



**AGENDA COVER**  
Regular Joint Meeting of the  
**CAPITOLA CITY COUNCIL/  
REDEVELOPMENT AGENCY**  
MEETING DATE: THURSDAY, OCTOBER 13, 2011

CITY COUNCIL CHAMBERS: 420 CAPITOLA AVENUE, CAPITOLA

**CLOSED SESSION**  
**REGULAR JOINT MEETING**

**5:30 P.M.**  
**7:00 P.M.**

*Elected Officials*

*Dennis Norton, Mayor*  
*Michael Termini, Vice Mayor*  
*Stephanie Harlan, Council Member*  
*Kirby Nicol, Council Member*  
*Sam Storey, Council Member*  
  
*Jacques Bertrand, City Treasurer*

*City Staff Members*

*Jamie Goldstein, City Manager*  
*John G. Barisone, City Attorney*  
*Pamela Greeninger, City Clerk*  
*Mike Card, Chief of Police*  
*Derek Johnson,*  
*Community Development Director*  
*Steven Jesberg, Public Works Director*  
*Lisa Murphy,*  
*Administrative Services Director*

**Notice regarding City Council/Redevelopment Agency Meetings:** The Capitola City Council and Redevelopment Agency meet jointly on the 2nd and 4th Thursday of each month at 7:00 p.m., in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

**Agenda and Agenda Packet Materials:** The City Council/Redevelopment Agency Agenda and the complete agenda packet are available on the Internet at the City's website: [www.ci.capitola.ca.us](http://www.ci.capitola.ca.us). Agendas are also available at the Capitola Post Office located at 826 Bay Avenue, Capitola.

**Agenda Document Review:** The complete agenda packet is available at City Hall and at the Capitola Branch Library, 2005 Wharf Road, Capitola, on the Monday prior to the Thursday meeting. Need more information? Contact the City Clerk's office at 831-475-7300.

**Agenda Materials Distributed after Distribution of the Agenda Packet:** Pursuant to Government Code §54957.5, materials related to an agenda item submitted after distribution of the agenda packet are available for public inspection at the Reception Office at City Hall, 420 Capitola Avenue, Capitola, California, during normal business hours.

**Americans with Disabilities Act:** Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the City Clerk's office at least 24-hours in advance of the meeting at 831-475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

**Televised Meetings:** City Council/Redevelopment Agency meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be replayed at 12:00 Noon on the Saturday following the meetings on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings are streamed "Live" on the City's website at [www.ci.capitola.ca.us](http://www.ci.capitola.ca.us) by clicking on the Home Page link "View Capitola Meeting Live On-Line." Archived meetings can be viewed from the website at anytime.

**It is the intent of the City Council to adjourn by 11:30 p.m.**



# AGENDA

## Regular Joint Meeting of the CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY Thursday, October 13, 2011

### 5:30 P.M. - CLOSED SESSION - CITY MANAGER'S OFFICE

An announcement regarding the items to be discussed in Closed Session will be made in the City Hall Council Chambers prior to the Closed Session. Members of the public may, at this time, address the City Council/Redevelopment Agency Directors on closed session items only.

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** (Govt. Code §54956.9a)  
Surf and Sand, LLC, vs. City of Capitola, et al. (Surf & Sand Mobile Home Park) [Superior Court of the State of California for County of Santa Cruz, Case #CV 167716]

Surf and Sand, LLC, vs. City of Capitola, et al. (Surf & Sand Mobile Home Park) [U.S. District Court N.D., Case No. C09-05542 RS (Judge Richard Seeborg)]

Bill Newman, et al. (residents of Surf & Sand Mobile Home Park) vs. Surf and Sand, LLC, Ronald Reed, et al. (Surf and Sand, LLC; Ronald Reed, Cross-Complainants vs. City of Capitola) [Superior Court County of Santa Cruz, Unlimited Jurisdiction, Case No. CV 171783]

### CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Government Code §54956.9:  
Two Cases: 1) Noble Gulch Storm Drain Failure in Pacific Cove Mobile Home Park  
2) American Alternative Insurance Corporation vs. City of Capitola

### CONFERENCE WITH REAL PROPERTY NEGOTIATORS

 (Govt. Code §54956.8)

Property: McGregor Drive, APN 36-341-02 (City of Capitola, Owner)  
City Negotiator: City Manager  
Negotiating Parties: City and Soquel Creek Water District  
Under Negotiation: Real Property Lease/Sale

### PUBLIC EMPLOYEE PERFORMANCE EVALUATION

 (Government Code §54957)

Title: City Manager

### LIABILITY CLAIMS

 (Govt. Code §54956.95)

Claimant: Capitola Associates, LLC  
Claimant: Mid-Century Insurance Company, subrogee of Blue Water Steakhouse, Inc.  
Claimant: Farmers Insurance Exchange, subrogee of Hot Feet, Inc.  
Claimant: Farmers Insurance Exchange, subrogee of Raymond Apolskis, dba Surf N Shack  
Claimant: Nubia R. Jordan, dba Capitola Dreams Swimwear  
Agency claimed against: City of Capitola

**7:00 P.M. - REGULAR JOINT MEETING  
OF THE CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY**

**ROLL CALL AND PLEDGE OF ALLEGIANCE**

Council Members/Directors Harlan, Termini, Nicol, Storey,  
and Mayor/Chairperson Norton

**\* \* \* PRESENTATIONS \* \* \***

Presentation by Dan Haifley, Executive Director of  
O'Neill Sea Odyssey

**1. REPORT ON CLOSED SESSION**

**2. ORAL COMMUNICATIONS**

A. Additions and Deletions to Agenda

B. Public Comments

*Oral Communications allows time for members of the Public to address the City Council/Redevelopment Agency on any item not on the Agenda. Presentations will be limited to three minutes per speaker. Individuals may not speak more than once during Oral Communications. All speakers must address the entire legislative body and will not be permitted to engage in dialogue. All speakers are requested to print their name on the sign-in sheet located at the podium so that their name may be accurately recorded in the minutes. A MAXIMUM of 30 MINUTES is set aside for Oral Communications at this time.*

C. Staff Comments

D. City Council/RDA Director/Treasurer Comments/Committee Reports

*City Council Members/Redevelopment Agency Directors/City Treasurer may comment on matters of a general nature or identify issues for staff response or future council/RDA consideration. Council Members/RDA Directors/Committee Representatives may present oral updates from standing committees at this time.*

E. Committee Appointments

*Council Members/RDA Directors/Committee Representatives may present oral updates from standing committees at this time. Committee appointments may also be made by the City Council/Redevelopment Agency at this time.*

F. Approval of Check Register Reports

- 1) City: Approval of City Check Register Reports dated September 16, 23, and 30, 2011.
- 2) RDA: Approval of Redevelopment Agency Check Register Report dated September 23, 2011.

**3. CONSENT CALENDAR**

*All matters listed under "Consent Calendar" will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Council votes on the action unless members of the public or the City Council/ Redevelopment Agency request specific items to be discussed for separate review. Items pulled for separate discussion will be considered following "Other Business."*

- A. Approve Reading by Title of all Ordinances and Resolutions and declare that said Titles which appear on the Public Agenda shall be determined to have been read by Title and Further Reading Waived.
- B. Approve Minutes of the Special Closed Session Meeting of the City Council of September 20, 2011.
- C. Approve 1st Amendment to the Agreement with The Planning Center|Design, Community & Environment (formerly Design, Community & Environment) in an amount not to exceed \$30,000 for work on the Village Hotel Project.
- D. Accept update report on the Rispin Property Hazard Abatement Project and, by 4/5 vote approval, make the determination that all hazards at the Rispin Property have not been eliminated and there is need to continue action.
- E. Deny liability claims and forward to the City's liability insurance carrier.
  - 1) Capitola Associates, LLC: \$541,724.72 (Continued from 9/22/11)
  - 2) Mid-Century Insurance Company; subrogee of Blue Water Steakhouse, Inc.: \$4,784.00
  - 3) Farmers Insurance Exchange; subrogee of Hot Feet, Inc.: \$13,531.54
  - 4) Farmers Insurance Exchange; subrogee of Raymond Apolskis, dba Surf N Shack: \$886.00
  - 5) Nubia R. Jordan, dba Capitola Dreams Swimwear: \$102,320.00

### 3. CONSENT CALENDAR (Continued)

- F. Adopt Resolution providing for the extension of Additional Vehicle Registration Service Fees for the Operation of the City's Vehicle Abatement Program.
- G. Receive and file the Fourth Quarter and Full Year Sales Tax and Transient Occupancy Tax Status Report for FY2010-2011 (Unaudited) for the City of Capitola.

### 4. PUBLIC HEARINGS

*Public Hearings are intended to provide an opportunity for public discussion of each item listed as a Public Hearing. The following procedure is followed for each Public Hearing listed: 1) Staff Explanation; 2) Public Discussion; 3) Council Comments; 4) Close public portion of the Hearing; 5) City Council discussion; and 6) Decision.*

NOTE: Any person seeking to challenge a City Council decision made as a result of a proceeding in which, by law, a hearing is required to be given, evidence is required to be taken, and the discretion in the determination of facts is vested in the City Council, shall be required to commence that court action within ninety (90) days following the date on which the decision becomes final as provided in Code of Civil Procedure §1094.6. Please refer to code of Civil Procedure §1094.6 to determine how to calculate when a decision becomes "final." Please be advised that in most instances the decision become "final" upon the City Council's announcement of its decision at the completion of the public hearing. Failure to comply with this 90-day rule will preclude any person from challenging the City Council decision in court.

- A. Public Hearing to consider Application #11-060, a Preliminary Development Plan for a proposed Planned Development Rezoning to construct a four-story, 67-unit Senior Housing Project in the CN (Neighborhood Commercial) Zoning District, located at 1575 38<sup>th</sup> Avenue (APN 034-181-17). Property owner: Maureen A. Romac; Representative: Steve Thomas. Presentation: Community Development Department.

### 5. OTHER BUSINESS

- A. Discussion regarding Redistricting of Supervisorial Boundaries. Staff recommendation: receive report.
- B. Continued consideration of adoption of an Ordinance Amending Sections 8.36.010, 8.36.020, 8.36.030, 8.36.040, 8.36.050, 8.36.060 and 8.36.070 of the Capitola Municipal Code pertaining to the use of Polystyrene Foam and Biodegradable and Compostable Disposable Food Service Ware [1st Reading]. Staff recommendation: adopt ordinance.

**5. OTHER BUSINESS (Continued)**

- C. Conceptual review of an Ordinance to Reduce Single-Use Plastic and Paper Carryout Bags. Staff recommendation: provide direction to staff.
- D. Resolution Approving the Submission of an Application to the Santa Cruz County Regional Transportation Commission for Funding under the 2012 State Transportation Improvement Program (STIP) for the Bay Avenue/Capitola Avenue Roundabout and the Park Avenue Sidewalks Transportation Projects in Capitola. Staff recommendation: adopt resolution.
- E. Consideration of the City of Capitola's participation in the Code for America 2012 City Fellowship Program in the amount of \$2,500. Staff recommendation: Council discretion.
- F. Consider adoption of a Resolution Supporting Termination of the Southern Sea Otter Translocation Program. Staff recommendation: Council discretion.

*AT THIS POINT, ITEMS REMOVED FROM CONSENT CALENDAR WILL BE CONSIDERED*

**6. COUNCIL/RDA DIRECTOR/STAFF COMMUNICATIONS****7. ADJOURNMENT**

Adjourn to the next Regular Joint Meeting of the City Council/Redevelopment Agency to be held on Thursday, October 27, 2011, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



## CITY COUNCIL AGENDA REPORT

### MEETING OF OCTOBER 13, 2011

FROM: FINANCE DEPARTMENT  
 DATE: October 5, 2011  
 SUBJECT: APPROVAL OF CITY CHECK REGISTER REPORTS

**Recommended Action:** By motion and roll call vote, that the City Council approve the attached Check Register Reports for Sep 16, Sep 23, and Sep 30, 2011.

#### **DISCUSSION**

The attached Check Registers for:

Date	Starting Check #	Ending Check #	Total Checks	Amount
9/16/11	67547	67581	35	\$61,258.82
9/23/11	67582	67674	93	\$1,121,591.93
9/30/11	67675	67734	60	\$197,844.95
9/23/11 Payroll				\$176,187.73
Total				\$1,556,883.43

The check register of 9/9/11 ended with check #67546.

Wires issued, and a brief description of the expenditure:

9/23/11	CalPERS	CM	Retirement Plan Contribution, Employee funded	\$54,100.00
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Following is a list of checks issued for more than \$10,000.00, and a brief description of the expenditure:

Check	Issued to:	Dept.	Purpose	Amount
67550	Bowman & Williams	PW	Engineering Services	\$13,598.75
67569	RL Hastings & Assoc	CDD	BASAPA Labor Standards Rpt	\$16,200.00
67573	Teaman, Ramirez & Smith	FIN	FY10/11 Financial Audit	\$11,181.00
67582	Bay Ave Sr Housing	CDD	Trans HCD check to developer	\$993,851.00
67605	Community Bridges	CM	Q1 Community Grant	\$27,632.00
67678	Atchison, Barisone, et al	CM	Aug Legal Services	\$26,613.51
67681	Belfor	CM	Partial Pymt, Flood Clean Up	\$105,659.00
67711	MBASIA	CM	Property Ins, Fy11/12	\$10,597.00

On March 28, 2002, Council adopted Ordinance 838, which amended the City Municipal Code as follows:

“3.28.010 Auditing. All claims for salaries and wages of officers and employees and payroll-related withholdings, assessments, and attachments against the treasury of the City and all other claims for payment may be audited and allowed by the City Manager or his/her designee prior to payment thereof.”

“3.28.050 Approval. All claims against the City treasury are to be allowed for payment by the City Manager or his/her designee and are to be presented to the City Council as an informational item as part of their regularly scheduled meetings after their issuance for ratification.”

**RESOLUTION NO. 2683** On September 22, 1994, Resolution No. 2683 was passed and adopted by the City Council. This resolution includes the following text:

Be it hereby resolved by the City Council of the City of Capitola that the City Manager is authorized, as cash shortages arise, to make temporary cash loans between and among the General Fund and all other City funds except the Redevelopment Agency; Special Assessment District funds; and The Village and Beach Parking Fund; and

Be it further resolved that such inter-fund loans shall be repaid by the borrowing fund to the lending fund as soon as, in the opinion of the City Manager, it is fiscally prudent to do so; and

Be it further resolved that the City Manager shall report to the City Council at its next regularly scheduled meeting, the amounts of such Interfund loans actually made; the funds from which and to which such Interfund loans were made; and the anticipated date the loans will be repaid.

The bank statement reconciliation has not been completed for the month. Bank reconciliation is completed and reported in conjunction with the monthly Treasurer’s report. All checks on these registers have been deducted from the corresponding fund’s cash balance. Interfund loans are not recorded on the financial records on a regular basis, except at year-end for financial reporting purposes.

There are several significant timing issues that create cash flow shortages:

- Triple flip delay of Sales Tax from monthly to December and April (~\$500,000/2x year)
- One quarter of the annual Worker’s Compensation premium was paid in July (\$100,000)
- One half of the Self Insurance/Liability annual payment was paid in July (\$32,669)
- One third of the Police Communication JPA annual payment was paid in July (\$146,121)

As of 10/5/11 the total cash available is \$2,017,027. The General Operating Fund has a cash balance of \$149,583. Internal Service Funds (#2210 through #2214) were created for City budget purposes and are reclassified for financial reporting into the General Fund. The Compensated Absences Fund (#2216) has a positive cash balance of \$35,038. The Capital Improvement Projects has a positive cash balance of \$955,531. By Council direction the Emergency Reserves Fund (#1020) may not participate in cash loans; the Emergency Reserves Fund has a fund balance of \$105,196.92.

For cash flow purposes these funds are available to the General Fund. A consolidation of these cash balances results in a cash position of \$2,017,027.



**CASH POSITION - CITY OF CAPITOLA 10/5/11**

	<u>Net Balance</u>
General Fund	149,583
Worker's Comp. Ins. Fund	74,779
Self Insurance Liability Fund	109,999
Stores Fund	8,787
Information Technology Fund	102,978
Equipment Replacement	105,933
Compensated Absences Fund	35,038
Contingency Reserve Fund	200,000
Public Employee Retirement - PERS	274,144
Open Space Fund	256
Capital Improvement Projects	955,531
<b>TOTAL GENERAL FUND &amp; COUNCIL DESIGNATED FUNDS</b>	<u><u>2,017,027</u></u>

The Emergency Reserve Fund balance is \$105,196.92 and is not included above.

On a fiscal year basis the City's annual budget balances expenditures and revenue in the General Fund. Due to the timing of revenue receipts, during most of the fiscal year General Fund expenditures will outpace revenue.

To resolve this cash flow issue, loans in the amount of \$1,084,895.66 were made from the following funds to the general fund:

- From Contingency Reserve fund: \$734,895.66
- From Equipment Replacement fund: \$200,000.00
- From Information Technology fund: \$50,000.00
- From Self Insurance Liability fund: \$100,000.00

It is anticipated that these loans to General Fund will be repaid by June 30, 2012.

**ATTACHMENTS:**

Check Registers for Sep 16, Sep 23 and Sep 30, 2011.

**Report Prepared By: Linda Benko**  
**AP Clerk**

**Reviewed and Forwarded**  
**by City Manager:**

\_\_\_\_\_

Checks dated 9/16/11 numbered 67547 to 67581 for a total of \$61,258.82 have been reviewed and authorized for distribution by the City Manager and City Treasurer.

As of 9/16/11 the unaudited cash balance is \$2,160,614

### CASH POSITION - CITY OF CAPITOLA 9/16/11

	<u>Net Balance</u>
General Fund	120,573
Worker's Comp. Ins. Fund	74,779
Self Insurance Liability Fund	124,585
Stores Fund	9,741
Information Technology Fund	106,539
Equipment Replacement	105,933
Compensated Absences Fund	36,114
Contingency Reserve Fund	330,000
Public Employee Retirement - PERS	276,821
Open Space Fund	256
Capital Improvement Projects	975,272
TOTAL GENERAL FUND & COUNCIL DESIGNATED FUNDS	<u>2,160,614</u>

The Emergency Reserve Fund balance is \$88,630.74 and is not included above.

On a fiscal year basis the City's annual budget balances expenditures and revenue in the General Fund. Due to the timing of revenue receipts, during most of the fiscal year General Fund expenditures will outpace revenue.

To resolve this cash flow issue, loans in the amount of \$954,895.66 were made from the following funds to the general fund:

From Contingency Reserve fund: \$604,895.66  
From Equipment Replacement fund: \$200,000.00  
From Information Technology fund: \$50,000.00  
From Self Insurance Liability fund: \$100,000.00

It is anticipated that these loans to General Fund will be repaid by June 30, 2012.

  
\_\_\_\_\_  
Jamie Goldstein, City Manager

9/16/11  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Jacques J.J. Bertrand, City Treasurer

9.30.11  
\_\_\_\_\_  
Date

City of Capitola  
**City Checks Issued 9/16/11**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67547	09/16/2011	Open			AT&T	\$19.12
	Invoice		Date	Description		Amount
	2421-Sep11		09/01/2011	Long Distance, Sep 2011		\$11.31
	2209-Sep11		09/01/2011	Long Distance, Sep 2011-Fund 2211, IT		\$7.81
67548	09/16/2011	Open			BAY AREA FLOORS	\$245.72
	Invoice		Date	Description		Amount
	1068fv		08/12/2011	Carpet for Bandstand		\$245.72
67549	09/16/2011	Open			BIGGS CARDOSA ASSOCIATES	\$2,514.65
	Invoice		Date	Description		Amount
	59106		08/05/2011	Rispin Mansion Hazard Elimination Proj.		\$1,816.65
	59107		08/05/2011	Rispin Mansion Inspection Services Fund 1200, CIP		\$698.00
67550	09/16/2011	Open			BOWMAN & WILLIAMS, INC.	\$13,598.75
	Invoice		Date	Description		Amount
	6721		09/01/2011	Slope Failure Redesign, Pac Cove		\$7,475.00
	6731		09/01/2011	Fanmar Way Drainage Improvements Fund 1020, Emergency Reserve=\$7475.00 Fund 1200, CIP=\$6123.75		\$6,123.75
67551	09/16/2011	Open			BRINKS AWARDS & SIGNS	\$1,013.39
	Invoice		Date	Description		Amount
	61792		07/14/2011	JG Session 1 awards		\$1,013.39
67552	09/16/2011	Open			CHANTICLEER VET HOSPITAL	\$217.50
	Invoice		Date	Description		Amount
	Aug 2011		08/31/2011	Aug11 Animal Control Exp, PD		\$217.50
67553	09/16/2011	Open			CLEAN SOURCE	\$976.78
	Invoice		Date	Description		Amount
	1010358		08/23/2011	Cleaning Supplies		\$976.78
67554	09/16/2011	Open			COPWARE INC.	\$300.00
	Invoice		Date	Description		Amount
	81191		09/01/2011	Nov11 to Oct12 Legal sourcebooks for PD		\$300.00
67555	09/16/2011	Open			DAUERMAN, MIKE	\$130.50
	Invoice		Date	Description		Amount
	2012-00000245		09/09/2011	Soccer Officials Playoffs Aug 2011		\$130.50
67556	09/16/2011	Open			DE LAGE LANDEN FINANCIAL SERVIC	\$124.90
	Invoice		Date	Description		Amount
	10580736		08/27/2011	Prop Tax, City Hall Copier, SharpMX7001† Fund 2210, Stores		\$124.90
67557	09/16/2011	Open			GALLI UNIFORM COMPANY	\$72.36
	Invoice		Date	Description		Amount
	17769		08/19/2011	SGT stripes, M. Gonzalez		\$72.36
67558	09/16/2011	Open			HERNANDEZ, JAMIE	\$99.00
	Invoice		Date	Description		Amount
	2012-00000244		09/09/2011	Soccer Officials Playoffs Aug 2011		\$99.00

City of Capitola  
**City Checks Issued 9/16/11**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67559	09/16/2011	Open			HOPE REHABILITATION SERVICES	\$1,925.00
	Invoice		Date	Description	Amount	
	S140406		08/31/2011	Litter Abatement & Street Cleaning	\$1,925.00	
67560	09/16/2011	Open			JOHNSON, ROBERTS, & ASSOCIATES	\$18.85
	Invoice		Date	Description	Amount	
	115760		08/19/2011	PHQ answer sheets-PD	\$18.85	
67561	09/16/2011	Open			KBA Docusys	\$12.95
	Invoice		Date	Description	Amount	
	INV98802		08/18/2011	Shipping costs for copier toner-Rec	\$12.95	
67562	09/16/2011	Open			MAR MONTE MEDICAL CLINIC	\$110.00
	Invoice		Date	Description	Amount	
	206459654		08/24/2011	Lab Work, Random DOT Drug test	\$55.00	
	206459640		08/24/2011	Lab Work, Random DOT Drug test	\$55.00	
67563	09/16/2011	Open			NORCAL AMATEUR SOFTBALL ASSO	\$345.00
	Invoice		Date	Description	Amount	
	2012-00000267		09/15/2011	ASA Softball Team Registration	\$345.00	
67564	09/16/2011	Open			ORCHARD SUPPLY HARDWARE	\$432.16
	Invoice		Date	Description	Amount	
	6011-4797546		08/26/2011	auto parts	\$11.32	
	6013-1230619		08/26/2011	auto parts	\$42.66	
	6013-1231038		08/30/2011	auto parts	\$8.64	
	6009-4767389		08/31/2011	auto parts	\$47.37	
	6011-4790963		09/07/2011	Electrical Supplies, IT	\$27.19	
	6007-3527223		08/30/2011	Misc.	\$22.79	
	6011-4798713		08/30/2011	Tools	\$89.80	
	6006-2682041		08/30/2011	Misc.	\$32.46	
	6013-1131366		09/01/2011	Misc.	\$11.88	
	6011-4799181		09/01/2011	Plants	\$7.10	
	6013-1131414		09/01/2011	Plumbing supplies	\$48.17	
	6014-101969		09/01/2011	Misc.	\$21.50	
	6013-1131436		09/01/2011	Misc.	\$39.35	
	6011-4799285		09/01/2011	Supplies-Rec	\$21.93	
67565	09/16/2011	Open			PACIFIC CREST ENGINEERING INC.	\$536.25
	Invoice		Date	Description	Amount	
	7362-Proj#1154		08/31/2011	Grand Avenue Parking consult	\$536.25	
67566	09/16/2011	Open			PALACE ART & OFFICE SUPPLIES	\$3,307.88
	Invoice		Date	Description	Amount	
	919183		08/24/2011	Supplies-Rec	\$69.56	
	14681-0		08/16/2011	PEO offices-partitions and installation	\$3,238.32	
	918934		08/23/2011	Index files	\$9.96	
	C918934		09/08/2011	Return Index Files	(\$9.96)	

City of Capitola  
**City Checks Issued 9/16/11**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67567	09/16/2011 Invoice 16188	Open	Date 08/24/2011	Description Disconnect & remove power to PD modula Fund 1020, Emergency Reserve	PHIL ALLEGRI ELECTRIC, INC.	\$425.00
67568	09/16/2011 Invoice 72011070	Open	Date 08/18/2011	Description Citations Billing, July 2011	PHOENIX GROUP INFORMATION SYS	\$2,595.88
67569	09/16/2011 Invoice 246 263 322 323	Open	Date 05/17/2011 05/17/2011 05/17/2011 08/09/2011	Description Bay Avenue Senior Housing Labor Standa Bay Avenue Senior Housing Labor Standa Bay Avenue Senior Housing Labor Standa Bay Avenue Senior Housing Labor Standa Fund 1372, Housing Trust	R.L. HASTINGS & ASSOC., LLC	\$16,200.00
67570	09/16/2011 Invoice 20110906	Open	Date 09/06/2011	Description Blood Alcohol Apr-June 2011 Wats May/Ju	SCC HEALTH SERVICES	\$312.00
67571	09/16/2011 Invoice 974855313-117	Open	Date 08/29/2011	Description Cell Phone Service	SPRINT	\$2,296.52
67572	09/16/2011 Invoice 42556	Open	Date 08/05/2011	Description Uniform Purchase, Kimura-PD	SUMMIT UNIFORM CORP	\$231.66
67573	09/16/2011 Invoice 5045-54360	Open	Date 08/23/2011	Description FY10/11 Audit, Services through Jul31	TEAMAN, RAMIREZ & SMITH	\$11,181.00
67574	09/16/2011 Invoice 3917-15549	Open	Date 09/01/2011	Description Sep2011 Internet Access	THE INTERNET CONNECTION INC.	\$150.00
67575	09/16/2011 Invoice CNIN011194	Open	Date 08/17/2011	Description Maint Contract #6328, Sharp MX7001N Fund 2211, Stores	TRI-COUNTY BUSINESS SYSTEMS INC	\$97.74
67576	09/16/2011 Invoice 954791351	Open	Date 08/27/2011	Description Shipping, PD	UNITED PARCEL SERVICE	\$18.26
67577	09/16/2011 Invoice 2012-00000241	Open	Date 09/09/2011	Description Sports league refund	Botsford, Andi	\$410.00
67578	09/16/2011 Invoice 3436660702	Open	Date 09/14/2011	Description Lodging, Rifle class, Blankenship POST fu	Hilton Garden Inn Fairfield	\$448.00

# City Checks Issued 9/16/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67579	09/16/2011 Invoice 2012-00000247	Open	Date 09/05/2011	Description POST rifle instructor Blankenship	Napa Valley College-Criminal Justice Trg	\$450.00 \$450.00
67580	09/16/2011 Invoice 2001066-002	Open	Date 09/09/2011	Description Refund, Rec	Perez, Melissa	\$32.00 \$32.00
67581	09/16/2011 Invoice 2001068-002	Open	Date 09/09/2011	Description Sports league refund, Rec	Rains, Clifford	\$410.00 \$410.00
<b>Check Totals:</b>				<b>Count</b>	<b>35</b>	<b>Total \$61,258.82</b>

Checks dated 9/23/11 numbered 67582 to 67674 for a total of \$1,121,591.93 have been reviewed and authorized for distribution by the City Manager and City Treasurer.

As of 9/23/11 the unaudited cash balance is \$2,233,318

**CASH POSITION - CITY OF CAPITOLA 9/23/11**

	<u>Net Balance</u>
General Fund	192,932
Worker's Comp. Ins. Fund	74,779
Self Insurance Liability Fund	120,596
Stores Fund	9,733
Information Technology Fund	104,443
Equipment Replacement	105,933
Compensated Absences Fund	35,038
Contingency Reserve Fund	330,000
Public Employee Retirement - PERS	290,075
Open Space Fund	256
Capital Improvement Projects	969,534
TOTAL GENERAL FUND & COUNCIL DESIGNATED FUNDS	<u><u>2,233,318</u></u>

The Emergency Reserve Fund balance is \$81,788.14 and is not included above.

On a fiscal year basis the City's annual budget balances expenditures and revenue in the General Fund. Due to the timing of revenue receipts, during most of the fiscal year General Fund expenditures will outpace revenue.

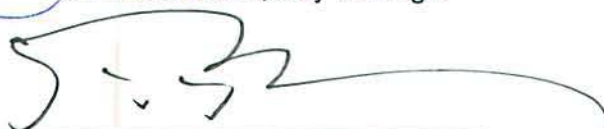
To resolve this cash flow issue, loans in the amount of \$954,895.66 were made from the following funds to the general fund:

- From Contingency Reserve fund: \$604,895.66
- From Equipment Replacement fund: \$200,000.00
- From Information Technology fund: \$50,000.00
- From Self Insurance Liability fund: \$100,000.00

It is anticipated that these loans to General Fund will be repaid by June 30, 2012.

