

Attachment E

Copy of the Slope Density Ordinance adopted by the City Council September 12, 2006
and Meeting Minutes

ORDINANCE AMENDING SECTIONS 4.2.3 (a) & (c) (SITE AREA, DIMENSION, AND DENSITY LIMITATIONS) OF BELMONT ZONING ORDINANCE NUMBER 360 TO ESTABLISH A SLOPE/DENSITY REQUIREMENT FOR NEW SUBDIVISIONS IN THE R-1A, R-1B, AND R-1C SINGLE FAMILY RESIDENTIAL ZONING DISTRICTS

WHEREAS, on August 16, 2006, the City Council directed staff to evaluate establishment of a slope/density requirement for new subdivisions in the R-1A, R-1B, and R-1C Single Family Residential Zoning Districts for Commission consideration of possible amendments to Sections 4.2.3 (a) and (c) (Site Area, Dimension, and Density Limitations) of the Belmont Zoning Ordinance; and,

WHEREAS, on September 5, 2006, the Planning Commission, following notification in the prescribed manner, conducted a public hearing, at which hearing the Commission considered public testimony and a staff report for the Zoning Code amendments, and recommended amendments to Sections 4.2.3 (a) and (c) (Site Area, Dimension, and Density Limitations) of the Zoning Ordinance; and,

WHEREAS, on September 12, 2006 and September 20, 2006, the City Council, following notification in the prescribed manner, conducted public hearings, at which hearings the Council considered public testimony and staff reports on the aforementioned Zoning Code amendments; and,

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

WHEREAS, the City Council hereby adopts the staff reports (dated September 12, 2006 and September 20, 2006) and the facts contained therein as its own findings of fact; and,

WHEREAS, the City Council finds the proposed amendments to be Exempt pursuant to CEQA Section 15183 – *Residential Projects Consistent with a Community Plan, General Plan, or Zoning*, and Categorically Exempt pursuant to CEQA Section 15308 – *Actions of Regulatory Agencies for the Protection of the Environment*; and,

WHEREAS, the City Council after consideration of all testimony and staff reports hereby determines that the proposed amendments to Sections 4.2.3 (a) and (c) (Site Area, Dimension, and Density Limitations) of the Belmont Zoning Ordinance to establish a slope/density requirement for new subdivisions in the R-1A, R-1B, and R-1C Single Family Residential Zoning Districts achieves the objectives of the Zoning Plan and the General Plan for the City. These amendments would provide for more current and comprehensive development standards for single family subdivision projects in the aforementioned zoning districts, and support protecting and promoting the comfort, convenience, and general welfare of the community, advancing the goal of providing a precise guide for physical development of the city, and fulfilling the Goals and Policies of the General Plan.

WHEREAS, the City Council hereby mandates that the aforementioned Belmont Zoning Ordinance amendments regarding slope/density requirements for the R-1A, R-1B, and R-1C single family residential zoning districts, shall be effective for any project submitted after September 12, 2006.

SECTION 1: NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Belmont that Section 4.2.3 (a) & (c) of the Belmont Zoning Code be hereby amended to read as follows:

Section 4.2.3 (Site Area, Dimension and Density Limitations)

(a) **SITE AREA.** The minimum site area shall be as follows: R-1E - one acre; R-1H - 20,000 square feet; R-1A - 9,600 square feet; R-1B - 6,000 square feet; R-1C - 5,000 square feet; provided, however, that each R-1A, R-1B, and R-1C district lot proposed for new land division shall comply with the maximum allowed residential dwelling unit density and minimum lot sizes computed in accordance with the applicable provisions of the Slope/Density Tables in this Section. The maximum allowable densities and the minimum allowable lot sizes shall be based upon net land area (after subtracting public street rights of way and vehicular access easements). Lot slope shall be calculated using the formula from the definitions section of Ordinance 360 and lot slopes ending in ½% or more shall be rounded to the next highest whole number. Each lot created by subdivision, or any remainder parcel associated with a subdivision, shall individually meet the minimum lot size standard based upon that lot's particular slope. The allowable density indicated, however, does not preclude the hearing body from determining that a lower density, or larger lots, from that indicated is required to meet the purpose of this ordinance and the goals and policies of the General Plan.

