

## **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: JANUARY 16, 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 APRIL 23, 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 City Council meetings, the City Council heard testimony about the recent movement of the Klondike Canyon Landslide. At the meeting that was held on April 18th, 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 future 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 some additional work so as to be able to respond to some of the inquiries from the City Council. Extending the Moratorium again should enable that work to be completed.

### **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 has been extended five 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. At the workshop, the Moratorium was extended again. The fifth extension of the Moratorium will expire on January 23, 2007. If adopted, the attached ordinance would extend the Moratorium for three more months.

### **DISCUSSION**

At the end of the workshop on October 7, 2006, the City Council requested some additional information regarding the Landslide Area. Staff suggests that the City Geologist, who is Jim Lancaster of Zeiser Kling Consultants Inc., be given the task of drafting a memorandum to the City Council about whether continuing the exception to the Moratorium that allowed additions, which 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 is proposed by Staff 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, Staff recommends that the City Geologist discuss 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, Staff suggests that a peer review panel be engaged to review the City Geologist's recommendations. However, because of the existing litigation, it is unlikely that any meaningful peer review could occur during the

next two months. Accordingly, Staff recommends that the Moratorium be continued for at least three more months so that Mr. Lancaster can prepare his report and so that the report can be reviewed by three additional geologists who perform work for the City.

Accordingly, it is necessary for the Moratorium to continue so that the status quo will be preserved while the City Geologist is preparing his report and the report is being reviewed by the other geologists. 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 ninety days, to April 23, 2007. Of course, if the work can be completed and reviewed prior to that time, Staff will bring this issue back to the City Council before the expiration of the ninety-day period.

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:

which is the construction of a new single-family residence. This project has received planning approval but is currently in plan check in the Building and Safety Division.

86 Yacht Harbor Drive (Peusich), which involves the approval of a portion of existing illegal additions to an existing home. This project has received planning approval but is in plan check in the Building and Safety Division. Furthermore, applications to attempt to legalize the remaining existing illegal additions cannot be submitted at this time.

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. The property owners also have approval to repair the foundation of the home. That work currently is being performed.

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.

#### CONCLUSION

Staff recommends that the City Council adopt the attached urgency ordinance, which extends the Moratorium for an additional three months.

Respectfully submitted:

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