

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE

Application No.: A-5-PPL-18-0036

Applicant: Loving Family Trust, c/o Stephanie Smith

Agent: Ben Eilenberg, Esq.

Local Government: City of Los Angeles

Local Decision: Approval with Special Conditions

Appellants: California Coastal Commission Executive Director

Location: 405 Puerto Del Mar (APN 4414-007-021)

Project Description: Appeal of City of Los Angeles Local Coastal Development Permit No. DIR-2016-3107-CDP-MEL for the demolition of a 2,637 sq. ft. single-family residence and construction of a two-story, 28-foot high, 12,418 sq. ft. single-family residence with a 3,678 sq. ft. habitable basement, a 1,671 sq. ft. accessory dwelling unit, 2,060 sq. ft. garage, and indoor and outdoor swimming pool. Approximately 4,100 cubic yards of grading is included in project, of which 700 cubic yards will be exported, and is located on 405 Puerto Del Mar, Pacific Palisades, Los Angeles, Los Angeles County. (AS-LB)

Staff Recommendation: Substantial Issue

Important Hearing Procedure Note: The Commission will not take testimony on this “substantial issue” recommendation unless three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General, or the executive director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their

representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, unless it has been postponed, during which the Commission will take public testimony.

SUMMARY OF STAFF RECOMMENDATION:

The Los Angeles Department of City Planning originally approved CDP No. DIR-2016-3107-CDP-MEL on June 9, 2017, for the demolition of a single-family dwelling and the construction, use, and maintenance of a new 12,418 square foot single-family dwelling with a 3,678 square-foot habitable basement, a 1,671 square-foot accessory dwelling unit, two garages totaling 2,060 square feet, a deck, and an indoor/outdoor swimming pool, located within the dual-permit jurisdiction of the Coastal Zone. The project was appealed at the City level, but the City of Los Angeles upheld the original determination on April 27, 2018. The California Coastal Commission received the City's Notice of Final Action on May 2, 2018. On May 31, 2018, the California Coastal Commission Executive Director submitted a timely appeal of City of Los Angeles' local CDP approval within the 20 working-day appeal period.

The appeal contends that the proposed project does not conform to Sections 30251 and 30253 of the Coastal Act in regards to community character, visual resources, and geologic hazard impacts surrounding the development. Specifically, the appellant contends that the size of the city-approved development will be out of character with the surrounding development, and that the new development will adversely impact coastal views from public viewing areas due to the substantial amount of landform alteration and the size of the development. The appellant also contends that due to the existing landslide on the subject property and adjacent to the subject property, the project does not minimize risks in an area of high geologic hazard, and the project does not assure stability without requiring the use of protective devices.

Section 30251 states that permitted development shall be sited and designed to protect views to and along the ocean *and scenic coastal areas*; it also states that sited development shall minimize landform alteration. The coastal bluffs in Pacific Palisades are considered scenic coastal areas. The City's staff report did not analyze impacts to and along the coastal bluffs as can be seen from Pacific Coast Highway, Will Rogers State Beach, a scenic overlook to the west of the project site, and Asilomar View Park to the east of the project site. Therefore, a complete analysis was not made in regards to the visual impacts of the proposed project. The proposed project also includes approximately 4,100 cubic yards of grading. None of the Soils approvals letters included in the City record considered alternative grading plans that could minimize landform alteration. Finally, the project consists of constructing an approximately 12,000 square foot residence in a neighborhood where the residences range in size from 1,500 square feet to 6,200 square feet. The sheer size of the proposed residence would dwarf the surrounding residences. Therefore, the City-approved project raises substantial issue in regards to the Section 30251 policies pertaining to community character, coastal views and landform alteration.

