



AGENDA *Revised*

CAPITOLA PLANNING COMMISSION

Thursday, December 7, 2017 – 7:00 PM

Chairperson Ed Newman
Commissioners Linda Smith
 Sam Storey
 TJ Welch
 Susan Westman

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

2. 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

3. APPROVAL OF MINUTES

A. Planning Commission – Regular Meeting – November 2nd, 2017 – 7:00 p.m.

4. 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. 210 Esplanade #17-0425 APN: 035-221-08 and 035-221-09

Conditional Use Permit to serve wine at the existing Capitola Hotel at 210 Esplanade located in the CV (Central Village) Zoning District.

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

Environmental Determination: Categorical Exemption

Property Owner: Corrie Sid

Representative: Corrie Sid, Owner. Filed: 10/25/17

5. 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. 4199 and 4205 Clares Street #17-006 APN: 034-222-05 and 06

Design Permit for a State Density Bonus application for a 10-unit residential project, which includes a conditional use permit for a tentative subdivision map for the 5 units on 4199 Clares Street. The project is within the RM-LM (Multi-family Low Density) zoning district.

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

Environmental Determination: Categorical Exemption

Property Owner: Clares Street Partners, LLC (4199 Clares) and Wenscot Partnership (4205 Clares)

Representative: Bill Kempf, Architect. Filed: 1/23/2017

Attachment 1 Revised

B. 115 Saxon Avenue #16-115 APN: 036-131-02

Plan revision to a previously approved Design Permit for remodel and addition to a single-family dwelling in the R-1 (Single-Family) zoning district.

The project is located in the Coastal zone and received a coastal permit on February 2, 2017.

Property Owner: Brian Wiese & Diane Krigel Filed: 11.29.2017

Representative: Derek Van Alstine

6. DIRECTOR'S REPORT**7. COMMISSION COMMUNICATIONS****8. 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 Design Permit 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 five hundred dollar (\$500) 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 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 FINAL MINUTES
CAPITOLA PLANNING COMMISSION MEETING
THURSDAY, NOVEMBER 2, 2017
7 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

1. ROLL CALL AND PLEDGE OF ALLEGIANCE
2. ORAL COMMUNICATIONS
 - A. Additions and Deletions to Agenda – None
 - B. Public Comments – None
 - C. Commission Comments – None
 - D. Staff Comments – None
3. PRESENTATION
4. APPROVAL OF MINUTES
 - A. Planning Commission - Regular Meeting - Oct 5, 2017 7:00 PM

MOTION: Accept minutes with corrections

RESULT:	ACCEPTED AS AMENDED [UNANIMOUS]
MOVER:	Linda Smith, Commissioner
SECONDER:	Susan Westman, Commissioner
AYES:	Smith, Newman, Welch, Westman, Storey

5. CONSENT CALENDAR – NONE
6. PUBLIC HEARINGS

- A. **4199 and 4205 Clares Street #17-006 APN: 034-222-05 and 06**
 Design Permit for a State Density Bonus application for a 10-unit residential project, which includes a conditional use permit for a tentative condominium map for the 5 units on 4199 Clares Street. The project is within the RM-LM (Multi-family Low Density) zoning district.
 This project is not located in the Coastal Zone and does not require a Coastal Development Permit.
 Environmental Determination: Categorical Exemption
 Property Owner: Clares Street Partners, LLC (4199 Clares) and Kathleen Hazen (4205 Clares)
 Representative: Bill Kempf, Architect. Filed: 1/23/2017

After the presentation by Senior Planner Katie Herlihy, and further discussion by the Planning Commission, it was moved to continue this project to the next regular meeting in order to address questions related to the density bonus and the parking and traffic concerns raised during public comment.

Minutes Acceptance: Minutes of Nov 2, 2017 7:00 PM (Approval of Minutes)

Applicant representative and partner in the 4199 Clares Street property, Bill Kempf, spoke about the project's background.

Joseph Lee, resident of 4180 Clares Street, asked if there would be Articles of Incorporation regarding the Homeowners' Association (HOA) and restrictions on using the garage for storage because he is concerned about parking.

Dan Breedon, 2111 Seven Gables Way, expressed concern about parking and the traffic on Clares Street and the lack of crosswalks could potentially create a hazard.

Revnon Varene, 4220 Trotter Street, expressed concern about noise and privacy due to height of project, traffic, parking and density.

Sydney Breedon, 2111 Seven Gables Way, expressed concern about privacy, the fence, and the lack of maintenance and possible removal of the existing trees, and the traffic. The change of the light at 41st Avenue causes a backup on Clares to the point that they are not able to get in and out of their driveway when drivers are not able to make a right-hand turn from Clares Street onto 41st Avenue between the hours of 10 a.m. to 6 p.m. She would recommend taking out the U-turn at 41st Avenue as it has caused a backup. She is also concerned about the lack of crosswalks, and the noise, dust and dirt during construction.

Olga Gayton, 2101 Seven Gables Way, is concerned about the impact to her property as the project is next to her backyard, including privacy, noise, cars and additional people. Traffic volume on Clares is a huge issue. She is also concerned that there is no crosswalk and with the additional traffic from the new Library, and about the proposed shared driveway adding to the density bonus.

Commissioner Westman asked Public Works Director Steve Jesberg about plans for Clares Street improvements and other traffic calming measures, and if these plans would reduce the number of parking spaces and the estimate or timeframe. Director Jesberg stated that they are still finalizing plans and looking at adding traffic islands and the addition of pedestrian crossings at 42nd and 46th, which may result in some impact to parking. It is unknown when this project will be ready as it is currently unfunded but a CDBG grant application will be submitted in the next couple of months. Commissioner Storey asked if there would be an opportunity to re-evaluate the no right turn from Clares onto 41st Avenue designation if it is causing issues as was reported by the residents. Director Jesberg agreed to request that the Police Department monitor the situation and to pass on the findings to the City Council. Commissioner Welch added that he agreed with the resident's recommendation to consider eliminating the U-turn at the intersection.

Commissioner Westman expressed her concerns about potential issues in looking at the project as two properties and one application, landscaping, design, garbage enclosures, retaining wall, and parking. Chairperson Newman commented on the difference between a condominium project and shared access. Commissioner Westman wanted to confirm that it would be possible to condition the projects to be built at the same time and both would need to be completed before occupancy permits would be issued for the new units. Commissioner Welch shared some of the same concerns regarding the parking, access and Section 8 rent limitations. Commissioner Smith also shared those

concerns. She also noted that the graphic in the arborist’s report showed trees that were disappearing and may be misleading. Commissioner Storey asked about adding a condition to have HOA rules and rental contracts include stipulation that garages be utilized for parking and not be used for storage. He was also concerned that the landscape plan seemed vague, considering the privacy concerns. He also commented on the density bonus, which is required by State law. He would also like to verify whether 4205 Clares Street is allowed to designate an existing unit as the low-income unit, as opposed to one of the new construction. He also would like to include Commissioner Westman’s recommended stipulations and would like to consider continuation of this project until both properties receive their will-serve letters from their respective water agencies and to review how the density bonus formulas are applied.

Commissioner Newman had concerns about whether the condominium conversion ordinance would apply and the way that this has been brought forward.

Commissioner Westman concurred with Commissioner Storey’s recommendation to continue this project to the next meeting in order to consider the landscape plan, the proposal for the retaining walls in the front, and how the density bonus formula is applied. She stated that while most agreed that this was a good project, and while the applicant has heard the concerns and received more positive feedback than negative, with most of the comments being minor, the legal concern regarding the density bonus formula calculation that was applied to 4199 Clares Street and the related questions regarding the condominium map were worth continuing the item.

Commissioner Welch doesn’t really see the need to continue this item and feels it is a good project, and that concerns can be addressed without wasting more time and money.

MOTION: Continue to next regular Planning Commission meeting in December

RESULT:	CONTINUED [4 TO 1]
MOVER:	Sam Storey, Commissioner
SECONDER:	Susan Westman, Commissioner
AYES:	Smith, Newman, Westman, Storey
NAYS:	Welch

B. 836 Bay Avenue #17-0304 APN: 036-011-17

Design Permit and Conditional Use Permit for a new car wash and outdoor display of goods at the existing Chevron Gas station 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: Akhtar Javed

Representative: Kurt Wagenknecht

New Assistant Planner Matt Orbach presented the project at 836 Bay Avenue after introducing himself and adding that the architect was also in attendance.

Minutes Acceptance: Minutes of Nov 2, 2017 7:00 PM (Approval of Minutes)

Applicant representative Dennis Norton addressed the Commission explaining that this project is a water conservation improvement, includes a visual and sound buffer, and is environmentally sound.

MOTION: Approve Design Permit and Conditional Use Permit with the following conditions and findings:

CONDITIONS

1. The project approval consists of a conditional use permit for the construction of a 972 square-foot car wash and 92 square feet of outdoor display of goods. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on November 2, 2017, except as modified through conditions imposed by the Planning Commission during the hearing.
2. At time of building permit, the applicant shall provide documentation verifying that the Proto-Vest “Windshear®” drying system with a silencer will be installed in the car wash to decrease the impacts of noise on the site.
3. At the time of building permit submittal, pavers or stamped concrete must be included to clearly delineate/identify the area permitted within the conditional use permit for outdoor display. The outdoor display areas are limited to the footprint shown on the approved plans. 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. 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
5. 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.
6. At time of submittal for building permit review, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.
7. 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.
8. 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.
9. Prior to issuance of building permit, all Planning fees associated with permit #17-0340 shall be paid in full.

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, Soquel 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.
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, applicant shall replace the existing rock siding on the food mart with rock siding that matches the rock siding on the new car wash building.
18. 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.
19. The outdoor display merchandise shall be the merchandise of the food mart only. The outdoor display area shall be managed by the food mart staff.
20. All outdoor display merchandise shall only be displayed during business hours.
21. 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.

22. Outdoor vending machines and drop boxes or donation bins shall be prohibited.
23. 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".
24. All outdoor displays 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.
25. All outdoor displays shall be tasteful and assist in creating a top-quality shopping environment.
26. 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.
27. 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.
28. 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.

FINDINGS

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

Community Development Department 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 CC (Community Commercial) Zoning District. 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 Department 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 CC (Community Commercial) Zoning District and 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 15332 of the California Environmental Quality Act.

Section 15332 of the CEQA Guidelines exempts projects characterized as in-fill developments meeting the following conditions:

- a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- c. The project site has no value as habitat for endangered, rare, or threatened species.
- d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

The applicant has designed the site layout and structures to minimize and mitigate the noise impacts of the proposed car wash.

- e. The site can be adequately served by all required utilities and public services.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Linda Smith, Commissioner
SECONDER:	Sam Storey, Commissioner
AYES:	Smith, Newman, Welch, Westman, Storey

C. Grand Avenue Pathway Closure #17-0380 APN: 036-135-01

Coastal Development Permit for a closure of the Grand Avenue pathway between Oakland Avenue and Hollister Avenue due to a bluff failure. The path would remain closed until a long term, permanent solution can be developed.

This project is in the Coastal Zone and requires a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: City of Capitola

Representative: Steve Jesberg, PW Director

The staff report was presented by Assistant Planner Matt Orbach.

Mr. Jesberg discussed the concerns about the potential failures in the various blocks. In response to Commissioner Storey’s question about the lower beach portion, Director Jesberg stated that the beach area is mostly a City-owned parcel and signs are posted about the potential risk.

Katherine Parker, resident of Grand Avenue, addressed the Commission to request that the Commission encourage City staff and the City Council to utilize its expertise, leadership, and ability to communicate to gather consensus from all the residents, and to lead the

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discussion on this long-term, contentious, and complex issue in a positive and open manner, before taking proactive measures.

Tim Mathews, 108 Hollister, stated that closing the path is denying citizens the right to use the pathway on the City's property since it is unknown when the cliff would cave in and there is still viable access. Mr. Mathews reminded the Commission of a Coastal Commission letter that highly recommended that the path remain open.

Commissioner Smith was in favor to approve temporary closure to protect public safety until alternatives can be brought forward by a community citizen group.

Commissioner Welch was not in favor of keeping the pathway closed since it is still walkable, in keeping with Capitola's walkable identity, and in compliance with the Depot Hill Bluff Ordinance's maintenance chapter. He also stated that he felt that the citizen group should be open to more people, not just the Depot Hill residents.

Commissioner Westman agreed with Ms. Parker's comments to consider the input of the community, not just the people who live up on Depot Hill, and supports the recommendation to temporarily close the path during the process of developing a plan for how it will be open in the future.

Commissioner Storey stated that this is an important piece of Capitola history, in a beautiful environmental setting, and we should do whatever possible to keep it open and accessible to the public. However, the public's safety must be considered and he therefore supports the recommendation. He encouraged the citizen's committee to report and identify its schedule of activities and when they will come out with their recommendations. Commissioner Storey would recommends consideration of the same public safety measures at the bottom of cliff as on top, as it is equally as dangerous. He supports waiting on engaging on the question of recapturing those encroachments until we have more information from the citizens committee on its recommendation, and to include looking at taking back those encroachments to create a better buffer, which should be part of a future plan as it would be a benefit to both the residents and the community.

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

CONDITIONS OF APPROVAL

FINDINGS

- A. **The application, subject to the conditions imposed, secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**
Community Development Department Staff and the Planning Commission have reviewed the project and support the project as the emergency closure will ensure the safety of residents and visitors utilizing the Grand Avenue pathway while a long-term solution is worked out. The coastal development permit for the emergency closure conforms to the requirements of the Local Coastal Program and conditions of approval have been included to carry out the objectives of the Zoning Ordinance, General Plan, and Local Coastal Plan.
- B. **This project is categorically exempt under Section 15269 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

Section 15269 (c) of the CEQA Guidelines exempts specific actions necessary to prevent or mitigate an emergency. No adverse environmental impacts were discovered during review of the proposed 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 area is the final segment of Grand Avenue, the lateral access pathway that runs along the coastal edge of Depot Hill from Central Avenue to Hollister Avenue and provides public access to beautiful scenic views of the coastline. The pathway is situated the edge of the coastal bluff, approximately 90 feet above a small strip of beach along the Monterey Bay.
- Grand Avenue, which was formerly a city street with a walking path known as Lover's Lane on the seaward side (until the 1930's), has been utilized as a public walking path only from Central Avenue to Hollister Avenue for many years due to the precarious location of the road along the edge of the cliff.
- The project is a temporary closure of one section of the Grand Avenue pathway between Oakland Avenue and Hollister Avenue due to geologic instability. The closure is necessary to ensure public safety while a long-term solution is worked out. The project

is supported by the following sections of the Local Coastal Program:

- Policy II-1
 - It shall be the policy of the City of Capitola to provide safe and adequate pedestrian access to and along the shoreline as designated in the Shoreline Access Plan.
- SEC. 30253
 1. Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
 2. Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along cliffs and bluffs.

(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;

- Grand Avenue is located at the top of the coastal bluff on Depot Hill. The small strip of beach at the bottom of the bluff is only accessibly from the beach near Esplanade Park during low tide conditions. During the winter months, storm surf periodically washes away the sand at the base of the cliffs and makes it inaccessible. This wave scour process causes the bluff to episodically retreat, as the soil and bedrock erodes and fails in the form of shallow landslides, debris flows, and rock falls. Some landslides on the bluff are also caused by saturation of the marine terrace deposits soil that caps the underlying Purisima Formation bedrock.
- The project is a reaction to recent landslides caused by these natural processes. The project will restrict public access to the coastal path in order to ensure public safety.
- See attached Grand Avenue Limited Geological Investigation

(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);

- At the turn of the century, access along the top of the cliff was a tree-lined public path known as Lovers' Lane, on the ocean side of Grand Avenue. Lovers' Lane was lost in the 1930s because of cliff erosion.
- The blufftop walking path along Grand Avenue has been used by the public for more than a five-year period. The City of Capitola has maintained and improved the walking path for more than five years. Over the years, ongoing bluff erosion has slowly encroached on the path, limiting its easterly reach and constricting its width in certain areas. Erosion will continue along the entire bluff face of Grand Avenue and it is expected the entire path will eventually be lost.

(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 recent bluff failure created a physical impediment to public use of the last section of the walking path along Grand Avenue. The City's closure of the path is considered a necessary action in order to ensure public safety. In doing so, a section of the walking path that has traditionally been used by the public to walk along the coast and to see the shoreline will be made inaccessible.

(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 walking path that will be temporarily closed is on a bluff above the shoreline. The failure of the bluff, which caused the Grand Avenue pathway to become a public safety hazard, diminished the amount of public lands available for recreational use. The project, which involves closing the walking path, is necessary to ensure public safety while a long-term solution is worked out.

(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;

b. Topographic constraints of the development site;

c. 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.

- Not applicable.

(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 subject property is a publicly owned path; no legal documents are necessary to ensure public access rights are maintained.

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

- Policy IV-1
 - The project area is not in any of the designated visitor-serving and/or recreation areas, so this policy does not apply.
- Policy IV-2
 - The project is not in any of the designated visitor-serving and/or recreation areas, so this policy does not apply.
- Policy IV-3
 - The project area is not listed in this policy, so it does not apply.
- Policy IV-4
 - The city already owns and maintains the property, so this policy does not apply.

(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;

- Policy II-1
- It shall be the policy of the City of Capitola to provide safe and adequate pedestrian access to and along the shoreline as designated in the Shoreline Access Plan (see Maps II-1,2, and 3).
 - The project is being undertaken to ensure public safety on the Grand Avenue pathway along the shoreline, so it complies with this policy.
 - The rest of the public access policies in the LCP are not applicable to this project.
 - CA Pub Res Code § 30210 (2016)
- In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.
- The project is predicated on the need to protect public safety in the project area, so the project complies with this section of the California Coastal Act.

(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 is not subject to architectural and site review.

(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 recent bluff failure created a physical impediment to public use of the last section of the walking path along Grand Avenue. The City's closure of the path is considered a necessary action in order to ensure public safety. The project will restrict access to a portion of a public walking path known for its views of the Capitola shoreline, but it will not block or detract from the public views to and along Capitola's shoreline from the rest of the path.

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

- Not applicable.

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

- Not applicable.

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

- Not applicable.

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

- Not applicable.

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

- Not applicable.

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

- Not applicable.

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

- Not applicable.

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

- Not applicable.

(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;

- A limited geologic investigation of the Grand Avenue pedestrian path in the project area was performed by Zinn Geology.

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

- The project is a public safety measure to restrict access to a geologically hazardous section of a recreational path.

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

- Not applicable.

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

- Not applicable.

(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:

- Not applicable.

RESULT:	APPROVED [4 TO 1]
MOVER:	Susan Westman, Commissioner
SECONDER:	Linda Smith, Commissioner
AYES:	Smith, Newman, Westman, Storey
NAYS:	Welch

D. 2005 Wharf Road #17-055 APN: 034-541-34

Design Permit to construct a new public library and demolish the existing library, located in the PF-F/P (Public Facilities-Facilities/Park) zoning districts.
 This project is not in the Coastal Zone and does not require a Coastal Development Permit.
 Environmental Determination: Categorical Exemption
 Property Owner: City of Capitola – Steve Jesberg, Project Manager
 Representative: Dave Tanza, filed: 4/6/2017

Senior Planner Herlihy presented gave a brief project overview. The presentation was continued by Public Works Director Steve Jesberg, who subsequently introduced project manager Mati Teiblum from Noll & Tam Architects for a detailed project overview.

Commissioner Storey disclosed that he was on the Library's capital campaign committee. He asked about the Infrastructure around the building and noted there was no sidewalk shown around the building on Wharf Road. Director Jesberg confirmed this and stated the intent is to direct foot traffic to Clares Street to access the library.

Commissioner Westman asked if the building would have heat and air conditioning. Mr. Teiblum responded that it is still under discussion. Building codes only require heating but the engineer's analysis, taking into consideration the natural lighting and ventilation, local weather conditions, occupancy, and other factors, is to recommend a mechanical air conditioning system.

Commissioner Welch asked about a proposal for shared parking with the Rispin property. Director Jesberg explained that was part of a proposed hotel, which is no longer an option.

Commissioner Smith noted that there were some differences in the plans and the presentation documents, and clarified that the plan is for 39 parking spaces, not 40. She requested that the presentation documents be incorporated into the record, to reflect what is being considered. She would like to condition that if there is no mechanical air conditioning that the window openings and level of detail of what's thermostatically controlled get vetted out.

Commissioner Westman requested to add condition that building will be climate controlled with appropriate heating and air conditioning in the design.

Commissioner Welch asked whether plans included a generator, especially if this would be considered a potential alternate emergency operations center (EOC). Director Jesberg commented that there are no generator plans and the City is considering other locations for use as an alternate EOC.

Commissioner Westman suggested revisiting parking issues at the Rispin property.

Commissioner Storey noted that the line of sight coming out of the driveway and turning left, exceeds the minimum standards, according to the traffic study by Kimley Horn, but may require more police presence and monitoring of the traffic on Wharf Road.

Commissioner Welch is not in favor of the project due to funding concerns and was not able to support this on principal.

Commissioners Smith and Westman disclosed that they are also on the library's honorary committee.

MOTION: Approve the Design Permit as documented and presented with the following amended conditions and findings:

CONDITIONS OF APPROVAL

1. The project approval consists of a new 11,700 square foot Library in the Public Facilities zoning district. The proposed project is approved as indicated on the plans reviewed and approved by the Planning Commission on November 2, 2017, except as modified through conditions imposed by the Planning Commission during the hearing.
2. The building will be climate controlled with heating and air conditioning.
3. 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
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. Any significant changes to the size or exterior appearance of the structure shall require City Council 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 a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
9. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, prepared by a prepared by a registered civil engineer, shall be submitted to the City and approved by the Public Works Director. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.

10. 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).
11. 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. All temporary sediment and erosion control best management practices (BMPs) shall be maintained throughout the project duration.
12. 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 4 project for review and approval by the Public Works Director.
13. 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, approval by the Public Works Director.
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.

FINDINGS

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**
Community Development Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the Library plans. The Library project conforms to the development standards of the PF/ (Public Facility) Zoning Districts. 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 Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the plans for the new Library. The library has been designed with a nautical theme with landscaping that relates to the natural surroundings. The new library will provide a community benefit that will enhance the character and integrity of the neighborhood.
- 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 provides an exemption from additional environmental review for projects that are consistent with established 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.

RESULT:	APPROVED AS AMENDED [4 TO 1]
MOVER:	Linda Smith, Commissioner
SECONDER:	Susan Westman, Commissioner
AYES:	Smith, Newman, Westman, Storey
NAYS:	Welch

7. DIRECTOR'S REPORT

Director Grunow apologized for neglecting to introduce new Assistant Planner Matt Orbach at the beginning of the meeting since he's been here for a while now. We also have an interim Building Official, Brent Hipsher, starting with us next week as a contract employee. The Community Development Department is continuing to plod along with several ordinance updates at the Council level including the Subdivision and Wireless ordinances and hope to have them adopted in the next month, and the Zoning Ordinance update will be considered by the City Council for adoption on November 21, 2017.

8. COMMISSION COMMUNICATIONS - NONE**9. ADJOURNMENT**

Jacqueline Aluffi, Clerk to the Commission

Minutes Acceptance: Minutes of Nov 2, 2017 7:00 PM (Approval of Minutes)



STAFF REPORT

TO: PLANNING COMMISSION
 FROM: COMMUNITY DEVELOPMENT
 DATE: DECEMBER 7, 2017
 SUBJECT: **210 Esplanade #17-0425 035-221-08 and 035-221-09**

Conditional Use Permit to serve wine at the existing Capitola Hotel at 210 Esplanade located in the CV (Central Village) Zoning District. This project is in the Coastal Zone but does not require a Coastal Development Permit.
 Environmental Determination: Categorical Exemption
 Property Owner: Corrie Sid
 Representative: Corrie Sid, Owner. Filed: 10/25/17

APPLICANT PROPOSAL

The applicant submitted a Conditional Use Permit (CUP) to sell wine at the existing Capitola Hotel located at 210 Esplanade in the CV (Central Village) zoning district. The proposed use is consistent with the General Plan and Zoning Ordinance with the issuance of a Conditional Use Permit.

BACKGROUND

The Capitola Hotel is adjacent to the Mercantile, across the street from Margaritaville and Paradise Beach Grille, and a few steps to Capitola Beach and Esplanade Park.

The property includes two parcels, APN 035-22-108 and APN 035-22-109, which are separated by a strip of the adjacent Mercantile parcel that connects to the sidewalk. The strip runs down the middle of the patio that is utilized by the Capitola Hotel and their guests. The applicant has an agreement with the adjacent property owner allowing the hotel to utilize the walkway and patio area. The back walkway has a curtain at the front to separate it from the patio and at the back there is a gate separating the walkway/trash area from the parking lot. That portion of the walkway appears to be for employees only.

DISCUSSION

The applicant is requesting approval of a CUP to add wine sales to the existing hotel. The applicants will file for a Type 67 Bed and Breakfast Inn license with the Department of Alcoholic Beverage Control (ABC), but must have an approved CUP prior to action by ABC. The Type 67 Bed and Breakfast Inn license:

Authorizes the sale of wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment for consumption on the premises. No beer or distilled spirits may be on the premises. Wine shall not be

given away to guests, but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Removal of wine from the grounds is not permitted. Minors are allowed on the premises.

The Capitola Hotel plans to offer a wine and cheese service for hotel guests for 1-2 hours every day. The service will be included as part of the room rates and will be communicated as such to guests in the confirmation letter, registration card, and exit folio. The applicant submitted a floor plan indicating that the guests would be able to enjoy their wine and cheese both in the lobby and on the patio as well. The applicant's management plan also included offering unopened bottles of wine for sale to guests asking to have the beverage placed in their hotel room prior to their arrival and the possibility of hosting private group events for registered guests of the hotel which could include wine with catered meals. All of the proposed plans are consistent with the requirements of the Type 67 Bed and Breakfast Inn license.

Chief of Police, Terry McManus, has reviewed the application, conducted a site visit, and made findings that support the approval of the conditional use permit for a Type 67 license at 210 Esplanade. Chief McManus also provided a 'letter of necessity and convenience' for the project, which is required by the ABC if the application is for a location in a high crime area and/or a census tract with an over-concentration of "off-sale" alcohol outlets.

The alcohol permit will not increase the intensity of use on the site, therefore no additional parking is required.

The Inn at Depot Hill has the only other Type 67 permit in the City of Capitola.

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 the sale of alcohol 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 #17-0425, subject to the following conditions and based upon the following findings:

CONDITIONS OF APPROVAL

1. The project approval consists of a Conditional Use Permit to wine sales at the existing Capitola Hotel within a commercial space located at 210 Esplanade. No modifications to the size of the operation or the exterior of the structure are proposed within the application. Any significant modifications to the size or exterior appearance of the existing design require approval of a Design Permit by the Planning Commission.
2. A copy of the approved Department of Alcoholic Beverage Control Permit must be filed with the Community Development Department prior to initiating wine sales.
3. The applicant shall receive permission from ABC prior to November 2, 2019. 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.

