

**Amy J. R. Lundberg • G. Andrew Lundberg**

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March 17, 2014

Mr. Charlie Rausch  
Associate Zoning Administrator  
Department of City Planning, City Hall  
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charlie.rausch@lacity.org

Darlene Navarrete  
Office of Environmental Planning/ EIR Section  
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200 N. Spring Street, room 750  
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**RE: Application for Coastal Development Permit  
ZA 2012 130, ENV 2012 131 MND,  
Project @ 16990-17000 Sunset Blvd., Pacific Palisades, CA 90272**

Dear Mr. Rausch and Ms. Navarrete:

We are writing to comment on the letter from Fred Gaines, Esq. to Mr. Rausch dated August 19, 2013, and to request that the Coastal Development Permit for this project be denied. As described below, this project violates the Los Angeles Zoning Code, the "Q" Condition, the California Coastal Act and the Regional Interpretive Guidelines in ways that cannot be mitigated. In the alternative, at a minimum, we request that a focused EIR be prepared for this project, including the haul route, which we believe will confirm that the project cannot conform to all applicable regulations and reduce all environmental impacts to a less than significant level.

To allow this project to proceed would flout numerous law and regulations that unquestionably apply to the proposed project. Even if the project could be permitted consistent with those requirements, which as currently designed it cannot, allowing it to proceed without a focused EIR would put lives of adjacent homeowners at risk, jeopardize the stability of public roads, impair the ability of the City to create a Local Coastal Program for Pacific Palisades, and expose the City of Los Angeles to enormous potential liability.

Our community is deeply disappointed with the failure of the developer and its team to fulfill the recent promises made by them, namely to establish a dialogue with the

community and furnish us promptly with all documents filed with the City regarding this project. The undersigned G. Andrew Lundberg requested documents and calculations in his July 31, 2013 letter (Exhibit 1). Despite Mr. Gaines's specific written assurances on August 13 (Exhibit 1) to furnish us with all documents submitted to the City, Mr. Gaines and the developer -- six days later -- submitted a substantial body of new documentation without providing them or giving notice that they had been filed. Mr. Gaines's promise was obviously made with no intention of keeping it.

Mr. Gaines's August 19 letter to Mr. Rausch states that it is intended to "provide a response to a number of issues that were raised at the July 18, 2013 public hearing." However, all of page 5 and almost all of pages 6 and 7 of the letter are copied verbatim from the project's Coastal Development Permit Findings submitted on January 18, 2012, and so are nothing more than the precise statements previously commented on by the community. This simple reassertion of the challenged statements is entirely unresponsive.

The current MND and related studies:

1. Fail to disclose that the developer, contrary to its implicit representation, does not in fact have the right to use all of the easements over Malibu Village property that are necessary to the project as proposed;
2. Fail to address applicable zoning code violations previously called to the Zoning Administrator's attention;
3. Fail to address Coastal Act violations similarly previously identified;
4. Fail to accurately describe and analyze existing drainage channels and requested flow rates;
5. Contain many errors of fact;
6. Fail to accurately describe the existing conditions of the site and vicinity;
7. Fail to adequately and accurately represent the project (including all soldier pile walls serving as retaining walls) on the site;
8. Fail to accurately assess the potential impacts of the project on the environment; and
9. Fail to demonstrate the effectiveness of proposed mitigation measures that are supposed to be addressed *prior to* the issuance of an MND and be available for review as part of the MND, but here are only called for in the future – a proposed sequencing of approvals that is impermissible under CEQA.

We also note our surprise at the continued inaccuracies and falsehoods, which cannot be inadvertent, contained in the reports and documentation tendered in support of this project. The failure of the project's proponents to squarely and honestly address the issues compels the inference that they cannot do so.

We incorporate by reference all comments made in our previous letters and support those made by other community members (especially those regarding hydrogen sulfide and geological issues) and comment further as follows.

1. **The developer does NOT, as it claims, have the right to use all of the necessary sewer, utility and drainage easements over the adjacent Malibu Village property.**

Mr. Gaines's letter makes two false statements with respect to the easements described in the documents submitted on August 19, 2013:

First, the letter states that the developer "will be using these easements." However, the developer in fact has NO right to use the private sewer easement along the western border of Malibu Village to benefit 16990 or 17000 Sunset. The Easement Exhibit to the August 19, 2013 Building Revisions acknowledges that the grantee of the sewer easement is APN 4415-020-005, which is 17010 Sunset. ***This parcel does NOT include either 16990 or 17000 Sunset, and the developer cannot unilaterally increase the burden on the easement by allowing adjacent non-grantee parcels to use it.*** (Exhibit 2)

Second, Mr. Gaines's letter asserts that the subject easements do not run directly through Malibu Village. This is demonstrably false. As shown in the aerial view Easement Exhibit to the August 19, 2013 Building Revisions, the sewer and utility easements along the western property line of Malibu Village run directly under an occupied home in the southerly row of homes.

In addition, the City of Los Angeles has required, and Sassan Geosciences, Inc. ("Sassan") has recommended (in its Addendum No. 2), that a canyon drain be installed along the flow line of the old canyon (Exhibit 3). **This canyon drain will require a new and separate drainage easement through the middle of the Malibu Village property since the old canyon daylights under Malibu Village, well below the project site's property line.** This canyon drain easement is not represented on either of the Easement Exhibits submitted with the August 19, 2013 Building Revisions or on any other document submitted by the developer.

Thus, contrary to the developer's implication, the easements required by the project do not exist -- and will not be granted in the future. **Section 2.08 of the Malibu Village CC&R's (Exhibit 4) provides that "no easement shall be granted by the Association if it would interfere with the use, occupancy or enjoyment by any owner of his unit."** Therefore, any new easements or expansions of burdens under existing easements will require the approval of the Malibu Village Homeowners Association *and* the consent of all individual owners within Malibu Village whose use, occupancy or enjoyment of their unit could be affected by such easement. As the vocal opposition to the project registered by an overwhelming majority of the residents, and their association, makes clear, that approval cannot reasonably be presumed to be forthcoming in the foreseeable future.

## 2. Los Angeles Zoning Code Violations.

### A. Violation of Height Limitations Contained in Zoning Code and “Q” Condition

The developer’s assertion that the project complies with the applicable height limitations are based upon an outright misrepresentation of the project’s and the site’s characteristics.

The project is not in compliance with zoning code height restrictions if the natural low point and grade on the plans are not accurately stated due to the use of retaining walls on the site. Section 12.03 of the Los Angeles Zoning Code provides that when the property line is more than 5 feet from a building, the grade from which the height of a building is to be measured is the lowest point of elevation of the finished surface of the ground between the building and 5 feet from the building.

Per Section 12.2.1 of the Los Angeles Zoning Code, however, natural grade may be built up and used as the relevant point from which to measure the height of a building *only if retaining walls are not used*. The project geological studies call for a row of soldier piles to support the existing undocumented fill south of the project building (Exhibit 5). In addition, Construction Note 13 on the Preliminary Grading Plan refers to “Construct Retaining Wall per Arch’s Plan” just below the southern side of the building. **This use of retaining walls not connected to the structure means that the building height must be measured from the natural grade existing below the fill within 5 feet of the building, not from the surface of the fill. As a result, this building does not conform to the height restrictions of the “Q” conditions or of the Los Angeles Zoning Code.**

Moreover, the community has repeatedly asked the developer for a site plan showing the exact location and dimension of all retaining walls not connected to the building, and for renderings of the entire project to scale as it sits on the site and in context with surrounding buildings. **NONE of these items has been delivered to the community or submitted to the City.** We believe the reason is apparent: they will reveal, in a direct visual manner, the presence of the retaining walls that requires the recalculation of the project height, and the resulting finding of noncompliance.

### B. Violation of Second Story Step-Back Requirements of the “Q” Condition

The revised plans also fail to comply with the second-story step-back requirements of the “Q” condition. As Mr. Rausch correctly and clearly pointed out at the July 18, 2013 public hearing, the “Q” condition is necessarily interpreted as requiring a 10-foot step-back of the entire second story of any structure within 50 feet of a lot zoned R1 or more restrictive. (See our letter to you dated June 17, 2013 at p. 2.) At the July 2013 hearing, Mr. Rausch specifically addressed this issue. He stood up, motioned along the entire lower portion of the building plans, and told the developer to submit revised plans reflecting a step back of 10 feet along the second story of this entire lower building. (We also believe that upon further study Mr. Rausch will recognize that the project consists of

one building, not two, so the second story of the upper portion of the building also must be stepped back the requisite 10 feet.)

Mr. Gaines states this requirement correctly on page 1 of his letter, but then misstates it on page 2 when applying it to the project when he states, “Sheet A2.04 shows the ten foot step back of the second floor ON THE PORTION OF THE BUILDING within 50 feet of the RE40 zone.”

The project plans must be revised to fully comply with the “Q” condition step-back requirement for the entire second story.

### **3. The project does not comply with the Coastal Act OR the Regional Interpretive Guidelines**

Mr. Gaines acknowledges on Page 1, Paragraph A of his letter (as does the project’s Coastal Development Permit application (Exhibit 6)) that this project is within the dual permit jurisdiction area of the California Coastal Zone. In addition, Coastal Commission Staff has determined from maps in the South Coast District office that the neighboring Coalco 17030 Sunset project site is within the Dual Permit Jurisdiction area (Exhibit 7). (As you may be aware, an application by another developer to build a 49-unit project on neighboring 17030 Sunset recently was denied by the West Los Angeles Planning Commission. The developer there appealed that denial to the Coastal Commission. The Coastal Commission’s staff report regarding that appeal is referred to hereinafter as the “17030 Report”). Please also see Exhibit 8 for a Coastal Commission Staff Note discussion of the Dual Permit Jurisdiction area. The project’s conceded and indisputable location in the Dual Permit Jurisdiction area is fatal to the request for its approval.

