

Final
Environmental Impact Report
SCH No. 2021110122

THE COVE AT EL NIGUEL
RESIDENTIAL PROJECT

Prepared for:
City of Laguna Niguel
30111 Crown Valley Parkway
Laguna Niguel, California 92677

Prepared by:
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San Juan Capistrano, California 92675

August 2022

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Prepared for:

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30111 Crown Valley Parkway
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AUGUST 2022

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SECTION 1.0 INTRODUCTION

1.1 Introduction

This Final Environmental Impact Report (Final EIR) has been prepared in accordance with the California Environmental Quality Act (CEQA) as amended (Public Resources Code §§ 21000 et seq.) and CEQA Guidelines (California Code of Regulations §§ 15000 et seq.).

According to the CEQA Guidelines, Section 15132, the Final EIR shall consist of:

- a) The Draft Environmental Impact Report (DEIR) or a revision of the DEIR;
- b) Comments and recommendations received on the DEIR either verbatim or in summary;
- c) A list of persons, organizations, and public agencies comments on the DEIR;
- d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process; and
- e) Any other information added by the Lead Agency.

This document contains responses to comments received on the Draft Environmental Impact Report (DEIR) for the Cove at El Niguel Residential Project (Project) (State Clearinghouse No. 2021110122) during the public review period, which occurred April 11, 2022 through May 27, 2022. This document has been prepared in accordance with CEQA and the CEQA Guidelines and represents the independent judgment of the Lead Agency. This document and the circulated DEIR comprise the Final EIR, in accordance with CEQA Guidelines, Section 15132.

1.2 Draft Environmental Impact Report

The DEIR for the Cove at El Niguel Residential Project (State Clearinghouse No. 2021110122) is hereby incorporated by reference, in its entirety. The DEIR is available for review at the City of Laguna Niguel, Community Development Department (30111 Crown Valley Parkway Laguna Niguel, CA 92677), County Library (Laguna Niguel Branch; 30341 Crown Valley Parkway Laguna Niguel, CA 92677), and on the City's website at:

<https://www.cityoflagunaniguel.org/1435/The-Cove-at-El-Niguel-Project>.

The City published a Notice of Availability and circulated a DEIR for public review and comment for the period of April 11, 2022 through May 27, 2022. A total of 29 correspondences were submitted to the City during the review period. Section 2 of the Final EIR includes a list of all correspondence submitted to the City on the DEIR, each identified by a number for later reference, together with the authors and the dates the letters were received. Following this list, all of the letters are presented, with numbered brackets to highlight specific comments that are responded to in the next section.

1.3 Format of the Final Environmental Impact Report

This document is organized as follows:

Section 1. Introduction. This section describes CEQA requirements and content of this Final EIR.

Section 2. Response to Comments. This section provides a list of agencies and interested persons commenting on the DEIR; copies of comment letters received during the public review period, and individual responses to written comments. To facilitate review of the responses, each comment letter has been reproduced and assigned a number (1 through 26). Individual comments have been numbered for each letter and the letter is followed by responses with references to the corresponding comment number.

Section 3. Revisions to the DEIR. This section contains any revisions to the DEIR text and figures as a result of the comments received by agencies and interested persons as described in Section 2, and/or errors and omissions discovered subsequent to release of the DEIR for public review.

The responses to comments do not contain material and revisions that will result in a change to the text of the Final EIR. Therefore, no new information is presented that requires recirculation of the DEIR for further public comment under CEQA Guidelines Section 15088.5.

1.4 CEQA Requirements Regarding Comments and Responses

CEQA Guidelines Section 15204 (a) outlines parameters for submitting comments and reminds persons and public agencies that the focus of review and comment of DEIRs should be “on the sufficiency of the document in identifying and analyzing possible impacts on the environment and ways in which significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible. ...CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.”

CEQA Guidelines Section 15204 (c) further advises, “Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence.” Section 15204 (d) also states, “Each responsible agency and trustee agency shall focus its comments on

environmental information germane to that agency’s statutory responsibility.” Section 15204 (e) states, “This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section.”

In accordance with CEQA, Public Resources Code Section 21092.5, copies of the written responses to public agencies will be forwarded to those agencies at least 10 days prior to certifying the environmental impact report. The responses will be forwarded with copies of this Final EIR, as permitted by CEQA, and will conform to the legal standards established for response to comments on DEIR.

SECTION 2.0 RESPONSE TO COMMENTS

This Final Environmental Impact Report (Final EIR) has been prepared in accordance with the California Environmental Quality Act (CEQA) as amended (Public Resources Code §§ 21000 et seq.) and CEQA Guidelines (California Code of Regulations §§ 15000 et seq.).

Section 15088 of the CEQA Guidelines requires the Lead Agency (City of Laguna Niguel) to evaluate comments on environmental issues received from public agencies and interested parties who reviewed the DEIR and prepare written responses.

Comment letters and specific comments are given letters and numbers for reference purposes. Where sections of the DEIR are excerpted in this document, the sections are shown indented. Changes to the DEIR text are shown in underlined text for additions and ~~strikeout~~ for deletions. The following is a list of agencies and persons that submitted comments on the DEIR during the public review period.

The 45-day public review period for the DEIR prepared for the Cove at El Niguel Residential Project occurred from April 11, 2022 through May 27, 2022. The City received 29 comment letters on the DEIR during the formal 45-day public review and comment period. Several comment letters were received after the 45-day public review period and are included within the Final EIR.

This section provides all written responses received on the DEIR and the City’s responses to each comment.

Number Reference	Commenting Person/Agency	Date of Comment	Page No.
1	Fred Carroll	April 14, 2022	<u>23</u>
2	Marc and Claudia Barbani	April 23, 2022	<u>25</u>
3	Leila Nikkhoo	April 27, 2022	<u>29</u>

Number Reference	Commenting Person/Agency	Date of Comment	Page No.
4	Michelle Sowle	May 1, 2022	<u>31</u>
5	Greg Sowle	May 7, 2022	<u>33</u>
6	Mark and Karen Carrie	May 14, 2022	<u>35</u>
7	Cathy Bosko	May 20, 2022	<u>37</u>
8	Susan Vasquez	May 20, 2022	<u>39</u>
9	Cherall Weiss	May, 22, 2022	<u>41</u>
10	John Fernandez	May 22, 2022	<u>43</u>
11	Sara Nuss-Galles and Arie Galles	May 22, 2022	<u>45</u>
12	James and Patricia Higgins	May 25, 2022	<u>49</u>
13	Cheryl Friedling	May 25, 2022	<u>51</u>
14	Thom Taylor	May 25, 2022	<u>61</u>
15	Andy Zalay	May 26, 2022	<u>63</u>
16	Elahe Akhvan	May 26, 2022	<u>71</u>
17	Nathan and Esther Smith	May 26, 2022	<u>73</u>
18	Rutan & Tucker, LLP – A Patrick Muñoz	May 26, 2022	<u>131</u>
19	Shaun Wiebe-Bailey and Victoria Leigh	May 26, 2022	<u>175</u>
20	Steve Clark	May 27, 2022	<u>177</u>
21	Adam Wood	May 27, 2022	<u>181</u>
22	George Straggas	May 27, 2022	<u>185</u>
23	George Straggas	May 27, 2022	<u>215</u>
24	Andy Zalay	May 27, 2022	<u>233</u>
25	Kenneth Stelts	May 27, 2022	<u>239</u>
26	Don Ware	May 27, 2022	<u>241</u>
27	Jeanenne Morphis	June 7, 2022	<u>245</u>
28	Jay and Maria Wiltshire	June 8, 2022	<u>247</u>
29	Andy Zalay	June 28, 2022	<u>251</u>

2.1 General Response 1 - Geotechnical

Many of the comment letters received on the DEIR included one or more comments pertaining to the Project's impact on the stability of the landslide repair. Some comments were general and other comments more specific. This general response further explains the analysis of slope stability presented in Section 4.6 of the DEIR with additional detail to respond to the comments received.

The proposed Project includes a mechanically stabilized earth (MSE) retaining wall along the western edge of the development area at the toe of the buttress fill slope. An MSE wall is a type of gravity retaining wall that is not vertical, but instead canted with a slight angle back toward the slope. An MSE wall has long sheets of geogrid reinforcement that extend into the hillside and the weight of the earth on top of the geogrid, and resulting friction, provide stability. The front of the MSE wall includes blocks that have tolerance for minor soil movement. An MSE wall is equally as stable as a conventional concrete or masonry retaining wall, but also allows for small amounts of movement associated with expansive soil or slope creep. MSE walls are common throughout Laguna Niguel and South Orange County.

The MSE wall at the toe of the slope will reach a maximum height of 15.5 feet and have an average height of 8.7 feet. The location of the MSE wall allows for the permanent removal of a small wedge of the toe of the buttress slope. The MSE wall is planned approximately 30 feet horizontally into the buttress fill slope and the amount of buttress fill that would be permanently removed because of retaining function of the MSE wall is approximately 760 cubic yards.

Construction of the MSE wall requires a temporary cut into the buttress fill slope that extends farther into the slope than the location of the MSE wall. Behind the MSE wall are sheets of geogrid reinforcement that will extend approximately 23.5 feet into the buttress fill. The very strong geogrid sheets provide an anchoring of the MSE wall to the slope. To install the geogrid, temporary excavation of approximately 23.5 feet behind the location of the MSE wall into the buttress fill slope will occur. The geogrid will be placed in layers alternating with compacted fill dirt until the height of the MSE wall is reached. Therefore, in the temporary condition, a total cut of 53.5 feet into the buttress fill slope will occur. Of the 53.5 feet of cut, fill will be replaced with geogrid within 23.5 feet, leaving a permanent cut, which has been stabilized by the MSE wall, of 30 feet into the buttress fill slope.

Three figures are included herein as part of this response. Figure 1 is a plan view exhibit (looking down from above) of the landslide area in relation to the Niguel Summit Community and the proposed Project. This exhibit shows the extent of the landslide mass and the boundaries of the repair. Figure 2 is a cross-section (looking from the side) of the landslide area. This exhibit shows the extent of the landslide mass, buttress fill slope, MSE wall construction, and proposed Project. Figure 3 shows the watershed area draining through the Project site to Crown Valley Parkway. In

conjunction with Figure 1, which shows the subdrain locations, this exhibit provides information on how surface and groundwater is conveyed in the area.

There are several reasons why the construction of the MSE wall will not impact the stability of the buttress fill.

1. The total buttress fill placed during the Via Estoril landslide repair is approximately 440,000 cubic yards. The retaining function of the MSE wall allows for the permanent removal of 760 cubic yards, which represents approximately 0.17% of the buttress fill material. The volume of removal is so minor compared to the overall mass of the buttress fill that no impact to slope stability will occur. Furthermore, the permanent horizontal cut into the buttress fill is approximately 30 feet. The buttress fill has an overall length of approximately 735 feet, also a small fraction of the overall length of the buttress.
2. The removal of the 760 cubic yards for the MSE wall is not located in a critical location of the landslide repair. Underneath the buttress fill is approximately 212,000 cubic yards of landslide debris. As shown in Figure 2, the landslide curves up at the downhill end of the landslide debris. The upward curve of the landslide is approximately 234 feet away from the proposed MSE wall and development area. The MSE wall is not in a critical location because of the substantial distance between the MSE wall and the upward curve of the landslide plane.
3. The temporary cut of approximately 53.5 feet into the buttress fill slope will maintain a stability factor of safety of 1.6, which exceeds the minimum factor of safety of 1.25 for temporary backcuts established by the Grading Code. The analysis of the slope stability during the temporary backcut condition was the subject of a review comment by the City's geotechnical consultant (GMU) and included in Response No. 2 in the American Geotechnical, Inc (AGI) report dated April 2, 2021 (DEIR Appendix F3).
4. The MSE wall is not providing overall slope stability. Stability of the landslide and slope is provided by the combination of heavily reinforced caissons, tie-back walls, and the approximately 440,000 cubic yards of buttress fill. The MSE wall provides stability of the steepened cut at the toe of the slope but does contribute to the overall slope stability of the hillside and landslide mass. Slope stability analyses were performed to determine if the slope stability meets the minimum factors of safety included in the City's codes. Results of the detailed slope stability analyses presented in AGI's January 8, 2021, report (DEIR Appendix F4) and April 2, 2021 (DEIR Appendix F3) revealed that the factors of safety for the proposed slope, assuming construction of the MSE wall, would exceed the minimum Grading Code required factors-of-safety of 1.5 under static (long-term) condition and 1.1 under short-term (seismic) condition.

5. The proposed dwellings are not constructed on the buttress fill. As shown in Figure 2, development of the proposed dwellings is located outside of the buttress fill and located on previously compacted fill that was not part of the landslide or the landslide repair.

The City's requirement for analysis of slope stability is to ensure the Project meets the minimum code requirements, which are a factor-of-safety of 1.5 under static (long-term) condition and 1.1 under short-term (seismic) condition. The modeling used to calculate the factor-of-safety includes numerous inputs of data and one of the comments suggested that the strength parameters used in the modeling "can substantially impact the veracity of the calculations." As discussed in AGI's initial January 8, 2021, report (DEIR Appendix F4), the shear strength parameters used in the stability analyses are based on the shear strength parameters obtained from laboratory testing and compared with the shear strength parameters shown in the referenced reports (e.g., reports for Niguel Summit Landslide repairs). The conservative parameters based on the lowest bound shear strength for all types of soils and/or bedrock materials were used in the slope stability analyses and are presented in Table 2 (page 23, DEIR Appendix F4). Since conservative shear strength parameters were intentionally used, it is possible that actual strengths are even higher than those chosen for the purpose of conservative analyses.

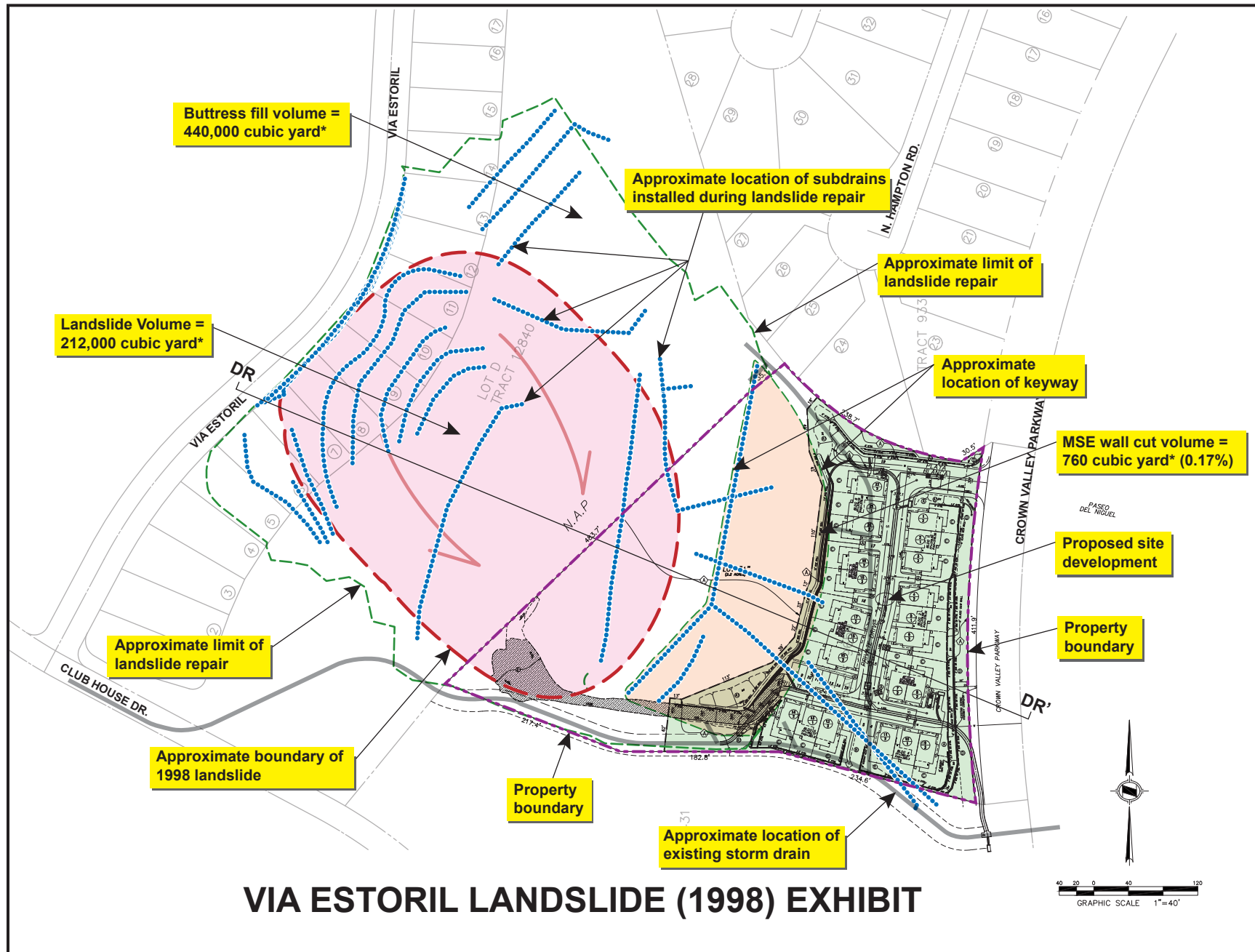
The City's geotechnical consultant, GMU Geotechnical Inc. (GMU), performed a thorough review of the AGI reports. This is standard practice on all projects within the City. GMU is an independent third-party reviewer that provides independent judgement on behalf of the City. GMU provided comments in the City's Geotechnical Review Sheet dated February 15, 2021. A copy of the City's February 15, 2021 Geotechnical Review Sheet was included in the AGI's response report dated April 2, 2021 (DEIR Appendix F3, Appendix A). GMU's review of the AGI reports included slope stability analyses, shear strengths used, and stability of the MSE wall and excavation during and after construction. Following AGI's responses, GMU conditionally approved the geotechnical analysis.

One of the comments provided by GMU in its review sheet pertains to one of the concerns raised by commenters about the stability of the MSE wall. Comment No. 3 in the City's February 15, 2021, Geotechnical Review Sheet stated that "partial removal of the toe and keyway of the lower buttress, provide both static and seismic stability calculations for failure planes that extend from the new toe of the slope, below the MSE wall and through the slope above. Both circular and block type failure planes should be searched for Sections DR-DR' and J-J'." In response to the GMU comment, AGI performed additional slope stability analyses per the City's February 15, 2021, Geotechnical Review Sheet and provided results of the supplemental slope stability analyses in the response report dated April 2, 2021 (DEIR Appendix F3). As such, AGI performed additional stability analyses regarding the MSE wall excavations made in the toe of the buttress and those additional stability calculations confirmed AGI's prior findings and were approved by GMU.

Several commenters raised questions about drainage and long-term maintenance. One of the critical components of the landslide repair is the extensive network of subdrains and storm drains. The subdrains convey groundwater out of the landslide area safely into the storm drain pipes near Crown Valley Parkway. The storm drains also pick up surface runoff from the streets and the repaired hillside. The proposed Project will not modify the subdrains within the buttress fill area. Within the development area, building regulations prevent storm drains from being aligned underneath future homes. Therefore, the Project proposes to realign those existing storm drains to align with the future internal streets. This allows continued access to maintain the storm drain system. The realignment of those storm drains would not change how the Project site is drained and the realigned storm drains would continue to capture the runoff from the extensive watershed.

Figure 3 includes a graphic that depicts the extensive watershed that drains to the storm drains within the Project site. The majority of the watershed is located off the Project site and within Niguel Summit. Figure 1 shows the location of sub-drains installed during the landslide repair. As shown on this graphic, the majority of the sub-drains are also located within Niguel Summit and on Niguel Summit HOA property. Maintenance of the storm drains and sub-drains is the responsibility of the owner of the land on which those facilities are constructed. Therefore, the proposed Project will include a condition of approval requiring a future homeowner's association maintain the sub-drains, storm drains, and hillside that is located within the Project site. However, the majority of the extensive sub-drain system and repaired landslide is located on the Niguel Summit HOA property and therefore, the Niguel Summit HOA's maintenance responsibility.

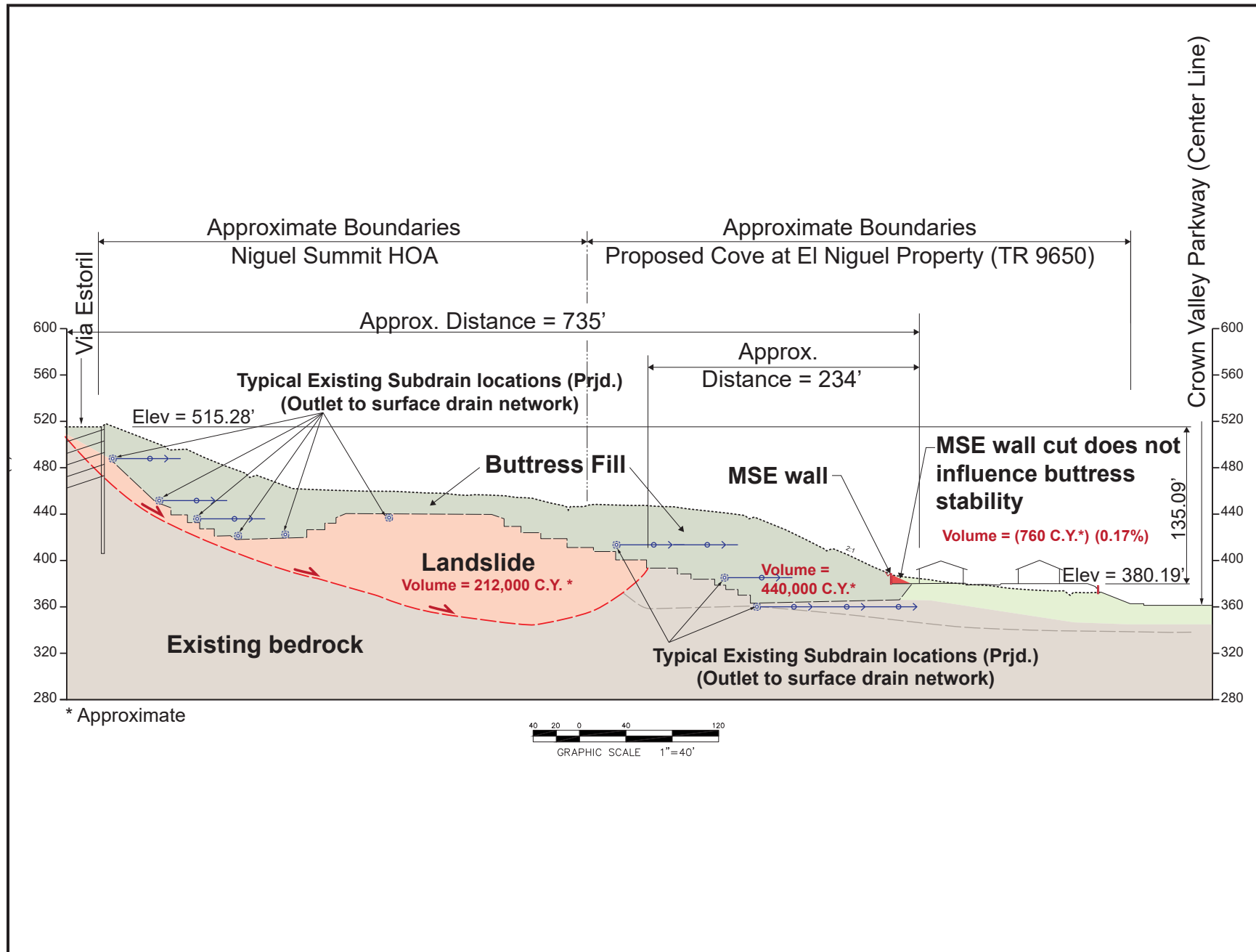
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Source: American Geotechnical, Inc (2022)

Figure 1. Via Estoril Landslide (1998) Exhibit

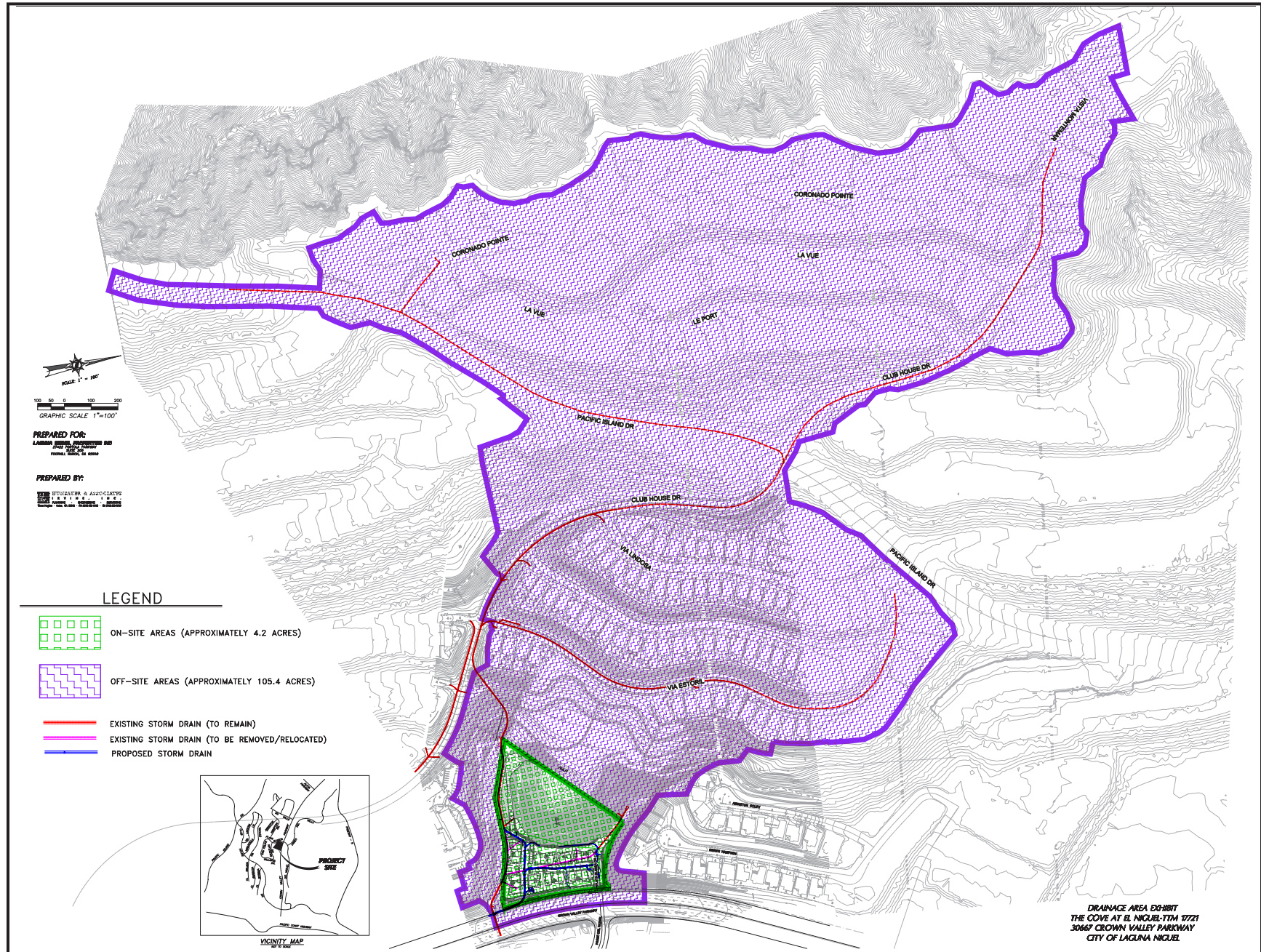
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Source: American Geotechnical, Inc (2022)

Figure 2. Cross Section of Landslide

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Source: American Geotechnical, Inc (2022)

Figure 3. Watershed Drainage Area

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Comments were raised about the difference between preliminary and final geotechnical reports, suggesting that requiring preparation of a final geotechnical report constitutes deferral of mitigation. The City’s CEQA Manual (Page 22) states:

“The Applicant’s geotechnical investigation will culminate in the preparation of a “preliminary” geotechnical report. This report will assess the feasibility of developing the Project site and provide recommendations for site preparation, such as remedial grading, subsurface drainage, subsurface structures such as caissons, etc. The title “preliminary” does not mean the geotechnical investigation is insufficient or incomplete. The “preliminary” report is prepared for CEQA and a “final” geotechnical report is prepared prior to issuance of a grading permit. The difference between the “preliminary” and “final” reports is the “final” report includes engineering and design details at the construction level that support and are consistent with the findings included in the “preliminary” report.

The process of preparing a preliminary and final geotechnical report is not only expressly contemplated by the City’s CEQA Manual (Page 22, above), but also standard practice and not unique to Laguna Niguel.

2.2 General Response 2 - Land Use / Federal Emergency Management Agency (FEMA)

Many commenters submitted comments suggesting the Project site should either remain open space or revert back to the original open space zoning, although the DEIR correctly identifies the Property as designated “Residential Attached” in the General Plan and zoned “Multifamily District” (See DEIR, at p. 2-5, Fig. 2.A, Existing General Plan Land Use; DEIR, at p. 2-7, Fig. 2.B Existing Zoning Map). One comment letter (Comment No. 18-4) from the legal counsel representing the Niguel Summit HOA made three direct comments suggesting that 1) the DEIR is flawed because the DEIR describes the site as having a Residential Attached (RA) land use designation and a RM Multifamily zoning district designation; 2) Federal Emergency Management Agency (FEMA) funding was not provided to the City because the Office of Emergency Services (OES) and/or FEMA determined the site was unsafe to develop; and 3) the sunset clause in the City’s 2002 general plan amendment resolution and zone change ordinance was legally flawed. That sunset clause triggered an automatic reversion of the general plan land use designation and zoning for the Project site from open space to residential if the FEMA funding was deobligated and not received by the City.

While many of these comments exceed the scope of CEQA, which focuses on the analysis of physical changes to the environment,¹ and are more appropriately addressed in a City staff report,

¹ *Joshua Tree Downtown Business Alliance v. County of San Bernardino* (2016) 1 Cal.App.5th 677, 695.

this topic is important to the understanding of the proposed Project and therefore addressed in this general response. Additional information or analysis of this topic may be provided in a staff report or in a public hearing.

In July 1998, OES announced the availability of \$20 million as part of FEMA’s Hazard Mitigation Grant Program (HMGP). This new source of HMGP funding was specifically created to assist California homeowners affected by landslides during the 1998 El Nino season and was established under the framework of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (See 42. U.S.C., §§ 5121 et seq.). At that time, the Stafford Act restricted funding eligibility to public property acquisition or relocation projects, subject to numerous nondiscretionary statutory requirements. One requirement was that any property acquired had to be restricted to “open space” uses. (See 42 U.S.C., § 5170c; 44 C.F.R. §§ 206.433(d)(1), 206.434(c); see also 44 C.F.R. § 206.433(c)(4), (d).) Another requirement was funding could not result in a windfall to HMGP recipients by way of duplicative benefits from “insurance or any other sources[.]” (42 U.S.C., § 5155, subds. (a), (c).)

Following the Via Estoril landslide in March 1998, the City applied for funding through the HMGP. FEMA and OES initially approved a grant of \$5.7 million for the City’s acquisition of the damaged properties. As a nondiscretionary condition of funding, FEMA/OES required the land use designations on the properties be changed to open space and a conservation easement be conveyed to the City.

Pursuant to the HMGP requirements for funding, on October 1, 2002, the City Council adopted Resolution No. 2002-703 approving General Plan Amendment (GPA) 02-03 to change the land use designation of the Project site from Residential Attached (RA) to Open Space (OS) and the land use designation on 10 single family lots along Via Estoril from Residential Detached (RD) to OS. To maintain vertical consistency among planning documents, on October 15, 2002, the City Council adopted Ordinance No. 2002-122 approving Zone Change (ZC) 02-02 to change the zoning of the Project site from RM Multifamily District to Open Space (OS) and the zoning of 10 single family lots along Via Estoril from RS-3 Single Family Residential District to OS.

The City intentionally held the conveyance of the conservation easement in abeyance pending receipt of the FEMA funding.

Both the GPA Resolution and the ZC Ordinance included a “sunset provision” stating that the GPA and ZC would become void and of no force and effect and the properties would revert back to their former land use designations if HMGP funding is deobligated.

The GPA Resolution states:

“GPA 02-03 shall become void and of no force and effect, and the subject properties shall revert to their former land use designations, if the HMGP funding is materially reduced, deobligated, or otherwise required to be returned. Additionally, should the “sunset provision” take effect and the subject properties revert to their former land use designations and zoning districts, any new development project proposed on the subject properties shall require that the Planning Commission approve a Site Development Permit or other applicable discretionary actions, including compliance with the California Environmental Quality Act and the preparation of other technical studies such as geotechnical reports.”

The ZC Ordinance states:

“This Ordinance CA 2002-122 shall become void and of no force and effect, and the subject properties shall revert to their former zoning districts, if the HMGP funding is materially reduced, deobligated, or otherwise required to be returned.

Additionally, should the “sunset provision” take effect and the subject properties revert to their former land use designations and zoning districts, any new development project proposed on the subject properties shall require that the Planning Commission approve a Site Development Permit or other applicable discretionary actions, including compliance with the California Environmental Quality Act and the preparation of other technical studies such as geotechnical reports.”

As accurately stated in Comment 18-4, FEMA deobligated the HMGP funds because the landowners had been compensated by insurance payments and FEMA does not allow for double recovery for property owners affected by the landslide. Upon the deobligation of the funds by FEMA, the “sunset provision” in both the GPA and ZC took effect and the properties reverted back to the original residential land use designations. The OS designation on the Project site, as well as the Via Estoril lots, became void and of no force and effect.

The City was informed about the deobligation of funds in a letter from OES dated October 13, 1999, which is included as Figure 4. The OES letter states that since the application for HMGP funding was submitted the circumstances have changed. OES states:

“All the residences have been purchased, and all the residents have been compensated in accordance with a legal settlement among the developers, the residents and the site developers’ insurers. The developers removed all of the structures from the project site and are repairing the slope to a standard which will prevent future failure at the site. It is also our understanding that the city has no interest in owning the property and that if federal

funds are used to purchase the site, the city intends to transfer title to the local homeowners association.

“Since the hazard has been abated and the residents fairly compensated through the resources of the responsible parties, there is no state or federal purpose to purchasing the property.”

As OES wrote in its letter, others “are repairing the slope to a standard which will prevent future failure at the site.” At no time during the process was the City informed by either FEMA or OES that in their opinion the site was not safe to develop, nor is it the role of FEMA or OES to determine development feasibility. Contrary to the assertion in Comment No. 18-4, the funds were deobligated solely because double recovery is not permissible under the HMGP program and there is no evidence that either FEMA or OES determined the site must remain open space because of slope instability. Furthermore, neither FEMA nor OES have land use authority and neither agency can place an open space or any other land use designation on property. The City is the only agency with land use authority.

Comment No. 18-4 asserts the sunset clause in the City’s resolution and zone change ordinance was legally flawed and the commenter provides two case law citations. in support of its argument that the sunset clause could not be given legal effect.

As stated earlier, this issue is beyond the scope of the Draft and Final EIR and does not pertain to a physical change to the environment. However, the following is provided as general response for public information. The two cases cited by the commenter have a much different set of facts than the proposed Project and therefore the case law is distinguishable from the proposed Project. First, in *Scrutton v. Sacramento County*, 275 Cal.App.2d 412 (1969), the Board of Supervisors did not include a reverter provision directly in the subject zoning ordinance like the City Council had done for the subject property. Rather, the reverter was contained in a contract. For the subject Project, the Planning Commission and City Council considered the sunset provision as part of the required notice and hearing process to amend the property’s general plan land use designation and zoning. Thus, the sunset provision for this Project was adopted in accordance with State Planning and Zoning Law.

Second, the sunset clause included in the City’s GPA resolution and ZC ordinance does not place a condition on a landowner to perform. Instead, the sunset clause outlines two circumstances (one with HMGP funding and one without HMGP funding) beyond the control of the landowners. The sunset clause is not subjective and is not controlled by a private party. Thus, unlike in the *Scrutton* case, it was not intended to cause a “forfeiture” of property rights. Instead, at noticed public hearings where the landowners were in agreement and support with the sunset clause, the City took action to adopt the resolution and ordinance. No further action was necessary because the

City took action in accordance with all statutory procedures under the authority vested to the City. The City is not aware of any parties, including the affected landowners, who objected to the sunset clause and the City's adoption of the resolution and ordinance. If there were parties who were in objection to the sunset clause, the objecting party had a 90-day statute of limitations to file a legal action against the adoption of the resolution and/or ordinance. No legal challenge was filed.

Further, the subject property has been consistently identified as residential in the City's General Plan land use map and official Zoning Map for many years. The land use map and Zoning Map have been amended on multiple occasions with the residential designation remaining on the property. The General Plan has also long included a note about the sunset provision, informing the public that the sunset clause took effect.

Therefore, based on the history of the Via Estoril landslide, the evidence in the record of the City's actions, and the City's authority to establish land use designations and zoning, the DEIR accurately describes the Project site as currently having a General Plan designation of Residential Attached (RA) and a zoning designation of RM Multifamily. No change in land use designation or zoning is required to construct the proposed Project. Consistent with the sunset clause, an application for a Site Development Permit has been filed and a comprehensive geotechnical analysis conducted.

2.3 Response to Comments

The following is specific response to comments received during the Public review period.

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STATE OF CALIFORNIA



GRAY DAVIS, Governor

GOVERNOR'S OFFICE OF EMERGENCY SERVICES
DISASTER ASSISTANCE PROGRAMS BRANCH
HAZARD MITIGATION PROGRAM



RANCHO CORDOVA, CALIFORNIA 95741-9023
PHONE: (916) 464-1014 FAX: (916) 464-1019

Governor's Office of
Emergency Services

October 13, 1999

Mr. Tim Casey, City Manager
City of Laguna Niguel
27801 La Paz Road
Laguna Niguel, California 92677

Dear Mr. Casey:

SUBJECT: FEMA-DR-1203-CA, HMGP, OES #1001, FEMA #101
CITY OF LAGUNA NIGUEL
NIGUEL SUMMIT/CROWN COVE ACQUISITIONS

The Governor's Office of Emergency Services (OES) has reviewed the status of the Niguel Summit/Crown-Cove Acquisition Project. OES believes that the project no longer meets the priorities for the DR-1203 Landslide Hazard Mitigation Grant Program (LHMGP). Therefore, OES requests that the city withdraw the project from the LHMGP with the understanding that all project management costs incurred by the city will be reimbursed.

According to 44 CFR 206.438, OES is required to ensure that "...subgrantees meet all program and administrative requirements." The program priorities for the LHMGP were to remove residences which were made uninhabitable by the land movement caused by the El Nino Storm Disaster. The city's original LHMGP application submitted in September 1998 described conditions and actions consistent with the priorities of the LHMGP. Since the application was submitted, the circumstances have changed.

All the residences have been purchased, and all the residents have been compensated in accordance with a legal settlement among the developers, the residents and the site developers' insurers. The developers removed all of the structures from the project site and are repairing the slope to a standard which will prevent future failure at the site. It is also our understanding that the city has no interest in owning the property and that if federal funds are used to purchase the site, the city intends to transfer title to the local homeowners association.

Since the hazard has been abated and the residents fairly compensated through the resources of the responsible parties, there is no state or federal purpose to purchasing the property.

If you have any questions, you may call me at (916) 464-1014 or Ken Leep, Grant Coordinator, at (916) 464-0977.

Sincerely,

JOHN ROWDEN
State Hazard Mitigation Officer

cc: Sally Zielkowski, FEMA
Dorsey Hughes, FEMA

AR - 001051

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Comment Letter 1 – Fred Carroll (April 14, 2022)

From: Fred Carroll <fcarroll321@gmail.com>
Sent: Thursday, April 14, 2022 7:48 AM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Subject: The Cove at El Niguel Project

- 1-1 | I've heard that the owner of the land wants to develop in order to make a lot of money. I can't imagine why the city of LN would entertain such a project after experiencing a landslide in that same area. The city got it wrong then so what's to say that they won't get it wrong again to the detriment of all of the homeowners in the area. Why would you jeopardize the safety of the residents within your own city? Imagine the lawsuits if you allow this to go forward and you get it wrong. People could sustain injuries or even death in the event of a collapse. Values would plummet if this land disturbance should lead to another landslide.
- 1-2 | In addition, it is my understanding that there will be only one ingress and egress for the proposed development. This would be along a major artery Crown Valley Pkwy? I anticipate numerous safety hazards as a result of this. I think this would cause a high rate of accidents.
- 1-3 | I cannot believe that the city is actually considering this plan, or that I even have to take time to write this email. What a disappointment. I haven't even addressed the impact upon the adjoining developments. All of this for only 22 condos so that a developer can make some money? Creating huge potential problems to house only 22 residences sounds like short sighted thinking to me.
- 1-4 | Since access to the site is difficult, I don't even think a park would be a good idea let alone a residential development. I would like to see the area remain as a common open space.

Fred Carroll

Response 1 – Fred Carroll (April 14, 2022)

- 1 - 1 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers. The commenter references the previous landslide and geotechnical safety, which are addressed in Section 4.6 of the DEIR and **Section 2.1 General Response 1 – Geotechnical**.
- 1 - 2 The comment pertains to access onto Crown Valley Parkway and the potential for traffic accidents. Access to the Project site is from one driveway intersecting with Crown Valley Parkway. The Project site is not contiguous to any other street that could provide access. The access driveway is in the same location when the Project site was previously developed with 41 condominium units. Access to the Project site was analyzed in the DEIR in Section 4.12. Specifically, Threshold TRA-3 analyzed design hazards. The analysis determined “The proposed Project has the potential for transportation impacts associated with potential traffic hazards in the form of traffic interference during construction and Project access concerns. Implementation of **MMs TRA-1, TRA-2, and TRA-3** would reduce Project specific traffic impacts to less than significant.” (DEIR Page 4.12-10)
- 1 - 3 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 1 - 4 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.

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Comment Letter 2 – Marc and Claudia Barbani (April 23, 2022)

From: Marc Barbani <mgbarbani@gmail.com>
Sent: Saturday, April 23, 2022 4:21 PM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Subject: The Cove at El Niguel Project

Dear Amber,

We are writing this letter to voice our concerns regarding the proposed "The Cove at El Niguel" condominium project.

2-1

We reside in the La Vista community at 30902 Club House Drive, and our unit has a full view of the proposed area of development. We are both saddened and alarmed to receive this notice as the proposed project will directly affect our beautiful view of the greenbelt area from our home. This view was a major factor in our decision to purchase this particular unit. More importantly, we are against ANY new developments as they would further cause a significant environmental impact on the city of Laguna Niguel.

2-2

With the proposed project development, the added homes will increase traffic and in turn, cause more congestion, air--and especially--noise pollution. Crown Valley Parkway has already become a very busy and crowded thoroughfare. The constant traffic noise can be heard from a long distance away. Now they are going to further add to it with 40 to 50 more vehicles, as most residents usually have more than one car per household.

2-3

We have enjoyed the splendid view from our balcony of local wildlife, including owls, coyotes, deer and rabbits in the green area. This development will now be pushing these animals out of their native habitat.

2-4

An alarming concern we have is the potential of another landslide occurring in that area. If it happened once before due to unstable ground, what guarantee is there that it won't ever happen again? This is a major risk to the area in question.

2-5

Development of every available parcel of land in Laguna Niguel has gone out of control over the past 30 years. Yes, this is one of the most desirable places to live, and homes have been built and sold at a furious pace. The developers then leave and we are left with the end result--another eyesore

2-5 | in our community, and all that comes with it. This project will be just that
(cont) | and not improve anything, only adding to an already over-developed area.

2-6 | More people living in this area will also burden our public resources
| including utilities, fire, police, and paramedics.

2-6 | For all the reasons listed above and probably more that are not mentioned
| here, we plead with you to reject this project. Let's keep our beloved
| Laguna Niguel as great as it is!

Respectfully,

Marc and Claudia Barbani

Response 2 – Marc and Claudia Barbani (April 23, 2022)

- 2 - 1 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers. The comment also states that the Project will “directly affect the greenbelt area from our home.” Section 4.1 of the DEIR analyzes impacts to aesthetics. This section concludes, “The open space currently existing on the Project site does not constitute a scenic vista and views of the Project site from private residences are not protected.” (DEIR page 4.1-5) This determination is consistent with the City’s CEQA Manual, which states that private views are not protected under CEQA or by local ordinance.
- 2 - 2 The comment states that the Project will increase traffic, congestion, air and noise pollution. However, the commenter does not provide any specific comments on the analysis presented in the DEIR. Traffic impacts, which under CEQA are based on Vehicle Miles Travelled (VMT) are analyzed in DEIR Section 4.12. Air Quality impacts are analyzed in DEIR Section 4.2 and noise impacts are analyzed in Section 4.11. Without specific comments on the analysis in the DEIR, no further response is required.
- 2 - 3 The comment pertains to private views of the Project site. Please see **Response 2-1** and note that private views are not protected.
- 2 - 4 The comment expresses concern about the potential for another landslide in the area. However, the commenter does not provide any specific comments on the analysis presented in the EIR. Please see Section 4.6 for an analysis of geologic conditions and **Section 2.1 General Response 1 – Geotechnical** for further information on the prior landslide.
- 2 - 5 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 2 - 6 The comment states that the increase in population will burden public resources including utilities, fire, police, and paramedics. The commenter does not provide any specific comments on the analysis presented in the DEIR. The DEIR determined in Section 3.2.4 (DEIR P. 3-4) that Public Services is an environmental topic with effects found not to be significant. The proposed Project is located in an area of the City already served by public services and the population increase would be less than one-tenth of one percent. The DEIR determined that impacts to public services would be less than significant.

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Comment Letter 3 – Leila Nikkhoo (April 27, 2022)

3-1 my name is leila nikkhoo and I live in La Vista.
please Do not let them build anything.
It will get very crowded and Air quality will
affected. All the trees will die.

3-2 I love this piece of land and it's beautiful!
The noise pollution, Traffic and many other
problems will be created!
Thank You

leila nikkhoo
30902 Club house Dr unit
Laguna, Niguel CA 92652³⁴

Response 3 – Leila Nikkhoo (April 27, 2022)

- 3 - 1 The comment states that the Project will cause the City to become crowded, impact air quality, and trees will die. However, the commenter does not provide any specific comments on the analysis presented in the DEIR. Air Quality impacts are analyzed in DEIR Section 4.2 and Biology impacts in DEIR Section 4.3. Without specific comments on the analysis presented in the DEIR, no further response is required.
- 3 - 2 The comment expresses the commenter’s opinion and states that the Project will cause noise pollution and traffic impacts. However, the commenter does not provide any specific comments on the analysis presented in the DEIR. The DEIR analyzes noise impacts in Section 4.11 and traffic impacts in Section 4.12. Without specific comments on the analysis presented in the DEIR, no further response is required.

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Comment Letter 4 – Michelle Sowle (May 1, 2022)

From: Michelle Sowle <collectivesowle@gmail.com>
Sent: Sunday, May 1, 2022 8:41 PM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Subject: The Cove at El Niguel Project - 30667 Crown Valley Pkwy

May 1, 2022

Re: The Cove at El Niguel proposed project

4-1 | I'll leave my OBJECTION to this project relatively short. Why on earth would a proposal even be considered at a location whose ground has already once failed? If I hadn't received this news in an official city notification, I'd have thought I was hearing a silly joke. It's unstable. Many were jeopardized. People lost their homes. HOMES. Their livelihood. Not to mention, there's already a large condominium complex very nearby. Why jeopardize their homes by excavating an already unstable site?

4-2 | Furthermore, we're in the middle of a horrible, years long drought, which isn't looking like will reverse course anytime soon. Our planet is slowly drying up. Water is already a scarce commodity, and we're now heading into water restrictions. Why on earth add to this? Needless to say, traffic zooming up and down Clubhouse is already crazy dangerous. Traffic is fairly constant as is, and I, as well as many others, don't want to see this further increase.

4-3 | I believe this would be a highly ill-advised move to pass this project. Please leave the space as is, open and natural. We don't need more homes – on unstable ground, more traffic, more water guzzling. It just doesn't make sense. I realize this will quite likely come down to the almighty dollar, as these things usually do, but I implore those with common sense to please look into the future.

Thank you,

Michelle Sowle
30902 Clubhouse Dr

Response 4 – Michelle Sowle (May 1, 2022)

- 4 - 1 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers. The commenter references the previous landslide and geotechnical stability, which are addressed in Section 4.6 of the DEIR and in **Section 2.1 General Response 1 – Geotechnical**.
- 4 - 2 The comment states that water is a scarce commodity and traffic on Clubhouse is already dangerous. However, the commenter does not provide any specific comments on the analysis presented in the DEIR. Section 3 of the DEIR found no significant impact on water supplies from the proposed Project. Moulton Niguel Water District (MNWD) provided a Conditional Will Serve Letter, which stated that adequate water supplies are available for the proposed Project. Regarding traffic, the Project site does not take access from Clubhouse Drive. Access is taken from Crown Valley Parkway, which was analyzed in DEIR Section 4.12. Without specific comments on the analysis presented in the DEIR, no further response is required.
- 4 - 3 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.

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Comment Letter 5 – Greg Sowle (May 7, 2022)

From: Greg Sowle <wordnow@gmail.com>
Sent: Saturday, May 7, 2022 8:27 AM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Subject: The Cove at El Niguel proposed project

Dear Amber,

- 5-1 | Unequivocally and on all counts I object to building anything on grounds and lands that previously collapsed. Re-building on land that has already collapsed would jeopardize people, property, and even wildlife. With the current drought and instability of our country, there should not even be put in any more effort or cost to research into this. This project would also jeopardize the value of
- 5-2 | current property owners, like myself, if this project failed in anyway. We are already seeing increasing HOA costs to maintain the land around here.
- 5-3 | I implore you to leave this lands in its current condition (or make it more water resistant) and not spend anymore money and time looking into this.

Thank you,

Greg Sowle
30902 Clubhouse Dr UNIT 4E
Laguna Niguel, CA 92677

Response 5 – Greg Sowle (May 7, 2022)

- 5 - 1 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 5 - 2 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.

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Comment Letter 6 – Mark and Karen Carrie (May 14, 2022)

From: Mark Carrie <mark.carrie5@gmail.com>
Sent: Saturday, May 14, 2022 3:43 PM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Subject: Cove at El Niguel Proposed Development in Laguna Niguel

Amber Gregg
 Contract Planner
 City of Laguna Niguel
 3011 Crown Valley Parkway
 Laguna Niguel, CA 92677

Dear Ms. Gregg,

My wife and I are owners of a condo unit at the La Vista Condominiums on Clubhouse Drive in Laguna Niguel, California. We received a notice from the City of Laguna Niguel regarding a public comment period to evaluate the environmental effects of the proposed development of "Cove at El Niguel" in Laguna Niguel. We thank you in advance for this opportunity to raise our concerns.

6-1

We are very concerned of multiple potential environmental effects of the proposed development, particularly relating to the geology and soils of our nearby community and of the site itself. We believe there has been continuing concern of landslides and unstable land in this area, and the 1998 destruction of nearby properties is a case in point of the danger of construction here.