4. 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.

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 Capitola Hotel may be granted a conditional use permit for the sale of alcohol within the CV Zoning District. The use meets the intent and purpose of the Central Village 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. 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 hotel with the additional use of wine sales. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

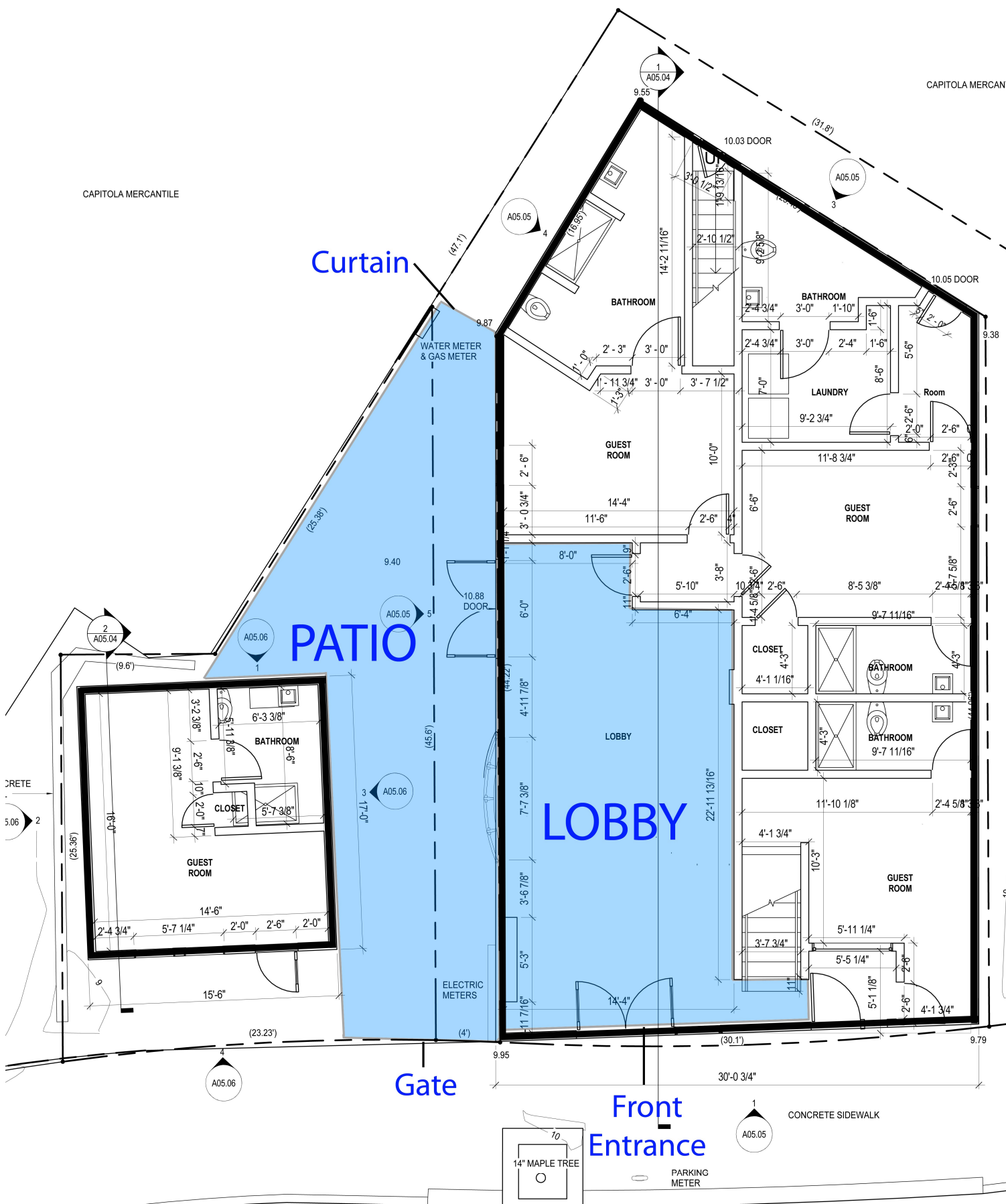
D. The use is consistent with the General Plan and will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the neighborhood and the city.

The applicant is not proposing an increase in size or an expansion of the use of the existing hotel. The use will remain as a hotel with the addition of alcohol sales to enhance the experience and meet the needs of their guests. The addition of wine sales within a hotel will not be detrimental to the surrounding neighborhood or the City.

ATTACHMENTS:

1. Attachment 1 - Proposed Wine Service Area
2. Attachment 2 - Capitola Hotel II Proposed Business Plan for Wine Service
3. Attachment 3 - CPD PCN Capitola Hotel Ltr to ABC - Signed
4. Attachment 4 - Parcel Between Project Parcels

Prepared By: Matt Orbach
Assistant Planner



Attachment: Attachment 1 - Proposed Wine Service Area (210 Esplanade)

Capitola Hotel Business Plan for Wine Service

The Capitola Hotel plans to offer a wine and cheese service in the lobby. The service will consist of offering cheese and wine in the lobby to our guests for 1 – 2 hours every day. The team members will prepare a cheese and meat tray and will open a bottle of wine in ice near the food. Registered guests will be able to help themselves to the food and wine or beer while it is out. The team member will not pour the wine for the guests. The team members will be onsite and in the lobby while the service is offered. The team member will end the service by taking away the cheese tray and wine once the service has ended. The service will be included as part of the room rates and will be communicated as such to guests in the confirmation letter, registration card, and exit folio.

Also, Capitola Hotel team members will offer unopened bottles of wine for sale to guests asking to have the beverage placed in their hotel room prior to their arrival. The team members will communicate the cost of this offering and offer to and therefore charge the credit card on file. The team member will place the unopened beverage in the room with a celebration card from the hotel or the guest.

The Capitola Hotel is also interested in hosting group events for registered guests and may offer wine as part of the event. The event would be offered as a private event only for guests staying at the hotel. For example, the entire hotel may be booked by a group for one or more nights and registered guests for that group may decide to have a private catered dinner at the hotel and wine might be served at the event.



TERRY MCMANUS
CHIEF OF POLICE

422 CAPITOLA AVENUE
CAPITOLA, CALIFORNIA 95010
TELEPHONE (831) 475-4242
FAX (831) 479-8881

November 6, 2017

District Administrator
California Department of Alcoholic Beverage Control
1137 Westridge Parkway
Salinas, CA 93907

Reference: The Capitola Hotel
210 Esplanade, Capitola, CA 95010 (Proposed location)
On Sale Wine – Bed and Breakfast

Dear Administrator:

The applicant, The Capitola Hotel II, LLC, applied to the City of Capitola on October 25, 2017, 2014, for a use permit to conduct business at 210 Esplanade, Capitola, California. Their letter indicates the Capitola Hotel will be offering wine as part of reservation costs under a Type 67 alcohol beverage license. They do not intend to sell "hard liquor" or other types of alcoholic beverage.

The proposed business is located in police responsibility area 4401 and U.S. census tract number 1218.00. The site is in a high crime area and the census tract is over-concentrated (8 licenses authorized and 22 currently existing) with "off sale" alcohol outlets, thus requiring a letter of necessity and convenience.

The Local Governing Body has determined, pursuant to §23958.4 of the Business and Professions Code, that the applicant serves the public convenience (§23958.4 b(2) B & P) and California Department of Alcoholic Beverage Control (A.B.C.) should approve an alcohol license Type 67, on-sale wine – Bed and Breakfast to the above captioned applicant.

This letter is being issued with the understanding that conditions placed by the City of Capitola on the businesses' special use permit, be incorporated in the on-sale wine license issued by ABC.

In 1994, the California legislature provided amendments to the law that allowed for local control of some alcohol licenses. The purpose of this legislation is to help fight blighted and crime-impacted areas. The City Council appointed the Chief of Police as the local governing body in decisions related to public convenience or necessity in the issuance of certain alcohol licenses as required by section §23958.4 B. & P.

In the several years that we have been working with these new laws, we have applied the law of undue concentration and high crime areas as defined by the legislation. As part of our review, we look at all the circumstances that could be negative or positive about the determination of convenience or necessity.

We also weigh both sides as it applies to specific location in the City and the specific applicant. Does the proposed establishment fit the goals of the city? Does the proposed establishment promote rather than detract from economic goals, plans, or redevelopment of the city? Does the proposed establishment pose a law enforcement or public health problem? Does the establishment help alleviate blight or a crime affected area?

In making the decision of public convenience or necessity in the aforementioned application, the following facts were considered and weighed

1. The business has currently operated successfully within the City of Capitola without any police related issues.
2. The company participates in an employee training program, with curriculum that includes not only business-related activities but also a section on ABC Laws. The business is committed to training people and has agreed to take part in future ABC LEADS (Licensee Education on Alcohol and Drugs) workshops.
3. The Capitola Police Department has conducted a site visit of the company's current location and found it to be a professional looking, clean, well-run business, which fits with the types of businesses the City supports in our community.

In summary, The Capitola Hotel has been an existing and successful business in the Village area of the City of Capitola, and I believe they will continue their success and provide positive economic vitality to the City with very few public safety concerns.

Sincerely,



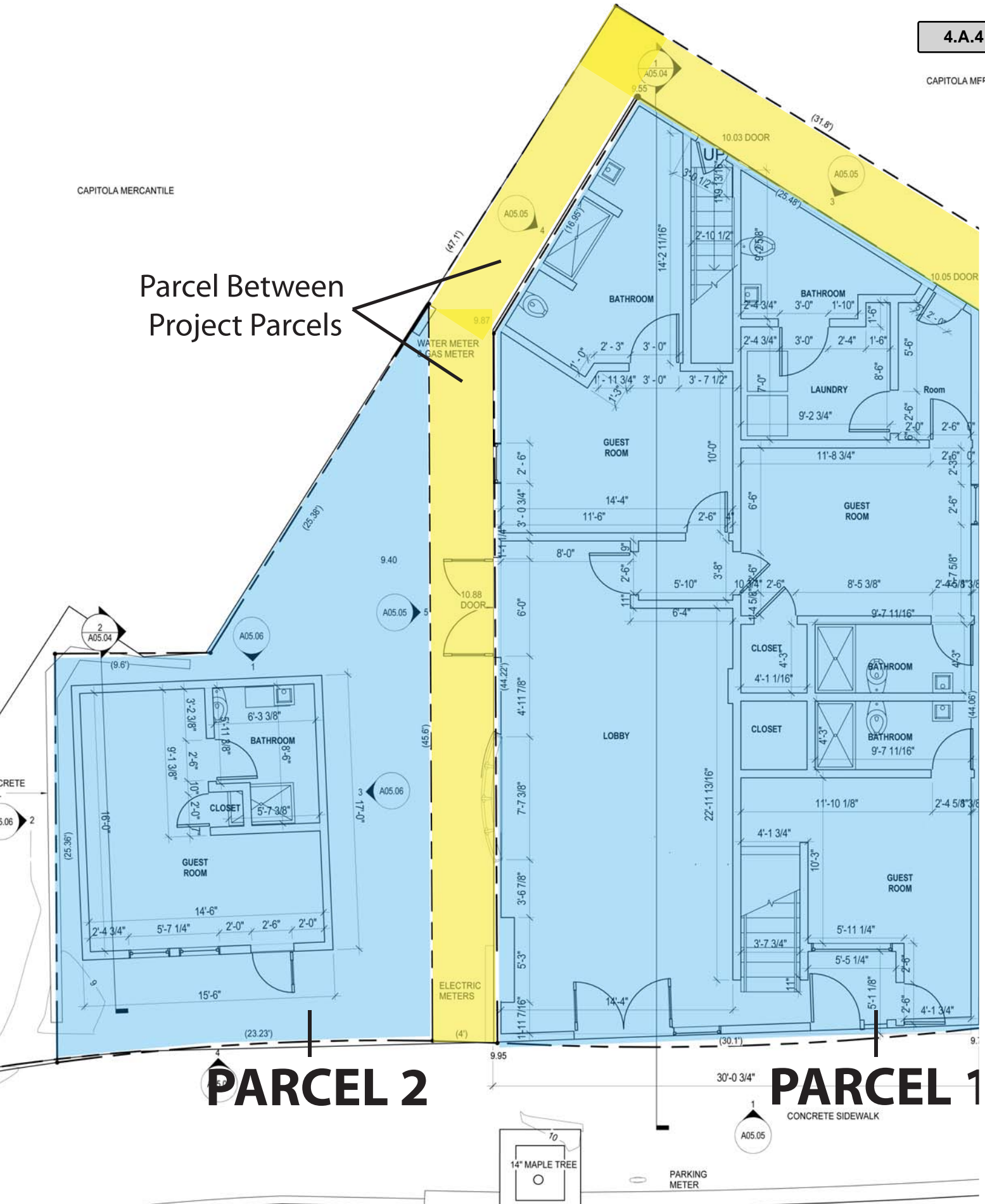
Terry McManus
Chief of Police

cc: Katie Herlihy, Senior Planner, Community Development Department

TWM/tm

CAPITOLA MERCANTILE

Parcel Between Project Parcels



Attachment: Attachment 4 - Parcel Between Project Parcels (210 Esplanade)



STAFF REPORT

TO: PLANNING COMMISSION
 FROM: COMMUNITY DEVELOPMENT
 DATE: DECEMBER 7, 2017
 SUBJECT: **4199 and 4205 Clares Street #17-006 APN: 034-222-05 and 06**

Design Permit for a State Density Bonus application for a 10-unit residential project, which includes a conditional use permit for a tentative subdivision map for the 5 units on 4199 Clares Street. The project is within the RM-LM (Multi-family Low Density) zoning district.

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

Environmental Determination: Categorical Exemption

Property Owner: Clares Street Partners, LLC (4199 Clares) and Wenscot Partnership (4205 Clares)

Representative: Bill Kempf, Architect. Filed: 1/23/2017

APPLICANT PROPOSAL

The proposal includes a Design Permit for a State Density Bonus application for a 10-unit residential project for five units located on 4199 Clares Street and five apartment units on 4205 Clares Street. The project will create a shared access between the two properties. The proposed project would result in one deed-restricted affordable units on each parcel.

Development of 4199 Clares Street would include remodeling the existing duplex at the rear of the lot, demolishing the existing single-family residence at the front of the lot, and building one single-family home and one duplex townhome. The 4199 Clares Street application includes a tentative map for a major subdivision to create five legal lots of record. There will be a net increase of two units on the parcel.

4205 Clares Street would be developed with a new duplex at the rear of the lot. The triplex at the front of the lot will remain with minor upgrades to the exterior. The two parcels are in the RM-LM (Residential Multi-Family, Low-Medium Density) Zoning District. The property will remain a single parcel under single ownership.

BACKGROUND

On November 2, 2017, the Planning Commission reviewed the application and continued the item to the December 7th meeting. The Planning Commission had several requests for additional information and minor modifications to the plans from the applicant. The November 2, 2017 staff report with the full analysis of the project is included as attachment 3. Additional information requested by the Planning Commission is the subject of this report. One major change that impacts the original analysis is the owners' decision to modify the project on 4199

Clares Street from airspace condominiums to a conventional subdivision with townhomes. This modification impacted setbacks and lot dimension standards as well as removing the need to comply with condominium conversion requirements.

During the November 2, 2017 meeting, the Planning Commission provided the following comments and direction:

1. Confirm calculation of base density as it applies to state density bonus law.
2. Confirm that the deed restricted rental unit can be an existing apartment.
3. Modify condition for affordable rental unit to ensure if the Section 8 program were to be discontinued the unit would remain affordable for 55 years.
4. The projects are interconnected. Add condition to require the project be built simultaneously.
5. Update the site plan to include matching retaining walls for both properties along street frontage and identify/create garbage enclosure areas.
6. Update the landscape plan to position trees to protect privacy of surrounding neighbors and provide a natural screen over the triplex back wall.
7. All railings on triplex should match.
8. Modify the condition of approval for the deed restricted condo unit at 4199 Clares Street to adhere to Capitola’s established affordable housing resale requirements as offered by the developer.
9. Require that garages are utilized for parking. Add condition that the HOA cannot amend this requirement within the CC&Rs without City approval.
10. Confirm that the Condominium map is correct and that a condominium conversion is applicable to the 4199 Clares Street project.

DISCUSSION

1. State Density Bonus Calculation

The Planning Commission asked staff to confirm the method utilized for identifying base density within the state density bonus calculation, specifically how to round the number if the base density includes a fraction. The state density bonus law specifies within §65915(q) that “Each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number”.

The base density was calculated utilizing the RM/LM zoning district requirement for minimum lot area per unit of 4,400 square feet. For each of the 15,850 square feet Clares Street properties, this equates to 3.6 units per parcel. Staff utilized 3.6 units per parcel as the base density. Pursuant to §65915(q), the base density should have been rounded up to 4 units. Rounding up the base density modifies the base density of the low-income rental project at 4205 Clares Street to a maximum of 6 units. The City Attorney reviewed the state code and concurs with staff that base density must be rounded up.

The following table updates the density calculations based on rounding up the base density:

Property	Community Benefit	Base Density	Density Bonus	Maximum Density
4199 Clares	Moderate Income Condo Unit	3.6 units 4 units	15%	4.14 units/parcel 4.6 units/parcel 5 units max
4205 Clares	Low Income Rental Unit	3.6 units 4 units	35%	4.86 units/parcel 5.4 units/parcel 6 units max

Furthermore, within §65915(o)(2), specifies “Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.” The general plan density for the multifamily zone is 20 units per acre. The density bonus under the general plan is 10 units for 4199 Clares and 11 units for 4205 Clares. The applicant is not seeking to maximize the density bonus. Although more units could be applied for, the applicant would like to proceed with the current application including 5 units on each parcel.

2. Deed Restricted Rental Unit

The one low income rental unit on 4205 Clares Street is proposed within the existing triplex. The Planning Commission asked staff to confirm that the state law does not require the deed restricted unit to be within a new unit. Staff and the City Attorney have reviewed the state law and there is no requirement specifying that an existing unit cannot be utilized as the affordable rental unit.

3. Ensure affordability if the Section 8 program were to be discontinued.

The property at 4205 Clares Street is required to be deed restricted to provide continued affordability of one low-income affordable housing rental unit for a period of no less than 55-years. Low-income household cannot exceed 80% of the median family income level for Santa Cruz County as published by California Department of Housing and Community Development.

The City does not have a program to qualify and monitor affordable rental units. Condition of approval #11, required that owner of 4205 Clares Street exclusively rent the affordable unit to a Section 8 voucher holder and provide an annual report to the City documenting compliance. This places the burden on the owner rather than the renter or the City. During the November 2nd meeting, the Planning Commission asked that the condition be altered to allow alternative options in the event that the Section 8 program were to be dissolved. Staff has modified condition of approval #11 to include “In the event that the Section 8 voucher program were to no longer exist, the Community Development Director will identify another method that the owner shall utilize to ensure income requirements are in compliance.”

4. The projects are interconnected and a condition should be added to require that they be built simultaneously.

To ensure the project is developed within a similar timeline, staff has added the following condition of approval. “12. The developments at 4199 Clares Street and 4205 Clares Street are interconnected with a shared access and complimentary designs. The building permit applications for the two projects must be submitted simultaneously. A Certificate of Occupancy will not be released on one property if the other property is not under construction.”

5. Update the site plan to include matching retaining walls for both properties along street frontage and garbage enclosure areas.

The existing retaining wall in front of 4199 Clares Street will no longer be present in the new design. The front yard will slope down away from the home and then gradually slope to the street. The front yard has been engineered for stormwater retention and no retaining wall is necessary. The property at 4205 Clares Street will have a cement retaining wall along the property line that extend up to one and a half feet above grade at the highest point.

6. Update the landscape plan to position trees to protect privacy of surrounding neighbors and provide a natural screen over the triplex block wall.

The landscape plan (sheets L1 and L2) have been updated to include additional trees along the side property line of 4205 Clares Street adjacent to Unit 7. These trees will provide privacy

between the new apartment and the existing neighboring property. The triplex block wall will be naturally screened through the introduction new wood lattice and lilac vine planted every six feet.

7. All railings on triplex should match.

Sheet A6.2 shows the elevations for the triplex including the matching railings. The triplex railings will also match the railings utilized on the duplex at the rear of the property.

8. Modify the condition of approval for the deed restricted condo unit at 4199 Clares Street to adhere to Capitola's established affordable housing resale requirements as offered by the developer.

The Density Bonus Law (Section 65915(c)(2)) states that the "local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law." This has been interpreted as meaning that a city can require long-term affordability through its local ordinance rather than the equity-sharing agreement in Subsection (c)(2)(A)-(C). Under the City Attorney's interpretation, the City's ordinance is considered "another law." The conditions of approval have been updated to require the Median Income for-sale unit to be deed restricted to comply with the City's affordable housing ordinance.

9. Require that garages are utilized for parking vehicles. Add stipulation that the HOA cannot amend this requirement within the CC&Rs without City approval.

The Planning Commission discussed adding a requirement that garages be utilized for parking vehicles. There was discussion also of requiring the HOA to receive approval of the City prior to modifying the parking restriction within the CC&Rs. With the change to a subdivision, there will not be CC&Rs. Staff has added a condition of approval requiring that the garages shall be utilized for parking.

10. Confirm that the Condominium map is correct and that a condominium conversion is applicable to the 4199 Clares Street project.

The applicant has modified the proposal for 4199 Clares Street to include a tentative map for a major subdivision to create five legal lots of record. On November 21st, the City Council adopted an updated subdivision ordinance that allows parcels to be accessed off a private street. Prior to the subdivision update, the proposed development did not comply with the subdivision design standards and had to be reviewed as a condominium conversion. The application has been updated to remove the condominium and include a tentative map for a major subdivision. The proposal no longer falls under a condominium conversion and is not subject to the conversion requirements.

The following underlined standards apply to lot design within the updated subdivision ordinance §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 unless an exception is granted by the Planning Commission pursuant to section 16.24.170(H).

Staff Analysis: The size and the dimension of the lots do not comply with the RM-LM zoning district standards. This is an allowed concession within the State Density Bonus Law.

- 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.

Staff Analysis: The side lines of all lots are at right angles to shared access. Staff has added a condition of approval that the shared access on the tentative map be identified as a private road. A private road maintenance agreement shall be recorded with the final map.

- C. The Planning Commission may require that building set back lines shall be indicated by dotted lines on the subdivision map.
 Staff Analysis: The applicant did not show setback lines on the subdivision map. The setbacks for the structures do not comply with the RM-LM zoning district standards. This is an allowed concession within the State Density Bonus Law. The Planning Commission may request that the decreased setback lines be indicated with dotted lines on the subdivision map.
- D. No lot shall be divided by a city boundary line.
 Staff Analysis: The subdivision is not located along a city boundary.
- E. Lots without 20-feet or more of frontage on a street will not be permitted. Frontage requirements for flag lots may be satisfied by a driveway or private road accessing a street.
 Staff Analysis: The private road is twenty-four feet in width. Each lot will have 20 feet or more of frontage on the private road.
- F. Lots other than corner lots may front on more than one street where necessitated by topographic or other unusual conditions.
 Staff Analysis: Not applicable.
- G. In riparian corridors, no lots may be created which do not contain adequate building area outside the riparian or stream setback.
 Staff Analysis: Not applicable.
- H. With the exception of minimum lot size requirements or subsections D and G above, the Planning Commission or the City Council may grant an exception to one or more of the design standards if they find that strict conformance is impractical due to the site's physical, topographic, or geometric conditions or if it would result in an undesirable or inferior subdivision design.
 Staff Analysis: The applicant is requesting an exception to the following design standards.
- A. The minimum lot size and minimum lot dimension standards are not in compliance. The applicant is seeking a decrease in the minimum lot dimensions as an allowed concession within the State Density Bonus Law. The State Density Bonus Law allows an exception to the minimum lot size because requiring the standard would prevent the increased density from being achieved.

Concessions

Under state density bonus law, projects are granted concessions based on the type and amount of public benefits provided. The original application reviewed by the Planning Commission on November 2, 2017, did not include any concessions or waivers to development standards. With the recent modification to the submittal to replace the tentative condominium map with a tentative subdivision map, the owner of 4199 Clares Street is seeking two concessions.

First, the minimum lot dimensions in the RM-LM zone are 50 feet wide by 100 feet deep. The proposed lots range from 28 to 57 feet wide and 59 to 100 feet deep.

Second, the original condominium proposal complied with setback requirements for the full parcels. By creating new lot lines, the structures no longer comply with the setback requirements of the zone. The applicant is therefore seeking a second concession to setbacks.

Attachment 2 includes the development standards table that specifies the development standards of the RM-LM zoning district relative to the projects at 4199 Clares Street and 4205 Clares Street. Exact lot dimensions and setbacks for each parcel are included in the table.

CEQA

Section 15332 of the CEQA Guidelines exempts in-fill development projects when the project is in conformance with the General Plan and zoning; is located entirely within City limits; the site has no value as habitat for endangered, rare, or threatened species; project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services. This project involves ten units within the two multi-family parcels that is in compliance with the state density bonus law, the density bonus zoning ordinance, and the General Plan. No adverse environmental impacts were discovered during review of the proposed project.

RECOMMENDATION

Staff recommend the Planning Commission review and approve application #17-006 based on the following finding and conditions.

1. The application includes a Design Permit for a State Density Bonus application for a 10-unit residential project, which includes a conditional use permit and tentative subdivision map for the 5 units on 4199 Clares Street. The projects are located at 4199 and 4205 Clares Street within the RM-LM (Multi-family Low Density) zoning district. There is a shared private street between the two parcels. The proposed project received a positive recommendation from Planning Commission on December 7, 2017. The proposed project is approved as indicated on the final plans reviewed and approved by the City Council on January 11, 2018, except as modified through conditions imposed by the City Council during the hearing.
2. Prior to building permit issuance, the applicant shall submit agreements between the various property owners that covers the operations and maintenance of all shared roadways, utilities, and other improvements. Building permits will not be issued until said agreements have been approved by the City and said agreements shall be recorded on the deed of all parcels existing or newly created by this project.
3. For the townhome portion of the project located at 4199 Clares Street, the applicant shall submit agreements between the various property owners for all maintenance of all common area improvements and on-site stormwater improvements operations and maintenance. The agreements shall incorporate language to address all maintenance, including operation and maintenance of the on-site stormwater improvements.
4. 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.
5. The shared driveway access on the tentative map shall be modified to a private road. A private road maintenance agreement shall be recorded with the final map.
6. The tentative map shall expire 24 months from the date of approval. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160 and the California Subdivision Map Act.

