



AGENDA

CAPITOLA PLANNING COMMISSION

Thursday, November 5, 2015 – 7:00 PM

Chairperson Linda Smith
Commissioners Ed Newman
 Gayle Ortiz
 TJ Welch
 Susan Westman

- 1. CALL TO ORDER**
- 2. ROLL CALL AND PLEDGE OF ALLEGIANCE**
- 3. ORAL COMMUNICATIONS**

- A. Additions and Deletions to Agenda**
- B. Public Comments**

Short communications from the public concerning matters not on the Agenda. 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.

- C. Commission Comments**
- D. Staff Comments**

- 4. APPROVAL OF MINUTES**
 - A. Planning Commission - Regular Meeting - Oct 1, 2015 7:00 PM**

- 5. CONSENT CALENDAR**

All matters listed under "Consent Calendar" are considered by the Planning Commission to be routine and 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 Planning Commission votes on the action unless members of the public or the Planning Commission request specific items to be discussed for separate review. Items pulled for separate discussion will be considered in the order listed on the Agenda.

- A. 1200 41st Avenue Suite F #15-167 APN: 034-101-38**

Conditional Use Permit for a Restaurant (Naka Sushi) with onsite consumption of food, beer, and wine located in the CC (Community Commercial) Zoning District.
This project is in the Coastal Zone and requires a Coastal Development Permit, which is not appealable to the California Coastal Commission.
Environmental Determination: Categorical Exemption
Property Owner: Begonia Plaza, LLC
Representative: Tyrone McConney, filed 10/13/2015

B. 3555 Clares Street Ste. LL #15-159 APN: 034-261-57

Conditional Use Permit for the onsite consumption of Beer and Wine at Taqueria Tepeque restaurant located in the CC (Community Commercial) Zoning District.

This project is not in the Coastal Zone and does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Brown Ranch Properties

Representative: Sheila Cortez DBA "Taqueria Tepeque", filed 9/30/15

6. 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 as follows: 1) Staff Presentation; 2) Public Discussion; 3) Planning Commission Comments; 4) Close public portion of the Hearing; 5) Planning Commission Discussion; and 6) Decision.

A. 1575 38th Avenue #15-160 APN: 034-181-17

11 lot Subdivision, Design Permit and Conditional Use Permit for 5 duplex townhomes and 1 single family home, and Variance request for decreased front and side yard setbacks in the CN (Neighborhood Commercial) zoning district.

This project is not located in the Coastal Zone.

Environmental Determination: The project qualifies for a General Plan exemption under CA Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183.

Property Owner: Joe Appenrodt, filed 10/7/2015

Representative: Matthew Thompson, Architect

B. HOUSING ELEMENT UPDATE - ADOPTION RECOMMENDATION TO CITY COUNCIL

General Plan Amendment to update the General Plan Housing Element

Environmental Determination: Addendum to the General Plan Update EIR

Applicant: City of Capitola

7. DIRECTOR'S REPORT**8. COMMISSION COMMUNICATIONS****9. ADJOURNMENT**

APPEALS: The following decisions of the Planning Commission can be appealed to the City Council within the (10) calendar days following the date of the Commission action: Conditional Use Permit, Variance, and Coastal Permit. The decision of the Planning Commission pertaining to an Architectural and Site Review can be appealed to the City Council within the (10) working days following the date of the Commission action. If the tenth day falls on a weekend or holiday, the appeal period is extended to the next business day.

All appeals must be in writing, setting forth the nature of the action and the basis upon which the action is considered to be in error, and addressed to the City Council in care of the City Clerk. An appeal must be accompanied by a one hundred forty two dollar (\$142.00) filing fee, unless the item involves a Coastal Permit that is appealable to the Coastal Commission, in which case there is no fee. If you challenge a decision of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this agenda, or in written correspondence delivered to the City at, or prior to, the public hearing.

Notice regarding Planning Commission meetings: The Planning Commission meets regularly on the 1st 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 Planning Commission Agenda and complete Agenda Packet are available on the Internet at the City's website: www.cityofcapitola.org. Agendas are also available at the Capitola Branch Library, 2005 Wharf Road, Capitola, on the Monday prior to the Thursday meeting. Need more information? Contact the Community Development Department at (831) 475-7300.

Agenda Materials Distributed after Distribution of the Agenda Packet: Materials that are a public record under Government Code § 54957.5(A) and that relate to an agenda item of a regular meeting of the Planning Commission that are distributed to a majority of all the members of the Planning Commission more than 72 hours prior to that meeting shall be available for public inspection at City Hall located at 420 Capitola Avenue, Capitola, 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 Community Development Department 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: Planning Commission meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be replayed on the following Monday and Friday at 1:00 p.m. on Charter Channel 71 and Comcast Channel 25. Meetings can also be viewed from the City's website: www.cityofcapitola.org.



**DRAFT MINUTES
CAPITOLA PLANNING COMMISSION MEETING
THURSDAY, OCTOBER 1, 2015
7 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

**1. ROLL CALL
AND PLEDGE OF ALLEGIANCE**

Chairperson Linda Smith: Absent, Commissioner Gayle Ortiz: Present, Commissioner Edward Newman: Present, Commissioner TJ Welch: Present, Commissioner Susan Westman: Present.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

None

B. Public Comments

None

C. Commission Comments

None

D. Staff Comments

None

3. APPROVAL OF MINUTES

A. Planning Commission - Regular Meeting - September 3, 2015

Commissioner Ortiz asked that condition 13 for 154 Cortez be clarified indicating that one parking space in the garage should be available and used before street parking.

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| RESULT: | ACCEPTED AS AMENDED [UNANIMOUS] |
| MOVER: | Gayle Ortiz, Commissioner |
| SECONDER: | Edward Newman, Commissioner |
| AYES: | Ortiz, Newman, Welch, Westman |
| ABSENT: | Smith |

4. CONSENT CALENDAR

A. 4790 Topaz St #15-131 APN: 034-066-03

Design Permit to demolish the existing structure and build a new, 2-story single family home in the R-1 (Single Family Residential) Zoning District.

This project is in the Coastal Zone and requires a Coastal Development Permit, which is not appealable to the California Coastal Commission.

Environmental Determination: Categorical Exemption

Property Owner: Scott Haggblade and Melissa Burke, filed: 8/21/15

Representative: Scott Haggblade

Minutes Acceptance: Minutes of Oct 1, 2015 7:00 PM (Approval of Minutes)

MOTION: Approve a Design Permit and Coastal Development Permit with the following conditions and findings:

CONDITIONS

1. The project approval consists of construction of a new 1,836 square-foot residence. The maximum Floor Area Ratio for the 3,281 square foot property is 56% (1,837 square feet). The total FAR of the project is 56% with a total of 1,836 square feet, compliant with the maximum FAR within the zone. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on October 1st, 2015, except as modified through conditions imposed by the Planning Commission during the hearing.
2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans.
3. At time of submittal for building permit review, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
4. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
5. At the time of submittal for building permit review, Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
6. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
7. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems.
8. Prior to issuance of building permit, all Planning fees associated with permit # 15-131 shall be paid in full.
9. Prior to issuance of building permit, Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
10. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Sequel Creek Water District, and Central Fire Protection District.

11. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
12. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
13. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan. Erosion and sediment control shall be installed prior to the commencement of construction and maintained throughout the duration of the construction project.
14. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
15. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B
16. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.
17. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
18. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
19. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
20. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.

21. The applicant was granted a Design Permit and Coastal Development Permit for a new single-family home. In any case where the conditions of the permit have not been or are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists therefore, the Planning Commission may revoke the permit.

FINDINGS

- A. **The application, subject to the conditions imposed, secures the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**
Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the new single family home. The project conforms to the development standards of the R-1 (Single Family Residence) zoning district. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.
- B. **The application will maintain the character and integrity of the neighborhood.**
Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms to the development standards of the R-1 (Single Family Residence) zoning district. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood. The proposed new single-family residence compliments the existing single-family homes in the neighborhood.
- C. **This project is categorically exempt under Section 15303-A of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**
This project involves the construction of a new single-family residence in the R-1 (Single-Family Residential) Zoning District. Section 15303-A of the CEQA Guidelines exempts the construction of a new home in a residential zone.

COASTAL FINDINGS

D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of

approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, “cumulative effect” means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.

(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project’s effects upon existing public access and recreation opportunities. Analysis of the project’s cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project’s cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;

- The proposed project is located at 4790 Topaz Street. The home is not located in an area with coastal access. The home will not have an effect on public trails or beach access.

(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;

- The proposed project is located along Topaz Street. No portion of the project is located along the shoreline or beach.

(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and

improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);

- There is not history of public use on the subject lot.

(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;

- The proposed project is located on private property on Topaz Street. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.

- The proposed project is located on private property that will not impact access and recreation. The project does not diminish the public's use of tidelands or lands committed to public recreation nor alter the aesthetic, visual or recreational value of public use areas.

(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:

a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;

b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;

c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.

- The project is not requesting a Public Access Exception, therefore these findings do not apply

(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:

a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;

- The project is located in a residential lot.

b. Topographic constraints of the development site;

- The project is located on a relatively flat lot.

c. Recreational needs of the public;

- The project does not impact recreational needs of the public.

d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;

e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;

f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.

(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);

- No legal documents to ensure public access rights are required for the proposed project

(D) (6) Project complies with visitor-serving and recreational use policies;

SEC. 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

- The project involves a single family home on a residential lot of record.

SEC. 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

- The project involves a single family home on a residential lot of record.

c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

- The project involves a single family home on a residential lot of record.

(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;

- The project involves the construction of a single family home. The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation and/or traffic improvements.

(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;

- The project complies with the design guidelines and standards established by the Municipal Code.

(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;

- The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola's shoreline.

(D) (10) Demonstrated availability and adequacy of water and sewer services;

- The project is located on a legal lot of record with available water and sewer services.

(D) (11) Provisions of minimum water flow rates and fire response times;

- The project is located within close proximity of the Capitola fire department. Water is available at the location.

(D) (12) Project complies with water and energy conservation standards;

- The project is for a single family home. The GHG emissions for the project are projected at less than significant impact. All water fixtures must comply with the low-flow standards of the Soquel Creek Water District.

(D) (13) Provision of park dedication, school impact, and other fees as may be required;

- The project will be required to pay appropriate fees prior to building permit issuance.

(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;

- The project does not involve a condo conversion or mobile homes.

(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;

- Conditions of approval have been included to ensure compliance with established policies.

(D) (16) Project complies with Monarch butterfly habitat protection policies;

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;

- Conditions of approval have been included to ensure compliance with applicable erosion control measures.

(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;

- Geologic/engineering reports have been prepared by qualified professionals for this project. Conditions of approval have been included to ensure the project applicant shall comply with all applicable requirements of the most recent version of the California Building Standards Code.

(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;

- Conditions of approval have been included to ensure the project complies with geological, flood, and fire hazards and are accounted for and will be mitigated in the project design.

(D) (20) Project complies with shoreline structure policies;

- The proposed project complies with shoreline structure policies.

(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;

- This use is a principally permitted use consistent with the Single Family zoning

district.

(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures.

(D) (23) Project complies with the Capitola parking permit program as follows:

- The project site is not located within the area of the Capitola parking permit program.

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| RESULT: | APPROVED [UNANIMOUS] |
| MOVER: | Edward Newman, Commissioner |
| SECONDER: | Susan Westman, Commissioner |
| AYES: | Ortiz, Newman, Welch, Westman |
| ABSENT: | Smith |

5. PUBLIC HEARINGS

A. 1210 41ST AVENUE, E-1 #15-125 APN: 034-101-36

Application for a Sign Permit, Design Permit, and Conditional Use Permit to allow a new roof sign, canopy, outdoor seating area, and outdoor display area at the existing New Leaf grocery store at 1210 41st Avenue located in the CC (Community Commercial) Zoning District.

This project is in the Coastal Zone and requires a Coastal Development Permit, which is not appealable to the California Coastal Commission.

Environmental Determination: Categorical Exemption

Property Owner: Begonia Plaza, LLC

Representative: Greg Waver, filed 8/14/2015

Planner Cattan presented the staff report and additional images. She noted the store is set well back from 41st Avenue and the intent with the roof sign is to increase visibility. She explained there is no increased parking required for quasi-public seating.

Greg Weaver represented the application. Commissioner Ortiz asked about housing located behind the store and whether the roof sign's illumination will impact it. Mr. Weaver responded that the back panels are solid and the light is only toward the front.

MOTION: Approve a Sign Permit, Design Permit, Conditional Use Permit, and Coastal Development Permit with the following conditions and findings:

CONDITIONS

1. The project approval consists of a Sign Permit, Design Permit, Conditional Use Permit (CUP), and a Coastal Development Permit to allow a new roof sign, canopy, quasi-public outdoor seating area, and outdoor display at the existing New Leaf grocery store at 1210 41st Avenue. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on October 1, 2015, except as modified through conditions imposed by the Planning Commission during the hearing.

2. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
3. The outdoor display area is located at the south-west entrance of the building. The applicant is proposing three produce carts within the 14' x 4' area. The 56-square-foot area may be utilized for outdoor display. The area must be clearly delineated by color or materials (pavers/ stamped concrete) to identify the area permitted within the conditional use permit for outdoor display. No goods or materials utilized for the display may be located outside the delineated area. The area may only be expanded with the approval of a modification to the CUP by the Planning Commission.
4. The outdoor display merchandise shall only be the merchandise of New Leaf. The outdoor display area shall be managed and operated by New Leaf. The outdoor display conditional use permit is not transferable between properties or businesses.
5. All outdoor display merchandise shall only be displayed during business hours.
6. The outdoor display shall not obstruct pedestrian, bicycle, vehicular, or emergency services access and shall maintain four (4) feet of unobstructed access provided, however, that the width of the clear area shall in all events meet all applicable state and federal regulations and building codes, including all barrier-free and ADA requirements.
7. Outdoor vending machines and drop boxes or donation bins shall be prohibited.
8. The outdoor displays shall not contain any information which would routinely be placed on a business sign located on the building such as the name or type of business, hours of business operation, business logo, brand name information, etc. The outdoor display may include a sign which indicates the price of the display item(s) or simply indicates a "sale" on the item(s) limited to 8.5" x 11".
9. All outdoor displays and outdoor seating shall be continuously maintained in a state of order, security, safety and repair. The display surface shall be kept clean, neatly painted, and free of rust, corrosion, protruding tacks, nails and/or wires. Any cracked, broken surfaces, or other unmaintained or damaged portion of a display shall be repaired or replaced or removed within thirty (30) days. No display shall contain obscene, indecent or immoral matter.
10. The outdoor displays must be self-supporting, stable and weighted or constructed to withstand being overturned by wind or contact. The display shall not be permanently affixed to any object, structure or the ground including utility poles, light poles, trees or any merchandise or products displayed outside permanent buildings.
11. The outdoor dining seating area is quasi-public and available for use by patrons of the Begonia Shopping Plaza.

12. No amplified entertainment is approved within this permit (#15-125). An Entertainment Permit is required for any music or entertainment that is audible outside of the structure. An Entertainment Permit may be applied for through the Capitola Police Department.
13. The applicant is responsible for maintaining the area directly in front of the business free from litter and/or graffiti.
14. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans.
15. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
16. Prior to issuance of building permit, all Planning fees associated with permit #15-125 shall be paid in full.
17. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official.
§9.12.010B
18. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.
19. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
20. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
21. The applicant was granted a Conditional Use Permit and Sign Permit to allow outdoor seating, outdoor display, and a roof sign. In any case where the conditions of the permit have not been or are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists therefore, the Planning Commission may revoke the permit.

FINDINGS**A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.**

Community Development Department Staff and the Planning Commission have reviewed the application and determined that the proposed business may be granted a conditional use permit for the outdoor display and outdoor dining area within the CC Zoning District. The use meets the intent and purpose of the Community Commercial Zoning District. Conditions of approval have been included to ensure that the use is consistent with the Zoning Ordinance and General Plan.

B. The application will maintain the character and integrity of the neighborhood.

Community Development Department Staff and the Planning Commission have reviewed the proposed use and determined that the use complies with the applicable provisions of the Zoning Ordinance and maintains the character and integrity of this area of the City. This area of the City is a mix of commercial and residential uses. Conditions of approval have been included to carry out these objectives.

C. This project is categorically exempt under Section 15301 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 an existing retail area with the additional outdoor display and outdoor dining area. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

COASTAL FINDINGS

D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:

- The proposed intersection improvements conform to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.

(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from

subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;

- The proposed commercial use will not impact pedestrian safety to coastal access. The project will not have an impact on demand for access or recreation.

(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;

- No portion of the project is located along the shoreline or beach.

(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);

- There are no adverse impacts on public use.

(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;

- The project will not block or impede the ability of the public to get to or along the

tidelands, public recreation areas, or views to the shoreline.

(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.

- The proposed project will not impact access and recreation. The project does not diminish the public's use of tidelands or lands committed to public recreation nor alter the aesthetic, visual or recreational value of public use areas.

(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:

a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;

b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;

c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.

- The project is not requesting a Public Access Exception, therefore these findings do not apply

(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:

a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;

- The project is located within an existing commercial building that does not have sensitive habitat areas.

b. Topographic constraints of the development site;

- The project is located on a flat area of land.

c. Recreational needs of the public;

- The project does not impact recreational needs of the public.

d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;

e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;

f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.

(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);

- No legal documents to ensure public access rights are required for the proposed project

(D) (6) Project complies with visitor-serving and recreational use policies;

SEC. 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

- The project involves a conditional use within an existing commercial building.

SEC. 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

- The project involves a conditional use within an existing commercial building.

c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

- The project involves a conditional use within an existing commercial building..

(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;

- The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation and/or traffic improvements.

(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;

- The project complies with the design guidelines and standards established by the Municipal Code.

(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;

- The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola's shoreline.

(D) (10) Demonstrated availability and adequacy of water and sewer services;

- The location has existing water and sewer services.

(D) (11) Provisions of minimum water flow rates and fire response times;

- The project involves a conditional use within an existing commercial building. Water is available at the location.

(D) (12) Project complies with water and energy conservation standards;

- The project complies with water and energy conservation standards.

(D) (13) Provision of park dedication, school impact, and other fees as may be required;

- The project will be required to pay appropriate fees prior to building permit issuance.

(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;

- The project does not involve a condo conversion or mobile homes.

(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;

- The project complies with natural resource, habitat, and archaeological protection policies.

(D) (16) Project complies with Monarch butterfly habitat protection policies;

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;

- The project involves a conditional use within an existing commercial building.

(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project

complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;

- The project involves a conditional use within an existing commercial building.

(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;

- The project involves a conditional use within an existing commercial building.

(D) (20) Project complies with shoreline structure policies;

- The proposed project is not located along a shoreline.

(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;

- This use is a conditional use consistent with the Community Commercial zoning district.

(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures.

(D) (23) Project complies with the Capitola parking permit program as follows:

- Parking demand is not increased within the proposal.

| | |
|------------------|-------------------------------|
| RESULT: | APPROVED [UNANIMOUS] |
| MOVER: | Gayle Ortiz, Commissioner |
| SECONDER: | Susan Westman, Commissioner |
| AYES: | Ortiz, Newman, Welch, Westman |
| ABSENT: | Smith |

B. Rispin Park Project 15-151 035-371-01

Conditional Use Permit and Design Permit for a public park located in the AR/VS/R (Automatic Review/Visitor Serving/Residential) Zoning District.

This project requires a Coastal Development Permit, which is appealable to the California Coastal Commission.

Environmental Determination: EIR Addendum

Property Owner: City of Capitola

Representative: Steve Jesberg

Community Development Director Rich Grunow presented the staff report and reviewed the public process leading to the application. He outlined the design options for the existing perimeter wall and proposed amphitheater locations. City Council will make the final design decisions when it authorizes a bid contract. The proposed project will have no impact on the mansion's historic designation.

Designer Mike Arnone walked the commission through the project plan, which focuses on recreating the historic garden elements and adding some public use features. Changes include lining up the entry with the crosswalk on Wharf Road. The historic fountain will be supplied by rain water and the sundial recreated from photographs. For the wall along Wharf Road, the existing wood doorway will be removed to create an open arch and preserved as a relic. Earlier guidance from City Council favored altering the wall to improve visibility, which includes stepping it down from the arch before beginning the open-iron portion of the wall. Inside the park, wrought iron fencing with gates will enclosed the lower portion of the mansion for locking at night.

The proposed amphitheater would be a small venue for speakers, music, or docent programs. Other features include a children's play area using natural and recovered materials and painted silhouettes in the mansion's windows.

Commissioner Newman asked about the seating total for the amphitheater options. Mr. Arnone estimated 30 to 60.

Peter Pethoe distributed information about hostels, which would be permitted in a public facility, and gave an overview of their popularity.

Steve Goodman, property owner across from the Rispin, praised the project. He noted an ongoing concern about trespassing and vandalism and asked for sufficient security, lighting, and/or cameras to discourage these actions.

Commissioner Ortiz said she's been working for decades on the Rispin and is very enthusiastic about this project. She asked if the grant would cover all costs and was told additional city funding would be required. She feels public use will reduce the unappealing incidents.

Commissioner Westman asked about conditions allowing events until 10 p.m. and amplified music. She suggested a condition to limit length of events to four hours given the impact of noise on neighbors. Commissioner Ortiz concurred, noting how sound carries along the creek, and suggested City Council may lower the decibel level. Commissioner Newman noted that could be addressed within event permits if there are complaints. Commissioner Westman prefers location option one or two for the amphitheater.

Commissioner Newman praised the project, saying it will create a terrific public asset. He is enthusiastic about the combination of preserving and sharing history and allowing public access and use.

Commissioner Welch agreed the project is outstanding. He also prefers option one for the amphitheater location.

MOTION: Adopt the EIR Addendum and approve a Conditional Use Permit, Design Permit, and Coastal Development Permit with the following conditions and findings:

CONDITIONS OF APPROVAL

1. The project approval consists of a public park located on the Rispin Mansion property. The proposed use is approved as conditioned by the Planning Commission on October 1, 2015, including conditions imposed by the Planning Commission during the hearing.
2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent

with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans.

3. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
4. At the time of submittal for building permit review, Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
5. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any changes must be consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties.
6. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems. Native and/or drought tolerant species are recommended.

Aesthetics/Visual Quality

7. All site improvements, including signs, fences, walls, entry gates, and other park features must be designed consistent with the character of the Mansion and the historic district.
8. Lighting must be designed to minimize off-site glare. The type, height, and spacing of lighting shall be approved by the City. Lighting must be directed downward and away from Soquel Creek and residences to the east. Lights must be of minimum intensity necessary for safety lighting. Light standards shall be a maximum of 15 feet high.

Air Quality

9. Require implementation of construction practices to minimize exposed surfaces and generation of dust that include the following measures, at a minimum:
 - Exposed earth surfaces shall be watered during clearing, excavation, grading, and construction activities. All construction contracts shall require watering in late morning and at the end of the day.
 - Grading and other earthmoving shall be prohibited during high wind.
 - Cover all inactive storage piles.
 - Maintain at least 2 feet of freeboard for all loaded haul trucks.
 - Throughout excavation activity, haul trucks shall use tarpaulins or other effective covers at all times for off-site transport.
 - Install wheel washers at the entrance to construction sites for all exiting trucks.
 - Sweep streets if visible soil material is carried out from the construction site.
 - Upon completion of construction, measures shall be taken to reduce wind erosion.
 - Revegetation shall be completed as soon as possible.
 - Post a publicly visible sign that specifies the telephone number and person to contact regarding dust complaints and who shall respond to such complaints, and take

corrective action within 48 hours. The phone number of the Monterey Bay Unified Air Pollution Control District shall be visible to ensure compliance with Rule 402 (nuisance).

Biological Resources

10. Pre-construction surveys for nesting raptors shall be performed by a qualified biologist to be retained by the applicant. If raptor nests are located during pre construction surveys, a 300-foot buffer shall be established around each nest for the duration of the breeding season (August 1st, or until such time as the young are fully fledged as determined by a qualified biologist in coordination with the California Department of Fish and Game) to prevent nest harassment and brood mortality. Every effort shall be made to avoid removal of, or impact to, known raptor nests within project boundaries. If trees known to support raptor nests cannot be avoided, limbing or removal of these trees may only occur during the non-breeding season.
11. The applicant shall take proper measures to avoid damage to oaks, cypress and redwood trees. Specifically, grading or construction shall not occur within 15 feet of the base of all oak, cypress and redwood trees unless performed under the supervision of a qualified on-site arborist.
12. Prior to commencement of site preparation, a certified arborist shall be retained to review the construction plans and to provide recommendations to protect trees and their root zones from construction activities. Trees which are removed or mortally damaged during site preparation and construction activities shall be replaced with appropriate native species at a minimum 2:1 ratio.
13. Landscape and ground maintenance workers must be informed of conservation issues regarding overwintering monarch habitat. Leaf blowers shall not be used in monarch habitat areas or outside designated park areas.
14. Site preparation (e.g., tree trimming, tree removal, grading, excavation, and construction) on the project site shall not occur when monarchs are potentially present (October 1 through February 28) unless a qualified monarch biologist determines that monarchs are not present or that activities would not disturb overwintering populations.
15. Use of biological insecticides (including bacteria, viruses, protozoans and nematodes) that are effective in the control of all lepidoptera shall be prohibited throughout the habitat. Chemical insecticides shall not be applied during the overwintering season (October 1 through February 28). Use of chemical insecticide agents during the non-roosting season may be done only if approved by the consulting butterfly expert. Grounds maintenance workers shall be made aware of monarch habitat conservation requirements as they pertain to grounds management.
16. The following measures, at a minimum, shall be implemented during the time when monarchs are potentially present in the habitat (October 1 through February 28, or as determined by the monarch biologist):
 - All pedestrians/visitors/guests shall be kept outside of the monarch roosting area by monarch biologist approved fencing.
 - Outdoor events will be limited to designated portions of the Mansion property (i.e., amphitheater and developed park areas) to avoid roosting area disruption.

- Outside night-lighting shall utilize low wattage bulbs and fixtures that are mounted close to ground level and directed away from the roosts. In addition, lighting shall not be directed toward Soquel Creek or on-site riparian vegetation.
17. The removal of any riparian or upland trees on the Rispin site that provide shade to Soquel Creek shall not be allowed unless immediately replaced. The amount of shading within the creek currently supplied by Rispin property trees shall be established as a baseline, and any actions reducing this percentage shall require management to improve stream shading by a City approved forester/botanist. Such management shall include planting of native riparian tree species along the creek (i.e. big-leaf maple, sycamore, alder, cottonwood, box elder, willow), to provide shade and aid in cooling of the creek, and to enhance habitat.
18. Protect the eucalyptus grove and patches of redwood trees as valuable sources of shade to the stream, erosion prevention on the steep slope, and as monarch butterfly habitat.
19. The addition of impermeable surfaces at the Rispin Mansion site shall be accompanied with an effective drainage plan. This drainage plan shall ensure the capture of any increase in runoff on the bench (as much as is feasible), without additional overland movement of water down the steep slope toward the creek (to minimize erosion and sedimentation, and the introduction of pollutants).
20. Replace the fence above the retaining wall of the Rispin Mansion to exclude people from accessing the creek through created footpaths.
21. To avoid disturbance to steelhead (and other aquatic or semi-aquatic wildlife), nighttime lighting of the riparian habitat and/or Soquel Creek shall not be allowed. On-site lighting required for Mansion grounds shall not be oriented towards the creek.

Cultural Resources

22. In the event that any archaeological or paleontological resources or human remains are discovered during grading or construction anywhere on the site, work shall be ceased within 150 feet of the find until it can be evaluated by a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented in accordance with CEQA Section 15064.5. All identified archaeological sites should be evaluated using the California Register of Historical Resources criteria, established by the State Office of Historic Preservation. Any discoveries shall be reported to the City Planning Director.
23. In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps shall be taken:
- 1) There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
 - A. The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and
 - B. If the coroner determines the remains to be Native American:
 1. The coroner shall contact the Native American Heritage Commission within 24 hours.

2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American.
 3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98, or
- 2) Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.
- A. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the Commission.
 - B. The descendent identified fails to make a recommendation; or
 - C. The landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

Noise

24. Construction activity shall be subject to a noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B
25. Events and entertainment provided on the property shall meet the following conditions:
- Hours of operation for events and live entertainment must be restricted to 8:00 a.m. to 10:00 p.m. (consistent with Chapter 9.12 of the Municipal Code, the Noise Ordinance).
 - Hours of operation for amplified outdoor music use or microphones shall be restricted to 8:00 a.m. to 9:00 p.m.
 - Events shall be limited to four hours or less per day.
26. The City shall require that the construction contractor implement noise control measures (Best Construction Management Practices) during project construction, as outlined below:
- Require use of construction equipment and haul trucks with noise reduction devices, such as mufflers, that are in good condition and operating within manufacturers' specifications.
 - Require selection of quieter equipment (e.g., gas or electric equipment rather than diesel-powered equipment), proper maintenance in accordance with manufacturers' specifications, and fitting of noise-generating equipment with mufflers or engine enclosure panels, as appropriate.
 - Prohibit vehicles and other gas or diesel-powered equipment from unnecessary warming up, idling, and engine revving when equipment is not in use and encourage good maintenance practices and lubrication procedures to reduce noise.

- Construct temporary plywood barriers around particularly noisy equipment or activities at appropriate heights.
- Locate stationary noise sources, when feasible, away from residential areas and perform functions such as concrete mixing and equipment repair off-site.

Public Services

27. The applicant shall apply for water connection approval ("will serve" letter) from the SCWD.
28. The number and size of all water meters shall be determined by SCWD.
29. The final design shall satisfy all conditions for water conservation required by SCWD at the time of application for service (as detailed in their water efficiency checklist package), including the following:
- Plans for a water efficient landscape and irrigation system that meet SCWD's conservation requirements;
 - All interior plumbing fixtures shall be low-flow and all applicant-installed water-using appliances (e.g., dishwashers, clothes washers, etc.) shall have the EPA Energy Star label;
 - Inspection by SCWD staff of the completed project for compliance with all conservation requirements prior to commencing water service.

Stormwater & Drainage

30. The owner/developer/applicant shall obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity Construction General Permit Order 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation.

The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP shall be developed and amended or revised by a Qualified SWPPP Developer (QSD). The SWPPP shall be designed to address the following objectives:

- All pollutants and their sources, including sources of sediment associated with construction, construction site erosion and all other activities associated with construction activity are controlled;
- All storm water discharges are identified and either eliminated, controlled, or treated;
- Site Best Management Practices (BMPs) are effective and result in the reduction or elimination of pollutants in storm water discharges and authorized non-storm water discharges from construction activity to the BAT/BCT(best available technology/best conventional technology) standard;
- Calculations and design details as well as BMP controls for site run-on are complete and correct, and;
- Stabilization BMPs installed to reduce or eliminate pollutants after construction are completed. To demonstrate compliance with requirements of this General Permit, the QSD shall include information in the SWPPP that supports the conclusions, selections, use and maintenance of BMPs. Section XIV of the

Construction General Permit describes the elements that must be contained in the SWPPP.

31. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID). (Disconnect direct discharge of drainage). The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
32. Grading during the rainy season (October 1 – April 30) shall be restricted to the approval, installation, and maintenance of an erosion and sediment control plan.
33. Graded slopes shall be revegetated with appropriate native plant species immediately following completion of grading.
34. The use of fertilizers and herbicides applied to the Rispin landscaping and gardens shall be minimized to the extent possible. Utilize slow-release chemical fertilizers and herbicides and avoid application prior to scheduled irrigation. The use of fertilizers and herbicides on-site must not conflict with the relevant mitigation intended to protect monarch butterflies.
35. The City of Capitola shall continue its efforts to implement the Soquel Creek Lagoon Enhancement project, and work with the County to ensure that other storm drain and water quality improvements are implemented to reduce cumulative watershed impacts.

FINDINGS

A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.

The Planning Commission required conditions with respect to construction and operation of the project to ensure that the proposed public park does not have a negative impact on the historic character of the property or on surrounding residential properties to secure the general purposes of the Zoning Ordinance and General Plan.

B. The application will maintain the character and integrity of the neighborhood.

The Planning Commission reviewed the application and imposed conditions to preserve the character and identity of the neighborhood. Proposed park improvements would be consistent with existing community character.

C. An Addendum to a previously certified Environmental Impact Report has been prepared in accordance with CEQA §15163

The proposed project would not result in any new or more severe environmental impacts than what was previously evaluated and reported in the certified Rispin Mansion EIR (September, 2004) as documented in the attached EIR Addendum for the Rispin Park project.

COASTAL FINDINGS

D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.

(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;

- The project would involve restoration of the historic Rispin Mansion grounds and development of an approximately .86-acre public park. The proposed project would provide an improved visitor-serving amenity in the coastal zone and would not impede access to the coast.

(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site.

Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;

- The proposed project is located along Wharf Road. No portion of the project is located along the shoreline or beach.

(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);

- The proposed project would restore and improve an existing open space area which is accessible to the public. The project would enhance visitor-serving opportunities in the coastal zone.

(E) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;

- The property would remain open to the public as a public park. The project would not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.

- The proposed project would enhance recreational opportunities in the coastal zone.

(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:

a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;

b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;

c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.

- The project is not requesting a Public Access Exception, therefore these findings do not apply

(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:

a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;

- The project is located near the Soquel Creek corridor and designated monarch butterfly habitat areas. The project has been conditioned to avoid/minimize impacts to the creek and habitat areas. Appropriate mitigation measures have been applied to protect sensitive biological resources.

b. Topographic constraints of the development site;

- The project site has gentle slopes which will remain. Minor grading (approximately 380 cubic yards) will be required to construct ADA compliant pathways.

c. Recreational needs of the public;

- The project would enhance recreational opportunities in the coastal zone.

d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;

- The project would enhance public access through the park. No buildings are proposed which could require setbacks.

e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;

- The property is publicly owned; no offers of dedication are necessary.

f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.

- The project is intended to enhance public use and access. Appropriate fencing and landscaping is included in the project to prevent trespass into sensitive areas while allowing visitors to enjoy useable open space and recreational amenities.

(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);

- The proposed park is located on city-owned property and would be open to the public.

(D) (6) Project complies with visitor-serving and recreational use policies;

- The project involves improvements to an existing public park area which will enhance visitor-serving opportunities.

SEC. 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

- The proposed public park would provide improved visitor-serving opportunities in the coastal zone and would not preclude future commercial development of the mansion.

SEC. 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

- The proposed park would provide improved coastal recreational opportunities.

c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

- The proposed park would provide improved visitor-serving opportunities in the coastal zone.

(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;

- The project site has existing pedestrian access from Wharf Road and the Nob Hill

shopping center. Parking is available at the City library, along Wharf Road, and in the shopping center parking lot.

(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;

- The project complies with the design guidelines and standards established by the Municipal Code.

(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;

- The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola's shoreline.

(D) (10) Demonstrated availability and adequacy of water and sewer services;

- The project is located on a legal lot of record with available water and sewer services.

(D) (11) Provisions of minimum water flow rates and fire response times;

- The project is located within close proximity of the Capitola fire department. Water is available at the location.

(D) (12) Project complies with water and energy conservation standards;

- The proposed public park would use drought-tolerant landscaping and energy efficient security lighting. Water use would be limited to a new drinking fountain and minimal irrigation to establish and maintain landscaping. All water use shall be subject to water conservation standards established by the City and Soquel Creek Water District.

(D) (13) Provision of park dedication, school impact, and other fees as may be required;

- The project will be required to pay appropriate fees prior to building permit issuance.

(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;

- The project does not involve a condo conversion or mobile homes.

(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;

- Conditions of approval and mitigation measures have been included to ensure compliance with established policies.

(D) (16) Project complies with Monarch butterfly habitat protection policies;

- The project has been conditioned to avoid, minimize, and mitigate potential impacts to monarch butterfly habitat as documented in an Addendum to a previously certified Environmental Impact Report.

(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;

- Conditions of approval have been included to ensure compliance with applicable erosion control measures.

(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;

- The proposed park project involves minimal grading to construct ADA compliant pathways. No buildings or habitable structures are proposed and the site is not located near a coastal bluff.

(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;

- The project does not include buildings or habitable structures. The site is not located in a high risk fire zone or in a flood way or flood plain.

(D) (20) Project complies with shoreline structure policies;

- The proposed project is not located along or near the shoreline.

(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;

- This use is a conditional use consistent with the AR/VS/R zoning district.

(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures.

(D) (23) Project complies with the Capitola parking permit program as follows:

- The project site is located outside the Capitola residential parking permit program.

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| RESULT: | APPROVED [UNANIMOUS] |
| MOVER: | Edward Newman, Commissioner |
| SECONDER: | Gayle Ortiz, Commissioner |
| AYES: | Ortiz, Newman, Welch, Westman |
| ABSENT: | Smith |

C. Consideration of the Draft Climate Action Plan for City Council Adoption

Planning Commission recommendation for adoption of the proposed Climate Action Plan.
 Environmental Determination: Addendum to the General Plan EIR
 Applicant: City of Capitola
 Representative: Rich Grunow

Director Grunow presented an overview of the plan and noted there were few changes since the draft came before the commission to initiate public comment. Reductions of greenhouse gases to meet state targets require regional efforts and the City is projected to meet these targets through the next 20 years. Reduction methods include measures in transportation, energy, water, and solid waste. The plan is written to provide flexibility for implementation with a menu of options to achieve goals. The final draft incorporated suggestions from the Commission on the Environment and added a list of acronyms. One request that was not included is a point-of-sale retrofit requirement.

Commissioner Ortiz asked what type of oversight there is and was told there is no state auditing process.

Commissioner Westman likes the five-year update schedule to address new possibilities.

Commissioner Newman said he hopes the enhancement of the green building program does not mean more regulations placed on those wanting to work on their property but will instead promote education, awareness, and encouragement. He favors regional standards for consistency.

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| RESULT: | RECOMMENDED [UNANIMOUS] |
| MOVER: | Susan Westman, Commissioner |
| SECONDER: | Gayle Ortiz, Commissioner |
| AYES: | Ortiz, Newman, Welch, Westman |
| ABSENT: | Smith |

6. DIRECTOR'S REPORT

Director Grunow noted the recently approved Orchard Supply project is underway. There has been some concern about impact on the parking area and staff is working on it.

The new Accela program is up and running for agenda management.

City Council begins zoning update special meetings starting Oct. 19.

A public workshop to discuss the new library will be Oct. 28 at Jade St, time TBA.

7. COMMISSION COMMUNICATIONS

Commission Westman expressed concerns about using the new agenda system particularly for viewing plans, but realized she should have received physical plans for the Rispin project.

8. ADJOURNMENT

Minutes Acceptance: Minutes of Oct 1, 2015 7:00 PM (Approval of Minutes)



STAFF REPORT

TO: PLANNING COMMISSION
 FROM: COMMUNITY DEVELOPMENT
 DATE: NOVEMBER 5, 2015
 SUBJECT: **1200 41st Avenue Suite F #15-167 APN: 034-101-38**

Conditional Use Permit for a Restaurant (Naka Sushi) with onsite consumption of food, beer, and wine located in the CC (Community Commercial) Zoning District. This project is in the Coastal Zone and requires a Coastal Development Permit, which is not appealable to the California Coastal Commission.
 Environmental Determination: Categorical Exemption
 Property Owner: Begonia Plaza, LLC
 Representative: Tyrone McConney, filed 10/13/2015

APPLICANT PROPOSAL

The applicant submitted a request for a Coastal Development Permit and Conditional Use Permit (CUP) for a restaurant at the existing Begonia Plaza located at 1200 41st Avenue Suite #F in the CC (Community Commercial) zoning district. The proposed use is consistent with the General Plan, Local Coastal Plan, and Zoning Ordinance with the issuance of a Conditional Use Permit.

DISCUSSION

The property is located at 1200 41st Avenue within the Begonia Plaza. Begonia Plaza is a multi-tenant building with a mix of commercial land uses including: retail, restaurants, personal service establishments, a grocery store, and a fitness center. Suite F was a prior party supply store and more recently an office. It is located adjacent to a hair and nail salon.

There is a master use permit for the Begonia Plaza. Within the master use permit, a restaurant is listed as a conditional use. A restaurant is defined as "a retail food service establishment in which food or beverage is prepared and sold for on-site consumption". The owner is also seeking applying for onsite consumption of beer and wine. A conditional use permit is required for the restaurant use and the sale of beer and wine.

Conditional Use Permit

In considering an application for a CUP, the Planning Commission must give due regard to the nature and condition of adjacent uses and structures. The municipal code lists additional requirements and review criteria for some uses within the CUP consideration (§17.60.030). There are no specific considerations or requirements for a restaurant within the ordinance. In issuing the CUP, the Planning Commission may impose requirements and conditions with respect to location, design, siting, maintenance and operation of the use as may be necessary for the protection of the adjacent properties and in the public interest.

The restaurant will be open daily from 5:30 PM to 9:30 PM. No live music or entertainment is proposed. Food is prepared in the kitchen for onsite consumption, carry out, or delivery. The suite is approximately 1,000 square feet. The food preparation area will be behind the sushi bar along the side wall. The majority of the restaurant will be utilized for dining. No changes are proposed to the exterior façade of the building.

Parking

There are 173 parking spaces at the Begonia Plaza. The master use permit requires 1 space per 240 square feet of occupied tenant space. The 1,000 square foot commercial space is required to have 5 parking spaces. There is no change to the onsite parking requirement for Suite F.

CEQA

This project is categorically exempt under Section 15301 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 a restaurant within an existing commercial space. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

RECOMMENDATION

Staff recommends the Planning Commission approve application #15-167, subject to the following conditions and based upon the following findings:

CONDITIONS

1. The project approval consists of a Coastal Development Permit and Conditional Use Permit for a restaurant with onsite sale and consumption of beer and wine at the new Naka Sushi restaurant located at 1200 41st Avenue, Unit F, Capitola, CA. No modifications to the exterior or interior of the building are proposed. Parking requirements are not affected by this application.
2. The establishment must maintain a valid license from California Alcohol Beverage Control. A copy of the approved Department of Alcoholic Beverage Control Permit must be filed with the Community Development Department prior to initiating beer and wine sales.
3. No live or amplified entertainment is approved within this permit (15-167). An Entertainment Permit is required for any entertainment that is audible outside of the structure. An Entertainment Permit may be applied for through the Capitola Police Department.
4. Patrons shall not be allowed to leave with open alcoholic beverage containers.
5. Permits are non-transferrable.
6. The applicant shall receive permission from ABC prior to November 4, 2017. The conditional use permit will expire in the case where the conditional use permit has not been used within two years after the date of granting thereof. Any interruption or cessation beyond the control of the property owner shall not result in the termination of such right or privilege. A permit shall be deemed to have been "used" when actual substantial, continuous activity has taken place upon the land pursuant to the permit.

7. The applicant is required to complete and follow the Responsible Beverage Service (RBS) practices and procedures. Employees who serve alcoholic beverages are required to attend and complete L.E.A.D.S. training offered by the Capitola Police Department.
8. The applicant is responsible for maintaining the area directly in front of the business free from litter and/or graffiti.
9. The applicant was granted a conditional use permit for a restaurant with the sale of beer and wine. In any case where the conditions of the permit have not been or are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists therefore, the Planning Commission may revoke the permit.

FINDINGS

A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.

Community Development Department Staff and the Planning Commission have reviewed the application and determined that the proposed restaurant with the sale of beer and wine may be granted a conditional use permit within the CC Zoning District. The use meets the intent and purpose of the Community Commercial Zoning District. Conditions of approval have been included to ensure that the use is consistent with the Zoning Ordinance and General Plan.

B. The application will maintain the character and integrity of the neighborhood.

Community Development Department Staff and the Planning Commission have reviewed the proposed use and determined that the use complies with the applicable provisions of the Zoning Ordinance and maintain the character and integrity of this area of the City. The restaurant is located in a commercial plaza. Conditions of approval have been included to carry out these objectives.

C. This project is categorically exempt under Section 15301 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 a restaurant within an existing commercial plaza. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

COASTAL FINDINGS

D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.

(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;

- The proposed project is located at 1200 41st Avenue. The business is not located in an area with coastal access. The use permit will not have an effect on public trails or beach access.

(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;

- The proposed project is located at 1200 41st Avenue. No portion of the project is located along the shoreline or beach.

(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);

- There is no history of public use on the subject lot.

(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;

- The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.

- The proposed project is located on private property that will not impact access and recreation. The project does not diminish the public's use of tidelands or lands committed to public recreation nor alter the aesthetic, visual or recreational value of public use areas.

(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:

a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;

b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;

c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.

- The project is not requesting a Public Access Exception, therefore these findings do not apply.

(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:

a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;

- The project is located in an existing commercial building. There are no sensitive habitat areas on the property.

b. Topographic constraints of the development site;

- The project is located on a flat lot.

c. Recreational needs of the public;

- The project does not impact recreational needs of the public.

d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;

e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;

f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.

(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);

- No legal documents to ensure public access rights are required for the proposed project

(D) (6) Project complies with visitor-serving and recreational use policies;

SEC. 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

- The project involves a commercial use within an existing commercial lot of record.

SEC. 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

- The project involves a commercial use within an existing commercial lot of record.

c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

- The project involves a commercial use within an existing commercial lot of record.

(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;

- The project involves a commercial use within an existing commercial lot of record. The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation and/or traffic improvements.

(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;

- The project complies with the design guidelines and standards established by the Municipal Code.

(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;

- The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola's shoreline.

(D) (10) Demonstrated availability and adequacy of water and sewer services;

- The project is located on a legal lot of record with available water and sewer services.

(D) (11) Provisions of minimum water flow rates and fire response times;

- The project is located within close proximity of the Central Fire District. Water is available at the location.

(D) (12) Project complies with water and energy conservation standards;

- The project is a commercial use within an existing commercial lot of record. The GHG emissions for the project are projected at less than significant impact. All water fixtures must comply with the low-flow standards of the Soquel Creek Water District.

(D) (13) Provision of park dedication, school impact, and other fees as may be required;

- The project will be required to pay appropriate fees prior to building permit issuance.

(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;

- The project does not involve a condo conversion or mobile homes.

(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;

- The project involves a commercial use within an existing commercial building. There are no impacts to natural resource, habitat, and archaeological resources.

(D) (16) Project complies with Monarch butterfly habitat protection policies;

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;

- There are no modifications to drainage on the site proposed within the application. The footprint of the building is not being modified.

(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;

- There are no structures proposed therefore geological engineering reports are not required.

(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;

- All geological, flood, and fire hazards are accounted for and mitigated in the project design.

(D) (20) Project complies with shoreline structure policies;

- The proposed project is not located along a shoreline.

(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;

- This use is an allowed use consistent with the Central Village zoning district.

(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures.

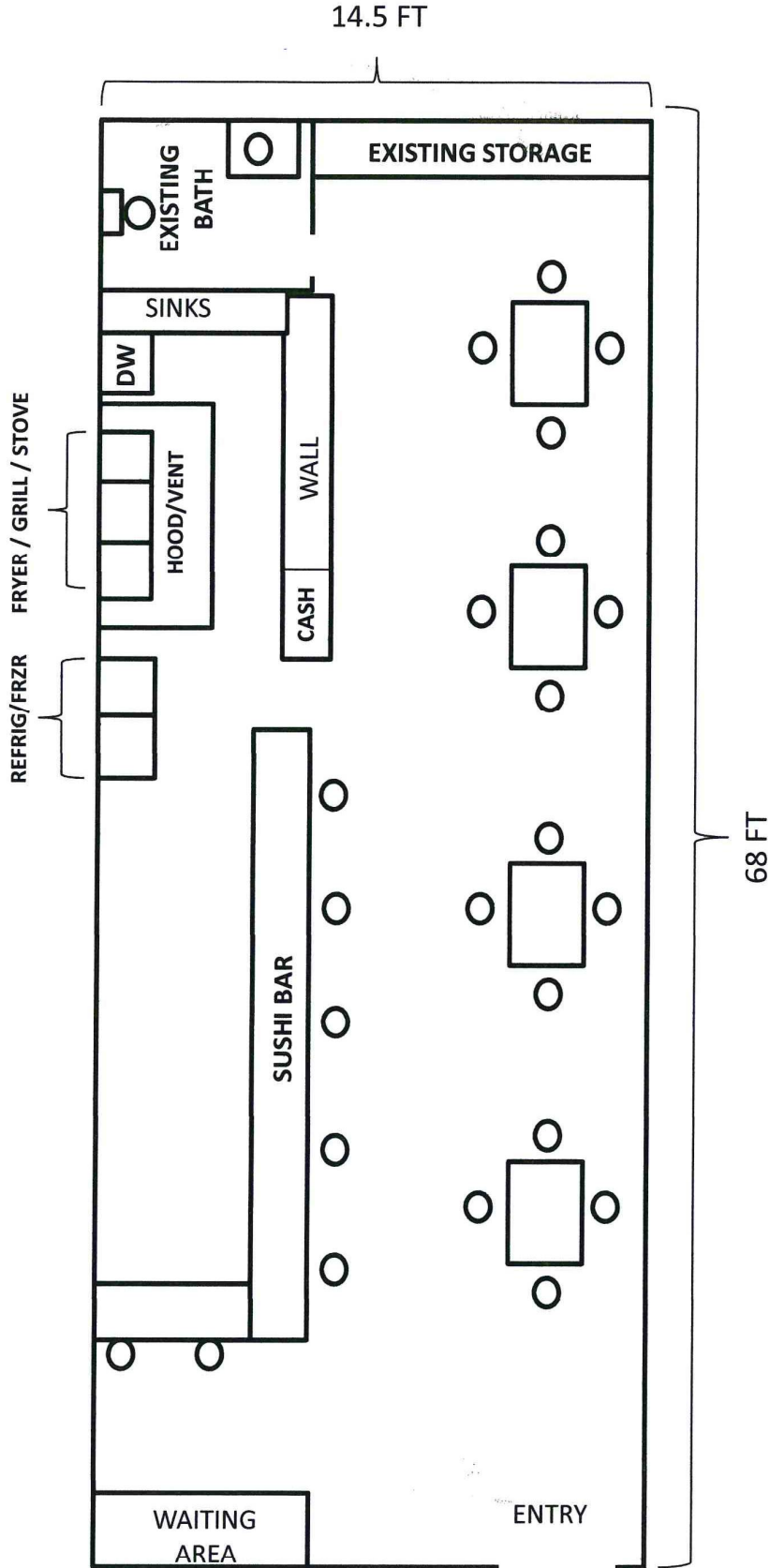
(D) (23) Project complies with the Capitola parking permit program as follows:

- The project is located outside Capitola's parking permit program.

ATTACHMENTS:

1. 1200 41st Floor Plan
2. 1200 41st Management Plan.pdf

Prepared By: Katie Cattan
Senior Planner



NAKA SUSHI RESTAURANT
1200 41ST AVENUE, SUITE F, CAPITOLA, CA 95010
PROPOSED REMODEL OF EXISTING 1000 SF SPACE

Naka Sushi Restaurant
851 41st Avenue
Santa Cruz, CA 95062

Management Plan

Relocation of Naka Sushi Restaurant to Begonia Plaza

BACKGROUND: Established in 1991, Naka Sushi is a locally owned Japanese restaurant established in 1991 in Santa Cruz. The owners, Masao (Naka-san) and Keiko Nakagawa are highly respected members of the local business community having operated the restaurant from the same location for the past 25 years. With a new landlord and changing circumstances at the existing Santa Cruz location, the restaurant is seeking a new, long term home and has entered into a lease agreement with Begonia Plaza LLC in Capitola. While the new site is only 1/2 mile from the current location, the relocation would now place the restaurant into the Capitola city limits. This close proximity provides continuity and convenience to the existing customer base while introducing a legendary local restaurant to Capitola.

