

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
 200 Oceangate, Suite 1000
 Long Beach, CA 90802-4302
 (562) 590-5071



Filed: 2/21/06
 49th Day: N/A
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 Staff: AJP-LB
 Staff Report: 3/23/06
 Hearing Date: 4/11-14/06
 Commission Action:

T 12a**STAFF REPORT: Request for Revocation**

APPLICATION NUMBER: R5-05-253

APPLICANT: Mr. Ron Flury

PROJECT LOCATION: 14868 & 14880 Corona Del Mar, Pacific Palisades

PROJECT DESCRIPTION (Approved on January 11, 2006): Construction of a 12,295 square foot, 27 foot high (from finished grade), single-family residence with 12,135 square foot basement for storage, gym, maid's quarters and seven car garage; swimming pool; 16,950 cubic yards of grading (cut) and lowering site approximately a maximum of 5 feet. As part of the project, the applicant proposes to combine the two lots and remove the debris from the bluff face using a crane from atop the bluff.

PERSON REQUESTING REVOCATION: Mr. Alan Block on behalf of Ms. Margaret Hyde

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission **deny** the request for revocation on the basis that no grounds exist for revocation under Section 13105(b) of the Commission's regulations.

PROCEDURAL NOTE: The California Code of Regulations, Title 14, Division 5.5, Section 13105 states that the grounds for the revocation of a coastal development permit (or permit amendment) are as follows:

Grounds for revocation of a permit shall be:

- a) Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the Commission finds that accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application;
- b) Failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and

could have caused the Commission to require additional or different conditions on a permit or deny an application (14 Cal. Code of Regulations Section 13105).

REQUESTOR'S CONTENTIONS:

The request for revocation contends that the grounds for revocation listed in Section 13105(b) exist because of a failure to comply with the notice provisions of the Commission's regulations (see Exhibit No. 1). The contentions raised by the request include the following:

The contentions raised by the request indicated that, although Ms. Margaret Hyde owns the property immediately across the street, within 100 feet from the project site, and her attorney, Mr. Alan Block, submitted a letter requesting that they both receive notice of any future hearings on this matter, neither of them received notice of the Commission's January, 2006 hearing on this matter until after it was completed, and Ms. Hyde never observed the site posted with notice of a pending coastal development permit application.

I. STAFF RECOMMENDATION ON REVOCATION

The staff recommends that the Commission determine that no grounds exist for revocation.

MOTION: *I move that the Commission grant revocation of Coastal Development Permit No. 5-05-253.*

STAFF RECOMMENDATION

The staff recommends a **NO** vote on the motion. Failure of this motion will result in denial of the request for revocation and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

RESOLUTION TO DENY REVOCATION:

The Commission hereby denies the request for revocation of the Commission's decision on Coastal Development Permit No. 5-05-253 on the grounds that:

- a) There was no failure to comply with the notice provisions of Section 13054 where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application (14 Cal. Code of Regulations Section 13105).

II. Findings and Declarations

The Commission hereby finds and declares as follows:

A. Project Description and Background

On January 11, 2006, the Commission approved, with conditions, Coastal Development No. 5-05-253 for the construction of a 12,295 square foot, 27 foot high (from finished grade), single-family residence with 12,135 square foot basement for storage, gym, maid's quarters and seven car garage; swimming pool; 16,950 cubic yards of grading (cut) and lowering site approximately a maximum of 5 feet. As part of the project, the applicant proposed to combine the two lots that comprise the site and remove the debris from the bluff face using a crane from atop the bluff.

In response to staff's concerns regarding the consistency of the amount of landform alteration envisioned in the original proposal with the Coastal Act, the applicant modified the project from that original proposal. The significant change to the proposed project from the originally proposed project included elimination of a soil nail wall on the bluff face, and reduction of grading from 47,000 cubic yards to 16,950 cubic yards, a reduction of 30,050 cubic yards. The reduction in the grading quantity would be accomplished by reducing the amount of grading for the basement, eliminating the proposal to lower the bluff 15-25 feet, as originally proposed, and instead, lower the inner portion of the lot by approximately 4-8 feet. As revised, the proposed project will not require grading on the bluff face.

The Commission approved the project with eleven special conditions, which included: (1) A minimum setback of 45 feet from the bluff edge for the main structure and a 10 foot setback for ancillary structures; (2) No future bluff protective device; (3) Subsurface impervious clay layer; (4) Landscaping plan; (5) Swimming pool leak detection; (6) Erosion and runoff control plan; (7) Conformance with Geotechnical Recommendation; (8) Assumption of risk; (9) Future development restriction; (10) Lot merger; and (11) recordation of a deed restriction referencing all of the special conditions.

The proposed project site is located off Corona Del Mar, between Corona del Mar and Pacific Coast Highway in the Pacific Palisades area of the City of Los Angeles. The subject site consists of two relatively flat graded bluff top lots totaling approximately 1.87 acres. The lots extend south approximately 140 feet from the frontage road to the bluff edge, where the property then drops down a steep approximately 155 foot high bluff.

The two lots were previously developed with two single-family dwellings. The dwellings were extensively damaged, and one partially slid down the slope, due to the 1994 Northridge earthquake. All development has since been removed from the site, except for debris remnants that have fallen onto the bluff face. The applicant proposes to combine the two lots as part of this application and remove the debris from the bluff face using a crane from atop the bluff

The proposed project site has been subject to historic and prehistoric landslides. The subject parcel is located in the Huntington Palisades area of Pacific Palisades, a planning subarea of the City of Los Angeles. Numerous past landslides have occurred in the Huntington Palisades area over the years. Major recorded landslides occurred in October 1932, March 1951, February 1974, March 1978, February 1984, November 1989, January 1994, and March 1995. The landslides that occurred in 1974, 1978, 1984 and 1995 were correlated with rainfall that was much higher than average seasonal amounts. The loss of the previous residential structures on these two separate lots occurred as a result of slope failure induced by the 1994 Northridge earthquake. The most recent landslide on the site occurred in 1995, after a total seasonal rainfall that was approximately twice the average cumulative seasonal amount for the area.

Prior Application

On June 3, 2003, the applicant submitted an application (No. 5-03-241) to the Coastal Commission. After requesting and receiving additional information the file was deemed complete in October 2004, and it was presented to the Commission at its July 13-15, 2005 hearing. Staff was recommending denial due to significant landform alteration along the bluff face and visual impacts that would have resulted from the proposal. The applicant's agent then withdrew the application in July 2005, due to the impending Permit Streamlining Act deadline and to allow the applicant to continue to work with staff to revise the project. The application was immediately re-filed in the same month as a new application (No. 5-05-253). After the applicant made revisions to the proposed project that reduced the amount of grading that would be involved and landform alteration along the bluff face, and minimized the visual impacts, the Commission approved Coastal Development Permit no. 5-05-253 on January 11, 2006.

Correspondence Submitted by Applicant's Representative

In response to the revocation request, the applicant's representative, Mr. Sherman Stacey, has submitted a letter, dated March 22, 2006, requesting that the revocation request be denied (see Exhibit No. 2).

B. Ground for Revocation

Pursuant to Title 14 of the California Code of Regulations ("14 C.C.R. ") Section 13108(d), the Commission has the discretion to grant or deny a request to revoke a coastal development permit if it finds that either of the grounds listed in 14 C.C.R. Section 13105 (meaning all of the elements listed in either subsection of 13105) exist. 14 C.C.R. Section 13105 states, in part, that the grounds for revoking the permit shall be as follows: (a) that the permit application intentionally included inaccurate, erroneous, or incomplete information where accurate and complete information would have caused the Commission to act differently; and (b) that there was a failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to act differently.

The South Coast District office received a written request for revocation of the subject coastal development permit from Mr. Alan Block, representing Ms. Margaret Hyde, the owner of property at 200 Toyopa Drive, immediately across the street from the project site. Mr. Block submitted the revocation request on February 21, 2006. The request is based on Section 13105 (b) that there was a failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to act differently.

This alleged ground for revocation contains three essential elements or tests for the Commission to consider as well, as follows:

- a. Did the applicant fail to comply with the notice provisions of 14 C.C.R. Section 13054?
- b. Were the views of the person(s) not notified otherwise made known to the Commission?
- c. Had the Commission been made aware of those views, could they have caused the Commission to require additional or different conditions on the permit or to deny the application entirely?

1. Did the Applicant Fail to Comply with the Notice Provisions of Section 13054?

The revocation request alleges that, although Ms. Hyde is the owner and resident of the property at 200 Toyopa Drive, across the street from the project site, and her attorney sent the Commission a letter requesting that they both be added to the list of interested persons to receive notice of hearings on the subject application, she was not notified of the public hearing and Mr. Alan Block, Ms. Hyde's attorney, did not receive proper notification as described in Section 13054. The revocation request states that:

Margaret Hyde purchased her property at 200 Toyopa Drive on August 17, 2004. A copy of Ms. Hyde's Grant Deed for 200 Toyopa Drive, APN 4411-026-001, dated August 17, 2004, is attached hereto as Exhibit 4 and hereby is incorporated by reference. A copy of County of Los Angeles Assessor's map No. 4411, evidencing that Ms. Hyde's property is located immediately across the street from the applicant's property at 14868 and 14880 Corona del Mar, is attached hereto as Exhibit 5 and hereby incorporated by reference.

The revocation request asserts that the applicant did not provide the required public notice. Section 13054 of the Commission's regulations requires, in relevant part, that (1) the applicant shall provide a list of addresses of all residences and owners of parcels within 100 feet (excluding roads) of the perimeter of the parcel on which the development is proposed, (2) provide a list of names and addresses of all persons known to the applicant to be interested in the application, (3) provide stamped envelopes for all addresses provided pursuant to the prior two requirements, and (4) post a notice, provided by the

Commission, in a conspicuous location on the project site that describes the nature of the project and states that an application for a permit for the proposed project has been submitted to the Commission.

As stated above, the permit application approved by the Commission on January 11, 2006, was a resubmittal of a permit application that was submitted in 2003, completed in 2004, and withdrawn in July 2005, due to the Permit Streamlining Act time limits. Once the application was withdrawn the application was immediately resubmitted along with supporting documentation that was part of the original application. One of the supporting items resubmitted was the original mailing list. The mailing list was not updated at the time of resubmittal. Because the list was based on property ownership records from 2003, when the original application was submitted, and Ms. Hyde did not purchase the property until 2004, she was not listed as an owner, and her mailing address was not included in the list on the basis of her ownership. Section 13054(a)(2) requires the applicant to submit names and addresses (with envelopes) "of all owners of parcels of real property of record located within one hundred feet." Although Ms. Hyde's property is within 100 feet and should have received a notice, notice was not sent to the property address because the previous owner, Ent Nui Manina, had an off-site mailing address. Therefore, subsequent noticing continued to be mailed to an off-site address rather than the property address or the new property owner. In addition, in 2003, Mr. Block had not yet sent his letter requesting that he and his client be listed as interested parties. Thus, they were not included on that original mailing list by virtue of being interested parties, either.

At the time of resubmittal of the application, in July of 2005, the applicant should have updated the mailing list, which would have included Ms. Hyde as the current property owner. In addition, the applicant should have checked with Commission staff to determine whether there were any additional known interested parties. By that time, Commission staff had received Mr. Block's letter asking that he and his client, Ms. Hyde, be listed as interested parties, as well as a letter from Mr. Block opposing the application on behalf of Ms. Hyde.

