



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
December 19, 2007**

TO: Mayor and City Council

FROM: Albert Lopez, Deputy Community Development Director

SUBJECT: Appeal of a Planning Commission decision to deny Lot Line Adjustment #06-04 located at 370 Lindsey Drive, APN's: 366-150-018 & 019

DATE: November 30, 2007

RECOMMENDATION:

Uphold Planning Commission decision and deny lot line adjustment request to adjust parcel boundaries between four existing lots, creating a new 4-lot configuration as proposed by applicant, ranging in size from 8.45 to 64.41 acres. Total site area of all parcels is approximately 160 acres.

BACKGROUND:

The Planning Commission heard this item at its November 13th meeting, and voted unanimously 6-0 to deny the application (with one member absent, AnaMarie Avila-Farias). The consensus was that the lot line adjustment did not conform to the Alhambra Hills Specific Plan (AHSP) as detailed in the staff presentation, and that if future development is to occur, it should be as specified in the AHSP and its accompanying Environmental Impact Report. The draft minutes of the Planning Commission and the Planning Commission staff report and resolution denying the project are further discussed below.

Project Information

The applicant is seeking approval of a lot line adjustment pursuant to the Subdivision Map Act, and is proposing to reconfigure four existing parcels to create four newly configured parcels ranging in size from 8.45 to 52.38 acres (see **Exhibit A**). The total land area of the existing and proposed parcels is approximately 160 acres; the parcels are remnants of the Forest Hills subdivision as shown in Exhibit A. These remainder parcels are in an environmentally sensitive area with limited frontage and difficult access. Any new access roads would have to be cut through sloped terrain, and/or go through existing neighborhoods at ends of cul-de-sacs.

The recent development history of the 160 acre site is limited to the current proposal, and the design review approval of a one acre building site with a 10,000 square foot home by Melvin Phillips in 1984.¹ When the City approved the Phillips project it also required a large portion of the site (120 acres) be protected with a scenic easement, limiting future development to the one

¹ In 1987, Mr. Phillips applied for an 18 lot subdivision to be built north of Christie Drive, in the northeastern-most corner of the 160 acre parcel. Planning staff recommended against this proposal as well as several subsequent,

approved acre, and a 40 acre area where future development could occur consistent with the AHSP. Those 40 acres were ostensibly kept out of the scenic easement as the most reasonable place to consider future development, if any at all were to be permitted.

Although the City's files reflect that in connection with Mr. Phillips' application for development of his 10,000 square foot home, City staff recommended a condition requiring Mr. Phillips to dedicate the southern 120 of his 160 acres to the City as open space (this condition was ultimately approved by the Council)², the precise boundaries of that 120 acre open space area remains uncertain. This is because the 1984 open space easement deed actually executed and recorded by the Phillips in favor of the City contained a legal description that covered the entire 160 acres owned by the Phillips (but reserved to the Phillips the right to build a single family home on the one acre site that they had previously received design review approval for).

Nevertheless, during the 1987 Alhambra Hills Specific Plan (AHSP) process that occurred after Mr. Phillips received his one acre building site approval, the official record of the AHSP EIR shows that Mr. Phillips did not want any development south of Christie Drive, and the plan was ultimately approved as such. See, **Exhibit C** (Page D-9 of the Final EIR) and **Exhibit D** (Figure 31.30 of the AHSP). So, the evidence is clear that the 40 acres was intended to be located in the northern-most portion of the 160 acre holdings of the Phillips. This is further supported by the four remote home site locations ultimately approved in the AHSP, as they are all located north of Christie Drive, and that area is the only area of all the 160 acre site (with the exception of the original one acre building site) where development can occur (absent a General Plan Amendment). Finally, and most importantly, when, in 1987, the Council adopted the AHSP, it did so by approving Resolution No. 56-87 which, itself, adopted certain CEQA findings, and in those CEQA findings there is found the following statement: "Plan has been altered. No development on Phillips property south of Christie Drive (Map 31.30)." See, **Exhibit E**.

Current Regulations

As part of approving the AHSP, the Council adopted and approved the maps contained in that AHSP. The AHSP includes a Figure 31.30 which depicts the areas covered by the AHSP and identifies those portions that can be developed. Those portions are described as "Development Area" and are shown on the plan with multiple dots. See, **Exhibit D**.

The parcels at issue in the subject lot line adjustment application are currently subject to the land use restrictions adopted by the City in the 1987 AHSP in which no portion of the entire 160 acres is considered a "Development Area". However the plan does recognize the approved one acre

smaller iterations, until, finally, Mr. Phillips submitted a 5 lot subdivision proposal for the same location. Because Mr. Phillips refused to agree to perform soils and hydrology studies for his proposed subdivision, the Council ultimately disapproved the 5 lot proposal in November 1987.

² In the Director of Planning and Building's July 12, 1984, report to the Council recommending that the Council accept the open space easement from the Phillips, the easement is described as being 120 acres in size. Additionally, attached to that report is a diagram showing the boundaries of the 120 acre scenic easement. See, **Exhibit B**. You will note that on the western edge of the subject 160 acre parcel shown on that diagram are three nodules carved out of the scenic easement. These nodules correspond to the areas then shown on the AHSP's Figure E-7 (Modified 'Third Draft' Plan Alternative) as being potentially developable.

As the current staff report shows, in 1987, Mr. Phillips indicated a desire not to allow any development south of Christie Drive, and the final AHSP Land Use and Circulation plan (figure 31.30, **Exhibit D**) shows, these nodules were deleted from the areas shown as developable.

home site, plus it allows four “remote” home sites to be located within the northern portion of the 160 acre site. See, **Exhibit F** (Figure E-8 depicting “Existing Land Use” of the AHSP).

The applicant’s existing four parcels are located such that their development potential is limited. Parcel “A” and “B” (where the AHSP locates four remote homesites) and Parcel “C” (one acre Phillips parcel) are areas where development is permitted, but Parcel “D” is outside of the AHSP’s “Development Area”. Development on “D” cannot occur unless a General Plan Amendment is approved (and resolution of the location of the 120 acres open space easement is achieved, but the issue of the location of the open space easement is not before the Council at this time), allowing additional remote home sites. Alternatively, as proposed by Staff to the applicant, the parcels can be reconfigured through a lot line adjustment to be in conformance with the AHSP. See, **Exhibit G** (staff’s recommended lot line adjustment consistent with the AHSP).

Conformance with Specific Plan

The City Attorney has provided staff with the appropriate language from the Subdivision Map Act that governs this application, specifically:

A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. Cal. Gov’t Code section 66412(d).

The applicant has submitted a lot line adjustment application which proposes reconfiguring the existing four lots into four new lots. The two northern-most “new” lots include one or more remote homesites as shown on AHSP’s figure 31.30. The middle “new” lot includes the former Phillips’ home site³ and the fourth, southern-most “new” lot is located entirely within a non-development area as so shown on AHSP’s figure 31.30 and upon which no development can occur.

California Government Code section 66412(d) (quoted above) requires that the “parcels” resulting from a proposed lot line adjustment “conform” to the applicable specific plan. “Conform” means “to make the same or similar . . . to bring into harmony or agreement”. Webster’s New World Dictionary, 2nd College Edition. The four lot configuration proposed by the applicant here does not conform to and does not bring these lots into harmony with the AHSP. Even if “conform” as used in section 66412(d) is equivalent to “make consistent”, “consistency” has been construed in the context of general plan consistency as follows: “An

³ City staff is taking the position that the middle “new” lot can be developed with one homesite located where the old Phillips’ homesite was approved. Although it is arguable that because the home on this site burned down many years ago and, as such, any right to develop said site has been lost through abandonment, the AHSP recognized this site as having development on it and the scenic easement permits that site to be developed with one home.

action, program or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment.” Governor’s Office of Planning and Research, General Plan Guidelines (2003), p. 164. Permitting the applicant to create a lot that cannot be built upon under the AHSP cannot “promote” or “further” the objectives of the AHSP and acts as a precursor obstruction to the attainment of the AHSP’s goals and policies.

The applicant has argued in support of its application that all it is doing is drawing lines on a map – that it is not now seeking development of these parcels. Thus, according to the applicant, any inconsistency with the AHSP’s development preclusions is not now before the City or Planning Commission. The resolution of that issue is put off for another day, namely, when the applicant or new owners of these four parcels return to the City for development approvals.

