

CALIFORNIA COASTAL COMMISSION

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

Appeal Filed: 2/2/2011
 49th Day: 3/23/11
 180th Day: N/A
 Staff: Charles Posner-LB
 Staff Report: 2/17/2011
 Hearing Date: March 9, 2011
 Commission Action:

**W17a****STAFF REPORT: APPEAL - SUBSTANTIAL ISSUE**

APPEAL NUMBER: A-5-PPL-11-028

APPLICANT: Robert Dolbinski

APPELLANT: Gerald B. Kagan, Friends of Our Environment

PROJECT LOCATION: 370 Vance Street & 375 East Rustic Road, Pacific Palisades, City of Los Angeles, Los Angeles County.

PROJECT DESCRIPTION: Appeal of City of Los Angeles Local Coastal Development Permit No. ZA-2007-5584 approved with conditions for the construction of a three-story, 1,966 square foot single-family residence on a vacant 3,170 square foot lot.

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

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission determine that **a substantial issue exists** with respect to the grounds on which the appeal has been filed because the proposed development site is located within an area subject to geologic hazards, flooding, and fire danger. Therefore, the City's approval of the local coastal development permit for the proposed development raises a substantial issue with regard to whether the proposed development minimizes risks to life and property and assures stability and structural integrity as required by Section 30253 of the Coastal Act. **See Page Six for the motion to make the substantial issue determination.**

The Commission will not take public testimony during this phase of the appeal hearing unless at least three commissioners request it. If the Commission finds that the appeal raises a substantial issue, it will schedule the de novo phase of the hearing for a future meeting, during which it will take public testimony. Written comments may be submitted to the Commission during either phase of the hearing.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles Local Coastal Development Permit No. ZA-2007-5584.
2. City of Los Angeles Mitigated Negative Declaration No. ENV-2007-5585-MND-REC1.
3. City of Los Angeles Department of Building and Safety Geology and Soils Report Approval Letters dated January 27, 2006 and November 12, 2009.
4. Brentwood-Pacific Palisades District Plan, City of Los Angeles Plan Case No. 25141, 1977.
5. Coastal Commission Regional Interpretive Guidelines for Los Angeles County, 1980.

I. APPELLANT'S CONTENTIONS

Gerald B. Kagan has appealed the City of Los Angeles West Los Angeles Area Planning Commission's action to approve Local Coastal Development Permit No. ZA-2007-5584 for the construction of a three-story, 1,966 square foot single-family residence on a vacant 3,170 square foot lot in the Pacific Palisades area of Los Angeles (See Exhibits).

The grounds for the appeal, which is attached to this report as Exhibit No. 4, relate primarily to the geologic safety of the proposed project and landform alteration. The appeal states that the nearly vertical slope on which the project is proposed has a history of landslides, including a failure in 1994; and that the Mitigated Negative Declaration for the project states that the site is located within a "Very High Fire Hazard Severity Zone," a "Liquefaction Zone," and a "Fault Zone." These factors are particularly significant, the appeal asserts, because the lower portion of this very steep slope is bordered by Rustic Creek, a flood control channel that overflowed its banks when the 1994 landslide filled it with debris. The appeal contends that the proposed development does not minimize risks to life and property or assure stability and structural integrity as required by Section 30253 of the Coastal Act. The appeal also implies that the proposed project is inconsistent with Section 30253(b) of the Coastal Act because it involves substantial alteration of the "bluff face" (i.e., cuts and terracing, and construction of retaining walls). The appeal also contends that the proposed development violates Section 30251 of the Coastal Act because it is not visually compatible with the character of the surrounding area, and that the proposed development would prejudice the ability of the City of Los Angeles to prepare a Local Coastal Program in conformity with Chapter 3 of the Coastal Act [Section 30604(a) of the Coastal Act].

II. LOCAL GOVERNMENT ACTION

On November 30, 2007, the applicant submitted an application for a local coastal development permit to the City of Los Angeles Department of City Planning seeking approval to build a house on a vacant lot (Case No. ZA-2007-5584-CDP-MEL-1A).

