

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 4/28/11

FROM: Tim Tune, Senior Planner, via John Swiecki, Community Development Director

SUBJECT: Zoning Text/Map Amendment RZ-3-11, Study Session on R-BA Brisbane Acres Residential District Height Limit and Ridgeline Development

Request: Housing Element Programs H.H.2.b, H.H.2.c and H.H.2.d call for amendments to the R-BA Brisbane Acres Residential District chapter of the Zoning Ordinance regarding density transfer and clustered development. Consistent with General Plan Policy 6, additional changes to simply and clarify the R-BA District's side and rear setback requirements and floor area ratio standard have been suggested. This would also be an opportune time to consider potential changes to the R-BA District's height regulations and ridgeline development provisions. Preliminarily proposed revisions are attached.

Potential amendments to the R-BA Brisbane Acres Residential District chapter of the Zoning Ordinance and to the Zoning Map were preliminarily discussed at the study sessions on February 10th and March 10th. This study session (continued from the March 24th meeting) addresses the height regulations and ridgeline development provisions.

Recommendation: Provide direction to staff to prepare a draft ordinance for recommendation to the City Council, and adopt the attached draft Resolution No. RZ-3-11a to formally initiate the zoning text/map amendment process.

Front Height Limit: Brisbane Municipal Code Section 17.12.040.G.2, adopted in 2003, restricts the height limit within the front 20 ft. of the property to 20 ft. from finished grade, with an exception for garages. This provision was modeled after a similar one in the R-1, R-2 & R-3 Districts that restricts the height limit within the front 15 ft of the property (those districts' standard front setback).

The first test of this requirement came with the proposed density transfer project on San Diego Court. The Planning Commission granted a Variance, affirmed by the City Council on appeal, to restrict the height limit to 20 ft. within the front 10 ft. of the property (rather than front 20 ft.). It was noted that the original intent of the height restriction was to maintain a pedestrian scale for development along the streetscape, but due to the configurations of these lots, the requirement would have unintended consequences, such as flat roofs instead of pitched ones and increased excavation in order to accommodate the permitted building floor area.

A recently proposed development raised an interesting question regarding the intent of the 20 ft. height limit within the front 20 ft. of the property (BMC Section 17.12.040.G.2). The standard front setback in the R-BA District is 20 ft., except on slopes of 15% or more, which presumably includes practically all of the Brisbane Acres, where the setback is reduced to 10 ft. (BMC Section 17.12.040.D.1). The standard height limit in the R-BA District is 35 ft. (BMC Section 17.12.040.G.1). The height limit was lowered to 20 ft. for that portion of a house that the front setback exception would allow between 10 ft. and 20 ft. from the front property line, so that development would not overwhelm the pedestrian-scale of the streetscape. Please refer to the attached schematic comparing the effect of this 20 ft. height limit within the front 20 ft. of properties with 20% and 40% slopes.

At 200 Annis Road, the approximately 45% slope of this downslope site results in only 2+/- ft. of the 20 ft. tall front of the house actually extending above street level. This means that if the front of the house were 35 ft. tall, only 17 ft. would extend above the street, having less of an impact upon the streetscape than if the site were flatter. Other factors at play in this situation are the distance from the property line to the street and the finish elevation of the street. For example, if the elevation of the street were raised with retaining walls, the disparity between grade at the street and at the house would be increased. On steep upslope sites, the situation may be reversed, since building height (except for garages) is measured from grade surrounding the building, which would typically be even higher than the street below. To tie building height on upslope sites to the street elevation, though, could result in more grading, either to lower the grade from which height is measured or to locate the building farther back on the site, out of the 20 ft. setback.

One way in which this issue could be addressed for downslope sites would be as follows:

G. Height of structures.

1. Except as otherwise provided in subsection (G)(2) of this section, the maximum height of any structure shall be thirty-five (35) feet.
2. For a distance of twenty (20) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however,
 - a. *residential structures on sites sloping down from the adjacent street may be constructed to a height of twenty (20) feet above the elevation of the center of the street; and*
 - b. garages may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this Title and so long as the total height of the garage and any permitted living area underneath does not exceed thirty-five (35) feet from finish grade.

As noted above, since practically all of the Brisbane Acres has a slope of 15% or more, it may be desirable to eliminate the exception that is more the rule, and simply reduce the standard front setback to 10 ft. (BMC Section 17.12.040.D.1).

Ridgelines: Another item the Planning Commission may wish to consider is ridgeline development. BMC Section 17.12.040.L simply states, "Structures shall be located below ridgelines in a manner that will preserve public views of the San Bruno Mountain State and County Park." This language combines concepts found in General Plan Policy 19 and Program 17a (see attached).

Past practice has been to require a Variance for any development on a lot through which a ridgeline passes, if any portion of the proposed building would block views of San Bruno Mountain State and County Park from various public facilities, including the Community Park and the Bay Trail along the Brisbane Lagoon and at Sierra Point. This process has relied upon Figure 4 of the Open Space Plan (attached) for determining the location of ridgelines, even though neither the General Plan (Programs 19a & 93h), the Municipal Code (Section 17.02.695) nor the Open Space Plan (pages iii, 7 & 12) identify this as the purpose of Figure 4. The ridgelines identified in Figure 4 include the Mountain's main ridgeline which runs through southeast Brisbane Acres toward Sierra Point, as well as 5 lesser ridgelines that bracket Costañõs Canyon, the two upper branches of Firth Canyon, and the Gladys Ravine. According to Figure 4, at least 2 of these ridgeline extend beyond the borders of the Brisbane Acres subarea into Central Brisbane.

It should be noted that while the Open Space Plan (page 11) preliminarily considered "scenic and aesthetic conditions" in its analysis of the open space values of the Brisbane Acres subarea, there has been no formal attempt to identify the "vistas and view corridors of community-wide value" referenced in General Plan Program 19a (attached). BMC Section 17.12.040.L's general dictum to "preserve public views" could be interpreted as providing little room to consider the relative significance of various views.

For development proposals at 8 Thomas Avenue, 88 Thomas Avenue and 2 San Diego Court, through which ridgelines ran per Figure 4, staff prepared detailed estimates of the heights at which public views would presumably not be blocked from specified angles and viewing locations to give an indication of what construction might or might not block the full range of existing or potential views. For these proposals, the Planning Commission has sought a balance between preserving public views and private property rights through the Variance approval process (see attached General Plan Policies and Programs). Implicit in this approach is the possibility that there might be a specific elevation determined administratively below which development would not be subject to public review.

A more direct approach may be to require some form of design review (as opposed to a variance) for any new structures on properties through which ridgelines run as identified in a version of

Figure 4 modified as a direct insert into the Zoning Ordinance (see attached draft Figure 17.02.695). The definition of “ridgeline” could be amended to refer directly to this inserted figure. This design review approach would be consistent with General Plan Program 19b: “Consider amendments to the Zoning Ordinance to provide for site plan review to assure that identified vistas and public view corridors remain accessible for public enjoyment. The review should evaluate building placement, height and bulk.” Design review is already required for density transfer projects in the R-BA District (BMC Section 17.12.050.C).

As noted above, the “vistas and view corridors of community-wide value” referenced in General Plan Program 19a have not been mapped. To help focus this discussion, staff has annotated draft Figure 17.02.695 to highlight those private properties in the R-BA District through which ridgelines run according to Figure 4 and draft Figure 17.02.695 (see attached—note that based upon Figure 17.02.695’s topographical map, Unrecorded Brisbane Acres Lot 91 would not be considered to be atop a ridgeline, in comparison to the Open Space Plan’s Figure 4).

Also provided is a map of the San Bruno Mountain State and County Park from the County’s Parks Department website. Note that technically Owl Canyon and lower Buckeye Canyon are not part of the Park; instead, they are owned by the State Department of Fish and Game. The privately-owned top of the highest peak of the Mountain, which is occupied by a number of transmission towers, is also not part of the Park per se.

In addition, staff has prepared panoramic photo montages representative of views from various public facilities for display at the study session. Specifically, these photos were taken from the Bay Trail along the east side of the Brisbane Lagoon, the Bay Trail at the northwest corner of Sierra Point, the Community Park, Firth Park and Mission Blue Center.

By comparing the ridgeline private properties map, the San Bruno Mountain State and County Park map and the panoramic photo montages, it becomes apparent that views from some public sites are so limited (Firth Park) or distant (Mission Blue Center) as to not be of “community-wide value.” Thus, it is recommended that attention be focused on those public views of the State and County Park as seen from the Community Park and from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines.

The design review process suggested by staff would provide a public forum in which “vistas and view corridors of community-wide value” could be discussed in the context of a specific ridgeline site. To provide the public and the Planning Commission something more concrete to visually assess, applicants would specifically be required to erect story poles on the site, certified by a qualified licensed professional to represent the height of the proposed building at its corners and roof peaks, in addition to the standard Design Permit application submittal requirements in BMC Section 17.42.020. This approach has proven to be effective in reviewing past proposals

for ridgeline development, particularly in comparison to other means of estimating the potential visual impact of a proposal.