With regards to Ms. Hyde indicating that she did not see the site posted, staff recalls discussions with the applicant's representative, Gary Morris, that they did post the site with the "Notice of Pending Permit". However, there is no evidence in the file that would indicate that the site was posted. Although there is no clear evidence either way regarding the posting, Ms Hyde, as nearby property owner, and Mr. Block, as known interested party, should have been notified. Thus, the applicant did fail to satisfy the requirements of 14 C.C.R. Section 13054. However, inadequate notice by itself is not adequate grounds for revocation.

2. Were Ms. Hyde's Views Otherwise Made Known to the Commission?

The second question asked is whether the views of persons that were not notified were otherwise made known to the Commission. Under Section 13054, the question asked is whether their views were made present at the Commission hearing prior to any action

taken on the permit application? Although Mr. Block's revocation request letter did not list the views of Ms. Hyde that they claim were not made known to the Commission, it did list the following views: (1) "the applicant was proposing to build far too large a home...far too close to the edge of this highly visible and geological [sic] challenged coastal bluff;" and (2) the amount of grading proposed represented "a very substantial amount in excess of the Commission's grading guidelines." In support of these views, his letter states that (a) the site has been the subject of historic and prehistoric landslides; (b) homes on the subject property and the adjacent parcel have been lost as a result of slope failure, in one case as a result of an earthquake; (c) the applicant's consultant's geological and geotechnical reports "provided that the minimum required safety factor of 1.5 could only be achieved if any future development on the parcel is set back a minimum of 70 feet from the edge of the bluff;" (d) the applicant proposed 16,950 cubic yards of grading; and (e) the revised plans indicate that the applicant is proposing a setback of 42 feet landward from the bluff edge, with a swimming pool and associated grading within 10 feet of that edge.

The concerns raised by Ms. Hyde and her representative, Mr. Block, regarding size of the residence, geologic hazards, grading, bluff setbacks and public views, were addressed in the staff report that was provided to the Commissioner's prior to the hearing. With regards to grading being a "very substantial amount in excess of the Commission's grading guidelines", the Commission established general development guidelines in 1980 to assist local governments, regional commissions, the commission and the public in applying the policies of the Coastal Act to permit decisions for areas without certified local coastal programs. The guidelines for the South Coast Region, did not establish a limit on grading quantity for development in the Pacific Palisades. The standard of review is the Coastal Act, and more specifically, with regards to grading and visual resources, Section 30251, which states in part that development shall, "minimize the alteration of natural landforms". The Commission has consistently analyzed grading for each project on a case-by-case basis. In this particular case, the amount of grading and the visual impact of the project was addressed in the Commission's staff report, and the amount of grading and landform alteration was significantly reduced by the applicant from the originally proposed project due to staff's concerns. Therefore, the Commission knew of the issues regarding grading, geologic hazards (current and historical), and public view issues prior to acting on the permit.

Therefore, the revocation letter does not present evidence that views of any persons not notified were not made known to the Commission. Therefore, the second element in deciding whether there was failure in the notice requirement is not met, and since all three elements must be met for the Commission to grant revocation, revocation must be denied.

3. Had the Commission been made Aware of Those Views, Could they have Caused the Commission to Require Additional or Different Conditions on the Permit or to Deny the Application Entirely?

Lastly, the third question asked regarding the revocation of a permit due to failure to comply with the notice requirement is whether, had the Commission been aware of the

views that were not made known to the Commission, it could have caused the Commission to require additional or different conditions or deny the permit. The letter from Mr. Block addressed the issues relative to grading, setbacks, geologic hazards, and visual impacts (Exhibit No. 1). The Commission was made aware of such issues prior to taking action on the permit. In fact, because of staff concerns regarding grading, geologic hazards and visual impacts, the project was significantly modified from the original submittal and the permit included special conditions including geologic setbacks, erosion control, and landscaping to further address geologic hazards, erosion, and view issues. With regards to the geologic setback, the permit was condition to be setback a minimum of 45 feet and that the project be sited behind the City's theoretical 1.5 Factor of Safety line. As conditioned, the main residential structure will vary from approximately 45 feet to over 90 feet from the bluff edge, with ancillary structures, such as hardscape, patios, sheds, and swimming pools, setback a minimum of 10 feet from the bluff edge. The original staff report that was prepared for the originally submitted project indicated that the City's theoretical 1.5 Factor of Safety line was approximately 70 feet from the bluff edge. However, based on additional information, including geological cross-sections, it was determined that the 1.5 Factor of Safety line varied in distance from the bluff with the minimum distance from the bluff edge of approximately 32 feet, as stated in the staff report for the approved permit. The proposed structure was designed, and conditioned by the permit (Special Condition No. 1), to be setback a minimum of 45 feet from the bluff edge, as well as be setback behind the City's theoretical 1.5 Factor of Safety line. As designed, the main structure was setback from the bluff edge from 45 feet at the northwest corner to over 70 feet at the southwest corner. As conditioned, the project meets the City's minimum requirement of a 1.5 factor of safety for the residential structure and is consistent with Commission's past coastal development permit approvals for achieving a 1.5 factor of safety for the building area.

Moreover, because the Commission was aware of the issues related to development on this bluff top and the views of Ms. Hyde has not raised any new issues, the Commission finds that, by definition, knowledge of these views could not have altered the Commission's actions. Any views that may have been raised with respect to such issues could not have caused the Commission to either require additional or different conditions or deny the permit application. Therefore, the third element in deciding whether there was a failure in the notice requirement is not met, and the request for revocation must be denied.

The staff report has analyzed each of these contentions. The information does not constitute views that could have caused the Commission to require additional or different conditions on the permit or to deny the permit application. Therefore, since there is no evidence supporting two of the three necessary elements for satisfaction of Section 13105(b), the Commission finds that the basis for revocation has not been met.

