



**CITY OF MARTINEZ**

**CITY COUNCIL AGENDA  
February 20, 2008**

**TO:** Mayor and City Council  
**FROM:** Tim Tucker, City Engineer  
**SUBJECT:** St. Mary's Street development  
**DATE:** February 8, 2008

**RECOMMENDATION:**

Adopt resolution to authorize the Building Official to issue building permits on lots 69 through 72 for Tract 2226, St. Mary's Street, once all approvals and reviews have been successfully completed.

**BACKGROUND:**

During heavy rainfall in April, 1958 portions of St. Mary's Street slid. Soil investigations at the time found poorly compacted fill material and heavy storms as the cause of the street failure. Near the southerly end of St. Mary's Street the roadway dropped 10 to 20 feet. In this location the roadway was reconstructed by the City approximately 60 feet closer to the hillside to the west on more stable soil. In the area of the old right-of-way slide material was removed and replaced with engineered fill.

In 1973 the Martinez City Council adopted a policy prohibiting the issuance of building permits in lots in areas with known hazards (ie soil instability, flooding etc). Then in 1978 the City Council adopted Resolution 61-78 allowing certain lots along St. Mary's Street and Canyon Way to be developed however these specified lots would not have an absolute guarantee of safety. Lots in the St. Mary's and Canyon way area were grouped by location and risk. Conditions for development for each group of lots were listed in the 1978 resolution.

Development of any lot requires proper engineering and planning. Development of hillside lots, lots adjacent to slopes or on land with a history of instability requires a higher degree of scrutiny. The City has received a request to construct a home on lot 70 of Tract 2226. Extensive soil investigations on lots 69 through 72 have recently been completed. The studies have been reviewed and approved by a Geotechnical Engineer hired by the City to peer review the developer's work.

The Geotechnical Engineer's (retained by the applicant) investigation confirmed that the slope repaired by the City in the area of lots 69 to 72 was done properly. He determined that complete removal of the engineered fill as inferred by the resolution is unnecessary and that these four lots

in their current condition are stable. The foundation design for the houses calls for piers extending into competent and stable soil.

As a standard practice, all development plans must be reviewed by the project geotechnical engineer prior to City approval. Grading and foundation constructions will also be done under the observation of the City Construction Division and the applicant's geotechnical engineer.

In accordance with Resolution 61-78 the applicants and owners of lots 70 and 71, John Mooney and Diane Bedsworth, are requesting the City Council to authorize the Building Official, Dave Scola, to issue a building permit once all approvals and reviews have been completed. Based on the conclusions of the geotechnical studies, there is no indication that these lots should be treated any differently than other sloped lots in Martinez. They have met or will meet all the construction related conditions in the 1978 resolution pertaining to their lots based on studies already completed or through the normal project approval and building permit application process. Should the Council adopt the attached resolution the applicant will submit for Design Review Commission (DRC) approval and compliance with CEQA. Once the DRC has determined the appropriate design review conditions, construction plans could be prepared and a building permit application submitted. In addition, a hold-harmless agreement, subject to City Attorney approval, must be recorded.

Staff is bringing this resolution to the City Council at this point in the project to provide the applicants some level of assurance they can obtain a building permit before making a large investments of money and time on design review approval and detailed construction plan costs.

**FISCAL IMPACT:**

None.

**ACTION:**

Adopt resolution to authorize the Building Official to issue building permits on lots 69 through 72 for Tract 2226, St. Mary's Street, once all approvals and reviews have been successfully completed.

Attachments:

Resolution

Resolution 61-78, Vicinity Map

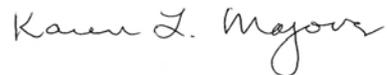
Soil investigation and peer reviews on file with City Engineer

**APPROVED BY:**



City Manager

**APPROVED BY:**



Assistant City Manager  
Community & Economic Development

**RESOLUTION NO. -08**

**AUTHORIZE THE BUILDING OFFICIAL TO ISSUE BUILDING PERMITS FOR LOTS 69 THROUGH 72 OF TRACT 2226 ONCE ALL APPROVALS AND REVIEWS HAVE BEEN SUCCESSFULLY COMPLETED**

**WHEREAS**, on June 24th, 1955 the City Council of the City of Martinez approved Tract Map 2226, Montecito Park - Unit No. 3.; and

**WHEREAS**, shortly after the construction of the subdivision road, an extension of St. Mary's Street, the street suffered significant failure due to poor construction and significant rain; and

**WHEREAS**, with the use of State flood disaster money the City of Martinez realigned and reconstructed a portion of St. Mary's Street in 1958; and

