palisades preservation association

December 31, 2014

West Los Angeles Planning Commission,
City Hall, Room 272,
200 N. Spring Street,
Los Angeles, CA 90012

LETTER IN SUPPORT OF APPEALS FROM THE DECISION OF THE ZONING ADMINISTRATOR TO APPROVE A MITIGATED NEGATIVE DECLARATION AND A COASTAL DEVELOPMENT PERMIT FOR 16990-17000 SUNSET BLVD., PACIFIC PALISADES, (ZA 2012-0130(CDO) AND ENV-2012-031(MND)

Dear Commissioners:

The Board of Directors of the Palisades Preservation Assn. (PPA) voted unanimously to oppose the issuance of a Coastal Development Permit (CDP) and a Mitigated Negative Declaration (MND) to M&A Gabee LP for the construction of a new 99,000 square foot 49 unit muti-family development at 16990-17000 Sunset Blvd. in the Pacific Palisades and to support the ten appeals filed to the West Los Angeles Area Planning Commission from the decision of the Zoning Administrator to approve the CDP and MND.

The Board is opposed to the decision of the Zoning Administrator on the following grounds:

The Zoning Administrator erred and abused his discretion in making the following findings:

1. That the development is in conformance with Chapter 3 of the California Coastal Act.

2. The Interpretive Guidelines for Coastal Planning and Permits as established by the California Coastal Commission dated February 11, 1977 that apply to the subject project have been complied with.

3. The decision of the permit-granting agency has been guided by any applicable decision of the California Coastal Commission pursuant to Section 30625 of the Public Resources Code.

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

5. That the Proposed Mitigated Negative Declaration was not responded to either in writing or in comments at the public hearing and there is no substantial evidence that the project will have a significant effect on the environment.

The Zoning Administrator erred and abused his discretion in making the

determinations:

1. That recommendations of the Applicant's Traffic Consultant were based on accurate information and therefore adopted by the Zoning Administrator.

2. That the measures to mitigate the presence of hydrogen sulfate gas emanating from the site are adequate.

The Zoning Administrator also erred and abused his discretion in approving the following conclusions in the Mitigated Negative Declaration dated June 17, 2013:

1. VIII.b -Hazards and Hazardous Materials: Finding that the proposed site is not anticipated to result in the accidental release of any hazardous materials and therefore, a less than significant impact will result by failing to discuss releases of hydrogen sulfide gas into area which could result in a potentially significant. significant adverse environmental impact.

2. VI.d. and f. - Geology and Soils: Findings that Project will not expose people or structures substantial adverse impacts and that it is not located on soil that would become unstable as the result of on or off-site landslides, lateral spreading, subsidence, or collapse.

3. IX - Hydrology and Water Quality: Findings b., c., and d. that the project will result in less than a significant impact based on compliance with LAMC Sec. 64.70 which sets forth no discussion of any of the potential impacts and possible mitigation measures.

4. XVI.d - Transportation/Traffic: Finding that the a substantial increase in hazards will not result from the construction of the project and therefore no impact will result.

5. 9. Finding that the MND was not formally responded to at the July 18, 2013 hearing and that there is no substantial evidence that the project will have no significant effect on the environment.

The Zoning Administrator also failed to act as required by law:

1. The failure of the Zoning Administrator to require that a Focused Environmental impact Report be prepared.

2. The failure of the Zoning Administrator to require the Applicant to provide the staging areas for the Haul Routes which makes it impossible to determine the environmental impacts of the routes and impose appropriate mitigation measures.

3. Failure to give notice to all interested parties of the subsequent Mitigated Negative Declaration.

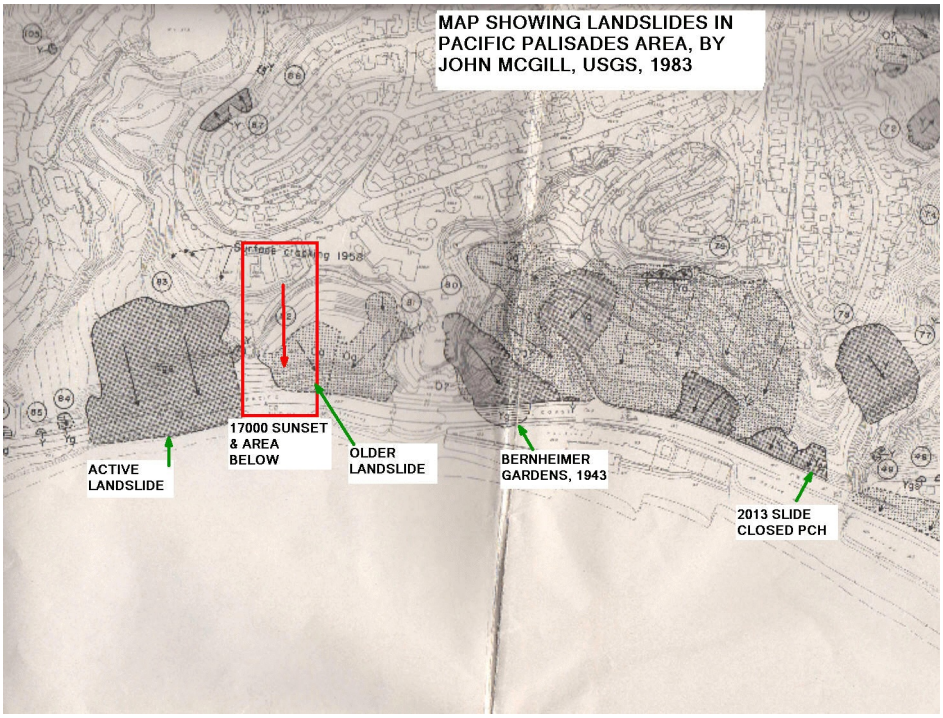
4. Initiating and conducting an Ex Parte discussion of an issue with a consultant for Applicant after the Hearing without informing other parties of the discussion and not allowing other parties to participate in the discussion.

1. Why PPA and its Members are Opposed to the Zoning Administrator's Decision

a. The Costs to PPA and its Members as Taxpayers in the City of Los Angeles.

The PPA is comprised of taxpayers in the City of Los Angeles and the proposed Project as approved by the Zoning Administrator could result in substantial costs to he City of Los Angeles if a landslide or other significant damage results from the construction of the proposed Project at the location.

The project site is located in the Pacific Palisades, one of the most geologically unstable areas in the United States according to the U.S. Geological Survey. [1]The Pacific Palisades is one of the few areas in the United States in which the USGS has prepared special maps.



The USGS Geological Maps provide a view of how large the slide area is in the project area.[2]

As the map shows, almost the entire area along Sunset Blvd. to Temescal Canyon along the bluffs has endured a landslide at one time or another. As described in the July 18, 2013 letter of Dale Glenn Engineering Company:

"In point of fact, the bluff face area is defined by a mass of large overlapping landslides

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[1] *Landslide Overview Map of the Conterminous United States* By Dorothy H. Radbruch-Hall, Roger B. Colton, William E. Davies, Ivo Lucchitta, Betty A. Skipp, and David J. Varnes, 1982, U.S. Geological Survey Open-File Report 97-289. *Significant Landslide Events in the United States* by Lynn M. Highland and Robert L. Schuster. U.S. Geological Survey (2009). Based on a 1982 report, between 1952 and 1971, landslides in the Pacific Palisades caused $29 million in damages.

[2] *Map Showing Landslides in the Pacific Palisades Area*, Los Angeles, California by John T. McGill, 1973, United States Geological Survey, Department of Interior

that extend from Temescal Canyon, east of the site to Sunset Boulevard on the west. From east to west individual landslides are referred to the Tahitian Terrace slide, the Bay Club slide, the Bernheimer Gardens slide, the Malibu Village slide, and the Sunset Towers slide. The Bernheimer Gardens slide lies immediately east of the site and the Sunset Towers slide lies to the west."[3]

On several occasions landslides have closed PCH as happened this year, and on three occasions, forced the State to reroute PCH towards the ocean such as occurred in 1943 with the Bernheimer Slide. The project site is one of the very few properties that has not slid, making it a prime candidate for a landslide, particularly given that much of the site is on a filled in small canyon or ravine.

PPA and its members are deeply concerned about the proposed development on this site because the City has had to spend so much money purchasing properties damaged by landslides or on repairing damage caused by landslides in the Palisades. Consequently City funds that would have otherwise been available to create neighborhood parks in the Palisades and other infrastructure improvements have been diverted to provide funding for remedial repairs. And it doesn't just hurt the Palisades.

It is estimated that the City of Los Angeles has spent over $100 million in the past 60 years in acquisition, condemnation, and repairs of properties in the Pacific Palisades damaged as the result of landslides. The City is presently faced with the possibility it will have to spend between $68 million and a $100 million to repair a landslide above the Palisades Bowl west of Temescal Canyon.

Why is the City having to pay so much? In large part because the Los Angeles Department of Building and Safety (LADBS) has consistently approved development on properties that subject to landslides and in an area that is considered the most susceptible to slump slides in the world.

The Pacific Palisades is an area singled out by the U. S. Geological Survey for special studies and it has been studied as much if not more than any area in the United States. Over 100 slides have been mapped in the Palisades. Yet geologists in LADBS consistently approve development on areas prone to sliding, even properties on which there are active slides.

One of the problems is that LADBS treats properties in the Palisades as if they were ordinary hillsides such as in the Valley or in Hollywood. But they are not ordinary hillsides. What makes the Palisades different? Because the Palisades is composed of sediment which was once the bottom of the ocean. It is primarily sandstone, siltstone, and mudstone, all of which are easily softened by ground water and subject to fracturing. There is no solid bedrock along the coast in which to anchor buildings except below sea level. And except at the bottom of hills, it is too expensive for developers to sink caissons and pilings deep enough to reach bed rock.

As geologist E. D. Michael stated in his talk to the Association of Environmental and

[3] See Attachment No. 1. Also see Attachment No. 16, statement of E. D. Michael.

Photograph of [illegible] Pacific Palisades in March 1958 showing landslide caused by El Nino that crossed highway onto beaches and killed a driver of a car.[4]

Engineering Geologist, Southern California [illegible] April 2013 concerning the problems with landslides in the Pacific Palisades, in particular in the area in which the proposed Project is located, which he states are uniquely "transitional slides" that result from a unique characteristics in the area including the presence of sulfides, that result in "**fracturing and loss of bulk cohesion in surficial zones, followed by landsliding in response to seismic acceleration."**

Because of these unique problems, Michael finds that

> "…such a bulk loss of cohesion calls into question the common method of slope-stability analysis used to demonstrate a safety factor of 1.5 in such materials as current City Building and Safety Code policy requires. It is clear that the bulk cohesion - by which is meant the cohesive strength of the debris mass as a unit - has no relationship to cohesion commonly determined by direct shear tests individual formation specimens upon which, in practice, calculations of safety factors for specific sites now are almost invariably based."

The other major cause of slides is ground water which among other things, erodes out the bottoms of hills which support the bluffs above. As more and more development has

[4] From US Geological Survey, "Geologic mapping and El Niño in southern California."

occurred on the sides and tops of the bluffs and the adjacent mesas, many more opportunities are available to generate ground water. Over watering of vegetation, leaking water lines, swimming pools, storm drains and sewers all contribute to an abundance of ground water which subjects the bluffs to sliding. In his Groundwater Flow Rate Report for the proposed Project, E. D. Michael states:

> "Even though a certain amount of rain is intercepted by impermeable surfaces - street, house roofs, etc.- so th it does not infiltrate, most of the surface still is open to infiltration not only from rain but also from "pass-though" infiltrated water resulting from excessive residential yard irrigation. Consequently, t**he average rate of recharge to fills in 16990 must be significantly greater now than in prehistoric time.**"

Michael also observes that water main leaks which can go on for years remain unrepaired and may be substantial because the lines are pressurized.

That such leaks cause landslides in the Pacific Palisades is proven by the slide onto Pacific Coast Highway below the Tahitian Terrace on March 21,2013 shown below, which was caused when a resident of the Terrace left a hose on too long while watering bushes and which slide blocked PCH for two days.

This becomes more of a problem during heavy rains when the soils become very saturated and very heavy and slippery and then gravity causes the soils to slide.

Earthquakes are also always a threat to the stability of the bluffs and have caused landslides as is noted by Michael in Attachment No. 16.

This is but one reason that PPA and its members are opposed to the Zoning Administrator's Determination.

b. Failure to Adhere to the Regional Interpretive Guidelines for the South Coast Region Los Angeles County.

PPA and its members as preservationists with a particular interest in preserving the coastal resources in the Pacific Palisades are aggrieved by the determination of the Zoning Administrator that the project conforms with the Coastal Act and the Interpretive Guidelines. Jack Allen, its President, was one of the architects of the California Coastal Act. He was an active participant in the adoption by the California Coastal Commission of the Regional Interpretive Guidelines for the Pacific Palisades. The warped analysis supporting the Zoning Administrator's denial of the application of the Interpretive Guidelines to the project undermines the purpose of the Guidelines which was to preserve, protect, and minimize the impacts of development in the Coastal bluffs in the Pacific Palisades and substantially interfere with the development of a Local Coastal Plan by the City as is discussed in Section 2.b. below.

2. The Project Does Not Conform to the Regional Interpretive Guidelines, South Coast Region, Los Angeles County, (Pacific Palisades).

In Finding No. 3 the Zoning Administrator finds that the proposed Project does not have to comply with any of the requirements of the Regional Interpretative Guidelines as they apply to projects in the Coastal Zone in the Pacific Palisades, in particular that the Project be set back 25 feet from the edge of the bluff.

a. The Project is Located on a Coastal Bluff and is Therefore Subject to the Interpretive Guidelines.

Then the Zoning Administrator finds erroneously that the bluff on which the proposed Project is to be located is not a bluff under the Coastal Act. The first argument is that the Regional Interpretive Guidelines do not apply because the property is not a coastal bluff within the meaning of 14 Cal. Code Regs. §13577(h) which states:

> "(h) Coastal Bluffs. Measure 300 feet both landward and seaward from the bluff line or edge. Coastal bluff shall mean:
>
> > (1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and
> >
> > (2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2)."

The Zoning Administrator ignores the language in §§13577(h)(1) and focuses on the language in §§13577(h)(2) and that is the focus of the Limited Bluff/Cliff Study by SASSAN Geosciences which the Applicant submits in support of its argument that its project is not located on a coastal bluff. The Applicant's argument essentially is that the property is not located on a coastal bluff as defined in Public Resources Code Section 30603. But that argument only applies if the bluff is not now or was not historically subject to marine erosion as set forth in §§13577(h)(1).

This bluff was subject to marine erosion as described by the Applicant in its in in the

Preliminary Geotechnical Engineering and Engineering Geology Investigation for 17000 – 17020 Sunset Boulevard Pacific Palisades dated November 16, 2009 where on page 4. SASSAN Geotechnical describes the properties as: (Attachment No. 15)

> "The wave cut platform or terrace is bounded on the south by a relatively steep slope, often referred to *as a coastal bluff,* approximately 150 feet high that descends to the Pacific Coast Highway and ocean below. The *coastal bluff was formed by wave action prior to development of Pacific Coast Highway, and later modified by grading*. Bedrock exposed in the *bluff* consists of marine siltstone, siliceous shale, and sandstone of the Monterey formation. Although landslides have occurred on the *coastal bluff* to the east and west of the subject property, only surficial landslides have been mapped on the slope area below the site." (Emphasis added.)"

