

Attachment C

Supplemental Appellant Submittal – Letter from Chillag and Associates, P.C., with attachments, dated June 20, 2008

June 20, 2008

Belmont City Council
One Twin Pines Lane
Belmont, CA 94002

Re: Appeal of Application No. 2006-0054

Honorable Mayor Lieberman and Members of the City Council:

This letter will serve as the Appeal to the Belmont City Council of the Belmont Planning Commission's decision of April 15, 2008, denying the tentative subdivision map and single-family home application of Appellant Jean Adam, No. 2006-0054.

BACKGROUND

On September 20, 2006, the City of Belmont adopted a Slope Density Ordinance, which altered the minimum lot size for subdivisions in the R-1A, R-1B, and R-1C zoning districts. The result of this new ordinance was to increase the minimum lot size for certain new subdivisions, based in part on the average lot slope of the proposed new parcels.

At the time that this ordinance was adopted, two subdivision applications were pending which would be categorically excluded by the new minimum lot sizes. The City Council considered the effect of this new ordinance on those applications, and determined that in fairness an exception should be made, allowing those two applications to continue under the rules existing prior to the Slope Density Ordinance.

Appellants application was one of the two applications which was "grandfathered" when the Slope Density Ordinance was enacted. In reliance on this "grandfathering," appellants have proceeded with their application for an additional nineteen months, at considerable expense, through review by the planning commission on April 15. At that time, their subdivision application was denied.

PAST PRACTICES

All of the rules relied upon by staff and by the Commission were in existence prior to the adoption of the Slope Density Ordinance. However, there was a significant difference in the way those rules were applied. As shown by the various projects of similar slope which were approved in the past (see Exhibit A, summary of recent high-slope projects in Belmont), during that time, City staff and the City's consulting engineer would cooperate with applicants and their private engineers to determine an appropriate manner in which development could proceed.

This is in stark contrast with the way the rules were applied to Appellant's application. It is clear that staff and the Commission were merely paying lip service to

the fact that this application was to be grandfathered, and rather than cooperating with Appellant and his engineer to facilitate development, were applying the rules in such a way as to reach the same result which would have come from applying the Slope Density Ordinance.

PLANNING REVIEW

Although both staff and the planning commission stated that they were analyzing Appellant's subdivision application under the prior rules, it is clear from their statements that the grounds for denying the application are the same as the reasoning for adoption of the Slope Density Ordinance. In other words, without saying they were applying the bright-line rule of the Slope Density Ordinance, the planning commission essentially denied this subdivision application because it does not comply with the Slope Density Ordinance.

The official resolution states several reasons for rejection of Appellant's subdivision application, but nearly all the reasons given rest on a determination that the proposed parcel has "too much" slope—the very issue that the Slope Density Ordinance was designed to address, and from which Appellant's application was explicitly exempted.

Appellants do not, of course, take the position that the slope of a proposed new lot or development was not a consideration prior to the enactment of the Slope Density Ordinance. However, during that period of time, the City approved numerous projects with similar or greater slopes and comparable engineering to address those slopes. Recent projects of this type are summarized in Exhibit A.

It is clear that, prior to the Slope Density Ordinance (or to the thinking which led to adoption of the Slope Density Ordinance), developments like Appellant's were approved. Had this very same application been made just one or two years ago, it would not have been rejected due to "too much" slope. The only thing which changed is the adoption of the Slope Density Ordinance, and if fairness dictated that Appellant's application be exempted from that ordinance, then fairness also dictates that this one application truly be treated as if the ordinance never existed. Applying the new ordinance by using different language puts Appellant in a worse position than he would have been had there never been an initial grandfathering, since Appellant continued accruing major expenses in reliance on having been grandfathered. Due to that reliance, it is improper to impose these terms on Appellant.

The City should be precluded from applying the Slope Density Ordinance—whether in name or in fact—to Appellant's application. It is an abuse of discretion to do so. Further, as will be demonstrated herein, this application falls so clearly within the rules and practices of the city prior to adopting the Slope Density Ordinance that denying the application is an abuse of discretion under those rules.

Stated Reasons for Denial

Section 11.4 of the Belmont Subdivision Ordinance requires seven findings in the affirmative in order to approve a proposed subdivision. They are:

- A. That the proposed map is consistent with applicable general and specific plans.

B. That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans.

C. That the site is physically suitable for the type of development.

D. That the site is physically suitable for the proposed density of development.

E. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

F. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.

G. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. (In this connection, the City Council may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to the one previously acquired by the public.)

The commission's denial was based on inability to find two of those findings.¹ Below, Appellant discusses the reasoning behind these two findings, and why Appellant believes the conclusions are incorrect.

Finding A: "The proposed map is consistent with the applicable general and specific plans."

Staff cited, and the commission noted in their resolution, five goals and policies (discussed in more detail below) in the Belmont General Plan which, they contend, this project would be inconsistent with. Before addressing these specific objections, it is worth noting two points: First, it is not a requirement that every plan be consistent with every aspect of the general plan. In fact, as acknowledged by staff, "there are always going to be general Plan goals and policies that work both for and against a project."² Thus, the requirement of Finding A cannot be that the project have no points against it, but rather that the project is overall consistent with the general plan.

Second, while we disagree (as will be discussed below) with the argument that this project is inconsistent with certain general plan goals and policies, even if that were true there are considerably more goals and policies with which it is consistent. The five goals and policies cited by staff, and by the commission in their resolution, as being inconsistent with this application are drawn from two sections of the Belmont General Plan: the "General Community Goals and Policies" section of Part 1 ("This is Belmont"), and the "Residential Areas" section of the "Land Use-Open Space Element" of Part 2 ("Elements of the Land Use Pattern").

¹ One finding—Finding E—was deferred, since its determination depends on a CEQA review, which (on staff's recommendation) has not yet been done. If the subdivision is approved on the other grounds, Appellant will provide the necessary CEQA review.

² Staff email to Applicant's architect, dated December 20, 2007.

Even limiting ourselves to those two sections, there are a total of 40 goals and policies, as shown in Exhibit B (many of which have subsections), and the commission only contends that the project does not meet five. While not all of the remaining goals and policies are applicable to this project, there is no inconsistency with the other 35 policies, which is the vast majority. Therefore, even if the commission were correct that the application is inconsistent with these five goals and policies, Appellant still contends that the project is overall consistent with the general plan, and therefore meets the requirements of Finding A.

Appellant also disagrees with the commission's conclusions regarding the cited goals and policies, as set forth below.

General Community Goals and Policies

- Goal 3: "To preserve significant open spaces, trees, views, waterways, wildlife habitats, and other features of the natural environment." This Goal, by its own terms, applies only to significant open spaces, and it is hard to imagine that 6,000 square feet in a developed suburban space could be considered a significant open space. Even putting that aside, the justifications given for finding this project to be inconsistent with this Goal are based on the trees and the slope. Yet, the project's impact on protected trees is minimal, as discussed below, and objections based on slope are (as further developed below), in essence and inappropriately, applying the Slope Density Ordinance to this application.