According to Section 30253 of the Coastal Act, new development shall minimize risks in areas of high geologic hazard and shall not require the construction of protective devices that would substantially alter natural landforms along bluffs or cliffs. The City record states that caissons and

retaining walls are proposed to be located along the south, southwest, and western sides of the property. However, past Commission permit actions have limited the use of caissons and piles to protect only the primary structure in order to minimize grading, potential erosion, and visual impacts of proposed development. The grading plan does not identify exactly where these caissons are to be located (i.e. along the property line, behind the proposed retaining walls, under the house, etc.). Without knowing the exact location of the caissons, it cannot be determined whether the caissons will support the primary residence, the accessory structures, or the development as a whole. The City's approval of the project with the current grading plan implies that there was no consideration as to whether the proposed caissons were designed to protect just the main structure, the accessory structures, or both. The City record did not provide any evidence that the proposed single-family residence would be designed to adhere to a minimum factor of safety of 1.5. This factor of safety is a guideline that the City uses when siting development in areas of geologic concern. The fact that the factor of safety was not discussed raises a question whether the project is safe from geologic hazard. Overall, the City does not provide sufficient evidence to support the finding that the proposed project is consistent with Section 30253 of the Coastal Act.

The project, as approved by the City of Los Angeles, raises substantial issue with respect to the grounds on which Appeal A-5-PPL-18-0036 has been filed, which is consistency with the Chapter 3 Coastal Act policies. Staff therefore recommends that the Commission determine that a **substantial issue** exists. The motion to carry out the staff recommendation is on page 5.

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APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

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

[Exhibit 2 – Property Line Boundaries for Coastal Bluff](#)

[Exhibit 3 – Project Plans](#)

[Exhibit 4 – City of Los Angeles CDP Determination](#)

[Exhibit 5 – Appeal](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission determine that Appeal No. A-5-PPL-18-0036 raises **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act.*

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

Resolution:

*The Commission hereby finds that Appeal No. A-5-PPL-18-0036 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. APPELLANT’S CONTENTIONS:

On May 31, 2018, an appeal of City of Los Angeles Local Coastal Development Permit No. DIR-2016-3107-CDP-MEL-1A was filed by the California Coastal Commission Executive Director. The City-approved project authorizes the demolition of a 2,637 square-foot single-family residence and construction of a 29-foot high, 2-story, 12,418 square foot single-family residence with accessory structures and 4,120 cubic yards of grading at 405 Puerto Del Mar, Pacific Palisades, Los Angeles, Los Angeles County. The appeal contends that the proposed project does not conform to Sections 30251 and 30253 of the Coastal Act in regards to community character, visual resources, and geologic hazard impacts surrounding the development. Specifically, the appellant contends that the size of the City-approved development will be out of character with the surrounding development, the new development will be visible from public viewing areas (PCH and Will Rogers State Beach), the project does not minimize risks in an area of high geologic hazard, and it does not assure stability without requiring the use of protective devices.

III. LOCAL GOVERNMENT ACTION:

The City of Los Angeles determined the proposed project to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to ENV 2016-3108-CE pursuant to CEQA Section 15300, Class 3, Category 1. The Los Angeles Department of City planning originally approved CDP No. DIR-2016-3107-CDP-MEL on June 9, 2017 ([Exhibit 4](#)) for the “demolition of a single-family dwelling and the construction, use, and maintenance of a new 12,418 square foot single-family dwelling with a 3,678 square-foot habitable basement, a 1,671 square-foot accessory dwelling unit, 2,060 square feet of garage area, a deck, and an indoor swimming pool, located within the dual-permit jurisdiction of the Coastal Zone.” Lia Renee Memsic appealed the project at

the City level. A subsequent City hearing for the project was scheduled on April 27, 2018, at which the City upheld the original determination to issue the local CDP for the project. During this hearing, local residents Robin Rudisill, Ellen Shanahan, Elizabeth Chandler, Jeff Roberts, and Ben Eilenberg testified in regards to the project. The California Coastal Commission received a Notice of Determination for this project on May 2, 2018. On May 31, 2018, the California Coastal Commission Executive Director submitted an appeal of City of Los Angeles' approval of DIR-2016-3107-CDP-MEL within the 20 working-day appeal period ([Exhibit 5](#)).

IV. APPEAL PROCEDURES:

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

After a final local action on a local CDP application, the Coastal Commission must be notified within five days of the decision. After receipt of such a notice, which contains all the required information, a twenty working-day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.] As provided under section 13318 of Title 14 of the California Code of Regulations, the appellant must conform to the procedures for filing an appeal as required under section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

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

Commission staff recommends a finding of **substantial issue**. If the Commission decides that the appellant's contention raises no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government becomes final. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the Chapter 3 policies of the Coastal Act, the local CDP is voided and the Commission typically continues the public hearing at a later date in order to review the CDP as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission's regulations.