RESPONSIBLE PARTIES:

Masao and Keiko Nakagawa - principal owners
Ty McConney - co-owner

SERVICE: The vast majority of food served in the restaurant is sushi. The restaurant will require minimal cooking facilities for boiling and frying some appetizer dishes. Similar to our current location, the restaurant will serve beer and wine to patrons. Naka Sushi Restaurant has responsibly owned an ABC license for over 25 years without incident.

HOURS OF OPERATION: Historically, Naka Sushi is open for dinner only from 5:30 PM to 9:30 PM. The restaurant is planning to continue operating with the same evening business hours in the Begonia location. Offsetting business hours from the other Begonia tenants should help to alleviate parking concerns.

SEATING: Most patrons will dine at the sushi bar which is planned for 5 to 7 seats. Other customers will dine at several small tables which will accommodate approximately 15 additional seats.

FLOORSPACE & RENOVATION: The restaurant will occupy the existing 1,000 SF space at Begonia Plaza, Suite F. The internal space will be renovated into a sushi restaurant which will contain a sushi bar, seating area and a kitchen preparation area. No modifications to the exterior of the building are proposed.

EMPLOYEES: There are a total of six (6) employees at the restaurant which includes three (3) family members.

ENTERTAINMENT: No live or amplified entertainment is offered at the restaurant.

CUSTOMER SATISFACTION: Naka Sushi has a reputation for high quality and authenticity. Customer satisfaction ratings are consistently high as noted below:

Trip Advisor - 5 Stars

Facebook - 5 Stars

Google+ 5 Stars

YELP - 4 Stars

(ratings as of October 2015)



STAFF REPORT

TO: PLANNING COMMISSION
 FROM: COMMUNITY DEVELOPMENT
 DATE: NOVEMBER 5, 2015
 SUBJECT: **3555 Clares Street Ste. LL #15-159** **APN: 034-261-57**

Conditional Use Permit for the onsite consumption of Beer and Wine at Taqueria Tepeque restaurant located in the CC (Community Commercial) Zoning District. This project is not in the Coastal Zone and does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Brown Ranch Properties

Representative: Sheila Cortez DBA "Taqueria Tepeque", filed 9/30/15

APPLICANT PROPOSAL

The applicant submitted a request for a Conditional Use Permit (CUP) for the onsite sale and consumption of beer and wine at the existing multi-tenant commercial building located at 3555 Clares Street Suite 'LL' in the CC (Community Commercial) zoning district. The proposed use is consistent with the General Plan and Zoning Ordinance with the issuance of a Conditional Use Permit.

BACKGROUND

Brown Ranch Marketplace received a Conditional Use Permit in 1993 for public outdoor seating. The permit allows a maximum of 15 tables and 36 chairs throughout the shopping center. There are three tables located in front of the existing Taqueria Tepeque restaurant that were included in the 1993 approval. The outdoor seating is quasi-public and shared amongst the entire center and are not for private use. The applicant is proposing to add a liquor license to their existing restaurant. There are no proposed changes to the interior or exterior of the building, therefore Architectural and Site Review was not required for this application.

DISCUSSION

The property is located at 3555 Clares Street suite 'LL' within the Brown Ranch Marketplace commercial center. The property is adjacent to commercial uses within the Brown Ranch Marketplace, as well as the Capitola Mall to the south. Due north of the subject property are single-family residences, which are separated from Brown Ranch by a masonry wall and a row of mature trees.

Conditional Use Permit

The applicant is requesting a Conditional Use Permit for Type 41 liquor license for the onsite sale and consumption of beer and wine within the existing Taqueria Tepeque Restaurant. The restaurant previously had an approved Type 41 liquor license for the sale of beer and wine in

2004, but it was automatically revoked in 2010 due to a failure to make payments. The previous permit has expired and therefore Planning Commission approval of a CUP is required.

In considering an application for a CUP, the Planning Commission must give due regard to the nature and condition of adjacent uses and structures. The municipal code lists additional requirements and review criteria for some uses within the CUP consideration (§17.60.030). There are no specific considerations or requirements for the sale of alcohol within the ordinance. In issuing the CUP, the Planning Commission may impose requirements and conditions with respect to location, design, siting, maintenance and operation of the use as may be necessary for the protection of the adjacent properties and in the public interest.

The restaurant hours are Monday through Saturday from 9 AM to 9 PM, and Sunday from 9 AM to 5 PM. No live music or entertainment is proposed. Food is prepared in the kitchen for onsite dining or carry out. The conditions of the permit will limit alcohol sales to onsite consumption of beer and wine within the restaurant. No alcohol may be served in the shared Brown Ranch outdoor dining area. No changes are proposed to the interior layout of the restaurant, the exterior façade, or the existing sign. Parking requirements are not influenced by the application.

Staff met with Police Chief Escalante to discuss the alcohol permit. The Chief did not have any concerns with the application. Conditions have been added to the permit to ensure beer and wine are only served onsite, no entertainment is allowed without a permit, and that the permit may be brought back to Planning Commission if any issues were to arise.

CEQA

This project is categorically exempt under Section 15301 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 an existing restaurant use serving beer and wine within an existing restaurant space. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

RECOMMENDATION

Staff recommends the Planning Commission approve application #15-159, subject to the following conditions and based upon the following findings:

CONDITIONS

1. The project approval consists of a Conditional Use Permit to allow onsite sale and consumption of beer and wine at the existing Taqueria Tepeque Restaurant located at 3555 Clares Street Suite LL, Capitola, CA. No modifications to the exterior or interior of the building are proposed. Parking requirements are not affected by this application.
2. The establishment must maintain a valid license from the Alcohol Beverage Control. A copy of the approved Department of Alcoholic Beverage Control Permit must be filed with the Community Development Department prior to initiating beer and wine sales.
3. No live or amplified entertainment is approved within this permit (#15-159). An Entertainment Permit is required for any entertainment that is audible outside of the structure. An Entertainment Permit may be applied for through the Capitola Police Department.
4. Patrons shall not be allowed to leave with open alcoholic beverage containers.
5. Permits are non-transferrable.

6. The applicant shall receive permission from ABC prior to November 5, 2017. The conditional use permit will expire in the case where the conditional use permit has not been used within two years after the date of granting thereof. Any interruption or cessation beyond the control of the property owner shall not result in the termination of such right or privilege. A permit shall be deemed to have been “used” when actual substantial, continuous activity has taken place upon the land pursuant to the permit.
7. The applicant is required to complete and follow the Responsible Beverage Service (RBS) practices and procedures. Employees who serve alcoholic beverages are required to attend and complete L.E.A.D.S. training offered by the Capitola Police Department.
8. The applicant is responsible for maintaining the area directly in front of the business free from litter and/or graffiti.
9. The applicant was granted a conditional use permit for the sale of beer and wine. In any case where the conditions of the permit have not been or are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists therefore, the Planning Commission may revoke the permit.

FINDINGS

A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.

Community Development Staff and the Planning Commission have reviewed the project and determined that the proposed use is permitted in the CC (Community Commercial) Zoning District with a Conditional Use Permit. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance and General Plan.

B. The application will maintain the character and integrity of the neighborhood.

Community Development staff and the Planning Commission have reviewed the project and determined that the proposed beer and wine sales within the existing restaurant will not have a negative impact on the character and integrity of the commercial area. Conditions of approval have been included to ensure that the project maintains the character and integrity of the area.

C. This project is categorically exempt under Section 15301 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 a conditional use permit to allow sale of beer and wine within an existing restaurant. No adverse environmental impacts were discovered during project review by either the Community Development staff or the Planning Commission.

ATTACHMENTS:

1. Management Plan

Prepared By: Ryan Safty
Assistant Planner

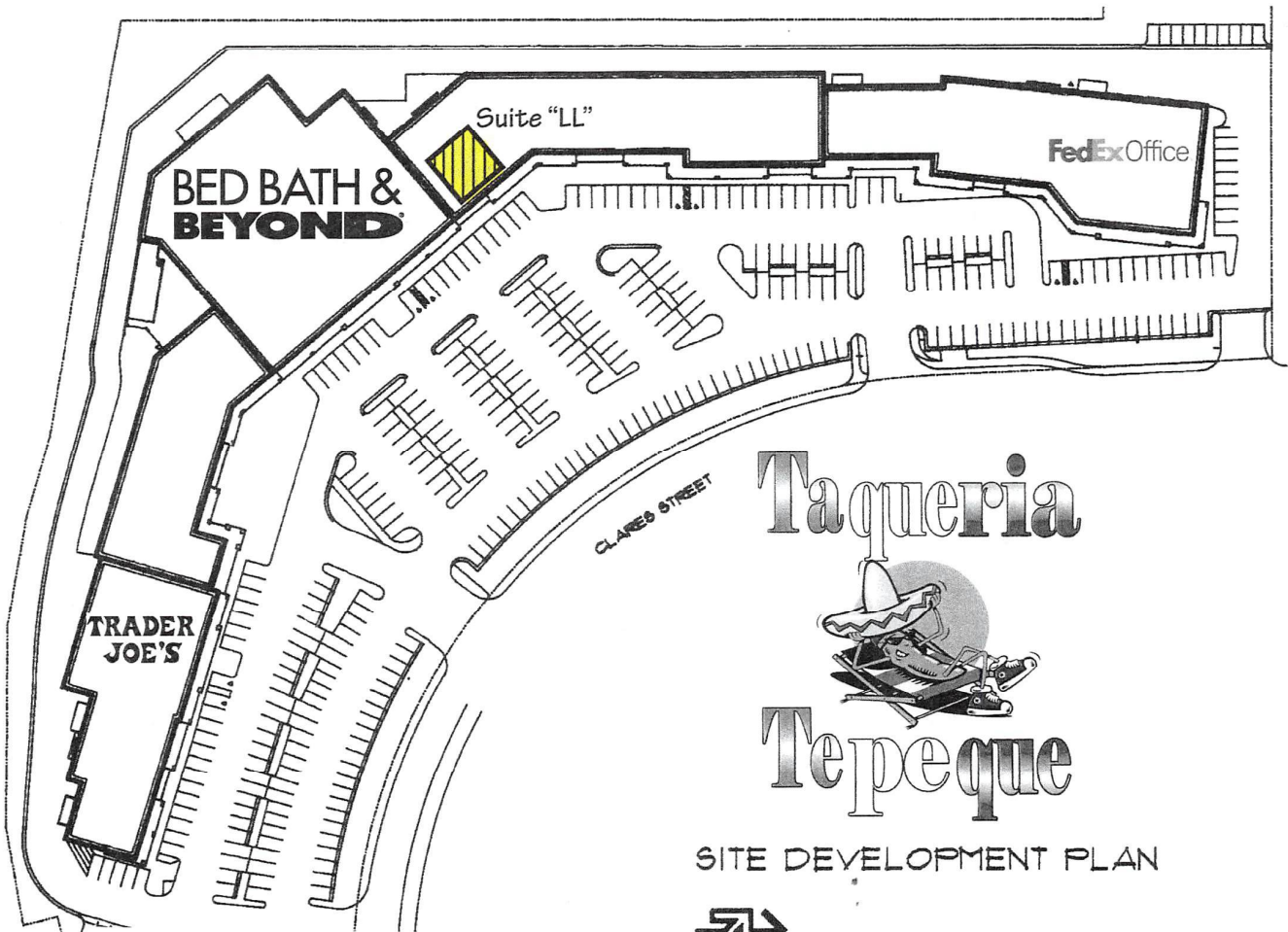
BROWN RANCH MARKETPLACE

3555 Clares Street • Capitola, CA 95010

RECEIVED

SEP 30 2015

CITY OF CAPITOLA



Attachment: Management Plan (1223 : 3555 Clares Street Ste. LL)



Inside

Outside



Inside the Store



Outside the store - shared public seating

Attachment: Management Plan (1223 : 3555 Clares Street Ste. LL)

Taqueria Tepeque

September 2015

Conditional Use Permit Application for Alcohol Sales

Business Plans: We intend to continue running the restaurant in the same manner as it has operated for the past 13 years under the same owners. We serve authentic Mexican food freshly prepared in our kitchen along with soft drinks, aguas frescas (traditional Mexican drinks) and other non-alcoholic beverages. The only change we propose is to acquire a Type 41 On-Sale beer and wine license.

Hours of Operations: We generally open Monday through Saturday 9 AM until 9 PM and Sunday 9AM until 5 PM. There will be no change to our hours.

Live Music: There will be no live music.

Current Operations: We are a restaurant serving food for eating and take out.

Type of Liquor License: Type 41 – On-Sale Beer & Wine for Bona Fide Eating Place

Signs: No change to the signs

Interior Layout/Seating Changes: No change to the interior or the seating.





STAFF REPORT

TO: PLANNING COMMISSION
 FROM: COMMUNITY DEVELOPMENT
 DATE: NOVEMBER 5, 2015
 SUBJECT: **1575 38th Avenue #15-160 APN: 034-181-17**

11 lot Subdivision, Design Permit and Conditional Use Permit for 5 duplex townhomes and 1 single family home, and Variance request for decreased front and side yard setbacks in the CN (Neighborhood Commercial) zoning district.

This project is not located in the Coastal Zone.

Environmental Determination: The project qualifies for a General Plan exemption under CA Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183.

Property Owner: Joe Appenrodt, filed 10/7/2015

Representative: Matthew Thompson, Architect

APPLICANT PROPOSAL

The applicant submitted a subdivision, design permit, and conditional use permit application for a new multi-family development located at 1575 38th Avenue in the CN (Neighborhood Commercial) zoning district. The CN zone requires a conditional use permit for “multiple dwellings and groups or combinations thereof”. The application requires approval of a variance for the proposed reduced front and side yard setbacks within the CN zone.

BACKGROUND

In 2013, the City Council approved a 23 unit senior housing project on this site. The approval expired on June 27, 2015. The property was sold and the new owner has developed an alternative development scenario. On July 10, 2015, the new owner submitted a conceptual review application for an 11 unit multi-family housing development.

The Planning Commission reviewed the conceptual plans during their September 3, 2015 meeting (Attachment 8. Minutes). The Planning Commission advised the applicant to submit the application under the current CN zoning designation rather than as a Planned Development. Several Planning Commissioners expressed they would prefer some commercial at the site but understood that a multi-family housing development is conditionally permitted within the zone.

The City Council provided feedback on the conceptual review during their September 24, 2015 meeting (Attachment 9. Minutes). The City Council echoed the Planning Commissions direction in regards to processing the application under the existing zoning rather than a Planned Development. The City Council stated support for the project as designed. The Council included additional comments for alternatives on the site including commercial mixed use,

increased density, additional affordable housing, and contextual design modifications to fit into the surrounding urban environment.

In response to the Planning Commission and City Council comments, the applicant included language in the CC&Rs designating Lot 1 and Lot 8 as live-work units that “may be used as such in compliance with the City of Capitola Home Occupation Ordinance, or any successor thereto”. Home occupancies are limited in terms of onsite advertising, sales, employees, and number of customers (Attachment 10. Home Occupation Ordinance). If the Planning Commission would like the units to be more flexible than allowed within home occupations, a condition of approval could be added to ensure greater flexibility for future owners.

On October 15, 2015, the Architectural and Site Review Committee reviewed the application.

- City Environmental Projects Manager, Danielle Uharriet, informed the applicant of stormwater requirements; curb, gutter and sidewalk improvements; sidewalk dedication; mid-block pedestrian crosswalk; and requirements within the CC&Rs for the maintenance of all common area improvements and on-site stormwater improvements. Staff also requested that the plans incorporate an area for garbage, recycling, and green waste cans for each residence and show the location and detail of street lighting within the private road every 100 feet.
- City Building Official, Brian Van Son, informed the applicant of the review process at building plan submittal and ADA compliance requirements for the sidewalk, driveway approach, and crosswalk.
- City Architect Representative, Frank Phanton, recommended the second story windows for units B1, B2, and B3 be redesigned to ensure privacy between neighbors.
- City Landscape Architect Representative, Craig Walsh, was not present.
- City Planner, Katie Cattan, discussed the tree mitigation plan and future conditions tied to the tree protection plan. Staff also requested draft CC&Rs and irrigation plans prior to review by Planning Commission.

The applicant updated the application to include all requested additional information. In regards to the suggested window change, Architect Matthew Thompson preferred the windows to remain as originally designed. The established trees on the neighboring property will provide a natural screen between the new residents and existing residences. Staff included conditions of approval to ensure the requirements of Public Works and Building are addressed during the building plan submittal and throughout the construction process.

DISCUSSION

The proposed 11 unit multi-family development is located in the CN zoning district. The purpose of 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 purpose statement also recommends style and scale of development be consistent with the purpose and the intensity of uses have low impact on the neighborhood.

The site is located on the western edge of the city limit along 38th Avenue south of Capitola Road. There is a mix of uses surrounding the site. A residential development of single-family homes is located to the west within the unincorporated county. A storage facility is located to the south and small homes that have been converted to business are located to the north. Kings Plaza commercial area is to the east with a theater, grocery store, retail establishments, and restaurants. The surrounding buildings are one to two story structures. The architecture

varies tremendously from the concrete block of the storage facility to the wood frame single-family homes.

The CN district has flexible development standards. With no specific maximum lot coverage or minimum lot area per unit, development is indirectly controlled by the zoning code requirements for parking, setbacks, height, and openspace. The General Plan establishes a maximum Floor Area Ratio (FAR) of 1 for the site.

| Development Standards | Existing | Proposed |
|---|--|---|
| Use | Prior Salvage Yard/ Currently Vacant | Multi-family 11 units |
| Is CUP required? | | Yes |
| Height: 27 ft | | 27' |
| Lot Area: No specific minimum lot area required except that there shall be sufficient area to satisfy any off-street parking and loading area requirements. | | Property: 31,365 sf |
| | | Individual Lots 1,904 sf – 2,767 sf |
| | | Common Area 6,133 sf |
| | | Off-street parking Complies |
| Lot Coverage: There shall be no specific maximum lot coverage, except as follows: A. Sufficient space shall be provided to satisfy off-street parking and loading area requirements, except that all parking may be provided within a structure. B. Front yard and open space requirements shall be satisfied. | | Off-street parking Complies |
| | | Front yard Variance Required |
| | | Open Space Complies |
| Front Yard Setback: Allow for 15 foot landscape strip. | | Variance Required. 10 feet. |
| Side Yard Setback: 10% of the lot width for the first floor and fifteen percent of the lot width for the second floor. | | Variance Required. 0' feet duplex |
| Rear Yard Setback: 20% of lot depth. | | Complies |
| Parking | Required | Proposed |
| Dwellings, apartments and condominiums (townhouse) of more than four units, one covered space for each unit, plus one and one-half additional spaces on the site for each dwelling unit. Each regular space must be a minimum of nine feet by eighteen feet. Forty percent of the spaces may be compact spaces of eight feet by sixteen feet. | 11 units @ 2.5/unit = 28 spaces total | 28 spaces 2 spaces per unit. 6 guest spaces |
| Landscaping. Five percent of the lot area shall be landscaped to ensure harmony with adjacent development in accordance with architectural and site approval standards | | Complies |

Variance: The 11 unit development requires a variance to front yard and side yard setbacks. To grant a variance the Planning Commisison must make findings that there are special circumstances applicable to the subject property in which the strict application of the code would

deprive the property of privileges enjoyed by others in the vicinity and zone, and a second finding that the variance would not constitute a grant of special privilege.

The special circumstances applicable to the property include protection of trees on adjacent properties, the diversity of land use in close vicinity to the site, and the transitional nature of the site between residential and commercial land uses. Additionally, a side yard setback variance is warranted because strict application of the requirement would prevent the development of attached townhome style residences, which is an appropriate housing product for subject property. Granting of a variance in this location would not constitute a grant of special privileges due to the mix of similar residential developments within the same block.

General Plan: The General Plan land use designation for the site is Community Commercial (C-C). The C-C designation provides an area for commercial uses primarily serving Capitola residents. Permitted land uses include general retail, personal services, restaurants, offices, and residential uses. The maximum permitted density in the C-C designation is 20 dwelling units per acre. The proposed 11 unit subdivision on the 30,139 square foot lot would develop at a density of 16 dwelling units per acre, which conforms to General Plan density limits. The maximum permitted FAR in the C-C designation is 1.0.

The following table breaks down the development on each new parcel by size and the proposed floor area and FAR. The proposal complies with the maximum Floor Area Ratio of 1.

| | Parcel Size | Floor Area | FAR (Max 1) |
|--------|-------------|------------|-------------|
| Lot A1 | 2,428 sf | 1,693 sf | .7 |
| Lot A2 | 1,904 sf | 1,654 sf | .87 |
| Lot A3 | 1,904 sf | 1,654 sf | .87 |
| Lot A4 | 1,945 sf | 1,654 sf | .85 |
| Lot A5 | 1,945 sf | 1,654 sf | .85 |
| Lot A6 | 1,904 sf | 1,654 sf | .87 |
| Lot A7 | 1,904 sf | 1,654 sf | .87 |
| Lot A8 | 2,428 sf | 1,693 sf | .7 |
| Lot B1 | 2,767 sf | 1,968 sf | .71 |
| Lot B2 | 2,406 sf | 1,968 sf | .82 |
| Lot B3 | 2,474 sf | 1,968 sf | .8 |

Inclusionary Housing Ordinance: The project will be required to comply with the Inclusionary Housing Ordinance. Pursuant to §18.02.030, housing development projects creating seven or more for-sale housing units are required to reserve and restrict fifteen percent of the housing units for sale to moderate, low, or very low income households. The eleven unit development is required to reserve 1.65 units of deed restricted units. Unit 7A shall be designated and deed restricted as the affordable unit for the project. The fractional contribution of .65 will be credited through a payment of affordable housing in-lieu fees.

Landscaping: Within the CN zone, landscaping is required to cover a minimum of five percent of the lot area in accordance with development standards of the code. The proposed subdivision exceeds the five percent minimum. The applicant submitted a drought tolerant landscape plan with ground cover, perennials, and trees. An irrigation plan was also submitted with a focus on water conservation. Each parcel has a bioretention area in the front yard to assist with onsite retention of stormwater. Twenty-one new trees are proposed within the

project. The HOA will maintain the landscaping in the front yards and the owners will maintain the rear yards.

Trees: There are 8 mature redwood trees located on the neighboring property to the south along the shared property line. The proposed turn-around area and Unit B1 are located within 5 feet of the large trees. Unit A5, A6, A7, and A8 are set back ten feet from the property line and the adjacent redwood trees.

The City hired arborist James Allen to prepare a tree resource assessment, construction impact analysis, and tree protection plan (Attachment 3). The arborist found that fourteen trees growing on neighboring parcels have the potential to be negatively affected by construction. To prevent impacts to the trees, the report suggests precautionary treatments including: installation and maintenance of tree protection structures during construction, canopy clearance pruning with authorization by tree owner, pier and above grade beam foundation systems (trees 4 - 10), and pre-construction root pruning. The report also suggests monitoring by the project arborist to occur at specific intervals during grading and construction. Seven onsite trees will be removed. The applicant is proposing to plant 21 new trees on the site, exceeding the City's 2:1 required replant ratio. Conditions of approval have been included to ensure the recommendations within the arborist report are adhered to throughout and following construction.

Fencing: The applicant is proposing a six foot high redwood fence along the property line of each new lot from the front façade of the home to the rear property line. The front yards will be open to the street. The proposed fence complies with the maximum six foot solid fence height established within the zoning code.

Public Improvements: A new site driveway approach and new curb, gutter and sidewalk along the 38th Avenue frontage shall meet standards for ADA accessibility. All utilities are required to be undergrounded. The owner shall install a mid-block pedestrian crossing on 38th Avenue connecting to King's Plaza Shopping Center.

Public Art: Chapter 2.58 applies to all eligible public and private construction projects having a total construction cost of two hundred and fifty thousand dollars or more, as calculated by the City of Capitola building permit application. The code requires that the developer either set aside no less than two percent of the project budget for the acquisition of art for incorporation into the project or for placement in the general vicinity of the project, or pay a fee to the city in lieu of incorporating public art in their project, equal to one percent of the total building permit valuation.

Subdivision Development Standards: The application includes a tentative map to create 11 individual lots, one common road, and dedicate a sidewalk along 38th Avenue to the City. The tentative map requires Planning Commission review and City Council approval. Title 16 of the Municipal Code includes the requirements for subdivision applications. Section 16.24 includes the design standards for a subdivision. The following *italicized* standards apply to newly created lots (§16.24.170) :

- A. *The size and shape of lots shall be in conformance to any zoning regulations effective in the area of the proposed subdivision.*
- B. *The side lines of all lots, so far as possible, shall be at right angles to the street which the lot faces, or radial or approximately radial if the street is curved.*
- C. *The Planning Commission may require that building set back lines shall be indicated by dotted lines on the subdivision map.*
- D. *No lot shall be divided by a city boundary line.*

E. Lots without frontage on a dedicated public street of twenty feet or more will not be permitted.

F. Lots other than corner lots may front on more than one street where necessitated by topographic or other unusual conditions.

G. In riparian corridors no lots may be created which do not contain adequate building area outside the riparian or stream setback.

The only standard not in compliance with the code is standard E. The applicant is proposing that the road be private. As proposed, the HOA for the development would maintain the road, not the City. The Public Works Director has reviewed the tentative map and added conditions for the ongoing maintenance of the private road by the future HOA within the CC&Rs.

CEQA REVIEW

This project qualifies for a General Plan exemption under CA Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

RECOMMENDATION

Staff recommends the Planning Commission **approve** project application #15-160 based on the following Conditions and Findings for Approval.

CONDITIONS OF APPROVAL

1. The project approval consists of an 11 lot Subdivision, Design Permit and Conditional Use Permit for 5 duplex townhomes and 1 single family home at 1575 38th Avenue. The Planning Commission approved a variance for decreased front and side yard setbacks in the CN (Neighborhood Commercial) zoning district. The maximum Floor Area Ratio established in the General Plan for commercial is 1. The individual development on each lot ranges from .7 to .87 FAR, under the established maximum of 1. The project exceeds the required 5% landscaping requirement for the CN zone. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on November 5, 2015, except as modified through conditions imposed by the Planning Commission during the hearing.
2. The project consists of the subdivision of a single 31,365 square foot lot into 11 residential lots at 1575 38th Avenue. The maximum density established in the General Plan is 20 units per acres. The project density is 16 units per acre.
3. Applicant shall have prepared a final map by a registered civil engineer and shall submit the final map for review, approval, and recording by the City's surveyor, the Public Works Director, and the City Council. The final map shall include new legal descriptions for each parcel.
4. Prior to recordation of the final map, the existing structures on the property must be demolished.
5. Prior to recordation of the final map, a standard sidewalk dedication is required. Sidewalk, curb, and gutter shall match the existing sidewalk improvements along 38th Avenue.
6. Prior to recordation of the final map, all plans and profiles of improvements shall be approved by the Director of Public Works and the construction of said improvements shall be in accordance with the City specifications and shall be inspected by the Director

of Public Works or his authorized agent, subject to fees appropriate for the services.

7. The Home Owners Association shall be responsible for all maintenance of all common area improvements and on-site stormwater improvements operations and maintenance. The CC&Rs shall incorporate language to address all HOA maintenance, including operation and maintenance of the on-site stormwater improvements.
8. Available and necessary utilities, including CATV hookup facilities, with connections to each lot within the subdivision, shall be constructed in accordance with the utility's requirements. All utilities shall be underground.
9. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans.
10. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
11. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
12. At time of submittal for building permit, the Required Procedures and Special Treatments (pages 8 - 11) of Arborist James Allen's Tree Protection Plan must be printed in full on the construction plans.
13. At the time of submittal for building permit review, Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
14. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems, if proposed. Native and/or drought tolerant species are recommended.
15. Prior to issuance of building permit, all Planning fees associated with permit #15-160 shall be paid in full.
16. Prior to issuance of building permit, affordable housing in-lieu fees and public art fees shall be paid. Affordable Housing in-lieu fees shall be paid as required to ensure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance. Public Art Fees shall be paid as required to assure compliance with the City of Capitola Public Art Ordinance.
17. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, City of Santa Cruz Water Department, and Central Fire Protection District. Prior to issuance of

- a building permit the applicant shall obtain final approval from Santa Cruz County Zone 5 for all off-site drainage improvements.
18. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
 19. Prior to issuance of building permits, the applicant shall submit a Stormwater Control Plan, Bioretention Construction Checklist, and detailed draft Stormwater Operation and Maintenance Plan prepared and certified by a Registered Civil Engineer in accordance with the current Post Construction Requirements (PCRs) for a Tier 2 project for review and approval by the Director of Public Works.
 20. Prior to final occupancy approval the applicant shall submit a final Operation and Maintenance Plan including any revisions resulting from changes made during construction for review and approval by the Director of Public Works.
 21. Prior to issuance of a building permit the applicant shall enter into any agreements identified in the Stormwater Control Plan which pertain to the transfer of ownership, right-of entry for inspection or abatement, and/or long-term maintenance of stormwater treatment BMPs, All agreement shall be recorded prior to final occupancy approval.
 22. Prior to any land disturbance, a pre-site inspection shall be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
 22. Prior to issuance of grading or building permits, the City's contract arborist shall review the grading and foundation plans to ensure all recommendations of the Tree Protection Plan drafted by Arborist James Allen are included in the plans. The exact locations of the proposed grading and other improvements will be reviewed and evaluated by a certified arborist once the site staking is in place. There is a possibility that tree classification and recommended procedures will change once the exact positions of the proposed improvements are known. If additional tree removal is necessary, a confirming addendum shall be prepared and submitted to the City of Capitola prior to any groundwork.
 23. Deck supports for Lots 6, 7 and 8 through 11 are to be constructed on piers dug by hand, without the use of mechanical augers or drills when placed within Critical Root Zones (CRZs). Roots encountered are to be cut cleanly following guidelines defined in the Construction Impact Assessment/Tree Protection Plan (CIA-TPP) report prepared for this project.
 23. Storm Drain (SD) line between Lots 9 and 10 is within the CRZ of Tree #5. The extents between the Drain Inlets (DI) and their termination points shall be dug by hand following protocol defined in the CIA_TPP.
 24. The permeable paver surface for the parking area between Lots 7 and 8 is within the CRZs of Trees #8 and 9. Base excavation within CRZs shall be completed by hand if the existing grade needs to be reduced (cut). Roots encountered shall be cut cleanly as defined in the CIA_TPP.
 25. The SD line along the west side of the project, Lots 5, 6 and 7 travels through the CRZ of trees on neighboring properties and connects to an existing line on the neighboring

property to the south. Where this line encroaches into CRZs, excavation should be performed by hand or with mechanized equipment under the direction of the Project Arborist.

26. During grading and excavation of the site, a certified arborist shall be on-site to ensure the Tree Protection Plan is followed and the existing trees are not damaged.
27. During grading, excavation, and construction the required procedures and special treatments identified and explained within pages 8, 9, and 10 of the Tree Protection Plan drafted by Arborist James Allen shall be adhered to, including: alternative foundation design with pier and above grade beam foundation systems, tree removal, tree canopy clearance by a qualified certified arborist utilizing the identified industry guidelines, pre-grading root severance by tree #14, root pruning as specified, tree replacement, supplemental irrigation for a period of two years, and the maintenance and monitoring program.
28. Project monitoring will be the responsibility of the Project Arborist. Site inspections will take place at the following intervals:
 - a. Following onsite placement of grade stakes
 - b. During tree removal operations
 - c. During preconstruction root severance
 - d. After tree preservation fencing locations have been staked
 - e. Following tree protection fencing installation and prior to the commencement of grading.
 - f. During all grading activities within Critical Root Zones.
 - g. As necessary during the grading activities to ensure compliance with all conditions of project approval.

After each inspection, the Project Arborist will provide an update to the City of Capitola Planner in writing verifying that the required procedures and special treatment are followed.
29. Tree preservation structures shall be installed in the locations documented on the Tree Location and Preservation Map within the Tree Protection Plan by Arborist James Allen. Tree preservation structures shall be constructed of the following materials as field specified by the Project Arborist.
 - a. Chain link, 72 inches in height secured to metal stakes driven at least 18 inches into the soil.
 - b. Temporary orange snow fencing attached to "T" posts driven into the ground
 - c. Silt fencing
 - d. Rice straw bales.
30. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
31. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B

32. Prior to a project final, the applicant shall be responsible for installing all required frontage improvements including curb, gutter, and sidewalk along 38th Avenue for the length of the property frontage. All sidewalks shall meet the standards for ADA accessibility.
33. Prior to a project final, the applicant shall be responsible for a mid-block crossing on 38th Avenue from the project to King's Plaza. The crossing shall be a protected crossing and the design based on recommendations of the traffic engineer and approved by the Director of Public Works.
34. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
35. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
36. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
37. Upon receipt of certificate of occupancy, garbage and recycling containers shall be shielded and placed out of public view on non-collection days.
38. Prior to recordation of the final subdivision map or issuance of building permits for the 38th Avenue Homes, the developer shall enter into a Participation Agreement with the City in a form suitable for recordation so as to assure compliance with the provisions of the City of Capitola Affordable (Inclusionary) Housing Ordinance. Unit A7 shall be designated and deed restricted as the affordable unit.

FINDINGS

A The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.

Community Development Department Staff and the Planning Commission have reviewed the project. The subdivision, together with the provisions for its design and improvement, is consistent with the objectives of the Zoning Ordinance and General Plan.

B The application is consistent with the Subdivision Map Act and local Subdivision Ordinance.

The subdivision was designed in accordance with the Subdivision Map Act and local ordinances enacted pursuant thereto. Per the Subdivision Map Act, the proposed map

is consistent with the General Plan, is physically suited for the proposed type and density of development, will not likely cause substantial environmental damage, or substantially and avoidably injure fish, wildlife or their habitats, will not cause serious public health problems, and will not conflict with public easements for access through, or use of, property within the proposed subdivision.

C This project is categorically exempt under Section 15183 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.

Section 15183 of the CEQA Guidelines exempts projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified. The 11 unit multifamily development is consistent with the development policies of the CN Zone and the City of Capitola General Plan and EIR. No adverse environmental impacts were discovered during review of the proposed project.

D The application will maintain the character and integrity of the neighborhood.

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have reviewed the plans for the 11 unit multi-family development. The development is to scale with the built environment surrounding the site. The design adds to the community character of Capitola and creates a nice aesthetic at the edge of the commercial district. The townhomes create a compatible transitional buffer between the single family development to the west and the community commercial shopping to the east.

E Special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;

The special circumstances applicable to the property include protection of trees on adjacent properties, the diversity of land use in close vicinity to the site, and the transitional nature of the site between residential and commercial land uses.

F The grant of a variance permit does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated.

Granting of a variance in this location will not constitute a grant of special privileges due to the mix of similar residential developments within the same block.

ATTACHMENTS:

1. 1575 38th Ave Plans
2. 1575 38th Ave Color Board and Rendering
3. 1575 38th Ave Arborist Report
4. 1575 38th Ave Arborist Report
5. 1575 38th Ave Arborist Report Additional Conditions
6. 1575 38th Ave Notice of Exemption
7. 1575 38th Ave Public Comment George Ow Jr
8. 1575 38th Ave Public Comment Don Mosegaard and Kimberly Frey
9. 9-3-2015 PC Minutes Conceptual Review
10. 9-24-2015 CC Minutes Conceptual Review.pdf
11. 1575 38th Ave Draft CC&R.pdf

12. Home Occupation 17.81

Prepared By: Katie Cattan
Senior Planner

38TH AVENUE HOMES

1575 38TH AVENUE, CAPITOLA CA

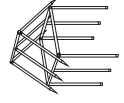


VIEW FROM 38TH AVENUE LOOKING WEST AND NORTH



INTERNAL VIEW LOOKING WEST AND SOUTH

THACHER & THOMPSON ARCHITECTS
877 CEDAR STREET SUITE 244
SANTA CRUZ, CA 95060
www.tntarch.com





THACHER & THOMPSON ARCHITECTS
 1712 SAN JOSE AVENUE, SUITE 201
 SAN JOSE, CALIFORNIA 95128
 (408) 435-2877
 www.thacher.com

38th Avenue Homes
 1575 38th Avenue, Capitola, CA
 SITE PLAN AND PROJECT DATA

VICINITY MAP



PROJECT DATA

PROPERTY OWNER: JSC APENNACOT, 4075 CAPITOLA ROAD, CAPITOLA, CA 95010, (831) 465-9190
 PROJECT ADDRESS: 1575 38TH AVENUE, CAPITOLA, CA 95010
 APN: 034-181-17
 ZONING: CN
 PROJECT DESCRIPTION: MULTIPLE DWELLINGS AND UNIT COMBINATIONS THROUGHOUT

SHEET INDEX

| NO. | DESCRIPTION | DATE |
|-----------|----------------------------|------|
| 01 | COVER SHEET | |
| 02 | SITE PLAN AND PROJECT DATA | |
| 03 | UNIT PLANS AND ELEVATIONS | |
| 04 | UNIT PLANS AND ELEVATIONS | |
| 05 | STREET ELEVATIONS | |
| LANDSCAPE | | |
| L1 | PLANTING PLAN | |
| L2 | IRRIGATION PLAN | |
| L3 | DETAILS | |
| L4 | IRRIGATION NOTES | |
| L5 | IRRIGATION SCHEDULES | |
| CIVIL | | |
| C1 | TENTATIVE MAP | |
| C1.1 | EXISTING CONDITIONS PLAN | |
| C2 | PROPOSED CONDITIONS PLAN | |
| C3.1 | UTILITY PLAN | |
| C4.1 | STORM WATER MANAGEMENT | |
| C5.1 | EROSION CONTROL PLAN | |
| C5.2 | EROSION CONTROL DETAILS | |
| S1 | SITE LIGHTING | |



THE BOARD OF PROFESSIONAL ENGINEERS AND SURVEYORS HAS REVIEWED THIS PLAN AND FOUND IT TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE ENGINEERING ACT AND THE REGULATIONS OF THE BOARD. THIS REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION PROVIDED HEREON.

A1

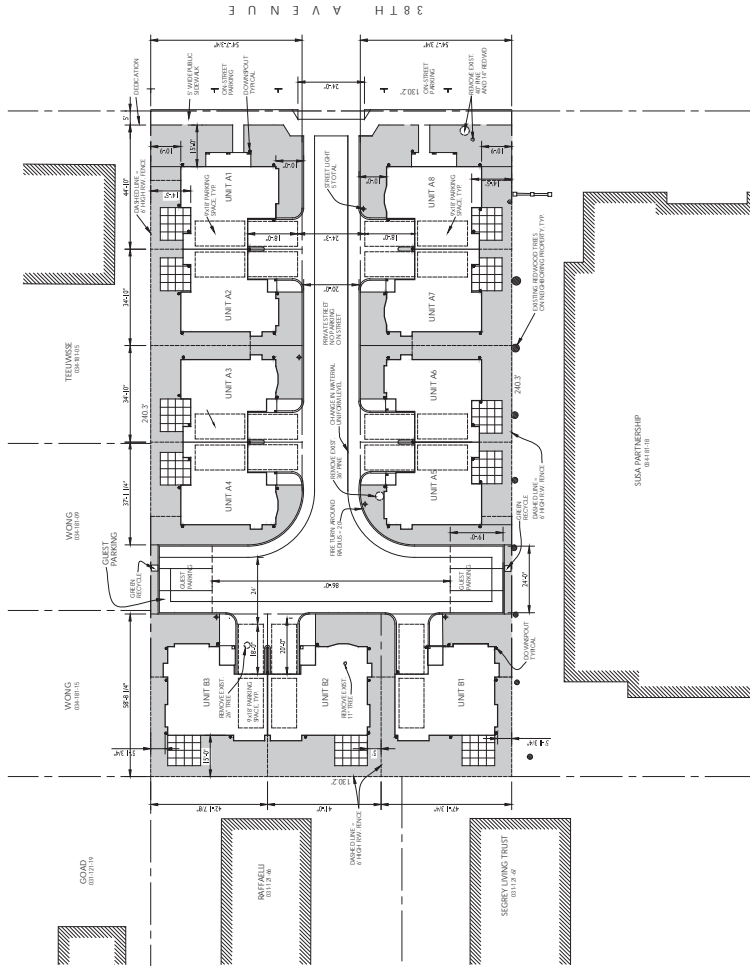
PROJECT TEAM

ARCHITECT: THACHER & THOMPSON ARCHITECTS, 200 WASHINGTON ST., SUITE 201, SAN JOSE, CA 95106, (408) 435-2877, FAX (408) 435-2879, tom@thacher.com
 CIVIL ENGINEER & LAND SURVEYOR: ROYMAN & WILLIAMS, 101 CEDAR STREET, SANTA CRUZ, CA 95060, (831) 426-3660, jro@roymanwilliams.com
 LANDSCAPE ARCHITECT: ELLEN COOPER, 101 CEDAR STREET, SANTA CRUZ, CA 95060, (831) 426-4845, ecooper@baymoon.com

AREA CALCULATIONS

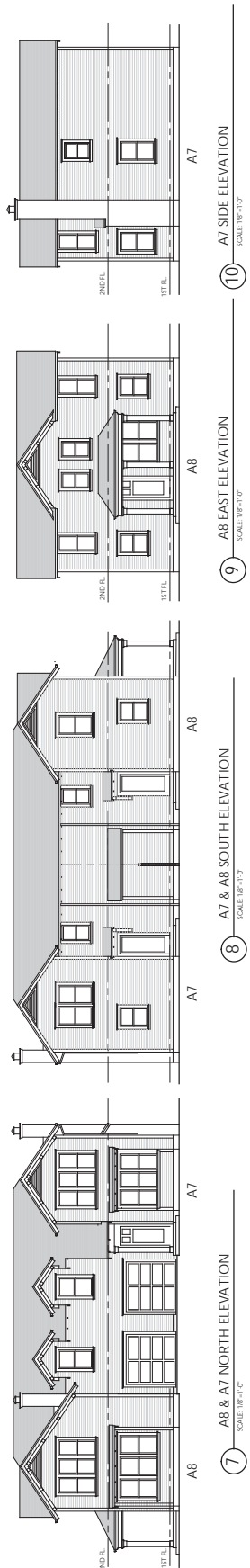
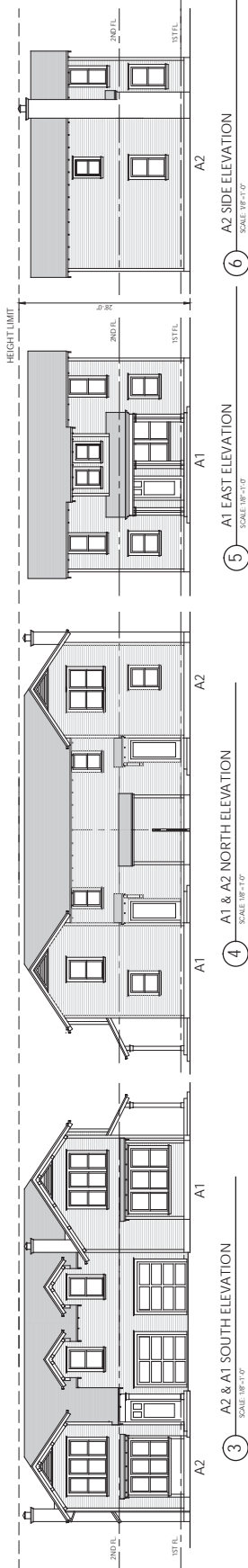
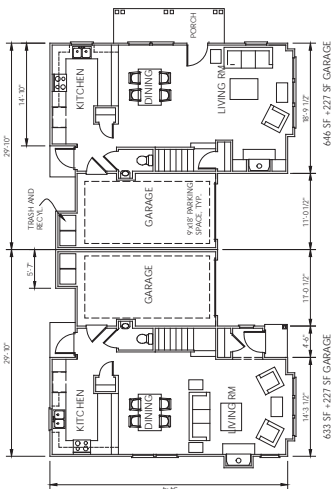
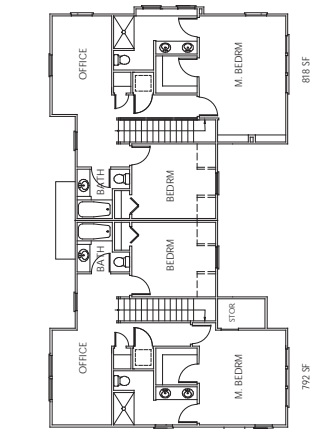
| | |
|--------------------------|-----------------|
| TOTAL SITE AREA | 31,311 SF GROSS |
| DEDICATION | 1,172 SF |
| NET LOT AREA | 30,139 SF |
| LOT AREA CALCULATIONS | |
| LOT A1 | 2,408 SF |
| LOT A2 | 1,904 SF |
| LOT A3 | 1,904 SF |
| LOT A4 | 1,945 SF |
| LOT A5 | 1,945 SF |
| LOT A6 | 1,904 SF |
| LOT A7 | 1,904 SF |
| LOT B1 | 2,408 SF |
| LOT B2 | 2,406 SF |
| LOT B3 | 2,474 SF |
| COMMON AREA (STREET) | 6,133 SF |
| FLOOR AREA CALCULATIONS: | |
| UNIT A1 & A8 | 646 SF |
| FIRST FLOOR | 829 SF |
| SECOND FLOOR | 244 SF |
| GARAGE | 224 SF |
| UNIT A2 - A7 | 629 SF |
| FIRST FLOOR | 829 SF |
| SECOND FLOOR | 1,427 SF |
| GARAGE | 227 SF |
| UNIT B1-B3 | 761 SF |
| FIRST FLOOR | 1,682 SF |
| GARAGE | 286 SF |

SITE PLAN



1 SITE PLAN
 SCALE 1" = 20' 0"

| EXTERIOR MATERIALS | |
|---------------------|--|
| ROOFING: | COMPOSITION SHINGLES |
| SIDING: | HARDERPLANK LAP SIDING 4 EXPOSURE |
| CHIMNEYS: | CEMENT PLASTER, SMOOTH |
| CORNER TRIM: | 1x6 PAINTED WOOD OR COMPOSITE MATERIAL |
| EAVES: | PAINTED WOOD WITH EXPOSED BATTER TAILS AND 1x6 PAINTED SOFFIT 6x6 OUTRIGGERS @ GABLE ENDS |
| WINDOWS: | FIBERGLASS SINGLE HUNG PAINTED WOOD |
| WINDOW & DOOR TRIM: | 1x6 PAINTED WOOD OR COMPOSITE MATERIAL WITH 2x WOOD SILL AND 1x4 APRON |



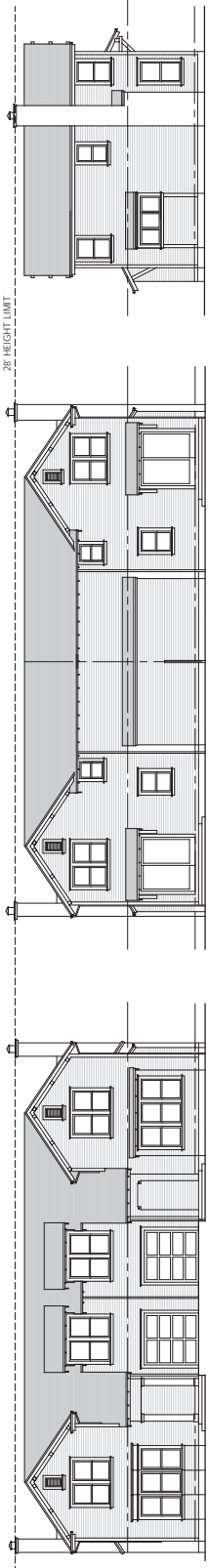
MATTHEW C. TRUITT
 AUGUST 31, 2015
 82297

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| NO. | DESCRIPTION | DATE |
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**MATTHEW
C. FITTOUNG**
REGISTERED PROFESSIONAL ENGINEER
EXPIRES 08/31/2015
1575 38TH AVENUE, CAPITOLA, CA 95008
408.682.2827
WWW.TTAA.COM

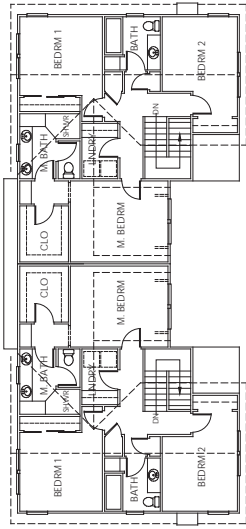


① B2 & B3 WEST ELEVATION SCALE: 1/8"=1'-0"

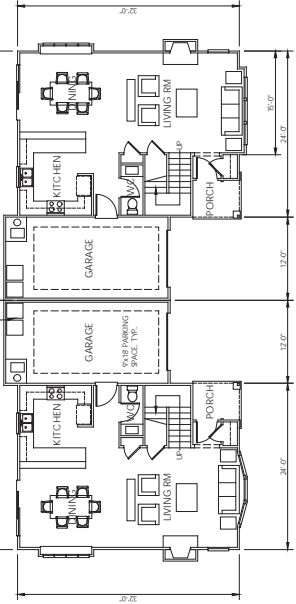
② B3 & B2 EAST ELEVATION SCALE: 1/8"=1'-0"

③ B2 SIDE ELEVATION (B3 REVERSE) SCALE: 1/8"=1'-0"

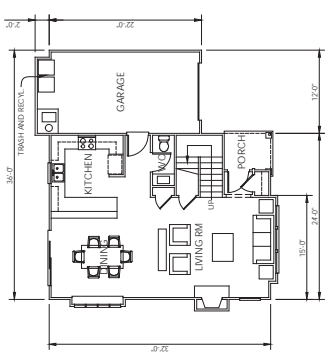
| EXTERIOR MATERIALS | |
|------------------------|---|
| ROOFING: | COMPOSITION SHINGLES |
| SIDING: | HARDIBANK LAP SIDING 4" EXPOSURE |
| CHIMNEYS: | CEMENT PLASTER, SMOOTH |
| CORNER TRIM: | 1x6 PAINTED WOOD OR COMPOSITE MATERIAL |
| EAVES: | PAINTED WOOD WITH EXPOSED WATER TABLES AND CLOSED WATER TABLES BOARDS PAINTED SORT 6x6 OUTRIGGERS @ GABLE ENDS |
| WINDOWS: | FIBERGLASS SINGLE HUNG PAINTED WOOD |
| WINDOW & DOOR TRIM: | 1x6 PAINTED WOOD OR COMPOSITE MATERIAL WITH 2" PRICE CASE 2" PRICE CASE 1x4 PIRON |



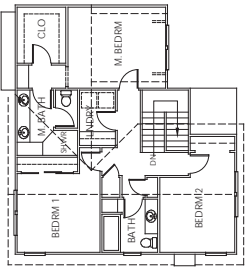
⑤ B2 & B3 SECOND FLOOR SCALE: 1/8"=1'-0"



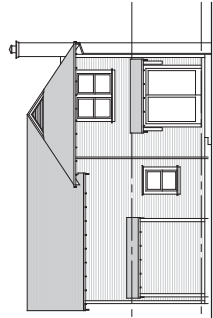
④ B2 & B3 FIRST FLOOR SCALE: 1/8"=1'-0"



⑥ B1 FIRST FLOOR 361 SF ± 286 SF GARAGE ± 1,026 SF SCALE: 1/8"=1'-0"



⑦ B1 SECOND FLOOR 921 SF SCALE: 1/8"=1'-0"



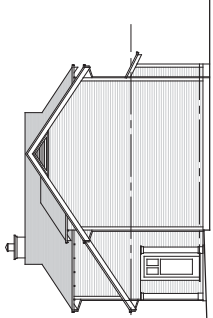
⑧ B1 WEST ELEVATION SCALE: 1/8"=1'-0"



