

**CALIFORNIA COASTAL COMMISSION**

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# Th8e

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## STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

**Application No.:** A-5-PPL-17-0047

**Applicant:** Reza Akef, Metro Capital Builders

**Agent:** Manatt, Phelps, and Phillips, LLP

**Local Government:** City of Los Angeles

**Local Decision:** Approval with Special Conditions

**Appellant:** Brett A. Bjornson

**Location:** 15210, 15214, 15218, 15222 Earlham Street, Pacific Palisades, County of Los Angeles (APN 4412-027-013; 012; 011; 010)

**Project Description:** Appeal by Brett A. Bjornson of City of Los Angeles Local CDP DIR 2016-217-CDP-MEL for the lot line adjustment (creating 3 lots from 4), grading with 7,000 cubic yards of exported material, and construction of three 2-story, approximately 10,000 sq. ft. (including the basements) single-family residences not to exceed 33 ft. in height (including attached garages, swimming pools, roof top decks, and retaining walls at 15210, 15214, 15218, 15222 Earlham St., Pacific Palisades, Los Angeles, Los Angeles County. (AS-LB)

**Staff Recommendation:** No Substantial Issue

**Important Hearing Procedure Note:** The Commission will not take testimony on this “substantial issue” recommendation unless three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General, or the executive director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue,

testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, unless it has been postponed, during which the Commission will take public testimony.

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## SUMMARY OF STAFF RECOMMENDATION:

The Staff recommends that the Commission determine that **no substantial issue exists** with respect to the grounds on which Appeal A-5-PPL-17-0047 has been filed because the project as proposed is consistent with the policies of Chapter 3 of the Coastal Act. The applicant proposes a lot line adjustment to reduce four lots located at 15210, 15214, 15218, and 15222 W. Earlham Street, Pacific Palisades, to three lots. The four lots are irregular in shape, and range from 7,477 square feet to 10,341 square feet in size. The proposed lot line adjustment would result in 3 lots of approximately 12,000 square feet in size. The project proposal includes the construction of three single-family homes (approximately 10,000 square feet) on each of the lots. The three proposed residences will be visually compatible with the size and scale of other single-family residences found in the general area. The proposed residences will also feature side yard setbacks and low retaining walls that allow coastal view corridors of approximately 19 feet in width. Limited ocean views will be maintained from the public right of way towards 15210 Earlham Street and from sidewalks towards Potrero Canyon.

The Appellant has raised concern over building on a hillside that has more than a 15% slope, a community issue that is addressed in the Brentwood-Pacific Palisades Community Plan (BPPCP). The appellant has specifically brought forward the appeal on the grounds that the project does not conform to BPPCP Policy 1.6.3, which requires “consideration for the steepness of the topography and the suitability of the geology in any proposal for development within the Plan area. However, the BPPCP is *not* a certified LCP. Therefore, the Coastal Act is the standard of review for this appeal. Although the Coastal Act requires that new development assure stability and structural integrity in areas of geologic hazard, the City’s permit has addressed the geologic issues through permit requirements and the proposed project meets this standard. Reports from the applicant’s consulting geologist (Byer Geotechnical) and the Geotechnical Engineering Group have determined that the project site has been mitigated to a satisfactory degree so as to permit construction of single family homes. The mitigation is primarily a result of City of Los Angeles’ effort to stabilize the bluffs of Potrero Canyon by filling the canyon. The Los Angeles Department of Building and Safety (LADBS) has upheld these findings, and has also rejected the findings of E.D. Michael, the Appellant’s consulting geologist. In his report, Mr. Michael advises against building on the site, stating that high groundwater levels would render the project site unstable during a seismic event. The report also pointed to small cracks on neighboring Friends Street as an indication that a recent landslide has reactivated, and questions the grading design of the project. LADBS grading staff studied both the Michael and Byer reports during the local appeal process, and found the Byer

report to be acceptable and that there were no “unresolved geologic issues that should justify the appeal.” The City provided reasoned explanation and substantial evidence to support its position. The Commission’s staff has also reviewed the geologic studies and agrees with the City’s determination.

