

AGUA DULCE TOWN COUNCIL

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April 18, 2023

Supervisor Kathryn Barger, 5th District Supervisor
Los Angeles County Board of Supervisors
500 West Temple Street, Room 869
Los Angeles, CA 90012

Via Email to: kbarger@bos.lacounty.gov

RE: Agua Dulce Town Council's concerns regarding apparent unpermitted grading and construction related to the Agua Dulce Residential Project Phases 1-3 (Tract 50385-01) outside the approved map area

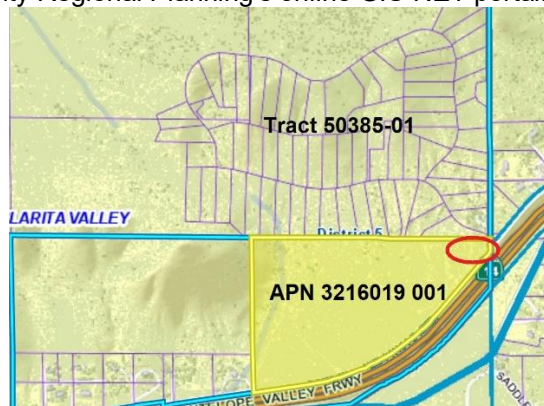
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Dear Supervisor Barger:

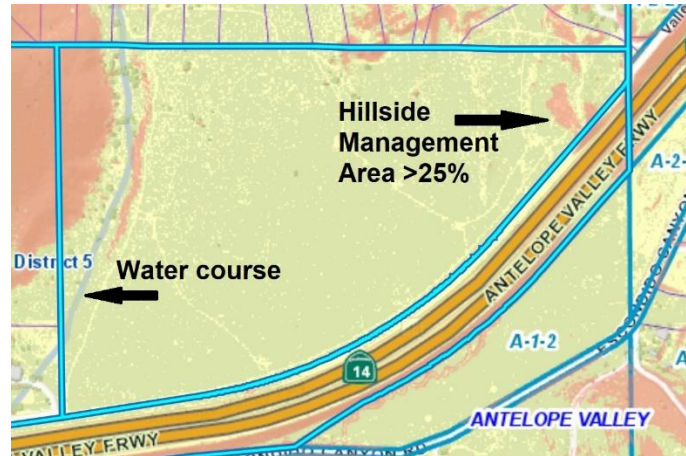
The Agua Dulce Town Council recently reviewed documents that were submitted to the State Water Quality Control Board in January and March 2023 by the law firm of Mitchell Chadwick, LLP on behalf of RTG Investment, LLC, the owner of the Agua Dulce Residential Project. During the course of reviewing these submissions, it has become apparent that significant grading, soil stockpiling and construction of a sizeable water pond has taken place on parcel APN 3216 019 001 that lies immediately to the South of Tract 50385-01. APN 3216 019 001 is not part of any of the approved maps that comprise Tract 50385 and therefore the recent grading and construction conducted on APN 3216 019 001 appears to fall outside the scope of the approvals and conditions that were approved in 1994 and 2007 related to Tract 50385 as well as the grading permit issued for the project in mid-2022.

1. APN 3216 019 001 is outside the approved, recorded map for Tract 50385-01

Below is a screen capture of Tract 50385-01 and the adjacent APN 3216 019 001 (highlighted in yellow) taken from Los Angeles County Regional Planning's online GIS-NET portal.



APN 3216 019 001 is approximately 74 acres in size and the GIS-NET portal indicates that a groundwater tributary for the Santa Clara River watershed runs from the Northwest corner to the Southwest corner and a Hillside Management Area of 25% slope exists in various places on the parcel, including on the Northeast portion of the parcel per the image below, again taken from the GIS-NET online portal.



APN 3216 019 001 clearly falls outside the boundaries of both the recorded and unrecorded approved maps of Tract 50385 as further evidenced by the fact that it is not included in any of the recent submissions (including RPAP2022009925 and RPPL202210011) made by the developer to record large lots on the Tract 50385 project site.

As such, it is reasonable to conclude that none of the environmental studies, findings, approvals, mitigation measures and conditional use permits approved in 1994 and 2007 for Tract 50385 can be applied to the development activity that has been, and continues to be, conducted on APN 3216 019 001 since it was not included in the scope of the environmental review or the approved documents in the planning record.

