

CITY OF LOS ANGELES
CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

EXECUTIVE OFFICES

S. GAIL GOLDBERG, AICP
DIRECTOR
(213) 978-1271
EVA YUAN-MCDANIEL
DEPUTY DIRECTOR
(213) 978-1273
FAX: (213) 978-1275
INFORMATION
(213) 978-1270
www.lacity.org/PLN

DEPARTMENT OF
CITY PLANNING
200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
CITY PLANNING COMMISSION
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MICHAEL K. WOO
GABRIELE WILLIAMS
COMMISSION EXECUTIVE ASSISTANT
(213) 978-1300

May 22, 2007

Council File No. 04-1413

Los Angeles City Council
City of Los Angeles
Room 395, City Hall
Los Angeles, CA 90012

Attention: Planning and Land Use Management Committee

Honorable City Council:

Request for a determination by Planning Department as to whether there exists the need for a Supplemental Environmental Impact Report (SEIR) for Tract No. 35022 aka Elephant Hill based upon new information or a substantial change in the project.

It is the determination of the Planning Department staff in conjunction with the Bureau of Engineering that the development under Tract No. 35022 requires no additional discretionary actions in order for it to be built. A City Attorney memo addressing this issue is attached. Per CEQA guidelines Section 15162(c), when there is no further discretionary action required, the Department of City Planning lacks the legal authority to require the preparation of a Supplemental Environmental Impact Report (SEIR).

Section 15162(c) of CEQA states:

Once a project has been approved, the lead agency's role in project approval is completed, unless further discretionary approval on that project is required. Information appearing after an approval does not require reopening of that approval. If after the project is approved, any of the conditions described in subdivision (a) occurs, a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project, if any. In this situation no other responsible agency shall grant an approval for the project until the subsequent EIR has been certified or subsequent negative declaration adopted.

In 1984 a Vesting Tentative Tract map was filed. At that time an EIR was being prepared for the proposed project. Work on the EIR was halted for a number of years and then resumed in 1989. The EIR for the project was completed and certified in 1992 and the Tract was approved on appeal to City Council in July of 1993.

The Tract recorded in 2004.



Commentors have asserted that changes in the project and new information trigger the requirement for an SEIR.

It is the determination of the Planning Department staff in conjunction with Bureau of Engineering and Los Angeles Department of Building and Safety that no additional environmental review is triggered under CEQA, Sections 2166 and Guidelines 15162-15163. The factual analysis supporting this conclusion is attached. Specifically attached are responses from Planning Department to questions raised by Councilman Huizar and local constituents (in bold print) regarding the need for a Supplemental Environmental Impact Report for Tract No.35022. Attached are also comments from the Bureau of Engineering and LA Department of Building and Safety.

S. GAIL GOLDBERG
Director of Planning



Hadar Plafkin
City Planner

Attachments:

May 22, 2007 Memo from Susan Pfann,
Managing City Attorney to Jessica Wethington Mclean, CD 14
May 17, 2007 Memo from Gregg Vandergriff to file re: B-permits
Questions from constituents and Responses
Questions from Councilmember Huizar and Responses
March 19, 2007 Memo from Gregg Vandergriff to Hadar Plafkin re: Hydrology
March 19, 2007 Memo from Gregg Vandergriff to Hadar Plafkin re: Grading

MEMORANDUM

To: Jessica Wethington Mclean
Council District 14

From: Susan D. Pfann, Managing Assistant
Real Property/Environment Division
978-8253

Re: B-Permits for Tract 35022

Date: May 22, 2007

This memo is in response to two questions posed in your email request dated May 21, 2007. Your email asked that this Office provide an analysis of whether B permits issued by the Bureau of Engineering (BOE) in connection with the development associated with Tract 35022 are ministerial or discretionary within the meaning of the California Environmental Quality Act (CEQA).

Our short answer is that B-permits associated with this Tract are ministerial, and not subject to CEQA.

Discussion:

As restated, the two questions contained in your email request, and our responses, are as follows:

Question #1:

What does CEQA say about Supplemental Environmental Review - can SEIR be required any time significant information is discovered, or only when significant information is discovered AND a discretionary action is pending.

Response:

The factual inquiry into whether any supplemental environmental review is required by the discovery of significant information is only triggered if a discretionary action is pending. This is because CEQA only applies to discretionary actions by the City. (Pub. Res. Code section 21080(b) ["This division does not apply to any of the following activities: (1) Ministerial projects proposed to be carried out or approved by public agencies."] See also, State CEQA Guidelines 15162(c) ["Once a project has been approved, the lead agency's role in project approval is completed, unless further discretionary

approval on that project is required. Information appearing after an approval does not require reopening of that approval," emphasis added.])

Question #2:

Are B-Permits in the City of Los Angeles discretionary or ministerial permits? City Bureau of Engineering staff has indicated they are NOT discretionary, and are ministerial, but the NDRC alleges otherwise and cites codes to support their argument.

Response:

As indicated above, ministerial decisions are not subject to CEQA; therefore no supplemental EIR or other CEQA analysis is or can be required for a ministerial decision. NRDC contends that issuance of B permits are discretionary. It is our opinion that in this case, the B permits are not discretionary, if they are sought in connection with the tract or parcel map approvals that occurred in 1993 and 2005.

CEQA defines "discretionary project" as a project "which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes. . .". (State CEQA Guidelines 15357) "Ministerial" on the other hand, "means a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. . . . A ministerial decision involves only the use of fixed standards or objective measurements and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out...." (State CEQA Guidelines section 15369.)