D. Conclusion

For the reasons set forth above, the Commission finds that the request for revocation does not meet the requirements contained in Section 13105(b). Therefore, the Commission

finds that the revocation request must be denied on the basis that no grounds exist because there is no evidence that the notice provisions of Section 13054 were not complied with where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application.

LAW OFFICES

ALAN ROBERT BLOCK

A PROFESSIONAL CORPORATION

1901 AVENUE OF THE STARS, SUITE 470

LOS ANGELES, CALIFORNIA 90067-6006

TELEPHONE (310) 552-3336

TELEFAX (310) 552-1850

ALAN ROBERT BLOCK
JUSTIN MICHAEL BLOCK

OF COUNSEL
MICHAEL N. FRIEDMAN

February 16, 2006

EXHIBIT NO. <u>1</u>
Application Number <u>R5-05-253</u>
<u>Letter from Mr. Alan Block</u>
California Coastal Commission

California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

RECEIVED

Attention: Al Padilla

Re: CDP No. 5-05-253 (Flurry)
14868 and 14880 Corona del Mar, Pacific Palisades
REQUEST FOR SUSPENSION OF PERMIT
REQUEST FOR REVOCATION OF PERMIT

Dear Mr. Padilla:

On April 4, 2005, this office forwarded correspondence to your attention on behalf of our client, Ms. Margaret Hyde, with regard to the CDP application, No. 5-03-241, that Mr. Flurry ("applicant") previously had pending before the Commission. In said correspondence I advised you that Ms. Hyde owned the single family residence located immediately across the street from the applicant's property, at 200 Topaya Drive, and requested that both Ms. Hyde and this office be added to the list of interested persons who desired notice regarding the subject application. A copy of my correspondence dated, April 4, 2005, is attached hereto as **Exhibit 1** and hereby incorporated by reference.

On July 8, 2005, I forwarded additional correspondence to the Commission on behalf of Ms. Hyde, contending that the applicant was proposing to build far too large a home on the property, far too close to the edge of this highly visible and geological challenged coastal bluff. The letter strongly supported staff's recommendation for denial of the previously proposed project as contained in the Staff Report, dated June 22, 2005.

Said July correspondence referenced that the subject site had been the subject of historic and prehistoric landslides wherein previously existing homes on both the subject property as well as on the adjacent parcel were lost as a result of slope failure. One of the two dwellings actually sliding down the slope of the bluff face due to the 1994 Northridge earthquake. The correspondence also referenced the applicant's own consultant's geological and geotechnical reports which provided that the minimum required safety factor of 1.5 could

California Coastal Commission
Re: CDP No. 5-05-253 (Flurry)
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only be achieved if any future development on the parcel is set back a minimum of 70 feet from the edge of the bluff. A copy of my correspondence dated July 8, 2005, is attached hereto as **Exhibit 2** and hereby incorporated by reference.

On July 13, 2005, I attended the scheduled hearing for application No. 5-03-241, at which time it was withdrawn from the Commission's consideration by the applicant. Within a few weeks of that time I received a telephone call from Sherman Stacey who asked me what my involvement had been with regard to the withdrawn application. Mr. Stacey told me that he had reviewed the Staff Report and had seen my name listed as a co-agent of the applicant. I advised Mr. Stacey that such a listing was in error and that I actually represented Margaret Hyde, an adjacent neighbor, who opposed the project. Mr. Stacey made no reference of a new application.

Not until I received a telephone call from Ms. Hyde on or about January 31, 2006, did I receive any notice that Mr. Flurry may have submitted a new application for a CDP at the subject Corona Del Mar address. Ms Hyde actually advising me that she had just received a telephone call from Mr. Flurry who wanted to set up a meeting with her to discuss his recent approval.

On February 2, 2006, I visited the Commission's South Coast Area Office and reviewed the file for the new application No. 5-05-253. During my review of the file in the Commission's office you and I had a brief opportunity to review Appendix C of the Commission's Application For Coastal Development Permit which lists the property owners and addresses within 100 feet of the subject property wherein an application is pending. As you can see from the attached Appendix C, Ms. Hyde is not listed as a property owner within 100 feet of the subject property. A copy of Appendix C of the subject Application For Coastal Development Permit is attached hereto as **Exhibit 3** and hereby incorporated by reference.

Margaret Hyde purchase her property at 200 Toyopa Drive on August 17, 2004. A copy of Ms. Hyde's Grant Deed for 200 Toyopa Drive, APN 4411-026-001, dated August 17, 2004, is attached hereto as **Exhibit 4** and hereby is incorporated by reference. A copy of County of Los Angeles Assessor's Map No. 4411, evidencing that Ms. Hyde's property is located immediately across the street from the applicant's property at 14868 and 14880 Corona del Mar, is attached hereto as **Exhibit 5** and hereby incorporated by reference.

Title 14 of the California Code of Regulations, Section 13105 provides in applicable part as follows:

“Grounds for revocation of a permit shall be . . .

(b) failure to comply with the notice provisions of Section 13054, where the views of person(s) not notified were not otherwise made known to the commission and could have caused the commission to require additional or different conditions on a permit or deny an application.”

Title 14 of the California Code of Regulations, Section 13106 further provides in applicable part as follows:

“(a) Any person who did not have an opportunity to fully participate in the original permit proceeding by reason of the permit applicant’s failure to provide information as specified in Section 13105 may request revocation of a permit by application to the executive director of the commission which issued the permit specifying with particularity, the grounds for revocation. . . .”

Title 14 of the California Code of Regulations, Section 13107 additionally provides in applicable part as follows:

“Where the executive director determines in accordance with Section 13106, that grounds exist for revocation of a permit, the operation of the permit shall be automatically suspended until the commission votes to deny the request for revocation. The executive director shall notify the permittee by mailing a copy of the request for revocation and a summary of the procedures set forth in this article, to the address shown in the permit application. The executive director shall also advise the applicant in writing that any development undertaken during suspension of the permit may be in violation of the California Coastal Act of 1976 and subject to the penalties set forth in Public Resources Code, Sections 30820 through 30823”.

