

**CALIFORNIA COASTAL COMMISSION**

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# W17a

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Hearing Date: 04/14/21

## STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

**Appeal No.:** A-5-DRL-21-0015

**Applicant:** Mark Streams

**Agent:** Susan Steinberg

**Local Government:** City of Los Angeles

**Local Decision:** Approval with Conditions

**Appellants:** Robert Shelton, Julie Ross, Stew Herrera and Lisa Farris

**Location:** 7012 Vista Del Mar Lane, Playa Del Rey, City of Los Angeles, Los Angeles County (APN No. 4116-017-015).

**Project Description:** Appeal of City of Los Angeles West Los Angeles Area Planning Commission Local Coastal Development Permit No. DIR-2019-6145-CDP-MEL-1A, which approved a coastal development permit for demolition of an existing 1,987 sq. ft., 1-story, single-family residence, and construction of new 3-story, approx. 36 ft. high, 5,784 sq. ft., single-family residence over 1,722 sq. ft. basement containing 3-car garage and storage, roof deck with elevator shaft, and cut and export of 1,500 c.y. on 5,637 sq. ft. lot.

**Staff Recommendation:** No Substantial Issue

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**IMPORTANT NOTE:** This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. Generally, and at

the discretion of the Chair, testimony is limited to three minutes total per side. Please plan your testimony accordingly. Only the applicant, appellant(s), persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeals do raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

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## **SUMMARY OF STAFF RECOMMENDATION**

On December 17, 2020 the City approved Local Coastal Development Permit (CDP) Case No. DIR-2019-6145-CDP-MEL-1A for the demolition of a 1,987 sq. ft., one-story<sup>1</sup> single-family residence and construction of a new 3-story, approximately 36 ft. high, 5,784 sq. ft., single-family residence over 1,722 sq. ft. basement containing a 3-car garage and storage, roof deck with elevator shaft, and cut and export of 1,500 cubic yards on a 5,637 sq. ft. lot.

The Appellants generally raise concerns regarding public and private views, community character, potential site hazards, improper noticing, and adverse cumulative impacts.

After review of the site plans and streetscape analysis, and after conducting a community character survey, the appeals do not raise a substantial issue as to the project's conformity with Chapter 3 of the Coastal Act. With respect to community character, homes in the area on average are smaller than the proposed home, but there are multiple homes in the neighborhood that are larger than the proposed home. Additionally, the home is designed with a varied façade to reduce the mass and scale of the proposed development. Moreover, the Coastal Act does not protect private coastal views and the project will not interfere with public views of the coast.

The appeals raise concerns with potential geologic hazards such as slope stability, structural integrity, and erosion control and that analyses of these issues were not provided in the geotechnical documents. However, City staff determined that the site does not trigger the need to perform these analyses because the site is located far enough away from the bluff edge that bluff erosion and slope stability is not a concern for this inland site.

The appeals also contend that the applicant violated the local CDP noticing requirements and that not all property owners within 100 feet of the property were notified of the impending permit. These contentions were raised at the local level. The City's staff report at the appeal hearing addresses these contentions and confirms the City did provide notice to all properties within 100 ft. of the subject site.

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<sup>1</sup> The City describes the existing structure to be one story in height. Upon a visual inspection of the home, it appears the home is a 2-story structure with windows near the garage on the lower level of the home. A review of the description on Zillow indicates that there is an office space "downstairs".

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Lastly, the appellants assert that the project will have adverse cumulative impacts on community character by encouraging other homeowners to redevelop to recapture their private coastal views. However, even if it were to occur, redevelopment of surrounding homes would be unlikely to have significant adverse effects on coastal resources.

Staff recommends that the Commission, after public hearing, determine that the appeal raises **no substantial issue** as to the proposed development's conformity with the Chapter 3 policies of the Coastal Act. At the "substantial issue" phase of an appeal, the Commission determines whether the appeal of the local government action raises a substantial issue as to the project's conformity with the Chapter 3 standards based on the substantial issue factors in section 13115(b) of the Commission's regulations. The Commission is not required at this stage to reassess the evidence and determine that the project is, or is not, consistent with the Coastal Act. In this case, the local government's findings for the approval of the coastal development permit adequately support its determination that the proposed development does conform to the policies of Chapter 3 of the Coastal Act. The motion to carry out the staff recommendation is on Page Five.

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## **EXHIBITS**

[Exhibit 1 – Project Site](#)

[Exhibit 2 – Vicinity Map](#)

[Exhibit 3 – Project Plans](#)

[Exhibit 4 – Survey Area](#)

[Exhibit 5 – Streetscape](#)

[Exhibit 6 – Geology and Soils Report Approval Letter](#)

[Exhibit 7 – Appeal](#)

[Exhibit 8 – Director of Planning Letter of Determination](#)

[Exhibit 9 – WLAAPC Letter of Determination](#)

## I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE

**Motion:** I move that the Commission determine that Appeal No. A-5-DRL-21-0015 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act.

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

**Resolution:** The Commission hereby finds that Appeal No. A-5-DRL-21-0015 presents **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.