It is staff’s opinion that the requirement that a lot line adjustment “conform” to the AHSP cannot be read so narrowly. What the applicant is essentially arguing is that the City must ignore reality and address its application in a vacuum, pretending that all that is involved here is drawing lines on a piece of paper. However, it is clear that whether it is a subdivision of 500 lots or a lot line adjustment for four parcels, even if development is not being contemporaneously proposed, the City is required to compare such a proposal to its applicable general and specific plans. Those plans contain a myriad of development and use criteria that must be complied with in order to obtain approval for such parcelization proposals. Whether it is density limitations, minimum lot size requirements or requirements as to the location of permitted development, if those conditions are specified in an applicable general or specific plan, the City is entitled and required to apply them to an application that creates or relocates parcels.

In the context of determining whether CEQA compels preparation of an EIR instead of a negative declaration, the courts are clear that the reviewing agency cannot put blinders on and pretend that planning documents are not a precursor to the development that they presage, and thereby avoid having to analyze that development when approving the plan. In *City of Carmel etc. v. Board of Sup.* (1986) 183 Cal.App.3d 229, 244, the court required the preparation of an EIR for a proposed re-zoning even though no specific development project was being proposed at the time. The court explained that the re-zoning “was a necessary first step to approval of a specific development project. Even if this were not so, the re-zoning by itself . . . represented a commitment to expanded use of the property”

Under the same reasoning, the lot line adjustment in issue here is a harbinger and commitment to development on the parcels that are proposed to be re-configured. Indeed, even the applicants’ attorney acknowledged during the Planning Commission hearing that his clients’ intent in seeking the lot line adjustment was to ready the parcels for development. “But there has to be something done to make this property usable before people are going to be able to spend money on it and do things like this drainage or improve it. And that’s really what they’re [the attorney’s clients] here to do.” See, minutes of Planning Commission hearing at page 4 (**Exhibit H**). However, that likely development is antithetical to the AHSP and, thus, cannot be found to “conform” to the AHSP.

Recommendation to Planning Commission

As discussed at the Planning Commission meeting, Staff has suggested to the applicant a lot configuration (see, **Exhibit G**) that would allow the applicant to take advantage of the four

remote homesites as identified in the AHSP, comply with the Council's resolution adopting the AHSP which included the condition that no development could occur south of Christie Drive and, incidentally, it would conform with the envisioned 120 acre open space easement. The plan proposed to the applicant creates three, relatively good-sized, developable parcels north of Christie Drive (as required by the AHSP), with the remaining fourth parcel comprising the balance of the property south of Christie Drive, thereby limiting development in the remaining, southern area to the original Phillips homesite.

The applicant has not expressed an interest in the lot configuration proposed by Staff, and is pursuing its own proposal with this application request.

In this light, staff is recommending that the decision of the Planning Commission for denial of the lot line adjustment application be upheld, on grounds that the project does not conform to the Alhambra Hills Specific Plan.

The draft Planning Commission minutes, staff report and adopted resolution denying the project are attached, see, **Exhibits H and I**.

FISCAL IMPACT:

None.

ACTION:

Adopt resolution (**Exhibit J**) upholding Planning Commission decision to deny lot line adjustment #06-04 and deny appeal.

Exhibits

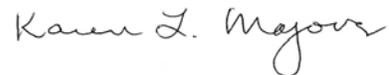
- A. 11X17 Drawings prepared by Applicant's Civil Engineer (3 pages)
- B. 1984 City Council report on accepting easement (3 pages)
- C. Page D-9 of Final EIR
- D. Figure 31.30 of the AHSP
- E. City Council Resolution 56-87 and CEQA findings (3 pages)
- F. Figure E-8 Existing Land Use from AHSP
- G. Staff recommended lot configuration
- H. Draft Planning Commission minutes from November 13th 2007
- I. November 13, 2007 Planning Commission Staff Report and Adopted Resolution
- J. Draft City Council Resolution

APPROVED BY:



City Manager

APPROVED BY:



Assistant City Manager Community
& Economic Development

BOUNDARY LINE
ADJUSTMENT APPLICATION
EXISTING PARCELS



RECEIVED
DEC 11 2007
COMMUNITY DEV. DEPT.

Exhibit A

OWNER: OSTROSKY ENTERPRISES, INC.
2240 RAILROAD AVENUE
LIVERMORE, CA 94550

CONTACT: ROBERT DEVRIES
925-455-1500

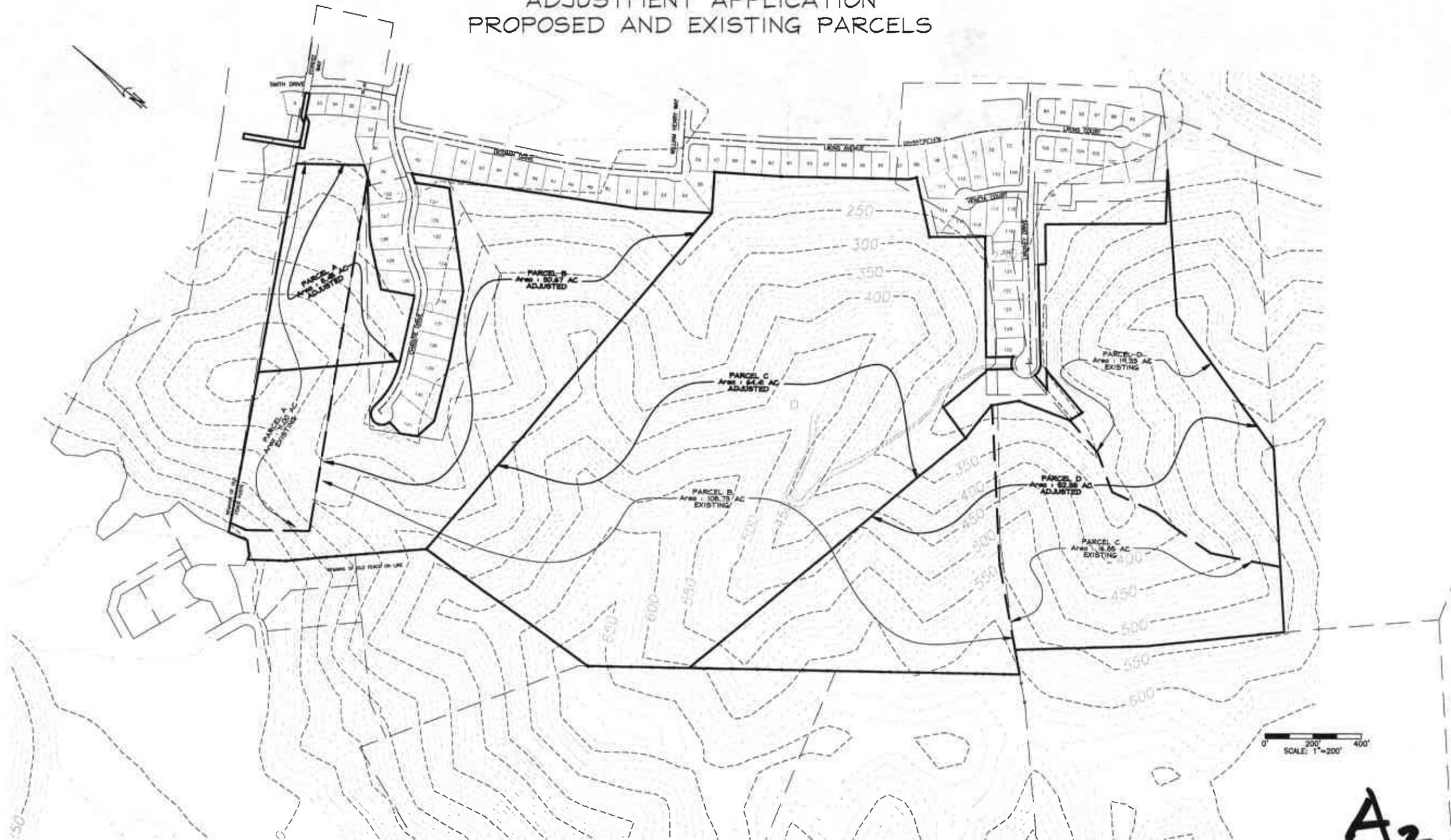


EASEMENTS OF RECORD:

1. AN EASEMENT FOR ROAD AND UTILITY PURPOSES AND APPURTENANCES THERETO AND INCIDENTAL PURPOSES, RECORDED FEBRUARY 16, 1960 IN BOOK 3557, PAGE 348 OF OFFICIAL RECORDS.
2. AN EASEMENT FOR ROAD AND UTILITY PURPOSES AND INCIDENTAL PURPOSES, RECORDED AUGUST 3, 1961 IN BOOK 3923, PAGE 574 OF OFFICIAL RECORDS
3. AN EASEMENT FOR ROAD AND UTILITY PURPOSES AND INCIDENTAL PURPOSES, RECORDED AUGUST 3, 1961 IN BOOK 3923, PAGE 577 OF OFFICIAL RECORDS
4. OPEN SPACE SCENIC EASEMENT, RECORDED IN INSTRUMENT No. 85-97804 IN BOOK 12423, PAGE 122, CONTRA COSTA COUNTY RECORDS.