The Staff Report, dated December 9, 2005, confirms that the size of the single family residence proposed in the subject application has not been reduced from the residence previously contemplated. Although the amount of grading proposed has been reduced from that previously applied for, 16,950 cubic yards is still being requested. The 16,950 cubic yards representing a very substantial amount in excess of the Commission’s grading guidelines which provide for 1,000 cubic yards of cut and fill for the construction of one single family residence. Moreover, whereas the Staff Report for CDP No. 5-03-241, on page 8 referenced a 70 foot setback point from the bluff edge in order to achieve the required 1.5 minimum factor of safety, the revised plans indicate that the applicant is proposing a set back

California Coastal Commission
Re: CDP No. 5-05-253 (Flurry)
February 16, 2006

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of only 42 feet landward from the edge of the bluff. Further that the proposed swimming pool, with associated grading, is proposed to be located within 10 feet of the edge of the bluff.

In light of these initial issues, as well as other matters which may come to bear under a detailed review of the proposed project and underlying reports, Ms. Hyde respectfully requests that the executive director find that in accordance with Section 13106, that grounds exist for revocation of the subject permit, and automatically suspend the permit until the commission votes on the request for revocation.

Ms. Hyde previously evidenced her concern for development proposed on the subject property as evidenced by the letters previously submitted to staff regarding CDP No. 5-03-241. On her behalf, I specifically requested that both she and I receive notice of any further matters involving the former application. Both the applicant, his agent, and staff, were aware of the same. The law provides that Ms. Hyde be provided written notice as an a property owner within 100 feet of the pending application. She was not. Moreover, she never observed the site posted with notice of a pending CDP. Adequate grounds exist to suspend the permit and schedule te revocation hearing.

In closing, the Margaret Hyde respectfully request that the subject CDP be suspended pending her review of the applicable materials and that the Commission schedule a future hearing to revoke CDP No. 5-05-253.

Thank you in advance for your courtesy and anticipated support.

Respectfully submitted,

**LAW OFFICES OF
ALAN ROBERT BLOCK**
A Professional Corporation



ALAN ROBERT BLOCK

ARB:dm
Enclosures

cc: Margaret Hyde

Exhibit 1

LAW OFFICES

ALAN ROBERT BLOCK

A PROFESSIONAL CORPORATION

ALAN ROBERT BLOCK
OF COUNSEL
MICHAEL N. FRIEDMAN

1901 AVENUE OF THE STARS, SUITE 470
LOS ANGELES, CALIFORNIA 90067-6006
E-MAIL alanblock@pacbell.net
TELEPHONE (310) 552-3336
TELEFAX (310) 552-1850

April 4, 2005

VIA FAX & FIRST CLASS MAIL

Mr. Al Padilla
Coastal Program Analyst
California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

RECEIVED
South Coast Region

APR 5 2005

CALIFORNIA
COASTAL COMMISSION

**Re: CDP Application No. 5-03-241 (Flurry)
14880 Corona del Mar, Pacific Palisades**

Dear Mr. Padilla:

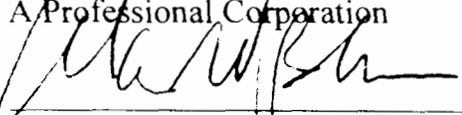
Please be advised that this office represents Ms. Margaret Hyde, the owner of the nearby property located at 200 Topaya Drive, with regard to the above captioned pending application.

Pursuant to our conversation of this date, please add my name as well as that of my client, Margaret Hyde, to the list of interested persons who desire to receive notice of any hearings scheduled for the subject application.

Thank you for your courtesy and cooperation.

Very truly yours,

LAW OFFICES OF
ALAN ROBERT BLOCK
A Professional Corporation


ALAN ROBERT BLOCK

ARB:dm
cc: Margaret Hyde

Exhibit 2

LAW OFFICES

ALAN ROBERT BLOCK

A PROFESSIONAL CORPORATION

ALAN ROBERT BLOCK
JUSTIN MICHAEL BLOCK

OF COUNSEL
MICHAEL N. FRIEDMAN

1901 AVENUE OF THE STARS, SUITE 470
LOS ANGELES, CALIFORNIA 90067-6006
E-MAIL: alblock@pacbell.net
TELEPHONE (310) 552-3336
TELEFAX (310) 552-1850

ED
Region

July 8, 2005

JUL 8 2005

California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, California 90802-4416

CALIFORNIA
COASTAL COMMISSION

Re: CDP Application No. 5-03-241 (Flury)
14880 Corona del Mar, Pacific Palisades

Scheduled: July 13, 2005
Agenda Item: 9(b)

Project Description: Construction of a 24,430 sq ft, 30 ft high single family residence with basement for storage, gym, maid quarters, swimming pool, and 15 car garage, with 47,000 cu yds of grading (cut), lowering site 15-20 ft, with 27 ft high soil nail wall with shotcrete facing.

Dear Commissioners:

Please be advised that contrary to the reference in the Staff Report, dated June 22, 2005, this office does not represent the applicant Ron Flury. To the contrary, this office represents, Ms. Margaret Hyde, an adjacent neighbor across the frontage street of Corona Del Mar, who owns the single family residence located at 200 Toyapa Drive.

The applicant Ron Flury is proposing to build far too large a home on the 14880 Corona Del Mar property ("subject property"), far too close to the edge of this highly visible and geological challenged coastal bluff. Ms. Hyde supports the recommendation for denial as contained in the above referenced Staff Report.

The subject site has been the subject of historic and prehistoric landslides wherein previously existing homes on both the subject property as well as on the adjacent parcel were lost as a result of slope failure. One of the two dwellings actually slid down the slope of the bluff due to the 1994 Northridge earthquake.

