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January 9, 2015

West Los Angeles Planning Commission
200 North Spring Street, Room 272
Los Angeles, CA 90012

Re: Case No. ZA 2012 130, ENV 2012 131 MND
Project at 16990-17000 Sunset Blvd., Pacific Palisades, CA 90272
Hearing Date: January 21, 2015

Honorable Commissioners:

We are writing to further supplement our appeal of the decisions of the Zoning Administrator to approve the above-referenced Coastal Development Permit and Mitigated Negative Declaration (the "Approval"). We incorporate by reference all of our prior letters to the City, found in the record of this matter, which articulate the details of the many serious violations of applicable law and unmitigated risks presented by this Project. Such issues are summarized on Exhibit 1 hereto.

We urge you to exercise the authority granted under Los Angeles Municipal Code 12.20.2G.1. to disapprove this application for a Coastal Development Permit since this development is NOT in conformity with the California Coastal Act of 1976. As discussed in depth in our previous letters and outlined in Exhibit 1 hereto, this project violates numerous provisions of the Coastal Act itself, and numerous additional provisions of the Regional Interpretive Guidelines for Pacific Palisades.

The Zoning Administrator makes many errors of fact and law in reaching his conclusion that the project complies with the Coastal Act. One noteworthy example of the Zoning Administrator's abuse of discretion is his analysis of the California Coastal Commission Regional Interpretive Guidelines residential density limit. The Zoning Administrator states on page 30 of the Approval, "Because these are guidelines and were developed in the 1970's and have not been updated, this Zoning Administrator believes that the 24 unit guideline would be better suited for projects on undeveloped sections of streets in the area, not on developments which are remainder lots on otherwise developed sections of the street." The Zoning Administrator also relies on the fact that adjacent properties already are developed in excess of the Guidelines density limit to justify his conclusion that this project's gross violation of the straightforward 24 unit per acre residential density limit set forth in the Guidelines. The Zoning Administrator's reasoning is flawed on many levels.

First, the Guidelines were adopted by the Coastal Commission on October 14, 1980, in response to overdevelopment in the Coastal Zone that was being allowed by the City of Los Angeles. The buildings adjacent to this project were built in the 1950s, long before the Coastal Act was passed in 1976. Accordingly, far from justifying the further development of the Coastal Zone as the Zoning Administrator suggests, they stand rather as vivid examples of just the kind of overdevelopment the Coastal Commission wanted to prevent when it adopted the Guidelines.

Second, the fact that the Guidelines have not been updated since they were adopted does not mean that clear provisions contained in them can be ignored. There is no legal authority suggesting that older regulations are invalid or unenforceable simply because they have not been updated. The Coastal Commission makes frequent reference to the Guidelines in their decisions, and has not published any retraction of the Guidelines or any portion of them.

Third, the Guidelines' residential unit density limit is clearly stated at 24 units per acre gross. There is no argument about what that means, and no reason that this small parcel in a residential area, on a steeply-sloping coastal bluff, along a scenic highway and directly across from single-family homes, should be allowed with more than twice that number of units.

Fourth, the Zoning Administrator's statement that "the 24 unit guideline would be better suited for projects on undeveloped streets in the area" is disingenuous: there are no such undeveloped streets in this area of the Coastal Zone of Pacific Palisades. The Zoning Administrator is simply choosing to completely disregard the 24 unit guideline.

Another clear misstatement of law is made by the Zoning Administrator on Page 26 when he states, "Currently there is no adopted Local Coastal Program for this portion of the Coastal Zone. In the interim, the adopted Brentwood-Pacific Palisades Community Plan serves as the functional equivalent." All parties agree that this project is in the dual permit jurisdiction area of the Coastal Zone. The project must comply with both City zoning and all Coastal Act restrictions. The Brentwood-Pacific Palisades Community Plan is part of the General Plan of the City of Los Angeles, and although many of its provisions are consistent with the Coastal Act and the Guidelines, it is not the functional equivalent of a Local Coastal Program.

In any event, this project is NOT in conformity with the Brentwood-Pacific Palisades Community Plan, which provides that there is a "need to protect environmentally sensitive areas, scenic views and scenic corridors" in residential areas and there should be "a limitation on residential development on hillsides having more than 15% slope." The record reflects that 42% of the project site consists of slopes in excess of 15%. The Community Plan also states, "The scenic value of the natural landforms should be *preserved, enhanced, and restored*" – not further degraded.

Since the Approval is rife with further errors, misstatements, and internal contradictions, the following is a page-by-page listing of some of these issues (all page references are to pages in the Approval):

Page 1:

The project is described as 98,900 square feet, but later described on page 16 as 99,600 square feet. However, the Coastal Development Permit application states that the project is 122,784 square feet – nearly 20% larger.

Page 1:

Neither the plot plan attached as Exhibit “A,” to the Approval, nor any other document submitted to the City, includes the location or dimensions of the retaining walls referenced in Note 13 of the Preliminary Grading Plan. This information must be considered by the decision-maker at this stage in order to determine whether or not the project conforms to the alteration of landform restrictions contained in the Coastal Act and the height limitations imposed by the City zoning code. The scenic value of the natural landforms should be preserved, enhanced, and restored. Wherever feasible, development should be integrated with and be visually subordinate to natural features and terrain.

Please see the Coastal Commission Staff discussion of retaining walls in Exhibit 2 attached hereto.

Page 8:

k.2)a) – diversion dikes to channel runoff around the site during rainy season construction would be catastrophic to the homes down slope of the project.

Page 9:

m.1) – Proper geotechnical reports must be submitted and approved PRIOR to Coastal Development Permit approval, not just prior to the issuance of grading and building permits. In addition, these reports must conform to current seismic slope stability standards and study the entire site including the steeply sloping easternmost corner, which is adjacent to the old Bernheimer slide area.

The Zoning Administrator does not address the complex hydrology issues of the project site.

Page 13:

The Zoning Administrator does not address the effect of this large project on the already strained electrical utilities in the area.

Pages 16 and 17 (and further Q condition discussion on page 19):

The summary of the text of the Q condition on page 16 is not accurate and implies that the 10 foot step-back of the second story applies only to the *portion* of any structure within 50 feet of a lot zoned R1 or more restrictive. As clearly discussed in our prior letters – and indeed, as originally stated by the Zoning Administrator at the July 18, 2013 public hearing – that is not a proper interpretation of the condition. The Q condition requires that the entire second story of any building with any portion within 50 feet of a lot zoned R1 or more restrictive must be stepped back 10 feet. This project violates this zoning restriction.

On page 17, the Zoning Administrator confuses the statements he made at the hearing in this regard. He never said at the hearing that the height limitation applied to the entire building. The clear statement made by the Zoning Administrator at the hearing is that the second story step back applied to the entire lower building of the project. He stood up, walked over to the visual representation of the project and motioned along the entire “lower building”, not just that portion located within 50 feet of a lot zoned R1 or more restrictive. At the time, the Zoning Administrator seemed to be under the impression that there was a separation between the lower and upper portion of the building. The Zoning Administrator now acknowledges on page 17 that the project is one building, so the entire second story of this project must be stepped back 10 feet.

On page 19, the Zoning Administrator further misstates what he said at the hearing. His answer addresses height, while the question was regarding the step-back of the second story. In addition, the questions raised at the hearing were regarding the step-back of the entire second story, not just that part within 50 feet of the R1 property.

This project also violates the side-yard restrictions of the Q condition. The plans attached as Exhibit A to the Approval clearly show an 8-foot side yard in the area within 50 feet of a lot zoned R1 or more restrictive, when 10 feet is the required side yard in this area. The Zoning Administrator is incorrect on page 19 when he states that the project has been redesigned to provide this 10 foot side yard.

The Zoning Administrator also cannot conclude that the project complies with the height limitations of the Zoning Code without the dimensions and locations of all retaining walls on the site.

Page 17:

The Zoning Administrator conditions the grant of the CDP approval on the Grading Division’s issuance of a Geology and Soils Approval letter for the project. This is a grossly improper sequencing of approvals. Furthermore, on page 22, the Zoning Administrator states that all geology concerns have been satisfied for purposes of the MND since the project’s soils report has been approved by the Department of Building and Safety.

Page 20:

It is not clear that the applicant has the right to construct a private sewer on the public utility easement when it will be the only party connecting to that sewer. The applicant does not have the right to use the existing private sewer easement.

Page 21:

Why did the applicant’s traffic consultant only review reports of accidents occurring westerly of the property? In all events, the record reflects that the consultant failed to identify numerous traffic accidents at the site that are matters of public record.

Page 26:

Not all existing uncompacted fill will be removed from the site. All such fill down slope of the structure will remain after construction.

Page 27:

As discussed previously and in our prior letters, the project does not comply with the Coastal Act or the Regional Interpretive Guidelines.

Page 32-33

The Zoning Administrator states that environmental clearance occurred on July 18, 2013 by stating that the revised MND for the project (dated June 17, 2013) was not formally responded to at the July 18, 2013 public hearing. This is not correct – Jack Allen, Andrew Lundberg and others specifically pointed to issues in the MND both in written and oral submissions before and at the hearing. This is evidenced by the many letters in the City file for this project submitted prior to and at the July 18, 2013 hearing.

* * *

The proposed Project is grossly incompatible with the letter and the spirit of the Coastal Act and the zoning law. The Zoning Administrator's approval of it disregards public safety and the proper treatment of public resources. His determination should be reversed, and the Project disapproved.

Thank you for your consideration of this matter.



G. Andrew Lundberg



Amy J.R. Lundberg

cc:

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EXHIBIT 1

16990-17000 Sunset Boulevard

Violations and Unmitigated Risks

1. VIOLATIONS OF LOS ANGELES ZONING LAW

- a. **Second Story Set Back Violations:** Project does not conform to the [Q] Condition requirement that the second story (and each story above the second story) along the entire down slope side of the building be stepped back 10 feet from the first story.
- b. **Side Yard Violation:** Project does not conform to the applicable 10-foot side yard requirement within 50 feet of a lot zoned R1 or more restrictive (i.e. Malibu Village) **as it only has an 8-foot side yard on that section of its southerly side.**
- c. **Height Limit Violation:** Project does not conform to the applicable height restrictions of the Los Angeles Zoning Code since retaining walls are documented in the project plans. See Note 13 of the Preliminary Grading Plan. These retaining walls are necessary to build up the finished grade of the project site. LA Zoning Manual Section 12.21.1 requires that when retaining walls are used to build up finished grade, building height must be measured from the natural surface of the ground below the fill.
- d. **Municipal Code Violation:** The Project will hinder the development of a Local Coastal Program for this area since it does not comply with applicable Coastal Act regulations and Coastal Commission decision precedent (thereby violating Section 12.20.2 of the Los Angeles Municipal Code).

2. CALIFORNIA COASTAL ACT VIOLATIONS

- a. **The project contains more than twice the permissible density** for any new residential development in Pacific Palisades, as it contemplates 49 units and only 24 units per acre are permitted by the Coastal Commission Regional Interpretive Guidelines.
- b. **The project violates Section 30253 of the Coastal Act** which requires that new development shall do all of the following:
 - i. Minimize risk to life and property in areas of high geologic, flood and fire hazard. This project significantly increases the geologic risks (described below) to Sunset Boulevard and to the residents of Malibu Village.
 - ii. Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or the destruction of the site or the surrounding area or IN ANY WAY

require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. This project completely destroys the existing natural bluff.

c. The project violates the Alterations of Landforms Appendix of the Regional Interpretive Guidelines.

- i. The Guidelines provide that throughout the Coastal Zone “Grading, cutting or filling that will alter natural landforms (bluffs, cliffs, ravines, etc.) should be prohibited.
- ii. This 49-unit project and the removal of 4,500 cubic yards of fill and soil will obliterate this entire bluff.

d. The project violates Section 30151 of the Coastal Act, which requires that the project be visually compatible with the surrounding area (also required by Paragraph A.2.c. of the Guidelines).

e. The project violates the requirement of Section 30251 of the Coastal Act that permitted development must be sited to protect public views of the ocean.

- i. This project eliminates the public view of the ocean from Marquez Avenue and could be redesigned to preserve this public ocean view from this busy intersection.
- ii. This requirement also is contained in Paragraph C.1. of the Regional Interpretive Guidelines.

f. The project violates the bluff set back provisions of the Guidelines that require that proposed developments be set back at least 25 feet from the edge of any coastal bluff AND at least 10 feet from the edge of any canyon bluff. The project sits right on the bluff edge.

g. The project also fails to comply with the Guidelines requirement of a cascading design for developments on coastal bluffs, since it “cascades” down the hill only by means of a second large mass and rises over 3 stories from the top of the bluff.

3. EASEMENTS NOT AUTHORIZED – UTILITIES NOT ADEQUATE

- a. The Developer does NOT have the right to use the necessary sewer easements for this project.
- b. This non-conforming project will unnecessarily burden local electrical and water utilities, which are not sufficient for existing demands.

