

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: APPEAL --NO SUBSTANTIAL ISSUE

Local Government: City of Los Angeles

Local Decision: Denial

Appeal Number: A-5-PPL-13-212

Applicant: Stefano Coaloa

Project Location: 17030 Sunset Boulevard, Pacific Palisades

Project Description: Construction of a 49 unit, 84,500 square foot residential project.

Appellant: Stefano Coaloa

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. 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 project denied by the City is appropriately based on its adopted findings, which state that the proposed development, due to the absence of more detailed analysis could not provide assurances that potential hazards related to hydrogen sulfide gas in the soil would be mitigated; lack of geologic information to determine location of coastal bluff and appropriate siting of the development.

Therefore, the City correctly determined that the proposed development could not be found to conform with the Chapter 3 policies of the Coastal Act because it would assure stability and structural integrity of the site. The motion to carry out the staff recommendation is on Page Five.

The appellant disagrees with the staff recommendation, asserting that the proposed development is consistent with the Chapter 3 policies of the Coastal Act.

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Exhibit 3—Project Site Plan

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I. APPELLANTS' CONTENTIONS

The appellant, Stefano Coaloea, who is the applicant of the coastal development permit application, has appealed the City of Los Angeles denial of Local Coastal Development Permit No. ZA-2010-1726 for the proposed development of a 49 unit, 84,500 square foot residential development at 17030 West Sunset Boulevard, Pacific Palisades. The appellant's grounds for the appeal, which are attached to this report as **Exhibit No. 4**, are as follows:

1. City's action fails to determine the site is not on a coastal bluff or cliff.
2. City's action fails to determine the site is not within 300 feet of a coastal bluff or cliff.
3. City's action fails to determine the site is not subject to the Regional Interpretive Guidelines.
4. City's action fails to determine the project is suitable under the Regional Interpretive Guidelines, if they were to apply.
5. City's action fails to determine adequacy of applicant's soils and geology report, approved by City's Department of Building and Safety, with regards to third-party geologist concerns.
6. City's action fails to determine project's compliance with Section 30253 of the Coastal Act.
7. City's action suggests that there is some material potential, unmitigated hazard related to hydrogen sulfide, that has been detected on site.
8. City's action fails to determine if the site is within the single or dual permit jurisdiction zone.

II. LOCAL GOVERNMENT ACTION

On October 20, 2011, the City of Los Angeles zoning administrator approved a Coastal Development Permit for a new approximately 84,500 square foot residential development consisting of three buildings containing a total of 49 units in the dual permit jurisdiction of the California Coastal Zone.

On March 6, 2013, on an appeal, the West Los Angeles Area Planning Commission overturned the approval and denied the coastal development permit (See **Exhibit No. 5**, Planning Commission Determination report).

III. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program, 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, 30604 and 30625(b)(1).]

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

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

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

IV. DUAL PERMIT JURISDICTION

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.

V. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

Motion:

I move that the Commission determine that Appeal No. A-5-PPL-13-212 raises NO substantial issue with respect to the grounds on which the appeal has been filed.

Staff recommends a **YES** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution:

The Commission hereby finds that Appeal No. A-5-PPL-13-212 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

VI. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The appeal involves the denial of a local coastal development permit application for the proposed construction of a new approximately 84,500 square foot residential development consisting of three buildings containing a total of 49 units, a subterranean parking structure and approximately 19,000 cubic yards of grading.

According to the City's staff report the project design consists of three buildings that will cascade down the hillside from Sunset Boulevard. The northern building (Building 1), will front on Sunset Boulevard and together with Building 2 (middle building) will be built over a subterranean parking garage that will have two to four levels with 129 parking spaces, consistent with zoning requirements. Building 3, the southern building at the lowest elevation, is constructed over a basement level that contains residential amenities.

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 and is 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 42,538 square feet with approximately 99 feet of frontage on the south side of Sunset Boulevard, with a variable depth between approximately 287 feet and 314 feet. The site is located approximately 325 feet from Pacific Coast Highway and 400 feet from the shoreline (see **Exhibit No. 1-3**).

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

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

The applicant/appellant asserts that the development conforms to the Chapter 3 policies of the Coastal Act and would not prejudice the ability of the City to prepare a local coastal program that is in conformity with Chapter 3 of the Coastal Act. The applicant/appellant requests that the Commission overturn the City's denial of the local coastal development permit application.

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 §§ 30200-265.5).¹ The Determination Report issued by the West Los Angeles Area Planning Commission ("Planning Commission") shows that the Planning Commission applied the policies of Chapter 3 and concluded that the development, as proposed, would be inconsistent with Section 30253 of the Coastal Act, which states:

New development shall:

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

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

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

The Planning Commission's analysis appropriately interpreted the standard established by Section 30253 by finding that there was a lack of information to ensure that the proposed development would minimize risks to life and property. The Planning Commission 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 local decision 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 further clarifies that the appeal raises no "substantial" issue with respect to Chapter 3, as it shows that, even if Chapter 3 were not correctly applied, the nature of the proposed project, the local government action, and the appeal do not implicate any Chapter 3 policies to a level of significance necessary to meet the substantiality standard of Section 30265(b)(1).

The first factor 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, the Planning Commission's conclusion was supported by substantial evidence. Specifically, the Planning Commission's Determination report, attached as **Exhibit No. 5**, explains that based on lack of adequate geotechnical information presented to the Planning Commission, the Planning Commission could not find the project consistent with Section 30253 of the Coastal Act. The Planning Commission's findings state (**Exhibit No. 5**, page F-8):

...based on testimony at the Commission's appeal hearings on January 16, 2013 and March 6, 2013, the Commission was not satisfied that the approved soils report adequately responded to and addressed the issues raised by the third party geologist. Specifically, the approved soils report did not acknowledge or identify mitigations to address the presence of hydrogen sulfide on the site. In the absence of more detailed analysis, the Commissioners concluded that the approved soils report did not provide assurances that potential hazards related to hydrogen sulfide would be mitigated.

