

ISSUES (AND SUPPORTING INFORMATION SOURCES):

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
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- e. Grading on natural slopes over 10 percent? (Source: GIS MAPS & GENERAL PLAN EXHIBIT 4 — SLOPE ANALYSIS)

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The project area is characterized by slopes that range between approximately 10 and 30 percent, with an average slope of approximately 26%. The proposed grading for this project is regulated by the Public Works Department and the City's Grading Ordinance. The project requires grading exceptions to allow manufactured slopes up to a height of 30 feet for portions of proposed Cresthaven and Century Hills Streets. As well, portions of the proposed pads and streets are located within the limits of the Alessandro Arroyo. In addition, the Grading Ordinance requires a 50-foot development setback from the limits of the Arroyo.

The Grading Ordinance allows the granting of grading exceptions provided findings can be made that exceptional or special circumstances apply to the property. Such as exceptional or special circumstances shall include such characteristics as unusual lot size, shape or topography, drainage problems, or the impracticability of employing a conforming grading plan, by reason of prior existing recorded subdivisions or other characteristics of contiguous properties.

Portions of lots 37-41, 43-49 51, 57-62, 77, 78, Cresthaven Drive, Century Hills Drive, Grass Valley Way, a Flood Control access road, a water quality basin and a sewer line encroach within the limits and 50-foot development setback of the Alessandro Arroyo as defined in the Grading Ordinance. The limits of the Alessandro Arroyo and the required fifty-foot setback established under the Grading Ordinance were established based on an analysis of topographical maps and aerial photos.

ISSUES (AND SUPPORTING INFORMATION SOURCES):

Potentially Significant Impact Potentially Significant Unless Mitigation Incorporated Less Than Significant Impact No Impact

The limits of the arroyo are defined as those areas with slopes over 30% and which are identified on the Alessandro Arroyo map exhibit to the grading ordinance. However, it is often necessary to actually inspect the site to determine more precisely the Arroyo limits. Lots 37-40 have been daylighted to avoid slopes within proximity to the main Arroyo. The grading for these lots allows for an open space corridor that lines up with the open space areas of the adjacent maps to the northeast

The remaining lots 41-44 41, 43-51, 57-62 46-49, 57-68 and 77-78 are located outside the main branch of the arroyo and lie on relatively flat surfaces or within portions of tributaries which are not topographically or visually significant. Additionally, lot 45 contains significant rock outcroppings in the rear portion of the pad which are noted for protection.

Although the proposed street alignment has already been approved under the PRD, grading exceptions are now necessary to construct some of these streets. However, none of the proposed streets lie within the actual arroyo. A grading exception is also required for the installation of a water quality basin. The purpose of this feature is to provide pretreatment of urban run off prior to discharge into the drainage feature further south. Finally a grading exception is required for the installation of the sewer line and a Flood Control access road. The road already exists and will be formalized as part of this project to allow access for maintenance. Additionally, the sewer line originates from the adjacent residential development to the north and flows to the south until it reaches the intersection of Grass Valley Way and Century Hills Drive and minimal grading is necessary in non-significant portions of the site not on any ridgelines. For the reasons stated above, staff can support all of the requested grading exceptions for encroachments into the Arroyo and its tributaries. Staff has made the necessary findings in support of these exceptions and are attached as part of this report.



CASE NUMBER: TM-31930

HEARING DATE: August 19, 2004

STAFF SUPPLEMENTED GRADING EXCEPTION FINDINGS:

- Grading Exceptions:
- A) to permit lots 37-41, 43-49, 50, 51, 57-62, 77, 78, Grass Valley Way, Cresthaven Drive, Century Hills Drive, a Flood Control access road, a water quality basin and a sewer line to encroach within the limits and 50-foot development setback of the Alessandro Arroyo as defined in the Grading Ordinance; and
 - B) To permit slopes in excess of twenty feet for portions of Crest haven, and Century Hills Drive

FINDINGS:

1. *The strict application of the provisions of this Title would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of Title 17.*

Deviation A — Arroyo Limits and Setback Encroachments

Lots 37 through 40 - The strict application of the provisions of this Title would not permit reasonably sized building pads to be created on these minimum one-acre lots due to the required fifty-foot setback and arroyo limits. The applicant has revised the proposed grading on these lots to eliminate a second pad that was originally proposed at the rear of the lots thereby greatly reducing the amount of grading encroaching into the setback and arroyo limits. As well, the applicant has created a new open space lot, Lot 93, from a portion of lot 37 opening up the open corridor that connects to the open space areas of the maps to the east. The affected area is a tributary of the arroyo with the main branch of the arroyo further south. From a field visit to the site staff noted that the area proposed for grading does not have the characteristics (i.e., riparian area, 30% slopes, unique topographical features, etc.) that the Grading Ordinance endeavors to preserve. Therefore, it would be an unnecessary hardship to eliminate these pads and/or lots completely as the proposed grading is not in the more environmentally sensitive areas of the arroyo and ample open space is provided.

Lots 41, 46 and Grass Valley Way - These lots encroach into another tributary of the Alessandro Arroyo. This tributary extends from the arroyo to the south, northerly up a steep slope breaking out into two fingers. The steep slope is generally characterized with large rock outcroppings which the applicant proposes to preserve. The strict application of the provisions of this Title would not permit the proposed building pads

and street due to their encroachment into the setback and arroyo limits. During a field visit, staff noted that this portion of the map area does not visually appear as a part of an arroyo and there are no significant rock outcroppings or other notable features being removed. Since the intent of the Grading Ordinance is being maintained with the grading as proposed, it would be an unnecessary hardship not to permit the grading as proposed.

Lots 43 and 44 - The strict application of the provisions of this Title would not permit the proposed building pads in that the grading necessary for these lots encroach into the arroyo limits and setback. Based on a field inspection, staff noted that these lots are sitting on knolls above the main arroyo and are not within the arroyo. The applicant has designed the grading to daylight with no exposed slopes to the arroyo and to blend in with the natural terrain. The area directly abutting the rear property lines of these lots has been reserved as an open space lot that will link to open space areas in adjacent maps. It would be an unnecessary hardship to not permit these encroachments given that the encroachments will not affect sensitive areas of the arroyo and the actual sensitive areas behind these lots have been reserved as part of an open space lot. These encroachments will be consistent with the intent of Title 17.

Lot 45 - The strict application of the provisions of this Title would not permit the proposed building pad in that the grading necessary for this lot encroaches into the arroyo limits and setback. The limits of the arroyo and setback were established based on an analysis of topographical maps and aerial photos which depicted those areas with slopes over 30%. Per a field visit, the proposed pad will not be situated over sensitive areas of the arroyo limits or within the arroyo itself. However, staff did note that significant rock outcroppings exist in the rear portion of the pad and are noted for protection on the map. To insure that these rock outcroppings are protected, staff is recommending that a detailed grading plan be submitted for this lot showing the precise location of these rock outcrops and insuring their preservation in order to meet the intent of Title 17. Given these circumstances, it would be an unnecessary hardship to not permit grading as proposed for this lot.

Lots 47, 48, 49, 50 and 51- These lots encroach into another tributary of the Alessandro Arroyo. This tributary extends from the arroyo to the south, northerly up a slope generally characterized with large rock outcroppings which the applicant proposes to preserve. The strict application of the provisions of this Title would not permit the proposed building pads in this location as they are within the arroyo limits and setback. However, from both a review of the grading plan as well as a field visit to the site, staff noted that these lots are not truly in the tributary but sit on a relatively flat knoll next to the tributary. The area proposed for these pads is relatively flat and does not contain any significant rock outcroppings or sensitive areas of the arroyo. In fact, there are some rock outcroppings directly easterly of lot 47 which have been reserved within an open space lot. As well, these lots have been designed to preserve significant rock outcroppings between lots 47-49 and 50-51. It would be an unnecessary hardship not to allow these minimal encroachments given that the intent of Title 17 will be met.

Lot 57 and Cresthaven Street - Actual grading for lot 57 has not been proposed at this time. However, a portion of lots 57 and C encroach into the arroyo and setbacks as defined by the Grading Ordinance. Therefore, the strict application of the provisions of this Title would not permit the construction of street lot C and would limit grading on lot 57. However, this area is actually just to the west of one of the tributaries of the arroyo. The areas proposed for grading do not have any of the characteristics of an arroyo. When this map was originally approved, careful

south.

Deviation B — Slope Height

Century Hills Drive and Cresthaven Drive - The strict application of this Title would not permit the construction of these streets since slopes higher than twenty feet will be required. To build proposed Crest Haven Di there is an area, just southerly of the Cresthaven Drive cul-de-sac, where slopes will reach a maximum of 26-feet for a distance of thirty-feet. For Century Hills Dr, there is an area, located approximately midway in the length of the street, where the maximum slope height will reach thirty-feet for a distance of seventy-feet. For street H there are two areas where slopes will exceed twenty-feet. The first area is the southerly portion of lot 76, where a maximum height of 29-feet over a distance of seventy-feet will be needed. The second area is on the easterly side of the knuckle of street H with street F where a maximum height of thirty-feet for a distance of forty-feet is needed. These slopes are not out of character with the area and will be contour graded to blend with the area. As mentioned previously, the street configuration, as proposed, was based on a study of the natural terrain of the project site to limit grading. This proposal shows the same streets as approved before under the map and the slopes will be contour graded. It would be an unnecessary hardship to not allow these slopes for these streets given that the slopes are not in sensitive areas of the arroyo and the intent of Title 17 will be met.

2. *That there are exceptional circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally apply to other property in same zone or neighborhood.*

Deviation A: — Arroyo Limits and Setback Encroachments

Lot 37 through 40 - Per a field visit, the portions of the building pads and manufactured slopes of these lots encroaching within the arroyo limits and setback areas are from a visual standpoint not readily identifiable as part of the arroyo. Also, all of the sensitive natural features in the area, particularly the rock outcroppings, will not be affected. These factors are considered exceptional circumstances.