4. GEOLOGY RISKS

- a. The property has not been adequately or appropriately studied.**
- b. The CDP approval was issued prior to receipt by the City of the required Soils and Geology Approval letter from the Department of Building and Safety's Grading Division**
- c. The geological studies submitted do NOT include a study of the eastern portion of the property adjacent to the old Bernheimer slide area.**
- d. The geological studies submitted do not comply with the City's slope stability standards that have been strictly enforced since January 1, 2012 (and which the City encouraged engineers to comply with on and after October 20, 2011).**
- e. The presence of hydrogen sulfide gas has not been adequately addressed.**
- f. The effects of jarosite on the stability of the site have not been studied.**

5. TRAFFIC ISSUES

- a. The Zoning Administrator's approval of the Project disregards the significant traffic hazards at the site, which will be exacerbated by the Project.**
- b. The Developer's claim (based upon a letter from Infrastructure Engineers dated August 9, 2013) that there were no accidents west of the Sunset/Marquez intersection in the preceding three years is false as shown by City data obtained by Jack Allen.**

6. HYDROLOGY ISSUES

- a. The site sits on fill directly above an historical arroyo that drained the Marquez knolls and flats and channels groundwater directly toward the Project site. There is a very high groundwater table in the immediate area of the Sunset/Marquez intersection abutting the site. The Developer's own geotechnical engineer advised that a hydrogeology report be prepared to provide estimates for flow rates of groundwater at the site, but those rates were never calculated. Without them, the adequacy of the Project's design cannot be assessed.**
- b. The Developer also has not analyzed or characterized the site during extended periods of high rainfall.**

- c. **The portion of Sunset Boulevard that is adjacent to the site is built on fill. If the hydrology of the Project is not adequately studied, the stability of Sunset Boulevard (which is the only way in and out of the Marquez Knolls neighborhood) is placed in jeopardy, with potentially catastrophic losses resulting from its failure.**
- d. The flow of water into the old canyon has not been proven to be unidirectional as the developer asserts. To the contrary, Dale Glenn states that water likely also is migrating through fractures in the bedrock. Indeed, E.D. Michael -- the Developer's own hydrologist -- stated in a 1987 letter, written to critique a prior proposed development on *the same 16990 Sunset site here in issue*, that "a dewatering system for the Modelo Formation at the property would be *a very difficult undertaking ...*"
- e. The groundwater on the site has not been tested for sulfuric acid (which is an issue with water in areas with high concentrations of jarosite). If not mitigated, the groundwater runoff generated by this project could adversely affect the pH balance of Santa Monica Bay.

7. RISKS TO MALIBU VILLAGE

- a. The Malibu Village homeowners were required by the City of Los Angeles and the California Coastal Commission to record documents against their properties acknowledging that their site "may be subject to extraordinary hazard from landslides, erosion, and earthquake."
- b. Malibu Village did NOT assume the risk of the City approving a non-conforming project on the steep slope directly above their property. Malibu Village and neighboring homeowners will pursue all legal remedies against the City in the event the proposed Project is approved.
- c. It is unconscionable that the City would consider putting vulnerable citizens in harm's way in this manner, especially when this Project does not conform to City zoning, applicable Coastal Act restrictions and does not even meet the City's current seismic slope stability standards that have been in effect since 2011.

8. REQUIRED AFFIDAVIT

- a. The Department of Building and Safety also has required **prior to the issuance of any permits** that the developer file a notarized affidavit with the County Recorder that the site is located in an area subject to landslides or unstable soils and they have knowledge that future distress may occur, and future mitigation measures may be required. This affidavit has not been approved and filed.

- b.** What assurances (and guarantees of performance) does such affidavit give the Malibu Village homeowners and the City of Los Angeles that the developer is responsible for all damages and loss of life that may result from the construction, or existence of this project, or from any failure by the developer to adequately perform any such future mitigation measures?

9. ENVIRONMENTAL APPROVAL INVALID

- a.** The Zoning Administrator did NOT consider comments made by the community and experts after the revised MND was published.
- b.** The Zoning Administrator also was mistaken when he said no comments were made on the MND at the hearing.
- c.** An EIR is required as matter of law because proposed project has significant effects on environment that cannot be mitigated to a less than significant level.

EXHIBIT 2

CALIFORNIA COASTAL COMMISSION

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

**W15b**

Appeal Filed: 7/19/2006
49th Day: 9/6/2006
Staff: Charles Posner - LB
Staff Report: 8/24/2006
Hearing Date: September 13, 2006
Commission Action:

STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE

APPEAL NUMBER: A5-PPL-06-272

LOCAL DECISION: Approval with Conditions

APPLICANT: Long K. Ta **AGENT:** Susan McCabe

APPELLANTS: 1) Dr. Josh Leichtberg (Attn: Ronald D. Rosen, Attorney); and,
2) Dr. Walter O'Brien and the Pacific View Estates Homeowners Association (Attn: John B. Murdock, Attorney).

PROJECT LOCATION: 444 Surfview Drive, Pacific Palisades, City of Los Angeles.

PROJECT DESCRIPTION: Appeal of City of Los Angeles approval of Local Coastal Development Permit Application No. ZA-2004-7191, approved with conditions for a two-parcel single-family subdivision (Parcel Map No. AA-2004-7147) and subsequent construction on Parcel B of one new single-family dwelling with garage.

Lot Area	31,700 square feet (0.72 acre)
Building Coverage	3,065 square feet (existing)
Pavement Coverage	4,500 square feet (approx.)
Landscape Coverage	24,135 square feet (approx.)
Zoning	RE15-1-H
Plan Designation	Single Family Residential
Parking Spaces	4
Building Height	14 feet (existing one-story house)

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission determine that a **SUBSTANTIAL ISSUE EXISTS** with respect to the City-approved project's conformance with the Chapter 3 policies of the Coastal Act because the local coastal development permit does not analyze or quantify the extent of landform alteration being approved for the development (i.e., grading, cutting or fill), or the height of retaining walls, nor does it consider whether the development protects Topanga State Park from the potential impacts of the development. **See Page Five for the motion** to make the substantial issue determination.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles Local Coastal Development Permit No. 2004-7191.
2. City of Los Angeles Parcel Map No. AA-2004-7147.
3. Brentwood-Pacific Palisades District Plan, City of Los Angeles Plan Case No. 25141, 1977.
4. Coastal Commission Regional Interpretive Guidelines for Los Angeles County, 1980.

I. APPELLANTS' CONTENTIONS

The Coastal Commission has received two appeals of the City of Los Angeles Planning Commission's action to approve Local Coastal Development Permit No. 2004-7191 (Exhibits #6&7). The local coastal development permit approves a two-parcel single-family subdivision (Parcel Map No. AA-2004-7147) and subsequent construction on Parcel B of one new single-family dwelling (Exhibit #4). One single-family dwelling already exists on the portion of the project site that would become Parcel A (Exhibit #3). Both appeals raise the same issues. The grounds for the appeals are as follows:

- 1) The City failed to make specific written factual findings supporting the project's conformance with Coastal Commission Regional Interpretive Guidelines for Los Angeles County.
- 2) The City failed to analyze or quantify the extent of landform alteration being approved for the development (i.e., grading, cutting or fill), or the height of retaining walls.
- 3) The City-approved development does not conform with the Coastal Commission Regional Interpretive Guidelines for Los Angeles County, specifically, the limitations on landform alteration set forth by the Hillside Dwelling Unit Density Formula.
- 4) The City's approval of the development is inconsistent with the City's 1983 denial of Local Coastal Development Permit No. 82-043 (Parcel Map 5355) on the same site based on the lack of conformance with the Hillside Dwelling Unit Density Formula contained in the Coastal Commission Regional Interpretive Guidelines for Los Angeles County (Exhibit #7).
- 5) The City's approval of the development would result in increased density in a steep area and altered natural landforms and natural vegetation adjacent to open space (Topanga State Park).

II. LOCAL GOVERNMENT ACTION

On November 22, 2004, the applicant submitted to the City of Los Angeles Planning Department a Master Land Use Application requesting approval of a parcel map and a local coastal development permit for a proposed two-parcel subdivision and the construction of a two-story single-family residence with an attached garage (Exhibit #3).

On June 15, 2005, the City held a public hearing for the parcel map and the local coastal development permit necessary for the proposed development. Four members of the public testified at the hearing, all in opposition to the proposed development. The opponents raised issues of hydrology, hillside stability, flag lot orientation, environmental sensitivity, and the legal obligation of the current owners of the property to adhere to the covenants and restrictions established for the neighborhood in 1965 by the Pacific View Estates Homeowners Association.

On June 28, 2005, the Advisory Agency of the City Planning Department issued a letter of determination approving, with conditions, the proposed parcel map subdividing the property into two parcels, each about 15,800 square feet in area (Parcel Map No. AA-2004-7147).

On July 13, 2005, three appeals were filed objecting to the City's approval of Parcel Map No. AA-2004-7147. The City record states that the West Los Angeles Area Planning Commission failed to act on the appeals within thirty days of the expiration of the appeal period, and the appeals were deemed denied by operation of law (Exhibit #4, p.15). Therefore, the City determined that the Advisory Agency's June 28, 2005 decision approving the subdivision was final.

On October 6, 2005, the Office of Zoning Administration of the City Planning Department issued a letter of determination approving, with conditions, Local Coastal Development Permit No. 2004-7191 for the proposed development (Exhibit #4, p.8). The approved development is described as, "a two-parcel single-family subdivision and subsequent construction on Parcel B of one new single-family dwelling with garage" (Exhibit #4, p.8).

On October 21, 2005, two appeals were filed at the City (by Dr. Josh Leichtberg and the Pacific View Estates Homeowners Association) objecting to the City's approval of Local Coastal Development Permit No. 2004-7191 for the proposed development (Exhibit #4, p.8). The local appeals raised the issues listed on page two of this report.

At its meeting on May 17, 2006, the West Los Angeles Area Planning Commission denied the appeals and sustained the Zoning Administration's approval of the local coastal development permit authorizing the two-parcel subdivision and the construction of a single-family residence (Exhibit #4, p.2). The West Los Angeles Area Planning Commission also adopted Mitigated Negative Declaration No. ENV-2004-7148-MND for the proposed development. The Planning Commission's action is attached to this report as Exhibit #4. The Planning Commission issued its decision on June 22, 2006, and its decision was not appealable to the City Council.

On June 26, 2006, the Commission's South Coast District office in Long Beach received the City's Notice of Final Action for its approval of Local Coastal Development Permit No. 2004-7191, and established the twenty-working day appeal period.

The appeal by Dr. Josh Leichtberg was filed on July 19, 2006 (Exhibit #6). The appeal by Dr. Walter O'Brien and the Pacific View Estates Homeowners Association was filed on July 24, 2006 (Exhibit #7). No other appeals were filed. On July 21 and July 27, 2006, Commission staff mailed notices of the appeals to the applicant and City Planning Department, and requested that the City provide the Commission staff with a copy of the local coastal development permit file.

At the time the two appeals were filed, the next scheduled Commission meeting was planned for August 8-11, 2006. Commission staff listed the appeals on the Commission's August 2006 meeting agenda, to be heard on August 8. However, on August 8, 2006, the Commission had not received from the City a copy of the local coastal development permit file, as required by Section 13320 of the California Code of Regulations, Title 14. Accordingly, on August 8, 2006, at its meeting in San Pedro, the Commission opened and continued the public hearing for the appeal case. On August 9, 2006, Commission staff received from the City a copy of the local coastal development permit file. A public hearing for the appeals was then scheduled for the Commission's next meeting: September 13-15, 2006 in Eureka.

III. 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 coastal development permits.

Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows *any* action by a local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act. [Cal. Pub. Res. Code §§ 30200 and 30604.]

After a final local action on a local coastal development permit application, the Coastal Commission must be noticed within five days of the decision. Once the Commission receives such a notice containing all the required information, a twenty working-day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.]

Any appeal of the local action is then analyzed to determine if a substantial issue exists as to the approved project's conformity with Chapter 3 of the Coastal Act (Sections 30200-30265.5). [Cal. Pub. Res. Code § 30625(b)(1).] Unless the Commission finds that the appeal raises no substantial issue, the Commission then holds a public hearing in which it reviews the coastal development permit application as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625; Cal. Code Regs., Title 14, § 13321.]

At this point, the Commission may decide that the appellant's contentions raise no substantial issue as to conformity of the approved project with Chapter 3 of the Coastal Act, in which case the action of the local government stands. Or, the Commission may find that a substantial issue exists with respect to the conformity of the action of the local government with Chapter 3 of the Coastal Act if it finds that the appeal raises a significant question regarding consistency with the Chapter 3 policies of the Coastal Act. If the Commission finds that a substantial issue exists, then the hearing will be continued as a de novo permit request. 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.

IV. DUAL PERMIT JURISDICTION

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the *Dual Permit Jurisdiction* area, the Coastal Act requires that any development which receives a local coastal development permit also obtain a second (or "dual") coastal development permit from the Coastal Commission. For projects located inland of the areas identified in Section 30601 (i.e., projects in the *Single Permit Jurisdiction*), the City of Los Angeles local coastal development permit is the only coastal development permit required. The project, in this case, is in the *Single Permit Jurisdiction*. However, because the local coastal development permit has been appealed to the Commission, the Commission nevertheless may, if it finds the appeal raises a substantial issue, be the permit issuing authority for this application.

V. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **a substantial issue exists** with respect to whether the local government's approval of the project is consistent with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to PRC Section 30625(b)(1).

Staff recommends a **NO** vote on the following motion:

MOTION: *"I move that the Commission determine that Appeal No. A-5-PPL-06-272 raises **no** substantial issue with respect to conformity of the local approval with the policies of Chapter 3 of the Coastal Act."*

Failure of the motion will result in a de novo hearing on the application and adoption of the following resolution and findings. A majority of the Commissioners present is required to pass the motion.

Resolution to Find Substantial Issue for Appeal A-5-PPL-06-272

The Commission hereby finds that Appeal No. **A-5-PPL-06-272** presents a substantial issue with respect to conformity of the local government approval with the Chapter 3 policies of the Coastal Act.

