

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-5071

RECORD PACKET COPY

Filed: March 28, 1996
49th Day: WAIVED
180th Day: Sept. 24, 1996
Staff: JLR-LOB
Staff Report: Sept. 9, 1996
Hearing Date: Oct. 8-11, 1996

STAFF REPORT AND RECOMMENDATION ON APPEAL APPEALSUBSTANTIAL ISSUE STAFF REPORT

LOCAL GOVERNMENT: City of Rancho Palos Verdes

LOCAL DECISION: Approval with Conditions

APPEAL NO.: A5-RPV-96-061

APPLICANT: Portuguese Bend Beach Club Homeowners Association and
City of Rancho Palos Verdes

PROJECT LOCATION: 4100 Palos Verdes Drive South (Portuguese Bend Area)
City of Rancho Palos Verdes

PROJECT DESCRIPTION: Appeal by Lois Larue from decision of City of Rancho Palos Verdes granting permit with conditions to Portuguese Bend Beach Club Homeowners Association to permit continual remedial grading according to a specific "contour grading plan" in order to prevent the toe of the Portuguese Bend Landslide from damaging the adjacent homes and Yacht Harbor Drive.

APPELLANT: Lois Larue

SUBSTANTIVE FILE DOCUMENTS:

1. City Coastal Permit No. 77 dated March 11, 1996
2. City Council Resolution No. 96-14 dated March 11, 1996

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission find that the appeal raises NO Substantial Issue because the project, as conditionally approved by the City is consistent with Coastal Act policies regarding public access and the City's certified LCP policies regarding natural hazards and sensitive environmental habitat.

I. Appeal Procedures

After certification of a Local Coastal Programs (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea. Furthermore, developments approved by counties may be appealed if they are not the designated "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by a city or county. (Coastal Act Section 30603 (a))

For development approved by the local government between the sea and the first public road paralleling the sea, the grounds for an appeal to the Coastal Commission are provided in Section 30603(b)(1) as follows:

(b)(1) The grounds for an appeal pursuant to subdivisions (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised with respect to the grounds on which the appeal has been filed pursuant to Section 30603. If the staff recommends "substantial issue" and no Commissioner objects, the substantial issue question will be considered moot, and the Commission may proceed directly to a de Novo public hearing on the merits of the project at the same or a subsequent meeting.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have the opportunity to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If the staff recommends "substantial issue" and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will proceed to a full public hearing on the merits of the project at the same or a subsequent meeting.

If the Commission conducts a de Novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program pursuant to Section 30604(b) of the Coastal Act. In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Coastal Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and recreation policies of chapter 3 of the Coastal Act. In other words, in regard to public access and recreation questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when conducting a de Novo hearing for a project which has been appealed.

The only persons qualified to testify before the Commission on the issue of substantial issue of the appeal are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. If the Commission finds the appeal raises a substantial issue the permit request is set for hearing as a de novo matter. At the de novo hearing any person can testify.

II. Staff Recommendation On Substantial Issue:

The staff recommends that the Commission, after public hearing, determine that No Substantial Issue exists with respect to the grounds on which the appeal has been filed for pursuant to PRC Section 30603.

MOTION: I move that the Commission determine that Appeal No. A5-RPV-96-061 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed.

A majority of Commissioners present is required to pass the motion. Staff recommends a YES vote on the above motion which would result in the finding of No Substantial Issue and the adoption of the following findings and declarations:

III. Findings and Declarations On Substantial Issue:

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant is requesting a permit to allow continual remedial grading according to a specific "contour grading plan" in order to prevent the toe of the Portuguese Bend Landslide from damaging adjacent homes and Yacht Harbor Drive, a private road. Following is a more detailed project description as submitted by the applicant:

The submittal of Grading Permit No. 1315-Revision is fairly unique in concept in that the project would be based on maintaining consistency with an approved grading "contour" plan, and not necessarily on a particular quantity of grading. The PBCHOA would continue to follow the direction provided by Dr. Ehlig and the proposed grading plan (attached) dated April 28, 1994 which has been reviewed and approved by Dr. Ehlig. The project involves maintaining a 1.55:1 cut slope north/north-west of Yacht Harbor Drive and a 2:1 cut slope south (seaward) of Seawall Road. Dr. Ehlig has recommended that the material that is removed (cut) to create these slopes should be placed west of the general area to be cut, which is actually located outside of the Portuguese Bend Club's western-most boundary on land currently owned by the City's Redevelopment Agency. This fill area would also be graded to a specific gradient, as designated on the grading plan.

The Portuguese Bend Club has been experiencing constant land movement and erosion for a considerable time (38 years according to Dr. Ehlig). The City, as well as private property owners, have been attempting for many years, through a variety of means, to slow down/alter/remediate the active landslide. It is Dr. Ehlig's position that due to the above average rain fall during 1991-92 and 1992-93, the movement of the landslide has accelerated since the rainfall has recharged the ground water in the seaward portion of the Portuguese Bend landslide mass. Consequently, remedial grading is needed more frequently and in larger volumes than has been required in the last several years. As noted earlier, the City had issued several Grading Permits for the area since 1989. It is Dr. Ehlig's opinion that a more efficient approach would be to approve a specific grading plan showing contours of ground elevations within the subject area. Under such a plan, the PBCHOA would be permitted to perform grading as needed to restore the ground surface to that shown on the approved grading plan.

