

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
 301 E. Ocean Blvd., Suite 300  
 Long Beach, CA 90802-4830  
 (562) 590-5071



# W21e

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## STAFF REPORT: APPEAL – DE NOVO/ DUAL PERMIT

**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

**Appellant:** California Coastal Commission Executive Director

**Location:** 401-405 Puerto Del Mar, Pacific Palisades, City of Los Angeles (APN: 4414-007-021)

**Project Description:** Demolition of a 2,637 sq. ft. single-family residence and construction of a two-story, 28-to 53-ft. high, 12,418 sq. ft. single-family residence over a 3,678 sq. ft. habitable basement, a 1,671 sq. ft. ancillary living space, 2,060 sq. ft. garage, and indoor and outdoor swimming pools. Approximately 4,100 cubic yards of grading is included in project, of which 700 cubic yards will be exported off-site.

**Staff Recommendation:** Denial

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### SUMMARY OF STAFF RECOMMENDATION:

The proposed project raises significant Coastal Act issues related to natural landform alteration, visual resources, and development in geologically-hazardous areas. The project site includes two sloped lots (sharing one parcel) totaling 26,580 square feet that sit on top of a coastal bluff above Pacific Coast Highway. The applicant proposes to demolish a 2,634 square-foot single-family residence built circa 1956 that spans both lots and to construct a 29-foot high (53-foot height envelope), two-story, 12,418 square-foot single-family residence over a 3,671 square-foot habitable basement, three garages totaling 2,060 square feet, a detached 1,671 square-foot ancillary living

space, an outdoor swimming pool, and an indoor swimming pool. The proposed development would sprawl down the steep bluff face with minimal setbacks of five (5) feet from the front and side yard property lines, and 15 feet from the rear yard property line.

The site and surrounding area have a history of landslides and instability. Due to geologic concerns, a "Certificate of Substandard Property" was issued for the site with the Office of the County Recorder on March 29, 2002. In addition, the existing residence was yellow tagged by the City in 2005 and the City issued an "Order to Comply" for the site on January 21, 2011. Thus, in addition to the proposed residence and accessory development, the applicant also proposes 4,100 cubic yards of grading including approximately 700 cubic yards of graded materials to be removed from the site and exported; an undisclosed amount of caissons, including around the perimeter of the project site (across both lots); and a series of undescribed retaining walls.

As proposed, the residence would be three times larger than the largest homes in the area and more than nine times larger than the average size homes in the area. The project includes sprawling accessory development that would cascade 40 feet down the 250-foot tall bluff face, which is currently undeveloped. The proposed residential compound, if approved, would result in a substantial amount of bluff alteration (requiring the construction of an undisclosed number of caissons and several, landform-altering bluff retaining walls, as well as grading), will not protect the visual qualities of the area, and is not consistent with community character of the area with regard to size and height of neighboring residential development.

Accordingly, the proposed project is not consistent with Chapter 3 of the Coastal Act, including Sections 30251 and 30253 of the Act. There are potential alternatives to the proposed project that would minimize impacts to coastal resources and could potentially be found consistent with the Coastal Act. However, the Commission is not required to redesign the applicant's proposed project to achieve consistency with Chapter 3 policies. Accordingly, staff recommends the Commission DENY the permit application.

The motion to carry out the staff recommendation is on page 4.

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Appendix A - Substantive File Documents

### EXHIBITS

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

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[Exhibit 3 – Project Plans](#)

[Exhibit 4 – January 21, 2011 Order to Comply](#)

[Exhibit 5 – August 10, 2018 Notice of Incomplete Application](#)

[Exhibit 6 – September 12, 2018 Response to Notice of Incomplete Application](#)

[Exhibit 7 – Letter from Geotechnical Consultant](#)

[Exhibit 8 – Grading Plans \(submitted September, 2018\)](#)

[Exhibit 9 – Community Character Analysis](#)

[Exhibit 10 – Street Views of the Project Site](#)

[Exhibit 11 – Applicant’s Visual Analysis](#)

## **I. MOTION AND RESOLUTION - DE NOVO PERMIT A-5-PPL-18-0036**

### **Motion:**

*I move that the Commission approve Coastal Development Permit No. A-5-PPL-18-0036 for the development proposed by the applicant.*

Staff recommends a NO vote. Failure of this motion will result in denial of the permit 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 a coastal development permit for the proposed development on the ground that the development will not conform 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. Denial of the proposed development is an action to which the California Environmental Quality Act does not apply.*

