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May 31, 2019

Via EMAIL (Liliana.Roman@coastal.ca.gov)

Liliana Roman
Coastal Program Analyst
California Coastal Commission
301 E. Ocean Blvd. Suite #300
Long Beach, CA 90802

***Re: On the Coastal Commission agenda for 6/14 "Trafalgar Canyon filling"
project proposed for 217 Vista Marina, San Clemente, CA 92672***

Dear Ms. Roman:

I am the owner of the property overlooking Trafalgar Canyon at 207 Calle Conchita. I am again objecting to the issuance of a building permit for the above location. My objections include:

In the time I have owned the property (approximately 20 years), I have been approached over ten times by various developers and owners who have expressed a curious wish to build a house at the bottom of Trafalgar Canyon just a hop, skip and a jump from the Pacific Ocean. Specifically, they have asked me to either sell them a piece of my land or an easement at the toe of the cul-de-sac in order to lengthen the width of the road (Vista Marina) to legally allow fire trucks to access the canyon bound property. I have unambiguously rejected all such requests. In each case, my position was clear – the canyon is off limits to developers, by law, code and custom. I am not aware that a variance was ever applied for or granted.

Trafalgar Canyon is one of seven coastal canyons designated as environmentally sensitive habitat area (ESHA) in the certified Land Use Plan. Development in the canyon has long been prohibited by the Coastal Act. One of the purposes of the Coastal Act is to preserve both biodiversity and sensitive coastal land and marine habitat. I know firsthand the rigor with which a developer needs to comply with the letter and spirit of the Act. In order to develop even to the edge of the canyon, one must comply with strict setback rules, which I have done assiduously to obtain permission to build my new house. The Coastal Commission sternly required me to hide my piers in order to preserve the aesthetic view of the purple sea lavender, a strict interpretation I supported.

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In this case, I understand the developer, with the City's incomprehensible blessing, tried to thwart the black letter development prohibition by redefining the word "canyon." Any argument that the proposed development is NOT inside Trafalgar Canyon is absurd and must be rejected. It is difficult to understand how the Coastal Commission and City can allow the development of a single-family residence in the center of a canyon and still maintain credibility as a fair arbiter of the Act.

In short, the proposed building site qualifies as both a coastal canyon and an ESHA and thus any development therein would be illegal. The canyon harbors many sensitive bird and plant species, including endangered indigenous ryegrass and lemonade berry scrub, to name a few. The lemonade berry scrub is vulnerable and at moderate risk of extinction due to a restricted range and relatively few populations. (See the attached staff report for development of my property, dated April 27, 2018). It has been reported, and I trust the City and CC will investigate, that at the developer's behest sensitive plant species (eg, Giant Wild Rye) were recently killed with herbicides. The sensitive plant has now regrown inside of the lot where the proposed house will be built.

Allowing residential development in a sensitive marine canyon ecosystem, which experiences floods and droughts seasonally, increases the risks of fire, exposes the South wall of the canyon to life threatening and property damaging erosion, destruction of natural coastal habitat, and endangerment of sensitive flora and fauna. It must be emphasized that I never granted an easement or sold the requisite slice of my corner property to allow for fire trucks to legally and safely access the proposed canyon building site. Global warming is increasing the risk of wildfires and exacerbating their intensity. In the event of an inevitable fire, this canyon home could not be accessed safely and readily by emergency vehicles. This structural impediment to suppressing fires will substantially increase the risk of property damage and loss of life to all persons living on and beyond the North and South rims. The construction itself will pose substantial risks to the integrity of the steep and sensitive canyon slopes. There has been no plan to absolutely prevent the runoff of dirty water during and after the construction, filthy brown unfiltered water that will flow directly into a world-famous surfing beach.

The City of San Clemente has violated applicable law in multiple instances (see letter of May 20, 2019 from Mr. Douglas Carstens). Failures include but are not limited to absent or incorrect public notification, irregular ex parte communications between the developer's local attorney and staff, lack of city code review and enforcement, a five month delay to posting approval to the city's eTrakit permit website, and several shocking admissions from city officials acknowledging their errors but refusing to correct same because of alleged threats of a ginned up "public takings" lawsuit.

I can't imagine that the City and CC are seriously concerned on the merits of any puffed up takings lawsuit. It's been common knowledge since the time I have owned the land that the canyon is off limits to private development. The purchaser either had actual or constructive knowledge that the investment was, at best, risky. How much did the applicant pay for the parcel? Was the price in line with neighboring properties? Were

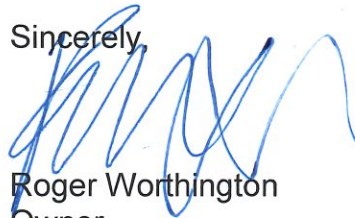
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promises made by any party in the transaction that the land could be developed? I would ask the City and CC to investigate whether the applicant knew the purchase was risky but took a flier anyway. I would ask the prior lot owner if he disclosed to the buyer that the City would never allow development of said lot. I would remind the City and CC that bending the law to bail out foolish risk takers will encourage more scofflaws, all at the public taxpayer's expense, and in corrupt defiance of the rule of law.

In summary, the proposed development is patently illegal. Would it be legal if I sold the applicant a sliver of my downslope toe print, a move which might allow emergency vehicle access? My interpretation of the Coastal Act then, and now, is without a waiver of the statute, it would still be illegal. If I am incorrect, then let the market decide, and I will set the price that includes all the external costs such development will impose on present and future generations.

The protected status of the canyon was a major factor in my decision to demolish my old house and build a new one. Allowing a house to be built in the canyon directly below my house and several other houses poses substantial risks of property damage, loss of property values, loss of life in the event of fires or flooding, and sensitive habitat destruction.

Sincerely,



Roger Worthington
Owner
207 Calle Conchita
San Clemente, CA

RGW/jf
Enclosure

cc: Amber Dobson (Amber.Dobson@coastal.ca.gov)
Steve Hudson (Steve.Hudson@coastal.ca.gov)
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