7. Available and necessary utilities, including CATV (cable television service) 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.
8. Unit 2 at 4199 Clares Street shall be deed restricted to be sold at the median household income level for a period of no less than 55 years. Median income level is established in Section 50052.5 of the California Health and Safety code.
9. Prior to recordation of the final subdivision map or issuance of building permits for the State Density Bonus Development Project, the developer shall enter into a Participation Agreement with the City so as to assure compliance with the provisions of the Capitola's inclusionary housing requirement for one ownership unit that will be deed restricted to sell at the median household income level. Unit 2 has been designated as the affordable unit. The participation agreement and deed restriction shall be in a form suitable for recordation as authorized by the Community Development Director and City Attorney.
10. The property at 4205 Clares Street shall be deed restricted to provide continued affordability of one low-income affordable housing rental unit for a period of no less than 55 years. Low-income household cannot exceed 80% of the median family income level for Santa Cruz County as published by California Department of Housing and Community Development. The owner shall enter into an agreement with the City so as to assure compliance with the provisions of the State Density Bonus affordable housing requirement for one unit on site to be deed restricted as a low-income rental as defined in Section 50053 of the Health and Safety Code. The deed restriction shall be in a form suitable for recordation as authorized by the Community Development Director and City Attorney.
11. The owner of 4205 Clares Street shall exclusively rent the affordable unit to a Section 8 voucher holder. The owner shall provide an annual report to the city including income, occupancy, and rent data for the deed restricted unit due no later than 60th day after the close of the calendar year. In the event that the Section 8 voucher program were to no longer exist, the Community Development Director will identify another method that the owner shall utilize to ensure income requirements are in compliance.
12. The developments at 4199 Clares Street and 4205 Clares Street are interconnected with a shared access and complimentary designs. The building permit applications for the two projects shall be submitted simultaneously. A Certificate of Occupancy will not be released on one property if the other property is not under construction.
13. The parking spaces within the garages shall be utilized for parking vehicles onsite.
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 City Council. 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. At time of submittal for building permit review, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All

construction shall be done in accordance with the Public Works Standard Detail BMP STRM.

17. 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 City Council approval.
18. 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.
19. Prior to issuance of building permit, all Planning fees associated with permit #17-006 shall be paid in full.
20. 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.
21. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Santa Cruz Water, Soquel Creek Water District, and Central Fire Protection District.
22. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, prepared by a registered civil engineer, shall be submitted to the City and approved by the Public Works Director. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
23. 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 Public Works Director.
24. 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, approval and recorded in the Office of the County Recorder by the Public Works Director.
25. Prior to final occupancy approval the applicant shall enter into and record in the Office of the County Recorder, 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.
26. 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. All temporary sediment and erosion control best management practices (BMPs) shall be maintained throughout the project duration.

27. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the licensed contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
28. 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
29. 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. The driveway approach shall be replaced to meet ADA standards along Clares Street.
30. Prior to issuance of a Certificate of Occupancy, the applicant shall demonstrate compliance with the tree removal permit authorized by this permit.
31. 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.
32. 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.
33. 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.
34. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.

FINDINGS

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

Community Development Department Staff, the Architectural and Site Review Committee, the Planning Commission, and the City Council have reviewed the project. The state density bonus development application, combined with the design permit, conditional use permit, and tentative subdivision map application are consistent with the objectives of the State Law, Zoning Ordinance, and General Plan. The properties at 4199 and 4205 Clares Street shall develop one onsite affordable housing unit on each lot in exchange for a density bonus of 5 units.

B. The application maintains the character and integrity of the neighborhood.

The development is located in the low density multi-family residential zoning district. The neighborhood includes a mix of single-family homes, multi-family apartments, and town-homes. The development will maintain the multi-family character of the neighborhood as well as the integrity of the neighborhood.

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

The tentative subdivision map 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.

D. This project is categorically exempt under Section 15332 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.

Section 15332 of the CEQA Guidelines exempts in-fill development projects when the project is in conformance with the General Plan and zoning; is located entirely within City limits; the site has no value as habitat for endangered, rare, or threatened species; project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services. This project involves ten units within the two multi-family parcels that is in compliance with the state density bonus law, the density bonus zoning ordinance, and the General Plan. No adverse environmental impacts were discovered during review of the proposed project.

ATTACHMENTS:

1. 4199 and 4205 Clares Street Plans
2. Clares Street Tentative Map
3. Development Standards Table
4. PC Report, November 2, 2017
5. Clares Street City of Santa Cruz Water Letter
6. Hazen - Will Serve Letter
7. Clares Street Sanitation District Letter
8. Clares Street Central Fire
9. Clares Street - Arborist Report
10. League of California Cities. Not Just Density Bonuses

Prepared By: Katie Herlihy
Senior Planner

RESIDENTIAL DEVELOPMENT FOR CLARES STREET PARTNERS, LLC 4199 & 4205 CLARES STREET, CAPITOLA



PROJECT DATA

PROJECT SITES: 4199 & 4205 CLARES STREET
CAPITOLA, CALIFORNIA

ASSESSORS PARCEL NUMBERS: 034-222-05: 4199 CLARES STREET
034-222-06: 4205 CLARES STREET

OWNER, 4199 CLARES STREET: CLARES STREET PARTNERS, LLC
911 CENTER STREET, SUITE F
SANTA CRUZ, CALIFORNIA 95060
BILL KEMPF: 831 459-0951

OWNER, 4205 CLARES STREET: DAN & NANCY HAZEN
P.O. BOX 4111
INCLINE VILLAGE, NEVADA 89450
775 831-6401

LOT AREAS: 4199 CLARES STREET: 15,854 S.F.
4205 CLARES STREET: 15,850 S.F.

ZONING: RM-LM

PROJECT DESCRIPTIONS:
CREATE A 24' WIDE SHARED INGRESS-EGRESS EASEMENT ALONG A COMMON PROPERTY LINE TO ALLOW FOR INCREASED DENSITY ON EACH LOT USING THE STATE OF CALIFORNIA DENSITY BONUS LAW

ON 4199 CLARES STREET:

- DEMOLISH ONE EXISTING SINGLE FAMILY DWELLING AND REPLACE IT WITH THREE NEW TOWNHOMES
- REFURBISH EXISTING DUPLEX AT REAR OF PROPERTY AND CONVERT IT TO TWO TOWNHOMES
- REMOVE EXISTING PALM TREES AND GIFT THEM TO CITY OF CAPITOLA FOR NEW CLARES STREET LIBRARY SITE
- USE STATE DENSITY BONUS LAW TO INCREASE DENSITY FROM 3 TO 5 UNITS, SEE SHEET A2.2 FOR CALCULATION
- DESIGNATE NEW TOWNHOME #2 AS FOR SALE/AFFORDABLE TO A 'MODERATE INCOME' BUYER
- TWO INCENTIVES ARE REQUESTED FOR MINIMUM LOT SIZE AND SETBACKS

ON 4205 CLARES STREET:

- EXISTING THREE UNIT APARTMENT BUILDING SHALL REMAIN AS IS
- CONSTRUCT TWO NEW ATTACHED APARTMENT UNITS AT THE REAR OF THE PROPERTY
- USE STATE DENSITY BONUS LAW TO INCREASE DENSITY FROM 3 TO 5 UNITS, SEE SHEET A2.2 FOR CALCULATION
- DESIGNATE EXISTING APARTMENT #10 AS FOR RENT/AFFORDABLE TO A 'LOW INCOME' RENTER
- NO CONCESSIONS, WAIVERS, OR INCENTIVES ARE REQUESTED



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RESIDENTIAL DEVELOPMENT FOR
CLARES STREET PARTNERS, LLC
4199 & 4205 CLARES STREET, CAPITOLA, CALIFORNIA
VICINITY MAP & PROJECT DATA

SAWING DATE:
JANUARY 10, 2017

P.N.:
034-222-05 & 034-222-06

JOINT NAME:
ARES STREET PARTNERS, LLC

OBJECT NAME:
CLARES STREET

REVISIONS

DESCRIPTION	DATE
ARCH & SITE	4/20/17
PENG. COMM.	10/12/17
PENG. COMM.	11/20/17

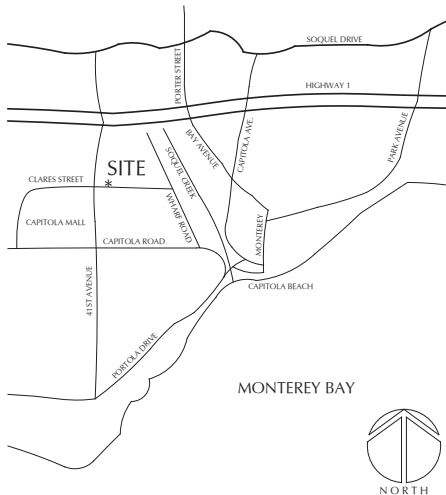
REVISIONS	DESCRIPTION	DATE
A1.1	VICINITY MAP & PROJECT DATA	
A2.1	DEMOLITION SITE PLAN	
A2.2	PROPOSED SITE PLAN	
A3.1	TOWNHOMES 1, 2, 3 - FIRST FLOOR PLANS	
A3.2	TOWNHOMES 1, 2, 3 - SECOND FLOOR PLANS	
A3.3	TOWNHOME 1 - ELEVATIONS	
A3.4	TOWNHOMES 2 & 3 - ELEVATIONS	
A4.1	TOWNHOMES 4 & 5 - FLOOR PLANS	
A4.2	TOWNHOMES 4 & 5 - ELEVATIONS	
A5.1	APARTMENTS 6 & 7 - FLOOR PLANS	
A5.2	APARTMENTS 6 & 7 - ELEVATIONS	
A6.1	APARTMENTS 8, 9, 10 - FLOOR PLANS	
A6.2	APARTMENTS 8, 9, 10 - ELEVATIONS	
A7.1	SITE ELEVATIONS	
A7.2	PERSPECTIVE VIEWS	
C0.1	COVER SHEET	
C1.1	DEMOLITION PLAN	
C2.1	HORIZONTAL CONTROL PLAN	
C3.1	GRADING PLAN	
C4.1	UTILITY PLAN	
C5.1	STORM WATER MANAGEMENT PLAN	
C6.1	EROSION CONTROL PLAN	
C7.1	CONSTRUCTION DETAILS	
TAM1	TENTATIVE CONDOMINIUM MAP	
L1	PROPOSED LANDSCAPE PLAN	
L2	PROPOSED LANDSCAPE PLAN	
L3	LANDSCAPE DETAILS	
TR1	TREE LOCATION MAP	
TOPO 1	TOPOGRAPHIC SURVEY	

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A1.1

VICINITY MAP



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AREA CALCULATIONS

NEW TOWNHOMES 1, 2, 3

FIRST FLOOR HEATED	638 S.F.	TOWNHOME 1	391 S.F.
SECOND FLOOR HEATED	847 S.F.	TOWNHOME 2	402 S.F.
TOTAL HEATED	1,485 S.F.	TOWNHOME 3	282 S.F.
UNHEATED (GARAGE)	296 S.F.	TOWNHOME 4	1,514 S.F.
AREA OF ONE UNIT (HEATED+UNHEATED)	1,781 S.F.	TOWNHOME 5	1,377 S.F.

GROSS AREA OF TOWNHOMES 1, 2, 3: 5,343 S.F.

REMODELED TOWNHOMES 4 & 5

FIRST FLOOR HEATED	563 S.F.	APARTMENT 6	1,254 S.F.
SECOND FLOOR HEATED	860 S.F.	APARTMENT 7	1,228 S.F.
TOTAL HEATED	1,423 S.F.	APARTMENT 8	448 S.F.
UNHEATED (GARAGE)	347 S.F.	APARTMENT 9	569 S.F.
AREA OF ONE UNIT (HEATED+UNHEATED)	1,770 S.F.	APARTMENT 10	176 S.F.

GROSS AREA OF TOWNHOMES 4 & 5: 3,540 S.F.

NEW APARTMENTS 6 & 7

FIRST FLOOR HEATED	651 S.F.	USEABLE OPEN SPACE	ALL GROUND AREAS ARE PROPOSED TO BE PRIVATE
SECOND FLOOR HEATED	901 S.F.		
TOTAL HEATED	1,552 S.F.		
UNHEATED (GARAGE)	285 S.F.		
AREA OF ONE UNIT (HEATED+UNHEATED)	1,837 S.F.		

GROSS AREA OF APARTMENTS 6 & 7: 3,700 S.F.

EXISTING APARTMENTS 8, 9, 10 (NO MODIFICATIONS)

UNIT 8 FIRST FLOOR HEATED	477 S.F.
UNIT 8 SECOND FLOOR HEATED	481 S.F.
UNIT 8 TOTAL HEATED	958 S.F.
UNIT 9 FIRST FLOOR HEATED	1,004 S.F.
UNIT 9 SECOND FLOOR HEATED	438 S.F.
UNIT 9 TOTAL HEATED	1,442 S.F.
UNIT 10 TOTAL HEATED	932 S.F.
UNHEATED STORAGE AREA	162 S.F.
CARPORT	503 S.F.
GROSS AREA OF APARTMENTS 8, 9, 10	4,057 S.F.

GROSS BUILDING AREA PROPOSED

4199 CLARES STREET	8,883 S.F.
4205 CLARES STREET	7,557 S.F.

LOT COVERAGE BY STRUCTURES

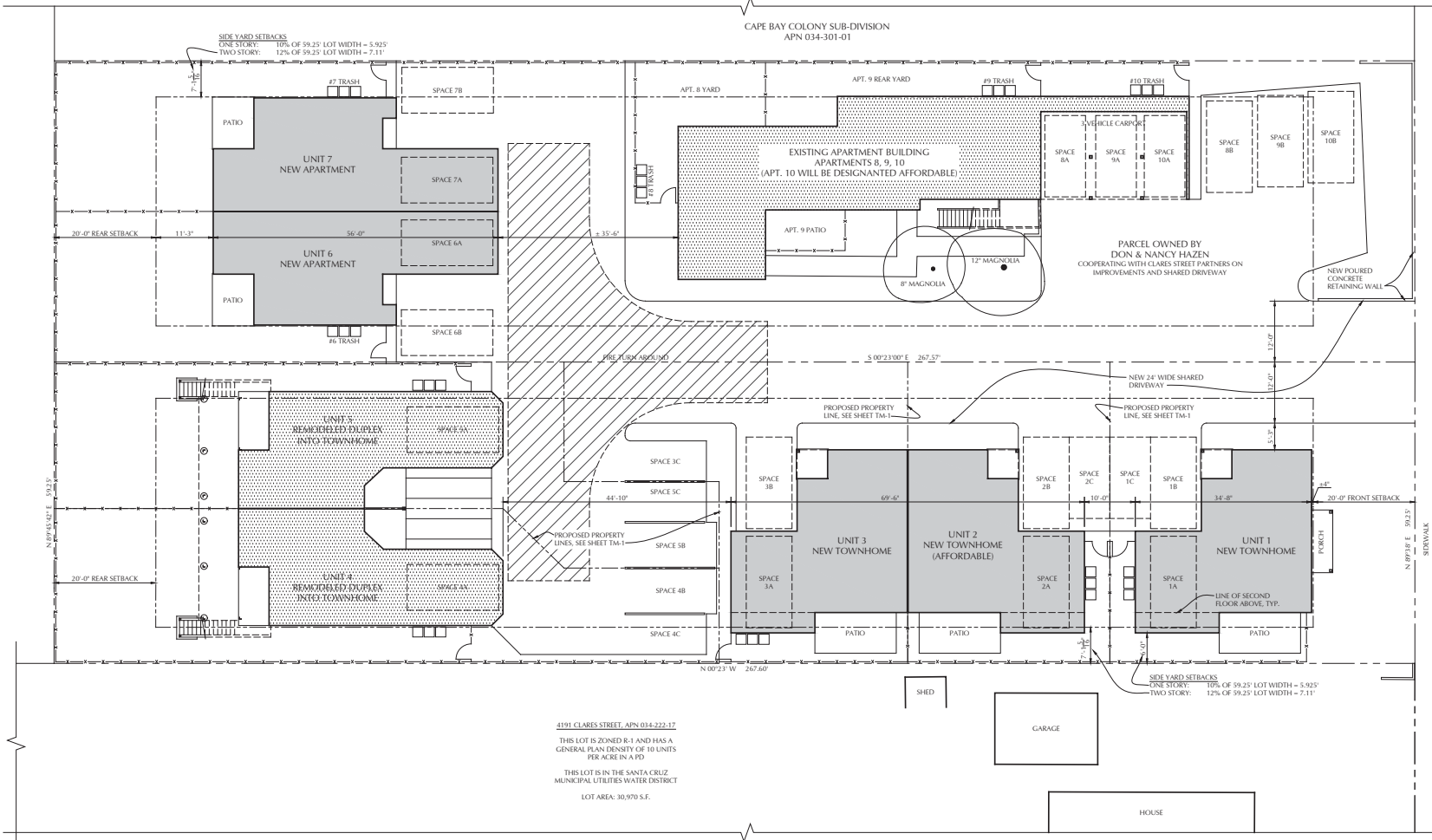
4199 CLARES STREET	5,489 S.F. (34.6%)
4205 CLARES STREET	4,218 S.F. (26.6%)

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A2.2	PROPOSED SITE PLAN
A3.1	TOWNHOMES 1, 2, 3 - FIRST FLOOR PLANS
A3.2	TOWNHOMES 1, 2, 3 - SECOND FLOOR PLANS
A3.3	TOWNHOME 1 - ELEVATIONS
A3.4	TOWNHOMES 2 & 3 - ELEVATIONS
A4.1	TOWNHOMES 4 & 5 - FLOOR PLANS
A4.2	TOWNHOMES 4 & 5 - ELEVATIONS
A5.1	APARTMENTS 6 & 7 - FLOOR PLANS
A5.2	APARTMENTS 6 & 7 - ELEVATIONS
A6.1	APARTMENTS 8, 9, 10 - FLOOR PLANS
A6.2	APARTMENTS 8, 9, 10 - ELEVATIONS
A7.1	SITE ELEVATIONS
A7.2	PERSPECTIVE VIEWS
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C2.1	HORIZONTAL CONTROL PLAN
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C5.1	STORM WATER MANAGEMENT PLAN
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L2	PROPOSED LANDSCAPE PLAN
L3	LANDSCAPE DETAILS
TR1	TREE LOCATION MAP
TOPO 1	TOPOGRAPHIC SURVEY



2 STREETScape ELEVATION
SCALE: 1"=10'-0"



1 PROPOSED SITE PLAN
SCALE: 1"=10'-0"

4205 CLARES STREET, APN 034-222-06
THIS LOT IS ZONED RM4M AND HAS A GENERAL PLAN DENSITY OF 20 UNITS PER ACRE IN A PD
LOT COVERAGE: 15,850 S.F.
LOT AREA: 4,198 S.F. (26.3%)
COVERAGE: 4.198 S.F. (26.3%)
THIS LOT IS IN THE SOQUEL CREEK WATER DISTRICT
STATE DENSITY BONUS CALCULATION:
LOT AREA: 15,850 S.F.
RM4M AREA PER UNIT = 4,400 S.F.
15,850 / 4,400 = 3.602 UNITS
ALLOWED UNITS + DENSITY BONUS
3.602 UNITS x 15% (0.15) = 4.14 UNITS
STATE DENSITY BONUS LAW ALLOWS ANY FRACTION TO ROUND UP
UNITS ALLOWED WITH 15% DENSITY BONUS = 5 UNITS
AFFORDABILITY PER CALIFORNIA CODE 65915(c): 15% DENSITY INCREASE REQUIRES 20% OF THE UNITS, 1 UNIT IN THIS CASE, TO MEET THE REQUIREMENTS FOR LOW-INCOME
CONCESSIONS REQUESTED: THIS LOT REQUIRES ONE CONCESSION FOR A REDUCTION IN THE AMOUNT OF PARKING REQUIRED

4199 CLARES STREET, APN 034-222-05
THIS LOT IS ZONED RM4M AND HAS A GENERAL PLAN DENSITY OF 20 UNITS PER ACRE IN A PD
LOT COVERAGE: 15,854 S.F.
LOT AREA: 4,957 S.F. (31.3%)
COVERAGE: 4.957 S.F. (31.3%)
THIS LOT IS IN THE SANTA CRUZ MUNICIPAL UTILITIES WATER DISTRICT
STATE DENSITY BONUS CALCULATION:
LOT AREA: 15,854 S.F.
RM4M AREA PER UNIT = 4,400 S.F.
15,854 / 4,400 = 3.603 UNITS
ALLOWED UNITS + DENSITY BONUS
3.603 UNITS x 15% (0.15) = 4.14 UNITS
STATE DENSITY BONUS LAW ALLOWS ANY FRACTION TO ROUND UP
UNITS ALLOWED WITH 15% DENSITY BONUS = 5 UNITS
AFFORDABILITY PER CALIFORNIA CODE 65915(c): 15% DENSITY INCREASE REQUIRES 20% OF THE UNITS, 1 UNIT IN THIS CASE, TO MEET THE REQUIREMENT FOR MODERATE INCOME
CONCESSIONS REQUESTED: THE TENTATIVE MAP FOR THIS LOT REQUIRES TWO CONCESSIONS, THEY ARE A REDUCTION IN MINIMUM LOT SIZE AND SOME SETBACKS

4191 CLARES STREET, APN 034-222-17
THIS LOT IS ZONED R-1 AND HAS A GENERAL PLAN DENSITY OF 10 UNITS PER ACRE IN A PD
THIS LOT IS IN THE SANTA CRUZ MUNICIPAL UTILITIES WATER DISTRICT
LOT AREA: 30,970 S.F.

Attachment: 4199 and 4205 Clares Street Plans (4199 and 4205 Clares Street)



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RESIDENTIAL DEVELOPMENT FOR
CLARES STREET PARTNERS, LLC
4199 & 4205 CLARES STREET, CARTOOLA, CALIFORNIA
PROPOSED SITE PLAN

REVISIONS

NO.	DATE	DESCRIPTION
1	11/20/17	PENG. CDMA
2	10/12/17	PENG. CDMA
3	4/3/17	ARCH & SITE

REVISIONS

NO.	DATE	DESCRIPTION
1	11/20/17	PENG. CDMA
2	10/12/17	PENG. CDMA
3	4/3/17	ARCH & SITE

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A2.2



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RESIDENTIAL DEVELOPMENT FOR
CLARES STREET PARTNERS, LLC
4199 & 4205 CLARES STREET, CANTOIA, CALIFORNIA
TOWNHOMES 2 & 3 - ELEVATIONS

ISSUING DATE:
JANUARY 10, 2017

NO:
034-222-05 & 034-222-06

DWNT NAME:
ARES STREET PARTNERS, LLC

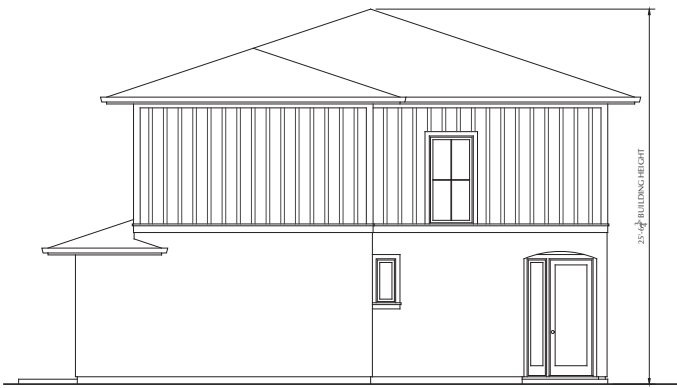
OBJECT NAME:
CLARES STREET

REVISIONS	
DESCRIPTION	DATE

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A3.4

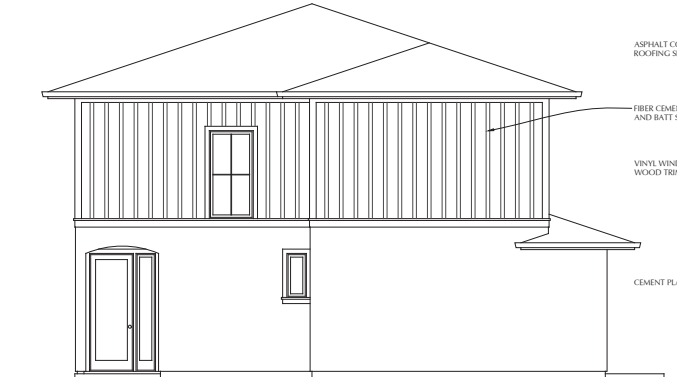
Attachment: 4199 and 4205 Clares Street Plans (4199 and 4205 Clares Street)



② TOWNHOME #2
SOUTH ELEVATION
SCALE: 1/4"=1'-0"



① TOWNHOME #2 TOWNHOME #3
EAST ELEVATION
SCALE: 1/4"=1'-0"

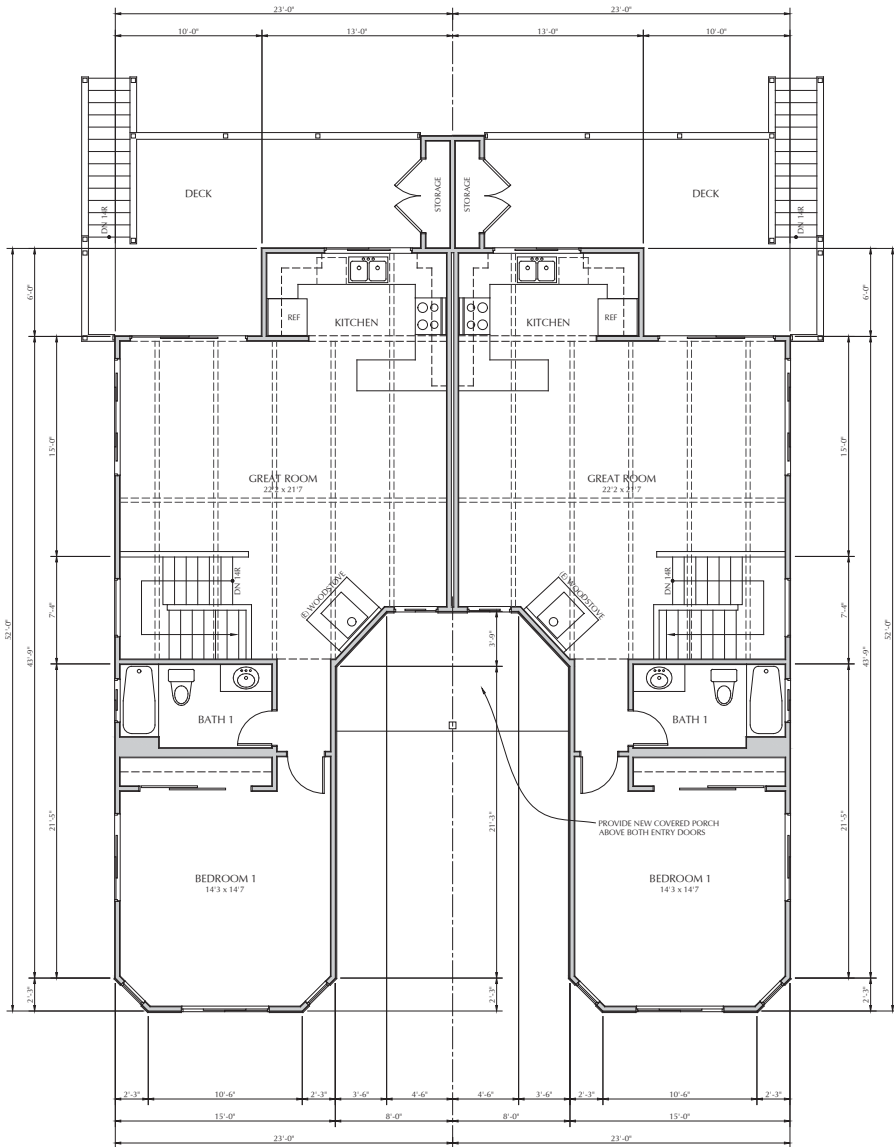


② TOWNHOME #3
SOUTH ELEVATION
SCALE: 1/4"=1'-0"



