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Via Electronic Mail Only

Honorable Chair Westman and Members of
the Capitola Planning Commission
City of Capitola
420 Capitola Ave
Capitola, CA 95010

**Re: 4401 Capitola Road Affordable Housing Project
Consistency of Project with Local and State Law
Housing Accountability Act (Government Code, § 65589.5, et seq.)**

Dear Chair Westman and Members of the Planning Commission:

We represent CRP Affordable Housing and Community Development, LLC (“CRP”), applicant of the 36-unit, 100% affordable housing project with associated amenities (the “Project”) at the property located at 4401 Capitola Road, Capitola, California (the “Property”). We thank Planning Staff for their time and effort related to reviewing and processing the Project and their recommendation of approval to the Planning Commission.

This letter describes the Project’s consistency with all applicable State and local laws, ordinances, plans, and policies, and outlines the City’s legal obligations with respect to processing of housing development projects under State law, including the Housing Accountability Act (Government Code, § 65589.5, *et seq.*). Under the Housing Accountability Act, a city must approve a housing development project which is found consistent with, in compliance with and in conformity with all applicable plans, programs, policies, ordinances, standards, requirements, and other similar provisions, and none of the statutory conditions for denial of the Project are applicable. As the Project is consistent with and in conformity with State law and all applicable objective local development standards, and none of the statutory conditions for denial of the Project are applicable, we respectfully request the City approve the Project as proposed.

I. PROPERTY AND PROJECT BACKGROUND

The Property is an approximately 0.81 acre (35,300 SF) rectangular-shaped site located on the north side of Capitola Road, east of 44th Avenue. The Property is located near public transportation, including bus stops directly across the street at 44th Avenue and Capitola Road and approximately 1,050 feet west of the Property on Capitola Road between 41st and 42nd Avenues. The proposed project at the Property consists of a one hundred

percent (100%) affordable multi-family residential development consisting of 36 rental units in two 3-story buildings. The project site is zoned Mixed Use Neighborhood (MU-N). The proposed Project consists of a mix of 1-, 2-, and 3-bedroom apartment units, configured in two 3-story buildings. All ground floor units include mobility features. The Project also features amenity space, including a community center with kitchen, as well as other amenities such as a landscaped exterior plaza with a children's play area. The Project proposes an on-site laundry room, energy-star appliances, including dishwashers, in every unit and will contain 36 on-site at grade parking spaces. Of the 36 parking spaces, at least 4 of those spaces will be Electric Vehicle ready or EV capable spaces, 6 will be handicapped (ADA) parking spaces and 40 bicycle parking spaces will be provided. The Project is currently designed as energy-efficient and greenhouse-gas reducing with an all-electric (no natural gas) design.

In June 2022, the applicant filed an application for a Coastal Development Permit, Design Permit, and Conditional Use Permit for the Project with a request for a density bonus and incentives/concessions pursuant the State Density Bonus Law, Government Code Section 65915, *et seq.*, and Capitola Municipal Code ("CMC") Section 18.03. After the applicant completed multiple revisions at the request of the City, the application was deemed complete on December 14, 2022 and set for hearing. On January 25, 2023, Planning Staff prepared an Agenda Report to the City stating that the Project is consistent with the zoning ordinance (including all objective standards), the general plan and applicable state law, including the State Density Bonus Law (Gov. Code Section 65915, *et seq.*), the Coastal Act, and exempt from CEQA. Accordingly, City Staff recommended the Planning Commission approve the Project. However, at the January 25, 2022 hearing, the Capitola Planning Commission continued the hearing on the Project due to allegations of a potential safety impact caused by the Project at the intersection of 45th Avenue and Capitola Road.

With use of the Density Bonus granted under State law, the Project could achieve an increased number of dwelling units, as Government Code Section 65915(f)(3)(D) allows for up to 80% increase from base density for a 100% affordable housing project. However, the MU-N general plan land use designation and the MU-N zone regulate Floor Area Ratio ("FAR") for properties, but do not limit density. Accordingly, the applicant did not request additional density under the Density Bonus Law. The applicant proposes a project of 36 units in order to maintain the project height at three (3) stories above grade. With a total Project FAR of 0.88, the Project is still within the allowed FAR range of 1.0 for the Property under the General Plan.