The determination of what is ministerial "can most appropriately be made by the particular public agency involved based upon its analysis of its own laws, . . ." (State CEQA Guidelines section 15268(a).) Further, "[w]hether an agency has discretionary or ministerial controls over a project depends on the authority granted by the law providing the controls over the activity." (State CEQA Guidelines section 15200(i)(2).)

NRDC provides two citations to support its statement that B permits are discretionary: (1) LAMC 62.106 (b); and (2) the BOE Permit Manual, Chapter 5, Section 5.5.

LAMC 62.106(b) states:

"Class "B" shall include all permits for work not included in Class "A" except for work for which a revocable permit is issued pursuant to Section 62.118.2 of this Code."

This clearly does not purport to "require the exercise of judgment or deliberation" to grant or not grant a B permit.

City CEQA Guidelines, Article II, section 2.b. lists various types of permits and approvals which the City deems to be ministerial under its laws, as called for in State CEQA Guidelines section 15268(c). Included in that list are the following:

"6) Permits issued by the Department of Public Works as follows:

a) Class "A" permits for construction or repair of sidewalks, driveways and curbs.

b) Excavation permits . . .

h) Sewer permits (special connections).

i) Storm drain connection permits.

8) Engineering permits issue[d] In accordance with an entitlement for use previously granted."

Thus, since B permits are not specifically listed as being ministerial, while specified A permits are listed as ministerial, one could infer that B permits may be considered discretionary, provided that such a conclusion is consistent with "authority granted by the law providing the controls over the activity." (State CEQA Guidelines section 15200(i)(2).)

We reviewed with BOE staff the guidelines which BOE uses when reviewing a B permit application, and could not find any requirement that BOE exercise judgment or deliberation in granting a B permit. The manual appears to provide a checklist which, if completed, would dictate the issuance of the permit. It does not appear that the manual, which provides "the controls over the activity", provides the type of authority contemplated by CEQA's definition of a discretionary approval.

The BOE Manual, section 5.5 (cited by NRDC) states as follows:

"5.5 Other Requirements for B-Permits

.....
What environmental documentation will I need for my street improvement project?

As a condition for obtaining a B-Permit, the Applicant will be required to provide information for the preparation of the appropriate environmental document or to complete an Environmental Impact Report (EIR) exemption request form. Should a negative declaration or EIR be necessary, the City must approve it before construction can start."

It may be that issuance of B permits that do not fall within another "ministerial" listing in the City's CEQA guidelines may require an environmental clearance, based on the above language, although it is not clear on what authority that statement was based. BOE advised that Class B permits are "engineering permits" that are ministerial in some cases and discretionary in others. BOE uses B permits for many purposes in addition to their use as a process to accept private project related dedication of required infrastructure improvements. As further explained, for projects that do not have entitlements previously granted, the Class B-Permit may be discretionary. However, Class B permits for infrastructure for projects that have a previously granted entitlement are ministerial. BOE staff also explained that if the underlying entitlement has already been obtained, as in the current case, then the only action remaining is the issuance of the B permit for the improvements to the streets, storm drains, sanitary sewer, street lights and retaining walls within the dedicated right-of-way as contained within the conditions of approval of the final subdivision map. In the current situation, BOE is requiring conditions that are strictly based on ministerial engineering standards. See also, BOE website.¹

¹ "A "B" Permit (LAMC 62.106.b) is issued for extensive public works improvements including the widening of streets and alleys, the changing of existing street grade, construction of bridges, retaining walls, and the installation of sewer, storm drains, street lighting, and traffic signals. Construction plans are usually required which must be signed by a California licensed Civil and/or Electrical and/or Traffic Engineer. [B permits are] most frequently issued for public works improvements adjacent to land being developed. In these instances, the extent and type of improvements depend on conditions imposed by the Council, City Engineer, Department of City Planning, or some other jurisdictional body in accordance with the Municipal Code, City Charter, State Law, or City Ordinance."

The language on the website is consistent with the conclusion that the City does not exercise discretion in granting B permits when they are permits "issued in accordance with an entitlement for use previously granted" because the earlier discretionary approval sets the conditions upon which the City exercises discretion, leaving only fixed and objective standards to be determined via the later issued B permit.

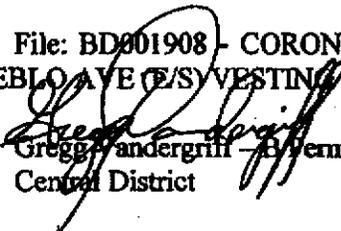
In light of the authorities cited above, we believe that the issuance of B permits in this case falls within the description of an "engineering permit issued in accordance with an entitlement for use previously granted" and therefore issuance of such a permit constitutes a ministerial decision, not subject to CEQA.

/SDP

CITY OF LOS ANGELES
INTERDEPARTMENTAL CORRESPONDENCE

Date: May 17, 2007

To: File: BD001908 - CORONA AVE (W/S), RINGGOLD DR, PULLMAN ST (N/S)
AND PUEBLO AVE (E/S) VESTING TRACT 35022, W/O LATHROP ST PORTOLA AVE

From: 
Gregg Vandergriin - Permit Manager
Central District

Subject: **MINISTERIAL APPROVAL FOR ISSUANCE OF CLASS B PERMIT**

The above referenced project includes the following scope of work for the Class B permit.

- Grading for 22 lots - site drainage and access,
- Grading for the streets and slopes surrounding and accessing the project.
- Grading for the access streets from the east and west of the project.
- Construction of retaining walls to provide lateral support for the streets.
- Construction of Storm drains, and Sanitary Sewer servicing the project.
- Construction of streets and retaining walls.
- Construction of Streetlights and other streetscape.

