

## **EVALUATION OF PORTUGUESE BEND LANDSLIDE MORATORIUM ORDINANCE**

**TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS**

**FROM: THE CITY ATTORNEY AND THE DIRECTOR OF PLANNING, BUILDING & CODE ENFORCEMENT**

**DATE: APRIL 17, 2007**

**SUBJECT: EXTENSION OF MORATORIUM ON CERTAIN DEVELOPMENT WITHIN THE ENTIRE LANDSLIDE MORATORIUM AREA OUTLINED IN RED AND BLUE PENDING REVIEW OF ADDITIONAL INFORMATION**

### **RECOMMENDATION:**

ADOPT ORDINANCE NO. \_\_\_\_\_ U, AN ORDINANCE OF THE CITY OF RANCHO PALOS VERDES EXTENDING URGENCY ORDINANCE NO. 427U AND URGENCY ORDINANCE NO. 439U TO JUNE 22, 2007, THEREBY CONTINUING A MORATORIUM ON THE ISSUANCE OF CERTAIN PERMITS AND THE PROCESSING OF PLANNING APPROVALS IN THE LANDSLIDE MORATORIUM AREA OUTLINED IN RED AND BLUE ON THE LANDSLIDE MORATORIUM MAP ON FILE IN THE CITY'S PLANNING, BUILDING AND CODE ENFORCEMENT DEPARTMENT AND DECLARING THE URGENCY THEREOF.

### **INTRODUCTION**

At the April 2006 City Council meetings, the City Council heard testimony about then-recent movement of the Klondike Canyon Landslide. At the meeting that was held on April 18th, 2006, a majority of the Members of the City Council stated that they wished to have staff bring back an ordinance restricting development within the larger portion of the Landslide Moratorium Area ("the Red Area") so that development within the Red and Blue Areas would be treated similarly. The City Council also stated that the Council would like to schedule a workshop to discuss the regulation of development within the entire Moratorium Area, and the scientific distinctions that can be drawn between the various portions of the Moratorium Area, if any. The City Council conducted the workshop on October 7, 2006. At the end of the workshop, the City Council requested that the City's experts prepare a report to address some additional questions from the City Council. On January 16, 2007, the City Council extended the Moratorium again so that the City Geologist could prepare and complete a report addressing the issues that the City Council

wished to have addressed and submit the report to a peer review panel for their review. The City Geologist has reported to Staff that they will complete their report this week.

Accordingly, the next step is for Staff to forward the report to the peer review panel before it is presented to the City Council. Because many of the upcoming agendas already have many proposed items that must be addressed within particular timelines, such as the budget, Staff recommends that the City Geologist's report be forwarded to the peer review group and then be brought back to the City Council at the June 5th City Council meeting.

### **BACKGROUND**

On November 15, 2005, the City Council adopted Urgency Ordinance No. 427U, which established a 60-day moratorium on the processing and issuance of building, grading or other permits, and landslide moratorium exception permits and the processing or approval of Environmental Assessments, Environmental Impact Reports, Conditional Use Permits, height variation applications, tentative maps or parcel maps in the Blue Area and temporarily suspended Section 15.20.040 K of the Rancho Palos Verdes Municipal Code. These actions were taken to allow time for the completion of collection of new geological data to determine whether construction in the Blue Area is safe in light of the newly observed cracks in the street, or if the proposed development could adversely impact the stability of said Area, or if new structures in the Blue Area will be adversely impacted by the recent increase of movement of the Klondike Canyon Landslide.

Ordinance No. 427 U was extended several times, primarily to provide additional time to collect more GPS data and for the City's Geologist to be able to review and evaluate that data and prepare a report to the City Council in connection with the workshop that was conducted on October 7, 2006. Following the workshop, the Moratorium was extended two more times to allow the City Geologist time to prepare an additional report and have it reviewed by a peer review panel. The sixth extension of the Moratorium will expire on April 23, 2007. If adopted, the attached ordinance would extend the Moratorium for two more months, until June 22, 2007.

### **DISCUSSION**

At the end of the workshop on October 7, 2006, the City Council requested some additional information regarding the Landslide Area. The City Geologist, who is Jim Lancaster of Zeiser Kling Consultants Inc., was given the task of drafting a memorandum to the City Council about whether continuing the exception to the Moratorium that allowed additions that do not exceed six hundred square feet in area to existing homes will have an adverse geologic impact upon any of the landslides that are within the Landslide Moratorium Area. This inquiry would assume that geologic review would be conducted for every site where an addition would be constructed. Another area of inquiry that was assigned to Mr. Lancaster is whether there is a geologic basis to continue the distinction between the Red

and Blue Areas of the Landslide for purposes of regulating development within the Landslide Moratorium Area. As part of the second issue, the City Geologist is to analyze whether there are potential adverse geologic impacts to the landslides arising from the construction of new homes on previously undeveloped properties.