Section 30601 of the Coastal Act defines what properties are within this Dual Permit Jurisdiction area, those that are either (a) within 300 feet of the beach or sea, (b) within 100 feet of a stream, or (c) within 300 feet of the top of the seaward face of a coastal bluff. Since the project site does not meet (a) or (b), it is clear that by agreeing that the property is within the Dual Permit Jurisdiction area of the Coastal Zone, the developer is necessarily agreeing that the site is within 300 feet of the top of the seaward face of a coastal bluff. Since there is no other non-contiguous coastal bluff within 300 feet, the developer has thus also necessarily conceded that the project site is on a coastal bluff.

Since Coastal Commission staff has opined that neighboring 17030 Sunset is within the Dual Permit Jurisdiction area (which compels the conclusion that it is on a coastal bluff), 16990-17000 Sunset most certainly is as well. Mr. Gaines claims the site is not a coastal bluff since the old bluff edge was graded and filled to build Sunset Boulevard. To the contrary, the Coastal Commission staff has stated that natural landforms remain as such and ***do not lose their original character even if graded and/or filled*** (Exhibit 9).

Mr. Gaines also asserts that the lower bluff edge on which Malibu Village sits is the relevant coastal bluff. This assertion is erroneous. The applicable regulation (14 Cal. Code Regs. Section 13777(h)) provides that where there is a steplike feature at the top of a bluff or cliff, the landward edge of the topmost riser is the cliff edge. This is supported

by similar language in many Coastal Commission decisions that we would be pleased to submit if requested.

Mr. Gaines further incorrectly states, at page 7 of his letter, that Section 30251 of the Coastal Act (regarding public views, alteration of natural landforms, and visual compatibility with surrounding areas) are the only relevant standards contained in the Guidelines for the project. He uses incorrect facts to conclude that the project is consistent with Section 30251 and then argues at length that the project site is not a coastal bluff. **Mr. Gaines completely ignores the density and bluff set-back requirements described below that apply to ALL developments in the Coastal Zone of Pacific Palisades, not only to coastal bluffs.**

**Mr. Gaines makes an entirely invalid statement when he says “As project as designed is entirely consistent with the Coastal Act, implementation of the Interpretive Guidelines is not required in this case.” This is false. The project cannot be consistent with the Coastal Act UNLESS it is consistent with the Guidelines.** The Guidelines were developed by the Coastal Commission to summarize applicable Coastal Commission decisions and thereby aid local authorities in making development determinations that do not conflict with the Coastal Act or impair the ability to develop a Local Coastal Program consistent with the Coastal Act. There is no Coastal Commission precedent for Mr. Gaines’ bald assertion that the Interpretive Guidelines do not apply to this project.

In summary, this project violates the following provisions of the Coastal Act and the Guidelines (**please note that violations A. through E. are violations of restrictions that apply to ALL residential development in the Coastal Zone of Pacific Palisades, not just to developments on coastal bluffs**):

- A. The project grossly exceeds the permissible density for any new residential development in Pacific Palisades, as it contemplates nearly *double* the density permitted by Paragraph A.2.i. of the Guidelines. In addition, the developer has not calculated the permitted density of the project site under the applicable Hillside Dwelling Unit Density Appendix of the Guidelines.** Per Paragraph A.2.i of the Guidelines, density of new residential development is limited to a maximum of 24 units per acre gross. Further, the Hillside Dwelling Unit Density Appendix calculations most certainly will result in much lower number of allowable units. Although this issue was raised at the July 18 hearing, **Mr. Gaines does NOT address these density violations in his response.** Both of these density restrictions are applicable to ALL bluffs in the Coastal Zone of Pacific Palisades.
- B. The project violates the alteration of landform restrictions set forth in Section 30253 of the Coastal Act and the Alterations of Landforms Appendix of the Guidelines.** On page 7 of his letter, Mr. Gaines states that the incorporation of “mitigation measures” will ensure that the “dwelling” will not substantially alter natural landforms. Mr. Gaines does not state the nature of these mitigation measures. Moreover, this 49-unit project and the removal of 44,500 cubic yards of

fill and soil obliterate this entire bluff and the project is much larger than “a dwelling.”

- C. The project violates the requirement that the project be visually compatible with the surrounding area as required by Section 30151 of the Coastal Act and Paragraph A.2.c. of the Guidelines.** The project extends higher from Sunset Boulevard and farther down the bluff face than any building situated on neighboring properties.
- D. The project violates the requirement of Section 30251 of the Coastal Act and Paragraph C.1. of the Guidelines that permitted development must be sited to protect public views of the ocean.** The project completely obstructs the public view of the Pacific Ocean from Sunset Boulevard (a Class II Major Scenic Highway) and from Marquez Avenue. This view is one of only two remaining unobstructed public views of the Pacific Ocean from Sunset Boulevard. **No attempt was made by the developer to preserve even a small view corridor to the ocean from the intersection of Sunset Boulevard and Marquez Avenue** (pictured below), which is a busy intersection with a bus stop and bus turnaround for both the Santa Monica Big Blue Bus and the City of LA Metro Bus. As anyone familiar with the neighborhood knows, and as shown by the photograph below, Mr. Gaines’s assertion on Page 6 of his letter that “there are no lookout points immediately above or below the project site whose views would be obstructed by the proposed development” is palpably false.



- E. The project violates the Guidelines requirement that proposed developments be set back at least 25 feet from the edge of any coastal bluff AND at least 10 feet from the edge of any canyon bluff.** Again, Mr. Gaines’s letter simply chooses to ignore the restrictions that apply to all bluffs in the Coastal Zone of Pacific Palisades rather than addressing them.
- F. The project also fails to comply with the Guidelines requirement of a cascading design for developments on coastal bluffs, since it “cascades” down**

**the hill only by means of a second large mass and rises over 3 stories from the top of the bluff.**

Even though the project's Coastal Development Permit Application states that the project site is in the Dual Permit Jurisdiction area of the California Coastal Zone, Mr. Gaines now attempts to disavow **the clear finding that the subject site is "a coastal bluff formed by wave action" made by Sassan, the developer's own engineer**, on page 4 of its November 16, 2009 Preliminary Study (Exhibit 10). Sassan's 2009 coastal bluff statement is part of its longer description of the general geology of the project site, written at a time when Sassan was under no pressure to opine one way or the other on the site's status as a bluff. However, once the coastal bluff issue became a topic at the July 18 hearing, Sassan quickly -- and without explanation -- completely reversed its earlier statement. Its new Limited Bluff/Cliff Study, dated July 22, 2013, now states that the subject site is not on a coastal bluff and that "the slope atop which the subject property has been located was never subject to any form of marine erosion." This complete reversal of opinion is plainly incredible. Sassan's bold and unexplained reversal of its view of a matter previously stated as fact requires that the integrity of all its work on this project be viewed with great skepticism.

We also have concerns regarding Sassan's professional competence given the recent disciplinary action taken by the California State Board of Professional Engineers, Land Surveyors and Geologists, which provisionally revoked Sassan Salehipour's license effective November 1, 2013. (Exhibit 11) The revocation was suspended, subject to a probationary period of three years and Mr. Salehipour's satisfactory completion of a number of rehabilitative requirements; including that Mr. Salehipour complete and pass the California Laws and Board Rules examination, an OSHA Site Safety Course and a course in professional ethics. (Mr. Salehipour has since obtained a judicial stay of that disciplinary order pending court review of the Board's decision, on the condition that Mr. Salehipour must have someone on site during any hand excavation for a project and must comply with CAL-OSHA for any excavation by machine.)

Mr. Gaines states (on page 8 of his letter) that Coastal Commission staff has agreed that the project site is not a coastal bluff since it was a canyon previously filled and graded. Even assuming it were true, which we question, this bald hearsay assertion is meaningless and entitled to no weight without knowing what facts were presented to the staff and without confirmation of its purported opinion in writing. Moreover, and contrary to Mr. Gaines's suggestion, the **Coastal Commission has elsewhere opined (Exhibit 9) that natural landforms remain as such and do not lose their original character even if graded and/or filled.**

Coastal Commission staff also has contradicted Mr. Gaines's assertion that the Guidelines should not apply even if the project is on a coastal bluff. In the 17030 Report, Coastal Commission staff stated, "The Planning Commission's analysis appropriately interpreted the standard established by Section 30253 by finding that there was a lack of information to ensure that the proposed development would minimize risks to life and property. The Planning Commission also **appropriately relied upon the Coastal Commission's Interpretive Guidelines, adopted pursuant to Section 30620(a)(3) for the explicit purpose of assisting local governments "in determining how the policies**



**of [the Coastal Act] shall be applied in the coastal zone prior to the certification of local coastal programs.”**

Coastal Commission staff also contradicted Mr. Gaines’s assertion that that the project is an “infill” project of the type favored by the Coastal Commission. In the 17030 Report, Coastal Commission staff 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 ...*” (Exhibit 12, emphasis added).**

The proposed project prejudices the ability of the City to develop a local coastal program in conformity with Chapter 3 of the Coastal Act. Approval of this project would set a bad precedent given the project’s numerous violations of Coastal Act and Guidelines restrictions. Again, Coastal Commission staff views any approval of the project proposed for 17030 Sunset as prejudicing the City in the same manner (Exhibit 12).