Staff suggests that, by combining elements of General Plan Programs 19a and 19b, Section 17.12.040.L could be revised to read:

L. **Ridgeline.** ~~Structures shall be located below ridgelines in a manner that will preserve public views of the San Bruno Mountain State and County Park. Development on any site through which a ridgeline runs as identified in Figure 17.02.695 shall be subject to design permit approval.~~

1. *In addition to the required contents of application for design permit set forth in Section 17.42.020.A, story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the Community Development Director. The upper one foot length of each pole shall be painted OSHA yellow so as to be clearly visible from a distance.*
2. *In addition to the findings required for issuance of design permit set forth in Section 17.42.040, the Planning Commission shall find that the building's placement, height and bulk will preserve those public views of the San Bruno Mountain State and County Park as seen from the Community Park and from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines that are found to be of community-wide value.*

Subsection 2 would supplement the Design Permit finding already required in BMC Section 17.42.040.D:

D. For hillside development, the proposal respects the topography of the site and is designed to minimize its visual impact. Significant public views of San Francisco Bay, the Brisbane Lagoon and San Bruno Mountain State and County Park are preserved.

Although an improvement over the existing process, this approach would still have the downside of providing applicants only limited guidance in designing their projects before public review.

As for existing structures located on properties through which a ridgeline runs, the R-BA District regulations should clarify those instances in which design review would be required. In the Nonconforming Uses and Structures Chapter of the Municipal Code, BMC Section 17.38.080.A prohibits a nonconforming structure from being "...altered, enlarged or expanded so as to increase the degree of noncompliance or otherwise increase the discrepancy between existing

conditions and the requirements...” of the Zoning Ordinance. BMC Section 17.38.090.A allows that a nonconforming residential structure damaged by natural calamity to the extent that less than 75% of its floor area need be repaired or replaced may be reconstructed to its original size and configuration, as long as all of the new construction complies with applicable building, health and fire codes. If damaged by 75% or more of its floor area, the nonconforming structure may be restored to its original floor area, number of units, setbacks and parking, without otherwise having to comply with the zoning regulations, as long as all of the new construction complies with applicable building, health and fire codes. Based upon these existing provisions, staff suggests the following:

3. *An existing structure may be repaired or replaced in accordance with Section 17.38.090 without design permit approval, but any alteration or expansion which raises any portion of the roofline or increases the building's lot coverage shall be subject to design permit approval under this section.*

Attachments:

Draft Resolution RZ-3-11a
Redline Version of Preliminary Draft Revisions to BMC Chapter 17.12
Schematic Comparing 20' Height Limit within Front 20' of Properties with 20% vs. 40% Slope
Open Space Plan Figure 4
General Plan Policies & Programs: Ridgeline Protection/Property Rights
Topographic Map of R-BA District with Ridgelines from Figure 4
Draft Figure 17.02.695 with Ridgelines Identified per Topographic Map of R-BA District
Comparison of Ridgelines from Figure 4 and Draft Figure 17.02.695, Annotated to Highlight Private Ridgeline Properties
San Bruno Mountain State and County Park
Map of Potential Public Viewing Locations
2/8/11 Email from Beth Grossman & Storrs Hoen
2/8/11 Email from City Attorney Hal Toppel
Story Pole Examples

draft
RESOLUTION NO. RZ-3-11a

RESOLUTION OF INTENTION TO CONSIDER AMENDMENTS TO
THE CITY OF BRISBANE MUNICIPAL CODE TITLE 17, ZONING,
REGARDING THE R-BA BRISBANE ACRES RESIDENTIAL DISTRICT

WHEREAS, on January 18, 2011, the City Council adopted the 2007-2014 Housing Element; and

WHEREAS, the Planning Commission has determined that amending Municipal Code Chapter 17.12 to clarify the density transfer provisions and add clustered development provisions would be consistent with Housing Element Programs H.H.2.b, H.H.2.c and H.H.2.d, as well as General Plan Policy 81 and Programs 31b & 83b; and

WHEREAS, the Planning Commission has determined that amending the height regulations and ridgeline provisions in Municipal Code Chapter 17.12 would be consistent with General Plan Policy 6 and Program 22a that require that the City to "Set clear and definitive standards for all rules and regulations;" and "Consider amendments to the Zoning Ordinance which contain clear and defined standards to protect creativity and diversity in design while addressing issues of height, scale, mass and articulation;" and

WHEREAS, the Planning Commission also finds that amending the zoning map to correct the split zoning of a property would be consistent with General Plan Policy 6.

NOW, THEREFORE, BE IT RESOLVED, that the City of Brisbane Planning Commission intends to consider amendments to the Title 17, Zoning, of the Brisbane Municipal Code.

JAMEEL MUNIR
Chairman

I hereby certify that the foregoing Resolution No. RZ-3-11a was duly and regularly passed and adopted by the Brisbane Planning Commission at a regular meeting thereof held on April 28, 2011, by the following roll call vote:

AYES:
NOES:
ABSENT:

JOHN SWIECKI
Community Development Director

G.1.7.

REDLINE VERSION OF PRELIMINARY DRAFT REVISIONS
(additions to the current regulations shown in *italics* and deletions shown in ~~strike~~through, changes presented at the 2/10/11 study session in red, revisions since 3/10/11 shown in blue)

**CHAPTER 17.02
DEFINITIONS**

§17.02.695 Ridgeline. “Ridgeline” means a line connecting the points of highest elevation ~~at the top of and parallel to the lines of the hills comprising~~ *constituting a part of the San Bruno Mountain as identified on Figure 17.02.695 [insert a modified version of Figure 4 from the City of Brisbane Open Space Plan].*

**CHAPTER 17.12
R-BA BRISBANE ACRES
RESIDENTIAL DISTRICT**

Sections:

17.12.010	Purposes of Chapter
17.12.020	Permitted uses
17.12.030	Conditional uses
17.12.040	Development regulations
17.12.050	Density transfer
<i>17.12.055</i>	<i>Clustered development</i>
17.12.060	Parking
17.12.070	Signs

§17.12.010 Purposes of Chapter

In addition to the objectives set forth in Section 17.01.030, the R-BA Brisbane Acres Residential District (hereinafter referred to as the "R-BA District") for the subarea of the City designated in the General Plan as Brisbane Acres is included in the Zoning Ordinance to achieve the following purposes:

- A. To provide a district for single-family dwellings.
- B. To ensure that new residential development addresses the unique environmental constraints of the R-BA District, including the requirements of the San Bruno Mountain Area Habitat Conservation Plan, limited infrastructure improvements, steep grades, and risk of wildland fire.

C. To ensure adequate light, air, space, quiet, and privacy for single-family residential uses.

D. To implement and promote the goals and policies of the General Plan so as to guide and manage residential development in the City in accordance with such Plan.

§17.12.020 Permitted uses

The following permitted uses shall be allowed in the R-BA District:

- A. Single-family dwellings.
- B. Accessory structures and uses incidental to a permitted use.
- C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this Title.
- D. Small family day care homes.
- E. Secondary dwelling units, when authorized by a permit granted pursuant to Chapter 17.43 of this Title.

§17.12.030 Conditional uses

The following conditional uses may be allowed in the R-BA District, upon the granting of a use permit pursuant to Chapter 17.40 ~~or 17.43~~ of this Title:

- A. Group care homes.
- B. Large family day care homes.

§17.12.040 Development regulations

The following development regulations shall apply to any lot in the R-BA District:

- A. **Lot area.**
 - 1. The minimum area of any lot shall be twenty thousand (20,000) square feet, except as otherwise provided in Sections 17.12.050 and 17.12.055 of this Chapter.
 - 2. A single-family dwelling may be constructed on a lot of record with an area of less than twenty thousand (20,000) square feet, subject to the provisions of this Chapter and the limitations set forth in Section 17.32.100.

B. **Density of development.** Not more than one dwelling unit shall be located on each lot in the R-BA District, except for a secondary dwelling unit authorized by a ~~use~~ permit granted pursuant to Chapter 17.43 of this Title, ~~or one or more additional dwelling units in connection with a density transfer authorized by a use permit granted pursuant to Subsection 17.12.050 of this Chapter.~~

C. **Lot dimensions.**

1. *In addition to the minimum lot area standard per Section 17.12.040.A, ~~the~~ minimum dimensions of any lot shall be as follows:*

<u>Width</u>	<u>Depth</u>
110 feet	140 feet

2. *Exceptions may be approved as part of the use permit required for density transfer in Section 17.12.050 or clustered development in Section 17.12.055 of this Chapter*

D. **Setbacks.** The minimum required setbacks for any lot shall be as follows:

1. **Front setback:** ~~Twenty (20) feet, with the exception that where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to~~ **Ten (10) feet.**

2. **Side setback:** *Ten percent (10%) of the lot width, but in no event more than fifteen (15) feet or less than five (5) feet.* ~~Fifteen (15) feet, with the exception that a lot having a width of less than one hundred ten (110) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than ten (10) feet or the minimum setback required by the Uniform Building Code, whichever is greater.~~

3. **Rear setback:** *Ten (10) feet.* ~~Twenty (20) feet.~~

E. **Lot coverage.** The maximum coverage by all structures on any lot shall be twenty five percent (25%).

F. **Floor area ratio.** The maximum floor area ratio of all buildings on a lot shall be 0.72; provided, however, that in no event shall the floor area of all buildings on a lot exceed five thousand five hundred (5,500) square feet. ~~In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio and the five thousand five hundred (5,500) maximum square footage specified herein; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.~~

G. Height of structures.

1. Except as otherwise provided in subsection (G)(2) of this section, the maximum height of any structure shall be thirty-five (35) feet.
2. For a distance of twenty (20) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however,
 - a. *residential structures on sites sloping down from the adjacent street may be constructed to a height of twenty (20) feet above the elevation of the center of the street; and*
 - b. garages may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this Title and so long as the total height of the garage and any permitted living area underneath does not exceed thirty-five (35) feet from finish grade.