Because of the diversity of opinion about these issues, the City Council authorized Staff to submit the City's Geologist's report to a peer review panel for a review of the City Geologist's recommendations. Accordingly, the City Council extended the Moratorium for three more months so that Mr. Lancaster would be able to prepare his report and so that three additional geologists who perform work for the City could review the report. Mr. Lancaster's report will be complete this week. Upon its completion, it will be forwarded to the peer panel and will be made available to the public. Additional time is needed so that the peer panel and the public will have ample time to review the City Geologist's report, and for the report and the findings of the peer panel to be presented to the City Council. Accordingly, it is necessary for the Moratorium to continue for at least sixty more days so that the status quo will be preserved. For these reasons, it is necessary to extend Ordinance No. 427U, as previously amended by Ordinance No. 439U, again. The attached Urgency Ordinance extends the provisions of Ordinance No. 427 U and 439U for an additional sixty days, to June 22, 2007.

Adoption of the attached urgency ordinance means that pursuant to Ordinance No. 427U, the City will continue to refrain from issuing permits for construction of additions or new structures within the Blue Area, pursuant to the special exception that was created for the Blue Area that is codified in Section 15.20.040 K of the Municipal Code. Pursuant to Ordinance No. 439U, the City also will continue to refrain from approving new additions to existing homes within the entire Moratorium Area, pursuant to Sections 15.20.040 H and L of the Municipal Code.

As previously directed by the City Council at the April 18, 2006 City Council meeting, the Moratorium imposed by Ordinance No. 427U and Ordinance 439U will not apply to applications processed under the other types of Moratorium Exceptions that are set forth in Paragraphs A, B, C, D, E, F, G, I, J, M, N and O of Section 15.02.040 of the Municipal Code.

#### ADDITIONAL INFORMATION

Projects that are subject to exemption categories H, K and L of Municipal Code Section 15.20.040, and have not received building permits and/or are not yet under construction, will be subject to the Moratorium. Because these projects have not received a building permit, they do not have a vested right to start and complete the construction. Staff is aware of three such projects. One of these projects is in the Blue Area, and two are in the Red Area. They are:

1. , which is the construction of a new single-family residence. This project has received planning approval but due to the temporary moratorium is not able to proceed through the Building and Safety plan check process.
2. 86 Yacht Harbor Drive (Peusich), which involves the after-the-fact approval of some pre-existing unapproved additions to an existing home. Some of the non-permitted square footage received planning approval but because of the temporary moratorium has not been able to proceed through the Building and Safety plan check process. Based on recent evidence submitted by the property owner indicating that all of the non-permitted square footage was added to the original house before 1978, when the City's moratorium ordinance was first adopted, Ms. Peusich will be able to legalize the pre-existing construction under a different section of the moratorium ordinance (section 15.20.040.C), which is not subject to this additional temporary moratorium.
3. 31 Narcissa Drive (Bedame/De La Tore), which is a proposal to add a 596 square-foot addition accompanied by 28 cubic yards of grading. This application is currently in the planning review process and is not complete. Due to the temporary moratorium, the application for the addition cannot proceed through the planning review process. However, the property owners have received approval for a repair of their home's foundation and are close to receiving planning and geotechnical approval for the replacement (removal of more than 50% of the pre-existing interior or exterior walls) of the pre-existing home.

There also are two property owners that were in the planning process when the City Council established the initial temporary

moratorium in November 2005. One is the property owner at 4394 Dauntless Drive (Matura), who was seeking approval of a second story addition by the Planning Commission. The other is the property owner at 4380 Dauntless Drive (Arregoces) who was seeking a Landslide Moratorium Exception Permit for first and second story additions. Both applications were denied without prejudice after the temporary moratorium was enacted on November 15, 2005. These projects also do not have a vested right to proceed with development.

#### FISCAL IMPACT

On May 2, 2006, the City Council approved a \$50,000 budget appropriation for additional geologic services related to the currently on-going Landslide Moratorium Area geologic study. At this point, approximately \$21,000 has been expended for the geologic services related to this issue. Staff expects that the expenditures related to the City Geologist's continuing work on this matter and the peer review work effort to be within the appropriated budget amount.

Respectfully submitted:

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Reviewed by :

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