If there is no motion from the Commission to find no substantial issue, it will be presumed that the appeal raises a substantial issue and the Commission will schedule the de novo phase of the public hearing on the merits of the application at a subsequent Commission meeting. A de novo public hearing on the merits of the application uses the Chapter 3 policies of the Coastal Act. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, those who are qualified to testify at the hearing, as provided by Section 13117 of Title 14 of the California Code of Regulation, will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds for the appeal raise no substantial issue.

V. SINGLE/DUAL PERMIT JURISDICTION AREAS

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the *Dual Permit Jurisdiction* area, the Coastal Act requires that any development which receives a local CDP permit also obtain a second (or “dual”) CDP from the Coastal Commission. The Commission's standard of review for the proposed development in the *Dual Permit Jurisdiction* area is the Chapter 3 policies of the Coastal Act. For projects located inland of the areas identified in Section 30601 (i.e., projects in the *Single Permit Jurisdiction*), the City of Los Angeles local CDP is the only CDP required. The proposed project site is located within the *Dual Permit Jurisdiction Area*. The applicant has not submitted an application for the Coastal Commission dual permit at this time.

VI. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

A. PROJECT LOCATION AND DESCRIPTION

The applicant proposes to demolish an existing 2,634 square-foot single-family residence and to construct a new 29-foot high, 2-story, 12,418 square-foot single-family residence. The development includes a 3,671 square-foot habitable basement, 2,060 square feet of garage area, one indoor swimming pool, a 1,671 square-foot ancillary living space, and one outdoor swimming pool for the ancillary living space. The new development is set back 5 feet in the front and side yards, and 15 feet from the rear yard ([Exhibit 3](#)). In between the demolition phase and the construction phase, the applicant will engage in remedial grading activities to address previous landslides that have occurred on the project site. Approximately 4,100 cubic yards of grading is proposed for this project, with approximately 700 cubic yards proposed to be exported out of the subject lot.

The project is located immediately east and above Las Pulgas Canyon (privately owned) in the Pacific Palisades Community within the City of Los Angeles ([Exhibit 1](#)). The subject lot consists of two tied lots situated at the top southwest corner of a coastal bluff immediately inland from PCH.

The Pacific Palisades Bowl Mobile Estates is located directly below the project site at the base of the bluff. A second mobile home park, Tahitian Terrace, is located to the east and adjacent to the Palisades Bowl ([Exhibit 1](#)). The residences surrounding the subject lot on the bluff top are single-family residences that range between 1,500 and 6,200 square feet.

B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with Chapter 3 of the Coastal Act. The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission’s regulation simply indicates that the Commission will hear an appeal unless it “finds that the appeal raises no significant question.” In previous decisions on appeals, the Commission had been guided by the following factors:

1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government’s decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government’s coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that a **substantial issue** exists with respect to whether the local government action conforms to the provisions of Chapter 3 of the Coastal Act for the reasons set forth below.

C. SUBSTANTIAL ISSUE ANALYSIS

The grounds for an appeal of a CDP issued by the local government prior to certification of its LCP are the project’s conformity with Chapter 3 policies of the Coastal Act. Any local government CDP issued or denied prior to certification of its LCP may be appealed to the Commission. The Commission shall hear an appeal unless it determines that no substantial issue exists as to conformity with Chapter 3 policies of the Coastal Act.

Section II of this staff report outlines the appellant’s contentions regarding the project. Concerns raised by the appellant include the project’s incompatibility with surrounding development, the project’s adverse impacts on coastal views from public viewing areas, the substantial amount of landform alteration proposed by the project, the failure to minimize risks in an area of high geologic hazard, and the inability to assure stability without the use of protective devices. There is no certified

LCP for this area of the City of Los Angeles. As such, the Coastal Act is the standard of review for this CDP.

The Commission’s standard of review for determining whether to hear the appeal is only whether the appeal raises a substantial issue as to conformity with Chapter 3 of the Coastal Act. Cal. Pub. Res. Code § 30625(b)(1); 14 C.C.R. § 13321. The Commission’s decision will be guided by the factors listed in the previous section of this report (B. Factors to be considered in Substantial Issue Analysis).

