ZACKS, FREEDMAN & PATTERSON
A PROFESSIONAL CORPORATION

235 Montgomery Street, Suite 400
San Francisco, California 94104
Telephone (415) 956-8100
Facsimile (415) 288-9755
www.zfplaw.com

January 26, 2018

VIA U.S. MAIL AND EMAIL

Honorable Mayor Madolyn Agrimonti and
Members of the Sonoma City Council
City Hall
No 1 The Plaza
Sonoma, CA 95476
madolyn.agrimonti@sonomacity.org

Re: 149 Fourth Street East / APN 018-091-018 (Lot 2); Brazil Street / APN 018-051-012 (Lot 227); Brazil Street / APN 018-051-007 (Lot 228)
Approval of Housing Development Projects

Dear Mayor Agrimonti and City Council Members:

Our office represents Bill Jasper, the applicant for the three above-captioned Use Permits (the "Permits"). Each Permit relates to the construction of a single family home on an R-HS zoned lot on the lower slope of Schocken Hill in Sonoma (collectively, the "Projects"). The three lots are located at 149 Fourth Street East (Lot 2) and 0 Brazil Street (Lots 227 and 228). The Permits for Lots 2 and 228 were approved by the Planning Commission on August 10, 2017. Due to time constraints at the August hearing, the Permit application related to Lot 227 was heard and approved on September 14, 2017.

We write regarding the appeals scheduled to be heard by the City Council on February 5, 2018. The question before the Council is whether our client can build three code-compliant, single-family homes on lots that are zoned for single-family housing. California's Housing Accountability Act ("HAA"), Government Code § 65589.5 compels the City Council to approve the Projects. As set forth below, the City's actions on appeal cannot conflict with state law. It is unlawful for the City to reject a housing development project for reasons not specified in the HAA.

Housing Accountability Act

The HAA applies to market-rate housing development projects and requires that code-compliant projects be approved. Pursuant to new amendments which took effect on January 1, 2018,[1] the HAA imposes significant limitations on a city's discretion to deny permits for housing. The HAA requires, inter alia:

[1] See SB-167 and AB-1515.

> When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:
>
> (1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
>
> (2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.
>
> (Gov't Code § 65589.5(j))

The definition of "housing development project" includes a use consisting of "residential units only," such as the single family residences at issue here (Gov't Code, § 65589.5(h)(2)(A)). In order to allow the appeals and deny the Permits, the City has the burden of either proving that the "proposed project in some manner fail[ed] to comply with 'applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application [was] determined to be complete. . .'," or make the findings required by the HAA. (Honchariw v. County of Stanislaus (2011) 200 Cal.App.4th 1066, 1081)

The Planning Commission's Staff Reports, prepared in advance of the August 10, 2017 hearing (the "August Staff Reports"), found that the Projects were consistent with Sonoma's General Plan and Development Code, and the Planning Commission agreed. Each Project meets Sonoma's Development Standards for hillside development. (Development Code § 19.040.050.D.) In addition, each Project satisfies the suggestive Design Guidelines for hillside development. (Development Code § 19.040.050.E.)

The appellants have raised questions related to Design Guideline 2 for hillside development – Lot Pad Grading. This Guideline provides, inter alia, that Lot Pads "shall not exceed 5,000

square feet in total area." According to the appellants, it is unclear whether this Guideline intends to limit the size of any individual lot pad to 5,000 square feet, or aims to limit the total area of all lot pads on a site. For three reasons, any challenge to the Permits based on Guideline 2 is without merit.

First, as the August Staff Reports note, the Design Guidelines are suggestive rather than mandatory, and the review authority may approve a proposed project even if it does not comply with all Guidelines (Development Code § 19.01.060). This has already occurred in the Projects' vicinity; a number of pads larger than 5,000 square feet have been approved subsequent to the enactment of the Hillside Development Code. Moreover, the Design Guidelines are merely *guidelines,* not *standards* (Development Code § 19.01.050 "Standards"; § 19.01.060 "Guidelines"). This is an important distinction, since the HAA prohibits municipalities from using subjective, discretionary standards to deny or condition housing development projects. The City Council is well aware of the distinction between standards and guidelines (see Attachment A: City Council minutes).

