

**CALIFORNIA COASTAL COMMISSION**

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# Th12e-g & Th13a-b

Appeals Filed: 8/9/19  
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 Staff: S. Amitay – LB  
 Staff Report: 9/28/23  
 Hearing Date: 10/12/23

## STAFF REPORT: APPEALS – SUBSTANTIAL ISSUE & DE NOVO & REGULAR CALENDAR (DUAL PERMITS)

**Appeal Nos.:** A-5-PPL-19-0168, A-5-PPL-19-0169, A-5-PPL-19-0170

**Application Nos.:** A-5-PPL-19-0168/5-23-0568 & A-5-PPL-19-0170/5-23-0569

**Applicant:** WSBO LLC<sup>1</sup>

**Agent:** Crest Real Estate, Attn: Tony Russo

**Local Government:** City of Los Angeles

**Local Decision:** Approval with Conditions

**Appellant:** Coastal Commission Executive Director

**Project Location:** 16948, 16950, 16966, 16970, 16980, and 16982 West Sunset Boulevard; 114, 120, and 125 North Marquez Place; 16931 West Pacific Coast Highway (APNs: 4415-021-004, 4415-022-007, 4415-023-009, 4415-023-010)

**Project Description As Originally Approved (On Appeal):** Construction of **three** single-family residences (measuring 44,815 sq. ft. in total) with garages, decks, pools, and retaining walls across three vacant lots. 91,842 cu. yds. of grading (including 80,606 cu. yds. of

<sup>1</sup> The City granted the local CDPs to 16974 Sunset Blvd LLC, the owner of the subject property at the time. The project was appealed to the Commission when the former entity still held ownership of the subject property. Subsequently, on January 29, 2021, title was transferred to WSBO LLC, and thus, it is the current owner and applicant for the subject development.

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remedial grading, 5,864 cu. yds. of cut, and 5,372 cu. yds. of fill), removal of 115 significant trees, construction of 45 48-in.-diameter piles, and a lot line adjustment. The seawardmost vacant lot (Lot 4) to remain unimproved.<sup>2</sup>

**Project Description  
As Revised (De  
Novo & Dual):**

Construction of **two** single-family residences each with accessory dwelling units (“ADUs”) (measuring approx. 31,848 sq. ft. in total including garages), decks, and pools across two vacant lots. Approx. 5,630 cu. yds. of grading (no remedial grading, 4,950 cu. yds. of cut, and 680 cu. yds. of fill), removal of 64 significant trees, and construction of 28 48-in.-diameter piles, and a lot line adjustment. Offer to dedicate an open space conservation easement proposed across the two seawardmost vacant lots.<sup>3</sup>

**Staff Recommendation:**

Substantial Issue on Appeal, and Approval with Conditions on De Novo and Dual Permit Applications

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**IMPORTANT HEARING PROCEDURE NOTE:** The Commission will not take testimony on the “substantial issue” phase of the appeal hearing unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General, or the Executive Director prior to determining whether or not to take testimony regarding whether the appeals raise a substantial issue. (14 CCR § 13115(c).) If the Commission takes testimony regarding whether the appeals raise a substantial issue, testimony is generally at the discretion of the Chair and limited to 3 minutes total per side. 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 during the substantial issue phase of the hearing. Others may submit comments in writing. (14 CCR § 13117.) If the Commission finds that the appeals raise a substantial issue, the de novo phase of the hearing will occur directly following that finding, during which it will take public testimony.

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**STAFF NOTE:** The applicant has submitted a letter dated September 27, 2023 ([Exhibit 11](#)) requesting withdrawal of the development authorized by City of Los Angeles CDP No. DIR-2017-3897-CDP-MEL only if and after such time the Commission affirmatively votes to find “substantial issue” on Appeal No. A-5-PPL-19-0169 and takes jurisdiction over the

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<sup>2</sup> Due to the nature of the three local coastal development permit (“CDP”) applications, all of the proposed development will be addressed in one staff report. The project descriptions for each separate application, on appeal, are provided below in the Summary of the Staff Recommendation.

<sup>3</sup> The project descriptions for each separate application, under de novo/dual permit consideration, are provided below in the Summary of Staff Recommendation.

application. If the Commission finds “substantial issue,” the application No. A-5-PPL-19-0169 would be permanently withdrawn.

## SUMMARY OF STAFF RECOMMENDATION

The subject project site is currently comprised of four vacant, contiguous, interior canyon blufftop/bluff face lots totaling approximately 249,108 sq. ft. (5.7 acres) in Pacific Palisades, located approximately 100 ft. (at the seaward property line) to 1,100 ft. (at the landward property line) from the inland extent of the beach in the dual permit jurisdiction area of the City of Los Angeles ([Exhibits 1, 2](#)). The property is located in the Santa Monica Mountains directly above Pacific Coast Highway (PCH) adjacent to Will Rogers State Beach. The existing lot line configuration and zoning is shown in [Exhibit 2](#).

Large portions of the site are underlain by landslide debris that is both “prehistoric” and “active,” ranging from twenty to fifty feet in depth, and is highly prone to geologic instability and hazards, such as erosion, landslides, and slope failure ([Exhibit 7](#)). There is a record of landslide movement occurring in 1890, 1944-47, and 1978.

On March 19, 2019, the City of Los Angeles approved three local coastal development permits Nos. DIR-2017-3895-CDP-MEL, DIR-2017-3897-CDP-MEL, and DIR-2017-3898-CDP-MEL for the construction of **three** single-family residences (measuring 44,815 gross sq. ft. in total) with garages, decks, pools, and retaining walls across three existing lots. The City also approved 91,842 cu. yds. of total grading (including 80,606 cu. yds. of remedial grading, 5,864 cu. yds. of cut, and 5,372 cu. yds. of fill), removal of 115 significant trees, and a lot line adjustment. As approved, the resulting improved lots would measure 37,388 sq. ft. (Lot 1), 32,680 sq. ft. (Lot 2), and 59,356 sq. ft. (Lot 3) ([Exhibit 3](#)). The seawardmost vacant lot measuring 119,684 sq. ft. (2.8 acres) would remain unimproved. The City approvals also included 45 48-in.-diameter piles.

More specifically, the City-approved project on appeal included the following development for each site:

Site	Project Description
“Lot 1,” Local CDP Application No. DIR-2017-3898-CDP-MEL (Appeal No. A-5-PPL-19-0170) (APN: 4415-023-009):	Lot line adjustment under Parcel Map Exemption No. AA-2017-3894-PMEX and construction of a 17,105 sq. ft., 29-ft.-4-in.-tall, two-story single-family residence with an attached four-car, 1,082 sq. ft. garage, 2,552 sq. ft. basement, swimming pool, deck, two 207.5 ft. long retaining walls up to 10-ft.-tall, and 2,680 cu. yds. of grading (1,754 cu. yds. of cut and 926 cu. yds. of fill) on a 37,388 sq. ft. vacant lot.
“Lot 2,” Local CDP Application No. DIR-	Lot line adjustment under Parcel Map Exemption No. AA-2017-3894-PMEX and construction of a 12,579 sq. ft., 28-ft.-

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2017-3895-CDP-MEL (Appeal No. A-5-PPL-19-0168) (APNs: 4415-023-009 & 4415-023-010):	tall, two-story single-family residence with an attached four-car, 648 sq. ft. garage, 1,526 sq. ft. basement, swimming pool, deck, two 93.5 ft. long retaining walls up to 5-ft.-tall, and 2,302 cu. yds. of grading (2,185 cu. yds. of cut and 117 cu. yds. of fill) on a 32,680 sq. ft. vacant lot.
“Lot 3,” Local CDP Application No. DIR-2017-3897-CDP-MEL (Appeal No. A-5-PPL-19-0169) (APNs: 4415-022-007 & 4415-023-009):	Lot line adjustment under Parcel Map Exemption No. AA-2017-3894-PMEX and construction of a 21,401 sq. ft., 39-ft.-6-in.-tall, two-story single-family residence with an attached four-car, 1,681 sq. ft. garage, four swimming pools, deck, two 42.8 ft. long retaining walls up to 10-ft-tall, and 6,254 cu. yds. of grading (1,925 cu. yds. of cut and 4,329 cu. yds. of fill) on a 59,356 sq. ft. vacant lot.

The local approvals were appealed by the Executive Director of the Coastal Commission on August 9, 2019 ([Exhibit 4](#)). The appellant argues that the project, as approved by the City, would adjust the lot lines in such a way that would result in four new lots, all of which would have access to Marquez Place, whereas, currently, only three lots have street access. The appellant alleges that this raises a substantial issue with Chapter 3 policies of the Coastal Act because the lot line adjustment could increase the development potential of the lots in a geologically unstable area. The existing Lot 4 (as shown in [Exhibit 2](#)), which is currently landlocked but contains a level pad, would be combined with the existing Lot 3, and thus the new direct access to Marquez Place would lead to consideration of future development in this currently inaccessible portion of the property, potentially resulting in increased risk from coastal hazards, additional landform alteration, impacts to visual resources, and impacts to environmentally sensitive habitat area (ESHA).

The appellant also states that there are project alternatives that would require substantially less landform alteration and fewer stabilization piles than what the City has approved. The City’s action contemplated an alternative project design that would only develop two lots, but instead, opted to approve the development of three lots with extensive remedial grading to remove and stabilize the landslide debris. The City stated that it is possible for the applicant to develop a project only on the proposed Lots 1 and 2 (and not on Lot 3) with less remedial grading and fewer stabilization piles.<sup>4</sup> Because the bulk of the landslide debris is found on the proposed Lot 3, then an alternative project design involving development on only Lots 1 and 2 would remove the need to undertake such extensive remedial grading or the need to bring such vast portions of the site to a factor of safety of 1.5 (static).<sup>5</sup> The very large home on Lot 3 is proposed to be nearly entirely seaward of the delineated bluff edge, which likewise requires extensive engineering measures to stabilize

<sup>4</sup> See Paragraph 2 on page 19 of the City’s letter of determination for the local CDPs.

<sup>5</sup> The factor of safety is an indicator of slope stability, where a value of 1.5 for static analysis and 1.1 for pseudostatic (“seismic”) analysis are the typical industry, building code, and Coastal Commission standards for geologic stability of new development. In theory, failure should occur when the factor of safety drops below 1.0. Therefore, the factor of safety at increasing values above 1.0 lends increasing confidence in the stability of the slope.

this portion of the site to support the massive residence. The City’s approvals also did not adequately analyze whether new development should rely on a subsurface pile-supported retaining wall to assure structural stability. The City-approved project is therefore inconsistent with Sections 30251 and 30253 of the Coastal Act, which require that the alteration of natural landforms be minimized.

Lastly, the appellant argues that the City approved the removal of “115 significant trees” on the site without acknowledging whether ESHA exist onsite, and if there is ESHA, whether it would be impacted by the proposed development.

Staff recommends that the Commission determine that a **substantial issue exists** with respect to the grounds on which the appeals have been filed for the following reason: the project, as approved by the City of Los Angeles, is inconsistent with the Chapter 3 policies of the Coastal Act, which provide for a) adequate siting and design of development in hazardous areas, b) minimization of landform alteration, c) minimization of adverse impacts to visual resources, and d) protection of ESHA.

The applicant has coordinated closely with Commission staff on a revised project design ([Exhibit 5](#)). The revised project involves the construction of **two** single-family residences (measuring approximately 31,848 sq. ft. in total) with two accessory dwelling units (“ADUs”), garages, decks, and pools across two existing lots, resulting in approximately 5,630 cu. yds. of total grading (no remedial grading, 4,950 cu. yds. of cut, and 680 cu. yds. of fill), removal of 64 significant trees, a lot line adjustment, and a lot tie across three of the four lots. The revised project also includes 28 48-in.-diameter piles to stabilize the two residential lots only, and the applicant is also offering to dedicate an open space conservation easement across the two seawardmost vacant lots measuring approximately 187,465 sq. ft. (4.3 acres).

More specifically, the revised project includes the following development for each site:

Site	Project Description
“Lot 1,” CDP Application No. A-5-PPL-19-0170/5-23-0569) (APN: 4415-023-009):	Construction of a 18,970 sq. ft., 30-ft.-4-in.-tall, two-story single-family residence including an attached four-car, 1,022 sq. ft. garage, 913 sq. ft. accessory dwelling unit (“ADU”), 2,677 sq. ft. basement, swimming pool, reflecting pool, deck, putting green, and 2,890 cu. yds. of grading (2,240 cu. yds. of cut and 650 cu. yds. of fill) on a 33,528 sq. ft. vacant lot.
“Lot 2,” CDP Application No. A-5-PPL-19-0168/5-23-0568) (APNs: 4415-023-009 & 4415-023-010):	Lot line adjustment and construction of a 12,878 sq. ft., 29-ft.-4-in.-tall, two-story single-family residence including an attached two-car, 406 sq. ft. garage, 930 sq. ft. accessory dwelling unit (“ADU”), 1,179 sq. ft. basement, two reflecting pools, deck, and 2,740 cu. yds. of grading (2,710 cu. yds. of cut and 30 cu. yds. of fill) on a 28,115 sq. ft. vacant lot. Also, a lot tie across proposed Lots 2, 3, and 4, and an offer to

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	dedicate open space conservation easement proposed across the two vacant lots (Lots 3 and 4) totaling 187,465 sq. ft.
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At 12,878 sq. ft. and 18,970 sq. ft. (including the garage, basement, and ADUs of each structure), respectively, the proposed residences would be significantly larger than the majority of the single-family residential structures in the immediate vicinity. However, while not directly adjacent to the subject site, the Commission has approved various other large homes in the Pacific Palisades area in the past few years.<sup>6</sup> In recognition of the much larger three-story apartment complex immediately adjacent to the subject site at 111 Marquez Place and the other large homes recently approved in the Pacific Palisades community, the proposed homes could be found compatible with the character and scale of the surrounding area.

The applicant's current proposal reduces the development's square footage from 44,815 to 31,848 (29% decrease) and significantly reduces the amount of landform alteration by reducing proposed grading by approximately 94% and entirely eliminating remedial grading of the slide. The applicant is also proposing to use 28 stabilization piles instead of the original City-approved proposal for 45 piles.

Section 30253 of the Coastal Act requires that new development not require construction of bluff protective devices to ensure the structural integrity of the development if the bluff protective devices would alter natural landforms, such as the coastal bluffs upon which the development is proposed. The site is unique from other bluff properties in that there are roads, residential development, and various topographical features spanning approximately the 900 feet in between the proposed residences and the mean high tide line. The site is bordered to the south by PCH and, on the eastern side of the property, other residential streets such as Mantua Road and Bay Club Drive. With little expected erosion of the bluff toe, all of the stabilization piles, which are proposed to be below grade and, once installed, will not be visible from public viewpoints, and are not expected to become visible over the life of the proposed development. In consideration of the substantial landform alteration that has already occurred at this site, as a result of both historic and more recent landslides, as well as previous grading and development, the proposed piles would not result in substantial alteration of the bluff.

The two new residences are designed to minimize impacts to visual resources by maintaining public view corridors across the property towards the ocean ([Exhibit 9](#)). The applicant is proposing to limit development to the upper portion of the blufftop site, and the vast majority (over 75%) of the entire property would be offered in dedication as open space in perpetuity.

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<sup>6</sup> 7,115 sq. ft. home approximately 1.7 miles from the subject site at 14948 Corona del Mar (Ref: 5-18-0255); 8,823 sq. ft. home approximately 0.6 mile from the subject site at 17642 Tramonto Drive (Ref: 5-18-0393); 10,114 sq. ft. home approximately 0.2 miles from the subject site at 230 Arno Way (Ref: 5-18-0885).

Staff recommends 22 special conditions in total to ensure that the proposed development is consistent with Chapter 3 of the Coastal Act.

