

MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS
FROM: THE CITY ATTORNEY AND THE DIRECTOR OF PLANNING,
BUILDING & CODE ENFORCEMENT
DATE: JUNE 5, 2007
SUBJECT: MORATORIUM ON CERTAIN DEVELOPMENT WITHIN THE
LANDSLIDE MORATORIUM AREA

RECOMMENDATION:

ADOPT ORDINANCE NO. _____ U, AN ORDINANCE OF THE CITY OF RANCHO PALOS VERDES REPEALING URGENCY ORDINANCE NO. 427U AND URGENCY ORDINANCE NO. 439U AND AMENDING SECTION 15.20.040 K OF THE RANCHO PALOS VERDES MUNICIPAL CODE AND DECLARING THE URGENCY THEREOF.

INTRODUCTION AND 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 portion of the Seaview Tract that is within the portion of the Landslide Moratorium Area and is subject to the Klondike Canyon Landslide (which is commonly referred to as the Blue Area) by temporarily suspending 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 then-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.

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 18, 2006, a majority of the Members of the City Council stated that they wished to have Staff bring back an ordinance suspending development of additions in the entire Landslide Moratorium Area so that development within the Red Area (which is all of the Landslide Moratorium Area other than the Blue Area) and the Blue Area would be treated similarly while the geologic studies were being conducted. To that end, the City Council adopted Urgency Ordinance No. 427U and Urgency Ordinance No. 439U.

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The Moratorium imposed by Ordinance No. 427U and Ordinance 439U suspended the provisions of Paragraphs H, K and L of Section 15.20.040 of the Municipal Code. Paragraph H allowed minor additions of up to 600 square feet to existing homes in the Moratorium Area, provided that the requirements of that Chapter are satisfied. Paragraph L likewise allowed development of a 600 square foot garage to an existing home within the Moratorium Area, provided that the criteria of that Chapter are satisfied and provided that the owner agrees in a recorded covenant that the new garage area will not be used for any purpose other than as a garage and will not include the installation of plumbing fixtures.

The other paragraph that was suspended by the new Moratorium was paragraph K of Section 15.20.040. Paragraph K allowed development in the Blue Area, including the construction of pools and spas, which was not subject to the 600 square foot restrictions set forth in Paragraphs H and L, provided that the criteria set forth in Section 15.20.050 were satisfied. The greater latitude for development in the Blue Area was based on then-City Geologist Dr. Perry Ehlig's opinion that the Klondike Canyon Landslide had been stabilized by the installation of a dewatering well at the beach, which removed artesian pressure that was causing the movement of the Klondike Canyon Landslide. In Dr. Ehlig's view it was not necessary to have the same limitations on development and the expansion of existing homes in the Blue Area, which had been imposed on the Red Area, because: (1) movement of the Klondike Canyon Landslide had been stopped; (2) the Seaview Tract was almost entirely developed (only two lots had not been developed at that time); (3) homes in the Seaview Tract were connected to sewers, and (4) there was a storm drain line that conveys drainage from the Seaview Tract to the beach.

The additional Moratorium that the Council imposed in 2005 and 2006 did 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.

Following the imposition of the additional Moratorium, the City Council scheduled 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 geologic experts prepare a report to address some additional questions from the City Council. Following the workshop, the Moratorium was extended several more times to allow the City Geologist to prepare the report and have it reviewed by a peer review panel. The last extension of the Moratorium on additions to existing homes currently is scheduled to expire on June 22, 2007.

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DISCUSSION

The City Geologist, who is James Lancaster of Zeiser Kling Consultants, Inc., along with Matthew Rogers, who is a Geotechnical Engineer from Zeiser Kling, completed the report responding to these questions, and the report was forwarded to the members of the peer review panel for their review. The members of the peer review panel are two geologists from AMEC Earth and Environmental who have performed extensive geologic work for the City, Mark McLarty and Scott Kerwin, and Glenn Tofani, a Geotechnical Engineer from the firm of Geokinetics, who has extensively studied the landslides that are affecting the City in connection with the Monks lawsuit.

To briefly summarize, the questions that were posed by the City and the City Geologist's answers to the questions are as follows:

#1: From a geologic and geotechnical engineering perspective, should the City continue to prohibit new construction on vacant lots within the landslide moratorium area?