This appeal raises substantial issue as to conformity with Chapter 3 of the Coastal Act (Cal. Pub. Res. Code §§ 30200-30265.5).¹ The notice of determination for Local CDP DIR-2016-3107-CDP-MEL-1A states that the City applied the policies of Chapter 3 of the Coastal Act, and concluded that the development, as proposed and conditioned by the City, would be consistent with Chapter 3 of the Coastal Act and will not prejudice the ability of the City to prepare a LCP for the Pacific Palisades Coastal Zone. However, as will be discussed below, the City did not provide adequate legal and factual support to make the determination that the proposed project is consistent with the Chapter 3 policies of the Coastal Act.

Contention 1: The City-approved project raises substantial issues in regard to the visual policies in Coastal Act Section 30251.

The appellant has expressed concern about the proposed project’s consistency with the visual policies found in Section 30251 of the Coastal Act. Section 30251 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.

The project site is located on a coastal bluff directly inland from PCH and Will Rogers State Beach. The coastal bluff is approximately 250 feet in height and extends from Las Pulgas Canyon Road east until Temescal Canyon road. The slope below the project site, which descends to the Pacific Palisades Bowl Mobile Home Park, is undeveloped except for remnants of an old emergency access road that extends east from the end of Puerto Del Mar until the Tahitian Terrace mobile home park. Single-family residences make up the development along the bluff top, which is not developed seaward of Asilomar Boulevard. The project site is situated at the southwestern corner of the bluff, with neighboring residences only located north and northeast of the property along Puerto Del Mar and Asilomar Boulevard. (**Exhibit 1**). Therefore, the project site is considered the furthest seaward residential development on the bluff.

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

Pacific Coast Highway is a scenic highway that parallels the coast and provides direct public access along the beach. In the Pacific Palisades region, the public can enjoy views not only toward the ocean, but also toward the coastal bluffs. Looking up toward the bluffs on both the northbound and southbound PCH, the subject property can be seen near the edge of the coastal bluff. A residence that is over 4 times the size of the current residence, as is being proposed here, will draw attention away from the bluff tops themselves and towards a massive house that is built into the bluff face.

Section 30251 states that permitted development shall be sited and designed to protect views to and along the ocean *and scenic coastal areas*. The coastal bluffs in Pacific Palisades are considered scenic coastal areas, as evidenced in past Commission action. Therefore, public views to and along coastal bluffs should be protected in a similar manner as public views to and along the ocean. The City’s staff report found that the proposed development does not impact public views to and along the ocean, but did not analyze impacts to and along the coastal bluffs, as can be seen from PCH, Will Rogers State Beach, a scenic overlook located to the west across Las Pulgas Canyon, and Asilomar View Park, located to the east along Asilomar Boulevard. Therefore, a complete analysis was not made in regards to the visual impacts of the proposed project, and the project as approved by the City raises substantial issue in regards to the Section 30251 policies pertaining to coastal views.

Contention 2: The City-approved project will be out of character with the surrounding development.

Another contention raised by the appellant is that the project, as approved by the City, will be out of character with the surrounding development. Section 30251, stated above, states that “permitted development shall be sited and designed to . . . be visually compatible with the character of surrounding areas.”

The project site is located in a developed neighborhood on a coastal bluff immediately east of Las Pulgas Canyon within the Pacific Palisades community. Single-family residences have been developed to the north and the northeast of the project site location, but no development has occurred to the southwest side of the project along the remainder of the bluff edge. The City determined that the proposed project would be in character with the surrounding development, but no analysis was provided to substantiate the finding. Commission staff has analyzed the development surrounding the project site; the single-family residences in the neighborhood range from approximately 1,500 to approximately 6,200 square feet, with an average residence ranging from 2,200 to 2,500 square feet in size. At 12,418 square feet, the City-approved residence would be at least twice as big as the next largest residence, and over 4 times the size of an average-sized home in the area. The proposed single-family residence would easily dwarf neighboring residences and would therefore not be visually compatible with the character of the surrounding areas.

Overall, the City record does not provide enough evidence to support the City’s finding that the proposed project is consistent with Section 30251 of the Coastal Act, and therefore raises a substantial issue.

Contention 3: The City-approved project constitutes substantial landform alteration.

