

ORDINANCE NO. 498

AN ORDINANCE OF THE CITY OF RANCHO PALOS VERDES ADOPTING AMENDMENTS TO CHAPTER 15.20 (MORATORIUM ON LAND USE PERMITS) OF THE RANCHO PALOS VERDES MUNICIPAL CODE TO ESTABLISH AN EXCEPTION CATEGORY TO ALLOW FOR THE FUTURE DEVELOPMENT OF THE SIXTEEN (16) MONKS PLAINTIFFS' UNDEVELOPED LOTS IN ZONE 2.

WHEREAS, on December 17, 2008, the California Supreme Court denied the City's petition for review in the case of *Monks v. City of Rancho Palos Verdes*, so the City Council must consider the actions that are necessary to comply with the Court of Appeal's decision; and,

WHEREAS, on January 21, 2009, the City Council adopted Resolution No. 2009-06 repealing Resolution No. 2002-43, which had required property owners in Zone 2 to establish a 1.5:1 factor of safety before they could develop their lots and was the purported catalyst for the filing of the *Monks* lawsuit; and,

WHEREAS, next action necessary to comply with the Court of Appeal's decision is to enact revisions to the current Moratorium Ordinance to allow the development of the *Monks* plaintiffs' sixteen (16) undeveloped lots in Zone 2; and,

WHEREAS, pursuant to the provisions of the California Environmental Quality Act, Public Resources Code Sections 21000 *et seq.* ("CEQA"), the State's CEQA Guidelines, California Code of Regulations, Title 14, Section 15000 *et seq.*, the City's Local CEQA Guidelines, and Government Code Section 65962.5(f) (Hazardous Waste and Substances Statement), the City of Rancho Palos Verdes prepared an Initial Study and determined that, by incorporating mitigation measures into the Negative Declaration, there is no substantial evidence that the approval of Planning Case No. ZON2009-00007 would result in a significant adverse effect on the environment. Accordingly, a Draft Mitigated Negative Declaration was prepared and circulated for public review for thirty (30) days between August 10, 2009 and September 9, 2009, and notice of that fact was given in the manner required by law; and,

WHEREAS, after notice issued pursuant to the provisions of the Rancho Palos Verdes Municipal Code, the City Council conducted a public hearing on September 1, 2009, and September 15, 2009, at which time all interested parties were given an opportunity to be heard and present evidence regarding the proposed revisions to Chapter 15.20 as set forth in the City Council Staff reports of those dates; and,

WHEREAS, at its September 15, 2009, meeting, after hearing public testimony, the City Council adopted Resolution No. 2009-72 making certain findings related to the requirements of the California Environmental Quality Act (CEQA) and adopting a Mitigation Monitoring Program and Mitigated Negative Declaration for the proposed project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES DOES ORDAIN AS FOLLOWS:

Section 1: The City Council has reviewed and considered the amendments to Chapter 15.20 of Title 15 of the Municipal Code.

Section 2: The City Council finds that the amendments to Chapter 15.20 of Title 15 of the Municipal Code are consistent with the Rancho Palos Verdes General Plan in that they uphold, and do not hinder, the goals and policies of those plans, in particular to balance the rights of owners of undeveloped properties within the Landslide Moratorium Area to make reasonable use of their properties while limiting the potential impacts resulting from such use upon landslide movement, soil stability and public safety within and adjacent to the Landslide Moratorium Area.

Section 3: The City Council further finds that the amendments to Chapter 15.20 of Title 15 of the Municipal Code are consistent Court of Appeal's decision in *Monks v. City of Rancho Palos Verdes* in that they will allow the potential future development of the sixteen (16) Monks plaintiffs' undeveloped lots within Zone 2 of the Landslide Moratorium Area with new, single-family residences, thereby achieving parity with the rights enjoyed by the owners of the developed lots in Zone 2 of the Landslide Moratorium Area.

Section 4: The City Council further finds that there is no substantial evidence that the amendments to Chapter 15.20 of Title 15 of the Municipal Code would result in significant environmental effects or a substantial increase in the severity of such effects. The City Council considered the Mitigated Negative Declaration prior to making its decision regarding the code amendments contemplated herein.