The conditions applying to both permits include: 1) Permit Compliance; 2) Local Government Approval; 3) Final Revised Plans; 4) Conformance with Geotechnical Recommendations; 5) Assumption of Risk, Waiver of Liability and Indemnity; 6) Pool Protection Plan; 7) Interim Erosion Control and Construction Responsibilities; 8) Cultural Resource Treatment and Monitoring Plan; 9) Pile Exposure Plan; 10) View Corridors; 11) Lighting Plan; 12) Nesting Bird Monitoring and Avoidance Plan; 13) Landscape Monitoring and Maintenance Plan, and; 14) Minimization of Energy and Resource Consumption.

The following are conditions that would apply to CDP Nos. A-5-PPL-19-0168/5-23-0568 only: 15) City of Los Angeles Approval of Lot Line Adjustment; 16) Offer to Dedicate Open Space Conservation Easement; 17) Open Space Deed Restriction, and; 18) Deed Restriction - Recordation of Terms of CDP Nos. A-5-PPL-19-0168/5-23-0568.

The following are conditions that would apply to CDP Nos. A-5-PPL-19-0170/5-23-0569 only: 19) Finalization of CDP Nos. A-5-PPL-19-0168/5-23-0568; 20) Final Recordation of Lot Line Adjustment; 21) Lot Combination Deed Restriction, and; 22) Deed Restriction - Recordation of Terms of CDP Nos. A-5-PPL-19-0170/5-23-0569.

Thus, staff recommends that the Commission find the development, as proposed and conditioned, consistent with the visual resource, development, coastal hazards, and biological resource policies of Chapter 3 of the Coastal Act, and that the Commission **APPROVE the de novo and dual permits** as conditioned.

The motions and resolutions to adopt staff's recommendations are on pages **10-11** (substantial issue) and **26-27** (de novo/dual permits).

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## **EXHIBITS**

[Exhibit 1](#) – Vicinity Map

[Exhibit 2](#) – Existing Lot Lines

[Exhibit 3](#) – City-Approved Project

[Exhibit 4](#) – Appeals

[Exhibit 5](#) – Project Plans (De Novo & Dual)

[Exhibit 6](#) – Historical Aerial Imagery

[Exhibit 7](#) – Limits of Landslide Debris

[Exhibit 8](#) – Bluff Edge Delineation

[Exhibit 9](#) – Proposed View Corridors

[Exhibit 10](#) – Existing Easements (Instrument No. 00-0039615)

[Exhibit 11](#) – Withdrawal Letter Upon Finding of SI (A-5-PPL-19-0169)

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(WSBO LLC)

## **I. MOTIONS AND RESOLUTIONS – SUBSTANTIAL ISSUE**

The staff recommends that the Commission adopt the following resolutions:

### **A. Substantial Issue on Appeal No. A-5-PPL-19-0168**

#### **Motion:**

I move that the Commission determine that Appeal No. A-5-PPL-19-0168 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30602 of the Coastal Act.

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

#### **Resolution:**

The Commission hereby finds that Appeal No. A-5-PPL-19-0168 presents a SUBSTANTIAL ISSUE with respect to the grounds on which the appeal has been filed under Section 30602 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.

### **B. Substantial Issue on Appeal No. A-5-PPL-19-0169**

#### **Motion:**

I move that the Commission determine that Appeal No. A-5-PPL-19-0169 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30602 of the Coastal Act.

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

#### **Resolution:**

The Commission hereby finds that Appeal No. A-5-PPL-19-0169 presents a SUBSTANTIAL ISSUE with respect to the grounds on which the appeal has been filed under Section 30602 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.

### **C. Substantial Issue on Appeal No. A-5-PPL-19-0170**

#### **Motion:**

I move that the Commission determine that Appeal No. A-5-PPL-19-0170 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30602 of the Coastal Act.

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

#### **Resolution:**

The Commission hereby finds that Appeal No. A-5-PPL-19-0170 presents a SUBSTANTIAL ISSUE with respect to the grounds on which the appeal has been filed under Section 30602 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.

### **II. APPELLANT'S CONTENTIONS**

On August 9, 2019, the Coastal Commission's Executive Director filed appeals of the City-issued CDPs. The appellant raised the following concerns with the City-approved project:

- 1) The proposed lot line adjustment, as approved by the City, would result in four new lots, all of which would have access to Marquez Place, whereas, currently, only three of the four existing lots have street access; thus, the City failed to address how the lot line adjustment could increase the development potential of the lots and adversely affect coastal resources, including geologic hazards.
- 2) The City-approved project does not minimize landform alteration, and there are project alternatives that would require less grading and fewer stabilization piles/retaining walls. The City's approvals also did not adequately analyze whether new development should rely on a subsurface pile-supported retaining wall to assure structural stability.
- 3) The City approved the removal of "115 significant trees" on the site and did not explicitly acknowledge whether environmentally sensitive habitat areas (ESHA) exist onsite and would be impacted by the development.

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

The City held public hearings for the local CDPs on February 5, 2018 and February 4, 2019. At the February 5, 2018 local hearing, eight (8) members of the public spoke in support of the proposed project, and six (6) members of the public spoke in opposition, raising concerns related to environmental clearance and public notification requirements,

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landslides and geology at the site, prior uses of the site, setback requirements, visual impacts, the proposed retaining walls, and impacts to wildlife. Subsequent to the initial public hearing, additional environmental review was conducted, and a Mitigated Negative Declaration (MND) and Mitigation Monitoring Program (Case No. ENV-2017-3896-MND) was prepared for the proposed project in compliance with CEQA and published on December 27, 2018 for public review and comments. At the February 4, 2019 local hearing, four (4) members of the public spoke in support of the proposed project, and one (1) member of the public spoke in opposition, citing similar concerns as mentioned above. Additional written correspondence was received in connection with the local hearings (four (4) emails/letters in support, and ten (10) emails/letters in opposition).

On June 19, 2019, the City of Los Angeles Director of Planning approved the project under Cases Nos. DIR-2017-3895-CDP-MEL, DIR-2017-3897-CDP-MEL, and DIR-2017-3898-CDP-MEL and issued a letter of determination. The local CDPs approved a lot line adjustment and the construction of three new residences on vacant lots, as described in more detail in Section VI.A of the Substantial Issue portion of this staff report below. No local appeals were received, the City's Notice of Final Local Action for the local CDP was received in the Commission's South Coast District Office on July 12, 2019, and the Coastal Commission's required twenty working-day appeal period was established. On August 9, 2019, one appeal was received from the Coastal Commission's Executive Director for each of the local CDPs ([Exhibit 4](#)). No other appeals were received prior to the end of the appeal period on August 9, 2019.

#### **IV. APPEAL PROCEDURES**

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

After issuance of a local CDP, the City must provide notice of its decision to the Coastal Commission within five working days. Unless the local government provides such notification to the commission, the permit issued by the local government shall be of no force and effect. [Section 13315 of Title 14 of the California Code of Regulations.] 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 City decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.] As provided under Section 13318 of Title 14 of the California Code of Regulations, the appellant must comply with the

procedures for filing an appeal as required under Section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

The action currently before the Commission is to find whether there is a “substantial issue” or “no substantial issue” raised by the appeal of the local approval of the City-approved project. Sections 30621 and 30625(b)(1) of the Coastal Act, and Section 13321 of the Commission’s regulations, require a de novo review of the appealed project unless the Commission determines that no substantial issue exists as to the project’s conformity with Chapter 3 of the Coastal Act.

Commission staff recommends a finding of **substantial issue**. If the Commission decides that the appellant’s contentions raise no substantial issue as to the project’s conformity with Chapter 3 of the Coastal Act, the action of the local government becomes final. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the Chapter 3 policies of the Coastal Act, the local CDPs are voided and the Commission will hear the de novo matter and dual permit applications immediately following the substantial issue finding, unless the Commission schedules the de novo portion of the hearing for a future date. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission’s regulations.

If there is no motion from the Commission to find no substantial issue, it will be presumed that the appeals raise a substantial issue, and the Commission will immediately hold the de novo phase of the public hearing on the merits of the applications, using the Chapter 3 policies of the Coastal Act. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

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

## **V. 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.

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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 considered herein on appeal 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. Because the development will occur on lands as described in (5) above, the applicant is required to obtain a second, or "dual," CDP from the Commission, which may be sought in conjunction with the permit applications considered de novo, should the Commission find that the City-approved development raises a substantial issue.

## **VI. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE**

### **A. Project Description and Location**

The project site is currently comprised of four vacant, contiguous, interior blufftop/bluff face lots totaling approximately 249,108 sq. ft. (5.7 acres) in the Santa Monica Mountains located approximately 100 ft. (at the seaward property line) to 1,100 ft. (at the landward property line) from the shoreline in the dual permit jurisdiction area of Pacific Palisades within the City of Los Angeles ([Exhibit 1](#)). The site is not located between the first public road and the sea; to the south is Pacific Coast Highway (and Will Rogers State Beach), to the east are residences along Mantua Road and the upper Bel-Air Bay Club, and to the west are Malibu Village mobile homes and a three-story apartment building.

The property is comprised of the following land use designations (and corresponding zoning), per the City of Los Angeles' uncertified Brentwood-Pacific Palisades Community Plan: Low Residential (R1), Low Medium I Residential (RD5), and Minimum Residential (RE40). The existing lot line configuration and zoning is shown in [Exhibit 2](#).

The two top, landward lots, in their existing configuration, are relatively level closest to Sunset Boulevard and north of Marquez Place. However, as one moves further seaward towards and beyond the delineated bluff edge, ([Exhibit 8](#)), the existing Lot 1 (which would become Lot 3, per the City-approved Parcel Map Exemption No. AA-2017-3894-PMEX) contains significant landslide debris that is unstable ([Exhibit 7](#)). The existing two lower,

seaward lots have much more varied topography, with a sheer cliff/escarpment on the southern edge abutting Pacific Coast Highway and a steep descent going east towards Mantua Road. From the delineated bluff edge, the topography descends approximately 45 ft. down to approximately the elevation of the scarp feature at its landwardmost extent and near Mantua Road, and another approximately 170 ft. in elevation at various angles and slopes until reaching Pacific Coast Highway. The level portion of Lot 3 (which would become Lot 4, per the City-approved Parcel Map Exemption No. AA-2017-3894-PMEX) just to the south of Marquez Place is a landscaped area and putting green that is subject to an easement in favor of the neighboring apartment complex located at 111 Marquez Place ([Exhibit 10](#)).

Historically, the site hosted the Bernheimer Gardens from ca. 1928 to 1944, when the first of a series of landslides destroyed the gardens and closed Roosevelt Highway (i.e., Pacific Coast Highway) below ([Exhibit 6](#)). Since 1951, the site has remained vacant, although there were numerous attempts to develop the property, including a 30-unit condominium structure (Local CDP Application No. CDP-1986-37), a nine single-family residential subdivision (Commission Appeal No. A-5-PPL-91-793 and Commission CDP Applications Nos. 5-91-856 and 5-99-028), and a five single-family residential subdivision (Local CDP Application No. ZA-2002-2861-CDP). The City and Commission denied these previous attempts to further subdivide and increase unit density onsite, finding that those project alternatives involving denser development did not conform with the hazards and development policies of the Coastal Act.

The City CDP approvals would allow for the construction of **three** single-family residences (measuring 44,815 gross sq. ft. in total) with garages, decks, pools, and retaining walls across three existing lots, resulting in 91,842 cu. yds. of total grading (including 80,606 cu. yds. of remedial grading, 5,864 cu. yds. of cut, and 5,372 cu. yds. of fill), removal of 115 significant trees, and a lot line adjustment ([Exhibit 3](#)). The City approvals would also allow 45 48-in.-diameter piles to stabilize residential lots along the eastern edge of the property abutting Mantua Road. The seawardmost vacant lot, proposed Lot 4, measuring 119,684 sq. ft. (2.8 acres) would remain unimproved.

More specifically, on proposed Lot 1, the project would involve the construction of a 17,105 sq. ft., 29-ft.-4-in.-tall, two-story single-family residence with an attached four-car, 1,082 sq. ft. garage, 2,552 sq. ft. basement, swimming pool, deck, two 207.5 ft. long retaining walls up to 10-ft.-tall, and 2,680 cu. yds. of grading (1,754 cu. yds. of cut and 926 cu. yds. of fill) on a 37,388 sq. ft. vacant lot. On proposed Lot 2, the project would involve the construction of a 12,579 sq. ft., 28-ft.-tall, two-story single-family residence with an attached four-car, 648 sq. ft. garage, 1,526 sq. ft. basement, swimming pool, deck, two 93.5 ft. long retaining walls up to 5-ft.-tall, and 2,302 cu. yds. of grading (2,185 cu. yds. of cut and 117 cu. yds. of fill) on a 32,680 sq. ft. vacant lot. Finally, on proposed Lot 3, the project would involve the construction of a 21,401 sq. ft., 39-ft.-6-in.-tall, two-story single-family residence with an attached four-car, 1,681 sq. ft. garage, four swimming pools, deck, two 42.8 ft. long retaining walls up to 10-ft.-tall, and 6,254 cu. yds. of grading (1,925 cu. yds. of cut and 4,329 cu. yds. of fill) on a 59,356 sq. ft. vacant lot. The City's approvals

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would also allow 80,606 cu. yds. of remedial grading, as well as the installation of six separate above-surface retaining wall segments, two for each residence.

## **B. Factors to be Considered in Substantial Issue Analysis**

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project(s) unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeals have been filed pursuant to Section 30603(a) of the Coastal Act. The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. Section 13115(c) of the Commission regulations provides that the Commission may consider the following five factors when determining if a local action raises a significant issue:

1. The degree of factual and legal support for the local government’s decision;
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.

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

## **C. Substantial Issue Analysis**

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

### **Appellant’s Argument No. 1: Lot Line Adjustment and Development Potential**

Section 30250 of the Coastal Act states, in pertinent part:

- (a) 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. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

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.

Section 30251 of the Coastal Act states, in pertinent part:

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 the surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

Section 30253 of the Coastal Act states:

New development shall:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.
- (d) Minimize energy consumption and vehicle miles traveled.
- (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

The appellant argues that the project, as approved by the City, would adjust the lot lines in such a way that would result in four new lots, all of which would have access to Marquez Place; whereas, currently, only three of the four existing lots have street access. The appellant alleges that this raises a substantial issue with the development policies of the Coastal Act because the lot line adjustment could increase the development potential of

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the lots, which are located in a hazardous location. More specifically, the appellant raises that the existing Lot 4 (as shown in [Exhibit 2](#)), which is currently landlocked but contains a level pad atop a steep bluff above Pacific Coast Highway, would be combined with the existing Lot 3, and thus the new direct access to Marquez Place could lead to consideration of future development in this currently inaccessible portion of the property; development of this site would lead to a host of inconsistencies with the Chapter 3 policies of the Coastal Act, including, but not limited to, increased risk from coastal hazards, additional landform alteration, impacts to visual resources, and impacts to environmentally sensitive habitat area (ESHA).

The Commission concurs with the appellant's contention that the City's approvals remained silent on the potential adverse impacts, both individual and cumulative, that the proposed lot line adjustment would have on coastal resources by increasing the development potential onsite. In the current lot line configuration, only three of the four legal lots are street-accessible ([Exhibit 2](#)) and, therefore, potentially developable. Nevertheless, existing Lot 4 contains a flat portion that is approximately 14,000 sq. ft. (0.3 acres) in size, and the lot line adjustment would potentially open up the lot to future development by introducing street access to Marquez Place. Coastal Act section 30250 requires that new development avoid significant adverse effects, both individual and cumulative, on coastal resources when siting new residential development, and section 30105.5 defines "cumulatively" or "cumulative effect" as the incremental effects of an individual project in connection with the effects of probable future projects. By providing access between Marquez Place and the currently inaccessible Lot 4, the current City approvals would increase future development potential on a particularly geologically vulnerable portion of the site, which raises further issues of consistency with the Chapter 3 policies of the Coastal Act.

