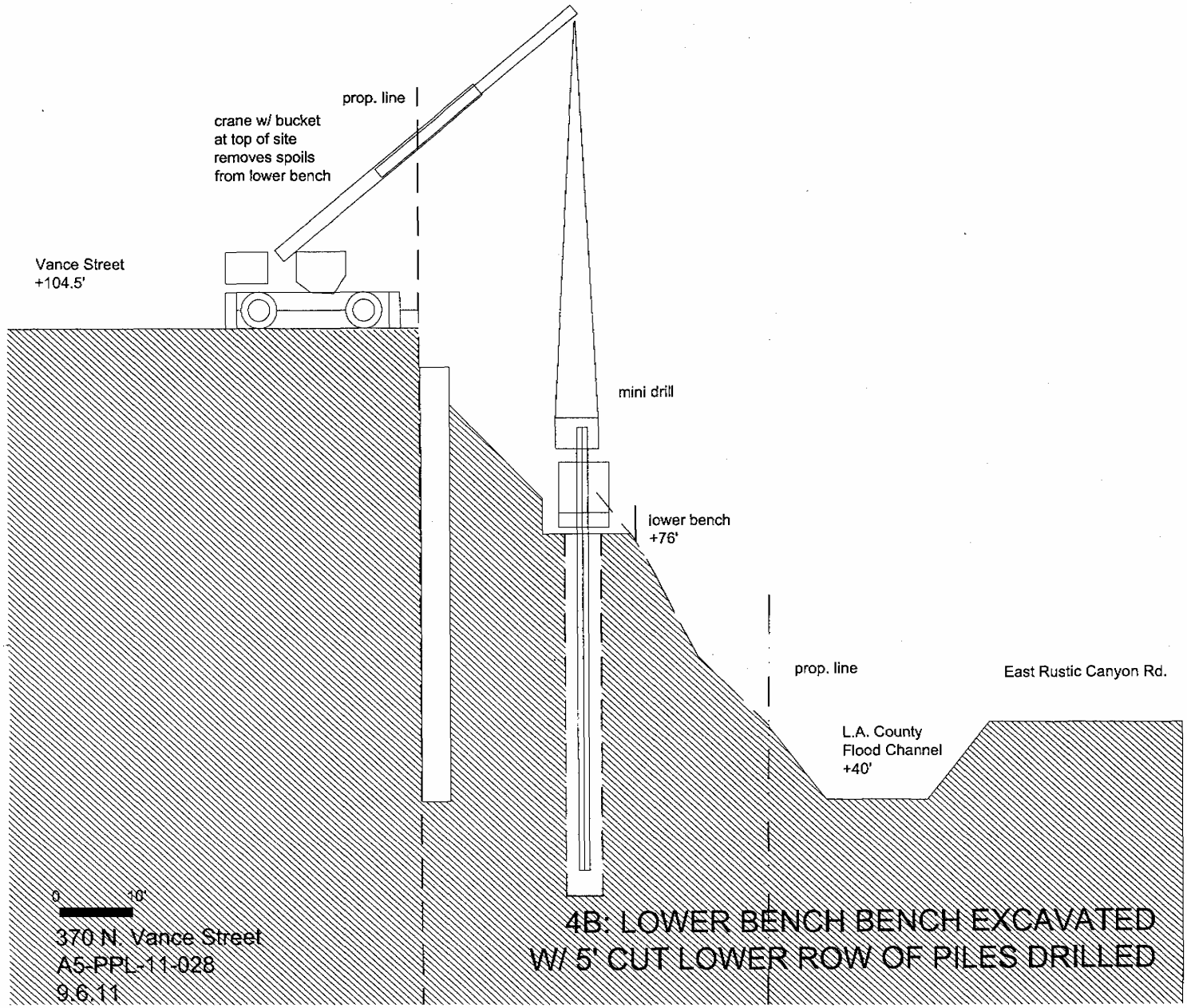
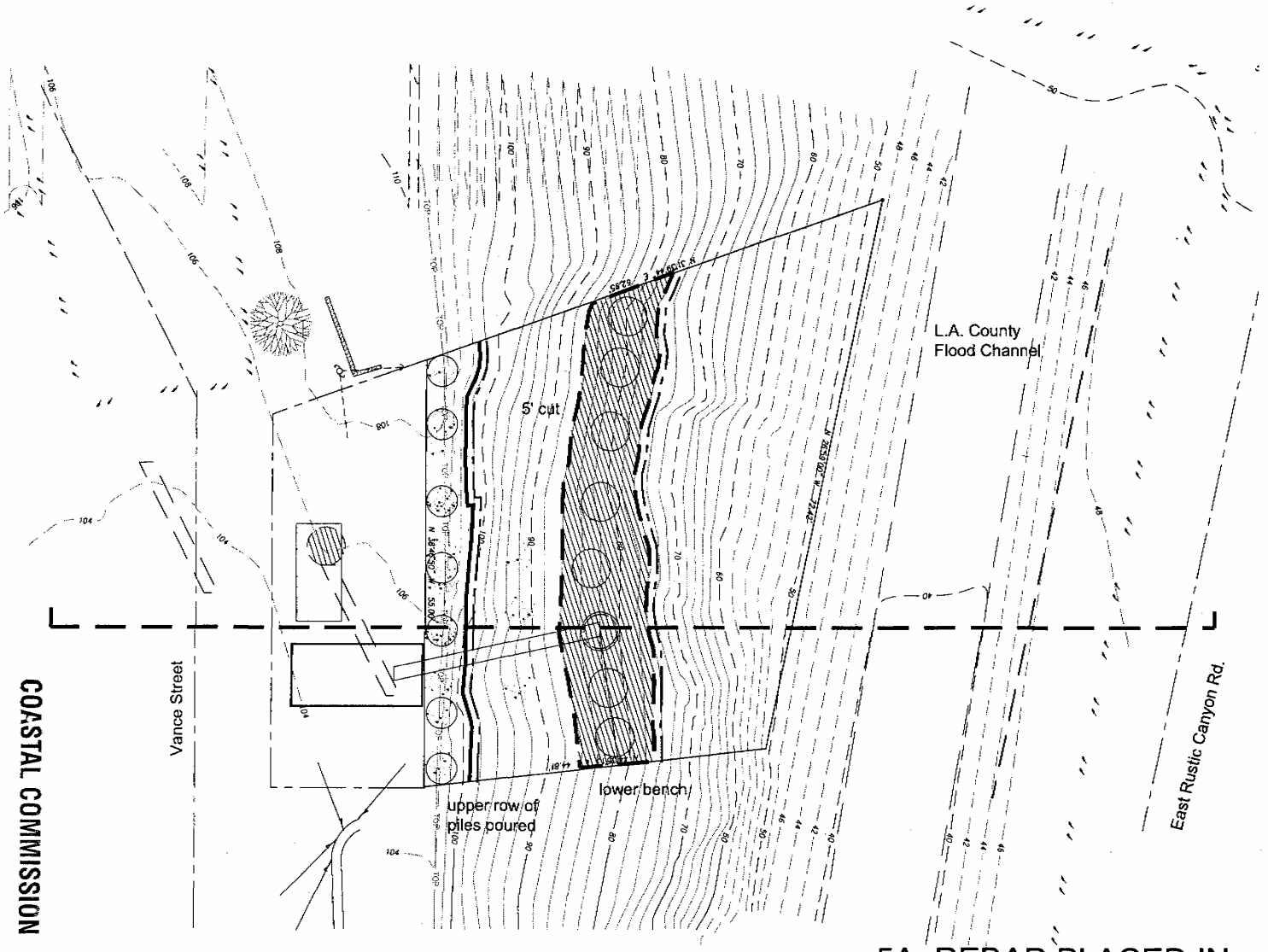


EXHIBIT # 10
PAGE 17 OF 25



COASTAL COMMISSION

EXHIBIT # 10
PAGE 18 OF 25

0 10'

370 N. Vance Street
A5-PPL-11-028
9.6.11

5A: REBAR PLACED IN LOWER ROW OF PILES, FOLLOWED BY INSPECTION AND CONCRETE POUR

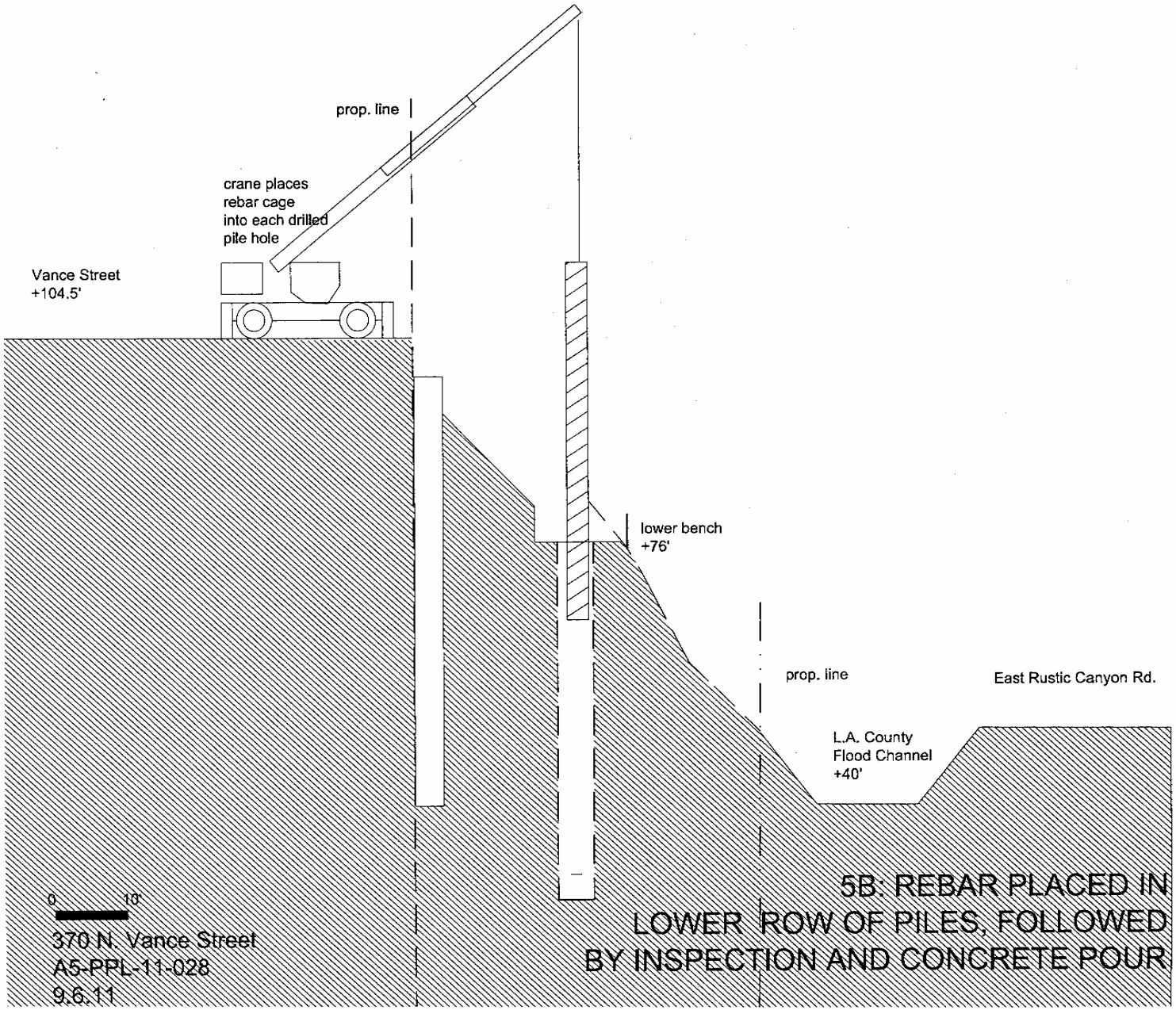
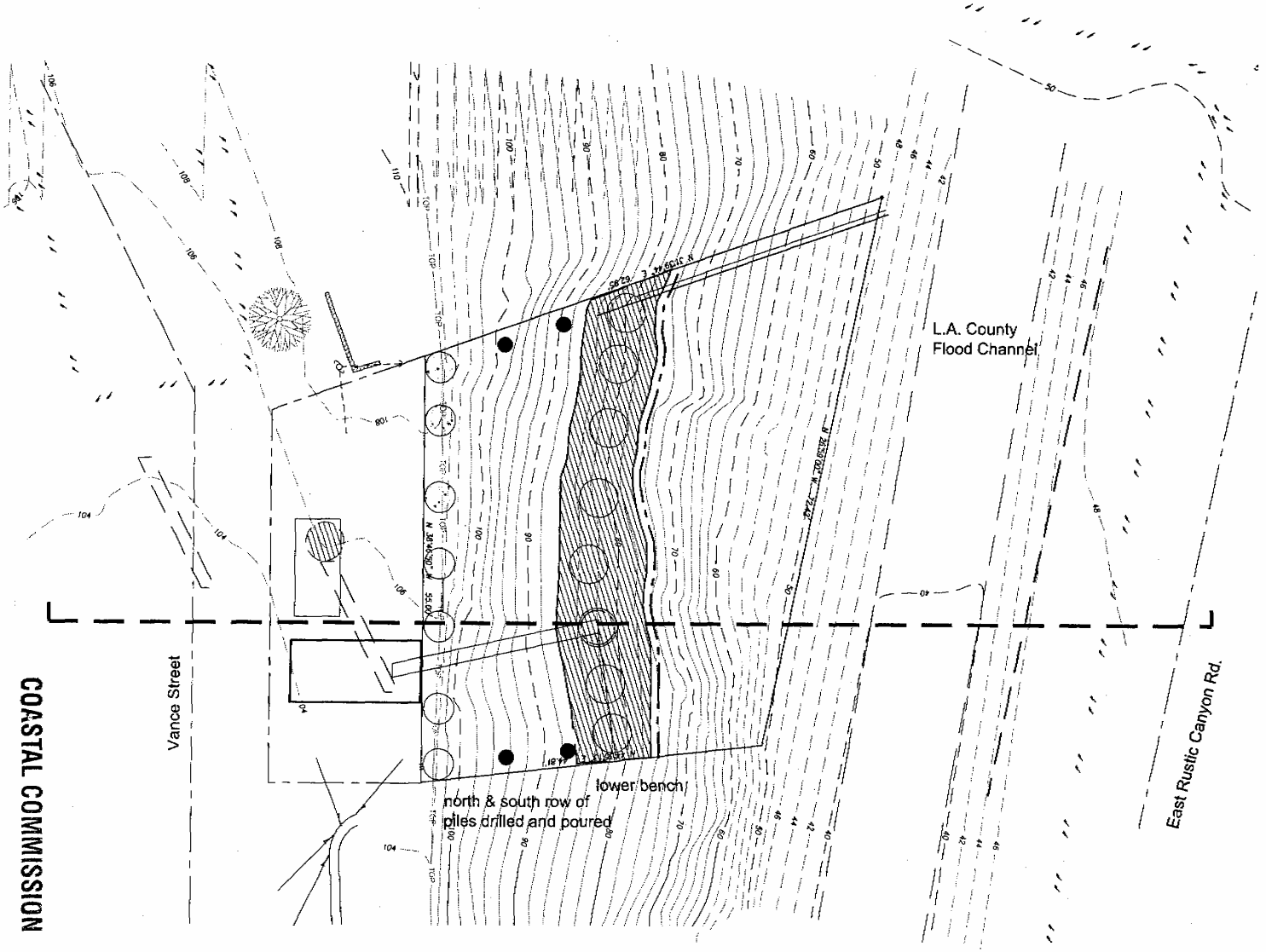


EXHIBIT # 10
PAGE 19 OF 25



370 N. Vance Street
A5-PPL-11-028
9.6.11

6A: DRILL AND POUR NORTH & SOUTH ROW OF PILES

COASTAL COMMISSION

EXHIBIT # 10
PAGE 20 OF 25

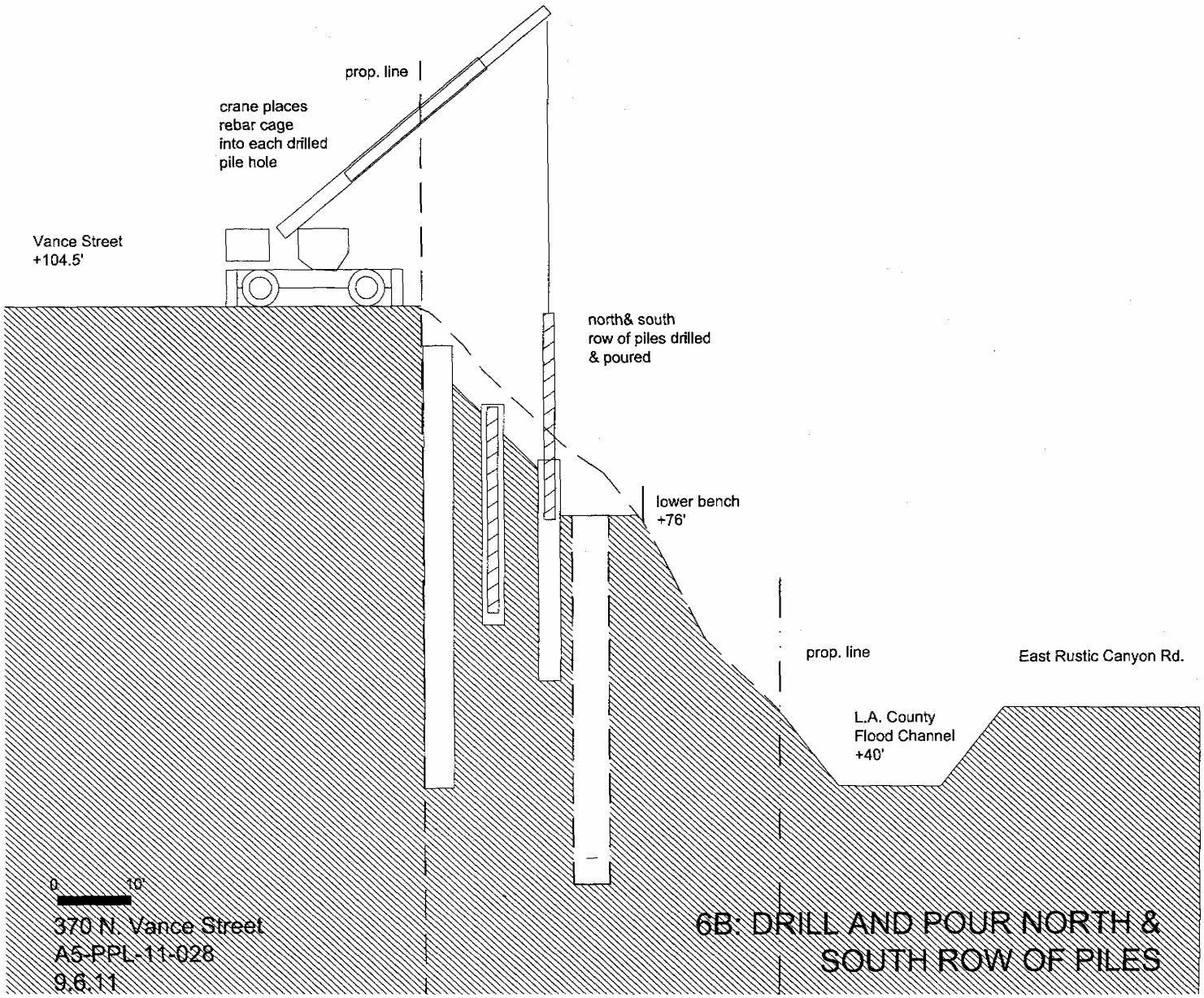
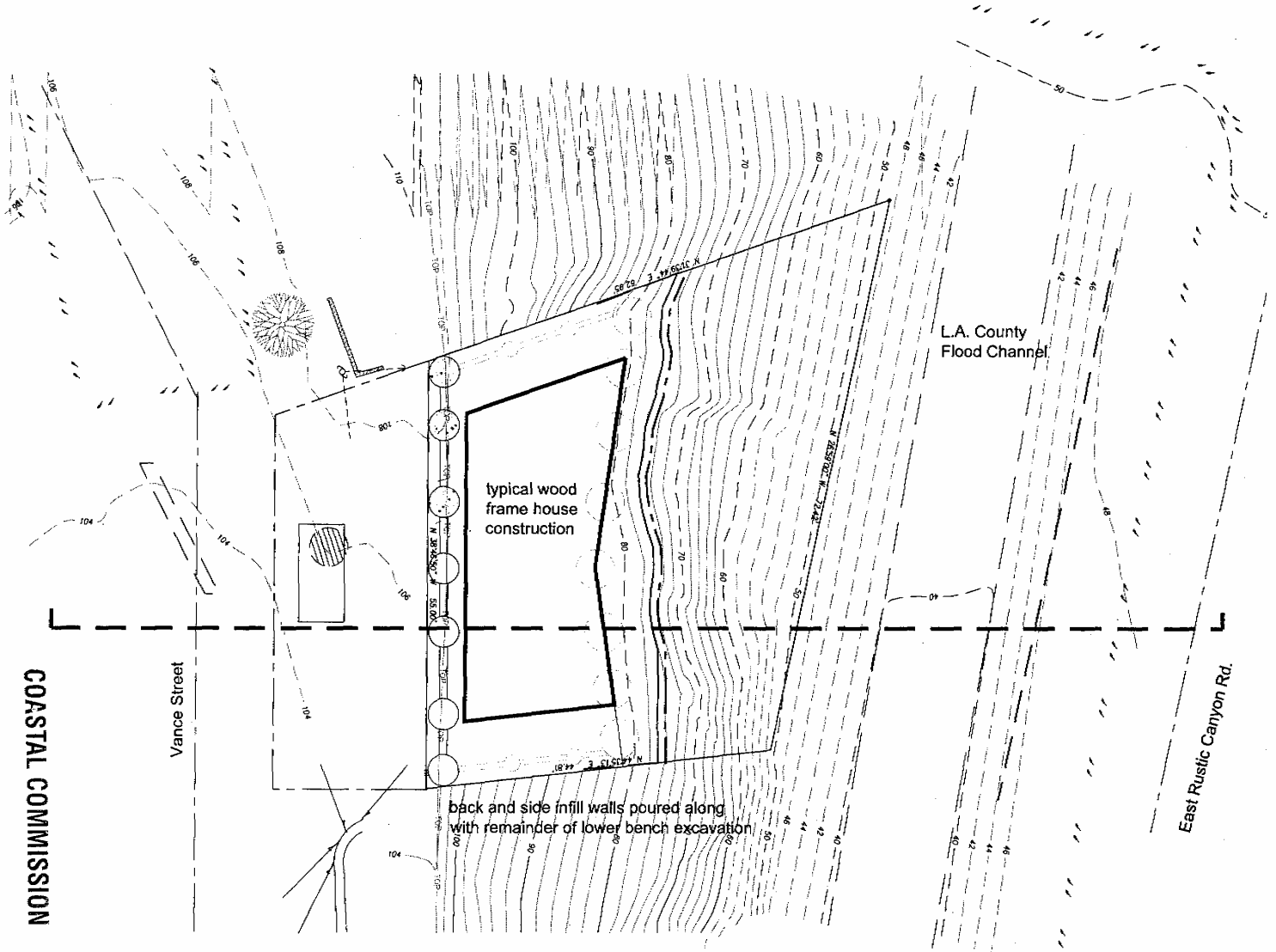


EXHIBIT # 10
PAGE 21 OF 25



COASTAL COMMISSION

EXHIBIT # 10
PAGE 22 OF 25

0 10'

370 N. Vance Street
A5-PPL-11-028
9.6.11

7A: BACKFILL, GRADE BEAMS AND SLAB POURED. TYPICAL WOOD FRAME CONSTRUCTION PROCEEDS

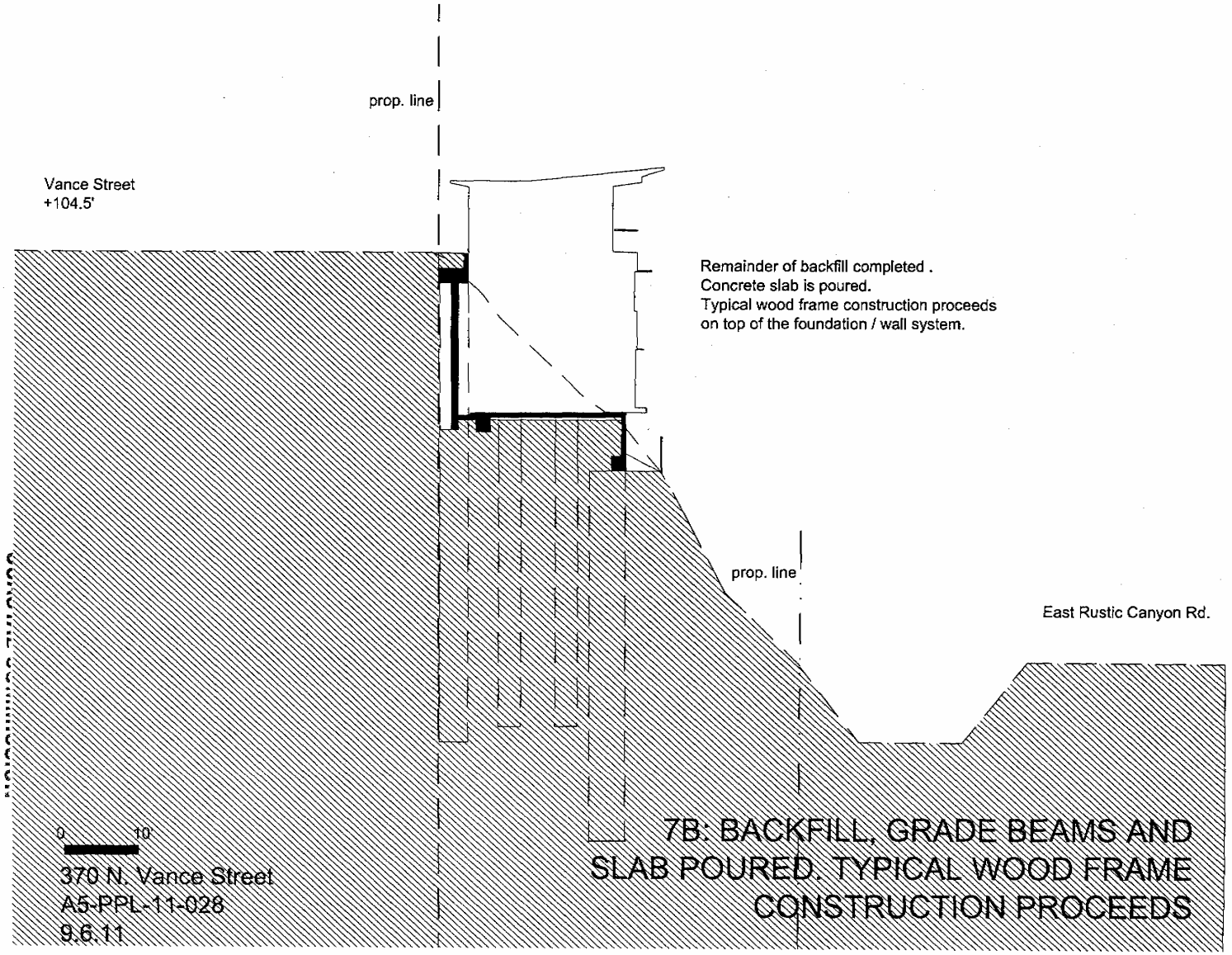
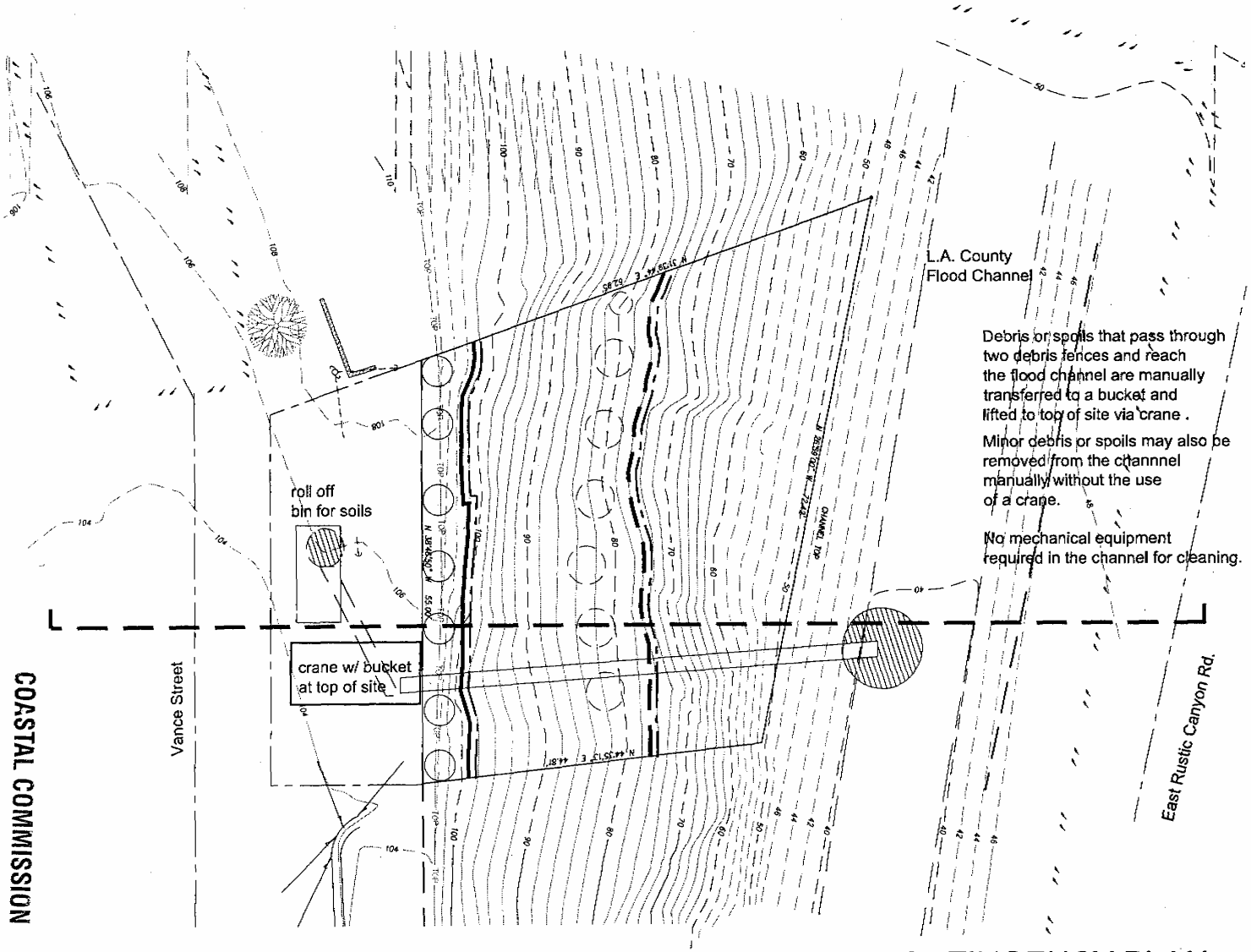