VI. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. Project Description

The proposed project involves the subdivision of a 31,700 square foot property into two parcels (Parcels A and B), each about 15,800 square feet in area. What would become Parcel A (444 Surfview Drive) is already developed (c.1965) with a one-story, 3,065 square foot single-family residence with an attached garage (Exhibit #3). In addition to the subdivision, the City-approval authorizes the construction of a two-story single-family residence with an attached garage on Parcel B. The project site, in the Pacific Palisades area of the Santa Monica Mountains, is a steep hillside lot with elevations between 480 and 530 feet above sea level. A paved two-lane public street (Coastline Drive and then Surfview Drive) provide vehicular access to the site, the surrounding single-family residential neighborhood and Topanga State Park from Pacific Coast Highway (Exhibit #1). The northern edge of the project site abuts the southern boundary of Topanga State Park (Exhibit #2).

B. Factors to be Considered in Substantial Issue Analysis

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

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

Staff is recommending that the Commission find that **a substantial issue exists** with respect to whether the local government action conforms with the provisions of Chapter 3 of the Coastal Act for the reasons set forth below. Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal development permit decision by filing petition for a writ of mandate pursuant to California Code of Civil Procedure, Section 1094.5.

C. Substantial Issue Analysis

As stated in Section III of this report, the grounds for an appeal of a coastal development permit issued by the local government prior to certification of its Local Coastal Program (LCP) are the Chapter 3 policies of the Coastal Act. Any such local government coastal development permit may be appealed to the Commission. The Commission shall hear an appeal unless it determines that the local government action raises no substantial issue as to conformity with Chapter 3 policies of the Coastal Act. In this case, staff has recommended that a substantial issue does exist in the local government's approval of the project.

A substantial issue exists in regards to the City's approval of the local coastal development permit because does the City's approval does not analyze or quantify the extent of landform alteration being approved for the development (i.e., grading, cutting or fill), or the height of retaining walls, nor does it consider whether the development protects Topanga State Park from the potential impacts of the development (e.g. visual and habitat impacts).

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30251 of the Coastal Act requires that visual qualities of coastal areas shall be considered and protected and the alteration of natural landforms be minimized. The City failed to analyze or quantify the extent of landform alteration being approved for the development (i.e., amount of grading, cutting or fill), or the height of retaining walls. The City approval acknowledges that a new house, with a new 150-foot long driveway, would be constructed on the newly created parcel with a 25% slope. The City also acknowledges that grading is necessary and at least two new retaining walls would need to be constructed for the approved development. But the City approval only requires that the grading be kept to a minimum without acknowledging what the minimum would be, or even how much grading the applicant's plan proposes. Therefore, the local government's approval raises a substantial issue as to conformity with Coastal Act Section 30251 because it does recognize the potential adverse impacts to the scenic and visual qualities of the Santa Monica Mountains and does not ensure the protection of natural landforms and visual resources.

The appellants assert that the City failed to make specific written factual findings supporting the project's conformance with Coastal Commission Regional Interpretive Guidelines for Los Angeles County. In fact, the City's approval acknowledges that the proposed project does not conform with Coastal Commission Regional Interpretive Guidelines for Los Angeles County (Exhibit #4, p.18). The Commission's guidelines were adopted in 1980 to assist local governments, applicants and the Commission in determining how the Chapter 3 policies of the

Coastal Act would be applied, based on the Commission's prior actions. The City approval acknowledges that, in 1983, the City denied Local Coastal Development Permit 82-043 for a two-parcel subdivision on the project site because the proposed project did not conform with the Hillside Dwelling Unit Density Formula (Exhibit #7, p.4). The City also acknowledges that the currently proposed project also does not conform with the Hillside Dwelling Unit Density Formula set forth in the Coastal Commission Regional Interpretive Guidelines for Los Angeles County. The Hillside Dwelling Unit Density Formula limits the density of development on steep hillsides where overly dense development would have significant adverse impact on natural resources, natural landforms, public views and public safety.

The Commission's Hillside Dwelling Unit Density Formula summarizes the Commission's past actions in the Santa Monica Mountains. The Hillside Dwelling Unit Density Formula was developed in the late 1970s by the City of Los Angeles when the Pacific Palisades Community Plan was being drafted in anticipation of the adoption City's future Pacific Palisades Local Coastal Program (LCP). The policy was developed in response to community concern about environmental effects of encroaching subdivisions into undeveloped hillsides of the Santa Monica Mountains. The policy was used by Commission staff as a tool for analyzing subdivisions in hillside areas and subsequently adopted in 1980 into the Commission's Regional Interpretive Guidelines. When the policy was being developed, the City faced major lawsuits about the loss of habitat and hazards (e.g. fire and landslides) caused by development in the mountains. While no LCP has yet been developed for Pacific Palisades, the relevant issues still persist. Therefore, fact that the City-approved development does not conform with the Commission's Hillside Dwelling Unit Density Formula raises a substantial issue as to conformity with Chapter 3 of the Coastal Act.

Section 30251 of the Coastal Act requires that permitted development shall be sited and designed to protect views to and along the ocean. The northern edge of the project site abuts the southern boundary of Topanga State Park (Exhibit #2). The State Park property that abuts the northern edge of the project site is a flat graded pad, with immediate pedestrian access from Surfview Drive. The pad provides an expansive view of Santa Monica Bay and the Pacific Ocean. The construction of the City-approved house on the lot below this public viewing area would adversely affect the view of the ocean from the State Park because the second floor and roof of the house would extend above the highest point of the applicant's property and into the view. The ground floor level of the approved house is shown on the proposed plan at elevation 515, and the highest point of the property where it abuts the State Park is at elevation 532 (Exhibit #3). The local coastal development permit does not limit the height of the approved two-story residence to prevent it from obstructing the public's view from the State Park. Therefore, the local government's approval raises a substantial issue as to conformity with Coastal Act Section 30251.

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such 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 such areas, and shall be compatible with the continuance of such habitat areas.

The creation of a new parcel (Parcel B), and the construction of the approved house on Parcel B, within sixty feet of the State Park boundary, could also result in the destruction of natural habitat if the surrounding ground cover is thinned or cleared for fire safety. The City typically requires brush clearance and/or thinning within four hundred feet of habitable structures. A four hundred foot radius around the city-approved house would extend over three hundred feet into Topanga State Park. . Therefore, the local government's approval raises a substantial issue as to conformity with the habitat protection policies set forth in Section 30240 of the Coastal Act.

Applying the five factors listed in the prior section further clarifies that the appeal raises a "substantial" issue with respect to Chapter 3. The first factor is the degree of factual and legal support for the local government's decision that the development is consistent with Chapter 3 of the Coastal Act. The findings for the City's approval of Local Coastal Development Permit No. 2004-7191 are found on Pages 16 through 19 of Exhibit #4 of this report. The City's findings do not provide an adequate degree of factual support for its conclusion that the approved development conforms with the Chapter 3 policies of the Coastal Act because the City did not analyze or quantify the extent of landform alteration being approved for the development (i.e., grading, cutting or fill), or the height of retaining walls. The findings also do not acknowledge or attempt to mitigate the proposed project's adverse impacts to the public views and natural resources in Topanga State Park, which abuts the project site.

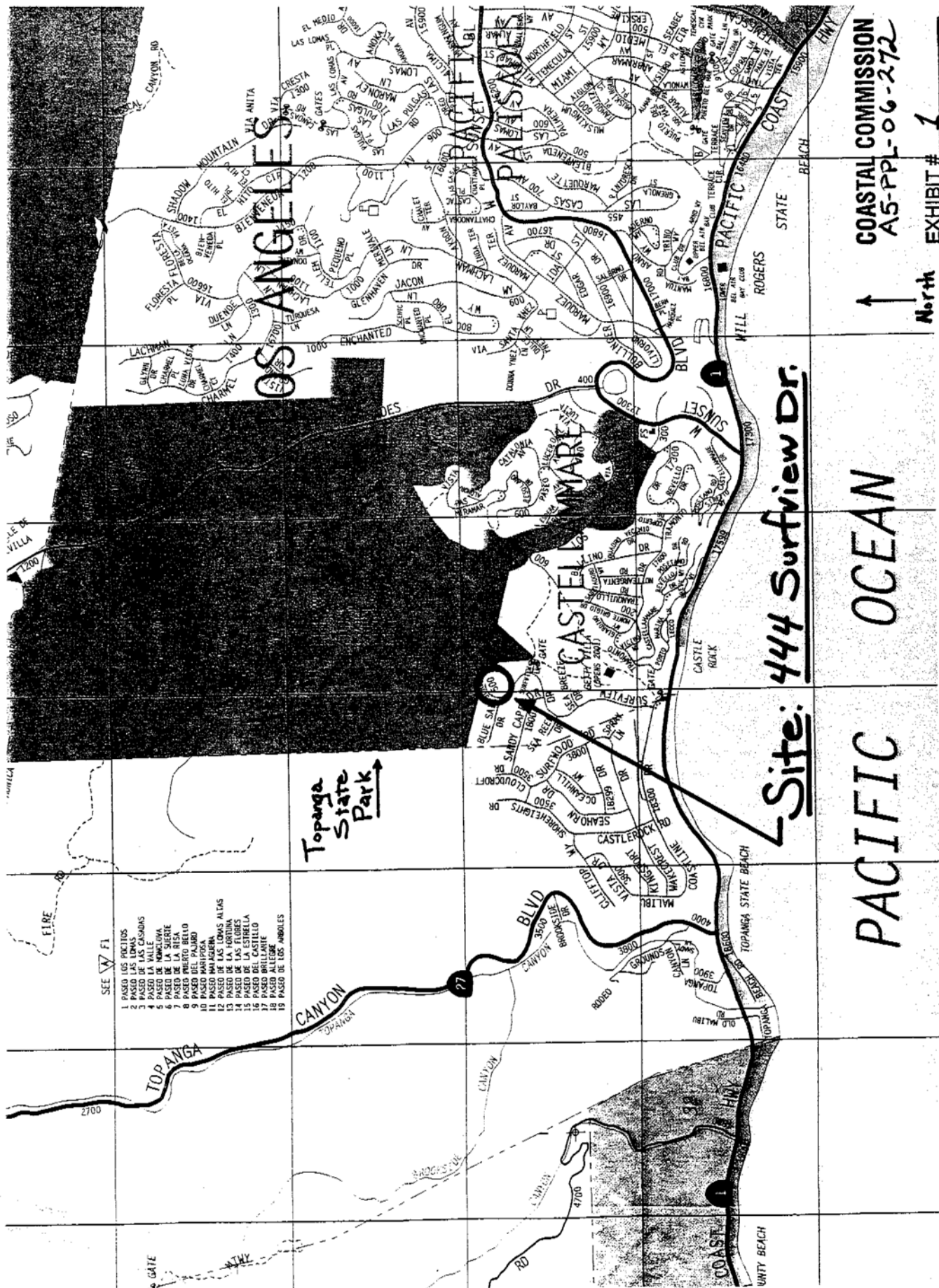
The second factor is the scope of the development approved by the local government. The approved development includes the subdivision of a 31,700 square foot project site, but the scope of the approved development is not entirely clear. The project description on Local Coastal Development Permit No. 2004-7191 (and in the applicant's permit application) is: "a two-parcel single-family subdivision and subsequent construction on Parcel B of one new single-family dwelling with garage" (Exhibit #4, p.8). A Zoning Administrator's letter to the Planning Commission (dated February 8, 2006, Exhibit #4, p.5), however, states that the house on Parcel B will need a second coastal development permit. Thus, the confusing Zoning Administrator's letter describing scope of the approved development supports a finding that the appeal raises a "substantial" issue.

The third factor is the significance of the coastal resources affected by the decision. The proposed development abuts Topanga State Park. Public recreation and natural habitat areas in Topanga State Park are the main resources affected by the proposed project. Thus, the coastal resources affected are significant.

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. This is designed to avoid leaving decisions in place that could create a precedent for how the relevant provision of the LCP is to be interpreted, assuming the local government has a certified LCP. In this case, the City does not have a certified LCP for Pacific Palisades. Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a LCP which conforms with Chapter 3 policies of the Coastal Act. The subdivision of a steep hillside lot with an existing single-family residence, and the approval of a new house that does not conform with the Hillside Dwelling Unit Density

Formula set forth in the Commission's Regional Interpretive Guidelines, sets a precedent that merits closer scrutiny by the Commission to ensure that the project will not prejudice the ability of the City to prepare an LCP.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. The appeal raises a local issue related to the density of development in an existing Pacific Palisades neighborhood. However, the protection of a State Park that is a tourist destination for people all over the state (and beyond), and the precedential nature of the City's approval, rises to statewide significance.



COASTAL COMMISSION
A5-PPL-06-272

EXHIBIT # 1

PAGE 1 OF 1

North

Site: 444 Surfview Dr.