On March 28, 1996, an appellant, Lois Larue, filed an appeal to Commission. The basic issues raised in the appeal address geology, natural hazards and environmentally sensitive habitat. The appeal is attached as Exhibit C to the staff report.

B. NATURAL HAZARDS

1. Appellant Contentions

In part, the appellant contends that landsliding could result from the proposed grading activities. Also, the appellant contends that the excavated material is being dumped on the beach adjacent to the seacliff.

2. Applicable LCP Policy

The following natural environment policy of the City's certified LCP is relevant:

N-7-Prohibit activities which create excessive silt, pollutant runoff, increase canyon-wall erosion, or potential for landslide, within or affecting Coastal Resources Management Districts containing hydrologic factors (CRM 8).

The appellant contends that landsliding could result from geotechnically unsound construction practices inconsistent with Local Coastal Program Policy number 7.

3. Substantial Issue Analysis Regarding Natural Hazards

The subject site is located within the area of the Portuguese Bend Landslide, which is presently active. This landslide and adjacent landslides have been extensively studied. Following is a brief description of the landslides as excerpted from a Shoreline Feasibility Study prepared by the U.S. Army Corps of Engineers and dated August 1994.

The geological setting is that of a northwest-trending dome located at the southwest edge of the Los Angeles Basin, bordered on the south by the Pacific Ocean and on the north by the broad plain of the Los Angeles Basin. The Palos Verdes Hills are a block of bedrock squeezed upward between the Palos Verdes Fault and the offshore San Pedro Basin Fault. During the Pliocene and Pleistocene, the Palos Verdes Hills were uplifted as an island, subsequently becoming a peninsula that joined to the Los Angeles Basin. Wave cut benches were eroded on the hills as a result of eustatic sea level changes, and modern wave erosion has carved a steep, nearly vertical sea cliff up to 150 feet high along most of the shoreline. These land forms have been highly modified in the Portuguese Bend area by recent landslides. The 1100-acre landslide complex is shown in Figure 2 and includes the Abalone Cove, Portuguese Bend, and Klondike Canyon landslides. Currently, land movement occurs only in the Portuguese Bend landslide area.

A future study will identify shoreline protective measures that will protect the coastline at Abalone Cove and Portuguese Bend Cove from shore erosion by waves and tidal action. The above listed LCP policy is applicable to the subject site because the site is mapped in Coastal Resource Management (CRM) district CRM 2, 5 and 8 and is located adjacent to a steep bluff that is also the face of an active landslide. Exhibit E shows multiple hazard designations applicable to the site.

In part, the appellant contends that some of the excavated material is being dumped on the beach. However, the applicant states the material is being stock piled on the top of the bluff and "is not pushed out onto the beach". A site visit by staff did confirm that no material is being pushed over the edge of the cliff. However, there is sand and rocks that are on the beach due to cliff erosion and landslide movement. The applicant further states that the City explicitly found the grading does conform with the certified Local Coastal Program.

According to the City, the proposed grading is necessary on an ongoing basis to prevent the continuing force of the landslide from damaging residence and a private access roadway (Yacht Harbor Drive). The proposed grading has been designed to minimize potential landslide damage consistent with the provisions of the Certified LCP.

C. NATURAL HABITAT

1. Appellant Contentions

In part, the appellant contends that natural habitat has been adversely impacted because of previous grading activities.

2. Applicable LCP Policies

The following natural habitat policies of the certified LCP are relevant:

8-Require developments within or adjacent to wildlife habitat and provide mitigation measures to fully offset the impact.

9-Encourage developments within Coastal Resources Management Districts containing natural vegetation (CRM 10) to revegetate with native material wherever clearing of vegetation is required.

10-Protect, enhance and encourage restoration of Marine Resources of the City through Marine Resource Management and cooperation with other public agencies and private organizations.

The above listed LCP policies are applicable to the subject site because the site is also mapped in Coastal Resource Management (CRM) district CRM 10 and is located on a steep bluff that is also the face of an active landslide. Exhibit E shows multiple hazard designations applicable to the site.

3. Substantial Issue Analysis Regarding Habitat

The surrounding nearby area contains significant environmentally sensitive habitat including coastal sage scrub and coastal bluff scrub. There are sensitive bird and plant species on the site as well, all of which are associated with coastal bluff scrub or coastal sage scrub. Of particular significance is the presence of the California Gnatcatcher, now listed as Threatened under the Endangered Species Act. Following is a more detailed description of the natural vegetation as described in the City's certified LCP.