EXHIBIT # 10
PAGE 23 OF 25

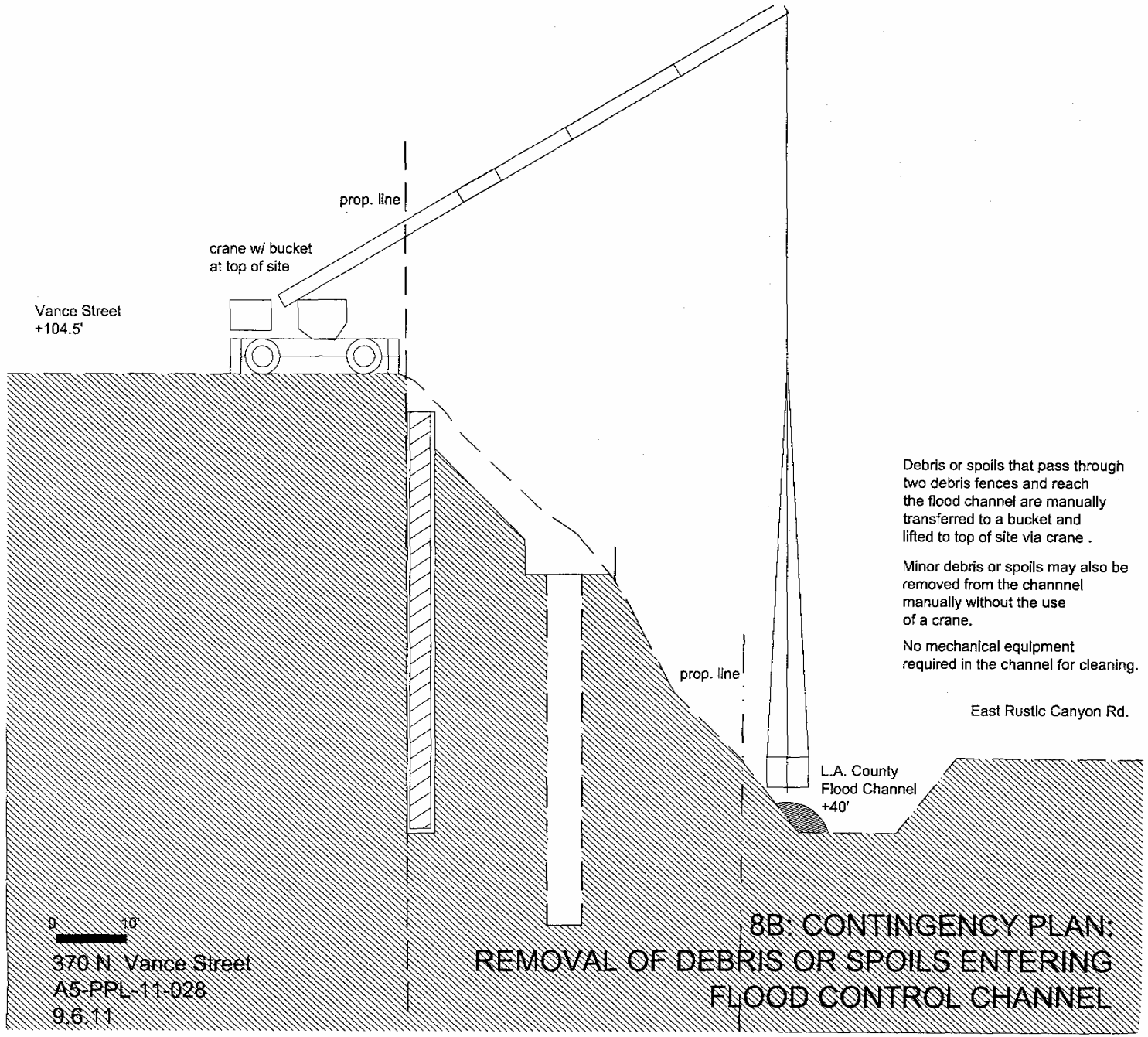


370 N. Vance Street
A5-PPL-11-028

8A: CONTINGENCY PLAN: REMOVAL OF DEBRIS OR SPOILS ENTERING FLOOD CONTROL CHANNEL

COASTAL COMMISSION

EXHIBIT # 10
PAGE 24 OF 25



Debris or spoils that pass through two debris fences and reach the flood channel are manually transferred to a bucket and lifted to top of site via crane .

Minor debris or spoils may also be removed from the channnel manually without the use of a crane.

No mechanical equipment required in the channel for cleaning.

370 N. Vance Street
A5-PPL-11-028
9.6.11

8B: CONTINGENCY PLAN: REMOVAL OF DEBRIS OR SPOILS ENTERING FLOOD CONTROL CHANNEL

EXHIBIT # 10
PAGE 25 OF 25

GROUP DELTA CONSULTANTS

Geotechnical Engineering

Geology

HydroGeology

Earthquake Engineering

Materials Testing & Inspection

Forensic Services

September 9, 2011

GDC Project No.: L-967

Mr. Gerald B. Kagan
380 East Rustic Road
Santa Monica CA 90402

SUBJECT: 375 NE Rustic Road//370 N. Vance St.
Pacific Palisades, CA (the "Site").

Dear Mr. Kagan,

On September 8th, 2011, I reviewed a contractor's report entitled "Site Grading and Concrete Pile Sequence" by Robert G Holcomb II which was sent to the California Coastal Commission on September 6, 2011. You will recall that we have repeatedly an engineering report for some time to determine whether the proposed project could be safely constructed. Below are my review and comments of the contractor's report, which, in my opinion does not meet our previous requests nor accomplish the desired result.

Debris fences

Page 1 of the contractor's report describes the proposed placement of two 5-feet high debris fences supported by posts. The posts consist of 2-inch steel pipes, spaced at 8-feet on center and embedded 3-feet. Issues with the submittal:

- It is unclear if the Holcomb report has been reviewed and approved by the owner's engineer, since the report and figures lack the customary signature and stamp by a registered engineer. Normally the construction sequence is part of the recommendations prepared by a licensed engineer.
- No engineering calculations have been produced to support the fence design. Generally, engineer's calculations include:
  - Velocity estimates (see example in Fig.1 below)
  - Foundation capacity analyses, e.g., to ensure that the posts are not unearthed
  - Storage volume estimates, etc.
- Fig.1 below shows that debris velocities above 10 feet per second are likely in the vicinity of the proposed mid-slope debris fence. With such velocities, and large post spacing on a steep slope, in my opinion, it is unlikely that the proposed mid-slope fence is capable of resisting and storing even a small slope failure during construction. The proposed fence does not appear to be substantial nature and without engineering calculations, its effectiveness cannot be assessed.
- The foundation recommendations in item 3 of "Site Preparation" (page 1) indicate that the pipes should be embedded "3 feet into competent soil or concrete". These recommendations are unclear and confusing! On this steep slope, at what depth do the competent soils start? Where are the calculations showing that the post will not overturned or become unearthed?

- No fence is located at the toe of slope leaving the flood control channel vulnerable, especially, from debris originating below the proposed mid-slope fence, the steepest and most vulnerable portion of the slope.

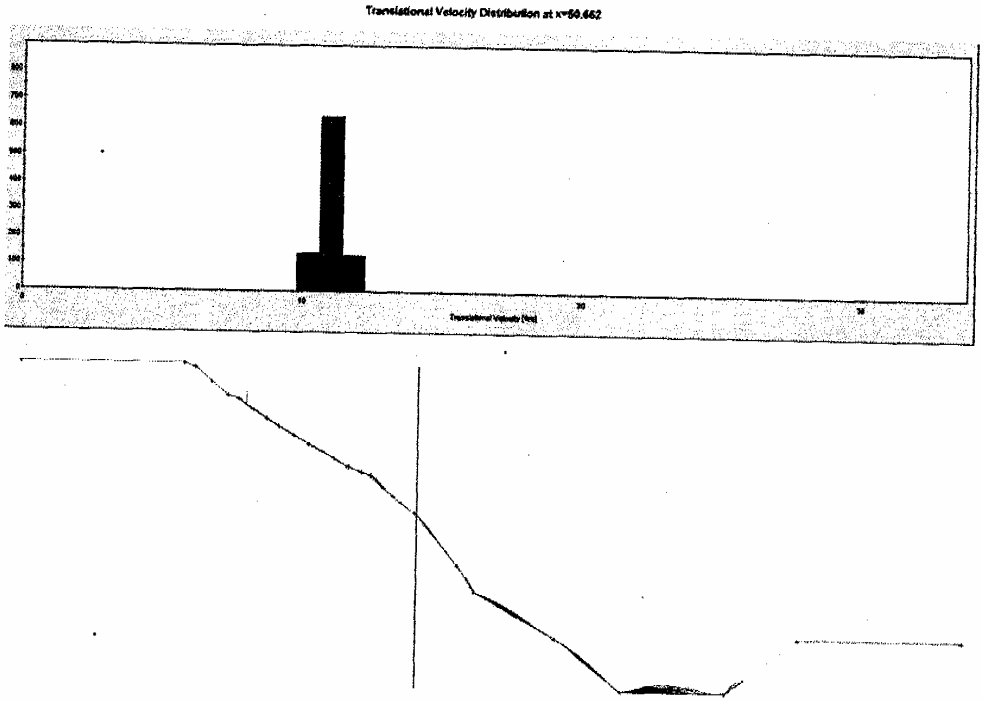


Figure 1

Pile Reinforcement

Figures 3A and 3B describe the placement of steel reinforcement for the upper caissons from a flat area that is approximately 20-feet by 55-feet. The report also indicates that the steel reinforcement may be fabricated on site or off site. Issues with the submittal:

- If the reinforcement is fabricated on-site: From the information provided, it does not seem possible, for a contractor to fabricate 60-feet+ cages and place them using a crane (Fig.3B) from the limited area that remains in Fig.3A (please note the space occupied by the crane).
- If the reinforcement is fabricated off-site: In my experience it is extremely difficult to transport through residential streets beams or reinforcement cages greater then about 50-feet in length. Hence, I would expect that, at a minimum, the reinforcement cages would need to be brought in sections and spliced on site before they can be lowered as is shown in Fig.3B. How this

GROUP DELTA CONSULTANTS

EXHIBIT # 11
PAGE 2 OF 3

would be done is not explained. At a minimum more details are needed to understand how the procedure can be performed from limited space left in Fig.3A (again, please note the space occupied by the crane).

Excavation of Lower Bench

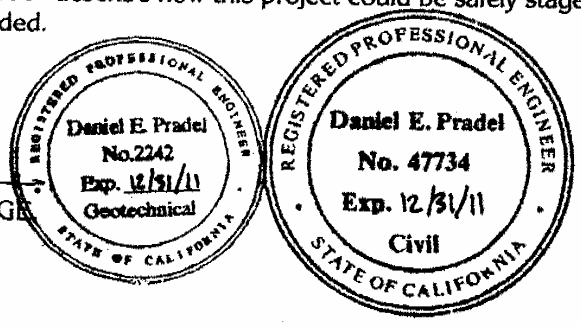
Figures 4A and 4B show the bench already excavated. The text of the contractors report does not explain how this excavation will be done. Issues with the submittal:

- One possibility presented is to drive down diagonally a mini excavator. It is highly unlikely that this can be done safely on such a steep slope.
- Another possibility presented is to excavate the bench manually. This process will be very time consuming and will have to comply with Cal-OSHA requirements. Again, how this will be accomplished is not explained. At a minimum more details are needed to understand how the excavation will be safely performed.

An adequate engineering report to describe how this project could be safely staged at the site has still not been provided.

Sincerely,
Group Delta Consultants, Inc.

Dr. Daniel Pradel, P.E. G.E. D.GE
Principal Engineer



COASTAL COMMISSION

EXHIBIT # 11
PAGE 3 OF 3

From: GBKagan@aol.com

Sent: Friday, September 16, 2011 9:57 AM

To: Chuck Posner

Subject: Re:Appeal No. A-5-PPL-11-28; Application No. 5-11-56--370 Vance 375 E. Rustic

Good morning,

I understand that the above matters are on the agenda for the October 5, 2011 meeting of the Commission and that the Staff Report will be issued sometime next week.

As you know, the proposed project is highly controversial (and opposed by almost the entire community) due to the lack of applicant proof that the project can be constructed safely on the very precarious intended site. In preparing the Staff Report, I trust, and expect, that you will consider the following FACTS.

1. The site, in a high severity fire, fault and liquefaction zone, is on a very steep slope (60-78 degrees) on which there are 5 vacant lots, none of which are in proximity to existing, comparable development (in fact, a piece of the foundation of an earlier constructed building can be seen at the toe of the hillside).

2. The hillside has a history of landslides/flood causing significant damage to area property.

3. The site contains virtually no flat land and is bordered at the top by narrow, substandard Vance Street (incapable of staging the construction, storing equipment and spoils, and assuring through traffic), and at the bottom by the Creek abutting East Rustic Road. It remains unclear how anticipated massive hillside cuts and drilling of multiple caissons can be safely engineered.

4. Geotechnical Engineer Dr. Daniel Pradel, has issued numerous reports (including 4/22/09, 9/29/10, 4/25/11, 9/9/11), emphasizing the lack of applicant information addressing the construction hazards of the project and how it can be safely staged. Such information has never been provided (there certainly has been much information "circling such issues," but none that adequately addresses them).

5. The Staff requested that the applicant file a standard construction sequence report, and a contractor (not an engineering) report was filed by the applicant with your office, about which Dr. Pradel provided the details of such report's inadequacies and deficiencies in his 9/9/11 letter to you. He directly stated that "an adequate engineering report to describe how the excavation will be safely performed has still not been provided." The (almost humorous) inadequacies of the applicant's 9/6/11 report provide little comfort that this project would not result in a major construction accident.

6. The most problematic, and steepest, bottom third of the site does not and is not intended by the applicant(even after completion of the project), to meet the minimum industry (engineering) and City of L.A. minimum standard of a factor of safely. Any project on such a steep slope must be required to meet such standard.

7. Although a CDP was approved by the City's acting chief zoning administrator and upheld by a 3-1 vote of the westside planning commission, (with respect to which the Staff found a Substantial Issue), the City has never commented on the points made in its own Staff Investigator Report dated 10/1/08 in which Mr. Andrew Bangali-Pessima, Zoning Investigator, stated "...the applicant's failure to include any aspect of the determinants of hillside development renders this application [for a CDP] inadequate." Such report also noted (1) the applications failure to address "development of properties on a designated Hillside Limited Street," (2) that the applicant based its proposal "on the prevailing developments of eight surrounding properties and reiterated that the proposed building will be very similar to developments in the area," of which there are none; (3) that "it is indicated that the engineering and architectural design of the building structure ensures compatibility with developments of other properties in the neighborhood," of which there are none that are so compatible. Such points have never been addressed by the applicant or the City and are ignored in a 2010 report of the then zoning staff investigator.

8. As pointed out repeatedly by Dr. Pradel, there is no adequate plan available to this day to show how this project can be constructed safely. This "trust me" attitude of the applicant cannot be allowed to replace the need for responsible scientific grounds to show how such safe construction can be accomplished.

Please be sure that the Staff deals with each of these and the many other safety and environmental issues raised over the 4 year period in which the applicant has attempted to gain approval for this project with use of the same facts, restated in different ways, but never responding to the key issues. The character and safety of a unique area is at stake and it behooves everyone to consider the ramifications of this project.

Thank you.

Gerald B. Kagan

EXHIBIT # 12

PAGE 1 OF 1

Grover Hollingsworth and Associates, Inc.

September 19, 2011
GH13327-G

Robert Dolbinski
1122 Idaho Avenue
Santa Monica, California 90403

Subject: Additional Response #2 to Fourth-Party Geotechnical Review, Proposed Three-Story Residence, Lot 204, Tract 1719, 375 N. East Rustic Road, Los Angeles, California.

Reference: Reports by Grover-Hollingsworth and Associates, Inc.: Geologic and Soils Engineering Exploration, Proposed Three-Story Residence, dated March 30, 2007; Change of Consultant Letter and Response to City Correction Letter, dated May 14, 2007; Response to City Correction Letter #2, dated August 7, 2007; Response to City Correction Letter #3, dated October 25, 2007; Response to Fourth-Party Engineering Geologic Review, Proposed Three-Story Residence, dated January 13, 2009; Reported Post-Northridge Earthquake Ground Crack on Vance Street, dated January 14, 2009; Site Visit and Revised Seismic Design, dated January 15, 2009; Response to Fourth-Party Engineering Geologic Review, dated July 29, 2009; and Additional Response to Fourth-Party Geotechnical Review, Proposed Three-Story Residence, dated September 15, 2009.

City of Los Angeles Correction Letters, dated May 1, 2007, May 14, 2007, June 26, 2007, and September 13, 2007; and Approval Letter, dated December 19, 2007.

County of Los Angeles, Department of Public Works, Mitigated Negative Declaration Letter, dated January 7, 2009.

Dear Mr. Dolbinski:

As requested, we are providing the following comments after review of the latest letter from Dr. Daniel Pradel, now with Group Delta Consultants. It is becoming increasingly clear with each successive letter that Dr. Pradel has been searching for any item that might provide another obstruction to the project on behalf of the property owners below, who have attempted to block the project by any means. The subject project has received

greater scrutiny than any other single-family project I have been involved with in my 30 years of practice. Both the City and County of Los Angeles, Building and Public Works Departments have reviewed the project. Two independent geologists and engineers have also provided critical comments and review, at least some of which have been reasonable and appropriate (latest Group Delta letter excepted). The reasonable comments by the independent reviewers have been answered and our answers approved by the City and County.

The recent Group Delta Consultant's letter dated September 9, 2011, essentially addresses constructability issues. These issues are normally not addressed by geotechnical consultants. Dr. Pradel focuses on the adequacy of the debris fences, but appears to miss the intent of the fences and their importance in protecting offsite properties. The debris fence will be located a short distance downslope from the drilling area and are intended to capture any nuisance dirt and cobbles that might fall from the auger during drilling. The fences are not intended to contain a "slope failure," as such a failure is not anticipated.

The existing channel provides a secondary line of defense for any material that might breach either fence. The channel is more than adequate to protect offsite properties from any debris that might fall from the site during construction. Since the owners have agreed not to install the foundation system during the winter months, there is no hazard posed to offsite owners from minor debris that might temporarily reside in the channel until it is removed.

Should you have any further questions, please feel free to call.

Respectfully submitted,

ROBERT A. HOLLINGSWORTH
E.G. 1265/G.E. 2022

RAH:dl

xc: (4) Robert Dolbinski
(1) Robert Dolbinski, via email

COASTAL COMMISSION

EXHIBIT # 13
PAGE 2 OF 2

ROBERT G. HOLCOMB II

"A GENERAL ENGINEERING CONTRACTOR"

Ca, license # 491269

6206 HETTY STREET FONTANA, CALIFORNIA 92336

Phone 909 463-0498 * cell 626 487-5233 * fax 909 463-1043

****

September 16, 2011

Responses to the report by Daniel Pradel of the Delta Group.

The purpose of a debris fence is to catch incidental items which might escape the drill or be inadvertently pushed towards the edge of the excavation. The fencing is not for the purpose of storing spoils or materials. The purpose of locating the fencing close to the bench, in lieu of bottom of the slope, is to catch items before they gain momentum and force.

If debris makes it way past the two debris fences, we have outlined a contingency plan for the collection of the debris from the channel below, without impacting any neighbors.

Delivery and Installation of Rebar: Please see the attached diagrams.

The report from Mr. Pradel indicates a difficulty transporting greater than 50 feet in length. I have recently delivered rebar in 72 foot lengths to a project at 3321 Beverly Ranch Road. This was brought up Benedict Canyon to Mulholland to our site. Projects on hillsides are currently under construction on neighboring Amalfi Drive, which carries a much higher traffic volume and consists of two, narrow traffic lanes. Almost anything can be done if you have the experience. The rebar, which will vary in length, can be easily delivered and assembled on site for this project.

The City of Los Angeles has issued a permit for use of the public right of way, subject to the condition that the temporary fencing surrounding the permit area allows for the passage of one lane of travel; sufficient room exists for two cars to pass the proposed fencing.

There may be times during construction when one lane of Vance will be required to offload the rebar from a delivery truck and raise it into staging area. Offloading of the rebar may take 30 to 45 minutes. During these periods, a lane of Vance Street will still be open to allow vehicles to go either north or south of the site along Vance Street to reach Chautauqua Boulevard. Note that Vance Street is a loop road with exceptionally light traffic, as it serves primarily local residents. One resident at a public hearing described the length of Vance Street along the project site as "The Alley". Holcomb Engineering builds its own cages on site. We form the steel as we need it. The cages will be tied, inspected and then lowered into the excavations as they are drilled.

Excavation of the Lower Bench:

If we choose to excavate the lower bench using manual labor, it would be accomplished by my crew in 4 days and in compliance with applicable safety standards. The spoils from the lower bench would be placed in a flat bucket and brought up to Vance Street with a crane, and then placed into a roll off bin. Alternatively, if feasible after the upper piles are completed, the option exists to create an earthen ramp from the top bench down the lower bench with a combination of manual labor and / or an excavator; this is a procedure we do all of the time on similarly sloped sites.

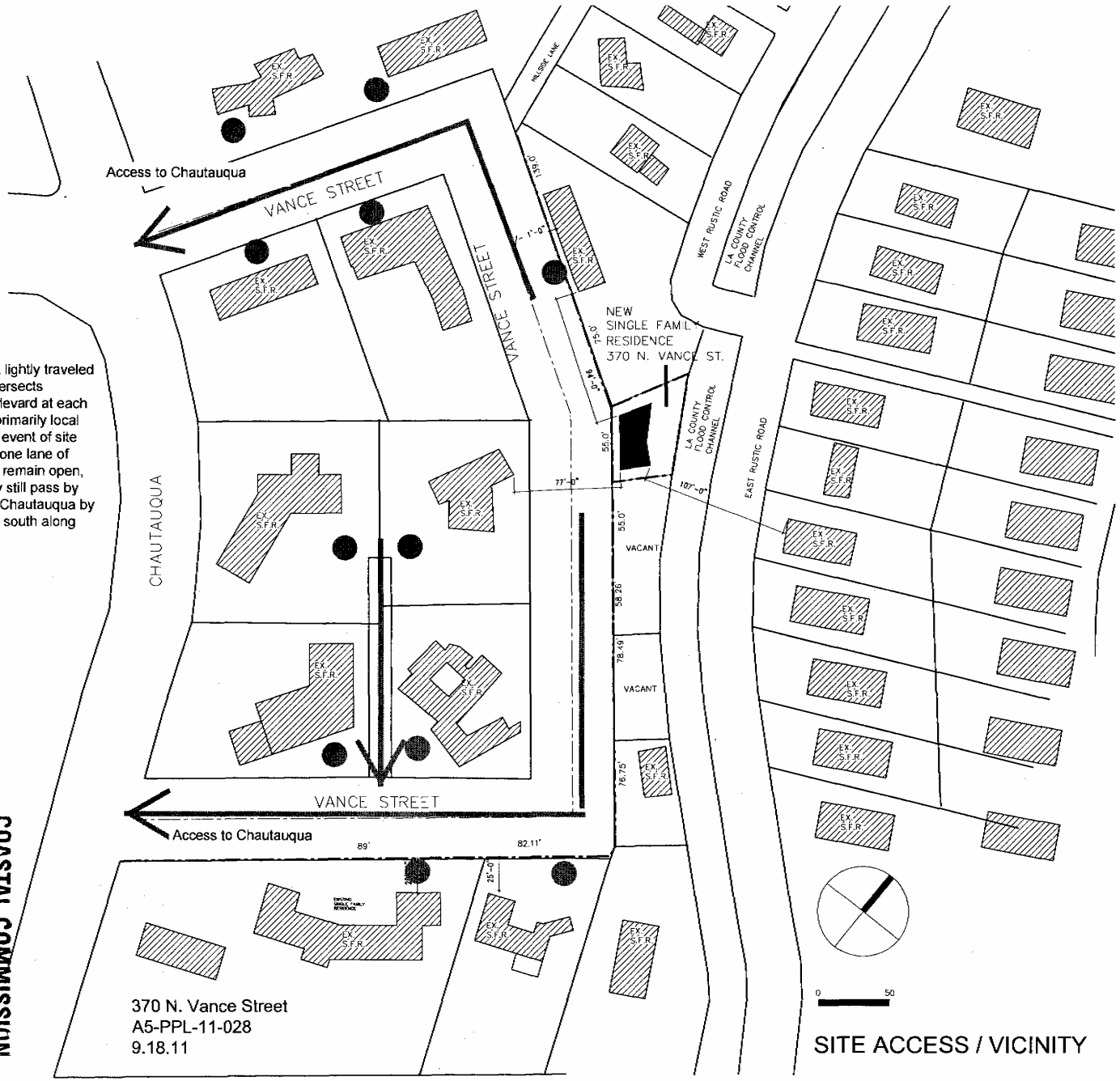
Holcomb Engineering Contractors Inc. has about 50 employees. Some have been with us for 30+ years. While our type of work has risk, our safety record matches the best of any contractor in Southern California. If you want references for our ability to do this project, ask any LADBS grading inspector or contact:

SEC Civil Engineering
Parker Resnick Engineering
Sam Samara Engineering
Gordon Polon Engineering
Grover Hollingsworth
The Byer Group (formerly Kovack Byer)
Ralph Stone and Associates
Jon Irvine Geotechnical

We have done projects like this for nearly every major engineering company in Southern California. We invite you to come watch us do this one.