Second, the Planning Commission determined that the recommended size limit of 5,000 square feet applies to individual pad areas and should not be construed as an aggregate limit on all pads associated with a proposed project. The Staff Report for the September 14 hearing of the Brazil Street (Lot 227) Permit application was revised accordingly. This Report notes: "[i]n compliance with [the Lot Pad Grading] guideline, the area of individual lot pads does not exceed 5,000 square feet." Under the 2018 HAA amendments, "a housing development project . . . shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project . . . is consistent, compliant, or in conformity." (Gov. Code, § 65589.5(f)(4).) The Planning Commission's determination certainly constitutes substantial evidence.

Finally, this issue is now moot because the Projects have been revised to use stepped foundations. This will reduce the scope of the grading work and ensure the total pad area for each Project does not exceed 5,000 square feet, by any definition or condition. The Projects continue to comply with all objective general plan and zoning standards and criteria, including design review standards.

In short, there is no basis for the City to revoke or condition the Permits, and to do so would violate the HAA. Should the City Council disapprove the Projects without making the findings required by the HAA, our client would be entitled to an order or judgment compelling compliance with the HAA within 60 days. Moreover, the City would be liable for our client's attorney fees and costs. (Gov't Code § 65589.5(k)(1)(A).) If the City Council failed to comply with any court order or judgment, the court would additionally impose fines of at least $10,000 per Project. (Gov't Code § 65589.5(k)(1)(B).)

CEQA Issues

The appellants have raised various conclusory objections to the Projects based on the California Environmental Quality Act ("CEQA"). Our client maintains that the Projects are categorically

exempt from CEQA because they involve the construction of single family residences (14 Cal. Code of Regs. § 15303(a)). There are no "unusual circumstances" or any "cumulative impact" that would trigger an exception to the categorical exemption for single family residences (14 Cal. Code of Regs. § 15300.2).

The Staff Report for each Project acknowledges that "the development of an existing parcel with a single family residence and associated accessory structure and site improvements is typically exempt from environmental review." Nevertheless, the Planning Commission directed the preparation of an Initial Study to evaluate potential impacts on trees, and a rigorous study was completed. Following the Initial Study, the Planning Commission adopted a Mitigated Negative Declaration ("MND") for each Project.

The onus is on the appellants to produce **substantial evidence** that the Projects, even as mitigated, may have a significant effect on the environment. Substantial evidence does not include "[a]rgument, speculation, unsubstantiated opinion or narrative, [or] evidence which is clearly inaccurate or erroneous..." (North Coast Rivers Alliance v. Kawamura (2015) 243 Cal.App.4th 647). The lead agency, in this case the Planning Commission, must be given "the benefit of the doubt on any legitimate, disputed issues of credibility." (Citizens for Responsible Equitable Environmental Development v. City of Chula Vista (2011) 197 Cal.App.4th 330–331.) The Planning Commission's CEQA determinations must be given "substantial deference and [be] presumed correct." (Sierra Club v. County of Napa (2007) 121 Cal.App.4th 1490.)

The arguments advanced by the appellants here are purely speculative and erroneous, and fall far short of the "substantial evidence" standard. We address their contentions in turn.

1. *Segmentation.* CEQA prohibits improper "piecemealing" of a project in order to evade environmental review. Improper piecemealing occurs "when the purpose of the reviewed project is to be the first step toward future development" or "when the reviewed project legally compels or practically presumes completion of another action." (Banning Ranch Conservancy v. City of Newport Beach (2012) 211 Cal.App.4th 1209, 1223.) When "there is no substantial evidence of any individual potentially significant effect by [a] project," it is reasonable to conclude that separate projects will have no significant adverse cumulative effect, because "[z]ero plus zero equals zero." (Leonoff v. Monterey County Bd. of Supervisors (1990) 222 Cal.App.3d 1337, 1358.)