## II. APPELLANT’S CONTENTIONS

On February 3, 2021, an appeal was filed by Robert Shelton followed by three appeals on February 8, 2021 by Julie Ross, Stew Herrera and Lisa Farris. The combined appeals raise the following concerns with the City-approved development:

1. The Coastal Development Permit (CDP) would violate the City of Los Angeles Westchester Playa Del Rey Community Plan.
2. The proposed project is inconsistent with CEQA section 21080.5 and does not fall under any CEQA Exemption. There is substantial evidence demonstrating that an exception to the categorical exemption applies.
3. Not all adjacent property owners, within 100-foot radius of the property were notified of the impending permit.
4. The City disregarded the City’s own (uncertified) Baseline Hillside Ordinance (BHO), which should be incorporated into the Local Coastal Program, but has not yet been certified. The City’s ability to do so is prejudiced by the City’s approval of this CDP.
5. The proposed residence will result in a significant impact to private and public views.
6. The applicants did not provide meaningful and essential information such as elevations that evaluate the proposed project’s visual impact on the surrounding homes, the street, or the homes immediately above it as well as a geotechnical report since the project proposes a substantial excavation.

7. The City did not provide sincere consideration that the project be consistent with the mass, scale and character of the neighborhood. The scale and mass of the single-family residence, as proposed, is not compatible with the surrounding neighborhood. The average sq. ft., number of stories, and the FAR is greater than other homes in the neighborhood. The proposed sq. ft. of the home is greater than the sq. ft. of the lot. The proposed project will dwarf existing development on the street.
8. The basement of the proposed development is intended as habitable space and it is unclear whether the basement is below grade, and the proposed structure is actually four stories rather than three stories. Basements may be out of character with the area.
9. The height of the proposed structure, including the chimney, retaining property walls, and multiple roof decks exceeds the height of existing trees and the rear utility line easement around and above the property, as well as flight paths for a range of local birds, green parrots and more. The applicant did not provide height silhouetting and does not accurately display how the new structure towers above existing trees and utility lines. The height of the project should be measured from lowest average grade.
10. CDP Nos. 5-05-414 and 5-18-0393 demonstrate past Commission action to deny projects that are not visually compatible with the surrounding area because the size and mass were out of scale with the area. Specifically, the structure in question for 5-18-0393 was twice the size of the existing row of structures in a residential area of the Pacific Palisades, and the Commission deemed the structure inconsistent with scenic and visual qualities.
11. The project will force the construction of larger homes on Rindge Ave. to recapture views of the ocean and set a precedent of exceptionally large residences.
12. The impending development has not been reviewed by the city of Los Angeles for its significant adverse coastal environmental impacts, based on the current plan. The height, setbacks, lot coverage and grading involve substantial risk and adverse environmental impact to coastal and bluff side areas in Playa del Rey. Maintains inappropriate setback and lot coverage, along the coastal bluff. The height and square footage of the structure, glass and windows alone will result in significant shoreline / bluff nature and environmental impacts. Currently, an assurance of structural stability has not been provided nor has the development proven to be in adherence to the standards for erosion control, as this is a hillside property. Proper siting of new development and minimizing geologic risk are important statewide issues. Guarantee of structural stability not provided.
13. Approval of the development, as proposed, will create adverse cumulative and precedential effects.

14. Approval of the development, as proposed, will prejudice the preparation of the City's LCP.

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

A public hearing was held by a hearing officer on March 2, 2020. Fifteen (15) members of the public spoke at the hearing including thirteen (13) in opposition and two (2) in favor. The case was taken under advisement for four (4) weeks to allow for additional comments. Twenty (20) letters opposing the project were received during the advisement period. Concerns raised in public comments were that the proposed development would be out of scale with the neighborhood and the potential for ocean views to be obstructed, echoing the concerns raised during the public hearing. Others expressed frustration that the requirement to notify all properties within a 100-foot radius was insufficient and excluded community members that would be affected by the project. Lastly, concerns were raised that approval of this project would set a precedent that would allow similar homes to be built in the future throughout the community.

On April 22, 2020, the applicant submitted revised project plans in response to community concerns. The project initially proposed a 4-story, 7,651 sq. ft. single-family dwelling. The new plans, which are the subject of this appeal, now include a 3-story residence with a basement level, and a reduced floor area of 5,784 sq. ft.

The City of Los Angeles Director of Planning approved the project under Case No. DIR-2019-6145-CDP-MEL for the development proposed at 7012 Vista Del Mar Lane, Playa Del Rey, Los Angeles. The local CDP (Exhibit 8) approved the demolition of a 1,987 sq. ft., single-story<sup>2</sup> single-family dwelling built in 1958 and the construction of a 3-story, 35'-9" high, 5,784 sq. ft. single-family residence with a 1,722 sq. ft. basement (no habitable rooms) containing a three-car garage and storage, and cut and export of 1,500 cubic yards of dirt. The last day to file a local appeal for the project was August 25, 2020.