Therefore, the project is consistent with Chapter 3 of the Coastal Act because the evidence demonstrates that the project, as conditioned by the City, will assure the stability and structural integrity of the proposed homes; thus, the appeal raises no substantial issue regarding conformity with Chapter 3, and the original City approval of CDP 2016-217 should be upheld. The motion to carry out the staff recommendation is on page 5.

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### APPENDICES

[Appendix A - Substantive File Documents](#)

### EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Site Plan](#)

[Exhibit 3 – City of Los Angeles Letter of Determination](#)

[Exhibit 4 – Appeal of CDP 2016-217](#)

## **I. MOTION AND RESOLUTION**

### **Motion:**

*I move that the Commission determine that Appeal No. A-5-PPL-17-0047 raises **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act.*

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

### **Resolution:**

*The Commission hereby finds that Appeal No. A-5-PPL-17-0047 presents **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.*

## **II. APPELLANT’S CONTENTIONS:**

On August 31, 2017, an appeal of City of Los Angeles Local Coastal Development Permit No. 2016-217 was filed by Brett A. Bjornson ([Exhibit 4](#)). The City-approved project authorizes a lot line adjustment (creating 3 lots from 4), grading with 7,000 cubic yards of exported material, and construction of three 2-story, 10,000 sq. ft (with basements) single-family residences not to exceed 33 ft. in height (including attached garage, swimming pool, roof top deck, and retaining walls at 15210, 15214, 15218, 15222 Earlham St., Pacific Palisades, Los Angeles, Los Angeles County. The appeal contends that the proposed project does not conform to the Brentwood-Pacific Palisades Community Plan (BPPCP), a document that guides development in the Pacific Palisades, because the steepness of the topography of the project site has not been accurately determined. The appeal also claims that the method the City of Los Angeles used to determine the steepness of “competent bedrock” is flawed, and that the City has therefore underestimated the slope of “competent bedrock.” The appellant claims that this caused the City to allow larger basements than would otherwise be allowed and that this alleged error regarding the steepness of the slopes raises questions as to the stability of the proposed homes.

## **III. LOCAL GOVERNMENT ACTION:**

The City of Los Angeles determined the proposed project to be categorically exempt (ENV 2016-218-CE) from the California Environmental Quality Act (CEQA) pursuant to Section 15362, Class 32. The Los Angeles Department of City planning originally approved CDP No. 2016-217 on March 21, 2017 for the “lot line adjustment to create 3 lots from 4 vacant lots, grading with 7,000 cubic yards of exported material, and construction of three 2-story, 33-foot high, 10,000 sq.ft.

(approx.) single-family residences (each with basement, attached garage, swimming pool, roof top deck, and retaining walls) at 15210, 15214, 15218, 15222 Earlham St., Pacific Palisades, Los Angeles, Los Angeles County.” The California Coastal Commission received a Letter of Determination of the City’s Local Coastal Development Permit (CDP) approval on March 23, 2017. A local appeal of the City’s CDP approval was submitted to the City of Los Angeles Department of City Planning, and a subsequent hearing was scheduled on July 19, 2017. The City of Los Angeles upheld the original determination to issue the CDP. The California Coastal Commission received a Notice of Permit Issuance for this project on August 4, 2017. On August 31, 2017, Brett A. Bjornson filed an appeal of City of Los Angeles’ approval of CDP 2016-217 with the California Coastal Commission. The Executive Director of the Coastal Commission determined, pursuant to Section 30620(d) of the Coastal Act, that the appeal was patently frivolous because it didn’t raise any Chapter 3 issues, but instead only alleged inconsistency with the BPPCP. A notice of patent frivolity was mailed to Mr. Bjornson on September 8, 2017. Pursuant to Section 30620(d) of the Coastal Act, Mr. Bjornson submitted a \$300 filing fee on September 14 for the appeal to be heard by the Commission.

#### **IV. APPEAL PROCEDURES:**

Section 30600(b) of the Coastal Act provides that prior to certification of its 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 CDPs. Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued CDPs. Section 30602 of the Coastal Act allows any action by a local government on a CDP 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 CDP application, the Coastal Commission must be notified 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.] As provided under section 13318 of Title 14 of the California Code of Regulations, the Appellant must conform to the procedures for filing an appeal as required under section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

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

Commission staff recommends a finding of no substantial issue. If the Commission decides that the Appellant’s contention raises no substantial issue as to conformity with Chapter 3 of the Coastal

Act, the action of the local government becomes final. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the Chapter 3 policies of the Coastal Act, the local CDP is voided and the Commission typically continues the public hearing at a later date in order to review the CDP 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 meeting. 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, those who are qualified to testify at the hearing, as provided by Section 13117 of Title 14 of the California Code of Regulation, 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.