For proposing a 100% affordable housing project, the Project also qualifies for incentives or concessions under the State Density Bonus Law, which allows for up to four incentives or concessions. The Applicant has chosen, pursuant to Government Code Section 65915(d)(2)(D) to apply a number of development standard concessions to the Project, including, among other things, a concession related to the building daylight plane, and reduction of the parking ratio for the 2- and 3-bedroom units from 1.5 parking spaces per unit (pursuant to Government Code Section 65915(p) to 1 parking space per unit.

In addition, separate from the density bonus and requests for incentives or concessions, a density bonus applicant may request any number of waivers or reductions of development standards that would “have the effect of physically precluding the construction of a[n eligible] development ... at the densities or with the concessions or incentives permitted by this section.” (Gov. Code, § 65915, subd. (e)(1).) In other words, a density bonus applicant may request a waiver of any development standard (including height) if that development standard prevents the applicant from constructing the affordable housing project as proposed by the applicant. The Density Bonus Law does not set a limit on the number of waivers which can be requested and a request for a development standard waiver does not reduce the number of incentives or concessions to which the applicant is otherwise entitled. (Gov. Code, § 65915(e)(2).) Here, the applicant has requested a number of waivers, including, among other things, an increase in the total building height to thirty-six feet (36’) in lieu of the otherwise required twenty-seven feet (27’) and a relaxation of major massing relief of an eight foot (8’) deep recess for every fifty feet (50’) of frontage.

As further described below, the Project meets all requirements under the City’s Development Code and General Plan, including all objective local development standards, and satisfies all State law requirements as a housing development project.

II. THE PROJECT MEETS ALL APPLICABLE LOCAL LAW, INCLUDING THE CAPITOLA ZONING CODE AND IS CONSISTENT WITH THE GENERAL PLAN.

A. The Project Meets Capitola Zoning Code Standards.

The Project is consistent with the underlying zoning for the Property. The Property is zoned Mixed Use Neighborhood (MU-N) on the Capitola Zoning Map, which allows for 1.0 FAR. Pursuant to Title 17, Zoning, of the Capitola Municipal Code (“CMC”), MU-N zoned parcels are “neighborhood-serving mixed use areas that enhance residents’ quality of life” and support “[a] range of housing types close to nonresidential uses” which “increases housing choices and supports a walkable community.” (CMC, § 17.20.010.) The MU-N zoning district is consistent with the MU-N land use designation of the General Plan.

The Community Development Staff, other relevant City departments and divisions, and the City’s third-party design consultant RRM Design Group have all reviewed the project. As provided in the Agenda Report, “aside from the concessions and waivers allowed via Density Bonus Law, the project is consistent with both the general plan and zoning ordinance.” Per City Staff, “the proposed 32,475 square foot multi-family development complies with all development standards of the MU-N zoning district,” which includes Section 17.20.040.F.2, requiring that “new curb cuts, where allowed, shall be located and designed to maximize safety and convenience for pedestrians, bicycles and mass transit vehicles, as determined by the community development director. Considerations for determination include adequate separation between curb cuts, displaced parking, and sight lines.”

Finally, the Project meets all objective planning and zoning standards and design review requirements. Pursuant the Memorandum provided by the City’s design consultant, RRM Design Group, dated November 18, 2022, the Project is consistent with the City’s Objective Standards for Multifamily Residential in Chapter 17.82. RRM Design Group concluded that the Project is “largely in keeping with the design direction found within the City’s Objective Standards Ordinance ... [and] will be a welcomed addition to the community while also being consistent with the City’s desire for high-quality new developments.”

B. All Conditional Use Permit Findings Can Be Made.

Although residential multi-family housing is allowed in the MU-N Zone, the City’s Municipal Code Section 17.20.020 requires approval of a conditional use permit for proposed multi-family residential projects in the MU-N Zone. Pursuant to Section 17.124.070, when reviewing a CUP, the Planning Commission must make certain findings for approval of the project. Pursuant to the Agenda Report provided, City Planning Staff has indicated that the Project satisfies all required findings, including that: 1) multifamily housing is a conditionally allowed use in the MU-N zone; 2) the proposed use, as conditioned, is consistent with local long range and implementation planning documents, including the General Plan and Local Coastal Program, 3) the location, size, design, and operating characteristics of the Project will be compatible with the existing and planned land uses in the vicinity of the property as the family housing of all types is encouraged in the MU-N Zone, the Project will have a minimal effect on trip generation, and will improve the jobs to housing ratio in the region, 4) the Project would not be detrimental to the public health, safety, and welfare in that the building provides required affordable housing and RHNA units, will be fire sprinkled, will be served by all necessary public utilities, and meets all other applicable objective local development standards and requirements, and 5) the Project can be adequately served by existing or planned services and infrastructure.