H. Wildland interface. The development shall incorporate such measures as the Fire Chief may deem necessary to protect against the spread of fire between the site and the adjacent wildland.

I. HCP compliance. All development within the R-BA District shall comply with the requirements of the San Bruno Mountain Area Habitat Conservation Plan (*HCP*).

J. Articulation requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.
2. Side outside walls:
 - a. Interior side outside wall: No articulation requirement.
 - b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet
3. Rear outside wall: Thirty percent (30%) articulation.

4. Exemptions: Single story two car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

K. Landscaping requirements.

1. Landscape Plan. All development proposals shall include a landscape plan to be approved by the Planning Director *in consultation with the HCP Plan Operator*. The plan shall show all proposed landscaping and the location of all protected trees and rare plants. The landscape plan shall be consistent with all of the following objectives:
 - a. Preservation of protected trees and rare plants to the greatest extent possible;
 - b. Use of plants that are compatible with the natural flora *and fauna*, and are not invasive to the HCP area;
 - c. Use of water conserving plants;
 - d. Use of plants that will effectively screen structures and blend with the natural landscape; and
 - e. Use of landscaping that is fire resistant.
2. Irrigated Landscapes. New and replacement, irrigated landscapes of 1,000 square feet, or more, shall be subject to the Water Conservation in Landscaping Ordinance. Refer to Chapter 15.70.

L. Ridgeline. ~~Structures shall be located below ridgelines in a manner that will preserve public views of the San Bruno Mountain State and County Park. Development on any site through which a ridgeline runs as identified in Figure 17.02.695 shall be subject to design permit approval.~~

1. *In addition to the required contents of application for design permit set forth in Section 17.42.020.A, story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the Community Development Director. The upper one foot length of each pole shall be painted OSHA yellow so as to be clearly visible from a distance.*
2. *In addition to the findings required for issuance of design permit set forth in Section 17.42.040, the Planning Commission shall find that the building's placement, height and bulk will preserve those public views of the San Bruno Mountain State and County Park as*

seen from the Community Park and from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines that are found to be of community-wide value.

3. *An existing structure may be repaired or replaced in accordance with Section 17.38.090 without design permit approval, but any alteration or expansion which raises any portion of the roofline or increases the building's lot coverage shall be subject to design permit approval under this section.*

M. **Watercourses, wetlands and canyons.** Development of the site shall be setback from all watercourses, wetlands and canyons consistent with the sensitivity of the resource.

N. **Trails.** The development shall incorporate public access trails to the extent feasible given the environmental sensitivities of the site.

O. **Nonconforming residential structures and uses.** Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this Title.

P. **Recycling Area Requirements.** For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and City facilities (including buildings, structures, and outdoor recreation areas owned by the City) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

§17.12.050 Density transfer

A. In order to facilitate preservation of lands in the R-BA District with significant environmental resources, one or more additional dwelling units within the R-BA District, in addition to the dwelling unit otherwise permitted on a particular site, may be constructed under the conditions set forth in this Section 17.12.050. As used herein, the additional dwelling units are called "transfer units." The density transfer shall comply with all of the following requirements:

1. One (1) transfer unit may be allocated to the site receiving the density transfer for each 20,000 square feet of land *of the total*

area of ~~in~~ the site or sites from which the transfer units are taken which is permanently dedicated to open space. No transfer units shall be allocated for any remaining portion area of land having less than 20,000 square feet. The method of retaining the dedicated land in permanent open space shall be approved by the City Council upon recommendation of the Planning Commission and shall be implemented before any building or grading permit is issued for development on the site receiving the transfer units. Where dedicated open space is proposed to remain in private ownership, the applicant and property owner shall execute an agreement with the City for the continued maintenance of the open space, to be recorded with the County of San Mateo prior to issuance of any grading or building permits.

2. The site from which the transfer units are taken must be found to have value as open space based upon one or more of the following considerations:
 - a. contiguous with San Bruno Mountain State and County Park;
 - b. contains intact native vegetation;
 - c. contains endangered butterfly habitat;
 - d. contains permanent or semi-permanent wetlands;
 - e. forms a portion of a significant watercourse;
 - f. does not adjoin developed parcels on more than one side.

In making this determination, the Planning Commission and the City Council shall be guided by the City's Open Space Plan. *The density transfer value of undeveloped "paper streets" in the upper Brisbane Acres may be recognized, once it is established that they are not subject to claims of access rights by easement or necessity from any remaining private property owners in the upper Brisbane Acres.*

3. The site receiving the transfer units must be found suitable for development with increased density based on all of the following considerations:
 - a. has a ~~lot~~ total area of not less than 20,000 square feet;
 - b. does not contain any of the features of value for open space as described in subsections (A) (2) (a) through (e) of this section;
 - c. is adjacent to or relatively near existing development and infrastructure.

4. The type of development permitted on the site receiving the transfer units shall be single family dwellings only. *The site shall be subdivided into lots with a minimum lot area of* ~~The density of development of such site shall be no less than~~ five thousand (5,000) square feet ~~per unit~~ *subject to the maximum density permitted per Sections 17.12.040.A, 17.12.040.B and 17.12.050.A.1.* One secondary dwelling unit may be allowed *per twenty thousand (20,000) square feet of* ~~on~~ the site receiving the transfer units if otherwise in compliance with the requirements of Chapter 17.43, but no additional secondary dwelling units shall be allocated to that site as part of the density transfer.

- ~~5. If the density transfer includes a proposed subdivision of the site receiving the transfer units, the subdivision shall comply with all of the following additional requirements:~~
 - ~~a. No lot shall have an area of less than 5,000 square feet.~~
 - ~~b. If the area of any lot is 5,000 square feet, the minimum front and rear setbacks for such lot shall be 10 feet and the minimum side setbacks for such lot shall be 5 feet.~~
 - ~~c. The maximum coverage on any lot shall be 25%.~~

B. A use permit granted by the City Council shall be required for all density transfers pursuant to this Section. The use permit shall first be considered by the Planning Commission which shall make its recommendation to the City Council. In addition to the findings for issuance of a use permit prescribed by Section 17.40.060 of this Title, the approving authority shall find and determine that:

1. The transfer units will be sited, designed and constructed to avoid adverse effects upon environmentally sensitive areas both on and off site, such as disturbance of watercourses and hazardous geologic conditions;
2. The site receiving the transfer units will be served by infrastructure that meets City standards, as determined by the Director of Public Works;
3. The site receiving the transfer units will have adequate parking and vehicular circulation; and
4. The proposed development of the site receiving the transfer units will be compatible with adjacent and nearby development and is designed to minimize its visual impact.

If the density transfer requires any other permits or discretionary approvals, *except for the design permit required by Section 17.12.050.C*, the applications for such

permits or approvals shall be filed and processed concurrently with the application for the density transfer use permit.

C. *As a condition of approval of ~~In addition to~~ the use permit referred to in Section 17.12.050.B, a design permit shall be required for any density transfer.*

§17.12.055 Clustered Development

A. *Consistent with the San Bruno Mountain Area Habitat Conservation Plan's goal of protecting forty percent (40%) of the Brisbane Acres as conserved habitat, adjustments to the minimum lot area, lot width and lot depth standards referred in Section 17.12.040.C may be granted under the conditions set forth in this Section 17.12.055.*

1. *One unit shall be permitted for each 20,000 square feet of the total area of the site. In addition, one secondary dwelling unit may be allowed for each 20,000 square feet of the total area of the site, if otherwise in compliance with the requirements of Chapter 17.43. Permitted units shall not be clustered as multiple-family dwellings.*
2. *A minimum of forty percent (40%) of the total area of the site shall be permanently dedicated as conserved habitat. The method of retaining the dedicated land as conserved habitat shall be approved by the City Council upon recommendation of the Planning Commission and shall be implemented before any building or grading permit is issued for development on the site receiving the transfer units. Where dedicated land is proposed to remain in private ownership, the applicant and property owner shall execute an agreement with the City for the continued maintenance of the conserved habitat, to be recorded with the County of San Mateo prior to issuance of any grading or building permits.*
3. *The site shall be subdivided into lots no less than five thousand (5,000) square feet in area. Street right-of-way shall be provided in compliance with City standards.*
4. *No clustered development shall be allowed on any site less than forty thousand (40,000) square feet in area.*

B. *A use permit granted by the City Council shall be required for all clustered developments pursuant to this Section. The use permit shall first be considered by the Planning Commission which shall make its recommendation to the City Council. In addition to the findings for issuance of a use permit prescribed by Section 17.40.060 of this Title, the approving authority shall find and determine that:*

1. *The units in the clustered development will be sited, designed and constructed to avoid adverse effects upon environmentally sensitive areas both on and off site, such as disturbance of watercourses and hazardous geologic conditions;*
2. *The units in the clustered development will be sited adjacent to or relatively near existing infrastructure, and extension of such infrastructure to serve the clustered development will meet City standards, as determined by the Director of Public Works;*
3. *The clustered development will have adequate parking and vehicular circulation; and*
4. *The clustered development will be compatible with adjacent and nearby development and is designed to minimize its visual impact.*
5. *The use permit will be subject to such conditions as will assure that native vegetation is satisfactorily provided, improved and/or maintained within the area dedicated as conserved habitat.*

Applications for subdivision and any other permits or discretionary approvals, except for the design permit required by Section 17.12.055.C, shall be filed and processed concurrently with the application for the clustered development use permit.