Not only does Mr. Salehipour describe it as a coastal bluff, he describes it as one formed by marine erosion.

Contrary to the argument of the Zoning Administrator and the Applicant, the provisions of Public Resources Code Section 30601 also apply. The application of the term "coastal bluff" has to be within the context of Public Resources Code Section 30601 which reads:

> "30601. Prior to certification of the local coastal program and, where applicable, in addition to a permit from local government pursuant to subdivision (b) or (d) of Section 30600, a coastal development permit shall be obtained from the commission for any of the following:
> (1) Developments between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
> (2) Developments not included within paragraph (1) located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, *or within 300 feet of the top of the seaward face of any coastal bluff.* (Emphasis added.)"

Contrary to the argument of both the Zoning Administrator and Mr.Gaines on behalf of the Applicant, Section 30601 neither defines what is a coastal bluff nor does it exempt the project from the application of the Coastal Act and the Regional Interpretive Guidelines — it clearly includes the project within the area that the Regional Interpretive Guidelines apply. That is consistent with the interpretation of what a coastal bluff is as defined by the Coastal Commission Staff Geologist:

"It is, however, defined in the "Glossary of Geology," published by the American Geologic Institute (R.L. Bates and J.A. Jackson, eds., 2nd ed., 1980) as:[5]

> a) a high bank or bold headland with a broad, precipitous, sometimes rounded cliff face overlooking a plain or a body of water; especially on the outside edge of a stream meander; a river bluff.
> b) Any cliff with a steep broad face."

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[5] City of Dana Point Local Coastal Program Amendment 2-02, GEOTECHNICAL REVIEW MEMORANDUM by Mark Johnson, Staff Geologist, page 5

The Zoning Administrator also erroneously reasons that the Malibu Village site is the first bluff and therefore, the top bluff is not a bluff under the Coastal Act.[6] But the Malibu Village site was never a bluff but is fill from when Marquez Canyon was filled in. However, even if for the purpose of argument, Malibu Village was built on a lower bluff, it still does not exclude the upper bluff from being defined as a "bluff" under the Coastal Act and the Interpretive Guidelines.

Section 13577(h) of the Coastal Act includes the following language:

> "Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. *In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge.* The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations." (Emphasis Added)

Moreover, in a "A Primer on Coastal Bluff Erosion" by Mark J. Johnson, Staff Geologist of the California Coastal Commission clearly states that: "The term 'coastal bluff' refers ro the **entire slope between a marine terrace or an upland area and the sea.**" See Attachment No. 14.

Thus, the Malibu Village site would only be a step but the top most riser, which is the Project site is a bluff for purposes of the Coastal Act. Not to be included would defeat the purposes of the Coastal Act.

And even if it is argued that the land forms have been substantially altered by grading and filling, that argument has no merit because the Coastal Commission has stated in its Dana Point LCP Amendment 2-02 decision "that natural landforms remain as such and do not lose their original character even if graded and/or filled in."

This same principle is counter to the statement of Mr. Gaines in his letter of August 19, 2013 that:

> "In addition the applicant met with the Coastal Commission staff prior to filing the instant application. Because the project site was originally a canyon that was filled in to extend Sunset Boulevard to the coast, Coastal Commission staff agreed that the project is not located on a "coastal bluff"."

[6] The Zoning Administrator erroneously calls the "Malibu Village" the "Malibu Bowl."

Because Mr. Gaines does not provide the name or names of the staff members he spoke to, the Commission doesn't know whether or not those persons were even competent to make such a determination. That person could be only an office clerk. Nor does he provide the date this meeting took place. And we don't know even if the plans were the same. More importantly, Mr. Allen spoke to Mr. Al Padilla, the Coastal Commission Staff member who handles coastal permits regarding the Pacific Palisades, quoting Mr. Gaines statement, and he told Mr. Allen that he never talked to the Applicant or anyone representing the Applicant about the bluff at the 16990-17000 Sunset site and that neither he nor any other member of the staff would have discussed where the bluff line is until an application for a Coastal Permit had been filed. He also checked and found no file had been opened for that address.

But regardless, the proposed Project is still in non-conformance because the bluff line before Marquez Canyon was filled in was north of Sunset so Mr. Gaines' argument is self-defeating.

The Zoning Administrator also asserts that because there are multi-family residences to the east and west of the proposed Project, it is an infill project and that the Coastal Commission favors infill developments. Not according to the Coastal Commission staff which in its analysis of the Appeal by Coaloa from the denial of his project at 17030 Sunset by this Area Planning Commission where the Staff Report stated:

> "Here, the proposed development denied by the local government is a 49 unit residential development, not a type of development that is prioritized by the policies of Chapter 3 …" (p. 9)

Needless to say the proposed Project, if built in accordance with the Regional Interpretive Guidelines it would be an "infill project."

Thus, Finding No. 3 that the Interpretive Guidelines have been analyzed and considered in light of the individual project is erroneous because the Zoning Administrator in fact ignored them and did not apply them to the proposed Project.

b. The Proposed Project Will Prejudice the City of Los Angeles to Prepare Local Coastal Program That Is in Conformity with Chapter 3 of the California Coastal Act of 1976.

Based on the Coastal Commission Staff Report in the *Surfview* Appeal, (Attachment No. 2) approval of a Coastal Permit for the proposed Project would prejudice the City in preparing an LCP for the Pacific Palisades. In the *Surfview* Appeal, the Staff Report set forth as a reason to deny the issuance of a Coastal Permit:

> "The fourth factor is t*he 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." (Emphasis added.)

This counters the Applicant's argument that there is language in the Staff Report for the *Coaloa* appeal that states that the City does not need to that a project is suitable under the Interpretive Guidelines for approval of a Coastal Development Permit but that the City must find that the project is consistent with the policies of the Coastal Act. However, the Interpretive Guidelines are an expression of the policies of the Coastal Act because they are Guidelines that the City must consider until the City adopts an LCP for the Palisades. But the fact is that in *Coaloa,* the Coastal Commission staff never reached the issue as to whether the Project satisfied the criteria set forth in the Interpretive Guidelines because this Area Planning Commission did not find that the Project was consistent with the policies of the Coastal Act and did not approve the issuance of a LCP.

c. Why the City and This Commission Should Apply the Interpretive Guidelines to this Project.

The Zoning Administrator merely pays lip service to the Interpretive Guidelines in finding that the proposed Project is in conformity with Chapter 3 of the California Coastal Act. Basically his argument is that the proposed Project complies with the Community Plan which designates the property as R3-1. But that it is designated as zoned for R3-1 in the Community Plan is irrelevant because it does not comply with the Brentwood-Pacific Palisades Community Plan.

The Community Plan includes a section relating to Coastal Resources. It states:

> "Development in the Coastal Zone is subject to the provisions of the California Coastal Act. As of 1997, the City had not prepared a local coastal plan (LUP/LCP) for the Pacific Palisades Coastal areas."

Further, the Community Plan states as a policy that:

> "Permitted development shall be sited and designed to protect views to 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 the visually degraded areas."

To implement the policy the Community Plan sets forth a Program:

> "A local Coastal Program shall be prepared for the Pacific Palisades Coastal Zone."

The Community Plan intended for this and other Coastal bluff properties to be given special treatment. The Zoning Regulations **do not** give the City any discretion as to how the property can be developed because there is no Local Coastal Plan, **but** the Coastal Development Permit gives the City that discretion. Therefore, the Zoning Administrator and the Commission should exercise that discretion and use the Interpretive Guidelines to restrict

the development on this sensitive site.

Also the City's Zoning Regulations apply to all similarly zoned properties, regardless of location. So what applies to a property zoned as R3-1 in Reseda or Mid-Wilshire, also applies to the subject property. And that should be except for one thing - the subject property is located in the Coastal Zone. **It is a special property in a special place and should not be treated like any other R3-1property**.

Therefore, Finding No. 2 is erroneous.

4. The Proposed Project Is Not in Conformity with Chapter 3 of the California Coastal Act.

a. The proposed Project does not comply with California Coastal Act (Pub. Resources Code) Section 30253 regarding the geological stability of the site and surrounding area in an area of high geological risk.

Public Resources Code Section 30253 states:

"New development shall do all of the following:
(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs."

As set forth above, there is substantial evidence that the Applicant's geology reports and analysis and the LADBS Letter of Approval are incomplete and are not sufficient to ensure that the risks to life and property are minimized and that the project will ensure stability and not contribute significantly to erosion, geologic instability or the destruction of the site or the surrounding area, particularly the Malibu Village below the proposed Project site as shown in the opposite page.

A major problem with the Applicant's geotechnical reports is that there is reason to doubt the ability and trustworthiness of Sassan A. Salehipour, the President of Sassan Geosciences, Inc. and primary geotechnical engineer. This lack of trust is based on prior experience with him involving the proposed apartment building at 17030 Sunset and the fact that the State Board for Professional Engineers, Land Surveyors, and Geologists revoked both Mr. Salehipour's licenses as a Civil Engineer and as a Geotechnical Engineer on November 1, 2013 The revocation was stayed for a period of three years provided he successfully completed specified terms and conditions including providing all persons and entities with which he had a professional relationship with a copy of the Board's order. Finding that objectionable he is seeking to overturn the revocation in the Superior Court and the trial is scheduled on his petition on March 10, 2015. A copy of the Board's Order is attached hereto (Attachment No. 3).

The complaint alleges among other things charges Mr. Salehipour:

1. For negligence and/or incompetence, based on Mr. Salehipour's performance of professional engineering services for a residence located in Montebello, California, and

Aerial Photo of the Site Showing How Steep the Hill is Below It.

the geotechnical report that contained Mr. Salehipour's findings;

2. Unprofessional Conduct and failure to comply with laws applicable to the Project in that Mr. Salehipour violated the provisions of the Professional Engineers Act and applicable laws to the project; and

3. Mr. Salehipour failed to comply with contract provisions required for Professional Engineering Services.

It is alleged in the complaint that Mr. Salehipour began the subsurface investigation at a residence in Montebello, California. Mr. Salehipour hired two different contractors to perform the excavation. Neither contractor was licensed by the Contractor's State License Board to perform subsurface work or excavations. A 24 inch diameter bucket auger drill rig was used for the excavation. Test pits were excavated as well as a 51 foot deep hole. Neither Mr. Salehipour nor a representative from his company was on-site to oversee the subsurface investigation, log the holes and collect soil samples. **Mr. Salehipour was issued a citation by CALOSHA, when an inspector arrived at the site and found one of the drillers down 20 feet in the hole, without a hard hat or oxygen meter, and the hole was not cased - thereby increasing the risk of a cave in and potential for injury or death to one or more of the drilling crew.**

Also alleged is that the geotechnical report completed by Mr. Salehipour is deficient as follows:

(1) The method for subsurface investigation was not appropriate for collecting, analyzing and characterizing the subsurface soil for a single family residence, as a 24 inch diameter bucket auger, outfitted for construction purposes only, is not appropriate for this type of investigation for a single family residence;

(2) During the excavation and drilling of the test pits and holes, neither Mr. Salehipour or a representative from his company was present at the site to oversee the operation and log the soil stratigraphy during the excavation. Resulting in the geotechnical report not including important information, such as but not limited to: the name of the person logging the hole; the type of equipment used; how soil samples were collected; the methods used to obtain the sample; and how the hole and test pits were backfilled;

(3) There is no indication in the geotechnical report that Mr. Salehipour performed the appropriate laboratory testing necessary to calculate the settlement or expansion of the soil in relation to the proposed structure (single family residence) to be erected on the site; and

(4) Mr. Salehipour failed to provide an estimate based on the Expansion Index, in lieu of testing and failed to provide any information in his report **with regard to corrosion potential of concrete foundations.**

In another matter involving Mr. Salehipour, when Mr. Coaloa owned a home located at 515 Muskingum in the Pacific Palisades, which is located on a bluff overlooking Las Pulgas Canyon, the Department of Building and Safety in 2008, ordered that new retaining walls be installed to shore up a failing slope on the property. Mr. Salehipour was hired by Mr. Coaloa

as the engineering geologist for the project. A new retaining wall was constructed along with 10 additional piles. Along with that Mr. Coaloa did extensive remodeling and when it was completed, Mr. Coaloa sold the property in December 2009.

Subsequently in September 2012, the slope again failed and the new owner is now undertaking substantial remedial steps to stabilize the slope, which under Mr. Salehipour's supervision, should have been stabilized in 2009, This not only goes to the competence of Mr. Salehipour, it is another example of the Grading Division of LADBS approving a project that failed.

In another matter involving Mr. Salehipour was an application for a Coastal Permit for construction of a 49 unit apartment building at 17030 Sunset, Sassan Geosciences, Inc. reported in Addendum No. 1 to the Preliminary Geotechnical Report that:

> "1, Caving conditions, shallow groundwater, and bad air in 24-inch diameter borings, making downhole logging or deep borings dangerous and generally not feasible." (Emphasis added.)

There is no further explanation or discussion of this paragraph. However, an examination of the boring logs revealed what the problem was. These logs show that during five of the borings, hydrogen sulfide gas was encountered which prevented further boring. These borings covered most of the project site.

Hydrogen sulfide (H2S) is an extremely hazardous, toxic compound and is an explosive gas. It is colorless and inflammable. It should have been reported but Mr. Salehipour failed to do so. Mr. Salehipour submitted a report to LADBS dated July 19, 2004. Attached to that report was Appendix B which consisted in part Boring Logs for eight boring holes done by the Applicant on the subject property. These boring logs in fact, were not done by SAS, the Applicant's geologist, but were just a recompilation of the boring logs done by Ray A. Eastman, a contractor who did the drilling for the Applicant which are in a much neater form than the Eastman boring logs. Although Eastman encountered hydrogen sulphide gas in four of the holes and made entries on his logs, that information was not included on the logs prepared by Mr. Salehipour.

Mr. Salehipour later admitted to the West Los Angeles Area Planning Commission that there was hydrogen sulphide gas on the property. However, when asked by a Commissioner if hydrogen sulfide gas was hazardous, he replied that it was not a hazard. Any court would take Judicial Notice that it is a commonly known fact that it is a hazardous gas without any further proof. Either he was not truthful or he is incompetent.

Moreover, a boring log of Gorian and Associates for its Boring E reported the presence of hydrogen sulfide gas (H2S) on the property located at 17020 Sunset. Mr. Salehipour attached a copy of that boring log to the Enclosures for Addendum No. 1 on April 16, 2010 so he was aware of it but he failed to report in the Preliminary Geotechnical Report for 16990-17020 Sunset that there was hydrogen sulfide gas on the site. Whether there is H2S on the current site is unknown but it is very likely because vegetation was found in the fill.

