

Secluded Valley Homeowners Association

P.O. Box 1441
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May 11, 2005

DRAFT

City of Lafayette
Design Review Commission
c/o Ms. Lindy Coburn
Assistant Planner
3675 Mt. Diablo Blvd., Suite 210
Lafayette, CA 94549-1968

Subject: **HDP72-04 TIM WARD, WARD-YOUNG ARCHITECTS
(APPLICANT), BARRY HAJI (OWNERS), LR-10 ZONING
Comments on Application for Hillside Development, dated 22
September 2004**

Dear Commissioners,

Thank you for affording the Secluded Valley Homeowners Association (SVHA) the opportunity to review and comment on the subject application. This letter supercedes our letter dated November 12, 2004 which is fully incorporated herewith. We have developed both general and specific line item comments against the various application forms and applicable Lafayette code sections, and organized this response accordingly.

The Secluded Valley Homeowners Association is opposed to any development on the parcel on the basis that there is no suitable site. We argue that the Applicant has no legal right to develop the parcel, and that prohibition of development does not constitute a "taking" for purposes of due process, because the Applicant purchased the property fully aware of the sensitive nature of the area and the unsuitability of the site for development. In fact the listing documents associated with the sale of the property to Mr. Haji implied the speculative nature of acquiring the property for development (attachment 1). This is reinforced by the very low cost per acre for the site acquisition, which was totally inconsistent with acreage acquisition costs in the surrounding area (attachment 2).

The application is intentionally written to provide the least information possible, so as to conceal the true nature and impact of the project. The application should not be considered until a full and complete application is submitted in accordance with Lafayette instructions for Hillside Development which includes a detailed description of all aspects of the project with associated studies of drainage, comprehensive soils analysis, a biotic resource analysis, and visual and ecological impacts including a comprehensive Environmental Impact Report (EIR). Indeed the Application contains material

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misrepresentation of soils slope – claimed to not exceed 10% slope when the attached drawings clearly indicate slopes of 50% over most of the site.

We incorporate all of the written and oral arguments, which were previously presented in opposition to this development before the Lafayette Planning Commission on 25 September 2003, 3 June 2004 and ___ (*insert dates of previous public hearings*).

General Comments:

The subject 22 acre parcel owned by Mr. Haji represents one of the largest and highest undeveloped ridgeline properties within Lafayette that lies east of Pleasant Hill road. It visually dominates all surrounding areas. The Planning Commission denied sites A, B, (etc.) in recognition of that fact. The proposed site (F) is on a large unspoiled expanse of hill that overlooks the entire valley. By the same token, it is visible from the entire valley. It sits immediately adjacent to the Briones/Mt. Diablo trail and open space. It will look down on, and interfere with the privacy, of the homes within the Tiburon/Bria Court neighborhood. It will impose noise. It will put glaring lights on a hillside that is now dark and tranquil. The parcel currently has a wealth of wildlife that lives on it, traverses it, and hunts on it, all precisely because it is a large open space, which provides critical habitat for nature to thrive.

The proposed 350 foot long access road will require a significant cut in the hillside as it traverses the slope from Peaceful Lane, and according to the Typical Driveway Section it appears that along much of its length retaining walls will be required, perhaps to a height of 10 feet or more: thus the access road will be very visible to Peaceful Lane residents, and to many Secluded Valley residents below, creating a major scar on the landscape. Yet no retaining wall profile or design details are provided to offer a perspective on the visibility of the retaining walls: in fact the Section states that the materials and design will be performed by others, thus it appears that no serious attention has been given to this aspect of the development.

In addition to the scar across the landscape created by the access road, the design of the house, spreading horizontally across the hillside, will magnify the visual impact of the structure and create a visual monstrosity. This road will also serve to cut off the natural flow of water from the upper slopes and concentrate the flow through the proposed driveway drains. This concentration of water flow will pose a real threat to the lower hillside with the potential for serious erosion onto the lower parcel owned by SVHA.

The site proposed for the home appears from the profile pictured on sheet A1.2 to be on approximately 50 % slope which would exceed the maximum 30 % slope limit for a development as defined in the Hillside Ordinance. No mention is made of the need for an exception in the application, nor is there any justification made for the granting of a exception.

