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October 13, 2009

Our File Number: 0JYV-070914

**BY EMAIL AND HAND DELIVERY**

Mr. Sorin Alexanian  
Acting Deputy Director of Planning  
Los Angeles County Department of  
Regional Planning  
320 West Temple Street, Room 1390  
Los Angeles, California 90012

Re: Pacific Heights Project No. 92-027-(4)

Dear Mr. Alexanian:

This letter provides important information for the Regional Planning Commission (the "Planning Commission"). We would very much appreciate your immediately forwarding this to the Planning Commissioners for their consideration.

As you know, this firm represents Pacific Communities Builder, Inc. ("Pacific Communities") regarding its Pacific Heights project (the "Project") referenced above. On October 8, 2009, Mr. Ramon Cordova issued a Staff Report (the "Staff Report") to the Regional Planning Commission that attempts to explain the four main issues we have been working with Staff to resolve. Unfortunately, the Staff Report contains several inaccurate and unsupported statements, as well as what we consider to be incorrect legal positions. Therefore, we have addressed those concerns in our discussion below. It is imperative that the Planning Commission be adequately informed before exercising its discretion. Therefore, please forward this letter to all of the Planning Commissioners.

I. PROJECT BACKGROUND

Pacific Communities has worked patiently and tirelessly through the Project's several-year-long entitlement process. Fortunately, with assistance from Staff, nearly all of the Project's issues and conditions of approval are resolved. We have, however, experienced certain periods of delay that created the need for several continuances. Nonetheless, Pacific Communities is grateful for the Planning Commission's patience with this matter and is confident that a final decision on the Project is imminent.

The issues discussed below are the only remaining issues, and we believe that the analysis herein will facilitate a favorable decision at the October 21, 2009 hearing. On

Mr. Sorin Alexanian  
October 13, 2009  
Page 2

September 15, 2009, we submitted a letter to you (the "September Letter"), which is attached as Exhibit 2, that addressed parkland and brush clearance issues. Our points in that letter still stand and we will not entirely reiterate those here. Instead, we are directly responding to either new or inaccurate statements contained in the Staff Report.

## II. BRUSH CLEARANCE PERTAINING TO LOT 15.

To refresh your recollection, Pacific Communities is merely asking that the Planning Commission balance the substantial benefit of the Project on Schabarum Park with the minor potential burden. The benefit is a voluntary land donation that expands the park by over 10 acres. The burden is the unlikely need for brush clearance on at most 0.22 acres of the park. That is more than a fifty to one beneficial ratio. The area of potential brush clearance can be described as an arc-shaped area that would be at most approximately 62-feet in depth and at most approximately 144-feet in length. Please see Exhibit 1: Fuel Modification – Existing Brush Clearance. Accordingly, we strongly encourage the Planning Commission to employ its scales of reasonableness and decide that there is no basis to unduly constrain development on Lot 15 with the Staff's proposed brush clearance condition.

The Staff Report recommends an inequitable result and presents an opinion that Staff assured us they would not offer. At our September 23, 2009 meeting, Staff stated that they would objectively present both sides of this issue, forego a recommendation in favor of either position, and leave the Planning Commission to decide. Staff did not uphold that assertion as evidenced by the Staff Report's recommendation against development on Lot 15. We are disappointed with that recommendation, but trust that the Planning Commission's reasonableness will prevail.

A couple of points in the Staff Report require clarification. First, Pacific Communities is not arguing (as the Staff Report claims) that brush clearance should be allowed simply because it is currently being done for existing homes adjacent to Schabarum Park. While it is true that there is ongoing brush clearance, the important point is to recognize that if the Project triggers any additional brush clearance, then it would be located in a relatively disturbed area. To illustrate that point, Pacific Communities prepared Exhibit 1: Fuel Modification – Existing Brush Clearance as referenced above, which demonstrates the unlikely worst-case scenario. Second, the Staff Report exaggerates this issue by stating that the Project will be "burdening the Regional Park with brush clearance to allow for development of a new private project." We appreciate the concern, yet must reiterate that any brush clearance would be: (a) potential; (b) for a single lot; (c) located adjacent to ongoing clearance; (d) on only 0.22 acres; and (e) is exponentially offset by a 10-acre park space expansion.

Please refer to Exhibit 2: The September Letter for supplemental analysis of the brush clearance issue, if needed.

Mr. Sorin Alexanian  
October 13, 2009  
Page 3

### III. PARKLAND OBLIGATION.

The parkland issue is very important and the Staff Report contains serious inaccuracies and misstatements of law. Accordingly, we prepared a detailed legal analysis of the Project's parkland obligation (the "Parkland Memo") and will be discussing that with Mr. Richard Weiss and Ms. Patricia Keane of the County Counsel's office. We have attached Exhibit 3: The Parkland Memo for your review and reference, as needed. Below, we respond briefly and sequentially to the points of contention raised by the Staff Report.

To start with, the Staff Report notes that the Department of Parks and Recreation's February 10, 2009 Parkland Obligation Report (the "Parkland Report") recommends payment of a \$109,206 in-lieu fee instead of the provision of trails. What the Staff Report does not note is that the Parkland Report was issued before the Project design included trails. Thus, it is only logical that the Parkland Report would recommend a fee at that time. However, pursuant to the County Development Code (the "Code"), at the moment the Planning Commission agreed with the provision of the Project's trails, Pacific Communities had the option to either provide such trails or pay an in-lieu fee because the Project contains 50 units or less. The Code is unambiguous on this point. Please see Section II(A)2 of the Parkland Memo, which is attached as Exhibit 3.

Next, the Staff Report notes that "the applicant is offering 1.03 acres of pedestrian access for public use through 20-foot and six-foot easements." This statement may seem innocuous, but it is not. These trails were not unilaterally "offered" by the applicant. The Staff and Ms. Keane specifically requested the trails, including the existing location and design. Pacific Communities agreed to the request and the Planning Commission concurred with the same on September 16, 2009. Also, the trails are not simply "easements." There are physical improvements and amenities associated with the trails. It was only after Pacific Communities requested the code-required credit for the trails that the Staff switched its nomenclature.

In addition, the Staff Report notes that Pacific Communities is willing to voluntarily donate 10 acres to Schabarum Park. Although related to the Project's parkland requirements, this issue is separate and distinct from the onsite trails. The Code and Quimby Act requirements can be satisfied solely by the provision of onsite trails. As discussed below in Section IV, there is no legal requirement (parkland or otherwise) that Pacific Communities donate the 10-acre parcel to the Department of Parks and Recreation. Nonetheless, if the donation occurs, then it should be credited against the Project's parkland obligation. Please see Section II(B) of the Parkland Memo, which is attached as Exhibit 3.

Moving on, the Staff Report states that "[t]he applicant contends that certain County Code sections allow the applicant to meet the Quimby obligation with park land, which may include trails." With all due respect, it is much more than a contention, and it is based on more than just "certain" Code sections. Simply put, Section 21.24.350(C) of the Code is directly on point and **demand**s that the Project's onsite trails be credited against its parkland obligation.

Mr. Sorin Alexanian  
October 13, 2009  
Page 4

Please see Section II(A)2 of the Parkland Memo, which is attached as Exhibit 3. All other parkland Code sections support this position.

Also, the Staff Report states that "[t]he applicant contends that these public pedestrian access easements qualify as trails for the purpose of computing park land." Again, the Staff Report refuses to recognize that the trails are in fact trails and not merely easements. Pacific Communities will physically construct more than 0.49 acres (i.e., the parkland obligation) of onsite trails. In addition, Pacific Communities will place resting rocks along the trails pursuant to the Planning Commission's recommendation. The trails will be used for walking, hiking and biking similar to the use of other existing trails in the area. These facts alone demonstrate that the trails are not merely easements. In short, the Code defines trails as park space and as such they must be credited against Pacific Communities' parkland obligation. Please see Section II(A)1 of the Parkland Memo, which is attached as Exhibit 3.

Furthermore, the Staff Report states that "the County is not obligated to accept park land that is not suitable for park use." That may be true, but here it is irrelevant for at least three reasons. One, the County is not "obligated to accept" the onsite trails. That was never the intention and the Project's Final EIR requires Pacific Communities to construct the trails and burdens the homeowners association with ownership and maintenance. Two, the proposed trails are clearly "suitable" based on the Staff's recommendation of the trails, Pacific Communities willingness to implement the same, and the Planning Commission concurrence, and existing use of similar trails in the Project vicinity. If that is not enough, a legal analysis of the standards and policies contained in the County's General Plan Conservation and Open Space Element (the "Recreation Element") confirms suitability. Please see Section II(A)3 of the Parkland Memo, which is attached as Exhibit 3.

Moreover, the Staff Report states that "[b]ased on this evaluation, Parks and Rec provides its recommendation to . . . your Commission" and in conjunction "[b]ased on the February 10, 2009 report from Parks and Rec [it] is requesting in-lieu fees." These statements taken together unveil two critical problems. One, the Department of Parks and Recreation could not have performed a meaningful evaluation because it issued the Parkland Report before the Project contained trails and that recommendation disregards the Recreation Element policies. Two, the Code establishes that the Department of Parks and Recreation's authority to request in-lieu fees is secondary to Pacific Communities' option to provide the park space instead of paying fees. Please see Section II(A)2 of the Parkland Memo, which is attached as Exhibit 3.

Then, the Staff Report states that the trails were " . . . considered by staff as an amenity to address hillside projects that exceed the midpoint density." That is wholly irrelevant. The Code does not differentiate on that issue. The trails are park space by definition and as such must be credited towards the Project's parkland obligation.

Lastly, the Staff Report states that "these access easements would not meet County standards for a public hiking trail." That is false. The Staff Report provides no basis for

Mr. Sorin Alexanian  
October 13, 2009  
Page 5

this assertion, nor any reference to controlling documents or Code provisions. In contrast, we analyzed the applicable provisions of the Recreation Element and the proposed trails do in fact meet those standards. Please see Section II(A)3 of the Parkland Memo, which is attached as Exhibit 3.

#### IV. VOLUNTARY OPEN SPACE DONATION.

The "donation" versus "dedication" issue is relatively simple. A dedication is only appropriate when it is a direct requirement of the Project. Here, Pacific Communities is not required to dedicate the 10-acre parcel to the County. That land offer is purely voluntary and thus by its nature is a donation.

The Staff Report contains several statements that support classifying the 10-acre land transfer as a donation. For example, it states that "[t]his transfer is not required of the applicant, but has been offered for many years." That is true. Also, the Staff Report concedes that the County uses the term "dedication" when referring to "requirements" of a project. As briefly discussed below, and acknowledged in other County correspondence, the 10-acre land transfer is not a requirement of the Project. Further, the Staff Report states ". . . as a density-controlled development all remaining undeveloped land is required to remain open space." We agree, and that is consistent with the Project design and definition of a density-controlled subdivision under Section 22.08.040(D) of the Code, which states that development can be clustered while retaining the remaining portion of such lot or parcel in permanent open space.

The Code does not require, however, that Pacific Communities give away its designated open space to the Department of Parks and Recreation. Similarly, there are no Project impacts that require dedication of the 10-acre parcel. That being said, Pacific Communities will honor its word to voluntarily donate the 10-acre parcel, but must be allowed to do so in a manner that does not preclude the possibility of federal tax incentives. Therefore, the conditions of approval should be revised to eliminate the word "dedicate" as it relates to the 10-acre parcel and the land transfer should occur outside of (but in coordination with) the Project entitlements.

#### V. OAK TREE MAINTENANCE.

The Staff Report contains several mistakes regarding oak tree maintenance. Specifically, the Staff Report: (1) misstates the Final EIR's oak tree replacement mitigation measure; (2) misconstrues the oak woodland mitigation requirements under the California Environmental Quality Act ("CEQA"); (3) misinterprets the express oak tree maintenance provisions of the Code; (4) ignores the County Forester's direct recommendation regarding oak tree maintenance periods; and (5) provides no legal, factual or scientific support for its position that Pacific Communities should have to endure a renewing seven-year maintenance period. Below, we discuss and support the correct oak tree maintenance standards.

Mr. Sorin Alexanian  
October 13, 2009  
Page 6

Regarding the Final EIR, the Staff Report claims that Mitigation Measure M-B-2 requires the seven-year oak tree maintenance period to start anew with the planting of a replacement tree. That is not true. Mitigation Measure M-B-2 plainly states that "replacement oaks will be maintained for a period of seven years" pursuant to CEQA. The Final EIR is silent on any renewal period and so is CEQA.

With respect to CEQA, the oak woodland mitigation requirement at issue appears in Section 21083.4(b)(2)(B) of CEQA, which states in total that "[t]he requirement to maintain trees pursuant to this paragraph terminates seven years after the trees are planted." There is no mention of a renewing seven-year period. If the California legislature had intended such a requirement, then it would have stated so. It did not.

Similarly, the Code does not require a renewing seven-year maintenance period. Instead, Section 22.56.2180(A)(6)(b) states in total that "[r]eplacement trees shall be properly cared for and maintained for a period of two years and replaced by the applicant or permittee if mortality occurs within that period." Again, there is no mention here, or anywhere else in the Code, of a renewing seven-year period.

Likewise, Condition No. 14 in the County Forester's June 11, 2008 letter states that "[t]he maintenance period of the trees failing to survive two (2) years will start anew with the new replacement trees." Please see Exhibit 4: County Forester's Recommendations. This is the first and only time a "renewal" period is mentioned, and it is for two years, not seven. Pacific Communities has no objection to the County Forester's recommendation. The Staff Report and conditions of approval, however, should not deviate from this recommendation without justification.

As discussed above, we see no legal justification for a renewing seven-year maintenance period. At our September 23, 2009 meeting, we requested factual support of other projects where the County had imposed a renewing seven-year maintenance period. Ms. Keane said she would provide that evidence. To date, we have received nothing. We also discussed this issue with Pacific Communities' consulting arborist to determine if there was scientific justification for a seven-year renewal period. There is not.

In sum, the Project is only subject to the requirements of CEQA, the Code and the County Forester's recommendations. None of those require a renewing seven-year maintenance period. Therefore, Pacific Communities should not be subject to such an onerous and unsupported condition of approval.

#### VI. STAFF RECOMMENDATION.

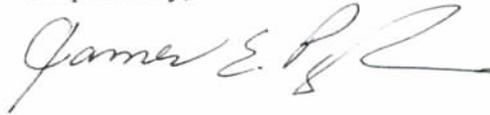
Indeed, the Staff and Pacific Communities have worked hard to arrive at this point. Based on continued efforts between now and the October 21, 2009 hearing, we expect to finalize all of the draft conditions of approval and reach a decision point on the unresolved

Mr. Sorin Alexanian  
October 13, 2009  
Page 7

issues. Accordingly, it is Pacific Communities' desire that the Planning Commission take final action, with due consideration of this letter, and approve the Project with direction to the Staff to timely file a Notice of Determination.

We thank the Planning Commission for working diligently through the Project's entitlement process. If you have any questions regarding the issues discussed in this letter, please do not hesitate to contact us.

Respectfully,



James E. Pugh

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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cc: Commission Chair, Leslie G. Bellamy (w/encls.)  
Commission Vice Chair, Wayne Rew (w/encls.)  
Commissioner Harold V. Helsley (w/encls.)  
Commissioner Pat Modugno (w/encls.)  
Commissioner Esther L. Valadez (w/encls.)  
Jon Sanabria, Ph.D. (w/encls.)  
Ms. Susan Tae, AICP (w/encls.)  
Mr. Ramon Cordova (w/encls.)  
Patricia Keane, Esq. (w/encls.)  
Ms. Julie Moore, AICP (w/encls.)  
Mr. Nelson Chung (w/encls.)  
Ms. Elsa Trujillo (w/encls.)  
Robert H. Philiposian, Esq. (w/encls.)

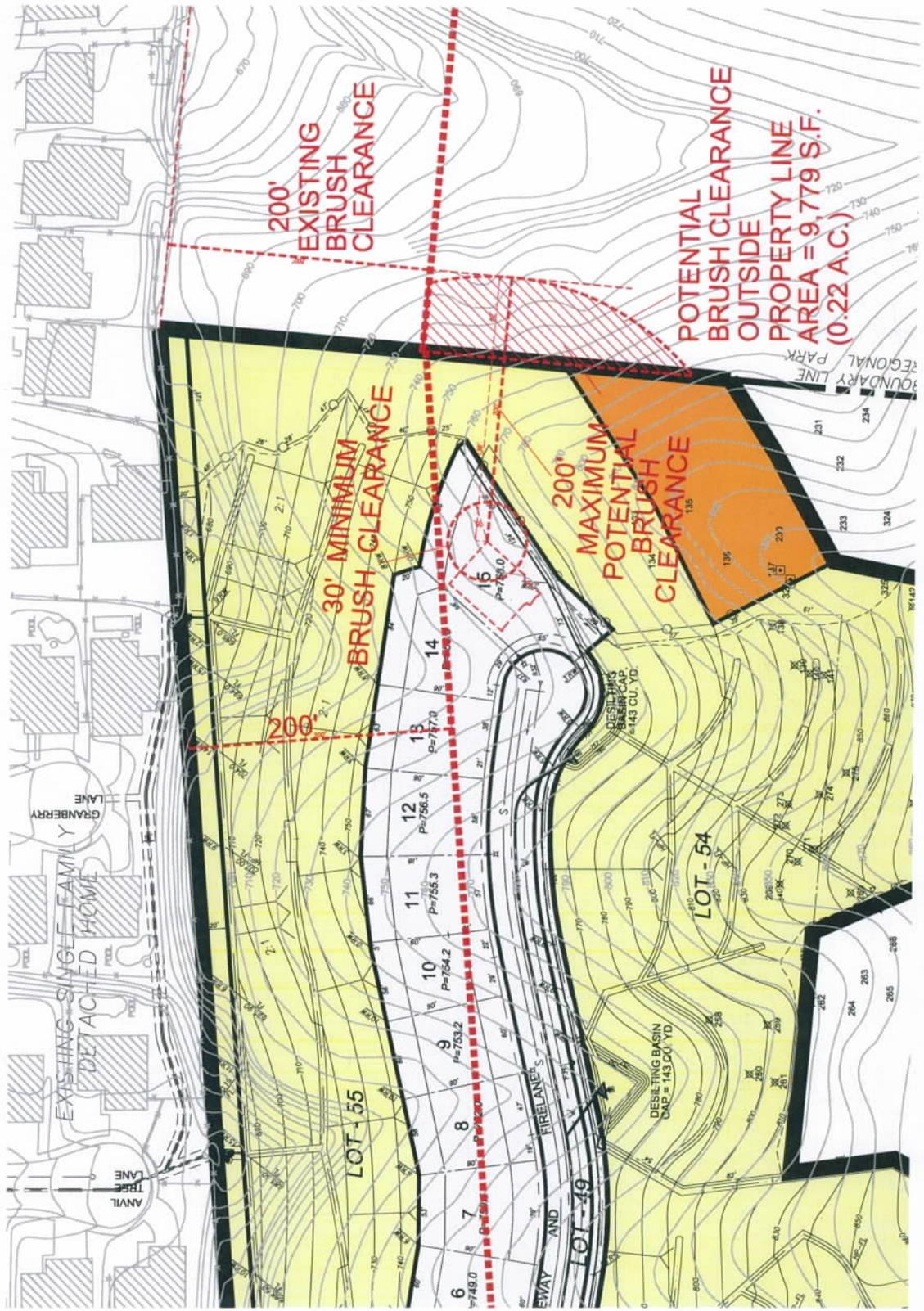
Exhibits:

Exhibit 1: Fuel Modification – Existing Brush Clearance  
Exhibit 2: The September Letter  
Exhibit 3: The Parkland Memo  
Exhibit 4: County Forester's Recommendations

# **Exhibit 1**

## **Fuel Modification – Existing Brush Clearance**

# Potential Brush Clearance Areas



# **Exhibit 2**

## **The September Letter**



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Our File Number: 0JYV-070914

September 15, 2009

**BY EMAIL**

Mr. Sorin Alexanian  
Acting Deputy Director of Planning  
Los Angeles County Department of  
Regional Planning  
320 West Temple Street  
Los Angeles, California 90012

Re: Pacific Heights Project No. 92-027-(4)

Dear Mr. Alexanian:

As you know, this firm represents Pacific Communities Builder, Inc. ("Pacific Communities") regarding its Pacific Heights project (the "Project") referenced above. On September 10, 2009, Mr. Ramon Cordova issued a supplemental report (the "Supplemental Report") to the Regional Planning Commission (the "Planning Commission") that explains correspondence he received regarding: (1) Pacific Communities' offer to donate open space land to the Department of Parks and Recreation; and, (2) potential brush clearance requirements associated with the Project. While the Supplemental Report is generally accurate, it requires some clarification and further discussion that we believe will assist the Planning Commission's deliberation at the public hearing scheduled for September 16, 2009.

I. OPEN SPACE DONATION.

For many years, Pacific Communities has offered to voluntarily donate a portion of its land to the Department of Parks and Recreation to use in any manner it desires, including as a mitigation parcel for a potential County library project. That portion of land was in the northeast area of the Project site. During the Project entitlement process, however, Ms. Patricia Keane from the County Counsel's office advised us that legal requirements would preclude the Department of Parks and Recreation from accepting the open space donation as a mitigation parcel. Notwithstanding this advice, Pacific Communities remained willing to donate the land.

On September 8, 2009, Mr. Larry Hensley, the Chief of Planning at the Department of Parks and Recreation, submitted a letter to Mr. Cordova requesting that Pacific Communities donate an alternative 10-acre parcel of open space located in the southeastern area of the site. According to that letter, the Department of Parks and Recreation believes that the alternative parcel is more desirable for park and open space purposes because it is undisturbed

Mr. Sorin Alexanian  
September 15, 2009  
Page 2

and would not contain manufactured slopes. Pacific Communities is willing to accommodate this request if the Department of Parks and Recreation issues a revised Park Land Obligation Report stating that Pacific Communities has satisfied its parkland obligation and is therefore not required to pay a parkland in-lieu fee.

As supporting evidence, Pacific Communities has satisfied its parkland obligation for at least two reasons. Section 21.24.350(C) of the County Code states in part that

"[i]f the subdivision contains 50 or fewer residential lots, provision of the park space designated by the advisory agency shall be at the **option** of the subdivider. If the subdivider elects to provide the park space designated by the advisory agency, the amount of park space provided **shall** be credited against the local park space obligation for the subdivision."

Also, Section 21.24.340 of the County Code defines local park space as including hiking trails and other natural open space areas as recommended by the Director of Parks and Recreation. The Project contains 47 residential lots so these County Code provisions apply to it as follows.

First, the Project proposes approximately 1.03 acres of new hiking trails. See Exhibit 1: New Hiking Trails. At the August 19, 2009 public hearing, Pacific Communities presented these hiking trails to the Planning Commission as part of the Project's public amenities. The Planning Commission, as the advisory agency, did not object to these trails and directed the Staff to prepare for project approval. The Parkland Obligation Report indicates that the Project's parkland obligation is only 0.49 acres. See Exhibit 2: Parkland Obligation Report. Accordingly, Pacific Communities' election to provide 1.03 acres of hiking trails satisfies its parkland obligation under the County Code.

Second, even if the hiking trails were not credited (which they must be) against the parkland obligation, the 10-acre open space donation more than satisfies Pacific Communities' parkland obligation. As discussed above, the Department of Parks and Recreation specifically identified the parcel of natural open space that it wanted to expand Scharbarum Park. The 10-acre parcel far surpasses the Project's .49-acre parkland obligation and is a financial windfall for the County. For example, according to Section 21.28.140 of the County Code, the representative value for parkland calculations in the Hacienda Heights planning area is \$220,640 per acre.<sup>1</sup> Applied to the Project, the corresponding in-lieu fee is approximately \$108,113 (.49 acres x 220,640). In comparison, the 10-acre open space parcel is worth approximately \$2,206,400 (10 acres x 220,640). In other words, Pacific Communities is providing the County with parkland that is approximately twenty times more valuable than that required by law.

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<sup>1</sup> The February 10, 2009 Parkland Obligation Report contains an outdated residual land value of \$222,869 per acre. The current and correct value is \$220,640 per acre pursuant to County Code Section 21.24.340, which is effective as of July 1, 2009.

Mr. Sorin Alexanian  
September 15, 2009  
Page 3

Furthermore, at the specific request of Ms. Keane, Pacific Communities is willing to donate an additional .49 acres of contiguous open space to the Department of Parks and Recreation to directly satisfy the acreage calculation in the Parkland Obligation Report. Thus, the total donation would be 10.49 acres of undisturbed open space.

It is clear – from a legal and financial standpoint – that Pacific Communities has satisfied its parkland obligation and is not required to pay an in-lieu fee. Accordingly, we respectfully request that the Department of Parks and Recreation revise its Parkland Obligation Report and present that to the Planning Commission before the September 16, 2009 hearing.

## II. BRUSH CLEARANCE.

At the August 19, 2009 hearing, Commissioner Valadez made it clear that she did not want any net loss or disturbance of County parklands due to a private development project. In response, Pacific Communities drafted a condition of approval that requires it to donate an equal amount of undistributed open space to Scharbarum Park if the County Fire Department determines that development on Lot 15 would trigger brush clearance on adjacent parkland. The proposed language for that condition, as well as Staff's alternative brush clearance condition, is contained in Attachment "A" of the Supplemental Report. We believe that Pacific Communities' proposed condition adequately responds to the Planning Commission's concerns. More importantly, however, we believe that the entire brush clearance issue is now moot.

As a threshold matter, we want clarify for the Planning Commission that the Project does not automatically trigger brush clearance on Scharbarum Park. The County Fire Department's brush clearance requirements range from 30-feet to 200-feet from a structure. As currently designed, there is approximately 138-feet of clearance between a proposed structure on Lot 15 and the property line. It follows that there is likely an adequate amount of space between a structure on Lot 15 and the property line to accommodate brush clearance requirements without impacting Scharbarum Park. See Exhibit 3: Fuel Modification – Existing Brush Clearance.

Under the most conservative scenario (i.e., 200-foot buffer required) the Project would only require brush clearance on 9,779 square feet (0.22 acres) of land – which is adjacent to ongoing brush clearance activity – within Scharbarum Park. Adopting Pacific Communities' recommended brush clearance condition would ensure that any impacted parkland is fully replaced by undisturbed parkland of equal size. Stated differently, Pacific Communities would donate 0.22 acres of parkland to the County if, and only if, the Project triggered brush clearance activity within Scharbarum Park. Therefore, even under a worst-case scenario, the Project would result in no net loss of parkland.

Although we believe this analysis is sufficient to support adopting Pacific Communities' recommended brush clearance condition, it is also superfluous to the heart of the brush clearance issue. Simply put, the issue boils down to balancing fire protection, project design, and the Planning Commission's desire to retain undisturbed parkland. As noted above,

Mr. Sorin Alexanian  
September 15, 2009  
Page 4

the donation of a 10.49-acre parcel of undisturbed open space to Scharbarum Park more than justifies removing the brush clearance condition altogether. The donation parcel is approximately fifty times larger than the parkland area that could be impacted by brush clearance associated the Project.

Furthermore, the donation, in conjunction with removal of the brush clearance condition, creates a "**win-win-win**" scenario whereby: (a) the Fire Department can impose the strictest and safest setback standards if needed, (b) Pacific Communities can retain its dwelling unit count and project design; and (c) the Planning Commission can take credit for significantly expanding the County's parklands. Therefore, we respectfully request that Staff support this position and remove the proposed brush clearance conditions from the Supplemental Report.

III. STAFF EVALUATION.

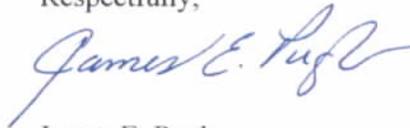
We appreciate, and concur, with the Staff's recommendation that the Planning Commission certify the Final EIR and approve the Project. In advance of the hearing, Pacific Communities will be working closely with Staff to reach agreement on the Project's conditions of approval. We respectfully request that Staff submit a revised set of conditions to the Planning Commission once we have collectively reached consensus.

IV. CONCLUSION.

As discussed above, we strongly believe that we have arrived at a point where all parties can benefit from the Project. We thank all of the members of the Planning Department and the Planning Commission for working diligently through the Project's lengthy entitlement process.

If you have any questions regarding the issues discussed in this letter, please do not hesitate to contact me.

Respectfully,



James E. Pugh

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SHEPPARD MULLIN RICHTER & HAMPTON LLP

Mr. Sorin Alexanian

September 15, 2009

Page 5

cc: Mr. Jon Sanabria, Ph.D. (w/encls.)  
Commissioner Wayne Rew (w/encls.)  
Commissioner Esther L. Valadez (w/encls.)  
Commissioner Leslie G. Bellamy (w/encls.)  
Commissioner Harold V. Helsley (w/encls.)  
Commissioner Pat Modugno (w/encls.)  
Mr. Larry R. Hensley (w/encls.)  
Ms. Patricia Keane, Esq. (w/encls.)  
Ms. Julie Moore, AICP (w/encls.)  
Mr. Nelson Chung (w/encls.)  
Ms. Elsa Trujillo (w/encls.)  
Mr. Robert H. Philibosian, Esq. (w/encls.)

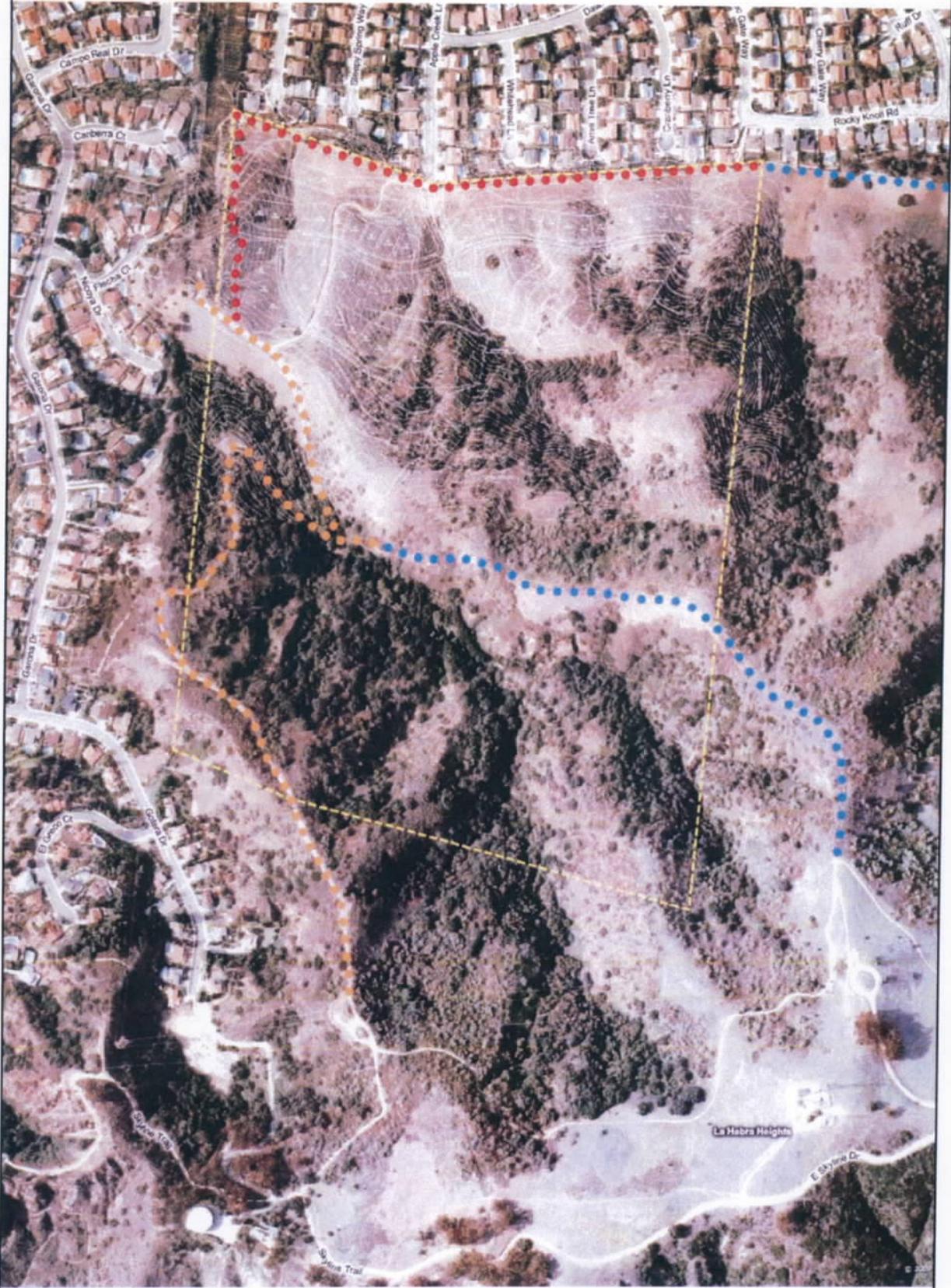
Exhibits:

Exhibit 1: New Hiking Trails

Exhibit 2: Parkland Obligation Report

Exhibit 3: Fuel Modification – Existing Brush Clearance

# Open Space Trail Access



- LEGEND:
- PROPOSED TRAIL/ ACCESS ROAD
  - EXISTING TRAIL
  - EXISTING OPEN SPACE ACCESS





**LOS ANGELES COUNTY  
DEPARTMENT OF PARKS AND RECREATION  
PARK OBLIGATION REPORT**



Tentative Map #	51153	DRP Map Date:01/07/2008	SCM Date:02/25/2008	Report Date: 02/10/2009
Park Planning Area #	9	HACIENDA HEIGHTS		Map Type:REV. (REV RECD)

Total Units  = Proposed Units  + Exempt Units

Sections 21.24.340, 21.24.350, 21.28.120, 21.28.130, and 21.28.140, the County of Los Angeles Code, Title 21, Subdivision Ordinance provide that the County will determine whether the development's park obligation is to be met by:

- 1) the dedication of land for public or private park purpose or,
- 2) the payment of in-lieu fees or,
- 3) the provision of amenities or any combination of the above.

The specific determination of how the park obligation will be satisfied will be based on the conditions of approval by the advisory agency as recommended by the Department of Parks and Recreation.

Park land obligation in acres or in-lieu fees:

ACRES:	0.49
IN-LIEU FEES:	\$109,206

Conditions of the map approval:

The park obligation for this development will be met by:

The payment of \$109,206 in-lieu fees.

Trails:

No trails.

Comments:

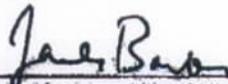
\*\*The In-Lieu Fee has been updated to \$109,206 from \$105, 738 to reflect the fee schedule at the time Map 51153 was advertised for public hearing in February 2009

\*\*\*Advisory: the Representative Land Values (RLVs) in Los Angeles County Code (LACC) Section 21.28.140 are used to calculate park fees and are adjusted annually, based on changes in the Consumer Price Index. The new RLVs become effective July 1st of each year and may apply to this subdivision map if first advertised for hearing before either a hearing officer or the Regional Planning Commission on or after July 1st pursuant to LACC Section 21.28.140, subsection 3. Accordingly, the park fee in this report is subject to change depending upon when the subdivision is first advertised for public hearing.

Contact Patrocinia T. Sobrepeña, Departmental Facilities Planner I, Department of Parks and Recreation, 510 South Vermont Avenue, Los Angeles, California, 90020 at (213) 351-5120 for further information or an appointment to make an in-lieu fee payment.

For information on Hiking and Equestrian Trail requirements contact Trail Coordinator at (213) 351-5135.

