

Kit Fox

From: Jeremy Davies [jdavies@kubooa.com]
Sent: Wednesday, February 25, 2009 3:22 PM
To: kitf@rpv.com
Cc: Douglas.Stern@cox.net; tomlong@palosverdes.com; stevew@rpv.com; peter.gardiner@rpv.com; joelr@rpv.com; tkellyrpv@aol.com
Subject: Proposed Zone 2 Landslide Moratorium Ordinance Provisions

Dear Mr Fox,

In addition to the letter of February 13, 2009 signed by the homeowners of 34, 36 and 38 Cinnamon Lane, RPV I submit below additional concerns and observations regarding the proposed Moratorium revisions referred to above and the Environmental Checklist dated February 9, 2009. The signatory to this document on behalf of the City concludes that a negative declaration will be prepared based on a conclusion that there will be no significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. However, the revisions referred to in the Checklist are not adequate or all inclusive. I believe that a number of serious issues including environmental and public safety matters have not been adequately addressed in this document and that further revisions are needed. While I recognize that the City is seeking to respond to the California State Court of Appeal's decision in the Monks case it is important that the interests of the existing homeowners as well as those of the lot owners be balanced in the City's actions moving forward.

1) Throughout the Checklist referred to above the City makes mention of the future development of up to 47 single family residences. It also states that the average size for the undeveloped lots is one acre. On page 7 it is stated that Zone 2 allows up to two dwellings per acre. The city in its calculations does not appear to take this into account nor does it take into account that by lifting the moratorium that the existing homeowners will have the right to either build the same size residence as the new residences envisioned for the undeveloped lot owners or sell their properties to third parties who then may wish to build up to 4000 square foot properties.

2) The City is silent on the fact that the only access for heavy construction is through roads located in Zone 5. These roads are in a Zone of continual movement and deteriorating conditions. The roads were designed many decades ago and were never designed or sized for access for significant heavy construction equipment. By permitting heavy construction traffic on the private road system significantly modifies current land use patterns within the Community. It is not appropriate to use a City wide measure for assessing the environmental impact of transport patterns in a particularly sensitive area subject to land movement. This is not the average RPV street. Zone 5 is directly adjacent to Zone 2 and the landslide movement is moving up slope towards Zone 2 (see page 3 of the checklist as it refers to South, Southeast and East and City statements contained in Doug Stern's e-mail of May 3, 2007). Any accelerating deterioration in road conditions and land movement due to heavy construction transport puts at additional risk the possibility of triggering Zone 2 movement with the resulting potential damage to existing homes in both Zone 5 and Zone 2 as well as to Palos Verdes Drive South. To rebuild the roads to be able to take the increased traffic would incur exceptional costs which the Community cannot afford particularly in these harsh economic times. Thus the City by granting permits for new residential construction potentially creates economic hardship conditions for existing homeowners without mitigating the impact in the proposed revisions.

3) The City should be mandated by public request to carry out a detailed EIR including geologists' reports on the gross safety impact for Zone 5 and Zone 2 assuming a maximum development scenario

which includes all possible development in Zone 2 (undeveloped and developed lots and a density factor of two to the acre as appropriate). It is not adequate to assume a piecemeal safety presumption based on a lot by lot approach before a gross impact study has been carried out.

4)The City states that it cannot buy out the 16 lot owners because it does not have the funds. The City refers to a valuation provided by the plaintiffs of \$32million for the 16 lots. 38 Cinnamon was sold in February 2008, before the most rapid and continuing decline in property values, for \$600K. This included planning permission already approved and granted by the City. The City should obtain updated independent valuations currently for the 16 undeveloped lots as \$2MM each lot is totally unrealistic. In addition, these lot owners have already received more than \$200K each from State Insurance funds. Note that on November 21, 2008 Tom Long stated that the "City is in good financial condition".

5)Page 22 states that "If the Director of Public Works determines that the sanitary sewer system cannot accommodate a new connection at the time of building permit issuance, the project shall be connected to to a City approved holding tank system until such time as the as the sanitary system can accommodate the project. The whole purpose of putting a sewer system in was to reduce water run off as a land stabilization measure. The City should carry out an EIR BEFORE granting new building permits not after and should modify the sewer system before new residences are constructed. Note the Daily Breeze article of January 17, 2009 in which it was stated "Sanitation crews make repairs in the area every few days to accommodate land movement from the slide". In addition consider this statement as it impacts to item 2, above and Zone 5. In addition water run off assessmet should be made part of an EIR on the basis that all properties are built out before permits are issued. This will avoid a piecemeal approach that may result in additional studies later when it might be too late for mitigating actions to be taken because of the damage additional runoff has caused. It is a matter of prudence on the part of the City.

6) In the event that new residences are approved for permits and recognizing that they do not currently have electricity, gas or water the City needs to assure existing homeowners that these services will not be interrupted while any construction is taking place.

7)Fire hazards will be increased based on the roads having heavy construction equipment parked at sites-this has already been observed with the 38 Cinnamon Lane construction with large equipment parked in the road. Were there to be fire towards Upper Cinnamon (historically a major fire trajectory) fire tenders would not be able to pass. In addition with increased residences, additional fire hydrants are needed and the City has not addressed this-yet another reason for a full EIR.

8) Page 10 refers to excavations no more than 5ft in depth. For your information the soil experts/geologists involved with the construction at 38 Cinnamon Lane have required 8 ft excavations and this is on relatively flat land. These requirements must have been approved by the City. Again more reason for a full EIR.

9)Page 5 regarding Environmental Factors Potentially Affected has no checks against any item. I believe this to be incomplete based on earlier observations and highlights the need for a full EIR by the City prior to new permits being issued.

Sincerely
Jeremy Davies

Kit Fox

From: Sharon Nolan [nolan4re@hotmail.com]
Sent: Wednesday, February 25, 2009 3:40 PM
To: kitf@rpv.com
Cc: 'Robert Douglas'; Jim & Lorraine Knight
Subject: Comments on Zone 2 Landslide Moratorium Ordinance Revisions
Attachments: ACLAD Comments on Proposed Revisions to.docx; ACLAD Boundary Map 1981.pdf

Hi Kit,

Please accept the attached as my comments on the Zone 2 Landslide Moratorium Ordinance Revisions. I have added a map as well to identify the boundary of the Abalone Cove Landslide Abatement District referenced in my comments and would like it to be included with my comments.

Best regards,

Sharon Nolan
Cellular 310-403-5253

2/25/2009

To: Kit Fox
Senior Planner, City of Rancho Palos Verdes

From: Sharon Nolan (Silberberg)
6 Clove Tree Place, Rancho Palos Verdes

Date 2/25/09

Re: Zone 2 Landslide Moratorium Ordinance Revisions

Dear Mr. Fox,

Please include the following comments as my response to the Revisions document.

The basis for the following comments is California Public Resources Code Sections 26500-26654. In 1979 California adopted the Geologic Hazard Abatement District law. The purpose of the law is to allow cities and counties to form special districts that are equipped to address geologic hazards and related concerns. On January 6, 1981, the Rancho Palos Verdes City Council formed the 'first geologic hazard abatement district' in the State of California, the Abalone Cove Landslide Abatement District also known by its acronym, ACLAD.

- 1) Page 12. GEO-6: City's geotechnical staff to collaborate with Chairman of the Abalone Cove Landslide Abatement District, the local hazards abatement district, with respect to additional de-watering wells and their locations. Additional residences will add to the water management issues concurrently under the jurisdiction of the district. Going forward the ACLAD system of de-watering wells must be expanded to meet the expanding demand.
- 2) Page 12. Comments: a) "..... For example, the use of water would continue to be carefully controlled within the Landslide Moratorium Area in the interest of minimizing the infiltration of groundwater as a means to enhance soil stability." Establishing additional de-watering wells north of the existing wells will extract groundwater before it enters the community. The addition of de-watering wells will help to " minimize the infiltration of groundwater as a means to enhance soil stability."
- 3) Page 15. 9.e) "Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems".

Page 15. Comments: a, c-f) "...This will result in changes to the current drainage patterns of the area..." . The City departments will work with the Abalone Cove Landslide Abatement District to evaluate current drainage patterns and potential impacts to the current patterns post development. This evaluation will result in a comprehensive design that will connect to and improve, where necessary, the current drainage system conducting all groundwater eventually into Altamira Canyon and to the ocean south of Palos Verdes Drive South.

Page 16. HYD-3: "Roof runoff from all buildings and structures on the site shall be contained and directed to the streets or an approved drainage course." The city departments will consult with the Abalone Cove Landslide Abatement District to evaluate current drainage patterns and potential impacts to the current patterns post development. This evaluation will result in a comprehensive design that will connect to and improve, where necessary, the current drainage system conducting all groundwater eventually into Altamira Canyon and to the ocean south of Palos Verdes Drive South.

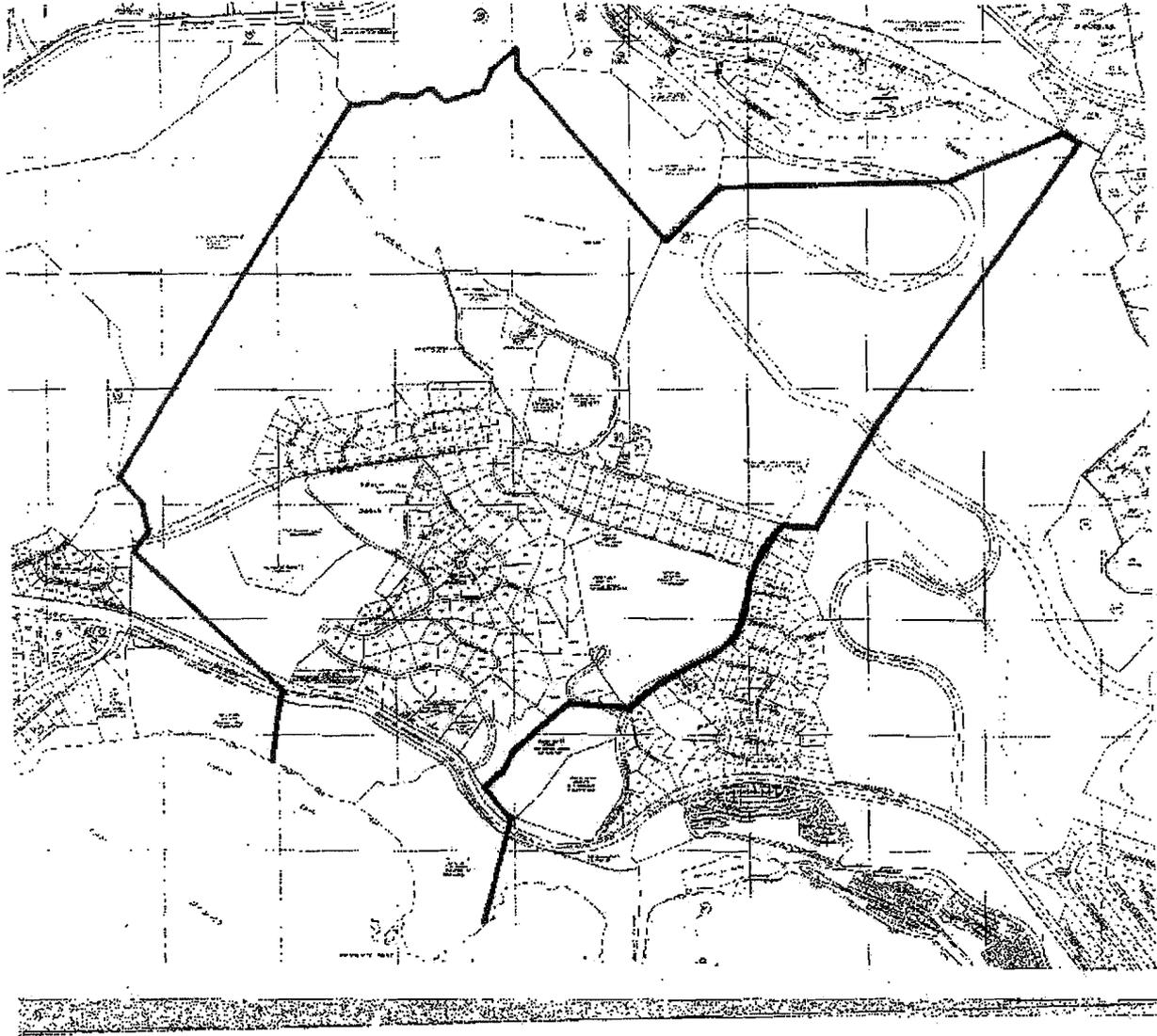
Kit, thank you for including the above comments.

Best regards,

Sharon Nolan (Silberberg)
310-377-5253

**LANDSLIDE ABATEMENT DISTRICT
30940 HAWTHORNE BOULEVARD
RANCHO PALOS VERDES, CA 90274**

DISTRICT BOUNDARIES:



Kit Fox

From: Marianne Hunter [2hunter@cox.net]
Sent: Friday, February 27, 2009 1:38 PM
To: City Council; joelr@rpv.com; EduardoS@rpv.com; CLynch@rwglaw.com; planning@rpv.com; Kit Fox
Cc: Marianne Hunter
Subject: Re: Mitigated Negative Declaration

Dear City Council and all;

The Mitigated Negative Declaration is not acceptable as it stands.

The City cannot subject **most** of it's citizens and those who use PV Dr. to danger both physical and financial because it has lost a battle on one point of law. There has been a failure along the way to find the right method to mollify the lot owners or fully defend us in court by including a broader picture for the court to consider.

The City must:

1. refrain from issuing building permits until it has completed A FULL and EXHAUSTIVE EIR.
2. investigate another point (s) of law that can prevent a precipitous and unalterable mistake that will leave it open to suit by the 100+ families who are being put at risk. should building permits be issued before it has a complete and reviewed EIR study.
3. recognize that it will be held responsible, as "hold harmless" agreements are seldom worth the time it took to write them. Those who most likely will be harmed were not party to this agreement and are free to sue for damages...which no one wants to happen.
4. Contact other agencies and government bodies for guidance.
State Senator Wright.,
State Assemblymember Lowenthal,
Supervisor Don Knabe .

There is an organization of communities who are affected by slide dangers. Are we members of that group? Are we consulting with them?

Office of Emergency Services; Have you contacted state, local and federal Offices of Emergency Services? I have and was told the request for assistance must come from the City. On the state level I spoke with Mr. Mike Bassett. We discussed that although these agencies are meant to come in AFTER a disaster, there is knowledge and experience there that might guide the city and our community in this situation. He said they would consider this if local offices are contacted first. Will you do that tomorrow?

Coastal Commission; We have just had one leak of raw sewage into the Marine Reserve. If this building activity causes an increase likelihood of further spills? Our drainage system is already overloaded, extra runoff caused by building will end up in that protected ecosystem.

5. Should the City begin to issue building permits here, it must have additional staff to monitor the process far more closely than in a conventional neighborhood. Mistakes happen. Here, many can be made to suffer the consequences of ill advised building design & methods or mistakes.
6. Consult with our local fire department regarding adequacy of roads for their equipment, for evacuation of additional households and if there is adequate water resources to fight fire.

The City knows

that opening this community to building numerous houses simultaneously is unwise at the very least and potentially disastrous.

That there are sinkholes waiting to happen on PV dr. through the land slide. That they are likely under Narcissa Dr and Peppertree.

That once permits start being issued, all of the homes already here become possible teardowns, so it is not 47 homes,

or 96 homes, but twice that possibly.

Tear downs equal twice the damaging processes; more truck loads in and loads out, more heavy equipment, more vibration, more water,

Building on a "stable" lot by means of an "unstable" road past "unstable" homes is like throwing someone who does not swim into the water and telling them it will be safe because there is dry land across the water. Perhaps the swimmer/builder will make it, perhaps not. In this case, however, even if the swimmer makes it, he may drown folks he passes over who have prudently managed to keep heads above water.

Marianne Hunter

Kit Fox

From: Jeremy Davies [jdavies@kubooa.com]
Sent: Sunday, March 01, 2009 10:04 PM
To: Kit Fox
Cc: joelr@rpv.com; Douglas.Stern@cox.net; clark@rpv.com; stevew@rpv.com;
peter.gardiner@rpv.com; tomlong@palosverdes.com; CLynch@rwglaw.com; planning@rpv.com
Subject: Proposed Zone 2 Landslide Moratorium Ordinance Revisions

Dear Mr Fox,

In addition to my two earlier letters on the above subject I have an additional concerns to be included in the records.

Regarding private and public nuisance I would suggest that the following events may constitute both categories:

In the event that the existing Narcissa road access located in Zone 5, an area of known continuing slide movement, is found to be inadequate for the projected volume of construction and ancillary equipment and requires substantial redesign and rebuilding to ensure public safety and welfare, the resultant financial hardship to the community would constitute significant harm to individuals in the community. Indeed it likely would be impossible to raise the money for such needs from the Community. Furthermore, repairing cracks and redecorating in existing homes as a result of construction, compaction (see my earlier letter re 38 Cinnamon Lane) etc. will result in financial outlays for individual homeowners. This is not a flippant issue nor a mere minor nuisance-it is cash out of our pockets.

Secondly should Palos Verdes Drive South suffer accelerated deterioration as a result of the construction equipment for new residences entering Narcissa and/or Peppertree and/or result in Zone 5/6 slide acceleration the costs of repair to the road as well as the sewer system requiring even more frequent damage repair due to movement may constitute a significant public nuisance and increased funds outflow for the City.

Finally please note that some 30% of the Monks and other undeveloped lots are located immediately adjacent or closely adjacent to our property on Upper Cinnamon and 10 of the lots would require to use Upper Cinnamon for construction access. This is a cul de sac which is used by young children and is the only exit in the event of fire or other emergency. Please factor this in to how you would propose to mitigate impact in your final measures and factor it into your noise and transportation impacts.