The active portion of the Portuguese Bend landslide supports stands of natural vegetation (coastal sage scrub). Due to the severe nature of the terrain and the unstable geologic profile of the area, opportunities for site development are limited. The active landslide area provides a good habitat for a number of resident, migrant, and wintering bird species. The high rodent populations and constant air currents make this area an excellent feeding ground for birds of prey, including three rare and endangered species (California Department of Fish and Game, 1972). The Peregrine Falcon, the Prairie Falcon and White-Tailed Kite. These to the shoreline across this area as well as access to any portion of the site, is unsafe.

The City's staff report concluded that there would be no adverse impacts on habitat because the subject site is devoid of all vegetation due to continual landslide earth movement. Following is an excerpt from a City report:

The project does not create any significant environmental impacts since the exposed portion of the toe of the landslide, as well as the entire area that encompasses the grading, is devoid of all vegetation and consists of broken earth caused by the continual earth movement. Moreover, the project is recommended by, and is being carried out under the supervision of the City's and Redevelopment Agency's Geotechnical Consultant to prevent property damage as well as control the movement of the active landslide.

The surrounding nearby area contains environmentally sensitive habitat and wildlife. Nearby coastal sage scrub and coastal bluff scrub provide habitat for the threatened coastal California gnatcatcher and the endangered Palos

Verdes blue butterfly. Because of these concerns, the City coordinated the proposed project with the U.S. Department of Fish and Wildlife Service. The Service concluded that there will be no direct adverse impacts on habitat at the site proposed for grading. Following is an excerpt in a recent letter from the U.S. Fish and Wildlife Service:

Our April 15, 1996, letter expressed concern about the potential loss of coastal sage scrub and it include a recommendation that the graded areas be revegetated with plant species from local native stock. However, based on the recent site visit and other information available to the Service, it appears that the graded areas will continue to be subject to landslides and other forms of erosion. Therefore, we concur with your assessment that revegetation likely will not provide for the long term enhancement of the habitats for the gnatcatcher and the butterfly. However, the Service recommends that no non-native vegetation be planted in the graded areas in order to minimize the amount of exotic species at the project site.

The City's approval along with the review of U.S. Fish and Wildlife Service concluded that the proposed grading would have no adverse impacts on habitat. Therefore, the Commission finds that the appeal raises No Substantial Issue with respect to the environmentally habitat/resource provisions of the City's certified LCP.

D. Public Access/Recreation

1. Section 30603 (b) (I) states that the grounds for appeal include the public access policies of the Coastal Act and the certified LCP. The appellant does not concur with the City that public access is inappropriate in the landslide area because the appellant has personally walked here.

The following Chapter 3 public access policies are relevant:

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section 30214 of the Coastal Act states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.
- (2) The capacity of the site to sustain use and at what level of intensity.
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

2. The following access policies of the City's certified are relevant:

Access Corridor Gradients should be designed so that they do not exceed "desirable" gradient standards for their respective users (pedestrians, bicycles, autos), and where topography or other factors prohibit this approach, they should be clearly marked as being of greater difficulty, and requiring more caution.

Wherever possible, proposed access corridors should be located so as to maximize compatible opportunities for multi-use relationships with other corridor types (overlaid or parallel).

3. Staff Analysis Regarding Public Access/Recreation

The City's certified LCP does not designate vertical or lateral public accessways within this area because of the instability of the active landslide and the steepness of the adjacent seacliff which is continuously eroding. When approving the proposed continual remedial grading project, the City made the following relevant finding:

The project involves excavation of earth at the exposed portion of the toe of an active landslide where general public access is not

available or appropriate until the area is stabilized. However, the project would preserve shoreline access for the Portuguese Bend Club residents, club members, and guests via Yacht Harbor Drive by allowing the road to be maintained in a usable condition.

The appellant contends that the proposed grading will impact an area where public access is allowed. Within the landslide area there are existing unimproved dirt pedestrian paths randomly scattered throughout the blufftop area. Also, at low tide it is possible to walk along the narrow cobblestone beach. However, vertical access to the beach is very difficult and in most areas not possible because of the steep vertical cliff. Although public access through this area does occur, the City does not encourage this activity. The City's LCP does not designate accessways in this area and no accessways have been constructed. Section 30210 of the Coastal Act requires maximum access shall be provided consistent with public safety needs. The subject site is located in an unstable active landslide area that historically has jeopardized and damaged private and public structures (roadways and utility lines). Therefore, the Commission finds that the development, as approved by the City, to provide no public pedestrian access raises No Substantial Issue with the applicable public access provisions of Chapter 3 of the Coastal Act or the Certified LCP.

E. State Lands

There are several opinions regarding the boundary between State Lands and private land at the Portuguese Bend Club location. The most conservative opinion holds that the 1944 Mean High Tide line is the boundary. The plans submitted by the applicant indicates that all the land within the area of the proposed development is located inland of the 1944 Mean High Tide Line and therefore is not on State land.

F. SUMMARY OF SUBSTANTIAL ISSUE

The Commission finds that the development, as approved by the City, raises No Substantial Issue with respect to its conformance with the habitat/erosion provisions of the certified LCP and with the public access policies of the Coastal Act.