- Policy 2: "Intensity of use of land as measured by such factors as parcel size, population density, building coverage, extent of impervious surfaces, public service requirements, parking requirements, and traffic movements should be based on the following general principles:" The Commission cited three of the listed principles as being problematic:

- Policy 2.a: "Intensity of land use should decrease as steepness of terrain and distance from major thoroughfares increase." Although it is not clearly stated what about this project would be inconsistent with this Policy, the only possible candidate would be the steepness of the proposed lot, since the lot is very close to a major thoroughfare (Ralston Avenue), and thus a more viable candidate for higher density.

- Policy 2.b: "The lowest intensities of use should occur on the steep hillsides to limit storm runoff, prevent increased erosion, avoid unstable slopes, protect vegetation and watersheds, and maintain scenic qualities." This policy, by its terms, does not require low intensity of use on steep hillsides *per se*, but only for particular benefits: limitation of storm runoff, prevention of erosion, and so forth. All the latter issues are addressed in Appellant's proposal, which is engineered to avoid any unstable slopes and will be landscaped to minimize any runoff or erosion issues. Given that Appellant has made provisions to avoid or minimize any of the listed negative impacts, the mere fact that the development would be on a slope does not make this project inconsistent with this Policy.

- Policy 2.c: "Intensity of use of individual parcels and buildings should be governed by considerations of existing development patterns, water and

air quality, accessibility, traffic generation, parking, noise, fire safety, drainage, natural hazards, resource conservation and aesthetics.” The stated justification under this Policy is particularly telling. This project, it is argued, would be inconsistent with the neighboring parcels because they could not be similarly developed—under the Slope Density Ordinance. This is clearly an attempt to impose the restrictions of the Slope Density Ordinance on this project through the mechanism of “consistency” with neighboring properties.

Further, it is worth noting that there are only three “through” lots (lots with frontage on both Maywood and Alomar) on the block out of a total of 15 lots on the block. Appellant’s is the middle of the three “through” lots, so technically its immediate neighbors will not have houses fronting on Maywood, but looking more than one lot over, 10 such houses already exist (not including houses across the street). One could more reasonably conclude that it would be inconsistent with current patterns not to develop the property. (See May 19, 2008 letter from George Stock, Smith, Randlett, Foulk & Stock, Inc., Civil Engineers.)

- Policy 4: “The following standards shall apply to all new development:” The Commission cited two of the standards as being problematic:

- Policy 4.d: “Grading and new impervious surfaces shall be kept to the minimum necessary to permit development of land in a manner compatible with its characteristics and designated use.” It is not clear why this Policy was even mentioned. Staff’s report mentions only the fact that the new lot has a large slope and would require a large amount of cut and fill, but this Policy simply provides that grading be kept to the minimum necessary to permit development. Appellant has kept the grading to the minimum necessary for this development (see May 19, 2008 letter from George Stock, Smith, Randlett, Foulk & Stock, Inc., Civil Engineers) and no argument has been made to the contrary.

- Policy 4.i: “Slopes exceeding 30 percent shall be avoided whenever possible.” This Policy only says that slopes exceeding 30% should be avoided whenever possible. It is not possible to subdivide Appellant’s parcel within the zoning ordinance (as it existed prior to the Slope Density Ordinance) without creating a lot of approximately the slope density of the proposed lot. Dividing the lot in any other way would either result in lots which are below the minimum size, or which do not have the required amount of street frontage. Therefore it is not possible to be below the 30% recommendation and still develop the lot.

- Policy 6: “Natural features, such as ridgelines, canyons, steep hillsides, meadows, streamsides and significant stands of trees, should be preserved and protected through planning, conservation practices and, where appropriate, the dedication of open space or scenic easements.” Staff’s report claims that the proposed lot “serves as a natural buffer between other residential uses along the street.” This is a fancy way of saying that it is an empty lot. It is not a pristine open space, and the few trees which must be removed (and, in compliance with the applicable rules, replaced at a 3 to 1 ratio) are in poor or at best fair condition (this is based on the city arborist’s review, and is admitted

by staff). Comparing this lot to ridgelines, canyons, meadows, and streamsid es is a perversion of the language of the Policy.

Residential Areas

- Goal 6: "To ensure that residential development occurs in areas of low risk from geologic and hydrologic hazards." Staff alleges that issues regarding possible unstable slopes were raised by the city's consulting geologists on their initial review of Appellant's engineering report. In fact, however, Staff cherry-picked phrases from the consulting geologists' letter which do not accurately reflect the gist of the letter.

The consulting geologist's letter, dated December 15, 2006, does raise concerns regarding possible instability during construction. However, it does so solely in the context of requesting that Appellant's engineers specify the steps to be taken to avoid such instability. In other words, it simply requests that the temporary construction shoring be designed by the engineer, and does not in any way imply that a properly engineered plan would be unstable. Appellant's engineers have addressed this concern, and will provide engineered plans for the construction shoring as well as the final structures. See June 2, 2008 letter from Glenn Romig, Romig Engineers, Inc.

The city's consulting geologist has not yet reviewed the responses (presumably because staff was recommending denial on other grounds). To the extent that there are any remaining issues, Appellant is confident that they can be addressed by the project engineers prior to approval and commencement and all objections will be eliminated.

It is also worth noting that the standard is not, nor could it be, that the risk of geologic hazards be zero, for that is theoretically impossible, and also inconsistent with the existing development in Belmont on slopes and elsewhere. The risk should be "low," and that is what is provided by adequate and reviewed engineering, as is the case with this application. Applicant and his engineer have taken steps to avoid the foreseeable geologic risks, both during and after construction, and expect to do so to the satisfaction of the City's consulting engineers.

Finding C: "That the site is physically suitable for the type of development."

The issues raised under this Finding overlap considerably with those raised under Finding A, and Appellant's responses are similar. The staff report and Commission Resolution present a laundry list of possible objections, which fall into several categories:

- Slope related objections:
 - Significant slopes
 - Large amount of cut required
 - Significant grading required

All of these items relate to the slope of the property, and again, are in essence an attempt to apply the thinking behind the Slope Density Ordinance (if not the Ordinance itself) to a project that was specifically exempted from that ordinance.

- Vegetation related objections:
 - Dense native vegetation, including 14 regulated trees

- Five protected, and two surveyed but not protected, trees would have to be removed.

As stated above, the protected trees which would need to be removed are in poor or fair condition to begin with, and would be replaced at a 3 to 1 ratio (total of 15 trees to be provided). It is unclear why it is relevant that non-protected trees would be removed; the entire point of having a dividing line between protected and unprotected trees is that the unprotected trees are not protected. Including them in the analysis creates a form of protection.

- Geotechnical review indicates slope potentially unstable, possibly impacting road, neighbors, or workers.

