

**CALIFORNIA COASTAL COMMISSION**

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

**Th5a**

Filed:	01/12/2018
180th Day:	06/11/2018
Staff:	S. Vaughn-LB
Staff Report:	04/26/2018
Hearing Date:	05/10/2018

**STAFF REPORT: DE NOVO/CONSENT CALENDAR**

**Application Nos.:** A-5-PPL-17-0007 & 5-17-0234

**Applicant:** MBJJ, LLC / John Janick

**Agents:** Chris Parker, Susan Hori, Mark Welch, Becky Cardenstern, Edward Saborio, Kamran Naraghi-Arani, John Byer, Robert Zweigler, Gary Morris, and Chloe Parker

**Location:** 14904 Corona del Mar, Pacific Palisades, City of Los Angeles, Los Angeles County

**Project Description:** Construction of a one-story, 36-ft. high, 9,310 sq. ft. single-family residence over a two-level basement with an attached 851 sq. ft. three-car garage on a partial caisson grade beam foundation with retaining walls, restoration of the previously graded bluff edge, and 3,880 cu. yds. of grading on a vacant 31,194 sq. ft. blufftop lot.

**Staff Recommendation:** Approval with conditions

**SUMMARY OF STAFF RECOMMENDATION**

On December 30, 2016, the City of Los Angeles Director of City Planning approved Local Coastal Development Permit (CDP) DIR-2016-1377 for the above-described development with the exception of the restoration of the previously graded bluff edge. The locally-approved development also included development within ten feet of the bluff edge and the construction of a swimming pool and spa on a caisson grade beam foundation seaward of the proposed new residence. One appeal of the local CDP was filed by the Coastal Commission Executive Director.

The appeal primarily focused on the proposed project's consistency with sections 30240, 30251 and 30253 of the Coastal Act because the lot was previously graded without a permit, thereby lowering the lot by approximately 13 ft. The City failed to acknowledge the illegal grading of the lot, which would have require a CDP that would analyze the impacts of the grading on coastal resources and ensure that it is consistent with the hazards and the scenic and visual resource policies of the Coastal Act. No such analysis was conducted by the City. The City approval also included development within ten ft. of the bluff edge, including retaining walls and hardscaping. Past Commission actions

have limited development within ten ft. of the bluff edge to landscaping and at grade hardscaping to minimize erosion and reduce the potential for hardscape falling down the bluff. Additionally, the City's Planning Department Advisory Agency approved a lot line adjustment (AA-2013-1984-PMEX), which was not included as part of the local CDP. On May 12, 2017, the Commission found a substantial issue with respect to the grounds on which the appeal was filed.

The project site is in the dual permit jurisdiction area of the City of Los Angeles. On March 7, 2017, the applicant submitted the dual permit application. This is a combined staff report for the de novo appeal hearing and the dual permit application. The applicant has since revised the proposed project. The applicant is no longer proposing a lot line adjustment or swimming pool and spa, and the previously proposed development within ten ft. of the bluff edge has been removed. The applicant is also now proposing to partially restore the previously graded bluff edge.

Therefore, staff is recommending **APPROVAL** of the coastal development permit applications with the following special conditions: 1) Revised Plans; 2) No Future Bluff Protection; 3) Structural Appearance; 4) Landscaping Plan; 5) Erosion Control Plan; 6) Conformance with Geotechnical Recommendations; 7) Construction BMPs; 8) Assumption of Risk; and 9) Deed Restriction. The applicant agrees with the staff recommendation. The motion to approve the permits, as conditioned, is on **Page Four**.