PACIFIC OCEAN

SEE FL

- 1 PASO LOS FRIOS
- 2 PASO DE LAS CASAS
- 3 PASO DE LA VALLE
- 4 PASO DE LA VALLE
- 5 PASO DE LA VALLE
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- 19 PASO DE LA VALLE

Topanga State Park

CANYON

BLVD

CANYON

BLVD

CANYON

BLVD

CANYON

BLVD

CANYON

BLVD

CANYON

BLVD

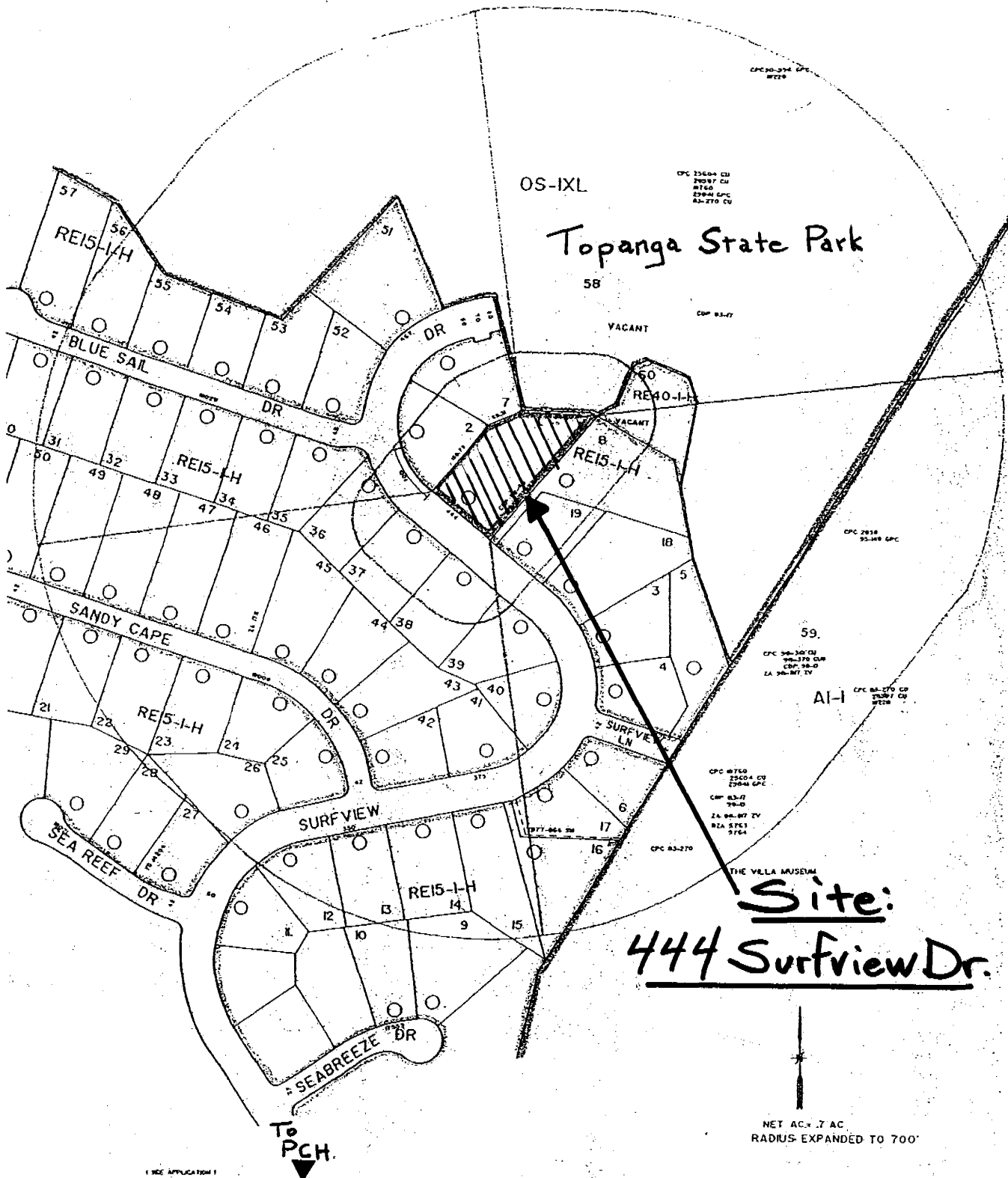
CANYON

BLVD

CANYON

BLVD

CANYON



1. SEE APPLICATION FOR
LOT 3 TR 27667

C.D. 1
P.A. BTW
C.T. 2626.02

T.B. 630 FF5 17.4084

PRELIM. PARCEL MAP/CDP

T-SQUARE MAPPING
626-403-1803

DATE 8-18-04
SCALE 1" = 100'
D.M. 129813
129817

COASTAL COMMISSION
A5-PPL-06-272

EXHIBIT # 2
PAGE 1 OF 1

PARCEL MAP NO. 2004-7147

IN THE CITY OF PACIFIC PALISADES, COUNTY OF LOS ANGELES,
STATE OF CALIFORNIA

BEING A SUBDIVISION OF A PORTION OF LOT 30, OF TRACT 27667,
AS PER MAP RECORDED IN BOOK 723, PAGES 2 THROUGH 7 OF MAPS
... IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

LAND AREA:
 LOT 30A: CONTAINING AN AREA OF 15,820 SQ. FT., OR 0.3614 ACRES, MORE OR LESS.
 LOT 30B: CONTAINING AN AREA OF 15,160 SQ. FT., OR 0.3441 ACRES, MORE OR LESS.
 LOT 30C: CONTAINING AN AREA OF 31,890 SQ. FT., OR 0.7279 ACRES, MORE OR LESS.

TITLE	TENTATIVE PARCEL MAP	
CLIENT	SIMEON CONSTRUCTION	
SCALE	1" = 10'	DATE 11/07/04
DESIGNED BY	A.S.	DRAWN BY
CHECKED BY	C.C.	NOTED BY
APPROVED BY		DATE 11/07/04

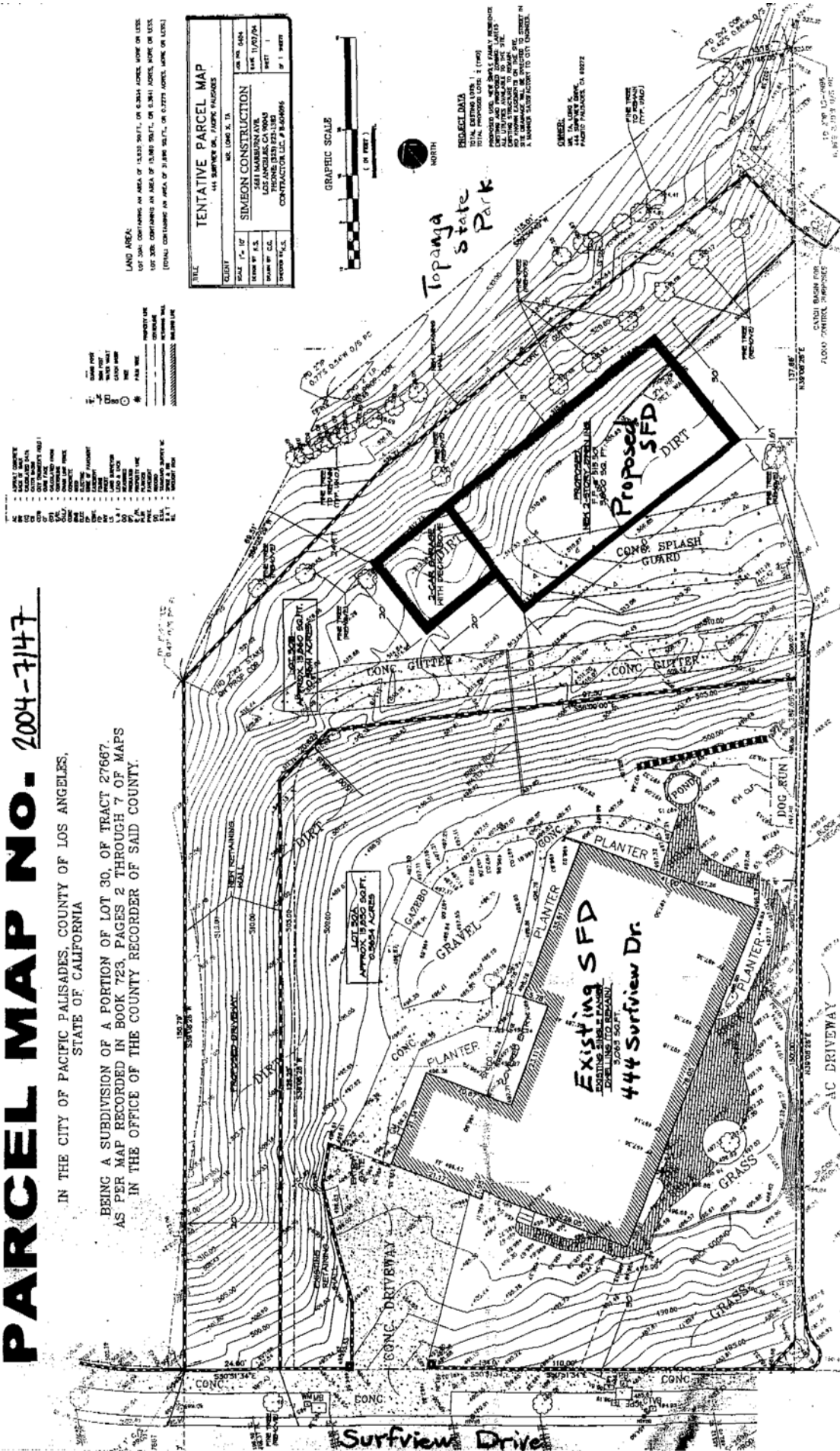
144 SAWYER DR., PASADENA, CALIFORNIA 91105
 TEL: (626) 795-1533 FAX: (626) 795-1533
 WWW.SIMEONCONSTRUCTION.COM

GRAPHIC SCALE



PROPOSED USE: NEW B&B'S FAMILY RESIDENCE
EXISTING AND PROPOSED ZONING: LAR-1
ALL UTILITIES AVAILABLE TO PROPERTY.
EXISTING STRUCTURE ON THIS PLOT
AND FOUNDATION WILL BE EXPOSED TO STREET IN
ORDER TO RE-CONSTRUCT TO CITY ORDINANCE.

OWNER:
MR. TA LONG K.
444 SUMMIT DRIVE
MONTICELLO, MISSISSIPPI 38759



COASTAL COMMISSION
A5-PPL-06-272

EXHIBIT # 3
PAGE 1 OF 1



Los Angeles City Planning Commission

200 North Spring Street, Room 532, Los Angeles, CA 90012-4801 (213) 978-1300

Website: <http://www.lacity.org/pln/index.htm>

TO: California Coastal Commission
South Coast District Office
200 Oceangate, Suite 1000
Long Beach, CA 90802

Mailing Date: 06/22/2006

CP Case No. ZA 2004-7191-CDP-MEL-1A
Address: 444 N. Surfview Drive
Plan Area: Brentwood- Pacific Palisades
-Brentwood Glen
Council District: 11

FROM: Los Angeles City Planning Commission

RECEIVED
South Coast Region

JUN 26 2006
A5-PPL-06-212
CALIFORNIA
COASTAL COMMISSION

NOTICE OF COASTAL DEVELOPMENT PERMIT ISSUANCE

Applicant name/address

Long K. Ta
444 N. Surfview Drive
Pacific Palisades, CA 90272

Applicant Representative name/address

Ken Simeon
5681 Marburn Avenue
Los Angeles, CA 90043

The above-referenced Coastal Development Permit was **Approved** effective **June 22, 2006**, pursuant to a public hearing conducted by the Los Angeles City Planning Commission on May 17, 2006. An appeal was not filed with the City Council during the mandatory appeal period or no appeal to City Council was permitted from the Commission's action; whichever is indicated in the Commission's Determination Report.

Appeals must be filed within a 20 working-day appeal period, to be determined by the South Coast District Office of the Coastal Commission in accordance with said Commission's procedures.

- () The proposed development **is in the dual permit jurisdiction area**, and will require an additional permit from the California Coastal Commission upon the expiration of the above 20-working-day appeal period.
- (X) The proposed development **is in the single permit jurisdiction area**, and if the application is not appealed within the 20-working-day period the applicant may proceed with the subject project.

Attachments: Coastal Development Permit / Commission Determination Report
Zoning Administrator Determination
Miscellaneous relevant documents

FINAL LOCAL ACTION NOTICE

RECEIVED 6.26.06
REFERENCE ZA2004-7191
APPEAL PERIOD 7.25.06

cc: Applicant and Applicant's Representative (Notice, Coastal Permit/APC Determination)

EXHIBIT # 4
PAGE 1 OF 20



WEST LOS ANGELES AREA PLANNING COMMISSION

200 N. Spring Street, Room 532, Los Angeles, California, 90012-4801, (213) 978-1300
www.lacity.org/PLN/index.htm

Determination Mailing Date: **JUN 22 2006**

CASE NO.: ZA 2004-7191-CDP-MEL-1A
Location: 444 N. Surfview Drive

Council District: 11
Plan Area: Brentwood-Pacific Palisades-Brentwood
Glen
CEQA: ENV 2004-7148-MND
Zone: RE15-1-H
District Map: 129 B 113
Legal Description: Lot 30, Tract 27667

Applicant: Long K. Ta, Ken Simeon (representative)
Appellants: A1) Pacific View Estates Homeowners Association, John B. Murdock (representative);
A2) Josh Liechtberg, Ronald D. Rosen (representative)

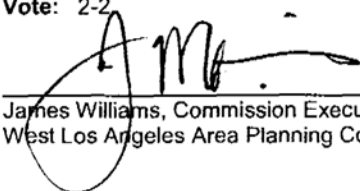
At its meeting on May 17, 2006, the following action was taken by the West Los Angeles Area Planning Commission:

1. Denied the appeal.
2. Sustained the Zoning Administrator's approval, pursuant to Section 12.20.2 of the Los Angeles Municipal Code, of a Coastal Development Permit within the single-permit jurisdiction for the purpose of authorizing a two-parcel single family subdivision and subsequent construction, use and maintenance of one new single family dwelling with garage, in conjunction with Parcel Map No. AA-2004-7147-PMLA.
3. Adopted the Conditions and Findings in the Zoning Administrator's determination dated February 8, 2006 (attached).
4. Adopted ENV 2004-7148-MND.

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

The 2-2 vote resulted in a Failure to Act by the Commission. The following is the Commission's vote:

Moved: Foster
Seconded: Brown
Noes: Burton, Washington
Absent: Moon
Vote: 2-2


James Williams, Commission Executive Assistant
West Los Angeles Area Planning Commission

Effective Date/Appeals: This action of the West Los Angeles Area Planning Commission is effective on the mailing date of this Determination, and is not further appealable.