For one, the flat portion of existing Lot 4 has a topographic relief of about 200 feet and sits atop a precarious scarp feature; to the south, the slope averages an extreme gradient of approximately 50 degrees and at times approaches a sheer vertical drop, and to the east and west, the slope is slightly less extreme, but the hillside still continues a precipitous descent towards Mantua Road and Malibu Village HOA, respectively. The escarpment is made of unstable materials and prone to landslides, as evidenced by the extensive landslide debris immediately to the east and north ([Exhibit 7](#)). The Commission, in past permit actions, has limited development on or near steep slopes due to the inherent hazards associated with such development, and the potential of increased erosion and alteration of natural landforms.<sup>7</sup>

There are certain risks with hillside development that can never be entirely eliminated, and in order to satisfy the mandate to "minimize risks" in Section 30253(a), development should be avoided in particularly risky areas to the extent possible, rather than allowed to continue with extraordinary engineering. The creation of an additional potentially buildable lot via the City-approved lot line adjustment could lead to future development on a scarp

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<sup>7</sup> A-5-PPL-99-225 (Mount Holyoke Homes, Ltd., et al.); 5-05-253 (Flury); A-5-PPL-18-0057 & 5-18-0393 (Kashani); A-5-PPL-18-0036/5-18-0692 (Loving Family Trust).

feature, underlain with highly fractured, weathered soils immediately adjacent to steep slopes, and would increase the potential risks to life and property.

Conversely, a different project design that minimizes the number of buildable lots and the potential for extraordinary engineering measures necessary to build on said lots would be the environmentally preferable alternative. In addition, the Commission notes that the applicant would have no control over off-site or on-site conditions that may change and adversely affect the coastal slope on the property. Thus, the City-approved lot line adjustment is inconsistent with Section 30253 of the Coastal Act in that it would create an additional potentially developable lot in an unstable, highly geologically hazardous area immediately adjacent to steep slopes above a busy road (Pacific Coast Highway) and which would require extensive geologic engineering and landform alteration.

Moreover, the potential development of existing Lot 4, which would be facilitated by the City-approved lot line adjustment, would also significantly reduce the existing views towards the sea from the public street (Sunset Boulevard). Looking across the site towards the flat portion of existing Lot 4, there are interrupted public views of the ocean horizon and the Palos Verdes Peninsula. These coastal views are an important public coastal resource in this area where neighboring developments block these coastal views. Furthermore, such a residential structure would be highly visible from other public vantage points such as Will Rogers State Beach, Pacific Coast Highway, Mantua Road, Arno Way, and Bay Club Drive. Such a residential structure would also very likely require the use of caissons or piles for stabilization, which could become exposed in the case of extensive erosion or landslides. The lot line adjustment would encourage residential development on existing Lot 4 which would not protect views to and along the sea and scenic coastal areas and is inconsistent with Section 30251 of the Coastal Act.

In short, the City failed to fully address the current development potential of the lots in their current configuration, how the development potential would change given the lot line adjustments, or how the development potential with the proposed lot line adjustments could affect coastal resources. Thus, this contention raises a substantial issue.

## **Appellant's Argument No. 2: Excessive Landform Alteration**

Section 13577(h) of the Commission's Regulations, bluff edge definition, states in part:

... the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge..." (Title 14, California Code of Regulations, §13577(h)(2))

Section 30251 of the Coastal Act states:

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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 landforms, 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:

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

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

The appellant argues that the proposal is inconsistent with the requirement in Sections 30251 and 30253 of the Coastal Act to minimize landform alteration and reliance on bluff protective devices. The appellant states that the City's findings are contradictory as to whether grading and the use of bluff retention devices have been minimized, and further argues that the facts in the record illustrate that there are project alternatives that would require substantially less landform alteration and fewer stabilization piles than what the City has approved.

The City's action contemplated an alternative project design that would only develop two lots, but instead, opted to approve the development of three lots with extensive remedial grading to remove and stabilize the landslide debris. The City states that it is possible for the applicant to develop a project only on the proposed Lots 1 and 2 (and not on Lot 3) with less remedial grading and fewer stabilization piles.<sup>8</sup> Because the bulk of the landslide debris is found on the proposed Lot 3, then an alternative project design involving development on only Lots 1 and 2 would remove the need to undertake such extensive remedial grading or the need to bring such vast portions of the site to a factor of safety of 1.5 (static).<sup>9</sup> The very large home (21,401 sq. ft. with a 1,681 sq. ft. garage and four swimming pools) on Lot 3 is also proposed to be nearly entirely seaward of the delineated

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<sup>8</sup> See Paragraph 2 on page 19 of the City's letter of determination for the local CDPs.

<sup>9</sup> The factor of safety is an indicator of slope stability, where a value of 1.5 for static analysis and 1.1 for pseudostatic ("seismic") analysis are the typical industry, building code, and Coastal Commission standards for geologic stability of new development. In theory, failure should occur when the factor of safety drops below 1.0. Therefore, the factor of safety at increasing values above 1.0 lends increasing confidence in the stability of the slope.

bluff edge, which likewise requires extensive engineering measures to stabilize this portion of the site to support the massive residence and associated development. Thus, the Commission finds that the City-approved is inconsistent with Section 30253 of the Coastal Act, which requires that the alteration of natural landforms be minimized.

In the letter of determination, the City acknowledged that there is potential for the soldier piles to be exposed over time, as the slope naturally erodes, but stated that the area seaward of the subsurface retaining wall is already developed with other single-family dwellings and would be extensively landscaped with mature vegetation. The Commission finds that the City's approvals did not consider the potential for the proposed subsurface retaining wall reinforced with soldier piles to be exposed over time and function as a bluff protective device, nor did the City consider requiring removing or visually treating the pile-supported retaining wall in the event it is exposed due to erosion, inconsistent with Section 30251 of the Coastal Act.

Second, Coastal Act Section 30253(b) prohibits development that would "...in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." The Coastal Act generally limits construction of bluff protective devices because they tend to have a variety of negative impacts on coastal resources including adverse effects on shoreline sand supply, public access, scenic views, and natural landforms. The City's approvals did not adequately analyze whether new development should rely on a subsurface pile-supported retaining wall to assure structural stability. Therefore, the Commission finds that the appeals raise a substantial issue with respect to the project's consistency with the requirements found in Sections 30251 and 30253 of the Coastal Act to minimize landform alteration and to restrict the use of bluff protective devices.

Finally, even if it were appropriate to permit some soldier piles in some form or iteration in order to stabilize the project site in such a way that would conform with Section 30253(b), the City still did not consider adequate measures to mitigate against the adverse impacts that such soldier piles and other aspects of the development would have on visual resources. Section 30251 requires development to be sited and designed to protect views to and along the ocean and scenic coastal areas, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. In this case, the project, as approved by the City, would result in various visual impacts largely resulting from the installation of a pile-supported subsurface retaining wall.

In regard to the soldier piles, the Commission finds that the City's approvals did not consider the potential for the proposed subsurface retaining wall reinforced with soldier piles to be exposed over time and function as a bluff protective device, nor did the City consider requiring removing or visually treating the pile-supported retaining wall in the event it is exposed due to erosion. The City also did not consider the degrading effect that 91,842 cu. yds. of total grading (including 80,606 cu. yds. of remedial grading, 5,864 cu. yds. of cut, and 5,372 cu. yds. of fill) would have on the visual resources of the site, which

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would likely be highly visible from public vantage points such as the beach, nearby streets, and PCH.

### **Appellant's Argument No. 3: Impacts on Biological Resources**

Coastal Act Section 30107.5 states:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Coastal Act Section 30240 states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The appellant contends that the proposal is inconsistent with Section 30240 of the Coastal Act protecting environmentally sensitive habitat areas (ESHA). The appellant argues that the City approved the removal of "115 significant trees" on the site and did not explicitly acknowledge whether ESHA exists onsite and would be impacted by the proposed development.

The City required, as a condition of approval of the development, that all removed trees be replaced at a 1:1 loss-to-mitigation ratio. Nevertheless, as the appellant correctly notes, the City did not analyze the project's consistency with Section 30240 of the Coastal Act in its letter of determination and, further, omitted any mention of a biological report or assessment of the site, despite the fact that the applicant's biological consultant, Dudek, prepared a Biological Resources Report dated May 16, 2017.

Of note, the 2017 Biological Resources Report identifies lemonade berry (*Rhus integrifolia*) and xeric coastal bluff scrub on the western and southern portions of existing Lot 4, including within the immediate vicinity of the flat portion. The lemonade berry scrub alliance is ranked as S3 rare by the California Department of Fish and Wildlife (CDFW); thus, any development within this area would have the potential to impact ESHA and existing habitat values, and the City is required by Section 30240(b) of the Coastal Act to review whether the proposed project would have the potential to impact ESHA immediately adjacent to the site and existing habitat values therein. While Commission staff would need to conduct a more in-depth analysis of the potential for ESHA within this portion of the property, the City-approved lot line adjustment likely encourages development that would

impact sensitive native plant species and would be found inconsistent with Section 30240 of the Coastal Act. Because the City did not give weight or consideration to biological resources as part of its review of the project, the City cannot provide sufficient evidence that the proposed development would ensure no inadvertent adverse impacts on ESHA or open space areas found near the project site. Therefore, the Commission finds that the appeals raise a substantial issue with respect to the project's consistency with Section 30240 of the Coastal Act.

### **Substantial Issue Factors:**

As stated previously, the Commission typically applies five factors in determining whether an appeal raises a substantial issue pursuant to Section 30625(b)(1).

#### **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.**

While the City found that the project would be consistent with Sections 30251 and 30253 of the Coastal Act, the City's analysis had contradictory findings that do not support such a determination. The City's analysis considered the potential for an alternative project design for only **two** residences that would require less landform alteration, use fewer stabilization piles, and avert substantial impacts to biological resources, yet determined that the approval of **three** residences with substantial remedial grading and pile-supported retaining walls would still qualify as the minimum necessary to assure the project's structural stability as required by the policies of the Coastal Act. Additionally, the City failed to address the potential impacts of the approved lot line adjustment. Because of the discrepancy and omission, this factor supports a finding of substantial issue.

#### **2. The extent and scope of the development as approved or denied by the local government.**

The scope of the project includes extensive remedial grading to support the development and results in significant landform alteration. The City-approved project does not minimize landform alteration, and there are project alternatives that would require less grading and fewer stabilization piles/retaining walls. The City also failed to address how the approved lot line adjustment could increase the development potential of the lots and adversely affect coastal resources, nor how the development's removal of "115 significant trees" on the site would potentially impact ESHA that may exist. Therefore, the Commission finds that the extent and scope of the City-approved development is inconsistent with the Chapter 3 policies of the Coastal Act. This factor supports a finding of substantial issue.

#### **3. The significance of the coastal resources affected by the decision.**

The City-approved development would authorize the construction of three very large homes atop a blufftop site, the largest of which would be nearly entirely seaward of the delineated bluff edge, and would involve the extensive removal, remediation, and stabilization of landslide debris and unstable soils. The City's approvals would require the installation of an extensive retaining wall system reinforced with subsurface soldier piles that could be exposed over time due to soil erosion or activation of the existing landslide,

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but the City's action did not address the contingency of when the piles do get exposed. The City could have approved a project alternative involving only two residences that would be much more consistent with the Chapter 3 policies of the Coastal Act, but instead chose to approve three residences that would maximize, rather than minimize, disturbance, destruction, and alteration of the site, including the removal of 115 significant trees and regrading of approximately one-third of the property's area. Finally, the City's lot line adjustment could lead to the potential for a fourth residence in a prominent geologically hazardous and environmentally sensitive area of the site at some point in the future, which could foreseeably lead to further inconsistencies with the requirements of the Coastal Act, such as impacts to geologic stability, visual resources, and biological resources.

#### **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, and thus the standard of review for this project is Chapter 3 policies of the Coastal Act. The City-approved development is inconsistent with the policies of the Coastal Act, which provides for minimization of landform alterations, bluff protective devices, and impacts to visual and biological resources. Therefore, the Commission finds that the City-approved development would prejudice the City's ability to prepare a future LCP in this area and would set an adverse precedent for future interpretations thereof, and this factor supports a finding of substantial issue.

#### **5. Whether the appeal raises local issues, or those of regional or statewide significance.**

Although these appeals raise local issues with regard to the specific hazards associated with this blufftop development and the adverse impacts on the local environment that it may have, allowing development like this without a thorough analysis of the potential hazards and resource impacts could set a negative precedent citywide or statewide. Applicants across the state regularly apply for blufftop development, and it is important that the Commission and local jurisdictions consistently carry out the Coastal Act's requirement to protect life and property, as well as preserve natural landforms and protect coastal resources. Allowing the City to permit blufftop development that has not been comprehensively considered would set an adverse statewide and regional precedent. Therefore, this factor supports a finding of substantial issue.

#### **Conclusion**

Applying the five factors listed above clarifies that, on balance, the appeals raise a "**substantial issue**" with respect to the project's consistency with Chapter 3 policies of the Coastal Act requiring minimization of landform alteration, bluff protective devices, and impacts to biological resources. The decision is likely to prejudice the City's ability to prepare a future LCP in this area and set an adverse precedent for future interpretations thereof. Therefore, staff recommends that the Commission find that the appeals raise a substantial issue as to the development's conformity with the Chapter 3 policies of the Coastal Act.

**STAFF NOTE:** The applicant has submitted a letter dated September 27, 2023 ([Exhibit 11](#)) requesting withdrawal of the development authorized by City of Los Angeles CDP No. DIR-2017-3897-CDP-MEL only if and after such time the Commission affirmatively votes to find “substantial issue” on Appeal No. A-5-PPL-19-0169 and takes jurisdiction over the application. If the Commission finds “substantial issue,” the application No. A-5-PPL-19-0169 would be permanently withdrawn.

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## **VII. MOTIONS AND RESOLUTIONS – DE NOVO & DUAL PERMITS**

The staff recommends that the Commission adopt the following resolutions:

### **A. Approval of CDP No. A-5-PPL-19-0168 (DE NOVO)**

#### **Motion:**

I move that the Commission approve Coastal Development Permit No. A-5-PPL-19-0168 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

#### **Resolution:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

### **B. Approval of CDP No. 5-23-0568 (DUAL)**

#### **Motion:**

I move that the Commission approve Coastal Development Permit No. 5-23-0568 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

#### **Resolution:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of

the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

### **C. Approval of CDP No. A-5-PPL-19-0170 (DE NOVO)**

#### **Motion:**

I move that the Commission approve Coastal Development Permit No. A-5-PPL-19-0170 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

#### **Resolution:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

### **D. Approval of CDP No. 5-23-0569 (DUAL)**

#### **Motion:**

I move that the Commission approve Coastal Development Permit No. 5-23-0569 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

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### **Resolution:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## **VIII. STANDARD CONDITIONS**

Coastal Development Permits Nos. A-5-PPL-19-0168/5-23-0568 & A-5-PPL-19-0170/5-23-0569 are granted subject to the following standard conditions:

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

## **IX. SPECIAL CONDITIONS**

Coastal Development Permits Nos. A-5-PPL-19-0168/5-23-0568 & A-5-PPL-19-0170/5-23-0569 are granted subject to the following special conditions:

1. **Permit Compliance.** All development must occur in strict compliance with the proposal as set forth in Coastal Development Permit Applications Nos. A-5-PPL-19-0168/5-23-0568 and A-5-PPL-19-0170/5-23-0569, subject to the standard and special

conditions contained herein, and the Final Revised Plans as required in **Special Condition 3** below. Any deviation from the approved Final Revised Plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit, unless the Executive Director provides a written determination that no amendment is legally required.