6-2

Our reservations were confirmed with the publication of a May 8, 2022 article in the Los Angeles times entitled "A Landslide destroyed O.C. homes 24 years ago. A developer wants to build there again." <https://www.latimes.com/california/story/2022-05-08/laguna-niguel-landslide-destroyed-oc-homes-developer-wants-build-again>. Since moving to La Vista, we have appreciated the lovely aesthetics of the area and this too would be compromised by the proposed development. It will also lead to more noise associated with traffic on Crown Valley Parkway. We were lured to this area by the lovely views, relative tranquility, stable land, and soundness of the financial investment in this community. All of this seems in jeopardy with the proposed development.

6-3

Given the latest threat of wildfire in this community, confirmed by the Coastal Fire this week, we do not need yet another reason for people to not want to remain in this community. If anything, this proposed development would lead us to reconsider staying in this home and perhaps lead to an eventual move given the increased danger of landslides and instability of the land. In short, no steps

6-3
(cont.)

would significantly mitigate the threat. Now is not the time to take a gamble on our La Vista home or new residents. We hope you will take our concerns seriously and reconsider building near our community.

Sincerely,

Mark and Karen Carrie
 30902 Clubhouse Drive, Unit 10
 Laguna Niguel, CA 92677
 (703) 615-8073

Response 6 – Mark and Karen Carrie (May 14, 2022)

- 6 - 1 The comment expresses concern about the stability of the prior landslide, however the comment does not provide specific comments on the analysis presented in the DEIR. Please see Section 4.6 of the DEIR for an analysis of geologic conditions and **Section 2.1 General Response 1 – Geotechnical** for additional information.
- 6 - 2 The comment expresses the commenter’s opinion and states that the Project will cause aesthetics and noise impacts. However, the commenter does not provide any specific comments on the analysis presented in the DEIR. The DEIR analyzes aesthetics in Section 4.1 and noise impacts in Section 4.11. Without specific comments on the analysis presented in the DEIR, no further response is required.
- 6 - 3 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.

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Comment Letter 7 – Cathy Bosko (May 20, 2022)

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

From: Cathy Bosko <cathybosko@gmail.com>

Sent: Friday, May 20, 2022 8:19 AM

To: Amber Gregg <AGregg@cityoflagunaniguel.org>

Subject: Re: Cove Development

7-1

> Good morning Amber,

>

> This area proposed for the Cove development has a history of slides and will adversely affect the surrounding area.

>

> I lived in Laguna Beach for many years and there was a major slide on Bluebird Canyon. Years later homes were allowed to be built in the same area and there was another major slide.

>

7-2

> Please do not allow such a dense project to be built again in this area as history will repeat itself in this unstable area. I realize that the Planning Department and builders already realize this is an area that has had previous problems but needed to voice my concern on the proposed project.

>

> Thank you.

>

> Cathy Bosko

> 30172 Sonrisa Lane

> cathybosko@gmail.com

> 949/637-3016

>

> "Until one has loved an animal, a part of one's soul remains unawakened," by Anatole France

>

Response 7 – Cathy Bosko (May 20, 2022)

- 7 - 1 The comment expresses concern over landslide stability; however, the comment does not provide specific comments on the analysis presented in the DEIR. Please see Section 4.6 of the DEIR for an analysis of geologic conditions and **Section 2.1 General Response 1 – Geotechnical** for additional information.
- 7 - 2 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.

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Comment Letter 8 – Susan Vasquez (May 20, 2022)

From: susan vasquez <susan_vasquez_2000@yahoo.com>
Sent: Friday, May 20, 2022 5:05 PM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Subject: Stop Cove

Subject: Stop Cove Project
Date: May 20, 2022 at 1:04:45 PM PDT
To: susan_vasquez_2000@yahoo.com

Dear Ms. Amber Gregg,

8-1

I am a 30 resident of Laguna Niguel. I have witnessed the destructive Laguna Beach Fires of 93, the sliding slopes of condos near Crown Valley and Salt Creek Trail, and most recently, the devastation of the Coastal Fire.

I implore the City of Laguna Niguel **not to build** on an ancient slide area. The proposed condos will continue to slide towards the sea. Construction may provide an influx of fees for the city but burdens its residents with traffic, added water use while in a historic drought, and the potential for another slide (lawsuits).

8-2

Please reconsider the environmental impact on our city instead of the short-term monies gained from building permits. Wasn't the hideous, ostentatious Gateway project enough to line LN pockets? Better use of community dollars would be to install an electric/Solar trolley from Metro Link station to the sea down the median of Crown Valley.

Sincerely,
Susan Vasquez

Response 8 – Susan Vasquez (May 20, 2022)

- 8 - 1 The comment expresses concern over landslides; however, the comment does not provide specific comments on the analysis presented in the DEIR. Please see Section 4.6 of the DEIR for an analysis of geologic conditions and **Section 2.1 General Response 1 – Geotechnical** for additional information.
- 8 - 2 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.

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Comment Letter 9 – Cherall Weiss (May 22, 2022)

From: Cherall Weiss <cherall18@gmail.com>
Sent: Sunday, May 22, 2022 7:56 PM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Subject: Hon building

Dear Ms. Gregg

9-1

I have read with dismay some articles and comments about the proposed building on the previous landslide area abutting La Vista Condos.
This project seems like a risky one considering the nightmare of the destroyed houses on Via Estoril and townhomes below not so long ago.
Please consider all of the homeowners in the area and the environmental impact before agreeing to this project. From our prospective it seems ill advised.

Thank you,
Cherall Weiss

Response 9 – Cherall Weiss (May 22, 2022)

- 9 - 1 The comment expresses concern over landslides; however, the comment does not provide specific comments on the analysis presented in the DEIR. Please see Section 4.6 of the DEIR for an analysis of geologic conditions and **Section 2.1 General Response 1 – Geotechnical** for additional information.

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Comment Letter 10 – John Fernandez (May 22, 2022)

From: John Fernandez <johnfernandez61@gmail.com>

Sent: Sunday, May 22, 2022 10:13 AM

To: Amber Gregg <AGregg@cityoflagunaniguel.org>

Subject: Cove at El Niguel Project

10-1

I have lived on 30472 Via Estoril for the last 34 years (original owner) and was home in 1998 when the landslide occurred onto Cove at El Niguel.

We greatly appreciate your asking for our comments on this proposed project.

My wife and I have no issues with the proposed Cove at El Niguel project, the building of Condos on 2 acres and leaving 2.2 acres for open space.

Frankly, I hope it would remove any stigma that a landslide occurred on Via Estoril.

Being that said, if the project was rejected, as an alternative project that would benefit Laguna Niguel Summit community and adjoining neighborhoods, I suggest a "Dog Park".

I don't have a dog but it seems like everyone in our neighborhood walks their dog/s. From my observation it's not without its social and safety problems, but that is another story.

10-2

Ideally, if you combine your project area with a new trail parallel behind the homes on Via Estoril to join a currently unused open space area behind Orange County fire station#5, old court house and the new Laguna Niguel Hall, this would result in a benefit to the community.

I also see this Dog Park proposal as a way of managing (thru conducive landscaping) this overgrown fire zone area brush that affects these combined areas.

Safe open spaces to walk your dog, socialize with other dog owners, and enjoying the wooded surroundings, that's a positive environment for our community.

Thanks again for asking for my comments.

John Fernandez

Response 10 – John Fernandez (May 22, 2022)

- 10 - 1 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 10 - 2 The commenter suggests development of the Project site as a dog park as an alternative. Chapter 6 of the DEIR analyzed Project alternatives. A dog park would generally be a public use, which could entail purchase of the property by the City. The City does not have any plans funds appropriated for purchase of the property. The suggestion of a dog park will be forwarded to the decision-makers.

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Comment Letter 11 – Sara Nuss-Galles and Arie Galles (May 22, 2022)

From: nussgalles <nussgalles@cox.net>

Sent: Sunday, May 22, 2022 12:34 PM

To: Amber Gregg <AGregg@cityoflagunaniguel.org>

Subject: Comments regarding Draft Environmental Impact on The Cove at El Niguel Project - please confirm receipt

Good Morning Amber Gregg,

11-1

My husband and I are residents on Via Estoril and bought our house in 2005 in the face of concerns about the 1998 slide tragedy. After many discussions and research on our part of the various mitigations on the slope, we were reassured by the realtors, the property owners, the Niguel Summit HOA, and officials in the LN Development Department that the property from Via Estoril down to Crown Valley would remain a green area due to the fact of the ancient slide area and inherent risk in building on such property.

11-2

Over the last 15 years we residents have faced previous contractors' proposals and their efforts with LN to disregard the facts and dangerous realities and build at the bottom of the slope. Residents, and, thankfully, the town made sure these past efforts were unsuccessful. It's difficult to understand what has changed in our town's leadership that this proposal has come so far, flying in the face of safety, good sense, and accepted facts.

Now, comes The Cove at El Niguel Project by Hon Builders, the very same contractor originally responsible for building on an ancient slide area that caused disaster for dozens of homes, lives and families.

11-3

Regarding Environment Impact we raise these among the many issues:

Our town has development standards based on safety, aesthetics, codes, etc. Under no circumstances should the City approve alternative development standards in light of the danger of interfering in any way and endangering the stability of the slope.

The retaining wall, buttress, is built to specs necessary for the stability of the slope. Any "adjustments" to this is risky and dangerous for residents above, alongside, and below, as well as the most traveled road in our town.

11-4

Regarding traffic, Crown Valley Parkway (CVP) is known as a heavily traveled road in town, being an artery from the Pacific Coast Highway to the 5 Freeway, with frequent backups, speeding, accidents, and rush hour issues. The increase of an egress from The Cove onto CVP from 22 additional homes, potentially two or three times that many cars, would create a traffic nightmare.

11-5

Due to the Coast Fire, 400 plus homes in our area, ours included, were under mandatory evacuation mid-May due to the wild fire that caused wide destruction and tragedy for many residents. We live on a slope with acres of dry brush, less than 6 feet from our property, a constant risk that has not been ameliorated despite our request to our HOA over the many recent drought years, because of the HOA's expressed concern about interfering with the stability of the slope. The Coast Fire brought that fear home. We and our nearby evacuated neighbors were lucky to only have smoke, soot and ash issues to deal with. However, a huge construction site interfering with the slope as well as sparks from the site, are invitations for fire.

11-6

Who, exactly, will we homeowners have recourse to, should the worst happen: our town administrators, Hon Builders, our HOA, our homeowners' insurance? Please tell me where the responsibility will fall and whom would we turn to?

We urge our town to deny the proposed development. Please prioritize the safety, well-being, and quality of life of the residents.

Thank you,
Sara Nuss-Galles
Arie Galles
30652 Via Estoril

Response 11 – Sara Nuss-Galles and Arie Galles (May 22, 2022)

- 11 - 1 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 11 - 2 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. It should be noted that the City has not denied any prior development proposals on the Project site. The comment is noted and will be forwarded to the decision-makers.
- 11 - 3 The comment provides opinion that alternative development standards should not be approved because of slope stability. The Project includes a retaining wall that exceeds the height standard in the Laguna Niguel Municipal Code. This request was made to minimize retaining wall heights along Crown Valley Parkway, which would be highly visible, and instead place the retaining wall behind the proposed residential buildings hidden from view of Crown Valley Parkway. This is a discretionary request, and the comments will be forwarded to the decision-makers. It should be noted that the retaining wall would not impact the stability of the slope, as demonstrated in the analysis included in Section 4.6 of the DEIR and further discussed in **Section 2.1 General Response 1 – Geotechnical**.
- 11 - 4 The comment states concern regarding the egress from the Project site onto Crown Valley Parkway and traffic volume on Crown Valley Parkway. Access to the Project site is from one driveway intersecting with Crown Valley Parkway. The Project site is not contiguous to any other street that could provide access. The access driveway is in the same location when the Project site was previously developed with 41 condominium units. Access to the Project site was analyzed in the DEIR in Section 4.12. Specifically, Threshold TRA-3 analyzed design hazards. The analysis determined “The proposed Project has the potential for transportation impacts associated with potential traffic hazards in the form of traffic interference during construction and Project access concerns. Implementation of **MMs TRA-1, TRA-2, and TRA-3** would reduce Project specific traffic impacts to less than significant.” (DEIR Page 4.12-10) Regarding traffic volumes, recent changes in CEQA now require the analysis of vehicle miles travelled (VMT) instead of traffic volumes and levels of service. Therefore, traffic volumes are no longer a topic analyzed in an EIR. However, as provided in Appendix L to the DEIR, the current traffic volumes on Crown Valley Parkway are approximately 27,083 vehicles per day. The proposed Project will add approximately 161 average daily trips over a 24-hour period, with approximately 10 trips during the morning peak hour and 12 trips during the evening peak hour. The additional traffic generated by the proposed

Project represents approximately one half of one percent of the traffic volumes on Crown Valley Parkway.

- 11 - 5 The commenter expresses concern about fire danger at the commenter's property. The obligation for fuel modification is with each property or community, as the case may be, in accordance with applicable regulations. The proposed Project has a fuel modification obligation as established in the Fuel Modification Plan included as Appendix G to the DEIR, which was reviewed and approved by Orange County Fire Authority (OCFA). Surrounding communities also have a fuel modification obligation, which requires on-going maintenance, whether or not the proposed Project is approved.
- 11 - 6 The comment as about recourse and liability responsibilities. This topic is beyond the scope of the DEIR and will be forwarded to the decision-makers.

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Comment Letter 12 – James and Patricia Higgins (May 25, 2022)

From: Paddy Garvin <paddy-cake454@live.com>
Sent: Wednesday, May 25, 2022 2:55 PM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Subject: FW: Cove at El Niguel Project

Sent from [Mail](#) for Windows

Sent: Tuesday, May 24, 2022 1:03 PM

Subject: Cove at El Niguel Project

Dear Amber,

12-1 | Our family represents as one of the original owners on Via Estoril. We live directly next to the slope which may possibly be impacted by the Cove at El Niguel Project. We observed the extensive repair that went into restabilizing the slope in 1998 and have many photos and paperwork to validate it. In addition, we were familiar with the extensive work performed by American Geotechnical, Inc. over the past 20+ years. We have seen their company representative frequently measuring the slope incline at multiple sites to ensure there is no significant creep happening. We have also reviewed their reports on the City website.

12-2 | Our biggest concern at this time is the fire danger it may pose. At this point, the slope and entire hillside is filled with dried vegetation, specifically Acacia shrubs, that need to be cleared before proceeding with building at the base of the slope out towards Crown Valley Parkway. If this clearance is not done prior to construction, it could pose an additional fire risk if a spark is present.

12-3 | We realize that the OCFA does have a mitigation plan in place but as we see in their plan, the hillside between Crown Valley and Via Estoril is slated to be one of the last hillsides to be cleared and replanted. We have been appreciative that our HOA is watering the hillside more often but we see this possibly changing in light of the severe/moderate draught now happening in California. Prior to the Coast Fire, we saw minimal watering happening and we were concerned then of how dry the hillside was becoming. After the Coast fire was contained, we saw the hillside sprinklers on at least twice a day! Now we haven't seen them on for the past three days!

We would like this concern addressed before the Cove at El Niguel Project is allowed to commence if approved by our city.

Thank you for your time and consideration.

Sincerely,
 James & Patricia Higgins
 30562 Via Estoril
 Laguna Niguel, CA 92677
 (949) 249

Response 12 – James and Patricia Higgins (May 25, 2022)

- 12 - 1 The comment provides a general introduction and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 12 - 2 The comment pertains to fire danger and includes a statement that vegetation clearing should occur prior to construction. Development of the Project site includes vegetation clearing and implementation of fuel modification zones, which entail further vegetation thinning extending out from the Project site. Section 4.14 of the DEIR analyzed the risk from wildfire. The obligation for fuel modification is with each neighborhood. The proposed Project has a fuel modification obligation as established in the Fuel Modification Plan included as Appendix G to the DEIR which was reviewed and approved by Orange County Fire Authority (OCFA). Surrounding communities also have a fuel modification obligation, which requires on-going maintenance, whether or not the proposed Project is approved.
- 12 - 3 The comment provides observations and opinions by the commenter but does not provide direct comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.

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Comment Letter 13 – Cheryl Friedling (May 25, 2022)

From: cafriedling@gmail.com <cafriedling@gmail.com>

Sent: Wednesday, May 25, 2022 5:25 PM

To: Amber Gregg <AGregg@cityoflagunaniguel.org>

Subject: Cove at El Niguel DEIR Comments

Dear Ms. Gregg,

13-1

Attached are my comments. Thank you for your review and consideration.

Cheryl Friedling
30571 N. Hampton
Laguna Niguel, CA 92677

May 26, 2022

Ms. Amber Gregg
Contract Planner
City of Laguna Niguel
30111 Crown Valley Parkway
Laguna Niguel, CA 92677
VIA Email: agregg@cityoflagunaniguel.org

Regarding: The Cove at El Niguel DEIR

Dear Ms. Gregg,

13-2 Thank you for allowing the community to provide input on the City's draft Environmental Impact Report for the proposed 'Cove at El Niguel' project. Listed below are my comments and requests to expand the scope of this document to better understand the impacts of this development on the community.

13-3 We live in close proximity to the proposed project and are extremely concerned about safety of the proposal, particularly in light of the 1998 landslide and the destabilized site of this project. This concern for additional earth movement and related safety issues underscores almost every one of the below comments and merits extensive attention by City staff, the Planning Commission and the City Council.

13-4 1. I request an independent geotechnical review by a firm with zero history with the developer and zero history with the City of Laguna Niguel. The firm that prepared the geotechnical study has a clear conflict of interest.

The developer's geotechnical consultant AGI participated in the remediation after the tragic landslide. AGI's interpretation states that *'Our prior involvement included geotechnical and structural evaluations and design work along with geotechnical and structural observations through completion of the landslide stabilization. As such, we feel our professionals are in the best position to*

Ms. Amber Gregg
May 26, 2022

evaluate the proposed project and provide recommendations for proceeding with the new project.'

13-4
(cont)

This is faulty logic, as the consultant has no interest in, or desire to, criticize or critically review its own work with the prior landslide remediation effort.

The memory of this tragic landslide event is not forgotten by the residents of Laguna Niguel. The City has a responsibility to go the "extra mile" to make sure the geotechnical plan for 'The Cove at El Niguel' project is safe – without equivocation. A review by an independent professional geotechnical firm (without any conflicts of interest) will be positioned to review risks, safety factors and compliance with California Building Codes. Special emphasis should be placed on the impact of the proposed buttress cut away/modification on the stability of the upslope landslide repair and the impact to adjacent properties.

13-5

2.The presentation materials showcased at the November 17, 2021 Scoping Meeting indicates that the proposed development 'avoids landfill buttress'. (See attached image.) This is a misstatement on several levels, as the buttress was actually constructed to stabilize a landslide and is contrary to the City's geotechnical consultant's review which states 'the currently planned grading will now include the partial removal of the toe and keyway of the lower buttress.'

City staff have stated that the earthen buttress will be intruded into with the installation of a 15'5" retaining wall in order to 'squeeze in' the 22 proposed condos. Apparently there is either disagreement, a discrepancy or confusion as to the buttress carve-out. Please provide a detailed response, including the following:

- a) Will the buttress be totally avoided?
- b) If not, exactly how many feet will be intruded into the buttress by these condos/patios/retaining wall?
- c) At the site of the retaining wall, what will be the height of the earthen buttress?
- d) What material(s) will compose the retaining wall?

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13-5
(cont)

e) How will storm drains and irrigation be reconfigured in light of this buttress intrusion and the retaining wall?

13-6

3. There is no visual rendering or details provided of the 15'5" retaining wall in the draft EIR. As this is a critical component, please provide a view of the second row of homes facing the buttress, along with:

- a) a rendering, to scale (at street level, not aerial), showing the wall, the buttress and the rear patios of the proposed row of condos.
- b) The engineer's detailed plans for this retaining wall.

The project requests a discretionary City action and approval by the City of retaining walls that exceed the height limits established in the Zoning Code for retaining walls to hold back the buttress, with the tallest wall measuring approximately 15' 5". I believe that it is necessary to have a list of all walls that exceed 15 feet that have been mandated or approved by the City in a residential community over the past five years.

13-7

4. The Draft EIR states that 'Furthermore, permanent maintenance of the remediated hillside will maximize the space between the residents upslope and to the west who were impacted by the landslide in 1998 and who expressed concerns about prior development proposals on the Project site.' (4.1'0.5)

Who or which entity will provide 'permanent maintenance?' The developer? The builder? The future 'Cove at El Niguel HOA?' Neighboring HOAs? Other? How will this maintenance be monitored?

13-8

5. The developer's consultant has included remarks intended to divert the responsibility for legal and financial consequences of future problems to others, as follows: "Final decisions on matters presented are the responsibility of the client and/or the governing agencies. No warranties in any respect are made as to the performance of the project."

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13-8
(cont)

In light of the developer's direct prior history with this area, the developer or the City should assume legal and financial responsibility for the project in the case of future problems.

13-9

6. The recent Laguna Niguel fires highlight the danger of wildfires and the threat to human life and property that can quickly grow out of control. The draft EIR states:

Although the surrounding area is generally built out with residential development, these areas present potential fuel that could exacerbate wildfire spreading from the south on to the site and to the west upslope from the site, thus exposing structures and surrounding residential properties to wildfire and radiant heat. The Project's Fire Master Plan and Conceptual Fuel Modification Plan shown previously in Figure 4.14.B, were reviewed and conditionally approved by OCFA. OCFA's approval of the Fire Master Plan and Fuel Modification Plan require implementation of standard conditions of approval and project design features listed above in Section 4.14.5.

With respect to the above:

- a) Please provide the OCFA's original Fire Master Plan and Fuel Modification Plan, as they are not included in this DEIR.
- b) Request an updated review by OCFA in light of the recent fire, as their original findings (conditional approval) are likely to be outdated.
- c)) I am concerned over the proposed 'Neighborhood Park' barbecue and trash receptacle identified in the Landscape Concept Plan. These are unsupervised and are located under several trees on the Charter Terrace slope underneath our row of homes on North Hampton. Discarded barbecue coals or flying embers could result in fires below that can rapidly escalate to our community.

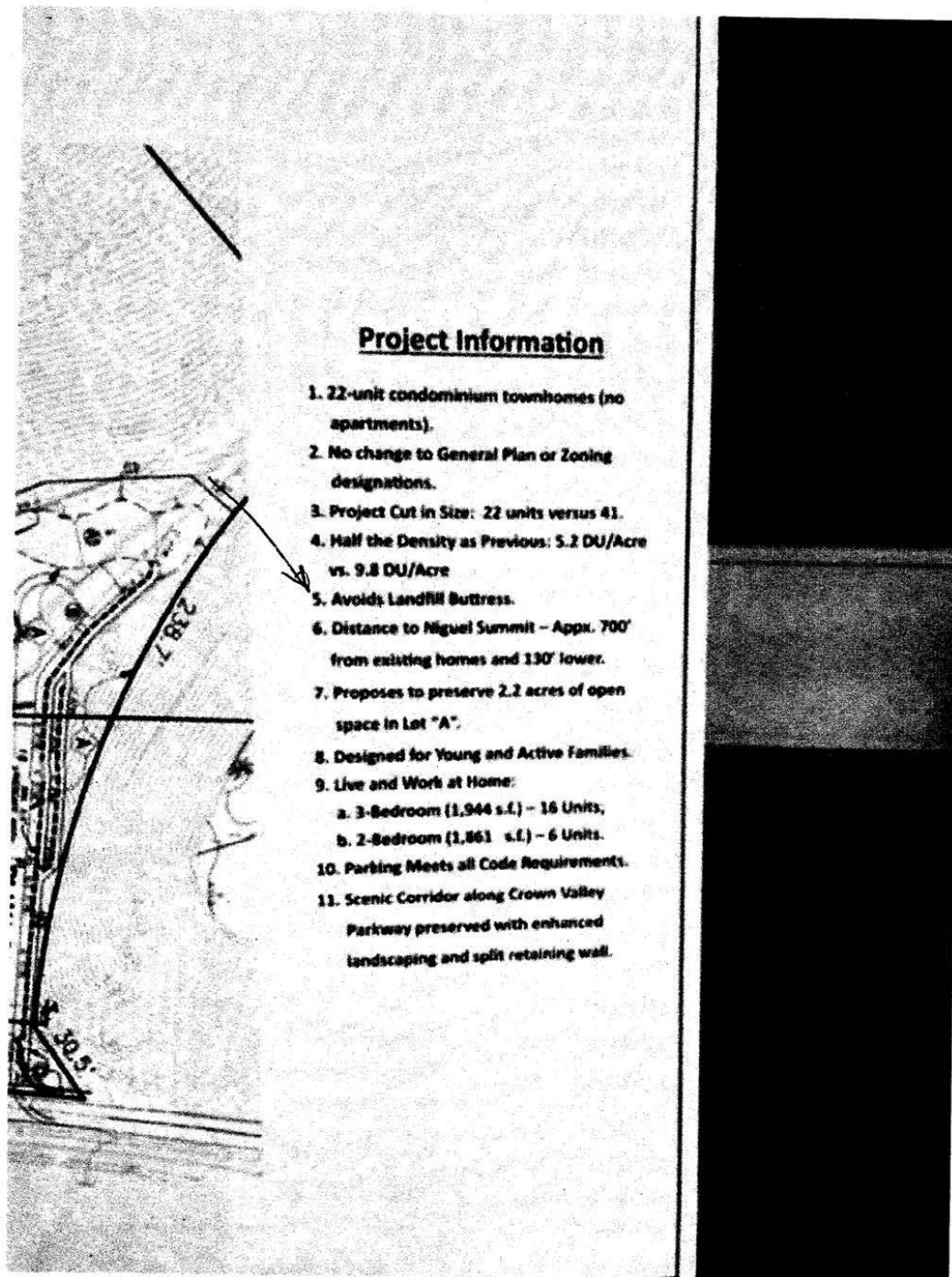
13-9
(cont)

Ms. Amber Gregg
May 26, 2022

- d) Discuss how fire trucks and firefighting equipment will access the buttress or the slopes beneath the homes on North Hampton and Abingdon Roads should a fire occur. This proposed 'Neighborhood Park' and its numerous trees/structures are likely to severely block firefighter access to the buttress and slopes behind our homes in Charter Terrace.

Thank you.


Cheryl Friedling
30571 N. Hampton
Laguna Niguel, CA 92677



Response 13 – Cheryl Friedling (May 25, 2022)

- 13 - 1 The comment provides a general introduction and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 13 - 2 The comment provides a general introduction and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 13 - 3 The comment provides a general introduction and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 13 - 4 The commenter requests an “independent geotechnical review” by a firm that is not associated with the developer or City. The City has hired Goffman, McCormick, and Urban (GMU) as its independent geotechnical engineering firm. GMU is responsible for reviewing all reports and plans submitted to the City. GMU has no conflict of interest and is responsible for independently reviewing plans to ensure hillside safety and compliance with adopted codes. Furthermore, in order for the City to certify the EIR, the City must make findings of independent judgement, which is the process by which the City and its consultants, such as GMU, independently review applicant proposals.
- 13 - 5 The comment pertains to the construction of a retaining wall near the toe of the existing buttress slope. Slope stability and the stability of the proposed retaining wall have been analyzed and presented in DEIR Section in Section 4.6 of the DEIR and additional information is provided in **Section 2.1 General Response 1 – Geotechnical**. The following provides answers to the specific questions included in this comment:
- a) No, the proposed MSE retaining wall will be constructed within the toe of the buttress fill slope. The buttress consists of approximately 440,000 cubic yards of dirt. Approximately 760 cubic yards will be permanently removed for the MSE wall, which represents a small fraction (0.17%) of the buttress.
 - b) The MSE wall height varies from 0 feet to a maximum height of 15.5 feet, therefore, there is no exact amount of cut into the slope. The maximum height of the wall is 15.5 feet, and the average height is approximately 8.7 feet. This translates into a maximum horizontal permanent cut into the 735-foot-long buttress slope of approximately 30 feet. As explained in **Section 2.1 General Response 1 – Geotechnical**, a temporary cut of approximately 53.5 feet would occur to install geogrid reinforcement behind the MSE wall.

- c) The buttress fill extends from an elevation of approximately 380.19 feet above mean sea level to 515.28 feet above mean sea level, which represents a 135-foot-high buttress slope. The maximum height of the wall is 15.5 feet, and the average height is approximately 8.7 feet.
- d) The retaining wall is a mechanically stabilized earth wall (MSE), which includes long sheets of geogrid reinforcement that extend into the hillside to provide support with concrete blocks on the exterior.
- e) Storm drains and irrigation will continue to function as planned. Storm drains and subdrains will continue to capture surface and subsurface water from the hillside.

- 13 - 6 The comment pertains to the aesthetics of the proposed MSE wall. The proposed MSE wall measuring 15.5 feet at its tallest point is located behind two rows of homes and would not be visible from public right-of-way. As stated in the DEIR, "...views of the Project site from private residences are not protected." (DEIR p. 4.1-5) The DEIR concluded the Project, including the MSE wall, which is also plantable, would have a less than significant impact on aesthetics. The commenter's request for additional renderings and history of retaining walls throughout the City is beyond the scope of the DEIR and will be forwarded to the decision-makers.
- 13 - 7 The comment questions the maintenance of the hillside. The source of the quote provided in the comment is unclear, however, the maintenance of the hillside on the Project site is the responsibility of the future Homeowner's Association (HOA), which will be required to be formed as part of the Project's conditions of approval. Much of the hillside above the Project site is owned by the Niguel Summit HOA, which has maintenance responsibility for the hillside. Please see **Section 2.1 General Response 1 – Geotechnical** for more information.
- 13 - 8 The comment pertains to questions of liability and statements by the developer. The comment is not specific to analysis in the DEIR. Therefore, the comment will be forwarded to the decision-makers and no further response is required.
- 13 - 9 The comment provides several questions regarding wildfire. The fuel modification plans included in Appendix G pertain to the proposed Project. It is unclear what "original" plans the commenter is referring to. The Orange County Fire Authority (OCFA) has provided approval of the Project's fuel modification plans and OCFA will review final landscape and construction drawings prior to the issuance of permits. The Project's fuel modification plans are consistent with the adopted codes, which have not changed because of the recent fire. The commenter's concerns about the park and barbeque area are noted and will be forwarded to the

decision-makers. The OCFA has reviewed the landscape plans and determined the park and its amenities to be consistent with applicable fire codes. Emergency access to this area is provided at the end of Playa Blanca, the main entry road into the proposed Project. The obligation for fuel modification is with each property or community association, as the case may be. Surrounding communities also have a fuel modification obligation, which requires on-going maintenance, whether or not the proposed Project is approved.

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Comment Letter 14 – Thom Taylor (May 25, 2022)

From: Thom Taylor <thom@cheatsheet.com>
Sent: Wednesday, May 25, 2022 10:36 PM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Subject: Cove at El Niguel proposal

14-1 | To City leaders:
I have many concerns about the proposed development at Crown Cove, but I'll limit my concerns to two. The first is that when FEMA was going to pay the city to cover expenses after the 1998 hillside collapse, it would do so under the stipulation the area would be deemed undevelopable forever.

I know the city ultimately did not receive FEMA funds, but it raises the question, "If FEMA would only release funds with the land deemed unbuildable, why does the city know more than FEMA?" Why would the city risk residents' safety for a second time when FEMA felt it necessary to keep the land from being developed in the future?

14-2 | The other concern related to this one is that the extent of the remedial work done after the slope failure was calculated based on the land not ever being developed. So, if that was the overriding threshold, then it cannot withstand development. So why is the city willing to take that chance?

The city exists for its residents. This development cannot be considered safe for its residents. Your job is to err on the side of safety, as spelled out in the city charter. This is not based on safe data.

14-3 | There have been so many slope failures in this area, especially when you include San Juan Capistrano and San Clemente. They all received glowing geotechnical reports as presented by the developers, including the proposal for this section of Laguna Niguel known as Area G. Look at those reports to see for yourselves.

Those geotechnical reports can't be trusted. There are too many examples to prove me right. So why tempt fate? Let's keep this property as it is. Developer Hon has made millions from his developments in Laguna Niguel. We don't owe him more.

Thom Taylor
Grand Canyon Drive
Laguna Niguel
949.212.5165

Response 14 – Thom Taylor (May 25, 2022)

- 14 - 1 The comment states that FEMA stipulated the “area would be deemed undevelopable forever.” This commenter’s statement is incorrect and neither has FEMA made any determination on the developability of the Project site nor does FEMA have land use authority over the Project site. The City adopted Ordinance No. 2002-122, which states that if the Hazard Mitigation Grant Program (HMGP) funding is deobligated, as it was in this case, then the Project site would revert to its original residential General Plan and Zoning designations. Please see **Section 2.2 General Response 2 – Land Use / FEMA** for further information.
- 14 - 2 The comment states the landslide was remediated assuming the Project site would never be developed. The commenter’s statement is incorrect. Remediation of the landslide was performed without regard to future use. The landslide remediation is based on factor of safety. The DEIR on Page 4.6-23 provides the following analysis. “Factor of safety is a measurement of slope stability in different conditions. There is a long-term static factor of safety, which must be a minimum of 1.5, and a short-term pseudostatic/seismic minimum factor of safety of 1.1. The April 2, 2021, Geotechnical Report (American Geotechnical, Inc. Response to Comment No. 3, April 2, 2021) provides factor of safety calculations based on three different methodologies and cross-sections. The long-term factor of safety calculations are 1.823, 2.203, and 2.308, all of which exceed the minimum 1.5 factor of safety. The short-term pseudostatic/seismic factors of safety are 1.267, 1.601, and 1.264, all of which exceed the minimum 1.1 factor of safety.” Additional information is provided in **Section 2.1 General Response 1 – Geotechnical**.
- 14 - 3 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.

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Comment Letter 15 – Andy Zalay (May 26, 2022)

From: Andy Zalay <zalaype@gmail.com>

Sent: Thursday, May 26, 2022 12:03 PM

To: Amber Gregg <AGregg@cityoflagunaniguel.org>

Cc: Elgin Johnson <elginjohnson@icloud.com>; Christine Wilz <Christine.Wilz@fsresidential.com>; Kozel Jim <jpkozel@yahoo.com>; Rod Henderson <rhhenderson@cox.net>; nussgalles <nussgalles@cox.net>; Danielle Carter <DCarter@cityoflagunaniguel.org>; Donna Molina <DMolina@cityoflagunaniguel.org>; thalsey@cityoflagunaniguel.org; Leslie Benitez <LBenitez@cityoflagunaniguel.org>; Jose Jara <JJara@cityoflagunaniguel.org>; jjara@cityoflaguna.org; Joshua Peek <JPeek@cityoflagunaniguel.org>; Community Development (eTrakit) <commdev@cityoflagunaniguel.org>

Subject: Letter Requesting Denial of DEIR for The Cove at El Niguel Project

Resident

30672 Via Estoril

Laguna Niguel, Ca 92677

May 26, 2022

Dear Amber Gregg, Contract Planner, City of Laguna Niguel,

15-1

Thank you for generating a copy of the above DEIR and for asking for public comments by Friday May 27, 2022, at 4:00 PM to identify what environmental impacts would result from the project, why they are significant, and what changes or mitigation measures you believe should be adapted to eliminate or reduce these impacts. Please find recommendation to deny the Project based on the following points tied to DEIR **Table ES-1 Summary of Impacts, Mitigation Measures, and Level of Significance after Mitigation** as inputs for your consideration by CA licensed Professional Engineer responsible for building over \$2B of greenfield utility projects over 30+ years;

15-2

OPTION 1- APPROVE PROJECT ON BASIS OF THE FOLLOWING APPROVALS

1) Site Development Permit (SDP 1604)

15-2
(cont)

- NO SINCE THIS IS A NEW PROJECT AND THE CITY HAS SINCE DETERMINED SITE IS UNSAFE DUE TO GEOLOGICAL CONDITIONS WHICH REMAIN TO BE RESOLVED TO THE SATISFACTION OF THE COMMUNITY AND STAKEHOLDERS

2) Alternative Development Standards

15-3

- NO SINCE OPEN SPACE, ACTIVE RECREATION AND LANDSCAPING HAS NO BEARING ON THE ABOVE UNSAFE SITE CONDITIONS AND THE SITE DORMANCY HAS CREATED A HABITAT FOR CERTAIN ANIMALS, FAUNA AND FLORA WHICH APPEAR TO BE PROTECTED SPECIES (TO BE CONFIRMED)

3) Tentative Tract Map (TTM 17721)

15-4

-NO SINCE CERTAIN HOMES WERE DESTROYED DUE TO UNSAFE GEOLOGIC CONDITIONS WHICH ARE MORE DANGEROUS TODAY IN THE LIGHT OF GLOBAL WARMING AND DROUGHT/FLOODING/WILDFIRE EVENTS SO THE CONDOMINIUM DESIGNATION REQUIRES RE-EXAMINATION DUE TO INCREASE IN TRAFIC DENSITY, REDUCED DEMAND DUE TO RESIDENTS LEAVING CALIFORNIA

4) Minor Adjustment

15-5

-NO MINOR ADJUSTMENT IS FEASIBLE SINCE A 15.5 FT TALL WALL WILL CREATE A VISUAL NUISANCE AND DESTROY THE COMMUNITY AESTHETICS AND CREATE A TRAFFIC NUISANCE SINCE THE SITE HAS A DRIVEWAY WITH A BLIND CURVE **THIS IS A MAJOR ADJUSTMENT**

OPTION 2- DENY THE PROJECT

15-6

The following critical environmental effects are above significant levels in my opinion and outside the normal mitigation measures (to be confirmed) and serve as a basis for the homeowners and community to recommend that the City to deny the project via Statement of Overriding Considerations as follows;

- Aesthetics- Project destroys the existing community viewshed
- Agricultural and Forest Resources- Project destroys

15-6
(cont.)

trees/native vegetation/sensitive habitat

- Air Quality-Project creates elevated health risk for community/neighbors during construction and operation and increased traffic.
- Biological Resources-Project threatens sensitive and protected species on site
- Cultural Resources-Project may contain cultural resources to be confirmed by ground survey/penetrating radar
- Energy-Project increases demand and probability of rolling blackouts given CA has retired fossil fueled and nuclear generating plants and renewable energy plants are intermittent and behind schedule
- Geology and Soils-Unstable slope conditions subject to projected drought/flood conditions (see attached photos of observed slippage along Via Estoril)
- Greenhouse Gas-Project decreases ambient Air Quality
- Hazards and Hazardous Materials-Project increases hazardous waste burden
- Hydrology /Water Quality- Project increases water rationing; elevates community exposure to drought
- Noise-Project elevates existing ambient noise levels and destroys existing tranquility (to be confirmed via noise report)
- Population/Housing-Project need/objective is questionable given the high vacancies in the City/State with people moving out of City/California due to excessive cost of housing, high taxes, rolling blackouts, water shortage, and increased crime.
- Transportation-Project is a potential traffic hazard due to dangerous intersection with blind curve on a major thorough fare (Crown Valley) (to be considered by DOT missing in their report)
- Utilities/Service Systems- Project adds to rolling blackouts as noted above
- Wildfire-Project increases risk to wildfire due to accidents/arson (to be considered by OCFD missing in their report)

15-7

- Other- Based on the City's commitment to the residents and

15-7
(cont.)

following the principle of best and highest land use, the recommendation is that the City keep the original greenfield zoning designation to protect the greenspace and bio/fauna established therein and help our community prosper for the resident homeowners and community,

15-8

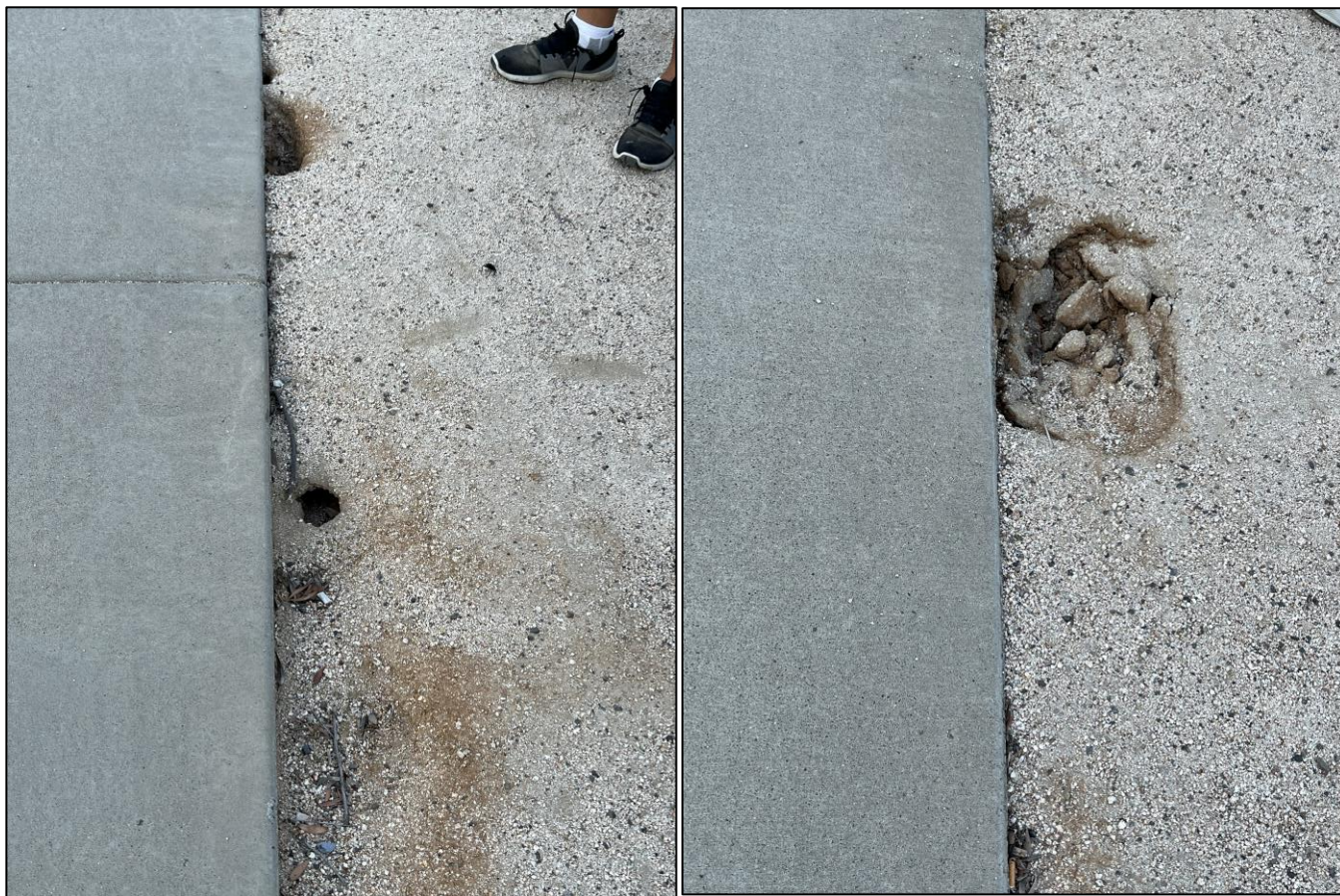
Based on the above information, please consider denying the Project application given above flagged significant environmental impacts so that keeping the site as a green space is the best path forward to reduce these impacts.

Thank you for City Planning to protect our homes and community and look forward to your constructive inputs.

I took the liberty to copy other stakeholders on this email for their constructive inputs.

Sincerely,
COMMUNITY RESIDENT

Photographs/Attachments – Andy Zalay (May 26, 2022)





Response 15 – Andy Zalay (May 26, 2022)

- 15 - 1 The comment provides a general introduction and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 15 - 2 The comment suggests the City has determined the Project site is unsafe due to geologic conditions that remain unresolved. This statement is incorrect. The City has determined the Project site is suitable for development. Please see Section 4.6 of the DEIR and **Section General Response 1 – Geotechnical**. The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 15 - 3 The comment suggests the Project site has protected species. This statement is incorrect. The Project site does not contain any protected species or habitats for protected species. Please see DEIR Section 4.3. The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 15 - 4 The comment provides the opinion of the commenter and does not provide specific comments on the EIR. The comment is noted and will be forwarded to the decision-makers.
- 15 - 5 The comment suggests the retaining wall will create a visual nuisance and the Project driveway has a blind curve. The proposed MSE wall measuring 15.5 feet at its tallest point is located behind two rows of homes and would not be visible from public right-of-way. As stated in the DEIR, “...views of the Project site from private residences are not protected.” (DEIR p. 4.1-5) The EIR concluded the Project, including the MSE wall, would have a less than significant impact on aesthetics. Access to the Project site is from one driveway intersecting with Crown Valley Parkway. The Project site is not contiguous to any other street that could provide access. The access driveway is in the same location when the Project site was previously developed with 41 condominium units. Access to the Project site was analyzed in the DEIR in Section 4.12. Specifically, Threshold TRA-3 analyzed design hazards. The analysis determined “The proposed Project has the potential for transportation impacts associated with potential traffic hazards in the form of traffic interference during construction and Project access concerns. Implementation of **MMs TRA-1, TRA-2, and TRA-3** would reduce Project specific traffic impacts to less than significant.” (DEIR Page 4.12-10).
- 15 - 6 The commenter provides general opinion on the environmental topics analyzed in the DEIR. The commenter does not provide specific comments on the analysis

included in the DEIR or provide alternative analysis or substantial evidence. Therefore, the commenter's opinions are noted and will be forwarded to the decision-makers and no further response is required.

- 15 - 7 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers. It is important to note that the existing zoning designation on the Project site permits residential development and is not an open space designation.

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Comment Letter 16 – Elahe Akhavan (May 26, 2022)

From: Elahe Akhavan <ellaakhavan@gmail.com>
Sent: Thursday, May 26, 2022 9:49 PM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Subject: Cove at El Niguel Project

Dear Amber,

16-1

I am one of the original owners on Via Estoril. I live directly next to the slope which may possibly be impacted by the Cove at El Niguel Project.

I was a witness of the landslide and the extensive repair that went into re stabilizing the slope in 1998.

16-2

We were reassured by officials in the LN Development Department that the property from Via Estoril down to Crown Valley would remain a green area due to the fact of the slide area and inherent risk in building on such property.

16-3

Any “adjustments” to this, is risky and dangerous for residents above, alongside, and below, as well as the most traveled road in our town.

As a resident of Via Estoril, my request is that under no circumstances should the City approve alternative development standards in light of the danger of interfering in any way and endangering the stability of the slope.

16-4

In addition, my concern at this time is the fire danger it may pose and an additional fire risk if a spark is present.

I realize that the OCFA does have a mitigation plan in place, but the hillside between Crown Valley and Via Estoril is one of the last hillsides to be cleared and replanted.

Prior to the Coast Fire, my neighbors and I, saw minimal watering happening and we were concerned then of how dry the hillside was becoming. After the Coast fire was contained, we saw the hillside sprinklers on at least twice a day! Now we haven’t seen them on for the past few days!

I urge our town to deny the proposed development. Please prioritize the safety and security of the residents.

Thank you in advance for your concern and consideration.

Elahe Akhavan
30552 Via Estoril
Laguna Niguel,
CA,92677
(714) 313

Response 16 – Elahe Akhavan (May 26, 2022)

- 16 - 1 The comment provides a general introduction and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 16 - 2 The comment suggests the City indicated the Project site would remain open space. There is no evidence provided to substantiate this statement. The City adopted Ordinance No. 2002-122, which states that if the City does not receive Hazard Mitigation Grant Program (HMGP) funding, the Project site would revert to its original General Plan and Zoning designations. Please see **Section 2.2 General Response 2 – Land Use / FEMA** for further information.
- 16 - 3 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers. The request for alternative development standards does not impact slope stability. Please see Section 4.6 of the DEIR and **Section 2.1 General Response 1 – Geotechnical**.
- 16 - 4 The commenter expresses concern about fire danger at the commenter’s property. The obligation for fuel modification is with each neighborhood. Therefore, the proposed Project would have a fuel modification obligation as established in the Fuel Modification Plan included as Appendix G to the DEIR, which has been reviewed and approved by OCFA. Surrounding communities also have a fuel modification obligation, which requires on-going maintenance, whether or not the proposed Project is approved.

The remainder of this page left intentionally blank.

Comment Letter 17 – Nathan and Ester Smith (May 26, 2022)

From: Nathan Smith <nathanfsmithesq@gmail.com>

Sent: Thursday, May 26, 2022 11:08 AM

To: Amber Gregg <AGregg@cityoflagunaniguel.org>

Subject: Smith (Commentary on Draft EIR - Cove at El Niguel) 5-26-22

Good Morning Amber,

17-1

Attached, please find our commentary on the Draft EIR in connection with the proposed Cove at El Niguel project.

Nathan and Esther Smith
30581 N Hampton Rd, Laguna Niguel, CA 92677
(949) 412-7747

May 26, 2022

VIA Email to agregg@cityoflagunaniguel.org:

Amber Gregg, Contract Planner
City of Laguna Niguel
30111 Crown Valley Parkway
Laguna Niguel, California 92677

RE: Response to Draft Impact Report – The Cove at El Niguel Residential Project

Dear Ms. Gregg:

We reside at 30581 N. Hampton Road, Laguna Niguel, California 92677 with our two small children. The site of the proposed “Cove at El Niguel Residential Project” (“Project”) is directly adjacent to our home. Following, please find our comments on the Draft Environmental Impact Report concerning the Project (“EIR”).

- | | |
|------|--|
| 17-2 | <p>1. The EIR fails to address the potentially catastrophic consequences of land movement caused by disruption of the existing buttress and construction of the Project. Should such disruption result in a failure of the buttress or accelerated land movement, who will be responsible for compensating impacted residents? Will the city of Laguna Niguel (“City”) require the developer to agree to compensate impacted residents for property damage, injury, or death that may be caused by the Project as a condition of approving it.</p> <p>Our homeowners’ association, Charter Terrace Community Association, has passed a resolution opposing approval of the Project, on safety grounds (“Resolution”). A true and correct copy of the Resolution is attached hereto as Exhibit “1,” for your reference. Also, attached as Exhibit “2,” please find a copy of an article from the Los Angeles Times, which discusses safety considerations in connection with the Project.</p> |
| 17-3 | <p>2. On February 18, 2009, the City filed a lawsuit in connection with the Landslide as United States District Court for the Central District of California, Santa Ana Division case number SACV09-198 RNB (“Lawsuit”). Although the Lawsuit was ultimately dismissed, the City contended that the site of the Project should be permanently maintained as open space, ostensibly in the interest of public safety. Has the City’s position changed or does it remain the City’s position that the site of the Project should remain open space in perpetuity? If the City’s position has changed, please describe the basis for the change.</p> |
| 17-4 | <p>3. The developer's geotechnical consultant contends that the proposed development will not impact the stability of the upslope repaired landslide area. However, stability calculations are based on values (strength parameters) that can be discretionary and these values can substantially impact the veracity of their calculations. It is common practice for cities or their reviewing consultants to request additional data regarding selected strength parameters utilized for other projects in the area in similar materials. This list or table should include strength parameters utilized in the buttress design, most importantly the</p> |

17-4
(cont.)

values of the landslide plane and the fill utilized for the buttress design, as well as that of the other projects in the area.

Please provide additional strength parameter data for the buttress as well as for 3-5 other projects within the City.