**WHEREAS**, lots 69 through 72 of said Tract 2226 were part of and adjacent of the reconstruction work; and

**WHEREAS**, on May 17, 1978 the City Council adopted resolution 61-78 establishing conditions under which building permits for houses would be issued along St. Mary's Street and Canyon Way; and

**WHEREAS**, said resolution was adopted in part because of continued land instability along portions of St. Mary's Street and adjoining lots; and

**WHEREAS**, said resolution was adopted in part because of lack of reconstruction compaction testing records; and

**WHEREAS**, a complete soils and geologic report has been provided to the City for lots said lots 69 through 72 and deemed adequate through a City peer review process; and

**WHEREAS**, said report concluded no restorative work is required for said lots 69 through 72; and

**WHEREAS**, said report concluded complete and reconstruction of filled areas, including construction of fill keys, subdrainage, recompaction or buttressing not appropriate, and

**WHEREAS**, in accordance with Resolution 61-78 and standard engineering practices for the design of hillside lots, grading drainage and foundations shall be designed to the approval of the projects soil engineer and subject to City approval.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Martinez that the Building Official is authorized to issue building permits on lots 69 through 72 for Tract 2226, St.

Mary's Street, once all approvals and reviews have been successfully completed.

**BE IT FURTHER RESOLVED** authorization of said building permit issuance is subject to Design Review Commission approval and compliance with CEQA; and

**BE IT FURTHER RESOLVED** authorization of said building permit issuance is subject to the property owner executing and recording a hold harmless document in accordance with Resolution 61-78 in a form approved by the City Attorney.

\* \* \* \* \*

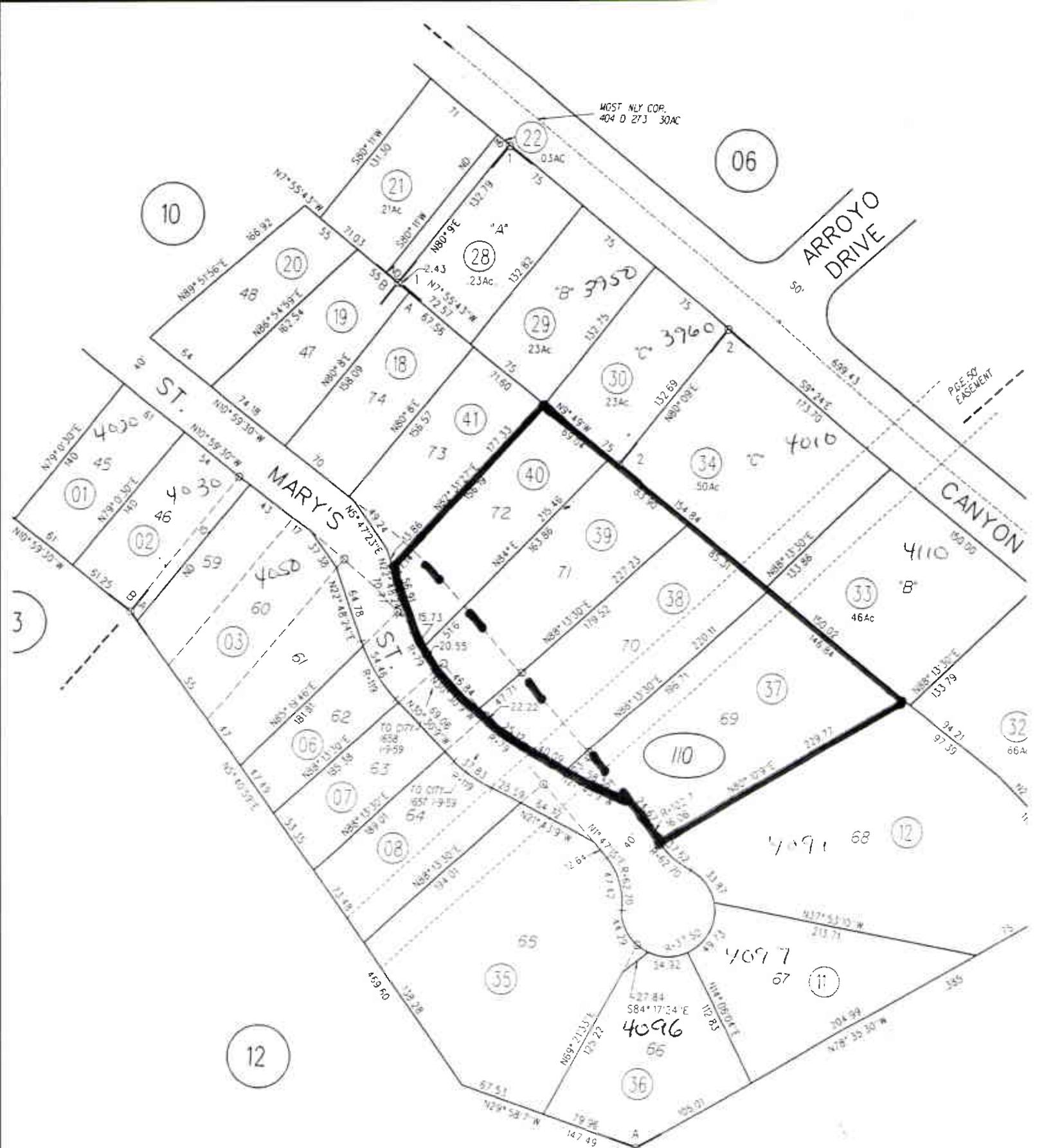
**I HEREBY CERTIFY** that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a Regular Meeting of said Council held on the 20<sup>th</sup> day of February, 2008, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK  
CITY OF MARTINEZ