In compliance with condition numbers: 1-9, 11, 12, 14, 15, 18, 20, S1, S2, S3

Streets, storm drains, sanitary sewer, street lights, and retaining walls are constructed within dedicated right of way.

Necessary slopes are graded on temporary easements. The slopes are maintained in perpetuity by the homeowners. Modification of the slopes requires a grading permit from the Department of Building and Safety and requires approval by the Department of Public Works/ Bureau of Engineering (BOE).

This work was identified, and the potential environmental effects previously evaluated and mitigated as required in the EIR certified for Tract 35022 in 1993 (EIR No. 172-84 (SUB) (REC)).

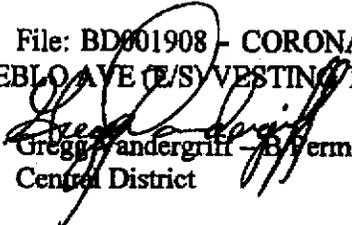
The required public improvements to be included in the Class B permit are specified conditions of the approved final subdivision map recorded in 2004. Construction of the public improvements must conform to the requirements of the Tract Conditions, objective BOE standards as contained in the applicable design manuals, Los Angeles Municipal Code and general engineering standards.

In issuing the Class B permit, BOE makes no determination whether the streets and sewer are to be constructed. BOE determines if the proposed design conforms to the above referenced

CITY OF LOS ANGELES
INTERDEPARTMENTAL CORRESPONDENCE

Date: May 17, 2007

To: File: BD001908 - CORONA AVE (W/S), RINGGOLD DR, PULLMAN ST (N/S)
AND PUEBLO AVE (E/S) VESTING TRACT 35022, W/O LATHROP ST PORTOLA AVE

From:  Greg Anderson - Permit Manager
Central District

Subject: **MINISTERIAL APPROVAL FOR ISSUANCE OF CLASS B PERMIT**

The above referenced project includes the following scope of work for the Class B permit.

- Grading for 22 lots - site drainage and access,
- Grading for the streets and slopes surrounding and accessing the project.
- Grading for the access streets from the east and west of the project.
- Construction of retaining walls to provide lateral support for the streets.
- Construction of Storm drains, and Sanitary Sewer servicing the project.
- Construction of streets and retaining walls.
- Construction of Streetlights and other streetscape.

In compliance with condition numbers: 1-9, 11, 12, 14, 15, 18, 20, S1, S2, S3

Streets, storm drains, sanitary sewer, street lights, and retaining walls are constructed within dedicated right of way.

Necessary slopes are graded on temporary easements. The slopes are maintained in perpetuity by the homeowners. Modification of the slopes requires a grading permit from the Department of Building and Safety and requires approval by the Department of Public Works/ Bureau of Engineering (BOE).

This work was identified, and the potential environmental effects previously evaluated and mitigated as required in the EIR certified for Tract 35022 in 1993 (EIR No. 172-84 (SUB) (REC)).

The required public improvements to be included in the Class B permit are specified conditions of the approved final subdivision map recorded in 2004. Construction of the public improvements must conform to the requirements of the Tract Conditions, objective BOE standards as contained in the applicable design manuals, Los Angeles Municipal Code and general engineering standards.

In issuing the Class B permit, BOE makes no determination whether the streets and sewer are to be constructed. BOE determines if the proposed design conforms to the above referenced

requirements but, does not use any special discretion or subjective judgement in issuing the permit and standards and conditions of approval for the tract.

There are no alternatives to be considered with regards to access streets, sanitary sewer, or storm drains.

Based upon the above review the Class B permit to be issued for this project constitutes a ministerial action and is therefore exempt per Title 14 Chapter 3 Article 18 Section 15268 of the California Code of Regulations.

**1. What future permits and/or approvals are required for expanded tract?
35022, including but not limited to: Lots 1-23, Tract 35022 (4470 Ringgold Drive and 4999 Lathrop Street); Lots 61 (4446 North Corona Drive), 64 and 98 Tract 3455 (4351 Glidden Drive); Block 56-Lot 2, Block 57-Lot 1, Block 59-Lots 1 and 2, Block 66-Lots 7-27, and Block 67-Lots 11-17, Pasadena Villa Tract (1301 Pullman Street)?**

A: There are no further discretionary actions required to develop Tract 35022 lots 1-23

An Interim Control Ordinance (ICO) (Ordinance No. 178102) was adopted November 8, 2006 for this area. At this time any parcel that was not part of Vesting Tract 35022 (which may not be subjected to later ordinances) is subject to the provisions of the ICO.

The ICO places a restriction on new construction in the area and any new construction would be subject to the provisions of the ICO. The ICO was adopted in anticipation of the preparation of a Specific Plan for the area which would provide for additional development measures for the area.

At this time, any of the parcels other than those in Tract 35022 and PMLA 2005-0849 may only be developed under the provisions of the ICO and any subsequent Specific Plan.

2. What is the status of the B permit application for Corona Ave. (W/S), Ringgold Dr., File 06-026 BD001908? This permit is referenced in an Inter-Departmental Correspondence dated Dec. 15, 2006, from Christopher F. Johnson, Manager, Geotechnical Engineering Division, To Alex Vidaurrazaga, Manager, Structural Engineering Division.

A: The Bureau of Engineering has the grading set of plans for this project. They are awaiting review and signature by the B permit manager and the District Engineer. Additional plans for storm drain, sewer, and street design are in review.

3. What mitigation measures are available to address new information on hydrological impacts, traffic-related impacts of expanded project, cumulative impacts, and grading? If any mitigation measures are found to be infeasible, what evidence supports this determination?