## **II. MOTION AND RESOLUTION - DUAL PERMIT 5-18-0692**

### **Motion:**

*I move that the Commission approve Coastal Development Permit No. 5-18-0692 for the development proposed by the applicant.*

Staff recommends a NO vote. Failure of this motion will result in denial of the permit 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 a coastal development permit for the proposed development on the ground that the development will not conform 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. Denial of the proposed development is an action to which the California Environmental Quality Act does not apply.*

## **III. 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 chose 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-2016-2532-CDP-MEL) from the City of Los Angeles on May 5, 2017. The local permit was appealed to the Commission on May 31, 2018 (Appeal No. A-5-PPL-18-0036) and was voided when the Commission found substantial issue with the City-approved project on July 11, 2018. The De Novo hearing was continued and a dual permit (CDP App. No 5-18-0692) was submitted on July 13, 2018. The following recommendation pertains to the De Novo application and for the Commission's dual permit.

## **IV. FINDINGS AND DECLARATIONS**

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

The applicant proposes to demolish a 2,634 square-foot single-family residence that was constructed in 1956 and spans two lots (over one parcel) and to construct a 29-foot high (53-foot height envelope), two-story, 12,418 square-foot single-family residence over a 3,671 square-foot habitable basement, along with 2,060 square feet of garage area (split between three garages) with a driveway that wraps around to the downslope portion of the lots, a 1,671 square-foot ancillary living quarter, an indoor swimming pool, and an outdoor swimming pool. The proposed development would extend down the steep slope spanning both lots and be set back five feet from the front and side yard property lines and 15 feet from the rear yard property line ([Exhibit 3](#)). The applicant is also proposing approximately 4,100 cubic yards of remedial grading for the site, 700 cubic yards of which is proposed to be removed from the site and transported out of the coastal zone; an undisclosed number of caissons, including caissons along the perimeter of the project site; and an undescribed series of retaining walls.

The project is located immediately east and above Las Pulgas Canyon (privately owned) in the Dual Permit jurisdiction area of the Pacific Palisades Community within the City of Los Angeles ([Exhibit 1](#)). The subject site consists of two tied lots totaling 26,580 square feet situated at the top southwest corner of a 250-foot high coastal bluff immediately inland from Pacific Coast Highway (PCH). The lots are zoned R1-1 (Low-Density Residential), by the City of Los Angeles zoning code. 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.

There is no certified Local Coastal Program (LCP) or Land Use Plan (LUP) for the Pacific Palisades area of the City of Los Angeles. Therefore, the standard of review for this project is Chapter 3 of the Coastal Act.

### **Site History**

The existing residence was built in 1956. Since that time, there have been four documented landslides at the site. According to “Geologic and Soils Engineering Update,” prepared by Schick Geotechnical, Inc. on October 21, 2017 for the proposed project, the project site has been subject to landslides at least as far back as 1958. The report notes that a landslide in 1958 undermined the southeast corner of the property and that, as a result, two 50-foot long I-beams were installed along the southeastern edge of the property as a remedial repair. The report further states that additional undescribed support for the residence was added in 1993. The 1993 remedial activities took place on the site without the benefit of a coastal development permit (CDP) from either the City of Los Angeles or the Coastal Commission and are therefore considered unpermitted (refer to Section IV.D. Unpermitted Development).

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 have 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 for the mobile home park. 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 a result of ongoing geologic instability at the site, the Los Angeles Department of Building and Safety filed a “Certificate of Substandard Property” with the Los Angeles County Office of the County Recorder on March 29, 2002. The City subsequently yellow tagged the existing residence in 2005, thus restricting the use of the residence. On January 21, 2011 subsequently issued an “Order to Comply,” requiring the then-homeowner (who is not the applicant for the current project) to remediate the slope failure on the property ([Exhibit 4](#)). On December 23, 2011, The City granted an

extension of time to respond to the January 21, 2011 “Order to Comply.” The applicant purchased the property in August, 2013, after the City’s “Order to Comply” was issued and before any remedial actions were undertaken for the site. On July 31, 2015, The City of Los Angeles approved landslide repair for the site, consisting of a friction pile support retaining wall and removal and recompaction of the landslide debris within the site; “(n)ew building construction is not part of the reports and/or part of the current approval” Subsequent to this approval, the applicant applied to the Los Angeles Department of City Planning for a local CDP on August 15, 2016. The Local CDP application requested an approval for the demolition of the existing 2,635 sq. ft. single-family residence, 4,100 cubic yards of remedial grading, and construction of a 19,827 sq. ft. residence<sup>1</sup> with two pools.