Mr. Gaines also asserts that “the project includes a dewatering system that will increase the stability of the slope.” This assertion lacks foundation since the dewatering system has not yet been designed.

In sum, all are agreed that the project is in the Dual Permit Jurisdiction area of the Coastal Zone -- which it can be only be virtue of its being situated on a coastal bluff. As such, all restrictions contained in the California Coastal Act and the Regional Interpretive Guidelines for the Coastal Zone of Pacific Palisades apply to the project. Also, the additional restrictions on coastal bluffs development contained in the Coastal Act and Guidelines apply to the project. The project cannot be allowed to violate these applicable provisions and thereby affect the ability of the City to develop a local coastal program that is in conformity with Chapter 3 of the Coastal Act.

#### **4. Hydrology**

As you are aware, the developer flagrantly breached its specific written promise to provide the community with copies of all further submissions in support of the project following the July 2013 hearing. When that breach was noted, the developer offered no explanation, and belatedly undertook to upload all studies and reports submitted to the City to an online dropbox for public viewing. However, the developer still has not provided the community with the Hydrology and Hydraulic Study prepared by LC Engineering Group dated August 7, 2013. Such repeated broken promises confirm a thoroughgoing lack of good faith on the developer’s part, and provide strong reasons to doubt the veracity of all its statements in support of the project.

**In any case, both the June 28, 2013 and the August 16, 2013 Civil Engineering Memoranda prepared by LC Engineering Group, Inc. make material false statements (throughout both reports) when they state that the public storm drain continues across Pacific Coast Highway and empties into the Pacific Ocean through a culvert. This results in a critical failure to properly analyze the hydrology of the site.** Contrary to the developer’s assertion, this storm drain does NOT now empty into the Pacific Ocean. Instead, it has been connected to the Low Flow Diversion Facility positioned immediately below the driveway to Malibu Village (Exhibit 13). This

misstatement of a fundamental fact brings into question the validity of the other statements made by LC Engineering Group, Inc. A study must be done regarding the ability of this Low Flow Diversion Facility to handle the increase in flow created by the project.

E.D. Michael makes the identical false assumption in his Hydrology Report for the project. He then mistakenly concludes that since there is no flow from around the culvert outlet near the Pacific Ocean, the ground-water flow rate must be so low that losses only occur through evapotranspiration and possibly by flow through beach sand at the shoreline and, as a result, all subsurface flow can be captured at the north end of the property. With the premise of that conclusion shown false, the conclusion cannot be accepted as valid.

The fact that both hydrologists who have studied this property for the developer have mistakenly assumed that the property drains to the Pacific Ocean means that the hydrological issues of the property have NOT been adequately or properly analyzed.

## **5. Geology**

In addition to comments in our previous letters and the issues raised by other community members and expert geologists, we note the following. In paragraph A.11 of Sassan's Response to Comments dated August 14, 2013, Sassan indicated that its seismic slope stability calculations for the project do not conform to current code since the LADBS approved its calculations on October 25, 2011, and the new requirements were not strictly enforced by the City until after January 1, 2012. Given the complicated and risky nature of this site, we request that the City require that the current standards be applied to this project's seismic slope stability analysis, not those that were applicable over 2 years ago.

## **6. Traffic**

Since we only recently received the documents submitted by the developer to the City in August, we have not yet had time to collect the data necessary to refute the claim by Infrastructure Engineers in their August 9, 2013 letter that there have been no accidents west of the Sunset/Marquez intersection in the last 3 years. However, we live along this stretch of road, and can testify that accidents are frequent. We will be pursuing official data to confirm this. Also, we documented in an earlier letter that there was a tragic fatal bus/motorcycle collision in the intersection just last year. Just earlier this month, there were two accidents west of the intersection and a photo from one, directly opposite the project site, is below (looking inland across Sunset with the intersection of Marquez and Sunset to the right). We also included a photo from another accident in our June 2013 letter.



7. **Notarized affidavit regarding unstable soils**

Finally, the Department of Building and Safety also has required **prior to the issuance of any permits** (see Paragraph 2, Page 2 of Exhibit 3), that the developer file a notarized affidavit with the County Recorder that the site is located in an area subject to landslides or unstable soils and they have knowledge that future distress may occur, and future mitigation measures may be required. Has this affidavit been approved and filed? What assurances (and guarantees of performance) does such affidavit give the Malibu Village homeowners (who signed acknowledgments of the risk of landslide which presumably would be void if this project were approved) and the City of Los Angeles that the developer is responsible for all damages and loss of life that may result from the construction, or existence of this project, or from any failure by the developer to adequately perform any such future mitigation measures?

**Conclusion**

The record of this matter shows that the developer has failed to heed the Zoning Administrator's directions, failed to keep its promises to the community, failed to provide credible support for its assertions, and ultimately failed to comply with many regulations and laws governing the proposed project. The project should not be permitted.

Thank you for your consideration of this significant matter.

Sincerely,

G. Andrew Lundberg

Amy J.R. Lundberg

cc: Council Member Mike Bonin (via [mike.bonin@lacity.org](mailto:mike.bonin@lacity.org))  
Norm Kulla, Esq. -- Council Member Bonin's office (via [norman.kulla@lacity.org](mailto:norman.kulla@lacity.org))

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Fred Gaines, Esq. (via [fgaines@gaineslaw.com](mailto:fgaines@gaineslaw.com))

EXHIBIT 1

From: [fgaines@gaineslaw.com](mailto:fgaines@gaineslaw.com)  
To: [glundberg@hotmail.com](mailto:glundberg@hotmail.com); [ppfriends3@hotmail.com](mailto:ppfriends3@hotmail.com)  
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Subject: RE: Case No. ZA-2012-130CDP -- 16990 – 17000 Sunset Blvd., Pacific Palisades  
Date: Tue, 13 Aug 2013 23:51:45 +0000

Messrs. Lundberg and Spitz – My client and I are in receipt of your recent correspondence. Our project team is putting together responses to the questions raised by the Zoning Administrator, including the issues you have raised in your testimony and correspondence. These responses have not yet been completed. We will provide you a copy of all of our submissions to the Zoning Administrator as soon as they are finalized.

We are hopeful that after the submissions are exchanged you will be willing to meet with our project team to discuss a mutually beneficial resolution of this matter.

Thank you.

Fred Gaines

Gaines & Stacey LLP

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**From:** g lundberg [mailto:[glundberg@hotmail.com](mailto:glundberg@hotmail.com)]

**Sent:** Tuesday, August 13, 2013 1:46 PM

**To:** Fred Gaines

**Cc:** [charles.rausch@lacity.org](mailto:charles.rausch@lacity.org); [daniel.skolnick@lacity.org](mailto:daniel.skolnick@lacity.org); [darlene.navarrete@lacity.org](mailto:darlene.navarrete@lacity.org); [mike.bonin@lacity.org](mailto:mike.bonin@lacity.org); [norman.kulla@lacity.org](mailto:norman.kulla@lacity.org); [debbie.dynerharris@lacity.org](mailto:debbie.dynerharris@lacity.org)

**Subject:** RE: Case No. ZA-2012-130CDP -- 16990 – 17000 Sunset Blvd., Pacific Palisades

Dear Mr. Gaines,

I wonder if I might have the courtesy of a reply to my letter of July 31, 2013, which requested a response by August 9.

Thank you for your attention to this matter.

Andrew Lundberg

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From: [glundberg@hotmail.com](mailto:glundberg@hotmail.com)

To: [fgaines@gaineslaw.com](mailto:fgaines@gaineslaw.com)

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Subject: Case No. ZA-2012-130CDP -- 16990 – 17000 Sunset Blvd., Pacific Palisades

Date: Wed, 31 Jul 2013 18:48:46 -0700

Dear Mr. Gaines,

Please find attached my letter of today's date regarding the Sunset Palisades project. Thanks for your prompt attention to this matter.

Andrew Lundberg

**G. Andrew Lundberg**  
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**Pacific Palisades, California 90272**  
**(310) 454-6148**  
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July 31, 2013

**Via email to fgaines@gaineslaw.com**

Fred N. Gaines, Esq.  
Gaines & Stacey LLP  
16633 Ventura Blvd., Suite 1220  
Encino, CA 91436

Re: Application for Coastal Development Permit  
16990 – 17000 Sunset Blvd.  
Pacific Palisades, CA 90272  
Case No. ZA-2012-130CDP; ENV-2012-131-MND

Dear Mr. Gaines:

I was one of the speakers at the July 18, 2013 hearing before the Zoning Administrator concerning the above-referenced project. A number of my neighbors and I would like to review certain information in order to have the opportunity to evaluate and comment further, as appropriate, on various aspects of the project. I am therefore now requesting that your client provide, as promptly as possible and in all events by no later than August 9, 2013, the following information concerning the project:

1. A full-sized topological property survey, in .pdf format.
2. Unit density calculations for the project per the Hillside Dwelling Unit Density provisions of the Coastal Commission Regional Interpretive Guidelines (attached for your reference). I am aware of the “density summary” on page A1.00 of the entitlement package, but request that you provide the architect’s actual computations, *i.e.*, “show the work” leading to that summary. I understand that the Pacific Palisades Community Council’s Land Use Committee (the “LUC”) also previously requested this information on Friday, July 26, 2012.
3. An acknowledgement that the proposed project features a single building, and not multiple buildings. If the developer somehow takes the position that the project features more than one building, which does not appear to be the case, please provide building plans sufficient to indicate where the necessary building separations occur, and any other information on which that position is premised.