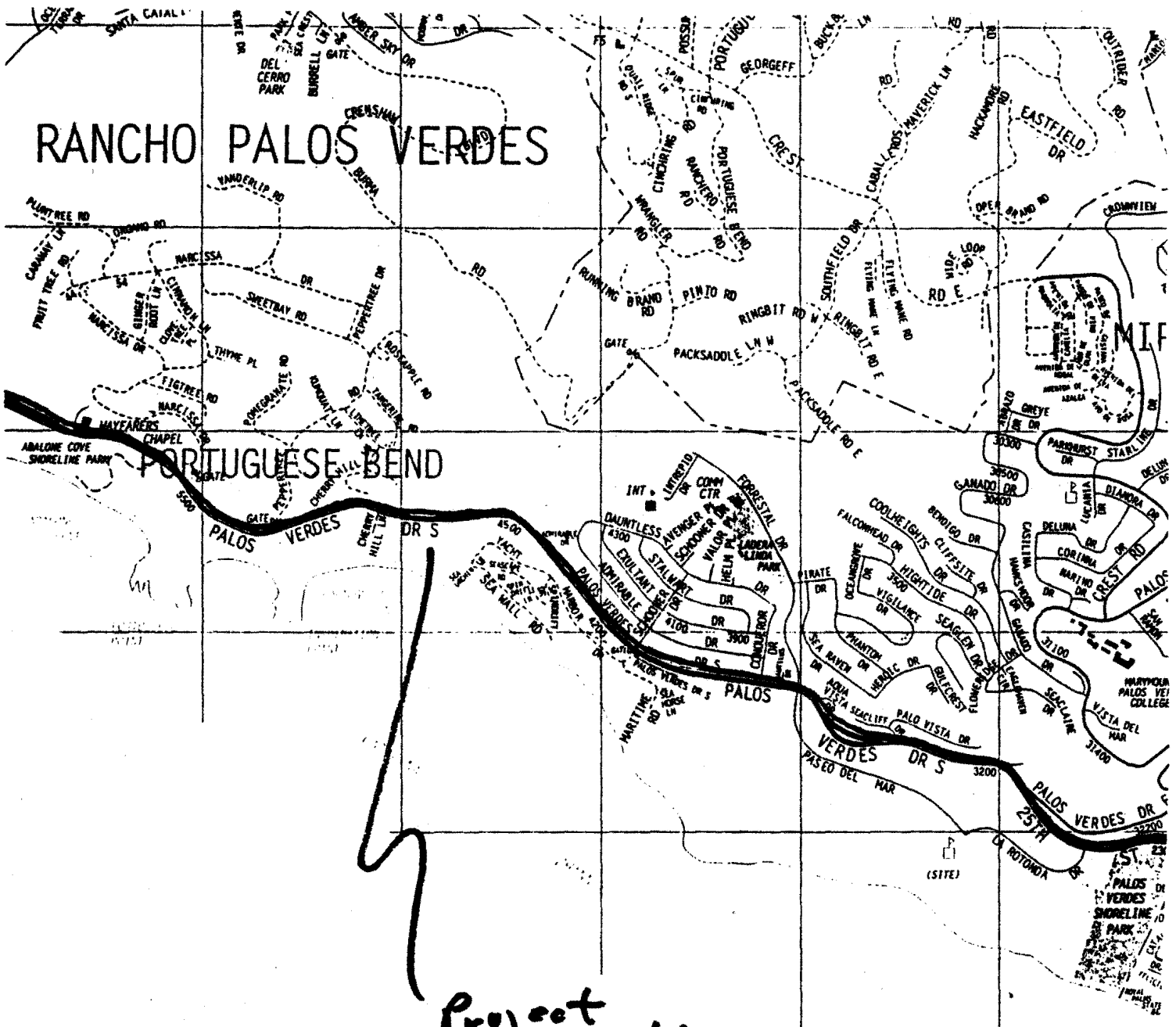
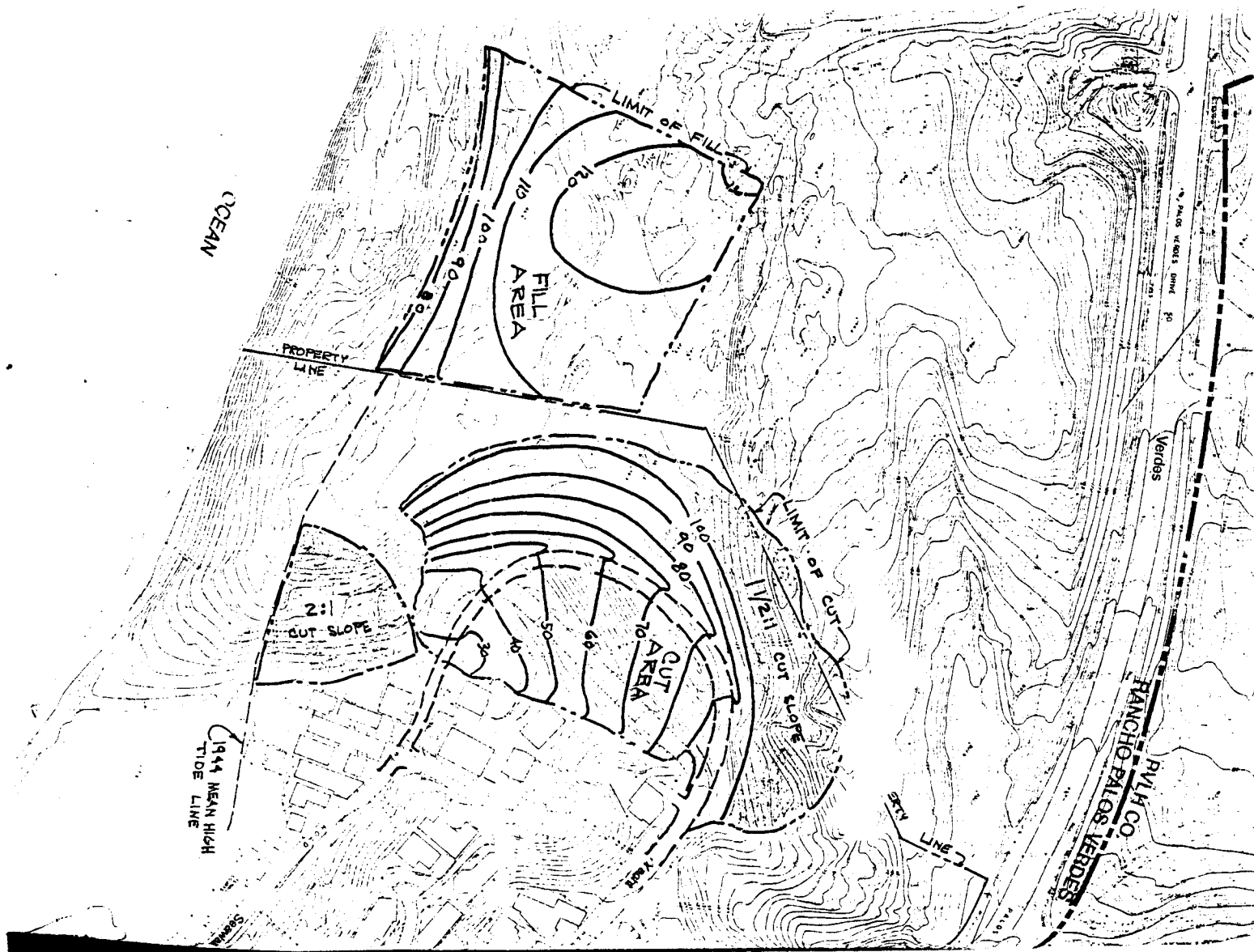