Planning Staff has appropriately conditioned the Project pursuant to its Recommended Conditions of Approval, including, among other things, that any construction activity shall be subject to a construction noise curfew and require a “disturbance coordinator” during construction to ensure local complaints, if any, are responded to quickly and adequately, and screening of air-conditioning and other unsightly rooftop equipment.

C. The Project Meets General Plan Standards, Goals, and Policies.

The Project is also consistent with the land use designation for the Property. The Capitola General Plan designates the Property as Neighborhood Mixed-Use (MU-N). Although the General Plan does not set a limit on density, the maximum permitted FAR in the MU-N designation is 1.0. Pursuant to the General Plan Land Use Element, “[p]ermitted uses in the MU-N designation include single-family homes, multi-family developments, retail, personal services, community facilities, and other uses compatible with an eclectic

neighborhood-oriented mixed-use district.” (Capitola General Plan, Land Use Element, p. LU-15.) As provided in the Agenda Report, the proposed Project is consistent with, and implements the City of Capitola General Plan, and the Goals and Policies outlined in it. The Project FAR of 0.88 is consistent with the maximum permitted FAR in the MU-N designation of 1.0. Further, the Project is consistent with Policy LU-4.2 (Neighborhood Diversity) in that the Project “[s]upports[s] diverse and inclusive neighborhoods for residents of all ages and back grounds” and Housing Element Goal 1.0 (Housing Production) in that the Project provides “[a]n adequate diversity of housing types and affordability levels to accommodate housing needs of Capitola residents” because the Project provides for much-needed affordable housing in a desirable central area of the City. Accordingly, Planning Staff concluded that the Project “[t]he project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.”

III. THE PROJECT IS CONSISTENT WITH ALL APPLICABLE STATE LAW, INCLUDING STATE DENSITY BONUS LAW AND THE COASTAL ACT.

A. The Project Meets the Requirements of the State Density Bonus Law.

As provided in the Capitola Municipal Code, “in enacting [Chapter 18.03], it is the intent of the city of Capitola to facilitate the development of affordable housing and to implement the goals, objectives, and policies of the city’s housing element.” (CMC, § 18.03.010.) In turn, the City’s Housing Element provides that “[t]he City of Capitola has been, and continues to be, a proponent of affordable housing...” and the City “supports the development of accessible and affordable housing that is designed to serve all ages.” (Capitola Housing Element, Executive Summary and Policy 3.5.)

Government Code Section 65915, et seq., commonly referred to as the “Density Bonus Law,” was first enacted in 1979 with the aim to address the shortage of affordable housing in California. (*Latinos Unidos Del Valle De Napa Y Solano v. County of Napa* (2013) 217 Cal.App.4th 1160, 1164.) In essence, when a developer proposes to construct a certain percentage of the units in a housing development for low- or very-low-income households, the city or county must grant the developer (1) a “density bonus,” which allows the developer to increase the density of the development by a certain percentage above the maximum allowable limit under local zoning law; (2) one or more itemized incentives or concessions¹ and (3) “waivers or reductions” of development standards. (Gov. Code, § 65915(b)(1); *Bankers Hill 150 v. City of San Diego* (2022) 74 Cal. App. 5th 755 (*Bankers Hill 150*); see also *Schreiber v. City of Los Angeles* (2021) 69 Cal.App.5th 549, 554-555 (*Schreiber*)). First, the density bonus allows for additional units above the maximum allowed by zoning to be added to a project based on the amount of affordable housing included in the project. The higher the percentage of affordable units, the higher the percentage of the density bonus allowing a developer to exceed the zoned density. (Gov. Code, § 65915.) However, an applicant under a Density Bonus Law application is not

¹ The terms “incentives” and “concessions” have the same meaning under the Density Bonus Law.

required to use the entire density bonus as part of a density bonus project, but may still apply the incentives, concessions and waivers of development standards allowed under the Density Bonus Law.