As stated above, these concerns have already been addressed. If proper engineering techniques eliminate the potential dangers, those dangers should not be considered against the project, as was obviously the case with the numerous similar projects previously approved.

- Project requires basement-level garage

It is not clear whether this is intended to be seen as a fault of the project, and if so, why. Appellant is not aware of any provision disapproving of basement-level garages, *per se*.

Analysis of Stated Reasons

As shown above, the majority of the stated reasons for denial are connected to the fact that this proposed parcel has a relatively steep slope. The slope itself is an objection, as well as the required grading and cut/fill, both of which are required due to the slope.

In light of the numerous projects on similar slopes which have been approved in the past, it is difficult not to conclude that these stated reasons are a sham. Had this project come up earlier, before the Slope Density Ordinance, it would have been approved as those projects were, despite the slope and the engineering it requires.

Unstated Reasons

Several of the members of the public who spoke at the hearing raised issues which are outside the scope of this project, and are therefore not appropriate considerations for its approval or denial. Appellant assumes that, for this reason, these matters were not considered by the commissioners.

However, the commissioners' own statements indicate that some or all of them considered facts which are not appropriate to this decision. For example:

One Commissioner noted that his concerns about the "entry point" to the neighborhood were affected by "what I have seen happening there, in combination with the property which was recently clear-cut." The fact that Appellant's neighbor cut down trees (whether or not that action was appropriate) should not be a factor in determining whether to grant this application.

Another Commissioner pointed out that she lives on a much larger lot that cannot be divided, and cannot understand why a 12,000 square foot lot needs to be divided. This

appears to be an attempt to impose a personal opinion that lot sizes should be larger than are in fact required under the zoning ordinance. If 12,000 square foot lots don't "need to" be divided, then 12,000 square feet should have been the minimum lot size under the zoning ordinance for all lots; it is not.

Another Commissioner admitted that she is "known for not liking cut and fill of any type." Again, this is simply not the applicable rule, and the rule, rather than the commissioner's personal opinion, should apply.

Finally, a Commissioner noted "I can't imagine why anyone would try to put a house there, except for profit." This is a peculiar statement, in that it is both incorrect and irrelevant. It is incorrect, as the Commissioner was aware, since Appellant's son testified at the hearing regarding the planned use of the proposed new home to allow Applicant's parents to live nearby. The use proposed is personal, and not merely to turn a profit. It is irrelevant, since it is not a consideration for planning approval. As the Commissioner correctly noted that the possible financial motivation for a proposal is "something we don't deal with," but given that fact there is no reason for it to have been mentioned in the first place.

SIGNIFICANT NUMBER OF NEIGHBORS APPROVE OF PROJECT

As shown in Exhibit C, Appellants surveyed the neighborhood to determine the opinion of those who are impacted by this Project. The survey area included those homes which were within the notification radius, and thus determined by the City to be potentially impacted, and therefore entitled to notice and an opportunity to be heard.

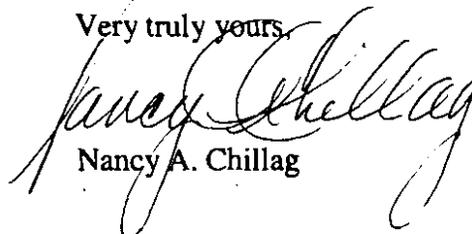
Of the 109 properties who responded to the survey, 48 were willing to sign that they did not have an objection. This indicates that there is significant support for this project in the immediate affected area.

CONCLUSION

If Appellant's proposed subdivision had truly been reviewed under the rules as they existed prior to the Slope Density Ordinance, it would have been approved. The non-slope-related issues raised by the planning commission and its staff are simply not sufficient to deny this project. Therefore, it was denied because of the slope of the proposed new parcel.

Since this Council specifically exempted this project from the Slope Density Ordinance, it ought to ensure that the rules which existed previously are applied, and therefore should overrule the planning commission's denial.

Very truly yours,



Nancy A. Chillag

APPEAL FROM PLANNING COMMISSION DECISION

Application No. 2006-0054

Exhibit A

In response to Appellant's request, planning commission staff prepared a list of properties with similar steep slopes on which single-family residences were proposed. Staff's response appears to only cover from 2007 to the present, and consisted of four properties:

<u>Address</u>	<u>Lot Slope</u>	<u>Application Status</u>
2708 Monte Cresta	52%	Pending
900 South	25%	Approved
2932 San Juan	16%	Approved
2847 San Juan	45%	Approved

This number of applications in an 18-month period in a city the size of Belmont is significant. It confirms Appellant's position that the city's practice, prior to the Slope Density Ordinance, was to work with applicants to allow development, even on lots with significant slopes.

Appellant has also been able to identify the following less-recent properties on which applications for single-family residences were approved:

2702 Monte Cresta	42%
2810 Monte Cresta	
2837 San Juan	48%
3015 San Juan	

Attached are photographs and other materials demonstrating the significant slopes encountered and the successful engineering put in place to address them.

2702 Monte Cresta

Appellant in particular would like to highlight the project at 2702 Monte Cresta, as it is quite similar to Appellant's. The lot slope was nearly 42%, though this is misleadingly low, since it appears that the home was placed on one of the steeper portions of the lot. Over 711 cubic feet of cut/fill was required for this project. As shown in both the drawings and photographs, the project is remarkably similar to Appellant's, down to the first-level garage.

