APPROVAL NO. 2008-
RECORD OF THE COUNCIL OF THE CITY OF PALO ALTO
LAND USE ACTION FOR 4249 AND 4251 EL CAMINO REAL:
TENTATIVE MAP 07PLN-00140
(SUMMERHILL HOMES, APPLICANT)

At its meeting on March 24, 2008, the City Council of the City of Palo Alto approved the Tentative Map to subdivide a parcel (approx. 6.79 acres) into two lots, which would be developed into residential multi-family homes on one lot and a new fraternal lodge on the other lot, making the following findings, determination and declarations:

SECTION 1. Background. The City Council of the City of Palo Alto ("City Council") finds, determines, and declares as follows:

A. Proposed by SummerHill Homes on behalf of the Benevolent and Protective Order of Elks (BPOE), this project involves the subdivision of the Elk's Lodge site (approx. 6.79 acres total) into two lots. Lot 1, to be retained by BPOE, would be 122,872 square feet and would be developed with a new Elks Lodge and Lot 2, to be sold to SummerHill Homes, would be 172,891 square feet and developed with 45 multi-family dwelling units. In addition, .34 acres of the Elks Lodge site would be dedicated to the City as a public right of way to create Deodar Street.

B. The Tentative Map plan set includes information on the existing parcels, onsite conditions, and the layout of the proposed new lots. These drawings are in compliance with the applicable provisions of the City's Subdivision Ordinance. These plans contain all information and notations required to be shown on a Tentative Map (per PAMC Sections 21.12), as well as the design requirements concerning the creation of lots, streets, walkways, and similar features (PAMC 21.20).

C. Because of financial reasons and the purchase agreement between BPOE and SummerHill Homes, the buyer and developer of Lot 2, the existing Elks Lodge will not be demolished until after the final map for the two lot subdivision is recorded. In effect, the proposed lot line subdividing the Elks Lodge site into two lots would slice through the existing Elks Lodge structure. City Staff has discussed the logistics of the demolition with the applicant and an agreement was reached that a bond or letter of credit would be provided by the applicant to the City to guarantee the demolition of the Elks Lodge prior to final map recordation. The actual demolition of the Elks Lodge and accessory structures would occur immediately after final map recordation. Conditions pertaining to the demolition of the Elks
Lodge are included in the attached draft Record of Land Use action. With the incorporation of conditions relating to the demolition of the Elks Lodge, Staff and City departments have determined that the two-lot Tentative Map application is in compliance with zoning, subdivision, and other codes and ordinances.

D. The City Council hearing was continued from January 22, 2008 to allow staff and the applicant to respond to Council’s request for the provision of a more direct pedestrian and bicycle access across the site to Wilkie Way.

SECTION 2. Environmental Review. The California Environmental Quality Act (CEQA) lists a land division of property in an urbanized area into four or fewer parcels as exempt from CEQA if the subdivision is in conformance with all zoning regulations. As such, the proposed two lot subdivision would generally be exempt from the requirements of CEQA. However, CEQA requires that a Lead Agency examine the potential environmental impacts of the ‘whole of an action’ which has the potential to physically change the environment, directly or ultimately, and not just the act of merely subdividing a parcel into two lots. In this case, the two lot subdivision would ultimately facilitate the construction of two developments - a new fraternal lodge and a 45 unit multi-family development - which are not exempt from CEQA requirements.

Prior to Architectural Review approval of the proposed SummerHill Homes multi-family development, Staff prepared an Initial Study and Draft Mitigated Negative Declaration which discussed the potential impacts of the two lot subdivision, the SummerHill Homes development and the new Elks Lodge development. The documents were made available for a 20 day public review period between August 31, 2007 and September 19, 2007. No public comments were received during this review period. The Environmental Assessment found that the impacts produced by the project, including the development of the single-family homes and the new Elks Lodge, would have less than significant impacts on the environment with the incorporation of mitigation measures. Since state law requires the adoption of an Initial Study and Mitigated Negative Declaration prior taking action on a discretionary project, these environmental documents were adopted on October 25, 2007 by the Director of Planning and Community Environment, prior to Architectural Review of the proposed SummerHill Homes development.