## TABLE OF CONTENTS

<b>I. MOTION AND RESOLUTION</b> .....	4
<b>II. STANDARD CONDITIONS</b> .....	4
<b>III. SPECIAL CONDITIONS</b> .....	5
<b>IV. DUAL PERMIT JURISDICTION AREA</b> .....	9
<b>V. FINDINGS AND DECLARATIONS</b> .....	10
A. PROJECT DESCRIPTION & LOCATION .....	10
B. HAZARDS .....	12
C. VISUAL RESOURCES .....	13
D. WATER QUALITY .....	13
E. DEED RESTRICTION .....	13
F. UNPERMITTED DEVELOPMENT .....	13
G. LOCAL COASTAL PROGRAM (LCP) .....	<b>ERROR! BOOKMARK NOT DEFINED.</b>
H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) ..	<b>ERROR! BOOKMARK NOT DEFINED.</b>

### APPENDICES

Appendix A - Substantive File Documents

### EXHIBITS

[Exhibit 1 – Vicinity Map and Project Location](#)

[Exhibit 2 – Revised Project Plans](#)

[Exhibit 3 – Caisson Site Plan](#)

[Exhibit 4 – Bluff Edge Determination](#)

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all of the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

### Resolution:

*The Commission hereby approves a coastal development permit for Application Numbers **A-5-PPL-17-0007** and **5-17-0234** and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### **III. SPECIAL CONDITIONS**

This permit is granted subject to the following special conditions:

**1. Revised Plans.**

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, two (2) complete sets of final project plans, including site plans, elevations, and bluff restoration plans. The project plans shall identify the proposed residence and accessory development, including, but not limited to, the residence; hardscaping; landscaping, including restoration of the bluff edge; and grading. The plans shall also identify all protective devices, such as caissons and grade beams, and all relevant foundation features. All caissons, grade beams, and similar protective devices must be intended to protect the proposed new residence only. Where such devices are deemed necessary to protect the proposed residence, then such devices shall be located as far landward as feasible or within the footprint of the proposed new residence to ensure consistency with Sections 30251 and 30253 of the Coastal Act. Any accessory development seaward of the proposed residence, including the proposed yard, must be sited and designed in a manner that does not necessitate protective devices such as a caisson grade beam foundation. If accessory development seaward of the residence cannot be safely constructed without the utilization of protective devices such as caissons, then it shall be eliminated from the project plans.

B. The permittee shall undertake development in accordance with the approved permit. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**2. No Future Bluff or Shoreline Protective Device(s).**

A. By acceptance of this permit, the applicant agrees, on behalf of itself and all other successors and assigns, that the proposed caissons and grade beams approved under CDP 5-17-0234 & A-5-PPL-17-0007 on the subject site shall not be enhanced/augmented or reconstructed for purposes of protecting accessory development approved by this coastal development permit (CDP 5-17-0234 & A-5-VEN-17-0007) and that no new shoreline or bluff protective device(s) shall ever be constructed to protect accessory development on the site including, but not limited to, foundations, patios, pools, decks, balconies, and any future improvements and/or accessory structures, in the event that the development is threatened with damage or destruction from erosion, landslides, storm conditions, sea level rise or other natural coastal hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to augment, maintain and/or construct such devices that may exist under applicable law.

B. By acceptance of this permit, the applicant/landowner further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit including, but not limited to, the residence, patio, garage, and driveway, and any other accessory structures if the structures become subject to erosion or if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. If any portion of the proposed blufftop caissons and grade beams

are ever removed, the applicant/landowner shall have a geotechnical investigation prepared by a licensed coastal engineer and geologist, retained by the permittee, that addresses whether any portions of the development approved per CDPs 5-17-0234 & A-5-PPL-17-0007 are threatened by coastal or geological hazards, landslides, or erosion. The report shall identify all those immediate or potential future measures that could stabilize the development without bluff or shoreline protective device(s), including but not limited to removal or relocation of portions of the development. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical investigation concludes that any portion of the development is unsafe for occupancy, the permittee shall, within 90 days of submitting the investigation, apply for a coastal development permit amendment to remedy the hazard.

Prior to removal/relocation, the permittee shall submit two copies of a Removal/Relocation Plan to the Executive Director for review and written approval. The Removal/Relocation Plan shall clearly describe the manner in which such development is to be removed/relocated and the affected area restored so as to best protect coastal resources. In the event that portions of the development fall down the bluff before they are removed, the landowner shall remove all recoverable debris associated with the development and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

**3. Structural Appearance (Caisson Exposure).**

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a plan for the review and approval of the Executive Director to address the potential visual impacts of the caissons and grade beams in the event that they are exposed and visible from Pacific Coast Highway and/or the public beach as a result of earth movement or other circumstances. The applicant shall agree in writing to carry out the approved plan, which shall include:

If the caissons and/or grade beams are exposed, then the applicant shall submit photographs to the Executive Director within 30 days of exposure identifying the extent of the exposure. Within 30 days of submitting photographs identifying the extent of the exposure of the caissons, the applicant shall submit a plan to remove the exposed portions of the caissons and/or grade beams at grade if feasible. If it is not feasible to remove the exposed portions of the caissons and/or grade beams due to geologic hazards, the caissons and/or grade beams shall be colored in such a way that the result would be a natural, mottled appearance or the applicant shall install a “breakaway” skirt wall to cover exposed earth and/or caissons and/or grade beams. The breakaway skirt shall be colored in such a way that the result would be a natural, mottled appearance. The applicant shall contact the Coastal Commission for a determination of whether or not the installation of the low “breakaway” skirt wall requires an amendment to this permit.

B. The permittee shall undertake development in accordance with the approved permit. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 4. Landscape Plan.** The applicant shall conform to the landscape plan received on April 17, 2018 showing vegetated landscaped areas consisting of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See:<http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>). Existing vegetation that does not conform to the above requirements shall be removed.

No permanent irrigation system shall be allowed on the site. Temporary, above ground irrigation to allow the establishment of the plantings is allowed. Irrigation system shall be connected to an automatic shut-off valve which will limit the amount of water on the slope. The quantity of water shall be based on recommendations by the landscape architect and geologist/soil consultant. All required plantings will be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan.

**5. Erosion Control Plan.**

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, a plan for runoff and erosion control.

The erosion control plan shall demonstrate that: during construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties. The following temporary erosion control measures shall be used during construction: sand bags, a desilting basin and silt fences. Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and public streets. The following permanent erosion control measures shall be installed: a drain to direct roof and yard drainage to the street; no drainage shall be directed to the rear yard slope; no drainage shall be retained in rear yard. No underground irrigation system shall be installed in the rear yard.

The plan shall include, at a minimum, the following components: a narrative report describing all temporary erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control. A site plan showing the location of all temporary erosion control measures. A schedule for installation and removal of the temporary erosion control measures. A site plan showing the location of all permanent erosion control measures. A schedule for installation and maintenance of the permanent erosion control measures.

B. The permittee shall undertake development in accordance with the approved permit. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**6. Conformance with Geotechnical Recommendations.**

A. All final design and construction plans, including grading and drainage plans, and as modified and approved under Coastal Development Permit Nos. 5-17-0234 & A-5-PPL-17-0007, shall be consistent with all recommendations contained in the geotechnical report by Byer Geotechnical, Inc., dated June 28, 2017, as well as all requirements of the City of Los Angeles Department of Building and Safety, Geology and Soils Report Approval Letters, dated July 12, 2017.

B. The permittee shall undertake development in accordance with the approved permit. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**7. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.**

A. The permittee shall comply with the following construction-related requirements: no construction materials, debris, or waste shall be placed or stored where it may be subject to water, wind, rain, or dispersion; Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project; Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters; Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and all construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. The following measures shall be used during construction:

The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible; the applicant shall develop and implement spill prevention and control measures; the applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50-feet away from a storm drain, open ditch or surface water; and the applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.



8. **Assumption of Risk, Waiver of Liability, and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from slope instability, erosion, landslides and wave uprush, storm conditions, and sea level rise; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
  
9. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

#### **IV. DUAL PERMIT JURISDICTION AREA**

The proposed development is within the coastal zone of the City of Los Angeles. Section 30600(b) of the Coastal Act allows a local government to assume permit authority prior to certification of its local coastal program. Under that section, the local government must agree to issue all permits within its jurisdiction. In 1978, the City of Los Angeles elected to issue its own CDPs pursuant to this provision of the Coastal Act.

Within the areas specified in Section 30601 of the Coastal Act, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Act requires that any development that receives a local CDP also obtain such a permit from the Coastal Commission. Section 30601 requires a second CDP from the Commission on all lands located (1) between the sea and the first public road, (2) within 300 feet of the inland extent of a beach, or the sea where there is no beach, (3) on tidelands or submerged lands, (4) on lands located within 100 feet of a wetland or stream, or (5) on lands located within 300 feet of the top of the seaward face of a coastal bluff. Outside that area, the local agency's (City of Los Angeles) CDP is the only coastal development permit required. Thus it is known as the Single Permit Jurisdiction area.