2. **Local Government Approval.** The proposed development is subject to the review and approval of the City of Los Angeles (“City”). This action has no effect on terms and conditions imposed by the City pursuant to an authority other than the Coastal Act. In the event of conflict between the terms and conditions imposed by the City and those of these coastal development permits, the terms and conditions of Coastal Development Permits Nos. A-5-PPL-19-0168/5-23-0568 and A-5-PPL-19-0170/5-23-0569 shall prevail, and any deviations or conflicts shall be reviewed by the Executive Director to determine whether an amendment to these Coastal Development Permits is required.
3. **Final Revised Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS, the permittee shall submit, for review and written approval of the Executive Director, two full-size sets of final plans, which substantially conform with the most recent set of plans submitted to the Commission titled “Senona Cielo Estates” prepared by Belzberg Architects LLP dated September 21, 2023, and “Senona Cielo Estates” prepared by Ashley & Vance Engineering, Inc. dated May 26, 2023, except that they shall be modified to include the following:
  - A. **Bird Strike Prevention.** Revised final architectural plans shall depict the location, design, height and materials of deck railings, fences, screen walls and gates.
    - i. Deck railing systems, fences, screen walls and gates subject to this permit shall use materials designed to minimize bird-strikes with the deck railing, fence, or gate. Such materials may consist, all or in part, of wood, wrought iron, frosted or partially-frosted glass, or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass, reflective glass, or Plexiglas shall not be installed. All materials shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications; and
    - ii. The residences shall be designed to use minimal exterior lighting and minimize light pollution from interior lighting to the maximum extent feasible to minimize nighttime bird-strike hazards. The permittee shall implement the Lighting Plan required by **Special Condition 11**.
  - B. **Structural Appearance.** The permittee shall submit, for the review and written approval of the Executive Director, a color palette and material specifications for

the outer surface of all structures authorized by these coastal development permits.

- i. The palette samples shall be presented in a format not to exceed 8½" x 11" x ½" in size. The palette shall include the colors proposed for the roof, trim, exterior surfaces, driveways, retaining walls, or other structures authorized by these permits.
- ii. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth and water tones) including shades of green, blue, tan, brown and gray with no white or light shades and no bright tones.
- iii. All windows shall be comprised of non-glare/non-reflective glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by these coastal development permits if such changes are specifically authorized by the Executive Director as complying with this special condition.

C. **Landscaping Plan** that includes at least the following, and conforms to the Landscape Maintenance Plan required by **Special Condition 13**:

- i. The existing perimeter chain-link fence shall be entirely removed.
- ii. A safety fence with shallow footings (less than 24-in. embedment) may be allowed seaward of the decks, patios, walkways, and pools, provided that it is located 10 ft. or more landward from the delineated bluff edge as depicted on [Exhibit 8](#) of this staff report, and visually permeable to facilitate the visual corridor required by **Special Condition 10**;
- iii. All significant (8-in. or greater trunk diameter, or cumulative trunk diameter if multi-trunked, as measured 54 in. above the ground) trees on the site proposed for removal shall be replaced at a 1:1 ratio with a minimum 24-in. box tree. The plot plan shall be prepared indicating the location, size, type, and general condition of all existing and replacement trees on the site.
- iv. All blufftop areas disturbed/affected by grading and construction activities not occupied by development shall be re-vegetated for habitat enhancement and erosion control purposes;
- v. Any areas disturbed/affected by construction activities in the rear yard (canyon/bluff-facing) shall be planted and maintained for erosion control and native habitat enhancement purposes. To minimize the need for irrigation and minimize encroachment of non-native plant species into adjacent existing native plant areas, all landscaping adjacent to, along, and down the coastal bluff shall consist of drought tolerant plants native to coastal Los Angeles County and/or the Santa Monica Mountains and appropriate to the habitat type. Native plants shall be from local stock wherever possible.

Landscaped areas in the front yard (street-facing) area shall consist of native or non-invasive, non-native drought tolerant plant species;

- vi. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://ucanr.edu/sites/WUCOLS/files/183514.pdf> and <http://ucanr.edu/sites/WUCOLS/files/183488.pdf>);
- vii. No permanent in-ground irrigation systems shall be installed on the bluff-facing portion of the site, including adjacent to, along, or down the bluff. Temporary above ground irrigation is allowed to establish plantings. Use of reclaimed water for irrigation is encouraged. Any permanent irrigation system shall be low volume (drip, micro jet, etc.) and shall only be permitted on the street facing portion of the lots. Other water conservation measures shall be considered, such as weather-based irrigation controllers;
- viii. All planting shall be completed within 60 days after completion of construction; and
- ix. All vegetation shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the Landscape Maintenance Plan pursuant to **Special Condition 13**.

The permittee shall undertake development in conformance with the approved final revised plans, unless the Commission amends this permit, the City or Commission approves a new superseding coastal development permit, or the Executive Director determines that no amendment is legally required for proposed minor deviations substantially consistent with the conditions of these subject coastal development permits.

4. **Conformance with Geotechnical Recommendations.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS, the permittee shall submit, for the Executive Director’s review and approval, along with a copy of each plan, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans, including foundation and grading/drainage plans, and certified that each of those final plans is consistent with all the recommendations contained in the geotechnical and engineering investigations ([Appendix A](#)). The permittee shall also submit evidence of applicable approvals from the City’s Department of Building and Safety Grading Division and Bureau of Engineering. The permittee shall undertake development in conformance with the approved final plans unless the Commission amends these permits, or the Executive Director provides a written

determination that no amendment is legally required for any proposed minor deviations.

5. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of these coastal development permits, the permittee acknowledges and agrees (i) that the site may be subject to hazards including but not limited to erosion, slope instability, landsliding, liquefaction, flooding, and fire; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
  
6. **Pool Protection Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS, the permittee shall submit, for review and approval of the Executive Director, two (2) full size sets of a pool protection plan prepared by an appropriately licensed professional that incorporates mitigation of the potential for geologic instability caused by leakage from the proposed pools. The pool protection plan shall incorporate and identify on the plans the following measures, at a minimum: 1) installation of a leak detection system such as, but not limited to, leak detection system/moisture sensor with alarm and/or a separate water meter for the pool which is separate from the water meter for the house to allow for the monitoring of water usage for these elements; 2) use of materials and design features, such as but not limited to double linings, plastic linings or specially treated cement, to be used to waterproof the undersides of the pools to prevent leakage, along with information regarding the past and/or anticipated success of these materials in preventing leakage; and, where feasible, 3) installation of a subdrain or other equivalent drainage system under the pools that conveys any water leakage to an appropriate drainage outlet.

The permittee shall undertake development in accordance with the approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to these coastal development permits unless the Executive Director provides a written determination that no amendment is required.

7. **Interim Erosion Control and Construction Responsibilities.** By acceptance of these coastal development permits, the permittee, on behalf of itself and all successors and assigns, agrees that the approved development shall be carried out in compliance with the following:

**A. Construction Responsibilities and Debris Removal.** The permittee shall comply with the following construction-related requirements:

- i. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, erosion, or dispersion;
- ii. Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;
- iii. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- iv. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material;
- v. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- vi. The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- vii. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- viii. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- ix. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- x. The discharge of any hazardous materials into any receiving waters is prohibited;
- xi. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- xii. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or

construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and

xiii. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

**B. Interim Erosion Control Measures.** By acceptance of these coastal development permits, the permittee shall comply with the following construction-phase and post-construction erosion control BMPs and requirements:

- i. A Drainage and Erosion Control Plan, which at a minimum, shall include:
  - (1) A comprehensive narrative report describing all temporary run-off and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control.
  - (2) Any temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sandbag barriers, silt fencing; temporary drains and swales and sediment basins. All disturbed areas shall be stabilized. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.
  - (3) A site plan showing the location of all temporary erosion control measures. The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from the runoff waters during construction. All sediment shall be retained on-site unless removed to an appropriately approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
  - (4) A schedule for installation and removal of the temporary erosion control measures.
  - (5) A written review and approval of all erosion and drainage control measures by the permittee's engineer and/or geologist.
- ii. All drainage from the lot shall be directed toward the street and away from the bluff slope.
- iii. Runoff shall be conveyed off-site in a non-erosive manner.

iv. During construction, the permittee shall obtain approval from the City of Los Angeles Department of Building and Safety for any dewatering necessary during construction and:

- (1) Shall install filters on the dewatering system.
- (2) Shall prevent discharge of water pumped from the site onto nearby property, and shall direct all discharges into paved City streets and storm drains.

**8. Cultural Resource Treatment and Monitoring Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the review and approval of the Executive Director, a Cultural Resources Treatment and Monitoring Plan prepared by a qualified professional, which shall incorporate the following measures and procedures:

- A. All representatives of Native American Tribes listed on an updated Native American Heritage Commission (NAHC) contact list for the area shall be invited to consult on the preparation of the monitoring plan and all who accept the invitation shall be allowed to consult and shall be meaningfully considered in the plan's development.
- B. The monitoring plan shall ensure that any prehistoric archaeological or paleontological or Native American cultural resources that are present on the site and could be impacted by the approved development will be identified so that a plan for their protection can be developed. The methods of protection of Tribal Cultural Resources shall be developed in consultation with the appropriate Native American tribal government(s). To this end, the cultural resources monitoring plan shall require that the representatives of Native American Tribes listed on an updated Native American Heritage Commission (NAHC) contact list for the area be invited to be present and monitor all ground-disturbing activities and arrange for any invited Tribal representative that requests to monitor and a qualified archaeological monitor to be present to observe project activities with the potential to impact archaeological and/or tribal cultural resources. The monitor(s) shall have experience monitoring for archaeological resources of the local area during excavation projects, be competent to identify significant resource types, and be aware of recommended Tribal procedures for the inadvertent discovery of archaeological resources and human remains.
- C. There shall be at least one pre-grading conference with the project manager and grading contractor at the project site to discuss the potential for the discovery of archaeological/tribal cultural or paleontological resources. Prior to grading operations, a copy of all archeological documents and reports shall be provided to the Native American monitors.
- D. The permittee shall provide sufficient archaeological and Native American monitors to assure that all project grading and subsurface construction activities

that have any potential to uncover or otherwise disturb cultural deposits are monitored at all times.

- E. If any archaeological or paleontological, or cultural deposits, are discovered, including but not limited to skeletal remains and grave-related artifacts, artifacts of traditional cultural, religious or spiritual sites, or any other artifacts relating to the use or habitation sites, all construction shall cease. Should human remains be discovered on-site during the course of the project, immediately after such discovery, the on-site archaeologist and Native American monitor shall notify the County Coroner within 24 hours of such discovery, and all construction activities shall be temporarily halted until the remains can be identified. The Native American group/person deemed acceptable by the NAHC shall participate in the identification process, pursuant to Public Resources Code Section 5097.98. Should the human remains be determined to be that of a Native American, the permittee shall comply with the requirements of Section 5097.98. Within five (5) calendar days of such notification, the permittee shall notify the Executive Director of the discovery of human remains. Treatment of any archaeological, paleontological, or cultural resource discovery shall be determined by the appropriate monitor(s) or the Most Likely Descendant (MLD) when state law mandates the identification of an MLD. Significance testing may be carried out only if acceptable to the affected Native American Tribe(s), in accordance with the attached "Cultural Resources Significance Testing Plan Procedures" ([Appendix B](#)). The permittee shall report all discovered resources as soon as possible, by phone and/or by email to the Executive Director. The permittee shall provide the significance testing results and analysis to the Executive Director, if applicable. A permittee seeking to recommence construction activities shall follow the procedures set forth in [Appendix B](#).

If the Executive Director determines that the discovery is significant or that the treatment method preferred by the affected Native American tribe(s) is in conflict with the approved development plan, the permittee shall seek an amendment from the Commission to determine how to respond to the discovery and to protect both those and any further cultural deposits that are encountered. Development shall not recommence until an amendment is approved, and then only in compliance with the provisions of such amendment.

- 9. Pile Exposure Plan.** By acceptance of these coastal development permits, the permittee shall agree in writing to carry out construction of the stabilization piles per the Breakaway Panel Detail on Sheet G038 of the plans submitted to the Commission titled "Senona Cielo Estates" prepared by Belzberg Architects LLP dated March 3, 2023, to address the potential visual impacts of the pilings in the event that the pilings are exposed and visible from Pacific Coast Highway, Marquez Place, Mantua Road, Arno Way, the public beach, or other relevant public viewpoints, as a result of earth movement or other circumstances. The permittee shall implement the following:

- A. If any piling is exposed, the permittee shall immediately dye or conceal such pilings. Coloring the exposed concrete pilings so that it will match the surrounding soils. The piles should be colored in such a way that the result would be a natural, mottled appearance.
- B. Installation of a low “breakaway” skirt wall to cover exposed earth and/or pilings.
- C. Maintenance of native slope stabilization plantings in good condition to visually screen the pilings as shown in the plans submitted to the Commission titled “Slope Stabilization Planting Plan” prepared by Design Workshop dated February 3, 2023 and in conformance with the Landscape Maintenance Plan required by **Special Condition 13**.

The permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission approved amendment to these coastal development permits, unless the Executive Director determines that no amendment is required.

- 10. View Corridors.** By acceptance of these coastal development permits, the permittee agrees to maintain a view corridor measuring at least forty-eight feet (48 ft.) wide along the motor court proposed between Lots 1 and 2 and extending the width of the properties as shown in [Exhibit 9](#). The permittee also agrees to maintain a second view corridor measuring at least twenty-seven feet and eight inches (28 ft. 7 in.) wide along the eastern side property setback of Lot 2 as shown in [Exhibit 9](#). No portion of any structure shall extend into the view corridor above the elevation of the adjacent street. Any fencing in or across the view corridor shall permanently permit and maintain public views and have at least seventy-five percent (75%) of its surface area open to light. Vertical tinted or frosted glass, and louvered or slatted screen fences are not permitted, and if other types of glass fences are proposed, they shall be designed to prevent bird strikes. Any landscaping in this area shall include only low-growing species that will not obscure or block blue water views from public vantage points.

- 11. Lighting Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS, the permittee shall submit, for the review and approval of the Executive Director, plans to protect the bluff environment from light generated by the project. The Lighting Plan to be submitted to the Executive Director shall be accompanied by an analysis of the Lighting Plan prepared by a qualified biologist, which documents that the lighting plan is effective at preventing lighting impacts upon adjacent habitat. All lighting within any future development shall be directed and shielded so that light is directed away from bluff environment and view corridors. Furthermore, no skyward-casting lighting shall be used. The lowest intensity lighting shall be used that is appropriate to the intended use of the lighting. The Lighting Plan shall implement the following restrictions to exterior, night lighting that is allowed on the site:

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- A. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas, on the site. This lighting shall be limited to fixtures that are directed downward and shall use bulbs that do not exceed 60 watts, or the equivalent, unless a higher wattage is authorized by the Executive Director.
- B. Security lighting attached to the residences controlled by motion detectors and is limited to 60 watts, or the equivalent.
- C. The minimum lighting necessary for safe vehicular use of the driveway(s). The lighting shall be limited to 60 watts, or the equivalent.
- D. No light source shall be directly visible from public viewing areas such as Pacific Coast Highway, view corridors along Sunset Boulevard, or other relevant public viewpoints, and no lighting around the perimeter of the site or for additional aesthetic purposes shall be allowed.

**12. Nesting Bird Monitoring and Avoidance Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS, the permittee shall submit to the Executive Director for review and written approval, a Nesting Bird Monitoring and Avoidance Plan that shall include but not be limited to the following provisions:

- A. If project activities must occur during bird nesting season (February 1 through August 31), a qualified biologist, with experience conducting bird surveys, shall survey for active nests within 7 days prior to commencement of project activities, and once a week thereafter during construction, to detect any such activity within 500 feet of the project area.
- B. If an active songbird nest(s) is located within 300 feet of construction activities (500 feet for raptors), the qualified biologist shall halt construction activities to enable the permittee to employ best management practices (BMPs) to ensure that construction activities do not disturb or disrupt nesting activities.
- C. Noise levels at active nest sites must not exceed 65 dB unless a noise study has determined that ambient noise in the immediate area exceeds that level. If this is the case, noise levels at the nest site must not exceed the ambient noise level measured. Noise reducing BMPs may include using alternative equipment, equipment noise buffering, sound blankets, etc. Alternatively, construction activities and schedules may be adjusted to avoid active nest areas until the respective young birds have fledged.
- D. Unrestricted construction activities may resume when no active nests remain in the construction area.