Exhibit A
AS-RPV-96-061



Grading Plan

Exhibit B
 AS-RPV-96-061

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

LOIS KNIGHT LARUE
3136 BARKENTINE ROAD ABALONE COVE
RANCHO PALOS VERDES CA (310) 377-3489 MORNINGS
Zip 90275 Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/~~port~~
government: CITY OF RANCHO PALOS VERDES

2. Brief description of development being
appealed: PORTUGUESE BEND CLUB WISHES CONTINUAL REMEDIAL
GRADING TO PREVENT DAMAGE TO SINGLE FAMILY RESIDENCES
ADJACENT TO PORTUGUESE BEND LANDSLIDE. VAST QUANTITIES OF
LANDSLIDE HAVE BEEN EXCAVATED & PUSHED ONTO THE BEACH. WEAKENING

3. Development's location (street address, assessor's parcel
no., cross street, etc.): BOTTOM OF YACHT HARBOR PV DRIVE SOUTH
DRIVE IN PORTUGUESE BEND CLUB NEAR THE OCEAN.

4. Description of decision being appealed:

- a. Approval; no special conditions: ✓
- b. Approval with special conditions: _____
- c. Denial: _____

Note: For jurisdictions with a total LCP, denial
decisions by a local government cannot be appealed unless
the development is a major energy or public works project.
Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

H5: 4/88

EXHIBIT C
1 of 3
AS-RPV-96-061

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
 b. ☒ City Council/Board of Supervisors d. Other

6. Date of local government's decision: MARCH 11, 1996

7. Local government's file number (if any): COASTAL PERMIT 77-REVISION AND GRADING PERMIT NO. 1315

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

PORTUGUESE BEND ^{BEACH} CLUB HOMEOWNERS ASSOCIATION.

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) KATHY SNELL
6 VANDERBILT DRIVE
RANCHO PALOS VERDES CA 90275
- (2) MAUREEN & BILL GRIFFIN
#5 GINGER ROOT LANE
RANCHO PALOS VERDES CA 90275
- (3) CHARLES ERICA STUART
80 NARCISSE DRIVE
RANCHO PALOS VERDES CA 90275
- (4) ROBT. W. McJONES
1 LIMETREE LANE
RANCHO PALOS VERDES CA 90275

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

EXHIBIT C
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 AS-RPV-96-061

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing.