   Here, the Projects involve the construction of three single family homes on three separate lots. There is no future development contemplated, and the Projects do not compel or presume completion of another action. Indeed, the Development Code prohibits further subdivision or construction of additional residential units on the Project lots (Development Code, § 19.18.020.A.1). The Staff Report for each Project acknowledged the existence of the other Projects, and the Initial Studies found, in respect of each Project, that "the proposed project would not result in cumulative impacts deemed considerable." There is no evidence supporting an adverse cumulative impact, and the Planning Commission adopted an MND for each Project.

2. *Aesthetic Impacts.* The aesthetic impacts were thoroughly assessed in the Permit applications and the Initial Studies, and the Staff Report for each Project noted that "the proposed design strategy is successful in allowing the structure to blend in with the larger hillside." For example, only 1-8% of the structures on Lots 227 and 228 will be visible from nearby roads, and Lot 2 will be significantly screened from public view. Our client has gone to great lengths to minimize the aesthetic impacts of the Projects, and the Planning Commission found no significant adverse impacts. At the August 10, 2017 meeting, Commissioner McDonald said the Lot 2 Project design was "most suited to maintain the view corridor," and Commissioner Sek said that the "low-profile design" protected the viewshed.

   A lead agency's assessment of the significance of aesthetic impacts is entitled to deference. For example, the California Court of Appeals found that installing a water storage tank near a ridgeline would not be significant, because most views of the tank would be screened by topography and vegetation. (North Coast Rivers Alliance v. Marin Mun. Water Dist. (2013) 216 Ca.4th 614, at 627.) Significant impacts will not arise where, as here, a project is largely screened from public view: "obstruction of a few private views in a project's immediate vicinity is not generally regarded as a significant environmental impact." (Bowman v. City of Berkeley (2016) 122 Cal.App.4th 572.)

   The appellants have not provided any evidence showing that the aesthetic impacts of the Projects are significant and unmitigated. In reality, *any* residential development on the sites will be visible, but such development is permitted on these lots.

3. *Inconsistency with Hillside Zoning Requirements.* The appellants' assertion here is conclusory, and their appeals do not explain how or why they believe the Projects are inconsistent with Hillside Zoning requirements so as to require a greater level of CEQA review. The appellants have also not provided *any* evidence, let alone substantial evidence, on which the City Council could rely.

   By contrast, the Planning Commission's findings are supported by the extensive Initial Studies and Staff Reports, which set out how each Project complies with Hillside Development standards. The Planning Commission found the Projects were consistent with the General Plan and all Development Code Standards. The appellants have provided no basis for the City Council to overturn the Planning Commission's findings.

4. *Removal of Trees.* This impact was evaluated in the Initial Study for each Project and at the Planning Commission hearings. Again, the basis for appellants' objections is unclear. Appellants have not identified any issues with the Initial Studies or Staff Reports and have not advanced any evidence, let alone substantial evidence, in support of their position. The Initial Studies and MNDs more than satisfy CEQA's requirements regarding potential impacts.

   The Initial Studies included Tree Mitigation and Preservation Reports, which conducted an inventory of each tree on the Project sites and made recommendations for preservation. These recommendations are incorporated into the conditions of project

approval, effectively mitigating any potential impact associated with tree removal. For example, our client must replace any removed trees at a ratio of 1.5:1, and an arborist must be onsite during initial grading and trenching to monitor compliance with tree protection measures. The tree replacement ratio of 1.5 (Mitigation Measure 4.e-2) exceeds the 1:1 ratio required in the City's Tree Ordinance (Municipal Code § 12.08.035(E)(1)). Planting trees to replace those removed is a common-place mitigation measure, and rectifies potential impacts by "repairing, rehabilitating, or restoring the impacted environment." (Gov't Code § 15370(c); *See, e.g.* California Oak Foundation v. Regents of University of California (2010) 188 Cal.App.4th 227.)