Second, the incentives and concessions provided under the Density Bonus Law allow an applicant of a density bonus project to avoid City-required development standards to assist in lowering the cost to build a project that includes affordable housing. (Gov. Code, § 65915(d)(1).) An “incentive or concession” is defined as a “reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards ... that results in identifiable and actual cost reductions.” (*Id.* at subd. (k)(1).) The law states that a “site development standard” includes setbacks, height limitations, and other requirements imposed by “any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.” (*Id.* at subds. (k)(1), (o)(1).) The applicant is not required to prove the requested incentives will lead to cost reductions; the incentives are presumed to result in cost reductions and the city bears the burden to demonstrate otherwise if it intends to deny the incentives. (*Schreiber, supra*, 69 Cal.App.5th at 555.)

Third, a city must accept an applicant’s requested waiver or reduction of development standards that would have the effect of physically precluding the construction of a development at the density, or with the requested incentives, permitted by the Density Bonus Law. (Gov. Code, § 65915(e)(1).) For example, if a city ordinance imposes a building height limitation, a city must waive that limitation for a development that is eligible for a density bonus if imposing the height limit would physically preclude construction of the proposed building with the requested incentives and at the density allowed by the Density Bonus Law. (*Bankers Hill 150, supra*, 74 Cal. App. 5th at 755.) There is no financial criteria for granting a waiver. (*Schreiber, supra*, 69 Cal.App.5th at 556.) The Density Bonus Law includes very limited exceptions to its requirements and places the burden on a city to establish an exception applies.

As discussed above, the Density Bonus Law “incentivizes the construction of affordable housing by allowing a developer to add additional housing units to a project beyond the zoned capacity and secure other incentives in exchange for a commitment from the developer to include deed-restricted affordable units in the project. When a developer meets the requirements of the Density Bonus Law, a local government is obligated to permit increased building density, grant incentives, and waive any conflicting local development standards unless certain limited exceptions apply.” (*Bankers Hill 150, supra*, 74 Cal.App.5th at 763.) Here, the Project is eligible for a density bonus. For proposing a 100% affordable housing project, Government Code Section 65915(f)(3)(D) allows for up to an 80% increase from base density. Although the Project could achieve additional bonus units, the applicant choose not to utilize the full density bonus and proposes a project of 36 units with an FAR of 0.88 instead of the maximum allowed 1.0 FAR. As discussed above, the applicant has requested a number of incentives and waivers of development standards. Each of these incentives and waivers complies with State law and the Agenda Report provides “the

requested concessions are appropriate and will result in identifiable and actual cost reductions consistent with the State Density Bonus Law and the City’s ministerial requirements” and that “the proposed waivers will not result in any of the above adverse impacts and are appropriate to ensure that construction of the project as proposed is not physically precluded.”

B. The Project Meets the Requirements of the City’s Local Coastal Program.

Planning Staff has reviewed the Project for consistency with the Capitola Local Coastal Program and found that the Project is in conformance with and consistent with the Coastal Program. Planning Staff also found that the Planning Commission can affirmatively make the findings pursuant to Municipal Code section 17.46.090(D) to approve the Project’s Coastal Development Permit, including that: 1) the project is consistent with the LCP land use plan, and the LCP implementation program including Section 30213 in that the Project provides housing opportunities for persons of low and moderate income, 2) the project maintains public views because the Project has no permanent impact on view or coastal access, 3) the proposed project has no impact on coastal vegetation, habitats, or resources, 4) the project has no adverse impact on recreation access or cost, 5) the Project does not adversely impact opportunity for visitors to the City, 6) the Project does not have a negative impact on coastal resources because it is not adjacent to coastal areas and does not impede coastal access, 7) the Project’s design, location, size, and operating characteristics are consistent with all applicable design plans and/or area plans incorporated into the LCP because the proposed multifamily project is consistent with the LCP and allows Capitola to produce needed affordable housing units in an area that is zoned for this type of use, and 8) the Project is consistent with the LCP goal of encouraging appropriate coastal development and land uses, including coastal priority development and land uses (i.e., visitor serving development and public access and recreation) because the Project will not obstruct public access and has no impact on recreation or visitor opportunities and experiences. The Project allows the City to produce affordable housing and deliver required RHNA units to the region.

