

**Ayres, Julia**

---

**From:** Prem Lall <premlall@yahoo.com>  
**Sent:** Thursday, May 28, 2020 12:27 PM  
**To:** Breault, Randy; Ayres, Julia  
**Cc:** Schumann, Michael; Nancy Roeser; Dean DeCastro; Patricia Flores; Swiecki, John; Planning Commissioners  
**Subject:** Re: Soils report for 338 Kings project requested

Hello Julia,

It is fine to add our correspondence to the record and to forward to the Planning Commission as long as the correction I emailed to you is also included, which I do not see in your email:

**From:** Prem Lall  
**To:** Breault, Randy; Ayres, Julia  
**Sent:** Wednesday, May 27, 2020, 5:15:45 PM PDT  
**Subject:** Re: Soils report for 338 Kings project requested

Correction: "since it will flow down the mountainside to the two houses across the street from 338 Kings (namely, 333 and 339 Kings) as well as the four houses down slope on Humboldt (namely, 738, 740, 760, and 764 Humboldt)."

I have added the Planning Commission's email address to our correspondence to reach them directly as well.

As mentioned previously, the applicant must show that his project will not adversely affect the six homes down slope from his property with damage to retaining walls and wooden foundations, among other things, due to the transfer of water currently absorbed during rainfall by the previously referenced 391 cubic yards of soil at 338 Kings to the properties at 333 Kings, 339 Kings, 738 Humboldt, 740 Humboldt, 760 Humboldt, and 764 Humboldt upon the removal of that soil.

I am willing to discuss the issue with him if he is open to the idea.

NOTE: I have removed the original email addresses of Adrian DeCastro and Patricia Flores from the conversation as those email addresses seem no longer to be functional and have added the new email address of Patricia Flores to the conversation.

Thank you.

Prem Lall  
Brisbane resident  
On Thursday, May 28, 2020, 9:59:29 AM PDT, Ayres, Julia <jayres@ci.brisbane.ca.us> wrote:

Hi Prem,

Correct, the revised plans were not presented to the Planning Commission on May 14th- only the applicant's

letter requesting reconsideration of the project. This was explained in [the supplemental report](#) from staff to the Commission at the May 14th meeting.

Because the Commission granted the reconsideration of the project, the revised plans will be presented in the staff report for the future hearing. When the hearing date is set, we will send out mailed notices to property owners within 300 feet of the property just like last time to advertise the hearing date. The meeting materials would be available to the public any time after the notice is sent out and would be published in the agenda packet the Friday before the meeting.

The draft resolution of denial was included for the Commission's consideration in the event they did not want to grant reconsideration of the project. It was written by Director Swiecki and myself. As both Director Swiecki and I described during the May 14th hearing, the draft resolution of denial "Whereas" clauses acknowledged the breadth of the Commission's conversation leading up to their vote intending to deny the project. That conversation included concerns with hydrology, which are not part of the findings used by the Commission in acting on a grading project. While that was part of the Commission's discussion, that does not mean that the written findings (contained in Exhibit A to the draft resolution) could reference unknown hydrology impacts as a means to deny the project.

As was stated during the May 14th hearing, the Commission has requested that the applicant voluntarily provide technical studies such as a soils report and hydrology report at the next public hearing. By all accounts the applicant wishes to cooperate with the Commission's request, but such information would be provided voluntarily as supplemental information.

Your comments below will be provided to the Commission as written correspondence and included in the public record for the project.

**JULIA C. AYRES**

Senior Planner, Community Development Department  
City of Brisbane | 50 Park Place, Brisbane, CA, 94005  
Desk: (415) 508-2129 | Cell: (415) 519-0165  
Email: [jayres@brisbaneca.org](mailto:jayres@brisbaneca.org)

**From:** Prem Lall <premlall@yahoo.com>  
**Sent:** Wednesday, May 27, 2020 4:58 PM  
**To:** Breault, Randy <rbreault@ci.brisbane.ca.us>; Ayres, Julia <jayres@ci.brisbane.ca.us>  
**Cc:** Schumann, Michael [REDACTED]; Nancy Roeser <[REDACTED]>; Adrian DeCastro [REDACTED]; Dean DeCastro <[REDACTED]>; Patricia Flores <[REDACTED]>; Swiecki, John <johnswiecki@ci.brisbane.ca.us>  
**Subject:** Re: Soils report for 338 Kings project requested

Hello Julia,

I did not see the revised plan referenced in Mr. Zavala's 3/10/2020 letter: "I am requesting consideration of the proposed denial of the application for the property that is the subject of this letter. We filed revised plans, which address concerns regarding the tree impact and driveway width." This letter was included in the Agenda Packet PDF for the 5/14/2020 Planning Commission meeting.

All of Mr. Zavala's architectural/engineering sketches distributed in the Agenda Packet PDF for the 5/14/2020 Planning Commission meeting are dated 2019, not 2020.

Also, the Draft Denial which you and Mr. John Swiecki introduced to the Planning Commission contained the following WHEREAS clause:

"WHEREAS, the Planning Commission closed the public hearing and came to a consensus to deny the project based on its impacts to mature street trees in the vicinity of the project, potential hydrology impacts, and changes to the public right-of-way, and deferred adoption of findings of denial to the next regular Planning Commission meeting"...Grading Permit review EX-4-19 is denied without prejudice, and City Engineer issuance of the grading permit as proposed is not recommended.

If you don't mind my asking, who prepared this WHEREAS clause? Did you and Mr. Swiecki prepare it, or did City Attorney Tom McMorrow prepare it? Or was it someone else?