4. A site plan showing the location and exact dimensions of any and all retaining walls not connected to the building, or an acknowledgement that there will be no such retaining walls used.
5. Renderings, with the same views as in the project entitlement package, showing the project as it would sit on the site and in context with all surrounding structures. If these renderings are or could be made available in a BIMx or equal format providing a “walk-through” capability, please provide them in that format. I understand the LUC also recently requested this information.

Thank you for your prompt attention to this request.

Very truly yours,

A handwritten signature in black ink, appearing to read 'G. Andrew Lundberg', with a stylized, cursive script.

G. Andrew Lundberg

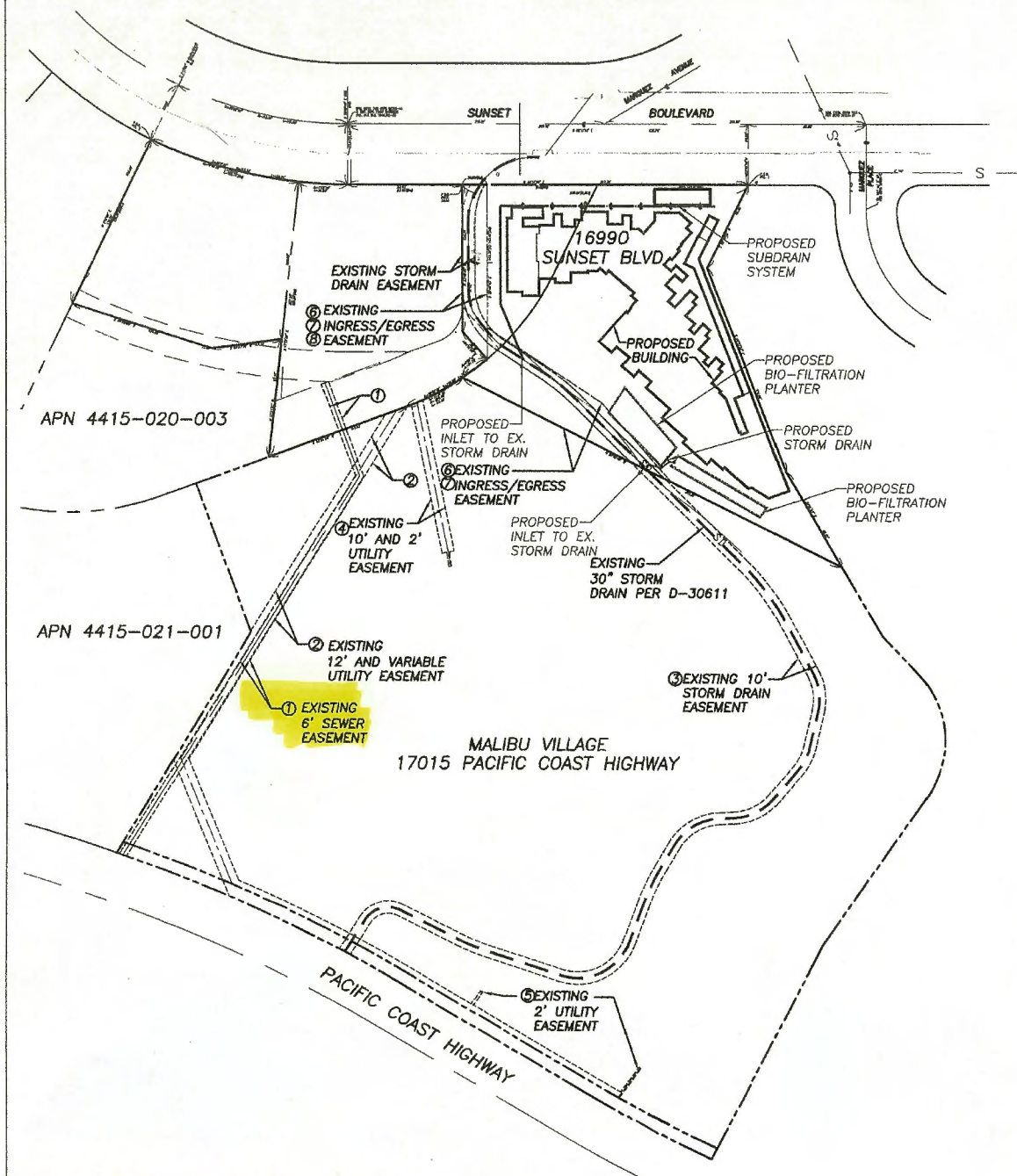
Attachment

cc (with attachment):

Charles J. Rausch, Jr., Zoning Administrator via [charles.rausch@lacity.org](mailto:charles.rausch@lacity.org)  
Daniel Skolnick via [daniel.skolnick@lacity.org](mailto:daniel.skolnick@lacity.org)  
Darlene Navarrete via [darlene.navarrete@lacity.org](mailto:darlene.navarrete@lacity.org)  
Council Member Mike Bonin via [mike.bonin@lacity.org](mailto:mike.bonin@lacity.org)  
Norman S. Kulla, Esq. via [norman.kulla@lacity.org](mailto:norman.kulla@lacity.org)  
Debbie Dyner Harris via [debbie.dynerharris@lacity.org](mailto:debbie.dynerharris@lacity.org)

EXHIBIT 2

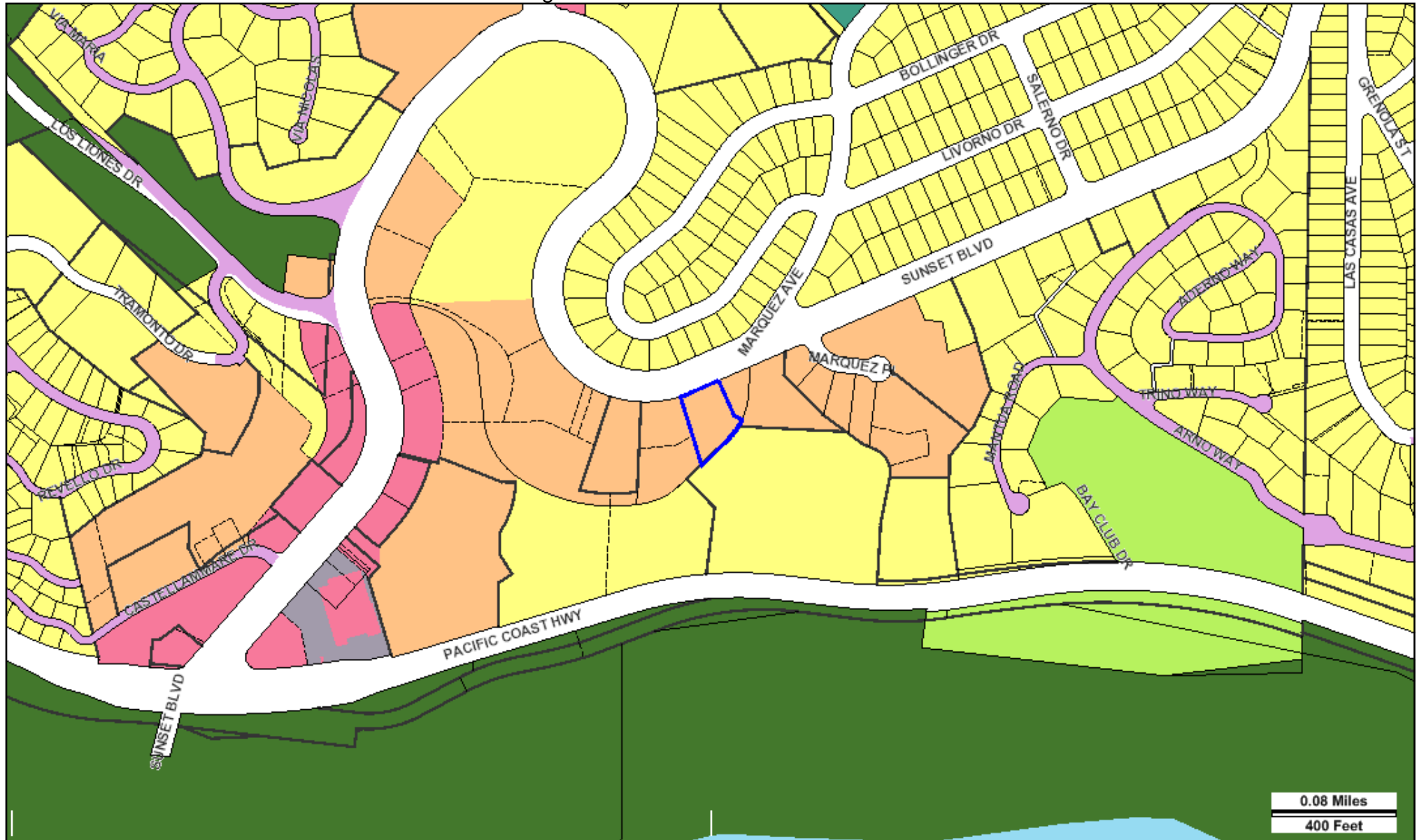
# EASEMENT EXHIBIT



EASEMENT NUMBER	GRANTEE	PURPOSE	REFERENCE
1	APN 4415-020-005	sewer	Inst. 2492
2	City of Los Angeles	utility	Tract 30690
3	City of Los Angeles	storm drain	Tract 30690
4	City of Los Angeles	utility	Tract 30690
5	City of Los Angeles	utility	Tract 30690
6	City of Los Angeles	utilities and road	Inst. 1629
7	GTE	utilities	Inst. 3025
8	APN 4415-020-003 & 4415-021-001	road, ingress and egress, slope rights	Inst. 951

**LC ENGINEERING GROUP, INC.**  
 CONSULTING ENGINEERS  
 889 Pierce Court, Suite 101, Thousand Oaks, California 91360  
 (805) 497-1244 (018) 991-7148 FAX (810) 991-5942 Email: workfiles@leegroupinc.com





Address: 17010 W SUNSET BLVD

APN: 4415020005

PIN #: 126B121 521

Tract: TR 10238

Block: None

Lot: LT 2

Arb: 4

Zoning: [Q]R3-1

General Plan: Medium Residential



EXHIBIT 3

During the removal and recompaction of the existing undocumented fill beneath the proposed building, a canyon drain must be installed along the flow line (deepest part) of the old canyon. The owners are advised to hire services of a registered hydrogeologist for preparation of a hydrogeologic report, which would provide estimates for flow rates of the groundwater. These flow rate values may be used by the consulting civil engineer for the design of a permanent dewatering system, including the sizes of the subdrain and canyon drain pipes.