Section 5: The City Council further finds that the amendments to Chapter 15.20 of Title 15 of the Municipal Code are necessary to protect the public health, safety, and general welfare in the area.

Section 6: Based upon the foregoing, Section 15.20.040 of Chapter 15.20 of Title 15 of the Rancho Palos Verdes Municipal Code is amended to read as follows:

The moratorium shall not be applicable to any of the following:

- A. *Maintenance of existing structures or facilities which do not increase the land coverage of those facilities or add to the water usage of those facilities;*
- B. *Replacement, repair or restoration of a residential building or structure which has been damaged or destroyed due to one of the following hazards, provided that a landslide moratorium exception permit is approved by the director, and provided that the project complies with the criteria set forth in Section 15.20.050 of this chapter:*
 1. *A Geologic Hazard. Such structure may be replaced, repaired or restored to original condition; provided, that such construction shall be limited to the*

same square footage and in the same general location on the property and such construction will not aggravate any hazardous geologic condition, if a hazardous geologic condition remains. Prior to the approval 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. The applicant shall comply with any requirements imposed by the city's geotechnical staff and shall substantially repair the geologic condition to the satisfaction of the city geotechnical staff prior to the issuance of a final building permit. Upon application to the director, setbacks may conform to the setbacks listed below:

Minimum Setback Standards

Front	Interior side	Street side	Rear
20	5	10	15

2. *A Hazard Other Than a Geologic Hazard. Such structure may be replaced, repaired or restored to original condition; provided, that such construction shall be limited to the same square footage and in the same general location on the property and such construction will not aggravate any hazardous condition, if a hazardous condition remains. Prior to the approval 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. Upon application to the director, setbacks may conform to the setbacks listed in subsection (B)(1) of this section;*
- C. *Building permits for existing structures which were constructed prior to October 5, 1978, for which permits were not previously granted, in order to legalize such structure(s). Such permits may only be granted if the structure is brought into substantial compliance with the Uniform Building Code;*
- D. *The approval of an environmental assessment or environmental impact report for a project as to which the city or redevelopment agency is the project applicant;*
- E. *Projects that are to be performed or constructed by the city or by the Rancho Palos Verdes redevelopment agency to mitigate the potential for landslide or to otherwise enhance public safety;*
- F. *Remedial grading to correct problems caused by landslide or to otherwise enhance public safety, performed pursuant to a permit issued pursuant to Section 17.76.040(B)(3) of this Code;*

- G. *Geologic Investigation Permits. Prior to the approval of such a 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 investigation will not aggravate the existing situation;*
- H. *Minor projects on a lot that is in the “landslide moratorium area,” as outlined in red on the landslide moratorium map on file in the director’s office, and currently is developed with a residential structure or other lawfully existing nonresidential structure and involves an addition to an existing structure, enclosed patio, conversion of an existing garage to habitable space or construction of a permanent attached or detached accessory structure and does not exceed a cumulative project(s) total of one thousand two hundred square feet per parcel; provided that a landslide moratorium exception permit is approved by the director and provided that the project complies with the criteria set forth in Section 15.20.050 and does not include any additional plumbing fixtures, unless the lot is served by a sanitary sewer system. The one thousand two hundred square foot limitation on cumulative projects that can be approved on a lot pursuant to this subsection includes the construction of a new garage, which can be approved pursuant to subsection L of this section. November 5, 2002, is the date that shall be used for determining the baseline square footage, based upon city and county building permit records, for purposes of calculating the square footage of any cumulative project(s) and of any additions that may be constructed pursuant to this subsection. Minor projects involving the construction of an enclosed permanent detached accessory structure, which are located in an area that is not served by a sanitary sewer system, shall include a requirement that a use restriction covenant, in a form acceptable to the city, that prevents the enclosed permanent detached accessory structure from being used as a separate dwelling unit shall be recorded with the Los Angeles County register-recorder. Such covenant shall be submitted to the director prior to the issuance of a building permit. Prior to the approval of a landslide moratorium exception permit for such minor projects, 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;*
- I. *Construction or installation of temporary minor nonresidential structures which are no more than three hundred twenty square feet in size, with no plumbing fixtures and which do not increase water use, may be approved by the director. If the lot is served by a sanitary sewer system, the permit may allow the installation of plumbing fixtures. All permits shall include a requirement that a use restriction covenant, in a form acceptable to the city which prevents the structure from being*

