

From: [CouncilMeeting Comments](#)
To: [Michelle Nance](#)
Subject: FW: COMMENTS TO PALM DESERT CITY COUNCIL - JULY 11, 2024
Date: Wednesday, July 10, 2024 11:24:19 AM
Attachments: [We sent you safe versions of your files.msg](#)
[REFUGE CNCL MTG JUL 11.docx](#)
[REFUGE TIMELINE ...docx](#)

From: Jana Bennehoof Koroczynsky [REDACTED]
Sent: Monday, July 8, 2024 6:30 PM
To: CouncilMeeting Comments <CouncilMeetingComments@palmdesert.gov>
Subject: COMMENTS TO PALM DESERT CITY COUNCIL - JULY 11, 2024

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

Please see the attached letter to council and attached timeline of impacts on Kaufman Broad and Shepherd Lane neighborhoods that goes along with the letter.

Thank you,

Jana Koroczynsky

Representing more than 60 households in Kaufman Broad and Shepherd Lane neighborhoods

Jana Koroczynsky city council comments July 11, 2024

- (1) Flooding hazard
- (2) Devaluation of property
- (3) Privacy and safety loss
- (4) Statutory non-compliance
- (5) Negligence
- (6) Loss of views

On Friday last week Richard Cannone informed me that the city code of ordinance § 28.02.040 dealing with methods of reducing flood losses refers to existing *designated* flood zones only. Okay. Why on earth would it not refer to any construction in this current climate? He also said that both the contract City Engineer and an independent Engineering firm thoroughly reviewed the drainage plans for Refuge and concluded that the drainage design is effective and meets requirements. *We insist that there be a certification of the grading, in conformance with the lines and grades shown on the approved grading plans, by a licensed land surveyor before Palm Desert city council approves the final tract map.*

We have never experienced flooding in past 28 years, but we have never had a man-made 11-foot-high mountain or a flood channel behind our back wall. We have a water drainage specialist who says we will be flooded with a 3" per hour rainfall.

The city, the developer of Refuge Palm Desert/Explore, and the PulteGroup have violated tort law according to the state of California civil codes 3479¹ and 3480², by **creating a public nuisance** behind both neighboring Kaufman and Broad and Shepherd Lane community walls.

Elevating the landscape to the south of Pulte's property by eleven feet was supposedly to solve a drainage problem on their property. But actually it was to save the cost of soil export and one storm lift station. Pulte has created flooding, safety, privacy issues, as well as loss of views and devaluation of property for the neighboring communities, not to mention emotional distress.

City officials, MSA and the developer, either by incompetence, negligence or intention, kept key information pertinent to the raised elevation hidden from the people who could interpret that information. When the danger to the communities was revealed, they showed little interest in addressing concerns. Who will take financial responsibility for future damages?

Instead of taking the opportunity to correct its errors, despite the consequences being potentially far-reaching and severe, until very recently the city has done nothing but obfuscate for the past two years. The integrity of the city in which the citizens of KB and SL chose to live is seriously in question.

City governments exist to create order, fairness, and accountability. Non-compliance leads to the instability of our community. I respectfully ask city council to reconsider their mantra of: "It has all been approved, there is nothing that can be done."

¹Civil code 3479 is a section of the California Civil Code that defines **nuisance** as anything that harms health, offends the senses, obstructs the free use of property or public spaces, or involves the illegal sale of controlled substances. It is not related to the Louisiana Civil Code section 3479, which deals with the particular successor of a precarious possessor. The California Civil Code section 3479 has not changed since 2012.

²California Civ. Code 3480 "A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal."

Taken from the city website on July 4, 2024

City code of ordinance § 28.02.040 **Methods of reducing flood losses.**

In order to accomplish its purposes, this title includes methods and provisions to:

A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;

B. Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;

D. Control filling, grading, dredging, and other development which, may increase flood damage; and

E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(Ord. 985 § 1, 2001)

According to the Refuge Specific Plan, these policies (among others) have been violated:

- 6.4 Applicable Environmental Resources Policy Consistency
 - 1. 2.1 **View corridor preservation.** Protect and preserve existing, signature views of the hills and mountains from the city.
- 6.6 Applicable Safety Policy Consistency
 - 1. 3.1 Flood Risk in New Development. **Require all new development to minimize flood risk with siting and design measures, such as grading that prevents adverse drainage impacts to adjacent properties,** on-site retention of runoff, and minimization of structures located in floodplains.
- 6.7 Applicable Public Utilities and Services Policy Consistency
 - 2. 1.2 **On-site** stormwater retention and infiltration. Whenever possible, stormwater shall be infiltrated, evapotranspired, reused or treated onsite in other ways that improve stormwater quality and reduce flows into the storm drain system.
 - 3. 1.3 Groundwater infiltration. Encourage the use of above-ground and natural stormwater facilities in new development and redevelopment, such as vegetated swales and permeable paving.
 - 4. 7.2 Review of new development. Work with the Riverside County Sheriff's Department and the Riverside County Fire Department to review and modify development proposals to incorporate defensible space, **Crime Prevention Through Environmental Design (CPTED)**, and other public safety design concepts into new development.

Please see our indented comments in staff report below:

CITY OF PALM DESERT STAFF REPORT

MEETING DATE: July 11, 2024

PREPARED BY: Rosie Lua, Deputy Director of Development Services

REQUEST: ADOPT RESOLUTION APPROVING FINAL TRACT MAP NO. 38434-1 AND AGREEMENTS

RECOMMENDATION:

- 1. Adopt a resolution entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, APPROVING THE FINAL SUBDIVISION MAP OF FINAL TRACT MAP NO. 38434-1."
- 2. Authorize the Mayor to execute Agreement for the construction and maintenance of a portion of public right of way
- 3. Authorize the City Attorney to make necessary, non-monetary changes to the Agreements and City Manager to execute any changes to said Agreements. *

Note: This item may be pulled from the agenda if the final attachments are not provided by Wednesday, July 10, 2024.