PARCEL A (11.00 AC) A PORTION OF PARCEL 2, 2607 O.R. 148.
PARCEL B (108.73 AC) A PORTION OF PARCEL 1, 2607 O.R. 148.
PARCEL C (16.85 AC) A PORTION OF PARCEL 1, 2607 O.R. 152.
PARCEL D (19.33 AC) A PORTION OF PARCEL 2, 2607 O.R. 152.
A PORTION OF RANCHO DEL HAMBRE IN THE CITY OF MARTINEZ,
CONTRA COSTA COUNTY, CALIFORNIA

BOUNDARY LINE
ADJUSTMENT APPLICATION
PROPOSED AND EXISTING PARCELS



A₂

OWNER: OSTROSKY ENTERPRISES, INC.
2240 RAILROAD AVENUE
LIVERMORE, CA 94550

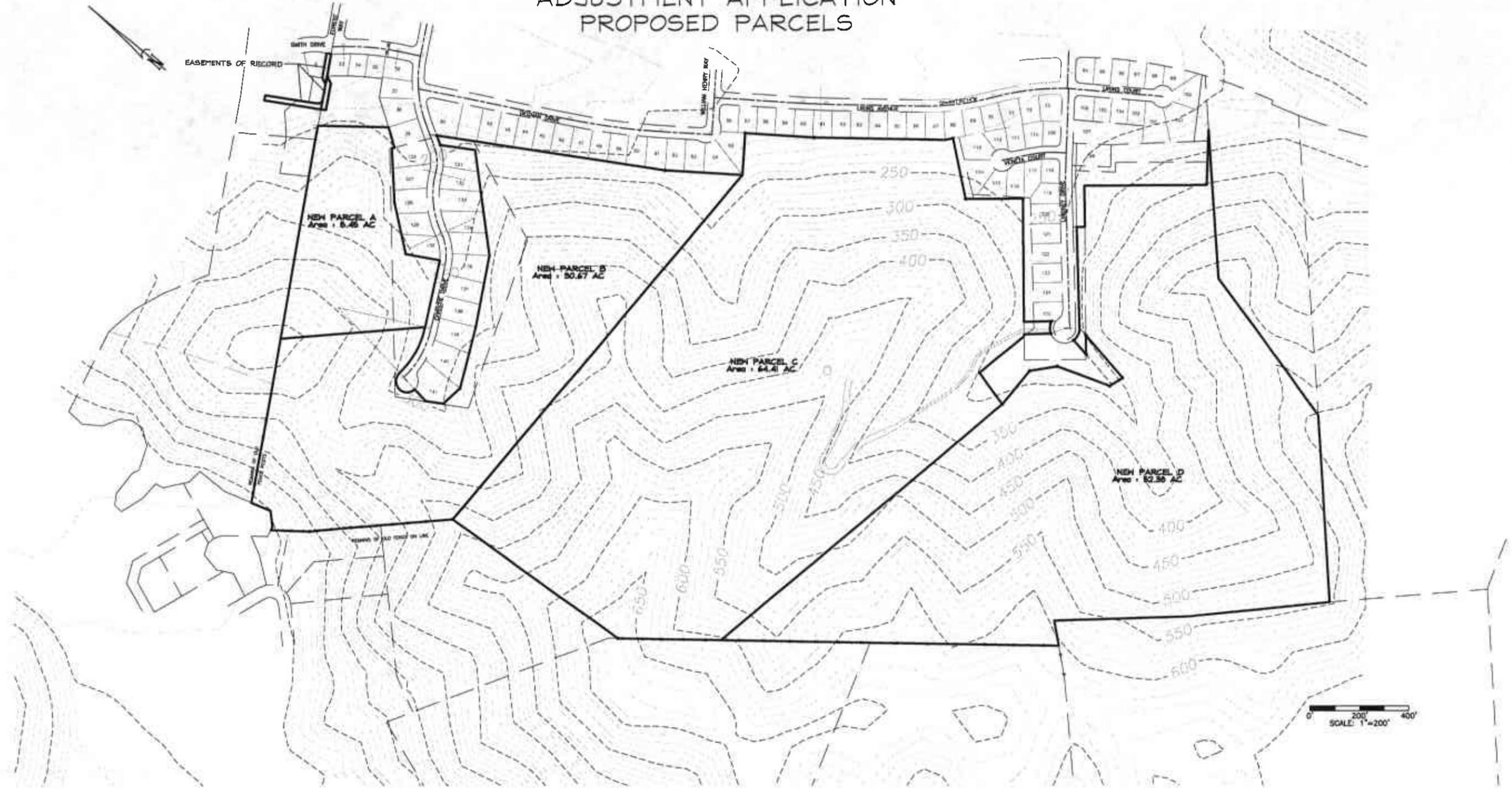
CONTACT: ROBERT DEVRIES
925-455-1500



EXISTING PARCELS
PARCEL A = 11.00 AC
PARCEL B = 108.73 AC
PARCEL C = 18.85 AC
PARCEL D = 19.33 AC
TOTAL = 155.91 AC

PROPOSED PARCELS
PARCEL 1 = 8.45 AC
PARCEL 2 = 30.67 AC
PARCEL 3 = 84.41 AC
PARCEL 4 = 52.38 AC
TOTAL = 155.91 AC

BOUNDARY LINE
ADJUSTMENT APPLICATION
PROPOSED PARCELS



OWNER: OSTROSKY ENTERPRISES, INC.
2240 RAILROAD AVENUE
LIVERMORE, CA 94550

CONTACT: ROBERT DEVRIES
925-455-1500



EASEMENTS OF RECORD:

1. AN EASEMENT FOR ROAD AND UTILITY PURPOSES AND APPURTENANCES THERETO AND INCIDENTAL PURPOSES, RECORDED FEBRUARY 16, 1960 IN BOOK 3557, PAGE 346 OF OFFICIAL RECORDS.
2. AN EASEMENT FOR ROAD AND UTILITY PURPOSES AND INCIDENTAL PURPOSES, RECORDED AUGUST 3, 1961 IN BOOK 3923, PAGE 574 OF OFFICIAL RECORDS
3. AN EASEMENT FOR ROAD AND UTILITY PURPOSES AND INCIDENTAL PURPOSES, RECORDED AUGUST 3, 1961 IN BOOK 3923, PAGE 577 OF OFFICIAL RECORDS
4. OPEN SPACE SCENIC EASEMENT, RECORDED IN INSTRUMENT No. 85-97804 IN BOOK 12423, PAGE 122, CONTRA COSTA COUNTY RECORDS.

PROPOSED PARCELS
PARCEL 1 = 8.45 AC
PARCEL 2 = 30.67 AC
PARCEL 3 = 64.41 AC
PARCEL 4 = 52.38 AC

A₃

July 12, 1984

To: City Council

From: Director of Planning and Building

Subject: Acceptance of Easements from
Melvin and Carolyn Phillips over
portions of a 163 acre parcel located
between Lindsey and Christie Drives,
westerly of Alhambra Avenue.