The Planning Director's approval was appealed to the West Los Angeles Area Planning Commission (WLAAPC) by appellants Julie Ross, Robert Shelton (representative: Thomas A. Nitti, Law Offices of Thomas A. Nitti), Eileen and Andrew Cahill, Lisa Farris, Bonnie Cullinan, Jeffrey Burke and Amanda Barrett. At its meeting on November 18, 2020, the WLAAPC denied the appeals and sustained the Planning Director's August 11, 2020 determination and approved the local CDP in their letter of determination dated December 17, 2020 (Exhibit 9).

On January 8, 2021, the Commission received the Notice of Final Action (NOFA). Four appeals were received. On February 3, 2021, Robert Shelton submitted an appeal to

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<sup>2</sup> The City describes the existing structure to be 1-story. Upon a visual inspection of the home, it appears the home is a 2-story structure with windows near the garage on the lower level of the home. A review of the description on Zillow indicates that there is an office space "downstairs".

the Commission’s South Coast District Office and three appeals from Julie Ross, Stew Herrera and Lisa Farris were received on February 8, 2021 (Exhibit 7). On February 08, 2021 a Notification of Appeal was sent to the City, the appellants, and the applicant, notifying them of the appeals of the City’s approval of the local CDP.

#### **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 Coastal Act Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a CDP. 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 final local action on a CDP application, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice, which contains all the required information, a twenty working-day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.] As provided under Sections 13318 and 13319 of Title 14 of the California Code of Regulations, an appeal of a denial of a coastal development permit 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 appeals of the local approval of the proposed project. Sections 30621 and 30625(b)(1) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

Commission staff recommends a finding of no substantial issue. If the Commission decides that the appellant’s contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government becomes final. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the Chapter 3 policies of the Coastal Act, the Commission accepts the appeal for a full de novo review of the permit application, and typically continues the public hearing to a later date in order to review the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de



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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 future 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, appellants, 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. A vote of the majority of Commissioners present is required to find that the grounds for the appeal raise no substantial issue.

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

Within the areas specified in Coastal Act 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 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 is located within the Dual Permit Jurisdiction Area. Therefore, the applicant is required to obtain a second, or "dual", CDP from the Commission for the proposed development. As of the date of publication of this staff report, the dual CDP application has not been submitted.

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

### **A. PROJECT DESCRIPTION AND BACKGROUND**

The scope of work approved by the Planning Director and subsequently approved by the WLAAPC includes the demolition of a one-story<sup>3</sup> single-family dwelling and construction of a three-story, 35'-9" ft. high, 5,784 sq. ft. single-family residence, 1,722 sq. ft. basement (no habitable rooms) containing a 3-car garage and storage, and cut and export of 1,500 c.y. of dirt on 5,637 sq. ft. lot. (Exhibit 3).

The project site (Exhibit 1), 7012 Vista Del Mar Lane, is located atop a bluff approximately 100 feet above sea level and 650 feet inland of the beach in a residential neighborhood of the Playa Del Rey neighborhood (Exhibit 2) within the City's Dual Permit Jurisdiction. The site, zoned R1-1, designated for Low Residential land use, is currently developed with a 1,978 sq. ft., two-story single-family residence on a 5,637 sq. ft. lot. The proposed project fronts Vista Del Mar Lane, a two-lane street. The site is in the northern end of the residential blocks of Vista Del Mar Lane between Fowling St. and W. Manchester Ave (Exhibit 2). Vista Del Mar Lane slopes downward to the south and the backyard terraces of the homes on the eastern side slope upwards toward Rindge Ave. This residential neighborhood features single-family residences that range from one-story to six-story structures.

The appellants generally contend that the proposed development does not conform to the Chapter 3 policies of the Coastal Act. The appellants therefore request that the Commission overturn the City's approval of the permit. For the reasons described more fully below, and based on the Commission's balancing of the five substantial issue factors in section 13115 of the Commission's regulations, the Commission determines that the appeal does **not** raise a substantial issue as to the project's conformity with Chapter 3 of the Coastal Act sufficient to warrant accepting the appeal for a full de novo review.

### **B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS**

As indicated above, the standard of review is whether the appeal raises a substantial issue as to conformity with Chapter 3 of the Coastal Act, Cal. Pub. Res. Code §§ 30200-265.5 When determining whether an appeal raises a "substantial issue," section 13115(c) of the Commission's regulations provide that the Commission may consider factors, including but not limited to:

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<sup>3</sup> The City describes the existing structure to be 1-story. Upon a visual inspection of the home, it appears the home is a 2-story structure with windows near the garage on the lower level of the home. A review of the description on Zillow indicates that there is an office space "downstairs".

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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.

The Commission may, but need not, assign a particular weight to a factor.

The City’s Letter of Determination shows that the City applied the Chapter 3 policies and concluded that the development is consistent with Sections 30244, 30250, 30251, 30252 and 30253 of the Coastal Act. The appeals do not raise a valid question that the local decision correctly applied the policies of Chapter 3, and the appeals raise no substantial issue regarding the project’s conformity with Chapter 3.

Staff recommends that the Commission find that **no substantial issue exists** with respect to whether the local government action conforms to the provisions of Chapter 3 of the Coastal Act for the reasons set forth below.