used for any purpose other than a nonhabitable use, is recorded with the Los Angeles County registrar-recorder. A minor nonresidential structure is defined as temporary if the Building Code does not require it to be erected upon or attached to a fixed, permanent foundation and if, in fact, it will not be erected upon or attached to such a foundation. Prior to approval of the application, 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;

J. Submittal of a lot-line adjustment application;

K. Minor projects on a lot that is in the "landslide moratorium area," as outlined in blue on the landslide moratorium map on file in the director's office, and currently is developed with a residential structure or other lawfully existing nonresidential structure and involves an addition to an existing structure, enclosed patio, conversion of an existing garage to habitable space or construction of a permanent attached or detached accessory structure and does not exceed a cumulative project(s) total of one thousand two hundred square feet per parcel; provided that a landslide moratorium exception permit is approved by the director and provided that the project complies with the criteria set forth in Section 15.20.050 and does not include any additional plumbing fixtures, unless the lot is served by a sanitary sewer system. The one thousand two hundred square foot limitation on cumulative projects that can be approved on a lot pursuant to this subsection includes the construction of a new garage, which can be approved pursuant to subsection L of this section. November 5, 2002, is the date that shall be used for determining the baseline square footage, based upon city and county building permit records, for purposes of calculating the square footage of any cumulative project(s) and of any additions that may be constructed pursuant to this subsection. Minor projects involving the construction of an enclosed permanent detached accessory structure, which are located in an area that is not served by a sanitary sewer system, shall include a requirement that a use restriction covenant, in a form acceptable to the city, that prevents the enclosed permanent detached accessory structure from being used as a separate dwelling unit shall be recorded with the Los Angeles County register-recorder. Such covenant shall be submitted to the director prior to the issuance of a building permit. Prior the approval of a landslide moratorium exception permit for such minor projects, 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;

L. Construction of one attached or detached garage per parcel that does not exceed an area of six hundred square feet, without windows or any plumbing

fixtures, on a lot that currently is developed with a residential structure or other lawfully existing nonresidential structure; provided that a landslide moratorium exception permit is approved by the director, and provided that the project complies with the criteria set forth in Section 15.20.050. If the lot is served by a sanitary sewer system, the permit may allow the installation of windows and plumbing fixtures in the garage. The approval of a landslide moratorium exception permit for such a project shall be conditioned to require that a use restriction covenant, in a form acceptable to the city, that prevents the garage from being used for any purpose other than parking of vehicles and storage of personal property is recorded with the Los Angeles County registrar-recorder. Such covenant shall be submitted to the director prior to the issuance of a building permit. Prior to the approval of a landslide moratorium exception permit for such garage, 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's geotechnical staff that the proposed project will not aggravate the existing situation;

- M. *Submittal of applications for discretionary planning permits for structures or uses which are ancillary to the primary use of the lot or parcel, where there is no possibility of any adverse impact upon soil stability. Examples of these types of applications include special use permits for minor, temporary uses and events; fence, wall and hedge permits that do not involve grading or the construction of retaining walls; permits for the keeping of large domestic animals and exotic animals; conditional use permits for the establishment of a use or activity at or on an existing structure where no structural modifications are required; and such other uses, activities and structures that the city geotechnical staff determines to have no potential for adverse impacts on landslide conditions;*
- N. *Minor projects on those lots which are currently developed with a residential structure, which do not involve new habitable space, which cannot be used as a gathering space and viewing area, and which do not constitute lot coverage;*
- O. *Permits issued pursuant to Section 15.20.110 of this chapter to connect existing structures with functional plumbing fixtures to an operational sewer system;*
- P. *The construction of residential buildings, accessory structures, and minor grading (as defined in Section 17.76.040.B.1 of the Rancho Palos Verdes Municipal Code) on the sixteen (16) undeveloped lots in Zone 2 of the "Landslide Moratorium Area" as outlined in green on the landslide moratorium map on file in the Director's office, identified as belonging to the plaintiffs in the case "Monks v. City of Rancho Palos Verdes, 167 Cal. App. 4th 263, 84 Cal. Rptr. 3d 75 (Cal. App. 2 Dist., 2008)"; provided, that a landslide moratorium exception permit is approved by the Director, and provided that the project complies with the criteria set forth in Section 15.20.050 of this Chapter. Such projects shall qualify for a landslide moratorium exception permit only if all applicable requirements of this Code are satisfied, and the parcel is served by a sanitary sewer system. 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.