The appellant also contends that the City-approved project constitutes substantial landform alteration. Section 30251 (stated above) states that permitted development shall be sited “to minimize the alteration of natural landforms.” The proposed project includes approximately 4,100 cubic yards of grading, and a new development that extends approximately 120 feet down the slope beyond the current development. The applicant states the grading is remedial in nature, and is required under an Order to Comply issued by the City’s Building and Safety Department. An Order to Comply was issued for the property in 2011, which urged the homeowner to follow prescribed requirements to address the landslide. Such requirements include preparing a survey of the failed slope, ensuring that plans were reviewed by Building and Safety for approval, obtaining additional relevant permits, and diligently pursuing slope repair work to completion. The Order to Comply does not, however, require an alternatives analysis to minimize landform alteration, and the City did not analyze project alternatives.

A Department of Building and Safety Soils Approval report for the slope repair activities was prepared for this project. Similar to the 2011 Order to Comply for the subject property, the Soils approval letter did not consider alternative grading plans that could limit landform alteration. A subsequent Soils Approval Letter prepared for the construction of the new single-family residence also did not analyze design alternatives to lessen the amount of landform alteration. Therefore, there was not an adequate alternatives analysis for the construction of the single-family residence to minimize landform alteration. The absence of an analysis of alternatives to minimize landform alteration leaves the City without an adequate rationale to make the finding that the project is in conformity with Section 30251 in regards to landform alteration policies. Therefore, the appellant’s contention raises a substantial issue in regard to conformity with the Coastal Act policies pertaining to landform alteration.

Contention 4: The City-approved project does not minimize risks in a high geologic hazard area and the project does not assure stability without requiring the use of protective devices that would substantially alter natural landforms along a coastal bluff.

The appellant also contends that the City-approved project does not minimize risks in a high geologic hazard area and that the project does not assure stability without requiring the use of protective devices that would substantially alter natural landforms along a coastal bluff. Section 30253 states, in relevant part:

New development shall do all of the following:

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

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

The project site is located on the top of a coastal bluff directly east of Las Pulgas Canyon and above the Pacific Palisades Bowl Mobile Estates. The project site has been subject to landslides at least as far back as 1958, which has been documented in a geology report prepared for this project. “Geologic and Soils Engineering Update,” prepared by Schick Geotechnical, Inc. on October 21,

2017, notes that a landslide in 1958 undermined the southeast corner of the property. Two 50-foot long I-beams were subsequently installed along the southeastern edge of the property as a remedial repair. Additional support for the residence was added in 1993. The 1993 remedial activities took place on the site with the benefit of a coastal development permit from either the City of Los Angeles or the California Coastal Commission. The fact that the City approved the project with unpermitted development is problematic because the development may prejudice the ability of the Pacific Palisades region of Los Angeles to develop an LCP that is consistent with the Coastal Act Chapter 3 policies. In particular, the property contains unpermitted development that utilized protective devices to protect the residence. This development is inconsistent with Section 30253(b), which prohibits new development to construct protective devices that would substantially alter natural landforms along bluffs and cliffs. Therefore, approving the new residence on a lot with unpermitted development that is inconsistent with the Coastal Act Chapter 3 policies would set a precedent for other properties and project applicants in the area in the future.

The toe of the coastal bluff on which the project site sits has experienced slope failure in 1982, 1998, 2001, and most recently in 2005. The Asilomar Boulevard landslide has affected the Pacific Palisades Bowl mobile home park, the Tahitian Terrace Mobile Home Park (also located at the toe of the bluff), and the City of Los Angeles right-of-way (Asilomar Boulevard), in addition to other nearby properties. According to consulting geotechnical engineers, the slide reactivates during periods of heavy rainfall. Over the years there has been lateral movements and cracking (tension cracks) of asphalt pavement at the base of the slope; tension cracks at the top of the slope along the old emergency access road; erosion gullies along the slope; displacement of existing shallow storm drains along the slope by ground movement, such that they are no longer operating; and active seepage. After heavy rains in 2000/2001 activated a slide mass on the slope, recommendations for a drain system were made to the Palisades Bowl Mobile Homes property owner, who owns the majority of the bluff slope directly below the project site ([Exhibit 2](#)). The drain system recommendations were not implemented at that time. During the following years the slide mass appeared to stabilize; however, in 2005, rains reactivated the slide mass destroying the park road at the toe of the slope and forcing the removal of 11 mobile homes. Following a geotechnical investigation dated September 28, 2005, a new drainage system was proposed. The drainage system included slope subdrains, perimeter subdrains, and an intercept subdrain/well system. The drainage system was installed in 2005 under Emergency Permit (No. 5-05-401-G). During construction, erosion control methods, such as the use of sand bags and silt curtains, were implemented and all soil debris has been removed and disposed of in an appropriate site outside of the Coastal Zone. Coastal Development Permit 5-08-245, approved in February 2009, permanently authorized the actions taken under Emergency Permit 5-05-401-G.