SECTION 3. Tentative Map Findings.

A legislative body of a city shall deny approval of a Preliminary Parcel Map, if it makes any of the following findings (California Government Code Section 66474):

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1. That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451:

   This finding can not be made in the affirmative. The site does not lie within a specific plan area and is consistent with the provisions of the Comprehensive Plan. The land use designation in the area of the subdivision is Multiple Family Residential and the zoning designations are RM-15 and RM-30. The proposed development of multi-family dwelling units on Lot 2 is consistent with the land use and zoning designations of the site. The reconstruction of a new Elks Lodge on Lot 1 is allowed as a grandfathered use on the site pursuant to City of Palo Alto Ordinance No. 3892.

2. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans:

   This finding can not be made in the affirmative. The map is consistent with the following Comprehensive Plan policies: (1) Policy L-1 - Limiting future urban development to currently developed lands within the urban service area; (2) Policy L-6: Where possible, avoid abrupt changes in scale and density between residential and non-residential areas and between residential areas of different densities; (3) Policy L-12 - Preserve the character of residential neighborhoods by encouraging new or remodeled structures to be compatible with the neighborhood and adjacent structures; (4) Policy L-35 - Establish the South El Camino Real area as a well-designed, compact, vital, Multi-neighborhood Center with diverse uses, a mix of one-, two-, and three-story buildings, and a network of pedestrian-oriented streets and ways. The new Elks Lodge would be situated at the El Camino Real frontage such that there is desirable definition of the streetscape compared to the existing site where a large parking lot exists. The new Elks Lodge would act as a buffer to the proposed multi-family homes by SummerHill Homes.

3. That the site is not physically suitable for the type of development:

   This finding can not be made in the affirmative. The site can accommodate the proposed subdivision. The lots conform to the width, depth, and area requirements of the RM-30 and RM-15 districts. The design of the multi-family units by SummerHill Homes and the new Elks Lodge require Architectural Review approval. The proposed multi-family development by SummerHill Homes was granted Architectural Review approval on October 30, 2007 after a recommendation of approval from the Architectural Review Board on October 18, 2007. The Preliminary Architectural Review of the new Elks Lodge was reviewed by the Architectural Review Board on August
2, 2007. A formal application for the Elks Lodge has not yet been submitted.

4. That the site is not physically suitable for the proposed density of development:

The subdivision would be consistent with the site development regulations of the RM-30 and RM-15 districts and would not affect the location of the existing property lines at the perimeter of the site.

5. That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat:

The subdivision would not cause environmental damage or injure fish, wildlife, or their habitat, as the site is currently developed with accessory uses and facilities of the permitted fraternal organization on the site. However, the applicant is required to implement mitigation measures to reduce impacts to tree-nesting raptors and trees during demolition and construction on Lots 1 and 2 as specified in the Mitigated Negative Declaration and as reflected in the conditions of Section 6 of this Record.

6. That the design of the subdivision or type of improvements is likely to cause serious public health problems:

This finding can not be made in the affirmative. The subdivision of the existing parcel into two lots will not cause serious public health problems.

7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

The subdivision of the existing parcel will not conflict with easements of any type, in that the subdivision is compatible with the emergency vehicle access easement along the northern property line and any utility easements that would be required to serve the proposed developments on Lots 1 and 2.
SECTION 4. Approval of Tentative Map. Tentative Map approval is granted by the City Council under Palo Alto Municipal Code ("PAMC") Sections 21.13 and 21.20 and the California Government Code Section 66474, subject to the conditions of approval in Section 6 of this Record.

SECTION 5. Final Map Approval. The Final Map submitted for review and approval by the City Council of the City of Palo Alto shall be in substantial conformance with the Tentative Map prepared by Brian Kangas Foulk titled "Tentative Map Elks Subdivision", consisting of five pages, date stamped December 3, 2007, except as modified to incorporate the conditions of approval in Section 6.