Section 7: Based upon the foregoing, Section 15.20.050 of Chapter 15.20 of Title 15 of the Rancho Palos Verdes Municipal Code is amended to read as follows:

Within the landslide moratorium area as identified in Section 15.20.020 of this chapter, the city shall require that appropriate landslide abatement measures be implemented as conditions of issuance of any permit issued pursuant to this chapter. With respect to proposed projects and uses requiring a landslide moratorium exception permit pursuant to Sections 15.20.040(B), (H), (K), (L) and (P), which must satisfy all of the criteria set forth in this section, the conditions imposed by the city shall include, but not be limited to, the following:

- A. If lot drainage deficiencies are identified by the director of public works, all such deficiencies shall be corrected by the applicant.*
- B. If the project involves additional plumbing fixtures, or additions of habitable space which exceed two hundred square feet, or could be used as a new bedroom, bathroom, laundry room or kitchen, and if the lot or parcel is not served by a sanitary sewer system, septic systems shall be replaced with approved holding tank systems in which to dispose of on-site waste water. The capacity of the required holding tank system shall be subject to the review and approval of the city's building official. For the purposes of this subsection, the addition of a sink to an existing bathroom, kitchen or laundry room shall not be construed to be an additional plumbing fixture. For those projects which involve additions of less than two hundred square feet in total area and which are not to be used as a new bedroom, bathroom, laundry room or kitchen, the applicant shall submit for recordation a covenant specifically agreeing that the addition of the habitable space will not be used for those purposes. Such covenant shall be submitted to the director for recordation prior to the issuance of a building permit. For lots or parcels which are to be served by a sanitary sewer system on or after the effective date of the ordinance codified in this section (July 6, 2000), additional plumbing fixtures may be permitted and the requirement for a holding tank may be waived, provided that the lot or parcel is to be connected to the sanitary sewer system. If a sanitary sewer system is approved and/or under construction but is not yet operational at the time that a project requiring a landslide moratorium exception permit is approved, the requirement for a holding tank may be waived, provided that the lot or parcel is required to be connected to the sanitary sewer system pursuant to Section 15.20.110 of this chapter, or by an agreement or condition of project approval.*

- C. *Roof runoff from all buildings and structures on the site shall be contained and directed to the streets or an approved drainage course.*
- D. *If required by the city geotechnical staff, the applicant shall submit a soils report, and/or a geotechnical report, for the review and approval of the city geotechnical staff.*
- E. *If the lot or parcel is not served by a sanitary sewer system, the applicant shall submit for recordation a covenant agreeing to support and participate in existing or future sewer and/or storm drain assessment districts and any other geological and geotechnical hazard abatement measures required by the city. Such covenant shall be submitted to the director prior to the issuance of a building permit.*
- F. *If the lot or parcel is not served by a sanitary sewer system, the applicant shall submit for recordation a covenant agreeing to an irrevocable offer to dedicate to the city a sewer and storm drain easement on the subject property, as well as any other easement required by the city to mitigate landslide conditions. Such covenant shall be submitted to the director prior to the issuance of a building permit.*
- G. *A hold harmless agreement satisfactory to the city attorney promising to defend, indemnify and hold the city harmless from any claims or damages resulting from the requested project. Such agreement shall be submitted to the director prior to the issuance of a building permit.*
- H. *The applicant shall submit for recordation a covenant agreeing to construct the project strictly in accordance with the approved plans; and agreeing to prohibit further projects on the subject site without first filing an application with the director pursuant to the terms of this chapter. Such covenant shall be submitted to the director for recordation prior to the issuance of a building permit.*
- I. *All landscaping irrigation systems shall be part of a water management system approved by the director of public works. Irrigation for landscaping shall be permitted only as necessary to maintain the yard and garden.*
- J. *If the lot or parcel is served by a sanitary sewer system, the sewer lateral that serves the applicant's property shall be inspected to verify that there are no cracks, breaks or leaks and, if such deficiencies are present, the sewer lateral shall be repaired or reconstructed to eliminate them, prior to the issuance of a building permit for the project that is being approved pursuant to the issuance of the moratorium exception permit.*
- K. *All other necessary permits and approvals required pursuant to this code or any other applicable statute, law or ordinance shall be obtained.*