Sincerely,

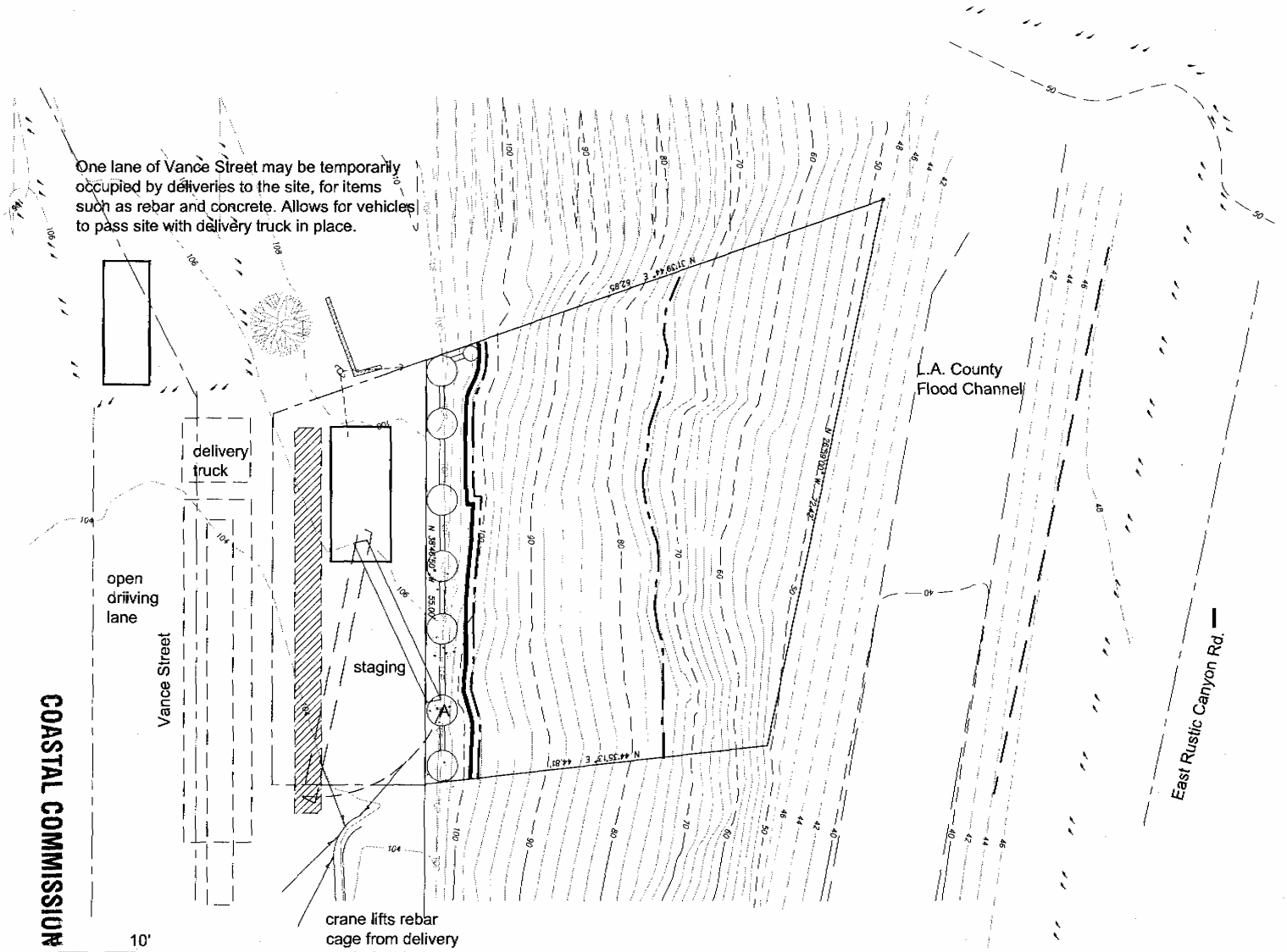
Robert Holcomb



Vance Street is a lightly traveled loop road that intersects Chautauqua Boulevard at each end and serves primarily local residents. In the event of site delivery, at least one lane of Vance Street will remain open, and vehicles may still pass by the site, or enter Chautauqua by traveling north or south along Vance Street.

COASTAL COMMISSION

EXHIBIT # 14
PAGE 3 OF 4



COASTAL COMMISSION

EXHIBIT # 14
PAGE 4 OF 4

370 N. Vance Street
A5-PPL-11-028
9.18.11

REBAR DELIVERY / ASSEMBLY

CITY OF LOS ANGELES
CALIFORNIA

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

RAYMOND S. CHAN, C.E., S.E.
INTERIM GENERAL MANAGER

GEOLOGY AND SOILS REPORT APPROVAL LETTER

November 12, 2009

LOG # 66421
SOILS/GEOLOGY - 2

Robert Dolbinski
1122 Idaho Ave
Santa Monica, CA 90403

TRACT: 1719
LOT(S): 204
LOCATION: 375 N. East Rustic Road

CURRENT REFERENCE REPORT/LETTER(S)	REPORT NO.	DATE(S) OF DOCUMENT	PREPARED BY
Geology/Soils Report	GH 13327-G	09/15/2009	Grover Hollingsworth
Oversized Doc(s)	"	"	"
Geology/Soils Report	"	07/29/2009	"
Oversized Doc(s)	"	"	"
Geology/Soils Report	"	01/15/2009	"
"	"	01/14/2009	"
"	"	01/13/2009	"
Oversized Doc(s)	"	"	"
Soils Report	09-011-L	04/22/2009	Praad Geotechnical, Inc.
Geology Report	S&A #081004	10/10/2008	Slosson & Associates

PREVIOUS REFERENCE REPORT/LETTER(S)	REPORT NO.	DATE(S) OF DOCUMENT	PREPARED BY
Dept. Approval Letter	58134-03	12/19/2007	LADBS - Grading
Soil Report	GH 13327-G	10/25/2007	Grover Hollingsworth
Dept. Correction Letter	58134-02	09/13/2007	LADBS - Grading
Soil Report	GH 13327-G	08/07/2007	Grover Hollingsworth
Dept. Correction Letter	58134-01	06/26/2007	LADBS - Grading
Soil Report	GH 13327-G	05/14/2007	Grover Hollingsworth
Dept. Correction Letter	58134	05/01/2007	LADBS - Grading
Soil Report	GH 13327-G	03/30/2007	Grover Hollingsworth
Dept. Approval Letter	47244-02	01/27/2006	LADBS - Grading
Modification Request	13299	01/24/2006	"

The current referenced reports dated 01/13/2009, 01/14/2009, 01/15/2009, 07/29/2009 and

09/15/2009 have been reviewed by the Grading Division of the Department of Building and Safety. The January 13, 2009 referenced report is in response to a third party engineering geologic review (Slosson and Associates, 10/10/2008) of the prior referenced Grover Hollingsworth reports. The January 14, 2009 referenced report addresses a reported post-Northridge earthquake ground crack on Vance Street. The January 15, 2009, referenced report addresses a site visit for update purposes and revised seismic design for the proposed three-story residence at the subject address. The July 29, 2009 and September 15, 2009 reports are in response to a fourth party geotechnical engineering review (Praad Geotechnical, Inc., 04/22/2009) of the prior referenced Grover Hollingsworth reports, and also provide a response to additional information requested by the Department.

The Department previously conditionally approved construction of a three story structure on January 27, 2006, Log #47244-02, and again with revised construction recommendations on December 19, 2007, Log # 58134-03.

As of January 1, 2008 the City of Los Angeles was required to adopt the new 2007 California Building Code. The new code contains several new provisions including basement walls and other walls in which horizontal movement is restricted at the top to be designed for at-rest lateral earth pressure. These requirements apply to all projects where the permit application submittal date is after January 1, 2008.

The reports are acceptable, provided the following conditions are complied with during site development:

(Note: Numbers in parenthesis ( ) refer to applicable sections of the 2008 City of LA Building Code. P/BC numbers refer the applicable Information Bulletin. Information Bulletins can be accessed on the internet at LADBS.ORG.)

1. All conditions of the LADBS Approval letter dated 12/19/2007, Log #58134-03 shall apply, except where superseded herein.

2. All recommendations of the current reports which are in addition to or more restrictive than the conditions contained herein shall be incorporated into the plans.

3. Permanent shoring walls shall be utilized to support the excavation for the building pad, as recommended. Lateral pressures recommended for permanent structures shall be utilized in the shoring design.

4. The two rows of piles shall be designed to resist a total minimum lateral load of 36,827 pounds per lineal foot width (plfw). The downslope (lower) pile row shall support a minimum lateral load of 16,619 plfw and the upslope (upper) pile row shall support the remainder of the load, as recommended on pages 3 and 4 of the 07/29/2009 report. The lateral loads on the piles shall be applied from the ground surface to the upper 1.5 safety factor surface (approximately 31 feet for the downslope pile row and 40 feet for the upslope pile row, see cross section B-B', included in the 07/29/2009 report).

5. Basement walls and other walls in which horizontal movement is restricted at the top shall be designed for the at-rest pressure specified on page 2 of the 09/15/2009 report (1610.1).

All surcharge loads shall be included into the design.

6. The seismic design shall be based on a Site Class D, as recommended. All other seismic design parameters shall be reviewed by LADBS building plan check.

7. Grading shall be scheduled for completion prior to the start of the rainy season, or detailed temporary erosion control plans shall be filed in a manner satisfactory to the Grading Division of the Department and the Department of Public Works, Bureau of Engineering, B-Permit Section, for any grading work in excess of 200 cu yd. (7007.1)
1828 Sawtelle Blvd., 3rd Floor, West LA (310) 575-8388

8. All concentrated drainage shall be conducted in an approved device and disposed of in a manner approved by the LADBS. (7013.10)

Jeffrey T. Wilson
JEFFREY T. WILSON
Engineering Geologist I

J. ADOLFO ACOSTA
Geotechnical Engineer

JTW/JAA:jtw/jaa
Log No. 66421
213-482-0480

cc. Grover Hollingsworth and Associates, Inc., Project Consultant and Applicant
WL District

5-11-056
COASTAL COMMISSION
A-5-PPL-11-028
EXHIBIT # 15
PAGE 3 OF 3

Chuck Posner

From: Donalpoppe@aol.com
Sent: Thursday, September 15, 2011 2:37 PM
To: Chuck Posner
Subject: Case A-5-PPL-11-028?bcc=jkorody@eclip.com

Dear Mr. Posner:
I support the application to GRANT a CDP for this site. I have read the numerous soil and geology reports filed and APPROVED with the City of Los Angeles grading department.

One fact that is not noted is the construction of the proposed dwelling with stabilize the slope. I was present at several of hearings with the Zoning Administrator and the contractor for the foundation presented a time frame to drill and place the caissons to support the hillside that would be accomplished in a timely manner.
This slope will continue to deteriorate unless something is constructed to stabilize the slope. This modest house and it's foundation will serve that purpose.
Best Regards,
Donnal Poppe

Chuck Posner

From: David Jackson [getjackson@msn.com]
Sent: Tuesday, September 13, 2011 2:45 PM
To: Chuck Posner
Cc: Jamie Korody; Katie Sparks; Diane Duarte; Sonoma VanBrunt; Bill Rosendahl
Subject: construction proposal on 375 E Rustic Road, Santa Monica

Dear Mr. Posner,

As a resident of Rustic Canyon, in the Santa Monica/Palisades area of Los Angeles, I am writing you concerning a pending proposal to build a house at 375 East Rustic Road, Santa Monica. It is on lot 204, tract 1719; the permits are filed under Dolbisnki/Chen. I live about six houses downstream from the proposed construction, and up to this point, I have tried to remain neutral as to the wisdom of building a home on such a precarious site.

After reviewing the report of engineer Daniel Pradec, Ph.D, concerning this project, I believe there has been a grievous mistake by the City of Los Angeles in issuing any building permit for this site. It is on razor-thin parcel of flat land at the top (on Vance Street), and the remainder of the property is a very steep and unstable slope that terminates in the concrete flood channel directly below. There is simply no stable land to build a home, and if one is attempted, it will certainly cause significant erosion on the sandy hillside into the flood channel. In 1994, during the Northridge earthquake, a section of that same steep hillside collapsed into the creek, blocking it and sending a tremendous cloud of dust into the neighborhood. Many residents became ill from the resulting release of spores. The flood channel remained blocked until the city dredged it out two days later. If there had been rain, the entire neighborhood would have flooded.

If anyone from the Coastal Commission visits the proposed site, they would quickly see that there is simply no land to build a home. It is air, a sandy unstable extreme slope and less than five feet of land atop. Construction within this zone will be impossible. Certainly debris will fall into the creek, which flows year round directly into Santa Monica Bay, not 1/4 mile downstream.

Please deny the proposed construction. It is folly and deception by the applicants as to its viability.

Thank you for considering my comments.

Sincerely,
David Jackson
344 East Rustic Road
Santa Monica, CA 90402
310.702.4258

Chuck Posner

From: WBFILMS@aol.com
Sent: Tuesday, September 13, 2011 6:06 PM
To: Chuck Posner
Subject: Case A-5-PPL-11-028?bcc=jkorody@eclip.com

PLEASE do not allow this project to happen.

My home sits on the Channel across West Channel Road on Channel Lane.

My home was damaged in the 1994 earthquake due to the collapse of the hillside on Rustic Road. My house was flooded because the creek water had no where to go. If this project is allowed to proceed I expect there will be horrific damage to those of us that are "downstream".

This project is simply ridiculous. There is no way this project can be stable OR safe.

There are plenty of homes to purchase in the Canyon. They should just buy one.

Thanking you in advance for your careful consideration to stop this project,

Cynthia Wright Banks
14822 Channel Lane
Santa Monica Cyn, CA 90402

Chuck Posner

From: Leon/Adrienne Carrere [carrere@cox.net]
Sent: Wednesday, September 14, 2011 10:13 AM
To: Chuck Posner
Subject: Case A-5-PPL-11-028?bcc=jkorody@eclip.com

You have got to be kidding . Stop this insanity , leave the Canyon alone . Adrienne Carrere

Chuck Posner

From: Cynthia Kagan [cynthia@cynthiakagan.com]
Sent: Thursday, September 15, 2011 9:28 AM
To: Chuck Posner
Subject: Case A-5-PPL-11-028?bcc=jkorody@eclip.com

Dear Mr. Posner,

This is a hillside that begs to be left alone. Its steep vertical slope (upwards of 78 degrees), its unstable geological make-up, its slide history, its location in a severe fire hazard and fault zone as well as liquefaction zone, its designation by the City of Los Angeles in the early 1900's as a "hazardous hillside" for its inherent dangers, and its skeletons, i.e. the remains of a one-time home's concrete foundation, all of which is well documented, are reasons enough to delay commencement of any development on this hillside.

The City of Los Angeles ignored its very own minimum factor of safety (and the geology industry standard) in order to approve this project. This, despite a Zoning Administrator's Investigative Report recommending that a Coastal Development Permit NOT be granted, as well as a highly critical Report of expert geologist and UCLA professor, Dr. Daniel Pradel. And the developers have not shown, to this day, that this project can be built and maintained safely.

The developers proselytize they are green. There is nothing green about carving out nearly 25 feet of hillside. There is nothing green about creating enough air, noise and dirt pollution, over a long span of construction, to affect EVERY resident of this Canyon. Nor is there anything green about excavating a flora-filled hillside to replace it with steel and cement. And there is certainly nothing green about building a 3-story house requiring the support of at least 16 concrete caissons, each several feet in circumference that must be drilled and poured deep into this steep slope.

With all this documented and substantial, scientific evidence, and the pleas of its more than 100 Canyon residents (also documented), the Coastal Commission should not pick and choose when it plays toothless. It should not approve this development!

Is every verdant and serene pocket of land target zero for developers? Irrevocable damage and immeasurable eyesores have been created in the quest to place one's stamp of existence (and ego) on this earth.

Cynthia Kagan

Cynthia Kagan
www.cynthiakagan.com
studio: 310.573.1113

9/15/2011

Chuck Posner

From: Mayorbehr@aol.com
Sent: Wednesday, September 14, 2011 5:49 PM
To: Chuck Posner
Cc: jkorody@eclip.com
Subject: Case A-5-PPL-11-028?bcc=jkorody@eclip.com

Mr. Posner

It is clear to me as a Santa Monica Canyon resident that the project should NOT be allowed. My son is a fourth generation Santa Monica Canyon resident. Our home has been in our family for over 100 years. Since then we have seen many catastrophes - namely the floods in the early 70's, the Northridge earthquake, which destroyed many houses on the prevailing ridge line above Vance Street which ultimately resulted in those houses sliding down onto PCH, and the Topanga /Palisades fires in the 80's. This project could be a cause in itself of one of those.

Why, I wonder would anyone allow someone to build a home on such a precarious hillside with no thought to the possible impact of unforeseen dangers that might lurk beneath the soil. I am highly aware of that since my family has been in the building business for over 60 years. Our specialty is hillside homes.

For these reason and to this end, I would like to see the project denied.

Yours truly

Patti Behr
218 Mabery Rd
SM, 90402

COASTAL COMMISSION

EXHIBIT # 21
PAGE 1 OF 1

Chuck Posner

From: Dizer Duarte [dduarte1111@gmail.com]
Sent: Thursday, September 15, 2011 1:31 PM
To: Chuck Posner
Subject: Re: 375 East Rustic Road, Santa Monica. lot 204 Tract 1719. Permit name: Dolbinski/Chen

Dear Mr. Posner,

I urge you to come to the proposed site and try to justify the city of LA's
decision to grant this absurd permit. One look and common logic will prompt
you to, at minimum, question why, how and what the city could possibly be
thinking.

The "barely there" parcel of land is unstable and dangerous to all of us who
live within the community. The erosion of said property is constant and
fills the flood channel below with debris, plants and cement from an old
house that was on the site years ago that succumbed to the obviously
disintegrating parcel. The city does its best to keep the channel cleaned
out but, in truth, can't keep up with gravity. This hillside is slowly
coming down. The thought of any kind of structure, let alone an entire
house, is frankly insane.

Development of the Dolbinski/Chen parcel will threaten the stability of the
entire hillside running along E. Rustic Rd.

We rely on you and the Coastal Commission, Mr. Posner, to protect us.
Please do.

COASTAL COMMISSION

EXHIBIT # 22
PAGE 1 OF 1

Chuck Posner

From: Nicholas Korody [nikorody@vassar.edu]
Sent: Thursday, September 15, 2011 3:10 PM
To: Chuck Posner
Subject: Case A-5-PPL-11-028?bcc=jkorody@eclip.com

Dear Mr. Posner,

The proposed plan for a new house on Vance Street represent a grave threat to the lives of Santa Monica Canyon residents and the sanctity of the natural environment of the canyon watersheds of Santa Monica. I beg you to demand more time and consideration for the plan. It is simply a greedy and negligent bid for an unnecessary development! Defy the norms of politicians and listen to the people whom you represent! Stop this destruction of one of our last natural areas!

Sincerely,
Nicholas Korody

Chuck Posner

From: margaret lederer [margarleder@verizon.net]
Sent: Friday, September 16, 2011 8:36 AM
To: Chuck Posner
Subject: Case A-5-PPL-11-028?bcc=jkorody@eclip.com

As an immediate neighbor of the proposed development location,I have deep concerns with the effects of such construction upon the environment and safety of our neighborhood and community. Additional water on an already fragile, steep bluff could cause irremeable and costly damage. Even a slight rainfall sends soil down into the creek. Even with more stable soil(see soil maps), our empty lot 205 has diminished considerably. Our Coastal Commission permit was only granted with severe conditions requiring non-water requiring plants. The development proposes using drip lines for regular watering of plants on the hillside. Wet soil in this location would be disastrous

Granting your approval of this permit would set an extremely dangerous precedent with possible liability to the state. I plead with you to reject the application.

Margaret Lederer 390 Vance Street Pacific Palisades

Chuck Posner

From: HBdratch@aol.com
Sent: Friday, September 16, 2011 8:11 AM
To: Chuck Posner
Subject: Case A-5-PPL-11-028?bcc=jkorody@eclip.com

Dear Mr. Posner,

I am against the dangerous development on the cliffside property presently being contemplated. (Case A-5-ppl-11-028bcc). I live nearby and am concerned that adequate safeguards have not been incorporated into this structure, and that it will be a blight on the neighborhood if it goes forward. I urge you to take measures to block such an unfortunate and harmful proposal. Thank you.

Sincerely,

Howard Dratch
329 Sycamore Road
(in the same neighborhood)

310 459 9540

Sept. 29, 2010

City of Los Angeles
Dept. of City Planning
200 North Spring Street
Los Angeles, CA. 90012-4801

Re: ZA 2007-5584-CDP-MEL-Coastal Development Permit

Dear Zoning Administrator:

I have been a Canyon resident since 1975. With regard to their project at 370 N. Vance St., Ms. Chen and Mr. Dolbinski have proceeded properly through the design and permit process. They have complied with any and all building codes, rules, restrictions, allowances, etc., and have received approvals from all of the departments mentioned in the attached letter. I see no reason why their project should be denied or delayed, at great expense to them, by a few neighbors who would willingly deprive them of their lawful property rights, simply because they are opposed to new building in our Canyon. The requirement of an E.I.R on a single family dwelling would be both unnecessary and punitive.

Thank you.

Sincerely,

Judith A. McRae

Judith A. McRae
322 E. rustic Rd.
Santa Monica, CA. 90402

September 22, 2010

City of Los Angeles
Office of Zoning Administration
200 N. Spring Street
7th Floor
Los Angeles, CA 90012

Case No.: ZA-2007-5584-CDP-MEL

Dear Zoning Administrator:

I am an area resident writing to support of the proposed single family residence at 370 N. Vance Street. I am in favor of the project because the residence is sensitively and sustainably designed, well suited to its hillside site, is consistent with applicable zoning and will benefit public safety.

The project has received numerous approvals and reviews from the County of Los Angeles Department of Public Works, City of L.A. Grading Division, L.A. Bureau of Engineering, L.A. Department of Building and Safety, L.A. Fire Department and the State of California.

I urge your careful consideration of the application and swift approval of the project.

Sincerely,

Name BRIAN MURPHY
Title ARCHITECT
Address 150 W. CHANNEL
S.M., CA
90402

COASTAL COMMISSION

EXHIBIT # 27
PAGE 1 OF 1

From: flangen1@vzw.blackberry.net
Subject: **Vance Hearing**
Date: September 30, 2010 8:42:40 PM PDT
To: "Bob Dolbinski & Jeanne Chen" <bdolbinski@verizon.net>
Reply-To: flangen1@vzw.blackberry.net

Dear Bob & Jeanne,
I'm so sorry I didn't make it today. It was really on the top of my list of things to do and then a family emergency took precedence. I can tell you that I did receive a couple of calls from individuals who were wanting clarification and I managed to enlighten them into our camp. Please let me know if there will be another meeting that needs supportive attendance. I hope it went well for you both.
Sincerely,
Frank Langen
Sent from my Verizon Wireless BlackBerry

Jay Farbstein & Associates, Inc.

Needs Assessment Studies

Facility Programming

Design Evaluation

September 24, 2010

City of Los Angeles
Department of City Planning
200 North Spring Street
Los Angeles, CA 90012-4801

Re: **ZA 2007-5584-CDP-MEL – Coastal Development Permit**

Dear Zoning Administrator:

I am an area resident (and Fellow of the American Institute of Architects) writing to support the proposed single family residence at 370 N. Vance Street.

I support the project because the residence is sensitively and sustainably designed, well suited to its hillside site, consistent with applicable zoning regulations, and will benefit public safety through street improvements and stabilization of the slope. Every aspect of the project demonstrates excellence in planning, land use and design – as would be expected from the extraordinarily talented architects who are the designers – and will be the owner/occupants of this dwelling – as can be seen from the rendering showing what the house will look like from the street.

The project has received numerous approvals from the County of Los Angeles Department of Public Works, City of Los Angeles Grading Division, Department of Building and Safety and the Bureau of Engineering. I urge your consideration of the application and swift approval of the project.

Sincerely,

Jay Farbstein & Associates, Inc.

Jay Farbstein

Jay Farbstein, PhD, FAIA, President

1500 Rustic Lane• Pacific Palisades, CA 90272 • Phone: 310 454-6700 • Fax: 310 388-1330

September 23, 2010

City of Los Angeles
Department of City Planning
200 North Spring Street
Los Angeles, CA 90012-4801

Re: ZA 2007-5584-CDP-MEL – Coastal Development Permit

Dear Zoning Administrator:

I am an area resident writing to support of the proposed single family residence at 370 N. Vance Street.

I am supporting the project because the residence is sensitively and sustainably designed, well suited to its hillside site, is consistent with applicable zoning regulations and will benefit public safety through street improvements and stabilization of the slope.

The project has received numerous approvals from the County of Los Angeles Department of Public Works, City of Los Angeles Grading Division, Department of Building and Safety and the Bureau of Engineering.

I urge your consideration of the application and swift approval of the project.

Sincerely,

Lynne Litt

Owner

633 Kingman Avenue

September 27, 2010

City of Los Angeles
Department of City Planning
200 North Spring Street
Los Angeles, CA 90012-4801

empowering project owners

950 So. Grand Avenue
4th Floor
Los Angeles, CA 90015
213.748.3431 tel
213.748.3491 fax

Sarah Meeker Jensen, AIA
President
sjensen@jensenpartners.com

Re: ZA 2007-5584-CDP-MEL – Coastal Development Permit

Dear Zoning Administrator:

I am an area resident writing to support of the proposed single family residence at 370 N. Vance Street.

I am supporting the project because the residence is sensitively and sustainably designed, well suited to its hillside site, is consistent with applicable zoning regulations and will benefit public safety through street improvements and stabilization of the slope.

The project has received numerous approvals from the County of Los Angeles Department of Public Works, City of Los Angeles Grading Division, Department of Building and Safety and the Bureau of Engineering.

I urge your consideration of the application and swift approval of the project.

Sincerely,

Sarah Meeker Jensen

Sarah Meeker Jensen

333 Sycamore Road, Santa Monica 90402

(310) 454-9300

Chen, Jeanne

From: Mike Deasy [mdeasy@deasypenner.com]
Sent: Saturday, November 15, 2008 12:35 PM
To: Chen, Jeanne
Subject: RE: Potential single family residence on Vance Street

Hello Jeanne:

The opposing neighbors, I believe, misrepresented your project. Unfortunately I didn't make the meeting of the SMCCA where it was presented. I'd be glad to support it with assurances that the retaining walls won't be too high and landscaped.

Call or email anytime. I'm sure there are others in the neighborhood who would support you.

Mike

Mike Deasy
310.275.1000 Main
310.275.8880 Mobile
310.861.5554 Fax
mdeasy@deasypenner.com

www.deasypenner.com

From: Chen, Jeanne [mailto:jchen@mryarchitects.com]
Sent: Saturday, November 15, 2008 12:16 PM
To: Mike Deasy
Subject: FW: Potential single family residence on Vance Street

Hi Mike,
Buzz forwarded your email to us and we wondered whether you would consider supporting our proposed house on Vance Street (375 Rustic Canyon)?

Since your named appeared on the petition in opposition, we would be very happy to answer any questions and specific concerns you may have. We could meet with you or schedule a call at your convenience.

With great appreciation,

Jeanne and Bob

Jeanne Chen, AIA
Principal

Reply Reply to all Forward Close Help

Attachments can contain viruses that may harm your computer. Attachments may not display correctly.

From: Doug Suisman [suisman@suisman.com] Sent: Sat 11/15/2008 8:53 PM

To: Maya Forbes; saltzo@aol.com; efjt@hotmail.com; Melanie Galuten; Albhy Galuten; viscardi@mac.com; Mira Velimirovic; Mary Sanders Korsan; Meryl Holland; daniellehill13@hotmail.com; jjjinthesky@yahoo.com; jcbaldauf@earthlink.net; frank@inthecanyon.com; Leslie Hope; Caren Ginsberg; getjackson@msn.com; fashiontherapist@msn.com; mdeasy@deasypenner.com; Dolbinski, Bob

Cc:

Subject: Proposed House on East Rustic

Attachments: Ltr to Neighbors from the Dolbinskis.pdf(17KB) View from Rustic Road.jpg(196KB) View from Vance Street.jpg(319KB) 375 Rustic Site Plan .pdf(227KB)

View As Web Page

Dear Canyon friends,

I'm writing to you about two issues I think we all care about: 1. preserving the special qualities of Santa Monica Canyon, and 2. fairness.

