

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE & DE NOVO/DUAL PERMIT

Appeal No.: A-5-VEN-18-0057

Application No.: 5-18-0393

Applicant: Saied Kashani

Agent: Tony Russo

Local Government: City of Los Angeles

Local Decision: Approval with Conditions

Appellant: Abbot Krieger

Location: 17642 Tramonto Drive, Pacific Palisades, Los Angeles County (APN 4416-020-009)

Project Description: Appeal of City of Los Angeles local Coastal Development Permit (CDP) No. DIR-2017-2670-CDP-MEL-1A for the construction of a new 3-level, 50.6 ft. high (from existing grade), 9,898 sq. ft. single-family residence on a caisson grade beam foundation, including an attached 651 sq. ft. 3-car garage. The project also includes a 12 ft. high, 1,944 sq.ft. detached accessory structure with rooftop deck and swimming pool, retaining walls, 105 caissons, gradebeam foundation and approximately 4,000 cu. yds. of grading on a vacant 17,036 sq. ft. hillside lot

Staff Recommendation: SUBSTANTIAL ISSUE & DENIAL

Important Hearing Procedure Note: The Commission will not take testimony on this “substantial issue” recommendation unless at least 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.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal has been filed because the locally approved development is inconsistent with the scenic and visual resource and hazards policies of the Coastal Act. Staff also recommends that, after a public hearing, the Commission **deny** the de novo permit and the dual permit application.

The City-approved project is not consistent with the scenic and visual resource policies of the Coastal Act because the proposed development would distinctly extend beyond the conspicuous development pattern in the coastal hillside area ([Exhibit 1](#)). Additionally, the proposed detached accessory structure would be located further downslope and seaward than any other accessory development on the hillside in the area and would be supported by a caisson grade beam foundation. The development would require the installation of 105 caissons on a steeply sloping coastal bluff in the Castellammare area of Pacific Palisades in order to provide geologic support for the site and proposed structures.

Approximately seven of the caissons proposed to support the accessory structure would be exposed approximately 12.6 ft. above grade, resulting in a 24.6 ft. above-grade structure. The applicant proposes to install a screen around the exposed caissons in an effort to conceal them from views from the public beach. The project, as approved by the City, is twice the size of the existing homes in the area and would extend approximately 28 ft. beyond the pattern of development, displaying a 95-ft. wide, 72-ft. vertical façade from the top of the roof to the lowest portion of the pool/deck structure situated on the seaward face of a coastal bluff. The project is larger than the existing structures in the neighborhood and is easily visible from Pacific Coast Highway (PCH) and the beach in a highly scenic area.

The City found the proposed development to be compatible with the community character of the area based on its envelope height, claiming that the project is consistent with the City's Baseline Hillside Ordinance (BHO). However, the City failed to fully substantiate that claim and made no reference to the existing pattern of development in the area. Additionally, the proposed pool and accessory structure would cascade down the hillside, which is not characteristic of any structures, accessory or otherwise, in this portion of the bluff. As approved by the City, the proposed development is not compatible with the community character of the area as required by section 30251 of the Coastal Act.

The project also requires construction of bluff protective structures that will substantially alter landforms along a bluff, which raises issues of compliance with section 30253 of the Coastal Act. The City-approved project would set a precedent for future development along coastal bluffs and could lead to adverse cumulative impacts for hillside development that would prejudice the City's ability to prepare a Local Coastal Program that complies with the Coastal Act. Therefore, the City-approved project is not consistent with the scenic, visual, and hazards policies of the Coastal Act. Staff, therefore, recommends the Commission find that the project raises a substantial issue as to conformance with Chapter 3 of the Coastal Act, and that the Commission deny the de novo and dual permit applications.

The motions to carry out the staff recommendations are on **page 4 (Substantial Issue)** and **page 14 (De Novo and Dual Permit)**.

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APPENDICES – Substantive File Documents

Appendix A – City of Los Angeles, Department of Building and Safety (LADBS) geology and soils approval letter, October 7, 2016 and October 26, 2010

Appendix B – City of Los Angeles Local Coastal Development Permit No. DIR-2017-2670-CDP-MEL-1A, April 3, 2018

Appendix C – West Los Angeles Area Planning Commission Determination Letter, July 19, 2018

EXHIBITS

[Exhibit 1 - Vicinity Map](#)

[Exhibit 2 – City-approved Plan](#)

[Exhibit 3 – Revised Plan](#)

[Exhibit 4 – Appeal](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission determine that Appeal No. A-5-PPL-18-0057 raises **NO substantial issue** with respect to the grounds on which the appeal has been filed under Section 30602 of the Coastal Act.*

Staff recommends a **NO** vote. Failure of the motion will result in a de novo hearing on the application and adoption of the following resolution and finding. 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 Commissioners present.