A: The Mitigation measures listed in the EIR adequately addressed the impacts of surface and sub-surface flow of runoff. Sub-surface drains which direct flow into the city's storm water drains are required as Mitigation measures under the approved Tract.

No new impacts related to traffic have been identified and the improvements being made under the Tract are in compliance with the conditions of Department of Transportations (LADOT).

Potential impacts due to grading are mitigated by construction measures which control fugitive dust emissions and since there is no export or import of soil off-site there are no impacts from trucks hauling soil off-site. Required re-vegetation will eventually mitigate the aesthetic impacts of grading.

4. Specify the decision, authority or statute allowing tract 35022 to be expanded to include other parcels, tracts or subdivisions, in particular those acquired by any owners/developers of tract 35022 after 2003 and/or approved by the City after 2003?

A: The boundary of Tract 35022 is not being expanded to include additional parcels. However, parcels that were created previously by the Pasadena Villa Tract or Tract 3455 that were not accessible before may possibly be developed now that new roads are being built for Tract 35022.

In order to produce stable slopes and to re-align Pullman Street as required by the BOE, off-site improvements were required. The applicant purchased the property needed to provide these improvements.

Consequently the applicant now owns many parcels adjacent to Tract 35022 that are not part of Tract 35022. Due to the recently adopted ICO for this area, the development of these parcels would now require a new environmental review.

5. Specify the decision, authority or statute allowing the certification for EIR-84-172-SUB to be applied to other parcels, tracts or subdivisions, in particular those acquired by any owners/developers of tract 35022 after 2003 and/or approved by the City after 2003?

For example:

a. The Geology and Soils Report Approval Letter dated March 7, 2006 (Log # 49165-02) signed by Dana Prevost and Andrzej Szpikowski indicates: "The referenced reports concerning recommendations for development of 52 lots for proposed single family residents have been reviewed by the Grading Division of the Department of Building and Safety. Reports for development of Lots 1-24 of tract 35022 were previously approved in the above referenced Department letters. The current reports include those lots and several other lots as one development." (Italics added

A. Per Dana Prevost of LADBS the letter they issued was an approval solely of the Geology and Soils Report for tract 35022. Off-site parcels owned by the applicant are discussed in the report because grading required for the construction of required off-site improvements is discussed in the report. The approval of grading on those parcels should not be viewed as approvals for anything other than grading.

b. ZIMAS records for a single parcel adjacent to, but outside of the original tract 35022 (APN 5307-004-016) references a number of cases, including the original EIR-84-172-SUB.

Examples (b) and (c) refer to parcels that apparently reference EIR 84-172 SUB in their ZIMAS reports. In a ZIMAS printout of all parcels within a 1000ft radius of Tract 35022 over 60 parcels reference that EIR. Many of those parcels have existing dwellings on them, some dating back to the 1920's. It seems that the EIR is referenced because those parcels are either part of or contiguous to tract no. 35022

c. ZIMAS records for a two lot parcel adjacent to, but outside of the original tract 35022 (APN 5307-004-024) that was subdivided into three lots in 2005 through a mitigated negative declaration (AA-2005-849-PMLA) references a number of cases, including Tract 35022 as well as the original EIR-84-172-SUB.

6. Under what decision, authority or statute can the conditions specified in the Department of Building and Safety Approval Letter

dated July 13, 2004, LOG #43800-02 (for tract 35022) be applied to other properties specified in the Geology and Soils Report Approval Letter dated March 7, 2006 LOG #49165-02?

A: It is common practice in the Grading Division of LADBS to refer back to letters that have been written for a site instead of restating all of those conditions in the new letter. These conditions are either standard conditions of approval that always apply to a grading project or are recommendations from the soil engineering consultant that are restated in our letter to become conditions of the site grading.

7. Specify the various project names and street addresses utilized for maps, plans, permits and other documentation referencing the original and expanded tract 35022. For example the developer and Building and Safety documents reference: "Monterey Hills", "Corona Ave (w/s), Ringgold Dr, Pullman St (n/s) and Pueblo Ave (E/S)", "4470 Ringgold Dr (AKA 4999 Lathrop St.)".

PUEBLO SUBDIVISION ADDRESS LIST

PERMIT APPLICATIONS:

4470 N. RINGOLD DR

1301 E. PULLMAN ST

4446 N. CORONA DR (single lot adjacent to tract; same owners)

4351 N. GLIDDEN DR (single lot adjacent to tract; same owners)

GEOLOGY AND SOIL ENGINEERING REPORTS:

4999 LATHROP ST

4475 N. RINGOLD DR

4470 N. RINGOLD DR

Addresses Included in report dated July 6, 2006 by The J. Byer Group that included grading of tract 35022:

4446 N. CORONA DR (single lot adjacent to tract; same owners)

4351 N. GLIDDEN DR (single lot adjacent to tract; same owners)

1. Has the project expanded in terms of grading area since the time of the original application and/or EIR?

A: Yes, see #2 below.

2. If so, when did the expansions occur?

A: The Bureau of Engineering (BOE) required that Pueblo Avenue be graded and improved as part of the original conditions of approval in order to ensure slope stability below the subdivision and to provide proper drainage for surface water runoff. These off-site improvements were addressed in the EIR on pages 38 and pg 52 and the subsequent staff report-tract conditions. A later expansion of the grading footprint occurred when Pullman Street was re-aligned. This was done to produce a street that met current Fire Department access standards, minimize the amount of grading and reduce the height of the retaining walls.

The realignment was done by a dedication of land to the City of Los Angeles, which does not require a discretionary approval.

Because all the expansions of the footprint were done as requirements of BOE, they were not discretionary and as such did not trigger subsequent environmental review. The requirements mandate conformity with standard policies and practices of street design.