### **C. SUBSTANTIAL ISSUE ANALYSIS**

As stated in Section IV of this report, the grounds for an appeal of a local government action on a CDP prior to certification of its LCP are the Chapter 3 policies of the Coastal Act. The Commission shall hear an appeal unless it determines that the appeal raises no substantial issue as to conformity with Chapter 3 of the Coastal Act.

The grounds for this appeal primarily relate to the proposed project’s incompatibility with community character, impacts to private and public views, geologic hazards, and adverse cumulative impacts. The City found the proposed development to be consistent with the existing dwellings on the block, which includes a diverse range of architectural styles and massing and multiple structures with two or more stories. The City further established that the development will not obstruct public views and the site location did not necessitate further review of geologic hazards. Lastly, the City did not perform a cumulative effect analysis on the community character but did find the proposed development to be situated in an existing residential neighborhood able to accommodate it. The City approved the project because it found that it is consistent with the Chapter 3 policies of the Coastal Act.

Section 30250(a) of the Coastal Act states, in relevant part:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Section 30251 of the Coastal Act 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 of the Coastal Act states, in relevant parts:

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.

### **Public and Private Views**

The appellants contend that the proposed residence will result in a significant impact to private and public views. Regarding potential impacts to views, the relevant Chapter 3 policies of the Coastal Act provide for the protection of public views only and do not protect private views. The subject site is in a densely developed residential area. Immediately west of the subject site is vacant land that affords a view of the Palos Verdes Peninsula and to the Playa Del Rey beach below. The proposed development will not have any view impacts to the coastline and beach below when viewed from the north where Rindge Ave. meets Vista Del Mar Lane. No views would be obstructed from the south when viewed from West Manchester and Vista Del Mar Lane. The subject site is visible while looking east from a short segment of the beach below the bluff and will not detract from any scenic or unique landforms in the built environment. The proposed project is under the City's 45-foot maximum height for the area, meets the City's setback requirements and applies an encroachment plane of 45 degrees, that together, contribute to a reduction in any potential visual impacts. Therefore, the contention does

not raise a substantial issue as to the project's conformity with the visual resource policies of the Coastal Act.

### **Community Character**

The proposed development includes the demolition of a two-story single-family residence, and the construction of a 3-story, 35'-9" ft. high, 5,784 sq. ft. single-family home with a 1,722 sq. ft. basement (no habitable rooms) containing a 3-car garage and storage, a roof deck with elevator shaft, and cut and export of 1,500 cubic yards of dirt.

The appellants contend that: 1) the City did not provide sincere consideration whether the project is consistent with the mass, scale and character of the neighborhood, 2) the scale and mass of the single-family residence, as proposed, is not compatible with the surrounding neighborhood, 3) the average sq. ft., number of stories, and the FAR is greater than other homes in the neighborhood, 4) the proposed sq. ft. of the home is greater than the sq. ft. of the lot, 5) the height is not measured from lowest average grade, and 6) the proposed project will dwarf existing development on the street.

The City analyzed the properties on the eastern side of Vista Del Mar Lane between Manchester and Fowling (excluding the subject property). The City found that the street contained:

“...three (3) three-story, six (6) two-story, and one (1) one-story single-family structures. The existing dwellings on the block feature a diverse range of architectural styles and massing. Other common design elements include recessed entrances, balconies, varied facade articulation, and step-backs on the upper levels.”

The City concluded that the project is visually compatible with the character of the surrounding area in the following manner:

“The proposed project observes the prevailing front-yard setback and includes an entrance that is recessed 7' - 7" from the building facade at ground level. Additionally, the second and third story are stepped back from the property line 17' - 4" and 24' - 6" respectively. These step backs, along with the balconies and sloped roof line, break up the massing of the structure and provide a varied facade articulation comparable to other homes on the block.”

To ensure a thorough review of the immediate area, staff independently reviewed the structures between Fowling St. and Redlands St., on either side of Vista Del Mar Lane for community character. A total of 36 homes were reviewed (Exhibit 4).

The homes on the western side of Vista Del Mar Lane drape down the hillside, giving the appearance of single-story homes from the street level. However, when viewing these homes from the beach or Vista Del Mar below, these homes range from two (2) to six (6) stories. The homes on the eastern side of Vista Del Mar Lane range from one (1) to four (4) stories. The average number of visible stories of the 18 structures on the

eastern side is 2.22. Of these 18 structures, four (4) visibly had 3 or more stories for a total of 22%. There is only one (1) single-story residence of the total 18 structures. The proposed project plans depict a basement (no habitable rooms) that will be fully below grade. The basement will be accessed on Vista Del Mar Lane but will not be visible. Therefore, the home will appear to have 3 stories fronting Vista Del Mar Lane. Additionally, the home proposes a first floor that is partially subterranean in the rear of the property, leaving approximately 3,900 sq. ft. above ground and two stories visible from the rear of the property. A review of the streetscape and the home rendering together demonstrate that the proposed three-story home will not be out of character with the surrounding development (Exhibit 5).