By contrast to these Projects, the courts have found a comparatively low level of disclosure and mitigation to be sufficient with regards to tree removal. For example, a court allowed a community college district to remove trees from hillsides surrounding its campus, even though the MND for their general improvement project mentioned the removal of "an unknown amount of trees" only as a possible "result of building construction or demolition." (Citizens for a Green San Mateo v. San Mateo County Community College District (2014) 226 Cal.App.4th 1572.) The Court rejected the objectors' arguments that cutting trees on the campus ridgeline went beyond the scope of the MND.

The Project documents here are far more extensive than the disclosure and mitigation measures in the San Mateo case, identifying each tree that is intended to be removed and requiring mandatory and specific mitigation measures.

5. *Bird Species.* The Initial Studies thoroughly evaluated and mitigated any potential impact on bird species. Appellants ignore the mitigation measures that were imposed as Project conditions to reduce this potential impact to less than significant levels. In particular, if grading or removal of nesting trees occurs during the nesting season (between February 15 and August 15), a pre-construction nesting bird survey *must* be undertaken by a qualified biologist. If active bird nests are observed, a disturbance-free buffer zone must be implemented to ensure any nesting birds are not disturbed.

6. *Drainage Plan.* As a condition of approval for each Project, our client is required to commission a grading and drainage plan and an erosion and sediment control plan. A Preliminary Plan and Detention Analysis have been prepared, and final grading and drainage plans are required to be prepared before our client applies for a grading permit (Condition of Approval No. 2). Importantly, the drainage issues raised by the appellants relate to *existing* runoff in the watershed around the intersection of 4th Street East and Brazil Street. The Preliminary Drainage Analysis concluded that "the existing culverts along 4th Street East and Brazil Street have created . . . the drainage issues the neighbors are concerned with," because they are undersized or poorly-maintained.

   The runoff issues are therefore part of the Projects' "existing environmental setting," and cannot be categorized as a Project impact (Cal. Code Regs. § 15063(d)(2).) The Initial Studies found that the Projects would have a "less than significant impact" on drainage

patterns and runoff. The appellants have provided no evidence suggesting the Projects will exacerbate pre-existing drainage issues.

The final grading and drainage plans must conform to the City's Grading Ordinance and be approved by the City (Approval Condition 2). (*See* Dry Creek Citizens Coalition v. County of Tulare (1999) 70 Cal.App.4th 20, 25).

7. *Grading.* It is unclear why the appellants have raised the issue of grading on land that has a slope in excess of 10 percent. This standard is relevant only in relation to whether the CEQA categorical exemption for minor land alterations applies (14 Cal. Code Regs. § 15304). Appellants appear to be suggesting that, because this categorical exemption (which has not been relied on to approve the Permits) *may* not apply, an EIR is necessary. This is a non sequitur. Even if the categorical exemption for minor land alterations does not apply due to the Projects' grading work, this only compels an Initial Study. Initial Studies *were* undertaken here, resulting in the Mitigated Negative Declarations.

   The Planning Commission found that the Projects were consistent with all Hillside Development standards, including grading and draining standards (Development Code § 19.40.050.D). The Hillside Development Standards do not prohibit grading on slopes in excess of 10%, and the appellants cannot advance additional criteria from an unrelated CEQA exemption in order to block the Projects.

Each Project was subject to a comprehensive Initial Study, and the MNDs were adopted with numerous conditions to ensure the Projects' impacts will be less than significant. The Project conditions, and any restrictive covenants developed according to the MND and Approval Condition 19, are enforceable against our client and future owners of the lots. Thus, even if CEQA applies to the Projects, its requirements have been satisfied.

Conclusion

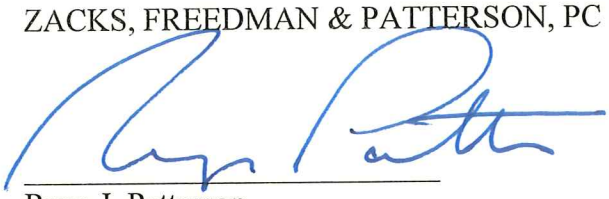
We request that the City Council dismiss the appeals and affirm the Planning Commission's Mitigated Negative Declarations and approval of the Permits. If litigation were to arise, our clients would prevail since the HAA prohibits municipalities from using subjective, discretionary standards to reject housing development projects. Moreover, the City would "bear the burden of proof that its decision has conformed to all of the conditions specified in Section 66589.5." (Honchariw v. County of Stanislaus (2011) 200 Cal.App.4th 1066, 1079.)