Given the fact that he failed to note the presence of H2S on the drilling logs he submitted to LADBS for the 17030 Sunset project even though his drilling contractor reported

it present on five borings, no one can assume that if H2S was discovered on any of the borings done by Mr. Salehipour that he would have reported the presence of H2S. Ralph Stone states in its letter that the boring logs of Converse Consultants Pasadena show H2S present on two of its boring logs but since Sassan Geosciences, Inc. did not include the CCP report, we don't know.[7] In summary, considering not only the revocation of Mr. Salehipour's licence, but also that he concealed the fact that there was hydrogen sulfide gas on the site at 17030 Sunset Blvd. and then told the Area Planning Commission that hydrogen sulfide gas is not a hazardous gas raises serious questions regarding his competency and honesty.

The failure of Mr. Salehipour to adequately address the issue in involving hydrogen sulfide gas on the property at 17030 Sunset was one reason the Area Planning Commission denied the issuance of a Coastal Permit for that proposed project.

The Order also shows that Mr. Salehipour cannot be depended upon to protect the safety of the workers on the site particularly considering the presence of hydrogen sulfide gas at the site.

(b) The Mitigation Measures To Mitigate The Presence Of Hydrogen Sulfide Gas Emanating From The Site Are Inadequate.

The only mitigation measures proposed to mitigate the presence of hydrogen sulfide gas emanating from the site is that the Applicant must comply with Cal-OSHA work rules on the site. The Zoning Administrator also states that the project itself will include gas detection monitors in the project parking areas but there is no requirement that must be done so it is not a valid mitigation measure. If Mr. Salehipour will be the Engineering Geologist on the proposed Proposed project, given his history fo not enforcing Cal-OSHA safety rules, imposing such a condition on an Applicant that would even hire him appears to be frivolous.

(1) The Mitigation Measures are not adequate to prevent possible disintegration of the proposed structures as a result of the presence of hydrogen sulfides in the ground water and thus, potentially result in the collapse of the structures causing a landslide.

While it has been known for some time that hydrogen sulfide gases were present in the area, the source of the gas was not known. Some believe that it comes from the trash that was placed in the landfill. However, in a recent presentation to the Association of Engineering Geologists, E.D. Michael, the project hydrologist, discussed the common presence of Jarosite[8] in these particular bluffs, and its negative impact on determining the stability of structures by

[7] Ralph Stone and Associates Letter, page 2, para. 3; See also 1986 letter from LADBS (Attacmemt No.*) asking about possible adverse effect of H2S at 16990 Sunset,.

[8]The presence of Jarosite, an iron-sulfate mineral, in soil is an indicator of acidic, sulfate rich conditions. Jarosite is a basic hydrous sulfate of potassium and iron with a chemical formula of KFe3+3(OH)6(SO4)2. This sulfate mineral is formed in ore deposits by the oxidation of iron sulfides and it accounts for the red color of soil in Palisades Bluffs.

conventional means making analyses used by geotechnical engineers unreliable. [9] That it is a problem in this area is substantiated by the fact that corrosion of a storm drains by sulfate compounds (Jarosite) at the Malibu Village in the early 1990s caused extensive damage to the homes as well as sink holes and ground cracks according to Dale Glenn, the engineering geologist for the Malibu Village.[10]

The presence of Jarosite, an iron-sulfate mineral, in soil is an indicator of acidic, sulfate rich conditions. Acid sulfate soil is the common name for soils that contain metal sulfides. The soils and sediments most prone to becoming acid sulfate soils formed within the last 10,000 years, after the last major sea level rise. When the sea level rose and inundated the land, sulfate in the seawater mixed with land sediments containing iron oxides and organic atter.[11] This is why the bluffs in the subject area contain Jarosite.

The sulfides in these soils readily oxidize, releasing sulfuric acid and iron into the soil and groundwater, often in harmful quantities. This acid can, in turn, release aluminum, nutrients and heavy metals (particularly arsenic) held within the soil matrix. Once mobilized in this way, the acid, metals and nutrients can degrade concrete and steel pipes and structures to the point of failure.[12]

Acid sulfates that are located within the subsoil strata corrodes concrete, iron, steel and certain aluminum alloys. It has caused the weakening of concrete structures and corrosion of concrete slabs, steel reinforcing, foundations of buildings and underground concrete water and sewerage pipes will cause the cracking, increased porosity and deterioration of concrete structures **including the foundations of a building.**[13]

Unless mitigated, the acid conditions in the soils at the proposed Project site could eventually make the buildings uninhabitable and susceptible to collapse which could result in a landside. To mitigate this, the Applicant must be required to use measures to mitigate the corrosive effects of the soils on the foundations and pilings such as using a polythene sheeting to encase the foundations or using a sulfate resistant Portland cement.[14] This was indicated in Item 3 of Ralph Stone's letter of April 18, 2013:

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[9] See Attachment No. 16 in which Michael discusses the impact of Jarosite on soil stability.

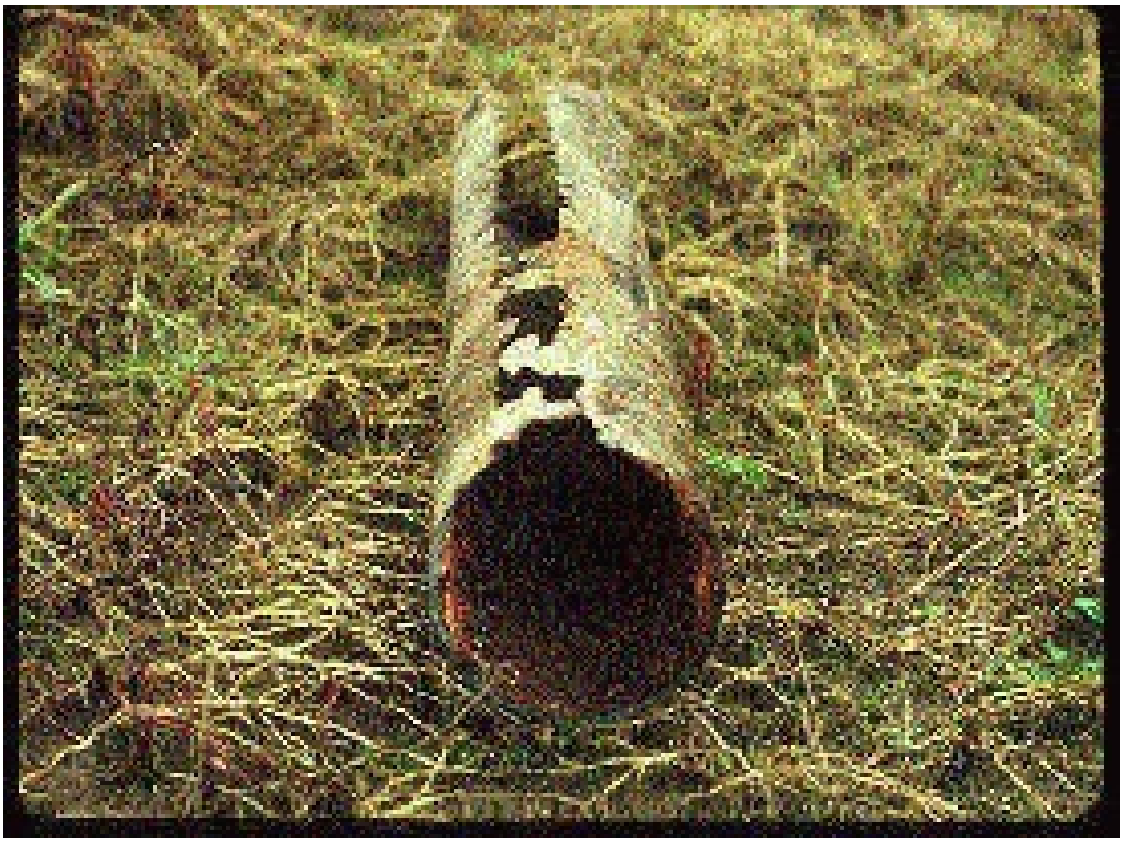
[10]Dale Glenn Engineering Geology, Inc. Letter to Department of City Planning, July 18, 2013

[11]Identification & Investigation of Acid Sulfate Soils (2006), Department of Environment, Western Australia. p.3

[12] Id. at p. 1

[13]Sammut, Jesmond and Lines-Kelly, Rebecca, (1955). An Introduction to Acid Sulfate Soils

[14]M S Eglinton, Concrete and its chemical behaviour, (1987), London : T. Telford, pp. 108-9); Beatrix Kerkhoff, Effects of Substances on Concrete and Guide to Protective Treatments, (2007) Portland Cement Association, p. 2, 5-8; Corrosion Guidelines, Version 2.0,(Nov. 2012), California Department of Transportation Division of Engineering Services Materials Engineering and Testing Services Corrosion and Structural Concrete Field Investigation Branch, p. 32



H2S Metal Fatigue

LOS ANGELES SANITARY SEWER SYSTEM

ACI 210.1R-94

Deterioration of concrete pipe from H_2S attack

- Source water has high sulphur content, both as sulphate or sulphide, and form hydrogen sulphide, H_2S.
- The hydrogen sulphide gas comes out of the solution and forms sulphuric acid in the air space.
- Sulphuric acid is highly reactive and reacts with calcium compounds to form gypsum which causes the concrete to soften, ultimately leading to roof collapse.

$$\text{Organic matter} + SO_4^{2-} \rightarrow S^{2-} + H_2O + CO_2$$

$$S^{2-} + 2H^{+} \rightarrow H_2S$$

$$H_2S + 2O_2 \rightarrow H_2SO_4$$

H2S corrosion taking a toll on the concrete walls, deteriorating the profile down to the rebar and potentially jeopardizing the integrity of the structure.

"The consultant should test the existing earth materials and groundwater for corrositivity against proposed buried metal /concrete structures. Depending upon the results, concrete/foundation/utility specifications may need to be revised."

Mr. Salehipour replied:

"It would be standard practice to test the materials placed as fill , after the site is graded, to evaluate corrositivity. In addition, our report dated 11/16 /2009 recommended "all concrete elements of the substructure, which are in contact with the soil, must be constructed with concrete based on cement Type V for highly corrosive soils."

If the recommendation that "all concrete elements of the substructure, which are in contact with the soil, must be constructed with concrete based on cement Type V for highly corrosive soils" is made a condition of approval, then that would be an adequate mitigation measure that would protect the foundations and pilings from corrosion. The problem is that the Zoning Administrator did not include this mitigation measure in his Response to the concerns about Hydrogen Sulfide.

While Mr. Salehipour answered the Comment of Ralph Stone in relation to the soldier piles, the foundations and the retaining walls, (all of which should be constructed of Type V concrete), it did not answer the utility and buried metal issues, which is of great concern as previously discussed herein. In its letter of July 18k 2013, Glenn Engineering Geology stated:

"The project is now proposing to take corrosive groundwater and rather through the new storm drain, that released this Pacific water onto a public beach and into the ocean"

An additional solution is to not use any metals in any drains, waste disposal pipes, as well as water supply pipes and irrigation pipes. This should be required if the project is approved. In Addendum No. 2 to the Preliminary Geotechnical Engineering and Engineering Geology Investigation dated July 15. 2011, p. 7, Mr. Salehipour recommends the use of **steel pipes** for the transport of groundwater from the site to the City storm drains. In view of the fact that those pipes will be in acidic soil, the use of steel pipes could lead to a disastrous blowout. Other types of metal pipes would have similar results. Even concrete pipes pose problems.

There is one additional problem with the presence of Jarosite. In talks presented to the Association of Engineering Geologists by the project hydrologist, E.D. Michael, that **Jarosite has a negative affect on stability making the conventional analyses used by geotechnical engineers unreliable.** Therefore, all the analysis of slope stability done by Mr. Salehipour could be inaccurate. SAS needs redo all its analyses to compensate for the presence of Jarosite.

c. There Is Inadequate Information in the Hydrology Studies Regarding the Flow of Ground Water to Determine Whether Proposed Mitigation Measures Will Eliminate the Possibility That the Proposed Project Will Cause the Diversion of Ground Water into the Sub-strata and Result in Landslides.

In PPA's letter of June 15, 2013, PPA raised significant issues about the interference that the proposed Project would have on the flow of the ground water and the potential of the diversion of ground water by the structures to cause landslides that would destroy homes in the Malibu Village and possibly close PCH.

According to the Applicant, based on the current architectural plans, the basement floor of the proposed building will be approximately thirty-five (35) feet below the existing ground surface. The Applicant's own Geotechnical Reports show that there is an underground stream that goes through the site and there is considerable groundwater below the site. However, those who are concerned about the project, including the property owners and residents of the Malibu Village below the site and neighboring property owners and residents who live in the vicinity of the site, do not feel that the Applicant has done sufficient analysis of the hydrological implications of the proposed development, and consequently, has not adequately designed the project to mitigate the hydrological problems associated with developing the site as proposed.

First, while the Applicant retained E. D. Michael to prepare a Ground-Water Flow Rate Report, Mr. Michael did not either use or have sufficient data to support the conclusions reached by Michael as well as by Sassan Geosciences, Inc. We base this primarily on the opinions of independent geologists set forth in the letters of GeoConcepts, Inc. dated March 13, 2013 (Attachment No. 4), Ralph Stone and Company, Inc. (Attachment No. 5), and of Dale Glenn dated July 18, 2013 (Attachment No. 1) and from our own study of the reports filed by the Applicant.

Michael did not know how much ground water was coming from north of Sunset which is the source of most groundwater. Worse yet he assumed that the canyon resulted from erosion caused by a spring. As Dale Glenn points out, the water from a spring is not going to create a 200 foot wide and 200 foot deep canyon so Michael never did calculate the amount of groundwater that flows into the old canyon. See Attachment No. 1.

Adding to the concerns that the Michael's Report is inadequate in that it never discusses the amount of storm water runoff is the following statement in a 1988 Inter-Departmental Communication from the West Los Angeles District Engineer to the Division Engineer of Land Development and Mapping describing the drainage flows into Malibu Village from Sunset Blvd. (Attachment No. 6) It states:

> "The Tract is in the mouth of a coastal ravine directly draining slightly over 40 acres with the possibility of more flow reaching it during major storms **from flow bypassing upstream storm drains."**

We also have concerns about the groundwater data. One concern is that the levels of groundwater indicated by the borings and the trenches dug by Sassan Geosciences, Inc., only indicate the levels of groundwater during years when rainfall was below normal. Nor do they provide information as to the levels of groundwater and the rate of flow during El Niño years. For example, during the week of January 18-26, 1969, 18 inches of rain fell.[15]

[15] Russell H. Campbell, *Soil Slips, Debris Flows, and Rainstorms in the Santa Monica Mountains and Vicinity, Southern California*, U.S. GEOLOGICAL SURVEY PROFESSIONAL PAPER 851, 1975, p.13

GeoConcepts also takes issue with the E.D. Michael Ground-Water Rate Report in that it does not consider the proposed infiltration of three-quarter inch of rainfall during a 24-hour period, thus the they concluded that the quantities may not be accurate. GeoConcepts also finds fault with the report because the disposal of the collected water have not been addressed therein.

One concern is that because Sassan Geosciences, Inc. frequently stopped drilling when it first encountered water and never ascertained how deep the water was. That information is necessary to determine the full extent of the underground water table. Michael states:

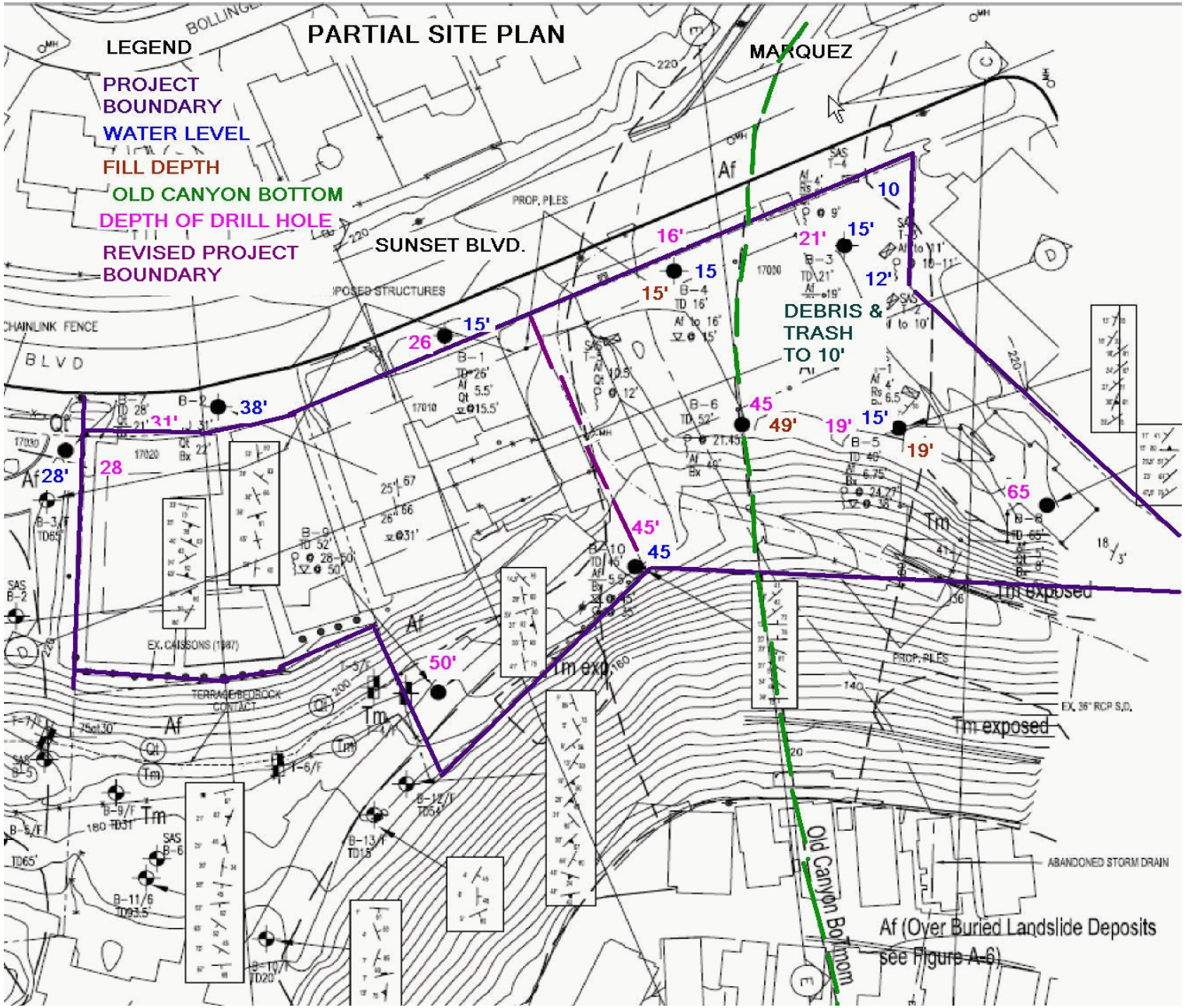
> "The matter of groundwater occurrence reported in borings B-3, B-4 , and B-6 suggests that it is almost entirely confined to the fill and therefore moves through fill southward to the Malibu Village property…"

The diagram of the site (next page) shows the location each boring that Sassan Geosciences, Inc. made and each trench dug. The diagram includes the depth of the water shown on the boring logs for each hole, how deep the hole was dug, and the depth of the fill where it exceeds 15 feet. Although the diagram shows the site as the original project was projected, nevertheless the data thereon is useful.

There is evidence that the groundwater table extends much farther to the west of the site. Borings B-1 and B-2 which were not used by Michael indicate extensive ground water close to the proposed Site. A contractor testified during a hearing regarding the 17030 project on March 6, 2013 that he had observed standing water in a pit dug by Sassan Geosciences, Inc. on that property.

Sassan A. Salehipour stated in rebuttal that the witness was wrong and that he was on the wrong site. However, other witnesses have verified that the pit was full of water. The fact that groundwater at various depths was observed in borings B-1, B-2 and B-7 indicates that the water table is very large and that there is a western flow as well as a southerly flow.

Moreover, Boring B-5 shows that there is water outside the fill area. Contrary to Michael's assumption, this evidence indicates that water is entering the channel from the sides also. Michael's conclusion that the flow of water is confined to the fill, not being supported by the evidence, also means his conclusion that the flow is unidirectional is also suspect, particularly because he lacked the means to investigate the hydraulic character of the ravine.


PARTIAL SITE PLAN
LEGEND
PROJECT BOUNDARY
WATER LEVEL
FILL DEPTH
OLD CANYON BOTTOM
DEPTH OF DRILL HOLE
REVISED PROJECT BOUNDARY
SUNSET BLVD.
MARQUEZ
DEBRIS & TRASH TO 10'
Tm exposed
Old Canyon Bottom
ABANDONED STORM DRAIN
Af (Over Buried Landslide Deposits see Figure A-6)
EX. CAISSONS (1947)
TERRACE/BEDROCK CONTACT
EX. 36" RCP S.D.
PROP. PILES
CHAINLINK FENCE

Michael dismisses his inability to investigate by stating that "the range of groundwater flows is so limited that possibly can enter the property" that he cannot accurately determine the ***K***-value.[16] **He further states that to accurately determine the *K*-value, he would need a much larger number of samples than what Sassan Geosciences, Inc. has provided him.** The solution is to drill more bore holes and dig more pits. That would also provide more information as to the extent of the fill. Borings to the west of B-6 would be helpful.

While Michael examined the lateral movements of the groundwater, **he does not discuss the ability of the groundwater to move vertically and thus under the buildings.** This is particularly important because if the drainage system fails to evacuate the groundwater backing up behind the basement walls fast enough so that it builds up, it will not only seek to move laterally around the building but it will also seek to move downward and under the building. This would not be as much of a problem if the buildings were being constructed on solid bedrock, but they are not. **As shown in the boring logs, most of the bedrock beneath he building will be highly fractured siltstone or shale.[17]**

Geologist Dale Glenn also expressed concerns in her letter of July 18, 2013 about the presence of heavy seepage that was found migrating through fractures in the bedrock." (Attachment No. 1)

The saturated hydraulic conductivity (***K***) values for highly fractured bedrock (perveous) are between 1,000 to 100,000 feet per day. In other words, the bedrock is like a sieve so that the water will flow freely downhill.[18]

Another concern is that E.D. Michael did not provide or have any data regarding the flow of water on the north side of Sunset. Michael concludes:

> "… The lack of any well-defined surface channel in the general vicinity 1924-1925 - the date of Hoot's topographic base map- proves that it was spring flow over thousands of years that eroded the 16990 arroyo."

It cannot be said with any certainty that a reading of the Hoot's topographical map would lead to a conclusion that a surface channel did not exist. The Hoot's map shows that Marquez Avenue had been graded at that time which could have filled a surface channel. Contrary to what Michael states, the Hoot's Map was not prepared until 1934 and is not based on earlier data. Hoot's Map was apparently made after Sunset was filled in. The 1924 photo shown on the next page shows that Sunset had not yet been filled in. It also shows that there was a gully to the east that connected to the Marquez Ravine which would indicate that surface drainage contributed to the erosion in the Marquez Ravine. The contour lines on the Hoot'

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[16] The ***K***-value is a hydrogeological term that describes the ease with which a fluid (usually water) can move through pore spaces or fractures of rock or soil. It depends on the intrinsic permeability of the material and on the degree of saturation, and on the density and viscosity of the fluid.

[17] Highly fractured bedrock B-5 at 13'; B- 8 at 20'; B-9 at 21 ft., B-10 at 20', B-11 at 6'; See letter of LADBS to Ms. Stella Berestetsky, dated January 4, 1990, p. 2 (Attachment No. 7)

[18] Bear, J. (1972). *Dynamics of Fluids in Porous Media.* Dover Publications. ISBN 0-486-65675-6

PHOTOGRAPH OF MARQUEZ CANYON, 1924 SHOWING STREAM ROUTES

Map also support this.

Moreover, a 1928 U. S. Geological Survey Map shows a large gully extending north and east that confirms that provided a surface channel.[19] See next page.

Regardless of whether the source of the water that created the deep ravine was a spring or a surface stream, there is a constant flow of water from north of Sunset onto and through the site. Obviously, it is constantly being replenished from various sources as Michael states. This indicates that there is a very large amount of perched groundwater in the area above Sunset and information about how much exists would be useful in determining how severe the flow of groundwater will be affected by the project.

Therefore, because Michael lacked sufficient information to reach his conclusion that the total flow rates would be in the range of 7.2-18.2 gallons per minute (the wide range indicates how imprecise the science is), his conclusion that dewatering the site could be "easily controlled by moisture barriers and gravel drains installed behind walls and beneath slabs as normally required by the Code" is suspect.

Moreover, as pointed out by GeoConcepts, the calculations fail to account for at least 3/4" of rainfall for over a 24 hour period. Because it is not unusual for as much as two inches of rain to fall during a 24 hour period (at times as high as 6 inches), that a higher amount of rainfall over a 24 hour period should be accounted for. It should be a worst case scenario because that is when the soils become saturated and when storm drains overflow, events which have resulted in landslides in the Pacific Palisades. Since 1975, the date that the Pacific Palisades received its most rain in 24 hours was February 24, 1982 when 9.07 inches of rain fell. That should be the basis for analyzing the impact that rainfall will have on the draining system as well as the capacity of the drainage facilities to accommodate that amount and the ground water flow.

The Applicant never addressed the issues raised above and PPA so indicated in their letter of March 2, 2013 to the Zoning Administrator. We stated:

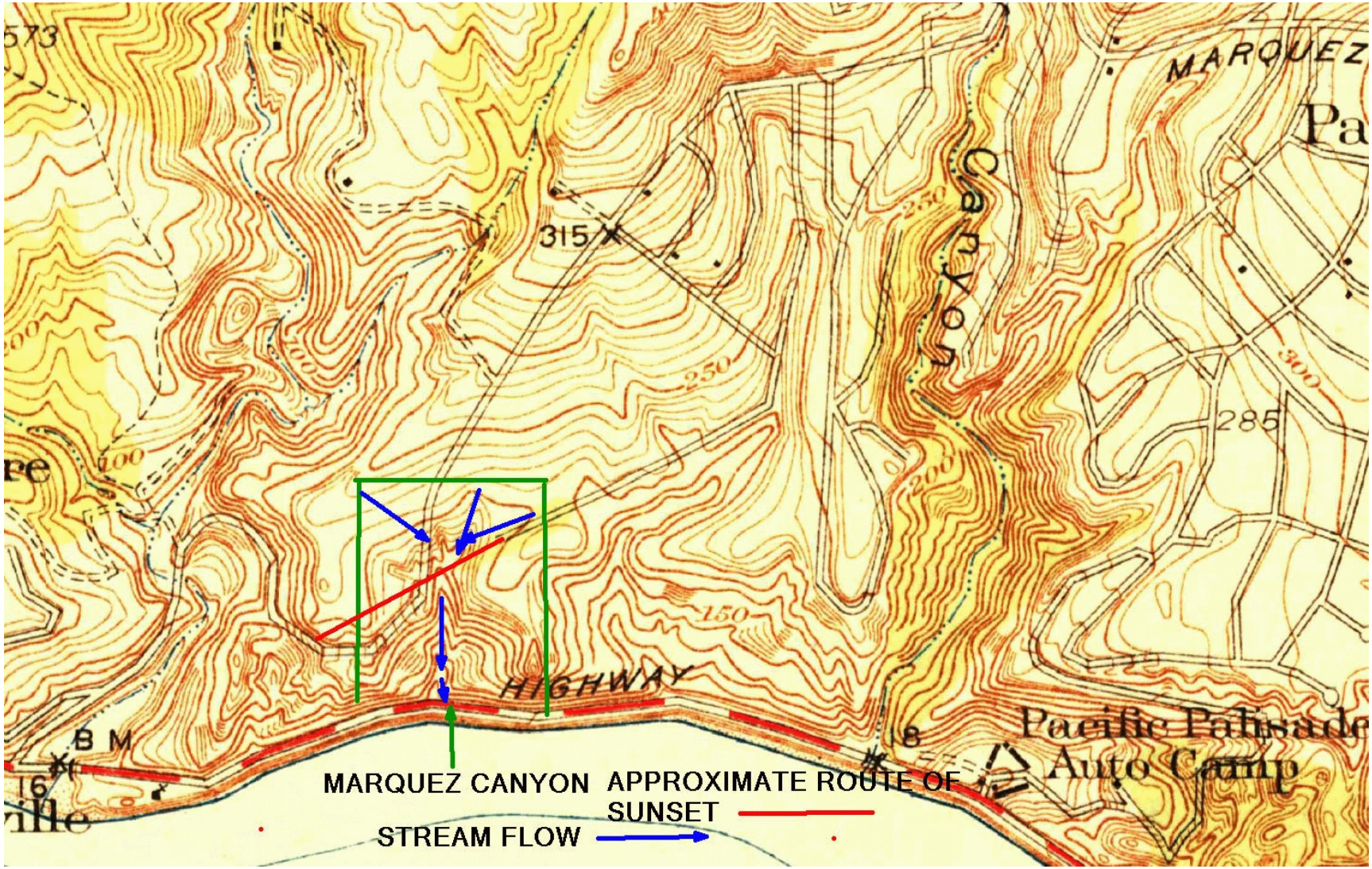
The issue is essential because if the drainage system is inadequate or fails, it has **the potential of bringing the entire hillside down into the Malibu Village which if it occurred,** would cost the City several hundred million dollars in damages as a result of negligently approving the project. The damage could exceed the almost a billion dollars the County paid for the Big Rock disaster.

First, in Glenn Engineering Geology's letter of July 18, 2013, (which LG Engineering does not discuss) it is noted that: (Attachment No. 1)

> "Ground water is present beneath the site. Levels measured in test borings ranged from approximately nine (9) feet below the lot surface to forty-five (45) feet below the surface. The groundwater source is attributed to a spring located north of Sunset Boulevard and they have assumed that the groundwater source will be cut off and/or controlled by a proposed tiered back drainage system. No comment was made about the presence of any seepage that was found migrating through fractures in the bedrock.

