

CALIFORNIA COASTAL COMMISSION

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Th19b



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original staff report

ADDENDUM

October 3, 2016

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **APPEAL NO. A-5-PPL-16-0079, FOR THE COMMISSION MEETING OF THURSDAY, OCTOBER 6, 2016.**

I. CHANGES TO STAFF REPORT – FINDINGS

Commission staff recommends changes to the staff report dated September 22, 2016 in Section VI (Findings and Declarations). Language to be added to the findings is shown in underlined text, and language to be deleted is identified by ~~strike out~~.

A. Changes to Section VI.C Substantial Issue Analysis Findings

In Section VI.C (Substantial Issues Analysis) of the staff report dated September 22, 2016, staff references the West Los Angeles Area Planning Commission's ("WLAAPC") Determination Letter dated July 27, 2016. The applicant submitted a copy of this determination letter along with the subject appeal to staff on August 04, 2016. However, this Determination Letter was superseded by the City's final Determination Letter dated August 25, 2016 (attached; see **Exhibit A**).

On December 2, 2015, on an appeal of the City of Los Angeles's Associate Zoning Administrator's ("ZA") decision, WLAAPC overturned the ZA's approval of the proposed project and denied Local Coastal Development Permit ("CDP") No. ZA 2012-130. Subsequently, WLAAPC directed the ZA to prepare WLAAPC's determination letter. This letter was issued on July 27, 2016. However, it contained discrepancies and findings from the ZA's original report of approval. The determination letter incorrectly suggested that WLAAPC adopted some of the ZA's original findings. Therefore, at a public meeting on August 17, 2016, WLAAPC adopted revised findings that more accurately reflected its decision and omitted any reference to the ZA's report.

On August 29, 2016, Staff received the City's Notice of Final Action and a copy of the second determination letter dated August 25, 2016 with the revised findings. In addition, on August 29, 2016, the Commission's 20-working day appeal period for the subject Local CDP commenced and the appeal at issue (No. A-5-PPL-16-0079) was filed. In preparing the staff report, Commission staff inadvertently quoted a few of the unofficial findings of the first determination letter. Therefore, Staff recommends replacement of the

quoted findings with the official findings. Staff's recommendation of no substantial issue will remain unaffected by these revisions.

1. The second paragraph of Section VI.C (Substantial Issue Analysis) on Page 7:

~~WLAAPC agreed with and adopted the ZA's findings supporting the project's consistency with the public access, marine and habitat resource protection, and new development policies of Chapter 3 of the Coastal Act. In its denial of the proposed project, however, WLAAPC did not find found the project inconsistent with the visual resources (Section 30251) and hazards (Section 30253) policies of Chapter 3 of the Coastal Act, and that the proposed project would prejudice the City of Los Angeles ability to prepare a coastal program.~~

2. The fourth paragraph in Section VI.C (Substantial Issue Analysis) at the bottom of Page 8:

The first factor in determining whether the appeal raises a substantial issue is the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the Coastal Act. As indicated above, WLAAPC's conclusion was supported by substantial evidence. Specifically, the WLAAPC's Determination report, attached to the addendum as **Exhibit 5A**, explains the proposed project's potential impacts to the community character of the area due to its mass and scale, and potential to prejudice the City's ability to prepare a local coastal program. WLAAPC's findings state:

(Exhibit 5, Page 5):

~~...The proposed structure is a five story apartment building, and it is not in character with the surrounding mass and scale of the neighborhood of one and two story apartment buildings on the south side of Sunset Boulevard and single and two story single family homes on the north side of Sunset. Nowhere else in the immediate area are there any five story buildings. This is in violation of Section 30251 of Coastal Act which calls for visual compatibility with the character of surrounding areas.~~

~~In addition, the Zoning Administrator approved a project which would require the extensive alteration of Bluff landform which arises above the Pacific Coast Highway by grading 44,500 cubic yards of soil...Both of which are in violation of Section 30251.~~

(Exhibit 5, Page 8):

~~...The proposed structure is two to three stories higher than other apartment buildings on the south side of Sunset Boulevard...~~

~~...In addition, it does not conform to Coastal Interpretive Guidelines for the Pacific Palisades regions which stat that "The density of new residential development should be limited to a maximum of 24 units per gross acre" in that the proposed project proposes a 49 unit building on site and exceeeded this limit by 25 units. As such, the development approved by the Zoning Administrator WOULD prejudice the ability of the City to prepare a Local Coastal Program in conformity with Chapter 3 of the California Coastal Act.~~

~~In addition, the Zoning Administrator failed to follow precedent of the West Los Angeles Planning Commission in denying a similar Coastal Development Permit for project located two lots away from the subject site which cited non-conformance with Neighborhood Character and exceeded the 24 unit limit of the Guidelines which is a violation of Coastal Act Section 30625(c). In not following precedent in the area, the Zoning Administrator did not accurately assess the cumulative effect that approval of the project of this size would have on future development of other vacant lots in the area s to size of structures, future development of traffic, and a change in neighborhood character.~~

(Exhibit A, Page 4):

The ZA erred by approving 49 units, 21 units in excess of the density allowed in the Pacific Palisades by the Interpretive Guidelines for the acreage of that site.

(Exhibit A, Page 5):

The ZA erred by approving a project of mass and scale that is out of character with the surrounding neighborhood, a five-story apartment building in a neighborhood predominantly of one- and two-story residential structures in violation of Section 30251 of the Coastal Act.

The ZA erred by not accurately assessing the cumulative effect of future development on traffic, neighborhood character and alteration of a landform, a bluff, by approving this project...

The ZA erred by approving the extensive alteration of a bluff landform by permitting the grading of 44,500 cubic yards of soil in violation of the Interpretive Guidelines Alteration of Land Forms Appendix A-2 and the Coastal Act Sections 30251 and 30253.

(Exhibit A, Page 7):

The ZA erred in not fully considering the precedential impacts that this project may have on future development...

The ZA erred in not fully considering the past rulings, including the Coaloa project...[located] close to next door ...many of the facts in the Coaloa project are similar, if not the same, as the facts are here [of currently the proposed project]

3. The last paragraph in Section VI.C (Substantial Issue Analysis) on Page 9:

With regards to the project's consistency with the hazards policy of the Coastal Act, the WLAAPC's Determination report explains that, based on conflicting data and the lack of adequate geotechnical information presented to WLAAPC, WLAAPC could not find the project consistent with Section 30253 of the Coastal Act. WLAAPC's findings state **(Exhibit 5, page 15):**

...the West Los Angeles Area Planning Commission believes that a fair argument is made that the proposed mitigation measures in the area of Hazards and Hazardous Materials may not be sufficient to assure the safety of the public in view of the unresolved issues raised...as to the mitigations proposed by the Applicants consultant for the handling and dissipation of Hydrogen Sulfide gas which naturally occurs on the site and was mentioned in the soils report to the Department of Building and Safety...and it believes[the issue] has not been adequately responded to by the City.

In addition to the conflict of experts over hazardous materials on the site, there is considerable disagreement between the Soils Report of the Applicant's geologic consultant and the [third party] consultants in regard to the adequacy of the mitigation measures to provide for the safety of the development below the project. The Department of Building and Safety required changes in the original Soils Report after receiving comments the [third party] consultants. A further response by the [third party] consultants have been received by Building and Safety's Grading Division which was not yet responded to at the time of the Determination. Because this latest report has not been responded to and the fact that two experts on the issue are in conflict with each other on the same issue, the Area Planning Commission cannot make an affirmative determination on the adequacy of the [Mitigated Negative Declaration] as required by the Coastal Act Section 30253.

(Exhibit A, Page 6):

On hydrogen sulfide gas: A fair argument is made that the proposed mitigation may not be sufficient to assure the safety of the public in view of the unresolved issues raised by the appellant[s] as to the mitigations proposed by the applicant's consultant.

The West Los Angeles Area Planning Commission cannot make an affirmative determination on the adequacy of the MND [Mitigated Negative Declaration]. The decision is to adopt the action that is more protective of the public, denying the MND.

Landslide area: The project site is within a designated landslide area. There is significant disagreement between the report of the applicant's consultant and the appellants' experts in regard to the adequacy of the mitigation measures to provide the safety of the development below the project.

The West Los Angeles Area Planning Commission cannot make an affirmative determination on the adequacy of the MND as required by the Coastal Act Section 30253. The decision is to opt to be more protective of the coastal resource and deny the MND.

(Exhibit A, Page 7):

There was substantial testimony of the risks involved to the Malibu Mobile Home Estates immediately below the project and the shaky ground that the project sites on, making this project potentially more dangerous than the Coaloa Project, which this Commission has already ruled on...and other issues that are not going to be mitigated

by the MND, and this is including potential environmental impacts, including traffic access, landslides, geological and hydrological issues, and the hydrogen sulfide presence.

4. After the first paragraph in Section VI.C (Substantial Issue Analysis) on Page 10, add the following:

In addition, WLAAPC found that the proposed project resembled the “Coaloe project”, which proposed an 84,500 square foot residential development containing a total of 49 dwelling units located at 17030 Sunset Boulevard and two lots away of the currently proposed project site. In 2014, on an appeal of the WLAAPC’s denial (Appeal No. A-5-PPL-13-212) of the Coaloe project, the Commission found no substantial issue and upheld WLAAPC’s decision. WLAAPC denied the project on the absence of a more detailed analysis that could not provide assurances that potential hazards related to hydrogen sulfide gas in the soil would be mitigated, and the lack of geologic information to determine location of coastal bluff and appropriate siting of the development.

5. The second paragraph in Section VI.C (Substantial Issue Analysis) on Page 10:

Furthermore, WLAAPC found that the ZA erred in its determination that the project site was not within a coastal bluff. WLAAPC’s findings state (**Exhibit 5A**, page 446):

~~...A decision to be more protective of the Coastal Resource assumes the landform is a Coastal Resource based on the Coastal Act definition and representation of the Applicants own Geotechnical Consultant Sassan Geosciences description as a Coastal Bluff in report for 17000-17021 Sunset dated November 16, 2009. Therefore, because the applicant’s own Soils Engineer called it a Coastal Bluff and public testimony before the Commission describes it as a Coastal Bluff, the Commission adopts a definition that is more protective of the Coastal Resource and describes it as a Coastal Bluff.~~

...The issue is not within the competence of this commission to determine the status of the landform as coastal bluff. A decision to be more protective of coastal resource assumes the landform is a resource based on the Coastal Act definition and a representation of the applicant’s own geotechnical consultant, Mr. Sassan, a geoscience description as a coastal bluff in his report of 17000 and 17020 Sunset dated 11/16/2009.

B. Following Section VI.C (Substantial Issue Analysis), add the following new subsections and findings:

D. FINDINGS IN RESPONSE TO CORRESPONDENCE RECEIVED FROM APPLICANT/APPELLANT

The South Coast District Office has received a letter from the law firm of Gaines & Stacey, LLP, representing the applicant/appellant, dated September 30, 2016 (**Exhibit B**; see attached), to supplement the applicant’s appeal of the City of Los Angeles’s denial of Local Coastal Development Permit No. ZA 2012-130

requesting that the Coastal Commission find that a substantial issue exists on the grounds of the appeal. It is asserted that the West Los Angeles Area Planning Commission's (WLAAPC) decision to deny the project was not factually supported and the project does comply with Section 30251 of the Coastal Act as it will not result in the obstruction of public scenic views and will not negatively impact the existing community character. Contrary to the City having found the project's mass and scale to be out of character with the existing development, the applicant/appellant argues that the project site is located in an area developed with multi-family residential projects of comparable size and density. In response to the WLAAPC's claim that the project is out of character because of its five stories in height, the applicant/appellant states that the proposed project is only three stories as viewed from Sunset Boulevard because of its cascading design. The applicant/appellant also maintains that contrary to WLAAPC's findings, the applicant did respond to the issues raised by project opponents and provided assurances that the project is consistent with Section 30253 of the Coastal Act. In its letter, the applicant/appellant also asserts that the appeal raises a substantial issue of regional and statewide significance because proposed development offers an affordable housing element; specifically, the project was conditioned by the Zoning Administrator to maintain 10 affordable dwelling units as required by the City's Mello Act determination.

Based on the City's record, WLAAPC reviewed the nearby development and the applicant's project elevations, including the elevation fronting sunset boulevard, and still found that overall the proposed development's mass and scale was out of character with the existing development.

With regards to the project consistency with Section 30253 of the Coastal Act, according to the City's record, WLAAPC was not satisfied with the applicant's Geology and Soils report and found that it did not adequately respond to and address the issues raised by the project opponent's geotechnical consultants. In addition, WLAAPC found that the Zoning Administrator had prematurely approved the project without the Grading Division's final Geology and Soils Approval Letter. At the time of WLAAPC's decision, the project's final approval by the Zoning Administrator was contingent on the applicant receiving the Grading Division's final approval of the applicant's Geology and Soils reports for the project, which had not yet been issued, prior to issuance of the local coastal development permit. Consequently, WLAAPC found that the report did not provide assurances that the potential hazards on the site would be mitigated, and in the absence of a more detailed analysis, it could not make an affirmative determination on the project's conformance with Section 30253 of the Coastal Act.

Regarding the affordable units, it should be noted that this contention was not one of the applicant/appellant's original stated grounds for the appeal. In addition, contentions relating to the Mello Act (affordable housing) do not raise any Chapter 3 consistency issues. WLAAPC took into consideration the affordable

housing element of project but its denial was based on the project's consistency with the Chapter 3 policies of the Coastal Act.

E. FINDINGS IN RESPONSE TO CORRESPONDENCE RECEIVED FROM THE PUBLIC

Commission staff has also received a letter dated September 26, 2016 from John B. Murdock, an attorney representing Larry Larson and the Pacific Investment Co., two of the 12 appellants of the Zoning Administrator's initial approval of the project. The letter has been submitted in support of staff's recommendation (attached; see Exhibit C). The letter also raises concerns about the use of WLAAPC's unofficial findings in the staff report and about the appeal period. The first concern has been addressed by the replacement of the quoted unofficial findings in the staff report with the city's official findings. With regards to his second concern, Mr. Murdock states that because the Coastal Commission's regulations required the city to notify the Coastal Commission of its decision within five days, the 20-day appeal period should have expired in January 2016. Therefore, he claims that the appeal should be rejected because the applicant should not be allowed to file the appeal eight months after the City took its action at its December 2015 public meeting, regardless of the fact that the city failed to timely notify Coastal Commission staff of that action.

However, the 20-day appeal period does not begin until the Commission receives notice of the local government's final action. Section 30602 of the Coastal Act states that the local action "shall become final at the close of business on the 20th working day from the date of receipt of the notice required by subdivision (c) of Section 30620.5, unless an appeal is submitted within that time." Although the city should notify the Commission staff within five working days of taking an action, the appeal period is based on staff receiving the notice of final action, rather than the expiration of the five working day period after the local government takes final action. Accordingly, the appeal is timely.

C. Make the following format correction to the heading of Section VI.D (CEQA):

D. E. CEQA



West Los Angeles Area Planning Commission

200 North Spring Street, Room 532, Los Angeles, CA 90012-4801 (213) 978-1300
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South Coast Region

NOTICE OF COASTAL DEVELOPMENT PERMIT ISSUANCE

AUG 29 2016

CALIFORNIA
COASTAL COMMISSION

Mailing Date: AUG 25 2016

5-PPL-16-0085

California Coastal Commission
South Coast District Office
200 OceanGate, Suite 1000
Long Beach, CA 90802

Case No.: ZA-2012-130-CDP-MEL-1A
CEQA: ENV-2012-131-MND
Location: 16990-17000 Sunset Boulevard
Council District: 11 - Bonin
Plan Area: Brentwood – Pacific Palisades
Zone: [Q]R3-1

Applicant name/address

M & A Gabee, LP
9034 Sunset Blvd
West Hollywood, California 90069

Representative name/address

Fred Gaines
Gaines & Stacy, LLP
16633 Ventura Blvd # 1220
Ventura, California 91436

The above-referenced Coastal Development Permit was **denied**, effective **August 25, 2016**, pursuant to a public hearing conducted by the West Los Angeles Area Planning Commission on **December 2, 2015**. An appeal was not filed with the City Council during the mandatory appeal period or no appeal to City Council was permitted from the Commission's action; whichever is indicated in the Commission's Determination Report.

Appeals must be filed within a 20 working-day appeal period, to be determined by the South Coast District Office of the Coastal Commission in accordance with said Commission's procedures.

- (X) The proposed development **is in the dual permit jurisdiction area**, and will require an additional permit from the California Coastal Commission upon the expiration of the above 20-working-day appeal period.
- () The proposed development **is in the single permit jurisdiction area**, and if the application is not appealed within the 20-working-day period the applicant may proceed with the subject project.

Attachments: Coastal Development Permit and Mello Determination dated August 25, 2016/West Los Angeles APC Determination Letter

cc: Applicant, applicant's representative (Notice, Coastal Permit/APC Determination)
Determination Letter mailing list (Notice & Coastal Permit/APC Determination)



WEST LOS ANGELES AREA PLANNING COMMISSION

200 N. Spring Street, Room 532, Los Angeles, California, 90012-4801, (213) 978-1300
www.planning.lacity.org

AUG 25 2016

Determination Letter Mailing Date: _____

Case No.: ZA-2012-130-CDP-MEL-1A
CEQA: ENV-2012-131-MND

Location: 16990-17000 Sunset Boulevard
Council District: 11 - Bonin
Plan Area: Brentwood-Pacific Palisades
Requests: Coastal Development Permit,
Mello Act Compliance –Appeal

**This Revised Determination Letter supersedes the Determination Letter issued on July 27, 2016*

APPLICANT: M & A Gabee, LP
Rep.: Fred Gaines, Gaines & Stacy, LLP

APPELLANT #1: Gilbert Dembo
APPELLANT #2: Larry Larson
APPELLANT #3: Patricia Chu
APPELLANT #4: James Doyl Burkett
APPELLANT #5: G. Andrew, Amy Lundberg
APPELLANT #6: Herb Englehardt
APPELLANT #7: Ginger Mason
APPELLANT #8: Lindsay Conner, Rena Conner
APPELLANT #9: Malibu Village Mobilehome Owners Association, Rep. : Candace Tysdal
APPELLANT #10: Candace Tysdal
APPELLANT #11: Christian Martin
APPELLANT #12: Pacific Investment Co., Rep. : Larry Larson

At its meeting on **December 2, 2015**, the following action was taken by the West Los Angeles Area Planning Commission:

1. **Granted** the appeal.
2. **Overtured** the action of the Associate Zoning Administrator's decision dated October 2, 2014.
3. **Found** that the Associate Zoning Administrator erred or abused his discretion in approving, pursuant to Los Angeles Municipal Code Section 12.20.2, a Coastal Development Permit to allow the construction of a new approximately 98,900 square-foot residential development containing a total of 49 units in the dual permit jurisdiction of the California Coastal Zone and a Mello Act determination for affordable housing in the Coastal Zone.
4. **Adopted** the attached Findings.
5. **Did not adopt** the Mitigated Negative Declaration No. ENV-2012-131-MND as the environmental clearance for this project.

Fiscal Impact Statement: There is no General Fund Impact as administrative costs are recovered through fees.

This action was taken by the following vote:

Motion: Halper
Seconded: Donovan
Ayes: Margulies, Waltz-Morocco
Absent: Merritt

Vote: 4-0

Case No. ZA-2012-130-CDP-MEL-1A
16990-17000 Sunset Boulevard

Page 2



Harold Arrivillaga
Commission Executive Assistant

Effective Date/Appeals: The West Los Angeles Area Planning Commission's determination is final and not further appealable.

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Findings and Conclusions Adopted by the Commission on
December 2, 2015, as Reflected in the Hearing Audio

c: Notification List
Charlie Rausch, Jr.

**The Findings and Conclusions Adopted by the Commission on December 2, 2015,
as Reflected in the Hearing Audio**

Findings and Conclusions

The Commission grants the appeals, overturns the ZA decision, and denies the Coastal Development Permit and the MND as the environmental clearance for the project.

The Commission adopts the following revised findings in the case 2012-130-CDP-MEL-1A and the environmental clearance ENV-2012-131-MND.

The findings are as follows:

Coastal Act Section 30620 requires the Coastal Commission to prepare and disseminate interpretive guidelines designed to assist local governments in determining how the policies in the Coastal Act shall be applied in the Coastal Zone prior to certification of their Local Coastal Programs. In the absence of an adoptive local coastal program, the local Community Plan serves as a functional equivalent. Pacific Palisades does not have an adopted Local Coastal Program.

The Commission recognizes this case to be an application for a Coastal Development Permit, and, therefore, subject to the guidance provided by the Coastal Act, the Interpretive Guidelines, and the Community Plan in making its determinations.

The Los Angeles Municipal Code 12.20.2 requires the ZA to make all of the following five findings in the affirmative to authorize the issuing of a Coastal Development Permit. The project does not conform to four of the five required findings of approval.

One, the development is not in conformity with Chapter 3 of the California Coastal Act of 1976 commencing at Section 30200 of the California Public Resources Code.

Two, the permitted development will prejudice the City of Los Angeles to prepare a coastal program that is in conformity with Chapter 3 of the California Coastal Act of 1976 as the project does not conform with several sections of the Coastal Act.

Three, the ZA made the required certifications in error, that the Interpretive Guidelines for the coastal planning and permits as established by the Coastal Commission dated February 11th of 1977, and any subsequent amendments thereto have been reviewed, analyzed, and considered in the project in making its determination. The ZA abused its discretion by not providing supportive justifications for failing to adhere to the guidelines provided by the Coastal Commission Interpretive Guidelines.

Four, the decision of the permit granting agency failed to be guided by applicable decisions of the Coastal Commission as required pursuant to Section 30625(c) of the Public Resources Code. The ZA erred by approving a project that is in conflict with the Coastal Commission in an applicable decision, citing nonconformance with neighborhood character, A-5-VEN-50-0026 and 15-0027, a violation of the Coastal Act Section 30625(c).

The ZA erred by approving 49 units, 21 units in excess of the density allowed in the Pacific Palisades by the Interpretive Guidelines for the acreage of that site.

The ZA erred by approving a project of mass and scale that is out of character with the surrounding neighborhood, a five-story apartment building in a neighborhood predominantly of one- and two-story residential structures in violation of Section 30251 of the Coastal Act.

The ZA erred by not accurately assessing the cumulative effect of future development on traffic, neighborhood character, and alteration of a landform, a bluff by approving this project, a violation of the Coastal Act Section 30250 and the Community Plan.

The ZA erred by approving the extensive alteration of a bluff landform by permitting the grading of 44,500 cubic yards of soil in violation of the Interpretive Guidelines Alteration of Land Forms Appendix A-2 and the Coastal Act Sections 30251 and 30253.

The ZA abused his discretion by failing to give proper consideration to its most significant land use issues addressed in the Brentwood-Pacific Palisades Community Plan, the designated functional equivalent to be used in applications for Coastal Development Permits in the absence of an adopted Local Coastal Program.

Objective 1-3: To preserve and enhance the varied and distinct residential character and integrity of existing residential neighborhoods.

Policy 1-3.1: Seek a higher degree of architectural compatibility for new development, and landscaping, to protect the character and scale of existing residential neighborhoods.

Policy 1-3.3: Consider factors such as neighborhood character and identity, compatibility of land uses, impacts on livability, impacts on services and public facilities, and impacts on traffic levels when changes in residential densities are proposed.

Policy 1-1.46: The city should promote neighborhood conservation, particularly in existing single-family neighborhoods, as well as areas with existing multiple-family residences.

Policy 1-6.5: Requires that any proposed development be designed to enhance and be compatible with adjacent development.

Policy 13-1.5: New development...shall provide mitigation for project traffic impacts and density increases shall be contingent upon adequate transportation capabilities or capacities.

Policy 13-1.2 New development projects shall be designed to minimize disturbance to existing traffic flow with proper egress and ingress to parking.

The Residential Issues noted in the community plan are as follows:

- Need to minimize grading, limit land use intensity, and preserve natural topography in hillside areas.
- Scale and character of multiple dwelling housing on Sunset Boulevard in Pacific Palisades from obscuring single-family residential views.
- Lack of transition in scale and density and character of multiple unit housing that are adjacent to single family housing.

- Need to restrict building on geographically sensitive areas.
- Need to improve the visual environment through the development of appropriate design criteria and controls.

On traffic: The project will have a significant adverse effect individually and cumulatively on safety and the traffic flow on Sunset Boulevard, a designated scenic highway in the coastal zone, as a result of the proposed density and its cumulative effect, a violation of Coastal Act Section 30253.

On hydrogen sulfide gas: A fair argument is made that the proposed mitigation may not be sufficient to assure the safety of the public in view of the unresolved issues raised by the appellant as to the mitigations proposed by the applicant's consultant.

The West Los Angeles Area Planning Commission cannot make an affirmative determination on the adequacy of the MND. The decision is to adopt the action that is more protective of the public, denying the MND.

Landslide area: The project site is within a designated landslide area. There is significant disagreement between the report of the applicant's consultant and the appellants' experts in regard to the adequacy of the mitigation measures to provide the safety of the development below the project.

The West Los Angeles Area Planning Commission cannot make an affirmative determination on the adequacy of the MND as required by the Coastal Act Section 30253. The decision is to opt to be more protective of the coastal resource and deny the MND.

Lastly, the coastal bluff. The issue is not within the competence of this commission to determine the status of the landform as a coastal bluff. A decision to be more protective of coastal resource assumes the landform is a resource based on the Coastal Act definition and a representation of the applicant's own geotechnical consultant, Mr. Sassan, a Geoscience description as a coastal bluff in his report of 17000 and 17020 Sunset dated 11/16/2009.

Coastal Bluff definition: The Coastal Act definition within the Coastal Zone, coastal bluffs are: (1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and (2) those bluffs, the toe of which is not now or never historically subject to marine erosion, but the toe of which lies within an area otherwise defined in Public Resources Code Section 30603(a)(1) or (a)(2). 14 Cal Code of Regulations 13577(h).

The decision is it to adopt the action that is more protective of the coastal resource, in this case to deny the MND.

These findings are based on the facts solicited by the hydrological and geological reports from appellant, the testimony of experts for the appellant, the residential letters and testimony regarding things like traffic and egress and other kinds of geological issues, including landslides that happen there and all the other testimony.

Some of the facts that we can rely on in denying the MND are contained in the Zoning Administrator's decision of October 4, 2014, beginning on page 19 and going through to page 23. In each one of those cases, the ZA has indicated the facts and testimony he received, and then he does a response. We can rely on those facts that were given there.

Case No.: ZA-2012-130-CDP-MEL-1A
16990-17000 Sunset Boulevard

The ZA erred in not fully considering the precedential impacts that this project may have on future developments. There's evidence there may be future developments in this very area.

The ZA erred in not fully considering the past rulings, including the Coaloa project, which is pretty much close to next door and had the same kinds of things that were involved in there. In fact, many of the facts in the Coaloa project are similar, if not the same, as the facts are here.

There was substantial testimony of the risks involved to the Malibu Mobile Home Estates immediately below this project and the shaky ground that that project sits on, making this project potentially more dangerous than the Coaloa project, which this Commission has already ruled on.

We have testimony regarding substantial landslide and groundwater and other issues that are not going to be mitigated by the MND, and this is including potential environmental impacts, including traffic access, landslides, geological and hydrological issues, and the hydrogen sulfide presence.

There's a substantial issue as to whether or not this project will be able to utilize the easements for at least wastewater and then possibly groundwater, as well.

The precedential value of the local government's decision for future interpretation of the LCP will be impinged if we allow this project to go forward as it's presently set up. And we note from the staff report from the Coaloa decision from the Coastal Commission, they indicate:

The City's denial of the proposed project is consistent with several precedents relating to locations that devolved into a coastal bluff and approval of the proposed project with a lack of information with regards to bluff setbacks and geologic hazards would be a bad precedent that would prejudice the ability of the city to prepare a local coastal program that is in conformity with Chapter 3 of the Coastal Act.

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September 30, 2016

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Th19b

Re: Appeal No. A-5-PPL-16-0079
Hearing Date: October 6, 2016
Item No. TH19b
16990-17000 Sunset Boulevard, Los Angeles
Support for Finding Substantial Issue

Dear Ms. Alvarado:

This office represents M&A Gabae LP, the applicant of the project referenced above. The purpose of this correspondence is to provide support for the applicant's appeal of a denial of a Coastal Development Permit by the City of Los Angeles ("City"). Findings in support of project approval were properly made by the Zoning Administrator in this case, however the approval was erroneously overturned by the West Los Angeles Area Planning Commission ("WLAAPC"). A copy of the Zoning Administrator's approval, dated October 2, 2014, is attached as Exhibit "A."

In truth, the project consists of infill development that is entirely consistent with all Chapter 3 Coastal Act policies. Project opponents challenged the Zoning Administrator's initial approval of the project on the grounds that they do not want any development on the site at all, and certainly do not want any inclusionary low income units in their neighborhood. These baseless objections should not be allowed to kill a good project that is consistent with the Coastal Act, consistent with the existing development in the neighborhood, and would bring much needed affordable housing to Los Angeles' coastal zone. *On behalf of the applicant, we respectfully request that the Coastal Commission find that a substantial issue is raised by this appeal and set the matter for a future de novo hearing.*

Marlene Alvarado
September 30, 2016
Page 2

A. The Project.

The applicant has proposed the construction of a new five story multi-family residential building within the dual jurisdiction of the California Coastal Zone. The site is a vacant, unimproved parcel (the "Project"). The site located on the south side of Sunset Boulevard, situated at the southerly terminus of Marquez Avenue and westerly of Marquez Place. The Project was conditioned by the Zoning Administrator to reserve and maintain ten (10) dwelling units for occupancy by households designated as Low Income OR five (5) dwelling units for occupancy by households designated Very Low Income. These designated Low or Very Low Income units will bring much needed affordable housing to the City's coastal zone.

B. Given the Affordable Housing Element of the Project, the Appeal Raises Issues of Regional and Statewide Significance.

There can be no dispute that the provision of low-income housing constitutes an issue of regional and statewide significance. Health and Safety Code § 50003(a) provides: "The Legislature finds and declares that ... there exists within the urban and rural areas of the state a serious shortage of decent, safe, and sanitary housing which persons and families of low or moderate income ... can afford. This situation creates an absolute present and future shortage of supply in relation to demand ... and also creates inflation in the cost of housing, by reason of its scarcity, which tends to decrease the relative affordability of the state's housing supply for all its residents." See also California Bldg. Industry Ass'n v. City of San Jose (2015) 61 Cal.4th 435 [State Supreme Court opinion acknowledging that problems arising from scarcity of affordable housing "have become more severe and have reached what might be described as epic proportions in many of the state's localities"]; Friends of East Willits Valley v. County of Mendocino (2002) 101 Cal.App.4th 191, 205 [federal, state and local law recognize the significance of the need for more low-income housing].

The shortage of affordable housing identified by the State Legislature certainly exists in the City of Los Angeles, and most particularly in the City's coastal zone. As a means of addressing the lack of a sufficient number of housing units that are affordable to low and moderate income housing, the City has adopted an inclusionary housing program that requires that a certain percentage of new housing units in the coastal zone be set aside for low and very low income households. This Project fully complies with that important mandate.

However, residents of exclusive coastal neighborhoods, such as Pacific Palisades where the Project is located, have been quick to challenge the addition of affordable housing units to their communities. Projects that meet all City and Coastal Act requirements are routinely challenged with the hope of killing the project and maintaining the exclusivity of the area in question. The City's various Area Planning Commissions, such as the WLAAPC in this case, often buckle in the face of neighborhood opposition, despite a project's consistency with all applicable laws.

Marlene Alvarado
September 30, 2016
Page 3

A small minority of vocal NIMBYs are acting to defeat statewide goals of providing more affordable housing, and nowhere in the City is this less true than in the City's coastal zone. Given the significance of this issue, a substantial issue must be found, and the Coastal Commission should set this matter for a future de novo hearing.

C. The Project Complies with the Visual Resources Policies of the Coastal Act.

In addition to the important statewide issues raised by the appeal, there is no factual support for the WLAAPC's decision that the project does not comply with the visual resources policies of the Coastal Act. Section 30251 states, in part:

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

The Zoning Administrator correctly found that the proposed development will not result in the obstruction of any public scenic views. While the site affords a view of the Pacific Ocean from a stationary position, the site is not known as a significant lookout point that draws tourists or visitors there and there are no lookout points immediately above or below the project site whose views would be obstructed by the proposed development. The area surrounding the site is not known for high pedestrian traffic.

With respect to potential impacts on views from Pacific Coast Highway, a designated Scenic highway, below the subject site, there is a significant change in grade from the rear lot line of the site to Pacific Coast Highway. Due to the topography, existing improvements in the foreground would be more visually prominent than the proposed development. After a field survey of the area, the Zoning Administrator concluded that the top of the bluff where the development would occur is obscured from the view of traffic by a secondary bluff and plateau on which the Malibu Bowl Mobile Homes Estate site is located.

Despite these findings by the Zoning Administrator, supported by substantial evidence in the record, the WLAAPC reversed the approval, finding that the project would have potential adverse impacts to the neighborhood with regards to mass and scale. The WLAAPC's findings on this issue are clearly not supported by the record.

The site is located within a residential community, with existing multi-family uses on the south side of Sunset Boulevard and existing single family uses to the north. The two lots to the west of the site contain 16 unit and 23 unit structures built in the 1950s. The lot to the east of the site, also adjacent

Marlene Alvarado
September 30, 2016
Page 4

to the bluff, contains 47 units and was built in 1956. Thus, the Project is located in an area already developed with multi-family residential projects of comparable size and density.

With regard to the claim that the Project will be out of character with the neighborhood because it is five stories in height, the WLAAPC ignored the fact that due to the Project's cascading design, the Project is only three stories in height as viewed from Sunset Boulevard, comparable to the heights of the other multi-family residential buildings in the area.

The WLAAPC's reversal of the approval was in error, responsive to a group of small but vocal neighbors whose goal is to limit the site to no development whatsoever, and to save their own private views. Given the Coastal Act's policies of encouraging housing and other opportunities for households with low or very low incomes in the coastal zone, a substantial issue must be found.

D. The Project Complies with the Hazards Policies of the Coastal Act.

There is likewise no factual support for the WLAAPC's finding that the Project does not comply with the hazards policies. Section 30253 of the Coastal Act states, in part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

As correctly identified by the Zoning Administrator, the Department of Building & Safety Grading Division has issued a Geology and Soils Approval Letter dated October 25, 2011 based upon a review of Geology and Soils Reports prepared by Sassan Geosciences, Inc. dated between November 16, 2009 and July 15, 2011. In addition, subsequent to the 2011 approval, in response to public comments, the reports and reviews were updated in 2014. As conditioned by the Zoning Administrator, Project approval is conditioned on the Grading Division's final approval of the Geology and Soils Reports for the Project. The Grading Division, consisting of the City's experts in the field of grading and drainage, will require that the Project comply with numerous conditions that address grading, stability, erosion control, drainage, subsurface drainage and groundwater.

Despite these conditions, the WLAAPC cited to the Project opponents' erroneous claim that technical questions and issues had been raised that had not been reviewed or responded to by the applicant or by the City's Grading Division. To the contrary, each of the issues raised has been

Marlene Alvarado
September 30, 2016
Page 5

responded to point-by-point by the applicant's geologist, which responses were concurred with by the Grading Division. The Grading Division's conditions of approval provided the necessary assurances that all potential hazards would be mitigated. Again, there is no factual basis for the WLAAPC's conclusion.

E. Conclusion.

Based upon the foregoing, we respectfully request that the Coastal Commission find that the appeal raises a substantial issue and set the matter for a future de novo hearing.

Thank you for your consideration of this matter. As always, please do not hesitate to contact me at any time with any comments or questions that you may have.

Sincerely,

GAINES & STACEY LLP

By


FRED GAINES

cc: Jack Ainsworth, Acting Executive Director (Via Email)
Teresa Henry, District Director (Via Email)

EXHIBIT “A”

CITY OF LOS ANGELES
CALIFORNIA



ERIC GARCETTI
MAYOR

LINN K. WYATT
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

R. NICOLAS BROWN
SUE CHANG
LOURDES GREEN
CHARLES J. RAUSCH, JR.
JIM TOKUNAGA
FERNANDO TOVAR
DAVID S. WEINTRAUB
MAYA E. ZAITZEVSKY

October 2, 2014

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9034 Sunset Boulevard
West Hollywood, CA 90069

Fred Gaines (R)
Gaines & Stacy, LLP
16633 Ventura Boulevard, Suite 1220
Encino, CA 91436

CASE NO. ZA 2012-0130(CDO)(MEL)
COASTAL DEVELOPMENT PERMIT/
MELLO DETERMINATION
16990-17000 Sunset Boulevard
Brentwood-Pacific Palisades Planning Area
Zone : [Q]R3-1
D. M. : 126B121
C. D. : 11
CEQA : ENV 2012-031-MND
Legal Description : Lot 2 and Portion of
Lot 3, Arb-4, Arb-5, Tract 10238

Pursuant to Los Angeles Municipal Code Section 12.20.2, I hereby APPROVE:

a Coastal Development Permit to allow the construction of a new approximately 98,900 square-foot residential development containing a total of 49 units in the dual permit jurisdiction of the California Coastal Zone and a Mello Act determination for affordable housing in the Coastal Zone,

upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.

5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
6. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action or proceedings against the City or its agents, officers, or employees relating to or to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim action or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.
7. Parking shall be provided in accordance with the provisions of the Los Angeles Municipal Code. The existing "Q" Condition on the site requires guest parking at a ratio of .25 parking spaces for each rental dwelling unit or .50 parking spaces for each condominium unit in excess of code required parking.
8. Prior to issuance of a grading permit, the applicant shall apply for a Haul Route approval to the Board of Building and Safety Commissioners if required. No haul route has been requested or approved in connection with this grant.
9. In addition to the mitigation measures contained under Condition No. 15, the applicant shall comply with the following regulatory compliance measures unless revised by the Board of Building and Safety Commissioners:
 - a. LADBS shall assign specific haul route hours of operation based upon Marquez Charter Elementary School hours of operation.
 - b. Haul route scheduling shall be sequenced to minimize conflicts with pedestrians, school buses and cars at the arrival and dismissal times of the school day. Haul route trucks shall not be routed past the school during periods when school is in session especially when students are arriving or departing from the campus.
 - c. The developer shall install appropriate traffic signs around the site to ensure pedestrian and vehicle safety.
 - d. All haul route hours shall be limited to off-peak hours as determined by Board of Building and Safety Commissioners.
 - e. The Department of Transportation shall recommend to the Building and Safety Commission Office the appropriate size of trucks allowed for hauling, best route of travel, the appropriate number of flag people.

CASE NO. ZA 2012-0130(CDP)(MEL)

- f. The Department of Building and Safety shall stagger haul route trucks based upon a specific area's capacity, as determined by the Department of Transportation, and the amount of soil proposed to be hauled to minimize cumulative traffic and congestion impacts.
 - g. The applicant shall be limited to no more than two trucks at any given time within the site's staging area.
 - h. All demolition and construction materials shall be stored on-site and not within the public right-of-way during demolition, hauling, and construction operations.
 - i. Cut and fill slopes in designated hillside areas shall be planed and irrigated to prevent erosion, reduce runoff velocity and to provide long-term stabilization of soil. Plant materials may include grass, shrubs, vines, ground cover and trees.
 - j. The undeveloped rear portion of the property shall not be landscaped but shall be left in its natural state except for required brush clearance. The area shall not be irrigated.
10. Prior to issuance of a building permit, a parking area and driveway plan shall be submitted for review and approval by the appropriate District Offices of the Bureau of Engineering and the Department of Transportation. Ingress and egress shall be approved by the Bureau of Engineering and the Department of Transportation. Evidence of compliance to this condition shall be furnished to the Development Services Center of the Department of City Planning prior to sign-off on any building permit.
11. The Torrey Pine trees located in the public right-of-way adjacent to the northeast corner of the property shall not be removed as a part of the project development. Earthmoving and other construction equipment shall avoid entering the site adjacent to the trees and any surface roots of the trees shall be protected.
12. Pursuant to Government Code Section 65590, the applicant shall reserve and maintain ten (10) dwelling units (20% of the 49 identified new whole dwelling units) for occupancy by households designated as Low Income (LI) or Very Low (VLI) as specified in California Health and Safety Code Sections 50079.5 and 50105 as determined by the City of Los Angeles Housing and Community Investment Department (L.A.H.C.I.D.).

OR

The applicant shall reserve and maintain five (5) dwelling units (10% of the 49 identified new whole dwelling units) for occupancy by households designated as Very Low Income (VLI) as specified in California Health and Safety Code Sections 50079.5 and 50105 as determined by the City of Los Angeles Housing and Community Investment Department (L.A.H.C.I.D.).

13. Prior to issuance of a building permit, the applicant shall execute and record a Covenant and Agreement to the satisfaction of the Los Angeles Housing and Community Investment Department, guaranteeing that the designated Restricted Affordable Units required by Condition No. 12 shall be reserved for occupancy by eligible households for at least 30 years from the issuance of a Certificate(s) of Occupancy for the Restricted Affordable Units, and that:
 - a. The Restricted Affordable Units shall conform to the standards and policies contained in the City's Interim Administrative Procedures (Interim Procedures) for Implementing the Mello Act and to the terms of the Settlement Agreement between the City of Los Angeles and the Venice Town Council, the Barton Hill Neighborhood Organization and Carol Berman concerning the implementation of the Mello Act in the Coastal Areas of the City of Los Angeles.
 - b. The applicant shall submit an Affordable Housing Provision Plan for review and approval by the Los Angeles Housing and Community Investment Department specifying how the applicant will comply with the City's policies.
 - c. The Los Angeles Housing and Community Investment Department, or its successor or assignee, shall be responsible for the ongoing monitoring and enforcement of these accessible affordable unit requirements.
14. The driveway for the project, as it also provides parking by easement to the two adjacent residential properties, shall not be gated at its intersection with Sunset Boulevard. It may be gated at the entrance to the structure.
15. The project shall include gas detection monitors which will be triggered if excess hydrogen sulfide gas builds in project subterranean parking areas
16. The applicant shall comply with the following conditions and mitigation measures contained in Case File No. ENV 2012-131-MND:
 - a. Aesthetics (Vandalism)
 - 1) Every building, structure, or portion thereof, shall be maintained in a safe and sanitary condition and good repair, and free from debris, rubbish, garbage, trash, overgrown vegetation or other similar material, pursuant to Municipal Code § 91.8104.
 - 2) The exterior of all buildings and fences shall be free from graffiti when such graffiti is visible from a street or alley, pursuant to Municipal Code § 91.8104.15.
 - b. Aesthetics (Light)

Outdoor lighting shall be designed and installed with shielding, such that the light source cannot be seen from adjacent residential properties or the public right-of-way.

c. Air Pollution (Demolition, Grading and Construction Activities)

- 1) All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403.
- 2) The construction area shall be kept sufficiently dampened to control dust caused by grading and hauling, and at all times provide reasonable control of dust caused by wind.
- 3) All clearing, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph), so as to prevent the generation of excessive amounts of dust.
- 4) All dirt/soil loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.
- 5) All dirt/soil materials transported off-site shall be either sufficiently watered or securely covered to prevent the generation of excessive amounts of dust.
- 6) General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions.
- 7) Trucks having no current hauling activity shall not idle but be turned off.

d. Air Pollution (Stationary)

An air filtration system shall be installed and maintained with filters meeting or exceeding the ASHRAE Standard 52.2 Minimum Efficiency Reporting Value (MERV) of 11, to the satisfaction of the Department of Building and Safety.

e. Habitat Modification (Nesting Native Birds, Hillside or Rural Areas)

- 1) Proposed project activities (including disturbances to native and non-native vegetation, structures and substrates) should take place outside of the breeding bird season which generally runs from March 1-August 31 (as early as February 1 for raptors) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). Take means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill (Fish and Game Code Section 86).

- 2) If project activities cannot feasibly avoid the breeding bird season, beginning thirty days prior to the disturbance of suitable nesting habitat, the applicant shall:
- a) Arrange for weekly bird surveys to detect any protected native birds in the habitat to be removed and any other such habitat within 300 feet of the construction work area (within 500 feet for raptors) as access to adjacent areas allows. The surveys shall be conducted by a Qualified Biologist with experience in conducting breeding bird surveys. The surveys shall continue on a weekly basis with the last survey being conducted no more than 3 days prior to the initiation of clearance/construction work.
 - b) If a protected native bird is found, the applicant shall delay all clearance/construction disturbance activities within 300 feet of suitable nesting habitat for the observed protected bird species (within 500 feet for suitable raptor nesting habitat) until August 31.
 - c) Alternatively, the Qualified Biologist could continue the surveys in order to locate any nests. If an active nest is located, clearing and construction within 300 feet of the nest (within 500 feet for raptor nests) or as determined by a qualified biological monitor, shall be postponed until the nest is vacated and juveniles have fledged and when there is no evidence of a second attempt at nesting. The buffer zone from the nest shall be established in the field with flagging and stakes. Construction personnel shall be instructed on the sensitivity of the area.
 - d) The applicant shall record the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to the protection of native birds. Such record shall be submitted and received into the case file for the associated discretionary action permitting the project.

f. Tree Report

Prior to the issuance of a grading or building permit, the applicant shall prepare and submit a Tree Report, prepared by a Tree Expert as defined in Section 17.02 of the Los Angeles Municipal Code, indicating the location, size, type and condition of all existing trees on the site. Such report shall also contain a recommendation of measures to ensure the protection, relocation or replacement of affected trees during grading and construction activities.

- g. Tree Removal (Non-Protected Trees)
- 1) Prior to the issuance of any permit, a plot plan shall be prepared indicating the location, size, type and general condition of all existing trees on the site and within the adjacent public right(s) of way.
 - 2) All significant (8-inch or greater trunk diameter, or cumulative trunk diameter if multi-trunked, as measured 54 inches above the ground) non-protected trees on the site proposed for removal shall be replaced at a 1:1 ratio with a minimum 24-inch box tree. Net, new trees, located within the parkway of the adjacent public right(s)-of-way, may be counted toward replacement tree requirements.
 - 3) Removing or planting of any tree in the public right-of-way requires approval of the Board of Public Works. Contact Urban Forestry Division at: 213-847-3077. All trees in the public right-of-way shall be provided per the current standards of the Urban Forestry Division in the Department of Public Works, Bureau of Street Services.
- h. Tree Removal (Locally Protected Species)
- 1) All protected tree removals require approval from the Board of Public Works.
 - 2) A Tree Report shall be submitted to the Urban Forestry Division of the Bureau of Street Services, Department of Public Works, for review and approval (213-847-3077), prior to implementation of the Report's recommended measures.
 - 3) A minimum of two trees (a minimum of 48-inch box in size of available) shall be planted for each protected tree that is removed. The canopy of the replacement trees, at the time they are planted, shall be in proportion to the canopies of the protected tree(s) removed and shall be to the satisfaction of the Urban Forestry Division.
 - 4) The location of trees planned for the purposes of replacing a removed protected tree shall be clearly indicated on the required landscape plan, which shall also indicate the replacement tree species and further contain the phrase "Replacement Tree" in its description.
- i. Bonding (Tree Survival):
- 1) The applicant shall post a cash bond or other assurances acceptable to the Bureau of Engineering in consultation with the Urban Forestry Division and the Department of City Planning's Development Services Center guaranteeing the survival of trees required to be maintained, replaced or relocated in such a fashion as to assure the existence of continuously living trees for a minimum of three years from the date that the bond is posted or from the date such trees are replaced or

relocated, whichever is longer. Any change of ownership shall require that the new owner post a new protected tree bond to the satisfaction of the Bureau of Engineering. Subsequently, the original owner's protected tree bond may be exonerated.

- 2) The City Engineer shall use the provisions of Section 17.08 as its procedural guide in satisfaction of said bond requirements and processing. Prior to exoneration of the bond, the owner of the property shall provide evidence satisfactory to the City Engineer and Urban Forestry Division that the replacement trees were properly replaced, the date of the replacement and the survival of the replacement trees for a period of three years.

j. Seismic

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

k. Erosion/Grading/Short-Term Construction Impacts

- 1) The applicant shall provide a staked signage at the site with a minimum of 3-inch lettering containing contact information for the Senior Street Use Inspector (Department of Public Works), the Senior Grading Inspector (LADBS) and the hauling or general contractor.
- 2) Chapter IX, Division 70 of the Los Angeles Municipal Code addresses grading, excavations, and fills. All grading activities require grading permits from the Department of Building & Safety. Additional provisions are required for grading activities within Hillside areas. The application of BMPs includes but is not limited to the following mitigation measures:
 - a) Excavation and grading activities shall be scheduled during dry weather periods. If grading occurs during the rainy season (October 15 through April 1), diversion dikes shall be constructed to channel runoff around the site. Channels shall be lined with grass or roughened pavement to reduce runoff velocity.
 - b) Stockpiles, excavated, and exposed soil shall be covered with secured tarps, plastic sheeting, erosion control fabrics, or treated with bio-degradable soil stabilizer.

l. Grading (20,000 Cubic Yards, or 60,000 Square Feet of Surface Area or Greater)

The applicant shall design the grading plan to conform with the City's Landform Grading Manual guidelines, subject to approval by the Department

of City Planning's Development Services Center and the Department of Building and Safety's Grading Division. Chapter IX, Division 70 of the Los Angeles Municipal Code addresses grading, excavations, and fills. All grading activities require grading permits from the Department of Building & Safety. Additional provisions are required for grading activities within Hillside areas. The application of BMPs includes but is not limited to the following mitigation measures:

- 1) A deputy grading inspector shall be on-site during grading operations, at the owner's expense, to verify compliance with these conditions. The deputy inspector shall report weekly to the Department of Building and Safety (LADBS); however, they shall immediately notify LADBS if any conditions are violated.
- 2) "Silt fencing" supported by hay bales and/or sand bags shall be installed based upon the final evaluation and approval of the deputy inspector to minimize water and/or soil from going through the chain link fencing potentially resulting in silt washing off-site and creating mud accumulation impacts.
- 3) "Orange fencing" shall not be permitted as a protective barrier from the secondary impacts normally associated with grading activities.
- 4) Movement and removal of approved fencing shall not occur without prior approval by LADBS.

m. Geotechnical Report

- 1) Prior to the issuance of grading and building permits, the applicant shall submit a geotechnical report, prepared by a registered civil engineer or certified engineering geologist, to the Department of Building and Safety, for review and approval. The geotechnical report shall assess potential consequences of any soil strength loss, estimation of settlement, lateral movement or reduction in foundation soil-bearing capacity, and discuss mitigation measures that may include building design consideration. Building design considerations shall include, but are not limited to: ground stabilization, selection of appropriate foundation type and depths, selection of appropriate structural systems to accommodate anticipated displacements or any combination of these measures.
- 2) The project shall comply with the conditions contained within the Department of Building and Safety's Geology and Soils Report Approval Letter and any required Supplemental Approval Letters for the proposed project as it may be subsequently amended or modified.

n. Landslide Area

- 1) Prior to the issuance of grading or building permits, the applicant shall submit a geotechnical report, prepared by a registered civil engineer or certified engineering geologist, to the Department of Building and Safety, for review and approval. The geotechnical report shall assess potential consequences of any landslide and soil displacement, estimation of settlement, lateral movement or reduction in foundation soil-bearing capacity, and discuss mitigation measures that may include building design consideration. Building design considerations shall include, but are not limited to: ground stabilization, selection of appropriate foundation type and depths, selection of appropriate structural systems to accommodate anticipated displacements or any combination of these measures.
- 2) The project shall comply with the conditions contained within the Department of Building and Safety's Geology and Soils Report Approval Letter for the proposed project any required Supplemental Approval Letters for the proposed project as it may be subsequently amended or modified.

o. Green House Gas Emissions

Only low- and non-VOC-containing paints, sealants, adhesives, and solvents shall be used in the construction of the project.

p. Hillside Construction Staging and Parking Plan

Prior to the 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 the 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 Construction Staging and Parking Plan shall include, but not be limited to the following:

- 1) No construction equipment or material shall be permitted to be stored within the public right-of-way.
- 2) If the property fronts on a designated Red Flag Street, on noticed "Red Flag" days, all the workers shall be shuttled from an off-site area, located on a non-Red Flag Street, to and from the site in order to keep roads open on Red Flag Days.
- 3) During the Excavation and Grading phases, only one truck hauler shall be allowed on the site at any one time. The drivers shall be required to follow the designated travel plan or approved Haul Route.

- 4) Truck traffic directed to the project site for the purpose of delivering materials, construction-machinery, or removal of graded soil shall be limited to off-peak traffic hours, Monday through Friday only. No truck deliveries shall be permitted on Saturdays or Sundays.
- 5) All deliveries during construction shall be coordinated so that only one vendor/delivery vehicle is at the site at one time, and that a construction supervisor is present at such time.
- 6) A radio operator shall be on-site to coordinate the movement of material and personnel, in order to keep the roads open for emergency vehicles, their apparatus, and neighbors.
- 7) During all phases of construction, all construction vehicle parking and queuing related to the project shall be as required to the satisfaction of the Department of Building and Safety, and in substantial compliance with the Construction Staging and Parking Plan, except as may be modified by the Department of Building and Safety or the Fire Department.

q. Emergency Evacuation Plan

Prior to issuance of a building permit, the applicant shall develop an emergency response plan in consultation with the Fire Department. The emergency response plan shall include but not be limited to the following: mapping of emergency exits, evacuation routes for vehicles and pedestrians, location of nearest hospitals and fire departments.

r. Land Use/Planning

Secure Haul Route Approval or revise project accordingly.

s. Increased Noise Levels (Demolition, Grading, and Construction Activities)

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

t. Public Services (Schools)

The applicant shall pay school fees to the Los Angeles Unified School District to offset the impact of additional student enrollment at schools serving the project area.

u. Inadequate Emergency Access

The applicant shall submit a parking and driveway plan to the Bureau of Engineering and the Department of Transportation for approval that provides code-required emergency access.

v. Utilities (Local Water Supplies – Landscaping)

1) The project shall comply with Ordinance No. 170,978 (Water Management Ordinance), which imposes numerous water conservation measures in landscape, installation, and maintenance (e.g., use drip irrigation and soak hoses in lieu of sprinklers to lower the amount of water lost to evaporation and overspray, set automatic sprinkler systems to irrigate during the early morning or evening hours to minimize water loss due to evaporation, and water less in the cooler months and during the rainy season).

2) In addition to the requirements of the Landscape Ordinance, the landscape plan shall incorporate the following:

- a) Weather-based irrigation controller with rain shutoff
- b) Matched precipitation (flow) rates for sprinkler heads
- c) Drip/microspray/subsurface irrigation where appropriate
- d) Minimum irrigation system distribution uniformity of 75 percent
- e) Proper hydro-zoning, turf minimization and use of native/drought tolerant plant materials
- f) Use of landscaping contouring to minimize precipitation runoff
- g) A separate water meter (or submeter), flow sensor, and master valve shutoff shall be installed for existing and expanded irrigated landscape areas totaling 5,000 sf. and greater.

w. Utilities (Local Water Supplies – All New Construction)

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

- 2) Install high-efficiency toilets (maximum 1.28 gpf), including dual-flush water closets, and high-efficiency urinals (maximum 0.5 gpf), including no-flush or waterless urinals, in all restrooms as appropriate.
 - 3) Install restroom faucets with a maximum flow rate of 1.5 gallons per minute.
 - 4) A separate water meter (or submeter), flow sensor, and master valve shutoff shall be installed for landscape and irrigation uses.
 - 5) Single-pass cooling equipment shall be strictly prohibited from use. Prohibition of such equipment shall be indicated on the building plans and incorporated into tenant lease agreements. (Single-pass cooling refers to the use of potable water to extract heat from process equipment, e.g. vacuum pump, ice machines, by passing the water through equipment and discharging the heated water to the sanitary wastewater system.)
- x. Utilities (Local Water Supplies – New Residential)
- 1) Install no more than one showerhead per shower stall, having a flow rate no greater than 2.0 gallons per minute.
 - 2) Install and utilize only high-efficiency clothes washers (water factor of 6.0 or less) in the project, if proposed to be provided in either individual units and/or in common area laundry room(s). If such appliance is to be furnished by a tenant, this requirement shall be incorporated into the lease agreement, and the applicant shall be responsible for ensuring compliance.
- y. Utilities (Solid Waste Recycling)
- 1) (Operational) Recycling bins shall be provided at appropriate locations to promote recycling of paper, metal, glass, and other recyclable material. These bins shall be emptied and recycled accordingly as a part of the project's regular solid waste disposal program.
 - 2) (Construction/Demolition) Prior to the issuance of any demolition or construction permit, the applicant shall provide a copy of the receipt or contract from a waste disposal company providing services to the project, specifying recycled waste service(s), to the satisfaction of the Department of Building and Safety. The demolition and construction contractor(s) shall only contract for waste disposal services with a company that recycles demolition and/or construction-related wastes.
 - 3) (Construction/Demolition) To facilitate on-site separation and recycling of demolition- and construction-related wastes, the contractor(s) shall provide temporary waste separation bins on-site during demolition

and construction. These bins shall be emptied and the contents recycled accordingly as a part of the project's regular solid waste disposal program.

17. Prior to the issuance of any permits relative to this matter, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Development Services Center for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within three years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void.

TRANSFERABILITY

This authorization runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent upon you to advise them regarding the conditions of this grant.

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.29 of the Los Angeles Municipal Code provides:

"A variance, conditional use, adjustment, public benefit or other quasi-judicial approval, or any conditional approval granted by the Director, pursuant to the authority of this chapter shall become effective upon utilization of any portion of the privilege, and the owner and applicant shall immediately comply with its Conditions. The violation of any valid Condition imposed by the Director, Zoning Administrator, Area Planning Commission, City Planning Commission or City Council in connection with the granting of any action taken pursuant to the authority of this chapter, shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code."

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$2,500 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

CASE NO. ZA 2012-0130(CDP)(MEL)

APPEAL PERIOD - EFFECTIVE DATE

The applicant's attention is called to the fact that this authorization is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any Condition of this grant is violated or not complied with, then this authorization shall be subject to revocation as provided in Section 12.27 of the Municipal Code. The Zoning Administrator's determination in this matter will become effective after OCTOBER 17, 2014, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://cityplanning.lacity.org>**. Public offices are located at:

Figueroa Plaza
201 North Figueroa Street,
4th Floor
Los Angeles, CA 90012
(213) 482-7077

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

Furthermore, this coastal development permit shall be subject to revocation as provided in Section 12.20:2-J of the Los Angeles Municipal Code, as authorized by Section 30333 of the California Public Resources Code and Section 13105 of the California Administrative Code.

Provided no appeal has been filed by the above-noted date, a copy of the permit will be sent to the California Coastal Commission. Unless an appeal is filed with the California Coastal Commission before 20 working days have expired from the date the City's determination is deemed received by such Commission, the City's action shall be deemed final.

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

NOTICE

The applicant is further advised that all subsequent contact with this Office regarding this determination must be with the Zoning Administrator who acted on the case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, and the statements made at the public hearing on July 18, 2013, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the requirements and prerequisites for granting a coastal development permit as enumerated in Section 12.20.2 of the Municipal Code have been established by the following facts:

BACKGROUND

The subject site is a downward-sloping, south facing parcel located at the base of the Santa Monica Mountains and is located within the dual permit jurisdiction area of the California Coastal Zone. The site is located within the Brentwood-Pacific Palisades Community Plan area, and is located within a designated Hillside area and within a designated Landslide area.

The site contains approximately 51,565 square feet with approximately 234 feet of frontage on the south side of Sunset Boulevard and a variable depth between 209 and 239 feet. The site is located approximately 463 feet from Pacific Coast Highway and 600 feet from the shore line. The site is a vacant, unimproved parcel and is zoned [Q]R3-1. The "Q" Qualified Condition imposes the following limitations on the development of the site: (1) the height of any portion of a building or structure within 50 feet of property zoned R1 or more restrictive shall not exceed a maximum height of 30 feet or a maximum height of 35 feet for any portion of a building or structure within 100 feet of property zoned R1 or more restrictive; (2) a 10-foot step back of the second story of any structure within 50 feet of a lot zoned R1 or more restrictive; (3) a 20-foot rear yard is required; (4) a 10-foot side yard is required for any portion of a building within 50 feet of an R1 or more restrictive zoned lot; and (5) guest parking at a ratio of .25 parking spaces for each rental dwelling unit or .50 parking spaces for each condominium unit is required in excess of code required parking.

Pursuant to the California Coastal Act and to the provisions of Section 12.20.2 of the L.A.M.C., the applicant is requesting a Coastal Development Permit for the construction of a new 99,600 square-foot residential development containing a total of 49 dwelling units. Additionally, pursuant to Government Code Section 65590, the applicant is requesting a Mello Act Compliance Determination. The Mello Act is a state 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. The project is a new housing development in excess of nine (9) dwelling units and is subject to the Mello Act's requirements concerning Inclusionary Residential Units.

The proposed development is designed to conform to all of the provisions of the L.A.M.C. The applicant is not seeking any relief or deviations from the L.A.M.C. concerning density, height, floor area, yards, open space or parking. The site is permitted a maximum density of 62 dwelling units by-right and is eligible for a density bonus up to 35% (for a maximum density of 84 dwelling units provided the requisite number of dwelling units are set aside for Low Income or Very Low Income households). The applicant has not requested a density bonus to satisfy the Mello Act's Inclusionary Zoning Requirement.

The site is located in Height District 1 and is permitted a maximum height of 45 feet plus an additional 12 feet pursuant to Section 12.21.1-B,2 due to the site's topography. However, this height is further restricted as previously mentioned by the "Q" Conditions for the property depending upon how close the proposed building is to an adjacent R1 or more restrictive zone. It should be pointed out that the language of the "Q" Condition limits the height of "any part of a building or structure" within 50 or 100 feet of an adjacent R1 or more restrictive lot. The Condition does not limit the entire building to this height but only the portion within the proscribed distance. This is different from a statement made by the Zoning Administrator at the public hearing at which he stated that it would apply to the entire structure. However, after consulting with the Development Services Center of the Department of City Planning which is charged with signing off building permits for Q compliance, he was informed that the language "any portion of a building" applied only to that portion of the building not to the entire structure.

The project design consists of one building that will descend the hillside from Sunset Boulevard. The building will consist of five levels of residential over two levels of subterranean parking with 122 parking spaces in compliance with the "Q" condition on the site.

The building will have a maximum overall height of 57 feet. However, as measured vertically from the nearest adjacent grade, no portion of the building will exceed 45 feet in height. Section 12.21.1-B,2 of the Zoning Code permits the additional 12 feet above the 45 foot height limit for the zone on sloping lots which exceed grade level by more than 20 feet as measured from the sidewalk or the ground surface within a 5-foot horizontal distance measured from the exterior wall of a building as long as no part of the building exceeds the height limit from the top of the roof or parapet wall to a point vertically below that point. In compliance with the "Q" condition, no portion of the building will exceed 35 feet within 100 feet of the adjoining RE40 zoned lot, and no portion of the building will exceed 30 feet within 50 feet of the adjoining RE40 zoned lot. The proposed development will maintain a 20-foot rear yard and 8-foot side yards except for that portion of the building within 50 feet of the RE40 lot which shall have a 10-foot side yard. Site amenities include private balconies, a gym/recreation room, a pool and spa and common open space. Access to the site will be from a driveway on Sunset Boulevard at the north western most portion of the lot.

Excavation and earthwork for the proposed development, including a subterranean parking structure, is estimated at approximately 44,500 cubic yards of graded material. Approval of a Haul Route will be required by the Department of Building and Safety, Board of Commissioners. The Department of Building & Safety Grading Division issued a Geology and Soils Approval Letter dated October 25, 2011 based upon a review of Geology and Soils Reports prepared by Sassan Geosciences, Inc. dated between November 16, 2009 and July 15, 2011. However, subsequent to the approval, Project opponents submitted written reports that questioned certain conclusions in the Geology and Soils Reports. As such, on March 19, 2013, the Department of Building & Safety Grading Division issued a correction letter, asking the applicant to respond to the Project opponents' reports. Those responses have been submitted to the Department of Building & Safety Grading Division for review. **As further discussed below, this grant is conditioned on the Grading Division's issuance of a Geology and Soils Approval Letter for the project.**

CASE NO. ZA 2012-0130(CDP)(MEL)

Properties to the north, across Sunset Boulevard, are zoned R1-1 and are improved with single-family dwellings. Properties to the east and west are zoned [Q]R3-1 and are improved with multi-family residential buildings and a vacant lot. Properties to the south are zoned RE40-1 and are improved with a mobile home condominium community between the slope to the rear of the site and The Pacific Coast Highway.

Previous zoning related actions on the site/in the area include:

Subject Property

Ordinance No. 170,768 – On November 14, 1995, the City Council changed the zone of the subject property to [Q]R3-1. The [Q] conditions restrict the height of buildings and yard setbacks within a certain radius from a lot zoned R1 or more restrictive. The Conditions also require guest parking in addition to Code required parking.

Surrounding Properties

Case No. ZA 2010-1726(CDP)(MEL) – On October 20, 2011, the Zoning Administrator approved a Coastal Development Permit for a 49 unit, multiple-family structure at 1730 Sunset Boulevard, two lots to the west of the subject property. The approval was appealed by surrounding property owners. The West Los Angeles Area Planning Commission adopted the appeal and denied the Coastal Development Permit partly on environmental grounds and partly because the Zoning Administrator did not follow or say why he didn't follow the Coastal Commission's Interim Regional Interpretive Guidelines.

Case No. ZA 2005-8856(CDP) – On July 7, 2006, the Zoning Administrator approved a Coastal Development Permit authorizing the conversion of a 16,816 square foot complex to a school for 246 students (preschool, kindergarten, grades 1 through 8), within the single permit jurisdiction of the California Coastal Zone at 17310 Sunset Boulevard.

Case Nos. ZA 2000-0648(CDP) and ZA 2000-0647(PAD) – On September 24, 2001, the Zoning Administrator approved a Coastal Development Permit authorizing the expansion of an existing private club located within the California Coastal Zone, and a determination of conditional use status and an Approval of Plans to increase the size of an existing private club and to continue the service of a full line of alcoholic beverages at 1680 Pacific Coast Highway.

PUBLIC HEARING

On July 18, 2013, a public hearing was held on the subject case at the West Los Angeles Municipal Building at 1645 Corinth Avenue. The hearing was attended by the applicant's representatives and approximately 45 surrounding property owners, residents and interested parties.

CASE NO. ZA 2012-0130(CDP)(MEL)

The applicant's representatives described the proposed project. Fred Gaines, Gaines & Stacey LLP, indicated that the applicant has proposed the construction of a new, five-story multi-family residential building within the dual jurisdiction of the California Coastal Zone. The project site is currently a vacant, unimproved parcel zoned [Q]R3-1, and is located on the south side of Sunset Boulevard, at the southerly terminus of Marquez Avenue. The proposed project is intended to comply with the "Q" conditions and all other applicable zoning regulations. As such, the only entitlement sought in connection with the project is a Coastal Development Permit.

The project geotechnical engineer, Sassan Salehipour, indicated that construction of the subterranean garage will improve stability of the site. In response to the neighbor's concerns about the presence of hydrogen sulfide on the site, Mr. Salehipour indicated that the odors caused by the presence of the gas will dissipate during grading of the site, and that such odors are not harmful to residents of areas surrounding the site.

The project civil engineer, Leonard Liston, indicated that all of the surface runoff generated onsite will be conveyed to the existing public storm drain. The onsite surface runoff which originates on impervious surfaces will first be cleaned through a bio-filtration system before it is outlet to the public storm drain system. Additionally, there will be a subdrain system to collect groundwater which enters the property from the north. The subdrain system will be connected to the existing storm drain system, which outlets into the Pacific Ocean.

Numerous surrounding property owners, residents and members of surrounding homeowner associations testified and raised concerns or objections. The following is a general summary of the public testimony and correspondence received for the file:

Consistency with Q Conditions:

Questions were raised concerning the project's consistency with the "Q" condition relating to the step back of the portion of the second story of the building within 50 feet of the adjacent RE40 zone.

RESPONSE: The Zoning Administrator agreed with the testimony and stated that the design of the project as submitted was not compliant with either the required 10-foot setback of the second story within 50 feet of any adjacent R1 or more restrictively zoned lot and was not compliant with the 10-foot side yard required within 50 feet of such a zone. The project was redesigned to comply with the required step backs of the structure and the required 10-foot side yard. As previously stated in this determination, the Zoning Administrator incorrectly stated that the entire structure would have to comply with the Q Condition and yard requirements within 50 feet of a single family zone. This, however, is incorrect as the direct wording of the Q Condition states "any part of a building or structure within 50 feet of any lot zoned R1 or more restrictive shall not exceed 30 feet in height, excluding rooftop structures". The words "any part" restricts only that portion of the building within the 50 and 100 foot limitations of the Condition.

Torrey Pine Trees:

There are two Torrey Pine street trees adjacent to the project site. Torrey Pines are rare and should be protected. As such, removal of the street trees is objectionable.

RESPONSE: The Zoning Administrator at the hearing also commented on the Torrey Pines and agreed that they should not be removed. A further check of the City's ZIMAS system showed that the trees were located in the public right-of-way for Sunset Boulevard. The applicant's Site Plan and Architectural renderings also show that there are no improvements planned for the location of the Torrey Pine trees. Condition 11 was inserted into the Conditions of Approval to prohibit the developer from removing the trees and to provide protection of them from any construction equipment gaining access to the site. It should also be pointed out that any removal of the trees can only occur if the Board of Public Works agrees with the removal because they exist in the public right-of-way.

Utilities Easements:

The applicant intends to run utilities directly through the Malibu Bowl Mobile Estates community, without permission.

RESPONSE: The Malibu Bowl Mobile Estates Tract Map (Tract No. 30690-C) shows three easements for public utility purposes that were granted to the City of Los Angeles as a part of the subdivision. The easterly easement wraps around the hillside above the tract until it intersects the private street within the Mobile Estates which it then follows downhill under the access road until it exits the property under the Pacific Coast Highway at the bottom of the hill. This easement is for public storm drain purposes and drains not only the site but the adjacent property and a storm drain entrance on Sunset Boulevard. The purpose of the storm drain easement is to drain surface runoff and any applicant for any development on the site would be required by the City to connect to this storm drain. It is open to question whether or not the Malibu Estates property owners have any veto power over who may or may not connect to the drain especially since it drains the public right-of-way of Sunset Boulevard. Similarly, there is an easement for public utility purposes which runs along the westerly border of the Malibu Bowl site until it makes an approximately 35 degree bend under an undeveloped slope and exits the site under the Pacific Coast Highway. Included in this 12-foot wide, variable width easement is a 6-foot sewer easement which drains both the project site and the properties to the west of the project site. Again, it is a requirement of the City to connect to public sewer lines, and it is dubious that such a connection is subject to the veto of property owners through whose property the easement required by the recorded tract map crosses. The third easement on the Malibu Bowl site is also for public utility uses and goes from the northerly property line of the tract into the interior of the tract and ends after approximately 180 feet. The subject development project does not propose to use this easement for utility use.

Hydrology:

The proposed drainage for the site is inadequate. Sulfur minerals in the bedrock will be deposited in the Santa Monica Bay through the storm drain. The conclusion in the MND that the project will have a less than significant impact on hydrology is not supported by evidence.

RESPONSE: At the time that the MND was published, the City's standard Stormwater runoff conditions were placed on the project. The City has since required additional requirements on all developments of more than 500 square feet that require the first $\frac{3}{4}$ of

an inch of runoff to be filtered before being placed into the public storm drains. The result of this new local regulation is that all runoff from the site must be filtered. Runoff from the site will flow into the public storm drain easement which runs through the site as well as the adjacent Malibu Bowl Mobile Estates condominium. This public storm drain easement contains an existing 30- to 36-inch concrete storm drain pipe. As previously mentioned, this is a public storm drain which drains not only the subject site but adjacent properties and Sunset Boulevard. Concerns were raised that the required irrigation systems for the project's landscaping would also undermine the soil on the site and lead to slides. The project's landscape plan shows that the undeveloped slope to the rear of the site is not being landscaped. These plans do not show any sprinkler systems. The planting of grass and ground covers will occur adjacent to the structure in planter boxes which can accommodate the additional irrigation and which will also serve as the Stormwater infiltration system required by Code.

Traffic:

The City will be installing bollards along the centerline of Sunset Boulevard in the vicinity of the project site, which will impede access to the project and will prohibit left hand turns out of the project.

RESPONSE: The Department of Transportation has indicated that the City is not installing "bollards" on the centerline which would prevent any turns over the centerline. It is instead replacing the existing lane "delineators" at the centerlines at some locations. The closest to the site is in-front of the Self Realization Fellowship property to the west of the project site. No replacement is planned adjacent to the site. The Department also indicated that there is a proposal to modify the intersection of Sunset Boulevard and Marquez Avenue/Place to permit enough room for westbound buses to turn and return in an eastbound direction instead of continuing to Pacific Coast Highway and then returning eastbound on Sunset. The proposed entry to the project would be over 100 feet west of this proposed intersection improvement.

The project is located near "dead man's curve," and many traffic accidents occur on Sunset in the immediate vicinity of the project. The addition of cars from residents of the proposed project will make this dangerous stretch of road even more dangerous.

RESPONSE: The applicant's Traffic Consultant reviewed Caltrans reports of traffic accidents which reported that there had been no collisions on Sunset Boulevard within 750 westerly of the project site which is the location of the horseshoe curve down to Pacific Coast Highway. Sunset Boulevard easterly of the site is located on a 1,800+ foot straight tangent before a sweeping turn up to the Pacific Palisades commercial area. Visibility of on-coming traffic on this stretch of the street is good and should not create a problem for vehicles exiting the existing driveway. It should be pointed out that this driveway already provides access for the adjacent apartment building and a single family home located downslope from the lots facing Sunset. Thus, this is not a new driveway onto Sunset at this location.

Hydrogen Sulfide Gas:

Boring logs from exploration of the site have suggested the presence of hydrogen sulfide gas on the site. Questions were raised about the impact of that gas on the project and on nearby residents.

RESPONSE: The presence of Hydrogen Sulfide gas is naturally occurring in the area but was not noted during the field investigation by the project's soils engineer. It was, however, noted by a previous investigation which included bore holes to a depth of 30 and 60 feet. Thus, it may be encountered when drilled pile shafts are installed. The regulation of hydrogen sulfide exposure at worksites is regulated by Cal-OSHA work rules. Since the gas was previously encountered at depths below the surface, it will be vented during construction of the pile shafts and then covered when the shafts are completed. The project itself will include gas detection monitors which will be triggered if excess gas builds in project subterranean parking areas

Geology:

The property consists of fill placed over landslide deposits and what was described in the soils report as "trash fill". The stability calculations for the project fail to account for the presence of clay. The project jeopardizes homes and lives because the bedrock is susceptible to collapse. The project site is one of the two last pieces of undeveloped coastal bluff in the vicinity. The stability of Sunset Boulevard must be assured because it is an alternate route for Pacific Coast Highway in the event of emergency. Marquez Knolls is very unstable and has a history of slope failure.

RESPONSE: The project's soils report has been approved by the Department of Building and Safety's Grading Division. One of the requirements of the Department's approval is the removal of the former unsupported fill and its replacement by soil compacted to current standards of the Department. Thus, the unsupported "trash fill" will be removed from the site and no longer cause a threat to downslope residences and the Pacific Coast Highway. The removal of the unsupported fill will also remove any threat of the fill sliding and causing slope stability problems to the soil underlying Sunset Boulevard.

Architecture:

Building height appears to be inaccurately measured. More information must be given regarding the proposed retaining wall.

RESPONSE: The building height is accurately measured according to Section 12.21-B,2 of the Municipal Code which allows buildings on lots where the highest point of the sidewalk exceeds grade level by 20 feet to exceed a required height by 12 feet. In the subject case, the grade to the rear of the lot is lower than 20 feet from the sidewalk which permits the 45-foot height of the structure to be 57 feet high. However, at no point may the structure exceed 45 feet in height from the top of the structure to a point directly below the point of measurement. This allows the structure to stair step down the slope. Measuring from the front of the lot, the structure is 45 feet above the Sunset Boulevard sidewalk and 57 feet high from the highest point on the Sunset façade to the lowest point 5 feet from the building wall to the rear as shown in attached Exhibit A. As was previously

CASE NO. ZA 2012-0130(CDP)(MEL)

stated above, the structure, as redesigned, is compliant with the "Q" Conditions as to height of the structure within 50 and 100 feet of the most restrictive adjacent single family zone.

Consistency with Coastal Act:

The project is not consistent with the Regional Interpretive Guidelines, and is not consistent with the Coastal Act. The Guidelines allow only 28 units on the site, and the hillside calculation contained in the Guidelines would further reduce the permitted density. The Guidelines require minimum grading, and require all development to be setback 25 feet from a coastal bluff. The project is inconsistent with Section 30251 of the Coastal Act, which requires development to be visually compatible. In addition, Section 30253 of the Coastal Act requires that development minimize the risk to life and property. Geologic stability must be assured. The project destroys the public ocean view from Marquez Avenue.

RESPONSE: There is conflicting information as to the applicability of the Regional Interpretive Guidelines which were written in 1977 and have not been updated since. Notwithstanding information given to the Zoning Administrator that the Coastal Commission staff itself has advised the Office of Zoning Administration that the guidelines are unenforceable, the West Los Angeles Area Planning Commission in various cases has held a different interpretation as to the applicability of the guidelines and at the least, desires to have information presented to the members as to why the Guidelines were or were not complied with. A full finding on the Zoning Administrator's analysis of the project's compliance or lack thereof with the Guidelines for a multiple-family project in the Pacific Palisades Region is found in Finding No. 3 below.

Environmental:

The MND fails to address cumulative impacts of other projects in the vicinity. Another project is proposed a few lots away, and the two projects may have overlapping construction periods. The MND should address the cumulative impacts of the grading proposed for each of the projects, and should address the cumulative impacts of 98 new residential units in the immediate vicinity.

The MND is inadequate because an EIR is required to study the release of hydrogen sulfide gas into the environment. A focused EIR should be required to study the following: geology; soils; traffic; hydrology; removal of the Torrey pine trees.

After the hearing, the Zoning Administrator took the case under advisement for 30 days to allow the neighbors additional time to submit additional comments and to allow the applicant to revise its plans to show compliance with the Q condition.

MANDATED FINDINGS

In order for a coastal development permit to be granted all of the requisite findings maintained in Section 12.20.2 of the Los Angeles Municipal Code must be made in the affirmative. Following is a delineation of the findings and the application of the facts of this case to same.

1. **The development is in conformity with Chapter 3 of the California Coastal Act of 1976.**

Chapter 3 of the Coastal Act contains the various policy provisions of such legislation. Pertinent to the instant request are the policies with respect to:

- a. **Shoreline Access:** the subject property is located on Sunset Boulevard which terminates westerly of the site at its intersection with The Pacific Coast Highway adjacent to the shoreline. The proposed development is located on the south side of Sunset Boulevard at the top of a bluff and will not interfere with or obstruct any access to coastal resources or ocean use.
- b. **Recreation and Visitor Serving Facilities:** the project site has no adjacent or nearby recreational facilities for visitors.
- c. **Water and Marine Resources:** the project will not impact any marine resources. The project is well above the high tide line and will not have any identifiable effect on the Pacific Ocean or on the sandy inter-tidal zone.
- (d) **Environmentally Sensitive Habitat Area:** the project site is within a fully urbanized area and is not located within or near any Environmentally Sensitive Habitat area, Significant Ecological Area, or in an area governed by a habitat conservation or community conservation plan. The project is limited to the boundary of the private property, does not function as part of wild life corridor and does not contain any wetland habitat. The site is presently disturbed and there is no native or natural riparian vegetation on-site.
- (e) **New Development:** *Chapter 3, Article 6, Section 30250* provides that new residential, commercial or industrial development, except as otherwise provided, shall be located within, contiguous with, or in close proximity to existing developed areas able to accommodate it or where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulative, on coastal resources.

The site is one of the few remaining vacant, unimproved parcels in the area and the proposed project is an infill development with an existing developed community. Sunset Boulevard adjoining the site is a designated Scenic Major Highway Class II dedicated to a width of 100 feet and is improved with two travel lanes in each direction.

The site is located within a residential community, with existing multi-family uses on the south side of Sunset Boulevard and existing single family uses to the north. The two lots to the west of the site contain 16 unit and 23 unit structures built in 1953 and 1955. The lot to the east of the site, which also is adjacent to the bluff contains 47 units and was built in 1956. Thus, the proposed project is located in an area that is already developed with

residential uses, thereby making the project site contiguous with, and in close proximity to existing developed areas that are able to accommodate it and which have adequate public infrastructure to service it.

Section 30251 of the Coastal Act additionally provides that: “[t]he scenic and visual qualities of the 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 landforms, to be visually compatible with the character of the surrounding areas, and, where feasible, to restore and enhance the visual quality in visually degraded areas.”

The proposed development will not result in the obstruction of any public scenic views. While the site affords a view of the Pacific Ocean from a stationary position, the site is not known as a significant lookout point that draws tourists or visitors there and there are no lookout points immediately above or below the project site whose views would be obstructed by the proposed development. The area surrounding the site is not known for high pedestrian traffic.

With respect to potential impacts on views from Pacific Coast Highway, a designated Scenic highway, below the subject site, there is a significant change in grade from the rear lot line of the site to Pacific Coast Highway. Due to the topography, existing improvements in the foreground would be more visually prominent than the proposed development. A field survey of the area, which included driving the Pacific Coast Highway in both easterly and westerly directions showed that the top of the bluff where the development will occur is obscured from the view of traffic by the secondary bluff and plateau on which the Malibu Bowl Mobile Home Estates site is located.

Finally, *Section 30253 of the Coastal Act* provides that “[p]ermitted development shall minimize risks to life and property in areas of high geologic flood and fire hazard; and [a]ssure 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 land forms along bluffs or cliffs.”

The Department of Building & Safety Grading Division has issued a Geology and Soils Approval Letter dated October 25, 2011 based upon a review of Geology and Soils Reports prepared by Sassan Geosciences, Inc. dated between November 16, 2009 and July 15, 2011. Two Department Correction letters were issued by Building & Safety's Grading Division prior to final approval. The letter indicates that the above referenced reports include an acceptable seismic slope analysis and the requirements of California Public Resources Code §§ 302000 *et. seq.* have been satisfied. However, subsequent to this approval, project opponents submitted written reports that questioned certain conclusions in the Geology and Soils Reports. As such,

the Department of Building & Safety Grading Division issued a correction letter, asking the applicant to respond to the project opponents' reports. This grant is conditioned on the Grading Division's issuance of a final Geology and Soils Approval Letter for the project.

2. **The permitted development will not prejudice the City of Los Angeles to prepare a local coastal program that is in conformity with Chapter 3 of the California Coastal Act of 1976.**

Currently, there is no adopted Local Coastal Program for this portion of the Coastal Zone. In the interim, the adopted Brentwood-Pacific Palisades Community Plan serves as the functional equivalent.

The Brentwood-Pacific Palisades Community Plan designates the property for "Medium Residential" land use with the corresponding zone of R3, and Height District No. 1. The proposed development of a multi-family residential building is consistent with the plan density. As such, the permitted development will not prejudice the ability of the City to prepare a Local Coastal Program in conformity with Chapter 3 of the California Coastal Act.

3. **The Interpretive Guidelines for Coastal Planning and Permits as established by the California Coastal Commission dated February 11, 1977 and any subsequent amendments thereto have been reviewed, analyzed, and considered in light of the individual project in making its determination.**

Such Guidelines are designed to provide direction to decision-makers in rendering discretionary determinations on requests for coastal development permits pending adoption of an LCP. In this instance, the Guidelines concerning the following are relevant:

The Guidelines require consideration and protection of the scenic and visual qualities of coastal areas. Development must be sited and designed to protect views to and along the ocean and scenic coastal areas, minimize alteration of natural land forms and be visually compatible with the character of surrounding areas. (Pub. Res. Code § 30251.)

The site is located on the southerly side of Sunset Boulevard. The lot slopes downward to the south. A former mobile home park which has been converted into a Mobile Home-park Condominium is currently situated downslope of the site on a low plateau with access from the Pacific Coast Highway. The proposed height of the portion of the building fronting Sunset Boulevard will be 45 feet as shown on the plans. The maximum height of the structure as identified in the hearing notice and conditioned herein is 57 feet. The project's driveway provides a corridor to allow a partial public view of the ocean from the Sunset Boulevard sidewalk. Because the driveway provides access to the adjoining apartment building and to a residence downslope of the adjacent structure, it will not be gated and has been so conditioned. The lack of a gate at the entrance to the driveway will further ensure views to the south of the site from the public right-of-way.

The maximum proposed height of 57 feet complies with Los Angeles Municipal Code § 12.21.1-B,2. Though the overall height from the highest point of the roof to the grade 5 feet from the rear wall of the structure will be 57 feet at no point will the structure be more than 45 feet high when measured vertically from the top of the roof or parapet wall to a point directly below the point of measurement as allowed by the Code. There will be no adverse impact upon views to the ocean and scenic coastal areas and the project will be visually compatible with the character of surrounding areas. The conditions imposed by the incorporation of mitigation measures will ensure that the construction of the structure will not substantially alter natural land forms.

The Guidelines additionally recommend certain development constraints for development occurring on a coastal bluff. Pursuant to 14 Cal. Code Regs. § 13577(h), "coastal bluff" is defined as:

- "(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and
- (2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2)."

Public Resources Code § 30603(a)(1) identifies the area between the sea and the first public road paralleling the sea and the area within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach. Section 30603(a)(2) identifies areas that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.

The subject property is inland of the first public road paralleling the sea (Pacific Coast Highway). Even if the slopes between the property and Coast Highway are considered a coastal bluff, the subject property is not located within an area identified in Public Resources Code §30603(a)(1) or (a)(2). The bluff edge is located on the south side of Malibu Bowl Mobile Estates and then along a graded cut for Coast Highway. The project is more than 300 feet from the top of the bluff in all locations. Comments were received saying that in the case of an intervening bluff top as exists at the Mobil Home Estates, the top of the subsequent ridge should be considered the bluff top. If that is the interpretation, the Zoning Administrator has addressed the issue in Bluff Top Development finding below.

Here, the toe of the subject hillside was long ago developed with the Malibu Bowl Mobile Estates, and multi-family residential projects are developed to the east and the west of the site at the top of the hill. This project is an infill development, as is generally favored by California law and by the California Coastal Commission. In addition, the project includes a dewatering system that will increase the stability of the slope, to the benefit of the Malibu Bowl Mobile Estates, consistent with § 30253 of the Coastal Act.

In addition, the Zoning Administrator has reviewed, analyzed, and considered in light of the individual project the individual Interim Guidelines for the Pacific Palisades Region in making his determination.

Parking: The guidelines state that parking is required in order to ensure beach access. Though the project is approximately 150 feet above the elevation of the Pacific Coast Highway and provides no direct access to the beach, it complies with the 2 spaces per unit requirements of the Guidelines. For the Pacific Palisades area, the Guidelines also require one quarter guest parking space per unit. The project provides one half guest parking space per unit, and thus, it exceeds the limit of the guidelines.

Bluff Top Development: Bluff Top developments should be set back 25 feet from the edge of the bluff. The proposed project is setback 25 to 35 feet at its closest location to the rear property line of the site. The bluff on which it sits rises sharply from the rear of the plateau on which the Malibu Bowl Mobil Estates are located. The face of the bluff rises sharply until the irregular property line of the site and then slopes back at a gentler angle from the property line. The project itself is set back between 20 and 30 feet from the edge of the sloping portion of the property where the cliff face intersects it. While not in strict conformance with the 25 foot setback from the cliff face which may or may not be considered a part of the Coastal Bluff because of the plateau on which the Mobil Home Estates sits, the project will not be in the view line of the Pacific Coast Highway which is the primary location of the coastal views of the bluffs in the area. In fact in field checking the site, the top of the bluff where the project is to be built is not visible to travelers either driving east or west on the Coast Highway. The view up the bluff is blocked by the lower bluff on which the Malibu Bowl Mobil Estates are located. The project is designed to step down the hillside from Sunset Boulevard and the view of the bluff top is in an area setback from the main bluff line by the inset area where the aptly named Malibu Bowl Condominiums are located. The site is thus at the top of the bluff in a setback bowl with intervening view blocking ridges. The intent of the Bluff Top guideline is to setback development so that it is inconspicuous from views up the bluffs from below. Because of the physical characteristics of the site, the project will not be visible from lower elevations and thus meet the intent of the guidelines.

Alteration of Landform: "Development should be visually compatible with local topography and vegetation and should maintain natural land forms." The proposed project is proposed to be built on a gently sloping parcel which fronts on Sunset Boulevard, has a slope to the rear, begins to fall at a steeper rate in the bowl on top of the bluff and then falls off steeply in the very rear of the parcel. The majority of the bluff is not located on the subject lot and the development will not take place on this area. There will be grading on the site for the subterranean garage, but it will occur on the flatter portion of the lot. The project is consistent with the Alteration of Landform guideline in that it conforms with the statement that landform alteration should be minimized by concentrating the development on level areas. In addition, the grading which will take place on the site will remediate a non-approved graded fill on the site and replace it with approved grading and compacted fill in compliance with Department of Building and Safety rules and regulations. The project also complies with the guideline that "cascading project design should be utilized in new

developments along scenic routes or if visually obtrusive as methods to blend the proposal with the surrounding topography.” The project is 45 feet tall at the Sunset Boulevard frontage in compliance with the Zoning Code’s height limits and cascades down the hill with different elevations for the first and second floors. At no point is the building taller than 45 feet with a plumb line measurement from the highest point of that portion of the building to the grade. The rear of the structure is also compliant with the Q Conditions for the site which limit heights within 50 and 100 feet of nearby single family zones. It should be pointed out that the RE 40 zoned lot, which constitutes a single family zone, is the location of the majority of the bluff and is the location of the non-conforming Malibu Bowl Mobil Home Estates on the plateau below the bluff.

Any development in the undeveloped areas of the Santa Monica Mountains should be permitted only when adjacent to already developed areas: The proposed project is on a developed section of Sunset Boulevard and is one of two vacant lots on this stretch of Sunset. It has multiple-family developments to the east and west of it and shares a common driveway with a multiple-unit building to the west and a single family home downslope of the developed lot.

Residential development on the existing commercially zoned parcels within one-quarter mile of the beach will not be allowed: The proposed development is located on a Q R3 zoned multiple-family residential lot. This guideline is inapplicable to the project.

New residential developments of 10 or more units in the Santa Monica Mountains should be required as a condition of approval to dedicate access trails and parking area for visitors to Topanga State Park: The proposed development is not located in the Santa Monica Mountains proper nor is it adjacent to Topanga State Park. This guideline is inapplicable to the project.

Road construction or improvements should be based on the suitability of the area to increased access. Where information on the environmental carrying capacity of coastal resources is available, roads and other support facilities should be kept within their capacity: The proposed project will not be required to build any roads and the project is compliant with the Brentwood-Pacific Palisades Community Plan’s Footnote No. 10 which states that Sunset Boulevard is a major highway but is not to be widened for the purpose of increasing capacity for the life of the plan. The footnote states that the life of the Plan is 10 years, but the Plan has not been revised since it was updated in 1998. The language is still in effect because the Plan has not expired and is still in effect.

The density of new residential development should be limited to a maximum of 24 units per gross acre: The subject project is proposed to be built with 49 units. This exceeds the density guideline by 25 units. However, in the guidelines, the Coastal Commission presents three separate calculations for determining net density, gross density for a mid-block lot and gross density for a corner lot. All of the calculations present different formulas for determining density and would all result in fewer than 24 units on the subject lot per the coastal guidelines. When the

guidelines formulas are used for the surrounding properties, the adjoining lot to the west has a unit per gross acre calculation of 61 units per gross acre, the second lot to the west has a calculation of 38 units per acre and the adjoining lot to the east has a 26 unit per gross acre total. As can be seen, all of these developments exceed the Coastal Act guideline's proposed maximum. It should also be pointed out that all of these developments predate the passage of the Coastal Act. The introduction to the Regional Guidelines state that the guidelines should be used in a flexible manner with consideration for local and regional conditions, individual project parameters and constraints and individual and cumulative impacts on coastal resources. The proposed project is to be located on one of two undeveloped parcels on the south side of Sunset between Marquez Place and a point approximately 700 feet to the west of the intersection. It differs from a previous project that was before this Commission located on the vacant lot to the west of the site in that that lot does not have the intervening ridges that conceal the top of the bluff on the subject site, and the former project was originally designed to have a larger footprint spilling down the bluff top. The subject 49 unit project, though exceeding the 24 unit density called for in the guidelines, is consistent with the other projects on this portion of Sunset which also exceed the guidelines. Exceedence of the guidelines differs for each lot due to the size of the individual lot and the number of units on the lot. Because these are guidelines and were developed in the 1970's and have not been updated, this Zoning Administrator believes that the 24 unit guideline would be better suited for projects on undeveloped sections of streets in the area, not on developments which are remainder lots on otherwise developed sections of the street.

Projects in hillside areas shall be limited by the guidelines slope density

formula: The project is located in a hillside area, but it is not located on a lot that is regulated by a single family zone. The slope density formula laid out in the guidelines is similar to the Zoning Code's slope density formula except that it allows for more lots per acre. The language of the guideline also states that the formula is for subdivisions or planned unit developments of which the proposed project is neither. Thus, this guideline is not applicable to the project.

No residential development is permitted in Temescal Canyon: The project is not located in Temescal Canyon. Thus, the guideline is inapplicable to the project.

4. **The decision of the permit-granting agency has been guided by any applicable decision of the California Coastal Commission pursuant to Section 30625(c) of the Public Resources Code.**

This section of the California Public Resources Code provides that "prior decisions of the Coastal Commission, where applicable, shall guide local governments in their actions in carrying out their responsibility and authority under the Coastal Act of 1976." This request conforms to such known applicable decisions and no conflict with any past decisions exist.

Project opponents did submit a California Coastal Commission Staff Report relating to an appeal of a project located at 444 Surfview Drive in Pacific Palisades. However, it does not appear that the California Coastal Commission took any final

action with regard to the project because the project was withdrawn. As such, any aspect of this decision that may appear to be in conflict with the California Coastal Commission Staff Report is not in violation of Section 30625(c) of the Public Resources Code.

- 5. If the development is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.**

The site is not located between the nearest public road, Pacific Coast Highway, and the shoreline of any body of water located within the coastal zone. Therefore, the proposed development is in conformance with the public access and public recreation policies of Chapter 3 of the California Coastal Act. In addition, there are no environmentally sensitive areas or known archeological or paleontological resources on the site.

- 6. An appropriate environmental clearance under the California Environmental Quality Act has been granted.**

In accordance with Article V of the City's CEQA Guidelines the Department of City Planning issued a Mitigated Negative Declaration dated June 17, 2013. Case No. ENV 2012-131-MND identified impacts to be mitigated consisted of aesthetics, air quality, biological resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, and use and planning, noise, public services, transportation and traffic, and utilities and service systems. Applicable mitigation measures for each were recommended and have been incorporated under Condition No. 16 of this grant.

- 7. The project is consistent with the special requirements for low and moderate income housing units in the Coastal Zone as mandated by California Government Code Section 65590 [Mello Act].**

The Mello Act is a statewide law which mandates local governments to comply with a variety of provisions concerning the demolition, conversion and construction of housing units in California's Coastal Zone. All projects that consist of demolition, replacement, conversion, and/or construction of one or more housing units located within the Coastal Zone in the City of Los Angeles must go through Mello Act Compliance Review.

This compliance review is required of the Mello Act, by the City's Interim Administrative Procedures for Complying with the Mello Act (Interim Procedures), and the terms of the Settlement Agreement between the City of Los Angeles and the Venice Town Council, the Barton Hill Neighborhood Organization and Carol Berman concerning implementation of the Mello Act in the coastal zone areas of the City of Los Angeles.

The subject site is a vacant, unimproved parcel and no dwelling units, affordable or otherwise, will be demolished on the property. Consequently, no affordable replacement units are required. However, the project is a new housing development in excess of nine (9) dwelling units and is subject to the Mello Act's requirements concerning Inclusionary Residential Units. The Mello Act and the City's Interim Procedures require an applicant for a new housing development to comply with Inclusionary Requirement Options (IP, Part 5.0). It affords one of two inclusionary options:

Option #1: reserve at least 20% of all residential units for Very Low or Low Income Households.

Option #2: reserve at least 10% of all residential units for Very Low Income Households.

The project consists of the construction of 49 new dwelling units. Condition Nos. 12 and 13 of this grant require conformance with the applicable provisions of the Mello Act. Specifically, Condition No. 12 requires that a minimum of 10 dwelling units be reserved for households designated Low Income or Very Low Income, or that a minimum of 5 dwelling units be reserved for households designated Very Low Income. The Interim Procedures for implementing the Mello Act have no provision for rounding fractions of numbers up or down. In this case, the fractions for the 20% and 10% set asides were rounded up. This was done because the Interim Procedures require a minimum of 20% or 10% to be set aside. Rounding down would result in a whole number which is less than the required set aside. A 20% set aside for low or very low income residents on a 49 unit building would result in 9.8 units. Rounding down would result in 9 units which would be less than 20% so the number must be rounded up to 10 units or 5 units in order to meet the minimum 20% or 10% set asides.

The site is permitted a maximum density of 62 dwelling units by right and is eligible for a density bonus up to 35% (for a maximum density of 84 dwelling units). The applicant has not requested a density bonus to satisfy the Mello Act's Inclusionary Zoning Requirement.

ADDITIONAL MANDATORY FINDINGS

8. 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 Outside the Flood Zone.
9. On April 23, 2012, a Mitigated Negative Declaration (ENV-2012-131-MND) was prepared for the proposed project. Subsequent to the publication of the MND, comments were received on the adequacy of the document. The project applicants submitted a response to the comments on January 2, 2013. After reviewing the response to comments, a subsequent MND was published by the City on June 17, 2013 which responded and incorporated many of the responses to comments. This subsequent document was not formally responded to as the public hearing for the

CASE NO. ZA 2012-0130(CDP)(MEL)

case and the environmental clearance occurred on July 18, 2013. On the basis of the whole of the record before the lead agency, including any comments received, the lead agency finds that with imposition of the mitigation measures described in the MND (and identified in this determination), there is no substantial evidence that the proposed project will have a significant effect on the environment. I hereby adopt that action. This Mitigated Negative Declaration reflects the lead agency's independent judgment and analysis. The records upon which this decision is based are with the Environmental Review Section of the Planning Department in Room 750, 200 North Spring Street.

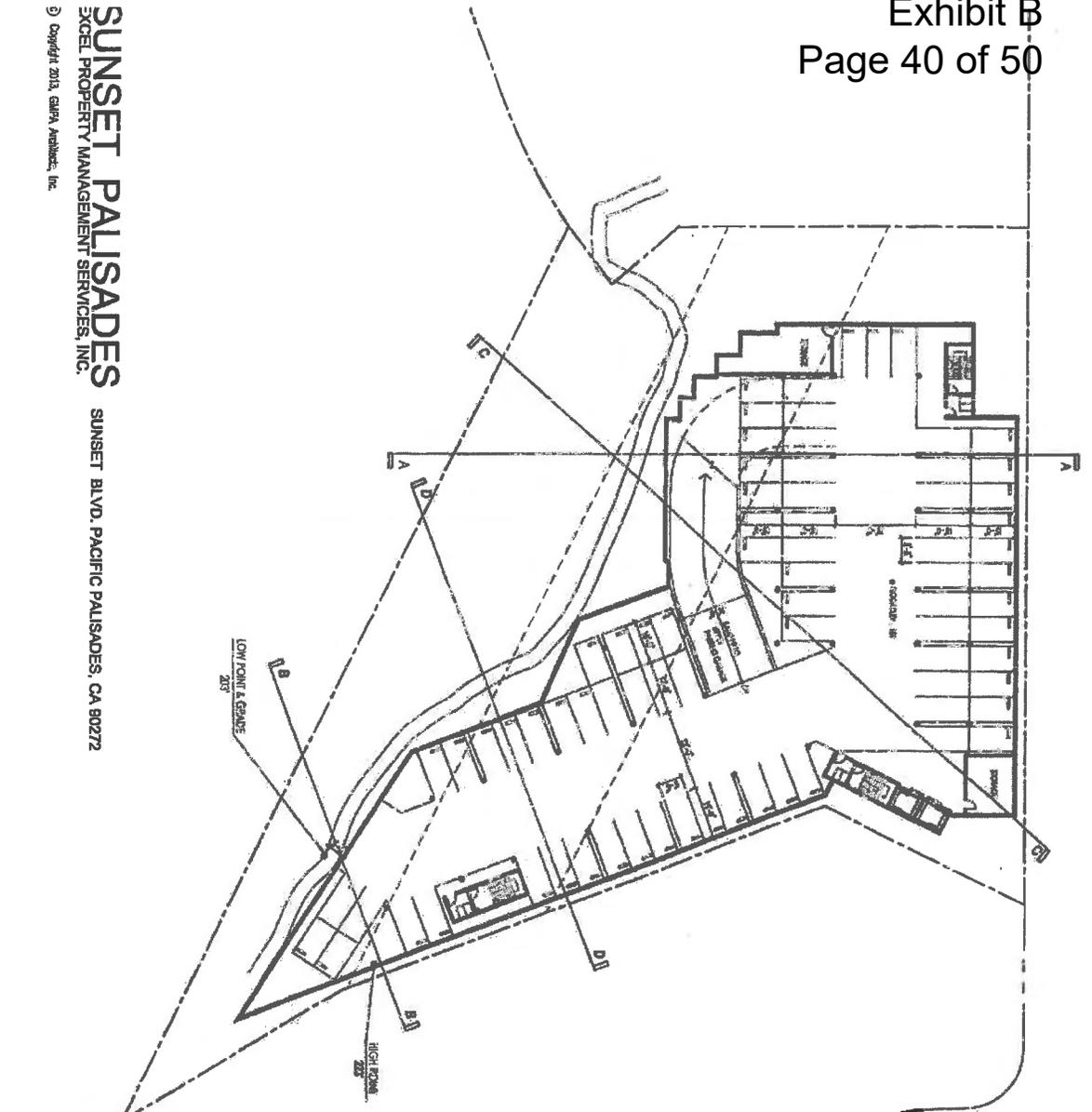
A handwritten signature in black ink, appearing to read "Charles J. Rausch, Jr.", with a long horizontal line extending to the right.

CHARLES J. RAUSCH, JR
Associate Zoning Administrator
Direct Telephone No. (213) 978-1306

CJR:Imc

cc: Councilmember Mike Bonin
Eleventh District
Adjoining Property Owners

SUNSET BOULEVARD



MARQUEZ PL.

UPPER PARKING GARAGE COUNT	ACCESSIBLE	STANDARD
1	0	0
TOTAL	0	0

LOWER PARKING GARAGE COUNT	ACCESSIBLE	STANDARD
1	0	0
TOTAL	0	0

BIKE/PED/BANKING	LONG TERM	SHORT TERM
1	0	0
TOTAL	0	0

A2.01	
DATE	08/15/2013
BY	ARCHITECT
PROJECT	LOWER PARKING GARAGE
CLIENT	SUNSET PALISADES

LOWER PARKING GARAGE

AUGUST 15, 2013
 CARPA ARCHITECTS
 1817 16th Street, Suite 1000, CA 90204
 T: 310 498-0200 F: 310 461-8225
 www.carpaarchitects.com

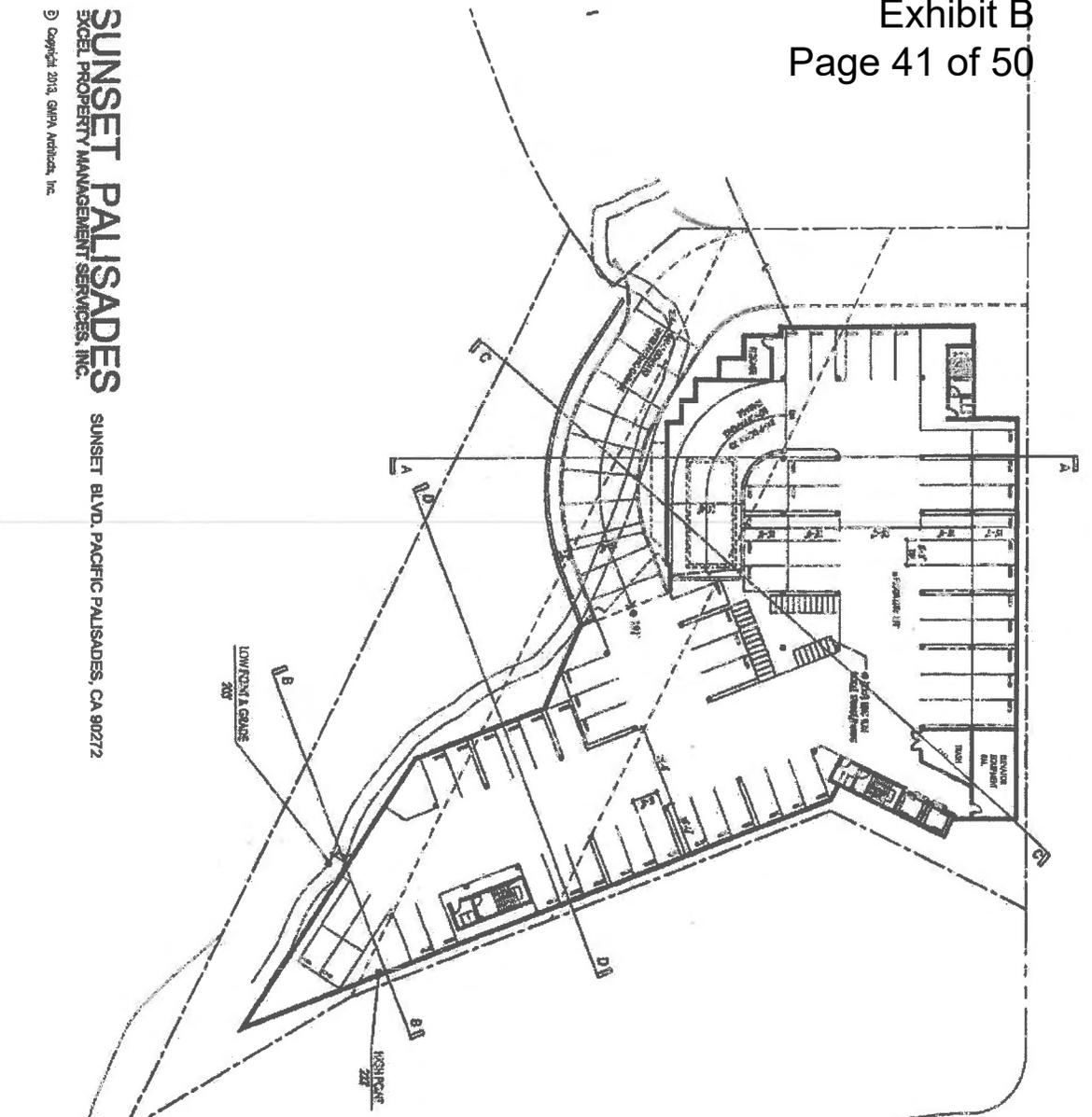
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 EXCEL PROPERTY MANAGEMENT SERVICES, INC.

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EXHIBIT 56 A 33
 Page No. 19 of 19
 Case No. ZA 2012-0130 (CD) (MEL)

SUNSET BOULEVARD



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MARQUEZ PL.

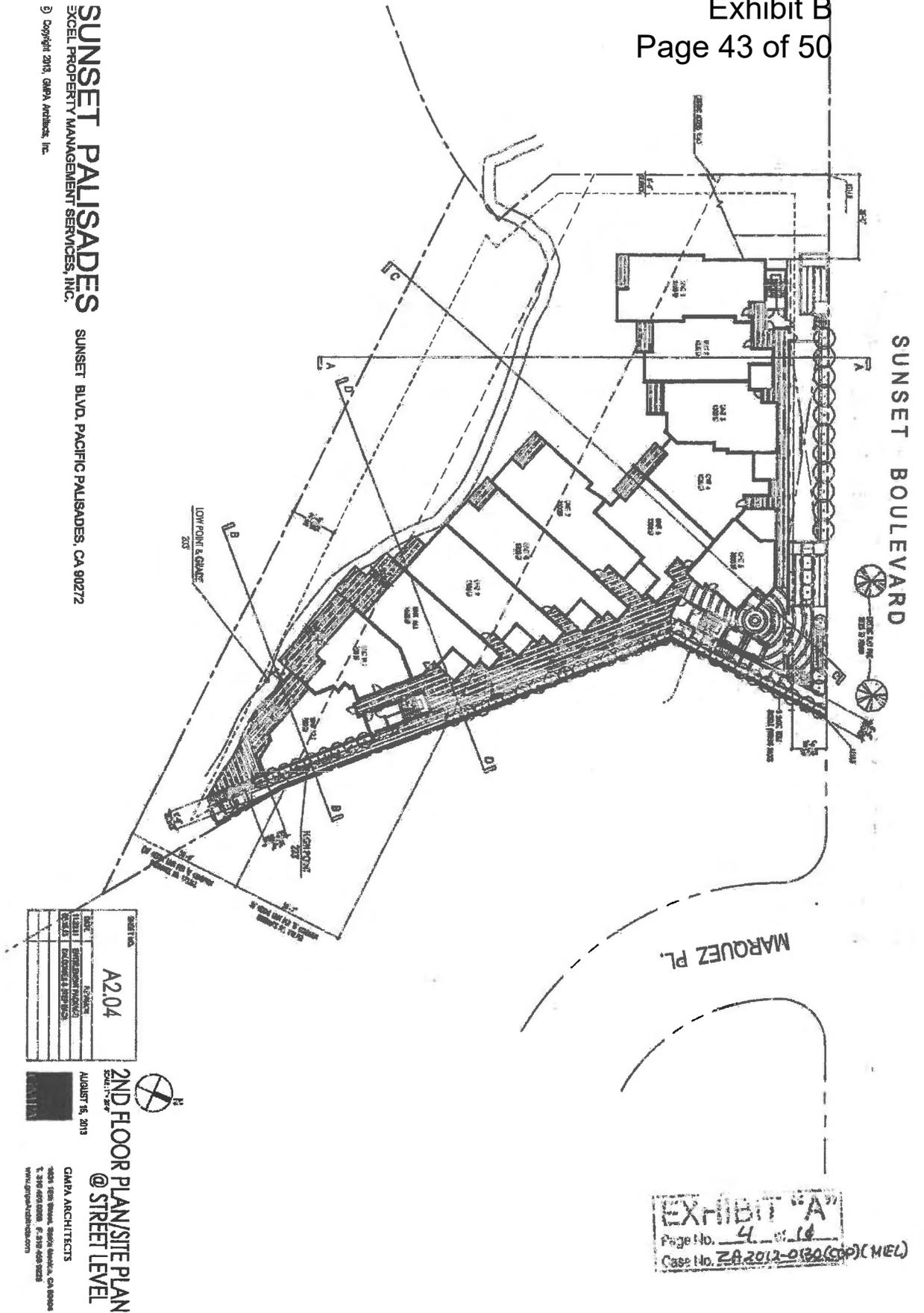
EXHIBIT "A"
Page No. 2 of 10
Case No. ZA 2012-0130 (DDP X MEL)

UPPER PARKING GARAGE COUNT	ACCESSIBLE PARKING SPACES	4
LOWER PARKING GARAGE COUNT	ACCESSIBLE PARKING SPACES	5
TOTAL	ACCESSIBLE PARKING SPACES	9
UPPER PARKING GARAGE COUNT	BIKE PARKING SPACES	4
LOWER PARKING GARAGE COUNT	BIKE PARKING SPACES	5
TOTAL	BIKE PARKING SPACES	9

DATE	DESCRIPTION
08/15/2013	UPPER PARKING GARAGE
08/15/2013	LOWER PARKING GARAGE
08/15/2013	TOTAL

UPPER PARKING GARAGE
SCALE: 1" = 30'

AUGUST 15, 2013
GHRA ARCHITECTS
1637 94th Street, Santa Monica, CA 90404
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www.ghra.com



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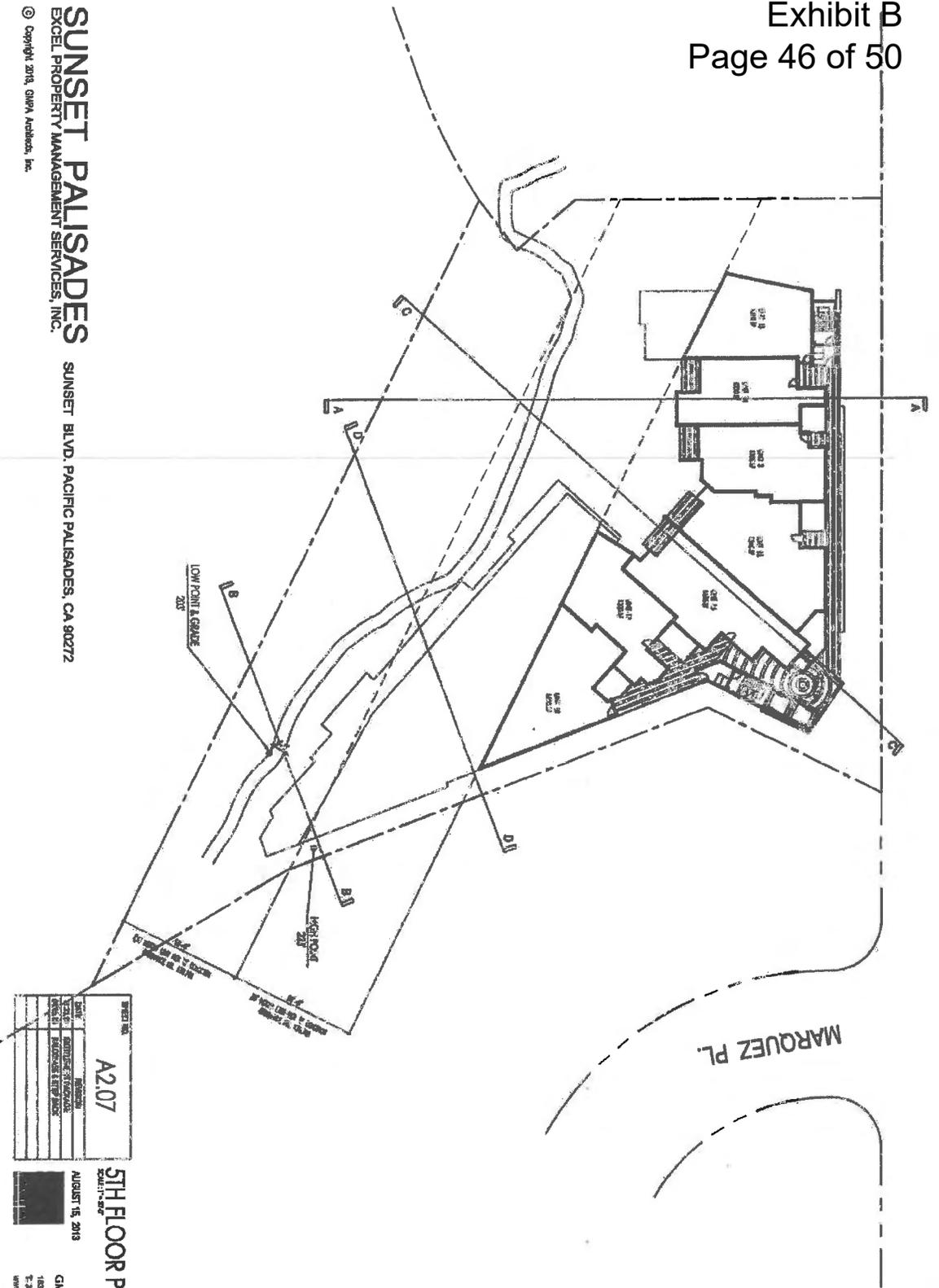
NO.	DATE	DESCRIPTION
1	08/16/19	ISSUED FOR PERMITS
2	08/16/19	REVISIONS
3	08/16/19	REVISIONS
4	08/16/19	REVISIONS
5	08/16/19	REVISIONS

A2.04

2ND FLOOR PLAN/SITE PLAN
 @ STREET LEVEL
 AUGUST 16, 2019
 GMPA ARCHITECTS
 4521 15th Street, Santa Monica, CA 90404
 T: 310.316.0000 F: 310.316.0002
 www.gmpaarchitects.com

EXHIBIT "A"
 Page No. 4 of 16
 Case No. ZA 2012-0130(GMP)(MEL)

SUNSET BOULEVARD



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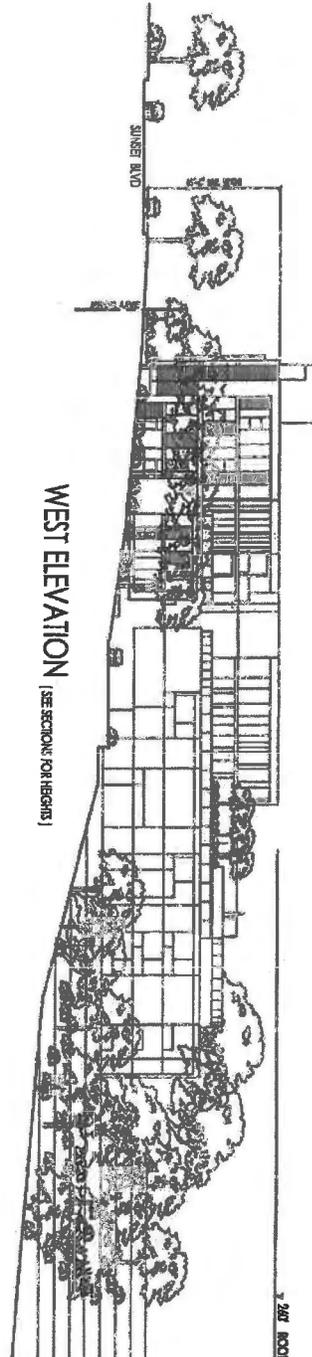
SHEET NO.	A2.07
DATE	08/15/2013
PROJECT	5TH FLOOR RENOVATION
CLIENT	EXCEL PROPERTY MANAGEMENT SERVICES, INC.
ARCHITECT	GMPA ARCHITECTS
SCALE	AS SHOWN
DESIGNED BY	J. GARCIA
CHECKED BY	J. GARCIA
DATE	08/15/2013

5TH FLOOR PLAN

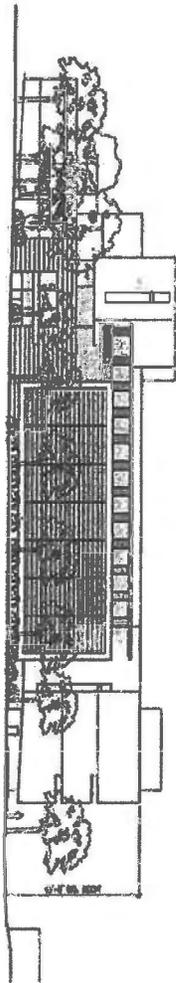
AUGUST 15, 2013

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EXHIBIT "A"
Page No. 7 of 16
Case No. ZA 2012-0130 (COPY)



NORTH ELEVATION [SEE SECTIONS FOR HEIGHTS]



SHEET NO.	
A3.01	
DATE	REVISION
12/15/11	2ND FLOOR ELEVATION
08/15/13	REVISED ELEVATION

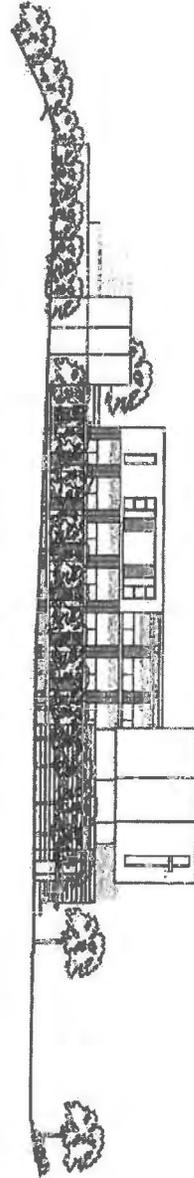
ELEVATIONS
EXHIBIT-B
AUGUST 15, 2013

GMPA ARCHITECTS
1451 12th Street, Santa Monica, CA 90404
T. 310.303.0000 F. 310.303.0000
www.gmpa-architects.com

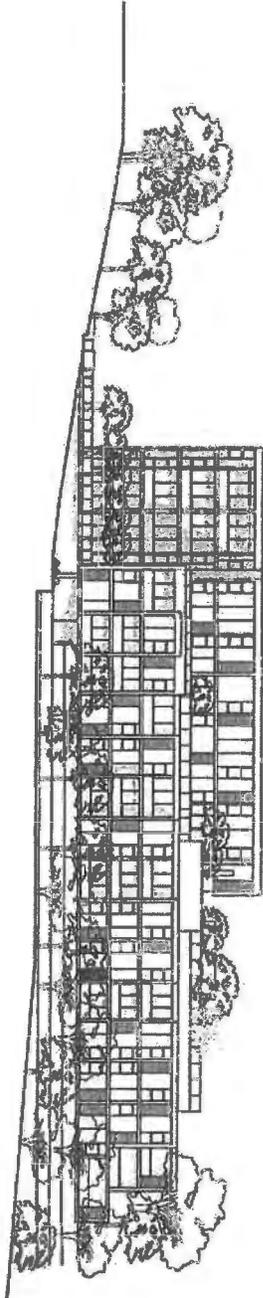
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EXHIBIT A
Page No. 8 of 10
Case No. ZR2012-0130 (CDP) (MEL)



EAST ELEVATION (SEE SECTIONS FOR HEIGHTS)



SOUTH ELEVATION (SEE SECTIONS FOR HEIGHTS)

SHEET NO.	A3.02
DATE	2013.08.14
DESIGNED BY	ARCHITECTS
CHECKED BY	ARCHITECTS
DATE	2013.08.14
PROJECT	SUNSET PALISADES
LOCATION	SUNSET BLVD, PACIFIC PALISADES, CA 90272
SCALE	AS SHOWN
PROJECT NO.	2012-0136
DATE	2013.08.14

ELEVATIONS

AUGUST 14, 2013

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SUNSET PALISADES
EXCEL PROPERTY MANAGEMENT SERVICES, INC.

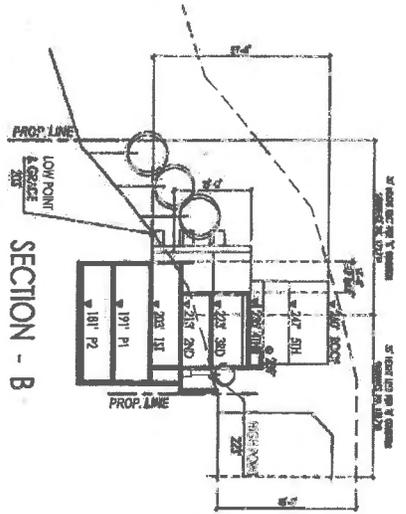
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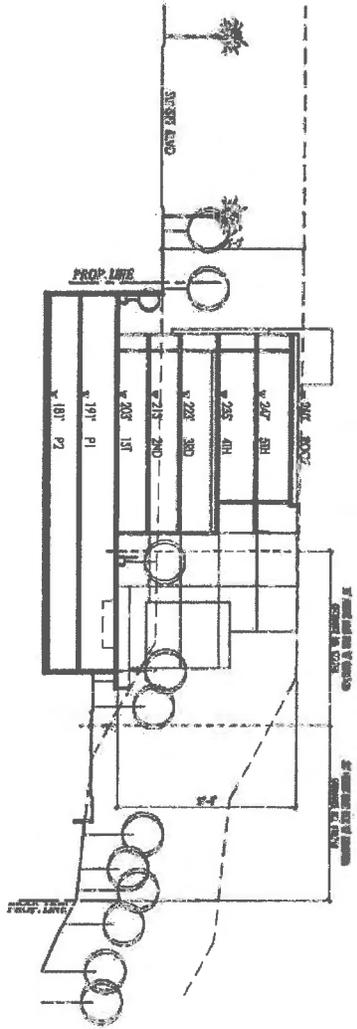
EXHIBIT "A"
Page No. 9 of 11
Case No. 2012-0136 (COP) (MEL)

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SECTION - B



SECTION - A

SHEET NO.	A4.01
DATE	11/24/11
REVISION	ENTIREMENT PACKAGE
DATE	02/15/12
REVISION	DISCOVER & REPAIR WORK

SECTIONS
SCALE: 1/8" = 1'-0"
AUGUST 16, 2013

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EXHIBIT "A"
Page No. 10 of 11
Case No. ZA 2012-0130 (CDP) (NEL)

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September 26, 2016

California Coastal Commission
Att: Marlene Alvarado, So. Coast Area Office
20 Oceangate Ave., Suite 1000
Long Beach, CA 90802-4302

Re: Appeal No. A-5-PPL-16-0079
Address: 16990-17000 Sunset Blvd. L.A.

Dear Ms. Alvarado:

I am an attorney who represented some of the appellants in the above-referenced case on appeal from the City's Area Planning Commission (APC) Decision. The property is at 16990-17000 Sunset Blvd, Pacific Palisades. Although I submitted extensive written documents, including expert reports on geology and hydrology, and appeared and presented testimony of those experts at the hearing held by the Area Planning Commission on December 2, 2015, the appellant property developer (M&A Gabae LP) omitted my name and address from the CCC appeal form as a party who participated in the hearing or is a known interested party. Nevertheless, I called your office and obtained a copy of your staff report on the CCC website. I see that the staff report attaches the appeal with the Determination Letter of the APC dated July 27, 2016. While I agree wholeheartedly with the Staff Report recommendation of "no substantial issue", there are two points I would suggest be included in your recommendation:

(1) Incomplete Record. The July 27th Determination Letter is not the final action of the APC, as you will see from the attached documents. The July 27th Determination Letter was prepared and issued by the planning department (ZA Charles Rausch) after an unexplained delay of 8 months from the final action of the APC, which had voted and *read into the record its findings* on December 2, 2015. When the appellants finally received and reviewed the July 27th Determination in July, it was found to be completely inadequate in failing to reflect the specific recited findings made by the Commissioners at the conclusion of the hearing. Some of the appellants therefore appeared before the Commission in August 2016 to point out the discrepancies. As a consequence, the Commission adopted its revised final Determination and Findings dated August 25, 2016. A this Letter is available on the City's Zimas website, and I am attaching a print-out for your convenience. I am also attaching a transcript of the Commission proceedings held on August 17, 2016 reflecting the Commission's decision

to correct the deficiencies in the Determination letter of July 27th and replace it with the new one, which reflects their findings with greater precision. For the record, this specific sentence on page 7 of the CCC Staff Report should be corrected:

WLAAPC agreed with and adopted the ZA's findings supporting the project's consistency with the public access, marine and habitat resource protection, and new development policies of Chapter 3 of the Coastal Act.

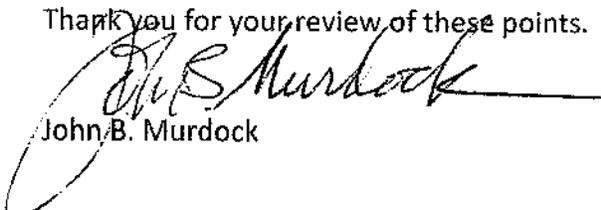
Actually, the WLAAPC did *not* agree with this conclusion by the ZA, as the corrected decision makes clear, and the CCC staff report should be corrected in that respect. I believe you and the Commission will find from the findings in both the initial and the final APC Determination Letters that your conclusions in the Staff Report are unassailably correct, that there is **no substantial issue** raised by the appeal.

(2). Limitations Period for Appeal. As noted above, the APC decision was made and announced at the hearing on December 2, 2015, including recitation of the findings made by the Commissioners. I believe the regulations require the city to notify the CCC of its decision within 5 days, which in turn triggers a 20-day deadline for appeals, which expired in this case in January, 2016. My belief is consistent with your recitation of the appellate process in the staff report, page 5:

"After a final local action on a local coastal development permit application, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice which contains all the required information, a twenty working-day appeal period begins during which any person, including the applicants, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.]"

The city had the obligation to notify the Coastal Commission within 5 days of the final APC decision of December 2, 2015. We were not notified whether or not this was done by the city or the applicant, but if not, it cannot be deemed that the city's failure allows the applicant to delay filing its appeal by more than 8 months. I called the city planning department on April 6, 2016 to inquire why the Determination Letter had not been issued, and was informed that Mr. Rausch (the ZA) was "too busy", and that I need not be concerned about any appeal because the project was "dead", as the time for any appeal to the CCC had expired. According to the regulations recited above as interpreted by you and by the city, it appears that in addition to raising "no substantial issue", the appeal should be rejected as not timely filed, as well as lacking any final environmental clearance under CEQA, since the APC rejected the MND as inadequate, and no subsequent filing was made to correct the deficiencies.

Thank you for your review of these points.


John B. Murdock

cc: Larry Larson
Hon. Mike Bonin, CD11
Area Planning Commissioners, WLA APC
Sarah Conner, Pacific Palisades Residents Association
Lindsay Conner
Pacific Palisades Community Council
G. Andrew and Amy Lundberg
Malibu Village Mobilehome Owners Ass'n



(/pdiscaseinfo/default.aspx)

Department of City Planning Case Summary & Documents

Exhibit C Page 4 of 13

Case Number Ordinance Zoning Information CPC Cards

Case Number: ZA-2012-130-CDP-MEL-1 Search Format: AA-YYYY-1234 Example: ZA-2011-3269 Advanced Search Help

3 Case Documents found for Case Number: ZA-2012-130-CDP-MEL-1A

Type	Scan Date	Signed
Initial Actions (1)		
Determination Letter	08/03/2016	View (http://planning.lacity.org/PdisCaseInfo/Home/GetDocument/MTQ0NDIyNTUtOWQxNC00NmEyLTkzOGItNmU1ZTE1ZmI2YmU30)
Appeal Actions (2)		
Appeal Decision Report I	08/03/2016	View (http://planning.lacity.org/PdisCaseInfo/Home/GetDocument/YTczNWMYzDctODhhMS00MDkxLTk5ZTIitM2FkYTZhZDRmODE00)
Determination Letter	09/01/2016	View ✓ (http://planning.lacity.org/PdisCaseInfo/Home/GetDocument/NWVlYmU2NDctMzg5Mi00YmNhLWI0ZTEtZGI0YmY0N2UwNGM00)

Case Number: ZA-2012-130-CDP-MEL-1A
Case Filed On: 10/15/2014
Accepted for review on:
Assigned Date: 10/20/2014
Staff Assigned: CHARLES RAUSCH J
Hearing Waived / Date Waived : /
Hearing Location:
Hearing Date / Time: 06/03/2015
ZA Action: GRANTED THE APPEAL
ZA Action Date: 07/26/2016
End of Appeal Period: 06/03/2015
Appealed: No
BOE Reference Number:
Case on Hold?: No

Primary Address

Address	CNC	CD
16990 W SUNSET BLVD 90273	None	11

[View All Addresses](#)

Project Description: FIVE-STORY, 49-UNIT APARTMENT, W/2-LEVEL SUBTERRANEAN GARAGE, AND HAUL ROUTE
Requested Entitlement: COASTAL DEVELOPMENT PERMIT - THE REQUEST IS FOR A 5-STORY, 49-UNIT APARTMENT BUILDING, WITH 2 LEVELS OF SUBTERRANEAN PARKING, AND HAUL ROUTE. THE PROPERTY IS LOCATED IN THE [Q]R3-1 ZONE, AND IN THE DUAL JURISDICTION COASTAL ZONE.
Applicant:
Representative:

Permanent Link: <http://planning.lacity.org/pdiscaseinfo/CaseId/MTk5MzI10> (<http://planning.lacity.org/pdiscaseinfo/CaseId/MTk5MzI10>)

*City Planning help desk:
213-978-1455*

**WEST LOS ANGELES AREA PLANNING COMMISSION
REGULAR MEETING AGENDA**

WEDNESDAY, August 17, 2016

**Transcript of Track 2:
Discussion of Zoning Administrator's revised Letter Of Determination
Issued after Appeal Hearing, December 2, 2015**

2. COMMISSION BUSINESS

B. Commission Requests

- Planning Department update and discussion on ZA-2012-130-CDP-MEL-1A
16990-17000 West Sunset Boulevard

Commissioners Present:

Thomas Donovan, President
Esther Margulies, Vice President
Joseph W. Halper, Commissioner
Lisa Waltz Morocco, Commissioner

Other City Officials:

Harold Arrivillaga, Commission Executive Assistant (CEA)
Oscar Medellin, Deputy City Attorney

Public speakers:

Gilbert Dembo
Jack Allen
Lindsay Conner
Claire Conner
Andrew Lundberg

Transcribed by Carlo Craig//iTypeFaster Transcriptions

[00:00:08]

Commissioner Donovan: Okay. All right. Thank you. Next item on our agenda is Commission requests. And under Section B there, Planning Department update and discussion on ZA-2012-130-CDP-MEL-1A. The address is 16990-17000 West Sunset Boulevard. Do we have any speaker cards on that particular item?

I have a number of speaker cards here. I'm gonna call them in the order that I got them without changing any of the order. So when I call your name, come on up and sit here. We've got two seats and some waiting, as they might say. And we'll hear what you have to say. First two people I have are Gilbert Dembo and Jack Allen. And after that please be ready, Lindsay Conner, Claire Conner, Andrew Lundberg. And there's room for somebody to sit next to you if they're here. You could start walking over there, and sir, you could start off. You have two minutes.

[00:01:51]

Gilbert Dembo: Thank you. My name is Gilbert Dembo. I'm a member of the Pacific Palisades Community Council. I'm here to -- here as a representative of the Council. We are concerned that the City of Los Angeles has established rules for the -- and ordinances for the benefit of the community. And when various departments of the City do not fulfill their obligations and do not follow the proper procedures, it reflects poorly on the City and all the people that are concerned with the City.

So we're here to encourage the Planning Department to listen to the Planning Commission's directives as they -- because they have I think a stronger oversight on some of these projects and have a better understanding on what's needed. Thank you.

[00:03:16]

Commissioner Donovan: Thank you.

[00:03:18]

Jack Allen: Jack Allen, President, Palisades Preservation Association. We're here today because we're concerned about what the status is of this appeal. Because we understand that the Letter of Determination has been issued, and that that may in effect have deprived the Commission of the opportunity of revising the findings to reflect exactly what the Commission adopted at the time of their hearing. And we feel that -- we're not sure whether staff just made a mistake or whether that was deliberate. But we are concerned about that. And

we've submitted already what we feel are revisions that should be made to the findings that were promulgated by staff. Thank you.

[00:04:14]

Commissioner Donovan: Thank you. Lindsay Conner, Claire Conner, Andrew Lundberg. State your name and you have two minutes.

[00:04:28]

Lindsay Conner: Thank you. My name is Lindsay Conner. I am a homeowner in the vicinity of the subject property. On December 2nd of last year, after many months of continuances granted to the developer, this Commission listened carefully to hours of testimony. Commissioners asked lots of thoughtful questions, and in the end voted four to nothing against the project and the permit, and adopted a number of findings put forward by Commissioners Halper and Donovan in very specific terms.

A Letter of Determination should have issued very promptly. But the reality was eight months after the hearing we were sent a Letter of Determination that purported to attach the Commission's findings. But those findings were nowhere close to the transcript and nowhere close to this Commission's actual vote. Regardless of the cause, it is not a public record worthy of this Commission or this City. We are not asking for any new action. We want the record to properly reflect the Commission's action on December 2, 2012 (sic).

The letter says the Commission adopted the, quote, attached findings. But those attached findings bear almost no relation to the Commission's actions on December 2nd and do not create a truthful public record. The ZA inserted page after page of his own report which was not adopted by this Commission, and therefore does not constitute findings of the Commission. Those pages of text should be deleted from the public record. They are not findings. The ZA also undermined the findings of the Commission by incorrectly stating the Commission's findings on a number of critical points. And most startlingly, the ZA completely ignored the findings placed in the record by Commissioner Donovan. They were treated as though they were never spoken.

These were critical findings that Commissioner Donovan advanced, and the fact that they were entirely absent from the Determination Letter that was issued ensured that the record would be far short of the standards that this City requires. We ask that on an immediate basis the City correct the record to properly reflect this Commission's action of December 2nd. Thank you very much.

[00:06:48]

Commissioner Donovan: Thank you.

[00:06:54]

Claire Conner: Hello. My name is Claire Conner, and I am a resident. I'm an 11 year old Palisadian and my family and I have been involved with the Save the Bluffs campaign. All of this back and forth has been going on for way too long. It feels unnecessary. And we ask that you do everything in your power to stop it. You know that we need to get the record set straight immediately. What is happening now has potential to set a harmful precedent not only in the Palisades, but also along the California coast. Your Planning Commission's findings are important and need to be reflected immediately as well as accurately. Thank you again for doing what you do to serve West Los Angeles.

[00:07:40]

Commissioner Donovan: Thank you very much. Appreciate your comments. Andrew Lundberg?

[00:07:57]

Andrew Lundberg: Good afternoon, Commissioners. I'm Andrew Lundberg. My wife and I, Amy, are neighbors of the projects and appellants. To elaborate a bit on what the Conners and the other speakers said, when we were together on December 2nd, you issued a rather thorough going and point by point repudiation of the Zoning Administrator's original determinations. You then had the same Zoning Administrator go off and memorialize that repudiation, which unsurprisingly didn't go so well. It's sort of like sentencing somebody to 20 lashes and then telling her to go out and give them to herself. It's a recipe for an incomplete and unsuccessful effort.

The document the Zoning Administrator produced entitled, New Findings of the Zoning Administrator, doesn't accurately or completely reflect the record here. And in fact the very title of that document just is troubling to us. You didn't ask the Zoning Administrator to go out and make any new findings. What you told him to do was to go and memorialize the findings and conclusions you made. And what you got was a spun, incomplete, biased and inaccurate version of what you said on December 2nd.

We've submitted today a document, 10 copies of a document, which sets forth a quick capsule summary of the variances between what the Zoning Administrator said and what this Commissioner said. And you can see at a rapid glance the two don't match up very well. We've also suggested in our submission two alternative approaches to fixing this big problem. Alternative A would be to vacate the Letter of Determination that came out last month and replace it with a proper, complete and unbiased statement of what the findings and conclusions of the Commission

were. And we've taken a cut at that quoting almost entirely verbatim the transcript of that hearing which we provided a copy of to the Commission.

Another alternative would be to have your staff go back and take another cut at it. I think that falls under the heading of fool me once, shame on you, fool me twice, shame on me. I think we would like to avoid reshooting the movie, Groundhog Day, and coming back here to complain about another set of determinations. And finally as alternative B, we've provided a one sentence fix, the kind that's often used by busy civil judges in the courts to solve this problem, which is just to say, to issue an order saying if there's any differences between that Zoning Administrator's new findings and what we said in the transcript on December 2nd, the transcript is the decision, not the Zoning Administrator's findings. Thank you very much for your continued time on this.

[00:10:31]

Commissioner Donovan: Thank you.

[00:10:36]

Commissioner Halper: Commissioner Halper. I'm pleased to welcome my Palisadian contingent once again. Welcome. I know you've been back a couple of times. And I took very seriously your concerns. And frankly I independently had similar concerns. On Monday, through the good offices of our City Attorney, a meeting was held by myself and the Zoning Administrator who was responsible for this particular project. At that time we went through together his Letter, not the Letter itself, the Letter itself is, very well reflects the Commission's findings -- not findings, but the decision. The findings was the problem, to support it.

At that particular meeting we went through the record, and the findings in the Letter, and the discrepancies that I found myself, and I see you've found some too. In any case it was a very constructive meeting. I felt the Zoning Administrator handled himself in this meeting very professionally. And the result was as follows. The Zoning Administrator agreed to as soon as possible redo the findings. And it will reflect what you've got in your -- which I'm seeing you've given me again tonight.

Now if you happen to have a digital copy of this particular document, and you get it to our Executive Assistant, it would expedite the process. Because essentially that was the decision to reproduce this particular document as closely as possible. There's some [SOUNDS LIKE: funds] [00:12:54] in there, like Commissioner Donovan has pun intended, we can probably leave that out. [LAUGHTER] Outside of that it should accurately reflect the document. And so I feel confident as a Commissioner in this particular Commission that that is gonna happen in a timely manner. And you should then get a copy of the revised findings as required by the Code.

But I'm gonna make a motion tonight just to tie it up. And I know our President will probably give me something on top of this. But my motion is as follows. The finding attached to the Determination Letter of July 27th in case ZA-2012-130-CDP-MEL-1A and the CEQA 2012-131-MND be superseded immediately as they do not reflect the findings in the record, and replaced by findings in the record and submitted at this time, which would be this particular document, and circulated at the earliest time to the Coastal Commission and the other stakeholders as required by the Los Angeles Municipal Code 12.20, as a true record of the Commission findings with an appropriate explanation. That should conclude that. And hopefully I can get a second on that and move forward.

[00:14:56]

Commissioner Donovan: Commissioner Donovan. Just so I'm clear, what are we -- you moving that the Determination Letter be superseded by which particular document?

[00:15:04]

Commissioner Halper: The document, I think we were just given another copy of this. I had this the last time [INAUDIBLE] [00:15:10]. I think it's labeled B, second page of B, and third page of B. I'm sorry. Have I got the wrong one? It's A? Yes, it is A. Excuse me. It's alternative A and it closely mimics the actual record of the meeting.

[00:15:48]

Commissioner Donovan: Commissioner Halper, could I ask you to pass that down to make sure I have the right copy. Is that it?

[00:15:53]

Commissioner Halper: Yeah. And it starts really --

[00:15:55]

Commissioner Donovan: Right here? Okay. All right.

[00:15:57]

Commissioner Halper: It's almost verbatim. It ties in the portion that Mr. Lundberg mentioned, I think, your part that seems to have been missing in the document as well. So it picked up your statements as well.

[00:16:14]

Commissioner Donovan: So that would be alternative A in this --

[00:16:17]

Commissioner Halper: Yeah.

[00:16:21]

Commissioner Donovan: All right. Commissioner Donovan. I will second that motion.

[00:16:26]

Oscar Medellin: Commissioners? Excuse me, this is Deputy City Attorney Oscar Medellin. I just want to advise the Commission that at this point jurisdiction over the substance of the Decision that was issued in December is not something that the Commission has to be able to make changes to the substantive findings. But what you could do here is in your motion you could make an official request to the ZA that his revised Determination accurately reflect your decision on December 2nd, and that he take into consideration the exhibit that has been presented which purports to do that.

[00:17:02]

Commissioner Halper: I have a problem with that. By the way, this is the gentleman who I think did the most to get this thing salvaged. My problem is this, this is the Letter of the Commission, not of the Department. And it should reflect the Commission's statement. And I don't think we have to ask anybody by your leave to have that done. I don't mean to be strident at that point, but that's my feeling in the matter.

[00:17:36]

Commissioner Donovan: Okay. Any further discussion? Ask our Commission Assistant to call the vote.

[00:17:46]

Harold Arrivillaga: We have a motion and a second. Commissioner Halper, how do you vote?

[00:17:49]

Commissioner Halper: Aye.

[00:17:50]

Harold Arrivillaga: Commissioner Donovan, how do you vote?

[00:17:51]

Commissioner Donovan: Aye.

[00:17:52]

Harold Arrivillaga: Commissioner Margulies, how do you vote?

[00:17:52]

Commissioner Margulies: Aye.

[00:17:53]

Harold Arrivillaga: Commissioner Waltz Morocco, how do you vote?

[00:17:56]

Commissioner Waltz Morocco: Aye.

[00:17:57]

Harold Arrivillaga: Motion passes.

[00:17:58]

Commissioner Donovan: Additionally what I would like to request of Commission staff is that this item be placed on our next agenda just so we can make sure that things are going forward, hopefully the new Letter will be issued, everything will be fine. But put it on the agenda next time anyway just so we can take a look at that.

[00:18:16]

Harold Arrivillaga: Will do.

[00:18:18]

Commissioner Halper: I'd just like to tie one more -- I want to express my appreciation to our City Attorney for his stepping a step forward or beyond what I would have expected our City Attorney's office to do in bringing this to a solution. Thank you.

[00:18:36]

Commissioner Donovan: And on behalf of the Commission, I would like to thank Commissioner Halper for taking all this -- doing all this extra work on this particular item, including going in and having a meeting with the planning ZA and all that. I have to tell everybody here just so you know, that we are all volunteers. We spend a substantial amount of time going over a lot of these projects that come through. And some of you have been here before know that we sometimes are here for hours doing this.

Unfortunately what happens so often, we render a decision and we don't normally see the Determination Letter that goes out. And for us to have to review them and look at them again would be a really impossible task for us. So what we do is we depend on those who are in front of us, the appellants and the applicants, to look closely at these Determination Letters and bring it to our attention if they don't comport with what you heard or saw happen here at our meetings. It is like in all democracies, it can sometimes be a sloppy procedure. But in the end I think we get it right for the most part. And I also want to thank Planning for working with us on these aspects. And of course the City Attorney as well.

29 September 2016

VIA EMAIL: marlene.alvarado@coastal.ca.gov

CALIFORNIA COASTAL COMMISSION
Attn: Marlene Alvarado, South Coast Area Office
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

Re: Commission Appeal No. A-5-PPL-16-0079
16990-17000 W. Sunset Boulevard, Pacific Palisades
Opposition to Appeal
Vote to approve Staff Recommendation

Dear Ms. Alvarado:

I am one of the 12 people who appealed the Zoning Administrator's initial approval of this project. I went to the West Los Angeles Area Planning Commission's December 2, 2015 hearing and appreciate how much time the Commissioners spent on this project.

This proposed project site is in a designated landslide area and the Malibu Village Mobile homes sit directly below it. Experts have serious questions about the geology and soils studies and the safety of Sunset Boulevard and Malibu Village.

The Planning Commission did a thorough job and relied on the California Coastal Act and the Regional Interpretive Guidelines in making their determination on December 2, 2015. I agree with the Planning Commission's finding and support their denial of this Coastal Development Permit.

I urge the Coastal Commissioners to vote in favor of the Staff Report recommendation that the appeal raises no substantial issue as to conformity with Chapter 3 of the Coastal Act.

Thank you for your consideration.

Sincerely,


Ginger Mason

LINDSAY CONNER
17070 LIVORNO DRIVE
PACIFIC PALISADES, CA 90272

VIA EMAIL: marlene.alvarado@coastal.ca.gov

September 28, 2016

CALIFORNIA COASTAL COMMISSION
Attn: Marlene Alvarado, South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Re: Commission Appeal No. A-5-PPL-16-0079
16990-17000 W. Sunset Boulevard, Pacific Palisades
Opposition to Appeal – No Substantial Issue

Dear Ms. Alvarado:

I strongly agree with the Staff Report – and strongly oppose the appeal of the West Los Angeles Area Planning Commission's (WLAAPC) unanimous decision to deny a Coastal Development Permit for the 16990-17000 W. Sunset Boulevard project.

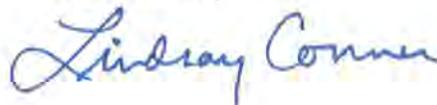
The Staff Report is correct: the appeal raises no substantial issue regarding the conformity of the WLAAPC decision with the Coastal Act. I was one of the original appellants who asked the WLAAPC to overturn the Zoning Administrator's wrongful approval of the project. The WLAAPC followed both the letter and spirit of the law in its decision to deny the Coastal Development Permit. This project does not remotely conform to the requirements of the Coastal Act or the Regional Interpretive Guidelines, for a number of reasons--any one of which would be a legitimate basis to deny the permit, and taken together constitute overwhelming grounds for denial of the permit.

The project site is a fragile coastal bluff in a designated landslide area. The project would remove almost the entire face of this coastal bluff, and would threaten the Malibu Village mobile home community directly below it. The project also would have twice the maximum density permitted under the Regional Interpretive Guidelines, and is completely out of character with the surrounding neighborhood.

The WLAAPC carefully considered the Zoning Administrator's initial decision, as well as the materials submitted by project proponents and opponents, and heard extensive testimony from experts in geology and hydrology and many of the 80 community members who attended the hearing to strongly oppose this project. After careful consideration, the WLAAPC voted unanimously to overturn the Zoning Administrator's misguided initial approval of the project.

I strongly support the WLAAPC's denial of the Coastal Development Permit, and I ask Commissioners to vote in favor of the Staff Report recommendation that the appeal raises "No Substantial Issue" regarding its conformity with the Coastal Act.

Best wishes,



17015 Pacific Coast Highway, #23
Pacific Palisades, CA 90272
September 29, 2016

CALIFORNIA COASTAL COMMISSION
Attn: Marlene Alvarado, South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Delivered via E-Mail to marlene.alvarado@coastal.ca.gov

Dear Ms. Alvarado:

SUBJECT: Opposition to Commission Appeal No. A-5-PPL-16-0079
16990-17000 W. Sunset Boulevard, Pacific Palisades

I am writing to express my opposition to the appeal of the West Los Angeles Area Planning Commission's (WLAAPC) unanimous decision to deny both the Coastal Development Permit and the environmental clearance for the above-referenced project.

This proposed project site is a fragile coastal bluff along a designated scenic highway in a designated landslide area. It affords the public one of the last remaining views of the Pacific Ocean from Sunset Boulevard, which would be obliterated if this project were built. The WLAAPC considered expert reports regarding the geology and hydrology issues on this site that have not been adequately addressed to assure the stability of Sunset Boulevard and the safety of my home in the Malibu Village Mobile Home development directly below the proposed project. The WLAAPC followed the letter of the law in making its determination after its lengthy hearing in which I testified as an appellant and president of the Malibu Village Mobile Home Owners Association on December 2, 2015. I applaud the WLAAPC's denial of this Coastal Development Permit. It protects coastal resources and raises no substantial issue with respect to the California Coastal Act.

I oppose the above-referenced appeal of the WLAAPC's denial of a Coastal Development Permit for this proposed development. I urge the Commissioners to vote in favor of the Staff Report recommendation that the appeal raises no substantial issue as to conformity with Chapter 3 of the Coastal Act.

Thank you for your consideration of this matter and for your continued service.

Sincerely,

Candace Tysdal
CandaceTysdal@gmail.com

Barbara Kohn
Pacific Palisades CA 90272
barbara@kohn.com

VIA EMAIL:
marlene.alvarado@coastal.ca.gov

CALIFORNIA COASTAL COMMISSION
Attn: Marlene Alvarado, South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Subject: Commission Appeal No. A-5-PPL-16-0079
16990-17000 W. Sunset Boulevard, Pacific Palisades

Opposition to Appeal
Vote in Favor of Staff Recommendation

This proposed project site is a fragile coastal bluff along Sunset Blvd, a designated scenic highway, in a well-documented and well known designated landslide area.

I urge the Commissioners to vote in favor of the Staff Report recommendation that the appeal raises no substantial issue re the Subject appeal cited above as to conformity with Chapter 3 of the Coastal Act.

Sincerely,

Barbara Kohn

For Identification purposes only

Former President: Pacific Palisades Residents Association
Former President: Pacific Palisades Community Council



PACIFIC PALISADES COMMUNITY COUNCIL

September 29, 2016

VIA EMAIL: marlene.alvarado@coastal.ca.gov

CALIFORNIA COASTAL COMMISSION
Attn: Marlene Alvarado, South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Re: Commission Appeal No. A-5-PPL-16-0079
16990-17000 W. Sunset Boulevard, Pacific Palisades
Opposition to Appeal

Dear Ms. Alvarado:

Pacific Palisades Community Council (PPCC), the most broad-based community organization and voice of the Palisades since 1973, has been following the progress of the above referenced project since its inception. The public record will reflect that beginning in April of 2012 and on five additional occasions since then, most recently in November of 2015 and August of 2016, we have made our position known on various aspects of this project.

We have held numerous public discussions about this project, most recently on September 22nd, when we revisited the issue at our public Board meeting with a report from one of our Board members on the project's history, the hearings and current status of the appeal filed by this developer to your Commission. The overwhelming sentiment expressed by community members as well as PPCC Board members in attendance was dismay at the decision of the developer to snub the input of the City and the community, and continue unabated in his objective to build the proposed multi-family residential development on this piece of unsteady, geologically unsound ocean-front bluff.

Our first letter on this matter, dated April 12, 2012, called for a focused EIR. We continued to request a focused EIR in letters dated February 23, 2013, June 17, 2013, and November 15, 2015. That EIR, though promised to concerned residents, was never produced. The West Los Angeles Area Planning Commission (WLAAPC) considered expert reports regarding the geology and hydrology of the site and determined that neither has been adequately addressed to ensure stability and safety. The unanimous decision to deny both the Coastal Development Permit and the environmental clearance for

the above referenced project was made after a lengthy hearing before the WLAAPC on December 2, 2105. Now we learn that the developer has filed an appeal of the decision by the WLAAPC.

While the PPCC Board has not had an opportunity to review the Staff Report recommendation or to take a formal position on the pending appeal, we believe, based on our prior position letters and the overwhelming community opposition to this project as expressed at public hearings and meetings on numerous occasions since 2012, that it is the community's wish to stem the wanton thrust of this developer's determination to build as he wishes, without regard to laws, regulations and the applicability of studied findings and measured safeguards to his proposed development. On this basis, we urge you to uphold the findings of the WLAAPC, and vote in favor of the Staff Report recommendation that the current appeal by the developer raises no substantial issue as to conformity with Chapter 3 of the Coastal Act.

Thank you for your consideration.

Sincerely,

Maryam Zar
PPCC Chair

cc: Council Member Mike Bonin (via mike.bonin@lacity.org)
Harold Arrivilaga, West LA Area Planning Commission (via harold.arrivillaga@lacity.org)
Amy Lundberg, PPRA (via amy.lundberg2@gmail.com)

Christian T. Martin

17056 Livorno Drive
Pacific Palisades, CA 90272
(310) 500-8864 / christian@vitalleap.com

Exhibit I
Page 1 of 1

September 29, 2016

Ms. Marlene Alvarado
Via Email: marlene.alvarado@coastal.ca.gov
California Coastal Commission, South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

RE: Commission Appeal No. A-5-PPL-16-0079 – 16990-17000 W. Sunset Blvd., Pacific Palisades ~ Opposition to Appeal

Dear Ms. Alvarado,

This correspondence is provided to communicate my opposition to the M&A Gabae, LP's appeal of the West Los Angeles Area Planning Commission's unanimous December 2, 2015 decision to expressly deny the Coastal Development Permit and environmental clearance for the 17000 Sunset Blvd. development.

At the December hearing, with opposition voiced by over 80 members of the local community, and formally by 12 appellants, I being one of them, the West Los Angeles Area Planning Commission made the correct decision to deny the Coastal Development Permit. By adhering to the law and Coastal Act regulations that govern and protect our coastline, and requiring the developer to not waiver from such laws and regulations, the West Los Angeles Area Planning Commission's denial of the permit rightly recognized: i) the proposed development site's location was planned to sit directly upon a sensitive coastal bluff location, ii) the development's highly damaging impact on that location – a protected scenic corridor - due to its destruction of one of the last coastal view offering bluffs along Sunset boulevard and it being a location situated directly upon a geologically unstable and historically active landslide plagued area, and iii) the precarious consequences to life and property of the surrounding residents (including an entire mobile home community located a few hundred feet directly below the proposed development site) due to exacerbation of serious geological, as well as hydrological, hazards currently known to be existing on the development site.

In keeping with the West Los Angeles Area Planning Commission's findings and ruling, outcomes arrived at after their receipt and study of copious expert submitted documents and studies, including expert witness and community testimony, I adamantly support the West Los Angeles Area Planning Commission's denial of this Coastal Develop Permit. Similarly, I am unequivocally opposed to M&A Gabae LP's appeal of the WLAAPC's final December 15th determination for the proposed development and strongly urge the California Coastal Commission to vote in favor the Staff Report recommendation that the M&A Gabae, LP appeal raises no substantial issue as to conformity with Chapter 3 of the Coastal Act.

Thank you for allowing me to address these issues and express my opinion on this matter of grave concern to our coastal community.

Best Regards,


Christian T Martin

cc: Council Member Mike Bonin (via mike.bonin@lacity.org)
Harold Arrivilaga, West LA Area Planning Commission (via harold.arrivillaga@lacity.org)

From: [John.Randolph.Haag](mailto:John.Randolph.Haag@coastal.ca.gov)
To: Alvarado.Marlene@Coastal
Cc: John.Randolph.Haag
Subject: Haag Opposition to Commission Appeal No. A-5-PPL-16-0079
Date: Thursday, September 29, 2016 11:02:50 PM

John R. Haag
P.O. Box 1113
Malibu, California 90265
September 29, 2016

VIA EMAIL marlene.alvarado@coastal.ca.gov

CALIFORNIA COASTAL COMMISSION
Attn: Marlene Alvarado, South Coast Area Office
200 OceanGate, 10th Floor
Long Beach, California 90802-4416

Dear Ms. Alvarado:

SUBJECT: Opposition to Commission Appeal No. A-5-PPL-16-0079
16990-17000 W. Sunset Boulevard, Pacific Palisades
Vote in favor of Staff Recommendation

The project site in question sits atop a coastal bluff on Sunset Boulevard overlooking the Pacific Ocean in the Pacific Palisades district of Los Angeles. During the long history of the City, this site was never developed due to the hazardous geology. The site is situated at the top of a steep slope over an ancient landslide.

The 29 unit Malibu Village mobile home park is perched on an intermediate “bowl” below the site, with a further steep slope down to the Pacific Coast Highway. The geology is so sensitive that when the City and Coastal Commission approved the conversion of Malibu Village to condominiums three decades ago, the risk of catastrophic earth movement was placed in the findings and the homeowners were required to sign landslide waivers/releases and to bear the cost of replacing an old public storm drain that passed through the park (even though the drain did not service the park and the conversion did not involve replacement or reconfiguration of the existing mobile homes).

I have owned one of the units at Malibu Village for around 32 years, and have lived there most of that time with my family (due in part to fires which twice destroyed our other home). I always assumed the appellant’s site would never be developed. Indeed, I was quite surprised when I learned the appellant purchased the site at a relatively low cost and then proposed a huge development tearing deep into the fragile hillside in effort to maximize profits (neighborhood be damned attitude). Like other Malibu Village residents, I feared for the safety of our property and families since the City and Coastal Commission had long before warned of the risk of catastrophic earth movement and our experts had many concerns about the development. I had other concerns since the appellant planned to drain sewage under my unit -- making false claims of having an easement. I strongly opposed this plan. The appellant owns another property adjacent to the subject site, and that other property does

have a sewage easement (unlike the subject site). The appellant's pipes are frequently leaking foul sewage into the sub-soil, sometimes flowing to the surface on my unit. I am not interested in more of the same from appellant, especially when appellant is attempting to assert an easement for a *different property* as the justification for running a sewage pipe under Malibu Village and my property to serve the project site. In other words, if the project is approved, we will be forced into a legal fight over the easements, and thus hoped the City would recognize the many reasons for rejecting the project.

However, we concerned the politically connected developer would use influence at City Hall to get approval for the ill-conceived development, and that indeed was a problem. However, the local community banded together in very strong opposition before the West Los Angeles Area Planning Commission's (WLAAPC) – and presented compelling arguments based on facts, figures, laws, procedures and legitimate concerns.

The Malibu Village homeowners asked me to testify on behalf of our association, and I was pleased to explain the unanimous concerns of the 29 families residing at Malibu Village. Our park's expert also testified, along with other experts and members of the community, and extensive documentation was also submitted.

There are times when I feel frustrated that government does not work as it should. However, the WLAAPC hearing and decision renewed some of my faith in our democracy. The WLAAPC obviously spent considerable time reviewing the record before the hearing (the appellant postponed the hearing several times) and gave further careful consideration during the lengthy hearing to the testimony from both sides. It was so wonderful to appear before a decision making body that had taken the time to figure out what was going on. The hearing was attended by a large number of concerned residents from Malibu Village, the Marquez neighborhood north of the site, and many others from the community (In addition to the thousands that signed petitions opposing the development and thus appeared by proxy).

Malibu Village and I were pleased the WLAAPC duly considered expert reports and testimony regarding significant geology, hydrology, easement and other practical issues relating to the safety, feasibility and appropriateness of the project. The WLAAPC was correct in denying approval of the project, and in undoing the "politics" which had been in play. The decision protects Malibu Village from a project that would jeopardize our safety, and also saves the community and coastal area from a piggish project that would blemish the bluff with oversized ugly dangerous structures.

I urge the Commissioners to vote in favor of the Staff Report recommendation that the appeal raises no substantial issue as to conformity with Chapter 3 of the Coastal Act.

Very truly yours,

/s/

John R. Haag

17015 Pacific Coast Highway, #25
Pacific Palisades, CA 90272
September 29, 2016

CALIFORNIA COASTAL COMMISSION
Attn: Marlene Alvarado, South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Delivered via E-Mail to marlene.alvarado@coastal.ca.gov

Dear Ms. Alvarado:

SUBJECT: Opposition to Commission Appeal No. A-5-PPL-16-0079
16990-17000 W. Sunset Boulevard, Pacific Palisades

I am writing to express my opposition to the appeal of the West Los Angeles Area Planning Commission's (WLAAPC) unanimous decision to deny both the Coastal Development Permit and the environmental clearance for the above-referenced project.

This proposed project site is a fragile coastal bluff along a designated scenic highway in a designated landslide area. Not only does it completely block one of the last remaining views of the Pacific Ocean from Sunset Boulevard, but it threatens the safety of my home and those of my neighbors in Malibu Village.

The WLAAPC considered expert reports regarding the geology and hydrology issues on this site that have not been adequately addressed to assure the stability of Sunset Boulevard and the slope directly above the Malibu Village Mobile Home development. The WLAAPC carefully followed the law in making its determination after its lengthy hearing in which I was an appellant.

I oppose the above-referenced appeal of the WLAAPC's denial of a Coastal Development Permit for this proposed development. I urge the Commissioners to vote in favor of the Staff Report recommendation that the appeal raises no substantial issue as to conformity with Chapter 3 of the Coastal Act.

Thank you for your consideration of this matter.

Sincerely,

Herb Engelhardt
gatedoc@gmail.com



Property Owners Association

P.O. Box 1307
Pacific Palisades, CA 90272
Ph: 310 454-7678
E-mail: info@marquezknolls.com

September 30, 2016

VIA E-MAIL: marlene.alvarado@coastal.ca.gov

CALIFORNIA COASTAL COMMISSION
Attn: Marlene Alvarado, South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Re: Commission Appeal No. A-5-PPL-16-0079
16990-17000 W. Sunset Boulevard, Pacific Palisades

Opposition to Appeal

Dear Ms. Alvarado:

Marquez Knolls Property Owners Association (MKPOA) represents 1,250 homes in Marquez Knolls, a community within Pacific Palisades north of Sunset Boulevard between Palisades Drive and Bienvenida. MKPOA has written letters to the City of Los Angeles, June 15, 2013, and to the West Los Angeles Area Planning Commission (WLAAPC) on July 15, 2015 and November 11, 2015, regarding the proposed development in the 16000-17000 blocks of Sunset Boulevard, generally referred to as the "Sunset Bluffs."

The Sunset Bluffs projects are located adjacent to, but outside of the boundaries of MKPOA, and, as such, no position is taken by MKPOA on any development project, in and of itself. MKPOA respects the rights of property owners and the right to develop. However, at the same time, MKPOA is concerned about the good of the community.

This letter, as well as prior correspondence written by MKPOA, strongly advocates that the City of Los Angeles and its Departments, as well as California State Agencies involved in the permitting process of Sunset Bluffs strictly comply with all applicable laws, rules, regulations, and policies. Any failure to strictly comply with and enforce all applicable laws, rules, regulations and policies will gravely impact not only the residents of Marquez Knolls, but also the community and city at large.

Of major concern is the fragile geology of the land that was impacted by a previous landslide. Another slope failure at the site would not only damage or destroy the apartment buildings and pose a serious threat to the structures and residents of the mobile home park below but such a failure would ultimately damage portions of Sunset Boulevard that which, in turn, would create a serious public safety hazard for this vital traffic artery. Marquez Knolls is "land-locked" and all ingress and egress is via Sunset without any alternative. Not only would this negatively impact Marquez Knolls, but on a broader community and city perspective, partial or full closure of Sunset Boulevard will have a detrimental impact on public safety by creating delays in law enforcement and emergency vehicle response time.

The WLAAPC's Determination Letter in this matter cites numerous violations of the Coastal Act and local regulations. Therefore, MKPOA is opposed to the above-referenced appeal of the WLAAPC's denial of a Coastal Development Permit for this proposed development. **We urge the Commissioners to vote in favor of the Staff Report recommendation that the appeal raises no substantial issue as to conformity with Chapter 3 of the Coastal Act.**

Thank you for your consideration.

Exhibit L
Page 1 of 2

Sincerely,

MKPOA Board of Officers

Christy Dennis
President

Cheryl Zomber
Vice President

Cheryl Vigna
Secretary

Louise Martin
Treasurer

G. ANDREW LUNDBERG
17050 LIVORNO DRIVE
PACIFIC PALISADES, CALIFORNIA 90272

September 30, 2016

Via Email to:
marlene.alvarado@coastal.ca.gov

CALIFORNIA COASTAL COMMISSION
Attn: Ms. Marlene Alvarado, South Coast Area Office
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4416

Re: **Opposition to Appeal -- No Substantial Issue**
Commission Appeal No. A-5-PPL-16-0079
16990-17000 W. Sunset Boulevard, Pacific Palisades

Dear Ms. Alvarado:

My wife Amy and I are two of the 12 appellants who successfully appealed the Zoning Administrator's initial approval of this project and attended the lengthy West Los Angeles Area Planning Commission hearing of those appeals on December 2, 2015. We strongly **oppose** the developer's appeal of the Planning Commission's unanimous decision to deny both the Coastal Development Permit and the environmental clearance for this project.

As I told the Planning Commission, my experience as an attorney has included work on a number of well-known catastrophes, including the Deepwater Horizon matter. After such a tragedy occurs, the question is invariably asked: "How could they not have seen that coming? How could they not have thought of that?" The record shows that this project is fraught with substantial geological, hydrological, traffic and easement issues that have not been adequately studied. In all events, as the Planning Commission found, it clearly fails to comply with the Coastal Act, the Regional Interpretive Guidelines and local zoning regulations. Any one of these issues would be grounds to deny its Coastal Development Permit; taken together, they are the makings of a potential disaster.

The Planning Commission's decision correctly protects the public and its coastal resources. Accordingly, **we urge the Commissioners to adopt the Staff Report's conclusion that the appeal raises no substantial issue as to conformity with Chapter 3 of the Coastal Act.**

Very truly yours,



G. Andrew Lundberg

cc (via Email):

Council Member Mike Bonin (mike.bonin@lacity.org)

Maryam Zar (maryamzarjd@yahoo.com)

Cheryl Zomber (czomber@pjzlawla.com)

Christy Dennis (Christyadennis@aol.com)

Ezra Gale, Senior Planner (ezra.gale@lacity.org)



CALIFORNIA COASTAL COMMISSION
Attn: Marlene Alvarado, South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

September 30, 2016

Via E-Mail to marlene.alvarado@coastal.ca.gov

SUBJECT: Opposition to Commission Appeal No. A-5-PPL-16-0079
16990-17000 W. Sunset Boulevard, Pacific Palisades

Dear Ms. Alvarado:

Save the Bluffs **opposes** the appeal of the West Los Angeles Area Planning Commission's denial of the Coastal Development Permit and environmental clearance for this project.

Save the Bluffs is an organization that was mobilized by Pacific Palisades community opposition to proposed oversized and dangerous developments along the coastal bluffs on southern side of Sunset Boulevard from 16948 Sunset to 17030 Sunset. The more than 2,700 signatures (more than 10% of all Palisadians) on our petition and support of our 846 Facebook "likes" and followers opposing this development at 16990 - 17000 Sunset testify to the broad-based community support for our opposition.

Save the Bluffs supports the findings of the WLAAPC in this matter since they protect valuable coastal resources. Save the Bluffs stands opposed to any proposed developments on these fragile coastal bluffs that violate any existing regulations, especially the California Coastal Act, the Regional Interpretive Guidelines, local zoning and CEQA.

Save the Bluffs encourages the Commissioners to vote in favor of the Staff Report recommendation that the appeal be found to raise no substantial issue as to conformity with Chapter 3 of the Coastal Act.

Respectfully,

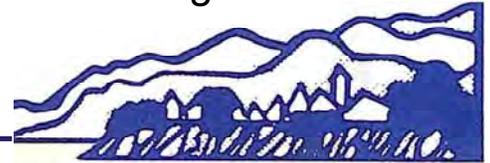
A handwritten signature in blue ink, appearing to read 'Amy Lundberg', with a long, sweeping flourish extending to the right.

Amy Lundberg
Co-Organizer, SAVE THE BLUFFS

cc (via Email):

Council Member Mike Bonin (mike.bonin@lacity.org)
Maryam Zar (maryamzarjd@yahoo.com)
Cheryl Zomber (czomber@pjzlawla.com)
Christy Dennis (Christyadennis@aol.com)
Ezra Gale, Senior Planner (ezra.gale@lacity.org)

POST OFFICE BOX 617
PACIFIC PALISADES
CALIFORNIA 90272



September 30, 2016

CALIFORNIA COASTAL COMMISSION
Attn: Marlene Alvarado, South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Via E-Mail to marlene.alvarado@coastal.ca.gov

Dear Ms. Alvarado:

SUBJECT: Opposition to Commission Appeal No. A-5-PPL-16-0079
16990-17000 W. Sunset Boulevard, Pacific Palisades
Vote in favor of Staff Recommendation

Pacific Palisades Residents Association (PPRA) has spent decades dealing with the geological issues associated with coastal development in Pacific Palisades, the California Coastal Act, and CEQA.

The West Los Angeles Area Planning Commission's denial of the Coastal Development Permit and environmental clearance for this project protects coastal resources.

PPRA urges the Commissioners to vote in favor of the Staff Report recommendation that the appeal raises no substantial issue as to conformity with Chapter 3 of the Coastal Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah White Conner". The signature is fluid and cursive.

Sarah White Conner
President, PPRA

cc (via Email):

Council Member Mike Bonin (mike.bonin@lacity.org)
Maryam Zar (maryamzarjd@yahoo.com)
Cheryl Zomber (czomber@pjzlawla.com)
Christy Dennis (Christyadennis@aol.com)
Ezra Gale, Senior Planner (ezra.gale@lacity.org)

From: [Lauren Nagaryu Rubin Ph.D.](mailto:Lauren.Nagaryu.Rubin.Ph.D.)
To: [Alvarado, Marlene@Coastal](mailto:Alvarado.Marlene@Coastal)
Subject: Opposition to Commission Appeal No. A-5-PPL-16-0079
Date: Friday, September 30, 2016 12:09:10 PM

Lauren Rubin Ph.D.
17015 Pacific Coast Highway, #7
Pacific Palisades, CA 90272
September 30, 2016

CALIFORNIA COASTAL COMMISSION
Attn: Marlene Alvarado, South Coast Area Office
200 Oceangate, 10th Floor Long Beach, CA 90802-4416

Delivered via E-Mail to marlene.alvarado@coastal.ca.gov

Dear Ms. Alvarado:

SUBJECT: Opposition to Commission Appeal No. A-5-PPL-16-0079
16990-17000 W. Sunset Boulevard, Pacific Palisades

I am writing to express my strong opposition to the appeal of the West Los Angeles Area Planning **Commission's** (WLAAPC) unanimous decision to deny both the Coastal Development Permit and the environmental clearance for the above-referenced project.

This proposed project site is a fragile coastal bluff along a designated scenic highway in a designated landslide area. It threatens the safety of my home and those of my neighbors in Malibu Village, as well as completely block one of the last remaining views of the Pacific Ocean from Sunset Boulevard, but it also. I feel the project is unsafe and multiple experts attested to that fact at the WLLAPC hearing.

The WLAAPC considered expert reports regarding the geology and hydrology issues on this site that have not been adequately addressed to assure the stability of Sunset Boulevard and the slope directly above the Malibu Village Mobile Home development. The WLAAPC carefully followed the law in making its determination after its lengthy hearing at which I was present. I found the WLAAPC extremely well prepared and it was clear they had done extensive research on the subject prior to the hearing. The quality of the concern and care they showed towards this issue was heartening to experience. I applaud the **WLAAPC's** denial of this Coastal

Development Permit. It protects coastal resources and raises no substantial issue with respect to the California Coastal Act.

I oppose the above-referenced appeal of the **WLAAPC's** denial of a Coastal Development Permit for this proposed development. I urge the Commissioners to vote in favor of the Staff Report recommendation that the appeal raises no substantial issue as to conformity with Chapter 3 of the Coastal Act. Thank you for your consideration of this matter, I deeply appreciate it.

Sincerely,

Lauren Rubin
drlrubin@live.com

Patricia Chu
16988 Marquez Avenue
Pacific Palisades, California 90272

September 30, 2016

VIA EMAIL: marlene.alvarado@coastal.ca.gov

CALIFORNIA COASTAL COMMISSION
Attn: Marlene Alvarado, South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Re: Commission Appeal No. A-5-PPL-16-0079
16990-17000 W. Sunset Boulevard, Pacific Palisades
Opposition to Appeal
Vote in favor of Staff Recommendation – No Substantial Issue

Dear Ms. Alvarado:

I oppose the appeal of the West Los Angeles Area Planning Commission's (WLAAPC) unanimous decision to deny both the Coastal Development Permit and the environmental clearance for this project.

I am one of the 12 appellants who went to the WLAAPC December 2, 2015 very long hearing on this matter and was very happy to see over 80 other community members there who oppose this project, too.

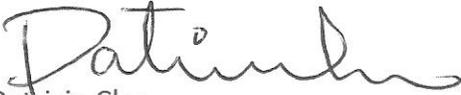
The Commissioners considered expert geology and hydrology reports and decided that this project puts Sunset Boulevard and the safety of the Malibu Village at risk. I live across Sunset from the project site and am very worried about the geology issues in this designated landslide area.

I completely agree with the WLAAPC's findings and support the WLAAPC's denial of this Coastal Development Permit. Their denial protects coastal resources.

I urge the Commissioners to vote in favor of the Staff Report recommendation that the appeal raises no substantial issue as to conformity with Chapter 3 of the Coastal Act.

Thank you for your consideration.

Sincerely,



Patricia Chu

CALIFORNIA COASTAL COMMISSION

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

Th19b



Appeal Filed: 08/29/2016
49th Day: 10/17/2016
Staff: M. Alvarado-LB
Staff Report: 09/22/2016
Hearing Date: 10/06/2016

STAFF REPORT: APPEAL --NO SUBSTANTIAL ISSUE

Appeal Number: A-5- PPL-16-0079

Local Government: City of Los Angeles

Local Decision: Denial

Applicant: M&A Gabae, LP

Appellant: M&A Gabae, LP

Agent: Gaines & Stacey, LLP (ATTN: Fred Gaines)

Project Location: 16990-17000 Sunset Boulevard, Pacific Palisades, City of Los Angeles, Los Angeles County

Project Description: Appeal by applicant, M&A Gabae, LP., of a decision by City of Los Angeles to deny Local Coastal Development Permit No. ZA-2012-130 for the construction and maintenance of a five-story, 98,900 sq. ft., 49-unit apartment building with a maximum height of 57 ft., to be built over a two-level subterranean garage (upper and lower garage) on a vacant lot.

Staff Recommendation: No Substantial Issue

Important Hearing Procedure Note: This is a substantial issue only hearing. Testimony will be taken only on the question of whether or the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to 3 minutes total per side. Please plan your testimony accordingly. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

The Commission's role at the "substantial issue" phase of an appeal is to decide whether the appeal of the local government action raises a substantial issue as to conformity with the Chapter 3 policies of the Coastal Act. Here, the staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed because the City's denial of the project was appropriately based on the City's adopted findings, which state that the proposed development is not compatible in mass and scale with the existing community character and that the absence of more detailed information in the application precluded the City from being able to find that potential hazards would be adequately mitigated.

Based on these findings, the City correctly determined that the proposed development did not conform with the Chapter 3 policies of the Coastal Act because it was out of scale with the community character and would not assure stability and structural integrity of the site. The motion to carry out the staff recommendation is on Page Four.

The applicant/appellant disagrees with the staff recommendation, asserting that the proposed development is consistent with the Chapter 3 policies of the Coastal Act. The applicant/appellant requests that the Commission overturn the City's denial of the local coastal development permit.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE	4
II. APPELLANT’S CONTENTIONS	4
III. LOCAL GOVERNMENT ACTION	4
IV. APPEAL PROCEDURES	4
V. DUAL PERMIT JURISDICTION	6
VI. FINDINGS AND DECLARATIONS	6
A. PROJECT DESCRIPTION.....	6
B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS	6
C. SUBSTANTIAL ISSUE ANALYSIS.....	7

APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

- Exhibit 1 – Project Location
- Exhibit 2 – Project Plans
- Exhibit 3 – Elevations and Sections
- Exhibit 4 – Appeal
- Exhibit 5 – WLAACP Determination Report

I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE

Motion: *I move that the Commission determine that Appeal No. A-5-PPL-16-0079 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act.*

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the Commissioners present.

Resolution:

*The Commission hereby finds that Appeal No. A-5-PPL-16-0079 presents NO **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.*

II. APPELLANT’S CONTENTIONS

The appellant, M&A Gabae, LP, who is also the applicant for the coastal development permit, has appealed the City of Los Angeles’ denial of Local Coastal Development Permit No. ZA-2012-130 for the proposed development of a 49 unit, 98,900 sq. ft. residential development at 16990-17000 West Sunset Boulevard, Pacific Palisades. The applicant/appellant requests that the Commission overturn the City’s denial of the local coastal development permit application. The applicant/appellant asserts that the City’s Zoning Administrator properly made findings to support the project’s consistency with the Chapter 3 policies of the Coastal Act and the Regional Interpretative Guidelines, and that the approval was erroneously overturned by the West Los Angeles Area Planning Commission (WLAAPC) (**Exhibit 4**).

III. LOCAL GOVERNMENT ACTION

On October 2, 2014, the City of Los Angeles Zoning Administrator (ZA) approved Local Coastal Development Permit No. ZA 2012-130 for a 98,900 sq. ft., seven-level residential development containing a total of 49 units in the dual permit jurisdiction of the California Coastal Zone.

On December 2, 2015, on an appeal, the West Los Angeles Area Planning Commission (WLAAPC) overturned the approval and denied the coastal development permit (See **Exhibit 5**, WLAAPC Determination report).

IV. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program (LCP), a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local coastal development permits. Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows any action by a local government on a coastal

development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act [Cal. Pub. Res. Code §§ 30200 and 30604.]

After a final local action on a local coastal development permit application, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice which contains all the required information, a twenty working-day appeal period begins during which any person, including the applicants, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.] As provided under section 13318 of Title 14 of the California Code of Regulations, the appellant must conform to the procedures for filing an appeal as required under section 13111 of Title 14 of the California Code of Regulations, including stating the specific grounds for appeal and providing a summary of the significant question raised by the appeal.

The action currently before the Commission is to find whether there is a “substantial issue” or “no substantial issue” raised by the appeal of the local approval of the proposed project. Sections 30621 and 30625(b)(1) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

Commission staff recommends a finding of no substantial issue. If the Commission decides that the appellant’s contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government becomes final. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the City’s action with the Chapter 3 policies of the Coastal Act, the local coastal development permit action is voided and the Commission would typically continue the public hearing to a later date in order to review the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission’s regulations.

If there is no motion from the Commission to find no substantial issue, it will be presumed that the appeal raises a substantial issue and the Commission will schedule the de novo phase of the public hearing on the merits of the application at a subsequent Commission hearing. A de novo public hearing on the merits of the application applies the Chapter 3 policies of the Coastal Act. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

Those who are qualified to testify at the substantial issue hearing, as provided by Section 13117 of Title 14 of the California Code of Regulations, will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds for the appeal raise no substantial issue.

Should the Commission determine that a substantial issue exists, it would consider the coastal development permit application de novo. The applicable test for the Commission to consider in a de novo review of the project is whether the proposed development is in conformity with the Chapter 3 policies of the Coastal Act and, if the development is between the sea and the first

public road paralleling the sea, the public access and recreation policies of the Coastal Act. If a de novo hearing is held, testimony may be taken from all interested persons.

V. DUAL PERMIT JURISDICTION

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Coastal Act requires that the development which receives a local coastal development permit also obtain a “dual” coastal development permit from the Coastal Commission. For projects located inland of the areas identified in Section 30601 (Single Permit Jurisdiction), the City of Los Angeles local coastal development permit is the only coastal development permit required, with the exception of major public works projects or major energy facilities. Based on the maps in the South Coast District office, the proposed development is located within the Dual Permit Jurisdiction.

VI. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The appeal involves the denial of a local coastal development permit application for the construction of an approximately 98,900 sq. ft., five-story 49-unit apartment building with a two-level subterranean garage (upper and lower garage) a vacant lot. The proposed project includes approximately 44,500 cubic yards of grading.

According to the City’s staff report the project design consists of one building that will cascade down the hillside from Sunset Boulevard. The proposed five-story apartment building would be built over a subterranean parking garage that will have two levels with 244 parking spaces, consistent with zoning requirements (**Exhibit 2 & 3**). The proposed structure has a maximum height of 57 ft.; however, the proposed height of the portion of the building fronting Sunset Boulevard will be 45 feet with the exception of the roof access structures (**Exhibit 3**).

The subject site is a downward-sloping, south facing parcel located at the base of the Santa Monica Mountains and is located within the City’s Brentwood-Pacific Palisades Community Plan area. The site is currently vacant and zoned [Q]R3-1, Medium Residential. The site contains approximately 51,565 sq. ft. with approximately 234 feet of frontage on the south side of Sunset Boulevard, with a variable depth between approximately 209 ft. and 239 ft. The site is located approximately 463 feet inland of Pacific Coast Highway and about 600 feet from the shoreline (see **Exhibit 1**).

B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

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

1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;

2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

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

Staff is recommending that the Commission find that no substantial issue exists with respect to whether the local government action conforms with the provisions of Chapter 3 of the Coastal Act for the reasons set forth below.

C. SUBSTANTIAL ISSUE ANALYSIS

The applicant/appellant asserts that the City's Zoning Administrator (ZA) properly made findings that the project is consistent with the Chapter 3 policies of the Coastal Act and the Regional Interpretative Guidelines, and that the ZA's approval was erroneously overturned by the West Los Angeles Area Planning Commission (WLAAPC). The applicant/appellant requests that the Commission overturn the WLAAPC's denial of the local coastal development permit application. In the appeal, the applicant/appellant reiterates the ZA's findings to support the project's consistency with the Chapter 3 policies of the Coastal Act (see **Exhibit 4**), particularly with the policies related to public access, visual resources, marine and habitat resource protection, new development requirements, and hazards.

WLAAPC agreed with and adopted the ZA's findings supporting the project's consistency with the public access, marine and habitat resource protection, and new development policies of Chapter 3 of the Coastal Act. In its denial of the proposed project, however, WLAAPC did not find the project consistent with the visual resources (Section 30251) and hazards (Section 30253) policies of Chapter 3 of the Coastal Act.

The Commission's standard of review for determining whether to hear the appeal is only whether the appeal raises a substantial issue as to conformity with Chapter 3 of the Coastal Act (hereinafter "Chapter 3"). Cal. Pub. Res. Code § 30625(b)(1); 14 C.C.R. § 13321. The Commission's decision will be guided by the factors listed in the previous section of this report (B. Factors to be Considered in Substantial Issue Analysis).

The appeal raises no substantial issue as to conformity with Chapter 3 of the Coastal Act (Cal. Pub. Res. Code §§ 30200 et. seq) or as to the City's determination that the project fails to conform with Chapter 3 policies.¹ The Determination Report issued by the WLAAPC shows that WLAAPC properly applied the policies of Chapter 3 and correctly concluded that the development, as proposed, would be inconsistent with Sections 30251 and 30253 of the Coastal Act.

¹ Unless otherwise indicated, all subsequent statutory references are to sections within the Coastal Act. Cal. Pub. Res. Code §§ 30000 et seq.

Section 30251 of the Coastal Act states, in part:

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

Section 30253 of the Coastal Act states, in part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

WLAAPC's analysis appropriately interpreted the standards established by the two policies, Section 30251 and 30253, by evaluating the project's non-conformity with the neighborhood character, the proposed extensive alteration of a bluff landform, and by finding that in the absence of more detailed analysis, the approved soils report did not provide assurances that the proposed development would minimize risks to life and property.

WLAAPC also appropriately relied upon the Coastal Commission's Interpretive Guidelines, adopted pursuant to Section 30620(a)(3) for the explicit purpose of assisting local governments "in determining how the policies of [the Coastal Act] shall be applied in the coastal zone prior to the certification of local coastal programs." Thus, there is no question that the WLAAPC correctly applied the policies of Chapter 3, and the appeal raises no substantial issue regarding conformity therewith.

Applying the five factors listed in the prior section clarifies that the appeal raises no "substantial" issue with respect to Chapter 3 of the Coastal Act, and therefore, does not meet the substantiality standard of Section 30265(b)(1).

The first factor in determining whether the appeal raises a substantial issue is the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the Coastal Act. As indicated above, WLAACP's conclusion was supported by substantial evidence. Specifically, the WLAACP's Determination report, attached as **Exhibit 5**, explains the proposed project's potential impacts to the community character of the area due to its mass and scale, and potential to prejudice the City's ability to prepare a local coastal program. WLAAPC's findings state:

(Exhibit 5, Page 5):

...The proposed structure is a five story apartment building, and it is not in character with the surrounding mass and scale of the neighborhood of one and two story apartment buildings on the south side of Sunset Boulevard and single and two story single family homes on the north side of Sunset. Nowhere else in the immediate area are there any five story buildings. This is in violation of Section 30251 of Coastal Act which calls for visual compatibility with the character of surrounding areas.

In addition, the Zoning Administrator approved a project which would require the extensive alteration of Bluff landform which arises above the Pacific Coast Highway by grading 44,500 cubic yards of soil...Both of which are in violation of Section 30251.

(Exhibit 5, Page 8):

...The proposed structure is two to three stories higher than other apartment buildings on the south side of Sunset Boulevard...

...In addition, it does not conform to Coastal Interpretive Guidelines for the Pacific Palisades regions which stat that "The density of new residential development should be limited to a maximum of 24 units per gross acre" in that the proposed project proposes a 49 unit building on site and exceeded this limit by 25 units. As such, the development approved by the Zoning Administrator WOULD prejudice the ability of the City to prepare a Local Coastal Program in conformity with Chapter 3 of the California Coastal Act.

In addition, the Zoning Administrator failed to follow precedent of the West Los Angeles Planning Commission in denying a similar Coastal Development Permit for project located two lots away from the subject site which cited non-conformance with Neighborhood Character and exceeded the 24 unit limit of the Guidelines which is a violation of Coastal Act Section 30625(c). In not following precedent in the area, the Zoning Administrator did not accurately assess the cumulative effect that approval of the project of this size would have on future development of other vacant lots in the area s to size of structures, future development of traffic, and a change in neighborhood character.

In the appeal currently before the Commission, the applicant/appellant states that the proposed development will not result in adverse impacts to public scenic views. In addition, in response to WLAAPC's concerns related to the visual alteration of natural landforms, the applicant/appellant states that the Mitigated Negative Declaration prepared by the City's Planning Department (Case No. ENV-2012-131-MND) indicates that potential adverse impacts will be reduced to a level of insignificance by designing a grading plan. In WLAAPC's Determination report, however, WLAAPC found it could not make an affirmative determination on the adequacy of the Mitigated Negative Declaration as required by the Coastal Act because new technical questions and issues raised by the public had not yet been addressed. Moreover, the applicant/appellant fails to elaborate on how the alteration of natural landforms will be minimized consistent with Section 30251.

Additionally, the applicant/appellant does not respond to the issues raised by the WLAAPC concerning potential adverse impacts to the neighborhood character with regards to mass and scale. Therefore, the appellant's appeal does not raise a substantial issue with respect to the City's decision regarding the project's consistency with the Chapter 3 polices of the Coastal Act.

With regards to the project's consistency with the hazards policy of the Coastal Act, the WLAAPC's Determination report explains that, based on conflicting data and the lack of adequate geotechnical information presented to WLAAPC, WLAAPC could not find the project consistent with Section 30253 of the Coastal Act. WLAAPC's findings state (**Exhibit 5**, page 15):

...the West Los Angeles Area Planning Commission believes that a fair argument is made that the proposed mitigation measures in the area of Hazards and Hazardous Materials may not be sufficient to assure the safety of the public in view of the unresolved issues raised...as to the

mitigations proposed by the Applicants consultant for the handling and dissipation of Hydrogen Sulfide gas which naturally occurs on the site and was mentioned in the soils report to the Department of Building and Safety...and it believes[the issue] has not been adequately responded to by the City.

In addition to the conflict of experts over hazardous materials on the site, there is considerable disagreement between the Soils Report of the Applicant's geologic consultant and the [third-party] consultants in regard to the adequacy of the mitigation measures to provide for the safety of the development below the project. The Department of Building and Safety required changes in the original Soils Report after receiving comments the [third-party] consultants. A further response by the [third-party] consultants have been received by Building and Safety's Grading Division which was not yet responded to at the time of the Determination. Because this latest report has not been responded to and the fact that two experts on the issue are in conflict with each other on the same issue, the Area Planning Commission cannot make an affirmative determination on the adequacy of the [Mitigated Negative Declaration] as required by the Coastal Act Section 30253.

These findings refer to the fact that, on appeal of the ZA's approval of the project, a third party geologist hired by the appellants had raised technical questions and identified technical issues that, according to the WLAAPC's Determination report, have not yet been responded to in the applicant/appellant's soils and geology report, nor reviewed by the City's Building and Safety Grading Division. One of the issues raised by the third party geologist concerned the presence of hydrogen sulfide, which occurs naturally at the project site. Hydrogen sulfide gas is a highly flammable, explosive gas and can cause possibly life threatening situations. High concentrations can cause health problems and death. As a highly flammable and explosive gas, it is possible that pockets of highly concentrated gas can lead to explosions; however, explosions have mainly occurred in man-made structures such as pipelines and enclosed buildings. Although unlikely, if a pocket of gas does cause an explosion onsite, there is a potential the explosion could cause slope instability or jeopardize development by undermining foundations. Therefore, in the absence of more detailed analysis, WLAAPC concluded that at the time of determination, the applicant/appellant's soils and geology report did not provide assurances that potential hazards would be mitigated. Consequently, it could not find the project consistent with Section 30253 of the Coastal Act.

Furthermore, WLAAPC found that the ZA erred in its determination that the project site was not within a coastal bluff. WLAAPC's findings state (**Exhibit 5**, page 11):

...A decision to be more protective of the Coastal Resource assumes the landform is a Coastal Resource based on the Coastal Act definition and representation of the Applicants own Geotechnical Consultant Sassan Geosciences description as a Coastal Bluff in report for 17000-17021 Sunset dated November 16, 2009. Therefore, because the applicant's own Soils Engineer called it a Coastal Bluff and public testimony before the Commission describes it as a Coastal Bluff, the Commission adopts a definition that is more protective of the Coastal Resource and describes it as a Coastal Bluff.

As noted in these findings, WLAACP found the project site to be on a coastal bluff contrary to the ZA's determination. In doing so, WLAAPC found that the ZA did not adequately justify for failing to adhere to the Regional Interpretive Guidelines, which recommend certain restrictions for development occurring on a coastal bluff such as appropriate and safe siting of the development in relation to the bluff edge.

The City does not necessarily need to find that the project complies with the Interpretive Guidelines, but is required to determine if the project is consistent with the Chapter 3 policies of the Coastal Act. Given that the Interpretive Guidelines are designed to help carry out Chapter 3 policies, the failure of a project to meet these Guidelines may mean that it fails to conform to Chapter 3 policies. Here, the City determined that there was not adequate information to find the project consistent with the Chapter 3 policies of the Coastal Act, and the Commission finds that there is adequate legal and factual support for the City's finding.

The second factor is the scope of the development as approved or denied by the local government. Here, the proposed development denied by the local government is a 49 unit residential development—not a type of development that is prioritized by the policies of Chapter 3—and the local decision is a denial. The posture in which this proposal comes to the Commission is one in which, if the local decision is allowed to stand, the scope of development will be nil. Put differently, the scope or extent of the development *denied* is limited to the proposed 49 unit residential development, and the City's action in denying the project did not prevent development of a priority, coastal land use on the site. Thus, because the scope of the development *approved* is none, and because the City's action did not deny a use that is promoted by Chapter 3 policies, its denial does not raise a substantial issue regarding Chapter 3 conformity.

The third factor is the significance of the coastal resources affected by the decision. Again, because the local decision is a denial, leaving the local decision in place by declining to accept the appeal would not have any significant effect on any coastal resources. Moreover, as also indicated above, since residential use is a low priority use under the Coastal Act, and there is no Chapter 3 policy promoting or protecting residential use, the denial does not represent the loss of any potential improvement of coastal resources. If the local decision were an approval, the Commission would need to consider the significance of the protection of public coastal resources, such as coastal views, community character, coastal access, and geologic hazards potentially impaired by the development, and thus, the decision. However, given the current posture of the decision, if the local decision is allowed to stand, the public resources that *could have* been affected by the proposed development, regardless of how significant, will be fully protected.

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. Although the City has no certified LCP, this decision could nevertheless have a precedential impact on future decisions under this governing standard. The City's denial of the proposed project is consistent with several precedents relating to location of development to a coastal bluff and minimizing risks to life and property. Approval of the proposed project despite lack of information addressing the concerns raised by the WLAAPC with regards to bluff setbacks and geologic hazards would be a bad precedent that would prejudice the ability of the City to prepare a local coastal program that is in conformity with Chapter 3 of the Coastal Act.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. Although proper siting of development along coastal bluffs and minimizing geologic risk are important statewide issues, the applicant/appellant's appeal of the City's denial does not raise any issues of regional or statewide significance because the City's denial protects the public resource and it is consistent with Commission precedents.

In conclusion, the Commission finds that the City used proper discretion in denying the local coastal development permit, finding that the proposed development does not comply with Chapter 3 of the Coastal Act. The Commission finds that no substantial issues exist with respect to the grounds on which the appeal was filed and with respect to the local government action. Therefore, no substantial issue exists with respect to the Chapter 3 policies of the Coastal Act.

D. CEQA

The City of Los Angeles prepared a mitigated negative declaration for the project pursuant to CEQA. Public Resources Code (CEQA) Section 21080(b)(5) and Sections 15270(a) and 15042 (CEQA Guidelines) of Title 14 of the California Code of Regulations (14 CCR) state in applicable part:

CEQA Guidelines (14 CCR) Section 15042:

Authority to Disapprove Projects. [Relevant Portion.] A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.

Public Resources Code (CEQA) Section 21080(b)(5):

Division Application and Nonapplication. ... (b) This division does not apply to any of the following activities: ... (5) Projects which a public agency rejects or disapproves.

CEQA Guidelines (14 CCR) Section 15270(a):

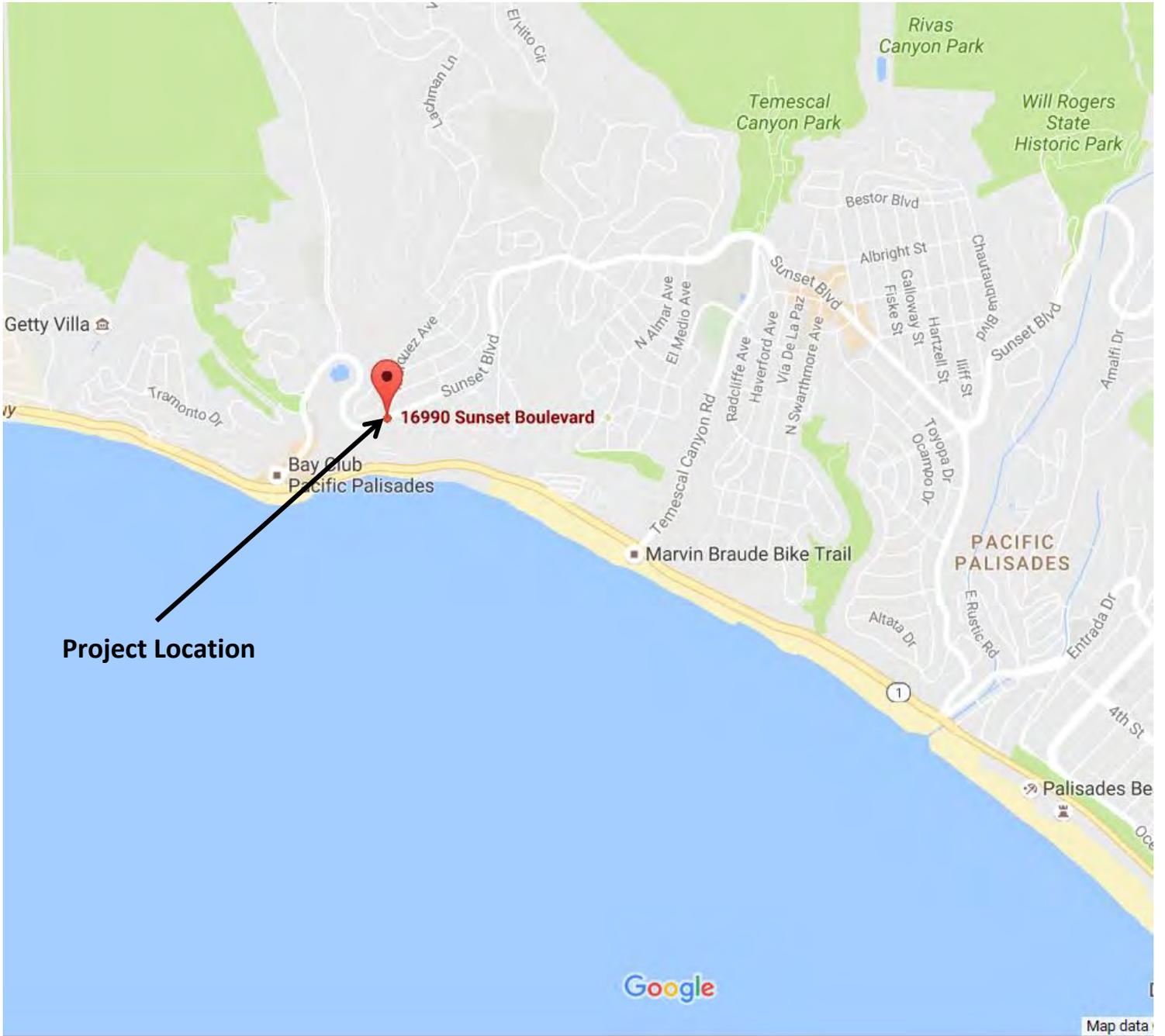
Projects Which are Disapproved. (a) CEQA does not apply to projects which a public agency rejects or disapproves.

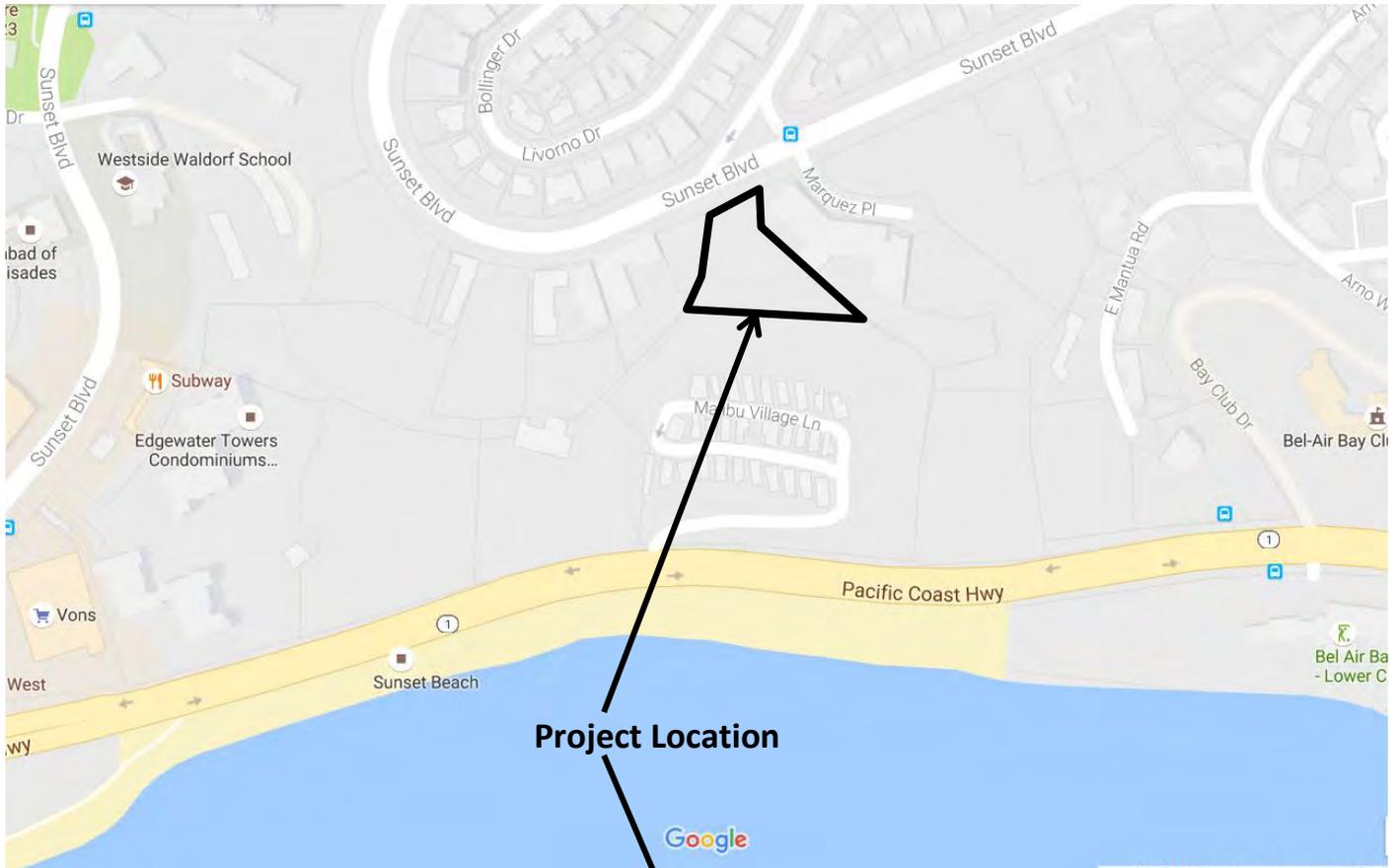
Section 13096 (14 CCR) requires that a specific finding be made in conjunction with coastal development permit applications about the consistency of the application with any applicable requirements of CEQA. This report has discussed the relevant coastal resource issues with the proposed project. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference. As detailed in the findings above, the proposed project would have significant adverse effects on the environment as that term is understood in a CEQA context.

Pursuant to CEQA Guidelines (14 CCR) Section 15042 “a public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.” Section 21080(b)(5) of the CEQA, as implemented by Section 15270 of the CEQA Guidelines, provides that CEQA does not apply to projects which a public agency rejects or disapproves. The Commission finds that denial, for the reasons stated in these findings, is necessary to avoid the significant effects on coastal resources that would occur if the project was approved as proposed. Accordingly, the Commission’s denial of the project represents an action to which CEQA, and all requirements contained therein that might otherwise apply to regulatory actions by the Commission, do not apply.

Appendix A - Substantive File Documents

- Appeal No. A-MNB-16-0079
- WLAAPC Determination Report for Local CDP No. ZA-2012-130
- ZA Local CDP No. ZA-2012-130 Report





SUNSET BOULEVARD

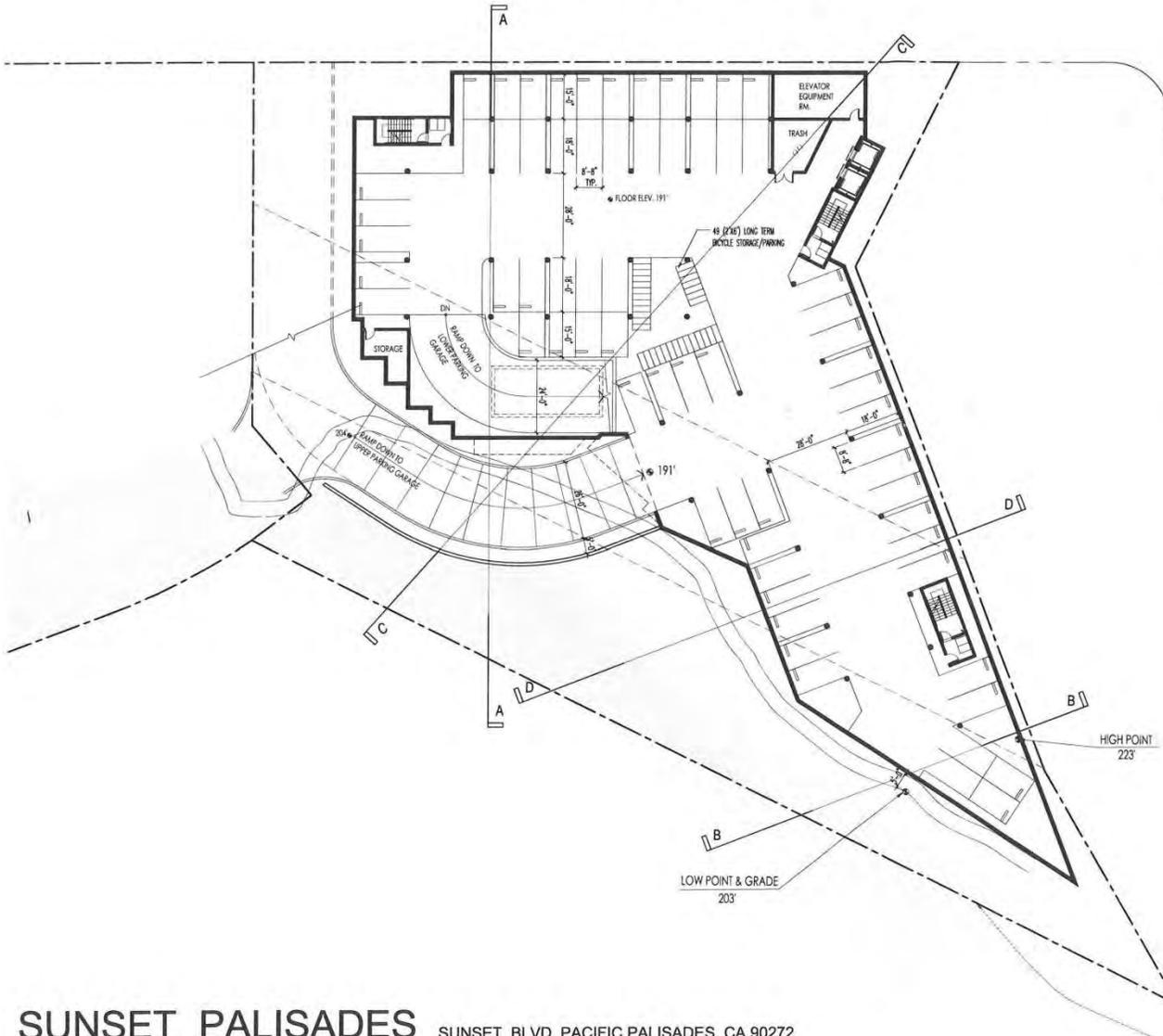


EXHIBIT "A"
 Page # 2 of 10
 Case No. ZIT 2012-0130 (SDP) (MEL)

UPPER PARKING GARAGE COUNT	ACCESSIBLE	- 42	(STANDARD)
	TANDEM	- 19	(COMPACT)
	TOTAL	- 61	
LOWER PARKING GARAGE COUNT	ACCESSIBLE	- 36	(STANDARD)
	TANDEM	- 25	(COMPACT)
	TOTAL	- 61	
GRAND TOTAL		- 122	

BICYCLE PARKING UPPER GARAGE	LONG TERM	- 49	BICYCLES
	SHORT TERM	- 5	BICYCLES
BICYCLE PARKING STREET LEVEL			
TOTAL		- 54	BICYCLES

SHEET NO.		A2.02	
DATE	REVISION		
11.23.11	ENTITLEMENT PACKAGE		
08.15.13	BALCONIES & STEP BACK		



UPPER PARKING GARAGE
SCALE: 1" = 20'-0"

AUGUST 15, 2013

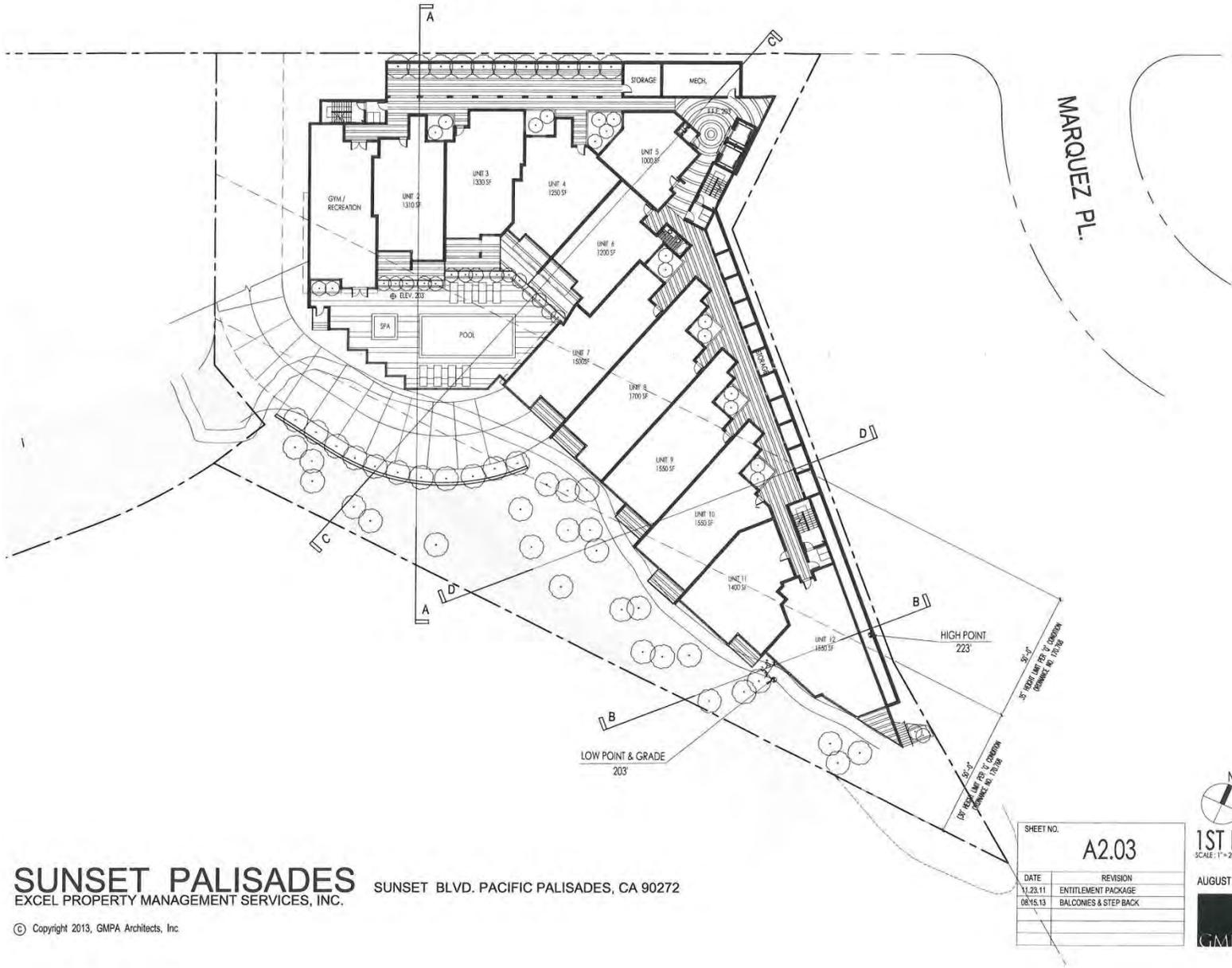


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MARQUEZ PL.

EXHIBIT "A"
 Page No. 3 of 10
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1ST FLOOR PLAN
 SCALE: 1" = 20'-0"

AUGUST 15, 2013



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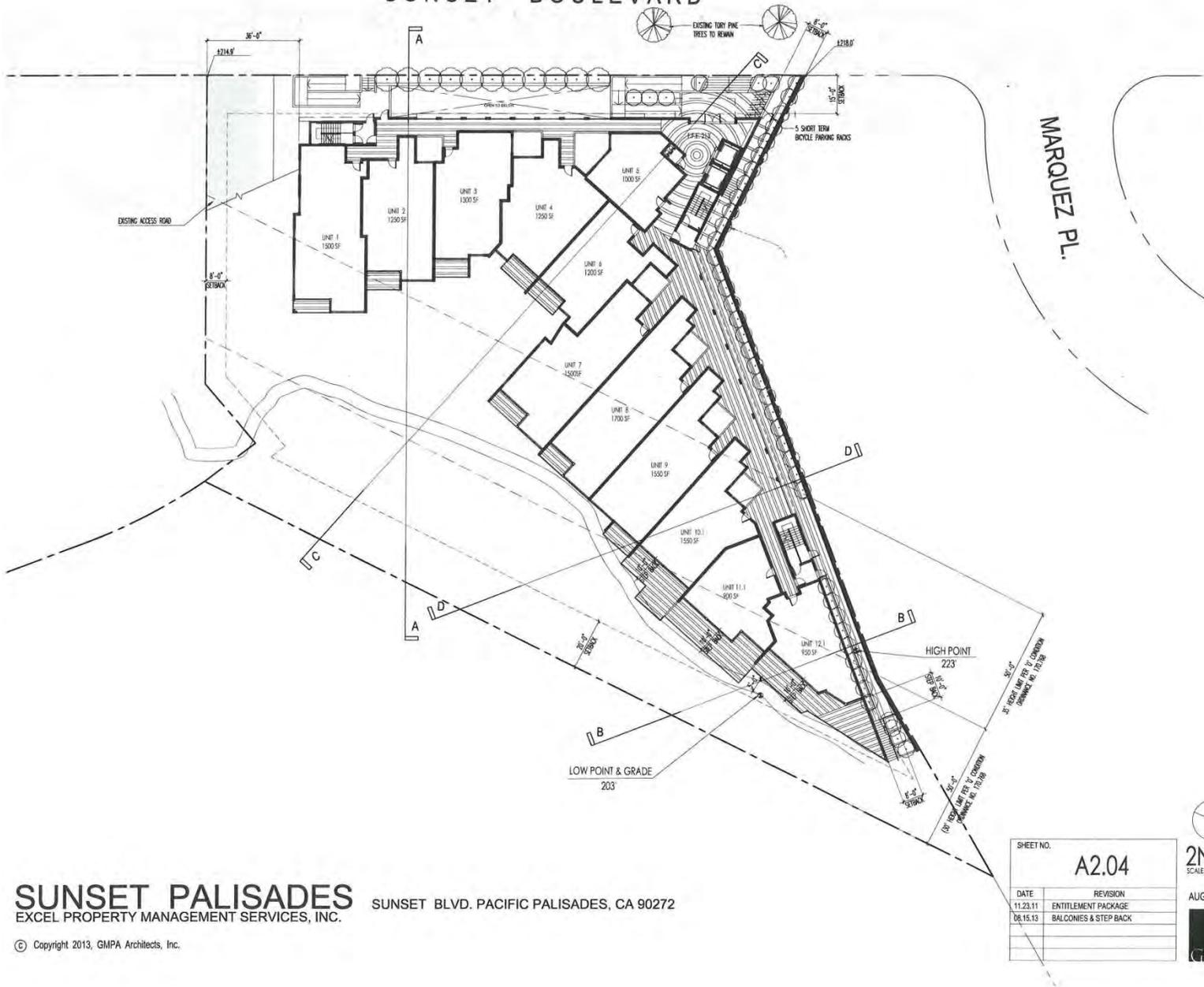


EXHIBIT "A"
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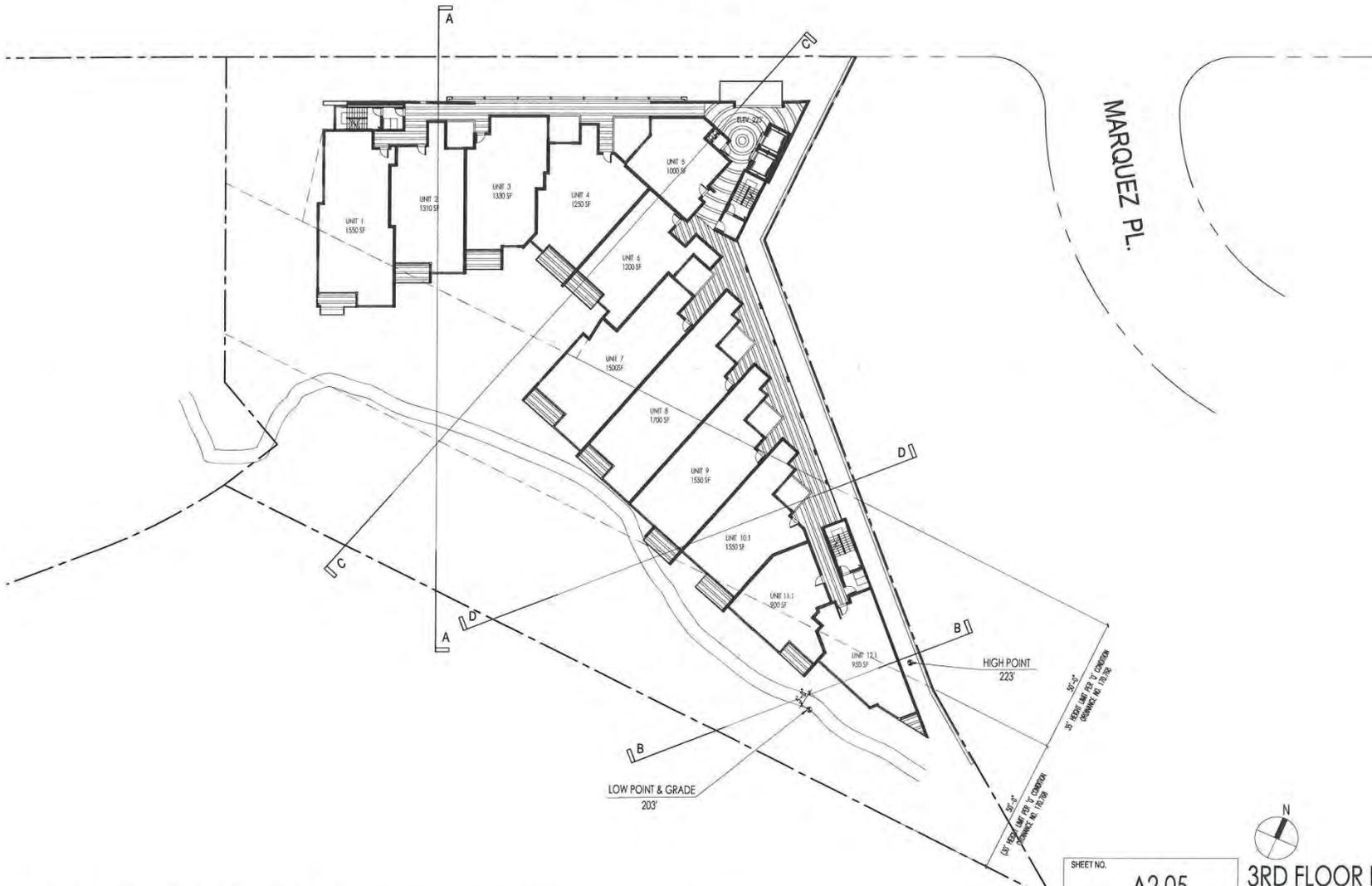
2ND FLOOR PLAN/SITE PLAN
 SCALE: 1" = 20'-0"
@ STREET LEVEL

AUGUST 15, 2013



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EXHIBIT "A"
 Page No. 5
 Case No. SA 2012-0130 (CDP/MEL)

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3RD FLOOR PLAN
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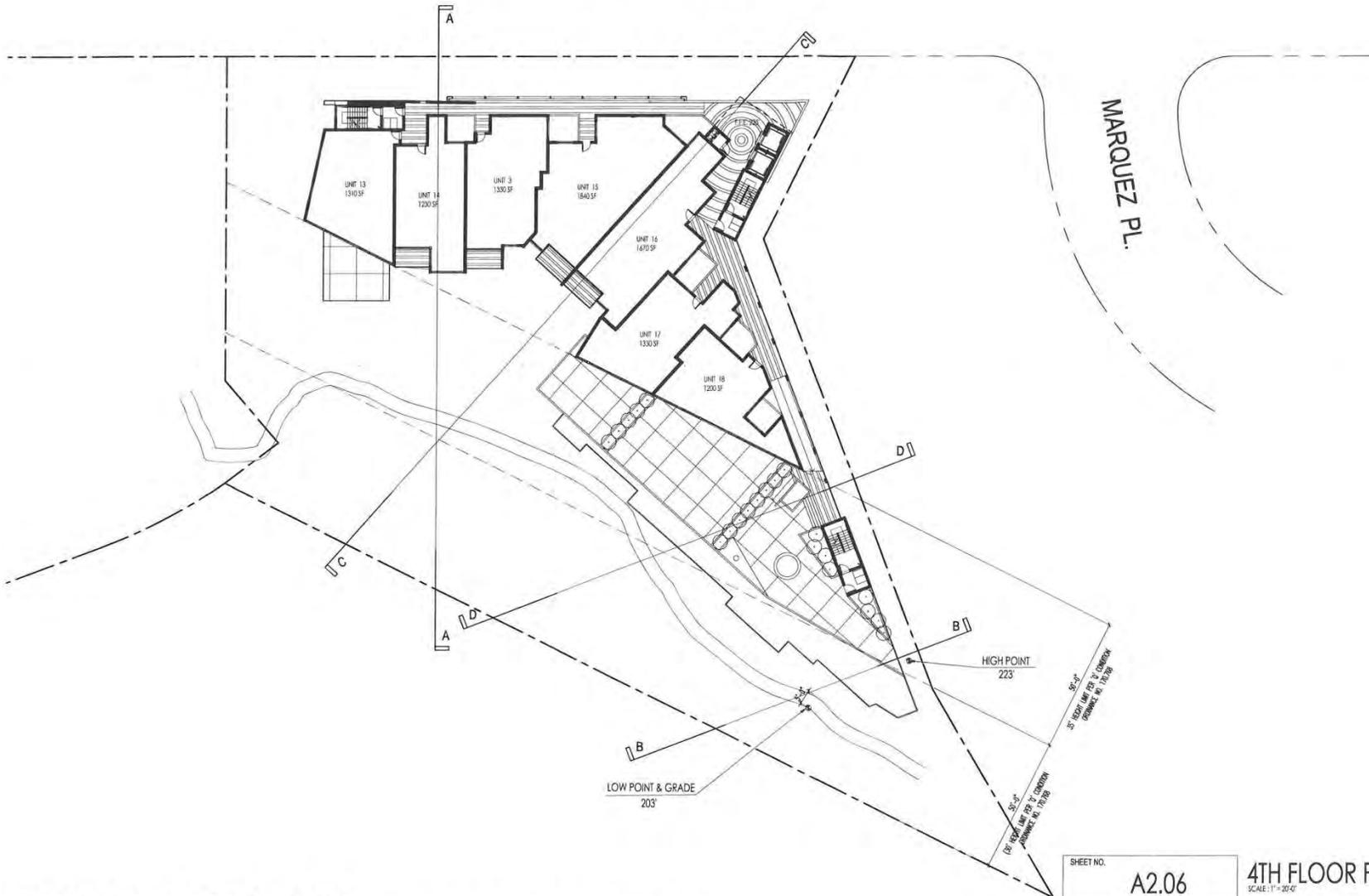


EXHIBIT "A"
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4TH FLOOR PLAN
 SCALE: 1"=30'-0"



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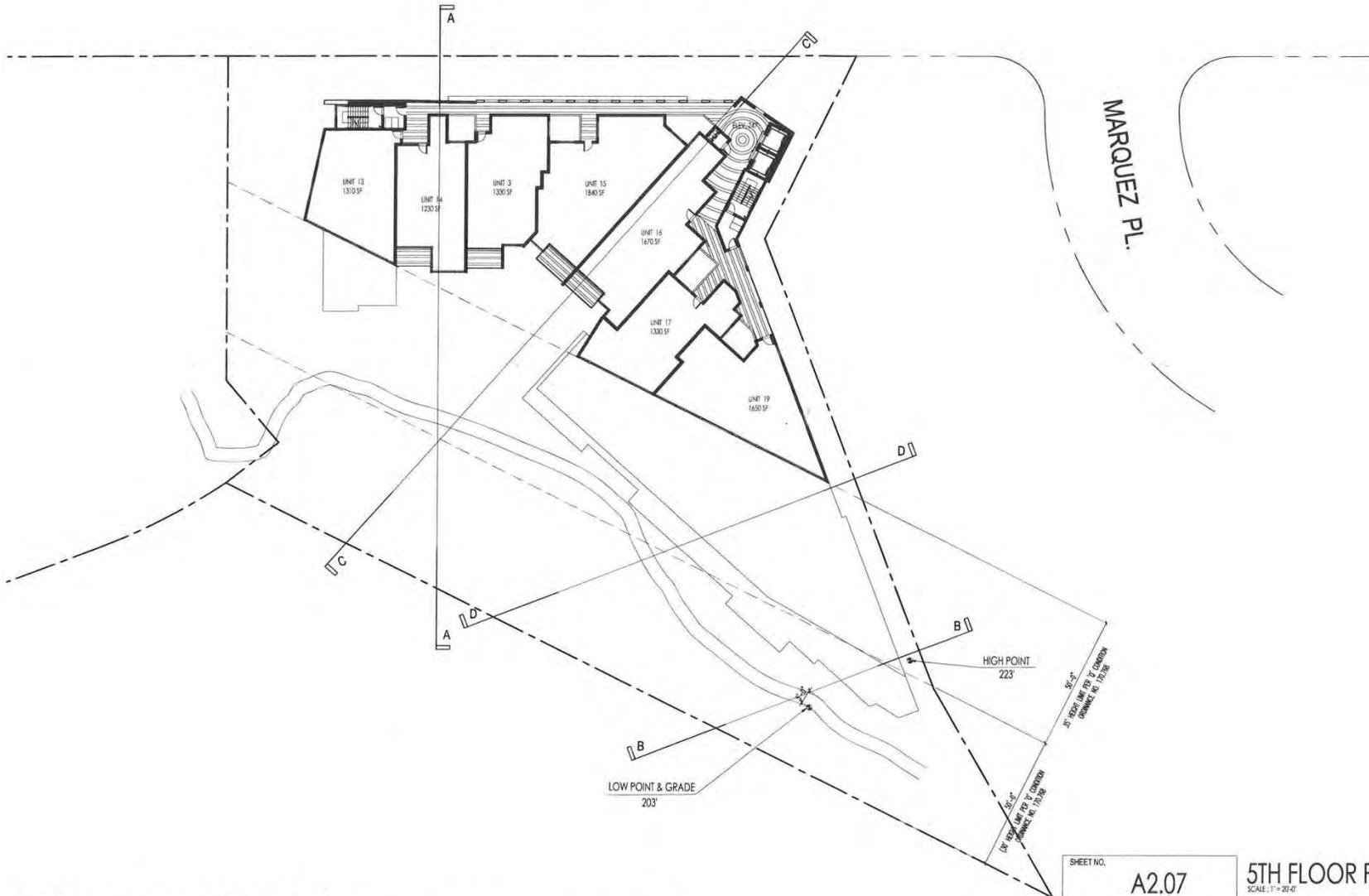


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5TH FLOOR PLAN
 SCALE: 1" = 20'-0"

AUGUST 15, 2013



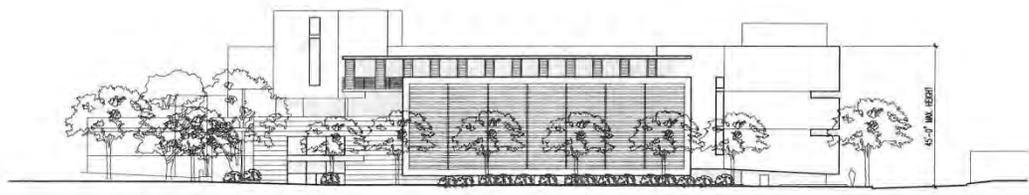
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18
8
Z.A.2012-0130 (CCDP)(MEL)



WEST ELEVATION (SEE SECTIONS FOR HEIGHTS)



NORTH ELEVATION (SEE SECTIONS FOR HEIGHTS)

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ELEVATIONS
SCALE: 1" = 20'-0"

AUGUST 15, 2013



GMPA ARCHITECTS
1631 16th Street, Santa Monica, CA 90404
T. 310.450.0200 F. 310.450.0225
www.gmpaArchitects.com

EXHIBIT "A"
 11
 9
 ZA 2012-0130(CDP)(MEL)



EAST ELEVATION (SEE SECTIONS FOR HEIGHTS)



SOUTH ELEVATION (SEE SECTIONS FOR HEIGHTS)

SUNSET PALISADES
 EXCEL PROPERTY MANAGEMENT SERVICES, INC.

SUNSET BLVD. PACIFIC PALISADES, CA 90272

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SHEET NO.	
A3.02	
DATE	REVISION
11.23.11	ENTITLEMENT PACKAGE
08.15.13	BALCONIES & STEP BACK

ELEVATIONS
 SCALE: 1"=20'-0"

AUGUST 15, 2013



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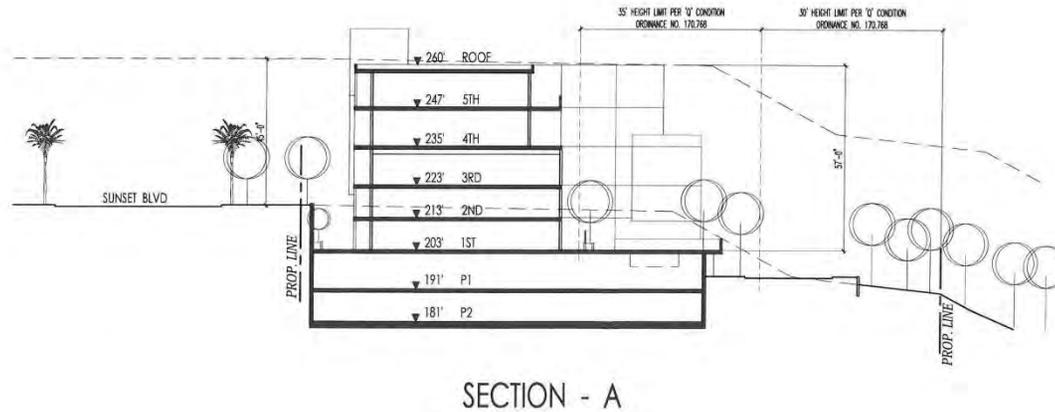
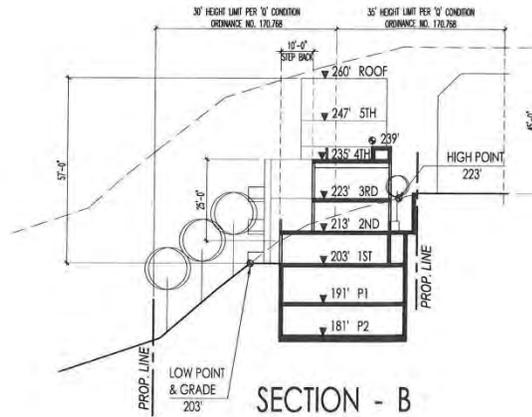


EXHIBIT "A"
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-ZA-2012-0130 (CDP)(MEL)

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SHEET NO.	
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08.15.13	BALCONIES & STEP BACK

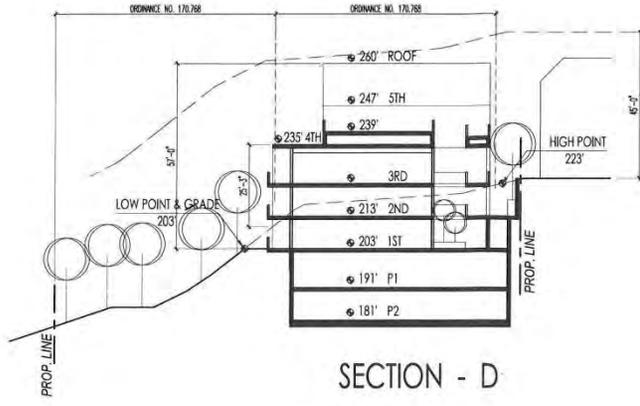
SECTIONS
SCALE: 1"=20'-0"

AUGUST 15, 2013

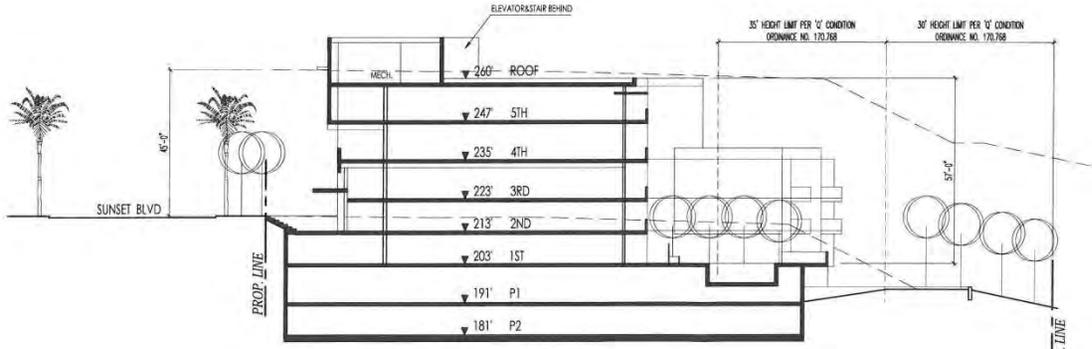


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SECTION - D



SECTION - C

EXHIBIT "A"
 11.23.11
 ZM-2012-0130 (CDP)(MEL)

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SHEET NO.	
A4.02	
DATE	REVISION
11.23.11	ENTITLEMENT PACKAGE
08.15.13	BALCONIES & STEP BACK

SECTIONS
 SCALE: 1" = 2'-0"

AUGUST 15, 2013



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CALIFORNIA COASTAL COMMISSION

AUG 04 2016

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

CALIFORNIA
COASTAL COMMISSION



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: M&A Gabae, LP

Mailing Address: 9034 Sunset Boulevard

City: West Hollywood

Zip Code: 90069

Phone: (310) 247-0900

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Los Angeles

2. Brief description of development being appealed:

Denial of Coastal Development Permit to allow the construction and maintenance of a 49 unit apartment building in the dual permit jurisdiction of the Coastal Zone.

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

16990-17000 Sunset Boulevard
APNs 4415-021-005 and 4415-020-006

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.

<u>TO BE COMPLETED BY COMMISSION:</u>	
APPEAL NO:	<u>A-5-PPL-16-0079</u>
DATE FILED:	<u>August 29, 2016</u>
DISTRICT:	<u>South Coast</u>

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: 07-27-2016

7. Local government's file number (if any): ZA-2012-130-CDP-MEL-1A

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

M&A Gabae LP
9034 Sunset Boulevard, West Hollywood, CA 90069

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) G. Andrew and Amy Lundberg
17050 Livorno Drive
Pacific Palisades, CA 90272

(5) Herb Engelhardt
17015 Pacific Coast Highway #25
Pacific Palisades, CA 90272

(9) Christian Martin
17056 Livorno Drive
Pacific Palisades, CA
90272

(2) John Haag
15332 Antioch Street, Box 163
Pacific Palisades, CA 90272

(6) Ginger Mason
17010 Sunset Boulevard, Apt. 29
Pacific Palisades, CA 90272

(10) Gilbert Dembo
1417 Chautaugua Blvd.
Pacific Palisades, CA
90272

(3) Patricia Chu
16988 Marquez Ave.
Pacific Palisades, CA 90272

(7) Lindsay and Rena Conner
17070 Livorno Drive
Pacific Palisades, CA 90272

(11) Larry Larson
6303 Wilshire Blvd.,
Ste. 201
Los Angeles, CA 90048

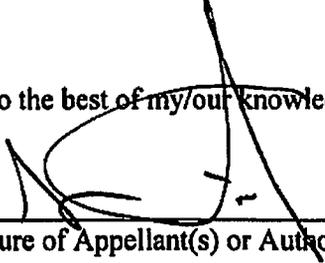
(4) James Doyle Burkett
17060 Livorno Drive
Pacific Palisades, CA 90272

(8) Malibu Village Mobilehome Owners Association
Attn: Candace Tysdal
17015 Pacific Coast Highway, Space 23
Pacific Palisades, CA 90272

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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



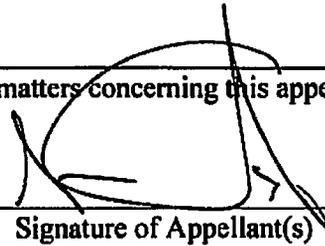
Signature of Appellant(s) or Authorized Agent

Date: Aug. 4, 2016

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Fred Gaines, Gaines & Stacey, LLP
to act as my/our representative and to bind me/us in all matters concerning this appeal.



Signature of Appellant(s)

Date: Aug. 4, 2016

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Please see attached letter.

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

LAW OFFICES OF
GAINES & STACEY LLP
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INTERNET: WWW.GAINESLAW.COM

* a professional corporation

August 4, 2016

ORIGINAL BY HAND DELIVERY

VIA FACSIMILE: (562) 590-5071

California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416
Attn: Jack Ainsworth, Acting Executive Director

Re: Appeal from Coastal Permit Decision of Local Government
16990-17000 Sunset Boulevard, Los Angeles
Case No. ZA 2012-130-CDP-MEL-1A
Support for Appeal

Dear Mr. Ainsworth:

This office represents M&A Gabae LP, the applicant of the project referenced above. The purpose of this correspondence is to provide support for the applicant's appeal of a denial of a Coastal Development Permit by the City of Los Angeles ("City"). As detailed below, the project as proposed complies with all Coastal Act requirements. Findings in support of project approval were properly made by the Zoning Administrator in this case, however the approval was erroneously overturned by the West Los Angeles Area Planning Commission ("WLAAPC"). *On behalf of the applicant, we respectfully request that the Coastal Commission reverse the decision of the WLAAPC and approve the subject Coastal Development Permit.*

A. The Project.

The applicant has proposed the construction of a new five story, 57-feet in height multi-family residential building within the dual jurisdiction of the California Coastal Zone. The site is a vacant, unimproved parcel (the "Project"). The site located on the south side of Sunset Boulevard, situated at the southerly terminus of Marquez Avenue and westerly of Marquez Place.

B. The Project Complies with the Coastal Act.

Chapter 3 of the Coastal Act contains the various policy provisions of such legislation. Pertinent to the instant request are the policies with respect to:

- (a) **Shoreline Access:** the subject property is located on Sunset Boulevard which terminates northwest of the site at Pacific Coast Highway adjacent to the shoreline. The proposed development is located on the south side of Sunset Boulevard and will not interfere with or obstruct any access to coastal resources or ocean use.
- (b) **Recreation and Visitor Serving Facilities:** the project site has no adjacent or nearby recreational facilities for visitors.
- (c) **Water and Marine Resources:** this project will not impact any marine resources. The project is well above the high tide line and will not have any identifiable effect on the Pacific Ocean or on the sandy intr-tidal zone.
- (d) **Environmentally Sensitive Habitat Area:** the project site is within a fully urbanized area and is not located within or near any Environmentally Sensitive Habitat area, Significant Ecological Area, or in an area governed by a habitat conservation or community conservation plan. The project is limited to the boundary of the private property, does not function as part of wild life corridor and does not contain any wetland habitat. The site is presently disturbed and there is no native or natural riparian vegetation on-site.
- (e) **New Development:** *Chapter 3, Article 6, Section 30250* provides that new residential, commercial or industrial development, except as otherwise provided, shall be located within, contiguous with, or in close proximity to existing developed areas able to accommodate it or where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulative, on coastal resources.

The site is one of the few remaining vacant, unimproved parcels in the area and the proposed project is an infill development with an existing developed community. Sunset Boulevard adjoining the site is a designated Scenic Major Highway Class II dedicated to a width of 100 feet and is improved with two travel lanes in each direction.

The site is located within a residential community, with existing multi-family uses on the south side of Sunset Boulevard and existing single family uses to the north.

The site is contiguous to an existing developed residential area planned and zoned for residential use, and in an area with adequate public services.

Thus, the proposed project is located in an area that is already developed with residential uses, thereby making the project site contiguous with, and in close proximity to existing developed areas that are able to accommodate it.

Section 30251 of the Coastal Act additionally provides that: “[t]he scenic and visual qualities of the coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to an along the ocean and scenic coastal areas, to minimize the alteration of landforms, to be visually compatible with the character of the surrounding areas, and, where feasible, to restore and enhance the visual quality in visually degraded areas.”

The proposed development will not result in the obstruction of any public scenic views. While the site affords a view of the Pacific Ocean from a stationary position, the site is not known as a significant lookout point that draws tourists or visitors there and there are no lookout points immediately above or below the project site whose views would be obstructed by the proposed development. The area surrounding the site is not known for high pedestrian traffic.

With respect to potential impacts on views from Pacific Coast Highway, a designated Scenic highway, below the subject site, there is a significant change in grade from the rear lot line of the site to Pacific Coast Highway. Due to the topography, existing improvements in the foreground would be more visually prominent than the proposed development.

Finally, *Section 30253 of the Coastal Act* provides that “[p]ermitted development shall minimize risks to life and property in areas of high geologic flood and fire hazard; and [a]ssure 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 land forms along bluffs or cliffs.”

The Department of Building & Safety Grading Division has issued a Geology and Soils Approval Letter dated October 25, 2011 based upon a review of Geology and Soils Reports prepared by Sassan Geosciences, Inc. dated between November 16, 2009 and July 15, 2011. In addition, subsequent to the 2011 approval, in response to public comments, the reports and reviews were updated in 2014.

The Grading Division's ultimate approval of the Project will be subject to numerous conditions that address grading, stability, erosion control, drainage, subsurface drainage and groundwater.

C. The Project is Consistent with the Regional Interpretive Guidelines.

The Coastal Commission's Regional Interpretive Guidelines are designed to provide direction to decision-makers in rendering discretionary determinations on requests for coastal development permits pending adoption of an LCP.

The Guidelines require consideration and protection of the scenic and visual qualities of coastal areas. Development must be sited and designed to protect views to and along the ocean and scenic coastal areas, minimize alteration of natural land forms and be visually compatible with the character of surrounding areas. (Pub. Res. Code § 30251.)

The site is located on the southerly side of Sunset Boulevard. The lot slopes downward to the south. The proposed height of the portion of the building fronting Sunset Boulevard will be 45 feet as shown on the plans. The maximum height of the structure as identified in the hearing notice and conditioned herein is 57 feet. A mobile home park is currently situated downslope of the site on Pacific Coast Highway. Nevertheless, the project will not impact coastal views as all views are to the south.

The maximum proposed height of 57 feet complies with the Los Angeles Municipal Code, and will be consistent with the height of similar multi-family residential buildings in the surrounding area. There will be no adverse impact upon public viewsheds to the ocean and scenic coastal areas and the project will be visually compatible with the character of surrounding areas. The conditions imposed by the incorporation of mitigation measures will ensure that the construction of the dwelling will not substantially alter natural land forms.

The Guidelines additionally recommend certain development constraints for development occurring on a coastal bluff. Pursuant to 14 Cal.Code Regs. § 13577(h), "coastal bluff" is defined as:

"(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and

(2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2)."

Public Resources Code § 30603(a)(1) identifies the area between the sea and the first public road paralleling the sea and the area within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach. Section 30603(a)(2) identifies areas that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.

The subject property is inland of the first public road paralleling the sea (Pacific Coast Highway). The bluff edge is located on the south side of Malibu Bowl Mobile Estates and then along a graded cut for Coast Highway. The project is more than 300 feet from the top of the bluff in all locations.

However, *resolution of the coastal bluff issue is not required* to approve this project as proposed. The standard of the Coastal Commission's review of this project is its consistencies with the policies of the Coastal Act, not the Interpretive Guidelines.

The Interpretive Guidelines were adopted in 1980 pursuant to Public Resources Code § 30630(a)(3), which reads:

“Interpretive guidelines designed to assist local governments, the commission, and persons subject to this chapter in determining how the policies of this division shall be applied in the coastal zone prior to the certification, and through the preparation and amendment, of local coastal programs. However, the guidelines shall not supersede, enlarge, or diminish the powers or authority of the commission or any other public agency.”

The Interpretive Guidelines have not been updated or amended since that time. The Interpretive Guidelines state, “It is the intent of the [California Coastal] Commission that the guidelines be used in a flexible manner with consideration for local and regional conditions, individual project parameters and constraints and individual and cumulative impacts on coastal resources.” Project opponents have claimed that provisions applicable to the subject property concern alteration to landform, density, bluff top development, and public access to coastal zone resources.

1. Alteration of Landform.

The Interpretive Guidelines recommend that landform alteration be minimized by concentrating development on level areas and minimizing grading and pad sizes. Review of this project pursuant to the provisions of the California Environmental Quality Act has identified possible impacts which could occur from the visual alteration of natural landforms and the natural terrain on the site. However, the proposed Mitigated Negative Declaration prepared the Planning Department (Case No. ENV-2012-131-MND) indicates that such potential significant adverse effects will be reduced to a level of insignificance by designing a grading plan to conform with the City's Landform Grading

Manual guidelines, subject to approval by the Department of City Planning and the Department of Building and Safety's Grading Division.

2. Density.

The Interpretive Guidelines state that density of new residential development should be limited to a maximum of 24 units per gross acre. However, pursuant to Los Angeles Municipal Code ("LAMC") § 12.10 C.4, the minimum lot area in the R3 Zone per dwelling unit is 800 square feet. LAMC § 12.10 C.4 was most recently amended by Ordinance No. 174,994, which became effective on January 15, 2003. Moreover, the zoning for the subject property was amended to include "Q" Qualified Conditions of Approval in 1996. The Q condition for the site does not limit the density further than what is allowed by Code. The City's zoning code reflects the City's most current vision of the appropriate density of the site.

3. Bluff Top Development.

Putting aside the dispute as to whether the project site is located on a "coastal bluff," as defined by the Coastal Act, Project opponents have claimed that the proposed project must be set back at least 25 feet from the edge of any coastal bluff and at least 10 feet back from the edge of any canyon bluff. Applying such setbacks to this project would be impractical given the size and shape of the subject property. The toe of the subject hillside was long ago developed with the Malibu Bowl Mobile Estates, and multi-family residential projects are developed to the east and the west of the site at the top of the hill. The project is infill development, which is generally favored by California law and by the Coastal Commission. The proposed project meets the purpose and intent of the Interpretive Guidelines, and strict application of the Interpretive Guidelines' regulations relating to bluff top development is inappropriate given the project's parameters and constraints.

4. Public Access to Coastal Zone Resources.

The Interpretive Guidelines state that views to the shoreline and the Santa Monica Mountains from public roads should be preserved and protected. While the Pacific Ocean is visible from Sunset Boulevard at the now-vacant site, there is no view to the shoreline from the public road. As such, this provision of the Interpretive Guidelines is inapplicable to the project. Moreover, the proposed project involves an infill development on one of the few vacant parcels in the area, and the applicant does propose a view corridor to the ocean west of the proposed building.

Jack Ainsworth
August 4, 2016
Page 7

D. Conclusion.

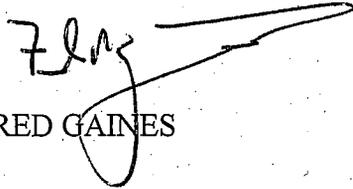
The Project is consistent with the Chapter 3 policies of the Coastal Act. As such, we respectfully request that the Coastal Commission reverse the decision of the WLAAPC and approve the subject Coastal Development Permit..

Thank you for your consideration of this matter. As always, please do not hesitate to contact me at any time with any comments or questions that you may have.

Sincerely,

GAINES & STACEY LLP

By


FRED GAINES



WEST LOS ANGELES AREA PLANNING COMMISSION

200 N. Spring Street, Room 532, Los Angeles, California, 90012-4801
(213) 978-1300; planning.lacity.org

LETTER OF DETERMINATION

Mailing Date: JUL 27 2016

Case No.: ZA-2012-130-CDP-MEL-1A
CEQA: ENV-2012-131-MND

Location: 16990-17000 Sunset Boulevard
Council District: 11 – Bonin
Plan Area: Brentwood-Pacific Palisades
Requests: Coastal Development Permit, Mello Act Compliance – Appeal

APPLICANT: M & A Gabee, LP
Rep.: Fred Gaines, Gaines & Stacy, LLP

APPELLANT#1: Gilbert Dembo
APPELLANT#2: Larry Larson
APPELLANT#3: Patricia Chu
APPELLANT#4: James Doyl Burkett
APPELLANT#5: G. Andrew, Amy Lundberg
APPELLANT#6: Herb Englehardt
APPELLANT#7: Ginger Mason
APPELLANT#8: Lindsay Conner, Rena Conner
APPELLANT#9: Malibu Village Mobilehome Owners Association, Rep.: Candace Tysdal
APPELLANT#10: Candace Tysdal
APPELLANT#11: Christian Martin
APPELLANT#12: Pacific Investment Co., Rep.: Larry Larson

At its meeting on December 2, 2015, the following action was taken by the West Los Angeles Area Planning Commission:

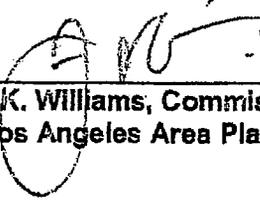
1. **Granted the appeal.**
2. **Overtured** the action of the Associate Zoning Administrator's decision dated October 2, 2014.
3. **Found** that the Associate Zoning Administrator **erred or abused** his discretion in approving, pursuant to Los Angeles Municipal Code Section 12.20.2, a Coastal Development Permit to allow the construction of a new approximately 98,900 square-foot residential development containing a total of 49 units in the dual permit jurisdiction of the California Coastal Zone and a Mello Act determination for affordable housing in the Coastal Zone.
4. **Adopted** the attached **Findings**.
5. **Did not adopt** the Mitigated Negative Declaration No. **ENV-2012-131-MND** as the environmental clearance for this project.

Fiscal Impact Statement: There is no General Fund Impact as administrative costs are recovered through fees.

This action was taken by the following vote:

Motion: Halper
Seconded: Donovan
Ayes: Margulies, Waltz-Morocco
Absent: Merritt

Vote: 4-0
Exhibit 5



**James K. Williams, Commission Executive Assistant II
West Los Angeles Area Planning Commission**

Effective Date/Appeals: The West Los Angeles Area Planning Commission's determination is final and not further appealable.

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachment: New Findings of the Associate Zoning Administrator
Associate Zoning Administrator: Charles Rausch Jr.

17000 SUNSET BLVD PACIFIC PALISADES Dec 2, 2015

Coastal Act Section 30620 required the Coastal Commission to prepare and disseminate Interpretive Guidelines designed to assist local governments in determining how the policies of the Coastal Act shall be applied in the Coastal Zone prior to the certification of their Local Coastal Programs. In the absence of an adopted Coastal Program the Local Community Plan serves as a functional equivalent. Pacific Palisades does not have an adopted Local Coastal Program. The Commission recognizes this case to be an application for a CDP and therefore subject to the guidance provided by the Coastal Act, the Interpretive Guidelines and the Community Plan in making its determinations.

The Los Angeles Municipal Code Section 1220.2 requires the Zoning Administrator to make all of the following five Findings in the affirmative in order to authorize the issuing of a Coastal Development Permit. The West Los Angeles Area Planning Commission finds that the project does not conform to four of the five required findings for approval

- 1. The development is NOT in conformity with Chapter 3 of the California Coastal Act of (commencing with Section 30200 of the California Public Resources Code).**

The ZA made the required certifications in error in that the Interpretive Guidelines for Coastal Planning and Permits as established by the California Coastal Commission dated February 11, 1977 and any subsequent amendments thereto have been reviewed, analyzed, and considered by the West Los Angeles Area Planning Commission in this project in making its determination on this appeal. The ZA abused his discretion by not providing supportable justifications and for failing to adhere to the guidance provided by Coastal Commission Interpretive Guidelines.

The Zoning Administer abused his discretion by finding that the project was in compliance with all the various policy provisions of the Interpretive Guidelines as follows. (West Los Angeles Area Planning Commission Findings of Denial in Bold):

Chapter 3 of the Coastal Act contains the various policy provisions of such legislation. Pertinent to the instant request are the policies with respect to:

- (a) Shoreline Access: the subject property is located on Sunset Boulevard which terminates westerly of the site at its intersection with The Pacific Coast Highway adjacent to the shoreline. The proposed development is located on the south side of Sunset Boulevard at the top of a bluff and will not**

17000 SUNSET BLVD PACIFIC PALISADES Dec 2, 2015

interfere with or obstruct any access to coastal resources or ocean use.

- (b) Recreation and Visitor Serving Facilities: the project site has no adjacent or nearby recreational facilities for visitors.
- (c) Water and Marine Resources: the project will not impact any marine resources. The project is well above the high tide line and will not have any identifiable effect on the Pacific Ocean or on the sandy inter-tidal zone.
- (d) Environmentally Sensitive Habitat Area: the project site is within a fully urbanized area and is not located within or near any Environmentally Sensitive Habitat area, Significant Ecological Area, or in an area governed by a habitat conservation or community conservation plan. The project is limited to the boundary of the private property, does not function as part of wild life corridor and does not contain any wetland habitat. The site is presently disturbed and there is no native or natural riparian vegetation on-site.
- (e) New Development: *Chapter 3, Article 6, Section 30250* provides that new residential, commercial or industrial development, except as otherwise provided, shall be located within, contiguous with, or in close proximity to existing developed areas able to accommodate it or where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulative, on coastal resources.

The site is one of the few remaining vacant, unimproved parcels in the area and the proposed project is an infill development with an existing developed community. Sunset Boulevard adjoining the site is a designated Scenic Major Highway Class II dedicated to a width of 100 feet and is improved with two travel lanes in each direction.

The site is located within a residential community, with existing multi-family uses on the south side of Sunset Boulevard and existing single family uses to the north. The two lots to the west of the site contain 16 unit and 23 unit structures built in 1953 and 1955. The lot to the east of the site, which also is adjacent to the bluff contains 47 units and was built in 1956. Thus, the proposed project is located in an area that is already developed with residential uses, thereby making the project site contiguous with, and in close proximity to existing developed areas that are able to accommodate it and which have adequate public infrastructure to service it.

17000 SUNSET BLVD PACIFIC PALISADES Dec 2, 2015

Section 30251 of the Coastal Act additionally provides that: "[t]he scenic and visual qualities of the 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 landforms, to be visually compatible with the character of the surrounding areas, and, where feasible, to restore and enhance the visual quality in visually degraded areas."

The proposed development will not result in the obstruction of any public scenic views. While the site affords a view of the Pacific Ocean from a stationary position, the site is not known as a significant lookout point that draws tourists or visitors there and there are no lookout points immediately above or below the project site whose views would be obstructed by the proposed development. The area surrounding the site is not known for high pedestrian traffic.

With respect to potential impacts on views from Pacific Coast Highway, a designated Scenic highway, below the subject site, there is a significant change in grade from the rear lot line of the site to Pacific Coast Highway. Due to the topography, existing improvements in the foreground would be more visually prominent than the proposed development. A field survey of the area, which included driving the Pacific Coast Highway in both easterly and westerly directions showed that the top of the bluff where the development will occur is obscured from the view of traffic by the secondary bluff and plateau on which the Malibu Bowl Mobile Home Estates site is located.

Notwithstanding the above, the Zoning Administrator abused his discretion by approving a project which is out of character with the surrounding neighborhood. The proposed structure is a five story apartment building, and it is not in character with the surrounding mass and scale of the neighborhood of one and two story apartment buildings on the south side of Sunset Boulevard and single and two story single family homes on the north side of Sunset. Nowhere else in the immediate area are there any five story buildings. This is in violation of Section 30251 of the Coastal Act which calls for visual compatibility with the character of surrounding areas.

In addition, the Zoning Administrator approved a project which would require the extensive alteration of a Bluff

landform which arises above the Pacific Coast Highway by grading 44,500 cubic yards of soil which the Area Planning Commission deemed to be an excessive amount for the area and would be used to support the five story building which was intern out of character with the neighborhood. Both of which are in violation of Section 30251 of the Coastal Act.

Finally, *Section 30253 of the Coastal Act* provides that "[p]ermitted development shall minimize risks to life and property in areas of high geologic flood and fire hazard; and [a]ssure 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 land forms along bluffs or cliffs."

Notwithstanding the above, the West Los Angeles Area Planning Commission finds that the grading of 44,500 cubic yards of soil to support the development of a five story building on the site alters the natural landform in such a way as to make the existing site incompatible with the existing neighborhood at the top of the bluff and could result in destabilization of the bluff in close proximity to the Malibu Mobile Home Estates Condominium at the base of the bluff. This is in violation of both Section 30251 as previously stated and Section 30253 which seeks to minimize risks to life and property in areas of high geologic hazard and to minimize energy consumption and vehicle miles traveled. The alteration of the landform through the grading of 44,500 cubic yards of dirt will result in excess of 2,500 trips by haul trucks on already congested Sunset Boulevard. Both the MND and the determination by the Zoning Administrator did not take this into effect nor was the project conditioned to mitigate or control these effects. The Commission believes from evidence in the file that the project will have a significant adverse effect both individually and cumulatively on safety and the traffic flow on Sunset Boulevard which is a designated Scenic Highway in the Coastal Zone as a result of the density of the project, the effects of haul trucks during grading activities all of which are in violation of Section 30253 of the Coastal Act which requires the minimization of vehicle miles traveled by development in the Coastal Zone.

17000 SUNSET BLVD PACIFIC PALISADES Dec 2, 2015

2. **The permitted development WILL prejudice the City of Los Angeles in preparing a local coastal program that is in conformity with Chapter 3 of the California Coastal Act of 1976 as the Project does not conform with several Sections of the Coastal Act of 1976.**

Currently, there is no adopted Local Coastal Program for this portion of the Coastal Zone. In the interim, the adopted Brentwood-Pacific Palisades Community Plan serves as the functional equivalent.

The Brentwood-Pacific Palisades Community Plan designates the property for "Medium Residential" land use with the corresponding zone of R3, and Height District No. 1. The proposed development of a multi-family residential building is consistent with the plan density.

Notwithstanding the project's consistency with the Plan's density limits for the Medium Density land use category, the Zoning Administrator abused his discretion by failing to give proper consideration to the Plan's most significant land use issues listed in the Plan's Text which is of equal importance to the Land Use map and Map Legend, the designated Functional Equivalent to be used in applications for Coastal Development Permit in the absence of an adopted Local Coastal Program. Among the policies and objective's which were ignored in the decision are:

- o **Objective: 1-3 To preserve and enhance the varied and distinct residential character and integrity of existing residential neighborhoods**
- o **Policy 1.3.1 Seek a higher degree of architectural compatibility for new development and landscaping to protect the character and scale of existing residential neighborhoods.**
- o **Policy 1.3.3 Consider factors such as neighborhood character and identity, impacts on services and public facilities and impact on traffic levels in residential densities are proposed,**
- o **Policy 1-1.46 The City should promote neighborhood conservation, particularly in existing single-family neighborhoods as well as in areas with existing multiple family residences.**
- o **Policy 1-6.5 Require that any proposed development be designed to enhance and be compatible with adjacent development**

17000 SUNSET BLVD PACIFIC PALISADES Dec 2, 2015

- o Policy 13.1.5 New development shall provide mitigation for project traffic impacts and density increases shall be contingent upon adequate transportation capacity
- o Policy 13.1.2 New development projects shall be designed to minimize disturbance to existing traffic flow with proper ingress and egress to parking,

Residential Issues noted in the Community Plan

- Need to minimize grading, limit land use intensity, and preserve natural topography in hillside areas
- Scale and character of multiple dwelling housing on Sunset Boulevard in Pacific Palisades from obscuring single family residential views.
- Lack of transition in scale, density and character of multiple unit housing and adjacent to single family housing
- Need to restrict building on geologically sensitive areas
- Need to improve the visual environment through the development of appropriate design criteria and controls.

The proposed structure is two to three stories higher than other apartment buildings on the south side of Sunset Boulevard and at that height would block the existing views of single family residential structures on the north side of Sunset which are built up hill from the site but whose views would be blocked by a building of that height. The construction of a 49 unit building in the middle of a major descending and ascending curve on Sunset Boulevard as it accesses the coastal bluffs toward the Pacific Coast Highway would add to well documented traffic problems all along Sunset Boulevard in the West Los Angeles region.

In addition, it does not conform to Coastal Interpretive Guidelines for the Pacific Palisades Region which state that "The density of new residential development should be limited to a maximum of 24 units per gross acre" in that the proposed project proposes a 49 unit building on site and exceeded this limit by 25 units. As such, the development approved by the Zoning Administrator WOULD prejudice the ability of the City to prepare a Local Coastal Program in conformity with Chapter 3 of the California Coastal Act.

In addition, the Zoning Administrator failed to follow precedent of the West Los Angeles Area Planning Commission in denying a similar

17000 SUNSET BLVD PACIFIC PALISADES Dec 2, 2015

Coastal Development Permit for a project located two lots away from the subject site which cited non-conformance with Neighborhood Character and exceeded the 24 unit limit of the Guidelines which is a violation of Coastal Act Section 30625 (c). In not following precedent in the area, the Zoning Administrator did not accurately assess the cumulative effect that approval of the project of this size would have on future development of other vacant lots in the area as to size of structures, future development of traffic and a change in neighborhood character.

The Zoning Administrator also failed to properly interpret the existing Q Condition on the property's R3 zoning. The Zoning Administrator erred in his interpretation as to the meaning of the term "any portion of the building" as limiting the application of the Condition to only a portion of the building instead of applying to the entire building. This has led to an improper design to the step-back area of the building adjacent to a more restrictive zone. This has led to more bulk to the side of the building closest to the Coastal Bluff.

3. The Interpretive Guidelines for Coastal Planning and Permits as established by the California Coastal Commission dated February 14, 1977 and any subsequent amendments thereto have been reviewed, analyzed, and considered in light of the individual project in making its determination.

Such Guidelines are designed to provide direction to decision-makers in rendering discretionary determinations on requests for coastal development permits pending adoption of an LCP. In this instance, the Guidelines concerning the following are relevant:

The Guidelines require consideration and protection of the scenic and visual qualities of coastal areas. Development must be sited and designed to protect views to and along the ocean and scenic coastal areas, minimize alteration of natural land forms and be visually compatible with the character of surrounding areas. (Pub. Res. Code § 30251.)

The site is located on the southerly side of Sunset Boulevard. The lot slopes downward to the south. A former mobile home park which has been converted into a Mobile Home-park Condominium is currently situated downslope of the site on a low plateau with access from the Pacific Coast Highway. The proposed height of the portion of the building fronting Sunset Boulevard will be 45 feet as shown on the plans. The maximum height of the structure as identified in the hearing notice and conditioned herein is 57 feet. The project's driveway provides a corridor to allow a partial public view of the ocean from the Sunset Boulevard sidewalk. Because the driveway provides access to the adjoining apartment building and to a residence downslope of the adjacent structure, it will not be gated and has been so

17000 SUNSET BLVD PACIFIC PALISADES Dec 2, 2015

conditioned. The lack of a gate at the entrance to the driveway will further ensure views to the south of the site from the public right-of-way.

The maximum proposed height of 57 feet complies with Los Angeles Municipal Code § 12.21.1 B.2. Though the overall height from the highest point of the roof to the grade 5 feet from the rear wall of the structure will be 57 feet at no point will the structure be more than 45 feet high when measured vertically from the top of the roof or parapet wall to a point directly below the point of measurement as allowed by the Code. There will be no adverse impact upon views to the ocean and scenic coastal areas and the project will be visually compatible with the character of surrounding areas. The conditions imposed by the incorporation of mitigation measures will ensure that the construction of the structure will not substantially alter natural land forms.

The Guidelines additionally recommend certain development constraints for development occurring on a coastal bluff. Pursuant to 14 Cal.Code Regs. § 13577(h), "coastal bluff" is defined as:

"(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and

(2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2)."

Public Resources Code § 30603(a)(1) identifies the area between the sea and the first public road paralleling the sea and the area within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach. Section 30603(a)(2) identifies areas that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.

The subject property is inland of the first public road paralleling the sea (Pacific Coast Highway). Even if the slopes between the property and Coast Highway are considered a coastal bluff, the subject property is not located within an area identified in Public Resources Code §30603(a)(1) or (a)(2). The bluff edge is located on the south side of Malibu Bowl Mobile Estates and then along a graded cut for Coast Highway. The project is more than 300 feet from the top of the bluff in all locations. Comments were received saying that in the case of an intervening bluff top as exists at the Mobil Home Estates, the top of the subsequent ridge should be considered the bluff top. If that is the interpretation, the Zoning Administrator has addressed the issue in Bluff Top Development finding below.

17000 SUNSET BLVD PACIFIC PALISADES Dec 2, 2015

Here, the toe of the subject hillside was long ago developed with the Malibu Bowl Mobile Estates, and multi-family residential projects are developed to the east and the west of the site at the top of the hill. This project is an infill development, as is generally favored by California law and by the California Coastal Commission. In addition, the project includes a dewatering system that will increase the stability of the slope, to the benefit of the Malibu Bowl Mobile Estates, consistent with § 30253 of the Coastal Act.

However, the West Los Angeles Area Planning Commission states that it is not within the competence of this Commission to determine the status of the landform as a coastal bluff. A decision to be more protective of the Coastal Resource assumes the landform is a Coastal Resource based on the Coastal Act definition and representation of the Applicants own Geotechnical Consultant Sassan Geosciences description as a Coastal Bluff in report for 17000 – 17021 Sunset dated November 16, 2009. Therefore, because the applicant's own Soils Engineer called it a Coastal Bluff and public testimony before the Commission describes it as a Coastal Bluff, the Commission adopts a definition that is more protective of the Coastal Resource and describes it as a Coastal Bluff.

In addition, the Zoning Administrator has reviewed, analyzed, and considered in light of the individual project the individual Interim Interpretive Guidelines for the Pacific Palisades Region in making his determination.

While the Zoning Administrator has attempted to make the required certifications of the guidelines, the West Los Angeles Area Planning Commission finds that the Zoning Administrator made the required certifications in error and that the Interpretive Guidelines for Coastal Planning and Permits as established by the California Coastal Commission dated February 11, 1977 and any subsequent amendments thereto have been reviewed, analyzed, and considered by the Commission in making its determination on the appeal. The Commission finds that the Zoning Administrator abused his discretion by not providing supportable justifications for failing to adhere to all of the guidance provided by Coastal Commission Interpretive Guidelines.

Parking: The guidelines state that parking is required in order to ensure beach access. Though the project is approximately 150 feet above the elevation of the Pacific Coast Highway and provides no direct access to the beach, it complies with the 2 spaces per unit requirements of the Guidelines. For the Pacific Palisades area, the Guidelines also require one quarter guest parking space per unit. The project provides one half guest parking space per unit, and thus, it exceeds the limit of the guidelines.

Bluff Top Development: Bluff Top developments should be set back 25 feet from the edge of the bluff. The proposed project is setback 25 to 35

17000 SUNSET BLVD PACIFIC PALISADES Dec 2, 2015

feet at its closest location to the rear property line of the site. The bluff on which it sits rises sharply from the rear of the plateau on which the Malibu Bowl Mobil Estates are located. The face of the bluff rises sharply until the irregular property line of the site and then slopes back at a gentler angle from the property line. The project itself is set back between 20 and 30 feet from the edge of the sloping portion of the property where the cliff face intersects it. While not in strict conformance with the 25 foot setback from the cliff face which may or may not be considered a part of the Coastal Bluff because of the plateau on which the Mobil Home Estates sits, the project will not be in the view line of the Pacific Coast Highway which is the primary location of the coastal views of the bluffs in the area. In fact in field checking the site, the top of the bluff where the project is to be built is not visible to travelers either driving east or west on the Coast Highway. The view up the bluff is blocked by the lower bluff on which the Malibu Bowl Mobil Estates are located. The project is designed to step down the hillside from Sunset Boulevard and the view of the bluff top is in an area setback from the main bluff line by the inset area where the aptly named Malibu Bowl Condominiums are located. The site is thus at the top of the bluff in a setback bowl with intervening view blocking ridges. The intent of the Bluff Top guideline is to setback development so that it is inconspicuous from views up the bluffs from below. Because of the physical characteristics of the site, the project will not be visible from lower elevations and thus meet the intent of the guidelines.

Alteration of Landform: "Development should be visually compatible with local topography and vegetation and should maintain natural land forms." The proposed project is proposed to be built on a gently sloping parcel which fronts on Sunset Boulevard, has a slope to the rear, begins to fall at a steeper rate in the bowl on top of the bluff and then falls off steeply in the very rear of the parcel. The majority of the bluff is not located on the subject lot and the development will not take place on this area. **Notwithstanding the above, the West Los Angeles Area Planning Commission finds that the grading of 44,500 cubic yards of soil to support the development of a five story building on the site alters the natural landform in such a way as to make the existing site incompatible with the existing neighborhood at the top of the bluff and could result in destabilization of the bluff in close proximity to the Malibu Mobile Home Estates Condominium at the base of the bluff. This is in violation of both Section 30254 as previously stated and Section 30253 which seeks to minimize risks to life and property in areas of high geologic hazard and to minimize energy consumption and vehicle miles traveled. The alteration of the landform through the grading of 44,500 cubic yards of dirt will result in excess of 2,500 trips by haul trucks on already congested Sunset Boulevard. Both the MND and the determination by the Zoning Administrator did not take this into effect nor was the project conditioned to mitigate or control these effects. The Commission believes from evidence in the file that the project will have a significant adverse effect both individually and cumulatively on**

17000 SUNSET BLVD PACIFIC PALISADES Dec 2, 2015

safety and the traffic flow on Sunset Boulevard which is a designated Scenic Highway in the Coastal Zone as a result of the density of the project, the effects of haul trucks during grading activities all of which are in violation of Section 30253 of the Coastal Act which requires the minimization of vehicle miles traveled by development in the Coastal Zone.

Any development in the undeveloped areas of the Santa Monica Mountains should be permitted only when adjacent to already developed areas: The proposed project is on a developed section of Sunset Boulevard and is one of two vacant lots on this stretch of Sunset. It has multiple-family developments to the east and west of it and shares a common driveway with a multiple-unit building to the west and a single family home downslope of the developed lot.

Residential development on the existing commercially zoned parcels within one-quarter mile of the beach will not be allowed: The proposed development is located on a Q R3 zoned multiple-family residential lot. This guideline is inapplicable to the project.

New residential developments of 10 or more units in the Santa Monica Mountains should be required as a condition of approval to dedicate access trails and parking area for visitors to Topanga State Park: The proposed development is not located in the Santa Monica Mountains proper nor is it adjacent to Topanga State Park. This guideline is inapplicable to the project.

Road construction or improvements should be based on the suitability of the area to increased access. Where information on the environmental carrying capacity of coastal resources is available, roads and other support facilities should be kept within their capacity: The proposed project will not be required to build any roads and the project is compliant with the Brentwood-Pacific Palisades Community Plan's Footnote No. 10 which states that Sunset Boulevard is a major highway but is not to be widened for the purpose of increasing capacity for the life of the plan. The footnote states that the life of the Plan is 10 years, but the Plan has not been revised since it was updated in 1998. The language is still in effect because the Plan has not expired and is still in effect.

The density of new residential development should be limited to a maximum of 24 units per gross acre: The subject project is proposed to be built with 49 units. This exceeds the density guideline by 25 units. The Commission finds that the approval of a 49 unit project which the Zoning Administrator himself has found to be in excess of that permitted by the Guidelines is in error and that any project on the site should be limited to a maximum of 24 units per gross acre if it can make the remaining findings for a development in the Coastal Zone.

Projects in hillside areas shall be limited by the guidelines slope density formula: The project is located in a hillside area, but it is not located on a lot that is regulated by a single family zone. The slope density formula laid out in the guidelines is similar to the Zoning Code's slope density formula except that it allows for more lots per acre. The language of the guideline also states that the formula is for subdivisions or planned unit developments of which the proposed project is neither. Thus, this guideline is not applicable to the project.

No residential development is permitted in Temescal Canyon: The project is not located in Temescal Canyon. Thus, the guideline is inapplicable to the project.

4. **The decision of the permit-granting agency failed to be guided by applicable decisions of the California Coastal Commission as required, pursuant to Section 30625(c) of the Public Resources Code.**

This section of the California Public Resources Code provides that "prior decisions of the Coastal Commission, where applicable, shall guide local governments in their actions in carrying out their responsibility and authority under the Coastal Act of 1976." This request conforms to such known applicable decisions and no conflict with any past decisions exist.

Project opponents did submit a California Coastal Commission Staff Report relating to an appeal of a project located at 444 Surfview Drive in Pacific Palisades. However, it does not appear that the California Coastal Commission took any final action with regard to the project because the project was withdrawn. **Notwithstanding the withdrawal of the project, the Area Planning Commission finds that it was only withdrawn after the Coastal Commission staff recommended denial of the permit thus establishing a staff precedence for recommendations on such projects**

5. **If the development is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.**

The site is not located between the nearest public road, Pacific Coast Highway, and the shoreline of any body of water located within the coastal zone. Therefore, the proposed development is in conformance with the public access and public recreation policies of Chapter 3 of the California Coastal Act. In addition, there are no environmentally sensitive areas or known archeological or paleontological resources on the site.

17000 SUNSET BLVD PACIFIC PALISADES Dec 2, 2015

6. **An appropriate environmental clearance under the California Environmental Quality Act has been granted.**

In accordance with Article V of the City's CEQA Guidelines the Department of City Planning issued a Mitigated Negative Declaration dated June 17, 2013. Case No. ENV 2012-131-MND identified impacts to be mitigated consisted of aesthetics, air quality, biological resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, and use and planning, noise, public services, transportation and traffic, and utilities and service systems. Applicable mitigation measures for each were recommended and have been incorporated under Condition No. 16 of this grant.

Notwithstanding the above, the West Los Angeles Area Planning Commission believes that a fair argument is made that the proposed mitigation measures in the area of Hazards and Hazardous Materials may not be sufficient to assure the safety of the public in view of the unresolved issues raised by the Appellant as to the mitigations proposed by the Applicants consultant for the handling and dissipation of Hydrogen Sulfide gas which naturally occurs on the site and was mentioned in the soils report to the Department of Building and Safety. The Area Planning Commission cannot make an affirmative determination on the adequacy of the MND due to this information which is in conflict with, and it believes has not been adequately responded to by the City. The decision is to adopt the action that is more protective of the public and deny the adoption of the MND.

In addition to the conflict of experts over hazardous materials on the site, there is considerable disagreement between the Soils Report of the Applicant's geologic consultant and the appellant's consultants in regard to the adequacy of the mitigation measures to provide for the safety of the development below the Project. The Department of Building and Safety required changes in the original Soils Report after receiving comments from the Appellant's consultants. A further response by the Appellant's consultants has been received by Building and Safety's Grading Division which was not yet responded to at the time of the Determination. Because this latest report has not been responded to and the fact that two experts on the issue are in conflict with each other on the same issue, the Area Planning Commission cannot make an affirmative determination on the adequacy of the MND as required by the Coastal Act Section 30253. The decision is to adopt the more protective of the coastal resource and deny the MND.

7. **The project is consistent with the special requirements for low and moderate income housing units in the Coastal Zone as mandated by California Government Code Section 65590 [Mello Act].**

17000 SUNSET BLVD PACIFIC PALISADES Dec 2, 2015

The Mello Act is a statewide law which mandates local governments to comply with a variety of provisions concerning the demolition, conversion and construction of housing units in California's Coastal Zone. All projects that consist of demolition, replacement, conversion, and/or construction of one or more housing units located within the Coastal Zone in the City of Los Angeles must go through Mello Act Compliance Review.

This compliance review is required of the Mello Act, by the City's Interim Administrative Procedures for Complying with the Mello Act (Interim Procedures), and the terms of the Settlement Agreement between the City of Los Angeles and the Venice Town Council, the Barton Hill Neighborhood Organization and Carol Berman concerning implementation of the Mello Act in the coastal zone areas of the City of Los Angeles.

The subject site is a vacant, unimproved parcel and no dwelling units, affordable or otherwise, will be demolished on the property. Consequently, no affordable replacement units are required. However, the project is a new housing development in excess of nine (9) dwelling units and is subject to the Mello Act's requirements concerning Inclusionary Residential Units. The Mello Act and the City's Interim Procedures require an applicant for a new housing development to comply with Inclusionary Requirement Options (IP, Part 5.0). It affords one of two inclusionary options:

Option #1: reserve at least 20% of all residential units for Very Low or Low Income Households.

Option #2: reserve at least 10% of all residential units for Very Low Income Households.

The project consists of the construction of 49 new dwelling units. Condition Nos. 12 and 13 of this grant require conformance with the applicable provisions of the Mello Act. Specifically, Condition No. 12 requires that a minimum of 10 dwelling units be reserved for households designated Low Income or Very Low Income, or that a minimum of 5 dwelling units be reserved for households designated Very Low Income. The Interim Procedures for implementing the Mello Act have no provision for rounding fractions of numbers up or down. In this case, the fractions for the 20% and 10% set asides were rounded up. This was done because the Interim Procedures require a minimum of 20% or 10% to be set aside. Rounding down would result in a whole number which is less than the required set aside. A 20% set aside for low or very low income residents on a 49 unit building would result in 9.8 units. Rounding down would result in 9 units which would be less than 20% so the number must be rounded up to 10 units or 5 units in order to meet the minimum 20% or 10% set asides.

The site is permitted a maximum density of 62 dwelling units by right and is eligible for a density bonus up to 35% (for a maximum density of 84 dwelling

17000 SUNSET BLVD PACIFIC PALISADES Dec 2, 2015

units). The applicant has not requested a density bonus to satisfy the Mello Act's Inclusionary Zoning Requirement.