



STAFF REPORT

RESOLUTION APPROVING AN OPEN SPACE/CONSERVATION EASEMENT AND AN OWNERSHIP AND OPEN SPACE MANAGEMENT PLAN FOR THE SENDING PARCEL (APN: 043-322-610) IN AN APPROVED FLOOR AREA TRANSFER BETWEEN SAID PARCEL AND A DISCONTIGUOUS RECEIVING PARCEL (APN: 043-322-450) ON RALSTON AVENUE

Honorable Mayor and Council members:

Summary

On May 20, 2003, Kamal Fallaha, as property owner, submitted an application for a Floor Area Transfer from Assessor's Parcel 043-322-610 to Assessor's Parcel 043-322-450. The subject properties are within the boundaries of the Hillside Residential and Open Space (HRO-2) District on the 2500 Block of Ralston Avenue, west of Cipriani Boulevard. According to Section 4.7.11(d) of the City of Belmont Zoning Code, the HRO-District allows the permanent transfer of floor area development potential in the HRO-2 Zoning District from one site to a non-contiguous site with approval of an Administrative Conditional Use Permit (ACUP) by the Zoning Administrator.

Background

On September 6, 2003, notice of tentative approval of the Floor Area Transfer was published in the San Mateo County Times in accordance with Section 4.7.11(g)(2) of the Zoning Code. No appeals were received within the 10-day appeal period. On September 23, 2003, the Zoning Administrator approved the ACUP allowing the Floor Area Transfer, conditioned on Council acceptance of the conservation easement over the sending parcel. The Zoning Code allows 1,200 square feet to be transferred from the sending lot to the receiving lot for a total development potential of 2,400 square feet on the receiving lot. The applicant has proposed a new 2,389 square foot single-family residence on this lot.

The City's Ground Movement Potential and Geologic Hazard Policy Map of the San Juan Hills Study Area designates the receiving parcel as being in a Ps (potential shallow landslide failure) zone which allows development and roadway expansion on a conditionally permitted basis. A Hillside Roadway Improvement Plan was approved by the City of Belmont in 2002 and this

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roadway extension that will serve the receiving parcel as well one additional new single family dwelling at 2518 Ralston Avenue is currently under construction. A Single-Family Design Review, Setback Variance, and Tree Removal Permit application for the proposed dwelling for the receiving site has been submitted and is tentatively scheduled for Planning Commission review on October 21, 2003.

A resolution, including a map indicating the sending and receiving properties, is attached for Council's consideration.

Analysis

With the acceptance and recording of the conservation easement, the findings for a floor area transfer as indicated in the Zoning Code have been sufficiently met. These findings include that the transfer is consistent with the policies of the San Juan Hills Area Plan and the Geologic Hazards Ordinance. The San Juan Hills Area Plan establishes policies regarding development within the Plan Area. These policies include allowing density transfers in vacant, subdivided areas such as those including, and in the vicinity of, the sending and receiving sites.

Within the Zoning Code, the additional required findings for approval of a floor area transfer are as follows:

- that adequate infrastructure exists or its construction is assured;
- that the pattern of development as a result of the floor area transfer is better than could be achieved through the application of the ordinance without a floor area transfer;
- the establishment of a conservation easement over the entire sending parcel;
- the receiving site is not in an area designated Md (Major Debris Flow/Landslide) or Pdf (Potential Debris Flow/Landslide) on the current geologic hazards map; and,
- all floor area transfer standards will be met.

All findings can be made in the affirmative.

The transfer is also consistent with the goals of the General Plan. For example, the goals of the Land Use Element of the General Plan include preserving and enhancing the present character of established residential areas. The subject site is located in a residential area. The transfer of floor area from one lot to another and the establishment of a conservation easement on the sending site will further the more rural, open residential character of the area. In addition, the General Plan also seeks to ensure that residential development occurs in areas of low risk from geologic and hydrologic hazards. The floor area transfer and associated conservation easement eliminates the possibility of any future development for the sending parcel, which has verified severe geologic hazards associated with the site (steeply sloping site with potential debris flow (Pdf) designation). Proposed development for the receiving site is located within a less sensitive geologic hazard zone along a roadway extension, as discussed earlier, that is currently under construction.

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Fiscal Impact

None.

Recommendation

Staff recommends the City Council adopt the attached resolution accepting the conservation easement.

Alternatives

1. Disapprove acceptance of the conservation easement.
2. Continue the matter with additional Council direction.

Public Contact

None.