C. As a condition of approval of the use permit referred to in Section 17.12.055.B, a design permit shall be required for the units in any clustered development.

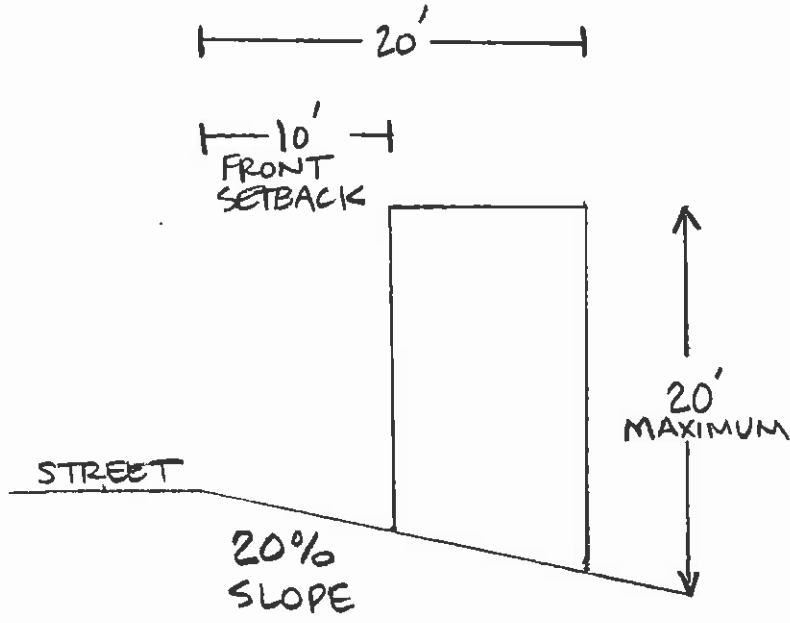
§17.12.060 Parking

All uses in the R-BA District shall comply with the parking regulations set forth in Chapter 17.34 of this Title.

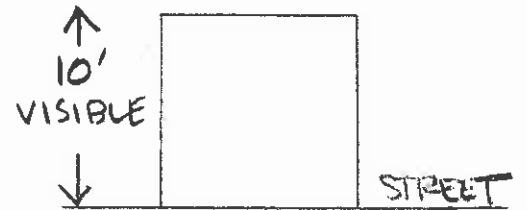
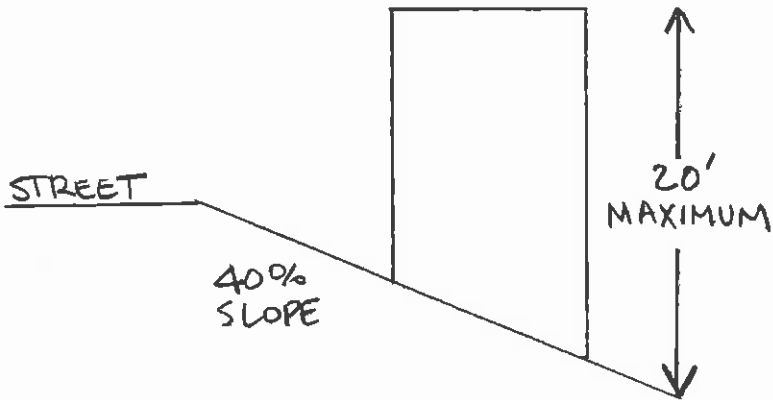
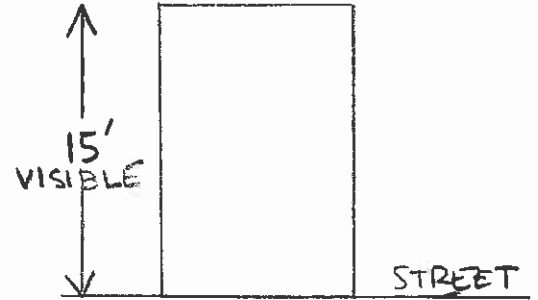
§17.12.070 Signs

All advertising signs in the R-BA District shall comply with the sign regulations set forth in Chapter 17.36 of this Chapter.

SIDE VIEW



STREET VIEW



City of Brisbane
Open Space Plan

Figure 4
Brisbane Acres
Butterfly Habitat/
Ridgelines

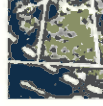
Note: location of parcels on aerial photo is approximate

Areas shown between numbered parcels are not road easements or right-of-ways, but are private unrecorded parcels

Developed parcels (wider outline)

Prominent ridgelines (white dashed line)

Documented butterfly habitat (lighter shaded areas)



Scale in Feet



**GENERAL PLAN POLICIES & PROGRAMS
RIDGELINE PROTECTION/PROPERTY RIGHTS**

Policy 17: Preserve the ridgelines and hilltops in their open state.

Program 17a: Prohibit land use changes that would result in development that would break the natural ridgeline.

Program 17b: Adopt hillside development standards that protect against ridgeline development through regulation of the siting of structures, location of access, landscape requirements and other pertinent factors.

Program 19a: Identify and map vistas and view corridors of community-wide value to be preserved and enhanced.

Policy 83: Maintain the visual beauty of the Mountain, the ridgelines, hilltops, wildlife and plant habitat including the Brisbane Acres.

Policy 6: Set clear and definitive standards for all rules and regulations.

Policy 16: Acknowledge the mountain setting and the proximity to the Bay as central factors in forming the physical character of the City.

Program 16a: In making land use decisions, consider the proximity of open space on San Bruno Mountain and public views of and access to the Bay as issues to be addressed.

Policy 19: In the context of respecting private property rights, make every effort to preserve and enhance public views of the Mountain and the Bay.

Program 19b: Consider amendments to the Zoning Ordinance to provide for site plan review to assure that identified vistas and public view corridors remain accessible for public enjoyment. The review should evaluate building placement, height and bulk.

Policy 4: Acknowledge the fundamental rights of citizens to freely act and to use their own property, except to the extent government rules or regulations are necessary for the public health and safety and for protection of the environment.

Policy 5: Use the least intrusive rules and regulations consistent with overall governmental needs and State and Federal law.

Policy 20: Retain diversity of development and individual expression in residential and commercial development, especially in Central Brisbane.

Central Brisbane Subarea Policy 253: Encourage diversity and individual expression in residential and commercial construction.

Housing Element Program H.H.2.a Work with responsible agencies to protect identified environmentally sensitive areas, including, but not limited to, wetlands, riparian habitat, critical wildlife habitat, geologically hazardous areas, areas subject to flooding, visually prominent or sensitive areas, and electric transmission line corridors.

Brisbane Acres Subarea Policy 245:
Grading and excavation should be minimized and exposed retaining walls avoided. Landforms should retain the natural topographic character of the Mountain.

Policy 22: Provide clear performance standards in the Municipal Code for the physical character of all land use developments on private property.

Program 22e: Establish clear and defined performance standards in the Zoning Ordinance for buildings and signs visible from the hillsides of Central Brisbane. Standards should address light and glare, the treatment of roofs and the screening of mechanical equipment.

Program 22f: Consider amendments to the Zoning Ordinance to establish standards for protecting the character of the existing residential Central Brisbane subarea, including attention to scale, juxtapositions, views, natural topography and ecological protection.

Southwest Bayshore Subarea Program 238c: Require visual impact analysis for all construction on steep slopes.