  
\_\_\_\_\_  
Jamie Goldstein, City Manager

9/23/11  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Jacques J.J. Bertrand, City Treasurer

9.30.11  
\_\_\_\_\_  
Date

**Payment Register**

From Payment Date: 9/19/2011 - To Payment Date: 9/23/2011

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67582	09/20/2011 Invoice 20110804-2	Open	Date 09/20/2011	Description Transfer HCD Check to Developer Fund 1371-HOME Grant pass-thru	BAY AVENUE SENIOR HOUSING, LF	\$993,851.00
67583	09/23/2011 Invoice 2012-00000261	Open	Date 09/15/2011	Description Quarterly Grant Payment	ADVOCACY INC.	\$1,058.75
67584	09/23/2011 Invoice AFLAC9-23-11	Open	Date 09/21/2011	Description Employee Insurance, Employee Funded	AFLAC	\$536.78
67585	09/23/2011 Invoice 320870	Open	Date 09/15/2011	Description Top soil-41st Ave.	APTOS LANDSCAPE SUPPLY, INC.	\$20.52
67586	09/23/2011 Invoice 2595173	Open	Date 08/29/2011	Description Telephone Service, All Sites Fund 2211-Info Tech=\$268.67	AT&T/CALNET 2	\$1,952.10
67587	09/23/2011 Invoice Aug-Sep2011	Open	Date 09/06/2011	Description Credit Card Charges, Aug-Sep 2011 Fund 1000, Gen Fund=\$2399.34 Fund 2210, Stores=\$8.12 Fund 2211, Info Tech=\$462.50	BANK OF AMERICA	\$2,869.96
67588	09/23/2011 Invoice 16721	Open	Date 09/15/2011	Description Towed PD Unit 082	BAY CITY TOW	\$97.50
67589	09/23/2011 Invoice 2017721	Open	Date 08/26/2011	Description Museum Display Expense	BAY PHOTO LAB	\$35.72
67590	09/23/2011 Invoice Beyers-9-3	Open	Date 09/19/2011	Description Sports Officials Sept 3 to 17 2011	BEYERS, FRED	\$99.00
67591	09/23/2011 Invoice 2012-00000252	Open	Date 09/15/2011	Description Quarterly Grant Payment	BIG BROTHERS BIG SISTERS OF S	\$690.50
67592	09/23/2011 Invoice BK-EF	Open	Date 09/20/2011	Description Instructor Payment, Private Lessons-Rec	BRESLIN-KESSLER, PAUL	\$840.00
67593	09/23/2011 Invoice Bum-09-3	Open	Date 09/19/2011	Description Sports Officials Sept 3 to 17 2011	BUMGARNER, ERIC	\$108.00



**Payment Register**

From Payment Date: 9/19/2011 - To Payment Date: 9/23/2011

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67594	09/23/2011 Invoice Cabrillo-Q1	Open	Date 09/21/2011	Description Quarterly Grant Payment	CABRILLO COLLEGE STROKE CTR	\$1,689.50
67595	09/23/2011 Invoice Grey-Q1	Open	Date 09/21/2011	Description Quarterly Grant Payment	CALIFORNIA GREY BEARS INC.	\$3,485.25
67596	09/23/2011 Invoice Rural-Q1	Open	Date 09/21/2011	Description Quarterly Grant Payment	CALIFORNIA RURAL LEGAL ASSIST	\$906.50
67597	09/23/2011 Invoice 2012-00000257	Open	Date 09/15/2011	Description Quarterly Grant Payment	CAMPUS KIDS CONNECTION INC.	\$4,141.25
67598	09/23/2011 Invoice POA9-23-11	Open	Date 09/21/2011	Description POA Dues, Employee Funded	CAPITOLA PEACE OFFICERS ASSO	\$753.08
67599	09/23/2011 Invoice 2012-00000266	Open	Date 09/15/2011	Description Quarterly Grant Payment	CASA OF SANTA CRUZ COUNTY	\$556.75
67600	09/23/2011 Invoice 2012-00000260	Open	Date 09/15/2011	Description Quarterly Grant Payment	CENTRAL COAST CENTER FOR INDEPENDENT LIVING	\$3,674.25
67601	09/23/2011 Invoice 0723-08/09/11	Open	Date 09/09/2011	Description Corp Yard Fire Inspection	CENTRAL FIRE PROTECTION DISTF	\$80.00
67602	09/23/2011 Invoice 8739	Open	Date 08/31/2011	Description Aug2011 Cleaning Service, all sites Fund 1311, Wharf=\$145.00	CLEAN BUILDING MAINTENANCE	\$3,542.00
67603	09/23/2011 Invoice 1018463-01	Open	Date 09/02/2011	Description Poly bags	CLEAN SOURCE	\$243.56
67604	09/23/2011 Invoice CommAct-Q1	Open	Date 09/21/2011	Description Quarterly Grant Payment	COMMUNITY ACTION BOARD OF SC	\$339.00
67605	09/23/2011 Invoice 2012-00000250	Open	Date 09/15/2011	Description Quarterly Grant Payment	COMMUNITY BRIDGES	\$27,632.00

**Payment Register**

From Payment Date: 9/19/2011 - To Payment Date: 9/23/2011

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67606	09/23/2011 Invoice 28750-23	Open	Date 09/02/2011	Description General Plan webhosting 9/23-10/22/11 Fund 1313, Gen Plan Update	CRUZIO THE INTERNET STORE INC	\$39.95
67607	09/23/2011 Invoice 60094-Aug2011	Open	Date 08/31/2011	Description Drinking Water, Aug 2011, all sites	CRYSTAL SPRINGS WATER CO.	\$154.00
67608	09/23/2011 Invoice L0761653376	Open	Date 08/31/2011	Description Unemployment Ins., Q2 CY2011 Fund 2213, Self Insurance Liab	EMPLOYMENT DEVELOPMENT DEF	\$1,363.00
67609	09/23/2011 Invoice Family-Q1	Open	Date 09/21/2011	Description Quarterly Grant Payment	FAMILY SERVICE AGENCY OF THE CENTRAL COAST	\$2,149.75
67610	09/23/2011 Invoice 2	Open	Date 09/01/2011	Description BIA Promotional Materials Update Fund 1321, BIA	FERRASCI-HARP, AMY	\$1,000.00
67611	09/23/2011 Invoice 471311	Open	Date 09/15/2011	Description Oct 2011 to Dec 31 2011	FIRST ALARM	\$113.34
67612	09/23/2011 Invoice 56970	Open	Date 09/07/2011	Description Grease trap Maintenance	GREEN LINE	\$435.00
67613	09/23/2011 Invoice 2012-00000264	Open	Date 09/15/2011	Description Quarterly Grant Payment	HOMELESS SERVICE CTR OF SCC	\$627.00
67614	09/23/2011 Invoice 2012-00000265	Open	Date 09/15/2011	Description Quarterly Grant Payment	HOSPICE of SANTA CRUZ COUNTY	\$345.00
67615	09/23/2011 Invoice 2011-09-2 2011-09-3	Open	Date 09/19/2011 09/19/2011	Description Weekly Mechanic, Corp Yd Weekly Mechanic, Corp Yd	HOWARD, CHARLIE	\$1,320.00
67616	09/23/2011 Invoice ICMA9-23-11	Open	Date 09/21/2011	Description Retirement Plan Contribution Employee Funded	ICMA RETIREMENT TRUST 457	\$6,924.20
67617	09/23/2011 Invoice 93867	Open	Date 08/25/2011	Description Sewer Cleaner	INDUSTRIAL CHEM LABS & SERVIC	\$125.56

**Payment Register**

From Payment Date: 9/19/2011 - To Payment Date: 9/23/2011

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67618	09/23/2011 Invoice Jennings-09-3	Open	Date 09/19/2011	Description Sports Officials Sept 3 to 17 2011	JENNINGS, LINDA	\$117.00
67619	09/23/2011 Invoice W02156	Open	Date 09/13/2011	Description Leak Repair, Pac Cove, Flood Related Fund 1020, Emergency Reserve	JIMMIE SMITH PLUMBING, INC.	\$6,842.60
67620	09/23/2011 Invoice 20110911	Open	Date 09/19/2011	Description Reimb Cal APA Conference Attendance	JOHNSON, DEREK	\$967.71
67621	09/23/2011 Invoice 115802	Open	Date 08/29/2011	Description PHQ booklets-PD	JOHNSON, ROBERTS, & ASSOCIATI	\$68.44
67622	09/23/2011 Invoice 99179	Open	Date 08/23/2011	Description Aug-Nov11 Rec Copier Maint Contract-Res	KBA Docusys	\$83.34
67623	09/23/2011 Invoice 10728	Open	Date 09/07/2011	Description Move from 411 to 420 Capitola Ave	LAMBERT & SON MOVING	\$905.00
67624	09/23/2011 Invoice Dues9-23-11	Open	Date 09/21/2011	Description Personnel Expenses and Benefits Employee Funded	LIUNA PENSION FUND	\$440.00
67625	09/23/2011 Invoice Luich-09-3	Open	Date 09/19/2011	Description Sports Officials Sept 3 to 17 2011	LUICH, JAY	\$88.00
67626	09/23/2011 Invoice 47463900	Open	Date 08/28/2011	Description Internet Access, Sep2011 Fund 2211, Info Tech	MEGAPATH COVAD COMMUNICATI	\$643.86
67627	09/23/2011 Invoice 274018 274219 274167	Open	Date 08/29/2011 08/31/2011 08/31/2011	Description auto parts-Parks F-250 PU auto parts-Shop Air Equipment auto parts-PD071	MID-COUNTY AUTO SUPPLY	\$101.72
67628	09/23/2011 Invoice 82442	Open	Date 09/06/2011	Description Sept Storage, Aug Handling, Records Mgn	MILLER'S TRANSFER & STORAGE C	\$200.95
67629	09/23/2011 Invoice MBA10-0613a	Open	Date 08/30/2011	Description Claim Payment, Cholden Fund 2213, Self Insurance Liab	MONTEREY BAY AREA SELF INS AL	\$2,589.48

**Payment Register**

From Payment Date: 9/19/2011 - To Payment Date: 9/23/2011

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67630	09/23/2011	Open			MONTEREY BAY AREA SELF INS AI	\$37.00
	Invoice		Date	Description		Amount
	MBA11-0324a		08/30/2011	Flood Claim		\$37.00
				Fund 2213, Self Insurance Liab		
67631	09/23/2011	Open			MUNISERVICES, LLC	\$450.00
	Invoice		Date	Description		Amount
	25638		08/26/2011	CAFR Reports		\$450.00
67632	09/23/2011	Open			MV TRANSPORT INC.	\$4,356.00
	Invoice		Date	Description		Amount
	35176		09/01/2011	FY 11/12 Beach Shuttle Service, 8 Days		\$4,356.00
67633	09/23/2011	Open			NATIVE ANIMAL RESCUE	\$297.00
	Invoice		Date	Description		Amount
	Q1FY11/12		09/19/2011	Quarterly Grant Payment		\$297.00
67634	09/23/2011	Open			NELLA OIL COMPANY	\$2,484.15
	Invoice		Date	Description		Amount
	11-647203		09/02/2011	418 Gal Ethanol		\$1,666.18
	11-647204		09/02/2011	200 Gal Diesel		\$817.97
67635	09/23/2011	Open			O'NEILL SEA ODYSSEY	\$1,454.00
	Invoice		Date	Description		Amount
	2012-00000249		09/15/2011	Quarterly Grant Payment		\$1,454.00
67636	09/23/2011	Open			OLIVE SPRINGS QUARRY, INC.	\$91.42
	Invoice		Date	Description		Amount
	79370		08/29/2011	Riverview pathway gravel		\$91.42
67637	09/23/2011	Open			ORCHARD SUPPLY HARDWARE	\$77.23
	Invoice		Date	Description		Amount
	6011-4769499		09/02/2011	Rope		\$43.28
	20110728		07/28/2011	Electrical Supplies, Fund 2211, IT		\$33.95
67638	09/23/2011	Open			PARACO CORPORATION	\$367.90
	Invoice		Date	Description		Amount
	FP11181		09/14/2011	Flags, Council Chambers		\$367.90
67639	09/23/2011	Open			PARENTS CENTER OF SANTA CRU:	\$1,772.00
	Invoice		Date	Description		Amount
	2012-00000253		09/15/2011	Quarterly Grant Payment		\$1,772.00
67640	09/23/2011	Open			PESTICIDE APPLICATORS PROF AS	\$240.00
	Invoice		Date	Description		Amount
	20111006		09/19/2011	Membership & Tng, 82271 & 81943		\$240.00
67641	09/23/2011	Open			PHAT Energy Inc.	\$4,113.50
	Invoice		Date	Description		Amount
	11-07-1067		08/25/2011	Installation of Electric Car Charging Station		\$4,113.50
				Fund 1200, CIP		

**Payment Register**

From Payment Date: 9/19/2011 - To Payment Date: 9/23/2011

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67642	09/23/2011	Open			POM INCORPORATED	\$2,178.05
	Invoice		Date	Description		Amount
	20522		08/31/2011	Parking Meter parts		\$2,178.05
67643	09/23/2011	Open			PRINTWORX	\$1,924.69
	Invoice		Date	Description		Amount
	11127		08/26/2011	Captila Visitor Brochure Printing, BIA Fund Fund 1321, BIA		\$1,924.69
67644	09/23/2011	Open			QUARTARARO, ROD, V.	\$66.00
	Invoice		Date	Description		Amount
	Quart-9-3		09/19/2011	Sports Officials Sept 3 to 17 2011		\$66.00
67645	09/23/2011	Open			RAY ALLEN MANUFACTURING LLC	\$63.00
	Invoice		Date	Description		Amount
	269059cm		08/23/2011	K-9 Uniform Patches		\$63.00
67646	09/23/2011	Open			RED SHIFT INTERNET SERVICES	\$115.11
	Invoice		Date	Description		Amount
	1468049		09/01/2011	Sep2011 Internet Access		\$49.94
	1468048		09/01/2011	Sep 2011 Internet Access-Fund 2211, IT		\$65.17
67647	09/23/2011	Open			REED, DANIEL, H.	\$99.00
	Invoice		Date	Description		Amount
	Reed-09-3		09/19/2011	Sports Officials Sept 3 to 17 2011		\$99.00
67648	09/23/2011	Open			RODGERS, PETER, A	\$88.00
	Invoice		Date	Description		Amount
	Rodgers-09-3		09/19/2011	Sports Officials Sept 3 to 17 2011		\$88.00
67649	09/23/2011	Open			SC COMMUNITY COUNSELING CTR	\$1,721.50
	Invoice		Date	Description		Amount
	2012-00000263		09/15/2011	Quarterly Grant Payment		\$1,721.50
67650	09/23/2011	Open			SCC OFFICE OF EDUCATION	\$339.00
	Invoice		Date	Description		Amount
	SCCOE-Q1		09/21/2011	Quarterly Grant Payment		\$339.00
67651	09/23/2011	Open			SANTA CRUZ ELECTRONICS, INC.	\$9.61
	Invoice		Date	Description		Amount
	371510		08/28/2011	Adapter, IT		\$1.08
	371192		08/23/2011	Electronic Parts, IT Fund 2211, IT		\$8.53
67652	09/23/2011	Open			SAVE OUR SHORES	\$344.75
	Invoice		Date	Description		Amount
	Save-Q1		09/21/2011	Quarterly Grant Payment		\$344.75
67653	09/23/2011	Open			SECOND HARVEST FOOD BANK	\$2,456.25
	Invoice		Date	Description		Amount
	2012-00000251		09/15/2011	Quarterly Grant Payment		\$2,456.25

**Payment Register**

From Payment Date: 9/19/2011 - To Payment Date: 9/23/2011

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67654	09/23/2011 Invoice 2012-00000256	Open	Date 09/15/2011	Description Quarterly Grant Payment	SENIOR CITIZENS LEGAL SERVICE: Amount \$2,435.75	\$2,435.75
67655	09/23/2011 Invoice 2012-00000259	Open	Date 09/15/2011	Description Quarterly Grant Payment	SENIOR NETWORK SERVICES, INC Amount \$615.25	\$615.25
67656	09/23/2011 Invoice 2012-00000254	Open	Date 09/15/2011	Description Quarterly Grant Payment	SENIORS COUNCIL OF SCC Amount \$819.25	\$819.25
67657	09/23/2011 Invoice 21811KM	Open	Date 08/04/2011	Description Softballs	SPORT ABOUT Amount \$133.70	\$133.70
67658	09/23/2011 Invoice Survive-Q1	Open	Date 09/21/2011	Description Quarterly Grant Payment	SURVIVORS HEALING CENTER Amount \$132.00	\$132.00
67659	09/23/2011 Invoice 5583690-2	Open	Date 09/23/2011	Description City Employee Life and Disability Ins-Oct21	THE HARTFORD -PRIORITY ACCOU Amount \$1,799.85	\$1,799.85
67660	09/23/2011 Invoice Thill-09-3	Open	Date 09/19/2011	Description Sports Officials Sept 3 to 17 2011	THILL, WENDY Amount \$120.00	\$120.00
67661	09/23/2011 Invoice PARS9-23-11	Open	Date 09/21/2011	Description PARS Contribution for 9/23/11 Payroll Employee Funded	UNION BANK OF CALIFORNIA Amount \$527.68	\$527.68
67662	09/23/2011 Invoice 6246LF	Open	Date 09/20/2011	Description Postage for Late Fall brochure	UNITED STATES POSTAL SERVICE Amount \$2,840.61	\$2,840.61
67663	09/23/2011 Invoice 2012-00000262 United9-23-11	Open	Date 09/15/2011 09/21/2011	Description Quaterly Community Grant United Way Employee Contribution Fund 2211, Info Tech=\$500.00(211 Line)	UNITED WAY OF SCC Amount \$2,026.75 \$40.00	\$2,066.75
67664	09/23/2011 Invoice Union9-23-11	Open	Date 09/21/2011	Description Union Dues, Employee Funded	UPEC LIUNA LOCAL 792 Amount \$1,725.00	\$1,725.00
67665	09/23/2011 Invoice 1009368311	Open	Date 09/03/2011	Description Monthly Access Charges Fund 2211, IT	VERIZON WIRELESS Amount \$112.08	\$112.08

**Payment Register**

From Payment Date: 9/19/2011 - To Payment Date: 9/23/2011

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount	
67666	09/23/2011	Open			VISTA CENTER FOR THE BLIND	\$460.25	
	Invoice		Date	Description		Amount	
	2012-00000255		09/15/2011	Quarterly Grant Payment		\$460.25	
67667	09/23/2011	Open			WOMEN'S CRISIS SUPPORT	\$903.25	
	Invoice		Date	Description		Amount	
	2012-00000258		09/15/2011	Quarterly Grant Payment		\$903.25	
67668	09/23/2011	Open			WOMENCARE	\$566.25	
	Invoice		Date	Description		Amount	
	WomenCare-Q1		09/21/2011	Quarterly Grant Payment		\$566.25	
67669	09/23/2011	Open			ZUMAR INDUSTRIES INC.	\$1,887.23	
	Invoice		Date	Description		Amount	
	132764		08/23/2011	Signs		\$465.41	
	133000		08/31/2011	Street name signs		\$710.91	
	133001		08/31/2011	Street name signs		\$710.91	
67670	09/23/2011	Open			Lai, Poon	\$53.00	
	Invoice		Date	Description		Amount	
	2001076-002		09/20/2011	Class refund		\$53.00	
67671	09/23/2011	Open			Lindsay, Ingrid	\$57.60	
	Invoice		Date	Description		Amount	
	2001093-002		09/20/2011	Class refund		\$57.60	
67672	09/23/2011	Open			Riley, Harriet	\$68.40	
	Invoice		Date	Description		Amount	
	2001092-002		09/20/2011	Class refund		\$68.40	
67673	09/23/2011	Open			KERKO, BRYAN, T.	\$1,625.00	
	Invoice		Date	Description		Amount	
	006		09/12/2011	Rispin Mansion Hazard Elimination Project Fund 1200, CIP		\$1,625.00	
67674	09/23/2011	Open			McMENAMIN, GEORGE	\$650.00	
	Invoice		Date	Description		Amount	
	6R		09/22/2011	Riparian Restoration FY 11/12		\$650.00	
Check Totals:				Count	93	Total	\$1,121,591.93

Checks dated 9/30/11 numbered 67675 to 67734 for a total of \$197,844.95 have been reviewed and authorized for distribution by the City Manager and City Treasurer.

As of 9/30/11 the unaudited cash balance is \$2,080,746.54

**CASH POSITION - CITY OF CAPITOLA 9/30/11**

	<u>Net Balance</u>
General Fund	197,371
Worker's Comp. Ins. Fund	74,779
Self Insurance Liability Fund	109,999
Stores Fund	8,787
Information Technology Fund	102,978
Equipment Replacement	105,933
Compensated Absences Fund	35,038
Contingency Reserve Fund	200,000
Public Employee Retirement - PERS	290,075
Open Space Fund	256
Capital Improvement Projects	955,531
<b>TOTAL GENERAL FUND &amp; COUNCIL DESIGNATED FUNDS</b>	<u><u>2,080,747</u></u>

The Emergency Reserve Fund balance is \$105,196.92 and is not included above.

On a fiscal year basis the City's annual budget balances expenditures and revenue in the General Fund. Due to the timing of revenue receipts, during most of the fiscal year General Fund expenditures will outpace revenue.


To resolve this cash flow issue, loans in the amount of \$1,084,895.66 were made from the following funds to the general fund:

- From Contingency Reserve fund: \$734,895.66
- From Equipment Replacement fund: \$200,000.00
- From Information Technology fund: \$50,000.00
- From Self Insurance Liability fund: \$100,000.00

It is anticipated that these loans to General Fund will be repaid by June 30, 2012.

  
 \_\_\_\_\_  
 Jamie Goldstein, City Manager

9/30/11  
 \_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
 Jacques J.J. Bertrand, City Treasurer

9.30.11  
 \_\_\_\_\_  
 Date



# City Checks Issued 9/30/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67675	09/30/2011	Open			ALLEY, DONALD	\$3,126.60
	Invoice		Date	Description		Amount
	911-01		09/18/2011	Soquel Creek Monitoring-Fish Contract		\$3,126.60
67676	09/30/2011	Open			ALLSAFE LOCK COMPANY	\$14.04
	Invoice		Date	Description		Amount
	42752		09/16/2011	Keys-PD		\$14.04
67677	09/30/2011	Open			ALPHA GRAPHICS	\$513.96
	Invoice		Date	Description		Amount
	26477		09/02/2011	25 Copies of Approved Budget Fund 2210, Stores		\$513.96
67678	09/30/2011	Open			ATCHISON, BARISONE, & CONDOTTI	\$26,613.51
	Invoice		Date	Description		Amount
	1040-001Aug11		08/31/2011	Contract Legal Services, Aug 2011		\$11,130.00
	1040E-Aug2011xtr		09/09/2011	Additional Legal Services, Aug2011		\$15,483.51
67679	09/30/2011	Open			AUTOMATED TEST ASSOCIATES	\$92.00
	Invoice		Date	Description		Amount
	37861		09/22/2011	Sept 2011 Wharf Meter Reading-Fund 131		\$25.00
	37862		09/22/2011	Sept 2011 PacCove meter reading		\$67.00
67680	09/30/2011	Open			BACK TO EDEN LANDSCAPING INC.	\$575.00
	Invoice		Date	Description		Amount
	2788		09/18/2011	Monthly Landscape Fee, Pac Cove MHP		\$575.00
67681	09/30/2011	Open			BELFOR	\$105,659.00
	Invoice		Date	Description		Amount
	10133-1EMS		07/01/2011	Partial Pymt, Inv 10133-1, Emergency Svc Fund 1020, Emerg Res		\$105,659.00
67682	09/30/2011	Open			BICKMORE RISK SERVICES & CONSUL	\$6,000.00
	Invoice		Date	Description		Amount
	BRS-0006675		08/31/2011	GASB 45 Report		\$6,000.00
67683	09/30/2011	Open			CAL TRAFFIC	\$308.66
	Invoice		Date	Description		Amount
	016631		07/29/2011	6 signs		\$133.92
	016632		07/29/2011	5 signs		\$174.74
67684	09/30/2011	Open			CALIF LAW ENFORCEMENT ASSOC.	\$370.50
	Invoice		Date	Description		Amount
	Oct2011		09/20/2011	Long Term Disability, PD		\$370.50
67685	09/30/2011	Open			CHARTER COMMUNICATIONS	\$259.98
	Invoice		Date	Description		Amount
	5646-8-9-11		09/11/2011	Acct 8203-11-008-0198562, Aug & Sep Ac Fund 2211, IT		\$259.98
67686	09/30/2011	Open			CITY CLERKS ASSOC. OF CALIF.	\$200.00
	Invoice		Date	Description		Amount
	2011-31		09/19/2011	City Clerk Recruitment Ad		\$200.00

City of Capitola  
**City Checks Issued 9/30/11**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67687	09/30/2011	Open			CLEAN SOURCE	\$2,872.82
	Invoice		Date	Description		Amount
	1018463		08/30/2011	Cleaning supplies		\$2,615.17
	1015449		09/01/2011	Esplanade Park TP dispensers		\$257.65
67688	09/30/2011	Open			COASTAL WATERSHED COUNCIL	\$2,702.72
	Invoice		Date	Description		Amount
	1096		08/31/2011	Soquel Creek Monitoring -Water Quality (U		\$2,095.22
	1097		08/31/2011	Storm Water Education and Outreach Ser		\$607.50
67689	09/30/2011	Open			COMMUNICATION SERVICE CORP.	\$665.00
	Invoice		Date	Description		Amount
	211371		09/15/2011	WebCam Installation, Interview Rm, PD		\$570.00
	211372		09/15/2011	Line Hook-Up Fund 2211, IT		\$95.00
67690	09/30/2011	Open			CVS PHARMACY INC.	\$32.55
	Invoice		Date	Description		Amount
	4053		09/15/2011	Office supplies-PD		\$32.55
67691	09/30/2011	Open			CYBERMANOR	\$310.00
	Invoice		Date	Description		Amount
	2818		09/12/2011	Museum Supplies		\$310.00
67692	09/30/2011	Open			DAUERMAN, MIKE	\$72.50
	Invoice		Date	Description		Amount
	2012-00000293		09/26/2011	Soccer Officials Aug 2011		\$72.50
67693	09/30/2011	Open			EARTHWORKS PAVING CONTRACTOR	\$7,595.35
	Invoice		Date	Description		Amount
	4352		09/19/2011	El Camino Medio Storm Drain Upgrade Fund 1200, CIP		\$7,595.35
67694	09/30/2011	Open			ELEVATOR SERVICE COMPANY, INC.	\$165.00
	Invoice		Date	Description		Amount
	5917		09/01/2011	Quarterly lube and inspection		\$165.00
67695	09/30/2011	Open			FARWEST NURSERY	\$21.79
	Invoice		Date	Description		Amount
	7890		09/08/2011	Landscape supplies-Village		\$21.79
67696	09/30/2011	Open			FEDERAL EXPRESS	\$22.75
	Invoice		Date	Description		Amount
	7-630-23030		09/16/2011	Weekly Shipping		\$22.75
67697	09/30/2011	Open			GOLDFARB & LIPMAN, LLP	\$50.00
	Invoice		Date	Description		Amount
	102245		08/16/2011	Legal services through 7/31/11		\$50.00
67698	09/30/2011	Open			HERNANDEZ, JAMIE	\$88.00
	Invoice		Date	Description		Amount
	2012-00000292		09/26/2011	Soccer Officials Aug 2011		\$88.00

# City Checks Issued 9/30/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67699	09/30/2011	Open			HOPE REHABILITATION SERVICES	\$1,750.00
	Invoice		Date	Description	Amount	
	S140620		09/15/2011	Litter Abatement & Street Cleaning	\$1,750.00	
67700	09/30/2011	Open			JIMMIE SMITH PLUMBING, INC.	\$399.08
	Invoice		Date	Description	Amount	
	2232		09/22/2011	Drain Repair, Pac Cove Laundry Room	\$399.08	
67701	09/30/2011	Open			JOHNSON, ROBERTS, & ASSOCIATES	\$17.00
	Invoice		Date	Description	Amount	
	115823		08/31/2011	Background Check, New Hire	\$17.00	
67702	09/30/2011	Open			KAYAK CONNECTION	\$239.20
	Invoice		Date	Description	Amount	
	2012-00000294		09/28/2011	Instr.Payment-Rec	\$239.20	
67703	09/30/2011	Open			KING'S PAINT AND PAPER, INC.	\$136.48
	Invoice		Date	Description	Amount	
	A146175		09/15/2011	Paint - grafitti baseball shed	\$136.48	
67704	09/30/2011	Open			LABOR READY SOUTHWEST INC.	\$1,057.54
	Invoice		Date	Description	Amount	
	61481559		09/09/2011	Temporary Staff-PW	\$1,057.54	
67705	09/30/2011	Open			LC ACTION POLICE SUPPLY, LTD	\$131.77
	Invoice		Date	Description	Amount	
	268602		09/12/2011	Pistol Magazines	\$131.77	
67706	09/30/2011	Open			LLOYD'S TIRE SERVICE INC.	\$1,053.40
	Invoice		Date	Description	Amount	
	214489		09/02/2011	Sweeper Tires-Fund 1310, Gas Tax	\$862.91	
	214750		09/08/2011	Auto parts	\$20.00	
	215053		09/14/2011	Auto parts	\$170.49	
67707	09/30/2011	Open			LOOMIS	\$1,211.43
	Invoice		Date	Description	Amount	
	10927732		08/31/2011	Armored Car Svc, Sep2011	\$1,211.43	
67708	09/30/2011	Open			McMENAMIN, GEORGE	\$932.22
	Invoice		Date	Description	Amount	
	2 Riverview		09/27/2011	Tree Work, Erosion Control, Native Plantin Fund 1020, Emerg Res	\$932.22	

City of Capitola  
**City Checks Issued 9/30/11**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67709	09/30/2011	Open			MID-COUNTY AUTO SUPPLY	\$384.62
	Invoice		Date	Description		Amount
	275148		09/09/2011	Auto parts-PW Shop Truck		\$107.67
	275074		09/08/2011	Auto parts-all vehicles		\$18.99
	274996		09/08/2011	Auto parts-Dump Truck		\$5.36
	274427		09/02/2011	Auto parts-all vehicles		\$5.36
	274763		09/06/2011	Auto parts-all vehicles		\$79.99
	274879		09/07/2011	Auto parts-PW Dump Truck		\$10.72
	274384		09/01/2011	Auto parts-all vehicles		\$9.69
	274320		09/01/2011	Auto parts-Crown Vic		\$43.46
	274332		09/01/2011	Auto parts-Crown Vic		\$14.06
	274369		09/01/2011	Auto parts-06 Chevy Impala		\$89.32
67710	09/30/2011	Open			MISSION LINEN SUPPLY	\$816.80
	Invoice		Date	Description		Amount
	Aug2011		09/01/2011	Aug2011 Mat and Uniform Cleaning, all site		\$816.80
67711	09/30/2011	Open			MONTEREY BAY AREA SELF INS. AUTI	\$10,597.00
	Invoice		Date	Description		Amount
	11-12Premium		09/01/2011	FY11/12 Property & Boiler Ins Fund 2213, Self Ins Liab		\$10,597.00
67712	09/30/2011	Open			MPress Digital	\$879.94
	Invoice		Date	Description		Amount
	24043		09/14/2011	Museum Walking Tour Maps		\$879.94
67713	09/30/2011	Open			NELLA OIL COMPANY	\$2,661.91
	Invoice		Date	Description		Amount
	11-648997		09/09/2011	520 Gal Ethanol		\$2,078.10
	11-648998		09/09/2011	150 Gal Diesel		\$583.81
67714	09/30/2011	Open			ORCHARD SUPPLY HARDWARE	\$223.47
	Invoice		Date	Description		Amount
	6013-7822186		09/08/2011	Plants		\$19.83
	6011-4791381		09/08/2011	Trash cans		\$138.47
	6011-4792356		09/12/2011	Misc. Supplies		\$8.64
	6008-9121231		09/12/2011	Grease		\$18.91
	6011-4792371		09/12/2011	Nuts & bolts		\$2.65
	6007-2430329		09/15/2011	Auto parts		\$18.82
	6007-2430469		09/16/2011	Auto parts		\$16.15
67715	09/30/2011	Open			PACIFIC GAS & ELECTRIC	\$283.99
	Invoice		Date	Description		Amount
	2012-00000296		09/18/2011	Pac Cove MHP Elec and Gas		\$283.99

City of Capitola  
**City Checks Issued 9/30/11**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67716	09/30/2011	Open			PALACE ART & OFFICE SUPPLIES	\$791.40
	Invoice		Date	Description		Amount
	921528		09/08/2011	Office supplies-PD		\$274.78
	921552		09/08/2011	Office supplies-PD		\$13.93
	920859		09/02/2011	Paper-PD		\$46.44
	921896		09/12/2011	Office supplies-PD		\$9.73
	921892		09/12/2011	Office supplies-PD		\$14.62
	922078		09/13/2011	Office Supplies, City Hall		\$17.15
	922148		09/13/2011	Office Supplies, City Hall		\$90.02
	922868		09/16/2011	Office Supplies, City Hall		\$305.27
	922755		09/16/2011	Office Supplies, City Hall		\$19.46
				Fund 2210, Stores=\$431.90		
67717	09/30/2011	Open			PESTICIDE APPLICATORS PROF ASSC	\$160.00
	Invoice		Date	Description		Amount
	Try-Nak		09/26/2011	Membership & Training, Tryde & Nakamott		\$160.00
67718	09/30/2011	Open			PET PALS DISCOUNT PET SUPPLIES	\$522.52
	Invoice		Date	Description		Amount
	Stmt-Sep11		09/05/2011	K-9 supplies Jun - Aug 2011		\$522.52
67719	09/30/2011	Open			PITNEY BOWES INC.	\$519.99
	Invoice		Date	Description		Amount
	8538-Refill		09/04/2011	Postage for postage machine - REC		\$519.99
67720	09/30/2011	Open			PK SAFETY SUPPLY	\$248.32
	Invoice		Date	Description		Amount
	141039		08/30/2011	Safety supplies		\$248.32
67721	09/30/2011	Open			PUBLIC ENGINES, INC./CRIME REPOR	\$1,785.00
	Invoice		Date	Description		Amount
	14015		09/01/2011	Q4 CY2011 Subscription-PD		\$597.00
	14093		09/01/2011	Annual subscription renewal 6/2011 to 6/2012		\$1,188.00
67722	09/30/2011	Open			REPUBLIC ITS INC.	\$698.24
	Invoice		Date	Description		Amount
	RR117302		09/12/2011	FY 11/12 Traffic Signal Maintenance		\$698.24
				Fund 1310, Gas Tax		
67723	09/30/2011	Open			ROBERT A. BOTHMAN INC.	\$6,407.46
	Invoice		Date	Description		Amount
	2011-0911		09/21/2011	Bay Avenue Sidewalk Project Final		\$6,407.46
				Fund 1200, CIP		
67724	09/30/2011	Open			SCC DEPT OF PUBLIC WORKS	\$51.99
	Invoice		Date	Description		Amount
	Jul-Aug2011		09/06/2011	Survey maps, prints & copies		\$51.99
67725	09/30/2011	Open			SCC INFORMATION SERVICES	\$502.78
	Invoice		Date	Description		Amount
	Sept 2011		09/08/2011	Open query Sept. 2011-PD		\$502.78

# City Checks Issued 9/30/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67726	09/30/2011 Invoice 90246	Open	Date 09/02/2011	Description Semi-Annual Service, Fire systems	SANTA CRUZ FIRE EQUIPMENT CO.	\$362.34 \$362.34
67727	09/30/2011 Invoice 42892	Open	Date 08/31/2011	Description Uniform Purchase, M. Gonzalez-PD	SUMMIT UNIFORM CORP	\$350.19 \$350.19
67728	09/30/2011 Invoice 5167	Open	Date 09/01/2011	Description Sidewalk Pressure Washing Fund 1310, Gas Tax	THE CLEANING MACHINE	\$2,780.00 \$2,780.00
67729	09/30/2011 Invoice 203986 203983	Open	Date 09/14/2011 09/14/2011	Description City Hall Phone System Maint Telephone Maint Exp Fund 2211, IT	TOTLCOM	\$540.00 \$195.00 \$345.00
67730	09/30/2011 Invoice 954791371	Open	Date 09/10/2011	Description Shipping-PD	UNITED PARCEL SERVICE	\$35.43 \$35.43
67731	09/30/2011 Invoice 185848553	Open	Date 09/07/2011	Description Copier Lease, PD	US BANCORP EQUIPMENT FINANCE	\$250.06 \$250.06
67732	09/30/2011 Invoice Q1 FY11-12	Open	Date 09/26/2011	Description Community Grant Payment, Q1 FY11/12	VOLUNTEER CENTERS OF SCC	\$339.00 \$339.00
67733	09/30/2011 Invoice 2012-00000291	Open	Date 09/26/2011	Description Soccer Officials Aug 2011	YAHYA, IB	\$117.00 \$117.00
67734	09/30/2011 Invoice 44846638	Open	Date 09/26/2011	Description Replace lost Payroll Check	Campbell, Anna	\$275.65 \$275.65
<b>Check Totals:</b>				<b>Count</b>	<b>60</b>	<b>Total \$197,844.95</b>



# CAPITOLA REDEVELOPMENT AGENCY AGENDA REPORT

## MEETING OF OCTOBER 13, 2011

FROM: FINANCE DEPARTMENT  
DATE: October 5, 2011  
SUBJECT: APPROVAL OF RDA CHECK REGISTER REPORT

**Recommended Action:** By motion and roll call vote, that the RDA Board approve the Check Register Report dated September 23, 2011 as submitted.