BACKGROUND/ANALYSIS:

On November 17, 2022, the City Council approved the Refuge Specific Plan (SP22-0001), a request by Refuge Palm Desert, LLC (Applicant), 17755 Sky Park Cir, Ste 101, Irvine, CA 92614 to establish five (5) planning areas, up to 969 residential dwelling units and related improvements on a 106.4-acre site located at the southwest corner of Gerald Ford Drive and Rembrandt Parkway. Concurrently, the City Council approved Tentative Tract Map 38434 (TTM 38434) by Resolution No. 2022-93, to subdivide a 93.56-acre portion of the proposed site into 1 condominium lot (14.29 acres) and 339 single family residential lots and its associated club house, open space, retention basins, and infrastructure (approximately 78 acres).

August 23, 2022 [Letter from MSA](#)

Letter inviting neighboring communities to review project that was submitted for approval to the city. Refuge project Concerns discussed: dust, traffic, views and drainage (flooding). Eglert spoke at first meeting primarily about safety, privacy loss with their view right into our homes.

(Many people in neighborhood throw away “junk mail” without even opening it. Many thought the mail in MSA envelope was junk mail. The Refuge plan was reviewed and planned without many in the neighboring communities even knowing about it. Why was mail not sent by the city?)

October 2022 Planning commissioners told concerns were: dust, traffic, views. **No mention of drainage concerns.**

November 17, 2022 City Council **approves Refuge Specific Plan based on planning commissioners recommendation.** Neighboring communities were not notified and unaware.

On September 5, 2023, the Planning Commission approved by Resolution No. 2841, a request to modify the layout to reduce the previously approved TTM 38434 to 332 single family residential lots and modify pad elevations. On March 5, 2024, the Planning Commission approved by Resolution No. 2859, **an additional request by the Applicant to modify pad elevations.** **On March 5, 2024, the Planning Commission approved by Resolution No. 2859, an additional request by the Applicant to modify pad elevations.**

Sept 5, 2023 Letter from city to KB and SL neighborhoods. Public hearing before the Planning Commission at council chambers about Pulte Homes to revise tract map to “modify the layout to accommodate a 332 single-family home residential development on a 93.56 acre project site south of Gerald Ford Drive and west of Portola Road within existing Refuge Specific Plan area.”

Many went to website “Refuge” where they saw the following and did not bother attending the meeting:



TTM 38434 identified Lot A as a private open space lot totaling 1.16 acres. However, a portion of Lot A of TTM 38434, approximately 0.13 acres or 5,821 square feet is public right of way (Explorer Drive) which is owned by the City of Palm Desert (City); now considered as excess right of way. The

Refuge Specific Plan included a vehicular circulation plan that designed a curvature of the proposed future extension of Explorer Drive, which created an excess portion of right of way. At a future date the city intends to convey the 0.13-acre excess right of way to the Applicant.

Resolution No. 2022-93 and subsequent approvals did not include conditions of approval for Lot A. Final Tract Map 38434-1 omits the 0.13-acre excess right of way within Lot A for the approval and recordation of the map. Upon approval, the City will enter into an agreement with the Applicant for maintenance and infrastructure obligations of the excess right of way, which will remain in effect until the City conveys the 0.13 acres to the Applicant.

In addition, the City processed and approved an application for a Parcel Map Waiver (PMW23- 0006) for a lot line adjustment creating the boundaries of the condominium lot (14.29 acres) identified in TTM 38434. The Certificate of Compliance and perfecting deeds have been recorded in the official records of Riverside County.

The Final Tract Map No. 38434-1 (FTM 38434-1) is a phased portion of the map that includes 135 single family residential lots, 10 public street and infrastructure lots, 11 lots of open space including retention basins, and 1 lot to include the club house (approximately 38.23 acres). The phasing of the TTM 38434 was permissive through Condition of Approval No. 21 of Resolution No. 2022-93 with approval of the City Engineer and financial securities for all public improvements associated with the phase.

The Covenants, Conditions, and Restrictions (CC&Rs) of the Homeowner’s Association (HOA) documents the maintenance obligations for the proposed site which includes maintaining all lots reserved for open space, landscaping and storm drain purposes, and all landscaping located in the public right of way adjacent to private property and within medians and roundabouts within the community.

The Subdivision Improvement Agreements (SIA) and **Grading Agreement** and associated bonds subsequently were submitted by the applicant to guarantee the completion of construction. The City

Engineer has determined that FTM 38434-1 meets the application requirements of the Subdivision Map Act and the City's ordinances. The Final Map has been deemed technically correct by the City Engineer and the Conditions of Approval in Resolution have been satisfied for FTM 38434-1.

Violates tort law according to the state of California civil codes 3479 and 3480, by creating a public nuisance behind both neighboring Kaufman and Broad and Shepherd Lane community walls. We insist that the certification of the grading in conformance with the lines and grades shown on the approved grading plans by the licensed land surveyor before Palm Desert city council approves the final tract map.

Legal Review: This report has been reviewed by the City Attorney's office.

FINANCIAL IMPACT: There is no direct impact to the General Fund with this action. However, once the proposed public streets are completed and accepted, their long-term maintenance will be the responsibility of the City of Palm Desert.