It is advisable, to conduct the water collected through the canyon drain via gravity to proper drainage system. However, due to the depth of the existing undocumented fill, the outlet of the canyon drain may daylight on the slope surface within the adjacent neighboring property downslope. The owners are advised to obtain an easement from the lower neighbor. If an easement is not possible, the water must be collected in a dewatering well, constructed within the subject property, and pumped to proper drainage system. The consulting civil or mechanical engineer may determine the required capacity of the pumps based on flow rate estimates, provided in the above-mentioned hydrogeologic report.

Q2 - *The response to Q11 does not appear to have determined the deepest critical surfaces at the pile locations for static ( $FS = 1.5$ ) and seismic ( $FS = 1.1$ ) conditions below which no slope reinforcement is required. It can be demonstrated that these surfaces occur at practically the contact with soil type 4 for pile row A in Section C-C and pile row D-D in Section E-E for both static and seismic conditions. It is necessary to direct the program to search for deeper surfaces in the locations of these piles. This can be done with a downward deflecting limit surface adjacent to the pile locations. The consultant may not have generated enough surfaces to get a more thorough search. Provide a suitable response.*



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16990 / 17000 W. Sunset Boulevard

The reports are acceptable, provided the following conditions are complied with during site development:

(Note: Numbers in parenthesis ( ) refer to applicable sections of the 2011 City of LA Building Code. P/BC numbers refer the applicable Information Bulletin. Information Bulletins can be accessed on the internet at LADBS.ORG.)

1. This approval applies only for the project described in the current report dated July 15, 2011.
2. Prior to the issuance of any permit, the owners shall file a notarized affidavit with the Office of the Los Angeles County Recorder, attesting to their knowledge that the site is located in an area subject to landslides or unstable soils and that they also have knowledge that future distress may occur, and future mitigation measures may be required. (Note: The completed affidavit form must be approved by the Grading Division of the Department prior to being recorded.
3. Prior to the issuance of any permit, a report prepared by a licensed hydrogeologist providing design flow rates for the permanent basement dewatering system including the canyon subdrain shall be submitted to the Grading Division of the Department. No permits shall be issued until report(s) are approved.
4. Approval shall be obtained from the Department of Public Works, Bureau of Engineering, Constituent Service Division for the proposed removal of support and/or retaining of slopes adjoining to public way. (3307.3.2)  
1828 Sawtelle Blvd., 3<sup>rd</sup> Floor, West LA (310) 575-8388
5. Final plans shall comply with the hillside retaining wall Ordinance No. 176, 445, regarding the number and heights of retaining walls allowed.
6. The Site Class per the 2011 LABC is C. Plan checker shall determine that design spectral response acceleration parameters utilized are determined in conformance with Department requirements. (1613.5.2)
7. All existing fill under the proposed basement shall be removed and replaced with approved compacted fill, as recommended to eliminate potential for liquefaction of saturated undocumented fills.
8. Soldier piles for slope stabilization shall be installed as recommended in the current report in response A-2 for the loads recommended in the current report in response A-3 for the pressures over the pile spacing and heights specified in the table in response A-3 and Figure 6-1
9. The geologist and soils engineer shall review and approve the detailed plans prior to issuance of any permits. This approval shall be by signature on the plans which clearly indicates that the geologist and soils engineer have reviewed the plans prepared by the design engineer and that the plans include the recommendations contained in their reports. (7006.1)
10. All recommendations of the reports which are in addition to or more restrictive than the conditions contained herein shall be incorporated into the plans.

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16990 / 17000 W. Sunset Boulevard

11. A copy of the subject and appropriate referenced reports and this approval letter shall be attached to the District Office and field set of plans. Submit one copy of the above reports to the Building Department Plan Checker prior to issuance of the permit. (7006.1)
12. A grading permit shall be obtained. (106.1.2)
13. All new graded slopes shall be no steeper than 2:1 (7010.2 & 7011.2).
14. If grading involves any import or export of more than 1,000 cubic yards of earth material and is in a grading hillside area, a public hearing before the Board of Building and Safety Commissioners is required.(7006.7.4).
15. All man-made fill shall be compacted to a minimum 90 percent of the maximum dry density of the fill material per the latest version of ASTM D 1557. Where cohesionless soil having less than 15 percent finer than 0.005 millimeters is used for fill, it shall be compacted to a minimum of 95 percent relative compaction based on maximum dry density (D1556). Placement of gravel in lieu of compacted fill is allowed only if complying with Section 91.7011.3 of the Code. (7011.3)
16. Existing uncertified fill shall not be used for support of footings, concrete slabs or new fill. (7011.3 & 1805.1)
17. Subdrains must be installed in all natural drainage courses within which compacted fill is to be placed. (7013.8)
18. All graded, brushed or bare slopes shall be planted in conformance with Code Section 7012.
19. Drainage in conformance with the provisions of the Code shall be maintained during and subsequent to construction. (7013.12)
20. Grading shall be scheduled for completion prior to the start of the rainy season, or detailed temporary erosion control plans shall be filed in a manner satisfactory to the Grading Division of the Department and the Department of Public Works, Bureau of Engineering, B-Permit Section, for any grading work in excess of 200 cu yd. (7007.1)  
1828 Sawtelle Blvd., 3<sup>rd</sup> Floor, West LA (310) 575-8625
21. All loose foundation excavation material shall be removed prior to commencement of framing. Slopes disturbed by construction activities shall be restored. (7005.3)
22. The applicant is advised that the approval of this report does not waive the requirements for excavations contained in the State Construction Safety Orders enforced by the State Division of Industrial Safety. (3301.1)
23. Construction of trenches or excavations which are 5 feet or deeper and into which a person is required to descend requires a permit from the State Division of Industrial Safety prior to obtaining a grading permit. (3301.1)



EXHIBIT 4

Section 2.06.

Non-Exclusive Easements of Use and Enjoyment.

Every owner of a unit shall have a non-exclusive easement of use and enjoyment in, to and throughout the Common Area and for ingress, egress and support over and through the Common Area. Each such non-exclusive easement shall be appurtenant to and pass with the title to every unit, subject to the following rights and restrictions:

(a) The right of the Association to borrow money to improve, repair and/or maintain the Common Area;

(b) The right of the Association to charge reasonable fees for the use of any facilities situated on the Common Area;

(c) The right of the Association, through its Board, to impose monetary penalties, temporary suspension of an owner's rights as a member of the Association or other appropriate discipline for the failure to comply with the provisions of this Declaration, the Bylaws or the duly enacted rules and regulations for the operation and use of the Common Area and facilities, subject to the notice and hearing provisions set forth in Article IV, Section 4.05. hereinafter.

Section 2.07.

Encroachment Easements.

The owners of each unit are hereby granted an easement over all adjoining units and the Common Area for the purpose of accommodating any minor encroachments due to engineering errors, errors in original construction, settlement or shifting of any building, or any other cause. There shall be easements for the maintenance of said encroachments so long as they shall exist and the rights and obligations of owners shall not be altered in any way because of the encroachment, settlement or shifting; provided that, in no event shall an easement for encroachment be created in favor of any owner if the encroachment occurred due to his willful misconduct. In the event any portion of the building is partially or totally destroyed and then rebuilt, each owner agrees that easements for minor encroachments (and for the maintenance of same) over all adjoining units and the Common Area shall exist so long as the encroachment exists.

Section 2.08.

Easements Granted by Association.

The Association shall have the right and power to grant and convey to any third party, easements and rights of way in, on, over or under the units and the Common Area for the purpose of construction, erection, maintenance, repair, replacement, removal and inspection of present and future pipelines, meters and related facilities, lines, cables, wires or other conduits or devices for water, electricity, power, telephone and other purposes and any other similar public or quasi—public improvements or facilities, and each purchaser, by acceptance of a deed to his unit, expressly consents to such easements. However, no such easement shall be granted if it would interfere with the use, occupancy

or enjoyment by any owner of his unit.

### ARTICLE III

#### USE RESTRICTIONS

The unit shall be occupied and used only as follows:

Section 3.01.            Number of Residents Limitation.