The proposed development is located just inland of Pacific Coast Highway, on a coastal bluff and within 300 feet of the top of the seaward face of a coastal bluff. This area is located within the coastal zone area of the City of Los Angeles that has been designated in the City's permit program

as the “Dual Permit Jurisdiction” area pursuant to Section 13307 of Title 14 of the California Code of Regulations and Section 30601 of the Coastal Act. The applicant received a local CDP (DIR 2016-1377-CDP-MEL) from the City of Los Angeles on December 30, 2016. The permit was appealed to the Commission and the Commission did find substantial issues with regard to the grounds on which the appeal was filed. The local CDP is, therefore, null and void. On March 7, 2017, the applicant submitted the dual permit application. This is a combined staff report for the de novo appeal hearing and the dual permit application.

## **V. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION & LOCATION**

The applicant proposes to construct a one-story, 36-ft. high, 9,310 sq. ft. single-family residence over a two-level basement with a partial caisson grade beam foundation, an attached 851 sq. ft. three-car garage, restoration of the previously graded bluff edge, retaining walls, and 3,880 cu. yds. of grading on a vacant 31,194 sq. ft. blufftop lot ([Exhibits 2 & 3](#)).

The project site is located at 14904 Corona del Mar, Pacific Palisades in the City of Los Angeles, Los Angeles County ([Exhibit 1](#)). The lot has a curved, approximately 130 ft. long frontage along Corona del Mar, a rear length of approximately 117 ft. adjacent to Pacific Coast Highway, and a varying depth between approximately 248 ft. to 285 ft. The lot has a land use designation of Very Low I Residential and is zoned RE20-1 (one dwelling unit per 20,000 sq. ft. of lot area) by the City of Los Angeles. The top of the lot is relatively level extending approximately 150 feet from Corona del Mar seaward to the edge of the bluff. From the top of the bluff, the lot descends seaward approximately 70 vertical ft. to the rear property line adjacent to Pacific Coast Highway. The toe of the slope, which is outside of the applicant’s property line, is buttressed with a fill slope and an approximately 8-ft. high debris wall installed by Caltrans. The beach is located directly across the street from Pacific Coast Highway, approximately 230 ft. from the rear property line and 130 ft. as measured from the toe of the bluff. Single-family residences sit on lots up coast and inland of the site. Down coast of the site are vacant lots. Pacific Coast Highway and the beach are directly west of the site ([Exhibit 1](#)).

The lot was previously developed with a residence that was damaged in the 1994 Northridge Earthquake and subsequently removed. According to the applicant, about 4,000 cu. yds. of grading previously occurred on the lot without a CDP. The unpermitted grading resulted in lowering the natural grade of the lot by approximately 13 ft. The lot is currently vacant.

#### Project History

On November 21, 2016, the Director of City Planning held a public hearing for Local CDP DIR-2016-1377 (MBJJ LLC, John Janick) for the project. The local CDP was not appealed to the City. On December 30, 2016, the Director of City Planning issued a determination letter approving the project. The City’s Notice of Final Local Action for the local CDP was received in the Coastal Commission’s Long Beach Office on February 9, 2017, and the Coastal Commission’s required twenty working-day appeal period was established. On March 10, 2017, one appeal was received from the Executive Director. No other appeals were received prior to the end of the appeal period on March 10, 2017.