### DISCUSSION

The attached Check Register for the referenced date:

Date	Starting Check #	Ending Check #	Total Checks	Amount
9/23/11	2996	2999	4	\$8040.00

The prior RDA check register report of August 26, 2011 ended with check number 2995.

There were no checks issued for more than \$10,000.00.

As of 10/5/11 the unaudited cash balance in the RDA account is \$2,317,865 allocated as follows:

RDA Operating Fund	\$2,274,439
RDA Low/Mod Housing Fund	\$43,426

### ATTACHMENTS

Check Register Report dated:  
September 23, 2011

Report Prepared By: **Linda Benko**  
AP Clerk

Reviewed and Forwarded  
By Executive Director:

City of Capitola  
**Payment Register**

RDA Checks Issued 9/23/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount	
2996	09/23/2011 Invoice CBF-8-2011-1	Open			FLYNN, CAROLYN	\$1,850.00	
			Date	Description		Amount	
			08/31/2011	Loan monitoring, grant tracking		\$1,850.00	
2997	09/23/2011 Invoice 14191r	Open			HARRIS & ASSOCIATES	\$3,140.00	
			Date	Description		Amount	
			07/12/2011	Clares St Traffic Calming Proj, Jun2011		\$3,140.00	
2998	09/23/2011 Invoice R6	Open			KOSTELEK, DANIEL	\$230.00	
			Date	Description		Amount	
			09/01/2011	Rispin Mansion Building Inspections		\$230.00	
2999	09/23/2011 Invoice 5045-54360RDA	Open			TEAMAN, RAMIREZ & SMITH	\$2,820.00	
			Date	Description		Amount	
			09/07/2011	Audit Expense, FY10/11, RDA Portion		\$2,820.00	
Check Totals:				Count	4	Total	\$8,040.00


The above listed checks have been printed and released under the RDA Executive Director's approval. Included are checks numbered 2996 through 2999 for \$8,040.00.

These checks has been reviewed and authorized for distribution.

The unaudited cash balance in the RDA account as of 9/23/11 is \$2,333,014.39

RDA Operating Fund	\$2,291,057.80
Low/Mod Housing Fund	\$41,956.59

  
 Jamie Goldstein, City Manager  
 Date 9/23/11

  
 Debbie Johnson, Treasurer – RDA  
 Date 9/23/11





Item #: **3.B.**

## CITY COUNCIL AGENDA REPORT

### MEETING OF OCTOBER 13, 2011

FROM: OFFICE OF THE CITY CLERK

DATE: OCTOBER 5, 2011

SUBJECT: **CAPITOLA CITY COUNCIL MINUTE APPROVAL:** MINUTES OF THE SPECIAL  
CLOSED SESSION MEETING OF THE CITY COUNCIL OF SEPTEMBER 20, 2011

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**Recommended Action:** By motion that the City Council approve the subject minutes as submitted.  
*[NOTE: Council Member Harlan was absent and should abstain from voting on the minutes.]*

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#### **DISCUSSION**

Attached for City Council review and approval are the Minutes to the subject meeting.

#### **ATTACHMENTS**

September 20, 2011 Minutes

**Report Prepared By:** Pamela Greeninger, MMC  
City Clerk

**Reviewed and Forwarded  
by City Manager: \_\_\_\_\_**

September 20, 2011  
Capitola, California

**CAPITOLA CITY COUNCIL**

**MINUTES OF A SPECIAL CLOSED SESSION MEETING**

Mayor Norton called the Special Closed Session Meeting of the Capitola City Council to order at 5:00 p.m. on Tuesday, September 20, 2011, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

**PRESENT:** Council Members Michael Termini, Kirby Nicol, Sam Storey, and Mayor Dennis Norton *[Note: Council Member Termini was not present for the announcement at 5:00 pm in the Council Chambers; however, he was present for the Closed Session]*

**ABSENT:** Council Member Stephanie Harlan

**STAFF:** City Manager Jamie Goldstein and Deputy City Attorneys Adair Paterno and George Kovacevich

**CLOSED SESSION [520-25/570-40]**

Mayor Norton announced that pursuant to the Notice and Call of the Special Closed Session Meeting of the Capitola City Council dated September 19, 2011, the City Council would meet with its Legal Counsel in Closed Session in the City Manager’s office on the following matters:

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** (Govt. Code §54956.9a)

Surf and Sand, LLC, vs. City of Capitola, et al. (Surf & Sand Mobile Home Park) [Superior Court of the State of California for County of Santa Cruz, Case #CV 167716]

Surf and Sand, LLC, vs. City of Capitola, et al. (Surf & Sand Mobile Home Park) [U.S. District Court N.D., Case No. C09-05542 RS (Judge Richard Seeborg)]

Bill Newman, et al. (residents of Surf & Sand Mobile Home Park) vs. Surf and Sand, LLC, Ronald Reed, et al. [Superior Court County of Santa Cruz, Unlimited Jurisdiction, Case No. CV 171783]

Surf and Sand, LLC; Ronald Reed, Cross-Complainants vs. City of Capitola [Superior Court County of Santa Cruz, Unlimited Jurisdiction, Case No. CV 171783]

No one from the public was present for the announcement regarding the Closed Session; therefore, the Council Members recessed at 5:01 p.m. to the Closed Session in the City Manager’s Office.

**REPORT ON CLOSED SESSION [520-25]**

The City Council received an update from Deputy City Attorneys Paterno and Kovacevich, and City Manager Goldstein regarding the existing litigation pertaining to the Surf and Sand Mobile Home Park referenced above and provided in the Notice and Call.

The City Council provided direction with regard to the continued settlement and defense of the lawsuits on behalf of the City, and took no reportable action in Closed Session.

**ADJOURNMENT**

The City Council adjourned at approximately 6:30 p.m. to its next Regular Meeting to be held on Thursday, September 22, 2011, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

\_\_\_\_\_  
Dennis Norton, Mayor

ATTEST: \_\_\_\_\_, MMC  
Pamela Greeninger, City Clerk



Item #: **3.C.**

## CITY COUNCIL AGENDA REPORT

**MEETING OF OCTOBER 13, 2011**

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: OCTOBER 6, 2011

SUBJECT: 1<sup>ST</sup> AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH THE PLANNING CENTER|DESIGN, COMMUNITY & ENVIRONMENT (FORMERLY DESIGN, COMMUNITY & ENVIRONMENT) IN AN AMOUNT NOT TO EXCEED \$30,000 FOR WORK ON THE VILLAGE HOTEL PROJECT

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**Recommended Action:** By motion and roll call vote, that the City Council authorize the City Manager to execute a contract amendment with The Planning Center|Design, Community & Environment in an amount not to exceed \$30,000 for inclusion of the Capitola Village Hotel Facilitation and Design Project.

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### **BACKGROUND**

The City Council approved an amendment to a cooperative agreement at the last meeting to remove a CDBG matching funds requirement and to reduce the scope of services. This amendment was made to reflect the fact that HCD is unlikely to award funds to the project in time to prepare for the upcoming November 12 and 13, 2011 Village Workshops.

An RFP was issued to a limited number of qualified firms with a set contact amount of \$30,000 to complete the project's scope of work. Three firms submitted proposals by the deadline. The selection process was carried out by the Community Development Director in consultation with representatives from Barry Swenson Builders.

The Planning Center|Design, Community & Environment (formerly Design, Community & Environment) proposal presented the most experienced team in terms of workshop facilitation and high-end hotel design and development. The Community Development Director met with The Planning Center|DC&E's Principal-in-Charge, David Early, and Project Manager Ben Noble to negotiate modifications to the scope of work and other contract details. Because the City already has a Professional Services Agreement with Design, Community & Environment for the General Plan Update, it is proposed this additional work be added as a 1<sup>st</sup> Amendment to that existing contract. The attached 1<sup>st</sup> Amendment and Scope of Work has been reviewed and approved by the City Attorney's Office (Attachment 1).

In the proposal, The Planning Center|DC&E will serve as the prime consultant and workshop facilitator. The architectural firm of HKS Hills Glazier Studio (HKS) will provide the hotel design, program and function services. The community design workshops proposed will include presentations and interactive activities to review concepts, alternatives and recommendations leading toward the development of a set of preferred alternatives for the hotel. In conclusion, the consultant will provide more refined plans and guiding principles for consideration and incorporation into the General Plan.

**FISCAL IMPACT**

The 1<sup>st</sup> Amendment to the Professional Services Agreement with The Planning Center| DC&E is for an amount not to exceed \$30,000 for work on the Village Hotel Project. All of the costs of this proposed contract amendment will be covered with funding provided through the Cooperative Agreement. There is no impact on the General Fund or the General Plan Fund.

**ATTACHMENTS**

The Planning Center|DC&E Contract Amendment and Scope of Work

**Report Prepared By:** David Foster  
Housing and Redevelopment Manager

**Approved by:** Derek Johnson  
Community Development Director

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_

**1<sup>st</sup> AMENDMENT TO THE  
PROFESSIONAL SERVICES AGREEMENT**

**between**

**CITY OF CAPITOLA AND  
THE PLANNING CENTER|DESIGN, COMMUNITY & ENVIRONMENT**

The City of Capitola and The Planning Center|Design, Community & Environment (formerly Design, Community & Environment) hereby agree to the following Amendment to the GENERAL PLAN UPDATE AND ENVIRONMENTAL IMPACT REPORT Contract dated November 11, 2010:

- 1) Add to Section 1, Scope of Services, "The services to be performed under this Agreement will also include CAPITOLA VILLAGE HOTEL FACILITATION AND DESIGN PROJECT, as further detailed in Appendix One; and
- 2) Amend Appendix One to include the attached Scope of Services; and
- 3) Amend Appendix Two to include Task U with the following activities:
  - 1: Project Initiation: \$ 3,025
  - 2: Community Outreach: \$ 2,725
  - 3: Community Weekend Workshop: \$ 20,230
  - 4: GPAC Meeting and Product Submittal: \$ 2,320
  - 5: Expenses: \$1,700

All other terms and conditions of the Professional Services Agreement remain in full force and effect.

**CONTRACTOR: The Planning Center|Design, Community & Environment**  
(formerly Design, Community & Environment)

\_\_\_\_\_  
By: David Early, President

Date: \_\_\_\_\_

**CITY OF CAPITOLA**

\_\_\_\_\_  
By: Benjamin Goldstein, City Manager

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
John G. Barisone, City Attorney

Date: \_\_\_\_\_

## Work Scope

### TASK U.

#### CAPITOLA VILLAGE HOTEL FACILITATION AND DESIGN

This appendix describes the scope of services to be completed by The Planning Center | DC&E team for the Capitola Village Hotel Facilitation and Design Project. A summary of the work program is presented in Table 1.

<b>TABLE 1 TASK U WORK PROGRAM SUMMARY</b>	
<b>1 : Project Initiation</b>	
a. Start-Up Meeting & Site Tour	b. Stakeholders Initial Meeting
<b>2 : Community Outreach &amp; Workshop Preparation</b>	
a. Interest Group Presentations	b. Workshop Preparation
<b>3: Community Weekend Workshop</b>	
a. Community Workshop	Weekend c. Refinement of Workshop Solutions
b. Workshop Summary	
<b>4: GPAC Meeting &amp; Product Submittal</b>	
a. GPAC Meeting Preparation	c. Final Product Refinement
b. GPAC Meeting Attendance	

### 1. Project Initiation

In this task The Planning Center | DC&E team will work with City staff to initiate the project and gain a thorough understanding of the issues facing the community and the site. This work will focus on obtaining more detailed design related information beyond what was assumed in the master General Plan contract.

#### *a. Startup Meeting and Site Tour*

The DC&E team will meet with City staff and Barry Swenson Builder to initiate the project, discuss project goals, clarify roles for project team members, identify concerns or issues, and review expectations for the process and products. The project schedule will be reviewed. At this meeting, we will also discuss the history of the project. If necessary, The Planning Center | DC&E will refine the project scope of work and schedule to reflect the desired goals for the project. After the meeting the participants will walk the site and surroundings.

#### *b. Stakeholder Meetings*

As part of our General Plan work included in the master contract, The Planning Center | DC&E team will conduct a series of meetings with focused groups of Village stakeholders to discuss issues for the hotel site, including but not limited to adjacencies, views, access, parking, and coastal planning issues. We will organize two or meetings with groups of stakeholders, and these meetings will address more detailed design related issues beyond what was assumed in

1<sup>st</sup> Amendment to The Planning Center|DC&E Agreement with City of Capitola  
our master contract. We assume these meetings will occur the same day as the Startup Meeting.

3

## **2. Community Outreach and Workshop Preparation**

In this task, The Planning Center | DC&E team will work with City staff to identify goals, engage the community, and prepare for the upcoming Community Weekend Workshop.

### *a. Interest Group Presentations*

The Planning Center | DC&E team will prepare a PowerPoint presentation describing the Capitola Hotel design project. We assume that City staff will deliver this presentation to local business and residential groups.

### *b. Workshop Preparation*

In this task, The Planning Center | DC&E team will work with City staff and the property owner to refine the agenda and schedule for the Community Weekend Workshop. The workshop will maximize opportunities for public participation in identifying priority issues, developing and evaluating alternative solutions to specific site issues, and creating guiding principles for development. As discussed in Item 3 below, this scope of work will expand the length of the workshop to two days, and will involve more detailed design analysis of the hotel site. Our preparation will follow National Charrette Institute guidelines, which are oriented toward achieving solutions through a dynamic planning process.

As part of the preparation task, The Planning Center | DC&E team will gather and prepare more detailed illustrative materials to augment materials prepared under our master contract. These will include work already accomplished by the property owner, illustrative materials and other background data as appropriate. HKS will gather case study materials to demonstrate solutions to similar issues in other locations.

## **3. Community Weekend Workshop**

In this task, The Planning Center | DC&E team will facilitate the Community Weekend Workshop. Founding Principal David Early will facilitate the community workshops and Associate Principal Bruce Brubaker, a Certified Charrette Planner with the National Charrette Institute, will head the dynamic planning process. Both David and Bruce are trained in architecture, and Bruce is a California Registered Architect. The following discussion outlines the proposed workshop outline.

### *a. Community Weekend Workshop*

The Community Workshop will take place over a two day period at the Jade Street Community Center, currently scheduled for November 12 and 13, 2011 (Saturday and Sunday). This workshop will be integrated into the General Plan Workshop #3, which will address other issues as well as the Hotel site. The scope and budget for the work described below is in addition to our work for Community Workshop #3 included in our master contract.

#### **i. Saturday Morning Open House**

On the morning of Saturday, November 12, 2011, The Planning Center | DC&E team will augment our work for Community Workshop #3 by providing more detailed design-related background information on the hotel site during the introductory presentation. This presentation will provide a comprehensive overview by highlighting key features of the site, the context, and coastal issues. John Hill of HKS Hill Glazier Studio will give a presentation of issues surrounding hotel design, including program and function.





Community Workshop #3, as described in our master contract, will allow for small work groups of participants to provide input on key issues in the village, including the hotel site, parking management, and coastal hazards. Under this contract modification we will expand this exercise to allow for more detailed public input on design issues and solutions for the hotel site. Participants will work with a variety of illustrative materials will be used to generate solutions, including site plans, SketchUp models, and as an optional task, a physical model with building blocks to indicate form and mass. Architects and urban designers from HKS Hill Glazier Studio and DC&E will facilitate these discussions.

#### **ii. Saturday Afternoon Work Session**

This contract modification will expand Community Workshop #3 to include an afternoon work session to refine design solutions proposed during the morning workshop. Architects and urban designers from HKS Hill Glazier Studio and The Planning Center | DC&E will work together during this work session to prepare more detailed sketches and other visual materials that explore alternative design solutions for the design of the hotel site. These alternative design solutions and illustrations will address building mass, height, location, orientation, parking, vehicle circulation, pedestrian circulation, and other key design characteristics. These materials will not address architectural style. The intent of these design solutions is to explore a range of parameters for the design of the hotel that meets the objectives of all stakeholders and will lay the foundation for a successful project.

#### **iii. Sunday Morning Work Session**

Architects and urban designers from HKS Hill Glazier Studio and The Planning Center | DC&E will continue to work on Sunday to further develop and refine the design solutions and accompanying illustrations. Sketches and photographs will be assembled into a PowerPoint presentation for the afternoon workshop.

#### **iv. Sunday Afternoon Open House**

The Planning Center | DC&E team will facilitate an afternoon open house to present the alternative design solutions and illustrations for the hotel site. During this open house participants will have the opportunity to identify preferred design solutions and suggest additional alternatives. Activities will be hands-on and interactive. At the end of this open house The Planning Center | DC&E team will provide a summary of community consensus on preferred solutions and will identify an unresolved issues requiring further analysis, design, or consensus building

#### *b. Workshop Summary*

The DC&E team will augment our workshop summary prepared as part of our master contract with additional materials on the design solutions and illustrations for the hotel site.

#### *c. Refinement of Workshop Solutions*

The Planning Center | DC&E and HKS Hill Glazier Studio will work together on refining the preferred solution or solutions from the Weekend Workshop into more refined plans and Guiding Principles. Following this exercise, the draft Workshop Solutions will be sent to City staff and the property owner.

#### **4. GPAC Meeting and Product Submittal**

This task will focus on turning the Workshop results into a preferred alternative that will inform the Local Coastal Plan, General Plan, and EIR. It includes a meeting with the GPAC.

*a. GPAC Meeting Preparation*

Following City staff approval of the draft Workshop Solutions document, The Planning Center | DC&E will prepare a presentation and packet materials to be given to the GPAC. It will include a concise set of Guiding Principles for the project with accompanying illustrations.

*b. GPAC Meeting Attendance*

Ben Noble will attend this focused GPAC meeting to lead a discussion of the results and decide an approach to incorporation into the General Plan process.

*c. Final Product Refinement*

This will be a memorandum that summarizes the process and outlines a preferred alternative and Guiding Principles for the Capitola Village Hotel site.



Item #: 3.D.

## CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 13, 2011

FROM: DEPARTMENT OF PUBLIC WORKS  
DATE: OCTOBER 5, 2011  
SUBJECT: RISPIN PROPERTY HAZARD ABATEMENT UPDATE NO. 15

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**Recommended Action:** By motion and roll call vote, take the following actions:

1. Accept this update report on the Rispin Property Hazard Abatement Project, and
  2. By 4/5 approval, make the determination that all hazards at the Rispin Property as detailed in the March 1, 2011, Notice of Summary Abatement Order to Abate Dangerous Buildings and Grounds have not been eliminated and that there is a need to continue action.
- 

### **BACKGROUND**

On March 10, 2011, the City Council adopted Resolution No. 3859 declaring that an emergency condition exists as a result of the receipt of an Order to Abate Hazardous Conditions at the Rispin Mansion Property. Pursuant to Public Contracting Code Section 22050 the City Council must review this action at each subsequent regularly scheduled meeting and by 4/5 vote authorize work to continue under the emergency declaration.

### **DISCUSSION**

Project status:

Work on the roof continues with completion anticipated in mid-October. Upon completion of the roof, lighting will be installed inside the mansion and fences and rails installed per plan.

### **FISCAL IMPACT**

Contracts in the amount of \$650,000 have been issued. As of October 4, 2011, there has been \$322,891.55 in invoices paid.

**ATTACHMENTS** – None

**Report Prepared By: Steven Jesberg  
Public Works Director**

**Reviewed and Forwarded  
By City Manager:**

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Item #: 3.E.

## CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 13, 2011

FROM: CITY MANAGER'S DEPARTMENT  
DATE: SEPTEMBER 21, 2011  
SUBJECT: LIABILITY CLAIMS

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**RECOMMENDED ACTION:** Deny liability claims and forward to the City's liability insurance carrier.

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### **DISCUSSION**

The following claimants have filed liability claims against the City of Capitola:

1. Capitola Associates, LLC: \$541,724.72
2. Mid-Century Insurance Company, subrogee of Blue Water Steakhouse, Inc.: \$4,784.00
3. Farmers Insurance Exchange, subrogee of Hot Feet, Inc.: \$13,531.54
4. Farmers Insurance Exchange, subrogee of Raymond Apolskis, dba Surf N Shack: \$886.00
5. Nubia R. Jordan, dba Capitola Dreams Swimwear: \$102,320.00

**ATTACHMENTS:** None

**Report Prepared By:** Liz Nichols  
Executive Assistant to the City Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_



Item #: 3.F.

## CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 13, 2011

FROM: POLICE DEPARTMENT

DATE: SEPTEMBER 22, 2011

SUBJECT: RESOLUTION EXTENDING THE ADDITIONAL VEHICLE REGISTRATION SERVICE FEES FOR OPERATION OF THE VEHICLE ABATEMENT PROGRAM

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**Recommended Action:** By motion and roll call vote, adopt the proposed Resolution Extending the Additional Vehicle Registration Service Fees for Operation of the Vehicle Abatement Program.

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### **DISCUSSION**

Approving the continued participation in the program allows our Police Department to remove unsafe and abandoned vehicles from our streets. Without an extension the authority to remove those vehicles would rest exclusively with the Highway Patrol.

The proposed resolution extends a one dollar surcharge on vehicle registration fees for the next 10 years. Those fees are distributed to participating jurisdictions on a quarterly basis, with one-half of the total funds distributed based on population and the other half distributed based on the total number of abandoned vehicles abated in their cities.

### **FISCAL IMPACT**

This program will provide \$10,000 to \$15,000 a year to the City of Capitola for vehicle abatement purposes.

### **ATTACHMENTS**

Draft Resolution

**Report Prepared By:** Captain Tom Held

**Reviewed and Forwarded  
by City Manager:** \_\_\_\_\_

# DRAFT

## RESOLUTION NO.

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA EXTENDING THE ADDITIONAL VEHICLE REGISTRATION SERVICE FEES FOR OPERATION OF THE VEHICLE ABATEMENT PROGRAM

**WHEREAS**, California Vehicle Code Section 22710 authorizes the establishment of a service authority for the abatement of abandoned vehicles in a county and the imposition of a one dollar (\$1.00) vehicle registration fee, if the Board of Supervisors, by a four-fifths vote, and a majority of the cities having a majority of the incorporated population within the county have adopted resolutions providing for the establishment of the authority and the imposition of the fee; and

**WHEREAS**, abandoned vehicles are a public nuisance and danger to the public health and safety; and

**WHEREAS**, the Board of Supervisors of the County of Santa Cruz has previously authorized the establishment of the Santa Cruz County Vehicle Abatement Authority ("Authority"); and

**WHEREAS**, California Vehicle Code Section 9250.7(h) states a fee imposed by a service authority shall remain in effect only for a period of 10 years from the date that the actual collection of the fee commenced unless the fee is extended pursuant to this subdivision. The fee may be extended in increments of up to ten (10) years each if the board of supervisors of the county, by a two-thirds vote, and a majority of the cities having a majority of the incorporated population within the county adopt resolutions providing for the extension of the fee.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Capitola hereby authorizes the extension of the one dollar surcharge on vehicle registration fees for ten years, with one half of the total funds collected by the Authority to be distributed purpose of operating vehicle abatement programs.

**I HEREBY CERTIFY** that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 13<sup>th</sup> day of October, 2011, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Dennis R. Norton, Mayor

ATTEST:

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\_\_\_\_\_, MMC  
Pamela Greeninger, City Clerk



# CITY COUNCIL AGENDA REPORT

## MEETING OF OCTOBER 13, 2011

FROM: FINANCE DEPARTMENT

DATE: SEPTEMBER 30, 2011

SUBJECT: FOURTH QUARTER AND FULL YEAR SALES TAX AND TRANSIENT OCCUPANCY TAX REVENUES – FY2010-11

**Recommended Action:** By motion, City Council receive and file Fourth Quarter and Full Year 2010-11 Sales Tax and Transient Occupancy Tax Status Report (unaudited) for the City of Capitola.

### BACKGROUND

The following report is a fourth quarter and a full year analysis of the FY2010-11 Sales Tax and Transient Occupancy Tax. Overall, the Sales Tax for the fourth quarter was 7.4% below budget, but the full year was less than 1% below the budget. The Transient Occupancy Tax was below budget by 2.9%.

### DISCUSSION & FISCAL IMPACT

#### Sales Tax revenue

In late September the City received a final true up from the SBOE for the quarter ending June 30, 2011.

	Revenue			\$		%	
	2009-10 Actual	2010-11		2010-11 Actual vs. 2009-10 Actual	2010-11 Actual vs. 2010-11 Budget	2010-11 Actual vs. 2009-10 Actual	2010-11 Actual vs. 2010-11 Budget
		Budget	2010-11 Actual				
<b>Fourth quarter</b>							
Bradley-Burns	\$ 752,270	\$ 812,950	\$ 747,152	\$ (5,118)	\$ (65,798)	-0.7%	-8.1%
District	\$ 215,063	\$ 228,489	\$ 217,043	\$ 1,980	\$ (11,446)	0.9%	-5.0%
	\$ 967,333	\$ 1,041,439	\$ 964,195	\$ (3,138)	\$ (77,244)	-0.3%	-7.4%
<b>Full year 2010-11</b>							
Bradley-Burns	\$ 3,773,560 (a)	\$ 4,137,600	\$ 4,080,704	\$ 307,144	\$ (56,896)	8.1%	-1.4%
District	\$ 854,671 (a)	\$ 847,500	\$ 865,009	\$ 10,338	\$ 17,509	1.2%	2.1%
	\$ 4,628,231 (a)	\$ 4,985,100	\$ 4,945,713	\$ 317,482	\$ (39,387)	6.9%	-0.8%

(a) These figures exclude a \$380,425 SBOE adjustment to historical sales tax revenue figures. Total reported sales tax for fiscal 2009-10 was \$5,008,476.

Fourth quarter sales tax revenue was nearly equal to prior year and \$77,000 or 7.4% below budget. Full year sales tax revenue performance was \$317,500 or 6.9% above 2009-10 and \$39,000 or less than 1% below budget.

**Transient Occupancy Tax**

Capitola’s Municipal Code, Section 3.32 requires any operator that rents rooms for 30 days or less to charge, collect, and remit to the City a 10% tax of the room rate. Transient Occupancy Tax (TOT) revenues are recorded in the General Fund for unrestricted use.

	Transient Occupancy Tax (TOT) Revenue			\$		%	
	2009-10 Actual	2010-11 Amended	2010-11 Actual	2010-11 Actual vs. 2009-10 Actual	2010-11 Actual vs. 2010-11 Budget	2010-11 Actual vs. 2009-10 Actual	2010-11 Actual vs. 2010-11 Budget
		Budget		Actual	Actual	Budget	Actual
Fourth quarter	\$ 160,800	n/a	\$ 159,525	\$ (1,275)	n/a	-0.8%	n/a
Full Year	\$ 591,900	\$ 620,000	\$ 601,725	\$ 9,825	\$ (18,275)	1.7%	-2.9%

Fourth quarter 2010-11 TOT was flat to fourth quarter 2009-10. Full year TOT receipts are slightly above last fiscal year and \$18,275 or 2.9% below budget. Transient occupancy tax figures are recorded on a cash basis.

**Report Prepared By:** Lonnie Wagner  
Accountant II

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_





Item #: 4.A.

## CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 13, 2011

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: OCTOBER 5, 2011

SUBJECT: **1575 38<sup>th</sup> AVENUE**                      **#11-060**                      **APN: 034-181-17**  
PRELIMINARY DEVELOPMENT PLAN FOR A PROPOSED PLANNED  
DEVELOPMENT REZONING TO CONSTRUCT A FOUR STORY, 67-UNIT  
SENIOR HOUSING PROJECT IN THE CN (NEIGHBORHOOD COMMERCIAL)  
ZONING DISTRICT.  
PROPERTY OWNER: MAUREEN A. ROMAC, FILED 6/3/11  
REPRESENTATIVE: STEVE THOMAS

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**Recommended Action:** That the City Council should consider the project in concept, and provide input and recommendations to address any potential concerns prior to the submittal of a formal application.

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### **BACKGROUND**

On September 1, 2011, the Planning Commission considered a preliminary development plan for a planned development (PD) rezoning at 1575 38th Avenue in the CN (Neighborhood Commercial) zoning district. The project site currently contains a commercial salvage yard which is proposed to be removed as part of the project. The applicant proposed a 67-unit market rate senior housing development on the 31,365 square foot (.72 acre).

Six members of the public from the surrounding neighborhood spoke in opposition to the project, expressing concerns about the impacts of such a large development on the neighborhood. The Planning Commissioners also commented on the project, highlighting some of the following issues:

- Concern with the mass, scale and height of the building, and its relationship to the surrounding neighborhood;
- Lack of articulation on all four sides of the structure;
- Insufficient parking provided on site; and
- Lack of landscaping and outdoor space.

The Planning Commission minutes from the meeting are attached (Attachment 2) to provide the Commissioner's and neighbor's comments regarding the project, in addition to the Planning Commission staff report (Attachment 1).

Following the Planning Commission meeting, revised drawings were submitted on September 30, 2011. Both the original plans (Attachment 3) and revised plans (Attachment 4) are attached to this staff report.

## **PROJECT DESCRIPTION**

The 31,365 square foot (.72 acre) project site is located on 38<sup>th</sup> Avenue between Capitola Road and Brommer Street. The relatively flat site currently contains a commercial salvage yard which is proposed to be removed as part of the project. Abutting the west property line are single-family homes located in the County, while to the south of the property is a self storage facility. Across the street is the King's Plaza shopping center, while to the north is a combination of office and commercial properties.

The original proposal considered by the Planning Commission was a 67-unit market rate senior housing development, consisting of a four-story structure with at grade covered parking. For more detailed information, the Planning Commission Staff Report (Attachment 1) is provided for your review.

Following the Planning Commission meeting, the applicant has provided staff with revised drawings (Attachment 4) consisting of front and side elevations as well as a street rendering. The new plans show a scaled back project, reducing the number of units to 57, as well as a lowered three-story building with a more contemporary architectural design. The overall height of the building has been reduced from 51' to 44', and the building appears to have an increased setback from 38<sup>th</sup> Avenue. Architecturally, they have altered the design from a traditional Mediterranean style to a more contemporary design, incorporating a metal seamed roof, larger windows and balconies, as well as a more prominent entry. The new drawings were prepared in response to the Planning Commission's comments and provide an alternative approach to providing senior housing and commercial uses on the site.

## **DISCUSSION**

As proposed, the development does not meet the current CN zoning district development standards. Thus a preliminary Planned Development (PD) application has been submitted. The purpose of the Planned Development District is to encourage and provide a means for effectuating desirable development, redevelopment, rehabilitation, and conservation in the city, which features variation in siting, mixed land uses, and/or varied dwelling types.

The PD process requires that the applicant submit a preliminary development plan to the Planning Commission for an approval in principle, prior to submission of a PD rezoning, subdivision, and architectural and site review application. The PD ordinance provides that *"approval in principle is to be limited to general acceptability of the land uses proposed and their interrelationship, and shall not be construed to endorse precise location of uses, configuration of parcels, or engineering feasibility."*

The Planning Commission consideration of the project in principle is the first step in the approval process. Generally, the next step would be a formal application submitted for Planning Commission and City Council approval. However, for this project, the applicant has requested that the City Council review the development as part of the preliminary review process in order to receive comments and determine if there will be any significant concerns by members of the Council prior to moving forward with a formal submittal.

The General Plan Designation for the site is C-LC (Commercial – Shopping Local). The designation is described as "Commercial areas that serve local neighborhoods." The Housing Element lists the site as a Mixed-Use Residential/Commercial opportunity site.

The General Plan process has identified the site as potential infill site as part of the effort to stimulate the revitalization of the 41<sup>st</sup> Avenue corridor. 38<sup>th</sup> Avenue has been identified as an area that could be transformed into a smaller scale pedestrian oriented street with mixes of residential

and commercial uses. Specific development standards have not been identified for the site or for 38<sup>th</sup> Avenue. These standards will be developed as part of the General Plan and Zoning Ordinance update. This site provides the greatest opportunity to catalyze change along 38<sup>th</sup> Avenue and therefore, this project should be held to a high development standard as it will set the stage and be used as an example for future development.

It is recommended that the Council focus on the appropriateness of the proposed use and its relation with other surrounding uses, as well as density, circulation, and building design. While many of the detailed building design issues will be dealt with at the formal PD rezoning and architectural review phase, the Council is encouraged to express any concerns about the use and other site design considerations.

### **FISCAL IMPACT**

None.

### **ATTACHMENTS**

1. September 1, 2011 Planning Commission Staff Report
2. September 1, 2011 Planning Commission Minutes
3. Original drawings submitted June 3, 2011
4. Revised drawings submitted September 30, 2011
5. Letter from the applicant

**Report Prepared By:** Ryan Bane  
Senior Planner

**Reviewed and Forwarded  
by City Manager:** \_\_\_\_\_



**STAFF REPORT**

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: AUGUST 25, 2011 (AGENDA: SEPTEMBER 1, 2011)

SUBJECT: **1575 38<sup>th</sup> AVENUE** #11-060 **APN: 034-181-17**  
Preliminary Development Plan for a proposed Planned Development Rezoning to construct a four story, 67-unit senior housing project in the CN (Neighborhood Commercial) Zoning District.  
Property Owner: Maureen A. Romac, filed 6/3/11  
Representative: Steve Thomas

**APPLICANT'S PROPOSAL**

The applicant is presenting a preliminary development plan for a planned development rezoning at 1575 38th Avenue in the CN (Neighborhood Commercial) zoning district. The project site currently contains a commercial salvage yard which is proposed to be removed as part of the project. The applicant is proposing a 67-unit market rate senior housing development on the 31,365 square foot (.72 acre). As this is a planned development proposal, this is the first step in the approval process. This plan is to be reviewed and considered in principle by the Planning Commission before a formal application is submitted.