Resolution:

*The Commission hereby finds that **Appeal No. A-5-PPL-18-0057** presents a **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. APPELLANTS CONTENTIONS

On August 15, 2018, Abbot Krieger, the applicant's neighbor, submitted an appeal contending that the City-approved project will severely degrade the landform of the coastal bluff and is not compatible with visual character of the area ([Exhibit 4](#)). The appellant claims that the 9,074 sq. ft. home is more than twice the residential floor area of 90% of homes along this portion of Tramonto Drive, and would have a vertical beach-facing façade approximately 76.5 ft. tall. The appellant states that the residence would extend more than 100 ft. down the slope, and that the swimming pool and deck would descend 40 ft. beyond the existing string line of development. The appellant further claims that the City-allowed height of 50.6-ft. was based on misinformation, claiming that the applicant's surveyor wrongly interpreted the City's BHO guidelines and inflated the height limit by approximately 10 ft., inconsistent with Section 30251 of the Coastal Act. Furthermore, the appellant contends that the project would lead to substantial landform alteration of an unstable landslide area by installing 105 caissons, some up to 80 ft. deep, with a large amount of grading that would cover approximately 32% of the lot, setting an adverse precedent for future development on the natural coastal bluff landform and inconsistent with Section 30253 of the Coastal Act. In addition, the appellant contends that the City abused its discretion in issuing a categorical exemption pursuant to CEQA requirements.

III. LOCAL GOVERNMENT ACTION

On October 7, 2016, the Los Angeles Department of Building and Safety (LADBS) issued a geology and soils approval letter based on updated revised slope stability analyses for the proposed residence, detached pool structure, and deck, imposing the same conditions and recommendations which were referenced in a LADBS approval letter dated August 25, 2010. On July 7, 2017, a CDP application was filed with the Los Angeles Department of City Planning (DCP) for a "single-family

dwelling with a total floor area of 9,720 sq. ft. including a 651 [sq. ft.] attached garage, 3,467 [sq. ft.] basement, 246 [sq. ft.] covered deck, detached deck with pool, deck and pool equipment shed, and 200 sq. ft. cabana/ detached accessory structure.”

On April 3, 2018, the project was determined to be categorically exempt from CEQA (ENV-2017-4279-CE). On April 3, 2018, DCP approved local CDP DIR-2017-2670-CDP-MEL-1A authorizing construction of the two-story home over basement, garage, swimming pool, spa, decks, retaining walls, two detached accessory structures and haul route for 4,000 c.y. of soil export on two vacant lots, which would be tied by the development after its construction. The local CDP was appealed by Abbot Krieger to the West Los Angeles Area Planning Commission (WLAAPC). On July 19, 2018, the WLAAPC wrote a letter of determination which denied the appeal and sustained the Planning Director’s determination to approve the local CDP with modified conditions, including the removal of a 200 sq. ft. accessory cabana structure further downslope of the pool/ deck structure.

On May 9, 2018, prior to the City’s final local action on the project, the applicant submitted the dual permit application for the proposed project. On July 20, 2018, the Commission’s South Coast District Office received the City’s Notice of Final Action, and the Commission’s twenty working-day appeal period was established. The appeal was received on August 15, 2018, within the Commission’s twenty working-day period. This is a combined substantial issue, de novo, and dual permit application hearing for the project.

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 coastal development permits. Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows any action by a local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act. [Cal. Pub. Res. Code §§ 30200 and 30604.]

After a final local action on a local CDP 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.] 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 **substantial issue**. If the Commission decides that the appellant's contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government becomes final. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the Chapter 3 policies of the Coastal Act, the local CDP is voided and the Commission will hear the de novo matter and dual permit application immediately following the substantial issue finding, unless the Commission schedules the de novo portion of the hearing for a future date. [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 de novo phase of the public hearing on the merits of the application will immediately follow. In this de novo public hearing on the merits of the application, the standard of review is 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 typically 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. DUAL PERMIT JURISDICTION AREAS

Section 30601 of the Coastal Act provides details regarding the geographic areas where applicants must also obtain a coastal development permit from the Commission in addition to obtaining a local coastal development permit from the City. These areas are considered Dual Permit Jurisdiction areas. Coastal zone areas outside of the Dual Permit Jurisdiction areas are considered Single Permit Jurisdiction areas. Pursuant to Section 30600(b) of the Coastal Act, the City of Los Angeles has been granted the authority to approve or deny coastal development permits in both jurisdictions, but all of the City's actions are appealable to the Commission. The proposed project site is located within the *Dual Permit Jurisdiction Area*.

VI. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION & LOCATION

According to the City-approved plans dated July 12, 2018 ([Exhibit 2](#)), the proposed project is the construction of a three-level, 50.6-ft. high (from existing grade, or "envelope height"), 9,898 sq. ft.

single-family home on a vacant, steeply sloped 17,291 sq. ft. lot. The City-approved project includes an attached 651 sq. ft. 3-car garage, multiple decks, and a pool. The pool and pool deck would sit atop a 24.6-ft high, 1,944 sq. ft. recreation, equipment and maintenance room (accessory structure). The development would require approximately 4,000 c.y. of grading, which would be exported outside of the coastal zone. The project also includes a 10-ft. high, pile-supported retaining wall that would span the entire rear yard and re-grading the downslope portion of the lot to a 2:1 gradient. The City-approved setbacks are approximately 3 ft. for the front yard, 15 ft. for the rear yard, and 5 ft. for the side yards, which is consistent with the City's setback requirements. The City-approved project shows a frontage of 75 ft. along Tramonto Drive. The applicant has not obtained any approval from the Zoning Administrator to deviate from the City's zoning regulations, however, the project requires multiple exceptions outlined in the BHO, such as a floor area and height bonuses. Furthermore, the development would expand over two lots resulting in a lot tie.