Furthermore, the Planning Commission, based on lack of information presented, could not determine the location of the coastal bluff and determine the appropriate and safe siting of the development in relation to the bluff edge. The Planning Commission's findings state (**Exhibit No. 5**, page F-9):

Based on the site's topography and testimony presented at the hearing, there was conflicting information as to whether the site was located within a Coastal Bluff as defined in the Coastal Act...

In the absence of definitive confirmation from the California Coastal Commission affirming whether or not the site was located within a Coastal Bluff, the Commission was unable to evaluate or properly consider the proposed development in light of the Regional Guidelines pertaining to projects on or near Coastal Bluffs.

Therefore in this case, based on the technical information provided and the public testimony, the City determined that there was not adequate information find the project consistent with the Chapter 3 policies of the Coastal Act.

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 would be nil. Put differently, the scope or extent of the development *denied* is limited to the proposed 49 unit residential development, and that denial does not rob the site of any facilities promoted by Chapter 3; and the scope of the development *approved* is none.

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 affect 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 Coastal Act 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 the development to a coastal bluff and minimizing risks to life and property. Approval of the proposed project with a lack of information addressing the concerns raised by the Planning Commission 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'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.

Therefore, 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. Moreover, the local government action does not raise any substantial Chapter 3 issues. Therefore, no substantial issue exists with respect to the Chapter 3 policies of the Coastal Act.

Appellant's contentions

The Commission responds to the appellant's contentions, as follows:

1. City's action fails to determine the site is not on a coastal bluff or cliff.

Section 13311 of the California Coastal Commission Regulations state in part:

A coastal development permit shall be deemed issued (a) when final review has occurred, (b) when, if applicable, all local rights of appeal have been exhausted and (c) when findings have been made that the interpretive guidelines have been reviewed and that the proposed development conforms with the requirements of [Public Resources Code, Section 30604\(a\)](#) and with any applicable decision set by the commission pursuant to [Public Resources, Section 30625\(c\)](#).

The City's coastal development permit ordinance 151.603 states in part that:

(c) 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 in light of the individual project in making its determination.

The Planning Commission staff report states in part that:

The project site is an exposed downslope lot that sits on a bluff top, however, the project can not be properly analyzed in light of Coastal Commission's Regional Interpretive Guidelines concerning its location on or near coastal bluffs without proper verification confirming whether the project site is within a "Coastal Bluff" as defined in the Coastal Act.

The 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 in part pertain to density, landform grading and siting of development within areas of coastal bluffs. The location of a coastal bluff can affect density, grading and siting of development. According to the Planning Commission's Determination report, the Regional Interpretive Guidelines suggest a minimum 25-foot setback from the edge of any coastal bluff. The report states that:

...based on the site's topography and testimony presented at the hearing, there was conflicting information as to whether the site was located within a Coastal Bluff as defined in the Coastal Act. In addition, there was conflicting information between the city's maps and the Coastal Commission's maps concerning whether the site's location was within the single-permit vs. dual permit jurisdiction zone and the map does not contain lot lines to accurately determine the site's location. California Coastal Commission staff conveyed to city staff that verification concerning the site's location on a Coastal Bluff or within the single or dual permit jurisdiction zone would

require investigation by Coastal Commission geologist and possibly require a topographical survey.

In the absence of definitive confirmation from the California Coastal Commission affirming whether or not the site was located within a coastal Bluff, the Commission was unable to evaluate or properly consider the proposed development in light of the Regional Guidelines pertaining to projects on or near Coastal Bluffs.

Although the Planning Commission Determination report states that due to lack of information the Commission was unable to properly consider the proposed development in light of the Regional Guidelines, the City's Planning Commission did consider the Regional Guidelines in making their determination and determined that there was a lack of information to find the project consistent with the guidelines. Moreover, since the standard of review is the project's consistency with the policies of the Coastal Act, not the Regional Interpretive Guidelines, the City found the project inconsistent with the Coastal Act based on lack of information to assure that potential hazards would be properly mitigated, the determination and location of the coastal bluff was not necessary in the City's denial of the proposed development and would not prejudice the City's ability to develop a LCP. Therefore, the appellant's contention does not raise a substantial issue with respect to consistent with the Chapter 3 policies of the Coastal Act.

2. City's action fails to determine the site is not within 300 feet of a coastal bluff or cliff

The appellant is referring to Section 30601 of the Coastal Act that states in part:

Prior to certification of the local coastal program and, where applicable, in addition to a permit from local government pursuant to subdivision (b) or (d) of Section [30600](#), a coastal development permit shall be obtained from the commission for any of the following:

(1) Developments between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.

(2) Developments not included within paragraph (1) located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

The City found that there was conflicting information between the City's maps and the Coastal Commission's maps concerning whether the site's location was within the single-permit vs. dual permit jurisdiction zone. The 300 foot distance from a coastal bluff is one of the criteria used to determine single and dual permit jurisdiction within the City's coastal zone for purposes of determining if a coastal development permit would also be required from the Coastal Commission. Although the City found that they could not adequately make a determination as to the location of the single/dual jurisdiction line because of the uncertainty of the location of the coastal bluff, this is a procedural issue and the City's action in not making a determination as to the development's distance from the coastal bluff does not raise any issue with regards to Chapter 3 policies of the Coastal Act.

3. City's action fails to determine the site is not subject to the Regional Interpretive Guidelines

Section 13311 of the California Coastal Commission Regulations state in part that:

a coastal development permit shall be deemed issued...(c) when findings have been made that the interpretive guidelines have been reviewed...

Although the City states that there was inadequate information to consider development in light of the Interpretive Guidelines, the standard of review for the local coastal development permit is Chapter 3 policies of the Coastal Act, not the Interpretive Guidelines. This contention is a procedural issue with the City and does not raise any issue with regards to the project's consistency with the Chapter 3 policies of the Coastal Act.

4. City's action fails to determine the project is suitable under the Regional Interpretive Guidelines, if they were to apply.

Again, as stated above, the City found there was a lack of information to determine consistency with the Guidelines, which are designed to provide direction to local government decision makers. The City does not necessarily need to find the project suitable under the Interpretive Guidelines, but is required to determine if the project is consistent with the Chapter 3 policies of the Coastal Act. In the City's denial of the coastal development permit the City found, based on lack of information and potential adverse impacts, that they could not find the project consistent with the Chapter 3 policies of the Coastal Act.