Lot 41, 46 and Grass Valley Way - The portion of the building pad and manufactured slopes lying within the arroyo limits and setback areas are within a tributary and not the main branch of the arroyo. From a site visit to this site, staff noted that this area is not identifiable as part of the arroyo and this is considered an exceptional circumstance.

Lot 43 and 44 - Per a field visit, the portions of the building pads and manufactured slopes of these lots lying within the arroyo limits and setback areas will not affect sensitive natural features of the arroyo. When staff went out to the site, it was noted that these lots are sitting on knolls above the main arroyo. The applicant has designed the grading to daylight with no visible slopes and to blend in with the natural terrain. In fact, there is a portion adjacent to the rear property line of this lot that is sensitive to the arroyo and will be reserved as part of an open space lot.

Lot 45 - As noted under finding 1, the proposed pad will not be situated over sensitive areas of the arroyo limits or within the arroyo itself. However, staff did note that significant rock outcroppings exist in the rear portion of the pad and are noted for protection on the map. Since, this grading is not actually within the arroyo, this an exceptional circumstance.

Lots 47, 48, 49, 50 and 51 - From both a review of the grading plan as well as a field visit to the site, staff noted that these lots are not truly in the tributary but sit out on a relatively flat knoll next to the tributary. The area proposed for these pads is relatively flat and does not contain any significant rock outcroppings or sensitive areas of the arroyo. As a matter of fact, there are some rock outcroppings directly easterly of lot 47 which have been reserved within an open space lot. Lot 48 is further to the north outside the main branch of the arroyo. As well, these lots have been designed to preserve significant rock outcroppings between lots 47-49 and 50-51. These are considered exceptional circumstances.

Lot 57 - This area is actually just to the west of one of the tributaries of the arroyo. The areas proposed for grading do not have any of the characteristics of an arroyo. When this map was originally, proposed careful consideration was given to the proposed street alignment through the map to insure that grading would be minimized. This portion of the site is not steep and will not impact the lower, steeper portions of this tributary. These are considered exceptional circumstances.

Lots 58 through 62 - Per a field visit, the proposed pads will be situated on a relatively flat area and away from the sensitive lower portion of a tributary segment of the arroyo. This is considered an exceptional circumstance.

Lots 77 and 78 - The proposed pads will be situated on a relatively flat portion of the site, and not within the arroyo. This is considered an exceptional circumstance.

Streets (Glen haven and Century Hills Dr) - The proposed street location will stay out of areas with significant scattered rock outcroppings just northerly of the proposed street location and the main arroyo which runs just southerly of the street. The streets were designed to limit the amount of grading to the maximum extent. Staff believes these to be considered exceptional circumstances.

Flood Control access road and sewer line - Per a field visit, the portions of the areas to be graded for a Flood Control access road and sewer line encroaching within the arroyo limits and setback areas are from a visual standpoint not readily identifiable as part of the arroyo.

Water Quality Basin - The purpose of this feature is to provide pretreatment of urban run off prior to discharge into the drainage feature further south. This is considered an exceptional circumstance in that it will provide protection for the arroyo to the south.

Variance B: — Slope Height Exceptions

Streets (Glen haven and Century Hills Dr- The street configuration for this project was based on a study of the natural terrain to limit the grading needed. As a result, the proposed slopes up to thirty-feet in height are needed for the street configuration. To redesign the streets in a different configuration would require even more grading than proposed. These are considered exceptional circumstances.

3. *That the granting of a waiver will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located.*

Deviation A:

Lots 37 through 40 - The proposed grading does not affect the actual arroyo as noted by a site visit. Also, all of the sensitive rock outcroppings within the arroyo limits and setbacks will be preserved. The proposed grading will have not be detrimental to the public or the area.

Lot 41, 46 - The proposed grading on these lots will not affect the sensitive portions of the tributary segment of the arroyo. Although the Grading Ordinance defines this area as part of the arroyo tributary staff noted that the tributary if further west and these lots are not within the tributary.

Lots 43 & 44 and Grass Valley Way- The proposed grading on this lot will not affect sensitive portions of the arroyo and no sensitive rock outcroppings within the arroyo and setbacks will be impacted. The proposed grading will have no adverse impact to this neighborhood.

Lot 45 - The proposed grading on this lot, as conditioned for the preservation of the rock outcroppings in the rear of the pad, will not affect sensitive portions of the arroyo. On this basis, the proposed grading will have no adverse impact on the neighborhood.

Lots 47, 48, 49, 50 and 51: The proposed grading on this lot, as conditioned, will not affect sensitive portions of the arroyo. This map has been approved previously and these lots will not change. The proposed grading will have no adverse impact to this neighborhood.

Lot 57 - The proposed grading on these lots will facilitate the construction of Street C which is in the least sensitive location possible. The proposed grading will not affect sensitive areas of a tributary segment of the arroyo. The proposed grading will have no adverse impact to this neighborhood.

Lots 58 through 62 - The proposed grading on these lots will not affect sensitive portions of a tributary segment of the arroyo. The proposed grading for these lots is the same as previously approved and will have no adverse impact to this neighborhood.

Lots 77 and 78 - The proposed grading for these lots will not affect sensitive areas of the arroyo and its tributaries. Additionally, these lot configurations have been approved once previously. The proposed grading will have no adverse impact to this neighborhood.

Crest Haven and Century Hills Drives - The proposed alignment of this street has already been approved previously and it was determined that it would not affect sensitive areas of the arroyo. The proposed grading will have no adverse impact to this neighborhood.

Flood Control access road and sewer line - The portions of the areas to be graded for a Flood Control access road and sewer line are minimal and are not intended to be used for public access. As such, these features will not impact this neighborhood in any form

Water Quality Basin - The purpose of this feature is to provide pretreatment of urban run off

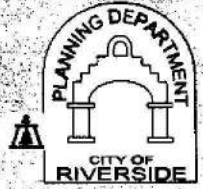
prior to discharge into the drainage feature further south. This feature is designed to protect the arroyo and will not impact this neighborhood.

As noted above the actual effects to the arroyos are insignificant and the applicant has designed the map and grading as sensitively as possible. Therefore, this project should not be detrimental to the public or area.

Deviation B: — Slope Height Exceptions

Glen Haven and Century Hills Drives - As mentioned previously, the street configuration and alignment have already been approved under the map based upon extensive studies and previous public input to limit the amount of grading to the extent possible. Per a field visit, the proposed slopes up to 30-feet will not affect sensitive areas of the arroyo and will not have an adverse impact to the neighborhood.

Flood Control access road and sewer line - These features will not impact any adjacent neighborhood but rather improve sewer facilities and maintenance into the Flood Control District area to the south the project. As noted above the actual effects to the arroyos are insignificant and the applicant has designed the map and grading as sensitively as possible. Therefore, this project should not be detrimental to the public or area.



Variance Justifications (CORRECTED) EXHIBIT L

CASE NUMBER: P03-1451, P03-1548 and P04-0260

HEARING DATE: August 19, 2004

- Variations:**
- a. parcels less than two acres in size on lots with an average natural slope (ANS) greater than 15% (lots 37-39, 43-48, 50, 51, 53-55, 57-62 and 77-79);
 - b. parcel less than five acres in size on lot 49 with an ANS of 30% or greater;
 - c. landlocked parcels located along private streets

STAFF VARIANCE JUSTIFICATION FINDINGS:

FINDINGS:

1. The strict application of the provisions of the Zoning Regulations result in practical difficulties or unnecessary hardships in the development of this property.

Variations A and B: The strict application of the Code would require a redesign of the project to eliminate all variances, which would negate the need for the Planned Residential Development application. As the PRD application was filed to allow clustering of the proposed lots with the intent of maximizing the preservation of natural space within the project area, this strict application of the Code would be counter to the City's goal of environmental preservation and sensitive hillside development.

Variance C: The strict application of the Zoning Code would not allow the proposed private street design in which this would be considered an unnecessary hardship given that all lots will have access to public streets.

2. There exceptional circumstances or conditions applicable to this property or to the intended use or development of this property which do not apply generally to other property in the same zone or neighborhood.

Variations A and B: The clustering of lots proposed for this project, with the intent of maximizing open space preservation and retention of important natural drainages, is the environmentally superior option for this project.

Variance C: This map is designed as a planned residential development with private streets and that all lots will have access to a public street. These are considered exceptional circumstances.

3. The granting of this request prove materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located.

Variations A, B & C: The lot is of comparable size to surrounding RC Zone lots and still exceeds the minimum lot size allowed in the RC Zone. The lot provides adequate building area to accommodate a residence without the need for setback variances. As well, all lots will be served by a private street connecting to a public street.

4. **The granting of this request will not be contrary to the objectives of the General Plan.
The General Plan does not pertain in this instance.**

cc:Clara E. Miramontes

CITY OF RIVERSIDE PLANNING DEPARTMENT



Grading Exceptions (APPLICANTS) EXHIBIT N

CASE NUMBER: P03-1451, P03-548, P04-0260 HEARING DATE: August 19, 2004

APPLICANT PROVIDED GRADING EXCEPTION FINDINGS:

- Grading Exceptions:
- to allow lots 37-41, 43-49, 50, 51, 57-62, 77-78, portions of Crest Haven Drive, Century Hills Drive, Grass Valley Way, the water quality basin, the Flood Control access road, and the sewer line extension, to encroach within the limits of the Alessandro Arroyo and the 50-foot development setback of the Alessandro Arroyo as defined in the Grading Ordinance; and
 - to allow slopes in excess of twenty-feet for portions of Crest Haven and Century Hills Drives.