The subject site is located approximately 0.10 miles away from PCH and Will Rogers State Beach in the Castellammare area of the City of Los Angeles' Pacific Palisades community ([Exhibit 1](#)). The subject site is zoned R1-1 and designated Low Residential in the Brentwood-Palisades Community Plan. The development would occur on two contiguous vacant lots, one measuring approximately 11,166 sq. ft. and another measuring approximately 5,870 sq. ft. Both lots are situated in between existing homes along a bluff seaward of Tramonto Drive. The City's findings state that "the property is not located along a bluff or cliff". It is unclear how the City came to that conclusion; however, Commission staff has considered the Castellammare area a coastal bluff under definitions in Section 13577(h) of Title 14 of the California Code of Regulations, albeit the bluff is no longer subject to erosion from wave action due to the presence of PCH and the development that exists seaward of the site. Landward of the lot is the paved road and a level topography with more single-family homes. Seaward of the lot is a steep slope descending toward residential developments and vacant lots. The topography levels out at PCH and the beach.

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 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.

Staff is recommending that the Commission find that **a substantial issue exists** with respect to whether the local government actions conform to Section 30610 of the Coastal Act and Section 13250 of the California Code of Regulations for the reasons set forth below.

C. SUBSTANTIAL ISSUE ANALYSIS

Coastal Act Section 30251 Scenic and visual qualities states:

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

Coastal Act Section 30253 Minimization of adverse impacts states, in relevant part:

New development shall... (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard; (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs;...and (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Community Character

The appellant contends that the City-approved project is not compatible with the character of the surrounding community, as required by section 30251 of the Coastal Act, because the 9,898 sq. ft. home is more than twice the residential floor area of 90% of homes fronting Tramonto Drive, and would have a vertical façade of approximately 76.5 ft. tall facing the beach and PCH. The appellant also argues that the residence would cascade more than 100 ft. down the slope and that the swimming pool and deck would extend 40 ft. beyond the string line of existing development. The appellant further claims that the City-allowed height of 50.6 ft. was based on misinformation, claiming that the applicant's surveyor wrongly interpreted the City's BHO guidelines and inflated the height limit, inconsistent with Section 30251 of the Coastal Act.

According to the *California Coastline Preservation and Recreation Plan*, the subject site is located within an area that is designated highly scenic for preserving landscaping and recreation resources due to its visibility from Will Rogers State Beach. The City has also expressed a desire to protect scenic and visual qualities of hillside development by adopting the BHO in 1992, and subsequently updating it in 2011. The BHO incorporates local zoning regulations for residential development in designated hillside areas related to setback requirements, residential floor area, height limits, lot coverage, grading, parking requirements, fire protection, street access, sewer connection, hillside neighborhood overlay, and certain exceptions related to height, RFA, grading, and lot coverage in

specific hillside areas. Section 30251 of the Coastal Act requires protection of public views in highly scenic areas by requiring new development to be subordinate to the character of its setting. It is appropriate, in this case, to utilize the City's BHO as a tool for analyzing the project's compatibility with the community character of the area, which may be incorporated into the City's future Local Coastal Program (LCP), although the BHO is at most guidance, as the Coastal Act is the standard of review.

In this case, the public views to be protected are the views from the public streets to the Pacific Ocean and from PCH and Will Rogers State Beach, upcoast to the Santa Monica Mountains and downcoast toward the Palos Verdes Peninsula. According to the City-approved plans, the top of the parapet for the proposed residence would reach 323 ft. above sea level and the lowest part of the main residence would sit at 276 ft. above sea level. The City approved a 50.6-ft. high residence from existing grade, otherwise known as envelope height¹. If the development were to be measured from the bottom of the lowest floor of the primary structure to the highest point, it would reach a total height of 47 ft.

Downslope from the primary structure, the applicant proposes a 12-ft. high, 1,944 sq. ft. detached accessory structure that would be constructed on an exposed caisson foundation. The exposed caissons would be 12.6 ft. above-grade. The applicant proposes to screen the exposed caissons with vertical landscaping. With the screened-in caissons, the accessory development would result in a 24.6-ft. high structure as seen from the beach and PCH. The accessory development would include a recreation room/ cabana with cabana deck, HVAC equipment room, drainage basin and rainwater tank storage on the lower enclosed level and a rooftop swimming pool and pool deck on the upper level. The top of the accessory structure would extend from the basement floor elevation at 276-ft. and extend downslope 24.6 ft. vertically to a 251-ft. elevation. The development, as referenced by the appellant, would appear as a 72-ft. vertical façade, starting with the lowest point of the accessory development that is downslope from the primary structure to the highest point of the primary structure near the top of the slope. Thus, in order to analyze a project's consistency with community character, Table 1 below shows the existing envelope height, comparing the appellant's (A) and City's calculations, and residential floor area (RFA) of the row of development seaward of Tramonto Drive.