[19] Topanga Quadrangle, U.S. Geological Survey, Department of the Interior (1926)

1928 USGS TOPOGRAPHICAL MAP SHOWING CANYON BEFORE IT WAS FILLED IN



A complete hydrology study of the site has not been performed."

None of the LG Engineering comments address this statement.[20] Nor does LG address the comments we submitted in our letter of June 15, 2013 in which we noted that:

> "…that because Sassan Geosciences, Inc. frequently stopped drilling when it first encountered water and never ascertained how deep the [ground] water was."

We noted that although Michael stated that:

> "The matter of groundwater occurrence reported in borings B-3, B-4 , and B-6 suggests that it is almost entirely confined to the fill and therefore moves through fill southward to the Malibu Village property…"

and that:

> "There is evidence that the groundwater table extends much farther to the west of the site. A contractor testified during a hearing regarding the 17030 project on March 6, 2013 that he had observed standing water in a pit dug by Sassan Geosciences, Inc. on that property."

and that other witnesses had confirmed this.

We also noted that:

> "Moreover, Boring B-5 shows that there is water outside the fill area. Contrary to Michael's assumption, this evidence indicates that water is entering the channel from the sides also. Michael's conclusion that the flow of water is confined to the fill, not being supported by the evidence, also means his conclusion that the flow is unidirectional is also suspect, particularly because he lacked the means to investigate the hydraulic character of the ravine. He dismisses his inability to investigate by stating that "the range of groundwater flows is so limited that possibly can enter the property" that he cannot accurately determine the ***K*** factor. He further states that to accurately determine the ***K*** factor, he would need a much larger number of samples than what Sassan Geosciences, Inc. has provided him."[21]

LG does not address this issue and instead uses the imprecise data contained in the Michael Report. Additionally LG does not address another issue we raised in the July 15 letter which is the potential for vertical movement of the ground water which is discussed on page 9 and 10 of this letter.

Another issue that cannot be addressed is the effectiveness of the sub-drain system. No

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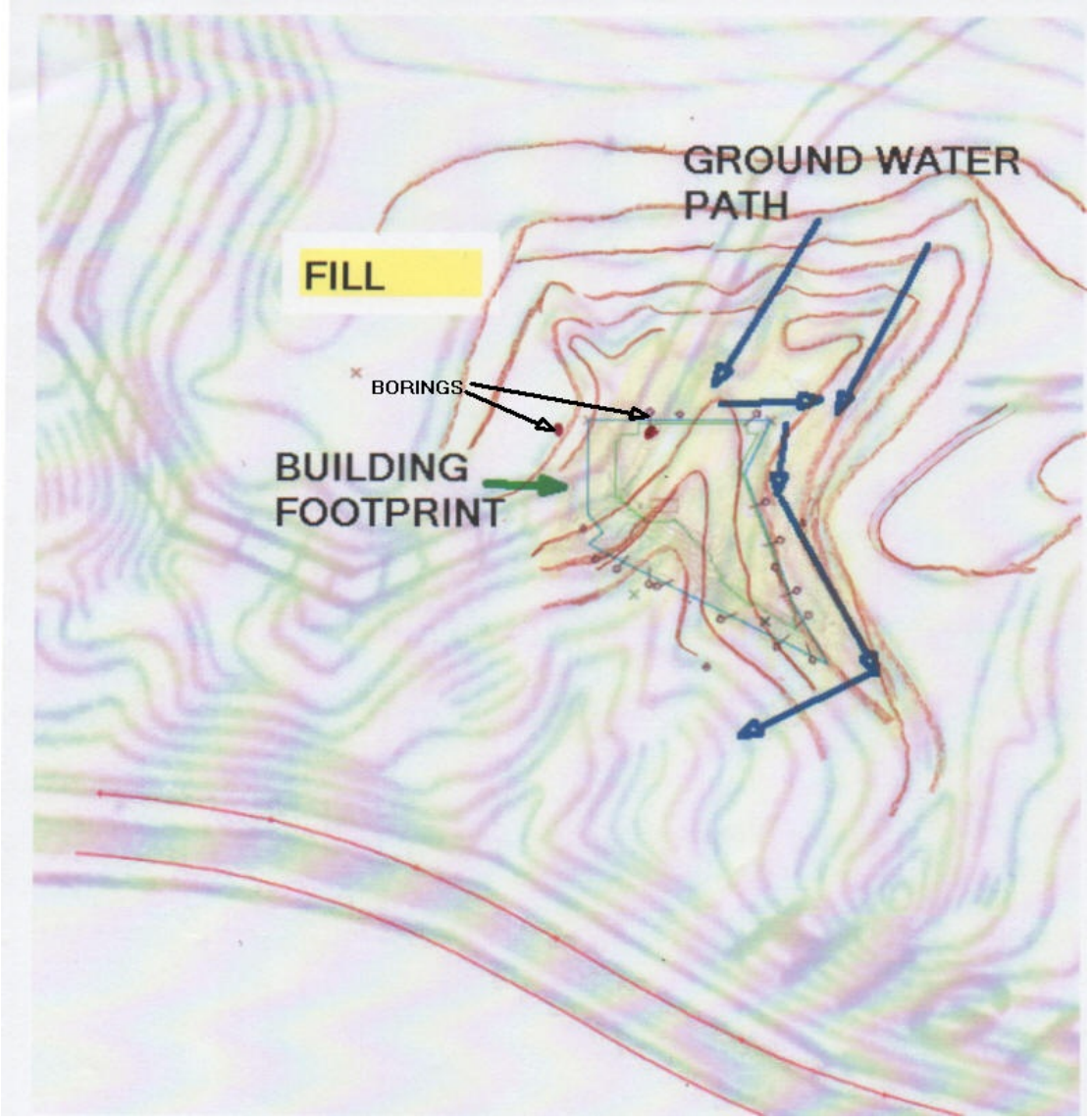
[20] Applicant has not provided the required Hydrology Report. Michael's Report only covered the Ground-water Flow Rate. The report submitted by LG Engineering was not prepared by a Hydrogeologist nor even a Geologist. It was prepared by two registered engineers who are licensed as hydrogeologists or geologists.

[21] Ironically Michael in his 1987 letter how high the ground water levels are and that a dewateromg system at the property would be a difficult undertaking.

TOPOGRAPHICAL MAP SHOWING BUILDING FOOT PRINT ON 1928 TOPOGRAPHY SHOWING GROUNDWATER FLOW AROUND BUILDING

Michael states in his Report that groundwater will move through the fill southward to the Malibu Village property. This map which superimposes the proposed building footprint over the 1928 contours, shows what will occur when the building is constructed. The building foundations will create a dam for the ground water that normally would flow through the property and divert much of it to the fill on the east side of the building creating additional pressure on the hillside. This will occur even though the Applicant proposes to attempt to catch the water and drain it through a storm drain.

The Michael Report does not consider this. The borings used by Michael were on the westerly side of the property and therefore, his calculations did not include water levels on the east side of the property. Nor do any of the calculations take into account heavy storms and soil saturation during rainstorms which will add to the amount of ground water above the calculations used by the Applicant.



new plans have been submitted since the project was redesigned to show the sub-drains and thus the elevations cannot be determined which will dictate how effective the revised system will be. If the sub-drains are as plans currently show them, they are too high to be effective.

As Dale Glenn Engineering Geology stated in its July 18, 2013 letter:

> "All the major landslide masses are at best quasi-stable and so sensitive to groundwater movements and/or to surface water infiltration that even a garden hose accidentally left a trickle overnight resulted in a landfill your large enough to close the Pacific Coast Highway. If the currently designed drain system is not adequate, the properties down slope of the site could be destabilized."

In its response to Stones concerns about the sub-drains, LG responds

> "The geotechnical report describes three levels of the subdrain system and recommend they should be connected to the lowest level the a vertical pipe. The report does not mention that the drainage gallery will be vertically continuous from top to bottom effectively connecting the three levels of perforated drainage pipe. The apparent concern is if the lower drainage pipe was clogged, the system could "back up". Therefore, as a conservative measure, a second or redundant pipe *may be* placed at the lower-level and connected to the site drainage system in the same manner as they 'primary' pipe." (Emphasis added.)

There are two problems with this response. First, one of the concerns Stone has with the subdrain system is that Mr. Salehipour has not provided the new elevations for the revised site plan. The elevations are determinative of how effective the subdrain system will be. Secondly, there is no requirement that a second or redundant pipe be placed at the lower level so it may not happen. Third, as the response notes, the report does not mention that the drainage gallery will be vertically continuous from top to bottom and therefore there are no assurances that it will happen.

There was no response to these concerns either by the Applicant or by L.G. Engineers or the Zoning Administrator.

In conclusion, it appears that all LG Engineers did was rubber stamp Sassan's work.

Because the concerns raised by PPA were never referred to LADBS Grading Division for review, the Geology and Soils Approval Letter of October 25, 2011 cannot be considered a valid approval letter. Because of the potential for groundwater being diverted by the proposed Project to the hills below it, there is a risk that the groundwater may trigger a landslide.

2008 TOPOGRAPHICAL MAP SHOWING THE CANYON FILLED IN AND ALSO THE STEEPNESS OF THE SLOPE BELOW THE SITE.

4. The Zoning Administrator Erred in Contacting LG Engineering, Inc. Ex Parte And Asking Them To Answer Questions He Had About Ground Water.

On August 16, 2013, LG Engineering, Inc. sent a letter to Excel Property Management Services titled "Civil Engineering Memorandum, Response to Comments From Mr. Rausch, 16990/17000 W. Sunset Boulevard, Los Angeles, California." The letter was in response to comments and questions by Mr. Rausch who requested clarification of "where is the water going and clarification of "the conclusion in the MND that for Hydrology and Water Quality there will be either no impact nor a less than significant impact on the environmental factors listed in that section." LG Engineering responded with a four page letter of explanation.[22]

That was an ex-parte communication with the applicant. A hearing on a Coastal Development Permit is a quasi-judicial proceeding. The hearing officer should never contact a party without giving notice to all involved parties. If Mr. Rausch had questions, he should have put them in writing and forwarded them to all the parties for a response. And he should have required an exchange of documents allowing other parties to comment. It is particularly egregious because the Zoning Administrator made a Finding that no responses had been filed concerning the Recirculated MND as of the Hearing on July 18, 2013 and therefore approved the MND. Later he goes back to obtain additional information regarding the MND from the Applicant.

The appellants and PPA have been denied due process. Consequently, the Commission should grant the appeal.

5. Sassan Geotechnic's Response to the GeoConcepts and Ralph Stone Comments Are Hard to Understand and Don't Rebut or Refute the Comments.

Mr. Salehipour prepared Responses to letters by GeoConcepts Inc. and Ralph Stone and Company which are dated August 14, 2013. He did not prepare responses to Dale Glenn Engineering Geology, Inc. letter of July 18, 2013 or to either our June 15 or August 14, 2013 letters.

Mr. Salehipour's Responses are hard to read. Ordinarily, a responder sets forth the Comment and then answers the Comment. Mr. Salehipour did not do this and one is never certain just what comment he is answering. Moreover, Mr. Salehipour continually insists that his Reports are consistent with the comments made by GeoConcepts and Stone when they are not. Perhaps Mr. Salehipour chose to do it this way so that others would be discouraged from closely analyzing his responses. His responses often are just opinions for which he provides no facts to prove the correctness of his opinion. He is evasive. Perhaps he can fool a non-professional with this tactic or perhaps he feels that it is sufficient to make a record.

For example Stone asked in Comment No. 1:

> "The Consultants recent geologic map for the current project, and topographic map upon which it is based, do not include the easternmost corner of the property. Improvements may or may not be planned for this area, but it appears the storm drain connections may extend easterly beyond the area shown an additional slope stabilization

[22] A copy of the first page of the letter is attached as Attachment No. 8.

may be required. The project map should extend East to include the entire property. The consultant should consider providing additional cross-sections and slope stability analyses of the very steep slopes located near the easternmost property corner."

Mr. Salehipour responds:

"Is our opinion that the existing cross-sections, in particular cross-section C-C adequately address slope stability with respect to the proposed development. "

That answer is completely evasive and non-responsive. Mr. Salehipour provides no proof to support his conclusion, in fact not even an argument.

Another example is Mr. Salehipour's response to Stone's Comment No. 3:

"Based on the Reference 1 boring logs by CCP, a hydrogen sulfide odor was observed in Borings B-2 and B- 7 near the top of the slope and a chemical odor was observed in Boring B-6 on the pad. The consultant should provide recommendations for the mitigation of the odors, as necessary, and discuss the impact of older -producing materials at depths on the proposed project.

Mr. Salehipour Responded:

"It is our opinion that the odors noted in the logs will be dissipated during grading of the site. Odors from the bedrock, if present, have not been harmful to existing residents exposed to numerous local exposures of bedrock of similar composition in areas surrounding the site."

As discussed previously, Mr. Salehipour is either very ignorant of the properties of H2S or very evasive. There is no evidence of any exposed bedrock in he area. It is covered with earth, mostly fill. Whether or not it will be dissipated will depend on the weather at the time of drilling and also on whether it enters enclosed or low lying spaces. The scientific fact is that because it is heavier than air, it will take around 18 hours to dissipate. Additionally, there is no evidence that the earth and bedrock have been disturbed which would open up channels for the methane to carry the H2S to the surface but drilling and hammering in the pilings will loosen up the rock and earth around and underneath the site and provide those channels.

Moreover, Mr. Salehipour provides no evidence for his conclusion that the odors have not been harmful to existing residents.

Mr. Salehipour's response to Stone's Comment No. 4 is just as evasive.

"The consultant should test the existing earth materials and groundwater for corrositivity against proposed buried metal /concrete structures. Depending upon the results, concrete/foundation/utility specifications may need to be revised."

Mr. Salehipour replies:

"It would be standard practice to test the materials placed as fill , after the site is graded, to evaluate corrositivity. In addition, our report dated 11/16 /2009

recommended "all concrete elements of the substructure, which are in contact with the soil, must be constructed with concrete based on cement Type V for highly corrosive soils ".

While this answered the Comment in relation to the soldier piles, the foundations and the retaining walls, (all of which should be constructed of Type V concrete), it did not answer the comment regarding testing the ground water and the impacts on the utility and buried metal issues, which is of great concern as previously discussed herein. In its letter of July 18, 2013, Glenn Engineering Geology stated:

"The project is now proposing to take corrosive groundwater and rather through the new storm drain, that released this Pacific water onto a public beach and into the ocean"

Moreover, the borings already clearly show the site has extensive corrositivity so why test the fill. While uncontaminated fill may form the base, the capacity for H2S to migrate will not be deterred by new fill.

Ironically, in 1986, after Converse reported H2S as being present on this site, one of reasons that LADBS refused to issue permits for construction on this project site was it wanted more information "on the possible adverse effect of the presence of sulfur mineral and bedrock may have on the safety of the proposed residents and stability of the proposed structures."[23]

Stone stated in Comment No. 5:

"The Reference 7 report by the consultant states:

> "Although landslides have occurred on the coastal bluff to the East and West of the subject property, only surficial landslides have been mapped on the slope area below the site."

"This statement is misleading considering the slope below the site is the head escarpment of a very large bed rock landslide. Subsequent to sliding, the escarpment was breached by a canyon which is currently filled and the landslide debris was modified by grading/fill. The landslide debris and slip surface were never removed, nor was the slide mass stabilized. The slide mass is currently occupied by the Malibu Village mobile home park. The consultant should comment on the implications of past significant earth movement with respect to earth material strengths, slope stability analyses, and foundation/wall design."

Mr. Salehipour answered:

"The map presented in the report prepared by SAS dated November 16, 2009, as well as subsequent reports acknowledges the landslide present under the Malibu village it is our opinion that the landslide limits, as depicted, are not a factor in the evaluation of the stability of the proposed project. This was a similar conclusions that Ralph Stone report of 1989 while working as a consultant on a similar project on the site."[Sic]

[23] LADBS letter to Nevill Ostrick dated December 31, 1986 re: 16990 Sunset Boulevard, p. 3 (Attachment No. 9), a letter Salehipour should have read in the LADBS file on the property.

Mr. Salehipour does not attach a copy of the 1989 Report so there is no way of verifying his answer but it is unlikely because Dale Glenn was involved in preparing the 1989 report. Worse though, Mr. Salehipour only gives his opinion but fails to provide any proof that supports his opinion. In other words, "Where is the beef?"

In a February 2, 1987 letter regarding the construction of an apartment house on the same property, E. D. Michael stated: (Attachment No. 10)

> "The proposal to place a multi-unit structure at the head of a prehistoric but nevertheless geologically quite youthful landslide along a section of coast mostly underlain by landslide debris, is in itself highly questionable in terms of good engineering practice especially because of the proximity of the Malibu Coast fault, probably 1000 feet or more south of the property…The current proposal places the proposed apartment structure across a fault which, however, is not generally considered to be a part of the Malibu Coast fault zone, and hence does not come within the purview of the Alquist-Priolo Act. Nevertheless, that fault is one of the several sub parallel to the trace of the Malibu Coastal fault. Even if not a strand of the Malibu Coast fault's zone, it is sufficiently close to that zone that should an earthquake occur, it would not be unreasonable to expect movement along it. Any fault is a surface of relative weakness, and there is no certainty that should movement occurred in the Malibu coast fault zone, and adjacent faults even though not considered active, might also undergo displacement."

The opinion of Michael supports the concerns expressed by Glenn Engineering Geologists. It also is a red flag that the City cannot afford to ignore. The same applies to Mr. Salehipour's response to Comment No. 15 in which he is just as evasive. As we have learned bitterly in the Palisades that there doesn't have to be an active landslide below a slope in order to trigger a slide. The Palisades is one of the two most active slump slide areas in the world and it doesn't take much to trigger a slide, particularly if an earthquake hits Los Angeles and the slope below the proposed project is a prime candidate.

This is born out by Dale Glenn in her July18, 2013 letter where she states:

> "The project consultants described the rock as a consistent sequence of competent and favorably orientated north dipping strata made of siltstone and shale, interbedded with a few clay layers. **All of the coastal landslide occurred when the very same supposedly competent bedrock that underlies the project site failed.** In each case clay layers were identified as the material that represent the sliding surface."

In Mr. Allen's study of landslides that have occurred in the Pacific Palisades, what Glenn says is true. That is why the slides east, west, and below the project site have occurred.

While Mr. Salehipour is at fault in all his responses for being evasive and failing to provide proof in support of his opinions and conclusions, we will not cite any more examples because the few we have shown clearly illustrate the point. However, Attachment No. 11 is a 14 page compilation of comments by GeoConcepts and Ralph Stone and Mr. Salehipour's Responses. Fifteen of his Responses are inadequate.

For the above reasons the Zoning Administrator erred and abused his discretion in

1. Finding that the development is in accordance with Chapter 3 of the Coastal Act,

2. Finding that the decision of the permit-granting agency has been guided by any applicable decision of the California Coastal Commission pursuant to Section 30625 of the Public Resources Code,

3. Determining that the measures to mitigate the presence of hydrogen sulfide gas from the site are adequate,

4. Concluding in the Mitigated Negative Declaration dated June 17, 2013 that:

    a. VIII.b -Hazards and Hazardous Materials: Finding that the proposed site is not anticipated to result in the accidental release of any hazardous materials and therefore, a less than significant impact will result by failing to discuss releases of hydrogen sulfide gas into area which could result in a potentially significant adverse environmental impact.

    b. VI.d. and f. - Geology and Soils: Findings that Project will not expose people or structures substantial adverse impacts and that it is not located on soil that would become unstable as the result of on or off-site landslides, lateral spreading, subsidence, or collapse.

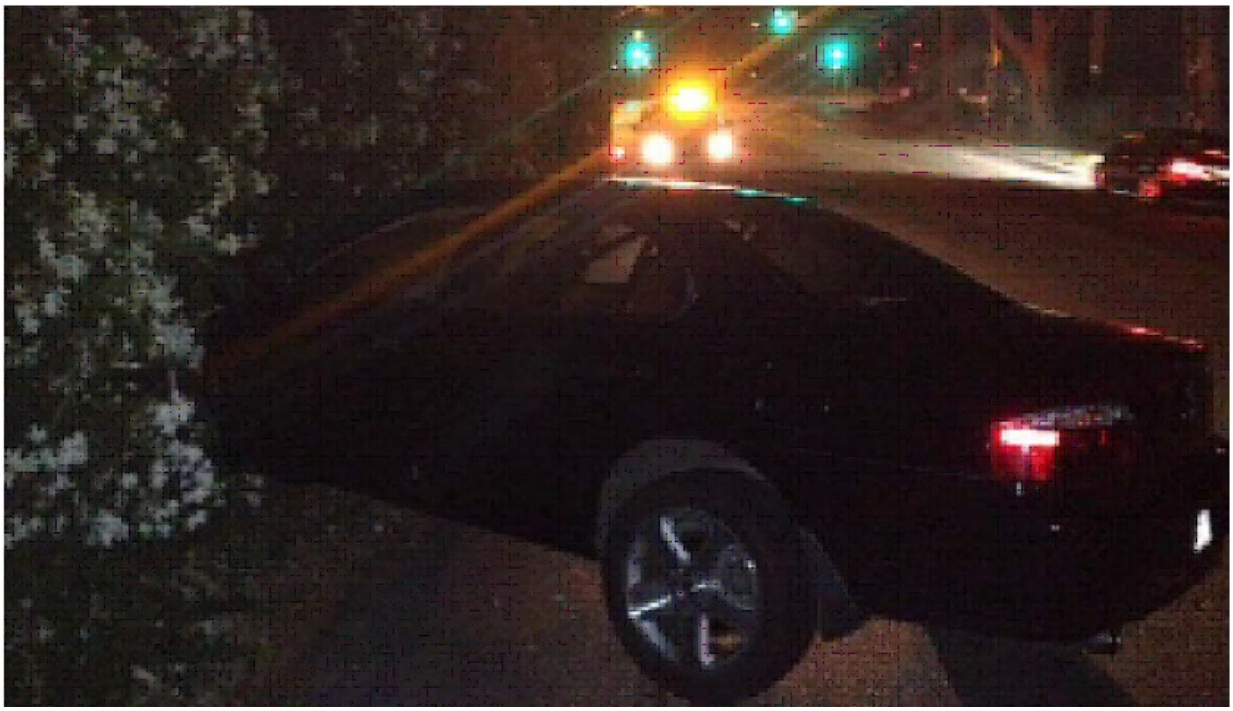
6. The Finding That a Substantial Increase in Hazards Will Not Result from the Construction of the Project and Therefore No Impact Will Occur Were Based on Information Which the Zoning Administrator Knew Was Inaccurate and Therefore, He Erred and Abused His Discretion in Making the Finding.

Despite credible evidence, including a 2012 fatal motorcycle accident at the intersection of Sunset and Marquez, presented to the Zoning Administrator that the stretch of Sunset Blvd. between Marquez Place through Deadman's Curve to the west of Marquez Place is a dangerous stretch of roadway, the Zoning Administrator ignored that evidence and accepted the conclusion of the Applicant's Traffic Consultant that it was not dangerous. The result was that no mitigation measures were incorporated into the MND that addressed the increase in the hazards that would result from approving the proposed Project.

The Zoning Administrator justified the finding as follows:

"The Applicant's Traffic Consultant reviewed Caltrans reports of traffic accidents which reported that there had been no collisions on Sunset Boulevard within 750 westerly [sic] of the project site which is the location of the horseshoe curve down to Pacific Coast Highway."

The result was that no mitigation measures were incorporated into the MND that



June 13,2013 Accident Across From 17000 Sunset

addressed the increase in the hazards that would result from approving the proposed Project.

The Zoning Administrator justified his finding stating that:

> "The Applicant's Traffic Consultant reviewed Caltrans reports of traffic accidents which reported that there had been no collisions on Sunset Boulevard withi 750 westerly [sic] of the project site which is the location of the horseshoe curve down to Pacific Coast Highway."

This was based on a letter from Steve Hilton, Senior Traffic Engineer for Infrastructure Engineers dated August 9, 2013. The relevant part stated:

> "After the hearing, Mr. Rausch requested we look into traffic collision history in vicinity of the project site:
>
> a. We have secured three (3) years of collision summaries from CalTrans via the SWITRS (State Wide Integrated Traffic Reporting System). Based on our review of that data the following was determined.
>
> 1. No collisions have been reported withing 750 feet west of the intersection of Sunset Boulevard and Marque Ave./Marquez Place within the past 3 years."

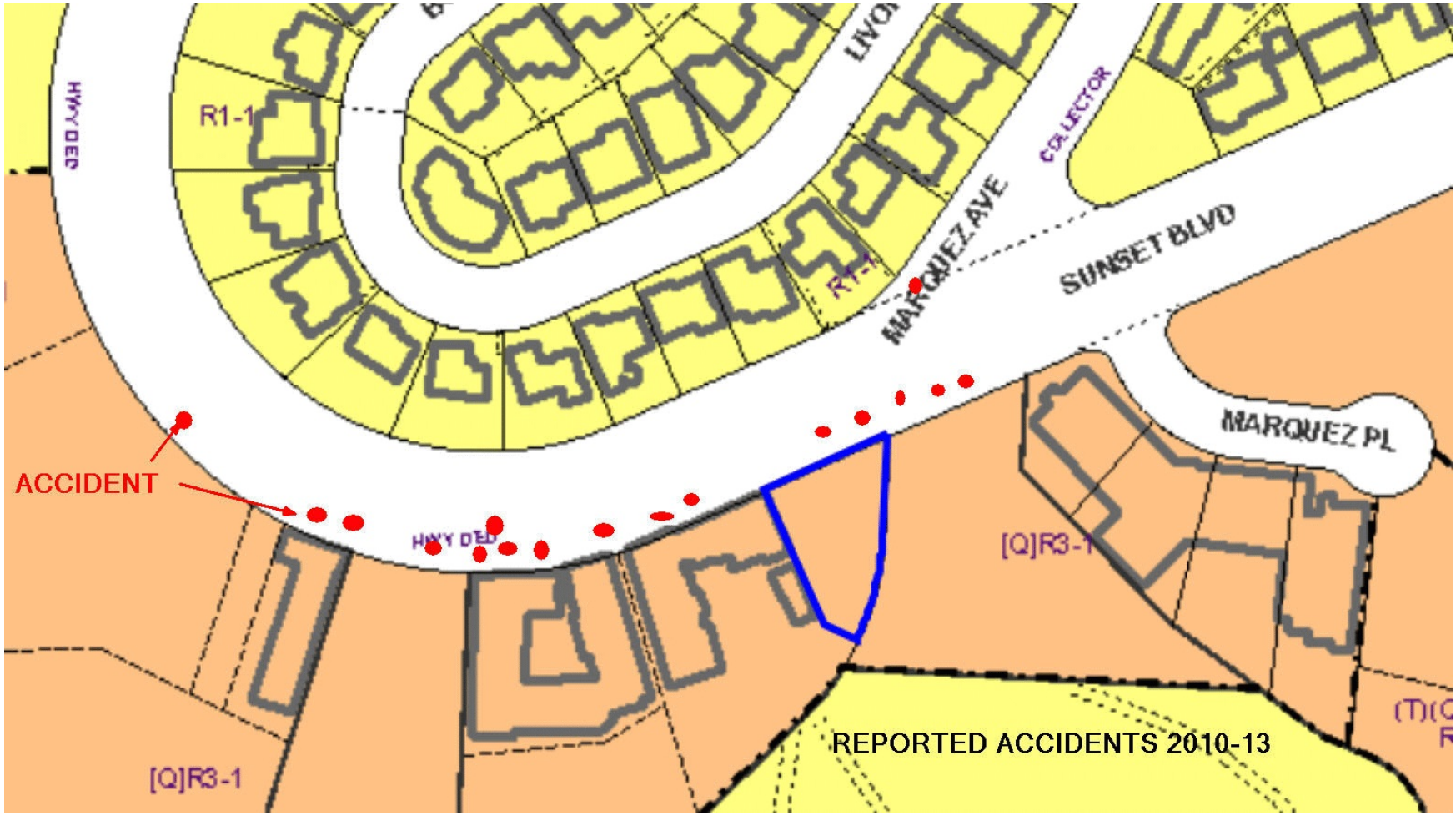
At the hearing, which Mr. Hilton attended, there was considerable testimony as to the number of accidents that occurred in the area studied by Mr. Hilton and also many complaints about the speeding in that area including testimony about a fatal motorcycle bus collision at the intersection of Marquez Ave. and Sunset. Yet he accepted the SWITRS data as correct.

The Zoning Administrator had even more concrete information which should have made him suspicious of Mr. Hilton's report. In a letter to the Zoning Administrator dated June 17, 2013, Amy Lundberg provided a newspaper account of the bus/motorcycle accident and also photographs of an eastbound car that spun out of control in front of the proposed Project site.

In a letter dated March 2, 2014 to the Zoning Administrator, Mr. Allen alerted him to the suspicious nature of Mr. Hilton's conclusion stating when accidents that are known to have occurred do not appear in the SWITRS report there is something wrong. Mr. Allen decided to check the SWITRS data himself. The program (which is run by the California Highway Patrol, not CalTrans) is accessible on the internet but is complicated to use and requires certain software be installed on the computer being used, was used by Mr. Allen and he obtained dramatically different results than Mr. Hilton.

The results he obtained that 17 accidents occurred on Sunset Blvd. between Marquez Ave./Marque Pl. and 620 feet west of that intersection. There were four reported accidents in 2010, two in 2011, seven in 2012, and four in 2013. Twelve of the accidents were due to excessive speeding, four were the result of vehicles making turns into or out of driveways, and one was unknown. Most of the accidents reported involved two vehicles. It should be noted that these accidents were serious enough that LAPD felt it necessary to investigate them.

On the next page is a map indicating the approximate location of each accident with red dots.



Locations of Accidents 2010-2013

Why Mr. Hilton failed to correctly report the number of accidents is unknown but all too often, consultants for developers report what their clients want to hear and not what they know or they are too incompetent to do the job professionally.