(c) **SITE FRONTAGE.** All R-1A, R-1B, and R-1C district lots created by new land division shall maintain a minimum street frontage of not less than 50 feet. R-1A, R-1B, and R-1C district cul-de-sac lots created by new land division shall comply with minimum street frontage standards established in the City's Subdivision Ordinance (Ordinance 530).

TABLE 1 – SLOPE/DENSITY

R-1A DENSITY AND MINIMUM LOT SIZE STANDARDS – NEW SUBDIVISIONS

AVERAGE LOT SLOPE	DWELLINGS PER NEW ACRE	MINIMUM LOT SIZE
0-10%	4.356	10000
11%	4.250	10250
12%	4.149	10500
13%	4.052	10750
14%	3.960	11000
15%	3.788	11500
16%	3.630	12000

17%	3.485	12500
18%	3.351	13000
19%	3.227	13500
20%	3.111	14000
21%	2.904	15000
22%	2.723	16000
23%	2.562	17000
24%	2.420	18000
25%	2.293	19000
26%	2.074	21000
27%	1.894	23000
28%	1.742	25000
29%	1.584	27500
30%	1.452	30000
31%	1.320	33000
32%	1.210	36000
33%	1.117	39000
34%	1.037	42000
35% AND ABOVE	0.968	45000

TABLE 2 – SLOPE/DENSITY

R-1B DENSITY AND MINIMUM LOT SIZE STANDARDS – NEW SUBDIVISIONS

AVERAGE LOT SLOPE	DWELLINGS PER NEW ACRE	MINIMUM LOT SIZE
0-10%	5.808	7500
11%	5.296	8225
12%	5.155	8450
13%	5.021	8675
14%	4.894	8900
15%	4.585	9500
16%	4.356	10000
17%	4.149	10500
18%	3.960	11000
19%	3.788	11500
20%	3.630	12000
21%	3.351	13000
22%	3.111	14000
23%	2.904	15000
24%	2.723	16000
25%	2.489	17500
26%	2.178	20000
27%	1.936	22500

28%	1.778	24500
29%	1.584	27500
30%	1.452	30000
31%	1.320	33000
32%	1.210	36000
33%	1.117	39000
34%	1.037	42000
35% AND ABOVE	0.968	45000

TABLE 3 – SLOPE/DENSITY

R-1C DENSITY AND MINIMUM LOT SIZE STANDARDS – NEW SUBDIVISIONS

AVERAGE LOT SLOPE	DWELLINGS PER NEW ACRE	MINIMUM LOT SIZE
0-10%	7.260	6000
11%	7.026	6200
12%	6.806	6400
13%	6.600	6600
14%	6.406	6800
15%	5.808	7500
16%	5.445	8000
17%	5.125	8500
18%	4.840	9000
19%	4.585	9500
20%	4.356	10000
21%	3.960	11000
22%	3.630	12000
23%	3.351	13000
24%	3.111	14000
25%	2.723	16000
26%	2.293	19000
27%	1.980	22000
28%	1.815	24000
29%	1.584	27500
30%	1.452	30000
31%	1.320	33000
32%	1.210	36000
33%	1.117	39000
34%	1.037	42000
35% AND ABOVE	0.968	45000

SECTION 2: Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

SECTION 3: Pursuant to Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

SECTION 4: The City Clerk shall cause this Ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

INTRODUCED this 20 day of September, 2006.

* * * * *

PASSED AND ADOPTED as an Ordinance of the City of Belmont at a regular meeting thereof held on the 26 day of September, 2006.

AYES, COUNCIL MEMBERS: Lieberman, Dickenson, Mathewson

NOES, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: None

RECUSED, COUNCIL MEMBERS: Feierbach, Warden

Philip E. Mathewson
MAYOR of the City of Belmont

ATTEST:

Jeri Clark
CLERK of the City of Belmont

CALL TO ORDER 7:30 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Lieberman, Dickenson, Mathewson

COUNCILMEMBERS RECUSED: Feierbach, Warden

Staff Present: Interim City Manager Belanger, City Attorney Zafferano, Community Development Director de Melo, City Clerk Cook.