Attachments

- I. City Council Resolution Accepting the Conservation Easement over a Vacant Parcel known as Assessor's Parcel 043-322-610 as part of an approved Floor Area Transfer
- II. Site Location Map – Sending & Receiving Properties
- III. Draft Conservation Easement/Open Space Management Plan

Respectfully submitted,

Carlos de Melo
Principal Planner

Craig A. Ewing, AICP
Community Development
Director

Jere A. Kersnar
City Manager

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ATTACHMENT II - RESOLUTION

RESOLUTION NO. _____

**RESOLUTION APPROVING AN OPEN SPACE/CONSERVATION EASEMENT
AND AN OWNERSHIP AND OPEN SPACE MANAGEMENT PLAN FOR THE
SENDING PARCEL (APN: 043-322-610) IN AN APPROVED FLOOR AREA
TRANSFER BETWEEN SAID PARCEL AND A DISCONTIGUOUS RECEIVING
PARCEL (APN: 043-322-450)
ON RALSTON AVENUE**

WHEREAS, Kamal Fallaha, has applied for an Administrative Conditional Use Permit (ACUP) for a Floor Area Transfer from Assessor's Parcel 043-322-610, commonly referred to as Lot 20, Block 105 of Belmont Country Club Properties Subdivision, to Assessor's Parcel 043-322-450, commonly referred to as Lot 9 and portion of Lot 8, Block 105 of Belmont Country Club Properties Subdivision, located within the 2500 Block of Ralston Avenue; and,

WHEREAS, pursuant to Section 4.7.11(d) of the City of Belmont Zoning Code, the permanent transfer of floor area development potential in HRO-2 Zoning District from one discontinuous site to another site along the same roadway and within the same statistical subarea as shown on the San Juan Hills Area Plan shall be permitted upon approval of an Administrative Conditional Use Permit (ACUP) by the Zoning Administrator; and,

WHEREAS, pursuant to Section 4.7.11(g) of the City of Belmont Zoning Code, notice of the Zoning Administrator action on the Floor Area Transfer was sent to the applicant via U.S. mail, as well as the notice made to the general public by publication in the San Mateo County Times on September 6, 2003; and,

WHEREAS, no appeals of the administrative approval were received by the City within the required 10-day appeal period; and,

WHEREAS, the City Council hereby adopts the staff report (dated October 14, 2003) and the facts contained therein as its own findings of fact; and,

WHEREAS, the Zoning Administrator finds the required Floor Area Transfer Standards, Section 4.7.11(d)(2) and Findings, Section 4.7.11(d)(3) can be made in the affirmative as follows:

Finding A *The proposed transfer of density is consistent with the policies of the San Juan Hills Area Plan and the Geologic Hazards Ordinance.*

The permanent transfer of floor area development potential in HRO-2 Zoning District from one discontinuous site to another site along the same roadway and within the same statistical subarea

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as shown on the San Juan Hills Area Plan shall be permitted with approval of the ACUP. Both the sending/receiving parcels are located along the same street and within the same statistical subarea (Subarea N – Ralston Frontage) of the San Juan Hills Area Plan. The maximum floor area allowed for the receiving parcel as a result of the transfer will be 2,400 square feet (1,200 from sending parcel plus 1,200 currently allowed for receiving parcel) per Section 4.7.11(d)(2.a) – Floor Area Transfer Standards of the Belmont Zoning Ordinance. Any new single-family dwelling proposed for the receiving parcel will be required to comply with this maximum floor area limit.

Specific purposes of the Geologic Hazards Ordinance to guide land use decisions include controlling of land development “...in a manner consistent with known geologic conditions...” and prevention of “...increases in the potential for loss of life, injury and property damage caused by geologic hazards...” (Excerpts – Section 7.12.d (1.a&b) – Municipal Code – Geologic Hazards Ordinance) in the San Juan Hills Area.

The proposed floor area transfer will eliminate the possibility of any future development for the sending parcel, which has verified severe geologic hazards associated with the site (steeply sloping site with potential debris flow (Pdf) designation). Proposed development for the receiving site is located within a less sensitive geologic hazard zone along a roadway extension currently under construction. A geotechnical report/evaluation will be required for any new single-family residential dwelling for the receiving site that concludes that improvements will be safely constructed. Any new dwelling proposed for the receiving site will also be required to meet the Uniform Building Code as administered by the City of Belmont.

San Juan Hills Area Plan goals for the Hillside Residential and Open Space Areas (HROP) include preserving and enhancing the present character of established residential areas. The subject site is located in a residential area. The transfer of floor area from one lot to another and establishing a permanent open space covenant on the sending site will expand the more rural, open residential character of the area. In addition, the Plan also seeks to reflect natural constraints in land use planning, by achieving a land use pattern, density and distribution of development that is consistent with the existing slopes and geologic hazards in the undeveloped parts of the San Juan Area. By establishing the conservation/open space easement on the sending parcel as required by Section 4.7.11(d)(2.b) – Floor Area Transfer Standards of the Belmont Zoning Ordinance, future development on the geologically sensitive site will be prohibited. This finding can be made in the affirmative.

