

John Harbison Comments for Planning Commission 2-19-2013

I agree that last year's MOU allowed many desirable outcomes. However, we all paid a huge price for those benefits – namely, the transaction was the first time since the City's founding 90 years ago that parkland has been sold to a private individual thus reducing the amount of open space in PVE.

As a resident of PVE and avid hiker of our trails and parklands, I am a strong supporter of our open spaces. Our founders had great foresight in 1923 in setting aside 800 of the 3200+ acres that constitute our community as open spaces in perpetuity. Further, they were very specific and detailed in the protective provisions that they put in place to keep open space as open space – this document of CC&Rs covering the tract containing the property subject to this hearing is over 40 pages long, and it takes a general vote of two-thirds of PVE residents to rescind those covenants.

Yet last year the City Council of PVE and the PV Homeowners Association Board both voted unanimously to do just that, thus abrogating the public trust.

We've written a seven-page letter summarizing our concerns, and it has been signed by over two dozen PVE residents, including nearly everyone in the immediate neighborhood. Due to time limitations, I won't repeat all those arguments since the Commission has that in your briefing packets. But let me summarize the points most relevant to this rezoning hearing:

- First, there is no good faith, justifiable, legal basis to rezone from OS to R-1 and it would be a breach of the public trust and your fiduciary duties if you do so
- Second, rezoning is not discussed or contemplated in the MOU or Deeds, and further it violates the CC&Rs governing this tract
- Thirdly, the CC&Rs, MOU and Deed all require maintenance of the property as open space -- i.e., OS zoning

- The MOU and Deed contemplate only obtaining permits for retaining walls and accessory structures -- not rezoning from open space. If this was the plan, why was it not disclosed previously?
- The Deed prohibits merging this open space property with the owner's current residence, so why does it need to be R1?
- The Property Owners have previously, without ownership or permit, constructed their own private "playground" on the public property. Now, by the 2012 transaction and current rezoning attempt, they are trying to convert that "playground" on public land into a personally owned "playground," with conceivably the ability to bar public access by that ownership and zoning. What is next after this rezoning?
- Because the Property Owner's current rezoning request violates the Grant restrictions, MOU and Deed, shouldn't the ownership of the property revert to the Homeowner's Association?
- Finally, the Staff report cites the "Permit Streamlining Act", and specifically that "the Legislature's intent [is] that the statute expedite the process of zoning the property to avoid unnecessary costs and delays to the school district." **Why is that being cited, since rezoning was not discussed in the MOU, and hence regardless of the outcome of this application, no terms of the MOU are being neglected (and hence there is no implication to the PVPUSD)?**

Thank you for your time and consideration of this matter, and we hope you do the right thing by denying the rezoning request