17-5

4. The EIR (4.1.0.5) states that: “Furthermore, permanent maintenance of the remediated hillside will maximize the space between the residents upslope and to the west who were impacted by the landslide in 1998 and who expressed concerns about prior development proposals on the Project site.”

Who will provide “permanent maintenance”? Will the City monitor the maintenance? If not, how will this maintenance be monitored?

17-6

5. We request that a third-party geotechnical consultant, not just the City's geotechnical reviewer, be retained to evaluate the developer's geotechnical report to provide an independent opinion of the impact of the proposed buttress modification on the stability of the upslope landslide repair and adjacent properties. Our preference is that this consultant conduct business in either Los Angeles or San Diego Counties to avoid conflicts of interest.

/s/ Nathan F. Smith
Nathan F. Smith, Esq.

/s/ Esther T. Smith
Esther T. Smith, Esq.

EXHIBIT “1”

EXHIBIT “1”

**RESOLUTION OF CHARTER TERRACE COMMUNITY ASSOCIATION IN
OPPOSITION TO “THE COVE AT EL NIGUEL” PROJECT**

WHEREAS, Laguna Niguel Properties Inc (“Developer”) has submitted a proposal entitled “The Cove at El Niguel” to the City of Laguna Niguel (“Project”). A true and correct copy of the proposal is attached hereto as Exhibit “A.”

WHEREAS, the Project consists of 22 homes in duplex and triplex configurations to be constructed at 30667 Crown Valley Parkway, Laguna Niguel at Playa Blanca, opposite the intersection of Crown Valley Parkway and Paseo Del Niguel. A true and correct copy of a description of the Project is attached hereto as Exhibit “B.”

WHEREAS, the proposed site of the Project is adjacent to Charter Terrace Community Association.

WHEREAS, the proposed site of the Project previously contained 41 homes that were demolished following the Via Estoril Landslide in March, 1998.

WHEREAS, the Board of Directors of Charter Terrace Community Association (“Association”), met with representatives of the Developer to discuss the Project and its impact on the homeowners of the Association on March 22, 2022.

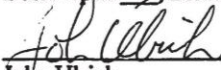
WHEREAS, the Association held a Special Meeting to discuss the Project and its impact on the homeowners of the Association on April 4, 2022.

WHEREAS, we, the Board of Charter Terrace Community Association, conclude that the Project presents an unreasonable risk to the safety and general welfare of the homeowners of the Association.

NOW THEREFORE, based on the foregoing, it is hereby resolved that the Board of Directors of Charter Terrace Community Association unanimously opposes approval of the Project by the City of Laguna Niguel.

BOARD OF DIRECTORS, CHARTER TERRACE COMMUNITY ASSOCIATION

Date: April 5, 2022



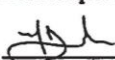
John Ulrich
President

Date: April 5, 2022



Nathan Smith
Vice President/Secretary

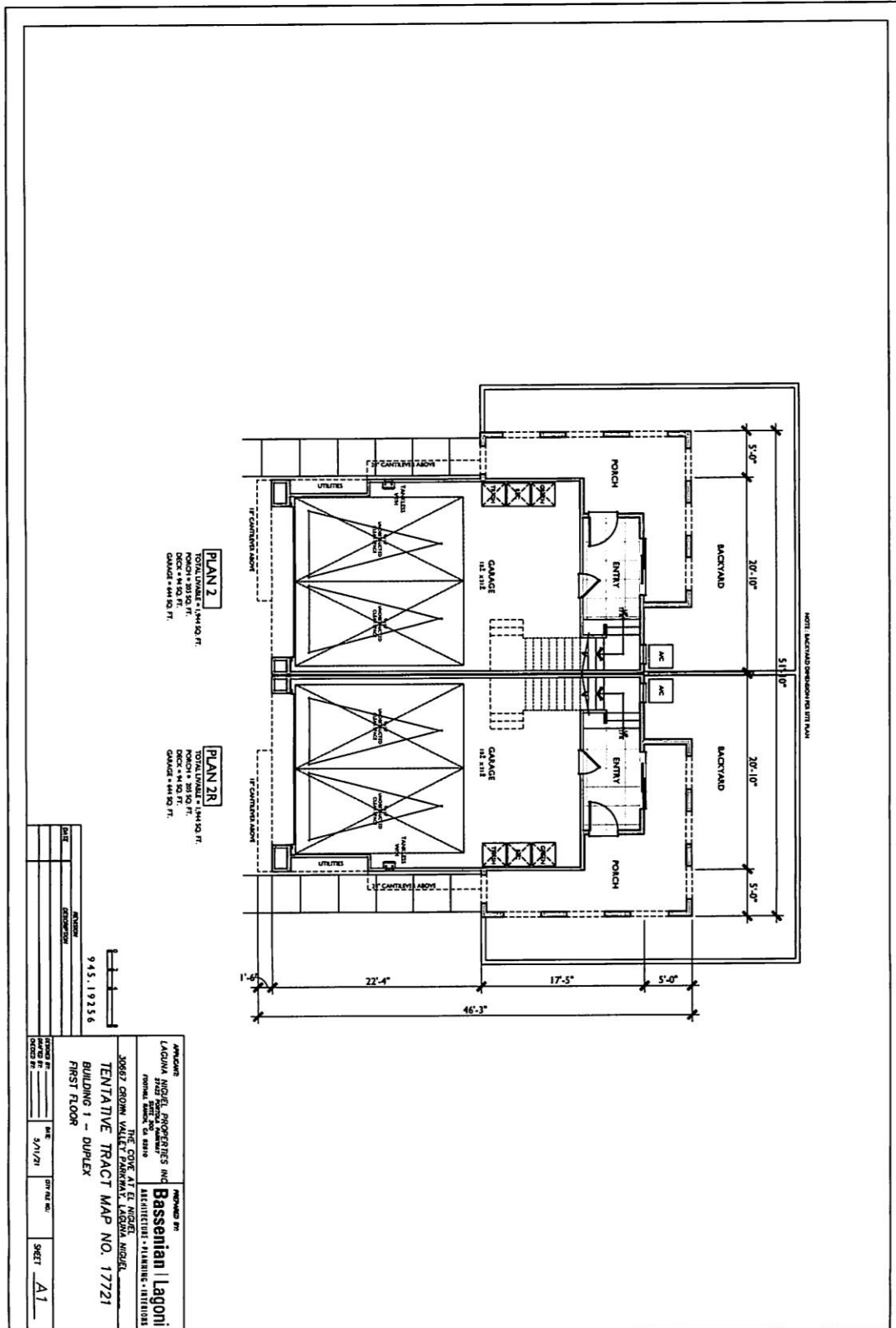
Date: April 5, 2022

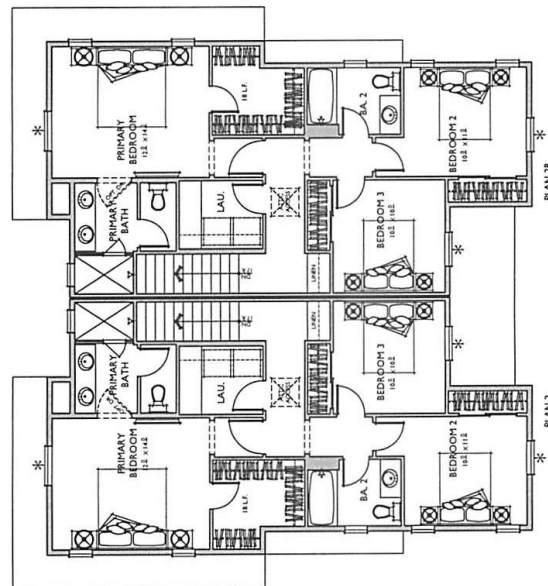


Marcello Dworzak
Treasurer

EXHIBIT “A”

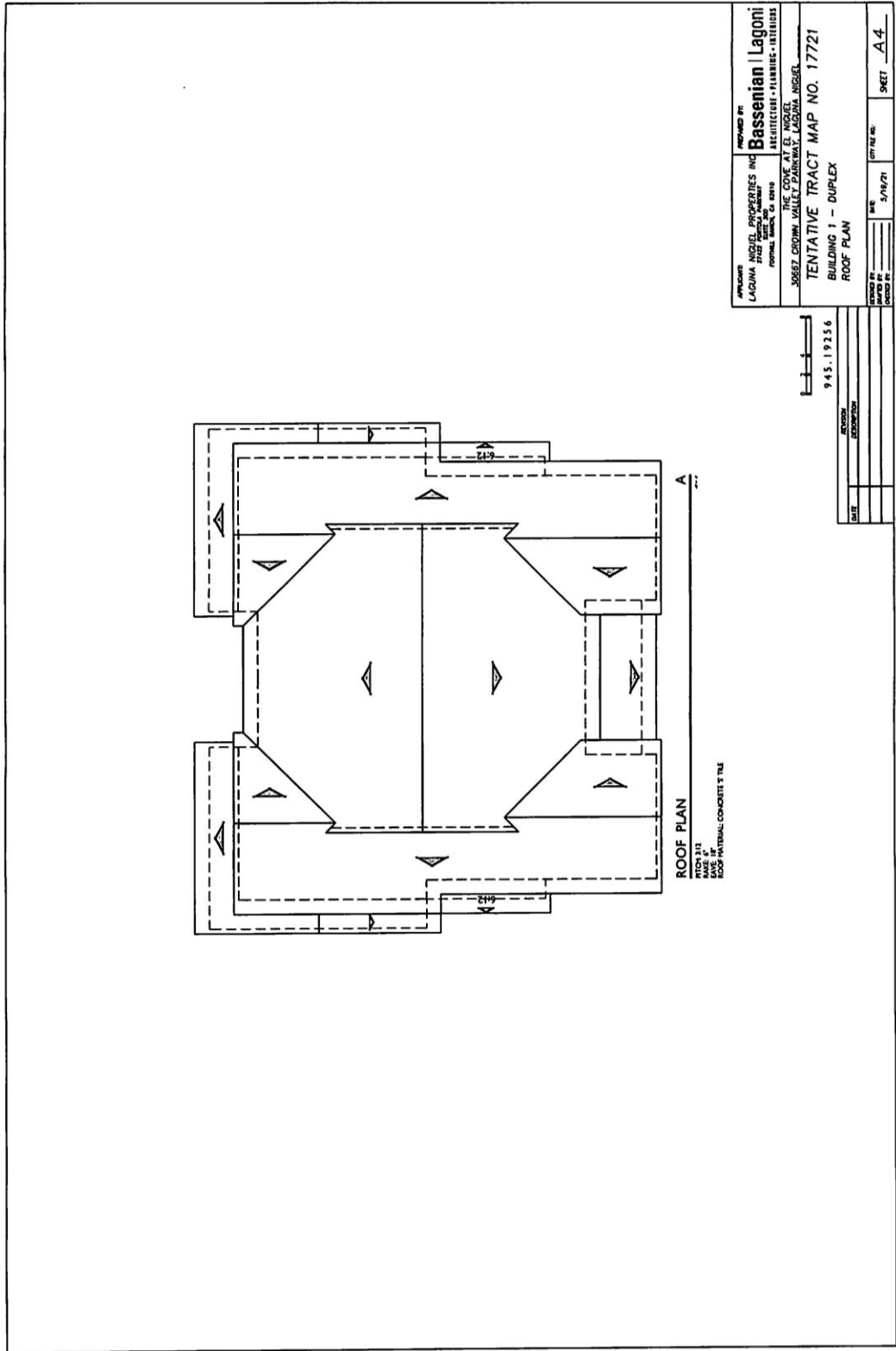
EXHIBIT “A”



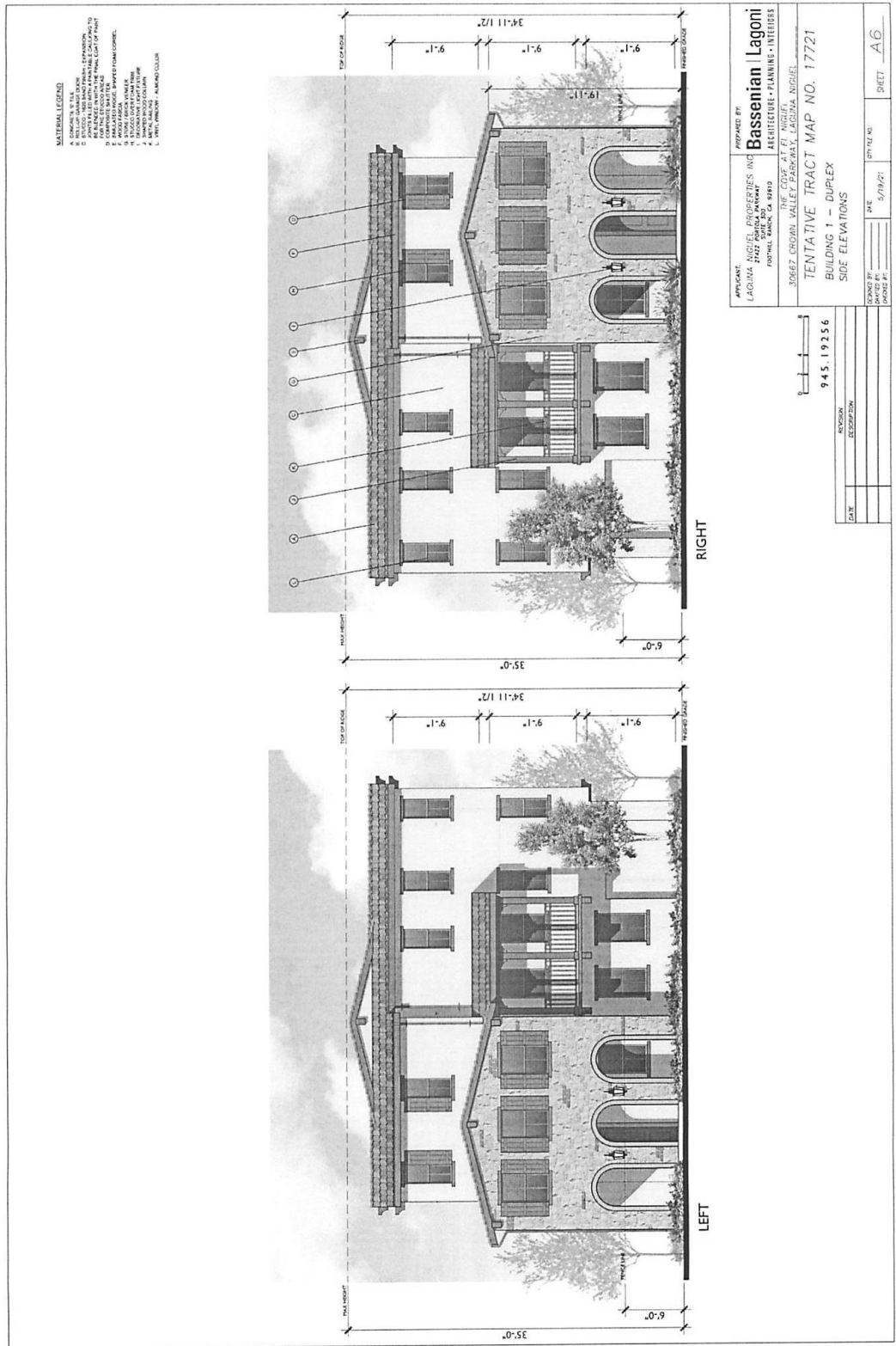


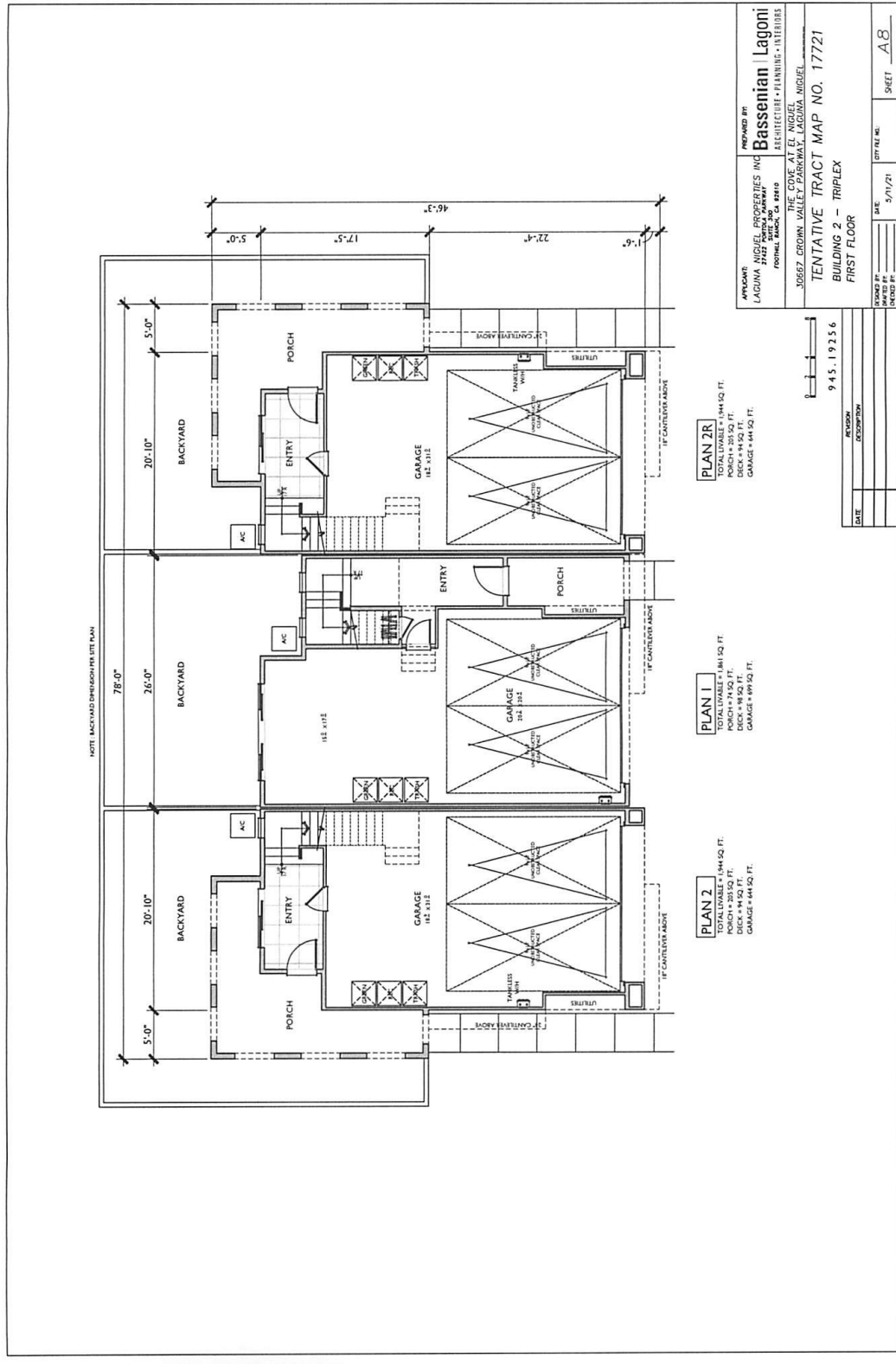
*: LOCATION OF RESCUE WINDOWS AT SLEEPING ROOMS

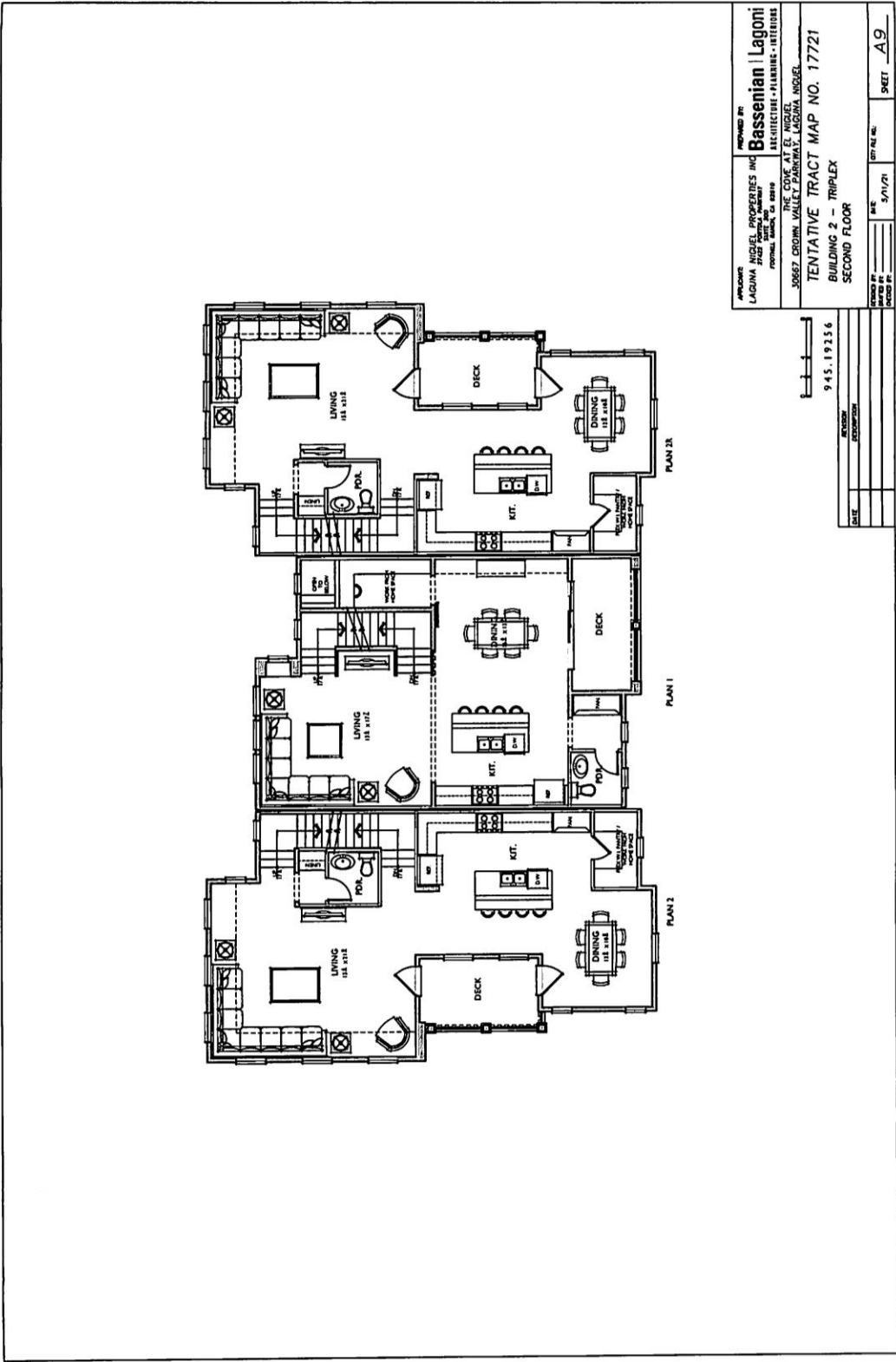
APPROVED BY _____	PREPARED BY _____
LAGONA	Bassenian Lagoni
3107 FIVE STAR DRIVE	RESIDENTIAL • PLANNING • INTERIORS
HOUSTON, TEXAS 77058	TEL 281.461.1212
THE COVE AT EL NIQUEL	
30667 CROWN VALLEY PARKWAY, LAGONA, NIGUEL, CA 92653	
TENTATIVE TRACT MAP NO. 17721	
BUILDING 1 - DUPLEX	
THIRD FLOOR	
DATE _____	SHEET _____
CHANGED BY _____	OF 14 SHEETS

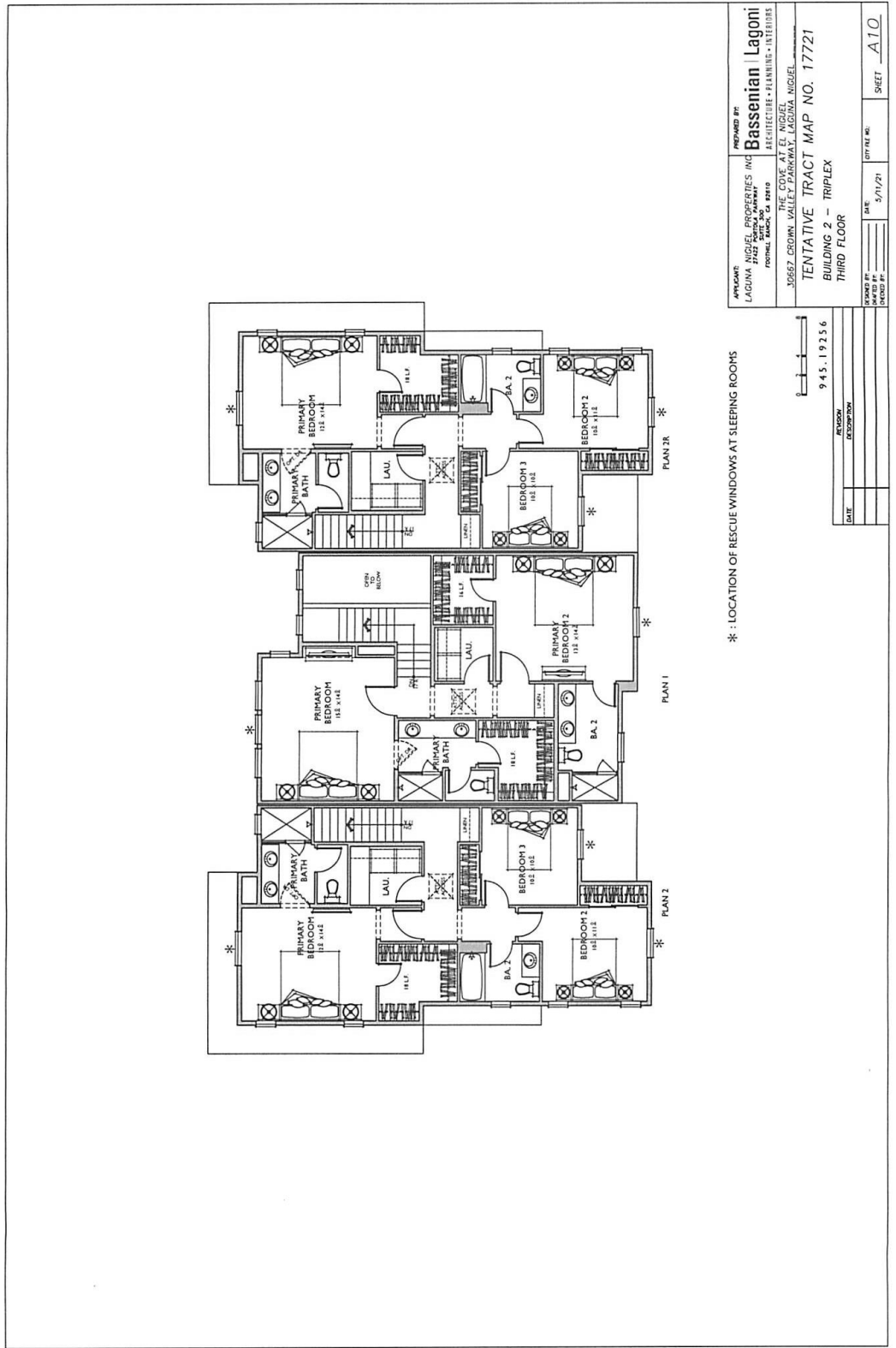


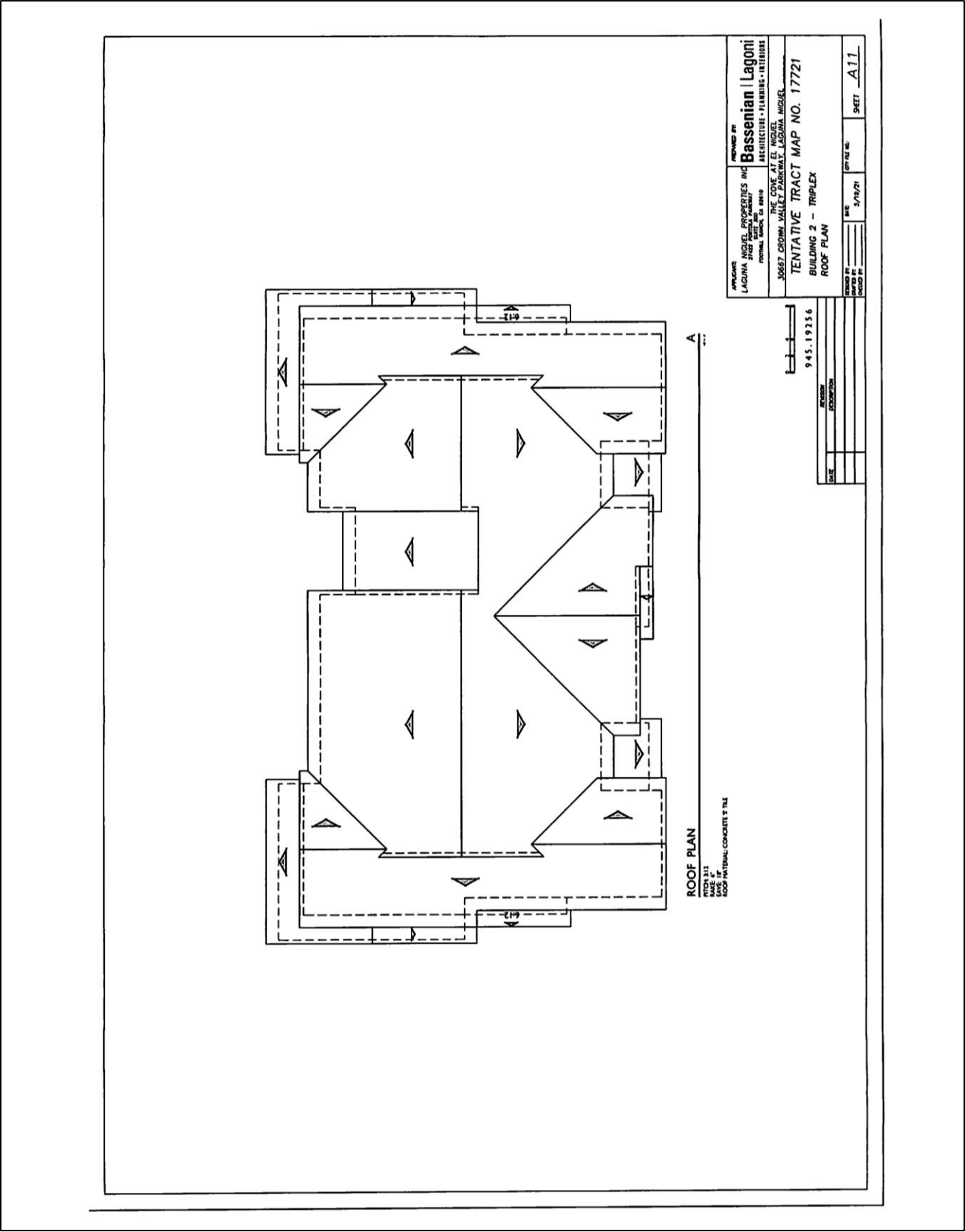
APPLICANT LAGUNA HOTEL PROPERTIES INC.	DESIGNED BY Bassettian Lagoni
PROJECT NAME THE COVE AT EL NIGUEL	DATE 5/18/21
PROJECT ADDRESS 30867 CROWN VALLEY PARKWAY, LAGUNA HILLS, CA 92653	PROJECT NO. 17721
TENTATIVE TRACT MAP NO. 17721	
BUILDING 1 - DUPLEX	
ROOF PLAN	
DATE 5/18/21	SHEET A4

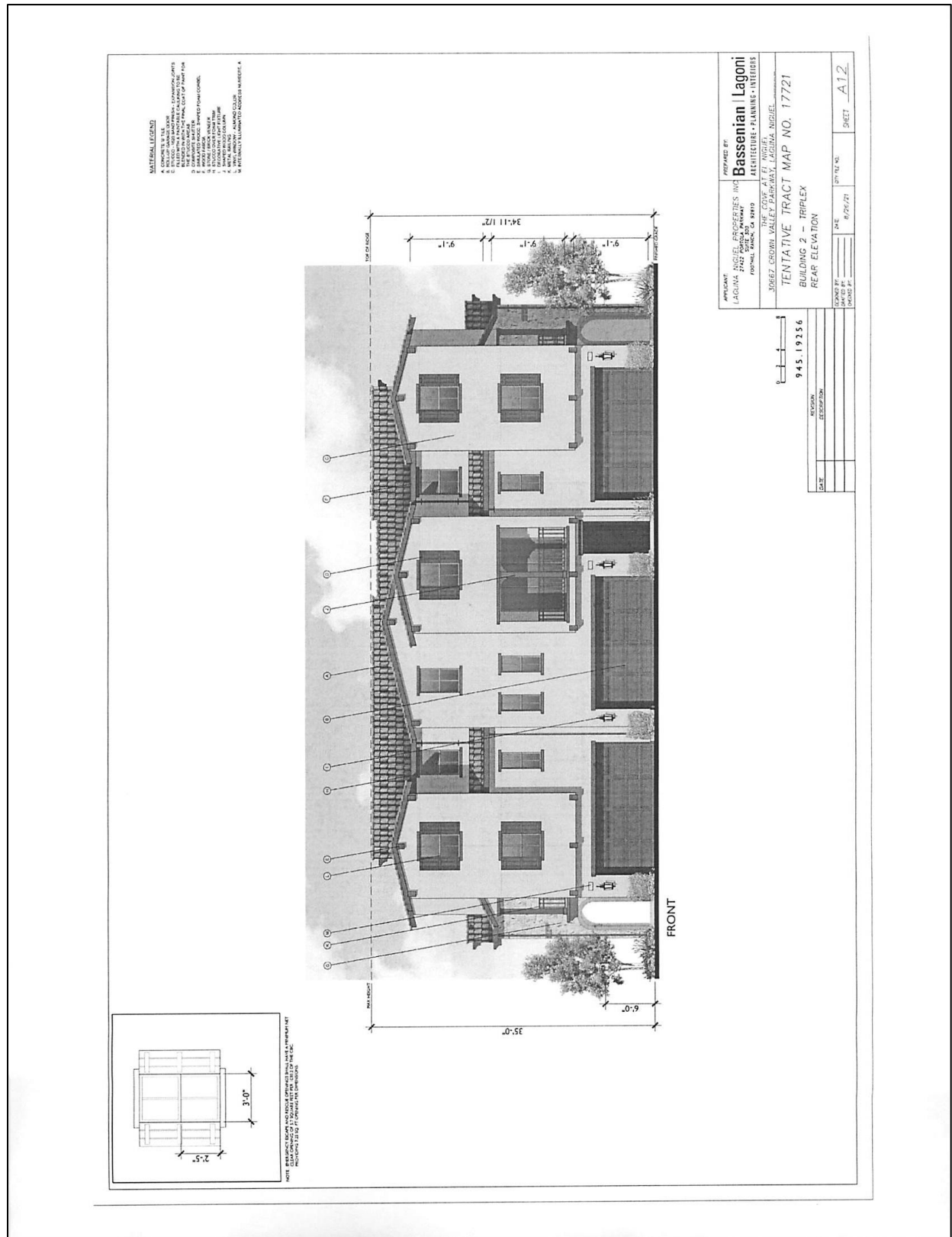


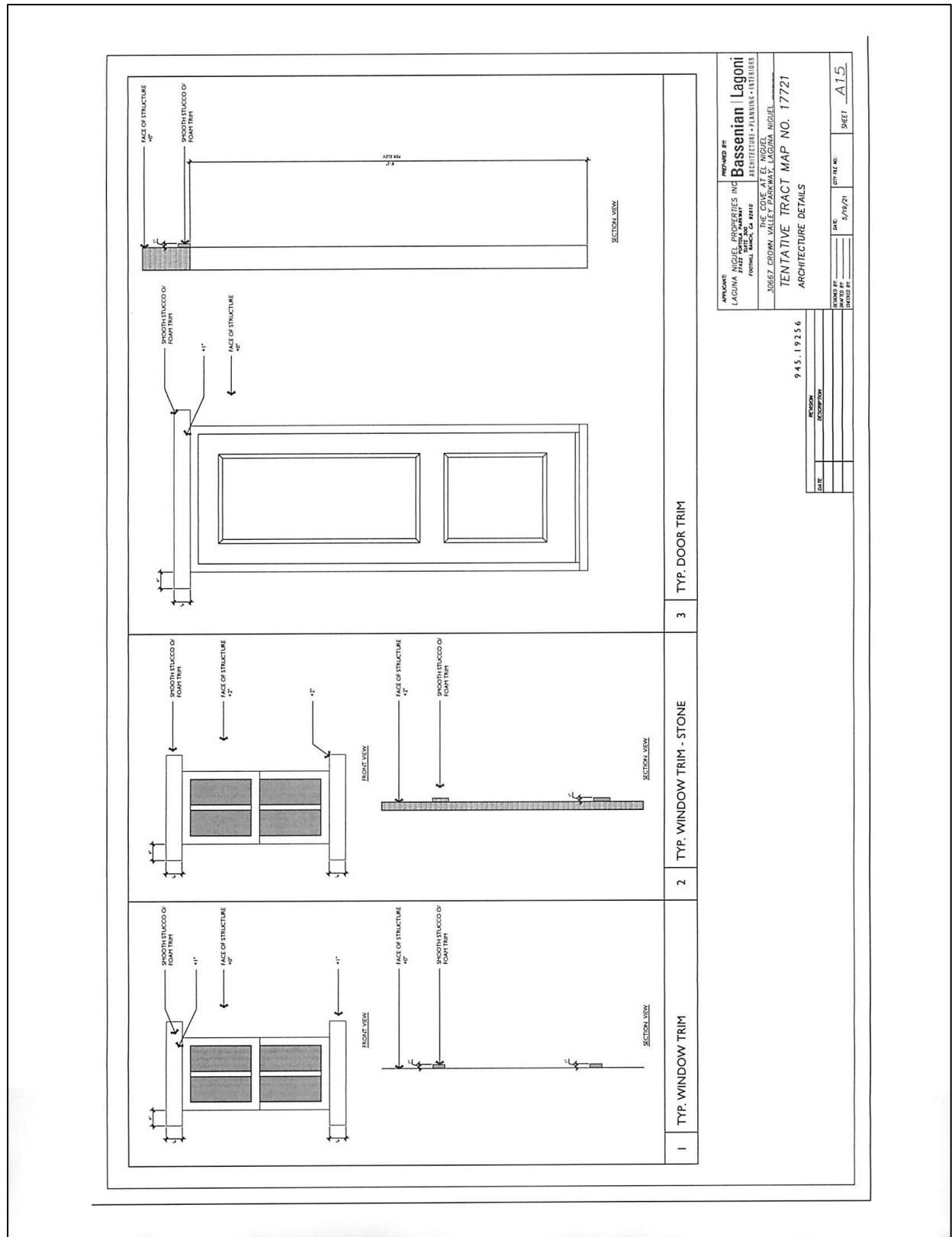




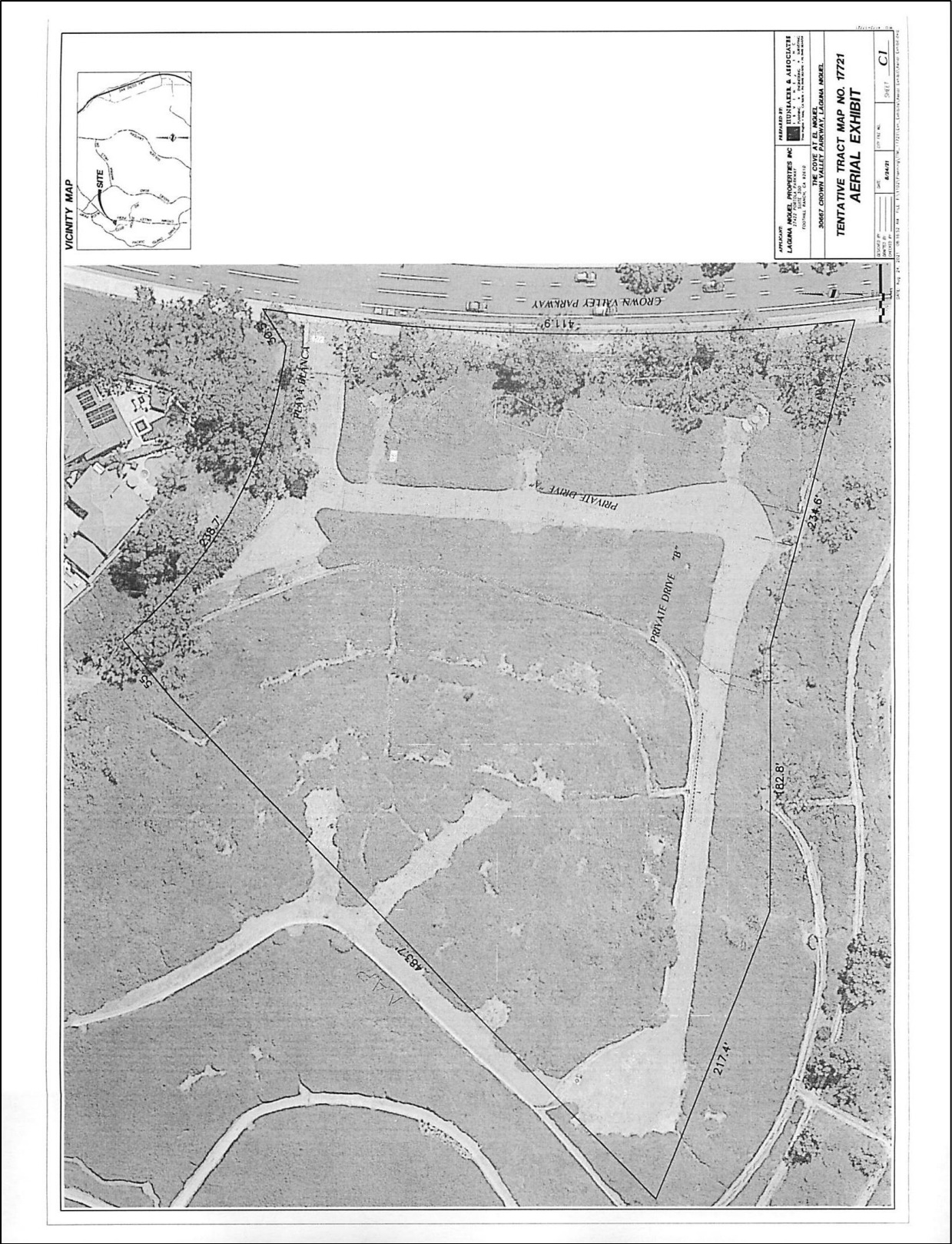


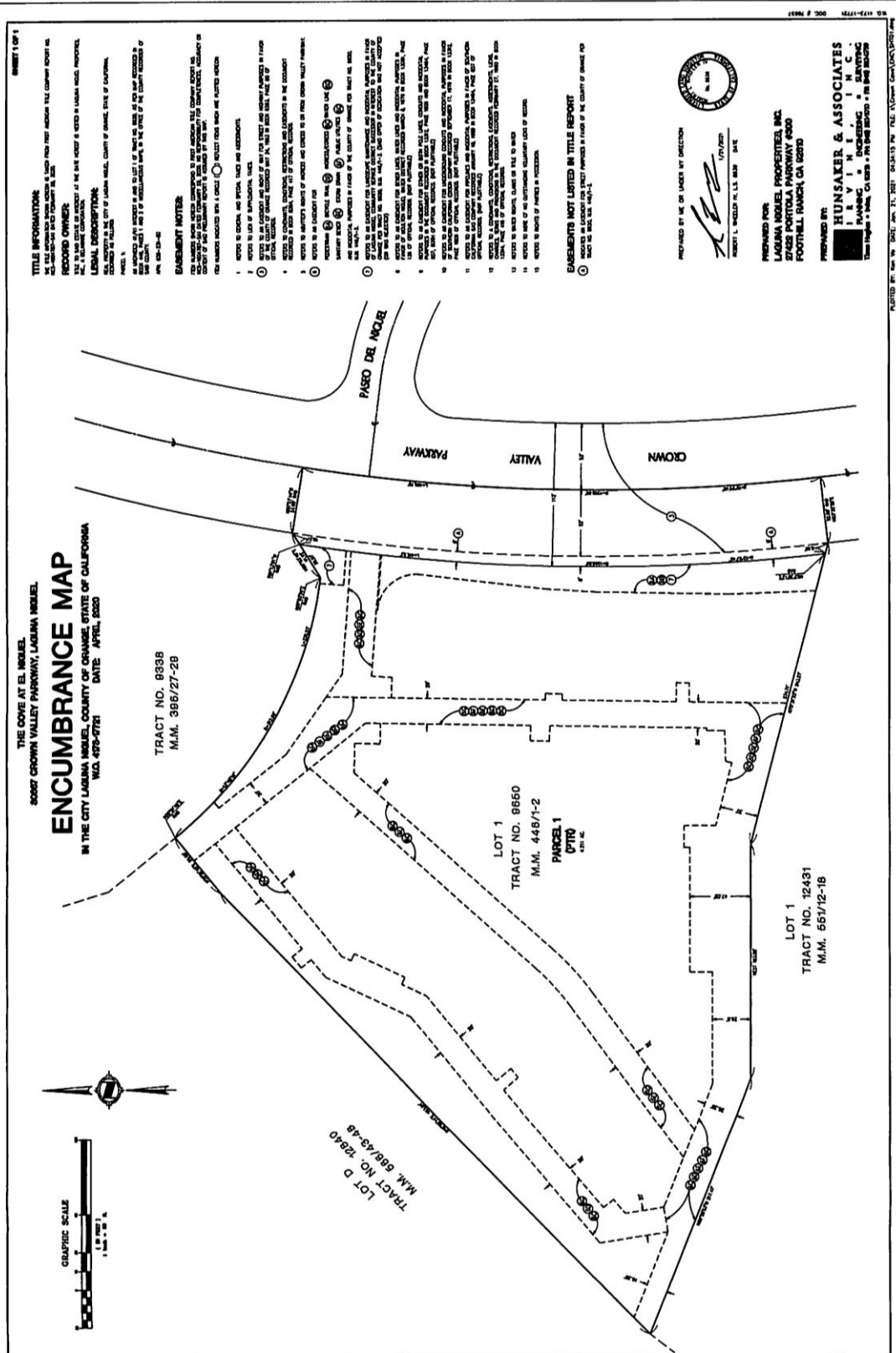




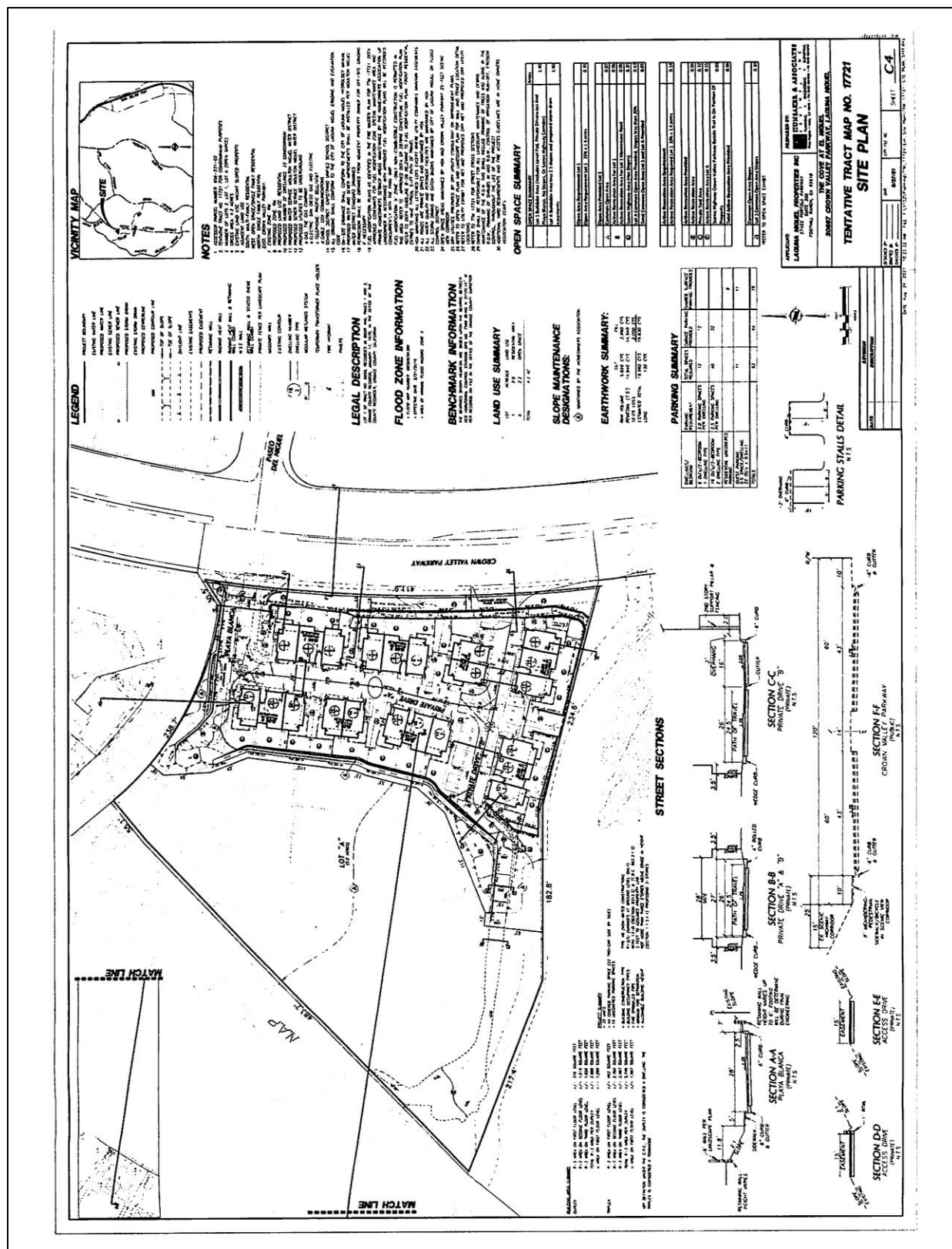


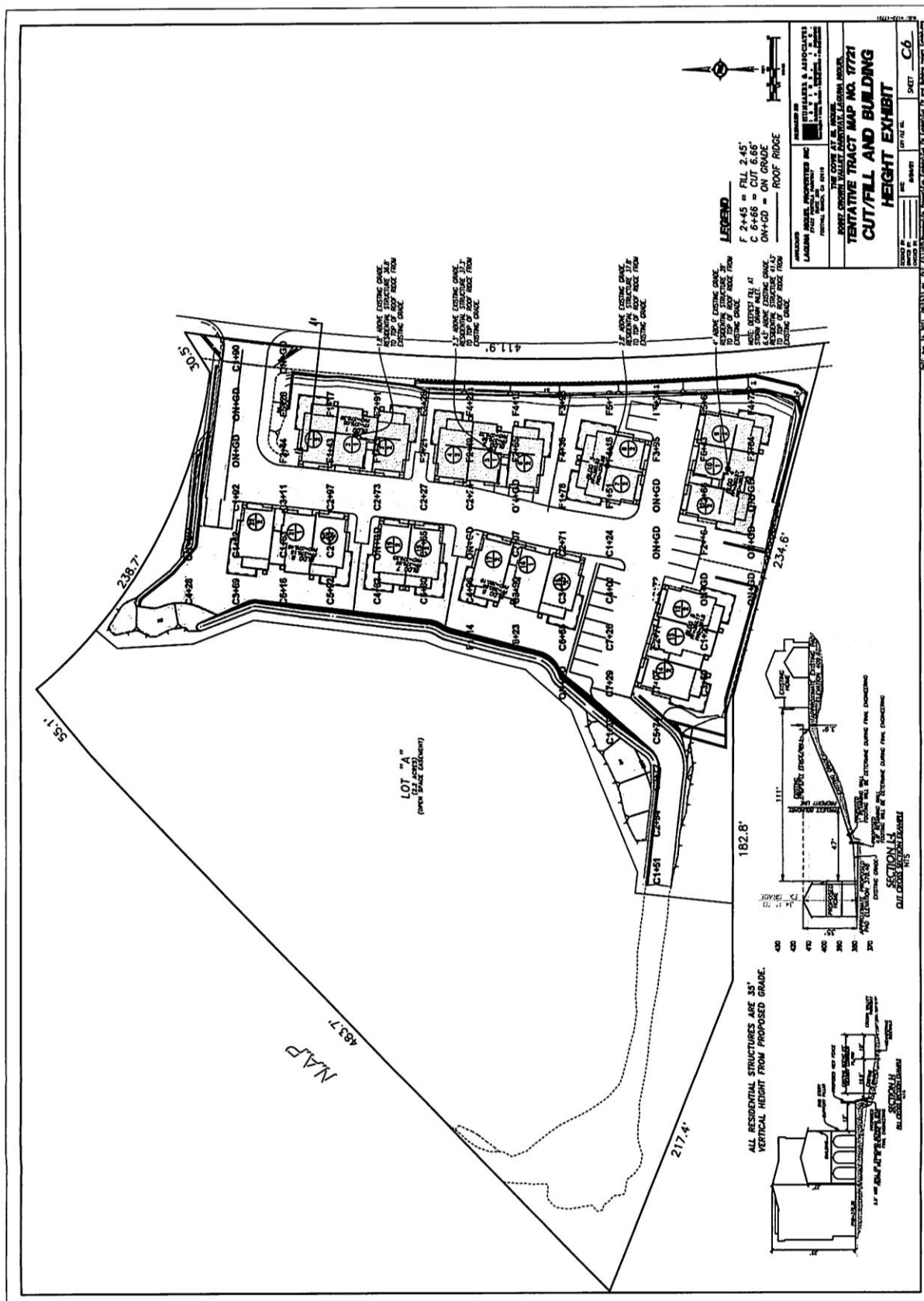
APPLICANT: LAGUNA NIGUEL PROPERTIES INC. 10667 CROWN VALLEY PARKWAY, LAGUNA NIGUEL, CA 92653	PREPARED BY: Bassenian Lagoni ARCHITECTS + PLANNERS + INTERIORS 10667 CROWN VALLEY PARKWAY, LAGUNA NIGUEL, CA 92653
PROJECT: THE COVE AT EL NIGUEL TENTATIVE TRACT MAP NO. 17721 ARCHITECTURE DETAILS	
DATE: 5/19/21	SHEET: A15