A copy of this Tentative Map is on file in the Department of Planning and Community Environment, Current Planning Division.

Within two years of the approval date of the Tentative Map, the subdivider shall cause the subdivision or any part thereof to be surveyed, and a Final Map, as specified in Chapter 21.08, to be prepared in conformance with the Tentative Map as conditionally approved, and in compliance with the provisions of the Subdivision Map Act and PAMC Section 21.16 and submitted to the City Engineer (PAMC Section 21.16.010[a]).

SECTION 6. Conditions of Approval.

Department of Planning and Community Environment

Planning Division

1. A Final Map, in conformance with the approved Tentative Map, all requirements of the Subdivision Ordinance (PAMC Section 21.16), and to the satisfaction of the City Engineer, shall be filed with the Planning Division and the Public Works Engineering Division within two years of the Tentative Map approval date (PAMC 21.13.020[c]).

2. To the extent practical, construction activities should be performed or vegetation removed from September through February to avoid the general nesting period of birds. If demolition, construction or vegetation removal can not be performed during this period, pre-demolition and construction surveys should be performed by a qualified biologist no sooner than 14 days prior to demolition and construction activities to locate any active nests prior to the start of demolition/construction and prior to removal of any tree. If
active nests are observed, buffer zones will be established around active nesting trees, with a size acceptable to the California Department of Fish and Game. Construction activities shall avoid buffered zones and no tree will be removed until the young have fledged or the nest is otherwise abandoned.

3. To the maximum extent possible, the project shall comply with all Design Guidelines 6.1 and 6.2 Protection Measures of 'A Tree Protection Plan for the Elks Residential Development' by David L. Babby, RCA, June 20, 2007 and all guidelines stated in Section 4.2 and Section 7.0 Tree Protection Guidelines of 'A Tree Protection Plan for the New Elks Lodge,' by David L. Babby, August 24, 2007.

4. Applicant shall file a tree removal permit for the trees planned for removal.

5. To the extent permitted by law, the Applicant shall indemnify and hold harmless the City, its City Council, its officers, employees and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside or void, any permit or approval authorized hereby for the Project, including (without limitation) reimbursing the City its actual attorneys fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its own choice.

Public Works Department

Prior to Final Map Recordation:

6. The Elks Lodge shall be abandoned.

7. All utilities servicing the Elks Lodge must be disconnected in accordance with the City of Palo Alto Utilities Department guidelines.

8. The Elks Lodge shall be "red-tagged" by the Building Division.

9. The Elks organization shall provide Public Works Engineering (PWE) a copy of an executed contract with a licensed demolition contractor providing for the demolition of the existing Elks Lodge.

10. The Elks organization shall provide the City of Palo Alto with a bond or letter of credit to guarantee the demolition of the
Elks Lodge. The amount of the bond or letter of credit shall be determined by PWE and based upon the review of the estimate of demolition as provided by the contractor.

11. A Construction and Demolition (C&D) plan and permit for the demolition of the existing structure shall be submitted and approved and shall accompany the contract and bond for that demolition.

SECTION 7.  Term of Approval.

Tentative Map. All conditions of approval of the Tentative Map shall be fulfilled prior to approval of a Final Map (PAMC Section 21.16.010[c]).

Unless a Final Map is filed, and all conditions of approval are fulfilled within a two-year period from the date of Tentative Map approval, or such extension as may be granted, the Tentative Map shall expire and all proceedings shall terminate. Thereafter, no Final Map shall be filed without first processing a Tentative Map (PAMC Section 21.16.010[d]).

PASSED:
AYES:
NOES:
ABSENT:
ABSTENTIONS:
ATTEST:  APPROVED:

City Clerk  Director of Planning and Community Environment

APPROVED AS TO FORM:

Senior Asst. City Attorney

PLANS AND DRAWINGS REFERENCED:
