

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

245 W. BROADWAY, STE. 380

P.O. BOX 1450

LONG BEACH, CA 90802-4416

(310) 590-5071



Filed: Jan. 24, 1996
49th Day: Mar. 13, 1996
180th Day: Jul. 22, 1996
Staff: JLR-LB
Staff Report: Feb. 16, 1996
Hearing Date: Mar. 12-15, 1996
Commission Action:

STAFF REPORT AND RECOMMENDATION ON APPEALSUBSTANTIAL ISSUE STAFF REPORT

LOCAL GOVERNMENT: City of Rancho Palos Verdes Redevelopment Agency

LOCAL DECISION Approval with Conditions

APPEAL NO.: A5-RPV-95-270

APPLICANT: City of Rancho Palos Verdes

PROJECT LOCATION: Sacred Cove (seaward of Palos Verdes Drive South near Peppertree Road), City of Rancho Palos Verdes

PROJECT DESCRIPTION: Appeal by Lois Larue from decision of City of Rancho Palos Verdes granting permit with conditions to City of Rancho Palos Verdes to construct a five foot wide public trail to the beach, restore a portion of a previously graded road and construct an approximately 600 square foot long access road from the blufftop to the beach to be used for transporting drilling equipment to perform a geologic test boring.

SUBSTANTIVE FILE DOCUMENTS:

1. City Coastal Permit No. 129 Application dated August 18, 1995
2. City Council Resolution No. 95-101 dated November 8, 1995
3. City Council Minutes of November 8, 1995 Appeal Hearing
4. Notice of Final Decision dated November 13, 1995

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 at any stage of the appeal process 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.

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-95-270 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 City of Rancho Palos Verdes Redevelopment Agency is proposing to construct a five foot wide public trail to the beach, restore a portion of a previously graded road and widen, extend and realign an approximately 600 foot long access road from the blufftop to the beach to be used for transporting drilling equipment to perform a geologic test boring (See Exhibit B). The proposed development is located in the Sacred Cove Beach area between Inspiration Point and Portuguese Point.

The drilling site is located on a bluff. In order to access the drilling site, the City had previously issued a grading permit to construct a roadway. However, the contractor deviated from the City approved alignment. The City then issued an after-the-fact permit to realign approximately 300 feet of the most seaward portion of the road. That permit also included restoring the area where the previous roadway was graded. That after-the-fact permit is the subject appeal that is now before the Commission. Following is a more detailed description of the project, as stated in City Council Resolution No. 95-101:

A resolution of the City Council of the City of Rancho Palos Verdes denying the Appeal, thereby upholding the Planning Commission's approval of Coastal Permit No. 129 to allow after-the-fact grading of an access road for completion of geologic investigations in the Sacred Cove Beach area, located within the coastal zone.

On December 4, 1995, 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.

More specifically, the appellant has concerns regarding:

1. Marine habitat impacts due to erosion
2. Landslide instability
3. Coastal Setback Zone
4. Removal of native vegetation
5. Visual Resources
6. Road is part of a larger, future landslide stabilization project that is inconsistent with the certified LCP.

B. NATURAL HAZARDS

1. Appellant Contentions

In part, the appellant contends that landsliding could result from the grading activities. Also, the appellant contends that erosion and runoff will adversely effect the quality of water entering the ocean.

2. Applicable LCP Policies

The appellant contends that landsliding could result from geotechnically unsound construction practices inconsistent with LCP policy 7. The appellant further contends that the previously graded road could erode and create adverse water quality impacts in the marine environment inconsistent with LCP policy 15.

The following natural environment policies of the City's certified LCP are relevant:

2-Require any development within the Coastal Resource Management Districts of high slopes (CRM 2) and insufficient information area (CRM 5) to perform at least one, and preferably two, independent engineering studies (performed by a licensed engineer) concerning the geotechnical, soils, and other stability factors (including seismic considerations) affecting the site.

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).

15-Provide mitigating measures where possible to control surface runoff that might be degrading to the natural environment.

3. Substantial Issue Analysis Regarding Natural Hazards

The subject site is located within the Portuguese Bend landslide area, 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 proposed roadway will allow drilling equipment to conduct a geologic test boring. This boring, as well as previous other borings, are an on-going effort by the city to better understand the area wide geology.

The above listed LCP policies are applicable to the subject site because the site is mapped in Coastal Resource Management (CRM) districts CRM 2, 5 and 8 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.

The site is located in a major active landslide area. However, the roadway has been designed to minimize grading and the project, as conditioned approved by the City, will provide erosion control measures. The appellant has not provided any credible evidence that a 600 foot road on the surface of an 1100 acre landslide area will create any measurable difference in the movement of the slide.

The applicant contends that the unpermitted portion of the steeply graded roadway will "be restored to its pre-construction condition" and that the "work would be performed in a manner that minimized disturbance to the existing natural resources." The City's conditional approval included the following relevant conditions:

4. Prior to the commencement of any grading, a finalized grading plan shall be submitted to the Director of Planning, Building and code

Enforcement for review and approval. Said plan shall clearly indicate the location of the existing and proposed portions of access road, the portion(s) of the access road which will be restored at the conclusion of the boring operation, cut and fill locations, and the gradient of the access road and all created slopes. All effort shall be made to minimize the amount of grading needed to construct the necessary access road.

8. All efforts shall be made to minimize impacts to the existing vegetation of the site. Where possible, mature trees or coastal sage scrub plants shall be avoided. Prior to the grading, the applicant shall walk the site with a designated Department of Planning, Building and Code Enforcement staff member to agree on an access path which minimizes plant disturbance. Any deviations from the approved path shall be approved by the Director of Planning, Building, and Code Enforcement prior to the path deviation taking place.
9. An erosion control plan shall be prepared by the applicant to ensure that all appropriate measures are taken to control drainage and erosion on the access road. Erosion control measures shall include, but not be limited to, regrading of the road, realignment of the road, recompaction of the road, the installation of berms and/or other drainage control devices. Said plan shall be submitted to the Director of Planning, Building, and Code Enforcement and the Director of Public Works for their review and approval, prior to the commencement of any grading activity.
10. The drilling site, and any part of the existing and/or proposed access road which will not be permanently maintained, shall be restored to its pre-construction condition. If determined necessary by the Director of Planning, Building and Code Enforcement, such restoration shall include the reseedling of disturbed areas.