Upon evaluation of the homes fronting Vista Del Mar Lane, these homes are approximately 3,800 sq. ft. in size on average. Ten (10) of the thirty-six (36) residences are developed over 5,000 sq. ft. including 3 homes on the eastern side of Vista Del Mar Lane. The largest existing home within the study area is 10,887 sq. ft. Thus, the proposed 5,784 sq. ft. home will not be out of character with the surrounding development.

The Floor Area Ratio (FAR), the habitable floor area divided by the lot size, is one metric that can be used to evaluate the mass and scale of development. However, this metric is not a reliable predictor of neighborhood compatibility. Particularly, two homes with the same FAR can be designed differently, one that is taller with smaller lot coverage, or one that is shorter with larger lot coverage. In effect, FAR does not tell the whole picture and it is helpful to also consider other elements of the proposed development such as height, setbacks, and design. The Commission typically uses height limits and setback requirements to limit the size and scale of new structures so that they are compatible with the character of the surrounding area. Additionally, the Coastal Act does not impose any limits on FAR. However, for the purpose of this appeal, the FAR of homes in the survey area was evaluated.

The appellants argue the FAR of the proposed development is at 1.03 and not consistent with the scale of the neighborhood at 0.48. It appears the FAR used by the appellants only include homes on the eastern side. Staff calculated an average FAR of 0.49 encompassing the 18 homes on the eastern side of Vista Del Mar Lane. The FAR ranges from 0.23 to 1.60 on this side of Vista Del Mar Lane. The proposed development would have an FAR of 1.03 and is within the FAR range on the eastern side of Vista Del Mar Lane. The home with the lowest FAR of 0.23 is quite unique in that the small home (7314 Vista Del Mar Lane) and sits across two lots which is uncommon among the homes reviewed. There is only one home on the eastern side of Vista Del Mar Lane with a higher FAR than the proposed development with an FAR of 1.60 (7306 Vista Del Mar Lane). Although the proposed FAR for the subject home is larger than the average FAR on the eastern side of Vista Del Mar, there are 8 other homes on the western side of Vista Del Mar Lane with a FAR greater than the proposed development's FAR. Additionally, the City's development standard allowed for this site is an FAR of 3:1 which would allow a 9,480 sq. ft. home. The proposed development would be well under the City's maximum FAR, which is not certified and is not the standard of review for this

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project. Thus, the proposed FAR of 1.03 will not be out of character with the surrounding development.

Additionally, the appellants argue that the applicant did not provide meaningful and essential information, such as the proposed elevation of the proposed development, to help evaluate the proposed project's visual impact on the surrounding homes, the street, or the homes immediately above it. The proposed project includes a building height of 35'-9" and a total height of 38 ft. including the elevator shaft. The elevator shaft is located towards the rear of the building. The plans did include the elevations of the proposed home. Also, the streetscape analysis of the rendered home in comparison to the homes adjacent and in proximity to the proposed development demonstrate that the home is visually compatible and not out of character with the surrounding development.

Given the lack of recent similar-scope projects within the survey area, Staff looked outside of the survey area to the greater Playa Del Rey neighborhood for examples of recent Commission approvals of larger homes. There are two recent examples of Commission-approved projects<sup>4</sup> of similar size and scope in the Playa Del Rey community that granted the construction of 4-story single-family homes of more than 5,000 sq. ft. These two homes had FARs of 0.98 and 1.92 and were found to be consistent with the surrounding area. Thus, there is precedent for approval of a residence of this size and scale in Playa Del Rey.

The appellants state that CDP Nos. 5-18-0393 AND 5-05-414 demonstrate past Commission action to deny projects that are not visually compatible with the surrounding area because the size and mass were out of scale with the area.

Specifically, for CDP No. 5-18-0393/A-5-PPL-18-0057, the structure in question was twice the size of the existing row of structures in a residential area of the Pacific Palisades, and at the substantial issue and de novo/dual permit hearing, the Commission deemed the structure inconsistent with scenic and visual qualities and recommended denial. CDP No. 5-18-0393/A-5-PPL-18-0057 is a unique case where the City did not consider the full height of the development. The City did not account for the total mass or envelope height of the entire project, which should include the accessory development. Additionally, the development was highly visible from public viewpoints and cascaded down the slope which was not a characteristic of the area. It should be noted that this application was approved with conditions at the de novo and dual permit application hearing after revised plans were submitted omitting the accessory structures that contributed to the overall mass of the project.

For CDP No. 5-05-414, the proposed structure was designed at 33 ft. high which included two levels, a mezzanine and roof access structure in Venice. This application was unique in that the proposed home was overwhelmingly surrounded by 1-story

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<sup>4</sup> Reference CDP No. 5-14-0997 (7829 Veragua Dr.) and 5-09-081 (6209 Ocean Front Walk).

buildings, a few 2-story buildings, and no 3-story buildings. Additionally, it was situated on a corner lot near a park which would be highly visible to the surrounding area.

The proposed development is 3 stories high. In this case, a 3-story home is not out of character with the area as there are other residences that are 3 or more stories. Additionally, the project is designed with a varied façade to reduce mass and scale that will ensure the visual quality of the area is maintained when viewed from the street and the beach below. Therefore, this contention regarding the two identified past Commission actions does not raise a substantial issue.