¹ Envelope height is defined as the vertical distance from existing grade to a projected plane at the structure's roof or parapet wall located directly above and parallel to the grade. Envelope height is generally measured from the lowest grade within 5 horizontal feet of the exterior walls to the top of the structure. (2011. City of Los Angeles, Department of City Planning. *Baseline Hillside Ordinance: A Comprehensive Guide to the New Hillside Regulations*).

Table 1. Mass and Scale of 17600-17800 Tramonto Drive

Address	Height (ft.)		Floor Area* (sq. ft.)
	Appellant's assessment	City's assessment	
17822 Tramonto	31.8	none	1,595
17810 Tramonto	31.1	none	1,525
17800 Tramonto	51.9 ²	68.1	6,046
17774 Tramonto	32.1	none	1,829
17766 Tramonto	25.1	none	1,731
17756 Tramonto	35.9	43.2	3,087
17750 Tramonto	46.0	57.1	2,581
17732 Tramonto	73.2	73.4	3,291
17726 Tramonto	73.7	84.1	2,766
17708 Tramonto	20.6	42.0	2,915
17646 Tramonto	48.9	63.0	4,383
17642 Tramonto (subject site)	n/a	50.6	9,898
17630 Tramonto	31.8	none	3,169
AVERAGE	41.5	51.5	2,910

*Floor Area, defined as the area in square feet confined within the exterior walls of a structure, was obtained from the County Assessor's website.

Height and Envelope

The City's analysis of the project's compatibility with community character included an envelope height analysis of existing structures in the area. Under the BHO, the height limit for single-family residences in this area is 28 ft. However, the applicant utilized standards for "prevailing height" set forth in the BHO, which states that if more than 40% of existing structures on both sides of the block exceed the height limit of 28 ft., the maximum envelope height for new development may be the average height of those homes exceeding the limit in the area. Envelope height differs from standard height in that it measures height of a structure on a sloping lot versus a flat lot.

The applicant submitted an envelope height analysis to the City, which determined the maximum envelope height limit for the residence to be at 51.5 ft. The appellant, during the appeal to WLAAPC, submitted a separate height analysis, conducted by a third party hired by the appellant, which determined the maximum envelope height limit for this area to be 41.5 ft. The WLAAPC did not accept the appellant's analysis and found that the project would be compatible with the existing homes in the area because the proposed height of 50.6 feet would be below the maximum height limit of 51.5 ft., as determined by the applicant. This raises a substantial issue because, although the City found the main structure's envelope height to be consistent with the BHO, the City did not consider the full height of the development. The envelope height of the City-approved project is larger than the surrounding structures, resulting in a 72-ft. tall, 95.3-ft. wide structure spanning over one and a half lots. This discrepancy is the result of the City not accounting for the total mass or envelope height of the entire project, which should include the accessory development.

² The height analysis only accounted for the main structure and not the tennis court/ accessory structure downslope. In addition, 17800 Tramonto is a pre-Coastal Act structure and should not be used as precedent. Although 17726 and 17732 Tramonto Drive have similar envelope height, the structures only have a 42-ft wide and 55-ft wide façade, respectively.

Furthermore, the project site is highly visible from public viewpoints and development, accessory or otherwise, that cascades down the slope, which is not characteristic in this area. In addition, there is no record that the City acknowledged or rationalized the discrepancies of the height limits submitted by the appellant in the local appeal and the applicant's envelope height analyses.

Although there is no certified LCP, or even an LUP for the Pacific Palisades area of the City of Los Angeles, there is a clear line of development ([Exhibit 1](#)), or stringline, along this portion of Tramonto Drive, which should be used as a tool when determining whether or not a proposed development is consistent with the community character of this particular area, consistent with Coastal Act section 30251. As approved by the City, the proposed project would result in a building mass that is uncharacteristically large for this area.

Residential Floor Area

The BHO allows a maximum residential floor area (MRFA) based on the site's topography and floor area ratio in R1 zones. The MRFA is determined through a slope analysis map, which allows a certain square footage depending on slope elevation within the lot (i.e. more floor area is allowed in flatter portions of the lot). The City record did not contain a slope analysis map; however, the applicant is using a minimum guarantee for residential floor area, which means that the applicant is guaranteed to build at least 25% of the lot size regardless of the slope analysis. In addition, the applicant's proposal to install rain collection tanks within the detached accessory structure allows the project to obtain an additional 30% floor area bonus under the LA Green Building Code. Under the BHO, the permitted MRFA is 5,620 sq. ft. The City found that the project would not cause significant adverse impacts on the environment due to the project's compliance with MRFA guidelines. However, the City's analysis did not compare the project to other homes in the area in terms of mass. Rather the City found that the project is "within a residential neighborhood developed with similar structures." Furthermore, the City-approved project only accounted for 198 sq. ft. of the detached 1,944 sq. ft. accessory structure and omits the 3,467 sq. ft. "basement," which would be fully above grade and contains habitable rooms. Omitting the basement in this manner may be consistent with the City's zoning requirements; however, the standard of review for this project is Chapter 3 of the Coastal Act. Therefore, with regard to whether the project is "visually compatible with the character of the surrounding area" under section 30251, the City must also account for the scale and mass of the entire development that would be exposed and visible from PCH and the beach. The City-approved project would result in a three-level, 9,898 sq. ft. single-family residence and a 1,944 sq. ft. detached accessory structure with a rooftop swimming pool and pool deck on the upper level and a fully enclosed lower level. The City-approved project is not compatible with the existing row of development because the residential floor area is more than twice as large as the row of structures seaward of Tramonto Drive, and its accessory development extends downslope beyond the existing row of development by approximately 28 ft³.