③ TOWNHOME #3 TOWNHOME #2
WEST ELEVATION
SCALE: 1/4"=1'-0"

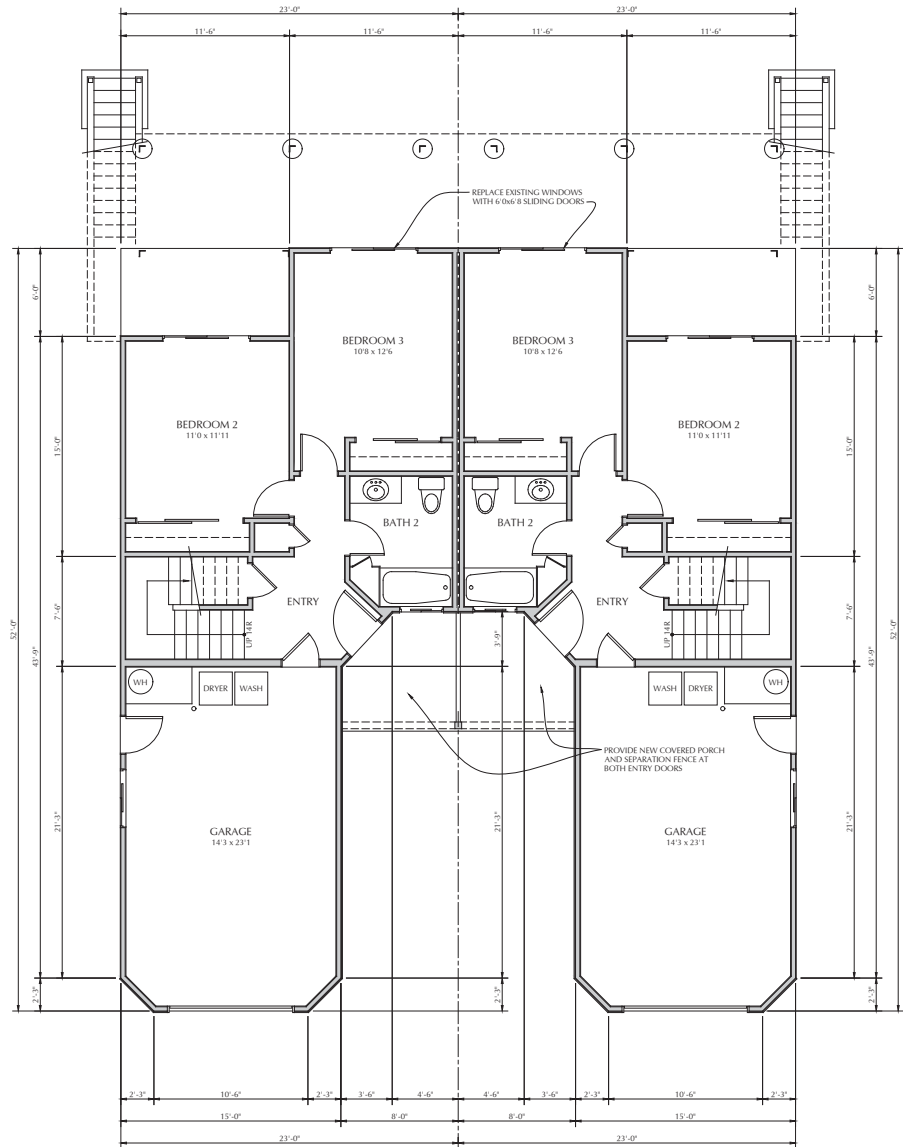
- ASPHALT COMPOSITION ROOFING SHINGLES
- FIBER CEMENT BOARD AND BATT SIDING
- VINYL WINDOWS WITH WOOD TRIM
- CEMENT PLASTER FINISH



TOWNHOME #4

TOWNHOME #5

2 EXISTING UPPER FLOOR PLAN
SCALE: 1/4"=1'-0"



TOWNHOME #4

TOWNHOME #5

1 EXISTING LOWER FLOOR PLAN
SCALE: 1/4"=1'-0"



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Attachment: 4199 and 4205 Clares Street Plans (4199 and 4205 Clares Street)

RESIDENTIAL DEVELOPMENT FOR
CLARES STREET PARTNERS, LLC
4199 & 4205 CLARES STREET, CANTOIA, CALIFORNIA
TOWNHOMES 4 & 5 - FLOOR PLANS

ISSUING DATE: JANUARY 10, 2017
PROJECT NAME: CLARES STREET PARTNERS, LLC
OBJECT NAME: CLARES STREET

REVISIONS	
DESCRIPTION	DATE

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RESIDENTIAL DEVELOPMENT FOR
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4199 & 4205 CLARES STREET, CANTOIA, CALIFORNIA
TOWNHOMES 4 & 5 - ELEVATIONS

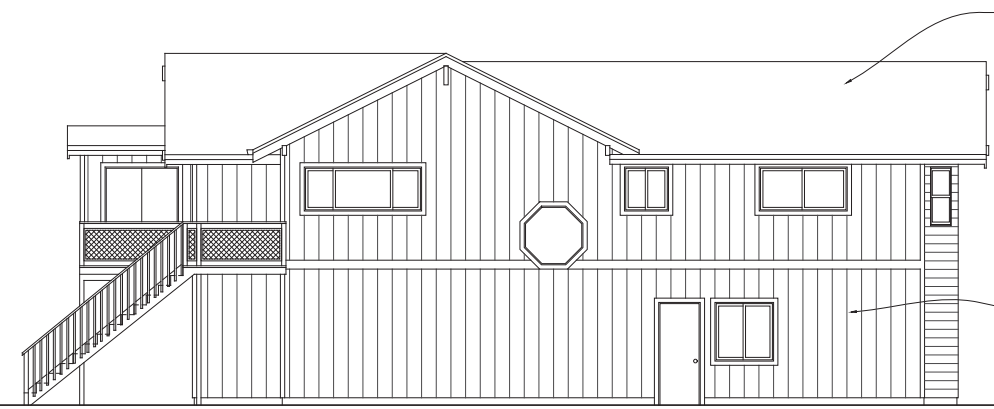
ISSUING DATE:
JANUARY 10, 2017
PROJECT NO:
034-222-05 & 034-222-06
CLIENT NAME:
ARES STREET PARTNERS, LLC
PROJECT NAME:
CLARES STREET

REVISIONS	
DESCRIPTION	DATE

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A4.2

Attachment: 4199 and 4205 Clares Street Plans (4199 and 4205 Clares Street)



TOWNHOME #4

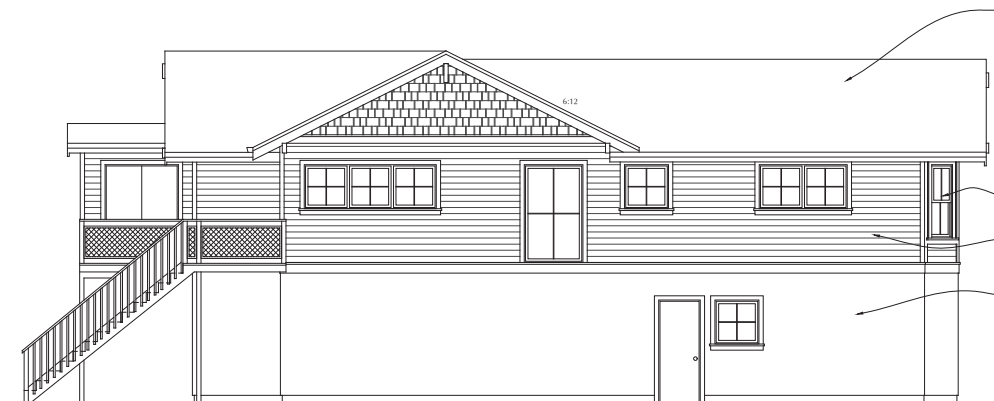
2 EXISTING WEST ELEVATION
SCALE: 1/4"=1'-0"



TOWNHOME #4

TOWNHOME #5

1 EXISTING SOUTH ELEVATION
SCALE: 1/4"=1'-0"



TOWNHOME #4

4 PROPOSED WEST ELEVATION
SCALE: 1/4"=1'-0"



TOWNHOME #4

TOWNHOME #5

3 PROPOSED SOUTH ELEVATION
SCALE: 1/4"=1'-0"



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Attachment: 4199 and 4205 Clares Street Plans (4199 and 4205 Clares Street)

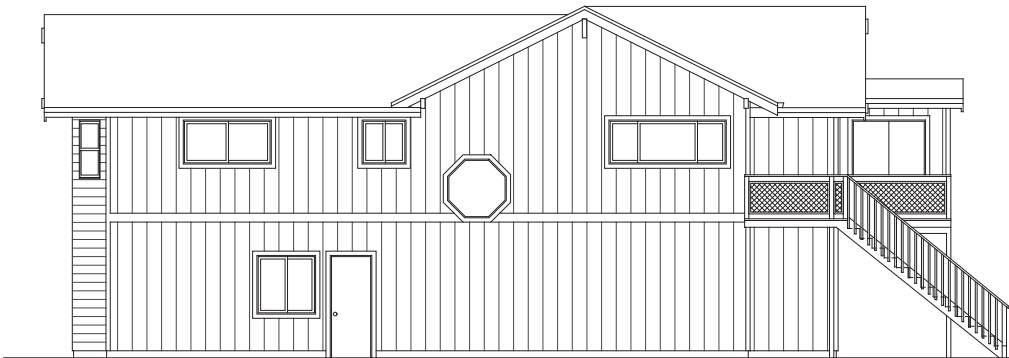
RESIDENTIAL DEVELOPMENT FOR
CLARES STREET PARTNERS, LLC
4199 & 4205 CLARES STREET, CARTOOLA, CALIFORNIA
TOWNHOMES 4 & 5 - ELEVATIONS

DRAWING DATE:
JANUARY 10, 2017
#: 034-222-05 & 034-222-06
JOINT NAME:
ARES STREET PARTNERS, LLC
PROJECT NAME:
CLARES STREET

REVISIONS	
DESCRIPTION	DATE

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A4.3



TOWNHOME #4

2 EXISTING EAST ELEVATION
SCALE: 1/4"=1'-0"



TOWNHOME #5

TOWNHOME #4

1 EXISTING NORTH ELEVATION
SCALE: 1/4"=1'-0"



TOWNHOME #5

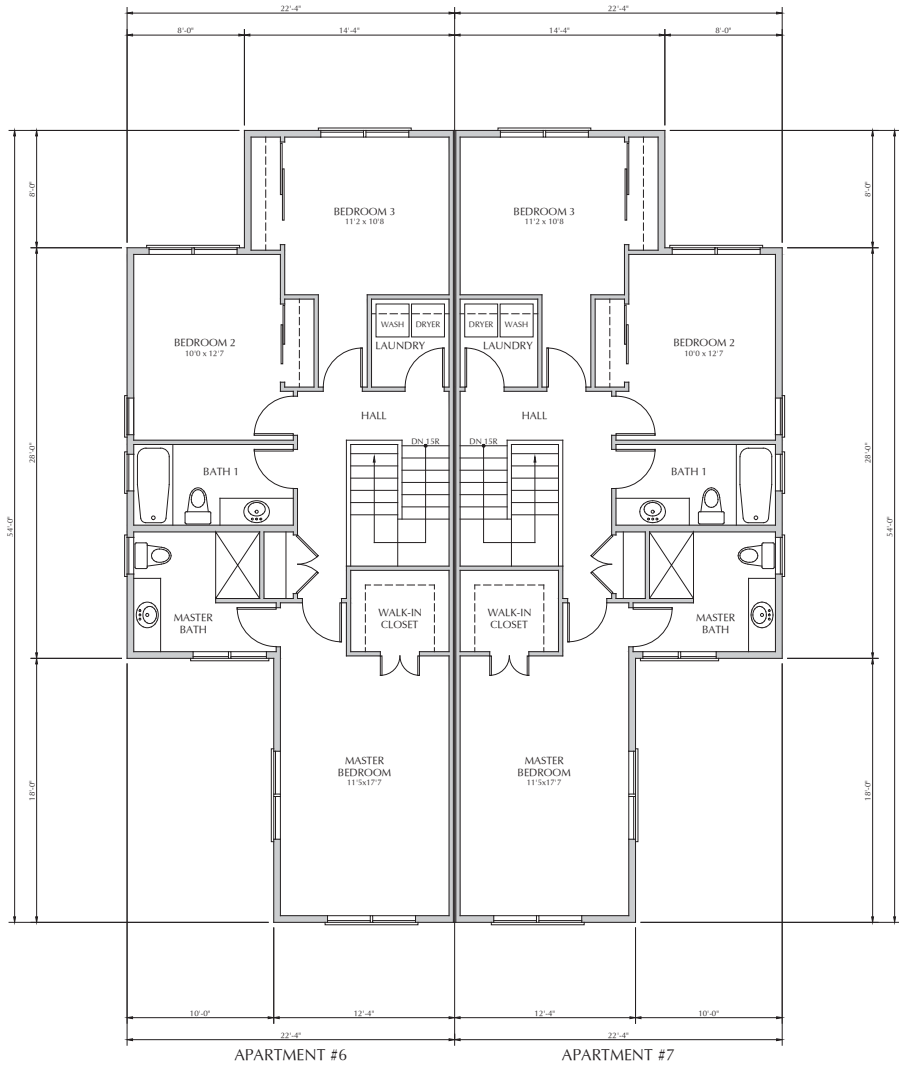
4 PROPOSED EAST ELEVATION
SCALE: 1/4"=1'-0"



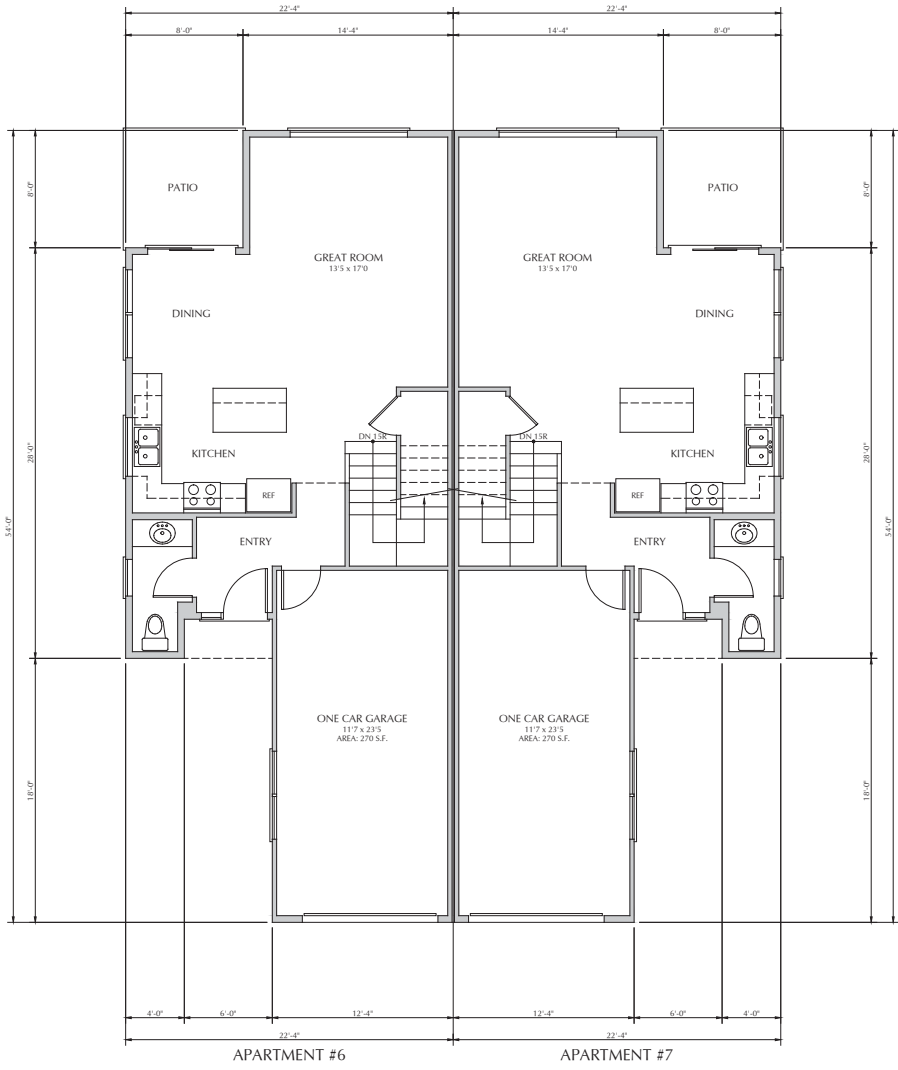
TOWNHOME #5

TOWNHOME #4

3 PROPOSED NORTH ELEVATION
SCALE: 1/4"=1'-0"



2 PROPOSED UPPER FLOOR PLANS
SCALE: 1/4"=1'-0"



1 PROPOSED LOWER FLOOR PLANS
SCALE: 1/4"=1'-0"



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Attachment: 4199 and 4205 Clares Street Plans (4199 and 4205 Clares Street)

RESIDENTIAL DEVELOPMENT FOR
CLARES STREET PARTNERS, LLC
4199 & 4205 CLARES STREET, CANTOIA, CALIFORNIA
APARTMENTS 6 & 7 - FLOOR PLANS

ISSUING DATE: JANUARY 10, 2017
NO.
014-222-05 & 014-222-06
JOINT NAME: CLARES STREET PARTNERS, LLC
PROJECT NAME: CLARES STREET

REVISIONS	
DESCRIPTION	DATE

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RESIDENTIAL DEVELOPMENT FOR
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4199 & 4205 CLARES STREET, CANTOIA, CALIFORNIA
APARTMENTS 6 & 7 - ELEVATIONS

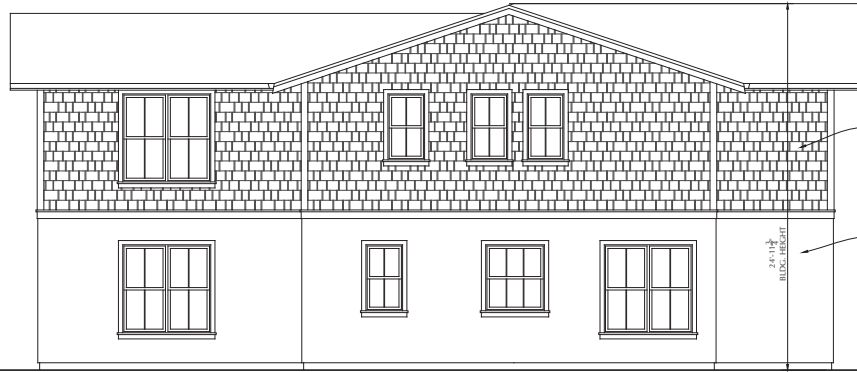
ISSUING DATE:
JANUARY 10, 2017
#: 034-222-05 & 034-222-06
CLIENT NAME:
ARES STREET PARTNERS, LLC
PROJECT NAME:
CLARES STREET

REVISIONS	DESCRIPTION	DATE

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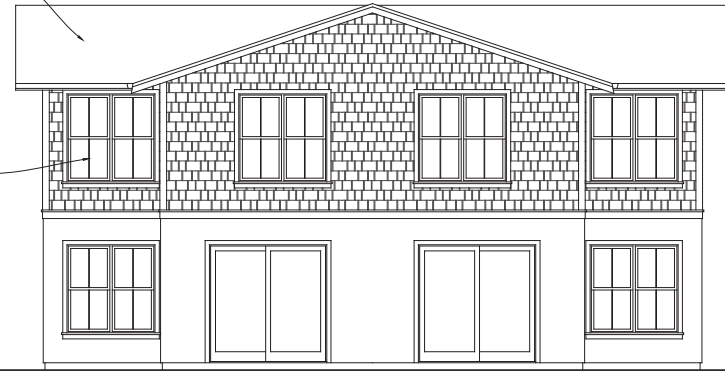
A5.2

Attachment: 4199 and 4205 Clares Street Plans (4199 and 4205 Clares Street)



APARTMENT #7

② WEST ELEVATION
SCALE: 1/4"=1'-0"



APARTMENT #7

APARTMENT #6

① NORTH ELEVATION
SCALE: 1/4"=1'-0"



APARTMENT #6

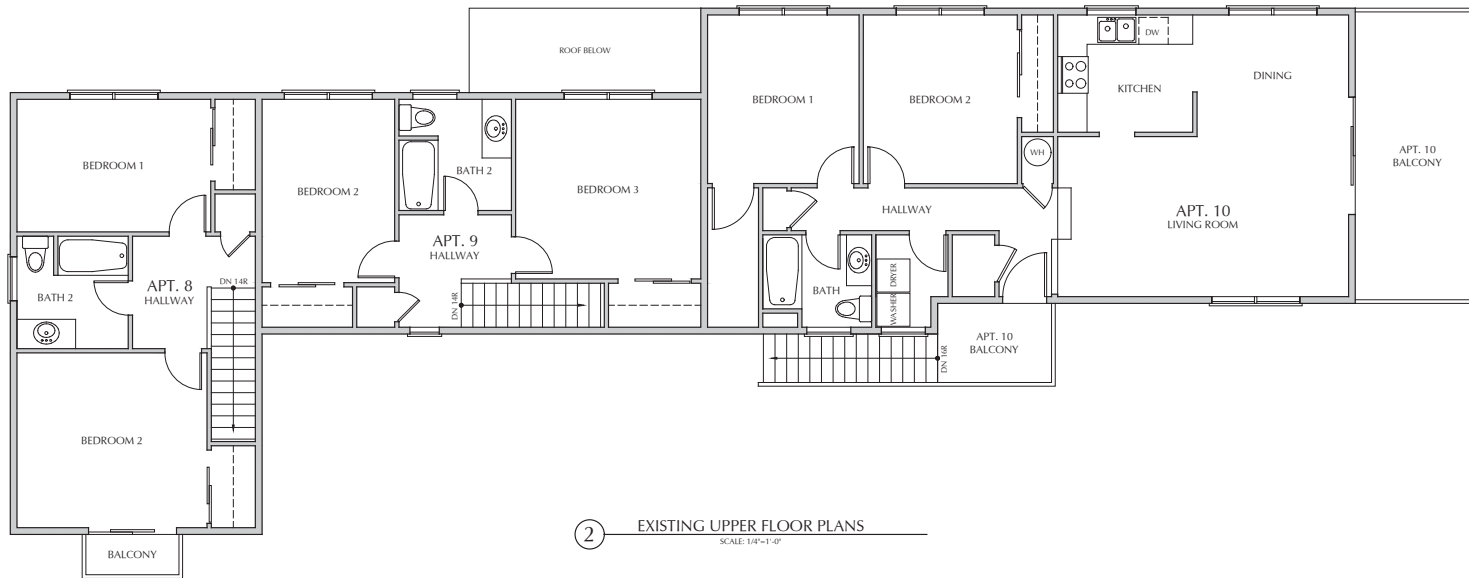
④ EAST ELEVATION
SCALE: 1/4"=1'-0"



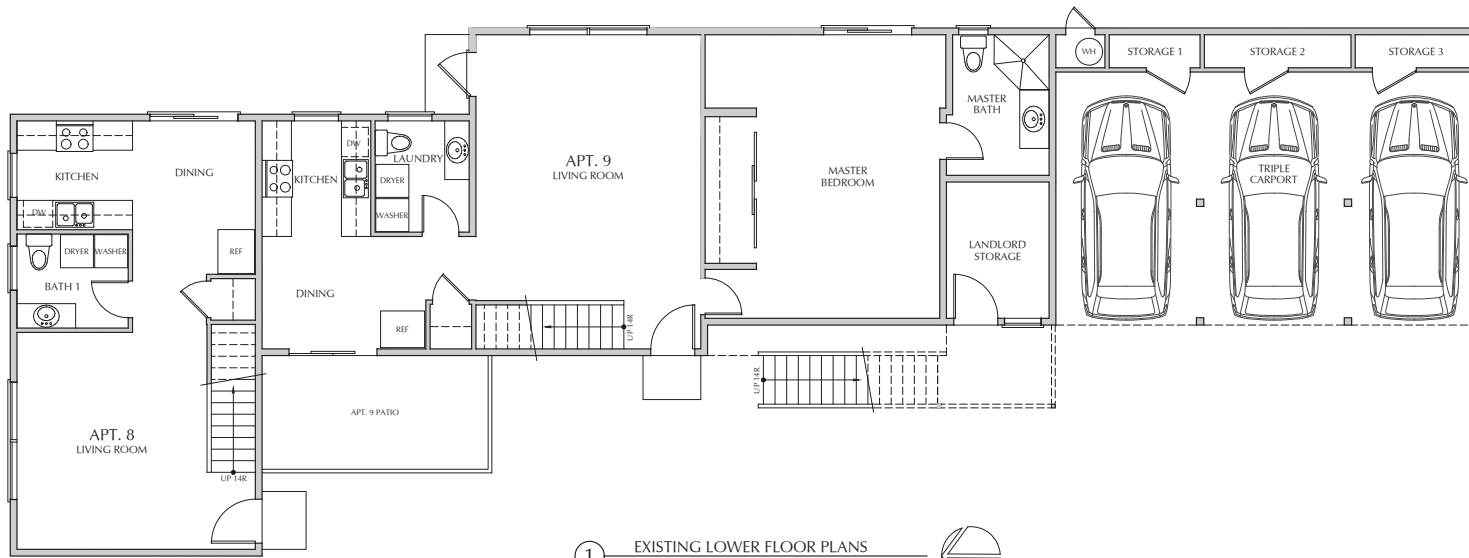
APARTMENT #6

APARTMENT #7

③ SOUTH ELEVATION
SCALE: 1/4"=1'-0"