The Coastal Development Permit is effective at the City level on the mailing date of this determination. The Coastal Development Permit is not further appealable at the City level, but appealable only to the California Coastal Commission - South Coast District Office. The California Coastal Commission, upon receipt and acceptance of this determination, will establish the start of the 20-day appeal period.

The time in which a party may seek judicial review of this determination is governed by California Code of Civil Procedure Section 1094.6. Under that provision, a petitioner may seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, only if the petition for writ of mandate pursuant to that section is filed no later than the 90th day following the date on which the City's decision becomes final.

Attachments: Zoning Administrator's Determination dated February 8, 2006.

COASTAL COMMISSION
AS-PPL-06-272

EXHIBIT # 4
PAGE 2 OF 20

DANIEL GREEN
ACTING CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

CARY BOOHER
PATRICIA BROWN
R. NICOLAS BROWN
ANIK CHARRON
EMILY J. GABEL-LUDDY
LOURDES GREEN
LINN WYATT

CITY OF LOS ANGELES
CALIFORNIA



ANTONIO VILLARAIGOSA
MAYOR

DEPARTMENT OF
CITY PLANNING
MARK WINOGROND
INTERIM DIRECTOR

OFFICE OF
ZONING ADMINISTRATION

200 N. SPRING STREET, 7TH FLOOR
LOS ANGELES, CA 90012
(213) 978-1318
FAX: (213) 978-1334
www.lacity.org/PLN

February 8, 2006

West Los Angeles Area
Planning Commission
200 North Spring Street, Room 532
Los Angeles, CA 90012

Hearing Date: November 16, 2005

CASE No.: ZA 2004-7191 (CDP)(MEL) A1
Related Case: AA-2004-7147-PMLA
APPEAL SUMMARY
444 North Surfview Drive
Brentwood-Pacific Palisades-Brentwood Glen
Planning Area
Zone: RE15-1-H
D.M.: 129 B 113
C.D.: 11
CEQA No. ENV-2004-7148-MND
Legal Description: Lot 30, TR 27667

LA's the Place

On October 6, 2005, I approved the above noted request authorizing:

A Coastal Development Permit within the single permit jurisdiction of the California Coastal Zone for the purpose of authorizing a two-parcel single family subdivision and subsequent construction on Parcel B of one new single family dwelling with garage.

I also determined:

The proposed project qualifies for the Small New Housing Development exemption from the Mello Act. Furthermore, the project does not involve the demolition or conversion of affordable housing. Therefore, the applicant/owner/developer is not required to provide any replacement affordable dwelling units.

That action has been appealed by adjoining property owners and the Pacific View Estates Homeowner's Association who believe a two parcel subdivision of this 31,700 square foot property would be in violation of the Coastal Act.

Among other issues raised by the appellant is the charge that the Associate Zoning Administrator failed to articulate in detail the manner by which current City Codes and requirements regarding hillside grading regulations promote the public welfare better than the Hillside Dwelling Unit Slope Density formulas in the Regional Interpretive Guidelines of October 1980.

COASTAL COMMISSION

EXHIBIT # 4
PAGE 3 OF 20

Discussion

The subject property consists of a 31,700 square foot (0.72 acre) lot having frontage of 134 feet on the northeasterly side of Surfview Drive and a maximum depth of 290 feet. The site is a lot zoned RE15-1-H and is improved with a single family dwelling which is proposed to remain. The rear property line abuts Topanga State Park, as does all properties on the northeasterly side of Surfview Drive.

The proposed project is to subdivide the site into two single family parcels of approximately 15,800 square feet each, with proposed Parcel B to have a flag lot configuration. An existing 3,100 square foot, one story house originally constructed in 1965 is to remain on proposed Parcel A, and a new single family structure with attached garage will be constructed on proposed Parcel B on a building pad which the applicant's engineer identifies as having been in place since the lot was originally subdivided in the 1960s.

On June 15, 2005, a joint public hearing for the preliminary parcel map application and the Coastal Development Permit was held. The applicant's representative and four members from the public gave verbal and written testimony. The applicant's representative agreed to the conditions and recommendations from the City Departments and the mitigation measures required in ENV-2004-7148-MND.

Two previous applications for a similar project at this site were denied 22 years ago:

PMLA 5355-On February 11, 1983, the Advisory Agency disapproved a proposed two-parcel subdivision of the subject site based on the unacceptable lot design and re-orientation of the parcels not in character with the surrounding neighborhood.

Coastal Development Permit 82-043- On February 11, 1983, the Advisory Agency also disapproved the incidental Coastal Development Permit application based on lack of conformance with the Regional Interpretive Guidelines regarding the 25% natural slope of the existing parcel. The Hillside Dwelling Unit Density formula from the Regional Interpretive Guidelines when applied to this property in 1983 resulted in only one dwelling being allowed on the site.

On June 28, 2005 the Advisory Agency issued an approval letter allowing the two parcel subdivision, with many conditions, including the requirement to obtain a Coastal Development Permit. This decision was based, in part on the following: 1) current City ordinances and regulations, 2) three other flag lots currently exist in the immediate neighborhood, including one next door, and 3) the proposed parcels are of similar size with the neighboring parcels. On July 13, 2005, three appeals were filed on AA-2004-7147-PMLA.

The West Los Angeles Area Planning Commission failed to act on the subject appeals within the required time period (44 days from the expiration of the 15-day appeal period.) The applicant did not consent to an extension of time. Pursuant to Section 17.54 A of the Los Angeles Municipal Code the appeals are deemed denied by operation of law, and the

determination of the Advisory Agency dated June 28, 2005, regarding AA-2004-7147-PMLA was affirmed.

The Associate Zoning Administrator issued the subject Coastal Development Permit, ZA 2004-7191 (CDP)(MEL), filed incidental to the parcel map, on October 6, 2005. The Coastal Development Permit is only for the two parcel subdivision and use of both parcels for single family dwellings. Since the site plans - architectural, and structural- for the proposed new dwelling were not before the Associate Zoning Administrator, the subdivider will have to obtain a second Coastal Development Permit for these plans for the proposed construction of the new single family dwelling for Parcel B. On October 21, 2005 two appeals of ZA 2004-7191 (CDP)(MEL) were filed.

The issues before the Area Planning Commission in the context of these appeals are those specifically related to the Coastal Development Permit issued for the subdivision and single family residential use. The primary issue before the Area Planning Commission is whether current City Codes and procedures sufficiently protect the public welfare such that the Regional Interpretive Guidelines regarding the Hillside Dwelling Unit Density calculation can be safely superceded.

There is a dearth of written materials which can guide the decision maker in interpreting the intention of the Coastal Commission in promulgating the original Hillside Dwelling Unit Density formula. Therefore the staff depended on a verbal interview with senior Coastal Commission staff Pam Emerson (562) 590-5971 who was on staff when the Interpretive Guidelines were issued in 1980. Firstly, Ms. Emerson confirmed that the Regional Guidelines are just that- guidelines, not strict requirements. Secondly, Ms. Emerson characterized the initial intentions behind the Hillside Dwelling Unit Density calculations for Pacific Palisades in the 1980 Regional Interpretive Guidelines as being to reduce grading, reduce destruction of natural cover (meaning native plants), preserve habitat, promote geological safety, and protect public views.

The Los Angeles County-South Coast Regional Interpretive Guidelines were last adopted 25 years ago in October 1980 by the California Coastal Commission to supplement the Statewide Guidelines. In the Regional Interpretive Guidelines there is a section on Pacific Palisades (pages 1-2) which contains policies and development standards relevant to the subject project. Among the applicable standards from the Pacific Palisades section of the Regional Guidelines, the only standard that can not be made or met by the subject project relates to the Hillside Dwelling Unit Density formulas which are enumerated in the Appendix of the Guidelines.

Over the last 25 years since the Interpretive Guidelines were issued, the City of Los Angeles has executed the following legislation and documents in the form of new ordinances and guidelines which address hillside development, and which are integrated into the existing Zoning and Building Codes or environmental mitigation measures:

Hillside Ordinance (initially adopted in 1992 with revisions in 1993, 1994, 1995, 2000, 2002 and 2004) - This ordinance amended various Sections of the LAMC governing

development of hillside lots for new construction, additions and remodeling and establishes regulations and definitions for height (maximum of 36 feet), front and side yards, fire protection, lot coverage, parking, street access, sewer connections and grading. Most of these provisions can be found in Section 12.21.A 17 of the LAMC.

The provisions of the Hillside Ordinances as they apply to this site are implemented by the Department of Building and Safety, Grading Division during the plan check portion of the building permit process. A soils and geology report was prepared for the Division of Grading within the Department of Building and Safety. After review of this report the Division of Grading issued an approval letter with multiple conditions (Attached).

The Hillside provision within the LAMC promotes with great specificity the goals of the original Coastal Commission Regional Interpretive Guidelines, including requirements that result in reduced grading, minimal impacts on steep slopes, preservation of natural topography, and geologic safety. This ordinance includes technical instructions for measuring yards, limiting height, reducing lot coverage, etc. and introduces standards in the Hillside Development Guidelines that were not in use when the Regional Interpretive Guidelines were created in 1980.

The Hillside Development Site Design Guidelines (initially prepared in 1990) includes sections on preservation of natural character by retaining natural ridgelines, canyons, creek beds and drainage courses, oak trees, wood lands and other natural vegetation (page 43). The Guidelines also require that grading be limited to that which is necessary for the primary use of each lot (page 45.) The Guideline requires the developer to use landform grading, decks instead of patios, connect natural areas on site to provide continuity of plan material and viable wild life corridors (page 46-48).

On page 54 the Guidelines even state "Use flag lots if the result is the preservation of topography by minimizing grading and the protection of view slots." In the subject case, the flag lot configuration protects public views towards the coast and up towards the cliffs of the Topanga State Park by placing the new dwelling behind the existing dwelling, yet below the cliffs.

Building Code Special Hillside Conditions (Ordinance # 171,939 effective April 1998) Added Sec. 91.7006.7 .3- All grading conditions on subdivision approvals must be part of grading permit; and Sec. 917006. 7.4.- no permits for hauling more than 1,000 cubic feet within the hillside area shall be issued without approval from the Departments of Building and Safety, Transportation, and Public Works. Notification of neighbors is required, and a public hearing may be held. This is a requirement above and beyond the public hearing required for the Coastal Development Permit and the parcel map. This ordinance thereby promotes the Interpretive Guideline goals of reduced grading, geologic safety and also mediates impacts on public streets used as haul routes.

Retaining Wall Ordinance (Ordinance # 176,445, effective March 2005) This legislation limits the number and height of retaining walls allowed in designated Hillside areas- including the subject site. Only one retaining wall of a maximum of 12 feet in height is

allowed, unless there is at least 3 horizontal feet between retaining walls, then a maximum of two retaining walls are allowed to a maximum total height of 20 feet. In order to obtain additional or taller retaining walls a Zoning Administrator approval is required. This ordinance also promotes the goals of the Regional Interpretive Guidelines by reducing grading, minimizing impacts on steep slopes, preservation of natural topography, protection of the views of slopes by minimizing the expanses of concrete allowed in retaining walls and assuring geologic safety.

In addition to these legislative acts and hillside policy documents, the Brentwood-Pacific Palisades-Brentwood Glen Community Plan was updated in 1998. This plan makes repeated reference to implementing the Hillside Ordinance and the slope density limitations for residential projects in the minimum density land use designation. However, the Community Plan update did not extend the strictest slope density limitation to the neighborhood in which the subject site is located.

In making the determination to approve the subject Coastal Development Permit, the Associate Zoning Administrator had before her: 1) the Mitigated Negative Declaration which contains numerous conditions addressing grading, geologic safety and storm water runoff protection for environmentally sensitive lands; 2) the Hillside Development Guideline (required for this project as a mitigation), 3) the Department of Building and Safety Division of Grading approval letter, prepared specifically for the subject site, which also contains numerous technical conditions, and 4) implementation of City legislation controlling the development of hillside property by the Department of Building and Safety.

In summary, the decision in 2005 to approve this project to create two single family parcels from one 31,700 square foot lot in the RE15-1-H Zone was grounded in current conditions and regulations not in affect in 1983. And while the Regional Guidelines are only guidelines and not requirements, the Associate Zoning Administrator carefully considered the City's ordinances and environmental standards relative to hillside construction before making the decision to approve the subject Coastal Development Permit.