In this area, the pattern of development starts near the top of the slope, extends down the slope and then abruptly stops at approximately the same line for many residences creating a clearly visible strip of development along this slope. This pattern of development may be interpreted as a "stringline" of development, which is defined in the Regional Interpretive Guidelines as "a line

³ This value is obtained by averaging the envelope height of both neighboring structures (17730 and 17746 Tramonto Drive) and taking the difference from the proposed envelope height including the accessory structure. This is for illustrative purposes only.

drawn between the nearest adjacent corners of the adjacent structures.” A stringline analysis is one of the tools that, when appropriate, should be utilized when assessing a project’s compatibility with neighboring development. In this case, it is appropriate to use a stringline as a tool for determining if a proposed project is compatible with the community character of an area because there is a clear line of development along this portion of Tramonto Drive ([Exhibit 1](#)). The applicant has compared the proposed project to other developments which go beyond the stringline of development, claiming, for example, that the Commission’s stringline concept cannot be applied to the proposed deck because “lots immediately next door to the subject lot do not have decks in their rear yards”⁴. However, the applicant is not merely proposing a deck seaward and downslope of the proposed residence, the applicant is proposing a 1,944 sq. ft. accessory structure that would reach a height of 24.6 ft. above grade and include a rooftop deck and swimming pool. In areas where the existing pattern of development is unclear, a stringline would not be appropriate; however, as explained, it is appropriate to use a stringline analysis because the proposed project includes accessory development that extends approximately 28 ft. further down the slope than the surrounding developments, which is not consistent with the pattern of development in this area.

Additionally, as explained, the accessory structure would sit atop exposed caissons lending an appearance of a 24.6 foot high vertical structure fronting the ocean. As such, there is a substantial issue as to whether the City-approved project has adequately minimized visual impacts from public viewpoints of the development, as required by section 30251. Thus, the three-level, 9,898 sq. ft. main structure with a 24.6-ft. high, 1,944 sq. ft. detached accessory structure situated on a steep coastal bluff has not been properly sited to protect public views along the coast, and is not consistent with section 30251 of the Coastal Act. In addition, the project would set a precedent for large development that would overwhelm the landscape of the natural hillside, and would lead to cumulative impacts that would further prejudice the City’s ability to prepare a LCP in the future. The City-approved project is not visually compatible with the character of the surrounding area, and therefore raises a substantial issue with regard to the grounds on which the appeal was filed.

Hazards

The appellant also contends that the project would lead to substantial landform alteration of an unstable landslide area by requiring installation of 105 caissons, some up to 80-ft. deep with 4,000 cu. yds. of grading covering approximately 32% of lot, which would set an adverse precedent for future development in the natural coastal bluff landform inconsistent with Section 30253 of the Coastal Act. In addition, the appellant contends that the City abused its discretion in issuing a categorical exemption pursuant to CEQA requirements.

⁴ The applicant mentions CDP No. 5-01-018, which is in Torrance with a completely different pattern of development and is not comparable. 17868 Vicino Way made no claims on stringline, whose pool was approved 5-05-265-W. 17800 Tramonto Drive, whose pool decks extend well beyond the proposed deck, is a pre-Coastal structure. Staff conditioned the property pursuant to CDP No. 5-91-025 (Nasser Ahdoot) and subsequent amendment for three new multi-story, 32’ high, 2400 sq. ft. single-family homes, which has not yet been constructed. The project is not comparable to 15222 Earlham Street, Pacific Palisades because the entire slope was engineered and is not visible from PCH/ beach (Appeal No. A-5-PPL-17-0047). 17646 Tramonto Drive (neighboring residence) was approved under CDP No. 5-92-379 for a two-story, 4200 sq. ft. SFD with attached garage, pool, deck, retaining wall, fence, gates on a 11,400 sq. ft. vacant hillside lot. Regardless, all *new development* must minimize “*construction of protective devices that would substantially alter natural landforms along bluffs and cliffs*” (Section 30253 of Coastal Act).

The site is located on a coastal bluff that has been previously disturbed by landslides and human activity such as grading and housing development including roads, retaining walls and caissons to stabilize the bluff and support the residential developments in the Castellammare area. According to the City's record, the subject site is located in an historic bedrock landslide area that extends from the lower portion of the property toward PCH. The record also notes that the site is stable and with the foundation system, the development could achieve a factor of safety in excess of 1.5, which is the minimum safety requirement for habitable hillside development. The City-approved project will include a three-level home requiring an approximately 34.5-foot deep cut into the hillside, which would be permanently shored adjacent to Tramonto Drive and supported by caissons embedded into bedrock. In addition, the accessory structure would be supported by retaining walls, grade beams and caissons above grade.