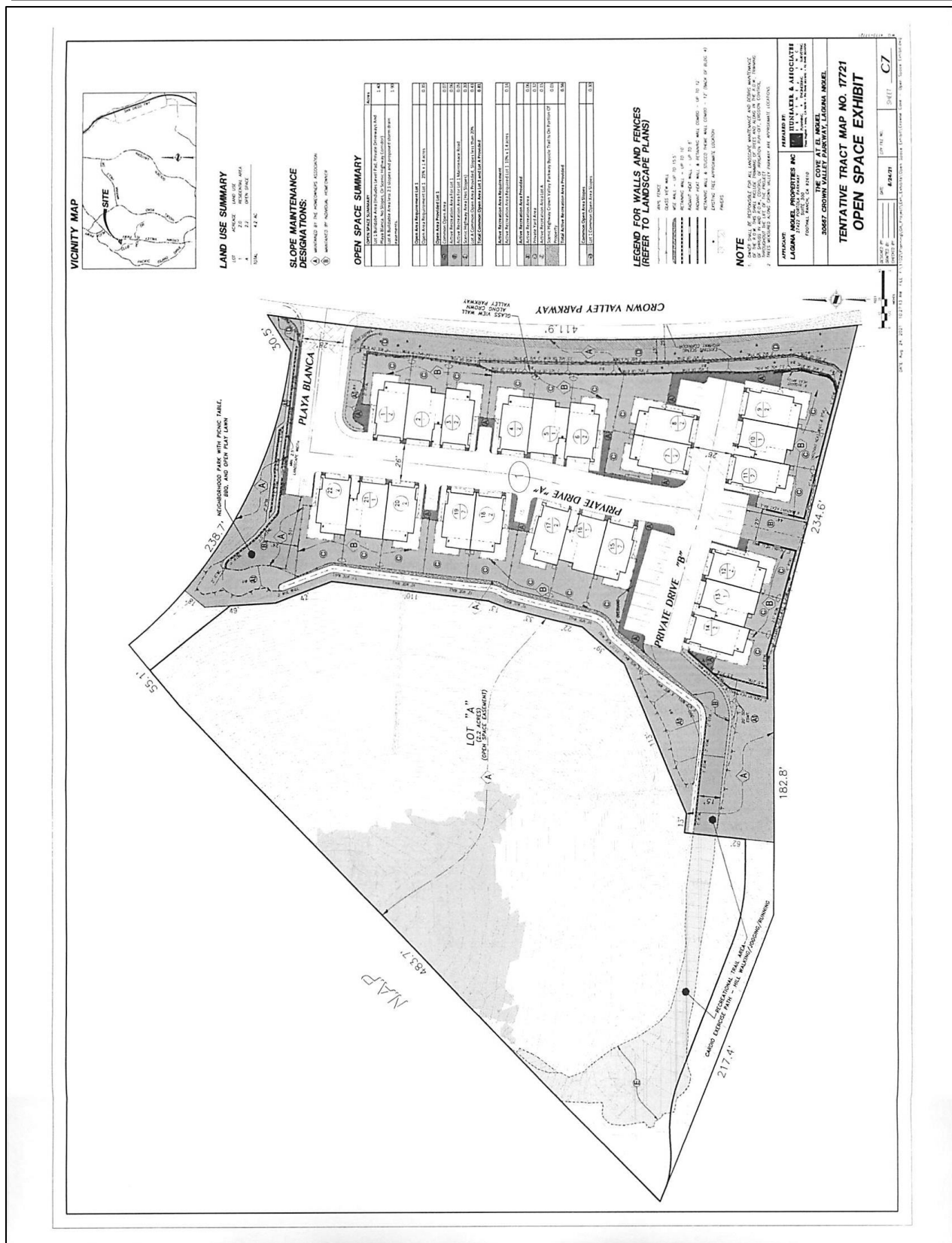




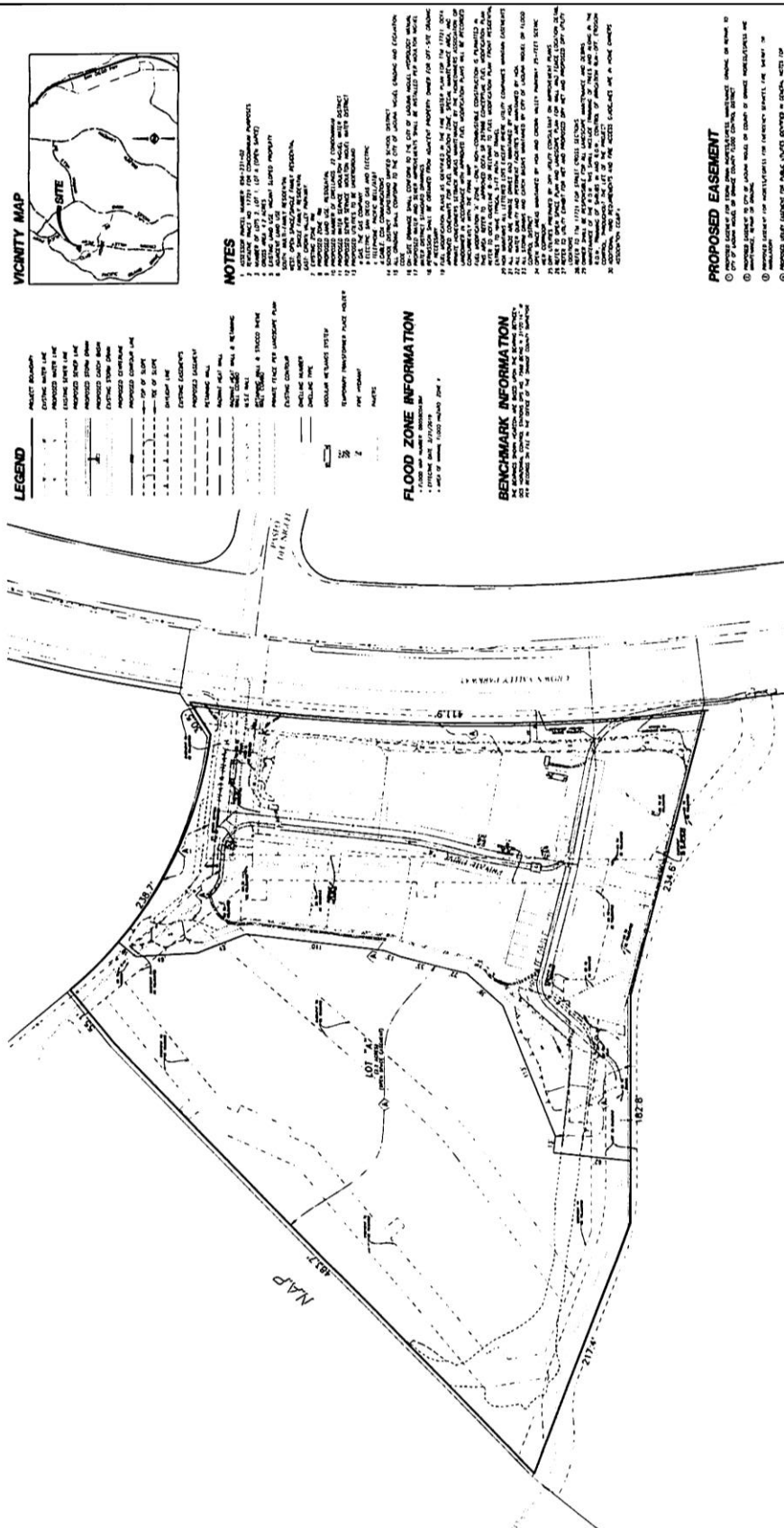






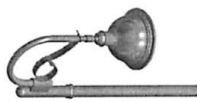




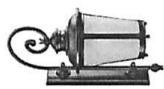


The Cove at El Niguel

Lighting:



Typical Pole Mount Fixture



Typical Wall Mount Fixture

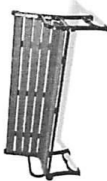


Typical Bollard Light Fixture



Belgard® Holland Stone® pavers, Toscana® color blend

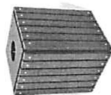
Site Furnishings:



Ultra-Site Charleston Recycled Bench



Ultra-Site Multi-Pedestal Table

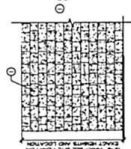


Ultra-Site Square Receptacle

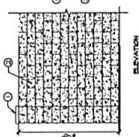


Ultra-Site Bi-Level Grill

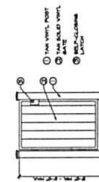
Wall and Fence Conceptual Elevations:



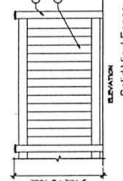
ELEVATION
Retaining Wall
NOT TO SCALE



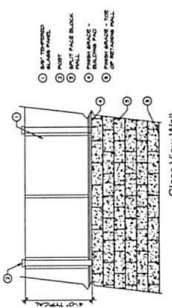
ELEVATION
Tan Split Face Theme Wall and
Radiant Heat Wall
NOT TO SCALE



Solid Vinyl Gate

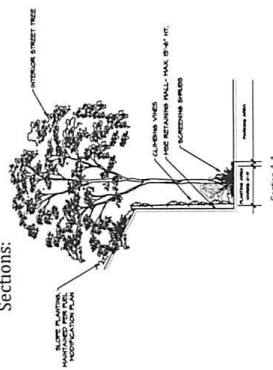


Solid Vinyl Fence

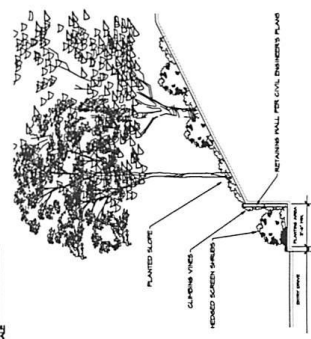


Glass View Wall

Sections:



Section 8.4.1



Section A-B



1951 Fourth Avenue Suite 302 San Diego, CA 92101 619 718-9660

APP: CMT	JENSEN, PROPERTIES INC 1400 10TH AVE S FOUNTAIN, CO 80902	THE COVER AT BL. 140000 BORG DRIVE VALLEY HAVEN, LARSEN, MISSOURI	Landscape Concept Plan	DATE	DTY: JAL	SHEET	152
				NO. 000000			
NO. 000000							



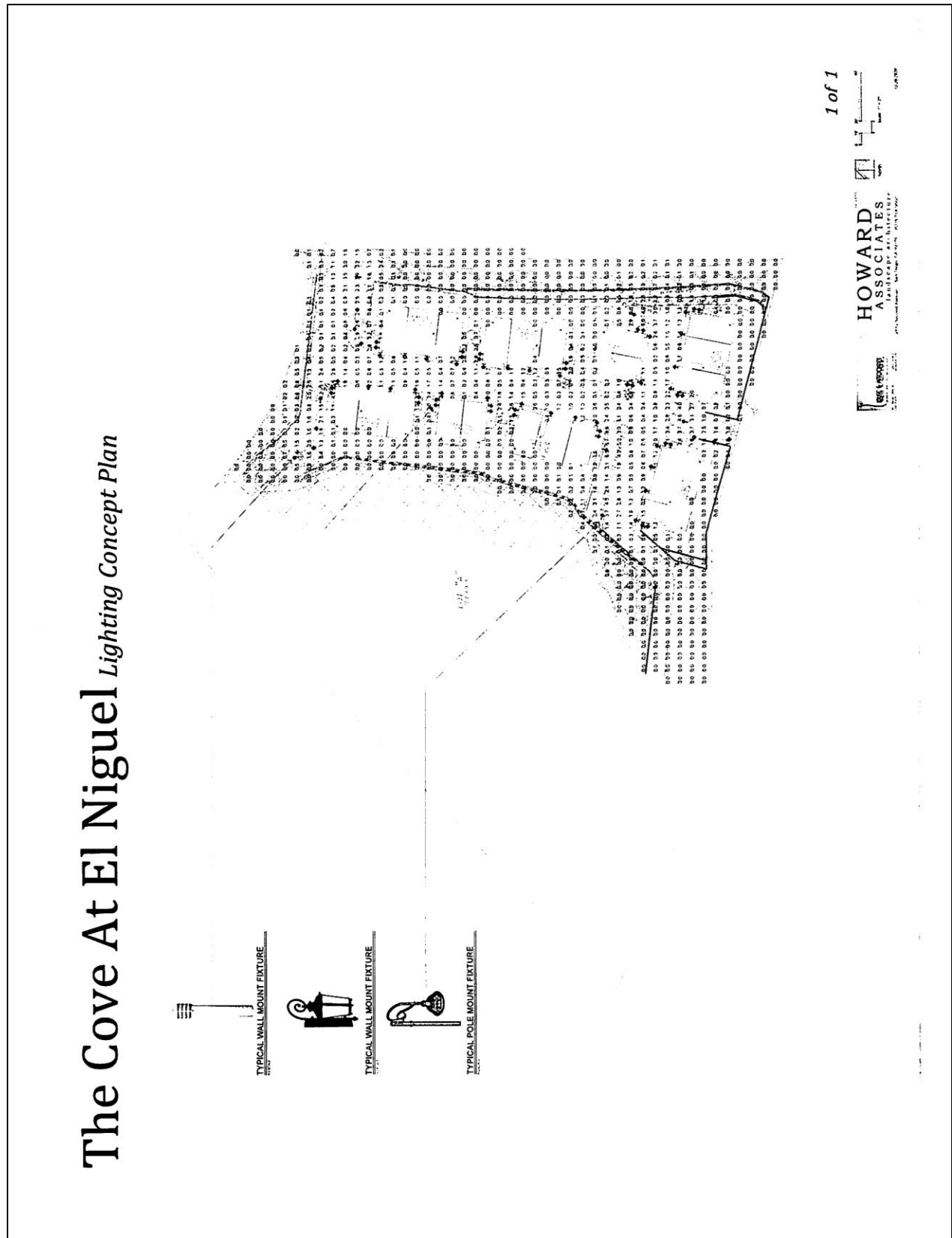


EXHIBIT “B”

EXHIBIT “B”



RECUPERO & ASSOCIATES, INC.

31877 DEL OBISPO STREET, SUITE 204, SAN JUAN CAPISTRANO, CA 92675

March 24, 2021

Ms. Erica Roess, Senior Planner
City of Laguna Niguel
30111 Crown Valley Parkway
Laguna Niguel, CA 92677

Re: The Cove at Laguna Niguel Development – Updated Project Description [Site Development Permit SP 16-04 and Tentative Map TT 17721]

Dear Ms. Roess:

Per our CEQA kick-off meeting last week, please find below an updated project description for the Cove at El Niguel Project referenced above.

The proposed Cove at El Niguel Development Project ("Project"), submitted by Laguna Niguel Properties Inc., is located on Crown Valley Parkway at Playa Blanca, opposite the intersection of Crown Valley Parkway and Paseo Del Niguel. The 4.2-acre property ("Property") is currently vacant and has a General Plan Land Use Designation of Residential Attached and Zoning of RM, Multi-family District. The Project is surrounded by residential uses, including single family homes to the west and north, La Vista Condominiums to the south, and Crown Valley Parkway on the east.

The Applicant is requesting a Site Development Permit (SP 16-04) and Tentative Tract Map (TT 17721) for 22 homes (duplex and triplex configurations) on a 2 acre lot (1.4 acre buildable footprint), preserving approximately 2.9 acres of open space. The proposal is supported by the existing General Plan and Zoning requirements.

The topography of the Property is generally sloping downward from the west to the east. The proposed final grades are approximately 130 feet lower than the closest westerly neighbor's pads, 30 feet lower than the closest neighbor immediately to the north, and 25 feet lower than the southerly multifamily development.

The Project involves the redevelopment of the Property which contained 41 homes ("Previous Project") that were demolished following the Via Estoril Landslide in March 1998. Following the landslide, the Property and surroundings were remediated in coordination with the City and regulatory authorities for geotechnical and drainage purposes, including installation of a caisson wall with tieback anchors, removal of existing buildings, partial removal of the landslide mass, installation of subdrains, and construction of a compacted fill buttress.

The development footprint has been reduced substantially as compared to the Previous Project to avoid the upper portion of the property. The smaller footprint: a) minimizes units and associated impacts; b) maintains a substantial open space between the Project and its westerly neighbors; and c) keeps the existing earthen buttress along the westerly portion of the Property. While increasing the open space, the Project

*SP 16-04 and Tentative Map TT 17721 – Project Description
March 24, 2021*

maximizes the efficient use of the buildable area to provide as many units as possible to help meet the City's recognized need for housing.¹

In order to maintain the open space, earthen berm, and to respect the 25-foot scenic corridor setback requirements from Crown Valley Parkway, the buildable pad area has been reduced and certain alternative design standards and minor adjustments from development standards are required. This includes, for example, an over-height retaining wall behind (westerly side) of the proposed homes which also allows the minimization of the retaining wall along Crown Valley Parkway. Additionally, alternative development standards are requested for building height from existing grade² as well as active recreation area³.

Access to the Project is by a single driveway which is unchanged from the Previous Project's approved entry. Turning movements to and from Crown Valley Parkway include a right turn in, right turn out and a left turn in using the existing turn pocket. No left turn out is proposed onto Crown Valley Parkway.

The Project is parked to meet the existing municipal code requirements for homeowner and guest parking. It includes both private garages for each unit and shared surface spaces.

The development is configured into 6 triplex and 2 duplex 3-story buildings on the site. The Spanish architecture proposed at The Cove at El Niguel is consistent with the City's vernacular, honoring the precedent while updating certain elements to reflect the needs and wants of a younger demographic than resides in much of the City. The basic design elements that identify Spanish architecture are simple asymmetrical forms, arched entries, predominantly stucco wall finishes, and shallow gabled 'S' tile roofs that all animate the elevations. Similarly, grouping of accent windows and vertical forms of openings reinforce the character. Material blending of slump stone, simulated wood corbels, shutters, shaped wood trims and posts, decorative metal railings and downspouts are purposefully composed to enhance the overall design character on every side of each building.

Consistent with the objective to attract a younger, active demographic, the Project includes some unique community features not otherwise found in Laguna Niguel. For example, the product floor plans are intended to accommodate work from home occupants. Each unit contains an oversized garage space providing residents the chance for in-home exercise and recreation equipment. Additionally, the Project will feature an active recreation hill climb component allowing residents to view the surrounding open space and perform a self-guided cardiovascular program utilizing a proposed path and fitness station on the southwestern portion of the project. This type of amenity has been found to appeal to younger demographics looking for something beyond traditional "active recreation" areas which are typically grass "pocket parks."

¹ The most recent adopted California State Housing and Urban Development Regional Housing Needs Assessment requires 1,207 new housing units, including low income, moderate, and above-moderate units, to be provided in Laguna Niguel by 2029.

² Building height meets the existing 35' City height requirement when measured from proposed grade to top of roof sheathing.

³ This is due to the fact that the grade of a portion of the proposed active recreation area exceeds the City's grade requirement for recreational spaces.

SP 16-04 and Tentative Map TT 17721 – Project Description
March 24, 2021

Accordingly, the Project requests a minor development amendment to accommodate this exercise facility.

We look forward to working with staff to process this project through entitlement and would be pleased to provide any further information as you deem necessary. Thank you for your consideration.

Sincerely,



Michael Recupero
RECUPERO AND ASSOCIATES, INC.

CC: Peter Carlson, Carlson Strategic Land Solutions



Page 3

EXHIBIT “2”

EXHIBIT “2”

5/26/22, 10:21 AM

Will homes again rise in Laguna Niguel landslide zone? - Los Angeles Times

ADVERTISEMENT

CALIFORNIA

A landslide destroyed O.C. homes 24 years ago. A developer wants to build there again

<https://www.latimes.com/california/story/2022-05-08/laguna-niguel-landslide-destroyed-oc-homes-developer-wants-build-again>

1/20

5/26/22, 10:21 AM

Will homes again rise in Laguna Niguel landslide zone? - Los Angeles Times



Los Angeles Times



Aerial view of two homes on Via Estoril in Laguna Niguel that fell in 1998 when a rain-soaked hillside collapsed. (Geraldine Wilkins-Kasinga / Los Angeles Times)

BY HANNAH FRY | STAFF WRITER

MAY 8, 2022 5 AM PT



In 1998, after a winter of heavy rains, the hill below Via Estoril collapsed.

Several [homes slid down](#), others were destroyed, and the condominiums below were heavily damaged.

Residents of the Laguna Niguel neighborhood, where ridgetop homes have swimming pools and panoramic views, were sure that no one would ever think of building there again.

<https://www.latimes.com/california/story/2022-05-08/laguna-niguel-landslide-destroyed-oc-homes-developer-wants-build-again>

2/20

5/26/22, 10:21 AM

Will homes again rise in Laguna Niguel landslide zone? - Los Angeles Times

Now, 24 years later, a developer is proposing new condominiums at the base of the hill. Improvements made since the landslide will prevent disaster from striking again, the project's proponents say.

The developer, Barry Hon of Laguna Niguel Properties LLC, is familiar with the risk. He built the [original Niguel Summit neighborhood](#), including the Via Estoril homes, which now sell for more than \$1 million, and the condos below.

Residents fear that Hon's new project will destabilize the hill and send it crashing down again.

"We just don't want to have to live with that kind of fear and uncertainty and have people move in below us who might also be in danger," said Sara Nuss-Galles, who has lived on Via Estoril since 2005.

ADVERTISING

<https://www.latimes.com/california/story/2022-05-08/laguna-niguel-landslide-destroyed-oc-homes-developer-wants-build-again>

3/20

5/26/22, 10:21 AM

Will homes again rise in Laguna Niguel landslide zone? - Los Angeles Times



Sara Nuss-Galles on the hillside beside her home in Laguna Niguel. (Christina House / Los Angeles Times)

Many also worry that officials will use the increasing demand for housing across Southern California and a requirement that the city zone for more than 1,200 new units as justification to approve the project, when there are safer places in the city to build.

“It is hard to stop development in California,” said Jim Kozel, who lives in Niguel Summit. “It’s our understanding that fighting this is going to be difficult, but we have to protect the homeowners.”

CALIFORNIA

Amid housing crunch, officials want Orange County to stay the way it is

Jan. 22, 2022

<https://www.latimes.com/california/story/2022-05-08/laguna-niguel-landslide-destroyed-oc-homes-developer-wants-build-again>

4/20

5/26/22, 10:21 AM

Will homes again rise in Laguna Niguel landslide zone? - Los Angeles Times

In the 1980s, Hon built about 1,500 homes, including the ones on Via Estoril, on a man-made hill about five miles from the ocean.

Years later, residents on Via Estoril began complaining about cracking walls and sagging fences. At the 41-unit condominium complex below, residents also saw cracks in their walls, and the sidewalks buckled as the earth shifted underneath. Some sued the developer, alleging faulty construction.

Carolyn Brown and her husband, Fred Brown, bought a home on Via Estoril in 1995, drawn to the cool ocean breeze and the view of the Pacific.

A year and a half later, they noticed cracks widening in their driveway and along a retaining wall. Officials determined that the slope was shifting more rapidly after El Niño storms in late 1997.

Officials soon red-tagged several homes on Via Estoril. The structures creaked and glass popped as residents rushed to pack their belongings.

<https://www.latimes.com/california/story/2022-05-08/laguna-niguel-landslide-destroyed-oc-homes-developer-wants-build-again>

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Will homes again rise in Laguna Niguel landslide zone? - Los Angeles Times

A 1998 photo of a home on Via Estoril as it collapsed due to a landslide. (Mark Boster / Los Angeles Times)

“I remember walking into our bedroom, which was on the back side of the house, and there was this built-in cabinet with drawers, and all the drawers were open,” Carolyn Brown recalled recently. “I looked in the corner of the bedroom. There was a huge gap, and I realized, ‘Oh my God, the house is tilting, and that’s why these drawers have opened up.’ I immediately got out of there and never went back.”

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Will homes again rise in Laguna Niguel landslide zone? - Los Angeles Times

When the hill finally gave way, it sounded like thunder. Two large two-story homes slid down and crumpled into heaps.

The Browns' home dangled above the hillside for days before disintegrating. In all, nine homes on the ridge were destroyed.

Below, several condominium units were also destroyed, and the entire complex was demolished so the land could be graded to stabilize the area.

The developer and original builder, J.M. Peters, paid millions to the Niguel Summit Community Association as part of a legal settlement. The money was used to build a massive concrete wall with tieback anchors, a giant mass of soil called a buttress, and subdrains to move rainwater.

City officials told residents it was highly unlikely that the land would be built on again.

But the area remained zoned for homes. The city was set to receive a \$5.6-million grant to purchase the land and designate it open space, until the Federal Emergency Management Agency pulled back the funding because homeowners had already been paid legal settlements.

Hon and his company are proposing 22 three-story condos on less than two acres at the bottom of the hill along Crown Valley Parkway.

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Will homes again rise in Laguna Niguel landslide zone? - Los Angeles Times

A developer is proposing to build condos at the base of a hillside that failed and destroyed dozens of homes in 1998 after El Nino rains. (Christina House / Los Angeles Times)

The units are designed to appeal to young people, with floor plans to accommodate working from home and oversized garages that can be used for exercise equipment. Similarly-sized condominiums elsewhere in the city have recently sold for more than \$600,000.

<https://www.latimes.com/california/story/2022-05-08/laguna-niguel-landslide-destroyed-oc-homes-developer-wants-build-again>

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Will homes again rise in Laguna Niguel landslide zone? - Los Angeles Times

“With the city of Laguna Niguel on the edge of a generational shift, the proposed 22 townhomes are responsive to that and seek to attract a younger demographic to the city,” said Marice DePasquale, the community outreach liaison for the project.

DePasquale said the condos, called “The Cove at El Niguel,” will not be built on the landslide footprint and that neighbors’ views will not be affected.

The landslide area “has been stabilized and is suitable to accommodate the plan as currently proposed,” she said.

To provide space for yards and a retaining wall, the construction plan would involve grading the bottom edge of the soil buttress that helps stabilize the hill.

According to geotechnical experts hired by the developer, as well as a separate firm that reviewed the plans for the city, shaving off part of the buttress is safe and won’t affect the stability of the hillside.

The developer has prepared a draft environmental impact report, and the proposal will eventually come before the Laguna Niguel Planning Commission for approval.

It does not need to be approved by the City Council.

Planning Commission Chair Brian Fisk said the proposed condos will take up much less land than the ones that were demolished. He noted that the proposal does not involve building on the hillside.

“We have to rely on our professional consultants that work with the city to address those concerns and then our professional planning staff and the legal team that completes an environmental impact report,” Fisk said. “If we cannot rely on that, then I don’t know what we can rely on.”

<https://www.latimes.com/california/story/2022-05-08/laguna-niguel-landslide-destroyed-oc-homes-developer-wants-build-again>

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Will homes again rise in Laguna Niguel landslide zone? - Los Angeles Times

Laguna Niguel, like much of Orange County, typically fields proposals for apartments or single family homes. Condominiums are less common, Fisk said.

“We’re looking at whether it’s suitable to have residential there again,” said Fisk, a retired city planner. “This meets the objectives of creating additional housing opportunities in the city, and it’s a for-sale product that we don’t have a lot of.”

As home prices soar amid a longstanding housing shortage, well-heeled suburbs like Laguna Niguel that have room to grow are facing increasing pressure to build.

A state law requires local governments to prepare a plan for new housing every eight years. Cities are assigned a specific number of new units under a complex formula that anticipates future housing needs.

Laguna Niguel’s requirement, approved by the city last year, is to zone for 1,207 new housing units.

Don Ware, who lives up the hill in Niguel Summit and worked for decades as a petroleum geologist, is skeptical that building below the buttress is safe. Even now, he said, the soil has slowly been creeping and settling toward the bottom of the hill.

The proposal includes a wall that would hold back the soil but isn’t intended to stabilize a landslide zone, Ware said.

“I don’t think it’s a good idea to put houses down below a landslide that was repaired with the understanding that there wouldn’t be any houses built there,” Ware said. “So the question for me is always: ‘Well, would you have repaired this slide differently if you knew you were going to do a development down below?’ I haven’t gotten a clear answer.”

<https://www.latimes.com/california/story/2022-05-08/laguna-niguel-landslide-destroyed-oc-homes-developer-wants-build-again>

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Will homes again rise in Laguna Niguel landslide zone? - Los Angeles Times

Many south and coastal Orange County cities, including Laguna Niguel, have a long history of landslides.

In Laguna Beach, a 1978 landslide destroyed more than 20 homes in Bluebird Canyon. The [same area slid again in 2005](#), destroying 17 homes.

State and local officials lead a tour of the damage in Bluebird Canyon in Laguna Beach after a 2005 landslide. (Mark Boster / Los Angeles Times)

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Will homes again rise in Laguna Niguel landslide zone? - Los Angeles Times

Niguel Summit was built on at least six old landslide areas that were graded and buttressed.

A geological consultant told the developer that stability levels were “generally less than acceptable,” The Times reported in 1998, and that large parts of the parcel were “probably unstable.”

Rebuilding in landslide areas isn’t uncommon but must be done carefully to ensure the land remains stable, said Serge Tomassian, an Irvine attorney who has represented property owners following landslides.

Homebuyers should research landslide risk, but they are often caught unaware, Tomassian said.

Tomassian said cutting into a buttress is risky, and he would be surprised if the city approves such a plan.

Many nearby residents are worried that city officials may put the need for housing above safety concerns.

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Will homes again rise in Laguna Niguel landslide zone? - Los Angeles Times

Nathan and Esther Smith at their home in Laguna Niguel. They are concerned about a proposed housing development on the site of a 1998 landslide. (Christina House / Los Angeles Times)

Nathan Smith bought a house in the Charter Terrace neighborhood, next to the proposed condo development, in 2013. He was attracted to the backyard view of the buttress, which looks more like a lush hillside than a strategy to keep landslides at bay.

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Will homes again rise in Laguna Niguel landslide zone? - Los Angeles Times

Later, it became the first home he shared with his wife and the place where they are raising their two children.

But he is thinking about moving if the condos are approved.

It's not that he or his neighbors are anti-development, he explained as he looked out over the hillside, still green despite the season's lackluster rains, in early May.

It's the fear that what happened 24 years ago could happen again.

"If this was a flat parcel with no tortured history," he said, "it would be a different story."

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Hannah Fry is a Metro reporter covering Orange County for the Los Angeles Times. She joined the newspaper in 2013 as a reporter for the Daily Pilot, a Times Community News publication. Fry most recently covered breaking news for The

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Will homes again rise in Laguna Niguel landslide zone? - Los Angeles Times

Times and was part of the team that was a 2020 Pulitzer finalist for its coverage of a boat fire that killed 34 people off the coast of Santa Barbara. She grew up in Orange County and got her start as an intern at the Orange County Register.

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Response 17 – Nathan and Ester Smith (May 26, 2022)

- 17 - 1 The comment provides a general introduction and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 17 - 2 The comment states the DEIR fails to address land movement, but does not provide specific comments, analysis, or substantial evidence as comments on the analysis provided in the DEIR. The City has analyzed the stability of the slope following the previous landslide and determined the Project site is suitable for development. Please see Section 4.6 of the DEIR and **Section 2.1 General Response 1 – Geotechnical**. The comment provides the opinion of the commenter including a resolution from the Charter Terrace Community Association and a letter from the Los Angeles Times. These comments are not specific to the analysis provided in the DEIR and will be forwarded to the decision-makers.
- 17 - 3 The comment pertains to the zoning of the Project site and a lawsuit filed by the City to obtain funding. Please see **Section 2.2 General Response 2 – Land Use / FEMA** for further information. Please note that this topic extends beyond the scope of the DEIR and a response is not required. The City was seeking funding to recover losses associated with the landslide. In order to qualify for funding FEMA stated that the Project had to be zoned open space. The City adopted Ordinance No. 2002-122, which changed the zoning of the Project site to open space, but the ordinance included a reversion provision that states if the City does not receive Hazard Mitigation Grant Program (HMGP) funding, to purchase the property, the Project site would revert to its original General Plan and Zoning designations, which permits residential development. Since funding was not obtained, the Project site reverted back to a residential development designation. The City did not change its position and instead carried out the provisions of the ordinance as adopted.
- 17 - 4 The comment pertains to the strength parameters used in the slope stability calculations. Please see Section 4.6 of the DEIR and **Section 2.1 General Response 1 – Geotechnical** for more information. As discussed in AGI’s initial January 8, 2021 report (DEIR Appendix F4), the shear strength parameters used in the stability analyses are based on the shear strength parameters obtained from laboratory testing and compared with the shear strength parameters shown in the referenced reports (e.g., reports for Niguel Summit Landslide repairs). The conservative parameters based on the lowest bound shear strength for all types of soils and/or bedrock materials were utilized in the slope stability analyses and are presented in Table 2 (page 23, DEIR Appendix F4). Since conservative shear strength parameters were intentionally used, there is an argument that actual strengths are

even higher than those chosen for the purpose of conservative analyses. Gathering additional data regarding select strength parameters by compiling a list of strength parameters utilized for other Projects in the area in similar materials is unnecessary because site specific, the lowest-bound shear strength parameters for all types of onsite soils, landslide debris, and bedrock materials were evaluated and adopted in the slope stability analyses.

- 17 - 5 The comment questions the maintenance of the hillside. The source of the quote provided in the comment is unclear, however, the maintenance of the hillside on the Project site is the responsibility of the future HOA that must be formed for the development. Much of the hillside above the Project site is owned and maintained by the Niguel Summit HOA. Please see **Section 2.1 General Response 1 – Geotechnical** for more information on maintenance obligations.
- 17 - 6 The commenter requests an “independent geotechnical review” by a firm that is not associated with the developer or City. The City has hired Goffman, McCormick, and Urban (GMU) as its independent geotechnical engineering firm. GMU is responsible for reviewing all reports and plans submitted to the City. GMU has no conflict of interest and is responsible for independently reviewing plans to ensure hillside safety and compliance with adopted codes. Furthermore, in order for the City to certify the DEIR, the City must make findings of independent judgement, which is the process by which the City and its consultants, such as GMU, independently review applicant proposals.

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Comment Letter 18 – Rutan & Tucker, LLP: A. Patrick Muñoz (May 26, 2022)

May 26, 2022

**VIA E-MAIL AND
OVERNIGHT DELIVERY**

Amber Gregg, Contract Planner
City of Laguna Niguel
30111 Crown Valley Parkway
Laguna Niguel, CA 92677
agregg@cityoflagunaniguel.org

Re: The Cove at El Niguel Draft Environmental Impact Report

Dear Ms. Gregg:

18-1 Thank you for the opportunity to comment on the draft environmental impact report (“EIR”) for the proposed Cove at El Niguel project (“Project”). This office represents the Niguel Summit Community Association (“Niguel Summit”), which is located directly adjacent to the Project site to the north and west, and consists of 1,432 residences (1,263 single family homes and 169 apartments).

The Project proposes 22 multifamily residential units (condominiums) on a 4.2 acre vacant parcel (“Site”). As correctly noted in the EIR’s Project Description, the Site was originally graded and developed in 1979 as a 10-building townhome project with 41 condominiums. On March 19, 1998, a large landslide destroyed part of the former 41-unit condominium development on the Site, as well as nine (9) single-family homes located above the Site, where the Niguel Summit homes are located. This landslide is known as the Via Estoril Landslide (the “Landslide”).

18-2 As described herein, the analysis in the EIR is legally deficient and factually flawed in many respects, leading to a number of conclusions that are not supported by substantial evidence or are otherwise flawed. However, Niguel Summit’s biggest concern – shared by its thousands of residents – is safety. Simply put, allowing the Project to be developed on the site of the former Landslide, specifically including digging into and otherwise modifying aspects of the original Landslide repair to allow the development, instead of ensuring any development completely avoids the Landslide and previous repair, unnecessarily risks triggering further land movement that would both destroy Niguel Summit homes located above the Project, as well as homes built as part of the Project, in addition to creating significant health and safety risks on the current and future residents of both Niguel Summit and the Project. The EIR glosses over past geotechnical reports highlighting this issue, *and* the fact the *Federal Emergency Management Association (“FEMA”) determined that the Project Site should remain open space in perpetuity.*



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18-3

In the event development of the Project Site is permitted despite the significant issues presented that are unique to this Site – and notwithstanding the fact that the EIR does not comply with California Environmental Quality Act (“CEQA”) – at a minimum, Niguel Summit requests that the City include, as a mandatory condition on any approval of the Project, a requirement that the developer indemnify all homeowners within Niguel Summit, as well as its Board of Directors, in perpetuity for any future damage that may be caused by any earth movement on the Project Site, or any earth movement caused, arising out of or in any way connected to development or operation of the Project. If the development of the Project is as safe as the applicant contends, the applicant should readily accept this condition.

I. The Entire EIR’s Analysis Relies on an Inaccurate Project Description

18-4

The EIR’s analysis of many of the Project’s impacts is flawed because the EIR’s Project Description starts with an incorrect premise – that the Project is a permitted use under the Project Site’s existing General Plan land use designation and zoning. However, the purported residential zoning is the result of unlawful “conditional” zoning that the City attempted to adopt, where the Site’s open space land use designation and zoning would automatically “revert back” to residential. This conditional zoning was adopted apparently as an attempt to circumvent state and federal requirements to ensure the Site remains open space in perpetuity, and instead allow development at some point in the future, perhaps when the memory of the Landslide’s devastation had faded.

Specifically, in 2002, the City approved a General Plan Amendment (“GPA”) and Zone Change that re-designed the Project Site as open space pursuant to requirements imposed on the City by both FEMA and the Governor’s Office of Emergency Services (“OES”) as part of their approval of Hazard Mitigation Assistance Grant Program (“HMGP”) funds for the affected property owners, including those whose homes were destroyed on the Site. The City was also required to acquire a conservation easement over the Project Site to ensure that, following the Landslide, it was never developed again, but apparently the City did not do so. (EIR, p. 2-2.) However, as stated in the EIR, Resolution 2002-703, which granted approval of the GPA and Zone Change included a “sunset provision,” which stated:

“GPA 02-03 shall become void and of no force and effect, and the subject properties shall revert to their former land use designations, if the HMGP funding is materially reduced, deobligated, or otherwise required to be returned. Additionally, should the “sunset provision” take effect and the subject properties revert to their former land use designations and zoning districts, any new development project proposed on the subject properties shall require that the Planning Commission approve a Site Development Permit or other applicable discretionary actions, including compliance with the California Environmental Quality Act and the preparation of other technical studies such as geotechnical reports.” (EIR, p. 2-2.)

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The EIR contends that this “sunset” provision was triggered because the HMGP funds were never received, but does not indicate why those funds were not issued. (*Id.*)

By way of background, OES/FEMA initially approved \$5.5 million in HMGP funds as Project 1203-1001-101 “to be used as the Federal share toward purchase of 30 properties in the City of Laguna Niguel (the subgrantee) to mitigate landslide risk.” (*See, Exhibit 1*, FEMA Appeals Database for “Niguel Summit/Crown Cove Acquisitions.”) However, the original developer of the Project Site then entered into settlement agreement(s) with the owners of demolished condominiums and damaged/demolished neighboring homes, thereby fully compensating those property owners. (*Id.*) As a result, the grant funds were de-obligated and never delivered – over the City’s objection – because FEMA determined that this funding would constitute double recovery for the property owners affected by the Landslide. (*Id.*) As explained by FEMA:

In this case, the properties included in the application were already subject to acquisition by a third party pursuant to legal settlements, so the provision of Stafford Act assistance to the property owners would duplicate amounts available for the same purpose from another source. In this situation, funds were requested for an activity (acquiring property from homeowners) that had already been funded through an alternative mechanism - the agreement by a third party to acquire the properties.

To be clear, *the HMGP funds were not de-obligated because the OES or FEMA determined that the Project Site was safe to develop*, but instead because the former property owners were already made whole financially. No part of FEMA’s determination indicates that the Project Site should no longer be permanently preserved as open space, as would have occurred if the HMGP funds were issued – instead, OES and FEMA assumed that part of the settlement was doing exactly that. (*Id.*)

In addition to conflicting expert public agencies’ determinations regarding safety, there is no legal support for the type of conditional or “sunsetting” zoning the City attempted to engage in, which instead violates California law. (*See, Scrutton v. County of Sacramento* (1969) 275 Cal.App.2d 412; *Richter v. Bd. of Supervisors* (1968) 259 Cal.App.2d 99; Government Code §§ 65000 *et seq.*; 65852; *see also*, California Municipal Code Handbook (CEB 2021), §10.125 [*“the city cannot provide that the land will automatically revert to its former zoning should the landowner fail to perform the condition. A change in zoning can only occur by a formal act of the legislative body in accordance with statutory procedures; it may not be triggered by the action (or inaction) of a private party.”* (emph. added)].) Thus, the reversion language in Resolution 2002-703 upon the action (or inaction) of FEMA was not effective, and in order to approve the Project, the City Council *must* approve both a GPA and Zone Change.

The GPA and Zone Change required to allow the development and operation of the Project are both legislative approvals that the EIR incorrectly assumes will not be required, infecting its

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analysis of every impact category. Thus, the entire EIR should be revised accordingly, and recirculated for public review. (See, CEQA Guidelines § 15088.5.)¹

II. The EIR's Land Use and Planning Analysis is Fundamentally Flawed

18-5

For all the reasons set forth above, Section 4.10 (Land Use and Planning) of the EIR incorrectly concludes the Project is consistent with the Site's existing General Plan land use and zoning designations. (EIR, p. 4-10.6.) The EIR must be revised to correctly reflect that the Project is inconsistent with the Site's open space land use designation and zoning, and then analyze the Project's potential impacts on land use and planning based on the revised correct initial premise. The analysis in Table 4.10-1 is not supported by substantial evidence for this same reason.

The EIR describes the Housing Accountability Act (Government Code sections 65589.5, *et. seq.*) ("HAA") but the EIR must be revised to correctly indicate that the HAA does not apply to the Project here, because the Project requires a GPA and Zone Change. (See, EIR, p. 4.10-2.) The same is true for SB 330, and any denial or reduction of the density of the Project would not run afoul of any provision of SB 330 because again, the Project Site is not currently designated or zoned residential, but instead open space. (*Id.*, EIR, p. 4.10-3.)

III. The EIR Does Not Adequately Analyze or Mitigate the Project's Impacts on Geology and Soils, and Instead the Project Would Have Potentially Detrimental Impacts on Human Health and Safety

18-6

The EIR's analysis of the Project's impacts on geology and soils (Section 4.6) is flawed for a number of reasons set forth herein, but the most critical issue is that the Project *must not be permitted to cut into and partially remove the toe and keyway of the protective buttress that is in place as part of the Landslide repair*. This unnecessarily risks a future catastrophic landslide event and, at a minimum, the City should require the Project to be redesigned so that the footprint is smaller and such a cut into the previous Landslide repair would not be required, nor would the 15.5 foot mechanically stabilized earth ("MSE") walls currently proposed to be constructed in the existing buttress.

Further, whenever a buttress is modified by grading, geotechnical standards of practice require that the partial buttress removal, which could potentially impact the stability of the landslide, be replaced by an equivalent system to replace the value of the removed buttress fill. Here, that would require construction of a row of soldier piles above the planned MSE walls – the proposed MSE walls *do not* satisfy this requirement.

18-7

Section 4.6 of the EIR lists three "project design features" (PDF GEO-1 through PDF GEO-3) and three "standard conditions of approval" (SCA GEO-1 through SCA GEO-3) that are

¹ The CEQA Guidelines are found in Title 14 of the California Code of Regulations.



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(cont)

apparently intended to mitigate the Project's impacts relating geology and soils. (EIR, pp. 4.6-19 to -21.) These design features and standard conditions of approval should be re-characterized as formal mitigation measures and adopted as part of the Project's Mitigation, Monitoring and Reporting Program ("MMRP"). (See, *Lotus v. Department of Transportation, et al.* (2004) 223 Cal.App.4th 645.) This will ensure these critical geological measures are implemented and enforced, as these are likely the most important mitigation measures in the entire EIR, given the history of the previous development on the Project Site and neighboring homes being wiped out by the Landslide. Indeed, the PDFs in particular are drafted exactly like mitigation measures – e.g., PDF GEO-3's requirement to prepare a final geotechnical report prior to the issuance of a grading permit – and there is no reason they should not be enforced as such.

Further, as currently drafted, the EIR short circuits CEQA's requirement to fully analyze impacts relating to geology and soil and impose mitigation accordingly, which in and of itself violates CEQA, because imposing the PDFs and SCAs on the front end stops the EIR from analyzing the Project's full potential impacts without any mitigation--the critical first step of all CEQA analysis. (See, *Lotus, supra.*) Thus, as a result of the lack of analysis in the first instance, the EIR's ultimate conclusions regarding the Project's impacts relating to geology and soils are not supported by substantial evidence.

This office suspects that the PDFs and SCAs were not characterized as mitigation in an ill-advised attempt to avoid arguments that a number of these measures constitute unlawful deferral of mitigation. Deficiencies within these measures include (but are not necessarily limited to) the following:

- PDF GEO-2: the statement that the retaining walls "must be designed in accordance with the recommendations included in the Geotechnical Reports" is not nearly descriptive enough such that the applicant can be forced to comply, nor are there any performance measures to ensure compliance.
- PDF GEO-3: requiring the preparation of a final geotechnical report following the City's approval of the Project constitutes unlawful deferral of mitigation. This measure also does not describe any performance measures that must be included in that report in any meaningful detail, nor does it indicate what would occur if that geotechnical report contained any negative information about the Project Site's suitability for the Project or any other issues. This instead appears to require the applicant to prepare a "rubber stamp" grading plan without meaningful guidance or consequences, should there be findings adverse to the applicant/developer.
- SCA GEO-3: this measure improperly concludes that potential adverse impacts of geologic and seismic hazards can be mitigated by following existing building code requirements and recommendations in a geological study. This conclusion improperly lacks sufficient analysis, and it is a violation of CEQA to conclude that

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compliance with existing regulations – without *first* analyzing the actual impacts without those regulations – would render impacts less than significant. (See, e.g., *Louts, supra*; *East Sacramento Partnerships for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281, 301-303; *Berkeley Keep Jets Over the Bay Com. v. Board of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1381.)

18-8

Moving to the EIR’s actual analysis of the Project’s potential impacts on geology and soils, the EIR relies on a geotechnical review conducted by American Geotechnical, Inc. (“AGI”), who had been retained by the applicant.² AGI performed an initial analysis in 2021 (Appendix F-4), and responded to the City’s technical review sheet and other questions from the City (Appendices F-3 and F-1, respectively).

Appendix F-4 includes Table 3 - Results of Slope Stability Analyses on page 26, which disclosed the following:

1. There are six computer runs with the plot and output files included. Of those six runs, the first two (Section DR-DR’, circular Gross-Static and Seismic) show the “percentage of trial surfaces with *non-valid solutions*” to be 19 and 59, respectively.
2. The final two tabulated computer runs (Section DR-DR’, lower block Gross-Static and Seismic) show the “percentage of trial surfaces with *non-valid solutions*” to be 58 and 97.6.

The significance of the percentages of non-valid solutions is that the Manual for the GSTABL7 software program, and the developer of the program Dr. Garry Gregory, note that there should be no more than five to ten percent non-valid solutions to have a meaningful assessment of the factor of safety. It appears that this condition was not addressed by AGI, nor picked up by the City’s geotechnical reviewers when the initial AGI report (Appendix F) was reviewed, as set forth in Appendix F-1. Thus, AGI must re-run their stability analysis, as the factors of safety shown in Table 3 do not represent what the static and seismic safety factors will be when the MSE wall excavations are made in the toe of the buttress, and they do not represent the current block-slide safety factors for the stabilized landslide mass itself. After this new analysis is run, Section 4.6 of the EIR must be significantly revised and recirculated.

These stability calculations are also based on values (strength parameters) that can be discretionary and these values can substantially impact the veracity of the calculations. It is common practice for cities or their reviewing consultants to request additional data regarding

² AGI is the same firm that designed the Landslide repair, which was intended to remain as open space. Their involvement in this Project is somewhat a conflict of interest, given that they are unlikely to opine anything involving their previous work is unsafe.