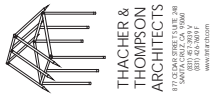
⑨ B1 EAST ELEVATION SCALE: 1/8"=1'-0"



⑪ B1 SOUTH ELEVATION SCALE: 1/8"=1'-0"



⑩ B1 NORTH ELEVATION SCALE: 1/8"=1'-0"

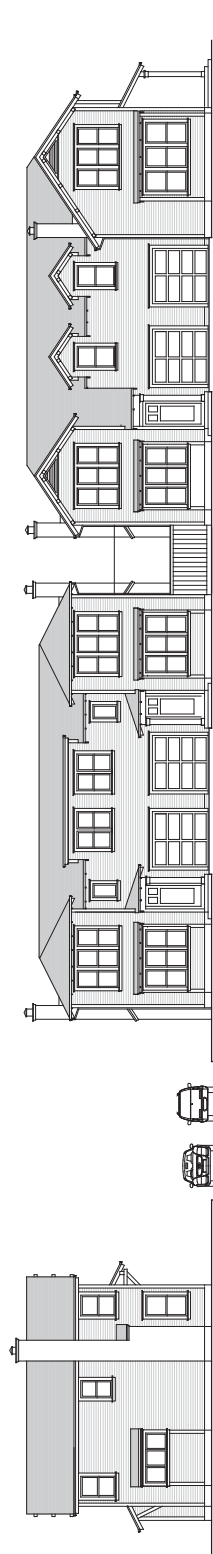


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 17420 VAN COTT BLVD #380
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 (916) 431-3617
 www.thacher.com

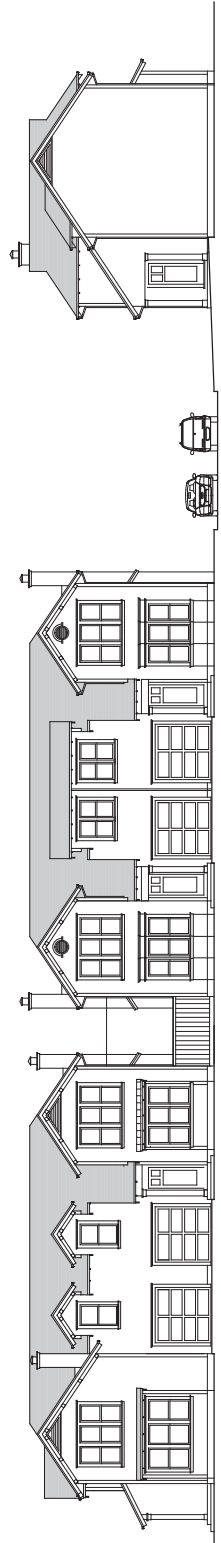
38th AVENUE HOMES
 1575 38TH AVENUE, CAPITOLA, CA
 STREET ELEVATIONS



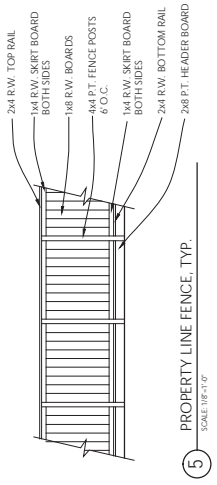
1 STREET ELEVATION FROM 38TH
 SCALE 1/8" = 1'-0"



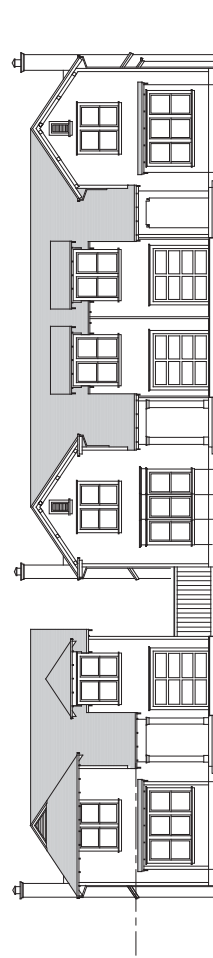
2 STREET ELEVATION
 SCALE 1/8" = 1'-0"



3 STREET ELEVATION
 SCALE 1/8" = 1'-0"



5 PROPERTY LINE FENCE, TYP.
 SCALE 1/8" = 1'-0"



4 STREET ELEVATION
 SCALE 1/8" = 1'-0"

| DRAWING DATE | | |
|---------------|-------------------------|------|
| OCTOBER, 2015 | ISSUED FOR ACQUAINTANCE | |
| | DATE PENDING | |
| | PROJECT FILE NAME | |
| | APPROVED BY NAME | |
| REVISIONS | | |
| NO. | DESCRIPTION | DATE |
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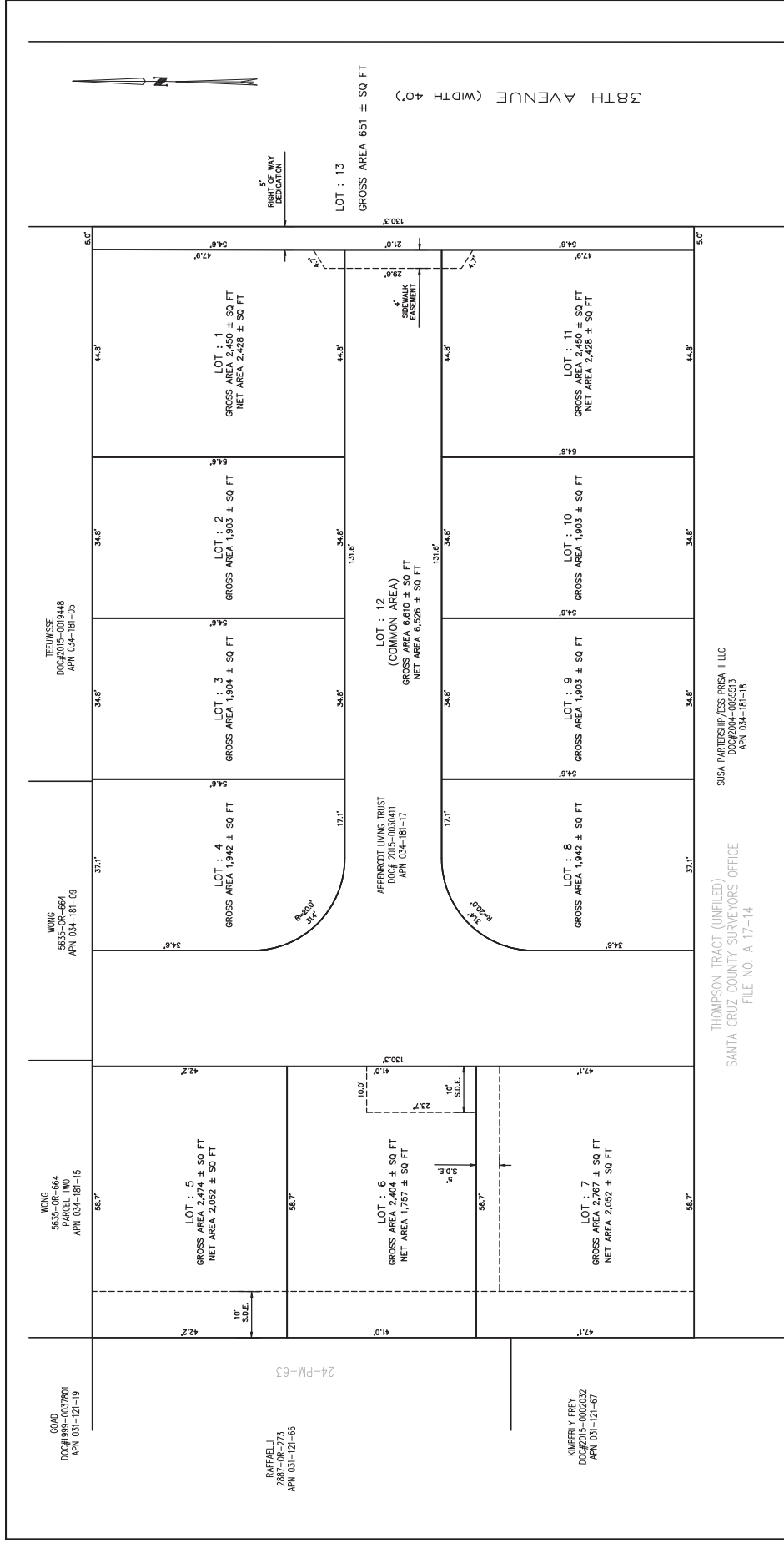


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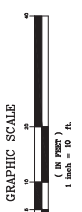
A5

6.A.1

Attachment: 1575 38th Ave Plans (1238 : 1575 38th Avenue)



DISCLAIMER
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 APN 034-181-17



ABBREVIATIONS

| | |
|---|-------------|
| R | RAVINE |
| W | WALKWAY |
| S | SOURCE FEET |

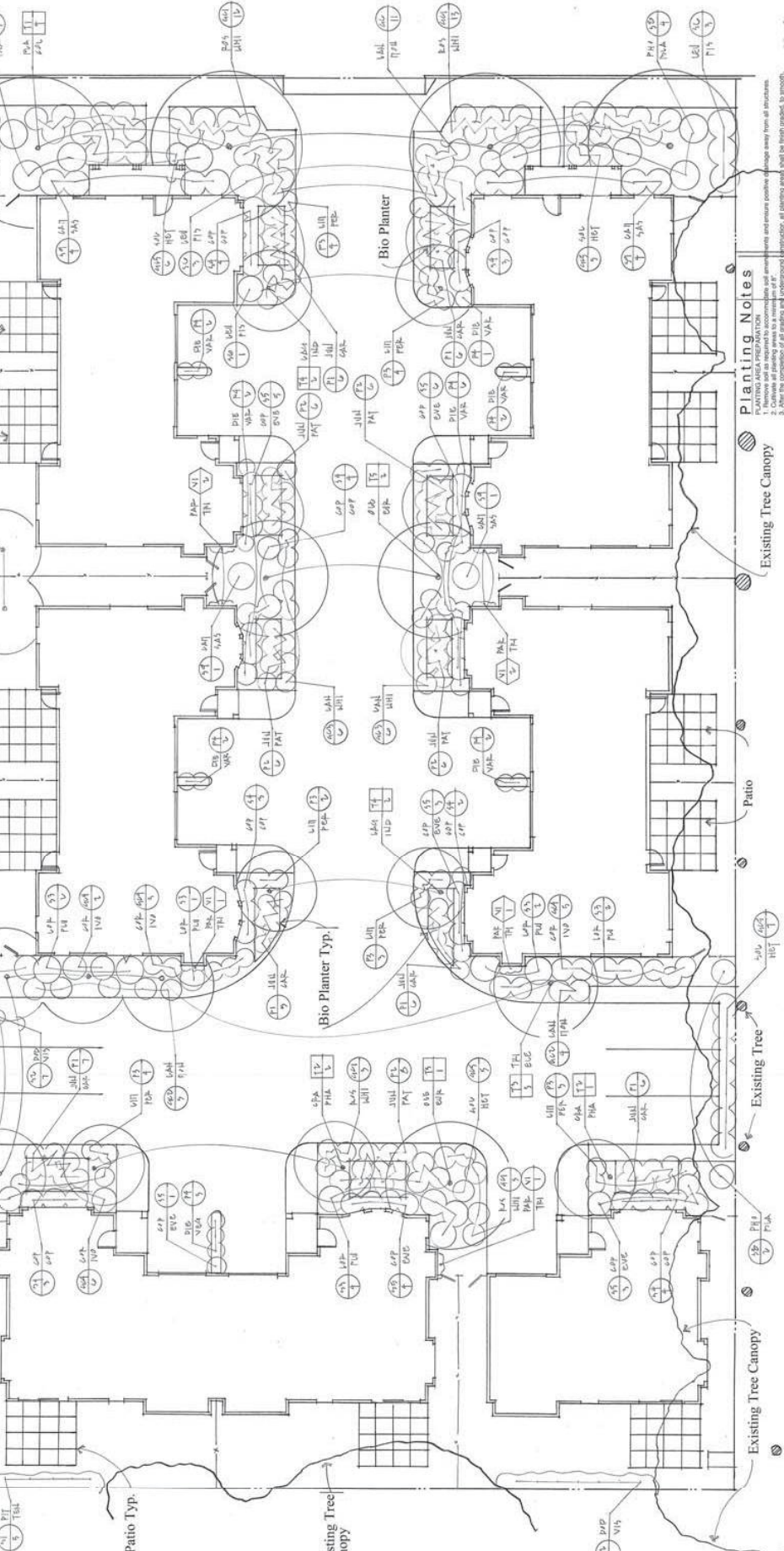
PROJECT INFORMATION

| | |
|---------------------------------|---|
| OWNER: | JOE APFERROTT 16450 CANTONIA, CA 95010 (831) 485-9191 |
| CIVIL ENGINEER: | JEFF R. MAESS BOWMAN & WILLIAMS SANTA CRUZ, CA 95060 (831) 429-3560 |
| PROJECT PLANNER: | MATHEW THOMPSON THAYER & THOMPSON ARCHITECTS SANTA CRUZ, CA 95060 (831) 457-3939 |
| APN | : 034-181-17 |
| PROPERTY SIZE | : 0.702± ACRES |
| ZONING | : CN (NEIGHBORHOOD COMMERCIAL) |
| GENERAL PLAN DESIGNATION | : N/A |
| CURRENT USE | : VACANT |
| PROPOSED USE | : RETAIL USE AND GROUPS OR COMMUNICATIONS USES, CP |
| WATER SUPPLY | : CITY OF SANTA CRUZ WATER DEPARTMENT |
| SEWER SERVICE | : SANTA CRUZ COUNTY SANITATION DISTRICT |
| AREAS OF INUNDATION | : NONE |
| FIRE DISTRICT | : CENTRAL FIRE PROTECTION DISTRICT |

THOMPSON TRACT (UNFILED)
 SANTA CRUZ COUNTY SURVEYORS OFFICE
 FILE NO. A 17-14
 SUSA PARTERSHIP/ESS PRISA II LLC
 DOC#2004-0055513
 APN 034-181-18

Plant Legend

| Shrub | 24" Box | 43" | Grass | 24" Box | 33" |
|------------------------|---------|------|------------------|---------|-----|
| 11. <i>Malvaceae</i> | 4 | 43 | 1. <i>Stipa</i> | 4 | 33 |
| 12. <i>Crataegus</i> | 3 | 15SC | 2. <i>Stipa</i> | 3 | 20 |
| 13. <i>Tridax</i> | 7 | 15SC | 3. <i>Stipa</i> | 20 | 15C |
| 14. <i>Lupinus</i> | 4 | 15SC | 4. <i>Stipa</i> | 12 | 15C |
| 15. <i>Chenopodium</i> | 3 | 15SC | 5. <i>Stipa</i> | 12 | 15C |
| 16. <i>Stipa</i> | 3 | 15SC | 6. <i>Stipa</i> | 12 | 15C |
| 17. <i>Stipa</i> | 3 | 15SC | 7. <i>Stipa</i> | 12 | 15C |
| 18. <i>Stipa</i> | 3 | 15SC | 8. <i>Stipa</i> | 12 | 15C |
| 19. <i>Stipa</i> | 3 | 15SC | 9. <i>Stipa</i> | 12 | 15C |
| 20. <i>Stipa</i> | 3 | 15SC | 10. <i>Stipa</i> | 12 | 15C |
| 21. <i>Stipa</i> | 3 | 15SC | 11. <i>Stipa</i> | 12 | 15C |
| 22. <i>Stipa</i> | 3 | 15SC | 12. <i>Stipa</i> | 12 | 15C |
| 23. <i>Stipa</i> | 3 | 15SC | 13. <i>Stipa</i> | 12 | 15C |
| 24. <i>Stipa</i> | 3 | 15SC | 14. <i>Stipa</i> | 12 | 15C |
| 25. <i>Stipa</i> | 3 | 15SC | 15. <i>Stipa</i> | 12 | 15C |
| 26. <i>Stipa</i> | 3 | 15SC | 16. <i>Stipa</i> | 12 | 15C |
| 27. <i>Stipa</i> | 3 | 15SC | 17. <i>Stipa</i> | 12 | 15C |
| 28. <i>Stipa</i> | 3 | 15SC | 18. <i>Stipa</i> | 12 | 15C |
| 29. <i>Stipa</i> | 3 | 15SC | 19. <i>Stipa</i> | 12 | 15C |
| 30. <i>Stipa</i> | 3 | 15SC | 20. <i>Stipa</i> | 12 | 15C |
| 31. <i>Stipa</i> | 3 | 15SC | 21. <i>Stipa</i> | 12 | 15C |
| 32. <i>Stipa</i> | 3 | 15SC | 22. <i>Stipa</i> | 12 | 15C |
| 33. <i>Stipa</i> | 3 | 15SC | 23. <i>Stipa</i> | 12 | 15C |
| 34. <i>Stipa</i> | 3 | 15SC | 24. <i>Stipa</i> | 12 | 15C |
| 35. <i>Stipa</i> | 3 | 15SC | 25. <i>Stipa</i> | 12 | 15C |
| 36. <i>Stipa</i> | 3 | 15SC | 26. <i>Stipa</i> | 12 | 15C |
| 37. <i>Stipa</i> | 3 | 15SC | 27. <i>Stipa</i> | 12 | 15C |
| 38. <i>Stipa</i> | 3 | 15SC | 28. <i>Stipa</i> | 12 | 15C |
| 39. <i>Stipa</i> | 3 | 15SC | 29. <i>Stipa</i> | 12 | 15C |
| 40. <i>Stipa</i> | 3 | 15SC | 30. <i>Stipa</i> | 12 | 15C |
| 41. <i>Stipa</i> | 3 | 15SC | 31. <i>Stipa</i> | 12 | 15C |
| 42. <i>Stipa</i> | 3 | 15SC | 32. <i>Stipa</i> | 12 | 15C |
| 43. <i>Stipa</i> | 3 | 15SC | 33. <i>Stipa</i> | 12 | 15C |
| 44. <i>Stipa</i> | 3 | 15SC | 34. <i>Stipa</i> | 12 | 15C |
| 45. <i>Stipa</i> | 3 | 15SC | 35. <i>Stipa</i> | 12 | 15C |
| 46. <i>Stipa</i> | 3 | 15SC | 36. <i>Stipa</i> | 12 | 15C |
| 47. <i>Stipa</i> | 3 | 15SC | 37. <i>Stipa</i> | 12 | 15C |
| 48. <i>Stipa</i> | 3 | 15SC | 38. <i>Stipa</i> | 12 | 15C |
| 49. <i>Stipa</i> | 3 | 15SC | 39. <i>Stipa</i> | 12 | 15C |
| 50. <i>Stipa</i> | 3 | 15SC | 40. <i>Stipa</i> | 12 | 15C |
| 51. <i>Stipa</i> | 3 | 15SC | 41. <i>Stipa</i> | 12 | 15C |
| 52. <i>Stipa</i> | 3 | 15SC | 42. <i>Stipa</i> | 12 | 15C |
| 53. <i>Stipa</i> | 3 | 15SC | 43. <i>Stipa</i> | 12 | 15C |
| 54. <i>Stipa</i> | 3 | 15SC | 44. <i>Stipa</i> | 12 | 15C |
| 55. <i>Stipa</i> | 3 | 15SC | 45. <i>Stipa</i> | 12 | 15C |
| 56. <i>Stipa</i> | 3 | 15SC | 46. <i>Stipa</i> | 12 | 15C |
| 57. <i>Stipa</i> | 3 | 15SC | 47. <i>Stipa</i> | 12 | 15C |
| 58. <i>Stipa</i> | 3 | 15SC | 48. <i>Stipa</i> | 12 | 15C |
| 59. <i>Stipa</i> | 3 | 15SC | 49. <i>Stipa</i> | 12 | 15C |
| 60. <i>Stipa</i> | 3 | 15SC | 50. <i>Stipa</i> | 12 | 15C |
| 61. <i>Stipa</i> | 3 | 15SC | 51. <i>Stipa</i> | 12 | 15C |
| 62. <i>Stipa</i> | 3 | 15SC | 52. <i>Stipa</i> | 12 | 15C |
| 63. <i>Stipa</i> | 3 | 15SC | 53. <i>Stipa</i> | 12 | 15C |
| 64. <i>Stipa</i> | 3 | 15SC | 54. <i>Stipa</i> | 12 | 15C |
| 65. <i>Stipa</i> | 3 | 15SC | 55. <i>Stipa</i> | 12 | 15C |
| 66. <i>Stipa</i> | 3 | 15SC | 56. <i>Stipa</i> | 12 | 15C |
| 67. <i>Stipa</i> | 3 | 15SC | 57. <i>Stipa</i> | 12 | 15C |
| 68. <i>Stipa</i> | 3 | 15SC | 58. <i>Stipa</i> | 12 | 15C |
| 69. <i>Stipa</i> | 3 | 15SC | 59. <i>Stipa</i> | 12 | 15C |
| 70. <i>Stipa</i> | 3 | 15SC | 60. <i>Stipa</i> | 12 | 15C |
| 71. <i>Stipa</i> | 3 | 15SC | 61. <i>Stipa</i> | 12 | 15C |
| 72. <i>Stipa</i> | 3 | 15SC | 62. <i>Stipa</i> | 12 | 15C |
| 73. <i>Stipa</i> | 3 | 15SC | 63. <i>Stipa</i> | 12 | 15C |
| 74. <i>Stipa</i> | 3 | 15SC | 64. <i>Stipa</i> | 12 | 15C |
| 75. <i>Stipa</i> | 3 | 15SC | 65. <i>Stipa</i> | 12 | 15C |
| 76. <i>Stipa</i> | 3 | 15SC | 66. <i>Stipa</i> | 12 | 15C |
| 77. <i>Stipa</i> | 3 | 15SC | 67. <i>Stipa</i> | 12 | 15C |
| 78. <i>Stipa</i> | 3 | 15SC | 68. <i>Stipa</i> | 12 | 15C |
| 79. <i>Stipa</i> | 3 | 15SC | 69. <i>Stipa</i> | 12 | 15C |
| 80. <i>Stipa</i> | 3 | 15SC | 70. <i>Stipa</i> | 12 | 15C |
| 81. <i>Stipa</i> | 3 | 15SC | 71. <i>Stipa</i> | 12 | 15C |
| 82. <i>Stipa</i> | 3 | 15SC | 72. <i>Stipa</i> | 12 | 15C |
| 83. <i>Stipa</i> | 3 | 15SC | 73. <i>Stipa</i> | 12 | 15C |
| 84. <i>Stipa</i> | 3 | 15SC | 74. <i>Stipa</i> | 12 | 15C |
| 85. <i>Stipa</i> | 3 | 15SC | 75. <i>Stipa</i> | 12 | 15C |
| 86. <i>Stipa</i> | 3 | 15SC | 76. <i>Stipa</i> | 12 | 15C |
| 87. <i>Stipa</i> | 3 | 15SC | 77. <i>Stipa</i> | 12 | 15C |
| 88. <i>Stipa</i> | 3 | 15SC | 78. <i>Stipa</i> | 12 | 15C |
| 89. <i>Stipa</i> | 3 | 15SC | 79. <i>Stipa</i> | 12 | 15C |
| 90. <i>Stipa</i> | 3 | 15SC | 80. <i>Stipa</i> | 12 | 15C |
| 91. <i>Stipa</i> | 3 | 15SC | 81. <i>Stipa</i> | 12 | 15C |
| 92. <i>Stipa</i> | 3 | 15SC | 82. <i>Stipa</i> | 12 | 15C |
| 93. <i>Stipa</i> | 3 | 15SC | 83. <i>Stipa</i> | 12 | 15C |
| 94. <i>Stipa</i> | 3 | 15SC | 84. <i>Stipa</i> | 12 | 15C |
| 95. <i>Stipa</i> | 3 | 15SC | 85. <i>Stipa</i> | 12 | 15C |
| 96. <i>Stipa</i> | 3 | 15SC | 86. <i>Stipa</i> | 12 | 15C |
| 97. <i>Stipa</i> | 3 | 15SC | 87. <i>Stipa</i> | 12 | 15C |
| 98. <i>Stipa</i> | 3 | 15SC | 88. <i>Stipa</i> | 12 | 15C |
| 99. <i>Stipa</i> | 3 | 15SC | 89. <i>Stipa</i> | 12 | 15C |
| 100. <i>Stipa</i> | 3 | 15SC | 90. <i>Stipa</i> | 12 | 15C |



Planting Notes

PLANTING AREA PREPARATION

1. Remove all soil to accommodate all amendments and ensure positive drainage away from all structures.
2. Amend soil with 2" of compost and 2" of mulch. Amend soil with 2" of compost and 2" of mulch.
3. After the completion of all grading and underground installation, all planting areas shall be back graded, to smooth, and compacted to meet the design requirements.
4. Existing plants to be saved shall be protected from injury.
5. No excavations of plants or materials shall be made until the site has been fully inspected and approved by the City.

INSTALLATION

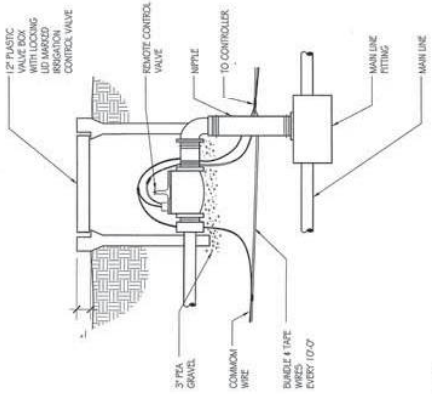
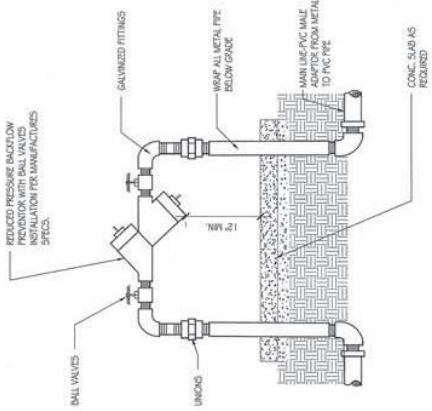
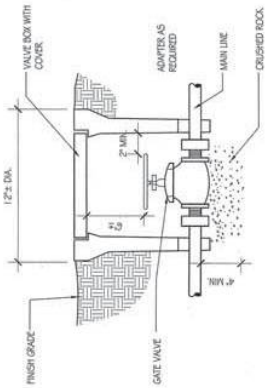
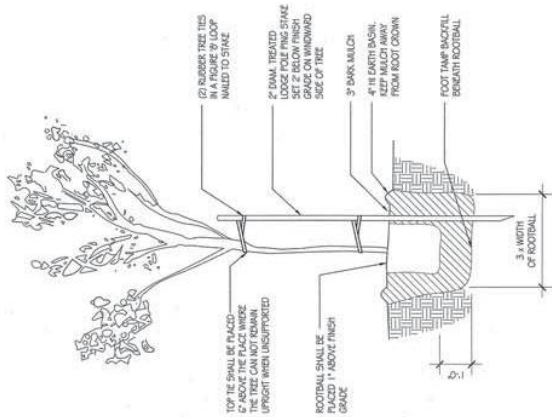
1. All plants shall be installed in the specified quantities and locations.
2. Plants not conforming to common nursery standards or those unacceptable to the Landscape Architect shall be replaced.
3. Plants shall be installed in the specified quantities and locations.
4. Plants shall be installed in the specified quantities and locations.
5. All trees shall be installed with 2" x 4" stake poles, tree stakes outside the root ball and supported with two rubber legs.

1/8" = 1'-0"

Planting Plan

DATE: 1-14-2015
 REVISIONS:
 SHEET: L3

ELLEN COOPER LANDSCAPE ARCHITECT
 631-426-6645
 CA LIC # 2937
 Joe Appertoli, 38th Avenue Homes
 1575 38th Avenue Capitola, Ca.

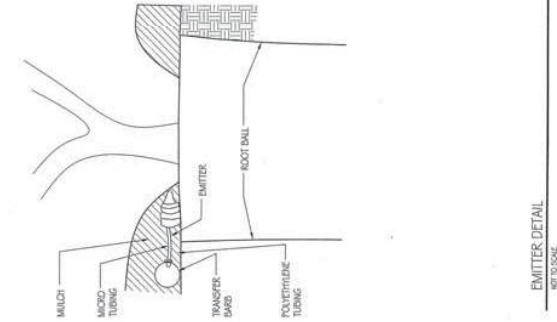
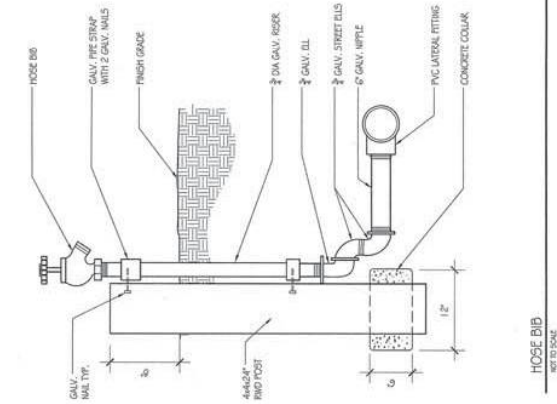
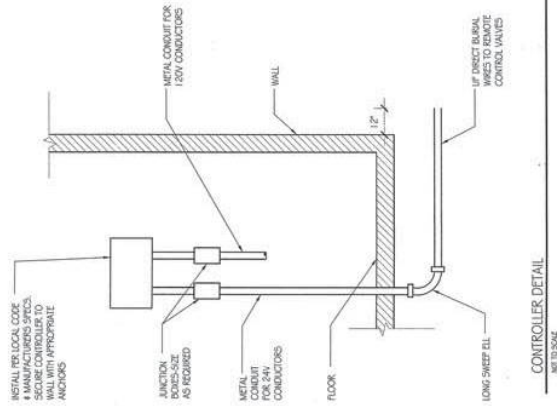


NOTE: USE #14 OR #16 WIRE FOR WIRE CONNECTIONS. WIRE CONNECTIONS WATER PROOF.

THREADED GATE VALVE
 NOT TO SCALE

REDUCED PRESSURE BACKFLOW PREVENTER
 NOT TO SCALE

REMOTE CONTROL VALVE
 NOT TO SCALE



PLANTING DETAIL
 NOT TO SCALE

THREADED GATE VALVE
 NOT TO SCALE

REDUCED PRESSURE BACKFLOW PREVENTER
 NOT TO SCALE

REMOTE CONTROL VALVE
 NOT TO SCALE

| | | | | |
|--|--|--|---|---|
| <p>IRIGATION SYSTEM</p> <p>PART 1 - GENERAL</p> <p>1.01 WORK INCLUDES</p> <p>A. Complete installation of the irrigation system, including all materials, labor, and equipment, as specified in the drawings and specifications.</p> <p>B. The Contractor shall be responsible for obtaining all necessary permits and approvals from the local authorities.</p> <p>C. The Contractor shall provide a detailed schedule of work and a list of materials to be used.</p> <p>D. The Contractor shall be responsible for the protection of existing utilities and structures.</p> <p>E. The Contractor shall be responsible for the disposal of any waste materials.</p> <p>F. The Contractor shall be responsible for the cleanup of the work area.</p> <p>G. The Contractor shall be responsible for the maintenance of the irrigation system.</p> <p>H. The Contractor shall be responsible for the training of the Owner's staff.</p> <p>I. The Contractor shall be responsible for the warranty of the irrigation system.</p> <p>J. The Contractor shall be responsible for the insurance of the irrigation system.</p> <p>K. The Contractor shall be responsible for the bonding of the irrigation system.</p> <p>L. The Contractor shall be responsible for the record keeping of the irrigation system.</p> <p>M. The Contractor shall be responsible for the archiving of the irrigation system.</p> <p>N. The Contractor shall be responsible for the security of the irrigation system.</p> <p>O. The Contractor shall be responsible for the confidentiality of the irrigation system.</p> <p>P. The Contractor shall be responsible for the integrity of the irrigation system.</p> <p>Q. The Contractor shall be responsible for the availability of the irrigation system.</p> <p>R. The Contractor shall be responsible for the reliability of the irrigation system.</p> <p>S. The Contractor shall be responsible for the accuracy of the irrigation system.</p> <p>T. The Contractor shall be responsible for the consistency of the irrigation system.</p> <p>U. The Contractor shall be responsible for the uniformity of the irrigation system.</p> <p>V. The Contractor shall be responsible for the completeness of the irrigation system.</p> <p>W. The Contractor shall be responsible for the soundness of the irrigation system.</p> <p>X. The Contractor shall be responsible for the solidity of the irrigation system.</p> <p>Y. The Contractor shall be responsible for the substantiality of the irrigation system.</p> <p>Z. The Contractor shall be responsible for the durability of the irrigation system.</p> | <p>1.02 WORK EXCLUDES</p> <p>A. The Contractor shall not be responsible for the design of the irrigation system.</p> <p>B. The Contractor shall not be responsible for the selection of the irrigation system.</p> <p>C. The Contractor shall not be responsible for the procurement of the irrigation system.</p> <p>D. The Contractor shall not be responsible for the installation of the irrigation system.</p> <p>E. The Contractor shall not be responsible for the testing of the irrigation system.</p> <p>F. The Contractor shall not be responsible for the commissioning of the irrigation system.</p> <p>G. The Contractor shall not be responsible for the handover of the irrigation system.</p> <p>H. The Contractor shall not be responsible for the maintenance of the irrigation system.</p> <p>I. The Contractor shall not be responsible for the repair of the irrigation system.</p> <p>J. The Contractor shall not be responsible for the replacement of the irrigation system.</p> <p>K. The Contractor shall not be responsible for the removal of the irrigation system.</p> <p>L. The Contractor shall not be responsible for the disposal of the irrigation system.</p> <p>M. The Contractor shall not be responsible for the recycling of the irrigation system.</p> <p>N. The Contractor shall not be responsible for the reuse of the irrigation system.</p> <p>O. The Contractor shall not be responsible for the repurposing of the irrigation system.</p> <p>P. The Contractor shall not be responsible for the renovation of the irrigation system.</p> <p>Q. The Contractor shall not be responsible for the restoration of the irrigation system.</p> <p>R. The Contractor shall not be responsible for the reconstruction of the irrigation system.</p> <p>S. The Contractor shall not be responsible for the reconstruction of the irrigation system.</p> <p>T. The Contractor shall not be responsible for the reconstruction of the irrigation system.</p> <p>U. The Contractor shall not be responsible for the reconstruction of the irrigation system.</p> <p>V. The Contractor shall not be responsible for the reconstruction of the irrigation system.</p> <p>W. The Contractor shall not be responsible for the reconstruction of the irrigation system.</p> <p>X. The Contractor shall not be responsible for the reconstruction of the irrigation system.</p> <p>Y. The Contractor shall not be responsible for the reconstruction of the irrigation system.</p> <p>Z. The Contractor shall not be responsible for the reconstruction of the irrigation system.</p> | <p>1.03 MATERIALS</p> <p>A. All materials shall be of the highest quality and shall conform to the specifications of the manufacturer.</p> <p>B. All materials shall be new and unused.</p> <p>C. All materials shall be stored in a dry and secure location.</p> <p>D. All materials shall be protected from damage.</p> <p>E. All materials shall be labeled and identified.</p> <p>F. All materials shall be inspected and approved.</p> <p>G. All materials shall be documented.</p> <p>H. All materials shall be accounted for.</p> <p>I. All materials shall be traceable.</p> <p>J. All materials shall be verifiable.</p> <p>K. All materials shall be auditable.</p> <p>L. All materials shall be reportable.</p> <p>M. All materials shall be recordable.</p> <p>N. All materials shall be retrievable.</p> <p>O. All materials shall be recoverable.</p> <p>P. All materials shall be reusable.</p> <p>Q. All materials shall be recyclable.</p> <p>R. All materials shall be sustainable.</p> <p>S. All materials shall be ethical.</p> <p>T. All materials shall be legal.</p> <p>U. All materials shall be compliant.</p> <p>V. All materials shall be conforming.</p> <p>W. All materials shall be adhering.</p> <p>X. All materials shall be abiding.</p> <p>Y. All materials shall be observing.</p> <p>Z. All materials shall be obeying.</p> | <p>1.04 INSTALLATION</p> <p>A. The Contractor shall follow the manufacturer's instructions for installation.</p> <p>B. The Contractor shall follow the specifications for installation.</p> <p>C. The Contractor shall follow the drawings for installation.</p> <p>D. The Contractor shall follow the schedule for installation.</p> <p>E. The Contractor shall follow the sequence for installation.</p> <p>F. The Contractor shall follow the order for installation.</p> <p>G. The Contractor shall follow the direction for installation.</p> <p>H. The Contractor shall follow the location for installation.</p> <p>I. The Contractor shall follow the depth for installation.</p> <p>J. The Contractor shall follow the width for installation.</p> <p>K. The Contractor shall follow the height for installation.</p> <p>L. The Contractor shall follow the angle for installation.</p> <p>M. The Contractor shall follow the slope for installation.</p> <p>N. The Contractor shall follow the curvature for installation.</p> <p>O. The Contractor shall follow the radius for installation.</p> <p>P. The Contractor shall follow the diameter for installation.</p> <p>Q. The Contractor shall follow the circumference for installation.</p> <p>R. The Contractor shall follow the area for installation.</p> <p>S. The Contractor shall follow the volume for installation.</p> <p>T. The Contractor shall follow the mass for installation.</p> <p>U. The Contractor shall follow the weight for installation.</p> <p>V. The Contractor shall follow the force for installation.</p> <p>W. The Contractor shall follow the pressure for installation.</p> <p>X. The Contractor shall follow the stress for installation.</p> <p>Y. The Contractor shall follow the strain for installation.</p> <p>Z. The Contractor shall follow the deformation for installation.</p> | <p>1.05 TESTING</p> <p>A. The Contractor shall perform a pressure test of the irrigation system.</p> <p>B. The Contractor shall perform a flow test of the irrigation system.</p> <p>C. The Contractor shall perform a timing test of the irrigation system.</p> <p>D. The Contractor shall perform a coverage test of the irrigation system.</p> <p>E. The Contractor shall perform a uniformity test of the irrigation system.</p> <p>F. The Contractor shall perform a consistency test of the irrigation system.</p> <p>G. The Contractor shall perform a uniformity test of the irrigation system.</p> <p>H. The Contractor shall perform a consistency test of the irrigation system.</p> <p>I. The Contractor shall perform a uniformity test of the irrigation system.</p> <p>J. The Contractor shall perform a consistency test of the irrigation system.</p> <p>K. The Contractor shall perform a uniformity test of the irrigation system.</p> <p>L. The Contractor shall perform a consistency test of the irrigation system.</p> <p>M. The Contractor shall perform a uniformity test of the irrigation system.</p> <p>N. The Contractor shall perform a consistency test of the irrigation system.</p> <p>O. The Contractor shall perform a uniformity test of the irrigation system.</p> <p>P. The Contractor shall perform a consistency test of the irrigation system.</p> <p>Q. The Contractor shall perform a uniformity test of the irrigation system.</p> <p>R. The Contractor shall perform a consistency test of the irrigation system.</p> <p>S. The Contractor shall perform a uniformity test of the irrigation system.</p> <p>T. The Contractor shall perform a consistency test of the irrigation system.</p> <p>U. The Contractor shall perform a uniformity test of the irrigation system.</p> <p>V. The Contractor shall perform a consistency test of the irrigation system.</p> <p>W. The Contractor shall perform a uniformity test of the irrigation system.</p> <p>X. The Contractor shall perform a consistency test of the irrigation system.</p> <p>Y. The Contractor shall perform a uniformity test of the irrigation system.</p> <p>Z. The Contractor shall perform a consistency test of the irrigation system.</p> |
| <p>1.06 MAINTENANCE</p> <p>A. The Contractor shall provide a manual for the maintenance of the irrigation system.</p> <p>B. The Contractor shall provide a schedule for the maintenance of the irrigation system.</p> <p>C. The Contractor shall provide a list of materials for the maintenance of the irrigation system.</p> <p>D. The Contractor shall provide a list of tools for the maintenance of the irrigation system.</p> <p>E. The Contractor shall provide a list of safety equipment for the maintenance of the irrigation system.</p> <p>F. The Contractor shall provide a list of training materials for the maintenance of the irrigation system.</p> <p>G. The Contractor shall provide a list of documentation for the maintenance of the irrigation system.</p> <p>H. The Contractor shall provide a list of records for the maintenance of the irrigation system.</p> <p>I. The Contractor shall provide a list of reports for the maintenance of the irrigation system.</p> <p>J. The Contractor shall provide a list of summaries for the maintenance of the irrigation system.</p> <p>K. The Contractor shall provide a list of conclusions for the maintenance of the irrigation system.</p> <p>L. The Contractor shall provide a list of recommendations for the maintenance of the irrigation system.</p> <p>M. The Contractor shall provide a list of suggestions for the maintenance of the irrigation system.</p> <p>N. The Contractor shall provide a list of ideas for the maintenance of the irrigation system.</p> <p>O. The Contractor shall provide a list of solutions for the maintenance of the irrigation system.</p> <p>P. The Contractor shall provide a list of answers for the maintenance of the irrigation system.</p> <p>Q. The Contractor shall provide a list of responses for the maintenance of the irrigation system.</p> <p>R. The Contractor shall provide a list of reactions for the maintenance of the irrigation system.</p> <p>S. The Contractor shall provide a list of feedback for the maintenance of the irrigation system.</p> <p>T. The Contractor shall provide a list of comments for the maintenance of the irrigation system.</p> <p>U. The Contractor shall provide a list of reviews for the maintenance of the irrigation system.</p> <p>V. The Contractor shall provide a list of evaluations for the maintenance of the irrigation system.</p> <p>W. The Contractor shall provide a list of assessments for the maintenance of the irrigation system.</p> <p>X. The Contractor shall provide a list of analyses for the maintenance of the irrigation system.</p> <p>Y. The Contractor shall provide a list of examinations for the maintenance of the irrigation system.</p> <p>Z. The Contractor shall provide a list of inspections for the maintenance of the irrigation system.</p> | <p>1.07 TROUBLESHOOTING</p> <p>A. The Contractor shall be responsible for the diagnosis of any problems with the irrigation system.</p> <p>B. The Contractor shall be responsible for the identification of the cause of any problems with the irrigation system.</p> <p>C. The Contractor shall be responsible for the implementation of the solution for any problems with the irrigation system.</p> <p>D. The Contractor shall be responsible for the verification of the effectiveness of the solution for any problems with the irrigation system.</p> <p>E. The Contractor shall be responsible for the documentation of any problems with the irrigation system.</p> <p>F. The Contractor shall be responsible for the communication of any problems with the irrigation system.</p> <p>G. The Contractor shall be responsible for the coordination of any problems with the irrigation system.</p> <p>H. The Contractor shall be responsible for the collaboration of any problems with the irrigation system.</p> <p>I. The Contractor shall be responsible for the cooperation of any problems with the irrigation system.</p> <p>J. The Contractor shall be responsible for the participation of any problems with the irrigation system.</p> <p>K. The Contractor shall be responsible for the involvement of any problems with the irrigation system.</p> <p>L. The Contractor shall be responsible for the engagement of any problems with the irrigation system.</p> <p>M. The Contractor shall be responsible for the activation of any problems with the irrigation system.</p> <p>N. The Contractor shall be responsible for the initiation of any problems with the irrigation system.</p> <p>O. The Contractor shall be responsible for the execution of any problems with the irrigation system.</p> <p>P. The Contractor shall be responsible for the performance of any problems with the irrigation system.</p> <p>Q. The Contractor shall be responsible for the realization of any problems with the irrigation system.</p> <p>R. The Contractor shall be responsible for the attainment of any problems with the irrigation system.</p> <p>S. The Contractor shall be responsible for the achievement of any problems with the irrigation system.</p> <p>T. The Contractor shall be responsible for the accomplishment of any problems with the irrigation system.</p> <p>U. The Contractor shall be responsible for the completion of any problems with the irrigation system.</p> <p>V. The Contractor shall be responsible for the fulfillment of any problems with the irrigation system.</p> <p>W. The Contractor shall be responsible for the satisfaction of any problems with the irrigation system.</p> <p>X. The Contractor shall be responsible for the contentment of any problems with the irrigation system.</p> <p>Y. The Contractor shall be responsible for the pleasure of any problems with the irrigation system.</p> <p>Z. The Contractor shall be responsible for the enjoyment of any problems with the irrigation system.</p> | <p>1.08 SAFETY</p> <p>A. The Contractor shall follow all safety protocols and procedures.</p> <p>B. The Contractor shall use all safety equipment and PPE.</p> <p>C. The Contractor shall identify and mark all utility lines.</p> <p>D. The Contractor shall establish and maintain safe work zones.</p> <p>E. The Contractor shall provide and enforce safety training.</p> <p>F. The Contractor shall conduct safety meetings and briefings.</p> <p>G. The Contractor shall report and investigate all safety incidents.</p> <p>H. The Contractor shall maintain a safe and healthy work environment.</p> <p>I. The Contractor shall ensure the safety of all workers and the public.</p> <p>J. The Contractor shall comply with all applicable safety regulations.</p> <p>K. The Contractor shall adhere to all safety standards and codes.</p> <p>L. The Contractor shall follow the manufacturer's safety instructions.</p> <p>M. The Contractor shall use proper lifting techniques.</p> <p>N. The Contractor shall avoid overexertion and repetitive strain.</p> <p>O. The Contractor shall take regular breaks and stay hydrated.</p> <p>P. The Contractor shall be alert and focused at all times.</p> <p>Q. The Contractor shall not drink or use alcohol while working.</p> <p>R. The Contractor shall not use drugs or recreational substances.</p> <p>S. The Contractor shall be responsible for the safety of the equipment.</p> <p>T. The Contractor shall be responsible for the safety of the materials.</p> <p>U. The Contractor shall be responsible for the safety of the site.</p> <p>V. The Contractor shall be responsible for the safety of the project.</p> <p>W. The Contractor shall be responsible for the safety of the company.</p> <p>X. The Contractor shall be responsible for the safety of the industry.</p> <p>Y. The Contractor shall be responsible for the safety of the world.</p> <p>Z. The Contractor shall be responsible for the safety of the future.</p> | <p>1.09 QUALITY CONTROL</p> <p>A. The Contractor shall implement a quality control program.</p> <p>B. The Contractor shall perform regular quality control checks.</p> <p>C. The Contractor shall document all quality control findings.</p> <p>D. The Contractor shall address and correct all quality control issues.</p> <p>E. The Contractor shall prevent the recurrence of quality control issues.</p> <p>F. The Contractor shall ensure the quality of the workmanship.</p> <p>G. The Contractor shall ensure the quality of the materials.</p> <p>H. The Contractor shall ensure the quality of the installation.</p> <p>I. The Contractor shall ensure the quality of the testing.</p> <p>J. The Contractor shall ensure the quality of the maintenance.</p> <p>K. The Contractor shall ensure the quality of the troubleshooting.</p> <p>L. The Contractor shall ensure the quality of the safety.</p> <p>M. The Contractor shall ensure the quality of the quality control.</p> <p>N. The Contractor shall ensure the quality of the quality control.</p> <p>O. The Contractor shall ensure the quality of the quality control.</p> <p>P. The Contractor shall ensure the quality of the quality control.</p> <p>Q. The Contractor shall ensure the quality of the quality control.</p> <p>R. The Contractor shall ensure the quality of the quality control.</p> <p>S. The Contractor shall ensure the quality of the quality control.</p> <p>T. The Contractor shall ensure the quality of the quality control.</p> <p>U. The Contractor shall ensure the quality of the quality control.</p> <p>V. The Contractor shall ensure the quality of the quality control.</p> <p>W. The Contractor shall ensure the quality of the quality control.</p> <p>X. The Contractor shall ensure the quality of the quality control.</p> <p>Y. The Contractor shall ensure the quality of the quality control.</p> <p>Z. The Contractor shall ensure the quality of the quality control.</p> | <p>1.10 DOCUMENTATION</p> <p>A. The Contractor shall maintain accurate and complete records.</p> <p>B. The Contractor shall document all work performed.</p> <p>C. The Contractor shall document all materials used.</p> <p>D. The Contractor shall document all equipment used.</p> <p>E. The Contractor shall document all safety incidents.</p> <p>F. The Contractor shall document all quality control findings.</p> <p>G. The Contractor shall document all testing results.</p> <p>H. The Contractor shall document all maintenance activities.</p> <p>I. The Contractor shall document all troubleshooting steps.</p> <p>J. The Contractor shall document all safety training.</p> <p>K. The Contractor shall document all safety meetings.</p> <p>L. The Contractor shall document all safety reports.</p> <p>M. The Contractor shall document all safety investigations.</p> <p>N. The Contractor shall document all safety resolutions.</p> <p>O. The Contractor shall document all safety improvements.</p> <p>P. The Contractor shall document all safety innovations.</p> <p>Q. The Contractor shall document all safety breakthroughs.</p> <p>R. The Contractor shall document all safety milestones.</p> <p>S. The Contractor shall document all safety achievements.</p> <p>T. The Contractor shall document all safety successes.</p> <p>U. The Contractor shall document all safety triumphs.</p> <p>V. The Contractor shall document all safety victories.</p> <p>W. The Contractor shall document all safety conquests.</p> <p>X. The Contractor shall document all safety dominions.</p> <p>Y. The Contractor shall document all safety kingdoms.</p> <p>Z. The Contractor shall document all safety empires.</p> |
| <p>1.11 ELECTRICAL</p> <p>A. The Contractor shall coordinate with the electrical contractor.</p> <p>B. The Contractor shall ensure proper grounding and bonding.</p> <p>C. The Contractor shall ensure proper voltage and current ratings.</p> <p>D. The Contractor shall ensure proper wire sizing and conduit.</p> <p>E. The Contractor shall ensure proper labeling and identification.</p> <p>F. The Contractor shall ensure proper protection and enclosure.</p> <p>G. The Contractor shall ensure proper testing and commissioning.</p> <p>H. The Contractor shall ensure proper documentation and record keeping.</p> <p>I. The Contractor shall ensure proper safety and risk management.</p> <p>J. The Contractor shall ensure proper communication and coordination.</p> <p>K. The Contractor shall ensure proper collaboration and cooperation.</p> <p>L. The Contractor shall ensure proper participation and involvement.</p> <p>M. The Contractor shall ensure proper engagement and activation.</p> <p>N. The Contractor shall ensure proper initiation and execution.</p> <p>O. The Contractor shall ensure proper performance and realization.</p> <p>P. The Contractor shall ensure proper attainment and achievement.</p> <p>Q. The Contractor shall ensure proper completion and fulfillment.</p> <p>R. The Contractor shall ensure proper satisfaction and contentment.</p> <p>S. The Contractor shall ensure proper pleasure and enjoyment.</p> <p>T. The Contractor shall ensure proper safety and well-being.</p> <p>U. The Contractor shall ensure proper health and happiness.</p> <p>V. The Contractor shall ensure proper success and prosperity.</p> <p>W. The Contractor shall ensure proper wealth and abundance.</p> <p>X. The Contractor shall ensure proper power and influence.</p> <p>Y. The Contractor shall ensure proper authority and leadership.</p> <p>Z. The Contractor shall ensure proper respect and honor.</p> | <p>1.12 PLUMBING</p> <p>A. The Contractor shall coordinate with the plumbing contractor.</p> <p>B. The Contractor shall ensure proper pipe materials and fittings.</p> <p>C. The Contractor shall ensure proper pipe support and hangers.</p> <p>D. The Contractor shall ensure proper pipe insulation and protection.</p> <p>E. The Contractor shall ensure proper pipe testing and commissioning.</p> <p>F. The Contractor shall ensure proper documentation and record keeping.</p> <p>G. The Contractor shall ensure proper safety and risk management.</p> <p>H. The Contractor shall ensure proper communication and coordination.</p> <p>I. The Contractor shall ensure proper collaboration and cooperation.</p> <p>J. The Contractor shall ensure proper participation and involvement.</p> <p>K. The Contractor shall ensure proper engagement and activation.</p> <p>L. The Contractor shall ensure proper initiation and execution.</p> <p>M. The Contractor shall ensure proper performance and realization.</p> <p>N. The Contractor shall ensure proper attainment and achievement.</p> <p>O. The Contractor shall ensure proper completion and fulfillment.</p> <p>P. The Contractor shall ensure proper satisfaction and contentment.</p> <p>Q. The Contractor shall ensure proper pleasure and enjoyment.</p> <p>R. The Contractor shall ensure proper safety and well-being.</p> <p>S. The Contractor shall ensure proper health and happiness.</p> <p>T. The Contractor shall ensure proper success and prosperity.</p> <p>U. The Contractor shall ensure proper wealth and abundance.</p> <p>V. The Contractor shall ensure proper power and influence.</p> <p>W. The Contractor shall ensure proper authority and leadership.</p> <p>X. The Contractor shall ensure proper respect and honor.</p> <p>Y. The Contractor shall ensure proper dignity and esteem.</p> <p>Z. The Contractor shall ensure proper pride and honor.</p> | <p>1.13 PAINTING</p> <p>A. The Contractor shall coordinate with the painting contractor.</p> <p>B. The Contractor shall ensure proper surface preparation.</p> <p>C. The Contractor shall ensure proper paint selection and application.</p> <p>D. The Contractor shall ensure proper paint coverage and finish.</p> <p>E. The Contractor shall ensure proper paint testing and commissioning.</p> <p>F. The Contractor shall ensure proper documentation and record keeping.</p> <p>G. The Contractor shall ensure proper safety and risk management.</p> <p>H. The Contractor shall ensure proper communication and coordination.</p> <p>I. The Contractor shall ensure proper collaboration and cooperation.</p> <p>J. The Contractor shall ensure proper participation and involvement.</p> <p>K. The Contractor shall ensure proper engagement and activation.</p> <p>L. The Contractor shall ensure proper initiation and execution.</p> <p>M. The Contractor shall ensure proper performance and realization.</p> <p>N. The Contractor shall ensure proper attainment and achievement.</p> <p>O. 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The Contractor shall ensure proper concrete placement and curing.</p> <p>D. The Contractor shall ensure proper concrete testing and commissioning.</p> <p>E. The Contractor shall ensure proper documentation and record keeping.</p> <p>F. The Contractor shall ensure proper safety and risk management.</p> <p>G. The Contractor shall ensure proper communication and coordination.</p> <p>H. The Contractor shall ensure proper collaboration and cooperation.</p> <p>I. The Contractor shall ensure proper participation and involvement.</p> <p>J. The Contractor shall ensure proper engagement and activation.</p> <p>K. The Contractor shall ensure proper initiation and execution.</p> <p>L. The Contractor shall ensure proper performance and realization.</p> <p>M. The Contractor shall ensure proper attainment and achievement.</p> <p>N. The Contractor shall ensure proper completion and fulfillment.</p> <p>O. The Contractor shall ensure proper satisfaction and contentment.</p> <p>Q. 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The Contractor shall ensure proper documentation and record keeping.</p> <p>F. The Contractor shall ensure proper safety and risk management.</p> <p>G. The Contractor shall ensure proper communication and coordination.</p> <p>H. The Contractor shall ensure proper collaboration and cooperation.</p> <p>I. The Contractor shall ensure proper participation and involvement.</p> <p>J. The Contractor shall ensure proper engagement and activation.</p> <p>K. The Contractor shall ensure proper initiation and execution.</p> <p>L. The Contractor shall ensure proper performance and realization.</p> <p>M. The Contractor shall ensure proper attainment and achievement.</p> <p>N. The Contractor shall ensure proper completion and fulfillment.</p> <p>O. The Contractor shall ensure proper satisfaction and contentment.</p> <p>Q. The Contractor shall ensure proper pleasure and enjoyment.</p> <p>R. The Contractor shall ensure proper safety and well-being.</p> <p>S. 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IRRIGATION SCHEDULES