Blufftop protective devices, by their very nature, tend to conflict with Chapter 3 policies of the Coastal Act because they can have a variety of adverse impacts on coastal resources, including but not limited to adverse effects on coastal views and natural landforms. With respect to hazards, section 30253 of the Coastal Act requires projects on hazardous blufftop areas to be sited and designed to minimize risks to life and property, assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site, or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. Due to their size and construction, caissons can cause erosion, loss of natural landforms, and geologic instability if they need to be removed at some point in the future. As a result of the potential impacts arising from bluff protective device projects, it is critical to have an alternatives analysis based upon the technical and resource data specific to the site to determine whether proposed foundation support structures are the minimum necessary and least environmentally damaging; however, the applicant did not prepare an analysis of project alternatives to support its permit application.

The City-approved project raises a substantial issue as to Chapter 3 conformity because the applicant has not demonstrated that the proposed caisson grade beam foundation has been designed with the minimum number of caissons necessary to protect the structure, thereby minimizing the use of protective devices along the coastal bluff, as required by sections 30251 and 30253 of the Coastal Act. Although CEQA is not the standard of review for appeals under the Coastal Act, section 30253 requires that new development minimize risks to life and property in areas involving geologic hazards, which necessarily requires consideration of alternatives; absent such an analysis, there could be less environmentally damaging and feasible project designs, thus raising a substantial issue as to whether the project complies with the Coastal Act.

Applying the five factors listed in the prior section clarifies that the appeal raises a "substantial issue" as to the project's conformity with Chapter 3 of the Coastal Act.

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 relevant provisions of the Coastal Act. The City of Los Angeles Chapter 3 findings reference impacts to archeological and paleontological resources, public services, public views, minimization of hazards, and public access. The City supported its findings by using standards set forth in the City's BHO envelope height limits and the LADBS Geology and Soils approval letter dated October 16, 2016. However, findings of the local CDP permit do not adequately address the visual impacts of the proposed development, including those

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of the accessory structure and the above-grade retaining wall, exposed caissons, and the overall mass and scale of the main residence, which is required by Sections 30251 and 30253 of the Coastal Act. As such, the City's approval conflicts with Chapter 3 policies of the Coastal Act because the City failed to demonstrate that the project has been sited and designed to minimize visual impacts to public viewpoints along the coast. Thus, there is inadequate factual and legal support for the City's decision.

The second factor is the extent and scope of the development as approved by the local government. According to City-approved plans and a LADBS approval letter, the project involves construction of a 9,898 sq. ft. single-family residence and 1,944 sq. ft. accessory structure on a bluff over one and a half lots, supported by retaining walls, grade beams and 105 caissons on a steeply descending slope that would be visually conspicuous from public vantage points and out of character from development in the surrounding area. The City's record does not include plans which show the extent and scope of the foundation and blufftop supportive devices used to support the structure. Additionally, the City failed to make findings that the project is compatible with the scenic and visual resource policies of the Coastal Act. Therefore, there is inadequate information regarding the extent and scope of the development, but what information is available indicates that the City-approved development is considerably larger than neighboring homes, would require substantial and landform-altering foundation support structures to assure stability, and has not been designed to assure minimization of impacts to coastal resources discussed above. This factor weighs in favor of finding substantial issues exist.

The third factor is the significance of the coastal resources affected by the decision. Public views and natural landforms along the coast are significant resources protected by the Coastal Act. This area has been designated as highly scenic due to its visibility from Will Rogers State Beach, and the project site is highly visible from the beach and PCH below due to the site's steep topography and location on top of a bluff. The proposed development's impacts would be significant, as it involves construction of a multi-level residential structure and accessory structures within the bluff that, from public vantage points would appear much larger than the project plans due to the inclusion of exposed caissons and foundation support structures that will substantially alter the bluff, diminish coastal views, and create development that is dramatically out of character from surrounding neighborhood, contrary to sections 30251 and 30253 of the Coastal Act.

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. The City currently does not have a certified LCP for the Pacific Palisades area. The City-approved project would set a precedent for allowing much larger development on this portion of the bluff that is incompatible with the surrounding area, as well as the use of exposed bluff protective devices (that are highly visible from the beach) to support accessory structures rather than using the minimum number of caissons to protect only the primary residence. The project, as approved by the City, would prejudice the ability of the local government to prepare a LCP 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. The City's approval of the single-family residence does raise potential issues of statewide significance. Public views toward the bluff from Will Rogers State Beach, a highly scenic area as designated by the *California Coastline Preservation and Recreation Plan*, are important resources to be protected. As approved by the City, the proposed project would not

minimize visual impacts along the coast. Thus, the appeal allegations that the project does not comply with the Coastal Act policies requiring compatibility of new development with the surrounding area do raise matters of regional and statewide concern.

In conclusion, the appeal raises a substantial issue under the Chapter 3 policies of the Coastal Act because the City's findings in support of the local coastal development permit do not adequately address the visual impacts of the development or its compatibility with the community character of the surrounding neighborhood. Additionally the project would set an adverse precedent for future development that is out of character with surrounding development, and will further prejudice the local government's ability to prepare a LCP. Therefore, staff recommends that the Commission find that the appeal raises a substantial issue as to the project's conformity with the Chapter 3 policies of the Coastal Act.