The road is proposed to facilitate necessary geological investigation required by policy N2. Therefore, the proposed development is consistent with the relevant natural hazard provisions of the City's certified LCP. The City's conditional approval required restoration and reseedling of a portion of an unpermitted road, erosion/drainage control measures and is designed and sited to minimize disturbance of natural habitat. Therefore, the Commission finds that the proposed development, as approved by the City to include erosion/habitat mitigation measures, is consistent with the certified LCP and raises No Substantial Issue.

C. NATURAL HABITAT

1. Appellant Contentions

In part, the applicant contends that the natural habitat will be adversely impacted by the grading.

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 unpermitted roadway cleared some native vegetation. However, as conditioned by the City, this area will be restored. The City approved the proposed roadway subject to special conditions (See Exhibit D) that would minimize adverse impacts on habitat. In part, those conditions required the Redevelopment Agency to submit an erosion plan, limited the amount of grading and required "that impacts to vegetation be minimized". The City staff also coordinated with the California Department of Fish and Game. That Department concluded "that the modified access alignment will result only in the removal of non-native grassland, with minimal or no disturbance to any gnatcatcher habitat". Additionally, the City's approval in addressing natural habitat included the following pertinent finding:

In approving the request for Coastal Permit No. 129, the Acting Hearing Officer found that the grading for access to the fourth drilling site is neither a use or activity that is prohibited by the Coastal Specific Plan. Additionally, although the grading will result in disturbance to natural contours beyond the boundaries of the previous approval, the additional grading will not significantly adversely impact any other natural resources, since the Conditions of Approval require that impacts to existing mature trees and coastal sage scrub plants be minimized. In addition, after completion of the studies, the site will be inspected by staff to determine which portion of the road shall be maintained to provide public access to the beach. That portion of the road not to be permanently maintained for public access shall be restored to its preconstruction condition, including the vegetative reseedling of the disturbed areas if deemed necessary by the Director of Planning, Building, and Code Enforcement. Staff has again contacted representatives from the California Department of Fish and Game, who confirmed that the modified access alignment will result only in the removal of non-native grassland, with minimal or no disturbance to any gnatcatcher habitat. For these reasons, the Acting Hearings Officer found that the proposed project is in conformance with the Coastal Specific Plan.

The applicant also proposes to restore the steepest portion of the roadway. That area shall be restored to its preconstruction condition to include vegetative seeding of the disturbed area. The subject permit, as conditioned by the City, is consistent with the habitat protection provisions of the City's certified LCP. The City's approval included special condition to "fully offset" adverse impacts habitat consistent with the policies of the certified LCP. 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

Section 30603 (b)(1) states that the grounds for appeal include the public access policies of the Coastal Act and the certified LCP.

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 of 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.

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).

Within the subject area, the certified LCP identifies a pathway leading down

the bluff to an isolated beach area. This switchback trail, which is unimproved, has been informally developed over a period of time. The proposed project includes a five-foot wide public path leading to the beach which is consistent with the access provisions of the City's certified LCP. Additionally, the City's approval in addressing public access included the following pertinent finding:

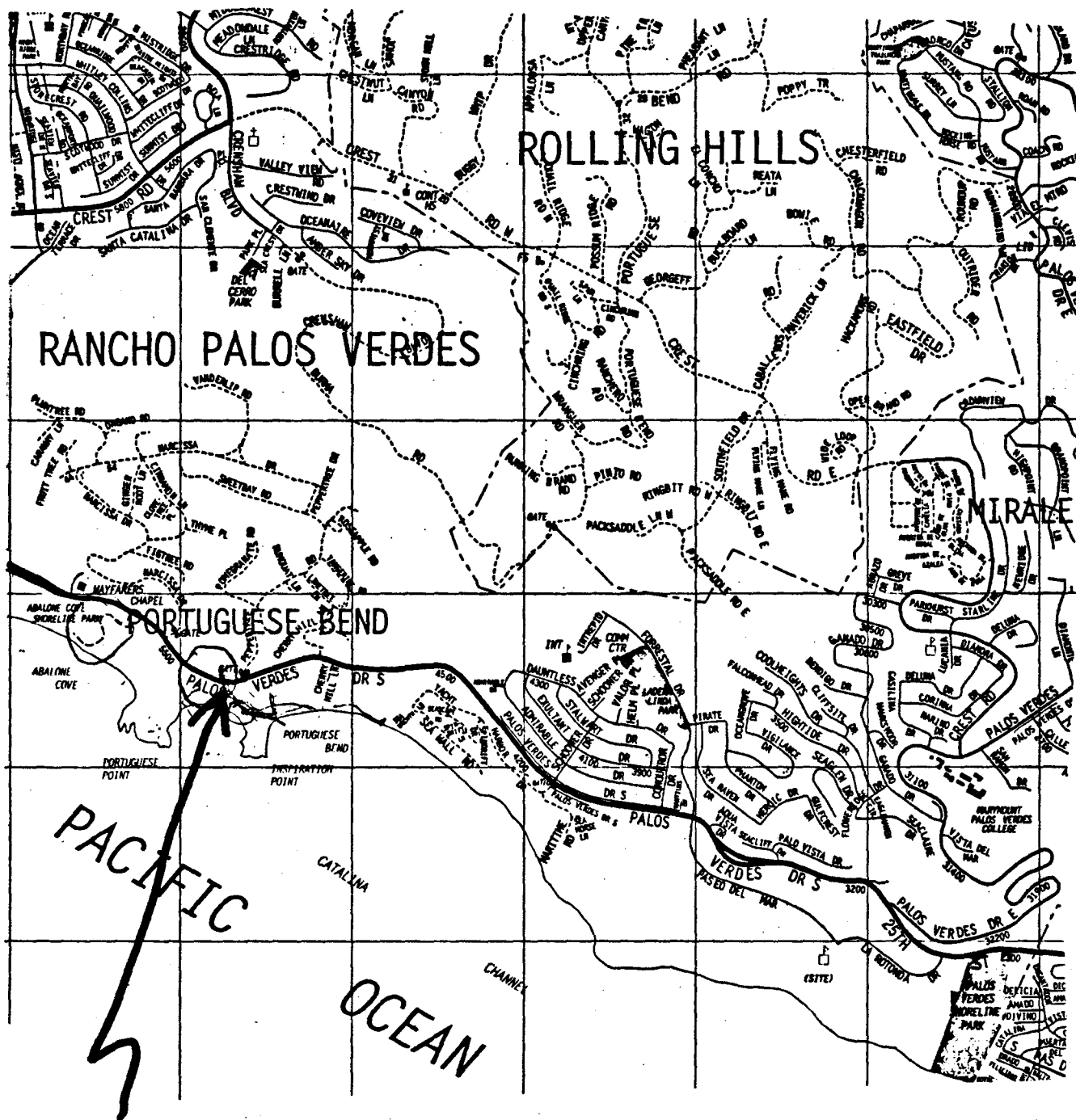
Currently, the Sacred Cove Beach area is accessed by the public down a steep and narrow trail which traverses the bluff. At the conclusion of the drilling operations, it is intended that a portion of the graded roadway will be maintained to provide improved access to the beach area. In approving Coastal Permit No. 129, the Acting Hearing Officer required that, at the conclusion of the boring operation, a clear and readily accessible pedestrian trail shall be provided from the Palos Verdes Drive South right-of-way to the Sacred Cove beach. This action will reduce barriers to access of the beach area, and will result in easier access to the recreational opportunities available in the Sacred Cove and public beach area. In addition, the easier access will facilitate emergency access for police patrol and medical assistance, if necessary. For these reasons, the Acting Hearing Officer found that the proposed development is in conformance with the applicable public access and recreation policies of the Coastal Act.