EMILY GABEL-LUDDY
Associate Zoning Administrator
Telephone No. (213) 978-1327
EGL:LH

Attachments:

Approval Letter, Department of Building and Safety Grading Division

~~ENV 2004-7148 MND~~

~~Hillside Development Guidelines for Site Design~~

October 6, 2005 Letter of Determination for AA-2004-7147-PMLA

Parcel Map

Radius Map

COASTAL COMMISSION

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ROBERT JANOVICI
CHIEF ZONING ADMINISTRATOR
—
ASSOCIATE ZONING ADMINISTRATORS

GARY BOOHER
PATRICIA BROWN
R. NICOLAS BROWN
ANIK CHARRON
EMILY J. GABEL-LUDDY
DANIEL GREEN
LOURDES GREEN
DAVID KABASHIMA
ALBERT LANDINI
LINN WYATT

CITY OF LOS ANGELES
CALIFORNIA



ANTONIO VILLARAIGOSA
MAYOR

DEPARTMENT OF
CITY PLANNING
MARK WINOGROND
INTERIM DIRECTOR
—

OFFICE OF
ZONING ADMINISTRATION

200 N. SPRING STREET, 7TH FLOOR
LOS ANGELES, CA 90012
(213) 978-1318
FAX: (213) 978-1334
www.lacity.org/PLN

October 6, 2005

Long Ta (A)(O)
444 Surfview Drive
Pacific Palisades, CA 90272

Ken Simeon (R)
5681 Marburn Avenue
Los Angeles, CA 90043

Department of Building and Safety

CASE NO. ZA 2004-7191(CDP)(MEL)
COASTAL DEVELOPMENT PERMIT
Related Case: AA-2004-7147-PMLA
444 North Surfview Drive
Brentwood-Pacific Palisades-Brentwood
Glen Planning Area
Zone : RE15-1-H
D. M. : 129 B 113
C. D. : 11
CEQA : ENV-2004-7148-MND
Fish and Game: Exempt
Legal Description: Lot 30, TR 27667

Pursuant to Los Angeles Municipal Code Section 12.20.2, I hereby APPROVE:

A Coastal Development Permit within the single permit jurisdiction of the California Coastal Zone for the purpose of authorizing a two-parcel single family subdivision and subsequent construction on Parcel B of one new single family dwelling with garage

Pursuant to California Government Code Sections 65590 and 65590.1 and the City of Los Angeles Mello Act Interim Ordinance, I hereby DETERMINE:

The proposed project qualifies for the Small New Housing Development exemption from the Mello Act. Furthermore, the project does not involve the demolition or conversion of affordable housing. Therefore, the applicant/owner/developer is not required to provide any replacement affordable dwelling units.

upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the preliminary parcel map submitted with the application and marked Exhibit A.

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except as such parcel map may be revised as a result of this action or in compliance with the conditions required to record the final parcel map for AA 2004-7147-PMLA.

3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective conditions, if, in the Administrator's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all conditions and/or any subsequent appeal of this grant and its resultant conditions and/or letters of clarification shall be included in and printed on the "notes" portion of the building plans submitted to the Zoning Administrator and the Department of Building and Safety for purposes of having a building permit issued.
6. All terms, conditions and provisions of case No. AA-2004-7147-PMLA shall be in compliance.
7. All provisions of Section 12.21-A.17 of the Municipal Code (Hillside Ordinance) shall be observed.
8. All mitigation measures recommended in Mitigated Negative Declaration No. ENV 2004-7148-MND for the project (Exhibit B attached) are hereby made part of the conditions of approval of this grant and shall be strictly complied with.
9. Prior to the issuance of any permits relative to this matter, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Zoning Administrator for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES - TIME EXTENSION

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within two years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void. A Zoning Administrator may extend the termination date for one additional period not to exceed one

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year, if a written request on appropriate forms, accompanied by the applicable fee is filed therefore with a public Office of the Department of City Planning setting forth the reasons for said request and a Zoning Administrator determines that good and reasonable cause exists therefore.

TRANSFERABILITY

This authorization runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent upon you to advise them regarding the conditions of this grant.

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.29 of the Los Angeles Municipal Code provides:

"If any portion of a privilege authorized by a variance or conditional use is utilized, the conditions of the variance or conditional use authorization immediately become effective and must be strictly complied with. The violation of any valid condition imposed by the Administrator, Board or Commission in connection with the granting of any variance, approval of a conditional use or other action pursuant to the authority of this chapter, shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code."

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

APPEAL PERIOD - EFFECTIVE DATE

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any condition of this grant is violated or if the same be not complied with, then the applicant or his successor in interest may be prosecuted for violating these conditions the same as for any violation of the requirements contained in the Municipal Code. The Zoning Administrator's determination in this matter will become effective after **October 21, 2005**, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at www.lacity.org/pln.** Public offices are located at:

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Figueroa Plaza
201 North Figueroa Street,
4th Floor
Los Angeles, CA 90012
(213) 482-7077

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

Furthermore, this Coastal Development Permit shall be subject to revocation as provided in Section 12.20.2-J of the Los Angeles Municipal Code, as authorized by Section 30333 of the California Public Resources Code and Section 13105 of the California Administrative Code.

Provided no appeal has been filed by the above-noted date, a copy of the permit will be sent to the California Coastal Commission. Unless an appeal is filed with the California Coastal Commission before 20 working days have expired from the date the City's determination is deemed received by such Commission, the City's action shall be deemed final.

The time in which a party may seek judicial review of this determination is governed by California Code of Civil Procedure Section 1094.6. Under that provision, a petitioner may seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, only if the petition for writ of mandate pursuant to that section is filed no later than the 90th day following the date on which the City's decision becomes final.

NOTICE

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the Zoning Administrator who acted on the case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, reports and observations from City Planning staff, the statements made at the public hearing on June 15, 2005, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the requirements and prerequisites for granting a coastal development permit as enumerated in Section 12.20.2 of the Municipal Code have been established by the following facts:

BACKGROUND

The subject property consists of a 31,700 square foot (0.72 acre) lot having frontage of 134 feet on the northeasterly side of Surfview Drive and a maximum depth of 290 feet. The site

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is a lot zoned RE15-1-H and is improved with a single family dwelling which is proposed to remain. Almost all of the lots within 500 feet of the subject property are legal, conforming, in the RE15-1-H Zone and developed with single family dwellings of one to two storeys in height.

The lots along Surfview Drive within 500 feet of the subject site vary in lot area from 14,200 square feet to 32,600 square feet. However, the typical or most representative lot size along Surfview Drive within 500 feet of the site is between 16,000 and 18,000 square feet. All surrounding properties are characterized by steep topography.

The proposed project is to subdivide the site into two single family parcels of approximately 15,800 square feet each, with proposed Parcel B to have a flag lot configuration. An existing 3,100 square foot, one storey house originally constructed in 1965 is to remain on proposed Parcel A, and a 3,600 square foot, two-storey single family structure with attached garage will be constructed on proposed Parcel B. The single family structures on the lots immediately adjoining the subject property are between 2,900 and 6,500 square feet each.

There are three properties with flag lot configurations within a 500 foot radius of the proposed subdivision. The adjacent lot immediately to the south east of the subject site at 434 Surfview Drive is a flag lot with approximately 32,600 square feet. This site is listed as the address of one of the appellants-Josh Leichtberg. This site is improved with a 4,100 square foot single family dwelling, pool and tennis court, constructed in 1978. The tennis court on this property is setback ten feet from the property line abutting the Topanga State Park. The single family dwelling on this flag lot is setback approximately 25 feet from the property line adjoining the subject subdivision and looks directly onto the building pad for the construction of a new single family dwelling on Parcel B.

A second 20,300 square foot flag lot is located at 376 Surfview Drive, and is improved with a 3,000 square foot single family dwelling constructed in 1965. A third 18,600 square foot flag lot, located at 17965 Surfview Lane, is improved with a 4,000 square foot single family dwelling also constructed in 1965. These lots also abut the Topanga State Park.

Within the 500 foot radius of the subject lot, there appears to be only one other lot with sufficient size and configuration to support a two-parcel subdivision without requiring an exception from the minimum lot area requirements of the RE15-1-H Zone. The subject subdivision request is therefore not likely to inspire a trend toward similar subdivisions in the immediate neighborhood.

The site is approximately 0.6 miles, or 3,330 feet from the Pacific Ocean coastline. Most of the properties on the north-east side of Surfview Drive in this neighborhood-including the subject site- abut the 600 + acre Topanga State Park.

Surfview Drive, adjoining the property is a Hillside Collector Street dedicated and improved to 60 feet.

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Previous related cases regarding the site:

PMLA 5355- On February 11, 1983, the Advisory Agency disapproved a proposed two-parcel subdivision of the subject site based on the unacceptable lot design and re-orientation of the parcels not in character with the surrounding neighborhood.

Coastal Development Permit 82-043 - On February 11, 1983, the Advisory Agency also disapproved the incidental Coastal Development Permit application based on lack of conformance with the Regional Interpretive Guidelines regarding the 25% natural slope of the existing parcel.

Brentwood-Pacific Palisades-Brentwood Glen Community Plan:

The Community Plan update of the plan maps and text was adopted by City Council on June 17, 1998, (CPC File No. 95-0351 and Council File no. 98-0771). The Community Plan designates the subject property for Very Low II residential density with corresponding zones of RE15 and RE11. The subject site is zoned RE15-1-H. The Community Plan text (page III-2) and the map foot notes (Footnote #1) contain references to limiting hillside density on sites in the "Minimum Density " designation. However, this project is not located in the "Minimum Density" land use designation and the slope density calculations and limitations do not subsequently apply.

Design Standards-Section 17.05 C:

Section 17.05 C of the Municipal Code allows the Advisory Agency to impose a slope density limitation on sites within the Minimum Density land use designation in any Community Plan. However, as indicated above, the subject site is in the Very Low II land use designation and therefore the provisions of Section 17.05 C do not apply.

Hillside Ordinance:

The "H" in the zoning classification refers to Hillside area. Certain sites in mountainous areas of the City classified in the RA and RE zones are designated as being in an "H" or mountainous area. Such Hillside sites or portions of the City are official established by the Bureau of Engineering on Basic Grid Map No. A-13372 pursuant to Sections 12.03 and 12.04. F of the Los Angeles Municipal Code, in order to provide a method for the development of land with problematic topography.

The provisions of Section 12.21-A.17 of the Municipal Code (Hillside Ordinance) are applied to these "H" sites. The Hillside Ordinance contains development standards addressing setbacks, height, fire protection, street access, lot coverage, sewer connection, parking etc. for single family dwellings in the hillside areas. This ordinance was established in 1992 with amendments in 1994 and 2002. This ordinance applies to the subject site and the proposed project

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PUBLIC HEARING

On June 15, 2005, a joint public hearing for the preliminary parcel map application and the Coastal Development Permit was held. The applicant's representative and four members from the public gave verbal and written testimony. The applicant's representative agreed to the conditions and recommendations from the City Departments and the mitigation measures required in ENV-2004-7148-MND.

The applicant's representative was notified by the Zoning Engineer's Office of the Department of Building and Safety, that the preliminary parcel map as submitted was not in conformance with the minimum lot width requirements for the RE15 Zone. The representative stated they would revise the preliminary parcel map to conform to the lot width requirements. The Advisory Agency made conformance with the minimum lot width requirement for the RE15 Zone or the securing of a Zoning Administrator's Adjustment under a separate filing, a condition (Condition 6 f) of approval of the parcel map.

The representative was also informed the proposed project must comply with all 38 conditions in the February 28, 2005, Soils and Grading Approval Letter, Log #46840, to the satisfaction of the Department of Building and Safety, Grading Division. The Bureau of Engineering included a requirement that the applicant submit soil and geology reports pertaining to the proposed parcel map to the Geotechnical Engineering Group of the City Engineer. The representative agreed to these requirements and the Advisory Agency included all Department recommendations and mitigation measures from ENV-2004-7148-MND in the conditions of approval for AA-2004-7147-PMLA.

The public testimony was all in opposition to the proposed subdivision. The issues raised regarded hydrology, hillside stability, flag lot orientation, environmental sensitivity and the legal obligation of the current owners of the site to adhere to "covenants and restrictions" established in 1965 by the Pacific View Estates Homeowners Association. The Advisory Agency informed the public at this hearing that the City does not have jurisdiction over private legal matters such as the purported "covenants and restrictions".

The Bureau of Engineering and the Department of Building and Safety responded to the public's concerns regarding hillside stability, grading and hydrology and stated that prior to the issuance of any building permit, these Departments will review the plans for the proposed house to ensure its compliance with all applicable provisions of the building and zoning codes, including any shoring, lateral support, temporary shoring, excavation, export, risk of slope failure, etc, and that to date there was no evidence to indicate a building permit could not be issued provided the applicant fulfills all the recommended conditions and environmental mitigation measures.

The Advisory Agency indicated the proposed flag lot was not the first along Surfview Drive and that the proposed parcel sizes were consistent with the RE15 Zone and similar lots along Surfview Drive. The Advisory Agency noted a mitigation measure in the Mitigated Negative Declaration, ENV-2004-7148-MND, Condition VIII c 9, which addressed the

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environmental sensitivity of the site and the potential pollutant runoffs from the proposed project by incorporating eight different Best Management Practices (BMP) from the Stormwater and Urban Runoff Pollution Controls Ordinances. These BMPs include standards and criteria on retaining and treating runoff, limiting the clearing and grading of native vegetation, and the planting of additional native or drought tolerant plants.

On June 28, 2005, the Advisory Agency issued a letter of determination approving, with conditions, the two-parcel subdivision of the subject site. On July 13, 2005, three appeals were filed regarding the Advisory Agency's conditional approval of AA-2004-7147-PMLA. The West Los Angeles Area Planning Commission failed to act on the subject appeals within the required time period of 30 days from the expiration of the 15-day appeal period and the parcel map Applicant did not consent to an extension of time. Therefore, pursuant to Section 17.54 A of the Los Angeles Municipal Code the appeals are deemed denied by operation of law, and the determination of the Advisory Agency dated June 28, 2005, regarding AA-2004-7147-PMLA has been deemed affirmed.

Parcel Map determinations are only appealable to the Area Planning Commission. Pursuant to Ordinance No. 176,321, effective January 15, 2005, there is no longer a second level of appeal to the City Council for Parcel Map actions of the Advisory Agency.

MELLO ACT COMPLIANCE PROCESS FOR COASTAL ZONE PROJECTS

The proposed project is located in the Coastal Zone, as defined in California Public Resources Code, Division 20 (commencing with Section 30000), as depicted on the City of Los Angeles Coastal Zone Maps. The proposed project involves the development of one or more residential units. Therefore, the proposed project is subject to the Mello Act as set forth in California Government Code Sections 65590 and 65590.1.