## **V. SINGLE/DUAL PERMIT JURISDICTION AREAS**

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 CDP permit also obtain a second (or “dual”) CDP 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 CDP is the only CDP required. The proposed project site is located within the *Single Permit Jurisdiction Area*. City of Los Angeles has the authority to grant or deny Coastal Development Permits in the Single Permit Jurisdiction area. However, if the Commission finds substantial issue with the City’s determination during an appeal, the City’s CDP will become void and the Commission may issue a CDP on de novo.

## **VI. FINDINGS AND DECLARATIONS – NO SUBSTANTIAL ISSUE**

### **A. PROJECT LOCATION AND DESCRIPTION**

The applicant proposes a lot line adjustment to reduce four lots located at 15210, 15214, 15218, and 15222 W. Earlham Street, Pacific Palisades, to three lots. The four lots are irregular in shape, and

range from 7,477 square feet to 10,341 square feet in size. The proposed lot line adjustment would result in 3 lots of approximately 12,000 square feet in size. The project proposal includes the construction of three single-family homes (approximately 10,000 square feet) on each of the lots.

The proposed residence on Parcel A (15210 Earlham) will feature two stories (6,474 sq. ft) above a basement level (3,510 sq. ft.), with one story at sidewalk level, and will stand at 18 feet from the sidewalk to the roof. The proposed residence on Parcel B (15214 Earlham) will feature 2 stories (6,450 sq. ft) above a basement level (4,026 sq. ft), with one story at sidewalk level, and will stand at 17 feet from the sidewalk to the roof. The proposed residence on Parcel C (15218 Earlham) will feature three stories (6,677 sq. ft) above a basement level (3,795 sq. ft.), with two stories at sidewalk level, and will stand at 24 ft. 6 in. from the sidewalk to the roof ([Exhibit 2](#)).

The 15210, 15214, 15218, and 15222 W. Earlham Street lots are vacant lots located in the Pacific Palisades Community ([Exhibit 1](#)). All four of these lots back onto Potrero Canyon. Earlham Street is developed, with single family houses lining both sides of the street. The vacant subject lots have accordingly been zoned R1-1, which permits the construction of single-family homes. The Los Angeles Department of City Planning staff report describes the site as being located “within a hillside area, landslide zone, special grading area, very high fire hazard severity zone and [is] within the Santa Monica fault zone ([Exhibit 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 regulation 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 had 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 to the provisions of Chapter 3 of the Coastal Act for the reasons set forth below.

### C. NO SUBSTANTIAL ISSUE ANALYSIS

The grounds for an appeal of a CDP issued by the local government prior to certification of its Local Coastal Program (LCP) are the project's conformity with Chapter 3 policies of the Coastal Act. Any local government CDP issued or denied prior to certification of its LCP 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. The Commission's decision will be guided by the factors listed in the previous section of this report (B. Factors to be Considered in No Substantial Issue Analysis).

Section II of this staff report outlined the Appellant's contentions regarding the project. The Appellant's primary claim is that the project does not conform to the Brentwood-Pacific Palisades Community Plan (BPPCP) due to an allegedly erroneous method used to assess the angle of the slope on which the homes would be constructed. However, the BPPCP is not part of a certified LCP; indeed, there is no certified LCP for this area of the City of Los Angeles. Therefore, the Appellant's claim that the project violates particular BPPCP policies does not raise a substantial issue regarding conformity with Chapter 3 of the Coastal Act, which is the Commission's standard of review for determining whether or not to hear an appeal. Cal Pub Res Code § 30625(b)(1); 14 C.C.R. § 13321.