Results of nesting bird surveys, ambient noise surveys, and any follow-up construction avoidance measures shall be documented in monthly reports by the

qualified biologist and submitted to the Coastal Commission Executive Director throughout the bird breeding season.

**13. Landscape Monitoring and Maintenance Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS, the permittee shall submit, for review and written approval of the Executive Director, a Landscape Monitoring and Maintenance Plan. The Plan shall be reviewed and approved by the consulting engineer and/or geologist to ensure that the plans are in conformance with the consultants' recommendations. In consultation with a biologist qualified in the preparation of plans to restore southern coastal bluff scrub communities, the permittee shall prepare a Plan that, at a minimum, includes the following:

- A. Enhancement and Maintenance of Disturbed Areas and View Corridors. All disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of the construction of the residences, pursuant to **Special Condition 3(C)**. The Landscape Maintenance Plan shall identify the species, extent, and location of all plant materials to be removed or planted and shall incorporate the following criteria:
- i. Only native plant species appropriate for a blufftop environment and which are endemic to the Santa Monica Mountains shall be used, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled "Recommended List of Plants for Landscaping in the Santa Monica Mountains" dated February 5, 1996, revised 2007. All plant species shall be of local genetic stock, and a plant palette for container plants and seeds shall be submitted along with an exhibit/map of plant spacing/placement. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized or maintained. The Maintenance Plan shall also include a detailed description of the process, materials, and methods to be used to meet the approved goals, performance standards, the preferable time of year to carry out landscaping activities, and a description of the interim supplemental watering requirements that will be necessary.
  - ii. All cut and fill slopes shall be stabilized with plantings as soon as possible after completion of final grading. Plantings should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures and consistent with fire safety requirements, as described above. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.
  - iii. Any vegetation in the area of the view corridors required pursuant to **Special Condition 10** that will be removed shall be replaced with only low-growing, native species that will not obscure or block blue water views. The

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Maintenance Plan shall further include details regarding the types, sizes, and location of plants to be placed within the revegetation area.

- iv. Removal of non-native and invasive plant species shall be removed by hand removal and/or mechanical control methods only, and herbicide use shall be prohibited. Removal of all significant trees and vegetation shall follow the protocols set forth in **Special Condition 12** for the monitoring and avoidance of avian species.
- v. Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.

B. Fuel Modification Plan and Wildfire Waiver of Liability.

- i. The plan shall include a supplemental Fuel Modification Plan for adequate fire buffers as required by the City and/or County of Los Angeles Fire Department(s). Vegetation within 30 feet of the proposed residences, or lesser area as approved by the Los Angeles Fire Department, may be removed entirely down to bare ground, and vegetation within a 200-foot radius of the main residential structures may be selectively thinned in order to reduce fire hazard. However, such thinning may only occur in accordance with an approved long-term Fuel Modification Plan submitted pursuant to this special condition. The Fuel Modification Plan shall include details regarding the types, sizes and locations of plant materials to be removed, and how often thinning is to occur. In addition, the permittee shall submit evidence that the Fuel Modification Plan has been reviewed and approved by both the Los Angeles Fire Department and the City of Los Angeles Urban Forestry Division. Irrigated lawn, turf, and ground cover planted within the thirty-foot (or less) radius of the proposed residences shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.
- ii. The permittee shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property.

C. Monitoring Program.

- i. A monitoring program shall be implemented to monitor the habitat revegetation for compliance with the specified guidelines and performance standards. The permittee shall submit, within 90 days of completion of the

initial planting, a written report prepared by a qualified resource specialist, for the review and approval of the Executive Director, documenting the completion of the initial planting/revegetation work. This report shall also include photographs taken from pre-designated sites (annotated to a copy of the site plans) documenting the completion of the initial planting/revegetation work.

- ii. Five years from the date of initial planting, the permittee shall submit for the review and approval of the Executive Director, a Landscape Monitoring Report, prepared by a qualified biologist or resource specialist, that certifies the landscaping is in conformance with the Landscape Maintenance Plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species, plant coverage, and plant height, ensuring that the view corridors are maintained free of visual obstructions pursuant to **Special Condition 10**.
- iii. If the monitoring report indicates the vegetation is not in conformance with, or has failed to meet, the performance standards specified in the Landscape Maintenance Plan approved pursuant to this permit, the permittee, or its successors in interest, shall submit a revised or supplemental landscaping plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a qualified biologist or resource specialist and shall specify measures to remediate those portions of the original Landscaping Plan that have failed or are not in conformance with the original approved plan.

**14. Minimization of Energy and Resource Consumption.** By acceptance of these coastal development permits, the permittee shall undertake development in compliance with the requirements of the City of Los Angeles Sustainability Plan and the City's Green Building Ordinance requiring reduction in energy consumption and imported water use. These measures shall include, but are not limited to:

- A. Use of recycled concrete during construction;
- B. Solar photovoltaic and battery storage systems;
- C. Electric heat pumps and geothermal cooling;
- D. Energy- and water-efficient appliances and fixtures;
- E. Greywater recycling, rainwater capture, and low-water (drip) irrigation; and
- F. Increased insulation and weatherization (including triple paned glazing).

Additionally, the permittee shall meet or exceed the Tier 1 Energy Performance criteria of the 2022 California Green Building Standards Code in the construction of each residence and accessory development. The permittee shall undertake

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development in accordance with the required energy and resource efficiency measures. Any proposed changes to the approved development shall be reported to the Executive Director. No changes to the approved development shall occur without a Coastal Commission approved amendment to these coastal development permits, unless the Executive Director determines that no amendment is required.

The following special conditions shall apply only to Coastal Development Permit Nos. A-5-PPL-19-0168/5-23-0568:

15. **City of Los Angeles Approval of Lot Line Adjustment.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall provide evidence of City of Los Angeles preliminary approval of the final lot configuration approved by the Commission, as depicted on [Exhibit 5](#), which shall nullify and void the lot line adjustment under Parcel Map Exemption No. AA-2017-3894-PMEX.
16. **Offer to Dedicate Open Space Conservation Easement.** No development, as defined in Section 30106 of the Coastal Act, or activities otherwise in conflict with the conditions of approval of Coastal Development Permit Nos. A-5-PPL-19-0168/5-23-0568, shall occur within the portion of the properties defined as “the open space conservation easement area,” encompassing Lots 3 and 4, as shown in [Exhibit 5](#), except for the following:
  - A. Fuel modification required by the City of Los Angeles Fire Department undertaken in accordance with the final approved Fuel Modification Plan required in **Special Condition 13**;
  - B. Landscaping activities as required in **Special Conditions 3(C)** and **13**, planting of native vegetation, and other restoration activities required or allowed by Coastal Development Permits Nos. A-5-PPL-19-0168/5-23-0568 and A-5-PPL-19-0170/5-23-0569, or by a separate coastal development permit from the City of Los Angeles or the Commission on appeal;
  - C. Drainage and polluted runoff control activities required by Coastal Development Permits Nos. A-5-PPL-19-0168/5-23-0568 and A-5-PPL-19-0170/5-23-0569, or by a separate coastal development permit from the City of Los Angeles or the Commission on appeal;
  - D. Uses and activities allowed per the existing easements over the approx. 9,700 sq. ft. lawn and putting green area as described in the *Judgment Quieting Title to Easements*, recorded as Los Angeles County Recorder’s Office Instrument No. 00-0039615 ([Exhibit 10](#));
  - E. Landscaping and maintenance activities pursuant to the existing easements described in the *Judgment Quieting Title Easements*, recorded as Los Angeles County Recorder’s Office Instrument No. 00-0039615 ([Exhibit 10](#)); and

- F. Construction and maintenance of public hiking trails or utilities (if consistent with parts D and E above) pursuant to a coastal development approved by the City of Los Angeles, or the Commission on appeal.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record a document in a form and content acceptable to the Executive Director irrevocably offering to dedicate to a public agency or private entity, approved by the Executive Director, an open space conservation easement over the “open space conservation easement area” described above for the purpose of habitat conservation in perpetuity.

The recorded offer-to-dedicate document shall include a formal legal description of the entire property subject to Coastal Development Permit Nos. A-5-PPL-19-0168/5-23-0568; and a metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of the open space conservation easement area as shown in [Exhibit 5](#), including the area referenced in part D and E above and described in Los Angeles County Recorder’s Office Instrument No. 00-0039615 ([Exhibit 10](#)). The recorded document shall reflect that no development shall occur within the open space conservation easement area except as otherwise set forth in this permit condition. The irrevocable offer-to-dedicate shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed, and the offer-to-dedicate shall run with the land in favor of the People of the State of California, binding all successors and assigns of the permittee or landowner in perpetuity, and shall be irrevocable for a period of twenty-one (21) years, such period running from the date of recording, and the restrictions on the use of the land shall be in effect upon recording and remain as covenants, conditions and restrictions running with the land in perpetuity, notwithstanding any revocation of the offer.

17. **Open Space Deed Restriction.** No development, as defined in Section 30106 of the Coastal Act, shall occur within the “open space conservation easement area” as shown in [Exhibit 5](#), except for the following:
- A. Fuel modification required by the City of Los Angeles Fire Department undertaken in accordance with the final approved Fuel Modification Plan required in **Special Condition 13**;
  - B. Landscaping activities as required in **Special Conditions 3(C)** and **13**, planting of native vegetation, and other restoration activities required or allowed by Coastal Development Permits Nos. A-5-PPL-19-0168/5-23-0568 and A-5-PPL-19-0170/5-23-0569, or by a separate coastal development permit from the City of Los Angeles or the Commission on appeal;
  - C. Drainage and polluted runoff control activities required by Coastal Development Permits Nos. A-5-PPL-19-0168/5-23-0568 and A-5-PPL-19-0170/5-23-0569, or by

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a separate coastal development permit from the City of Los Angeles or the Commission on appeal;

- D. Uses and activities allowed per the existing easements over the approx. 9,700 sq. ft. lawn and putting green area as described in the *Judgment Quieting Title to Easements*, recorded as Los Angeles County Recorder's Office Instrument No. 00-0039615 ([Exhibit 10](#));
- E. Landscaping and maintenance activities pursuant to the existing easements described in the *Judgment Quieting Title Easements*, recorded as Los Angeles County Recorder's Office Instrument No. 00-0039615 ([Exhibit 10](#)); and
- F. Construction and maintenance of public hiking trails or utilities (if consistent with parts D and E above) pursuant to a coastal development approved by the City of Los Angeles, or the Commission on appeal.

The following non-routine additional development may be allowed in the areas covered by this special condition if approved by the Coastal Commission as an amendment to this coastal development permit or a new coastal development permit: habitat enhancement, erosion control and slope repair, and the construction of public amenities or utilities. The lands identified in this restriction shall be maintained by the landowner(s) for so long as the development approved pursuant to this coastal development permit exists in accordance with the Landscape Maintenance Plan approved by the Executive Director in accordance with **Special Condition 13**.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the landowner(s) shall execute and record document(s) in a form and content acceptable to the Executive Director, restricting use and enjoyment of the area of land identified in this condition. Those recorded document(s) shall reflect the restrictions identified in this condition. The recorded document(s) shall include legal descriptions and graphic depictions, prepared by a licensed surveyor, of both the entire site subject to this permit ('Lot 2,' 'Lot 3,' and 'Lot 4' shown in [Exhibit 5](#)) and the restricted area. The restriction shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall run with the land, binding all successors and assigns. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

- 18. Deed Restriction - Recordation of Terms of CDP Nos. A-5-PPL-19-0168/5-23-0568.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NOS. A-5-PPL-19-0168/5-23-0568, the permittee shall submit to the Executive Director for review and written approval documentation demonstrating that the landowner(s) has (have) executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the property subject to this permit, subject to terms and conditions that restrict the use and enjoyment of that

property (hereinafter referred to as the “Standard and Special Conditions”); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the permittee’s entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development they authorize, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

The following special conditions shall apply only to Coastal Development Permit Nos. A-5-PPL-19-0170/5-23-0569:

- 19. Finalization of CDP Nos. A-5-PPL-19-0168/5-23-0568.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NOS. A-5-PPL-19-0170/5-23-0569, the permittee shall ensure that Coastal Development Permit Nos. A-5-PPL-19-0168/5-23-0568 has been issued and implemented and that all prior-to-issuance special conditions of that permit have been satisfied.
- 20. Final Recordation of Lot Line Adjustment.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NOS. A-5-PPL-19-0170/5-23-0569, and after finalization of Coastal Development Permit Nos. A-5-PPL-19-0168/5-23-0568 pursuant to **Special Condition 19**, the permittee shall submit evidence acceptable to the Executive Director that the lot line adjustment in **Special Condition 15** has received final approval and processing by the City of Los Angeles and has been effectuated through the recordation of a conveyance deed for each reconfigured parcel that contains a legal description and corresponding graphic depiction matching the final lot configuration approved by the Commission, as depicted on [Exhibit 5](#), in addition to a recorded Certificate of Compliance for each reconfigured parcel.
- 21. Lot Combination Deed Restriction.**
  - A. By acceptance of the coastal development permit, the permittee agrees, on behalf of itself and all successors and assigns with respect to the subject property, that:
    - i. All portions of the land known as ‘Lot 2,’ ‘Lot 3,’ and ‘Lot 4’ as noted in the final approved lot line adjustment pursuant to **Special Condition 20** and described/shown in [Exhibit 5](#) shall henceforth be considered and treated as a single parcel of land for all purposes, including but not limited to sale, conveyance, lease, development, taxation or encumbrance; and
    - ii. The single parcel so described shall not be divided, and none of the subareas to which separate assessor’s parcel numbers were assigned at the time of these permit approvals shall be alienated from each other or from any portion of the unified parcel hereby recognized.

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- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and after issuance of the final approved lot line adjustment (and certificates of compliance) pursuant to **Special Condition 20**, the permittee shall execute, and deliver to the Executive Director, a deed restriction against the entire property at issue as described in Subsection A of this condition, in a form acceptable to the Executive Director, reflecting the restrictions set forth above. To the extent there is any argument that the subject areas, if identified by the separate assessor's parcel numbers, constitute separate parcels for Subdivision Map Act (SMA) purposes, this action shall function to recombine and unify those parcels for purpose of the SMA. The deed restriction shall include a legal description and graphic depiction of the entire property at issue. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction;
- C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall record the deed restriction and provide evidence to the Executive Director that the permittee has finalized with the County Assessor's Office revisions to the Assessor's records and maps to reflect that Lots '2,' '3,' and '4' as noted in the final approved and recorded lot line adjustment pursuant to **Special Condition 20** and described/shown in [Exhibit 5](#) constitute a single legal parcel, including assigning a new, single APN for each resultant property. The permittee shall send the Commission's Executive Director notice when it has done so.
22. **Deed Restriction - Recordation of Terms of CDP Nos. A-5-PPL-19-0170/5-23-0569.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NOS. A-5-PPL-19-0170/5-23-0569, and after issuance of the final approved lot line adjustment (and certificates of compliance) pursuant to **Special Condition 20**, the permittee shall submit to the Executive Director for review and written approval documentation demonstrating that the landowner(s) has (have) executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the property subject to this permit, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the permittee's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development they authorize, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

## **X. FINDINGS AND DECLARATIONS – DE NOVO & DUAL PERMITS**

### **A. Project Location and Description**

The project location and history are hereby incorporated from Section VI.A of the Substantial Issue portion of this staff report on pages 14 through 16.

The applicant has coordinated closely with Commission staff on a revised project design ([Exhibit 5](#)). The revised project proposal includes construction of **two** single-family residences (measuring approximately 31,848 sq. ft. in total) with two accessory dwelling units (“ADUs”), garages, decks, and pools across two vacant lots, resulting in approximately 6,530 cu. yds. of total grading (no remedial grading), removal of 64 significant trees, a lot line adjustment, and a lot tie across three of the four lots. The revised project also includes 28 48-in.-diameter piles and an offer to dedicate an open space conservation easement across the two seawardmost vacant lots.