3. Have adjacent properties and/or other subdivision tract and maps been incorporated into the grading plan for the Pueblo subdivision? If so, does this trigger a subsequent or supplemental EIR? Why or why not?

A: PMLA 2005-0849-MND was incorporated into the grading plan for the Pueblo subdivision but does not trigger a supplemental EIR because off-site grading was required by the Bureau of Engineering to allow for the construction of Pullman Street and Pueblo Avenue to current street standards.

The properties were added to the grading plan, but are not part of the subdivision itself. Additional properties were dedicated to the City of Los Angeles to allow for the re-alignment of Pullman Street. The re-alignment was done to reduce the height of retaining walls and the amount of grading needed for the construction of Pullman Street. None of this required grading was deemed to be discretionary.

4. Has any new information related to the hydrology of the hillside come to light since the time of the original EIR? If so does this trigger a Subsequent or supplemental EIR? Why or why not?

A: Some localized subsurface water was identified. The mitigation measures identified in the EIR were implemented. Plans for the installation of a subdrain system were incorporated into the design of the project. This is intended to capture surface runoff and subsurface water and divert it into the city's storm water drain system, thus precluding any potentially significant impacts. A subdrain system was one of the mitigation measures in the EIR and therefore an SEIR is not triggered because the existence of subsurface water is not new information and mitigation measures for it were incorporated into the plans.

5. Do the original plans allow for taking of private property as an easement for Tract 35022? Has this occurred and if so, does this trigger a subsequent or supplemental EIR? Why or why not?

A: No. All of the property is owned by the applicant. The applicant's dedication of some of this land for the purpose of re-aligning streets is not a discretionary action.

6. Was the construction of Pueblo Avenue included in the initial project application or was it added later, if so, when, and was it considered in the EIR? If it was not considered in the EIR, does this trigger a subsequent or supplemental EIR? Why or why not?

A: The construction of Pueblo Avenue was always part of the project. It was required early on by BOE in order to stabilize the slope below the project and to provide for the collection of surface runoff. Its construction was considered in the EIR. See page 38 "Off-site grading will be required for the construction of Pueblo Avenue".

7. At what point was the re-alignment of Pullman Street and /or the longer extension of Pullman added to the project? Was this aspect included in the initial EIR? If not, does this trigger a subsequent or supplemental EIR? Why or why not?

A: The re-alignment of Pullman Street was done to comply with the first mitigation measure under Right of way and access which was amended in the Final EIR to say "All street alignments and grades shall be approved by the Department of Building and Safety, Department of Public Works and Fire Department of the City of Los Angeles, and shall be improved in a manner satisfactory to the City Engineer and Fire Department to ensure street grade does not exceed maximum 15 percent." The realignment was required to meet the 15% grade requirement. The applicant has fully complied with the mitigation measures in the EIR and a Subsequent EIR is not necessary.

8. Has any illegal or unpermitted grading occurred anywhere in the project area? What permits currently exist for the original and/or expanded project site?

A: No

9. Have any trees been illegally removed from anywhere in the project area? What trees are protected pertaining to this project, and does the city's current protected tree ordinance apply to this project? Why or why not?

A: Because this is a Vesting Tract map, the rules that were in effect at the time the Tract was applied for are the rules that pertain. Since the City's tree ordinance only protected Oak trees at the time the Tract map was filed, only Oak trees are protected on this site. As of this moment, no Oak trees have been removed.

10. What, if any discretionary actions are now pending for the original or expanded project site?

A: No new discretionary actions are pending for this site (original or "expanded")

11. What, if any, discretionary actions will be or are expected to be required in order for the project to be built as originally approved?

A: There are no further discretionary actions required or needed to develop Tract 35022, lots 1-23.

An Interim Control Ordinance (ICO) (Ordinance No. 178102) was adopted on November 8, 2006 which includes this area. At this time any parcel that was not part of Vesting Tract 35022 which is not subject to the ordinances is subject to the ICO.

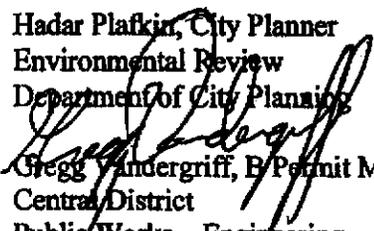
The ICO places a restriction on new construction in the area and any new construction outside of Tract 35022 and PMLA 2005-0849 would be subject to the provisions of the ICO. The ICO was adopted in anticipation of the preparation of a Specific Plan for the area which would provide for additional control measures for the area.

At this time, any parcels other than those in Tract 35022 and PMLA-2005-0849 may not be developed without a new discretionary review under the provisions of the ICO and any subsequent Specific Plan.

CITY OF LOS ANGELES
INTERDEPARTMENTAL CORRESPONDENCE

Date: March 19, 2007

To: Hadar Plafkin, City Planner
Environmental Review
Department of City Planning

From:  Gregg Vandergriff, B/Permit Manager
Central District
Public Works - Engineering

Subject: Tract No. 35022 - Council Motion Relative to EIR 172-84 (SUB) (REC) - CF 04-1413

Hydrology

The above referenced Council File motion states that, "Since certification of the previous Environmental Impact Report, new information that was not or could not have been known at the time of approval of the Pueblo Subdivision has come to the fore, including new information on the hydrology of the hillside and the presence of an extensive, natural subterranean water system."

The Geology and Soils Investigation for this project and used in the EIR was conducted in April of 1983. The investigation report did not identify any evidence of groundwater or seep springs. The EIR did however provide for and anticipated encountering subsurface water or moist conditions.