| Month | Wave | Hydrozone | Gall/Run | Run Time | Days/Week | Gall/Month |
|-----------|-----------|-------------------|----------|----------|-----------|----------------|
| January | Eto 3.24' | A-Low, full sun | 150 GPH | 15 min | 1 | 150 Gall/No |
| | Wave #1 | B-Low, part shade | 112 GPH | 15 min | 1 | 112 Gall/No |
| | Wave #2 | B-Low, part shade | 97 GPH | 15 min | 1 | 97 Gall/No |
| | Wave #3 | A-Low, full sun | 190 GPH | 15 min | 1 | 190 Gall/No |
| | Wave #4 | A-Low, full sun | 105 GPH | 15 min | 1 | 105 Gall/No |
| February | Eto 3.24' | A-Low, full sun | 150 GPH | 15 min | 2 | 300 Gall/No |
| | Wave #1 | B-Low, part shade | 112 GPH | 15 min | 2 | 224 Gall/No |
| | Wave #2 | B-Low, part shade | 97 GPH | 15 min | 2 | 194 Gall/No |
| | Wave #3 | A-Low, full sun | 190 GPH | 15 min | 2 | 380 Gall/No |
| | Wave #4 | A-Low, full sun | 105 GPH | 15 min | 2 | 210 Gall/No |
| March | Eto 3.24' | A-Low, full sun | 150 GPH | 15 min | 3 | 450 Gall/No |
| | Wave #1 | B-Low, part shade | 112 GPH | 15 min | 3 | 336 Gall/No |
| | Wave #2 | B-Low, part shade | 97 GPH | 15 min | 3 | 282 Gall/No |
| | Wave #3 | A-Low, full sun | 190 GPH | 15 min | 3 | 570 Gall/No |
| | Wave #4 | A-Low, full sun | 105 GPH | 15 min | 3 | 315 Gall/No |
| April | Eto 3.24' | A-Low, full sun | 150 GPH | 15 min | 4 | 600 Gall/No |
| | Wave #1 | B-Low, part shade | 112 GPH | 15 min | 4 | 448 Gall/No |
| | Wave #2 | B-Low, part shade | 97 GPH | 15 min | 4 | 388 Gall/No |
| | Wave #3 | A-Low, full sun | 190 GPH | 15 min | 4 | 760 Gall/No |
| | Wave #4 | A-Low, full sun | 105 GPH | 15 min | 4 | 420 Gall/No |
| May | Eto 3.24' | A-Low, full sun | 150 GPH | 15 min | 5 | 750 Gall/No |
| | Wave #1 | B-Low, part shade | 112 GPH | 15 min | 5 | 560 Gall/No |
| | Wave #2 | B-Low, part shade | 97 GPH | 15 min | 5 | 487 Gall/No |
| | Wave #3 | A-Low, full sun | 190 GPH | 15 min | 5 | 950 Gall/No |
| | Wave #4 | A-Low, full sun | 105 GPH | 15 min | 5 | 525 Gall/No |
| June | Eto 3.24' | A-Low, full sun | 150 GPH | 15 min | 6 | 900 Gall/No |
| | Wave #1 | B-Low, part shade | 112 GPH | 15 min | 6 | 672 Gall/No |
| | Wave #2 | B-Low, part shade | 97 GPH | 15 min | 6 | 580 Gall/No |
| | Wave #3 | A-Low, full sun | 190 GPH | 15 min | 6 | 1140 Gall/No |
| | Wave #4 | A-Low, full sun | 105 GPH | 15 min | 6 | 630 Gall/No |
| July | Eto 3.24' | A-Low, full sun | 150 GPH | 15 min | 7 | 1050 Gall/No |
| | Wave #1 | B-Low, part shade | 112 GPH | 15 min | 7 | 784 Gall/No |
| | Wave #2 | B-Low, part shade | 97 GPH | 15 min | 7 | 679 Gall/No |
| | Wave #3 | A-Low, full sun | 190 GPH | 15 min | 7 | 1330 Gall/No |
| | Wave #4 | A-Low, full sun | 105 GPH | 15 min | 7 | 735 Gall/No |
| August | Eto 3.24' | A-Low, full sun | 150 GPH | 15 min | 8 | 1200 Gall/No |
| | Wave #1 | B-Low, part shade | 112 GPH | 15 min | 8 | 896 Gall/No |
| | Wave #2 | B-Low, part shade | 97 GPH | 15 min | 8 | 772 Gall/No |
| | Wave #3 | A-Low, full sun | 190 GPH | 15 min | 8 | 1520 Gall/No |
| | Wave #4 | A-Low, full sun | 105 GPH | 15 min | 8 | 840 Gall/No |
| September | Eto 3.24' | A-Low, full sun | 150 GPH | 15 min | 9 | 1350 Gall/No |
| | Wave #1 | B-Low, part shade | 112 GPH | 15 min | 9 | 1008 Gall/No |
| | Wave #2 | B-Low, part shade | 97 GPH | 15 min | 9 | 873 Gall/No |
| | Wave #3 | A-Low, full sun | 190 GPH | 15 min | 9 | 1710 Gall/No |
| | Wave #4 | A-Low, full sun | 105 GPH | 15 min | 9 | 945 Gall/No |
| October | Eto 3.24' | A-Low, full sun | 150 GPH | 15 min | 8 | 1200 Gall/No |
| | Wave #1 | B-Low, part shade | 112 GPH | 15 min | 8 | 896 Gall/No |
| | Wave #2 | B-Low, part shade | 97 GPH | 15 min | 8 | 772 Gall/No |
| | Wave #3 | A-Low, full sun | 190 GPH | 15 min | 8 | 1520 Gall/No |
| | Wave #4 | A-Low, full sun | 105 GPH | 15 min | 8 | 840 Gall/No |
| November | Eto 3.24' | A-Low, full sun | 150 GPH | 15 min | 7 | 1050 Gall/No |
| | Wave #1 | B-Low, part shade | 112 GPH | 15 min | 7 | 784 Gall/No |
| | Wave #2 | B-Low, part shade | 97 GPH | 15 min | 7 | 679 Gall/No |
| | Wave #3 | A-Low, full sun | 190 GPH | 15 min | 7 | 1330 Gall/No |
| | Wave #4 | A-Low, full sun | 105 GPH | 15 min | 7 | 735 Gall/No |
| December | Eto 3.24' | A-Low, full sun | 150 GPH | 15 min | 6 | 900 Gall/No |
| | Wave #1 | B-Low, part shade | 112 GPH | 15 min | 6 | 672 Gall/No |
| | Wave #2 | B-Low, part shade | 97 GPH | 15 min | 6 | 580 Gall/No |
| | Wave #3 | A-Low, full sun | 190 GPH | 15 min | 6 | 1140 Gall/No |
| | Wave #4 | A-Low, full sun | 105 GPH | 15 min | 6 | 630 Gall/No |
| TOTAL | | | | | | 10,464 Gall/No |

Irrigation Totals
 Total Landscaped Area = 6255 Square Feet
 Reference Landscape Water Budget:
 RLWB = (7)(Ref ETO 36.6" YTD)(0.00083)(Total Area 6255 Sq Ft)
 = 99,484 Gall/Year
 Water Budget 99,484 Gall/Year x 70% (70) = 69,639 Gall/Year
 Actual Landscape Water Use - Established Landscape
 = 13,99 CCF/Year
 = 10,464 Gall/Year
 10,464 Gall/Year
 6255 Sq Ft Landscaped Area
 = 1.67 Gall/Sq Ft Landscaped Area

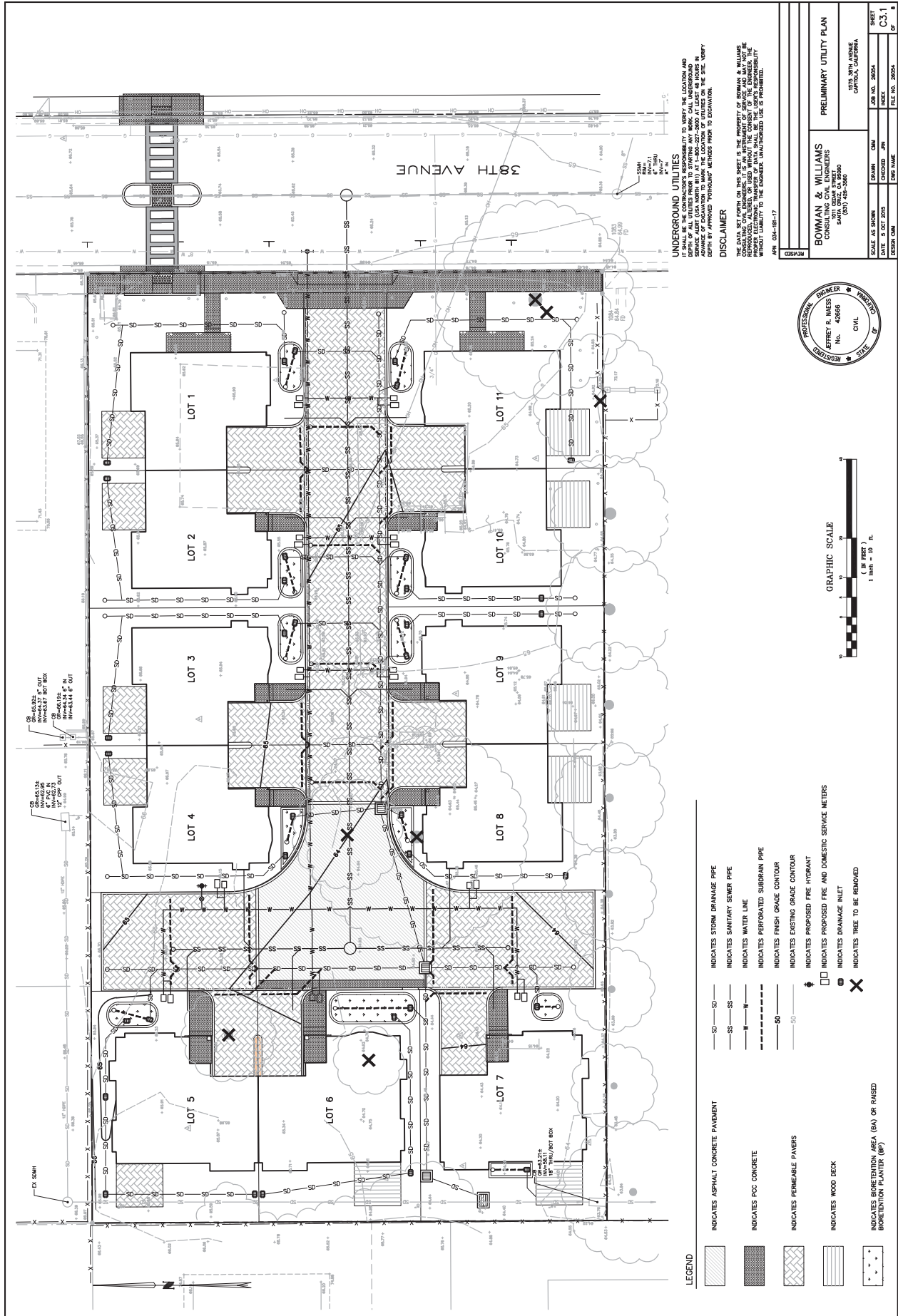
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Revisors

Date 10-26-2015

831 426-6845
 Ca. Lic. #2937

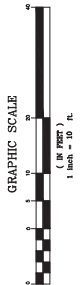
Eileen Cooper
 Landscape Architect
 Joe Apperndt 38th Avenue Homes
 1575 38th Avenue Capitola, Ca.



UNDERGROUND UTILITIES
 IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION AND DEPTH OF ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL AFFECTED AGENCIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR REPAIRING OR REPLACING ANY UTILITIES DAMAGED DURING CONSTRUCTION.

DISCLAIMER
 THE DATA SET FURNISHED ON THIS PLAN IS THE PROPERTY OF BOWMAN & WILLIAMS CONSULTING ENGINEERS. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. ANY OTHER USE OF THIS DATA SET WITHOUT THE WRITTEN PERMISSION OF BOWMAN & WILLIAMS CONSULTING ENGINEERS IS PROHIBITED. WITHOUT LIABILITY TO THE ENGINEER, UNAUTHORIZED USE IS PROHIBITED.

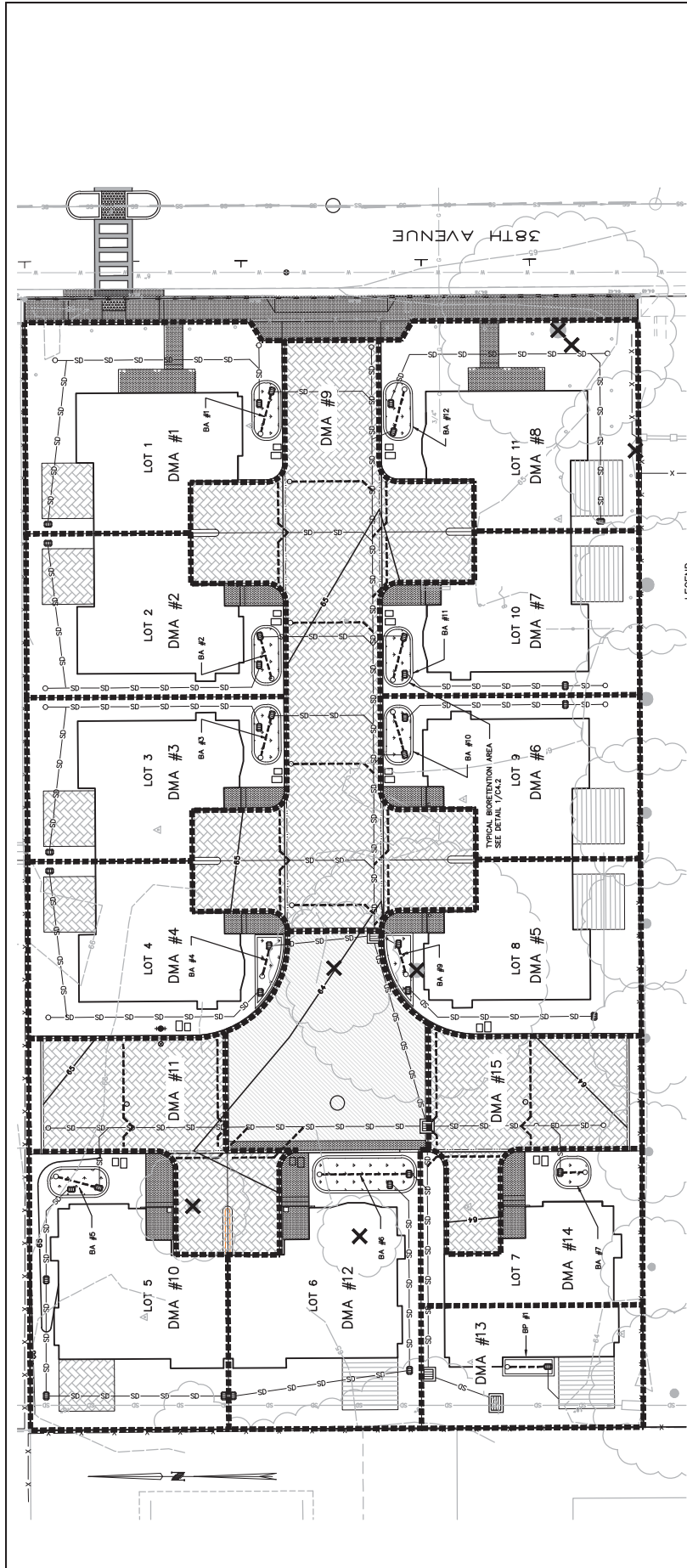
APR 03A-18-17



- LEGEND**
- ▨ INDICATES ASPHALT CONCRETE PAVEMENT
 - ▧ INDICATES PCC CONCRETE
 - ▩ INDICATES PERMEABLE PAVERS
 - INDICATES WOOD DECK
 - INDICATES BASKETWEAVE PAVEMENT (BP)
 - SD—SD INDICATES STORM DRAINAGE PIPE
 - SS—SS INDICATES SANITARY SEWER PIPE
 - W—W INDICATES WATER LINE
 - G—G INDICATES GAS PIPE
 - S—S INDICATES FINISH GRADE CONTOUR
 - C—C INDICATES CASTING GRADE CONTOUR
 - ⚡ INDICATES PROPOSED FIRE HYDRANT
 - ⊠ INDICATES PROPOSED FIRE AND DOMESTIC SERVICE METERS
 - ⊞ INDICATES DRAINAGE INLET
 - ⊗ INDICATES TREE TO BE REMOVED

| | | | |
|---|-------|--------------------------|-------|
| BOWMAN & WILLIAMS CONSULTING ENGINEERS 1011 CREAM STREET SAN FRANCISCO, CA 94109 (415) 775-3400 | | PRELIMINARY UTILITY PLAN | |
| SCALE AS SHOWN | DRAWN | CHECKED | SHEET |
| APR 03A-18-17 | JRH | JRH | C-1 |
| PROJECT NO. | DATE | DATE | NO. |
| | | | 1 |

Attachment: 1575 38th Ave Plans (1238 : 1575 38th Avenue)



UNDERGROUND UTILITIES
 IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION AND DEPTH OF ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL AFFECTED AGENCIES PRIOR TO CONSTRUCTION.

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APP. 034-18-17

LEGEND

- INDICATES ASPHALT CONCRETE PAVEMENT
- INDICATES PCC CONCRETE
- INDICATES PERMEABLE PAVERS
- INDICATES WOOD DECK
- INDICATES BIO RETENTION PLANTER

Proposed Treatment Areas (Square Feet)

| DMA | AREA DESCRIPTION | TREATMENT AREA PROVIDED | TREATMENT AREA REQUIRED | TREATMENT AREA DESCRIPTION |
|-----|------------------|-------------------------|-------------------------|------------------------------------|
| 1 | LOT 1 | 56 | 51 | Front Yard Bioretention Area #1 |
| 2 | LOT 2 | 56 | 46 | Front Yard Bioretention Area #2 |
| 3 | LOT 3 | 56 | 46 | Front Yard Bioretention Area #3 |
| 4 | LOT 4 | 56 | 46 | Front Yard Bioretention Area #4 |
| 5 | LOT 5 | 50 | 46 | Front Yard Bioretention Area #5 |
| 6 | LOT 6 | 56 | 46 | Front Yard Bioretention Area #6 |
| 7 | LOT 7 | 56 | 46 | Front Yard Bioretention Area #7 |
| 8 | LOT 8 | 56 | 51 | Front Yard Bioretention Area #8 |
| 9 | LOT 9 | 61 | 57 | Permeable Pavement - Self Treating |
| 10 | LOT 10 | 139 | 138 | Front Yard Bioretention Area #9 |
| 11 | LOT 11 | 39 | 24 | Rear Yard Bioretention Area #1 |
| 12 | LOT 12 | 39 | 24 | Rear Yard Bioretention Area #2 |
| 13 | LOT 13 | 36 | 35 | Permeable Pavement - Self Treating |
| 14 | LOT 14 | 36 | 35 | Permeable Pavement - Self Treating |
| 15 | LOT 15 | 36 | 35 | Permeable Pavement - Self Treating |

TRIBUTARY AREA CALCULATIONS
 1575 38th Avenue, Capistrano, CA
 BOWMAN & WILLIAMS P.L.L.C. 2024

October 4, 2015

| DMA | DESCRIPTION | TOTAL AREA | NEW IMPERVIOUS SURFACE AREA (SQ) | LANDSCAPE AREA | PREVIOUS DECKS AND PATIOS AREAS | PREVIOUS DRIVEWAYS AND ROADS AREAS | EQUIVALENT IMPERVIOUS SURFACE AREA (SQ) | LOW FLOWS (CFD) | DESIGN FLOWS (CFD) |
|-----|--|------------|----------------------------------|----------------|---------------------------------|------------------------------------|---|-----------------|--------------------|
| 1 | LOT 1 | 2,269 | 1,151 | 1,011 | 197 | 0 | 1,269 | 51 | 51 |
| 2 | LOT 2 | 1,771 | 1,079 | 506 | 197 | 0 | 1,282 | 46 | 46 |
| 3 | LOT 3 | 1,771 | 1,079 | 506 | 197 | 0 | 1,282 | 46 | 46 |
| 4 | LOT 4 | 1,760 | 1,079 | 572 | 197 | 0 | 1,247 | 46 | 46 |
| 5 | LOT 5 | 1,759 | 1,086 | 566 | 197 | 0 | 1,153 | 46 | 46 |
| 6 | LOT 6 | 1,759 | 1,086 | 566 | 197 | 0 | 1,153 | 46 | 46 |
| 7 | LOT 7 | 1,771 | 1,079 | 506 | 197 | 0 | 1,282 | 46 | 46 |
| 8 | LOT 8 | 2,269 | 1,151 | 1,011 | 197 | 0 | 1,269 | 51 | 51 |
| 9 | LOT 9 (LOT 9, 10 & 11) (ROADWAY AND LOT DRIVEWAYS) | 3,961 | 0 | 0 | 0 | 3,961 | 0 | 0 | 0 |
| 10 | LOT 10 | 2,262 | 1,341 | 895 | 112 | 0 | 1,436 | 57 | 57 |
| 11 | LOT 11 | 1,479 | 65 | 715 | 112 | 0 | 882 | 138 | 138 |
| 12 | LOT 12 | 4,196 | 2,033 | 652 | 112 | 0 | 2,800 | 74 | 74 |
| 13 | LOT 13 | 1,318 | 837 | 481 | 0 | 0 | 885 | 25 | 25 |
| 14 | LOT 14 | 1,318 | 837 | 481 | 0 | 0 | 885 | 25 | 25 |
| 15 | LOT 15 | 1,318 | 837 | 481 | 0 | 0 | 885 | 25 | 25 |
| 16 | ROADWAY & LOT DRIVEWAYS | 31,052 | 14,874 | 7,199 | 1,200 | 0 | 15,273 | 0 | 0 |
| 17 | TOTAL | 50,000 | 25,000 | 12,500 | 2,400 | 0 | 25,000 | 0 | 0 |

BOWMAN & WILLIAMS CONSULTING ENGINEERS
 1011 GEM STREET
 SUITE 100
 SAN DIEGO, CA 92108
 (619) 455-3400

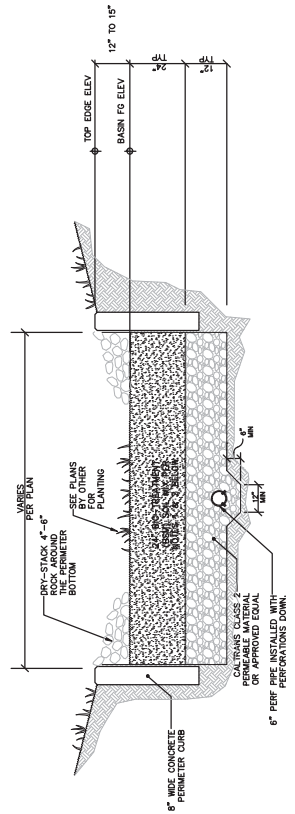
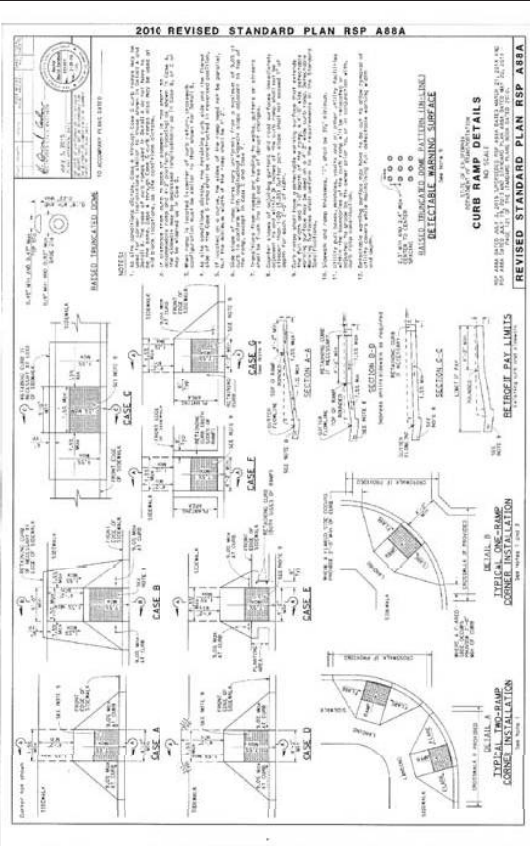
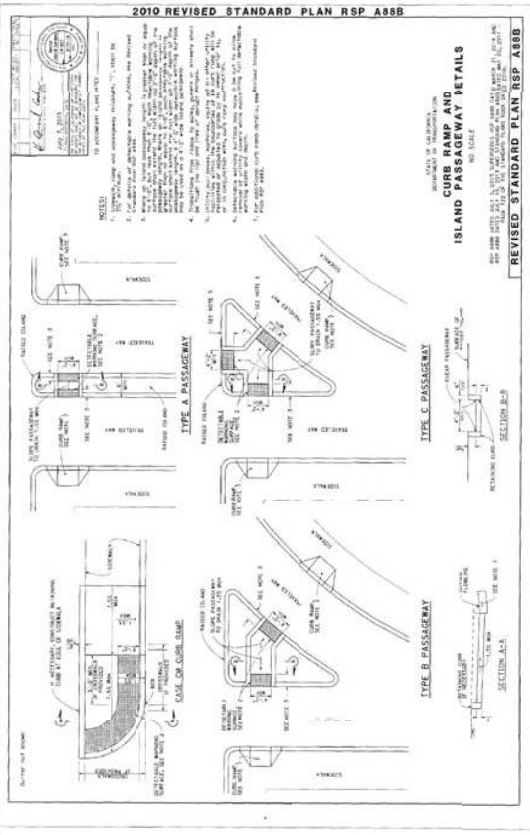
PRELIMINARY STORM WATER CONTROL PLAN

DATE: 10/15/2015
 DRAWN: DMW
 CHECKED: JRM
 SCALE: AS SHOWN
 SHEET: C4.1
 OF: 1

PROFESSIONAL ENGINEER
 REGISTERED CIVIL
 JEFFREY R. MACES
 No. 42866

GRAPHIC SCALE
 1" = 10' - 0"

Attachment: 1575 38th Ave Plans (1238 : 1575 38th Avenue)



- NOTES:**
1. BIO-TREATMENT SOIL SHALL CONSIST OF 60%-70% SAND AND 40%-50% BIO-SOLUBLE ORGANIC MATTER COMPATIBLE WITH CITY OF SANTA CRUZ DEVELOPMENT AND REMODELING PROJECT GUIDELINES.
 2. THE SOIL MIX SHALL BE WELL BLENDED TO PRODUCE A HOMOGENEOUS MIX.
 3. BIODEGRADATION AREA - PLACE OVERFLOW INLET GRATE 6" ABOVE BASIN FINISH GRADE.

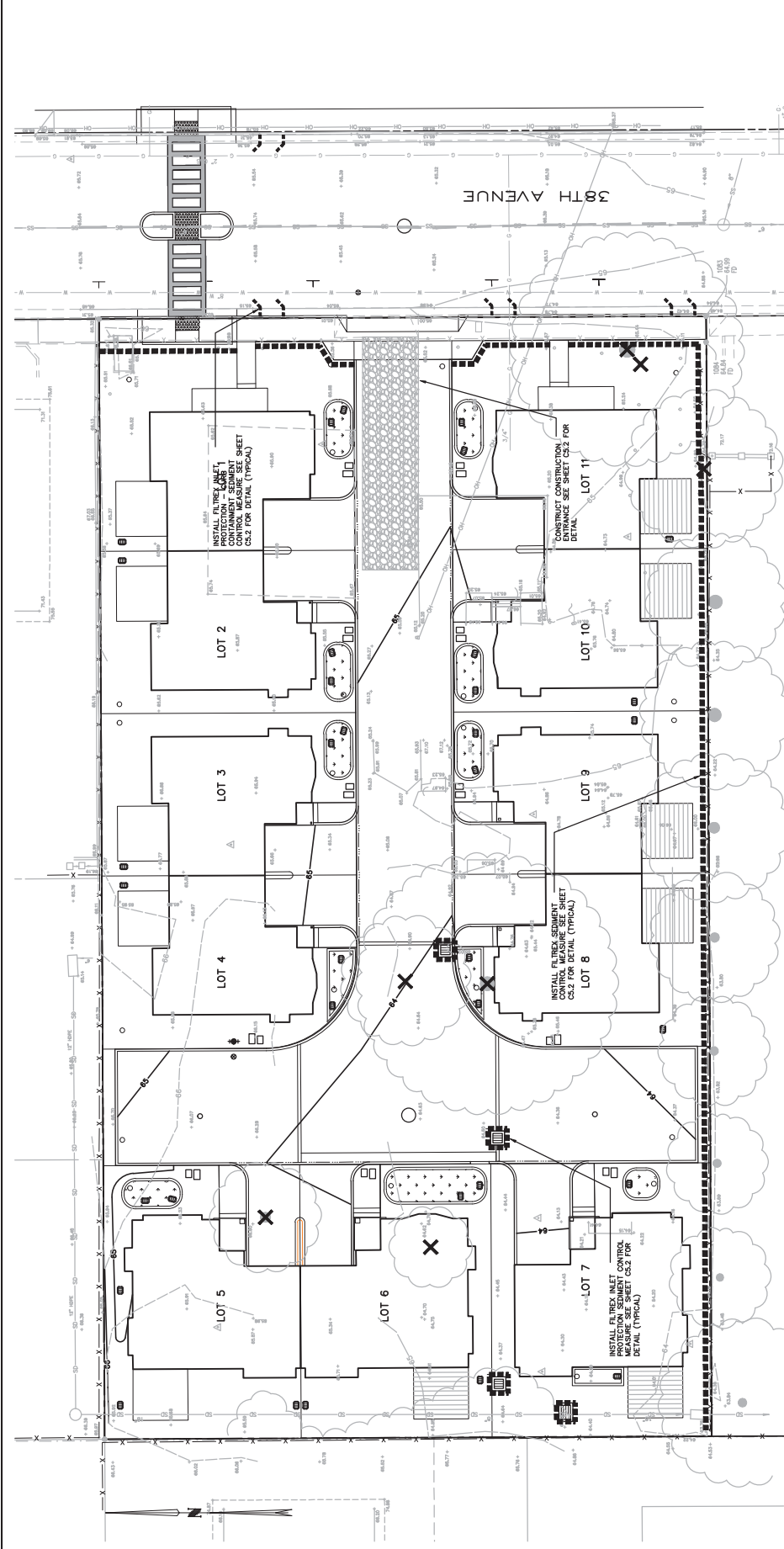
SCALE: NTS
 1/4" = 1'-0"
 BIO-TREATMENT BASIN



UNDERGROUND UTILITIES
 IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION AND DEPTH OF ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND SHALL BE RESPONSIBLE FOR PROTECTING ALL UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE LOCATION AND DEPTH OF ALL UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE LOCATION AND DEPTH OF ALL UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE LOCATION AND DEPTH OF ALL UTILITIES.

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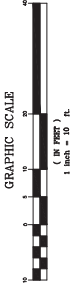
| | | | |
|--|--------------|---------------|-------------|
| BOWMAN & WILLIAMS CONSULTING ENGINEERS 1011 CREAM STREET SAN JOSE, CA 95128 (408) 252-5400 | | DETAILS | |
| SCALE AS SHOWN | DRAWN: CHM | DATE: 06.2004 | SHEET: CA-2 |
| DESIGNED: JPH | CHECKED: JPH | DATE: 06.2004 | OF: 1 |



UNDERGROUND UTILITIES
 IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION AND DEPTH OF ALL EXISTING UNDERGROUND UTILITIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE TO EXISTING UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE TO EXISTING UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE TO EXISTING UTILITIES.

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| | | | |
|--|-----------------|----------------------------------|-------------------|
| BOWMAN & WILLIAMS CONSULTING ENGINEERS 1011 GEM STREET SAN JOSE, CA 95128 (408) 435-3480 | | PRELIMINARY EROSION CONTROL PLAN | |
| SCALE AS SHOWN | DRAWN: DMW | CHECKED: JRM | DATE: 06.20.2024 |
| PROJECT NO. 2024-001 | CITY: SAN JOSE | COUNTY: SANTA CLARA | STATE: CALIFORNIA |
| SHEET NO. 01 | SHEET TOTAL: 01 | | DATE: 06.20.2024 |



- LEGEND**
- INDICATES FILTERED SEDIMENT CONTROL MEASURE
 - ▲▲▲ INDICATES FILTER INLET PROTECTION - CURB CONTROL MEASURE SEE SHEET CS.2 FOR DETAIL (TYPICAL)
 - ■ ■ ■ ■ INDICATES FILTER INLET PROTECTION - DRIVEWAY CONTROL MEASURE SEE SHEET CS.2 FOR DETAIL (TYPICAL)
 - ■ ■ ■ ■ INDICATES CONSTRUCTION ENTRANCE

Attachment: 1575 38th Ave Plans (1238 : 1575 38th Avenue)

STORMWATER POLLUTION PREVENTION NOTES:

- NOTES**
1. THE EROSION CONTROL CONTRACTOR SHALL COMPLY WITH THE EROSION CONTROL MEASURES SHOWN ON THE PLAN AND THE CITY OF SANTA CRUZ CONSTRUCTION BEST MANAGEMENT PRACTICES (COMBAT) & OF THE BEST MANAGEMENT PRACTICES MANUAL FOR THE CITY OF SANTA CRUZ (BMP MANUAL) (BMP MANUAL) (BMP MANUAL).
 2. THE EROSION CONTROL CONTRACTOR SHALL BE RESPONSIBLE FOR INSTALLING AND MAINTAINING THE EROSION CONTROL AT ALL TIMES.
 3. EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION AND THROUGHOUT THE CONSTRUCTION PERIOD.
 4. EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION AND THROUGHOUT THE CONSTRUCTION PERIOD.
 5. PRIOR TO RESUME OF THE BUILDING PERMIT, THE PROPERTY OWNER SHALL SOON A BMP MAINTENANCE SCHEDULE TO THE CITY OF SANTA CRUZ AND SHALL PROVIDE TO THE CITY OF SANTA CRUZ A BMP MAINTENANCE SCHEDULE FOR THE CONSTRUCTION SITE.

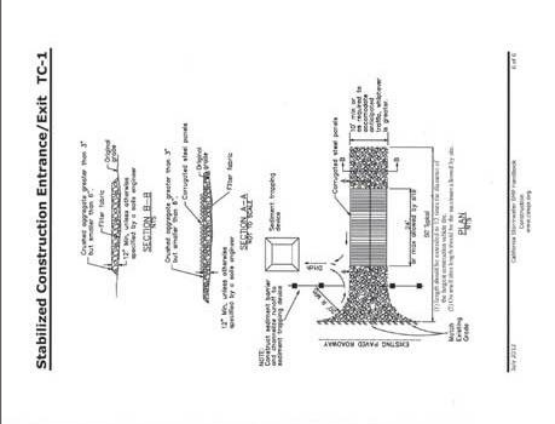
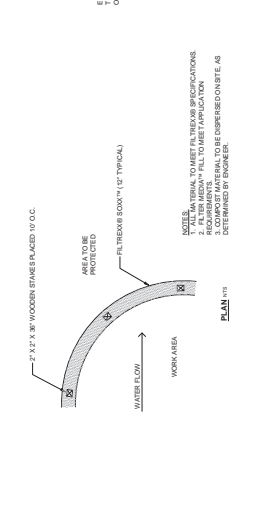
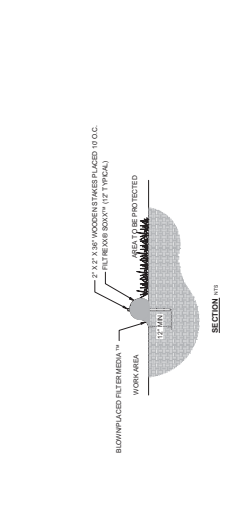
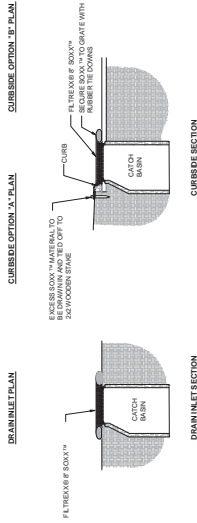
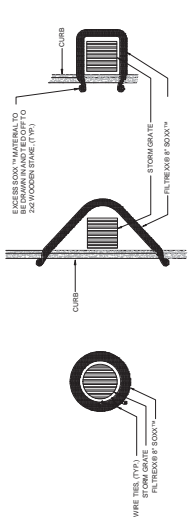
SITE HOUSEKEEPING REQUIREMENTS

- CONSTRUCTION MATERIALS**
1. ALL LOOSE STOCKPILED CONSTRUCTION MATERIALS THAT ARE NOT ACTIVELY BEING USED (I.E. SOIL, SPILLS, AGGREGATE, 1/2" SAND, STROUD, HYDRATED LIME, ETC.) SHALL BE COVERED AND BARRIRED.
 2. ALL CHEMICALS SHALL BE STORED IN WATER-TIGHT CONTAINERS (WITH APPROPRIATE SECONDARY CONTAINMENT) TO PREVENT ANY SPILLAGE OR LEAKAGE OR IN A STORAGE AID (COMPARTMENT ENCLOSED).
 3. ALL EQUIPMENT AND TOOLS SHALL BE MAINTAINED AND OPERATED IN ACCORDANCE WITH THE MANUFACTURER'S INSTRUCTIONS AND EQUIPMENT THAT ARE DEFECTIVE OR IN REPAIR SHALL BE EXCLUDED TO THE WORK AREA.
 4. ALL EQUIPMENT AND TOOLS SHALL BE MAINTAINED AND OPERATED IN ACCORDANCE WITH THE MANUFACTURER'S INSTRUCTIONS AND EQUIPMENT THAT ARE DEFECTIVE OR IN REPAIR SHALL BE EXCLUDED TO THE WORK AREA.
 5. ALL EQUIPMENT AND TOOLS SHALL BE MAINTAINED AND OPERATED IN ACCORDANCE WITH THE MANUFACTURER'S INSTRUCTIONS AND EQUIPMENT THAT ARE DEFECTIVE OR IN REPAIR SHALL BE EXCLUDED TO THE WORK AREA.
- WASTE MANAGEMENT**
1. DEBRIS AND WASTE MATERIALS SHALL BE REMOVED FROM THE WORK AREA AT THE END OF EACH WORK DAY.
 2. ALL WASTE MATERIALS SHALL BE STORED IN WATER-TIGHT CONTAINERS TO PREVENT ANY SPILLAGE OR LEAKAGE OR IN A STORAGE AID (COMPARTMENT ENCLOSED).
 3. ALL WASTE MATERIALS SHALL BE STORED IN WATER-TIGHT CONTAINERS TO PREVENT ANY SPILLAGE OR LEAKAGE OR IN A STORAGE AID (COMPARTMENT ENCLOSED).
 4. ALL WASTE MATERIALS SHALL BE STORED IN WATER-TIGHT CONTAINERS TO PREVENT ANY SPILLAGE OR LEAKAGE OR IN A STORAGE AID (COMPARTMENT ENCLOSED).
 5. ALL WASTE MATERIALS SHALL BE STORED IN WATER-TIGHT CONTAINERS TO PREVENT ANY SPILLAGE OR LEAKAGE OR IN A STORAGE AID (COMPARTMENT ENCLOSED).

14. HOUSEKEEPING SHALL BE MAINTAINED TO PREVENT OIL, GREASE, OR FUEL TO LEAK IN TO THE GROUND, STORM DRAINS OR SURFACE WATERS.
15. ALL EQUIPMENT OR VEHICLES, WHICH ARE TO BE FUELED, MAINTAINED AND STORED ON-SITE SHALL BE IN A DESIGNATED AREA FITTED WITH APPROPRIATE BMP'S.
16. LIQUIDS SHALL BE IMMEDIATELY CLEANED AND LIQUID MATERIALS SHALL BE DISPOSED OF PROPERLY.
17. LIQUIDS SHALL BE IMMEDIATELY CLEANED AND LIQUID MATERIALS SHALL BE DISPOSED OF PROPERLY.
18. LIQUIDS SHALL BE IMMEDIATELY CLEANED AND LIQUID MATERIALS SHALL BE DISPOSED OF PROPERLY.
19. CONTAIN FERTILIZERS AND OTHER LANDSCAPE MATERIALS WHEN THEY ARE NOT ACTIVELY BEING USED.
20. DISCONTINUE THE APPLICATION OF ANY EXCESSIVE LANDSCAPE MATERIAL WITHIN 2 DAYS BEFORE A FORECASTED RAIN EVENT OR DURING PERIODS OF PRECIPITATION.
21. ALL EXCESSIVE LANDSCAPE MATERIALS SHALL BE STORED IN WATER-TIGHT CONTAINERS TO PREVENT ANY SPILLAGE OR LEAKAGE OR IN A STORAGE AID (COMPARTMENT ENCLOSED).
22. ALL EXCESSIVE LANDSCAPE MATERIALS SHALL BE STORED IN WATER-TIGHT CONTAINERS TO PREVENT ANY SPILLAGE OR LEAKAGE OR IN A STORAGE AID (COMPARTMENT ENCLOSED).
23. ALL EXCESSIVE LANDSCAPE MATERIALS SHALL BE STORED IN WATER-TIGHT CONTAINERS TO PREVENT ANY SPILLAGE OR LEAKAGE OR IN A STORAGE AID (COMPARTMENT ENCLOSED).
24. ALL EXCESSIVE LANDSCAPE MATERIALS SHALL BE STORED IN WATER-TIGHT CONTAINERS TO PREVENT ANY SPILLAGE OR LEAKAGE OR IN A STORAGE AID (COMPARTMENT ENCLOSED).

INSPECTION & MAINTENANCE NOTES:

1. DURING INSPECTIONS IDENTIFY AND RECORD BMP'S THAT NEED MAINTENANCE TO OPERATE EFFECTIVELY, THAT HAVE FAILED, OR THAT COULD FAIL TO OPERATE AS INTENDED.
2. ALL BMP'S SHALL BE MAINTAINED WITHIN 72 HOURS OF IDENTIFICATION AND THE CHANGES COMPLETED AS SOON AS PRACTICABLE.
3. AS WORKER PRIOR TO A PREDICTED RAIN EVENT, IN ADDITION TO THE INSTALLED BMP'S, THE CONTRACTOR SHALL MAINTAIN ADDITIONAL BMP'S AS NECESSARY TO MINIMIZE CONSTRUCTION SITE TURNOFF OVER THE CONSTRUCTION PERIODS.



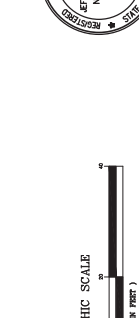
UNDERGROUND UTILITIES

IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION AND DEPTH OF ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF SANTA CRUZ PRIOR TO CONSTRUCTION.