In summary, the primary grounds for the appeal were that the project raised substantial Coastal Act issues related to safety of development in a hazardous location and protection of natural landforms and public views. The applicant proposed to build a new single-family residence on a vacant bluff

top lot, including retaining walls and hardscaping within ten feet of the bluff edge. Development within ten feet of the bluff edge has typically not been allowed by the Coastal Commission in observation of geologic hazards, including incremental and episodic erosion. The local CDP failed to provide justification for allowing development within ten feet of the bluff edge. Additionally, the lot was previously graded and lowered by 13 ft. without a CDP. The proposed project is located on Corona del Mar in the Pacific Palisades area of the City of Los Angeles, which is highly visible from Pacific Coast Highway and the beach below. The local CDP failed to recognize the unpermitted grading and did not account for the scenic and visual impacts of the unpermitted grading. The City also approved a lot line adjustment of the parcel without a local CDP. Pursuant to Section 30106, lot line adjustments are considered development and require a CDP. As such, the City's actions did not adequately meet the mandates of the Coastal Act and on May 12, 2017, the Commission found a substantial issue with respect to the grounds on which the appeal was filed. The applicant has since revised the proposed project as previously described.

### Geotechnical Hazards and Visual Resources

This project primarily raises issues related to minimizing risks of new development in geological hazardous areas, and ensuring stability of the new structures while also limiting the impacts of protective devices. The applicant has provided a geological analysis (Byer Geotechnical, Inc., BG 22312, dated June 28, 2017, updated January 27, 2016) for the subject site. The applicant's geotechnical analysis acknowledges that the subject site has inherent geologic risks regarding slope stability, which are echoed in the City's Geology Report Approval Letter (Log #83320, dated March 20, 2014, updated January 27, 2016) and reflected in Affidavit #20160283505, which the City required the applicant to submit as a condition of the City's approval, which states that the site "... does not have an adequate factor of safety and is subject to slides and unstable soils." The City's Building Code requires residential structures to be constructed in a manner that meets a minimum factor of safety of 1.5. As such, the applicant designed the proposed residence to meet the City's minimum factor of safety requirement, which necessitates the installation of a caisson grade beam foundation system along the northeastern and northwestern portion of the property to support the proposed new residence ([Exhibit 3](#)). Additionally, the applicant is proposing to install retaining walls along the eastern and western property lines and to partially restore the previously graded bluff edge with mounding and landscaping.

To ensure that the proposed development assures stability and structural integrity, and neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area, as required by the Coastal Act, **Special Condition 2** restricts future bluff protective devices to those meant to protect the proposed residence only. Any future proposal to install protective devices to protect accessory development on the site shall not be allowed. Additionally, any accessory development on the site that is threatened by hazards is required to be removed rather than protected. **Special Condition 4** requires all landscaping on the site to be drought tolerant and primarily native. **Special Conditions 5** and **7** require the applicant to observe an erosion control plan and best management practices during and after construction of the project. **Special Condition 6** requires the applicant to conform to the recommendations set forth in the provided geotechnical report. **Special Condition 8** requires the applicant to acknowledge and assume the risks associated with developing in a geologically hazardous area.

The applicant's geology report states that if a catastrophic event such as an earthquake occurs, severe damage can occur at the project location. The project site is highly visible from Pacific Coast Highway and the public beach. If there is a catastrophic event affecting the site, there may be an

adverse impact to public scenic and visual resources along the coast. As such, if any portions of the proposed foundation are ever exposed, **Special Condition 2** requires the applicant to remove the exposed portions of the caissons and/or grade beams or to conceal them in a manner that gives the appearance that they are a part of the natural landform in order to minimize adverse impacts to the scenic and visual resources along this stretch of coastline. **Special Condition 9** requires the applicant to record a deed restriction in order for any future owners of the property are aware of the development restrictions placed on the site.

The project site was previously graded without the benefit of a CDP. As such, the required geologic hazards and visual impacts analyses for the grading of the site was not conducted. The unpermitted grading resulted in lowering the grade of the entire lot by approximately 13 ft. and pushed the bluff edge seaward from its original location, which now undulates approximately ten to twenty ft. from its original location across the backyard. The applicant's geologist has stated that, from a geotechnical point of view, restoring the entire lot to its previous grade is not feasible. The City of Los Angeles Department of Building and Safety concurred based on site safety conditions. Because the previous grade of the entire lot cannot be safely restored to its original elevation, the applicant is proposing to use the previous bluff edge for all setbacks, including, building, accessory structures, and hardscaping development ([Exhibit 4](#)), consistent with the applicant's geotechnical report. The building setback is 40 ft. from the previous bluff edge. The hardscaping and accessory structures setback is ten ft. from the previous bluff edge. The applicant is also proposing to partially restore the current bluff edge to its previous condition using mounding and landscaping to the extent feasible.