**ARCHITECTURAL AND SITE REVIEW**

The Architectural and Site Review Committee considered this project on July 27, 2011. The following issues were raised by various members of the Committee:

Ryan Bane, Senior Planner

- Staff has concerns with the mass, scale and height of the proposed building. With the reduced setbacks and four-story height, the scale of the building may be too great for the 38<sup>th</sup> Avenue corridor.
- Front and side setbacks can be flexible due to adjacent uses, however, the rear of the site abuts single-family residential uses and the building will need to be appropriately setback and stepped back to minimize impacts.
- While the front elevation provides architectural interest from the street, the other three sides lack articulation. Design of the building needs to be consistent on all four sides. With the redevelopment of the 38<sup>th</sup> Avenue corridor, this project will be setting a standard for the area.
- Staff would encourage the incorporation of commercial space on the first floor, fronting the street.
- For a project of this size, it is recommended that you contact the Santa Cruz County Public Works Drainage Department in order to identify any drainage improvements that will be required as part of the development.

- Staff recommends that you begin work with the Santa Cruz City Water District to determine what will be required to create new water meters for the proposed units.
- Landscaping shall cover five percent of the lot area to insure harmony with adjacent development, in accordance with architectural and site approval standards. A preliminary landscape will be required as part of the formal application. Landscaping shall comply with all requirements of the Santa Cruz City Water District regarding landscape irrigation and/or water fixture requirements, as well as any infrastructure improvements. Final building plans shall be reviewed and approved by the District prior to issuance of building permits.
- The current parking requirement for a multiple-family residential use is one covered space for each unit plus 1.5 parking spaces/unit on-site, or 2.5 parking spaces/unit. Based on the proposed 67 residential units, a total of 168 parking spaces would be required. The preliminary plan calls for providing 60 spaces. Considering the fact that this is a senior complex, it is anticipated that the parking demand and traffic generation will be far less than a standard market rate apartment complex. Therefore, as part of the project analysis, a parking and traffic analysis will be required as part of your formal submittal.
- Overall lighting will need to be directed down and shielded from adjacent properties. The guidelines also require light to be contained on the property. An exterior lighting plan which delineates the type, height and location of the proposed lighting will be required as part of the formal submittal.
- A minimum 6' high concrete block wall (measured from project finished grade) will be required along the western property line adjacent to residential properties. In addition to the block wall, it is recommended that trees be planted between the new structure and the property line to provide screening for the residential neighbors.
- The project will be required to comply with the Inclusionary Housing Ordinance. This will require that affordable housing in-lieu fees be paid to the city's housing trust fund in accordance with the requirements of Section 18.02.050. The current fee is \$6.00 per square foot.
- Based on the proposed project, it is likely that an Initial Study and Negative Declaration will need to be prepared. In addition to the previously mentioned parking and traffic analysis, it is anticipated that a noise study will also be required.
- A sign permit will be required for any proposed signage. A detailed sign plan will be required as part of the formal submittal.
- New curb, gutter and sidewalk will be required along the 38<sup>th</sup> Avenue frontage. All utilities will be required to be undergrounded. Improvements to nearby intersections may be required depending upon the results of the traffic study.

Frank Phanton, City Architect

- Expressed concerns with the mass, scale and height of the proposed building.
- He suggested that the upper floors be setback more, especially in the rear of the structure where there were impacts to single-family residences.
- He complimented the front elevation, but agreed that the design and articulation needed to be on all four sides of the building.

Steve Jesberg, Public Works Director

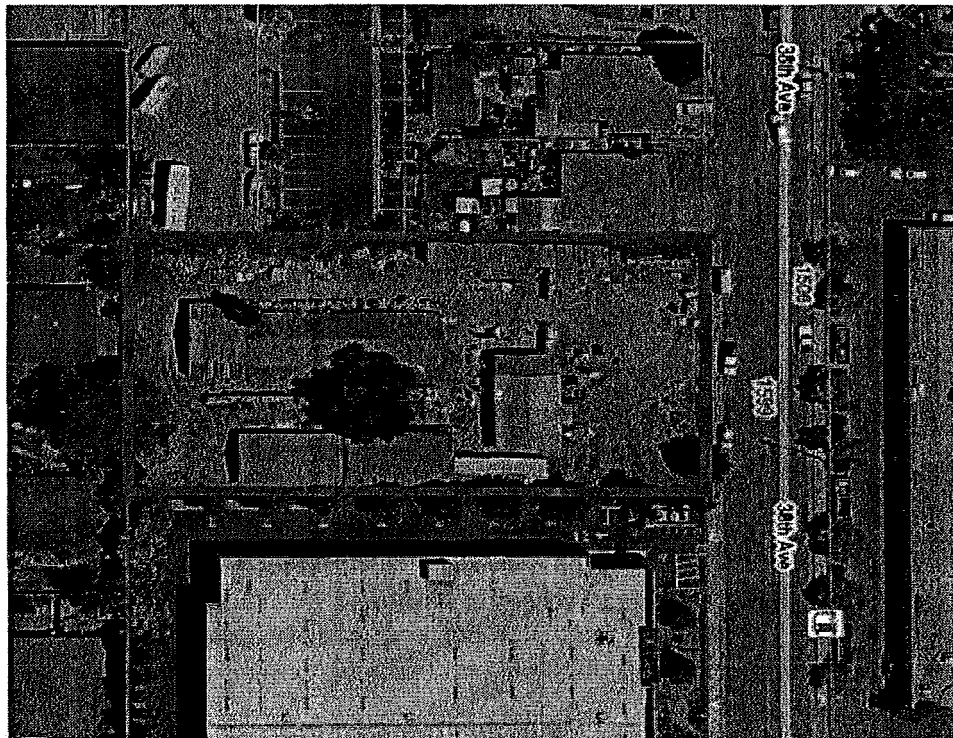
- He recommended working with the County Zone 5 Drainage Dept., County Sanitation Dept., and Santa Cruz City Water early on in the process.
- He indicated that a traffic study would be required, and that the impacts to the Capitola Road/38<sup>th</sup> Avenue intersection would need to be studied.
- Installation of public sidewalk would be required along 38<sup>th</sup> Avenue.

Susan Suddjian, City Landscape Architect

- Expressed that she like the project, and encouraged that that minimal landscape areas be well utilized for seniors. She recommended that the setback area surrounding the structure have level pathways with gardens for seniors to walk through.
- She also recommended additional potted plants throughout the project.

**DISCUSSION**

The 31,365 square foot (.72 acre) project site is located on 38<sup>th</sup> Avenue between Capitola Road and Brommer Street. The relatively flat site currently contains a commercial salvage yard which is proposed to be removed as part of the project. Abutting the west property line are single-family homes located in the County, while to the south of the property is a self storage facility. Across the street is the King's Plaza shopping center, while to the north is a combination of office and commercial properties.



**1575 38<sup>th</sup> Avenue – APN 034-181-17**

General Plan

The General Plan Designation for the site is C-LC (Commercial – Shopping Local). The designation is described as “Commercial areas that serve local neighborhoods.” The Housing Element lists the site as a Mixed-Use Residential/Commercial opportunity site. The following is an excerpt from the Housing Element:

*The current use of this parcel (APN # 034-181-17) (not in the coastal zone) is the “Capitola Freight and Salvage”, a used building materials operation. The site is approximately 0.7 acres in size and is in the Neighborhood Commercial (CN) zoning district and is close to public transit, shopping and other amenities. The CN zone allows residential-commercial mixed-use development as a*

*principally permitted or "by-right" use. The current use of the site is not seen as a barrier to future development as it significantly underutilizes the site, and will not be continued when redeveloped. Currently there are several dilapidated buildings on the site that are used for the Capitola Freight and Salvage business. The buildings do not contain residential units and cover approximately 20% of the site.*

*It is anticipated that due to the age and poor condition of the existing structures, that the site will be redeveloped in the current planning period. Given current zoning and proximity to public services the site is appropriate for a future mixed residential/commercial development project. Taking into consideration the setbacks, parking, and other design requirements of the CN district, it is possible to build 17 residential units above commercial on this site or 25 dwelling units per acre. Going by the standards set by the California State Department of Housing and Community Development, a density of 20 dwelling units/acre equates to low and very low income affordability. Although this site qualifies under State Housing Element requirements for the development of low-income housing units, the City of Capitola is choosing to show this site as being developed for moderate and above moderate income households. While a net of 17 units are possible on this site, the City has anticipated development at about 50% of the net new units, for a total of eight units.*

Though it is stated that a net of 17 units are possible on the site, it is certainly possible to develop more. The CN zoning district does not have a specific maximum lot coverage or minimum lot area per unit. Therefore, density is indirectly controlled by the need to meet parking requirements.

**Zoning District**

The parcel is currently zoned CN (Neighborhood Commercial). The purpose of the existing CN districts is "to accommodate, at convenient locations, those limited commercial uses which are necessary to meet frequently occurring basic shopping and service needs of persons residing in adjacent areas and to implement the harmonious intermingling of pedestrian, commercial and residential activities. The style and scale of development should be consistent with the foregoing and the intensity of uses should have low impact on the neighborhood."

This is a neighborhood commercial district that permits single family residential and residential/commercial mixed use development as principal permitted uses. Multifamily residential is permitted with a conditional use permit. This district has permissive development standards: there is no specific maximum lot coverage or minimum lot area per unit, density is indirectly controlled by the need to meet parking requirements. Required setbacks are 15 feet at the front, 10% of lot width for the first floor side, and 15% of the lot width for the second floor side yards. The rear set back requirement is 10 feet for commercial developments and 20% of lot depth for residential projects.

<b><u>Development Standard</u></b>	<b><u>CN Minimum Requirement</u></b>	<b><u>Proposed</u></b>
Front Yard Setback	15'	10'
Rear Yard Setback(Residential)	48'	10'
Rear Yard Setback (Commercial)	10'	10'
First Floor Side Yard Setback	13'	5'
Second Floor Side Yard Setback	19'-7"	5'
Maximum Height	27'	51'

**PD Rezoning Process**

As proposed, it is clear to see that the development does not meet the current CN zoning district development standards. Thus a preliminary Planned Development (PD) application has been submitted. Section 17.39.010 of the Zoning Ordinance states that the purpose of the Planned Development District is "to encourage and provide a means for effectuating desirable development, redevelopment, rehabilitation, and conservation in the city, which features variation in siting, mixed

land uses, and/or varied dwelling types. The amenities and compatibility of PD districts is to be insured through adoption of a general development plan, showing proper orientation, desirable design character and compatible land uses." This would allow some flexibility to the development standards in order to achieve the desired result.

The PD process requires that the applicant submit a preliminary development plan to the Planning Commission for an approval in principle, prior to submission of a PD rezoning, subdivision, and architectural and site review application. The PD ordinance provides that "approval in principle is to be limited to general acceptability of the land uses proposed and their interrelationship, and shall not be construed to endorse precise location of uses, configuration of parcels, or engineering feasibility." For a proposed PD of less than four acres, the Planning Commission must also find that the PD District is appropriate, by virtue of its unique historical character, topography, land use or landscaping features.

Though the preliminary development process is mainly for review of land use and conceptual site design, the Planning Commission is welcome to make architectural comments and give direction to the applicant. A more thorough architectural review will be done at the formal PD Rezoning and architectural review stage of the process. This project will come back to the Commission as part of that process, so the Commission will have more opportunity to comment on the architecture at that time.

Requested Exceptions

The PD district provides that standards for area, coverage, density, yard requirements, parking and screening for PD district uses shall be governed by the standards of the zoning district most similar in nature and function to the proposed PD district use as determined by the Planning Commission. In this case, we are looking at the CN zoning. Per the PD ordinance, exceptions to standards are allowed when it is found that the exceptions "encourage a desirable living environment and are warranted in terms of the total proposed development or unit thereof." The following is a summary of the CN exceptions requested as part of the PD rezoning.

<b>Development Standard</b>	<b>CN Minimum Requirement</b>	<b>Proposed</b>
Front Yard Setback	15'	10'
Rear Yard Setback(Residential)	48'	10'
Rear Yard Setback (Commercial)	10'	10'
First Floor Side Yard Setback	13'	5'
Second Floor Side Yard Setback	19'-7"	5'
Maximum Height	27'	51'
Parking	168	60

Landscaping

With the proposed structure covering the majority of the site, there are limited opportunities for landscaping. However, the applicant has included a "smell the roses" trail around the perimeter of the building, as well as incorporated trellises and potted plants throughout the development. Per the Zoning Ordinance, landscaping is to cover five percent of the lot area to insure harmony with adjacent development, in accordance with architectural and site approval standards. A preliminary landscape plan will be required as part of the formal application and landscaping shall comply with all requirements of the Santa Cruz City Water District regarding landscape irrigation and/or water fixture requirements, as well as any infrastructure improvements.



### Parking/Traffic

The current parking requirement for a multiple-family residential use is one covered space for each unit plus 1.5 parking spaces/unit on-site, or 2.5 parking spaces/unit. Based on the proposed 67 residential units, a total of 168 parking spaces would be required. The preliminary plan calls for providing 60 spaces. Considering the fact that this is a senior complex, it is anticipated that the parking demand and traffic generation will be far less than a standard market rate apartment complex. Therefore, as part of the project analysis, a parking and traffic analysis will be required as part of your formal submittal.

### Lighting

Overall lighting will need to be directed down and shielded from adjacent properties. The guidelines also require light to be contained on the property. An exterior lighting plan which delineates the type, height and location of the proposed lighting will be required as part of the formal submittal.

### Screening Walls

A minimum 6' high concrete block wall (measured from project finished grade) will be required along the western property line adjacent to residential properties. In addition to the block wall, it is recommended that trees be planted between the new structure and the property line to provide screening for the residential neighbors.

### Public Improvements

New curb, gutter and sidewalk will be required along the 38<sup>th</sup> Avenue frontage. All utilities will be required to be undergrounded. Improvements to nearby intersections may be required depending upon the results of the traffic study.

### Signage

A sign permit will be required for any proposed signage. A detailed sign plan will be required as part of the formal submittal.

### Environmental Review

Based on the proposed project, an Initial Study and likely a Negative Declaration will need to be prepared as part of the formal submittal. In addition to the previously mentioned parking and traffic analysis, it is anticipated that a noise study will also be required. If the Planning Commission and Council approve, in principle, the preliminary development plan, staff will prepare these documents in accordance with the California Environmental Quality Act, which will address project impacts.

## **RECOMMENDATION**

Staff is generally supportive of the senior housing use. The site's central location adjacent to a mix of commercial uses is convenient for seniors, including a movie theatre, several restaurants, drug store, and grocery store, as well as the Capitola Mall.

In regards to the preliminary plans provided, there are some concerns with the mass, scale and height of the building. With the reduced setbacks and four-story height, the scale of the building may be too great for the area. While there would be some flexibility with the front and side setbacks due to adjacent uses, the rear of the site abuts single-family residential uses and the building will need to be appropriately setback and stepped back to minimize impacts. Also, with the four story height and minimal setbacks, care will need to be taken in the architectural design to provide articulation and control the mass and scale of the structure. While the front elevation provides architectural interest from the street, the other three sides lack articulation, and design of the building will need to be consistent on all four sides. With the redevelopment of the 38<sup>th</sup> Avenue corridor, this project will be setting a standard for the area.

The Planning Commission should consider the project in concept, and provide input and recommendations to address any potential concerns for the formal application process. The Commission should focus on the appropriateness of the proposed use and its relation with other surrounding uses, as well as density, circulation, and building design. While many of the detailed building design issues will be dealt with at the formal PD rezoning and architectural review phase, the Planning Commission is encouraged to express any concerns or recommended revisions as part of the preliminary review.

**Report Prepared By:** Ryan Bane  
Senior Planner

Attachment A - Project Plans (Full Size)  
Attachment B – Project Description provided by the Applicant  
Attachment C – Letter from George Ow, Jr.

# VILLA ROMA

At Villa Roma, we offer a complete retirement community which exists in the midst of a thriving neighborhood. An enchanting, Mediterranean-style residence for seniors, state-of-the-art architecture coupled with beautiful flora and fauna, complimenting the scenic vistas and vital lifestyle of Santa Cruz County, Villa Roma is resort-style living at its finest. Residents can stay within the complex and enjoy any type of activity imaginable – swimming, entertainment, games, spiritual enhancement, exercise, etc. – or they can cross the street to cinemas, book store, and many other shopping opportunities. Our shuttle service will provide transportation whenever necessary – doctor appointments, airport, train station, or pleasure outing.

In addition to transportation services, we offer housekeeping, fitness programs, concierge services and a trained staff 24 hours a day. We will have daily programs, outings and events as well as in house activities.

Our gourmet restaurant will serve incredible meals all day long in a variety of settings – restaurant, coffee bar, poolside, etc.

Capitola is living at its best – ocean, redwoods, and parks – everything one could want to flourish both spiritually and physically in a small town community with all the benefits of a big city.

Villa Roma offers retirement living at its best for the active senior.

*1575 38<sup>th</sup> Avenue, Capitola, CA 95010*

**RECEIVED**

**AUG 25 2011**

George Ow, Jr.  
King's Plaza Shopping Center  
1601 41<sup>st</sup> Avenue, Suite 202 CITY OF CAPITOLA  
Capitola, CA, 95010  
831-475-9042 Capitola Office. 831-423-0128 Home Office. 831-426-5772 Fax.  
[GeorgeOwJr@aol.com](mailto:GeorgeOwJr@aol.com)

August 24, 2011.

Sent via Email and Regular Mail.

Capitola Planning Commission  
Capitola Planning Department  
420 Capitola Ave,  
Capitola, CA 95010

RE: 1575 38<sup>th</sup> Avenue – Proposed Planned Development Rezoning

Dear City of Capitola Planning Commissioners:

My name is George Ow, Jr. and my family and I own King's Plaza Shopping Center, which is located directly across the street from 1575 38<sup>th</sup> Avenue, the site of the proposed planned development rezoning to construct a four story, 67-unit senior housing project in the existing neighborhood commercial zoning district. My parents built and operated King's Market grocery store (now OSH) on our property in 1963 and my family and I developed the second phase of King's Plaza shopping center in 1972. King's Plaza Shopping Center has been an extremely successful retail shopping center for 48 years. In order to successfully operate their businesses, the tenants of King's Plaza need the ability to load and unload products into their stores, have easily accessible trash enclosures, and maintain operating hours that can go late into the evening. I am concerned that if 1575 38<sup>th</sup> Avenue is rezoned to allow a 4-story senior housing complex to be developed, it will lead to problems that are inevitable when residential uses are placed within close proximity to commercial uses.

I will use what has transpired with the Best Western Hotel next to King's Plaza Shopping Center as an example of some of the problems that arise when people live and sleep within close proximity to commercial uses. The Best Western Hotel was built in 2000, over 28 years after the neighboring commercial building (that houses O'Reilly Autoparts, Save Mart, and Rite Aid) was constructed. After choosing to locate directly next to the garbage enclosures and loading docks of these businesses that have been operating for decades, the Best Western manager complained incessantly and tried to impose limitations on the times when the businesses could load and unload their shipments of merchandise. This has not been good for the hotel owners or King's Plaza and its

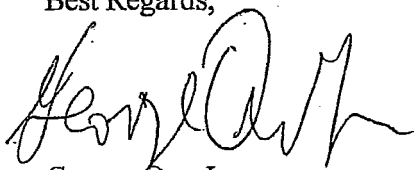
tenants. These problems could have been avoided if the Best Western would have chosen to locate elsewhere or changed the layout of its hotel or had well planned screening plants or further sound proofed their building. I want to protect against future problems like these arising with future residents of the proposed senior house project at 1575 38<sup>th</sup> Street.

It is important to keep zoning districts consistent because deviating from existing zoning districts can lead incompatible uses being located next to each other. If a four story senior housing project is built at 1575 38<sup>th</sup> Avenue, there is a high likelihood that the residents would object to looking at the back of the King's Plaza Shopping Center (the buildings that house Tony & Alba's, Palace Art Supply, OSH's garden department, and CineLux Theatres), the delivery hours of the tenants, the location of the garbage enclosures, and the noise that is associated with businesses at King's Plaza Shopping Center. Why create future problems?

If the Capitola Planning Commission deems the rezoning of 1575 38<sup>th</sup> Ave appropriate, then it should make the applicant aware that it will be locating a housing complex next to an active commercial site that will often create noise in the early mornings and late at night. Moreover, I ask that you impose as a condition of approval, that a sound wall, sound proof rooms and very high shielding landscaping like tall bamboo be installed to provide a physical barrier between 1575 38<sup>th</sup> Avenue and King's Plaza Shopping Center. Lastly I would like the Planning Commission to ensure that the construction of a senior housing complex at 1575 38<sup>th</sup> Ave will not cause any additional costs or have future limitations to be put on my family's land or our tenants operations (such as limited loading hours, limited trash pickup hours, changing the location or style of the trash enclosures, etc).

Thank you very much for your consideration of my requests. As long as the Planning Commission ensures that no limitations are ever put on any tenants of King's Plaza Shopping Center due to being located next to a senior housing complex and the applicant constructs its project in a manner so as to prevent its residents from being awakened or be any way bothered by operations at King's Plaza Shopping Center, my family and I are open to the idea.

Best Regards,



George Ow, Jr.  
Ow Family Trusts

- C. **This project is categorically exempt under Section 15301 and 15311(a) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

The proposed project involves leasing of a portion of an existing commercial space with no expansion of use beyond what has currently existed. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

**THE MOTION CARRIED ON THE FOLLOWING VOTE: AYES: COMMISSIONERS ROUTH, SMITH, AND CHAIRPERSON ORTIZ. NOES: NONE. ABSENT: NEWMAN. ABSTAIN: GRAVES.**

**D. 1575 38<sup>th</sup> AVENUE**

**#11-060**

**APN: 034-181-17**

Preliminary Development Plan for a proposed Planned Development Rezoning to construct a four story, 67-unit senior housing project in the CN (Neighborhood Commercial) Zoning District.

Property Owner: Maureen A. Romac, filed 6/3/11

Representative: Steve Thomas

Community Development Director Johnson explained the Preliminary Development Plan review process and that this site has been identified as one of the General Plan key sites.

Senior Planner Bane presented the staff report.

The public hearing was opened.

Maureen Romac, property owner, spoke in support of the application. She listed the benefits of the project as filling the housing need for active seniors who do not need medical care. The project location is surrounded by all of the community amenities such as transit, and various types of shopping, and services. The building will be environmentally friendly and will contribute to the revitalization of the 41<sup>st</sup> Avenue area.

Six members of the public from the surrounding neighborhood, spoke in opposition to the project commenting that a four story building will have significant impacts on the adjacent neighborhoods; the proposed building is too large and out of scale for the location and exceeds any other building height in the area; the windows will destroy the privacy of adjacent businesses and residents; the high density proposed will impact parking and traffic circulation from an already congested area; the proposed design does not meet any ordinance requirements making this a difficult development to support in the neighborhood. The developer should discuss the plans with the neighbors and consider the input from the adjacent neighborhood review.

Daryl Fazekas, Project Architect, spoke in support of the application. He stated that a senior housing development is a good use for the site due to the surrounding amenities. A solar study of the proposed plans indicates minimal shadowing on adjacent properties.

Steve Thomas, property owner, spoke in support of the application. He highlighted the amenities that surround the property for a senior housing project. He discussed the green building technology to be incorporated into the project.

The public hearing was closed.

Commissioner Routh stated that this proposal is similar to several large scale development proposed in the city in the '70's. He stated that the CN (Neighborhood Commercial) zoning district is a transitional district and development proposals should consider the transitional nature of the intent of the district. The proposal does not meet parking requirements and is too large for the neighborhood. In addition the overall project doesn't meet any zoning district requirements.

Commissioner Graves concurred with Commissioner Routh's comments. He stated that CN zoning was never intended to support a four story project. The articulation of the elevations is non-existent in the proposed design. He suggested that the south side of the building could be closer to the property line and the elevation somewhat simple being close to the mini storage next door. He was concerned about the parking calculation and noted that the parking layout at 750 Bay Avenue is a problem. The proposed project is overbuilt and in the wrong location. There is not enough parking, design articulation and not enough landscaping. The project needs to conform to the CN zoning district regulations.

Commissioner Smith concurred with the previous Commissioner's comments, but was supportive of a senior housing concept, and stated the importance of providing quality landscaped outdoor space for occupants and guests to experience the outdoors in an urban setting. Parking may not be the issue for the residents, but parking will be an issue for the care takers and guests. The proposed development is too big for the site.

Chairperson Ortiz concurred with the all of the previous Commissioner's comments and the staff report recommendations. She stated that a detailed traffic study with mitigations will be essential for any development on the subject site. She acknowledged receiving a letter from the Ow Family Properties expressing concerns about allowing a large residential development adjacent to existing commercial uses.

Community Development Director Johnson stated that a parking study would be required. Design is the key to making this project successful. He cautioned the Commission about conforming product and discussed reasons for why the applicant has considered the planned development process.

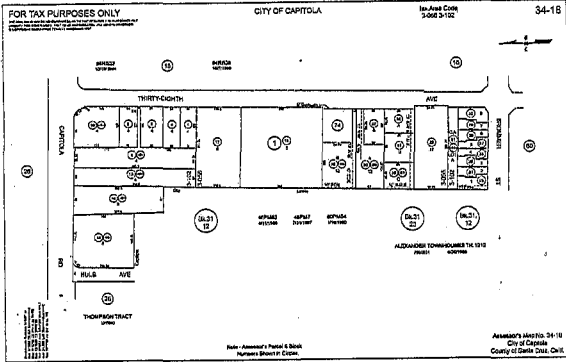
Commissioner Graves stated that the proposed overlay project may eliminate existing street parking. He stated that the proposed project should be redesigned with less density and smaller scale for the adjacent area.

Commissioner Routh stated that the proposal is not just a design issue. He did not want staff to mislead the public with a project promoting economic viability driving design.

Chairperson Ortiz commented that it would be discouraging if the future of the local development culture is driven by medical uses and senior housing facilities.

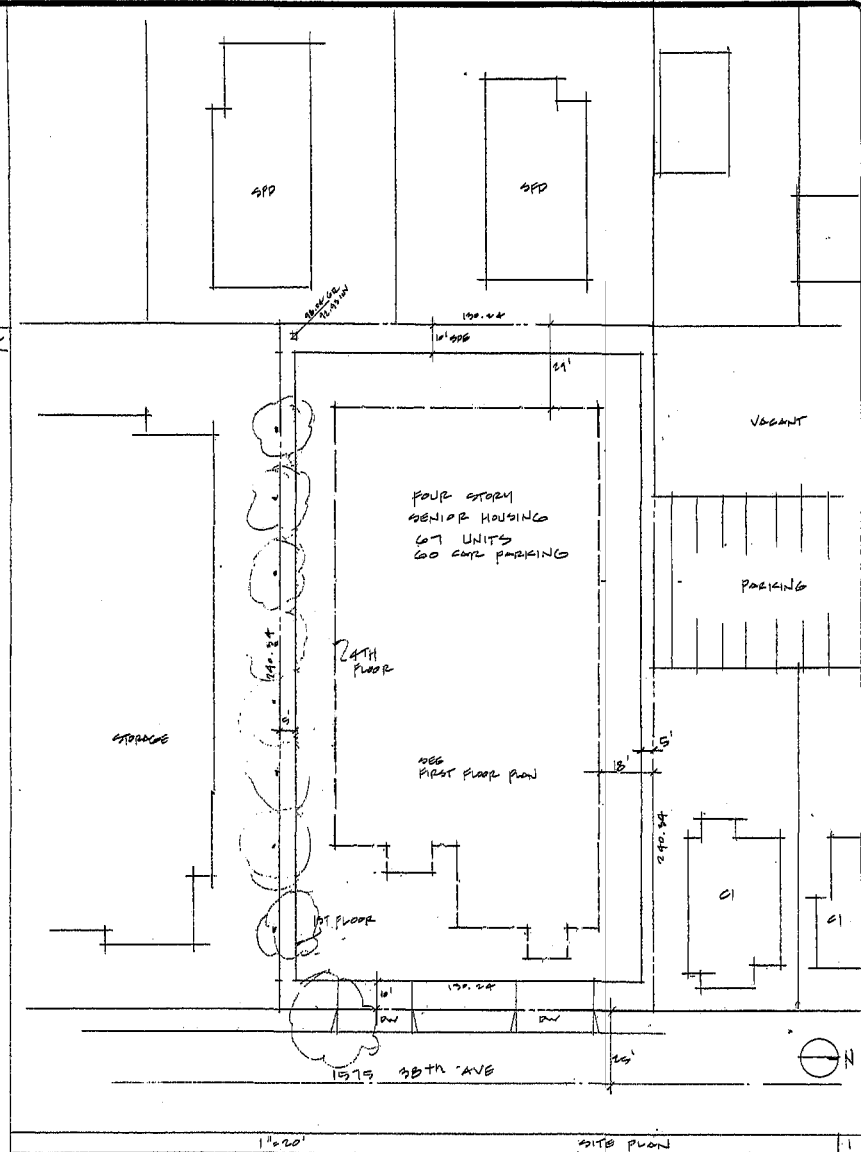
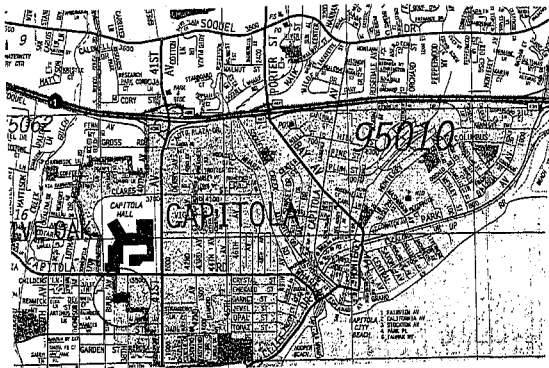
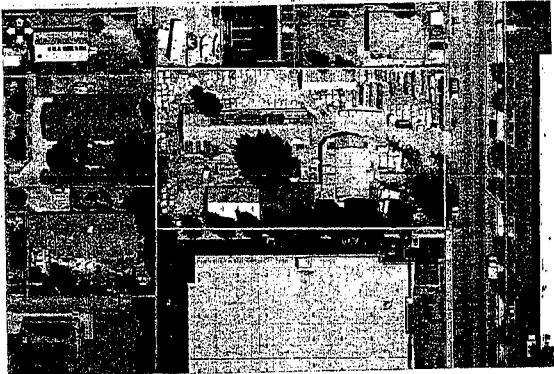
Community Development Director Johnson stated that design incorporates building size, scale, bulk, articulation, lighting, landscaping, site and building access, hours of operation, etc. The transition between commercial and residential often results in conflicts from mixed uses, but the overall site and building design can address issues with mixed and transitional uses. He explained that the Commission comments will be forwarded to the City Council during the Council preliminary review process.