On September 29, 2008, pursuant to the requirements of the California Environmental Quality Act (CEQA), the City Planning Department issued Mitigated Negative Declaration No. ENV-2007-5585-MND for the proposed project.

On October 16, 2008, the City of Los Angeles Office of Zoning Administration held a public hearing during which several local residents spoke in opposition to the proposed project. As a

result of the issues brought up at the hearing (geologic safety and impacts to the adjoining flood control channel), the Zoning Administrator on October 31, 2008 remanded the case to the Advisory Agency (the Environmental Review Section of the City Planning Department) for further review and consideration.

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

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

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

On September 30, 2010, the City of Los Angeles Office of Zoning Administration held another public hearing during which several residents again raised concerns about the geologic safety of the proposed project and its potential impacts to the adjoining flood control channel.

On November 19, 2010, the City of Los Angeles Office of Zoning Administration approved Local Coastal Development Permit No. ZA-2007-5584 for the proposed project with special conditions.

On December 6, 2010, Gerald B. Kagan appealed the City Zoning Administrator's approval of the local coastal development permit to the City of Los Angeles West Los Angeles Area Planning Commission.

On January 5, 2011, after a public hearing, the West Los Angeles Area Planning Commission denied the appeal and upheld the City Zoning Administrator's approval of the local coastal development permit (Exhibit #3).

The City's Notice of Final Local Action for the Planning Commission's approval of the local coastal development permit was received in the South Coast District Office in Long Beach on January 12, 2011, and the Commission's required twenty working-day appeal period commenced. The appeal by Gerald B. Kagan was filed on February 2, 2011 in the South Coast District Office. The Commission's twenty working-day appeal period ended on February 10, 2011, with no other appeals filed.

III. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program (LCP), a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local coastal development permits. Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows *any* action by a local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act. [Cal. Pub. Res. Code §§ 30200 and 30604.]

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

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeals 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 substantial issue. If the Commission decides that the appellants' contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government stands. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the Chapter 3 policies of the Coastal Act, the local coastal development permit is voided and the Commission typically continues 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 (concurrently with the dual permit application). A *de novo* public hearing on the merits of the application uses 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.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents 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 applicant, 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.

IV. 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 any development which receives a local coastal development permit also obtain a second (or “dual”) coastal development permit from the Coastal Commission. The Commission's standard of review for the proposed development in the *Dual Permit Jurisdiction* area is the Chapter 3 policies of the Coastal Act. For projects located inland of the areas identified in Section 30601 (i.e., projects in the *Single Permit Jurisdiction*), the City of Los Angeles local coastal development permit is the only coastal development permit required.

As a result of the project site being located within one hundred feet of a stream (Rustic Creek), the proposed development is located within the *Dual Permit Jurisdiction*. In this case, the required “dual” Coastal Commission coastal development permit application has not yet been submitted for Commission review and action.

In regards to this appeal, if the Commission finds that a substantial issue exists in regards to the City's approval of the Local Coastal Development Permit No. ZA-2007-5584, the subsequent de novo action on the local coastal development permit will also be combined with the required “dual” Coastal Commission coastal development permit application. The matter will not be referred back to the local government.

On the other hand, if the Commission finds that no substantial issue exists in regards to the City's approval of the local coastal development permit, then the local coastal development permit approved by the City will be final, and the Commission will act on the required “dual” Coastal Commission coastal development permit as a separate agenda item at a future meeting.

In order to minimize duplication, Commission staff intends to combine the de novo permit action for this appeal (if the Commission finds that a substantial issue exists) and required “dual” Coastal Commission coastal development permit application into one staff report and one hearing for concurrent Commission action at a future Commission meeting in the Southern California area.

V. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

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

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

MOTION: *"I move that the Commission determine that Appeal No. A-5-PPL-11-028 raises no substantial issue with respect to conformity of the local approval with the policies of Chapter 3 of the Coastal Act."*

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

Resolution to Find Substantial Issue for Appeal A-5-PPL-11-028

The Commission hereby finds that Appeal No. **A-5-PPL-11-028** presents a substantial issue with respect to conformity of the local government approval with the Chapter 3 policies of the Coastal Act.