More specifically, the proposed lot line adjustment would result in four lots measuring 33,528 sq. ft. (Lot 1), 28,115 sq. ft. (Lot 2), 67,781 sq. ft. (Lot 3), and 119,684 (Lot 4) ([Exhibit 5](#)). **Special Condition 15** is required to ensure that the final lot configuration approved by the City of Los Angeles is consistent with the revised proposed lot configuration, which will supersede the previously approved lot line adjustment under Parcel Map Exemption No. AA-2017-3894-PMEX.

On proposed Lot 1, the revised project scope would involve the construction of a 18,970 sq. ft., 30-ft.-4-in.-tall, two-story single-family residence including an attached four-car, 1,022 sq. ft. garage, 913 sq. ft. accessory dwelling unit (“ADU”), 2,677 sq. ft. basement, swimming pool, reflecting pool, deck, putting green, and 2,890 cu. yds. of grading (2,240 cu. yds. of cut and 650 cu. yds. of fill) on a 33,528 sq. ft. vacant lot.

On proposed Lot 2, the revised project scope would involve the construction of a 12,878 sq. ft., 29-ft.-4-in.-tall, two-story single-family residence including an attached two-car, 406 sq. ft. garage, 930 sq. ft. accessory dwelling unit (“ADU”), 1,179 sq. ft. basement, two reflecting pools, deck, and 2,740 cu. yds. of grading (2,710 cu. yds. of cut and 30 cu. yds. of fill) on a 28,115 sq. ft. vacant lot.

Finally, the applicant is proposing a lot tie across Lots 2, 3, and 4, and an offer to dedicate an open space conservation easement proposed across the vacant Lots 3 and 4, totaling 187,465 sq. ft (4.3 acres).

### **B. Coastal Hazards**

Relevant Coastal Act policies are hereby incorporated from Section VI.C of the Substantial Issue portion of this staff report on pages 16 through 25.

Section 30253 of the Coastal Act mandates that new development shall minimize risks to life and property in areas of high geologic and fire hazard and shall not require the

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construction of protective devices that would “substantially alter natural landforms along bluffs and cliffs.” This policy ensures that natural landform alteration is limited to the minimum amount necessary to protect life, property, and public safety.

To find projects consistent with this policy, the Commission has commonly required that new development be designed in a manner that ensures the stability of the proposed development itself and not significantly affect geologic hazards, such as landslides or erosion, of the site or surrounding area, while also avoiding the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. For residential development, the project life is typically assumed to be 75 years.<sup>10</sup>

According to the applicant’s geotechnical reports, much of the site closer to the Sunset Boulevard is composed of cobbly marine terrace deposits and highly fractured Modelo Formation (siltstone, claystone, and mudstone). The Geotechnical Investigation Report dated September 20, 2017, and subsequent updates, provided an estimate of the position of the natural bluff edge, as defined in the Commission’s implementing regulations (Cal. Code Reg. Title 14, §13577(h)). The reports state that approximately two-thirds of the property, roughly encompassing the revised proposed Lots 3 and 4 (to remain undeveloped), are seaward of the bluff edge and are on the bluff face. Dr. Joseph Street, the Coastal Commission’s staff geologist, has reviewed historic aerial photography of the site ([Exhibit 6](#)), the geotechnical reports, and the City’s geotechnical review and approval letter, and concurs with the consultant’s bluff edge determination in [Exhibit 8](#).

Portions of the site seaward of the bluff edge are also underlain by landslide debris (on revised proposed Lots 3 and 4), both “prehistoric” and “active” ([Exhibit 7](#)). The site is highly prone to geologic instability and hazards, such as erosion, landslides, and slope failure, as further discussed below.

## **Geologic Site History**

As discussed in Section VI.A of the Substantial Issue portion of this staff report on page 15, the site previously hosted the Bernheimer Gardens from ca. 1928 to 1944, when the first of a series of landslides destroyed the gardens and closed Roosevelt Highway (i.e., Pacific Coast Highway) below, and the site has remained vacant since 1951.

The bluff rises approximately 220 feet above Pacific Coast Highway, approaches great steepness in certain portions of the site, and is underlain with highly fractured soils and landslide debris from several landslides occurring during the twentieth century and prior. A trace of the Malibu Coast Fault also crosses the lower portion of the property. While,

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<sup>10</sup> Although many jurisdictions with Local Coastal Programs (LCPs) specify design lives for certain types of development, typically assuming a 75- to 100-year design life for new residential development, the Pacific Palisades area of the City of Los Angeles does not have a certified LCP. Therefore, in this case, to determine an appropriate design life for purposes of evaluating hazards within the context of the Chapter 3 policies of the Coastal Act, staff has assessed the ages of existing residential structures in the project vicinity. Many residences in the neighborhood of the project are more than 75 years old, and some are over 100 years old, indicating that the typical 75- to 100-year design life is reasonable for the proposed development.

generally, the applicant's consultant acknowledges that portions of the Fault are currently regarded as active, the consultant more specifically asserts that the trace on this lot is not active.

Likewise, only a very small portion of the active landslide from 1947 occurs on the applicant's property and would be anticipated to impact development, on a small extension located directly south of the putting green associated with the three-story apartment complex at 111 Marquez Place, and west of the residence at 225 Mantua Road (see [Exhibit 7](#)). This small extension also contains the traces of the Malibu Coast Fault, and it rests on Pacific Coast Highway. Nonetheless, Leighton and Associates, Inc., the applicant's geotechnical consultant, states that a second "older" landslide from ca. 1890 also underlies the site, from approximately the headscarp (bluff edge) towards and under Mantua Road, ranging from twenty to fifty feet in depth. While part of the landslide was modified by grading for part of the Bernheimer Gardens in 1926 ([Exhibit 6](#)), other sections of the landslide are considered unstable.

A previous geologic investigation of the site revealed that in 1978, after heavy rains, a minor surficial soil slump appeared at, and below, the eastern corner of the site, but there is no evidence to suggest that it resulted in renewed movement of the underlying prehistoric landslide. Despite the fact that renewed movement of the landslide has not occurred in several decades, the site, including upper portions closer to the street, remains prone to geologic instability to this day.

### **Slope Stability**

The geologic reports provided by the applicant included quantitative slope stability analyses evaluating the bluff at the project site under both static conditions and assuming a level of ground-shaking that could occur during a large, local earthquake event.

Slope stability analyses typically calculate a "factor of safety" as an indicator of stability. In theory, slope failure is imminent when the factor of safety drops below 1.0, while values above 1.0 indicate increasing confidence in the stability of a slope. The industry wide standard for assuring stability, which the Commission has consistently applied for many years in evaluating bluff development, is a factor of safety of 1.5 or greater for static conditions, and a factor of safety of 1.1 or greater under seismic conditions (although the City of Los Angeles uses a slightly lower 1.0 factor of safety to evaluate stability under seismic conditions).

The vast majority of the subject property does not currently possess the minimum slope stability factor of safety to meet the 1.5 (static)/1.0 (seismic) requirement. The applicant determined that the current factors of safety at the bluff edge are approximately 1.3 (static)/1.0 (seismic). These factors of safety fall short of the Commission's typical standard for ensuring that new development would be stable.

As shown in [Exhibit 8](#), revised proposed Lots 1 and 2 do have a minimum slope stability factor of safety of 1.5 (static) at the landwardmost portions closest to Sunset Boulevard, but at a minimum distance of approximately 90 feet from the bluff edge. At its narrowest

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extent, the 1.5 (static) factor of safety line, where it intersects at the surface, would only be approximately 35 feet from Sunset Boulevard. As such, the portion of the site with a 1.5 (static) factor of safety, measuring approximately 34,000 sq. ft. in total, naturally “splits” at approximately the north-south lot line between revised proposed Lots 1 and 2 (at the location of the proposed motor court).

### **Bluff Stabilization and Landform Alteration**

The applicant proposes to develop the residences with a setback of at least 50 ft. from the bluff edge. In order to meet the required factor of safety, the applicant proposes to construct a drilled shaft (pile) buttress system to stabilize the upper portions of the site proposed to be developed. The buttress system is proposed to be uniformly located 10.5 feet seaward of the bluff edge and consist of 28 48-in.-diameter stabilization piles. The piles would be deeply embedded into the bluff, and based on the applicant’s analysis, would provide an adequate factor of safety to meet the minimum slope stability requirements; thus, they would function as a bluff protective device.

The applicant’s geotechnical consultant also evaluated the potential for bluff erosion and retreat at the site over the 75-year life of the development, determining that it would be very unlikely for the bluff edge to retreat and expose the proposed pile stabilization system or pose a threat to the proposed residences. The City’s Grading Division has reviewed the most recent iteration of the proposed project and issued an approval letter stating that the proposed stabilization system is adequate to meet the minimum factor of safety, as described above. As such, the underlying landslide is not anticipated to implicate the proposed development as revised, given that the upper, developed portions of the property would be stabilized in order to meet the minimum stability requirements imposed by the City’s Grading Division.

Coastal Act sections 30235 and 30253 acknowledge that cliff protective devices and retaining walls, and other such structural or “hard” methods designed to forestall erosion, alter natural landforms and natural coastal bluff processes. Section 30253(b) of the Coastal Act states that new development or redevelopment of a site cannot rely on bluff protective devices to ensure a structure’s stability. Instead, new development must be sited to ensure geologic and engineering stability without the need for bluff protective devices. Typically, 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.

The Coastal Act also requires projects to be sited and designed to protect views to and along the ocean and scenic coastal areas and to prevent impacts which would degrade sensitive habitats, parks, and recreation areas. Oftentimes, 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, piles 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 device projects, it is critical to have an alternatives analysis based upon the technical and resource data specific to the site.

There appears to be sufficient space on both proposed Lots 1 and 2 that would achieve a 1.5 factor of safety (back-calculated shear strengths) without the need for the proposed pile stabilization system. On Lot 1, there would be approximately 20,250 sq. ft. of lot area for development landward of the 1.5 factor of safety line, and on Lot 2, there would be approximately 13,750 sq. ft. of lot area. Foreseeably, there could be a project alternative where both residences are entirely landward of the 1.5 factor of safety line without any additional buttressing.

However, the City of Los Angeles Department of Building and Safety (LADBS) requires that the *entire* site be brought up to a factor of safety of not less than 1.5 for static loads per Chapter 9, Article 1, Division 70, Section 91.7005.9 of the Los Angeles Municipal Code (LAMC). While the LAMC has not been certified by the Commission and is not part of the standard of review, the Commission understands that approval by the City's Grading Division is necessary for the applicant to proceed with the development. Placement of the residences landward of the 1.5 factor of safety line would not meet the City's requirements.<sup>11</sup>

Working with Commission staff, the applicant reduced the project scope to two residences on two lots (landward of the bluff edge) and an additional dedication of 67,781 sq. ft. (1.5 acres) of open space on the two other lots. However, the existing development potential of the site is for at least three residences, and the applicant argues that if the Commission were to require the residences to be landward of the 1.5 (factor) factor of safety line, the individual home sizes would decrease to such an extent that the project may not be sufficiently profitable, and that they may instead pursue development of the other lots currently located on the bluff face.

Further, the site is unique from other bluff properties in that there are roads, residential development, and various topographical features spanning the approximately 900 feet in between the proposed residences and the mean high tide line. Due to the existence of PCH, and on the eastern side of the property, other streets such as Mantua Road and Bay Club Drive, no marine bluff erosion (i.e., subject to wave attack) currently occurs at the subject site or is expected to occur in the foreseeable future, even under more conservative sea level rise projections. With little expected erosion of the bluff toe, all of the stabilization piles, which are proposed to be below grade, and, once installed, will not

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<sup>11</sup> The applicant submitted a "request for modification" to the City's Grading Division for the approval of the drilled shaft buttress alignment at a location further upslope, which the City denied on June 6, 2022. The City has been intent that Conditions Nos. 2 and 3 of the Soils Approval Letter, for the stabilization/removal of all landslide debris within the subject lots and conformance of the entire site with the 1.5 factor of safety standard, must be satisfied to the greatest extent. As of July 6, 2023, the applicant, City staff, and Commission staff are in agreement that the current iteration of the project is satisfactory, although the applicant must request another modification from the City prior to the issuance of grading permits.

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be visible from public viewpoints and are not expected to become visible over the life of the proposed development.

Sections 30251 and 30253 of the Coastal Act require that new development minimize the alteration of natural landforms. The revised project would only involve 5,630 cu. yds. of total grading (4,950 cu. yds. of cut, 680 cu. yds. of fill, and no remedial grading). Compared to the original proposal, the applicant reduced grading by approximately 94% and eliminated remedial grading of the slide. The applicant therefore greatly minimized alteration of natural landforms consistent with Coastal Act sections 30251 and 30253.

This particular area is highly disturbed from both historic and more recent landslides, the site itself was previously developed, and some form of landform alteration is required for any future development to occur. While the project would involve some natural landform alteration and bluff stabilization, in consideration of the substantial landform alteration that has occurred in this area, the development seaward of the piles, and the fact the piles are proposed to be located entirely below grade (and if they are exposed in the future, **Special Condition 9** requires the applicant to conceal the exposed piles), the piles are therefore not a substantial alteration of a natural landform in this case. The Commission finds that it is possible to distinguish between this site in an urban area and other sites in rural and undisturbed settings, and further finds that this unique case does not set a precedent for reconstructive grading and stabilization of bluffs above beaches. Thus, the Commission finds that, as currently proposed, the alignment of the stabilization piles would be the minimum necessary and are consistent with Coastal Act Sections 30251 and 30253.

### **Construction and Long-Term Stability**

Development on coastal bluffs is inherently hazardous, and such development may be subject to erosion, landslides, and other hazards despite implementation of protective measures. The Commission imposes **Special Condition 4**, which requires the applicant to comply with the recommendations contained in all geotechnical reports and investigations, including the series of geotechnical reports ([Appendix A](#)), as well as all requirements of LADBS. Further, the Commission imposes **Special Condition 1** requiring all work to be conducted consistent with the applicant's proposal subject to additional requirements of the other special conditions including the Final Revised Plans pursuant to **Special Condition 3**. Additionally, **Special Condition 2** requires the applicant to comply with local government requirements but clarifies that in the event of conflict between the terms and conditions imposed by the City and those of these coastal development permits, the terms and conditions of these permits shall prevail.

The Commission also finds that, for the residential bluff top project to ensure stability and avoid contributing significantly to erosion, landscaping on the bluff top should be primarily with native plants to avoid overwatering and possible slope destabilization. **Special Condition 13** requires the applicant to maintain compliance with the Landscaping Plan imposed under **Special Condition 3(C)**, with additional stipulations. The initial landscaping plan requires the applicant to incorporate drainage improvements, install temporary, above-ground irrigation only to establish plantings in the rear yard, and use native,

drought-tolerant vegetation in the design to minimize threats to the bluff's stability. The follow-up Landscape Monitoring and Maintenance Plan requires the applicant to submit monitoring reports within 90 days and 5 years of initial planting indicating the completion and maintenance of plantings in good growing condition pursuant to the requirements of the initial landscaping plan. If the monitoring reports indicate that the vegetation is not in conformance with, or has failed to meet, the performance standards specified in the Landscape Maintenance Plan, the property owner is required to submit a revised or supplemental landscaping plan for the review and approval of the Executive Director, which must specify measures to remediate those portions that are out of compliance with the required landscaping plan.