**NO ACTION NECESSARY.**



LOT SIZE 31,000 ±  
 FIRST FLOOR 26,400 ±  
 SECOND FLOOR 22,170 ±  
 THIRD FLOOR 20,000 ±  
 FOURTH FLOOR 15,100 ±  
 TOTAL BUILDING 83,710 ±  
 UNITS 67  
 GARAGES 20  
 STOPS 49  
 (COMP 11)  
 STAIRS 4. HEIGHT 51'  
 ZONING REQUEST: PD

PROJECT DATA 2



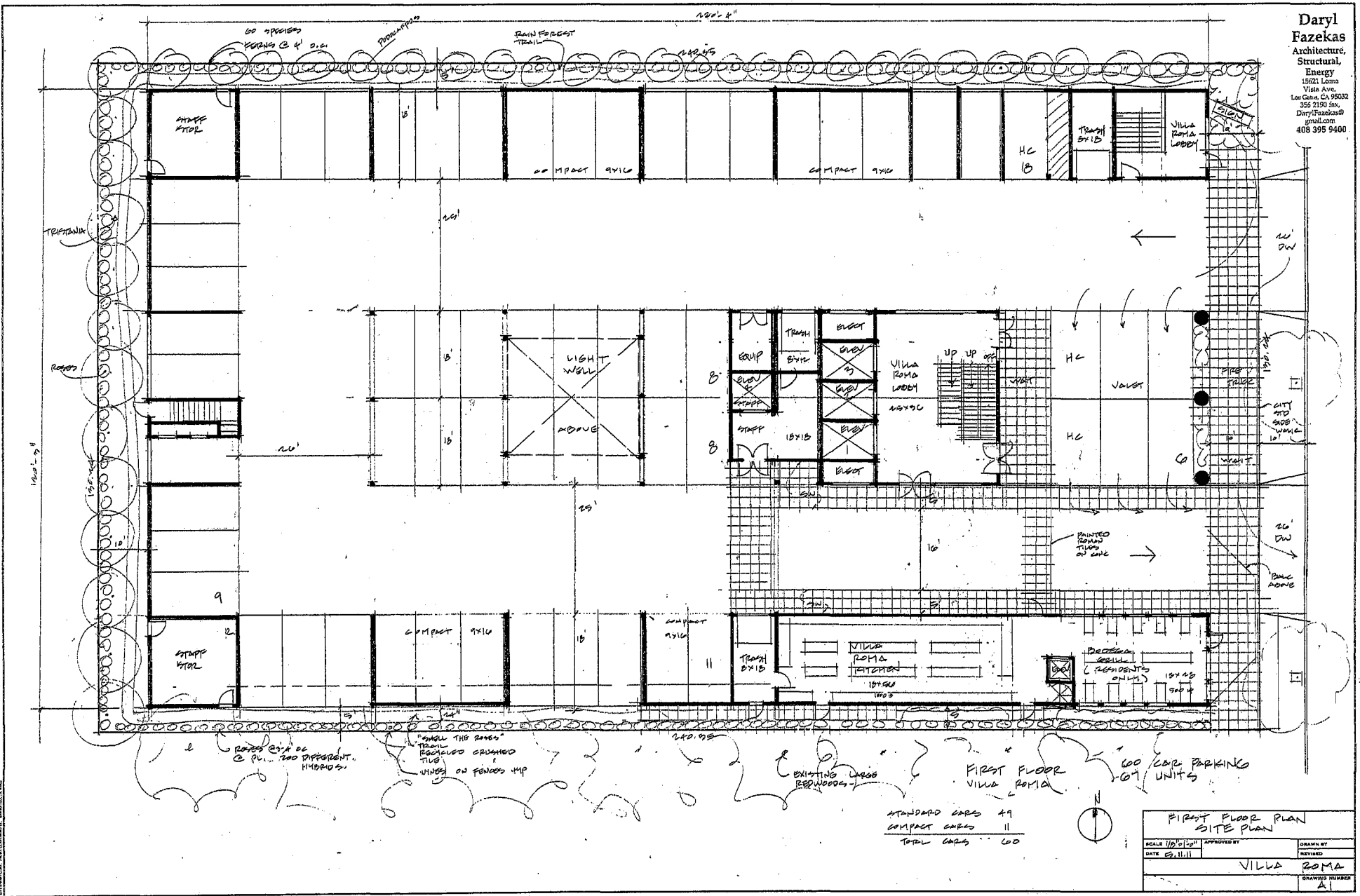
REVISIONS	BY

**Daryl Fazekas**  
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 Structural,  
 Energy  
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 Vista Ave.  
 Los Gatos, CA 95032  
 DarylFazekas@gmail.com  
 408 395 9400

SITE PLAN  
 VILLA ROMA  
 1515 38TH  
 AVE, CAPITOLA

DRAWN
CHECKED
DATE
SCALE
1" = 20'
FOR USE
VILLA ROMA
SHEET
AO
OF SHEETS

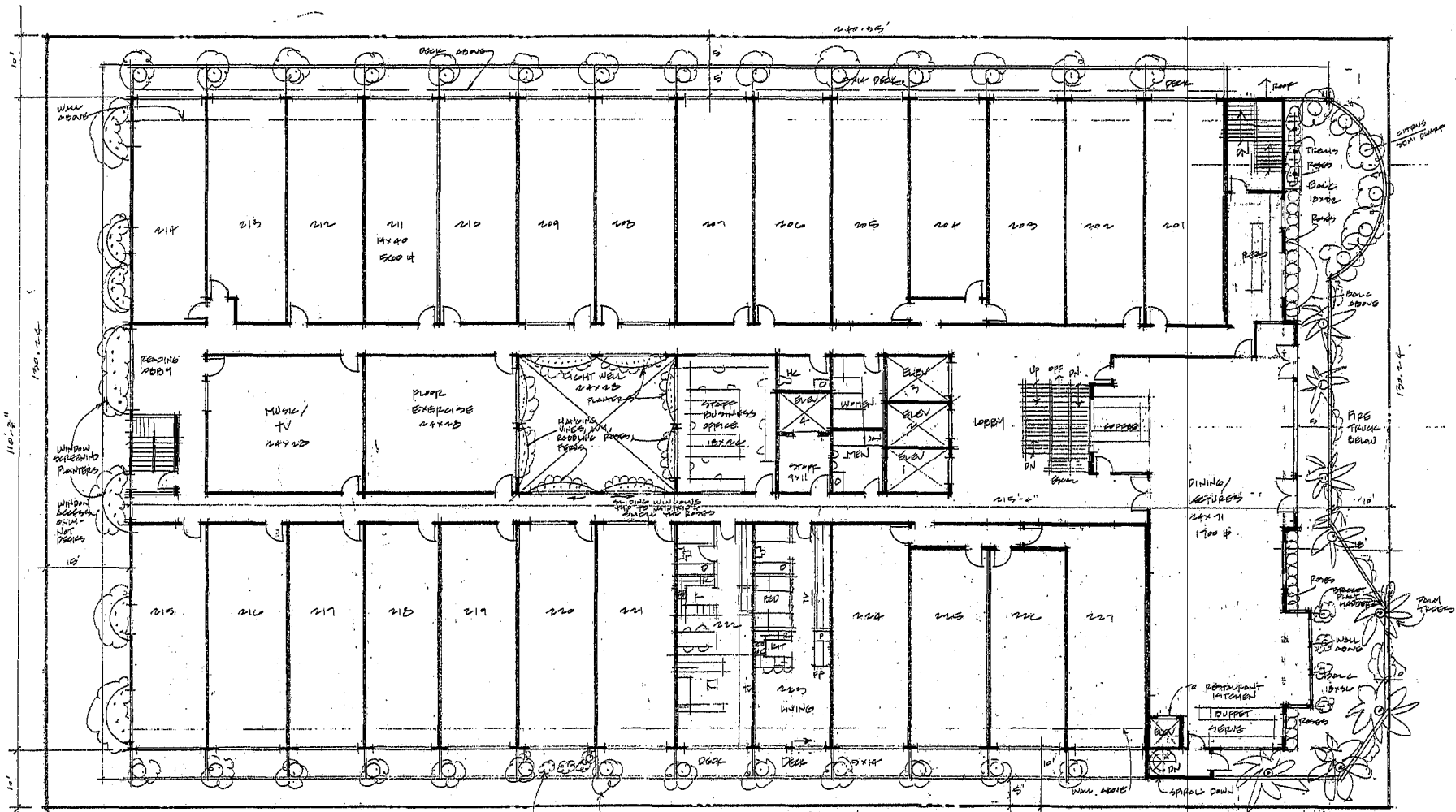




STANDARD CARS 49  
 COMPACT CARS 11  
 TOTAL CARS 60



FIRST FLOOR PLAN SITE PLAN		
SCALE 1/8" = 1'-0"	APPROVED BY	DRAWN BY
DATE 02.11.11		REVIEWED
VILLA ROMA		
		DRAWING NUMBER
		A1



HANDLING & BURNING PLANTS ENCOURAGED. THIS PROVIDES A...

ALL BALCONIES HAVE ONE SHARED RAISE OR WINDOW OF CHOICE OF TENANT MAINTAINED BY STAFF - AUTO IRRIGATION TIP.

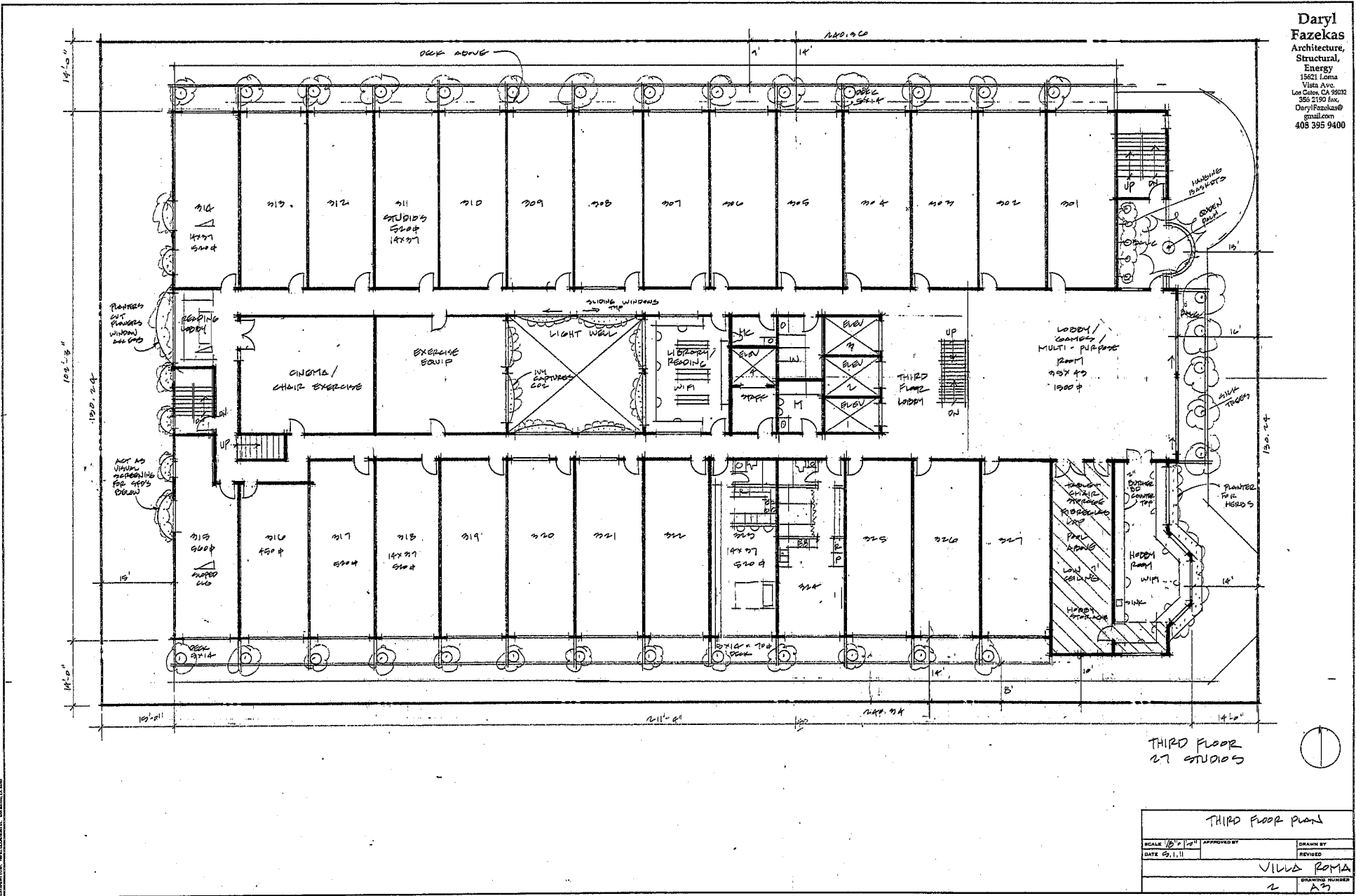
STUDIO	# UNITS
1 BED	9
2 BED	2
3 BED	1
<b>TOTAL UNITS</b>	<b>12</b>

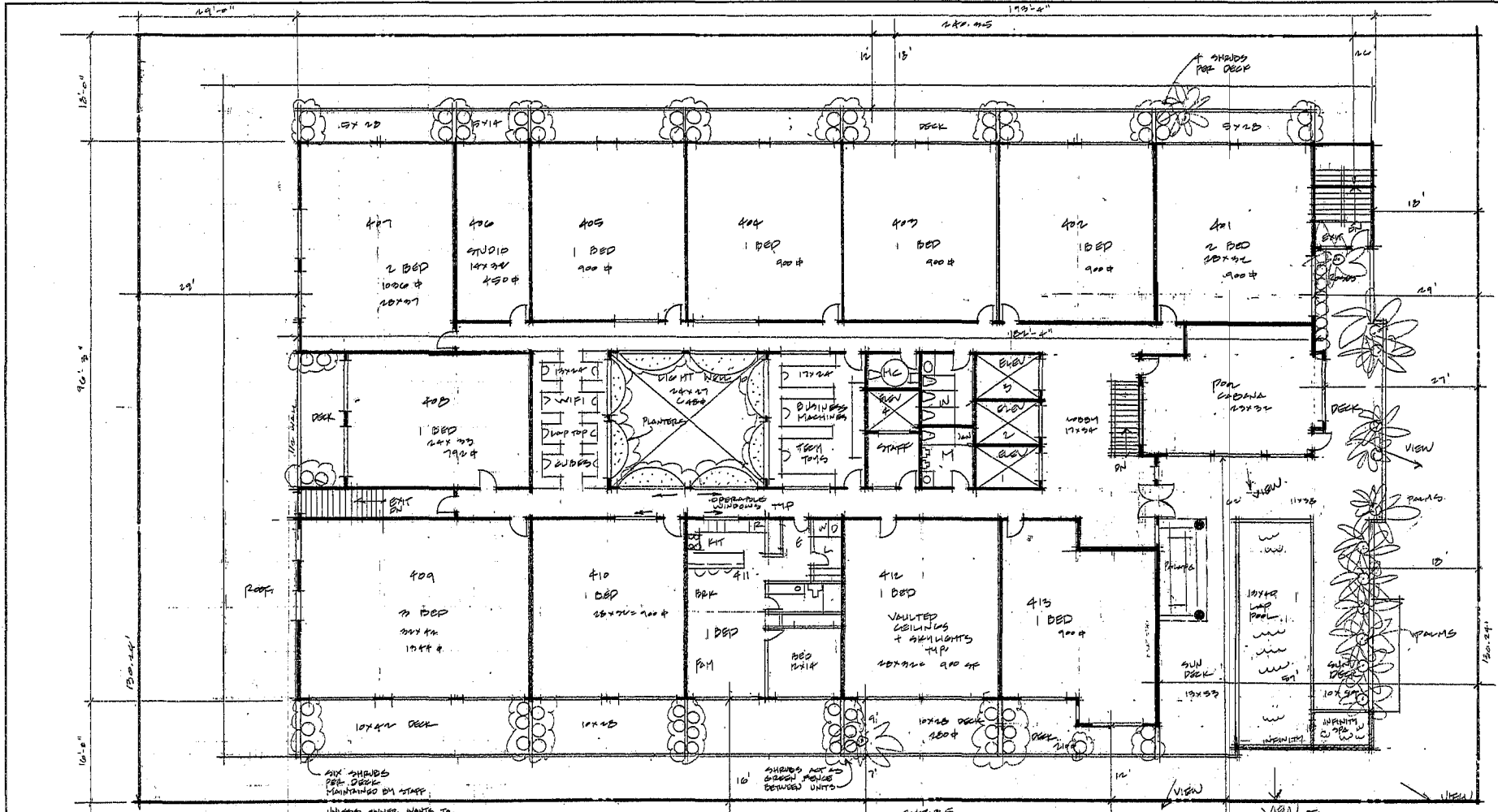
SECOND FLOOR  
 27 STUDIOS

SECOND FLOOR PLAN	
SCALE 1/8" = 1'-0"	APPROVED BY
DATE 5.5.11	REVISION
VILLA ROMA	
DRAWN/REVISION AZ	

# ATTACHMENT 3

**Daryl Fazekas**  
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 15621 Loma  
 Vista Ave.  
 Los Alamitos, CA 92652  
 952 4100 fax,  
 Daryl@fazekas.com  
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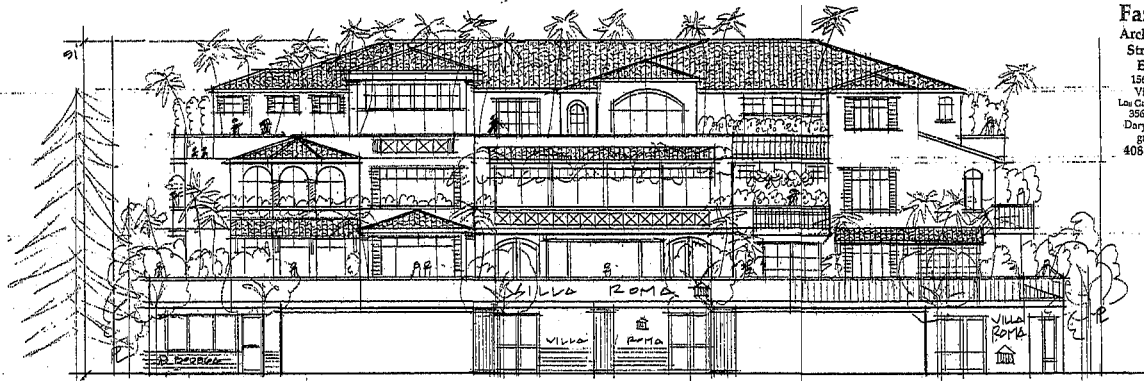




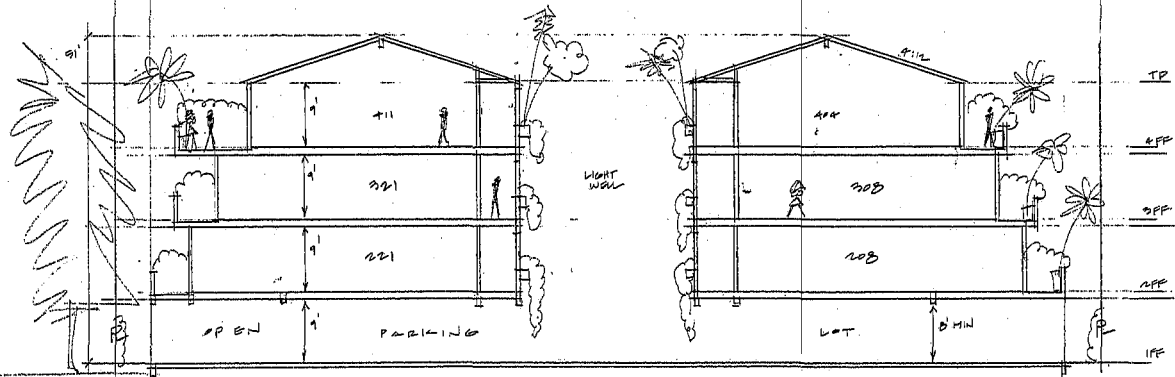
FOURTH FLOOR  
 1 STUDIO  
 9-1 BED  
 2-2 BED  
 1-3 BED  
 13 UNITS

FOURTH FLOOR PLAN			
SCALE 1/8" = 1'-0"	APPROVED BY	DRAWN BY	
DATE 02.11.11		REVISED	
VILLO ROMA			
DRAWING NUMBER			A4

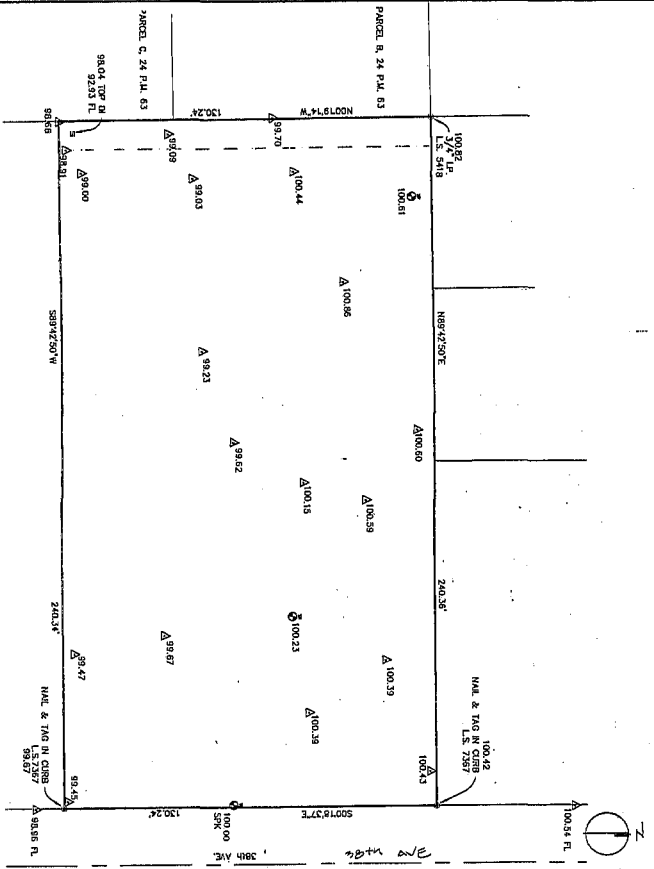
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 Vista Ave.  
 Los Gatos, CA 95032  
 356 2190 fax,  
 DarylFazekas@gmail.com  
 408 395 9400



FRONT ELEVATION



SECTION



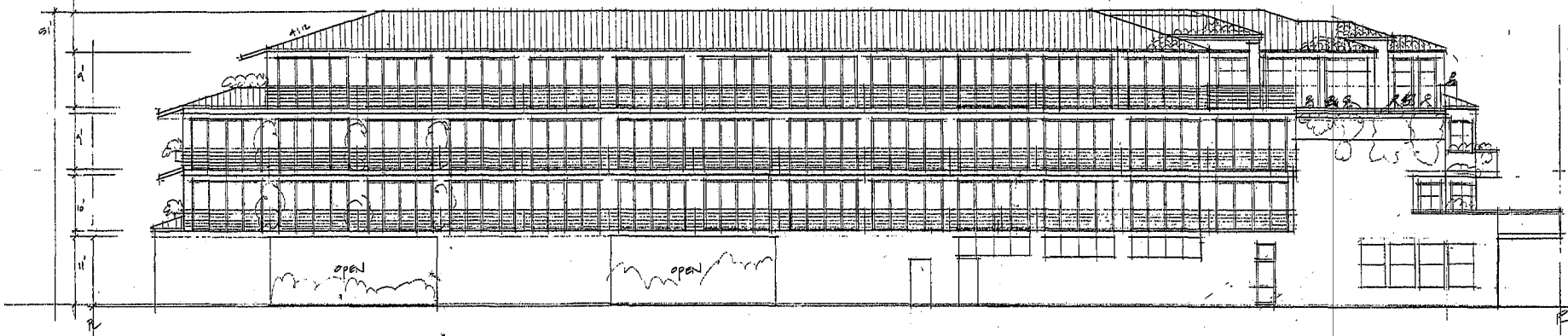
EXISTING SURVEY



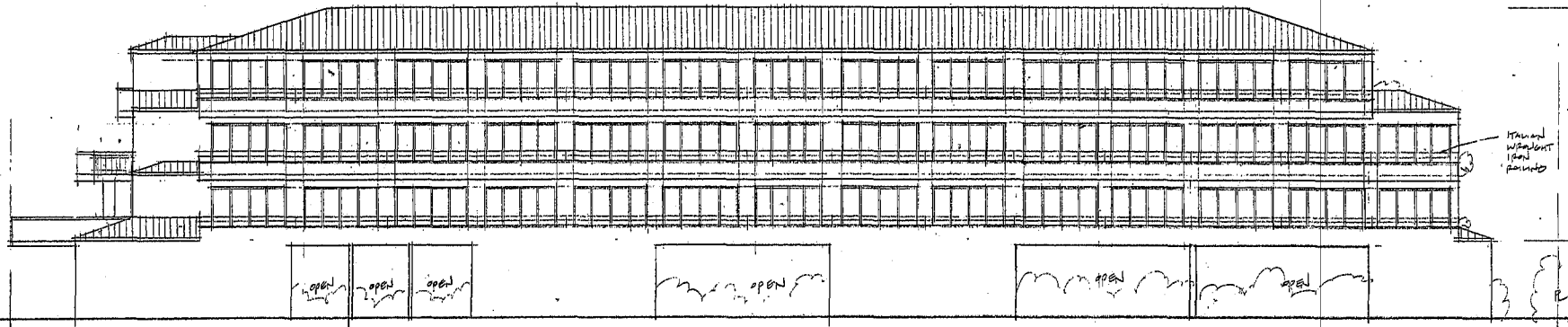
AERIAL

ELEVATION		SECTION	
SCALE 1/8" = 1'-0"	APPROVED BY	DATE 1.11	DRAWN BY
			REVISED
			VILLA ROMA
			DRAWING NUMBER
			AS

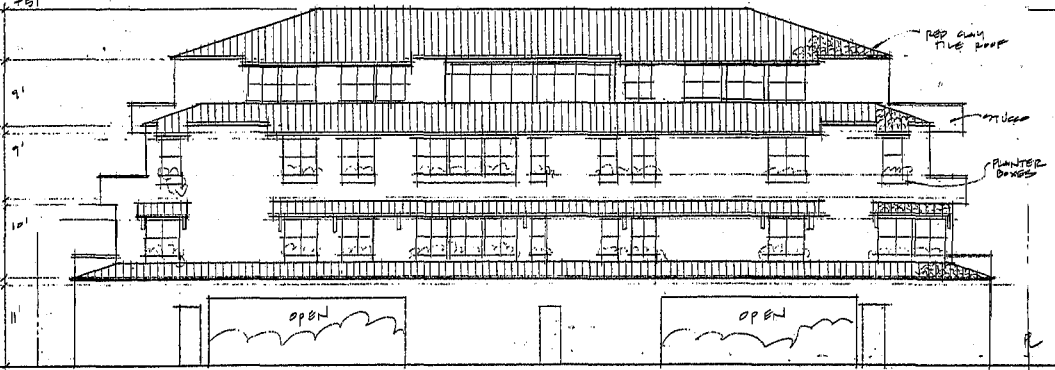
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SOUTH / LEFT ELEVATION

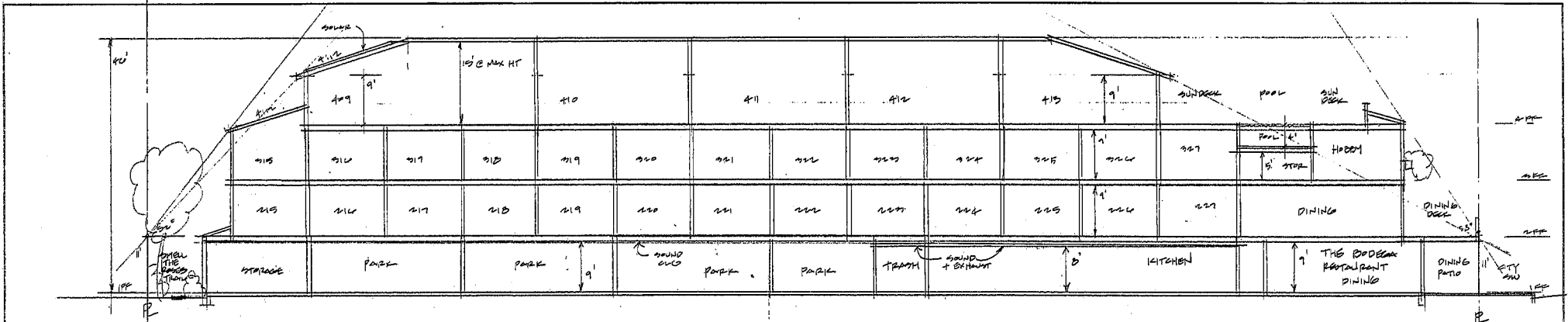


NORTH / RIGHT ELEVATION

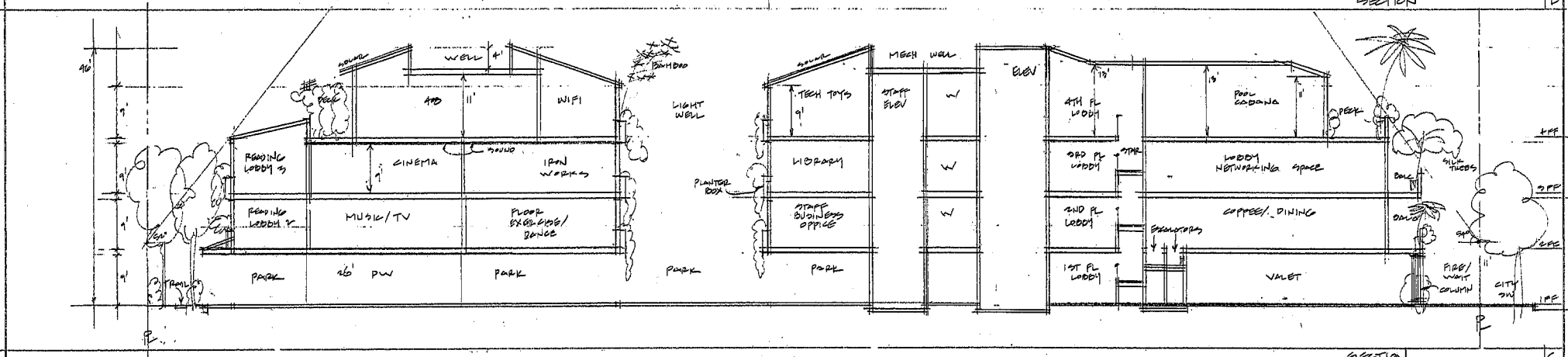


WEST / REAR ELEVATION

ELEVATIONS			
SCALE 1/8" = 1'-0"	APPROVED BY	DRAWN BY	
DATE 01.11.11		REVISED	
		VILLA ROMA	
		DRAWING NUMBER	
		AC	



SECTION B

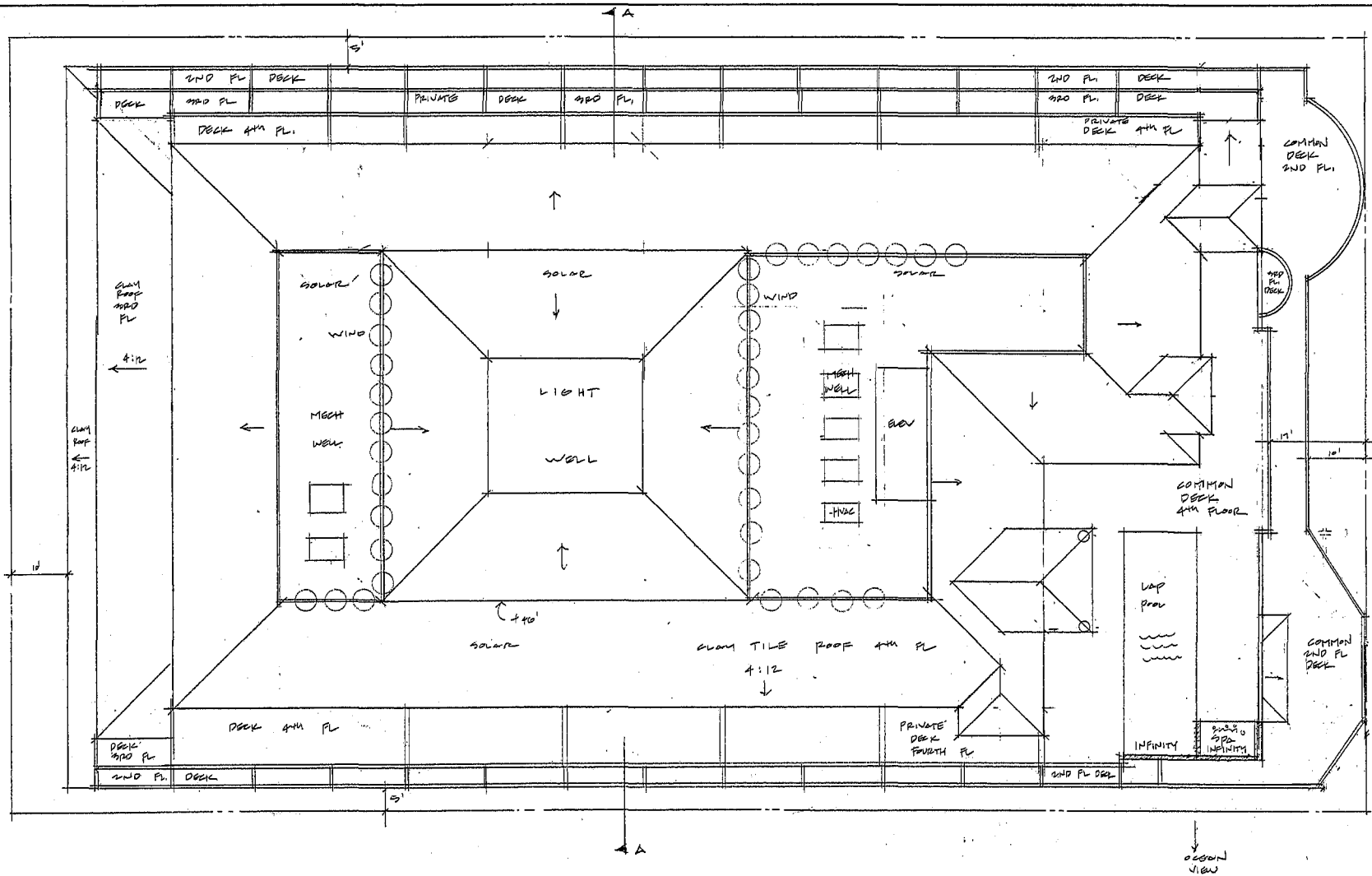


SECTION C

**Daryl Fazekas**  
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 Daryl@fazekas.com  
 408 395 9400

SECTIONS			
SCALE 1/8" = 1'-0"	APPROVED BY	DRAWN BY	
DATE 3.20.11		REVISED	
VILLA ROMA			
DRAWING NUMBER			A7

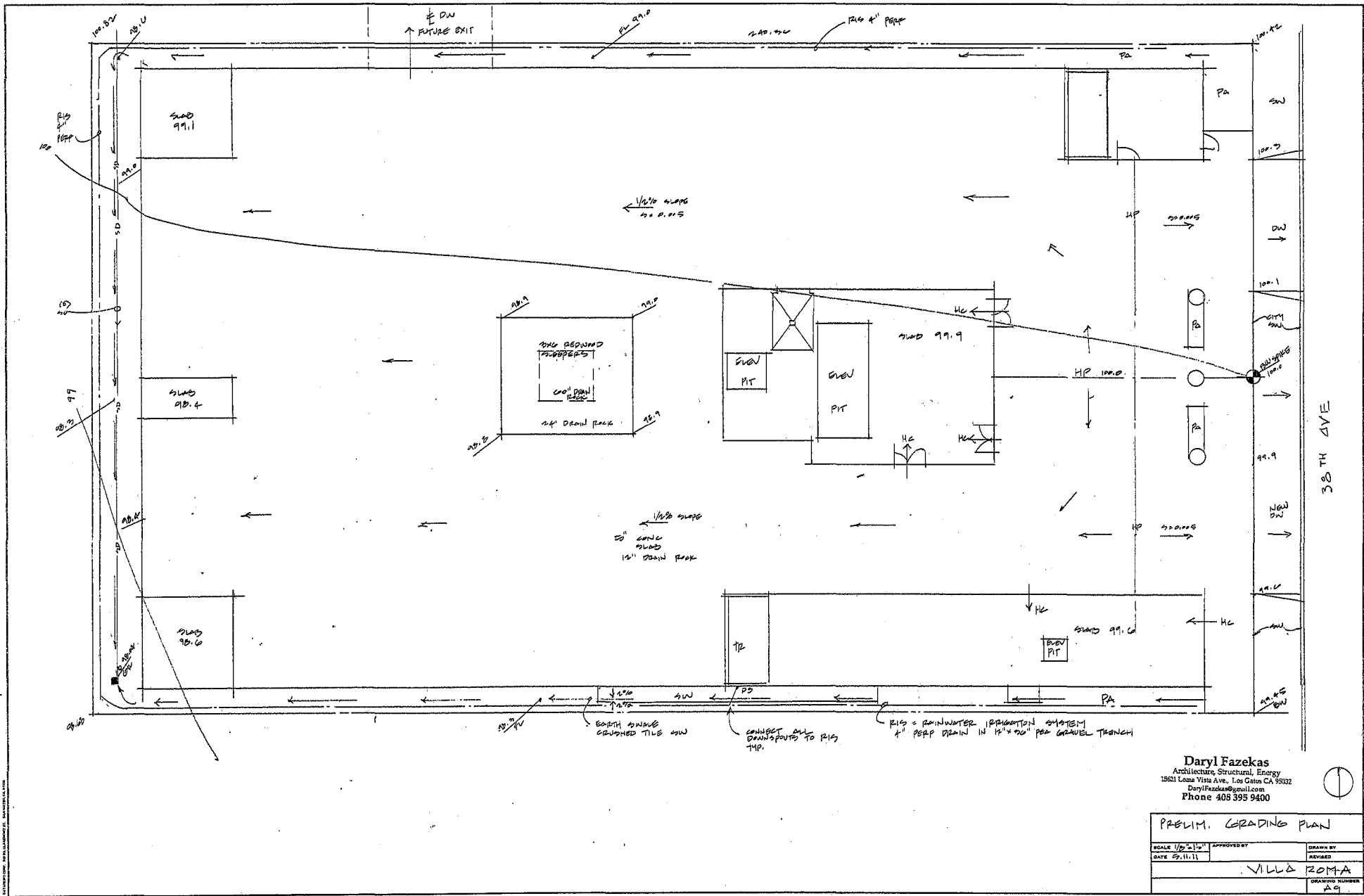
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 DarylFazekas@gmail.com  
 408 395 9400