5. City's action fails to determine adequacy of applicant's soils and geology report, approved by City's Department of Building and Safety, with regards to third-party geologist concerns.

The City found that there was inadequate geologic information to make a finding that the project was consistent with the Chapter 3 policies of the Coastal Act with regards to geologic hazards. Section 30253 of the Coastal Act states in part that new development shall:

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

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

On appeal to the Zoning Administrator approval of the project, a third party geologist on behalf of the appellants, raised several technical questions and identified technical issues that, according to the Planning Commission Determination report were not properly addressed by the applicant's soils and geology report, which was approved by the City's Building and Safety Grading Division. The appellant to this appeal states that the soils and geology report did address the presence of the hydrogen sulfide gas. However, the Planning Commission was not satisfied that the approved soils report adequately responded to and addressed the issues raised by the third party geologist. Therefore, in the absence of more detailed analysis, the Planning Commission concluded that the approved report did not provide assurances that potential hazards would be mitigated. Therefore, based on lack of

information the project could not be found consistent with Section 30253 of the Coastal Act and was denied by the City.

The appellant's contention does not raise a substantial issue with respect to consistency with the Chapter 3 policies of the Coastal Act.

6. City's action fails to determine project's compliance with Section 30253 of the Coastal Act.

Although the City's Building and Safety-- Grading Division approved the project's soils and geology report, the Planning Commission, as stated above, determined that with the lack of geotechnical information the City could not find that potential geologic hazards would be adequately mitigated, therefore, could not find the project consistent with Section 30253 of the Coastal Act. Therefore, the appellant's contention does not raise a substantial issue with respect to consistent with the Chapter 3 policies of the Coastal Act.

7. City's action suggests that there is some material potential, unmitigated hazard related to hydrogen sulfide, that has been detected on site.

Hydrogen sulfide gas is a highly flammable, explosive gas and can cause possible life threatening situations. High concentrations can cause health problems and death. As a highly flammable and explosive gas, it is possible that pockets of high concentrations 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.

According to a report prepared by SASSAN Geosciences, Inc, dated January 3, 2013, which was prepared for this project and is part of the City's coastal development permit record, hydrogen sulfide is a naturally occurring phenomenon in various types of bedrock formations and is not unusual to encounter this gas in the Pacific Palisades area. The report states that test borings encountered the gas only in borings deeper than 70 feet. The report concludes that the drilling of soldier pile shafts will be monitored and safety measures will be followed pursuant to California's Division of Occupational Safety and Health requirements.

According to the Planning Commission Determination report, the Commission determined there was a lack of geotechnical information and could not find that potential geologic hazards would be adequately mitigated, therefore, they could not find the project consistent with Section 30253 of the Coastal Act. The City, during the public hearing process, raised the issue of the presence of hydrogen sulfide and the potential hazard. Although the City's Building and Safety Division approved the applicant's geotechnical report and the applicant submitted a separate report addressing hydrogen sulfide on the site, the Planning Commission was not satisfied that the approval letter issued by the Department of Building and Safety adequately provided or identified measures to safely address or mitigate the presence of hydrogen sulfide on the site, and determined that this issue raised a concern with regards to the project's consistency with Section 30253 of the Coastal Act. The City determined that the issue needed to be fully addressed with the City in order for the City to find the project consistent with the Chapter 3 policies of the Coastal Act, therefore, the project was denied. Therefore, the appellant's contention does not raise a substantial issue with respect to consistency with the Chapter 3 policies of the Coastal Act.

8. City's action fails to determine if the site is within the single or dual permit jurisdiction zone.

Section 30601 that states in part:

Prior to certification of the local coastal program and, where applicable, in addition to a permit from local government pursuant to subdivision (b) or (d) of Section [30600](#), a coastal development permit shall be obtained from the commission for any of the following:

(1) Developments between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.

(2) Developments not included within paragraph (1) located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

Within the areas specified in Section 30601, which is known in the City of Los Angeles coastal development 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.

As stated in contention number 2 above, the City found that there was conflicting information between the City's maps and the Coastal Commission's maps concerning whether the site's location was within the single-permit vs. dual permit jurisdiction zone.

The 300 foot distance from the top of the seaward face of a coastal bluff is one of the criteria used to determine single and dual permit jurisdiction within the City's coastal zone. Although the City found that they could not adequately make a determination because of the uncertainty of the location of the coastal bluff, this is a procedural issue and does not raise any issue with regards to Chapter 3 policies of the Coastal Act.

Conclusion

The Commission finds that no substantial issues exist with respect to the grounds on which the appeal was filed. Therefore, the applicant's contentions do not raise an issue in regards to consistency of the local decision with the Chapter 3 policies of the Coastal Act.



EXHIBIT NO. 1
Application Number A-5-P12L-13212
Vicinity Map
California Coastal Commission