As the discussion above demonstrates, the coastal bluff on which the project site is located is a highly sensitive coastal resource. Yet, the City's determination to approve the proposed project failed to consider the sensitivity of the bluff, particularly in light of how large the proposed development is. Neither of the City's soils approval letters for the remedial grading activities nor the single-family residence construction refers to a minimum factor of safety to which the site must adhere. The City of Los Angeles typically requires development on hillsides and bluff tops to adhere to a factor of safety of 1.5, although this minimum standard may be increased in particularly hazardous areas. The Coastal Act does not specify a minimum factor of safety in geologically sensitive areas, but the 1.5 minimum factor of safety has been used in prior Commission actions to assess slope stability, and it is used by the City of Los Angeles as well as many other municipalities.

Not only is the 1.5 factor of safety not addressed in the Soils Approval Letters, but the factor of safety is not addressed anywhere else in the City record. Without a determined factor of safety for the proposed project, the City cannot make the finding that the proposed project assures stability and structural integrity, and that the proposed project will not contribute significantly to erosion or instability.

According to Section 30253(b) of the Coastal Act, new development shall not require the construction of protective devices that would substantially alter natural landforms along bluffs or cliffs. The new single-family residence is proposed to be supported with caissons and retaining walls up to 12 feet below grade. The City record states that caissons are proposed to be located along the south, southwest, and western sides of the property. However, the grading plan does not identify exactly where these caissons are to be located (i.e. along the property line, behind the proposed retaining walls, under the house, etc.). This is problematic, especially considering the fact that the residence includes two pools, an ancillary living space, and decks. Without knowing the exact location of the caissons, it cannot be determined whether the caissons will support the primary residence, the accessory structures, or the entire development. Past Commission action has generally prohibited the use of protective devices on accessory structures, including decks and pools, in order to minimize grading, landform alteration, and future view impacts. The City's approval of the project with the current grading plan implies that the City did not examine if the proposed caissons were designed to protect more than the primary residence.

Overall, the City's staff report did not consider alternative project designs that do not require retaining wall or caisson support. Because the project, as proposed, cannot be constructed to assure geologic stability without the construction of protective devices, the City does not provide enough evidence to support the finding that the proposed project is consistent with Section 30253 of the Coastal Act. Therefore, the appellant's contention raises substantial issue in regards to the geologic stability policies of the Coastal Act.

To reiterate, the factors of review utilizing the Coastal Act are as follows:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future development of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

In response to these factors of review, the Coastal Commission finds that:

1. There is an inadequate level of factual and legal support for the local government's decision that the development is consistent with Sections 30251 and 30253(a) of the Coastal Act. The City determined that the project was consistent with the Section 30251 visual and landform alteration

policies. However, the City did not analyze impacts to and along the coastal bluffs (which are designated scenic resources), as can be seen from PCH, Will Rogers State Beach, a scenic overlook located to the west across Las Pulgas Canyon, and Asilomar View Park. The City also determined that the development would be visually compatible with the surrounding development without comparing the size of the proposed development to the size of the surrounding residences. In its Soils Approval letters, the City also did not analyze design alternatives to minimize landform alteration. Regarding the Section 30253 geologic hazard policies, the City's staff report did not consider alternative project designs that do not require retaining wall or caisson support. In addition, the City did not determine whether the project would adhere to a minimum 1.5 factor of safety, a guideline used by the City of Los Angeles and in prior Commission actions to assess slope stability. Overall, the City's staff report did not include an adequate analysis to make findings of consistency with the community character, visual quality, and geologic hazard policies of the Coastal Act. Therefore, this factor does raise a substantial issue.