In the broader context, it is important to recognize that we are in a housing crisis. In September 2017, the Governor signed a package of fifteen bills to address the need for housing, including legislation that further restricts a municipality's ability to deny or unduly condition the approval of housing development projects. These recent actions by the Legislature and Governor highlight the need to supply California with sufficient housing.

We hope that calling your attention to the Housing Accountability Act and related legislation will help resolve this appeal. Please contact me if you would like to discuss this matter further.

Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC



Ryan J. Patterson

CC: Jeffrey Walter
City Attorney, City of Sonoma
City Hall
No. 1 The Plaza
Sonoma CA 95476

jwalter@walterpistole.com

Cathy Capriola
Sonoma City Manager
City Hall
No. 1 The Plaza
Sonoma CA 95476

ccapriola@sonomacity.org

David Goodison
Planning Director, City of Sonoma
City Hall
No. 1 The Plaza
Sonoma CA 95476

davidg@sonomacity.org

ATTACHMENT A

CITY OF SONOMA

CITY COUNCIL

Minutes of the regular meeting held May 1, 2002 in the Municipal Court/Council Chambers, 177 First Street West, Sonoma California.

6:00 P.M. - STUDY SESSION

Present: Councilmembers Ashford, Costello, Brown, and Barnett. Staff members Fuson, Goodison, Rainsbarger and Acting City Attorney Mary Wagner.

SS.1 Consideration of Article IV of the draft Development Code

Planning and Community Services Administrator Goodison stated the Development Code is intended to integrate zoning regulations, subdivision requirements and design guidelines in a single document. Article IV addresses property conditions, development features, and land uses to which consistent standards must be applied, regardless of zoning or location. Creek setback standards are set forth along with standards and guidelines for historic structures, parking, fences and hedges, and specialized uses such as Live/Work developments, bed and breakfasts, and second units.

Clm. Barnett pointed out that Sonoma County has larger creek setback requirements. Vice Mayor Ashford stated he favors larger setbacks. Goodison responded that the Community Services and Environment Commission is reviewing the creek side setbacks and is considering preparation of an information packet for creek side property owners.

Clm. Barnett suggested that the word "shall" replace the word "should" in section 19.40.020 (Creek side development), E.2 (use of permeable surfaces), and section E.3.b (use of concrete channels). Vice Mayor Ashford and Clm. Costello agreed.

Clm. Barnett suggested that the word "shall" replace the word "should" in section 19.40.050 (Hillside Development) E.3 (Street layout") to read: Streets shall follow the natural contours of the terrain . . . Barnett stated that grading on hillsides creates the potential for greater erosion and silting. Discussion ensued regarding the use of "shall" versus "should" and the difference between standards and requirements. City Manager Fuson commented that the document should be consistent in whatever term is used or add a blanket statement that every use of the word "should" will mean "shall".

Vice Mayor Ashford noted that fence heights have gone up. Clm. Barnett noted that there is no mention of vacation rentals in the draft document.

REGULAR SESSION

CALL TO ORDER. Vice Mayor Ashford called the meeting to order at 7:00 p.m. He announced that Mayor Mazza is ill and sends his regrets that he cannot be in attendance.

PLEDGE OF ALLEGIANCE. Vice Mayor Ashford led the flag salute.

ROLL CALL. Present: Ashford, Costello, Brown, Barnett
Absent: Mazza

Staff Present: City Clerk Rainsbarger, City Manager Fuson, Assistant to the City Manager Neilan, Accounting Manager Giovanatto, Police Chief Gurney, Fire Chief Cahill, Police Captain Wedell, Public Works Administrator Bandur, Acting City Attorney Mary Wagner

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE CITY COUNCIL. There were no comments from the public.