Although the proposed residences and accessory development (e.g., decks and pools) have been designed to ensure structural stability relative to geologic vulnerabilities to the extent feasible, it is not possible to completely preclude the possibility that conditions on site will not change and that the residences could be subject to geologic instability in the future. When development in areas of identified hazards is proposed, the Commission considers the risk associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property. Thus, in this case, the Commission finds that due to the possibility of landslides and erosion, the applicant shall assume these risks as a condition of approval. Because this risk of harm cannot be eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. The applicant's Assumption of Risk, Waiver of Liability and Indemnity, as required by **Special Condition 5**, confirms that the applicant is aware of and appreciates the nature of the hazards which exist on the site that may adversely affect the stability or safety of the development it protects and will effectuate the necessary assumption of those risks by the applicant. Under **Special Conditions 18** and **22**, the applicant is also required to record deed restrictions that impose the terms and conditions of these permits as restrictions on use and enjoyment of the site and provides any prospective purchaser of each of the two properties with recorded notice that the restrictions are imposed on the subject property, which reference the Assumption of Risk, Waiver of Liability and Indemnity.

## **Conclusion**

Development adjacent to the ocean and on the face of coastal bluffs and hillsides is inherently hazardous. To minimize risks to life and property and to minimize the adverse effects of development on natural landforms, coastal bluffs, and hillsides, the development has been conditioned to require the following: adherence to the geotechnical recommendations, leak-proofing and protection of pools, employment of an erosion and runoff control plan and landscaping plan(s) to minimize the percolation of water into the hillside or bluff, and that the landowner or any successor-in-interest assume the risk of undertaking the development.

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Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the hazards, blufftop development, and landform alteration policies of Chapter 3 of the Coastal Act.

### **C. Visual Resources**

Relevant Coastal Act policies are hereby incorporated from Section VI.C of the Substantial Issue portion of this staff report on pages 16 through 25.

Coastal Act Section 30251 requires that visual resources in scenic areas be protected, that new development be visually compatible with surrounding areas, and that alteration of natural landforms be minimized.

The Coastal Act protects public views and the scenic and visual qualities of coastal areas. In this case, public views are available from the public streets to the Pacific Ocean and from PCH and Will Rogers State Beach to the Santa Monica Mountains. From Sunset Boulevard, existing views across the property towards the ocean are particularly spectacular, and on a clear day with high visibility, the Palos Verdes Peninsula and Santa Catalina Island are readily apparent. A project of any scope could significantly affect the public coastal view opportunities in the area.

As such, the applicant has proposed two view corridors for consideration: one along and through the motor court in between the proposed residences (“west”), and another to the east of the residence on Lot 2 (“east”) ([Exhibit 9](#)). The west view corridor will begin at the Lot 1 residence and extend 48 feet across the motor court to the Lot 2 residence at a diagonal angle. The east view corridor will begin at the eastern end of the Lot 2 residence and extend east another 27 feet and 8 inches to the existing line of vegetation abutting the eastern property line and the neighboring property at 16940 Sunset Boulevard. The corridors will be designed to provide blue water views and of the Palos Verdes Peninsula and Santa Catalina Island from various angles. In keeping with the intent of the view corridors, the applicant has also proposed to remove some of the non-native, ornamental vegetation (palm trees) that are currently in the path where the west view corridor will be established.

To ensure that these view corridors are maintained, the Commission imposes **Special Condition 10**, which details the restrictions and procedures that the applicant must comply with to maintain the view corridors. Permanent fixed structures, visually impermeable fences, and tall vegetation are not allowed within the view corridors. The condition allows the possibility for a glass fence to be implemented as part of the fence design, provided that the new fence meets the listed parameters to meet the objective of providing a view corridor that is free from significant visual obstructions. **Special Condition 13** also requires landscaping within the view corridors to be low-growing for the life of the development. The Commission imposes **Special Conditions 18** and **22**, which require the applicant to record deed restrictions against the properties that provide the current and any future owners with notice of all of the conditions of these permits, including the requirement to maintain the two view corridors.

The project site is located on the top and face of a coastal bluff landward of PCH and residential development. Because the site is situated on a steep bluff above the beach, any development occurring on the bluff face would be visible from the public beach and other vantage points further downslope. The only development proposed seaward of the bluff edge would be the pile stabilization system. Due to the existence of the roads and existing private development seaward of the site, exposure of the proposed piles is unlikely over the 75-year life of the project. However, it is still possible for an event to occur that would cause the piles to become exposed at some point in the future, and resource impacts arising from pile exposure must be addressed. Such impacts would include impacts to public views, and thus at a minimum, any impacts to public views would need to be addressed. In the event that below-ground portions of the development, including the pile-supported buttress system, are exposed in the future, **Special Condition 9** requires the applicant to color, screen or cover the exposed piles and any other exposed foundation features to match the surrounding soils for a natural mottled appearance in order to minimize impacts to public views.

Finally, the Commission imposes **Special Condition 3(B)** limiting the exterior colors of the structures to earth tones that are compatible with the surrounding environment, including shades of green, brown, gray, and blue, with no white, light, or bright shades/tones, and **Special Condition 11** requires the applicant to submit a Lighting Plan that would minimize light pollution impacts generated by the project and the shielding of direct exterior lighting away from the street and bluff slope. Together, these conditions would ensure that the residential structures would be compatible with the visual appearance of the immediate area.

Therefore, the Commission finds that the proposed project, as conditioned to minimize and treat any future exposure of the stabilization piles, attenuate the structures' appearance to be visually compatible with the surrounding natural environment, and create and maintain view corridors across the site towards the ocean, is consistent with Section 30251 of the Coastal Act.

## **D. Development and Community Character**

Relevant Coastal Act policies are hereby incorporated from Section VI.C of the Substantial Issue portion of this staff report on pages 16 through 25.

### **Community Character**

With regard to community character, the Commission finds that the policies cited above provide for the protection of community character in the Pacific Palisades area. The City's letter of determination included an analysis of the original project's consistency with the mass and scale of the surrounding neighborhood:

The size of each proposed single-family dwelling will not exceed the maximum Floor Area/Residential Floor Area and height allowed on its respective lot. The proposed single-family dwellings will be two stories tall over a basement. The adjacent

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properties to the north across Sunset Boulevard and adjacent properties to the east are zoned for single-family residential uses and developed with single-family dwellings. The adjacent properties to the west across Marquez Place are zoned for multi-family residential uses and developed with an apartment building. The subject property straddles the single- and multi-family zones; as a result, the surrounding structures vary greatly in size and height. The adjacent single-family dwellings range in size from 1,378 to 7,167 square feet and in height from one to three stories whereas the adjacent apartment building is 66,808 square feet and three stories. Although the proposed single-family dwellings are larger in square footage than the adjacent single-family dwellings, the height and massing is well-proportioned and facades are varied. The proposed project will provide an appropriate transition between the smaller single-family dwellings to the north and east and larger apartment building to the west.

At 12,878 sq. ft. and 18,970 sq. ft. (including the garage, basement, and ADUs of each structure), respectively, the proposed residences would be significantly larger than the majority of the residential structures in the immediate vicinity. However, while not directly adjacent to the subject site, the Commission has approved various other large homes in the Pacific Palisades area in the past few years: 7,115 sq. ft. home approximately 1.7 miles from the subject site at 14948 Corona del Mar (Ref: 5-18-0255); 8,823 sq. ft. home approximately 0.6 mile from the subject site at 17642 Tramonto Drive (Ref: 5-18-0393); 10,114 sq. ft. home approximately 0.2 miles from the subject site at 230 Arno Way (Ref: 5-18-0885). In recognition of the much larger three-story apartment complex immediately adjacent to the subject site at 111 Marquez Place and the other large homes recently approved in the Pacific Palisades community, the Commission finds that, as conditioned, the proposed homes can be found compatible with the character of the surrounding area.

### **Minimization of Energy Consumption and Vehicle Miles Traveled**

One potential issue arising from the approval of two very large single-family structures is their consistency with the requirement in Section 30253(d) to “minimize energy consumption and vehicle miles traveled.” On its face, reducing the number of units onsite to only two would reduce traffic demand and vehicle miles traveled, as opposed to a residential subdivision containing nine single-family residences (a previous proposal that the Commission denied in 2001). Nevertheless, constructing and operating major development, especially of residential structures larger than 10,000 sq. ft., could have an outsized impact on the use of energy, water, and resources. In order to find the development consistent with Section 30253(d), development on this large scale presents a major opportunity to plan for, and incorporate, measures to reduce energy consumption and emissions of greenhouse gases, both at the construction stage and in the project’s life during day-to-day use.

The applicant’s prepared IS/MND states that the proposed project would be consistent with the policies laid out in the City of Los Angeles Sustainability Plan and would comply with

the California Title 24 Building Energy Efficiency Standards<sup>12</sup> and the City's Green Building Ordinance requiring reduction in energy consumption and imported water use. These measures include, but are not limited to, solar photovoltaic and battery storage systems, electric heat pumps, energy-efficient appliances, and increased insulation. In parallel, the applicant submitted a Building Energy & Carbon Emission Assessment prepared by the applicant's energy consultant, Verdical Group, which states that "the project expects to comply with Cal Green 2016 Tier 1 Energy Performance with a 24% improvement over the standard[...] We anticipated this would avoid 32 tons of CO<sub>2</sub> annually." While the latest iteration of the California Green Building Standards Code in 2022 set stricter standards, the project would comply with and exceed the expectations set by *voluntary* tiers that already establish energy budgets 15% lesser than required by Title 24, Part 6 of the California Code of Regulations. **Special Condition 14** requires that the applicant implement the proposal to minimize energy and resource consumption. Therefore, the Commission finds that the project, as proposed and conditioned, would minimize energy consumption such that it would be comparable with more typical moderately sized single-family residential development.

### **Lot Combination and Deed Restrictions**

The applicant is proposing to offer to dedicate an open space conservation easement (OTD) as a component of the currently proposed project. Included within this open space area would be the entirety of proposed Lots 3 and 4, which would extinguish or heavily restrict development in perpetuity across 187,465 sq. ft (4.3 acres), or three-quarters (75%) of the entire property. Lots 3 and 4 contain nearly all the landslide debris and highly unstable portions of the site and would be unsuitable for development without extensive stabilization measures.

To implement the applicant's proposal to preserve and protect the open space, the Commission includes four conditions that apply to CDP Nos. A-5-PPL-19-0168/5-23-0568 and four conditions that apply to CDP Nos. A-5-PPL-19-0170/5-23-0569. First, **Special Condition 15** requires the applicant to seek approval from the City of Los Angeles for the revised proposed lot configuration as shown in [Exhibit 5](#), which will supersede the previously approved lot line adjustment under Parcel Map Exemption No. AA-2017-3894-PMEX. Second, **Special Condition 16** requires the applicant to offer to dedicate an open space conservation easement across the proposed Lots 3 and 4 to a public entity, such as the Mountains Recreation and Conservation Authority (MRCA), in order to ensure that open space, and ESHA, where it occurs, would be preserved in perpetuity.

**Special Condition 16** limits the type of development that could occur within the easement area: a) fuel modification required by the City of Los Angeles Fire Department undertaken in accordance with the final approved Fuel Modification Plan required in **Special Condition 13**; b) landscaping activities as required in **Special Conditions 3(C)** and **13**, planting of native vegetation, and other restoration activities required by the subject permits or by a separate coastal development permit from the City of Los Angeles (or the

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<sup>12</sup> <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards>

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Commission on appeal); c) drainage and polluted runoff control activities required by the subject permits or by a separate coastal development permit from the City of Los Angeles (or the Commission on appeal); d) uses and activities allowed within the approximately 9,700 sq. ft. lawn and putting green area pursuant to the easements described in Los Angeles County Recorder's Office Instrument No. 00-0039615 ([Exhibit 10](#)); e) landscaping and maintenance activities pursuant to the easements described in Los Angeles County Recorder's Office Instrument No. 00-0039615 ([Exhibit 10](#)), and; f) construction and maintenance of public hiking trails or utilities (consistent with the existing easements in (d) and (e)) if approved by the City of Los Angeles in a coastal development permit (or the Commission on appeal). These permitted activities would ensure that only development consistent with the open space designation of these parcels would be allowed.

In connection with the open space conservation easement area, there are a few remaining issues that must be resolved. One concern is that the Los Angeles Superior Court ordered in *Pacific Investment Co. v. Palisades Bay Club et al.* (1999) that the neighboring property holds prescriptive easements in perpetuity to use and maintain for landscaping and for conducting "lawful sports" over and upon area approximately 9,700 sq. ft. in size ([Exhibit 10](#)), memorialized by the recording of the *Judgment Quieting Title to Easements*, Los Angeles County Recorder's Office Instrument No. 00-0039615. In practice, this means that the neighboring apartment complex maintains a lawn area and putting green for the benefit of its residents on the proposed Lot 3, despite that the title for said land belongs to the property owner of the subject project site. As such, to record an OTD to reserve the entirety of Lots 3 and 4 as open space, a reservation and exception must be made to allow the permitted uses within the area to which the neighboring property holds the landscaping/sports easements. Hence, **Special Condition 16** has specific language to address landscaping and maintenance activities pursuant to the easements described in the *Judgment Quieting Title to Easements*. Additionally, the Commission requires **Special Condition 17** for the recordation of an open space deed restriction, which stipulates that no development may be undertaken within the deed restricted area, unless as allowed by the limited categories of development listed in **Special Condition 16**.

One of the Commission's other primary concerns is that individual open space parcels, if not connected to a developable parcel in some form, could go into auction at a tax default property sale<sup>13</sup> where it could be purchased by another private property for development. This would unfortunately hold true even if held in an open space conservation easement and under a deed restriction; while the easement and restriction as described above would still apply, such a transfer would unnecessarily complicate the property's status.<sup>14</sup> When Commission staff communicated these concerns to the applicant, the applicant agreed to

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<sup>13</sup> The County of Los Angeles Tax Assessor is required, after a certain period of time, to sell property at auction if taxes are in arrears and have been defaulted upon (California Revenue and Taxation Code beginning with Section 3691).

<sup>14</sup> Staff report for CCC-22-CD-01 (Wooster), CCC-22-CD-02 (Headlands), CCC-22-AP-01 (Wooster) and CCC-22-AP-02 (Headlands); also, letter from Commission staff to City of Los Angeles staff regarding development in Palisades Highlands, Pacific Palisades dated January 20, 2022.

tie proposed Lots 2, 3, and 4. On July 6, 2023, the applicant, the City's Grading Division staff, and Commission staff coordinated on a lot combination deed restriction that would tie the lots in such a way that is agreeable to all parties and would assure the Commission that the open space lots would not be sold off independently in the future. The final language is memorialized as **Special Condition 21**. The lot combination deed restriction would be recorded after final recordation of the approved lot line adjustment required by **Special Condition 20**.

Finally, and as mentioned previously, **Special Conditions 18 and 22** require deed restrictions to be recorded against the properties subject to the instant permits and would reference all relevant Special Conditions for each permit and impose them as covenants, conditions and restrictions on the use and enjoyment of each property. This ensures that any prospective future owner of each property will receive notice of the restrictions and/or obligations imposed on the use and enjoyment of the land, the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

Therefore, the proposed project, only as conditioned, can be found consistent with the development and coastal resource protection policies of Chapter 3 of the Coastal Act.

## **E. Archaeological and Tribal Cultural Resources**

Coastal Act Section 30244 states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The Commission's Tribal Consultation Policy (adopted on August 8, 2018)<sup>15</sup> recognizes the importance of State efforts to protect tribal cultural resources and improve communication and coordination with Tribes, and it sets out a tribal consultation process that is fully consistent with, and complementary to the nature of, the Commission's goals, policies (including Section 30244), and mission statement. Tribal cultural resources can be sites, features, cultural landscapes, sacred places, and objects with cultural value and can also qualify as archaeological, paleontological, visual, biological, or other resources that the Commission is tasked with protecting pursuant to the Coastal Act.

According to the applicant's prepared Mitigated Negative Declaration/Initial Study (IS/MND), the project area has been subject to past archaeological investigation. A review of ethnographic information and a pedestrian reconnaissance survey conducted by the applicant's consultant, Dudek, for the general project site identified the area as being located near natural resources that may have provided important resources to prehistoric and protohistoric populations, but no archaeological, tribal cultural, or paleontological resources were observed or recorded during the survey.