Background: As part of their proposal for Design Review approval of a single-family dwelling on the subject property, the applicants offered to dedicate a Scenic and Open Space Easement encumbering 120 acres of the total 163 acre site, precluding further development, grading, etc., other than in the vicinity of the designated building site. Additionally, the City required the applicants to dedicate an easement for emergency access purposes extending from Lindsey Drive to the westerly boundary of the property for connection with possible future development on the plateau of the Alhambra Hills.

The applicants have completed all grading of the building site and have successfully satisfied the requirements of building plan check, with the exception of recordation of the subject two easements. These easements must be accepted by the Council and recorded before a Building Permit may be issued.

The Issue: At issue before the Council at this time is whether the Scenic/Open Space and emergency access easements be accepted as proposed by staff and the applicant.

Alternatives Available to Council; Implication of Alternatives: Council may either accept the easements in their present form, or modify them as is deemed necessary. Such modifications could possibly cause delay in approval of the easement and hence further delay the issuance of a Building Permit for construction of the house. Such a delay would be of significant concern to the applicants.

Discussion: Staff has taken great care to insure that the various concerns as outlined by the Council at its last meeting on this topic have been incorporated into the draft easements. Further the easements have been given meticulous scrutiny by both Planning and legal staff to insure that adequate safeguards are incorporated to carry out the purposes of an Open Space and Scenic Easement while continuing to afford the property owner a legitimate single family and agricultural use of the property. We feel the proposed easements to be in proper form and complete.

Exhibit B

Recommended Action: Staff recommends adoption of the attached Resolution authorizing recordation of the Scenic and Open Space easement as proposed.

RTL:mf

Attachments: Resolution
Easement Documents

WWP232

B2

planning area would be mitigated by the substantial open space and elevation separations recommended in the plan. Areas 11, 12, and 14 are exceptions, however.

c. Development plans for areas 11 and 12 should incorporate landscaping and other site design features to minimize impacts on adjacent Smith Drive and Likins Court homes.

d. Development plans for area 14 should be encouraged or required to include density reductions at the southern edge or adequate landscape treatments to reduce potential conflicts with existing rural residential or future R-7.5 infill development on the small adjacent area to the south.

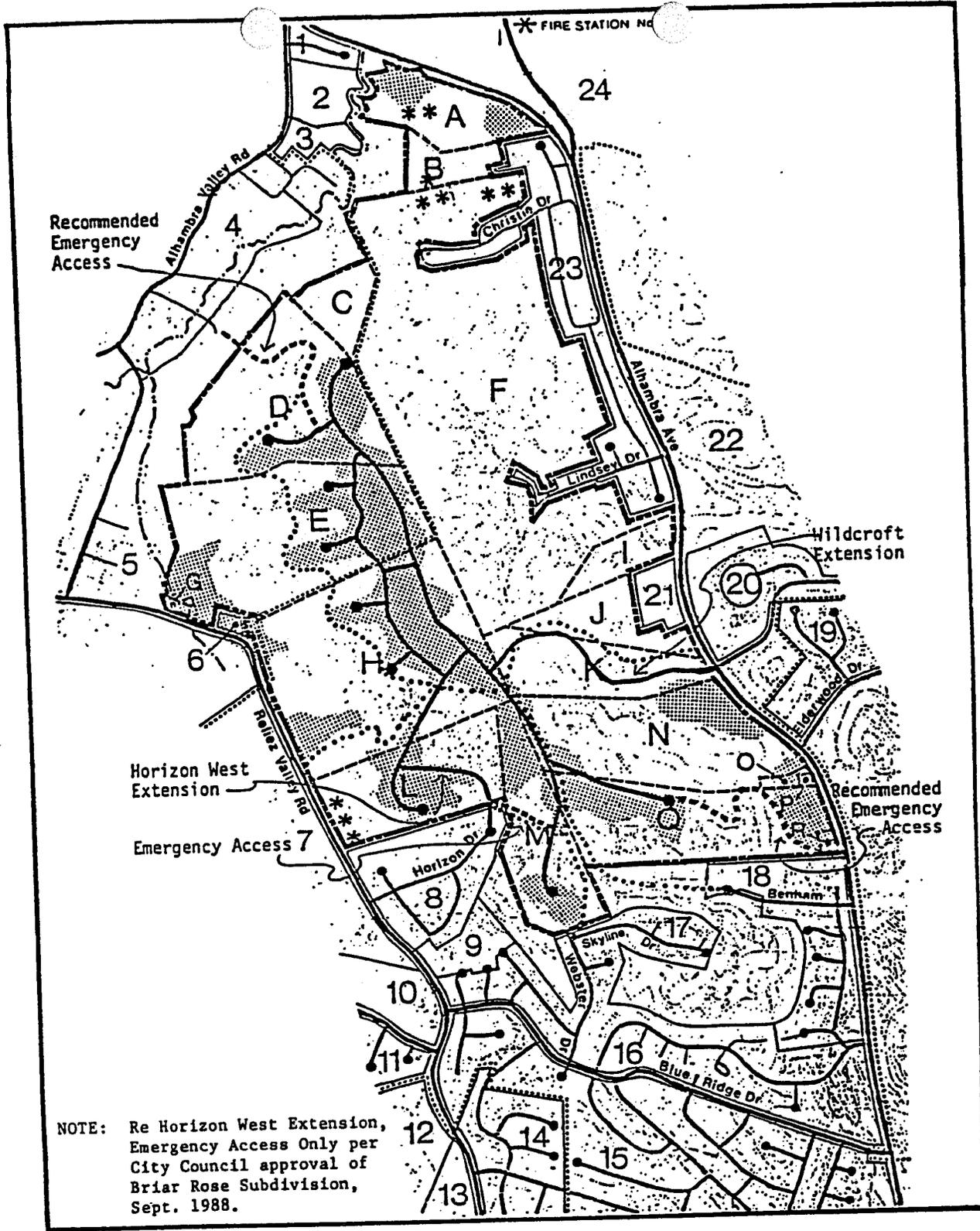
e. Development plans for areas 1-4 should be submitted to PG&E for review to ensure against possible land use conflicts with the existing transmission line.*

Table E-12 compares the effect of these plateau area revisions on the plan's maximum development capacity with the "Third Draft" as currently proposed.

f. Phillips Property Changes. The owner of the Phillips property has recently expressed his desire not to accommodate any future residential or infrastructure development on this 159.6-acre parcel (parcel F on Figure E-4) south of Christie Drive. In response to this comment, Scenario 5, a scheme which includes all portions of areas 6 and 7 and all remotes on the Phillips property south of Christie Drive, is shown in Table E-12. The "Third Draft" could be revised to show this change if and when the landowner agrees to rezone the Phillips property to permanent open space. Plateau area unit capacity remains same as called for in the "Third Draft" for all other properties (i.e., same as shown in DEIR Table E-5). As the table shows, the scheme would result in 56 fewer plateau area units, for a maximum planning area capacity of 690, rather than 750 units (a 7 percent reduction). In addition, development area configurations for area 5 and the remaining portions of areas 6 and 7 would revert back to the 1973 plan (i.e., same as shown in DEIR Figure E-6 and Table E-6).

* October 3, 1984, letter from Fred Purman, New Building Representative, PG&E, Walnut Creek, to the Martinez Planning Department.

Exhibit C



LEGEND

- Planning Area Boundary
- Martinez City Limits
- Primary Access Roads
- Emergency Egress
- Conceptual Nature Trail
- Development Area
- * Remote Homesites

Land Use and Circulation Figure 31.30

ALHAMBRA HILLS SPECIFIC PLAN

Exhibit D

↑

1 AC 10 AC 0 200 400 600 800

RESOLUTION NO. 56-87

ADOPTING THE ALHAMBRA HILLS SPECIFIC PLAN

WHEREAS, the Final EIR for the proposed Alhambra Hills Specific Plan was certified as adequate by the Planning Commission of the City of Martinez on April 29, 1986 and the certification of the EIR was upheld on appeal by the City Council of the City of Martinez on June 4, 1986; and

WHEREAS, the Planning Commission of the City of Martinez held public hearings on the Draft Alhambra Hills Specific Plan; and

WHEREAS, the Planning Commission recommended Council approval of the Plan on February 10, 1987; and

WHEREAS, the City Council held a public hearing on March 18, 1987; and

WHEREAS, the City Council reviewed and considered the Final EIR and addenda in adopting the Specific Plan; and

WHEREAS, the City Council finds that the Final EIR and addenda together are adequate and in compliance with CEQA; and

WHEREAS, the current Alhambra Hills Specific Area Plan includes a larger area than the new Alhambra Hills Specific Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Martinez that:

- A. The Alhambra Hills Specific Plan as shown on Exhibit A is adopted, and
- B. The written findings (recommended by the Planning Commission Exhibit B) required by CEQA to approve a project are adopted.
- C. Properties within the 1973 Alhambra Hills Specific Plan Area and not within the new Specific Plan Area shall remain within the jurisdiction of the 1973 Alhambra Hills Plan.