On June 9, 2017, the Los Angeles Department of City planning approved CDP No. DIR-2016-3107-CDP-MEL 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 (split between three garages), a deck, and an indoor swimming pool, located within the dual-permit jurisdiction of the Coastal Zone.” Lia Renee Memsic appealed the local CDP to the West Los Angeles Area Planning Commission on June 19, 2017; however the appeal was not granted. The Commission’s South Coast District office received a Notice of Determination for the City-approved project on May 2, 2018. On May 31, 2018, the Commission’s Executive Director, John Ainsworth, submitted an appeal of the local CDP. At a public hearing on July 11, 2018, the Commission determined that the City-approved project raised substantial issues with regard to geologic hazards, landform alteration, visual resources, and community character. The de novo hearing was continued.

On July 13, 2018 the applicant submitted the dual permit application for the proposed project with no changes to the project description. On August 10, 2018, Commission staff sent a letter to the applicant notifying the applicant that the application was not complete and that additional information was needed to file the application, including grading plans, caisson and retaining wall plans, drainage plans, a visual analysis of the proposed project, and a project alternatives analysis (including: 1) smaller amounts of grading; 2) alternatives to caissons/retaining walls; and 3) a smaller single-family residence) ([Exhibit 5](#)). On September 12, 2018, the applicant responded to the incomplete letter and provided additional materials included with the correspondence ([Exhibit 6](#)). However, the applicant did not submit all of the materials requested by staff. Specifically, the caisson plans, retaining wall plans, and the complete projects alternatives analysis were not included with the applicant’s response. Nevertheless, Commission staff did not notify the applicant that the application was incomplete. The last correspondence received by staff from the applicant was on November 26, 2018; however, at that time, staff believed that the project application was incomplete. On January 15, 2020, Commission staff received an e-mail from the applicant’s attorney inquiring about the status of a coastal development permit. Staff subsequently determined that the applicant still had not provided staff the information deemed necessary to the application, and again requested the missing materials by e-mail on January 24, 2020. At the time this staff report was published, staff had still not received the requested materials, and for the reasons set forth below, staff is recommending that the Commission deny the de novo and CDP applications.

## **B. VISUAL RESOURCES AND COMMUNITY CHARACTER**

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<sup>1</sup> This figure includes a 12,418 sq. ft. residence, a 3,778 sq. ft. habitable basement, a 1,671 sq. ft. accessory dwelling unit, 2,060 sq. ft. of garage area (split between three garages).

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.*

Section 30251 of the Coastal Act requires that “*development be sited and designed to protect[s] views to and along the ocean and scenic coastal areas*” and “*to be visually compatible with the character of surrounding areas* (emphasis added).” The subject site is located within an area that is designated in the *California Coastline Preservation and Recreation Plan* as highly scenic for preserving landscaping and recreation resources due to its visibility from Will Rogers State Beach. Visual resources to be protected include hillside development that is visible from PCH, which provides public views of the ocean and the surrounding area. The proposed project includes multiple structures and accessory uses as well as a paved driveway that would extend around to the downslope side of the residence, and a substantial amount of grading to accommodate the entire development.

### **Community Character**

In order to analyze the project’s consistency with community character, Commission staff has analyzed the development surrounding the project site. 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. [Exhibit 9](#) details the community character analysis undertaken for the development surrounding the project site. According to the analysis, the floor area of homes in the neighborhood ranges between 688 square feet and 6,434 square feet. The floor area of the average residence was estimated to be 2,778 square feet. At 19,827 square feet (including the garage, basement, and accessory structure), the proposed residence would be more than three times as large as the next largest residence, and more than nine times the size of an average-sized home in the area. The proposed single-family residence would easily dwarf the neighboring residences. As such, the proposed development is not compatible with the community character of the area and is not consistent with Section 30251 of the Coastal Act.

### **Visual Resources**

The project site is located on the southwest corner atop a prominent 240-foot high coastal bluff inland from PCH and Will Rogers State Beach. None of the neighboring residences discussed above are visible from PCH or the beach. 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. The project site is the furthest seaward and only obviously visible development along the blufftop ([Exhibit 1](#)). Due to the steep topography and exposure of this particular lot, the site is highly visible from PCH and the beach. In addition to being highly-visible, the site is designated a scenic area and visual impacts should be avoided or, if unavoidable, minimized to the maximum extent feasible.