Best regards
Jeremy Davies

Kit Fox

From: Joel Rojas [joelr@rpv.com]
Sent: Monday, March 02, 2009 9:57 AM
To: 'Kit Fox'
Subject: FW: Modification of the Landslide Building Moratorium and the Negative Mitigation Declaration

From: Gordon Leon [mailto:gordon.leon@gmail.com]
Sent: Sunday, March 01, 2009 10:19 PM
To: cc@rpv.com; Joel Rojas
Cc: Marianne Hunter; cooperconstruction44@yahoo.com; Jeremy.Davies@kubooa.com; Tom Mattis; Griffin; Cassie Jones; Lewis Enstedt; jamshriver@yahoo.com; David MacMillan; Lowell R. Wedemeyer; Tim Kelly; Joan Kelly; stokoeg@cox.net; Dan & Vickie Pinkham; Robert Douglas
Subject: Modification of the Landslide Building Moratorium and the Negative Mitigation Declaration

To: Director of Planning and City Council
 From: Gordon Leon

March 1, 2009

Subject: Modification of the Landslide Building Moratorium and the Negative Mitigation Declaration

The Portuguese Bend residents are very concerned about the stability of their homes, when development in Zone 2 and similar areas is allowed. The Portuguese Bend landslide stability is a fragile equilibrium. Over the past 30 years, it has been preserved by controlling ground water by the Abalone Cove Landslide Abatement District pumping an average of 300,000 gallons of water a day and limitations on development due to the building moratorium. While the appellate court decision requires issuance of building permits or compensating to lot owners, it also requires the city to coordinate a set of building guidelines (restrictions) with the lower court. The existing residents are at risk if the new development aggravates the landslide.

I support staff's recommendation to establish a 5 member advisory committee to work with planning to develop building restrictions. I recommend that the committee include Bob Douglas or another geologist who is knowledgeable about the Portuguese Bend Landslide, a member recommended by the Portuguese Bend Community Association to represent the residents, a member to represent the lot owners, a structural engineer experience in building in active landslides, and a lawyer experience in zoning and land use in geologically hazardous areas.

The Negative Mitigation Declaration (NMD) is inadequate to address the issues associated with the removal of the moratorium. I recommend that a comprehensive Environmental Impact Statement (EIR) be performed to provide a thoughtful mitigation of the issues associated with building on the largest active landslide in the United States. The standard NMD does not address the following pertinent issues:

1. **The NMD under estimates the volume of development.** It asserts that only 47 vacant lots will be developed over an extended period of time. The Monk decision will affect all 111 lots in Zone 2 as well as the geographically equivalent sub dividable adjacent areas. (eg Point View, Vanderlip, and other large lot owners) This will likely add another 100 to 150 lots, so the total

housing units is more likely to be 200-250 units. The moratorium has inhibited re-building and remodeling of existing homes for over 30 years. This pent up demand is likely to result in a large amount of rebuilding as soon as the rules change.

2. **The MND does not adequately address storm water runoff.** The conventional approach is to direct the rainwater into storm drains. The land movement would rupture normal subterranean storm drains so the roads in Portuguese Bend serve that function as they drain into Altamira Canyon. The County of Los Angeles elected not to improve Altamira Canyon, which currently allows storm water run off into the landslide fissures. Significant mitigation is required to accommodate the storm water from roofs and hard scape associate with 200-250 new units. This issue has not been addressed or mitigated in the MND.
3. **The access to the new development in Zone 2 is on roads that traverse the less stable areas of the landslide.** Knowledgeable geologists have said that the vibrations from heavy trucks could likely destabilize the landslides in the more active areas. This will cause damage to houses in Zone 5 and could lead to failure of Narcissa Drive. This issue has not been addressed or mitigated in the MND.
4. **Residents will not be able to access Palos Verdes Drive South.** The traffic on PV Drive South has grown significantly over the past few years and will increase dramatically when the Teranea Resort is opened. It is already difficult to enter at Narcissa Drive and Peppertree Drive. The additional houses will make this situation untenable. The MND does not address or mitigate this issue.
5. **Construction vehicles will block the roads in Portuguese Bend for emergency vehicles.** On street parking is not allowed in PBCA because all of the roads are fire roads. Construction vehicles often park on the streets, creating a safety issue for the existing residents. The MND does not address or mitigate this issue.
6. **Many of the proposed lots are not serviced by fire hydrants, power, water, or sewer.** The MND does not address or mitigate this issue.
7. **Building techniques that improve the stability of a build able lot often have negative impact on adjacent lots.** An example is the compaction ongoing on Cinnamon Lane has caused cracks in the neighboring house. The MND does not address or mitigate this issue.
8. **Hold Harmless Agreements with respect to building permits in unstable land have not been upheld in the courts resulting in significant liabilities to municipalities.** A nearby example is an agreement with Palos Verdes Estates where the courts awarded millions of dollars to homeowners where a hold harmless agreement existed and was not upheld. It is likely that the City of Rancho Palos Verdes would be financially liable if issuance of building permits resulted in aggravation of the landslide. The MND does not address or mitigate this issue.

There are a significant number of issues that are not addressed or mitigated to an insignificant level by the MND. I recommend that a full EIR be performed to allow experts to help formulate the mitigation restrictions to protect the city and the existing residents from destabilization of the landslide by development in Portuguese Bend. I also support the staff's recommendation to form an advisory committee to help in the formulation of guidelines and restrictions to protect the city and residents of Portuguese Bend.

Gordon Leon
 Portuguese Bend Resident
Gordon.Leon@gmail.com

310-463-9244

Kit Fox

From: Joel Rojas [joelr@rpv.com]
Sent: Monday, March 02, 2009 9:58 AM
To: 'Kit Fox'
Subject: FW: The Negative Declaration is unacceptable!

From: Gary Stokoe [mailto:Stokoeg@cox.net]
Sent: Sunday, March 01, 2009 7:26 PM
To: Doug Stern
Cc: tomlong@palosverdes.com; peter.gardiner@rpv.com; joelr@rpv.com
Subject: The Negative Declaration is unacceptable!

February 28, 2009

Dear City Council, Mr. Rojas, Mr. Fox, City Attorney,

As a homeowner in the Portuguese Bend Community I am very concerned about the Negative Declaration that is before you on Tuesday, March 3, 2009 and the rights and costly impacts of the homeowners that live in here now. I do understand the City has to respond to a court order and move forward but the Negative Declaration is NOT acceptable. A full and exhaustive EIR has to be done.

The future building of new homes in Portuguese Bend presents a huge impact on the present deteriorating conditions of our roads in Zone 5. All of our roads are Fire Lanes and posted accordingly at each gate entrance. The impact of heavy construction equipment on our roads will eventually have an impact on Palos Verdes Drive South and the sewer lines that lay on the sides of the Drive. The sliding section of the Drive and Zone 5 are in constant land movement at this time.

Calculate the heavy construction equipment and agencies that need to use our roads on a daily basis per one new home built and multiply that by three to five new homes and I feel we have a huge potential for a future slide and or damages beyond what our Community can endure. Ancient landslide does not mean the slide has gone away. Being that we are a Private Gated Community who pays for all the road repairs? We do and our Community can not afford this oversight of costs let alone the burden of impact on our residents.

In addition, our concern among many is that the increased runoff into Alta Mira Canyon, a canyon which has had standing waves in the storms of recent years and which could negatively impact the little stability of the toe of the Abalone slide area.

Since we live in a high fire area the safety of our residents and homes, if any kind of disaster should occur while the construction of new homes takes place, should be a high priority and carefully studied. It is not acceptable if any of our local emergency agencies and vehicles can not adequately use our roads.

I am asking you to refrain from issuing any new home building permits in Portuguese Bend until a full EIR has been completed and rights for everyone that live in here have been balanced thru due process.

3/2/2009

Sincerely,

Gary Stokoe
15 Sweetbay rd
Rancho Palos Verdes
CA 90275

Kit Fox

From: Teri Takaoka [terit@rpv.com]
Sent: Monday, March 02, 2009 1:57 PM
To: 'Kit Fox'
Subject: FW: Modification of the Landslide Building Moratorium and the Mitigated Negative Declaration
Attachments: MND.doc

Hi
 Sorry to bug- should this really be for item 10?
 t

From:Carolynn Petru [mailto:carolynn@rpv.com]
Sent: Monday, March 02, 2009 12:50 PM
To: 'Carla Morreale'
Cc: 'Teri Takaoka'
Subject: FW: Modification of the Landslide Building Moratorium and the Mitigated Negative Declaration

Hi Carla –

Late correspondence for Item No. 9.

- Carolynn

From: cassiej@aol.com [mailto:cassiej@aol.com]
Sent: Monday, March 02, 2009 11:16 AM
To: CC@rpv.com
Subject: Modification of the Landslide Building Moratorium and the Mitigated Negative Declaration

March 1, 2009

Re: Proposed Mitigated Negative Declaration and Staff Report
 Case No. **ZON2009-00007**

Dear City Council and Planning Department,

We are in favor of proper and appropriate study of the impacts this “project” will have on our environment but we are not sure the Mitigated Negative Declaration will achieve this. We are also in favor of the Staff’s recommendation to form a committee of experts to guide this process. First, however, one needs to be realistic about what the proposed “project” is. Originally, the lawsuit in question concerned 16 undeveloped but subdivided lots. In the course of the lawsuit, significant decisions were made regarding land stability using geologic data from outside these 16 lots; land nearby, but still outside the lots. Specifically, decisions were made using data from largely undeveloped and un-subdivided property located in Zone 1.

The “project proponent,” the City, has now made the project larger than the original 16 lots, but leaving out the area in Zone 1- the very area whose geology has been used to determine the outcome of the lawsuit.

We can appreciate that the City is in a bind with respect to having to get something done here, but the project is being defined in terms to suit the City’s needs *now* and not in terms of the big picture. For example, by not including the potential for building in Zone 1 and the potential for subdivision of larger lots in Zone 2, the project (conveniently) falls just under the number of “vehicle trips” required to trigger a more intensive look at what you are doing (450 is not that far from 500). Yet it is admitted in the Proposed MND that these other properties are or will be very shortly, on the table for development and

the **cumulative effects** of this expanded scope need to be considered sooner rather than later. The fact that a commission is being established to look at this admits as much. Which is great. Please don't rush to get one thing done at the expense of the big picture. Let common sense take precedence over expedience and greed.

Second, on the subject of roads and Zones, the City knows, without a doubt, but just for the record, that while it wishes to confine this project to Zone 2, one has to at least acknowledge that the **ONLY** access to these lots is not through Zone 2 at all but through Zones 5 and 6. They are intricately intertwined. These are, by the City's own admission in zoning them differently, zones of active land movement. One cannot put blinders on for this project and ignore the big picture. There are numerous safety issues with these roads. They are narrow and were built with technology decades and decades old to support vehicles not even in existence now. When these roads were built, the vehicles traversing them today could not have even been dreamt of, much less planned for. Not to mention: the roads are moving! Sometimes they move slowly, sometimes not so slowly. How can the City possibly say that development will have no impact? There could be some road mitigation but there is an incurable defect there, too. **The land under the roads to your project is moving.**

Third. There are comments in the MND that state that there will be no impact on, for example, fire safety. This appears to be a blanket statement made without consideration for the reality of the situation. All roads in Portuguese Bend are fire roads (and storm drains). They are vital links to life and safety. Consider this: If there were a fire, fire trucks would be very hard pressed to get down the streets at the same time that construction trucks are working or parked there. Indeed, they can barely get in the gates as it is; much less negotiate tight curves in a hurry and lots of large trucks parked on the road. There is no street parking for this sort of thing and plans need to be made to accommodate these trucks. This blocking of the fire roads isn't going to end for a long time, if you are correct about these lots being built out slowly. We are not of that belief. We believe they will be built out more quickly as lot owners have even this week been doing soils testing, but that is neither here nor there as our crystal ball isn't any clearer than yours.

Serious consideration must be given to this huge safety issue before broadly allowing building permits to be issued. There are mitigations that could be put in place such that all properties on these fire roads could still be accessed by the Fire Department during construction, shuttling people or parking off-road, for example, but first the City must address the fact that this is a problem.

Fourth. The MND also states that there would ultimately be no impact on utilities and to follow on our last example of a fire emergency, there are actually no fire hydrants on our street. That is because there is no water main on our street. There are sewers, funny enough, thank you, but no water. These particular lots *and the lots directly adjacent to them on the Plum Tree property, other places in Zone 1 and in the Vanderlip area* as they are developed will need water and it will not be a simple matter of connecting them with a lateral line to an existing water main, as there isn't one. Of course this is correctable, but you are talking about digging up a road in a landslide area to do this, so the mitigation is not exactly simple or inexpensive and in our opinion not to be written off. We would think, while one is putting in actual water mains, one might as well contemplate the subdivision of the larger lots in Zone 2 and consider the impact of building in Zone 1 because if these roads are going to torn up once, it is best do it once and for all. We are fairly certain the sewers as designed aren't all they should be, even that is admitted in the MND, but to knowingly ignore the potential subdivision of other lots by not dealing with the sewer issue is not good planning and fated to have impacts down the road.

Fifth and, again, back to water and the roads. Throughout the MND there is mention that the impact to someone, the City I guess, for traffic, infrastructure and services is only 0.2 % based on the added population to the City when the 47 lots are built out. Well, 47 more residences is actually a **75% increase in the number of residents in Zone 2**, if we are sticking to the Zone 2 area as the project. One of the mitigating measures for hydrology is to have all run-off water empty into the streets, all of which empty ultimately into Altimira Canyon. The roads are at maximum capacity for water. When the place was originally subdivided, they must have planned for smaller homes or, actually, maybe they just got it wrong, I don't know. Anyway, the water running into Altimira Canyon is destroying homes. As a

private community, we are responsible for the maintenance of our storm drains, Altimira Canyon being a major one. As the bulk of the water comes from communities at the top of the hill, we have little ability to control this upstream flow. Ultimately there will be at least **75% more runoff from parcels in Zone 2 alone** onto the roads and into the storm drains as newer homes will likely be larger than the older ones. Within Altimira Canyon are fissures and water seeps into those each time it rains. That water gets into the landslide and the problem never ends. Also, and we don't know the answer to this, but isn't the water exiting Altimira Canyon, at the sea, affecting the toe of the Abalone Cove landslide? We've seen what happened when the toe of the Portuguese Bend Landslide was destroyed. PV Drive South started moving faster than ever. Anyway, no additional water can be accepted without serious thought to the consequences. The City could mitigate for this in several ways, but has chosen not to even look beyond Zone 2 to even admit there is a problem. Understandably the drainage and roads are "not the City's problem," but that doesn't mean it is not a problem.

Sixth, and with respect to Section 6, Geology, especially parts a, c and d: the various suggested mitigation measures are not adequate. The document asks if the building will "Be located on a geological unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?" Pretty much the answer to that will be "yes," given knowledge of the multiple slide planes below. A hold harmless agreement is hardly mitigation for damages resulting from building on unstable land whether it is on-site or off-site. What is a piece of paper agreement between the City and a lot owner going to do to mitigate damage to property off-site should building trigger another unfortunate acute event? Unfortunately, the underlying slide planes aren't something each homeowner can be responsible for mitigating.

Lastly, there are about 8 lots that dip into Altimira Canyon themselves and, as some of them have not been touched for, literally, decades, the amount and types of wildlife and vegetation, whether they are endangered or protected or not, is probably unknown. We know there are at least uncommon species there. We had two Western Blue-Tailed Skinks in our front yard last year (we live rather near the canyon).

This MND is irresponsible to the future. It gets the job done expediently here and now, but, seriously, this is NOT a Zone 2 issue alone. We understand why you are trying to push this part through. It is something you need to do, which can be done, but you need to get it right, too.

We appreciate all your hard work, we do. Thank you.

Cassie Jones & Lewis Enstedt
PB Development Safety Alliance

Addendum Sunday 3/1/2009 3pm: Just finished talking with a nice man hired to subcontract the cement pouring for the foundation for the new home being "reconstructed" from the ground up next door at 38 Cinnamon. He was looking for the fire hydrant on our street (there isn't one). He said they will be pouring 250-300 yards of concrete by his estimation in a week or so and was wondering where he could stage the 25-35 trucks for the pour, after he figured out how to get them there in the first place. He asked about the dirt lot at the gatehouse entrance (I don't know, ask the Pinkhams...) He had been warned about staging the trucks on the City's roads- his only instruction was that as long as they were on private property and not blocking City streets, they wouldn't be hassled and he wouldn't lose his privilege of doing business in the City. Being that there is no place to stage 30 concrete trucks on narrow fire roads in Portuguese Bend, I suggested the parking lot at Abalone Cove. Seems like a safe place to me and they can just pay for parking like everybody else. The point of relaying this discourse to you is that THERE IS NO PLAN for even ONE house being built when it comes to the access to these lots. He also did not know that we had two days a week of trash pick-up, which he did not want to interfere with.

There is no action plan and certainly no safety plan.

Quote from the Staff Report:

"Although it may be appropriate to consider the issue of subdivision within the Landslide Moratorium Area in the future, Staff does not believe that it is necessary or prudent to include this

issue as a part of the City's current response to the *Monks* decision.”

The Staff is wrong here, in our opinion. There could be nothing further from the truth. It is very necessary and quite prudent to look at the big picture when dealing with the landslide area today. Don't piecemeal the plans for development. Get a comprehensive look at what is possible and get it right from the start. At the very least Zones 1, 5 and 6 need to be considered in this first round as they largely surround the otherwise landlocked Zone 2. The Staff seems to be pushing towards a resolution of an immediate problem, not planning a comprehensive strategy for the future that builds upon what is here now, what is being done today and what is expected of the future.

Thanks again, Lew and Cassie

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!