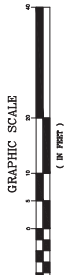
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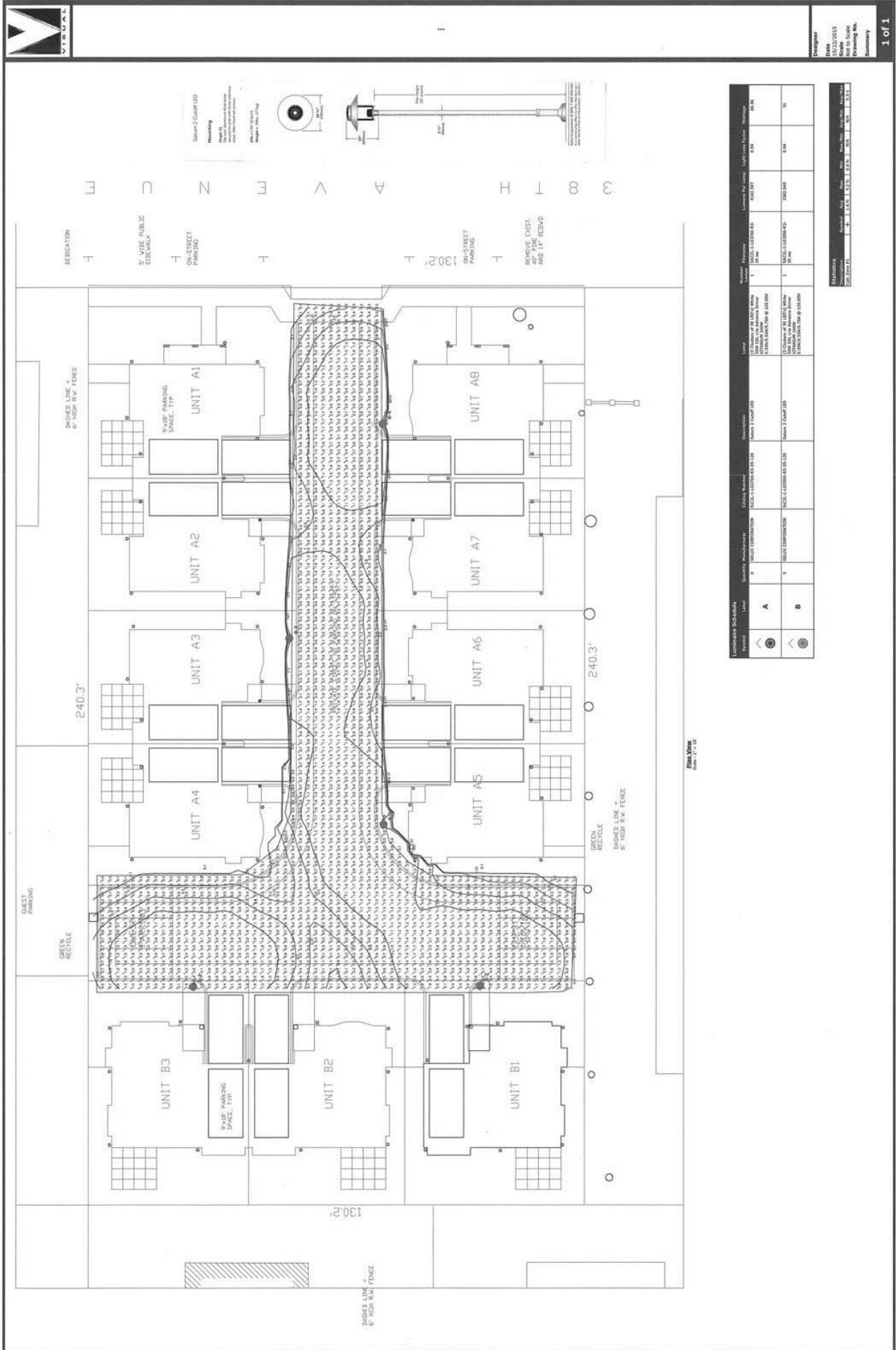
FILTREXX® INLET PROTECTION - CURB CONTAINMENT



FILTREXX® SEDIMENT CONTROL



| | | | |
|--|------------|--|-------|
| BOWMAN & WILLIAMS CONSULTING ENGINEERS 1071 CREAM STREET SAN JOSE, CA 95128 (408) 425-3480 | | PRELIMINARY EROSION CONTROL DETAILS | |
| SCALE AS SHOWN | DRAWN | CHECKED | SHEET |
| PROJECT NO. | DATE | DATE | NO. |
| 1575 38TH AVE | 08/15/2024 | 08/15/2024 | CS 2 |
| 1575 38TH AVE | 08/15/2024 | 08/15/2024 | OF 1 |



| Item No. | Quantity | Description | Category | Material | Unit | Per Unit | Total | Notes |
|----------|----------|--------------------|----------|----------|-----------|----------|--------|-------------------------------------|
| A | 9 | RECYCLE COMPOSTION | RECYCLE | 142269 | CS-35 228 | 130.6 | 1175.4 | 130.6' x 228' x 2.5' = 75,000 cu ft |
| B | 9 | RECYCLE COMPOSTION | RECYCLE | 142269 | CS-35 228 | 130.6 | 1175.4 | 130.6' x 228' x 2.5' = 75,000 cu ft |

| Statistics | Count | Amount | Unit | Material | Per Unit | Total |
|------------|-------|--------|-------|----------|----------|--------|
| CS-35 228 | 18 | 1175.4 | cu ft | RECYCLE | 65.3 | 1175.4 |



1 of 1
 Date: 11/22/2015
 Project: 1575 38th Avenue
 Drawing No.: 1575 38th Avenue
 Summary

Attachment: 1575 38th Ave Plans (1238 : 1575 38th Avenue)

COLOR BOARD 1575 38TH AVENUE CAPITOLA, CA

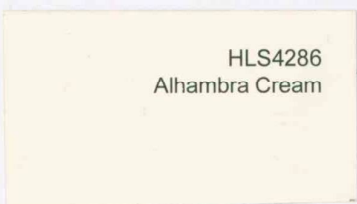


COMPOSITION ROOF



CERTAINEED --
GRAND MANOR
'GEORGIAN BRICK'

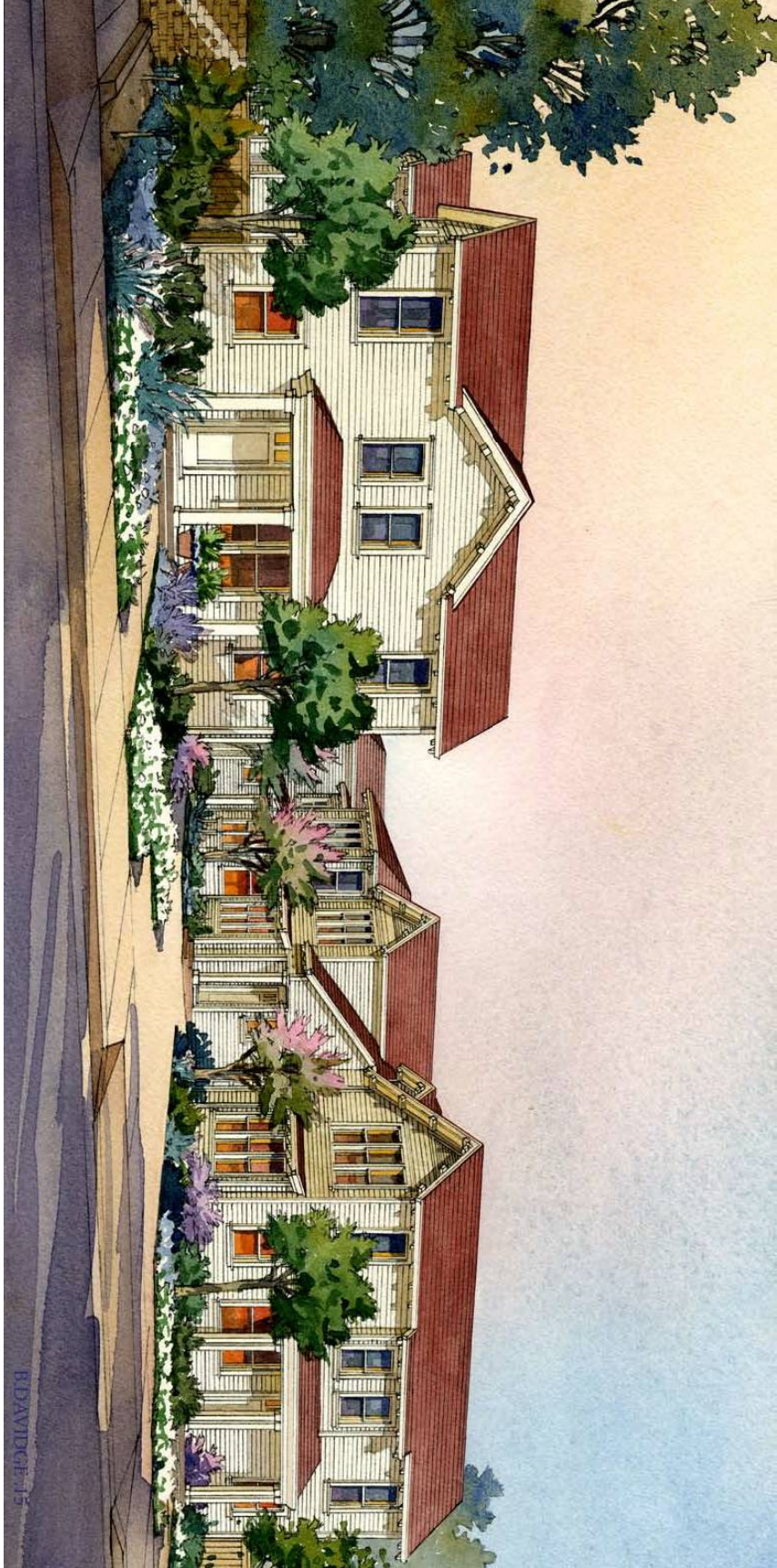
HORIZONTAL SIDING
WINDOW AND DOOR
FRAMES; EAVE EDGE &
OVERHANG; PORCH
AND RAILINGS



HLS4286
Alhambra Cream

KELLY-MOORE
ALHAMBRA CREAM
HLS4286

Attachment: 1575 38th Ave Color Board and Rendering (1238 : 1575 38th Avenue)

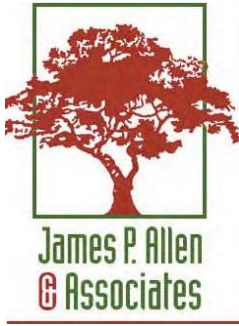


VIEW FROM 38TH AVENUE LOOKING WEST AND NORTH



INTERNAL VIEW LOOKING WEST AND SOUTH

Dedicated to the Preservation of Trees



1575 38th Avenue, Capitola, CA
APN 034-181-17

Tree Resource Analysis/ Construction Impact Assessment

Tree Protection Plan



Attachment: 1575 38th Ave Arborist Report (1238 : 1575 38th Avenue)

Consulting Arborists

611 Mission Street
Santa Cruz, CA 95060
831.426.6603 office
831.460.1464 fax
jpallen@cruzio.com

**Prepared for
Katie Cattan
City of Capitola Planning Department**

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Summary.....Pages 1 and 2

Background.....Pages 2 and 3

Tree Inventory Methodology.....Pages 5 and 6

Description of Construction ImpactsPage 7

Required Procedures.....Pages 8 through 10

Tree ReplacementPages 8 and 9

Tree Preservation and Protection.....Page 10

Project Monitoring.....Page 10

Tree Preservation Specifications.....Page 11

Attachments

- Tree Resource Inventory
- Tree Location Map File
- Construction Impact Assessment
- Tree Protection Plan

Attachment: 1575 38th Ave Arborist Report (1238 : 1575 38th Avenue)

ASSIGNMENT/SCOPE OF SERVICES

The construction of an 11-unit subdivision is proposed on a 0.7 acre plot at 1575 38th Avenue, APN 034-181-17, formerly the Capitola Freight and Salvage site. An assortment of tree species is located on the property site and three adjacent properties that may be impacted by project construction. In order to accurately quantify existing tree resources, assess construction impacts, determine necessary tree removal and mitigation requirements, Katie Cattan, Senior Planner with the City of Capitola has requested I prepare a Tree Resource Evaluation/Construction Impact Analysis and Tree Protection Plan. To complete this assignment the following tasks have been performed:

- ? Locate, numerically tag, catalog and verify mapped locations of trees greater than 6 inches in trunk diameter growing within 20 feet of project impacts
- ? Identify tree species and measure trunk diameter
- ? Rate individual tree health, structure and preservation suitability as “good”, “fair” or “poor”
- ? Identify trees that meet “protected” status as defined by Capitola City Code Chapter 12.12
- ? Review preliminary grading, utility, construction and landscape plans to determine potential impacts to the tree population
- ? Define necessary tree removal/retention based on overall tree condition and construction related impacts
- ? Create a Tree Protection Plan for trees suitable for retention
- ? Determine tree replacement requirements for “Protected” trees removed as outlined by Capitola City Code Chapter 12.12
 - ? Define the Maintenance and Monitoring Program
- ? Provide all findings in the form of a Tree Resource Evaluation/Construction Impact Assessment/Tree Protection Plan Report accompanied by a Tree Location Map/Preservation Plan

SUMMARY

Twenty-one (21) trees growing within 20 feet of proposed grading limits have been assessed and the known impacts resulting from the construction of proposed improvements defined at this time have been evaluated.

To construct the improvements as presented, the removal of 7 “Protected” trees (**Trees #1, 2, 3, 16, 17, 18 and 20**) growing within the property boundaries will be required.

In addition, 14 trees growing on neighboring parcels may be affected by the proposed construction. Special Treatments defined within this report should be implemented decrease damage to these trees from proposed construction activities including:

- ? Installation and Maintenance of Tree Protection Structures during Construction
- ? Canopy Clearance Pruning
- ? Pier and Above Grade Beam Foundation Systems
 - o Trees #4 through 10
- ? Pre-Construction Root Pruning

Mitigation for the (7) “protected” trees required to be removed this project will be comprised of:

- ? Design modifications to reduce impacts to trees growing on adjacent properties
- ? Tree preservation in the planning stages and protection during construction
- ? Trees planted as components of the planned landscape
 - o Each “protected” tree removed will be mitigated by replanting at a minimum 2:1 ratio, two trees planted for each tree removed
 - A total of 21 replacement trees will be replanted, exceeding City Code requirements
- ? To ensure the survivability and proper growth of the replacement trees a five-year Maintenance and Monitoring Program (MM&P) has been defined with success criteria to meet a 100% survival rate.

Monitoring, by the Project Arborist should occur at the intervals defined within this report to assure tree protection guidelines are adhered to and unforeseen impacts are resolved prior to damage occurring.

To ensure the protection of the trees remaining on this site it is imperative that the recommendations detailed within this document are incorporated as conditions of project approval.

BACKGROUND

Katie Cattan, Senior Planner with the City of Capitola contacted me during the month of August. She inquired of my interest in and cost for preparing the required analysis. I expressed my interest and sent a proposal that was accepted on September 1, 2015. Mrs. Cattan forwarded conceptual plans prepared by Thatcher and Thompson, Architects dated April 24, 2015. I requested and received the civil draft plans from Jeff Naess of Bowman and Williams, which included topography, existing conditions, property boundaries and proposed structures.

I met with Mrs. Cattan and Joe Appenrodt, the Project Developer on September 3 to review the site, discuss the condition of tree resources and proposed plans.

After I completed this initial site inspection, I spoke with Mr. Naess on the telephone and learned that grading and utility plans were not available and would not be completed until later in the month. We discussed necessary site stabilization requirements, storm drain and utility line placement. I informed Mr. Naess that constructing the proposed improvements would damage and potentially destabilize trees on the adjacent property to the south. We discussed the need to shift improvements north by a minimum distance of 12 feet or identify other tree protection strategies. Subsequently, I met with Matthew Thompson, Project Architect and Chris Shoemaker of Bowman and Williams to discuss the project, define modifications and alternative construction methods to decrease damage to tree resources growing on the adjacent properties. These adjustments included changing foundations to pier and above grade beam within Critical Root Zones (CRZ) along with other Special Treatments to protect tree resources on adjacent properties.

Although I was not provided updated civil plans including grading and utility placement, I received a confirming email from Matt Thompson verifying all discussion points and implementation of plan changes and alternative construction methods.

There are 7 trees located on the project site that will be impacted by project construction. There are 14 trees on four adjacent property sites that are located along the property line. The canopies and root structures of trees located on neighboring properties may be impacted by project activities without proper precautionary measures. Lack of attention to these issues may cause premature mortality and/or destabilization.

On September 17, 2015 our project team conducted a tree inventory, assessed condition and preservation suitability with an understanding of the required grading. Impacts to tree resources resulting from necessary site improvements were determined through review of plans presented to date and discussions with the Project Architect and Engineer.

The exact Limits of Grading will not be known until the grading plan is finalized and field staking representing cut/fill and disturbance limits are survey located and set in the field by the project survey team. The exact locations of the proposed grading and other improvements will be reviewed and evaluated once the site staking is in place. There is a possibility that tree classification and recommended procedures will change once the exact positions of the proposed improvements are known. If additional tree removal is necessary a confirming addendum will be prepared and submitted to the City of Capitola Planning Department.

OBSERVATIONS

Site Description

The project spans a .7-acre plot located at 1575 38th Avenue in Capitola (APN 034-181-17). This project is bound to the east by 38th Avenue and in all other directions by privately owned residential and commercial parcels. The site is relatively level and holds an old house used as an office and assorted auxiliary storage buildings.

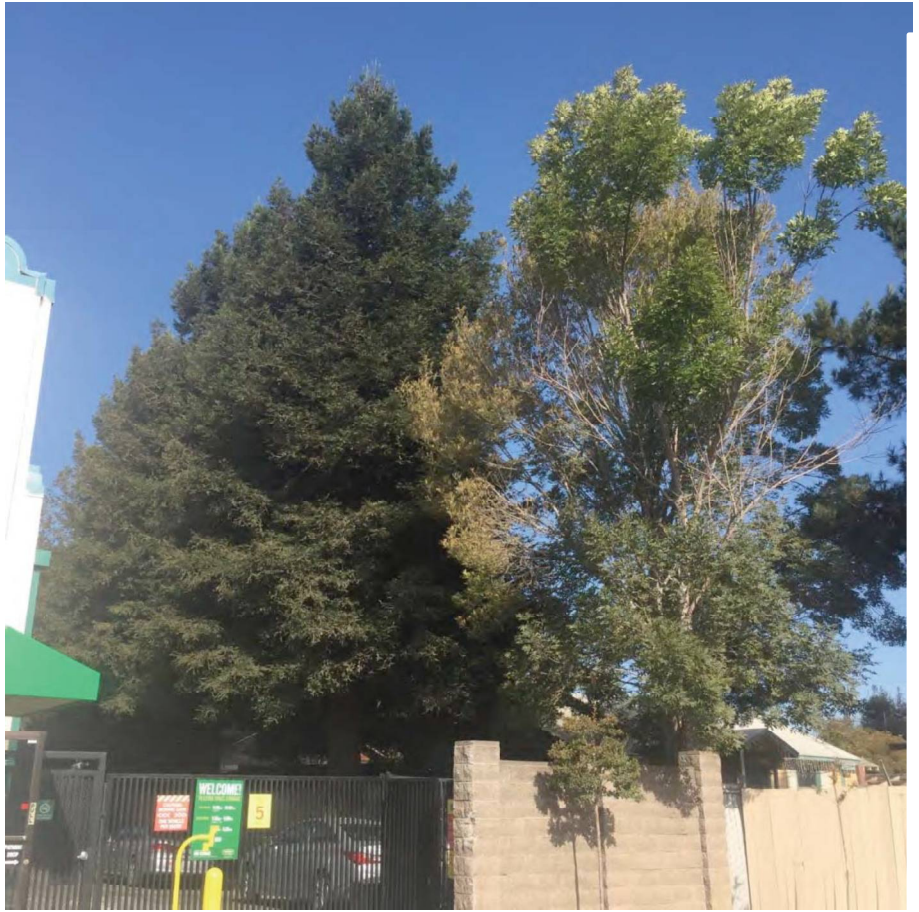
Tree Descriptions

The project site is populated with 7 trees that cover an assortment of tree species including: Monterey pine, coast redwood, ash, and plum trees. There are 14 trees located near the project boundaries on adjacent properties. Tree species located on the adjacent properties include:

- ? ash *Fraxinus* sp.
- ? coast redwood *Sequoia sempervirens*
- ? melaleuca, *Melaleuca quinquenervia*
- ? mayten *Mayten boaria*
- ? New Zealand tea tree *Leptospermum scoparium*
- ? willow *Salix* sp.
- ? liquid amber *Liquidambar styraciflua*
- ? plum *Prunus* sp.
- ? Loquat *Eriobotrya japonica*

All of the 21 inventoried trees meet tree "protection" criteria as defined by the City of Capitola.

Seven coast redwood *Sequoia sempervirens* trees grow on the property to this south. These trees are growing in a narrow planting strip abutting the property boundary. I found these trees to be well structured and in excellent health. Tree trunks have expanded in girth to fill the width of the planting strip. Buttress root systems develop beyond the property boundary as illustrated in the photo below. There is no visible damage; uplifting of curbs or asphalt at this time as would be expected of this tree species growing in such a limited area.



Tree Inventory Methodology

Each tree was visually assessed from the root crown to the extents of the foliar canopy. The attached inventory lists information on trees ≥ 6 inches in diameter growing within 20 feet of proposed grading limits. Trees located on the project property were visually assessed and diameters were measured at 4.5 feet above grade. Trees located on neighboring properties were visually assessed while standing on the project property site. Tree trunk diameters were estimated. Tree canopies for trees located on the neighboring property site were measured by determining the distance of canopy extent over the subject property. Tree locations are documented on the attached Tree Location Map.

The tree inventory lists species, trunk diameter, tree health, structure and suitability ratings, Critical Root Zone extents, level of impacts and description, observations, required procedures and whether the tree meets “Protected” criteria.

Diameter is the width of the trunk measured at 4.5 feet above natural grade (ground level). For trees that were unable to be measured at 4.5 feet above natural grade, measurement heights are provided.

Health, Structure and Preservation Suitability Inventory ratings are based on the following criteria:

Tree health and structure are separate issues that are related since both are revealed by tree anatomy. A tree’s vascular system is confined in a thin layer of tissue between the bark and wood layers. This thin layer is responsible for transport of nutrients and water between the root system and the foliar canopy. When this tissue layer is functioning properly a tree has the ability to produce foliage (leaves). As long as the tree maintains a connected vascular system it may appear to be in good health.

When conditions conducive to decay are present, fungi, bacteria or poor compartmentalization, wood strength is degraded. As decay advances, the tree’s ability to continue standing is compromised. Thus, a tree can appear to be in good health, but have poor structure.

Tree Health: This rating is determined visually. Annual growth rates, leaf size and coloration are examined. Indications of insect activity, decay and dieback percentages are also used to define health ratings.

Trees in “**good**” health are full canopied, with dark green leaf coloration. Areas of foliar dieback or discoloration are less than 10% of the canopy. Dead material in the tree is limited to small twigs and branches less than one inch in diameter. There is no evidence of insects, disease or decay.

Trees with a “**fair**” health rating have from 10% to 30% foliar dieback, with faded coloration, dead wood larger than one inch, and/or visible insect activity, disease or decay.

Trees rated as having “**poor**” health have greater than 30% foliar dieback, dead wood greater than two inches, severe decay, disease or insect activity.

Tree Structure: This rating is determined by visually assessing the roots, root crown (where the trunk meets the ground), supporting trunk, and branch structure. The presence of decay can affect both health and structural ratings.

Trees that receive a “**good**” structural rating are well rooted, with visible taper in the lower trunk, leading to buttress root development. These qualities indicate that the tree is solidly rooted in the growing site. No structural defects such as codominant stems (two stems of equal size that emerge from the same point), poorly attached branches, cavities, or decay are present.

Trees that receive a “**fair**” structural rating may have defects such as poor taper in the trunk, inadequate root development or growing site limitations. They may have multiple trunks, included bark (where bark turns inward at an attachment point), or suppressed canopies. Decay or previous limb loss (less than 2 inches in diameter) may be present in these trees. Trees with fair structure may be improved through proper maintenance procedures.

Poorly structured trees display serious defects that may lead to limb, trunk or whole tree failure due to uprooting. Trees in this condition may have had root loss or severe decay that has weakened their support structure. Trees in this condition can present a risk to people and structures. Maintenance procedures may reduce, but not eliminate these defects.

Suitability for Preservation: This rating evaluates tree health, structure, species characteristics, age and potential longevity.

Trees with a “**good**” rating have adequate health and structure with the ability to tolerate moderate impacts and thrive for their safe, useful life expectancy.

A “**fair**” rating indicates health or structural problems have the ability to be corrected. They will require more monitoring and intense management with an expectation that their lifespan will be shortened by construction impacts.

Trees with a “**poor**” rating possess health or structural defects that cannot be corrected through treatment. Trees with poor suitability can be expected to continue to decline regardless of remedies provided. Species characteristics may not be compatible with redefined use of the area. Species which are non-native and unusually aggressive are considered to have a poor suitability rating.

Critical Root Zone: Individual tree root systems provide anchorage, absorption of water/minerals, storage of food reserves and synthesis of certain organic materials necessary for tree health and stability. The Critical Root Zone (CRZ) is the species-specific amount of roots necessary to continue to supply these elements essential for each tree to stand upright and maintain vigor. This distance reflects the minimum footage measurement from the trunk required for the protection of the tree’s root zone. Construction activities proposed within these areas are subject to specific review and the implementation of recommended special treatments.

Description of Construction Impacts

This section describes what procedures are proposed near the individual tree. The influences the proposed construction activities will have on the tree are classified as **None, Low, Moderate** or **High**. These classifications are defined as follows:

NONE, the tree is not near the impact area of the proposed construction.

LOW, adverse affects from the proposed construction activities are minimal.

MODERATE, this level of impacts will result in loss in tree vigor and/or stability. Recommended procedures must be implemented to decrease these impacts.

HIGH, requiring tree removal or the understanding that premature tree mortality can be anticipated. Mitigation is required for trees subject to this level of impacts.

Construction of this project as presented requires the following procedures that impact tree health and stability:

- ? Over-excavation and possible retaining wall construction for site stabilization
- ? Grading for road and building construction
- ? Trenching for utility lines, retaining walls and drainage structure construction
- ? Construction of 11 single-family residences with necessary infrastructure
- ? Planned landscape installation

These procedures require alteration of natural grade in the form of cut and/or fill (described below) at the defined "Limits of Grading". Roots shattered during this process provide openings for opportunistic decay causing organisms degrading tree support systems and vigor.

Alteration of natural grade

- ? Cuts, lowering of natural grade, require the removal of soil until the desired elevation is reached. A cut within the trees Critical Root Zone can remove non-woody and woody roots. Non-woody (absorbing) roots are responsible for transporting moisture and nutrients necessary for maintaining tree health. More significant cuts remove woody roots that provide structural support, compromising the tree's ability to stand upright.
- ? Fill, increasing natural grade, often requires an initial cut to "knit in" and stabilize the material. This material is applied in layers and compacted in the process. Compaction breaks down soil structure by removing air and adding moisture. Anaerobic conditions may develop, promoting decay. Absorbing roots can suffocate from lack of oxygen. Structural roots may be compromised as a result of the decay.

Protected Tree Definition

Trees that meet protected criteria were determined as defined in *Capitola Municipal Code for Community Tree and Forest Management, Chapter 12.12 (1) Article I, (2) Article IV Section 12.12.160, and (3) Article IV Section 12.12.190:*

1. A "tree" is defined as a "woody plant, distinguished from a shrub by having, at maturity, comparatively greater height and characteristically, a single trunk rather than several stems, and a minimum six-inch diameter measured at forty-eight inches above existing grade or at average breast height (abh)."
2. With the exception of fruit-bearing trees, " no person may, in the city, cause the cutting or intentional killing of any tree within the city unless a tree removal permit has been obtained".
3. "An approval for tree removal under this chapter shall be conditioned upon the applicant planting, at some other location on the subject property, replacement trees to compensate for the removed tree(s) on a ratio of at least two trees or more for each one tree removed, as determined by the director."

REQUIRED PROCEDURES & SPECIAL TREATMENTS

Alternative Foundation Design is necessary adjacent to Trees #4 through 10. Pier and Above Grade Beam foundation systems will be designed and constructed in this section to decrease damage to neighboring trees.

Tree Removal

Seven (7) trees will need to be removed to construct the project as proposed. Trees proposed for removal are near or within disturbance limits. **Trees #1, 2, 3, 16, 17, 18 and 20** are identified in the attached spreadsheet. Tree locations are documented on the attached *Construction Impact Assessment Tree location* map.

Tree removal is to be performed by a qualified contractor with valid City Business and State Contractor Licenses and General Liability and Workmen's Compensation insurance.

Tree Canopy Clearance

Vertical clearance will be necessary to remove conflicts between canopy extents and buildings. Necessary branch removal shall be kept to a minimum with the approval of the tree owner(s).

A qualified certified arborist, using the following industry guidelines should be contracted to perform all tree pruning.

- ? American National Standards Institute A300 for Tree Care Operations-
Tree, Shrub and Other Woody Plant Maintenance-Standard Practices.
 - o (Part 1)-2001 Pruning
- ? International Society of Arboriculture: Best Management Practices
- ? American National Standards Institute Z133.1-1994 for Tree Care Operations-
Pruning, Trimming, Repairing, Maintaining, and Removing Trees and Cutting Brush-
Safety Requirements

Pre Grading Root Severance; A backhoe type machine may be required to excavate near **Tree #14** where a drainage structure/manhole is to be constructed and the distance between the tree trunk and excavation cannot be decreased. This procedure is defined below:

- ? Establish a “final line of disturbance” with field staking. This line represents the furthest distance from the trees trunk that will allow the proposed excavation.
- ? Determine the depth of the cut required.
- ? Begin digging 8 to 10 feet from the established line in a “spoke in wheel” pattern, using the tree trunk as the hub.
- ? Dig toward the tree trunk to determine where roots are located to the required depth
- ? Begin pruning roots using the techniques defined below.
- ? Upon reaching the final line of disturbance make the final root pruning cuts.

Root Pruning

All root pruning should be performed by skilled labor. The following tools should be used:

- ? Hand-pruners/Loppers
- ? Handsaw
- ? Reciprocating saw
- ? Chainsaw

When completed, the pruned portions should be covered with burlap or similar material and kept moist.

Required Tree Replacement

Seven “protected” trees will be removed to construct the project as currently proposed.

Compensation for tree removal required in order to complete the project will include:

- ? Preservation and protection of retained trees/tree groups
- ? Implementation of preconstruction treatments
- ? Tree planting as a component of the planned landscape to be maintained in perpetuity

A Landscape Plan prepared by Ellen Cooper, Landscape Architect dated September 18, 2015 proposes the replanting of 21 trees as components of the planned landscape. These plantings will serve screening, aesthetic and biotic function. This number of plantings exceeds the 2:1 replacement requirements defined in City Code Chapter 12.12.

Proposed replacement tree species, quantity and nursery container size include:

- ? London plane *Platanus acerifolia*, 4-24”box
- ? Washington hawthorn *Crataegus phaenopyrum*, 3-15 gallon
- ? swamp myrtle *Tristania laurina 'Elegant'*, 7, 15-gallon
- ? dark pink crepe myrtle *Lagerstroemia indica 'Tuscarora'*, 4, 15-gallon
- ? fruitless olive *Olea europaea*, 3, 24” box

Nursery stock selected for dominant species shall be standard (single trunk).

Trees planted should be well formed without co-dominant, poorly attached stems. Trees shall be disease free and absent of swirling or girdling roots.

Qualified professionals adhering to the following guidelines shall plant the replacement trees:

- ? Prepare the planting site by excavating 3 times the width and 2 inches less than the exact depth of the nursery container.
- ? Prune any visible matted or circling roots to remove or straighten them. Cut the root ball vertically on opposite sides at least half the distance to the trunk.
- ? Free roots from the root ball breaking away some of the soil to provide better contact between the root ball and the backfill soil.
- ? Backfill with native soil.
- ? After backfilling a two to four-inch layer of tree chip mulch should be applied to the soil layer. Chips should not be applied within 12 inches of the trunk.
- ? Stakes, for support should be driven opposite sides of the root ball and driven into the soil. The tree can be secured to the stakes using “Arbortape” or by using the “ReadyStake” system.

Supplemental irrigation will be provided the new trees by means of a temporary “drip” emitter system for a period of two (2) years. This system shall be designed, installed and maintained by a qualified professional to maintain appropriate moisture levels.

Maintenance and Monitoring Program Criteria

To ensure the survivability and proper growth of the replacement trees success criteria will be defined to meet a 100% survival rate and implemented as follows.

- ? A qualified professional will monitor the newly planted trees at one (1) month intervals for the first year of growth and every 3 months thereafter for an additional four-year period
- ? Tree health and growth rates will be assessed
- ? Trees suffering poor growth rates or declining health will be identified
- ? Invigoration treatments will be provided
- ? Dead trees or trees in an irreversible state of decline will be replaced
- ? At the end of the five-year period the status of the new plantings will be assessed to make certain that success criteria has been met and all replacement trees planted are performing well

Implementation of these success criteria shall be a condition of project approval.

TREE PRESERVATION AND PROTECTION

Tree Preservation Specifications included in this report outline specifics for tree protection structures and other procedures that will provide the best opportunity for their long-term survivability.

Tree Preservation Structures shall be constructed of the following materials as field specified by the Project Arborist.

- ? Chain link, 72 inches in height secured to metal stakes driven at least 18 inches into the soil.
- ? Temporary orange snow fencing attached to “T” posts driven into the ground
- ? Silt fencing
- ? Rice straw bales

Tree Preservation Structure locations are documented on an attached map (Tree Location/Preservation Map).

Project Monitoring of the project will be the responsibility of the Project Arborist. Site inspections will take place at the following intervals;

- ? Following on-site placement of grade stakes
- ? During tree removal operations
- ? During preconstruction root severance
- ? After Tree Preservation fencing locations have been staked
- ? Following Tree Protection fencing installation and prior to the commencement of grading
- ? During all grading activities within Critical Root Zones
- ? As necessary during the grading activities to ensure compliance with all conditions of project approval

Site monitoring forms will be submitted to the Capitola Planning Department at regular intervals.

To ensure the protection of the trees remaining on this site it is imperative that the recommendations detailed within this document are incorporated as conditions of project approval.

Questions regarding this report may be directed to my office.

Respectfully submitted,

James P. Allen
Registered Consulting Arborist #390

Tree Preservation Specifications
1575 38th Avenue, Capitola CA
APN 034-181-17

These guidelines should be printed on all pages of the development plans. Contractors and sub contractors should be aware of tree protection guidelines and restrictions. Contracts should incorporate tree protection language that includes “damage to trees will be assessed by the Project Arborist and monetary fines levied”.

A pre construction meeting with the Project Arborist

A meeting with the Project Arborist, Project Manager and all contractors involved with the project shall take place prior to the onset of tree removal. Tree removal and preservation specifications will be reviewed and discussed.

Establishment of a tree preservation zone (TPZ)

Tree protection structures will be

- ? Chain link, 72 inches in height secured to metal stakes driven at least 18 inches into the soil
- ? Temporary orange fencing 48 inches in height secured to metal stakes driven at least 12 inches into the soil.
- ? Silt fencing
- ? Rice straw bales

Structures will be installed prior to the onset of grading, under the supervision of the Project Arborist and shall not be moved until after landscape installation is completed

Restrictions within the Tree Preservation Zone (TPZ)

No storage of construction materials, debris, or excess soil will be allowed within the TPZ. Parking of vehicles or construction equipment in this area is prohibited. Solvents or liquids of any type should be disposed of properly, never within this protected area.

Field decisions

The Project Arborist, Soils Engineer and Grading Contractor will determine the most effective construction methods to maintain tree health and stability.

Alteration of grade

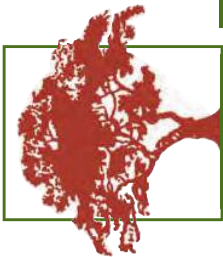
Maintain the natural grade around trees. If trees roots are unearthed during the construction process the consulting arborist will be notified immediately. Exposed roots will be covered with moistened burlap until the Project Arborist makes a determination.

Trenching requirements

Any areas of proposed grading and trenching adjacent to preserved trees will be evaluated with the Project Arborist and the contractor prior to construction.

Tree canopy alterations

Unauthorized pruning of any tree on this site will not be allowed. Necessary tree canopy alterations will be performed to the specifications established by the Project Arborist.



City of Capitola 38th Avenue Project APN 034-181-17

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James P. Allen
Associates

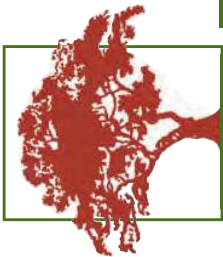
Construction Impact Assessment Tree Inventory

| TREE # | SPECIES | DIAMETER @ 4.5ft ABOVE NATURAL GRADE (INCHES) | HEALTH | STRUCTURE | SUITABILITY | Description of Construction Impacts/ LEVEL | Critical Root Zone, Preserved Trees Only | OBSERVATIONS •REQUIRED PROCEDURES •NUMBER THAT MEET "PROTECTED" CRITERIA Yes/No |
|--------|---------------|---|--------|-----------|-------------|--|--|--|
| 1 | Monterey pine | 36.9 at 6" above grade | Fair | Poor | Fair | Proximity to Proposed Grading/ HIGH | N/A | <ul style="list-style-type: none"> Divides into two codominant stems at 1 foot above grade Poor trunk-stem attachment Evidence of sequoia pitch moth Remove Due to Construction Impacts • Yes |
| 2 | coast redwood | 13.2 | Good | Fair | Good | Proximity to Proposed Grading/ HIGH | N/A | <ul style="list-style-type: none"> • Suppressed by Tree #1 • Remove Due to Construction Impacts • Yes |
| 3 | ash | Double Trunk 14.2, 8.5 | Fair | Poor | Poor | Proximity to Proposed Grading/ HIGH | N/A | <ul style="list-style-type: none"> • Grows on adjacent property near property boundary • Poor trunk-stem attachment • Remove Due to Construction Impacts • Yes |
| 4 | coast redwood | 25* | Good | Good | Good | Proximity to Building Envelope/ Moderate | 15 | <ul style="list-style-type: none"> • Grows on property boundary • Excellent form and structure • Preserve and Protect • Special Treatment Area • Pier and Above Grade Beam Foundation • Canopy Clearance Pruning • Yes |
| 5 | coast redwood | 27* | Good | Good | Good | Proximity to Building Envelope/ Moderate | 15 | <ul style="list-style-type: none"> • Grows on adjacent property near property boundary • Excellent form and structure • Preserve and Protect • Special Treatment Area • Pier and Above Grade Beam Foundation • Canopy Clearance Pruning • Yes |

* Measures are approximate

10/11/2015
1

Attachment: 1575 38th Ave Arborist Report (1238 : 1575 38th Avenue)



City of Capitola 38th Avenue Project APN 034-181-17

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James P. Allen
Associates

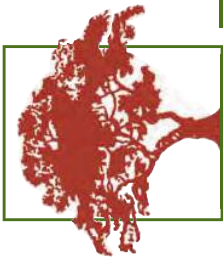
Construction Impact Assessment Tree Inventory

| TREE # | SPECIES | DIAMETER @ 4.5ft ABOVE NATURAL GRADE (INCHES) | HEALTH | STRUCTURE | SUITABILITY | Description of Construction Impacts/ LEVEL | Critical Root Zone, Preserved Trees Only | OBSERVATIONS •REQUIRED PROCEDURES •NUMBER THAT MEET "PROTECTED" CRITERIA Yes/No |
|--------|---------------|---|--------|-----------|-------------|--|--|--|
| 6 | coast redwood | 25 | Good | Good | Good | Proximity to Building Envelope/ Moderate | 15 | <ul style="list-style-type: none"> Grows on adjacent property near property boundary Excellent form and structure Preserve and Protect Special Treatment Area Pier and Above Grade Beam Foundation Canopy Clearance Pruning • Yes |
| 7 | coast redwood | 27 | Good | Good | Good | Proximity to Building Envelope/ Moderate | 15 | <ul style="list-style-type: none"> Grows on adjacent property near property boundary Excellent form and structure Preserve and Protect Special Treatment Area Pier and Above Grade Beam Foundation Canopy Clearance Pruning • Yes |
| 8 | coast redwood | 17 | Good | Good | Good | Proximity to Building Envelope/ Moderate | 15 | <ul style="list-style-type: none"> Grows on adjacent property near property boundary Excellent form and structure Preserve and Protect Special Treatment Area Pier and Above Grade Beam Foundation Canopy Clearance Pruning • Yes |
| 9 | coast redwood | 16 | Good | Good | Good | Proximity to Building Envelope/ Moderate | 16 | <ul style="list-style-type: none"> Grows on adjacent property near property boundary Excellent form and structure Preserve and Protect Special Treatment Area Pier and Above Grade Beam Foundation Canopy Clearance Pruning • Yes |

* Measures are approximate

10/11/2015
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Attachment: 1575 38th Ave Arborist Report (1238 : 1575 38th Avenue)



City of Capitola 38th Avenue Project APN 034-181-17

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James P. Allen
Associates

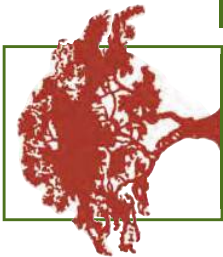
Construction Impact Assessment Tree Inventory

| TREE # | SPECIES | DIAMETER @ 4.5ft ABOVE NATURAL GRADE (INCHES) | HEALTH | STRUCTURE | SUITABILITY | Description of Construction Impacts/ LEVEL | Critical Root Zone, Preserved Trees Only | OBSERVATIONS •REQUIRED PROCEDURES •NUMBER THAT MEET "PROTECTED" CRITERIA Yes/No |
|--------|----------------------|---|--------|-----------|-------------|--|--|--|
| 10 | coast redwood | 14 | Fair | Good | Good | Proximity to Building Envelope/ Moderate | 8 | <ul style="list-style-type: none"> Grows on adjacent property near property boundary Excellent form and structure Preserve and Protect Special Treatment Area Pier and Above Grade Beam Foundation Canopy Clearance Pruning • Yes |
| 11 | melaleuca | 18 | Fair | Fair | Fair | Unknown at This Time/ LOW | 8 | <ul style="list-style-type: none"> Grows from neighboring property Preserve and Protect Special Treatment Area Possible canopy clearance required • Yes |
| 12 | maytan | Multitrunk | Fair | Poor | Fair | Unknown at This Time/ LOW | 8 | <ul style="list-style-type: none"> Multi-trunk Grows from neighboring property Poor trunk-stem attachment Preserve and Protect Special Treatment Area Possible canopy clearance required • Yes |
| 13 | New Zealand tea tree | Multitrunk | Fair | Poor | Fair | Unknown at This Time/ LOW | 9 | <ul style="list-style-type: none"> Multi-trunk Grows from neighboring property Poor trunk-stem attachment Preserve and Protect Special Treatment Area Possible canopy clearance required • Yes |

* Measures are approximate

Attachment: 1575 38th Ave Arborist Report (1238 : 1575 38th Avenue)

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City of Capitola 38th Avenue Project APN 034-181-17

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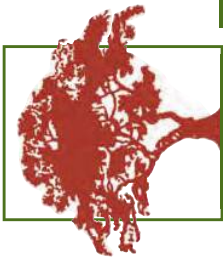
James P. Allen
Associates

Construction Impact Assessment Tree Inventory

| TREE # | SPECIES | DIAMETER @ 4.5ft ABOVE NATURAL GRADE (INCHES) | HEALTH | STRUCTURE | SUITABILITY | Description of Construction Impacts/ LEVEL | Critical Root Zone, Preserved Trees Only | OBSERVATIONS •REQUIRED PROCEDURES •NUMBER THAT MEET "PROTECTED" CRITERIA Yes/No |
|--------|---------------|---|--------|-----------|-------------|--|--|---|
| 14 | willow | 26 | Fair | Fair | Fair | Unknown at This Time/ LOW | 14 | <ul style="list-style-type: none"> • Grows from neighboring property • Poor trunk-stem attachment • Preserve and Protect • Special Treatment Area • Possible canopy clearance required • Pre-construction root pruning • Yes |
| 15 | liquid amber | 13 | Fair | Poor | Fair | Unknown at This Time/ LOW | 10 | <ul style="list-style-type: none"> • Grows from neighboring property • Poor trunk-stem attachment • Preserve and Protect • Special Treatment Area • Possible canopy clearance required • Yes |
| 16 | ash | 9.1 | Fair | Poor | Fair | Within Proposed Grading/ HIGH | N/A | <ul style="list-style-type: none"> • Slightly curved trunk • Poor trunk-stem attachment • Remove Due to Construction Impacts • Yes |
| 17 | plum | Double Trunk 9.3, 8.5 | Fair | Poor | Poor | Within Proposed Grading/ HIGH | N/A | <ul style="list-style-type: none"> • Poor trunk-stem attachment • Decayed pruning wound • Remove Due to Construction Impacts • Yes |
| 18 | Monterey pine | 33.2 | Fair | Fair | Fair | Within Proposed Grading/ HIGH | N/A | <ul style="list-style-type: none"> • Girdling root • Evidence of sequoia pitch moth • Small diameter dead and dying branches • Remove Due to Construction Impacts • Yes |

* Measures are approximate

10/11/2015
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City of Capitola 38th Avenue Project APN 034-181-17

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James P. Allen
Associates

Construction Impact Assessment Tree Inventory

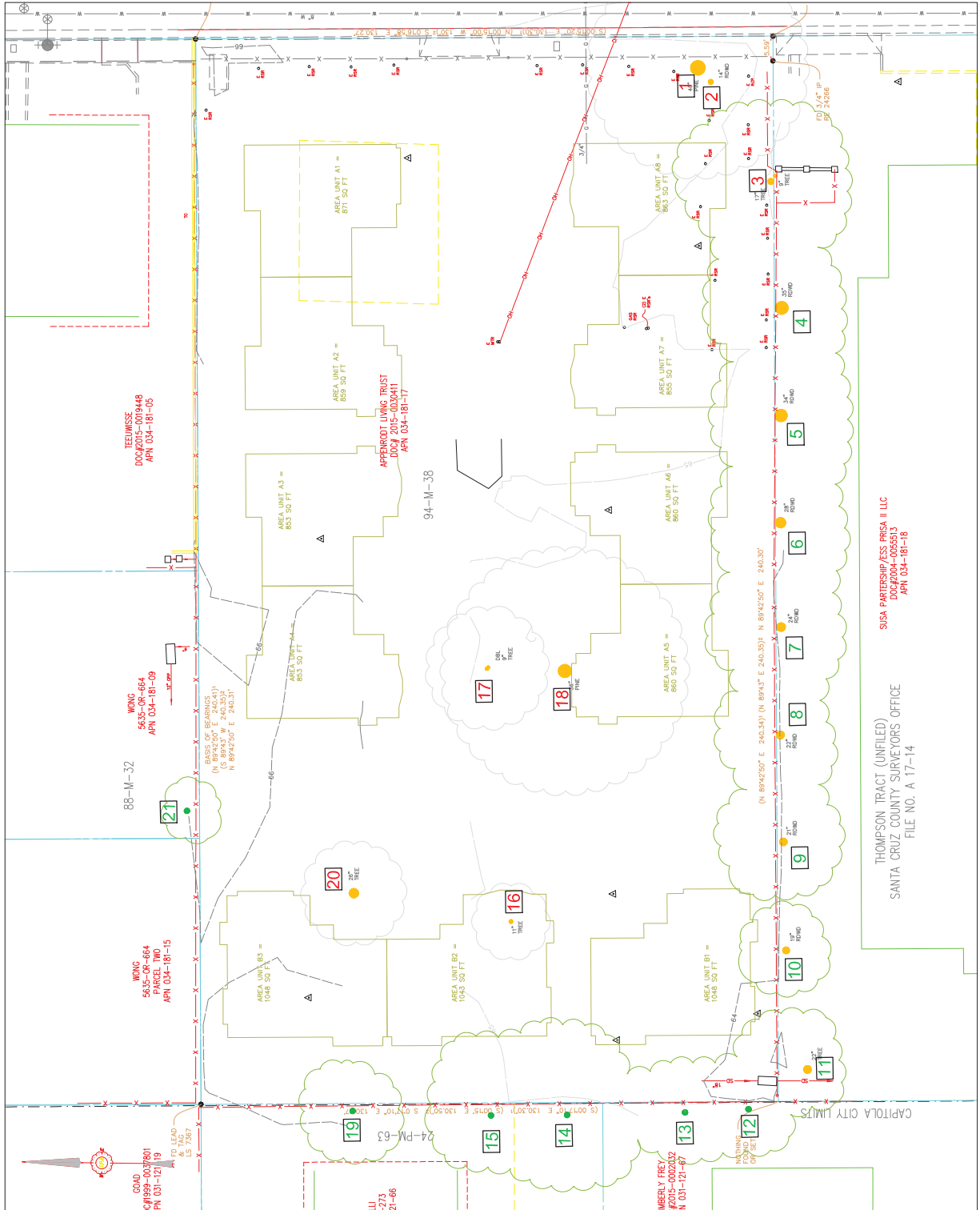
| TREE # | SPECIES | DIAMETER @ 4.5ft ABOVE NATURAL GRADE (INCHES) | HEALTH | STRUCTURE | SUITABILITY | Description of Construction Impacts/ LEVEL | Critical Root Zone, Preserved Trees Only | OBSERVATIONS •REQUIRED PROCEDURES •NUMBER THAT MEET "PROTECTED" CRITERIA Yes/No |
|--------|---------|---|--------|-----------|-------------|--|--|---|
| 19 | plum | 9.8 | Fair | Poor | Poor | Within Proposed Grading/ HIGH | 8 | <ul style="list-style-type: none"> • Grows from neighboring property • Poor trunk-stem attachment • Decayed pruning wounds • Preserve and Protect Special Treatment Area • Possible canopy clearance required • Yes |
| 20 | ash | 18.5 | Fair | Poor | Poor | Within Proposed Grading/ HIGH | N/A | <ul style="list-style-type: none"> • Poor trunk-stem attachment • Remove Due to Construction Impacts • Yes |
| 21 | loquat | Double Trunk* 7.4, 5.8 | Fair | Fair | Fair | Unknown at This Time/ LOW | 8 | <ul style="list-style-type: none"> • Grows from neighboring property • Poor trunk-stem attachment • Decayed pruning wounds • Preserve and Protect Special Treatment Area • Possible canopy clearance required • Yes |

* Measures are approximate

- Map Key / Legend**
- Surveyed Tree Trunk Location
 - Field Located Tree Trunk Location
 - 2** Assigned Tree Number
 - 2** Meets "Protected" Criteria
 - 2** Remove due to Construction Impacts
 - 2** Preserve and Protect
 - Tree Canopy Extents

**Tree Resource Analysis/
Construction Impact Assessment
Tree Location Map**

Entire Site at 10 Scale



City of Capitola Project
APN 034-181-17
575 38th Avenue
Capitola, CA

Tree Location Map



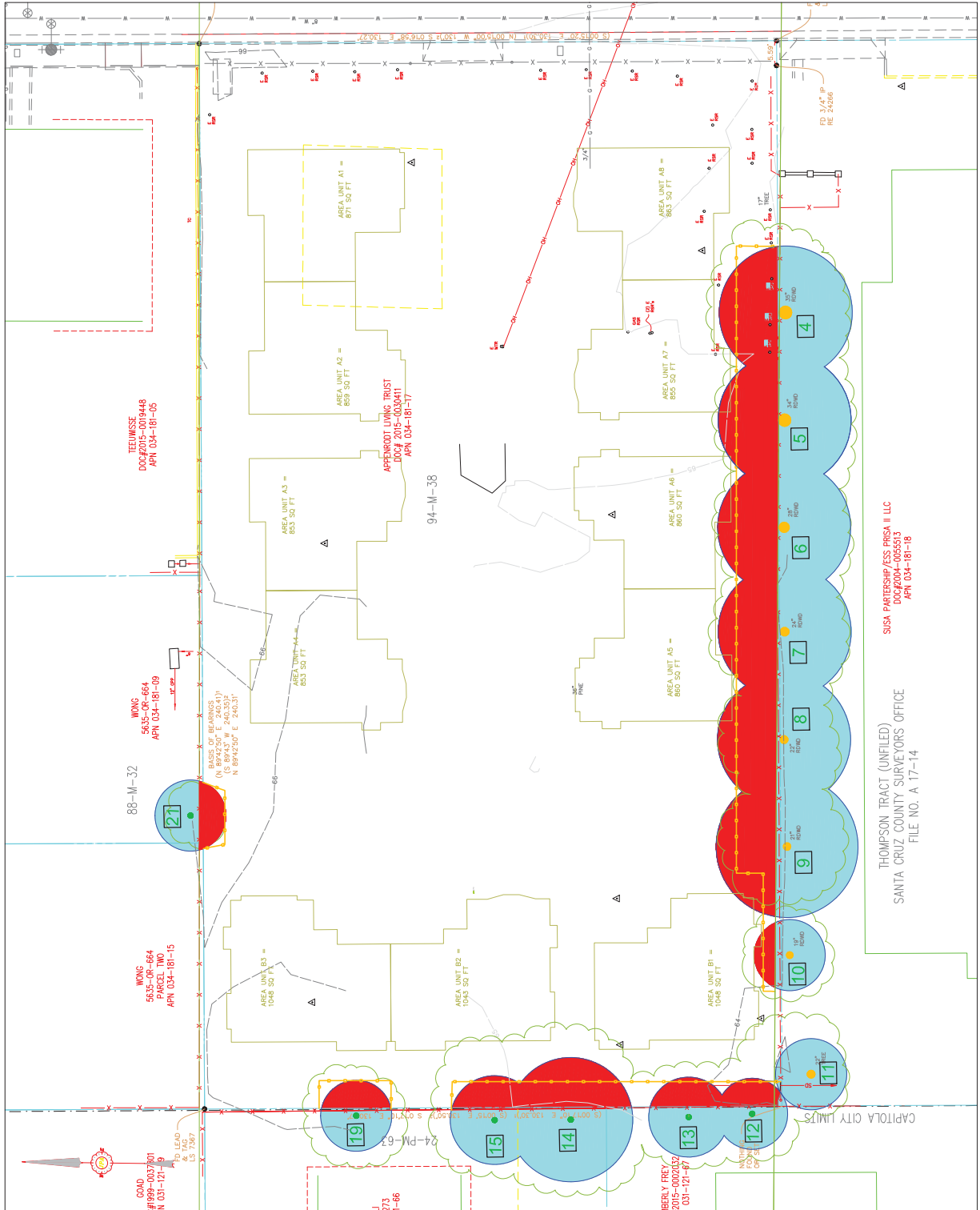
Date: 10/13/15
Revision: 2000000X
Revised: 2000000X
Revised: 2000000X

1 of 2

Attachment: 1575 38th Ave Arborist Report (1238 : 1575 38th Avenue)

Map Key / Legend

- Surveyed Tree Trunk Location
 - Field Located Tree Trunk Location
 - 2 Assigned Tree Number
 - 2 Meets "Protected" Criteria
 - 2 Preserve and Protect
 - Tree Canopy Extents
 - Critical Root Zone
 - Tree Preservation Zone
- Tree Preservation Structures as determined by the Project Arborist:
- Chain Link Fencing
 - Temporary Orange Fencing
 - Temporary Orange Fencing
 - Rice Straw Bales
- Special Treatment Area**
- Treatments to be Determined by Project Arborist after grade stakes are set.
- Decrease Grading Limits
 - Pre-Construction Root Pruning
 - Mulching
 - Supplemental Irrigation
 - Sapling/Class Planting
 - Stabilization Treatments
 - Alternative Construction Methods
 - Pier and Above Grade beam Foundation



**Construction Impact Assessment/
Tree Protection Plan
Entire Site at 10 Scale**

City of Capitola Project
APN 034-181-17
575 38th Avenue
Capitola, CA

Tree Location Map



**JAMES P. ALLEN
& ASSOCIATES**

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PHONE: 831-336-1111 FAX: 831-336-1112
WWW: WWW.JAMESALLENANDASSOCIATES.COM

2 of 2

Date: 10/13/15
Revision: 2000000X
Revised: 2000000X

Cattan, Katie (kcattan@ci.capitola.ca.us)

From: Cattan, Katie (kcattan@ci.capitola.ca.us)
Sent: Wednesday, October 28, 2015 10:00 AM
To: Cattan, Katie (kcattan@ci.capitola.ca.us)
Subject: FW: Arbor Review of Plansets C2.1 and C3.1 dated 10.5.15, 1575 38th Avenue Project

From: James Allen [<mailto:jpallen@cruzio.com>]
Subject: Arbor Review of Plansets C2.1 and C3.1 dated 10.5.15, 1575 38th Avenue Project

Good morning Katie,

I reviewed the plan sheets you provided and have the following comment

1. Deck supports for Lots 6, 7 and 8 through 11 are to be constructed on piers dug by hand, without the use of mechanical augers or drills when placed within Critical Root Zones (CRZs) . Roots encountered are to be cut cleanly following guidelines defined in the Construction Impact Assessment/Tree Protection Plan (CIA-TPP) report prepared for this project.
2. Storm Drain (SD) line between Lots 9 and 10 is within the CRZ of Tree #5. The extents between the Drain Inlets (DI) and their termination points shall be dug by hand following protocol defined in the CIA_TPP.
3. The permeable paver surface for the parking area between Lots 7 and 8 is within the CRZs of Trees #8 and 9. Base excavation within CRZs shall be completed by hand if the existing grade needs to be reduced (cut). Roots encountered shall be cut cleanly as defined in the CIA_TPP.
4. The SD line along the west side of the project, Lots 5, 6 and 7 travels through the CRZ of trees on neighboring properties and connects to an existing line on the neighboring property to the south. Where this line encroaches into CRZs, excavation should be performed by hand or with mechanized equipment under the direction of the Project Arborist.