COUNCILMEMBERS' REMARKS & ANNOUNCEMENTS

Clm. Brown expressed sadness at the recent passing of Agnacio Valdez who served the community with love, dignity and respect and John Henry Durkey (Gerald Marino's grandson). Clm. Barnett suggested a future discussion regarding growth control for commercial development. Clm. Costello stated that there have been a number of near accidents in the area of Firehouse Village since its opening. He suggested a future discussion of possible traffic controls for the area. Vice Mayor Ashford announced that the discussion regarding fees for the Veteran's Cemetery will be carried over to the next meeting when Mayor Mazza will be present.

CITY OF SONOMA

CITY COUNCIL

Minutes of the meeting held June 5, 2002 in the Municipal Court/Council Chambers, 177 First Street West, Sonoma, California.

6:00 P.M. STUDY SESSION

SS.1 Continued review of Article IV of the draft Development Code

Planning & Community Services Administrator Goodison outlined the review process the draft development code has gone through to date. Goodison stated that Article IV addresses property conditions, development features and land uses to which consistent standards must be applied, regardless of zoning or location. Examples of the provisions found in Article IV include creek setback requirements, rules for fences and walls, parking standards, and requirements and guidelines for special uses such as bed and breakfast facilities, home occupations, and service stations. He reported that changes made to the document by Council at the May 1, 2002 meeting include: Reclassification of some creek side guidelines to regulations; Reclassification of some Hillside Development guidelines to regulations; Reclassification of some View Protection guidelines to regulations; and requiring certain types of fence materials to be subject to use permit review.

Goodison also stated that Council had requested comparison of the hillside development standards and guidelines to the Mayacamas Design Guidelines developed by the Sonoma Valley Citizens Advisory Commission. He added that the County has not yet adopted the Mayacamas Design Guidelines. Goodison reported that the vacation rental ordinance would be incorporated into this document.

A brief discussion ensued regarding vacation rentals and bed & breakfast inns. Clm. Costello suggested not allowing bed and breakfast inns on contiguous lots.

Bill Willers, 136 France Street, stated that a vacation rental is more problematic than a bed & breakfast in residential areas. Goodison responded that vacation rentals are prohibited in residential zoning districts.

Clm. Costello suggested that language be added to stipulate that home occupations would be allowed as long as the use does not violate the Covenants, Conditions and Restrictions (CC&Rs) of the particular neighborhood. Goodison stated that approach would put the city in the position of enforcing private regulations. Attorney Curry stated he would caution the city against automatically assuming enforcement of CC&Rs.

Mayor Mazza expressed his concern that converting the view protection guideline into standards may cause a problem for property owners. Goodison responded that the view protection section would apply only to scenic vistas, not a view from a person's back yard. Clm. Costello stated he does not want to consider making that change in the absence of Clm. Barnett. Goodison offered that single-family lots could be exempted from the view protection guidelines.

Bill Willers, 136 France Street, commented that it is not possible to build a project in Sonoma without obstructing someone's view of something. He cautioned that the view protection guideline would cause the Council to be involved in a lot more requests for variances. Willers questioned the existing language concerning home occupations, which require they be accessible only from the interior of the structure.

Clm. Costello commented his support for adopting the hillside preservation guidelines prepared by the Citizens Advisory Commission. The other Councilmembers felt that the existing language is sufficient.

Goodison stated that staff would follow up on the issues of Bed & Breakfasts, and view protection.

CALL TO ORDER. Mayor Mazza called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE. Mayor Mazza led the flag salute.

CITY OF SONOMA

JOINT CITY COUNCIL & COMMUNITY DEVELOPMENT AGENCY MEETING

Minutes of the meeting held July 3, 2002 in the Municipal Court/Council Chambers, 177 First Street West, Sonoma California.

6:00 P.M. STUDY SESSION

SS.1 Review of the draft Development Code: Follow up on Article IV (General Site Planning and Development Standards); and first review of Article V (Planning Permit Procedures) and Article VI (Subdivisions)

Planning & Community Services Administrator Goodison reported that, at a previous meeting, Council agreed to revisit the section of the Development Code regarding view protection to consider whether that section should be in the form of guidelines or standards. Goodison presented a general overview of Article V, Planning Permit Procedures, and Article VI, Subdivisions.