SEE INSET MAP PAGE 49

B C D E

SEE 49 MAP

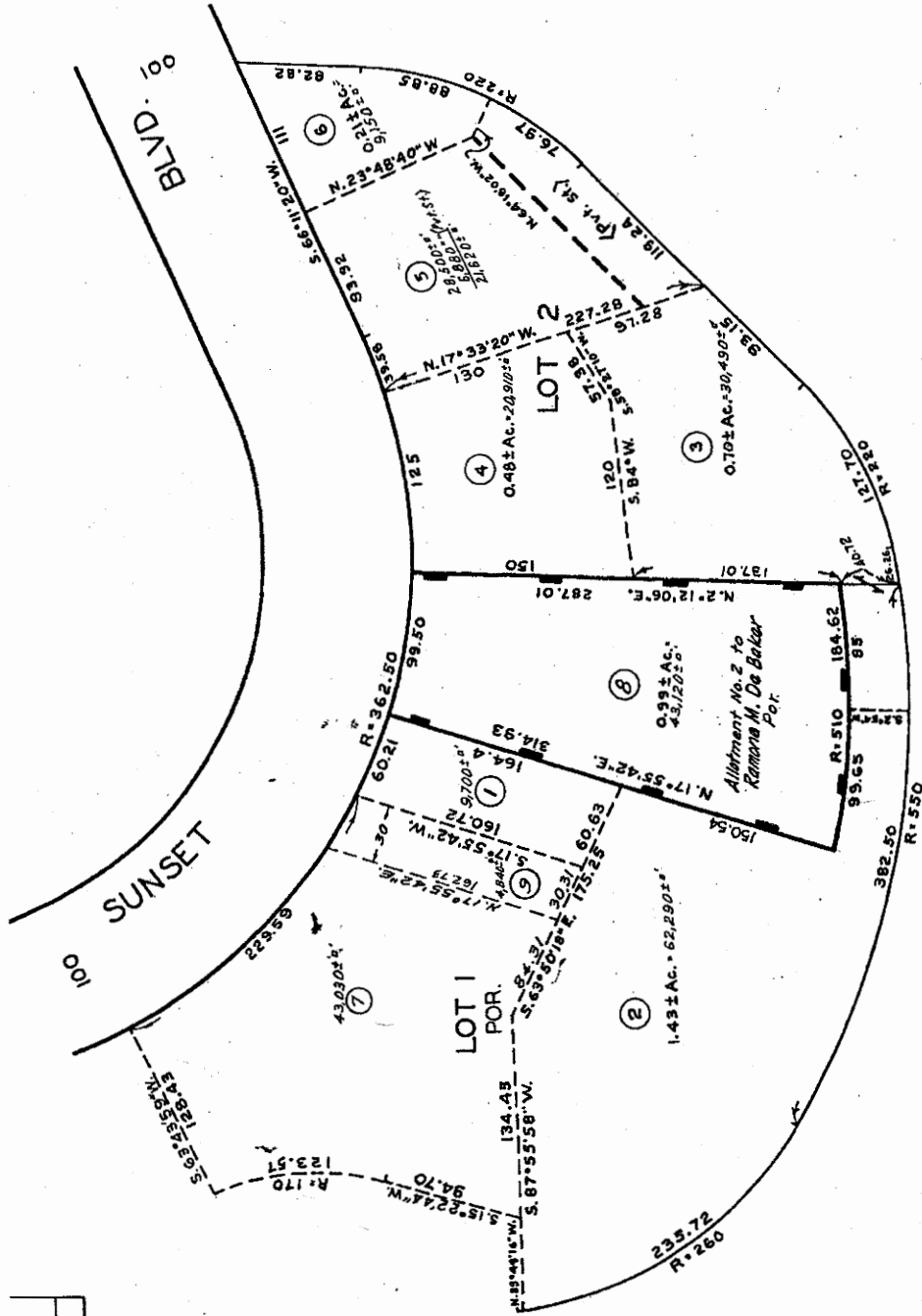
Project Location

Pacific Ocean

4415 20

SCALE 1" = 80'

REVISED
3-1-57
3-11-64
8-6-64
3-4-65
780512



TRACT NO. 10238

M. B. 206-23-26

RO. BOCA DE SANTA MONICA -

D.C.C. 2405 - 17TH JUDICIAL DIST.

C.F. 72

EXHIBIT NO. 2

Application Number

Parcel Map

A-5-PPL-13-212

California Coastal Commission

JUN 21 2013

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL
GOVERNMENT

CALIFORNIA
COASTAL COMMISSION

Sunset Creations, LLC, appeals the May 22, 2013, Determination (the "Determination") of the West Los Angeles Area Planning Commission in: CASE No. ZA-2010-1726-CDP-MEL-1A, CEQA: ENV 2010-1727-MND-REC1, pertaining to a 49-unit 84,500 square feet residential development of an in-fill project (the "Project") consisting of three buildings at 17030 Sunset Blvd., Pacific Palisades, CA.

SECTION IV. Reasons Supporting This Appeal

1. Appeal from that part of mandated finding 3 (on pages F-8 and F-9 of the Determination), which fails to determine the site is not on a Coastal Bluff or Cliff.
 - i. The lack of a proper determination prejudices the ability of the City to prepare a local coastal plan
2. Appeal from that part of mandated finding 3 (on pages F-8 and F-9 of the Determination), which fails to determine the site is not within 300 feet of a Coastal Bluff or Cliff.
3. Appeal from that part of mandated finding 3 (on pages F-8 and F-9 of the Determination) that fails to determine the site is not subject to the Regional Interpretive Guidelines.
4. Appeal from that part of mandated finding 3 (on pages F-8 and F-9 of the Determination) that fails to determine the Project is suitable under the Regional Interpretive Guidelines, if they were to apply.
5. Appeal from that part of mandated findings 1.e.3 and 6 (on pages F-7/F-8 and F-11, respectively, of the Determination) that suggests the applicant's soils and geology report as approved by building and safety fail to adequately address issues or certain questions earlier raised by a third-party geologist. Appeal also from any implication the questions are material to the determination under mandated finding 1.e.3.

EXHIBIT NO.

4

Application Number

A-5-PDL-13-212

Appellant Letter

6. Appeal from that part of mandated finding 1.e.3 (on pages F-7 and F-8 of the Determination) that fails to find the Project complies with Section 30253 of the Coastal Act.
7. Appeal from that part of mandated findings 1.e.3 (on pages F-7 and F-8 of the Determination) that there is some material, potential, unmitigated hazard related to hydrogen sulfide.
8. Appeal from that part of mandated findings 6 and 9 (on pages F-10 and F-11, respectfully, of the Determination) that there is some material, potential hazard related to hydrogen sulfide that would not be mitigated.
9. Appeal from that part of mandated finding 3 (on pages F-8 and F-9 of the Determination) that fails to determine whether the site is within the single-permit or dual-permit jurisdiction zone.
10. Appeal from that part of mandated finding 3 (on pages F-8 and F-9 of the Determination) that fails to determine the site is within the single-permit jurisdiction zone.
11. Appeal from all of mandated findings 6 and 9 on pages F-10 of the Determination).