City of Palos Verdes Estates

P. O. BOX 1086

PALOS VERDES ESTATES, CALIF. 90274

RESOLUTION NO. 990

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES, CALIFORNIA, GRANTING A MODIFICATION OF IMPROVEMENT REQUIREMENTS

FREE R

WHEREAS, Section 5-85 of the Code of the City of Palos Verdes Estates, California, requires any owner constructing a building to provide for the improvement of streets, alleys, walks and drainage courses adjacent to the site of the building in conformance with the standards and specifications of the City of Palos Verdes Estates; and

WHEREAS, Section 5-86 of the Code of the City of Palos Verdes Estates, California, authorizes the City Council, after finding that such action will not affect the health, safety and welfare of the public, to modify the requirements of Section 5-85, or approve alternative arrangements assuring appropriate improvements; and

WHEREAS, FRED CHASAN and ROSLYN P. CHASAN have applied for a modification of the requirements as it concerns the street located adjacent to Parcel A of Lot A, Tract 7536, in the City of Palos Verdes Estates, California; and

WHEREAS, the City has considered the matter and has determined to approve a modification of the requirements upon certain terms and conditions.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the City Council finds that the modification provided in this Resolution will not adversely affect the health, safety and welfare of the public if the conditions provided in this Resolution are complied with, and that if the conditions provided in this Resolution are not complied with, such modification will adversely affect the health, safety and welfare of the public.

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
31 MIN. 8 A.M. NOV 30 1981
PAST.

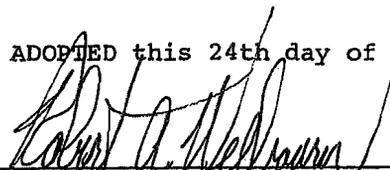
SECTION 1. That in lieu of the requirement of providing improvement of the streets, alleys, walks and drainage courses adjacent to the site of the building located upon the above described property in conformance with standards and specifications of the City of Palos Verdes Estates, Applicants shall:

- A. Execute and cause to be recorded an agreement with the City in the form attached hereto marked Exhibit "A", which the Mayor and City Clerk are hereby authorized and directed to execute by and on behalf of the City.
- B. Deposit with the City Treasurer the cash sum of \$1,063.00, all subject to and in accordance with the terms and provisions of said agreement marked Exhibit "A". Owners shall authorize the City at such time as it may determine proper to use any part or the whole of said sum for the purpose of installing the improvements set forth in Exhibit "A". Said sum shall not be used for any other purpose, and if the same is not used in whole or in part in the manner hereinbefore described on or before January 1, 2001, the Owners may apply for a refund in the manner set forth in Exhibit "A".

SECTION 3. This Resolution shall be effective upon adoption.

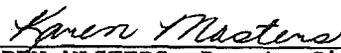
SECTION 4. The City Clerk shall certify to the adoption of this Resolution and shall cause this Resolution and her certification to be entered in the Book of Resolutions of the City Council of this City.

PASSED, APPROVED AND ADOPTED this 24th day of March, 1981.



ROBERT A. WELBOURN, Mayor

ATTEST:



KAREN MASTERS, Deputy City Clerk

81- 1170803

EXHIBIT "A"

AGREEMENT

THIS AGREEMENT, made this 24th day of March, 1981, by and between FRED CHASAN and ROSLYN P. CHASAN, hereinafter called "OWNERS", and the CITY OF PALOS VERDES ESTATES, a municipal corporation, hereinafter called "CITY".

R E C I T A L S

1. OWNERS are the fee simple owners of Parcel A of Lot A, ^{Block 1450,} Tract 7536, in the City of Palos Verdes Estates, County of Los Angeles, State of California, located on Paseo del Mar, a street of said City, and are in the process of constructing a residence thereon.

2. OWNERS' predecessors in title, Fred S. Hellmann and Yovanka B. Hellmann, on or about January 26, 1976, provided the CITY with a foundation and geological investigation report prepared by Converse, Davis and Associates, dated June 5, 1976, which contained certain recommended conditions relating to the construction of a residence on said property.

3. OWNERS' predecessors in interest, Fred S. Hellmann and Yovanka B. Hellmann, made and entered into an agreement based upon the aforementioned geological report dated January 26, 1976, within the City of Palos Verdes Estates, which was recorded as Document 3985 on February 17, 1976, in the Office of the Los Angeles County Recorder.

4. On May 22, 1979, OWNERS were issued a permit by the CITY to construct on said property a single-family residence requiring OWNERS to construct a residence in accordance with the recommendation of geologists, as set forth in said recorded agreement.

5. On June 11, 1979, the Director of Public Works notified OWNERS that OWNERS would be required to install new street pavement, adequate storm drainage facilities, standard curb and gutter along the property frontage pursuant to Section 5-85 of Chapter 5 of Article 1, Division 5, of the Palos Verdes Municipal Code.

6. OWNERS have disagreed with the request of the Director of Public Works, the OWNERS contending that the street fronting their property was a public improved road at the time of its purchase by OWNERS' predecessors in title, and that the same was then and is now improved within the meaning of Section 5-85. Said road is a major city street, serving all the residents and inhabitants of the CITY.

7. On January 17, 1981, the Planning Commission recommended a waiver of the requirement of the improvement of Paseo del Mar on the condition that the OWNERS construct curb, gutter and storm drain facilities, as required by the City Engineer; and on the further condition that the aforementioned recorded agreement with the Hellmanns' not be abrogated.

8. Without in any way affecting a waiver of OWNERS' position with respect to their obligation, if any, to improve the street pursuant to Section 5-85, OWNERS represent to CITY that they have installed the drainage system on their property in accordance with the recommendations of the geological engineers, and when such drainage system is completed and approved by the CITY Building Department, the CITY will require no further action on the part of the OWNERS as a condition of occupying the property.

9. CITY and OWNERS have reached an agreement as to the limited street improvements to be installed by the OWNERS at this time.

10. CITY has requested that OWNERS indemnify it from liability to OWNERS of private property by reason of CITY'S modification of the requirements of Section 5-85, and has indicated a Certificate of Occupancy would be withheld unless the OWNERS install the required street improvements or agree to indemnify and hold the CITY harmless from any liability that might arise by reason of such modification.

NOW, THEREFORE, the OWNERS, and each of them, and the CITY promise and agree as follows:

1. That certain agreement dated January 26, 1976, and recorded as Document 3985 on February 17, 1976, in the Office of

the Los Angeles County Recorder, is hereby reaffirmed, and nothing herein contained shall abrogate the terms and provisions of said agreement.

2. OWNERS represent to CITY that they have installed the drainage system on their property in accordance with the recommendations of the geological engineer, and when such drainage system is completed no further drainage improvements on the part of the OWNERS will be required as a condition of occupying the property.

3. OWNERS agree to install at OWNERS' expense, to the satisfaction of the City Engineer, and pursuant to CITY standards, an eight-inch asphalt berm and asphalt driveway apron in lieu of concrete curb and gutter adjacent to OWNERS' frontage, which said asphalt curb shall be installed by the OWNERS along the entire frontage of OWNERS' property, as well as approximately fifteen feet of the frontage of the adjacent City storm drain, and approximately seventy-five feet of the frontage of the City parkland to the immediate north of OWNERS' property.

4. OWNERS shall make a cash deposit of \$1,063.00 with the City Treasurer to reimburse the CITY for the cost of replacing said curb in whole or in part with concrete curb and gutter adjacent to the improved real property described as Parcel A of Lot A of Block 1450, Tract 7536, in the City of Palos Verdes Estates, per maps and records in the Office of the Los Angeles County Recorder. It is agreed by and between the parties hereto that the CITY is authorized and directed to withdraw up to the entire amount of said deposit, and the CITY agrees to withdraw said funds only for the purposes hereinbefore set forth. In the event the CITY does not withdraw all of said funds for the purposes hereinbefore set forth on or before January 1, 2001, OWNERS, or either of them, or their successors in interest, are hereby authorized to apply for withdrawal of the balance of said funds remaining.

81- 1170803

5. This agreement shall be recorded in the Office of the Los Angeles County Recorder, and shall constitute a covenant running with the land, and be binding upon the executors, assigns, heirs and administrators, as well as successors in interest of the OWNERS.

6. CITY shall upon compliance with all conditions other than street improvement issue OWNERS a Certificate of Occupancy, and in consideration thereof OWNERS, and each of them, agree to indemnify the CITY for damage or loss to private real property only if a court should determine that the OWNERS were required by Section 5-85 to improve said street, only if the waiver of this requirement by the CITY was the proximate cause of any damage to private real property on or after the effective date of this agreement. The CITY and the OWNERS acknowledge that OWNERS contest their liability to provide the improvements requested by the CITY pursuant to Section 5-85, and it is agreed that the OWNERS shall not be liable for any indemnification unless a court should determine that the OWNERS were in the first instance required to install street improvements, as waived by the CITY. "Indemnity" as used herein shall mean that the OWNERS, and each of them, and their executors, assigns, heirs, administrators and successors in interest, shall indemnify and hold harmless and defend the CITY, its Mayor, members of the City Council, members of its boards and commissions, officers, servants, agents and employees, from claims, suits or from loss or damage arising out of claims, suits, action or judgments by any party for private real property damage arising out of or occasioned by the CITY'S waiver or modification of the requirements of Section 5-85 herein contained.

7. This agreement shall be effective upon execution by the parties notwithstanding the installation or completion of the improvements to be installed by OWNERS, which OWNERS agree to install within ninety days of the date of this agreement.

81- 1170803

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF PALOS VERDES ESTATES,
A Municipal Corporation

By *Robert A. Welbourn*
Robert A. Welbourn, Mayor

ATTEST:

Karen Masters
KAREN MASTERS, Deputy City Clerk

OWNERS:

Fred Chasan
FRED CHASAN

Roslyn P. Chasan
ROSLYN P. CHASAN

81- 1170803

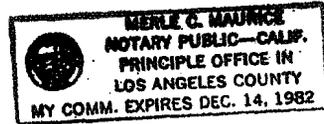
STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

On April 9, 1981, before me, the undersigned Notary Public in and for said State, personally appeared Robert A. Welbourn, known to me to be the Mayor of the City of Palos Verdes Estates, and Karen Masters, known to me to be the Deputy City Clerk of the City of Palos Verdes Estates, that executed the within instrument on behalf of the City of Palos Verdes Estates, a municipal corporation, and acknowledged to me that such corporation executed the same.

Merle C. Maurice
Notary Public in and for said State

Print Name _____

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)



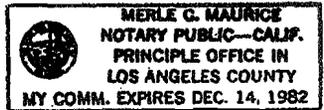
On April 9, 1981, before me, the undersigned Notary Public in and for said State, personally appeared FRED CHASAN, known to me to be the person whose name is subscribed to the within Instrument, and acknowledged to me that they executed the same.

WITNESS MY HAND AND OFFICIAL SEAL.

Merle C. Maurice
Notary Public in and for said State

Print Name _____

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

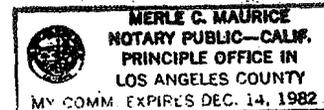
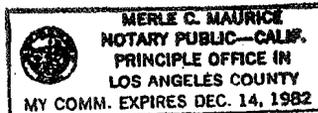


On April 9, 1981, before me, the undersigned Notary Public in and for said State, personally appeared ROSLYN P. CHASAN, known to me to be the person whose name is subscribed to the within Instrument, and acknowledged to me that they executed the same.

WITNESS MY HAND AND OFFICIAL SEAL.

Merle C. Maurice
Notary Public in and for said State

Print Name _____



81- 1170803

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES) ss:
)
CITY OF PALOS VERDES ESTATES)

I, KAREN MASTERS, Deputy City Clerk of the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution No. 990 was adopted by the City Council of the City of Palos Verdes Estates, California, at a regular meeting thereof, held on the 24th day of March, 1981, and that the same was adopted by the following vote:

- AYES: Councilmen Florance, Ritscher, Duston, Councilwoman Culver and Mayor Welbourn
- NOES: None
- ABSENT: None
- ABSTAIN: None

WITNESS my hand and the official seal of said City this 25th day of March, 1981.

Karen Masters
KAREN MASTERS, Deputy City Clerk

(SEAL)

81- 1170803

Los Angeles County on
 12, 1987.
 8703694
 Palos
 News

Mark Allen Valdez
 Ranchview Rd. R.H.E. CA
 90274
 The business is con-
 ducted by a general part-
 nership.

MAY 12 1987
 87036985
 Palos
 Verdes Peninsula News
 May 21, 28, June 4, 11,
 1987

Charles M. Bar
 This statement wa
 filed with the County Clerk
 of Los Angeles County on
 May 21, 1987.
 87039244
 Publish in the Palos

200 and 200 of the
 California Public Code
 TRUMAN WADKIN
 Attorney at Law
 Los Mirador
 Beach, CA 90242
 Publish in the Palos
 Verdes Peninsula News
 May 28, 30, June 4, 1987.

Section 1831(D) of
 Rolling Hills Esta-
 Municipal Code, wh
 limits the maximum
 permitted lot coverage
 30%, and a Variance
 Section 1825(C) wh
 limits total square foot
 of accessory structures
 500 sq. ft., to permit a 4
 sq. ft. addition to an exi-
 ng detached garage.

P. News No. 11740
 FICTITIOUS BUSINESS
 NAME STATEMENT
 The following persons
 doing business as:
 BRIDGE LIMITED A
 TED PARTNERSHIP,
 Torrance Blvd., Tor-
 ran, CA 90501.
 bert A. Kanai, 25220
 porte Ave., Harbor
 CA 90710.
 ren C. Kanai, 29151
 rridge Dr., Rancho
 Verdes, CA 90274.
 is business is con-
 d by a limited part-
 ip.
 e registrant com-
 ed to transact busi-
 under the fictitious
 ness name listed
 e on—N/A.
 Karen C. Kanai
 is statement was
 with the County Clerk
 s Angeles County on
 21, 1987.
 87039226
 ish in the Palos
 es Peninsula News
 4, 11, 18, 25, 1987.

P. News No. 11794
 FICTITIOUS BUSINESS
 NAME STATEMENT
 The following person is
 doing business as: ACA-
 CH GUIDANCE OUT-
 CH SERVICES, 5523
 Claire Dr., Rancho
 Verdes, CA 90274.
 a Bar, 5523 Eau
 Dr., Rancho Palos
 es, CA 90274.
 s business is con-
 d by an individual.
 e registrant com-
 ed to transact busi-
 under the fictitious
 ess name or names
 above on 9-1-86.
 Zita Bar
 s statement was
 with the County Clerk
 s Angeles County on
 1, 1987.
 87036499
 sh in the Palos
 es Peninsula News
 21, 28, June 4, 11,

P. News No. 11737
 FICTITIOUS BUSINESS
 NAME STATEMENT
 The following persons
 doing business as: LA
 HAIR DESIGN,
 Miraleste Dr., Ran-
 Palos Verdes, CA
 1.
 Began, 1342 W.
 St., San Pedro, CA
 2.
 ko Gobin, 1662
 Pl., San Pedro, CA
 2.
 s business is con-
 d by a general part-
 ip.
 e registrants com-
 ed to transact busi-
 under the fictitious
 ess name or names



County of Los Angeles
 Department of the
 Treasurer and
 Tax Collector

P.V.P. News No. 11810

Notice of Divided Publication

Pursuant to Sections 3381 through 3385, Revenue and Taxation Code, the Notice of Power to Sell Tax-Defaulted Property, in and for Los Angeles County, State of California, has been divided and distributed to various newspapers of general circulation published in said county, for publication of a portion thereof in each of said newspapers.

Notice of Power to Sell Tax-Defaulted Property

Public Notice is hereby given that, five or more years have elapsed since the taxes and assessments on the real property described herein was declared to be Tax-Defaulted, and that, by operation of law on July 1, 1987 at the hour of 8:00 a.m., the therein after described real property will become subject to the Tax Collector's Power of Sale for failure to pay said duly assessed and legally levied taxes against said property, and that, unless the property is sooner redeemed or an installment plan of redemption is initiated as provided by law prior to 5:00 p.m., on the last business day of June 1987, the Tax Collector's Power of Sale will arise.

The amount for which the property was originally declared to be Tax-Defaulted is shown as the amount being set forth in dollars and cents opposite the description of the property. If the property is not redeemed, the right of redemption will terminate upon any subsequent sale by the Tax Collector.

All information concerning redemption or the initiation of an installment plan of redemption will, upon request, be furnished by SANDRA R. TRACEY, Los Angeles County Treasurer and Tax Collector, 225 North Hill Street, Los Angeles, California 90012.

Dated this 27th day of May 1987.

Sandra R. Tracey,
 Treasurer and Tax Collector
 County of Los Angeles
 State of California

The Real Property that is the subject of this Notice is situated in the County of Los Angeles, State of California, and is described as follows:

**PROPERTY TAX-DEFAULTED IN THE YEAR 1982
 FOR THE TAXES, ASSESSMENTS AND OTHER CHARGES
 FOR THE FISCAL YEAR 1981-82.**

<p>2213 \$5,539.67 CHASAN, FRED AND ROSLYN P SIT US 901 PASEO DEL MAR PALOS V EPDES EST CA 7543 002 001 TR ACT N 7536 0.43 AC COM AT MO ST N COP OF LOT 1 TH S 24*29 *45" E 234.46 FT TH S 6 FT T H S 80*50" W 75.32 FT TH N 3 4*47*10" W 29.56 FT TH N 14* 33*10" W 74.15 FT TH N 16*CA *50" E 78.27 FT TH N 42*56*4 2" E 47.6 FT TO BEG PART OF LOT A</p> <p>2214 \$52.27 RAFFAEL, GUY F 7542 031 004 TRACT N 7344 LOT COM AT MOST N COP OF LOT 1 TRACT N 23062 TH N 83*01*25" W 21 FT TH S 51*35" W 43.13 FT TH S 1* E TO NW LINE OF SD TR TH NE AN D FOLLOWING BDRY LINE OF SD TR TO BEG PART OF LOT C</p> <p>2215 \$184.20 FAKA INVESTMENTS INC 755L 01E 028 TRACT NO 25376 0.42 MORE LESS AC COM AT SW COR O F LOT 72 TH N ON W LINE OF S O LOT 42.47 FT TH N 72*44*47 W E TO N LINE OF LOT 42 TO N</p>	<p>TH N 88*34*20" W TO SW LINE OF SD LOT TH NW ON SD SW LIN E 56.32 FT TO BEG PART OF LO T 79</p> <p>2222 \$15.07 SILVER SPUR BUILDING LTD 758 6 028 001 L A CO ASSESSOR MA P NO 51 0107 MORE OR LESS AC THAT PART OUTSIDE CO LIG MAI NT DIST NO 10033 OF 0.88 HOR E OR LESS AC COM AT MOST W C OR OF TRACT NO 21539 TH N 52 *23*26" W 129 FT TH N 37*36* 34" E 200.31 FT TH S 37*01*5 0" E 66.72 FT TH S 65*40*25" E 203.8" FT TH S 24*1*35" W TO N LINE OF SILVER SPUR RD TH W THEREON TO BEG PART OF LOT 38</p> <p>PROPERTY TAX DEFAULTED IN YEAR 1982 FOR TAXES, ASSESSMENTS AND OTHER CHARGES FOR FISCAL YEAR 1981-82.</p> <p>11155 \$36.55 HARDEN, ELIZABETH J 7572 019 002 L A CO ASSESSOR MAP N 51 LOT COM AT MOST E COR OF LAN</p>
---	---

P.V.P. News No. 11815
 FICTITIOUS BUSINESS
 NAME STATEMENT
 The following person is
 doing business as: TWC
 ENTERPRISES, 501 Deep
 Valley Drive, Rolling Hills
 Estates, CA 90274.
 Lurobarte, a California
 corporation, 501 Deep
 Valley Drive, Rolling Hills
 Estates, CA 90274.
 This business is con-
 ducted by a corporation.
 The registrant com-
 menced to transact busi-
 ness under the fictitious
 name listed above on
 April 1, 1987.
 Terry Cole, President
 This statement was
 filed with the County Clerk
 of Los Angeles County on
 May 11, 1987.
 87036563
 Publish in the Palos
 Verdes Peninsula News
 June 4, 11, 18, 25, 1987.