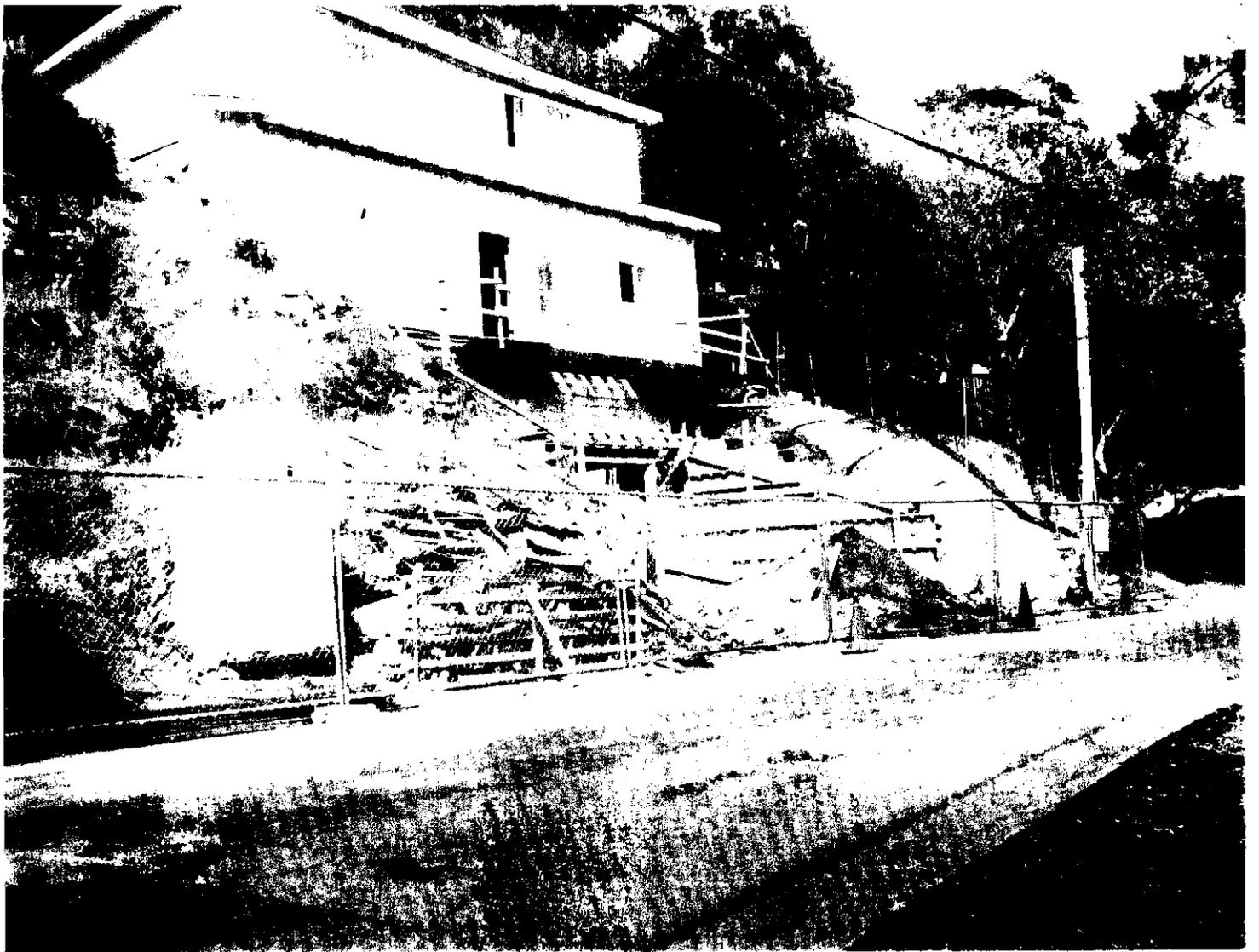
The application for 2702 Monte Cresta was presented in 2003, and was approved, including a necessary variance for an oversized retaining wall. Clearly, Appellant's application was not treated in the same manner.