Given the L-R-10 zoning of the Haji property there is a possibility that a second home as well as the one currently proposed, could be proposed for development. The California Environmental Quality Act (CEQA) may require that this application only be considered as a total development. Therefore if there is the likelihood of a second house, it should be incorporated into this application. If this application is going to be approved as submitted for a single house, it should only be with the condition and requirement that there be WRITTEN AND RECORDED restrictions prohibiting (a) the development of any further sites on the parcel (or on any future subdivided parcels), and (b) the expansion of either the footprint, height or width of any improvement (road, house, etc.) and (c) the addition of any other structures to the approved project. Such restriction should also apply to the “appendage parcel” connecting to Summit Road, which could potentially be converted into a buildable lot through adjustment of the common boundary with the subject 22 acre parcel.

The applicant for a Hillside Development Permit is required to provide “story poles” and panoramic photos (photomontages) with the project outlined or graphically set into the photo. The photo should represent the most prominent views and impacts of the proposed structure as viewed from surrounding existing residences. This requirement is delineated in the application checklist. The applicant has failed to satisfy both of these requirements. The photomontage depicts the proposed structure from a southerly direction which attempts to convey the visual image that the proposed structure is a continuation of the existing ridgeline residences on Bacon Court. The SVHA has prepared the attached photomontage which more accurately depicts the structure from a full frontal direction as will be most commonly viewed from the residences below and users of the surrounding common space. (attachment 3). As of the date of application and as of this date, story poles have not yet been provided for the benefit of neighbors to appreciate the full impact of the proposed structure on their current open space views. The SVHA submits that the application for permit should not be considered complete until story poles are erected, and additionally no public hearings on the application should be conducted until the public has had sufficient time to visualize the impact of this proposed project.

Section 6-2023 imposes a development restriction on class I or II ridges. The class II setback requirements provide that no development may take place within 250 feet (measured in plan view) of the centerline of a class II ridge.

The applicant’s context map sheet A1.0 clearly indicates an encroachment into the 250’ class II ridgeline set back on the west side of the development, and the majority of the proposed access road which must also be classified as development, violates the 250’ setback from the Peaceful Lane ridgeline. None of these encroachments appear to be addressed in the subject permit application. Also it is not entirely certain that the applicant has accurately defined the ridgeline, as visual inspection would indicate the reference line to be somewhat behind the apparent peak of the ridgeline. We submit that all setbacks need to be accurately delineated through actual and certifiable survey data.

We would further submit that the applicant is NOT entitled to relief of Section 6-2023 since the policies and intent of Section 6-2070 or Section 6-2071 cannot be satisfied. Specifically the applicant fails to satisfy the following provisions of Section 6-2070:

(b) The development uses site planning techniques to the extent feasible to preserve hillsides, knolls, ridgelines and open space, minimize grading and impacts to habitat, and preserve on-site open space and vegetation, terrain, scenic vistas, streams or other courses, or other areas of ecological significance.

(c) The development provides adequate emergency vehicle access, including turn-around space, to the building site and surrounding on-site undeveloped or isolated areas while protecting trees, minimizing grading and preserving to the extent feasible the natural hillside character of the site.

(d) The development, including site design and the location and massing of all structures and improvements will, to the extent feasible:

(1) Preserve the open space and uncluttered topography of the city;

(2) Minimize the loss of privacy to surrounding residents;

(3) Not have a significant visual impact when viewed from lower elevations from publicly owned properties (including freeways, roadways, open space, parks and trails), using the viewing evaluation map as a guide; and

(4) Not interfere with a ridgeline trail corridor or compromise the open space or scenic character of the corridor.

Additionally the following findings of Section 6-2071 are NOT satisfied in that the structure is sited on slopes well in excess of 30% and is further sited on a widely exposed hillside face requiring extensive earthworks to provide access and a building pad:

(a) The design of the subdivision and the proposed development are derived from naturally contoured sites of reasonably regular configuration, do not create building sites on slopes exceeding 30 percent nor result in the need for construction of primary structures outside the areas of 30 percent or less slopes;

(b) The design of the subdivision and the proposed development will result in each structure being substantially concealed, as required by Section 2-2048, when viewed from lower elevations from publicly owned property (including freeways, roadways, open space, parks and trails), using the viewing evaluation map as a guide to establish locations from which views are considered;

(c) The design of the subdivision provides for a trail or portions of trails in conformance with the city's adopted master trails map or an adopted regional trail plan, and the trail is dedicated and conditioned for improvement in accordance with adopted standards;

(d) The design of the subdivision and proposed development use clustering or other site planning techniques to preserve hillsides, ridgelines and open space, minimize grading and impacts on wildlife habitats to the extent feasible, and provide for the preservation of on-site open space and vegetation, terrain, scenic vistas, trail corridors, streams or water courses, or other areas of ecological significance through dedication, easement, land trust or other suitable regulation;