Synopsis of Selected Arguments Supporting Appeal
(Paragraph numbers correspond to Appeal Reasons)

1. & 2. Project not on or within 300 foot of a Coastal Bluff or cliff
(Contrary to Finding 3)
 - under the Coastal Act definitions, the site is not on, or within 300 foot of, a Coastal Bluff or Cliff
 - all available information was presented to Commission
 - included copy of map from Coastal Commission office, City's Zimas mapping system, photographs, topography maps
 - Commission voted subjectively, not on Coastal standard
 - Please Concurrently submitted: Coastal Bluff Determination Question prepared by SASSAN Geosciences Inc, 6/5/13.

i. The lack of determination negatively impacts the ability of the City to prepare its LCP. The lack of determination also negatively impacts the ability of the City to evaluate projects.

3. & 4. Project not in violation of Interpretative Guidelines (Contrary to Finding 3)

- the guidelines are not required development standards
- finding required only as far as decision maker considered them but Project not required to adhere to them
- no LCP to conform to
- City has adopted standards, general and site specific (zoning, "Q" conditions, local plan)

5. Applicant did address third party geologist (Contrary to Finding 1.e.3)

- City B&S Dept, Grading Division, reviewed appellant's geologist report and applicant's geologist's response and found no issues (letter dated July 3, 2012)
- third party geologist did not present new data
- applicant has approval of Soils Report for Project and all amendments
- on hydrogen sulfide, please see arguments at 7 & 8 below

6. The Project complies with Coastal Act Section 30253 (Contrary to Finding 1.e.3)

- The City's Department of Building and Safety approved the Project's Soils and Geology Report.
- That approval includes the Building and Safety Grading Division's updated approval letter dated July 3, 2012
- Please see, also, the arguments in 1-5 above and 7-11 below

7. & 8. Presence of hydrogen sulfide ("HS") negligible, analyzed & mitigated to extent necessary (Contrary to Findings 1.e.3, 6 and 9)

- presence of HS recognized by appellant reports/observations and addressed
- HS is heavier than ambient air
- No methane gas within the Project site (ZIMAS)

- historical presence of HS locally and elsewhere, common occurrence not requiring mitigation

- testimony of City Grading Staff before Commission

- reports approved by B&S Grading included HS analysis

9. & 10. Determination of Single or Dual Permit Jurisdiction (Contrary to Finding 3)

- Announcement at the commencement of March 6, 2013, public hearing that the City Attorney had indicated the Project in fact is located in a single permit jurisdiction

- City's Zimas mapping system had indicated dual jurisdiction

- However, Coastal Commission map indicates [REDACTED]

- The arguments in 1 and 2 above are determinative that the Project is not on or within 300 feet of a Coastal Cliff

- Thus the Project is located in a single permit jurisdiction

11. The Project is entitled to environmental clearance under CEQA MND (Contrary to Finding 6)

- City previously approved and certified environmental document under CEQA

- Applicant is appealing each element in Finding 6 in derogation of the City's prior CEQA approval

- Some elements in Finding 6 are outside the CEQA process.

- Some elements in Finding 6 are unsupported by the record.

- Traffic (access, circulation):

- DOT did review studies by applicant's expert

- The studies by applicant's expert analyzed and considered the site's location on the end of a curve, line of site, and other factors in the expert's positive opinion

- DOT does not review access or internal circulation, until the project design is before DOT in an administrative review process

- Torrey Pines:

- Neither the proposed driveways into the project nor any deceleration lane requires the removal of the Torrey Pines

- Applicant wants to preserve the Torrey Pines

--The driveways can be raised to provide protection for the Torrey Pines

--Soils Reports: Please see arguments 5 and 6 above.

--Hydrogen Sulfide: Please see arguments 7 and 8 above.

Background

On October 20, 2011 the City of Los Angeles approved a Coastal Development Permit for a 49-unit 84,500 square feet residential building consisting of three buildings. In its approval the Zoning Administrator made affirmative findings as to the California Coastal Act pursuant to Chapter 3.

On May 22, 2013, on an appeal, the West Los Angeles Area Planning Commission overturned that approval based, in part, on not knowing if the Project was located on a Coastal bluff as defined by the Coastal Act. The Regional Interpretative Guidelines contain different development standards than the City's. The City's standards are based on zoning, specific site development standards ("Q" conditions), and the Brentwood-Pacific Palisades community plan. All of these have been adopted by the City Council.

The Project is an in-fill project, as favored by the Coastal Act. "[T]he proposed Project is located in an area that is already developed consisting of single day's family and multiple days family residential uses as well as institutional uses, thereby making the Project site continues with, and in close proximity to existing developed areas that are able to accommodate it." (Determination, mandated finding 1.e.1, page F-5; Section 30250(a) of the Coastal Act.)

The Project is fully compliant with the Mello Act, with all low or very low-income residential units on site and included within the Project.

The Project is designed to conform to all of the provisions of the L.A.M.C. The applicant seeks no relief or deviation from the Los

Angeles Municipal Code concerning density, height, floor area, yards, open space, retaining walls or parking. (Determination, mandated finding 1.e.2, pages F-6, F-7.)

The design incorporates a walking path (the "Canyon Trail") leading from the foyer of Building one, then threading through Buildings two and three, terminating at the common open space area to the rear of the lot below Building three. (Determination, mandated finding 1.e.2, page F-7.)

The design also incorporates a number of other "green" features that will qualify it for Leeds certification.

PROJECT CHRONOLOGY

The proposed project has undergone an unusual number of repeated reviews and hearings. Repeated reviews include those for geology, transportation, traffic, and environmental clearance under CEQA. Most of these have been done by the City Department in charge of the relevant subject matter.

Repeated hearings include those by the City of Los Angeles Planning Department's West Los Angeles Area Planning Commission (and Zoning Administrator).

Of particular note is a hearing by the West Los Angeles Area Planning Commission on January 16, 2013 where two motions were voted upon; one to deny the appeal and one to approve the appeal. Neither motion received enough votes to carry, letting the Zoning Administrator approval to stand.

At that hearing, one of the Commissioners stated that the project had been vetted enough. However an opinion by the City Attorney asserted that Commissioners still had jurisdiction and needed to hold another hearing. At that hearing, the Commissioners voted to approve the appeal, as reflected in the Determination.