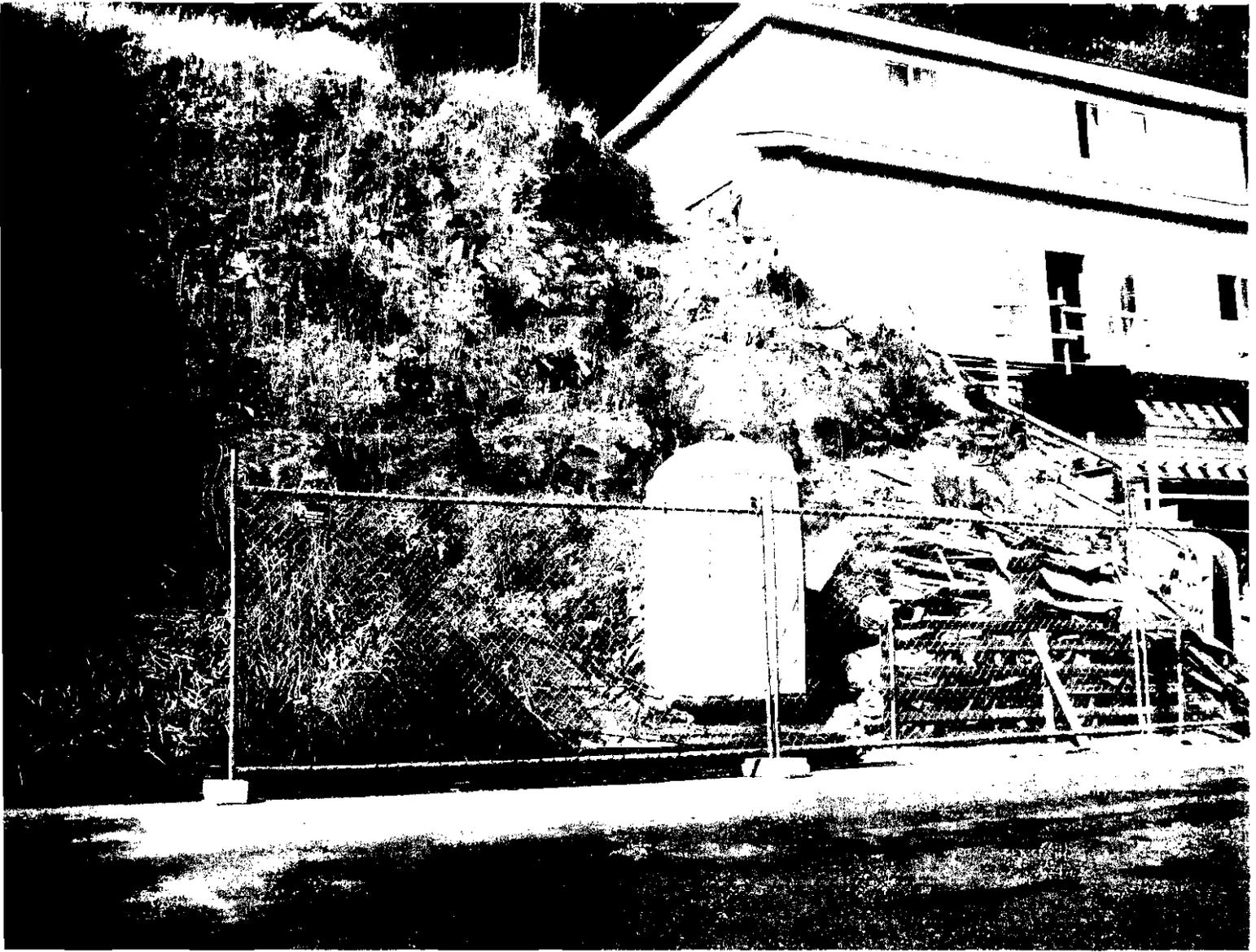
2810 Monte Cresta



2837 San Juan



2702 Monte Cresta



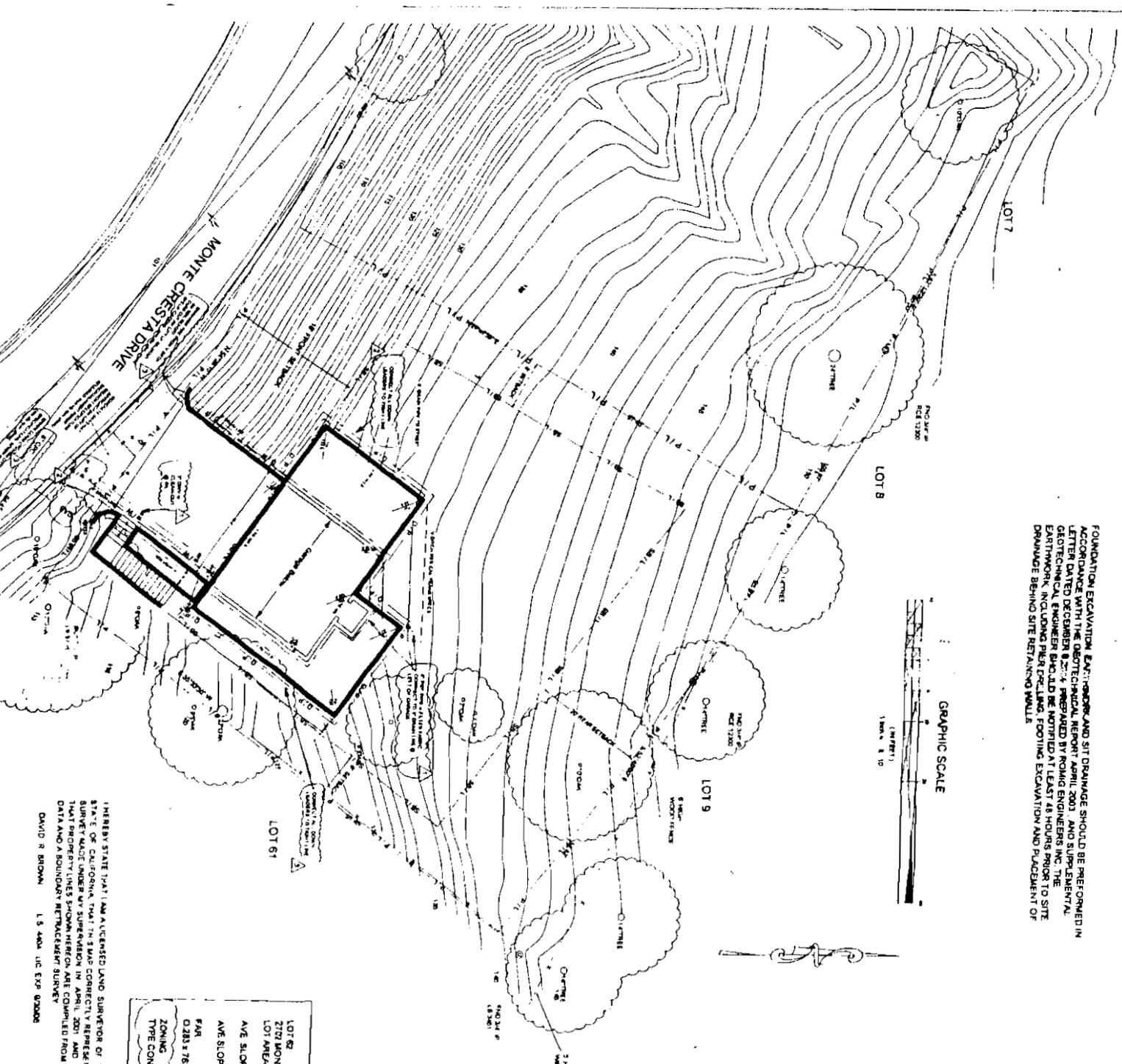
2702 Monte Cresta

FOUNDATION EXCAVATION, EARTHWORK AND SITE DRAINAGE SHOULD BE PERFORMED IN ACCORDANCE WITH THE GEOTECHNICAL REPORT APRIL 2003 AND SUPPLEMENTAL LETTER DATED DECEMBER 8, 2003 PREPARED BY ROYAL ENGINEERS INC. THE GEOTECHNICAL ENGINEER SHALL BE NOTIFIED AT LEAST 48 HOURS PRIOR TO SITE DRAINAGE WORK INCLUDING PUMP EXCAVATION, FOOTING EXCAVATION AND PLACEMENT OF DRAINAGE BEHIND SITE RETAINING WALLS.



LEGEND

- PROPERTY LINE
- ADJACENT PROPERTY LINE
- CENTERLINE OF HIGHWAY
- FLOW LINE
- OVERHEAD POWER LINE
- WELL LINE
- WALKER CONTIGUAL LOT 2 SETBACK
- WALKER CONTIGUAL LOT 1 SETBACK
- POWELL ROAD
- SEWER MAINLINE
- WATER MAIN
- FOUNTAIN MONUMENTAL MONUMENT
- TRAIL SIGN AND/OR LIGHT (SEE SHEET 10)
- 400001
- 1"=30'
- T.P. MOUNTAIN
- B.0000
- 6"=1000'00" O.M.G.



LOT 62 A.P.N. 042311-081
 2702 MONTE CRESTA DRIVE
 LOT AREA: 7,629 SQ. FT.
 AVE. SLOPE: 100 X (1:3.1876)
 AVE. SLOPE: 41.90%
 PAR: 0.283 X 7629 0.50 FT. = 2199.0 EQ. FT.
 ZONING: R-3U1
 TYPE CONST: VAN

I HEREBY STATE THAT I AM A LICENSED LAND SURVEYOR OF THE STATE OF CALIFORNIA THAT I HAVE CORRECTLY REPRESENTED A SURVEY OF THE ABOVE PROPERTY IN APRIL 2001 AND THAT I HAVE NOT BEEN SUSPENDED OR REVOKED FROM MY LICENSE AND A BOUNDARY RECONSTRUCTION SURVEY
 DAVID R. BROWN, L.S. 4404, LIC. EXP. 9/2006

GENERAL NOTES
 MONTAINE CRESTA DRIVE
 BELMONT CALIFORNIA
 DOC. NO. 2000-18848

NEW RESIDENCE FOR

DATE	SCALE

GURPREET SACHDEVA
 2702 MONTE CRESTA DRIVE CA. 94002

REVISIONS

6/14/2005	SAKZIN	4/17/2008
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Design Services
Residential Drafting
Commercial Rendering

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APPEAL FROM PLANNING COMMISSION DECISION

Application No. 2006-0054

Exhibit B

Below is a list of all the goals and policies in the applicable sections of the general plan, showing the degree to which Appellant's application complies with the general plan. "Consistent" refers to a goal or policy which was not cited by the Commission, and therefore the application is consistent with that goal or policy. "Disputed" refers to the goals and policies which were cited by the Commission, and on which Appellant and the Commission disagree. "N/A" refers to a goal or policy not applicable to this application.

GENERAL COMMUNITY GOALS AND POLICIES

The General Plan is based on a set of goals and policies which express the desires of Belmont's residents concerning the future character and development of their city. The goals and policies of the plan elements are an elaboration and application to specific subjects or areas of these overall community goals and policies.