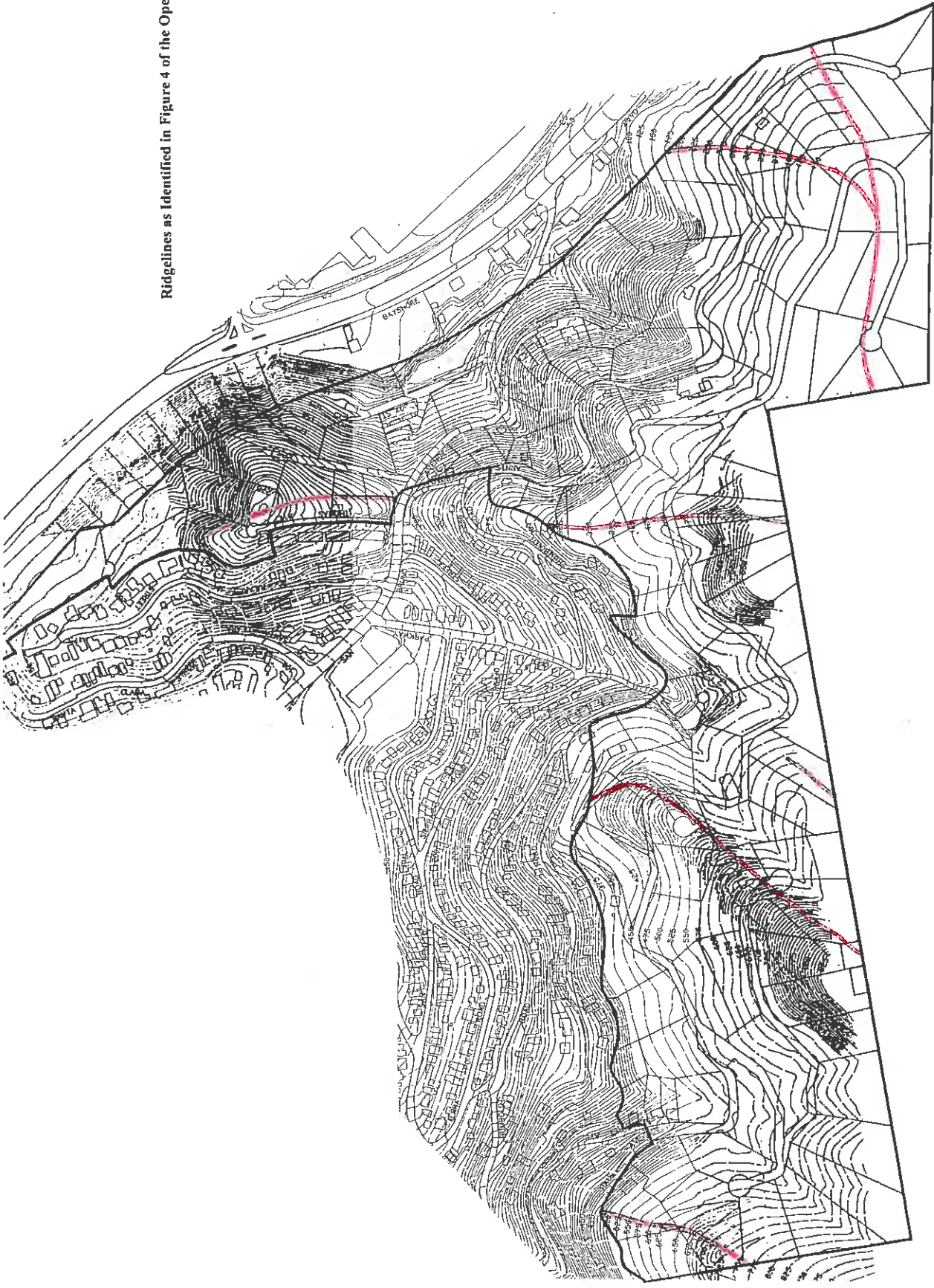
Central Brisbane Subarea Program 255b: Study regulatory approaches to view and solar protection while protecting foliage and tree cover.

*Quarry Subarea Program 275a:
Environmental review for all specific
plans shall include a visual impact
analysis which shall include an
evaluation of the impacts of building
heights, including the impact of views
of the development from Central
Brisbane and the Northeast Ridge.*

**Northwest Bayshore Subarea Policy
310.1:** **Environmental review for all
specific plans shall include a visual
impact analysis which shall include
an evaluation of the impacts of
building heights, including the
impact of the proposal on view
corridors.**

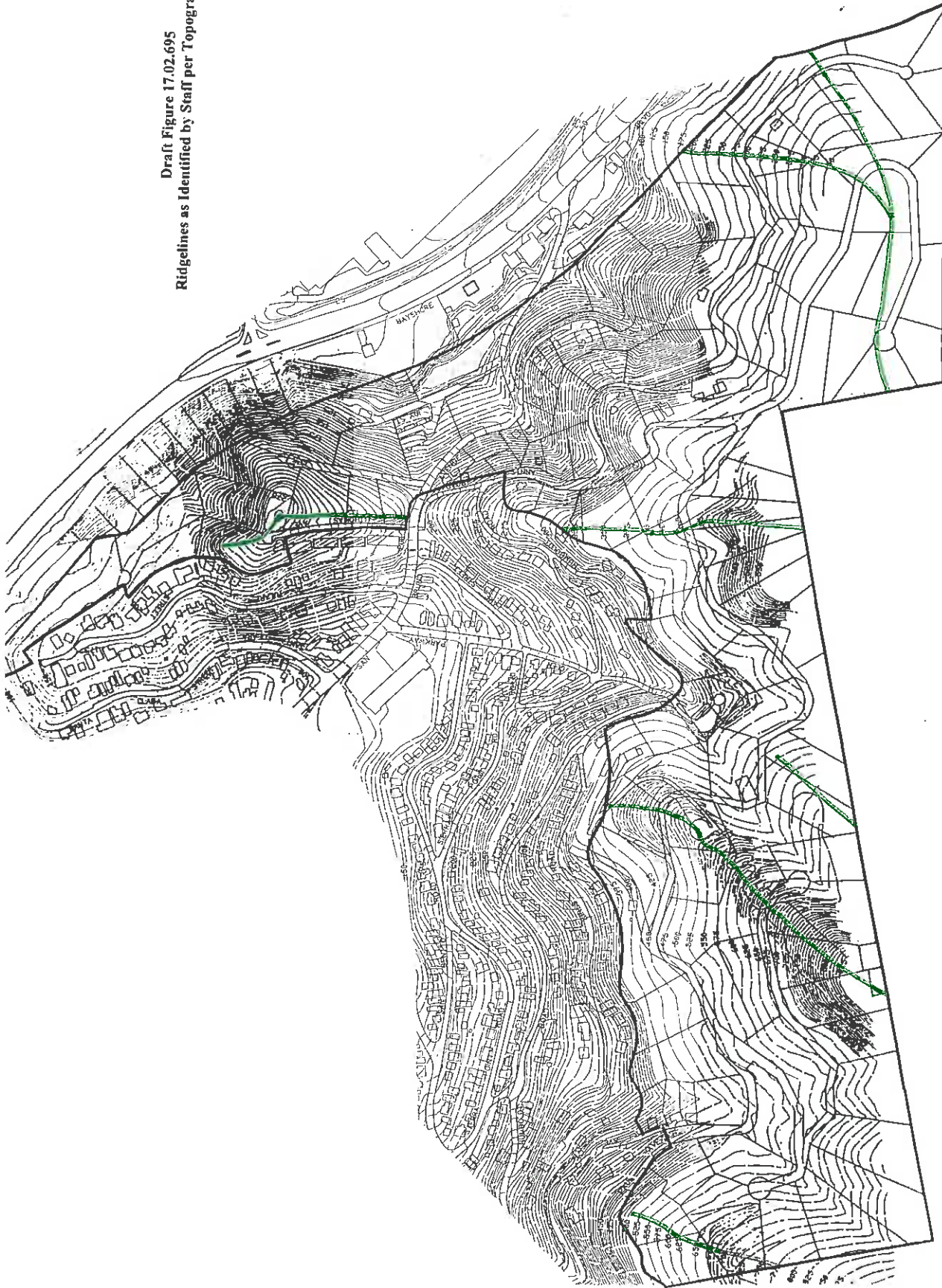
*Baylands Subarea Program 330a:
Environmental review for all Specific
Plans shall include a visual impact
analysis which shall include an
evaluation of the impacts of building
heights, including the impact of the
proposal on view corridors.*