(e) The design of the subdivision and the proposed development are arranged so that no portion of the lot exceeding a slope of 35 percent, is proposed to be altered by grading removal or alteration of a natural feature, the removal of vegetation or other activity related to the preparation of the site for development, except fire protection, or other measures necessary for public safety, slope or geologic stabilization or the provision of a trail in conformance with the city's adopted master trails map or an adopted regional trail plan or where the planning commission finds that an exception is necessary to provide the least intrusive or damaging access to an approved building site;

(f) The development, including site design and the location and massing of all structures and improvements, will preserve the open and uncluttered topography of the city, and not interfere with a ridgeline corridor or compromise the open space or scenic character of the corridor;

(g) Each proposed house location and the location of each related structure is sited to minimize loss of privacy and not unduly impact, restrict or block significant views;

(h) The design of streets, streetlights, storm drainage, utilities and other common improvements incorporated into the subdivision comply with adopted city standards and are designed to preserve the character of the site and surrounding area, minimize visual impact and avoid adverse impacts on surrounding properties and neighborhoods;

(i) Street right-of-way incorporated into the design of the subdivision is based on the following conditions:

(1) Steepness of terrain;

(2) Depth of cut, amount of cut and fill, height and appearance of retaining walls;

(3) Type and quantity of existing and proposed trees and vegetation;

(4) Ability to give the appearance of a natural slope after grading and landscaping;

(5) Adequacy of off-street parking to compensate for any lack of on-street parking;

(6) Adequacy of required turn-around spaces every 500 -- 1,000 feet;

(7) Adequacy of sight-distances around curves and near driveway entrances;

(8) Number of home sites to be served by the street;

(9) Potential for future extension of the street; and

(j) The design of the subdivision and the proposed development provide adequate emergency vehicle access, including turn-around space, to each building site and surrounding undeveloped areas, while protecting valuable trees, minimizing grading and preserving the natural hillside character of the site and vicinity.

(Ord. 538 § 1, 2003; Ord. 528 § 1, 2002)

Only a rudimentary effort has been made to identify the drainage requirements for this proposed development. In fact specific recommendations by the Landscape consultant (Inside Out, Inc) to locate drainage energy dissipaters below the root line of existing trees would appear to have been completely ignored. The location and schematics for two storm water energy dissipaters below the access road are shown on the drawings submitted, however no discussion is provided of drainage provisions for the home

structure. With SVHA Open Space property and a homeowner's lots below the access road and home site, we are concerned with potential landslides and damage that could occur, thus we want to see that an appropriate drainage plan is developed and available for review.

The following is a summary of specific comments on the subject application package dated 22 September 2004. **SVHA comments are in bold type for clarity**

Hillside Overlay District Findings - Section 6-2067

- A) Meets City's housing needs and confirms (sp) to the General Plan

Due to the severe (50%) hillside slopes involved in this project, it does not comply with the General Plan and associated Hillside Protection Ordinance. Additionally the impact on native wildlife and plant species as addressed in the General Plan has not been addressed in this permit application. The required biotic resource analysis has not been provided with the application.

- B) Large parcel can easily accommodate a development of this type without compromising open space, scenic vistas and other ecological significance.

The proposed house site is severely restricted by ridgeline and boundary setbacks; therefore it is not "easily" accommodated.

This statement by applicant is contrary to reality and inconsistent with numerous testimonies from concerned citizens during the past 3 public hearings on this application. Development on site F directly compromises ridgeline set backs, open space, scenic vistas and impacts significant native biological resources.

- C) The development proposed is a single-family residence. The proposed residence scale is comparable to surrounding developments with parcels this size.

The application statement that the "proposed residence scale is comparable to surrounding developments with parcels this size" is completely false. There are no other such surrounding developments. The residence is almost twice the size of the typical home anywhere within 3/4 of a mile, including the relevant neighborhood of the SVHA. The size is not only inappropriate on its own (as inconsistent with the relevant neighborhood), but it especially inappropriate in view of the scenic and sensitive area in which the development will occur. The nature of that area demands that the size of the despoliation be MINIMIZED, not REWARDED and MAXIMIZED. Any development should, by virtue of the area, be kept to the minimum possible. That means no more than

3000 sq. foot, one story, either a flat roof or a minimally pitched roof, and a maximum structure elevation of 17 feet. Further, the development should be limited to occur on the lowest parcel elevation that can accommodate it.

- D) Proposed structure setback over 250 ft from Class II ridgeline.