Goals

1. To assure that Belmont will be a balanced community with residences, schools, business, industry and space and facilities for social, recreational and cultural activities in keeping with the present character of the city.	Consistent		
2. To preserve and enhance the attractive, family-oriented and tranquil quality of Belmont's residential neighborhoods.	Consistent		
3. To preserve significant open spaces, trees, views, waterways, wildlife habitats, and other features of the natural environment.		Disputed	
4. To maintain and enhance the appearance of the City through controlling the location, timing, design and landscaping of new development and encouraging renovation of older areas.	Consistent		
5. To encourage economic development within designated areas of the community to provide jobs, services and convenience goods and to strengthen local sources of revenues.			N/A

6. To provide public services efficiently and at a level adequate to serve an ultimate population of about 28,000.			N/A
7. To guide the timing and location of growth and development to ensure the availability of services and protection of sensitive natural environments.	Consistent		
8. To protect persons and property from unreasonable exposure to natural hazards such as floods, fire, unstable ground, erosion and earthquakes.	Consistent		
9. To protect and conserve significant community resources such as energy, clean air and water and historic or architecturally interesting buildings.	Consistent		
10. To provide for safe and efficient movement of people and goods within the community and between the community and other areas of the region with a minimum of disruption and adverse environmental effects.			N/A
11. To annex additional land which is within the sphere of influence or planning area only when the expected fiscal benefits of annexation exceed the costs.			N/A

Policies

1. New development should be of a scale and character compatible with surrounding land uses and Belmont's small city environment.	Consistent		
2. Intensity of use of land as measured by such factors as parcel size, population density, building coverage, extent of impervious surfaces, public service requirements, parking requirements, and traffic movements should be based on the following general principles:			

a. Intensity of land use should decrease as steepness of terrain and distance from major thoroughfares increase.		Disputed	
b. The lowest intensities of use should occur on the steep hillsides to limit storm runoff, prevent increased erosion, avoid unstable slopes, protect vegetation and watersheds, and maintain scenic qualities.		Disputed	
c. Intensity of use of individual parcels and buildings should be governed by considerations of existing development patterns, water and air quality, accessibility, traffic generation, parking, noise, fire safety, drainage, natural hazards, resource conservation and aesthetics.		Disputed	
d. Intensity of land use should be regulated according to the availability of community facilities and services.	Consistent		
3. All land uses should conform with the environmental quality and safety policies in Part 3 of this plan.	Consistent		
4. The following standards shall apply to all new development:			
a. Sewage disposal shall be by sanitary sewers.	Consistent		
b. Storm drainage facilities shall be provided.	Consistent		
c. Erosion shall be minimized through such measures as runoff retention and revegetation.	Consistent		

<p>d. Grading and new impervious surfaces shall be kept to the minimum necessary to permit development of land in a manner compatible with its characteristics and designated use.</p>		Disputed	
<p>e. Land, water and energy shall be used efficiently.</p>	Consistent		
<p>f. Structures shall be clustered, where possible, to maximize open space and minimize costs of providing public services.</p>	Consistent		
<p>g. Safe access to the public road system of the community shall be provided.</p>	Consistent		
<p>h. Fire and police protection shall be adequately provided.</p>	Consistent		
<p>i. Slopes exceeding 30 percent shall be avoided whenever possible.</p>		Disputed	
<p>5. In the more intensely developed and accessible portions of the City, land uses should be varied with creative mixing of businesses, professional offices, institutions, and residences.</p>			N/A
<p>6. Natural features, such as ridgelines, canyons, steep hillsides, meadows, streamsides and significant stands of trees, should be preserved and protected through planning, conservation practices and, where appropriate, the dedication of open space or scenic easements.</p>		Disputed	

7.	No building permits for new structures shall be issued until or unless it has been demonstrated that all necessary public services can be provided within the framework of planned capital and operating budgets of the service agencies. Costs for services which exclusively benefit new development should be borne by that development.	Consistent		
8.	In any development within the Planning Area, geologic conditions should be thoroughly evaluated to avoid or mitigate problems of unstable land.	Consistent		
9.	In all new development, significant historical and archaeological features should be identified and, as determined appropriate, protected or conserved.	Consistent		
10.	Through traffic should be channeled onto major streets and collectors and diverted, to the extent possible, from residential neighborhoods.			N/A
11.	On-street parking should be controlled by requiring provision of off-street parking in new developments, constructing additional off-street parking spaces, especially in the Central Business District and near Old County Road, preventing the conversion of space or uses to higher intensities unless adequate off-street parking is provided.	Consistent		
12.	Incompatible land uses should be separated by landscaped open spaces, streets or other forms of buffers.	Consistent		

LAND USE-OPEN SPACE ELEMENT

RESIDENTIAL AREAS

Goals

1. To preserve and, where needed, enhance the present character of established residential areas.	Consistent		
2. To address the housing needs of traditional families, senior citizens and young adults by encouraging a mix in housing type, design and cost.	Consistent		
3. To encourage location of new multiple family housing in relatively flat areas which have good access, service availability and compatible adjacent uses.			N/A
4. To systematically control the timing and location of new housing development to coincide with the availability of public services and to protect existing residential neighborhoods and the natural environment.			N/A
5. To enhance the appearance of new housing development through site planning, design, and landscaping.	Consistent		
6. To ensure that residential development occurs in areas of low risk from geologic and hydrologic hazards.		Disputed	

Policies

1. The city shall manage yearly residential growth in order to minimize environmental effects, ensure the availability of adequate public services and facilities, provide for high quality development and otherwise ensure conformity with the goals and policies of this plan.			N/A
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<p>2. A variety of types and densities of residential uses should be provided to meet the needs of the different life styles and incomes of the people who live in the community.</p>			N/A
<p>3. Residential densities should decrease as steepness of terrain increases as follows:</p>			
<p>a. The highest densities should be located on the flatter portions of the community in or near the Central Business District, close to local shopping, services, employment, transportation and other local facilities. Densities should decrease as the distance from these facilities increases.</p>	Consistent		
<p>b. The lowest densities should be located on hillsides where it is necessary to limit storm runoff, prevent erosion, preserve existing vegetation, protect watersheds, avoid potentially unstable ground, avoid high fire hazard areas, and maintain the scenic qualities of the area.</p>	Consistent		
<p>4. In addition to residences, residential areas may contain normal accessory uses, recreation facilities and, under appropriate controls, institutions and facilities such as churches, schools, youth and senior centers and nursing homes.</p>			N/A

<p>5. In high density residential areas dwelling types should be commonwall and/or multi-level. Each dwelling unit should have some usable private outdoor space, but facilities such as laundry, recreation, parking, and garbage storage should be provided for joint use.</p>			N/A
<p>6. In medium density residential areas the dominant dwelling unit types should be single family detached or commonwall. All dwelling units shall have usable private outdoor space. For commonwall developments, common areas for parking and active recreation should be provided.</p>	Consistent		
<p>7. In low density residential areas dwelling types should be limited to single family detached. However, clustering or grouping of dwelling units may be permitted to preserve open space. In no case shall such clustering or grouping result in a higher dwelling unit density than called for by the standards of the land use district.</p>			N/A
<p>8. Residential developments of three units or more or on parcels with an average slope of 30 percent or more shall be subject to design review to ensure compatibility with adjoining uses and adherence to the following standards:</p>			
<p>a. Siting, height and bulk of buildings and other improvements shall be controlled to minimize disruption of existing views and protect the profile of prominent ridgelines.</p>	Consistent		