The appeals assert that the proposed project would impact flight paths for a range of local birds, green parrots and more. The proposed development is in an urbanized residential neighborhood and no evidence was provided in the appeals to indicate that the home would disturb bird flight paths. Therefore, this contention does not raise a substantial issue.

The appellants contend that the applicant did not provide height silhouetting and does not accurately display how the new structure towers above existing trees and utility lines. The Coastal Act does not require that residential structures be smaller than trees and utility lines, and therefore, the contention does not raise a substantial issue.

Lastly, the appellants contend that the project should be measured from the lowest average grade. According to the City of LA, Appeal Recommendation Report, the proposed residence is measured from “grade to the highest point of the building or structure.” The LA Municipal Code Section 12.03 defines grade as “Grade (adjacent ground level). Is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building.” Therefore, the contention that the project is not measured from lowest average grade does not raise a substantial issue.

A review of the existing single-family homes in the surrounding neighborhood reveals that there are existing large homes in the neighborhood and there is support for the City’s determination that the proposed project respects the overall scale and character of the existing neighborhood. The City found that the proposed structure is designed to be compatible with the surrounding development with an articulated façade to reduce the massing, consistent with the number of stories of other homes in the neighborhood and is well under development standards. A review of the applicant’s plans and the survey of the area reveal that the City’s decision that the project is consistent with the visual resource protection and community character policies of the Coastal Act is supported both factually and legally. Therefore, the appeal raises no substantial issue as to the project’s consistency with the Coastal Act’s policies regarding visual resources and community character.

## **Hazards**



A-5-DRL-21-0015 (Streams)  
Appeal – No Substantial Issue

Section 30253 requires that new development minimize hazards and assure stability and structural integrity. Additionally, this section also requires that new development not cause significant erosion, geologic instability, or require protective devices that alter natural landforms along the bluffs and cliffs.

The appellants assert that the height, setbacks, lot coverage and required grading for the proposed residence involves substantial geologic risk of adverse impacts to coastal bluffs in Playa del Rey and that an assurance of structural stability has not been provided nor has the development proven to be in adherence to the standards for erosion control, as this is a hillside property. Lastly, the appellants contend that a geotechnical report should have been prepared since the project proposes substantial excavation.

The applicant provided a geotechnical report dated December 27, 2018, an addendum to that report dated July 25, 2019 and a response, dated March 17, 2020, to the LADBS Soils Report Review Letter dated on March 9, 2020. In addition, the City issued a Geology and Soils Report Approval Letter on September 11, 2020 (Exhibit 5).

The geotechnical report found the development to be acceptable and determined that the proposed development would be safe from excessive settlements and would not result in any adverse effect on existing adjacent structures.

According to the City, neither a slope stability analysis demonstrating a 1.5 factor of safety nor a bluff erosion analysis was required for the project site due to its location approximately 60 feet away and across the street from the bluff edge. The City also took into consideration seismic hazards and found that the subject site is not located in a designated seismically induced landslide hazard zone as shown on the Seismic Hazard Zones map issued by the State of California. Therefore, the City did not perform a seismic slope stability analysis.

The Grading Division of LADBS reviewed the applicant's geologic reports and found the reports to be acceptable, providing that the geotechnical report recommendations are followed, and the conditions provided in the Geology and Soils Report Approval Letter are complied with during site development. For example, in regard to erosion control, condition 11 of the approval letter states that:

“Grading shall be scheduled for completion prior to the start of the rainy season, or detailed temporary erosion control plans shall be filed in a manner satisfactory to the Grading Division of the Department and the Department of Public Works, Bureau of Engineering, B-Permit Section, for any grading work in excess of 200 cubic yards (7007.1).”

Additionally, the Commission's geologist, Dr. Joseph Street, has reviewed the geotechnical documents and found no major concerns with the proposed project. Dr. Street confirmed that the applicant's geologic reports do not include quantitative analyses of slope stability or bluff erosion. However, given the relatively gentle slope (>2:1, horizontal:vertical) of the bluff seaward of the subject site, its composition of

former dune sands, the lack of significant recent historical bluff erosion, and the separation of the bluff toe from active marine processes, these more detailed quantitative analyses were not necessarily indicated, and the City was not remiss in considering geologic 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 and the other policies of Chapter 3 are met. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his/her property. The project was not identified to be in a hazardous area. Therefore, the appeal does not raise a substantial issue as to the Project's conformity with the Coastal Act's hazards policies.

### **Adverse Cumulative and Precedential Effects**

Section 30105.5 of the Coastal Act states:

"Cumulatively" or "cumulative effect" means the incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

The appellants contend that the approval of the development, as proposed, will have adverse cumulative effects on community character, and will set an adverse precedent for future development in this area. Specifically, the appellants state that the proposed development would encourage the construction of exceptionally large homes on Rindge Avenue to recapture views of the ocean and set a precedent of exceptionally large residences. Although the City's findings do not address cumulative effects to community character, staff's preliminary review of the surrounding development indicates that the locally-approved residence is consistent with the scale of homes in the area and would not set a new precedent in terms of size of homes in the area.