The purpose of the proposed roadway is to allow drilling equipment to access a designated site in order to perform a geologic test boring. After the test has been completed, the roadway will remain in place. In the future, this road will be used for emergency and public access purposes. Section 30212(a) of the Coastal Act requires that new development shall provide public access from the nearest public roadway. The proposed project will provide a public path from Palos Verdes Drive South leading down a bluff to Sacred Cove Beach. Section 30210 of the Coastal Act requires maximum access shall be provided consistent with public safety needs. The proposed roadway, which is located in an isolated area along the Palos Verdes blufftop coastline, will provide an accessway for emergency vehicles and will enhance public access for recreation visitors. Therefore, the Commission finds that the development, as approved by the City, to provide public pedestrian access and public emergency vehicle access, raises No Substantial Issue with the applicable public access provisions of Chapter 3 of the Coastal Act or the Certified LCP.

D. SUMMARY OF SUBSTANTIAL ISSUE

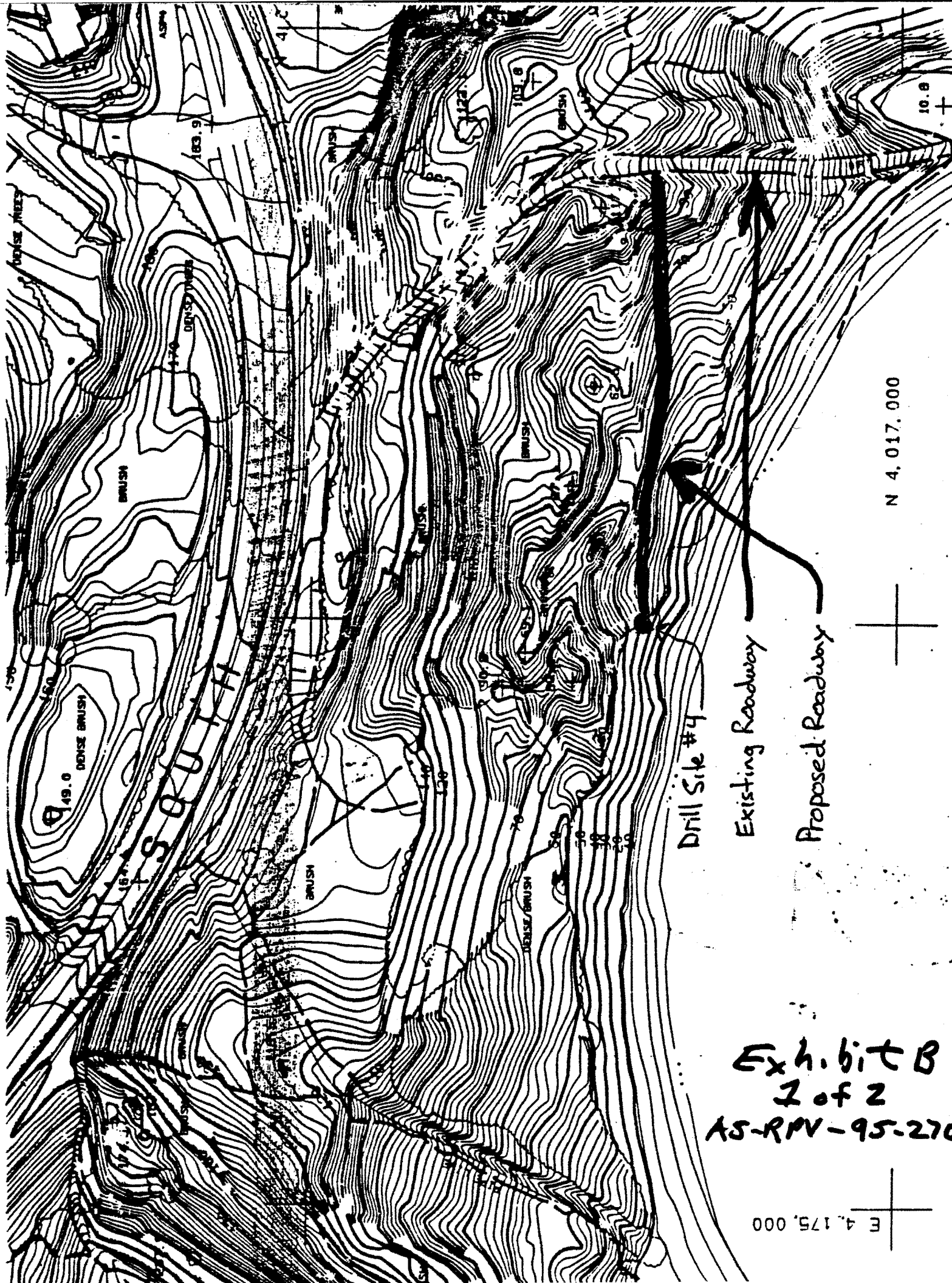
The Commission finds that the development, as approved by the City, raises No Substantial Issue with respect to its conformance with the certified LCP and with the public access policies of the Coastal Act.

6367F
JR/lm



A5RPV-95-270

Exhibit A
A5-RPV-95-270



N 4,017,000

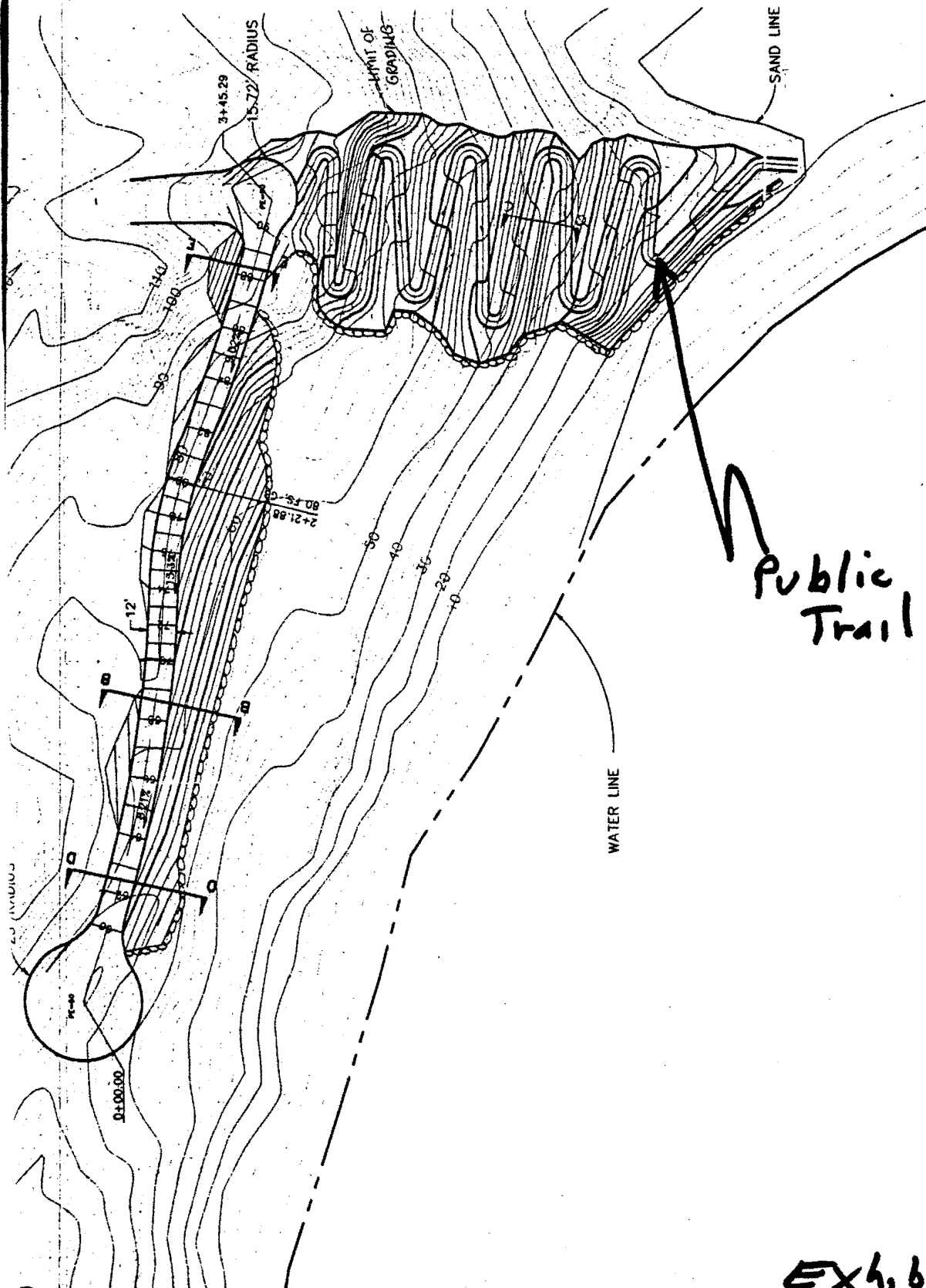
Drill Site #4

Existing Roadway

Proposed Roadway

Exhibit B
2 of 2
AS-RPV-95-270

E 4,175,000



CHARLES ABBOTT ASSOCIATES, INC.
MANAGEMENT AND ENGINEERING PROFESSIONALS
271 Van Ness Way Suite 200
Berkeley, CA 94601
(415) 842-8778

REVISED BY: _____
APPROVED: _____

PROJECT ENGINEER R.E. _____
DATE _____

Exhibit B
2 of 2
AS-RPV-95-270

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 90275

Zip

(310) 377-3489 (mornings)

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: _____

Contractor has slashed a road almost vertically
from PVDS to Sacred Cove beach alongside Inspiration
Point in the wrong place, and now requests an after-
the-fact coastal permit to further the havoc.