* * * * *

Exhibit E

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a regular meeting of said Council held on the 6th day of May, 1987, by the following vote:

AYES: Councilmembers Hernandez, Langley, Pollacek, Vice Mayor Radke and Mayor Menesini.

NOES: None.

ABSENT: None.

GUS S. KRAMER
City Clerk

By: Sherry M. Kelly
Sherry M. Kelly
Deputy City Clerk

nb:57

E2

EXHIBIT B
CEQA FINDINGS

Impact Cited in Final EIR

Land Use Impacts

The "Third Draft" plan net density characteristics for plateau development areas 1-7 could result in housing "footprints" that are much more intensive than the predominant surrounding residential pattern.

The proposed boundaries of 8 of the 14 development areas would include more than one ownership reducing prospects for unified and harmonious development.

Max. allowable net densities for areas 11 - 14 would be significantly higher than predominant residential development pattern along Alhambra Avenue.

The owner of the Phillips property has stated an objection to any urban development on that parcel south of Christie Drive.

Circulation System Impacts

Offsite Roadway Links

By 1990, peak-hour volumes on the 2-lane section of Alhambra Avenue south of Elderwood are expected to increase by 25 percent due to cumulative development, including the planning area. By year 2000, peak-hour volumes on this section of Alhambra Avenue are expected to exceed the road's design capacity due to cumulative development.

By year 2000, the 2-lane section of Alhambra Avenue between Alhambra Valley and State Route 4 would be approaching design capacity.

By year 2000, Blue Ridge Drive volumes could approach maximum tolerable levels for a residential street.

Recommended Finding

Plan has been altered. Plateau area densities on the Land Use Map 31.30 are equal to or slightly less than surrounding development.

Alterations incorporated in plan. Policy 31.349 requires consistency between adjoining developments.

Plan has been altered. Density as shown on Map 31.30 shall be no higher than the adjoining development.

Plan has been altered. No development on Phillips property south of Christie Drive (Map 31.30).

Recommended Finding

Alterations required by the plan. Policy 31.336 requires that mitigation fees contributed by developers be used to finance all cumulative off-site road improvement needs identified by the EIR and the Traffic Study addendum including: widen Alhambra Avenue from 2 to 4 lanes between Wildcroft Drive and Benham Drive when warranted. Require left-turn acceleration lanes on Alhambra Avenue at unsignalized intersections like Macalvey Drive and Lindsey Drive.

Alterations required by the plan. Policy 31.336 requires widening Alhambra Avenue from 2 to 4 Road lanes between Alhambra Valley Road and State Route 4 when warranted.

Plan has been altered. Significant reduction in overall density in the plan area will substantially lessen this impact.

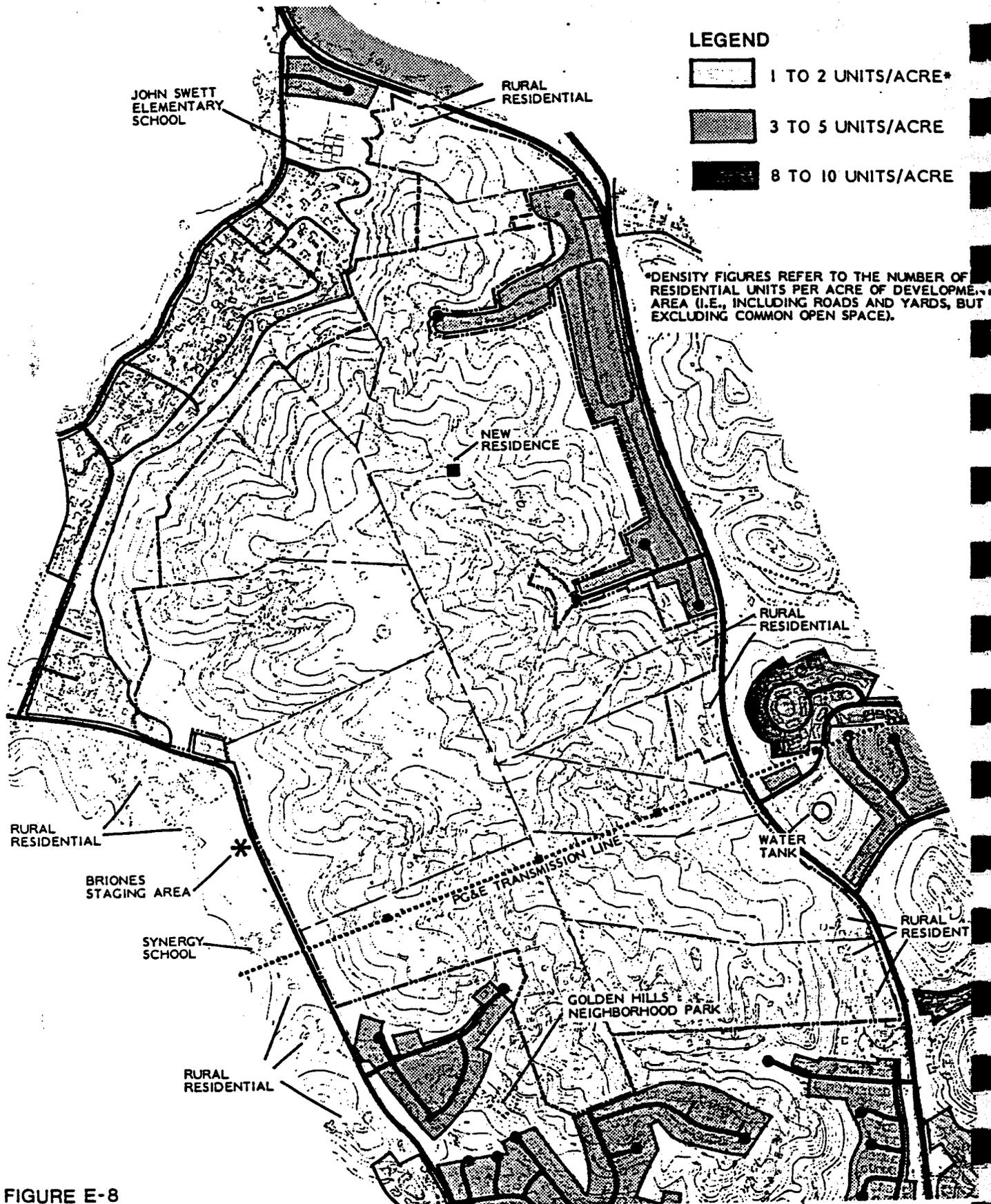


FIGURE E-8
EXISTING LAND USE

ALHAMBRA HILLS SPECIFIC PLAN · MARTINEZ, CA.
WAGSTAFF AND BRADY · URBAN AND ENVIRONMENTAL PLANNERS · BERKELEY, CALIFORNIA

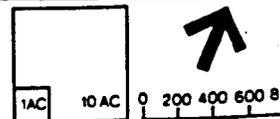


Exhibit F

MINUTES
CITY OF MARTINEZ
PLANNING COMMISSION
November 13, 2007

4. *Ostrosky Lot Line LLA #06-04 Public hearing to consider proposed lot line adjustment LLA#06-04 to adjust parcel boundaries between four existing lots, creating a new 4-lot configuration as proposed by applicant, ranging in size from 8.45 to 64.41 acres. Total site area of all parcels is approximately 160 acres. This project is located at 370 Lindsey Drive plus adjacent 158 acre parcel. Applicant: Peter Ostrosky/Robert DeVries (AL)*

Deputy Director, Community Development, Albert Lopez presented the staff report, including the site history, existing parcel configuration (and geographic orientation at Commissioner Burt's request), with the one existing homesite (but no building currently). He discussed the request by the applicant in compliance with the Subdivision Map Act and the proposed new configuration, probably to facilitate future development.