P.V.P. News No. 11763
 FICTITIOUS BUSINESS
 NAME STATEMENT
 The following person is
 doing business as:
 GOLDEN WEST TRADING
 CO., 6540 Eddinghill Dr.,
 R.P.V. CA 90274.
 Patrick Yim-Sing
 Cheng, 6540 Eddinghill
 Dr., R.P.V., CA 90274.
 This business is con-
 ducted by an individual.
 The registrant com-
 menced to transact busi-
 ness under the fictitious
 business name listed
 above on 5/5/87.
 Patrick Yim-Sing Cheng
 This statement was
 filed with the County Clerk
 of Los Angeles County on
 May 21, 1987.
 87039242
 Publish in the Palos
 Verdes Peninsula News
 June 4, 11, 18, 25, 1987.

P.V.P. News No. 11816
 NOTICE OF
 PUBLIC HEARING
 NOTICE IS HEREBY
 GIVEN, that the Planning
 Commission of the City of
 Palos Verdes Estates will
 hold a PUBLIC HEARING
 at 7:30 P.M. on TUESDAY,
 JUNE 30, 1987, in the
 Council Chamber of City
 Hall, 340 Palos Verdes
 Drive West, Palos Verdes
 Estates, for the purpose of
 receiving public input
 regarding the following:
 (1) Proposed Ordinance
 Relative to the Per-
 mitted Uses of the Open
 Space Zone.
 (2) Proposed Negative
 Declaration with Respect
 to Proposed Ordinance

Section 1831(D) of
 Rolling Hills Esta-
 Municipal Code, wh
 limits the maximum
 permitted lot coverage
 30%, and a Variance
 Section 1825(C) wh
 limits total square foot
 of accessory structures
 500 sq. ft., to permit a 4
 sq. ft. addition to an exi-
 ng detached garage.

**IT IS DETERMINED
 OF NEIGHBORHOOD
 COMPATIBILITY
 ALLOW THE ABOVE
 IMPROVEMENTS.**

In accordance with
 Ordinance No. 488 of the
 City of Rolling Hills
 Estates Municipal Code,
 the Planning Director may
 render decisions of neigh-
 borhood compatibility
 should the objectives of
 the above section be met.
 This process requires that
 adjacent and contiguous
 property owners be notifi-
 ed ten (10) days prior to
 the decision of the Planning
 Director.

At this Hearing, issues
 related to the neighborhood
 compatibility of the above
 requests will be considered
 under provisions of Ordinance
 No. 488.

Any questions regarding
 this application should be
 directed to the Planning
 Department.

Proponents and opponents
 may be heard at this time.

If you challenge proposed
 actions in court, you may
 be limited to raising only
 those issues you or someone
 else has raised at the Public
 Hearing described in this
 Notice, or in written
 correspondence delivered to
 the Planning Commission
 (or City Council) at least
 prior to the Public Hearing.

RAYMOND B. TAYLOR
 CITY CLERK
 Publish in the Palos
 Verdes Peninsula News
 and Rolling Hills Estates
 June 4, 1987.

R.H.H. No. 2518
 PUBLIC HEARING
 NOTICE
 CITY OF ROLLING HILLS
 ESTATES
 CUP-102-87
 7:30 PM
 JUNE 15, 1987
 THE OWNERS,
 JACK KRAMER CLUB
 PROPERTY AT 11 M
 TECILLO DRIVE,
 REQUESTING
 AMENDMENT TO
 EXISTING CONDITION
 USE PERMIT (CUP-
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SETTLEMENT AGREEMENT AND MUTUAL GENERAL RELEASE

This Settlement Agreement and Mutual General Release, hereinafter "Agreement", is entered into effective February 19, 1986 by and between the following parties:

The City of Palos Verdes Estates, a municipal corporation, hereinafter "City;"

California Water Service Company, a corporation, hereinafter "Water Company;"

Converse Consultants, Inc., a corporation, hereinafter "Converse Consultants;"

Fred Chasan (an individual), and Roslyn P. Chasan (an individual), hereinafter "Claimants;"

First Interstate Bank, a corporation, hereinafter "Lender;" and

Fire Insurance Exchange, a corporation, hereinafter "Homeowner's Carrier."

RECITALS

This Agreement is a compromise, settlement, and mutual release, whereby the above-stated parties hereby desire to extinguish, one against the other, the rights, claims, disputes, differences, and obligations, which each has asserted, or could assert in the future, in connection with claimed damages to and destruction of the property, residence, and improvements located at 901 Paseo Del Mar, in the City of Palos Verdes Estates, California (hereinafter

"the Chasan property") as a result of landslides occurring on and near the Chasan property and pain and suffering allegedly resulting therefrom.

On or about July 22, 1982, the Claimants commenced an action against the City, the Water Company, and Converse Consultants, in Los Angeles County Superior Court, file number SWC 62642, claiming damages in connection with the aforementioned landslide. Said action allegedly seeks compensation for damage to property and injury to person, including emotional distress causes of action for property damage and personal injuries or sickness, including emotional distress.

The parties hereto have reached agreement, upon the terms hereinafter set forth in this Agreement and in other documents being executed pursuant hereto, to settle and compromise the action bearing case number SWC 62642, and to resolve all matters at issue in dispute among the parties, as set forth in the Agreement stated below.

SETTLEMENT AGREEMENT

1. The City, through its insurance carriers, agrees to pay to the Claimants, the Lender, and the Homeowner's Carrier collectively, the following amounts:

Canadian Indemnity Company:	\$1,721,969.82
Jefferson Insurance Company of New York:	\$ 170,943.96
Admiral Insurance Company:	\$ 195,000.00

Covenant Mutual:	\$	10,000.00
Fireman's Fund:	\$	9,129.00
Protective National:	\$	9,129.00
Employee's Reinsurance Corporation:	\$	9,129.00
Century National Insurance Company of Omaha:	\$	9,129.00
Stonewall Insurance:	\$	9,129.00
Puritan Insurance:	\$	9,129.00
Midland Excess Insurance Company:	\$	9,129.00

2. Converse Consultants agree to pay to the Claimants, the Lender, and the Homeowner's Carrier collectively, a total of \$216,667.00.

3. The Water Company agrees to pay to the Claimants, the Lender, and the Homeowner's Carrier collectively, a total of \$108,333.00.

4. The City additionally agrees to pay to the Claimants, the Lender, and the Homeowner's Carrier collectively, a total of \$30,000.00. City further agrees to pay all demolition costs for the Chasan property.

5. The parties hereto agree that the total settlement amount as indicated in paragraphs 1 through 4 above shall be paid as follows:

(a) To the Claimants, a total of \$1,662,288.78, of which \$1,500,000.00 is allocated to emotional distress;

(b) To the Lender, a total of \$179,528.00;

(c) To the Homeowner's Carrier, a total of \$675,000.00.

6. The Claimants herein agree that they shall execute and deliver to the City a Grant Deed in the form which is attached hereto as Exhibit "A" granting title to the property as described in Exhibit "A" on or before March 21, 1986.

7. The City, the Water Company, and Converse Consultants, herein agree to make payment to the Claimants, the Lender, and the Homeowner's Carrier, on or before March 21, 1986, as set forth herein.

8. Payments as described in the preceding paragraph shall be made in the form of check jointly issued to Dr. and Mrs. Fred Chasan, Fire Insurance Exchange, and First Interstate Bank.

9. The City, the Water Company, and Converse Consultants, herein agree that, in the event payment is not received from any or all of them, or their insurers that interest shall accrue and be assessed against the delinquent party on the unpaid portion at the rate of 10% per annum.

10. Claimants herein represent and warrant that, with the exception of a potential lien for property taxes there are no liens or encumbrances on the property described in Exhibit "A" above, other than the loan agreement executed by Claimants and Lender herein in connection with this property. Claimants represent that they have made no claims

against any insurance carriers in connection with damage to the property except for the claim they filed with Fire Insurance Exchange.

11. Claimants, Lender, and Homeowner's Carrier herein agree that the sums paid as set forth in this Settlement Agreement shall be in full and complete satisfaction of all claims each has or may have in the future regarding the facts and circumstances set forth in the Complaint and this Settlement Agreement, and any landslide activity occurring at or near the property as described in Exhibit "A." Concurrently with the execution of this Agreement, therefore, Claimants, Lender, and Homeowner's Carrier shall execute a General Release of the City, the Water Company, and Converse Consultants, in a form attached as Exhibit "B." Additionally, Claimants, Lender, and Homeowner's Carrier shall execute a Release of the casualty and insurance carriers for the City in a form attached as Exhibit "C," for any claim for bad faith under any existing law or statute in this state. Claimants shall be required to cause the delivery of such executed releases to the counsel for the City.

12. Claimants agree to dismiss with prejudice the pending lawsuit, case number SWC 62642, described herein, as against all defendants to this action.

13. Claimants, Lender, and Homeowner's Carrier herein agree and stipulate that they will sign the Releases

and Claimants agree to sign the Request for Dismissal on or before March 21, 1986.

14. Except for the rights reserved by this Agreement, each of the parties to this Agreement herein agrees to dismiss all pending and future cross-complaints against each other party to this Agreement in connection with this lawsuit.

15. All parties agree to bear their own costs and attorney's fees in connection with this action.

16. Upon execution of this Agreement, except for the obligations arising out of this Agreement and the rights reserved herein, all parties herein hereby generally and specially release, discharge and acquit each other, their agents, employees, attorneys, representatives, predecessors, insurers of Converse Consultants, successors, and each of them, from any and all claims, demands, liabilities, causes of action, of every nature, character, or description whatsoever, whether known or unknown, suspected or unsuspected, anticipated or unanticipated, which each party ever had, now has, or may have, shall and can hereinafter have or acquire, arising out of or concerning or pertaining to or connected with this lawsuit whatsoever, including such rights under Section 1542 of the Civil Code of California, which provides as follows:

"A general release does not extend
to claims which the creditor does

not know or suspect to exist in his or her favor at the time of executing the release which if known by him or her must have materially affected his or her settlement with the debtor."

17. The parties hereby make express waiver of the provisions of Section 1542 of the Civil Code of California, above quoted, and acknowledge that they are aware that claims or facts, in addition to or different from those which are now known or believed to exist with respect to the matters mentioned herein, may be discovered hereinafter, and that their intention is to fully and forever settle and release any and all such matters, claims and disputes, whether known or unknown, except those that are created hereby in this Agreement.

18. The parties further agree that execution of this Agreement does not in any way constitute an admission of liability by any party to any other party. Neither this Agreement nor the contents thereof may be referred to for any purpose in any other action or proceeding.

19. The Claimants represent and warrant that they are the full and sole owners of each and all of the rights and interests to be conveyed or released by them pursuant to this Agreement, with the exception of a potential lien for property taxes, and that they have full and complete author-

ity to convey and to release each and all of such rights and interests by and pursuant to this Agreement.

20. The covenant and conditions herein contained shall apply and bind the issue, heirs, successors, executors, administrators, and assigns of all of the parties hereto.

21. This Agreement contains the entire understanding of the parties except for the rights reserved as recited in the transcript of the proceedings before The Honorable George R. Perkovich, Jr. held on February 19, 1986. There are no representations, warranties, covenants, or undertakings other than those set forth herein.

22. A modification of any of the provisions of this Agreement shall be effective only if made in writing and executed with same formality as this Agreement.

23. Each of the parties hereto has been advised by counsel of his or her own choice as to the provisions herein contained and has signed this Agreement on the advise, consent, and recommendation of said counsel.

24. This Agreement is deemed to have been prepared by the parties hereto, and any uncertainty or ambiguity consisting herein shall not be interpreted against the drafter, but rather, if such uncertainty or an ambiguity exists, shall be interpreted according to the applications of all other rules of interpretation of contracts.

25. If any provision of this Agreement is held to be invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect.

26. The laws of the State of California shall govern the rights of the parties hereunder.

27. This Agreement may be executed in one or more counterparts. Each of said counterparts shall be deemed an original.

28. The parties agree to execute and deliver any additional documents which may be reasonably required or convenient to accomplish any of the purposes set forth in this Agreement.

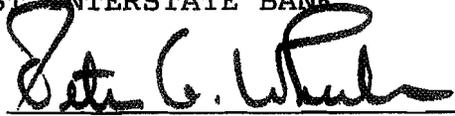
29. The making and execution of this Agreement is not an admission by any party as to the claims or contentions of the other party or parties hereto and is made to resolve disputed claims and is entered into to buy the peace of the parties hereto.

30. If any party hereto needs to employ an attorney, or incurs attorney's fees or costs by reason of any failure by another party or parties to perform any of the duties provided in this Agreement, the party against whom such enforcement is sought, in addition to their other duties herein, shall pay reasonable attorney's fees and costs associated with enforcement of this Agreement.

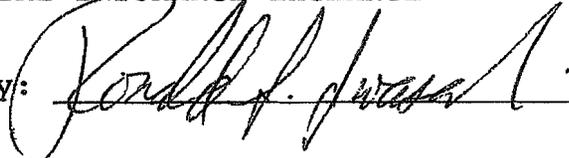
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective and duly authorized representatives on the day and year first above written.

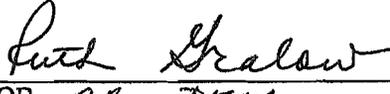
DATE: 21 March 86 
FRED CHASAN

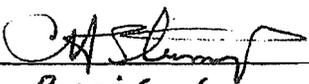
DATE: March 21, 1986 
ROSLYN P. CHASAN

DATE: March 24, 1986 By: 
FIRST INTERSTATE BANK

DATE: March 28, 1986 By: 
CONVERSE CONSULTANTS, INC.

DATE: 3-21-86 By: 
FIRE INSURANCE EXCHANGE

DATE: 3-25-86 By: 
MAYOR PRO TEM
CITY OF PALOS VERDES ESTATES

DATE: March 31, 1986 By: 
President
CALIFORNIA WATER SERVICE COMPANY

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

Name MARK C. ALLEN, JR.
Street Address 624 South Grand Avenue,
11th Floor
City & State Los Angeles, California 90017

MAIL TAX STATEMENTS TO

Name
Street Address
City & State

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CAT. NO. NN00582
TO 1923 CA (2-83)

Individual Grant Deed

THIS FORM FURNISHED BY TICOR TITLE INSURERS

ALL
PTN.

THIS TRANSFER IS EXEMPT FROM DOCUMENTARY TRANSFER TAX UNDER THE PROVISIONS OF GOVERNMENT CODE SECTION 27383
The undersigned grantor(s) declare(s):

Documentary transfer tax is \$ _____
() computed on full value of property conveyed, or
() computed on full value less value of liens and encumbrances remaining at time of sale.
() Unincorporated area: (xx) City of PALOS VERDES ESTATES, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

FRED CHASAN and ROSLYN P. CHASAN

hereby GRANT(S) to

CITY OF PALOS VERDES ESTATES, a municipal corporation
the following described real property in the _____
County of Los Angeles, State of California:

Parcel A of Lot A, Tract 7536, in the City of Palos Verdes
Estates, County of Los Angeles, State of California, located
at 901 Paseo Del Mar, a street of said City.

Dated: _____

STATE OF CALIFORNIA }
COUNTY OF _____ } SS.

On _____ before _____
me, the undersigned, a Notary Public in and for said State,
personally appeared _____

personally known to me or proved to me on the basis of sat-
isfactory evidence to be the person _____ whose name
subscribed to the within instrument and acknowledged
that _____ executed the same.
WITNESS my hand and official seal.

Signature _____

EXHIBIT "A"

(This area for official notarial seal)

Title Order No. _____ Escrow or Loan No. _____

GENERAL RELEASE

(Exhibit "B")

For good and valuable consideration, receipt whereof is hereby acknowledged, the undersigned, and each of them, hereby releases and discharges the City of Palos Verdes Estates, and each and all of its elected and appointed officials, agents, employees, and representatives, and the California Water Service Company, and each and all of its elected and appointed officials, agents, employees, and representatives, and Converse Consultants, Inc., and each and all of its elected and appointed officials, agents, employees, insurers, and representatives (hereinafter collectively referred to as "released parties") of and from any and all claims, losses, debts, demands, duties, obligations, and/or causes of action in which the undersigned, or any of the them, may now have or claim to have or to have acquired or may hereafter claim to have had or to have acquired against released parties, or any of them, arising out of or in any manner related to or connected with any or all of the following:

(a) Any and all taking of or injury or damage to the Chasan property or to any personal property presently or heretofore situated thereon, or any personal injury or emotional distress or other damage or cost or loss

separate from but occurring or claimed to have occurred as a result of the taking of or damage to the Chasan property, whether same may heretofore have occurred or may hereafter occur or be claimed to have occurred.