The appeal also briefly states that the project violates policies in Chapter 3 of the Coastal Act, including Section 30253. The City's staff report for Local CDP 2016-217 states that the City applied the policies of Chapter 3 of the Coastal Act and concluded that the development, as proposed and conditioned by the City, would be consistent with Chapter 3 of the Coastal Act and would not prejudice the ability of the City to prepare a LCP for the Pacific Palisades Coastal Zone ([Exhibit 3](#)). These findings are supported by the evidence.

The Appellant raises concern over building on a hillside that has more than a 15% slope, a community issue that is addressed in the Brentwood-Pacific Palisades Community Plan (BPPCP). In particular, the Appellant disagrees with the City's determination that the slope of competent bedrock behind the project site is 27 degrees, claiming instead that the slope of competent bedrock is in excess of 65 degrees ([Exhibit 4](#)). According to the Appellant, if the slope were as steep as he claims it is, City ordinances would disallow the project from including such large basements. The appeal also implies that the allegedly incorrect slope of competent bedrock raises issues regarding the stability of the proposed homes.

Section 30253(a)(b) of the Coastal Act states:

*New development shall do all of the following:*

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

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

The proposed project adheres to Section 30253 of the Coastal Act, as demonstrated by a geologic study conducted by Byer Geologic group and upheld by the City of Los Angeles Department of Building and Safety (LADBS).

Potrero Canyon was a landslide-prone area, particularly during the 1950s and 1970s, when landslides severely damaged several single-family homes. The unsafe conditions due to the landslide hazard triggered litigation, which resulted in the City of Los Angeles purchasing 22 residential properties. The City used that action to begin conducting studies on the area to determine the best way to stabilize the canyon slopes. In 1986, the Los Angeles City Department of Recreation and Parks obtained a CDP to fill Potrero Canyon. This project aimed to do two things: 1) mitigate the landslide hazard by using fill and I beams to stabilize the slopes, and 2) create a park and restored riparian habitat area to mitigate the blueline stream and riparian habitat that would be lost due to the fill. In 1991, a Material Amendment was approved by the Commission to authorize the sale of two of the City-owned residential rim lots to raise funds to complete the project. This project has resulted in stabilized bluff edges along the western rim of Potrero Canyon.

Since the Potrero fill project, several City permits have been issued for the construction of homes on both sides of the site location (15209- 15329 De Pauw Street; 15211, 15263 Friends Street), also backing onto the western rim of Potrero Canyon. The City has determined that the western bluff of Potrero Canyon does not pose a significant geologic hazard through its consistent approval for the development of single-family homes, provided that the development adheres to the established R1-1 zoning restrictions for the area.

For this specific project, the Applicant prepared a Geology and Soils Report, which was approved by LADBS in a Geology and Soils Report Approval letter on September 24, 2015. According to the City of Los Angeles Staff Report ([Exhibit 3](#)):

*“The Grading Division of LADBS determined that the Soils Report includes an acceptable seismic slope stability analysis and the requirement of the 2014 City of Los Angeles Building code, has been satisfied. Additionally, Grading determined that the Soils report is acceptable provided conditions are complied with during site development. The Soils Report Approval Letter includes standard and site specific conditions of approval designed to address the environmental setting of the project site. The Department of Building and Safety has a standard regulatory scheme that ensures development in these areas will not cause impacted related to location in landslide area from exacerbating existing environmental conditions. Historically, these RCMS, which are Building Code requirements and conditions, have effectively prevented impacts on the environment from the development of similar single family homes in the area. Thus, through the regulatory compliance measures and project-specific conditions of approval, the project will not result in an impact on an environmental resource of hazardous or critical concern.”*

As part of his local appeal to the West Los Angeles Area Planning Commission, the Appellant included a report by contracted geologist E.D. Michael to provide advice in regards to developing the project site. In his report, Michael questioned the geology reports submitted by the Applicant on which the City relied, and in particular, questioned whether that report contained an erroneous conclusion about the slope of competent bedrock underlying the project. The Applicant's consultant, Byer Geotechnical, published a memorandum as a follow-up to their geologic report used for the project proposal. In this memorandum, Byer defends their usage of a particular boring-Boring B8- to determine the slope of competent bedrock. The Appellant did not agree that Boring B8 was appropriate to use because it is allegedly located on a ridge that is located higher than the rest of the slope behind the project lots.