CONTINUED PUBLIC HEARING

Public Hearing to consider General Plan and Zoning Ordinance amendments regarding establishment of a slope/density requirement for new subdivisions in the R-1A, R-1B, and R-1C (single family residential) zoning districts (continued from 9/12/06)

Mayor Mathewson noted the continued recusal of Councilmembers Feierbach and Warden due to the fact that they live within 500 feet of a parcel potentially affected by this ordinance.

Community Development Director de Melo reviewed the discussion and actions at the meeting of September 12 when this was first reviewed. He noted that the proposed ordinance meets the goals and objectives of the General Plan. He clarified that as a result of direction at the last meeting, the slope density table had been modified from one table to three tables, one for each of the R-1A, B, and C zoning districts. As a result of the new table, of the 86 lots originally identified as being impacted, there are now 30.

Mayor Mathewson reopened the Public Hearing.

Will Dubrul, Belmont resident, noted that no one that he approached refused to sign the petition he presented at the last meeting. He expressed concern regarding the grandfathering in of the two pending subdivision applications, as this is not usually done. He stated that fees would likely need to be repaid.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, the Public Hearing was unanimously closed by a show of hands (3-0, Warden/Feierbach recused).

Councilmember Lieberman stated that he had given considerable thought to this issue since the previous Hearing, and had gathered additional information to help in his deliberations, including discussions with a former Planning Commission member and a tour of the City. It was worthwhile to have continued the Hearing. The new tables are much closer to something he can support. He described some further modifications that he would recommend. He noted some areas are less restrictive, and some areas, especially at the higher slopes, are more restrictive than the original Planning Commission recommendation. There is no rational basis to require a lot larger than one acre in the R-1 zoning district, but it is appropriate for the HRO (hillside residential open space) district. Protecting hillsides is important, and his proposed changes meet that goal.

Community Development Director de Melo displayed a chart showing the differences between those presented on September 12th and Councilmember Lieberman's proposal.

In response to Councilmember Dickenson, Community Development Director de Melo clarified that the area behind Carlmont High School is zoned HRO, and would not be affected by the proposed ordinance. It will affect only 30 lots in the R-1 zoning district. He noted that most private school sites are zoned Planned Development (PD), and any change in use from school to residential would require a PD amendment, Conceptual and Detailed Development Plans, and a General Plan amendment.

Councilmember Dickenson stated that he supports some of the Planning Commission's recommendations and some of Councilmember Lieberman's recommendations, especially those for properties with a greater than 27 percent slope.

Discussion ensued regarding the table comparisons.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, the Public Hearing was unanimously reopened by a show of hands (3-0, Warden/Feierbach recused).

Will Dubrul, Belmont resident, noted that Councilmember Lieberman stated at the last meeting that he was not educated regarding this issue, but has now presented information. He wanted to know why development should be less strict in certain levels.

Councilmember Lieberman responded that this issue is about hillside protection. Slopes of up to 10 percent are relatively flat. The Planning Commission took a hard approach. He is proposing fewer restrictions on the lower slopes and more restrictions on the higher slopes.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, the Public Hearing was unanimously closed by a show of hands (3-0, Warden/Feierbach recused).

Mayor Mathewson stated he prefers more restrictions than the Planning Commission's recommendations. Staff created a reasonable compromise. He cannot support grandfathering the two applications unless an application is complete or they have secured a building permit. Traffic is an issue, and being environmentally sound is a core value of the community. This issue is not about open space but about more room around a home, which gives a feeling of open space. Slope density should be applied to the whole City, not just the HRO zone. Geologic issues exist in other than the HRO zone, and there have been slide problems in many areas. It is not unusual for a community to make land-use changes over time. The R-1C zone is not as important as the other two, and the highest concern is the R-1B, since that is where the majority of the affected lots are located. He supports the table recommended in the staff report, and cannot support loosening as much as proposed by Councilmember Lieberman. A ten percent slope is significant. He can support a 45,000 square foot lot requirement at 35 percent slope and above. Not many lots are affected at this level.

Councilmember Dickenson stated that Measure F was about open space, and this issue is about private property. It is an important decision. He supports Councilmember Lieberman's proposed

figures at the 27-35 percent slope, also the 35 percent and above. Lot sizes for slopes between 10 and 20 percent need to be increased, as Councilmember Lieberman's proposed figures are too low.

