

Panoramic Hill Association

PO Box 5428, Berkeley, CA 94705

August 15, 2011

HAND DELIVERED

Mr. Doug Donaldson
Donaldson & Associates
627 Spokane
Albany, California 94706

Dear Mr. Donaldson:

Wendy Cosin of the City of Berkeley Planning Department has advised us that you are the official monitor for the construction project located at 161 Panoramic Way, Berkeley. The project is located on steep grade served only by sub-standard roadways, as such the Panoramic Hill Association (PHA) has serious concerns about how this project may adversely affect the public safety of residents of and visitors to the hill and we have worked with city officials and staff during the past several years in an attempt to establish parameters for the proposed project. Months of proponent, staff, and community time were spent establishing specific details concerning the maintenance of safe conditions during the proposed phases of construction. In fact, the designation of a project monitor was a requirement that the City imposed on this project as a result of the concerns of our community to guarantee that the provisions established in the permit would be followed.

Mr. Alexander purchased this property with the full understanding that the city had imposed strict conditions and requirements on its construction. Unfortunately, in the very first days of work at the site Mr. Alexander and his crew have already flagrantly violated or ignored a long list of the project requirements.

On August 5, 2010, prior to obtaining a building permit, Mr. Alexander or his workers illegally and unsafely placed a series of orange traffic cones in the roadway, restricting use of the roadway and creating a dangerous condition for vehicles and pedestrians on the substandard narrow road. See the attached August 5th letter from Jerry Wachtel of this Association about this situation.

Mr. Alexander commenced construction immediately after the city issued a building permit on August 11th, and within the first day, had violated at least five of the permit's conditions. These are discussed below:

1. He failed to post the required sign on the property to advise the public of the phone number of the compliance monitor as required by conditions 10 and 11. A PHA member attempted to reach you at the number listed in the phone book and left two voice mail messages for you,

without a response.

2. He violated the condition that states: “The upper roadway (adjacent to the north frontage of the site) shall remain unobstructed at all times.” On August 12, Mr. Alexander again obstructed the roadway with traffic cones while his workers hand carried materials to the site.

3. He failed to comply with condition 33 that states: “At the applicant’s expense, advanced life support services shall be present, and be made generally available for public benefit, above the construction site for the vehicle pull-out, commencing with the on-foot delivery of materials until construction of the pull-out is completed and approved for use by construction vehicles.” Mr. Alexander delivered plywood sheets and other materials to an area above the Arden steps and his workers carried them down to the property. No advanced life support was provided as required.

4. Mr. Alexander and/or his employees and contractors violated condition 31 by taking more than the three allocated spaces for parking in the area between 265 and the Arden Steps.

5a. He violated the conditions regarding the oak tree at the north border of the property, which state: “No grubbing, grading or other construction operations may commence on the property until the City Forester has approved the design and location of the fencing, the fencing has been installed and the Applicant provides a letter to the City Planner from a qualified arborist verifying that the fence has been properly installed. “ On August.12th, no fence had been installed; therefore we question how it is possible that Mr. Alexander could have provided a letter from an arborist verifying that the fence was properly installed. Nevertheless, applicant began grading of the property, making a 2 foot cut less than 21 inches from the oak tree.

5b. He also violated the permit conditions that require that the “Natural” or preconstruction grade be maintained with the drip line of oak trees. The 2-foot cut grading the hill is less than 21 inches from the oak and within the drip line;

5c. He violated that condition that requires that “A semi-permanent chain link fence at least three feet tall shall be installed along the drip line;”

5d. He violated the condition that requires that “No grade cuts greater than one foot shall occur within the drip lines of oak trees.” But Mr. Alexander made an approximately 2 foot grade cut approximately 21 inches from the tree trunk when cuts are required to be 5 feet from the drip line.

We believe that the developer’s actions with regard to the city protected oak tree may violate, not only the conditions of his building permit, but city law as well.

This Association has no desire to impede Mr. Alexander’s legal right to develop his property in accordance with the law and the conditions of the permit. We are, however, extremely concerned about public safety on in our community, and about the unique natural environment that exists here. That is why we fought so hard during the permitting process to ensure the enactment of constraints on the development of this property, and why we insist that the

developer adhere strictly to the letter and the spirit of those constraints.

Despite this poor beginning, we fully expect that Mr. Alexander will comply in full with all of the conditions of his permit, and that you will ensure that he does so. We will continue to observe the ongoing work closely, and we will take whatever action may be necessary to ensure that the conditions imposed by the city are fully complied with.

Please respond in writing to the undersigned within three (3) days, to acknowledge your receipt of this letter, and your concurrence with the requirement to meet each and every condition of Mr. Alexander's permit. Please contact me immediately if you have any questions. You can email me at michaelkelly@panoramichill.org

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael Kelly". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael Kelly
Panoramic Hill Association President

cc: Aaron Sage, City of Berkeley