I ask because the clause specifically mentions that the Planning Commission had considered "potential hydrology impacts" with regard to the 338 Kings grading project, but at the 5/14/2020 meeting you indicated that hydrology had not been considered and that you didn't know how that clause got into the draft denial. Now that you have had almost two weeks to determine how that clause got into the denial and who inserted it, I would appreciate an explanation.

The video of the Planning Commission meeting of 5/14 includes the following statement from you:

"The Planning Commission's...the breadth of the review that you guys have when you're reviewing a grading project...we do not have a mechanism to require hydrological studies or geotechnical studies for your review...typically not something that applicants submit or that the municipal code requires as part of the Commission's review for grading. So the applicant has revised the application regarding the trees, which are specifically part of the findings that you all use when you are evaluating grading projects, that's called out: is the project impacting street trees. The findings for approval of a project or recommending approval do not extend to hydrology or geotechnical feasibility."

Mr. Swiecki then requested a two-minute recess to "discuss a potential technical difficulty" with the meeting and then turned off all of the microphones so that the online attendees including myself and perhaps a handful of other people could not hear the discussion that pursued, which involved you, Mr. Swiecki, and several members of the Planning Commission, among others.

You later stated "Should the Commission wish to impose conditions on their permit for the City Engineer to consider, of course that would be part of the City Engineer's review process and any grading permit that's submitted to the City Engineer is publicly available to review. That data again isn't something we would normally require from someone for Planning Commission review and approval. But it is something that you can make a condition of approval that the City Engineer ensure that the hydrology reports demonstrate there will be no negative impact on the surrounding neighborhood."

At about 29:00 in the video, commissioner Sandip Patel asks whether the Planning Commission will be able to consider hydrology if the information is provided, and Mr. Swiecki responds, "They can certainly provide it. Again, it won't be a matter open for...informational only...again it won't enter into the deliberations or the findings but as information if it's available, that's fine."

So which is correct, that the Planning Commission can require the submission of hydrology reports or that the Planning Commission can only consider hydrology reports \*IF\* the applicant decides to provide them, and even in that case cannot include their analysis of the hydrology report in their consideration of approving or denying the grading permit?

## ATTACHMENT K

If the Planning Commission cannot consider hydrology reports for a grading project involving less than 10 cubic yards of soil in approving or denying a permit, I can understand that.

But to deny the Planning Commission the opportunity to consider hydrology reports for a project requesting the removal of 391 cubic yards of soil would be nothing short of incompetent on the part of the City of Brisbane...and quite possibly even negligent considering that 391 cubic yards of soil by my estimate can absorb up to 42,826 gallons of water during heavy rainfall, if not more, and that there must be consideration of what will happen to that water once the 391 cubic yards of soil is removed, since it will flow down the mountainside to the two houses across the street from 339 Kings (namely, 338 and 339 Kings) as well as the four houses down slope on Humboldt (namely, 738, 740, 760, and 764 Humboldt).

If a professional hydrologist and civil engineer informed you that choosing to refuse to include the consideration of hydrology in the Planning Commission's decision-making process with regard to the 338 Kings grading project would be an extremely unwise decision, would you heed his advice?

And in order for hydrology to be fully considered, the soils report(s) must be made available to the public.

Implying that the Planning Commission should make its decision on approval or denial of this project without the soils report to evaluate hydrology would make no sense from a legal perspective.

Thank you.

Prem Lall  
Brisbane resident

On Wednesday, May 27, 2020, 2:53:52 PM PDT, Ayres, Julia <jayres@ci.brisbane.ca.us> wrote:

Hello Prem,

The Planning Commission will be considering the revised grading proposal at 338 Kings Road at a future public hearing (likely in June; specific meeting date not yet determined). Because the Commission hasn't taken final action on their review, the applicant hasn't applied for a grading permit from the City Engineer, so Randy does not have an application or any supporting materials like a soils report to give you. It's still at the Planning Commission level.

The Commission has requested that the applicant voluntarily provide technical documentation such as soils reports at the next hearing. You and any other property owner within 300 feet of the property will receive a mailed notice 10 days before the hearing. The public will be able to access the staff report and applicant's materials on the City's website the Friday before the hearing.

If you have any other questions on the status of the Planning Commission's review or procedures, please let me know and I'll do my best to help.

Best,

Julia

**JULIA C. AYRES**

Senior Planner, Community Development Department

City of Brisbane | 50 Park Place, Brisbane, CA, 94005

Desk: (415) 508-2129 | Cell: (415) 519-0165

Email: [jayres@brisbaneca.org](mailto:jayres@brisbaneca.org)

---

**From:** Prem Lall <premlall@yahoo.com>

**Sent:** Wednesday, May 27, 2020 1:28 PM

**To:** Breault, Randy <rbreault@ci.brisbane.ca.us>; Ayres, Julia <jayres@ci.brisbane.ca.us>

**Cc:** Schumann, Michael <[REDACTED]>; Nancy Roeser <[REDACTED]>; Adrian DeCastro <[REDACTED]>; Dean DeCastro <[REDACTED]>; Patricia Flores <[REDACTED]>

**Subject:** Soils report for 338 Kings project requested

Hello Randy and Julia,

I hope you're both holding up well during the COVID-19 lockdown.

I would like to see the soils report submitted for the grading project at 338 Kings Road.

Since City Hall is closed due to the lockdown and I cannot come in to see the report in person, I request a copy by email.

[Grading Review EX-4-19; 338 Kings Road;R-1 Residential District; Grading Review for approximately 330 cubic yards of soil cut and export to accommodate a new driveway, attached garage, and additions for an existing single-family dwelling on a 6,400 square-foot lot with a 43% slope; Abraham Zavala, applicant; Huang John & Chen JoyTrust, owner]

Thank you.

Prem Lall  
Brisbane resident