Section 8: Based on the foregoing, Section 15.20.060 of Chapter 15.20 of Title 15 of the Rancho Palos Verdes Municipal Code is amended to read as follows:

A. *Applicants for an exception to this chapter under Sections 15.20.040(B), (H), (K), (L) and (P), shall file an application for a landslide moratorium exception permit with the director. The application shall be signed by the property owner, and shall include the following:*

1. *A letter, signed by the property owner, setting forth the reason for request, as well as a full description of the project;*
2. *Copies of a site plan, showing accurate lot dimensions; the location, dimensions, and heights of all existing and proposed structures; the location of the existing and proposed septic systems and/or holding tank systems; and the location of the existing and/or proposed sanitary sewer system, if the site is or will be served by a sanitary sewer system. The number of copies required shall be determined by the director;*
3. *Information satisfactory to the city's geotechnical staff (including but not limited to geological, geotechnical, soils or other reports) reasonably required by the city to demonstrate that the proposed project will not aggravate the existing situation;*
4. *A fee as established by resolution of the city council;*
5. *If grading is proposed, a grading plan showing the topography of the lot and all areas of project cut and fill, including a breakdown of the earthwork quantities.*

B. *A landslide moratorium exception permit application shall become null and void if, after submitting the required application to the director, the application is administratively withdrawn by the director because the application is allowed to remain incomplete by the applicant for a period which exceeds one hundred eighty days, or if the application is withdrawn by the applicant.*

Section 9: Based on the foregoing, Section 15.20.110 of Chapter 15.20 of Title 15 of the Rancho Palos Verdes Municipal Code is amended to read as follows:

Any owner of a lot or parcel within the "landslide moratorium area," as outlined in red or green on the landslide moratorium map on file in the director's office, which is developed with a residential structure or any other structure that contains one or more operational plumbing fixtures and is served by a sanitary sewer system, as defined in this chapter, shall connect such structure(s) to the sanitary sewer system within six months after the commencement of operation of the sanitary sewer system. Either the director or the director of public works shall determine whether a lot or parcel is served by a sanitary sewer system, whether a structure contains one or more operational plumbing fixtures, or whether the connection to the sewer system is performed properly, including, without limitation, removal, or the discontinuation of the use, of any existing septic system.

Section 10: After the effective date of this Ordinance, it shall apply to all Landslide Moratorium Exception permits and any subsequent development applications submitted on or after the effective date of this Ordinance.

Section 11: The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted in the manner prescribed by law.

PASSED, APPROVED AND ADOPTED THIS 15TH DAY OF SEPTEMBER 2009.

/s/ Larry Clark
Mayor

ATTEST:

/s/ Carla Morreale
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)ss
CITY OF RANCHO PALOS VERDES)

I, Carla Morreale, City Clerk of the City of Rancho Palos Verdes, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance No. 498 passed first reading on September 1, 2009, was duly and regularly adopted by the City Council of said City at a regular meeting thereof held on September 15, 2009, and that the same was passed and adopted by the following roll call vote:

AYES: Dyda, Long, Stern and Wolowicz
NOES: None
ABSENT: Clark
ABSTAIN: None

City Clerk