The Council has further confirmed with staff at the Los Angeles County Building & Safety Office in Lancaster that there are no records of any issued permits related to APN 3216 019 001.

2. The scope of grading permit GRAD200218000115 does not include APN 3216 019 001

In July 2022, the Department of Public Works approved Grading Permit UNC-GRAD200218000115 related to the grading of Tract 50385-01. The grading permit further identifies APN 3216 026 001 which is part of the recorded portion of Tract 50385.

Since APN 3216 019 001 falls outside the boundary of Tract 50385-01, it does not appear that this grading permit can be used to permit the grading and construction that has occurred on APN 3216 019 001.

3. The grading and construction appear to have been completed without the necessary review, approvals and permits

As part of the process of securing the Conditional Use Permit to develop Tract 50385, a wide range of environmental review was required to identify and mitigate various impacts of the development activity related to Tract 50385. This included impacts on the groundwater and biological resources. More recently, the developer secured a Dredge and Fill WDR permit R4-2022-066 from the Los Angeles Regional Water

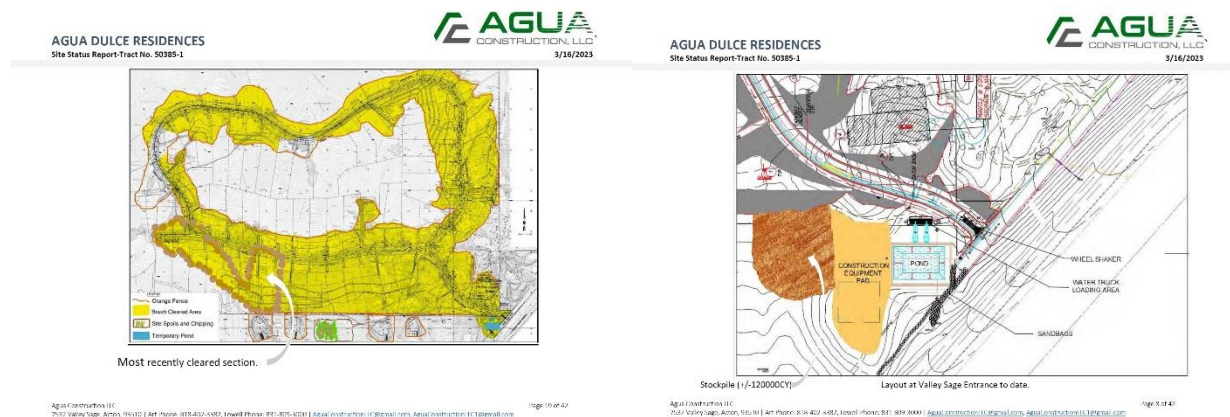
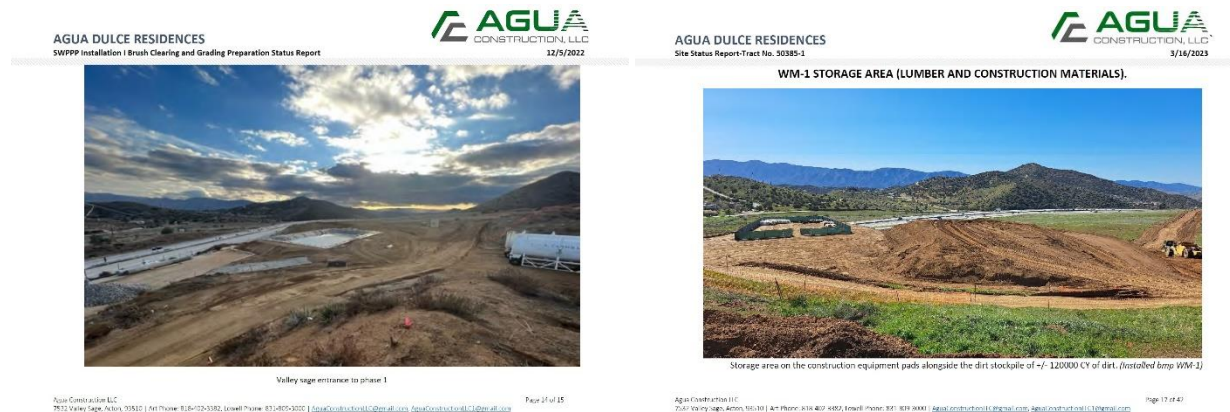
Quality Control Board that identified a number of ephemeral streams located on Tract 50385-01 that adjoins the Northern boundary of APN 3216 019 001.