Each unit shall be used exclusively as a private single-family mobilehome residence. No owner of a unit in the project shall use, cause to be used or permit his unit to be used directly or indirectly for any business, commercial, industrial, manufacturing, mercantile, storing, vending or other non-residential purposes. Occupancy within any unit shall not exceed (i) two (2) persons in mobilehomes of six hundred (600) interior square feet or less; and (ii) four (4) persons in mobilehomes containing more than six hundred (600) interior square feet.

Section 3.02.            Compliance with Rules.

All owners shall be members of the Association and shall comply with all terms and conditions set forth in the Articles of Incorporation, the By-Laws, this Declaration, and any rule or regulation which may be adopted by the Board of the Association. Use of the Common Area shall be subject to the provisions of this Declaration and any rules and regulations which may be adopted by the Board of the Association.

Section 3.03.            Board Approval for Improvements.

No mobilehome or other improvement (including patios, fences, walls and hedges) or any landscaping shall be placed, permitted or constructed in or upon any Pad Area or the Common Area without the prior written approval of the Board.

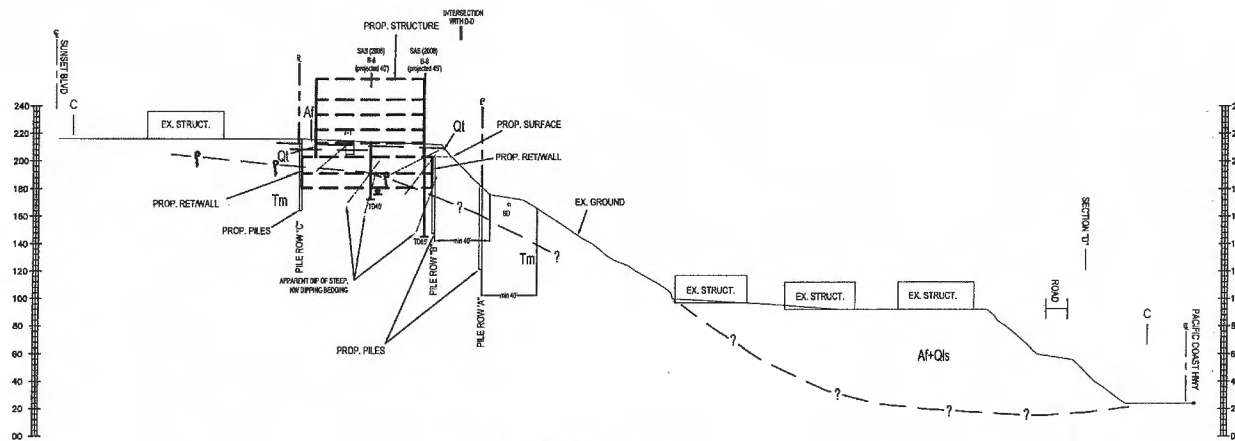
Section 3.04.            Compliance with Governmental Ordinances.

All structures, mobilehomes, improvements, and landscaping within the project shall comply with all applicable city, county and state governmental ordinances and regulations.

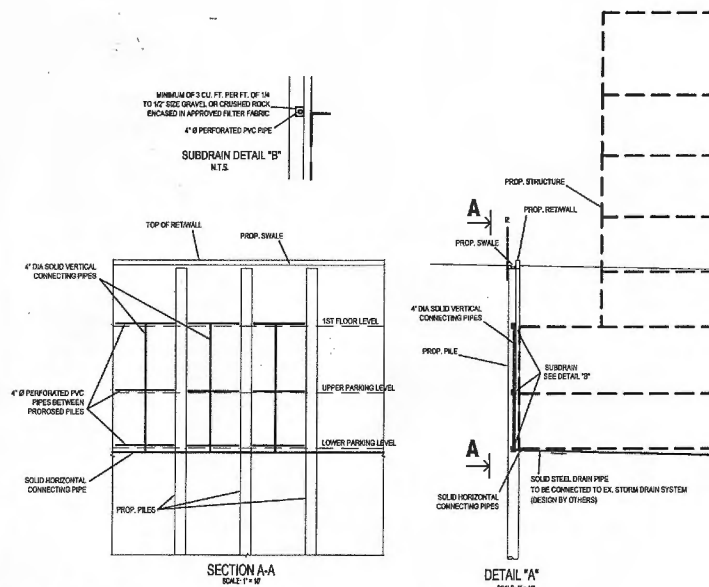
Section 3.05.            Future Side Yard Requirements.

No owner shall install or remove a mobilehome on or from any Pad Area without the prior written approval of the Board and without first procuring all required governmental permits and/or licenses. In addition to all other requirements set forth herein, except for those mobilehomes in place at the date of the recording of this Declaration, no

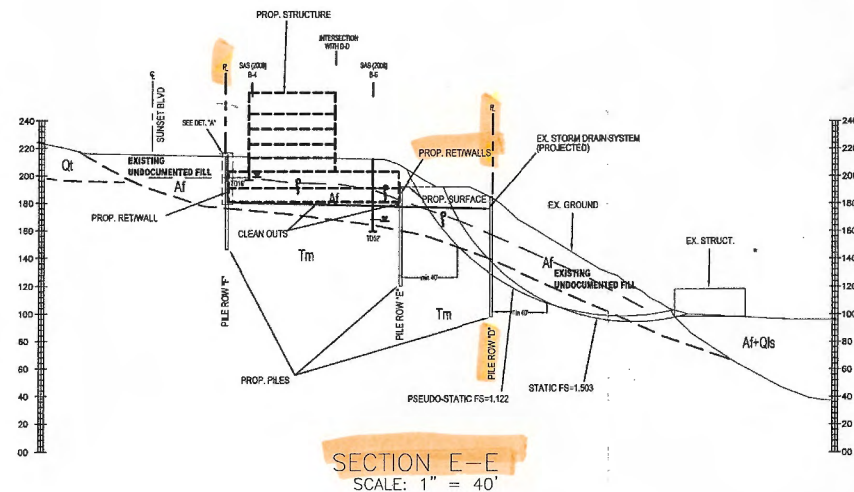
EXHIBIT 5



SECTION C-C  
SCALE: 1" = 40'



All drawings prepared by SASSAN GEOSCIENCES, Inc. (SAS) are the exclusive property of SAS and, unless otherwise agreed, SAS shall be deemed the author of them and shall retain all common law, statutory and other reserved rights.



SECTION E-E  
SCALE: 1" = 40'

NOTES:  
EXPLANATION SEE FIGURE A-2

REVISION	BY
05-24-2011	SAS
07-05-2011	SAS

CLIENT  
MR. DABY MALAMUT  
DEVELOPMENT MANAGER  
1108 MCCORMICK STREET  
NORTH HOLLYWOOD, CA 91601

PREPARED BY  
SASSAN GEOSCIENCES, INC.  
1200 NORTH LAKE AVENUE, SUITE 201  
OAKLAND, CA 94612  
(510) 345-1115 Fax (510) 345-1120

DATE	05/24/2011
SCALE	AS SHOWN
PROJECT	1108 MCCORMICK STREET
DESIGNER	SASSAN GEOSCIENCES, INC.
CHECKED	05/24/2011
DATE	05/24/2011

FIGURE  
A-4

Pile Row	Type of Pressure	Pressure (pcf)	Depth of Application Below Top of Pile (ft)	Symbols on Diagram
Row D	Active from Af <sup>(1)</sup>	52	From 0 to 46	P <sub>A-Af</sub> ; H <sub>A-Af</sub>
Row D	Active from OB <sup>(2)</sup>	-	From 46 to 55	P <sub>A-OB</sub> ; H <sub>A-OB</sub>
Row D	Passive from Bx <sup>(3)(4)</sup>	500	From 55 to 65	P <sub>P</sub> ; H <sub>P</sub>
Row D	Maximum Passive <sup>(4)</sup>	5,000	Below 65	P <sub>Pmax</sub> ; H <sub>Pmax</sub>
Row E	Active from Af <sup>(1)</sup>	30	From 0 to 21	P <sub>A-Af</sub> ; H <sub>A-Af</sub>
Row E	Active from OB <sup>(2)</sup>	-	From 21 to 23	P <sub>A-OB</sub> ; H <sub>A-OB</sub>
Row E	Passive from Bx <sup>(3)(4)</sup>	500	From 23 to 33	P <sub>P</sub> ; H <sub>P</sub>
Row E	Maximum Passive <sup>(4)</sup>	5,000	Below 33	P <sub>Pmax</sub> ; H <sub>Pmax</sub>
Row F	Active from Af <sup>(1)</sup>	36	From 0 to 38	P <sub>A-Af</sub> ; H <sub>A-Af</sub>
Row F	Active from OB <sup>(2)</sup>	-	From 38 to 40	P <sub>A-OB</sub> ; H <sub>A-OB</sub>
Row F	Passive from Bx <sup>(3)(4)</sup>	500	From 40 to 50	P <sub>P</sub> ; H <sub>P</sub>
Row F	Maximum Passive <sup>(4)</sup>	5,000	Below 50	P <sub>Pmax</sub> ; H <sub>Pmax</sub>

(1) - Active pressure from undocumented fill mass

(2) - Active pressure from bedrock between planes with static FS=1.5 to be reduced to zero (0) at point of application of passive pressure

(3) - Passive pressure from bedrock

(4) - Passive pressure may be doubled for an isolated pile condition ( $d > 2.5 D$ )

A schematic lateral pressure distribution diagram for the design of the proposed piles is presented on Figure 6-1 in Attachment No. 6 of this report.