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(cont)

selected strength parameters by compiling a list of strength parameters utilized for other projects in the area in similar materials. AGI's tables should be revised to include strength parameters utilized in the buttress design and, most importantly, the values of the Landslide plane and the fill utilized for the buttress design, as well as that of other development projects in the area. Following those revisions, the EIR itself should be revised and recirculated.

18-9

Next, as mentioned above, the EIR *completely fails to analyze whether or not it is feasible to construct a residential development without cutting into the buttress*, whether in Section 4.6 (Geology or Soils), Section 6 (Alternatives), or elsewhere. However, AGI's report (Appendix F-1) states that it is feasible to construct a project "beyond the limits of the past landslide grading," yet their recommendation includes making multiple cuts at least 15.5 feet high into the existing buttress to construct new retaining walls, which appears to be contradictory to that assertion. The EIR should actually analyze avoiding cutting into the existing buttress, and discuss why AGI concluded it could be done but then did not analyze that further.

Further, the 15.5 foot MSE wall is designed to be flexible and as a result, it will not retain the buttress from continual movement. The wall is not anchored to bedrock, but instead "floats" within the expansive soils that are creeping toward the proposed development. Regardless of any Factor of Safety computer generated models, over time, the easterly creeping gravity buttress will adversely impact any structures placed in front of it. *AGI recognizes there will likely be damage to the appurtenant structures.* (See, Appendix F, pp. 51-52.) It is just a matter of time before homes will also be damaged. Indeed, the EIR acknowledges that downhill creep of the Landslide has occurred and will continue, despite remediation. (EIR, p. 4.6-15.) Readings conducted by Niguel Summit's geotechnical engineers indicate that the total slope displacement since 2014 is 2.1 inches. It bears noting that AGI has actually identified two landslides in the area: an upper-shallow landslide that failed, and lower-deeper larger landslide. Borehole inclinometer data indicates that both landslides have moved since the 1998 failure.

18-10

Finally, AGI previously noted that the existing buttress or any other portion of the Landslide repair should not be disturbed by future development, but appears to have changed that conclusion for the benefit of the applicant. This should be disclosed and explained in the EIR.

18-11

Additionally, Niguel Summit requests that an entirely independent third party geotechnical consultant, not the City's geotechnical reviewer, be retained to evaluate the applicant's geotechnical report to provide an independent opinion of the impact of the proposed buttress modification on the stability of the upslope landslide repair and affected properties.

18-12

IV. The EIR Does Not Adequately Analyze or Mitigate for the Project's Impacts on Wildfire Risks

In addition to being constructed on top of the Landslide, the proposed Project would be constructed in the Very High Fire Hazard Severity Zone ("VHFHSZ"), as acknowledged by the

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18-12
(cont)

EIR. (E.g., EIR, p. 4.14-5.) This is yet another reason that the Site is simply the wrong location for the Project – nearby (and even adjacent) areas also in the City are not part of the VHFHSZ.

The increased wildfire risks to Niguel Summit and other surrounding areas that would result from the proposed Project is hardly theoretical, as demonstrated by the recent Coastal Fire in the City, which destroyed at least twenty homes in the area. (See, Exhibit 2.) In light of the Coastal Fire, the EIR’s statement that “wildfires are a rare event in the City” is not accurate, and this statement should be revised. (EIR, p. 4.14-15.) Further, all of the analysis in Section 4.14 (Wildfire) should be revised in light of this recent event and the ever more frequent wildfire events in California generally, and the region specifically.

18-13

Section 4.14 also lists three “project design features” that are apparently intended to mitigate impacts relating to wildfires, PDF FIRE-1 through PDF FIRE-3. (EIR, pp. 4.14-11 to -12.) These three design features should instead be re-characterized as formal mitigation measures and adopted as part of the Project’s MMRP. (See, *Lotus v. Department of Transportation, et al.* (2004) 223 Cal.App.4th 645.) This will ensure these critical fire safety measures are implemented and enforced.

Further, as currently drafted, the EIR short circuits CEQA’s requirement to fully analyze wildfire impacts and impose mitigation accordingly, which in and of itself violates CEQA. (See, *Lotus, supra*.) Thus, as a result of the lack of analysis in the first instance, the EIR’s ultimate conclusions regarding the Project’s impacts relating to wildfire risks are not supported by substantial evidence.

18-14

The EIR does not discuss fire evacuation routes in any meaningful detail, nor the Project’s impacts on the ability for the thousands of Niguel Summit residents (or any other neighboring residents) to evacuate in the event of another wildfire. Instead, the EIR relies solely on conditional approval by OCFA of the tentative tract map, without actually analyzing the issue, in violation of CEQA. (EIR, p. 4.14-12.) Case law is clear that an EIR cannot rely solely on an outside agency or an existing standard to conclude impacts are less than significant, but instead must undertake its own independent analysis of each potential impact, reach a conclusion, and impose mitigation accordingly. (See, e.g., *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 887; *East Sacramento Partnerships for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281, 301-303; *Berkeley Keep Jets Over the Bay Com. v. Board of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1381.)

Further, courts have made clear that CEQA documents **must** discuss and analyze impacts to fire evacuation routes and estimated evacuation times in detail, which again, are not even described in the EIR let alone analyzed at the appropriate level of detail required to comply with CEQA. (*Newtown Preservation Society, et al. v. County of El Dorado, et al.* (2021) 65 Cal.App.5th 771; *Sierra Watch v. County of Placer* (2021) 69 Cal.App.5th 1.)

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18-14
(cont)

Clearly, significant revisions to Section 4.14 of the EIR are required in order to comply with CEQA. Thus, the City should recirculate Section 4.14 of the EIR, in addition to the other sections discussed in this comment letter. (*See*, CEQA Guidelines § 15088.5.)

V. The EIR Does Not Adequately Analyze or Mitigate the Project's Impacts Relating to Hazards

18-15

In similar fashion to Section 4.14 (Wildfire), Section 4.8 of the EIR (Hazards and Hazardous Materials) of the EIR lists two Project design features that are intended to mitigate fire hazard risks as a result of the Project's location in the VHFHSZ – PDF HAZ-1 and PDF HAZ-2. (EIR, p. 4.8-6, 4.8-9 to -10.) These two design features should instead be re-characterized as formal mitigation measures and adopted as part of the Project's MMRP. (*See, Lotus v. Department of Transportation, et al.* (2004) 223 Cal.App.4th 645.) As currently drafted, the EIR short circuits CEQA's requirement to fully analyze wildfire impacts and impose mitigation accordingly, which in and of itself violates CEQA. Further, as a result of the lack of analysis in the first instance, the EIR's conclusion that the Project's impacts relating to exposing people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires would be less than significant is not supported by substantial evidence.

18-16

The same deficiency exists with respect to PDF GEO-1 through PDF GEO-3, as discussed above, and relied upon in the EIR to conclude any impacts resulting from a potential for a landslide impairing emergency response activities are less than significant. (EIR, p. 4.8-9.) At a minimum, these Project design features must be re-characterized as mitigation measures and enforced accordingly. The EIR also misleadingly states that the remediated slope will be maintained as open space, *when in fact portions of the remediated slope/Landslide will be impacted and modified as part of the construction of the Project.* This section of the EIR also does not discuss the Project Site's wildfire hazards and the resulting impacts on both emergency response and ability to evacuate during an emergency, whether another landslide or wildfire. Thus, the EIR's conclusion that the Project's impacts on emergency response times and evacuation during an emergency will be less than significant is not supported by substantial evidence. (*See, id.*, pp. 4.8-8 to -9.)

18-17

Finally, Section 4.8 of the EIR contains a bare conclusion that the Project would not result in any cumulatively considerable impacts related to hazards or hazardous materials. (EIR, p. 4.8-10.) This conclusion – unsupported by any meaningful analysis – blatantly ignores the landslide/geotechnical and wildfire risks the Project will cause its neighbors (and future residents) by making an already dangerous area more dangerous. Simply put, the EIR does not adequately explain why developing the Project is safe in its uniquely unsafe location, nor does it adequately mitigate the true impacts relating thereto.

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VI. The EIR Fails to Analyze a Reasonable Range of Alternatives

As an initial matter, the summary Table 6-1 of the Project’s impacts is not accurate, for all of the reasons set forth herein regarding each impact category. (EIR, pp. 6-2 to 6-9.) With respect to the alternatives to the Project “analyzed” in Section 6 of the EIR, the EIR clearly did not analyze a reasonable range of alternatives in compliance with the requirements of Section 15126.6 of the CEQA Guidelines.

First, the EIR did not meaningfully analyze an alternative location, which is particularly appropriate here, where the chosen location (the Site) is uniquely unsafe because it requires construction on the Landslide and the ghosts of destroyed homes, as well as in the VHFHSZ, in close proximity to the location of the recent Coastal Fire. (EIR, pp. 6-9 to 6-10.) If ever there was an appropriate situation to analyze an alternative location in detail pursuant to CEQA Guidelines section 15126.6(f)(2), this was it. Instead, the EIR does not even comply with the bare minimum CEQA requirements where it concludes, without any analysis or explanation, that there is no alternative two-acre site within the entire City whereon 22 condominium buildings could be constructed.

18-18

This conclusion is difficult to believe and, indeed, even a cursory review of the City’s own documents prove that it is clearly wrong. The City’s draft Housing Element for the 2021 to 2029 housing cycle indicates that the City has a number of vacant sites suitable for a total of 293 residential units, and identifies those locations by accessor parcel number and location. (City of Laguna Nigel Draft Housing Element, p. B-4, Table B-3.)³ *Notably, the Project Site is not on the City’s inventory of vacant sites available for housing*, indicating that even the City’s own planning documents do not believe it is suitable for residential development. The EIR fails to even disclose the fact that the Project Site is not identified in the Housing Element’s housing inventory, let alone discuss or analyze the issue. Further, the City contains a number of underutilized sites, which could accommodate 1,825 additional residential units. (*Id.* p. B-5, Table B-4.) Clearly, the EIR’s alternatives analysis should be revised to include discussion of an alternative/offsite location in more detail – a number of which have already been identified by the City – and then recirculated.

The other two alternatives that were “considered” but not analyzed in detail were the “GPA to a Single-Family Land Use” and “GPA to a Non-Residential Land Use” alternatives. The EIR’s brief discussion of these alternatives is fatally flawed because it assumes that the Project Site is zoned Multi-family (RM), when it is actually zoned open space. (EIR, p. 6-10.) Thus, the EIR’s legal analysis regarding SB 330 and the HAA is incorrect, and neither would apply if the Project was modified to propose ten single family dwelling units or a non-residential use. This portion of the EIR must revised and recirculated accordingly.

³ The City’s draft Housing Element is available here:
<https://www.cityoflagunaniguel.org/DocumentCenter/View/20495/Laguna-Niguel-2021-Housing-Element-2021-05-16-draft>



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18-18
(cont)

The remaining alternatives that were actually analyzed in detail do not represent a reasonable range of alternatives that “foster informed decisionmaking and public participation.” (CEA Guidelines § 15126.6.) Instead, the alternatives barely differ from the proposed Project, and consistent of the same Project with 41 units, 38 units, or 16 units, instead of 22. Further, none of these alternatives discuss avoiding any impacts to the Landslide area. The entire Section 6 of the EIR must be revised to include detailed analysis of meaningfully different alternatives that would actually avoid or substantially lessen the Project’s impacts on critical impact categories, such geological and soils, land use, wildfire and hazards, and then recirculate the same.

VII. The EIR Does Not Adequately Analyze or Mitigate the Project’s Impacts Relating to Hazards Hydrology and Water Quality

In Section 4.9 (Hydrology and Water Quality), the EIR again described Project design features that are disguised mitigation measures, which for all the reasons stated above, is improper. (EIR, p. 4.9-7 to -8.) In particular, PDF HYD-1 states the following:

Existing storm drains installed on the site as part of prior remediation activities will be re-routed and connected to the proposed Project’s storm drains and connected to the existing 36-inch storm drain in Crown Valley Parkway for off -site discharge. Specific locations are indicated in Figure 4.9.A of the Utility Plan.

18-19

This “Project design feature” is much too uncertain, and constitutes an unlawful deferral of mitigation, which is perhaps why the EIR attempts to avoid characterizing this as a mitigation measure. The EIR must explain how modifying the drains installed in remediated slope/Landslide area can be done safely, and PDF HYD-1 does not contain any performance standards that would ensure it can or would be done safely. Instead, this PDF demonstrates that, yet again, the Project intends to disturb prior remediation work without adequate analysis regarding the potential catastrophic impacts of that work.

The EIR also improperly relies on all three of the PDFs to conclude that impacts from the Project’s changes to drainage patterns and runoff would be less than significant. (EIR, pp. 4.9-11 to -14.) This analysis is critical, as changes to drainage and runoff could severely impact slope stability, yet this is not analyzed or even recognized by the EIR. The EIR must be revised to analyze these impacts *without regard to the PDFs*, and specifically discuss risks from changes from drainage/runoff to the stability of the remediated slope/Landslide, and then impose formal mitigation measures to ensure all such impacts would be less than significant, if it is even possible to fully mitigate. (*See, Lotus v. Department of Transportation, et al.* (2004) 223 Cal.App.4th 645.)

The activation of older or repaired landslides is most often caused by either a rise in groundwater or removal of material at the toe of the landslide (which the Project proposes to do). A case in point is the Bluebird Canyon Landslide in Laguna Beach. The landslide occurred twice, once in 1978 and again in 2005, despite the best advice of the professionals involved. The 2005

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18-19 (cont) event is almost universally attributed to heavy rainfall in the months preceding the new landslide. Here, AGI has included a discussion of groundwater levels as evidenced by piezometer reading, but a complete examination of the subdrain system constructed during the Landslide repair and its current condition and effectiveness should be conducted, as well as a discussion of the potential damage to the subdrain system caused by ongoing Landslide movements. Stability calculations should be conducted by the consultant to evaluate the repaired Landslide and project stability in the case that groundwater levels rise in five-foot increments, to determine the potential for catastrophic failure of the Landslide repair. Once this study is conducted, both Sections 4.6 and 4.9 of the EIR should be revised accordingly, and recirculated.

VIII. The EIR's Energy Analysis is Incomplete

18-20 Section 4.5 (Energy) of the EIR does not analyze the potential for the Project to incorporate sources of renewable energy, such as solar panels on roofs, among many other opportunities. (EIR, 4.5-12 to -13.) In order to comply with CEQA, the EIR must be revised to include this analysis and impose mitigation measures relating to the same. (*See, League to Save Lake Tahoe Mountain Area Preservation Foundation v. County of Placer* (2022) 75 Cal.App.5th 63.)

IX. The EIR Does Not Adequately Analyze or Mitigate for the Project's Greenhouse Gas Emissions

18-21 The EIR makes no effort to explain why the City's threshold for Greenhouse Gas ("GHG") impacts is 3,000 MTCO₂e per year or otherwise provide any information that allows a reader to determine why emissions less than 3,000 are not significant, and instead, this appears to be an arbitrary threshold not supported by substantial evidence. (EIR, p. 4.7-5.) Further, impacts from GHG emissions are generally understood to be a cumulative impact, yet the EIR's discussion of cumulative impacts is entirely conclusory, and lacks any analysis supporting that ultimate conclusion that there "is no evidence" of any significant cumulative impacts from the Project's addition to GHG emissions. (*Id.*, p. 4.7-6.) The EIR should be revised to include such analysis.

X. The EIR Does Not Adequately Analyze or Mitigate the Project's Air Quality Impacts

18-22 The EIR concludes that the Project will not conflict with or obstruct implementation of the applicable air quality plan, at least in part, because the Project is consistent with the General Plan. This is not accurate, because the Project's true land use designation is open space. The EIR should be revised to reflect that fact, and then analyze and mitigate potential impacts accordingly.

Additionally, it is unclear whether, for the purposes of analyzing the Project's construction phase air quality emissions, the EIR assumed that all of the construction equipment would or could be operated simultaneously. Section 4.2 of the EIR must be revised to include this analysis.

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XI. The EIR Does Not Adequately Analyze or Mitigate the Project's Noise Impacts

18-23

Similar to the EIR's analysis of the Project's air quality impacts, it is unclear whether, for the purposes of analyzing the Project's construction phase noise impacts, the EIR assumed that all of the construction equipment would or could be operated simultaneously. (EIR, pp. 4.11-17 to -18.) Section 4.11 of the EIR must be revised to include this analysis.

The EIR's analysis of operational noise impacts only includes mobile noise source (traffic), and no other potential sources of operational noise, including air conditioners, resident noise, and the like. (EIR, p. 4.11-19.) Other potential sources of noise during operations must be identified and analyzed, and mitigation imposed.

XII. The EIR Does Not Adequately Analyze or Mitigate the Project's Impacts on Biological Resources

18-24

As a general matter, the biological resources section of the EIR lacks substantive analysis and generally concludes that impacts to an over 4-acre undeveloped area will not be significant. While surveys were apparently conducted, the EIR does not provide sufficient – or any – information about the results of those surveys, and instead appears to rely solely on literature to reach its bare impact conclusions, which ultimately do not appear to be supported by substantial evidence. The EIR also fails as an informational document in this regard. (*See*, CEQA Guidelines § 15121.)

MM BIO-1 appears to unlawfully defer mitigation by not providing clear performance standards to ensure future compliance, and must be revised in order to comply with CEQA.

XIII. The EIR's Transportation Analysis is Incomplete

18-25

Section 4.12 of the EIR does not include a trip estimate for weekends, and should be revised to include that information and resulting analysis.



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18-26

Thank you for the opportunity to comment on the EIR. Unfortunately, this document does not comply with CEQA, and instead consists of largely conclusory statements with thin analysis for a Project that poses unique risks relating to property damage and public health and safety. Thus, the EIR's conclusions are not supported by substantial evidence, and it also fails in its role as an informational document that would allow the public to be made aware of the full extent of the Project's potential impacts. The EIR also fails to properly mitigate those impacts, some of which it fails to fully disclose, making proper mitigation impossible.

Sincerely,

RUTAN & TUCKER, LLP

A. Patrick Muñoz

APM

cc: Christine Wilz, General Manager, Niguel Summit Community Association

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Exhibit 1

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FEMA

After You Apply

Laguna Niguel, Niguel Summit/Crown Cove Acquisitions

Appeal Brief

Appeal Letter

Appeal Analysis

Appeal Brief

Applicant

California Governor's Office of Emergency Services

Appeal Type

2nd

Project Number

101

Date Signed

2008-05-19T00:00:00

1st Appeal

• Issue

o Originally approved HMGP funding was for purchase of 30 properties to mitigate landslide risk in the location of a steep slope. However, it was found that homeowners were compensated by legal settlements with the developer of the project site, where the slope had been stabilized. The California Office of Emergency Services (OES) stated that the project no longer met a "public purpose" nor met HMGP priorities, because of the non-public settlements associated with compensation and the slope stabilization. When FEMA Region IX de-obligated

<https://www.fema.gov/hmgp-appeals/1203/101-2nd>

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the funds, the City of Laguna Niguel appealed. Region IX denied the appeal.

- Reason for Denial

- o Region IX based the 1st appeal on the determination that the project no longer met the HMGP priorities and eligibility criteria for the previously funded project.

- Reference(s)

- o 44 CFR 206.434 Eligibility; 44 CFR 206.440 Appeals

2nd Appeal

- Issue

- o The subgrantee claimed that the issues raised by FEMA had been addressed and approved by OES, that there was a valid public purpose for the project, the scope of work (SOW) had been unchanged since the time of the approved application, all necessary environmental exceptions were obtained, land use restrictions and ordinances had been established, and that an eligible private non-profit owner had been established.

- FEMA Findings

- o FEMA HQ denied the 2nd appeal, upholding Region IX's decision to deny the 1st appeal.
- o The rationale for the 2nd appeal denial was that the project did not comply with applicable statutory and regulatory requirements. The project violated the provision in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) regarding the duplication of benefits (DOB), because a private third party agreed in settlements with the property owners to repurchase the properties included in the application SOW. Therefore, the HMGP assistance would have duplicated funding from another source for the same purpose, that of acquiring the properties.

- o Reference(s): 44 CFR 206.440 Appeals; 44 CFR 206.434 Eligibility; Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Section 312, Duplication of Benefits

Appeal Letter

MAY 19 2008

FEMA
500 C Street, SW
Washington, DC 20472

Frank McCarton
Governor's Authorized Representative
Governor's Office of Emergency Services
3650 Schriever Avenue
Mather, California 95655

Dear Mr. McCarton:

<https://www.fema.gov/hmgs-appeals/1203/101-2nd>

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I am replying to the July 2003 submittal of information for the second appeal by the City of Laguna Niguel. As an initial action, on March 7, 2000, the California Governor's Office of Emergency Services (OES) requested that the Department of Homeland Security's Federal Emergency Management Agency (FEMA) de-obligate approved project funding for the Hazard Mitigation Grant Program (HMGP) Project 1203-1001-101, City of Laguna Niguel, Niguel Summit/Crown Cove Land Acquisition project. This funding was a subgrant of approximately \$5.5 million to be used as the Federal share toward purchase of 30 properties in the City of Laguna Niguel (the subgrantee) to mitigate landslide risk. At that time, OES stated the project no longer met a "public purpose" because homeowners had been compensated by legal settlements with the developer, and the slope had been stabilized.

As requested, the FEMA Region IX Office de-obligated the funds on March 14, 2000. In a letter dated May 12, 2000, the City of Laguna Niguel appealed the de-obligation action to FEMA Region IX. On August 21, 2000, FEMA denied this first-level appeal, based on the determination that the project no longer met the priorities and eligibility criteria for Project 1203-1001-101. On August 29, 2000, OES informed the city of the denial. OES also informed the city it could file a second and final appeal within 60 days, in accordance with appeal procedures cited in the Code of Federal Regulations (CFR) Title 44 -Emergency Management and Assistance, specifically 44 CFR 206.440(c). On February 12, 2001, the city sent a letter directly to FEMA Headquarters, requesting a second and final administrative appeal. Subsequently, additional coordination among the city, OES, and FEMA Region IX resulted in a request dated November 13, 2002, to re-obligate funds for the project. The request was denied by FEMA Region IX. As a result, the City of Laguna Niguel submitted, through OES, an additional "second appeal" request to FEMA Headquarters on May 29, 2003. The supplementary supporting material was sent on July 18, 2003.

After extensive review, I am denying the appeal, and the funds shall not be re-obligated for this project. The appeal is denied because the project does not comply with applicable statutory and regulatory requirements. Specifically, the project violates a provision in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) regarding the duplication of benefits.

The Laguna Niguel landslide occurred on March 18, 1998. Lawsuits against the original property developer, a third party to the subgrant relationship between the city and the State, were settled throughout 1998. According to documentation submitted as part of the appeal, the City of Laguna Niguel stated the developer had reached, or was likely to reach, settlements with the home and condominium owners, and the properties would be part of a larger landslide mitigation project. Ultimately, all properties included in the project application scope of work were the subjects of settlements in which the developer agreed to repurchase the properties from the home and condominium owners.

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In this case, the properties included in the application were already subject to acquisition by a third party pursuant to legal settlements, so the provision of Stafford Act assistance to the property owners would duplicate amounts available for the same purpose from another source. In this situation, funds were requested for an activity (acquiring property from homeowners) that had already been funded through an alternative mechanism - the agreement by a third party to acquire the properties. FEMA has no discretion to disregard the statutory prohibition against duplicating benefits. Therefore, HMGP funds cannot be authorized to fund compensation available from other sources or fulfill obligations arising from independent legal responsibilities.

FEMA has determined the project, as submitted, remains ineligible for funding. The primary basis for this determination is Section 312 of the Stafford Act (42 USC 5155), which prohibits the duplication of benefits reasonably available or received. Specifically, any program providing financial assistance to persons or other entities shall ensure those entities will not receive such assistance, if they receive or have assistance available to them from any other program, insurance, or any other source. In this particular case, the third party, which agreed to repurchase the properties from homeowners as a result of litigation, is considered to be such a source.

Accordingly, the second appeal is denied. If OES or you have any questions regarding this matter, please contact Sally Ziolkowski, Director, Mitigation Division of FEMA Region IX, by telephone at (510) 627-7103.

Sincerely,

David I. Maurstad
Assistant Administrator
Mitigation Directorate

DM:cr

cc: Rebecca Wagoner, CA State Hazard Mitigation Officer, OES
Nancy Ward, Regional Administrator, FEMA Region IX
Sally Ziolkowski, Director, Mitigation Division, FEMA Region IX

Appeal Analysis

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California OES requested FEMA Region IX in March 2000 to de-obligate \$5.5 million on the basis that a HMGP acquisition project was no longer eligible, because it no longer had a public purpose and nor met HMGP priorities. Region IX concurred with OES's request to de-obligate. When the subapplicant appealed and OES recommended denial, Region IX denied on August 21, 2000, based on the determination that the project no longer met the priorities and eligibility criteria for Project 1203-1001-101. By letter of February 12, 2001, the city requested a second and final administrative appeal.

Subsequently, additional coordination between the city, OES, and FEMA Region IX resulted in a request dated November 13, 2002, to re-obligate funds for the project. The request was denied by FEMA Region IX. The City of Laguna Niguel then submitted, through OES, an additional "second appeal" request to FEMA Headquarters on May 29, 2003. The supplementary supporting material was sent on July 18, 2003.

The second appeal was denied by letter of May 19, 2008, from FEMA HQ, stating that the project did not comply with applicable statutory and regulatory requirements, violating a provision in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) regarding the duplication of benefits.

The Laguna Niguel landslide occurred on March 18, 1998. Lawsuits against the original property developer, a third party to the subgrant relationship between the city and the State, were settled throughout 1998. According to documentation submitted as part of the appeal, the City of Laguna Niguel stated the developer had reached, or was likely to reach, settlements with the home and condominium owners, and the properties would be part of a larger landslide mitigation project. Ultimately, all properties included in the project application scope of work were the subjects of settlements in which the developer agreed to repurchase the properties from the home and condominium owners.

In this case, the properties included in the application were already subject to acquisition by a third party pursuant to legal settlements, so the provision of Stafford Act assistance to the property owners would duplicate amounts available for the same purpose from another source. Funds were requested for an activity (acquiring property from homeowners) that had already been funded through an alternative mechanism - the agreement by a third party to acquire the properties.

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Exhibit 2

Coastal Fire

Current Updates

05-18-22 at 5:00 PM - Press Release - All Coastal Fire Mandatory Evacuation Zones Lifted

- 100% containment
- 200 acres
- 12 homes damaged and 20 homes destroyed
- No reported injuries or loss of life to any residents or their pets
- Two injured firefighters are recovering and doing well

Portions of Aliso and Wood Canyons Wilderness Park have reopened following the Coastal Fire. The following areas of the park remain temporarily closed: Meadows Trail, Sheep Run Trail and Aliso Creek Trail East south of the creek crossing. No public access south of Wood Canyon trailhead. Please see map for detailed closure information. Highlighted trails are closed.

05-18-22 at 3:00 PM – The final remaining mandatory evacuation zone on Coronado Pointe has been lifted. There are no longer any evacuation zones in place for the Coastal Fire.

- 100% containment
- 200 acres



- 12 homes damaged and 20 homes destroyed
- No reported injuries or loss of life to any residents or their pets
- Two injured firefighters are recovering and doing well

Residents directly impacted by the Coastal Fire continue to be encouraged to contact City staff members for assistance and resources by emailing Infire@cityoflagunaniguel.org or by calling (949) 362-4300.

05-17-22 at 9:00 AM - With great effort from Orange County Fire Authority firefighters, in partnership with other Orange County fire departments and out of county resources, including CAL FIRE, the Coastal Fire is now 100% contained.

- 200 acres
- 12 homes damaged and 20 homes destroyed
- No reported injuries or loss of life to any residents or their pets
- Two injured firefighters are recovering and doing well

The updated evacuation map can be viewed [HERE](#).

Residents directly impacted by the Coastal Fire are encouraged to contact a City staff member for assistance and resources by emailing Infire@cityoflagunaniguel.org or by calling (949) 362-4300.

The Laguna Niguel Regional Park and portions of Aliso and Wood Canyons Wilderness Park have reopened. However, portions of the Aliso Summit Trail immediately bordering the evacuation zone remain closed at this time.

A Timeline of Events is Shown Below

Resources for Residents

- If you are a victim of the Coastal Fire, please know that City Staff are ready to assist you. Please email Infire@cityoflagunaniguel.org or call (949) 362-4300.
- **Animal Evacuation Assistance** call Mission Viejo Animal Services at (949) 470-3045 - Ext 0.

Please be Mindful of Scams and Contractor Fraud

Unfortunately, emergencies that affect a community, such as the Coastal Fire, can present an opportunity for professional con artists to reach out to those that have been directly impacted. Please know that the City has not hired any contractors to work directly with those residents impacted by the fire, nor has the City asked contractors to reach out on behalf of the City.

- To verify a contractor's license number, please visit www.cslb.ca.gov or call 800-321-CSLB (2752).
- To view an 'After a Disaster' Brochure, please [CLICK HERE](#).

• For additional resources, please [CLICK HERE](#).



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Evacuations

There are no longer any evacuation zones in place for the Coastal Fire.

Timeline of Events

05-16-22 at 5:00 PM – The Coastal Fire is now at 90% containment and the fire remains at 200 acres. Orange County Fire Authority firefighters continue to strengthen control lines around the Coastal Fire.

30 homes on Coronado Pointe remain under mandatory evacuation.

The updated evacuation map can be viewed [HERE](#).

Residents directly impacted by the Coastal Fire are encouraged to contact a City staff member for assistance and resources by emailing Infire@cityoflagunaniguel.org or by calling (949) 362-4300. For Animal Evacuation Assistance, please call Mission Viejo Animal Services at (949) 470-3045 - Ext 0.

05-15-22 at 6:20 PM - The Coastal Fire is now 80% contained and the total acres burned remains at 200.

30 homes on Coronado Pointe remain under mandatory evacuation.

The updated evacuation map can be viewed [HERE](#).

Residents directly impacted by the Coastal Fire are encouraged to contact a City staff member for assistance and resources by emailing Infire@cityoflagunaniguel.org or by calling (949) 362-4300. For Animal Evacuation Assistance, please call Mission Viejo Animal Services at (949) 470-3045 - Ext 0.

Please note, portions of the Aliso Summit Trail immediately bordering the evacuation zone remain closed at this time. Additionally, the [Laguna Niguel Regional Park](#) remains closed.

05-15-22 at 2:30 PM - The City's partners in public safety, the Orange County Sheriff's Department (OCSD) and the Orange County Fire Authority (OCFA), have been working around the clock to further contain the blaze, which has resulted in great progress.

30 homes on Coronado Pointe remain under mandatory evacuation, and the Coastal Fire remains at 60% containment and 200 acres burned.

The updated evacuation map can be viewed [HERE](#).

Residents directly impacted by the Coastal Fire are encouraged to contact a City staff member for assistance and resources by emailing Infire@cityoflagunaniguel.org or by calling (949) 362-4300. For Animal Evacuation Assistance, please call Mission Viejo Animal Services at (949) 470-3045 - Ext 0.



Please note, portions of the Aliso Summit Trail immediately bordering the evacuation zone remain closed at this time. Additionally, the **Laguna Niguel Regional Park** remains closed.

05-15-22 at 9:30 AM - Firefighters continue their focused effort on increasing containment at the Coastal Fire while working in difficult terrain with temperatures decreasing and light winds picking up in the afternoon.

The Coastal Fire remains at 60% containment and 200 acres burned.

The evacuation map can be viewed **HERE**.

Residents directly impacted by the Coastal Fire are encouraged to contact a City staff member for assistance and resources by emailing **lnfire@cityoflagunaniguel.org** or by calling (949) 362-4300. For Animal Evacuation Assistance, please call Mission Viejo Animal Services at (949) 470-3045 - Ext 0.

05-14-22 at 6:30 PM - The Coastal Fire is now 60% contained and the total acres burned remains at 200.

The updated evacuation map can be found at **bit.ly/3NeVObA**. Four residential streets in the impacted area remain under mandatory evacuation until further progress can be made. The streets that remain under mandatory evacuation include:

- Coronado Pointe
- Vista Court
- Via La Rosas
- Vista Montemar (Residences at 71, 72, 74, 76, 78, 80)

Residents directly impacted by the Coastal Fire are encouraged to contact a City staff member for assistance and resources by emailing **lnfire@cityoflagunaniguel.org** or by calling (949) 362-4300. For Animal Evacuation Assistance, please call Mission Viejo Animal Services at (949) 470-3045 - Ext 0.

05-14-22 at 2:00 PM - PRESS RELEASE - Aggressive Efforts to Combat Coastal Fire Result in Further Reduction to Mandatory Evacuation Zone

The City's partners in public safety, the Orange County Sheriff's Department (OCSO) and the Orange County Fire Authority (OCFA), have been working around the clock to further contain the blaze. These efforts have led to a reduction from 900 homes to 71 homes in the mandatory evacuation zone.

The updated evacuation map can be found at **bit.ly/3NeVObA**. Four residential streets in the impacted area remain under mandatory evacuation until further progress can be made. The streets that remain under mandatory evacuation include:

- Coronado Pointe
- Vista Court



- Vista Montemar (Residences at 71, 72, 74, 76, 78, 80)

The Care and Reception Center at Crown Valley Community Center is no longer open. Residents directly impacted by the Coastal Fire are encouraged to contact a City staff member for assistance and resources by emailing lnfire@cityoflagunaniguel.org or by calling (949) 362-4300. For Animal Evacuation Assistance, please call Mission Viejo Animal Services at (949) 470-3045 - Ext 0.

05-14-22 at 10:30 AM - The emphasis for today is for firefighters to continue to utilize drones with heat seeking capabilities to seek out hot spots within the fire's perimeter. Hazards throughout the area continue to be mitigated to render the area safe for residents to return to their homes where possible.

The Coastal Fire is currently at:

200 acres

40% containment

11 homes damaged and 20 destroyed

456 firefighters on scene

769 homes lifted from evacuation

If you were impacted by the Coastal Fire, please know that City Staff are ready to assist you. Please email lnfire@cityoflagunaniguel.org.

For questions, please call (949) 362-4300 or email lnfire@cityoflagunaniguel.org.

The **evacuation map** can be found [HERE](#).

To view Community Updates from Mayor Elaine Gennawey, please [CLICK HERE](#) and [HERE](#).

05-13-22 at 6:15 PM - The firefighters have put in a great deal of effort into going through debris, checking for hot spots, and mitigating hazards. The Coastal Fire is currently at:

- 200 acres
- 40% containment
- 20 homes destroyed
- 11 homes damaged

The updated evacuation map can be found [HERE](#). Seven residential streets in the impacted area remain under mandatory evacuation until further progress can be made. The streets that remain under mandatory evacuation include:

- Coronado Pointe
- Vista Court
- La Vue
- La Fleur



- Le Port
- Via La Rosas
- Vista Montemar (Residences at 71, 72, 74, 76, 78, 80)

If you were impacted the Coastal Fire, please know that City Staff are ready to assist you. Please email Infire@cityoflagunaniguel.org.

05-13-22 at 3:00 PM - PRESS RELEASE - Coastal Fire Mandatory Evacuation Zone Significantly Reduced

The City's partners in public safety, the Orange County Sheriff's Department (OCSD) and the Orange County Fire Authority (OCFA), have been successful with further containment leading to a reduction from 900 homes to 131 homes in the mandatory evacuation zone.

The updated evacuation map can be found [HERE](#). Seven residential streets in the impacted area remain under mandatory evacuation until further progress can be made. The streets that remain under mandatory evacuation include:

- Coronado Pointe
- Vista Court
- La Vue
- La Fleur
- Le Port
- Via La Rosas
- Vista Montemar (Residences at 71, 72, 74, 76, 78, 80)

05-13-22 at 11:50 AM - The containment of the fire has increased to 25% and the acreage remains at 200. There are now 563 personnel assigned to the incident.

Orange County Fire Authority firefighters are continuing to mitigate hazards that remain in the active fire area. The safety of the community is paramount so the Orange County Sheriff's Department, CA will continue to heavily monitor the area. Utility Crews are also in the area working to restore services.

All evacuation areas can be found here and are updated in real time: <http://ocsheriff.gov/coastalfire>. Check back frequently for updates to the evacuation areas.

For questions, please call the County Hotline Number at (714) 628-7085.

If you were impacted by the Coastal Fire, please know that City Staff are ready to assist you. Please email Infire@cityoflagunaniguel.org.

05-13-22 at 8:30 AM - There are no scheduled press conferences for the #CoastalFire. Any updates will continue to be published on social media and the City's website. The Coastal Fire is currently at:



- 15% containment
- 20 homes destroyed
- 11 homes damaged
- 550 firefighters on scene
- 2 firefighters injured, and have been released from the hospital

05-12-22 at 6:00 PM - The Coastal Fire is currently at:

- 200 acres
- 15% containment
- 20 homes destroyed
- 11 homes damaged
- 550 firefighters on scene
- 2 firefighters injured, and have been released from the hospital

Evacuations for neighborhoods impacted by the Coastal Fire will remain in place overnight as crews continue to work to render the area safe.

05-12-22 at 12:00 PM - PRESS RELEASE - Laguna Niguel Proclaims Existence of Local Emergency in Response to the Coastal Fire

The next news conference is scheduled today 5:00 pm. To watch the news conference please click here: <https://www.facebook.com/OCFireAuthority>.

Please note, while the Crown Valley Community Center remains open as a temporary shelter to all evacuees, all programs, classes, and rentals are cancelled through Sunday, May 15, 2022.

All programs at the Laguna Niguel Aquatics Center are cancelled through Sunday, May 15, 2022, and the Laguna Niguel Skate Park is currently closed through Friday, May 13, 2022.

The Laguna Niguel Regional Park, Aliso and Wood Canyons Wilderness Park, and the Aliso Summit Trail remained closed at this time until further notice.

The Sea Country Senior and Community Center continues to operate as normal at this time.

05-12-22 at 7:30 AM - The Orange County Fire Authority, Orange County Sheriff's Department, and the City of Laguna Niguel will be holding a joint news conference today at 8:30 am. To watch the news conference please click here: <https://www.facebook.com/OCFireAuthority>.

05-11-22 at 11:00 PM - The Coastal Fire is now at approximately 195 acres. Over 60 different types of resources are battling the flames. Due to decreased winds, the spread of the fire has significantly slowed down.



05-11-22 at Approximately 2:45 PM - A vegetation fire began in the Aliso and Wood Canyons Wilderness Park. Unfortunately, strong winds shifted the wildfire, now known as the Coastal Fire, toward the Coronado Pointe neighborhood in the City of Laguna Niguel. Fueled by thick brush, strong wind, and steep topography, the fire prompted a mandatory evacuation of 900 homes. Over 60 different types of resources from throughout the region were utilized to battle the flames.

Emergency Notifications

AlertOC

AlertOC is a free web based subscription service that provides real-time information to affected communities in emergency situations.

Register for AlertOC by visiting: AlertOC.org

Nixle

Register for Nixle by texting: [92677](tel:92677) to 888-777

Follow the City's Facebook Page: [@CityOfLagunaNiguel](https://www.facebook.com/CityOfLagunaNiguel)

Evacuation Terminology

Evacuation Order

Mandatory evacuation order with hard road closures. Evacuated individuals will not be allowed to enter the area until the Evacuation Order is lifted.

Evacuation Warning

Voluntary evacuation to give you advance warning in a slow moving event. This is to allow individuals time to evacuate an area.

Shelter-in-Place

You are directed to stay in your residence, school, workplace or other building because it has been determined that staying where you are is safer than evacuating.

Know Your Neighborhood Zone!

The City's evacuation zone map includes all-hazard evacuation zones throughout the entire City, which are easily broken down by neighborhood location. The City has designated 9 evacuation zones.

Residents are encouraged to **review the map** and become familiar with their neighborhood zone.



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Response 18 – Rutan & Tucker, LLP: A. Patrick Muñoz (May 26, 2022)

- 18 - 1 The comment provides a general introduction and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 18 - 2 The comment suggests the Project will result in health and safety risks associated with the former landslide and that FEMA determined the Project site should remain open space in perpetuity. The comment did not provide any analysis or evidence to substantiate the claims. Geotechnical safety is analyzed in Section 4.6 of the EIR and **Section 2.1 General Response 1 – Geotechnical**. The claim that FEMA determined the Project site should remain open space in perpetuity is factually incorrect and the commenter has not provided any evidence to the contrary. Please see **Section 2.2 General Response 2 – Land Use / FEMA** for further information.
- 18 - 3 The comment requests a condition of approval requiring the developer to indemnify Niguel Summit landowners and HOA. This comment is noted and will be forwarded to the decision-makers. No further response is necessary since this comment does not directly pertain to the analysis in the DEIR.
- 18 - 4 The comment suggests the proposed Project requires a General Plan Amendment and Zone Change and the DEIR mischaracterizes the existing General Plan and Zoning designations as permitting residential development. Please see **Section 2.2 General Response 2 – Land Use / FEMA** for a response to this comment.
- 18 - 5 This comment repeats the claim presented in Comment 18-4. Please see **Section 2.2 General Response 2 – Land Use / FEMA** for a response to this comment.
- 18 - 6 The comment contends that the proposed MSE wall will destabilize the earthen buttress. Please see **Section 2.1 General Response 1 – Geotechnical** for a response to this comment.
- 18 - 7 The comment contends the DEIR improperly used Project Design Features (PDF) and Standard Conditions of Approval (SCA) to avoid mitigation measures. The commenter misapplies the *Lotus* case for two primary reasons; (1) the geotechnical design and construction standards are an integral part of the Project description and Project design from inception, such that it would be nonsensical to evaluate the Project without such key design features, and (2) the Project Design Features are included as part of the Mitigation Monitoring and Reporting Program (MMRP).

The CEQA Guidelines define “project” as including “the whole of an action, which has a potential for resulting in either a direct physical change in the environment,

or a reasonably foreseeable indirect physical change in the environment...” (CEQA Guidelines §15378(a).) The term “project” refers “to the activity which is being approved and may be subject to several discretionary approvals by governmental agencies.” (CEQA Guidelines §15378(c).) “The term ‘project’ does not mean each separate governmental approval.” (*Ibid.*) “Mitigation” and related “Mitigation Measures,” by contrast, involve “feasible changes in any or all activities involved in the Project in order to substantially lessen or avoid significant effects on the environment” (CEQA Guidelines §15041(a)), characterized by any of the following:

- “(a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements.” (CEQA Guidelines § 15370.)”

Mitigation measures are applied to a Project to reduce environmental impacts. Mitigation measures are not a repeat of the Project description or Project characteristics integral to the Project itself.

In accordance with the City’s adopted CEQA Manual, the environmental document must evaluate and analyze the information provided by the Applicant in its application (CEQA Manual Page 6). This is consistent with the definition of a project under the CEQA Guidelines, which includes “the whole of an action” and refers “to the activity which is being approved” and not each separate approval (CEQA Guidelines §15378). In the case of the proposed Project, the Applicant provided a set of plans and several geotechnical studies and reports, all of which are listed in the DEIR. The City analyzed that information against the City’s established thresholds of significance to determine if mitigation would be required. In the case of this Project, the Applicant’s application package included geotechnical reports, which included recommendations for design and construction standards. The recommendations are an integral part of the Project description, incorporated since inception (as early as the application) and evaluated as a key part of the Project description in the EIR (CEQA Guidelines §15124).

In *Lotus*, the Court found that some of Caltrans’ “Avoidance Minimization and/or Mitigation Measures” incorporated into the highway construction project were properly characterized as Project Design Features, but that others were not. For example, “the use of ‘Cement Treated Permeable Base ... to minimize the thickness of the structural section, provide greater porosity, minimize compaction of roots, and minimize thermal exposure to roots from Hot Mix Asphalt paving’ were an integral part of the project itself (a highway construction project).” As such, the Court found “[i]t would be nonsensical to analyze the impact of using some other composition of paving and then to consider use of this particular composition as a mitigation measure.” (*Lotus v. Dep’t of Trans.* (2004) 223 Cal.App.4th 645, 657, fn. 8.) Likewise, with the proposed Project, it would be nonsensical to artificially eliminate the geotechnical studies, reports, plans and recommendations integral to the Project design from the analysis in the DEIR and then add those studies, reports, plans and recommendations back as mitigation measures. Therefore, the DEIR properly characterized and evaluated the geotechnical design and construction standards as Project Design Features. This was done intentionally to include an important part of the Project description in the Mitigation Monitoring and Report Program (MMRP). The City’s CEQA Manual states:

“The MMRP shall identify all required mitigation measures, standard conditions, and Project Design Features; the timing of each; and the responsible party for each. The MMRP shall be prepared in a matrix format.” (CEQA Manual Page 10)

The commenter’s contention that preparation of a final geotechnical report constitutes deferral of mitigation is also incorrect, in part for the reasons stated above. Additionally, the City’s CEQA Manual (Page 22) states:

“The Applicant’s geotechnical investigation will culminate in the preparation of a “preliminary” geotechnical report. This report will assess the feasibility of developing the Project site and provide recommendations for site preparation, such as remedial grading, subsurface drainage, subsurface structures such as caissons, etc. The title “preliminary” does not mean the geotechnical investigation is insufficient or incomplete. The “preliminary” report is prepared for CEQA and a “final” geotechnical report is prepared prior to issuance of a grading permit. The difference between the “preliminary” and “final” reports is the “final” report includes engineering and design details at the construction level that support and are consistent with the findings included in the “preliminary” report.”

The process of preparing a preliminary and final geotechnical report is not only expressly contemplated by the City’s CEQA Manual (Page 22, above), but is also standard practice and not unique to Laguna Niguel. Please see **Section 2.1 General Response 1 – Geotechnical** for more information.

18 - 8 The comment suggests the stability calculations run by AGI and reviewed by the City must be re-run because of the number of non-valid solutions in the model output. Please see **Section 2.1 General Response 1 – Geotechnical** for more information.

The comment includes an excerpt from Appendix F-4, Table 3. The referenced selection in the comment does not accurately reflect the extent of the slope stability analyses performed by AGI, which are based on approximately 2,000 trial surfaces. When assessing slope stability, an engineer must select the most critical surface or the surface with the lowest Factor of Safety. The non-converged trial surfaces generated by the software program is for statistical evaluation purposes. It does not impact the validity of the results of the slope stability analyses. The software program tells the user that the software program has randomly generated 2,000 trial surfaces and the number of non-converged trial surfaces based on the 2,000 trial surfaces has been identified by the software program. The non-converged trial surfaces generated by the software program has been discarded by the software programs and the ten (10) most critical trial surfaces has been selected and presented in the software program output. Regardless of the percentage of non-converged trial surfaces generated by the software program (GSTABL7), the ten (10) most critical of the trial failure surfaces have been evaluated with the most critical trial failure surface presented first in the computer output. As such, AGI analyzed various conditions and obtained the ten most critical of the trial failure surfaces for each condition analyzed. The City’s geotechnical reviewer conducted a detailed review of the AGI report and provided a geotechnical review sheet for AGI to respond.

The City’s geotechnical reviewer, GMU Geotechnical, Inc. provided comments in the City’s Geotechnical Review Sheet dated February 15, 2021. A copy of the City’s February 15, 2021 Geotechnical Review Sheet was included in the AGI’s response report dated April 2, 2021 (DEIR Appendix F3, Appendix A). Comment No. 3 in the City’s February 15, 2021, Geotechnical Review Sheet stated that “partial removal of the toe and keyway of the lower buttress, provide both static and seismic stability calculations for failure planes that extend from the new toe of the slope, below the MSE wall and through the slope above. Both circular and block type failure planes should be searched for Sections DR-DR’ and J-J’.” AGI

performed additional slope stability analyses per the City’s February 15, 2021, Geotechnical Review Sheet and provided results of the supplemental slope stability analyses in the referenced response report dated April 2, 2021 (DEIR Appendix F3). As such, the slope stability analysis reviewed by the City included the MSE wall excavations proposed at the toe of the buttress.

The comment also suggests that stability calculations are based on discretionary values that can skew the results. As discussed in AGI’s initial January 8, 2021 report (DEIR Appendix F4), the shear strength parameters used in the stability analyses are based on the shear strength parameters obtained from laboratory testing and compared with the shear strength parameters shown in the referenced reports (e.g., reports for Niguel Summit Landslide repairs). The conservative parameters based on the lowest bound shear strength for all types of soils and/or bedrock materials were utilized in the slope stability analyses and are presented in Table 2 (page 23, DEIR Appendix F4). Since conservative shear strength parameters were intentionally used, there is an argument that actual strengths are even higher than those chosen for the purpose of conservative analyses. Gathering additional data regarding select strength parameters by compiling a list of strength parameters utilized for other projects in the area in similar materials is unnecessary because site specific, the lowest-bound shear strength parameters for all types of onsite soils, landslide debris, and bedrock materials were evaluated and adopted in the slope stability analyses.

18 - 9 The comment contends that the proposed MSE wall will destabilize the earthen buttress. Please see **Section 2.1 General Response 1 – Geotechnical** for a response to this comment. Furthermore, the commenter is correct that MSE walls are designed to accommodate a certain amount of slope creep as opposed to rigid vertical retaining walls. MSE walls use geogrid placed into the hillside, which is anchored by the weight of the fill on top of the geogrid, which does not constitute “floating” as suggested by the commenter. The comment contends, “It is just a matter of time before homes will also be damaged.” However, the commenter does not provide any evidence to substantiate the claim. To the contrary, the geotechnical reports included in Appendix F and DEIR Section 4.6 include an analysis of the stability of the MSE wall and there is no evidence of likely failure or damage to structures. Furthermore, MSE walls are commonly installed within Laguna Niguel and other South Orange County cities, without a high or abnormal rate of failure.

18 - 10 The comment suggests the Applicant’s geotechnical engineer has changed its conclusions regarding slope stability, however no evidence is provided to substantiate this claim. The comment is noted and will be forwarded to the decision-makers. No further response is necessary.

- 18 - 11 The commenter requests an “independent third party geotechnical consultant” that is not associated with the developer or City. The City has hired Goffman, McCormick, and Urban (GMU) as its independent geotechnical engineering firm. GMU is responsible for reviewing all reports and plans submitted to the City. GMU has no conflict of interest and is responsible for independently reviewing plans to ensure hillside safety and compliance with adopted codes. Furthermore, in order for the City to certify the DEIR, the City must make findings of independent judgement, which is the process by which the City and its consultants, such as GMU, independently review applicant proposals.
- 18 - 12 The comment suggests that as a result of the Coastal Fire the analysis in Section 4.14 should be revised and wildfires in the City should be recharacterized to something other than rare. First, the Coastal Fire that recently occurred within the City was a devastating event that is still being evaluated. To state that because a devastating wildfire recently occurred in the City that wildfires are no longer rare in the City is incorrect. The City has had very infrequent wildfires and they are a rare event when viewed over the history of the City. Second, the conditions surrounding the Coastal Fire are very different than the Project site. The vegetative fuel type; orientation of the homes to prevailing winds and the aspect of the slope; vegetation density and maintenance status of fuel modification; and age of construction of structures. The proposed Project has an approved fuel modification plan that meets Orange County Fire Authority’s (OCFA) standards. That does not change because of the Coastal Fire. Furthermore, Niguel Summit has responsibility for its own fuel modification. Only a portion of the slope above the Project site is within the control of the Applicant. The Applicant can only implement fuel modification on its own property. Surrounding neighborhoods, including Niguel Summit are responsible to implement its own fuel modification, regardless of the status of the proposed Project. The OCFA has reviewed the proposed Project against its standards and codes and has provided approval to move forward through the entitlement process. The commenter has not provided any substantial evidence to the contrary.
- 18 - 13 Please see Response to Comment 18-7 for a response regarding the use of Project Design Features and the inclusion of Project Design Features within the MMRP.
- 18 - 14 The comment suggests the DEIR does not discuss fire evacuation routes. Two thresholds of significance apply to emergency evacuation. CEQA Guidelines Appendix G Section IX. Hazards (f) states, “would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?” CEQA Guidelines Appendix G Section XX. Wildfire (a) states, “would the project substantially impair an adopted emergency response plan or emergency evacuation plan?” The City’s CEQA Manual relies on

both of those questions as thresholds of significance to discuss and evaluate fire evacuation routes.