VII. MOTION AND RESOLUTION – DE NOVO PERMIT A-5-VEN-18-0057

MOTION: *I move that the Commission **approve** Coastal Development Permit Application No. A-5-VEN-18-0057 pursuant to the staff recommendation.*

Staff recommends a **NO** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION:

*The Commission hereby **denies** Coastal Development Permit Application No. A-5-PPL-18-0057 for the proposed development and adopts the findings set forth below on grounds that the development would not be in conformity with the policies of Chapter 3 of the Coastal Act and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3.*

VIII. MOTION AND RESOLUTION – DUAL PERMIT 5-18-0393

MOTION: *I move that the Commission **approve** Coastal Development Permit No. 5-18-0393 pursuant to the staff recommendation.*

Staff recommends a **NO** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION:

*The Commission hereby **denies** Coastal Development Permit Application No. 5-18-0393 for the proposed development and adopts the findings set forth below on grounds that the development would not be in conformity with the policies of Chapter 3 of the Coastal Act and will prejudice the*

ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3.

IX. FINDINGS AND DECLARATIONS – DE NOVO PERMIT A-5-PPL-18-0057 & DUAL PERMIT APPLICATION 5-18-0393

A. PROJECT DESCRIPTION & LOCATION

The project description and location are hereby incorporated by reference from Section VI on pages 7 and 8 of this staff report.

B. VISUAL RESOURCES

Relevant Coastal Act policies are hereby incorporated by reference from Section VI of the Substantial Issue portion of this staff report on page 9. To summarize, section 30251 of the Coastal Act requires protection of visual and scenic qualities of coastal areas and that development must be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas and, in highly scenic areas, subordinate to the character of its setting.

As discussed in Section VI of the staff report on pages 9 to 13, the proposed development is not consistent with the community character of the area with regard to mass and scale. The project would result in an approximately 95-ft. wide, 72-ft. tall, 11,842 sq. ft. development, including a three-level, 9,898 sq. ft. residence and a 1,944 sq. ft. accessory structure with a rooftop pool and pool deck ([Exhibit 3](#)). The whole of the development would cascade down the slope, exceeding the clearly conspicuous existing line of development by approximately 28 ft. The City-approved development would be more than twice the size of the existing row of structures seaward of Tramonto Drive in the area. The applicant also utilized BHO guidelines in order to allow a larger height and floor area. While this may be consistent with the City's Zoning Code, it is not, in this case, consistent with the scenic and visual resource policies of the Coastal Act. Here, the increase to the allowable height and floor area are not consistent with that of existing development in the area because, as proposed by the applicant, the development would be distinctly larger and extend noticeably further down the slope than existing development in the area.

In addition, the proposed project is not sited or designed to protect views to and along scenic coastal areas or to minimize the alteration of natural landforms. This area is designated as a highly scenic area, yet the project involves the construction of foundation support structures that would substantially alter natural landforms and disturb views of this scenic coastal area from public vantage points; indeed, the project requires the construction of 105 caissons, including seven exposed caissons, as well as retaining walls and other foundation support structures, to assure stability of the home and accessory structures. The applicant asserts that the seaward facing retaining walls and exposed caissons would be concealed with a "greenwall" composed of native vegetation; however, greenwalls do not necessarily blend in with the surrounding bluff and may not last. Additionally, concealing exposed features of a foundation has been incorporated into previous CDPs approved by the Commission as a means to mitigate for possible *future* exposure of the foundation or its features due to geologic activity, not as a means to support accessory structures. Commission staff requested an analysis of project alternatives from the applicant, but the applicant

declined to provide any such analysis. Therefore, the Commission does not have adequate information to find that the project minimizes landform alterations, because there are alternatives to the proposed project, such as construction of a smaller residence and accessory structures, that would require a smaller foundation support structure, and the applicant has not demonstrated that such alternatives are not feasible.

As proposed by the applicant and approved by the City, the development is not designed to minimize impacts to public views along the coast, is not compatible with development in the surrounding area, and does not minimize landform alterations, but rather is designed in a manner that attempts to mask (poorly) the enormity of the development with some vegetation. Given the scale of the project and the likely impacts to coastal resources, as well as the lack of information in the record about project alternatives, the Commission finds that the applicant's proposed mitigation is not adequate to ensure compliance with section 30251 of the Coastal Act.

C. HAZARDS

Relevant Coastal Act policies are hereby incorporated by reference from Section VI on page 9 of the Substantial Issue portion of this staff report. Section 30253 of the Coastal Act requires that new development minimize risks to life and property in areas of high geological hazard, assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs. As found previously, the project raises substantial issues as to whether the project complies with section 30253 because it involves development that will substantially alter landforms along bluffs.

According to the applicant's geotechnical engineer, the site is comprised almost entirely of bedrock at the upper portion of the lot and landslide debris at the lower portion of the lot. The slope stability analysis concludes that there is no significant slope retreat onsite, and that surface erosion is "essentially negligible" due to the existing earth material. The geotechnical engineer also states that the proposed structure will be safe from hazards, and that the project will have no adverse impacts on the stability of the property or surrounding area.