In its response to the Appellant's contention, the Byer Memorandum adequately explained why the slope of bedrock was properly determined:

*“The surface used to define the top of competent bedrock is based on observation of samples from the borings on the subject property and comparison with borings by previous consultants. In Boring B8, which is closest to the original canyon and in the deepest part of the preexisting landslide, competent bedrock was encountered at the tip of a sample from 80 feet and in samples from 85, 90, 95,100, and 110 feet. Competent bedrock consists of interbedded dark bluish-gray sandstone and very dark gray siltstone with near-vertical bedding. The depth to bedrock underlying the site was also determined from the depth to material similar to that in Boring B8 in Borings B1 and B6, and Boring KBA-12. Interpolation between these points led to a surface that dips 27 to 28 degrees to the southwest, which projects below the canyon surface shown on any of the earlier surveys. It should be noted that, given the depth to competent bedrock in Boring B8, a steeper surface... would be less conservative.”*

*Mr. Bjomson also argues that the bedrock encountered below 80 feet in Boring B8 must be erroneous since the canyon was once deeper. The photographs, which are enclosed as pages 8 and 9 in Mr. Bjomson's November 20, 2016 pdf document, were originally provided as Appendix A, Figures 6 and 7 in a report entitled: Geotechnical Real Estate Disclosure Report for City Owned Lot, 15206 Earllham Street, Pacific Palisades, CA 90272, W.O. El 70213F, GEO file #05-159, prepared by the City of Los Angeles, Department of Public Works, Bureau of Engineering, Geotechnical Engineering Group (GEO), and dated May15, 2014. Some of the photographs are dated February 29, 1980. The GEO report indicates that the lake formed due to damming of the canyon by landsliding, triggered by the high rainfall in 1979 and1980. Based on the location of the lake and the 1960 topography along the stream, about 20 feet of slide debris would have been required to dam the canyon and form a lake of this extent. This is consistent with the higher elevation of the stream along the canyon in 1986 relative to 1960, as documented on maps and cross sections in our reports. The presence of this slide debris and the lake are consistent with the depth of saturated alluvium and slide debris encountered by KBA at the start of grading.”*

Perhaps more crucially, the Byer memorandum, describes how the slope of bedrock is not even relevant to the project's stability because “the proposed residences are to be founded on piles that derive support in competent bedrock below the slide plane. As a condition of approval by the

LADBS Grading Division, Byer Geotechnical is to provide continuous observation during drilling to determine the elevation of the competent bedrock and ensure sufficient embedment into competent bedrock for each foundation pile.” Thus, because the homes will be supported by bedrock- at whatever depth it is found- the angle of slope for the bedrock does not raise an issue regarding section 30253 and its requirement that new development assure stability and structural integrity. The Appellant claims that the slope of bedrock affects the size of the allowed basements under City ordinances and the BPPCP; however, as long as the structures assure stability and minimize geologic hazards, the size of the basement is not relevant to the project’s consistency with Chapter 3 of the Coastal Act.

In his report, Michael also advises against building on the site because high groundwater levels would allegedly render the project site unstable during a seismic event. The report also pointed to small cracks on neighboring Friends Street as an indication that a recent landslide has reactivated, and questions the grading design of the project.

LADBS Grading staff analyzed both the Michael and Byers reports and ultimately agreed with the findings of the Byers report. In an email to the City of Los Angeles Planning Department, LADBS Grading specialists state that in the Byers report, “a very high groundwater surface was used in the slope stability analyses. Therefore, we think the prospect of high groundwater in the future has been sufficiently addressed already.” The Byer Memorandum also describes why the Michael report uses incorrect assumptions to support its claim that groundwater might be an issue. For example, the Michael report notes that groundwater levels were high in two borings, but failed to note that those borings were drilled in 1986, prior to installation of groundwater control devices installed as part of the Potrero Canyon stabilization by the City.

In terms of the cracks on Friends street, LADBS Grading found the claim “quite speculative.” They pointed to the GEO report’s indication that “the cracks were more likely due to removal of lateral support of the east side of the road and/or consolidation of poorly compacted subgrade material.” LADBS addressed the grading design by stating that affirming that “final grading plans will be reviewed by the Plan Check Division to be in conformance with the recommendations presented in the [soils] report and Department approval letters prior to issuance of any permit.”