Discussion ensued regarding section 19.40.130, View Protection. By consensus, Council determined that the section should be considered guidelines and not standards.

Wylie Hartman, 472 York Court, commented that the League for Historic Preservation is in the process of conducting a historical properties survey and there will be properties added to the current list as a result. He suggested that Council, taking this information into consideration, reconsider Article IV.

Goodison stated the League survey is not an official city survey. He added that the survey is one of many factors considered when determining the historic significance of a structure.

Clm. Costello suggested additional language to the "determination of significance" section. It was the consensus of Council to direct staff to come up with some revisions to incorporate the concerns expressed by Hartman.

Clm. Costello requested discussion of the distinction between the terms exception and variance at the next review of the development code.

CALL TO ORDER. Mayor Mazza called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE. Mayor Mazza led the flag salute.

ROLL CALL. Present: Ashford, Costello, Brown, Barnett, Mazza
Absent: None

Also Present: City Manager Fuson, City Clerk Rainsbarger, Assistant to the City Manager Neilan, Accounting Manager Giovanatto, Planning Administrator Goodison, Public Works Administrator Bandur, Assistant Planner Rodrigues, Cemetery Manager Lanning.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE CITY COUNCIL

Phil Morton expressed concern regarding the bike path and creek. Clm. Ashford assured him that staff is overseeing the project.

COUNCILMEMBERS' REMARKS & ANNOUNCEMENTS

Clm. Ashford requested discussion, at a future meeting, regarding garbage containers on the plaza, and the possibility of providing dedicated recycling containers.

Clm. Brown extended an invitation to everyone to participate in the annual Fourth of July festivities. He dedicated the meeting to Faith Irene Shelley who meant a lot to him

CONSENT CALENDAR

CC.1 Council/CDA Minutes of June 19, Council Minutes of June 19 and June 20, 2002
CC.2 Payroll register of June 18-27, 2002, and Warrant Register(s) of June 5-7, 2002
CC.3 Authorization to introduce/adopt all ordinances by title only
CC.4 Claim of Paulette Hunter for unspecified damages sustained on April 21, 2002
CC.5 Claim of Pamela A. Villeggiante-Luce for unspecified damages sustained on December 20, 2001
CC.6 $30,444.91 Progress payment to Maggiora & Ghilotti for Norrbom Road Water Storage Tank Project

ATTACHMENT B

---------- Forwarded message ----------
From: **Mike Coleman** <mikecoleman371@gmail.com>
Date: Sun, Jan 21, 2018 at 3:15 PM
Subject: Hillside Development
To: David Goodison <davidg@sonomacity.org>, citycouncil@sonomacity.org

Dear Planning Director Goodison and Sonoma City Councilmembers,

I am writing to share my view on the approval of the single family home applications on Shocken Hill and their subsequent appeal.

As a member of the Planning Commission, I participated in the lengthy process of reviewing the applications including the incredible amount of time that Staff spent on the initial study, additional studies, and subsequent reports. Unfortunately, I was not able to attend the final vote as I was injured at work, falling off my fire truck, and was incapacitated.

However, I have reviewed again the staff applications, the staff report and studies, and watched the video of public comments and the comments of my fellow commissioners.

Had I been in attendance, I would have voted affirmatively to approve the project with the conditions of approval. I believe the APPROVED project meets EVERY guideline- a higher standard than what's required by the code for project approval-- in the development code with respect to Hillside development of these residential lots. With my vote, the project, as approved, **would have enjoyed a 4-1 majority.**

I would also like to share with the City Council that the applicant, the Planning Commission and Staff does an incredible amount of work before projects like these are approved on the basis of guidelines which themselves have been established through hundreds of hours of work over many years. The General Plan and Development Code represent Sonoma's general interests.

There is no objective basis for approving these appeals, and doing so could only be done as a result of political posturing, or worse, pandering to a small group of special interests.

I urge the City Council to deny the appeals and support the Planning Commission decision.

Sincerely,

Michael Coleman, Planning Commissioner 2015-2017