3. Development's location (street address, assessor's parcel
no., cross street, etc.): _____

Between Palos Verdes Drive South and the ocean
Between Inspiration Point and Portuguese Point
in Sacred Cove

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: x

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: A5-RPV-95-270

DATE FILED: 12.4.95

DISTRICT: South Coast / Long Beach

H5: 4/88

Exhibit C
1 of 5

RECEIVED
A5-RPV-95-270
DEC 4 1995

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

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: November 8, 1995

7. Local government's file number (if any): Coastal Permit No. 129

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:

Rancho Palos Verdes Redevelopment Agency
30940 Hawthorne Boulevard
Rancho Palos Verdes CA 90275

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) Joe Deeble
3 East Pomegranate Road
Rancho Palos Verdes CA 90275
- (2) Rob Dees
735 W. 19th #12B
San Pedro CA 90731
- (3) Elizabeth MacLeod Kelly
6611 Vallon Drive
Rancho Palos Verdes CA 90275
- (4) Kathy Snell
8 Vandellip Drive
Rancho Palos Verdes CA 90275

SECTION IV. Reasons Supporting This Appeal

Exhibit C
2 of 5

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.

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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.)

1. This road is a violation of the Coastal Specific Plan, December, 1978.

a. "Additionally, pollutants may enter the marine environment through the process of surface runoff" (P. N-10)

"Excessive erosion and runoff laden with pollutants can have detrimental effects on the intertidal and subtidal marine organisms."

(P. N-14)

"Future episodes of landsliding also could result from geotechnically unsound construction practices in and around the coastal region."

(P.N-20) (Continued on the attached pages)

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.

SECTION V. Certification

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

Lori Knight Lane
Signature of Appellant(s) or
Authorized Agent

Date 120495

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.

Exhibit C
3055

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Signature of Appellant(s)

Date _____

2. "The most practical method of assessing the geologic constraints in the Coastal Zone is by a classification system based on the suitability for existing and anticipated land uses. . . ."

"Category 1 - Areas unsuited for any permanent structure."

Category 1A -- Potentially hazardous for human passage."

(Please see illustration on P. N-21 where the Sacred Cove area is clearly shown as 1a: "extreme hazard."

"Provisional Coastal Setback Zone

On the basis of the available geologic information, a realistic coastal setback zone would include all lands in Categories 1a, 1b, 2 and 3." (Explanation: 1a, extreme hazard; 1b, hazard; 2, marginal stability; 3, insufficient data). (P. N-22)

3. HYDROLOGY (P. N-28)

"The quality of water entering the ocean, quantity and rate of runoff associated with these channels along with debris being transported by them will, to a large extent, be determined by upstream practices."

4. BIOTIC RESOURCES (P. N28-29)

"Natural Habitat value is two-fold: It is of intrinsic ecological value because it supports many species which occupy an important place in the order of living things; and, it is important to man over a wide range of his needs including recreation, education, aesthetics, and scientific research.

The Coastline of Rancho Palos Verdes presents a unique situation. The natural and rural environment on the otherwise urbanized Palos Verdes Peninsula makes these areas biologically important relative to their surroundings."

5. SUBREGION 5 (P.S5-1)

INTRODUCTION

"Its geophysical characteristics include such diversities as two of the most spectacular promontories on the Southern California coast, a beach on a broad cove, an intimate cove with difficult access, an active landslide mass, and marine and terrestrial habitats rich in life." (Note: The intimate cove referred to is Sacred Cove.)

6. Perry Ehlig, formerly on the faculty of Cal State LA, is the geologist the city listens to on what to do in the landsliding areas of Rancho Palos Verdes. He wants to drill between the points, and the road which Charlie Abbott's people slashed down to the Sacred Cove beach was supposed to lead to this drilling site. The city approved a program where they split the costs with the Corps of Engineers for a "feasibility study" on so-called Shoreline Erosion, or Shoreline Protection. The 1996 Federal appropriations bill DOES NOT INCLUDE Corps funding for the 2nd year of the study. This appellant contends, there

EXHIBIT C
4 OF 5
AS-RPV-95-270

therefore, that a Coastal Permit to continue to devastate the Sacred Cove area should be denied.

(The Palos Verdes Peninsula off-shore waters contain 17 square miles of DDT, PCB's, and heavy metals. In my opinion the Corps of Engineers feasibility study on Shoreline Protection is phony, and a total waste of taxpayers' money. In 1992 the Corps of Engineers did a reconnaissance study of the Portuguese Bend Landslide and concluded that it would be wrong to spend millions to "stop the landslide," since the benefit would accrue to the landowner, Barry Hon, who wants to build houses on Peacock Flat at the top of the landslide. By using a lobbyist in Washington, the city did an end run around the Corps of Engineers and got Congress to order them to do the feasibility study. In the meantime, for the past 8 years at least the city has been pumping water out of the Portuguese Bend Landslide at the top and pouring it into the bottom of the landslide below Palos Verdes Drive South. They have also not maintained the half-rounds which carry water through the landslide with the result that water has been leaking into the slide during this entire period. The appellant regularly reports to the city council on this fact, and last summer for the first time the city put the water into narrow white pipes and carried it all the way to Palos Verdes Drive South. They are still permitting the water to enter the landslide below Palos Verdes Drive South. The contractor in charge of the landslide work is the same contractor who slashed the road down to the Sacred Cove beach. The city does not supervise him properly. The city council appears to want to forget about the landslide, to let the contractor handle it. For that reason, they are highly annoyed that anyone should appeal their decision to the Coastal Commission. I have been attending council meetings since 1988 when this city approved 5 cauldrons of gunpowder being set off in Abalone Cove, a marine preserve. I believe that Sacred Cove is also part of this marine preserve, and that this contractor should be prevented from doing further ecological damage to this superb environment.)