DECLARATION REGARDING THE LOSS OF POSSIBLE AFFORDABLE UNITS:

Per the provisions of Section 65590 of the State Government Code, referred to as the "Mello Act the conversion or demolition of existing residential units occupied by persons and families of low or moderate income shall not be permitted unless provisions have been made for replacement of those dwelling units which result in no net loss of affordable housing in the Coastal Zone area in accordance with Section 65590 of the State Government Code (Mello Act).

However, the proposed project is automatically exempt from the Mello Act's requirement concerning replacement affordable housing because the project will retain the existing owner occupied unit and construct a new single family unit. No existing affordable residential units at the subject site will be converted or demolished. Therefore, the applicant /owner/developer does not have to provide any replacement affordable residential units.

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CITY PLANNING DEPARTMENT REVIEW FOR MELLO ACT EXEMPTION:

The Mello Act also provides for three automatic exemptions from the inclusionary housing requirements. Based upon the information submitted by the applicant/owner/developer the proposed project is eligible for the "New housing development consisting of nine (9) or fewer residential units" exemption from the Mello Act. Therefore, no inclusionary , affordable housing units on-site or in the Coastal Zone are required.

FINDINGS-COASTAL DEVELOPMENT PERMIT

In order for a Coastal Development Permit to be granted, all of the requisite findings contained in Section 12.20.2, of the Los Angeles Municipal Code must be made in the affirmative. Following is a delineation of the findings and the application of the facts of this case to the same.

1. **The development is in conformity with Chapter 3 of the California Coastal Act of 1976.**

Chapter 3 of the Coastal Act contains the various policy provisions of such legislation, including the following:

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

Section 30251 of the Coastal Act also provides that the scenic and visual qualities of the coastal area 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 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.

The project site and the surrounding properties are zoned RE15-1-H and developed with one to two storey single-family dwellings. Three other flag lots off of Surfview Drive and Surfview Land are located within 500 feet of the site. The RE15 lots along Surfview vary from 14,200 square feet to over 32,000 square feet. The proposed parcels at approximately 15,800 square feet each are substantially consistent with the most typical lot size of 16,000 to 18,000 square feet. The single family structures on the lots immediately adjoining the subject property are between 2,900 and 6,500 square feet each. The proposed new single family dwelling is 3,600 square feet , while the existing dwelling to remain on the site is 3,100 square feet. Therefore the proposed project is similar in size and character to the surrounding properties.

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Furthermore, the proposed development is located within and in close proximity to existing developed areas able to accommodate it with adequate public services and it will not have a significant adverse effect on coastal resources pursuant to Public Resources Codes Section 30250.

A review of the project and site determined that no obstruction of public views will be caused by the proposal. The project will not block any designated public access view points. The project will not change the nature of the existing use of the property as single family residential. Moreover, because the proposed new construction will be sited back from the public street, behind an existing dwelling, and well below the ridge line of the cliffs behind the property in the State Park, the scenic and visual qualities of the area will be protected and public views to and along the ocean and scenic coastal areas will not be interfered with.

Furthermore, as conditioned by the Advisory Agency in the approval of AA 2004-7147-PMLA, the proposed project must be in conformance with City building and grading regulations to permit the site development consistent with the Hillside Ordinance (Section 12.21-A.17 of the Municipal Code), the Grading Division, Department of Building and Safety Approval Letter, Log #46840, and the grading mitigation measures identified in the environmental clearance document ENV-2004-7148-MND. Among the mitigation requirements in the environmental document are the provisions that grading shall be kept to a minimum; and natural features, such as prominent knolls or ridge lines shall be preserved.

Together the requirements cited above address safety, hydrology, erosion control and establish criteria for minimal grading of the existing site and preservation of existing land forms. Moreover, based on the August 30, 2004, Geotechnical and Geological Engineering Report submitted to the file by the applicant prepared by Ralph Stone and Company, this lot was already graded with two building pads, and it is anticipated grading will be kept to a minimum and largely be focused on creating the driveway access to the rear pad, and establishing retaining walls.

According to the Geotechnical Report cited above, page 2, the lot was originally graded in 1964 as a split level lot with a developed building pad in the front and a level undeveloped pad to the rear. A new two-storey single family residence is proposed to be constructed on the smaller, triangular undeveloped rear pad at an approximate elevation of 510 feet, at a higher elevation of at least 14 feet above Surfview Drive. Therefore, based on the facts as discussed above, the project is in conformity with the policy provisions of Chapter 3 of the Coastal Act.

2. **The development will/will not prejudice the ability of the City of Los Angeles to prepare a local coastal program that is in conformity with Chapter 3 of the California Coastal Act of 1976.**

Currently there is no adopted LCP for this portion of the Coastal Zone, in the interim the adopted Community Plan serves as the functional equivalent in conjunction with

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any pending LCP under consideration. The property is not located within any specific plan or interim control ordinance area. The proposed project is consistent with the General and Community Plans. The proposed development does not change the land use of the subject property and is in compliance or shall be held in compliance with current regulations. As such, the permitted development will not prejudice the ability of the City to prepare a Local Coastal Program in conformity with Chapter 3 of the California Coastal Act.

3. **The Interpretive Guidelines for Coastal Planning and Permits as established by the California Coastal Commission (revised October 14, 1980) and any subsequent amendments thereto have been reviewed, analyzed and considered in light of the individual project in making this determination.**

The Los Angeles County-South Coast Region Interpretive Guidelines were last adopted 25 years ago in October 1980 by the California Coastal Commission to supplement the Statewide Guidelines. Both regional and statewide guidelines, pursuant to Section 30620(b) of the Coastal Act are "designed to assist local governments, the regional commissions, the commission and persons subject to the provisions of this chapter in determining how the policies of this division shall be applied in the coastal zone prior to certification of local coastal programs."

In the Guidelines there is a section on Pacific Palisades (pages 1-2) which contains policies and development standards relevant to the subject project. Among the applicable standards from the Pacific Palisades section of the Regional Guidelines, the only standard that can not be made or met by the subject project relates to the Hillside Dwelling Unit Density formulas which are enumerated in the Appendix of the Guidelines.

The Hillside Dwelling Unit Density instructions in the Guidelines include technical mathematical protocols for generating natural slope calculations and how-to instructions for applying those results to a formula that produces the number of dwellings allowed per individual site.

In a previous determination by the City in 1983 (PMLA 5355 and CDP 82-043), the Interpretive Guideline Hillside Dwelling Unit Density formula was applied to the site and the proposed two-parcel subdivision was subsequently denied. The Hillside Dwelling Unit Density formula did not permit more than one dwelling on this site. No environmental mitigation measures, or implementation plan were developed or required for this parcel map application in 1983-in contrast to current City CEQA standards.

However, since that determination over 22 years ago, the City has developed hillside regulations, adopted an updated Community Plan with more relevant standards, and requires more rigorous environmental review and mitigation. The Hillside Ordinance was established in 1992 and amended in 1994 and 2002. The Community Plan was last updated in 1998 and now contains its own slope density

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criteria. The more immediate and on-point Municipal Code requirements relative to hillside development are appropriate and technically superior standards by which to regulate this proposed project. Therefore, while the Interpretive Guidelines were well considered, compliance with the 25 year old Hillside Dwelling Unit Density formula is not required as part of this determination to approve this proposed subdivision and construction of a single family house because more appropriate, modern standards and criteria exist in the adopted Community Plan, the relevant environmental document and the Hillside Ordinance.

4. **The decision of the permit-granting authority has been guided by any applicable decision of the California coastal Commission pursuant to Section 30625(c) of the Public Resources Code.**

No outstanding issues have emerged which would indicate any conflict between this decision and any other decision of the Coastal Commission. Approval of the proposed development is consistent with past actions of the California coastal Commission.

5. **The development is/is not located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, and the development is/is not in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.**

The subject site is located 0.6 miles from the coastline. The development is not located between the nearest public road and the shoreline.

6. **An appropriate environmental clearance under the California Environmental Quality Act has been granted.**

In accordance with Article V of the City's CEQA Guidelines, the Department of City Planning prepared a Mitigated Negative Declaration, issued January 5, 2005, for the project. The Department found that potential impacts could result from: Aesthetics (hillside site design, landscaping,); Geology (Seismic, erosion, grading, construction); Public Services (fire, schools); Recreation (parks); Stormwater Runoff to environmentally sensitive areas and Flood Hazards. Mitigation measures and protocols for monitoring implementation of the mitigation measures were recorded in the Mitigated Negative Declaration and required as conditions of approval for AA-2004-7147-PMLA and for this Coastal Development Permit approval. Therefore it is concluded that no significant impacts are apparent which might result from this project.

ADDITIONAL MANDATORY FINDINGS

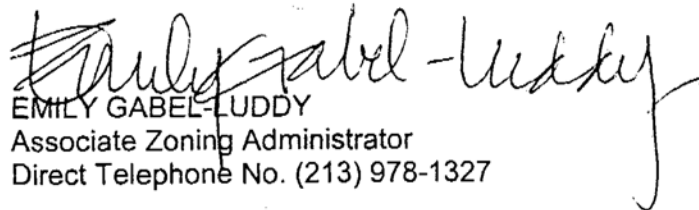
7. **The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan have been reviewed and it has been determined**

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that this project is located in an area which is potentially subject to flood hazards. However, any flood hazard that exists will be mitigated to a level of insignificance by compliance with the requirements of the Flood Hazard Management Specific Plan Ordinance No. 172,081.

8. On January 5, 2005, the City Planning Department Environmental Staff Advisory Committee (ESAC) issued Mitigated Negative Declaration No. ENV-2004-7148-MND (Article V - City CEQA Guidelines) and determined that by imposing conditions the impacts could be reduced to a level of insignificance. I hereby adopt that action. The records upon which this decision is based are with the Environmental Review Section in Room 750, 200 North Spring Street.
9. Fish and Game: The subject project, which is located in Los Angeles County, will not have an impact on fish or wildlife resources or habitat upon which fish and wildlife depend, as defined by California Fish and Game Code Section 711.2.


EMILY GABEL-LUDDY
Associate Zoning Administrator
Direct Telephone No. (213) 978-1327

EGL:LH

cc: Councilmember Bill Rosendahl
Eleventh District
Adjoining Property Owners
County Assessor

COASTAL COMMISSION

EXHIBIT # 4
PAGE 20 OF 20

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

GEOLOGY & SOILS REPORT APPROVAL LETTER

Log # 46840
SOILS/GEOLOGY FILE - 2
LAN-EXEMPT

DATE: February 28, 2005

TO: Emily Gabel-Luddy, Deputy Advisory Agency
Department of City Planning

FROM: Robert C. Steinbach, Chief of Grading Division
Dana V. Prevost, Engineering Geologist II
Department of Building and Safety

RECEIVED
CITY OF LOS ANGELES
MAR 17 2005
CITY PLANNING
DIVISION OF LAND

PRELIMINARY PARCEL MAP: 2004-7147
PARCELS: A & B
LOCATION: 444 N. SURFVIEW DRIVE

CURRENT REFERENCE REPORT/LETTER(S)	REPORT NO.	DATE(S) OF DOCUMENT	PREPARED BY
Soil/Geology Report	5628	08/30/2004	Ralph Stone
PREVIOUS REFERENCE REPORT/LETTER(S)	REPORT NO.	DATE(S) OF DOCUMENT	PREPARED BY
Compaction Approval	—	11/27/1964	LADBS

The above referenced report concerning the proposed lot split, construction of a new 2-story single family residence with an attached garage and a drive way on one parcel, and construction of two 1-story additions to the existing residence on the other parcel has been reviewed by the Grading Division of the Department Building and Safety. An existing single family residence will remain on one of the parcels after the lot split. A slope ascends to the north at a gradient of 1.5:1 (H:V) for 60 feet. The report demonstrates that this slope is surficially unstable per code and recommends freeboards on top of the retaining walls for slough protection.

According to the report, the site is underlain by fill and by massive sandstone conglomerate bedrock. The existing fill was placed and approved by the Department on 11/27/1964. The report recommends supporting the new residence on friction piles founded in bedrock, and the proposed additions and retaining walls on conventional footings founded in existing compacted fill. The report also recommends underpinning the existing footings or doweling the new footings to the existing footings.

Preliminary Parcel Map # 2004-7147 and the soil/geology report are approved subject to the following conditions:

1. The geologist and soils engineer shall review and approve the detailed plans prior to issuance of any permits. This approval shall be by signature on the plans which clearly indicates that the geologist and soils engineer have reviewed the plans prepared by the design engineer and that the plans include the recommendations contained in their report.