<p>b. Drainage ways and natural vegetation, including trees and ground cover, should be conserved to the extent possible.</p>	<p>Consistent</p>		
<p>c. Exterior materials and colors should blend with the adjoining development and the natural environment of the site.</p>	<p>Consistent</p>		
<p>d. Overall grading and site disruption should be minimized.</p>	<p>Consistent</p>		
<p>e. Measures shall be taken to control erosion during construction, followed by planting to ensure long term erosion control. Native plants should be emphasized in new landscaping.</p>	<p>Consistent</p>		
<p>f. The amount of impervious surface should be minimized to provide for maximum possible on-site water retention.</p>	<p>Consistent</p>		
<p>g. Houses, accessory buildings and residential roads shall be located on stable ground that is free from flood hazards as demonstrated by professional evaluation of site conditions.</p>	<p>Consistent</p>		
<p>9. Housing in the Central Business District and East Belmont north of Marine World Parkway should be located and designed to complement the primary commercial/retail function of these areas.</p>			<p>N/A</p>

<p>10. Vacant low density residential land in the Western Hills neighborhood has special opportunities and constraints for development because of topography and other land features and relationship to existing residential development. Development proposals in this area shall be fully evaluated to ensure that the following standards are met:</p>			
<p>a. Housing units should be clustered on stable, accessible sites leaving significant portions of the areas in open space.</p>			N/A
<p>b. The intensity and density of development shall be based on such factors as land stability, slope, access and availability of necessary public services and facilities.</p>			N/A
<p>c. A variety of clustered housing styles may be permitted ranging from single family detached to commonwall groupings. The intensity of development and design of units should be compatible with existing adjacent residential uses.</p>			N/A
<p>11. Single family residences may be built on scattered residential lots that are smaller than the minimum sizes called for by the plan if the following conditions have been met:</p>			
<p>a. Access is provided by a public road meeting City standards.</p>	Consistent		
<p>b. Buildings and driveways can be located on stable ground.</p>	Consistent		

c. Adequate public utilities and services can be provided.	Consistent		
d. Adequate fire safety can be assured.	Consistent		
e. At least two off-street parking spaces can be provided.	Consistent		
f. Adequate driveway design and access to the public street system can be provided.	Consistent		
g. Adequate control of storm water runoff including, if necessary on-site retention, can be provided.	Consistent		
h. Building height, bulk and setbacks are comparable to those of adjacent residential properties.	Consistent		
i. Development will not preclude the reasonable use or development of adjacent residential properties.	Consistent		

Neighborhood Outreach Survey

I do not have an objection to John and Sharon Adam's project of building a 1492 sq ft residence on the Maywood Dr. side of their lot at 1109 Alomar Way.

	1800 El Verano Way
	1720 El Verano Way
	1716 El Verano Way
	1712 El Verano Way
	1708 El Verano Way
	1704 El Verano Way
	1700 El Verano Way
	1710 El Verano Way
	1705 El Verano Way
<i>Joel M...</i>	1709 El Verano Way
<i>...</i>	1715 El Verano Way
	1719 El Verano Way
	1723 El Verano Way
	1808 El Verano Way
	1812 El Verano Way

Neighborhood Outreach Survey

I do not have an objection to John and Sharon Adam's project of building a 1492 sq ft residence on the Maywood Dr. side of their lot at 1109 Alomar Way.

<i>Michael Van</i>	1815 El Verano Way
	1816 El Verano Way
<i>Bill</i>	1819 El Verano Way
<i>Gene Laguerre</i>	1823 El Verano Way
<i>Janet Brass</i>	1824 El Verano Way
<i>ROBERT MARCO</i>	1827 El Verano Way
	1831 El Verano Way
	1832 El Verano Way
<i>Ray M. Bay</i>	1835 El Verano Way
	1836 El Verano Way
	1839 El Verano Way
	1840 El Verano Way
	1900 El Verano Way
<i>Del & Frances Gierst</i>	1904 El Verano Way
<i>Dee & Phil Baum</i>	1908 El Verano Way

Neighborhood Outreach Survey

I do not have an objection to John and Sharon Adam's project of building a 1492 sq ft residence on the Maywood Dr. side of their lot at 1109 Alomar Way.

<i>Karen Honath</i>	1010 Maywood Drive
<i>Boye Cummins</i>	1001 Maywood Drive
<i>Mark, W. Jones</i>	1003 Maywood Drive
<i>Wayne Burch</i>	1007 Maywood Drive
<i>Rachel Heek + Dal W. M.</i>	1015 Maywood Drive
	1019 Maywood Drive
	1020 Maywood Drive
	1023 Maywood Drive
	1101 Maywood Drive
	1109 Maywood Drive
	1119 Maywood Drive
	1124 Maywood Drive
	1125 Maywood Drive
	1120 Maywood Drive

Neighborhood Outreach Survey

I do not have an objection to John and Sharon Adam's project of building a 1492 sq ft residence on the Maywood Dr. side of their lot at 1109 Alomar Way.

Signature	Address
<i>Moira & Rigone</i>	1105 Alomar Way
<i>Paul M. & Ryan R. Rigone</i>	1114 Alomar Way
<i>John & Marie Rigone</i>	1115 Alomar Way
<i>Ally M. & M. G.</i>	1119 Alomar Way
	1120 Alomar Way
<i>Bob & Joan Bolger</i>	1123 Alomar Way
<i>Bill and Lynette Happer</i>	1124 Alomar Way
	1127 Alomar Way
	1200 Alomar Way
<i>Van A. Lane</i>	1201 Alomar Way
	1204 Alomar Way
	1208 Alomar Way
<i>Christi & Timothee Bauchard</i>	1212 Alomar Way
<i>[Signature]</i>	1109 Alomar Way

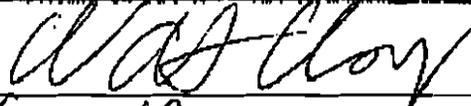
Neighborhood Outreach Survey

I do not have an objection to John and Sharon Adam's project of building a 1492 sq ft residence on the Maywood Dr. side of their lot at 1109 Alomar Way.