Relevant Standards from the City of Riverside Grading Ordinance

Arroyo and Tributary Grading Prohibitions in the City of Riverside Grading Ordinance:
Grading in the Alessandro Arroyo and within the 50' setback to the Alessandro Arroyo is prohibited by the Arroyo Grading section of the Grading Ordinance, as follows "[n]o development or grading or any kind shall be permitted within 50 feet of the limits of the Mockingbird Canyon, Woodcrest, Prenda, Alessandro, Tequesquite, or Springbrook Arroyos and associated tributaries as shown on Exhibits "A-F". (Grading Ordinance, § 17.28.020(14)(a).)

Administrative Procedure to Allow Grading Within Designated Arroyo Tributaries: "The Zoning Administrator shall have the authority to administratively allow grading within designated arroyo tributaries depending on the sensitivity of the area. Sensitivity shall be determined by such factors as the presence of riparian vegetation, habitat for rare or endangered species, significant rock outcroppings or other unique topographic features on the property proposed to be graded or in nearby segments of the same tributary." (Id., at § 17.28.020(A)(14)(a).)

Definitions:

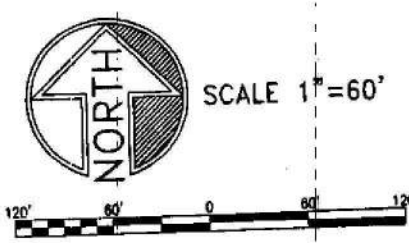
- The Alessandro Arroyo is defined in the Grading Ordinance as follows: "the limits of the arroyos shall include all that land within the water course area, the adjacent slopes having an average natural slope of 30% or greater, and all other areas within the boundaries shown on Exhibits "A-F" (emphasis added.) (Id., at § 17.28.020(14)(b).) Exhibits "A-F" are maps attached to the Grading Ordinance that identify the Arroyos and tributaries. Exhibit "D" is attached below.
- Alessandro Arroyo Study definition of Arroyo. The direction of the water flow in the Arroyo that occurs during periods of heavy rain is from east to west.
- The topographic maps incorporated for illustration purposes herein identify in red all slopes less than 30%, and in blue all slopes greater than 30%. The 50' setback and limits of the Alessandro Arroyo identified on Exhibit "D" are identified on the topographic maps used herein. The southerly line identifies the Arroyo limit, and the northerly line identifies the outer edge of the 50' setback. The location of the Alessandro Arroyo (the "Arroyo") and the 50' setback are interrelated. The Arroyo limit line establishes the beginning of the 50' setback, which extends 50' away from the Arroyo. For ease of reference, in these findings, the Arroyo limit and the 50' setback will be referred to together as the "setback ribbon", unless the context requires that they be identified individually.

GRADING EXCEPTIONS

Exhibits to Finding 1

The house footprints highlighted in yellow on the following pages represent a typical one-story house size in the neighborhood surrounding TM 31930.

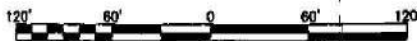
Each lot on the following pages contains a typical one-story house of approximately 4,000 sq.ft. and a four-car garage of approximately 1,000 sq.ft..



LOTS 37-40
12-86 5-225

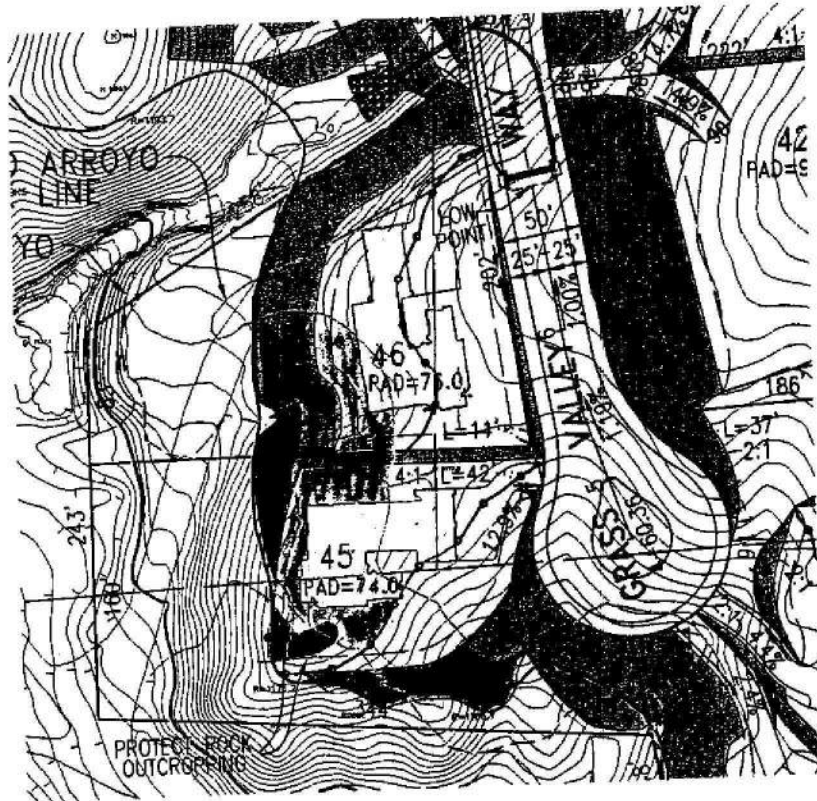


SCALE 1" = 60'



LOTS 43-44

12-87 5-226

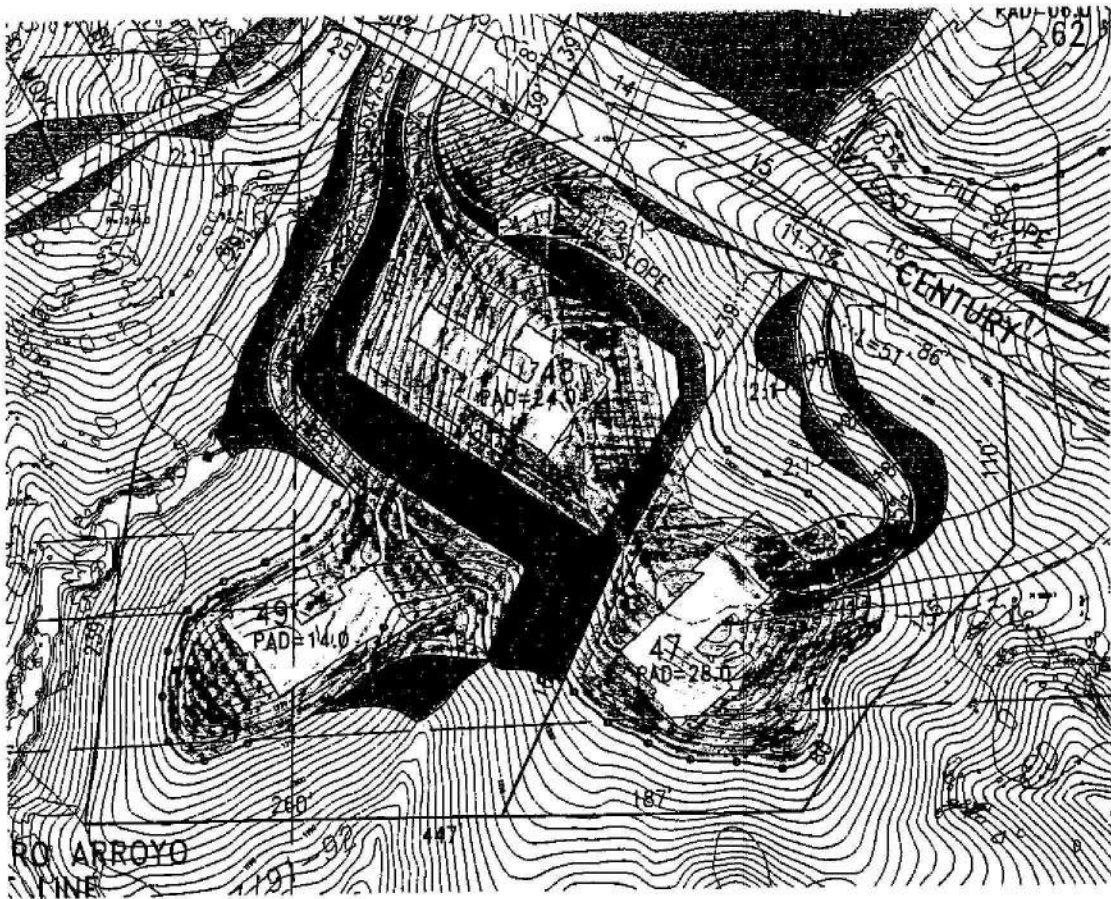


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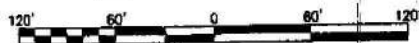


LOTS 45-46

12-88 5-227

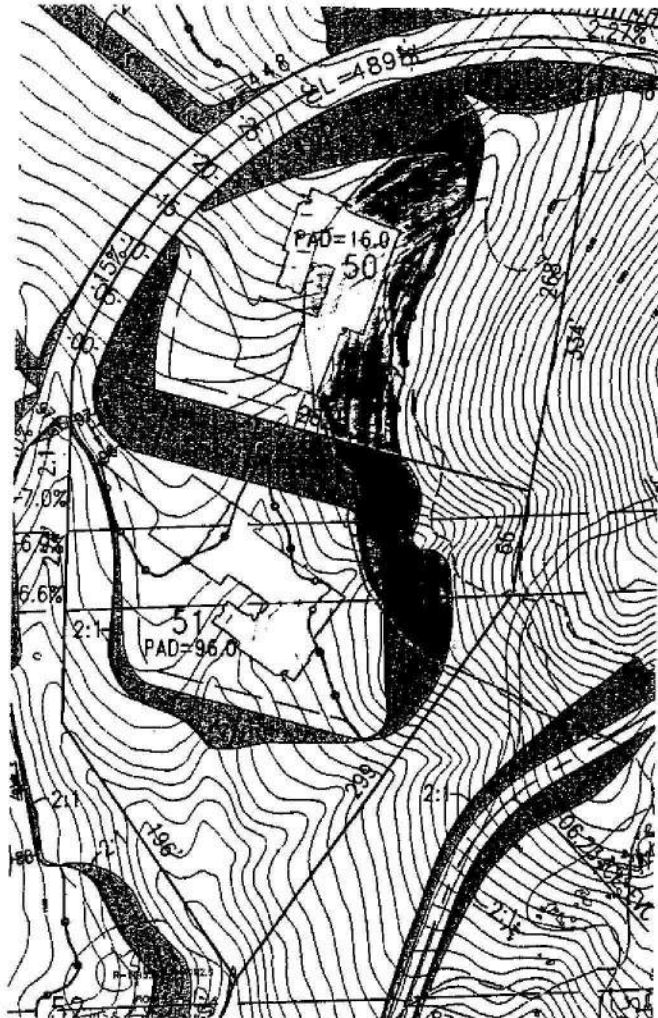


SCALE 1"=60'