*Vicinity Map*

RESOLUTION NO. 61-78

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARTINEZ  
ESTABLISHING CONDITIONS UNDER WHICH BUILDING PERMITS WOULD  
BE ISSUED FOR HOUSES ON LOTS #47-56, TRACT 2146, LOTS #62-64  
AND 69-74, TRACT 2226, AND PARCELS "A - D, 39 LSM 2"  
MARTINEZ, CALIFORNIA

WHEREAS, in 1973 the City Council, after due consideration, established a policy which required the posting of an absolute guarantee of safety of the building, prior to the issuance of a building permit; and

WHEREAS, the City Council has considered requests to delete properties from the area requiring absolute guarantees of safety or, alternatively, to modify the policy under which building permits are issued; and

WHEREAS, it has been determined that such deletions or policy modifications would constitute 'projects', as defined by CEQA: and,

WHEREAS, a draft Environmental Impact Report has been prepared by the City Planning Department; and, the City Planning Commission, in its capacity as hearing body for City EIR's did hold a public hearing on the draft EIR on December 6, 1977, at which time those persons wishing to speak to the EIR were afforded the opportunity and, after hearing all persons who wished to speak, closed the hearing; and,

WHEREAS, the City Planning Department did prepare written responses to oral and written comments on the draft EIR, which comments and responses are contained in a report entitled "Addendum 'A', comments and responses to Comments on Draft EIR"; and, the City Planning Commission did review the Addendum to the DEIR at its meeting of December 20, 1977, and did find that the Addendum adequately responded to all comments raised at the public hearing on the DEIR; and

WHEREAS, on December 20, 1977, the Martinez Planning Commission certified the draft Environmental Impact Report, together with the Addendum 'A' to the draft EIR, containing all comments and responses thereto, all as submitted by Staff, and Statements and Findings incorporated therein, and a certifying resolution as a Final Environmental Impact Report; and,

WHEREAS, in submitting the Final Environmental Impact Report and certifying Resolution to the City Council the Planning Commission recommended that a change be made in the policy pertaining to the issuance of building permits on the subject lots and, further, that caution be exercised in the implementation of any project which would result in the issuance of building permits for the subject sites.

NOW, THEREFORE, BE IT RESOLVED that the following conditions shall apply to the issuance of building permits on the subject lots:



C. Pertaining to Lots #47-53, Tract 2146 and Lots #69-74, Tract 2226:

Finding: Building on these sites, under any and all available mitigation measures would result in the new residents being subject to unreasonable geologic hazards due to the existing geologic conditions of the site, and that such construction would thus result in an avoidable significant adverse environmental impact. The Planning Commission found that there is an alternative policy change which if implemented, would preclude the construction of houses on the present geologically uncertain site until and unless the property owners reconstructed the site to achieve a reasonably safe geologic condition. The Planning Commission found that adoption of the following policy would require that appropriate corrective action be taken prior to construction of houses and would result in no significant adverse environmental impact due to possible future construction of the site.

The Building Official is directed not to issue building permits on the subject sites in their present conditions.

These sites may be buildable with only normal geologic risk following major corrective and reconstruction work, and subject to the following conditions:

1. Provision of an adequate and complete soils and geologic report, considering the site proposed for building along with its geologic environment, and one or more of the repaired slides as may be appropriate, acceptable to the City Engineer; and, considering the alternative of complete removal and reconstruction of sufficient portions of the filled area to insure final safety of the lot.
2. A report and plan for restorative work shall be prepared by a soils engineer and submitted to the Building Official. This report and plan shall be evaluated by the Building Official and City Engineer, and shall be submitted, with recommendations, to the City Council for a determination of adequacy.
3. Complete removal and reconstruction of filled areas, including construction of fill keys, subdrainage, compaction, and buttressing if appropriate, for the lot proposed for building and sufficient area around the lot to insure the safety of the final grading and improvements on the lot.