Having reviewed the various descriptions of the project, mitigation measures and conditions related to Tract 50385 that were approved in 1994 and 2007 as well as Director Pestrella's response regarding grading within the project boundary, we are unable to find any reference to grading and development beyond the boundary of the project that would permit the activity that continues to take place.

The area in which the development and grading activities are taking place on APN 3216 019 001 appears to be inclusive of a designated Hillside Management Area which appears to require a permit under the 2015 Hillside Management Ordinance. While this ordinance was adopted after the approvals for Tract 50385 were approved in 1994 and 2007, as previously noted, APN 3216 019 001 falls outside the perimeter of those approved recorded and unrecorded maps and does not appear to be exempt.

The grading and construction that has taken place on APN 3216 019 001 is significantly more than the maximum of 50 cubic yards allowed without a permit. Furthermore, the development activity is in an area adjacent to known groundwater resources that are relied upon for potable water by nearby households within Agua Dulce and the impact of this activity (for instance, a leak of the water stored in the temporary pond, the stockpiling of 120,000 cubic yards of dirt and storage of site spoils and chipping) needs to be properly considered by way of the requisite environmental report and associated mitigation measures.

The images below were originated by Agua Construction LLC in December 2022 and March 2023



4. The grading activity conflicts with Director Pestrella's statements to the Town Council

In August 2022, the council wrote to Anish Saraiya noting that, amongst other points, the Conditional Use Permit for Tract 50385-01 requires that all grading be balanced within the project. The October 4th response from Director Mark Pestrella of Los Angeles County Public Works, stated the following in response to 'Concern No. 5':

"The approved grading plans for Phase I show that **all grading work necessary for Phase I construction are contained within the boundaries of Phase I** except for some small amounts of grading to join the existing ground that occurs between the interface for Phase I and Phase II. This grading is identified on the approved grading plans for, and in support of, Phase I. Therefore, it does not need additional approval from the Director of Regional Planning. There are currently no plans to authorize grading for Phase II prior to the Phase II map recordation.

Public works will provide inspections based on the approved Phase I grading plans. **If grading goes beyond the approved plan limits, Public Works will cite the developer accordingly and ensure corrective measures are taken.**"

In this case, it appears abundantly obvious that the developer has undertaken grading outside the boundaries of Phase I that are nowhere near the interface with Phase II.

Indeed, the Council contends that the amount of grading and development that has occurred on APN 3216 019 001 outside the boundaries of Phase I does indeed require approval of the Director of Regional Planning, subject to the preparation and approval of the requisite environmental analysis documents that are commensurate with the facilities that have been constructed and the work that has been performed.

5. Summary

Given the amount of recent correspondence between the Council and the Department of Regional Planning and Department of Public Works where these issues were identified, the Council and the community were shocked to discover that the developer has undertaken this amount of grading and development outside the boundary of the approved map, apparently without the necessary regulatory approvals and permits. It is also disappointing that it has fallen to the Council to point this out when the scale of the work performed should have been abundantly obvious to those responsible for the inspections noted in Director Pestrella's letter.

The Council respectfully requests an explanation as to how this has been allowed to happen, copies of any applicable permits and their underlying environmental documents under which this work was allowed, and to the extent that this work has been undertaken without the applicable approvals, confirmation from the Department of Public Works that the developer has been cited together with the steps that will be taken to immediately cease further development and grading outside the boundary of Phase I and the steps that will be taken to remedy this situation.

Respectfully,

Don Henry

Don Henry, President
Agua Dulce Town Council – 2023

cc: Stephanie English, Field Deputy, District 5
Anish Saraiya, Planning & Public Works Deputy
Mark Pestrella, Director, Public Works
Amy Bodek, Director, Regional Planning

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