

From: Ezzat Akbari
124 Brodia Way
Walnut Creek, CA 94598

November 3, 2021

Re: Letter of Appeal of the County Planning Commission's decision on October 27, 2021 regarding the Tentative Approval of a Tree Permit (County File #CDTP21-00031)

To: Department of Conservation and Development
Community Development Division
30 Muir Road
Martinez, CA 94553
Attn: Diana Lecca

Dear Ms. Lecca,

This correspondence is a Letter of Appeal of the County Planning Commission's decision on October 27, 2021 regarding the Tentative Approval for a Tree Permit (County File #CDTP21-00031) for 144 Brodia Way in unincorporated area of Walnut Creek (APN 140-180-009).

There is a misunderstanding regarding the nature of the flooding concern for 144 Brodia Way. Per CPC Staff Report, Department of Conservation and Development Grading staff "*indicated that the proposed natural channel will be an adequate conveyance of run-off water generated within the site.*" The proposed drainage plan for County File #CDTP21-00031 focuses on addressing run-off water generated within 144 Brodia Way. It does not recognize the primary flooding concern is caused by storm water of far greater volume and velocity coming from upstream properties (as 25 years of experience living onsite has demonstrated). This storm water has not been controlled, contained, or regulated in an effective manner by existing drainage paths in 154 and 144 Brodia Way leading to flooding of 144 and 124 Brodia Way.

The drainage plan DP402-21 proposes to remove the existing 36" storm drain line in 144 Brodia Way. Instead, upstream storm water is intended to be diverted onto an inadequate carved-out and graded drainage channel running closer to Brodia Way (in violation of County Code 914-2.004, discussed below), leading to less not more control and containment of the upstream storm water. This is under the pretext that the existing 36" storm drain line is unpermitted and does not follow the path of the original natural drainage channel. I have the permit for this 36" storm drain line issued to a prior owner of the property. Both 124 and 144 Brodia Way had the same owner at the time the permit was issued (June 1974). The permit shows the 36" storm drain line clearly follows the path of the original natural drainage channel. The greater concern is ensuring all upstream storm water does indeed flow into this 36" line at the inlet on 144 Brodia Way. Removing the 36" line as proposed in DP 402-21 to build a home directly

in the path of an incoming flood will have disastrous consequences for both 144 and 124 Brodia Way. A flood will not take the detour onto the channel. I will not accept the flow of surface waters from 144 Brodia Way onto 124 Brodia Way as a result of diversion of storm water by the inadequate and ineffective storm drainage plan proposed in DP 402-21.

Under Code section 914-2.004(a), the proposed drainage plan DP402-21 qualifies for the following factors for denial:

All surface waters flowing from the subdivision in any form or manner shall be collected and conveyed without diversion or damage to any improvement, building or dwelling to a natural watercourse having definable bed and banks, or to an existing public storm drainage facility having adequate capacity to its point of discharge into a natural watercourse, or the advisory agency, in its discretion, may require that flows from the subdivision be regulated so as not to exceed the capacity of watercourses downstream when considered with regard to the development potential of the drainage basin or watershed. The existing proposal for 144 Brodia Way is attempting to divert surface water by changing the grading of the property to avoid damage to buildings or dwellings on 144 and 124 Brodia Way. In addition flows from 144 Brodia Way have already exceeded the capacity of watercourses downstream during flooding incidents, in violation of 914-2.004(a).

Under Code section 816-6.8010, the trees qualify for the following factors for denial:

(3) (B) - *It is reasonably likely that alteration or removal of the tree will cause problems with drainage, erosion control, land stability, windscreen, visual screening, and/or privacy and said problems cannot be mitigated as part of the proposed removal of the tree.* The new channel within the drip line of the trees will lead to drainage problems, substantial erosion, and land stability concerns for the pavement of Brodia Way and downstream properties. The volume and velocity of storm water entering 144 and 124 Brodia Way from upstream properties has already led to flooding and land instability in the past. Land instability will lead to impairment of Brodia Way, a private road with no substantial substructure. Attempting to divert flood water away from the building site towards the trees will lead to additional new drainage and land stability concerns without addressing existing problems.

(3) (E) - *If the permit involves trenching or grading and there are other reasonable alternatives including an alternate route, use of retaining walls, use of pier and grade beam foundations and/or relocating site improvements.* The proposed drainage plan focuses on run-off water generated within the site and does not acknowledge the primary flooding concern from storm water entering the property from upstream properties. There are reasonable alternatives to the trenching and grading in the proposed project. For example, there is no need to relocate the proposed site of the residence if the existing 36" storm drain line is removed (as already proposed) and replaced with a concrete storm drain line of comparable or greater drainage capacity. This concrete line also needs to be extended to the existing line emerging from

upstream developments to control and contain upstream storm water. Other developments in the neighborhood are already constructed with this type of drainage. There also needs to be regulation of the flow of upstream storm water to prevent overflow and flooding in both 144 Brodia Way and 449 La Casa Via.

(3) (F) - *Any other reasonable and relevant factors specified by the director.* The proposed grading attempts to divert upstream storm water and increases flooding risk for 124 Brodia Way. It also puts the building site on 144 Brodia Way at risk of flooding. 144 Brodia Way has a history of flooding caused by storm water from upstream properties and the proposed drainage plan only increases the flooding risk.

Respectfully yours,

Ezzat Akbari



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