LOTS 47-49

12-89 5-228

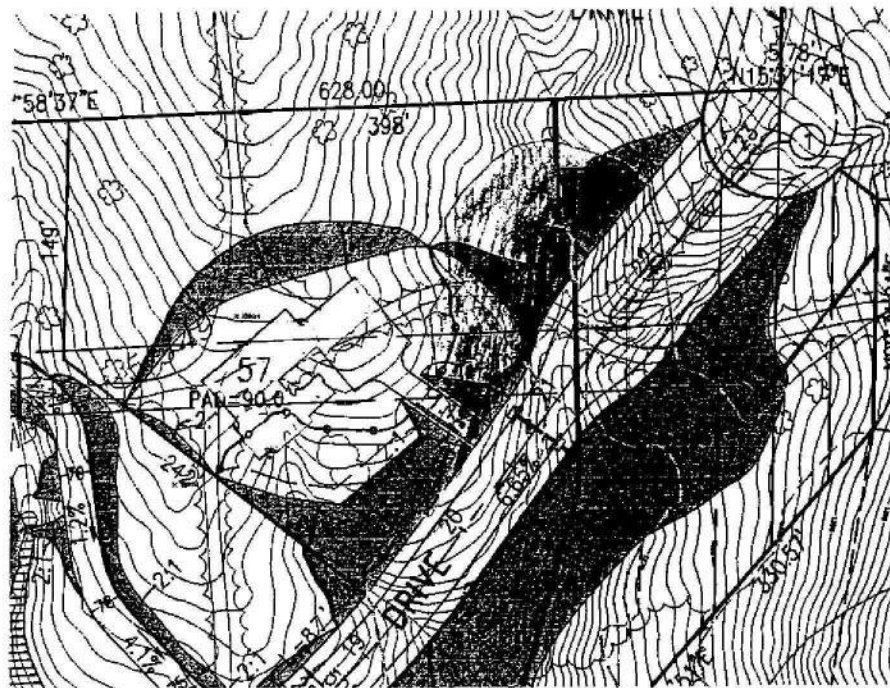


SCALE 1"=60'



LOTS 50-51

12-90 5-229

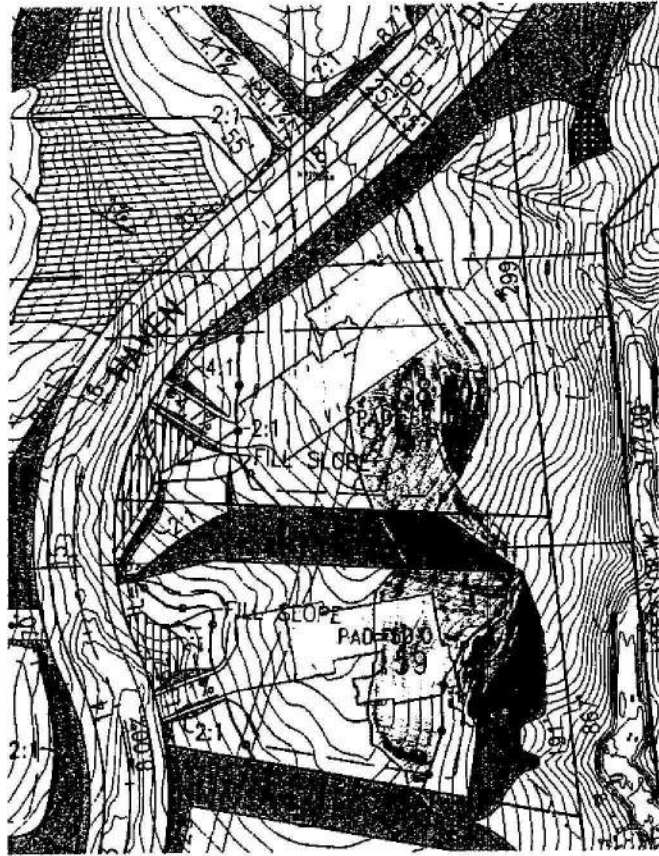


SCALE 1"=60'

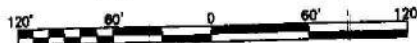


LOT 57

12-91 5-230

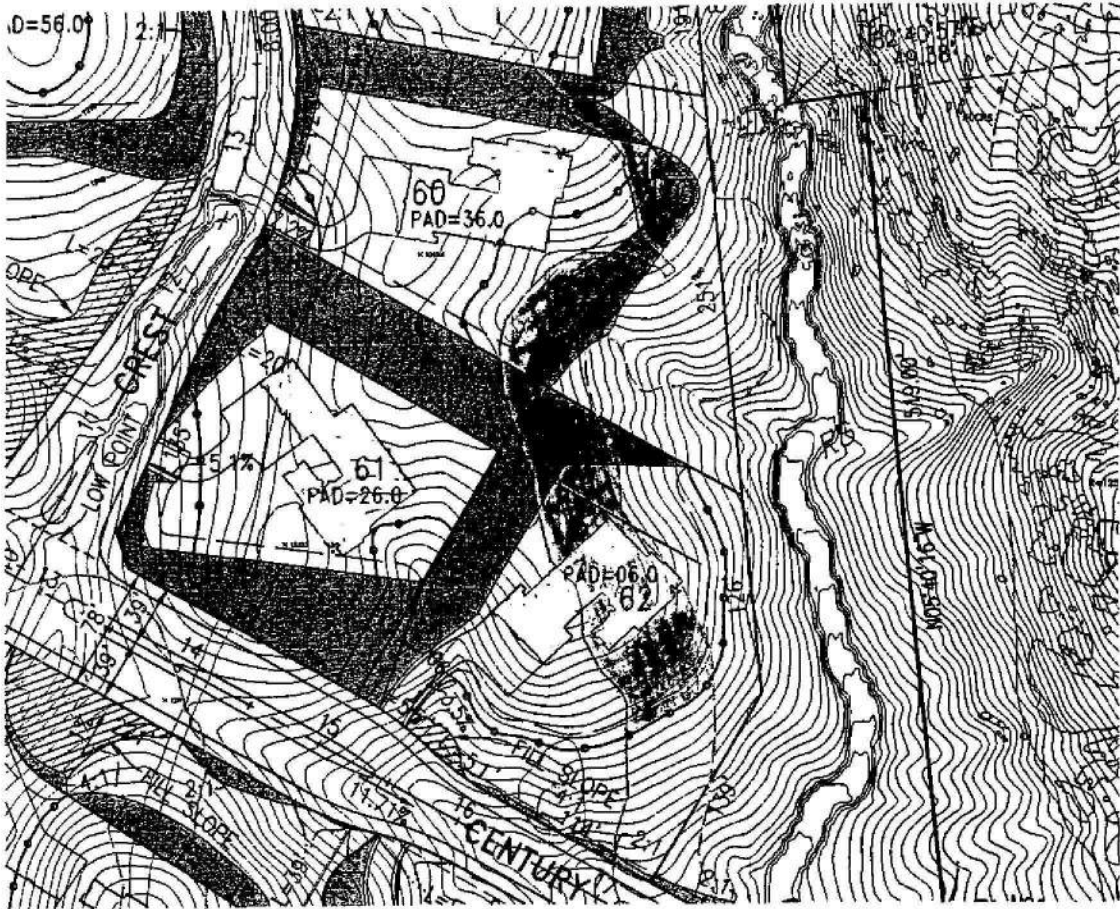


SCALE 1"=60'



LOTS 58-59

12-92 5-231



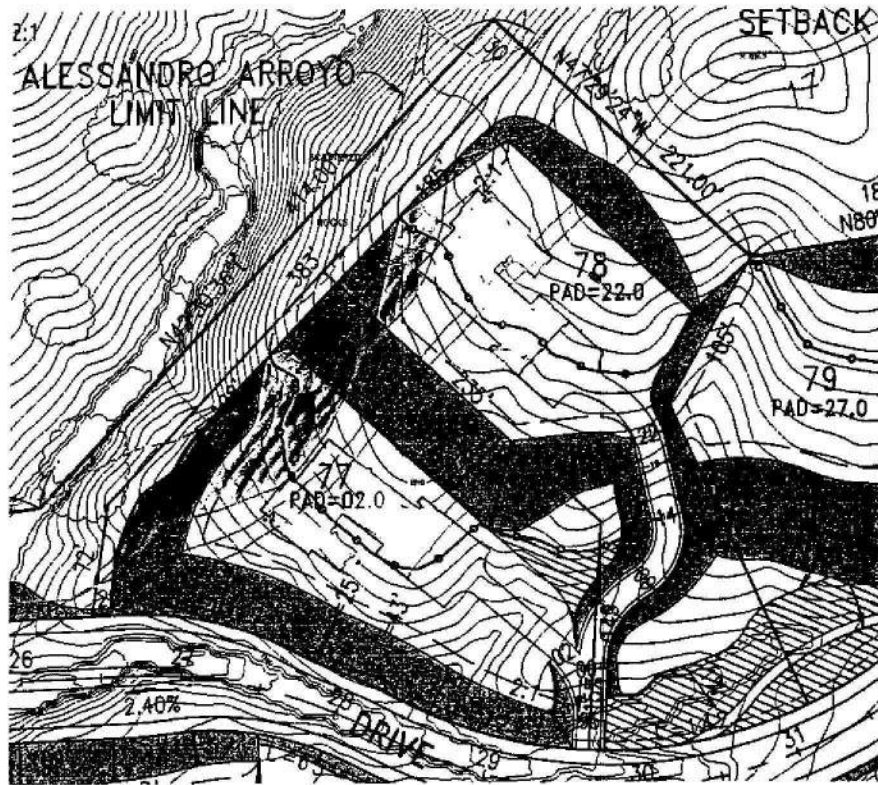
SCALE 1"=60'



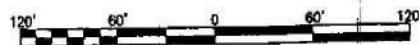
LOTS 60-62

12-93

5-232



SCALE 1"=60'



LOTS 77-78

12-94 5-233

Supplemental CEQA Finding for Substituted Air Quality Mitigation Measure

A. Air Quality

(2) **Potential Significant Impacts:** The Project could potentially violate a daily construction emissions air quality standard or contribute to an existing or projected air quality violation during the construction phase. This is a potentially significant impact (Initial Study, p. 14.)

Finding: The following fugitive dust mitigation measures are hereby substituted for the mitigation measures identified as number 5(a), in the Air Quality section of the Initial Study on page 14. The substituted mitigation measures identified below are equivalent or more effective in mitigating or avoiding potential significant construction air quality effects than the mitigation measures identified in the Initial Study in number 5(a), and the substitution of these mitigation measures will not cause any potentially significant effect on the environment.

Condition of Approval 36, identified below, identifies the substituted mitigation measures related to fugitive dust.

Substituted Mitigation Measures for Fugitive Dust:

Condition of Approval 36: Compliance with SCAQMD Rules 402 and 403 shall be followed in order to minimize air pollutant construction emissions. Additionally, the applicant will implement the following:

- (a) Regular watering, at least three times a day, of the construction site, including all unpaved parking or staging areas or unpaved road surfaces, shall be utilized in order to reduce the fugitive dust generated during grading and construction operations.
- (b) Replace ground cover in disturbed areas as quickly as possible.
- (c) Appoint a construction relations officer to act as a community liaison concerning on-site construction activity, including resolution of issues related to PM10 generation. \

Implementing the substituted mitigation measures above, is feasible and the Commission adopts and incorporates these measures into the Project.

Supporting Explanation: The Initial Study identified that short term air quality impacts related to project construction would temporarily exceed the South Coast Air Quality Management District ("SCAQMD") daily thresholds of significance for fugitive dust (PM10) and oxides of nitrogen (NOx).

1. Fugitive Dust (PM10): Specifically, the Air Quality Analysis, dated June 2004, identified that peak grading day PM10 emissions resulting from construction equipment exhaust would amount to 13.0 lbs per day. (Air Quality Analysis, LSA Associates, Exhibit E, page 20.) When combined with other peak grading day emissions, the total PM10 emissions would be

197.2 lbs. per day. This exceeds the SCAQMD daily construction threshold for PM10 of 150 lbs. per day. The following mitigation measures are required to comply with SCAQMD Rules 402 and 403, and were utilized in the impact analysis to reduce potential PM10 emissions by 50%.

Mitigation Measures Proposed in Air Quality Analysis and Incorporated into Initial Study to Reduce Fugitive Dust Emissions from Construction Activities by 50% to 184 lbs or Less Per Day:

(1) During construction, the contractor shall be responsible for ensuring that all mitigation measures listed in Table H are implemented. Note that to achieve the particulate control efficiencies shown, it was assumed that finished surfaces would be stabilized with water and/or dust palliatives and isolated from traffic flows to prevent emissions of fugitive dust from these areas. In addition, the following water application rates have been assumed.

-Roads traveled by autos, rock trucks, water trucks, fuel trucks, and maintenance trucks – up to twice per hour.

-Roads traveled by scrapers and graders; active excavation area – up to three times per hour.

-Finish grading area – up to once every two hours.

(2) All construction equipment shall be maintained in good operating condition so as to reduce operational emissions. The contractor will ensure that all construction equipment is being properly serviced and maintained.

(3) The construction contractor shall utilize, as much as possible, pre-coated/natural colored building materials, water-based or low VOC coating, and coating transfer or spray equipment with high transfer efficiency, such as high-volume, low-pressure (HVLP) spray method, or manual coatings application such as paintbrush, hand roller, trowel, spatula, dauber, rag, or sponge.

A follow-up Air Quality Analysis was prepared dated July 30, 2004, which identified additional mitigation measures which would increase the control efficiency from the standard 50% rate identified for the above-referenced Mitigation Measures, to 65 percent or more. Implementation of the following mitigation measures would increase the frequency of the required water applications identified in (1) above, and require additional measures, which together, would reduce dust emissions from construction activities from 369 pounds per day (unmitigated) to 129 lbs per day. (Air Quality Analysis, July 30, 2004, pg. 2.)

Substituted Mitigation Measures Proposed in Air Quality Analysis dated July 30, 2004:

(1) Regular watering, at least three times a day, of the construction site, including all unpaved parking or staging areas or unpaved road surfaces, shall be utilized in order to reduce the fugitive dust generated during grading and construction operations.

(2) Replace ground cover in disturbed areas as quickly as possible

(3) Appoint a construction relations officer to act as a community liaison concerning on-site construction activity, including resolution of issues related to PM10 generation.

Implementation of the above-referenced substituted fugitive dust mitigation measures is feasible, and the Commission adopts and incorporates these measures into the Project.

2. Oxides of Nitrogen (NOx): Short term peak grading day NOx emissions from construction equipment exhaust was also estimated to exceed for a limited number of days, the SCAQMD daily threshold. The Air Quality Analysis identified peak construction NOx emissions at 220.5 lbs per day, compared to a construction threshold of 100 lbs per day.

Mitigation Measures Proposed in Air Quality Analysis, dated June 2004:

Construction Vehicle/Equipment Operations	
•	Configure construction parking to minimize traffic interference.
•	Provide temporary traffic control during all phases of construction activities to improve traffic flow (e.g., flag person).
•	Provide on-site food service for construction workers.
•	Prohibit truck idling in excess of 10 minutes.
•	Apply 4-6 degree injection timing retard to diesel IC engines whenever feasible.
•	Use reformulated low-sulfur diesel fuel in all equipment whenever feasible.
•	Use catalytic converters on all gasoline powered equipment.
•	Minimize concurrent use of equipment through equipment phasing.
•	Use low NOx engines, alternative fuels, and electrification whenever feasible.
•	Substitute electric and gasoline powered equipment for diesel powered equipment whenever feasible.
•	Turn off engines when not in use.
•	Wash truck wheels before the trucks leave the construction site.
•	When operating on site, do not leave trucks idling for periods in excess of 10 minutes.
•	Operate clean fuel van(s), preferably vans that run on compressed natural gas or propane, to transport construction workers to and from the construction site.
•	Provide documentation to the County of Riverside prior to beginning construction demonstrating that the project proponents will comply with all SCAQMD regulations including 402, 403, 2224, and 1403.
•	Suspend use of all construction equipment operations during second stage smog alerts. For daily forecast, call (800) 367-4710 (San Bernardino and Riverside counties).
•	All construction equipment shall be maintained in good operating condition so as to reduce operational emissions. The contractor shall ensure that all construction equipment is being properly serviced and maintained.

Implementation of the above-referenced exhaust emission mitigation measures will reduce, to the extent feasible, exhaust emissions during the short 5-6 week grading period

proposed for TM 31930. However, even with these mitigation measures, construction emissions from NOx would exceed the daily thresholds during the construction period.

Determination in the July 30, 2004 Air Quality Analysis

The Air Quality Analysis, dated July 30, 2004, identified that background concentrations of NOx at the Riverside Rubidoux monitoring stations (the monitoring station closest to the site) have not exceeded the State 0.25 parts per million (ppm) one-hour standard or the federal 0.053 ppm annual average standard within the past five years.

This is confirmed by the following levels of NOx recorded at the Riverside/Rubidoux monitoring station: in 2003, the one hour concentration was 0.099 ppm with an annual average concentration of 0.021 ppm; in 2002, the one hour concentration was 0.098 ppm with an annual average of 0.023 ppm; in 2001 the one hour concentration was 0.150 ppm with an annual average pf 0.024; in 2000 the one hour concentration was 0.094 ppm with an annual average of 0.022 ppm; in 1999, the one-hour concentration was 0.132 ppm, with an annual average concentration of 0.025 ppm.

Although the construction period will last 5-6 weeks, resulting in a temporary impact related to exhaust emissions from construction equipment, because ambient background concentrations identified for the past 5 years at the Riverside monitoring station have not exceeded the state or federal standards, the exhaust emissions related to construction activity for TM 31930 are not expected to result in new exceedances of the NOx ambient air quality standards. In addition, the proposed project was included as a residential development in the City's General Plan. As a result, emissions from the construction of the project have been taken into consideration in the preparation of the SCAQMD's Air Quality Management Plan ("AQMP"). Therefore, the emissions generated during construction will not delay the attainment of the ambient air quality standards. The proposed project will have a less than significant impact on local air quality.

August 17, 2004

Planning Department
City of Riverside
3900 Main Street
Riverside, Ca. 92533

Attention: Clara E. Miramontes

Reference: Proposed TM 31930
Case Nos.: PO 3-1451
PO 3-1548
PO 4-0260



Dear Clara,

Please be advised that we are in receipt of your E-mail of August 16, 2004 regarding the Staff Report for the above enumerated proposed developments.

We own a residential estate home on a five (5) acre lot that we purchased June of 2000. Our address is (for the record) 1998 Apostle Lane, Riverside, Ca. 92506.