The applicant previously proposed a pool and spa seaward of the proposed new residence. The pool and spa were proposed on a caisson grade beam foundation and were located within the hardscape setback of the original bluff edge. The applicant has since removed the proposal for a pool and spa from their proposed project. **Special Condition 1** requires the applicant to submit revised plans, which need to include restoration of the previous bluff edge and removal of the pool and spa. Thus, as conditioned, the project is consistent with Coastal Act section 30253, as it relates to geotechnical hazards.

## **B. HAZARDS**

Under Section 30253 of the Coastal Act new development may occur in areas of high geologic, flood, and fire hazard so long as risks to life and property are minimized. In addition, to ensure consistency with Section 30253, proposed new development must not 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. When development in areas of identified hazards is proposed, the Commission considers the hazards associated with the project site in order to ensure that the development minimizes risks to life and property and is sited and designed to ensure structural stability and to avoid the need for future protective devices. In order to meet these requirements and to minimize risks to life and property associated with the project, the proposed development has been conditioned to require: 1) revised plans removing a proposed pool and spa and restoring a portion of the bluff; 2) no future bluff protection; 4) landscaping plan 5) Erosion Control Plan; 6) Conformance with Geotechnical Recommendations; and 7) Construction BMPs. As conditioned, the Commission finds that the development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in hazardous locations.

### **C. VISUAL RESOURCES**

As proposed, the development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, to reduce potential adverse visual impacts associated with the retaining walls and foundation support structures, Commission staff recommends special conditions which require removal of exposed caissons or grade beams or, if removal is not possible, coloring or covering the caissons or grade beams in such a way that they have a natural, mottled appearance, and also require that the proposed retaining wall and foundation system shall maintain a finish that blends in with the natural surrounding area in order to protect public views along the coast. As conditioned, the project will not disrupt public coastal views. Therefore, the Commission finds that the development, as conditioned, conforms with Sections 30250, 30251, and 30252 of the Coastal Act

### **D. WATER QUALITY**

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. Furthermore, uncontrolled runoff from the project site and the percolation of water could also affect the structural stability of bluffs and hillsides. To address these concerns, the development, as proposed and as conditioned, incorporates design features to minimize the infiltration of water and the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, the use of non-invasive drought tolerant vegetation, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

### **E. DEED RESTRICTION**

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

### **F. UNPERMITTED DEVELOPMENT**

Development has occurred on the subject site without the benefit of the required coastal development permit consisting of 4,000 cu. yds. of grading. A coastal development permit was not issued by the Commission or the City of Los Angeles to authorize this grading. Any development activity conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

The applicant is requesting after-the-fact authorization of the unpermitted grading that occurred on the property. Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent compliance with all terms and conditions of the permit will result in resolution of the above described violation going forward. Failure of the applicant to

obtain issuance of the permit will result in the violation remaining on the site. In that case, the Commission's enforcement division will consider its options to address said violation. In addition, failure to comply with the terms and conditions of this permit may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit does not constitute an implied statement of the Commission's position regarding the legality of development previously undertaken on the subject site without a coastal development permit..

### **G. LOCAL COASTAL PROGRAM**

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Pacific Palisades area of the City of Los Angeles has neither a certified LCP nor a certified Land Use Plan. As conditioned, the proposed development will be consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, 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 of the Coastal Act.

### **H. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of the California Environmental Quality Act. (14 CCR § 15251(c).) Nevertheless, section 13096 of Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of CEQA, including section 21080.5(d)(2)(A) of CEQA, which 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 that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Feasible mitigation measures, which will minimize all significant adverse environmental effects, have been required as special conditions.

As conditioned to minimize adverse impacts to coastal resources, including scenic public views and water quality, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, has no remaining significant environmental impacts, is the least environmentally damaging feasible alternative, and is consistent with the requirements of the Coastal Act to conform to CEQA.

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

1. City of Los Angeles Certified Venice Land Use Plan
2. Appeal A-5-VEN-17-0051
3. City of Los Angeles Local CDP DIR-2016-1341