

EVALUATION OF PORTUGUESE BEND LANDSLIDE MORATORIUM ORDINANCE

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

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

DATE: October 7, 2006

SUBJECT: PROPOSED MORATORIUM ON CERTAIN DEVELOPMENT WITHIN THE ENTIRE LANDSLIDE MORATORIUM AREA OUTLINED IN RED AND BLUE

RECOMMENDATION:

1) ADOPT ORDINANCE NO. ____U, AN ORDINANCE OF THE CITY OF RANCHO PALOS VERDES EXTENDING URGENCY ORDINANCE NO. 427U, URGENCY ORDINANCE NO. 439U AND URGENCY ORDINANCE NO. 440U TO JANUARY 23, 2007, THEREBY CONTINUING MORATORIUM ON THE ISSUANCE OF CERTAIN PERMITS AND THE PROCESSING OF PLANNING APPROVALS; SUSPENDING CERTAIN PREVIOUSLY ISSUED BUILDING PERMITS AND 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.

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 four times, once in order for 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; a second time so that the City Council and the public would have adequate time to review the report from the City's Geologist, and a third time so that the City's geologic experts could prepare reports for this study session. The third extension of Ordinance No. 427 U, which was adopted by Ordinance No. 439U, was scheduled to expire on June 30, 2006. The fourth extension of Ordinance No. 427 U, which was adopted by Ordinance No. 440 U, will expire on October 25, 2006. In order to allow Staff the time to prepare an ordinance that memorializes any direction from the City Council, Staff is recommending that the moratorium be extended until January 23, 2007.

DISCUSSION

In the meantime, the City has been engaged in litigation with the owners of certain undeveloped properties within the portion of the Moratorium that has been referred to as Zone 2. As part of that litigation, information is being prepared for submittal to the City that appears to be relevant to the issue of the stability of the Zone 2 area of the Moratorium. Because of the litigation and the generation of additional information regarding the stability of certain portions of the Moratorium Area in connection with that litigation, it was not possible for City Staff and the City's geologic consultants to complete their review of all of the information regarding the stability of the Moratorium Area in time to prepare comprehensive reports for the City Council for the study session that had been scheduled to occur on June 3, 2006. As such, on May 16, 2006, the City Council agreed to postpone the study session that is being held today.

Based on the information that is presented at the workshop, the City Council could decide to request additional information or studies, or the City Council could give direction to Staff about issues affecting the Moratorium, such as whether to eliminate the distinction between the Red and Blue areas or whether to continue to allow small additions to existing homes to be constructed. In either event, the Council should continue the Moratorium for some period of time.

Accordingly, it is necessary for the Moratorium to continue so that the status quo will be preserved while the City obtains additional information or prepares another ordinance for consideration by the City Council. 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 January 23, 2007. This additional time is required so that there will be adequate time: (1) for the City Council to receive any additional information that it may request from the geologists, and/or (2) to prepare an ordinance that will memorialize any direction from the City Council about how the Council wishes to proceed.

This 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 Red 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 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 four such projects. One of these projects is in the Blue Area, and three 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 is an addition to an existing home and the construction of a new deck. This project has received planning approval but is in plan check in the Building and Safety Division.

38 Cinnamon Lane (Siegel/Friend), which is a replacement of a single-family residence that was demolished with additional floor area. This application is currently in the planning review process and is not complete.

31 Narcissa Drive (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.

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.

There also are two additional minor projects that already had been constructed in violation of the existing provisions of the Municipal Code, which will be subject to this additional extension and cannot be brought into compliance with the Municipal Code. (There may be other situations of which Staff is not aware.) One involves a 104 square-foot addition at 82 Narcissa Drive, and the second involves an unpermitted second story addition at 4335 Admirable Drive. Both of these additions to existing structures are relatively modest, and both homes are connected to a sewer system.

CONCLUSION

Staff recommends that the City Council adopt the attached Urgency Ordinance to keep the current moratorium in place while additional studies are conducted and an ordinance memorializing direction from the City Council is prepared.

Respectfully submitted:

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Reviewed by:

Les Evans
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