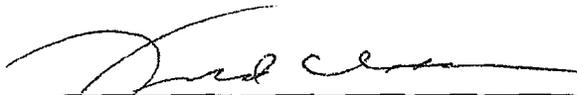
(b) Any matter of thing alleged or referred to or set forth in any or all of the pleadings on file in that certain Los Angeles Superior Court action, bearing case number SWC 62642.

The undersigned hereby waive their rights under Section 1542 of the California Civil Code, which reads:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing this release, which if known by him or her must have materially affected his or her settlement with the debtor."

DATE:

21 March 86



FRED CHASAN

DATE:

March 21, 1986



ROSLYN F. CHASAN

FIRST INTERSTATE BANK

DATE: March 24, 1986

By:

John G. Wheeler

FIRE INSURANCE EXCHANGE

DATE: 3-21-86

By:

Kenneth J. Swann

RELEASE

(Exhibit "C")

For good and valuable consideration as provided in the Settlement Agreement, receipt whereof is hereby acknowledged, the undersigned hereby release and discharge each and all of the casualty and liability insurance carriers, including all excess carriers, who issued policies of insurance to the City of Palos Verdes Estates prior to the date of this Release, of and from any and all liability and obligations to the undersigned. The undersigned further waive, release, and relinquish any and all claims and causes of action or rights of direct action which the undersigned may otherwise have or claim to have against any or all of such insurance carriers or their attorneys, under or by reason of the provisions of Section 790.03(h) of the California Insurance Code or any other statute, case law, or common law, with respect to the payments or non-payment, or the settlement or non-settlement or delay in settlement, or claims processing or claims handling or any claims or causes of action heretofore pleaded, alleged or asserted against the City of Palos Verdes Estates by the undersigned.

The undersigned hereby waive their rights under Section 1542 of the California Civil Code, which reads:

"A general release does not extend to claims which the creditor does not know or suspect to

exist in his or her favor at the time of executing this release, which if known by him or her must have materially affected his or her settlement with the debtor."

DATE:

21 March 86


FRED CHASAN

DATE:

March 21, 1986


ROSLYN P. CHASAN

DATE:

March 24, 1986

By:

FIRST INTERSTATE BANK

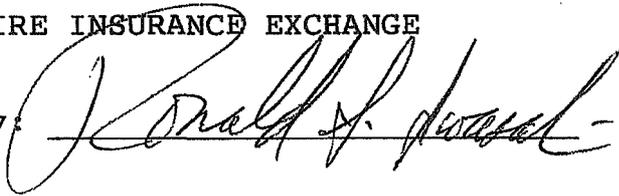


DATE:

3-21-86

By:

FIRE INSURANCE EXCHANGE



Kit Fox

From: Joel Rojas [joelr@rpv.com]
Sent: Monday, March 02, 2009 1:59 PM
To: 'Kit Fox'
Subject: FW: Portuguese Bend moratorium

-----Original Message-----

From: Jean Shriver [mailto:jamshriver@yahoo.com]
Sent: Monday, March 02, 2009 1:31 PM
To: joelr@rpv.com
Subject: Portuguese Bend moratorium

Dear Mr. Rojas,

In regard to the discussion centering on the lifting of the building moratorium, we agree completely with the texts of the letters sent by Gordon Leon and Jeremy Davies. We couldn't have stated our opinions any better.

Jean and Charles Shriver, 21 W Pomegranate Rd., Rancho Palos Verdes, 90275

Kit Fox

From: Teri Takaoka [terit@rpv.com]
Sent: Monday, March 02, 2009 2:14 PM
To: 'Kit Fox'
Subject: FW: Observations and concerns of Portuguese Bend residents

Same question..
t

From:Carolynn Petru [mailto:carolynn@rpv.com]
Sent: Monday, March 02, 2009 12:49 PM
To: 'Carla Morreale'
Cc: 'Teri Takaoka'
Subject: FW: Observations and concerns of Portuguese Bend residents

Hi Carla –

Late correspondence for Item No. 9.

- Carolynn

From: Blair Van Buren [mailto:BlairVB@afn-net.com]
Sent: Monday, March 02, 2009 11:03 AM
To: cc@rpv.com
Cc: Krishna Van Buren
Subject: Observations and concerns of Portuguese Bend residents

Dear City Council Members,

We live in Zone 2 in Portuguese Bend, and would like to share a few of our concerns ahead of the City Council Meeting tomorrow evening. Our Grandparents, Dr. & Mrs. Eastman purchased this property in the early 50's and were the first, original owners of this house. Our daughters are the 4th generation to call 34 Cinnamon Lane their home. While we are not experts in geological sciences or legal matters, we are long terms residents with the following fundamental observations and concerns:

- Some areas in our immediate proximity are actively moving, others have been active in recent history, and still others may have been active long ago and may be prone to slide again. While there has been an effort to classify these areas into zones, these areas are obviously adjacent and connected to each other. Much like the areas above the Portuguese Bend Land slide being affected by the more active slide below, we are very concerned that any reactivated movement in Zone 5 may ultimately impact Zone 2 above. This concern is exaserbated by the fact of the active slide area along side us, going through half of the neighborhood, and therefore Zone 2 is nearly surrounded by these areas of active, recent active, and actually may be itself a long-ago active landslide area.
- Just this weekend I spoke with the geologist or soils expert guy that was with the back-hoe that dug 4 test holes on the property next door to me at 32 Cinnamon Lane (Mike Noper's property) and he indicated that we have significant reason to be concerned given the amount and depth of landslide debris on the lot and in this area, as well as well as the current and potential slide areas immediately around us.

- We are also concerned given the example of the recent construction going on two doors up the street at 38 Cinnamon Lane (previously Neil Siegel and Robin Friend's home). The vibration and shaking caused by the soil compaction a couple weeks ago was so immense and unsettling. We cannot imagine how it must have felt to the immediately adjacent homeowners, because even being 2 doors down, it shook our house, rattled the windows and created a loud wallowing noise and affect in our house that was bad enough that we could not stay inside and we had to take our daughters away and go to the park for the day, just to get out and away from the unsettling noise and trembling. Wasp nests up under the eaves were shaken loose and fell to the ground. We worry that any cracks in the foundation may have been made worse or new ones started. Feeling it so severely at this distance, we know there is a disturbance and impact to the general area caused by construction, and the cumulative effect if any number of multiple lots were allowed to be built is of great concern to this fragile environment.
- The ingress and egress to our neighborhood are not stable areas. In other words, even if Zone 2 has show some resilience and stability in recent history, any potential new development with construction and building equipment and potential new homeowners coming in or out of the neighborhood would have to enter and exit through the active land slide area at the Peppertree gate, or the recent landslide area of Zone 5 at the Narcissa gate. The additional strain on this environment as well as the potential problems and safety with ingress and egress to the neighborhood especially if there were additional land movement make the consideration of new building in this neighborhood unsafe and irresponsible.
- With all the passing of time, and with the technology of wells and pumping out water the Portuguese Bend landslide has never stopped! Even just last week the traffic has to be controlled on PV Drive South as the workers and heavy equipment repair the road damage caused by the constant land movement. The impact of additional houses and hardscapes blocking rainfall, sprinklers for potential new gardens and lawns, and new household water use can only make this worse. Further, what will happen when the time comes when we will have 1 – 3 years of unusually heavy rainfall?
- The sewer system in Portuguese Bend is already of questionable quality and capacity. The potential for additional households tapping in to it will only increase the chances of a problem or failure.
- We are worried about the impact of the heavy equipment and additional traffic on these small neighborhood roads, and the safety of our children, and the horseback riders, and the people who walk, jog, and ride bikes in this neighborhood.

The cumulative effect over time (rather than any particular or specific issue or concern), when all things considered is what causes the greatest concern and worry, and is why the City Counsel should not allow any significant new construction or building in this fragile environment. It seems so fundamental and obvious to anyone that drives the bumpy road past Portuguese Bend (that has to have significant repair every month or two) and the fact that the current landslide going right through half of our small neighborhood HAS NEVER STOPPED!

Please recognize your responsibility in this matter and take the appropriate action.

Sincerely,

Blair & Krishna Van Buren

Kit Fox

From: jim knight [jim_knight@juno.com]
Sent: Monday, March 02, 2009 2:24 PM
To: kitf@rpv.com
Cc: cc@rpv.com
Subject: Comments on Zone 2 MND

Attachments: Comments on Zone 2 MND.doc



Comments on Zone
2 MND.doc (4...

Kit

Attached are my comments on the Zone 2 Revision project. I understand that the Zone 2 Revision MND is a result of a court decision, but my responses are solely directed as to how the MND complies with CEQA.

Thank you,
Jim Knight

Free information on Digital Photography. Click Now!

<http://thirdpartyoffers.juno.com/TGL2141/fc/BLSrjpTDvmQFai6XuqrgXSkmbMjzbG8dXtJaF5cW7GGRC1ZiHLTV4K1NLXa/>

To: Kit Fox, Associate Planner for the City of Rancho Palos Verdes
From: Jim Knight
Dated March 2, 2009

Comments on the MND Case No. ZON2009-00007 Feb. 9, 2009

Before I list my comments for this MND I would like to point out the first part of the project description under #9 is misleading. The Zone 2 Landslide Moratorium Ordinance Revisions are not, as stated in this MND, to “allow development of undeveloped lots in Zone 2...” A more accurately statement for the project would describe a new set of standards of which must be met in order to allow development in Zone 2, for both developed and undeveloped lots, as described in the subsequent summary of the proposed revision P to Sec. 15.20.040.

For the following reasons I believe an EIR should be prepared for this project:

An EIR must be prepared when a Lead Agency determines that it can be fairly argued, based upon substantial evidence, in light of the whole public record, that a project may have significant impacts to the environment. (Pub. Res. Code secs. 21080(d), 21082.2(d)).

If substantial evidence of significant impacts is presented, a Lead Agency must prepare an EIR, even though it may be presented with other substantial evidence that the project would not have significant impacts. (Guidelines sec. 15064). Under the “fair argument” standard, the Lead Agency is required to prepare an EIR if expert, factual, or other substantial evidence is presented even though there is conflicting evidence on record regarding the potential for significant impacts. Substantial evidence includes facts, fact-related reasonable assumptions and expert opinion. (Pub. Res. Code secs. 21080(e), 21082.2(c); Guidelines sec. 15384)

Project Description

1) The project description is vague and it is questionable whether it complies with accepted geologic practices as explained in a) and b) below.

a) City geologists have rendered an opinion that development within areas of landslide hazards is unwise unless the landslide instability can be mitigated to a level consistent with at least the minimum standards of practice as exercised within the professional geologic and geotechnical community. (*Zieser Kling report May 15, 2007*).

The city passed a resolution in June 2002 acknowledging that geologic standards similar to those put forth with this project description is unacceptable.

The MND also does not discuss whether or not the term “aggravate” would include the effects of additional runoff from new development of the project into a

deficient storm drain system. (See my comments under Sec. 9 Hydrology/Water Quality below).

b) The term “existing situation” is equally vague. Does it describe just one lot within Zone 2? Or does it describe the entire Zone 2? Or does it go beyond Zone 2 into Zone 5? Or does it describe the Abalone Cove Landslide Complex? Does it include the existing storm drain system?

An analysis is missing of how this project’s geologic standard of “will not aggravate the existing situation” takes into account the administrative record of expert opinion and established practice as exercised within the professional geologic and geotechnical. A lack of clarification of the project description leaves open the potential for significant impacts that are not addressed in the MND.

2) The project description states one of the criteria to allow lot development in Zone 2 is that the project comply with the criteria set forth in Section 15.20.050. The only criteria in Sec. 15.20.050 for pools is to have a leak detection system installed. (The soils report and hold harmless agreement requirements of Sec. 15.20.040 are discussed in Geology and Soils Sec. 6)

A policy statement of guidelines regarding pools in the project area was put forth in a memorandum from the city’s geotechnical panel dated March 12, 1990. Those guidelines are far more extensive than is being used for this project in Sec. 15.20.050. This discrepancy as to expert opinion and the project description is not discussed in this MND.

Sec. 4 Biological Resources

Altamira Canyon drains into the ocean at the Abalone Cove Shoreline Park where a State Ecological Reserve is located. Additional storm water runoff from the project could increase silt that could harm sensitive inter-tidal species within this Reserve. The MND does not address this potentially significant impact.

Sec. 6 Geology and Soils

1) Again, similar to my comments above about the vagueness of “aggravate the existing situation”, it is unclear what “soil investigations and/or a geotechnical report” means. Is it limited to assessing expansive soils and corrosively only? Will the soil analysis only be for each individual lot? The statement acknowledges “soil conditions in and around Zone 2” and that soils in this area are known to be “occasionally unstable”. Does this mean the soils analysis will address instability “in and around Zone 2”? If so, what criteria will be used?

These questions, as well as comments above on the vagueness of “aggravate the existing situation”, affects GEO-1 mitigation as to how these standards and

mitigations relate to geologic and geotechnical industry standards in a known landslide area.

2) In the May 15, 2007 Report from Zieser Kling, the City geologist states "From a risk assessment standpoint, it is our professional opinion that any grading above the 20 cubic yard threshold could raise the risk above an acceptable level". Assuming the recommendation of 20 cubic yards of grading was intended on a per lot basis, 47 lots times 20 cu. yds. per lot is still only 940 cubic yards of grading; a significantly lower number than the 2,350 cubic yards of the project.

It is not clear how the quantity of grading in the proposed project relates to this professional opinion and thusly a potentially significant impact of the project is not being addressed by this MND.

3) In the *Environmental Checklist Form/Initial Study for Case No. ZON2005-00536 dated July 2006*, the Cabrillo fault was identified close to this project and it was stated that it could be considered potentially active. The project for this July 2006 Initial Study is a few miles from the project under this MND.

The Cabrillo fault is also discussed in the Geologic Hazard section of the General Plan.

This disclosure is missing in this MND.

4) The city of Palos Verdes Estates (a contiguous city to Rancho Palos Verdes) had to pay reparations to a homeowner for a landslide issue, despite the city requiring that homeowner sign a hold harmless agreement.

The MND does not disclose the scope of the hold harmless agreement and therefore does not discuss the potential for the project to adversely impact people or property outside the project. Certain methods of soil abatement can cause severe ground shaking that could affect immediately neighboring properties. Increase in storm water runoff caused by accumulative increased impervious surfaces from the project could cause flood damage and/or land instability. (See comments on HYD-2 below)

It is uncertain if a hold harmless agreement is adequate mitigation.

Sec. 9 Hydrology/Water Quality

1) A map from p. 2 of the appendix of the *Altamira Cyn. Drainage Study by the Los Angeles County Flood Control District* dated Jan. 1978 shows how Altamira Cyn. created a flood zone between Narcissa Dr. and Sweetbay Rd.

In addition to 50-100 year rains, there is the added risk of high velocity, debris laden flows into Altamira Cyn. exacerbated after a fire ("burned" flow) when there is no vegetative drainage retardant present.

This entire project will be contributing runoff water directly to Altamira Cyn. that could exacerbate an existing deficient storm water drainage system. There is documentation showing severe flooding problems and loss of property in lower Altamira Cyn. caused by storm water runoff.

These disclosures are missing in this MND.

2) HYD-1 would require a NPDES permit. It is not clear if each individual lot would require this permit or if the entire project would require a permit.

3) HYD-2 This mitigation is not clear as to whether the Director of Public Works will only identify drainage deficiencies on a per lot basis or drainage deficiencies for the project as a whole.

There is extensive administrative record on drainage deficiencies in Altamira Canyon as well as fracture zones that allow infusion of storm water runoff directly into the subsurface of the toe of the Abalone Cove Landslide leading to the possibility of land instability.

In addition, storm water in Altamira canyon can create severe beach side erosion causing the shoreline to retreat. This loss of revetment compromises land stability.

It is not clear whether mitigation HYD-2 will address drainage issues as identified by the above mentioned administrative records and expert opinion.

Sec. 10 Land Use/Planning

The General Plan includes a list of Geologic Safety Policies.

This project is also subject to Public Resources Code Sec. 2699 which directs cities to "take into account the information provided in available seismic hazard maps when it adopts or revises the safety element of any land-use planning or permitting ordinances." As stated in the MND, Zone 2 is subject to the Geologic Hazards Mapping Act. The Dept of Conservation, Division of Mines and Geology Special Publication 117 sets forth guidelines under that Act for evaluating and mitigating seismic hazards within mapped areas such as this project.

As mentioned in Sec. 6 Biology, this project may impact a State Ecological Reserve.

It is unclear how this project complies with the land use policies as set forth in the General Plan, State Ecological Reserve and Geologic Hazards Mapping Act.

Sec. 14 Public Services

This MND does not address the physical change that could adversely affect fire protection access. There are numerous lots in the project that back up to natural open space. Currently fire protection services can access this open space directly over an unobstructed vacant lot from a paved street. If homes are built on these lots there needs to be adequate fire protection access to the open space in back of the new homes in order to provide the same level of fire protection to the entire community.

This MND does not address this as a potential impact or mitigation.

Sec. 16 Transportation

There are only two emergency access roads for the entire Portuguese Bend community to exit onto P.V. Dr. South. We are surrounded by a large open space which has had fires recently. Persons, as well as a large equestrian community, need these roads for emergency access. Existing roads within the Portuguese Bend community are very old, not compacted well and could be significantly deteriorated by heavy construction equipment, especially accumulatively for the entire project.

Additionally, there are some very dangerous curves in which it has already been shown to be a safety issue with large trucks.

These potentially significant impacts have not been discussed in the MND.

Sec. 17 Utility/Services System

2) The courts have established that before approving a project, the CEQA document must first resolve the uncertainties regarding the project's potential significant environmental effects. (*Sundstrom v. Count of Mendocino (1988) 202 Cal. App. 3d 296*) Although a mitigation of requiring temporary septic holding tanks is recommended, the MND states impacts of the project cannot be fully understood until a future sewer study is done. It is uncertain whether or not the recommendations and mitigations comply with established law under CEQA.