The proposed Project has one driveway access onto Crown Valley Parkway. Crown Valley Parkway is the emergency evacuation route for the proposed Project as well as other communities within Laguna Niguel. The proposed Project does not take access through another residential community, such as Niguel Summit or others, nor would the proposed Project add traffic volume onto evacuation roadways from Niguel Summit leading to Crown Valley Parkway. There is no evidence in the record that the proposed Project would “impede” or “impair” emergency response or evacuation. The proposed Project would generate on an average daily basis less than one half of one percent of the traffic on Crown Valley Parkway². Furthermore, the Project does not include physical changes, such as new driveways, traffic signals, curves, or other physical changes that could impede or impair emergency response or evacuation. Lastly, the commenter does not provide any evidence into the record contradicting the analysis included in the DEIR to substantiate the claim that that the proposed Project would “impede” or “impair” emergency response or evacuation.

- 18 - 15 The comment repeats the commenter’s contention the DEIR improperly used Project Design Features (PDF) and Standard Conditions of Approval (SCA) to avoid mitigation measures. Please see Response to Comment 18-7 for the response to this topic.
- 18 - 16 Please see **Section 2.1 General Response 1 – Geotechnical**, and Response to Comments 18-7, 18-14, and 18-15. Furthermore, the DEIR states that Lot A will remain as open space. Lot A generally represents the remediated slope. The DEIR recognizes that a small portion of the slope will be modified for the proposed Project. It was not the intention of the DEIR to suggest that the entirety of the slope or remediated land slide would remain as open space.
- 18 - 17 The comment suggests the DEIR does not analyze cumulative impacts related to hazards, specifically landslide/geotechnical and wildfire risks. The CEQA Guidelines within Section 15130 provides that “An EIR shall discuss cumulative impacts of a project when the project’s incremental effect is cumulatively considerable, as defined in Guidelines Section 15065(a)(3).” That section defines “cumulatively considerable” to mean “that the incremental effects of an individual

² The current traffic volumes on Crown Valley Parkway are approximately 27,083 vehicles per day. The proposed project will add approximately 161 average daily trips over a 24-hour period, with approximately 10 trips during the morning peak hour and 12 trips during the evening peak hour. The additional traffic generated by the proposed project represents approximately one half of one percent of the traffic volumes on Crown Valley Parkway.

project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” (CEQA Guidelines § 15065.) The DEIR determined that there are no other past, present, or probable future projects within the vicinity of the Project site whereby the proposed Project would cumulatively contribute to landslide/geotechnical and/or wildfire impacts.

18 - 18 The comment asserts the DEIR did not analyze a reasonable range of Project alternatives. CEQA Guidelines Section 15126.6(a) states:

“An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation. An EIR is not required to consider alternatives which are infeasible.”

Pursuant to CEQA Guidelines Section 15126.6(a), alternatives must 1) attain most of the basic objectives of a Project, 2) avoid or less significant impacts, and 3) be feasible. To attain the most basic of Project objectives, an off-site alternative must be of approximately the same size (two or more acres) and have a similar zoning designation (RM) in order to approximate the proposed Project. Additionally, the off-site alternative must be available to be acquired, (i.e., for sale) to be considered a feasible alternative. The DEIR analyzed the feasibility of off-site alternatives and determined that no properties over two acres with a RM zoning designation are available for acquisition. Therefore, no feasible off-site alternative exists.

The comment suggests that because the Project site is not listed on the City’s Housing Element housing inventory the City does not believe it is suitable for residential development. First, this statement is incorrect and not supported by facts. The Project site is listed in the City’s current Housing Element housing inventory on Table B-2 for 41 dwelling units.

As stated in CEQA Guidelines Section 15126.6(a), one component of a reasonable alternative is to “avoid or substantially lessen any of the significant effects of the project.” Since the DEIR concluded based on evidence in the record that development of the Project, which includes a small modification to the remediated landslide, is feasible and does not cause a significant impact, there is no obligation

to analyze alternatives that avoid the remediated hillside, as suggested by the commenter. Furthermore, it should be noted that while the proposal was not approved by the City, the City's geotechnical review determined that a 38-lot proposal with development on the remediated landslide and buttress fill is feasible.

The comment also states that the DEIR did not analyze a reasonable range of Project alternatives, however, the comment fails to explain why the Project alternatives analyzed is not a reasonable range and what alternatives that are reasonable were not analyzed. As stated above, the DEIR was not obligated to analyze an alternative that completely avoids impacts to the buttress fill because there is no evidence showing that modifying the buttress fill constitutes a significant impact.

18 - 19 The comment suggests the rerouting of existing storm drains was not analyzed and could lead to slope instability. The comment also repeats an incorrect allegation of improper use of Project Design Features. In response to this repeated allegation, please see Response to Comments 18-7 and 18-15.

As shown on Figure 4.9.A Utility Plan (DEIR Page 4.9-9), existing storm drain crosses the proposed Lot 1 and connects to an existing storm drain under Crown Valley Parkway. The proposed Project maintains the same storm drain connections and only adjusts the alignment of the storm drain crossing Lot 1 to be located under proposed streets and out of development area. As demonstrated in the DEIR, the proposed storm drain alignment and pipe sizes are larger than existing to accommodate existing and proposed storm flows. The Hydrology Analysis included in DEIR Appendix I demonstrates that the proposed storm drain system will convey storm flows without impacts.

The comment makes numerous statements about the importance of subdrains to landslide stability. The general statement that subdrains and subdrain maintenance are important to landslide stability is an accurate statement. However, the commenter is mistaken in assuming the realignment of storm drain pipes within the development area constitutes either a removal or impact to subdrains, which it does not. The Project proposes to maintain in its current condition the subdrain system within the landslide mass and buttress fill. The only adjustments would occur within the development area and the development is obligated to continue to convey groundwater flows through the subdrain system. It is important to note that the vast majority of the subdrain system that is critical to maintaining hillside stability falls within the ownership of the Niguel Summit HOA. Figure 1 to these responses includes a graphic that shows the locations of the subdrains installed as part of the

landslide remediation. The graphic also depicts the Niguel Summit HOA boundary and the Project boundary. As shown on this graphic, the majority of the watershed, storm drain pipes, and subdrains are located on the Niguel Summit HOA property. As accurately stated in the comment, the Niguel Shores HOA has the responsibility and obligation to regularly maintain the subdrains to ensure slope stability.

- 18 - 20 The comment suggests the Energy analysis is deficient for not requiring installation of solar panels. Consistent with the City’s CEQA Manual, the DEIR replied on the two thresholds of significance from CEQA Guidelines Appendix G. Those thresholds are whether a project would result in a “wasteful, inefficient, or unnecessary consumption of energy resources” and if the project would “conflict with or obstruct a state or local plan for renewable energy or energy efficiency.” The DEIR analysis determined that the Project would neither result in wasteful or inefficient use of energy or conflict/obstruct a state or local energy plan. Impacts were determined to be less than significant. Nothing in CEQA nor the City’s CEQA Manual mandates the installation of solar panels. However, the Project is subject to current building codes, including Title 24 of the California Building Code and the Green Building Code. The mandate for solar or solar readiness would come through code compliance, not CEQA.
- 18 - 21 The comment states the DEIR makes no effort to explain the City’s threshold of 3,000 MTCO₂e of greenhouse gas emissions. The DEIR explains on Page 4.7-3 that the City’s CEQA Manual establishes the threshold of significance for GHG emissions, which is based on guidance from South Coast Air Quality Management District (SCAQMD). Please see the City’s adopted CEQA Manual for more information.
- 18 - 22 The comment suggests the Project conflicts with the applicable air quality plan because the Project site has a general plan designation of open space. The commenter is incorrect and the General Plan designation for the Project site is Residential Attached. Please see **Section 2.2 General Response 2 – Land Use / FEMA** for further information.
- The comment questions the assumptions used for the air quality analysis of construction operations. The DEIR used the construction phasing provided by the Applicant. DEIR Page 4.2-13 states, “Based on the information provided by the Project Applicant, the proposed Project would consist of varying construction phases. The construction phases would include scheduled site preparation, grading and wall construction, building construction, paving, landscaping, and architectural coating (painting) activities. The anticipated site preparation and grading would take place over approximately 50 workdays (10 weeks) and vertical construction of

the proposed condominium style homes would occur over an additional approximately 220 workdays (10 months.” The phasing assumptions were input into the CalEEMod, the air quality model used to assess emissions.

- 18 - 23 The comment questions construction noise assumptions and operational noise sources, such as air conditioning equipment. Appendix K of the DEIR includes the Noise and Vibration Analysis Report, which states on Page 19:

“Construction of the proposed Project will include three distinct time periods during which several components would occur. In the first phase, noise will be due to site preparation, excavation, and grading of the site. In the second phase, noise would be from construction of building foundations, framing, and building construction. In the last construction period, noise exposure would be caused by activities involving paving, concrete installation, and landscaping.

Of the above, the grading/excavation component of construction typically generates the highest noise levels due to higher utilization of heavier machinery and the need for use of haul trucks at the Project site to export or import soil as may be needed.”

The Noise study further states on Page 20 based on input from the Applicant:

“Grading/excavation of the Project site would take place over a period of two to six working weeks. The equipment to be utilized during peak grading activities period include two (2) scrapers, one dozer, one motor grader, and one water truck.”

The commenter suggests the DEIR should also analyze other noise sources typical of residential uses, such as “air conditioners, residential noise, and the like.” The proposed Project is a residential neighborhood adjacent to other residential neighborhoods. The surrounding residential neighborhoods all generate similar sounds as the proposed Project, such as air conditioners, gardeners, children playing, people talking, etc. Such sources are already part of the ambient noise setting in the area and generate sound levels that are well below traffic noise levels from Crown Valley Parkway. Since the surrounding residential neighborhoods have similar sound sources, and the noise being generated from within those surrounding residential neighborhoods is much closer than the proposed Project, there is no need to analyze residential sounds from the proposed Project.

- 18 - 24 The comment suggests the biological study of the Project site was inadequate, but does not provide any specific comments on the analysis. Appendix D to the DEIR

includes a Biological Resource Assessment (BRA). The BRA identified existing vegetation types on the Project site and observations of wildlife species. The BRA concluded that no native habitats exist on the Project site and no sensitive species were observed or likely to occur given the lack of native habitat.

The comment also suggests that Mitigation Measure BIO-1 (MM BIO-1) constitutes deferral of mitigation. MM BIO-1 requires nesting bird surveys if vegetation removal occurs during nesting bird season. It is impossible to perform meaningful nesting bird surveys at the time of the DEIR and inherently those surveys need to occur at the time of construction. MM BIO-1 includes performance standards including the amount of time the surveys are valid (3-days prior to construction) and the distance of buffers around a nest should one be found on site. As such MM BIO-1 does not constitute deferral of mitigation and is a mitigation measure commonly applied to Projects throughout California and recommended by the wildlife agencies including the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service.

- 18 - 25 The comment suggests that Section 4.12 of the DEIR does not include a trip estimate for weekends. On September 27, 2013, Senate Bill (SB) 743 was signed into law requiring public agencies modify the methodology for analyzing transportation impacts from delay-based level of service (LOS) to vehicle miles traveled (VMT). Trip estimates, such as suggested by the commenter, are used for delay-based LOS analysis, which is no longer applicable to CEQA following the passage of SB 743. As such, the transportation analysis pursuant to CEQA no longer relies on trip estimates and instead relies on vehicle miles traveled.

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Comment Letter 19 – Shaun Wiebe-Bailey & Victoria Leigh (May 26, 2022)

From: Shaun Wiebe-Bailey <swiebeba@gmail.com>
Sent: Thursday, May 26, 2022 8:20 PM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Cc: Dr. Victoria L. Leigh <drvictorialeigh@gmail.com>
Subject: Opposed to the Cove at El Niguel Development Project

To Whom it May Concern:

19-1

We strongly oppose the Cove at El Niguel Development Project.

We believe it is important to preserve the open space as it currently stands after the 1998 landslide.

19-2

Our concerns are that any construction would disturb the integrity of the slope.

We hope the city of Laguna Niguel will take our comments and concerns into consideration, and reject the proposed plan to develop the open space at Crown Valley Parkway and Paseo Del Niguel.

Sincerely,

Dr. Shaun Wiebe-Bailey and Dr. Victoria Leigh
30492 Via Estoril

Response 19 – Shaun Wiebe-Bailey & Victoria Leigh (May 26, 2022)

- 19 - 1 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers. The commenter references preserving open space, however the Project site is not zoned for open space. Please see **Section 2.2 General Response 2 – Land Use / FEMA** for further information.
- 19 - 2 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers. The commenter references the previous landslide and geotechnical safety, which are addressed in Section 4.6 of the DEIR and **Section 2.1 General Response 1 – Geotechnical**.

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Comment Letter 20 – Steve Clark (May 27, 2022)

From: Steve Clark <sclark930@att.net>
Sent: Friday, May 27, 2022 8:01 AM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Subject: Proposed Development: The Cove at El Niguel

20-1

My name is Steve Clark and I moved to Laguna Niguel in August 2001 so I am approaching 21 years that my family and I have lived in the City. Our home is located one street above the center of the slide area at 30572 Mirandela Lane. I moved in to our home about three years after the slide occurred that saw about 10 homes wiped out that were on Via Estoril. I was very concerned about purchasing our Mirandela home at the time but I did some due diligence with the City and the neighborhood. I was told by the City of Laguna Niguel in 2001 that the 4.9 acres of land that was involved in the slide would never be built on again. I was told that the slope area that experienced the slide was now one of the safest in Orange County as it had a large supporting wall of concrete with pylons secured into bedrock and that this support resembled a mini Hoover Dam structure. This gave me a piece of mind in investing in an expensive home that was just above a major slide area. My family loves living in Laguna Niguel and the beauty of the surrounding landscape.

20-2

Now, 20 years later, the City of Laguna Niguel is entertaining a 22 home development in this very area that experienced a major earth slide that destroyed 10 homes and made national news. I am perplexed as to why the City of Laguna Niguel would entertain this developmental project. Real Estate Developers are always going to want to make money on new land developments -- even small parcels like this and I understand their motivation. However, I do not understand the motivation for the City of Laguna Niguel for now looking at approving a home development in this very small land space --- financial gain for more revenue dollars is the only thing that comes to my mind and the City is not in a bad financial condition that would warrant such action. Not that long ago, the City of Laguna Niguel built a beautiful City Hall and Library complex and I understand that this was largely or completely paid off within a few short years. The City of Laguna Niguel does need the incremental revenue that will come from developing this small 4.9 acre land area. Much of this 4.9 acres is on a steep vertical so only 2 acres can really be developed. I do not feel that the City should reverse the decision of "No Development" from 20 years ago on this small parcel of land --- just to gain an incrementally small amount of new revenue. Many of our residents want to leave the land undeveloped (as it currently is) or have the City put in a small park area for residents that does not involve large earth movements.

20-3

I want the City Board, that will make this decision, to consider what has occurred with Orange County's "Great Park" development. Orange County was going to make the Great Park a wonderful place for families to go --- a small version of New York's Central Park. What we have after all of these years later is a balloon and more houses being built. No one views the Great Park as a success and a place for families to go to. I ask the City of Laguna Niguel to learn from this. There is very limited open land left in Orange County and Laguna Niguel is a

20-3
(cont)

wonderful city today. Let's not build out every square foot of land with new housing developments --- particularly in an area where a massive concrete retaining wall had to be built at great expense to keep the land from falling down.

My family would like to see either no development or a small park area that would not involve any significant movement of the existing land.

Thank you for taking my comments.

Best Regards,

Steve Clark
M 949 521-3812

Response 20 – Steve Clark (May 27, 2022)

- 20 - 1 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 20 - 2 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers. The commenter suggests the City previously determined no development would occur on the Project site. This statement is inaccurate. The Project site is not zoned for open space. Please see **Section 2.2 General Response 2 – Land Use / FEMA** for further information.
- 20 - 3 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.

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Comment Letter 21 – Adam Wood (May 27, 2022)

From: awood@bildfoundation.org <awood@bildfoundation.org>
Sent: Friday, May 27, 2022 10:21 AM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Subject: BILD/BIASC Comment Letter

21-1

Please see attached.

Thank you.

-Adam

Adam S. Wood

Building Industry Legal Defense Foundation
17192 Murphy Ave., #14445
Irvine, CA 92623
Direct: 949.777.3860

www.BILDFoundation.org

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May 27, 2022

Amber Gregg, Contract Planner
City of Laguna Niguel
30111 Crown Valley Parkway
Laguna Niguel, CA 92677

DELIVERED VIA EMAIL TO: AGREGG@CITYOFLAGUNANIGUEL.ORG

Re: The Cove at El Niguel, Draft Environmental Impact Report SCH No. 2021110122

Ms. Gregg:

21-2

On behalf of the Building Industry Legal Defense Foundation (BILD) and the Building Industry Association of Southern California (BIASC), I write to express our interest in the Cove at El Niguel in light of the Housing Crisis Act of 2019 and Housing Accountability Act. Our team has reviewed the development plans and draft environmental impact report. We find them to be thoughtful and appropriate for an infill redevelopment project at the selected location.

21-3

By way of background, BILD provides legal support, research and litigation services dedicated to increasing the production of housing in response to the State's overwhelming underproduction of housing. BIASC is the leading voice for thousands of building industry leaders who are committed to a better future for California by building communities, creating jobs and ensuring housing opportunities for everyone.

The Housing Crisis Act of 2019 and Housing Accountability Act (HAA), adopted and recently revised through legislation known as Senate Bill 330 (SB330), makes clear that a lack of housing is a critical problem threatening the economic, environmental, and social quality of life in California. Government Code 65589.5 states that it is "the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing."¹ Further that it "is the policy of the state that a local government not reject or make infeasible housing development projects" that contribute to meeting the need for housing without detailed findings.²

With this understanding, BILD specifically notes Government Code Section 65589.5(j)(1) which states that when "a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria... in effect at the time the application was deemed complete" very well defined and narrow findings supported by a preponderance of

¹ http://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65589.5&lawCode=GOV

² IBID, Section (b)

21-3
(cont)

the evidence are required as the only means to avoid a violation of the law if the project is not approved. The HAA places the burden of proof, with respect to the narrow findings, on the local agency, and violations can lead to an order directing a local agency to approve the project and pay attorney's fees (Government Code Section 65589.5). The Cove at El Niguel meets the criteria of a housing development project that complies with applicable, objective general plan, zoning, and subdivision standards and criteria.

It should be further noted that the Cove at El Niguel project site has been designated in City planning documents to accommodate residential development since at least the 1980s. Further, and perhaps more importantly, the City's 2021-2029 Housing Element currently identifies the project site as suitable for 41 units (the same number of units that previously existed at the site) and has categorized it as such since the previous, 2013-2021, Housing Element.

The current proposal is for about one-half of the dwelling units that the City must allow and substantially less than the 74 units that could be available through utilization of California Density Bonus Law (Government Code sections 65915 through 65918).³

BILD respects the importance of local control in land use decision making but stands in support of housing opportunity and remains vigilant in ensuring all relevant laws are followed related to the housing review and approval process. BILD and BIASC appreciate the opportunity to comment on the Cove at El Niguel as this is central to our missions of providing interpretation and enforcement of housing law. If there is any additional information we can provide or to discuss this matter further, please do not hesitate to contact us. We look forward to working with you to ensure housing opportunity is protected.

Sincerely,



Adam S. Wood
Chief Administrator
Building Industry
Legal Defense Foundation

³ It is notable, from a planning perspective, that the "Density Bonus" project would be entitled to incentives beyond density bonuses such as reduced parking requirements, and waivers of development standards for parking, setbacks, and height.

Response 21 – Adam Wood (May 27, 2022)

- 21 - 1 The comment provides a general introduction and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 21 - 2 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 21 - 3 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.

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Comment Letter 22 – George Straggas (May 27, 2022)

From: George Straggas <gds@straggaslaw.com>
Sent: Friday, May 27, 2022 10:20 AM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Cc: jstraggas@me.com
Subject: Objection to The Cove at El Niguel Project

To Whom It May Concern:

22-1

We are the owners of the real property and improvements located at 30602 Mirandela Lane, Laguna Niguel, California. We are vehemently opposed to the proposed project for the development of The Cove at El Niguel Project (“the “Project”).

[The Estoril Slide](#)

22-2

Attached is a copy of the Department of Conservation Division of Mines and Geology 1998 Landslide Inventory which describes the Estoril Slide (see, Page 5 of 11). The slope below Estoril began eroding almost five years prior to the eventual landslide that displaced 50 families (See, attached Los Angeles Times Article). On December 5, 1997, the rainstorm “damaged five condominiums, which were abandoned.” The4 backyard of one of the Estoril homes had dropped nearly five feet; then on March 19, 2018, two of the houses on Estoril collapsed. One day later, on March 20, 2018, “a third home on Via Estoril toppled down the headscarp of the landslide”. On March 24, 2018, “DMG received one other report from USGS of continued movement on the Laguna Niguel Landslide where at least 10 condos were evacuated and five more were destroyed.” On March 29, 2018 “a fourth house, adjacent to the other three collapsed on Via Estoril, split in half, and plunged into the graben of the slide.”

[The Geology](#)

22-3

-
 We purchased our home on Mirandela after the landslide had occurred on Estoril. We commissioned a geological report from Gregory W. Axten, a Registered Professional Engineer who had acted as one of the experts for the litigation that resulted from the slide. Attached is a copy of Mr. Axten’s report, which states in relevant part:

22-3
(cont)

On the opposite side of Via Estoril, the 1998 landslide occurred. About nine homes at the top-of-slope were demolished during the course of the landslide and repair operation. Additionally, townhomes in a pre-existing project were destroyed at the base of the landslide. Although theoretically a repair could have been designed to restore the previous homes and townhomes below, repairs involving restoration of the homes would have been far more expensive. To repair the landslide, on the order of 450 to 500 tieback anchors were constructed in the slope area below Via Estoril. Each has a service capacity on the order of 200,000 to 300,000 pounds. Additionally, much of the landslide mass was removed during a grading operation which excavated through the landslide surface. The landslide material was replaced with compacted fill. A major factor contributing to the landslide was significant buildup of groundwater. In conjunction with landslide stabilization, major drain systems were installed beneath the repaired area.

Importantly, the homes that were destroyed on Estoril were never replaced. Rather, the slope was carefully rebuilt, and appropriate drainage was installed to avoid the buildup of pressure on the slope. It was not anticipated that these important safety improvements would be disturbed by a new development like the Project.

In addition, Mr. Axten explained to us that the land beneath Mirandela Lane is solid rock, while the land on Estoril and where the Project will be built is loose glacial deposits of soil that, in essence, are clinging to the solid land beneath Mirandela. His conclusion was that the Estoril disaster could have been predicted. In our view, it should not be repeated.

FEMA Money/Lawsuit Settlements

22-4

- Attached is a printout from [FEMA.gov](https://www.fema.gov) which describes the incredible difficulties experienced by the City of Laguna Niguel related to the Estoril slide (see, also, the attached LA Times Article). Significant valuable community resources were exhausted trying to obtain federal funding to mitigate the cost of the Estoril disaster. Eventually, FEMA denied at least some of the relief that the City was seeking. FEMA cited the fact that funding had been provided to victims through the insurance settlements that resulted from the litigation. In other words, all landowners were made whole from insurance proceeds.

Fire Danger

22-5

- We were recently evacuated during the Coastal Fire. The fire was mainly at Coronado Pointe, but a portion of Clubhouse Drive near Mirandela also burned. One of the reasons why the Coronado Pointe houses burned so quickly was that the fire raced uphill to the houses located on the ridge at the back of the development. This was fueled by strong coastal winds.

The area where the Project will be built is located in a wind funnel that comes up from

22-5
(cont)

the Salt Creek Beach area. Every single day, usually from about 2:00 p.m. to about 6:00 p.m., steady winds blow up from Salt Creek Beach toward Mirandela. If a fire broke out in the area where the Project is located, the planned homes would provide enormous amount of fuel to a fire that will almost certainly move uphill towards Mirandela.

The Project is Ill-Advised and Unnecessary

22-6

Over the past few years, the density of housing developments in Laguna Niguel has increased significantly. The developments at blu Laguna Niguel, Broadstone Cavora, and related developments, have had a more modest impact upon the City center area because of their proximity to the Interstate 5 freeway.

However, the Project will introduce extreme added density to the Clubhouse Drive area. This will have negative traffic impacts on Clubhouse Drive, Niguel Road, and Crown Valley Parkway. In addition, the planned entrance from Crown Valley Parkway is potentially hazardous.

Conclusion

22-7

Laguna Niguel is a very special place. While Mission Viejo and Laguna Beach are strangled with traffic density, Laguna Niguel has maintained significant open space. This includes defensible separate of residences to avoid disastrous wildfire damage.

Please do not approve the Project.

Sincerely,

George Straggas and Janet Straggas

George D. Straggas

GEORGE D. STRAGGAS | MANAGING SHAREHOLDER

PLEASE NOTE OUR NEW ADDRESS AS OF 7/27/21

STRAGGAS

STRAGGAS LAW GROUP, APC

6 Venture, Suite 235, Irvine, California 92618

P (949) 660-9100 | F (949) 660-9144

EMAIL: gds@straggaslaw.com

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5/27/22, 9:57 AM

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[Here's how you know](#)



After You Apply

Laguna Niguel, Niguel Summit/Crown Cove Acquisitions

Appeal Brief

Appeal Letter

Appeal Analysis

Appeal Brief

Applicant
California Governor's Office of Emergency Services
Appeal Type
2nd
Project Number
101
Date Signed
2008-05-19T00:00:00

1st Appeal

• Issue

o Originally approved HMGP funding was for purchase of 30 properties to mitigate landslide risk in the location of a steep slope. However, it was found that homeowners were compensated by legal settlements with the developer of the project site, where the slope had been stabilized. The California Office of Emergency Services (OES) stated that the project no longer met a "public purpose" nor met HMGP priorities, because of the non-public settlement associated with compensation and the slope stabilization. When FEMA Region IX de-obligated

https://www.fema.gov/hmcp-appeals/1203/101-2nd#appeal_analysis

1/6

5/27/22, 9:57 AM

Laguna Niguel, Niguel Summit/Crown Cove Acquisitions | FEMA.gov

the funds, the City of Laguna Niguel appealed. Region IX denied the appeal.

- Reason for Denial

- o Region IX based the 1st appeal on the determination that the project no longer met the HMGP priorities and eligibility criteria for the previously funded project.

- Reference(s)

- o 44 CFR 206.434 Eligibility; 44 CFR 206.440 Appeals

2nd Appeal

- Issue

- o The subgrantee claimed that the issues raised by FEMA had been addressed and approved by OES, that there was a valid public purpose for the project, the scope of work (SOW) had been unchanged since the time of the approved application, all necessary environmental exceptions were obtained, land use restrictions and ordinances had been established, and that an eligible private non-profit owner had been established.

- FEMA Findings

- o FEMA HQ denied the 2nd appeal, upholding Region IX's decision to deny the 1st appeal.
- o The rationale for the 2nd appeal denial was that the project did not comply with applicable statutory and regulatory requirements. The project violated the provision in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) regarding the duplication of benefits (DOB), because a private third party agreed in settlements with the property owners to repurchase the properties included in the application SOW. Therefore, the HMGP assistance would have duplicated funding from another source for the same purpose, that of acquiring the properties.

- o Reference(s): 44 CFR 206.440 Appeals; 44 CFR 206.434 Eligibility; Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Section 312, Duplication of Benefits

Appeal Letter

MAY 19 2008

FEMA
500 C Street, SW
Washington, DC 20472

Frank McCarton
Governor's Authorized Representative
Governor's Office of Emergency Services
3650 Schriever Avenue
Mather, California 95655

Dear Mr. McCarton:

https://www.fema.gov/hmfp-appeals/1203/101-2nd#appeal_analysis

2/6

5/27/22, 9:57 AM

Laguna Niguel, Niguel Summit/Crown Cove Acquisitions | FEMA.gov

I am replying to the July 2003 submittal of information for the second appeal by the City of Laguna Niguel. As an initial action, on March 7, 2000, the California Governor's Office of Emergency Services (OES) requested that the Department of Homeland Security's Federal Emergency Management Agency (FEMA) de-obligate approved project funding for the Hazard Mitigation Grant Program (HMGP) Project 1203-1001-101, City of Laguna Niguel, Niguel Summit/Crown Cove Land Acquisition project. This funding was a subgrant of approximately \$5.5 million to be used as the Federal share toward purchase of 30 properties in the City of Laguna Niguel (the subgrantee) to mitigate landslide risk. At that time, OES stated the project no longer met a "public purpose" because homeowners had been compensated by legal settlements with the developer, and the slope had been stabilized.

As requested, the FEMA Region IX Office de-obligated the funds on March 14, 2000. In a letter dated May 12, 2000, the City of Laguna Niguel appealed the de-obligation action to FEMA Region IX. On August 21, 2000, FEMA denied this first-level appeal, based on the determination that the project no longer met the priorities and eligibility criteria for Project 1203-1001-101. On August 29, 2000, OES informed the city of the denial. OES also informed the city it could file a second and final appeal within 60 days, in accordance with appeal procedures cited in the Code of Federal Regulations (CFR) Title 44 -Emergency Management and Assistance, specifically 44 CFR 206.440(c). On February 12, 2001, the city sent a letter directly to FEMA Headquarters, requesting a second and final administrative appeal. Subsequently, additional coordination among the city, OES, and FEMA Region IX resulted in a request dated November 13, 2002, to re-obligate funds for the project. The request was denied by FEMA Region IX. As a result, the City of Laguna Niguel submitted, through OES, an additional "second appeal" request to FEMA Headquarters on May 29, 2003. The supplementary supporting material was sent on July 18, 2003.

After extensive review, I am denying the appeal, and the funds shall not be re-obligated for this project. The appeal is denied because the project does not comply with applicable statutory and regulatory requirements. Specifically, the project violates a provision in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) regarding the duplication of benefits.

The Laguna Niguel landslide occurred on March 18, 1998. Lawsuits against the original property developer, a third party to the subgrant relationship between the city and the State, were settled throughout 1998. According to documentation submitted as part of the appeal, the City of Laguna Niguel stated the developer had reached, or was likely to reach, settlements with the home and condominium owners, and the properties would be part of a larger landslide mitigation project. Ultimately, all properties included in the project application scope of work were the subjects of settlements in which the developer agreed to repurchase the properties from the home and condominium owners.

https://www.fema.gov/hmgs-peals/1203/101-2nd#appeal_analysis

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In this case, the properties included in the application were already subject to acquisition by a third party pursuant to legal settlements, so the provision of Stafford Act assistance to the property owners would duplicate amounts available for the same purpose from another source. In this situation, funds were requested for an activity (acquiring property from homeowners) that had already been funded through an alternative mechanism - the agreement by a third party to acquire the properties. FEMA has no discretion to disregard the statutory prohibition against duplicating benefits. Therefore, HMGP funds cannot be authorized to fund compensation available from other sources or fulfill obligations arising from independent legal responsibilities.

FEMA has determined the project, as submitted, remains ineligible for funding. The primary basis for this determination is Section 312 of the Stafford Act (42 USC 5155), which prohibits the duplication of benefits reasonably available or received. Specifically, any program providing financial assistance to persons or other entities shall ensure those entities will not receive such assistance, if they receive or have assistance available to them from any other program, insurance, or any other source. In this particular case, the third party, which agreed to repurchase the properties from homeowners as a result of litigation, is considered to be such a source.

Accordingly, the second appeal is denied. If OES or you have any questions regarding this matter, please contact Sally Ziolkowski, Director, Mitigation Division of FEMA Region IX, by telephone at (510) 627-7103.

Sincerely,

David I. Maurstad
Assistant Administrator
Mitigation Directorate

DM:cr

cc: Rebecca Wagoner, CA State Hazard Mitigation Officer, OES
Nancy Ward, Regional Administrator, FEMA Region IX
Sally Ziolkowski, Director, Mitigation Division, FEMA Region IX

Appeal Analysis

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California OES requested FEMA Region IX in March 2000 to de-obligate \$5.5 million on the basis that a HMGP acquisition project was no longer eligible, because it no longer had a public purpose and nor met HMGP priorities. Region IX concurred with OES's request to de-obligate. When the subapplicant appealed and OES recommended denial, Region IX denied on August 21, 2000, based on the determination that the project no longer met the priorities and eligibility criteria for Project 1203-1001-101. By letter of February 12, 2001, the city requested a second and final administrative appeal.

Subsequently, additional coordination between the city, OES, and FEMA Region IX resulted in a request dated November 13, 2002, to re-obligate funds for the project. The request was denied by FEMA Region IX. The City of Laguna Niguel then submitted, through OES, an additional "second appeal" request to FEMA Headquarters on May 29, 2003. The supplementary supporting material was sent on July 18, 2003.

The second appeal was denied by letter of May 19, 2008, from FEMA HQ, stating that the project did not comply with applicable statutory and regulatory requirements, violating a provision in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) regarding the duplication of benefits.

The Laguna Niguel landslide occurred on March 18, 1998. Lawsuits against the original property developer, a third party to the subgrant relationship between the city and the State, were settled throughout 1998. According to documentation submitted as part of the appeal, the City of Laguna Niguel stated the developer had reached, or was likely to reach, settlements with the home and condominium owners, and the properties would be part of a larger landslide mitigation project. Ultimately, all properties included in the project application scope of work were the subjects of settlements in which the developer agreed to repurchase the properties from the home and condominium owners.

In this case, the properties included in the application were already subject to acquisition by a third party pursuant to legal settlements, so the provision of Stafford Act assistance to the property owners would duplicate amounts available for the same purpose from another source. Funds were requested for an activity (acquiring property from homeowners) that had already been funded through an alternative mechanism - the agreement by a third party to acquire the properties.

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American Geotechnical
Protecting Your Future

October 28, 2002

File No. 32228.01

Mr. & Mrs. George Straggas
4400 MacArthur Blvd., Suite 700
Newport Beach, CA 92660

Subject: **LIMITED REVIEW**
30602 Mirandela
Laguna Niguel, California

Dear Mr. & Mrs. Straggas:

I was pleased to be able to meet with you today and your agent to review the home that you are proposing to purchase. Per our agreement, our review is considered a "limited review." No subsurface investigation has been conducted; no marginally accessible spaces such as attics have been examined. Our conclusions as presented herein are based upon our site observations as well as our experience and judgment. As was discussed with you in the field, American Geotechnical does have considerable experience working in this area. A major landslide occurred below Via Estoril, the street below, in approximately March 1998. American Geotechnical was on board with the association prior to the occurrence, during the investigation, and through the repair operations. American Geotechnical continues to monitor the behavior of the repaired area. This report has been prepared for your review and follows field discussions of many of the issues described herein.

The home that you are proposing to purchase is a two story, wood frame home with tile roof and stucco exterior. The house is situated on an essentially level lot with an approximately 30 foot deep rear yard. At the back of the property a slope descends approximately 20 feet to Via Estoril below. On the opposite side of Via Estoril, the 1998 landslide occurred. About nine homes at the top-of-slope were demolished during the course of the landslide and repair operation. Additionally, townhomes in a pre-existing project were destroyed at the base of the landslide. Although theoretically a repair could have been designed to restore the previous homes and townhomes below, repairs involving restoration of the homes would have been far more expensive. To repair the landslide, on the order of 450 to 500 tieback anchors were constructed in the slope area below Via Estoril. Each has a service capacity on the order of 200,000 to 300,000 pounds. Additionally, much of the landslide mass was removed during a grading operation which excavated through the landslide surface. The landslide material was replaced with compacted fill. A major factor contributing to the landslide was significant build up of groundwater. In conjunction with landslide stabilization, major drain systems were installed beneath the repaired area.

Review of the property that you propose to purchase indicates no landslide influence. In conjunction with our earlier studies, no landslide influence was ever detected on the homes along Mirandela. Having said that, there are some indications of other geotechnical influences at the property. The property is believed to be a compacted fill lot. The fill in the area is substantially clayey. The fill in most of the area is judged, in most cases, to be moderate to highly expansive. Although indications of minor or normal settlement was noted in some of the homes, no unusual or major settlement was encountered anywhere. Expansive soil influences were detected. Some expansive soil influence has been discussed with you in the field. Expansive soils tend to swell when moisture is introduced and shrink when it dries. The swelling pressure that can develop can easily lift most structures. Ideally, foundation systems are

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American Geotechnical

designed which are sufficiently strong and stiff to resist the deformation and cracking associated with expansive soil. The foundation systems in this area were constructed utilizing a post-tension design and construction technique. Post-tension systems utilize high strength cables strung through plastic sleeves in the slab and foundation system. Across the slab, after the concrete sets, these cables are tensioned at high levels which are intended to place the slab in compression. This compression adds an additional increment of integrity to the slab and foundation system. The process of design and constructing post-tension slab foundations has evolved over the past approximately 25 years for slabs-on-grade in Southern California. In general, design and construction techniques have become more rigorous. The foundation systems at Niguel Summit are generally considered by this consultant as "PT-light." The slab and foundation systems typically consist of approximately five inch net slabs with footings or stiffeners which extend to approximately 18 inches in depth. Stiffeners typically exist at the perimeter of the building, across the back of the garage, and occasionally at local interior places. Although the footings/stiffeners are intended to provide an increase in overall stiffness, these slab and foundation systems typically are still relatively light and can be prone to some deformation and commonly minor cracking. It appears that expansive soil influence has impacted the home to some extent. In the garage, there is a fine crack pattern evident under the epoxy paint which is indicative of expansive soil influence. Even though the post-tension slab systems are typically designed based on an uncracked section, typical design and construction techniques are not usually rigorous enough to prevent the kind of fine cracking which has occurred. Also, at the front of the garage, the driveway slab appears to have heaved up slightly higher than the garage itself. This is evident by apparent grinding along the back edge of the driveway where it interfaces with the garage slab. The kinds of expansive soil influences that we see at the site can be expected to continue over time. Generally, expansive soil influences become more significant with age as a result of very slow soil movement. Short of major foundation modifications, the adverse influences of expansive soil can be best addressed by attempting to keep soil moisture as uniform as practical.

In the interior of the home, the house was found to be in very good condition. The interior of the home, for the most part, contains a marble or limestone flooring. No continuous cracks were observed within the stone flooring; however, a few individual tiles were found to be cracked. Proper installation of a floor like this would normally include a slipsheet placed on the slab separating the slab from the stone tile. A slipsheet allows for minor movement. As such, a slipsheet will tend to limit the degree to which cracking will reflect from the interior slab into the tile. With a slipsheet, it is more likely that cracks will shift into grout joints and appear as minor separations. Absent a slipsheet, cracks within a slab will probably reflect directly into the tile, a more unsightly condition. You may be interested in asking the seller about the particular source of the stone. In the event that future cracking develops, you would have stone which could replace tile in local areas.

In the garage, there are indications around the perimeter of the epoxy painted surface of slightly elevated moisture conditions. In the lower, approximately two to three inches of wallboard, the wallboard texture and/or paint has been spalling. At the extreme right side of the garage on the top of the stem wall, there is a local area where the epoxy paint is lifted and efflorescence (mineral salts) are apparent which have served to lift the surface and etch the concrete. It is also apparent, looking at the lead edge of the garage, that slight erosion of the original concrete has occurred. It may be that the owner applied the epoxy paint in response to etching that was developing within the concrete paste at the front of the garage. By placing the epoxy paint, however, a more impermeable surface has resulted. Moisture that would normally migrate through the slab tends to be blocked and is forced to the edges. The process is likely contributing to slight elevation of moisture at the base of the wallboard. Over time the epoxy paint can also be expected to lift as it is currently doing on a localized basis.

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 **American Geotechnical**

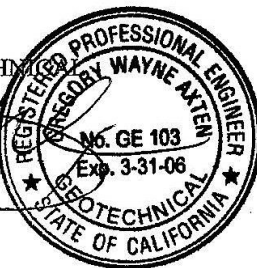
remain nuisance level requiring maintenance attention with possible replacements at later dates. Some people are more tolerant of slow, ongoing problems than others. In making your decision to purchase or not to purchase, I recommend that you consider the site conditions, your tolerance level(s), and your willingness to provide periodic, ongoing maintenance and repairs.

To gather more detailed information about site conditions, subsurface exploration and laboratory testing could be conducted. Subsurface exploration is outside the scope of this consulting agreement. The conclusions herein are based upon limited observations and review. No warranty of future site performance is expressed or implied. In the event that any signs of distress appear in the future, this office should be contacted for review and further consulting.

Respectfully submitted,

AMERICAN GEOTECHNICAL


Gregory W. Axten, CEO
G. E. 103



GWA:kac

Enclosures: Appendix – Notes on Observations
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APPENDIX

Notes on Observations

**Selected Site Geotechnically Related Observations
by Gregory W. Axten, 10/26/02 at
30602 Mirandela, Laguna Niguel**

Curb street interface, tight; driveway apron interface, about 3/8 inch separation, consistent with width of expansion joint material.

Driveway/garage interface, approximately 3/8 inch separation, transitioning into driveway concrete at edge of right bay.

Back of driveway, left bay, ground slightly at interface with garage; apparent minor expansive soil heave and treatment.

Exterior of the house recently refinished, painted; no significant cracking or other significant distortions apparent.

Left side yard pilaster, separated about one inch, but only appears to represent less than 1/8 inch actual movement as evidenced by sidewalk in contact with pilaster.

Entry walk from driveway is salteo tile covered; moderately deteriorated; heavy efflorescence in places, few minor cracks and separations, probably consistent with approximate locations of joints under salteo.

Similar salteo tile conditions along right side of house extending into back patio. Salteo tile on back patio moderately deteriorated, more so on right side than left; efflorescence heavy in places; large paper bark meloluca tree within approximately ten feet, back right corner of house, adjacent to salteo; appears to be providing minor disruption of salteo tiles.

Left side yard, conventional concrete for first approximately 30 feet then step up to salteo tile at rear.

Property line wall at left generally good condition, a few minor cracks and separations in stair-step fashion.

Approximately opposite back left corner of house, approximately 1/4 inch separation in property line wall. Cracking occurs at multiple locations, typically stair-step and subvertical. At same location, salteo tile has cracked, generally extending off back left corner of house.

Left pilaster at top-of-slope slightly rotated; glass separated from mullion, approximately 1/2 inch at top, diminishing separation to face of glass. Back right pilaster separated approximately 1½ inches from metal fencing.

Right side yard, property line fence consists of stucco veneered block to approximately four feet past entry door where separation up to about 1/4 inch occurs. Slump stone block extends to within about 20 feet of rear fence. 20 feet from top-of-slope. The slump stone block is substantially covered by creeping fig. Rear 20 feet has approximately four foot metal fence on top of a two foot, slump stone block wall concealed with creeping fig. The metal fence has substantially deteriorated along right side at rear. The metal fence at rear, along the top-of-slope is in better condition. Rear top-of-slope has approximately one foot high masonry wall which appears to be in good shape although it is substantially covered with creeping fig.

Inside garage, slab epoxy painted, gray color; fine crack pattern apparent under paint; large three crack, 120 degree each splay at left central portion of two car garage bay. Metal corrosion at base of central column, rusted hold down, rusted corner beads. Ceiling stains above two car bay, adjacent to rusted

column. Suggest buyers ask owner about past plumbing problems or other leaks in master bath area above.

Second fine crack splay in two car garage bay, just to right and in front from main splay. Second splay occurs approximately opposite right jamb of two car bay and approximately six feet in.

At right stem wall in garage, efflorescence lifting epoxy paint, apparent etching of cement paste behind. Left stem wall painted but fairly good condition.

Where stem wall is apparent at rear, it is in good condition.

Interior has substantially 12 inch square limestone or marble throughout; very good condition overall. In kitchen at front right corner of center island, one tile is cracked but no continuation of cracks into adjacent tile or grout joints. Opposite to left of front left corner of center island, hairline, left right crack in single tile.

Kitchen counter covered with orange tumbled stone on counter and up backsplash to cabinets. Joints tight; appears relatively new.

Wet bar area, similar treatment with orange tumbled stone on counter and splash. Hairline crack does occur between counter and splash on back face.

Powder room downstairs has orange tumbled stone on floor, walls and ceiling, all of which is in good condition; appears new.

Laundry room has gloss laminate cabinets and backsplash. No obvious separations or distortions. One door not operating well; apparent problem with upper hinge.

Upstairs refinished throughout as well; master bath contains original two inch tile treatments. No significant cracks or separations. Master bath floor has similar, running bond marble or limestone treatment.

Upstairs, entry to baby room, floor squeaks.

Boys bedroom upstairs in good condition. Doors square in the frame, operates smoothly. Closet door drags slightly on carpet but remains square in frame and operates smoothly.

Ceiling at top of stair landing appears to have been previously cracked and patched associated with refinishing; minor reoccurrence. Also at top of stair landing, directional flood fixture replaces apparent previous track fixture. Slight wallboard damage, not patched.

Downstairs study, Pergo-style wood floor, good condition. Large fountain in room. No apparent damage related to high humidity. Shutter style window covers in good condition, square in their frames.

Family room fireplace veneer, very slight separation, left side (front); similar right side (rear).

Entry area, right side property line wall, stucco, major disruption, probably two inch offset, stuccoed over adjacent to ficus tree on neighbor's property. Also stair-step crack in wall stuccoed over; crack apparent from neighbor's side.

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Months Later, Relief Still Eludes Landslide Victims

BY MARY CURTIUS AND ROBERT OURLIAN

DEC. 21, 1998 12 AM PT



TIMES STAFF WRITERS

Diana and Lawrence Muzio knew they would have to move when they woke up one morning in February to see their Laguna Niguel house splitting at the seams. They had no way of knowing that they would still be on a maddening bureaucratic treadmill nearly a year later.

Even as this winter's rains begin, the Muzios and more than 150 other California families still are waiting to see whether local officials accept a federal offer to buy out damaged or destroyed homes across the state.

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Final EIR – August 2022

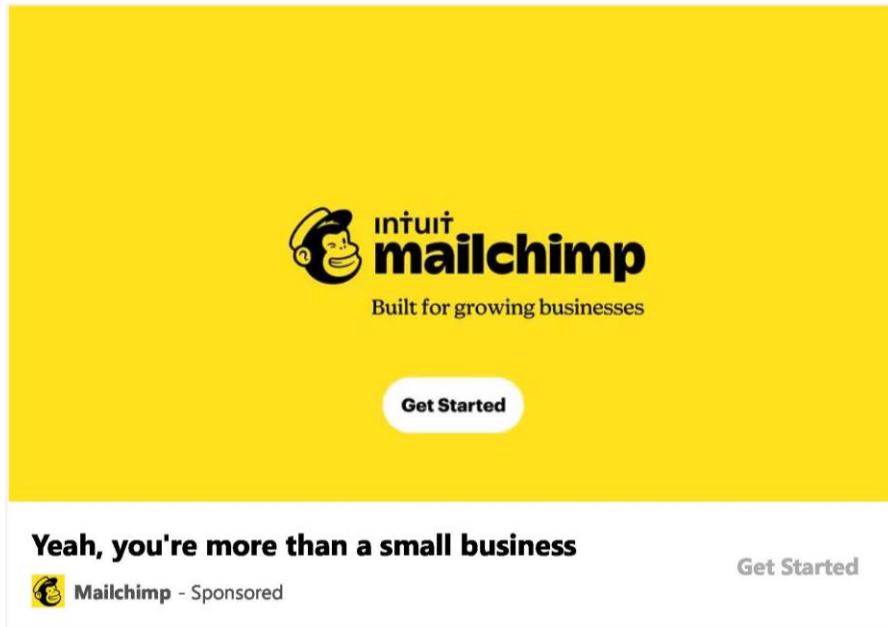
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Months Later, Relief Still Eludes Landslide Victims - Los Angeles Times

But the offer came with a big caveat: Local governments from Orange County to Humboldt would have to take title to the properties, demolish the structures and agree to leave the land in a natural state forever. Local officials are hesitating, fearful that their counties or cities will be legally liable if the land later gives way and slides cause further damage.

“We told our council publicly that this was a ‘buy a landslide’ program, and our question was: Who would want to?” said Tim Casey, city manager of Laguna Niguel, where the City Council is still debating whether to accept the federal government’s offer to pay more than \$6 million for 32 homes.

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While city councils and county boards of supervisors weigh the risks, some homeowners have had to fight banks seeking to foreclose on temporary rental housing, unable to either go to

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The banner has a dark blue background. On the left is the "Los Angeles Times" logo in white. To its right, in red and white text, is "Discover the West Coast Perspective" and "\$1 for 6 months". On the right side of the banner, in white capital letters, is "SUBSCRIBE NOW".

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“Emotionally, it’s hurt. It’s taken a heavy toll on everybody,” said Diana Muzio, whose house on Vista Plaza Drive has been condemned. “And we have absolutely no recourse. We are on our own.”

Laguna Niguel and Laguna Beach were among the areas hardest hit by landslides triggered by winter rainstorms. Laguna Niguel has been offered two federal grants: one for \$462,475 for the Vista Plaza Drive landslide and a second for \$5.6 million for the infamous landslide on Via Estoril that has permanently displaced 50 families.

But the novel program, combined with the complexity of legal issues surrounding landslides, has city officials pondering the best course of action. City Manager Casey said they have asked for a meeting “with the highest FEMA official we can find” to learn more about the potential pitfalls and promises of the buyout program.

But Laguna Niguel officials have stressed in letters to FEMA officials that they don’t want to own landslide-stricken property and do not want to use local funds to purchase them, even if they are reimbursed later.

“Right now, we are the proud recipient of a grant for a program that has never been tried before in California,” Casey said.

For homeowners like the Muzios, the caution of local officials is understandable, but it compounds their frustration.

“The paperwork, the forms, the continual sending of information--the same information--over and over again,” Diana Muzio said. “It’s been a real frustrating thing.”

The Muzios lived in their house in the Niguel I

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“We struggled; we were a young family,” she said. “We busted our butts for this home, and we did everything we were supposed to do. And then this.

“I don’t expect full recovery. I don’t expect anyone to pay our way. But some assistance after all these years of putting in seems to make sense.”

Because the neighborhood is so old, laws do not allow the Muzios or their neighbors to sue builders and developers. So for them, a buyout makes more sense to city officials trying to plot policy.

But the larger landslide, which destroyed nine houses in the Niguel Summit development and 21 units of the Crown Cove condominiums and soon will lead to the abandonment of another 20 condos, is the subject of complicated litigation. In a partial settlement, all 41 condo owners will be bought out by developers of Niguel Summit. But other lawsuits by homeowners and homeowners associations are pending.