Chair Hughes asked whether the Subdivision Map Act requires an applicant to explain the reason for a lot line adjustment. Mr. Lopez said that information has not been given yet, but it likely will be for development.

Mr. Lopez discussed the Alhambra Hills Specific Plan provisions and its impacts on the potential lot line adjustment. He reviewed why staff is recommending denial of the application, based on restrictions in the Specific Plan. He concluded by showing an alternative configuration developed by staff, allowing the scenic easement to be preserved.

Mr. Lopez noted City Attorney Jeff Walter was present to help with the legal details.

Commissioner Allen asked if the 4 parcels were remnants of the Forest Hills subdivision. Mr. Lopez said no, they were there before Forest Hills - Forest Hills was carved out of the original area. However these are legal, existing lots.

Commissioner Korbmacher reiterated the question raised by Chair Hughes about the reason for LLA, but then said he would ask the applicant instead. Commissioner Korbmacher asked about the original subdivision boundaries, and Senior Planner Corey Simon gave additional background history beginning in 1950.

Mr. Walter noted that the applicant came in three years ago claiming there were seven actual lots, but the City Engineer could only certify four. In response to a further question from Commissioner Allen, he clarified that development of the four is allowed, but is conditional upon compliance with current zoning requirements, as well as General Plan and Specific Plan provisions.

Public hearing opened.

Exhibit H

SCOTT SUMMER, applicant's representative, clarified the early history of the lots (early 1900s) and some definitions. He disagreed with staff in noting that these lots were not remnants, but remainders. He also indicated that the applicant still believes there were seven lots, but will concede to four in order to move forward. Mr. Summer also disagreed with the staff determination that this is a "development exercise"; rather, it is a request for a lot line adjustment, keeping the same number of lots. He acknowledged that the owner possibly will sell some of the lots afterwards. He also disagreed with staff in their interpretation of the Specific Plan provisions.

He noted that he had never seen the last slide shown by staff, and it was never brought up in discussions with him.

Mr. Summer also gave a PowerPoint presentation clarifying the locations of the proposed new lots, zoning maps, and General Plan compliance. He disagreed that a lot line adjustment is automatically a harbinger of future development. He discussed the City resolution from 1985 where a scenic easement was dedicated (120 out of 160 acres) - noting that the specific area was not delineated. He noted that the original document was signed by the owner at the time "under protest". He also reviewed other provisions and exceptions in the Alhambra Highlands Specific Plan.

Mr. Summer stressed that the owner has not come in with a development plan. He also noted that the original Phillips home was not in a developable area according to staff's interpretation of the Alhambra Hills Specific Plan, and there is nothing in the Specific Plan that says you have to have a developable homesite on legal parcels; they could be open space or agricultural use. The current configuration does not even fit the criteria cited by staff. He indicated that legally, the Planning Commission cannot turn down an LLA based on possible future development. He also mentioned ambiguities in earlier CEQA determinations and incorrect conclusions reached by staff, reiterating that nothing requires developable homesites on parcels; this application is really a request for a simple lot line adjustment.

Commissioner Burt said if this is not a harbinger of future development, why did Mr. Summer spend so much time showing that the lots could be developed? Mr. Summer discussed issues with the approval of the certificates of compliance that determined the lots were legal. He further explained that the current lot configurations are historical accidents that should be allowed to be reconfigured, and any future development proposals will follow the usual process for CEQA review, etc.

Commissioner Allen asked the date of the Alhambra Hills Specific Plan adoption. Mr. Summer said it was adopted in 1987 and amended in 1989. Commissioner Allen pointed out that certificates of compliance do not give development rights, and she questioned his conclusion that the scenic easement is "defective."

Mr. Summer stated that any document that grants an easement without specifying details is an impaired document. He and Commissioner Allen discussed the intentions of the easement, findings and recitals, particularly whether the easement was for 120 acres or 163 acres.

Mr. Walter said the legal description attached to the easement specifies 163 acres. He explained

that Mr. Phillip's decision to build a 10,000 s.f. home was approved with the easement amended, including the designation of the southern 120 acres as open space. He also stated that in a meeting with Mr. Summer, staff provided him with the lot configuration shown by Mr. Lopez.

Mr. Walter further clarified that the easement itself is not at issue with the LLA request, but the relocation of the easement was. Mr. Walter said the intent was for a 120 acre easement, but the description of the easement specifies 163 acres.

Commissioner Allen discussed the original property owner's intention to reserve 40 acres as a possible buy-back from the Phillips, but it never happened. She questioned whether the intent of this application was for development and Mr. Summer's statement that the easement was defective.

Mr. Walter gave additional historical information, including the fact that Mr. Phillips had sued the City for unlawful taking of property without just compensation, which was unsuccessful. He also related that the intent of the 10,000 s.f. home built by Mr. Phillips was so that his children could move back home with him, which was also unsuccessful.

PATTY HECTOR, Forest Hills resident, asked the Commission to uphold the previous determinations for the open space easement and honor the Alhambra Hills Specific Plan.

MARY SEYMOUR questioned why the property would be sold if not for development. She asked to be informed as to the reason for the lot line adjustment.

ANN BREEDLOVE commented on drainage issues with her property that should have been corrected by Mr. Phillips or Mr. Ostrosky. She asked the Commission not to approve further development without requiring developers to be responsible.

TRACY BENETTI agreed with Commissioner Burt that Mr. Summer should not have spent so much time discussing development issues if development is not planned. If the owner wants a lot line adjustment, he should be straightforward about the reason.

ELLEN VISSER asked that future land uses or lot configurations be considerate of environmental and wildlife issues.

LESLIE TREMAINE expressed concern about flooding from the hills. She was not opposed to property owners having development rights, as long as approved development is adequately mitigated.

ROBERT DEVRIES said for 2 years he tried to discuss the matter with the City, but they would not. Therefore, he had to hire an attorney. Chair Hughes asked whether Mr. DeVries believed the 120 acre scenic easement is still attached to property. Mr. DeVries said yes.

Rebuttal

Mr. Summer said the City should not have approved remote homesites on land that was designated for a scenic easement. He also questioned why the City has not corrected the invalid language of the scenic easement description. He clarified that natural drainage problems can

only be fixed through improvement of the property.

VERBATIM TRANSCRIPTION OF MR. SUMMER'S REMARKS:

The only thing I want to add is in response to the question about is the easement 163 acres. I don't think anyone can look at that document that talks about 120 acre dedication and read it that way. If it was, the city had no business putting 4 remote homesites in an area that would otherwise be barred years later. And the part that still mystifies me, not to take issue with Mr. Walter, but if he's had all this litigation with the Phillips parties, and it went all the way up the courts as he's describing, we have all these files over there which I respectfully disagree that I've been shown, I don't know how the City at this point in time, 20 years something later, has still not resolved the missing legal description on that document. There are recording laws that do apply here. I would submit that the tail may be wagging the dog, if you start looking at that easement as one of the things to be a factor in this decision. It's down to the zoning map, it's down to the language in the specific plan – I would respectfully submit that's not a proper criteria. As far as other things about drainage – California law is such that natural drainage there's an easement for it. If people want that area to be improved, it's going to take something. Right up until a few months ago, my clients didn't even think they had legal parcels they could sell. That's the status; that's what Mr. Devries was complaining about. I happen to think the city's position on that was unsupportable, but that's all history. But there has to be something done to make this property usable before people are going to be able to spend money on it and do things like this drainage or improve it. And that's really what they're here to do. Thank you very much.

Public hearing closed.

Commission comment

Commissioner Korbmacher said the question he had was answered - they want to re-align the lots to be able to sell them. He acknowledged that development issues could be handled at a later stage in the process. The intent is to make the parcels more sellable, possibly for single family homesites. He said he could support a lot line adjustment, but would like more information.

Commissioner Allen said that when staff says they can't put on blinders, they have to consider whether this is a precursor to development. She could not support a lot line adjustment or any other action while the ambiguity about the scenic easement still exists.