As you can understand, typically the Construction Impact Analysis map file is overlaid on C3.1. I appreciate your attention and the opportunity to review this final planset as an addendum.

Best regards,

James

James P. Allen
Registered Consulting Arborist #390
Certified Urban Forester #120
Board Certified Master Arborist #625B



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831.460.1464 fax

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From: "Cattan, Katie (kcattan@ci.capitola.ca.us)" <kcattan@ci.capitola.ca.us>
Date: Tuesday, October 20, 2015 at 3:18 PM
To: James Allen <jpallen@cruzio.com>
Subject: FW: 1575 38th Avenue

Hi James,

Could you take a look at the attached and verify that the plans follow your recommendation. Please bill me for your time.

Regards,

Katie Cattan, AICP
 Senior Planner

City of Capitola
 420 Capitola Avenue
 Capitola, CA 95010
 (831) 475-7300



From: Matt Thompson [<mailto:matt@tntarch.com>]
Sent: Monday, October 19, 2015 2:31 PM
To: Cattan, Katie (kcattan@ci.capitola.ca.us)
Cc: 'Joe Appenrod'; 'Chris Shoemaker'
Subject: 1575 38th Avenue

Hi Katie,

I have attached the grading and utility plans for the project as pdf's so that you can forward them to James Allen. These are the same plans that were submitted for the Arch and Site review and don't represent new information. I have reviewed James Allen's October 12th *Construction Impact Assessment / Tree Protection Plan* in relationship to these civil plans and I don't see any contradictions or impacts that are not already addressed in Allen's report. The *Protection Plan* meets the City's standards and expresses the expectation that all of the trees to be protected will thrive beyond the project's development. This is not accidental. Our meeting with James Allen and Jeff Naess worked through these issues and the designs were modified to reflect the input from Allen.

I will follow up tomorrow regarding the comments from the Arch & Site meeting and we will have the up-dated materials ready for the Planning Commission's review by next Tuesday.

Thanks for your help,

Matthew Thompson

Thacher & Thompson Architects
877 Cedar Street, Suite 248
Santa Cruz, CA 95060
831.457.3939 v.
831.426.7609 f.
www.tntarch.com

Attachment: 1575 38th Ave Arborist Report Additional Conditions (1238 : 1575 38th Avenue)

NOTICE OF EXEMPTION

To: Clerk of the Board
County of Santa Cruz
Governmental Center
701 Ocean Street
Santa Cruz CA 95060

From: City of Capitola
Community Development Department
420 Capitola Avenue
Capitola, CA 95010

Project Title: 38th Avenue Homes

Project Address: 1575 38th Avenue **Assessor's Parcel No.:** 034-181-17

Project Location: **City of:** Capitola **County of:** Santa Cruz

Project Description: The 38th Avenue Homes application proposes to demolish the existing structure and accessory buildings within the commercial salvage yard and construct an 11-unit, multi-family development. The project has been designed with 5 duplex town homes and 1 single-family home. The parcel will be subdivided into 11 lots creating individual ownership opportunities.

The project creates a private street with a hammerhead turnaround. The developer will also install new ADA compliant sidewalks along the frontage of 38th Avenue and a crosswalk connecting the west side of 38th Avenue to Kings Plaza. The private street is required to have street lighting and an ADA compliant street approach.

The 28th Avenue Homes application includes a drought tolerant landscape plan with waterwise irrigation. Each lot will have a bioretention area in the front yard for onsite retention of stormwater. The project requires the removal of 7 onsite trees. The applicant proposes to exceed the City's 2:1 replanting requirement with 3:1 ratio.

The project will be required to comply with Capitola's Inclusionary Housing Ordinance. Pursuant to §18.02.030, housing development projects creating seven or more for-sale housing units are required to reserve and restrict fifteen percent of the housing units for sale to moderate, low, or very low income households. The eleven unit development is required to reserve 1.65 units of deed restricted units. The fractional contribution will be credited through a payment of affordable housing in-lieu fees.

Project Applicant: Joe Appenrodt, Owner

Lead Agency: City of Capitola

The project is exempt as follows:

- It clearly will not have a significant effect on the environment (15061(b)(3).
- The project is qualifies for a General Plan exemption under CA Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183.
- It is an emergency project (Section 21080(b)(4); 15269(b)(c)).
- It is statutorily exempt (Code/Section _____).

Attachment: 1575 38th Ave Notice of Exemption (1238 : 1575 38th Avenue)

Reasons why project is exempt:

California Public Resources Code section 21083.3 and California Environmental Quality Act (CEQA) Guidelines Section 15183 provide an exemption from additional environmental review for projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that: (1) Are peculiar to the project or the parcel on which the project would be located, and were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan, with which the project is consistent, (2) Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or (3) Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR. Section 15183(c) further specifies that if an impact is not peculiar to the parcel or to the proposed project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, then an additional EIR need not be prepared for that project solely on the basis of that impact.

General Plan Update Program EIR

The City of Capitola General Plan Update (GPU) establishes a blueprint for future land development in the City that meets community desires and balances the environmental protection goals with the need for housing, infrastructure, and economic vitality. The GPU included adoption of new General Plan elements, which set the goals and policies that guide future development. It also included a corresponding land use map setting the future density limits and appropriate land use categories throughout the City. The GPU EIR was certified in conjunction with adoption of the GPU on June 26, 2014. The GPU EIR comprehensively evaluated environmental impacts that would result from plan implementation, including information related to existing site conditions, analyses of the types and magnitude of project-level and cumulative environmental impacts, and feasible mitigation measures that could reduce or avoid environmental impacts.

The General Plan land use designation for the site is Community Commercial (C-C). The C-C designation provides an area for commercial uses primarily serving Capitola residents. Permitted land uses include general retail, personal services, restaurants, offices, and residential uses. The maximum permitted density in the C-C designation is 20 dwelling units per acre. The proposed 11 unit subdivision on the 30,139 square foot lot would develop at a density of 16 dwelling units per acre, which conforms to General Plan density limits. The maximum FAR in the C-C designation is 1.0. The FAR for the 38th Avenue Homes application ranges from 0.7 to 0.87 within the individual lots, well under the maximum.

Housing Element: State law requires jurisdictions to provide for their share of regional housing needs. As part of the Regional Housing Needs Assessment (RHNA), the Association of Monterey Bay Area Governments (AMBAG) determines the housing growth needs by income category for jurisdictions within Santa Cruz and Monterey Counties. The City of Capitola Housing Element includes opportunity sites to identify locations in which the City will be able to meet the RHNA obligations for all income categories. The housing element includes the subject parcel at 1575 38th Avenue as a possible opportunity site for future housing needs for moderate and above moderate income households. Moderate income is defined as 80 – 120% of area median income. Above moderate income is defined as over 120% of area median income. The median income for Santa Cruz County in 2015 is \$87,000. The draft updated Housing Element identifies a need of 26 moderate housing units and 60 above moderate housing units within Capitola.

The following is an excerpt from the Housing Element:

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

P:\COUNCIL AND COMMISSIONS\Planning Commission\2015 Meeting Packet\11-05-2015\1575 38th Ave\NOTICE OF EXEMPTION.doc

Attachment: 1575 38th Ave Notice of Exemption (1238 : 1575 38th Avenue)

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.”

Summary of Findings

The 38th Avenue Homes application is consistent with the analysis performed for the GPU EIR. Further, the GPU EIR anticipated the site being developed under the previous application of 23 multi-family units as approved by the City in July 2013. The new owner has decreased the density, mass, and scale of the project. There are no identifiable mitigation measures for the new 11 unit development.

In accordance with CEQA Guidelines §15183, the project qualifies for an exemption because the following findings can be made:

1. The project is consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified.

The maximum permitted density in the C-C designation is 20 dwelling units per acre. The project would subdivide a 30,139 sf parcel into 11 residential lots, with a density of 16 units per acre. The proposed 11 unit subdivision is consistent with the Neighborhood Commercial development density established by the GPU Land Use map, the GPU Housing Element, and the certified GPU EIR.

2. There are no project specific effects which are peculiar to the project or its site, and which the GPU EIR Failed to analyze as significant effects.

The subject property is no different than other properties in the surrounding area, and there are no project specific effects which are peculiar to the project or its site. The project site is located in an area developed with similarly sized residential lots. The property does not support any peculiar environmental features, and the project would not result in any peculiar effects.

3. There are no potentially significant off-site and/or cumulative impacts which the GPU EIR failed to evaluate.

The proposed project is consistent with the density and use characteristics of the development considered by the GPU EIR and would represent a small part of the growth that was forecast for build-out of the General Plan. The GPU EIR considered the incremental impacts of the proposed project, and no potentially significant off-site or cumulative impacts have been identified which were not previously evaluated.

4. There is no substantial new information which results in more severe impacts than anticipated by the GPU EIR.

No new information has been identified which would result in a determination of a more severe impact than what had been anticipated by the GPU EIR.

5. The project will undertake feasible mitigation measures specified in the GPU EIR.

The project will undertake feasible mitigation measures specified in the GPU EIR. These GPU EIR mitigation measures will be undertaken through project design, compliance with regulations and ordinances, or through the project’s conditions of approval.

| | | | |
|-----------------------------------|------------------------------|-----------------|---|
| Lead Agency Contact Person | Katie Cattan, Senior Planner | Phone: | (831) 475-7300 |
| Department: | Community Development | Address: | 420 Capitola Avenue, Capitola, CA 95010 |

If filed by applicant:

| | | | |
|---------------------------------|--|--------------|----|
| 1. | Attached certified document of exemption finding. | | |
| 2. | Has a notice of exemption been filed by the public agency approving the project? | Yes | No |
| Filer's Signature: | | Title: | |
| Date Submitted to County Clerk: | | Received by: | |

Attachment: 1575 38th Ave Notice of Exemption (1238 : 1575 38th Avenue)

King's Plaza Shopping Center
1601 41st Avenue, Suite 202
Capitola, CA, 95010
831-475-9042. Fax: 831-475-2186

September 3, 2015
Sent via email to: planningcommission@ci.capitola.ca.us

City Of Capitola Planning Commission
420 Capitola Avenue
Capitola, CA
95010

Re: Housing Project, 1575 Capitola Avenue, Capitola, CA.

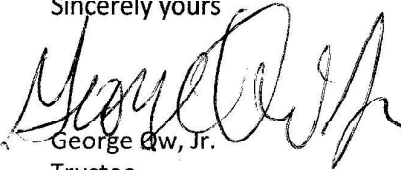
Dear Capitola Planning Commission

We have been the owner-operator of King's Village Shopping Center for over 50 years. The Noise, Odor and Light Easement, which was signed and recorded by the previous owner is still in effect and should handle any conflicts between commercial and residential uses. The potential buyers are forewarned that they will live with the back of the shopping center as it has been operating for over 50 years. There are people who like living close to commercial buildings, my parents were two of these people, so it will be these people who will live on the 1575 Capitola Avenue property.

With this subject already handled, we would like to write a letter of support. We have known developer Joe Appenrodt and architect Matthew Thompson for many decades and have the highest respect for their projects and body of work. We know that they will build a good project.

We give our full support to their housing project.

Sincerely yours



George Ow, Jr.
Trustee

Attachment: 1575 38th Ave Public Comment George Ow Jr (1238 : 1575 38th Avenue)

To: Planner Katie Cattan (& Capitola Planning Dept.) Kcattan@Cl.Capitola.CA.US
 From: "Segrey Living Trust" Don Mosegaard and Kimberly Frey, Trustees of property @ 1530 Bulb Ave.
 Date: 8/31/15
 RE: 1575 38th Ave #15-112 APN: 034-181-17 Public Hearing 9/3/15 7:00pm

As we are out of state at the bedside of our father, who has advanced stage cancer, we will not be able to attend any of the council meeting regarding this development in the month of September and the first couple weeks of October. Thank you for these considerations. Contacts: donmosegaard@netscape.net 831-234-1709 and secondary # Kim Frey 325-9049

We would like to have our concerns addressed and documented about this development, as written;

1. There is an apparent Rear Set Back from our property line of 15 feet and it is of utmost importance that be adhered to.
2. As stated the building height is 27 feet and would like that height to be adhered to.
3. Preservation of the culvert in the south-west corner of the property, which is next to our lot line. We have two rain downspouts that connect underground to that culvert as told to us when we purchased the house in 1997. We also have a small grading ditch which drains under the fence to the culvert. Also, we would like the planners to take into account that the 1575 property has, at times in the past, had much rain water accumulation and was even marsh-like in places during rainy seasons. As a note, the property next door to the right of 1575 38th ave has had to install a sump pump due to water accumulation under that house. Plan well for drainage and please do not build in such a way that too much water will be unintentionally diverted to our property.
4. **West Facing Windows:** We ask that the duplex's/ house facing our property lines have a minimal of windows (and of small size) looking down upon our property to preserve privacy as much as possible.
5. The tree which are on our property line and some branches hanging over- please preserve the health and viability of these trees by not allowing toxic things to affect the grounds around the trees and judicially and conservatively use of cutting the branches back. Another topic; potential tree which you might be planting near the lot line- We would like to be given a change to give feedback should any tree be identified as potentially being planted- as the height, density and autumn leaf fallout will affect our own matures trees/bushes on near this lot line.
6. Fence: We would like to see a six foot redwood fence with a two foot "double thickness" lattice on top of it, thus a total of eight feet heigh. * * The sections of fence (8 foot each) from our property line were purchased by us and would like to see them carefully removed and given back to us as we will be reusing it between our lot line and the storage facility.
7. Lighting: please no lights which will be focused in the direction of our property during nights to preserve night time natural darkness.
8. Apparent work hours per code is:

| | | | |
|-------|---------|---|--------------|
| M – F | 7:30 am | - | 9:00 pm |
| Sat | 9:00 am | - | Sun- no work |

Please no work (due to noise) beyond those hours and if possible would like no work to start before 8:00 am

(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;

- The applicant has applied for a conditional use permit for the intensification of the use.

(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;

- The project conforms to the requirements of all city ordinances, zoning requirements with the approval of a conditional use permit and project development review and development procedures.

(D) (23) Project complies with the Capitola parking permit program as follows:

- The project site is not located within the area of the Capitola parking permit program.

| | |
|------------------|--|
| RESULT: | APPROVED AS AMENDED [UNANIMOUS] |
| MOVER: | Gayle Ortiz, Commissioner |
| SECONDER: | Susan Westman, Commissioner |
| AYES: | Ortiz, Newman, Welch, Westman |
| ABSENT: | Smith |

B. 1575 38th Avenue #15-112 APN: 034-181-17

Conceptual Review for an 11-lot subdivision with 5 duplex townhomes and one single-family home in the CN (Neighborhood Commercial) zoning district.

This project is not located in the Coastal Zone.

Environmental Determination: Exempt

Property Owner: Joe Appenrodt, filed 7/10/15

Representative: Matthew Thompson

Commissioner Newman recused himself since he owns property in the vicinity and left the dais.

Planner Cattan presented the staff report and an overview of the Conceptual Review process. The applicant prefers to subdivide rather than create a condominium association that owns the shared space. Under this plan, each lot should meet development standards and does not, requiring variances. She noted many variations in neighboring uses and zoning. The applicant is hiring an arborist to review impact on adjacent redwoods, the preservation of which was a concern in previous applications for the property. He has already noted soil compaction should be avoided. Initial feedback shows the most impact by the single-family home at the back of the development.

The applicant asks for direction for how to approach the application process. For existing zoning, the front and side yard setbacks require variance and findings. Trees may provide some special circumstances. The other option would be a planned development, although the site does not meet the four-acre minimum.

Architect Matthew Thompson spoke regarding the application. He said a small-lot subdivision is a good use for the mix in the neighborhood and he is a personal advocate for this type of development. Variances would be "internal;" they do not impact adjoining properties, only those new lots being created. He suggested the special circumstance is the variety of zoning

in vicinity. It is not a grant of special privilege since there is similar development with similar qualities nearby.

Commissioner Westman understands the distaste for condominium but ask if there will be an HOA and was told yes. The plan is to mimic Roosevelt Terrace of Broadway in Santa Cruz where the roads and front yards are common area landscaping. Buyers would be told no additions would be allowed.

Commissioner Ortiz asked how they will inform owners about neighboring noise? Joe Appenrodt noted the previous application asked for a noise, odor and light easement, and it would also apply to this project.

Commissioner Ortiz feels variances are appropriate and could support. She would prefer some commercial use but it is not required by current zoning.

Commissioner Westman does not have preference for process. She has some anxiety for variances but possible and feels it is a good use of the land and more compatible for back residential properties.

Commissioner Welch expressed concerns about variances, but prefers that approach to planned development.

Planner Cattan shared comments from absent chairperson Linda Smith, who likes the density, but would remove single-family from the zone. She would also prefer some commercial use as recommended in the General Plan.

C. Consideration of the Draft Climate Action Plan for City Council Adoption

Continued to the meeting of Oct. 1, 2015.

6. DIRECTOR'S REPORT

None.

7. COMMISSION COMMUNICATIONS

Commissioner Ortiz asked for a process to identify whether letters of support are from the owners of a neighboring property, especially ones such as those for a second-story deck.

8. ADJOURNMENT

CAPITOLA CITY COUNCIL MINUTES
September 24, 2015

- E. Zoning Code Update: Schedule for Special Meetings [730-85]
RECOMMENDED ACTION: Accept staff recommendation on special meeting schedule for review of zoning code issues and options.

RESULT: ADOPTED [UNANIMOUS] ITEM 9.A. APPROVAL OF THE CITY CHECK REGISTER REPORTS DATED AUGUST 7, AUGUST 14, AUGUST 21, AND AUGUST 28, 2015

MOVER: Dennis Norton, Mayor

SECONDER: Jacques Bertrand, Council Member

AYES: Norton, Bottorff, Bertrand, Harlan

ABSENT: Termini

10. GENERAL GOVERNMENT / PUBLIC HEARINGS

- A. Receive presentation regarding 1575 38th Avenue Conceptual Review of 11-Unit Residential Development [730-10]
RECOMMENDED ACTION: Receive presentation, consider 11-unit residential development, and provide applicant with feedback on the proposed concept.

The City Council provided direction to staff regarding the 11-unit residential development.

- B. Amend the City's Administrative Policy Number I-17 Pertaining to Over-the-Street Banners [100-10/720-50]
RECOMMENDED ACTION: Adopt the amended Administrative Policy for Over-the-Street Banners.

RESULT: ADOPTED [UNANIMOUS]

MOVER: Ed Bottorff, Vice Mayor

SECONDER: Jacques Bertrand, Council Member

AYES: Norton, Bottorff, Bertrand, Harlan

ABSENT: Termini

11. ADJOURNMENT

The meeting adjourned at 8:30 PM.

Dennis Norton, Mayor

ATTEST:

_____, CMC
Susan Sneddon, City Clerk

MINUTES WERE UNANIMOUSLY APPROVED ON OCTOBER 8, 2015

Attachment: 9-24-2015 CC Minutes Conceptual Review.pdf (1238 : 1575 38th Avenue)

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
38TH AVENUE HOMES**

THIS DECLARATION is made on the date hereinafter set forth by Joseph W. Appenrodt and _____, Trustees of _____, hereinafter referred to as "Declarant", being the owner of certain real property situated in the City of Capitola, County of Santa Cruz, State of California, more particularly described as: described in Exhibit "A" which is attached to this declaration and by this reference made a part hereof.

Lot 1 through Lot 11 and Common Area Lot 12, as shown on the Subdivison Map for 38th Avenue Homes, recorded in Book _____ of Maps, at Page _____, Santa Cruz County Official Records.

Declarant does hereby declare, for the purpose of establishing a general plan for the creation of a planned residential development, within the meaning of California Civil Code Section 41754175, that all of the property described above shall be held, occupied, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, liens and charges, set forth hereinafter, all of which shall run with the real property described above and shall be binding on all parties having any right, title or interest therein or in any thereof, their heirs, successors and assigns, and which shall inure to the benefit of each owner thereof, and all of which are imposed upon said real property and every part hereof as a servitude in favor of each and every lot thereof as the dominant tenement and may be enforced by Declarant, or his or her successors and assigns, each owner, his or her successors and assigns, or by the association, its successors and assigns.

ARTICLE I

DEFINITIONS

Section 1.01. "Association" shall mean and refer to the 38th Avenue Homes Owners Association, a Nonprofit Mutual Benefit Corporation, its successors and assigns, the members of which shall be the owners of lots in the project.

Section 1.02. "Assessment" shall mean that portion of the cost of maintaining, improving, repairing, operating and managing the property which is to be paid by each lot owner as determined by the association.

Section 1.03. "Board" or "board of directors" shall mean and refer to the governing body of the association.

Attachment: 1575 38th Ave Draft CC&R.pdf (1238 : 1575 38th Avenue)

Section 1.04. "By-laws" shall mean and refer to the by-laws of the association as amended from time to time.

Section 1.05. "Common area" shall mean and refer to all of the property described as [Lot 12](#) on the above-described subdivision map.

Section 1.06. "Common expense" means and includes the actual and estimated expenses of operating the common area and any reasonable reserve for such purposes as found and determined by the board and all sums designated, and expenses by or pursuant to the project documents.

Section 1.07. "Declarant" shall mean and refer to [Joseph W. Appenrodt and _____, Trustees of _____](#), and their successors and assigns.

Section 1.08. "Declaration" shall mean and refer to this enabling declaration, as amended or supplemented from time to time.

Section 1.09. "Eligible mortgage holder" shall mean a first lender who has requested notice of certain matters from the association in accordance with Section 9.06c.

Section 1.10. "Eligible insuror or guarantor" shall mean an insuror or governmental guarantor of a first mortgage who has requested notice of certain matters from the association in accordance with Section 9.06c.

Section 1.11. "Exclusive use common area" shall mean and refer to those portions of the common area, if any, set aside for the exclusive use of the lot owner or owners pursuant to Article II, Section 2.04. Each such exclusive use common area shall be appurtenant to the owner's lot and may not be conveyed or transferred apart from the lot. Except as expressly provided in this declaration, no other portion of the project is exclusive use common area.

Section 1.12. "First lender" shall mean any person, entity, bank, savings and loan association, insurance company or financial institution holding a recorded first mortgage on any lot.

[Section 1.13 "Lot" shall mean and refer to any of Lots 1 through 11 as shown on the Map.](#)

Section 1.134. "Map" shall mean and refer to that subdivision map entitled Tract No. _____, recorded on the _____ day of _____, 19____, in Book _____ of Maps at Page _____, in the Official Records of [Santa Cruz](#) County.

Section 1.145. "Member" shall mean and refer to a person entitled to membership in the association as provided herein.

Section 1.156. "Mortgage" shall mean a deed of trust as well as a mortgage.

Section 1.167. "Mortgagee" shall include a beneficiary or a holder of a deed of trust as well

as a mortgagee.

Section 1.178. "Mortgagor" shall include the trustor of a deed of trust as well as a mortgagor.

Section 1.189. "Owner" shall mean and refer to the record fee title owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, except if a lot is sold under a recorded contract of sale, the contract purchaser, rather than the fee owner, shall be considered the "owner". "Owner" shall not include persons or entities who hold an interest in a lot merely as security for the performance of an obligation.

Section 1.1920. "Person" means a natural person, a corporation, a partnership, a trustee, or other legal entity.

Section 1.201. "Project" shall mean and refer to the entire real property above-described.

Section 1.242. "Project documents" shall mean this declaration, as amended from time to time, the exhibits, if any, attached thereto, together with the other basic documents used to create and govern the project, including the map, the articles, and the by-laws.

ARTICLE II

PROPERTY RIGHTS

Title to Homeowner's Association Common Area

Section 2.01. At any time prior to the conveyance of the first lot in the project, Declarant shall convey to the homeowners association fee simple title to the common area, free and clear of all liens and encumbrances, except current real property taxes, which taxes shall be prorated to the date of transfer, and reservations, easements, covenants, conditions, and restrictions then of record, including those set forth in this document.

In connection with the conveyance of the common area to the association, Declarant may reserve easements for a period of time not to exceed three years for the nonexclusive use of any driveways on the project, for drainage and encroachment purposes, and for ingress to and egress from the common areas for the purpose of completing improvements thereon or for the performance of necessary repair work. In addition to the foregoing, in the case of a phased project, Declarant may reserve an easement for entry onto the project in connection with the development of additional phases.

Owners' Easement of Enjoyment

Section 2.02. Every owner shall have a right and easement of enjoyment in and to the common area which shall be appurtenant to and pass with title to every lot, subject to reasonable

rules and regulations from time to time set by the association as well as the right of the association to dedicate or transfer a portion of the common area to any public agency, authority or utility for such purpose and subject to such conditions as may be agreed to by said members, so long as the dedication or transfer shall be for the general benefit of the association and its members.

Delegation of Use

Section 2.03. Any owner may delegate his or her rights of use and enjoyment of the common area and the facilities to the members of his or her family, his or her guests, tenants, employees, and invitees, and to such other persons as may be permitted by the by-laws and the association rules, subject however to this declaration. However, if an owner has sold his or her lot to a contract purchaser or has leased or rented it, the owner, members of the owner's family, guests, tenants, employees, and invitees shall not be entitled to use and enjoy any of such rights while the owner's lot is occupied by the contract purchaser or tenant. Instead, the contract purchaser, or tenant, while occupying such lot, shall be entitled to use and enjoy such rights, including the recreational facilities, and can delegate the rights of use and enjoyment in the same manner as if such contract purchaser or tenant were an owner during the period of his or her occupancy. Each owner shall notify the secretary of the association of the names of any contract purchasers or tenants of such owner's lot. Each owner, contract purchaser, or tenant shall also notify the secretary of the association of the names of all persons to whom such owner, contract purchaser, or tenant has delegated any rights of use and enjoyment and the relationship that each such person bears to the owner, contract purchaser, or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of owners. No such delegation shall relieve an owner from liability to the association or to other owners for payment of assessments or performance of the covenants, conditions and restrictions contained in this declaration. The association and each owner shall have a right of action directly against any tenant or contract purchaser of an owner, as well as against the owner, for nonperformance of any of the provisions of this declaration to the same extent that such right of action exists against such owner.

Exclusive Use Common Areas

Section 2.04. There are no exclusive use common areas designated on the map and set aside and allocated for the exclusive use of the owner of the lot. The board may not grant exclusive use to any other portion of the common area to any member except in compliance with Civil Code Section 1363.074600, or any successor thereto.

Guest Parking

Section 2.05. All Common Area parking spaces may be used by all owners, their tenants and guests. The board may from time to time assign the exclusive right to use certain spaces to particular lots. All parking spaces not so assigned may be used by all owners, their tenants and guests.

Non-Severability of Component Interests

Section 2.06. An owner shall not be entitled to sever his or her lot from his or her membership in the association, and shall not be entitled to sever his or her lot and his or her membership from his or her interest in and to the common area, as provided in Section 2.02 above. Any attempt to sever an owner's interest in and to the common area from the ownership of his or her lot, shall be void. After the initial sale of each lot, any conveyance of the lot by the owner shall be presumed to convey all of the owner's right and easement of enjoyment in and to the common area.

Destruction of Common Area Improvements

Section 2.07. In the event of a partial or total destruction of the improvements upon the common area, it shall be the duty of the association to restore and repair the same to their former condition as promptly as is practicable and in a lawful and workmanlike manner. The proceeds of any insurance maintained pursuant hereto shall be used for such purpose, subject to the prior rights of mortgagees whose interests may be protected by said policies. In the event that the amount available from the proceeds of such insurance policies for such restoration and repair shall be at least ninety-five percent (95%) of the estimated cost of restoration and repair, a reconstruction assessment, with each owner contributing equally as provided in Section 4.07, may be levied by the association to provide the necessary funds for such reconstruction and repair, over and above the amount of any insurance proceeds available for such purpose.

In the event that the amount available from the proceeds of such insurance policies for such restoration and repair shall be less than ninety-five percent (95%) of the estimated cost of restoration and repair, the improvements shall not be replaced or restored unless approved by the vote or written consent of members entitled to exercise two-thirds (2/3) of the voting power of the membership of the association. In such event if the members do not elect to rebuild the improvements, the insurance proceeds received by the association on account of the destruction of the common area shall be distributed by the association among owners of lots and their respective mortgagees proportionately based upon the respective selling prices of the lots in the original sales of the lots by the Declarant.

Eminent Domain - Common Area

Section 2.08. The term "taking" as used in this section shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the common area, the members hereby appoint the board of the association and such persons as the board of the association may delegate to represent all of the members in connection with the taking. The board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemner in lieu of engaging in a condemnation action. Any awards received on account of the taking shall be paid to the association. In the event of a taking of less than all of the common area, the rules as to restoration and replacement of the common area and the improvements thereon shall apply as in the case of destruction of improvements upon the common area. In the event of a total taking, the board shall retain any award in the general funds of the association. Notwithstanding anything to the contrary in this section, the distribution of any award or awards for taking of all or any portion of the

common area shall be subject to the prior rights of mortgagees under deeds of trust.

Declarant's Obligation to Complete the Common Area Improvements

Section 2.09. In the event that there are common area improvements which have not been completed prior to close of escrow on the sale of any first lot, and where the association is the obligee under a bond or other arrangement to secure performance of the commitment of Declarant to complete said improvements, the board shall consider and vote on the question of action by the association to enforce the obligations under the bond with respect to any improvement for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for that improvement in the planned construction statement appended to the bond. If the association has given an extension in writing for the completion of any common area improvement, the board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed within thirty (30) days after expiration of the extension. A special meeting of members of the association for the purpose of voting to override a decision of the board not to initiate action to enforce the obligations under the bond or on the failure of the board to consider and vote on the question shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the board of a petition for such a meeting signed by members representing five (5%) percent of the total voting power of the association. At such special meeting, a vote of a majority of the members of the association, other than Declarant, shall be required to take action to enforce the obligations under the bond, and a vote of a majority of the voting power of the association, excluding Declarant, shall be deemed to be the decision of the association, and the board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the association.

Annexation of Additional Parcels

Section 2.10. Additional parcels may be annexed to become subject to this declaration in accordance with the following provisions:

a. **Annexation Pursuant to Approval.** Upon approval in writing of the association, pursuant to vote or written consent of a two-thirds (2/3) majority of the voting power of its members, excluding the Declarant, and the approval of the Department of Real Estate of the State of California, all mortgagees of lots, the association and the owner of any property who desires to add it to the scheme of this declaration and to subject it to the jurisdiction of the association, may file of record a declaration of annexation in the manner described below.

~~ba. **Annexation Pursuant to Phased Development Plan.** In substantial conformance with a detailed plan of phased development submitted to the Department of Real Estate Bureau of Real Estate with the application for a public report for the first phase of the subdivision, Declarant may file of record a declaration of annexation in the manner described below. The plan for phased development for annexation referred to must include, but need not be limited to, the following:~~

~~(1) Proof satisfactory to the Department of Real Estate Bureau of Real Estate that no~~

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~~proposed annexation will result in an overburdening of the common facilities.~~

~~(2) Proof satisfactory to the Department of Real Estate Bureau of Real Estate that no proposed annexation will cause a substantial increase in assessments against existing owners which was not disclosed in subdivision public reports under which preexisting owners purchased their interest.~~

~~(3) Identification of the land proposed to be annexed and the total number of residential units then contemplated by the subdivider for the overall subdivision development.~~

~~(4) <Provisions requiring that annexation of a new phase be effected prior to the third anniversary of the issuance of the original public report for the immediately preceding phase.> A written commitment by Declarant to pay the association, concurrently with the closing of the escrow for the first sale of a subdivision interest in an annexed phase, appropriate amounts for reserves for replacement or deferred maintenance of common area improvements in the annexed phase necessitated by or arising out of the use and occupancy of residential units under a rental program conducted by Declarant which has been in effect for a period of at least one year as of the date of closing of the escrow for the first sale of a residential unit in the annexed phase.~~

eb. Declaration of Annexation. A declaration of annexation shall be recorded covering the applicable portion of the property to be annexed. Said declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this declaration as may be necessary to reflect the different character, if any, of the added property, and as are not inconsistent with the scheme of this declaration.

ec. Effect of Annexation. Upon annexation, the property annexed shall become subject to this declaration without the necessity of amending individual sections hereof. Assessments collected from owners in the property may be expended by the association without regard to the particular phase from which such assessments came. All owners shall have ingress and egress to and use of all portions of the common area throughout the property, subject to the provisions of this declaration, the by-laws of the association, and to the rules and regulations of the association in effect from time to time.

Delivery of Documents to the Association

Section 2.11. Commencing not later than ninety (90) days after the close of escrow of the first interest in the subdivision, copies of the documents listed below, as soon as readily obtainable, shall be delivered by Declarant to the board of directors of the association at the office of the association, or at such other place as the board of directors of the association shall prescribe. The obligation to deliver the documents listed below shall apply to any documents obtained by the Declarant no matter when obtained, provided, however, such obligation shall terminate upon the earlier of (1) the conveyance of the last subdivision interest covered by a subdivision public report or (2) three years after the expiration of the most recent public report, on the subdivision:

- (1) The recorded subdivision map or maps for the project.
- (2) The deeds and easements executed by the subdivider conveying the common area or other interest to the association, to the extent applicable.
- (3) The recorded covenants, conditions and restrictions for the subdivision, including all amendments and annexations thereto.
- (4) The association's filed articles of incorporation, if any, and all amendments thereto.
- (5) The association's bylaws and all amendments thereto.
- (6) All architectural guidelines and all other rules regulating the use of an owner's interest in the subdivision or use of the common area which have been promulgated by the association.
- (7) The plans approved by the local agency or county where the subdivision is located for the construction or improvement of facilities that the association is obligated to maintain or repair; provided, however, that the plans need not be as-built plans and that the plans may bear appropriate restrictions on their commercial exploitation or use and may contain appropriate disclaimers regarding their accuracy.
- (8) All notice of completion certificates issued for common area improvements (other than residential structures).
- (9) Any bond or other security device in which the association is the beneficiary.
- (10) Any written warranty being transferred to the association for common area equipment, fixtures or improvements.
- (11) Any insurance policy procured for the benefit of the association, its board of directors or the common area.
- (12) Any lease or contract to which the association is a party.
- (13) The membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the members, of the board of directors and of committees of the board of directors of the association.
- (14) Any instrument referred to in Section 11018.6(d) of the California Business and Professions Code but not described above which establishes or defines the common, mutual or reciprocal rights or responsibilities of the members of the association.

Commencing not later than 90 days after the annexation of additional phases to the subdivision, copies of those documents listed above which are applicable to that phase, shall, as soon

as readily obtainable, be delivered by the Declarant to the board of directors of the association at the office of the association, or at such other place as the board of directors of the association shall prescribe. The obligation to deliver the documents listed above shall apply to any documents obtained by Declarant no matter when obtained, provided, however, such obligation shall terminate upon the earlier of (1) the conveyance of the last subdivision interest covered by a subdivision public report or (2) three years after the expiration of the most recent public report, on the subdivision.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Membership

Section 3.01. The owner of a lot shall automatically, upon becoming the owner of same, be a member of the association, and shall remain a member thereof until such time as his or her ownership ceases for any reason, at which time his or her membership in the association shall automatically cease. Membership shall be held in accordance with the articles and by-laws of the association.

Transferred Membership

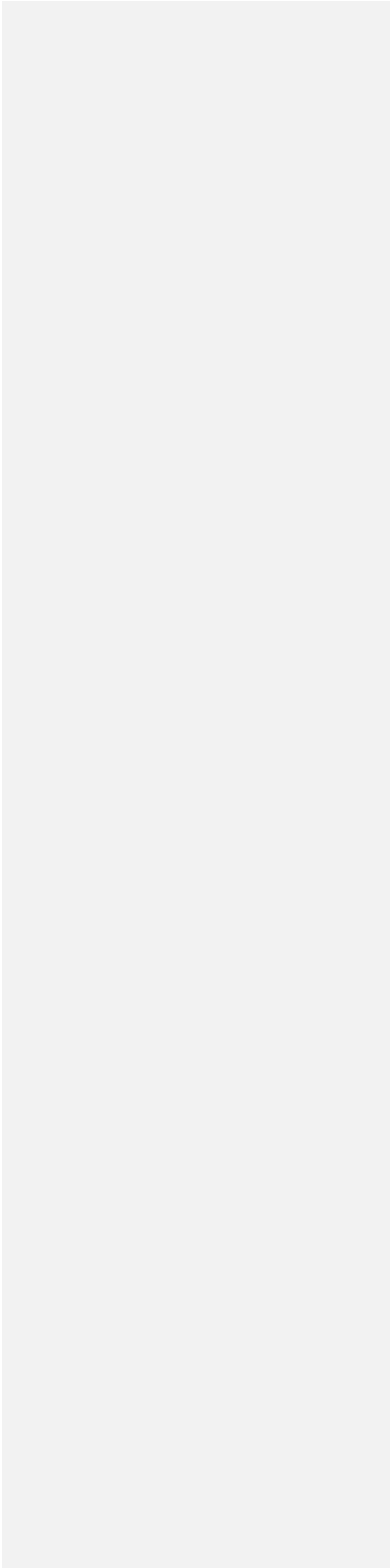
Section 3.02. Membership in the association shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of the lot to which it is appurtenant, and then only to the new fee owner or contract purchaser, in the case of a sale, or mortgagee, in the case of an encumbrance of such lot. Upon death of a member, his or her membership passes automatically along with title to his or her lot to his or her heirs. The mortgagee does not have membership rights until he becomes an owner by foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer is void. No member may resign his or her membership. In the event the owner of any lot should fail or refuse to transfer the membership registered in his or her name to the purchaser of his or her lot, the association shall have the right to record the transfer upon its books and thereupon any old membership outstanding in the name of the seller shall be null and void.

Membership Classes and Voting Rights

Section 3.03. Only memberships shall have voting rights, and the association shall have two classes of voting memberships:

a. Class A members shall be all owners with the exception of the Declarant and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot all such persons shall be members.

b. Class B member(s) shall be the Declarant and shall be entitled to three votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earliest:



(1) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(2) On the second anniversary of the first close of escrow for the sale of a subdivision interest to an individual owner.

c. Whenever membership approval is necessary for any action to be taken by the association or the board of directors, except with respect to any action to enforce the obligations of the Declarant as specified in Article II, Section 2.09, the vote or written assent of the designated percentage of each class of membership shall be required during the time that there are two outstanding classes of membership.

d. Whenever the vote or written assent of each class of membership is necessary for the initiation of action by or in the name of the association, except with respect to any action to enforce the obligations of Declarant as specified in Article II, Section 2.09, any requirement that the vote of the subdivider shall be excluded is not applicable. After the conversion of Class B memberships to Class A memberships, where the vote or written assent of a prescribed majority of the members is required other than Declarant, then except as provided in Article II, Section 2.09 of the declaration, the vote or written assent of a bare majority of the total voting power of the association as well as the vote or written assent of a prescribed majority of the total voting power of members other than the Declarant shall be required.

e. Voting rights shall vest either at the time assessments are levied against the owner's lot or as provided in a subsidization plan ~~approved by the California~~reviewed by the California Department of Real Estate Bureau of Real Estate.

Joint Owner Disputes

Section 3.04. All votes for each lot for any membership class shall, if at all, be cast as a unit. In the event that joint owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any owner casts a vote or votes representing a certain lot, it will thereafter be conclusively presumed for all purposes that said owner was acting with the authority and consent of all the owners of the lot.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS OF COMMON AREA

**Creation of the Lien and Personal Obligations
of Assessments**

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Section 4.01. The Declarant, for each lot owned within the properties, hereby covenants, and each owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the association: (1) regular assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The regular and special assessments, together with any late charges, reasonable costs of collection (including reasonable attorney's fees) and interest shall be a lien on the owner's interest in the planned development from and after the time the association causes to be recorded in the recorder's office of the county in which the lot is located, a notice of delinquent assessment, which shall state the amount of the assessment and other sums imposed in accordance with California Civil Code Section 5600 and following, a legal description of the owner's interest in the common interest development against which the assessment and other sums are levied, the name of the record owner of the owner's interest in the common interest development against which the lien is imposed, and, in order for the lien to be enforced by nonjudicial foreclosure as provided in California Civil Code Section 5710, the name and address of the trustee authorized by the association to enforce the lien by sale. The notice of delinquent assessment shall be signed by the secretary or the president of the association, **and mailed in the manner set forth in Civil Code Section 2924(b) to all record owners of the owner's interest in the project no later than ten (10) calendar days after recordation.** Upon payment of the sum specified in the notice of delinquent assessment, the association shall cause to be recorded a further notice stating the satisfaction and release of the lien thereof. Each such assessment, together with any late charges, reasonable costs of collection (including reasonable attorney's fees) and interest shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them.

A statement describing the association's policies and practices in enforcing lien rights or other legal remedies for default in payment of its assessments against its members shall be annually delivered to the members during the sixty (60) day period immediately preceding the beginning of the association's fiscal year.

The association shall not place a lien upon the interest of any owner to collect amounts due as provided herein unless the association first complies with the requirements of Civil Code Section 1367.1(a) – (e) 5660-5673, and the notice of delinquent assessments complies with Civil Code Section 1367.1(d), notifies the owner in writing by certified mail of the fee and penalty procedures of the association, provides an itemized statement of the charges owed by the owner, including items on the statement which indicate the principal owed, any late charges, and the method of calculation, any attorneys' fees, and the collection practices used by the association, including the right of the association to the reasonable costs of collection. Any payment toward such a debt shall first be applied to the principal owed, and only after the principal owed is paid in full shall such payments be applied to interest or collection expenses.

A monetary penalty imposed by the association as a means of reimbursing the association for costs incurred by the association in the repair of damaged common areas and facilities for which a member or a member's guests or tenants were responsible may not

become a lien against the member's interest in the planned development enforceable by the sale of the interest under Civil Code Sections 2924, 2924(b), and 2924(c), in accordance with the procedures described above.

Purpose of Assessment

Section 4.02. The assessments levied by the association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the properties and for the improvement and maintenance of the common area.

Regular Assessments

Section 4.03.

a. Prior to the first meeting of the association, the maximum regular assessment under ARTICLE IV shall be as set forth in the budget worksheet ~~approved by the California~~ reviewed by the California Department of Real Estate Bureau of Real Estate.

b. The board may not impose a regular assessment that is more than twenty percent (20%) greater than the regular assessment for the association's preceding fiscal year without the approval of owners, constituting a quorum, casting a majority of the votes at a meeting or election of the association conducted in accordance with Chapter V (commencing with Section 7510) of Part III of Division II of Title I of the ~~Corporations~~ Civil Code and Section ~~7613~~ 5605 of the Corporations Code. For the purposes of this section, quorum means more than 50% of the owners of the association. The foregoing restriction shall not apply to any assessment increases necessary for emergency situations. For purposes of this section, an emergency situation is any one of the following:

- (1) An extraordinary expense required by an order of a court.
- (2) An extraordinary expense necessary to repair or maintain the planned development or any part of it for which the association is responsible where a threat to personal safety on the property is discovered.
- (3) An extraordinary expense necessary to repair or maintain the planned development or any part of it for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the pro forma operating budget required by the by-laws of the corporation.

c. The board of directors ~~may fix the regular assessment at an amount not in excess of the maximum, provided that the board has with respect to that fiscal year prepared and distributed to all members not less than 45 days nor more than 60 days prior to the beginning of the association's fiscal year a pro forma operating budget, which includes all of the following: (1) the estimated revenue and expenses of the association on an accrual basis; (2) a summary of the association's~~

reserves in accordance with Section 4.05(e) below; (3) a statement as to whether the board of directors of the association has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any major component or to provide adequate reserves therefor; and (4) a general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement, or additions to those major components that the association is obligated to maintain, or the association has obtained the approval of owners, constituting a quorum, casting a majority of the votes at a meeting or election of the association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code. For purposes of this section, "quorum" means more than 50% of the owners of the association. The regular assessment may not be decreased either by the board or by the members, by more than ten percent (10%) in any one year without the approval of more than fifty percent (50%) of the members, other than the Declarant. **shall comply with the provisions of Section 5700 and following of the Civil Code prior to any increase in assessments.**

d. Subject to the limitations on the maximum and minimum amount of assessments herein provided, if at any time during the course of the year the board shall deem the amount of the regular assessment to be inadequate or excessive, the board shall have the power at a regular or special meeting, to revise the assessment for the balance of the assessment year, effective on the first day of the month following the date of the revision.

e. During the time the project is subject to an outstanding public report, the Declarant shall notify the [Department of Real Estate Bureau of Real Estate](#) of any increase of ten percent (10%) over the amount of the regular assessment reflected in the current public report for the project.

Special Assessments for Capital Improvements

Section 4.04. In addition to the regular assessments authorized above, the association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the common area, including fixtures and personal property related thereto, provided that:

a. ~~In any fiscal year,~~ The board may not ~~impose~~ **levy** special assessments **without complying with the provisions of Section 5700 of the Civil Code,** ~~which in the aggregate exceed 5% of the budgeted gross expenses of the association for that fiscal year without the approval of owners, constituting a quorum, casting a majority of the votes at a meeting or election of the association conducted in accordance with Chapter V (commencing with Section 751) of Part III of Division II of Title I of the Corporations Code and Section 7613 of the Corporations Code. For the purposes of this section, quorum means more than 50% of the owners of the association. The foregoing restriction shall not apply to any assessment increases necessary for emergency situations. For purposes of this section, an emergency situation is any one of the following:~~

- (1) An extraordinary expense required by an order of a court.

~~(2) An extraordinary expense necessary to repair or maintain the planned development or any part of it for which the association is responsible where a threat to personal safety on the property is discovered.~~

~~(3) An extraordinary expense necessary to repair or maintain the planned development or any part of it for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the pro forma operating budget required by the by laws of the corporation.>~~

b. Every special assessment shall be levied on the same basis as that prescribed for the levying of regular assessments.

c. The provisions of this section regarding special assessments do not apply to an assessment levied by the board of directors against a member to reimburse the association for costs incurred in bringing the member and his or her subdivision interest into compliance with provisions of the governing instruments as provided in Section 4.12 below.

Reserve Fund Procedures

Section 4.05.

a. As part of the regular assessment for maintenance authorized above, the board of directors shall annually fix the amount to be contributed pro-rata by each member to reserve funds for the purpose of defraying, in whole or in part, the cost or estimated cost of any reconstruction, repair or replacement of improvements, including fixtures and personal property related thereto. Such determination shall be made after consideration of the need for additional funds and of the association's capital position. The board shall fix the method of payment of such assessments and shall be empowered to permit either lump sum or monthly payments. Separate records shall be maintained for all funds deposited to the said account, which shall be designated as a "reserve account". The signatures of at least two persons, who shall be members of the association's board of directors, or one officer who is not a member of the board of directors and a member of the board of directors, shall be required for the withdrawal of monies from the association's reserve account. Deposits shall be made and funds accounted for so that reserves for capital improvements and for replacement, can be clearly separated from funds for operating expenses.

~~<Reserve funds shall be used solely to defray future repair or replacement of, or additions to, those portions of the common area which the association is obligated to maintain.>~~

b. The board of directors shall not expend funds designated as reserve funds for any purpose other than **those purposes set forth in Section 5510 of the Civil Code.** ~~<the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components which the association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established. However, the board may authorize the~~

~~temporary transfer of money from a reserve fund to the association's general operating fund to meet short-term cash flow requirements or other expenses. The transferred funds shall be restored to the reserve fund within three years of the date of the initial transfer, except that the board may, upon making a finding supported by documentation that a delay would be in the best interests of the common interest development, delay the restoration until the time which the board reasonably determines to be necessary. The board shall exercise prudent fiscal management in delaying restoration of these funds and in restoring the expended funds to the reserve account, and shall, if necessary, levy a special assessment to recover the full amount of the expended funds within the time limits required by this section. This special assessment is not subject to the limitation imposed by Section 4.04.a above.~~

~~e. At least once every three years the board of directors shall cause a study of the reserve account requirements of the common interest development to be conducted if the current replacement value of the major components which the association is obligated to repair, replace, restore, or maintain is equal to or greater than one-half of the gross budget of the association for any fiscal year. The board shall review this study annually and shall consider and implement necessary adjustments to the board's analysis of the reserve account requirements as a result of that review.~~

Notice and Quorum for Any Action Authorized Under Section 4.03, 4.04

Section 4.06. Any action authorized under Section 4.03 or 4.04 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than ten (10) days nor more than ninety (90) days in advance of the meeting specifying the place, day and hour of the meeting and in the case of a special meeting, the nature of the business to be undertaken. The presence at any such meeting in person or by proxy of members entitled to cast 33-1/3 percent of the total votes of all members shall constitute a quorum, except that in the case of the imposition of a regular assessment that is more than 20% greater than the regular assessment for the association's preceding fiscal year or the imposition of special assessments which in the aggregate exceed 5% of the budgeted gross expenses of the association for that fiscal year, the quorum requirement shall be more than 50% of the total voting power of the association. If a quorum is present and the proposed action is favored by a majority vote of the members present at such meeting, but such vote is less than a majority of the voting power of the association, including a majority of members other than the Declarant, approval of the action may be obtained by written ballot in accordance with the provisions of California Corporations Code Section 7513.

Rate of Assessment

Section 4.07. All ~~regular~~ assessments shall be charged to and divided among the lot owners according to the ratio of the number of lots owned by each owner assessed to the total number of lots assessed.

Due Dates for Regular and Special Assessments

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Section 4.08. The regular assessments provided for herein shall commence as to all lots in a particular phase on the first day of the month following the closing of the first sale of a subdivision interest to an individual owner in that phase. The first regular assessment shall be adjusted according to the number of months remaining in the calendar year. The board of directors shall fix the amount of the regular assessment against each lot at least forty-five (45) days in advance of each regular assessment period. The due dates shall be established by the board of directors. The association shall provide notice by first class mail to the owners of all lots of any increase in the regular or special assessments of the association, not less than 30 nor more than 60 days prior to the increased assessment becoming due. The association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified lot have been paid.