As indicated in the applicant's geological and geotechnical reports submitted and reviewed by staff, the minimum required safety factor of 1.5 can only be achieved if any future development on the parcel is set back a minimum of 70 feet from the edge of the bluff.

California Coastal Commission

Re: CDP Application No. 5-03-241 (Flury)

July 8, 2005

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The subject property has a depth of 170 feet as measured from the frontage street to the existing bluff edge. There is no question but that a reasonably sized home, set back from the bluff's edge a distance of a minimum of 70 feet, can be built on the subject property without the necessity of constructing a highly visible protective device down the face of the bluff.

The proposed protective device will substantially alter the existing natural landform of this highly visible coastal bluff which is located immediately below one of the most highly used public beaches in Los Angeles County, if not the entire State of California,, merely to achieve the necessary geological and structural stability to build one residence and assessor structures on the edge of the bluff without the necessary geologically safety setbacks.

The proposed development is inconsistent with numerous sections of the Coastal Act, including but not limited to:

Sections 30251 of the Public Resources Code which provides:

"The scenic and visual qualities of coastal areas be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms . . ."

Section 30240(b) of the Public Resources Code which, in part, states:

"(b) Development in areas adjacent . . . parks and recreational areas shall be sited and designed to prevent impacts who would significantly degrade those areas, and shall be compatible with the continuance of those . . . recreation areas."

Section 30253 of the Public Resources Code which provides:

"New Development shall: (1) Minimize the risks to life and property in areas of high geologic, flood, and fire hazards. (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs."

California Coastal Commission

Re: CDP Application No. 5-03-241 (Flury)

July 8, 2005

Page 3

It is respectfully requested that the application be denied as recommended by staff.

Thank you for your anticipated courtesy and cooperation with regard to this matter.

Very truly yours,

**LAW OFFICES OF
ALAN ROBERT BLOCK
A Professional Corporation**



ALAN ROBERT BLOCK

ARB:dm

cc: Margaret Hyde

Exhibit 3

APPENDIX C

LIST OF PROPERTY OWNERS AND OCCUPANTS WITHIN 100 FEET AND THEIR ADDRESSES

(MAKE ADDITIONAL COPIES OF THIS SHEET AS NECESSARY)

* SEE ALSO ATTACHED RADIUS MAP WITH PARCEL NOS.

SHIRELY (28) CLEVELAND 14901 CORONA DEL MAR PACIFIC PALISADES 90272	ENT NUI MANINA (32) 2118 WISHIRE BL. #215 SANTA MONICA, CA. 90403	EDWIN L. STANTON (33) 208 TOYOPA DR. PACIFIC PALISADES, CA. 90272
LUCIA EAMES (43) 1251 SAN ANTONIO RD. PETALUMA, CA. 94952	RAY EAMES (47) P.O. BOX 268 VENICE, CA. 90294	HAGGIS TRUST (45) 453 12 TH STREET SANTA MONICA, CA. 90402
STATE OF CALIF. (46) SI CALTRANS 120 S. SPRING ST. LOS ANGELES, CA. 90012		
		
		RECEIVED South Coast Region
		JUN 3 - 2003 CALIFORNIA COASTAL COMMISSION

Exhibit 4

This page is part of your document - DO NOT DISCARD

04 2109065

RECORDED/FILED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
08/17/04 AT 08:00am

TITLE(S) : DEED



FEE

FEE \$10' MM
2

D.T.T

TRANSFER TAX
NOT A PUBLIC RECORD

AUTHENTICATION SENT-\$4 ©

CODE
20

CODE
19

CODE
9

Assessor's Identification Number (AIN)
To be completed by Examiner OR Title Company in black ink.

Number of AIN's Shown

4411 - 024 - 001

001

THIS FORM NOT TO BE DUPLICATED

011704

RECORDING REQUESTED BY
EQUITY TITLE COMPANY
AND WHEN RECORDED MAIL TO:
MARGARET ELISABETH HYDE
200 TOYOPA DR
PACIFIC PALISADES, CA 90272

04 2109065 ²

421867

Space Above This Line for Recorder's Use Only

A P N 4411-026-001

Order No LA0421867

Escrow No 13641-LS

GRANT DEED

**TRANSFER TAX
NOT A PUBLIC RECORD**

THE UNDERSIGNED GRANTOR(S) DECLARE(S) THAT DOCUMENTARY TRANSFER TAX IS NOT OF PUBLIC RECORD
FOR A VALUABLE CONSIDERATION, Receipt of which is hereby acknowledged,

MARK S. FISHER AND LINDA B. FISHER, TRUSTEES OF THE FISHER REVOCABLE TRUST DATED
JANUARY 30, 1989

hereby GRANT(S) to MARGARET ELISABETH HYDE, A MARRIED WOMAN AS HER SOLE AND
SEPARATE PROPERTY

the following described property in the City of Los Angeles, County of Los Angeles, State of California,

LOT 1, BLOCK 5, TRACT NO. 6753, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE
OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 143 PAGES 25 THROUGH 28 INCLUSIVE OF MAPS,
IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

The Fisher Revocable Trust Dated January 30, 1989

By Mark S. Fisher, Trustee
Mark S. Fisher, Trustee

By Linda B. Fisher, Trustee
Linda B. Fisher, Trustee

Document Date August 16, 2004

STATE OF CALIFORNIA

SS

COUNTY OF LOS ANGELES

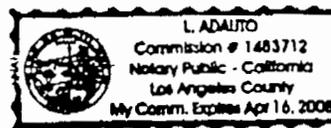
On AUGUST 16, 2004, before me, L. ADAUTO, personally appeared MARK S. FISHER AND LINDA B. FISHER,

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument
and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument
the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal

Signature L. Adauto

This area for official notarial seal.