A16 - The location of the zone of undocumented fill is clearly shown on the site map, Figure A-2 in Attachment No. 2. As indicated in our bore hole logs, the undocumented fill mainly consists of silty and clayey materials, and, in our opinion, is not prone to liquefaction. In addition, a row of soldier piles is proposed along the southern property line, that traverses the subject zone of undocumented fill. Said row of soldier piles will be designed to support the existing undocumented fill.

Q17 - *It is unclear from the scale of the cross-sections and scope of the project whether foundations will be located on or near a descending slope. Provide minimum setback from the bedrock slope where the recommended passive bearing may be assume supported be analyses as appropriate that consider shear strength parameters of bedrock, gradient and height of descending slopes.*

A17 - The cross-sections have been modified to show the Code required minimum setbacks from the bedrock surface or a plane with a factor of safety of 1.5.

Q18 - In paragraph 4 on page 18 of 27 what is meant by soldier piles must be considered fixed at the terrace deposits or bedrock contact? Define "fixed".

A18 - The soldier piles are assumed to be "fixed" at the point of application of the passive pressure. Due to the fact that all the piles will be supported into bedrock, the subject paragraph should read: "Soldier piles must be assumed fixed at bedrock contact".

EXHIBIT 6



## COASTAL DEVELOPMENT PERMIT

### FINDINGS

16990-17000 W. Sunset Boulevard  
Pacific Palisades, CA 90272

- a. **The development is in conformity with Chapter 3 of the California Coastal Act of 1976 (commencing with Section 302000 of the California Public Resources Code).**

The applicant has proposed the construction of a new five story, 57-feet in height multi-family residential building within the dual jurisdiction of the California Coastal Zone. The site is a vacant, unimproved parcel and is zoned [Q]R3-1. The "Q" Qualified Condition imposes the following limitations on the development of the site: (1) the height of any portion of a building or structure within 50 feet of property zoned R1 or more restrictive shall not exceed a maximum height of 30 feet or a maximum height of 35 feet for any portion of a building or structure within 100 feet of property zoned R1 or more restrictive; (2) a 20-foot rear yard is required; (3) a 10-foot side yard is required for any portion of a building within 50 feet of an R1 or more restricted zoned lot; and (4) guest parking at a ratio of .25 parking spaces for each rental dwelling unit or .50 parking spaces for each condominium unit is required in excess of code required parking. The site located on the south side of Sunset Boulevard, situated at the southerly terminus of Marquez Avenue and westerly of Marquez Place.

Chapter 3 of the Coastal Act contains the various policy provisions of such legislation. Pertinent to the instant request are the policies with respect to:

- (a) **Shoreline Access:** the subject property is located on Sunset Boulevard which terminates northwest of the site at Pacific Coast Highway adjacent to the shoreline. The proposed development is located on the south side of Sunset Boulevard and will not interfere with or obstruct any access to coastal resources or ocean use.
- (b) **Recreation and Visitor Serving Facilities:** the project site has no adjacent or nearby recreational facilities for visitors.
- (c) **Water and Marine Resources:** this project will not impact any marine resources. The project is well above the high tide line and will not have any identifiable effect on the Pacific Ocean or on the sandy intr-tidal zone.
- (d) **Environmentally Sensitive Habitat Area:** the project site is within a fully urbanized area and is not located within or near any Environmentally Sensitive Habitat area, Significant Ecological Area, or in an area governed by a habitat conservation or community conservation plan. The project is limited to the boundary of the private property, does not function as part of wild life corridor and does not

EXHIBIT 7

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

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

At this point, the Commission may decide that the appellant's contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, in which case the action of the local government stands. Or, the Commission may find that a substantial issue exists with respect to the conformity of the action of the local government with Chapter 3 of the Coastal Act if it finds that the appeal raises a significant question regarding consistency with the Chapter 3 policies of the Coastal Act. If the Commission finds that a substantial issue exists, then the hearing will be continued as a de novo permit request. Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission's regulations.

#### **IV. DUAL PERMIT JURISDICTION**

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Coastal Act requires that the development which receives a local coastal development permit also obtain a "dual" coastal development permit from the Coastal Commission. For projects located inland of the areas identified in Section 30601 (Single Permit Jurisdiction), the City of Los Angeles local coastal development permit is the only coastal development permit required, with the exception of major public works projects or major energy facilities. Based on the maps in the South Coast District office, the proposed development is located within the Dual Permit Jurisdiction.

#### **V. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE**

##### **Motion:**

I move that the Commission determine that Appeal No. A-5-PPL-13-212 raises NO substantial issue with respect to the grounds on which the appeal has been filed.

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

EXHIBIT 8

## **SUBSTANTIVE FILE DOCUMENTS:**

1. City of Los Angeles Local Coastal Development Permit No. ZA-2012-0361.
2. City of Los Angeles Mitigated Negative Declaration No. ENV-2012-360-MND.
3. Coastal Development Permit Application 5-13-0771 (Dolphin View – 17405 Castellammare Dr.).
4. City of Los Angeles Department of Building and Safety Geology and Soils Report Approval Letters dated June 29, 2011 and December 10, 2003 (and referenced Geology and Soils Reports).

## **STAFF NOTE - DUAL PERMIT JURISDICTION:**

On September 7, 2012, the City of Los Angeles Department of City Planning issued Local Coastal Development Permit No. ZA-2012-0361 approving with special conditions the proposed single-family residence. Pursuant to Coastal Act Section 30600(b), any development which receives a local coastal development permit from the City must also obtain a second (or “dual”) coastal development permit from the Coastal Commission if the development is within the areas specified in Section 30601 (e.g., within three hundred feet of the beach or sea, or within one hundred feet of a stream, or within three hundred feet of the top of the seaward face of a coastal bluff). The areas specified in Section 30601 are known in the City of Los Angeles permit program as the *Dual Permit Jurisdiction* area. The proposed project is in the *Dual Permit Jurisdiction* area. For projects located inland of the areas identified by Section 30601 (i.e., projects in the *Single Permit Jurisdiction*), the City of Los Angeles local coastal development permit is the only coastal development permit required. The local coastal development permits in both the single and dual jurisdiction areas are appealable to the Commission. In this case, the City’s issuance of the local coastal development permit was not appealed. The Commission’s standard of review for the proposed development is the Chapter 3 policies of the Coastal Act, because there is no certified Local Coastal Program (LCP).

## **I. MOTION AND RESOLUTION**

**Motion:** *“I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.”*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

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

EXHIBIT 9

determination is consistent with the Commission's prior characterization of the area as a bluff contained within the existing certified LCP. Thus, the controlling language in Section 30253 relative to bluffs is applicable to the Strand, as it is equally applicable to the undisputed bluffs located elsewhere at the Headlands.

The Coastal Act definition of bluff edge is contained in California Code of Regulations, Title 14, § 13577 (h) (2). In keeping with this definition, the bluff edge would be defined under the Coastal Act to lie at "the landward edge of the topmost riser." Thus, the bluff edge line would be drawn at the demarcation between the relatively flat bluff top and the much steeper bluff face. The LUP must be revised to define bluff edge and demarcate its location consistent with the Coastal Act.

*b) The Strand as a Natural Landform*

The landowner also questions whether the slope above the Strand can be referred to as a "natural landform" due to the fact that it has been previously graded. According to the landowners, beginning in the mid 1920's roads, parking lots, a mobile home park, and other appurtenances have been constructed and have modified the landform. Grading has occurred over much of the northern portion of the Strand. However, the geologic cross sections supplied show that cuts and fill slopes generally were on the order of less than 5-10 feet. The southernmost part of the Strand was not graded extensively, as is apparent from aerial photographs.

Although the grading of the Strand created a stepped surface topography that allowed the construction of roads, mobile home pads, and parking areas, the overall form of the slope was little altered. Despite the grading at the site, the area is still recognizable as a bluff, a natural landform. In contrast, an artificial landform is a topographic feature that did not exist prior to grading or construction activities, such as a quarry pit excavation, a landfill, a freeway ramp, or a causeway. The Commission generally has recognized that natural landforms may be altered by grading—both cut and fill—but that they do not cease to be "natural landforms" because of such alteration. In this instance, it is also notable that the Commission's geologist has been to the site and unequivocally recognized the topography as being characteristic of a landslide complex (Exhibit 10c), which is a natural landform. The Commission finds that the Strand represents a natural landform that has been altered, but fundamentally remains a natural landform nonetheless. Thus, the controlling language in Section 30253 relative to natural landforms is applicable to the Strand, as it is equally applicable to the undisputed natural landforms located elsewhere in the Headlands area.

EXHIBIT 10



## GEOLOGY

Geologic conditions at the site have been described in several published maps and reports including Dibblee, 1992, and Moran, Proctor, et. al. 1958. The nearly flat area adjacent to and south of Sunset Boulevard, where new structures are planned, is an elevated, wave cut platform with both marine deposits and non-marine alluvial deposits with a total thickness of approximately twenty-five (25) feet. These deposits are often referred to as terrace deposits.

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. These surficial slides, shown on the attached Figure A-7, are now buried beneath fill placed to fill a canyon below the site and to construct the trailer park below. The locations of both known and suspected off-site landslides on the bluff area east and west of the site are shown on the attached map from Moran, Proctor, et. al., 1958, Figure A-7.