Effect of Nonpayment of Assessments; Remedies of the Association

Section 4.09. Any assessment payment shall become delinquent if payment is not received by the association within fifteen (15) days after its due date. If an assessment is delinquent, the association may recover all of the following: (1) reasonable costs incurred in collecting the delinquent assessment, including reasonable attorney's fees; (2) a late charge not exceeding 10% of the delinquent assessment or \$10.00, whichever is greater; (3) interest on all sums imposed in accordance with this section, including the delinquent assessment, reasonable costs of collection, and late charges, at an annual percentage rate not to exceed twelve percent (12%) interest, commencing thirty (30) days after the assessment becomes due.

Transfer of Lot by Sale or Foreclosure and Priority of First Lender

Section 4.10. Sale or transfer of any lot shall not affect the assessment lien. However, a lien for regular or special assessments against an owner shall be subordinate to the lien of any first mortgage or first deed of trust against subdivision interests of the owner, and the sale of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof involving a default under the first encumbrance shall extinguish the lien of assessments which were due and payable prior to the transfer of the subdivision interest. No sale or transfer of a lot as the result of a foreclosure or exercise of the power of sale shall relieve the new owner, whether it be the former beneficiary or the first encumbrance or another person, from liability for any assessments thereafter becoming due or from any lien thereof.

When the mortgagee of a mortgage of record or other purchaser of a lot obtains title to the same as a result of foreclosure of any such mortgage, such acquirer of title, his or her successor and assigns, shall not be liable for the share of the common expenses or assessment by the association which became due prior to the acquisition of title to such lot by such acquirer (except for assessment liens recorded prior to the mortgage). No amendment of the preceding section may be made without the consent of owners of lots to which at least sixty-seven percent (67%) of the votes in the association are allocated, and the consent of the eligible mortgage holders holding first mortgages on

lots comprising fifty-one percent (51%) of the lots subject to first mortgages. Such unpaid share of common expenses of assessments shall be deemed to be common expenses collectible from all of the lot owners including such acquirer, his or her successors and assigns.

Priorities; Enforcements; Remedies

Section 4.11. When a notice of assessment has been recorded, such assessment shall constitute a lien on each respective lot prior and superior to all other liens except (1) all taxes, bonds, assessments and other levies which by law would be superior thereto, and (2) the lien or charge of any first mortgage of record made in good faith and for value.

If the lien is for delinquent assessments equal to or more than \$1,800, or more than 12 months delinquent, such lien, ~~when delinquent~~ after the expiration of thirty (30) days following the recording of the lien, may be enforced in any manner permitted by law in compliance with Civil Code section 5700 and following, and after complying with the requirements of Civil Code Section 1367.4(e) may be enforced by sale by the association, its attorneys or other person authorized to make the sale after failure of the owner to pay such assessment in accordance with its terms, such sale to be conducted in accordance with the provisions of Sections 2924, 2924(b), and 2924(e) of the California Civil Code, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law. If the amount of the delinquent assessments is less than \$1,800, not including any accelerated assessments, late charges, fees and costs of collection, attorneys' fees, or interest, the association may not collect the debt through judicial or nonjudicial foreclosure, but may attempt to collect or secure the debt as specified in Civil Code Section 1367.4(b).

The association, acting on behalf of the lot owners, shall have the power to bid for the lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Where the purchase of a foreclosure lot will result in a five percent (5%) or greater increase in assessments, the purchase shall require the vote or written consent of a majority of the total voting power of the association, including majority of members other than Declarant. During the period a lot is owned by the association, following foreclosure: (1) no right to vote shall be exercised on behalf of the lot; (2) no assessment shall be assessed or levied on the lot; and (3) each other lot shall be charged, in addition to its usual assessments, its equal share of the assessment that would have been charged to such lot had it not been acquired by the association as a result of foreclosure. Suit to recover a money judgment for unpaid common expenses, rent and attorney's fees shall be maintainable without foreclosing or waiving a lien securing the same.

After acquiring title to the lot at foreclosure sale following notice and publication, the association may execute, acknowledge and record a deed conveying title to the lot which deed shall be binding upon the owners, successors, and all of the parties.

Disciplinary Proceedings

Section 4.12. In addition to all other remedies provided in this declaration, the board may

temporarily suspend the voting rights of a member who is in default in payment of any assessment, or was otherwise in violation of this declaration, and may impose reasonable monetary penalties which may be in the form of a special assessment against the member to reimburse the association for costs incurred in bringing a member and his or her subdivision interest into compliance with provisions of governing instruments, or for the purpose of repairing damage to common areas and facilities for which the member was responsible. Prior to any finding of liability or any decision to impose sanctions or penalties, the ~~member shall be given notice and afforded a hearing satisfying the following requirements:~~

~~a. The member is given fifteen (15) days prior notice of the finding of liability or decision to impose sanctions and penalties and the reasons for such action. The notice may be given by any method reasonably calculated to give actual notice. If the notice is given by mail, it must be sent by first class or registered mail to the last address of the member as shown on the association's records. Board shall notify the member in writing, by either personal delivery or first class mail, at least 10 days prior to the meeting. Notification shall contain, at a minimum, the date, time, and place of the meeting, the nature of the alleged violation for which the member may be disciplined, and a statement that the member has a right to attend and may address the board at the meeting. The board shall meet in executive session if requested by the member being disciplined.~~

~~Before the board imposes discipline on a member, the board shall provide the member a written notification of the disciplinary action, by either personal delivery or first class mail, within ten days following the action.~~

~~If the board imposes discipline on a member, the board shall provide the member a written notification of the disciplinary action, by either personal delivery or first class mail, within 15 days following the action. Any dispute between the Association and a member involving their rights, duties, or liabilities under the Declaration shall be subject to the internal dispute resolution process specified in California Civil Code Section ~~4363.810~~ 5935 and following.~~

~~b. The member is given an opportunity to be heard, orally or in writing, by the board, not less than five (5) days before the effective date of the finding of liability or the imposition of sanctions or penalties.~~

The association shall not cause a forfeiture or abridgement of an owner's right to the full use and enjoyment of his or her individually-owned subdivision interest on account of the failure by the owner to comply with provisions of the governing instruments or of duly-enacted rules of operation for common areas and facilities except by judgment of a court or a decision arising out of arbitration or on account of a foreclosure or sale under a power of sale for failure of the owner to pay assessments duly levied by the association. Any monetary penalty imposed by the association as a disciplinary measure for failure of a member to comply with the governing instruments except as a means of reimbursing the association for costs incurred by the association in the repair of damage to common areas and facilities for which the member ~~<was alleged responsible or in bringing the member and his subdivision interest into compliance with the governing instruments>~~ **or the member's guests or tenants were responsible**, shall not ~~may~~ be treated as an assessment which

may become a lien against the members subdivision interest enforceable by sale of the interest in accordance with the provisions of Sections 2924, 2924(b) and 2924(c) of the Civil Code.

The provisions of the preceding paragraph do not apply to charges imposed against an owner consisting of reasonable late payment penalties for delinquent assessments and/or charges to reimburse the association for the loss of interest and for costs reasonably incurred (including attorney's fees) in its efforts to collect delinquent assessments.

Notwithstanding any other provision of this declaration, the association shall not impose or collect an assessment, penalty, or fee that exceeds the amount necessary for the purpose or purposes for which it is levied.

Unallocated Taxes

Section 4.13. In the event that any taxes are assessed against the common area, or the personal property of the association, rather than against the lots, said taxes shall be included in the assessments made under the provisions of Section 4.01 and, if necessary, a special assessment may be levied against the lots in an amount equal to said taxes to be paid in two installments, thirty (30) days prior to the due date of each tax installment.

Exemption from Assessments

Section 4.14. Notwithstanding the provisions of Sections 4.01 - 4.08 inclusive, any lot having no structural improvements for human occupancy shall be exempt from the payment of that portion of any assessment that is for the purpose of defraying expenses and reserves directly attributable to the existence and use of the structural improvement. The exemption may include, but is not limited to:

- a. Roof replacement;
- b. Exterior maintenance;
- c. Walkway and carport lighting;
- d. Refuse disposal;
- e. Cable television; and
- f. Domestic water supplied to living units.

The foregoing exemption shall be in effect until the earliest of the following events:

- (1) Recordation of a notice of completion of the structural improvements;
- (2) Occupation or use of the lot; or
- (3) Completion of all elements of the residential structures that the association is obligated to maintain.

The Declarant and any other owner of a lot are exempt from the payment of that portion of any assessment that is for the purpose of defraying expenses and reserves directly attributable to the

existence and use of a common facility that is not complete at the time assessments commence. This exemption from the payment of assessments shall be in effect until the earliest of the following events:

- (1) A notice of completion of the common facility has been recorded; or
- (2) The common facility has been placed into use.

ARTICLE V

DUTIES AND POWERS OF THE ASSOCIATION

Maintenance

Section 5.01. The association shall maintain, repair, replace, restore, operate and manage, all of the common area, including roadways, sanitary sewage facilities, landscaping, on-site drainage and all on-site storm water improvements, and common open space area. The storm water improvements shall be maintained pursuant to the Storm water Control Plan for 1575 38th Avenue Homes, prepared by Bowman & Williams Consulting Civil Engineers, dated October 5, 2015. The responsibility of the association for maintenance and repair shall not extend to repairs or replacements arising out of or caused by the willful or negligent act or neglect of an owner, or his or her guests, tenants, or invitees, the cost of which is not covered by insurance. The cost of repair or replacement resulting from such excluded items shall be the responsibility of each owner; provided, however, that if an owner shall fail to make the repairs or replacements which are the responsibility of such owner, as provided above, then after thirty (30) days notice to the owner and at public hearing, the association shall make such repairs or replacements, and the cost thereof shall be paid immediately to the association by the owner of such lot. Any such amount, together with reasonable costs of collection (including reasonable attorneys' fees) and interest thereon at the legal rate of interest shall ~~become the personal obligation of the owner~~ be a lien on the owner's interest in the planned development from and after the time the association causes to be recorded in the Recorder's Office of the county in which the lot is located, a notice of delinquent assessment, which shall state the amount incurred the association to perform such maintenance, a description of the owner's interest in the common interest development against which the assessment and other sums are levied, the name of the record owner of the owner's interest in the common interest development against which the lien is imposed, and, in order for the lien to be enforced by nonjudicial foreclosure as provided in California Civil Code Section 1367(d), the name and address of the trustee authorized by the association to enforce the lien by sale. The notice shall be signed by the secretary or the president of the association. Upon payment of the sum specified in the notice, the association shall cause to be recorded a further notice stating the satisfaction release of the lien thereof.

The association shall regularly inspect the roofs and decks of the buildings in the project, or cause them to be inspected by competent professionals. Any exterior repainting of stucco surfaces shall be done with elastomeric paint, or its equivalent.

Exterior Maintenance

Section 5.02. In addition to maintenance on the common area, the association shall provide exterior maintenance on each lot. Such maintenance shall include painting, repairing, replacing and caring for roof, gutters, downspouts and exterior building surfaces **except windows**, drainage, sanitary sewer systems. The responsibility of the association for maintenance and repair shall not extend to repairs or replacements arising out of or caused by the willful or negligent act or neglect of an owner, or his or her guests, tenants, or invitees, the cost of which is not covered by insurance. The cost of repair or replacement resulting from such excluded items shall be the responsibility of each other; provided, however, that if an owner shall fail to make the repairs or replacements which are the responsibility of such owner, as provided above, then after thirty (30) days notice to the owner and at public hearing, the association shall make such repairs or replacements, and the cost thereof shall be paid immediately to the association by the owner of such lot. ~~Any such amount, together with reasonable costs of collection (including reasonable attorneys' fees) and interest thereon at the legal rate of interest shall be a lien on the owner's interest in the planned development from and after the time the association causes to be recorded in the Recorder's Office of the county in which the lot is located, a notice of delinquent assessment, which shall state the amount incurred by the association to perform such maintenance, a description of the owner's interest in the common interest development against which the assessment and other sums are levied, the name of the record owner of the owner's interest in the common interest development against which the lien is imposed, and, in order for the lien to be enforced by nonjudicial foreclosure as provided in California Civil Code Section 1367(d), the name and address of the trustee authorized by the association to enforce the lien by sale. The notice shall be signed by the secretary or the president of the association. Upon payment of the sum specified in the notice, the association shall cause to be recorded a further notice stating the satisfaction release of the lien thereof. Any such amount, together with reasonable costs of collection (including reasonable attorneys' fees) and interest thereon at the legal rate of interest shall be the personal obligation of the owner.~~

The association, or its agents, may enter into any residence lot when necessary in connection with any maintenance, repairs or construction for which the association is responsible, subject to 48 hours advance notice. In case of an emergency, the right to enter shall be immediate upon notice to the owner. Such entry shall be made with as little inconvenience to the owner as practicable and any damage caused thereby shall be repaired by the association at the expense of the maintenance fund.

Insurance

Section 5.03. The association shall maintain such policy or policies of insurance as are required by Article X of this declaration.

Discharge of Liens

Section 5.04. After notice of hearing as provided in Section 4.12, the association shall discharge by payment, if necessary, any lien against the common area, and assess the cost thereof to the member or members responsible for the existence of said lien.

Assessments

Section 5.05. The association shall affix, levy, collect, and enforce assessments as set forth in Article IV hereof.

Payment of Expenses

Section 5.06. The association shall pay all expenses and obligations incurred by the association in the conduct of its business including, without limitation, all licenses, taxes or governmental charges levied or imposed against the property of the association.

Enforcement

Section 5.07. The association shall enforce this declaration and has authority to enforce it as per Article IX hereof.

Utility Service

Section 5.08. The association shall have the authority to obtain, for the benefit of all of the lots, all water, gas and electric service and refuse collection, and cable TV service.

Easements

Section 5.09. The association shall have the authority by document signed or approved by fifty-one percent (51%) of the total voting power of the association, including fifty-one percent (51%) of the members other than Declarant, to grant easements in addition to those shown on the subdivision map, when necessary, for utilities, cable television and sewer facilities, over the common area, to serve the common and open space areas and the lots.

Manager

Section 5.10. The association shall have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the association, except for the responsibility to levy fines, impose discipline, hold hearings, file suit, record and foreclose liens, or make capital expenditures, provided that any contract with a firm or person appointed as a manager or managing agent shall not exceed a one (1) year term, shall provide for the right of the association to terminate the same at the first annual meeting of the members of the association, and to terminate the same for cause on thirty (30) days written notice or without cause or payment of a termination fee on ninety (90) days written notice.

Assessments, Liens and Fines

Section 5.11. The association shall have the power to levy and collect assessments in

accordance with the provisions of Article IV hereof. The association may impose fines or take disciplinary action against any owner for failure to pay assessments or for violation of any provision of the project documents. Penalties may include but are not limited to: fines, temporary suspension of voting rights, or other appropriate discipline, provided that the accused member is given notice and the opportunity to be heard with respect to the alleged violations before a decision to impose fines or discipline is made, as provided in Section 4.12.

Dedication

Section 5.12. The association shall have the power to dedicate all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication shall be effective unless an instrument has been signed by fifty-one percent (51%) of the total voting power of the association, including fifty-one percent (51%) of the members other than Declarant, or where the two class voting structure is still in effect, three-fourths (3/4) of the voting power of each class of members, agreeing to such dedication.

Contracts

Section 5.13. The association shall have the power to contract for goods and/or services for the common area or for the association, subject to limitations set forth in the by-laws or elsewhere in the project documents.

Delegation

Section 5.14. The association, the board and the officers of the association shall have the power to delegate their authority and powers to committees, officers or employees of the association, or to a manager employed by the association, provided that the board shall not delegate its responsibility for hearings required to be given by the board.

Option of Rules

Section 5.15. The association ~~shall adopt rules as provided in California Civil Code §4360 regarding elections. The association~~ or the board may adopt reasonable rules not inconsistent with this declaration relating to the use of the common area and all facilities thereon, and the conduct of owners and their tenants and guests with respect to the property and other owners. ~~All such rules shall comply with Civil Code ' 1357.100 et seq.~~

Access

Section 5.16. For the purpose of performing construction, maintenance or emergency repair for the benefit of the common area or the owners in common, the association's agents or employees

shall have the right, after reasonable notice (not less than 48 hours) to the owner thereof, to enter any lot or to enter any portion of the common area at reasonable hours. In case of emergency, the right shall be immediate upon notice. Such entry shall be made with as little inconvenience to the owner as practicable and any damage caused thereby shall be repaired by the board at the expense of the association.

Preparation and Distribution of Documents

Section 5.17. The association shall prepare and distribute the following materials as indicated:

a. ~~A written notice as described in Civil Code Section 1365.1(b) 5300-5320. A copy of this notice shall be distributed to each owner and to any mortgagee that has requested a copy within sixty (60) days prior to the beginning of each fiscal year, and to the secondary address of any owner as required by Civil Code Section 1365.1(e).~~ statement of the association's policies and practices in enforcing its remedies against owners for delinquent, regular or special assessments including the recording and foreclosing of liens against a delinquent owner's lot. A copy of this statement shall be distributed to each owner and to any mortgagee that has requested a copy within sixty (60) days prior to the beginning of each fiscal year.

b. Copies of this declaration and the articles, together with a true statement in writing as to the amount of any delinquent assessments, penalties, attorneys' fees, and other charges imposed on the owner's lot, a copy of the most recent financial statement distributed to the members, and a true statement as to the amount of the association's current regular and special assessments and fees shall be provided any owner within ten (10) days of the mailing or delivery of a written request therefor. The board may impose a fee to provide these materials not exceeding the association's reasonable cost in preparing and reproducing the materials.

c. A statement describing the association's policies and practices in enforcing lien rights or other legal remedies for default in payment of its assessments against its members shall be annually delivered to the members during the sixty (60) day period immediately preceding the beginning of the association's fiscal year.

Additional Association Powers

Section 5.18. The association shall have the power, subject to compliance with Section 5980 of the California Civil Code, to institute, defend, settle, or intervene on behalf of the association in litigation, arbitration, mediation, or administrative proceedings in matters pertaining to (A) enforcement of the governing instruments, (B) damage to the common areas, (C) damage to the separate interests which the association is obligated to maintain or repair, or (D) damage to the separate interest which arises out of, or is integrally related to, damage to the common areas or separate interests that the association is obligated to maintain or repair.

The association shall have the power to perform any act reasonably necessary to resolve any

civil claim or action through alternative dispute resolution proceedings such as mediation, binding arbitration, or nonbinding arbitration proceedings. The association shall provide, or in good faith attempt to provide, 120 days advance notice of the association's intent to initiate the prosecution of any civil action and of the nature and basis of the claim to every member of the association and every entity or person who is a prospective party to the civil action, provided that notice can be given (A) more than 120 days prior to the expiration of any pertinent statute of limitations, and (B) without prejudice to the association's right to enforce the governing documents, and further provided that no such notice need be given prior to the filing of an action in small claims court or an action solely to enforce assessment obligations. Prior to initiating the prosecution of a civil action solely for declaratory relief or injunctive relief to enforce the governing documents, or for declaratory relief or injunctive relief to enforce the governing documents in conjunction with a claim for monetary damages not in excess of \$5,000, the association shall endeavor to submit the matter to alternative dispute resolution in compliance with the provisions of Section 5925 of the Civil Code.

Section 5.19. No association funds shall be used for campaign purposes in connection with any association board election. Funds of the association shall not be used for campaign purposes in connection with any other association election except to the extent necessary to comply with duties of the association imposed by law.

ARTICLE VI

UTILITIES

Owners' Rights and Duties

Section 6.01. The rights and duties of the owners of lots within the project with respect to sanitary sewer, water, electricity, gas and television receiving and telephone lines and facilities shall be as follows:

a. Whenever storm or sanitary sewer, drainage, plumbing, water, electricity, gas, television receiving, telephone lines or connections, are installed within the property which connections or any portion thereof lie in or upon lots owned by other than the owner of a lot served by said connections, the owners of any lot served by said connections shall have the right of reasonable access for themselves or for utility companies to repair, replace and generally maintain said connections as and when necessary, subject to 48 hours advance notice. In case of emergency the right shall be immediate upon notice.

b. Whenever storm or sanitary sewer, drainage, plumbing, water, electricity, gas, television receiving or telephone lines or connections, are installed within the property which connections serve more than one lot, the owner of each lot served by said connection shall be entitled to the full

use and enjoyment of such portions of said connections as service his or her lot.

c. In the event of a dispute between owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then, upon written request of one of such owners addressed to the association, the matter shall be submitted to arbitration and the decision of the arbitrator shall be final and conclusive on the parties.

Easements for Utilities and Maintenance

Section 6.02. Easements over and under the property for the installation, repair, and maintenance of electric, telephone, water, gas, and sanitary sewer lines and facilities, cable or master television antenna lines, drainage facilities, walkways, and landscaping as shown on the recorded map of the property, and as may be hereafter required or needed to service the property, are hereby reserved by Declarant and its successors and assigns, including the association, together with the right to grant and transfer the same.

Association's Duties

Section 6.03. The association shall maintain all utility installations located in the common area except for those installations maintained by utility companies, public, private, or municipal. The association shall pay all charges for utilities supplied to the project except those metered or charged separately to the lots.

ARTICLE VII

USE RESTRICTIONS

In addition to all the covenants contained herein, the use of the property and each lot herein is subject to the following:

Usage

Section 7.01. No lot shall be occupied and used except for residential purposes by the owners, their tenants, and social guests, and no trade or business shall be conducted therein, except that Declarant, its successors or assigns, may use any lot or lots in the project owned by Declarant for a model home site or sites and display and sales office during construction and for a time period not to exceed three years from sale of the first lot. Notwithstanding the foregoing, a lot may be used as a combined residence and executive or professional office by the owner thereof, so long as its use does not interfere with the quiet enjoyment by other lot owners of their residences. In addition, Lot 1 and Lot 8 are designated as live-work units, and may be used as such in compliance with the City of Capitola Home Occupation Ordinance, or any successor thereto. No tent, shack, trailer, basement, garage, outbuilding or structure of a temporary character shall be used at any time as a residence either temporarily or permanently.

No lot or any portion thereof in the project shall be leased, subleased, occupied, rented, let,

sublet, or used for or in connection with any time sharing agreement, plan, program, or arrangement, including without limitation, any so-called "vacation license", "travel club", "extended vacation" or other membership or time interval ownership arrangement. The term "time sharing" as used herein shall be deemed to include, but shall not be limited to, any agreement, plan, program, or arrangement under which the right to use, occupy or possess the lot or lots or any portion thereof in the project rotates among various persons, either corporation, partnership, individual, or otherwise, on a periodically recurring basis for value exchanged, whether monetary or like kind use privileges, according to a fixed or floating interval or period of time of 25 consecutive calendar days or less. Provided, this section shall not be construed to limit the personal use of any lot or any portion thereof in the project by any lot owner or his or her or its social or familial guests.

Nuisances

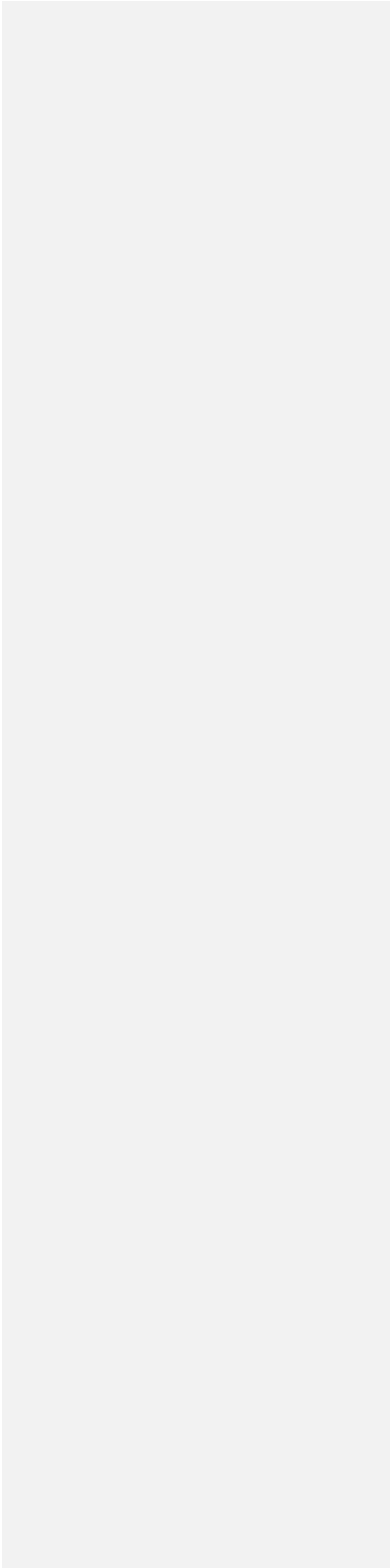
Section 7.02. No noxious, illegal, or seriously offensive activities shall be carried on upon any lot, or in any part of the property, nor shall anything be done thereon which may be or may become a serious annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the owners of the respective lots, or which shall in any way increase the rate of insurance for the project, or cause any insurance policy to be canceled or to cause a refusal to renew the same, or which will impair the structural integrity of any building.

Vehicle Restrictions

Section 7.03. No trailer, camper, mobile home, motor home, house car, commercial vehicle, truck (other than standard size pickup truck or standard size van), boat, inoperable automobile, or similar equipment shall be permitted to remain upon any area within the property unless placed or maintained within an enclosed garage or carport. Commercial vehicles shall not include sedans or standard size vans and pickup trucks which are used both for business and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the board. No noisy or smoky vehicles shall be operated on the property. No unlicensed motor vehicles shall be operated on the property.

Signs

Section 7.04. No commercial sign of any kind shall be displayed to the public view on any lots or on any portion of the property without the approval of the association, except such signs as may be used by the Declarant or its designees for the purpose of developing, selling and improving lots within the project for a period of time not to exceed the date on which the last lot is sold by Declarant or three years from the date of recordation of this declaration, whichever is sooner. In exercising its rights under this provision, Declarant shall not unreasonably interfere with the use of the common area by any owner. Notwithstanding the foregoing, the association shall not prohibit or restrict the right of any owner or his or her agent to display or have displayed on their lot or on a lot owned by others with their consent, or both, signs which are reasonably located, in plain view of the public, are reasonable dimensions and design, and do not adversely affect public safety, including



traffic safety, and which advertise the property for sale, lease or exchange, or advertise directions to the property.

Noncommercial signs and posters that are more than nine square feet in size and noncommercial flags and banners that are more than 15 square feet in size shall not be posted or displayed on any lot or any portion of the property.

Animals

Section 7.05. No animals, reptiles, insects or birds of any kind shall be raised, bred, or kept in any lot, or on any portion of the property; except that no more than a total of two usual and ordinary household pets such as dogs, cats, birds, etc. may be kept provided that they are not kept, bred, or maintained for any commercial purposes, and that they are kept under reasonable control at all times.

After making a reasonable attempt to notify the owner, Declarant or any owner may cause any unleashed dog found within the common area to be removed by Declarant (or any owner) to a point or county animal shelter, by calling the appropriate authorities, whereupon the owner may, upon payment of all expenses connected therewith, repossess the dog. The owner shall be given immediate notice of any such removal. Owners shall prevent their pets from soiling all portions of the common area and shall promptly clean up any mess left by their pets. Owners shall be fully responsible for any damage caused by their pets.

Garbage and Refuse Disposal

Section 7.06. All rubbish, trash and garbage shall be regularly removed from the property, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. All equipment garbage cans, woodpiles, or storage piles shall be kept screened and concealed from view of other lots, streets and common areas.

Right to Lease

Section 7.07. No owner shall be permitted to lease his or her lot for any period less than thirty (30) days. Any lease agreement shall be required to provide that the term of the lease shall be subject in all respects to the provisions of the declaration and the by-laws and that any failure of the lessee to comply with the terms of such documents shall be a default under the lease. All owners leasing or renting their units shall promptly notify the secretary of the association in writing of the names of all tenants and members of tenant's family occupying such house and of the address and telephone number where such owner can be reached. All leases shall be required to be in writing.

Architectural Control

Section 7.08. No building, fence, wall, obstruction, outside or exterior wiring, balcony,

screen, patio, patio cover, tent, awning, carport, carport cover, improvement or structure of any kind shall be modified, installed, erected, painted, repainted or maintained upon the property, nor shall any alteration or improvement of any kind be made thereto until the same has been approved in writing by the board, or by an architectural control committee appointed by the board.

Plans and specifications showing the nature, kind, shape, color, size, materials and location of such improvements, alterations, etc., shall be submitted to the board or to the architectural control committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to repaint in accordance with Declarant's original color scheme, or to rebuild in accordance with Declarant's original plans and specifications. No permission or approval shall be required to remain in accordance with a color scheme previously approved by the board or the committee, or to rebuild in accordance with plans and specifications previously approved by the board or by the committee. Nothing contained herein shall be construed to limit the right of an owner to paint the interior of his or her lot any color desired.

The architectural control committee shall consist of three members. Declarant may appoint all of the original members of the committee and all replacements until the first anniversary of the issuance of the original final public report for the project. The Declarant shall appoint a majority of the members to the committee until ninety percent (90%) of all lots in the project have been sold or until the fifth anniversary of the issuance of the final public report for the project, whichever occurs first. After one year from the date of issuance of the original public report for the project, the board shall have the power to appoint one member to the architectural control committee until ninety percent (90%) of all the lots in the project have been sold or until the fifth anniversary date of the issuance of the final public report for the project, whichever occurs first. Thereafter, the board shall have the power to appoint all of the members of the architectural control committee. ~~Members appointed to the architectural control committee by the board shall be from the membership of the association. Members appointed to the architectural control committee by the Declarant need not be members of the association.~~ A majority of the architectural control committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the successor shall be appointed by the person, entity or group which appointed such member until Declarant no longer has the right to appoint any members to the committee, and thereafter the board shall appoint such a successor. Neither the members of the committee nor its designated representatives shall be entitled to any compensation for services performed pursuant hereto. In the event the committee fails to approve or disapprove plans and specifications within thirty (30) days after the same have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with.

Clothes Lines

Section 7.09. There shall be no outside laundering or drying of clothes, except inside fenced patios and then only if the clothes cannot be seen from the street, common area, or other lots.

Power Equipment and Car Maintenance

Attachment: 1575 38th Ave Draft CC&R.pdf (1238 : 1575 38th Avenue)

Section 7.10. No power equipment, hobby shops, or car maintenance (other than emergency work) shall be permitted on the property except with prior written approval of the board. Approval shall not be unreasonably withheld and in deciding whether to grant approval the board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections.

Liability of Owners for Damage to Common Area

Section 7.11. The owner of each lot shall be liable to the association for all damage to the common area or improvements thereon caused by such owner or any occupant of his or her lot or guest, or by the owners' pets, except that portion of said damage, if any, fully covered by insurance. Liability of an owner shall be established only in accordance with the provisions of Section 4.12 of this declaration.

Sports Apparatus

Section 7.12. No sports apparatus shall be permitted on any lot which is visible from other lots or from common areas.

Drainage Alterations

Section 7.13 No owner shall do any act or construct any improvements which may interfere with the natural or established drainage system or patterns within the project without the prior consent of the Board.

ARTICLE VIII

PARTY WALLS

General Rules of Law to Apply

Section 8.01. Each wall which is built as a part of the original construction of the homes upon the properties and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article VIII, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Sharing of Repair and Maintenance

Section 8.02. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they

shall contribute the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owners to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

Weatherproofing

Section 8.03. Notwithstanding any other provision of this article, an owner who by his or her negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Right of Contribution Runs with the Land

Section 8.04. The right of any owner to contribution from any other owner under this article shall be appurtenant to the land and shall pass to such owner's successors in title.

Arbitration

Section 8.05. In the event of any dispute arising concerning a party wall, or under the provisions of this article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE IX

GENERAL PROVISIONS

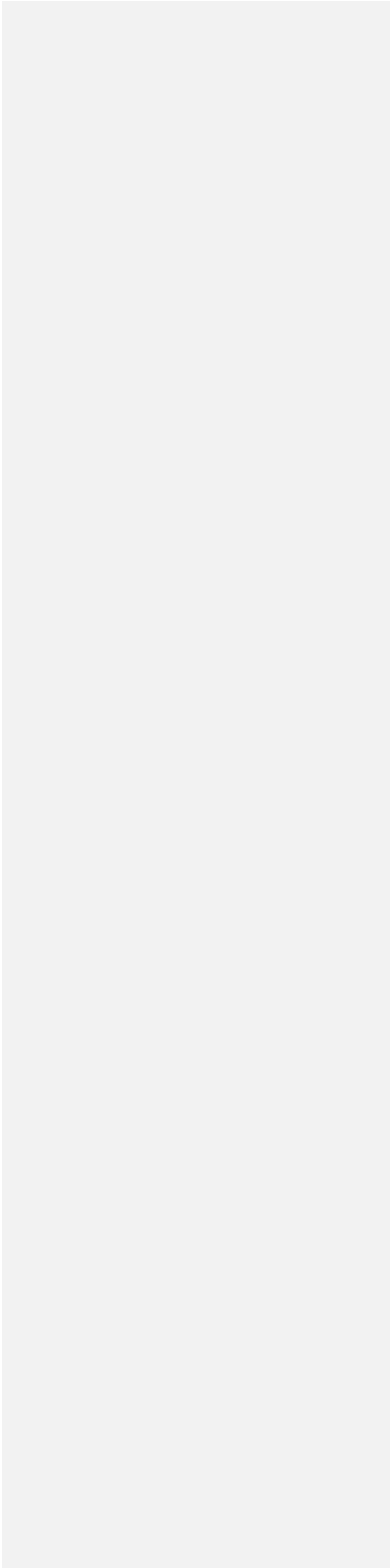
Enforcement

Section 9.01. The association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this declaration, and in such action shall be entitled to recover reasonable attorney's fees as are determined by court. Failure by the association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Severability

Section 9.02. Should any provision or portion hereof be declared invalid or in conflict with any law of the jurisdiction where this project is situated, the validity of all other provisions and portions hereof shall remain unaffected and in full force and effect.

Term



Section 9.03. The covenants and restrictions of this declaration shall run and bind the property, and shall inure to the benefit of and shall be enforceable by the association or the owner of any property subject to this declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then owners of the lots, has been recorded within the year preceding the beginning of each successive period of ten (10) years agreeing to change said covenants and restrictions in whole or in part, or to terminate the same.

Amendments

Section 9.04. Prior to close of escrow on the sale of the first lot, Declarant may amend this declaration (with the consent of the ~~Department of Real Estate~~[Bureau of Real Estate](#) as to any amendment constituting a material change). After sale of the first lot, this declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of members representing a majority of the total voting power of the association and a majority of the affirmative votes or written consent of members other than the Declarant, or where the two class voting structure is still in effect, a majority of each class of membership. However, the percentage of voting power necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. No amendment shall adversely affect the rights of the holder of any mortgage of record prior to the recordation of such amendment. Except as provided in California Civil Code Section 4275, an amendment shall be effective after (1) the approval of the percentage of owners required above; (2) the certification in writing of such approval executed and acknowledged by the secretary of the association; and (3) the recording of such writing in the county in which a portion of the planned development is located.

Encroachment Easements

Section 9.05. Each lot within the property is hereby declared to have an easement over all adjoining lots and the common area for the purpose of accommodating any encroachment due to minor engineering errors, minor errors in original construction, repair, settlement, shifting, or movement of a structure, or any other cause, including encroachments for footings, foundations and architectural projections such as overhangs, gutters and trim elements not to exceed eighteen (18) inches over any common property line. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an owner or owners if said encroachment occurred due to the intentional conduct of said owner or owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the owners of each lot agree that minor encroachments, over adjoining lots or common areas shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

Rights of First Lenders

Section 9.06. No breach of any of the covenants, conditions and restrictions herein contained, nor the enforcement of any lien provisions herein, shall render invalid the lien of any first mortgage (meaning the mortgage with first priority over any other mortgage) on any lot made in good faith for value, but all of said covenants, conditions, and restrictions shall be binding upon and effective against any owner whose title is derived through foreclosure or trustee's sale, or otherwise. Notwithstanding any provision in the association documents to the contrary, first lender shall have the following rights:

a. Copies of project documents: the association shall make available to lot owners and lenders, and to holders, insurers or guarantors of any first mortgage, current copies of the declaration, by-laws, articles or other rules concerning the project and the books, records and financial statements of the association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

b. Audited statement: the holders of fifty-one percent (51%) or more of first mortgages shall be entitled, upon request, to have an audited financial statement for the immediately preceding fiscal year prepared at their expense if one is not otherwise available. Such statement shall be furnished within a reasonable time following such request.

c. Notice of action: upon written request to the association, identifying the name and address of the eligible mortgage holder or eligible insurer or guarantor, and the lot number or address, such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of:

(1) condemnation loss or any casualty loss which affects a material portion of the project or any lot on which there is a first mortgage held, insured or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;

(2) any default in performance of obligations under the project documents or delinquency in the payment of assessments or charges owed by an owner of a lot subject to a first mortgage held, insured or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days;

(3) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the association;

(4) any proposed action which would require the consent of the specified percentage of eligible mortgage holders as specified in the following subsection;

(5) the association shall discharge its obligation to notify eligible holders or eligible insurers or guarantors by sending written notices required herein to such parties at the address given on the current request for notice, in the manner prescribed by Section 9.07.

d. Consent to action: except as provided by statute or by other provision of the project documents in case of substantial destruction or condemnation of the project, the consent of owners of lots which have at least sixty-seven percent (67%) of the votes of lots subject to eligible holder mortgages, shall be required to terminate the legal status of the project as a planned development. For purposes of this paragraph, "eligible mortgage holder" shall mean a first lender who has requested notice of certain matters from the association in accordance with this declaration.

e. Right of first refusal: the right of a lot owner to sell, transfer, or otherwise convey his or her lot shall not be subject to any right of first refusal or similar restriction.

f. Contracts: any agreement for professional management of the project, or lease or any other contract providing for services of the developer, sponsor, or builder, may not exceed one year. Any agreement, contract, or lease, including a management contract entered into prior to passage of control of the board of directors to lot owners, must provide for termination by either party for cause on thirty (30) days written notice, or without cause and without payment of termination fee or penalty on ninety (90) days or less written notice.

g. Reserves: association dues or charges shall include an adequate reserve fund for maintenance, repairs, and replacement of those common area improvements (and restricted common area improvements which the association is obligated to maintain) that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assessments.

h. Priority of liens: each holder of a first mortgage lien on a lot who comes into possession of the lot by virtue of foreclosure of the mortgage, or any purchaser at a foreclosure sale under a first deed of trust, will take the lot free of any claims for unpaid assessments and fees, late charges, fines or interest levied in connection therewith, against the lot which accrued prior to the time such holder comes into possession of the lot, except for claims for a pro-rata share of such assessments or charges resulting from a pro-rata reallocation of such assessments or charges for all project lots including the mortgaged lot, and except for assessment liens recorded prior to the mortgage.

i. Restoration or repair: any restoration or repair of the project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the declaration and the original plans and specifications, unless other action is agreed to by owners representing at least 67% of the total allocated votes in the association, and by eligible mortgage holders representing at least 67% of the votes of lots that are subject to mortgages held by eligible holders.

j. Termination: any election to terminate the legal status of the project after substantial destruction or a substantial taking in condemnation of the project property must require the approval of lot owners representing at least 67% of the total allocated votes in the association, and by eligible mortgage holders representing at least 67% of the votes of lots that are subject to mortgages held by eligible holders.

k. Limitations in actions of homeowners association: Unless at least 2/3 of the first

mortgagees (based on one vote for each first mortgage owned) or 2/3 of the owners of the lots, excluding the developer, have given their prior written approval, the association shall not be entitled to take any of the following actions:

(1) By any act or omissions seek to abandon, partition, subdivide, encumber, sell, or transfer the common property owned, directly or indirectly, by the association for the benefit of the owners. The granting of easements for public utilities or other public purposes consistent with the intended use of the common property by the association is not a transfer within the meaning of this clause;

(2) Change the method of determining the obligations, assessments, dues, or other charges that may be levied against an owner;

(3) By act or omission change, waive, or abandon any scheme of regulations or their enforcement pertaining to the architectural design or the exterior appearance of lots, the exterior maintenance of lots, the maintenance of the common property, party walks, common fences and driveways, and the upkeep of lawns and plantings in the project;

(4) Fail to maintain fire and extended coverage on insurable common property on a current replacement cost basis and in an amount at least 100% of the insurable value (based on current replacement costs);

(5) Use hazard insurance proceeds for losses to any common property for other than the repair, replacement or reconstruction of the common property.

1. Payment of taxes or other charges: First mortgagees of individual lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the common property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the common property and first mortgagees making such payments shall be owed immediate reimbursement therefor from the association. Entitlement to such reimbursement shall be reflected by an agreement in favor of all first mortgagees of individual lots duly executed by the association.

Notices

Section 9.07. Any notices permitted or required by the declaration or by-laws may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered 72 hours after a copy of the same has been deposited in the United States mail, first-class or registered, postage prepaid, addressed to each person at the current address given by such person to the secretary of the board or addressed to the lot of such person if no address has been given to the secretary.

Termination of Any Responsibility of Declarant

Section 9.08. In the event Declarant shall convey all of its right, title and interest in and to the property to any partnership, individual or individuals, corporation or corporations, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all duties and obligations of the Declarant.

Owner's Compliance

Section 9.09. Each owner, tenant or occupant of a lot shall comply with the provisions of this declaration, and to the extent they are not in conflict with the declaration, the articles, or the by-laws, as lawfully amended from time to time. Failure to comply with any such provisions, decisions, or resolutions, shall be grounds for an action to recover damages or injunctive relief.

All agreements and determinations lawfully made by the association in accordance with the voting percentages established in this declaration or in the articles or the by-laws shall be deemed to be binding on all owners of lots, their successors and assigns.

ARTICLE X

DESTRUCTION - DUTY TO REBUILD - INSURANCE

Association Fire Insurance

Section 10.01. The association shall obtain and maintain a master or blanket policy of fire insurance coverage for the full insurable value of all of the improvements within the project. The form, content, and term of the policy and its endorsements and the issuing company must be satisfactory to all institutional first mortgagees. If more than one institutional first mortgagee has a loan of record against the lot in the project, the policy and endorsements shall meet the maximum standards of the various institutional first mortgagees represented in the project. To the extent available the policy shall contain an agreed amount endorsement or its equivalent; an increased cost of construction endorsement or a contingent liability from operation of building laws endorsement or their equivalent; an extended coverage endorsement; vandalism, malicious mischief coverage; a special form endorsement; and a determinable cash adjustment clause or a similar clause to permit cash settlement covering full value of the improvements in case of partial destruction and a decision not to rebuild. The policy shall provide amounts of coverage as shall be determined by the board. The policy shall name as insured the association, the owners, and Declarant as long as Declarant is the owner of any lot, and all mortgagees as their respective interests may appear, and may contain a loss payable endorsement in favor of the trustee described in the following subparagraph.

Trustee for Payment of Insurance Proceeds

Section 10.02. All fire and casualty insurance proceeds payable under Section 10.01 above for losses to real property and improvements, subject to the rights of mortgagees, may be paid to a trustee, to be held and expended for the benefit of the owners, mortgagees, and others, as their

respective interests shall appear. The trustee shall be a commercial bank or other financial institution with trust powers in the county in which the project is located and agrees in writing to accept such trust. If repair or reconstruction is authorized, the association shall have the duty to contract for such work as provided for in this declaration.

Limitations on Individual Insurance

Section 10.03. Except as provided in this clause, no owner shall separately insure the improvements upon his or her lot against loss by fire or other casualty covered by insurance carried under Section 10.01. If any owner violates this provision, any diminution in insurance proceeds otherwise payable under policies described in Section 10.01 that results from the existence of such other insurance will be chargeable to the owner who acquired other insurance, and such other owner will be liable to the association to the extent of any such diminution. An owner can insure his or her personal property against loss, and may obtain additional living expense coverage and public liability insurance for the owner's individual lot. All such insurance that is individually carried must contain a waiver of subrogation rights by the carrier as to other owners, the association, Declarant, and institutional first mortgagee of such lot.

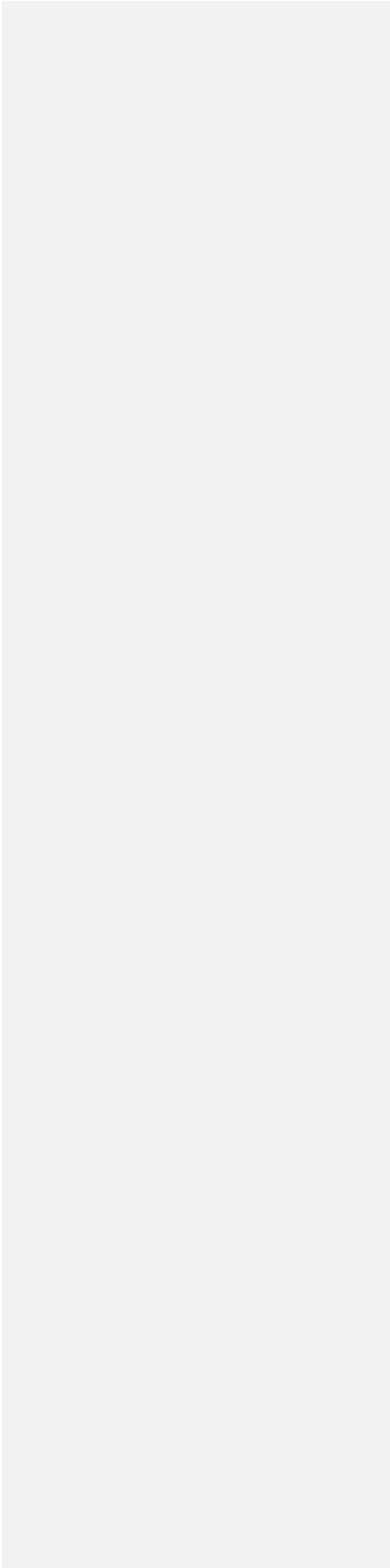
Other Association Insurance

Section 10.04. The association shall obtain and continue in effect a master policy of insurance covering all of the personal property and supplies of the association, comprehensive general liability insurance insuring the association and each owner for his or her liability and for the common area, and a fidelity bond covering officers, directors, and employees in an amount to be determined by the board, but in no event less than a sum equal to three (3) months' aggregate assessments on all lots plus reserve funds.

Each owner appoints the association, or any insurance trustee to be designated by the association, as attorney-in-fact for the purpose of purchasing and maintaining the association's insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The association and any insurance trustee shall be required to receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for lot owners and their first mortgage holders, as their interests may appear.

All insurance shall contain "severability of interest provision", "cross-liability endorsement" and waiver of subrogation as to the association, officers, directors, members, guests, agents and employees.

The minimum limits on the liability insurance policy shall be two million dollars (\$2,000,000.00) single limit and shall include personal injury, bodily injury, property damage and liability for non-owned automobiles. Worker's compensation insurance shall at all times be carried to the extent required to comply with any applicable law. Officers and directors liability insurance shall be carried by the association to cover persons serving in such capacities.



Insurance premiums for the master policy shall be a common expense to be included in the monthly assessment levied by the association and a portion of such payment necessary for the insurance premiums may be held in a separate account of the association and shall be used solely for the payment of the master insurance policy premiums as such premiums become due.

Destruction of Improvements

Section 10.05. If there is a total or partial destruction of any of the improvements in the project, and if the available proceeds of the insurance carried pursuant to Section 10.01 are sufficient to cover not less than 85% of the costs of repair and reconstruction, the improvements shall be promptly rebuilt, unless within sixty (60) days from the date of destruction, owners then holding at least 66-2/3% of the total voting power of each class of owners present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that repair and reconstruction shall not take place. If such a meeting is called, the association shall solicit and obtain bids from at least two reputable contractors to repair and reconstruct the improvements in accordance with the original plans and shall present this information to the owners at the meeting. If repair and reconstruction is to take place the association shall be required to execute, acknowledge and record in the Office of the County Recorder of the county not later than 120 days from the date of destruction, a certificate declaring the intention of the owners to rebuild.

If the proceeds of insurance carried pursuant to Section 10.01 are less than 85% of the costs of repair and reconstruction, the improvements shall be promptly rebuilt unless, within 60 days from the date of destruction, owners then holding at least 51% of the total voting power of each class of owners present and entitled to vote, in person or by proxy, in a duly constituted meeting, determine that repair and reconstruction shall not take place. If such a meeting is called, the association shall solicit and obtain bids from at least two reputable contractors to repair and reconstruct the improvements in accordance with the original plans and shall present this information to the owners at the meeting. If repair and reconstruction are to take place, the association shall execute, acknowledge, and record in the office of the County Recorder of the county not later than 120 days from the date of destruction a certificate declaring the intention of the owners to rebuild.

If the improvements are to be rebuilt pursuant to this section, the owners of all lots shall be obligated to contribute such funds as may be necessary to pay their proportionate share of the costs of rebuilding or reconstruction, over and above the available insurance proceeds. The proportionate share of each such owner or owners in the case of damage or destruction to improvements located upon a lot or lots, shall be determined based on the relative square footage of the living area and, in the case of damage or destruction of the common area shall be equally to each lot. If any owner fails to pay his or her proportionate share, the association may levy a special assessment against the lot or such owner, which may be enforced under the lien provisions contained in this declaration or in any other manner provided in this declaration. The contributions of the owners as provided in this section shall be assessed in accordance with the provisions pertaining to special assessments in Section 4.04(a) of this declaration.

If rebuilding is authorized, the association or its authorized representative shall, after having obtained bids from at least two reputable contractors, award the repair and reconstruction work to the lowest bidder that otherwise meets the requirements set forth by the association in soliciting bids.

The association shall have the authority to enter into a written contract with the contractor for the repair and reconstruction, and the insurance proceeds held by the trustee shall be disbursed to the contractor according to the terms of the contract. It shall be the obligation of the association to take all steps necessary to assure the commencement and completion of authorized rebuilding at the earliest possible date.

If the owners determine not to rebuild, then subject to the rights of mortgagees as set forth in this declaration, any insurance proceeds then available for such rebuilding shall instead be distributed to the owner or owners of such lot or lots in proportion based on the relative fair market value as described hereinafter; or, in the case of damage or destruction to the common area, shall instead be distributed to the owners equally. The association, within 120 days of the date of such destruction, shall execute, acknowledge, and record in the office of the County Recorder of the county, a certificate declaring the intention of the association not to rebuild.

The association shall have the duty to repair and reconstruct improvements, without the consent of owners and irrespective of the amount of available insurance proceeds, in all cases of partial destruction when the estimated costs of repair and reconstruction does not exceed \$5,000.00 in the case of destruction to the common area and does not exceed \$2,000.00 in the case of damage to any individual improvement. The association is empowered to levy a special assessment for the cost of repairing and reconstructing improvements to the extent insurance proceeds are unavailable, such assessment to be levied as described in this declaration and in accordance with the provisions of Section 4.04(a) herein.

Whenever reference is made in this section to a determination of the relative fair market value of one or more lots, it shall mean the relative fair market values of such lots as of the date immediately prior to any damage or destruction, as determined by an appraisal by an independent appraiser selected by the board, who shall be a member of the Society of Real Estate Appraisers or other nationally recognized appraiser organization and who shall apply its or such other organization's standards in determining the relative fair market value of each such lot. The costs of such appraisals shall be paid from the insurance proceeds.

ARTICLE XI

LIMITATION OF LIABILITY AND INDEMNIFICATION

Limitation of Liability

Section 11.01. No director, officer, committee member, employee or other agent of the association, including the Declarant or any agent of the Declarant when acting in such capacity, shall be liable to any owner or any other party, including the association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of any such

person if such person has acted in good faith and in a manner such person reasonably believed to be in the best interests of the association.