(Use additional paper as necessary.) REASON FOR APPEAL:

THE DEVASTATION OF NATURAL RESOURCES BY THE CITY OF RAV.
IN CARL VON DER LINDEN'S STANFORD DOCTORAL DISSERTATION (1976)
HE STRESSES THE IMPORTANCE OF SUPPORTING A LANDSLIDE AT
THE BOTTOM. PORTUGUESE BEND CLUB (A PRIVATE BEACH CLUB
GRANDFATHERED INTO THE COASTAL SPECIFIC PLAN) SEEKS PERMISSION
FOR CONTINUAL GRADING OF THE PORTUGUESE BEND LANDSLIDE. HAS REMOVED
IN OCTOBER, 1993, THEY GOT PERMISSION FOR 2 YEARS BUT WERE
LIMITED TO 27000 CUBIC YARDS. THEY REMOVED VEGETATION FROM
THE PORTUGUESE BEND LANDSLIDE BELOW PALOS VERDES DRIVE
SOUTH. SECTION 1: OF THE CITY'S FINDINGS IS NOT TRUE WHERE
THEY SAY THERE WILL BE NO SIGNIFICANT ENVIRONMENTAL IMPACTS
BECAUSE THEY HAVE ALREADY DESTROYED VEGETATION WITH THEIR
UNCONTROLLED GRADING. THE PROOF OF THAT IS ADJACENT TO
PALOS VERDES DRIVE SOUTH - ALSO PART OF THE LANDSLIDE -
WHICH IS COVERED WITH VEGETATION. WHERE ARE THEY DUMPING
WHAT THEY EXCAVATE? THEY ARE PUSHING IT OUT TO THE
BEACH. A ROAD HAS BEEN BULLDOZED DOWN TO THE
BEACH, ALSO PRESUMABLY WITHOUT A COASTAL PERMIT. AT THE FOOT

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

THE PROPOSED GRADING WILL NOT IMPACT ANY AREAS WHERE PUBLIC ACCESS IS CURRENTLY ALLOWED. THIS IS NOT A TRUE STATEMENT. PUBLIC ACCESS IS ALLOWED TO THE PORTUGUESE BEND LANDSLIDE.

The information and facts stated above are correct to the best of my/our knowledge.

I WALK THERE BEFORE EACH COUNCIL MEETING & REPORT ON THE DEVASTATION.

Lois Knight Larue
Signature of Appellant(s) or
Authorized Agent

Lois KNIGHT LARUE

Date 032596

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

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EDWARD E. TUTTLE**
ROBERT G. TAYLOR*
MERLIN W. CALL
FRANK C. CHRISTL
PATRICK L. SHREVE
C. DAVID ANDERSON*
RICHARD S. BERGER
JOHN R. LIEBMAN
ALAN E. FRIEDMAN
TIMI ANYON HALLEM
MERRICK J. BOBB
CHARLES L. WOLTMANN*
MARJORIE S. STEINBERG
DOUGLAS W. BECK
JOHN A. MOE, II
ROBERT L. SHULER*
MARK A. BORENSTEIN*
NANCY E. HOWARD
MARC L. BROWN
MICHAEL M. BIERMAN
LOUIS E. KEMPINSKY
GORDON A. GOLDSMITH
GREGORY D. SCHETINA
DIANN M. KIM

MARLA J. ASPINWALL
ROBIN D. WIENER
LAURA J. CARROLL*
EDWARD A. MENDOZA
JEFFREY D. WEXLER
JULIO A. THOMPSON
JOHN R. DENT
NIKOLAS H. MILLER
SUNG H. SHIN
MARNIE S. CARLIN
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BRENDA R. LANDAU
DAHNI K. TSUBOI*
ANDREA V. RAMOS*
PETER V. LEE
SAM S. OH
SHERRY L. APPEL
MALISSIA R. LENNOX
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EDWARD W. TUTTLE
(1877-1960)

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RECEIVED

April 16, 1996

APR 18 1996

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

WRITER'S DIRECT DIAL NUMBER:

(213) 683-0607

*MEMBER CALIFORNIA AND DISTRICT OF COLUMBIA BARS
**MEMBER DISTRICT OF COLUMBIA BAR ONLY

Mr. James Ryan
California Coastal Commission
South Coast Area
245 West Broadway, Suite 380
P. O. Box 1450
Long Beach, CA 90802-4416

Re: *Appeal of Rancho Palos Verdes Local Permit No. CDP 77:
Portuguese Bend Club Remedial Grading Program*

Dear Mr. Ryan:

As you know, on March 11, 1996, the City of Rancho Palos Verdes denied an appeal by Lois Knight Larue regarding the City's decision to permit continual remedial grading at the Portuguese Bend Beach Club. The grading will prevent the toe of the Portuguese Bend Landslide from damaging several single family homes and Yacht Harbor Drive. In denying the appeal, the City found the remedial grading project conformed with the Coastal Specific Plan, and with the public access and recreation policies contained in the California Coastal Act.

Ms. Larue has appealed the City's decision to the California Coastal Commission. Under Section 30625(b)(2) of the California Coastal Act, the Commission need not hear an appeal if it determines that the appeal raises no substantial issue regarding the program's conformance with the local coastal program and/or the public access policies of the Act. The Commission is tentatively scheduled to consider whether the appeal raises a substantial issue during the week of May 7-10, 1996.