The code section 6-2023 imposes restrictions on development with the 250 ft. ridgeline set back. The applicant's proposal violates setback on the west (back) side of the property and much of the access road is in violation of ridgeline setback. Because of the significant mass and height of the proposed structure, the visual impact is such that the roofline of the structure directly impacts the ridgeline when viewed from neighboring locations immediately below the Haji property. It is not clear that the ridgeline setback of 250 feet has been properly identified on the west side of the property

- E) The grading is mainly due to creating access to the site.

This statement appears to be an attempt to understate the impact of significant site grading on the hillside to accommodate a 5,913 s.f. project. Proposed grading plans (drawing A1.2) indicates a very steep natural slope of 50% being typical at the building pad and even greater in several sections along the access driveway. The applicant indicates a surplus of 1,520 cubic yards of cut material, no indication or plan has been provided for the disposition of the surplus material.

The proposed access driveway will severely scar the beautiful hillside for a distance of approximately 350 ft. The driveway traverses natural sloping terrain of approximately 50%, and much steeper in places, resulting in significant cut and fill with consequential major hillside scarring. A major sandstone outcropping will be removed to establish an entry point for the access road.

- F) The forms, designs, colors and materials are compatible with City of Lafayette standards. Landscaping is proposed along the driveway and around the house to screen the residence from neighbors along Peaceful Lane.

Proposed remediation does not address visual impacts to neighbors in unincorporated areas immediately below the proposed site. During the public hearings on site selection the applicant made reference to sod roof design to mitigate visual impact of such a large structure. This application should also include a study of sod roof options to mitigate visual impact

- G) The development proposed is a single-family residence on a 23-acre parcel. We see no hazards or enforcement problems.

Insufficient information provided to comment.

- H) All proposed vegetation is native and all existing native oaks to remain.

Insufficient information provided for comment. The retained landscape consultant (Inside Out Inc.) has noted that many existing trees have not been documented pursuant to code section requirement to document all trees greater than 4" diameter within 100 feet of the proposed development. A required biotic resource analysis has not been provided and this permit application should not be considered complete until all requirements have been satisfied.

Hillside Development Permit Findings – Section 6-2070

- A) Large parcel easily accommodate a development of this type without compromising open space, scenic vistas and other ecological significance.

This assessment appears to be made without regard or consideration of the numerous publicly stated concerns about the visual impact of this proposed development. Ecological impacts will exist: the road and home site are in an open space area inhabited and crossed by a wide variety of wildlife including snakes, frogs, salamanders, deer, foxes, ground squirrels, mountain lions, skunks, burrowing owls, the endangered Berkeley Kangaroo Rat, birds, etc. Certainly the principles of the Lafayette General Plan that "areas that support wildlife" should be protected, must be addressed in the application. As stated above the required biotic resource analysis has not been provided and this permit application should not be considered complete until all requirements have been satisfied.

We believe that the California Environmental Quality Act requires that development in such an environmentally sensitive area be analyzed through an Environmental Impact Study and Report.

- B) The development proposed is a single-family residence. The proposed residence has a hammerhead turnaround for emergency vehicle access. We are proposing minimal grading and preserving the natural hillside character.

In fact the applicant is proposing to cut 1,900 cubic yards of hillside to provide access and a building pad for the structure. The proposed development is on slopes averaging 50% and much greater in some instances. The Applicant's statement is inconsistent with the grading requirements necessary to develop this site. The only way to truly

preserve the hillside character, as proposed by the applicant, is to disapprove this permit application.

- C) Proposed structure and driveway is developing 1.3% of lot.
1. Developing site below ridge.
 2. There is no residence directly adjacent to proposed residence.
 3. There is no visual impact when viewed from lower elevations from publicly owned properties, using the viewing evaluation map.
 4. Also, there is no interference with a ridgeline trail corridor and the project does not compromise the open space or scenic character of the corridor.

The proposed development consumes the entire site footprint as defined by ridgeline and boundary setback requirements, and in fact violates the setback on the west side. The proposed house is completely out of scale with adjoining houses in terms of footprint, height, mass and total square footage. Significant public testimony has been submitted at 3 public hearings as to the negative visual impact of this application. The proposed development destroys views from the adjoining public open space owned by the City of Walnut Creek. The City of Walnut Creek has expressed its unfavorable disposition towards this project in writing

There also should be a written and recorded agreement for public access to and at the top of the hill from both Peaceful Lane and from the Briones trail.

- D) The proposed development is sited low area along hillside and will be substantially concealed when viewed from lower elevations from publicly owned property.