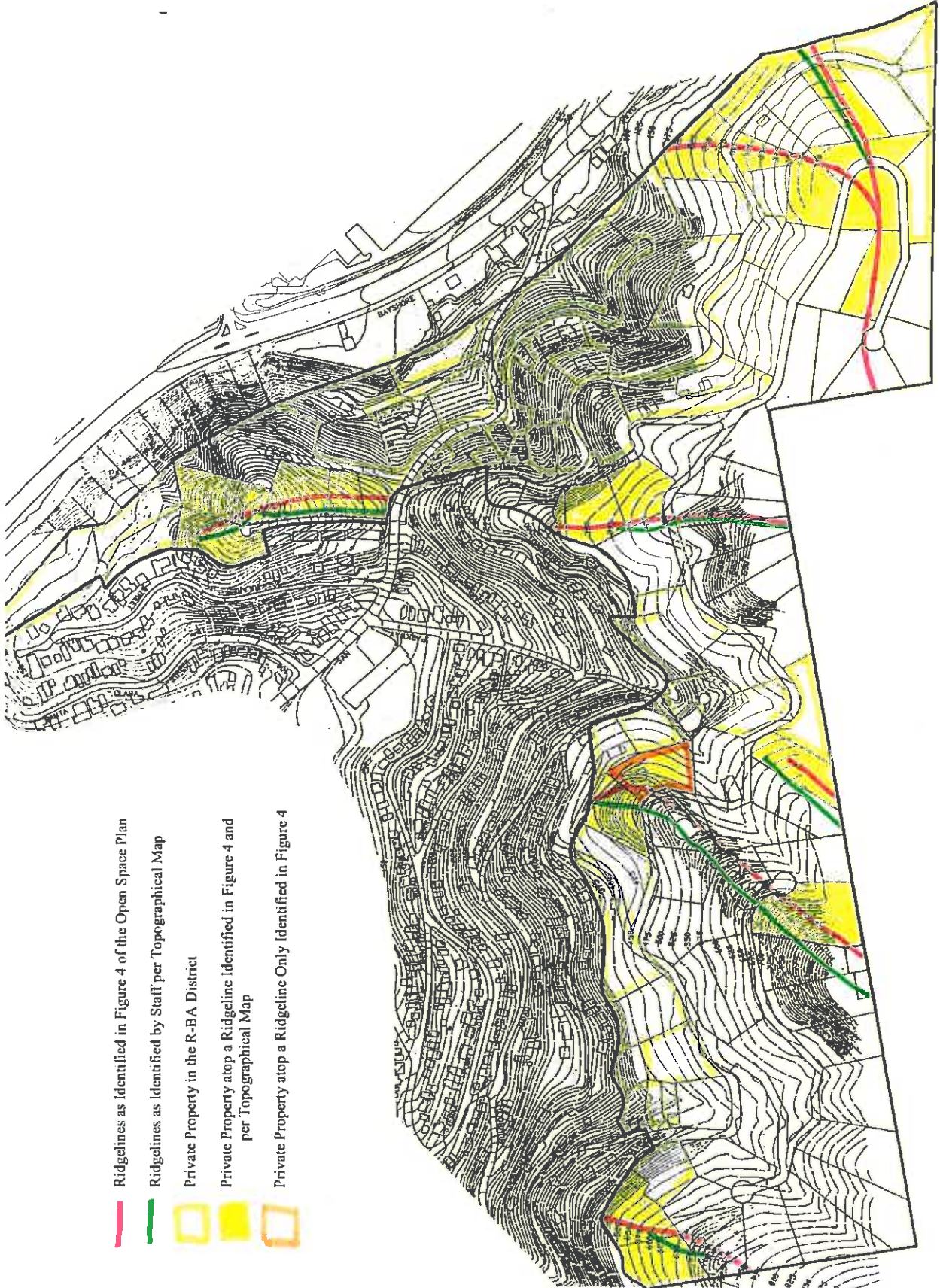
Ridgelines as Identified in Figure 4 of the Open Space Plan








G-1.23.

Draft Figure 17.02.695
Ridgelines as Identified by Staff per Topographical Map



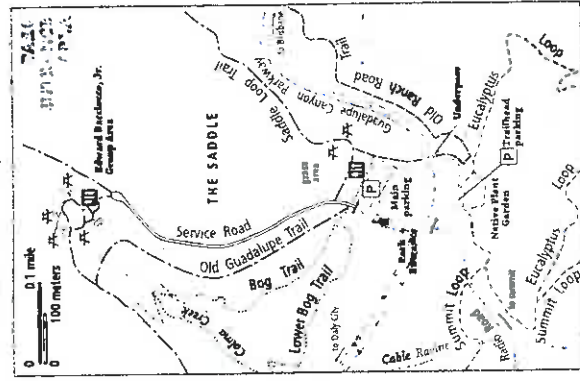
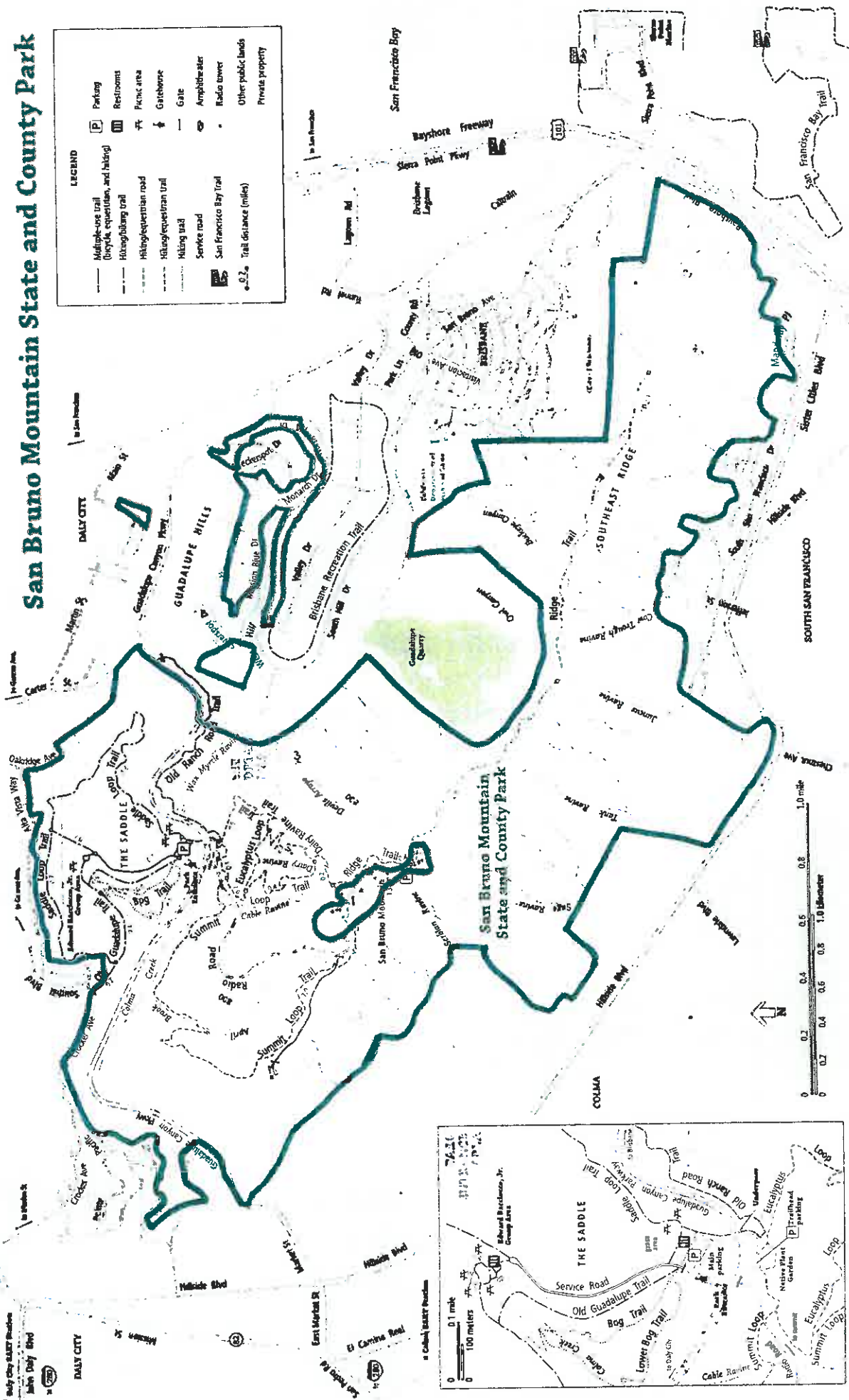


-  Ridgelines as Identified in Figure 4 of the Open Space Plan
-  Ridgelines as Identified by Staff per Topographical Map
-  Private Property in the R-BA District
-  Private Property atop a Ridgeline Identified in Figure 4 and per Topographical Map
-  Private Property atop a Ridgeline Only Identified in Figure 4

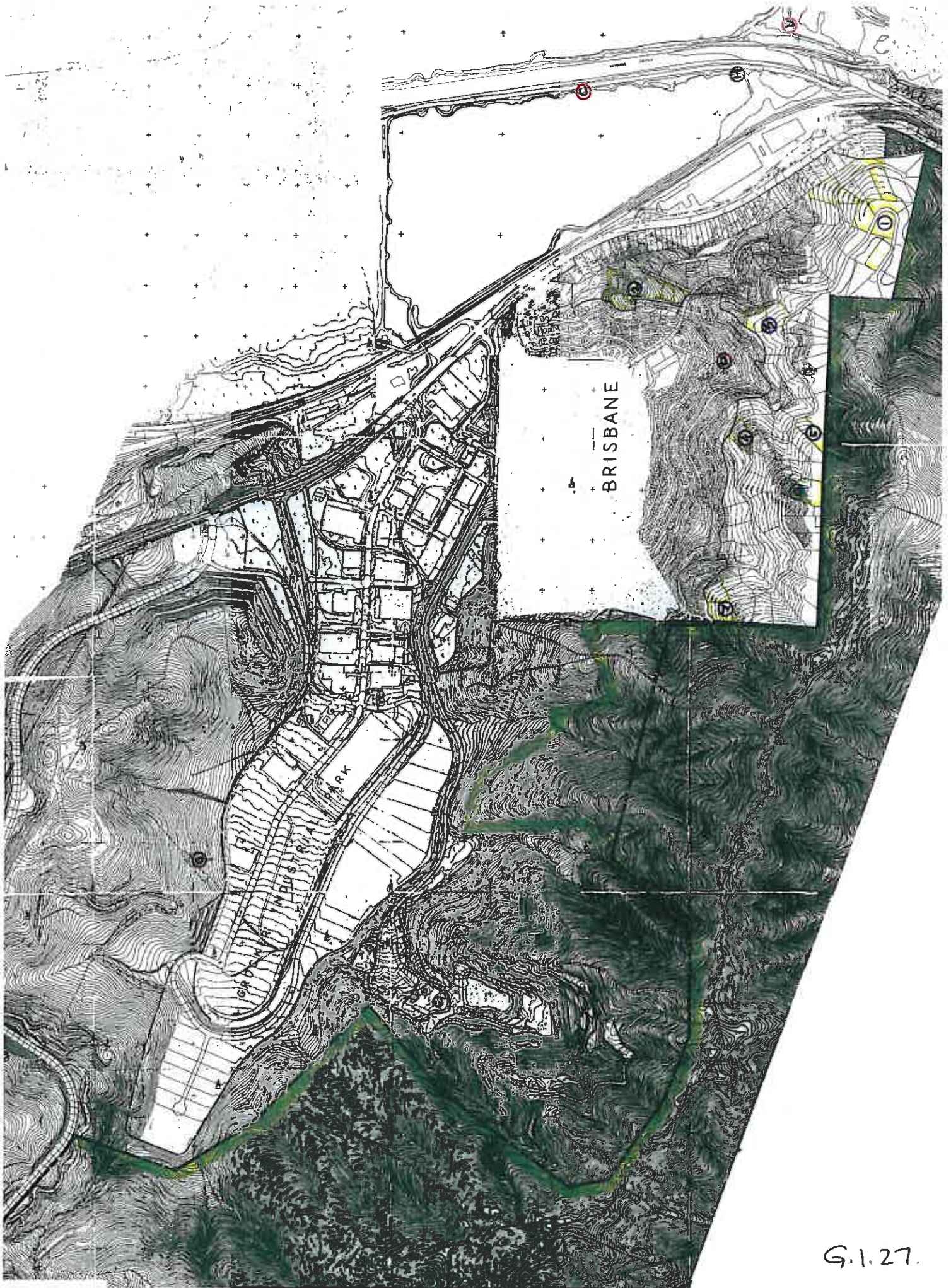
San Bruno Mountain State and County Park