I've come to know almost all of you because of my good luck in stumbling across the canyon in 1993, and buying a house here that year. Some of you I know from my five years as president of BOCA Neighborhood Association, at the mouth of the canyon; others simply because we're neighbors; still others as parents at Canyon School. Everyone on this "to" list I consider a personal friend, and I feel so fortunate to be part of this community. Many of us have fought good fights together here over the last 15 years: bringing traffic calming to the canyon, landscaping our medians, painting and keeping the tunnel clean, and watching out for overscaled or inappropriate development. I hope my *bona fides* are solid as someone concerned about preserving the special qualities of this place.

I realize that sometimes those concerns place the community at odds with individuals, especially when new construction is involved. When I was BOCA president, my position was this: if someone buys property and wants to build a house according to the existing rules (i.e. without asking for variances to exceed things like height and lot coverage limits), then I felt that BOCA as an organization should remain neutral. That doesn't mean that individuals shouldn't express their views in the appropriate forum, but that organizations representing all residents should not take a position on individual projects which are built "as of right".

Two weeks ago I was approached at a social gathering by Bob and Jeanne (Chen) Dolbinski, who are acquaintances and fellow architects. They described to me the

organized opposition to their dream of building a small house in the Canyon, at 375 East Rustic, and felt that their project was being misrepresented. I told them I knew quite a few of their prospective neighbors, and that I would be very happy to take a look at their plans and share them with my friends in the community.

The more I have learned, the more I have become disturbed about what has been happening. I will vigorously defend anyone's right to raise objections to a proposed project, but I also believe that, as individuals and as a community, we have to act fairly. That means giving a fair hearing to both sides before drawing conclusions. It means acting like a concerned, informed community - not a band of naysayers armed with lawyers. It means welcoming people who want to live here. And it means that even if we feel compelled to raise concerns about the impact of new construction, we're willing to listen to the owners' side of the story.

I think Bob and Jeanne have a compelling story to tell. Unfortunately, it's my understanding that none of the project's leading opponents has tried to reach out to the Dolbinskis at the telephone number posted at the property. From what I have gathered in the last few days, and read in various e-mails, a lot of false information has been circulating. I'd like to believe this has been inadvertent. Here are some of the misperceptions which I have recently heard with my own ears, or read with my own eyes:

- ***the owner is a "well-heeled" developer*** – False. Bob and Jeanne are young, full-time architects earning a modest living at their work (believe me, I know what architects earn)

- ***the house is a spec house*** - False. Bob and Jeanne are building this house for themselves, and intend to live in it for a good long time (I just hope they still want to live in the Canyon after the initial reception they've received).

- ***the house is a huge macmansion*** – False. The drawings (attached) show an elegant and modest 1,850 s.f. house (I bet most of yours are larger! Mine certainly is). This is actually *smaller* than allowed by code.

- ***the house is inappropriate for the canyon*** – False...in my opinion at least. The attached rendering suggests a beautiful, sensitively designed and environmentally responsible residence that respects the canyon's history, landscape, and architectural heritage. See what you think.

- ***there will be "massive 40' x 60' retaining wall"*** – False. There will be two retaining walls in the side yards, approximately 6'x8' each, and another wall below Vance, about 8' high.

- ***there will be a new driveway across the creek*** – False. The driveway and garage are up on Vance Street.

- ***the "developers" must have bribed the city's planning department*** – False. And scurrilous.

- ***the project is somehow being inappropriately "fast-tracked"*** - False. Jeanne and Bob have been working on the project with the building department for more than two years, and the process is conforming to all normal reviews.

- ***the project will endanger the structural integrity of the hillside*** – False. O.K., this does get pretty technical, and you should certainly ask lots of questions here. But the reality is: the project will actually stabilize this crumbling segment of the hill with appropriate piles, soil retention, planting and drainage. The geological studies and structural design have been conducted for two years by highly respected firms. And it is obviously in Bob and Jeanne's interest to create a stable foundation for their own home!

- ***the project will destroy the natural beauty of the canyon*** – Well, I love our cliffs and hillsides too, and there are houses on the hill across the street from me that I'd just as soon weren't there. But the fact is that this is a piece of private property and the owners are entitled to have a house on it, just as all of

us are lucky enough to do. Anyone passionately determined to preserve this private lot as natural open space should probably have purchased it for that purpose.

So you see, there really is another side to the story. I don't know about you, but after the exhausting political season we've just come through, I'm really tired of any attempt – well meaning or otherwise - to obscure the truth. I urge you to get the whole story.

So **tomorrow, Sunday the 15th**, I'm going to walk around East Rustic and Sycamore with Bob and Jeanne from 11-1, and introduce them to my friends and neighbors. I hope you'll welcome them, and feel free to ask any questions of them. They have encouraged me to circulate their letter and drawings (attached), and I encourage you in turn to circulate my own letter and their materials as you see fit.

And on **Tuesday the17th**, the house will be discussed at the Santa Monica Canyon Civic Association meeting at 7:00, at Rustic Canyon Recreation Center. I encourage you to attend. Bob and Jeanne will be there to present their house project and to answer questions. I hope they will be treated cordially and fairly by the community.

Thanks for taking the time to read this – I really appreciate it. I have no personal interest in this, other than wanting to see our community do the right thing.

Doug

November 13, 2008

To: Residents of Santa Monica and Rustic Canyon Neighborhoods

Re: Potential single family residence on Vance Street

This letter is written to encourage your consideration and support for a very thoughtful, sensitively designed and carefully scaled residence to be located on Vance Street, currently addressed as 375 Rustic Road.

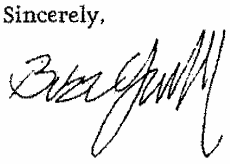
This house of only 1855 s.f. was designed by Jeanne Chen, AIA and Robert Dolbinski, AIA, LEED. Jeanne and Bob are exceptional architects and have designed this house to be both modest and extremely sensitive to its site and location. The house has been designed in accordance with a profound understanding of environmental principles. Its size is extremely modest by contemporary standards and provides an inspiring contemporary example that stands in stark contrast to the more prevalent trend towards maximizing mass and footprint to "optimize" property values. In stark contrast to that trend Jeanne and Bob have designed an elegant, contemporary house which sits in harmony with its landscape and climate. In that sense, it stands in the great tradition of the early case study houses of Southern California. As such, it represents exactly the kind of planning and architecture which we, as concerned residents should be supporting rather than thwarting.

As much as I am in support of this project, I am equally surprised and disappointed by the extremely misleading negative information which is being spread in the community. If you have already signed the petition in opposition of this project I would encourage you to take a very careful second look. I believe the proponents of this opposition have seriously misrepresented the project in spirit, intent and fact. I would encourage all of you to review the information and sketches provided by Jeanne and Bob, and to seriously consider supporting their project by signing their statement of support.

Jeanne and Bob are not only a very talented young couple who have designed an exemplary project but they are individuals of tremendous integrity and generosity. They would not only contribute an elegant and environmentally sensitive modest new house to the neighborhood but would be wonderful and civic minded members of your community.

Thank you for your thoughtful consideration.

Sincerely,



Buzz Yudell, FAIA

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Dlbinski & chan
A-5-PPL-11-28
5-11-56

Name or description of project, LPC, etc.: Rustic Canyon - W.21b+c

Date and time of receipt of communication: Friday, 9/30 at 10:01 AM

Location of communication: 3000 Olympic Blvd, Santa Monica, CA

Type of communication (letter, facsimile, etc.): Email

Person(s) initiating communication: Laurie David

RECEIVED
South Coast Regic
OCT 17 2011
CALIFORNIA
COASTAL COMMISSIC

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

Forwarded opinion arcticle printed in Palasdian Post.

10/3/11
Date

Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

COASTAL COMMISSION

EXHIBIT # 34

PAGE 1 OF 2

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: 5-11-056 (Dolbinski & Chen)

Date and time of receipt of communication: Wednesday, 10/26 at 2:00 PM

Location of communication: 3000 Olympic Blvd, Santa Monica, CA

Type of communication (letter, facsimile, etc.): Meeting

Person(s) initiating communication: Sherman Stacey

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

Mr Stacey said he's been gathering info from staff & other commissioners to present a more detailed case for the house. They have the opponents engineer report & will address specific issues at Dec. meeting.

10/26/11
Date

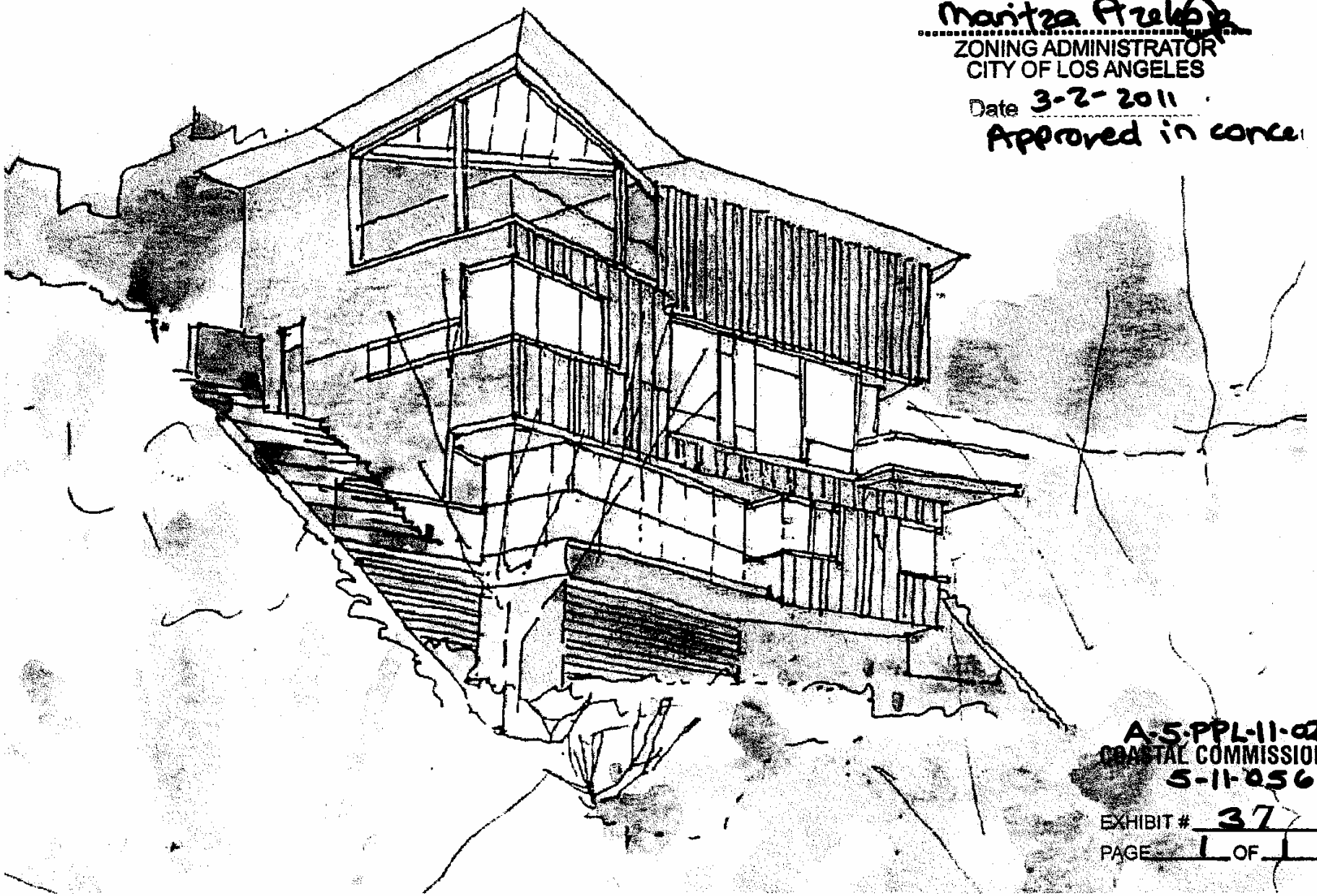
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

EXHIBIT # 34
PAGE 2 OF 2



PLANS APPROVED
as required by
Case No. ZA-2007-5584(
Maritza Arelo
ZONING ADMINISTRATOR
CITY OF LOS ANGELES
Date 3-2-2011
Approved in conce

A-5-PPL-11-028
COASTAL COMMISSION
5-11-056
EXHIBIT # 37
PAGE 1 OF 1

GROUP DELTA CONSULTANTS

Geotechnical Engineering

Geology

HydroGeology

Earthquake Engineering

Materials Testing & Inspection

Forensic Services

L-975

October 24, 2011

Charles Posner, Analyst
California Coastal Commission
South Coast Regional Office
200 Oceangate, Suite 1000
Long Beach, CA 90802

Reference: Application No. 5-11-056
Appeal No. A-5-PPL-11-028
370 Vance Street
Pacific Palisades

Dear Mr. Posner,

Following the October 5th, 2011, meeting of the Coastal Commission at which the above matters were returned to you for further review, my clients asked that we suggest geotechnical engineering recommendations to enhance the safety of the proposed construction. In this report we are providing such recommendations, although we were neither retained to define how this project could be completed safely, or blocked, but rather to assess its safety to area residents based on the applicants' development plans. Furthermore, I would like to emphasize that our previous opinions remain unchanged regarding the stability, safety and constructability of developing this very unusual site.

1) Background

As you know, for several years, we have continuously requested details about the construction methodology regarding the proposed development because of the Site's extreme features, including a lack of any flat land, its inordinate steepness, history of slope instabilities, previous flooding of properties on East Rustic Road, and the flooding hazard associated with blockage of the flood control channel below by a landslide. For further details, please see our original Report dated April 22, 2009, and the updates dated September 29, 2010, April 15, 2011, and September 9, 2011.

We continue to believe that the developers have not yet submitted adequate engineering recommendations and explanations to describe how this project can be built safely at the Site. Further, it remains our opinion that as currently proposed the construction on the subject site creates a hazard to the persons and property on East Rustic Road because of the geotechnical conditions of the Site.

2) Factor of Safety (FOS)

a) Introduction

The need for a minimum factor of safety for slope stability is crucial at the subject site due to the drainage channel (also called Rustic Creek) below the site, and the high potential for resulting damage to neighboring persons and property. In reviewing the history of the proposed site, it is clear that the standard stability requirements were not applied, and that lower stability requirements are used.

b) Stability Standards

For slope stability, the standard recommendations within the geotechnical community and minimum requirements in Building Codes are well established. Generally, the stability of a slope is described using the following Factors of Safety:

- A minimum FOS of 1.5 is required or recommended for permanent conditions, e.g., after completion of construction on projects of this type.
- A minimum FOS of 1.25 is similarly required or recommended for temporary conditions.
- A FOS of 1.0 means failure.

The above FOS requirement of 1.5 for permanent conditions is widely accepted in California, and of course is included in the City of Los Angeles Building Code (see Appendix A). A description of how widespread this requirement or recommendation is in California, is available on page 56 of the publication "*Recommended Procedures for Implementation of DMG Special Publication 117 Guideline for Analyzing and Mitigating Landslide Hazards in California,*" published by a Statewide Committee on which both applicants' engineer and the undersigned participated:

> *"Historically, the most commonly required factors of safety in southern California have been 1.5 for static long-term slope stability and 1.25 for static short-term (during construction) stability."*

These FOS are required in most jurisdictions in California and is the standard of practice in my profession. In fact, it is not unusual for geotechnical engineers to exceed these minimum requirements.

c) Modification of Applicable Stability Standards

The developers obtained a modification that allows the lower and side slopes to deviate from the above standard requirements. The modification request failed to disclose the flooding hazard from a slope failure in their application. Photo 1 shows a slope failure that blocked the channel in 1994 below the Site.

Photo 1

Obtaining a modification for permanent conditions on the lower third of the slope which is just above the drainage channel is problematic on two grounds:

- There the slope is steepest and thus most vulnerable to failure.
- The FOS is extremely low; the owner's engineer calculated a dry FOS of only 1.276, which means that even lower FOS values will be expected during rainstorms. Please note, that the closer the FOS is to 1.0 the higher the risk of slope failure.

d) Recommendations

In my opinion, pursuant to Coastal Act Section 30252 (1) and (2) it is essential that the usual and customary prescribed slope stability standards be applied here. This means a minimum FOS of 1.5 for permanent conditions be required for the entire Site (as indicated in Appendix A) as well as a minimum FOS of 1.25 for temporary conditions. How this will be achieved should be set forth in the developers' engineering reports and in any construction sequence (i.e., staging) report.

I recommend that a condition of the following type be included in the Staff's Report regarding this project if it deems such project should be approved.

> *"Prior to Issuance of a Coastal Development Permit, the applicants shall submit to the Executive Director, and the Executive Director shall have reviewed and approved, a geotechnical engineering plan showing that the entire site (including the portion of the Site below the house pad, and down to the level of the channel) has a slope stability Factor of Safety (FOS) of at least 1.5 upon completion of construction, and that steps are provided to ensure that a FOS of at least 1.25 is maintained on the entire site during construction."*

3) Construction Staging

a) Introduction

Because of the lack of any flat land on the project site and the narrow, substandard nature of Vance Street (about 24 foot wide roadway), from which the project will be staged, the nature of such staging must be a significant factor when considering whether Section 30253 of the Coastal Act is complied with.

b) Equipment Weight Restrictions

The September 2011 Sequence Report filed by contractor Robert G. Holcomb, contemplates bringing large equipment to the site (each piece of equipment weighing more than 20 tons without the weight of the transporting truck). Since Vance Street is only accessible from Chautauqua Blvd., transporting the equipment to the Site will be subject to the 3 ton weight restriction imposed by the City (Photos 2 and 3). The City of Los Angeles has advised us that the 3 ton weight limit is required due to structures under the roadway between PCH and Sunset Blvd., and it will be enforced. We also understand that all weight issues are handled by the Structural Division of the City's Bureau of Engineering, and not the Bureau of Street Services. Hence, any Structural Division requirements are in addition to the typical haul permit requirements from the Bureau of Street Services.

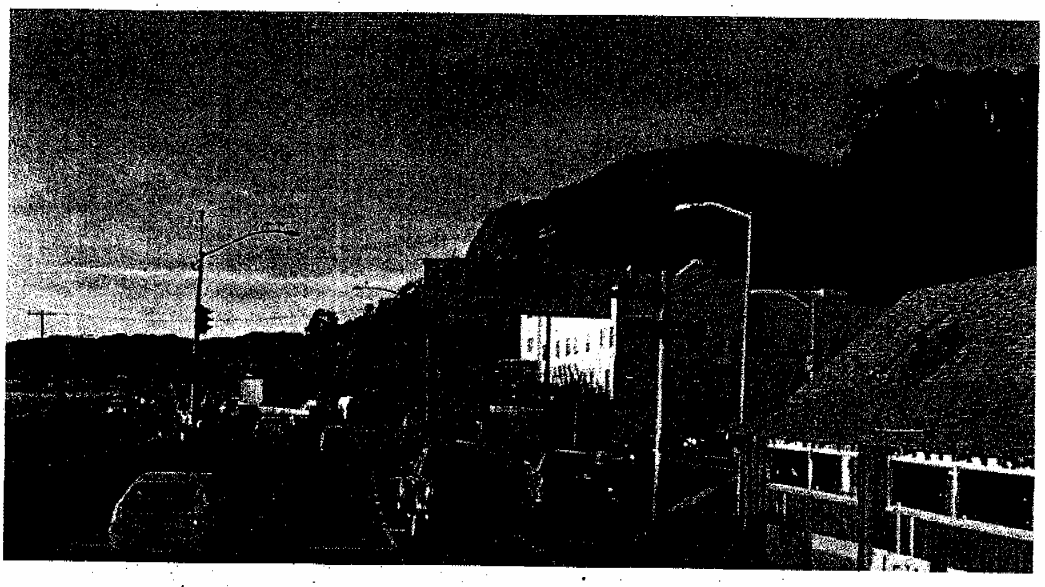


Photo 2

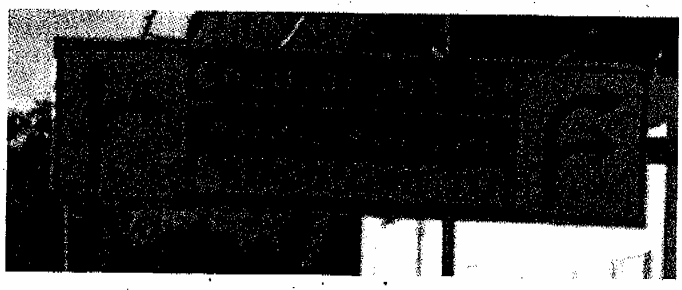


Photo 3

c) **Staging Permit**

Mr. Holcomb's report indicates that he contemplates operating a drill rig and crane from the Vance Street public right-of-way (again, because the applicants' property has no flat land from which such equipment can be operated). The type of encroachment permit required for such operation is different from that provided to your Staff. The only permit found in the Staff's files merely allows for a fence, a trash bin, and storage of some materials in the right of way (Appendix B). As shown in Figure 1 below, it does not allow the use of any drill rig, crane, concrete pump or other construction equipment.

X Building Material X Protective Fence Fence with Canopy Scaffolding X Trash Bin Storage Bin Constr. Closure Other - MATERIALS / BIN LOCATED W/I FENCED AREA	Crane Concrete Pump Drill Rig Helicopter Lift Other	DAY(S): TIME: 03/01/2012 to 04/29/2012 (BM) REFERENCE: 2011002851 PERMIT: ME2011002299	Total area of 1396 Sq. Ft. PERMIT FEE: $370.22 RECEIPT NO.: 142899 Payment Date: 08/02/2011 INSPECTOR ASSIGNED: MCFADDIN/JC APPROVED BY: MCFADDIN/JC MD: 213

Figure 1

d) Constructability

Even assuming that a permission to use large equipment on the 20-feet wide portion of the Vance right-of-way is given to the applicant, the contractor will be required to work from an area that is only 1,100 square feet (20 x 55 feet) in size. We question the ability of, and have not yet seen a report that describes how, the contractor can safely direct and conduct operations such as drilling and reinforcing caissons, excavating the slope, temporarily stockpiling soils and construction materials, etc.

e) Recommendations

The two examples, in sections b and c, above, are troublesome because they show a lack of attention to detail on the part of the Developer and Contractor. It is especially troublesome because we have continuously requested details about constructability since April 2009.

In my opinion, pursuant to Coastal Act Section 30253 (1) and (2), it is essential that a more thorough and definitive construction sequence report be filed, detailing how such equipment and the like can be staged safely (which also requires the temporary FOS analyses discussed above), and that such report be approved by the applicants' civil and soil engineers and reviewed and approved by the Executive Director. The soils engineer should verify that all the necessary permits have been secured from the appropriate City of Los Angeles Departments.

If the temporary FOS in any staging sections is found to be below the required 1.25, or if the proposed equipment cannot be safely and/or legally brought to or operated at the Site, the staging sequence must be revised in accordance with the geotechnical engineer's recommendations. Such revisions may require provisions for manually

GROUP DELTA CONSULTANTS

drilled caissons and assembling reinforcement cages on-site using short reinforcement bars brought to the site in lightweight trucks.

Therefore, I recommend that a condition of the following type be included in the Staff's Report regarding this project if it deems such project should be approved.

> *"Prior to Issuance of a Coastal Development Permit, the applicants shall submit to the Executive Director and the Executive Director shall have reviewed and approved a construction staging (sequence) report prepared by a Registered Geotechnical Engineer detailing how construction equipment shall be transported to, located and operated on the Site. The report shall include the engineer's certification that the proposed construction complies with all the City of Los Angeles permit requirements in order to conduct the construction activities contemplated for the development, and contain copies of such permits."*

4) Debris Fences

a) Introduction and background

The project includes "light" debris fences consisting of 2-inch steel pipes, spaced at 8-feet and embedded about 3-feet. Mr. Hollingsworth specifically states in his report dated September 19th, 2011, that the use of these fences is:

> *... intended to capture any nuisance dirt and cobbles that might fall from the auger drilling. The fences are not intended to contain a "slope failure," as such a failure is not anticipated.*

This statement of the applicant's geotechnical engineer implies that nothing has been proposed to deal with a slope failure and the resulting blockage of the flood control channel below (because "a slope failure not anticipated")..

b) Recommendations

In my opinion, pursuant to Coastal Action Section 30253 (1) and (2), an engineered debris fence should be designed and located above the flood control channel at the toe of the property to prevent blockage of the channel by any slope failure during construction.

Therefore, I recommend that a condition of the following type be included in the Staff's Report regarding this project *if* it deems that such project should be approved.

"Prior to issuance of the Coastal Development Permit, the applicants shall submit to the Executive Director, and the Executive Director shall have reviewed and approved, a report by a registered geotechnical engineer and a plan by a registered structural engineer, for an engineered debris fence to be located at the toe of the property (just above the flood control channel), which in the opinion of the engineers shall be sufficient to contain a typical slope failure."

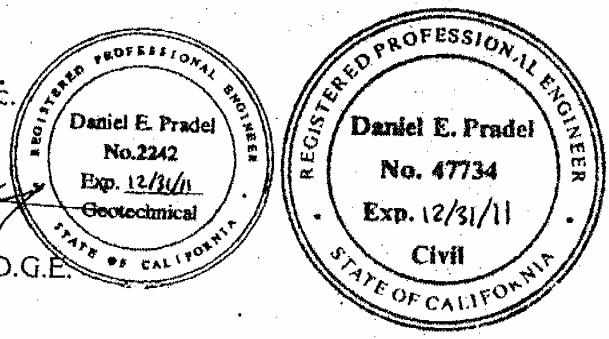
5) Remarks and Conclusions

Our recommendations above are based mainly on the available information on file. We were not privy to, nor is it appropriate for us to request, information of the type we would normally receive from a client if we were their soils engineer of record and were asked for a methodology to complete a project of this type safely.

I continue to believe as I have stated repeatedly in my reports that "it is difficult to envision how the contractor will be able to build on [the Site]."

Sincerely,

Group Delta Consultants, Inc.



Dr. Daniel Pradel, P.E. G.E. D.G.E.
Principal Engineer

cc: Melvin Nutter, Esq.
Gerald B. Kagan

GROUP DELTA CONSULTANTS

COASTAL COMMISSION

EXHIBIT # 35
PAGE 8 OF 17

APPENDIX A

INFORMATION BULLETIN / PUBLIC - BUILDING CODE
REFERENCE NO.: LABC 7006.3, 7014.1 Effective: 01-01-2008
DOCUMENT NO.: P/BC 2008-049 Revised:
Previously Issued As: P/BC 2002-049

SLOPE STABILITY EVALUATION AND ACCEPTANCE STANDARDS

A. PURPOSE

This Information Bulletin is to provide uniform requirements for evaluation of and standards for acceptance of stability of slopes within the City of Los Angeles. These requirements include consideration of pertinent engineering geologic and soils engineering factors of the critical field conditions that may reasonably be expected at the project location. These requirements include documentation and recommendations needed to determine if the site as proposed to be developed has an acceptable level of stability.

B. APPLICATION

A stability evaluation will be required for cut, fill and natural slopes whose gradient exceeds two horizontal to one vertical and for all slopes that expose incompetent bedrock or unfavorable geologic structure such as unsupported bedding or that contain evidence of prior instability or landslide activity. Analysis is to include deep-seated and surficial stability evaluation under static load conditions. Where the site is within a State of California Seismic Hazard Zone requiring investigation for seismically induced landslide or where the Department requests, a seismic slope stability analysis is required.

C. SAFETY REQUIRED

The Municipal Code specifies 1.5 as the minimum acceptable static factor of safety for cut, fill, and buttress fill slopes. This will also apply to natural slopes.

Safety factor is defined as the quotient of the sum of forces tending to resist failure divided by the sum of forces tending to cause failure.

1. New buildings and additions to buildings may be constructed upon an adjacent site to a cut, fill, or natural slope provided that:

    a. The slopes have an evaluated safety factor of at least 1.5 against deep-seated static failure.

EXHIBIT # 35
PAGE 10 OF 17

b. The slopes have an evaluated safety factor of at least 1.5 against surficial failure or adequately designed protective devices are recommended that will protect the construction from the hazard of mud and debris flow. When protective devices are utilized, the owner shall record an affidavit with the Office of the County Recorder stating that specified areas of the site may be subject to mudflow hazard and notifying future owners of their responsibility to provide maintenance of the protective devices.

c. The slopes have an evaluated safety factor of at least 1.1 against seismic deep-seated failure.