The following is an abbreviated list of reviews and hearings the proposed project has undergone:

- 2.14.11 Issuance of Mitigated Negative Declaration (MND)
- 4.28.11 Public Hearing by Zoning Administrator (ZA)
- 8.25.11 MND Reconsideration issued because haul-route mitigations were excluded
- 10.20.11 ZA Decision letter issued approving project
- 10.30.11 Appeal filed by Amy Greenwood
- 11.2.11 Appeal filed by Edgewater Homeowners Assoc
- 11.16.11 Comm Hearing continued because City Attorney opinion that MND Reconsideration was not properly circulated
- 2.15.12 Comm Hearing continued because B&S soils review of 3rd party geologist and project geologist not completed
- 4.18.12 Comm Hearing continued because B&S soils review of 3rd party geologist and project geologist not completed
- 7.18.12 Comm Hearing continued because B&S soils review of 3rd party geologist and project geologist not completed
- 8.15.12 MND Reconsideration issued based on B&S Soils review
- 10.03.12 Comm Hearing continued because of omissions in MND/Reconsideration omissions
- 1.16.13 West LA Commission conducts public hearing on Appeal; two motions voted, both failed to pass, ZA Decision stands
- 1.18.13 Opinion by City Attorney that no action was taken by Commission requiring that it be returned to Commission for another hearing
- 3.6.13 Re-Hearing by West LA Area Planning Commission
- 5.22.13 Determination Letter Issued by West LA Area Planning Commission

SUPPORTING DOCUMENTS

Concurrently submitted: Coastal Bluff Determination Question prepared by SASSAN Geosciences Inc, 6/5/13. This report analyzes the proposed project's geology per Coastal Commission standards and determines it is not on a coastal bluff.

Other documents and arguments will be provided in support of this appeal.



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: MAY 22 2013

CASE NO: ZA-2010-1726-CDP-MEL-1A
CEQA: ENV 2010-1727-MND-REC1

Location: 17030 West Sunset Boulevard

Council District: 11

Plan Area: Brentwood-Pacific Palisades

Zone: [Q]R3-1

District Map: 126B117

RECEIVED
South Coast Region

MAY 24 2013

Applicant: Stephen Coaloa

Appellants: 1) Amy C. Greenwood
2) Edgewater Towers Homeowners Association

CALIFORNIA
COASTAL COMMISSION

At its meeting on **March 6, 2013**, the following action was taken by the West Los Angeles Area Planning Commission:

1. Granted the appeals.
2. Overturned the Zoning Administrator's Decision and denied the Coastal Development Permit.
3. Adopted the Revised Findings.
4. Did not adopt the environmental clearance ENV-2010-1727-MND-REC1.

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: Commissioner Halper
Seconded: Commissioner Donovan
Ayes: Commissioners Foster and Martinez
Noes: Linnick

Vote: 4 - 1

Effective Date

Effective upon the mailing of this notice

Appeal Status

Not further appealable to City Council

Rhonda Ketay

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 1094.5. There may be other time limits which also affect your ability to seek judicial review.

EXHIBIT NO. 5
Application Number A-5-PPL-13-212
Planning Commission
Report
California Coastal Commission

Findings

1/12

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, the statements made at the public hearing on January 16 and March 6, 2013, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, The West Los Angeles Area Planning Commission finds that the requirements and prerequisites for granting a coastal development permit as enumerated in Section 12.20.2 of the Municipal Code have not 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 and is within the Brentwood-Pacific Palisades Community Plan. The site is located within a Hillside Area, a Very High Fire Hazard Severity Zone and is within a Landslide area.

The site contains approximately 42,539 square feet with approximately 99 feet of frontage on the south side of Sunset Boulevard and a variable depth between approximately 287 feet and 314 feet. The site is located approximately 325 feet from Pacific Coast Highway and 400 feet from the shore line. The site is a vacant, unimproved parcel and is zoned [Q]R3-1. The 'Q' Qualified Condition on the site imposes the following development limitations on 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 and or a maximum height of 35 feet for any portion of building or structure within 100 feet of property zoned R1 or more restrictive; (2) a 20-foot rear yard is required; (3) a 10-foot side yard is required for any portion of building within 50 feet of an R1 zoned lot or more restrictive; and (4) 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. and the applicant requested a Coastal Development Permit for the construction of a new approximately 84,500 square-foot residential development containing a total of 49 dwelling units; and, pursuant to Government Code Section 65590 the applicant is requesting a Mello Act Compliance Determination. The Mello Act is a statewide law that requires local governments to comply with certain provisions designed to preserve and increase the supply of affordable housing in California's coastal zone. The Mello Act applies to any proposal to convert or demolish existing housing, or to develop new housing in the coastal zone. 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.

Excavation and earthwork for the proposed development, including the subterranean parking structure, is estimated at approximately 19,000 cubic yards.

Public Hearing:

The following is a summary of key issues raised at the January 16, 2013 and March 6, 2013 public hearings by appellants and opponents of the project:

Environmental:

ENV-2010-1727-MND-REC1 issued for the proposed project is inadequate as it did not adequately analyze the impacts and mitigate the significant impacts associated with:

- Traffic impacts and traffic circulation patterns
- Hazards due to access to and from the site
- Presence of hydrogen sulfide on the site and public safety during excavation activities.

Geology/Hazards

The site is on a landslide and poses a serious danger and safety threat to surrounding properties in the event of a landslide. The approved soils report does not adequately address drainage or the proposed sewer connections. The approved soils report does not acknowledge or identify mitigation measures to address the presence of hydrogen sulfide on the site. Questions raised by a third party peer review of the geotechnical reports have not been adequately addressed.

Traffic Safety & Access:

The project site is located on a dangerous curve and visibility for cars entering and exiting the site is not adequate. Traffic on Sunset is fast moving and has a high ratio of traffic accidents. There are serious traffic accidents on this curve every year. If left turns into the project site are prohibited, this will result in a longer more circuitous route to the project site for northbound traffic and vehicles will simply be forced to make unsafe left turns into the project site or u-turns further along Sunset Boulevard. This will alter traffic patterns that have not been properly analyzed.

Off-site improvement to the intersection of Sunset Boulevard and Marquez Avenue should be required.