Mail Tax Statements to SAME AS ABOVE or Address Noted Below

8/17/04

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

3

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

On AUGUST 16, 2004, before me, L. ADAUTO, personally appeared MARK S. FISHER AND LINDA B. FISHER, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature L. Adauto



This area for official notarial seal

OPTIONAL SECTION
CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- INDIVIDUAL
- CORPORATE OFFICER(S) _____ TITLE(S)
- PARTNER(S) - LIMITED GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER _____

SIGNER IS REPRESENTING:

Name of Person or Entity

Name of Person or Entity

OPTIONAL SECTION

Though the date requested here is not required by law, it could prevent fraudulent reattachment of this form

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW

TITLE OR TYPE OF DOCUMENT _____

NUMBER OF PAGES _____ DATE OF DOCUMENT _____

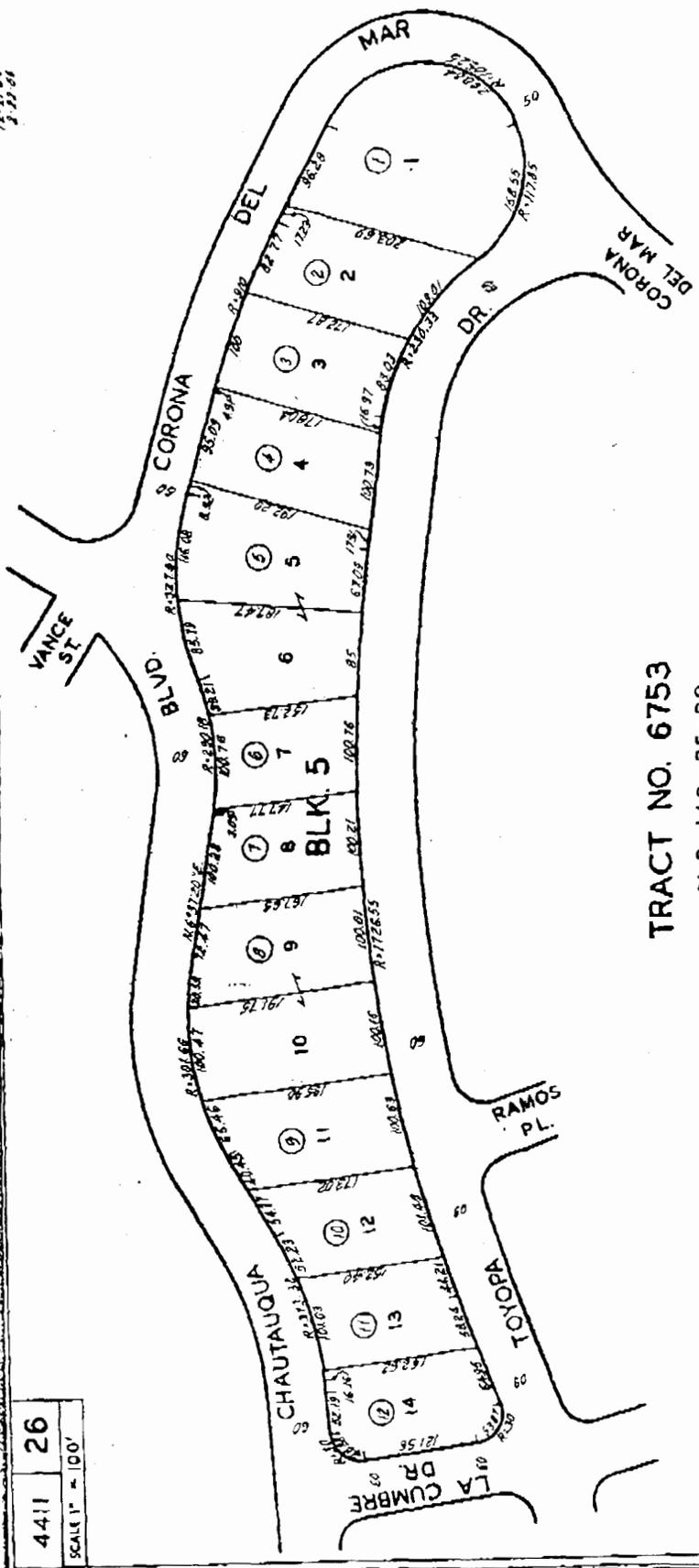
SIGNER(S) OTHER THAN NAMED ABOVE _____

04 2109065

Exhibit 5

18-21-84
2-22-84

4411 26
SCALE 1" = 100'



TRACT NO. 6753
M. B. 143-25-28

4-2-1

CODE
67

FOR PREY. ASSMNT. SEE: 4411-26

EXHIBIT NO.

2

Application Number

R5-05-253

Letter from

Mr. Sherman Stacey

California Coastal Commission

FRED GAINES
SHERMAN L. STACEY
LISA A. WEINBERG
REBECCA A. THOMPSON
NANCI S. STACEY
KIMBERLY RIBLE
ALICIA B. BARTLEY

LAW OFFICES OF
GAINES & STACEY LLP
1111 BAYSIDE DRIVE, SUITE 150
CORONA DEL MAR, CALIFORNIA 92625

March 22, 2006

Mr. Al Padilla
California Coastal Commission
200 Oceangate, #1000
Long Beach, CA 90802

RECEIVED
South Coast Region

MAR 22 2006

CALIFORNIA
COASTAL COMMISSION

Re: Permit No. 5-05-253
Request for Revocation

Dear Mr. Padilla:

On behalf of the Applicant, Ron Flury, I am responding to the request for revocation for Permit No. 5-05-253 (Flury) filed by Alan R. Block on behalf of Margaret Hyde, a property owner across the street. Permit No. 5-05-253 was approved by the Commission on January 11, 2006 subject to numerous Special Conditions which were accepted by the Applicant. The project had been initially approved by the City of Los Angeles as a local coastal permit on February 27, 2003. Mr. Flury spent 3 years in the permit application process with the Coastal Commission.