Exh. bit c
5045

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RESOLUTION NO. 95-101

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES DENYING THE APPEAL, THEREBY UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF COASTAL PERMIT NO. 129 TO ALLOW AFTER-THE-FACT GRADING OF AN ACCESS ROAD FOR COMPLETION OF GEOLOGIC INVESTIGATIONS IN THE SACRED COVE BEACH AREA, LOCATED WITHIN THE COASTAL ZONE

WHEREAS, on June 2, 1995, as part of the City's ongoing Shoreline Protection Feasibility Study, the City's Redevelopment Agency submitted an application for Geologic Investigation Permit No. 90 to allow a series of four 2" diameter geologic exploration borings, three of the which are located on the beach east of Inspiration Point and west of the Portuguese Bend Club at the base of the bluff, with access being taken from existing roads in the Portuguese Bend Beach Club, and the fourth site being located at the base of the bluff near Sacred Cove; and,

WHEREAS, in order to gain access to the fourth site within Sacred Cove, minimal grading along an existing dirt road was required to provide access for the drilling equipment. However, since the proposed project required only minor grading involving the exploratory drilling of a geologic test hole by the City's Redevelopment Agency, a public agency, and would result in an improvement to the existing access to the beach, the project was determined to be a "minor public works project" which is exempt from the requirements of the Coastal Act, and that no Coastal Permit was required to conduct these studies in the Sacred Cove area; and,

WHEREAS, pursuant to Section 17.50.040 (B) of the Rancho Palos Verdes Development Code, no Grading Permit is required since the project involves grading in connection with a public improvement or public work for which inspection is provided by the City or other public agency as approved by the City Engineer; and,

WHEREAS, on April 26, 1995, Staff toured the site with representatives from the California Department of Fish and Game (CDFG) and verified that no California gnatcatcher or other sensitive or endangered species habitat would be impacted or endangered by the proposed project; and,

WHEREAS, pursuant to the provisions of the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 et.seq., the State's CEQA Guidelines, California Code of Regulation, Title 14, Section 15000 et.seq., the City's Local CEQA Guidelines, and Government Code Section 65952(e) - Hazardous Waste and Substances Statement, the proposed project was found to be Categorically Exempt pursuant to Class 4 (Section 15304) and Class 6 (Section 15306) of the California Environmental Quality Act, based on the determination that the project has no potential for causing a significant effect on the environment; and,

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WHEREAS, on June 5, 1995, the Director of Planning, Building, and Code Enforcement approved Geologic Investigation Permit No. 90; and,

WHEREAS, during grading operations to gain access to the fourth boring site, localized unstable geologic conditions along the planned access route were encountered which resulted in the relocation of the roadway, outside the limits of grading approved through Geologic Investigation Permit No. 90. In addition to the fact that the road was realigned outside the boundaries of the original approval, as graded, the access road does not provide the desired access to the drilling site. Therefore, since the as-built roadway resulted in grading outside the alignment of the old roadway and inadequate access to the proposed drilling site, all work was stopped. The City determined that a revised Geologic Investigation Permit as well as an after-the-fact Coastal Permit were required in order to complete the access road; and,

WHEREAS, On August 22, 1995, the City's Redevelopment Agency submitted an application for Coastal Permit No. 129. Pursuant to the provisions of the Rancho Palos Verdes Development Code, notice of a public hearing with the City's Hearing's Officer were mailed on August 24, 1995, and a hearing was held at City Hall on September 11, 1995, at which time all interested parties were given an opportunity to be heard and present evidence. After accepting testimony regarding the project, the (Acting) Hearings Officer continued the hearing to September 14, 1995 in order to allow Staff the opportunity to prepare draft Conditions of Approval for the project. On September 14, 1995, the Acting Hearings Officer approved Coastal Permit No. 129 and Geologic Investigation Permit No. 90 - Revision "A", with conditions; and,

WHEREAS, on September 14, 1995, the decision of the (Acting) Hearings Officer regarding Coastal Permit No. 129 was appealed to the Planning Commission by Lois Knight Larue. No appeal has been filed with respect to Geologic Investigation Permit No. 90 - Revision "A".

WHEREAS, pursuant to the provisions of the Rancho Palos Verdes Development Code, the Planning Commission of the City of Rancho Palos Verdes held a public hearing on October 10, 1995, at which time all interested parties were given the opportunity to be heard and present evidence; and,

WHEREAS, after accepting public testimony, the Planning Commission of the City of Rancho Palos Verdes adopted P.C. Resolution No. 95-36, thereby Denying the appeal, and upholding the (Acting) Hearing's Officer approval of Coastal Permit No. 129; and,

WHEREAS, on October 10, 1995, an appeal of the Planning Commission's decision regarding Coastal Permit No. 129 was filed to the City Council by Lois Knight Larue; and,

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WHEREAS, after issuing notice pursuant to the provisions of the Rancho Palos Verdes Development Code, the City Council of the City of Rancho Palos Verdes held a public hearing on November 8, 1995, at which time all interested parties were given an opportunity to be heard and present evidence.

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

Section 1: The grading for access to the fourth drilling site is neither a use or activity that is prohibited by the Coastal Specific Plan. Additionally, although the grading will result in disturbance to natural contours beyond the boundaries of the previous approval, the additional grading will not significantly adversely impact any other natural resources, since Conditions of Approval have been imposed which require that impacts to existing mature trees and coastal sage scrub plants be minimized. In addition, after completion of the studies, the site will be inspected by Staff and a portion of the road shall be maintained to provide public access to the beach. That portion of the road not to be permanently maintained for public access shall be restored to its preconstruction condition, including the vegetative reseeding of the disturbed areas if deemed necessary by the Director of Planning, Building, and Code Enforcement. The California Department of Fish and Game has confirmed that the modified access alignment will result only in the removal of non-native grassland, with no disturbance to California gnatcatcher habitat resulting from the project. For these reasons, the City Council finds that the proposed project is in conformance with the Coastal Specific Plan.

Section 2: Currently, the Sacred Cove Beach area, which is located between the sea and the first public road, is accessed by the public down a steep and narrow trail which traverses the bluff. At the conclusion of the drilling operations, it is intended that a portion the graded roadway will be maintained to provide improved access to the beach area. Conditions of Approval have been imposed which require that a clear and readily accessible pedestrian trail shall be provided from the Palos Verdes Drive South right-of-way to the Sacred Cove beach. This action will reduce barriers to access of the beach area, and will result in easier access to the recreational opportunities available in the Sacred Cove area. In addition, the easier access will facilitate emergency access for police patrol and medical assistance, if necessary. For these reasons, the City Council finds that the proposed development is in conformance with the applicable public access and recreation policies of the Coastal Act.

Section 3: The time within which 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.