City officials said the litigation makes any buyout legally tricky: Can the government buy landslide-prone property from owners who weren’t the victims of the landslides? If the developers buy landslide property, are they allowed to benefit by a government buyback program? Or are the developers “successor-victims” under the FEMA guidelines?

“We want to make sure we fully understand what the program requirements are,” Casey said.

In neighboring Laguna Beach, FEMA is offering city officials a \$124,000 grant for a single property in the Canyon Acres neighborhood, hard hit by last winter’s catastrophic mudslides, which killed two men, injured more than a dozen and damaged dozens of houses.

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which required total demolition and no rebuilding. In many cases of even severe damage, property owners made repairs and continued using the dwellings or declined to sell because they wanted to rebuild.

“The owner has to be willing to sell and the property has to be red-tagged or yellow-tagged,” said Michael Phillips, community services officer for the Laguna Beach Fire Department.

City Manager Kenneth C. Frank said despite the notoriety of the Laguna Beach disaster, only four houses were considered destroyed by the time the mud had dried.

Frank said the devastation differed from that found along the Russian River, where dozens of houses were destroyed or damaged in landslides.

There, some residents have grown angry with their local governments for hesitating to take the federal government up on its offer.

“They don’t really care,” Phyllis LaCombe of Rio Nido said bitterly of the Sonoma County supervisors who will decide her fate. “They don’t have a concept of what this is like, or that it could happen to them.”

Rio Nido, a Russian River community about 60 miles north of San Francisco, was one of the communities hit hardest by last year’s El Nino storms. Some 34 houses were irreparably damaged or destroyed when the redwood-forested hillside above Upper Canyon Three gave way in February. Homeowners below the slide were evacuated for weeks, as a safety precaution.

Now the hill where the LaCombes lived for 11 y

rested with hazard signs. Grande hired by the

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“It was the little cushion we had,” LaCombe said. “Every time there was extra money, it went toward the house.”

Vice President Al Gore visited Rio Nido soon after the landslide made the national news and promised to help. Since the federal government had never before offered to help buy out landslide victims, it was up to state and federal officials to find a way to make such a program work within existing federal regulations.

After months of negotiations with California officials, the Federal Emergency Management Agency announced last month that it was granting \$22 million to help buy 165 properties scattered across 11 counties, including 14 homes in Los Angeles County. Each homeowner was to be offered 75% of the pre-disaster assessed market value of the damaged home. The rest of the funds would have to be raised by the homeowner, or come from local government funds.

The federal emergency agency hailed the program as innovative. Local officials also initially welcomed the offer.

“All I can say is that last February, we were in a situation where there was basically no relief, public or private, for these folks,” said Sonoma County Supervisor Mike Reilly, whose district includes Rio Nido. “This is the first time I’ve seen FEMA develop an entire program to help a classification of people in just 10 months.”

Then local governments started taking a harder look at the requirements of the program. Government lawyers didn’t like what they saw.

Sonoma County’s board of supervisors must decide whether to accept \$2.4 million to buy 34 Rio Nido homes and another 10 homes

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slide cuts loose from that mountain and inundates other houses below, the county would be on the hook. There is no way to indemnify the county.”

Across the state, other local governments are wrestling with the same dilemma.

“What it ends up doing is putting the local jurisdiction in the middle, between FEMA and the homeowner,” said Pat Canfield, assistant administrative officer for the city of Los Angeles.

“FEMA has this one-size-fits-all program that doesn’t really fit out here,” Canfield said. The city is eligible for \$2.4 million for 10 homes--5 in Northridge and five in Studio City--that were damaged beyond repair in last year’s landslides. The City Council has not yet decided whether to accept the money, Canfield said.

“In other parts of the country, they are talking about flatlands,” Canfield said. “California has problems in the hillside areas, which makes accepting this kind of grant really difficult for California communities. Every jurisdiction that applied is taking it slowly and debating this.”

In Los Angeles County, the federal government agreed to pay \$860,500 for four homes in Malibu and Topanga Canyon. The county is still studying whether to accept the money, according to Bob Donohoe, with the Department of Public works.

Paula Schulz, state hazard mitigation officer for Gov. Pete Wilson, said the program is the best that could be cobbled together on short notice to help people who had, in some cases, lost everything.

“We feel that we were fairly effective in working with the federal government on the regulations, but certainly to admit the program

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But the federal agency was adamant, she added, that a local government entity must take title to the land and ensure it remain in a natural state after the buyout.

Even if communities are fearful of the liability problems, Schulz said, she believes most will take the money because “there is a moral responsibility” to the victims. Besides, she said, “they are in a better position to protect their citizens if they have possession of the property,” rather than taking the risk of a private owner developing again on unsafe land.

Meanwhile, last winter’s victims are left waiting, even as this winter’s rains begin to fall, showering frustration and disappointment onto the displaced.

“We were hoping to have this all tied up with a bow in time for Christmas,” said Diana Muzio in Laguna Niguel. “Obviously, it’s not going to happen.”

(BEGIN TEXT OF INFOBOX / INFOGRAPHIC)

Slide Rules

Winter storms caused 63 reported landslides across California, including at least 11 in Orange County, according to the state Division of Mines and Geology. The slides forced 1,500 families to evacuate and showed the fragility of the state’s coastal hills, experts said. At least 200 structures were damaged or destroyed, and the slides damaged or threatened highways, railroads, water pipelines, crude oil pipelines, a natural gas pipeline, dams and a school in Laguna Beach.

Source: State Division of Mines and Geology, based on reports by the Department of Conservation, Governor’s Office of Emergency

California Department of Forestry and Fire

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Slide Facts

Riskiest areas include slopes of 26 degrees and steeper and sites near the foot of a steep slope or “benched” into a steep slope.

Mudslides can move at avalanche speed, or 40 feet per second (27 mph). In mudslides on gentler hills, speeds can be as low as 1 foot per second.

The highest weather risk occurs when rain falls at the rate of more than one-fifth of an inch an hour for more than three continuous hours while the slope has received at least 10 inches of rainfall already for the season.

Safety Tips

Stay awake, because many mudslide fatalities happen when people are sleeping.

Avoid areas at risk, such as slopes steeper than 26 degrees, in unusually wet weather.

Listen for unusual sounds.

Be prepared to move quickly.

Use caution while driving and watch for debris slides and boulders.

Source: Southern California Area Mapping Project (SCAMP), a joint program of the U.S. Geological Survey and state Department of Conservation.

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Response 22 – George Straggas (May 27, 2022)

- 22 - 1 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 22 - 2 The comment provides history of the Via Estoril landslide but does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 22 - 3 The comment references a report from the Project geotechnical engineer and describes the repairs that took place to the landslide. The comment suggests that the repairs made as part of the Via Estoril landslide would be disturbed by the proposed Project. As described in Section 4.6 of the DEIR and **Section 2.1 General Response 1 – Geotechnical**, the proposed Project would disturb a small portion of the toe of the buttress fill slope. Section 4.6 of the DEIR and **Section 2.1 General Response 1 – Geotechnical** both explain that the disturbance to the small portion of the buttress fill slope would not cause geotechnical instability. The remaining repairs, such as the tieback anchors and subdrains, would remain in place undisturbed by the proposed Project.
- 22 - 4 The comment accurately describes why FEMA funding was not paid, because according to FEMA it would have resulted in a duplicate payment, contradictory to the FEMA funding statutes.
- 22 - 5 The comment suggests the proposed Project would increase the wildfire risk to existing homes on Mirandela. The proposed Project includes fuel modification zones surrounding the development area. The fuel modification zones reduce the density of vegetation, introduce irrigation, and require a plant palette of lower combustible vegetation. The Orange County Fire Authority (OCFA) has approved the Project’s fuel modification plan. The community along Mirandela is responsible for its own fuel modification, which is beyond the scope of the Project. The analysis has determined that the Project will not increase fire risk, however each surrounding community is also responsible for maintenance of its own fuel modification zones.
- 22 - 6 The comment suggests the Project will “introduce extreme added density to the Clubhouse Drive area.” The Project’s density is planned to be 22 dwelling units over 4.2 acres, which is 5.3 dwelling units per acre. Generally, densities under 6 dwellings units per acre is considered low density. Furthermore, the Laguna Niguel General Plan permits up to 41 dwelling units on the Project site, therefore, the Project is proposing approximately half of the permitted density.

The comment also suggests the planned entrance at Crown Valley Parkway is hazardous. The access driveway is in the same location when the Project site was previously developed with 41 condominium units. Access to the Project site was analyzed in the DEIR in Section 4.12. Specifically, Threshold TRA-3 analyzed design hazards. The analysis determined “The proposed Project has the potential for transportation impacts associated with potential traffic hazards in the form of traffic interference during construction and Project access concerns. Implementation of **MMs TRA-1, TRA-2, and TRA-3** would reduce Project specific traffic impacts to less than significant.” (DEIR Page 4.12-10) Regarding traffic volumes, recent changes in CEQA now require the analysis of vehicle miles travelled (VMT) instead of traffic volumes and levels of service. Therefore, traffic volumes are no longer an issue that is analyzed in the DEIR. However, as provided in Appendix L to the DEIR, the current traffic volumes on Crown Valley Parkway are approximately 27,083 vehicles per day. The proposed Project will add approximately 161 average daily trips over a 24-hour period, with approximately 10 trips during the morning peak hour and 12 trips during the evening peak hour. The additional traffic generated by the proposed Project represents approximately one half of one percent (0.59%) of the traffic volumes on Crown Valley Parkway.

22 - 7

The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.

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Comment Letter 23 – George Straggas (May 27, 2022)

From: George Straggas <gds@straggaslaw.com>
Sent: Friday, May 27, 2022 10:30 AM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Cc: jstraggas@me.com
Subject: RE: Objection to The Cove at El Niguel Project

Dear Ms. Gregg:

There was one attachment missing from my email.

Please let me know if you have any questions.

Sincerely,

George D. Straggas

GEORGE D. STRAGGAS | MANAGING SHAREHOLDER

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STRAGGAS

STRAGGAS LAW GROUP, APC

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From: George Straggas
Sent: Friday, May 27, 2022 10:20 AM
To: agregg@cityoflagunaniguel.org
Cc: jstraggas@me.com
Subject: Objection to The Cove at El Niguel Project

To Whom It May Concern:

We are the owners of the real property and improvements located at 30602 Mirandela Lane, Laguna Niguel, California. We are vehemently opposed to the proposed project for the development of The Cove at El Niguel Project (“the “Project”).

The Estoril Slide

Attached is a copy of the Department of Conservation Division of Mines and Geology 1998 Landslide Inventory which describes the Estoril Slide (see, Page 5 of 11). The slope below Estoril began eroding almost five years prior to the eventual landslide that displaced 50 families (See, attached Los Angeles Times Article). On December 5, 1997, the rainstorm “damaged five condominiums, which were abandoned.” The4 backyard of one of the Estoril homes had dropped nearly five feet; then on March 19, 2018, two of the houses on Estoril collapsed. One day later, on March 20, 2018, “a third home on Via Estoril toppled down the headscarp of the landslide”. On March 24, 2018, “DMG received one other report from USGS of continued movement on the Laguna Niguel Landslide where at least 10 condos were evacuated and five more were destroyed.” On March 29, 2018 “a fourth house, adjacent to the other three collapsed on Via Estoril, split in half, and plunged into the graben of the slide.”

The Geology

We purchased our home on Mirandela after the landslide had occurred on Estoril. We commissioned a geological report from Gregory W. Axten, a Registered Professional Engineer who had acted as one of the experts for the litigation that resulted from the slide. Attached is a copy of Mr. Axten’s report, which states in relevant part:
On the opposite side of Via Estoril, the 1998 landslide occurred. About nine homes at the top-of-slope were demolished during the course of the landslide and repair operation. Additionally, townhomes in a pre-existing project were destroyed at the base of the landslide. Although theoretically a repair could have been designed to restore the previous homes and townhomes below, repairs involving restoration of the homes would have been far more expensive. To repair the landslide, on the order of 450 to 500 tieback anchors were constructed in the slope area below Via Estoril. Each has a service capacity on the order of 200,000 to 300,000 pounds. Additionally, much of the landslide mass was removed during a grading operation which excavated through the landslide surface. The landslide material was replaced with compacted fill. A major factor contributing to the landslide was significant buildup of groundwater. In conjunction with landslide stabilization, major drain systems were installed beneath the repaired area.

Importantly, the homes that were destroyed on Estoril were never replaced. Rather, the slope was carefully rebuilt, and appropriate drainage was installed to avoid the buildup of pressure on the slope. It was not anticipated that these important safety improvements would be disturbed by a new development like the Project.

In addition, Mr. Axten explained to us that the land beneath Mirandela Lane is solid rock, while the land on Estoril and where the Project will be built is loose glacial deposits of soil that, in essence, are clinging to the solid land beneath Mirandela. His conclusion was that the Estoril disaster could have been predicted. In our view, it should not be repeated.

FEMA Money/Lawsuit Settlements

Attached is a printout from [FEMA.gov](https://www.fema.gov) which describes the incredible difficulties experienced by the City of Laguna Niguel related to the Estoril slide (see, also, the attached LA Times Article). Significant valuable community resources were exhausted trying to obtain federal funding to mitigate the cost of the Estoril disaster. Eventually, FEMA denied at least some of the relief that the City was seeking. FEMA cited the fact that funding had been provided to victims through the insurance settlements that resulted from the litigation. In other words, all landowners were made whole from insurance proceeds.

Fire Danger

We were recently evacuated during the Coastal Fire. The fire was mainly at Coronado Pointe, but a portion of Clubhouse Drive near Mirandela also burned. One of the reasons why the Coronado Pointe houses burned so quickly was that the fire raced uphill to the houses located on the ridge at the back of the development. This was fueled by strong coastal winds.

The area where the Project will be built is located in a wind funnel that comes up from the Salt Creek Beach area. Every single day, usually from about 2:00 p.m. to about 6:00 p.m., steady winds blow up from Salt Creek Beach toward Mirandela. If a fire broke out in the area where the Project is located, the planned homes would provide enormous amount of fuel to a fire that will almost certainly move uphill towards Mirandela.

The Project is Ill-Advised and Unnecessary

Over the past few years, the density of housing developments in Laguna Niguel has increased significantly. The developments at blu Laguna Niguel, Broadstone Cavora, and related developments, have had a more modest impact upon the City center area because of their proximity to the Interstate 5 freeway.

However, the Project will introduce extreme added density to the Clubhouse Drive

area. This will have negative traffic impacts on Clubhouse Drive, Niguel Road, and Crown Valley Parkway. In addition, the planned entrance from Crown Valley Parkway is potentially hazardous.

Conclusion

Laguna Niguel is a very special place. While Mission Viejo and Laguna Beach are strangled with traffic density, Laguna Niguel has maintained significant open space. This includes defensible separate of residences to avoid disastrous wildfire damage.

Please do not approve the Project.

Sincerely,

George Straggas and Janet Straggas

George D. Straggas

GEORGE D. STRAGGAS | MANAGING SHAREHOLDER

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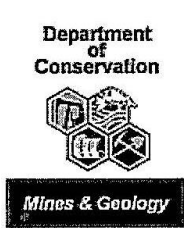
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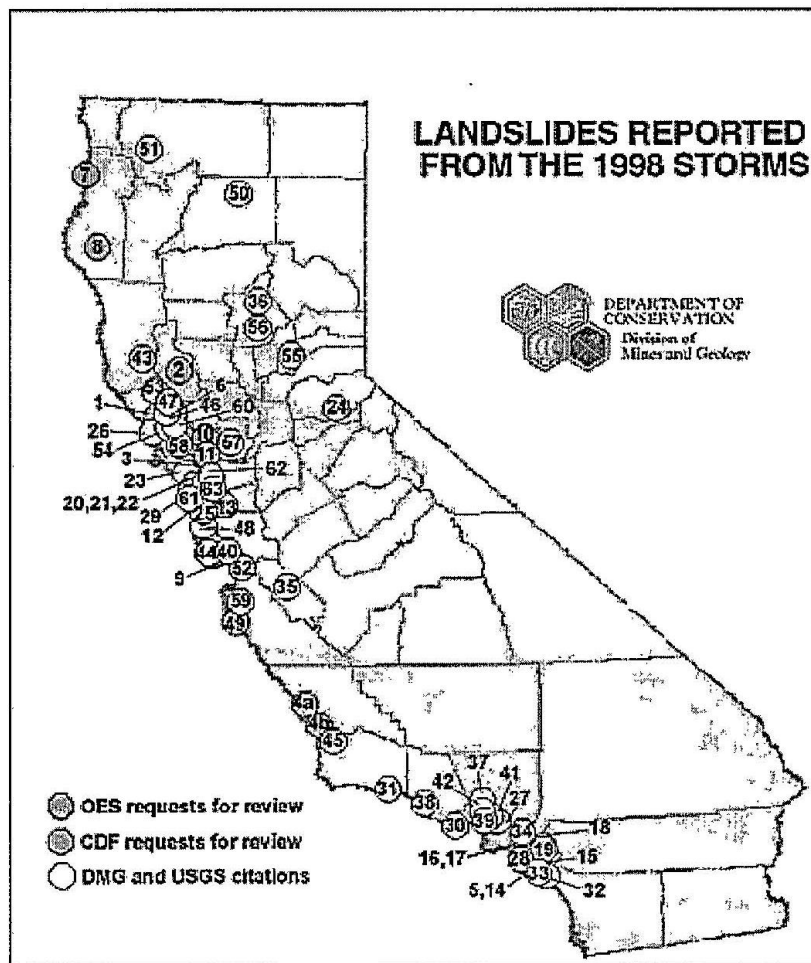


**DEPARTMENT OF CONSERVATION
DIVISION OF MINES AND GEOLOGY**

1998 LANDSLIDE INVENTORY

Last Updated: 07/15/98

The following information was compiled by Trinda Bedrossian and Rinda Etzold from various reports of landslides received by the Department of Conservation (DOC) Division of Mines and Geology (DMG) from the Governor's Office of Emergency Services (OES), the U.S. Geological Survey (USGS), California Department of Forestry and Fire Protection (CDF) and others between February 3 and April 30, 1998.



1. **Rio Nido, Sonoma County** (OES Mission #98-CST7172). On 02/07 a large landslide failed along the Russian River at Canyon Three near Sweetwater Springs Road. The slide was a rotational failure near the ridgetop that split downslope into debris flows affecting houses at the base of two canyons. DMG concluded that deep tension cracks in the source area indicate additional material could fail, putting approximately 200 people at risk. Also, if material fails all at once, a landslide dam could form, causing flooding upstream. DMG provided information used by the county in the evacuation of residents and development of access (re-entry) plans; DMG also recommended monitoring of the slide and retention of a consulting engineering geologist to evaluate on-going conditions at the site. The preliminary report prepared by DMG geologist Wayne Haydon was released on 02/09 and the final report was released on 03/09. On 02/07 six houses slid down a hillside near the Russian River in Sonoma County; 300 other homes were evacuated (Siang Tan, DMG, 02/11). 240,000 cubic yards of earth were threatened by a landslide on 02/17 (Tan, 02/19).
2. **Clear Lake Oaks, Lake County** (OES Mission #98-CST7200). On 02/10 DMG evaluated two houses in danger of collapsing onto Highway 20, five earthfilled dams, and two

damaged roads in the vicinity of Clear Lake. DMG made recommendations regarding removal of one structure, installation of drainage measures on two others under direction of a consultant, drainage of two dams as proposed by Caltrans engineers, and monitoring and removal of debris from the road failures. The report prepared by DMG geologist Mike Manson was released on 03/09.

3. **Richmond, Contra Costa County** (OES Mission #98-CST7204). On 02/10 DMG evaluated a cutslope failure, about 80 feet wide and extending about 60 feet south, above Wildcat Creek Road between Highway 80 and Richmond affecting access to about 25 homes. DMG determined there was no imminent danger to homes upslope from the failure and recommended the private landowners hire a consultant to design measures for de-watering the slide. A report prepared by DMG geologist Chris Wills was released 03/09.
4. **Morro Bay/Pismo Beach, San Luis Obispo County** (OES Mission #98-SOU6106).
 - A. **Morro Bay.** On 02/12 DMG evaluated reactivation of two landslides that failed in 1995. Approximately 25 houses were built on the toe of one slide, and 15 houses were adjacent to the toe of the other. An underground water pipeline crosses both landslides. DMG concluded that no immediate risk or emergency was evident, however, potential debris flow and earthflow activity could impact the road and several residences during intense rainfall of long duration. DMG recommended a consultant be retained to evaluate existing data, including monitoring and mitigation being conducted by upslope owners. A report prepared by DMG geologist Tan was released on 02/23. Reactivated landslides from 1995 storms affected 34 homes, with seven to eight damaged (USGS, 02/26).
 - B. **Pismo Beach.** On 02/12 five coastal bluff failures affecting city roads were evaluated by DMG for potential threat to pedestrians and residences. Increased sea wave erosion, surface water erosion and urban irrigation contributed to these failures. DMG discussed feasible mitigations with city engineers. A report prepared by Tan was released 03/09.
5. **Laguna Beach, Orange County** (OES Mission #98-SOU6117). On 02/24 DMG evaluated artificial fill pad erosion downslope from Top of the World School. The school is set back about 30 feet from the edge of the fill. Erosion of silty sand caused deep gullies where an engineered fill drain had failed. DMG determined there was no imminent danger to the building from landsliding; however, continued erosion of the fill could result in potential landsliding if not properly mitigated. The school's consultant was also on site. A report prepared by DMG geologist Russell Miller was released 03/17.
6. **Fitch Mountain, Sonoma County** (OES Mission #98-CST7243). On 02/21 DMG evaluated a landslide affecting two homes on North Fitch Road near Healdsburg; 60 additional homes were originally thought to be in potential danger. DMG determined that a small slide on the north side of the mountain had liquefied at the toe and had moved downslope onto the road near the two houses; the road did not appear to be impacted by the slide plane. DMG recommended debris be periodically cleared from the road and behind barriers around the homes made from sand bags and K-rails, and that landowners hire a consultant for longer-term mitigation. A report prepared by DMG geologist Haydon was released 03/23.
7. **Big Lagoon, Humboldt County** (OES Mission #98-CST7235). On 02/16 DMG evaluated cliff erosion affecting three houses in the Big Lagoon area near Agate Beach, where high energy El Niño storms and seasonally high tides eroded the cliff face at an accelerated rate. The county yellow- and red-tagged several structures. DMG recommended retaining a licensed consultant with experience in coastal erosion to assist

in developing formal tagging distances for existing residences. A report prepared by DMG geologist Jim Falls was released 03/23.

8. **Weott, Humboldt County** (OES Mission #98-CST7252). On 02/23 DMG evaluated two landslides along access roads to a sewer treatment facility and city water tank/repeater phone sites. DMG made recommendations as to repairs to be considered. A report prepared by DMG geologist Falls was released 03/12.
9. **Santa Cruz County** overflight (OES Mission #98-CST7255). On 02/24 DMG participated with the OES, USGS and county staff in an overflight of approximately eight significant landslides and multiple others of concern to the county. One large landslide blocked Eureka Canyon isolating 500 local residents. Debris flow failures were observed in the northern part of county. Larger, deep-seated failures occurred in the mid and southern parts of the county; however, Eureka Canyon was not visible due to fog and bad weather. A report by DMG geologist Tom Spittler was released on 04/30. On 02/25 more than 50 homes were seriously damaged by debris flows and seven homes due to deep-seated landslides (Joe Hanna, Santa Cruz County geologist).
10. **City of Napa, Napa County** (OES Mission #98-CST7256). On 02/24 DMG reviewed three landslides impacting four homes and two county roads providing critical access to remote communities. On 03/11 DMG responded to an additional request to evaluate landsliding affecting a house along Sage Canyon Road and Highway 128, east of Lake Hennessy. A report by DMG geologist Manson was released 04/03.
11. **City of Vallejo, Solano County** (OES Mission #98-CST7263). On 02/10 DMG evaluated a large section of hillside overlooking the Sandy Beach area that developed a large crack and several smaller slides with potential to impact approximately 40 homes at the base of the hill. DMG determined that only two homes were likely to be affected by near-future movement of talus materials at the base of the slope. A report by DMG geologist Wills was released on 03/20.
12. **City of San Bruno, San Mateo County** (OES Mission # 98-CST7266). On 02/13 DMG received a request for assistance in evaluating numerous failures in San Mateo County. On 03/12 DMG evaluated debris flows that were undermining structures and public property in three areas that continue to experience debris flow movement, creep and slippage. The Crestmore Drive slide involves the backyards of homes on Crestmore Drive and Madison Avenue and a city-owned parcel. The Crestmore Canyon area includes several small slides which endanger houses or yards at the top of the surrounding slopes, with the potential to become larger and more damaging, similar to what has occurred at the Crestmore Drive slide. A report by DMG geologist Wills was released 04/08.
13. **City of Fremont, Alameda County** (OES Mission # 98-CST7267). On 04/07 DMG received a request to assist the City of Fremont with mapping and evaluation of the Mission Peak landslide. This is a large complex landslide, 1000 feet wide by 4000 feet long, with portions that might be several hundred feet deep, and 40 to 70 feet deep in the toe area. The apparent lower toe was uplifting one to 1.5 feet per day and moving four feet horizontally at the toe on 03/27. Properties on Grapevine Terrace, Rutherford Place, Rutherford Court, and possibly Vista Del Sol may be affected by the slide. The slide is too large to determine the immediate threat without evaluation. An initial report on the slide was prepared on 04/08 by DMG geologist John Schlosser who was assigned to this project under the direction of the city's consultant. A final report was released 05/20.
14. **Laguna Beach, Orange County** (OES Mission #98-SOU6123). On 03/23 OES requested technical assistance on the geologic analysis of slopes, that are in continued threat of mudslides and landslides, for preliminary determination of potential slope movement and mitigation suggestions. A report prepared by DMG geologist Tan

was released 04/17. On 12/06/97 three beach-side homes were evacuated and 20 others were severely damaged (Tan, 02/11). On 02/17 a hill slipped and sent boulders tumbling toward a restaurant (Tan, 02/19). On 02/22 Laguna Canyon Road was closed due to mudslides (Tan, 03/05). On 02/23 in Canyon Acres, a home partially collapsed under a slide, and part of a bungalow on Victory Walk was crushed. Other slide areas include Laguna Canyon Road, Bluebird Canyon Drive and a trailer park near Aliso Pier (Tan, 03/05). On 02/24 the rainfall forced 550 people from their homes. A wall of mud roared down hillsides, killed one man, injured nine people and destroyed four homes in the Castle Rock community. One man was killed when a mudslide slammed into his cottage on Victory Walk. On Canyon Acres Drive, three houses were destroyed and five others damaged. Damaged houses were reported in Laguna Canyon Road. A total of at least 14 homes and several businesses were destroyed (Tan, 03/05). On 02/25 a wall of mud in Laguna Beach Canyon killed one person and injured 10, two homes were damaged, and eight homes were evacuated (Gerry Wieczorek, USGS). On 02/26 city officials alerted the residents of 25 canyon homes that their properties might be unsafe based on a city-hired geologist investigation (Tan, 03/05).

15. **Laguna Niguel, Orange County.** On 12/05/97 the storm increased movement on a landslide in Laguna Niguel and damaged five condominiums which were abandoned (Tan, 02/11). On 03/18 a crumbling hillside threatened to destroy at least 14 homes in Laguna Niguel. For at least five years, the 125 feet high slope has slowly slipped. The storms in December accelerated its movement and forced the evacuation of five homes at the top of the slope on Via Estoril Drive and five condominiums at the bottom of
16. **Laguna Niguel, Orange County.** San Felipe Drive; On 12/05/97, four condominiums were threatened. The backyard of one of the Via Estoril homes dropped up to five feet (Tan, 04/02). On 03/19 two houses on Via Estoril collapsed. Seven more houses at the same street were threatened and evacuated; twelve condominiums were damaged and nine more evacuated (Tan, 04/02). On 03/20 a third home on Via Estoril toppled down the headscarp of the landslide (Tan 04/02). On 03/24 DMG received one other report from the USGS of continued movement on the Laguna Niguel landslide where at least 10 condos were evacuated and five were destroyed. On 03/29 a fourth house, adjacent to the other three collapsed homes on Via Estoril, split in half and plunged into the graben of the slide (Tan, 04/02)
17. **Various locations, Orange County.** On 12/06 floods and mudslides were reported in Costa Mesa, Irvine, Lake Forest, San Juan Capistrano, and Laguna Beach. Mudslides occurred in Black Star, Baker, and Santiago Canyons. Many road closures were reported along the Santa Ana Freeway at Laguna Freeway, Laguna Canyon Road, Pacific Coast Highway in Newport Beach and in Huntington Beach (Tan, 02/11). On 02/17 runoff undermined sections of Santiago Road in Orange County (Tan, 02/19). On 02/23 the storm forced the evacuation of eight to 10 residents in Holy Jim Canyon near the Orange - Riverside County line; a half-dozen other residents declined to move despite the growing slide threat (Tan, 03/05).
18. **City of Orange, Orange County.** On 12/23 movement of an active landslide in the Anaheim Hills accelerated. The landslide, which is located within a DMG mapped landslide area (Tan, DMG OFR 95-11), has been active for the past two years. This "Vista Summit Way" landslide damaged two to three houses and affected three city blocks. The engineer with the City of Orange has been in contact with DMG concerning this matter (Tan, 02/19).

19. **Silverado Canyon, Orange County.** On 12/06 four homes were condemned and evacuated due to a mudslide and rockfall (Tan, 02/11). On 02/23 one home was endangered in Silverado Canyon (Tan, 03/05).
20. **Modjeska Canyon, Orange County.** On 02/23 at least one house was damaged by mud (Tan, 03/05).
21. **San Francisco, San Francisco County.** On 01/20 a small car was caught in a huge sinkhole on John Muir Drive in San Francisco. Blocked sewers caused flooding, which caused the road to collapse. The latest storm caused widespread power outages, downed trees and flooded roads (*Sacramento Bee*). On 02/12 a slipping hillside was reported in San Francisco's Sea Cliff neighborhood (Tan, 02/19). On 03/03 mudslides near Mt. Davidson (Mira Loma Park area) resulted from poor drainage of city pipes upslope from failures; a retaining wall constructed after 1995 and 1997 failures failed again (Pam Dickey, San Francisco resident). On 03/13 a Bay View Hill landslide occurred near Candlestick Park (USGS).
22. **Oakland Hills, Alameda County.** Between 02/02 and 02/07 three homes were affected by slides. In addition, numerous small slides blocked roads along the coast in both northern and southern California (Bedrossian, 02/05). On 02/25 a dramatic landslide in the Oakland Hills destroyed two homes. Seven homes were red-tagged, an additional seven homes were yellow-tagged, and 11 others were monitored for potential trouble (USGS, 02/26).
23. **San Francisco Bay Region.** Recent debris flows were observed in the eastern part of the region from Niles to Oakland. Deep-seated landslides in the area of Daly City to Moss Beach area moved (USGS, 02/25). A few newly initiated debris flows and several others reported earlier show signs of recent activity (USGS, 03/12).
24. **Mill Valley, Marin County.** On 02/02 two homes were affected by slides (Bedrossian, 02/05).
25. **Highway 50, El Dorado County.** Highway 50 was blocked for about 12 hours by a cutbank failure. The failure was about 50 feet wide and 25 feet high, of outer surface sloughing from pore water pressure. The failure was located just west of the active Whitehall landslide being monitored by USGS and Caltrans. The Cleveland Corral landslide continued to move and erosion occurred on the Mill Creek slide (Ken Cole, Caltrans). A landslide previously reported along Highway 50 between Twin Bridges and Sly Park was a snow avalanche (Wieczorek, USGS, 02/25).
26. **San Mateo County.** On 02/03, the northern California storm was blamed for one death in San Mateo County (Tan, 02/11). On 02/10 a landslide on park lands threatened a home in Montara near Montara Beach (Len Miller, OES). On 03/03 Devil's slide failed along Highway 1 south of the 1995 failure (Channel 3 News). On 03/03 a landslide in San Mateo County threatened a 96-inch Hetch Hetchy pipe that provides water supply to San Francisco. San Francisco Water Department is monitoring the slide; the pipe may need to be relocated (USGS).
27. **Bodega Bay, Sonoma County.** On 02/05 high waves and wind-blown rains took a toll on the bluffs above Gleason's Beach where, several homes were in danger of sliding into the surf. All of the residents were evacuated (*The Davis Enterprise*). On 02/11 heavy rains continued to trigger landslides in both northern and southern California. Numerous homes were impacted along the Sonoma County coastline at Gleason's Beach north of Bodega Bay and in Monte Rio (Bedrossian, 02/11).
28. **Los Angeles, Los Angeles County.** On 02/06, mud crashed into an apartment building in Westlake area after the storm toppled a 15 foot retaining wall; more than 100 residents were evacuated. Water swept across Pacific Coast Highway and the Ventura, Harbor

and Santa Ana Freeways (Tan, 02/11). On 02/13 a home in Los Feliz was declared unsafe because rains had eroded its foundation (Tan, 02/19). On 03/01 a slide rumbled down a slope and flattened a house in the 3900 block of Eureka Drive in Studio City, pushing it into a backyard swimming pool. The houses on both sides of the pancaked house were yellow-tagged. The slope failure left four other homes (on Laurie Drive) perched precariously at the edge of an abyss. The residents had left the destroyed house after the City of Los Angeles red-tagged the structure as a precaution (Tan 03/05). On 03/01 a moderate-size landslide cascaded from a steep slope in Studio City and destroyed a house and several cars. The house had been evacuated due to concerns about the stability of the slope. This slide occurred more than five days after the rain stopped and illustrates the problem of delayed triggering of deeper landslides (Sue Cannon, USGS, 03/02). On 03/01 in the San Fernando Valley, the City of Los Angeles red- or yellow-tagged about 50 dwellings in danger of mudslide hazard in recent weeks, mostly along the slopes of Santa Monica Mountains (Tan, 03/05).

29. **Newport Beach, Orange County.** On 02/06 a mudslide crushed two cars (Tan, 02/11). On 02/26 parts of a yard tumbled from a hilltop home on Muir Beach Circle, blocking off an area of Goleta Point Drive, in the Spyglass Hill area (Tan, 03/05).
30. **Daly City, San Mateo County.** On 02/06 unstable slopes threatened seven homes in Avalon Canyon (Tan, 02/11). On 02/12 a collapsing hillside in Daly City threatens sea front homes as continuing storms cause mudslides (Tan, 02/19).
31. **Malibu, Los Angeles County.** On 12/06/97 homes in Malibu were damaged by waves and seacliff erosion. On 02/07 Malibu Canyon Road closed due to mudslides and rockfalls (Tan, 02/11). On 02/08 an ocean-eroded cliff buckled, causing one home to collapse and two others threatened. The homes along Broad Beach Road were undermined by high tides (Tan, 02/11). On 02/16 several houses along the beach of Malibu were damaged by the high surf and rainstorms (Tan, 02/19). On 02/23 Pacific Coast Highway, Topanga Canyon Boulevard, and Malibu Canyon Road were blocked by mudslides. A Union Pacific railroad trestle was undermined by the surging flows of the Ventura River and was not reopened to rail traffic for weeks (Tan, 03/05). On 02/24 in Malibu's Las Flores Canyon, officials called for evacuation of about a dozen homes because of unstable ground. Also, more mudslides on Pacific Coast Highway forced officials to close the local courthouse (Tan, 03/05). On 02/25 a 140-foot-long retaining wall partially collapsed, damaging two homes above the slide on Calle del Barco. The 20-year-wall, along a narrow road (Rambla Orienta) just above Pacific Coast Highway, began to give away during the evening of 02/24 (Tan, 03/05).
33. **Santa Barbara, Santa Barbara County.** On 02/07 officials closed roads because of mudslides and evacuated a mobile home park (Tan, 02/11). A Sycamore Canyon home was ripped from its foundation by a mudflow. No injuries were reported (Wieczorek, 02/25).
34. **San Clemente, Orange County.** On 02/08 high tide and rain caused damage to shoreline properties; nine homes at a mobile home park were damaged (Tan, 02/11). On 03/01 a landslide forced the evacuation of four homes in the 300 block of Paseo de Cristobal, piled dirt and large boulders onto the railroad tracks and cut off rail service. One of these houses was condemned (Tan, 03/05).
35. **Dana Point, Orange County.** On 02/08 the Holiday Inn Express was evacuated when a mudslide flowed into the underground parking structure. Cars flowed out of the building into the street with the mud (Tan, 02/11).
36. **Brea, Orange County.** On 02/08 a rock and mudslide closed the Carbon

- Canyon Road. Other road closures occurred at Pacific Coast Highway, Laguna Canyon Road, and El Toro Road (Tan, 02/11). On 02/24 Carbon Canyon Road was closed, after a hillside slid across half of the road at the La Vida Hot Springs Resort (Tan, 03/05).
37. **San Benito County.** On 02/11 DMG received a call from OES regarding the river jumping a channel and undercutting banks near a home (Bedrossian, 02/11).
 38. **Magalia, Butte County.** On 02/11 DMG received a call from an individual in regard to a sinkhole that collapsed approximately 20 feet from a house (Bedrossian, 02/11). The sinkhole may be related to the collapse of an old mining shaft, but this has not been verified.
 39. **San Fernando Valley, Los Angeles County.** On 02/13 a rain-soaked hillside collapsed in West Hills, Canoga Park, tearing away a garage, forcing the evacuation of five homes and threatening several other residences farther down the hill. The slide ripped a 200 feet long, 30 feet deep gash under a house, leaving a bedroom dangling over a chasm. The garage slid down slope 12 to 30 feet and 20 feet away (laterally), with a car still parked inside, and was wedged against the back of a downslope home (Tan, 02/19).
 40. **Ventura, Ventura County.** On 02/14 a hillside gave way and an oil pipeline ruptured, sending 8000 gallons of crude oil flowing into the ocean and severing a natural gas line that sparked a 100 foot-flame (Tan, 02/19). On 02/22 ten people were evacuated from an apartment building threatened by a mudslide; 12 families were forced to flee from another building on the same block of west Ventura's Cedar Street. A mudslide caused the rupture of a crude oil pipeline in the hills north of Ventura, spilling 168 gallons (Tan, 03/05). On 02/16 storms brought debris down at the bottom of Hall Canyon to form a small lake. Residents of 50 homes were notified that the dam might break and were required to evacuate. Residents of an additional 100 homes were notified that they may have to evacuate (Tan, 02/19). A 12-unit hillside apartment building was flattened by a mudslide; 300 residents were evacuated (Wieczorek, 02/25). On 03/03 previous shallow seated failures turned into deeper-seated failures; 20 percent of the buildings were red- or yellow-tagged (Bob Prodehl, City of Ventura). Well heads in the Ventura fields were damaged due to landslide activity (Ken Henderson, Division of Oil and Gas, 03/13).
 41. **Bel Air and Culver City, Los Angeles County.** On 02/16 shallow slope failures affecting houses occurred in Bel Air and Culver City (Tan, 02/19).
 42. **Scotts Creek, Santa Cruz County.** Many draws were blown out by debris flows, translational-rotational slides and slumps. Most of the debris appears to be from residual landslide deposits that moved during previous storms (Roberta Smith-Evernden, consultant, 02/17). On 03/03 DMG received a request from CDF to examine slides resulting from storms on a Timber Harvesting Plan (THP) previously reviewed by DMG. DMG examined erosion control measures implemented in the THP, particularly along a newly constructed road near Scott's Creek. One debris flow occurred in brush lands outside of the managed area and several old fills on existing roads had begun to crack and fail. DMG made several recommendations for additional drainage control measures along the road (Spittler, 03/10).
 43. **Hollywood Hills, Los Angeles County.** On 02/23 the storm threatened houses on an unstable hillside (Tan, 03/05).
 44. **Sherman Oaks, Los Angeles County.** On 02/25 a slope failure along a 60-foot-long section of hillside closed a stretch of the 14800 block of Mullholland Drive (Tan, 03/05).
 45. **Ukiah, Mendocino County.** On 02/25 a house was affected by a rotational slide below the house. The house was red tagged; 12 feet of movement occurred in two days in an area previously mapped as landslide by Robert Sydnor and Julie Bawcom for Mendocino County (Sydnor and Bawcom, DMG OFR 91-16). Four other houses were red tagged in the area mapped. Use of a consultant was recommended (Bawcom, DMG, 02/25).

46. **Davenport, Santa Cruz County.** On 02/25 there were many debris flows, some affecting homes in the bottom of draws. Some failures were THP related, mostly in the northern part of the county. Mid-county larger slumps and translation-rotational slides occurred. Near Corralitas, very large old slides were reactivated (Spittler, 02/25).
47. **Santa Maria, Santa Barbara County.** A portion of the bank of the Cuyama River collapsed along Highway 166 13 miles east of Santa Maria, taking along a tractor-trailer rig and a half dozen cars, including a California Highway Patrol cruiser. Two people were reported killed (USGS, 02/26). On 02/24 flooding and mudflows caused collapse of Highway 166, killing two CHP patrolmen (Channel 3 News, 02/28).
48. **Blucher Valley, Sonoma County.** On 03/09 two houses were affected by the reactivation of the Blucher Valley landslide. The slide, which is located on very gentle (10 to 20 degrees) dip slopes of the Wilson Grove Formation, originally moved in 1983. DMG geologist Spittler visited the site on 03/09. Fractures were present down the face of the slide and the toe had migrated upslope 50 to 100 feet, i.e., the toe of the original failure in 1983 was acting as a buttress to present movement, causing the ground above the toe to buckle. Two houses on the toe were affected; one was yellow-tagged, one was red-tagged.
49. **Russian River, Sonoma County.** On 03/04 DMG received a request from CDF to examine slides resulting from storms on a THP previously reviewed by DMG. DMG examined two small landslide failures along roads within Little Whiskey Creek, a tributary drainage to the Russian River in Sonoma County. No sediment had reached the watercourses. DMG made recommendations for removal of debris from the roads and future stabilization of the slides (Spittler, 03/10).
50. **La Honda, San Mateo County.** On 02/19 in La Honda nine homes were threatened by a mudslide; three houses were red-tagged (Tan, 03/05). On 03/13 a large, slow-moving, deep-seated slump affected 25 homes. The main slide had been moving continually since 02/11, but recent rain accelerated movement. Three houses at the head of the slide were red-tagged and five other houses are on or adjacent to it. The slide appears to be enlarging in the downslope direction. USGS employees mapped the landslide to determine its relationship to another, smaller landslide downslope from it. San Mateo County drilled three wells in a road that crosses the slide and has been pumping the wells since 02/26. Trenches were also dug and lined with plastic to provide drainage. The county geologist plans to drill exploratory borings based on USGS input (USGS, 03/20).
51. **Big Sur, Monterey County.** On 03/13 landslides blocked Highway 1 at Hurricane Point, eight miles northwest of Big Sur (USGS).
52. **Interstate 5, Lake Shasta, Shasta County.** On 03/13 a fill failure along the shore of Lake Shasta closed the outside lane of Interstate 5 (USGS).
53. **Highway 96, Siskiyou County.** On 03/13 a debris flow with an estimated length of 1000 to 2000 feet blocked 2/3 of the channel of the Klamath River and covered several hundred feet of highway about 13 miles north of Humboldt County (USGS).
54. **Las Lomas, Monterey County.** On 03/10 a slide moved toward Las Lomas Drive. The toe reached into the yards of three homes on Las Lomas Drive. Seven homes on the west side of Las Lomas Drive were considered for evacuation if sewers or other utilities were disrupted (USGS, 03/12). On 03/13 the Flora Drive slide continued to move, affecting 10 homes (USGS). On 03/19 the slide continued to move at a reduced rate. Houses on the slide held together; the two worst damaged homes were in the middle of Flora Drive. Access and utility problems continued (USGS, 03/20).
55. **Cloverdale/Geysers Road, Sonoma County.** A chronic earthflow showed renewed movement. The earthflow passes under an existing viaduct on Highway 101 between Cloverdale and Squaw Rock (USGS, 03/12). The Cloverdale/Geysers Road was closed

- due to landslide activity (Henderson, 03/13).
56. **Sebastopol, Sonoma County.** A landslide threatened three homes in a rural area two miles west of Sebastopol. The slide, which is roughly 1000 feet long by 200 feet wide, knocked one of the homes off its foundation. A second home slid down a hill and a third was heavily damaged (USGS, 02/26). On 04/21 DMG received an inquiry for historical information about a deep-seated translational landslide that affected several properties on Gold Ridge Road on 02/19. The slide occurred at the interface between the steep slopes below and flatter ground above under geologic conditions similar to the Blucher Valley landslide (see # 46, Spittler, 04/29).
 57. **Grass Valley, Nevada County.** On 05/08 DMG participated in a news briefing regarding the collapse of the Old Brunswick shaft of the Idaho-Marilyn Mine Complex near Grass Valley in the vicinity of new \$400,000 homes (Bob Hill, DMG, 05/11).
 58. **Oroville, Butte County.** On 04/23 DMG received a request for assistance from the Office of Mine Reclamation regarding a citizen in Oroville whose property was collapsing due to old mining tunnels. DMG geologist, Bob Hill visited the site and prepared a short report. DMG staff are researching historical mine activity to determine the extent of underground mine tunnels in the Oroville area. This appears to be an area-wide problem, not an isolated incident (Hill, 04/25).
 59. **Highway 80, Solano County.** Throughout the 1997-98 season, a large-scale, deep-seated complex landslide on Highway 80 west of the Red Top exit continued to move slowly. The slide has disrupted Highway 80 and the nearby frontage road for several years possibly due to the undercutting of the toe by the stream channel below. The slide measures about 2000 feet wide and 3000 feet long with an estimated depth of approximately 100 to 150 feet. Significant cracking along the frontage road 1000 to 2000 feet southwest of the main landslide suggests activation of a new landslide in this area (Donn Ristau, consultant, 04/13).
 60. **Petaluma, Sonoma County.** In December 1997 a slide disrupted Sonoma Mountain Road, east of Petaluma (north of the residence at 550 Sonoma Mountain Road). The failure appears to be the reactivation of an older, deep-seated slide complex that flanks the western boundary of the Rodgers Creek fault zone. The slide is approximately 400 feet in length and approximately 150 feet wide. The northeast lateral margin of the slide resulted in vertical displacement (down) of the road four feet. The vertical relief in the headscarp of the failure indicates the upper portion of the slide dropped approximately eight to ten feet. The depth of the failure is estimated to be at least 15 feet in the central portion of the slide mass (Ristau, 05/19).
 61. **Carmel Valley, Monterey County.** In December 1997 a series of debris slides failed off the northern flank of Saddle Mountain in Carmel Valley and impacted the Saddle Mountain Recreation Area. Failures were typically 50 to 100 feet in length, 30 to 50 feet in width and three to six feet deep. The underlying bedrock is a massive sandstone and pebble conglomerate in which the weathered residual soils liquefied. Steeply dipping, out-of-slope fractures apparently resulted in the sloughing of weathered slabs of rock. In several areas the debris slides triggered the additional failure of outboard fill slopes (Ristau, 05/19).
 62. **Santa Rosa, Sonoma County.** On 03/03 DMG was notified of the reactivation of the Lost Acres landslide that occurred in the Bennett Valley area of Santa Rosa during the winter storms of 1995 and 1997 (Norman Dolan, homeowner, 03/03). The Lost Acres landslide is a large, deep-seated rotational failure that covers about 12 acres and encompasses a hillside bench and flanking slopes of the adjacent drainages, beneath an east-north facing slope. Four residences were tagged for limited entry and one house was tagged for no entry in 1997 (Haydon, 03/05/97).

63. **Pacifica, San Mateo County.** Residents of seven homes were evacuated on Esplanade Drive on 02/22 as a result of sliding and erosion of the cliffs. During the previous two weeks, the 30 foot tall cliff retreated ten feet to the rear edge of the homes (USGS, 02/27). On 03/03 seacliff slumping affected several homes in Pacifica (Channel 3 News). Although the rate of cliff erosion, soil falls, and rock falls decreased, water was still seeping from the face. Material that failed was mainly a fluvial deposit on top of a marine terrace deposit. Seawall and other mitigative designs were being considered (USGS, 03/12).
64. **Orinda, Contra Costa County.** Three houses remained in precarious situations after a mudslide threw them off their foundations (USGS, 02/26).
65. **San Leandro, Alameda County.** A massive landslide threatened seven homes on Hillside Drive, including two that had to be moved off their foundations on 02/21 and 02/22 to save them from the encroaching wall of mud. The slide is about 90 feet high by 200 feet wide (Bill Cotton, consultant, 02/22). The San Leandro slide now has a volume of 65,000 to 70,000 cubic yards; it has moved a total of about five to six feet on a slope of 1.5 to 1. The slide is a translatory failure in decomposed and highly sheared gabbro near the Hayward fault. The subdivision was built in the late 1970's and early 1980's. Two homes were moved by the slide. The slide were mapped and inclinometers were positioned on the slide. Remedial measures were being planned (USGS, 03/11).

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ADDRESS 4400 MACARTHUR BLVD # 700
CITY NEWPORT BEACH ZIP CODE 92660 PHONE (949) 660-9100

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696 (R 1/01)

Response 23 – George Straggas (May 27, 2022)

- 23 - 1 The comment is an attachment to Comment Letter No. 22 and provides the 1998 Landslide Inventory from the Department of Conservation. The comment is noted and will be forwarded to the decision-makers.

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Comment Letter 24 – Andy Zalay (May 27, 2022)

From: Andy Zalay <zalaype@gmail.com>
Sent: Friday, May 27, 2022 11:20 AM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Cc: nussgalles <nussgalles@cox.net>; Kozel Jim <jpkozel@yahoo.com>; lori.martinez@fsresidential.com; holly.maddalena@fsresidential.com; susanne.lupis@fsresidential.com; Christine Wilz <Christine.Wilz@fsresidential.com>; Elgin Johnson <elginjohnson@icloud.com>; Rod Henderson <rhhenderson@cox.net>; Digger Ware <digger.niguelsummit@gmail.com>
Subject: Written Letter to City to Add to Comments on DEIR due today at 4pm on The Cove El Niguel

Resident
 30672 Via Estoril
 Laguna Niguel, Ca 92677

May 27, 2022

Dear Amber Gregg, Contract Planner, City of Laguna Niguel;

Further to our meeting yesterday in your office and my previous letter of May 26 flagging certain DEIR non-compliance issues with The Cove at El Niguel Project application, please find additional information received on the May 11 wildfire (proposed Project is in the wildfire hazard zone located below Via Estoril) to add to the DEIR comments asking to deny the Project to protect our homes and community as follows;

24-1

3) Tentative Tract Map (TTM 17721)

- THE OCFD LETTER IN THE DEIR APPROVING THE PROJECT REQUIRES A REVISION IN THE LIGHT OF TWENTY (20) HOMES DESTROYED AND MORE DAMAGED ON MAY 11 ABOVE THE PROPOSED PROJECT LOCATED IN A WILDFIRE PRONE ZONE (SEE ATTACHED SIX (6) PHOTOS)
- TO ENSURE PUBLIC SAFETY FOR ALL CONCERNED

24-1
(cont)

(HOMEOWNERS, RESIDENTS, AND COMMUNITY), THE CONDOMINIUM DESIGNATION SHOULD BE RESTORED TO THE GREEN BELT DESIGNATION AS ORIGINALLY CONTEMPLATED BY THE CITY.