2. The extent and scope of the project as approved by the City is not appropriate for the project's location on a coastal bluff and in terms of community character. The project proposes to construct an approximately 12,000 square foot single-family residence in a neighborhood where the average home is between 2,200 and 2,500 square feet in size. The proposed residence would dwarf the surrounding residences, require shoreline protection devices that would alter natural landforms along the coastal bluff, and potentially contribute to geologic instability. Therefore, the extent and scope of the proposed development is significant, and this factor raises substantial issues in regards to consistency with Coastal Act Chapter 3 policies.

3. The coastal resources at issue are significant. The project is on a distinctive coastal bluff that is highly visible from PCH and that has experienced multiple landslides in the past. The project involves over 4,000 cubic yards of grading—a significant amount of landform alteration that will impact coastal views from PCH, Will Rogers State Beach, and Asilomar View Park. The project also proposes the use of caissons and retaining walls to support the development. It is unclear whether these protective devices will be designed to protect the primary residence, the accessory structures, or both. In any case, the City has not provided evidence that it has considered alternative project designs that do not require protective devices. Therefore, this factor raises a substantial issue as the coastal resources involved are significant.

4. There is no certified LCP for the Pacific Palisades region at this time; however, the City's approval of Local CDP No. DIR-2017-3107-CDP-MEL would establish a precedent that would impact its ability to prepare an LCP that is consistent with the Coastal Act. The project involves construction of a very large single-family residence—over 12,000 square feet—with no comparable houses in this area of Pacific Palisades. Approving development of this scale in this area would encourage similar proposals in the future that would rely on the Commission's approval of this project as a basis for approving more and much larger development in this bluff top area than has typically been the case. As discussed, the average home in this area is between 2,200 and 2,500 square feet in size, a fraction of the size of the proposed structure. If more and more projects of this size and stature were to be approved in this region, it would be difficult for the City to develop an LCP that adequately protects visual resources and natural landforms, and prevents geologic instability and erosion, as required by the Coastal Act. The City's staff report references eight previous cases where the Coastal Commission has approved development in the

Pacific Palisades region. Of the eight cited applications, none of the residences was close to 12,000 square feet in size, and only two of the applications involved bluff-backing lots. Neither of the bluff-backing residences proposed new development that exceeded the footprint of the previously existing development or extended further down the slope than the previous development. The project being proposed in this case is not similar to the developments that were previously approved by the Commission. To the contrary, approving a project of this size would set a precedent for future development proposals that could harm coastal resources and prevent development of an LCP that complies with the Coastal Act. Therefore, this factor also raises a substantial issue with regards to consistency with the Coastal Act Chapter 3 policies.

5. California's coastal bluffs are significant resources, and represent a rare and visually pleasing landscape that California citizens and governments have sought to preserve through the Coastal Act. Development on coastal bluffs can have significant impacts on scenic resources, contribute to geologic instability, and threaten other homes and alter natural landforms. Coastal Act policies in Chapter 3 are designed to prevent these kinds of impacts to coastal bluffs and surrounding areas, yet, the City's record is inadequate to determine if coastal resources will be protected. The appeal therefore raises substantial issues of local, regional, and statewide significance.

Conclusion

The development approved by CDP No. DIR-2016-3107-CDP-MEL, involving the demolition of a 2,634 square-foot single-family residence and construction of a 12,418 square-foot single-family residence, raises numerous substantial issues in regards to consistency with Chapter 3 policies of the Coastal Act relating to visual resources, community character, geologic hazards, and alteration of natural landforms.

APPENDICES

Appendix A - Substantive File Documents

Schick Geotechnical, Inc.: Geologic and Soils Engineering Exploration Update Proposed Residence, Guest House, Retaining Walls, and Pool Lots 44 and 45, Tract 9300 405 N. Puerto Del Mar, Pacific Palisades, October 21, 2017

Los Angeles Department of Building and Safety: Geology and Soils Report Approval Letter, January 4, 2018

Los Angeles Department of Building and Safety: Geology and Soils Report Approval Letter, July 31, 2015

Los Angeles Department of Building and Safety: Order to Comply, January 21, 2011

Los Angeles Department of City Planning: Director's Determination for Coastal Development Permit no. DIR-2016-3107-CDP-MEL-1A, April 27, 2018

Los Angeles Department of City Planning: Director's Determination for Coastal Development Permit no. DIR-2016-3107-CDP-MEL, June 9, 2017