Discussion ensued regarding formulation of tables and methodology.

Council concurred regarding the R-1C figures, the lot sizes for 30 percent and higher slopes for all three zones, and 10-14 percent figures in the R-1A table as presented by Councilmember Lieberman.

Discussion ensued regarding adjustments in some of the square footage at certain slopes, including splitting the difference in the lot sizes between staff's table and Councilmember Lieberman's proposal.

Council concurred with the changes made for slopes of 20-29 percent, that increments of 500 square feet be applied to slopes of 15-20 percent, and to split the difference in the R-1B chart.

RECESS: 9:20 P.M.

RECONVENE: 9:35 P.M.

Community Development Director de Melo reviewed the changes made to the table based on Council direction. He noted that no additional lots are affected as a result of these changes, and a number of them continue to be un-subdividable, even with the changes as noted.

Council concurred regarding the newly-created tables for each of the zoning districts.

Councilmember Lieberman stated that some compromises are stricter than the staff recommendation. He is still uncomfortable with some of the individual numbers, but he can support the tables as amended, and will compromise.

Discussion ensued regarding grandfathering of existing applications.

In response to Mayor Mathewson, Community Development Director de Melo clarified that fees have been paid for both applications, and some staff work has been performed against fees paid for the Alomar Drive proposal. The application for Talbryn Drive was very recently submitted, and no work has been performed to date.

In response to Mayor Mathewson, City Attorney Zafferano clarified that the law states that a property owner does not have a vested right until the building permit is issued. There is no legal requirement to grandfather anything. Neither property is vested at this time.

Community Development Director de Melo noted that any unused fees would be returned if the applications are not grandfathered. He noted that the Alomar property would be un-subdividable under the new regulations, and two lots could be derived from the Talbryn property.

Mayor Mathewson expressed concern regarding retroactivity. He noted that if Proposition 90 passes, there is no ability to apply newer density. He also noted that the State of Oregon has had no new zoning changes since a similar proposition was adopted in that state.

Councilmember Dickenson stated that the change to the Council Protocols was fast-tracked. There is a need to focus on other issues. This is a piecemeal approach to General Plan changes. He noted the Planning Commission expressed concerns regarding the future use of private school property. Staff resources have been utilized for this issue. He supports grandfathering.

Councilmember Lieberman stated that Council governs by the spirit of the law. He did not support the process of how this issue arose. It is fair and right to allow the two applications to go through the process under the current regulations.

Councilmember Dickenson noted that slope density is only one tool for analyzing subdivisions. Applications will need staff review and Planning Commission review and approval or denial. This is done at a public meeting.

Mayor Mathewson stated that applicants do not have rights until vested by law. Although it violates his personal principles, he can support grandfathering in order to pass the ordinance.

ACTION: On a motion by Councilmember Lieberman, seconded by Councilmember Dickenson, Resolution 9817 Amending Sections 2008 and 2011 of the Belmont General Plan to Establish a Slope/Density Requirement for new Subdivisions in the R-1A, R-1B, and R-1C Single-Family Residential Zoning Districts was unanimously approved by a roll call vote (3-0, Warden/Feierbach recused).

ACTION: On a motion by Councilmember Lieberman, seconded by Councilmember Dickenson, and unanimously approved by a roll call vote (3-0, Warden/Feierbach recused) to introduce an Ordinance amending Sections 4.2.3(a) & (c) of the Belmont Zoning Ordinance 360 to establish a Slope/Density Requirement for new Subdivisions in the R-1A, R-1B, and R-1C Single Family Residential zoning Districts, to waive further reading, and to set the second reading and adoption for September 26, 2006, said ordinance to incorporate changes to the tables as noted, and to grandfather in any subdivision application received by 5:00 p.m. on September 12, 2006.

Councilmember Lieberman stated that this issue came a long way in two months. There was much thought and compromise put into its passage, and work was done by all five Councilmembers on this matter.

Mayor Mathewson stated he anticipated an egregious process, and he appreciates the compromises reached. This shows that everyone can work together.

ADJOURNMENT at this time, being 9:55 p.m. this Special Meeting was Adjourned.

**Terri Cook
Belmont City Clerk**

Meeting Tape Recorded and Videotaped
Audio Recording 645