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Section 4: For the foregoing reasons and based on the information and findings contained in the Staff Reports, minutes, and records of the proceedings, the City Council hereby Denies the appeal, thereby Upholding the Planning Commission's approval of Coastal Permit No. 129 in association with Geologic Investigation Permit No. 90 - Revision "A" for improvement to an existing roadway and grading of a new access road branching off the existing road to allow drilling equipment access to perform a geologic test boring within Sacred Cove, which lies within an Appealable Area of the Coastal District, subject to the Conditions of Approval contained in the attached Exhibit "A" which are necessary to protect the public health, safety, and welfare.

PASSED, APPROVED, and ADOPTED, this 8th day of November 1995.

/S/ LEE B. BYRD
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. 95-101 was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on November 8, 1995.

CITY CLERK, CITY OF RANCHO PALOS VERDES

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EXHIBIT "A"

CONDITIONS OF APPROVAL COASTAL PERMIT NO. 90 - APPEAL IN CONJUNCTION WITH

GEOLOGIC INVESTIGATION PERMIT NO. 90 - REVISION "A"

1. All work, including the staging or movement of heavy equipment or vehicles, associated with the grading of the access road, the geologic investigation (drilling and/or boring), or the restoration of any portions of the site shall be limited to the hours of 7:00 A.M. to 7:00 P.M., Monday through Saturday. No work is allowed on Sundays or legal holidays.
2. Traffic control, either through the use of flagpersons or devices, shall be provided on Palos Verdes Drive South during the times when heavy machinery or vehicles are entering and exiting the Sacred Cove site.
3. The boring holes shall be properly capped and all other necessary precautions to secure the safety of the drilling site shall be taken.
4. Prior to the commencement of any grading, a finalized grading plan shall be submitted to the Director of Planning, Building and Code Enforcement for review and approval. Said plan shall clearly indicate the location of the existing and proposed portions of access road, the portion(s) of the access road which will be restored at the conclusion of the boring operation, cut and fill locations, and the gradient of the access road and all created slopes. All effort shall be made to minimize the amount of grading needed to construct the necessary access road.
5. No off-site exportation of earth material is permitted. All grading shall be balanced on site.
6. All work shall be performed landward of the coastal mean high tide line.
7. If remedial grading becomes necessary, to correct drainage deficiencies or other field-encountered problems, which is beyond the scope and content of the approved grading plan and submitted applications, a revised or updated grading plan shall be submitted to the Director of Planning, Building, and Code Enforcement for review. The additional grading shall not be performed until the revised grading plan is approved by the Director, unless the remedial grading is of an urgent nature, necessary to abate a hazardous field-encountered condition.

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8. All efforts shall be made to minimize impacts to the existing vegetation of the site. Where possible, mature trees or coastal sage scrub plants shall be avoided. Prior to the grading, the applicant shall walk the site with a designated Department of Planning, Building and Code Enforcement staff member to agree on an access path which minimizes plant disturbance. Any deviations from the approved path shall be included on a revised grading plan and shall be included on a revised grading plan and shall be approved by the Director of Planning, Building, Code Enforcement prior to the path deviation taking place.
9. An erosion control plan shall be prepared by the applicant to ensure that all appropriate measures are taken to control drainage and erosion on the access road. Erosion control measures shall include, but not limited to, regrading of the road, realignment of the road, recompaction of the road, the installation of berms and/or other drainage control devices. Said plan shall be submitted to the Director of Planning, Building, and Code Enforcement and the Director of Public Works for their review and approval, prior to the commencement of any grading activity.
10. The drilling site, and any part of the existing and/or proposed access road which will not be permanently maintained, shall be restored as close as possible to its pre-construction condition. If determined necessary by the Director of Planning, Building and Code Enforcement, such restoration shall include the re-seeding of disturbed areas.
11. At the conclusion of the boring operation, a clear and readily accessible pedestrian trail shall be provided from the Palos Verdes Drive South right-of-way to the Sacred Cove beach.

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AREAS FOR PRESERVATION OF NATURAL RESOURCES

THE COMPONENT ELEMENTS AND THEIR NUMERIC
CODE ARE AS FOLLOWS:

EXTREME SLOPE	1
HIGH SLOPE	2
HAZARD	3
A EXTREME	
B HIGH	
MARGINALLY STABLE	4
INSUFFICIENT INFORMATION	5
WILDLAND FIRE HAZARD	6
FLOOD/INUNDATION	7

THESE AREAS ARE FOR CONSERVATION OF PLANT
AND ANIMAL LIFE, HABITATS FOR MARINE
ORGANISMS AND WILDLIFE SPECIES, AREAS FOR
ECOLOGICAL AND OTHER SCIENTIFIC STUDIES,
AND ANY OTHER UNIQUE NATURAL RESOURCES
WITHIN THE CITY.

THE INTERTIDAL MARINE RESOURCE IS ONE OF
THE MOST SIGNIFICANT RESOURCES WITHIN
RANCHO PALOS VERDES AND IS DEPENDENT UPON
PROPER MANAGEMENT OF THE LAND ENVIRONMENT
AS IT INTERACTS WITH THE OCEAN.