3) **UTL-5** Some lots within the project do not have direct access to the existing water distribution system. For instance, homes on Upper Cinnamon Ln. access the water distribution system from Narcissa Dr. via easements over other properties. Without newly created easements, Cal Water will have to provide additional main supply lines to some of the lots in this project. Without this disclosure, it is unknown what impact the project will have on utility/services systems.

Sec. 18 Mandatory Findings of Significance

1) The MND states that individual lots are unlikely to be developed concurrently and therefore will not have any inverse impact. But it does not address the impact of accumulative storm water runoff, as well as affects to the roadway, from the project after full build-out.

2) In addition to existing homes that drain into Altamira Canyon, a large development approved by RPV called Island View was designed to drain its storm water runoff into the Altamira Canyon watershed. Community members have noted at City public hearings that the storm water in Altamira Canyon has increased significantly since that project was built.

In is unclear whether or not this project has a significant impact incrementally and constitutes "cumulatively considerable" under CEQA without a disclosure of all sources draining into the Altamira Canyon watershed.

3) As discussed in other sections of this letter, there are several impacts to human beings that potentially could be considered substantial.

Sec. 19 Earlier Analysis

The MND only mentions A 1996 SEIR for the sewer system. It does not identify other documents in the administrative record. Some of those documents are:

- 1) The FEIR Abalone Cove Landslide Stabilization Project Aug. 1989 for the County of Los Angeles Department of Public works in cooperation with the City of Rancho Palos Verdes.
- 2) Altamira Cyn. Drainage Study report for RDA Aug. 1990 by ASL Consulting Inc.
- 3) In the Altamira Canyon Drainage Control Project DEIR #39-R June 1995
- 4) Draft Supplemental EIR for the Abalone Cove Sewer System, June 1995.
- 5) Draft Supplemental to the Supplemental Environmental Impact Report for the Abalone Cove Sewer System Nov. 1998

For the reasons stated above, supported by administrative record and expert opinion, a full EIR should be prepared for this project.

Thank you for the opportunity to comment on this MND.

Jim Knight

Kit Fox

From: yogesh goradia [y_goradia@hotmail.com]
Sent: Monday, March 02, 2009 3:21 PM
To: kitf@rpv.com
Subject: Proposed Negative Declaration on Portugese Band Zone 2

Dear Ms. Fox:

I have just reviewed the proposed description of Mitigated Negative Declaration relative to the 47 lots in Zone 2 of the Portugese Band area as described in the February 9, 2009 Public Notice.

I would like to take exception to the last paragraph of the proposed substantive revision to the Landslide Moratorium Ordinance, which states that "Prior to the issuance of a landslide moratorium exception permit, the applicant shall submit to the Director any geological or geotechnical studies reasonably required by the City to demonstrate to the satisfaction of the City geotechnical staff that the proposed project will not aggravate the existing situation." My reasons are as follows:

1. The court ruling pertains to the entire Zone 2, not individual lots within that zone.
2. I would assume that numerous geological studies must have been done to place the original moratorium. The fact that the moratorium is now being lifted demonstrates that the experts no longer consider Zone 2 a geological problem.
3. The City is already addressing the sewage disposal issue in the proposed revision (this should not be confused with the geology, however).
4. The City may want to require soils studies rather than geological investigation on individual lots.

I would say in short that if the City is still concerned about any potential geological problems, they should conduct such studies for the entire Zone 2 once and for all before lifting the moratorium, and not impose it on each individual lot owner which seems to be a waste of time, money and resources. So, I suggest that the last paragraph be deleted from the proposed revision.

Sincerely yours,

Yogesh Goradia, B.S. (civil eng.), M.S. (structures), Ph.D. (physics)
32063 Pacifica Drive, RPV

Kit Fox

From: EduardoS [EduardoS@rpv.com]
Sent: Tuesday, March 03, 2009 9:34 AM
To: Kif@Rpv. Com
Subject: FW: Zone 2 Issues
Attachments: 03-01-09(Zone 2).doc; 8-1-2006 Letter.pdf

fyi

*EDUARDO SCHONBORN, AICP
SENIOR PLANNER
City of Rancho Palos Verdes
30940 Hawthorne Boulevard
Rancho Palos Verdes, CA 90275
ph: 310-544-5228
fax: 310-544-5293*

From: tkellyrpv@aol.com [mailto:tkellyrpv@aol.com]
Sent: Tuesday, March 03, 2009 9:18 AM
To: cc@rpv.com; joelr@rpv.com; carolynn@rpv.com; eduardos@rpv.com
Subject: Zone 2 Issues

To CC et al,
Attached are my thoughts and concerns re the future Zone 2 development.
Tim Kelly.

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6 Fruit Tree Road,
Rancho Palos Verdes, Ca. 90275

March 1, 2009

Re: Zone 2 Moratorium Issues.

Dear City Council members,

I am a long time resident of the Portuguese Bend Community and for the last 6 years have been a Director of the Portuguese Bend Community Association. In that capacity, I represent both the interests of those that have residences and those that have undeveloped lots within the community. I am writing this letter as a private citizen and am not representing the PBCA board or its members. However, my comments and concerns are based on safety issues that I feel will affect all members of our community.

The main access to Zone 2 is Narcissa Dr. which enters the community from PV Drive South and traverses behind the Wayfarers Chapel through Zone 5. Zone 5 is unstable and continues to experience movement. After the winter of 2005/2006, that portion of Narcissa and surrounding homes in Zone 5 experienced so much movement and distress that the City dispatched its own geologist to investigate the situation. On July 26, 2006, Mr. Lancaster met with concerned community members and toured the affected areas. On August 1, 2006, he submitted a letter summarizing his observations and I have attached this letter for your review. This movement and distress occurred under relatively benign road usage and my concern is that the introduction of large earthmoving, cement and building material trucks and equipment will greatly exacerbate the problem and lead to failure of this access road to our community. In addition, we have a narrow hairpin bend outside the residence located at 22 Narcissa which necessitates large trucks to cross the center median in order to traverse the bend. Just last week, we had a documented incident where a resident met a building materials truck with a semi-trailer on the wrong side of the bend and both vehicles had to reverse in order for them to pass safely. If and when major construction is undertaken on the Zone 2 lots, this situation will be severely exacerbated and incidences like this will become the norm rather than the exception.

The city is well aware of the drainage issues associated with Altamira Canyon. The drainage capacity of the canyon has long been exceeded and it cannot handle the current water flows, let alone any additional run off. The rains of 2005/2006 have caused major deterioration within the canyon and have resulted in severe damage to properties located along the lower part of the canyon. At least 2 property owners have had to undertake major remedial repairs to their properties within the last year. The city has relinquished any responsibility for the maintenance of the Altamira Canyon drainage system and has left the PBCA to its own devices. We have attempted to mitigate some of the problems through volunteer efforts but we have neither the expertise nor the resources to accomplish this task.

Our current road and drainage infrastructure is at capacity. Any change to the current equilibrium will require major infrastructure upgrades. Any modifications to Narcissa Drive such as widening to accommodate large construction vehicles will require

an engineering study and design prior to a large scale road improvement project. Altamira canyon can take no more water, period!

It is my feeling that the city looks on the Zone 2 potential development as a simple case of constructing a house on a vacant lot and the only inconvenience will be to adjoining neighbors while the construction is being carried out. That will not be true in Portuguese Bend. There will be a potential for up to 47 homes being built in a very short period of time. This will be similar to some of the larger developments undertaken in the City of RPV. A development of this size would require major infrastructure improvements and the city would probably require an EIR to determine the effects of such a large project. In such a situation, the developer would be responsible for ensuring that the correct infrastructure was put in place. It would not be the responsibility of the adjacent neighbors to fund these efforts. The city needs to look at this development in such a way that an undue burden is not placed on those that do not stand to gain financially from development.

I appreciate the time and effort this city has expended on this issue. The city has always believed there was a reason for a moratorium and restrictions on development in this fragile area. Those underlining reasons have not gone away as a result of a judicial decision. Do not throw the baby out with the bathwater. Please understand that the current residents also enter into the equation and that we need a voice in this matter.

Very Truly Yours,
Tim Kelly.



RECEIVED

AUG 04 2006

PLANNING, BUILDING &
CODE ENFORCEMENT PN 97082-1485

August 1, 2006

Mr. Joel Rojas
Director of Planning, Building and Code Enforcement
CITY OF RANCHO PALOS VERDES
30940 Hawthorne Boulevard
Rancho Palos Verdes, CA 90275-5391

Subject: Summary of Site Observations and Cursory Review of Site Conditions, Abalone Cove Landslide Area, Rancho Palos Verdes, California

Dear Mr. Rojas:

At your request and authorization, I contacted and met with Bill Griffin of 5 Ginger Root, Rancho Palos Verdes, California on Wednesday July 26, 2006. Mr. Griffin provided photo-documentation of what has been reported as recent movement of the Abalone Cove Landslide. In addition, Mr. Griffin provided a site map of the area with his approximated limit of the historic movement (Figure 1). Observations were limited to a vehicle reconnaissance of the area with stops including the Wayfarers Chapel, the Horan residence (20 Narcissa Drive), the Jester residence (28 Narcissa) and associated street areas including portions of Narcissa Drive, Palos Verdes Drive South, Figtree Road, and Cinnamon Lane.

Observations at the Wayfarers Chapel included separations between concrete slabs and concrete cracks up to approximately 1 inch in width. These were confined to the eastern perimeter of the chapel grounds associated with the breezeway and garden house (see photos 13 through 17 provided by Mr. Griffin and Zeiser Kling Consultants, Inc. (ZKCI) Figures 2 and 3). Additional photos illustrating distress within the interior of the garden house were provided by Mr. Griffin (photos 19 through 22).

Observations at the Jester residence (28 Narcissa Drive) were confined to the exterior of the residence. Distress in the form of a somewhat continuous crack within the length of the driveway was observed. This crack showed both horizontal and vertical separations on the order of 1/2 to 1 inch (see photos 1 through 4 and ZKCI Figure 4). Additional separations and cracks were observed within the entry stairs and within flatwork and walls of the residence (see photos 5 through 12 and ZKCI photos Figure 5 and 6).

The Horan residence (28 Narcissa Drive) included both interior and exterior observations. Observations included movement and separation in the brick driveway and cracking and tearing of interior drywall (see figure 7). Additional observations included uneven flooring within much of the residence.

E:\projects\1997\97082-1485 letter 8-06.doc

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Geotechnical Engineering • Engineering Geology • Materials Testing and Inspection

CITY OF RANCHO PALOS VERDES
August 1, 2006

PN 97082-1485

Street distress observed included general cracking of asphalt pavements that appeared to be typical of aged pavements, other cracks that may be related to minor movement (lower Narcissa Drive, Photos 23 and 24 and in front of 1 and 2 Cinnamon Lane, Photos 27 through 29 and ZKCI Figure 8), and some areas that show heaving or settlement within pavement areas (Palos Verdes Drive South photos 35 and 36). The cracks observed are generally between 1/8 to 1 inch (see photos 23 through 36 and ZKCI Figure 8).

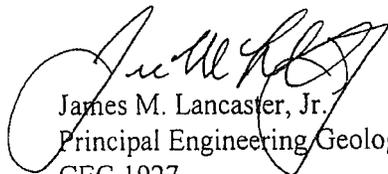
It was noted by all those that I spoke with that the majority of the cracks and distress observed in the area have occurred in the last 6 months. It is quite possible that the distress observed has occurred within the last 6 months; however, my observations cannot determine the age of the distress. Some the cracking in the pavements appear recent; however, the majority could be older than the purported 6 months. It is not possible for me to determine the age of the distress at the residences or concrete distress at Wayfarers Chapel based on my current observations.

The horizontal movement recorded by GPS survey observations during 2005 within the area in question by Charles Abbott Associates, Inc. is consistent with the movement observed during our recent site visit. It is recommended that GPS survey observations be continued at a frequency of four quarterly readings per year. In addition, it is recommended that site observations of the general distress also be completed on a quarterly basis. It should be stressed to all involved that if a change in the current distress regime occurs, the city should be notified so that additional steps can be taken if warranted.

We appreciate this opportunity to be of continued service to the City of Rancho Palos Verdes. Please call if you have any questions regarding the content of this letter.

Sincerely,

ZEISER KLING CONSULTANTS, INC.


James M. Lancaster, Jr.
Principal Engineering Geologist

CEG 1927

Expires 6/30/08

JL:MR:dm

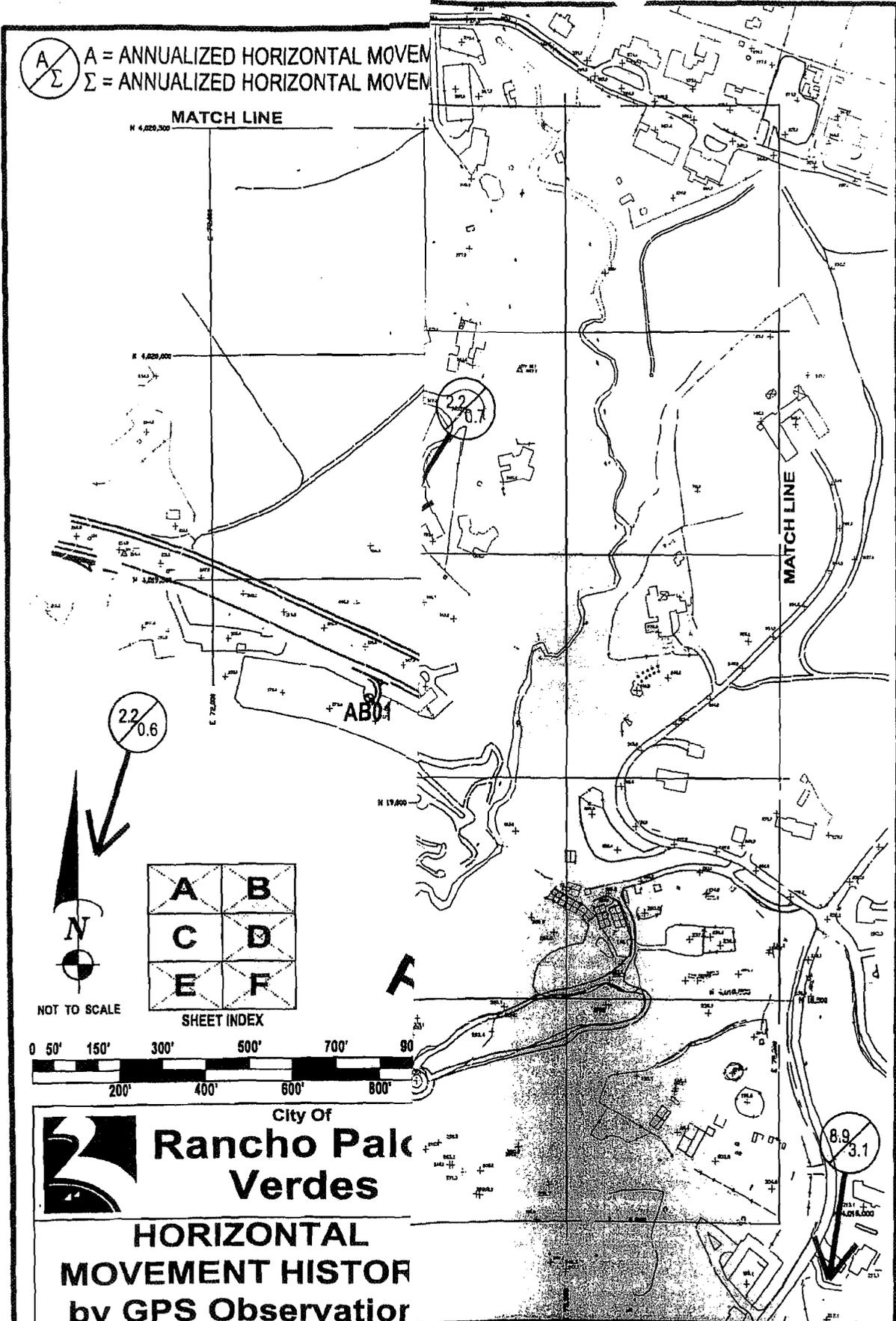


Dist.: (3) Addressee
Attachments: Figures 1 through 8
Photographs 1 through 36
Sheet C, Horizontal Movement History



A = ANNUALIZED HORIZONTAL MOVEMENT
Σ = ANNUALIZED HORIZONTAL MOVEMENT

MATCH LINE
N 4,029,300



NOT TO SCALE

A	B
C	D
E	F

SHEET INDEX



City Of
**Rancho Palms
Verdes**

**HORIZONTAL
MOVEMENT HISTOR
by GPS Observator**

Prepared By: W. Brown, December 2005

the Suite 110
10505
157-2000
34-8082
ES, INC.

SHEET C

YORK POINT VIEW PROPERTIES, LLC

March 3, 2009

VIA FAX AND U.S. MAIL

RECEIVED

MAR 03 2009

**PLANNING, BUILDING AND
CODE ENFORCEMENT**

Mr. Joel Rojas, Director of Planning and Code Enforcement
City of Rancho Palos Verdes
30940 Hawthorne Blvd.
Rancho Palos Verdes, CA 90275-5391

**RE: ZONE 2 LANDSLIDE MORATORIUM ORDINANCE REVISIONS (ZON2009-00007)
AND DRAFT MITIGATED NEGATIVE DECLARATION**

Dear Mr. Rojas:

We recently reviewed the Staff report and Environmental Checklist prepared for the proposed Zone 2 Landslide Moratorium Ordinance Revision (ZON2009-00007), which determined that a Mitigated Negative Declaration (MND) would be prepared. As you know, we believe major revisions to the City's Moratorium Ordinance are long overdue. Although we believe the ordinance should be entirely repealed, the proposed ordinance revision is a good start and we trust that the City will act quickly to correct what we believe are serious problems. Moreover, we look forward to working with you and the technical review panel to resolve fundamental flaws that have existed for years.