By:

  
James Barber, Developer Obligations/Land Acquisitions

Supv D 4th  
February 10, 2009 13:47:21  
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**LOS ANGELES COUNTY  
DEPARTMENT OF PARKS AND RECREATION  
PARK OBLIGATION WORKSHEET**



Tentative Map #	51153	DRP Map Date: 01/07/2008	SMC Date: 02/25/2008	Report Date: 02/10/2009
Park Planning Area #	9	HACIENDA HEIGHTS		Map Type: REV. (REV RECD)

The formula for calculating the acreage obligation and or In-lieu fee is as follows:

$$(P)\text{people} \times (0.003)\text{ Goal} \times (U)\text{units} = (X)\text{ acres obligation}$$

$$(X)\text{ acres obligation} \times \text{RLV/Acre} = \text{In-Lieu Base Fee}$$

- Where: P = Estimate of number of People per dwelling unit according to the type of dwelling unit as determined by the 2000 U.S. Census\*. Assume \* people for detached single-family residences; Assume \* people for attached single-family (townhouse) residences, two-family residences, and apartment houses containing fewer than five dwelling units; Assume \* people for apartment houses containing five or more dwelling units; Assume \* people for mobile homes.
- Goal = The subdivision ordinance allows for the goal of 3.0 acres of park land for each 1,000 people generated by the development. This goal is calculated as "0.0030" in the formula.
- U = Total approved number of Dwelling Units.
- X = Local park space obligation expressed in terms of acres.
- RLV/Acre = Representative Land Value per Acre by Park Planning Area.

Total Units  = Proposed Units  + Exempt Units

	People*	Goal 3.0 Acres / 1000 People	Number of Units	Acre Obligation
Detached S.F. Units	3.50	0.0030	47	0.49
M.F. < 5 Units	2.70	0.0030	0	0.00
M.F. >= 5 Units	2.30	0.0030	0	0.00
Mobile Units	2.78	0.0030	0	0.00
Exempt Units			0	
Total Acre Obligation =				0.49

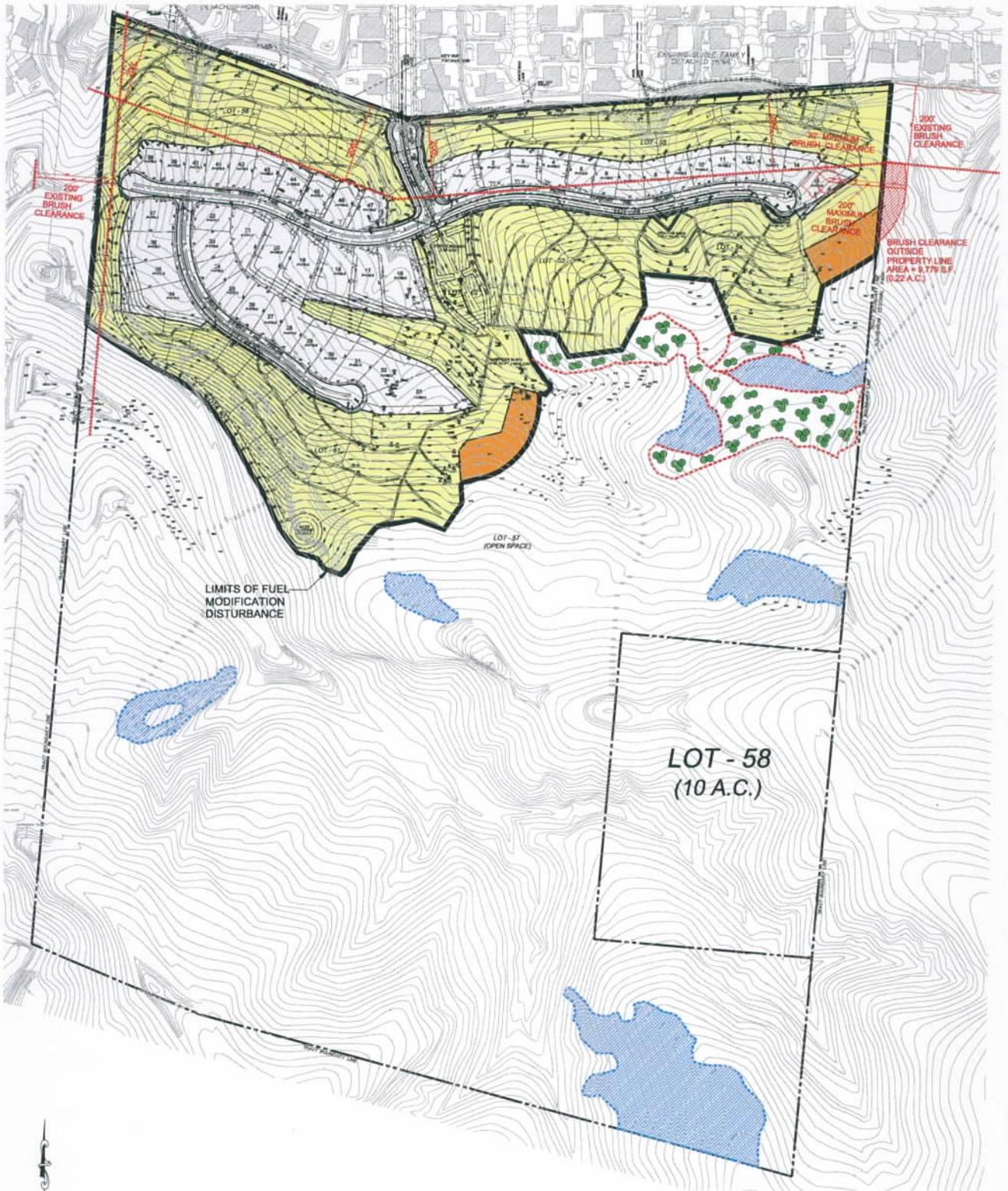
Park Planning Area = 9 HACIENDA HEIGHTS

Goal	Acre Obligation	RLV / Acre	In-Lieu Base Fee
@(0.0030)	0.49	\$222,869	\$109,206

Lot #	Provided Space	Provided Acres	Credit (%)	Acre Credit	Land
None					
Total Provided Acre Credit:				0.00	

Acre Obligation	Public Land Crdl.	Priv. Land Crdl.	Net Obligation	RLV / Acre	In-Lieu Fee Due
0.49	0.00	0.00	0.49	\$222,869	\$109,206

# BIOLOGICAL MITIGATION PLAN/ FUEL MODIFICATION PLAN



LIMITS OF FUEL  
MODIFICATION  
DISTURBANCE

LOT - 58  
(10 A.C.)



- FUEL MODIFICATION ZONES**
- LOS ANGELES COUNTY FIRE DEPARTMENT ZONE A – SETBACK ZONE
  - LOS ANGELES COUNTY FIRE DEPARTMENT ZONE B – IRRIGATION ZONE LANDSCAPE REQUIREMENTS.
  - LOS ANGELES COUNTY FIRE DEPARTMENT ZONE C – THINNING ZONE LANDSCAPE REQUIREMENTS.

**LEGEND:**

	ZONE A = 549,262.96 S.F. / 12.61 AC. (VERSION 2008)
	ZONE B = 998,121.92 S.F. / 22.91 AC. (VERSION 2008)
	ZONE C = 43,130.72 S.F. / 0.99 AC. (VERSION 2008)
	COASTAL SAGE SCRUB RESTORATION AREA 222,620.82 S.F. / 4.8 AC.
	COASTAL LIVE OAK PLANTING AREA 277 15-GALLON OAK TREES 112, 920 S.F. / 2.59 AC.

# **Exhibit 3**

## **The Parkland Memo**



for its onsite trails or the parkland donation. This position is contrary to the requirements of the County Code (the "Code") and the Quimby Act. Therefore, we contacted Mr. Barber to discuss the issue by phone. After a brief conversation, he deferred to County Counsel regarding interpretation of the applicable legal requirements.

Accordingly, we contacted Ms. Patricia Keane (County Counsel's Office) later in the afternoon on September 10, 2009 and requested that she analyze the applicable code sections and provide County Counsel's position on the issue. Although Ms. Keane provided some general thoughts, she noted that she would have to speak with Ms. Christina Salseda (County Counsel's Office) because she represented the Department of Parks and Recreation. Ms. Keane did not follow up that discussion with us. Therefore, we contacted Ms. Salseda directly.

On September 15, 2009, we emailed Ms. Salseda to advise her of the parkland issue and request her position as County Counsel. That email correspondence is attached as Exhibit 2: Salseda Correspondence. As you can see, Ms. Salseda responded on September 18, 2009 with a very general statement that she ". . . spoke with Parks' planning staff . . ." and "[a]t this point, I am not aware of what Parks' ultimate recommendation to the Planning Commission will be." As noted above, the Department of Parks and Recreation deferred to County Counsel's position regarding interpretation of the applicable Code provisions. Thus, in response, we respectfully pointed out that this was a legal issue and requested Ms. Salseda provide a substantive response.

On September 21 and 22, 2009, we tried to contact Ms. Salseda again regarding the same issue. To date, Ms. Salseda has not responded to us. In addition, on September 23, 2009, we met with Ms. Keane and Staff to discuss the Project, including the parkland issue. At

that meeting, Ms. Keane stated that she would provide us with a written analysis of the County's legal position regarding the parkland issue. To date, we have not received that analysis.

On October 9, 2009, we received a Staff report (the "Staff Report") prepared by Mr. Ramon Cordova (Regional Planning Assistant) that contained a brief and unsubstantiated discussion of the Project's parkland obligation. See Exhibit 3: Staff Report. As discussed below, the Staff Report analysis is contrary to the legal requirements of the Code and the County's General Plan.

The Planning Commission is scheduled to hear this matter on October 21, 2009 and we would prefer to resolve the parkland issue before that hearing. It would be optimal if we could inform the Planning Commission regarding such a resolution no later than October 15, 2009. Accordingly, below is a substantive discussion of the parkland requirements applicable to the Project.

## II. ANALYSIS

For the reasons discussed below, the Department of Parks and Recreation must revise its Park Land Obligation Report (the "Parkland Report") to indicate that Pacific Communities has satisfied its parkland obligation and is therefore not required to pay a parkland in-lieu fee.

### A. The Proposed Onsite Trails Must Be Credited Against The Project's Parkland Obligation.

The Code contains several express and specific provisions that require the Project's onsite trails to be credited against its parkland obligation.

#### 1. The Proposed Onsite Trails Are "Park Space" By Definition.

Section 21.24.340(C) of the Code clearly defines "local park space" to include "riding and hiking trails." The Project proposes 1.03 acres of riding and hiking trails. See Exhibit 4: New Trails. In all of our previous discussions with the Planning Commission, the

Planning Director, County Counsel's office and Staff, these "trails" were referred to as such. In fact, on August 19, 2009, the Planning Commission discussed at length the ways the residents of the Project and the existing community could use and enjoy these "trails." However, as soon as we requested the code-required credit for the Project's trails, Ms. Keane and Staff refused to acknowledge that the proposed trails were in indeed trails as defined by the Code. For example, we have repeatedly requested that the Project's conditions of approval (i.e., Conditional Use Permit No. 20 and Vesting Tentative Tract Map No. 19) regarding trails contain the facially true statement that "[t]hese open space trails may be used as walking or hiking trails for public access to adjacent open space." Ms. Keane and the Staff have denied these requests which could thereby preclude Pacific Communities from obtaining credit for the Project's onsite trails.

Similarly, Ms. Keane and Mr. Barber have argued that the express phrase "riding and hiking trails" in the Code definition is modified by the phrase ". . . as recommended by the director of parks and recreation for passive or active recreation," which appears at the end of the Code's park space definition. As a matter of legal construction, however, if the terms of the Code are unambiguous, we must presume that County lawmakers meant what they said, and the plain meaning of the language governs. Here, it is only the last phrase in the park space definition that is modified by the director of parks recommendation. That phrase reads in total "and **other** [emphasis added] types of natural or scenic areas as recommended by the director of parks and recreation for passive or active recreation." Logically, the director has discretion over "other" potential park spaces. The Project's onsite trails, however, are not an "other" type of park space. The Code is unambiguous, a "trail" is a "trail" and as such classifies as park space.

2. Pacific Communities Has The Option To Provide Park Space Instead Of Paying In-Lieu Fees.

The Code contains a directly on point and specific provision that provides Pacific Communities with the option to either provide park space or pay in-lieu fees to satisfy its parkland obligation. Specifically, Section 21.24.350(C) of the Code states that:

"[i]f the subdivision contains 50 or fewer residential lots, provision of the park space designated by the advisory agency shall be at the **option** of the subdivider. If the subdivider elects to provide the park space designated by the advisory agency, the amount of park space provided **shall** be credited against the local park space obligation for the subdivision."