Indemnification

Section 11.02. The association shall defend and indemnify the board, and each of its members, and the officers of the association, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceedings to which such person may be made a party, by reason of his or her being or having been a board member or an officer of the association, if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful.

ARTICLE XII

DISPUTE RESOLUTION

Compliance with California Civil Code Provisions Regarding Construction Defects

Section 12.01. Title 7, Part II of Division II of the California Civil Code, commencing with Section 895, provides certain standards, requirements and procedures for claims of construction defects. California Civil Code Section 914 requires a builder to notify all homeowners whether the builder intends to engage in the non-adversarial procedures of Section 910, and following, or ~~attempt to enforce alternative non-adversarial contractual provisions.~~ Declarant has elected to adopt and has elected to adopt and follow the standards and procedures set forth in Section 910, and following, including the pre-litigation procedures set forth in Section 910 through 938 of the California Civil Code. Completion of the prelitigation procedures shall be a condition precedent to pursuing a claim as set forth in Section 11.2 below.

The Association shall be limited to making claims for violations of building standards affecting the Common Area, or affecting the separate interests that the Association is obligated to maintain or repair.

Declarant shall neither participate nor vote on any matters relating to application of Section 895 and following, or on whether any claims should be made for construction defects.

In the event the Association makes a claim for violation of construction standards pursuant to Section 895 and following, the notice of claim shall be served upon Declarant at the address set forth below, or such other address as Declarant provides to the Association.

Declarant:

Joseph W. Appenrodt, Trustee
, Trustee
4375 Capitola Road, Ste. C

[Capitola, California 95010](#)

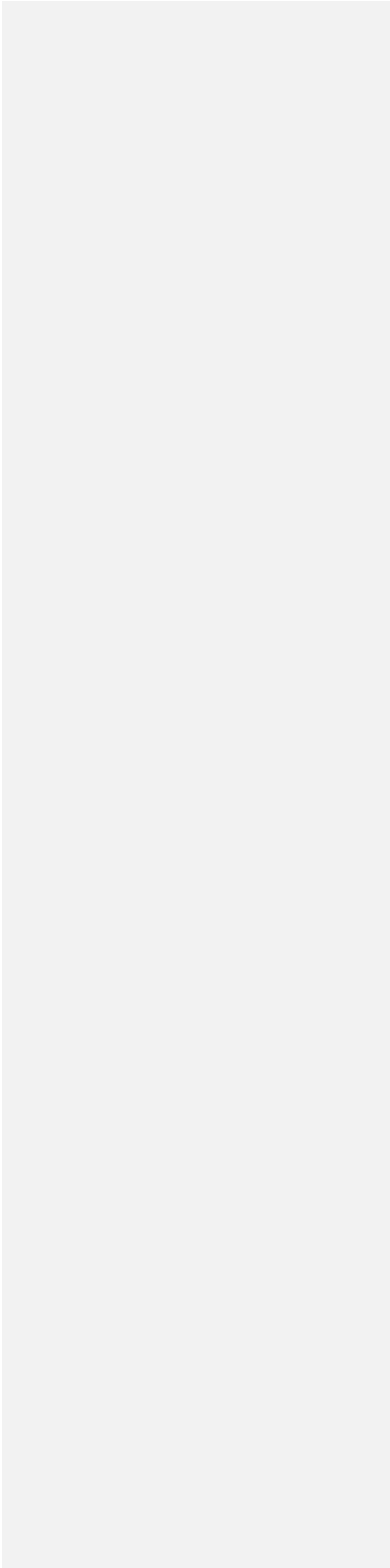
Judicial Reference

Section 12.02. It is the desire and intention of the parties to utilize a mechanism and procedure under which any controversy, breach or dispute arising out of this Declaration, including, without limitation, any dispute between Declarant and the Association or any owner arising over the design, specifications, surveying, planning, supervision, testing or observation of construction or construction of any improvements to the Project, will be resolved in a prompt and expeditious manner. Accordingly, any controversy, breach or dispute arising out of this Declaration or relating to the interpretation of any term or provision of this Declaration, or regarding any construction defect claim not otherwise resolved, shall be heard by a referee pursuant to the provisions of the California Code of Civil Procedure, Section 638-645.1, inclusive. The venue as to any such proceeding shall be in the County of Santa Cruz, California, unless all parties agree otherwise. The referee shall have the power to decide all issues of fact and law and report his/her decision thereon, and to issue all legal and equitable relief appropriate under the circumstances of the controversy. The parties shall agree upon a single, neutral referee, who after trial of all the disputed matters of fact and law, shall issue a finding and judgment thereon. If the parties are unable to agree upon a referee within ten days after written request by any party, a referee shall be appointed upon application of any party pursuant to California Code of Civil Procedure Section 638 and 640. The costs of the proceeding shall be born as determined by the referee. Notwithstanding any other provision of this Declaration, this Section may not be amended without the consent of Declarant.

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, have signed this _____ day of _____, 201_.

[Joseph W. Appenrodt, Trustee](#)

_____, Trustee



development fees for which Government Code Section [66018](#) is applicable.

D. As provided in Government Code Section [65094](#), "notice of public hearing" means a notice that includes the date, time and place of a public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing. The city may additionally give notice in any other manner it deems necessary or desirable.

E. Additional notice requirements otherwise imposed by this code shall also be followed. For instance, see Section [17.46.080](#) for hearings involving coastal permits.

F. Defects in providing notice shall not, unless specifically required by law, invalidate any decision made at the hearing. (Ord. [721](#) § 3, 1991)

17.81.180 Placement of utilities underground.

A. New residential construction or any residential remodels that result in an increase of twenty-five percent or greater of the existing square footage shall be required to place existing overhead utility lines underground to the nearest utility pole.

B. Exceptions to this requirement can be made by the planning commission if it is determined that a hardship exists. Financial hardships are not the basis for exceptions, which may be granted primarily for environmental reasons, such as tree preservation, proximity to watercourses or archaeological sites, and similar considerations. (Ord. [873](#) § 18, 2004)

17.81.190 Yard/garage sales.

A. Yard/garage sales for individual [residences](#) shall be limited to not more than three, one- to two-day events per calendar year. [Block](#) or neighborhood sales would be allowed annually in addition to individual sales. (Ord. [873](#) § 19, 2004)

17.81.200 Home occupation permits and limitations.

A. Home occupations are permitted subject to Section [17.03.310](#) requirements, and approval of a home occupation permit by the community development director or designated zoning administrator. Neighboring property owners and residents within one hundred-foot radius will be provided notification that a permit has been issued, with the notice to describe the nature of the home occupation and the limitations imposed.

B. All [home occupations](#) must comply with the following restrictions and limitations:

1. No advertising signs or banners other than a nameplate, not to exceed one square foot;
2. No display or outside storage of goods, materials, or equipment;
3. No commodities sold on the premises in the normal course of operation;
4. No employees other than the residents of the [dwelling](#);
5. No objectionable noise, odor or equipment and materials;
6. No excessive pedestrian, auto, or truck traffic introduced to the neighborhood as a result of the

home occupation;

7. No more than one client/customer at the [dwelling](#) at any one time, by appointment only, and not more than three such clients, customers per day;

8. No [use](#) of required covered or uncovered parking;

9. Does not provide a service which normally involves the client being present when a significant portion of the services are performed;

10. Automotive repair or detailing services are specifically prohibited.

C. Community development director retains the discretion to forward any home occupation permit application to the planning commission for approval or termination in response to legitimate complaints regarding noncompliance with home occupation permit limitations. (Ord. [873](#) § 20, 2004)

The Capitola Municipal Code is current through Ordinance 1003, passed June 25, 2015.

Disclaimer: The City Clerk's Office has the official version of the Capitola Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.



STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT

DATE: NOVEMBER 5, 2015

SUBJECT: **HOUSING ELEMENT UPDATE - ADOPTION RECOMMENDATION TO CITY COUNCIL**

General Plan Amendment to update the General Plan Housing Element
 Environmental Determination: Addendum to the General Plan Update EIR
 Applicant: City of Capitola

BACKGROUND

The Housing Element is one of seven state-mandated general plan elements. The Housing Element establishes how the City will address housing needs for all economic segments of the community, with a focus on low- to moderate-income households and special needs populations. The City's current 2007-2014 Housing Element was adopted by the City Council on February 11, 2010, and subsequently certified by the California Department of Housing and Community Development (HCD). The deadline to adopt the 2015-2023 Housing Element update is December 31, 2015.

The Planning Commission reviewed the draft Housing Element update at their July 16, 2015 hearing and recommended the City Council refer the document to HCD for review. The City Council subsequently considered the Housing Element update on July 23, 2015 and authorized staff to proceed with HCD review.

HCD completed their review on October 6, 2015 and found the draft Housing Element update to be in compliance with State Housing Element law (Attachment 3). The draft Housing Element update can be reviewed at:

http://www.cityofcapitola.org/sites/default/files/fileattachments/community_development/page/2402/capitola_housing_element_2015-2023_draft_102015.pdf

DISCUSSION

The draft 2015-2023 Housing Element is substantially the same as the current Housing Element. The City of Capitola's Regional Housing Needs Allocation (RHNA) for the 2015-2023 housing cycle is 143 units, which is identical to the 2007-2014 allocation. Consequently, the City has adequate capacity to fulfill its RHNA obligation without the need to identify new housing opportunity sites.

The City substantially completed its 2007-2014 housing programs to the satisfaction of HCD and no new programs are proposed for the upcoming housing cycle. The draft Housing

Element would remove references to its defunct rent control program and make minor changes to the condo conversion policy to allow future ordinance amendments without the need to also process a General Plan amendment.

Other minor changes to the Housing Element update include:

- Updated demographic information;
- Updated housing information regarding completed and pending projects;
- Updated Housing Constraints analysis to reflect new ordinances adopted by the City, several of which were adopted to comply with State mandates;
- Evaluation of the 2007-2014 Housing Element implementation;
- Identification of completed housing programs, new programs, and programs proposed for removal.

Affordable Housing Programs Summary Report

Given the limited changes to the proposed Housing Element update, staff felt this would be a good opportunity to provide the Planning Commission and members of the public with an update of the City's affordable housing programs. A summary report is included as Attachment 4.

Next Steps

Staff intends to present the draft Housing Element update to the City Council for possible adoption in late November or early December. Once adopted, the Housing Element will be transmitted to HCD for final 90-day certification.

CEQA

An Addendum to the General Plan Update EIR has been prepared for the Housing Element update in accordance with CEQA section 15164.

RECOMMENDATION

Staff requests the Planning Commission recommend that the City Council approve the Addendum to the General Plan Update Environmental Impact Report and adopt the proposed Housing Element update.

CONDITIONS OF APPROVAL: NONE

FINDINGS: See attached draft Resolution (Attachment 2)

ATTACHMENTS:

1. Addendum to the General Plan Update EIR for the Housing Element Update.docx
2. Draft Resolution to Approve the Addendum to the General Plan EIR and to Adopt the 2015-2023 Housing Element Update
3. HCD Capitola Housing Element Compliance Letter.pdf
4. Affordable Housing Programs Summary Report.docx
5. July 16, 2015 Planning Commission Housing Element Update Staff Report.docx

Prepared By: Rich Grunow
Community Development Director



**ADDENDUM TO PROGRAM ENVIRONMENTAL IMPACT REPORT
CITY OF CAPITOLA GENERAL PLAN UPDATE (SCH #2013072002)
For the
CITY OF CAPITOLA HOUSING ELEMENT UPDATE**

INTRODUCTION

This addendum has been prepared to document compliance with the California Environmental Quality Act (CEQA) for the City of Capitola's proposed Housing Element update. Pursuant to state law, the City is required to prepare an update to the Housing Element of the General Plan every eight years. The Housing Element describes the City's policies and programs for maintaining, improving, and expanding the supply of housing for all income levels consistent with regional housing needs, and for removing constraints to housing for persons with special needs.

This addendum provides an analysis of whether the adoption of the Housing Element update would result in any new or more substantial adverse environmental effects which were not previously analyzed in the 2014 General Plan Update Program EIR pursuant to CEQA Guidelines Sections 15162, 15164, and 15168.

PROJECT DESCRIPTION

The Housing Element is one of seven state-mandated general plan elements. The Housing Element establishes how the City will address housing needs for all economic segments of the community, with a focus on low- to moderate-income households and special needs populations. The City's current 2007-2014 Housing Element was adopted by the City Council on February 11, 2010, and subsequently certified by the California Department of Housing and Community Development (HCD). The deadline to adopt the 2015-2023 Housing Element update is December 31, 2015.

Housing Elements do not propose or require development of any residential use, rather, it establishes local goals, policies, and actions the City will implement and/or facilitate to address identified housing issues. In accordance with state law, Housing Element must be updated every eight years to establish current housing and land use strategies reflective of changing needs, resources, and conditions.

As part of the Housing Element update process, the City has reviewed the goals and policies contained in the current Housing Element and analyzed the need for any changes. Other components of the Housing Element update include an assessment of existing and future housing needs, constraints on housing development and affordable housing programs.

Housing Elements must also demonstrate how a jurisdiction can provide for its fair share of a region's housing need as determined through the Regional Housing Needs Assessment (RHNA) process. HCD

ADDENDUM TO THE CITY OF CAPITOLA GENERAL PLAN UPDATE EIR – HOUSING ELEMENT UPDATE

identifies the total housing need for each region of the state. In the Monterey Bay region, the Association of Monterey Bay Area Governments (AMBAG) distributes this regional need to local governments. Once a local government has received its RHNA, it must revise its Housing Element to demonstrate how it plans to accommodate its portion of the region's housing need.

AMBAG approved the RHNA for the 2015-2023 housing cycle on June 11 2014. Capitola's 2015-2023 RHNA is 143 units, which is the same as the previous housing cycle.

During the 2007-2014 Housing Element update, the City adopted an affordable housing overlay zone and identified "opportunity sites" to accommodate the 143-unit RHNA obligation. With the exception of eight very low income units developed at the Bay Avenue Senior Apartments, all of the previously identified opportunity sites remain available for future affordable housing development. Moreover, opportunity sites identified in the 2007-2014 Housing Element could provide a total of 75 units for very-low and low income households which exceeds the 56 unit RHNA requirement by 19 units. Consequently, the City has adequate capacity to meet its RHNA obligation and does not need to rezone properties or identify any new opportunity sites for the current Housing Element cycle.

Because the City has existing capacity to accommodate its share of the region's housing need, changes to the Housing Element will primarily be updated demographic and housing information along with minor policy and program revisions. The following summarizes the changes proposed in the 2015-2023 Housing Element update:

- Updated demographic information;
- Updated housing information regarding completed and pending projects;
- Updated Housing Constraints analysis to reflect new ordinances adopted by the City, several of which were adopted to comply with State mandates;
- Evaluation of the 2007-2014 Housing Element implementation;
- Identification of completed housing programs, new programs, and programs proposed for removal.

The most notable proposed change is removal of two Housing Element programs related to the City's former Rent Stabilization Ordinance and restrictions on condominium conversions. The City repealed its Rent Stabilization Ordinance in 2011; accordingly, staff proposes to remove all Housing Element programs and policies which call for continued enforcement of the City's defunct rent control program.

In addition, private property owners have requested that the City amend its Housing Element and Municipal Code to relax restrictions on condominium conversions. The City's Condominium Conversion Ordinance resides in §16.68 of the Municipal Code and the current Housing Element includes Program 2.4 which calls for the City to maintain and enforce the Ordinance to preserve its supply of rental housing.

There are no current plans to amend the Condominium Conversion Ordinance; however, the proposed Housing Element update would amend program 2.4 related to condominium conversions. As proposed, the Housing Element would retain a policy and program to continue to enforce a condominium conversion policy which limits conversions, but removes verbatim ordinance language so that future ordinance amendments could be processed without the need for a general plan amendment. The proposed program amendment is shown below in ~~strikeout~~/underline format:

Program 2.4 Condominium Conversion Ordinance: The City has a Condominium Conversion Ordinance in place that regulates the conversion of existing multifamily rental housing and nonresidential structures to residential condominium or community apartment projects. The ordinance regulates the conversion of an existing structure containing five or more units. ~~Under the ordinance no units built prior to January 1, 1970 or built after the 1979 adoption of the ordinance may be converted. Conversions that are allowed under the Ordinance must insure that a minimum of 15% of the units will be available to low income households and that an additional 20% will be available to low or moderate-income households. Conversions that are allowed~~ Under the City's Affordable "Inclusionary" Housing Ordinance must mitigate for the loss of rental housing through the dedication of on-site affordable units and/or payment of in lieu fees into the City's Housing Trust Fund. ~~condominium conversions are also required to pay in lieu fees into the City's Housing Trust Fund.~~

CEQA ADDENDUM PROCEDURES

This document has been prepared in accordance with CEQA Guidelines sections 15164 and 15168 to explain the rationale for determining that the proposed Capitola Housing Element update would not create any new or substantially more severe significant effects on the environmental that were not analyzed in the General Plan Update EIR.

In determining whether an Addendum is the appropriate document to analyze modifications to the General Plan EIR, State CEQA Guidelines Section 15164 states:

- (a) The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.
- (b) An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.
- (c) An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.
- (d) The decision-making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.
- (e) A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's required findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

Since the General Plan EIR has been certified, the environmental impacts of subsequent activities proposed under the General Plan must be examined in light of the impact analysis in the certified EIR to determine if additional CEQA documentation must be prepared. One of the standards that applies is whether, under Public Resources Code Section 21166 and State CEQA Guidelines Sections 15162 and 15163, there are new significant effects or other grounds that require preparation of a subsequent EIR

ADDENDUM TO THE CITY OF CAPITOLA GENERAL PLAN UPDATE EIR – HOUSING ELEMENT UPDATE

or supplemental EIR in support of further agency action on the project. Under these guidelines, a subsequent or supplemental EIR shall be prepared if any of the following criteria are met:

- (a) When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:
- 1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
 - 2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
 - 3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - A. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - B. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - C. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - D. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

As demonstrated in the environmental analysis contained herein, none of the conditions that had been analyzed in the General Plan EIR would change with adoption of the proposed Housing Element update. Furthermore, no new information of substantial importance meeting the criteria listed in State CEQA Guidelines Section 15162 has been identified.

PRIOR ENVIRONMENTAL DOCUMENT

The Capitola City Council adopted the General Plan Update and certified the associated EIR on June 26, 2014. The certified EIR found that adoption of the GPU would have significant, unavoidable effects to air quality, hydrology and water quality, traffic, utilities and service systems, and greenhouse gas

ADDENDUM TO THE CITY OF CAPITOLA GENERAL PLAN UPDATE EIR – HOUSING ELEMENT UPDATE

emissions. In accordance with CEQA section 15091, the Capitola City Council adopted findings of overriding considerations to certify the EIR.

ENVIRONMENTAL REVIEW UPDATE CHECKLIST

I. AESTHETICS

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to aesthetic resources including: scenic vistas; scenic resources including, but not limited to, trees, rock outcroppings, or historic buildings.; existing visual character or quality of the site and its surroundings; or day or nighttime views in the area?

Response: The proposed Housing Element update would not result in new or increased severity of significant visual and light/glare impacts beyond what was addressed in the General Plan EIR. The amendments to the Housing Element are consistent with the development assumptions under the adopted General Plan. Housing would be developed in the same locations and within prescribed densities as contemplated in the General Plan EIR. All future development projects would be subject to applicable City requirements pertaining to visual resources, as well as to further CEQA analyses of project specific impacts.

II. AGRICULTURAL AND FORESTRY RESOURCES

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to agricultural resources including: conflict with zoning for or result in rezoning of forest land; result in the loss of forest land or conversion of forest land to non-forest use; convert Important Farmland and/or conflict with existing zoning for agricultural use or Williamson Act contract?

Response: There are no forest lands, farmlands of state or local importance, or agriculturally zoned properties in the City of Capitola. Consequently, the GP EIR concluded that there would be no significant impacts to agriculture or forestry resources. The proposed Housing Element update would not result in any new impacts not previously considered by the GP EIR.

III. AIR QUALITY

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to air quality including: conflicts with or obstruction of implementation of the Regional Air Quality Strategy (RAQS) or applicable portions of the State Implementation Plan (SIP); violation of any air quality standard or substantial contribution to an existing or projected air quality violation; a cumulatively

considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard; exposure of sensitive receptors to substantial pollutant concentrations; or creation of objectionable odors affecting a substantial number of people?

Response: The General Plan EIR found that implementation of the Plan could result in significant, unavoidable impacts to air quality through an increase in mobile and stationary source emissions and cumulative contributions to regional air quality standards. The proposed Housing Element update would not increase any residential densities nor does it include new housing programs which could facilitate development of new housing which could in-turn result in direct or indirect air quality impacts. Therefore, there are no project changes or any new information of substantial importance which indicate that the proposed Housing Element update would exacerbate air quality impacts beyond the analysis and conclusions in the General Plan EIR.

IV. BIOLOGICAL RESOURCES

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to biological resources including: adverse effects on any sensitive natural community (including riparian habitat) or species identified as a candidate, sensitive, or special status species in a local or regional plan, policy, or regulation, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service; adverse effects to federally protected wetlands as defined by Section 404 of the Clean Water Act; interference with the movement of any native resident or migratory fish or wildlife species or with wildlife corridors, or impeding the use of native wildlife nursery sites; and/or conflicts with the provisions of any adopted Habitat Conservation Plan, Natural Communities Conservation Plan, or other approved local, regional or state habitat conservation plan, policies or ordinances?

Response: The General Plan EIR found that implementation of the Plan would not result in any significant impacts to biological resources. The proposed Housing Element update does not include any policies or actions which would involve new or altered physical changes to the environment which have the potential to adversely affect biological resources. There have been no changes in the project or is there any new information of substantial importance to indicate that the proposed Housing Element update would result in new or more severe impacts to biological resources.

V. CULTURAL RESOURCES

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to cultural resources including: causing a change in the significance of a historical or archaeological resource as

defined in State CEQA Guidelines Section 15064.5; destroying a unique paleontological resource or site or unique geologic feature; and/or disturbing any human remains, including those interred outside of formal cemeteries?

Response: The General Plan EIR found that implementation of the Plan could result in significant impacts to cultural resources, but that mitigation measures could be applied to reduce the impact to a less than significant level. The proposed Housing Element update does not include any residential density increases or new housing programs which could result in additional housing development above what was evaluated in the General Plan EIR. Therefore, there have been no changes to the project or new information of substantial importance which indicate that the proposed Housing Element update could result in new or more severe impacts to cultural resources.

VI. GEOLOGY AND SOILS

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in one or more effects from geology and soils including: exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, seismic-related ground failure, including liquefaction, strong seismic ground shaking, or landslides; result in substantial soil erosion or the loss of topsoil; produce unstable geological conditions that will result in adverse impacts resulting from landslides, lateral spreading, subsidence, liquefaction or collapse; being located on expansive soil creating substantial risks to life or property; and/or having soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

Response: The General Plan EIR found that implementation of the Plan would have no potential to result in significant impacts to/from geology and soils. There have been no changes to the project or new information of substantial importance which indicate that the proposed Housing Element update could result in new or more severe impacts to/from geology and soils.

VII. GREENHOUSE GASES

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that show the project may generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or would conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases?

Response: The General Plan EIR found that implementation of the Plan would result in significant, unavoidable impacts to greenhouse gases and climate change. The proposed

Housing Element update includes the same residential densities and housing programs as what was evaluated by the General Plan EIR, therefore, there have not been any changes to the project or new information of substantial importance which indicate that the proposed Housing Element update could result in new or more severe impacts to greenhouse gas emissions.

VIII. HAZARDS AND HAZARDOUS MATERIALS

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in one or more effects from hazards and hazardous materials including: creation of a significant hazard to the public or the environment through the routine transport, storage, use, or disposal of hazardous materials or wastes; creation of a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment; production of hazardous emissions or handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school; location on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 creating a hazard to the public or the environment; location within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport; within the vicinity of a private airstrip resulting in a safety hazard for people residing or working in the project area; impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; and/or exposure of people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

Response: The General Plan EIR found that implementation of the Plan would not result in any significant impacts to/from hazards and hazardous materials. There have been no changes to the project, or new information of substantial importance which indicate that the proposed Housing Element update would result in a new or more severe impact to hazards and hazardous materials.

X. HYDROLOGY AND WATER QUALITY

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to hydrology and water quality including: violation of any waste discharge requirements; an increase in any listed pollutant to an impaired water body listed under section 303(d) of the Clean Water Act ; cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses; substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in

aquifer volume or a lowering of the local groundwater table level; substantially alter the existing drainage pattern of the site or area in a manner which would result in substantial erosion, siltation or flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems; provide substantial additional sources of polluted runoff; place housing or other structures which would impede or redirect flood flows within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map, including City Floodplain Maps; expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam; and/or inundation by seiche, tsunami, or mudflow?

Response: The General Plan EIR found that the implementation of the Plan could result in significant unavoidable impacts to groundwater supply, but found no significant impacts to water quality, drainage, erosion, or flooding. The proposed Housing Element update would not increase residential densities and there are no new housing programs which would facilitate new water-dependent development. Therefore, there have been no changes to the project or any new information of substantial importance which indicate that the proposed Housing Element update would result in new or more severe impacts to hydrology or water quality.

XI. LAND USE AND PLANNING

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to land use and planning including: physically dividing an established community; and/or conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect?

Response: The General Plan EIR found that implementation of the Plan would not result in any significant impacts to land use and planning. There have been no changes in the project or information of substantial importance which indicate that the proposed Housing Element update would result in any new or more severe impacts to land use and planning.

XII. MINERAL RESOURCES

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to mineral resources including: the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; and/or loss of locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

Response: There are no mineral resource deposits in the City of Capitola which could be reasonably extracted given existing non-compatible land uses. Accordingly, the General Plan EIR found that implementation of the Plan would not result in any impacts to mineral resources. There have been no changes to the project or new information of substantial importance which indicate that the proposed Housing Element update would result in new or more severe impacts to mineral resources.

XIII. NOISE

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in one or more effects from noise including: exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels; a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project; a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project; for projects located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, or for projects within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

Response: The General Plan EIR found that implementation of the Plan could result in significant impacts from noise resulting from construction of future projects authorized by the Plan. Consequently, the General Plan EIR included mitigation measures to reduce impacts from noise to a less than significant level. However, there have been no changes in the project or new information of substantial importance which indicate that the proposed Housing Element update would result in new or more severe impacts to/from noise.

XIV. POPULATION AND HOUSING

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in one or more effects to population and housing including displacing substantial numbers of existing housing or people, necessitating the construction of replacement housing elsewhere?

Response: The General Plan EIR found that implementation of the Plan would not result in any significant impacts to population and housing. There have been no changes to the project or information of substantial importance which indicate that the proposed Housing

Element update would result in any new or more severe impacts to population and housing.

XV. PUBLIC SERVICES

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in one or more substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services: fire protection, police protection, schools, parks, or other public facilities?

Response: The General Plan EIR found that implementation of the Plan would not result in any significant impacts to public services. There have been no changes to the project or information of substantial importance which indicate that the proposed Housing Element update would result in any new or more severe impacts to public services.

XVI. RECREATION

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or that include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

Response: The General Plan EIR found that implementation of the Plan would not result in any significant impacts to recreation. There have been no changes to the project or information of substantial importance which indicate that the proposed Housing Element update would result in any new or more severe impacts to recreation.

XVII. TRANSPORTATION/TRAFFIC

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause effects to transportation/traffic including: conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation

including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit; conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways; cause a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks; substantial increase in hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment); inadequate emergency access; and/or a conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

Response: The General Plan EIR found that implementation of the Plan could result in significant, unavoidable impacts to transportation. The proposed Housing Element update does not include any increased residential densities or new housing programs which would facilitate new development, which could result in additional traffic. Therefore, there have been no changes to the project or information of substantial importance which indicate that the proposed Housing Element update would result in any new or more severe impacts to transportation.

XVIII. UTILITIES AND SERVICE SYSTEMS

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause effects to utilities and service systems including: exceedance of wastewater treatment requirements of the applicable Regional Water Quality Control Board; require or result in the construction of new water or wastewater treatment facilities, new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; require new or expanded entitlements to water supplies or new water resources to serve the project; result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments; be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs; and/or noncompliance with federal, state, and local statutes and regulations related to solid waste?

Response: The General Plan EIR found that implementation of the Plan could result in significant unavoidable impacts to utilities and service systems due to the potential for groundwater overdraft. The proposed Housing Element update would not increase residential densities and there are no new housing programs which would facilitate new water-dependent development. There have been no changes to the project or information of substantial importance which indicate that the proposed Housing Element update would result in any new or more severe impacts to utilities and service systems.

XIX. MANDATORY FINDINGS OF SIGNIFICANCE:

Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in any mandatory finding of significance listed below?

Does the project degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?

Response: There have been no changes to the project or any new information of substantial importance which indicate that the proposed Housing Element update would result in any new or more severe impacts to the quality of the environment, including adverse impacts to habitat for sensitive species, cumulative environmental impacts, or adverse direct or cumulative effects on human beings.

DRAFT

RESOLUTION NO. ____

**RESOLUTION OF THE CAPITOLA CITY COUNCIL
 APPROVING AN ADDENDUM TO THE GENERAL PLAN UPDATE ENVIRONMENTAL IMPACT
 REPORT AND AMENDING THE CITY'S GENERAL PLAN
 BY RESCINDING THE 2007-2014 HOUSING ELEMENT AND ADOPTING THE 2015-2023
 HOUSING ELEMENT AND AUTHORIZING THE COMMUNITY DEVELOPMENT DIRECTOR TO
 SUBMIT IT TO THE STATE DEPARTMENT
 OF HOUSING AND COMMUNITY DEVELOPMENT FOR CERTIFICATION**

WHEREAS, the City of Capitola recognizes its responsibility to plan for the housing needs of the community; and

WHEREAS, the Housing Element of the General Plan sets forth City policies that will direct City action toward the provision of housing in the community; and

WHEREAS, Section 65580 of the Government Code of the State of California sets forth the requirements for the preparation and adoption of the Housing Element of the General Plan; and

WHEREAS, an Addendum to the General Plan Update Environmental Impact Report was prepared for the 2015-2023 Housing Element in accordance with State law and CEQA Guidelines; and

WHEREAS, consistent with CEQA and City Guidelines, it was determined that there is no substantial evidence that the 2015-2023 Housing Element will have a significant effect on the environment; and

WHEREAS, the City Council held a public hearing on [REDACTED], and accepted a Draft 2015-2023 Housing Element and directed staff to submit it to Housing and Community Development (hereafter "HCD") for review; and

WHEREAS, the Draft 2015-2023 Housing Element was submitted to and reviewed by HCD and subsequently revised to respond to comments submitted by HCD; and

WHEREAS, the Planning Commission held a public hearing to review and consider the Draft 2015-2023 Housing Element on November 5, 2015, and recommended the City Council approve the Addendum to the General Plan Update Environmental Impact Report and adopt the Draft Housing Element; and

WHEREAS, the City Council held a public hearing to review and consider the Draft 2015-2023 Housing Element on [REDACTED], approve the Addendum to the General Plan Update Environmental Impact Report, and adopt the 2007-2014 Housing Element; and

WHEREAS, the City Council now finds:

1. The proposed General Plan amendment is deemed to be in the public interest. Availability of housing is a vital issue of local and statewide importance. The Housing Element makes adequate provisions for the existing and projected housing needs for all economic segments of the community. The housing element also is in the public interest since it addresses regional housing needs.
2. The proposed General Plan amendment is consistent and compatible with the rest of the existing General Plan and any implementation programs that may be affected. The 2015-

RESOLUTION NO.

2

2023 Housing Element replaces the 2007-2014 Housing Element in the General Plan. Most of the policies, programs, and objectives are similar in both elements. The 2015-2023 Housing Element is consistent with the Land Use Element since no land use amendments will be necessary. The Housing Element is also consistent with the Circulation Element with no significant circulation impacts being identified in the Addendum to the General Plan Update Environmental Impact Report.

- 3. The potential impacts of the proposed amendment have been assessed and have been determined not to be detrimental to the public health, safety, or welfare. It is intended to promote the housing needs of the community, including safe housing conditions and vital neighborhoods.
- 4. The Housing Element was prepared in accordance with California Government Code Sections 65580-65589.8 and reviewed by the State Department of Housing and Community Development as required by State law. An Addendum to the General Plan Update Environmental Impact Report was completed consistent with CEQA Guideline requirements. The Planning Commission has considered the Addendum to the General Plan Update Environmental Impact Report and finds, based on the entire record before it, that there is no substantial evidence that the project will have a significant effect on the environment, and that the Addendum reflects the City's independent judgment and analysis.

WHEREAS, City Council has considered the Addendum to the General Plan Update Environmental Impact Report, together with the supporting documentation provided, and based on the basis of the whole record before the Council, finds there is no substantial evidence that the amendment will have a significant effect on the environment and that the Addendum reflects the City's independent judgment and analysis.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Capitola as follows:

- a) The Addendum to the General Plan Update Environmental Impact Report for the 2015-2023 Housing Element is hereby approved;
- b) The City's General Plan is hereby amended to rescind the 2007-2014 Housing Element and adopt the 2015-2023 Housing Element; and
- c) The Community Development Director is hereby authorized and directed to submit the 2015-2023 Housing Element to the State Department of Housing and Community Development for final certification.

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 [redacted] day of [redacted], 2015, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

Dennis Norton, Mayor

RESOLUTION NO.

3

ATTEST:

_____, MMC
Susan Sneddon, City Clerk

Attachment: Draft Resolution to Approve the Addendum to the General Plan EIR and to Adopt the 2015-2023 Housing Element Update (1239 :

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



October 6, 2015

Mr. Richard Grunow, Director
Community Development Department
City of Capitola
420 Capitola Ave,
Capitola, California 95010

Dear Mr. Grunow:

RE: Review of the City of Capitola's 5th Cycle (2015-2023) Draft Housing Element

Thank you for submitting Capitola's draft housing element update which was received for review on August 8, 2015, along with revisions received on October 5, 2015. Pursuant to Government Code (GC) Section 65585(b), the Department is reporting the results of its review. Our review was facilitated by a conversation on September 29, 2015 with you and Ms. Arlene Granadosin, City consultant.

The draft element with revisions meets the statutory requirements of State housing element law. This finding was based on, among other reasons, Capitola's demonstration of adequate sites, particularly for lower-income households. The element will comply with State housing element law (GC, Article 10.6) when the draft element and revisions are adopted and submitted to the Department, in accordance with GC Section 65585(g).

The Department conducted a streamlined review of the draft housing element based on the City meeting all eligibility criteria detailed in the Department's Housing Element Update Guidance.

To remain on an eight year planning cycle, pursuant to Senate Bill 375 (Chapter 728, Statutes of 2008) the City must adopt its housing element within 120 calendar days from the statutory due date of December 31, 2015 for AMBAG localities. If adopted after this date, GC Section 65588(e)(4) requires the housing element be revised every four years until adopting at least two consecutive revisions by the statutory deadline. For more information on housing element adoption requirements, please visit the Department's website at: http://www.hcd.ca.gov/hpd/hrc/plan/he/he_review_adoptionsteps110812.pdf.

HCD Review of Capitola's Housing Element
Page 2

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

The Department appreciates the hard work and dedication Ms. Arlene Granadosin and you provided in preparation of the housing element and looks forward to receiving Capitola's adopted housing element. If you have any questions or need additional technical assistance, please contact James Johnson, of our staff, at (916) 263-7426.

Sincerely,



Paul McDougall
Housing Policy Manager



**CITY OF CAPITOLA
COMMUNITY DEVELOPMENT DEPARTMENT**

**AFFORDABLE HOUSING PROGRAM
SUMMARY REPORT**

November, 2015

The City of Capitola offers a number of affordable housing programs to help lower income households obtain or maintain safe and decent housing. The purpose of these housing activities is to assist in the production, improvement, availability, and preservation of affordable housing for very low-, low- and moderate-income households. The housing programs implement the Housing Element of the City of Capitola's General Plan.

Although the City lost its primary funding source when redevelopment agencies were terminated in 2011, the City has maintained several important affordable housing programs using a variety of non-general fund sources.

This report has been prepared to provide the Planning Commission, City Council, and members of the public a summary of the City of Capitola's Affordable Housing Programs.

CURRENT AFFORDABLE HOUSING PROGRAMS

Inclusionary Housing Program

The Inclusionary (Affordable) Housing Ordinance was adopted by the City Council in November 2004. The program requires housing projects to contribute to the creation of affordable housing. Projects with seven or more for-sale housing units are required to reserve and restrict fifteen percent of the housing units for sale to moderate, low or very-low income households. The Inclusionary Housing Program also requires resale restrictions be placed on these units to protect their long-term affordability for future buyers. Projects with fewer than seven units are required to pay in-lieu fees to the City of Capitola's Affordable Housing Trust fund.

There are currently ten inclusionary housing units in the City of Capitola:

Inclusionary Housing Project Summary

| PROJECT NAME | TOTAL UNITS | INCLUSIONARY UNITS |
|-----------------------|--------------------|---------------------------|
| Heritage Lane | 12 | 2 |
| Capitola Beach Villas | 55 | 8 |
| Pearson Court | 10 | 1 |
| TOTAL | 77 | 11 |

Security Deposit Program

The Security Deposit Program provides forgivable loans to low- and very low-income households to cover the costs associated with moving into a new rental unit. The program is administered by the Housing Authority of Santa Cruz County. The program had historically been financed through the Redevelopment Agency Low and Moderate Income Housing Fund. The program was discontinued following the dissolution of Redevelopment Agencies in 2011. The program was reinstated in 2014 with a \$10,000 allocation from Housing Successor funds. A total of two Capitola households have been assisted since the program was reinstated. Funds remain available from the initial allocation.

Emergency Housing Assistance Program

This program is operated through a contract with the Community Action Board to provide Emergency Housing Assistance to income eligible applicants in the form of grants to prevent eviction or foreclosure. This program was also discontinued following the loss of Redevelopment housing funds and was reinstated in 2014 with a \$30,000 allocation from Housing Successor funds. A total of nine Capitola households have been assisted since July 1, 2014. Funds remain available from a \$30,000 2015-2016 budget allocation.

Housing Rehabilitation Program

The Housing Rehabilitation Program provides funding to low income owner-occupied households to complete basic health and safety improvements. The program was historically funded with Redevelopment Agency Housing Funds and was discontinued in 2011 when Redevelopment law was repealed. The program was reinstated in July, 2015 through a \$500,000 Community Block Development Grant (CDBG). The program is administered by the Housing Authority. No rehabilitation projects have been completed to date; however, City and Housing Authority staff are actively working through a waiting list to qualify applicants and staff expects a number of projects will be initiated prior to the end of the calendar year.

Homebuyer Assistance Program

The Homebuyer Assistance Program was also a casualty of Redevelopment termination. The program was reinstated in 2015 through the \$500,000 CDBG grant. The program provides loans to low income households to purchase a home in Capitola. Eligible properties may include single-family residences, condominium units, or mobile homes. This program is also administered by the Housing Authority. Staff is currently working through a waiting list to qualify applicants for program participation.

Mobile Home Park Rental Assistance Program

The City offers rent subsidies to residents of the Surf and Sand and Castle Mobile Home Parks. Through a settlement agreement reached in 2011, the City committed a \$100,000 annual allocation from former Redevelopment Agency Housing funds to the Housing Authority to provide rent subsidies at Surf and Sand. The subsidy will end in 2021, at which time the park owner is obligated to provide long-term affordability assurances.

The City also provided a \$1,000,000 loan to Millennium Housing in 2011 to acquire the Castle Mobile Home Park plus an additional \$100,000/year for 10 years of rental assistance and infrastructure improvements. The loan was funded through Redevelopment Housing funds and Housing Trust funds. The annual rent subsidy/infrastructure allocation will end in 2021.

Mortgage Credit Certificate Program

The Mortgage Credit Certificate (MCC) is a federally funded program which provides financial assistance to first time homebuyers for the purchase of single-family homes. The MCC provides qualified first time homebuyers with a federal income tax credit, which reduces an individual's tax payments by an amount equal to the credit. The Housing Authority administers the MCC program. The program has provided tax credit assistance to 57 Capitola households since its inception in 1990.

AFFORDABLE HOUSING FUNDING SOURCES

Housing Trust Fund

The Housing Trust Fund was created in 2004 in conjunction with the Inclusionary (Affordable) Housing Program. In-lieu fees collected under the program are deposited into the Housing Trust Fund. The Housing Trust Fund provides a local, flexible source of funding which may be used to create or rehabilitate affordable housing, fund affordable housing programs, and to cover program administration costs. The fund has an approximate current balance of \$67,000. In recent years the Fund's balance has been decreasing, as the Fund has been used to pay a portion of the debt service for the Pacific Cove relocation loan. This was anticipated when that debt was issued, and staff anticipates transferring the entire debt service payment to the General Fund in 2017-2018.

Housing Successor Fund

The Housing Successor Fund was created following the dissolution of Redevelopment Agencies in 2011. Housing Successor Funds are accumulated through loan repayments are received from the former Redevelopment Agency Low and Moderate Income Housing Fund. Housing Successor monies have been used to fund the City's Emergency Housing Assistance Program, Security Deposit Program, and to offset affordable housing administration costs. The fund has an approximate current balance of \$109,000.

Community Development Block Grant (CDBG)

CDBG is a federal grant program which provides communities with resources to address a wide range of community development needs. Capitola participates in the competitive Small Cities Grant Program administered by the California Department of Housing and Community Development (HCD). CDBG affordable housing funds may only be used to assist households who earn less than 80% of area median income. The City received a \$500,000 grant in 2014 and received authorization from HCD to begin spending funds in July, 2015. The grant is being used to fund the City's Homebuyer Assistance and Housing Rehabilitation Programs.

CDBG Program Income

The City periodically receives CDBG Program Income from loan payments that were originally funded with CDBG grants. According to CDBG guidelines, if the total amount of Program Income received by the fund does not exceed \$25,000 in any given fiscal year, then the funds received can be transferred out of the CDBG Program. Up to 18% of CDBG Program Income can be used for administrative costs. The City does not currently have any CDBG Program Income; however, the fund will be replenished as loan payments are received.

Home Investments Partnership Program (HOME)

HOME is a federal grant program which provides funding for a wide range of affordable housing activities. HOME is the largest Federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. The City received a \$2M HOME grant in 2009 and an additional \$1.2M in 2011 to help fund the Bay Avenue Senior Apartments project. The City does not currently have an active HOME grant.

Home Investments Partnership Program (HOME) Program Income

HOME Program Income is accrued as loan payments are received which were originally funded through HOME grant monies. HOME Program Income funds may be used to develop or rehabilitate affordable housing, fund affordable housing programs, and offset administration costs. HOME funds may only be used to assist households who earn less than 80% of area median income. The fund has an approximate current balance of \$160,000.

Affordable Housing Fund Summary

| FUND SOURCE | FUND BALANCE |
|---------------------|------------------|
| Housing Trust Fund | \$67,242 |
| Housing Successor | \$109,202 |
| CDBG | \$500,000* |
| HOME Program Income | \$161,943 |
| CDBG Program Income | \$0 |
| HOME Grant | \$0 |
| TOTAL | \$838,387 |

*Represents entire grant amount – does not include recent program administration expenditures

AFFORDABLE HOUSING SITES

Mobile Home Parks

Mobile home parks provide a valuable source of affordable housing. Capitola is home to eight mobile home parks which accommodate 681 homes. Seven of the City's parks have been subdivided, converted to non-profit ownership, or resident cooperatives. The Cabrillo Mobile Home Park is the City's last remaining privately owned park, and though Surf and Sand is subdivided, the original owner has not sold any of the lots. Cabrillo residents entered into a park-wide agreement with the property owners in 2011 to provide long-term leases to all of its residents.

Mobile Home Park Summary

| PARK | ADDRESS | UNITS | INCOME RESTRICTED | AGE RESTRICTED | AFFORDABLE UNITS | OWNERSHIP |
|--------------|-----------------------|------------|-------------------|----------------|------------------|-------------|
| Brookvale | 300 Plum | 111 | No | No | 0 | Subdivided |
| Cabrillo | 930 Rosedale | 68 | No | No | 0 | Private |
| Castle | 1099 38 th | 108 | Partial | No | 85 | Non-Profit |
| Loma Vista | 4425 Clares | 90 | Yes | Yes, 55+ | 90 | Cooperative |
| Surf & Sand | 750 47 th | 75 | No | No | 0 | Subdivided |
| Tradewinds | 4160 Jade | 114 | No | Yes, 55+ | 0 | Subdivided |
| Turner Lane | 920 Capitola | 79 | Partial | No | 7 | Subdivided |
| Wharf Road | 2155 Wharf | 36 | Yes | No | 36 | Cooperative |
| TOTAL | | 681 | | | 218 | |

Bay Avenue Senior Apartments

The Bay Avenue Senior apartments is the largest affordable housing project in Capitola, offering 109 affordable units, including 39 units for very low income chronically ill seniors and five units for extremely low income seniors with mental illness who are at risk of homelessness.

Shorelife Church Neighborhood Manor

The Shorelife Community Church operates a 20-unit rental property on Monterey Avenue which offers below-market rents to its residents.

Grace Street Apartments

The Housing Authority of Santa Cruz County operates a 12-unit apartment project on Grace Street which provides housing to low and very low-income households.

Habitat for Humanity Project at 38th and Brommer

Habitat for Humanity, in cooperation with the former Capitola Redevelopment Agency constructed an affordable 6-unit home ownership project in 1999.

Dakota Apartments Accessible Housing

The Dakota Apartments is located on Clares/Capitola Road and provides 25 accessible rental units for very low-income households for persons affected by mobility impairment/traumatic brain injury.

Inclusionary Housing Units

As previously described, the City currently has eleven inclusionary housing units, eight at Capitola Beach Villas, two at Heritage Lane, and one at Pearson Court.

Affordable Housing Site Summary

| PROJECT/PROGRAM | LOCATION | AFFORDABLE UNITS |
|----------------------------|------------------------------|-------------------------|
| Mobile Home Parks | Citywide | 218 |
| Bay Avenue Sr. Apts | Bay Avenue | 109 |
| Dakota Apartments | Clares/Capitola Road | 25 |
| Shorelife Manor | Monterey Avenue | 20 |
| Grace St. Apartments | Grace Street | 12 |
| Inclusionary Housing Units | Citywide | 11 |
| Habitat for Humanity | 38 th and Brommer | 6 |
| TOTAL | | 401 |



STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: JULY 16, 2015

SUBJECT: **DRAFT HOUSING ELEMENT UPDATE – AUTHORIZATION TO INITIATE PUBLIC REVIEW AND REFER TO CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

BACKGROUND

The Housing Element is one of seven state-mandated general plan elements. The Housing Element establishes how the City will address housing needs for all economic segments of the community, with a focus on low- to moderate-income households and special needs populations. The City's current 2007-2014 Housing Element was adopted by the City Council on February 11, 2010, and subsequently certified by the California Department of Housing and Community Development (HCD). The deadline to adopt the 2015-2023 Housing Element update is December 31, 2015.

DISCUSSION

There have been a number of significant changes to State housing laws and policies since the City's last Housing Element update. In 2008, Senate Bill 375 was adopted which extended the Housing Element update cycle from four to eight years to better coordinate regional housing and transportation planning efforts. Agencies which fail to adopt a Housing Element update within 120 days of the deadline, however, are now placed on an abbreviated four year update cycle.

The State later terminated redevelopment agencies in 2011 which eliminated Capitola's primary funding source for affordable housing programs.

In 2012, HCD initiated a new streamlined Housing Element update process which allows eligible jurisdictions to update only those areas of the existing Housing Element where changes have occurred instead of conducting a comprehensive update. Capitola is eligible for the streamlined option and has prepared the Housing Element update in a strikeout/underline format as required by HCD.

Unlike State housing law, the composition and condition of Capitola's housing stock has remained relatively stable during the past housing cycle. Between 2007-2014, 13 very low income units (Bay Avenue Senior Apartments), eight moderate income units, and 77 above moderate income units were developed in Capitola. Moderate income units include secondary dwelling units and above moderate income units include new and replacement home construction and 47 units developed in conjunction with the Capitola Beach Villas project on 41st Avenue.

Regional Housing Needs Allocation (RHNA)

Every City and County in California must plan for its fair share of the region's housing need, as determined through the RHNA process. HCD identifies the total housing need for each region of the state. In the Monterey Bay region, the Association of Monterey Bay Area Governments (AMBAG) distributes this regional need to local governments. Once a local government has received its RHNA,

it must revise its Housing Element to demonstrate how it plans to accommodate its portion of the region's housing need.

AMBAG approved the RHNA for the 2015-2023 housing cycle on June 11 2014. Capitola's 2015-2023 RHNA is 143 units, which is the same as the previous housing cycle.

During the 2007-2014 update, the City adopted an affordable housing overlay zone and identified "opportunity sites" to accommodate the RHNA obligation. With the exception of eight very low income units developed at the Bay Avenue Senior Apartments, all of the previously identified opportunity sites remain available for future affordable housing development. Moreover, opportunity sites identified in the 2007-2014 Housing Element could provide a total of 75 units for very low and low income households which exceeds the 56 unit RHNA requirement by 19 units. Consequently, the City has adequate capacity to meet its RHNA obligation and does not need to rezone properties or identify any new opportunity sites for the current Housing Element cycle.

Key Changes in the Housing Element Update

The 2015-2023 Housing Element represents a relatively minor update of the current Housing Element to reflect current conditions, including:

- Updated demographic information;
- Updated housing information regarding completed and pending projects;
- Updated Housing Constraints analysis to reflect new ordinances adopted by the City, several of which were adopted to comply with State mandates;
- Evaluation of the 2007-2014 Housing Element implementation;
- Identification of completed housing programs, new programs, and programs proposed for removal.

The most notable proposed change is removal of two Housing Element programs related to the City's former Rent Stabilization Ordinance and restrictions on condominium conversions. The City repealed its Rent Stabilization Ordinance in 2011; accordingly, staff proposes to remove all Housing Element programs and policies which call for continued enforcement of the City's defunct rent control program.

In addition, property owners of the Antigua Apartments and the Crest Apartments, located at 106 Grove Lane and 101 Grand Avenue, have requested the City amend its Housing Element and Municipal Code to relax restrictions on condominium conversions. The City's Condominium Conversion Ordinance resides in §16.68 of the Municipal Code and the current Housing Element includes Program 2.4 which calls for the City to maintain and enforce the Ordinance to preserve its supply of rental housing.

Staff has no current plans to amend the Condominium Conversion Ordinance; however, this would be the appropriate time to remove the Housing Element Program if the City wishes to consider a future amendment in conjunction with a private development application. If the City chooses to eliminate the Program, the Ordinance would remain in effect, but it could be changed in the future without the need for a Housing Element amendment or subsequent certification from HCD.

Next Steps

Once the City Council authorizes release of the draft Housing Element update, the document will be referred to HCD for a 60 day review period. Staff would also make the document available for concurrent public review and comment. Staff will then incorporate any necessary revisions per comments from HCD and present the final Housing Element update to the Planning Commission for a recommendation and City Council for adoption after the Housing Element has been found in compliance by the state. The adopted Housing Element would then be transmitted to HCD for final 90-day certification.

CEQA REVIEW

An Addendum to the General Plan Update EIR will be prepared for the Housing Element update in accordance with CEQA section 15164.

RECOMMENDATION

Staff requests the Planning Commission recommend that the City Council authorize staff to refer the draft Housing Element update to HCD and initiate public review.

**Report Prepared By: Richard Grunow
 Community Development Director**

ATTACHMENTS

1. Draft Housing Element update
2. 2007-2014 Housing Element Program Evaluation