A hydrology study was prepared for the project in January 1990. On page 46 of the report in the top paragraph it identified two tributary areas for runoff defined by the ridgeline separating the eastern portion of the project and the western portion. The eastern portion was identified as having a maximum possible runoff flow of 40.70 cfs. The western portion was determined to have a maximum possible runoff flow of 30.30 cfs. The eastern portion of the flow was to be directed to Lathrop Street and the existing storm drain system. The storm drain system was determined to have sufficient capacity at this location. The same statement is true for the storm drain system at the end of Pullman Street near Collis Avenue.

Page 47 lists several mitigation measures pertaining to the design, construction and management of surface flow and run-off. Page 48 the 3rd listed measure on this page states, "Subdrains shall be installed in all natural drainage courses within which compacted fill is to be placed."

The ninth listed measure states, "Adjustments to these improvements may be necessary and shall be allowed, if deemed necessary by the City Engineer."

The tenth listed measure states, "Also see measures listed under Grading."

The mitigation measures for Grading on page 38 identified the potential hazards to be found during grading and called for a geologist and soils engineer to inspect all excavations.

On page 39 the 3rd measure listed stated that, "Both the geologist and the soils engineer shall inspect and approve all fill and subdrain placement areas prior to placing fill."

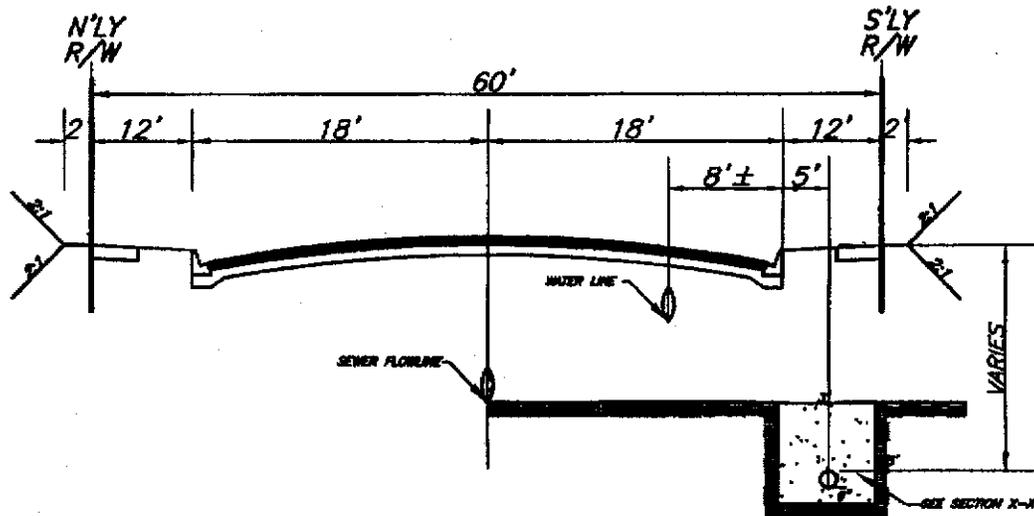
In March of 2006 plans for the street improvements for the above referenced project including retaining walls were submitted to the Bureau of Engineering for its review and comment. During the review BOE required additional borings because of the height of the proposed retaining wall. During this investigation groundwater was found in only three of the boring holes. The water was located approximately 25-31 ft below ground surface. This depth is very typical for the Los Angeles area.

In April of 2006 after a particularly wet year a bulldozer became mired in mud near the location of Pullman Street and Harriman Ave. Pullman Street very nearly follows the alignment of a natural watercourse for this location. The soils at this location are fine alluvial soil. An area of saturated soil was identified at the location.

The watercourse flows or seeps during the rainy season and for several months following the rainy season. It may flow year round during particularly wet years or not at all during a dry year. The seepage is considered neither extensive, nor part of a water system. It is only located within that portion of Pullman St. between Randolph Avenue and Harriman Avenue. The underlying soil layers become exposed at Harriman and any natural seepage comes to the surface before flowing onto the graded roadway.

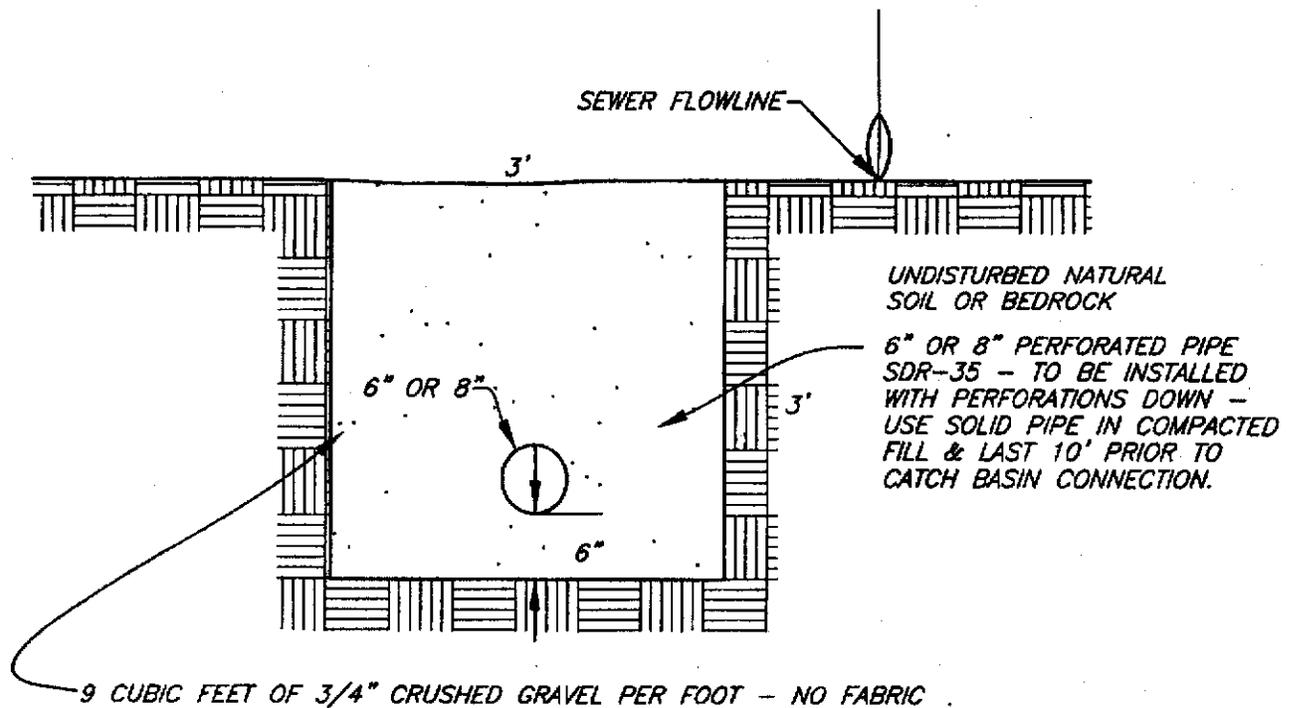
The proposed street will be protected from subsurface saturation by installation of a subdrain system. The subdrain system will discharge into the storm drain system.