Commissioner Burt shared Commissioner Allen's concern about the emphasis on the "defective" scenic easement, especially since most of the lawyer's presentation focused on why the Specific Plan provisions do not apply to these lots. She said that making these lots in another configuration to sell means pushing the problem off on someone else, but how will the properties be marketed? She also acknowledged drainage issues in the area and impacts on Forest Hills homes. She was concerned about fire safety for any development on the hill, and she agreed with staff's recommendation. The property should be open space.

H3

Commissioner Kluber thanked Commissioner Allen and Mr. Walter for the information they presented. He acknowledged a LLA could be done, if the provisions of the Specific Plan can be met. He noted that this is one of the most strikingly beautiful vistas in the City. He would support staff's recommendation.

Commissioner Busby expressed mixed feelings - she cautioned against prejudging the motives at this stage of the process, but she also wanted to follow the City Attorney's recommendations. She was undecided at this point.

Chair Hughes was also supportive of staff's recommendation. He expressed appreciation to Mr. DeVries for acknowledging that the scenic easement is applicable. He agreed the easement issue should be clarified first.

Mr. Walter discussed findings made 20 years ago, noting that "No development on the Phillips property south of Christie Drive" was one of the findings specified by the Council in approving the Alhambra Hills Specific Plan. He added that the intent of this application is clearly to allow development, but past Council action precludes that.

Commissioner Allen noted that the City Council at that time were criticized severely for allowing the one home to be built, but they felt it was a worthwhile tradeoff for gaining the scenic easement.

On motion by Frank Kluber, seconded by Harriett Burt, the Commission voted to deny LLA #06-04.

Motion unanimously passed 6 - 0. Yes: Mark Hughes, Harriett Burt, Lynette Busby, Fred Frank Kluber



STAFF REPORT

TO: PLANNING COMMISSION

PREPARED BY:  Albert Lopez, Deputy Community Development Director

GENERAL INFORMATION

OWNER: Ostrosky Enterprises Inc.

APPLICANT: Peter Ostrosky, Robert DeVries

LOCATION: Approximately 160 acre parcel located west of Alhambra Way, between Christie Drive and Lindsey Dr.

GENERAL PLAN: Alhambra Hills Specific Plan – non-development area, and remote homesite location.

ZONING: Single Family Residential, R-10 and R-7.5.

ENVIRONMENTAL REVIEW: Staff proposes that the Planning Commission find that this project be exempt pursuant to Section 15061 of the CEQA guidelines, as a project rejected or not approved by the public agency. If the Planning Commission adopts this proposed finding, no further environmental review would be required by State law.

APPROVALS REQUESTED: Lot Line Adjustment #06-04, a request to adjust parcel boundaries between four existing lots, creating a new 4- lot configuration as proposed by applicant, ranging in size from 8.45 to 64.41 acres. Total site area of all parcels is approximately 160 acres.

RECOMMENDATION

Deny lot line adjustment #06-04

BACKGROUND

The applicant is seeking approval of a lot line adjustment pursuant to the Subdivision Map Act, and is proposing to reconfigure four existing parcels to create four newly configured parcels ranging in size from 8.45 to 52.38 parcels (see exhibits). The total land area of the existing and proposed parcels is approximately 160 acres. The existing parcels are remnants of the Forest Hills subdivision as shown in the exhibits. These

Exhibit I

remnant parcels are in an environmentally sensitive area with limited frontage and difficult access. Any new access roads would have to be cut through sloped terrain, and/or go through existing neighborhoods at ends of cul-de-sacs.

The recent development history of the 160 acre site is limited to the current proposal, and the design review approval of a one acre building site with a 10,000 square foot home by Melvin Phillips in 1984. When the City approved the Phillips project it also required a large portion of the site (120 acres) be protected with a scenic easement, limiting future development to the one approved acre, plus a 40 acre area where future development could occur. Those 40 acres were ostensibly kept out of the easement as the most reasonable place to consider future development, if any at all were to be permitted.

Although the City's files reflect that in connection with Mr. Phillips' application for development of his 10,000 square foot home, City staff recommended a condition requiring Mr. Phillips to dedicate the southern 120 of his 160 acres to the City as open space (which condition was ultimately approved by the Council), the precise boundaries of that 120 acre open space area remain uncertain. This is so because the 1984 open space easement deed actually executed and recorded by the Phillips in favor of the City contained a legal description that covered the entire 160 acres owned by the Phillips (but reserved to the Phillips the right to build a single family home on the one acre site for which they had earlier received design review approval). Nevertheless, during the 1987 Alhambra Hills Specific Plan (AHSP) process that occurred shortly after Mr. Phillips received his one acre building site approval, the official record of the AHSP EIR shows that Mr. Phillips did not want any development south of Christie Drive, and the plan was ultimately approved as such. So it can be inferred that the 40 acres was intended to be located in the northern-most portion of the 160 acre holdings of the Phillips. This is further supported by the four remote home site locations ultimately approved in the AHSP, as they are all located north of Christie Drive, and that area is the only area of all the 160 acre site (with the exception of the original one acre building site) where development can occur (absent a general plan amendment). See attached copy of the AHSP's Land Use and Circulation map, figure 31.30.

CURRENT REGULATIONS

The land is currently under the land use restrictions as adopted by the City in the 1987 Alhambra Hills Specific Plan (AHSP) in which no portion of the entire 160 acres is considered a "Development Area". However the plan does recognize the approved one acre home site, plus it allows four "remote" home sites to be located within the northern portion of the 160 acre site. See attached CEQA findings which shows that the AHSP clearly precludes development south of Christie Drive, which is consistent with the four remote homesite locations.

The applicant's existing four parcels are located such that their development potential is limited. Only Parcel "A" (where the AHSP locates four remote homesites) plus Parcel "B" (one acre Phillips parcel) are areas where development is permitted, but Parcel "C"

I,

& "D" are within the AHSP's "non-development" area and do not contain any of the four remote homesites as designated in the AHSP. Development on "C" & "D" cannot occur unless a General Plan Amendment is approved (and resolution of the location of the 120 acres open space easement is achieved), allowing additional remote home sites. Alternatively, the parcels can be reconfigured through a lot line adjustment to place them into conformance with the AHSP.

CONFORMANCE WITH SPECIFIC PLAN

The City Attorney has provided staff with the appropriate language from the Subdivision Map Act that governs this application, specifically:

A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. Cal. Gov't Code section 66412(d).

The applicant has submitted a lot line adjustment application which proposes reconfiguring the existing four lots into four new lots. The two northern-most "new" lots include one or more remote homesites as shown on AHSP's figure 31.30. The middle "new" lot includes the former Phillips' home site and the fourth, southern-most "new" lot is located entirely within a non-development area as so shown on AHSP's figure 31.30 and upon which no development can occur.

California Government Code section 66412(d) (quoted above) requires that the "parcels" resulting from a proposed lot line adjustment "conform" to the applicable specific plan. "Conform" means "to make the same or similar. . . to bring into harmony or agreement". Webster's New World Dictionary, 2nd College Edition. The four lot configuration proposed by the applicant here does not conform to and does not bring these lots into harmony with the AHSP. Even if "conform" as used in section 66412(d) is equivalent to "make consistent", "consistency" has been construed in the context of general plan consistency as follows: "An action, program or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment." Governor's Office of Planning and Research, *General Plan Guidelines* (2003), p. 164. Permitting the applicant to create a lot that cannot be built upon under the AHSP cannot be said to "promote" or "further" the objectives of the AHSP and acts as a precursor obstruction to the attainment of the AHSP's goals and policies.

I₂

The applicant has argued in support of its application that all it is doing is drawing lines on a map – that it is not now seeking development of these parcels. Thus, according to the applicant, any inconsistency with the AHSP's development preclusions is not now before the City or Planning Commission. The resolution of that issue is put off for another day, namely, when the applicant or new owners of these four parcels return to the City for development approvals.

It is staff's opinion that the requirement that a lot line adjustment "conform" to the AHSP cannot be read so narrowly. What the applicant is essentially arguing is that the City must ignore reality and address its application in a vacuum, pretending that all that is involved here is drawing lines on a piece of paper. However, it is clear that whether it is a subdivision of 500 lots or a lot line adjustment for four parcels, even if development is not being contemporaneously proposed, the City is required to compare such a proposal to its applicable general and specific plans. Those plans contain a myriad of *development and use* criteria that must be complied with in order to obtain approval for such parcelization proposals. Whether it is density limitations, minimum lot size requirements or requirements as to the location of permitted development, if those conditions are specified in an applicable general or specific plan, the City is entitled and required to apply them to an application that creates or relocates parcels.