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<sup>15</sup> <https://documents.coastal.ca.gov/assets/env-justice/tribal-consultation/Adopted-Tribal-Consultation-Policy.pdf>

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The project site is located within the Native American settlement of Kuruvanga, which is considered sacred to numerous Tribes with territorial, ancestral, and/or cultural ties to the area, and is still used for ceremonial and cultural activities. Thus, the project area is a tribal cultural resource and additionally has the potential to contain other tribal cultural resources subsurface. The applicant's consultant states that there is a moderate potential for inadvertent discovery of archaeological, tribal cultural, or paleontological resources during project implementation.

Before review of the local coastal development permit application, the applicant and the City coordinated with culturally affiliated and/or affected Native American Tribes to fulfill AB 52 and CEQA tribal consultation requirements. The applicant requested a Native American Heritage Commission (NAHC) Sacred Lands File check in February 2018 and reached out to the Tribal representatives listed on the NAHC contact list by letter and/or phone for consultation. Both the NAHC and consulting Tribal representatives indicated that the project area is sensitive for potential tribal cultural resources. The City received a request from Andrew Salas, Chairman of the Gabrieleno Band of Mission Indians – Kizh Nation, regarding detailed cultural resource treatment and mitigation procedures.

In accordance with the Commission's Tribal Consultation procedures, Commission staff contacted the Native American Heritage Commission (NAHC) to request a search of the NAHC Sacred Lands Files. The results of this search were positive, and Commission staff subsequently produced a formal notification of the development and request for consultation on October 25, 2022. The Commission received one response from Gabrieleno Tongva San Gabriel Band of Mission Indians. Commission staff consulted with a representative of the Tribal entity on November 2, 2022 and were made aware of the significance of the project site.

The concerns described during consultation include, generally, that this site is Sacred Land with high potential for tribal cultural resources and that any development here should be avoided or, at a minimum, reviewed, considered, and monitored very carefully. The Tribal representative provided Commission staff with suggestions on how to minimize impacts to tribal cultural resources and requested that extensive archaeological monitoring by qualified Native American monitors with ancestral ties to the site take place during ground-disturbing construction.

The project site is currently a vacant lot surrounded by residential development. The City, in its approvals of the local CDPs, found that no new archaeological, paleontological, or tribal cultural resources are anticipated to be identified during implementation of the project. However, the City asserts that mitigation measures are required and imposed them (in consultation with the Kizh Nation) in its approval of the project, which would ensure that the proposed project considers the site's cultural sensitivity and reduce the potential for inadvertent impacts to tribal cultural resources.

In consideration of the above, the Commission imposes **Special Condition 8**, which will require the applicant to submit, for review and approval by the Executive Director, a Tribal

Cultural Resource Treatment and Mitigation Plan developed in consultation with the appropriate Native American tribal governments that includes and ensures that the proposed project remains sensitive to the concerns of the affected Native American groups and requires that at least one Native American monitor from each affected or interested tribal group be invited to be present at the site during all excavation activities to monitor the work. This condition goes beyond the City's required mitigation measures and establishes project consistency with Coastal Act Section 30244, the Commission's Tribal Consultation Policy, and the Commission's Environmental Justice Policy.

**Special Condition 1** requires the development be implemented consistent with the final approved plans, including this Plan. The final approved Tribal Cultural Resource Treatment and Mitigation Plan must be followed if tribal cultural resources are discovered during the course of the project and/or investigation. In that case, **Special Condition 8** also requires the applicant notify the Executive Director of the discovery and apply for an amendment to this CDP if project changes are required in order to avoid or mitigate for any impacts to archaeological deposits. Significance testing and data recovery are only permitted if done in consultation with the affected Native American Tribes, and they should be done in accordance with the "Cultural Resources Significance Testing Plan Procedures" ([Appendix B](#)).

The Commission understands the potential impacts of disturbance of the site to archaeological, paleontological, and tribal cultural resources. The proposed project is designed to be the least environmentally damaging alternative to carry out proposed project without further undermining or destroying the existing landforms. As conditioned, the proposed project is consistent with Coastal Act Section 30244, as reasonable mitigation measures are included to ensure that the development will not result in significant adverse impacts to potential archaeological and tribal cultural resources at the site.

## F. Biological Resources

Relevant Coastal Act policies and findings are hereby incorporated from Section VI.C of the Substantial Issue portion of this staff report on pages 16 through 25.

### Impacts to Vegetation and Landscaping Requirements

The current project proposal reduced the removal of significant trees (8-in.-dbh or greater) from 115 to 64. The applicant is proposing, and **Special Condition 3(C)** requires, that all removed trees be replaced at a 1:1 loss-to-mitigation ratio. The Biological Resources Report prepared by Dudek, dated May 16, 2017, and the adopted IS/MND state that the vegetation on the project site is primarily limited to ornamental vegetation, naturalized annual and perennial grassland species, non-native shrubs, and eucalyptus groves. A few native annual plants can be found sporadically, especially in years with favorable precipitation, such as the California poppy (*Eschscholzia californica*), stork's bill (*Erodium* spp.), and baby blue-eyes (*Nemophila menziesii*). The Report does identify lemonade berry (*Rhus integrifolia*) and xeric coastal bluff scrub on the western and southern portions

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of existing Lot 4, which will not be developed and would be preserved as open space. As noted previously, the lemonade berry scrub alliance is ranked as S3 rare by the California Department of Fish and Wildlife (CDFW).

Commission staff ecologist, Dr. Jonna Engel, has reviewed the facts of this case and has determined that the habitat on this site very likely does not rise to the level of constituting ESHA. Even so, Dr. Engel is concerned that the removal of vegetation is proposed to be extensive and finds it crucial for the open space areas of the subject property, which are proposed to comprise over three-quarters (75%) thereof, to be managed in an appropriate way as to avoid erosion and reactivation of the landslide mass due to excessive irrigation, as well as avoid fire risks in a Very High Fire Severity Zone (as designated by the City).

The applicant did not submit a comprehensive landscaping plan addressing bluff erosion or fire hazards. The applicant's submitted Slope Stabilization Planting Plan shows that native, drought-tolerant plant species, such as greenbark ceanothus (*Ceanothus spinosus*), California buckthorn (*Frangula californica*), toyon (*Heteromeles arbutifolia*), and lemonade berry (*Rhus integrifolia*), would be planted near and above the proposed stabilization pile alignment for erosion control, but did not specify the exact species and locations of plant material, and there was no information on the irrigation methods to be used. Since the proposed residences will only be located approximately 20 feet from the proposed pile alignment at their closest, the applicant must also take into consideration the City's requirements for fire abatement in order to conform with Coastal Act Section 30253(a). For fire mitigation, and protection of the residences, the Los Angeles City Fire Department (LAFD) requires the reduction of fuel through the removal and thinning of vegetation for up to 200 feet from any structure. Specifically, LAFD requires that all vegetation be removed within a 30-foot radius, except for landscaping, and that for the remainder of the 200-foot buffer, the area be thinned in a progressive manner. The Commission therefore finds it necessary to impose requirements to protect and maintain the environmental value of the area in a way that comprehensively addresses risks to the property such as erosion and fire.

First, the Commission imposes **Special Condition 3(C)**, which requires the applicant to submit an initial Landscaping Plan that would incorporate the use of native, drought-tolerant vegetation and drainage improvements where the site has been disturbed. The new plantings must also be maintained as low-growing within view corridors per **Special Condition 10**, and if full removal of vegetation is undertaken, then it must be surveyed for any nesting birds per **Special Condition 12**.

After initial plantings are established within 60 days of construction, **Special Condition 13** further requires the applicant to maintain compliance with the Landscaping Plan imposed under **Special Condition 3(C)** over the long-term, with additional stipulations. The follow-up Landscape Monitoring and Maintenance Plan requires the applicant to submit monitoring reports within 90 days and again after 5 years of initial planting indicating the completion and maintenance of plantings in good growing condition pursuant to the requirements of the initial landscaping plan, but also requires the applicant to submit a Fuel Modification Plan approved by LAFD, as well as photographic evidence that the

plantings do not obstruct view corridors or exacerbate erosion of the bluff. It is critical that the applicant implement all landscaping requirements for a) erosion control purposes, b) management of fire risk onsite, and c) avoidance of impacts to habitat values within the dedicated open space lots or of offsite areas.

If the monitoring reports indicate that the vegetation is not in conformance with, or has failed to meet, the performance standards specified in the Landscape Maintenance Plan, the property owner is required to submit a revised or supplemental landscaping plan for the review and approval of the Executive Director, which must specify measures to remediate those portions that are out of compliance with the required landscaping plan.

### **Impacts to Birds**

There is a concern that the project may impact nesting bird habitat. **Special Condition 12** requires a nesting bird survey prior to the commencement of construction and/or landscaping activities in order to ensure that the proposed project will not impact nesting birds present on the site. In addition, lights generated by the project may impact the nesting bird habitat on the bluff slope. **Special Condition 11** requires the applicant to submit a lighting plan that protects the bluff slope habitat from light generated by the project.

The applicant's proposal also includes the installation of glass doors, windows, and railings on both the streetside and bluff-fronting side of the residence, which has the potential to impact birds that forage in the bluff and fly in the project vicinity. Thus, **Special Condition 3(A)** is imposed to use glass that is bird-safe in the design of the exterior of the residences, which is to be maintained through the life of the development.

Therefore, as proposed and conditioned, the project can be found consistent with the habitat protection policies of Chapter 3 of the Coastal Act.

## **G. Marine Resources and Water Quality**

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where

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feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. Furthermore, uncontrolled runoff from the project site and the percolation of water could also affect the structural stability of bluffs and hillsides. The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and introduction of pollutants such as petroleum, cleaning products, pesticides, fertilizers, and other pollutant sources.

Accordingly, the applicant has proposed water quality and drainage improvements to minimize the amount of runoff that flows over the bluff face. Further, **Special Condition 7** requires the applicant to observe best management practices (“BMPs”) during all construction activities associated with the subject project. The BMPs are designed to prevent spillage and runoff at the site that could impact coastal resources and increase the risk of surficial erosion. As proposed and conditioned, the development incorporates design features to minimize the infiltration of water and the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials and for the use of post-construction best management practices to minimize the project’s adverse impact on coastal waters in the long-term. Also, since the applicant is proposing pools, **Special Condition 6** requires a pool protection plan prepared by an appropriately licensed professional that incorporates mitigation of the potential for geologic instability caused by potential leakage from the proposed pools.

Together, these special conditions will ensure that 1) sediment is kept on-site during construction; 2) runoff is controlled after construction, so that storm water and on-site irrigation water does not erode or percolate into nearby land (increasing the likelihood of failure); and 3) drainage features that maintain the quality of runoff are included so that runoff does not transport pollutants into the ocean.

Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act for the protection of coastal waters and human health.

## **H. Coastal Access and Recreation**

The site is currently owned and managed by the applicant and does not provide public access. The proposed project does not change the public’s inability to access the site, nor does it impact the surrounding offsite areas that are accessible to the public. As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed

development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

## **I. Coastal Act Violation**

The property is currently entirely surrounded by a perimeter chain-link fence. Based on historic imagery of the site at street level, the perimeter fencing appears in 2017, which is after the implementation of the Coastal Act (January 1, 1977). Therefore, the structure was constructed without a coastal development permit and constitutes unpermitted development.

As part of the current proposal, the applicant would remove the unpermitted perimeter fencing, and **Special Condition 3(C)** memorializes this proposal in order to resolve the ongoing violation. Therefore, approval of these applications pursuant to the staff recommendation, issuance of the permits, and the applicant's compliance with all terms and conditions of the permits will result in resolution of the violations described above. Although development has taken place prior to submission of the permit applications, consideration of the permit applications by the Commission has been based solely on consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Commission review and action on the permits does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations).

## **J. Local Coastal Program**

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

## **K. California Environmental Quality Act (CEQA)**

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by findings showing the approval, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act ("CEQA"). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c)).

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The City of Los Angeles is the lead agency responsible for CEQA review. The City of Los Angeles adopted the applicant's prepared Mitigated Negative Declaration/Initial Study (IS/MND) for the project under Case No. ENV-2017-3896-MND on December 21, 2018.

The CDP findings in this staff report, incorporated herein by reference, have analyzed the relevant coastal resources issues raised by the subject proposal. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect, individual or cumulative, that the activity may have on the environment. Therefore, the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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

- Local Coastal Development Permits Nos. DIR-2017-3895-CDP-MEL, DIR-2017-3897-CDP-MEL, and DIR-2017-3898-CDP-MEL and associated file documents.
- Coastal Development Permit Application No. A-5-PPL-19-0168/5-23-0568 and associated file documents.
- Coastal Development Permit Application No. A-5-PPL-19-0170/5-23-0569 and associated file documents.
- Leighton and Associates, Inc., “Updated Geotechnical Report and Review of Pad Plans Proposed Residential Development 4 Lots, Tract 51964, 16974 Sunset Boulevard, Pacific Palisades, California 90272,” dated February 15, 2017.
- Leighton and Associates, Inc., “Response to City of Los Angeles Review Letter and Review of Preliminary Grading Plan Proposed Three-Lot Development, Tracts 26721 and 19741, 16974 Sunset Boulevard, Pacific Palisades, City of Los Angeles, California 90272,” dated September 20, 2017.
- Leighton and Associates, Inc., “Geotechnical Engineering Report Addendum Proposed Three-Lot Development, Tracts 26721, 16974 Sunset Boulevard, Pacific Palisades, City of Los Angeles, California 90272,” dated March 22, 2018 and revised April 6, 2018.
- Leighton and Associates, Inc., “Proposed Two-Lot Residential Development 16974 Sunset Boulevard (Portion of Tract 26721), Pacific Palisades, City of Los Angeles, California,” dated February 18, 2022.

## **APPENDIX B – CULTURAL RESOURCES SIGNIFICANCE TESTING PLAN PROCEDURES**

- A. A permittee seeking to recommence construction following discovery of the cultural deposits shall submit a Significance Testing Plan for the review and approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of a MLD. The Executive Director shall make a determination regarding the adequacy of the Significance Testing Plan within 10 working days of receipt. If the Executive Director does not make such a determination within the prescribed time, the plan shall be deemed approved, and implementation may proceed.
1. If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures are de minimis in nature and scope, the significance testing may commence after the Executive Director informs the permittee of that determination.
  2. If the Executive Director approves the Significance Testing Plan but determines that the changes therein are not de minimis, significance testing may not recommence until after an amendment to this permit is approved by the Commission.
  3. Once the measures identified in the Significance Testing Plan are undertaken, the permittee shall submit the results of the testing to the Executive Director for review and approval. The results shall be accompanied by the project archeologist's recommendation as to whether the findings are significant. The project archeologist's recommendation shall be made in consultation with the Native American monitors and the MLD when State Law mandates identification of a MLD. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archaeological Plan in accordance with subsection B of this Appendix and all other relevant subsections. If the deposits are found to be not significant, then the permittee may recommence grading in accordance with any measures outlined in the significance testing program.
- B. A permittee seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall submit a supplementary Archaeological Plan for the review and approval of the Executive Director. The supplementary Archaeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the MLD when

State Law mandates identification of a MLD, as well as others identified in the special condition. The supplementary Archaeological Plan shall identify proposed investigation and mitigation measures. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Mitigation measures considered may range from in-situ preservation to recovery and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and placing cultural resource areas in open space. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the Supplementary Archaeological Plan.

1. If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the permittee of that determination.
  2. If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.
- C. Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, except the Significance Testing Plan, shall have received review and written comment by a peer review committee convened in accordance with current professional practice that shall include qualified archeologists and representatives of Native American groups with documented ancestral ties to the area. Names and qualifications of selected peer reviewers shall be submitted for review and approval by the Executive Director. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee. Furthermore, upon completion of the peer review process, all plans shall be submitted to the California Office of Historic Preservation (OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC. If the OHP and/or NAHC do not respond within 30 days of their receipt of the plan, the requirement under this permit for that entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and approval of the Executive Director.