## FIELD EXPLORATION

Soil and geologic conditions at the site were investigated by drilling ten (10) deep borings, excavation of five (5) trenches, mapping of available surface exposures, plotting of data

EXHIBIT 11

2. Cause exists to impose discipline on Respondent's Civil Engineer and Geotechnical Engineer licenses under Code section 6775, subdivision (c), for negligence for the reason stated in Factual Findings 11 through 13, 19, and 21 through 24.

3. Pursuant to Code section 125.3, the Board may request the administrative law judge to direct a licensee found to have committed violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. The Administrative Law Judge found that the reasonable costs of investigation and prosecution of this case are \$7,222.50, as set forth in Factual Finding 25. However, since the Administrative Law Judge declined to award costs to the Board in the Proposed Decision, the Board is precluded from increasing the amount or awarding costs, pursuant to Code section 125.3, subdivision (d)

### ORDER

Civil Engineer License No. C 44172 and Geotechnical Engineer License No. GE 2579, issued to Respondent Sassan Abolghasem Salehipour, are revoked; provided, however, the revocations are stayed for a maximum period of three years on the following probationary terms and conditions. If respondent successfully completes and is in compliance with all of the probationary terms and conditions prior to the end of the three-year period, the probation shall be terminated immediately without further proceedings.

1. Within thirty (30) days from the effective date of the decision, respondent shall submit to the Board two special reports, as follows: (1) A copy of the most current Illness & Injury Prevention Plan for his company; and (2) a copy of the most recently completed Site Safety Plan for a project performed under his responsible charge.

2. Within thirty (30) days from the effective date of the decision, the respondent shall provide the Board with evidence that he has provided all persons or entities with whom he has a contractual or employment relationship involving civil engineering with a copy of the decision and order of the Board and shall provide the Board with the name and business address of each person or entity required to be so notified. During the period of probation, the respondent may be required to provide the same notification to each new person or entity with whom he has a contractual or employment relationship involving civil engineering and shall report to the Board the name and address of each person or entity so notified.

3. Within sixty (60) days from the effective date of the decision, the respondent shall successfully complete and pass the California Laws and Board Rules examination, as administered by the Board.

4. Within two and one-half (2 ½) years from the effective date of the decision, the respondent shall successfully complete an OSHA Site Safety Course, approved in advance by the Board or its designee.

5. Within two and one-half (2 ½) years from the effective date of the decision, the respondent shall successfully complete and pass a course in professional ethics, approved in advance by the Board or its designee.

6. The respondent shall obey all laws and regulations related to the practices of professional engineering and professional land surveying.

7. In addition to the special reports required by Condition 1, during the period of probation, the respondent shall submit such special reports as the Board may require.


8. The period of probation shall be tolled during the time the respondent is practicing exclusively outside the state of California. If, during the period of probation, the respondent practices exclusively outside the state of California, the respondent shall immediately notify the Board in writing.

9. If the respondent violates the probationary conditions in any respect, the Board, after giving the respondent notice and the opportunity to be heard, may vacate the stay and reinstate the disciplinary order which was stayed. If, during the period of probation, an accusation or petition to vacate stay is filed against the respondent, or if the matter has been submitted to the Office of the Attorney General for the filing of such, the Board shall have continuing jurisdiction until all matters are final, and the period of probation shall be extended until all matters are final.

10. Upon successful completion of all of the probationary conditions and the expiration of the period of probation, including the early termination as provided for in this Order, the respondent's licenses shall be unconditionally restored.

IT IS SO ORDERED on August 29, 2013.

This decision shall become effective on November 1, 2013.



Board for Professional Engineers, Land Surveyors,  
and Geologists  
Department of Consumer Affairs  
State of California

EXHIBIT 12

*In the absence of definitive confirmation from the California Coastal Commission affirming whether or not the site was located within a Coastal Bluff, the Commission was unable to evaluate or properly consider the proposed development in light of the Regional Guidelines pertaining to projects on or near Coastal Bluffs.*

Therefore in this case, based on the technical information provided and the public testimony, the City determined that there was not adequate information find the project consistent with the Chapter 3 policies of the Coastal Act.

The second factor is the scope of the development as approved or denied by the local government. 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, and the local decision is a denial. The posture in which this proposal comes to the Commission is one in which, if the local decision is allowed to stand, the scope of development would be nil. Put differently, the scope or extent of the development *denied* is limited to the proposed 49 unit residential development, and that denial does not rob the site of any facilities promoted by Chapter 3; and the scope of the development *approved* is none.

The third factor is the significance of the coastal resources affected by the decision. Again, because the local decision is a denial, leaving the local decision in place by declining to accept the appeal would not have any significant affect on any coastal resources. Moreover, as also indicated above, since residential use is a low priority use under the Coastal Act, and there is no Coastal Act policy promoting or protecting residential use, the denial does not represent the loss of any potential improvement of coastal resources. If the local decision were an approval, the Commission would need to consider the significance of the protection of public coastal resources, such as coastal views, community character, coastal access, and geologic hazards, potentially impaired by the development, and thus, the decision. However, given the current posture of the decision, if the local decision is allowed to stand, the public resources that *could have* been affected by the proposed development, regardless of how significant, will be fully protected.

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. Although the City has no certified LCP, this decision could nevertheless have a precedential impact on future decisions under this governing standard. The City's denial of the proposed project is consistent with several precedents relating to location of the development to a coastal bluff and minimizing risks to life and property. Approval of the proposed project with a lack of information addressing the concerns raised by the Planning Commission with regards to bluff setbacks and geologic hazards would be a bad precedent that would prejudice the ability of the City to prepare a local coastal program that is in conformity with Chapter 3 of the Coastal Act.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. Although proper siting of development along coastal bluffs and minimizing geologic risk are important statewide issues, the applicant's appeal of the City's denial does not raise any issues of regional or statewide significance because the City's denial protects the public resource and it is consistent with Commission precedents.

Therefore, in conclusion, the Commission finds that the City used proper discretion in denying the local coastal development permit, finding that the proposed development does not comply with

EXHIBIT 13

- Clean Water Bond Program
- Project Status Report ▶
- SMB LFD Upgrades**
- Link to BOS Prop O

## ■ Proposition O – Clean Water Bond

In November 2004, voters of the City of Los Angeles passed the Proposition O - Clean Water Bond, authorizing \$500 million of general obligation bonds for projects to protect public health by cleaning up pollution in the City's rivers, lakes, and beaches. The projects are intended to assist the City of Los Angeles in meeting Federal Clean Water Act requirements. Proposition O - Clean Water Bond will also fund improvements to protect water quality, provide flood protection, increase water conservation, provide habitat protection, and create open space.

### Proposition O Projects located along Pacific Coast Highway

The following five Proposition O projects will be or have been constructed along Pacific Coast Highway between Pacific Palisades and the Hyperion Wastewater Treatment Plant

- **Low Flow Diversion Upgrade 1: Marquez - construction has been completed**
- Low Flow Diversion Upgrade 2: Temescal Canyon - construction has been completed.
- Low Flow Diversion Upgrade 3: Coastal Interceptor Relief Sewer - construction has been completed.
- Low Flow Diversion Upgrade 3 Phase 2: Coastal Interceptor Relief Sewer (Most southerly 900 feet) construction start winter 2014 to winter 2015.
- Low Flow Diversion Upgrade 4: Santa Monica Canyon - construction has been completed.
- Temescal Canyon Park Stormwater Best Management Practices - construction start Fall 2009 to Fall 2013.
- Map of the five project locations

### **Background**

The Santa Monica Bay Low Flow Diversion Upgrade (LFD) projects consist of ten components: Marquez Low Flow Diversion LFD; Bay Club Drive LFD; Thornton Avenue LFD; Venice Pavilion LFD; Imperial Highway LFD; Temescal Canyon LFD; Palisades Park LFD; and the Coastal Interceptor Relief Sewer (Phase 1, 2). The preliminary construction cost estimate for the LFD upgrades to the eight existing low flow diversion facilities and construction of the CIRS sewer is \$20,000,000.

These Proposition O projects are necessary to help protect the Santa Monica Bay and shoreline as well as the public's health by reducing bacteria, runoff pollution from streets, sidewalks, yards and lots among other contaminants including litter and surface debris. The largest source of stormwater pollution in Los Angeles is the general public. These projects are designed to improve the water quality that is discharged into the ocean as well as to meet Federal Clean Water Act requirements.

### **Frequently Asked Questions**

#### **Why are the projects being built along Pacific Coast Highway?**

Answer: The Santa Monica Bay Low Flow Diversion Upgrade Projects are being implemented to meet water pollution control requirements from urban and stormwater runoff. The upgrades are being made to accommodate the flow increases from year round operations of the Low Flow Diversion projects, which is required by state regulations for clean water. The new sewer on PCH will provide increased capacity to handle the additional flows.

#### **Will construction work occur on Pacific Coast Highway?**

Answer: The Coastal Interceptor Relief Sewer project (Low Flow Diversion Upgrade 3 Phase 1 and 2) is planned to upgrade the existing Coastal Interceptor Sewer located in Pacific Coast Highway. The upgrade is necessary due to increased sewer flows associated with the year round operations of Low Flow Diversion projects. The plan calls for 1,400-feet of sewer to be constructed in the Will Rogers State Beach parking lot and 3,100-feet on PCH south of the beach lot. The project is expected to include 36" to 48" sewer lines. The estimated start of construction is Fall 2009. Specific construction impacts on PCH are being identified and determined. The city is participating with Caltrans, City of Santa Monica, City of Malibu and numerous city departments to maximize the coordination and communication between agencies with the goal of mitigating the adverse traffic impacts to the public on PCH.