ROOF PLAN

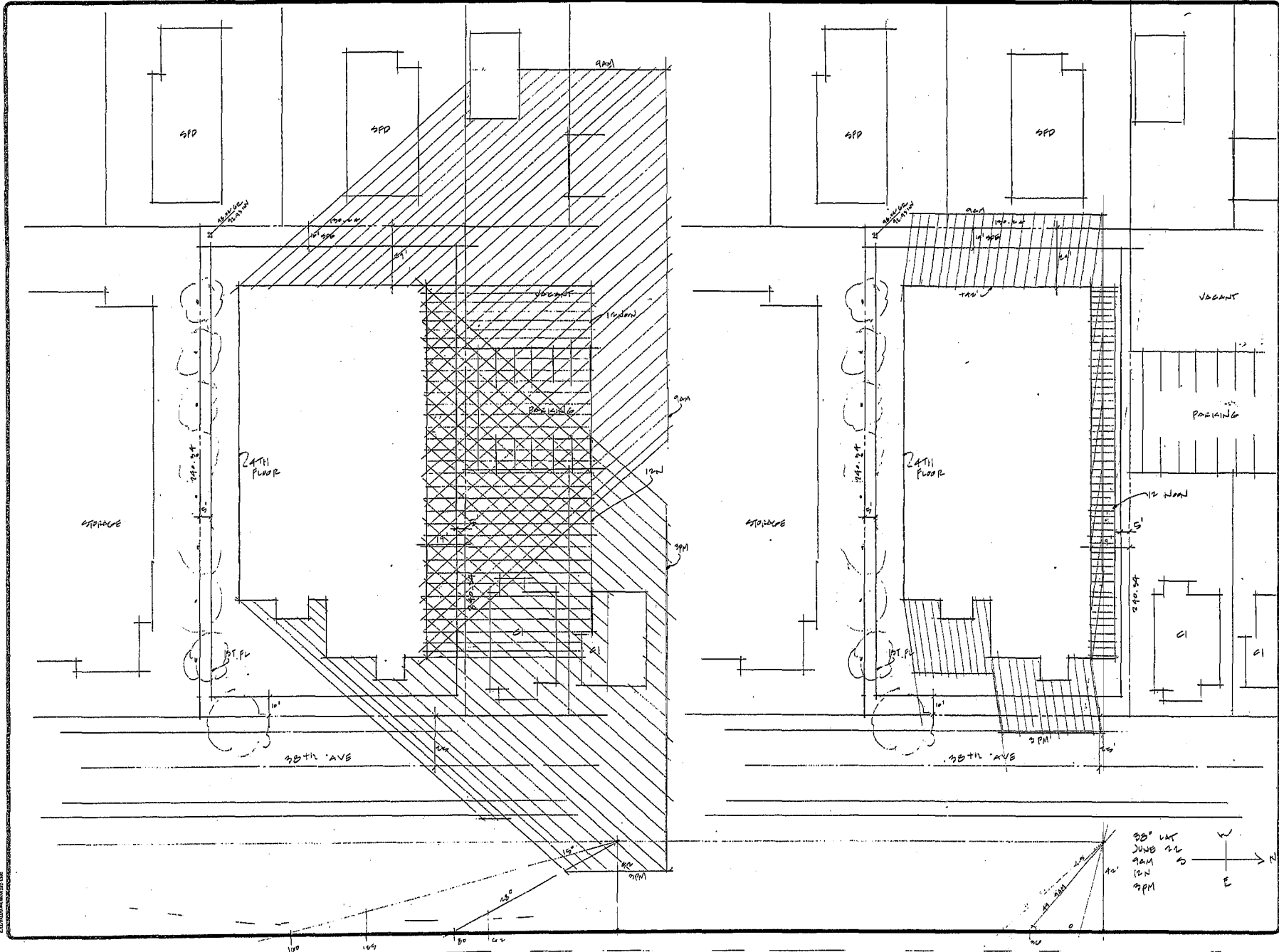
SCALE 1/8" = 1'-0"	APPROVED BY	DRAWN BY
DATE 01.11		REVIEWED
VILLA ROMA		
DRAWING NUMBER		AD





**Daryl Fazekas**  
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 Phone 408 395 9400

PRELIM. GRADING PLAN		
SCALE 1/8" = 1'-0"	APPROVED BY	DRAWN BY
DATE 09.11.11	REVISOR	REVISOR
	VILLA ROMA	DRAWING NUMBER
		209



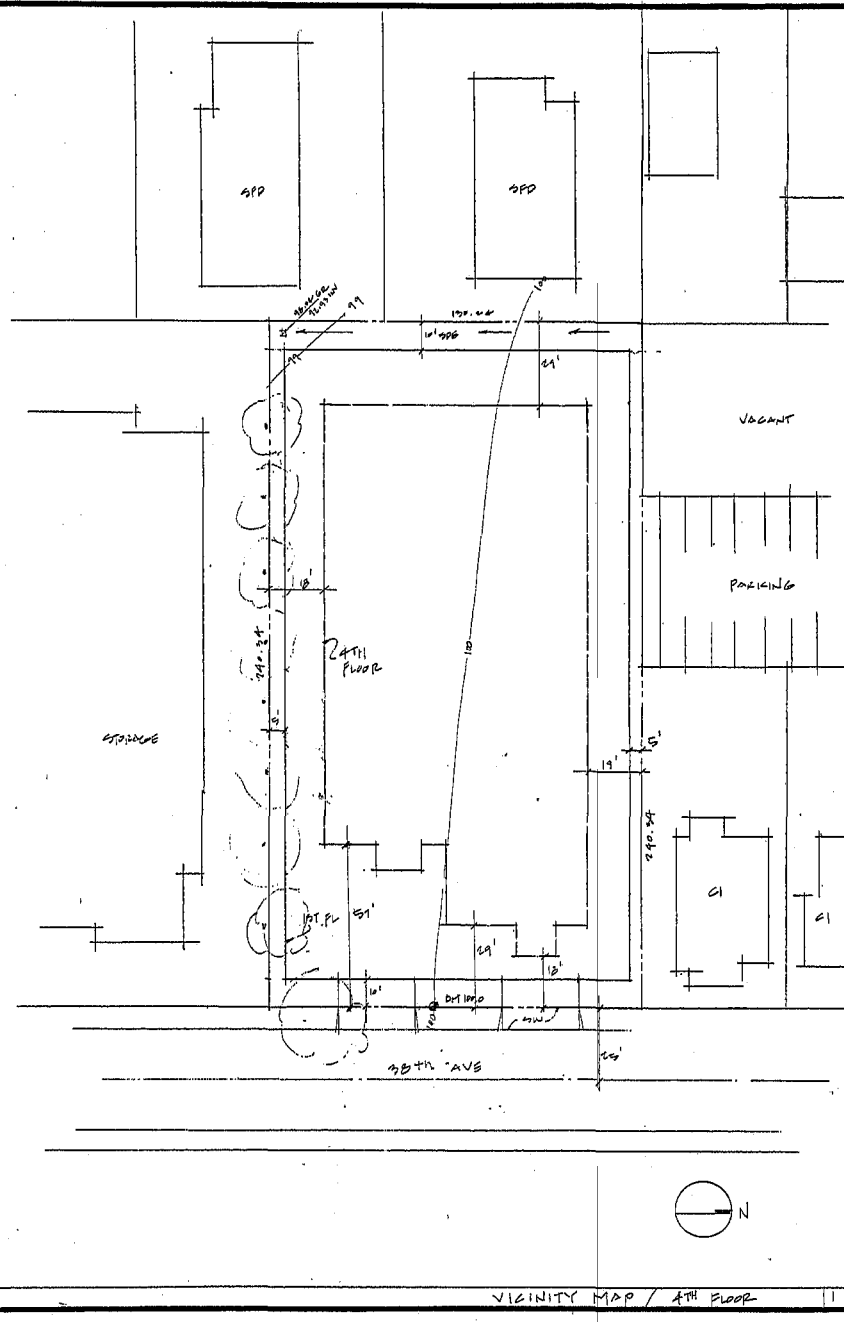
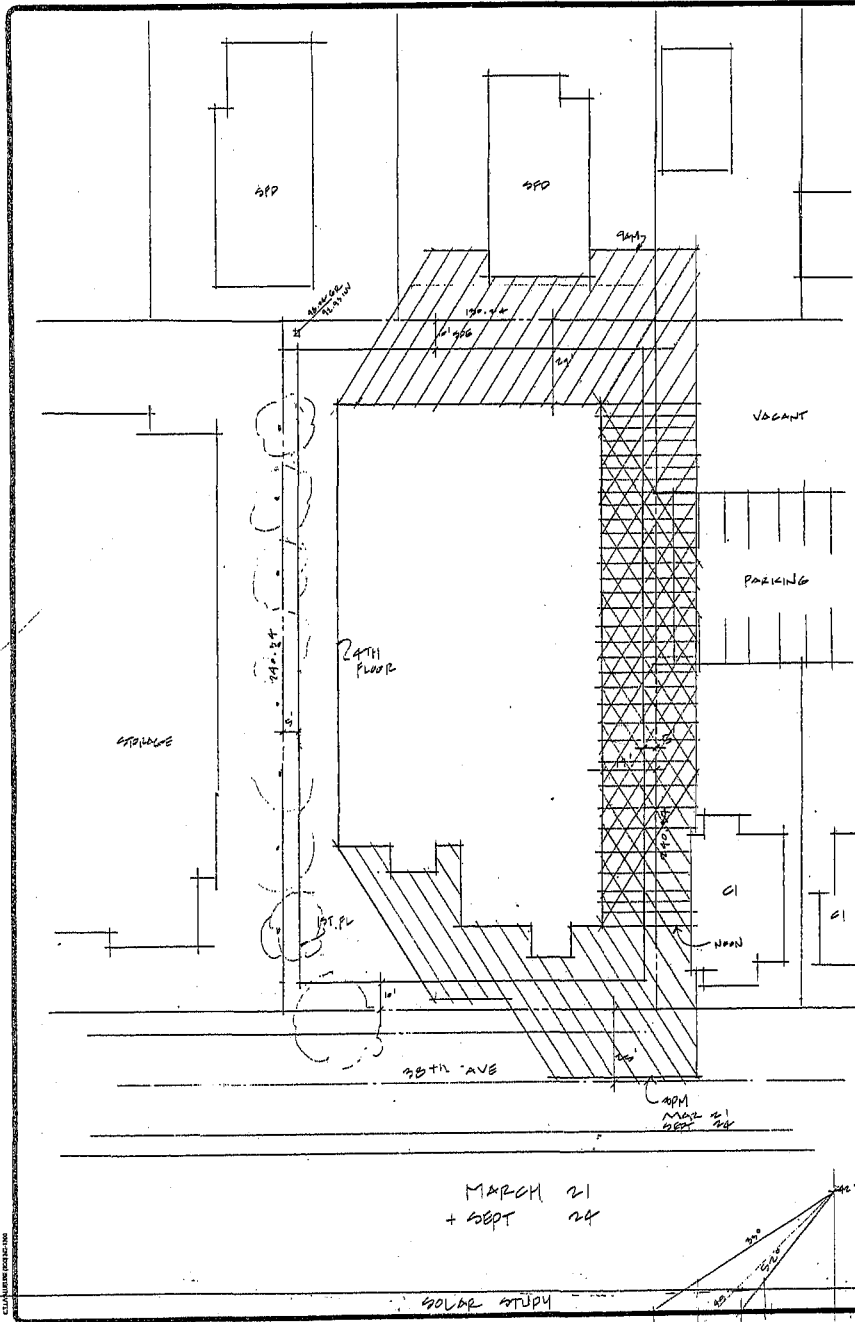
REVISIONS	BY

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 408 395 9400

VILLA ROMA

COVER STUDY

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6.11
SCALE
1" = 6'
JOB NO.
VILLA ROMA
SHEET
A10
DATE
28 JUN 22
BY
DFM



REVISIONS	BY

**Daryl Fazekas**  
 Architecture,  
 Structural,  
 Energy  
 15621 Loma  
 Vista Ave.  
 Los Gatos, CA 95032  
 DarylFazekas@gmail.com  
 408 395 9400

VILLA ROMA

COVER STUDY

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C.L.I.I.	11/10/21
SCALE	1" = 20'
JOB NO.	VILLA ROMA
SHEET	A II
DR	SHEET

NANCY HUYCK  
ARCHITECT

9200 SOQUEL DRIVE  
APTOS, CA 95003  
PHONE (831)685-1206  
FAX (831)688-3205



Looking Southwest  
ON 38th AVENUE  
TOWARDS "EXTRA SPACE STORAGE"

# VILLA CAPITOLA - Schematic Design

SENIOR HOUSING  
1575 38th AVENUE  
CAPITOLA, CA

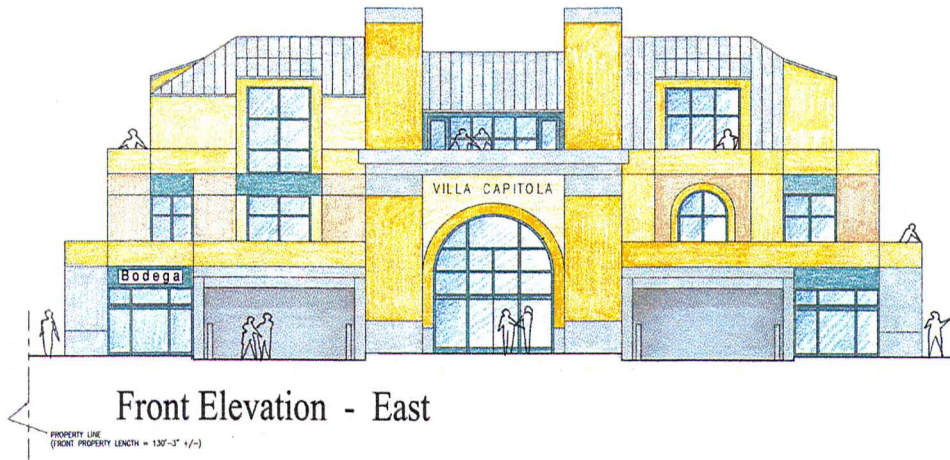
THREE STORY  
57 UNITS  
60 PARKING STALLS

SCALE: 1/8" = 1'-0"  
DATE: 10-03-11  
JOB NO.: N1140

THIS DRAWING IS THE PROPERTY OF NANCY HUYCK ARCHITECT AND SHALL NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN CONSENT OF NANCY HUYCK ARCHITECT. ACCEPTANCE OF THIS DRAWING CONSTITUTES AGREEMENT WITH THE ABOVE TERMS.

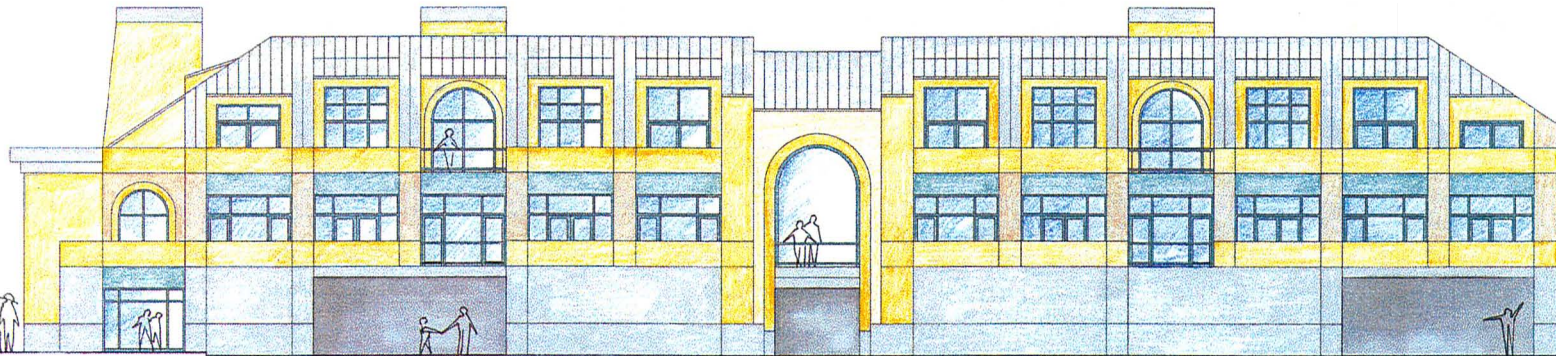
NANCY HUYCK  
 ARCHITECT

9200 SOQUEL DRIVE  
 APTOS, CA 95003  
 PHONE (831)685-1206  
 FAX (831)688-3205



Front Elevation - East

PROPERTY LINE  
 (FRONT PROPERTY LENGTH = 130'-3" +/-)



Side Elevation - North

(ADJACENT SINGLE STORY MEDICAL BUILDING)

TOP OF ROOF  
 REF. ELEV. +44'-0"  
 8'-0"  
 BOTTOM OF ROOF  
 REF. ELEV. +36'-0"  
 10'-0"  
 27 UNITS - LEVEL #3  
 REF. ELEV. +25'-0"  
 10'-0"  
 35 UNITS - LEVEL #2  
 REF. ELEV. +12'-0"  
 8'-0"  
 ELEVATOR LOBBY  
 REF. ELEV. +0'-0"  
 GARAGE  
 REF. ELEV. -1'-0"

# VILLA CAPITOLA - Schematic Design

SENIOR HOUSING  
 1575 38th AVENUE  
 CAPITOLA, CA

THREE STORY  
 57 UNITS  
 60 PARKING STALLS

SCALE: 1/8" = 1'-0"  
 DATE: 10-03-11  
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# VILLA CAPITOLA

At Villa Capitola, we offer a complete retirement community which exists in the midst of a thriving neighborhood. An enchanting, Mediterranean-style residence for seniors, state-of-the-art architecture coupled with beautiful flora and fauna, complimenting the scenic vistas and vital lifestyle of Santa Cruz County, Villa Capitola is resort-style living at its finest. Residents can stay within the complex and enjoy any type of activity imaginable – swimming, entertainment, games, spiritual enhancement, exercise, etc. – or they can cross the street to cinemas, book store, and many other shopping opportunities. Our shuttle service will provide transportation whenever necessary – doctor appointments, airport, train station, or pleasure outing.

In addition to transportation services, we offer housekeeping, fitness programs, concierge services and a trained staff 24 hours a day. We will have daily programs, outings and events as well as in house activities.

Our gourmet restaurant will serve incredible meals all day long in a variety of settings – restaurant, coffee bar, poolside, etc.

Capitola is living at its best – ocean, redwoods, and parks – everything one could want to flourish both spiritually and physically in a small town community with all the benefits of a big city.

Villa Capitola offers retirement living at its best for the active senior.

*1575 38<sup>th</sup> Avenue, Capitola, CA 95010*



## CITY COUNCIL AGENDA REPORT

### MEETING OF OCTOBER 13, 2011

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: OCTOBER 6, 2011

SUBJECT: DECENNIAL REDISTRICTING OF SUPERVISORIAL DISTRICTS

**Recommended Action:** Council discussion regarding the decennial redistricting of supervisorial districts.

#### **BACKGROUND**

Redistricting is the process of redefining the geographic boundaries of election units, such as supervisorial districts. Redistricting ensures that one person's vote carries the same weight as that of any other person. The County of Santa Cruz is required to adjust or redistrict supervisorial district boundaries decennially, following the U.S. Census. New boundaries are established to balance the population while taking into account the guidelines provided in the State Elections Code and the Federal Voting Rights Act.

According to the 2010 Census, the total population for Santa Cruz County is 262,382. This is an increase of 6,782 (2.7%) residents over the last 10 years. This increase and distribution of the County's population indicates that an adjustment in the supervisorial' district boundaries is required. The over and under count for each supervisorial district is summarized in the table below:

DISTRICT	POPULATION TARGET	2010 CENSUS POPULATION	OVER/UNDER POPULATION TARGET
1 <sup>ST</sup>	52,476	49,049	(3,427)
2 <sup>ND</sup>	52,476	50,173	(2,303)
3 <sup>RD</sup>	52,476	54,427	1,950
4 <sup>TH</sup>	52,476	58,954	6,447
5 <sup>TH</sup>	52,476	49,779	(2,697)
COUNTY POPULATION		262,382	

The statutory deadline for adjusting supervisorial districts is the first day of November following the year in which the federal census is completed. If the Board of Supervisors does not adjust district boundaries before November 1<sup>st</sup>, a supervisorial redistricting commission composed of the District Attorney, the County Assessor, and the County Elections official must do it before December 31st. The Elections Code also prescribes that the Board shall hold at least one public hearing on any proposal to adjust the district boundaries, prior to a public hearing at which the Board of Supervisors votes on the proposal (Section 21500.1). These hearings were held over this past summer.

The Santa Cruz County Board of Supervisors also adopted four principals for consideration, in addition to the factors that are specified by the Election Code and Federal Voting Rights Act:

1. To the extent possible, the current district boundaries will be preserved.
2. The public will have all the opportunities provided by law to participate in the redistricting process and provide input to the Board.
3. Communities of interest will be preserved to the extent possible.
4. Each Supervisor will have the opportunity to suggest changes to his or her district's boundaries to the extent such changes are necessary prior to the public hearings to be held on the redistricting plan.

A Task Force was established by the County Administrative Office (CAO) that included one representative from each supervisorial district, along with County Counsel, the County Clerk, the Information Services Director, GIS staff, and CAD staff. Meetings began in late April to review maps of existing District boundaries and other relevant data to inform adjustments to supervisorial districts consistent with the law.

The Task Force recommended two plans for consideration. Both of these plans proposed identical supervisorial boundaries for Capitola. A map showing the proposed supervisorial boundary change is included as Attachment #1.

On September 7, 2011, the Mayor submitted a letter recommending that the Board of Supervisors consider using Soquel Creek as a boundary between the 1<sup>st</sup> and 2<sup>nd</sup> District. A copy of the letter is included as Attachment #2.

The Board of Supervisors met on October 4, 2011 and completed a first reading of the Ordinance to establish new supervisorial districts. The 2<sup>nd</sup> reading of the Ordinance is scheduled for October 25, 2011.

### **DISCUSSION**

The purpose of this item is to afford the City Council with an opportunity to provide input to the Board of Supervisors before a 2<sup>nd</sup> reading of the Ordinance on October 25, 2011.

### **FISCAL IMPACT**

None.

### **ATTACHMENTS**

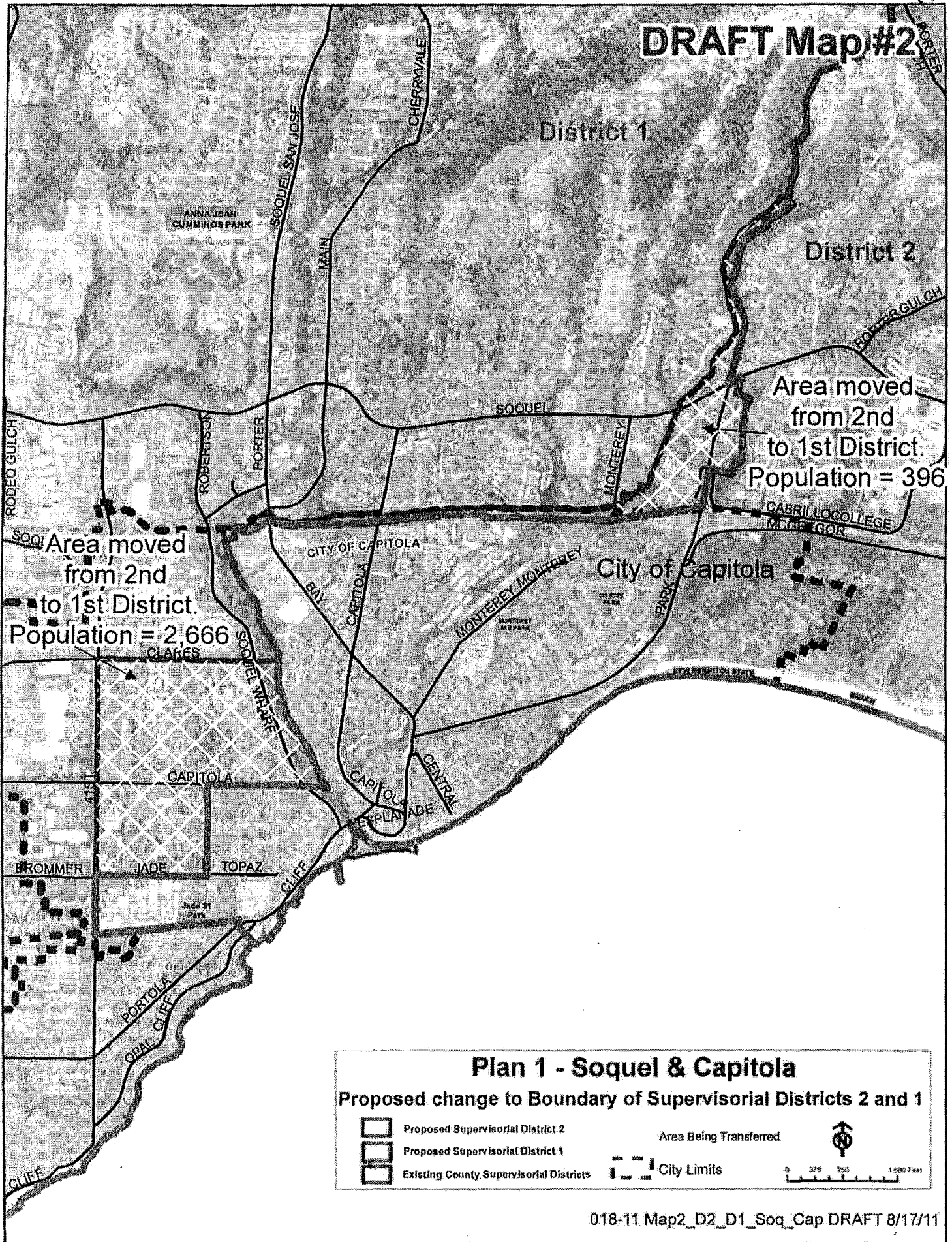
1. Proposed Redistricting Map
2. Mayor Redistricting Letter

**Report Prepared By:** Derek Johnson, Community Development Director

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_








**DRAFT Map #2**



**Plan 1 - Soquel & Capitola**

Proposed change to Boundary of Supervisorial Districts 2 and 1

-  Proposed Supervisorial District 2
-  Proposed Supervisorial District 1
-  Existing County Supervisorial Districts
-  City Limits
-  Area Being Transferred





September 14, 2011

County of Santa Cruz  
Board of Supervisors  
Governmental Center Building  
701 Ocean Street, Room 525  
Santa Cruz, CA 95060

RE: *Redistricting of Supervisorial Boundaries*

Dear Chairperson Stone:

Please accept this letter as a replacement for the September 7, 2011 letter I sent to the County regarding this matter.

I appreciate the challenging and complex task of redistricting supervisorial boundaries in Santa Cruz County. According to the California Department of Finance, 10,198 people lived in Capitola in 2000 and the U.S. Census shows a 2010 population of 9,770. Trends suggest that Capitola's population will continue to be stable during the next decade. Over the next 20 years, projections indicate relative low rates of population growth in Capitola. By 2030, it is estimated that Capitola's population will be approximately 11,090 people.

As you are aware, California law allows the Board of Supervisors to consider the following factors: (a) topography, (b) geography, (c) cohesiveness, contiguity, integrity, and compactness of territory, and (d) community of interests of the districts in redistricting supervisorial boundaries. Modest changes in Capitola's population suggests that any changes to supervisorial boundaries should be minimal and use the factors as outlined in Section 21500 of the California Elections Code.

As the Mayor of Capitola, I respectfully request the Board of Supervisors consider Soquel Creek as the proposed boundary between the 1<sup>st</sup> and 2<sup>nd</sup> District. The area between 41<sup>st</sup> Avenue and Soquel Creek are a community of interest that share mutual concerns about local issues. Soquel Creek provides a logical topographic and geologic boundary that the public could readily identify as a boundary between supervisorial districts.

I respectfully request the Board of Supervisors consider this proposal in the deliberations leading up to a decision on redistricting.

Sincerely yours,

Dennis Norton  
Mayor



Item #: **5.B.**

## CITY COUNCIL AGENDA REPORT

### MEETING OF OCTOBER 13, 2011

FROM: CITY MANAGER'S DEPARTMENT

DATE: OCTOBER 5, 2011

SUBJECT: CONTINUED CONSIDERATION OF ADOPTION OF AN ORDINANCE AMENDING SECTIONS 8.36.010, 8.36.020, 8.36.030, 8.36.040, 8.36.050, 8.36.060 AND 8.36.070 OF THE CAPITOLA MUNICIPAL CODE PERTAINING TO THE USE OF POLYSTYRENE FOAM AND BIODEGRADABLE AND COMPOSTABLE DISPOSABLE FOOD SERVICE WARE [1<sup>ST</sup> READING]

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**Recommended Action:** By motion and roll call vote, that the City Council pass the proposed Ordinance Amending Sections 8.36.010, 8.36.020, 8.36.030, 8.36.040, 8.36.050, 8.36.060 and 8.36.070 of the Capitola Municipal Code pertaining to the use of Polystyrene Foam and Biodegradable and Compostable Disposable Food Service Ware, to a second reading.

---

#### **BACKGROUND**

In 2006, a food packaging ordinance was adopted which prohibited the use of disposable food service ware composed of polystyrene foam (Styrofoam) with a few exceptions. In 2009 the City Council completely banned polystyrene foam food service ware. Recently, the Mayor requested staff prepare an amendment to the existing ordinance to ban the sale of all polystyrene foam products from being sold in all retail vendor establishments in the City.

#### **DISCUSSION**

The City Council initially heard this item on September 22, 2011. At that time, Council directed staff to revise the language in the draft ordinance regarding the definition of "polystyrene products" to specify that the ban would only be expanded to include polystyrene foam products that are not wholly encapsulated or encased by a more durable product. The primary issue the City Council directed staff to regulate is polystyrene products that are not enclosed or contained by another more durable product such as cloth or plastic. Those products break apart into smaller, non-biodegradable pieces that are light and are major sources of litter and debris. The revised ordinance would ban the sale of items such as cups, plates, bowls, packaging peanuts or ice chests. Examples of products that would be exempt from the ban would be surfboards, boats, building materials or life preservers. Meat trays remain exempt.