ATTACHMENTS: 1. Resolution No. 2024-____ 2. Conditions of Approval of Resolution Nos. 2022-93, 2841, and 2859 3. Tentative Tract Map 38434 4. Final Tract Map 38434-1 City of Palm Desert Adopt Resolution Approving Final Tract Map No. 38434-1 Page 3 of 3

Approval Process and Confusion

The approval process for this project has been confusing at best. Letters came from MSA, the city and, eventually, Pulte. Pulte mentioned Del Webb and Explore (see letter dated May 3), names we did not hear before.

The city planning manager insists that the project name is still Refuge, but the city public works inspector insists it is Explore. The "if you see dust" sign on the property on Gerald Ford Drive says Explore.

Plans signed off by Mainero Smith & Associates (MSA), were submitted by Pulte to the city for final approval on March 7, 2024, and approved by the city on April 24, 2024. As mentioned earlier, many of our residents say they have no recollection of receiving the letter about a public meeting on March 5, 2024 regarding elevation changes.

TIMELINE REFUGE PROJECT

August 23, 2022 [Letter from MSA](#)

Letter inviting neighboring communities to review project that was submitted for approval to the city.

Refuge project Concerns discussed: dust, traffic, views and drainage (flooding).

Eglert spoke at first meeting primarily about safety, privacy loss with their view right into our homes.

(Many people in neighborhood throw away "junk mail" without even opening it. Many thought the mail in MSA envelope was junk mail. The Refuge plan was reviewed and planned without many in the neighboring communities even knowing about it. Why was mail not sent by the city?)

October 2022 Planning commissioners told concerns were dust, traffic, views. No mention of drainage concerns.

November 2022 City Council approves Refuge Specific Plan based on planning commissioners' recommendation. Neighboring communities were not notified and unaware.

August 2, 2023 [Letter from MSA](#)

Neighboring communities invited to view video conference at 5:30-9:30 about Refuge wanting to "revise the existing Tentative Tract Map 38434 under the approved Refuge Palm Desert Specific Plan. Tentative Tract Map 38434 is comprised of 93.56+/- acres of property, located on the ... , as shown on the enclosed map. (There was no enclosed map.) Pulte Group was introduced as a partner to build homes.

The meeting was supposed to begin at 5:30 PM but did not begin until after 6:30 PM. (see email chain below) "Walkway will be publicly accessible," Marc Kleiman who also said, "You may also find preliminary information related to the project at Refuge.com"

Maria Torres email July 3, 2024 "We also tried to participate in the Aug 2, 2023, meeting regarding small changes which Nicole wouldn't tell us about prior to meeting, but though they said 6pm we stayed online till 6:30pm and nothing and later we requested video. I'll send you the email with the link." See email chain below.

From: Vann, Nicole <nvann@msaconsultinginc.com>

Sent: Thursday, August 3, 2023 10:55 AM

To: Eglert Gutierrez <egler@eglerdesign.com>

Subject: RE: Refuge PD [2636-MSA1.KJr]

Good morning Mr. Gutierrez,

Per your request, please find a link to the recorded meeting here: [Refuge Palm Desert Community Meeting Link \(080223\)](#)

You may want to forward the recording to the 6:30 mark since that is when the meeting really starts.

Best,

Nicole Vann

Planner / Project Manager

MSA CONSULTING, INC.

34200 Bob Hope Drive | Rancho Mirage, CA 92270

office 760.320.9811

From: Eglert Gutierrez <egler@eglerdesign.com>

Sent: Wednesday, August 2, 2023 6:32 PM

To: Vann, Nicole <nvann@msaconsultinginc.com>

Subject: RE: Refuge PD [2636-MSA1.KJr]

Hello Nicole,

I could not access the meeting on zoom, couldn't hear anything, yet the screen said it was recording. Please send me access to your recorded meeting.

Thank you,

Eglert Gutierrez

(760) 851-7314

From: Vann, Nicole <nvann@msaconsultinginc.com>

Sent: Monday, July 24, 2023 11:28 AM

To: Eglert Gutierrez <eglert@eglertdesign.com>
Subject: RE: Refuge PD [2636-MSA1.KJr]
Good morning Mr. Gutierrez,

There are **no exhibits in advance of the 8/2 meeting**. The purpose of the community meeting is to present the plan to members of the community in a forum where the minor changes can be properly explained and discussed. It would be counterproductive to that goal to send the site plan out prior to the meeting. We hope you understand, and we look forward to discussing it with you then. If for some reason you would like to discuss this, or anything else, in advance of the meeting, please feel free to reach out to Marc Kleiman at 949.400.6652.

Here is the link to the zoom meeting.

Join Zoom Meeting
<https://zoom.us/j/98123377836?pwd=TFAvVUdtTTVsaxRvMGhrMTFCTnV4QT09>

Meeting ID: 981 2337 7836
Passcode: 152658

When

Wednesday Aug 2, 2023 · 5:30pm – 9:30pm (Pacific Time - Los Angeles)

Kind regards,

Nicole Vann
Planner / Project Manager
MSA CONSULTING, INC.
34200 Bob Hope Drive | Rancho Mirage, CA 92270
office 760.320.9811

From: Eglert Gutierrez <eglert@eglertdesign.com>
Sent: Friday, July 21, 2023 2:40 PM
To: Vann, Nicole <nvann@msaconsultinginc.com>
Subject: Refuge PD

Hello Nicole,
Please let me know how we can access the August 2 meeting and also how to see exhibits.
Thank you,
Eglert Gutierrez
(760) 851-7314

Sept 5, 2023 Letter from city

Public hearing before the Planning Commission about Pulte Homes to revise tract map to “modify the layout to accommodate a 332 single-family home residential development on a 93.56 acre project site south of Gerald Ford Drive and west of Portola Road within existing Refuge Specific Plan area.”