IV. THE HOUSING ACCOUNTABILITY ACT REQUIRES THE CITY TO APPROVE THE PROJECT.

A. Housing Accountability Act Background.

The Housing Accountability Act, Government Code Section 65589.5, *et seq.*, (“HAA”) was enacted by the California Legislature in 1982 to encourage the development of more housing in California.² The HAA establishes limitations to a local government’s ability to deny, reduce the density of, or make infeasible housing development projects that are

² The HAA has been amended multiple times to strengthen its provisions, including amendments expanding the potential consequences for violations of the HAA, such as increasing minimum fines for a local agency’s failure to comply with the HAA.

consistent with objective local development standards and contribute to meeting housing needs. Generally, the HAA provides that when a proposed housing development complies with applicable objective general plan, zoning, and development policies³, the local agency may disapprove the project (or approve it on condition that it be developed at lower density) ***only if*** the local agency finds that the project would have a specific, adverse, and unavoidable impact on public health or safety. (*California Renters Legal Advocacy and Education Fund v. City of San Mateo* (2021) 68 Cal.App.5th 820 (*CARLA*); *Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, 1074-75; Gov. Code, § 65589.5(j)(1).)

The HAA provides additional protections for projects that contain housing affordable to very low-, low- or moderate-income households, including farmworker housing or emergency shelters. State policy prohibits local governments from rejecting or otherwise making infeasible these types of housing development projects, including emergency shelters, without making additional specific findings.

HAA declares that “it is the policy of the state that [the HAA] should be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.” (§ 65589.5, subd. (a)(2)(L).)

B. The Project Meets the Housing Accountability Act Eligibility Requirements and None of the Exceptions to the Housing Accountability Act Apply, Therefore the City Must Approve the Project.

In order for a housing development to qualify for the protections under the HAA, a project must meet the definition of a “housing development project.” The HAA defines a “housing development project” as a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. Because the term “units” is plural, a development must consist of more than one unit to qualify under the HAA. Further, in order to qualify as a housing development affordable to lower- or moderate-income households, the project must, among other options, be a project in which at least 20 percent of the total units are sold or rented to lower income households.⁴

Here, the project consists of a 36-unit, one hundred percent (100%) affordable housing development, with permanent low-income housing. Thus, the Project meets the threshold conditions for protection under the HAA as an affordable housing development

³ “For purposes of this section, a housing development project ... shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project ... is consistent, compliant, and in conformity.” (Gov. Code, § 65589.5(f)(4); emphasis added.)

⁴ Lower-income households are those persons and families whose income does not exceed that specified by Health and Safety Code, § 50079.5, 80 percent of area median income. (Gov. Code, § 65589.5(h).)

project. Thus, the City may only apply objective development standards, conditions, policies, fees, and exactions to the Project. Objective standards are those that involve no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official. (Gov. Code, § 65589.5(h)(8).)

Because the Project qualifies as an affordable housing development project under the HAA, the local agency may not disapprove the Project for, nor condition approval in a manner that renders the Project infeasible, unless it makes one of five specific findings, among them that the Project would have a specific, adverse impact on public health and safety⁵ or that the project is inconsistent with both the zoning ordinance and land use designation⁶ at the time the application was deemed complete. (Gov. Code, § 65589.5, subd. (d)(2) & (5).)⁷ Such a finding must be based on the “preponderance of evidence” in the record, meaning that the local agency must determine there is evidence supporting the finding that outweighs and is more convincing than the evidence on the other side. (See Gov. Code, § 65589.5, subd. (d).)

Further, for an affordable housing development project, if a local agency proposes to deny the housing development project because it has evidence a project would have a specific, adverse impact upon the public health or safety, the local agency must also find there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. Notably, the Legislature has declared that the conditions that would have a specific, adverse impact upon the public health and safety (as described in Section (d)(2)) **arise “infrequently.”** (Gov. Code § 65589.5(a)(3); emphasis added.)

Here, the Project was determined complete on December 14, 2022. Accordingly, that date triggered the timing provisions for the City to provide written documentation of inconsistency with any applicable plan, program, policy, ordinance, standard, requirement, or other similar provision. If the City considered the Project to be inconsistent, non-compliant, or not in conformity with any applicable plan, program, policy, ordinance, standard,

⁵ A “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

⁶ Inconsistency with the zoning ordinance or general plan land use designation or eligibility to claim a welfare exemption shall not constitute a specific, adverse impact upon the public health or safety. (Gov. Code, § 65915(d)(2).)