While the project is located in a highly developed urban area, the bluff slope above which the site sits, is highly exposed and essentially undeveloped ([Exhibit 10](#)). As proposed, the residence would require 4,100 cubic yards of grading and extend approximately 40 feet further down the slope than the existing residence. The proposed residential compound would cover nearly the entire 26,580 square foot site and would be 53 feet tall, cascading down the 240 foot high bluff – a coastal bluff where currently no significant development exists for approximately 1,000 feet along the coastal bluff edge or face. As proposed the residential compound would stand out dramatically from the surrounding development, leaving an indelible mark on a relatively undisturbed portion of the bluff that is highly visible from PCH and the beach from the south, west, and north,

The applicant provided a visual analysis of the proposed residential compound as it would be viewed from PCH, Will Rogers State Beach, Asilomar View Park, and the Las Pulgas Canyon ([Exhibit 11](#)), which confirms, to a certain extent, the visual impacts the proposed project would create. Thus, the proposed project does not protect the scenic or visual qualities of the coastal area, nor does it protect public views along the ocean and scenic coastal area or restore and enhance the scenic coastal area, therefore, the proposed project is not consistent with section 30251 of the Coastal Act.

### **C. HAZARDS AND LANDFORM ALTERATION**

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.*

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.*

Section 30251 requires new development to minimize the alteration of natural landform so as to be visually compatible with the character of surrounding areas, and, where feasible, restore and enhance visual quality in degraded areas. Section 30253 of the Coastal Act requires new development to be designed in a manner that assures the stability and structural integrity of the site

itself and in a manner that would not significantly affect geologic hazards such as landslides or erosion of the surrounding area. In addition, new development should avoid the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

As described in Section III. A. (Project Location and Description) above, the site has a long history of instability and continues to be subject to geologic hazards. Most recently, the bluff slope within and directly below the subject property experienced significant landsliding during the winter of 2000-2001, which led to a “Certificate of Substandard Property” to be filed with the County. The landslide reactivated in 2005, leading to the yellow-tagging of the existing home. The geotechnical investigation and slope stability analysis conducted by Schick Geotechnical (dated October 21, 2017) indicates that the project site remains unstable, and can be expected to experience further surficial and deep-seated slope failures in the absence of remediation. The City-issued “Order to Comply” requires the applicant to address the on-going “Class 1 Slope Failure” on the project site, consistent with City-imposed requirements. The requirements included preparing a survey map of the property (which includes the exact location of the slope failure and the property boundaries); obtaining approval for slope repair work from the Los Angeles Department of Building and Safety; commencing and pursuing the repair work until completion; and obtaining all required inspections and approvals (including Coastal Development Permits). Of note, the “Order to Comply” does not specify how the slope should be repaired, nor indicate if the site must be restored to the pre-landslide grade; it merely states that the site should be repaired in order to resolve the geologic instability.

The applicant is proposing approximately 4,100 cubic yards of remedial grading, caissons, and retaining walls up to 12 feet below grade to stabilize the entire site and support the proposed 19,847 square-foot residential compound, including extensive accessory development that would be located on the bluff face. The proposed grading would remove a substantial portion of the top of the bluff and enable the construction of a multi-level development cascading approximately 40 feet down the face of the bluff ([Exhibit 3](#)). Based on grading plans submitted by the applicant on September 12, 2018 ([Exhibit 8](#)), grading would include the removal of up to 24 feet from the existing height of the bluff, and the proposed development (structures and graded areas) would occupy almost the entirety of the two combined lots. For these reasons, the proposed project raises significant issue with regard to landform alteration and geologic stability.

In addition to 4,100 cubic yards of grading, including 700 cubic yards of earth to be removed from the site, the applicant is proposing bluff protective devices, including caissons and retaining walls. Bluff 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. Section 30253(b) specifically states that new development shall not “in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.” Specifically, public coastal views along the coast can be affected as the coastal bluffs retreat landward due to the natural process of erosion, thereby exposing the protective devices in whole or in part. Due to their size and construction, caissons can also cause erosion, loss of natural landforms, and other impacts if they ever need to be removed. As a result of the potential impacts arising from bluff protective devices, it is critical to have an alternatives analysis based upon the technical and resource data specific to the site. The Coastal Act requires projects on hazardous blufftop areas to be sited and designed to protect views to and along the ocean and scenic coastal areas and to prevent impacts that would degrade sensitive habitats, parks, and recreation areas. In cases where blufftop protective devices

have been permitted for geologic stability, the Commission typically prohibits the use of protective devices for accessory structures (including decks, pools, and even yards) in order to minimize grading, landform alteration, and future view impacts.