In summary although the EIR Geology and Soils investigation found no evidence of groundwater or subsurface runoff, the report included mitigation measures in the event such conditions did exist. These measures were implemented in the design review when subsequent design investigations determined the need to use such measures.



PULLMAN ST.- SUBDRAIN LOCATION DETAIL

N.T.S.



SECTION "X-X"

N.T.S.

Pullman Street Subdrain

CITY OF LOS ANGELES
INTERDEPARTMENTAL CORRESPONDENCE

Date: March 19, 2007

To: Hadar Plafkin, City Planner
Environmental Review
Department of City Planning

From: Gregg Vandergriff, Permit Manager
Central District
Public Works - Engineering

Subject: Tract No. 35022 – Council Motion Relative to EIR 172-84 (SUB) (REC) –
CF 04-1413

The above referenced Council File asks the Departments and Bureaus of City Planning (DCP), Building and Safety (LADBS), and Public Works – Bureau of Engineering (BOE) to investigate and report whether the most recent grading plans, and designs for the Pueblo Subdivision (TR - 35022) evaluated against the previous Environmental Impact Report (EIR 172-84 (SUB) (REC)) and its associated Statement of Overriding Considerations trigger the need for a subsequent or supplemental Environmental Impact Report (EIR); whether all feasible mitigation measures, in light of substantial changes to the project and new information, have been incorporated into the Pueblo Subdivision project; and whether any other circumstances exist that would merit conducting further environmental review. (See Attached Motion).

The council motion expressed that “From the time of approval there have been significant changes to the Pueblo Subdivision project that appear to trigger the need for additional environmental review, including 1) incorporation of adjacent properties, and other subdivision tracts and maps into the grading plan for the Pueblo Subdivision and 2) expanded Grading and street construction that exceeds the original tract boundaries, plans and project description.”

Further the motion states that, “Since certification of the previous Environmental Impact Report, new information that was not or could not have been known at the time of approval of the Pueblo Subdivision has come to the fore, including new information on the hydrology of the hillside and the presence of an extensive, natural subterranean water system.”

The Department of Public Works, Bureau of Engineering (BOE) in conjunction with the Department of Building and Safety (LADBS) has reviewed the grading plans for the proposed project. BOE and LADBS compared the Project Description, Environmental Impact Analysis – Earth and Water Sections and Attachments with the plans submitted for design review and approval. BOE and LADBS also reviewed Soils and Geology reports and Hydrology and Hydraulics reports for the project. Summarized below are the findings of the two departments with respect to the size of the work.

Scope of Work

The proposed project plans identify 24 lots for construction of single family residences. Incorporated into the plan is the construction of Lathrop St., Pullman St., and Pueblo Ave. Also included is Parcel Map AA-2005-849 filed with DCP and decision issued on September 30, 2005. DCP issued for this parcel map a Mitigated Negative Declaration (MND). ENV-2005-850-MND. The conditions of that approval for two lots within and one adjacent to the project also required the construction of Pueblo Avenue. That is the only action that has added acreage to the project.

The original Tentative Tract Map is used as a base line for the amount of grading required on this project. This map did not include limitations on the height of retaining walls, limitations due to the maximum allowed grades or any other mitigation measures or conditions required as part of the tract conditions.

VTM 35022 - 1992 Cut - 156,000 CY Fill - 71,000 CY Export - 85,000 CY

In November of 2003 the City approved Modification #1 to the recorded Tract Map. This modification did not add acreage to the project but altered street alignments and lot lines. The result was that approximately 245,000 cubic yards of dirt would be displaced. It is broken down as follows:

Modification #1: Cut - 221,524 CY Fill - 244,652 CY

Subsequent to this action the grading plan was submitted to LADBS for approval of the on-site grading. After review and modification to comply with city codes the quantities of dirt to be moved are estimated at approximately 285,000 cubic yards. It is broken down as follows:

Revised Grading Plan: Cut - 284,700 CY Fill - 203,100 CY

Off-site grading requires extensive movement of dirt around the construction area for the construction of Pullman St. and Pueblo Ave. Those quantities are estimated at:

Pullman: Cut - 85,300 CY, Fill - 15,000 CY

Pueblo: Cut - 0 CY, Fill - 145,300 CY

The total quantities of dirt to be relocated within this project including the construction of Pullman St, Pueblo Ave, Lathrop St, and the tract building pads are estimated at:

B permit Grading: Cut - 370,000 CY Fill - 364,000 CY

Finally the above referenced quantities do not require any export of fill from the project area except for that material which cannot be used as fill and must be removed from the site per building code. The amount of material to be so removed is not estimated.