LEGEND

Multiple-use trail (bicycle, equestrian, and hiking)	Parking
Hiking/equestrian trail	Restrooms
Hiking/equestrian road	Picnic area
Hiking trail	Gatehouse
Service road	Gate
San Francisco Bay Trail	Amphitheater
Trail distance (miles)	Radio tower
	Other public lands
	Private property



G.1.26.



G.1.27.

From: Beth Grossman [beth@bethgrossman.com]
 Sent: Tuesday, February 08, 2011 9:48 PM
 To: Tune, Tim; Stors Hoen
 Cc: Johnson, Kenneth; Swiecki, John
 Subject: Re: Ridgeline Interpretations
 Hi Tim -

Thanks for copying me in this discussion. I think the incorporation of Figure 4 of the Open Space Plan would significantly clarify the definition of "ridgeline" and make it much easier for all parties to understand what constitutes a "ridgeline" within Brisbane. Certainly it would have made all of our discussions much more straightforward

However, I am quite concerned with the proposed new language of the Municipal Code. While the original language is quite clear, "Structures shall be located below ridgelines in a manner that will preserve public views of the San Bruno Mountain State and County Park," the new language is needlessly vague, "the Planning Commission must find that the building's placement, height and bulk will minimize impacts to public views of the San Bruno Mountain State and County Park." Instead of "preserving views," this new language instructs the Planning Commission to "minimize impacts to public views." While it would be quite clear that a view would not be preserved, it is much less clear whether the impact to public views will be minimized. Could a 35 ft house with a rectangular footprint be built directly on top of a ridgeline, if the house were rotated so the narrower width of the footprint were oriented toward the Bay Trail? Certainly this would "minimize" the impact.

What I propose is that the original language be kept and augmented by the better definition of ridgeline with a clearer description of the requirements of story poles and the process that the Planning Commission will undertake. My changes in blue:

- L. **Ridgeline.** Structures shall be located below ridgelines in a manner that will preserve public views of the San Bruno Mountain State and County Park.
Development on any site through which a ridgeline runs as identified in Figure 4 of the Open Space Plan shall be subject to design permit approval.
1. *In addition to the required contents of application for design permit set forth in Section 17.42.020.A, story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the Community Development Director. The upper one foot length of each pole shall be painted white so as to be clearly visible from a distance.*
 2. *In addition to the findings required for issuance of design permit set forth in Section 17.42.040, the Planning Commission must find that the building's placement, height and bulk will minimize impacts to public views of the San Bruno Mountain State and County Park as seen from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines.*

All the best,
 Stors and Beth

G.I. 28.

From: "Tune, Tim" <timtune@ci.brisbane.ca.us>
 To: Beth Grossman <beth@bethgrossman.com>; Stors Hoen <stors.hoen@yahoo.com>
 Cc: "Johnson, Kenneth" <kjohnson@ci.brisbane.ca.us>; "Swiecki, John" <jswiecki@ci.brisbane.ca.us>
 Sent: Fri, February 4, 2011 1:07:10 PM
 Subject: FW: Ridgeline Interpretations

Beth & Stors--

Staff is suggesting that the current vague language (crossed out below) be made more specific by referencing the ridgeline map in the Open Space Plan, by requiring broader Design Permit approval for development of any ridge site (as opposed to the current procedure that requires staff to try to figure out whether the project will block public views and, if so, then requires approval of a Variance) and by detailing requirements for erecting storypoles and making additional findings for approval.

I've already received one suggestion that instead of while, some shade of neon orange should be used at the top of the storypoles. Any suggestions you two might have would be much appreciated.

--Tim

L. **Ridgeline.** ~~Structures shall be located below ridgelines in a manner that will preserve public views of the San Bruno Mountain State and County Park. Development on any site through which a ridgeline runs as identified in Figure 4 of the Open Space Plan shall be subject to design permit approval.~~

1. *In addition to the required contents of application for design permit set forth in Section 17.42.020.A, story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the Community Development Director. The upper one foot length of each pole shall be painted white so as to be clearly visible from a distance.*
2. *In addition to the findings required for issuance of design permit set forth in Section 17.42.040, the Planning Commission must find that the building's placement, height and bulk will minimize impacts to public views of the San Bruno Mountain State and County Park as seen from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines.*

From: Tune, Tim
 Sent: Friday, February 04, 2011 1:07 PM
 To: Beth Grossman ; Stors Hoen
 Cc: Johnson, Kenneth ; Swiecki, John
 Subject: FW: Ridgeline Interpretations

Beth & Stors--

Staff is suggesting that the current vague language (crossed out below) be made more specific by referencing the ridgeline map in the Open Space Plan, by requiring broader Design Permit approval for development of any ridgeline site (as opposed to the current procedure that requires staff to try to figure out whether the project will block public views and, if so, then requires approval of a Variance) and by detailing requirements for erecting storypoles and making additional findings for approval

I've already received one suggestion that instead of white, some shade of neon orange should be used at the top of the storypoles. Any suggestions you two might have would be much appreciated

-Tim

- L. **Ridgeline.** Structures shall be located below ridgelines in a manner that will preserve public views of the San Bruno Mountain State and County Park. Development on any site through which a ridgeline runs as identified in Figure 4 of the Open Space Plan shall be subject to design permit approval.
 1. In addition to the required contents of application for design permit set forth in Section 17.42.020.A, story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the Community Development Director. The upper one foot length of each pole shall be painted white so as to be clearly visible from a distance.
 2. In addition to the findings required for issuance of design permit set forth in Section 17.42.040, the Planning Commission must find that the building's placement, height and bulk will minimize impacts to public views of the San Bruno Mountain State and County Park as seen from the Bay Trail along the Brisbane Lagoon and Stevia Point shorelines.

From: Johnson, Kenneth
Sent: Friday, February 04, 2011 11:53 AM
To: Tune, Tim
Subject: FW: Ridgeline interpretations

Tim,

Do you want to field this one from Beth?

Ken

From: Beth Grossman [mailto:beth@bethgrossman.com]
Sent: Friday, February 04, 2011 10:12 AM
To: Johnson, Kenneth
Subject: Re: Ridgeline interpretations

Thanks Ken, for catching my mistake.

I tried to make sense of the staff report and it is in another language, with many referrals to code lots and numbered policies. Can you tell me if there is anything substantial that will affect the way the ridgeline is interpreted and if it will affect building regulations on Thomas Hill?

Thanks for your assistance,
Beth

From: Johnson, Kenneth
Sent: Friday, February 04, 2011 8:58 AM
To: Beth Grossman

Subject: RE: Ridgeline stuff brewing Brisbane Planning Commission Agenda

Beth,

It looks like you hit reply, so this came to me, instead of sending it to Storrs. If you didn't notice this already, you might want to try send it again to Storrs.

Best wishes
Ken

From: Beth Grossman [mailto:beth@bethgrossman.com]
Sent: Thursday, February 03, 2011 6:52 PM
To: Johnson, Kenneth
Subject: Re: Ridgeline stuff brewing Brisbane Planning Commission Agenda

Hi Storrs, there is talk of re-evaluating the ridge line wording for design review. Can you look at this Pdf and tell me what you think and if we need to take actions.

<http://brisbane.qa.govt.nz/sites/default/files/RZ-3-11Study.pdf>

Always vigilant.