Following satisfactory completion of the preceding corrective work it is anticipated that building permits would be permitted on the subject sites, subject to the following conditions: No building permit shall be issued prior to a finding by resolution of the City Council that the preceding work meets the requirements of this resolution.

4. Environmental clearances from the Planning Department.



5. Execution and recordation of a hold-harmless document whereby present and future owners acknowledge the repaired slide nature of the site and hold the City harmless from any damage which might occur as a consequence of issuing the building permit, in a form acceptable to the City Attorney.

It is recognized that it may not be economically feasible to reconstruct the improperly filled area on a lot-by-lot basis. This policy may require all or most of the lot owners to join forces to address the complete reconstruction of the site. This would be the most beneficial outcome for the project area, resulting in a properly constructed site, as geologically sound and adequate as any other graded site in the City.

In addition, the following measures should be required to mitigate other potentially adverse environmental effects of construction on these site:

6. Grading: Shall be kept to an absolute minimum. Fills should not be allowed; cuts shall be limited to foundation areas and supported by foundation/retaining walls designed by a soils engineer. All finished grades shall slope at least 2% in such a manner that surface water does not run over bare slopes or collect against obstructions. All grading shall be done in accordance with the recommendations of a soils engineer, and following issuance of a soils engineering report on the proposed grading.
7. Drainage: It is anticipated that underdrainage may be required on the uphill side of any obstructions. All underdrainage shall be installed with the recommendations of a soils engineer. Underdrains shall be flushed and otherwise maintained as necessary annually.

Roof, driveway, curbside and yard drainage shall be directed away from foundation areas, collected and disposed of in a reasonable manner, using paved ditches and/or drainage pipe. A civil engineering evaluation shall be made of the on- and appropriate off-site drainage from the site downstream to its connection with a public drainage system. This evaluation shall be submitted to the City Building Inspector for approval prior to issuance of a building permit for the site.

The slope area of the lots shall be planted in native, drought-tolerant landscape materials, and watered the minimum necessary to establish. Irrigation systems shall not be installed in any location on the site.

8. Foundations: Shall be required to be designed by a soils engineer.
9. Maintenance: Annual flushing and other maintenance as necessary of all subdrainage, catch basins and drainage pipes shall be required; a statement of compliance shall be required to be filed with the City Building Inspector by September 15 of each and every year.



10. Soils Engineering: A preliminary soils engineering report shall be prepared and reviewed by the City of all proposed grading, building, paving, drainage and landscaping of the site. All work covered in a soils report shall be required to be inspected by the soils engineer during construction. A final report shall be required from the soils engineer verifying that all work was performed under his supervision and in accordance with his recommendation.
11. Deed restrictions: A deed restriction shall be required to be placed and recorded on each parcel prior to issuance of the building permit for that parcel. The deed restriction shall as a minimum reiterate Items #1 through 10 above, and 13 and 14 below.
12. A hold-harmless document shall be required to be prepared and recorded providing that owners and successors in interest acknowledge in writing the repaired-slide nature of the soils condition of the site and hold the City harmless from any damage which might occur as a consequence of the issuance of a building permit, in a form to be approved by the City Attorney.
13. The erection of houses on these lots would block and interrupt views from St. Mary's Street and some of the homes along the street. Design techniques which minimize these impacts shall be required in the Design Review process. Generally this would require driveways sloping down toward the house(s), garage(s) supported by decking, with a two-story house with the lower floor smaller and both stories closely fitted to the terrain. Foundation and pier walls below the finished floors may be required to be closed in with siding material and should be of the minimum necessary height. It may be considered appropriate to require wood siding, or predominantly wood siding, wood decks, railings, overhangs, and irregular shaped wall surfaces to minimize adverse visual impacts.
14. It may be required by the City in the Design Review process for the new home(s) that the applicant identify properties whose views might be affected by the proposed construction. Views would then be required to be mapped and sketched from the affected structures, with the proposed structure(s) superimposed. It may be required that a proposal be modified in order to preserve a greater amount of view from existing structures and/or the roadway.

The Planning Commission found that development consistent with the preceding restrictions is consistent with the General Plan, in all its elements, would be safe from unreasonable geologic hazards, and would result in no significant environmental impact.

BE IT FURTHER RESOLVED that the City Clerk is directed to record a copy of this Resolution.



I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a regular meeting held on the 17th day of May, 1978 by the following vote:

AYES: KRAUSE, LANCE, THELEN, TURNBAUGH, SPARACINO  
NOES: NONE  
ABSENT: NONE  
NOT VOTING: NONE

*Lawrence J. Kowalski, Deputy*  
Lawrence J. Kowalski, City Clerk  
City of Martinez