VI. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. Project Description

The project site is a steeply sloped lot in Santa Monica Canyon, about one-quarter mile inland of the beach (Exhibit #1). Local Coastal Development Permit No. ZA-2007-5584 approves the construction of a three-story, 45-foot tall, 1,966 square foot single-family residence on a vacant 3,170 square foot lot situated between Vance Street and East Rustic Road. The upper part of the lot abuts Vance Street, which would provide vehicular access to a two-stall carport. The house would be terraced down the slope from Vance Street level. About fifty feet below the elevation of Vance Street, the lower portion of the site abuts the Los Angeles County Flood Control Channel that runs between the site and East Rustic Road (Exhibit #2). The lower level of the proposed structure would be about thirty feet higher than the channel. A friction-pile foundation system is proposed that would be embedded below the ground surface approximately 35-to-40 feet.

The property is zoned R1-1 (single-family residential). The surrounding properties are vacant or developed with single-family residences.

B. Substantial Issue Analysis

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

The appellant contends that the proposed development does not minimize risks to life and property or assure stability and structural integrity as required by Section 30253 of the Coastal Act (Exhibit #4). The appeal also implies that the proposed project is inconsistent with Section 30253(b) of the Coastal Act because it involves substantial alteration of the "bluff face" (i.e., cuts and terracing, and construction of retaining walls). The appeal also contends that the proposed development violates Section 30251 of the Coastal Act because it is not visually compatible with the character of the surrounding area, and that the proposed development would prejudice the ability of the City of Los Angeles to prepare a Local Coastal Program in conformity with Chapter 3 of the Coastal Act [Section 30604(a) of the Coastal Act].

Section 30253 of the Coastal Act states:

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.
- 3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.
- 4) Minimize energy consumption and vehicle miles traveled.
- 5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

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

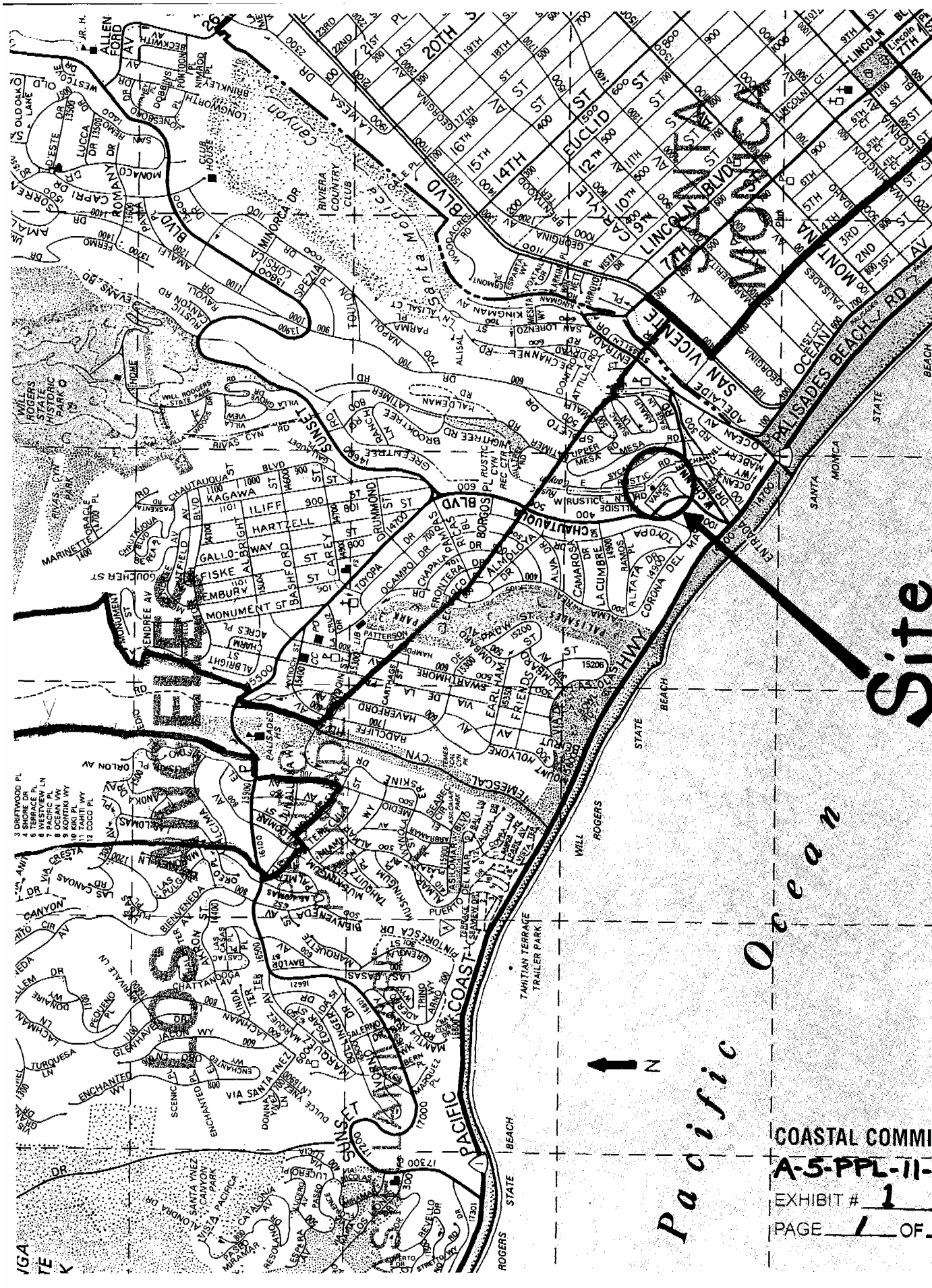
Section 30604(a) of the Coastal Act states:

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

The grounds for this appeal relate primarily to the geologic safety of the proposed project and landform alteration. The appeal states that the nearly vertical slope on which the project is proposed has a history of landslides, including a failure in 1994. The Mitigated Negative Declaration for the project states that the site is located within a "Very High Fire Hazard Severity Zone," a "Liquefaction Zone," and a "Fault Zone." These factors are particularly significant, the appeal asserts, because the lower portion of this very steep slope is bordered by Rustic Creek, a flood control channel that overflowed its banks when the 1994 landslide filled it with debris.

Section 30253 of the Coastal Act requires that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard, and assure stability and structural integrity. A substantial issue exists with respect to the grounds on which the appeal has been filed because, according to the City record, the project site is located within an area subject to geologic hazards, flooding, and fire danger. The slope on the project site is very steep and has failed in the past. Below the slope is a flood control channel (Rustic Creek). The landform will be substantially altered by the construction of the foundation and retaining walls that are proposed to support the house approved by the City. Even though the appropriate City and County departments have thoroughly reviewed the consultant's geotechnical reports and have approved the proposed project, the issues raised by the appeal are substantial. Therefore, the appeal raises a substantial issue with regard to whether the proposed development minimizes risks to life and property and assures stability and structural integrity as required by Section 30253 of the Coastal Act.

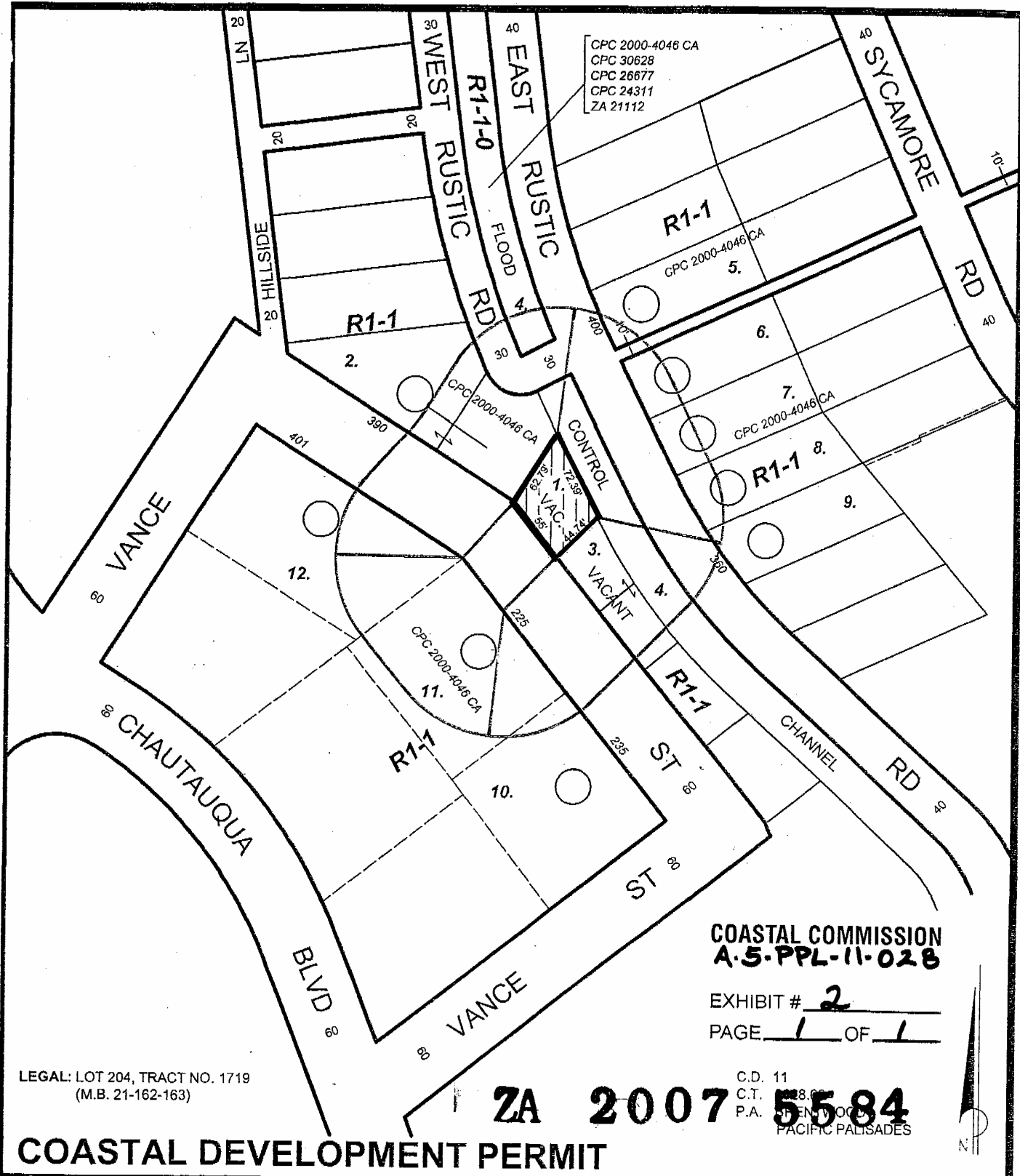
The appeal challenges the safety of the proposed project. The Commission carefully reviews each project in the Pacific Palisades area in order to ensure that the risks are minimized as required by Section 30253 of the Coastal Act. Only with careful review of the proposed project by the Commission staff geologist can the Commission ensure that the risks are minimized. If it finds that a substantial issue exists, the Commission will have the opportunity to review and act on the proposed project at the subsequent de novo hearing.



Site

Pacific Ocean

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



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

COASTAL COMMISSION
A.5-PPL-11-028

EXHIBIT # 2
PAGE 1 OF 1

ZA 2007 5584

C.D. 11
C.T. 28
P.A. FIELD
PACIFIC PALISADES

COASTAL DEVELOPMENT PERMIT

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

0.07 NET AC.

CASE NO.
DATE: 9-11-07
SCALE: 1" = 100'
USES FIELD
D.M. 123 B 129
T.B. PAGE: 631 GRID: B-7



West Los Angeles Area Planning Commission

200 North Spring Street, Room 272, Los Angeles, CA 90012-4801 (213) 978-1300

Website: <http://www.lacity.org/pln/index.htm>

TO: California Coastal Commission
South Coast District Office
200 Ocean Gate, Suite 1000
Long Beach, CA 90802