Based on the City's commitment to the residents and following the principle of best and highest land use, the recommendation is that the City keep the original greenfield zoning designation to protect the community in the face of wildfires/drought/global warming/ rolling blackouts.

Thank you for City Planning to protect our homes and community and look forward to your constructive inputs.

Sincerely,
COMMUNITY RESIDENT

Photographs/Attachments – Andy Zalay (May 27, 2022)





Response 24 – Andy Zalay (May 27, 2022)

24 - 1 The comment suggests the approved fuel modification plans should be revisited in light of the Coastal Fire and the City should keep the original open space zoning. Regarding the Coastal Fire, the conditions surrounding the Coastal Fire are very different than the Project site. The vegetative fuel type; orientation of the homes to prevailing winds and the aspect of the slope; vegetation density and maintenance status of fuel modification; and age of construction of structures. The proposed Project has an approved fuel modification plan that meets Orange County Fire Authority’s (OCFA) standards. That does not change because of the Coastal Fire. Furthermore, surrounding existing residential communities have responsibility for their own fuel modification. Only a portion of the slope above the Project site is within the control of the Applicant. The Applicant can only implement fuel modification on its own property. Surrounding neighborhoods, including Niguel Summit, are responsible to implement its own fuel modification, regardless of the status of the proposed Project. The OCFA has reviewed the proposed Project against its standards and codes and has provided approval to move forward through the entitlement process. The commenter has not provided any substantial evidence to the contrary.

The comment suggests the City should “keep the original greenfield zoning designation.” The Project site is zoned for residential development with an RM zoning designation. Please see **Section 2.2 General Response 2 – Land Use / FEMA** for further information.

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Comment Letter 25 – Ken Stelts (May 27, 2022)

From: Ken Stelts <kenstelts@gmail.com>
Sent: Friday, May 27, 2022 12:06 PM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Subject: Proposed Development: The Cove at El Niguel

25-1

I am a Laguna Niguel resident and homeowner in the Niguel Summit subdivision. We purchased our home on Calle Barbosa around the time of the landslide above the proposed development. I was on the Niguel Summit HOA Board of Directors when the lawsuits around the landslide were negotiated and settled, and the hill was shored up.

It was my understanding at the time the hill was shored up and reconstructed that the land at the bottom of the hill was to remain undeveloped. Given the traumatic history of this site, I am opposed to this development, particularly since it will require grading at the base of the hill. Surely there must be other areas better suited to development in Laguna Niguel.

Kenneth Stelts

Response 25 – Ken Stelts (May 27, 2022)

- 25 - 1 The comment provides background and the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers. The commenter is referred to **Section 2.2 General Response 2 – Land Use / FEMA** for further information on the zoning of the property and the outcome of the FEMA funding.

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Comment Letter 26 – Don Ware (May 27, 2022)

From: Digger Ware <digger.niguelsummit@gmail.com>
Sent: Friday, May 27, 2022 9:48 PM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Subject: Comments regarding DEIR for the proposed Crowne Cove at El Niguel development

26-1 My name is Don Ware. I live at 30782 Calle Malaga, LN, just blocks away from the proposed Crowne Cove at El Niguel development. Although I agree that there is a housing shortage in southern California, that need should not compromise the safety of our current and future homeowners. Geotechnical reports regarding the Estoril Landslide area document the movements of two landslides and the continuing movement of the manmade landslide buttress.

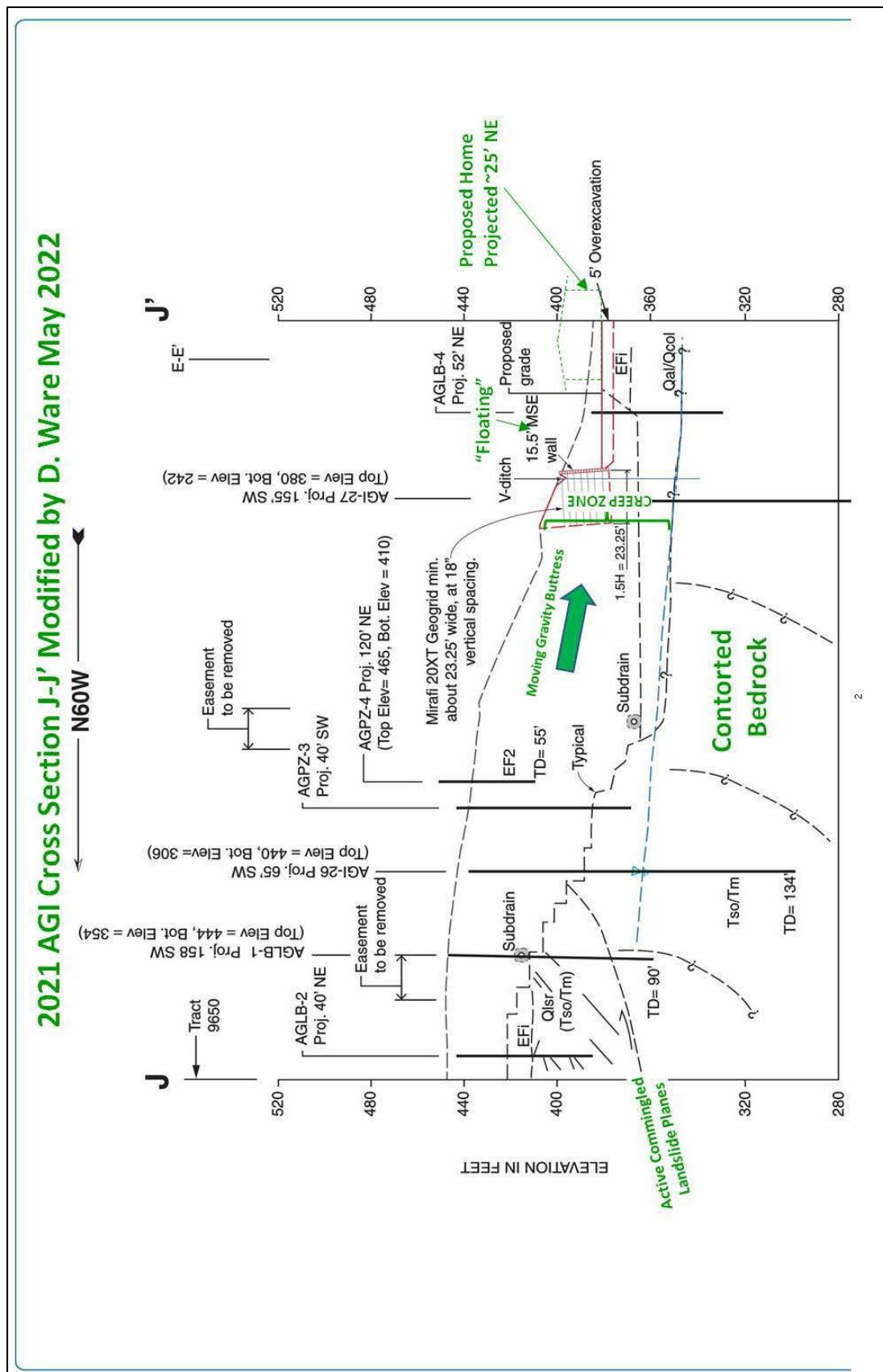
As stated in the American Geotechnical Inc. (AGI) report dated November 22, 2000, page 18, the Estoril Landslide repair was designed for an intended use as “open-space, non-development area”. Any other purpose proposed for this area should address what improvements must be made to the landslide repair. Without an improvement to the 2001 landslide repair, the area should remain open-space.

26-2 AGI has identified two landslides in the area: an upper-shallow landslide that failed; and lower-deeper larger landslide. Borehole inclinometer data indicate that both landslides have moved since the 1998 failure and they are likely to move again following a rainy season. An earthen mound (gravity buttress) was built to constrain the movement of these two landslides and is providing protection for the homes near the Estoril Landslide. The project design proposes to remove the southeast portion of the gravity buttress which would reduce its effectiveness in restraining the landslides.

The proposed development attempts to improve the landslide Factor of Safety by installing a 15.5' high Mechanically Enhanced Earth (MSE) wall. However, the wall is not anchored in bedrock but instead “floats” within the expansive soils that are creeping toward the proposed development (see my modified cross section J-J' from the AGI 2021 report below). Regardless of any Factor of Safety computer generated models (which should be checked by an independent party for input assumptions and completeness), over time, the easterly creeping gravity buttress will adversely impact any structures placed in front of it.

Any future development in the Estoril Landslide area without complete remediation of the shallow and deep landslides or without improvements to the landslide repair will subject the area to greater ground movements and positions current and potential future residences in harm's way. I strongly recommend the city retain the area as open-space.

Regards,
 Don Ware



Response 26 – Don Ware (May 27, 2022)

- 26 - 1 The comment provides background and opinion and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 26 - 2 The comment pertains to the stability of the buttress fill following construction of the MSE wall. Please see Section 4.6 of the DEIR and **Section 2.1 General Response 1 – Geotechnical** for more information. The commenter provided an incorrect statement that the landslide repair assumed open space as a future land use. The landslide repair was made to achieve at minimum a factor of safety of 1.5 (static) and 1.1 (seismic). The commenter also incorrectly states the MSE wall is proposed to improve the factor of safety. The factor of safety was determined assuming installation of the MSE wall. The MSE wall is intended to provide a small amount of additional developable space to accommodate the proposed homes and roadways. The analysis has determined that the MSE wall would not cause instability to the buttress fill and acceptable factors of safety would be exceeded. The buttress fill consists of 440,000 cubic yards of fill. Construction of the MSE wall requires removal of 760 cubic yards, or 0.17% of the buttress fill.

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Comment Letter 27 – Jeanenne Morphis (June 7, 2022)

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

From: Jeanenne Morphis <rjmmorgans@aol.com>

Sent: Tuesday, June 7, 2022 11:07 AM

To: Amber Gregg <AGregg@cityoflagunaniguel.org>

Subject: building in slide area

27-1

We are new to the area, just moved here from Eastern Washington in January. My husband and I purchased a home on Calle Moraga in March, which is close to the slide in Niguel Summit. We were made aware of the history of the area and felt comfortable that the slide situation was stable so we went ahead and purchased our home. Now finding out about the hopes of developers to rebuild on the sight of the previous slide and I'm finding this totally absurd. My experience tells me that developers will build anywhere if there is a potential profit as their goal is to make money and it doesn't necessarily profit the community at large.

27-2

I'm not against planned community development. But common sense says that if it was built by developers and slid one time, that the chances of another slide are real. We are entering into a new phase of climate change with more volatile weather coming at us. Please don't consider this plan as a viable option. This is not the best site to build more homes or townhomes. I know it's a great area, as we purchased here, but it's a terrible idea.

27-3

I've served on the boards of several HOA's and served on many committees and have worked personally with developers and builders. I think I have a pretty good grasp of good planning and poor planning and this is not good planning. The event that triggered the slide was abnormal rainfall. The events that triggered the Coastal Fire was abnormal dry conditions with wind in an area that doesn't normally burn. But here we are looking down the barrel of climate change in 2022. We must be responsible for the land we inherit and make the best choices we can.

Let's focus our strategy on fire safety and reduced water use. We need to look forward and not repeat the mistakes of the past.

Jeanenne Morphis
30856 Calle Moraga
Laguna Niguel, Ca. 92677

Response 27 – Jeanenne Morphis (June 7, 2022)

- 27 - 1 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 27 - 2 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers. The comment references concern about landslide stability. Please see Section 4.6 of the DEIR and **Section 2.1 General Response 1 – Geotechnical** for more information.
- 27 - 3 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.

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Comment Letter 28 – Jay and Maria Wiltshire (June 8, 2022)

From: Jay <jywiltshire@gmail.com>
Sent: Wednesday, June 8, 2022 2:30 PM
To: Amber Gregg <AGregg@cityoflagunaniguel.org>
Subject: The Cove at El Niguel Project

Dear Ms. Gregg,

28-1

We are homeowners in Charter Terrace at the end of a cul-de-sac which looks out upon the earthen buttress and area which experienced the destructive landslide over two decades ago. Our goal is to avoid future disasters for current – or future – residents and to ensure the safety of our communities.

The purpose of this email and letter is to request that the scope of the Draft Environmental Impact Report for The Cove at El Niguel Project be expanded. Please see letter attached that contains the details of our request.

Regards,
Jay and Maria Wiltshire

Sent from [Mail](#) for Windows

Ms. Amber Gregg
Contract Planner
City of Laguna Niguel
30111 Crown Valley Parkway
Laguna Niguel, CA 92677

Sent via e-mail: agregg@cityoflagunaniguel.org

Dear Ms. Gregg,

28-2 | We are homeowners in Charter Terrace at the end of a cul-de-sac which looks out upon the earthen buttress and area which experienced the destructive landslide over two decades ago. Our goal is to avoid future disasters for current – or future – residents and to ensure the safety of our communities.

The purpose of this letter is to request that the scope of the Draft Environmental Impact Report for The Cove at El Niguel Project be expanded to include the items below:

28-3 |

- American Geotech was involved with the remediation of the site after the landslide. This firm has a vested interest in supporting their prior determinations and work. Our community views this as proof that they cannot be subjective, because it would reflect on their prior work and reputation. We formally request a new, independent geotechnical appraisal from a professional engineering firm outside of the Orange County community, and without any ties to this developer or the City of Laguna Niguel.

28-4 |

- No portion of the landslide repair area (especially the buttress) should be reduced or 'cut into' to fit in development of any kind. This must be discussed in much more detail by an objective third-party geotechnical firm without ties to the developer or City. The impacts of 'cutting into' the buttress is of paramount concern, as this buttress stabilizes the hill upslope and the 'toe' is a critical component that anchors the engineering integrity of the entire structure. Please provide much more detail in this regard.

Please specify the maintenance required for the buttress, as well – both in its intact (current) shape and if it is to be cut into. How will the following issues be addressed and who is responsible for land movement, storm drains, erosion control, landscape, etc.?

28-5 |

- The developer's consultant has included remarks intended to divert the responsibility for legal and financial consequences of future problems to others, as follows: "Final decisions on matters presented are the responsibility of the client and/or the governing agencies. No warranties in any respect are made as to the performance of the project." Will the City assume legal and financial responsibility for the project in the case of future problems?

Sincerely,

A handwritten signature in black ink, appearing to read "Jay and Maria Wiltshire", is positioned above the printed address.

Jay and Maria Wiltshire
30535 Abington Ct.
Laguna Niguel, CA 92677

Response 28 – Jay and Maria Wiltshire (June 8, 2022)

- 28 - 1 The comment provides background and opinion and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 28 - 2 The commenter requests an “independent geotechnical review” by a firm that is not associated with the developer or City. The City has hired Goffman, McCormick, and Urban (GMU) as its independent geotechnical engineering firm. GMU is responsible for reviewing all reports and plans submitted to the City. GMU has no conflict of interest and is responsible for independently reviewing plans to ensure hillside safety and compliance with adopted codes. Furthermore, in order for the City to certify the DEIR, the City must make findings of independent judgement, which is the process by which the City and its consultants, such as GMU, independently review applicant proposals.
- 28 - 3 The comment suggests that no portion of the buttress should be reduced or cut into. Please see Section 4.6 of the DEIR and **Section 2.1 General Response 1 – Geotechnical** for more information on geotechnical stability and the construction of the MSE wall at the toe of the buttress slope.
- Regarding maintenance, the homeowner’s associations that own the land surrounding the landslide area are responsible for their own maintenance. As discussed in **Section 2.1 General Response 1 – Geotechnical** the majority of the landslide area, sub-drains, and buttress fall within land owned by the Niguel Summit HOA. Therefore, Niguel Summit has the majority of the maintenance responsibilities for the landslide area, including the subdrain system. The homeowner’s association for the proposed community will also have maintenance responsibility for the subdrains, retaining walls, and buttress slope that is within its property.
- 28 - 4 The comment pertains to comments supposedly made by the developer’s consultant, which are beyond the scope of the DEIR and do not pertain to analysis included in the DEIR. Therefore, the comment is noted and will be forwarded to the decision-makers.

Comment Letter 29 – Andy Zalay (June 28, 2022)

From: Andy Zalay <zalaype@gmail.com>

Sent: Tuesday, June 28, 2022 1:14 PM

To: Amber Gregg <AGregg@cityoflagunaniguel.org>

Cc: Elgin Johnson <elginjohnson@icloud.com>; nussgalles <nussgalles@cox.net>; Digger Ware <digger.niguelsummit@gmail.com>; Kozel Jim <jpkozel@yahoo.com>

Subject: Re: Project Information for Laguna Niguel

Jun 28 Hello Ms. Amber Gregg, Contract Planner City of Laguna Niguel:

29-1

Thank you for returning my call today and for sending me the weblinks on the above 3 projects under review by the City of Laguna Niguel.

As a local resident and interested party, I noticed that the above reports fail to mention the impact of certain current conditions on the above 3 projects including;

29-2

a) rolling blackouts

29-3

b) drought

29-4

c) wildfires

29-5

Please let me know how I can submit information to the City Planning office on the above and related topics in support of future meetings/deliberations as a local resident, interested party and a CA licensed professional engineer/ health risk

29-4
(cont)

assessment professional*.

Note: *See attachments

KEEP UP THE WORK TO KEEP OUR COMMUNITY SAFE

I took the liberty to copy other interested parties on this email for their constructive inputs.

Kind Regards,

Andy

Andrew Zalay, P.E.
eWind Consultants
P.O. Box 7560
Laguna Niguel, CA 92607

949 378 0807 cell
949 609 9897 work
Email <zalaype@gmail.com>

On Tue, Jun 28, 2022 at 11:33 AM Amber Gregg <AGregg@cityoflagunaniguel.org> wrote:

Hello Andy,

Thank you so much for taking the time to talk with me this morning. Please see the below weblinks to the three projects we discussed today:

The Cove – Below you will find the website that has the Draft EIR link along with other info on the project.

<https://www.cityoflagunaniguel.org/1435/The-Cove-at-El-Niguel-Project>

City Center – When you click on the below link there is a Library FAQ sheet toward the bottom of the webpage you can kick on to get more info. In addition, the project planner's information is there as well if you have additional questions.

<https://www.cityoflagunaniguel.org/1213/Laguna-Niguel-City-Center-Mixed-Use-Proj>

Chet Holifield Federal Building- Below is a link to the project webpage
<https://www.cityoflagunaniguel.org/1351/Chet-Holifield-Federal-Building>

I hope that helps, please feel free to reach back out with any questions.

Thank you,
Amber



Amber Gregg | Contract Planner
City of Laguna Niguel
30111 Crown Valley Parkway
Laguna Niguel, CA 92677
agregg@cityoflagunaniguel.org
Tel: 949-362-4323

Photographs/Attachments – Andy Zalay (June 28, 2022)



Response 29 – Andy Zalay (June 28, 2022)

- 29 - 1 The comment provides a general introduction and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.
- 29 - 2 The commenter references rolling blackouts but does not provide any specific comments on the analysis presented in the EIR. Rolling blackouts are not an impact topic included in CEQA. However, energy is a CEQA topic and the thresholds pertain to wasteful or inefficient use of energy or conflicts with energy policy. Please see Section 4.5 for analysis of the Project’s energy demands. The DEIR concluded no significant impacts would occur associated with electrical demand for 22 residences. Without specific comments on the analysis presented in the EIR, no further response is required.
- 29 - 3 The commenter references drought but does not provide any specific comments on the analysis presented in the EIR. Section 3 of the EIR found no significant impact on water supplies from the proposed Project. Moulton Niguel Water District (MNWD) provided a Conditional Will Serve Letter, which stated that adequate water supplies are available for the proposed Project. Without specific comments on the analysis presented in the EIR, no further response is required.
- 29 - 4 The comment suggests the proposed Project would increase the wildfire risk. The fuel modification plans included in Appendix G pertain to the proposed Project. The fuel modification zones reduce the density of vegetation, introduce irrigation, and require a plant palette of lower combustible vegetation. The Orange County Fire Authority (OCFA) has approved the Project’s fuel modification plan. The Project’s fuel modification plans are consistent with the adopted codes, which have not changed because of the recent fire. The obligation for fuel modification is with each neighborhood. Surrounding communities also have a fuel modification obligation, which requires on-going maintenance, whether or not the proposed Project is approved.
- 29 - 5 The comment provides the opinion of the commenter and does not provide specific comments on the DEIR. The comment is noted and will be forwarded to the decision-makers.

SECTION 3.0 REVISIONS TO THE DRAFT EIR

3.1 Introduction

Following public review of the DEIR, it is possible that revisions to the DEIR are warranted based on (1) additional or revised information required to prepare a response to a specific comment; (2) applicable updated information that was not available at the time of DEIR publication; and/or (3) typographical errors. Any changes made to the DEIR are identified in the following subsection in ~~strikeout text~~ to indicate deletions and in underlined text to signify additions.

3.2 Updates and Corrections to the Draft EIR

There are no corrections/updates/clarification to the DEIR based on public comments received.

Appendix A

Mitigation, Monitoring, and Reporting Program

**MITIGATION MONITORING AND REPORTING PROGRAM
ENVIRONMENTAL DOCUMENT REFERENCE NUMBER (SCH 2021110122)**

PROJECT NAME: The Cove at El Niguel Residential Project

PROJECT LOCATION: 30667 Crown Valley Parkway in Laguna Niguel, Orange County, California 92677

PROJECT DESCRIPTION: The Project Applicant proposes to construct 22 three-story condominium style homes configured in 6 triplex and 2 duplex buildings on approximately 2 acres, and approximately 2.2 acres of open space consistent with the existing City General Plan and Zoning Code designation. The Applicant seeks approval of (1) Tentative Tract Map TTM 17721 (TTM 17721), (2) Minor Adjustment, and (3) Site Development Permit (SP 16-04) including Alternative Development Standards.

LEAD AGENCY: City of Laguna Niguel

CONTACT PERSON/ TELEPHONE NO.: Amber Gregg, Contract Planner | (714) 744-7231

APPLICANT: Laguna Niguel Properties

CONTACT PERSON/ TELEPHONE NO.: Michael Recupero | (714) 272-9278

No.	Mitigation Measure	Time Frame and Responsible Party for Implementation	Time Frame and Responsible Party for Monitoring	Verification of Compliance		
				Initials	Date	Remarks
Aesthetics						
PDF AES-1	The Project is to be subdivided into two lots, Lot 1 and Lot “A”. Lot 1 includes the 2-acre residential area and Lot “A” includes the 2.2-acre area of open space, which consists of the previous remediated landslide area and includes the 30-foot earthen “buttress” (a design feature previously approved for geotechnical assurance of future landslide), planted erosion control, and installed storm drain system. Since Lot A is a lettered lot on the tentative tract map and no residential development is allowed on lettered lots, no					

Appendix A – Mitigation Monitoring and Reporting Program

No.	Mitigation Measure	Time Frame and Responsible Party for Implementation	Time Frame and Responsible Party for Monitoring	Verification of Compliance		
				Initials	Date	Remarks
	residential development would occur on the remediated hillside.					
PDF AES-2	The Project will include architectural design elements indicative of Spanish architecture such as simple asymmetrical forms, arched entries, predominantly stucco wall finishes, and shallow gabled ‘S’ tile roofs that work together to showcase the building elevations. Similarly, grouping of accent windows and vertical forms of openings will reinforce this characteristic. Additional design elements including material blending of slump stone, simulated wood corbels, shutters, shaped wood trims and posts, decorative metal railings and downspouts were specifically chosen to enhance the overall design character on every side of each building. A representative architectural rendering of the Project is presented in Figure 4.1.A – Architectural Rendering, and a sample building elevation is presented in Figure 4.1.B – Building Elevation-Duplex and Figure 4.1.B – Building Elevation-Triplex.					
PDF AES-3	Vegetation to be planted within Lot 1 will implement a landscape plan themed with drought tolerant grasses, shrubs and trees. The resulting pallet of vegetation will blend in with the existing vegetation planted in Lot “A,” and help to soften the hardscape design elements of the Project buildings. The landscape plan is presented in Figure 4.1.D Landscape Plan.					
PDF AES-4	The Project Lighting Plan has been designed to provide adequate, safe nighttime lighting for residents and guests					

No.	Mitigation Measure	Time Frame and Responsible Party for Implementation	Time Frame and Responsible Party for Monitoring	Verification of Compliance		
				Initials	Date	Remarks
	while minimizing spillover lighting onto adjacent properties. A conceptual lighting plan is presented in Figure 4.1.E Lighting Plan and the final lighting plan shall be approved by the Staff in conformance with City standards.					
Air Quality						
SCA AQ-1	The Project would adhere to applicable SCAQMD rules during construction including: Rule 402 prohibiting the discharge of air contaminants or other materials which cause a nuisance; Rule 403 requiring best available control measures be applied to earth moving and grading activities to reduce the amount of particulate matter emitted into the air as a result of human-made fugitive dust sources; and Rule 1113 requiring compliance with current standards to limit the content of VOC in architectural coatings.					
SCA AQ-2	The Project would adhere to existing, applicable, CALGreen building code standards as they relate to reducing Project operational energy use, indirectly reducing impacts to air quality.					
Biological Resources						
PDF BIO-1	The Project is to be subdivided into two lots, Lot 1 and Lot A. Lot 1 includes the 2-acre residential area and Lot A includes the 2.2-acre area of open space which consists of the previous remediated landslide and includes the 30-foot earthen “buttress” (a design feature approved for geotechnical assurance of future landslide), planted erosion					

Appendix A – Mitigation Monitoring and Reporting Program

No.	Mitigation Measure	Time Frame and Responsible Party for Implementation	Time Frame and Responsible Party for Monitoring	Verification of Compliance		
				Initials	Date	Remarks
	control, and installed storm drain system. Since Lot A is a lettered lot on the tentative tract map and no residential development is allowed on lettered lots, no residential development would occur on the remediated hillside.					
MM BIO-1	<p>If construction is started during the typical avian breeding season ((February 15 to August 31 for songbirds; January 15 to August 31 for raptors), a qualified biologist shall conduct a nesting bird survey within all suitable habitat, on-site and within 300-feet surrounding the site (as feasible), to identify any potential nesting activity within 3 days before start of construction.</p> <p>If active nests are identified, the biologist would establish buffers around the vegetation (500 feet for raptors and sensitive species, 200 feet for non-raptors/non-sensitive species). All work within these buffers would be halted until the nesting effort is finished (i.e. the juveniles are surviving independent from the nest). The on-site biologist would review and verify compliance with these nesting boundaries and would verify the nesting effort has finished. Work can resume within these areas when no other active nests are found. Alternatively, a qualified biologist may determine that construction can be permitted within the buffer areas and would develop a monitoring plan to prevent any impacts while the nest continues to be active (eggs, chicks, etc.). Upon completion of the survey and any follow-up construction avoidance management, a report</p>	Pre-Construction/ Disturbances – Applicant/ Project Biologist	Pre-Construction/ Disturbances – City			

No.	Mitigation Measure	Time Frame and Responsible Party for Implementation	Time Frame and Responsible Party for Monitoring	Verification of Compliance		
				Initials	Date	Remarks
	shall be prepared and submitted to City for mitigation monitoring compliance record keeping.					
Cultural Resources						
MM CUL-1	Prior to the issuance of grading permits, the applicant will retain a qualified archaeological monitor who will prepare an Archaeological Resources Mitigation Monitoring Plan. The qualified archaeological monitor will attend all pre-grading meetings to inform the grading and excavation contractors of the archaeological resources mitigation program and will instruct them with respect to its implementation. The qualified archaeological monitor will be on-site during grading within native soil that has the potential to yield archaeological resources. If such resources are discovered and are in danger of loss and/or destruction, the qualified archaeological monitor will recover them. In instances where recovery requires an extended salvage time, the qualified archaeological monitor will be allowed to temporarily direct, divert, or halt grading to allow recovery of resource(s) in a timely manner. Recovered archaeological resources, along with copies of pertinent field notes, photographs, and maps, will be deposited in a certified curation facility that meets the standards of the California Office of Historical Preservation. The resources will be recorded in the California Archaeological Inventory Database. Should archaeological resources with ties to Native Americans be discovered, the archaeological monitor will immediately	Prior to Issuance of Grading Permit – Applicant/ Project Archeologist	Prior to Issuance of Grading Permit – City			

Appendix A – Mitigation Monitoring and Reporting Program

No.	Mitigation Measure	Time Frame and Responsible Party for Implementation	Time Frame and Responsible Party for Monitoring	Verification of Compliance		
				Initials	Date	Remarks
	notify the City and the most likely tribal representative for the area if not already present during monitoring activities. A final monitoring report will be submitted to the City within 30 days of the end of monitoring activities.					
MM CUL-2	Human Remains. Consistent with the requirements of CCR Section 15064.5(e), if human remains are encountered during site disturbance, grading, or other construction activities on the Project site, the construction contractor shall halt work within 25 feet of the discovery; all work within 25 feet of the discovery shall be redirected and the Orange County (County) Coroner notified immediately. No further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. If the remains are determined to be Native American, the County Coroner shall notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the City, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 48 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials. Consistent with CCR Section 15064.5(d), if the remains are determined to be Native American and an MLD is notified, the City shall consult with the MLD identified by the NAHC to develop an agreement for the	During Grading – Applicant/ Cultural Monitor	During Grading – City			

No.	Mitigation Measure	Time Frame and Responsible Party for Implementation	Time Frame and Responsible Party for Monitoring	Verification of Compliance		
				Initials	Date	Remarks
	treatment and disposition of the remains. Upon completion of the assessment, the consulting archaeologist shall prepare a report documenting the methods and results and provide recommendations regarding the treatment of the human remains and any associated cultural materials, as appropriate, and in coordination with the recommendations of the MLD. The report shall be submitted to the City Development Services Director, or designee, and the South Central Coastal Information Center. The City Development Services Director, or designee, shall be responsible for reviewing any reports produced by the archaeologist to determine the appropriateness and adequacy of the findings and recommendations.					
Energy						
PDF EN-1	The Project would be required to adhere to applicable California Building Code, Title 24, Part 6, energy efficiency standards.					
Geology and Soils						
PDF GEO-1	The Project is to be subdivided into two lots, Lot 1 and Lot A. Lot 1 includes the 2-acre residential area and Lot A includes the 2.2-acre area of open space which consists of the previously remediated landslide and includes the 30-foot earthen “buttress” (a design feature previously approved and installed for geotechnical assurance of future landslide), planted erosion control, and installed storm drain system. Since Lot A is a lettered lot on the tentative tract map and no residential development is allowed on					

No.	Mitigation Measure	Time Frame and Responsible Party for Implementation	Time Frame and Responsible Party for Monitoring	Verification of Compliance		
				Initials	Date	Remarks
	lettered lots, no residential home construction would occur on the remediated hillside.					
PDF GEO-2	<p>The residential building pads within Lot 1 will include Mechanically Stabilized Earth (MSE) walls up to 15.5 feet tall along the west perimeter of Lot 1 and 3.5 feet to 6 feet high along the east perimeter of Lot 1. The perimeter MSE walls bounding the west margin of the building pads and the 2:1 (horizontal:vertical) cut slope at the southwest margin of the building pads will be located at the toe of the compacted fill buttress built to stabilize the Via Estoril Landslide remediation.</p> <p>In addition to the MSE walls, a series of retaining walls is proposed. On the north perimeter of Lot 1, a two-tier retaining wall is proposed. The upper tier retaining wall is up to 5 feet high and the lower tier retaining wall is 3.5 feet to 6 feet high. Up to 6-feet high radiant heat walls with or without retaining walls up to 4.3 feet high are also proposed surrounding Buildings 4 and 5 located on the south portion of Lot 1. An up to 6.5-foot-high retaining wall is also proposed on the west side of Building 5. An up to 2-foot-high retaining wall is proposed to be constructed along the 15-foot-wide access road located on the southeast side of Lot A adjacent to the proposed MSE walls along the west perimeter of Lot 1. All proposed slopes will have a slope ratio of 2:1 (horizontal:vertical) and if supporting a MSE or retaining wall, material must be approved fill.</p>					

No.	Mitigation Measure	Time Frame and Responsible Party for Implementation	Time Frame and Responsible Party for Monitoring	Verification of Compliance		
				Initials	Date	Remarks
	MSE walls and retaining walls must be designed in accordance with the recommendations included in the Geotechnical Reports.					
PDF GEO-3	Prior to the issuance of a grading permit, the Applicant shall prepare a final geotechnical report based on the final rough grading plans and the final geotechnical report shall incorporate all of the recommendations included in the preliminary geotechnical reports included in Appendix F. The preliminary geotechnical reports included in Appendix F have established that the site is geotechnically suitable for development and a final geotechnical report is required to ensure all construction-level geotechnical recommendations and design parameters are included on the final rough grading plans.					
SCA GEO-1	<p>Applicant shall comply with the most current City building codes and CBC requirements, which stipulates appropriate seismic design provisions that shall be implemented with Project design and construction such as but not limited to the following:</p> <ul style="list-style-type: none"> • Temporary cuts shall be 1:1 (horizontal:verticle) and limited to 4 feet high. • All buildings shall be designed with structural slabs/mat slabs to account for expansive and other soil influences. • All walls shall be provided with an adequate backdrain system. 					

Appendix A – Mitigation Monitoring and Reporting Program

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	<ul style="list-style-type: none"> All retaining walls shall be waterproofed from above the highest point of earth retained to the heel of the foundation or pile grade beam. Retaining wall backfill shall be placed in thin lifts (6 to 8 inches) and compacted by mechanical means. 					
SCA GEO-2	<p>The proposed Project shall prepare and implement a SWPPP, in accordance with the Construction General Permit. The SWPPP shall list best management practices (BMPs) that shall be implemented to protect stormwater runoff and would include monitoring of BMP effectiveness. At a minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control (i.e., keeping soil particles from detaching) and sediment control (i.e., keeping sediment on the site after it has been detached). Standard practices to be included in the SWPPP are as follows:</p> <ul style="list-style-type: none"> Protect all storm drain inlets and streams located near the construction site to prevent sediment-laden water from entering the storm drain system. 					

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	<ul style="list-style-type: none"> • Prevent erosion by implementing one or more of the following soil stabilization practices: mulching, surface roughening, permanent or temporary seeding. • Limit vehicular access to and from the project site. Stabilize construction entrances/exits to minimize the track out of dirt and mud onto adjacent streets. Conduct frequent street sweeping. • Protect stockpiles and construction materials from winds and rain by storing them under a roof, secured impermeable tarp or plastic sheeting. • Avoid storing or stockpiling materials near storm drain inlets, gullies or streams. • Phase grading operations to limit disturbed areas and duration of exposure. • Perform major maintenance and repairs of vehicles and equipment off site. • Wash out concrete mixers only in designated washout areas at the construction site. • Set up and operate small concrete mixers on tarps or heavy plastic drop cloths. • Keep construction sites clean by removing trash, debris, wastes, etc. on a regular basis. 					

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	<ul style="list-style-type: none"> • Clean up spills immediately using dry clean-up methods (e.g., absorbent materials such as cat litter, sand or rags for liquid spills; sweeping for dry spills such as cement, mortar or fertilizer) and by removing the contaminated soil from spills on dirt areas. • Maintain all vehicles and equipment in good working condition. Inspect frequently for leaks, and repair promptly. • Cover open dumpsters with secured tarps or plastic sheeting. Clean out dumpsters only in approved locations on the construction site. • Arrange for an adequate debris disposal schedule to ensure that dumpsters do not overflow. 					
SCA GEO-3	Mitigation of potential adverse impacts of geologic and seismic hazards through planning, design, and construction of Project by adhering to applicable City ordinances, policies of the current California Building Code (CCR Title 24), and per the results and recommendations of the geological study as seen in Appendix F.					
MM GEO-1	If paleontological resources are found during grading and construction within the Project, all work shall be halted immediately within a 200-foot radius of the discovery until a qualified paleontologist has evaluated the find.	During Grading – Applicant/ Project Paleontological Monitor	During Grading – City			

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	Work shall not continue at the discovery site until the paleontologist evaluates the find and makes a determination regarding the significance of the resource and identifies recommendations for conservation of the resource, including preserving in place or collecting the resource to the extent feasible and documenting the find with an appropriate museum or university collection.					
Greenhouse Gas						
SCA GHG-1	The Project would adhere to existing, applicable, CALGreen building code standards as they relate to reducing Project operational energy use, indirectly reducing GHG emissions and impacts.					
Hazards and Hazardous Materials						
PDF HAZ-1	The Project is to be subdivided into two lots, Lot 1 and Lot A. Lot 1 includes a 2-acre residential area and Lot A includes a 2.2-acre area of open space. The open space lot and the adjacent area next to Lot 1 will be modified as part of a Fuel Modification Plan (see Appendix G-2 Fuel Modification Plan). The plan prescribes Fuel Modification Zones including non-combustible material areas, a wet zone, and a 20-foot setback from MSE wall to the structures in Lot 1.					
PDF HAZ-2	The Project is to construct 6-foot-high radiant heat walls tied on top of retaining walls ranging in heights from 2.5 feet to 6 feet high. Such walls will protect two structures on the southern portion of the Project site. This OCFA requirement protects these structures that cannot obtain a					

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	20-foot fuel modification setback. The purpose of the setback zone is to provide a defensible space for fire suppression forces and to protect structures from radiant and convective heat. The setback distance will be a 20-foot minimum width. The setback zone will be located on a level, graded area at the top or base of the slope or retaining wall.					
Hydrology and Water Quality						
PDF HYD-1	Existing storm drains installed on the site as part of prior remediation activities will be re-routed and connected to the proposed Project's storm drains and connected to the existing 36-inch storm drain in Crown Valley Parkway for off -site discharge. Specific locations are indicated in Figure 4.9.A of the Utility Plan.					
PDF HYD-2	The Project will install a 200 foot long and 48-inch diameter upsized storm drainpipe along Private Drive A to detain and slow water flow to meet Hydromodification Low Impact Development (LID) requirements as seen below in Figure 4.9.A.					
PDF HYD-3	The Project will install two Modular Wetland Systems (MWS) to capture on-site storm water pollutants. As seen below in Figure 4.9.A, the two MWS locations are at the north end of Project under near the site entrance at Playa Blanca and under parking stall 2, at the southeast end of Private Drive "B". These systems are designed to filter, treat, and release. The system is required and therefore will					

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	be required to treat 1.5 times the BMP design flow for the Project.					
Land Use						
PDF LU-1	<p>The 4.2-acre Project site is designated as APN 656-321-02. The property is to be subdivided into two lots, Lot 1 and Lot A. Lot 1 includes a 2-acre area for the proposed residential use and Lot A includes a 2.2-acre area for open space. The open space consists of the previous remediated landslide and includes the 30-foot earthen “buttress” (an existing design feature installed for geotechnical purposes to stabilize the former landslide), vegetation planted for the purposes of surface erosion control, and an installed storm drain system. Since Lot A is a lettered lot on the tentative tract map and no residential development is allowed on lettered lots, no residential development would occur on the remediated hillside.</p> <p>Furthermore, permanent maintenance of the remediated hillside will maximize the space between the residents upslope and to the west who were impacted by the landslide in 1998 and who expressed concerns about prior development proposals on the Project site</p>					
Noise						
SCA NOI-1	Limit construction hours and employ noise-reducing construction practices. The following noise control measures shall be incorporated into the project contract					

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	<p>specifications in order to minimize construction noise effects.</p> <ul style="list-style-type: none"> • Construction activities shall be limited to the hours of 7:00 a.m. to 8:00 p.m. on weekdays and Saturdays, and shall not occur at any time on Sundays or federal holidays. Construction personnel shall not be permitted on the job site, and material or equipment deliveries and collections shall not be permitted, outside of these hours. • All mobile or fixed construction equipment used on the project that is regulated for noise output by a local, state, or federal agency shall comply with such regulations while in the course of project activity. • All construction equipment shall be properly maintained. (Poor maintenance of equipment may cause excessive noise levels.) • All construction equipment shall be operated only when necessary and shall be switched off when not in use. • Construction employees shall be trained in the proper operation and use of the equipment. (Careless or improper operation or inappropriate use of equipment can increase noise levels. Poor loading, unloading, 					

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	<p>excavation, and hauling techniques are examples of how a lack of adequate guidance and training may lead to increased noise levels.)</p> <ul style="list-style-type: none"> Electrically powered equipment shall be used instead of pneumatic or internal combustion– powered equipment, where feasible. Material stockpiles and mobile equipment staging, parking, and maintenance areas shall be located as far as practicable from noise-sensitive receptors. Construction site and access road speed limits shall be established and enforced during the construction period. The use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only. To minimize potential public objections to unavoidable noise, the contractor shall maintain good communication with the surrounding community regarding the schedule, duration, and progress of the construction. Notification shall be provided advising that there will be loud noise associated with construction and providing a telephone contact number for affected parties to ask questions and report 					

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	<p>any unexpected noise levels. The on-site construction supervisor shall have the responsibility and authority to receive and resolve noise complaints.</p> <ul style="list-style-type: none"> Prior to issuance of a grading and/or a building permit, the name and phone number of the on-site construction supervisor shall be submitted to the Community Development and Public Works Departments. In addition, clearly visible signs shall be posted on the perimeter of the site indicating who shall be contacted for information regarding this development and any construction/grading-related concerns. This contact person shall be available immediately to address any concerns or issues raised by adjacent property owners during the construction activity. The contact person will be responsible for ensuring compliance with the City imposed Mitigation Measures and Conditions of Approval (e.g., grading activities, truck routes, construction hours, noise, etc.). 					
SCA NOI-2	<p>To minimize construction equipment noise, the Applicant or designee shall implement the following construction noise reducing practices:</p> <ul style="list-style-type: none"> All construction equipment and vehicles using internal combustion engines shall be equipped with mufflers, air-inlet silencers where appropriate, and any other 					

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	shrouds, shields, or other noise-reducing features in good operating condition that meet or exceed original factory specifications. <ul style="list-style-type: none"> Place construction staging and equipment storage areas at locations as far away from noise-sensitive locations as possible. 					
Transportation and Traffic						
MM TRA-1	<u>Construction Traffic Management Plan</u> Prior to the issuance of demolition, grading, or any construction permits, the Applicant shall submit a Construction Traffic Management Plan for review and approval by the both the City Community Development Department and Traffic Engineer. The Construction Traffic Management Plan shall address the following: <ul style="list-style-type: none"> Equipment mobilization and demobilization to and from the Project site, including truck route, delivery timing, traffic control, and demobilization routes. Daily site circulation ingress and egress for construction personnel for the duration of construction at the Project site, including parking since all construction parking shall occur on the project site, unless otherwise approved by the City. Traffic control for any street closure, detour, or other disruption to traffic circulation during construction 	Prior to Issuance of Grading Permit – Applicant	Prior to Issuance of Grading Permit – City Traffic Engineer			

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	<p>within the public right-of-way or equipment mobilization/demobilization.</p> <ul style="list-style-type: none"> Prohibit left turns out of the Project site for all construction personnel and delivery trucks, including temporary food trucks. The Plan shall identify the physical means in which left turns will be prohibited from the Project site. Routes that construction vehicles will utilize for the delivery of construction materials (i.e., lumber, tiles piping, windows, etc.) to access the site, traffic controls and detours, and proposed construction phasing plan for the Project. Specify the hours during which transport activities can occur and methods to mitigate construction-related impacts to adjacent streets. Require the Applicant to keep all haul routes clean and free of debris including but not limited to gravel and dirt as a result of its operations. The Applicant shall clean adjacent streets, as directed by the City Engineer (or representative of the City Engineer) of any material which may have been spilled, tracked, or blown onto adjacent streets or areas. 					

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	<ul style="list-style-type: none"> Hauling or transport of oversize loads will be coordinated with the City as to the haul route as well as the hours allowed. Hauling or transport may be permitted/required during nighttime hours, weekends, or Federal holidays, at the discretion of the City Engineer. All hauling/delivery access to and from the site will be from Crown Valley Parkway. An approved Haul Route Permit will be required from the City. If hauling operations cause any damage to existing pavement, street, curb and/or gutter along the haul route, the applicant will be fully responsible for repairs. The repairs shall be completed to the satisfaction of the City Engineer. This Plan shall meet standards established in the current California Manual on Uniform Traffic Control Device (MUTCD) as well as City's requirements. 					
MM TRA-2	<u>Median Diverter for Left-Turn Egress at Project Driveway</u> Prior to the issuance of a grading permit, the Applicant shall install a temporary physical median diverter on Crown Valley Parkway or the driveway entrance to prohibit outbound left-turn movements onto Crown Valley Parkway during construction activities. The design of the temporary barrier shall be approved by the City's Traffic Engineer.	Prior to Issuance of Grading Permit - Applicant	Prior to Issuance of Grading Permit – City Traffic Engineer			

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	Prior to the first certificate of occupancy, the installation of a permanent physical median diverter on Crown Valley Parkway is required to restrict outbound left-turn movements from the Project driveway at Playa Blanca. The median diverter along with the left-turn pocket shall be designed in a manner consistent with Figure 4.12.A. The median diverter shall be submitted for review and approved by the City Traffic Engineer prior to issuance of grading permits.					
MM TRA-3	<u>Modification of Northbound Left-Turn Pocket on Crown Valley Parkway at Project Driveway</u> Prior to the first certificate of occupancy and in conjunction with the installation of MM TRA-2, the northbound left-turn pocket shall be modified to provide a 100-foot left-turn lane with a transition area of 120-feet. The modification would include restriping of the existing left-turn pocket to better accommodate queuing and high speeds along Crown Valley Parkway. The northbound left-turn pocket shall be designed in a manner consistent with Figure 4.12.A. The left-turn pocket along with the median diverter shall be submitted for review and approved by the City Traffic Engineer prior to issuance of grading permits.	Before Certificate of Occupancy - Applicant	Before Certificate of Occupancy – City Traffic Engineer			
Tribal Cultural Resources						
MM TCR-1	An archaeologist shall be retained by the Applicant to conduct cultural resources awareness training prior to any ground disturbance related to construction.	Prior to Grading – Applicant/Project Archeologist	Prior to Grading – City			

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MM TCR-2	An archaeological monitor shall conduct spot-check monitoring, up to 10 hours per week, during ground disturbing activities related to construction. If any artifacts are discovered, a member of the Juaneno Band of Mission Indians, Acjachemen Nation- Belardes shall be contacted immediately. The archaeologist and Acjachemen Nation shall consult to determine the nature and significance of the discovery and make recommendations to the Applicant and City for further cultural resource efforts.	During Grading – Applicant/Project Archeologist	During Grading – City			
MM TCR-3	If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be prehistoric, the County Coroner will notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 48 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.	During Grading – Applicant/Project Archeologist	During Grading – City			

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Wildfire						
SCA FIRE-1	<p>The Project is within a Local Responsibility Area VHFHSZ and will comply with the applicable regulations as determined by the City, OCFA, and/or CALFIRE in order to maintain the effectiveness of emergency response and firefighting operations. The Project’s Fire Master Plan was prepared as a requirement of California Fire Code Section 104.9 and is based on OCFA requirements seen in the <i>Fire Safe Development Guideline B-09a</i>. The following is a list from the Fire Prevention Plan referenced in the Fire Master Plan in Appendix G-1 and the Conceptual Fuel Modification Plan in G-2, which includes the ignition resistant construction requirements for buildings located in a Wildland Urban Interface Area under the California Fire Code (CFC), Chapter 7A of the California Building Code (CBC), and the California Residential Code (CRC) R327 and R337. These requirements are referenced as Zones and Areas and will be Project conditions of approval. See Figure 4.14.B Conceptual Fuel Modification Plan below.</p> <p>Private Homeowner Setback Area:</p> <p>A. Automatic irrigation systems shall be installed to regularly irrigate landscape to maintain healthy vegetation with high moisture content.</p>					

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	<p>B. Foliage shall be pruned regularly to reduce vegetation density, maintain vertical continuity, plant litter and dead wood must be removed regularly.</p> <p>a. Ground cover shall not exceed 2 feet in height</p> <p>b. Trees can be in groups of 3 specimens or less. No spacing required.</p> <p>c. Groups of shrubs shall be spaced by the greater of the following two measurements: A distance of 15 feet minimum or 3 times the mature height of the tallest specimen in any group.</p> <p>d. Groups of trees shall be spaced by a minimum of 30 feet apart regardless of height.</p> <p>C. Undesirable plant species are prohibited in the setback area</p> <p>D. Three species within the setback area are not allowed within 10 feet of combustible structures.</p> <p>E. Maintenance shall include thinning and removal of over-growth, replacement of dead/dying plant material.</p> <p>F. Devices that burn solid fuels are not permitted within the setback area.</p> <p>G. Combustible construction within the setback area is prohibited.</p>					

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	<p>H. The Homeowners’ Association (HOA) shall enforce the design of the setback area requirements throughout the design review committee prior to installation of the homeowner. On-going enforcement of the setback area shall be enforced each calendar year.</p> <p>Zone A (Non-Combustible Construction):</p> <ul style="list-style-type: none"> A 20-foot setback zone shall be maintained for non-combustible construction only. Zone A shall be maintained by the HOA or private homeowner. <p>Zone B (Wet zone):</p> <ul style="list-style-type: none"> An 80 to 85-foot area extending out from Zone A or the private homeowner setback area shall be provided. Zone B shall be permanently irrigated, fully landscaped with approved drought tolerant, deep rooted, moisture retentive material. Zone B area shall be maintained by the HOA. <p>Special Maintenance Area With Restricted Plant Palette (SMA) (Wet zone):</p> <ul style="list-style-type: none"> The special maintenance areas shall have maintenance requirements to reduce the chances of ignition from wildfires. Maintenance within these areas is needed in the same manner as the fuel modification zones and shall be maintained on a year-round basis, with 					

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	<p>removal of all dead plant material, replacement of dead or diseased species with the same growth characteristics from the approved landscape plans. Irrigation shall be verified on a regular basis to ensure it is in a working condition and the plants shall be irrigated as necessary to keep them healthy with their appropriate moisture content.</p> <p>Private Homeowner Landscape Area:</p> <ul style="list-style-type: none"> Landscaped areas within the private homeowner unit shall be devoid of species from the “Undesirable and Invasive Plant Species” list seen in Attachment 7 of the OCFA Vegetation Management Guideline: Technical Design for New Construction Fuel Modification Plans and Maintenance Program, Guideline C-05. Planting restriction shall be recorded as part of the recorded Covenants, Conditions and Restrictions (CC&Rs). <p>Special Maintenance Area With No-Combustible Material:</p> <ul style="list-style-type: none"> Where indicated, the special maintenance area between the radiant heat wall and the southern project boundary at units 9 through 11 shall be comprised of non-combustible material (Rock/Concrete Only). Any 					

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	rock/gravel used shall be a minimum 8 inches in diameter.					
PDF FIRE-1	Radiant Heat Wall – 6 feet minimum height on both sides of the wall. Noncombustible solid block and /or glass fencing.					
PDF FIRE-2	Low Profile Venting – Structures adjoining the fuel modification shall have low profile roof venting on the side of the structure facing the fuel modification (Units 9-22).					
PDF FIRE-3	Enhanced Automatic Fire Sprinkler System Features – All buildings (Units 1 through 22) shall have automatic fire sprinklers installed in attics and small spaces, as well as covered balcony/patio areas. Additionally, exterior bells shall be provided for the Fire Sprinkler Systems.					