We are writing on behalf of the Portuguese Bend Club Homeowners Association ("Club") to urge the Commission to find that Ms. Larue's appeal does not raise a "substantial issue" under the Coastal Act or Coastal Commission regulations. Ms. Larue does not argue that

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Mr. James Ryan
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the grading does not comply with the local coastal program. Instead, she makes what appear to be general complaints about the local coastal program itself. We would suggest that if Ms. Larue wants to protest the content of the local coastal program, that she should do so directly. Although she may disagree with the program itself, she does not raise any issue as to whether the grading at issue here conforms with that program. As the City explicitly found, the grading does conform with the local program.

Nor does Ms. Larue hint that the remedial grading will interfere with the Coastal Act's public access policies or even that the grading will interfere with her own access. Indeed, although the area has been found to be inappropriate for general public access because of the instability of the landslide, Ms. Larue admits in her appeal that she walks there before each council meeting. Ms. Larue has thus clearly failed to raise any substantial issue in her appeal.

Ms. Larue also raises several factual issues to which we would like to respond. First, she states that "they" (presumably the Club) "removed vegetation from the Portuguese Bend landslide. . . with their uncontrolled grading." In fact, the absence of vegetation in the slide area is the result of the slide itself. It was not caused by any activity by the Club. Moreover, as the Commission is aware, all grading in the area has been closely controlled and monitored to assure that environmental impacts are minimized, and that the slide itself is controlled to the extent possible.

Ms. Larue also accuses the Club of dumping excavated materials on the beach. In fact, as required by the City, the excavated material is taken to a stock pile located on vacant property owned by the City's Redevelopment Agency. It is not pushed out onto the beach.

Finally, Ms. Larue complains that "a road has been bulldozed down to the beach, also presumably without a coastal permit." The road in question was constructed by the City and the Army Corps of Engineers for another project -- the construction of a drilling platform. That project has nothing whatsoever to do with the Club or the remedial grading program.

We appreciate your consideration of this letter in making your recommendation to the Commission regarding whether Ms. Larue has raised a substantial issue on appeal as required under the Coastal Act, and hope you will agree with us that Ms. Larue has not done


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April 16, 1996
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so. If you have any questions, please feel free to call. Please forward a copy of any report prepared by you or the Executive Director on this issue prior to the May 7-10 meeting of the Commission.

Very truly yours,

TUTTLE & TAYLOR

By 
Timi Anyon Hallem

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3 of 3
AS-RV-96-061

RESOLUTION NO. 96-14

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
RANCHO PALOS VERDES DENYING THE APPEAL OF
COASTAL PERMIT NO. 77-REVISION, THEREBY
UPHOLDING THE PLANNING COMMISSION'S APPROVAL
FOR THE CONTINUAL REMEDIAL GRADING PURSUANT
TO A SPECIFIC GRADING PLAN WITHIN THE
PORTUGUESE BEND CLUB**

WHEREAS, the applicant, the Portuguese Bend Club Homeowners Association, submitted an application for Coastal Permit No. 77-Revision, to allow the continual remedial grading pursuant to a specific grading plan within the Portuguese Bend Club which is necessary for the maintenance of Yacht Harbor Drive and the protection of several homes from the active Portuguese Bend landslide; 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 65952.5(e) (Hazardous Waste and Substances Statement), Staff found no evidence that Coastal Permit No. 77-Revision would have a significant effect on the environment. Accordingly, a draft Mitigated Negative Declaration was prepared and a notice of that fact was given in the manner required by law.

The Planning Commission reviewed and considered the information and findings contained in the draft Mitigated Negative Declaration and adopted said environmental document in P.C. Resolution No. 96-4 prior to taking action on Coastal Permit No. 77-Revision; and,

WHEREAS, after notice issued pursuant to the provisions of the Rancho Palos Verdes Development Code, the Planning Commission held a duly noticed public hearing on January 9, 1996, at which time all interested parties were given an opportunity to be heard and present evidence, and the Planning Commission adopted P.C. Resolution No. 96-5, approving Coastal Permit No. 77-Revision; and,

WHEREAS, on January 24, 1996, the appellant, Lois Larue, appealed the Planning Commission's decision to approve Coastal Permit No. 77-Revision, to allow the continual remedial grading pursuant to a specific grading plan within the Portuguese Bend Club which is necessary for the maintenance of Yacht Harbor Drive and the protection of several homes from the active Portuguese Bend landslide; and,

WHEREAS, after notice issued pursuant to the provisions of the City's Development Code, the City Council held a duly noticed public hearing on March 11, 1996, at which time all interested parties were given an opportunity to be heard and present evidence.