The applicant proposes to stabilize the residence and detached accessory structures with a caisson grade beam foundation system, including construction of approximately 105 caissons embedded up to 80 feet into shallow bedrock (including 7 exposed caissons). Bluff retention devices, by their very nature, are unlikely to comply with section 30253 because they almost always involve "substantial" alteration of natural landforms (the bluff). In the past, however, the Commission has approved some residential development on bluffs that included caissons, retaining walls, and other support structures, but only when the support structures are necessary and designed to support the primary residence (not accessory structures), and when the project has been designed to minimize the bluff alteration by reducing the number of caissons and ensuring that they are setback as landward as possible. Here, while the project involves construction of a sizable bluff retention device, the applicant has declined to provide Commission staff an analysis of potential alternative project designs involving smaller foundation support, claiming that the proposed development is the only feasible option for geologically safe development at the site. Given the size and scale of the proposed development, the applicant's assertion is not credible, as there are a number of ways in which the project could be scaled back to require a reduced foundation support structure.

Under section 30253 of the Coastal Act, new development must assure geologic stability but it also must not require the construction of protective devices that would substantially alter natural landforms along bluffs. The proposed development involves the construction of a substantial bluff retention device to support the proposed residence and accessory development, including retaining walls and over 105 caissons (7 of which are exposed). Therefore, given the extent of the proposed foundation support and, therefore, bluff alteration, and the fact that the applicant has not provided information concerning project alternatives, the Commission finds that the project is inconsistent with section 30253 because it will require the construction of protective devices that substantially alter landforms along a coastal bluff.

D. LOCAL COASTAL PROGRAM (LCP)

The Coastal Act required that the Commission consider the effect on a local coastal program when it approves a project. The Commission is prevented from approving projects that might prejudice the completion of local coastal program.

Section 30604 (a) of the Coastal Act states:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

In 1978, the Commission approved a work program for the preparation of Local Coastal Programs in a number of distinct neighborhoods (segments) in the City of Los Angeles. In the Pacific Palisades, issues identified included public recreation, preservation of mountain and hillside lands, and grading and geologic stability. Geologic stability was one of the primary issues because of the number of landslides that had occurred in the sixties and early seventies.

The City has submitted five Land Use Plans for Commission review and the Commission has certified three (Playa Vista, San Pedro, and Venice). However, the City has not prepared a Land Use Plan for Pacific Palisades. In the early nineteen seventies, a general plan update for the Pacific Palisades had just been completed. When the City began the LUP process in 1978, with the exception of two tracts (a 1200-acre and 300-acre tract of land) that were then undergoing subdivision approval, all private lands in the community were subdivided and built out. The Commission's approval of those tracts in 1980 meant that no major planning decisions remained in the Pacific Palisades. The tracts were approved on appeal by the Commission: A-381-78 (Headlands) and A-390-78 (AMH). Consequently, the City concentrated its efforts on communities that were rapidly changing and subject to development pressure and controversy, such as Venice, Airport Dunes, Playa Vista, San Pedro, and Playa del Rey.

The City utilizes building standards outlined in the BHO to protect views to and along the coast in hillside areas. Although the project compiles with the BHO, the project does not address the visual impacts of the development from public viewpoints and other less environmentally damaging feasible alternatives for hillside development. The project would set a precedent for large development that would overwhelm the landscape of the natural hillside, and would lead to

cumulative impacts that would further prejudice the City's ability to prepare a LCP in conformity with Chapter 3 of the Coastal Act. The Commission, therefore, finds that the proposed project is not consistent with the provisions of Section 30604(a) of the Coastal Act.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

Commission staff informed the applicant that the project involves extensive landform alterations that cannot likely be found consistent with Chapter 3 policies of the Coastal Act, and requested from the applicant an analysis of project alternatives, which the applicant declined to do. Potential project alternatives that could lessen the coastal resource impacts include project designs that relocate the detached accessory structure so that it does not extend down the bluff face, that site the 3,200 gallon rainwater collection cisterns beneath the main residence, and/or that reduce the overall scale of the proposed structures to reduce the amount of foundation support and, therefore, bluff alteration, that is required. The applicant has stated that relocating the rainwater collection cisterns to below the main residence is not feasible because the cisterns would be inconvenient to access and maintain safely, but the applicant's response is not reasonable because the applicant has not demonstrated that the relocation of the cisterns are unsafe due to "site constraints".

Nevertheless, the proposed project has been found to be inconsistent with the Chapter 3 policies of the Coastal Act. Thus, CEQA does not apply to private projects that public agencies deny or disapprove, Pub. Res. Code § 21080(b)(5). Accordingly, because the Commission is denying the proposed project, it is not required to adopt findings regarding mitigation measures or alternatives which would substantially lessen any significant adverse effect the project would have on the environment.

A-5-PPL-18-0057 & 5-18-0393 (Kashani)
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Appendices - Substantive File Documents

Appendix A – City of Los Angeles, Department of Building and Safety (LADBS) geology and soils approval letter, October 7, 2016 and October 26, 2010

Appendix B – City of Los Angeles Local Coastal Development Permit No. DIR-2017-2670-CDP-MEL-1A, April 3, 2018

Appendix C – West Los Angeles Area Planning Commission Determination Letter, July 19, 2018