Coastal Bluff:

The project site is an exposed downslope lot that sits on a bluff top, however, the project can not be properly analyzed in light of the Coastal Commisison's Regional Interpretive Guidelines concerning its location on or near coastal bluffs without proper verification confirming whether the project site is within a "Coastal Bluff" as defined in the Coastal Act.

Biological

Torrey Pine Trees have been planted within the right-of-way along Sunset Boulevard, that while not protected trees, are very rare trees that are significant to the community. There are at least three Torrey Pine Trees along the site's frontage that frame the view on the site and if removed will have an impact on scenic vistas.

Streets:

Sunset Boulevard is designated as a Scenic Major Highway Class II dedicated to a width of 100 feet and is improved with two travel lanes in each direction, street trees, but no sidewalk abutting the subject property.

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] condition restricts the height of buildings within 100 feet of a lot zoned R1 or more restrictive.

Case No. CDP 714-79 - In 1979, an application for a Coastal Development Permit for a 12-unit condominium was terminated at the request of the applicant.

Case No. TT-38139 - On September 25, 1979, an application was submitted for a 12-unit condominium. No action was taken.

Surrounding Properties:

Case No. ZA 2006-6000(CDP) - On July 11, 2006 an application for a Coastal Development Permit in conjunction with a Parcel Map Exemption was filed.

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.

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 also 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 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 and does not function as part of wild life corridor, 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:**
 - 1) Section 30250(a) of The Coastal Act provides that:

"New development, except as otherwise provided in this division, shall be located within, contiguous, or in close proximity to existing, developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land division, other than leases for agricultural uses, outside existing developed areas shall be permitted where 50% of the usable parcels in the area

have been developed and the created parcels would be no smaller than the average size of the surrounding parcels".

The site is one of few remaining vacant, unimproved parcels in the area and the proposed project is an infill development within 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 north side of Sunset Boulevard across the project site has no curb or sidewalk and the southwest side of Sunset Boulevard along the site's frontage is improved with curb only and no sidewalks.

The adjoining property to the west has approximately 91 feet of frontage on Sunset Boulevard and is improved with a two-story 4-unit apartment while the adjoining property to the east has 125 feet of frontage on Sunset Boulevard and is improved with a two-story 23-unit apartment. Properties to the north, across Sunset Boulevard, are zoned R1-1 and are through lots with frontage on Sunset Boulevard and Bollinger Drive. These lots are oriented toward and have their access on Bollinger Drive and are improved with single-family dwellings. Adjoining properties to the south are zoned RE40-1 and are improved with a single-family dwelling to the southeast and a tennis court/open space to the southwest. Property further west on Sunset Boulevard is improved with a Self Realization Temple.

Thus, the proposed project is located in an area that is already developed consisting of single-family and multiple-family residential uses as well as institutional uses, thereby making the project site contiguous with, and in close proximity to existing developed areas that are able to accommodate it.

2) Section 30251 of The Coastal Act provides that:

"The 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 surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas".

The proposed development will not result in the obstruction of any public scenic views. 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 north side of Sunset Boulevard across the project site has no curb or sidewalk and the southwest side of Sunset Boulevard along the site's

frontage is improved with curb only and no sidewalks. The subject site has approximately 99 feet of frontage on the south side of Sunset Boulevard. The adjoining property to the north has approximately 91 feet of frontage on Sunset Boulevard and is improved with a two-story 4-unit apartment while the adjoining property to the south has 125 feet of frontage on Sunset Boulevard and is improved with a two-story 23-unit apartment.

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 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 pedestrian friendly due to the lack of sidewalks and is not known for high pedestrian traffic. The subject site is one of the few remaining vacant undeveloped parcels in the area and Sunset Boulevard is a winding street. The site is located on a concave curve such that as both north and south bound traffic approach the site, views to the Pacific Ocean are generally obstructed by the adjoining two-story apartments and by the time a motorist is in front of the site, Sunset curves to the north directing drivers' views away from the shore. Thus, vehicular traffic moving along the site's frontage has a very a brief and limited view to the Pacific Ocean. Consequently, the view from the site's frontage is generally afforded from a stationary position. However, as noted above, this segment of Sunset Boulevard has no sidewalks and does not have high levels of pedestrian traffic and there is no lookout or pull-out on or adjacent to the site.

With respect to potential impacts on views from Pacific Coast Highway (a designated Scenic Highway) below the subject site, the adjoining lots to the rear (south) of the site have their frontage on Pacific Coast Highway. The rear lot line of the site is located approximately 325 horizontal feet from Pacific Coast Highway and 400 horizontal feet from the shore line. There is a significant change in grade from the rear lot line of the subject site to Pacific Coast Highway. The adjoining properties to the south have a very steep down-slope. Due to the topography and based on photo simulations furnished by the applicant, it appears that the proposed development will not be visible to southbound traffic on Pacific Coast Highway and only the upper most portion of the proposed buildings will be visible in the distance to northbound traffic. Existing improvements in the foreground would be more prominently than the proposed development. Any retaining walls required for the project will not be visible.

Otherwise, 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, retaining walls or parking. The proposed development consists of three detached buildings that will be terraced down the hillside in an effort to reduce massing, minimize grading, and to minimize visual impacts to the extent feasible. The combined footprint of all three buildings will occupy approximately 54% of the site, the remaining 46% of the site is set aside as open areas.

The building elevations consist of a non-reflective glass façade with a venetian stucco finish. The design incorporates a walking path ("Canyon Trail") leading from the foyer of Building 1 that threads through Buildings 2 and 3 terminating at the common open space area to the rear of the lot below Building 3. The project will conform to the "Q" condition on the site, no portion of Building 3 will exceed 35 feet within 100 feet of the adjoining RE40 zoned lot and the proposed development will maintain a 20-foot rear yard. Otherwise, no improvements on the site are within 50 feet from the adjoining RE40 zoned lot and the proposed development will maintain 7-foot side yards in conformance to the code.