Mailing Date: **JAN 11 2011**

Case No.: **ZA-2007-5584-CDP-MEL-1A**
Address: 375 North East Rustic Road and 370 North
Vance Street
Plan Area: Brentwood
Council District: 11

RECEIVED
South Coast Region

JAN 12 2010

FROM: West Los Angeles Area Planning Commission

CALIFORNIA
COASTAL COMMISSION

NOTICE OF COASTAL DEVELOPMENT PERMIT ISSUANCE

Applicant name/address

Robert Dolbinski
1122 Idaho Avenue
Santa Monica, CA 90403

Applicant Representative name/address

The above-referenced Coastal Development Permit was **approved** effective **January 11, 2011**, pursuant to a public hearing conducted by the West Los Angeles Area Planning Commission on **January 5, 2011**. 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.

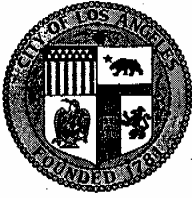
Attachments: Coastal Development Permit / Commission Determination Report
Zoning Administrator's Determination
Miscellaneous relevant documents

cc: Applicant and Applicant's Representative (Notice, Coastal Permit/APC Determination)
APC Determination Report mailing list (Notice & Coastal Permit/APC Determination)

COASTAL COMMISSION
A-5-PPL-11-028

EXHIBIT # 3

PAGE 1 OF 2



WEST LOS ANGELES AREA PLANNING COMMISSION

200 N. Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300
www.lacity.org/PLN/index.htm

Determination Mailing Date: JAN 11 2011

CASE NO: ZA 2007-5584-CDP-MEL-1A

Location: 375 North East Rustic Road and 370 North Vance Street

CEQA: ENV-2007-5585-MND

Council District: 11

Plan Area: Brentwood-Pacific Palisades

Zone: R1-1

District Map: 123B129

Legal Description: Lot 204, Tract 1719

Applicant: Robert Dolbinski

Appellant: Gerald B. Kagan, Friends of Our Environment
Representative: Doug Carsters, Esq., Shatter, Brown, Carsters

At its meeting on **January 5, 2011**, the following action was taken by the West Los Angeles Area Planning Commission:

1. **Denied** the appeal.
2. **Sustained** the Zoning Administrator's approval for the construction, use and maintenance of a 1,966 square foot, three-story single-family dwelling located within the dual jurisdiction of the California Coastal Zone.
3. **Adopted** the environmental clearance mitigated Negative Declaration ENV-2007-5585-MND.

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

This action was taken by the following vote:

Moved: Foster
Seconded: Martinez
Ayes: Foster, Martinez, Donovan
Nays: Lee
Absent: Linnick

Vote: 3 - 1

Effective Date
Effective upon the mailing of this notice

Appeal Status
Not further appealable to City Council


Rhonda Ketay, Commission Executive Assistant
West Los Angeles Area Planning Commission

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: Zoning Administrator's Letter dated November 19, 2010

cc: Notification List
Fernando Tovar

COASTAL COMMISSION
A-5-PPL-11-028

EXHIBIT # 3
PAGE 2 OF 2

CALIFORNIA COASTAL COMMISSION

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

FEB - 2 2011



CALIFORNIA COASTAL COMMISSION 5-11-028

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: GERALD B. KAGAN, FRIENDS OF OUR ENVIRONMENT

Mailing Address: 380 EAST RUSTIC ROAD

City: SANTA MONICA, CA

Zip Code: 90402

Phone: (310) 230-8333

SECTION II. Decision Being Appealed

1. Name of local/port government:

CITY OF LOS ANGELES

2. Brief description of development being appealed:

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

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

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

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

- Approval; no special conditions
- Approval with special conditions:
- Denial

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

TO BE COMPLETED BY COMMISSION:	
APPEAL NO:	A-5-PPL-11-028
DATE FILED:	2/2/11
DISTRICT:	Long Beach / South Coast

EXHIBIT # 4
PAGE 1 OF 3

STATEMENT OF REASONS FOR SUPPORTING THIS APPEAL

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

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

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

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

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

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

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

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

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

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

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

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

COASTAL COMMISSION
A.S.PPL-11-028

EXHIBIT # 4
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