Our rear (back yard) property line runs north and south for approximately 822 feet and abuts directly to Lot No. 37 at some point of the proposed development of Phase III. Specifically, we are impacted directly by the development of Lots 37 - 42, and Lots 77 - 79 according to a proposed lotting study received from your Planning Staff.

Further, you should note that a portion of the Alessandro Arroyo transverses our property to the northwest, and is just a few feet to the south and east rear lot line for proposed Lot 37 (proposed lotting study provided by Planning Staff).

Thus, this portion of our property falls within the regulations for no grading or development, no fencing, natural open space required under the Reservation Conservation Zone relief is dangerously close to the arroyo.

That being said, we have serious concerns regarding the overall project going forward:

1. The Developer has not (did not) provide an Environmental Impact Report (EIR), if there was ever a proposed development that warrants (requires!) an in depth environmental study, this would be the "model" for that requirement.

The Biological shown in your report addresses only the Stephens Kangaroo Rat and the Gnat Catcher. Totally overlooked however, was the whole creature culture that exist and thrive on this land. (Just for the record, you should note that we have seen Stephens kangaroo Rats on our own property - so we are sure they do exist in this reserve.)

Some of the larger creatures that have been overlooked by the Proposed Development Report include: Multiple Coyote families (?#s); a plethora of

rodents, squirrels, rabbits, being controlled by the Coyote families, and the large birds; Hawks, Egrets, Owls – just to name a few.

The Development proposal will severely impact the animal balance (survival?) for this area. Moreover, the lotting study proposal severely pinches off migrating movement and cordons off animal habitats. Thousands of creatures will either die or be driven into residential property – a disaster in the making! We know that you have stated the opposite to this in your report. However, all we can say is that you are gravely mistaken. Since we have lived here for four (4) years, and as such have direct experience with the extent of the wildlife on a daily basis, we have first-hand experience regarding this issue.

2. The original approval for Tract No. 28728 was approximately ten (10) years ago. The Developer allowed the map approval to lapse. The Developer then received an additional five (5) year map approval for Tract No. 28728 to wit a portion of that project was developed prior to the map expiration.

Note: Numerous new homes and developments that did not exist ten (10) years ago or even five (5) years ago have been developed. Thus, the open space conditions must be put into today's context as it relates to environmental impact and neighborhood impact and should not be treated merely as an additional term map extension without serious consequences.

Thus, Proposed Development TM 31930 should and must be considered on its own merits within the current and existing context for the state of development of for the Alessandro Heights area.

3. The "Natalie" project is going forward now and that further reduces open space for wild life habitat.
4. The density calculations should include a portion of land that the Developer does not own – may not acquire – and still requires additional institutional approval – Country owned Flood Zone.
5. So called "neighborhood" project approval as shown on Page #4 of your report reflecting so-called neighborhood and Developer compromises that support the development of this project going forward do not exist as far as we are concerned.

Note: We spoke by phone with Gable Engineering in December of 2003 to set up a meeting to discuss this project. He said he would get the message to Jim Guthrie. No call back was received by us (no conversation).

In January of this year, I accidentally met Jim Guthrie while visiting his current model complex and requested information. No follow-up to that request of Guthrie.

6. Overall development concept contradicts the Alessandro Heights Reservation Conservation Zone concept. Current residences are not permitted to extend fencing that would in effect cordon off animal habitat and/or landscape or further develop their property, notwithstanding their ownership.

7. Due to the size and scope of this project, there will occur ongoing and intrusive negative issues to the existing neighborhood (i.e. extensive grading, blasting, heavy equipment, dust abatement, noise pollution, traffic levels, et.al.) for several years to come.
8. Proposed development provides no public access to arroyo area per Tiberon Trails Requirement.
9. Proposed development plan includes lots which encroach into the Alessandro Arroyo grading restricted area – see lots. We are currently operating under the original agreement, since we purchased our property that strictly prohibits grading encroachments into these designated areas.
10. Proposed development intrudes on neighborhood esthetics, street scene, quiet enjoyment, privacy, natural and night light views.

The City of Riverside, nor the current Alessandro Heights residents, nor the collective animal culture, should be held responsible or be required to come to their aid regarding the success or failure of a developer or a development, through the incorporation of negotiated variances, non conforming justifications, or lapsed tract maps that will negatively impact an area so badly that it will never recover.

Hence, we feel that the City of Riverside should fully reject this proposed development thus avoiding the potentially hazardous consequences.

Sincerely,

Robert Burton

Susan Burton

CC: Friends of Riverside's Hills
Attn: Dr. Len Nunney

18 August, 2004

To: Honorable Chair and Members of the City of Riverside Planning Commission

From: Friends of Riverside's Hills, 4477 Picacho Dr., Riverside, CA 92507

Re: Tract Map 31930, cases P03-1451, P03-1548, P04-0260

The following comments add to our previous letter submitted on 25 March 2004, and are in response to the more detailed information contained in the latest Staff Report.

We wish to reiterate our opposition to the approval of Tract Map 31930 and the granting the draft negative declaration. The Tract map requires the excessive granting of the variances and grading exceptions. The project proposal includes 29 residences, 86% of which require lot size variances and 76% of which require grading exceptions, and 5 roads, all of which require grading exceptions. Furthermore, it has substantial unmitigated environmental impacts and an EIR should be required.

The need for such a huge deviation from the limits imposed by the zoning code and grading ordinance sends a clear message. For this development to conform to the standards of the RC zone, the Hawarden Hills Specific Plan, and the City of Riverside General Plan it should have fewer lots. The PRD ordinance clearly recognizes that a density reduction may be necessary when certain conditions prevail. Although the applicant is arguing for a density bonus, we believe that the PRD code indicates a density reduction of 50% given the prevailing conditions (see below for details). This would reduce the number of homes developed on this tract map to 12, and remove the need for excessive grading exceptions and variances.

The RC zoning code imposes an absolute maximum density of 1 dwelling unit per 2 acres (it also imposes another measure of maximum density that may apply in this case). This means that no more than 1 house per 2 acres may be built, but it does not mean that the maximum may be achieved. Yet, it has become an assumption that all developments MUST achieve that absolute maximum or more. Under ideal conditions, it may be reasonable for the absolute upper limit to become the norm. But, in steep terrain dissected by arroyos and steep hills (the very areas that the hillside grading and zoning ordinances were designed to protect), fewer than this maximum is typically appropriate. The granting of so many variances and grading exceptions in this case profoundly changes the nature of the RC zoning. RC zoning is designed to facilitate the intent of measures R and C. These measures were approved by the voters of the City of Riverside to protect the City's "scenic hills, ridgelines, arroyos and wildlife areas". In this case, approving such a huge number of variances and exceptions is tantamount to a legislative action undermining the intent of those measures.

General Background: This Tract map involves the development of about 49.0 acres and not 86.3 acres. This reduction in acreage arises because of open space requirements from prior development, and the undevelopable land within the 100 flood zone (see staff report). As part of the expired tract map, of which this acreage was a part, 57 homes have been developed on 81.2 acres. This completed development required an estimated additional acreage of about 14.8 acres to be set aside as open space (this calculation incorporates the original 18% density bonus when 85 homes were approved on 145 acres (167.5 total acres - 22.5 unusable acres). The open space was a condition of the previously built out portion of the tract map 28728. Thus the present development involves about $86.3 - 14.8 - 22.5$ acres = 49.0 acres.

1. Failure to Consider and Incorporate the Hawarden Hills Specific Plan.

Background. This tract map is contained completely within the area of the Hawarden Hills's Specific Plan. The Specific Plan was approved in 1977 and incorporated into the City of

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Riverside's General Plan. This Specific Plan incorporated the land use proposals outlined under plan B in the 1976 Hawarden Hills Study (HHS).

- **Lot density close to the arroyo.** The Specific Plan states that lots would be as large as 3 to 4 acres close to the arroyo, with smaller lots (in the 1/2 acre range) on flatter land close set to Alessandro Boulevard. It is further noted that adopting this strategy could "easily be the difference between environmental conservation and environmental degradation" (p94, HHS).
- **Tiburon Knoll trail corridor.** The Hawarden Hills Specific Plan incorporates a trail corridor from the Tiburon Knoll to the northwest of this tract map to the Alessandro arroyo south of the tract map. It was anticipated that about 15 acres would be required for this trail corridor (see p99, HHS). This corridor lies within the boundaries of the proposed tract map (see Fig 16 HHS), but is not explicitly included in the current plan. This violates the City General Plan.
- **Issues Arising.**
 - A. **The size of lots close to the main branch of the Alessandro Arroyo is unacceptably small.** Seven lots (43-49) border and intrude into the main part of the Alessandro Arroyo. Furthermore, all of these lots (except lot 49), require lot size variances. These 6 lots average 1.13 acres, a 44% reduction below the two acre minimum required under the RC zoning of the area, and clearly far below the 3-4 acres expected for lots bordering the Alessandro Arroyo under the Hawarden Hills Specific Plan. Note that the wording of the land use in the Specific Plan states that "lots closer to the ridgeline and arroyo would be as large as 3 to 4 acres". A reasonable interpretation would include under this criterion many more than the 7 lots noted above should be 3-4 acres.
 - B. **Failure to incorporate the Tiburon Knoll trail corridor.** The "about 15 acres" supposedly to be set aside for the Tiburon Knoll trail corridor according to the Hawarden Hills Specific Plan are nowhere defined in the proposed tract map. According to Fig 16 of HHS, this area corresponds to the whole western edge of the tract map, apparently coinciding with the building lots 50-56.

2. Failure to purchase 17.45 acres Flood Control Land.

Background. The 17.45 acres flood control land was incorporated in the original map that was approved in 1994, and its purchase was a condition of the original (now expired) map. Ten years later, the land still has not been purchased. We understand that even at this late stage the applicant has not satisfied the required conditions set by the Flood Control District for the sale of this property.