Nevertheless, there is a definite need for delineators or ballards to be installed on Sunset in this area. More importantly there needs to be redesign of the exit and entrances to the proposed Project to prevent left turns out of and into the proposed Project. Any such design should consider that the sidewalks on the south side of Sunset are the only route for pedestrians between the beach and Marquez since there are no sidewalks on the north side of Sunset between Marquez Ave. and the beach. While use is not heavy, nevertheless, beach goers do park in the Marquez neighborhoods and use the sidewalk to acccss the beach.

Therefore, the Zoning Administrator should have known that the information provided by the Applicant was inaccurate and he erred and abused his discretion in adopting the recommendations of the Applicant's Traffic Consultant.

7. The Zoning Administrator Should Have Required the Applicant to Provide the Location of the Staging Areas for the Haul Routes Which Is Essential Information in Order to Determine the Appropriate Mitigation Measures.

The Applicant proposes to remove at least 44,000 cu. yds. of materials from the site using approximately 2,785 truck trips. Without a doubt, this will result in significant adverse impacts on the neighborhood and the community. It will mean that every time a truck enters or exits the site, traffic on Sunset, a major artery, must be stopped. Moreover, where and how the Applicant will stage the trucks may have an adverse impact as will the days of the week, the time of the year, and the time of day that the hauling takes place be a factor as to how severe the impact will be. The MND does not address these impacts.

The hauling could have adverse impacts on the community. For example, if the trucks come from the east on Sunset Blvd., the trucks will have to make left turns into the property, a method that the City traffic engineers will not only consider dangerous but also will cause traffic stoppages on a very busy street, although some traffic stoppages will occur regardless of which way the trucks enter. It is also important to know which way the trucks will exit, east or west. If the trucks exit to the west, it will again result in dangerous left turns unless traffic is stopped both ways. If the trucks exit and travel east, it will mean that the trucks must travel through residential areas for 2.3 miles.

Even worse, the Applicant might use Marquez Ave. as the Staging Area or Livorno Drive, both residential streets close by. It could be done without driving by the school.

In addition, unless the location of the Staging Area is known, the possible impacts cannot be determined. If the Applicant uses Sunset Blvd., that will cause problems. How serious the problems will be depends on where the staging area is located on Sunset. Or if Temescal Canyon Blvd. is used, staging there during the summer months would cause problems because during the summer, Temescal Canyon Road is major source of parking for people using the beach. It is possible that if the Applicant wants to use Temescal during the summer it would be necessary to obtain a permit from the Coastal Commission because using Temescal will impact public access not only to the beach but also to the coastal recreation facilities in the Canyon.

The Zoning Administrator imposed five conditions oh the hauling operations but left it up to the LADBS to impose most of the conditions. But the conditions imposed by the Zoning Administrator are too indefinite or inadequate to minimize any adverse impacts.

For example, he instructs LADBS to assign specific haul route hours of operation based upon Marquez Charter Elementary School hours of operation. This is fine as far as it goes but there is no condition that protects the neighborhoods when the schools are not in session. It is not unusual for haul truck operators and demolition contractors to start at the crack of dawn.

If the Applicant uses Temescal Canyon during the school year, much of the upper canyon portion of the roadway is used by people or students at the high school and the bottom portion is always in use by beach goers, bicyclists, and park users.

PPA is cognizant that it will not be known until shortly before construction begins that the Applicant will not know the destination of the material being hauled away. However, the Applicant can plan now on how the materials will be removed from the site and can determine where to stage the trucks and decide on the routes in and out of the Palisades community. This is where the Focused EIR should focus.

8. The Recirculated Proposed Mitigated Negative Declaration Dated June 17, 2013 Was Not Noticed Properly.

The Zoning Administrator states in his Finding No. 9 that:

> "After reviewing the response to comments, a subsequent MND was published by the City on June 17, 2013 which responded and incorporated many of the responses to comments. This subsequent document was not formally responded to as the public hearing for the case and the environmental clearance occurred on July 18, 2013. On the basis of the whole of the record before this agency, including any comments received, the lead agency finds that with imposition of mitigation measures described in the MND (and identified in this determination), there is no substantial evidence that the proposed project will have a significant effect on the environment. I hereby adopt that action."[sic]

There appears to be some funny business going on here. What the Zoning Administrator is saying is "Too bad, the Applicant does not have to prepare an EIR because we got you." However, he got his facts wrong. First, there were four letters submitted regarding the Recirculated MND. The Pacific Palisades Community Council submitted a letter June 17, 2013 specifically referring to the June 17 RMND. Christian Martin submitted a letter June 16, 2013 again referring tho the June 17 RMND as did John Glasgow on June 17, 2013. Amy and Andrew Lundberg submitted a letter on June 17 in which they referred to the RMND.

Moreover, the Zoning Administrator is incorrect in stating that no comments were received at the public hearing on July 18. Every speaker in opposition spoke about the RMND including Mr. Allen who read from a script:

> "The MND erroneously states that the project will not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions

involving the release of hazardous materials into the environment."[24] He also requested that a Focused EIR be prepared."

Mr. Allen went on to expound on why there was no discussion in the MND supporting the findings.

In addition, Dale Glenn, a geologist, reading from a letter, attacked the conclusions in the MND about the potential geological impacts of the proposed Project. Many of the speakers at the hearing, while not specifically mentioning the MND, supplied testimony challenging the basis upon which the MND was supported.

` The first Proposed Mitigated Negative Declaration was noticed by publication in a newspaper of general circulation on April 23, 2012. Seven responses were on record. Then the Applicant filed a response to the comments on January 2, 2013 however no one knew about the Applicant's response until the beginning of June at which time nine persons filed responses between June 11 and June 17, 2013, including PPA whose response was filed on June 17.

On June 17, 2013, the Environmental Section of the Planning Department published a newspaper notice of a Proposed Mitigated Negative Declaration, allegedly in response to the comments received. Given the fact that nine responses were filed within a week of the Revised MND, none of their comments were responded to in the Revised MND.

Generally speaking if there are any significant mitigation measures added or deleted from a project, the MND must be recirculated in order to ensure that the mitigation measures are properly placed before the public.

a. Notice of the Recirculated MND Should Have Been Mailed to Every Person Who Had Communicated with the City about the Proposed Project.

Ordinarily, the notice requirement for an MND are satisfied by publication in a newspaper andt notice must be mailed to owners and occupants of contiguous properties and to any person who requested notice. But that is not so when a Coastal Development Permit is involved.

California Code of Regulations, Section§ 13302. Coastal Development Permit Program states that:

> "In order to meet the requirements of the California Coastal Act including Public Resources Code, Sections 30602(a), 30604, 30620 and 30620.5 a local government coastal development permit program shall include, but not be limited to, the following:
>
> d) Procedures for providing notice to the public, including all persons who request notice of pending permit applications and of rights of appeal within the local government and to the commission at a minimum equivalent to the notice required by Sections 13054 and 13063."

Section 13054, Identification of Interested Persons/Submission of Envelopes/Posting of

[24] A copy of the Script Allen read from is attached as Attachment No. 12.

Site states:

"(3) the names and addresses of all persons known to the Applicant to be interested in the application, including those persons who testified at or submitted written comments for the local hearing(s)."

Any person who filed a response to the MND is certainly interested in the application and the Applicant should have obtained the names of all persons who responded to the original MND and provided those names and addresses to the City before any Recirculated MND was circulated. This serves the policy of ensuring that those who submit comments are aware of any significant changes to the original MND. It also serves the policy of wide public participation in the CEQA review process.14 Cal. Regs.§§15202-15204. *Plaggmier v. City of San Jose* (1980) 101 Cal. App. 3d 842, 853 in which the Court invalidated a Negative Declaration because City used only one method of Notice, holding that opportunities to protest the issuance of a Negative Declaration, and to be heard before its finality, are consequently important to the purpose of CEQA.

Since the letters received by the City during the week the RMND was recirculated addressed for the most part the items in the MND that did not change with the RMND, those letters should have been considered comments regarding the RMND.

Another coincidence that makes it look like the Zoning Administrator was playing games with the opponents of the proposed Project is the fact that the Hearing was scheduled the day after the final day for submitting comments on the Recirculated MND, as if he knew no one would. Moreover, since the City mailed out the Notice of Hearing for the July 18 hearing to everyone who had previously commented on the original MND, the City could just as easily included in the same mailing a notice tht it was recirculating the MND.

Therefore, there was ample substantial evidence that the proposed Project may have a significant adverse impact on the environment and the Zoning Administrator erred and abused his discretion in finding that no substantial evidence was in the record.

9. The Zoning Administrator Erred in Finding That the Appropriate Environmental Clearance under the California Environmental Quality Act Has Been Granted.

In CEQA Guidelines 15073.5(a), and relevant cases state that an EIR must be prepared if a "fair argument" has been made that the project may result in unmitigated impacts. See Guidelines 15073.5(d). A mitigated negative declaration is proper only if project revisions would avoid or mitigate the potentially significant effects identified in an initial study "to a point where clearly no significant effect on the environment would occur, **and … there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment."** (Pub. Resources Code, § 21064.5; accord, § 21080, subd. (c)(2)*; Mejia v. City of Los Angeles* (2005) 130 Cal. App 4th 322.

This case is a classic example of the need for an EIR, for several reasons:

1. The geological and hydrology issues are in dispute by experts;

2. The haul route has not been analyzed and is a major environmental concern that has been deferred improperly to a later date. This is an impermissible sequencing of approvals under CEQA.

3. The driveway is on a notoriously dangerous curve as pointed out by community members with first-hand knowledge of the facts. Community evidence of street hazardous conditions constitutes substantial evidence without the need for expert testimony under *Mejia v. City of Los Angeles*, supra, supporting the requirement that plans and review are required. Moreover, there is evidence that it is a pedestrian route since the opposite side of Sunset is not usable for pedestrians which leaves the west side of Sunset the only way pedestrians can travel between the beach and the upper mesa on which the project is located. The cumulative effect of traffic egress and egress from all the properties located from 16990 to 17070 Sunset Blvd. should be considered.

4. The hauling of in excess of 44,000 tons of earth and debris from the site.

There is no rationale for deferring these difficult issues to a later date, after project approval. An EIR is required to address all these issues in one document, for consideration by the ultimate decision-maker, which may be the Zoning Administrator, or the Area Planning Commission or the California Coastal Commission. No decision maker should be expected or required to wade through all of the separate documents and memoranda and reports scattered throughout the file to determine what is mitigated and what is not, or whether mitigation is even possible.

As courts have reiterated many times, the threshold requirement for preparation of an environmental impact report is low; it reflects a preference for resolving doubts in favor of environmental review. *County Sanitation District No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1579, *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1316–1317)

In the seminal case arising out of another Pacific Palisades project incorrectly approved by the City of Los Angeles, the California Supreme Court explained, "[S]ince the preparation of an [environmental impact report] is the key to environmental protection under [the California Environmental Quality Act], accomplishment of the high objectives of that act requires the preparation of an [environmental impact report] **whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant environmental impact.** (*No Oil, Inc. v. City of Los Angeles* 13 Cal.3d 68 at p. 75, (emph. added); accord, *Citizens for Responsible Equitable Environmental Development v. City of San Diego Redevelopment Agency*(2005) 134 Cal.App.4th 598, 609,; *Sierra Club v. County of Sonoma, supra,* 6 Cal.App.4th at p. 1316; 21080, subd. (d) [If there is substantial evidence, in light of the whole record before the lead agency, that the project **may have** a significant effect on the environment, an environmental impact report shall be prepared"](emph. added).)

Stated differently, a public agency should not file a negative declaration if there is substantial evidence supporting a fair argument the project may have a significant effect on the environment. *Leonoff v. Monterey County Bd. of Supervisors, supra*, 222 Cal.App.3d at p. 1348.) Pursuant to Guidelines §15064,

"(a) Determining whether a project may have a significant effect plays a critical role in

the [California Environmental Quality Act] process. [¶] (1) If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, the agency shall prepare a draft [environmental impact report].erse change in environment." (§ 21068, see also Guidelines § 15382 ["

Guidelines section 15384, subdivision (a) defines "substantial evidence" as:

"…enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached."

Moreover, as the Court of Appeal has explained:

> "[I]f a local agency is required to secure preparation of an [environmental impact report] 'whenever it can be **fairly argued** on the basis of **substantial evidence** that the project may have significant environmental impact' *No Oil, Inc. v. City of Los Angeles, supra,* 13 Cal.3d at p. 75; (Emphasis added.), then an agency's **adoption of a negative declaration is not to be upheld merely because substantial evidence was presented that the project would not have such impact.** The trial court's function [and ours] is to determine whether substantial evidence supported the agency's conclusion as to whether the prescribed 'fair argument' could be made. **If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an [environmental impact report] and adopt a negative declaration, because it could be 'fairly argued' that the project might have a significant environmental impact.**" (*Friends of "B" Street v. City of Hayward, supra*,106 Cal.App.3d at p. 1002, 165 Cal.Rptr. 514). And *if any aspect of the project may result in a significant environmental impact, an environmental impact report is required,* even if the overall effect of the project is beneficial. (Guidelines, § 15063, subd. (b)(1); see *County of Sanitation Dist. No. 2 v. County of Kern, supra*,127 Cal.App.4th at p. 1580, 27 Cal.Rptr.3d 28.) (Emphasis added.)

If there is substantial evidence that a significant adverse impact may result, contrary evidence is not adequate to support a decision to dispense with an EIR. (*Long Beach Sav. & Loan Assn. v. Long Beach Redevelopment Agency* (1986) 188 Cal.App.3d 249, 264; *Bowman v. City of Petaluma* (1986) 185 Cal.App.3d 1065, 1071; Guidelines, § 15064, subds. (g), (h).) Section 21151 creates a low threshold requirement for initial preparation of an EIR and reflects a preference for resolving doubts in favor of environmental review when the question is whether any such review is warranted. (*Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872, 881; *Bowman v. City of Petaluma,* supra, at p. 1073.) For example, if there is a disagreement among experts over the significance of an effect, the agency is to treat the effect as significant and prepare an EIR. (*Friends of "B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1000-1001; Guidelines, § 15064, subds. (g), (h).)

a. The Expert Evidence That Has Been Submitted Constitutes Sufficient Substantial Evidence to Require That a Focused EIR Be Prepared.