Most importantly, LADBS Grading states:

*“In summary, we don’t think there are unresolved geologic issues that should justify the appeal.”*

The aforementioned information indicates that the City has sufficient evidence on which to conclude that there are no geologic concerns that have not already been addressed in this project proposal. The City’s determination is based on reasoned and thorough analysis, and the Appellant does not raise any issues regarding the project’s geologic stability that were not sufficiently addressed by the City. The City’s consistent pattern of granting CDPs to similar projects in the same area with the geologic conditions in mind further discredits the merit of this appeal.

Last, the Appellant asserts that the project does not conform with Coastal Act Section 30253(b) and its requirement that new development assure stability and structural integrity without requiring

protective devices that alter natural landforms along bluffs and cliffs. However, the pile supports are foundation elements that will not serve a protective landform function. Also, as the City recognized in its rejection of the Appellant’s local appeal, and as the Appellant acknowledges in his appeal to the Commission, the subject hillside has been stabilized through the use of *permitted* fill and therefore does not represent a natural landform along a bluff or cliff. Accordingly, even if the support structures that underlie the proposed homes were considered to be bluff protective devices, they will not alter natural landforms in this area.

To reiterate, the factors the Commission uses to determine whether an appeal raises a substantial issue with regard to Chapter 3 policies are as follows:

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.

Analyzing these factors demonstrates that no substantial issue is raised here:

1. As described above, there is a wealth of factual and legal support for the local government’s decision that the development will assure stability, will not rely on protective devices that alter natural landforms along bluffs and cliffs, and is therefore consistent with the relevant provisions of Chapter 3 of the Coastal Act.
2. The extent and scope of the project as approved by the local government is appropriate for the project’s location and intent. The project proposes to utilize the existing zoning allocation to construct three single-family homes on vacant lots. Past permit issuances by the City authorized the building of similarly sized houses on the lots surrounding the project site.
3. The project, as proposed, is not likely to cause a significant adverse effect on coastal resources. In particular, certified geologic studies by LADBS and the Byers Geologic Group did not find a significant geological impact to the bluff as a result of the development. The development also will not alter natural landforms along a bluff or cliff, and the appeal does not raise other concerns regarding impacts to other coastal resources.
4. In the City of Los Angeles Planning Department Director’s Determination, there is reference to 12 previous cases in which the City of Los Angeles granted CDPs for the construction of single family homes on vacant lots backing onto the western edge of Potrero Canyon, the area where the project site is located. In this case, the City followed a clear pattern of precedent in

granting CDP 2016-217 for this project, so approval of this project will not set a negative precedent.

5. The appeal raises local issues regarding the stability of proposed homes in one particular canyon in Los Angeles. These issues are specific to the site and its history and geology; thus, they are not issues of statewide significance. The appeal also does not raise an issue of conformity with Chapter 3 Coastal Act. The geologic studies have not indicated a significant geologic risk on the project site. The Appellant has brought up nonconformity to the BPPCP as grounds for appeal, but seeing that the Chapter 3 Policies of the Coastal Act constitute the standard of review, this contention has no merit.

### **Conclusion**

These findings suggest that the project proposal does not present a substantial issue in regards to consistency with Chapter 3 of the Coastal Act. As such, the local action taken by the City of Los Angeles will become final and effective.

## **APPENDICES**

### **Appendix A - Substantive File Documents**

Byer Geotechnical: Geologic and Soils Engineering Exploration Update: Proposed Small-Lot Subdivision and Proposed Three Residences,

Byer Geotechnical: Addendum for Geologic and Soils Engineering Exploration Update, August 24, 2015

Byer Geotechnical: Geologic and Soils Engineering Memorandum, December 15, 2016

Los Angeles Department of Building and Safety: Geology and Soils Report Approval Letter, March 8, 2017

Los Angeles Department of City Planning: Director's Determination for Coastal Development Permit no. DIR-2016-217-CDP-MEL, March 21, 2017

E.D. Michael: Review of Department of City Planning Recommendation Report re Case No.: DIR-2016-217-CDP-ME:-1 for West Los Angeles Area Planning Commission hearing, July 17, 2017