Based on the narrow revisions proposed for the ordinance, we believe the MND is generally adequate and accurate in its findings and conclusions. We note, however, that the description of "surrounding land uses and setting" states that the Lower Filiorum (Point View) is the subject of a current application for a "Moratorium Exclusion to allow for future residential development". This statement is inaccurate and mischaracterizes our application. As you know, Moratorium Exclusion (ZON2008-0414) was filed exclusively to correct the Moratorium Boundary on the Point View property, based on detailed geology investigation that was reviewed and approved by the City Geologist. The Moratorium Exclusion does not propose a development project. The MND should be revised accordingly. The same section indicates that the Upper and Lower Filiorum are owned by York Long Point Associates. Please note, as you were previously notified, as of 1/1/09 the Lower Filiorum (Point View) property is now owned by a new owner, York Point View Properties, LLC. We also concur with other comments that the ordinance should be revised to allow for subdivision and construction on all developed and undeveloped lots.

Thanks for considering these important comments.

Respectfully,

Gary S. Weber

CC: Jim York (YPVP)
Scott Sommer (Pillsbury)

From: leejester@verizon.net
To: kitf@rpv.com;
Subject: Proposed Mitigated Negative Declaration - ZON2009-00007
Date: Tuesday, March 03, 2009 5:09:50 PM

Dear Mr. Fox,

I live at 20 Narcissa Drive, in Zone 5 of the City's Landslide Moratorium Area. Many residents, including me, are disappointed in the Court of Appeals decision in the Monk case. While I understand the City's position regarding the repeal of Resolution No. 2002-43, I do not agree with certain revisions to the Landslide Moratorium Ordinance based on parts of the draft Mitigated Negative Declaration.

Based on evidence that my property continues to move due to the Abalone Cove Landslide, I think that the potential development of 47 lots in Zone 2 may have a cumulative adverse effect on the environment. It is unknown if there will be an aggravation of the existing landslides in the area with future development. Requiring property owners to sign a hold harmless agreement prior to being granted a Moratorium Exception Permit is of no comfort if future development should lead to the increase in the present landslides or development of new slides. In addition, with the as yet undetermined factor of safety, providing information satisfactory to the City's geotechnical staff demonstrating that the proposed project will not aggravate the existing situation is also a questionable guarantee.

I urge you to review the Environmental Checklist on which you based your Mitigated Negative Declaration and determine that further environmental review is necessary.

Thank you,

Lois Jester
20 Narcissa Drive
Rancho Palos Verdes
CA 90275

From: Carolynn Petru [carolynn@rpv.com]
nt: Monday, March 02, 2009 8:49 AM
o: 'Carla Morreale'
Cc: 'Teri Takaoka'
Subject: FW: Negative Declaration

Hi Carla -

Late correspondence on Item No. 9.

Carolynn

-----Original Message-----

From: hollysgrt@aol.com [mailto:hollysgrt@aol.com]
Sent: Sunday, March 01, 2009 6:14 PM
To: cc@rpv.com
Cc: 2hunter@cox.net
Subject: Negative Declaration

March 1, 2009

Dear City Council:

As a 60 year resident of Portuguese Bend, I have witnessed the slippage and destruction of many houses from the still active P.B. landslide. The infamously unstable geology of our beautiful area is also responsible for landslides in Abalone Cove, the Flying Triangle, San Ramon Canyon and the Ocean Trails Golf Course. A look at an aerial photograph shows an ancient landslide that dwarfs and includes all of the more recent slides.

The moratorium on building in the ancient landslide area was appropriate and wise. To develop will be foolhardy. The construction of houses on now vacant lots and the possible tear downs and re-builds of existing structures puts not only those residing in Portuguese Bend in jeopardy but also all residents of R.P.V. - and our city government.

If building proceeds, it will require grading equipment, dump trucks, concrete trucks and construction crews. Replacing vacant lots with rooftops and hardscape increase potential for runoff and erosion.

Sewer and water lines need to be excavated. All this without meeting a 1.5 factor of safety in an area with high landslide potential. It sounds like a recipe for disaster.

With deep concerns,

Tony Baker
16 Limetree Lane
Rancho Palos Verdes, CA
310.3772536

From: momshriver@cox.net [mailto:momshriver@cox.net]
Sent: Tuesday, March 03, 2009 1:14 PM
To: cc@rpv.com
Subject: Portuguese Bend

March 1. 2009

Dear City Council, Mr. Fox, Mr. Rojas, City Attorney,

The Portuguese Bend neighborhood that I live in is very atypical and surprisingly fragile. Lifting the moratorium is a serious mistake. New building is not only itself at risk but jeopardizes what tenuously exists here already.

Though the lot our house is on is in the "stable" area, we have significant cracks in our walls and around the grounds. We have relatively frequent power, phone and cable service outages. Our sewer system needs more than the typical monitoring and care. The roads are prone to cracks and potholes that the community itself must maintain. The same clay in the soil that causes the plates of earth to slide is everywhere. During the rains, we have flooding, our yard is mired, and the fields are impassable.

It often feels like we are survivors, albeit lucky, in a neighborhood that is still trying to fall apart. When I first lived here 25 years ago, there were remnants in the fields of the many homes that had been here but crumbled. It was sobering to find porches and patios and odds and ends. For what seemed like very good reason, no one could get a mortgage causing home prices to be low. Now, it seems the risks of building here are long forgotten.

>From watching my surroundings over time, there is no doubt in my mind that this slide will inexorably continue and expand past any abatement attempts. It looks like the only progress represented has been due to corresponding periods of less rain. It's my understanding that it is just a matter of time.

The open space must be irresistible to developers. I have sympathy for the people who were sold the lots. That was a shameful scam.

Please resist the people trying to exert their will on this fragile area. Please determine the destiny of this community on lessons well learned. While a beautiful spot, this is not a place for new building. It is challenging enough to maintain what remains.

Thank you for your consideration,

Marianne Shriver
21 W. Pomegranate Rd.
RPV, CA 90275

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FACSIMILE (310) 394-4700
E-MAIL: mburton@gilchristrutter.com

March 3, 2009

Via Personal Delivery

Mayor Larry Clark
Mayor Pro Tem Steve Wolowicz
Councilmember Peter C. Gardiner
Councilmember Thomas D. Long
Councilmember Douglas W. Stern
Rancho Palos Verdes City Council

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MAR 03 2009

PLANNING, BUILDING AND
CODE ENFORCEMENT

Re: Proposed Mitigated Negative Declaration For Zone 2 Landslide Moratorium
Ordinance Revisions – City Council Hearing: Tuesday, March 3, 2009

Dear Mayor Clark, Mayor Pro Tem Wolowicz, and Councilmembers Gardner, Long, Stern:

We represent Dr. Lewis A. Enstedt, a resident of the City of Rancho Palos Verdes (“City”), and the Portuguese Bend Alliance For Safety, an unincorporated association. We are writing to urge you to reject the Proposed Mitigated Negative Declaration (“Mitigated Negative Declaration” or “MND”) for the Zone 2 Landslide Moratorium Ordinance revisions (“Project” or “Landslide Revisions”) and instead prepare a full Environmental Impact Report (“EIR”). Failure to prepare a full-blown EIR in connection with the Landslide Revisions will constitute a violation of the California Environmental Quality Act, Cal. Pub. Res. Code §§ 21000, *et seq.* (“CEQA”), and its guidelines (14 Cal. Code Regs. §§ 15000, *et seq.* (“CEQA Guidelines”), and will subject the City to costly litigation.

CEQA establishes a low threshold for requiring the preparation of an EIR. *See Mejia v. City of Los Angeles*, 130 Cal.App.4th 322 (2005) (“*Mejia*”). If substantial evidence supports a fair argument that a proposed project may have a significant impact on the environment, an EIR must be prepared. *No Oil, Inc. v. City of Los Angeles*, 13 Cal.3d 68 (1974). Any doubts about whether to engage in the lesser environmental review of an MND and the greater environmental review of an EIR are resolved in favor of the latter. *Id.* Given the potential significant environmental impacts of the Project, and the inadequacies of the proposed “mitigation” measures, an EIR and not a Mitigated Negative Declaration is required to study the direct and indirect environmental effects of the Project.

A negative declaration or mitigated negative declaration can be adopted only if there is no substantial evidence that the project may have a significant effect on the environment or if the project’s effects can be mitigated to the extent that there is no substantial evidence that the project may have a significant effect on the environment. Pub. Res. Code § 21080(c); 14 Cal. Code Regs. I 15063(b)(2), 15064(f)(2) – (3), 15070. Where there is substantial evidence that the

Mayor Larry Clark
Mayor Pro Tem Steve Wolowicz
Councilmember Peter C. Gardiner
Councilmember Thomas D. Long
Councilmember Douglas W. Stern
Rancho Palos Verdes City Council
March 3, 2009
Page 2

project may have a significant effect on the environment, as there is here, a full EIR is required. 14 Cal. Code Regs. §§ 15063(b)(1), 15064(f)(1). The courts have often found that where regulation could affect development, an EIR is required to adequately evaluate the significant environmental impacts, which may result from the development. *See, e.g., City of Livermore v. LAFCO*, 184 Cal. App. 3d 531 (1986) (requiring EIR for revisions to guidelines because change in policies could affect location of development, resulting in significant environmental impacts).

Here, there is substantial evidence that the Landslide Revisions may result in the development of new residences, which may have a significant effect on the environment that cannot be mitigated. Accordingly, the City cannot adopt the Mitigated Negative Declaration but instead must prepare an EIR.

The Mitigated Negative Declaration repeatedly, and misleadingly, relies on the fact that the Project “could lead to the future development of **up to forty-seven (47) single-family residences** on lots that have remained undeveloped since they were created in the late 1940’s” to support the contention that the Project will either have less than significant impacts or that the impacts can be mitigated such that they will be less than significant. (MND, *passim*.) (Emphasis added.) However, this premise is fundamentally flawed and undermines the MND’s analysis and determination that the Project results in less than significant environmental impacts, with mitigation.

First, characterizing the development of 47 new single-family residences as an “insignificant” impact does not accurately represent the scope of the impact on the Project site (“Zone 2” or “Portuguese Bend”). The development of 47 new single-family residences would represent at a minimum a **73% increase in the number of homes currently situated in Portuguese Bend**. As the Mitigated Negative Declaration states, Zone 2 is a “semi-rural area” that currently only has 64 developed lots, the majority of which are improved with single-family residences. (MND at p. 2). Yet the MND alleges the impacts of these developments would be minimal. For example, the Mitigated Negative Declaration claims that the development of 47 new single-family residences would only represent a two-tenths percent (0.2%) increase in the City’s population. (MND at p. 19.) This analysis completely ignores the context of the development’s impact. The magnitude of this difference is 365 times the impact on Portuguese Bend than on the City as a whole.

Second, the Mitigated Negative Declaration’s reliance on the new development being limited to 47 single-family residences does not take into account the likely subdivision of the 47 undeveloped lots to create even more homes. Under California law, the City’s environmental

Mayor Larry Clark
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Rancho Palos Verdes City Council
March 3, 2009
Page 3

review of the Project must include reasonably foreseeable consequences of the Project that will significantly change the scope or nature of the Project or its environmental effects. *Laurel Heights Improvement Ass'n v. Regents of Univ. of California*, 47 Cal. 3d 376 (1988). The Staff Report analyzing the Landslide Revisions ("Staff Report") clearly states that if the Landslide Revisions are adopted "the filing of subdivision maps would be allowed." (Staff Report at p. 4.) Indeed, several residents have already asked the City to address the issue of subdivision in the Landslide Revisions. (Staff Report at p. 10-63, 10-65-68, 10-83.) Nevertheless, the Staff Report improperly dismisses the issue, contending that "[a]lthough it may be appropriate to consider the issue of subdivision...in the future, Staff does not believe that it is necessary or prudent to include this issue as part of the City's current response to the *Monks* decision." However, as subdivision is a reasonably foreseeable consequence of the Project, it is both necessary and prudent to include this issue as part of the environmental review process at this time. The MND not only fails to address the possible impacts such subdivision would have on the environment, it relies on the alleged fact that development would be restricted to only 47 new single-family residences to justify its findings that there will be less than significant impact. (MND, *passim*.)

Third, the Mitigated Negative Declaration makes the flawed assumption that "[w]hile the cumulative effects of the near-simultaneous development of up to forty-seven (47) [single-family] residences may have significant adverse effects...[s]ince the subject lots are owned by numerous individual owners, they are very unlikely to be developed concurrently, but rather on a piecemeal basis over a period of many years." (MND at p. 23.) CEQA does not recognize the distinction between "concurrent" or "piecemeal" developments but merely whether impacts are "reasonably foreseeable." The assumption that the lots will be developed on a "piecemeal basis over a period of many years," ignores the fact that the owners of some or all of the undeveloped lots have been attempting to develop these lots for over thirty (30) years, since the City first enacted a moratorium on the construction of new homes in the Project site. Now that the City is attempting to lift restrictions on development, it is certainly "reasonably foreseeable" that most, if not all, of these lots will undergo construction, whether concurrently or piecemeal, and certainly as soon as feasible. Accordingly, the City must analyze the cumulative impacts of simultaneous, or near-simultaneous, construction. Pub. Res. Code § 21083(b)(2); 14 Cal. Code Regs. § 15065(a)(3). The MND briefly addresses the possibility that the development may occur simultaneously, but dismisses it, alleging that "with the imposition of the recommended mitigation measures, these potential cumulative impacts will be reduced to less-than significant levels." (MND at p. 23) Yet, a review of the mitigation measures contained in the MND reveals that the MND strongly relies on the construction being done piecemeal to justify its findings that the proposed mitigation measures would reduce the environmental impacts to less than significant.

Mayor Larry Clark
Mayor Pro Tem Steve Wolowicz
Councilmember Peter C. Gardiner
Councilmember Thomas D. Long
Councilmember Douglas W. Stern
Rancho Palos Verdes City Council
March 3, 2009
Page 4

Under California law, if there is substantial evidence to support a fair argument that the proposed project may have a significant impact on the environment, the existence of contrary evidence is insufficient to avoid an EIR. *See No Oil, Inc. v. City of Los Angeles*, 13 Cal. 3d 68 (1974); *see also Friends of "B" St. v. City of Hayward*, 106 Cal. App. 3d 988, 1002 (1980). The relevant question is whether the effects of the Project are significant when viewed in connection with past, current, and probable future projects. 14 Cal. Code Regs. § 15065(a)(3). Here, there is substantial evidence to support a fair argument that the Landslide Revisions, and the foreseeable subsequent developments, may have a significant effect on the environment, which are not mitigated by the measures proposed in the MND. Therefore, an EIR is mandatory. *Id.* Below, we discuss the substantial evidence supporting the finding that an EIR is required and analyze the flaws in the alleged "mitigation" measures proposed in the Mitigated Negative Declaration as they apply to Air Quality, Biological Resources, Geology/Soils, Greenhouse Gases, Hydrology/Water Quality, Population/Housing, Transportation/Traffic, Utilities/Service and Aesthetics. Given the overwhelming evidence that an EIR is required, the City's failure to prepare an EIR in connection with the Project violates CEQA and will result in significant damage to the environment and community.

I. Air Quality

The Mitigated Negative Declaration alleges that, with mitigation, the Landslide Revisions will have less than significant impacts on air quality. However, its analysis is focused solely on construction air quality impacts and makes no mention whatsoever of long-term air quality impacts, project-specific and cumulative, arising from increased vehicle trips as a result of the development. The analysis largely depends on the fact that the development of the lots will occur "on a piecemeal basis over a period of many years." (MND at p. 8.) As discussed above, this assumption underestimates the likelihood that the owners of the undeveloped lots, many of whom have been attempting to develop their lots for over thirty (30) years, will begin construction simultaneously, i.e., as soon as feasible.

The Mitigated Negative Declaration provides that if the "worse case" scenario were to occur, and all the lots were developed simultaneously, the mitigation measures provided would still make the air quality impacts less than significant. (*Id.*) However, the only mitigation measures provided are (1) that the applicant "shall be responsible for all dust and erosion control measures required by the Building Official" and (2) that the hours trucks and other construction vehicles are allowed to park, queue and/or idle at the Project site are restricted as provided in the City's Municipal Code. (*Id.*) Yet, neither one of these measures actually mitigates the effect of construction on the air quality. Nor do they address the cumulative effects of simultaneous

Mayor Larry Clark
Mayor Pro Tem Steve Wolowicz
Councilmember Peter C. Gardiner
Councilmember Thomas D. Long
Councilmember Douglas W. Stern
Rancho Palos Verdes City Council
March 3, 2009
Page 5

construction on the air quality of the Project site, which is “semi-rural.” The first measure relies on prospective action to be taken by the future applicants and the Building Official, without any evidence of the likelihood of effective mitigation. Such reliance is an unacceptable mitigation measure. *See Sundstrom v. County of Mendocino*, 202 Cal. App. 3d 296, 308-15 (1988) (disapproving a condition to a negative declaration that required sludge disposal plan to be approved by Regional Water Quality Control Board and the Department of Public Health) (“*Sundstrom*”). The second measure does not address the possibility of subdivision and environmental effects stemming from the construction of more than 47 new single-family residences.

II. Biological Resources

Although the Mitigated Negative Declaration acknowledges that there are patches of coastal sage scrub (“CSS”) habitat identified in Altamira Canyon that traverses several undeveloped lots in Zone 2 and that several of the undeveloped lots in Zone 2 abut the City-owned Portuguese Bend Reserve and the privately owned Filliorum properties, both of which contain substantial and cohesive patches of sensitive CSS habitat (MND at p. 9), it proposes unacceptable and inadequate mitigation measures.

Instead of actually mitigating the impact of the development on the CSS habitat, the MND again essentially requires implementation of mitigation measures to be recommended in a future study. This is an unacceptable mitigation measure. *See Sundstrom*, 202 Cal. App. 3d at 308-09. Specifically, MND states that applicants for development on lots identified as containing sensitive habitat “shall be required to prepare a biological survey ... [which] shall identify the presence or absence of sensitive plant and animal species on the subject property, and shall quantify the direct and indirect impacts of the construction of the residence upon such species.” (MND at p. 9.) Where an agency fails to evaluate a project’s environmental consequences, it cannot support a decision to adopt a negative declaration. *Sundstrom*, 202 Cal. App. 3d at 311. Here, the MND fails to evaluate the Project’s environmental consequences with regard to the possible loss of coastal sage scrub, a sensitive plant community, and instead puts the onus on applicants to do so at a later date. Such deferred analysis of mitigation is impermissible.