The applicant's geotechnical consultant states that the project is intended to restore the site to the pre-landslide grade ([Exhibit 7](#)). It is not clear from the City's "Order to Comply" if the applicant is actually required to restore the site to its pre-landslide grade. Nonetheless, the geotechnical consultant states that the design of the proposed residence would "[restore] the area to its naturally occurring pre-landslide grade and elevation." As noted above, the applicant's plans ([Page 3 of Exhibit 3](#)) clearly show that the proposed project will not restore the pre-landslide grade per se, but rather will result in further alterations to the natural landform. Across much of the site, the proposed finished grade would be at a lower elevation than the existing, post-landslide ground surface, and substantially lower than the "original" grade prior to the landslide. The proposed new residence would be built such that it *occupies* space previously composed of natural bluff prior to the landslide, but this is not equivalent to "restoration" or reconstruction of the bluff as implied by the applicant.

The applicant's geotechnical consultant additionally claims that the proposed landform alteration is the "least impactful method of stabilizing the property following demolition of the existing structure necessitating subsequent construction of a replacement residence," and states that "without the stabilizing support provided by the ancillary living quarters and associated structures, the repair would potentially require a twenty (20) foot tall retaining wall encompassing the perimeter of the property." The Commission often receives applications for slope stabilization that use caisson structures that can function without the need to include ancillary living quarters or associated structures. The consultant's report does not establish that construction of a 12,000-plus square foot home and extensive accessory development extending down the bluff is required in this case in order for the slope to be stabilized, nor that there are no alternatives to the proposed project that would result in less landform alteration than that currently proposed.

The Commission's geologist and senior engineer have reviewed the available project information, and have concluded that there is likely a wide array of conceptual alternatives for stabilizing portions of the site, sufficient to support new development or the refurbishment of the existing home. Such alternatives could use various combinations of grading, bluff retention systems (e.g., caissons, walls), and/or deepened foundations, and would need to be evaluated for technical feasibility and efficacy. Any viable alternatives would also likely result in some degree of landform alteration or other coastal resource impacts (e.g., to visual quality). Without a rigorous analysis of these factors, there is no basis to conclude that the substantial landform alteration that would result from the proposed project has been minimized.

Accordingly, the Commission finds that the proposed project is not consistent with Sections 30251 and 30253 of the Coastal Act.

#### **D. UNPERMITTED DEVELOPMENT**

Violations of the Coastal Act have occurred on the 405 Puerto Del Mar Property, including the installation of unpermitted bluff protective devices to protect the existing residence. The 2017 Schick Geotechnical Report indicates the unpermitted development described above occurred around 1993, prior to the applicant's purchase of the property in August, 2013.

Any non-exempt 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 unpermitted development at issue is problematic because approval of the proposed development may prejudice the ability of the City of Los Angeles to develop an LCP for the Pacific Palisades region that is consistent with the Coastal Act Chapter 3 policies. Indeed, the unpermitted development may not be consistent Section 30253(b) of the Coastal Act, which prohibits new development that requires the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs, or with other Chapter 3 policies that protect visual resources and require minimization of landform alteration (discussed above).

As staff is recommending denial of the proposed permit, the unpermitted development would remain on site and the violations of the Coastal Act would not be resolved.

#### **E. LOCAL COASTAL PROGRAM (LCP)**

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program (LCP) which conforms to Chapter 3 policies of the Coastal Act.

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). The City of Los Angeles does not have a certified Local Coastal Program for the Pacific Palisades area. Therefore, the Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act.

As stated above, the proposed development is not consistent with Chapter 3 of the Coastal Act. Specifically, the project is not consistent with Sections 30251 and 30253 pertaining to community character, landform alteration, and geologic hazards. 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 5,000 square feet in size, a fraction of the size of the proposed structure. Approving this project could significantly change the character of the area, and serve as a basis for approval of substantially larger homes that require considerable more landform alteration to be stable, all of which would make it 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. Approval of this project would set a negative precedent in the area and will prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

#### **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). The City of Los Angeles is the lead agency for California Environmental Quality Act (CEQA) purposes. In its local review process, the City 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.

This report has discussed the relevant coastal resource issues with the proposed project. All above findings are incorporated herein in their entirety by reference. As detailed in the findings above, the proposed project would have significant adverse effects on the environment as that term is understood in a CEQA context.

Section 21080(b)(5) of CEQA, as implemented by Section 15270 of the CEQA Guidelines, provides that CEQA does not apply to projects that a public agency rejects or disapproves. The Commission finds that denial, for the reasons stated in these findings, is necessary to avoid the significant effects on coastal resources that would occur if the project was approved as proposed. Accordingly, the Commission's denial of the project represents an action to which CEQA, and all requirements contained therein that might otherwise apply to regulatory actions by the Commission, do not apply.

## **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