Four experts have appeared for the opponents. Dale Glenn, a Registered Engineering

Geologist, Scott J. Walter, a Registered Engineer, Edward Lee, a Registered Geologist and Jack Allen, a geologist. Mr. Gaines argues in his April 30, 2013 letter that PPA is not an expert witness but PPA has never contended it was. However, its President is. Although he is a retired city attorney who specializes in environmental and land use planning law, he is not be a registered geologist or even have a degree in geology but he has substantial education, training, and experience in geology, particularly in the geology of the Pacific Palisades.[25]

The threshold to qualify as an expert for the purposes of deciding whether or not the opinions given by a person constitutes enough substantial evidence to require that an EIR be prepared is lower than that required for a trial. The reason for that is that the EIR is an informational document and only after it is prepared do the decision makers weigh the evidence and if there are conflicts between experts, the decision makers then can consider the qualifications of the experts in deciding the relevant issue or issues. As stated in *The Pocket Protectors v. City of Sacramento (Regis Homes of Northern Cal., Inc.), supra* and *Friends of the Old Trees v. Department of Forestry & Fire Protection* (1997) 52 Cal.App.4th 1383, 1398-1399 & fn. 10 **expert testimony for fair argument purposes need not meet standard required of such testimony at trial.**

In *The Pocket Protectors v. City of Sacramento (Regis Homes of Northern Cal., Inc.)* (2004)124 Cal.App.4th 903 , 928 the court set aside an MND for a residential project and required an EIR be prepared before the City could approve the project. Numerous residents testified concerning the possible impacts that could result from the project. Agreeing with The Pocket Protectors that substantial evidence existed to support a fair argument the project may have a significant effect on the environment, the court held that:

> "Relevant personal observations of area residents on nontechnical subjects may qualify as substantial evidence for a fair argument. (*Ocean View Estates Homeowners Assn, Inc. v. Montecito Water Dist.* (2004) 116 Cal.App.4th 396, 402); *Arviv Enterprises, Inc. v. South Valley Area Planning Com.* (2002) 101 Cal.App.4th 1333, 1347) So may expert opinion if supported by facts, even if not based on specific observations as to the site under review. (*Friends of the Old Trees v. Department of Forestry & Fire Protection* (1997) 52 Cal.App.4th 1383, 1398-1399 & fn. 10 [expert testimony for fair argument purposes need not meet standard required of such testimony at trial].) Where such expert opinions clash, an EIR should be done. (Guidelines, §15064, subd. (g).)"

However, Mr. Gaines argues that PPA (Mr. Allen) does not qualify as an expert citing the case of *Cathay Mortuary Inc. v. San Francisco Planning Comm'n* (1989) 207 Cal. App. 3d 275. That case has no applicabilty to this Appeal. In that case the City condemned a mortuary in Chinatown so that it could build a park. An expert planner testified for the mortuary but the expert did not provide any testimony regarding any environmental issues. Therefore, the court found that his testimony did not present any substantial evidence that a significant adverse impact on the environment might result if the City built a park at that location.

That is not the case here. Mr. Allen has submitted substantial evidence that significant adverse impacts may result geologically if the proposed Project is constructed. He has set forth sufficient facts that hydrogen sulfide could cause damage to the proposed structure and to the storm drains as well as the sewers, and that there is a reasonable possibilty that ground water

[25] See Mr. Allen's Resume, Attachment No. 13.

may result in undermining the proposed structure which could result in a land slide. He further has presented substantial evidence that for the purposes of the Coastal Act, the proposed structure is located on a coastal bluff.

A witness need not be recognized as an expert in his or her profession in order to be qualified as an expert witness in court. *Mann v. Cracchiolo*. (1985) 38 Cal. 3d 18,36-40. In California state courts, a person may be qualified as an expert if he/she "has special knowledge, skill, experience, training or education sufficient to qualify him/her as an expert on the subject to which his/her testimony relates."

Mr. Allen was knowledgeable enough to read boring logs and discover that Applicant's geologist had attempted to conceal the presence of hydrogen sulfide. Unlike Applicant's geologist, Mr. Allen knew that H2O is a hazardous gas and unlike Applicant's geologist, Mr. Allen demonstrated that the presence of H2O in the soil and ground water could damage the foundations of the proposed structure and the sewer and storm drain pipes connected to the proposed structure. Unlike Applicant's geologist, Mr. Allen recognized the potential for ground water to seep through the fractured rock beneath the proposed structure and undermine the proposed structure. And unlike the Applicant's geologist, Mr. Allen understands how to determine what a coastal bluff is. Mr. Allen's opinions are all based on facts and he documents every fact and conclusion.

b. Evidence Provided By Public Witnesses Is Sufficient To Constitute Substantial Evidence Which Constitutes A Fair Argument That Significant Adverse Impacts May Result From Additional Vehicles Entering And Exiting The Proposed Project and Therefore a Focused EIR is Required.

Several people have testified or submitted letters stating that the proposed Project is located close to Deadman's Curve on Sunset Blvd. and have submitted photographs of accidents. Even though these people are not experts, nevertheless the facts that they submit constitute substantial evidence sufficient to require that a Focused EIR be prepared regardless of the fact that the Applicant had an expert find that the location is safe.

Statements of area residents who are not environmental experts may qualify as substantial evidence if they are based on relevant personal observations or involve "nontechnical" issues. (*Ocean View Estates Homeowners Assn., Inc. v. Montecito Water Dist.* (2004) 116 Cal.App.4th 396, 402 [aesthetics]; *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal. App. 3d 872, 882 [noise]; *Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo (1985)* 172 Cal. App. 3d 151**.** 173 [Traffic]

In the *Bishop Area* case the Court set aside an MND stating that:

> "In this case the record does not support defendants' contention that all of the public testimony and letters in the administrative record merely represent fears unsupported by any evidence. First, relevant personal observations are evidence. **For example, an adjacent property owner may testify to traffic conditions based upon personal knowledge."** (Emphasis added)

In *Arviv Enterprises, Inc. v. South Valley Area Planning Com.* (2002) 101 Cal.App.4th 1333, 1347, a housing developer managed to secure a series of permits to build five houses

downslope from Mulholland Drive and an MND from the City of Los Angeles. Residents testified based on their observations of problems that could result if permits issued. The Court set aside the MND, holding that scientific or expert studies are not required to provide substantial evidence to support a fair argument the project may have significant environmental impacts.

c. The Mitigated Negative Declaration Must Be Set Aside And A Focused EIR Prepared Because Of The Failure To Adequately Address The Groundwater Problems.

In this matter, there has been a failure to adequately discuss the groundwater problems. In *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74 ,110, an EIR was set aside because of an inadequate discussion of the ground water problems.

d. There Is Enough Reasonable Evidence Presented To Constitute Enough Substantial Evidence That Requires That An EIR Be Prepared Even Though Different Conclusions May Be Reached.

It does not matter if the Zoning Administrator reaches different conclusions than those of the Appellants. If there is enough substantial evidence to support an opposite conclusion it is necessary to prepare an EIR.

In *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144,152 the Court set aside an MND and required the developer to prepare an EIR stating:

> "… substantial evidence is simply evidence which is of " 'ponderable legal significance … reasonable in nature, credible, and of solid value.' " (Lucas Valley Homeowners Assn. v. County of Marin, supra, 233 Cal.App.3d at p. 142.) CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) state that " 'Substantial evidence' " is "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, **even though other conclusions might also be reached.**" (Cal. Code Regs., tit. 14, § 15384).Thus, respondents' attempt to persuade us to consider only "raw analytic data," and to require quantitative environmental studies definitively establishing the existence of the claimed environmental impacts is unpersuasive."

Given the evidence in the record that a fair argument has been made based upon substantial evidence that the project may have significant impacts on the environment, including the fragile landslide-prone hillside, the dangerous traffic patterns at the driveway on Sunset Boulevard, the lack of information as to potential staging and haul routes for trucks, the aesthetic impact and alteration of views toward the hillside and from Sunset to the ocean, and the impact of alteration of the coastal bluffs, there is a legal requirement under the Supreme Court pronouncement in *No Oil* to prepare a Focused EIR.

Therefore, the Zoning Administrator erred and abused his discretion in not requiring that a Focused EIR be prepared.

f. Even Though the Commission May Believe That it Has All the Relevant Facts and Information it Needs to Reach a Decision Regarding the Approval of the Proposed Project, That Is Not Enough to Excuse Requiring the Applicant from Preparing an EIR.

After the Commission has completed its hearings on the appeals and received all the documents, there is the temptation to assume that requiring an EIR would not produce any more relevant or useful information and that the Commission has all the information it needs to make a decision without requiring an EIR. Not only is such an assumption erroneous as a matter of law, it is not necessarily true.

As the court in stated in *County of Inyo v. Yorty*, (1973) 32 Cal.App.3d 795, 811, it is the widely accepted desirable goal of the CEQA process to ensure that public agencies receive adequate comment on their EIR's is to encourage public participation as shown by the requirement that all public agencies adopt implementation procedures in their procedures for wide public involvement, formal and informal, consistent with their existing activities and procedures, in order to properly receive and evaluate public reactions, adverse and favorable, based on environmental issues and that emphasize the importance of the widest possible local participation in the public decision making process by those authorities charged with the administration of the project.

This cannot be achieved through the MND process as implemented by the City of Los Angeles. The City actively discourages informed public participation in the process. The contents of the MNDs are not published nor are they readily available to the public. A member of the public wishing to examine any documents regarding an MND must travel to City Hall after first making an appointment to see the files and the files are kept in two different offices, the Environmental Section and the Office of the Zoning Administrator. Therefore, the public does not have any effective means to examine the documents supporting the MND and thus, this restricts the ability of the public to comment on the MND.

Additionally and importantly, if an EIR is prepared, it is absolutely necessary that an adequate response be prepared to every comment received by the Lead Agency relating to a Draft EIR be included in the Final EIR. (Guidelines §15132). As stated by the court in *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392:

> "Under CEQA, the public is notified that a draft EIR is being prepared (§§ 21092 and 21092.1), and the draft EIR is evaluated in light of comments received. (Guidelines, §§ 15087 and 15088.) The lead agency then prepares a final EIR incorporating comments on the draft EIR and the agency's responses to significant environmental points raised in the review process. (Guidelines, §§ 15090 and 15132, subds. (b)-(d).) fn. 4."

That was not done in the MND as has been demonstrated and consequently, neither the Commission or the public has the benefit of those responses. While the Letter of Determination by the Zoning Administrator includes responses, they are not specific and often incomplete. For example, the Zoning Administrator never responses to comments concerning the flow of groundwater. Nor is there any response to the evidence of actual accidents occuring on Sunset in the proximity of the Project Site other than the Applicant's traffic consultant reported that there was no record of any accident.

Further, by requiring an EIR, a discussion of possible alternatives must be discussed, which is not done in the MND. By requiring a Focused EIR, the Commission and the public will have this information available.

In comparison to an MND, a draft EIR is published and it contains all the relevant documents and copies are available in local libraries to examine so the public has the opportunity to read and comment on the draft EIR. This provides the decision making body with wide public participation, much wider than the MND process, and it potentially provides more information to the decision making body about the potential adverse impacts of the project, which the decision making body will not have the benefit of if it relies on the MND process.

As the State Supreme Court stated in *Laurel Heights (supra)*:

> " If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees."

CONCLUSION

Based on the record herein, the Commission should grant the appeals and make the following findings:

> **Finding No. 1:** That based on substantial evidence has been submitted by four experts that it can be fairly argued that the project may have a significant environmental impact on the stability of the slopes supporting the project in that the history of landslides in the immediate area of the project indicates the potential for the project to cause further landslides by destabilizing the area in part to lack of measures to ensure that the proposed drainage system may be inadequate to drain rainfall resulting from heavy storms; that the project may result in ground water infiltration into the lower slopes; that there is the potential for ground water saturated with hydrogen sulfide to destabilize the hillside and also to corrode drainage pipes and foundations. Further, there is substantial evidence presented by nearby residents that traffic entering and exiting the project may create a hazard particularly if left turns are permitted into and out of the project as well as the accident history of the area; that failure to implement the Regional Interpretive Guidelines may result in the inability of the City to prepare a Local Coastal Plan for the coastal bluff involved in particular regarding preservation of the viewshed, and therefore, it is necessary that the Applicant prepare a Focused EIR concerning the stability of the slopes using maximum strength parameters; the amount and flow of groundwater onto and around the project site, the removal of storm water including rain water infiltration during a major storm event; the corrositivity of ground water contaminated with hydrogen sulfide on soil stability, foundations, storm drains and other pipes used to remove affluent and water from the site; the hazards of hydrogen sulfide gas migrating to the surface during drilling, excavation, and after completion of the project; the application of the Regional Interpretive Guidelines for Los Angeles County as they apply to the Pacific Palisades; the potential for traffic hazards on Sunset Blvd. resulting from vehicles entering and exiting the project; and the Haul Route, including the potential staging areas for trucks.

Finding No. 2: That the project site is located in the Dual Permit Zone as specified in the California Coastal Act and further based on the information provided by the Applicant in its Preliminary Geotechnical Report of November 15, 2009 and "A Prime on Coastal Bluff Erosion" by Mark J. Johnson, Staff Geologist of the California Coastal Commission, the project is located on a coastal bluff as defined in 14 Cal. Code Regs. §13577(h).

Finding No. 3: That the City of Los Angeles has not adopted a Local Coastal Plan for the Pacific Palisades as is required by the California Coastal Act and the Brentwood-Pacific Palisades Community Plan which would apply to the proposed project site and therefore, the Commission cannot find that the proposed project complies with Chapter 3 of the California Coastal Act of 1975.

Finding No. 4: That absent a Local Coastal Plan for the Pacific Palisades, approval of the proposed project will prejudice the City of Los Angeles in developing a Local Coastal Plan for the Pacific Palisades in conformity with Chapter 3 of the California Coastal Act.

Finding No. 5: That until the City of Los Angeles adopts a Local Coastal Plan which is approved by the California Coastal Commission, development of the proposed site should be in accordance with the Regional Interpretive Guidelines for Los Angeles County as they apply to the Pacific Palisades.

Finding No. 6: That the Commission does not have sufficient information to find that the proposed project will assure stability and structural integrity and neither create nor contribute significantly to erosion, geological instability or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural land forms along bluffs and cliffs as required by Public Resources Code Section 30253 of the California Coastal Act.

Respectfully yours,

JACK ALLEN, *President*
Palisades Preservation Assn.

Attachments:

1. Copy of letter Dale Glenn Engineering, July 18, 2013
2. Copy of Coastal Commission Staff Report re: Appeal Number: A5-PPL-06-272, *444 Surfview Drive,* Aug. 2006
3. Copy of Board of Professional Engineers' Decision re: Sassan Salehpour
4. Copy of letter GeoConcepts, March 13, 2013

5. Copy of letter Ralph Stone & Co., April 10, 2013
6. Copy of City of Los Angeles Interdepartmental Correspondence, Bureau of Engineering dated December 27, 1988.
7. Copy of letter to Ms. Stella Berestetsky from LADBS dated January 4, 1990
8. Copy of letter from LG Engineering to Excel Property Group, Inc. dated August 16, 2013
9. Copy of letter Neville Orlick, dated December 31, 1986
10. Copy of letter E. D. Michael dated February 2, 1987
11. Compilation of Comments and Responses of Mr. Salehpour to Comments.
12. Copy of script Jack Allen read at Zoning Administrator Hearing
13. Resume of Jack Allen
14. Copy of "A Prime on Coastal Bluff Erosion" by Mark J. Johnson, Staff Geologist of the California Coastal Commission.
15. Copy of Preliminary Geotechnical and Engineering Geology Investigation for 17000 - 17020 Sunset Blvd. dated November 16, 2009
16. Copy of Abstract of "Translational Sheet Landsliding in the Pacific Palisades And its Relevance to Safety Factor Calculation with Additional Notes on Oil-shale Development", E. D. Michaels, March 19, 2013