Furthermore, the MND fails to evaluate the Project’s possible environmental consequences on sensitive wildlife species in or around the Project site, such as the cactus wren, Cooper’s hawk, southern California rufous-crowned sparrow, and coastal California gnatcatcher, all of which may be found in the surrounding areas, if not on the Project site itself. The courts

Mayor Larry Clark
Mayor Pro Tem Steve Wolowicz
Councilmember Peter C. Gardiner
Councilmember Thomas D. Long
Councilmember Douglas W. Stern
Rancho Palos Verdes City Council
March 3, 2009
Page 6

have found that “absent a current biotic assessment, the conclusions and explanations provided [by the lead agency in an initial environmental review] do not preclude the reasonable possibility that birds, including species of special concern and others, may roost or nest on the property, that small mammals may use the property as a movement corridor, and that development of the site and elimination of the corridor may have a significant impact on animal wildlife.” *Mejia*, 130 Cal. App. 4th at 340. Here, the existence of sensitive wildlife species in the areas surrounding the Project site suggests that the Project may have significant impact on animal wildlife, thereby meriting further review in an EIR.

Moreover, the MND does not even consider the possibility of design measures that could preserve habitat for sensitive species on site, but identifies as its only mitigation measure “payment of a mitigation fee”. (MND at p.9.) This is no mitigation but the admission of a potential significant impact.

Lastly, the MND fails to address the environmental consequences the Project may have on sensitive inter-tidal species located at the juncture where the Altamira Canyon, situated in Zone 2, drains into the Pacific Ocean at the Abalone Cove Shoreline Park. This juncture is the site of a State Ecological Reserve. Additional storm water runoff from the Project could increase silt that could harm the inter-tidal species within this Reserve, yet the MND does not address this potentially significant impact.

III. Geology/Soils

The Mitigated Negative Declaration also fails to adequately evaluate the effect of development on the geology and soil in Zone 2. As the City is aware, this was an issue in *Monks v. City of Rancho Palos Verdes*, 167 Cal. App. 4th 263 (2008) (“*Monks*”). Please note however that although the Court of Appeal ruled the City could not impose an ordinance depriving the *Monks* plaintiffs of all economically beneficial use of the sixteen (16) lots at issue, the Court never sought to prevent the full environmental review of the Project pursuant to CEQA or the mitigation of the environmental impact resulting from the development of 47 or more lots.

Indeed, the evidence suggests that the likely development of at least 47 new single-family residences would have a significant effect on the geology and soils at the Project site, which is susceptible to landslides. In fact, the *Monks* court cites the City’s own expert witness as saying that “allowing construction on *all 47 undeveloped lots* ‘would have a tendency to further reduce the factor of safety.’” *Id.* at 308.

Mayor Larry Clark
Mayor Pro Tem Steve Wolowicz
Councilmember Peter C. Gardiner
Councilmember Thomas D. Long
Councilmember Douglas W. Stern
Rancho Palos Verdes City Council
March 3, 2009
Page 7

Nevertheless, the Mitigated Negative Declaration states that there will be less than significant impacts, with mitigation. However, the MND again adopts unacceptable and inadequate mitigation measures, ones that essentially require the implementation of mitigation measures to be recommended in a future study. *See Sundstrom*, 202 Cal. App. 3d at 308-15. The Mitigated Negative Declaration states, “given the known and presumed soils condition in and around Zone 2, it is expected that soil investigations...will be required prior to the development of any new residences.” (MND at p. 11) This is an impermissible attempt to delay the formulation of real mitigation measures to a future date.

The effect of development on the Project site, given the “known and presumed soil conditions in and around Zone 2,” is a highly controversial and complex matter that requires the preparation of an EIR. As the MND notes, “the entirety of Zone 2 is located within an area that is potentially subject to earthquake-induced landslides.” (MND at p. 11.) Indeed, the Mitigated Negative Declaration states “the soils of the Palos Verdes Peninsula are generally known to be expansive and occasionally unstable.” (*Id.*) The Mitigated Negative Declaration’s proposal that applicants for development submit a “hold-harmless agreement” (*Id.*) does not mitigate the significant environmental effects of development on the geology and soil at the Project site. Rather, it only attempts to mitigate the City’s responsibility for damages. This is not a proper subject for an environmental review and is certainly not a proper mitigation measure. If anything, it is evidence that development will have a significant adverse impact on the hillside.

The Mitigated Negative Declaration fails to adequately consider slope stability and possible slope failure during the construction process. The City already has substantial evidence of the possible environmental effects of construction in Zone 2 based on the history of Portuguese Bend. For example, given the history of landslides bordering the Project site, the City has already had to take steps to stabilize the land at the Project site, including, among other things, using “dewatering” wells to remove groundwater and installing a sewer system “to reduce the amount of groundwater” within the area. (*Monks*, 167 Cal. App. 4th at 272; MND at p. 12.) This stability can be jeopardized by any new development. In fact, recent tests indicate that, as a result of the “dewatering” wells, a second slide plane has been discovered at approximately 180 feet below the surface at the Project site. Any new development could clearly affect the slide plane and/or be affected by the slide plan and result in significant environmental impacts on the geology and soil in Zone 2.

Furthermore, although the Mitigated Negative Declaration acknowledges that new residences constructed at the Project site “will be required to connect to either the existing sanitary sewer system or to an approved holding tank system if the sanitary sewer system is not

Mayor Larry Clark
Mayor Pro Tem Steve Wolowicz
Councilmember Peter C. Gardiner
Councilmember Thomas D. Long
Councilmember Douglas W. Stern
Rancho Palos Verdes City Council
March 3, 2009
Page 8

available...” (MND at p. 12), it fails to adequately address the significant environmental impacts of connecting these new residences to the sewer system, the possible alternatives beyond temporary holding tanks if the sewer system is unable to handle the new residences, and the likelihood that these new residences and their landscaping plans will increase the amount of groundwater in the area thereby increasing the risk of landslides.

Most importantly, the MND fails to consider the significant effect the development will have on the two (2) access roads leading into the Project site, which are known to traverse through manifestly unstable areas and are therefore highly sensitive to further burden. Pepper Tree Road passes through the Portuguese Bend landslide area – a known active landslide; and Narcissa Drive cuts across Zone 5, which suffered the Abalone Cove landslide in 1975. The MND contains absolutely no discussion about the project’s impact on these highly sensitive streets, the only access ways to the project. Portuguese Bend residents must repair and rebuild these access roads, which are paid for by the Portuguese Bend Community Association. The addition of 47 new single-family residences or more would increase the burden on the access roads by nearly 75%, yet the MND fails to analyze how this increased usage will affect the geology and soils underlying the access roads.

Lastly, the Mitigated Negative Declaration does not examine the issue of the Cabrillo earthquake fault, which was identified in another project located only a few miles from Portuguese Bend, and fails entirely to discuss or analyze whatsoever how new development will affect the stability of Zone 5, which experts have acknowledged as unstable (see Exhibit A, attached hereto) and which abuts Zone 2 to the south.

IV. Greenhouse Gas Emissions

The MND contains no serious discussion attempting to quantify greenhouse gas emissions or to show with any level of good faith what specific mitigation measures will address those impacts. Scientific accuracy is not required – but a good faith attempt to quantify the impact and address it is required. *Berkeley Keep Jets Over the Bay Committee v. Board of Port Com'rs*, 91 Cal.App.4th 1344 (2001).

V. Hydrology/Water Quality

The Mitigated Negative Declaration states that the Project will have less than significant impacts on hydrology and water quality, with mitigation. However, in evaluating the potential environmental impacts of the Landslide Revisions on hydrology and water quality, the Mitigated

Mayor Larry Clark
Mayor Pro Tem Steve Wolowicz
Councilmember Peter C. Gardiner
Councilmember Thomas D. Long
Councilmember Douglas W. Stern
Rancho Palos Verdes City Council
March 3, 2009
Page 9

Negative Declaration does not consider the significant environmental impact of groundwater draining into the Altamira Canyon, which has been designated a sensitive United States Geological Survey "blue line stream." Altamira Canyon has been subject to severe flooding problems caused by storm water runoff, yet the MND does not consider whether, or how, the Project may exacerbate an existing deficient storm water drainage system. Furthermore, storm water in Altamira Canyon, which empties into the Pacific Ocean, can create severe beach side erosion causing the shoreline to retreat. This potential significant environmental impact is also ignored in the MND.

The MND also does not consider the significant impact of grading and construction activities that have the potential to result in erosion of exposed soils and transportation of sediment into Altamira Canyon. Construction-related and urban-related contaminants may also result in the pollution of runoff waters that would discharge into natural drainage channels.

Although the MND acknowledges that development "would alter the topography of the undeveloped lots in Zone 2 and increase the amount of impermeable surface area," it proposes inadequate and unacceptable mitigation measures. (MND at p. 15.) For example, one of the MND's "mitigation" measures provides that "[i]f lot drainage deficiencies are identified by the Director of Public Works, all such deficiencies shall be corrected by the applicant." (MND at p. 16.) This does not "mitigate" the environmental effects. Rather, it defers analysis of impacts and mitigation to the future by providing that "lot drainage deficiencies" (and any environmental impact said deficiencies may have) will be identified by the Director of Public Works and mitigated by applicants at a later date.

Similarly, the MND provides that "[a]ll landscaping irrigation systems shall be part of a water management system approved by the Director of Public Works" (MND at p. 16) who will presumably review the environmental impacts of said landscaping irrigation systems at a future date and impose mitigation measures as necessary. As discussed above, mitigation measures which impermissibly defer analysis to future review of environmental impacts or which requires implementation measures be recommended in a future study are impermissible.

VI. Population/Housing

The Mitigated Negative Declaration states that the Project will have less than significant impacts on population and housing because the Project "would result in an increase of only 0.2% [of the City's population]," based on a projected 47 new single-family residences. (MND at p. 18.) However, as discussed above, this reasoning is flawed in that it is reasonably foreseeable

Mayor Larry Clark
Mayor Pro Tem Steve Wolowicz
Councilmember Peter C. Gardiner
Councilmember Thomas D. Long
Councilmember Douglas W. Stern
Rancho Palos Verdes City Council
March 3, 2009
Page 10

that there will be an increase of more than 47 new single-family residences, and likely more by itself than the 60 additional housing units the entire city is allotted through June 30, 2014 by the Southern California Association of Governments. Moreover, this statistic ignores the significant impact on population and housing that the Project will have on the local region, namely the Portuguese Bend area. Even an increase of 47 new single-family residences would represent a 73% increase in population and housing at the Project site. Therefore, the MND needs to evaluate the potential significant environmental impacts of substantial growth in Portuguese Bend.

VII. Transportation/Traffic

The Mitigated Negative Declaration states that the Project will have less than significant impacts on transportation and traffic. Again, this is largely, and mistakenly, premised on the false assumption that there will be no more than 47 new single-family residences and that new construction will be done on a "piecemeal" basis "over a period of many years." (MND at p. 20.) Piecemeal development over a period of many years is precisely the kind of development that must be analyzed for cumulative impacts

The MND does not consider the local effects on Portuguese Bend of such a drastic increase in residences, which could amount to a 73% increase, or more, in traffic in the area. The roads in Portuguese Bend cannot withstand such a high increase in use. As discussed above, the two (2) access roads leading into Portuguese Bend already traverse concededly unstable areas. The Portuguese Bend Community Association collects dues to support the maintenance of the roads at the Project site and it cannot bear the burden of maintaining the roads were usage to be increased by 73% or more.

Furthermore, as residents of Portuguese Bend can and will attest, the Project site clearly does not have adequate parking capacity, either for construction vehicles or additional residences. All roads at Portuguese Bend are fire roads wherein no parking is allowed, as fire trucks cannot negotiate the roads with either cars or construction vehicles parked on them. Yet, the MND wholly fails to address this significant impact.

VIII. Utilities/Service Systems

The Mitigated Negative Declaration states that the Project will have less than significant impacts on utilities and service systems, with mitigation. However, the MND admits "[a]lthough the sewer system EIR indicated the Abalone Cove system could probably support 47 additional

Mayor Larry Clark
Mayor Pro Tem Steve Wolowicz
Councilmember Peter C. Gardiner
Councilmember Thomas D. Long
Councilmember Douglas W. Stern
Rancho Palos Verdes City Council
March 3, 2009
Page 11

connections, the City's Public Works Department does not have enough data to confirm this assumption at present." (MND at p. 21.) This does not even take into account the fact that the development could well exceed 47 with subdivision. Moreover, the MND again unacceptably defers mitigation until a future date. *See Sundstrom*, 202 Cal. App. 3d at 308-15. Rather than fully analyzing the possible problems the new developments could cause on the sewer system and the possible measures to address it, the MND essentially provides that the "Public Works Department" will review and mitigate the problem at a future date. (MND at p. 21.)

For example, the MND provides "[i]f the Director of Public Works determines that the sanitary sewer system cannot accommodate a new connection at the time of building permit issuance, the project shall be connected to a City-approved holding tank system until such time as the sanitary sewer system can accommodate the project." (*Id.*) This is wholly unacceptable. The MND indicates a possible significant environmental impact may exist with regards to the sewer system, yet does nothing more to mitigate it than deferring the problem to the Director of Public Works at the time of permit issuance. This undermines the entire intent of the environmental review process, which must take into account the cumulative and reasonably foreseeable effects of a project before its approval. Review cannot be done on a piecemeal basis after the fact.

Moreover, such a holding tank will itself result in likely environmental impacts, yet the MND doesn't even discuss those impacts.

Additionally, the MND does not consider the significant environmental impact of the construction required to connect the additional developments to the sewer system and/or holding tanks, despite acknowledging that "the City's equipment supplier...has informed the City that their manufacturer no longer recommends the same method of connecting to the system that was used previously...[therefore] system evaluations are needed in order to facilitate [the sewer's] continued safe operation." (MND at p. 22.) However, an EIR must be prepared if a project will result in reasonably foreseeable indirect physical changes that may have a significant adverse effect on the environment. *See County Sanitation Dist. No. 2 v. County of Kern*, 127 Cal. App. 4th 1544 (2005) (finding EIR was required for ordinance restricting disposal of sewage sludge because of indirect impacts, including need for alternative disposal, increased hauling, and possible loss of farmland in reaction to the new restrictions); *see also Heninger v. Board of Supervisors*, 186 Cal. App. 3d 601 (1986) (requiring EIR for ordinance allowing private sewage disposal systems because of possible groundwater degradation in case of system failure).

Mayor Larry Clark
Mayor Pro Tem Steve Wolowicz
Councilmember Peter C. Gardiner
Councilmember Thomas D. Long
Councilmember Douglas W. Stern
Rancho Palos Verdes City Council
March 3, 2009
Page 12

IX. Aesthetics

The Mitigated Negative Declaration contends that the Landslide Revisions will have less than significant impacts on aesthetics, with mitigation. However, the MND fails to consider the short-term construction impacts on Portuguese Bend. Although the Mitigated Negative Declaration admits that the Landslide Revisions could lead to future development, its evaluation of the aesthetic impact of this development does not take into account the fact that during construction, grading activities would remove much of the vegetation on the site. Furthermore, stockpiled soils, equipment and building materials would be visible from off-site areas, thereby further degrading the aesthetic quality of the Project site and associated views.

The visual impacts of development at the Project site would be significant. Views for current residents of Portuguese Bend, as well as views for passersby, would change from undeveloped open space to a developed condition. This substantially degrades the existing visual character of the Project site and its surroundings. Yet, as a mitigation measure, the Mitigated Negative Declaration provides only that the new residences “shall be subject to neighborhood compatibility analysis under the provisions of...[the City’s] Municipal Code.” (MND at p. 6) This “mitigation” measure does not mitigate the significant visual impact of development at the Project site replacing previously undeveloped open space.

Furthermore, the Mitigated Negative Declaration alleges the environmental impact caused by the additional lighting required for the new developments is “mitigated” because “[e]xterior illumination for new residents shall be subject to the provisions of...[the City’s] Municipal Code.” (MND at p. 6.) However, the addition of 47 or more new residences would increase the light and glare in the Portuguese Bend community, which is “semi-rural” (MND at p. 2), by 73% or more. The MND fails to account for the significant impact the increased residences would have on the specific Project site; as the CEQA Guidelines provide, “an activity which may not be significant in an urban area may be significant in a rural area.” 14 CCR § 15064(b). Lastly, as discussed above, the Mitigated Negative Declaration does not accurately account for the possible number of new developments, which will likely exceed 47 residences after subdivision.

In sum, we urge the City Council to reject the Mitigated Negative Declaration. There is substantial evidence the Project will have significant environmental impacts which are not addressed or are inadequately addressed in the Mitigated Negative Declaration. The environmental issues at the Portuguese Bend area are numerous and complex and a full-blown Environmental Impact Report is required. By failing to require an EIR, the City is endangering

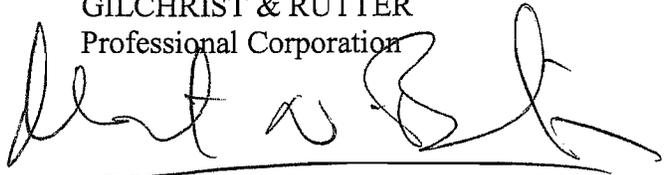
Mayor Larry Clark
Mayor Pro Tem Steve Wolowicz
Councilmember Peter C. Gardiner
Councilmember Thomas D. Long
Councilmember Douglas W. Stern
Rancho Palos Verdes City Council
March 3, 2009
Page 13

the environment of the Portuguese Bend area and putting the health and safety of its citizens at risk.

Please include this letter in the record of proceedings on this matter.

Very truly yours,

GILCHRIST & RUTTER
Professional Corporation

A handwritten signature in black ink, appearing to read 'Martin N. Burton', written over a horizontal line.

Martin N. Burton
Of the Firm

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cc: Joel Rojas, Director of Planning, Building and Code Enforcement
Carolyn Lehr, City Manager
Carla Morreale, City Clerk
Yen N. Hope, Esq.