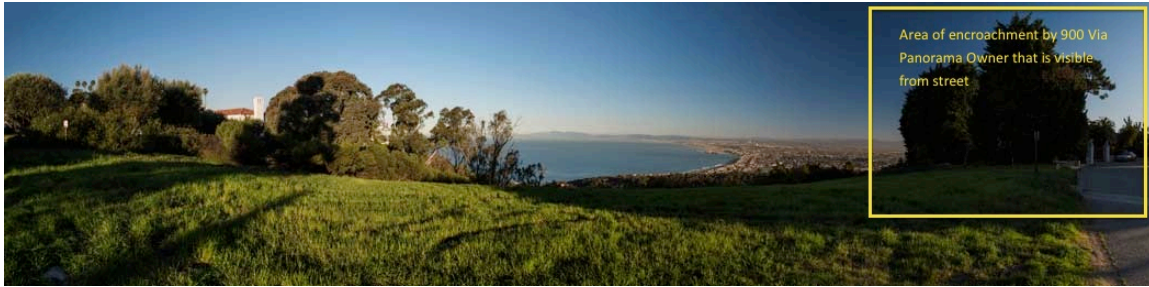


Statement by PVE Residents about the 900 Via Panorama Application ZC-2/M-902-13
Submission for PVE City Council Meeting 3-12-13



The Project: Zone Change of Parcel A adjacent to 900 Via Panorama from Open Space to R-1 Family Residential and Miscellaneous Application for walls exceeding the maximum allowable height. Application number: ZC-2/M-902-13

We the undersigned PVE residents wish to express our opposition to the rezoning application and our concerns about a transaction by the City of Palos Verdes Estates ("City") and the Palos Verdes Homes Association ("PVHA") approved at the City Council Meeting of 7/24/12 whereby 1.7 acres of parkland ("Parcel A") surrounding 900 Via Panorama was sold for \$500,000 to Mr. Lugliani ("Owner") who has owned 900 Via Panorama since 1975. This is on the agenda for the 03/12/13 meeting of the PVE City Council.

We share the concerns raised by John and Renata Harbison in their detailed 3/4/13 letter ("Detailed Statement by Harbisons about the 900 Via Panorama Rezoning Application") to the PVE City Council. **Specifically, we strongly urge the PVE City Council to deny the rezoning application for the following reasons:**

- The Planning Commission carefully considered the request for rezoning along with written and oral testimony, and unanimously recommended against rezoning.
- 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 as City Councilmembers if you do so.
- Rezoning is not discussed or promised in the Memorandum of Understanding (MOU), and it was not promised in the deed, the City Council staff reports, or minutes from the City Council Meetings. If it had been important to the MOU transaction, it should have been specified in the MOU since it is the legal document reflecting the intent of all the parties
- The CC&Rs, MOU and Deed all require that the property be maintained as open space -- i.e., OS zoning
- Rezoning to R-1 would be a huge economic windfall to the owner.
- Since rezoning would further violate the Grant restrictions, MOU and Deed, wouldn't such a decision trigger reversion of ownership of the property back to the Homes Association under those deed restrictions?
- In the City Council minutes 7/24/12, *"MPT Goodhart confirmed with City Attorney Hugin that Areas 1 and 3 of this property are currently, and would remain, zoned as open space."* So why is a rezoning being considered now?
- We are concerned that anyone with deep pockets be able to accomplish a similar acquisition and rezoning of parkland in the future -- granting the rezoning to R-1 here is a dangerous precedent

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- If the reason for rezoning was to allow the parcels to be combined, that is specifically prohibited in the Deed under Line item 4: *"This Deed shall not cause the Property to be merged with any adjacent lot and any such merger shall be prohibited."*
- If you decide to rezone, we weaken the CC&Rs that govern all of us, and we implicitly say we trust that PVE and PVHA have processes in place to protect our parkland and the character of our piece of paradise. How can we trust that when both institutions have ignored their stewardship role in this deal crafted behind closed doors?

In addition, the notification process for this transaction and rezoning has been flawed:

- No notifications sent for the sale of parkland in 2012
- Notifications of the Planning Commission hearing on 2/19/13 were sent to some but not all of the neighbors within 300 feet.

In summary, we believe the request to rezone from OS (Open Space) to R-1 (Single Family Residential) should be denied since that would allow usage inconsistent with both the CC&Rs in force, as well as the "open space" easements on the property that are controlled by the City. Any kind of structure (including a fence or wall) would be in conflict with the feeling of open space and the views of the neighbors who look out at the "Queen's Necklace" coastline view through Parcel A and the adjacent parkland.

If the rationale for the re-zoning to R-1 is to allow the old and new lots to be considered a single parcel, that is explicitly forbidden under the express conditions of the recorded quit claim deed, which state *"The Deed shall not cause the Property to be merged with any adjacent lot and any such merger shall be prohibited."* The express conditions also states, *"Unless expressly provided for herein, Grantee shall not construct any structure on the Property and the Property shall be restricted to open space."*

* * * * *

Beyond the above specifics on the rezoning request, we have significant concerns about the sale of public parkland to a private owner last year as part of the MOU. Unfortunately, we were not able to voice those concerns last year because of a flawed notification process whereby no one in the neighborhood of Via Panorama and Via Mirada (other than the owners of 900 Via Panorama) were aware it was even being contemplated. Our concerns include the following:

- This sale of parklands is unprecedented
- The sale transaction violates the CC&Rs covering this tract within PVE, and hence should never have been approved. Our understanding is that the City cannot sell public parkland without going through a complex and very public process.
- The sale transaction also violates statements on the websites of the City and PVHA about the importance of preserving the open space that is so critical to differentiating PVE as a community, and this violation would be exacerbated if rezoning of Parcel A was approved.
- The process by which the sale of parkland was approved in July 2012 was inappropriate and (we believe) illegal, since no signs were posted or letters sent out to any residents within 300 feet of the property being sold.
- Information presented to the City Council by staff was misleading in some regards

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- The Owner has derived benefit from these illegal encroachments for over 30 years; these benefits were derived without receiving any permits or paying any taxes for use of this land. We believe such behavior should not be rewarded.
- The amount paid (\$500,000) for Parcel A is significantly below market for 1.7 acres, with no solicitation (to our knowledge) made to other parties. As such, the City and PVHA both benefitted from the transaction, but failed to act in a fiduciary manner with regard to maintaining parkland for public use in its stewardship roles.
- This transaction violates the finding of the Court in 2012 that PVPUSD cannot sell property designated as open space to private owners. PVHA defended that principle in the lawsuit, and settlement of the appeals process with PVPUSD was part of the Resolution that was approved on 7/24/12. However that principle seems to have been violated in this aspect of the Resolution approving the MOU. Why?

Finally, the complex moves made to eventually effect what we believe was an illegal transaction i.e., transfer of deed restricted Parklands to a private individual far below fair market value, could possibly open all contributing government and private parties to IRS scrutiny for collusion to avoid taxes.

Signature:	Address:
Name:	Date:

Signature:	Address:
Name:	Date:

Please sign and return before 5pm on March 7th by one of the following methods: by fax to John Harbison at (310) 349-3381, by email to harbisonjohn@gmail.com or citycouncil@pvestates.org , drop off at the Harbison's house at 916 Via Panorama, or deliver to PVE City Hall before 5pm on March 7th. Only those signed copies received at City Hall before 5pm on March 7th will be included in the packets sent to City Councilmembers in advance of the meeting on March 12th.