The Commission's regulations provide for a request for revocation of a permit in California Code of Administrative Regulations, Title 14, §13106. A request for revocation must set forth the grounds for revocation. The grounds for revocation are set forth in Title 14, §13105(b) as follows:

"Failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the commission and could have caused the commission to require additional or different conditions on a permit or deny an application."

The request for revocation filed by Mr. Block does not set forth sufficient grounds for revocation. Mr. Block and his client were on notice of the proposed development and there is nothing in the revocation request which could have caused the commission to require additional or different conditions or deny the application.

1. Mr. Block and his Client were on Notice of the Proposed Development.

The mailing list provided to the Commission by the Applicant for Application No. 5-05-253 was identical to the list provided for Application No. 5-03-241 which was withdrawn and resubmitted because the time within which the Commission was required to act on No. 5-03-241 was going to run. When that list was compiled, Ms. Hyde was not the owner of the property at

Mr. Al Padilla
March 22, 2006
Page 2

200 Toyopa and the Los Angeles County Assessor listed another party as the owner of the property.

Ms. Hyde, though, had been aware of the pending project as is evidenced by Mr. Block writing two letters expressing her interest. Mr. Block is on the Commission's mailing list for agendas and is personally mailed an agenda for every meeting. This includes the agenda for the Commission meeting for January 2006. Thus Mr. Block was on notice of all matters before the Commission. Mr. Block has been a long time advocate on behalf of applicants before the Commission and is highly familiar with the Commission's proceedings.

Mr. Block is correct that I spoke with him in 2005 concerning the fact that his name was placed on a staff report on Application No. 5-03-241 as the applicant's representative. Mr. Block told me that he represented an adjoining owner but did not identify whom and did not indicate that he had sent letters to the Commission. I did not see Mr. Block's April 4, 2005 letter or July 8, 2005 letter to the Commission until the revocation request was filed. I assumed that if Mr. Block's client was across the street, then the property owner would be on the notice list.

2. There is Nothing in the Revocation Request which would Cause the Commission to Change its Decision.

Ms. Hyde's views were expressed in Mr. Block's letter dated July 8, 2005. The development in Application in Permit No. 5-05-253 was identical to the project commented upon by Mr. Block on July 8, 2005. In Mr. Block's letter he expressed several objections. Many of these objections were known to the Commission and resulted in the Commission altering the project which Mr. Flury sought in a manner consistent with Ms. Hyde's views.

Mr. Block expressed that the project was inconsistent with several provisions of the Coastal Act including Public Resources Code §30251, §30253 and §30240(b). Each of these provisions, according to Mr. Block's letter, related to the impact upon the bluff of the construction of the soil nail wall. The Commission, based on its staff recommendation, did not approve the soil nail wall and required the Applicant to assure stability for his structure in a different manner.

Mr. Block claims that the soils reports provided by the Applicant required a setback from the edge of the bluff of 70 feet. That is not the case. The Applicant's geologist and the City of Los Angeles have approved the location of the house as approved by the Commission. Mr. Block cites a passage in the staff report on Application No. 5-03-241. The Commission Staff had measured the distance at a certain point from the edge of the bluff to a line used by the Applicant's geologist to calculate the factor of safety. This line was by no means a recommended "setback".

The proposed, but not approved, soil nail wall provided a 1.5 factor of safety for the entire site. When the Commission Staff refused to recommend favorably on the soil nail wall,

Mr. Al Padilla
March 22, 2006
Page 3

the Applicant agreed to devise a different system for assuring the stability of the structure. Deepened caisson footings for a small portion of the residence were therefore designed in order to avoid the impact on the face of the bluff of the soil nail wall. These deepened footings met the requirements of Section 30253 to assure stability. This foundation system has now been fully reviewed and approved by the City of Los Angeles. In addition, the introduction of a natural impermeable barrier to provide subsurface drainage away from the face of the bluff was included. In short, the project approved by the Commission will provide increased stability to the bluff.

To the extent that Ms. Hyde may desire further alterations to the development which has been approved, there is no basis in the Coastal Act for the Commission to do so. Ms. Hyde also objected to the size of the structure proposed by Mr. Flury. I would note initially that the total square footage is exaggerated by the subterranean floor which measures 12,135 square feet. Otherwise, Mr. Flury's home is a one story 12,295 square feet in area. The home is located on two legal lots where two separate homes had previously existed. With a total area of 1.74 acres and a pad of more than 40,000 square feet, the home is not excessive in size for the area. Further, the Commission has never imposed size limitations on structures in the Pacific Palisades. Thus, objection to the size of the house would not have caused the Commission to deny the permit or impose different conditions.

Finally, although not specifically mentioned in Mr. Block's letter, one must note that Ms. Hyde's home is located across the street where is presently enjoys views across Mr. Flury's property to the ocean. Objections to the size of the structure are simply a way of objecting to obstruction to private views. Mr. Flury and I met with Ms. Hyde and Mr. Block at the property on February 13, 2006. The issue of conflict with her existing view over the unused property was on her mind. Private view conflicts, however, have never been a Chapter 3 issue and the Commission has steadfastly resisted the temptation to adjudicate between one neighbor and another.

The views which Mr. Block expressed on behalf of Ms. Hyde were, to a great extent, followed by the Commission. Ms. Hyde objected to the placement of the soil nail wall on the bluff face. The Commission did not approve the soil nail wall. The Commission Staff and the City of Los Angeles have both reviewed the alternate method to assure stability and found that it is acceptable.

We ask that the Commission deny the request to revoke Permit No. 5-05-253.

Sincerely,



SHERMAN L. STACEY

SLS/sh