② EXISTING UPPER FLOOR PLANS
SCALE: 1/4"=1'-0"



① EXISTING LOWER FLOOR PLANS
SCALE: 1/4"=1'-0"



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Attachment: 4199 and 4205 Clares Street Plans (4199 and 4205 Clares Street)

RESIDENTIAL DEVELOPMENT FOR
CLARES STREET PARTNERS, LLC
4199 & 4205 CLARES STREET, CANTOIA, CALIFORNIA
APARTMENTS 8, 9, & 10 - FLOOR PLANS

SAWING DATE:
JANUARY 10, 2017
#: 014-222-05 & 014-222-06
JOINT NAME:
ARES STREET PARTNERS, LLC
PROJECT NAME:
CLARES STREET

REVISIONS	
DESCRIPTION	DATE

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A6.1



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RESIDENTIAL DEVELOPMENT FOR
CLARES STREET PARTNERS, LLC
4199 & 4205 CLARES STREET, CANTOIA, CALIFORNIA
APARTMENT 8, 9, & 10 ELEVATIONS

ISSUING DATE: MARCH 30, 2017
NO: 034-222-05 & 034-222-06
JOINT NAME: ARES STREET PARTNERS, LLC
PROJECT NAME: CLARES STREET

REVISIONS		
DESCRIPTION	DATE	
PLANNING	6/16/17	

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A6.2

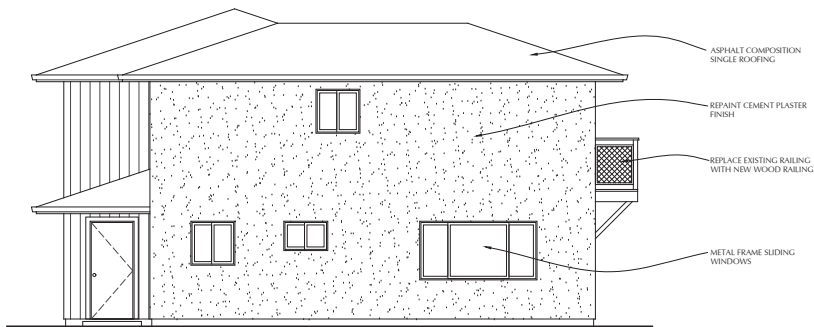
Attachment: 4199 and 4205 Clares Street Plans (4199 and 4205 Clares Street)



① WEST ELEVATION
SCALE: 1/4"=1'-0"



② EAST ELEVATION
SCALE: 1/4"=1'-0"



④ NORTH ELEVATION
SCALE: 1/4"=1'-0"



③ SOUTH ELEVATION
SCALE: 1/4"=1'-0"



2 VIEW FROM CLARES STREET



1 UNITS 4-7 FRONT ELEVATION



3 UNITS 1-3 FRONT ELEVATION



4 UNITS 8-10 FRONT ELEVATION



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Attachment: 4199 and 4205 Clares Street Plans (4199 and 4205 Clares Street)

RESIDENTIAL DEVELOPMENT FOR
CLARES STREET PARTNERS, LLC
4199 & 4205 CLARES STREET, CAPITOLA, CALIFORNIA
SITE ELEVATIONS

ISSUING DATE:
JANUARY 10, 2017
P.N. #:
034-222-05 & 034-222-06
PROJECT NAME:
CLARES STREET PARTNERS, LLC
PROJECT NAME:
CLARES STREET

DESCRIPTION	DATE
ARCH & SITE	4/3/17
PLNG. COMM.	11/20/17

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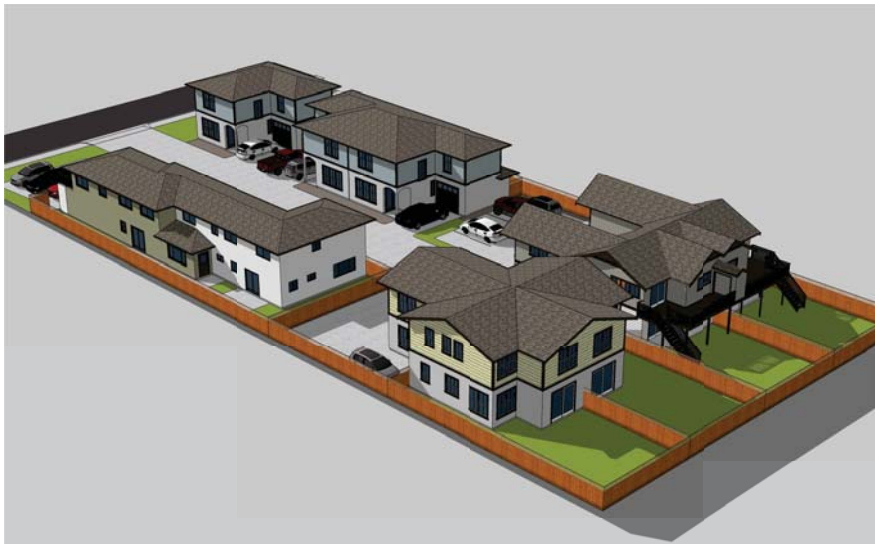
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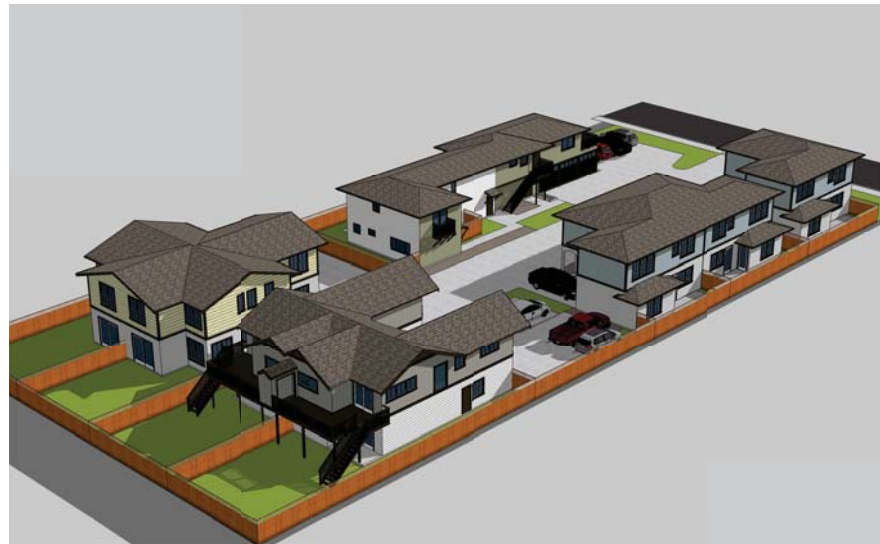
③ VIEW 3



① VIEW 1



④ VIEW 4



② VIEW 2



Attachment: 4199 and 4205 Clares Street Plans (4199 and 4205 Clares Street)

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RESIDENTIAL DEVELOPMENT FOR
CLARES STREET PARTNERS, LLC
4199 & 4205 CLARES STREET, CAPITOLA, CALIFORNIA
PERSPECTIVE VIEWS

DRAWING DATE:	
JANUARY 10, 2017	
P.A.N.:	
034-222-05 & 034-222-06	
CLIENT NAME:	
CLARES STREET PARTNERS LLC	
PROJECT NAME:	
CLARES STREET	

DESCRIPTION	DATE
ARCH & SITE	4/3/17
PLNG, CDMA	11/20/17

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A7.2

REVISIONS		
DESCRIPTION	DATE	
ARCH & SITE	4/3/17	
PLNG. COMM.	11/2017	



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 PLUMBING OR STRUCTURAL ENGINEERS
 REGISTERED IN THE STATE OF CALIFORNIA.
 I AM NOT PROVIDING OR RECEIVING
 PROFESSIONAL SERVICES OR DESIGNING
 OUT OF THE ARCHITECT. THE PROPER
 ENGINEER, REGISTERED OR OTHERWISE,
 SHOULD BE CONSULTED FOR ALL
 SERVICES TO THE ARCHITECT.
 ARCHITECT'S USE OF THIS SHEET IS
 UNAUTHORIZED IF NOT INDICATED.

L1

Attachment: 4199 and 4205 Clares Street Plans (4199 and 4205 Clares Street)

MATERIALS & FINISHES LEGEND

- 6' HIGH 'GOOD NEIGHBOR' REDWOOD FENCE
- - - 6' HIGH X 3' WIDE 'GOOD NEIGHBOR' REDWOOD GATE
- [Grid Pattern] POREUS CONCRETE UNIT PAVERS TO BE 12" X 12" X 60MM 'HDRO-FLO CITY ESTATE' IN COLOR 'MONTEREY SANDS' BY PACIFIC INTERLOCK, APPROX. 9/9 SF
- [Hatched Pattern] POURED-IN-PLACE CONCRETE RETAINING WALL PER DETAIL A13

LANDSCAPE NOTES

1. CONTRACTOR SHALL HAVE SOIL TESTED BY A QUALIFIED SOILS LAB AND FOLLOW SOIL ADDITIVE RECOMMENDATIONS BY SOIL LAB. ALL SOIL SHALL BE CLEAR OF DEBRIS AND CONSTRUCTION SPILLS.
2. ALL NEW LANDSCAPE AREAS TO BE MULCHED WITH 3" THICK LAYER OF BARK MULCH EQUAL TO REDWOOD, FIR, CEDAR, OR A COMBINATION OF THESE. THE COMPOSITION OF THE MULCH SHALL BE A MIX OF SHREDDED BARK, WOOD AND SAWDUST, 6-4". NO GORILLA HAIR SHALL BE USED.
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5. UNLESS SPECIFIED, ALL IRRIGATION TO BE POINT-SOURCE DRIP. CONTRACTOR SHALL PROVIDE RIGID PVC CLASS 200 CONNECTION FROM VALVE TO 1/2" ABOVE GROUND TUBING. RIGID PVC AND 1/2" POLYETHYLENE PIPE CONNECTIONS SHALL HAVE ALL REQUIRED FITTINGS FOR TRANSITION FROM RIGID TO ABOVE-GROUND FLEXIBLE PIPE. ABOVE-GROUND 1/2" POLYETHYLENE TUBING SHALL HAVE A FLUSH CAP AT THE END OF ITS RUN AND BE STAKED WITH GALV. 12 GAUGE STEEL TIE-DOWN STAKES EVERY 4' O.C. 1/2" TUBING SHALL BE LAID HORIZONTAL TO SLOPE WHENEVER POSSIBLE WITH A MINIMUM OF CROSS-SLOPE SHAKING.
6. BIORETENTION AREAS TO BE IRRIGATED WITH OVERHEAD ROTARY SPRAY. NO MULCH LAYER APPLIED IN BIORETENTION AREAS.

PLANTING LEGEND

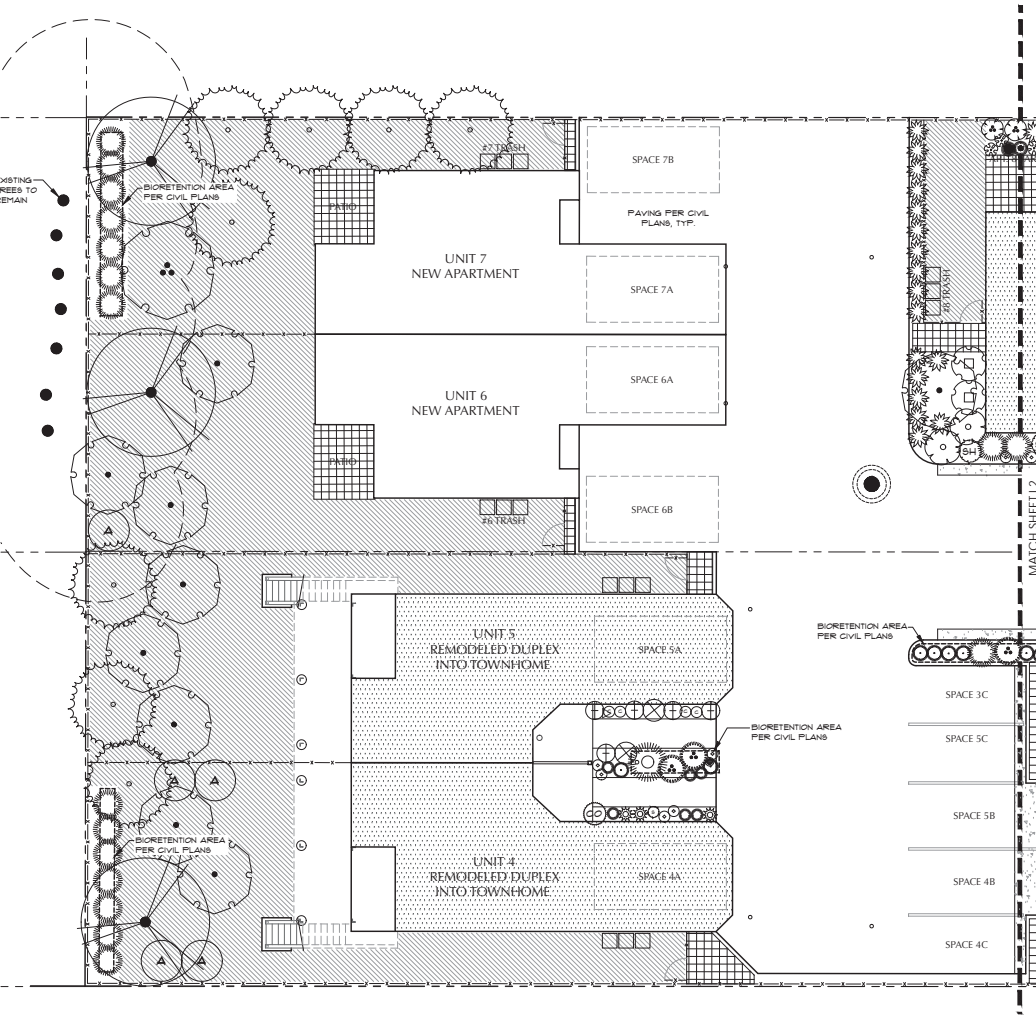
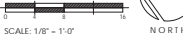
TREES	BOTANICAL NAME / COMMON NAME	SIZE	MATURE HT/WIDTH	QTY
[Symbol]	ACER NEGUNDO 'KELLY'S GOLD' / KELLY'S GOLD BOXELDER MAPLE	24" BOX	18' X 18'	3
[Symbol]	LAGERSTROEMIA INDICA X FAURIE 'HUSKOGEE' / LAVENDER GRAPE MYRTLE (SPLIT-TRUNKED)	15 GAL	15' X 15'	5
[Symbol]	LAGERSTROEMIA INDICA X FAURIE 'NATCHEZ' / WHITE GRAPE MYRTLE	15 GAL	20' X 10'	14
[Symbol]	LAIURIUS NOBILIS/SWEET BAY	15 GAL	13' X 13'	5

SHRUBS AND PERENNIALS	BOTANICAL NAME / COMMON NAME	SIZE	MATURE HT/WIDTH
[Symbol]	ALYOGYNE HUEGELI 'SANTA CRUZ' / BLUE HIBISCUS	5 GAL	1' X 8'
[Symbol]	BRUNFELSIA PAUCIFLORA 'FLORIBUNDA' / YESTERDAY, TODAY AND TOMORROW	5 GAL	9' X 5'
[Symbol]	CALANDRINA SPECTABILIS	1 GAL	20" X 10"
[Symbol]	COLEONEMA PULCHRUM 'SIBET GOLD' / GOLDEN BREATH OF HEAVEN	1 GAL	3' X 5'
[Symbol]	COREOPSIS GRANDIFLORA 'HELLOT' / HELLOT LARGEFLOWER TOXSEED	1 GAL	1' X 18"
[Symbol]	COTINUS COGGYGRIA 'GOLDEN SPIRIT' / YELLOW SMOKE TREE	5 GAL	1' X 6'
[Symbol]	CISTUS X CRISPATUS 'WARLEY ROSE' / WARLEY ROSE ROCK ROSE	1 GAL	2' X 4'
[Symbol]	CISTUS X PULVERULENTUS 'SUNSET' / MAGENTA ROCK ROSE	1 GAL	30" X 1'
[Symbol]	GERANIUM X 'BLUE SUNRISE' / BLUE SUNRISE CRANESBILL	1 GAL	1' X 2'
[Symbol]	GERANIUM X RIVERBLEAUANUM 'HAVIS SIMPSON' / HAVIS SIMPSON CRANESBILL	1 GAL	1' X 4'
[Symbol]	GERANIUM X 'ROZANNE' / ROZANNE CRANESBILL	1 GAL	15" X 30"
[Symbol]	HOSTA X 'PATRIOT' / PATRIOT PLANTAIN LILY	1 GAL	1' X 2'
[Symbol]	HYDRANGEA PANDULATA 'BOYSHHELL' / HYDRANGEA	1 GAL	3' X 3'
[Symbol]	LAVANDULA X INTERMEDIA 'PROVENCE' / PROVENCE LAVENDER	1 GAL	2' X 2'
[Symbol]	LEUCADENDRON 'WILSON'S WONDER' / LEUCADENDRON	5 GAL	4' X 5'
[Symbol]	MAHONIA EURYDIACTEA 'SOFT CARESS' / SOFT CARESS MAHONIA	1 GAL	3' X 3'
[Symbol]	PITTOSPORIUM TENIFOLIUM 'SILVER SHEEN' / SILVER SHEEN KOHJUA	5 GAL	10' X 8'
[Symbol]	SALVIA CHAMAEDRYOIDES / MEXICAN BLUE SAGE	1 GAL	1' X 18"
[Symbol]	SALVIA MICROPHYLLA 'HOT LIPS' / HOT LIPS SAGE	1 GAL	3' X 3'
[Symbol]	STACHYS BYZANTINA / LAMB'S EARS	1 GAL	10" X 18"

GRASSES	BOTANICAL NAME / COMMON NAME	SIZE	MATURE HT/WIDTH
[Symbol]	CHONDROPETALUM ELEPHANTINUM / LARGE CAPE RUSH	5 GAL	4' X 5'
[Symbol]	CAREX DIVULSA / BERKELEY SEDGE	1 GAL	2' X 2'
[Symbol]	DIANELLA TABMANCA 'TRIP' // TABRETH™ FLAX LILY	1 GAL	2' X 2'
[Symbol]	DIANELLA TABMANCA 'YELLOW STRIPE' / GOLD STRIPE FLAX LILY	1 GAL	2' X 2'
[Symbol]	HELICTOTRICHON SEMPERVIRENS 'SAPPHIRE' / BLUE OAT GRASS	1 GAL	3' X 20"
[Symbol]	MULLENBERGIA RIGENS / DEERGRASS	5 GAL	4' X 4'
[Symbol]	PENNINSETUM ALOPECUROIDES 'WANTLEY' / DWARF FOUNTAIN GRASS	1 GAL	30" X 18"
[Symbol]	STIPA ARUNDINACEA (SYN. ANEMANTHELE LESSONIANA) / NEW ZEALAND WIND GRASS	1 GAL	3' X 3'

VINES	BOTANICAL NAME / COMMON NAME	SIZE	MATURE HT/WIDTH
[Symbol]	HARDEBERGIA VOLUACEA / LILAC VINE	2 GAL	N/A

GROUND COVER	INSTALL EVERY 6" ON WOOD LATTICE LATTICE TO BE 90 DEG (NOT DIAGONAL) DESIGN AND 3" WIDE/5" TALL
[Hatched Pattern]	3" MULCH LAYER WITH NO PLANTING SEE #2 LANDSCAPE NOTES



REVISIONS		
DESCRIPTION	DATE	
ARCH & SITE	4/3/17	
PLNG. COMM.	11/2017	



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MATERIALS & FINISHES

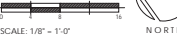
- 6" HIGH 'GOOD NEIGHBOR' REDWOOD FENCE
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- POURED-IN-PLACE CONCRETE RETAINING WALL PER DETAIL A13

LANDSCAPE NOTES

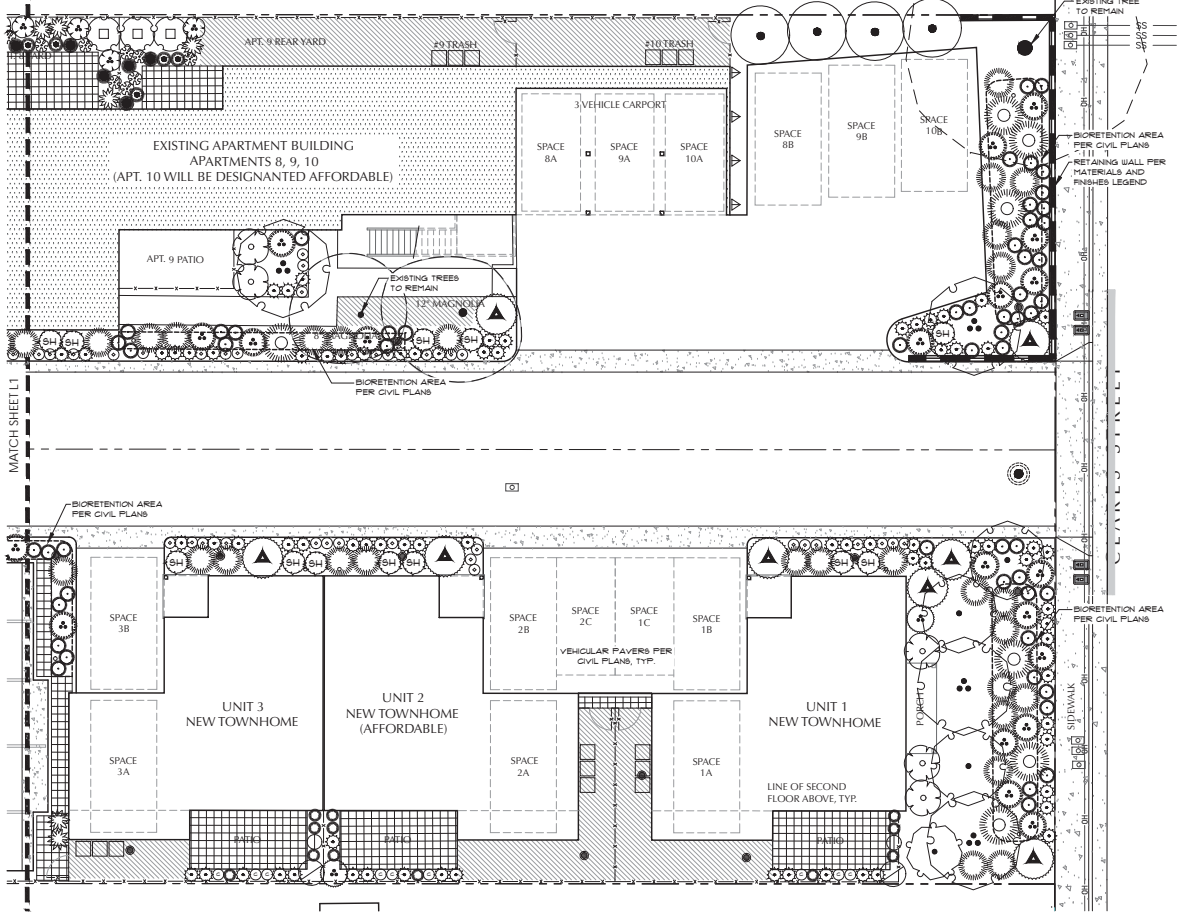
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PLANTING LEGEND

TREES	BOTANICAL NAME / COMMON NAME	SIZE	MATURE HEIGHT	QTY
	ACER NEGUNDO 'KELLY'S GOLD' / KELLY'S GOLD BOXLEAF MAPLE	24" Box	16' x 16'	3
	LAGERSTROEMIA INDICA X FAURIE 'MUSKOGEE' / LAVENDER CRAPPE MYRTLE (MULTI-TRUNKED)	15 GAL	15' x 15'	5
	LAGERSTROEMIA INDICA X FAURIE 'WATCHEZ' / WHITE CRAPPE MYRTLE	15 GAL	20' x 10'	14
	LAURUS NOBILIS/SWEET BAY	15 GAL	13' x 13'	5
SHRUBS AND PERENNIALS	BOTANICAL NAME / COMMON NAME	SIZE	MATURE HEIGHT	
	ALYOGYNE HUEBELI 'SANTA CRUZ' / BLUE HEIBERG	5 GAL	7' x 6'	
	BRUNFELIA PAUCIFLORA 'FLORIBUNDA' / YESTERDAY, TODAY AND TOMORROW	5 GAL	5' x 5'	
	CALANDRINA SPECTABILIS	1 GAL	20' x 20'	
	COLEONEMA PULCHRUM 'SUNSET GOLD' / GOLDEN BREATH OF HEAVEN	1 GAL	3' x 5'	
	CORCOPHIS GRANDIFLORA 'HELLOT' / HELLOT LARGE FLOWER TICKSEED	1 GAL	1' x 18"	
	COTINUS COGOGYRIA 'GOLDEN SPIRIT' / YELLOW SMOKE TREE	5 GAL	7' x 6'	
	CISTUS X CRISPATUS 'WARLEY ROSE' / WARLEY ROSE ROCK ROSE	1 GAL	2' x 4'	
	CISTUS X PULVERULENTUS 'SUNSET' / MAGENTA ROCK ROSE	1 GAL	30" x 1'	
	GERANIUM X 'BLUE SUNRISE' / BLUE SUNRISE CRANESBILL	1 GAL	1' x 2'	
	GERANIUM X 'RIVERDALE/ANNUM' 'MAVIS SIMPSON' / MAVIS SIMPSON CRANESBILL	1 GAL	1' x 4'	
	GERANIUM X 'ROZANNE' / ROZANNE CRANESBILL	1 GAL	15" x 30"	
	HOSTA X 'PATRIOT' / PATRIOT PLANTAIN LILY	1 GAL	1' x 2'	
	HYDRANGEA PANICULATA 'BOMBHELL' / HYDRANGEA	1 GAL	3' x 3'	
	LAVANDULA X INTERMEDIA 'PROVENCE' / PROVENCE LAVENDER	1 GAL	2' x 2'	
	LEUCADENDRON 'ULSON'S WONDER' / LEUCADENDRON	5 GAL	4' x 5'	
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	DIANELLA TASHMANICA 'TRIG' / TASHMAN FLAX LILY	1 GAL	2' x 2'	
	DIANELLA TASHMANICA 'YELLOW STRIPE' / GOLD STRIPE FLAX LILY	1 GAL	2' x 2'	
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	PERNISETUM ALOPECUROIDES 'WAXWAX' / DWARF FOUNTAIN GRASS	1 GAL	30" x 18"	
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VINES	BOTANICAL NAME / COMMON NAME	SIZE	MATURE HEIGHT	
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	INSTALLER EVERY 6' ON WOOD LATTICE LATTICE TO BE 90 DEG (NOT DIAGONAL) DESIGN AND 3' WIDE/ 8" TALL			
GROUNDCOVER	BOTANICAL NAME / COMMON NAME	SIZE	MATURE HEIGHT	
	3" MULCH LAYER WITH NO PLANTING SEE #2 LANDSCAPE NOTES			



CAPE BAY COLONY SUB-DIVISION
APN 034-301-01





WILLIAM C. KEMPFF
ARCHITECT
11 Center Street, Suite F
Menlo Park, CA 94025
31.459.0951
bill@wckempff.com

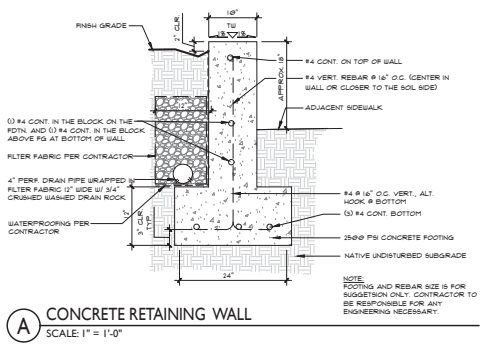
RESIDENTIAL DEVELOPER & FLOR
CLARES STREET PARTNERS, LLC
4199 CLARES STREET, CAPITOLA, CALIFORNIA
LANDSCAPE DETAILS

REVISIONS

DESCRIPTION	DATE
ARCH & SITE	4/3/17
PLNG. COMM.	11/20/17



DISCLAIMER
THIS SET FORTHIN THIS SET IS A PROPERTY OF THE ARCHITECT AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT. THE ARCHITECT ASSUMES NO LIABILITY FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN, NOR FOR THE RESULTS OF ANY ACTION TAKEN OR NOT TAKEN THEREON. THE ARCHITECT'S LIABILITY IS LIMITED TO THE ARCHITECT'S CONTRACTUAL OBLIGATIONS TO THE ARCHITECT.