COASTAL COMMISSION
A5-PPL-06-272

EXHIBIT # 5
PAGE 1 OF 4

2. All the recommendations of the report by Ralph Stone & Company, Inc., dated 8/20/2004, signed by Dale D. Glen (CEG # 1238) and James Rowlands (GE # 740), which are in addition to or more restrictive than the conditions contained herein shall also be incorporated into the plans for the project.
3. All existing nonconforming structures on the site shall be removed and wasted from the site.
4. Whenever the principal building on a site is added to, altered or repaired in excess of 50 percent of its replacement value, the entire site shall be brought up to the current Code standard (7005.9)
5. The proposed additions shall be supported on independent footings, or otherwise the soil engineer shall attest to the adequacy of the existing footings in supporting additional loads.
6. Vertical and lateral supports of the existing footings shall be maintained at all time during the proposed temporary excavations.
7. All new graded slopes shall be no steeper than 2H:1V (7010.2 & 7011.2).
8. Suitable arrangements shall be made with the Department of Public Works for the proposed removal of support and/or retaining of slopes adjoining the public way.
9. All footings shall be founded in certified compacted fill or competent bedrock, as recommended.
10. The structural engineer shall verify the adequacy of existing foundations for underpinning.
11. Underpinning shall be performed under the inspection and approval of the soils engineer and deputy grading inspector. (7006.2)
12. The building design shall incorporate provisions for anticipated differential settlements in excess of one-fourth inch. (1612.1)
13. Prior to excavation, an initial inspection shall be called at which time sequence of shoring, protection fences and dust and traffic control will be scheduled.
14. Buildings adjacent to ascending slopes shall be set back from the toe of the slope a level distance equal to one half the vertical height of the slope, but need not exceed 15 feet in accordance with Code Section 1806.5.2.
15. Footings adjacent to a descending slope steeper than 3:1 in gradient shall be a minimum distance of one-third the vertical height of the slope but need not exceed 40 feet measured horizontally from the footing bottom to the face of the --- slope. (1806.5.3)
16. The geologist and soil engineer shall inspect all excavations to determine that conditions anticipated in the report have been encountered and to provide recommendations for the correction of hazards found during grading. (7008.2)
17. The applicant is advised that the approval of this report does not waive the requirements for excavations contained in the State Construction Safety Orders enforced by the State

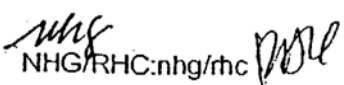
Division of Industrial Safety. (3301.1)

18. Pile caisson and/or isolated foundation ties are required by Code Section 91.1807.2. Exceptions and modification to this requirement are provided in Information Bulletin P/BC2001-30.
19. Pile and/or caisson shafts shall be designed for a lateral load of 1000 pounds per linear foot of shaft exposed to fill, soil and weathered bedrock. (P/BC2001-50)
20. All friction pile or caisson drilling and installation shall be performed under the continuous inspection and approval of the soils engineer.
21. Unsurcharged temporary excavations may be cut vertically up to a height of 5 feet, with the portions of the excavation above this height trimmed to no steeper than a gradient of 1:1, or all excavations shall be trimmed to no steeper than a gradient of 2:5 (H:V), as recommended in page 11 of the report.
22. All loose foundation excavation material shall be removed prior to commencement of framing. Slopes disturbed by construction activities shall be restored. (7005.3)
23. Proposed retaining wall shall be designed according to the table provided on Plate 16 included in the report dated 8/20/2004.
24. The proposed retaining wall behind the existing residence shall be provided with a minimum freeboard of 2 feet, and the proposed retaining wall behind the new residence shall be provided with a minimum freeboard of 4 feet, as recommended in the report.
25. The freeboards for slough protection shall be designed for an impacted load equal to a minimum equivalent fluid pressure of 125 pcf.
26. All retaining walls shall be provided with a standard surface backdrain system and all drainage shall be conducted to the street in an acceptable manner and in a non-erosive device. (7013.11)
27. All retaining walls shall be provided with a subdrain system to prevent possible hydrostatic pressure behind the wall. Prior to issuance on any permit, the retaining wall subdrain system recommended in the soil report shall be incorporated into the foundation plan which shall be reviewed and approved by the soil engineer of record. (7015.5 & 108.9)
28. Miradrains for retaining wall subdrains shall be used in addition to traditionally accepted methods of draining retained earth. Weep holes, each surrounded with 1 foot cube of drain rock, shall be provided at 8-foot center or a continuous perforated drain pipe surrounded by drain rock discharging to an approved location shall be provided.
29. Installation of the subdrain system shall be inspected and approved by the soil engineer of record and the City grading/building inspector. (7015.5 & 108.9)
30. The dwelling shall be connected to the public sewer system. (P/BC 2001-27)
31. A grading permit shall be obtained for all structural fill and retaining wall backfill. (106.1.2)

COASTAL COMMISSION

EXHIBIT # 5
PAGE 3 OF 4

32. All roof and pad drainage shall be conducted to the street in an acceptable manner. Water shall not be dispersed on to descending slopes without specific approval from the Grading Section and the consulting geologist and soil engineer. (7013.10)
33. A copy of the subject and appropriate referenced reports and this approval letter shall be attached to the District Office and field set of plans. Submit one copy of the above reports to the Building Department Plan Checker prior to issuance of the permit. (7006.1)
34. All man-made fill shall be compacted to a minimum 90 percent of the maximum dry density of the fill material per the latest version of ASTM D 1557. Where cohesionless soil having less than 15 percent finer than 0.005 millimeters is used for fill, it shall be compacted to a minimum of 95 percent relative compaction based on maximum dry density (ASTM D 1556). (7011.3)
35. Prior to the pouring of concrete, a representative of the consulting soils engineer shall inspect and approve the footing excavations. He shall post a notice on the job site for the LADBS Building Inspector and the Contractor stating that the work so inspected meets the conditions of the report, but that no concrete shall be poured until the City Building Inspector has also inspected and approved the footing excavations. A written certification to this effect shall be filed with the Grading Division of the Department upon completion of the work. (108.9 & 7008.2)
36. Prior to the placing of compacted fill, a representative of the consulting Soils Engineer shall inspect and approve the bottom excavations. He shall post a notice on the job site for the LADBS Grading Inspector and the Contractor stating that the soil inspected meets the conditions of the report, but that no fill shall be placed until the LADBS Grading Inspector has also inspected and approved the bottom excavations. A written certification to this effect shall be filed in the final compaction report filed with the Grading Engineering Section Department. All fill shall be placed under the inspection and approval of the Soils Engineer. A compaction report shall be submitted to the Department upon completion of the compaction. (7011.3)
37. Basement excavations shall be performed under the inspection and approval of the soils engineer.
38. The LABC Soil Type underlying the site is Sd, and the minimum horizontal distance to known seismic sources shall be in accordance with "Maps of Known Active Fault Near Source Zones" published by ICBO. (1636A)


NHG/RHC:nhg/rhc
Log # 46840
(213) 482-0480

cc: Ralph Stone & Company
WLA District Office

COASTAL COMMISSION

EXHIBIT # 5
PAGE 4 OF 4

RECEIVED

South Coast Region

CALIFORNIA COASTAL COMMISSION

10TH COAST DISTRICT OFFICE

OCEANGATE, 10TH FLOOR

LONG BEACH, CA 90802-4416

TELEPHONE (562) 590-5071 FAX (562) 591-5084

JUL 19 2006



CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Josh Leichtberg

Mailing Address: 434 N. Surfview Drive

City: Pacific Palisades, CA

Zip Code: 90272

Phone: (310) 454-8605

SECTION II. Decision Being Appealed

1. Name of local/port government: West Los Angeles Area Planning Commission (APC)
Department of City Planning, City of Los Angeles
2. Brief description of development being appealed:
A 2-2 vote of the APC regarding the issuance of a Coastal Development Permit for the purpose of permitting a two parcel single family subdivision in the hillside requiring grading, cutting, retaining walls and back fill, and other conditions that alter natural landform.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
444 N. Surfview Drive
Pacific Palisades, CA 90272
4. Description of decision being appealed (check one.):
☐ Approval; no special conditions
☒ Approval with special conditions: Conditions & Finding of Zoning Administrator's determination dated October 6, 2005, as supplemented AFTER Appeal process in report dated February 8, 2006.
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-5-PPL-06-272

DATE FILED: 7.19.06

DISTRICT: Long Beach / South Coast

COASTAL COMMISSION

EXHIBIT # 6

PAGE 1 OF 3

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

1. The approval of the CDP violates the law in that the City failed to make specific written factual findings supporting how the applicable Regional Interpretive Guidelines-South Coast Region, Los Angeles County, ("Guidelines"), have been reviewed, analyzed & considered in connection with the specific proposed project.

2. The Guidelines state that, "Grading, cutting or filling that will alter natural landforms (bluffs, cliffs, ravines, etc.) should be prohibited. In permitted development, landform alteration should be minimized by concentrating the development on level areas." The City's approval reports dated October 6, 2005 and February 8, 2006, failed and/or inadequately addressed important planning issues including but not limited to facts relating to the amount of grading, cutting or fill that will be needed for the project, the height of the retaining walls, and how much new pad will be needed to be created from the hillside to accommodate the project.

3. In Section 3 of the report dated October 6, 2005, the City fails to factually quantify how much alteration of landforms is being proposed or considered, also admitting that the project cannot meet the Hillside Dwelling Unit Density formulas contained in the Guidelines. The City also fails to quantify for this project by how much the formula is exceeded. Without quantifying the alteration to the landforms for this project, the city has failed to review, analyze and consider the Interpretative Guidelines with specific factual findings as required by city ordinances.

4. The approval is inconsistent with a prior discussion in 1983 denying the same permit for the same parcel because it too failed to meet the Hillside Density formula.

5. The APC approval increases density in a steep area as well as altering natural land forms & natural vegetation adjacent to open space.

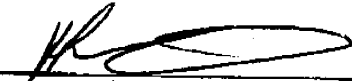
COASTAL COMMISSION

EXHIBIT # 6
PAGE 2 OF 3

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



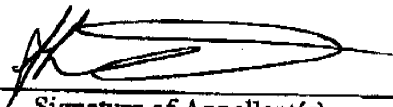
Signature of Appellant(s) or Authorized Agent

Date: July 18, 2006

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Ronald D. Rosen
to act as my/our representative and to bind me/us in all matters concerning this appeal.



Signature of Appellant(s)

Date: July 18, 2006

COASTAL COMMISSION

EXHIBIT # 6
PAGE 3 OF 3

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302
(562) 590-5071

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT
(Commission Form D)

RECEIVED
Coast Region



JUL 24 2006

CALIFORNIA
COASTAL COMMISSION

Please Review Attached Appeal Information Sheet Prior To Completing
This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

PACIFIC VIEW ESTATES HOMEOWNERS ASSN; AND WALTER O'BRIEN, M.D.
% JOHN B. MURDOCK, ATTORNEY
1201 PARK ST., SANTA MONICA 90405 (310) 450 1859
Zip Area Code Phone No.

SECTION II. Decision Being Appealed1. Name of local/port government: PLANNING COM'n, CITY OF. LOS ANGELES2. Brief description of development being appealed: PARCEL MAP/LOT SPLIT SUBDIVISION IN
HILLSIDE AREA3. Development's location (street address, assessor's parcel no., cross street, etc.): 444 N. SURFVIEW DRIVE
PACIFIC PALISADES, CA 90272

4. Description of decision being appealed:

a. Approval; no special conditions: _____

☒ b. Approval with special conditions: CDP with MND

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: AS-PPL-06-272DATE FILED: 7-24-2006DISTRICT: So Coast

H5: 4/88

COASTAL COMMISSION
AS-PPL-06-272EXHIBIT # 7
PAGE 1 OF 4

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

1. The APPROVAL VIOLATES REGIONAL GUIDELINES
FOR THIS AREA

2. The APPROVAL IS INCONSISTENT WITH A PRIOR
DECISION IN 1983 DENYING THE SAME PROJECT BECAUSE
IT IS INCONSISTENT WITH REGIONAL GUIDELINES

3. The APPROVAL IS AN INAPPROPRIATE INCREASE IN
DENSITY IN THE HILLSIDE AREA

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

JOHN B. MURDOCK

ATTORNEY AT LAW

John B. Murdock
Signature of Appellant(s) or
Authorized Agent

Date 7-20-06

NOTE: If signed by agent, appellant(s)
must also sign below.

Section VI. Agent Authorization

I/We hereby authorize John B. Murdock to act as my/our representative and to bind me/us in all matters concerning this appeal.

COASTAL COMMISSION

EXHIBIT # 7

PAGE 2 OF 4

John B. Murdock for PVEHA
Signature of Appellant(s)

Date 7/14/06

**PACIFIC VIEW ESTATES
HOA**

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

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SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

JOHN B. MURDOCK
ATTORNEY AT LAW
John B. Murdock
Signature of Appellant(s) or
Authorized Agent

Date 7-20-06

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize JOHN B. MURDOCK to act as my/our representative and to bind me/us in all matters concerning this appeal.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 3 OF 4

Walter R. O'Brien
Signature of Appellant(s) WALTER O'BRIEN, M.D.

Date 7-10-06

CITY OF LOS ANGELES
CALIFORNIA

CITY PLANNING
COMMISSION

DANIEL P. GARCIA
PRESIDENT

J. S. KRUEGER
VICE-PRESIDENT

STEVE HARRINGTON
CARL MASTON
SUZETTE NEIMAN

RAYMOND I. NORMAN
SECRETARY



TOM BRADLEY
MAYOR

DEPARTMENT OF
CITY PLANNING
561 CITY HALL
LOS ANGELES, CA 90012

CALVIN S. HAMILTON
DIRECTOR

DECISION DATE: February 11, 1983

Milton Davis
444 Surfview Dr.
Pacific Palisades, CA 90272


Grimes Survey & Mapping
5248 Huntington Dr.
Los Angeles, CA 90032

COASTAL PERMIT NO. 82-043 - PARCEL MAP 5355

The Advisory Agency hereby disapproves Coastal Permit No. 82-043, involving property located on the east side of Surfview between Blue Sail Drive and Surfview Lane.

The disapproval is based on lack of conformance with the Regional interpretive Guidelines developed for the application of the policies in Chapter 3 of the Coastal Act. The natural slope of existing parcel is 25 percent and therefore not in conformance with the Hillside Dwelling Unit Density Formula permitting only .71 dwelling units per acre on the subject parcel.

Calvin S. Hamilton
Advisory Agency


GARY A. MORRIS
Deputy Advisory Agency

GAM:RS:lmc

COASTAL COMMISSION
AS-PPL-06-272

EXHIBIT # 7
PAGE 4 OF 4