The applicant has provided nothing to enable the public to visualize the impact of the proposed structure. The architectural photomontages are completely misleading, and the required story poles have not been installed as required by the application requirements. The SVHA has provided the attached photomontage to properly depict the impact that the proposed structure will have on the hillside (attachment 3).

Design Review Application

1. Please state why the structure substantially complies with the City's Residential Design Guidelines:
The forms, design, colors & materials are compatible w/city of Lafayette standards.

The proposed house is completely out of character with surrounding neighborhood houses in terms of scale, materials and visual impact. No attempt has been made to comply with guidelines as to roof pitch slope and orientation, and grading cut and fill quantities are entirely out of balance (1,500 cubic yard surplus)

2. Please state how the structure is so designed that it will appear comparable with the scale and style of the existing neighborhood and will not significantly detract from the established character of the neighborhood:

The structure is low and has a number of elements that break it up both vertically & horizontally

The applicant's statement is completely at variance with the reality of the proposal. The proposed development spills over the entire site footprint as defined by ridgeline and boundary setback requirements. The architect has used every trick in the book to create an artificial nominal roof height by including a small section of steeply pitched roof in order to deflate the average roof height. In fact the majority of roofing section eave heights approximate the nominal average on the. The average roof height of the structure is far in excess of the maximum allowable height limit of 30 feet.

3. Please state how the structure is so designed that it does not appear too tall or massive in relation to surrounding structures or topography when viewed from offsite:

See response #2

The proposed design is approximately 160 feet wide and 30 feet deep with 2 stories to yield approximately 5,300 S.F of living space. With an average height in excess of 30 feet, the design is extremely inefficient. For comparison, a 2 story office building presenting similar proportions of width and height, if on a square foot print would yield useable space of 50,000 square feet !

The applicant's statement is completely at variance with the reality of the proposal. The proposed development spills over the entire site footprint as defined by ridgeline and boundary setback requirements.

4. Please state how the structure is so designed that it does not unreasonably reduce the privacy or views of adjacent properties:

The house is on 22 acres and does not have any impact on adjacent properties views or privacy.

The proposed massive structure and associated access driveway is a blight on a pristine hillside view from the Secluded Valley houses immediately below the applicant's proposed structure. The applicant will

have direct line of sight view angles into the neighboring Secluded Valley homes.

Environmental Information Form

Question 29 is particularly troublesome in that the applicant has provided false information. Question 29 asks if “Site on filled or on slope of 10 percent or more” – *to which applicant has responded NO.*

This is either an attempt to mislead the Design Review Commission, or the applicant has no idea what he is attempting to accomplish. The supporting plot plans and sketches clearly indicate that the proposed development is on land with a typical slope profile of 50 %, and even greater in some instances. This is far in excess of the maximum allowable slope of 30%. The fact that applicant has made and certified a false response to this critical question should in itself be a basis for denying this application.

The applicant also presents a misleading characterization of the site in his response to question 34. *Existing site is in an undeveloped grassy hill. It is a barren hill with some native oaks and other native plants. There are no cultural historic or scenic aspects associated with this site.*

The applicant’s statement is both contradictory and misleading. Clearly a hill cannot be both barren and be populated with native oaks and grasses. This site is in fact an area of significant bio-diversity and is home to numerous wildlife species. Ecological impacts will exist and must be fully studied and documented: the road and home site are in an open space area inhabited and crossed by a wide variety of wildlife including snakes, frogs, salamanders, deer, foxes, ground squirrels, mountain lions, skunks, burrowing owls, the endangered Berkeley Kangaroo Rat, birds, etc. Certainly the principles of the Lafayette General Plan that “areas that support wildlife” should be protected, should be addressed in the Application. The applicant has failed to provide the required analysis of biotic resources, and therefore this application must be considered incomplete.

The applicant also states in response to 35): *Surrounding properties are previously subdivided smaller, at a higher density lots. Zones R-20.*

In fact the surrounding properties, although zoned smaller, are predominantly open space including a large area owned by the City of Walnut Creek, and a large parcel of open space owned by the Secluded Valley Homeowners Association.

We are very dissatisfied with the current Application, and we look forward to responses to our concerns. Because of the incomplete nature of the application, we reserve the right on behalf of the SVHOA and each of its members to add further comments in writing and

at any scheduled public hearing.

Sincerely,

President,
Secluded Valley Homeowners Association

CC: Gayle B. Uilkema, Chair, County Board of Supervisors
SVHA Board Members
Committee to Save Acalanes Ridge