3) Hazards

Section 30253 of The Coastal Act provides that:

"Permitted Development shall minimize risks to life and property in areas of high geologic flood and fire hazard; and

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

The project site is a downward-sloping, south facing lot overlooking the Pacific Ocean. The northern half of the lot adjacent to Sunset Boulevard is generally level and occupied by a vacant pad. The southerly half of the lot slopes southerly towards the Pacific Ocean and has an overall change in grade of approximately 77 feet from the lowest elevation on the site to the highest elevation adjacent to Sunset Boulevard with gradients ranging from 2:1 to 6:1. The site is located within a designated seismically induced landslide hazard zone, as shown on the "Seismic Hazard Zones" map issued by the State of California.

The Department of Building and Safety Grading Division originally issued a Geology and Soils Approval Letter dated July 7, 2009 based on a review of a Geology and Soils reports prepared by Sassan Geosciences and Ray A. Eastman, CEG dated between May 14,

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2004 and May 30, 2009. On appeal, a third party Geologist (on behalf of the appellants) raised several technical questions and identified technical issues that were not properly addressed by the applicant's Soils and Geology Report as approved by Building and Safety. After review and consideration of the technical issues raised by the third party geologist, the Department of Building and Safety Grading Division issued an updated approval letter dated July 3, 2012.

However, based on testimony at the Commission's appeal hearings on January 16, 2013 and March 6, 2013, the Commission was not satisfied that the approved soils report adequately responded to and addressed the issues raised by the third party geologist. Specifically, the approved soils report did not acknowledge or identify mitigations to address the presence of hydrogen sulfide on the site. In the absence of more detailed analysis, the Commissioners concluded that the approved soils report did not provide assurances that potential hazards related to hydrogen sulfide would be mitigated.

2. **The development will/will not prejudice the ability of 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 not an adopted Local Coastal Program (LCP) for this portion of the Coastal Zone. In the interim, the adopted Brentwood-Pacific Palisades Community Plan serves as the functional equivalent in conjunction with any pending LCP under consideration. The adopted Brentwood-Pacific Palisades Community Plan designates the subject property for Medium Density Residential land uses with a corresponding zone of R3 and Height District No. 1. The subject site is zoned [Q]R3-1. The proposed development of 49 dwelling units is otherwise consistent with the planned land use and permitted by the underlying zone.

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

The referenced Interpretive Guidelines are designed to provide direction to decision makers in rendering discretionary determinations on requests for coastal development permits pending adoption of the Local Coastal Program (LCP). The guidelines pertain to density, landform grading and development within Coastal Bluffs. The proposed development provides the required setbacks in conformance to the Municipal Code including a 20-foot rear yard. However, the Regional Interpretive Guidelines suggest a minimum 25-foot setback from the edge of any Coastal Bluff as well as density limitations.

As previously noted, the project site is a downward-sloping lot overlooking the Pacific Ocean that sits at the top of a bluff. The northern half of the lot adjacent to Sunset Boulevard is generally level and occupied by a vacant pad. The southerly half of the lot slopes down towards Pacific Coast Highway and has an overall change in grade of approximately 77 feet from the lowest elevation on the site to the highest elevation adjacent to Sunset Boulevard with gradients ranging from 2:1 to 6:1.

Based on the site's topography and testimony presented at the hearing, there was conflicting information as to whether the site was located within a Coastal Bluff as defined in the Coastal Act. In addition, there was conflicting information between the city's maps and the Coastal Commission's maps concerning whether the site's location was within the single-permit vs. dual permit jurisdiction zone. An aerial map obtained by the applicant from the California Coastal Commission indicates that the site straddles the border between the single and dual-permit jurisdiction zone and the map does not contain lot lines to accurately determine the site's location. California Coastal Commission staff conveyed to city staff that verification concerning the site's location on a Coastal Bluff or within the single or dual permit jurisdiction zone would require investigation by Coastal Commission geologists and possibly require a topographical survey.

In the absence of definitive confirmation from the California Coastal Commission affirming whether or not the site was located within a Coastal Bluff, the Commission was unable to evaluate or properly consider the proposed development in light of the Regional Guidelines pertaining to projects on or near Coastal Bluffs.

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

The proposed development conforms with such known applicable decisions and no conflict with any past decisions exists.

5. **The development is not located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, and the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.**

The project site is not located between the nearest public road 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.

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

The West Los Angeles Area Planning Commission found that the environmental clearance issued for the proposed project, ENV-2010-1727-MND-REC1, did not adequately analyze or mitigate the proposed project's potential environmental impacts with respect to traffic, site access and internal circulation or potential presence of hydrogen sulfide. The Commission determined that the traffic assessment completed by the Department of Transportation did not consider the site's location on a dangerous curve and how the prohibition of left turns into the project site by the existing double yellow lane would affect traffic patterns and access to the site. Also, the DOT's review of the project did not address the line of sight study submitted by the applicant to evaluate safe ingress and egress to the site and did not provide a comprehensive review of the proposed driveway and internal circulation plans, which include a deceleration lane partially located within the public-right-of-way, which may or may not be feasible. The proposed deceleration lane would also potentially require removal of three existing Torrey Pine Trees along the site's frontage. The trees were planted by the local community along Sunset Boulevard and are a unique feature of the streetscape. The environmental document did not consider or adequately analyze the biological impacts of removing these trees or provide mitigation measures to address biological impacts.

The Commissioners were also not satisfied that the updated soils approval letter issued by the Department of Building and Safety on July 3, 2012 adequately responded to the issues raised by a third party geologist and the soils report analysis and MND did not provide or identify measure to safely address or mitigate the presence of hydrogen sulfide on the site.

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 a Mello Act Compliance review.

This compliance review is required by the Mello Act, by the City's Interim Administrative Procedures for Complying with the Mello Act (Interim Procedures), and by 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

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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. 11 and 12 of this grant require conformance with the applicable provisions of the Mello Act. Specifically, Condition No. 11 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 site is permitted a maximum density of 53 dwelling units by-right and is eligible for a density bonus up to 35% (for a maximum density of 71 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 August 25, 2011, the Department of City Planning issued a Reconsideration of Mitigated Negative Declaration No. ENV 2010-1727-MND-REC1. However, as noted in more detail under Finding No. 6 above, the West Los Angeles Area Planning Commission determined that the environmental document did not adequately analyze or mitigate the proposed project's potential environmental impacts with respect to traffic, site access and internal circulation or potential presence of hydrogen sulfide