Issue Arising. The applicant is proposing to have the Flood control land rezoned from O to RC. They have had ten years to purchase this land and bring the original map into conformance with a required condition of the original approval. The applicants have failed to do this. Now they want the City to repeat that approval process and furthermore have this land rezoned – but they still have not purchased the land. This rezoning cannot not be considered until the relevant flood control land is owned by the applicant, or at least in escrow. While the Flood Control District may have agreed to a potential sale (based on fulfilling a set of necessary conditions), this is a long way from an actual sale and rezoning the land is premature. This tract map should not be considered for approval until the land is sold to the applicants, because it is so crucial to the density calculations of this Map.

3. The tract map does not satisfy the PRD zoning ordinance's requirements, unless a density penalty is applied.

Background. We estimate that the project includes 49 acres that can be used to estimate density limits in for this tract map. Under the PRD ordinance this would limit the applicant to a maximum of 28 homes. However, a density bonus or a density penalty is possible depending upon a number of conditions (see below). In addition, a PRD application must include certain information (see below).

Issues Arising.

- A. The PRD Application is incomplete.** A PRD application requires "three copies of the elevations of the project's buildings indicating the type of exterior building materials and three copies of the floor plans showing interior and exterior dimensions for each type of dwelling unit" (19.65.200.B.3). This requirement has not been fulfilled. This is not merely a technical issue. The nature of the homes is a very important issue for the preservation of Riverside's scenic environment within the RC zone. In particular, knowledge of any height or story variances to be requested is crucial to evaluating the PRD.
- B. The PRD should be subject to a density penalty.** The criteria for reductions from the benchmark density are outlined in the Municipal Code 9.65.050.C under a series of 6 items. For example, the project does not have good access to schools, shopping or public and semipublic facilities (item 1); and the project does not have good access from the adjoining public streets (the design of the project puts most of the lots far from the public streets) (Item 2). More importantly, the project fails to adequately incorporate the natural features of the area into the PRD (Item 4). This last issue includes planning to build a road across the largest area of open space, with the result of drastically reducing the value of that open space, both visually, and for wildlife. Similarly, the access road for the sewer line and for the Alessandro Dam have to planned to cross critical open space areas, again reducing the value of the open space. In addition, the plan destroys part of the natural area close to the main Alessandro Arroyo (lots 43-49), profoundly reducing the natural beauty of this major arroyo. Finally, item 5 states that a 50% density penalty can be imposed on land where the slope exceeds 10% to "minimize and discourage unnecessary and undesirable grading". In this case, the slopes where the lots and roads will be graded are very steep (generally >15%, and sometimes >30%). To this we add the fact that 76% of the lots and all of the roads require grading exceptions clearly indicates excessive "undesirable" grading. Clearly, it follows that the criteria for a density bonus have not been met. Thus, at a minimum, the density bonus that is being requested should be denied (reducing the units to 24); however we believe that, given the conditions of this development, a **50% density reduction** is necessary, reducing the number of allowable units to 12.

4. The granting of grading exceptions on 22 out of 29 (76%) of the lots and on all of the roads is excessive.

Background. The grading exceptions on the lots refer to grading into the arroyo (18 lots) or its setback (an additional 4 lots). All 5 roads require grading exceptions. Thus a significant portion of Century Hills Road crosses the natural open space arroyo area, and includes slopes up to 30ft in height. Cresthaven Drive crosses part of an arroyo that will be filled creating a slope up to 30ft in height. The two service roads are both located in open space areas.

We feel that it is important to emphasize that importance of the 50ft setback to arroyos. One important aspect is reducing the risk of fire. The setback allows for development to occur away from

the steep slope of the arroyo, while allowing a space for fuel modification without damaging the arroyo itself. Proper fuel modification on the flatter land decreases erosion and sedimentation and decreases fire moving to the arroyo from homes and to homes from the arroyo. Of course, it also minimizes the impact on wildlife and on the visual aspects of the development on the arroyo.

- **Issue Arising:** Granting 76% of the lots grading exceptions amounts to abandoning the usual quasi-judicial role of approving exceptions under exceptional or special circumstances and assuming a legislative role that circumvents the grading ordinance. This is even more egregious given that the arroyo and hillside grading ordinance was put in place to further measures R and C. At a very minimum, the grading exceptions on the lots close to the arroyo (43-49) should be denied. In addition, Century Hills Drive should not traverse the open space. An emergency single track road could be incorporated if that is deemed essential by the fire department, provided that the arroyo crossings are bridged and not filled. The Flood Control access road could avoid the arroyo areas near its junction with Cresthaven given an environmentally sensitive redesign of the map. In summary, each case of a grading exception represents a negative impact on the City-defined environmentally sensitive area of the Alessandro Arroyo and its major branches

5. The granting of lot-size variances on 25 out of 29 (86%) of the lots is excessive. In addition, all lots require a variance for being landlocked away from a public street.

Background. The lot size variances reduce lot sizes from 2 acres (20 lots) and 5 acres (5 lots) to a little above 1 acre. Such excessive lot size variances are of concern, and can amount to a legislative act. Clustering of lots on to relatively flat locations in order to preserve steep areas is often beneficial, a feature noted in the PRD ordinance; however, in this case the need for so many variances suggests this goal has not been achieved.

- **Issue Arising:** The need to grant lot-size variances on 86% of the lots illustrates that the lots are being clustered on very steeply sloping land. This reinforces our view that under a PRD a 50% density reduction is appropriate. In a PRD, clustering is intended to further the intent of Measures R and C, and to achieve this is meant to occur on relatively flat land so that steep slopes and arroyos are not destroyed. At a very minimum, all lot variances on very steeply sloping areas (>25%) should be eliminated, bearing in mind that the slope triggering severe concern under the PRD ordinance is 10%.

The variances for landlocked parcels are treated as routine. This is contrary to the need to consider the granting of variances as exceptional.

6. The findings for the variances and exceptions are inadequate.

Background. Two sets of Findings are provided, those of the Planning Staff and those of the applicant. We find that the views of the applicant provide useful background information, but those of the Planning Staff are the Findings that need to be approved to justify the variances and grading exceptions. Much of the justification by both Staff and the Applicant is predicated on retaining 29 lots. There is no specific requirement on the City to approve 29 lots, or any other number of lots, unless the plan conforms to the Municipal Code. In this case, the requirement for excessive variances and grading exceptions should cause the City to carefully consider if this number of lots is appropriate for the area. This point is particularly important given the Harwarden Hills Specific Plan recommendation of a lower housing density near the Arroyo.

- **Issue Arising:**

A. Grading Exceptions. Members of Friends of Riverside's Hills and other concerned groups walked the site with Planning Staff. Staff Findings for grading within the limits of the arroyo and setback are based primarily on part of the Grading Ordinance, 17.28.020.A.14. This states that

"No development or grading of any kind shall be permitted within fifty feet of the limits of the Mockingbird Canyon, Woodcrest, Prenda, Alessandro, Tequesquite, or Springbrook Arroyos and associated tributaries as shown on Exhibits A-F. The Zoning Administrator shall have the authority to administratively allow grading within designated arroyo tributaries depending on the sensitivity of the area. Sensitivity shall be determined by such factors as the presence of riparian vegetation, habitat for rare or endangered species, significant rock outcroppings or other unique topographic features on the property proposed to be graded or in nearby segments of the same tributary."

One concern that immediately arises is that the criteria for "designated arroyo tributaries" has never been established or made public, so that we are unable to insure that such designations are not contrary to the furtherance of measures R and C. In the absence of clear definitions, the intent of the original designation of arroyos is undermined and opens up the possibility for excessive granting of grading exceptions that we see in the present case.

Our concerns over Staff Findings are:

(i) Strict application would result in practical difficulties or unnecessary hardship: Grading into the arroyo or its setback.

Lots 37-40. The staff argues that without the exceptions, reasonable sized building pads could not be graded; however, this is caused by the excessive crowding of the lots, and as such is self-induced. They also argue that the areas proposed for grading "do not have the characteristics that the Grading Ordinance endeavors to preserve". Here they are presumably invoking 17.28.020.A.14 as discussed above; however, this argument is insufficient since the ordinance includes the phrase "or in nearby segments of the same tributary". In this case, the vegetation either on the site of the exceptions or nearby grades from high quality Riversidean Sage Scrub (RSS) into typical riparian vegetation, including willows and mulefat. This type of vegetation is habitat for rare and endangered species on this site, several of which we can expect on this site; indeed on our brief walk we saw Belding's orange-throated whiptails and San Diego black-tailed jackrabbits both of which are classified as rare by the California Dept. of Fish and Game (California Natural Diversity Database, January 2004). Finally, Staff appear to suggest that these arroyo areas do not have a 30% slope. We disagree, but if staff believe there is a genuine error in the mapping project, then they should provide historical data that supports this opinion, noting that if in some areas, the average slope has been altered by disking and other human activity, then this should have no bearing on the delineation.

Lots 41,46 and Grass Valley Way. The Staff state that this area does not appear to be part of an arroyo. This is false, and in fact, this arroyo drains a nearby wetland, with the vegetation typical of a wetland area (willow, mulefat, etc). Finally, the proposed grading is on the sides of a very well defined steep-sided arroyo, as can be seen by looking at the topographical map of the project.

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Lots 43,44. Staff argue that these lots are not within the arroyo. Here the Staff are erroneously altering the City's definition of an arroyo, which is very clearly stated in the grading ordinance. These grading exceptions are unambiguously within the main Alessandro Arroyo, since they lie on the region of 30% slope (or within the 50ft setback) coming up from the arroyo bed.

Lot 45. The staff argues that without the exception the lot could not be built. This is a self-induced hardship. They also state that the area is not within the arroyo itself. This is false. The area of the exceptions is again unambiguously within the main arroyo, as defined by the grading ordinance.