Many in neighborhoods went to website “Refuge” where they saw the following and did not bother attending the meeting:



Taken from City Council agenda for July 11, 2024 meeting:

September 5, 2023, the Planning Commission approved by Resolution No. 2841, a request to modify the layout to reduce the previously approved TTM 38434 to 332 single family residential lots and **modify pad elevations**. On March 5, 2024, the Planning Commission approved by Resolution No. 2859, an additional request by the Applicant to modify pad elevations.

March 5, 2024 Letter from city (**This is the meeting that most in community do not remember receiving a letter.**)

Public hearing before Planning Commission to **consider approved pad elevations** for tentative tract map 38434 to accommodate a 332 single-family home residential development on a 93.56 acre project site south of ... “

Meeting was to “consider a request by Pulte Home Company to revise the approved pad elevations.

Email from Linda Candler to Carlos Flores regarding the March 5, 2024 meeting:

June 28, 2024

Carlos Flores, Principal Planner
City of Palm Desert
73-510 Fred Waring Drive Palm Desert, CA 92260

Dear Mr. Flores:

I am requesting a review and inspection of the Refuge rough grading as it is inconsistent with the approved plans. I also request that you reopen the Planning Commission hearings for the March 5, 2024 Rough Grading Plan and May 21, 2024 Revised Landscape Plan because these plans are inconsistent with each other. My concerns are set out below.

At the meeting on the Landscape Plan on May 21, 2024, I objected to the Revised Landscape Plan proposing to change the landscape buffer from 50' to 45' as this would bring the slope closer to our property, impacting our views and creating more dust. As shown on Exhibit EE to the November 17, 2022 Specific Plan (p. 902), there is a 7' elevation gain behind our Lot. When asked by the Planning Commission if the 7' elevation gain was correct, the answer was no. I understand this may have been a misunderstanding, but can you please correct the record. As it is now graded, the slope starts 22' from our back wall. This is inconsistent with a Site Line Analysis submitted for Lot 25 (our Lot) which shows the distance from our back wall to the home on Lot 18 is 71.7". Assuming a 15' setback and a 14' slope at a 2:1 grade, the slope should not commence until 57.7' from our back wall. If the rear yard of Lot 18 is greater than 15', assuming a 50' buffer the slope should not start until 36' from our back wall to conform with Cross-Section EE showing the slope ends at the retaining wall of the Refuge property. Cross Section EE also shows that the retaining wall is to be built at the same level as the pad elevation of the new lots. (Lots 18 and 19, pad elevations of 298.7 and 298.8). The rough grading appears to change that and raise the top of the slope 1-2' above the new pad elevations. This is inconsistent with the landscape plan showing the retaining wall is to be level with the pad elevations.

The Rough Grading Plan does not show any cross-section of the grading behind our property. Section I-I relates to Lot 24, not our Lot, and to the corner of Lots 24 and 99 and specifically states it relates to the South border. Section J relates to the streets to the North of Chinook Circle. What is the precise grading plan for the area behind Lot 25 and why was the slope moved closer to our back wall than what was approved?

-1-

The Public Notice to the March 5, 2024 hearing regarding the Rough Grading Plan stated it only related to a change in pad elevations, not to a change in the slope or the placement of the slope closer to our property line. Also, there is no Cross-Section for the area behind our house so we had no way to object to a change in the slope. We believe it is too high, too close to our lot, and inconsistent with what was approved.

In summary, we want the pad height elevations of the Lots 18 and 19 verified as the grading appears too high; we want the slope to start as shown on the Site Line analysis and Exhibit EE, not the 22' as currently graded, and we want our pad height verified now to ensure that the elevation gain from our pad to the new Lot 18 is no greater than 7'.

I presented these concerns to City Council on June 27, 2024, along with photographs and copies of Cross-Section EE and the Site Line Analysis. I have attached copies for your reference.

Sincerely,

Linda Candler
74040 Chinook Circle
Palm Desert, CA. 92211

March 7, 2024 MSA Submits Explore rough grading plan for approval.

April 5, 2024

Pulte bought Refuge portions according to Mr. Dewegeli, Pulte Manager of Land Planning & Entitlements, Southern California Division.

April 24, 2024 Department of Development Services approves rough grading plan.

May 13, 2024 **Letter from Pulte**

"Explore Palm Desert" meeting about architecture, front yard landscape, common areas, clubhouse, amenities. Kina Kato talked about drainage concerns for KB neighborhood. Ms. Kato asked Mr. Dewegeli for an answer. He was confused and said to email Nicole Vann, MSA.

Eglert spoke at the May 13, 2024 meeting erosion hazard behind our wall and requested grading plans which Dewegeli told Nicole to send him which she didn't, so we asked her for them on May 21 to which she responded: *The City Planning Department should have all available public plans online for your viewing. All other plans are proprietary information.*

Many neighboring community residents assume letter is talking about Sun City expansion and has nothing to do with them. No one knows who Pulte is.

May 14, 2024 Grading begins behind KB and SL communities.

May 21, 2024 Letter from city Planning commission
Neighborhood Recognizes there is a problem with grading and the 11-foot-high escarpment may cause flooding hazard to both KB and SL neighborhoods.
Kina Kato made a note that she was **unable to log on** for the meeting. She selected #669 and recording said, "meeting not started" (at 6:08 PM). She selected #213 and that also failed. She was unable to join this meeting.
The meeting was about approving architecture and landscaping within Refuge.