Commission staff reviewed residential developments along Vista Del Mar Lane from Rindge Avenue to Redlands Street. This survey included 36 multi- and single-story single-family residences and considered the year of development and the habitable residence area.

Of the 36 homes in the study area, ten of the homes are greater than 5,000 sq. ft. Of these ten existing large homes, nine were developed largely in the 1990's and the earliest construction year is 1977. There appears to have been a trend between 1958 and 2002<sup>5</sup> of building larger homes than those that existed at the time, which is not uncommon for California's coastal areas. The information analyzed by Commission staff shows that the City-approved residence has a size consistent with surrounding

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<sup>5</sup> 1958 is the year the existing structure was built and 2002 is the year the last structure was built on either side of Vista Del Mar Lane within the survey area.

development, though the subject residence is larger than many homes that have not been redeveloped within the survey area. Additionally, the home would be sited in a neighborhood with a mix of home sizes and architectural styles.

In short, the City of Los Angeles approval of this project was not as thorough as the Commission would undertake through a de novo review of the project. However, the question before the Commission is whether the appeal raises a substantial issue as to the project's conformity with Chapter 3 of the Coastal Act. Given the development in this area and the limited amount of redevelopment that has occurred, there is reasonable support for the City's decision to approve the project.

The Commission, therefore, finds that the appellants' contentions that the City-approved project will have adverse cumulative effects to community character of the neighborhood do not raise a substantial issue with regard to Chapter 3 policies of the Coastal Act.

### **Contentions Pertaining to Local Government**

The appellants argue that the Coastal Development Permit (CDP) would violate the City of Los Angeles Westchester Playa Del Rey Community Plan. The Los Angeles Westchester Playa Del Rey Community Plan is not certified, and the City of Los Angeles does not have a certified LUP for Playa Del Rey. Therefore, the standard of review is the Chapter 3 policies of the Coastal Act. In this case, the contentions regarding conformity with the community plan do not raise a substantial issue as to the Project's conformity with Chapter 3 policies of the Coastal Act.

Additionally, the appellants argue that the City's decision approving the CDP for this project ignored the City's Baseline Hillside Ordinance (BHO). They assert that the BHO, which is not certified, should be incorporated in the Local Coastal Program (LCP), but that the City's decision approving this CDP prejudices the City's ability to adopt an LCP that would include the BHO, because this project is not consistent with the requirements of the BHO. The BHO establishes regulations regarding the size and bulk of new and enlarged homes to limit out-of-scale development in single family neighborhoods, and to further regulate grading and earth import/export in designated Hillside Areas. As described previously, the proposed home does not set a new precedent or fundamentally change the type of development approved in this area of the City as there are multiple homes within close proximity to the subject home with a similar size (i.e. larger than 5,000 sq. ft.). Regardless of the local action, this ordinance is a local ordinance and because the City does not have a certified LCP, this ordinance is not the standard of review for CDPs. The standard of review for the local CDP is the Coastal Act. Therefore, the contentions regarding the City's disregard of the BHO do not raise a substantial issue as to the project's conformity with the Coastal Act.

Moreover, the appellants argue that not all adjacent property owners within 100-foot radius of the property were notified of the impending permit, currently approved by the City of Los Angeles. The City of LA Appeal Recommendation Report responded to this

same appeal contention brought to the City during the local appeal process. The staff report states:

“Better Technology Corporation (BTC) provided a signed mailing affidavit, dated February 18, 2020, listing the addresses they sent a hearing notice to on behalf of the applicant. The appellant is included on that list. There is no evidence that the hearing notices were not properly provided as the appellant claims.”

Additionally, the appellants argue that the project violated the rules for posting notice pursuant to LAMC 12.20.21(E)(5). Specifically, the Applicant did not post notice at the time of filing on October 5, 2019. The City of LA staff report responded to this same appeal contention brought to the City during the local appeal process. The staff report states:

“Here, the appellant incorrectly states that there is no evidence that the applicant posted notice at the time of filing. They also incorrectly state that the date of filing was on October 5, 2019, when the publicly accessible Los Angeles City Planning website shows that the case was filed on October 17, 2019. As required by LAMC Section 12.20.21 (E)(5), the applicant’s representative provided a completed “Certificate of Posting” and two documentary photographs – one of which included a newspaper dated October 18, 2019. Additionally, the applicant re-posted the “Notice of Intent” on May 19, 2020 to reflect the proposed project’s design revisions. Documentary evidence of the re-posting was provided.”

In this case, the contentions regarding noticing does not raise a substantial issue as to the Project’s conformity with Chapter 3 of the Coastal Act.

### **CEQA**

The appellants argue that the proposed project is inconsistent with CEQA section 21080.5 and does not fall under any CEQA Exemption and that there is substantial evidence demonstrating that an exception to the categorical exemption applies. It is the responsibility of City of Los Angeles to determine if a project is categorically exempt from CEQA. The appellants’ contentions regarding the City’s implementation of CEQA does not raise a substantial issue as to the Project’s conformity with Chapter 3 policies of the Coastal Act.