Finding B *Adequate infrastructure exists or its construction is assured, and for sites requiring road improvement plans, such plans have been approved.*

The proposed house on the receiving site, to be considered by the Planning Commission at a future public hearing, will be accessed from a roadway extension currently under construction with standard utilities available. This finding can be made in the affirmative.

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Finding C *The pattern of development which would result from the transfer of floor area is better than could be achieved through the application of this ordinance without floor area transfer, due to less grading, less street and utility extension, and better building site locations.*

The proposed development will result in reduced grading by combining the floor area from two lots compared to building a 1,200 square foot structure on the received lot and a 900 square foot structure on the sending lot. The floor area transfer will result in ultimately less development-related disturbance in the area. In addition, the sending site is considered geologically hazardous according to the City's Ground Movement Potential and Geologic Hazard Policy Map, as it is located in a Pdf – Potential Debris Flow/Landslide Zone. This finding can be made in the affirmative.

Finding D *The sending property will be protected from development by the establishment of a conservation easement over its entirety, or be merged with an adjacent lot and a conservation easement established over land equal in area to the sending, site, and the ownership and management of such property will be adequately provided for*

A conservation easement, if accepted by the City Council, will be recorded over the entire sending property. The ACUP is conditioned on Council acceptance of the easement. This finding can be made in the affirmative.

Finding E *The proposed building sites will not be in an area designated Md or Pdf on the current geologic hazards map.*

The City's Ground Movement Potential and Geologic Hazard Policy Map of the San Juan Hills Study Area designates the receiving parcel as being in a Ps (potential shallow landslide failure) zone which allows development and roadway expansion on a conditionally permitted basis. A Hillside Roadway Improvement Plan was approved by the City of Belmont in 2002 and this roadway extension that will serve the receiving parcel as well one additional new single family dwelling at 2518 Ralston Avenue is currently under construction. Entitlements for a proposed single family dwelling for the receiving site will be subject to Planning Commission review and approval at a future public hearing. This finding can be made in the affirmative.

Finding F *All floor area transfer standards will be met.*

Prior to issuance of building permits on the receiving parcel, all floor area transfer standards will be met. This finding can be made in the affirmative.

WHEREAS, the City Council is required to approve the conveyance of a conservation easement on the property known as Assessor's Parcel 043-322-610, as described in Attachment II, and such conveyance must be recorded prior to issuance of a building permit for construction of any transferred floor area; and,

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WHEREAS, the City Council did hear and use their independent judgment and considered all said reports, recommendations and testimony herein above set forth.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Belmont hereby approves the acceptance of a conservation easement for the Floor Area Transfer at Assessor's Parcel 043-322-610, subject to the standards identified in the City of Belmont Zoning Code.

* * * * *

I hereby certify that the foregoing resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting held on October 14, 2003 by the following vote:

AYES,
COUNCILMEMBERS: _____

NOES,
COUNCILMEMBERS: _____

ABSENT,
COUNCILMEMBERS: _____

ABSTAIN,
COUNCILMEMBERS: _____

RECUSED,
COUNCILMEMBERS: _____

CLERK of the City of Belmont

MAYOR of the City of Belmont

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**ATTACHMENT III – DRAFT CONSERVATION EASEMENT/OPEN SPACE
MANAGEMENT PLAN**

WHEN RECORDED SEND TO:
City of Belmont Community Development
Dept.
1070 Sixth Avenue, Suite 302
Belmont, CA 94002

(space above for use by the County Assessor)

GRANT DEED

CONSERVATION EASEMENT

For valuable consideration, we, Kamal Fallaha & Nariman S. Ali, hereby grant to the City of Belmont, a governmental subdivision of the State of California, Grantee, and its governmental successor or successors, a conservation easement, as defined herein, over a portion of that real property described in Exhibit “A”, attached hereto and made a part hereof.

Conservation easement is defined to mean, and refer to, the prohibition of any and all construction, development, or improvement except as otherwise permitted herein. The conservation easement is and shall be a form of negative easement which shall run with the said property and shall bind the current owner and any future owners of all or any portion of said property. Use of, and construction within, the easement area shall require approval by the Grantee, or its successor, except the following: natural open space, landscaping and irrigation systems, footpaths, underground utilities and utility easement areas, drainage facilities and systems, perimeter walls and/or fencing, and all reasonable and necessary incidents to any of the foregoing.

Any owner or owners of all or any portion of said property desiring to develop any improvement not listed herein shall first obtain written approval by the Grantee, or its successor, and shall submit to such entity a written proposal describing the nature, extent, and location of such improvement. In the event of a disapproval of proposed construction by the Grantee, or its successor, said proposed construction shall not be performed. Grantee or its successor may condition its approval of any proposed construction upon prior to, or subsequent performance of, such conditions as Grantee may deem appropriate.

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Grantor Signature: _____

Typed name: Kamal Fallaha

Grantor Signature: _____

Typed name: Nariman S. Ali

Grantee Signature: _____

Typed name: MAYOR, City of Belmont