Lots 47-49. Staff states that these lots encroach into a tributary of the arroyo. This is false. The areas of the exceptions are on the direct slope leading from the bottom of the Alessandro Arroyo where it is still at least 30% ANS or within the 50ft setback from where the slope drops below 30%. As such they are unambiguously within the main arroyo. Staff also states that the area proposed for the pads is relatively flat. This is partly true, but irrelevant, particularly since the areas of the exceptions on all 3 lots are steeply sloping.

Lot 57 and Cresthaven Street. The area involved is a well-defined tributary arroyo, and contrary to the Staff statement, the area that will be filled by Cresthaven Street does have the character of an arroyo. We would urge the City to insist that the developer agree to build a bridge across the arroyo or to use a very large box culvert to preserve the character of the landform and minimize fill.

Lots 58-62. Here the Staff argue that the tributary is further east than is shown on our maps. They have made no effort to say where the boundaries actually are. More to the point, the topographical map of the project does not support this unsubstantiated statement. This arroyo is a major landform, and as such should be protected.

Lots 77,78. These lots are stated to be east of a "tributary finger", and that strict application of the provisions would not allow the lots to be built. However, the siting of the lots was self-imposed. In fact the grading is directly above an important riparian area on top of an impressive rock slope. Allowing these grading exceptions would seriously impact this landform (particularly lot 77).

Century Hills Drive. The staff describes the impact of this street as minimal. In fact, this is far from the case. The creation of a street crossing the area directly adjacent to the main arroyo, resulting in the filling of three main landforms, where other arroyos feed into the Alessandro Arroyo, alteration of water flow and damage to the open space. Regarding hardships, it is not clear that this street is necessary for this development. If not it should be removed. If some form of connection is really needed, then the arroyos should be bridged and not filled, or at least filling minimized by the use of a large (e.g. 10 foot high) box culvert.

Flood Control Access road and Sewer line. Staff state that a strict provision of the Title would not allow the installation of access road or sewer line. In fact, both could be positioned differently. The sewer line is placed in one of the most environmentally sensitive areas of the whole project, starting in the wetland area that is directly above the Alessandro Arroyo. The line could also be built to follow one of the roads; however, we suspect that it is simply cheaper to place across the open space.

Slope height exceptions.

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Century Hills Drive and Cresthaven Drive. Filling of the arroyo near to the western entrance in the source of the Cresthaven Drive exception. Bridging would resolve the need for the exception and preserve the landform. The precise location of the Century Hills Drive exceptions are not apparent because the wording of the Findings make no sense (referring to lots that do not exist). However, we believe that one of these exceptions is within the open space and again could be avoided by bridging. The other may be near the wetland area and, if so, could also be avoided by bridging. Staff simply state that not allowing these exceptions would be an unnecessary hardship because these slopes are not out of character with the area. We disagree. Such slopes should be avoided in visually sensitive areas such as this.

(ii) There are exceptional circumstances that do not apply generally.

Grading into the arroyo or its setback. The staff presents no additional information beyond that noted above. For each of the exceptions, Staff state that the area does not appear to be part of the arroyo (which is irrelevant, since, for example, the setback is by definition outside the arroyo), or that sensitive features such as rock outcrops are not affected (which is again irrelevant, since most arroyo areas are not densely covered with such features), or that the pads are on relatively flat areas (which again is irrelevant, since, as noted above, it is the site of the exception that is important). The Staff consider these observations define exceptional circumstances, whereas they are actually rather typical circumstances in RC zoned areas near to the top of an arroyo slope or within the 50ft setback (which is why all these sites fit in with them).

Slope height exceptions. It is argued, without justification, that a redesign of the streets would require even more grading. They do not consider the possibility of requiring bridges, or in the case of Century Hills, of not having the road cross the open space.

(iii) That the waiver will not be materially detrimental.

Grading into the arroyo or its setback The response for each exception is summarized by their final statement that "the applicant has designed the map and grading as sensitively as possible. Therefore the project should not be detrimental to the public or the area." We respectfully disagree. The applicant has tried to put too many lots on this very sensitive environment, and as a result the grading will have a seriously detrimental effect on the landform and hence on the public welfare.

Slope height exceptions. Staff considers that the road will not affect public welfare; however this is based on the assumption that no "sensitive areas" of the arroyo will be affected. We disagree. The filling of tributary arroyos will affect water flow, wildlife, and the visual appearance of the area. These will affect the public welfare.

- B. Variances.** Three kinds of variances are requested: 20 lot size reduction variances where a 2-acre lot is needed; 5 lot size reduction variances where a 5-acre lot is needed; and 29 variances for landlocked parcels.

(i) Strict application would result in practical difficulties or unnecessary hardship:

Lot size reductions. Staff note that a PRD was filed to allow clustering, to further the City's goal of environmental preservation and sensitive hillside development. We noted earlier that this tract map fails in many respects to achieve those goals. In particular, the clustering is on very steep land, often >25% ANS. Appropriate application of the PRD ordinance would ensure that clustering occurs on relatively flat terrain (below 10% ANS) or that the density of

the PRD is reduced. Either of these changes would dramatically reduce the number of variances required, and achieve better level of environmental preservation and sensitive hillside development.

Landlocked parcels. Staff notes that the strict application of the zoning code would not allow the use of private streets. However, the decision to use private streets is self-imposed.

(ii) There are exceptional circumstances that do not apply generally.

Lot size reductions. Staff notes that clustering provides an environmentally superior option. However, this argument could be applied to any RC zone tract map, and so does not represent an exceptional circumstance. In addition, as noted above, if the development was truly environmentally superior and followed the guidelines of the PRD, then many fewer variances would be needed.

Landlocked parcels. Staff notes that the design with private streets creates exceptional circumstances. However, in fact, such circumstances are not exceptional.

(iii) That the waiver will not be materially detrimental.

Lot size reductions. Staff notes that all lots still exceed the minimum RC lot size, and adequate setbacks are incorporated. However, these lot size reductions result in the need for grading exceptions, which in turn has a detrimental effect on the landform. **Landlocked parcels.** Staff notes that all lots will be served by a private streets connecting to a public street. However, the distance to a public street is quite significant for some of the lots.

7. Negative Declaration.

Here are a few of the points where we disagree with the Staff conclusions in the Initial Study.

(1a) Land use and planning. Conflict with the General Plan or zoning.

The "less than significant impact" box is checked. In fact, given the conflict with the General Plan, there appears to be a potentially significant impact.

In particular, Staff fail to mention that the proposed tract map is in conflict with the Harwarden Hills Specific Plan, which is part of the General Plan, for the reasons outlined above (see Section 1).

The Alessandro Arroyo trail is part of the City General Plan, but its location has not been considered. Serious consideration of the location of this trail must be part of the evaluation of this tract map. This has not been done.

Staff comment that the proposed PRD complies with the maximum density bonus allowed; however they fail to note that the conditions needed for the density bonus are not satisfied.

Staff note that the project requires variances and grading exceptions; however, they fail to note that the granting of so many variances and grading exceptions amounts to abandoning the usual quasi-judicial role of approving exceptions and variances under exceptional or special circumstances and assuming a legislative role that circumvents the grading and zoning ordinances.

Staff also note that the rezoning O to RC is appropriate, without noting that this rezoning is being done while the official entity (Flood Control District) still owns the property, and the sale to the developer is not guaranteed.

(1b) Land use and planning. Conflict with applicable environmental plans or policies.

The response to this question is based on a previous approval for TM 28728; however, this does not guarantee the approval now. In any event, there is a significant change. There is a wetland/stream area at the intersection of Century Hills Drive and Grass Valley Way. This wetland will now be severely impacted by the settling ponds and sewage pumping station sited by the wetland. Furthermore the potential impacts of the sewage pumping station and sewage line on the Alessandro Arroyo and surrounding area have not been considered. This change has a potentially significant impact, and is not mentioned.

This wetland area was identified by R.B. Riggins in their Biological Assessment of 2001, but the March 2003 jurisdictional delineation by Michael Brandman Associates (MBA) considered the area to be part of a jurisdictional water, but not a wetland; however, MBA failed to provide any data associated with their determination. Solid, substantially more jurisdictional waters were identified in the 2001 study than were seen in a 2003 study. Given the importance of wetlands and jurisdictional waters, this difference of opinion should be resolved by an independent survey as part of an EIR. The fact that a 5-yr drought, the fire a few years ago, and weed clearance can temporarily modify the signatures used for wetland delineation was ignored. The delineation needs to be done again and after a good storm.

(3e) Geology and Soils. Grading on Natural Slopes over 10%.

Contrary to the view of Staff, we consider that the excessive grading on steep slopes proposed in the project is not justified by the Findings and has a potentially significant impact. Most of the statements in this section are taken from the Findings made by Staff. We disagree with the validity of many of these statements and have commented upon them earlier in section 5 (Findings).

(3i) Geology and Soils. Unique geologic or physical features? The Alessandro Arroyo and its major tributaries are recognized as a significant landform. The grading ordinance clearly delineates the arroyo system using objective criteria. The Staff recognize that this project will impact some major portions of the arroyo. In fact, the excessive grading impacts both the main arroyo and some of its major branches. In addition, where Century Hills Drive crosses the open space, it is within the area of the main arroyo and will result in extensive filling of these major branches. Such actions will have a potentially significant impact on the unique landform of the area.

Staff note the possibility that the long term maintenance and management of the arroyo open space may be left to the Home Owners Association (HOA). A HOA has no expertise in managing such an important resource, and approval of the CC&Rs by the Planning Staff and the City Attorney's Office does nothing to improve the situation, since they have no expertise in this area either. Allowing the possibility of long-term management by the HOA has a potentially significant impact.

(4a) Water. Change in absorption rates, drainage patterns... Staff fail to comment on the changes to the drainage patterns resulting from the filling of several tributary arroyos for the roads. In particular, the jurisdictional waters, and possible wetland area, at the intersection of Grass Valley Way and Century Hills Drive, will be impacted by both the roads, the sewage pumping station, and by the settling "bio-swale". This is a source of potentially significant impact.