Zeiser Kling Opinion: Yes.

Issue #2: From a geologic and geotechnical engineering perspective, is it detrimental to the landslide moratorium area to continue to allow existing residents to add minor square footage and improvements to their existing homes, such as the 600 square foot allowance for homes and garages that currently exists?

Zeiser Kling Opinion: It is not detrimental to allow up to cumulative maximum of 1,200 ft² of additions to a home, provided the geology and soils engineering report and other requirements set forth in the Landslide Moratorium regulations are met.

Issue #3: Should such rules be the same in the Blue area as they are for the Red area?

Zeiser Kling Opinion: Yes.

The report from the panel, which also is attached, agrees with the answers to the questions that were provided by Zeiser Kling, although the panel's analysis of the issues is somewhat different from the Zeiser Kling analysis. A copy of the panel's report also is attached. All of these experts are scheduled to attend the Council meeting on June 5th to respond to questions from the City Council.

Based on the responses to the questions posed by the City Council by the City Geologist and the Panel, Staff recommends that: (1) the additional moratorium on additions to existing structures, which was imposed by Urgency Ordinance No. 427 U and 439 U and suspended paragraphs H and L, be repealed, and (2) Section 15.20.040 K be amended so that the

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regulations that govern the Blue Area will be the same as the regulations that govern the Red Area.

The City Geologist and the panel members also made some additional recommendations regarding modifications that should be made to the regulations of additions in the Landslide Area that Staff recommends be incorporated into Chapter 15.20. Those recommendations are:

1. Deleting pools and spas from the structures that can be constructed in the Blue Zone (these structures currently are not allowed in the Red Area);
2. Requiring sewer lines to be inspected when any addition or significant alteration to an existing home in the Moratorium Area is proposed, and requiring any damaged sewer line to be repaired as a condition of issuing a permit, and

If the City Council concurs with these recommendations, the City Council should adopt the attached Urgency Ordinance and give further direction to Staff, as deemed appropriate by the City Council.

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, have been 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. 4342 Admirable Drive (Mirich). This project involves the demolition of an existing 2,317 square foot residence which would be replaced by the construction of a new 5,071 square foot residence. The geology review for this project was approved on July 24, 2003 and the planning applications for this project were approved on September 28, 2004. The property owner submitted his project plans into the Building and Safety plan check on June 30, 2005. The applicant picked up his plans with a list of corrections on August 1, 2005 and has not been able to continue through the plan check process due to the temporary moratorium that was enacted by the City Council on November 15, 2005. The adoption of Staff's recommendation would prohibit Mr. Mirich from building his approved project. However, Mr. Mirich would be allowed to add 600 square feet to his existing home.

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2. 86 Yacht Harbor Drive (Pesusich). This project 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, the project was not 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. Pesusich 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 the additional temporary moratorium. In addition, since at one time the property owner contemplated adding square footage to the residence, if the City Council adopts Staff's recommendation, the property owner will have the ability to pursue an application for additional square footage up to 600 square feet.

3. 31 Narcissa Drive (Bedame/De La Tore). This project involves 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 have also recently obtained geotechnical and planning approval for the replacement (removal of more than 50% of the pre-existing interior or exterior walls) of the pre-existing home. If the City Council adopts Staff's recommendation, the property owners will have the ability to pursue their application for additional square footage.

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 eliminates the additional Moratorium on additions to existing homes and amends Section 15.20.040 K so that the restrictions on development in the Blue Area and requires private sewer lines be inspected and repaired in connection with any addition to an existing home that is proposed.

ALTERNATIVES

1. Continue the matter to the next City Council meeting or some other date.

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2. Give additional direction to Staff about additional issues to research or additional conditions to impose on expansions to existing homes in the Moratorium Area.

Respectfully submitted:

Joel Rojas, AICP
Director of Planning, Building
and Code Enforcement

Carol Lynch
City Attorney

Reviewed by:

Carolyn Lehr
City Manager

Attachments

Opinion from Zeiser Kling dated May 15, 2007
Opinion from the Peer Review Panel dated May 30, 2007
Draft urgency ordinance
Ordinances 427U and 439U
Landslide Moratorium Ordinance (Chapter 15.20)