#### **FISCAL IMPACT**

Implementation and enforcement costs of the ordinance in staff time are approximately 5 hours a month.

#### **ATTACHMENTS**

1. Draft Ordinance
2. Current Municipal Code Chapter 8.36

**Report Prepared By:** Lisa G. Murphy  
Administrative Services Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_

**DRAFT**

**ATTACHMENT 1**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
AMENDING SECTIONS 8.36.010, 8.36.020, 8.36.030, 8.36.040, 8.36.050, 8.36.60 AND 8.36.070  
OF, AND ADDING SECTION 8.36.035 TO, THE CAPITOLA MUNICIPAL CODE PERTAINING  
TO THE USE OF POLYSTYRENE FOAM AND BIODEGRADABLE AND COMPOSTABLE  
DISPOSABLE FOOD SERVICE WARE**

THE CITY COUNCIL OF THE CITY OF CAPITOLA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Subsection T. of Capitola Municipal Code Section 8.36.010, Findings and intent, is hereby amended to read as follows:

T. Restricting the use of polystyrene foam products that are not wholly encapsulated or encased by a more durable material ~~food service ware products~~ and replacing non-biodegradable food service ware with biodegradable food service ware products in Capitola will further protect the public health and safety of the residents of Capitola, the City of Capitola's natural environment, waterways and wildlife, would advance the City's goal of Developing a Sustainable City, advance the City's goal of Zero Waste by 2020 and fulfill Article 10 of the Environmental Accords, whereby Capitola partnered with other cities across the globe in signing a commitment to eliminate or restrict the use of one chemical or environmental hazard every year.

Section 2. Subsections F., G., K., L., M., N., and O. of Capitola Municipal Code Section 8.36.020, Definitions, are hereby amended to read as follows:

"F. "Customer" means any person obtaining prepared food, merchandise or product from a restaurant or Retail food vendor, or retail vendor.

G. "Disposable food service ware" means all containers, bowls, plates, trays, cartons, cups, forks, spoons, knives and other items that are designed for one-time use and on, or in, which any restaurant, retail vendor or retail food vendor directly places or packages Prepared Foods or which are used to consume foods. This includes, but is not limited to, service ware for takeout foods and/or leftovers from partially consumed meals prepared at restaurants, sold at restaurants, retail vendors or retail food vendors.

K. "Product" ~~s~~ means any product such as coolers, ~~ice chests, cups, bowls, plates, clamshells, containers, ice chests, packing peanuts~~ or other packing materials, beach or pool toys, or any other products or merchandise ~~which containing polystyrene foam that is not encapsulated or encased by a more durable material~~.

~~K.~~ "Restaurant" means any establishment located within the City of Capitola that sells Prepared Food for consumption on, near, or off its premises by Customers. Restaurant for purposes of this Chapter includes Itinerant Restaurants, Pushcarts and Vehicular Food Vendors.

~~L.~~ "Retail Food Vendor" means any store, shop, sales outlet, or other establishment, including a grocery store or a delicatessen, other than a Restaurant, located within the City of Capitola that sells Prepared Food.

N. "Retail vendor" means any store that sells goods or merchandise located or operating within the city of Capitola.

~~M.O.~~ “Special Events Promoter” means an applicant for any special events permit issued by the City or any City employee(s) responsible for any City organized special event.”

Section 3. Capitola Municipal Code Section 8.36.030 is hereby amended to read as follows:

**“8.36.030 Prohibited food service ware.**

A. Except as provided in Section 8.36.050, food vendors are prohibited from providing prepared food to customers in disposable food service ware that uses polystyrene foam.

B. All city facilities are prohibited from using polystyrene foam disposable food service ware and all city departments and agencies will not purchase or acquire polystyrene foam disposable food service ware for use at city facilities.

C. City franchisees, special event promoters, contractors and vendors doing business with the City shall be prohibited from using Polystyrene Foam Disposable Food Service Ware in the City of Capitola.”

Section 4. Section 8.36.035 is hereby added to the Capitola Municipal Code to read as follows:

**“8.36.035 Prohibited retail sales.**

**No retail vendor or special event promoter in the City of Capitola may sell, rent or otherwise provide any polystyrene foam product which is not wholly encapsulated or encased within a more durable product, except as exempted in section 8.36.050 below. This specifically includes but is not limited to cups, plates, bowls, clamshells and other products intended primarily for food service use, as well as coolers, containers, ice chests, pool or beach toys, packing peanuts or other packaging materials.”**

Section 5. Subsection B. of Capitola Municipal Code Section 8.36.040, Required Biodegradable and Compostable Disposable Food Service Ware, is hereby amended to read as follows:

“B. All City Facilities will use Biodegradable or Compostable Disposable Food Service Ware.”

Section 6. Subsections D., E., and F. of Capitola Municipal Code Section 8.36.050, Exemptions, are hereby amended to read as follows:

~~“D. Polystyrene Foam coolers and ice chests are not exempt from the provisions of this Chapter.~~

~~ED.~~ Disposable Food Service Ware composed entirely of aluminum is exempt from the provisions of this Chapter.

~~E. Meat trays are exempt from the provisions of this chapter. Meat trays and~~

**F. Products wholly encapsulated or encased by another non-polystyrene product, are exempt from the provisions of this chapter. Examples include surfboards, boats, life preservers, construction materials, craft supplies and durable coolers not principally composed of polystyrene.**

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~~FG.~~ Emergency Supply and Services Procurement: In a situation deemed by the City Manager to be an emergency for the immediate preservation of the public peace, health or safety, City Facilities, Food Vendors, Retail Vendors, City franchises, contractors and vendors doing business with the City shall be exempt from the provisions of this Chapter.”

Section 7. Subsections A., B., and C. of Capitola Municipal Code Section 8.36.060, Liability and Enforcement, is hereby amended to read as follows:

“A. The City Manager or his/her designee will have primary responsibility for enforcement of this Chapter. The City Manager or his/her designee is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this Chapter, including, but not limited to, entering the premises of any Food or retail Vendor to verify compliance.

B. City facilities, food vendors, retail food vendors, retail vendors and restaurants will be given three (3) months from the effective date of this ordinance to comply with the provisions herein.

C. If, after the first three (3) months of the effective date of this ordinance, the City Manager or his/her designee determines that a violation of this chapter occurred, he/she will issue a written warning notice to the retail food establishment that a violation has occurred, specifying a three (3) month time period for the food or retail vendor to conform to the provisions of this Chapter.”

Section 8. Capitola Municipal Code Section 8.36.070, Violations - Penalties, is hereby amended to read as follows:

**“8.36.070 Violations – Penalties.**

A. If the City Manager or his/her designee determines that a violation of this Chapter has occurred, he/she will issue a written warning notice to the food or retail vendor or special event promoter that a violation has occurred, and ~~be given~~give the offending party three (3) months to conform to the provisions of this Chapter.

B. If the food or retail vendor or special events promoter has subsequent violations of this Chapter, the following penalties will apply:

1. A fine not exceeding one hundred dollars (\$100.00) for the first violation after the warning notice is given.
2. A fine not exceeding two hundred dollars (\$200.00) for the second violation after the warning notice is given.
3. A fine not exceeding five hundred dollars (\$500.00) for the third and any future violations after the warning notice is given.”

Section 9. This ordinance shall take effect and be in full force thirty (30) days after its final adoption.

ORDINANCE NO.

4

This ordinance was introduced on the 22<sup>nd</sup> day of September, 2011, was passed to a second reading on the 13<sup>th</sup> day of October, 2011, and was finally passed and adopted by the City Council of the City of Capitola on the 27<sup>th</sup> day of October, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: \_\_\_\_\_  
Dennis R. Norton, Mayor

ATTEST:

\_\_\_\_\_, MMC  
Pamela Greeninger, City Clerk

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### CAPITOLA MUNICIPAL CODE

#### Chapter 8.36 ENVIRONMENTALLY ACCEPTABLE PACKAGING MATERIALS

##### 8.36.010 Findings and intent.

The city council finds and declares:

- A. The city has a duty to protect the natural environment, the economy, and the health of its citizens.
- B. Effective ways to reduce the negative environmental impacts of throw-away food service ware include reusing food service ware and using compostable and biodegradable take-out materials made from renewable resources such as paper, corn starch and sugarcane.
- C. Polystyrene foam is a common environmental pollutant as well as a nonbiodegradable substance that is commonly used as food service ware by food vendors operating in the city.
- D. There continues to be no meaningful recycling of polystyrene foam food service ware and biodegradable or compostable food service ware is an affordable, safe, more ecologically sound alternative.
- E. Affordable biodegradable or compostable food service ware products are increasingly available for several food service applications such as cold cups, plates and hinge containers and these products are more ecologically sound than polystyrene foam materials and can be turned into a compost product.
- F. New Leaf Markets, Grinds Coffee Shop, and other Capitola businesses have successfully eliminated the use of polystyrene and nonbiodegradable packaging materials in the operation of their businesses.
- G. The Oakland Coliseum has successfully replaced its cups with biodegradable cornstarch cups and has shown an overall cost savings due to organics recycling.
- H. Over one hundred fifty-five businesses in Oakland engage in organics recycling and it has been demonstrated that the use of biodegradable or compostable food service ware can reduce waste disposal costs when the products are taken to composting facilities as part of an organics recycling program rather than disposed in a landfill.
- I. The natural compost product from these biodegradable or compostable materials is used as fertilizer for farms and gardens, thereby moving towards a healthier zero waste system.
- J. Disposable food service ware constitutes a large portion of the litter in Capitola's lagoon, waterways and storm drains, and on the beaches, streets, parks and public places and the cost of managing this litter is high and rising.



K. Polystyrene foam is notorious as a pollutant that breaks down into smaller, nonbiodegradable pieces that are ingested by marine life and other wildlife thus harming or killing them.

L. Due to the physical properties of polystyrene, the EPA states “that such materials can also have serious impacts on human health, wildlife, the aquatic environment and the economy.”

M. A 1986 EPA report on solid waste named the polystyrene manufacturing process as the fifth largest creator of hazardous waste in the United States.

N. In the product manufacturing process as well as the use and disposal of the products, the energy consumption, greenhouse gas effect, and total environmental effect, polystyrene’s environmental impacts were second highest, behind aluminum, according to the California Integrated Waste Management Board.

O. Styrene, a component of polystyrene, is a known hazardous substance that medical evidence and the Food and Drug Administration suggests leaches from polystyrene containers into food and drink.

P. Styrene is a suspected carcinogen and neurotoxin which potentially threatens human health.

Q. Styrene has been detected in the fat tissue of every man, woman and child tested by the EPA in a 1986 study.

R. The general public is not typically warned of any potential hazard, particularly in the immigrant and non-English-speaking community.

S. Due to these concerns nearly one hundred cities have banned polystyrene foam food service ware including several California cities, and many local businesses and several national corporations have successfully replaced polystyrene foam and other nonbiodegradable food service ware with affordable, safe, biodegradable products.

T. Restricting the use of polystyrene foam food service ware products and replacing nonbiodegradable food service ware with biodegradable food service ware products in Capitola will further protect the public health and safety of the residents of Capitola, the city’s natural environment, waterways and wildlife, would advance the city’s goal of developing a sustainable city, advance the city’s goal of zero waste by 2020 and fulfill Article 10 of the Environmental Accords, whereby Capitola partnered with other cities across the globe in signing a commitment to eliminate or restrict the use of one chemical or environmental hazard every year. (Ord. 913 § 2 (part), 2006)

**8.36.020 Definitions.**

Unless otherwise expressly stated, whenever used in this chapter the following terms shall have the meanings set forth below:

A. “Affordable” means purchasable by the food vendor for same or less purchase cost than the non-biodegradable, non-polystyrene foam alternative.

B. “ASTM standard” means meeting the standards of the American Society for Testing and Materials (ASTM) international standards D6400 or D6868 for biodegradable and compostable plastics.

C. “Biodegradable” means the entire product or package will completely break down and return to nature, i.e., decompose into elements found in nature within a reasonably short period of time after customary disposal.

D. “Compostable” means all materials in the product or package will break down into, or otherwise become part of, usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner in an appropriate composting program or facility, or in a home compost pile or device. Compostable disposable food service ware includes ASTM standard bio-plastics (plastic-like products) that are clearly labeled, preferably with a color symbol, such that any compost collector and processor can easily distinguish the ASTM standard compostable plastic from non-ASTM standard compostable plastic.

E. “City facilities” means any building, structure or vehicles owned or operated by the city of Capitola, its agent, agencies, departments and franchisees.

F. “Customer” means any person obtaining prepared food from a restaurant or retail food vendor.

G. “Disposable food service ware” means all containers, bowls, plates, trays, cartons, cups, forks, spoons, knives and other items that are designed for one-time use and on, or in, which any restaurant or retail food vendor directly places or packages prepared foods or which are used to consume foods. This includes, but is not limited to, service ware for takeout foods and/or leftovers from partially consumed meals prepared at restaurants or retail food vendors.

H. “Food vendor” means any restaurant or retail food vendor located or operating within the city of Capitola.

I. “Polystyrene foam” means and includes blown polystyrene and expanded and extruded foams (sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons.

J. “Prepared food” means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the food vendor’s premises or within the city of Capitola. For the purposes of this ordinance, prepared food includes raw, butchered meats, fish and/or poultry sold from a butcher case or similar retail appliance. Prepared food may be eaten either on or off the premises, also known as “takeout food.”

K. “Restaurant” means any establishment located within the city of Capitola that sells prepared food for consumption on, near, or off its premises by customers. Restaurant for purposes of this chapter includes itinerant restaurants, pushcarts and vehicular food vendors.

L. “Retail food vendor” means any store, shop, sales outlet, or other establishment, including a grocery store or a delicatessen, other than a restaurant, located within the city of Capitola that sells prepared food.

M. “Special events promoter” means an applicant for any special events permit issued by the city or any city employee(s) responsible for any city organized special event. (Ord. 939 § 1, 2009; Ord. 913 § 2 (part), 2006)

#### **8.36.030 Prohibited food service ware.**

A. Except as provided in Section 8.36.050, food vendors are prohibited from providing prepared food to customers in disposable food service ware that uses polystyrene foam.

B. All city facilities are prohibited from using polystyrene foam disposable food service ware and all city departments and agencies will not purchase or acquire polystyrene foam disposable food service ware for use at city facilities.

C. City franchises, special event promoters, contractors and vendors doing business with the city shall be prohibited from using polystyrene foam disposable food service ware in the city of Capitola. (Ord. 939 § 1, 2009; Ord. 913 § 2 (part), 2006)

#### **8.36.040 Required biodegradable and compostable disposable food service ware.**

A. All food vendors using any disposable food service ware will use biodegradable or compostable disposable food service ware unless they can show a biodegradable or compostable product is not available for a specific application or does not exist. A food vendor may charge a “take out fee” to customers to cover the cost difference.

B. All city facilities will use biodegradable or compostable disposable food service ware.

C. City franchises, special events promoter, contractors and vendors doing business with the city will use biodegradable or compostable disposable food service ware unless they can show a biodegradable or compostable product is not available for a specific application or does not exist. (Ord. 939 § 1, 2009; Ord. 913 § 2 (part), 2006)

**8.36.050 Exemptions.**

A. Prepared foods prepared or packaged outside the city of Capitola are exempt from the provisions of this chapter. Purveyors of food prepared or packaged outside the city of Capitola are encouraged to follow the provisions of this chapter.

B. Food vendors will be exempted from the provisions of this chapter for specific items or types of disposable food service ware if the city manager or designee finds that a biodegradable or compostable alternative does not exist.

C. To apply for an exemption from the requirement set forth in Section 8.36.040, a food vendor must submit an application to the city manager. The application shall include all information necessary for the city manager or the manager's designee to make a decision, including but not limited to documentation showing factual support for the claimed exemption.

D. Polystyrene foam coolers and ice chests are not exempt from the provisions of this chapter.

E. Disposable food service ware composed entirely of aluminum is exempt from the provisions of this chapter.

F. Emergency Supply and Services Procurement. In a situation deemed by the city manager to be an emergency for the immediate preservation of the public peace, health or safety, city facilities, food vendors, city franchises, contractors and vendors doing business with the city shall be exempt from the provisions of this chapter. (Ord. 939 § 1, 2009; Ord. 913 § 2 (part), 2006)

**8.36.060 Liability and enforcement.**

A. The city manager or his/her designee will have primary responsibility for enforcement of this chapter. The city manager or his or her designee is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this chapter, including, but not limited to, entering the premises of any food vendor to verify compliance.

B. City facilities, food vendors, retail food vendors, and restaurants will be given three months from the effective date of this ordinance to comply with the provisions herein.

C. If, after the first three months of the effective date of the ordinance codified in this chapter, the city manager or his or her designee determines that a violation of this chapter occurred, he or she will issue a written warning notice to the retail food establishment that a violation has occurred, specifying a three-month time period for the food vendor to conform to the provisions of this chapter.

D. Violation or failure to comply with any of the requirements of this chapter shall constitute an infraction pursuant to Title 4 of the Capitola Municipal Code.

E. The city attorney may seek legal, injunctive, or other equitable relief to enforce this chapter. (Ord. 913 § 2 (part), 2006)

**8.36.070 Violations—Penalties.**

A. If the city manager or designee determines that a violation of this chapter occurred, he or she will issue a written warning notice to the food vendor or special event promoter that a violation has occurred, and be given three months to conform to the provisions of this chapter.

B. If the food vendor has subsequent violations of this chapter, the following penalties will apply:

1. A fine not exceeding one hundred dollars for the first violation after the warning notice is given.

2. A fine not exceeding two hundred dollars for the second violation after the warning notice is given.

3. A fine not exceeding five hundred dollars for the third and any future violations after the warning notice is given. (Ord. 939 § 1, 2009; Ord. 913 § 2 (part), 2006)

**8.36.080 Study.**

One year after the effective date of this chapter, the city manager will conduct a study on the effectiveness of this chapter. (Ord. 913 § 2 (part), 2006)



## CITY COUNCIL AGENDA REPORT

### MEETING OF OCTOBER 13, 2011

FROM: CITY MANAGER'S DEPARTMENT  
DATE: OCTOBER 5, 2011  
SUBJECT: CONCEPTUAL REVIEW OF AN ORDINANCE TO REDUCE SINGLE-USE PLASTIC AND PAPER CARRYOUT BAGS

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**Recommended Action:** Provide staff direction.

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#### **BACKGROUND**

In March of 2010 the City Council considered supporting a regional effort to begin the process of implementing an ordinance that would reduce the use of single use plastic and paper carryout bags.

Plastic bags are one of the more challenging environmental problems, since only five percent of the bags are actually recycled. Much of the remainder become litter on our roadsides and beaches or end up in the marine environment where they choke wildlife and release toxic chemicals into the ocean. Paper bags also have environmental impacts, including the loss of forests and high usage of energy and water in their production. This ordinance addresses both problems by banning the use of plastic carry-out bags at retail establishments and restaurants, imposing a modest fee for the use of paper bags, and encouraging the use of reusable bags, which are convenient and widely available.

#### **DISCUSSION**

Numerous studies have documented the prevalence of single-use plastic carryout bags littering the environment, blocking storm drains and fouling beaches; that plastic bags are a significant source of marine debris and are hazardous to marine animals and birds that confuse plastic bags with food and result in injury or death from starvation.

The proposed ordinance was drafted by members of the Santa Cruz Integrated Waste Management Local Task Force of which the City has one voting member. The ordinance was recently adopted by the County of Santa Cruz and will take effect March 2012.

The proposed ordinance would ban the use of single use plastic carryout bags, require that all paper carryout bags have a minimum of 40% post consumer recycled content, and encourage the use of reusable carryout bags in the City of Capitola, thereby reducing the number of bags manufactured, and the number that are released to the natural environment or disposed of in landfills. The ordinance would prohibit retail product stores from making plastic carryout bags available at checkout stands, and would require them to charge \$0.10 on each paper carryout bag at the point of sale for a period of one year from the date the Ordinance takes effect. The charge would be increased to \$0.25 on each paper carryout bag beyond the initial one-year period. The ban on single use plastic bags would not apply to plastic or paper bags used to protect produce or bulk goods or otherwise used to protect items as they are put into a carryout bag at checkout.

Numerous Cities and Counties in California have passed similar ordinances. These include the Counties of Santa Clara, Los Angeles, and Marin, as well as the cities of Palo Alto, San Francisco, Manhattan Beach and San Jose. Many of the ordinances have been legally challenged based on their CEQA documentation. The

County of Marin's ordinance was recently challenged by "Save the Plastic Bag Coalition" based on Marin's determination that it was exempt from CEQA review. The Marin County Superior Court ruled on 9/14/11 in favor of Marin. The City of Manhattan Beach ordinance was also recently challenged by the same group based on their environmental documentation which was a Mitigated Negative Declaration. The coalition argued that paper bags have a greater negative effect on the environment than plastic bags and demanded an in-depth environmental study be done before the ban went into effect, the California Supreme Court ruled in favor of Manhattan Beach.

## **CEQA**

Adoption of a single use plastic bag ordinance will require compliance with the California Environmental Quality Act (CEQA). Staff's preliminary conclusion is that the ordinance is likely to be exempt pursuant to CEQA sections 15061 (B) (3), 15307, and 15308. However, interest groups have used CEQA as a tool to challenge ordinances and a Negative Declaration is a more defensible environmental document.

Local agency CEQA compliance for single use plastic bag ordinances has made its way up to Supreme Court. The California Supreme Court's ruling in July 2011 on *Save the Plastic Bag Coalition v. City of Manhattan Beach* decided two important issues regarding the interpretation and application of the CEQA. First, the Court decided the City of Manhattan Beach was not required to prepare an environmental impact report (EIR) before enacting a ban on local retailers' distribution of plastic bags to their customers. However, the Court did conclude that an EIR could be necessary for larger jurisdictions.

Recently, the County of Marin prevailed in Superior Court in its use of a Notice of Exemption (NOE) using §§15307 and 15308. These sections provide an exemption for actions taken by regulatory agencies such as the City related to the protection of natural resources and the environment. The County of Marin anticipates an appeal will be filed on the case. The County of Marin's ordinance applied to unincorporated areas.

The County of Santa Cruz approved a Mitigated Negative Declaration (MND) at a hearing held on September 13, 2011. The MND concluded all environmental factors could be mitigated to less than a significant level with mitigation. The mitigation measure calls for the County to work with the Central Coast Recycling Media Coalition (CCRMC) and contribute a minimum of \$10,000 per year to the CCRMC to support ongoing programs promoting the use of reusable bags.

Should the City want to strengthen its CEQA position, the County of Santa Cruz's MND could be modified to cover the City of Capitola. The time to prepare and circulate a document based on the County of Santa Cruz's MND would take approximately four months and \$10,000. While Staff's preliminary conclusion is that the City could use the exemptions sections cited by the County of Marin, approval of a NOE may be susceptible to a legal challenge and Staff believes that a MND would be a more cautious way to proceed.

## **PUBLIC OUTREACH**

Staff will continue its public outreach campaign informing residents and business of the proposed ordinance which will include mailings, web site, scroll, free re-usable bag distribution, signage, commercials, city newsletter and cart hangers. Public outreach efforts to date include free distribution of reusable bags to several large grocery stores and schools, as well as signs for businesses reminding shoppers to bring their reusable bags, City Newsletter and two articles in "Wasteline" (Green Waste Recovery publication). The City of Capitola has always taken an active stand in support of the local environment. This measure will help to reduce litter throughout the City and reduce the impact of plastic bags on our beaches and the marine environment.

**FISCAL IMPACT**

The cost to prepare the environmental documentation is \$10,000. Funding has not been identified for this project.

**ATTACHMENTS**

Draft Ordinance

**Report Prepared By:** Lisa G. Murphy  
Administrative Services Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_

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# DRAFT

ORDINANCE NO. \_\_\_\_\_

## AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA ENACTING A NEW CHAPTER X.XX OF THE CAPITOLA MUNICIPAL CODE RELATING TO THE REDUCTION OF SINGLE-USE PLASTIC AND PAPER CARRYOUT BAGS

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAPITOLA AS  
FOLLOWS:

Section 1. Chapter X.XX is hereby added to the Capitola Municipal Code to read as follows:

“CHAPTER \_\_\_\_\_

### SINGLE-USE PLASTIC AND PAPER CARRYOUT BAG REDUCTION

Sections:

- X.XX.010 Purpose and Findings
- X.XX.020 Definitions
- X.XX.030 Ban on Plastic Carryout Bags and Store Charge for Single-Use Paper Carryout Bags
- X.XX.040 Implementation
- X.XX.050 Exemptions Allowing Single Use Bags
- X.XX.060 Enforcement
- X.XX.070 Violations
- X.XX.080 Severability
- X.XX.090 Effective Date
- X.XX.100 No Conflict With Federal or State Law
- X.XX.110 Preemption

#### **x.xx.010 Purpose and Findings.**

A. It is the intent of the City of Capitola, in enacting Chapter \_\_\_\_\_ to eliminate the common use of plastic single-use carryout bags, encourage the use of reusable bags by consumers and retailers, and to reduce the consumption of single-use bags in general.

B. Whereas the City of Capitola has an obligation to protect the environment, the economy, and public health. The City of Capitola has a 75 percent waste reduction goal, which is to be reached by waste reduction, reuse, recycling, and composting. The City of Capitola makes the following findings:

1. Globally, an estimated 500 billion to 1 trillion petroleum-based plastic bags are used each year, which equals over 1 million per minute, the production and use of which uses over 12 million barrels of oil. The Department of Resources Recycling and Recovery (CalRecycle) estimates that Californians use nearly 20 billion single-use plastic bags per year and discard over 100 hundred plastic bags per second. Further the Environmental Protection Agency estimates that only 5 percent of the plastic bags in California and nationwide are currently recycled.

2. The production and disposal of plastic bags causes significant environmental impacts, including contamination of the environment, the deaths of thousands of marine animals through ingestion and entanglement, widespread litter and debasement of the urban environment, and increased waste disposal costs.

3. Most plastic carryout bags do not biodegrade, but instead persist in the environment for hundreds of years; rather than breaking down, they slowly break up through abrasion, tearing, and photodegradation into toxic plastic bits that contaminate soil and water, while entering the food web when animals inadvertently ingest these materials. Toxic substances present in plastics are known to cause death or reproductive failure in fish, shellfish, wildlife, and in the humans ingesting the fish.

4. Plastic bits absorb dangerous compounds such as chlorodiphenyl/dichloroethylene (DDE), polychlorinated biphenyls (PCB), and other toxic materials present in ocean water. Plastics have been found to concentrate these toxic chemicals at levels of up to 1 million times the levels found in seawater. Plastic bits have displaced plankton in the Pacific Gyre.

5. The U.S. Marine Mammal Commission estimates that 267 marine species have been reported entangled in or having ingested marine debris. Plastic can constrict the animals' movements or block their digestive system, killing the animals through starvation, exhaustion, or infection from deep wounds caused by tightening material.

6. According to Save Our Shores, a Santa Cruz based marine conservation non-profit that conducts beach, river, and inland cleanups in the coastal regions of Santa Cruz, San Mateo, and Monterey Counties, from June 2007 to May 2011, over 400 cleanups were conducted where volunteers removed a total of 26,000 plastic bags. Unchecked, this material would have likely entered the marine environment of the Monterey Bay National Marine Sanctuary.

7. Plastic bags returned to supermarkets may be recycled into plastic lumber; however, a very low percentage of bags are actually returned. Recycling bags into lumber does not reduce the impact of making new plastic carryout bags.

8. Compostable plastic carryout bags, as currently manufactured, do not solve the problems of wildlife damage, litter, or resource use addressed by this ordinance. Compostable carryout bags are designed to remain intact until placed in a professional compost facility, so they do not degrade quickly as litter or in a marine environment. Producing compostable bags consumes nearly as much fossil fuel as noncompostable bags. Mixing compostable bags with regular plastic bags prevents recycling or composting either of them. Therefore, there is no exemption in this ordinance for compostable carryout bags.

9. According to Californians Against Waste, Californians pay up to \$200 per household each year in State and Federal taxes to clean up litter and waste associated with single-use bags, on top of the \$40 per household per year in hidden grocery costs to offset the expense of the nearly 1,000 "free" bags received from grocers.

10. Reusable bags are readily available from numerous sources and vendors. Many grocery and other retail establishments throughout the City of Capitola already offer reusable bags for sale at a price as low as 50 cents.

11. This ordinance recognizes that there are energy and environmental consequences of using paper bags. While paper bags do not have the end-of-use impacts of plastic bags, they may use comparable or more energy and resources to manufacture. For this reason, a store charge on paper bags is indicated, as an incentive to reduce their use and encourage reusable bags. Paper bags that contain a minimum of 40 percent post consumer recycled content have fewer negative impacts than virgin paper bags.

12. Paper shopping bags with 40 percent post consumer recycled content are easily available, and such bags are in wide use by City of Capitola merchants.

13. State law currently prohibits local jurisdictions from placing fees on single-use checkout plastic bags. Therefore, several California Cities have adopted or are pursuing a ban as the most effective remaining means to eliminate the impacts these plastic bags cause. State law does not prohibit jurisdictions from placing fees on paper bags.

#### **X.XX.020 Definitions.**

A. For the purposes of this Chapter, the following definitions apply:

1. "Carryout bags" means bags provided by retailers to customers at the point of sale to hold customers' purchases. "Carryout bags" do not include bags used to contain loose items prior to checkout, such as meat, produce, and bulk goods, and does not include prepackaged products.

2. "Single-use plastic bag" or "single-use plastic carryout bag" means a single-use carryout bag of any size that is made from plastic and provided at the point of sale to customers by a retail establishment. Single-use plastic bags include both compostable and non-compostable carryout bags.

3. "Single-use paper bag" means a checkout bag provided by a retail establishment at the point of sale that is made from paper and is not a reusable bag.

4. "Recyclable" means material that can be sorted, cleansed, and reconstituted using the City's available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise destroying sold waste.

5. "Reusable bag" means any bag with handles that is specifically designed and manufactured for multiple reuse, and is either 1) made of cloth or other washable woven fabric, or 2) made of durable material that is at least 2.25 mils thick. A "reusable bag" may be made of recyclable plastic such as high density polyethylene (HDPE), low density polyethylene (LDPE), or polypropylene.

6. "Retail establishment" or "retail store" means all sales outlets, stores, shops, restaurants, vehicles, or other places of business located within the City of Capitola, which operate primarily to sell or convey goods, including "to-go" food, directly to the ultimate consumer.

7. "Exempted uses" means those point-of-purchase or delivery sales, which have received an exemption under Section X.XX.050 that allows the use of single-use bags.

8. "Prepared food" means foods or beverages which are prepared on vendor's premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and which require no further preparation to be consumed. "Prepared food" does not include any raw uncooked meat product or fruits and vegetables, which are not chopped, squeezed, or mixed.

9. "Take-out food" means prepared food or beverages requiring no further preparation to be consumed, and which are generally purchased in order to be consumed off restaurant or retail food vendor's premises.

**X.XX.030 Ban on plastic bags and store charge for single-use paper carryout bags.**

A. No retail establishment shall provide plastic carryout bags to customers at the point of sale, except as permitted in this chapter.

B. Single-use paper carryout bags provided to customers shall contain a minimum of 40 percent post consumer recycled paper fiber, and be recyclable in the City of Capitola's curbside recycling program.

C. During the period of time starting on the date that this chapter takes effect and continuing for one year thereafter, retail establishments shall charge a minimum 10-cent fee for each single-use paper checkout bag provided to customers at the point of sale. At the completion of the initial one-year period established by this subdivision, the charge shall increase to a minimum 25 cents per bag provided. Retail establishments shall keep annual records of paper bag distribution to be made available to the City Manager or designee upon request. The records shall be evaluated annually for the first five years by the City to ensure the effectiveness of the ordinance. If it is determined that single-use paper bag or plastic reusable bag use has increased beyond anticipated levels, the City Council shall consider increasing the store charge to improve the effectiveness of the ordinance.

D. The charge imposed pursuant to this section shall not be applied to customers participating in the California Special Supplemental Food Program for Women, Infants, and Children, the State Department of Social Services Food Stamp program, or other government subsidized purchase programs for low-income residents.

E. Notwithstanding the fee to be charged in Section X.XX.XXX(C) on single-use paper carryout bags, and notwithstanding the definition of "retail establishment" or "retail store" in section X.XX.020, single-use paper carryout bags may be distributed by food vendors for the transportation of prepared take-out food intended for consumption off the food vendor's premises without charging a fee.

F. The ban on single-use plastic bags and the charge on single-use paper bags would not apply to plastic or paper bags used to protect produce, meat, or otherwise used to protect items as they are put into a carryout bag at checkout. Other examples include: paper bags to protect bottles, plastic bags around ice cream or other wet items, paper bags used to weigh candy, paper pharmacy bags or paper bags to protect greeting cards.

G. Retail establishments are strongly encouraged to make reusable bags available for sale to customers at a reasonable price. Reusable bags which meet the requirements of this ordinance may be distributed without charge during limited-duration promotional events.

H. Retail establishments shall indicate on the customer transaction receipt the number of carryout bags provided, and the total amount charged for those bags.

I. City of Capitola contractors and special events promoters, and their vendors, shall not provide single-use plastic carryout bags to participants while performing under a City of Capitola contract or permit.

**X.XX.040 Implementation.**

A. Sixty days before this ordinance takes effect, the City of Capitola shall post, mail or deliver a copy of it to retail establishments within the city limits of the City of Capitola.