The Project contains 47 residential lots so the above provision applies to it. As noted above, the Project proposes approximately 1.03 acres of new trails. Pacific Communities has worked with Ms. Keane and the Staff to design these trails and presented the same to the Planning Commission at the August 19, 2009 hearing. The Planning Commission – as the advisory agency – unanimously supported these trails and directed the Staff to prepare for project approval. Accordingly, it is Pacific Communities' option to either provide the required park space or pay an in-lieu fee.

The Parkland Report states that the Project's parkland obligation is 0.49 acres. See Exhibit 5: Parkland Report. The Parkland Report was prepared on February 10, 2009, which was long before the Project design included onsite trails. Consequently, the Report states "No Trails" and indicates that the Project's parkland obligation will be met by a \$109,206 in-lieu fee. In Mr. Barber's correspondence, he relies on the "No Trails" statement in the Parkland Report and claims that Pacific Communities must pay the in-lieu fee because "the Department is not recommending that trails be credited" and "there are no County trails in the subdivision." His reliance, unfortunately, is misplaced because (1) the Code does not require the Project's trails to be County-designated trails in order to receive credit, (2) the discretion here regarding the

provision of park space rests with the Planning Commission as the advisory agency, and (3) he fails to meaningfully acknowledge that the Project design has changed to include trails after the Parkland Report was issued.

Pursuant to the Code, Pacific Communities has elected to provide the trails that were designated by the Planning Commission at the August 19, 2009 hearing. Therefore, the amount of park space provided (1.03 acres of trails) **must** be credited against the local park space obligation (0.49 acres) for the subdivision. To do otherwise is a violation of the Code.

3. The Proposed Trails Are Suitable For Park Use.

During our September 23, 2009 meeting, Ms. Keane indicated that a general "catch-all" provision of the Code could be used to deny Pacific Communities' parkland credit. She referenced Section 21.24.350(G) of the Code, which states in part that ". . . nor shall any provision of this section be construed to require the county to accept land for park purposes which is unsuited for park use." The Staff Report takes a similar position. Reliance on this general code section is misplaced in both instances.

To start with, it is a settled rule of statutory construction that a specific provision dealing expressly with a particular subject controls and takes priority over a more general provision. As discussed above, Section 21.24.350(C) specifically deals with subdivisions that contain 50 or fewer units (as does the Project) and mandates credit when the advisory agency designates park space (as the Planning Commission did) and the developer elects (as Pacific Communities has done) to provide such park space. To interpret the Code in a manner that allows the general (i.e., Section 21.24.350(G)) to override the specific (i.e., Section 21.24.350(C)) is counter to established legal practice. Therefore, subsection "G" cannot be construed to supersede subsection "C", which plainly permits the Project's trails to be creditable.

Even if the general could control the specific (which it cannot) the County need not "accept the land" as stated in the Section 21.24.350(G) because the Project's Final EIR and conditions of approval (a) burden the developer with constructing the trails and providing pedestrian access easements, and (b) burden the homeowners association with ownership and maintenance of the trails.

Moreover, the Project's proposed trails are in fact "suitable" for park use as judged by any standard, including the Code. Section 21.24.350(D) of the Code states that

"[d]eterminations as to whether park space should be provided, and as to the design and location of such space and any amenities thereof, shall be made in accordance with the principles and standards for local park and recreational facilities contained in the recreation element of the general plan, the additional provision of Title 21 and the recommendations of the director of parks and recreation."

We turn to the County's General Plan for guidance as recommended by the Code section above. The Recreational Resources section of the County's General Plan Conservation and Open Space Element (the "Recreation Element") highlights the fact that the County needs more trails. It states that "additional recreational facilities, especially urban parks, riding and hiking trails, nature areas and water recreation areas will be needed." Recreation Element, p. II-22. Also, it states that "[a]dditional outdoor recreation facilities can be provided by . . . integrating open space into development . . . and planning for more bikeways and hiking and riding trails." Id. In addition, it states "[t]he Puente and San Jose Hills should be used for trails systems and recreational connectors." The Recreation Element further states that there is a need for better public access to recreation facilities and adopts policies that development should "[p]rovide low intensity outdoor recreation in areas of scenic and ecological value compatible with the protection of these natural resources," and "[d]evelop a system of bikeways, scenic highways, and riding and hiking trails; link recreational facilities where possible." Id., p. II-31.

See Exhibit 6: Recreation Element Excerpts. The Project complies with all of these standards because it (1) is designed to integrate approximately 89 percent of the site as open space, (2) includes new hiking and riding trails that allow the urban population to easily access adjacent open space areas, (3) is located in the Puente Hills and provides new trails that guarantee open space access, link into existing trails and facilitate access to the adjacent Schabarum Park, and (4) the trails were designed to include rest areas as recommended by the Planning Commission, County Counsel and Staff. Furthermore, as demonstrated in Section A.2 above, the proposed trails do comply with Title 21 of the Code and the specific mandates (i.e., Section 21.24.350) that control the provision of local park space in residential subdivision of 50 units or less.

Here, the Staff Report has incorrectly applied the legal requirements of the Code and the General Plan. For instance, it states that "[w]ith any park land offer, the Code states that Parks & Rec has the discretion to evaluate whether the offered park land is suitable . . ." As we noted above, it is the Planning Commission that holds the primary discretion to designate park space for subdivisions of 50 units or less. Regardless, if the Department of Parks and Recreation does exercise its discretion, then that recommendation must be consistent with the standards of the Recreation Element as required by the Code. That was not done in this case.

The Staff Report claims that "[b]ased on this evaluation, Parks and Rec provides its recommendation to the advisory agency or in this case, your Commission." A legitimate evaluation, however, is an impossibility because the recommendation is based on the Parkland Report that was issued before the Project design contained trails. The Staff Report provides no support for its position that Pacific Communities must pay in-lieu fees. Therefore, it is clear to us that the proper – and legally sound – determination is that the Project's proposed trails are suitable park space. The Parkland Report should be revised accordingly.

B. Pacific Communities' 10-Acre Parkland Donation Must Be Credited Against The Project's Parkland Obligation.

For many years, Pacific Communities has offered to voluntarily donate a portion of its land to the Department of Parks and Recreation to use in any manner it desires, including as a mitigation parcel for a potential County library project. That portion of land was in the northeast area of the Project site. During the Project entitlement process, however, Ms. Keane advised us that legal requirements would preclude the Department of Parks and Recreation from accepting the open space donation as a mitigation parcel. Notwithstanding this advice, Pacific Communities remained willing to donate the land.

On September 8, 2009, Mr. Larry Hensley, the Chief of Planning at the Department of Parks and Recreation, submitted a letter to Mr. Cordova requesting that Pacific Communities donate an alternative 10-acre parcel of open space located in the southeastern area of the site. According to that letter, the Department of Parks and Recreation believes that the alternative parcel is more desirable for park and open space purposes because it is undisturbed and would not contain manufactured slopes. Pacific Communities is willing to accommodate this request.

From a substantive perspective, even if the onsite trails were not credited (which they must be) against the parkland obligation, the 10-acre open space donation should satisfy Pacific Communities' parkland obligation. As discussed above, the Department of Parks and Recreation specifically identified the parcel of natural open space that it wanted to expand Schabarum Park. The 10-acre parcel far surpasses the Project's 0.49-acre parkland obligation and is a financial windfall for the County. For example, according to Section 21.28.140 of the Code, the representative value for parkland calculations in the Hacienda Heights planning area is \$220,640 per acre. Applied to the Project, the corresponding in-lieu fee is approximately

\$108,113 (0.49 acres x 220,640). In comparison, the 10-acre open space parcel is worth approximately \$2,206,400 (10 acres x 220,640). In other words, Pacific Communities is providing the County with parkland that is approximately twenty times more valuable than that required by law.

Furthermore, at the specific request of Ms. Keane, Pacific Communities is willing to donate an additional 0.49 acres of contiguous open space to the Department of Parks and Recreation to directly satisfy the acreage calculation in the Parkland Report. Thus, the total donation would be 0.49 acres of undisturbed open space.

In the face of that offer, Ms. Keane and the Staff Report take the position that "any land proposed to be added to Schabarum Park would be considered regional in nature because Schabarum Park is a regional park" and therefore no parkland credit can issue because that would be contrary to the Quimby Act. This perspective, however, does not acknowledge that the donation parcel is within the Project boundaries and would be used by the residents of the Project. In fact, it is contiguous with the Project's other open space, contains an existing trail system, and would link the existing community and residents of the Project to trails within Schabarum Park. Therefore, the 10.49-acre donation would be used for the purpose of developing new neighborhood recreational facilities to serve the subdivision, which complies with the Quimby Act.

### III. CONCLUSION

In conclusion, it is clear – from a legal and financial standpoint – that Pacific Communities has satisfied its parkland obligation and is not required to pay an in-lieu fee. Based on our last discussion with the Department of Parks and Recreation, they will not change their position without substantive input from the County Counsel's Office. The Staff Report furthers that position, but has provided no factual or legal support. Requiring Pacific Communities to

develop and maintain park space, pay a substantial in-lieu fee and dedicate a large open space parcel does not bear a reasonable relationship to the Project's parkland obligation. Therefore, we are using our good-faith efforts to engage the County Counsel's office in a meaningful and cordial discussion to resolve this issue before the next Planning Commission hearing.

# **Exhibit 1**

## **Barber Correspondence**

**From:** James Barber [mailto:jbarber@parks.lacounty.gov]  
**Sent:** Thursday, September 10, 2009 1:41 PM  
**To:** Elsa Trujillo  
**Cc:** Ramon Cordova; Clement Lau; Sheela Mathai; Robert Ettleman; Larry Hensley  
**Subject:** Vesting Tent. Tract Map 51153

Hello Ms Trujillo,

In response to your request, please note my comments next to your email below.

James Barber  
 Section Head, Development & Land Acquisition  
 Los Angeles County Department of Parks and Recreation  
 Planning Division  
 510 S. Vermont Avenue, Room 201  
 Los Angeles, CA 90020  
 Phone: (213) 351-5117  
*"Creating Community Through People, Parks, and Programs"*

---

**From:** Elsa Trujillo [mailto:Elsa@pcbinc.com]  
**Sent:** Thursday, September 10, 2009 12:26 PM  
**To:** James Barber  
**Subject:** Vesting Tent. Tract Map 51153

Good Afternoon Mr. Barber,  
 My name is Elsa Trujillo, I am a project manager with Pacific Communities Builder. I am e-mailing you in regard to the attached Park Obligation Report that we received stating that we are required to pay \$109,206 of in-lieu fees or provide .49 acres of park land for our Vesting Tentative Tract Map 51153. **The attached Park Obligation Report states that "The Park Obligation for this development will be met by the payment of a \$109, 206 in lieu fee."** Please note that we are constructing a trail system on-site within our development footprint that will provide the public with access to other existing trails onsite and open space areas that we intend to donate to a public agency for public use. Also attached is our open space trail access exhibit that shows you where our proposed trails will be constructed, as well as where there are other existing trails onsite. (The trails that we are providing are depicted with red dots). These trails consist of approximately 1.03 acres. Since this is in excess of the .49 acres of park land that is required, based on our understanding of this report and section 21.24.340 (c) of the LA County Code, we believe that we have met the park land requirement by providing over 1 acre of public trails and thus should have no in-lieu fees. **I appreciate you taking the time prepare the attached "Revised Open Space Trail Access" exhibit, however please allow me to clarify that "No Trails" on the Department's report means there are no County trails in this subdivision, therefore there is no County trail dedication requirement. Los Angeles County Code Section 21.24.340C states "local park space" may include...riding and hiking trails...as recommended by the director of parks and recreation..."** Therefore, we are requesting that this report be revised to show that there are trails included for this tract, currently it incorrectly states that no trails will be provided, and that no-in-lieu fees are required. **The Department is not recommending that trails be credited against the local park space obligation for this subdivision.** Given that this project is going before the planning commission next week, we would need this revised report as soon as possible so that we can forward it to the Department of Regional Planning, ideally by no later than Monday of next week so that it can be submitted to the Planning Commission before the hearing on wed, of next week. **I've copied the Regional Planning case planner for this subdivision on the Department's reply to your request to show that the attached Park Obligation Report and Worksheet remains as submitted.** I am happy to discuss this matter further with you if necessary, you can reach me at the number below. I appreciate your time and assistance and look forward to hearing from you soon.

Elsa Trujillo, Project Manager  
 Pacific Communities Builder Inc.  
 1000 Dove Street Suite 300  
 Newport Beach, CA 92660  
 TEL: (949) 660-8988 Ext. 123  
 FAX: (949) 253-0683  
 Elsa@pcbinc.com

# **Exhibit 2**

## **Salseda Correspondence**

**James Pugh**

---

**From:** James Pugh  
**Sent:** Monday, September 21, 2009 2:49 PM  
**To:** 'Salseda, Christina'  
**Subject:** RE: Pacific Communities Response to September 10 Staff Report

Christina,

Can you please reply to the below?

Thanks,  
Jim

---

**From:** James Pugh  
**Sent:** Friday, September 18, 2009 3:25 PM  
**To:** 'Salseda, Christina'  
**Cc:** 'Keane, Patricia'; Robert Philibosian; 'Nelson Chung'; 'Elsa Trujillo'  
**Subject:** RE: Pacific Communities Response to September 10 Staff Report

Christina,

Thanks for checking with Parks and Rec. This is, however, a legal call regarding how the parkland code sections apply to Pacific Communities' project. Parks and Rec deferred to your legal position last time I spoke with them. What is your position? As you understand from our letter, we strongly believe Pacific Communities can satisfied its parkland obligation with land, not fees. The Planning Commission directed Staff and us to act as quickly as possible on all open issues. Thus, we need to address this issue on Monday or Tuesday, which is when we're meeting with Planning again. Please respond with your position so we can react accordingly.

Thanks,  
Jim

---

**From:** Salseda, Christina [mailto:csalseda@counsel.lacounty.gov]  
**Sent:** Friday, September 18, 2009 3:09 PM  
**To:** James Pugh  
**Cc:** Keane, Patricia  
**Subject:** RE: Pacific Communities Response to September 10 Staff Report

Hi Jim- I reviewed your letter and spoke to Parks' planning staff. At this point, I am not aware of what Parks' ultimate recommendation to the Planning Commission will be. I will contact you as the hearing date approaches, if I hear of anything else. Thanks. Christina

**Christina Angeles Salseda**  
**Principal Deputy County Counsel**  
(213) 974-1927 telephone / (213) 687-7337 facsimile

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**From:** James Pugh [mailto:JPugh@sheppardmullin.com]  
**Sent:** Wednesday, September 16, 2009 8:36 AM  
**To:** Salseda, Christina  
**Subject:** Re: Pacific Communities Response to September 10 Staff Report

Ok, thanks.

----- Original Message -----

From: Salseda, Christina <csalseda@counsel.lacounty.gov>  
To: James Pugh  
Sent: Wed Sep 16 08:27:24 2009  
Subject: RE: Pacific Communities Response to September 10 Staff Report

Jim- I am attending meetings outside of the office today. However, I will make contact with Parks planning staff. Thanks. Christina

---

From: James Pugh [mailto:JPugh@sheppardmullin.com]  
Sent: Wednesday, September 16, 2009 7:51 AM  
To: Salseda, Christina  
Cc: Robert Philibosian; Nelson Chung; Elsa Trujillo  
Subject: RE: Pacific Communities Response to September 10 Staff Report

Ms. Salseda,

FYI. We're requesting, and Staff supports, a continuance of our matter this morning. We will likely go back to the Planning Commission within one or two weeks. I'll follow up with you later today regarding the parkland issues we discussed.

Thank you,  
Jim

---

Sheppard Mullin <<http://www.sheppardmullin.com/images/smrhlogo-mini.jpg>> 333 South Hope Street  
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James Pugh

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From: James Pugh  
Sent: Tuesday, September 15, 2009 3:44 PM  
To: 'csalseda@counsel.lacounty.gov'  
Subject: FW: Pacific Communities Response to September 10 Staff Report  
Importance: High

Ms. Salseda,

We represent Pacific Communities Builder regarding its project in Hacienda Heights. We have an important parkland issue that we need to discuss with you before our 9am Planning Commission hearing tomorrow morning. We are also corresponding with Patrica Keane on this issue, who has hopefully informed you. The attached letter explains our issue.

In a nutshell, our client is donating 10.49 acres of parkland to the Department of Parks and Recreation. The project's parkland obligation is .49 acres. Obviously, Pacific Communities has far exceeded its parkland obligation and thus per County Code Section 21.24.350 no in-lieu fee is required. The project's parkland obligation report was generate before the aforementioned donation was a part of the project. Thus, the Department of Parks and Rec is waiting on guidance from Counsel before it updates its report.

Time is of the essence. Please contact me at your earliest convenience so we can resolve this issue.

Thank you,  
Jim

---

From: James Pugh  
Sent: Tuesday, September 15, 2009 1:51 PM  
To: 'Alexanian, Sorin'  
Cc: 'Jon Sanabria (jsanabria@planning.lacounty.gov)'; 'wrew@ca.rr.com'; 'lhensley@parks.lacounty.gov'; 'Keane, Patricia'; 'jmoore@lacbos.org'; 'Nelson Chung'; 'Elsa Trujillo'; Robert Philipbosian; 'Cordova, Ramon'; 'Tae, Susan'  
Subject: Pacific Communities Response to September 10 Staff Report  
Importance: High

Sorin,

Please see the brief letter attached, which contains important points in response to the September 10th Staff Report. Please email this to all of the Planning Commissioners today so they have a chance to review it before tomorrow's hearing.

Thank you,  
Jim

# **Exhibit 3**

## **Staff Report**



Los Angeles County  
Department of Regional Planning

*Planning for the Challenges Ahead*



Jon Sanabria  
Acting Director of Planning

October 8, 2009

TO: Leslie G. Bellamy, Chair  
Wayne Rew, Vice Chair  
Esther L. Valadez, Commissioner  
Harold V. Helsley, Commissioner  
Pat Modugno, Commissioner

FROM: Ramon Cordova, Senior Regional Planning Assistant *RC*  
Land Divisions Section

SUBJECT: **PROJECT NO. 92-047-(4)**  
**VESTING TENTATIVE TRACT MAP NO. 51153**  
**CONDITIONAL USE PERMIT ("CUP") CASE NO. 92027**  
**OAK TREE PERMIT ("OTP") CASE NO. 92027**  
**ENVIRONMENTAL ASSESSMENT CASE NO. 92027**  
**AGENDA ITEM NO. 6 a, b, c, d; OCTOBER 21, 2009**

**PROJECT BACKGROUND**

On September 30, 2009, your Commission continued the public hearing to October 21, 2009 and instructed staff to continue working with the applicant on completing revised findings and conditions of approval. The last set of draft findings and conditions were provided to your Commission for the September 16, 2009 continued hearing.

Staff has continued to work with the applicant to revise the project's conditions. After making a number of revisions, currently four outstanding issues remain. These issues include (1) specific condition language regarding fuel modification/brush clearance activity within Schabarum Park, (2) calculation and credit of the Quimby obligation fee, (3) language regarding "donation" vs. "dedication" of the open space, and (4) the required monitoring period for oak trees planted to mitigate impacts to oak woodlands.

**REMAINING PROJECT ISSUES**

▪ Fuel Modification/Brush Clearance Activity within Schabarum Regional Park

As you may recall, your Commission indicated concerns during the March 17, 2004 and August 19, 2009 hearing regarding the potential for fuel modification/brush clearance activity within adjacent Schabarum Park resulting from development of the subject property. Single-family Lot No. 15 is located approximately 120 feet from the boundary of Schabarum Park, with the distance ranging from 64 feet to 220 feet from property line to property line.

Through discussions with the Los Angeles County Forester and Fire Warden ("Forester") and Los Angeles County Agricultural Commissioner, the applicant was able to confirm that the brush clearance distance required for a habitable structure ranges from 30 feet to 200 feet, and this required distance is determined at the building permit stage. This means that while less than 200 feet exists between the property line and Schabarum Park, it may be possible at the building permit stage for a structure to be constructed without requiring any brush clearance/fuel modification within Schabarum Park.

If the maximum clearing distance is required for Lot No. 15, the applicant has calculated that this would result in 9,779 square feet (0.22 acres) of Schabarum Park affected by brush clearance.

The applicant contends that should this worst-case scenario should occur, building should not be prohibited on Lot No. 15 as there are other factors the Commission should consider. Existing ongoing brush clearance activity occurs onsite and offsite from existing homes on adjacent Schabarum Park and within the Edison right-of-way to the west. The applicant also proposes to transfer 10 acres (Lot No. 58) of natural open space to the Los Angeles County Department of Parks and Recreation ("Parks & Rec"), who maintains Schabarum Park; these 10 acres were originally discussed within the context of offsite mitigation for a separate offsite library project not required by this project. The applicant has indicated that they are also willing to provide additional land to Schabarum Park at a 1:1 ratio for any Park land affected by brush clearance. Therefore, the applicant believes that these factors should offset and outweigh the maximum potential of 0.22 acres affected within Schabarum Park. Attached is an updated exhibit prepared by the applicant depicting the maximum offsite brush clearance area as well as existing brush clearance boundaries.

While the transfer of 10 acres of natural open space to Parks & Rec is a benefit, staff does not recommend any construction within Lot No. 15 if any brush clearance should be required within Schabarum Park. The Commission indicated concerns with burdening the Regional Park with brush clearance to allow for development of a new private project. The Commission discussed that many of the surrounding homes existed before the creation of Schabarum Park, and these should not be used in consideration of whether new development should affect Schabarum Park now in existence. Staff's recommended conditions (Vesting Tract Condition No. 20, CUP Condition No. 21) reflect that at the building permit stage, if all other means have been implemented and brush clearance is still required within Schabarum Park for a structure on Lot No. 15, no building permit should be issued for Lot No. 15.

▪ Quimby Park Land Obligation

The Quimby park land obligation required for local park space for this project is 0.49 acres. In their report dated February 10, 2009, Parks & Rec has recommended that the Quimby obligation be met with the payment of in-lieu fees, calculated at \$109,206. The applicant is offering 1.03 acres of pedestrian access for public use through 20-foot and six-foot easements, to be owned and maintained by the homeowners association. The applicant will also be providing 10 acres within Lot No. 58 to Parks & Rec. This Lot No. 58 will however need to be relocated from its current location on the latest tentative map, to the southeast corner of the property to avoid any manufactured slopes and to be considered acceptable by Parks & Rec. This relocation is conditioned as such in Tract Condition No. 14 and a proposed relocation is also depicted on the applicant's attached fuel modification exhibit.

The applicant contends that certain County Code sections allow the applicant to meet the Quimby obligation with park land, which may include trails. The applicant contends that these public pedestrian access easements qualify as trails for purposes of computing park land. The applicant also contends that the 10 acres of Lot No. 58 for Parks & Rec is much larger than the 0.49-acre obligation. In the applicant's letter dated September 15, 2009, the applicant indicated that they were willing to shift the 10 acres of open space on the condition that Parks & Rec determines that the Quimby park land obligation is met and therefore, no fee is required. Therefore, the applicant contends that the public access, the shifted 10 acres, or an additional contiguous 0.49 acres that can be carved out of the remaining natural open space, can individually or in combination be considered as meeting the Quimby obligation.

According to the County Code, the County is not obligated to accept park land that is not suitable for park use. With any park land offer, the Code states that Parks & Rec has the discretion to evaluate whether the offered park land is suitable to meet local park and recreational facilities contained in the Recreation Element of the Los Angeles Countywide General Plan. This includes an evaluation of slopes on the property, and whether the design and location of such space and its amenities if any, would be suitable. Based on this evaluation, Parks & Rec provides its recommendation to the advisory agency or in this case, your Commission. Based on the February 10, 2009 report from Parks & Rec, the Director of Parks & Rec is requesting in-lieu fees. These in-lieu fees are to address the provision of local park space; any land proposed to be added to Schabarum Park would be considered regional in nature as Schabarum Park is a regional park. The public pedestrian access offered by the project was also considered by staff as an amenity to address hillside projects that exceed the midpoint density; these access easements would not meet County standards for a public hiking trail.

▪ "Donation" vs. "Dedication" language

The project provides 101.7 acres of open space (89 percent of net area), of which 78.3 acres will remain natural and are intended for ownership by a public agency or conservation organization. The applicant proposes to transfer 10 acres (Lot No. 58) to Parks & Rec, of which Parks & Rec has indicated their intent to accept with its relocation, in their letter dated September 8, 2009 (previously provided in the September 16, 2009 Supplemental Package dated September 10, 2009; attached again for ease of reference).

The applicants contend that the 10 acres is a voluntary donation to Parks & Rec. This transfer is not required of the applicant, but has been offered by the applicant for many years. The term "donation" is important to the applicant as the applicant contends that the County's characterization of the property transfer with the entitlements documents has tax implications with the federal Internal Revenue Service.

While a nonurban hillside management project would be required to provide a minimum of 70 percent of the project site as open space, as a density-controlled development all remaining undeveloped land is required to remain open space. Therefore, all 101.7 acres of open space is required open space. As part of standard practice and consistent with standard condition language in other similar projects the County uses the term "dedication" when referring to requirements of a project. Parks & Rec's letter dated September 8, 2009 confirms their accepting the applicant's offer to dedicate this to Parks & Rec as permanent open space.

▪ Oak Woodland Conservation Act Monitoring Period

Mitigation Monitoring and Reporting Program ("MMRP") Measure No. M-B-2 requires that all mitigation trees be properly maintained, and if any tree fails to survive due to a lack of proper care and maintenance, will have to be replaced with a tree meeting the specifications. This maintenance period is for a period of seven years. The seven-year maintenance period begins upon receipt of a letter from the applicant or consulting arborist to the Director of the Los Angeles County Department of Regional Planning and the Forester, indicating that the mitigation trees have been planted. The maintenance period of any mitigation failing to survive the seven-year maintenance period starts anew with the planting of a replacement tree for that replacement tree.

The applicant contends that the maintenance period should only be for a total of seven years. If any replacement tree dies within that seven-year period, the maintenance period for that tree is only that

**VESTING TENTATIVE TRACT MAP NO. 51153  
CONDITIONAL USE PERMIT CASE NO. 92027  
OAK TREE PERMIT CASE NO. 92027  
October 21, 2009 RPC Cover Letter**

**PAGE 4**

time left within the original seven-year period. If the replacement tree dies within year six, only one year of maintenance would be required. Otherwise, the applicant contends that if the maintenance period starts anew then the maintenance period could be in perpetuity.

Staff believes that in order to meet the mitigation requirements of the Oak Woodland Conservation Act, the maintenance period of seven years applies anew. However, staff clarified to the applicant that if a replacement tree should die as a result of the failure of the applicant to properly monitor or maintain that mitigation tree, the maintenance period of seven years would start anew, but would only apply to that new replacement tree. This calculation of the appropriate maintenance and monitoring period is designed to provide adequate protection to the mitigation trees to maximize survival and is a standard approach used by the County on other approved projects. (OTP Condition No. 18).

**STAFF RECOMMENDATION**

Staff and the applicant have worked diligently on trying to resolve the four remaining issues; however the four issues continue to remain unresolved at this time. Based on staff's recommendations, attached draft findings and conditions of approval are attached for your Commission's review and approval if acceptable.

**Suggested Motion: "I move that the Regional Planning Commission close the public hearing, and approve Vesting Tentative Tract Map No. 51153, Conditional Use Permit Case No. 92027 and Oak Tree Permit Case No. 92027 with the attached recommended conditions."**

SMT:REC  
10/08/09

Attachments: Applicant's updated Fuel Modification Exhibit  
Parks & Rec letter dated September 8, 2009  
County Librarian letter dated February 27, 2003  
Department of Public Works e-mail dated September 16, 2009  
Puente Hills Landfill Native Preservation Authority letter dated  
September 14, 2009  
Watershed Conservation Authority letter dated September 25, 2009  
Additional correspondence

# **Exhibit 4**

## **New Trails**

# Open Space Trail Access



- LEGEND:
- PROPOSED TRAIL/ACCESS ROAD
  - EXISTING TRAIL
  - EXISTING OPEN SPACE ACCESS

# **Exhibit 5**

## **Parkland Report**



**LOS ANGELES COUNTY  
DEPARTMENT OF PARKS AND RECREATION  
PARK OBLIGATION REPORT**



Tentative Map #	51183	DRP Map Date:01/07/2008	SCM Date:02/25/2008	Report Date: 02/10/2009
Park Planning Area #	9	HACIENDA HEIGHTS		Map Type:REV. (REV RECD)

Total Units  = Proposed Units  + Exempt Units

Sections 21.24.340, 21.24.350, 21.28.120, 21.28.130, and 21.28.140, the County of Los Angeles Code, Title 21, Subdivision Ordinance provide that the County will determine whether the development's park obligation is to be met by:

- 1) the dedication of land for public or private park purpose or,
- 2) the payment of in-lieu fees or,
- 3) the provision of amenities or any combination of the above.

The specific determination of how the park obligation will be satisfied will be based on the conditions of approval by the advisory agency as recommended by the Department of Parks and Recreation.

Park land obligation in acres or in-lieu fees:

ACRES:	0.49
IN-LIEU FEES:	\$109,206

Conditions of the map approval:

The park obligation for this development will be met by:

The payment of \$109,206 in-lieu fees.

Trails:

No trails.

Comments:

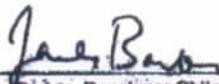
\*\*The In-Lieu Fee has been updated to \$109,206 from \$105,738 to reflect the fee schedule at the time Map 51153 was advertised for public hearing in February 2009

\*\*\*Advisory: the Representative Land Values (RLVs) in Los Angeles County Code (LACC) Section 21.28.140 are used to calculate park fees and are adjusted annually, based on changes in the Consumer Price Index. The new RLVs become effective July 1st of each year and may apply to this subdivision map if first advertised for hearing before either a hearing officer or the Regional Planning Commission on or after July 1st pursuant to LACC Section 21.28.140, subsection 3. Accordingly, the park fee in this report is subject to change depending upon when the subdivision is first advertised for public hearing.

Contact Patrocenia T. Sobrepeña, Departmental Facilities Planner I, Department of Parks and Recreation, 510 South Vermont Avenue, Los Angeles, California, 90020 at (213) 351-5120 for further information or an appointment to make an in-lieu fee payment.

For information on Hiking and Equestrian Trail requirements contact Trail Coordinator at (213) 351-5135.

By:

  
James Barber, Developer Obligations/Land Acquisitions

Supv D 4th  
February 10, 2009 13:47:21  
QMB02F.FRX



**LOS ANGELES COUNTY  
DEPARTMENT OF PARKS AND RECREATION**



**PARK OBLIGATION WORKSHEET**

Tentative Map #	51153	DRP Map Date: 01/07/2008	SMC Date: 02/25/2008	Report Date: 02/10/2009
Park Planning Area #	9	HACIENDA HEIGHTS		Map Type: REV. (REV RECD)

The formula for calculating the acreage obligation and or In-lieu fee is as follows:

$$(P) \text{ people} \times (0.003) \text{ Goal} \times (U) \text{ units} = (X) \text{ acres obligation}$$

$$(X) \text{ acres obligation} \times \text{RLV/Acre} = \text{In-Lieu Base Fee}$$

- Where:
- P = Estimate of number of People per dwelling unit according to the type of dwelling unit as determined by the 2000 U.S. Census\*. Assume \* people for detached single-family residences; Assume \* people for attached single-family (townhouse) residences, two-family residences, and apartment houses containing fewer than five dwelling units; Assume \* people for apartment houses containing five or more dwelling units; Assume \* people for mobile homes.
  - Goal = The subdivision ordinance allows for the goal of 3.0 acres of park land for each 1,000 people generated by the development. This goal is calculated as "0.0030" in the formula.
  - U = Total approved number of Dwelling Units.
  - X = Local park space obligation expressed in terms of acres.
  - RLV/Acre = Representative Land Value per Acre by Park Planning Area.

Total Units  = Proposed Units  + Exempt Units

	People*	Goal 3.0 Acres / 1000 People	Number of Units	Acre Obligation
Detached S.F. Units	3.50	0.0030	47	0.49
M.F. < 5 Units	2.70	0.0030	0	0.00
M.F. >= 5 Units	2.30	0.0030	0	0.00
Mobile Units	2.75	0.0030	0	0.00
Exempt Units			0	
Total Acre Obligation =				0.49

Park Planning Area = 9 HACIENDA HEIGHTS

Goal	Acre Obligation	RLV / Acre	In-Lieu Base Fee
@(0.0030)	0.49	\$222,869	\$109,206

Lot #	Provided Space	Provided Acres	Credit (%)	Acre Credit	Land
None					
Total Provided Acre Credit:				0.00	

Acre Obligation	Public Land Crdt.	Priv. Land Crdt.	Net Obligation	RLV / Acre	In-Lieu Fee Due
0.49	0.00	0.00	0.49	\$222,869	\$109,206

# **Exhibit 6**

## **Recreation Element Excerpts**

COUNTY OF LOS ANGELES

GENERAL PLAN

CONSERVATION AND OPEN SPACE ELEMENT

stations, forts, railroad depots, and the homes of prominent people whose lives are a part of the area's history.

The cultural heritage of Los Angeles County is rich and reflects the influence of cultures from almost every continent. The County also has one of the largest Native American populations in the United States.

Our cultural heritage is nonrenewable and irreplaceable. Resources continue to be haphazardly protected, and often there are insufficient funds for saving a threatened site or structure. Programs and procedures to identify and protect our cultural resources are needed. Public awareness of their value should be encouraged, and their public enjoyment should be fostered whenever possible.

#### RECREATIONAL RESOURCES

The National Forests and Santa Catalina Island are the largest recreational areas in the County. The visitor can hike and camp or sightsee in isolated natural areas abundant in wildlife and vegetation. Large water conservation projects such as Whittier Narrows and Castaic Lake are used for nature study and fishing. State Parks and Recreation Areas in the Santa Monica Mountains, Antelope Valley, and Puente Hills provide thousands of acres for scenic enjoyment and riding and hiking in relatively undisturbed terrain. The State also operates historic parks at El Pueblo de Los Angeles and Pacific Palisades (Will Rogers).

The shoreline is one of the most intensively used recreational resources in the County. It offers swimming, surfing, fishing, boating, and nature study. Long Beach Marina, King Small Craft Harbor, Marina Del Rey, and Avalon Harbor are used by boaters.

A system of regional parks has been developed through County and city efforts. These parks are used for water and field

sports, hiking, biking, and nature study. A local park system complements the regional park system and is designed to meet neighborhood and community outdoor recreation needs (17).

A highly urbanized population generally has more leisure time, a fact that has increased the recreational demands in Los Angeles County and contributed to deficiencies in outdoor recreation facilities. The facilities must serve not only a large and diverse population, but also millions of visitors each year. Because of these reasons, and projected population increases, additional outdoor recreation facilities, especially urban parks, riding and hiking trails, nature areas and water recreation areas will be needed.

In a County geared to mobility, the poor, the aged, the young, and the handicapped have the least recreational opportunities. Greater public access, including improved public transportation, and a wider choice of leisure activities are important in expanding recreational opportunities for all.

Additional outdoor recreational facilities can be provided by developing small parks, integrating open space into redevelopment projects, using completed landfills and abandoned school sites and planning for more bikeways and hiking and riding trails. The Santa Monica and Santa Susana Mountains and the Puente and San Jose Hills should be used for trail systems and recreational connectors. Where compatible with resource preservation, natural and cultural heritage resources may also provide recreational opportunities. The Plan strongly endorses the National Recreation Area for the Santa Monica Mountains as a way to preserve the scenic, recreational and ecological values of one of the County's major open space assets.

POLICY

21. Restrict urban development in areas subject to seismic and geologic hazards.
22. Restrict urban development in flood prone areas, and thus avoid major new flood control works. Maintain natural watershed processes by regulating development in tributary watersheds. Minimize increased runoff, erosion, and siltation of streambeds that would limit the uses of streams and water-bodies for recreation and other beneficial water-related uses.
23. Encourage the multiple use of flood prone areas for recreation, agriculture, ground water recharge and wildlife habitat.
24. Manage development in hillside areas to protect their natural and scenic character and to reduce risks from fire, flood, mudslides, erosion and landslides.
25. Discourage isolated development in wildland fire hazard areas and develop stricter brush clearance ordinances to protect existing structures.

Provide Additional Outdoor Recreation Areas

The highly urbanized, diverse population of the County and the millions of tourists who visit the area every year place increased demands on recreational facilities. Deficiencies in outdoor recreation areas have resulted. There is a need for more recreation sites and better public access to recreation facilities.

POLICY

26. Actively participate in the planning for acquisition and development of the Santa Monica Mountains National Recreation Area. Strongly encourage Congress to maintain a funding level

adequate to meet the objectives of the National Recreation Area legislation.

27. Provide low intensity outdoor recreation in areas of scenic and ecological value compatible with protection of these natural resources.
28. Develop local parks in urban areas as part of urban revitalization projects, wherever possible.
29. Encourage improved public transportation to recreation sites.
30. Develop a system of bikeways, scenic highways, and riding and hiking trails; link recreational facilities where possible.
31. Encourage safe conversion of sanitary landfills for recreational use when no longer needed for waste disposal.
32. Support the provision of appropriate areas for off-road recreational vehicles, so as to reduce their impact on environmentally sensitive areas.
33. Support improved public access to coastal recreation areas, including the Channel Islands, consistent with protecting marine and land environments.

Promote Landscaping

Landscaping is needed to provide scenic beauty, make the urban environment more attractive and pleasant, improve air quality (19), reduce energy consumption, and separate and screen urban uses from noise and unsightly views. Properly managed landscaping can improve soil conditions and retard wildland fires. Certain trees are also valuable because of their beauty, age, rarity, unusual dimensions, or historical importance (heritage trees).

# **Exhibit 4**

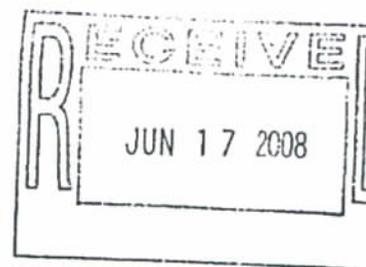
## **County Forester's Recommendations**



## COUNTY OF LOS ANGELES

FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE  
LOS ANGELES, CALIFORNIA 90063-3294  
(323) 890-4330



P. MICHAEL FREEMAN  
FIRE CHIEF  
FORESTER & FIRE WARDEN

June 11, 2008

Ramon E. Cordova, Land Divisions Section  
Department of Regional Planning  
Zoning Permits Section I  
320 West Temple Street  
Los Angeles, CA 90012

Dear Mr. Cordova:

### **OAK TREE PERMIT #92-027 / TR 51153, HACIENDA HEIGHTS**

We have reviewed the revised "Request for Oak Tree Permit #92-027." The project is located south of Dawn Haven Avenue in the unincorporated area of Hacienda Heights. The revised Oak Tree Report is accurate and complete as to the location, size, condition and species of the Oak trees on the site. The term "Oak Tree Report" refers to the document on file by L. Newman Design Group, the consulting arborist, dated December 6, 2006 and Revised November 26, 2007.

**We recommend the following as conditions of approval:**

#### **OAK TREE PERMIT REQUIREMENTS:**

1. This grant shall not be effective until the permittee and the owner of the property involved (if other than the permittee), have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of and agree to accept all conditions of this grant. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation or other entity making use of this grant.
2. The permittee shall, prior to commencement of the use authorized by this grant, deposit with the County of Los Angeles Fire Department a sum of \$300. Such fees shall be used to compensate the County Forester \$100 per inspection to cover expenses incurred while inspecting the project to determine the permittee's compliance with the conditions of

SERVING THE UNINCORPORATED AREAS OF LOS ANGELES COUNTY AND THE CITIES OF:

AGOURA HILLS  
CANA  
IN PARK  
BELL GARDENS  
BELLFLOWER

BRADBURY  
CALABASAS  
CARSON  
CERRITOS  
CLAREMONT  
COMMERCE  
COVINA

CUDAHY  
DIAMOND BAR  
DUARTE  
EL MONTE  
GARDENA  
GLEN DORA  
HAWAIIAN GARDENS

HAWTHORNE  
HIDDEN HILLS  
HUNTINGTON PARK  
INDUSTRY  
INGLEWOOD  
IRWINDALE  
LA CANADA FLINTRIDGE  
LA HABRA

LA MIRADA  
LA PUENTE  
LAKEWOOD  
LANCASTER  
LAWDALE  
LOMITA  
LYNWOOD

MALIBU  
MAYWOOD  
NORWALK  
PALMDALE  
PALOS VERDES ESTATES  
PARAMOUNT  
PICO RIVERA

POMONA  
RANCHO PALOS VERDES  
ROLLING HILLS  
ROLLING HILLS ESTATES  
ROSEMEAD  
SAN DIMAS  
SANTA CLARITA

SIGNAL HILL  
SOUTH EL MONTE  
SOUTH GATE  
TEMPLE CITY  
WALNUT  
WEST HOLLYWOOD  
WESTLAKE VILLAGE  
WHITTIER

approval. The above fees provide for one (1) initial inspection of temporary fencing (required to secure the protected zone of all remaining Oak trees), prior to the commencement of construction and two (2) subsequent annual inspections until the conditions of approval have been met.

The Director of Regional Planning and the County Forester shall retain the right to make regular and unannounced site inspections.

3. Before commencing work authorized or required by this grant, the consulting arborist shall submit a letter to the Director of Regional Planning and the County of Los Angeles Fire Department, Forestry Division stating that he or she has been retained by the permittee to perform or supervise the work, and that he or she agrees to report to the Director of Regional Planning and the County Forester any failure to fully comply with the conditions of the grant. The arborist shall also submit a written report on permit compliance upon completion of the work required by this grant. The report shall include a diagram showing the exact number and location of all mitigation trees planted as well as planting dates.
4. The permittee shall arrange for the consulting arborist or a similarly qualified person to maintain all remaining Oak trees on the subject property that are within the zone of impact as determined by the County Forester for the life of the Oak Tree Permit or the Conditional Use Permit.
5. The permittee shall install temporary chain link fencing, not less than four (4) feet in height, to secure the protected zone of all remaining Oak trees on site as necessary. The fencing shall be installed prior to grading or tree removal, and shall not be removed without approval of the County Forester. The term "protected zone" refers to the area extending five (5) feet beyond the dripline of the Oak tree (before pruning), or fifteen (15) feet from the trunk, whichever is greater. Specifically, Tree Numbers 32 and 177, identified in the Oak Tree Report, shall be fenced.
6. Copies of the Oak Tree Report, Oak tree map, mitigation planting plan and conditions of approval shall be kept on the project site and available for review.

All individuals associated with the project as it relates to the Oak resource shall be familiar with the Oak Tree Report, Oak tree map, mitigation planting plan and conditions of approval.

**PERMITTED OAK TREE REMOVAL AND ENCROACHMENT:**

7. This grant allows the removal of one hundred and twenty-six (126) trees of the Oak genus (*Quercus agrifolia*) identified as:

64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83
84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	
103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122
123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142
143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162
163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182
183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202
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263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282
283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302
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363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382
383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402

This grant allows encroachment within the protected zone of twenty (20) trees of the Oak genus Quercus agrifolia identified as Tree Numbers:

15	16	17	58	59	60	61	62	63	137	235	239	240	243	282	318	323	332	333	358		
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on the applicant's site plan map and Oak Tree Report. Trenching, excavation, or clearance of vegetation within the protected zone of an Oak tree shall be accomplished by the use of hand tools or small hand-held power tools. Any major roots encountered shall be conserved to the extent possible and treated as recommended by the consulting arborist.

8. In addition to the work expressly allowed by this permit, remedial pruning intended to ensure the continued health of a protected Oak tree or to improve its appearance or structure may be performed. Such pruning shall include the removal of deadwood and stubs and medium pruning of branches two-inches in diameter or less in accordance with the guidelines published by the National Arborist Association. Copies of these guidelines are available from the County of Los Angeles Fire Department, Forestry Division. In no case shall more than 20% of the tree canopy of any one tree be removed.
9. Except as otherwise expressly authorized by this grant, the remaining Oak trees shall be maintained in accordance with the principles set forth in the publication, "Oak Trees: Care and Maintenance," prepared by the County of Los Angeles Fire Department, Forestry Division. A copy of the publication is enclosed with these conditions.

**MITIGATION TREES:**

10. The permittee shall provide mitigation trees of the Oak genus at a rate of two to one (2:1) trees for each tree removed. There are one hundred twenty-six (126) oak trees to be removed. A total of two hundred fifty-two (252) mitigation trees are required for mitigation.

The permittee shall provide mitigation trees of the Oak genus at a rate of two to one (2:1) for any tree specified above that dies as a result of the approved encroachments.

11. Each mitigation tree shall be at least a 15-gallon specimen in size and measure one (1) inch or more in diameter one (1) foot above the base. Free form trees with multiple stems are permissible provided the combined diameter of the two (2) largest stems of such trees measure a minimum of one (1) inch in diameter one (1) foot above the base.

12. Mitigation trees shall consist of indigenous varieties of *Quercus agrifolia* grown from a local seed source.
13. Mitigation trees shall be planted within one (1) year of the permitted Oak tree removals. Additional mitigation trees shall be planted within one (1) year of the death of any tree, which results from its permitted encroachment. Mitigation trees shall be planted either on site or at an off-site location approved by the County Forester. Alternatively, a contribution to the County of Los Angeles Oak Forest Special Fund may be made in the amount equivalent to the Oak resource loss. The contribution shall be calculated by the consulting arborist and approved by the County Forester according to the most current edition of the International Society of Arboriculture's "Guide for Plant Appraisal."
14. The permittee shall properly maintain each mitigation tree and shall replace any tree failing to survive due to a lack of proper care and maintenance with a tree meeting the specifications set forth above. The two-year maintenance period will begin upon receipt of a letter from the permittee or consulting arborist to the Director of Regional Planning and the County Forester indicating that the mitigation trees have been planted. The maintenance period of the trees failing to survive two (2) years will start anew with the new replacement trees. Subsequently, additional monitoring fees shall be required.
15. All mitigation Oak trees planted as a condition of this permit shall be protected in perpetuity by the Los Angeles County Oak Tree Ordinance once they have survived the required maintenance period.

**NON-PERMITTED ACTIONS AND VIOLATIONS:**

16. Encroachment within the protected zone of any additional tree of the Oak genus on the project site is prohibited.
17. Should encroachment within the protected zone of any additional tree of the Oak genus on the project site not permitted by this grant result in its injury or death within two (2) years, the permittee shall be required to make a contribution to the Los Angeles County Oak Forest Special Fund in the amount equivalent to the Oak resource damage/loss. Said contribution shall be calculated by the consulting arborist and approved by the County Forester according to the most current edition of the International Society of Arboriculture's "Guide for Plant Appraisal."
18. No planting or irrigation system shall be installed within the dripline of any Oak tree that will be retained.
19. Utility trenches shall not be routed within the protected zone of an Oak tree unless the serving utility requires such locations.

Ramon Cordova, Land Divisions Section

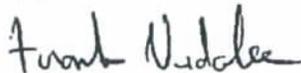
June 11, 2008

7) Page 5

20. Equipment, materials and vehicles shall not be stored, parked, or operated within the protected zone of any Oak tree. No temporary structures shall be placed within the protected zone of any Oak tree.
21. Violations of the conditions of this grant shall result in immediate work stoppage or in a notice of correction depending on the nature of the violation. A time frame within which deficiencies must be corrected will be indicated on the notice of correction.
22. Should any future inspection disclose that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be held financially responsible and shall reimburse the County of Los Angeles Fire Department, Forestry Division for all enforcement efforts necessary to bring the subject property into compliance.

If you have any additional questions, please contact this office at (323) 890-4330.

Very truly yours,



FRANK VIDALES, ACTING CHIEF, FORESTRY DIVISION  
PREVENTION SERVICES BUREAU

FV:jl

Enclosure