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NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

Section 1: That the proposed project is in conformance with the Coastal Specific Plan since the project is necessary to prevent earth movement from the Portuguese Bend landslide from causing the deterioration and destruction of a portion of the Coastal Zone and coastal environment. The project is also necessary to prevent earth movement from causing damage or destruction to at least four residences within the Portuguese Bend Club, as well as to Yacht Harbor Drive, a private road providing access to the homes and common recreational facilities in the lower portion of the development. The project does not create any significant environmental impacts since the exposed portion of the toe of the landslide, as well as the entire area that encompasses the grading, is devoid of all vegetation and consists of broken earth caused by the continual earth movement. Moreover, the project is recommended by, and is being carried out under the supervision of the City's and Redevelopment Agency's Geotechnical Consultant to prevent property damage as well as control the movement of the active landslide.

Section 2: That the proposed development, when located between the sea and the first public road, is in conformance with the applicable public access and recreation policies of the Coastal Act since the project involves excavation of earth at the exposed portion of the toe of an active landslide where general public access is not available due to the fact that the Portuguese Bend Beach Club existed prior to the adoption of the Coastal Act and the certification of the City's Local Coastal Program. The proposed grading will not impact any areas where public access is currently allowed. However, the project would preserve shoreline access for the Portuguese Bend Club residents, club members, and guests via Yacht Harbor Drive by allowing the road to be maintained in a usable condition.

Section 3: The time within which the judicial review of the decision reflected in this Resolution, if available, must be sought is governed by Section 1094.6 of the California Code of Civil Procedure.

Section 4: For the foregoing reasons and based on the information and findings included in the Staff Report, minutes, and all other records of the proceedings, the City Council hereby Denies the Appeal of Coastal Permit No. 77-Revision, thereby Upholding the Planning Commission's decision to allow the continual remedial grading pursuant to a specific grading plan within the Portuguese Bend Club which is necessary for the maintenance of Yacht Harbor Drive and the protection of several homes from the active Portuguese Bend landslide.

Exhibit E
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PASSED, APPROVED, AND ADOPTED this 11th day of March 1996.

/S/ MARILYN LYON
Mayor

ATTEST:

/S/ JO PURCELL
City Clerk

State of California)
County of Los Angeles) ss
City of Rancho Palos Verdes)

I, JO PURCELL, City Clerk of the City of Rancho Palos Verdes, hereby certify that the above Resolution No. 96-14 was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on March 11, 1996.



City Clerk/
City of Rancho Palos Verdes

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Exhibit E
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AS-RPV-96-061



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Field Office
2730 Loker Avenue West
Carlsbad, California 92008

SEP 6 1996

CARLSBAD
COASTAL COMMISSION
SOUTH COAST DISTRICT

August 28, 1996

Mr. James Ryan
California Coastal Commission
P.O. Box 1450
Long Beach, California 90802-4416

Subject: Grading at the Portuguese Bend Landslide, City of Rancho Palos Verdes, California

Dear Mr. Ryan:

This letter concerns the grading at the toe of the Portuguese landslide located south of Palos Verdes Drive South and west of Yacht Harbor Drive in the City of Rancho Palos Verdes, Los Angeles County, California. It is our understanding that this is continual remedial work being conducted by the Portuguese Bend Beach Club Homeowner's Association. The U.S. Fish and Wildlife Service (Service) is concerned about the impacts of this project on the threatened coastal California gnatcatcher (*Polioptila californica californica*) and the endangered Palos Verdes blue butterfly (*Glaucopsyche lygdamus palosverdesensis*). Both of these animals are fully protected under the Endangered Species Act of 1973, as amended (Act). The comments and recommendations in this letter are based on a letter from the Service to the City of Rancho Palos Verdes dated April 19, 1996; a letter from Kathy Olson to Chris Nagano of my staff, dated July 29, 1996; a visit to the site on by Marty Muchinske of the Department of Fish and Game and Chris Nagano on April 15, 1996; a visit to the site with you, Chris Nagano and Mary Beth Woulfe of my staff, and Joel Rojas of the City of Rancho Palos Verdes on June 18, 1996; and other information available to the Service.

Our April 15, 1996, letter expressed concern about the potential loss of coastal sage scrub and it include a recommendation that the graded areas be revegetated with plant species from local native stock. However, based on the recent site visit and other information available to the Service, it appears that the graded areas will continue to be subject to landslides and other forms of erosion. Therefore, we concur with your assessment that revegetation likely will not provide for the long term enhancement of the habitats for the gnatcatcher and the butterfly. However, the Service recommends that no non-native vegetation be planted in the graded areas in order to minimize the amount of exotic species at the project site.

EXHIBIT F
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Mr. Jim Ryan

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We appreciate the opportunity to review the grading at the base of the Portuguese landslide for potential adverse impacts to endangered species. Please contact Chris Nagano of my staff at the letterhead address or at 619/431-9440 if you have any questions.

Sincerely,

Gail C. Kobetich
for Gail C. Kobetich
Field Supervisor

1-6-96-TA-323

cc: City of RPV, Rancho Palos Verdes, CA (Attn: J. Rojas)
CDFG, San Diego, CA (Attn: B. Tippetts)
CDFG, San Diego, CA (Attn: M. Muchinske)
DRP, Los Angeles, CA (Attn: D. Koutnik)

Exhibit F

2 of 2

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