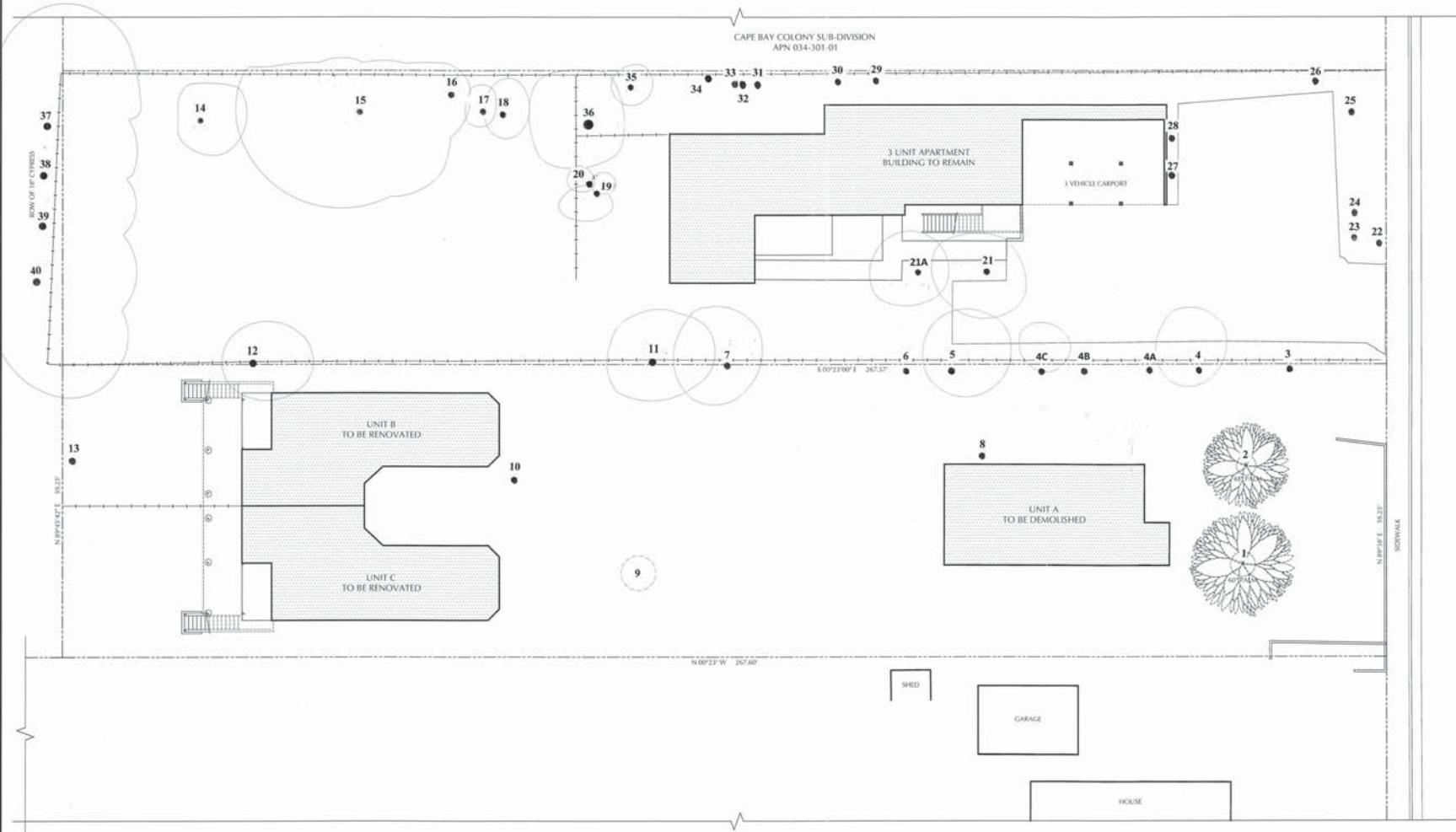


(B) PERSPECTIVE OF EXISTING APARTMENT BUILDING FROM CLARES STREET



(C) PERSPECTIVE OF PROPOSED TOWNHOME (UNIT 1) FROM CLARES STREET

<p>Nigel Belton Consulting Arborist PO Box 1744 Aptos, CA 95001 (831) 688 1239 (831) 332 3483 nb@nigelbelton.com</p>	<p>TREE LOCATION MAP 4199 Clares Street, Capitola California</p> <p>This label is attached to a plan that has been prepared by another professional - This label is intended to demonstrate that I do not take any credit for the plan - This plan has been used to add relevant arboricultural information only.</p>
<p>Date Prepared: November 9, 2016</p>	<p>Prepared at the request of: Bill Kempf Architect 911 Center Street, suite F Santa Cruz, CA 95060</p>
<p>Job: Clares Street Partners, L.L.C.</p>	<p>Prepared by Nigel Belton Certified Arborist WE-0410A</p>



1 EXISTING SITE PLAN
 SCALE: 1"=10'-0"

Attachment: 4199 and 4205 Clares Street Plans (4199 and 4205 Clares Street)

WILLIAM C. KEMPf
 ARCHITECT
 911 Center Street, Suite F
 Santa Cruz, CA 95060
 831 439-0951
 bill@wckempf.com

RESIDENTIAL DEVELOPMENT FOR
CLARES STREET PARTNERS, LLC
 4199 CLARES STREET, CAPITOLA, CALIFORNIA
 EXISTING SITE PLAN

ISSUING DATE:
 NOVEMBER 8, 2016

NO. 034-222-05

AGENT NAME:
 CLARES ST. PARTNERS LLC

DIRECT NAME:
 4199 CLARES STREET

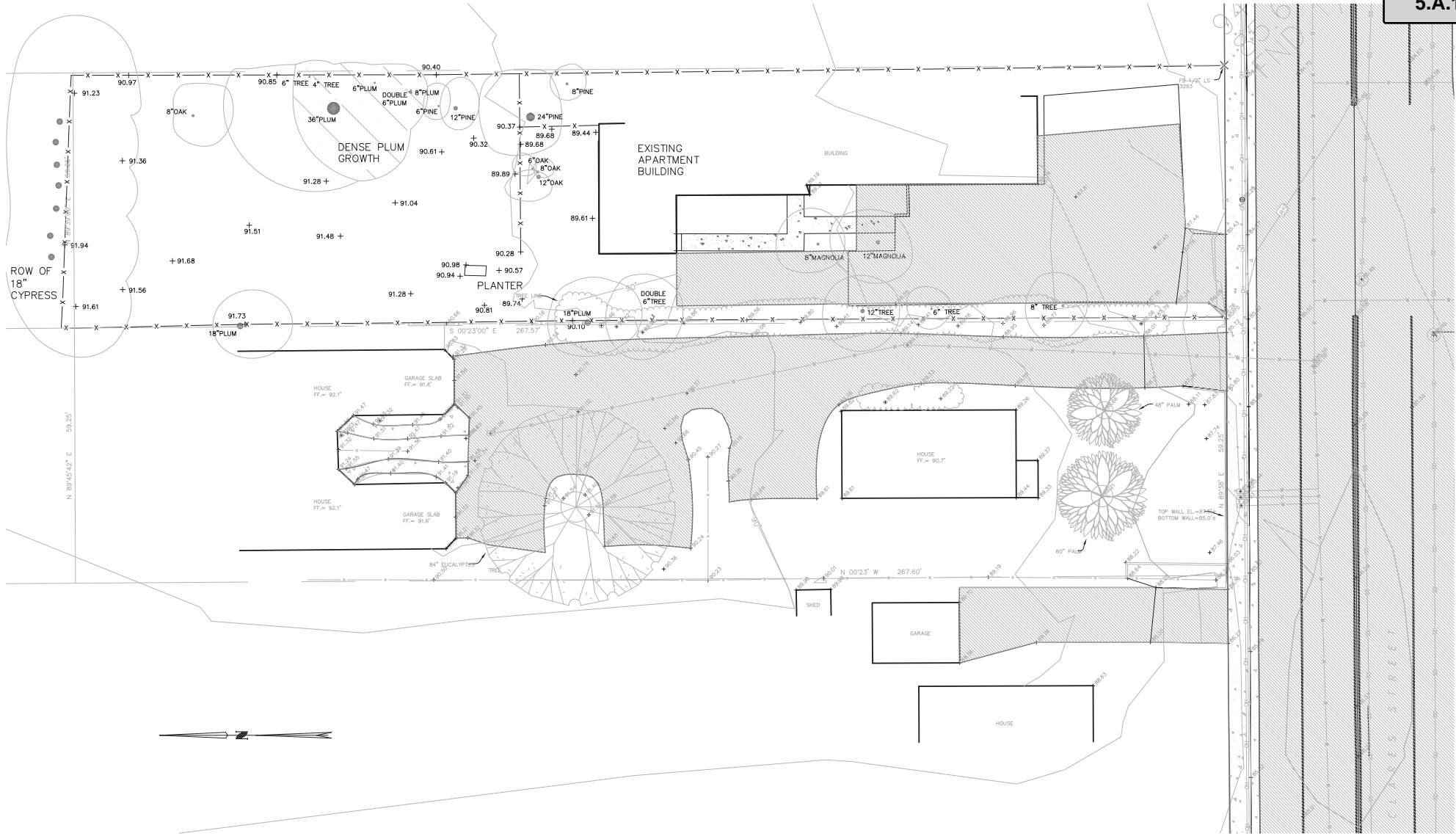
REVISIONS	
DESCRIPTION	DATE

DISCLAIMER

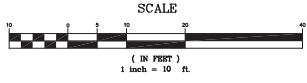
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TR-1



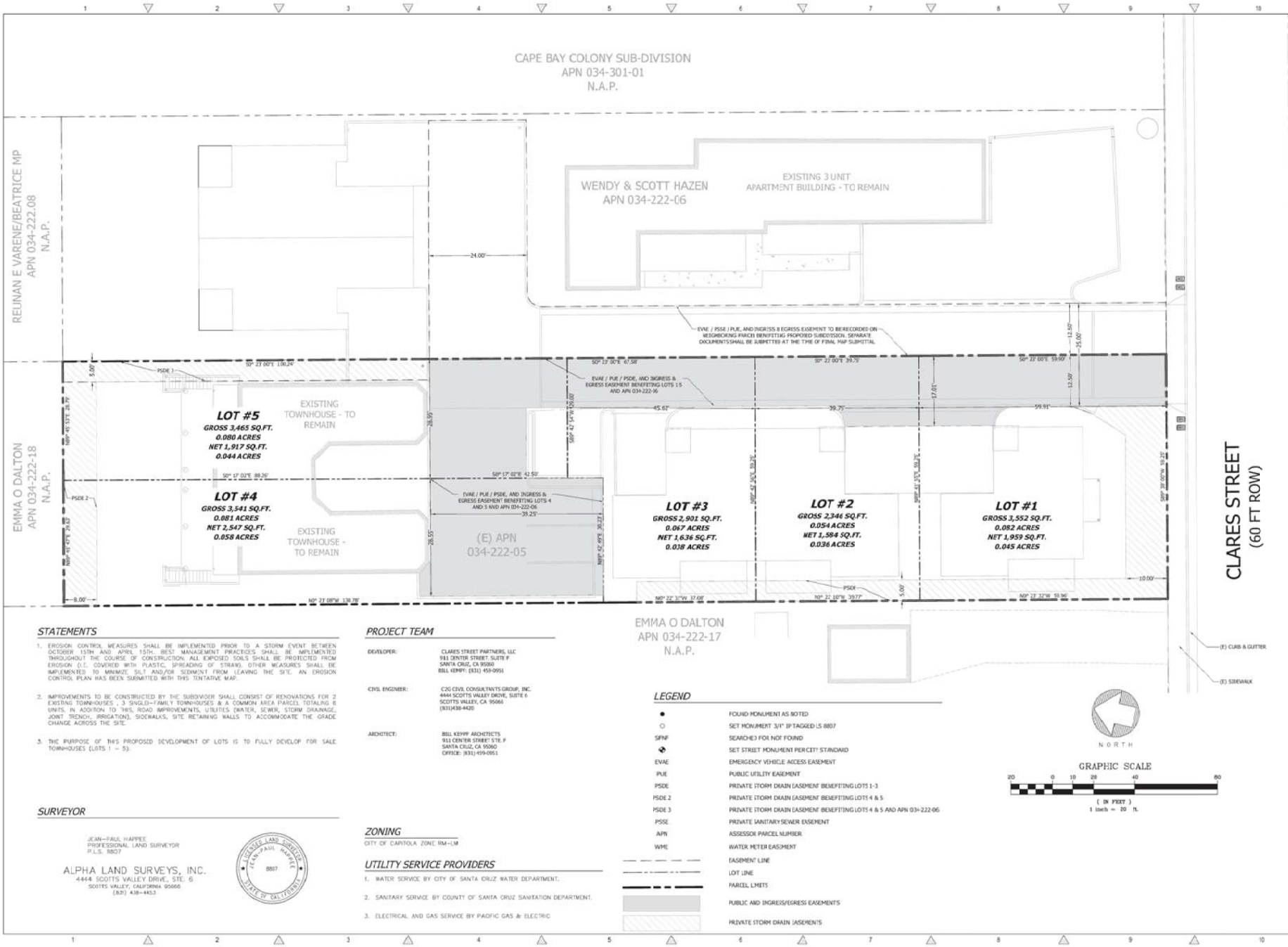
NOTES
 A TITLE REPORT WAS NOT PROVIDED FOR THIS SURVEY.
 EASEMENTS SHOWN, IF ANY, ARE COMPILED FROM
 RECORD MAPS AND THE CURRENT DEED FOR THE
 PROPERTY. THERE MAY BE ADDITIONAL EASEMENTS
 THAT BURDEN OR BENEFIT THE SUBJECT PROPERTY
 THAT WOULD ONLY BE REVEALED ON A TITLE REPORT.



JEAN-PAUL HAPPEE, PLS 8807

ALPHA LAND SURVEYS, INC.		
4444 SCOTT'S VALLEY DR. #7 SCOTT'S VALLEY, CA 95068 (831) 438-4453	P.O. BOX 1146 MORGAN HILL, CA 95038 (831) 438-4453	TOPOGRAPHIC MAP OF 4193/4201-4205, CLARES S CITY OF CAPITOLA SANTA CRUZ COUNTY
1" = 10'	DATE: 8/22/16	JOB#: 2016-071

Attachment: 4199 and 4205 Clares Street Plans (4199 and 4205 Clares Street)



STATEMENTS

1. EROSION CONTROL MEASURES SHALL BE IMPLEMENTED PRIOR TO A STORM EVENT BETWEEN OCTOBER 15TH AND APRIL 15TH. BEST MANAGEMENT PRACTICES SHALL BE IMPLEMENTED THROUGHOUT THE COURSE OF CONSTRUCTION. ALL EXPOSED SOILS SHALL BE PROTECTED FROM EROSION E.G. COVERED WITH PLASTIC, SPREADING OF STRAW). OTHER MEASURES SHALL BE IMPLEMENTED TO MINIMIZE SOIL AND/OR SEDIMENT FROM LEAVING THE SITE. AN EROSION CONTROL PLAN HAS BEEN SUBMITTED WITH THIS TENTATIVE MAP.
2. IMPROVEMENTS TO BE CONSTRUCTED BY THE SUBDIVIDER SHALL CONSIST OF RENOVATIONS FOR 2 EXISTING TOWNHOUSES, 3 SINGLE-FAMILY TOWNHOUSES & A COMMON AREA PARCEL TOTALING 6 UNITS. IN ADDITION TO THIS, ROAD IMPROVEMENTS, UTILITIES (SEWER, STORM DRAINAGE, JOINT TRENCH, IRRIGATION), SIDEWALKS, SITE RETAINING WALLS TO ACCOMMODATE THE GRADE CHANGE ACROSS THE SITE.
3. THE PURPOSE OF THIS PROPOSED DEVELOPMENT OF LOTS IS TO FULLY DEVELOP FOR SALE TOWNHOUSES (LOTS 1 - 5).

SURVEYOR

JEAN-PAUL HAPPEE
PROFESSIONAL LAND SURVEYOR
P.L.S. 8807

ALPHA LAND SURVEYS, INC.
4444 SCOTT'S VALLEY DRIVE, STE. 6
SCOTT'S VALLEY, CALIFORNIA 95066
(831) 438-4453



PROJECT TEAM

DEVELOPER:
CLARES STREET PARTNERS, LLC
911 CENTER STREET SUITE F
SANTA CRUZ, CA 95060
BILL KEMPI (831) 459-0991

CIVIL ENGINEER:
C2G CIVIL CONSULTANTS GROUP, INC.
4444 SCOTT'S VALLEY DRIVE, SUITE 6
SCOTT'S VALLEY, CA 95066
(831) 438-4453

ARCHITECT:
BILL KEMPI ARCHITECTS
911 CENTER STREET STE F
SANTA CRUZ, CA 95060
OFFICE: (831) 459-0991

ZONING

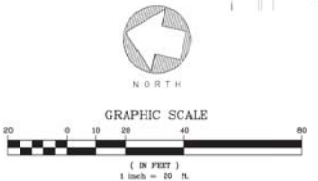
CITY OF CAPITOLA ZONE RM-1M

UTILITY SERVICE PROVIDERS

1. WATER SERVICE BY CITY OF SANTA CRUZ WATER DEPARTMENT.
2. SANITARY SERVICE BY COUNTY OF SANTA CRUZ SANITATION DEPARTMENT.
3. ELECTRICAL AND GAS SERVICE BY PACIFIC GAS & ELECTRIC

LEGEND

- FOUND MONUMENT AS NOTED
- SET MONUMENT 3/4" 1P TAGGED US 8807
- SNIP SEARCHED FOR NOT FOUND
- ◆ SET STREET MONUMENT PER CITY STANDARD
- EVAE EMERGENCY VEHICLE ACCESS EASEMENT
- PUE PUBLIC UTILITY EASEMENT
- PSDE PRIVATE STORM DRAIN EASEMENT (BENEFITING LOTS 1-3)
- PSDE 2 PRIVATE STORM DRAIN EASEMENT (BENEFITING LOTS 4 & 5)
- PSDE 3 PRIVATE STORM DRAIN EASEMENT (BENEFITING LOTS 4 & 5 AND APN 034-222-06)
- PSSE PRIVATE SANITARY SEWER EASEMENT
- APN ASSESSOR PARCEL NUMBER
- WHE WATER METER EASEMENT
- EASEMENT LINE
- LOT LINE
- PARCEL LIMITS
- PUBLIC AND INGRESS/EGRESS EASEMENTS
- PRIVATE STORM DRAIN EASEMENTS



Attachment: Clares Street Tentative Map (4199 and 4205 Clares Street)

REVISIONS	BY
CITY COMMENTS DATED 4/8/17	JW
CITY COMMENTS DATED 6/17/17	JW

TENTATIVE MAP



C2G CIVIL CONSULTANTS GROUP, INC.
Engineers & Planners
4444 SCOTT'S VALLEY DRIVE, SUITE 6
SCOTT'S VALLEY, CA 95066
P (831) 438-4453

RESIDENTIAL DEVELOPMENT FOR
CLARES STREET PARTNERS, LLC
4199 CLARES ST., CAPITOLA, CA.

Date: 02/02/17
Scale: 1" = 20'
Drawn: DD/JB
Job: 449-10
Sheet:
SHEET 1
Of 8 Sheets

4199 Clares Street and RM-LM (Multi Family Low Density) Development Standards

Development Standards		
	Maximum	Proposed
Height	30 ft..	Unit 1: 23 ft. 10 in. Unit 2 and 3: 25 ft. 7 in. Unit 4 and 5: 24 ft.
Lot Coverage	40%	Unit 1: 26.3 % (934 sf) Unit 2: 39.8% (934 sf) Unit 3: 32.2% (934 sf) Unit 4: 25.7% (911 sf) Unit 5: 26.3% (911 sf)
Front yard, First story	15 ft..	Unit 1: 17 ft. Unit 2: 18 ft. Unit 3: 18 ft. Unit 4: 42 ft. Unit 5: 42 ft.
Front yard, Garage	20 ft..	Unit 1: 33 ft. Unit 2: 33 ft. Unit 3: 33 ft. Unit 4: 42 ft. Unit 5: 12 ft.
Front Yard, Second Story	15 ft.. + 2% of lot depth	Unit 1: 17 ft. Unit 2: 18 ft. Unit 3: 18 ft. Unit 4: 42 ft. Unit 5: 42 ft.
Side Yard, First story	10% of lot width Unit 1: 6 ft.. Unit 2: 4 ft. Unit 3: 4 ft. Unit 4: 3 ft. Unit 5: 3 ft.	Unit 1: North 5 ft. / South 20 ft. Unit 2: North 0 ft./ South 5 ft. Unit 3: North 2 ft. South 0 ft. Unit 4: East 0 ft./ West 7 ft. Unit 5: East 5 ft./ West 0 ft. Concession Requested
Side Yard, Second story	12% of lot width Unit 1: 7.2 ft. Unit 2: 4.8 ft. Unit 3: 4.8 ft. Unit 4: 3.6 ft. Unit 5: 3.6 ft.	Unit 1: North 5 ft. / South 20 ft. Unit 2: North 0 ft./ South 5 ft. Unit 3: North 2 ft. South 0 ft. Unit 4: East 0 ft./ West 7 ft. Unit 5: East 5 ft./ West 0 ft. Concession Requested

Landscaping and Open Space		
Landscaping: Screen planting and additional landscaping shall be encouraged in all yard areas to insure privacy for all residents.	Complies	
Usable open space: Not less than 50% of the required rear yard shall be developed as usable open space, fully landscaped and accessible to the residents of the structure on the site. The least dimension of this usable open space shall be fifty feet. Fully developed roof terraces and roof gardens shall be allowed to provide up to one-half the area of usable open space.	Complies	
Private open space: Minimum private open space in the form of screened terraces, decks or balconies shall be provided as follows: 1. Not less than fifty percent of dwelling units shall be provided with individual open space; 2. Each private open space shall have a minimum area of forty-eight square feet, with a least dimension of four feet.	Complies. Each unit has private ownership of the open space around the yard.	
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.	1 covered and 1.5 uncovered per unit	<u>3 spaces total per unit</u> 1 covered 2 uncovered Complies
Underground Utilities: required with 25% increase in area	Required	

4205 Clares Street and RM-LM (Multi Family Low Density) Development Standards

Development Standards		
	Maximum	Proposed
Height	30 ft..	Unit 6 and 7: 25 ft.. Unit 8, 9 and 10: 22 ft..
Lot Coverage	40%	26% (4,218 sq. ft..)
Setbacks – Based on entire parcel		
Front yard, First story	15 ft..	44 ft..
Front yard, Garage	20 ft..	44 ft..
Front Yard, Second Story	15 ft.. + 2% of lot depth	73 ft..
Side Yard, First story	10% of lot width 59 ft.. wide 6 ft..	7 ft.. 2 in.
Side Yard, Second story	12% of lot width 60 ft.. wide 7 ft.. 2 in.	7 ft.. 2 in.
Landscaping and Open Space		
Landscaping: Screen planting and additional landscaping shall be encouraged in all yard areas to insure privacy for all residents.		Complies
Usable open space: Not less than 50% of the required rear yard shall be developed as usable open space, fully landscaped and accessible to the residents of the structure on the site. The least dimension of this usable open space shall be fifty feet. Fully developed roof terraces and roof gardens shall be allowed to provide up to one-half the area of usable open space.		Complies
Private open space: Minimum private open space in the form of screened terraces, decks or balconies shall be provided as follows: 1. Not less than fifty percent of dwelling units shall be provided with individual open space; 2. Each private open space shall have a minimum area of forty-eight square feet, with a least dimension of four feet.		Complies
Underground Utilities: required with 25% increase in area		Required



STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT

DATE: NOVEMBER 2, 2017

SUBJECT: **4199 and 4205 Clares Street #17-006 APN: 034-222-05 and 06**

Design Permit for a State Density Bonus application for a 10-unit residential project, which includes a conditional use permit for a tentative condominium map for the 5 units on 4199 Clares Street. The project is within the RM-LM (Multi-family Low Density) zoning district.

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

Environmental Determination: Categorical Exemption

Property Owner: Clares Street Partners, LLC (4199 Clares) and Kathleen Hazen (4205 Clares)

Representative: Bill Kempf, Architect. Filed: 1/23/2017

APPLICANT PROPOSAL

The proposal includes a Design Permit for a State Density Bonus application for a 10-unit residential project, which includes a tentative map for a condominium project for the five units located on 4199 Clares Street and provides one onsite affordable housing unit on each property. The project will create a shared access between the two properties. 4199 Clares Street is currently developed with three units (one single-family home and one duplex). 4205 Clares Street is currently developed with three units within an existing triplex. The proposed project would result in a net increase of four units and would provide two deed-restricted affordable units.