2. Minor additions or alterations may be made to existing structures where acceptable devices are provided to mitigate potential damage from failure of adjacent slopes and where the hazard to life or property is not increased.

D. DESIGN OF PROTECTIVE DEVICES

Protective devices shall be permanent structures designed to either isolate, contain, deflect or channelize any potential mud or debris flow. The design and construction details shall be based upon an estimate of the volume and location of displaced material made by a soils engineer or engineering geologist.

The devices shall be located so that any potential surficial failure will be confined to remote or unused portions of the property at least 15 feet from all structures unless such portions are designed as permanent channels to prevent the accumulation of mud and debris. Remote or unused portions of the property shall not include accessory areas such as pools, driveways, parking or landscaped areas. Mud and debris shall not be diverted onto adjoining property.

Provision shall be made for reasonable access to all areas which may need future maintenance.

E. TYPE OF ANALYSIS

1. Deep-Seated Stability

Evaluation of slopes for safety factor against deep-seated failure shall be in general conformance with the following:

a. The potential failure surface used in the analysis shall be composed of arcs, planes or other shapes considered to yield the lowest factor of safety and to be most appropriate to the soil and geologic site conditions. For reasonably homogeneous soils, an arcuate failure surface is considered adequate. In cohesive soils, a vertical tension crack may be used to aid in defining the potential failure surface. The potential failure surface having the lowest safety factor shall be used in the analysis.

b. Loadings to be considered are gravity loads of potential failure mass, seepage forces and external loads. The potential for hydraulic head is to be evaluated and its effects included when appropriate. Soils below the piezometric surface shall be assumed saturated.

c. An appropriate mathematical analysis method shall be chosen for the case analyzed. Simple planar failure surfaces can be analyzed by force equilibrium methods. Spencer's Method shall include kinematically admissible (smoothly transitioning) surfaces and not be used with structural resisting elements. Bishop's Method shall only be utilized for circular failure surfaces. Taylor's Method shall only be utilized for homogeneous simple slopes.

d. In those cases where bedrock cannot be sampled due to rock hardness, the slope stability analysis may be omitted, provided the bedrock has no adverse structural conditions and an engineering geologist and a soils engineer present an evaluation based upon the bedrock competency.

2. **Surficial Stability**

Evaluation of the slope surface for safety factor against surficial failure shall be based either on analysis procedures for an infinite slope with seepage parallel to the slope surface or on other methods approved by the Department. For the infinite slope analysis, the assumed depth of soil saturation shall be a minimum of three feet and consistent with the depth to firm bedrock. Soil strength characteristics used in analysis are to be obtained from representative samples of surficial soils that are tested under conditions approximating saturation.

3. **Seismic Stability**

Pseudo-static acceleration of 0.15 g with a factor of safety of 1.1 shall be the minimum acceptable for seismic stability of slopes. Seismic stability shall be demonstrated in accordance with California Division of Mines and Geology Special Publication S.P. 117.

F. MATERIAL PROPERTIES

The soil engineer shall use sound judgment in the selection of appropriate samples and in the determination of shear strength characteristics befitting the present and anticipated future slope conditions. To best accomplish this phase of the analysis, the project engineering geologist shall advise the soil engineer on pertinent geologic conditions and materials observed during the site investigation. The following guidelines are provided for evaluating soil properties:

1. Soil properties, including unit weight and shear strength parameters (cohesion and friction angle), shall be based on field and laboratory tests. Tests shall be made on an appropriate number of samples removed from test pits that represent the material in a particular slope. At least one test shall be made on the weakest plane or material in the area under test and shall be made in the direction of anticipated slippage.

2. Testing of earth materials shall be performed by an approved soil testing laboratory in accordance with Section 98.0503 of the Code.

3. Shear strength parameters used in stability evaluations may be based upon peak test values where appropriate. Parameters not exceeding residual test values shall be used for previous landslides, along shale bedding planes, highly distorted bedrock, over-consolidated fissured clays and for organic topsoil zone under fill.

4. Prior to shear tests, samples are to be soaked to approximate a saturated moisture content. Saturated shear tests shall be performed with the samples inundated in water during testing. Shearing strain rates/conditions are to be consistent with the material types and drainage conditions used in analyses.

5. An arbitrary residual angle of shearing resistance of six degrees and cohesion of 75 pounds per square foot may be used to represent the strength on shale bedding and in landslide debris in lieu of parameters determined by laboratory testing.

6. Analysis of failures of existing slopes that are similar to the slope under consideration in terms of location, configuration, height, geology and materials may be used to establish shear strength parameters.

7. Soil strength characteristics of off-site slope materials may be based upon tests of similar materials or nearby properties when both the engineering geologist and the soil engineer demonstrate a basis for assuming that the off-site materials possess strength characteristics equivalent to the material tested.

G. CONTENTS OF REPORTS

A Geotechnical Report shall be submitted to the Department which complies with applicable portions of the standard guidelines adopted as California Division of Mines and Geology Notes Number 44 and the following items:

1. Recommendations for site development that will provide at least the level of stability specified in Section C (above) of this Bulletin.

2. An assessment of potential geotechnical hazards affecting the site.

3. A statement regarding location of potential ground water that may develop within the slope during and/or after major storm seasons and measures needed for ongoing stability.

4. Description of exploration performed as required by Information Bulletin No. P/BC 2002-068 entitled, "Rules and Regulations for Hillside Exploratory Work."

5. A plot plan and a topographical plan showing locations of test pits and the areas they are assumed to represent.

6. A complete description of the shear test procedures and test specimens.

7. Shear strength plots that include the identification of sample tested, whether values reflect peak or residual strengths, shearing strain rate, moisture content at time of testing, and approximate degree of saturation.

8. Comment on sample selection and a stated opinion that the samples tested represent the weakest material profile along with the potential failure path.

9. Calculations and failure surface cross sections used in stability evaluations.

10. General comments as to the stability of slopes from the effects of earthquakes concerning ground rupture, landslides and differential movement.

11. Detailed log of earth materials observed in test hole borings and test trenches to include characteristics such as bedding attitudes, joint spacing, fault zones, location of bentonite beds, etc.

12. Recommended drainage devices, including sub-drain systems below fills and behind stabilization structures.

APPENDIX B

CITY OF LOS ANGELES
PERMIT TO MAINTAIN MATERIALS OR EQUIPMENT IN STREET

(Original to be posted in conspicuous place on job site)

Street Services
Investigation & Enforcement Division
1149 S. Broadway St.
3rd Floor
Los Angeles, CA 90015
(213) 847-6000

IMPORTANT: This permit, issued under the provisions of Sections 62.45 et seq. of the Los Angeles Municipal Code, is void after 60 days from date of issuance except as Otherwise specified in the Conditions section below.

IMPORTANT: This permit in no way authorizes the usage nor storage of hazardous or toxic substances/materials (i.e. asbestos) on public property. Violators will be prosecuted to the fullest extent of the law.

PERMITTEE'S NAME ROBERT DOLBINSKI **PHONE** 310-383-2171

PERMITTEE'S ADDRESS 1122 IDAHO AVENUE SANTA MONICA CA 90403

JOB OR WORKSITE LOCATION: 370 N VANCE STREET

BM PF TB (IS)[MW]	Width	Length	AREA
PARKWAY	10	20	200
PARKWAY	20	55	1,100
PARKWAY	8	12	96

Special Requests WILL BE RENEWED AS REQUIRED DURING CONSTRUCTION

CONDITIONS

Barricades with operating flashers at each end at all time. Do not block gutterflow.
Wheels must be blocked (incline). Plywood under all wheels.
No posters, handbills or graffiti allowed, must remove daily. Keep area clean at all times.
Do not block any fire hydrants.
No loose sand, gravel or dirt at any time, must be contained.
Not to be stacked higher than 5'.
All damage to public property will be billed to the applicant.

NOTE: WORK IS RESTRICTED DURING THE FOLLOWING PEAK HOURS: (6:00 A.M. TO 9:00 A.M.) AND (3:30 P.M. TO 7:00 P.M.)

X Building Material	Crane	DAY(S):	Total area of 1396 Sq. Ft.
X Protective Fence	Concrete Pump	TIME: 03/01/2012 to 04/29/2012 (BM)	PERMIT FEE: $370.22
Fence with Canopy	Drill Rig	REFERENCE: 2011002851	RECEIPT NO.: 142899
Scaffolding	Helicopter Lift	PERMIT: ME2011002299	Payment Date: 08/02/2011
X Trash Bin	Other		INSPECTOR ASSIGNED: MCFADDIN/JC
Storage Bin			APPROVED BY: MCFADDIN/JC
Constr. Closure			MD: 213
Other - MATERIALS / BIN LOCATED W/I FENCED AREA			

COASTAL COMMISSION

EXHIBIT # 35
PAGE 16 OF 17

City OF LOS ANGELES RECEIPT	142899
RECEIVED FROM ROBERT DOLBINSKI	Payment Date 08/02/2011
Address 1122 IDAHO AVENUE SANTA MONICA CA 90403	Amount $370.22
RECEIVED FOR WHAT PURPOSE PERMIT NO. ME2011002299 CHECK NO. Credit Card	Fund No 3255 Department SSIED Received By ONLINE Today's Date 08/02/2011

COASTAL COMMISSION

EXHIBIT # 35

PAGE 17 OF 17

FRED GAINES
SHERMAN L. STACEY
LISA A. WEINBERG
REBECCA A. THOMPSON
NANCI S. STACEY
KIMBERLY RIBLE
ALICIA B. BARTLEY

LAW OFFICES OF
GAINES & STACEY LLP
1111 BAYSIDE DRIVE, SUITE 280
CORONA DEL MAR, CALIFORNIA 92625

TELEPHONE
(949)640-8999
FAX
(949)640-8330

November 14, 2011

HAND DELIVERED

Chuck Posner
California Coastal Commission
South Coast District Office
200 Oceangate, #1000
Long Beach, CA 90802

Re: Appeal No. A-5-PPL-11-028/Application No. 5-11-056 (Dolbinski & Chen)

Dear Chuck:

This letter is written on behalf of Robert Dolbinski and Jeanne Chen, the applicants in Appeal No. A-5-PPL-11-028/Application No. 5-11-056, to respond to comments made at and subsequent to the public hearing on October 5, 2011. We have sought to sort through the many comments which were made and to deal with those comments which directly challenge the proposed findings which were contained in your Staff Recommendation dated September 22, 2011, or were new comments not previously received.

There were very few comments which, although new to Commissioners, were actually new as the opponents to the project had two extensive hearings at the City of Los Angeles Zoning Administrator and at the West Los Angeles Area Planning Commission and raised many of these same issues. In addition, as you are aware, the project was extensively reviewed by the City of Los Angeles Grading Division and by the County of Los Angeles Department of Public Works. All of the reports by private geologists (both the applicants' and the opponents') and the decisions by the public agencies have been reviewed by Mark Johnsson who has indicated that he agrees with the conclusions that the site stability has been demonstrated to satisfy Public Resources Code §30253 and will "assure stability and structural integrity".

However, this letter and the attachments with this letter respond to the issues which are listed below as follows:

1. **Factor of Safety of 1.5 on entire site.**

The opponents have claimed that a factor of safety ("FOS") of 1.5 for an entire site is the common requirement in California. Nothing is cited to support this view. However, what may or may not be common in the state is not the issue. The issue is what complies with Chapter 3 Coastal Act policies and what is the norm for the Commission. The Commission has not required an FOS greater than 1.5 on slopes which do not support a structure provided that the building site has an FOS greater than 1.5.

In the immediate vicinity, the Commission itself has required that an FOS less than 1.5 be allowed on portions of sites which are not part of a building site even where the City of Los Angeles has required a 1.5 FOS for the natural slopes. In CDP 5-05-253 (Flury) decided on January 11, 2006, the Commission approved a 12,295 square foot home requiring 16,500 cubic yards of grading at 14868 Corona del Mar, Pacific Palisades (approximately 350 yards from the Applicants' property). The Commission required that the Flury seek and obtain a decision from the City rescinding the Building Department's prior requirement that the natural slopes on the entire site demonstrate an FOS greater than 1.5. Based on the Commission's decision, the Department of Building and Safety did withdraw this requirement and only required an FOS greater than 1.5 for the building site itself. See, Findings, p. 13-16.

In CDP No. 5-06-273 (Mandel), the City had not required a property owner to perform remedial improvements which would bring the site up to an FOS of 1.5 at 629 Radcliffe Avenue, Pacific Palisades. The Commission approved the CDP even though Mandel did not bring the entire site into compliance with all current code requirements. The Commission accepted the City's decision and approved the project as it had been approved by the City, finding that the project "assures stability and structural integrity, and neither creates nor contributes significantly to erosion, geologic instability." Findings, p. 9.

Finally, in CDP 5-90-473 (Lederer), the Commission approved a 3,535 square foot, three story house on the property at 390 Vance Street immediately next door to the Applicants' Property. The Lederer house is on the same slope as the Applicants' proposed house. The Lederer property consists of two parcels tied together. The City and the Commission did not require a 1.5 FOS for the entire property but only where the house is located on the northerly part of the combined parcel. (A photograph of the Lederer house is Attachment 1 hereto.)

The Commission's most comprehensive expression of Coastal Act policies is contained in the Malibu LCP which the Commission itself wrote. The City of Malibu ordinances on geologic stability were a part of the Commission written Local Implementation Plan. The Malibu LIP requirement for a 1.5 FOS is applied under LIP §9.4 which provides that the "project

site is suitable for the proposed development, that the development will be safe from geologic hazard, and that the development will in no way contribute to instability on or off the subject site." Malibu LIP §9.4A. All of the provisions of §9.4 apply to the site where new development takes place and not to slopes on which no new development takes place. The only caveat as provided in §9.4A is that the project may not contribute to instability. As noted from the reports in this case, the Project will improve the stability of the lower slope (which does not support the structure) from an FOS of 1.04 to 1.28. The Project improves stability.

The Malibu LIP references the "Guidelines for the preparation of engineering geologic and geotechnical engineering reports, dated February 2002" as the standard for geologic reports. If a site does not meet an FOS greater than 1.5, the project design must bring the FOS up to 1.5. However, there is no requirement that natural slopes not affected by the design and not necessary to the support of the structure must also be brought up to a 1.5 FOS. In fact, LIP §10.4 specifically prohibits increasing the FOS on coastal bluffs, choosing instead to require development to be set back behind the line where an FOS greater than 1.5 can be achieved without bringing the coastal bluff up to that standard. Malibu LIP, §10.4D.

The opponents have argued that an FOS of greater than 1.5 is required by the City of Los Angeles not only for the site on which the structure is founded but for the remainder of the site as well. The LA Municipal Code does not specify whether the FOS needs to be demonstrated for the building site or for an entire slope. The application of a 1.5 FOS to a natural slope not affected by excavation is a policy determination by the Los Angeles Department of Building & Safety which is set forth in its Document No. P/BC 2008-049. The Department has the ability to apply or not apply this policy based on specific circumstances.

The uncontroverted evidence is that the building site has an FOS of greater than 1.5. The remainder of the site will have the FOS improved from the present 1.04 to 1.28. The City Department of Building and Safety found that the facts did not require the 1.5 FOS for the lower slope. The Commission's geologist has concurred.

2. **Factor of Safety assuming saturated conditions**.

The opponents claim that the calculations of FOS were based upon dry and not saturated conditions. The applicants do not disagree that the calculations must be based on saturated conditions. The Grover-Hollingsworth letter dated November 7, 2011 (Attachment 2 hereto) attests that all calculations regarding long-term stability were done on the basis of the weight of saturated soils. This is supported by the calculations shown in the T.I.N. Engineering Company report dated April 3, 2004, in the Grover Hollingsworth and Associates, Inc. report dated March

30, 2007. Indeed, the City, County and Coastal geologists would not have approved the applicants' reports if the weight of saturated soils had not been used in the calculations.

3. **Geologic analysis of the reported crack in Vance Street.**

Several persons testified about a crack in the middle of Vance Street which appeared after the 1994 Northridge earthquake. Testimony that such crack had not been previously considered by the City was untrue. Grover Hollingsworth had previously been requested by the City to comment on the crack. In the Grover Hollingsworth report dated January 14, 2009, Hollingsworth evaluates the crack as reported by Betty Landess at 3/8 of an inch wide and 125 feet long in Landess' letter dated October 13, 2008. Hollingsworth performed a series of calculations based upon the soils and the seismic values of the Northridge earthquake and concluded that a crack 2.4 inches and 8 feet deep could have been caused by the Northridge quake. Applying the slope stability calculations to the applicants' site assuming the existence of the crack produce no different result in site stability. Hollingsworth has reconfirmed these findings in his letter of October 24, 2011 (Attachment 3 hereto). In fact, the engineering requirements to bring the site up to a 1.5 FOS also supports Vance Street and prevents the type of ground crack that may have occurred. This report has been reviewed by the City and Coastal Commission geologists who have concurred with its conclusion. The project will improve the stability of Vance Street. Hollingsworth's January 14, 2009 report is Attachment 4 hereto.

4. **Precedent for other parcels**

Some persons complained that this approval would be a precedent for "eight" other parcels along Vance Street. However, there are only two other remaining parcels. One parcel, immediately adjacent to the east of the applicants' property has past due property taxes back to 1983 and is unlikely to remain in private ownership. The second parcel further east is the only other undeveloped parcel which would have to meet all of the same stringent requirements that the applicants have met in order to construct a home. (A map showing the other sites is Attachment 5 hereto.) As a practical matter, there is only one other similar parcel on Vance Street which is not either developed or restricted. The Commission should note that those which are developed, are developed on the same steep slope as the applicants, including the Lederer house at 390 Vance Street which was approved by the Commission in CDP No. 5-90-473 and is significantly larger in size (3,535 square feet) than the modest house proposed by the Applicants. This neighborhood is almost fully built out and the addition of one or two additional homes will not change the character of the area.

5. **Liability for soil in the drainage channel and liability for failure on site.**

Some Commissioners expressed concern about who would have the responsibility if soil or other materials fell from the applicants' property into the Rustic Canyon flood control channel. The applicant, Robert Dolbinski, has already executed and recorded an agreement with the City of Los Angeles (Instrument No. 06-0360223 recorded February 16, 2006), that he will assume "responsibilities for all necessary maintenance and repair of the slope." This would include the removal of any soil or debris from the slope from the flood control channel. See, Attachment 6.

Other concerns related to the potential for damage to other private property if during construction, equipment were to fall down the slope. Attachment 7 is a cross section of the applicants' property, the flood control channel, the street and the adjoining private property. Anything falling from the applicants' property would fall into the flood control channel which is concrete lined and 8 feet deep. To affect any other private property owner, an object falling from the site would have to rise 8 feet above the west face of the channel and travel an additional 60 feet before it would reach any residence. The private property on Rustic Canyon Road is well protected by the existing deep channel at the bottom of the slope, from any risk that construction equipment will affect their property even in the event of an accident.

Finally, City Condition No. 6 requires the applicants to assume responsibility for the impact of failures on the slope on their property and relieves the City of liability. Recommended Special Condition No. 7 also requires the Applicants to assume the risk.

6. **Potential for soil entering the drainage channel during construction**

There were concerns that if there were some soil failure during construction, that soil could block the flood control channel and cause water to back up and flood nearby houses. However, Coastal Condition No. 4A4 limits grading to dry season, April 1 – October 31. There is minimal water flow through the channel during the dry season. This minimizes any risk that there would be a water flow of such measure that even the full blockage of the channel could not be relieved before water overtopped the banks.

The Los Angeles County Department of Public Works, the agency responsible for the design, operation and maintenance of the flood control channel, visited the site, reviewed the soils reports and structural design and approved the project. Public Works and Flood Maintenance has continued to review the project and approved the storm water connection permit for site drainage. The Storm Water Connection Permit also allows the Applicants' construction staff to enter the channel to remove any debris from the channel.

7. **Construction Vehicle Access**

The suggestion was made by the opponents that a home could not be built because the applicants could not use Chatauqua Street to access the property due to a weight limit. There is a weight limit on Chatauqua Street. However, this has not prevented any of the other dozens of homes reached by Chatauqua Street from being constructed. This is because Los Angeles Municipal Code contains and exception in 80.36.1(c)4 for delivering building materials and equipment to a site for which a building permit has been issued. This is a logical exception. Jim Burman, Los Angeles City Engineering, has concurred that this exception for deliveries to a property with a building permit will apply to the Project. (See, Attachment 8, email dated November 3, 2011.)

Even if there were no exception for construction, there are other streets which are not subject to the same weight limit over which equipment and materials could be brought. Attachment 9 is a map showing one possible other route. The construction of this small home will not require very many trips for export of excavation, delivery of steel, concrete and other building materials, spread out over a number of months.

I would also note that there is no provision in Chapter 3 under which this is a Coastal Act issue and not an issue for the local government in the normal maintenance and operation of its streets. Certainly, the City of Los Angeles is well equipped to protect its street. In fact, in the City's approval Condition No. 11(l) requires:

3. All haul route hours shall be limited to off-peak hours as determined by Board of Bldg. and Safety Commissioners.
4. Dept. of Transportation shall recommend to the Building and Safety Commission Office the appropriate size of trucks allowed for hauling, best route of trave, the appropriate number of flag people.
5. Dept. of Building and Safety shall stagger haul trucks based upon a specify area's capacity, as determined by the DOT, and the amount of soil proposed to be hauled to minimize cumulate traffic and congestion impacts.
6. Applicant shall be limited to no more than two trucks at any given time within the site's staging area.

The Commission cannot and should not be the exclusive regulator of every aspect of construction. Chapter 3 policies are concerned with impacts to coastal resources. Local governments have an essential role to perform in supervision of construction. The City of Los

Angeles has demonstrated by its 113 special conditions and subconditions that it intends to perform the role of regulating the construction of the project to protect the public interest.

8. **Construction permits on similar slopes**

There has been considerable development on other property with similar slopes. Much of this development has been approved by the Coastal Commission. Attachment 10 includes photographs of other homes along the rim of Santa Monica and Rustic Canyons on steep slopes. Many of these homes are large and project out from the slope. The applicants home is small and nestles into the slope. The size and design are consistent with the sides of the canyon both on the Pacific Palisades and on the Santa Monica sides.

9. **Assurance of completion of foundation system for 1.5 factor of safety**

Concerns were expressed about achieving the grading and foundation system to achieve the 1.5 factor of safety without an interruption which might leave the site in an unstable state. Los Angeles Municipal Code §91.7006.5 requires that the applicants post a bond "in such form and amounts as may be deemed necessary to assure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions." The bond amount is to be "sufficient to cover the entire project" authorized by the grading permit. LA Municipal Code §91.7006.5.1. The size of the bond includes "the cost of all drainage or other protective devices such as, but not limited to retaining walls, as may lawfully be required." The provisions of §91.7006.5 are Attachment 11.

If the Commission is not comfortable that the City will require the necessary size of bond to complete the entire foundation, wall and caisson system, the Commission could impose a condition requiring that the bond amount be sufficient to complete all of the foundation, wall and caisson system in order to create the 1.5 FOS for the construction site.

10. **Larger staging area from time to time for caisson assembly**.

The opponents have claimed that the street encroachment permit which the applicants were required to obtain months in advance of any possible commencement date (1) does not cover a sufficient area for construction, and (2) does not allow for cranes, pumpers, drill rigs or other equipment. First, the normal encroachment permit for construction contemplates that cranes, pumpers, drill rigs and other equipment may be required. However, the application cannot be made so far in advance. For specialized equipment, the application must specify the type of equipment and will be more limited as to time than the general site uses. There is no

question that such a permit can and will be issued upon proper application. Again, this is not a Coastal Act issue but a local government issue.

The City's conditions of approval include Condition no. 7 which states:

> "Prior to issuance of a grading or building permit, the applicant shall submit a Construction Staging and Parking Plan to the Department of Building and Safety and the Fire Department for review and approval. The plan shall identify where all construction materials, equipment, and vehicles will be stored through the construction phase of the project, as well as where contractor, subcontractor and laborers will park their vehicles so as to prevent blockage of two-way traffic on streets in the vicinity of the construction site."

The longer term encroachment permit for the street in front of the applicants' property (55 feet) can be supplemented from time to time for a short term with encroachment permits on the street abutting the vacant property to the east. If assembly of steel reinforcement for caissons may require a distance of 75 feet, a short term permit for the limited number of days that such work would be required is readily available.

Vance Street is a 60 foot wide right of way with only 20 feet of paving. The use of the side of the street will not interfere with any regular access. It is also common that if necessary to even close a lane of a street during a short term of construction, permits are issued, flagmen are employed, and construction proceeds. The rules for encroachment permits are designed to assure safety and a minimum of interference with public uses. The rules are not designed to be barriers to construction to be exploited by persons who simply oppose a home being built.

11. **Taking of Property**.

The opponents to the Applicant's Project urge the Commission to deny the Permit. Such an action by the Commission would not be permitted by Public Resources Code §30010 which prohibits the Commission acting upon a permit such that private property is taken without just compensation. A memorandum concerning the application of the principles of unconstitutional "takings" is Attachment 12.

12. **Conclusion**.

We certainly hope that this letter and the attached documents are helpful in the staff's analysis of the issues raised at the public hearing in October. As you must note, many of these issues were addressed in reports and hearings before the City of Los Angeles. There are few new

issues. The claim that the project cannot be constructed because there is not a sufficient construction staging plan is a local issue. It is the City, not the Coastal Commission, that provides regular inspections by building officers trained to observe construction and insure its compliance with proper codes. This is neither an activity that the Coastal Commission is staffed for nor an activity in which it engages.

If you have any questions or require any further information, please do not hesitate to contact me, Robert Dolbinski, Jeanne Chen, Grover Hollingsworth, or Bob Holcomb.

Sincerely,

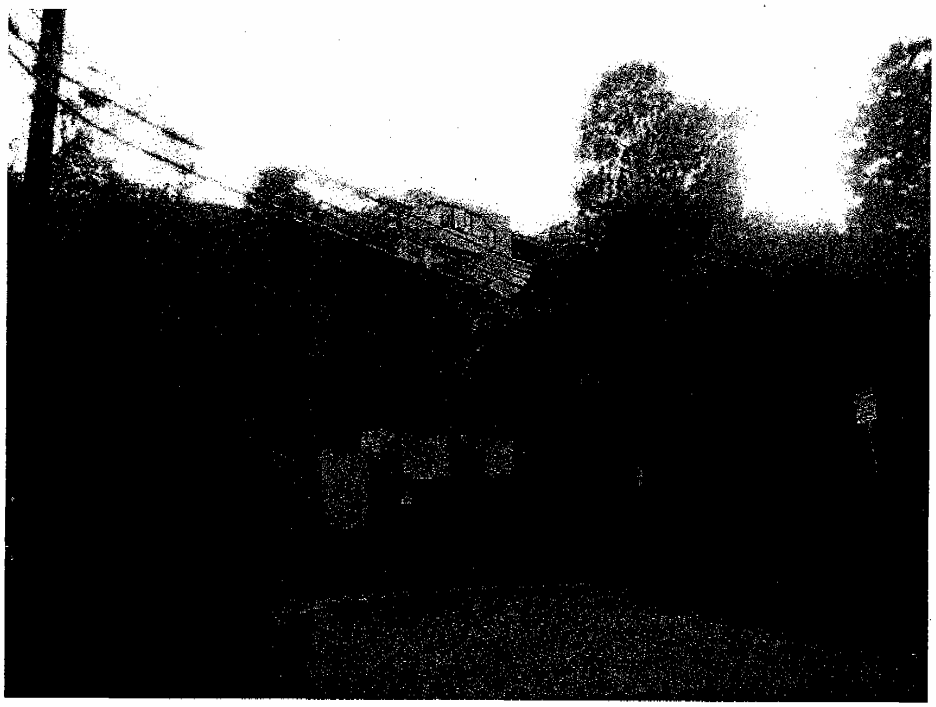
SHERMAN L. STACEY

SLS/sh

cc: Robert Dolbinski

Attachments to Letter to California Coastal Commission
From Sherman L. Stacey
Regarding A-5-PPL-11-028/5-11-056 (Dolbinski & Chen)
November 14, 2011

Attachment 1:	Photograph of Lederer Property at 390 Vance Street
Attachment 2:	Grover Hollingsworth and Associates, Inc. letter regarding long-term slope stability dated November 7, 2011
Attachment 3:	Grover Hollingsworth and Associates, Inc. letter regarding slope stability of Vance Street dated October 24, 2011
Attachment 4:	Grover Hollingsworth and Associates, Inc. letter regarding the improved stability of Vance Street dated January 14, 2009
Attachment 5:	Map of two remaining undeveloped parcels located to the east of applicants property
Attachment 6:	Agreement between Dolbinski and City of Los Angeles recorded February 16, 2006
Attachment 7:	Cross section of the applicant's property, flood control channel, the street and adjoining private property
Attachment 8:	Email from Jim Burman, Los Angeles City Engineering dated November 3, 2011 regarding use of streets for construction
Attachment 9:	Possible alternative route map to property
Attachment 10:	Photos of other homes on slopes along the rim of Santa Monica and Rustic Canyons slopes
Attachment 11:	Provisions Los Angeles Municipal Code §91.7006.5
Attachment 12:	Memorandum concerning the application of the principles of Unconstitutional "takings"to denial of application



Residence on Same Hillside
390 N. Vance Street

370 N. Vance Street
5-11-056

Attachment 1

COASTAL COMMISSION

EXHIBIT # 36
PAGE 11 OF 53

Grover
Hollingsworth
and Associates, Inc.