### **Prejudice to City’s Preparation of an LCP That Conforms to Chapter 3**

The appellants contend that the approval of the development, as proposed, will prejudice the preparation of the City’s LCP. Under Section 30604(a) of the Coastal Act, a local government’s approval of a CDP must include findings that the project conforms with Chapter 3 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 Chapter 3.” Here, the City’s approval of the appealed project included findings that the approved residence complies with the relevant Chapter 3 policies protecting scenic and visual resources, marine resources, environmental resources, and public access. This project,

therefore, will not set a new precedent that would prevent the City from adopting an LCP that conforms with Chapter 3 of the Coastal Act. In any event, Section 30604 is not a Chapter 3 policy that must be considered when evaluating whether an appeal raises a substantial issue under Section 30625 of the Coastal Act.

**SUBSTANTIAL ISSUE FACTORS:**

The Commission must accept an appeal for a full de novo review unless it finds that the appeal raises “no substantial issue” as to the project’s conformity with Chapter 3 of the Coastal Act. Cal. Pub. Res. Code § 30625(b)(1); 14 C.C.R. § 13321. The Commission’s decision is guided by the factors listed in Section 13115(c) of the Commission’s regulations, and incorporates as is fully set forth below all of the above findings.

On balance, and after consideration of the five factors listed in Section 13115(c), the Commission finds that the appeals raise “no substantial issue” as to the project’s conformance with Chapter 3 of the Coastal Act.

- 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.** The City’s findings state that the project is consistent with the Chapter 3 policies of the Coastal Act, including Section 30251, which protects scenic and visual qualities of coastal areas. The City’s approval includes findings that the demolition and construction of the new single-family residence in a developed residential neighborhood consisting of single-family homes with similar heights and setbacks is consistent with the community character of the area due to the articulated façade with upper floors stepped back greatly to reduce its massing, and designed well under the City’s uncertified development (height and FAR) standards for residential development in Playa Del Rey. Although the City’s standards are not certified by the Commission and are not the standard of review for the project, they are informative of the prevailing character of the surrounding neighborhood. Although the City’s findings concerning community character are not robust, there is adequate support for the City’s determinations that the project is consistent with community character and will not prejudice the City’s ability to prepare an LCP that conforms with Chapter 3, even though the City did not include explicit findings addressing cumulative effects of the project on community character and coastal resources. As discussed above, no other issues raised by the appellants describe factually inaccurate or legally questionable actions by the City. Therefore, the Commission finds that the City provided an adequate degree of factual and legal support for its decision.
- 2. The extent and scope of the development as approved or denied by the local government.** The City-approved development will demolish a single-family residence and replace it with a new single-family residence in a highly developed area. The scope is consistent with that of the surrounding development. There is adequate factual and legal support for the City’s determination that the project would have no adverse impacts to visual resources and is consistent with the community character of the neighborhood. Therefore, the extent and scope of the City-approved

development is limited to one residence that does not involve out-of-scale development. This factor weighs in favor of a finding of no substantial issue.

- 3. The significance of the coastal resources affected by the decision.** The City-approved project is a single-family residence that is generally consistent with the mass, scale, and character of the surrounding neighborhood, and consistent with the pattern of development in this neighborhood. Therefore, the Commission finds that significant coastal resources are not threatened by the proposed project. This factor weighs in favor of a finding of no substantial issue.
- 4. The precedential value of the local government's decision for future interpretations of its LCP.** The City does not currently have a certified LCP. Approving projects that are not consistent with the Chapter 3 policies of the Coastal Act may prejudice the ability of the City to prepare an LCP that is in conformity with Chapter 3 of the Coastal Act. In this case, there is adequate support for the City's determination that the project is consistent with the visual resource protection policies of the Coastal Act, and there are homes of similar size and scale in the vicinity. Therefore, approval of this project is unlikely to set a new or adverse precedent for any future interpretations of the City's LCP, when one is adopted, or Chapter 3 of the Coastal Act. This factor weighs in favor of a finding of no substantial issue.
- 5. Whether the appeal raises local issues, or those of regional or statewide significance.** The project involves a residential project in a developed neighborhood of Playa Del Rey with similar scale homes, which raises primarily local issues relating to consistency with the prevailing community character. This factor weighs in favor of a finding of no substantial issue.

## CONCLUSION

In conclusion, the primary issues raised by the appeal is whether the City-approved project is consistent with the visual resource protection policies of Chapter 3 of the Coastal Act, as well as geologic hazards. The Commission finds that there is factual and legal support for the City's determination that the proposed development is consistent with the community character and hazards policies in Chapter 3. After a balancing of all the substantial issue factors, the Commission finds that the appeals do not raise a substantial issue as to the project's conformity with Chapter 3 of the Coastal Act.

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

1. City of Los Angeles Department of Building and Safety, September 11, 2020. Geology and Soils Report Approval Letter LOG #112224-01
2. NorCal Engineering, December 27, 2018. Soils Investigation Project No. 20825-18
3. NorCal Engineering, July 17, 2019. Addendum No. 1 – Soils Investigation. Project No. 20825-18
4. City of Los Angeles Appeal Recommendation Report for Local CDP No. DIR-2019-6145-CDP-MEL-1A