<i>Ryan Melnick</i>	1104 Ladera Way
<i>Joseph Monson</i>	1106 Ladera Way
<i>Steve Wall Denise Wallace</i>	1110 Ladera Way
	1118 Ladera Way
	1114 Ladera Way
<i>[Signature]</i>	1115 Ladera Way
	1118 Ladera Way
<i>Mary Ann Monson + Monte Monson</i>	1120 Ladera Way
<i>Jennifer Gray</i>	1123 Ladera Way
	1124 Ladera Way
<i>Frank Gravecchi - Marilyn Gravecchi</i>	1127 Ladera Way
<i>Harry Sheldon</i>	1128 Ladera Way
<i>August Jensen</i>	1131 Ladera Way
<i>Mary Ferguson</i>	1132 Ladera Way
<i>Dale Zelnick</i>	1135 Ladera Way

Neighborhood Outreach Survey

I do not have an objection to John and Sharon Adam's project of building a 1492 sq ft residence on the Maywood Dr. side of their lot at 1109 Alomar Way.

	1136 Ladera Way
	1200 Ladera Way
	1201 Ladera Way
	1204 Ladera Way
	1205 Ladera Way
	1208 Ladera Way
	1212 Ladera Way
	1215 Ladera Way
	1216 Ladera Way
	1219 Ladera Way
	1220 Ladera Way
	1223 Ladera Way
	1224 Ladera Way
	1227 Ladera Way

Neighborhood Outreach Survey

I do not have an objection to John and Sharon Adam's project of building a 1492 sq ft residence on the Maywood Dr. side of their lot at 1109 Alomar Way.

	1808 Valdez Avenue
<i>Don Paulk</i>	1816 Valdez Avenue
	1820 Valdez Avenue
	1824 Valdez Avenue
	1828 Valdez Avenue
	1832 Valdez Avenue
<i>Naama & Sullivan, Robert Sullivan</i>	1900 Valdez Avenue
	1908 Valdez Avenue
	1916 Valdez Avenue
	1927 Valdez Avenue
	1923 Valdez Avenue
	1919 Valdez Avenue
<i>No construction during weekends</i> <i>Chris</i>	1915 Valdez Avenue
	1905 Valdez Avenue
<i>Carolyn Mignacco</i>	1901 Valdez Avenue

June 2, 2008
1641-1

Mr. Jean Adams
1109 Alomar Way
Belmont, California 94002

**RE: RESPONSE TO PLANNING DIVISION
RESOLUTION
1109 ALOMAR WAY
NOTICE OF ACTION, APPLICATION 2006-0054
BELMONT, CALIFORNIA**

Dear Mr. Adams:

As requested, we are providing this letter addressing the planning division action on your proposed residence to be constructed at Maywood Drive (subdivision from 1109 Alomar Way) in Belmont, California. As you know, we performed a geotechnical investigation for the project and presented the results in our August 24, 2006 report and responded with supplemental geotechnical information in our May 8, 2007 letter.

The April 15, 2008 Planning Division resolution presents geotechnical related concerns that are used to argue against approval of the subdivision under both findings noted A and C.

Finding A. "residential development should occur in areas of low risk from geologic and hydrologic hazards." City staff note that relatively high temporary cuts slopes may be required for construction of the retaining walls at the rear of the structure. The cuts will be into competent sandstone bedrock which has good stability and strength properties. By following an approved shoring plan, which would typically include soil nails, stitch piers, soldier beams, tiebacks or other systems, the cuts can be safely retained during construction with no adverse impact on construction workers or neighboring property. These systems have been used on numerous projects in the area, including City of Belmont projects. See our May 8, 2007 letter for more detail.

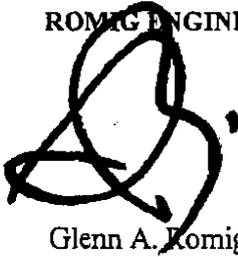
Finding C. "The site is not physically suitable for the type of development." City staff make the same argument regarding the height and temporary retention of the cuts during construction, which we addressed as routine to mitigate on this project and on numerous other projects in the area under Finding A above. City staff also noted that a large amount of cut will be required for the project. We note that other projects similar to this have been approved in Belmont including the Sachdeva project at 2702 Monte Cresta Drive, where cuts as high as about 30 feet and similar quantities of off haul were required.

We make no warranty, expressed or implied, except that our services are performed in accordance with geotechnical engineering principles generally accepted at this time and location.

If you have any questions or comments concerning this letter, please call.

Very truly yours,

ROMIG ENGINEERS, INC.



Glenn A. Romig, P.E.



Copies: Addressee (2)
Smith Randlett, Foulk & Stock, Inc. (1)
Attn: Mr. George T. Stock

GAR: sb

SMITH, RANLETT, FOULK & STOCK, INC.
CIVIL ENGINEERS - LAND SURVEYORS

P.O. BOX 970
REDWOOD CITY CA 94064-0970
1735 E. BAYSHORE RD. #6A
REDWOOD CITY CA 94063

TEL 650 368 1137
FAX 650 366 9596

Jean Adam
1109 Alomar Way
Belmont CA 94002

May 19, 2008

Re: Notice of Action, Application 2006-0054; Resolution No. 2008-21
1109 Alomar Way (Appl. No. 2006-0054)

Dear Mr. Adam:

It appears the above document refers to your project not meeting 2 findings, noted as "A" and "C".

"The proposed map is consistent with the applicable general and specific plans". (A)

"significant open space....", etc. This makes sense, and probably created for a larger subdivision, where there is land that could be reserved for such, but to deny a lot split using this **goal** is simply taking away the owner's rights.

"Dense native vegetation" is stretching it. "Protected heritage trees" outside of the building footprint can be protected or moved or replaced.

"The subdivision would facilitate development of a new single family dwelling on this **open space area.....**". This basically is a vacant portion of a lot within this subdivision, not any different than any other vacant lot within this subd. once created.

"should decrease as steepness..increases." The project met the slope density requirement!

"The proposed subdivision would create a lot fronting onto Maywood Drive...". There are 5-6 other residences fronting on Maywood Drive on the same side of the street, not counting those across the street.

"This subdivision would be inconsistent with the **surrounding land use pattern**". What does "surrounding" mean, one lot each way of this one? See the City Map.

"Policy 4 (d) and (i)". "grading be kept to a **minimum necessary** to permit development...". The Project has tried several alternatives, this appears to be the **minimum** cubic yards.

"and serves as a natural buffer". Do all potential vacant lots serve as a "natural buffer", therefore no development on them?

"low risk from geologic and hydrologic hazards...may be potentially unstable during excavation...". Modern retaining wall design & construction techniques can handle almost any situation. Take for example the current project (APN 043-311-086) on Monte Cresta recently approved and under construction for Mr. Sacdeva.

"The site is physically suitable for the type of development." (C)

Response to the first paragraph under (C) has been made elsewhere.

"828 C. Y.". See the aforementioned Sacdeva Project.

"City Arborist....five regulated protected size...". Can't the project mitigate this issue?

Sincerely,

**George
Stock**

Digitally signed by George Stock
DN: cn=George Stock, c=US,
o=Smith Randlett Foulk + Stock,
Inc., ou=SRFS,
email=smrfrs@abglobal.net
Date: 2008.05.19 15:40:20 -0700

George T. Stock, RCE 25079