⁷ In addition, the local agency could also find that: (a) the City’s housing element is in compliance with HCD requirements and its RHNA has been met (permitted) or exceeded for all income categories proposed for project, or (b) denial is required to comply with specific state or federal law, and there is no feasible method to comply, or (c) the project is proposed on land zoned for agriculture or inadequate water or sewer.

requirement, or other similar provision, the City must have provided written notification and documentation of the inconsistency, noncompliance, or inconformity to the applicant within 30 days of a project application being deemed complete. If the local government fails to provide the written documentation within the required timeframe, the housing development project is deemed consistent, compliant and in conformity with applicable plans, programs, policies, ordinances, standards, requirements, or other similar provisions. (Gov. Code, § 65589.5(j)(2).)

Here, the City has reviewed this Project on multiple occasions and found that the Project was in conformity with and consistent with all applicable plans, programs, policies, ordinances, standards, requirements, or other similar provisions. In addition, the 30-day period for which the City had the ability to determine whether the Project is consistent with objective conditions, policies, fees, and exactions has passed. Accordingly, the City cannot find the Project inconsistent with City plans, ordinances and policies.

Further, there is no specific, adverse impact upon public health or safety warranting the disapproval of the housing development project or the approval of the Project upon the condition that it be developed at a lower density, as the Project meets all local and State requirements and does not pose a unique health or safety impact. Despite the allegations by some residents of potential increases in traffic by the Project, multiple reports by City consultants refute this allegation. Further, any traffic increase caused by the Project would not result in an adverse public health or safety impact which meets the strict requirements of State law. Accordingly, there is no connection between the affordable housing Project and increased safety impacts caused by Project traffic and, thus, there is no evidence, which can be supported by a preponderance of the evidence in the record, of a specific and adverse impact upon public health or safety caused by the Project.

Further, and as indicated above, the City continued the public hearing on the Project in order to further investigate potential “traffic impacts of the intersection in front of the Project site” at the Project’s curbcut on Capitola Road. Although we believe the City’s decision to continue the hearing based on unsubstantiated opinions about a potential safety impact at the intersection was not a proper reason to continue the hearing on the Project under the Housing Accountability Act because the City’s time period for determining whether the Project was inconsistent with objective local development standards had passed, the applicant voluntarily procured a third party peer review of its prior Traffic Study. In addition, the City commissioned Dudek to prepare an addendum to its prior review of the Project. In sum, these two additional studies indicate that there is no safety impact caused by the Project or the proposed Project ingress/egress along Capitola Road. Not only is the Project considered a “very low traffic generator” in which “[t]here will be relatively low traffic volumes entering/exiting the driveways on the north leg of the intersection ... there is adequate to good sight distance from all approaches of the driveway with well-marked crosswalks.” Further, the intersection is an all-way stop-controlled intersection and only two collisions had been reported in the last five years. In other words, the Project poses no adverse health or safety impact.

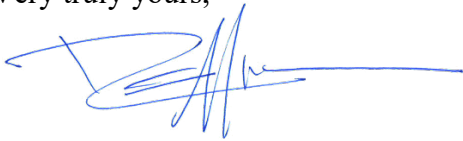
Finally, none of the other conditions listed in Gov. Code Section 65915(d), can be identified. First, the City's Housing Element is not in compliance with State Law and has not been approved by the Department of Housing Community Development and the City's RHNA numbers in the lower-income category have not been exceeded. Second, the Project complies with all applicable state or federal law. Lastly, the Project is not proposed on land zoned for agriculture or have inadequate water or sewer access.

In sum, the Project meets all applicable State and local plans, ordinances, policies, standards and other similar provisions. None of the conditions for disapproval as provided in the Housing Accountability Act are applicable to the Project. Accordingly, per the HAA, the Project must be approved.

V. CONCLUSION

We trust the above information will provide the sufficient explanation of the City's obligation under State law with respect to the Project. We appreciate your review of this Project and respectfully request that the Project will be heard and approved at the Planning Commission meeting on March 2, 2023.

Very truly yours,



Russell E. Morse

cc: Mr. Garrett Bascom, CRP Affordable Housing and Community Development
Ms. Katie Herlihy, AICP, Community Development Director, City of Capitola
Mr. Brian Froelich, Senior Planner, City of Capitola
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