THERE ALSO EXIST IN THE COASTAL REGION A
NUMBER OF SIGNIFICANT WILDLIFE HABITATS

figure 11 areas for consideration of public health and safety

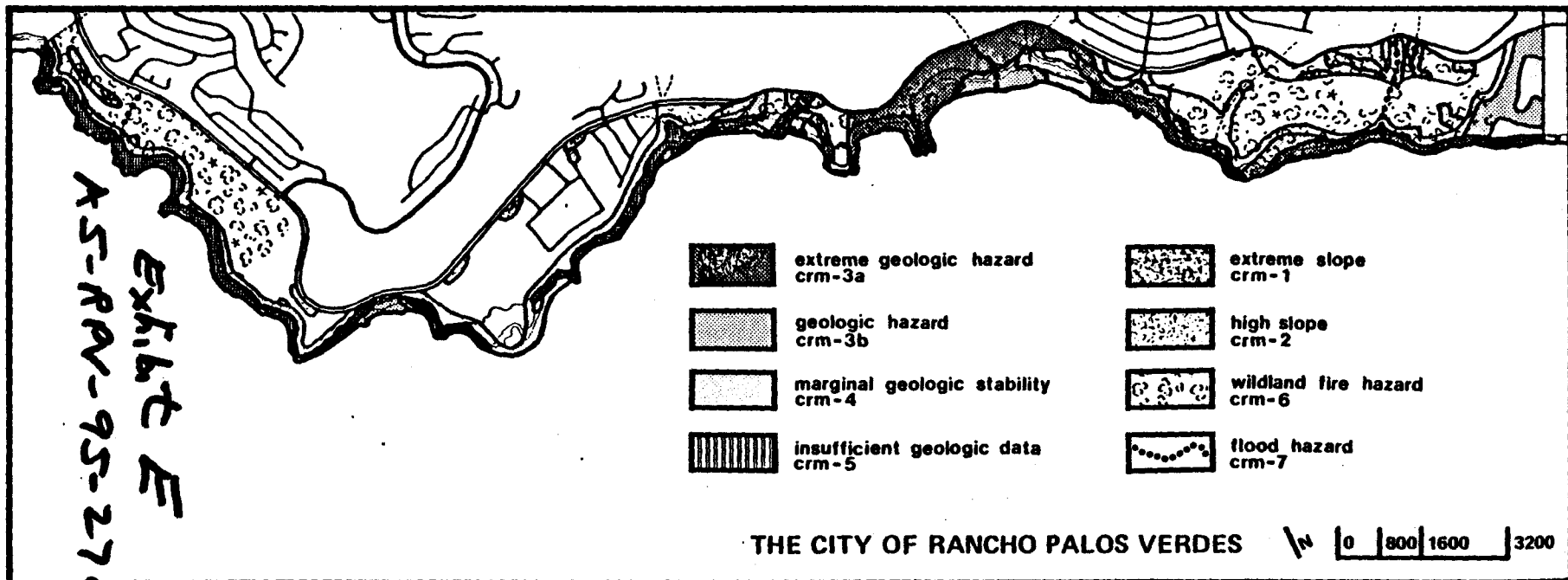
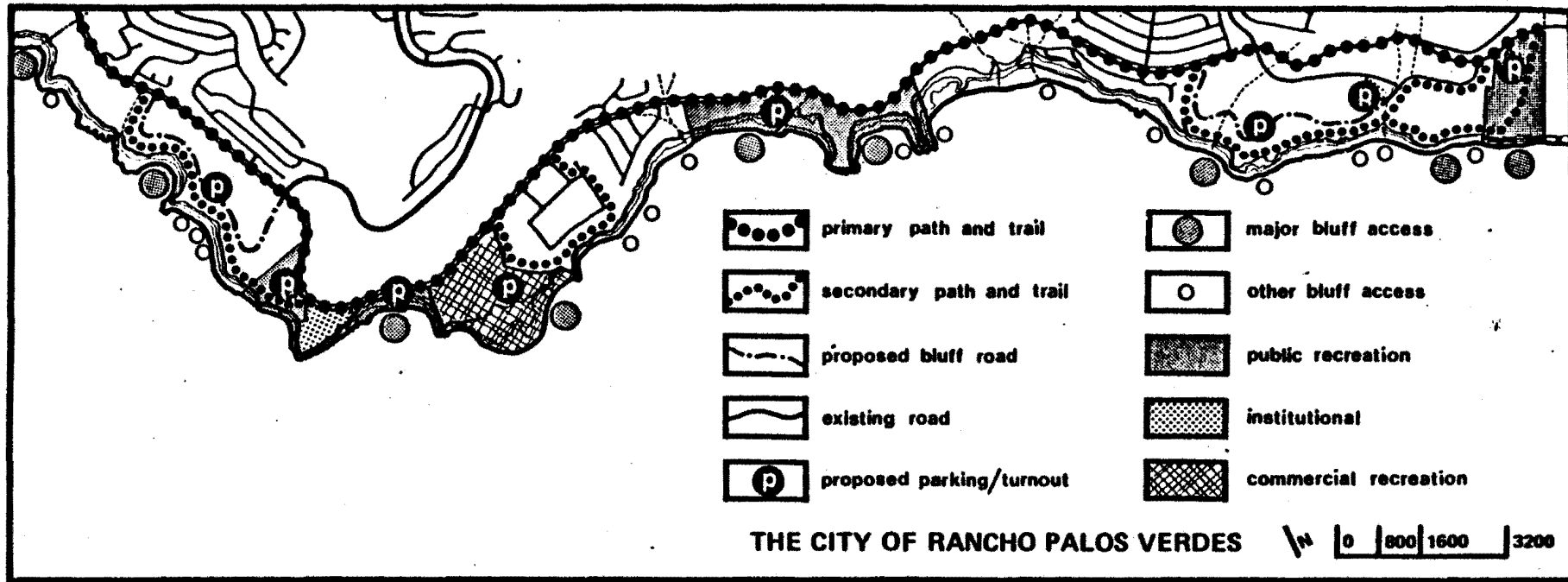


figure 24 access corridors



DEVELOPMENT PROJECTS:

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).

PHYSICAL SEPARATION OF PEDESTRIANS, BICYCLISTS, AND AUTOMOBILES WITHIN MULTI-USE ACCESS CORRIDORS SHOULD BE ACCOMPLISHED THROUGH PHYSICAL BARRIERS (FENCES, CURBS/GRADE DIFFERENCES) AND LANDSCAPING WHERE POSSIBLE.

- CONTINUITY OF PATHWAYS BETWEEN MAJOR ACCESS CORRIDORS, OPEN SPACES, ETC., SHOULD BE PROVIDED WITHIN PRIVATE DEVELOPMENTS, BUT DESIGNED SO AS TO RETAIN PRIVACY FOR ADJACENT RESIDENCES WITHIN THESE DEVELOPMENTS.
- DEFINITION OF CORRIDORS SHOULD BE ACCOMPLISHED BY USE OF DISTINCTIVE SURFACE MATERIALS, LANDSCAPING, CONSISTENT SIGNING, AND LIGHTING.
- WHERE ACCESS CORRIDORS ARE INTENDED FOR NON-VEHICULAR USE (PEDESTRIANS,

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EX 4.16.5 F