November 7, 2011
GH13327-G

Robert Dolbinski
1122 Idaho Avenue
Santa Monica, California 90403

Subject: Additional Response #3 to Fourth-Party Geotechnical Review, Proposed Three-Story Residence, Lot 204, Tract 1719, 375 N. East Rustic Road, Los Angeles, California.

Reference: Reports by Grover-Hollingsworth and Associates, Inc.: Geologic and Soils Engineering Exploration, Proposed Three-Story Residence, dated March 30, 2007; Change of Consultant Letter and Response to City Correction Letter, dated May 14, 2007; Response to City Correction Letter #2, dated August 7, 2007; Response to City Correction Letter #3, dated October 25, 2007; Response to Fourth-Party Engineering Geologic Review, Proposed Three-Story Residence, dated January 13, 2009; Reported Post-Northridge Earthquake Ground Crack on Vance Street, dated January 14, 2009; Site Visit and Revised Seismic Design, dated January 15, 2009; Response to Fourth-Party Engineering Geologic Review, dated July 29, 2009; Additional Response to Fourth-Party Geotechnical Review, Proposed Three-Story Residence, dated September 15, 2009; and Additional Response #2 to Fourth-Party Geotechnical Review, dated September 19, 2011.

City of Los Angeles Correction Letters, dated May 1, 2007, May 14, 2007, June 26, 2007, and September 13, 2007; and Approval Letter, dated December 19, 2007.

County of Los Angeles, Department of Public Works, Mitigated Negative Declaration Letter, dated January 7, 2009.

Engineering Geology Geotechnical Engineering
31129 Via Colinas, Suite 707, Westlake Village, California 91362 • (818) 889-0844 • (FAX) 889-4170

Attachment 2

Dear Mr. Dolbinski:

As requested, we are providing the following comments after review of the latest letter from Dr. Daniel Pradel, of Group Delta Consultants, dated October 24, 2011. As stated in our last letter the subject project has received greater scrutiny than any other single-family project I have been involved with in my 30 years of practice. Both the City and County of Los Angeles, Building and Public Works Departments have reviewed the project. Two independent geologists and engineers have also provided critical comments and review, several of which have been reasonable and appropriate (latest two Group Delta letters excepted). The reasonable comments by the independent reviewers have been answered and our answers approved by the City and County.

The project opponents and Dr. Pradel state that they are concerned about the safety of the site and its potential to shed debris into the Rustic Road Channel. The latest report includes a photograph of a slope failure that shed debris into the channel during the 1994 Northridge Earthquake. Dr. Pradel suggests that this slope failure occurred on the subject site when in fact the available photographic evidence shows that the failure occurred on the adjacent site to the north where the slope was landscaped and irrigated.

Dr. Pradel continues to provide a slanted view of the stability of the property. Dr. Pradel never discusses the fact that the stability of the slope in its present undeveloped condition would be approximately 1.0, essentially at the theoretical boundary between failure and non-failure were it to become saturated (Factor of Safety = 1.04 per enclosed XTABL File 13327BE1). The proposed development increases the factor of safety to at least 1.5 in the area of the residence and to a minimum of 1.28 below the structure. Both of these factors of safety assume saturation of the slope. (Dr. Pradel's recent statement that our long term stability analyses present a dry factor of safety is absolutely incorrect). In addition, saturation of the slope will be much less likely following completion of the residence. Therefore, the actual factors of safety following residence construction will be greater than those discussed above.

If the neighbors along East Rustic Road are truly concerned that the slope between Vance Street and the Rustic Road Channel might fail, block the channel and cause flooding of

their homes, they should applaud the fact that the applicants are willing to expend a substantial sum of money to dramatically improve the stability of the current slope.

Should you have any questions, please call.

Respectfully submitted,

ROBERT A. HOLLINGSWORTH
E.G. 1265/G.E. 2022

REGISTERED PROFESSIONAL ENGINEER
ROBERT A. HOLLINGSWORTH
NO. 2022
EXP. 9-30-13
GEOTECHNICAL
STATE OF CALIFORNIA

RAH:pr

Enc: Slope Stability Analyses (5)

xc: (1) Robert Dolbinski, via email
(1) Sherman Stacey, via email

XSTABL File: 13327BE1 11-14-11 15:14

```
*****************************************
*              X S T A B L              *
*                                       *
*        Slope Stability Analysis       *
*              using the                *
*           Method of Slices            *
*                                       *
*        Copyright (C) 1992 - 99        *
*   Interactive Software Designs, Inc.  *
*        Moscow, ID 83843, U.S.A.       *
*                                       *
*          All Rights Reserved          *
*                                       *
*  Ver. 5.203                96 - 1710  *
*****************************************
```

Problem Description : DOLBINSKI SEC B EXISTING SLOPE STATC

SEGMENT BOUNDARY COORDINATES

---

16 SURFACE boundary segments

Segment No.	x-left (ft)	y-left (ft)	x-right (ft)	y-right (ft)	Soil Unit Below Segment
1	1.0	103.0	50.0	103.0	2
2	50.0	103.0	79.5	105.0	2
3	79.5	105.0	82.0	103.0	2
4	82.0	103.0	84.6	99.0	2
5	84.6	99.0	102.7	82.0	2
6	102.7	82.0	111.0	74.5	2
7	111.0	74.5	115.0	66.5	2
8	115.0	66.5	117.0	63.5	3
9	117.0	63.5	120.5	58.5	4
10	120.5	58.5	124.0	54.0	5
11	124.0	54.0	127.5	50.0	6
12	127.5	50.0	132.0	44.0	7
13	132.0	44.0	137.0	39.5	8
14	137.0	39.5	151.0	39.5	8
15	151.0	39.5	159.0	47.5	8
16	159.0	47.5	176.0	47.5	8

6 SUBSURFACE boundary segments

Segment No.	x-left (ft)	y-left (ft)	x-right (ft)	y-right (ft)	Soil Unit Below Segment
1	1.0	66.5	115.0	66.5	1
2	1.0	63.5	117.0	63.5	4
3	1.0	58.5	120.5	58.5	5

* * * * * DEFAULT SEGMENT LENGTH SELECTED BY XSTABL * * * * *

7.0 ft line segments define each trial failure surface.

ANGULAR RESTRICTIONS

The first segment of each failure surface will be inclined within the angular range defined by :

Lower angular limit := -45.0 degrees
Upper angular limit := (slope angle - 5.0) degrees

****

-- WARNING -- WARNING -- WARNING -- WARNING -- (# 48)

****

Negative effective stresses were calculated at the base of a slice. This warning is usually reported for cases where slices have low self weight and a relatively high "c" shear strength parameter. In such cases, this effect can only be eliminated by reducing the "c" value.

****

USER SELECTED option to maintain strength greater than zero

Factors of safety have been calculated by the :

* * * * * SIMPLIFIED BISHOP METHOD * * * * *

The most critical circular failure surface is specified by 15 coordinate points

Point No.	x-surf (ft)	y-surf (ft)
1	137.00	39.50
2	130.64	42.43
3	124.47	45.73
4	118.50	49.39
5	112.76	53.40
6	107.27	57.73
7	102.04	62.39
8	97.09	67.34
9	92.44	72.57
10	88.11	78.07
11	84.11	83.82
12	80.45	89.79

13	77.16	95.96
14	75.87	98.75
15	75.87	104.75

**** Simplified BISHOP FOS = 1.045 ****

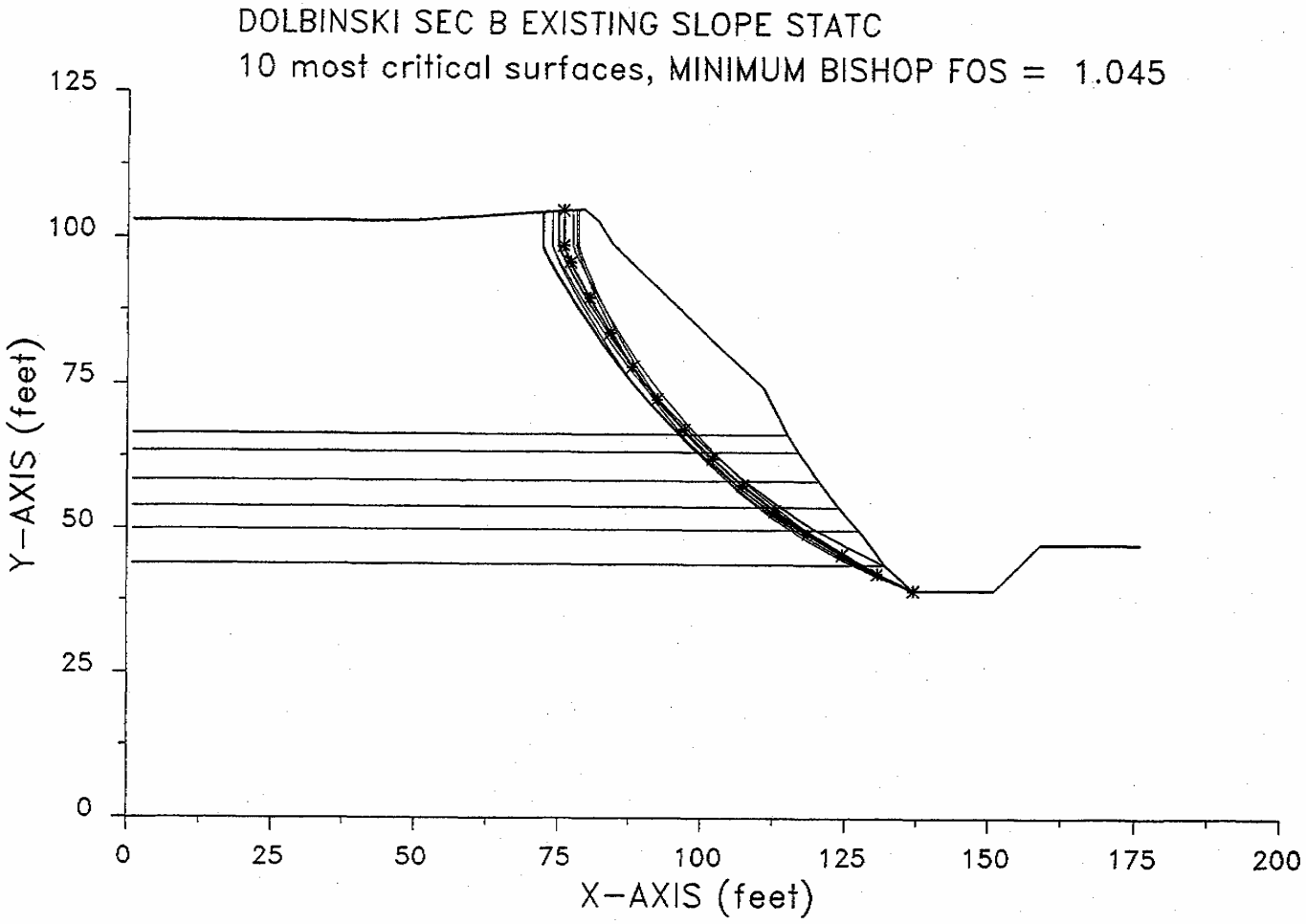
The following is a summary of the TEN most critical surfaces

Problem Description : DOLBINSKI SEC B EXISTING SLOPE STATC

	FOS (BISHOP)	Circle Center x-coord (ft)	Circle Center y-coord (ft)	Radius (ft)	Initial x-coord (ft)	Terminal x-coord (ft)	Resisting Moment (ft-lb)
1.	1.045	183.60	148.83	118.85	137.00	75.87	9.703E+06
2.	1.047	178.98	147.68	116.04	137.00	73.87	1.053E+07
3.	1.048	180.51	151.50	118.04	132.25	75.00	9.061E+06
4.	1.048	180.27	151.48	117.93	132.25	74.88	9.108E+06
5.	1.048	192.65	162.30	134.82	137.00	73.87	1.145E+07
6.	1.050	186.77	149.03	120.30	137.00	77.47	9.008E+06
7.	1.050	171.61	132.19	98.94	137.00	78.48	7.814E+06
8.	1.051	189.27	161.72	132.93	137.00	72.37	1.215E+07
9.	1.051	167.67	128.92	94.54	137.00	78.09	7.841E+06
10.	1.051	188.37	161.28	132.17	137.00	72.10	1.225E+07

* * * END OF FILE * * *

13327BE1 11-14-11 15:14



Grover
Hollingsworth
and Associates, Inc.

October 24, 2011
GH13327-G

Robert Dolbinski
1122 Idaho Avenue
Santa Monica, California 90403

Subject: Summary of Comments Regarding Reported Post-Northridge Earthquake Ground Crack on Vance Street, Proposed Three-Story Residence, Lot 204, Tract 1719, 375 N. East Rustic Road, Los Angeles, California.

Reference: Reports by Grover-Hollingsworth and Associates, Inc.: Geologic and Soils Engineering Exploration, Proposed Three-Story Residence, dated March 30, 2007; Change of Consultant Letter and Response to City Correction Letter, dated May 14, 2007; Response to City Correction Letter #2, dated August 7, 2007; Response to City Correction Letter #3, dated October 25, 2007; Response to Fourth-Party Engineering Geologic Review, Proposed Three-Story Residence, dated January 13, 2009; Reported Post-Northridge Earthquake Ground Crack on Vance Street, dated January 14, 2009; Site Visit and Revised Seismic Design, dated January 15, 2009; Response to Fourth-Party Engineering Geologic Review, dated July 29, 2009; and Additional Response to Fourth-Party Geotechnical Review, Proposed Three-Story Residence, dated September 15, 2009.

City of Los Angeles Correction Letters, dated May 1, 2007, May 14, 2007, June 26, 2007, and September 13, 2007; and Approval Letters, dated December 19, 2007, and November 12, 2009.

County of Los Angeles, Department of Public Works, Mitigated Negative Declaration Letter, dated January 7, 2009.

Engineering Geology Geotechnical Engineering
31129 Via Colinas, Suite 707, Westlake Village, California 91362 • (818) 889-0844 • (FAX) 889-4170

Attachment 3

Dear Mr. Dolbinski:

As requested, we are providing the following summary of our earlier letter dated January 14, 2009, that contained comments regarding a ground crack that reportedly developed along Vance Street during the Northridge Earthquake. The exact location of that ground crack that is discussed in the attached letter by Betty Landess is unclear. Betty Landess reports that a 3/8-inch (1 cm) wide-ground crack occurred near the center of Vance Street. The center line of Vance Street is approximately 30 to 35 feet from the top of the slope at Section B based on the Schmahl survey.

The specifics of our evaluation regarding whether displacement of the crack reported by Betty Landess could have occurred due to yielding of the slope on the subject property during the Northridge Earthquake are presented in our January 14, 2009, report. Our analyses did indicate that the Northridge Earthquake could have created the ground crack reported by Betty Landess near the center line of Vance Street as a result of slight yielding of the slope between Vance Street and East Channel Road during the Northridge event.

The foundation system recommended for the subject residence is designed to resist lateral movement during a seismic event. The system is designed for a higher Peak Ground Acceleration (PGA) of PGA = 0.45g, relative to the PGA = 0.311g that occurred at the site during the Northridge event. In addition, the distance from the site to the epicenter assumed in our design analyses for the planned residence is much less (2 km vs 20 km) than the site to epicenter distance for the Northridge event. In addition, a higher factor of safety (FS = 1.1 vs FS = 1.0) has been used. Therefore, the recommended foundation system for the planned residence will prevent the type of ground crack that may have occurred in Vance Street during the Northridge event.

31129 Via Colinas, Suite 707, Westlake Village, California 91362 • (818) 889-0844 • (FAX) 889-4170

Should you have any further questions, please feel free to call.

Respectfully submitted,

ROBERT A. HOLLINGSWORTH
E.G. 1265/G.E. 2022

RAH:dh:dl

Enc: Letter by Betty Landess, dated October 13, 2008

xc: (1) Robert Dolbinski
(1) Robert Dolbinski, by email

BETTY H. LANDESS
AIA, Architect
225 Vance Street
Pacific Palisades, CA 90272
310-454-4101

October 13, 2008

G4

To: All Concerned

Re: Proposed Construction on the 300 Block of Vance Street, also known as 375 North East Rustic Road, Case #ZA2007-5584 (CDP)(MEL) Lot 204, Tract 1719

My name is Betty Landess, and I have been a licensed architect in the State of California, since 1967.

I own the property at 225 Vance Street, Pacific Palisades, directly across the street from the lot under discussion. Said lot is very narrow and hugs the edge of a very high cliff.

In my many years of working with engineers and analyzing my own structures, I am convinced that any building on that property would be a disaster waiting to happen.

I watched the soils engineers taking core samples of the lot, but saw no samples being taken at the center of the street.

Herein lies the impending disaster and liability for all concerned: After the Northridge earthquake, a crack about 125 feet long and 3/8 inch wide appeared, running directly down the middle of Vance Street between the subject lot and my property. This was observed by the Crowells at 401 Vance Street, and Lederers at 390 Vance Street, Pacific Palisades.

Mrs. Lederer, who lives near the subject lot, tried to measure the depth of the crack, as did I. I could not determine its depth. It quickly filled in due to the traffic on the dusty road, and none of us said any more about it.

Oct 15 2008 2:45PM CHATTEN-BROWN & CARSTENS 3103144050 p.3
Received: Oct 15 2008 02:52pm

Grover
Hollingsworth
and Associates, Inc.

January 14, 2009
GH13327-G

Robert Dolbinski
1122 Idaho Avenue
Santa Monica, California 90403

Subject: Comments Regarding Reported Post-Northridge Earthquake Ground Crack on Vance Street, Proposed Three-Story Residence, Lot 204, Tract 1719, 375 N. East Rustic Road, Los Angeles, California.

Reference: Reports by Grover-Hollingsworth and Associates, Inc.: Geologic and Soils Engineering Exploration, Proposed Three-Story Residence, dated March 30, 2007; Change of Consultant Letter and Response to City Correction Letter, dated May 14, 2007; Response to City Correction Letter #2, dated August 7, 2007; and Response to City Correction Letter #3, dated October 25, 2007.

City of Los Angeles Correction Letters, dated May 1, 2007; May 14, 2007; June 26, 2007; and September 13, 2007; and Approval Letter, dated December 19, 2007.

County of Los Angeles, Department of Public Works, Mitigated Negative Declaration Letter, dated January 7, 2009.

Dear Mr. Dolbinski:

As requested, we are providing the following comments regarding a ground crack that reportedly developed along Vance Street during the Northridge Earthquake. The exact location of this ground crack that is discussed in the attached letter by Betty Landess is unclear. Development of a linear ground crack along Vance Street during the Northridge

Betty Landess reports that a 3/8-inch (1 cm) wide-ground crack occurred near the center of Vance Street. The center line of Vance Street is approximately 30 to 35 feet from the top of the slope at Section B based on the Schmahl survey. Determination of whether this displacement could have occurred due to yielding of the slope during the Northridge earthquake using the Bray-Rathje type slope deformation analysis discussed in "Recommended Procedures for Implementation of DMG Special Publication 117, Gurde Lines for Analyzing and Mitigating Landslide Hazards in California," Blake (2002) requires determination of the yield acceleration for the slope. The yield acceleration is the horizontal (psuedostatic) acceleration that reduces the factor of safety of the slide mass to 1.0. The yield acceleration along Section B through the center of Vance Street was determined using Bishop's Simplified Method and the XSTABL computer program (see XSTABL File DOBLIN8). The yield acceleration during the Northridge event assuming saturated soil conditions is Ky=0.165g. This yield acceleration suggests that a ground crack that is 2.4 inches wide could have formed near the center of Vance Street during the Northridge event. This possible ground crack is wider than the reported crack; however, it should be noted that the earth materials were not saturated at the time of the Northridge event.

We have also performed the same analyses using higher estimated non-saturated strength values for the older alluvium/terrace deposits. The assumed non-saturated strength values are density = 130pcf, cohesion = 400psf and phi = 38 degrees. These values yield a Ky = 0.24g during the Northridge event and a 3/8-inch-wide ground crack near the center of Vance Street.

Based on the above analyses, it appears possible that the ground crack reported by Betty Landress near the center line of Vance Street could have developed due to slight yielding of the slope between Vance Street and East Channel Road during the Northridge event.

The foundation system recommended for the subject residence is designed to resist lateral movement during a seismic event. The system is designed for a higher PGA (g = 0.45g vs g = 0.311g) than occurred at the site during the Northridge event. In addition, the distance from the site to the epicenter assumed in the analysis is much less (2 km vs 20 km) and a higher factor of safety (FS = 1.1 vs FS = 1.0) has been used. Therefore, the recommended foundation system will prevent the type of ground crack that may have occurred in Vance Street during the Northridge event.

Should you have any further questions, please feel free to call.

Respectfully submitted,

ROBERT A. HOLLINGSWORTH
E.G. 1265/G.E. 2022

RAH:dh:dl

Enc: Letter by Betty Landess, dated October 13, 2008
EQSEARCH Results (4)
Slope Stability Analyses (12)

xc: (3) Robert Dolbinski
(3) City of Los Angeles

```
**************************
*                        *
*     E Q S E A R C H    *
*                        *
*      Version 3.00      *
*                        *
**************************
```

ESTIMATION OF
PEAK ACCELERATION FROM
CALIFORNIA EARTHQUAKE CATALOGS

JOB NUMBER: GH13327-G

DATE: 12-02-2008

JOB NAME: Doblinksi__Campbell & Bozorgnia 94/97 Soft Ro

EARTHQUAKE-CATALOG-FILE NAME: ALLQUAKE.DAT

MAGNITUDE RANGE:
MINIMUM MAGNITUDE: 6.00
MAXIMUM MAGNITUDE: 7.00

SITE COORDINATES:
SITE LATITUDE: 34.0316
SITE LONGITUDE: 118.5175

SEARCH DATES:
START DATE: 1994
END DATE: 1994

SEARCH RADIUS:
150.0 mi
241.4 km

ATTENUATION RELATION: 10) Campbell & Bozorgnia (1994/97) -Soft Rock BT
UNCERTAINTY (M=Median, S=Sigma): M Number of Sigmas: 0.0
ASSUMED SOURCE TYPE: BT [SS=Strike-slip, DS=Reverse-slip, BT=Blind-thrust]
SCOND: 1 Depth Source: A
Basement Depth: 5.00 km Campbell SSR: 1 Campbell SHR: 0
COMPUTE PEAK HORIZONTAL ACCELERATION

MINIMUM DEPTH VALUE (km): 3.0

```
**************************
*                        *
*     E Q S E A R C H    *
*                        *
*      Version 3.00      *
*                        *
**************************
```

ESTIMATION OF
PEAK ACCELERATION FROM
CALIFORNIA EARTHQUAKE CATALOGS

JOB NUMBER: GH13327-G

DATE: 12-02-2008

JOB NAME: Doblinksi__Campbell Soft Rock 1997 Rev

EARTHQUAKE-CATALOG-FILE NAME: ALLQUAKE.DAT

MAGNITUDE RANGE:
MINIMUM MAGNITUDE: 6.00
MAXIMUM MAGNITUDE: 7.00

SITE COORDINATES:
SITE LATITUDE: 34.0316
SITE LONGITUDE: 118.5175

SEARCH DATES:
START DATE: 1994
END DATE: 1994

SEARCH RADIUS:
150.0 mi
241.4 km

ATTENUATION RELATION: 7) Campbell (1997 Rev.) -Soft Rock BT
UNCERTAINTY (M=Median, S=Sigma): M Number of Sigmas: 0.0
ASSUMED SOURCE TYPE: BT [SS=Strike-slip, DS=Reverse-slip, BT=Blind-thrust]
SCOND: 1 Depth Source: A
Basement Depth: 5.00 km Campbell SSR: 1 Campbell SHR: 0
COMPUTE PEAK HORIZONTAL ACCELERATION

MINIMUM DEPTH VALUE (km): 3.0

XSTABL File: DOLBIN8 12-02-08 10:51

```
*****************************************
*                                       *
*              X S T A B L              *
*                                       *
*                                       *
*        Slope Stability Analysis       *
*              using the                *
*           Method of Slices            *
*                                       *
*                                       *
*        Copyright (C) 1992 - 99        *
*    Interactive Software Designs, Inc. *
*         Moscow, ID 83843, U.S.A.      *
*                                       *
*                                       *
*          All Rights Reserved          *
*                                       *
*                                       *
*  Ver. 5.203              96 - 1710    *
*****************************************
```

Problem Description : SEC B-B' FIND Ky AT CENTER OF VANCE

SEGMENT BOUNDARY COORDINATES

---

11 SURFACE boundary segments

Segment No.	x-left (ft)	y-left (ft)	x-right (ft)	y-right (ft)	Soil Unit Below Segment
1	1.0	103.0	50.0	103.0	1
2	50.0	103.0	79.5	105.0	1
3	79.5	105.0	82.3	104.0	1
4	82.3	104.0	102.7	82.0	1
5	102.7	82.0	111.0	74.5	1
6	111.0	74.5	122.0	57.0	1
7	122.0	57.0	129.0	47.5	1
8	129.0	47.5	137.0	39.5	1
9	137.0	39.5	151.0	39.5	1
10	151.0	39.5	159.0	47.5	1
11	159.0	47.5	176.0	47.5	1

A CRACKED ZONE HAS BEEN SPECIFIED

Depth of crack below ground surface = 7.00 (feet)
Maximum depth of water in crack = .00 (feet)
Unit weight of water in crack = 62.40 (pcf)

Failure surfaces will have a vertical side equal to the specified depth of crack and be affected by a hydrostatic force according to the specified depth of water in crack.

****
-- WARNING -- WARNING -- WARNING -- WARNING -- (# 48)
****
Negative effective stresses were calculated at the base of a slice.
This warning is usually reported for cases where slices have low self weight and a relatively high "c" shear strength parameter. In such cases, this effect can only be eliminated by reducing the "c" value.
****

USER SELECTED option to maintain strength greater than zero

Factors of safety have been calculated by the :

* * * * * SIMPLIFIED BISHOP METHOD * * * * *

The most critical circular failure surface is specified by 17 coordinate points

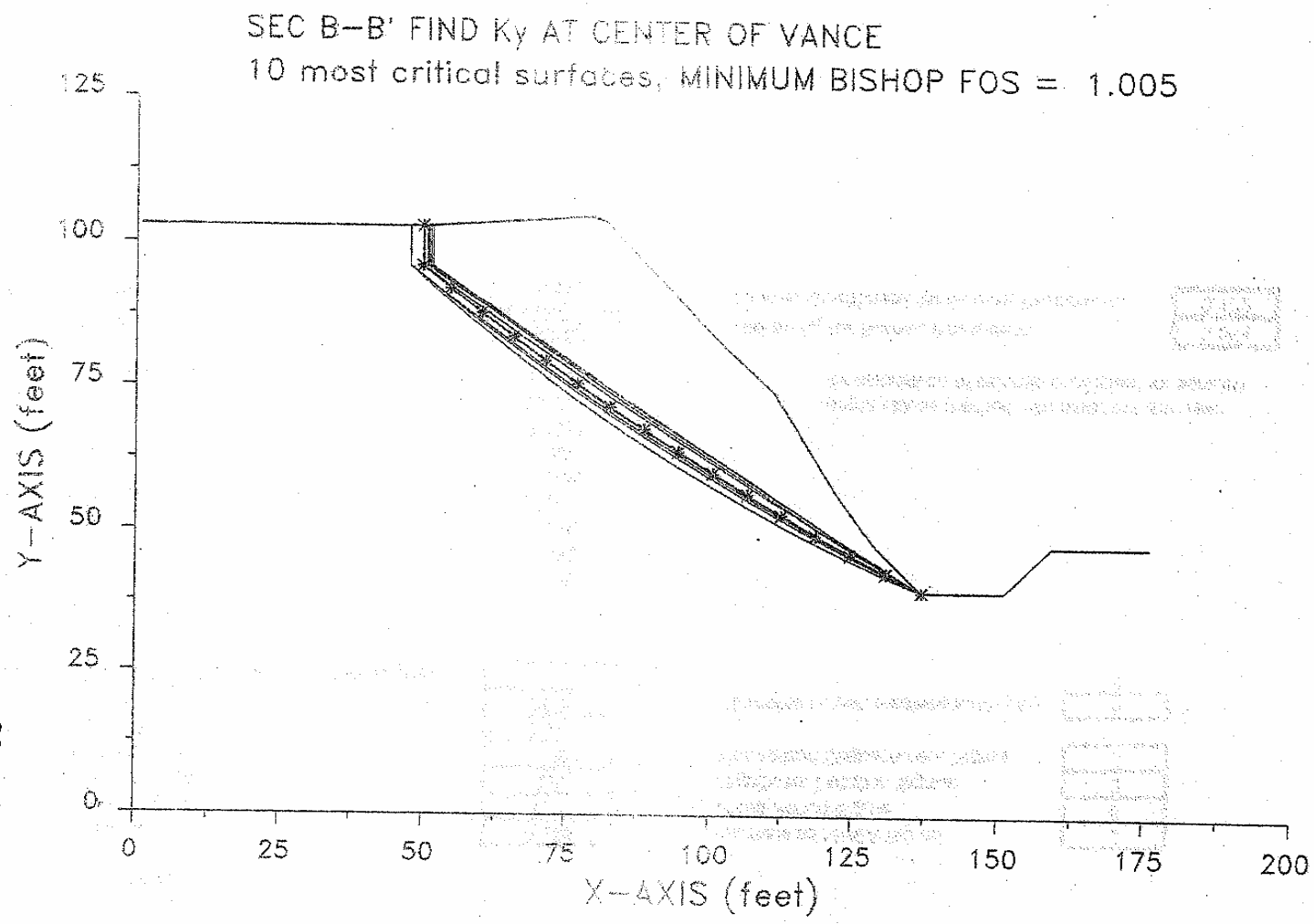
Point No.	x-surf (ft)	y-surf (ft)
1	137.00	39.50
2	130.79	42.73
3	124.62	46.05
4	118.51	49.45
5	112.43	52.93
6	106.41	56.49
7	100.44	60.14
8	94.51	63.87
9	88.64	67.68
10	82.82	71.57
11	77.06	75.54
12	71.35	79.59
13	65.69	83.72
14	60.10	87.92
15	54.56	92.21
16	49.78	96.00
17	49.78	103.00

**** Simplified BISHOP FOS = 1.005 ****

The following is a summary of the TEN most critical surfaces

Problem Description : SEC B-B' FIND Ky AT CENTER OF VANCE

NS 12-02-08 10:51



COASTAL COMMISSION

EXHIBIT # 36
PAGE 30 OF 53

XSTABL File: DOLBIN8A 12-02-08 11:02

```
*****************************************
*              X S T A B L              *
*                                       *
*        Slope Stability Analysis       *
*              using the                *
*           Method of Slices            *
*                                       *
*        Copyright (C) 1992 - 99        *
*   Interactive Software Designs, Inc.  *
*        Moscow, ID 83843, U.S.A.       *
*                                       *
*          All Rights Reserved          *
*                                       *
*  Ver. 5.203              96 - 1710    *
*****************************************
```

Problem Description : FIND Ky IN VANCE NON-SATURAT STRNGTH

SEGMENT BOUNDARY COORDINATES

---

11 SURFACE boundary segments

Segment No.	x-left (ft)	y-left (ft)	x-right (ft)	y-right (ft)	Soil Unit Below Segment
1	1.0	103.0	50.0	103.0	1
2	50.0	103.0	79.5	105.0	1
3	79.5	105.0	82.3	104.0	1
4	82.3	104.0	102.7	82.0	1
5	102.7	82.0	111.0	74.5	1
6	111.0	74.5	122.0	57.0	1
7	122.0	57.0	129.0	47.5	1
8	129.0	47.5	137.0	39.5	1
9	137.0	39.5	151.0	39.5	1
10	151.0	39.5	159.0	47.5	1
11	159.0	47.5	176.0	47.5	1

A CRACKED ZONE HAS BEEN SPECIFIED

Depth of crack below ground surface = 7.00 (feet)
Maximum depth of water in crack = .00 (feet)
Unit weight of water in crack = 62.40 (pcf)

Failure surfaces will have a vertical side equal to the specified depth of crack and be affected by a hydrostatic force according to the specified depth of water in the crack.

****
-- WARNING -- WARNING -- WARNING -- WARNING -- (# 48)
****
Negative effective stresses were calculated at the base of a slice.
This warning is usually reported for cases where slices have low self weight and a relatively high "c" shear strength parameter. In such cases, this effect can only be eliminated by reducing the "c" value.
****

USER SELECTED option to maintain strength greater than zero

Factors of safety have been calculated by the :

* * * * * SIMPLIFIED BISHOP METHOD * * * * *

The most critical circular failure surface is specified by 17 coordinate points

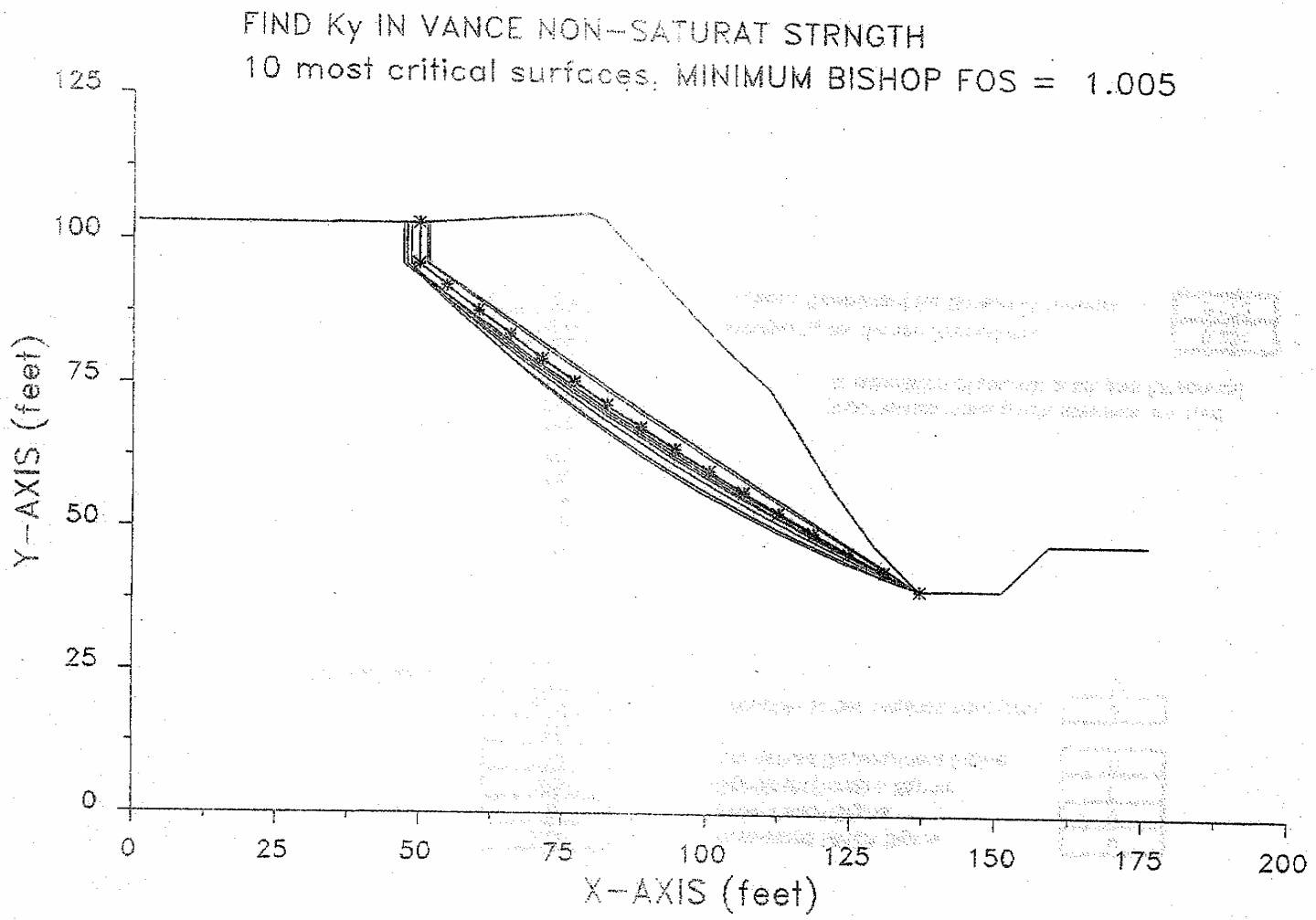
Point No.	x-surf (ft)	y-surf (ft)
1	137.00	39.50
2	130.79	42.73
3	124.62	46.05
4	118.51	49.45
5	112.43	52.93
6	106.41	56.49
7	100.44	60.14
8	94.51	63.87
9	88.64	67.68
10	82.82	71.57
11	77.06	75.54
12	71.35	79.59
13	65.69	83.72
14	60.10	87.92
15	54.56	92.21
16	49.78	96.00
17	49.78	103.00

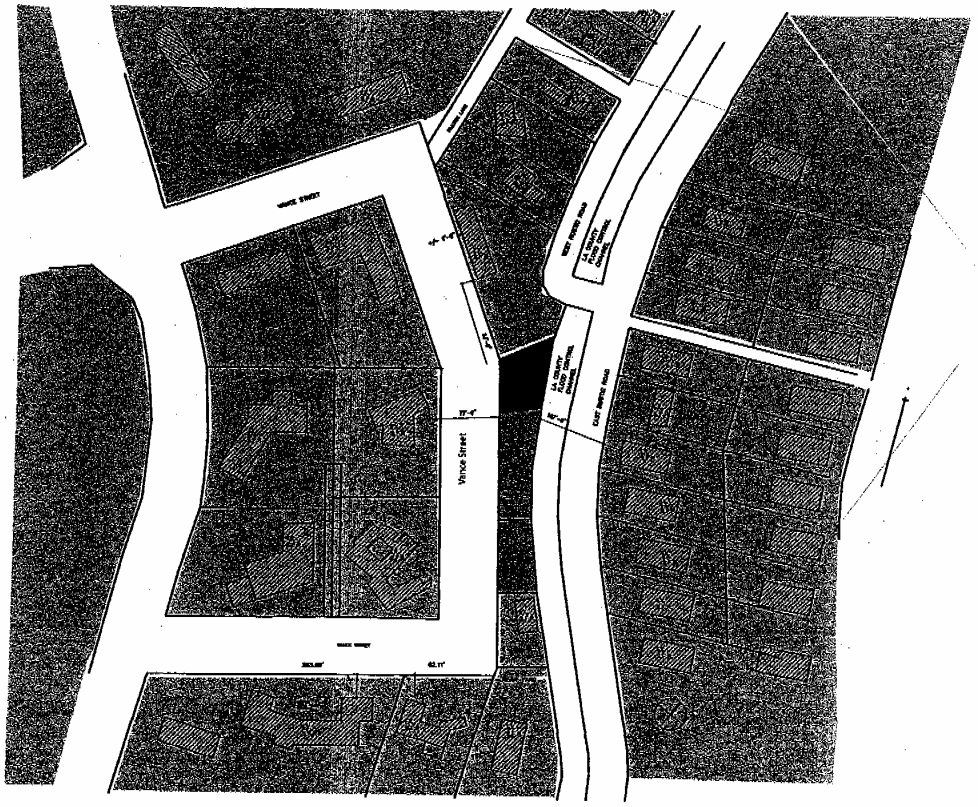
**** Simplified BISHOP FOS = 1.005 ****

The following is a summary of the TEN most critical surfaces

Problem Description : FIND Ky IN VANCE NON-SATURAT STRNGTH

N8A 12-02-08 11:02





Existing Site Development
Proposed Residence + Two Vacant Parcels

370 N. Vance Street
5-11-056

Attachment 5

COASTAL COMMISSION

EXHIBIT # 36
PAGE 34 OF 53

06 0360223

Recorded at the request of and mail to:

Department of Building and Safety,
Grading Section - City of Los Angeles
201 N. Figueroa Street
Los Angeles, CA 90012

SPACE ABOVE THIS LINE FOR RECORDER'S USE

AFFIDAVIT G7- MAINTENANCE OF the slope

The undersigned hereby certify that we are the owners of real property located in the City of Los Angeles, State of California that is described by the following LEGAL DESCRIPTION: Lot 204 of Tract No. 1719 in the City of Los Angeles State of California

as recorded in Book 21, Page 162 to 163, Records of Los Angeles County.
This property is located at and is known by the following ADDRESS: 375 E. N. Kurtz Canyon Road
This affidavit is executed in compliance with the action of the modification request
of the Department of Building and Safety of the City of Los Angeles, dated 01/24/06
I am (We are) fully aware of that the slope has a factor of safety less than code required and I agree to resume responsibilities for all necessary maintenance and repair
The following technical documents have been filed with the Department of Building and Safety, in reference to the above action.
Soil Report by T.I.N. Engineering, Date 4/3/04-, 7/8/05, 10/13
Modification Request, File # 13299, Date 01/24/06
, Date
This covenant and agreement shall run with all of the above described and shall be binding upon ourselves, and future owners, encumbrances, their successors, heirs or assignees and shall continue in effect until released by the authority of the Superintendent of Building of the City of Los Angeles upon submittal of written request, applicable fees and evidence that this covenant and agreement is no longer required by law.

SIGNATURES MUST BE NOTARIZED

Owner's Name Robert J. Dolbinski (Please type or print)
Signature of Owner [signature] (Sign)
Two Officers' Signatures Required for Corporations n.a. (Sign)
Name of Corporation n.a.
Dated this 8 day of Feb 20 06

(STATE OF CALIFORNIA, COUNTY OF Los Angeles)
On 2/8/06 before me, Muthiah Nachiappan, personally appeared Robert Jacob Dolbinski,
personally known to me (or proved to me the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
WITNESS my hand and official seal.

Signature [signature]

MUTHIAH NACHIAPPAN
Comm. #1543119
NOTARY PUBLIC-CALIFORNIA
Los Angeles County
My Comm. Expires Jan. 9, 2009

FOR DEPARTMENT USE ONLY:
MUST BE APPROVED by LADBS prior to recording
APPROVED BY [signature] 02/08/2006
District Map ____ Branch Office ____
AFFIDAVIT NUMBER ____
Entered on Map by ____ DATE ____

Rev 08/2001) X:\AFFIDAVITS\Affidavit G-7.wpd

Attachment 6

COASTAL COMMISSION
EXHIBIT # 36
PAGE 35 OF 53

This page is part of your document - DO NOT DISCARD

06 0360223

RECORDED/FILED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA

10:01AM FEB 16 2006

TITLE(S) :

LEAD SHEET

FEE

FEE $7 L
DAF $2

D.T.T.

CODE
20

CODE
19

CODE
9____

Assessor's Identification Number (AIN)
To be completed by Examiner OR Title Company in black ink.

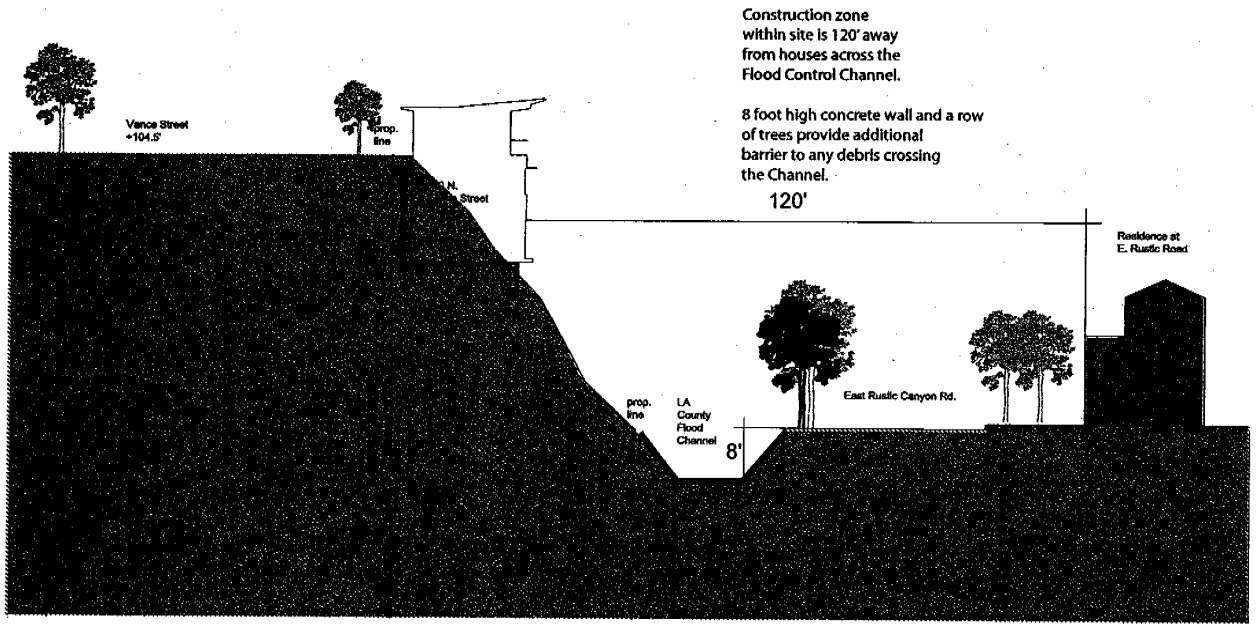
Number of AIN's Shown

THIS FORM IS NOT TO BE DUPLICATED

COASTAL COMMISSION

EXHIBIT # 36

PAGE 36 OF 53



Site Section Showing
Distance to Rustic Canyon Residences

370 N. Vance Street
5-11-056

Attachment 7

From: Jim Burman <jim.burman@lacity.org>
Subject: Fwd: LAMC Weight Restriction law (vehicles over 6,000 lbs)
Date: November 3, 2011 11:15:18 AM PDT
To: bdolbinski@verizon.net

Bob,

Deliveries of construction materials are exempt from the 6000 # weight restriction per municipal code section 80.36.1 exception 4. Any usage of the public right-of-way for roll-away bins or storage of materials, including the placement of cranes or other equipment will require a street use permit.

Jim

---------- Forwarded message ----------
From: **Mohammad Blorfroshan** <mo.blorfroshan@lacity.org>
Date: Thu, Nov 3, 2011 at 9:35 AM
Subject: LAMC Weight Restriction law (vehicles over 6,000 lbs)
To: Jim Burman <jim.burman@lacity.org>

Hi Jim,

I included the LAMC Section 80.36.1 applying to this restriction below for your information.

Mo Blorfroshan
DOT, West LA, Coastal & San Pedro Development Review

SEC. 80.36.1. RESTRICTED USE OF CERTAIN STREETS.

(a) It shall be unlawful, when authorized signs are in place giving notice thereof, to drive, propel, or cause to be driven or propelled, any vehicle exceeding a maximum gross weight of 6,000 pounds on any of the streets or portions of streets set forth in Subsection (d) of this section.

(b) When it has been determined by the Department that continued use of any street, or portion thereof, by vehicles over 6,000 pounds gross weight would cause traffic congestion, create a hazard to life or property, or detrimentally affect public welfare, and when alternate routes are available, the Department is hereby authorized to erect upon such street or portions thereof, signs prohibiting such vehicles, provided, however, that such authority shall not extend to major or secondary highways, as defined by Section 18.01 of this Code, other than those major or secondary highways, or portions thereof, specified in Subsection (d) of this section provided, however, that no vehicle used for round-trip sight-seeing tour service vehicle, as defined by the Public Utilities Commission, namely round-trip travel in the same vehicle with guide service for an informational purpose, in excess of 6,000 pounds gross weight, shall use any street other than a major or secondary highway, as defined by Section 18.01 of this Code, despite any lack of such determination by the Department, and any erection of signs, as hereinabove

Attachment 8

described, so long as appropriate notice of the restriction is given in compliance with Vehicle Code Section 35701(b). **(Amended by Ord. No. 158,564, Eff. 1/22/84, Oper. 2/28/84.)**

(c) **Exceptions**. The provisions of this section shall not apply to any of the following:

1. Emergency vehicles.

2. Vehicles owned by or under contract to a public utility while necessarily in use in the construction, installation or repair of such public utility. **(Amended by Ord. No. 111,402, Eff. 7/11/58.)**

3. Vehicles subject to the provisions of Section 1031 – 1036 of the Public Utilities Code of the State of California which vehicle has received a Certificate from the Public Utilities Commission of the State declaring that the public necessity and convenience require the operation of such vehicle provided that the certificate specifically authorizes that vehicle to be operated in the City of Los Angeles for the purpose authorized in said certificate. This exemption shall not apply to vehicles operated as a round-trip sight-seeing tour service as defined by the Public Utilities Commission. This exemption shall apply only if a copy of the Certificate and a description of the routes to be used in the City are filed with the Department at least two (2) days prior to the operation of any vehicle claimed to be exempt is to be operated in the City. The Department may require any exempt operator to display on the exempt vehicle a placard or device issued by him which identifies the vehicle as exempt and such placard or device shall be displayed as required by the Department at all times while the vehicle is traveling in the City. **(Amended by Ord. No. 158,564, Eff. 1/22/84, Oper. 2/28/84.)**

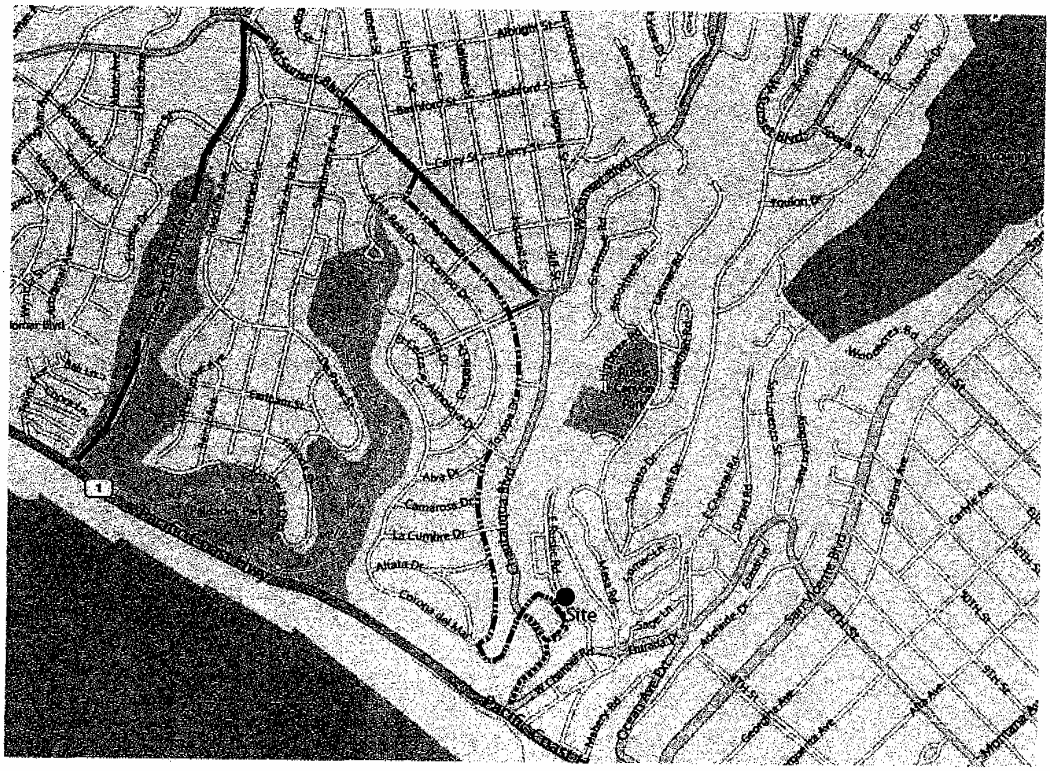
4. Commercial vehicles coming from an unrestricted street having ingress or egress by direct route to and from such restricted streets when necessary for the purpose of making pickups or deliveries of goods, wares and merchandise from or to any building or structure located on such restricted streets, or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon such restricted street for which a building permit has previously been obtained; and

5. Passenger vehicles operated, engaged, and used for the sole and exclusive purpose of picking up or discharging a passenger or passengers at any origin or destination of such passenger or passengers on any street designated by the Department pursuant to Subdivision (b) above or (d) below. This exemption shall not apply to vehicles operated as a round-trip sight-seeing tour service as defined by the Public Utilities Commission. **(Amended by Ord. No. 158,564, Eff. 1/22/84, Oper. 2/28/84.)**

(d) The Department is hereby authorized to erect signs prohibiting vehicles over 6.000 pounds gross weight upon those major or secondary highways or portions thereof, specified in this subsection.

Mohammad H. Blorfroshan, P.E.
Transportation Engineer
West LA, Coastal & San Pedro Development Review
Los Angeles Department of Transportation
7166 W. Manchester Avenue, Los Angeles, CA 90045
Tel: (213) 485-1062
Fax: (213) 485-1285

--
Jim Burman
Civil Engineer
West Los Angeles District
(310) 575-8367



Exception # 4 to the LA City Municipal Code 80.36.1(c)4 allows for use of direct route for delivery of

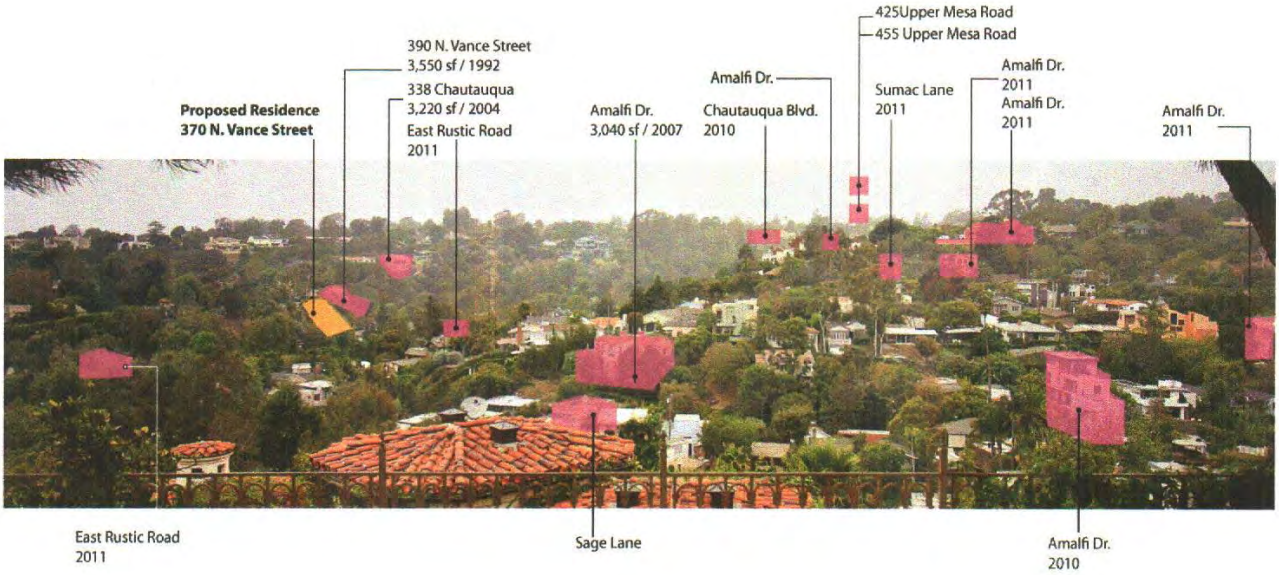
Site Access / Alternate Hauling Routes

370 N. Vance Street
5-11-056

Attachment 9

COASTAL COMMISSION

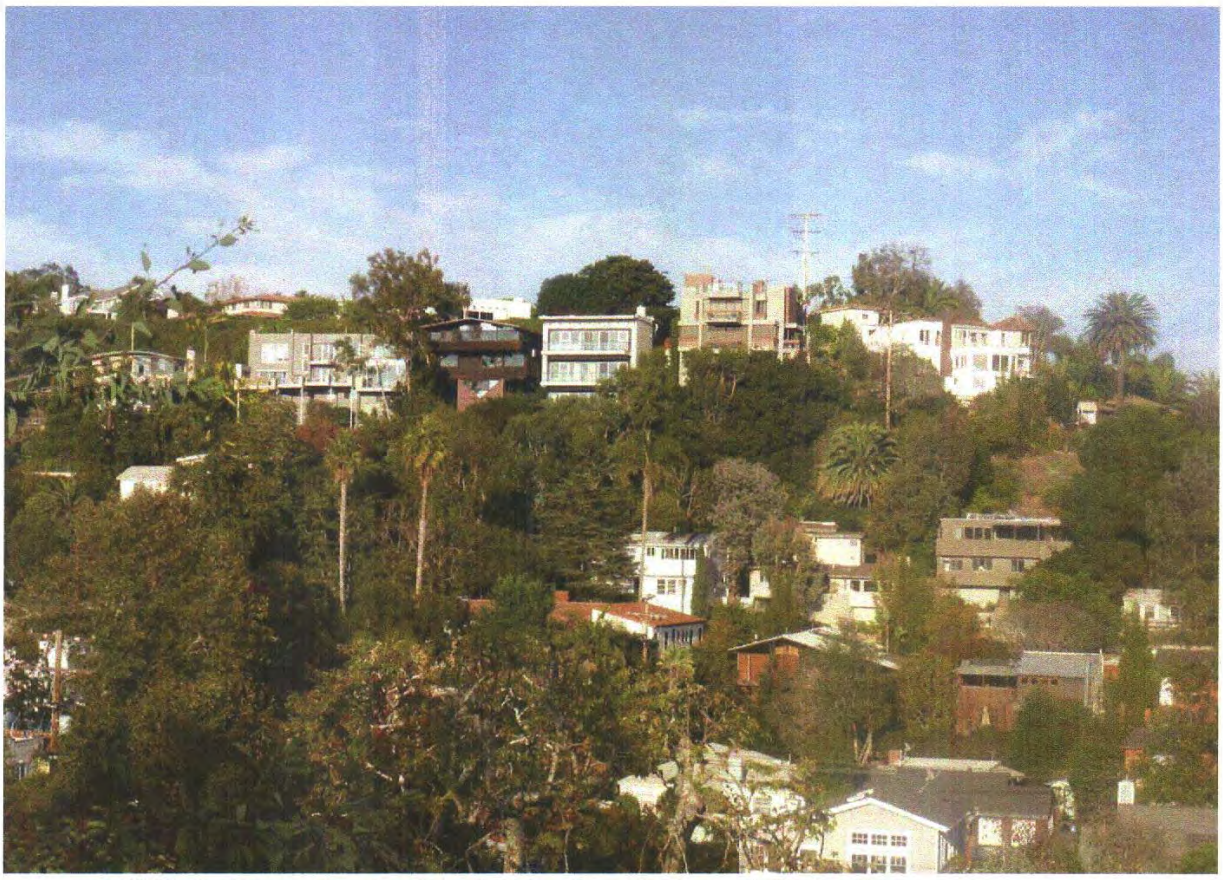
EXHIBIT # 36
PAGE 41 OF 53



Recent Construction Activity in the Canyon

370 N. Vance Street
5-11-056

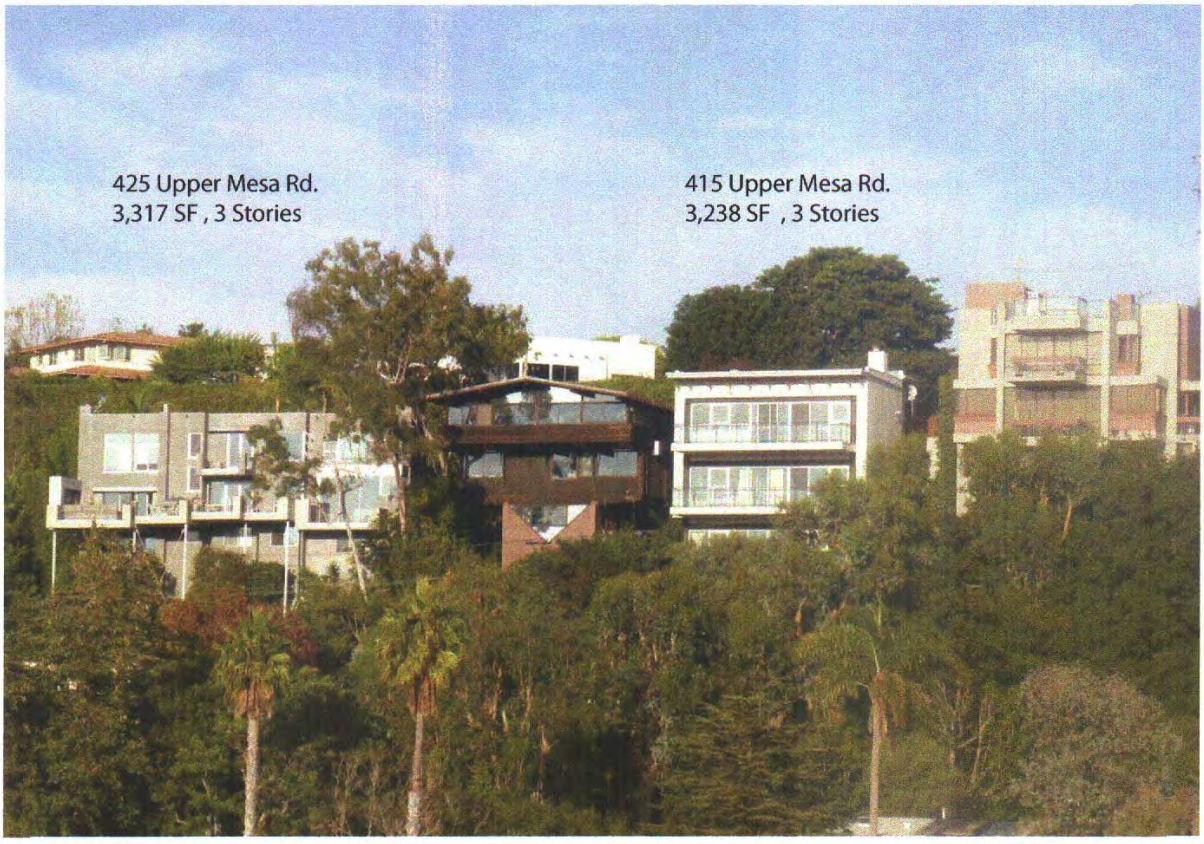
Attachment 10



Houses at 400 block of Upper Mesa Road, Pacific Palisades, Built Along a 40' Right of Way

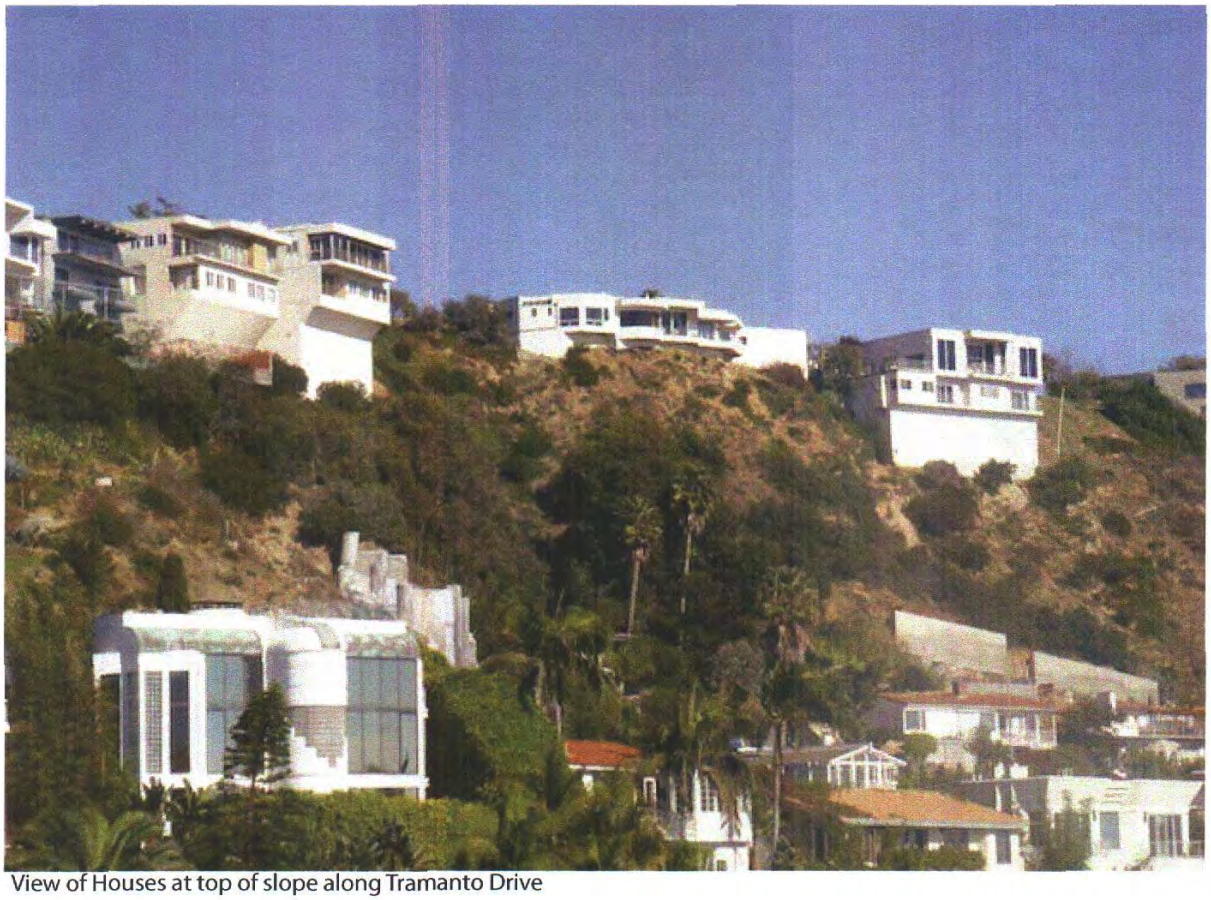
Rustic Canyon's Top Edges are Lined with Existing Residences - Upper Mesa Road at Top

370 N. Vance Street
5-11-056



Upper Mesa Road
Residences on East Edge of Rustic Canyon

370 N. Vance Street
5-11-056



View of Houses at top of slope along Tramanto Drive

Pacific Palisades - Coastal Zone
Hillside Precedents

370 N. Vance Street
5-11-056

91.7006.5. Bonds in Hillside Areas Required. The Superintendent of Building may require bonds in such form and amounts as may be deemed necessary to assure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions.

91.7006.5.1. Surety Bond. (Amended by Ord. No. 171,939, Eff. 4/15/98.) Before a permit is issued for excavation or fill of 250 cubic yards (191.3 m^3) or more of earth in a hillside area, the owner of the property shall file with the Department a bond for the benefit of the city. The bond shall be executed by the owner and a corporate surety authorized to do business in this state as a surety in an amount sufficient to cover the entire project.

EXCEPTION. Upon application by the owner, the Department may waive this requirement if:

1. The proposed grading is neither actually nor potentially hazardous;
2. The grading work performed is in compliance with a Department order; or
3. The applicant can substantiate, to the satisfaction of the Department, that the work under a grading permit will be fully executed.

91.7006.5.2. Cash Bond. In lieu of a surety bond, the owner may file a cash bond with the Department on the same terms and conditions and in an amount equal to that which would be required in the surety bond. The deposit may be in the form of negotiable United States securities in lieu of cash.

91.7006.5.3. Application of Bond to Adjacent Property. Where grading is required on property adjacent to the grading site under permit in order to complete a project satisfactorily, the owner of such adjacent property need not provide an additional grading bond if the original bond is of sufficient amount to include such additional grading.

91.7006.5.4. Conditions of the Bond. (Amended by Ord. No. 171,939, Eff. 4/15/98.) Every bond shall be conditioned such that the owner shall:

1. Comply with all applicable provisions of this Code and all other applicable laws;
2. Comply with all of the terms and conditions of the grading permit to the satisfaction of the Department;
3. Complete all of the work described by the permit, and the plans and specifications relating thereto, within the time limit specified in the permit. Upon application by the permittee, the Department, or the Board, in case an appeal is made to it pursuant to Section 98.0403 of the Los Angeles Municipal Code, may, for sufficient cause, extend the time specified in the permit, but no such extension shall release any surety on the bond.
4. Install temporary erosion control devices when required to do so by the provisions of this Code.

91.7006.5.5. Period and Termination of Bond. The term of each bond shall begin on the date of filing and shall remain in effect until the work is completed to the satisfaction of the Department or until replaced by a new bond in the event of a change of ownership. In the event of failure to complete the work and/or failure to comply with all of the conditions and terms of the permit, the Department may order some or all of the work to be completed to correct any hazardous conditions. The surety executing

Attachment 11

EXHIBIT # 36

such bond, or such deposit, shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the city in causing any and all of such required work to be done and that said surety or the depositor assents to any lawful extension of time within which to construct and complete such work. Such costs shall include an amount equal to the cost to the city of administering the contract and supervising the work required. In the case of a cash bond, the deposit, or any unused portion thereof, shall be refunded to the depositor upon completion of the work to the satisfaction of the Department. The Department may release or exonerate the bond under appropriate conditions when the public health and welfare is not jeopardized.

91.7006.5.6. New Ownership. (Amended by Ord. No. 171,939, Eff. 4/15/98.) In the event of change of ownership during grading, the new owner shall secure a new grading permit and post a new bond to ensure completion of the grading.

91.7006.5.7. Amount of Bond. (Amended by Ord. No. 171,939, Eff. 4/15/98.) The amount of the bond shall be based on the number of cubic yards of material in either excavation or fill, whichever is the greater amount, and in addition shall include the cost of all drainage or other protective devices such as, but not limited to retaining walls, as may lawfully be required. That portion of the bond valuation covering the cost of excavation or fill shall be computed as follows:

250 to 10,000 cubic yards	\$1,000, plus \$1.00 per cubic yard
10,001 to 100,000 cubic yards	\$11,000, plus 50 cents per cubic yard for each additional cubic yard in excess of 10,000
Over 100,000 cubic yards	\$56,000, plus 35 cents per cubic yard for each additional cubic yard in excess of 100,000

For **SI**: 1 cubic yard = 0.765 m^3

91.7006.5.8. Installment Refunds. When a substantial portion of the required grading work has been completed to the satisfaction of the Department, and when the completion of the remaining grading work, site development or planting is delayed, the Department may accept the completed portion of the grading work and consent to the proportionate reduction of the bond to an amount estimated to be adequate to ensure completion of the grading work, site development or planting remaining to be performed. Only one such reduction shall be considered for each bond posted.

91.7006.5.9. Entry Upon Premises. The Department, the Board of Public Works, the surety company, or their duly authorized representative, shall have access to the premises described in the permit for the purpose of inspecting the progress of the work.

In the event of default in the performance of any terms or conditions of the permit, the surety or any person employed or engaged in his or her behalf shall have the right to go upon the premises to complete the required work, including the installation of temporary erosion control devices.

Should the permittee or the surety fail to perform the work described by the permit and the plans and specification relating thereto or required by any applicable law, and it is determined by either the Department or the Board of Public Works that the public health, safety or general welfare is endangered by such failure, the Department, the Board of Public Works, or the representative of either may enter upon the premises to perform all or any part of such work, including the installation of temporary

EXHIBIT # 36

PAGE 47 OF 53

erosion control devices.

It shall be unlawful for the owner or any other person to interfere with the ingress and egress from such premises of any authorized representative or agent of any surety company or the city engaged in the work ordered by the Department or the Board of Public Works.

GAINES & STACEY, LLP
1111 Bayside Drive, #280
Corona del Mar, CA 92625
(949)640-8999; FAX (949)640-8330

MEMORANDUM

To: Charles Posner
California Coastal Commission

From: Sherman L. Stacey SLS

Re: Appeal No. A-5-PPL-11-028/Application No. 5-11-056 (Dolbinski & Chen)

Date: November 14, 2011

cc: Robert Dolbinski
Jeanne Chen

This office represents Robert Dolbinski and Jeanne Chen in connection with Appeal No. A-5-PPL-11-028/Application No. 5-11-056 (the "Appeal"). The Appeal was from the decision of the City of Los Angeles to approve a single family residence at 370 Vance Street, Pacific Palisades (the "Property"). The Appeal was initiated by Gerald Kagan, a property owner in the vicinity. On October 6, 2011, a public hearing was held on the Appeal. The Staff Report and Recommendation was to approve the permit subject to special conditions which were acceptable to the Applicants. Mr. Kagan has urged that the Commission deny the permit.

This letter is addressed to the issue of whether or not the Commission has authority to deny the permit under the Coastal Act and under the Fifth and Fourteenth Amendments to the United States Constitution or Article 1, Section 19 of the California Constitution. The Coastal Act provides in Public Resources Code § 30010 as follows:

> The Legislature hereby finds and declares that [the Coastal Act] is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

Attachment 12

The permit at issue was found by the Zoning Administrator of the City of Los Angeles to be consistent with the Coastal Act, including the provisions in Public Resources Code §30253. This determination was upheld by the West Los Angeles Area Planning Commission. The evidence before the City and its Planning Commission from the City's Grading Division was that the development of the Property was feasible and consistent with the City's Grading Code. This conclusion was reviewed by the County of Los Angeles Department of Public Works whose Rustic Canyon flood control channel lies immediately east of the Property and at the bottom of the slope on the Property. Finally, all of the reports (including reports provided by persons employed by Appellant Kagan) and decisions have been reviewed by the Commission's geologist Mark Johnsson who concurs with the conclusions reached by the City and the County.

At the public hearing on October 6, 2011, Daniel Pradel, on behalf of Appellant Kagan, criticized but could not refute the conclusions which had been reached by the City, County and Coastal Commission experts. Pradel focused much of his attention on a claim that although the proposed development may be geologically feasible, the manner and method of construction made it not possible to safely undertake the construction. The Applicants have dealt with that question in my separate letter of this date and the attachments thereto.

Should the Commission choose to grant the Appellant's request and deny the permit, the Commission would violate Public Resources Code §30010 and the Applicants' constitutional right to be free of taking of their property. The Fifth Amendment of the United States Constitution provides that "No person . . . shall be deprived of . . . property, without due process of law, nor shall private property be taken for public use, without just compensation." This prohibition on the taking of private property is extended to the States under the Fourteenth Amendment of the United States Constitution.

Article 1, Section 19 of the California Constitution provides "[p]rivate property may be taken or damaged for a public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner.

The leading case on the issue of what facts constitute an unconstitutional taking of private property is the United States Supreme Court case of *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003. The Supreme Court gave guidelines for the "ad hoc" inquiry which must be made in every case.

> "The "total taking" inquiry we require today will ordinarily entail (as the application of state nuisance law ordinarily entails) analysis of, among other things, the degree of harm to public lands and resources, or adjacent private property, posed by the claimants proposed activities, see

> e.g., Restatement (Second) of Torts 826, 827, the social value of the claimant's activities and their suitability to the locality in question, see, e.g., id, 828(a) and (b), 831, and the relative ease with which the alleged harm can be avoided through measures taken by the claimant and the government (or adjacent private landowners) alike, see, e.g. id., 827(e), 828(c), 830. The fact that a particular use has long been engaged in by similarly situated owners ordinarily imports a lack of any common law prohibition (though changed circumstances or new knowledge may make what was previously permissible no longer so, id., see 827, Comment g). So also does the fact that other landowners, similarly situated are permitted to continue the use denied to the claimant." *Lucas v. South Carolina Coastal Council, supra*, 505 U.S. at 1030-31.

A. Degree of Harm. Looking at the Applicants' proposed home, there is no harm to public land or resources. There are two potential public land or resources which are affected. First, Vance Street is a public street. Rather than cause harm, the Applicant's proposed home will protect Vance Street by increasing the factor of safety ("FOS") against a failure of the slope adjoining Vance Street to in excess of FOS 1.5. Second, the County flood control channel will not be harmed but rather protected by (1) removing the potential surficial erosion on more than 60% of the slope above the flood control channel, (2) providing for erosion control on the remaining slope, and (3) increasing the FOS on the remaining slope to 1.28, a FOS higher than presently exists.

The other harm that Appellant alleges is that the visibility of the home will harm the view which he and his neighbors presently enjoy. However, the fact that a home can be seen in a location which is densely developed with homes that are seen in every direction, cannot constitute a harm. All of the private property in the area is generally developed with homes, each of which being visible from other homes, would have to be considereed to cause similar "harm". The Appellant's problem is that seeing the Applicants' home really causes the Appellant no harm at all.

B. Social Value. As to the social value of the Applicants' proposed new home, ownership of single family homes by individuals is considered to have a very high social value. A vast panoply of laws at the local, state and federal level support the social value of individually owned homes. The Third Amendment to the United States Constitution protects persons from the quartering of soldiers in their "houses". The Fourth Amendment prohibits unreasonable searches of "houses". (See also, California Constitution, Article 1, §13.) The mortgage interest deduction, the existence of a federal agency devoted to Housing and Urban Development, the Federal Housing Administration, VA loans, and the existence of quasi governmental Fannie Mae and Freddie Mac to facilitate home ownership all attest to national social interest in the institution. It is without question that private ownership of housing has high social value. High social value was attached to the home proposed in *Lucas* as well.

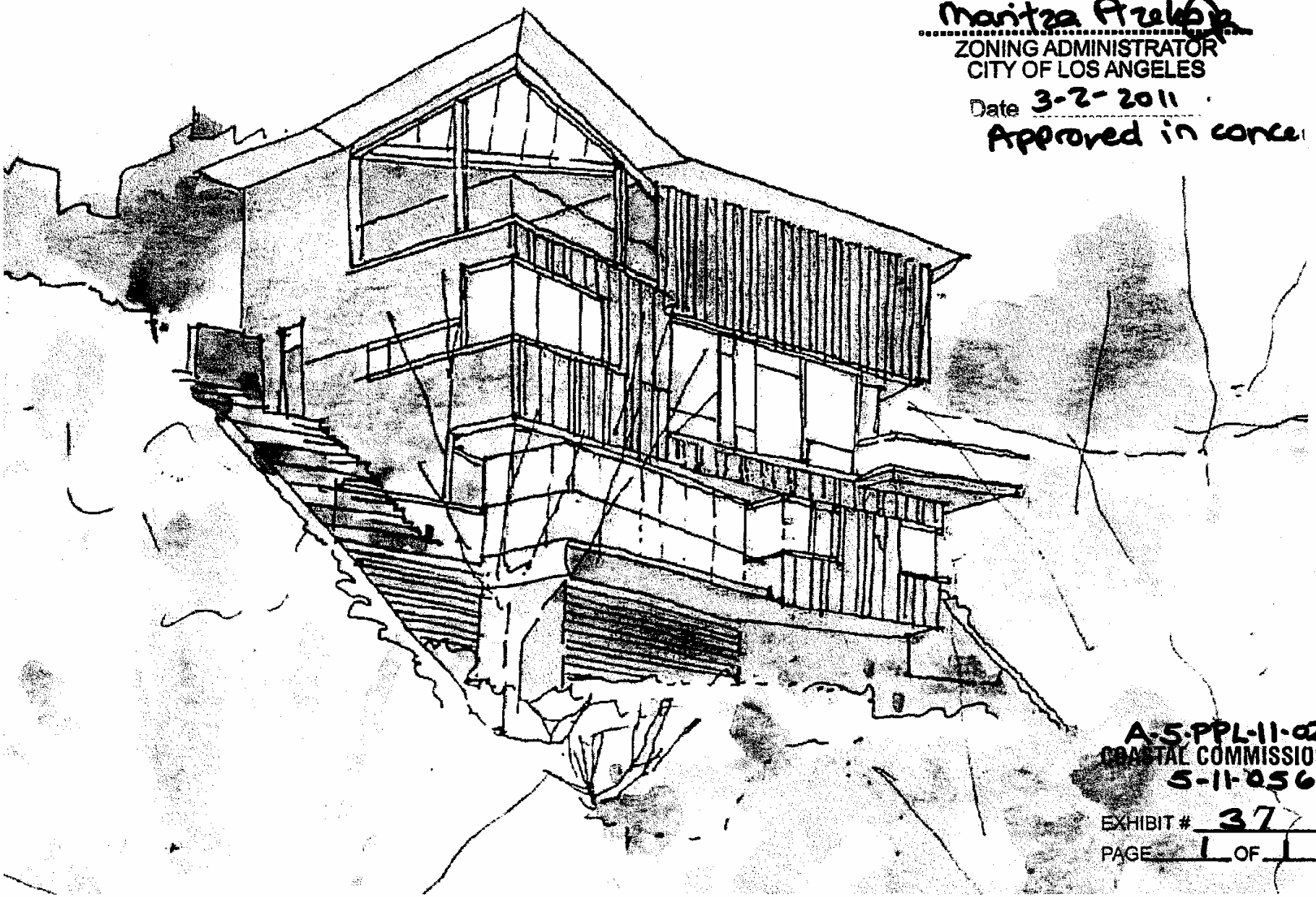
C. Suitability to Location. The Applicants' proposed home is suitable to the locality in question. The Property is a legal lot. The residence is of modest size at 1,966 square feet. The Property is similar to the property on which the Commission approved the 3.535 square foot home at 390 Vance Street. (CDP 5-90-473 (Lederer)) The canyon walls of both sides of Rustic Canyon and Santa Monica canyon are lined with homes which descend the slopes. Just as the *Lucas* home was proposed on an open beach area (a location where other homes had previously been developed and damaged), the fact that the *Lucas* home would bear the risks of damage from the Atlantic Ocean did not provide a basis to deny the use of the property. Similarly, the fact that there are special engineering measures required to safely construct the Applicants' home cannot form the basis on which the Commission may deny the permit.

D. Ease of Avoiding Harm. The Applicants' home poses no harm (see, Section A, above). The Appellant has claimed that there is a possible risk of harm arising from the construction process itself. There are several special conditions required by the City and in the Commission's staff recommendation for avoiding or minimizing the potential for harm. Although many of the special conditions entail considerable additional cost, and therefore might not fall within the scope of "ease" of avoiding harm, the Applicants have agreed to each of these measures. The Commission cannot burden the Applicants with so many conditions to avoid a hypothetical risk of harm (which its own experts disagree exists) that the development becomes infeasible.

The Appellant claims harm will arise from the fact that the 24 feet remaining on the lower slope below the house and above the flood control channel will have an FOS of 1.28. The Appellant claims that the FOS should be 1.5. The City, County and Commission geologists have each rejected that an FOS of 1.5 is necessary for the lower slope. The FOS of 1.28 is higher than the present FOS. The height of the slope which now has this higher FOS is 60% less high than the existing slope with a lower FOS. The existing soil mass with a present FOS of 1.04 is improved to 1.5 for the house and Vance Street (85% of the mass) and 1.28 for the lower slope (15% of the mass). There is no feasible manner in which to bring the lower slope up to a higher FOS of 1.5. Therefore, there is no "ease" of avoiding the hypothetical risk of "harm" which the Appellant claims. However, avoiding the hypothetical risk of "harm" is unnecessary as no public agency finds the risk of harm to be significant.

E. Uses of Similar Property. Houses have long been the exclusive use of all of the surrounding property in Pacific Palisades. There is no evidence that a permit to construct a house on any legally created parcel in the vicinity of the Property has ever been denied.

Under every standard applied by *Lucas v. South Carolina Coastal Council, supra*, the denial of the Applicants' permit will be a denial of all economically viable use of the Property. In order to deny the permit, the Commission would have to find that underlying principles of state nuisance law would prohibit the development of the property. The analysis of underlying state nuisance law is what appears above. There is no basis on which state nuisance law would prohibit the proposed use of the Applicants' Property for a modest single family residence.



PLANS APPROVED
as required by
Case No. DA-2007-5584(
Maritza Arelo
ZONING ADMINISTRATOR
CITY OF LOS ANGELES
Date 3-2-2011
Approved in conce

A-5-PPL-11-028
COASTAL COMMISSION
5-11-056
EXHIBIT # 37
PAGE 1 OF 1