B. The City of Capitola will distribute to each store a reproducible placard designed to inform shoppers of the City of Capitola policy for carryout bags.

**X.XX.050 Exemptions allowing single use bags.**

A. The City Manager, or the manager's designee, may exempt a retail establishment from the requirement set forth in Section X.XX.030 of this chapter for a one-year period upon the retail establishment showing, in writing, that this chapter would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The decision to grant or deny an exemption shall be in writing, and the City Manager or the manager's designee's decision shall be final.

B. An exemption application shall include all information necessary for the City Manager or the manager's designee to make a decision, including but not limited to documentation showing factual support for the claimed exemption.

C. The City Manager or managers' designee may approve the exemption application in whole or in part, with or without conditions.

**X.XX.060 Enforcement.** Enforcement of this ordinance shall be as follows:

A. The City Manager, or designee, shall have primary responsibility for enforcement of this ordinance and shall have authority to issue citations for violation of this chapter. The City Manager, or designee, is authorized to establish regulations or administrative procedures to ensure compliance with this chapter.

B. A person or entity violating or failing to comply with any of the requirements of this chapter shall be guilty of an infraction.

C. The City of Capitola may seek legal, injunctive, or any other relief to enforce the provisions of this chapter and any regulation or administrative procedure authorized by it.

D. The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.

E. The City Manager or designee may inspect any retail establishment's premises to verify compliance with this ordinance.

**X.XX.070 Violations.** Violations of this ordinance shall be enforced as follows:

A. Violation of this chapter is hereby declared to be a public nuisance. Any violation described in the preceding paragraph shall be subject to abatement by the City of Capitola, as well as any other remedies that may be permitted by law for public nuisances, and may be enforced by injunction, upon a showing of violation.

B. Upon a first violation by a retail establishment, the City Manager, or designee, shall mail a written warning to the retail establishment. The warning shall recite the violation, and advise that future violations may result in fines.

C. Upon a second or subsequent violation by a retail establishment, the following penalties will apply:

1. A fine not exceeding one hundred dollars (\$100) for the first violation that occurs 30 days or more after the first warning.
2. A fine not exceeding two hundred dollars (\$200) for the second violation that occurs 60 days or more after the first warning.
3. A fine not exceeding five hundred dollars (\$500) for the third violation that occurs 90 days or more after the first warning.
4. A fine not exceeding five hundred dollars (\$500) for every 30 day period not in compliance, that occurs 90 days or more after the first warning.

D. Special events promoters and their vendors who violate this ordinance in connection with commercial or non-commercial special events shall be assessed fines as follows:

1. A fine not exceeding two hundred dollars (\$200) for an event of 1 to 200 persons.
2. A fine not exceeding four hundred dollars (\$400) for an event of 201 to 400 persons.
3. A fine not exceeding six hundred dollars (\$600) for an event of 401 to 600 persons.
4. A fine not exceeding one thousand dollars (\$1,000) for an event of 601 or more persons.

E. Remedies and fines under this section are cumulative.

**X.XX.080 Severability.**

If any word, phrase, sentence, part, section, subsection, or other portion of this chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City of Capitola hereby declares that it would have passed this title, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional.

**X.XX.090 Effective date.**

This ordinance shall become effective six (6) months after the date of final passage by the City of Capitola City Council.

**X.XX.100 No conflict with Federal or State law.**

Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any Federal or State law.

**X.XX.110 Preemption.**

The provisions of this chapter shall be null and void if State or Federal legislation, or administrative regulation, takes effect with the same or substantially similar provisions as contained in this chapter. The City Council shall determine whether or not identical or substantially similar statewide legislation has been enacted or regulations issued.”

Section 3. This ordinance shall take effect and be in full force on \_\_\_\_\_, 2012.

This ordinance was introduced on the \_\_\_ day of \_\_\_\_\_, 20\_\_, and was passed and adopted by the City Council of the City of Capitola on the \_\_\_ day of \_\_\_\_\_, 20\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

DISQUALIFIED:

APPROVED: \_\_\_\_\_  
Dennis R. Norton, Mayor

ATTEST:

\_\_\_\_\_, MMC  
Pamela Greeninger, City Clerk



Item #: 5.D.

## CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 13, 2011

FROM: DEPARTMENT OF PUBLIC WORKS

DATE: OCTOBER 5, 2011

SUBJECT: RESOLUTION APPROVING THE SUBMISSION OF AN APPLICATION TO THE SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION FOR FUNDING UNDER THE 2012 STATE TRANSPORTATION IMPROVEMENT PROGRAM

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**Recommended Action:** By motion and roll call vote, adopt the proposed Resolution authorizing the Public Works Director to submit an application to the Santa Cruz County Regional Transportation Commission for Transportation Funding for the Bay Avenue/Capitola Avenue roundabout and Park Avenue sidewalks, as submitted.

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### **BACKGROUND**

The Santa Cruz Regional Transportation Commission (RTC) has issued a call for grant applications for the 2012 State Transportation Improvement Program. Eligible projects include road rehabilitation, transportation system management, transportation enhancement, and transportation demand management. Funding is not available for road maintenance. An initial list of projects was submitted to the RTC on October 7, 2011 as required. Full grant applications are due on October 27, 2011, and funding is expected to be awarded for years 2012 through 2016. Any funding award received by the City will be shown in next year's Capital Improvement Program.

### **DISCUSSION**

Staff is recommending the City apply for funding for two projects; the Bay Avenue/Capitola Avenue Roundabout, and the Park Avenue Sidewalks from Washburn Avenue to Cabrillo Street. Both projects are unfunded projects in the Capital Improvement Program.

The Council could also consider road rehabilitation projects on 41<sup>st</sup> Avenue between Clares Street and Gross Road or on Park Avenue between Cabrillo Street and McGregor Drive.

As part of the RTC application process the City must prioritize the projects. The Council adoption of the resolution shown in Attachment 1 is also required as part of the grant application. Any Council changes to this resolution will need to be made at the Council meeting in order to meet the October 27<sup>th</sup> submission deadline.



**FISCAL IMPACT**

While the grant process is competitive, based on previous grant cycles, it is anticipated the City will receive a minimum award of \$100,000 and, hopefully more. The applications will be for \$300,000 for each project.

**ATTACHMENTS**

1. Draft Resolution
2. Project Description Sheets for recommended projects
3. Call for Projects

**Report Prepared By:** Steven Jesberg  
Public Works Director

**Reviewed and Forwarded  
By City Manager:**

\_\_\_\_\_

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUCIL OF THE CITY OF CAPITOLA  
APPROVING THE SUBMISSION OF APPLICATIONS TO THE  
THE SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION (SCCRTC)  
FOR TRANSPORTATION FUNDING**

WHEREAS, the Santa Cruz County Regional Transportation Commission is requesting eligible agencies to submit applications for State Transportation Improvement Program funds by October 27, 2011; and

WHEREAS, these funds can be used for a variety of transportation capital and planning purposes; and

WHEREAS, it has been the interest of the residents of Santa Cruz County for the City of Capitola to do the following projects (listed in priority order):

- 1. Park Avenue Sidewalks form Washburn Street to Cabrillo Street
- 2. Bay Avenue/Capitola Avenue Roundabout

NOW, THEREFORE, BE IT RESOLVED THAT THE City Council of the City of Capitola hereby:

- 1. Approves the submission of applications to the SCCRTC for the listed projects.
- 2. Certifies that these projects are among the highest priorities for this jurisdiction.
- 3. Certifies that the City of Capitola is willing and able to maintain and operate the project.
- 4. Certifies that the City of Capitola will commit the funds necessary to ensure this project is fully funded.
- 5. Certifies that the City of Capitola will comply with the assurances listed in Exhibit A.
- 6. Authorizes the Director of Public Works, or his/her designee, to act as the agent for the City of Capitola in processing all documentation needed to secure these funds.

**I HEREBY CERTIFY** that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 13th day of October, 2011, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Dennis R. Norton, Mayor

ATTEST:

\_\_\_\_\_, MMC  
Pamela Greeninger, City Clerk

**EXHIBIT A**

**ADMINISTERING AGENCY CERTIFICATION & ASSURANCES**

**This page must be signed for the project to be considered for funding.**

Commitment/Prior Commitment:

Has the project Administering Agency certified that it is willing and able to maintain and operate the project?

Yes

No

Please describe the best evidence of the certification available. -- Resolution

Project Administering Agency possesses legal authority to nominate RSTP, STIP, or CMAQ projects and to finance, acquire, and construct the proposed project; and by formal action (e.g., a resolution) the Administering Agency's governing body authorizes the nomination of the project, including all understanding and assurances contained therein, and authorizes the person identified as the official representative of the Administering Agency to act in connection with the nomination and to provide such additional information as may be required.

Project Administering Agency will maintain and operate the property acquired, developed, rehabilitated, or restored for the life of the resultant facility(ies) or activity. With the approval of the California Department of Transportation, the Administering Agency or its successors in interest in the property may transfer the responsibility to maintain and operate the property.

Project Administering Agency will give the California Department of Transportation's representative access to and the right to examine all records, books, papers, or documents related to the transportation enhancement activity.

Project Administering Agency will cause work on the project to be commenced within a reasonable time after receipt of notification from the State that funds have been approved by the Federal Highway Administration and that the project will be carried to completion with reasonable diligence.

Project Administering Agency will comply where applicable with provisions of the California Environmental Quality Act, the National Environmental Policy Act, the Americans with Disabilities Act, the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, and any other federal, state, and/or local laws, rules and/or regulations.

**I certify that the information contained in this application, including required attachments, is accurate and that I have read and understand the important information and agree to the assurances on this form.**

Signed \_\_\_\_\_

Date \_\_\_\_\_

Printed (Name and Title) Steven E. Jesberg, Public Works Director

Administering Agency City of Capitola

## ATTACHMENT 2

Project No. N3

### Capital Improvement Program

Project	Category	Location
Construct Roundabout or Signals	NTAC	Intersection of Bay Ave. and Capitola Ave

**Description:**

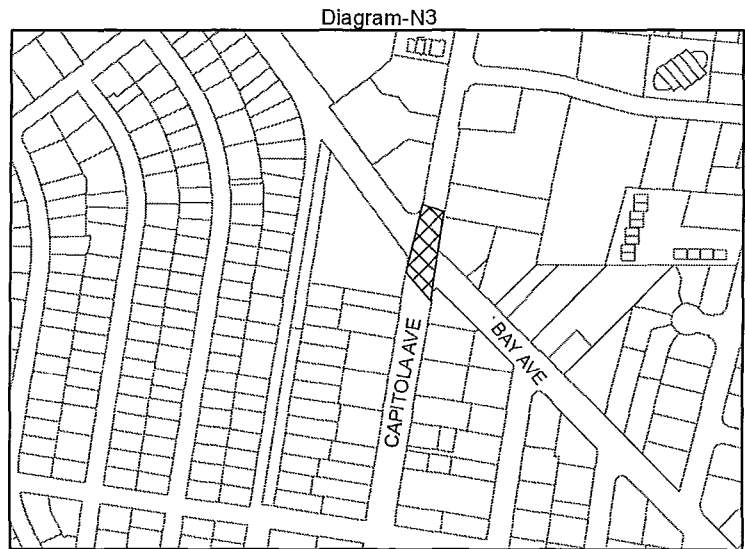
Perform engineering analysis of intersection to determine whether a roundabout or traffic signal would be best method for reducing both congestion and traffic right-of-way problems.

**General Plan Consistency:**

Maintaining LOS of C or better for all city roadways.

**Maintenance Impact:**

Roundabout construction would result in increased landscaping maintenance estimated at \$2,400 per year. Signal maintenance would be approximately \$5,000 per year.



**Fiscal Estimate:**

<u>Fiscal Year</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>Unprogrammed</u>	<u>Total</u>
Project Construction	-	-	-	-	-	305,000	305,000
Planning & Permitting	5%	-	-	-	-	15,300	15,300
Design	20%	-	-	-	-	61,000	61,000
Right of Way	25%	-	-	-	-	76,300	76,300
Construction Management	15%	-	-	-	-	45,800	45,800
Contingency	20%	-	-	-	-	61,000	61,000
<b>Project Totals</b>	-	-	-	-	-	<b>564,400</b>	<b>564,400</b>

Funding Sources

General Fund	-	-	-	-	-	-	-
<b>Funding Totals</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

**Funding Shortfall:**

**\$ 564,400**

### Capital Improvement Program

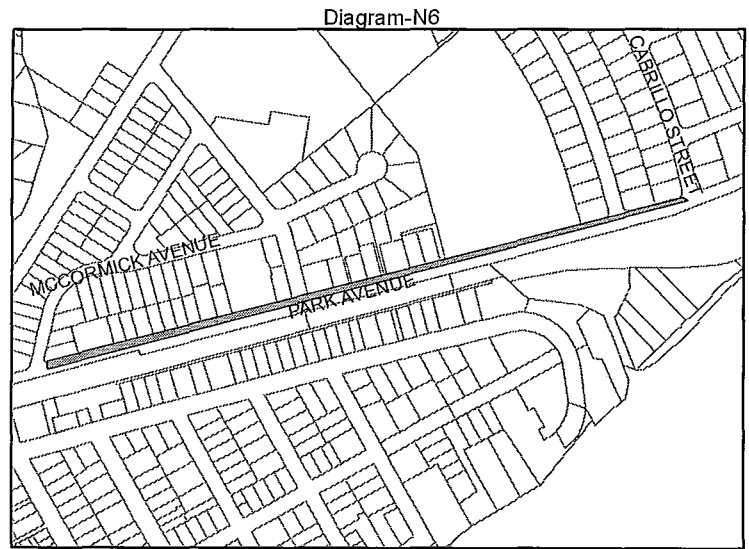
Project	Category	Location
Sidewalk construction	NTAC	Park Avenue

**Description:**

Construct curb, gutter, and sidewalk along the north side of Park Avenue from McCormick Avenue to Cabrillo Avenue, including crosswalks at Washburn Avenue and Cabrillo Avenue.

**Maintenance Impact:**

None



**Fiscal Estimate:**

Fiscal Year		<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>Unprogrammed</u>	<u>Total</u>
Project Construction		-	-	-	-	-	283,900	283,900
Planning & Permitting	5%	-	-	-	-	-	14,200	14,200
Design	20%	-	-	-	-	-	56,800	56,800
Right of Way	5%	-	-	-	-	-	14,200	14,200
Construction Management	15%	-	-	-	-	-	42,600	42,600
Contingency	20%	-	-	-	-	-	56,800	56,800
Project Totals		-	-	-	-	-	468,500	468,500

Funding Sources

		-	-	-	-	-	-	-
Funding Totals		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

**Funding Shortfall:**

\$ 468,500


**SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION**

 1523 Pacific Ave., Santa Cruz, CA 95060-3911 • (831) 460-3200 FAX (831) 460-3215 EMAIL [info@sccrtc.org](mailto:info@sccrtc.org)
**MEMORANDUM**

Date: September 16, 2011

To: Transportation Project Sponsors

Subject: Call for Projects for Potential *State Transportation Improvement Program (STIP)* Funds

From: George Dondero, Executive Director

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**The Santa Cruz County Regional Transportation Commission is hereby issuing a call for projects to receive up to \$9.25 million in State Transportation Improvement Program (STIP) through FY16/17. Preliminary information for proposed projects is due October 10, 2011.** While, the RTC has indicated its intent to program \$4 million of the \$9.25 million to the new Highway 1 41<sup>st</sup> Avenue/Soquel Drive Auxiliary Lanes project, the RTC has not finalized this decision and is interested in seeing what project sponsors propose for these funds.

**Eligible Projects:** Funds are available for highway, local street/road improvements and reconstruction/rehabilitation, transit capital, transportation system management, transportation enhancement, and transportation demand management projects. Funds are not available for road or transit maintenance and operations. For transit projects, STIP funds are only available to projects that are eligible for federal funds; STIP funds from the Federal Highway Administration (FHWA) would need to be transferred to an FTA program and the projects would need to provide a non-federal match from a source other than the STIP.

Notably, STIP funding is subject to concurrence from the California Transportation Commission (CTC). CTC staff has indicated that if funds are limited they will prioritize projects on state highways. Of local road projects, while local road rehabilitation is eligible for STIP, CTC staff said they may be more likely to program STIP projects that address safety or are eligible for federal transportation enhancement funds (though if the federal TE program is abandoned in SAFETEA-LU reauthorization, that could change).

**Deadline:** Email a list of projects for which you will be seeking STIP funds to [rmoriconi@sccrtc.org](mailto:rmoriconi@sccrtc.org) by October 10, 2011. Include project name, description, amount of funds requested, total project cost, and project schedule. For local road projects provide information on any safety issues that would be remedied by the project. Also indicate which projects are a result of storm damage which resulted in the state's declaration of an emergency after 2010-11 winter storms.

Applications for funds, within which project sponsors will be expected to provide additional information, will be distributed following the September 22, 2011 Interagency Technical Advisory Committee (ITAC) meeting. The due date for submittal of final proposals/applications is tentatively scheduled for October 27, 2011.

**Timeline:**

<b>September 16, 2011</b>	Call for Projects issued
<b>September 23, 2011</b>	Applications distributed to interested parties
<b>October 10, 2011</b>	Preliminary information about proposed projects due
<b>October 27, 2011</b>	Applications due
<b>November 2011</b>	RTC committee review of proposals/preliminary staff recommendations
<b>December 1, 2011</b>	Public hearing, RTC adopts program of projects
<b>March 2012</b>	California Transportation Commission (CTC) considers proposals from the RTC for STIP funds

*C:\Documents and Settings\rmoriconi\Desktop\Telecommute\2012RTIP\Call4Projects2012RTIP.doc*



Item #: **5.E.**

## CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 13, 2011

FROM: CITY MANAGER'S DEPARTMENT  
DATE: OCTOBER 6, 2011  
SUBJECT: CONSIDER CONTRIBUTION TO THE CITY OF SANTA CRUZ FOR THE CODE  
FOR AMERICA 2012 CITY FELLOWSHIP PROGRAM

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**Recommended Action:** Council discretion to authorize the City Manager to contribute \$2,500 to the City of Santa Cruz for the Code for America 2012 City Fellowship Program.

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### **BACKGROUND**

As part of an effort to improve public service, internal efficiency and transparency through the development of new technology tools, the City of Santa Cruz formed a committee comprised of Council members and a team of local high-level technology experts. The committee recommended that Santa Cruz pursue the Code for America 2012 City Fellowship Program. Code for America is nonprofit organization that works with cities to identify projects that can benefit from web-based solutions. San Francisco based Code for America uses a fellowship model that embeds highly skilled web programmers into municipalities to create technology solutions to improve transparency, engagement and efficiency in government. In 2011, Philadelphia, Boston, Seattle and Washington, DC used Code for America fellows to work on a variety of issues, including public engagement, open data, open government and enhanced service delivery to at-risk youth. The Code for America is supported by the Knight and Rockefeller foundations, and backed by several major Bay Area technology companies including Twitter and Facebook.

The Code for America City Fellowship Program is not a cash grant; it provides participating government agencies access to technology experts and resources at a significant cost savings as compared to third-party vendor solutions or internally-driven development efforts. In many ways, the City Fellowship Program follows the Teach for America or the Peace Corps model. Highly skilled and accomplished developers work on projects for one year, spending part of the year in San Francisco and part of the year working with City staff to tackle a particularly difficult issue through the development of new web applications or technology service delivery models. These developers forgo full remuneration for that year and work as employees of Code for America for a modest stipend.

Code for America Fellows build technology solutions that fit a certain model: (1) they are web applications (i.e. external-facing applications like Facebook or Zillow); (2) they enable cities to connect with their constituents in ways that reduce administrative costs and engage citizens more effectively; (3) they support the move toward transparency and collaboration; and finally, (4) they are open-sourced or shareable – which means that an application built for one city can be used by any other city without incurring a licensing fee.



**DISCUSSION**

The City of Santa Cruz (City) applied for the Fellowship, outlining a basic framework to create an efficient business web portal that lowers the barrier to entry for new businesses to locate in the City. This is a typical problem experienced by most cities in America. The City has taken incremental steps, with the limited internal resources, to implement a “New Business Gateway” on its website.

The current Gateway provides information, links and general steps required to create a business within the City. Despite the improvements, significant hurdles remain for businesses. When creating or relocating a business, most small business owners typically apply for permits from multiple agencies, including but not limited to the State Board of Equalization, the Internal Revenue Service, the California Secretary of State, CalGOLD, the County Clerk, the Finance Department and the Department of Planning and Community Development. The Code for America Fellows will be tasked with creating an application that eases the burden for business owners.

The City of Santa Cruz was selected as a finalist with nine other municipalities, including New Orleans, Chicago, Honolulu and New York City. Santa Cruz will be the first city with a population under 100,000 to participate in the program.

Santa Cruz has committed to a financial contribution of \$150,000 over the course of two fiscal years. A fundraising effort has led to commitments in FY 2012 of \$44,350 to offset City of Santa Cruz’s costs. Contributions have already been made from Scotts Valley, Watsonville, and Santa Cruz County. Santa Cruz has also asked the City of Capitola to participate in this program.

Should the City provide \$2,500 to help cover the stipend and other costs associated with the program, Capitola will be able to work with Santa Cruz City staff and Code for America fellows on the creation of this program and to provide input on the final product. In addition, once it is completed, the City would be able to utilize the program to assist businesses locating in Capitola.

**FISCAL IMPACT**

The \$2,500 contribution to the Code for America project with the City of Santa Cruz, if approved, would be funded using the City Manager’s Unanticipated Events budget line item. If approved, this would leave \$7,500 available in that account for future projects.

**ATTACHMENTS**

- 1. Code for America Information Sheet
- 2. Fundraising information

**Report Prepared By:** Jamie Goldstein, City Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_

## CODE *for* AMERICA

a/k/a Peace Corps for Nerds

### Who Are They?

- A 501 (c)(3) based in San Francisco
- Born out of the Gov 2.0 / lean government movement
- Backed by: Knight, Rockefeller and Kaphan Foundation
- Supported by: Facebook, Twitter, ERSI, Sunlight Foundation
- 2010 Projects: Philadelphia, DC, Seattle, Boston (civic engagement, open data and service delivery across education vertical)
- Established Civic Commons, a repository of open source software for the public sector

### What do they do?

- Code for America builds web applications utilizing the technology industries brightest, most civically engaged developers.
- Each city project is connected with a web development team to scope a project, develop an action plan, and deliver an appropriate solution over an 11-month development cycle.
- Throughout the development cycle, CFA mentors, trains, and coordinates the teams and facilitates their relationships with their city management clients.

### How can they help us?

- The hope is that Code for America can create a public facing solution that creates efficiency, cost-savings, and transparency - while stimulating the local economy
- For many years, the City has tried to implement a "New Business Gateway" on its website.
- Most small business owners typically apply for permits from multiple agencies that require redundant information. (i.e. IRS, State Board of Equalization, local planning counters)
- The project design is intended to be like Turbo Tax, while the interface is easy to use, the output is still a 1040 to integrate into the IRS' existing business practices.

### What Will this Cost?

- Cities are required to partially underwrite a stipend for the team of developers dedicated to a project. It will cost \$150,000 to retain three developers.
- Staff and Councilmembers are actively raising private sector dollars to support this project
- Selected Supporters
  - Community Foundation of Santa Cruz County
  - Silicon Valley Economic Development Alliance
  - County of Santa Clara
  - Town of Los Gatos
  - City of Scotts Valley
  - Local Technology Leaders (inc. NextSpace, Cruzio)

# CODE *for* AMERICA

a/k/a Peace Corps for Nerds

## 2012 City Programs Timeline

- February 22 – Application approved by Council
- Interviews and Finalist Selection in May / June 2011
- Finalists announced June 2011: Austin, Chicago, Detroit, Honolulu, Macon, New Orleans, New York City, Philadelphia, Raleigh, Santa Cruz
- Field Visit 25 July 25
- Formal Announcement October 11/12

## Key Takeaways

- Code for America is not trying to alter existing City processes, obligations or procedures
- The intention of this project is to improve the “service layer” between our processes in the public utilizing existing IT infrastructure and our website
- The greater intention is to position Santa Cruz and the Monterey Bay Area as a fertile and receptive place for small business creation and entrepreneurship.

# ATTACHMENT 2

Sector	Donor	Confirmed Donation
Nonprofit	Community Foundation of Santa Cruz County	10000
Nonprofit	Downtown Association	500
Nonprofit	Santa Cruz Area Chamber of Commerce	100
Nonprofit	Silicon Valley Economic Development Alliance	5000
Private	Barry Swenson Builders	1000
Private	Cruzio	2500
Private	Mike Gartner	250
Private	Monarch Media	500
Private	NextSpace	500
Private	Ow Family Properties	1000
Private	Redtree	
Private	Shane & Peter	500
Public	County of Santa Clara	5000
Public	County of Santa Cruz	5000
Public	Los Gatos	5000
Public	Scotts Valley	5000
Public	Watsonville	2500
		44350



Item #: 5.F.

## CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 13, 2011

FROM: OFFICE OF THE CITY CLERK  
DATE: OCTOBER 5, 2011  
SUBJECT: RESOLUTION SUPPORTING TERMINATION OF THE SOUTHERN SEA OTTER  
TRANSLOCATION PROGRAM

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**Recommended Action:** Council discretion. If approved, a motion and roll call vote to approve the proposed Resolution Supporting Termination of the Southern Sea Otter Translocation Program would be in order, and direction to staff to distribute copies of the resolution to Governor Brown, Senator Dianne Feinstein, Senator Barbara Boxer, Congressman Sam Farr and Congresswoman Lois Capps.

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### **BACKGROUND**

The Mayor and Council Members have been asked by the Ocean Conservancy, Save Our Shores, and The Otter Project, to consider a resolution supporting termination of the Southern Sea Otter Translocation Program. Mayor Norton directed staff to place this item on the agenda for Council consideration.

### **DISCUSSION**

This item is before the City Council pursuant to the October 4, 2011, letter from the Ocean Conservancy, Save Our Shores, and The Otter Project, recommending adoption of a resolution supporting termination of the Southern Sea Otter Translocation Program. A copy of the letter is included as Attachment 2, along with a background memo (Attachment 3) regarding the U.S. Fish and Wildlife Service preparation of a Final Supplemental Environmental Impact Statement concerning the fate of the No Otter Zone (NOZ).

**FISCAL IMPACT** – None

### **ATTACHMENTS**

1. Draft Resolution
2. October 4, 2011 letter
3. Background Memo

**Report Prepared By:** Pamela Greeninger, MMC  
City Clerk

**Reviewed and Forwarded  
By City Manager:**

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**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
SUPPORTING THE TERMINATION OF THE SOUTHERN  
SEA OTTER TRANSLOCATION PROGRAM**

WHEREAS, the City of Capitola is California’s oldest seaside resort, annually hosts millions of visitors who come to Capitola to surf, swim, sightsee, and experience the coast, and has a long history of coastal environmental leadership; and

WHEREAS, sea otters inhabit the waters off the Capitola, delighting residents and visitors alike and, as a keystone species, contributing to the health of the ocean ecosystem; and

WHEREAS, sea otters were listed as threatened under the U.S. Endangered Species Act and depleted under the Marine Mammal Protection Act in 1977 and the U.S. Fish and Wildlife Service developed a recovery plan for sea otters; and

WHEREAS, the recovery plan determined that a primary threat to sea otters was a large oil spill, which could wipe out the entire population and the recovery plan determined that a population of sea otters separate from the parent population was necessary for recovery of the species; and

WHEREAS, the Southern Sea Otter Translocation Program was developed to establish a second sea otter population at San Nicolas Islands in the Channel Islands and in order to alleviate the concerns of fishing groups, the translocation program provided for a “management zone” or No Otter Zone (NOZ) from within which sea otters would be removed to either the parent population or the second population; and

WHEREAS, the translocation program proved unsuccessful when many of the otters moved to San Nicolas Island died as a result of translocation, returned to the parent population, or moved into the NOZ, and the status of more than half the sea otters moved unknown; and

WHEREAS, in their Revised Draft Supplemental Environmental Impact Statement (DSEIS), which was released on August 26, 2011, FWS declared the translocation program a failure and proposed its termination, which would eliminate the NOZ; and

WHEREAS, sea otters should be allowed to repopulate their historic home range and receive the full protection of the Endangered Species Act and Marine Mammal Protection Act throughout that range.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 13<sup>th</sup> day of October, 2011, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

\_\_\_\_\_  
Dennis R. Norton, Mayor

ATTEST: \_\_\_\_\_, MMC  
Pamela Greeninger, City Clerk



October 4, 2011

Mayor Dennis Norton and  
Members of the City Council  
City of Capitola  
420 Capitola Avenue  
Capitola, CA 95010

**RE: Adoption of resolution supporting termination of the Southern sea otter translocation program - SUPPORT**

Dear Mayor Norton and Members of the City Council:

Please accept the following letter of support from Ocean Conservancy, Save Our Shores and the Otter Project for adoption of a resolution supporting termination of the U.S. Fish and Wildlife Service's (USFWS) Southern sea otter translocation program. Unfortunately, the translocation program has not met its original goals and has resulted in unintended consequences harmful to sea otters. Termination of the program is now necessary to advance recovery of the Southern sea otter along the California coast.

Our organizations have long histories of working to protect the Central Coast generally and a strong commitment to the successful recovery of the Southern sea otters specifically. We are pleased to note that the USFWS has identified termination of the translocation program as its preferred alternative in its Draft Supplemental Environmental Impact Statement prepared for this project.

The translocation program failed to meet its stated purpose to aid in the recovery and management of the southern sea otter to a sustainable population and delisting under the Endangered Species Act. This was to be accomplished by establishing southern sea otter populations in one or more areas within their historical habitat, thereby minimizing the possibility that a single natural or human-caused catastrophe, such as an oil spill, could adversely affect a significant portion of the population.

Unfortunately, the translocation of sea otters has not resulted in an established population sufficient to repopulate the southern area of the otters' historic range should a catastrophic event affect the central coast mainland population. Maintenance of the management zone has proven to be challenging and poses greater risks to sea otters removed from the management zone, as well as to sea otters in the parent population upon reintroduction which may prevent recovery of the species.

We appreciate the City of Capitola's leadership in ensuring recovery of Southern sea otters and urge adoption of the proposed resolution.

Sincerely,

Pacific Program Director  
Ocean Conservancy

Executive Director  
Save Our Shores

Program Manager  
The Otter Project

## Background Memo

**RE: US Fish and Wildlife Service preparation of a Final Supplemental Environmental Impact Statement concerning the fate of the No Otter Zone (NOZ)**

### Summary

The NOZ or “management zone” was established in 1987 when the U.S. Congress signed Public Law 99-625 (PL 99-625). The NOZ covers the waters from Point Conception to the Mexican border. Sea otters found within the NOZ are subject to relocation by FWS. And, within the NOZ, otters are not protected by the Endangered Species Act (ESA) or the Marine Mammal Protection Act (MMPA), as they are elsewhere. In 1993 FWS discontinued relocating sea otters due to mortalities associated with relocation. However, the NOZ remains in force, thereby depriving sea otters within it of protection under the ESA and the MMPA. In August, FWS released a Draft Supplemental Environmental Impact Statement on the NOZ. The comment period on the DSEIS runs through October 24, 2012. The FWS is required to release a Final Supplemental Environmental Impact Statement on the NOZ by December 2011.

### History of Issue

Sea otters historically populated the entire California coast but were hunted to near extinction by the early 1900's. Protected under the ESA in 1977, the sea otter population began to grow but was isolated to the central California coast. PL 99-625 authorized the development and implementation of a plan to establish an experimental second population of sea otters. The second sea otter population was intended to ensure the survival of the species in the event of a catastrophic oil spill on the California coast. To alleviate the concerns of fishing and industry groups, PL 99-625 specified that any translocation program would have to include designation of a “translocation zone” to which the new population would be relocated, and a “management zone” that would surround the translocation zone. Sea otters found within the management zone would be removed using non-lethal means and returned either to the translocation zone or to the parent population.

Between 1987 and 1990 FWS moved 139 otters to San Nicolas Island (SNI), the most remote of the Channel Islands, and removed 24 sea otters from the NOZ. By 1991, approximately 14 sea otters remained at SNI. Some sea otters died as a result of translocation, some returned to the parent population, others moved into the NOZ, and the status of more than half the sea otters moved is unknown. In 1993, FWS discontinued relocation efforts in the NOZ due to several sea otter mortalities during or immediately following capture and release of the animals.

In their Revised Draft Supplemental Environmental Impact Statement (DSEIS), which was released on August 26, 2011, FWS declared the translocation program a failure and proposed its termination, which would eliminate the NOZ. A 60 day public comment period began on that date and ends October 24, 2011. There will be two public comment hearings, one on October 4, 2011 in Santa Barbara and one on October 6, 2011 in Santa



Cruz. Following the public comment period FWS must release its Final Supplemental Environmental Impact Statement by December 7, 2012.

Sea otters have been moving south and are being spotted off Santa Barbara beaches to the delight of locals and visitors. Sea otters are slowly repopulating their home range and pups are being spotted in the area. Anecdotal evidence points to sea otters in the NOZ being harassed, threatened and even shot and killed. Therefore it's critical that the NOZ be officially suspended so that the protections afforded by the ESA and the MMPA are reinstated throughout the sea otter's range.

Recommendation

In order to further the recovery of the sea otter population, we recommend that the Council adopt the attached resolution supporting the termination of the sea otter translocation program and the NOZ.