May 21, 2024

Eglert spoke at the May 13, 2024 meeting erosion hazard behind our wall and requested grading plans which Dewegeli told Nicole to send him which she didn't.

Eglert and Maria again asked Nicole from MSA for grading plans, to which she responded: *The City Planning Department should have all available public plans online for your viewing. All other plans are proprietary information.*

May 22, 2024

10AM meeting with Carlos Flores (no show).

Eddie, Eglert and Luis went to meeting that Eddie had scheduled with Flores for 10am May 22 at the Planning counter but Flores never showed up so Melonni answered their questions and Eglert pressured Melloni for grading plans which he received from on May 23.

Eglert and Maria could not find the plans requested online.

May 23, 2024 City Council Mtg.

Maria Torres speaks on Zoom.

Liz Bower and Jana Koroczynsky speak (allowed 3 minutes each) and were removed from council chambers to meet with Carlos Flores outside in the heat. Koroczynsky suggests going into air conditioning. Flores insists that it is Refuge, not Explore. After arguing about all the confusion around this project, someone came in and said to give them two weeks and there would be a neighborhood meeting.

May 27, 2024

Mr. Gutierrez sends Nick Melloni and Julian De La Torre an email outlining drainage concerns:

From: Eglert Gutierrez

Sent: Thursday, June 27, 2024 4:29 PM

To: Nick Melloni <nmelloni@palmdesert.gov>; De La Torre, Julian <jdeltorre@msaconsultinginc.com>; Carlos Flores <cflores@palmdesert.gov>

Cc: City of Palm Desert <palmdesert@hdlgov.com>; thileman@PalmDesert.gov

Subject: Refuge Del Webb

Mr. Melloni on your Oct 18, 2022, email re: Refuge, you stated that "The proposed grading and height is done to accommodate drainage for the site and roughly follows exiting topography of the site".

Mr. De La Torre, you stated at the townhall meeting of Tuesday, June 25, that the parcel drains by gravity from the southwest corner to the northeast corner. You are correct, and therefore, it was not necessary to raise the southern portion of the parcel and have houses towering over our homes in order to accommodate drainage, but soil would then need to be removed in the center and that's what Pulte was trying to avoid thus creating a giant mound in order to get an unobstructed view by sacrificing OUR views, our property value, our privacy, our safety, and risking property damage.

Mr. Flores you put renderings up on the screen at the townhall meeting of Tuesday, June 25, (attached cross section Pulte) demonstrating a cross section where there would not be a direct line of sight into our homes, but the image fails to line up the sightline along the two block walls and is deceiving.

I have created a second REAL cross section true to scale (section II in Precise Grading Plan) which shows the actual line of sight (the image with red). This shows that anyone that looks over the Refuge's wall can see straight into most of the private areas of our home, not just our back yards! Underneath my cross section is their image from the approved grading plan of the same cross section (not to scale black and white) that gives the false impression that the difference in heights between the two walls is less than 3 feet. They wrote NTS (not to scale) really tiny underneath but very misleading.

The 3rd image (Section in Precise Grading Plan) is my cross section super-imposed over the grading plan demonstrating that it is to scale and shows the 5-foot pathway is just 9 ft from our wall not the 15 ft demonstrated on (Cross Section sent by Marc Kleiman and N. Melloni).

The photo taken today from my kitchen (06272024 WORKERS PASSING) demonstrates that anyone can simply look into our homes and yards. And the last image shows the grading I propose that would accommodate preserving our privacy, security and views while still addressing water drainage.

The Refuge specific plan is a binding agreement. Pulte claims in it that their purpose was to not export soil, which was great for them, but by this action the city failed us.

And since the refuge parcel could drain by gravity, they only raised it to meet their sand shifting goals and violated the agreement of protecting us from onlookers and created a water drainage channel subject to erosion, disguised as a public pedestrian path from Gerald Ford directly to our back walls. They have raised the pad and homes to a height way beyond what is necessary when they could have built at basically the level of our homes. They have intentionally and maliciously removed our views, which violates agreement to preserve our views. They must also protect ALL structures, meaning our walls and back yards from dangers of excessive rainfall and putting a drainage canal just 2 feet from our block wall is doing the contrary. They also must retain all surface water on their property not up against our block walls.

The city council and staff have to do their jobs and protects us, the citizens and city from those that assume to take advantage with all their deceitful double talk, false advertising which has been used to harm us by reducing the value of our homes, eliminating the views, creating water damage hazard, a security and safety concern with canal & bike path and direct view into our private lives. If they win, we will suffer forever the consequences of this abuse. PDCC cannot allow them to harm us in this manner. They have to be held accountable for not fulfilling their requirements as to the specific plan. They have violated the agreement and cannot continue with their intentions. This is a breach of contract because they have failed to perform their promised obligations and violation of this agreement is also illegal.

According to the Refuge Specific Plan, these policies (among others) have been violated:

6.4 Applicable Environmental Resources Policy Consistency

1. 2.1 **View corridor preservation.** Protect and preserve existing, signature views of the hills and mountains from the city.

6.6 Applicable Safety Policy Consistency

1. 3.1 Flood Risk in New Development. Require all new development to minimize flood risk with siting and design measures, such as grading that prevents adverse drainage impacts to adjacent properties, on-site retention of runoff, and minimization of structures located in floodplains.

6.7 Applicable Public Utilities and Services Policy Consistency

2. 1.2 **On-site** stormwater retention and infiltration. Whenever possible, stormwater shall be infiltrated, evapotranspired, reused or treated onsite in other ways that improve stormwater quality and reduce flows into the storm drain system.
3. 1.3 Groundwater infiltration. Encourage the use of above-ground and natural stormwater facilities in new development and redevelopment, such as vegetated swales and permeable paving.
4. 7.2 Review of new development. Work with the Riverside County Sherriff's Department and the Riverside County Fire Department to review and modify development proposals to incorporate defensible space, **Crime Prevention Through Environmental Design (CPTED)**, and other public safety design concepts into new development.

We, the current citizens of the City of Palm Desert, await a solution from city staff and council that will benefit everyone involved.

Thank you
Eglert Gutierrez & Maria Torres

Response from city staff: crickets.

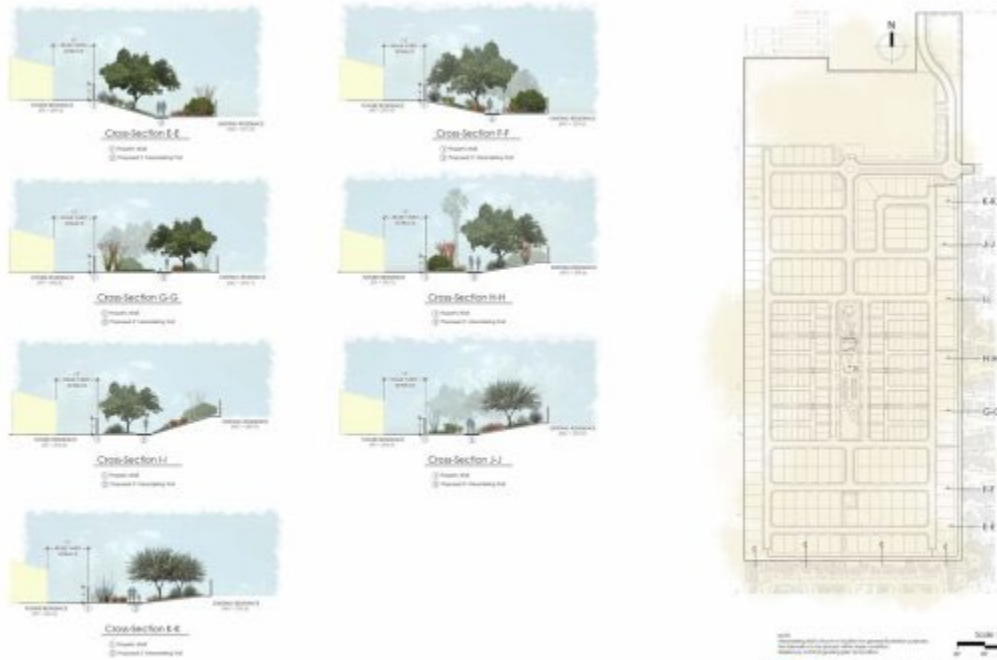
May 28, 2024 [Email from Nicole Vann, MSA](#)

Link to information that was screen shot and printed out by on May 28, 2024. **Walkway elevations show Woodward cross-sections as: AA, BB, CC, and DD.**

Shown on "Refuge" website from November 2022 through May 2024



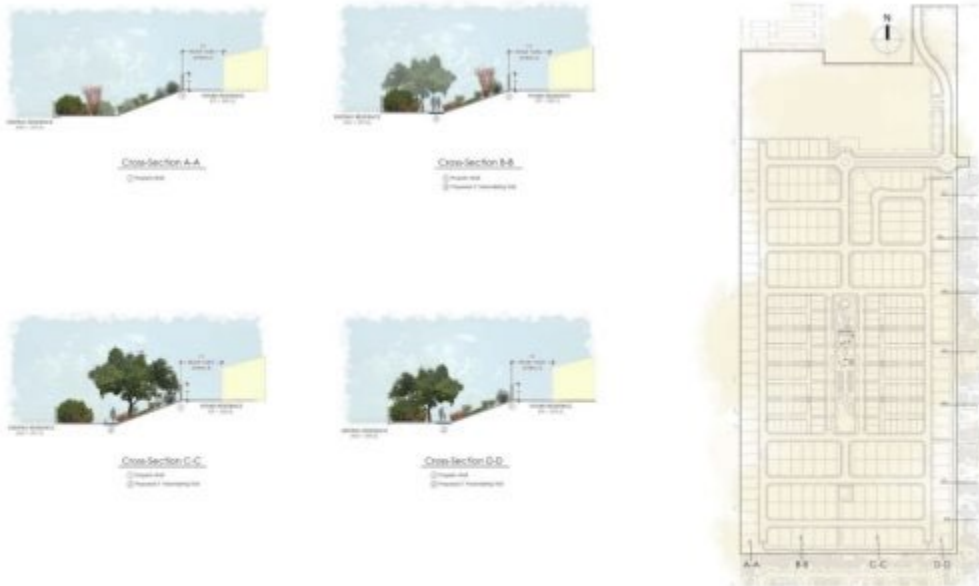
Renderings shown on city website, not sure when they were posted. Neighborhoods were never told to reference city website, just "Refuge" website.



The Refuge | Perimeter Buffer Sections - East

Revised: August 19, 2022

L-5.05



The Refuge | Perimeter Buffer Sections - South

Revised: August 19, 2022

L-5.04



May 30, 2024 6:50 AM

Eric Lomeli sends grading plans for the south end of the Pulte development. He said the Cross-Section I-I was the buffer section representation behind Woodward drive. That happened to be wrong and corrected later but added to confusion. (He is no longer shown on website city staff page.)

June 13, 2024 City Council Mtg.

Jana Koroczynsky speaks and Maria Torres speaks on Zoom (3 min each)

June 25, 2024

Town Hall Meeting with KB, SL neighborhoods, Pulte, MSA and the city.

Very contentious. The only thing that was determined was Pulte saying they would pay for damages out of a fund they set up. Residents not sure they can believe them.

The biggest concern was the elevation and the flooding it would create for the neighborhoods during a downpour when there was no flooding problem in the past 28 years in which they existed. Also the safety, privacy and general public nuisance conditions created by the man-made 11-foot-high elevation behind their walls.

June 27, 2024 City Council Mtg.

Jana Koroczynsky (KB) and Linda Candler (SL) spoke. Maria was going to speak but was unable to be there on time.

From: Eglert Gutierrez

Sent: Thursday, June 27, 2024 4:29 PM

To: Nick Melloni <nmelloni@palmdesert.gov>; De La Torre, Julian <jdelatorre@msaconsultinginc.com>; Carlos Flores <cflores@palmdesert.gov>

Cc: City of Palm Desert <palmdesert@hdlgov.com>; thileman@PalmDesert.gov

Subject: Refuge Del Webb

Mr. Melloni on your Oct 18, 2022, email re: Refuge, you stated that "The proposed grading and height is done to accommodate drainage for the site and roughly follows exiting topography of the site".

Mr. De La Torre, you stated at the townhall meeting of Tuesday, June 25, that the parcel drains by gravity from the southwest corner to the northeast corner. You are correct, and therefore, it was not necessary to raise the southern portion of the parcel and have houses towering over our homes in order to accommodate drainage, but soil would then need to be removed in the center and that's what Pulte was trying to avoid thus creating a giant mound in order to get an unobstructed view by sacrificing OUR views, our property value, our privacy, our safety, and risking property damage.

Mr. Flores you put renderings up on the screen at the townhall meeting of Tuesday, June 25, (attached cross section Pulte) demonstrating a cross section where there would not be a direct line of sight into our homes, but the image fails to line up the sightline along the two block walls and is deceiving.

I have created a second REAL cross section true to scale (section II in Precise Grading Plan) which shows the actual line of sight (the image with red). This shows that anyone that looks over the Refuge's wall can see straight into most of the private areas of our home, not just our back yards! Underneath my cross section is their image from the approved grading plan of the same cross section (not to scale black and white) that gives the false impression that the difference in heights between the two walls is less than 3 feet. They wrote NTS (not to scale) really tiny underneath but very misleading.

The 3rd image (Section in Precise Grading Plan) is my cross section super-imposed over the grading plan demonstrating that it is to scale and shows the 5-foot pathway is just 9 ft from our wall not the 15 ft demonstrated on (Cross Section sent by Marc Kleiman and N. Melloni).

The photo taken today from my kitchen (06272024 WORKERS PASSING) demonstrates that anyone can simply look into our homes and yards. And the last image shows the grading I propose that would accommodate preserving our privacy, security and views while still addressing water drainage.

The Refuge specific plan is a binding agreement. Pulte claims in it that their purpose was to not export soil, which was great for them, but by this action the city failed us.

And since the refuge parcel could drain by gravity, they only raised it to meet their sand shifting goals and violated the agreement of protecting us from onlookers and created a water drainage channel subject to erosion, disguised as a public pedestrian path from Gerald Ford directly to our back walls. They have raised the pad and homes to a height way beyond what is necessary when they could have built at basically the level of our homes. They have intentionally and maliciously removed our views, which violates agreement to preserve our views. They must also protect ALL structures, meaning our walls and back yards from dangers of excessive rainfall and putting a drainage canal just 2 feet from our block wall is doing the contrary. They also must retain all surface water on their property not up against our block walls.

The city council and staff have to do their jobs and protects us, the citizens and city from those that assume to take advantage with all their deceitful double talk, false advertising which has been used to harm us by reducing the value of our homes, eliminating the views, creating water damage hazard, a security and safety concern with canal & bike path and direct view into our private lives. If they win, we will suffer forever the consequences of this abuse. PDCC cannot allow them to harm us in this manner. They have to be held accountable for not fulfilling their requirements as to the

specific plan. They have violated the agreement and cannot continue with their intentions. This is a breach of contract because they have failed to perform their promised obligations and violation of this agreement is also illegal.

According to the Refuge Specific Plan, these policies (among others) have been violated:

6.4 Applicable Environmental Resources Policy Consistency

1. 2.1 **View corridor preservation.** Protect and preserve existing, signature views of the hills and mountains from the city.

6.6 Applicable Safety Policy Consistency

1. 3.1 Flood Risk in New Development. Require all new development to minimize flood risk with siting and design measures, such as grading that prevents adverse drainage impacts to adjacent properties, on-site retention of runoff, and minimization of structures located in floodplains.

6.7 Applicable Public Utilities and Services Policy Consistency

2. 1.2 **On-site** stormwater retention and infiltration. Whenever possible, stormwater shall be infiltrated, evapotranspired, reused or treated onsite in other ways that improve stormwater quality and reduce flows into the storm drain system.
3. 1.3 Groundwater infiltration. Encourage the use of above-ground and natural stormwater facilities in new development and redevelopment, such as vegetated swales and permeable paving.
4. 7.2 Review of new development. Work with the Riverside County Sherriff's Department and the Riverside County Fire Department to review and modify development proposals to incorporate defensible space, **Crime Prevention Through Environmental Design (CPTED)**, and other public safety design concepts into new development.

We, the current citizens of the City of Palm Desert, await a solution from city staff and council that will benefit everyone involved.

Thank you
Eglert Gutierrez & Maria Torres

Response from city staff: Crickets.

June 28, 2024 Letter Linda Candler to Carlos Flores:
June 28, 2024

Carlos Flores, Principal Planner
City of Palm Desert
73-510 Fred Waring Drive Palm Desert, CA 92260

Dear Mr. Flores:

I am requesting a review and inspection of the Refuge rough grading as it is inconsistent with the approved plans. I also request that you reopen the Planning Commission hearings for the March 5, 2024 Rough Grading Plan and May 21, 2024 Revised Landscape Plan because these plans are inconsistent with each other. My concerns are set out below.

At the meeting on the Landscape Plan on May 21, 2024, I objected to the Revised Landscape Plan proposing to change the landscape buffer from 50' to 45' as this would bring the slope closer to our property, impacting our views and creating more dust. As shown on Exhibit EE to the November 17, 2022 Specific Plan (p. 902), there is a 7' elevation gain behind our Lot.

When asked by the Planning Commission if the 7' elevation gain was correct, the answer was no. I understand this may have been a misunderstanding but can you please correct the record.

As it is now graded, the slope starts 22' from our back wall. This is inconsistent with a Site Line Analysis submitted for Lot 25 (our Lot) which shows the distance from our back wall to the home on Lot 18 is 71.7". Assuming a 15' setback and a 14' slope at a 2:1 grade, the slope should not commence until 57.7' from our back wall. If the rear yard of Lot 18 is greater than 15', assuming a 50' buffer the slope should not start until 36' from our back wall to conform with Cross-Section EE showing the slope ends at the retaining wall of the Refuge property. Cross Section EE also shows that the retaining wall is to be built at the same level as the pad elevation of the new lots. (Lots 18 and 19, pad elevations of 298.7 and 298.8). The rough grading appears to change that and raise the top of the slope 1-2' above the new pad elevations. This is inconsistent with the landscape plan showing the retaining wall is to be level with the pad elevations.

The Rough Grading Plan does not show any cross-section of the grading behind our property. Section I-I relates to Lot 24, not our Lot, and to the corner of Lots 24 and 99 and specifically states it relates to the South border. Section J relates to the streets to the North of Chinook Circle. What is the precise grading plan for the area behind Lot 25 and why was the slope moved closer to our back wall than what was approved?

-1-

The Public Notice to the March 5, 2024 hearing regarding the Rough Grading Plan stated it only related to a change in pad elevations, not to a change in the slope or the placement of the slope closer to our property line. Also, there is no Cross-Section for the area behind our house

so we had no way to object to a change in the slope. We believe it is too high, too close to our lot, and inconsistent with what was approved.

In summary, we want the pad height elevations of the Lots 18 and 19 verified as the grading appears too high; we want the slope to start as shown on the Site Line analysis and Exhibit EE, not the 22' as currently graded, and we want our pad height verified now to ensure that the elevation gain from our pad to the new Lot 18 is no greater than 7'.

I presented these concerns to City Council on June 27, 2024, along with photographs and copies of Cross-Section EE and the Site Line Analysis. I have attached copies for your reference.

Sincerely,

Linda Candler
74040 Chinook Circle
Palm Desert, CA. 92211

Response from city staff: Crickets.

June 29, 2024

Marc Kleiman attached Refuge/Explore plans, dated May 10, 2024, showing "view fencing" and "view lots". We believe this is evidence that Refuge PD and Pulte did not elevate the landscape for drainage, but for expensive "view lots".

July 1, 2024 email from Todd Hileman that the city assumed the property was sold to Pulte.

July 3, 2024 email from Maria Torres to Jana Koroczynsky

"Eglert just measured pad with a laser and level at 10 foot height. The approved plans state that the difference between our pad and the one behind us should be 9.9 (or 9' 11") BUT the mound is about a foot higher than 10 ft laser mark. It appears around 11 feet high. See photo attached. Behind your house it should be 9' 5" according to their plans so the pad is probably about a foot and a half higher behind your house. This explains why they don't want a private surveyor checking their work out."

From: [CouncilMeeting Comments](#)
To: [Michelle Nance](#)
Subject: FW: Refuge
Date: Wednesday, July 10, 2024 11:23:53 AM

-----Original Message-----

From: Patricia Rogers [REDACTED]
Sent: Friday, July 5, 2024 8:45 PM
To: CouncilMeeting Comments <CouncilMeetingComments@palmdesert.gov>
Subject: Refuge

To Whom It May Concern:

Due to the extreme heat, I will be unable to attend in person; but am hopeful something will be done to alleviate the issue of possible flooding caused by the planned change in terrain next to the block wall fence between the open land and the established communities of K&B residential homes as well as those on Shepherd Lane.

We want to avoid the damages suffered by the citizens of Cathedral City and other areas from the recent flooding from Hilary. We trust the leaders of our city will be mindful in making decisions for our future and our homes. Thanking you in advance for your attention and concern.

From: [CouncilMeeting Comments](#)
To: [Michelle Nance](#)
Subject: FW: Refuge/Pulte abomination
Date: Wednesday, July 10, 2024 11:23:44 AM

-----Original Message-----

From: Louise Fasana [REDACTED]
Sent: Friday, July 5, 2024 5:42 PM
To: CouncilMeeting Comments <CouncilMeetingComments@palmdesert.gov>
Subject: Refuge/Pulte abomination

I am not clear about what it might take to command the attention of the council, but laws, protocols, and common sense are not being adhered to or followed.

Pulte has taken advantage and continues to take advantage of the Kaufman and Broad community and imperils the residents of the Kaufman and Broad community as well as our homes and personal belongings.

Please revisit this shocking abrogation of our rights.

Louise Fasana
[REDACTED]
Palm Desert
Kaufman and Broad community.