Development of 4199 Clares Street would include remodeling the existing duplex at the rear of the lot, demolishing the existing single-family residence at the front of the lot, and building one single-family home and one duplex townhome. The 4199 Clares Street application includes a condominium tentative map to allow individual ownership of the five units.

4205 Clares Street would be developed with a new duplex at the rear of the lot. The triplex at the front of the lot will remain with minor upgrades to the exterior. The two parcels are in the RM-LM (Residential Multi-Family, Low-Medium Density) Zoning District.

BACKGROUND

On April 12, 2017, the Architectural and Site Review Committee reviewed the application and provided the applicant with the following direction:

- Committee Architect, Frank Phanton, provided positive feedback on the newly proposed structures and duplex remodel. He suggested that the existing triplex on 4205 Clares Street be updated to related to the materials utilized within the development and that the side that faces Clares Street be designed have a connection to the street rather than a blank slump block wall.
- City Public Works Representative, Danielle Uharriet, discussed stormwater requirements and the third party technical review.
- City Building Official, Brian Van Son, informed the applicant that the City would need a letter from the Fire Marshall approving the turnaround and that a will-serve letter will be required prior to issuance of building permit.
- City Planner, Katie Herlihy, requested that the plans be updated to show compliance with the open space requirement. She also suggested the applicant consider updating the existing triplex to relate to the development.

DISCUSSION

State Density Bonus

The California density bonus law allows developers to attain increased density and concessions to development standards in exchange for providing a qualifying community benefit. Qualifying community benefits include affordable housing, senior housing, childcare facilities, transitional foster youth housing, disabled veterans housing, and homeless person housing. The current application is providing affordable housing in exchange for the density bonus. No concessions to the development standards are requested within the application. The maximum density bonus is determined on the amount and type of community benefit provided by the developer. The following table identifies the applicable density bonus allowances from the state density bonus law:

Community Benefit Affordable Apartment Unit Percentage	Density Bonus Chart		
	Very Low Income Density Bonus	Low Income Density Bonus	Moderate Income Density Bonus
10%	32.5%	20%	5%
15%	35%	27.5%	10%
20%	35%	35%	15%
Moderate Income Common Interest Development (Condo)	Very Low Income Density Bonus	Low Income Density Bonus	Moderate Income Density Bonus
			5%
			10%
			15%

Within the RM/LM zoning district there is a requirement for minimum lot area per unit of 4,400 square feet. For each of the 15,850 square feet Clares Street properties, this equates to 3.6 units per parcel. The two properties are under separate ownership and are proposing different housing types. 4199 Clares Street will be developed as a condominium project, while 4205 Clares Street will remain apartments. Due to separate ownership, the density bonus law is applied to each project separately. Both properties are proposing to dedicate one affordable unit.

The development at 4199 Clares Street will provide one moderate income condominium unit in exchange for a 15 percent density bonus. A 15 percent density bonus results in a maximum density of 4.14 units for the parcel which, pursuant to the state density bonus §65915(f)(5) is rounded up to 5 units.

The development at 4205 Clares Street will provide one low income affordable rental unit in exchange for a 35 percent density bonus. A 35% density bonus results in a maximum density of 4.86 units for the parcel which is rounded up to 5 units.

The following table summarizes the applicable community benefits and maximum density allowed:

Property	Community Benefit	Existing Density	Density Bonus	Maximum Density
4199 Clares St.	Moderate Income Condo Unit	3.6 units	15%	4.14 units/parcel 5 units max
4205 Clares St.	Low Income Rental Unit	3.6 units	35%	4.86 units/parcel 5 units max

Under state density bonus law, projects are granted concessions based on the type and amount of public benefits provided. The applicant is not seeking any concessions or waivers to development standards within the application.

Parking

The state density bonus law has specific minimum parking standards for development projects that supersede local standards. The development at 4199 Clares Street complies with Capitola’s parking requirement. At 4205 Clares Street, the applicant is utilizing the decreased parking standard allowed with the state density bonus to the apartment development, as shown in the following table.

Parking		
Capitola Standard	State Density Bonus Law	Proposed
More than 4 units: 1 covered space <u>1.5 uncovered spaces</u> 2.5 spaces total per unit	2 – 3 Bedrooms 2 onsite parking spaces	4199 Clares 3 spaces per unit (1 covered)
		4205 Clares Street 2 spaces per unit (1 covered)

Affordable Housing

At 4205 Clares Street, there is one low-income affordable apartment unit proposed. Within the State Density Bonus Law, the applicant is required to agree to the continued affordability of all low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code. At 4205 Clares Street, apartment #10 will be deed restricted to rent levels for low-income households for a minimum period of 55 years.

At 4199 Clares Street, one individual ownership unit will be deed restricted to sell at the median household income level during the initial sale. The unit must be deed restricted to ensure the resale of the unit is completed in compliance with State Density Bonus equity sharing

agreement requirements. Within an equity sharing agreement, upon resale, the seller of the unit will retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The City will recapture any initial subsidy and its proportionate share of appreciation, of which the calculation is outlined in §65945(C)(2)(A-C) of the State Density Bonus law. The City must utilize its proportionate share of appreciation within five years toward an affordable housing project that qualifies under the state code.

At 4205 Clares Street, apartment #10 will be dedicated for rental by a low-income household. Low-income household cannot exceed 80% of the median family income level for Santa Cruz County as published by California Department of Housing and Community Development. Affordability requirements will be enforced through deed restrictions and annual reporting. The apartment will require ongoing public monitoring of affordability for a minimum period of 55 years. To ensure the affordability requirement is met, the City will require the property owner to rent the unit to a Section 8 voucher holder to satisfy this requirement. The owner shall provide an annual report to the city including income, occupancy, and rent data for the deed restricted unit due no later than 60th day after the close of the calendar year. Staff has conditioned the permit that these requirements are met.

The development is also required to comply with the City's affordable housing requirements of 18.02. The City's in-lieu housing fee will be applied to the three new units on 4199 Clares Street and the two new unit at 4205 Clares Street.

Development Standards

Development standards regulate the height, setbacks, lot coverage, and landscaping for development specific to the zoning district. Attachment 2 is the development standards table that specifies the development standards of the RM-LM zoning district relative to the projects at 4199 Clares Street and 4205 Clares Street. The proposed development on each lot complies with all development standards of the MR-LM Zoning District.

Design Permit

4199 and 4205 Clares Street are in the Multi-Family Low Density (RM-LM) zoning district. The street has a mix of housing types including single-family homes, secondary dwelling units, and multi-family developments. The proposed multi-family developments will complement the existing land uses along the street.

4199 Clares Street

Currently, there are two structures on the lot at 4199 Clares Street; a single-family home at the front of the lot and a duplex at the rear of the lot. The structures are not listed on the 2005 City of Capitola Historic Structures List or the 1986 Capitola Architectural Survey. The applicant is proposing to demolish the existing single-family structure. A new single-family home and duplex are proposed on the front of the lot. The existing duplex on the rear of the lot will be remodeled. A total of five residential units are proposed for the property.

Unit #1 is a two-story, single-unit structure. The design is oriented toward Clares Street with a covered entryway and also toward the shared driveway with a covered entry next to the garage. The new home has a contemporary style with stucco finish on the first floor, shingle on the second floor, and double hung windows throughout.

Units #2 and #3 are connected through a centralized shared wall. This structure is finished with stucco on the first story and introduces board and batt siding on the second story. Arched covered entryways face inward to the project oriented toward the shared driveway. Each unit has a single wooden garage door with divided lights along the top. Double hung windows are proposed throughout.

Units #4 and #5 will be in the remodeled duplex at the rear of the property. The footprint of the structure will be unchanged, but the exterior finishes including siding, windows, and trim will be completely upgraded. The townhomes will have a stucco first story with horizontal siding on the second story. The windows will be updated with most windows being double hung and new wooden garage doors matching those of the two other structures will provide consistency throughout the 5-unit multi-family development.

The landscaping proposed for 4199 Clares Street complies with the requirements of the RM-LM district. More the half of the rear yard for each unit is open space and each unit has adequate private open space to enjoy.

4205 Clares Street

The property at 4205 Clares Street has an existing triplex located toward the front of the lot. The applicant is not proposing any change to the mass or form of the existing triplex but does plan minor improvements to the exterior. The minor improvements include repainting the entire building, replacing existing railings with new wood railings, and adding new garage doors to the three carport stalls. During the Architectural and Site Review Committee meeting, Architect Frank Phanton suggested that the applicant update the outdated triplex. He also suggested changes to the front façade so the building has a presence along the street.

The applicant added the new deck railings and garage doors in response to the committee's concerns. No changes were included to modify the existing concrete block wall façade facing the street. The applicant submitted a letter explaining the reasoning for not redeveloping the existing triplex at this time (Attachment 4). In short, the owner indicates that the triplex should be replaced rather than remodeled, and they are hesitant to invest money into a remodel when they plan to put the money into new units in the future.

Staff has concerns regarding future redevelopment of the triplex and the required affordable unit tied to this project. The affordable rental unit is proposed in the triplex within unit 10 on the second floor. The unit is required to be rented at low-income rates for a minimum period of 55 years. This does not align with the owner's plans to replace the three units in the future. To remedy the issue, the deed restrictions placed on 4205 Clares Street could be drafted to obligate the property owner to maintain one of the five units as an affordable unit on the site at all times. This would provide the flexibility to redevelop the triplex when the owner is ready while providing a low-income rental in one of the new units.

Tree Removal

The applicant submitted an Arborist Report outlining the existing condition of the 36 trees on site and four trees located in close proximity to the site. The plans suggest removal of 28 of the 40 trees. 21 trees are proposed for removal due to their location within the footprints of proposed improvements (shared driveway, parking, new structures). Seven of the trees are proposed for removal due to their poor health and/or structural condition. The applicant is requesting relocation of the two existing Canary Island Palms at the front of the property to another private or public property. The applicant has also suggested the idea of donating the two trees to the City. The arborist report includes mitigation for the healthy trees to require tree protection zone fences during construction to preserve the tree's roots. The landscape plan includes 27 new

trees to be planted throughout the two properties. The majority of the trees are proposed along the rear property line and along the street frontage.

Condominium Map

The applicant is proposing a condominium map for the single parcel at 4199 Clares Street to create 5 condominium units. The tentative map identifies the location of the exclusive areas for each unit including exclusive open space and parking. The map also identifies common areas for the shared driveway and the common front yard open space. A condominium map with five or more units is processed as a major subdivision and requires Planning Commission recommendation and City Council approval of the tentative map and final map.

A condominium map requires a conditional use permit and must comply with the residential condominium development standards outlined in 16.68.100. These standards required separate parking, separate meters for utilities, separate electricity panel boards, sound insulation, smoke detectors, fire protections, storage facilities, open space, and a report on the condition of existing equipment and appliances. The development complies with the parking and open space requirements. The remaining standards shall be met during the final construction stages and prior to map recording. Condition of approval #2 states "Prior to recordation of a parcel map, the duplex shall be brought into compliance with the condominium conversion requirements within Capitola Municipal Code section 16.68.120 through 16.68.180." The developer provided an overview of compliance with these standards (Attachment 3).

There are several legal agreements that are required for the condo map tied to the parcel for access, stormwater, and utilities. As a condition of the final map, the applicant is required to reference the easement and agreements on the condominium map to the satisfaction of the public works department.

Water District

The water district boundary is located between the two properties. 4199 Clares Street is in the City of Santa Cruz Water Department while 4205 Clares Street is in the Soquel Creek Water District. The owner of 4199 Clares Street received a letter stating that water is currently available for the five-unit townhome development (Attachment 5). Soquel Creek Water District currently has a wait list estimated to be about one year out, therefore the owner of 4205 Clares Street was unable to obtain a conditional will-serve letter. The application has been conditioned that prior to building permit, a commitment letter must be obtained from Soquel Creek Water District. The owner of 4205 Clares Street acknowledged in their letter (Attachment 3) that they are proceeding through the entitlement process at their own risk without a commitment letter. Soquel Creek Water District has been working with the applicant and is aware that the owner is proceeding with application under the circumstances described.

Fire District

Central Fire has reviewed the site layout and found that the fire district requirements have been met (Attachment 6). At time of building permit submittal, Central Fire will review the plans to ensure all district requirement are met.

Sewer District

Santa Cruz County Sanitation District reviewed the proposed development and made findings that sewer service is available for the development (Attachment 7).

CEQA

Section 15332 of the CEQA Guidelines exempts in-fill development projects when the project is in conformance with the General Plan and zoning; is located entirely within City limits; the site

has no value as habitat for endangered, rare, or threatened species; project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services. This project involves ten units within the two multi-family parcels that is in compliance with the state density bonus law, the density bonus zoning ordinance, and the General Plan. No adverse environmental impacts were discovered during review of the proposed project.

RECOMMENDATION

Staff recommend the Planning Commission review and approve application #17-006 based on the finding and conditions.

1. The application includes a Design Permit for a State Density Bonus application for a 10-unit residential project, which includes a conditional use permit and tentative map for the 5 condominium units on 4199 Clares Street. The projects are located at 4199 and 4205 Clares Street within the RM-LM (Multi-family Low Density) zoning district. There is a shared driveway between the two parcels. The proposed project received a positive recommendation from Planning Commission on November 2, 2017. The proposed project is approved as indicated on the final plans reviewed and approved by the City Council on date, except as modified through conditions imposed by the City Council during the hearing.
2. Prior to recordation of a final map, the duplex shall be brought into compliance with the condominium conversion requirements within Capitola Municipal Code section 16.68.120 through 16.68.160, including:
 - a. Separate utility meters for each unit. A water shut-off valve for each unit. Separate access to individual meters and heaters without requiring entry through another unit.
 - b. Separate panel board for all electrical circuits with serve the unit.
 - c. Wall and floor-ceiling assemblies shall conform to Title 25, California Administrative Code, Section 1092 or its successor.
 - d. Compliance with building and housing codes including Smoke detectors and maintenance of fire protection systems.
 - e. Separate storage facilities shall be provided for each unit with a minimum of 200 square feet.
 - f. Written certification of equipment and appliances.
3. Prior to building permit issuance, the applicant shall submit agreements between the various property owners that covers the operations and maintenance of all shared roadways, utilities, and other improvements. Building permits will not be issued until said agreements have been approved by the City and said agreements shall be recorded on the deed of all parcels existing or newly created by this project.
4. For the condominium portion of the project the homeowner's association (HOA) 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.
5. 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.

6. The tentative map for the five-unit condominium shall expire 24 months from the date of approval. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160 and the California Subdivision Map Act.
7. Available and necessary utilities, including CATV (cable television service) 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.
8. Unit 2 at 4199 Clares Street shall be deed restricted to sell at the median household income level during initial sale. Median income level is established in Section 50052.5 of the California Health and Safety code.
9. Prior to recordation of the final subdivision map or issuance of building permits for the State Density Bonus Development Project, the developer shall enter into a Participation Agreement with the City so as to assure compliance with the provisions of the State Density Bonus affordable housing requirement for one ownership unit that will be deed restricted to sell at the median household income level during initial sale and an Equity Sharing Agreement for time of resale. Unit 2 has been designated as the affordable unit. The participation agreement and deed restriction shall be in a form suitable for recordation as authorized by the Community Development Director and City Attorney.
10. The equity sharing agreement shall follow the provisions of §65945(C)(2)(A-C), as follows: (A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.
(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.
(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.
11. The property at 4205 Clares Street shall be deed restricted to provide continued affordability of one low-income affordable housing rental unit for a period of no less than 55 years. Low-income household cannot exceed 80% of the median family income level for Santa Cruz County as published by California Department of Housing and Community Development. The owner shall enter into an agreement with the City so as to assure compliance with the provisions of the State Density Bonus affordable housing requirement for one unit on site to be deed restricted as a low-income rental as defined in Section 50053 of the Health and Safety Code. The deed restriction shall be in a form suitable for recordation as authorized by the Community Development Director and City Attorney.
12. The owner of 4205 Clares Street shall exclusively rent the affordable unit to a Section 8 voucher holder. The owner shall provide an annual report to the city including income,

- occupancy, and rent data for the deed restricted unit due no later than 60th day after the close of the calendar year.
13. 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 City Council. All construction and site improvements shall be completed according to the approved plans
 14. 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.
 15. At time of submittal for building permit review, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.
 16. 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 City Council approval.
 17. 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.
 18. Prior to issuance of building permit, all Planning fees associated with permit #17-006 shall be paid in full.
 19. 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.
 20. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Santa Cruz Water, Soquel Creek Water District, and Central Fire Protection District.
 21. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, prepared by a registered civil engineer, shall be submitted to the City and approved by the Public Works Director. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
 22. 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 Public Works Director.
 23. 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, approval and recorded in the Office of the County Recorder by the Public Works Director.
24. Prior to final occupancy approval the applicant shall enter into and record in the Office of the County Recorder, 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.
 25. 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. All temporary sediment and erosion control best management practices (BMPs) shall be maintained throughout the project duration.
 26. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the licensed contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
 27. 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
 28. 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. The driveway approach shall be replaced to meet ADA standards along Clares Street.
 29. Prior to issuance of a Certificate of Occupancy, the applicant shall demonstrate compliance with the tree removal permit authorized by this permit.
 30. 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.
 31. 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.
 32. 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.
 33. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.

FINDINGS

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and State Density Bonus Law.**
Community Development Department Staff, the Architectural and Site Review Committee, the Planning Commission, and the City Council have reviewed the project. The state density bonus development application, combined with the design permit, conditional use permit, and tentative condominium map application are consistent with the objectives of the State Law, Zoning Ordinance, and General Plan. The properties at 4199 and 4205 Clares Street shall develop one onsite affordable housing unit on each lot in exchange for a density bonus of 5 units. The development complies with the development standards of the RM-LM zoning district for height, setbacks, and open space.
- B. **The application maintains the character and integrity of the neighborhood.**
The development is located in the low density multi-family residential zoning district. The neighborhood includes a mix of single-family homes, multi-family apartments, and town-homes. The development will maintain the multi-family character of the neighborhood as well as the integrity of the neighborhood.
- C. **The application is consistent with the Subdivision Map Act and local Subdivision Ordinance.**
The tentative condominium map 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 condominium conversion.
- D. **This project is categorically exempt under Section 15332 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**
Section 15332 of the CEQA Guidelines exempts in-fill development projects when the project is in conformance with the General Plan and zoning; is located entirely within City limits; the site has no value as habitat for endangered, rare, or threatened species; project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services. This project involves ten units within the two multi-family parcels that is in compliance with the state density bonus law, the density bonus zoning ordinance, and the General Plan. No adverse environmental impacts were discovered during review of the proposed project.

ATTACHMENTS:

1. 4199 and 4205 Clares Street Plans
2. Development Standards Table
3. 4199 Clares Condominium Compliance
4. 4205 Clares Street Letter
5. Clares Street City of Santa Cruz Water Letter
6. Clares Street Central Fire
7. Clares Street Sanitation District Letter
8. Clares Street - Arborist Report

9. League of California Cities. Not Just Density Bonuses

Prepared By: Katie Herlihy
Senior Planner



WATER DEPARTMENT

212 Locust Street, Suite C Santa Cruz CA 95060 Phone (831) 420-5200 Fax (831) 420-5201

March 22, 2017

Bill Kempf
911 Center Street, Suite F
Santa Cruz, CA 95060

Re: PROPOSED 5-UNIT TOWNHOME DEVELOPMENT AT 4199 CLARES STREET;
APN 034-222-05

Dear Mr. Kempf:

This letter is to advise you that the subject parcel is located within the service area of the Santa Cruz Water Department and potable water is currently available for normal domestic use and fire protection. Service will be provided to each and every lot of the development contained within the SCWD service area upon payment of the fees and charges in effect at the time of service application and upon completion of the installation, at developer expense, of any water mains, service connections, fire hydrants and other facilities required for the development under the rules and regulations of the Santa Cruz Water Department. The development will also be subject to the City's Landscape Water Conservation requirements.

At the present time:

- the required water system improvements are not complete; and
- financial arrangements have not been made to the satisfaction of the City to guarantee payment of all unpaid claims.

This letter will remain in effect for a period of two years from the above date. It should be noted, however, that the City Council may elect to declare a moratorium on new service connections due to drought conditions or other water emergency. Such a declaration would supersede this statement of water availability.

If you have any questions regarding service requirements, please call the Engineering Division at (831) 420-5210. If you have questions regarding landscape water conservation requirements, please contact the Water Conservation Office at (831) 420-5230.

Sincerely,

Rosemary Menard
Water Director

RM/av
Cc: SCWD Engineering

Attachment: Clares Street City of Santa Cruz Water Letter (4199 and 4205 Clares Street)

**Board of Directors**

Dr. Thomas R. LaHue, President
 Dr. Bruce Daniels, Vice-President
 Dr. Bruce Jaffe
 Carla Christensen
 Rachél Lather

November 20, 2017

Ron Duncan, *General Manager*

Dan and Nancy Hazen
 c/o Bill Kempf
 911 Center Street, Suite F
 Santa Cruz, CA 95060

SUBJECT: Water Service Application for Tier II Single-Family Residential Development at 4205 Clares Street, Capitola, CA APN 034-222-06

Dear Mr. Kempf:

In response to the subject application, the Board of Directors (Board) of the Soquel Creek Water District (SqCWD) at their regular meeting of November 7, 2017 voted to grant you a Will Serve Letter for the proposed Tier II (parcels sized greater than 10,000 square feet) (two apartments) to be located at 4205 Clares Street, Capitola, so that you may proceed through the appropriate land use planning entity.

The issuance of this letter corresponds with the completion of the Water Demand Offset (WDO) requirement for this project. You have fulfilled the Water Demand Offset requirement for .0282 acre-feet, which incorporates a 14.6% reduction in demand via the Go Green program. If the requirement is adjusted to be lower (i.e. additional Go Green measures are agreed upon and/or lot has been deed restricted) after the issuance of this letter, then you will receive a refund equivalent to the difference in offset. If it is adjusted to be higher (i.e. building plans are changed or Go Green measures are not completed as listed above) you must complete additional offsets. This letter is specifically granted for the project as proposed in regards to uses and densities. Any changes in the project that result in a change in use or an increase in water demand will require an application for a modification of this Will Serve Letter.

This Will Serve approval is valid for 4 years from the date of Board approval. If there is no activity to develop the property (you have not applied for planning/building permits with the land use planning agency before the expiration date of this approval) the WDO fees paid will be automatically refunded at 90%. All conditions are as outlined in the "New Water Service Applicant Agreement" that you signed when applying for new service.

After you have received a building permit from the land use planning agency, you are responsible for meeting all applicable SqCWD requirements defined in the attached Requirements Checklist. If you meet all of the applicable requirements, the meter can be installed and service can be activated.

Attachment: Hazen - Will Serve Letter (4199 and 4205 Clares Street)

Dan and Nancy Hazen

November 20, 2017

Page 2 of 2

In order to finalize water service to your project, you will need to enter into a written “Applicant Installed Service Agreement” with the District. Please note that the District no longer performs water service installation. You are responsible for hiring a pre-approved contractor to perform the installation, including obtaining any necessary encroachment permit. The aforementioned agreement will itemize the required construction inspection deposit associated with your contractor installing the water service, meter installation fees, and water capacity fees as applicable. Prior to installing a meter, SqCWD Conservation staff will need to perform an on-site verification of compliance if you are participating in the Go Green program. Should you have any questions about this process or require assistance, please contact Conservation or Engineering staff at (831) 475-8500.

The Board of the SqCWD also reserves the right to adopt additional policies to mitigate the impact of new development on the local groundwater basins, which are currently the District’s only source of supply. Such actions would be in response to concerns about existing conditions that threaten the groundwater basins and the lack of a supplemental supply source that would restore and maintain the aquifers. The subject project would be required to comply with any applicable conditions of service that the District may adopt prior to granting water service.

As new policies and/or requirements are developed, the information will be made available by the SqCWD.

Sincerely,
SOQUEL CREEK WATER DISTRICT



Taj A. Dufour, P.E.
Engineering Manager/Chief Engineer

CC: Dan and Nancy Hazen

Attachment: Requirements Checklist for APN **034-222-06**

Enclosures - Green (for Tier II Single-Family Residential Development):

1. Overview of the SqCWD Water Use Efficiency Requirements for Tier II Single Family Residential, Multi-Family Residential, Commercial, Industrial & Public Development
2. Indoor Water Use Efficiency Checklist
3. Landscape Project Application Submittal Requirements Package

Attachment: Hazen - Will Serve Letter (4199 and 4205 Clares Street)

Requirements Checklist for APN {034-222-06 Hazen}

	Required	Not Required	Not Applicable	Comments
Engineering:				
Record Water Waiver (required if water pressure is not between 40 psi – 80 psi) with the County Recorder of the County of Santa Cruz to insure that any future property owners are notified of the conditions set forth herein		X		
Variance request for property not having frontage on a water main		X		
New water main to site (required if existing water main not sized to serve new project)		X		
LAFCO annexation		X		
Off-site water main extension		X		
On-site water system		X		
Backflow prevention	X			During Construction
New water storage tank		X		
Booster pump station		X		
Destroy any wells on the property in accordance with State Bulletin No. 74	X			
Satisfy all conditions imposed by the District to assure necessary water pressure, flow and quality	X			
Meter all units individually with a minimum size of 5/8-inch by 3/4-inch standard domestic water meter	X			
Complete fire service requirements form	X			
Sign Infrastructure Agreement & pay all fees (for planned developments only)	X			
Conservation:				
Complete Indoor Water Use Efficiency Checklist	X			
Complete Landscape Project Application Submittal Requirements Package	X			
Complete Residential Green Credit Application				Recommended
General:				
Allow SqCWD Staff to inspect the completed project for compliance with all the applicable project requirements prior to commencing domestic water service	X			
Other requirements that may be added as a result of policy changes.	X			

Attachment: Hazen - Will Serve Letter (4199 and 4205 Clares Street)



Santa Cruz County Sanitation District

701 OCEAN STREET, SUITE 410, SANTA CRUZ, CA 95060-4073
 (831) 454-2160 FAX (831) 454-2089 TDD/TTY- CALL 711

JOHN J. PRESLEIGH, DISTRICT ENGINEER

APRIL 4, 2017

BILL KEMPF
 911 CENTER ST SUITE F
 SANTA CRUZ, CA 95060

SUBJECT: SEWER AVAILABILITY AND DISTRICT'S CONDITIONS OF SERVICE FOR THE FOLLOWING PROPOSED DEVELOPMENT
 APN: 034-222-05 and -06 APPLICATION NO.: n/a
 PARCEL ADDRESS: 4199 Clares Street, Capitola
 PROJECT DESCRIPTION: Demolish one existing residence, retain two existing residences, convert one existing duplex into two townhouses, build three new townhouse residences. The result is to have 5 townhouses and 4 apartments.