The EIR defined the scope of work for this project on page 1, paragraph 1 as follows:

The project being evaluated includes the subdivision of the 15.70 gross acre (11.56 net acre) project site into 24 residential lots, as well as construction of roadways to serve the project area, extension of Pullman Street and possible construction of 24 single-family residences on the lots.

In the next paragraph it states, "This re-subdivision of the property is requested in order to provide for a street system which meets today's standards for adequate access, street widths, and engineering design."

The following paragraph states, "The approval of a haul route for 85,000 cubic yards of soil is also sought."

On page 2 of the report it is noted that the project was previously submitted as a proposed 30 lot subdivision on 18.67 gross acres. The Environmental Review Committee (ERC) required the original project to prepare an EIR and to consider several issues and items. Specifically the ERC also required that the cumulative impact of the project, together with the vacant parcels surrounding the site be assessed with relation to exiting and proposed projects in the area.

Page 31 paragraph 1 defines this as follows: "The site is part of a larger (110 acre) undeveloped site adjacent to a residential area of single- and multi- family homes.

Paragraph 2 states: "Eighty percent of the area will be landscaped. Another 10 percent will be for roadways and only 10 percent will be built upon."

Paragraph 3 states: "The preliminary grading plan for the project is shown in Figure 4. The project will result in the export of approximately 85,000 cu yards of soil."

The Environmental Analysis identified the grading as a significant impact to the site. On page 37 paragraph 1 it stated, "Significant soil movement is anticipated – approximately 100,000 cubic yards would be moved with approximately 85,000 cubic yards of dirt exported and 15,000 cubic yards remaining on the site as fill."

Lower in the same paragraph it stated, "It cannot be determined at this time to where and by what route the exported material would be transported."

On page 38 of the report in the same section, the second paragraph it stated, "Off-site grading will be required for the construction of Pueblo Avenue."

The first Mitigation Measure of this section called for "All grading shall be performed under supervision of a licensed engineering geologist and/or soils engineer in accordance with applicable provision of the Municipal Code and the recommendations of the City Engineer and the Superintendent of Building."

On page 40 of the report it states under the Adverse Impacts section, "The alterations of the ridge lines and transportation 85,000 cubic yards of soil off the site.

The following Cumulative Impacts section states, "Landform alteration will occur in conjunction with other related projects."

In the Right-of-Way and Access section of the report, on page 52 paragraph 1 identifies Lathrop Street and Pullman Street as the means of access to the site for residents. In the second paragraph it defines on-site streets for the project to be constructed as Glidden Drive, Ringgold Drive, and Corona Drive. It further calls for merging the existing rights of way in order to provide and allow for the construction of a street system which meets today's standards for adequate access, street widths, and engineering design.

On page 53 in the Mitigation Measures 3rd bullet it states, "Pullman Street shall be improved for two lanes of traffic between the proposed subdivision and Harriman Avenue to provide the main access to the site.

Section X Planning Department Documentation – Part A Environmental Data Requirement page 101 identifies grading as a significant impact. Specifically it identifies that "grading of approximately 250,000 cu yds of dirt which will be exported" as the impact.

The work sheet found in the above section on page 107 identifies grading of approximately 250,000 cu yds. of dirt.

The above references make no indication if Pullman St and Pueblo Ave were included in the calculations for the quantities of earth work to be performed. Likewise there is no distinction made whether the quantities lumped cut and fill together or if only the cut portion was used to make the calculations. It seems likely though that only the cut portion was reported because the report makes reference to exporting the material.

The proposed construction of Pullman Avenue called for construction of two lanes of roadway within the existing right of way. This straight line alignment necessitated the construction of off-site retaining walls ranging in height from six feet to forty feet or more and significant side slope grading in order to meet the required grades of the public street. To mitigate this impact and to make the retaining walls conform to the criteria of the retaining wall ordinance a re-alignment of Pullman Street was proposed by the developer. This re-alignment was approved through An Offer to Dedicate Easement for Street Purposes in Council on September 28, 2005 and reaffirmed the above referenced EIR. (CF 05-1524).

Offsite retaining walls ranging in height from six feet to twenty-eight feet would also have been required to support the roadways surrounding the tract map. Reducing the height of the retaining walls increased the grading.

The proposed streets shown in the original exhibit do not identify the grades for the streets or other slopes. Today BOE requires a maximum grade of 15% for all newly designed streets. This grade limitation is necessary to provide safe access for emergency equipment including fire trucks. This also limits the minimum turn radius allowed for a public street as well as the minimum width. These standards when applied to the plan mandate the amount of grading or the size of retaining wall necessary to match changes in elevation between the street and natural topography.

An Exhibit has been prepared that shows the 110 acre undeveloped area, the proposed project site and the construction of the roads proposed in the EIR. Due to the topography of the site significant structures and grading are necessary to support the required street improvements.

In Summary the EIR among several significant impacts identified Grading as a significant impact. The Environmental Review Committee required the consideration of the cumulative impacts of development including the vacant parcels surrounding the site and related projects. Grading was anticipated and required for the construction of Pueblo Avenue and Pullman Street in addition to the onsite grading shown in Figure 4 of the EIR.