Lova you,
Beth

From: Johnson, Kenneth
Sent: Thursday, February 03, 2011 3:25 PM
Subject: Brisbane Planning Commission Agenda & Links for February 10th

<http://brisbane.qa.govt.nz/planning-commission/2011-02-10>

G.I.29

Tune, Tim

From: Hal Toppel [htoppel@nelgate.net]
Sent: Tuesday, February 08, 2011 11:03 AM
To: Tune, Tim
Subject: Re: RZ-3-11 and RZ-4-10

I am not opposed to incorporating something by reference but my problem was that I did not think the Open Space Plan should necessarily be that document. I would argue that the Zoning Map is adopted by ordinance and is a regulatory document, whereas the Open Space Plan is not. My preference would be to treat the map the same as we handle signs and include it as part of the ordinance - or, it could be separately adopted, maybe as a separate section of the ordinance, and then have that document incorporated by reference.

I like your suggested revision to the density transfer provisions. I do think that clarifies the site area issue.

Let's touch base tomorrow.

Hal Toppel
Atkinson-Farasyn, LLP
660 West Dana Street
Mountain View, CA 94042
Phone: (650) 967-6941
Fax: (650) 967-1395
htoppel@nelgate.net

On 2/8/2011 10:41 AM, Tune, Tim wrote:

What's the best way to deal with the ridgeline map? It doesn't sound like you want to incorporate it by reference, as BMC Section 17.04.020.A does with the Zoning Map. Should we set it up like the figures at the end of the Sign Ordinance (Figures 17.36.020A-1, A-2 & B) and insert it directly into the ordinance, with "Figure 17.12.030" at the top?

L. ~~Ridgeline. Structures shall be located below ridgelines to the extent that with preserve public views of the San Bruno Mountain State and County Park. Development on any site through which a ridgeline runs as identified in Figure 17.12.030 Figure 4 of the Open Space Plan shall be subject to design permit approval.~~

1. ~~In addition to the required contents of application for design permit set forth in Section 17.42.020.A, story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the Community Development Director. The upper one foot length of each pole shall be painted white so as to be clearly visible from a distance.~~
2. ~~In addition to the findings required for issuance of~~

2/8/2011

Tune, Tim

From: Tune, Tim
Sent: Tuesday, February 08, 2011 10:41 AM
To: Toppel, Hal-at-Nelgate
Cc: Swiecki, John; Johnson, Kenneth
Subject: RE: RZ-3-11 and RZ-4-10

What's the best way to deal with the ridgeline map? It doesn't sound like you want to incorporate it by reference, as BMC Section 17.04.020.A does with the Zoning Map. Should we set it up like the figures at the end of the Sign Ordinance (Figures 17.36.020A-1, A-2 & B) and insert it directly into the ordinance, with "Figure 17.12.030" at the top?

L. ~~Ridgeline. Structures shall be located below ridgelines in a manner that with preserve public views of the San Bruno Mountain State and County Park. Development on any site through which a ridgeline runs as identified in Figure 17.12.030 Figure 4 of the Open Space Plan shall be subject to design permit approval.~~

1. ~~In addition to the required contents of application for design permit set forth in Section 17.42.020.A, story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the Community Development Director. The upper one foot length of each pole shall be painted white so as to be clearly visible from a distance.~~
2. ~~In addition to the findings required for issuance of design permit set forth in Section 17.42.040, the Planning Commission must find that the building's placement, height and bulk will minimize impacts to public views of the San Bruno Mountain State and County Park as seen from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines.~~

As for the density transfer section, would it be clearer if Subsection 3 stated that the site receiving the transfer units must have a total area of not less than 20,000 sq. ft., and if Subsection 4 then said that the site receiving the transfer units may be subdivided into lots no less than 5,000 sq. ft. in area, subject to the maximum density permitted per BMC Sections 17.12.040 A, 17.12.040 B and 17.12.050 A.1?

§17.12.050 Density transfer

A. In order to facilitate preservation of lands in the R-BA District with significant environmental resources, one or more additional dwelling units within the R-BA District, in addition to the dwelling unit otherwise permitted on a particular site, may be constructed under the conditions set forth in this Section 17.12.050. As used herein, the additional dwelling units are called "transfer units." The density transfer shall comply with all of the following requirements:

1. One (1) transfer unit may be allocated to the site receiving the density transfer for each 20,000 square feet of land of the total area of the site or sites from which the transfer units are taken which is permanently dedicated to open space. No transfer units shall be allocated for any area of land having less than 20,000 square feet. The method of retaining the dedicated land in permanent open space shall be approved by the City Council upon

2/8/2011

G.1.30.

recommendation of the Planning Commission and shall be implemented before any building or grading permit is issued for development on the site receiving the transfer units.

2. The site from which the transfer units are taken must be found to have value as open space based upon one or more of the following considerations:
 - a. contiguous with San Bruno Mountain State and County Park;
 - b. contains intact native vegetation;
 - c. contains endangered butterfly habitat;
 - d. contains permanent or semi-permanent wetlands;
 - e. forms a portion of a significant watercourse;
 - f. does not adjoin developed parcels on more than one side.

In making this determination, the Planning Commission and the City Council shall be guided by the City's Open Space Plan. *The density transfer value of undeveloped "paper streets" in the upper Brisbane Acres may be recognized, once it is established that they are not subject to claims of access rights by easement or necessity from any remaining private property owners in the upper Brisbane Acres.*

3. The site receiving the transfer units must be found suitable for development with increased density based on all of the following considerations:

- a. has a total lot area of not less than 20,000 square feet;
- b. does not contain any of the features of value for open space as described in subsections (A) (2) (a) through (e) of this section;
- c. is adjacent to or relatively near existing development and infrastructure.

4. The type of development permitted on the site receiving the transfer units shall be single family dwellings only. *The site shall be subdivided into lots with a minimum lot area of shall be the density of development of such site shall be no less than five thousand (5,000) square feet per unit subject to the maximum density permitted per Sections 17.12.040.A, 17.12.040.B and 17.12.050.A.1. One secondary dwelling unit may be allowed per twenty thousand (20,000) square feet of the site receiving the transfer units if otherwise in compliance with the requirements of Chapter 17.43, but no additional secondary dwelling units shall be allocated to that site as part of the density transfer.*

5. ~~If the density transfer includes a proposed subdivision of the site receiving the transfer units, the subdivision shall comply with all of the following additional requirements:~~

- a. ~~Not shall have an area of less than 5,000 square feet;~~
- b. ~~If the area of any lot is 5,000 square feet, the minimum front and rear setbacks for such lot shall be 10 feet and the minimum side setbacks for such lot shall be 5 feet;~~

9.1.31.

~~c. The maximum coverage on any lot shall be 25%.~~

B. A use permit granted by the City Council shall be required for all density transfers pursuant to this Section. The use permit shall first be considered by the Planning Commission which shall make its recommendation to the City Council. In addition to the findings for issuance of a use permit prescribed by Section 17.40.060 of this Title, the approving authority shall find and determine that:

1. The transfer units will be sited, designed and constructed to avoid adverse effects upon environmentally sensitive areas both on and off site, such as disturbance of watercourses and hazardous geologic conditions;
2. The site receiving the transfer units will be served by infrastructure that meets City standards, as determined by the Director of Public Works;
3. The site receiving the transfer units will have adequate parking and vehicular circulation; and
4. The proposed development of the site receiving the transfer units will be compatible with adjacent and nearby development and is designed to minimize its visual impact.

If the density transfer requires any other permits or discretionary approvals, except for the design permit required by Section 17.12.050.C, the applications for such permits or approvals shall be filed and processed concurrently with the application for the density transfer use permit.

C. ~~As a condition of approval of~~ ~~in addition to~~ the use permit referred to in Section 17.12.050.B, a design permit shall be required for any density transfer.

From: Hal Toppel [mailto:htoppel@netgate.net]
Sent: Monday, February 07, 2011 2:50 PM
To: Tune, Tim
Subject: RZ-3-11 and RZ-4-10

Hi Tim,

I just had a couple of comments on the draft RZ-3-11 ordinance, as follows:

17.12.040.L - Ridgeline: Can we get a more detailed description of "Figure 4 of the Open Space Plan." My concern is that the Plan is not a regulatory document and the Plan itself might change in the future. My preference would be to include a Ridgeline map to be adopted with the ordinance so it would remain in place regardless of what happens to the Plan. It would also be easier to identify in the future, without the need to find a separate document and then determine whether we are looking at the correct "Figure 4."

17.12.050.A.2 - Density transfer: Just to cover all possibilities (however remote), I would prefer that the last sentence read: "...once it is established that they are not subject to claims of access rights by easement or necessity..." I realize that we are not aware of any access easements up there but the little history is so messed up, I want to cover the possibility that an actual easement surfaces in the future.

17.12.050.3(a) and 4: This might be confusing since both provisions refer to the "lot area" of the "site receiving the transfer units" but paragraph (a) requires 20,000 square feet and paragraph 4 requires 5,000 square feet. Maybe we need to put back the phrase "per unit" but I understand why you have deleted it. I think some kind of clarification is needed but I am not sure what it should be. Maybe we can talk about this on Wednesday.

With regard to ordinance RZ-4-10, I think the draft looks fine and I have no changes to suggest.

Hal

--

Hal Toppel
Atkinson-Farasin, LLP
660 West Dana Street
Mountain View, CA 94042
Phone: (650) 967-6941
Fax: (650) 967-1395
htoppel@netgate.net

G.1.32.



G.I.33



G.1.34