In the context of determining whether CEQA compels preparation of an EIR instead of a negative declaration, the courts are clear that the reviewing agency cannot put blinders on and pretend that planning documents are not a precursor to the development that they presage, and thereby avoid having to analyze that development when approving the plan. In *City of Carmel etc. v. Board of Sup.* (1986) 183 Cal.App.3d 229, 244, the court required the preparation of an EIR for a proposed re-zoning even though no specific development project was being proposed at the time. The court explained that the re-zoning "was a necessary first step to approval of a specific development project. Even if this were not so, the re-zoning by itself . . . represented a commitment to expanded use of the property"

Under the same reasoning, the lot line adjustment in issue here is a harbinger and commitment to development on the parcels that are proposed to be re-configured. However, that likely development is antithetical to the AHSP and, thus, cannot be found to "conform" to the AHSP.

RECOMMENDATION

Staff has suggested to the applicant a lot configuration (see attachment #2c) that would allow the applicant to take advantage of the four remote homesites as identified in the AHSP, and it would keep intact the 120 acre open space easement. The plan proposed to the applicant creates three, relatively good-sized, developable parcels north of Christie Drive (as required by the AHSP), with the remaining fourth parcel comprising the balance of the property south of Christie Drive, thereby upholding the integrity of the 120 acre easement by limiting development in the remaining, southern area to the

I₃

original Phillips homesite.

The applicant has not expressed an interest in the lot configuration proposed by staff, and is pursuing its own proposal with this application request.

In this light, staff is recommending denial of the lot line adjustment application, on grounds that it does not conform to the Alhambra Hills Specific Plan. If this conformity finding cannot be made by the Planning Commission, the application must be denied.

ATTACHMENTS

1. Site Context Map and Aerial Photo
2. Existing and Proposed Lot Lines
3. City Council resolution adopting Alhambra Hills Specific Plan
4. Land Use Map 31.30 and CEQA findings
5. Draft Resolution

EXHIBITS

Applicant's civil package 24"x36", 3 sheets

F:\Community Development\All Projects\Lot line Adjustments & Lot Mergers\LLA 06-04; Lindley,370 - OstroskyDeVries\Ostrosky-DeVriesLLA-PC staff report 2007 11 13.doc

PC RESOLUTION #07-16

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MARTINEZ DENYING A REQUEST FOR A LOT LINE ADJUSTMENT (#06-04) TO ADJUST FOUR PARCELS COMPRISING A 160 ACRE SITE INTO A NEW CONFIGURATION, AS THE PROPOSED CONFIGURATION IS NOT CONSISTENT WITH THE ADOPTED ALHAMBRA HILLS SPECIFIC PLAN, AND A FINDING OF CONSISTENCY WITH THE MARTINEZ GENERAL PLAN CANNOT BE MADE

WHEREAS, the applicant, Ostrosky Enterprises Inc. submitted an application for a lot line adjustment to adjust the lot configuration of four lots, comprising a 160 acre parcel; and,

WHEREAS, the project consists of lots A, B, C & D as shown in the exhibits; and,

WHEREAS, the proposed location of lot D does not conform to the Alhambra Hills Specific Plan in that the site falls outside of the development area and is not a remote home site as detailed in figure 31.30 of said plan; and,

WHEREAS, the Alhambra Hills Specific Plan serves as the leading General Plan document for this planning area, and was adopted in 1987 to allow limited development in an environmentally sensitive area, and the Martinez City Council adopted a specific finding identifying portions of the project area (south of Christie Drive) as development restricted.

WHEREAS, to further the goals and objectives of the Alhambra Hills Specific Plan, an existing 120 acre open space easement exists on the property, clustering all development possibilities north of Christie Drive in four remote home sites.

WHEREAS, a duly noticed public hearing was held on November 13th, 2007 by the Planning Commission, public comment was received and the public hearing was closed; and,

WHEREAS, the Planning Commission finds this project exempt pursuant to Section 15061 of the CEQA guidelines, as a project rejected or not approved by the public agency.

NOW, THEREFORE, the Planning Commission of the City of Martinez resolves as follows:

1. That the above recitals are found to be true and constitute part of the findings upon which this resolution is based.

IS

2. That the proposed lot line adjustment, and specifically lot D, does not conform to the land use policies of the adopted Alhambra Hills Specific Plan.
3. That a finding of General Plan consistency cannot be made

NOW, BE IT FURTHER RESOLVED that the Planning Commission hereby denies Lot Line Adjustment application #06-04.

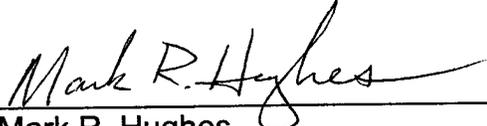
I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the Planning Commission of the City of Martinez at a regular meeting of said Commission held on the 13th day of November, 2007:

AYES: Kluber, Burt, Allen, Avila Farias, Busby, Hughes & Korbmacher

NOES:

ABSENT:

ABSTAINED:

BY: 

Mark R. Hughes
Planning Commission Chair



Albert Lopez
Deputy Community Development Director

RESOLUTION #07-

RESOLUTION OF THE CITY COUNCIL UPHOLDING A PLANNING COMMISSION DECISION TO DENY A REQUEST FOR A LOT LINE ADJUSTMENT (#06-04) TO ADJUST FOUR PARCELS COMPRISING A 160 ACRE SITE INTO A NEW CONFIGURATION, AS THE PROPOSED CONFIGURATION IS NOT IN CONFORMANCE WITH THE ADOPTED ALHAMBRA HILLS SPECIFIC PLAN, AND A FINDING OF CONFORMANCE WITH THE MARTINEZ GENERAL PLAN CANNOT THEREFORE BE MADE

WHEREAS, the applicant, Ostrosky Enterprises Inc. submitted an application for a lot line adjustment to adjust the lot configuration of four lots, comprising a 160 acre parcel located at 370 Lindsey Drive; and,

WHEREAS, the project consists of lots A, B, C & D as shown in the application and exhibits made part of the record; and,

WHEREAS, the proposed location of lot D does not conform to the Alhambra Hills Specific Plan ("Plan") in that the site falls outside of the permitted "Development Area" and is not a remote home site as detailed in figure 31.30 of said Plan; and,

WHEREAS, the Alhambra Hills Specific Plan serves as the leading, implementation document for the General Plan for this planning area, and was adopted in 1987 to allow limited development in this environmentally sensitive area, and in approving the Plan the Martinez City Council adopted a specific finding under the California Environmental Quality Act ("CEQA") expressly prohibiting development in portions of the subject 160 acre parcel (south of Christie Drive). Proposed lot D is located entirely within the area in which the Council proscribed development; and

WHEREAS, on November 13, 2007, at a duly noticed public hearing, the Planning Commission voted unanimously to deny the project; and,

WHEREAS, on November 14, 2007 the project was appealed to the City Council; and,

WHEREAS, a duly noticed public hearing was held on December 19, 2007 by the City Council, public comment was received and the public hearing was closed; and,

WHEREAS, the City Council finds this project exempt pursuant to Section 15061 of the CEQA guidelines, as a project rejected or not approved by the public agency.

NOW, THEREFORE, the City Council of the City of Martinez resolves as follows:

1. That the above recitals are found to be true and constitute part of the findings upon which this resolution is based.

Exhibit J

2. That the proposed lot line adjustment, and specifically lot D, does not conform to the land use policies and requirements of the adopted Alhambra Hills Specific Plan.
3. That because the proposed lot line adjustment does not conform with the Alhambra Hills Specific Plan it also does not conform with the General Plan.

NOW, BE IT FURTHER RESOLVED that the City Council hereby upholds the Planning Commission decision to deny Lot Line Adjustment application #06-04 and denies Lot Line Adjustment application #06-04.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a regular meeting held on the 19th day of December, 2007:

AYES:

NOES:

ABSENT:

ABSTAINED:

BY: _____