Dear Mr. Kempf:

We've received your inquiry regarding sewer service availability for the subject parcels. Sewer service is available in Clares Street for the subject development. Connection fees will be due and will be calculated and collected prior to issuance of the building permits.

No downstream capacity problem or other issue is known at this time. However, downstream sewer requirements will again be studied at time of Planning Permit review, at which time the District reserves the right to add or modify downstream sewer requirements.

This notice is valid for one year from the date of this letter. If, after this time frame, this project has not yet received approval from the Planning Department, then this determination of availability will be considered to have expired and will no longer be valid.

Also, for your reference, we have attached a list of common items required during the review of sanitation projects.

Thank you for your inquiry. If you have any questions, please call Robert Hambelton at (831) 454-2783.

Yours truly,

JOHN J. PRESLEIGH
 District Engineer

By:

Kent Edler
 Sanitation Engineer

BH:dls/113
 Attachment

Attachment: Clares Street Sanitation District Letter (4199 and 4205 Clares Street)



**CENTRAL
FIRE PROTECTION DISTRICT**
of Santa Cruz County
Fire Prevention Division

930 17th Avenue, Santa Cruz, CA 95062
phone (831) 479-6843 fax (831) 479-6847

Date: June 8, 2017
To: William Kempf
Applicant: SAME
From: Jim Dias
Subject: Turnaround dimensions
Address: 4199 & 4205 Clares Street Capitola CA 95010
APN: 034-222-05
OCC: 3422205
Permit:

Based upon a review of the revised plans submitted, District requirements appear to have been met..

Please insure that page A2.2 as revised is included in future submittals. Also to avoid any confusion please add date a revision date to this page and forward an updated copy to Central Fire District.

Submit a check in the amount of \$115.00 for this particular plan check, made payable to Central Fire Protection District. INVOICE MAILED TO OWNER OF RECORD. Other fees may be incurred. Please contact the Fire Prevention Secretary for total fees due for your project. Fire District fees must be paid and a receipt for District fees must be presented to the City of Capitola Plannig/Building Department before Building Permit issuance.

If you should have any questions regarding the plan check comments, please call me at (831) 479-6843 and leave a message, or email me at jimd@centralfpd.com. All other questions may be directed to Fire Prevention at (831)479-6843.

CC: File

As a condition of submittal of these plans, the submitter, designer and installer certify that these plans and details comply with applicable Specifications, Standards, Codes and Ordinances, agree that they are solely responsible for compliance with applicable Specifications, Standards, Codes and Ordinances, and further agree to correct any deficiencies noted by this review, subsequent review, inspection or other source. Further, the submitter, designer, and installer agrees to hold harmless from any and all alleged claims to have arisen from any compliance deficiencies, without prejudice, the reviewer and the Central FPD of Santa Cruz County.

Serving the communities of Capitola, Live Oak, and Soquel

Attachment: Clares Street Central Fire (4199 and 4205 Clares Street)

Nigel Belton

Consulting Arborist

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET – CAPITOLA

Prepared at the request of:
William Kempf
On behalf of Clares Street Partners, LLC.
911 Center Street, Suite F.
Santa Cruz, CA 95060
bill@wckempf.com

Prepared by:
Nigel Belton - ISA Certified Arborist WE-0410A
Site inspection on November 8, 2016

Job – Clares Street – 11.16



Ph / Fax (831) 688-1239
P.O. Box 1744 ~ Aptos, CA 95001 ~ CCL # 657930 ~ beltonnigel@gmail.com

Attachment: Clares Street - Arborist Report (4199 and 4205 Clares Street)

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A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205
 CLARES STREET, CAPITOLA
 Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

**A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS
AT 4199 & 4205 CLARES STREET – CAPITOLA**

Summary:

This development takes place on two existing adjacent lots that are each under separate ownership. The two owners are working together so that a shared driveway can be created. The proposed project on 4199 Clares Street includes the removal of one uninhabitable single family dwelling, the renovation and conversion of an existing duplex to two townhomes, and the construction of three new townhomes. The proposed project on 4205 Clares Street includes the construction of a new structure with two apartments at the rear of the property and the existing three apartments will remain unchanged.

Forty trees that qualify as protected trees within the City of Capitola Tree Preservation Ordinance were surveyed on this development site. Thirty-six of these trees are located within the proposed development site. Four additional cypress trees located on a neighboring were also included in this survey because of their close proximity to the subject property.

Twenty-eight of the surveyed trees are recommended for removal. The majority of these trees must be removed because of their locations within the footprints of proposed improvements (21 trees). The balance of the other trees, are recommended for removal because of their poor health and/or structural condition ratings (7 trees).

I recommend that appropriate replacement trees are planted within the limited area of available space for proposed landscape improvements within this site. These trees must be chosen carefully concerning their cultural requirements, their potential size and their growth patterns. It is desirable to provide as much new tree canopy cover as possible within this site, while avoiding tree maintenance problems in the future.

Five trees within the project site are recommended as being suitable for preservation, being setback far enough away from the proposed improvements and having good health and structural conditions. The two mature Canary Island Palms at the front of the property are situated within the footprint of a proposed townhome and are recommended for relocation to another private or public property.

The Critical Root Zones of the five trees recommended for preservation must be protected throughout the construction period with Tree Protection Zone Fences. Construction activities excluded from these designated protection areas. The Critical Root Zones of the four Leyland Cypress trees located on the adjacent property must also be protected with fencing. The locations of such fences will be determined by the project arborist. The project arborist will review the final plans and make recommendations for tree protection as needed.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

Page 1

Background:

Bill Kempf contacted me concerning the proposed residential development at 4199 & 4205 Clares Street in Capitola. Mr. Kempf requested that I prepare an arborist's report on behalf of the Clares Street Partners, LLC., who own 4199 Clares Street and are working with the Hazen Family that owns 4205 Clares Street. The new development will include the demolition of an existing structure, the construction of five new residential units and the renovation of an existing duplex. These improvements will impact numerous trees on this property, the majority of which qualify as protected trees within the requirements of the City's Tree Protection Ordinance.

Assignment:

This assignment entails the provision of a tree survey concerning 40 trees that are six-inches or larger in diameter at chest height (protected trees within the City Tree Protection Ordinance). Individual trees are identified with numbered tags affixed to their trunks. These tag numbers correspond with the numbering utilized in the arborist's report, a tree survey chart and an accompanying tree location map, which is based upon the existing site plan, prepared by William C. Kempf, Architect.

The tree survey chart serves to document tree dimensions and tree health and structural conditions. The survey chart identifies those trees recommended as being suitable for preservation. The Tree Survey Chart also serves to identify those trees that must be removed, either because of their poor condition ratings or because of potential impacts resulting from the proposed improvements.

The preparation of this report entails a review of preliminary architectural and civil plans concerning the nature of the proposed development and how it will impact the Critical Root Zones and survivability of the trees on this site. The report serves to provide preliminary recommendations concerning the preservation of desirable trees throughout the entire project period from demolition to completion. These recommendations are intended to address tree protection requirements during the construction of the new dwellings, the installation of the new infrastructure and the installation of underground utilities, sanitary sewer service and storm drains. Such recommendations include a preliminary tree protection plan and inspection schedule concerning the demolition and construction phases of the project. The plan specifies the installation of Tree Protection Zone fencing and other necessary requirements in order to protect the Critical Root Zones of desirable trees.

Limiting Conditions:

The inspection of these trees was made from the ground only. No trees were climbed to examine above ground structures, nor were any trees inspected below the soil grade to examine their roots. The inspections of tree structures were limited to visual examinations only.

This is a preliminary Tree Protection Report based on a site inspection and the review of preliminary plans. I have not reviewed detailed plans concerning the locations of storm drains, underground utilities and services, nor have I reviewed details pertaining to the proposed construction and landscape improvements at this time.

Observations and Recommendations:**Tree Protection Zone Fences:**

Tree Protection Zone (TPZ) fence locations must be shown on a Tree Protection Fence plan to accompany the finalized development plans. The TPZ fencing must be inspected and documented by the project arborist before any demolition, excavation, grading or other site work can proceed. These protective fences must not be dismantled or moved during the construction period without the consent of the project arborist. No equipment or vehicles can enter fenced TPZ areas at any time, nor can grading work or utility trenching occur within these defined protection areas without obtaining the direct supervision of the project arborist. Construction materials and construction waste must not be stored or dumped within these defined TPZ areas. Laminated Tree Protection Zone notices providing descriptions of protections and restrictions must be attached to these fences at 10 foot intervals. TPZ fences must consist of steel chain-link construction and be attached to steel standards driven into the ground.

Note that protective root buffers may also be required between TPZ fences and areas of disturbance such as foundation footprints. Root buffers must comprise of 3/4-inch thick sheets of plywood on three inches of course drain rock or wood chips. The plywood sheets must be tied or gang nailed together to avoid displacement.

Tree #1 – 36-inch DBH Canary Island Date Palm (*Phoenix canariensis*):

Tree #2 – 33-inch DBH Canary Island Date Palm:



Both of these mature palms exhibit good condition ratings and are worthy of preservation. These palms are located within the proposed footprint of new townhome unit 1, as shown on the proposed site plan.

I recommend that these palms are considered for relocation to another site. I noted that there is not enough space for their relocation closer to the street, when taking into consideration the location of the proposed structure and the proximity of the adjacent street frontage and overhead utility wires.

These palms could be of value as an addition to the landscape of a community property such as a park or possibly the new library facility at Clares Street and Wharf Road, within the City of Capitola. I recommend that the City is approached to see if they have an interest in taking them. I can also contact tree moving companies to see if they will be interested in taking these specimens in the event that the City is not interested in this proposal.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

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Tree's #4 through #7 – Six Eugenia Trees (*Sycaium australe*) - Between 6 & 9-inches DBH:



These trees are growing adjacent to the boundary fence between the two parcels. The Eugenia Trees are shown on the site plan to be located within the footprint of the proposed common driveway.

The six protected trees (and three adjacent smaller trees of the same species), must be removed to facilitate the development of this property.

Tree #8 – 9 7 6-inch DBH Eugenia Tree:

This tree is situated within the footprint of the proposed apartments (Units 1 & 2) on the site plan.

This tree must be removed in order to facilitate the development of this property.

Tree #9 – 66-inch DBH Blue Gum Eucalyptus (*Eucalyptus globulus*):



This large tree exhibits fair health and vitality as evidenced by thin foliage density throughout the entire canopy and limited new branch tip growth. I noted a high ratio of small dead wood. The tree has a fair structural rating due to the presence of some larger dead branches within its canopy. These symptoms have likely resulted from environmental stress induced by soil compaction within the Critical Root Zone Area of this tree.



Attachment: Clares Street - Arborist Report (4199 and 4205 Clares Street)

I noted that cars park within the canopy perimeter of this tree which has resulted in the compaction of the surrounding soil area. This stress may have been further exacerbated by drought conditions resulting from low rainfall over recent years.



The development plan shows that the base of the trunk of this tree will be setback about 12-feet from the footprint of the proposed residence to the south (townhome unit 3). The existing duplex (proposed townhomes units 4 & 5) is situated about 24-feet north of the trunk of this tree. The footprint of the proposed firetruck turnaround will be setback about 7-feet north of the trunk and the balance of the area between the turnaround and the structures will also be paved. The trunk of this tree is shown on the site plan to be situated within two proposed parking stalls.

The construction of these improvements will result in significant root loss within the Critical Root Zone Area of this tree (defined in this context by the canopy drip-line perimeter). The health of the remaining roots within this area will be severely impacted by the grading and compaction work required for the installation of these new paved surfaces.

I also noted that the trunk of this tree impedes vehicular access to the garage of the existing townhome to the north, the trunk being situated directly in front of the structure.

This tree must be removed because of the cumulative impacts of the proposed construction will irreparably damage tree's root system, resulting in a decline in tree health and vitality and tree mortality over time. This tree is additionally recommended for removal because it restricts access to the garage of the existing townhome.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

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Tree #10 – 12-inch DBH Podocarpus (*Afrocarpus falcatus*):



This tree exhibits good health and has a fair structural rating. It is situated within the footprint of the proposed fire truck turn around.

This tree must be removed because it is situated within the area of proposed improvements.

Tree #11 – 8, 6, 12 & 10-inch DBH Wild Plum:



This tree exhibits poor health and has a poor structural rating. The plum is located within the proposed driveway improvements.

This tree must be removed because it is located within the footprint of the proposed improvements and because of its poor condition ratings.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

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Tree #12 – 15 & 7-inch DBH Wild Plum (*Prunus spp.*):



This tree is shown to be located within close proximity to the existing townhome (Unit 4) and the canopy encroaches into the footprint of the proposed apartment to the west (Unit 4). I noted that the open space between these adjacent structures will be 12-feet, which is a confined area.

This tree must be removed because it will be situated within a confined area between both structures. The tree is also recommended for removal because of its poor structural condition rating.

Tree #13 – 14,7 &10-inch DBH Wild Plum:

This tree has a poor structural rating.

This tree is recommended for removal and replacement with a more desirable species because of its poor structural rating.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

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Tree #14 – 6 & 4-inch DBH Coast Live Oak (*Quercus agrifolia*):



This tree exhibits good health but has a very poor structure because of its co-dominant growth pattern, having two trunks which cross each other for a distance of about five-feet from grade.



I recommend that this tree is removed because of its very poor structural condition. The smaller of the two crossing trunks cannot be removed without severely wounding the base of main trunk and root-collar area.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205
CLARES STREET, CAPITOLA

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

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Tree #15 – 7, 8 & 6-inch DBH Wild Plum:

Tree #16 – 6, 5 & 4-inch DBH Wild Plum:



These trees are located within the footprint of the proposed apartment. These plums have very poor structures and poor aesthetic value. I noted that these co-dominant trees have collapsed.

These trees and adjacent smaller plums must be removed because of their poor structural conditions and their location within the footprint of the proposed apartment (Unit 5).

Tree #17 – 7-inch DBH Scots Pine:



This tree is situated within the proposed footprint of the driveway to the south of the new apartment (Unit 5). I also noted that it has a deformed root-collar at the base of the trunk.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

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Attachment: Clares Street - Arborist Report (4199 and 4205 Clares Street)

This tree must be removed because of its location within the proposed driveway footprint and its poor structural condition rating.

Tree #18 – 13-inch DBH Scots Pine:

This tree is situated within the footprint of the driveway to the south of the proposed apartment (Unit 5).

This tree must be removed because of its location within the proposed driveway footprint.

Tree #19 – 11 & 9-inch DBH Coast Live Oak:



This oak is healthy but has a poor structural condition due to its imbalanced, co-dominant growth pattern. The dominant west facing trunk leans heavily and will become progressively predisposed to failing at the area of attachment to the smaller of the two trunks as it grows larger over time. These structural problems cannot be mitigated effectively through pruning or other means.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016



This tree must be removed, because it is situated within the proposed driveway footprint and because of its poor structural rating.

Tree #20 – 5-inch DBH Coast Live Oak:

This tree has a poor structural rating due to a leaning growth pattern and the presence of a defect in the base of the trunk.

I noted that this tree is situated within the footprint of the proposed driveway as shown on the development plans.

I recommend that this tree is removed because it is situated within the proposed driveway footprint and because of its poor structural rating.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

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Tree #21 – 8-inch DBH Southern Magnolia (*Magnolia grandiflora*):



This tree and the smaller diameter Southern Magnolia to the north are worthy of preservation and protection during proposed renovation work on the adjacent apartment building and surrounding infrastructure.

I recommend that this tree is preserved and protected during the construction period. Tree Protection Zone Fencing must be installed before demolition and construction work proceeds.

Tree #21A – 5 & 3-inch DBH Southern Magnolia (*Magnolia grandiflora*):

This Southern Magnolia is worthy of preservation and protection during proposed renovation work.

I recommend that this tree is preserved and protected during the construction period. Tree Protection Zone Fencing must be installed before demolition and construction work proceeds.

Tree #22 – 12 & 8-inch DBH Black Acacia (*Acacia melanoxylon*):



This tree is situated in the landscape between Clares Street and the paved parking area serving the existing apartment building (unit 3). The tree is growing near overhead utility wires and I noted that the south side of the canopy has been topped by the utility contractor for power line clearance. This tree has a poor structure due to the development of two co-dominant trunks at near grade. The larger of the trunks leans north towards the apartment. I noted that the asphalt surface of the parking area and driveway entrance near this tree has been damaged by root growth

I recommend that this tree is removed because it has a poor structural condition, which may become vulnerable to failure as it grows larger over time. The removal and replacement of this tree will also serve to prevent more root damage to the adjacent parking surface and turn around area.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

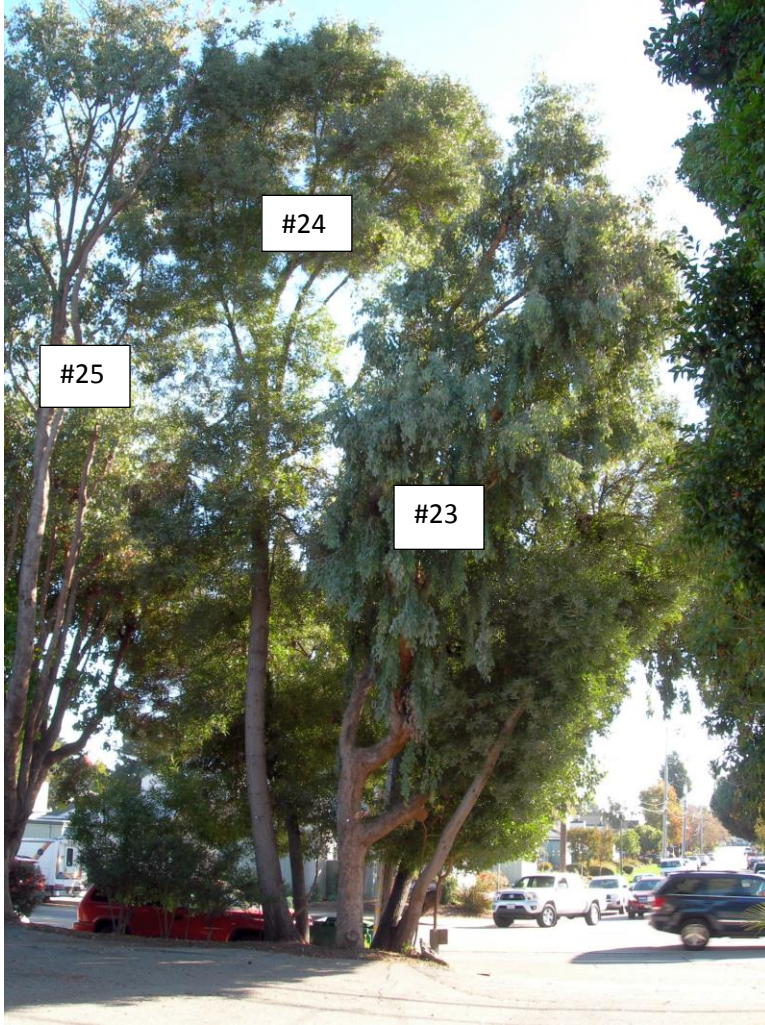
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I recommend that replacement trees to be planted within this area are selected with care concerning their ultimate size, relative to the proximity of the utilities above. Desirable species choices for example, could include such trees as Chinese Pistache (*Pistacia chinensis*) or Strawberry Tree (*Arbutus marina*).

Tree #23 – 16-inch DBH Silver Dollar Eucalyptus (*Eucalyptus polyanthemos*):

This tree is also situated next to the street. I noted that it had been topped for line clearance. I also noted evidence of significant root damage, concerning the condition of the asphalt parking area adjacent to this tree.



I recommend that this tree is removed because it is evident that the root structure is damaging the adjacent parking area and because of the close proximity to overhead utility wires. The replacement of this eucalyptus with an appropriate smaller growing tree should serve to prevent root damage to the parking area and avoid encroachment into the overhead utilities.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

Tree #24 – 9 & 18-inch Black Acacia:



This tree is situated next to the street. The tree has been denoted a poor structural rating due to its co-dominant growth pattern and the presence of an adjoining cut stump at its base. The dominant trunk leans moderately to the north and may become vulnerable to falling as it gets larger over time.

I recommend that this tree is removed because it has a poor structure which may become vulnerable to failure as it grows large over time. The removal and replacement of this tree with an appropriate species will also serve to prevent root damage to the adjacent parking and turn around area in the future.

Tree #25 – 23-inch DBH Silver Dollar Eucalyptus:



This tall tree is situated near the street. I noted that the main canopy structure has not been topped and that this healthy tree exhibits a fair structural condition.

I recommend that this attractive tree is preserved and protected during the construction period. I also recommend that it pruned by a State Licensed Tree Service Contractor under the supervision of an ISA Certified Arborist. Such work should focus on weight reduction in heavy limb ends.

Tree Protection Zone Fencing must be installed before demolition and construction work proceeds.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

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Tree #26 – 13-inch DBH Liquidambar (*Liquidambar styraciflua*):

I recommend that this tree is preserved and protected during the construction period. I also recommend that it pruned by a State Licensed Tree Service Contractor under the supervision of an ISA Certified Arborist. Such work should focus on weight reduction in heavier limb ends.

Tree Protection Zone Fencing must be installed before demolition and construction work proceeds.

Tree #27 – 10-inch DBH Hollywood Juniper (*Juniperus chinensis "Torulosa"*):

Tree #28 – 10-inch DBH Hollywood Juniper:



Both of these trees are good specimens which merit preservation and protection during the renovation of the apartment building and the surrounding infrastructure.

I recommend that these trees are preserved and protected during the construction period.

Tree Protection Zone Fencing must be installed before demolition and construction work proceeds.

Attachment: Clares Street - Arborist Report (4199 and 4205 Clares Street)

Tree #29 – 7-inch DBH Avocado (*Persea americana*):



This tree is in very poor health. It is growing in the narrow landscape strip adjacent to the east boundary fence.

I recommend removal and replacement with another species more suited to growing in such a confined soil area.

Tree #30 – 10-inch DBH Victorian Box Pittosporum (*Pittosporum undulatum*):

This tree exhibits a good condition rating. I noted that it is growing in the confined soil area next to the concrete path on the side of the apartment. I noted the presence of large buttress roots in this area and am concerned that the adjacent path will be damaged over time.

I recommend preservation and protection at this time but consideration could also be given to replacing this tree with a more appropriate smaller growing species such as *Pittosporum tenuifolium*, in order to avoid root damage in the future.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

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Tree #31 – 15-inch DBH Liquidambar:



This tree exhibits a poor structure having developed its limb structure exclusively on the south side of the canopy. The resultant structure is vulnerable to breakage and will become increasingly so, over time. I noted that the trunk of this tree is situated within three feet of two concrete patio slabs. This species is noted for its destructive root growth pattern and significant root damage is an inevitable outcome in the event that this tree remains in place.

I recommend that consideration be given to removing and replacing this tree at this time because of its poor structural condition and the concern regarding likely damage to the adjacent patios. Appropriate replacement species choices worthy of consideration could include such smaller growing trees as *Pittosporum tenuifolium* and *Pittosporum eugenioides* and a smaller growing deciduous tree such as a Bloodgood Japanese Maple (*Acer palmatum* “*Bloodgood*”), in this context.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

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Tree #32 – 8-inch DBH Wild Plum:



This tree is one of a group of three seed grown plums adjacent to the eastern boundary fence. The tree has a fair condition rating due to some dieback in the top of the canopy and an imbalanced canopy structure.

I recommend that consideration is given to replacing this plum and the two adjacent plums at this time with a more suitable species for this confined area. Appropriate replacement species worthy of consideration for providing screening in this area could include *Pittosporum tenuifolium* and *Pittosporum eugenioides*, or other choices.

Tree #33 – 11 & 10-inch DBH Wild Plum:

This tree is one of the group of three seed grown plums adjacent to the eastern boundary fence. The tree has a poor condition rating due to a defect in the lower trunk where the main trunk divides into two separate co-dominant trunks. This area is vulnerable to splitting apart.

I recommend that consideration is given to replacing this plum and the two adjacent plums at this time with a more suitable species for this confined area.

Tree #34 – 10-inch DBH Wild Plum:

This tree is part of a group of three seed grown plums adjacent to the eastern boundary fence. The tree exhibits a poor health condition rating due to a dieback pattern observed in the upper canopy.

I recommend that consideration is given to replacing this plum and the two adjacent plums at this time with a more suitable species for this confined area.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

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Tree #35 – 9-inch DBH Coast Live Oak:



This oak exhibits good health and has a fair to good structural condition.

I recommend that this tree is preserved and protected during proposed renovation work. Tree Protection Zone Fencing must be installed before demolition and construction work proceeds.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205
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Tree #36 – 21-inch DBH Scots Pine:



This pine exhibits fair health and has been denoted a fair structural rating due to it having being topped at about 40-feet above grade relatively recently. Examination of the base of the trunk revealed that there is an active infestation of Red Turpentine Beetle (*Dendroctonus valens*). I also noted multiple bleeding areas higher up on the trunk associated with infestations by Sequoia Moth larvae (*Synanthedon sequoiae*). I noted that the tree has a surface rooting habit as evidenced by numerous roots seen on the soil surface. I anticipate that the health of this tree will decline within the near future due to the effects of the Red Turpentine Beetle infestation.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

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This pine must be removed, because it is situated within the proposed driveway footprint. This tree is also recommended for removal due to its poor condition rating.

Tree #37 – 20-inch DBH Leyland Cypress *Cupressus leylandii*):

Tree #38 – 20-inch DBH Leyland Cypress:



Note that the DBH dimensions concerning the four Leyland Cypress trees are rough estimates based upon assumptions.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA
 Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

These trees are located on the adjacent property, within four-feet of the north boundary fence. The canopies of both trees exhibit fair health at this time. Care must be taken to ensure that their Critical Root Zones are protected during the construction of the new apartments (Units 4 & 5) and during any landscape improvements within their proximity.

I recommend that the Critical Root Zones of the neighbor's trees are protected during the construction period with a Tree Protection Zone Fence, the final location of which should be determined by the project arborist in the field.

Tree #39 – 14-inch DBH Leyland Cypress:

This tree exhibits poor health as evidenced by its thin canopy and the presence of dead branch ends indicative of infection by Seiridium Canker Disease (*Seiridium unicorne*).

I recommend that the Critical Root Zone of this tree is protected during the construction period with a Tree Protection Zone Fence, the final location of which should be determined by the project arborist in the field.

Tree #40 – 20-inch DBH Leyland Cypress

This tree is located on the adjacent property, within four-feet of the north boundary fence. The canopy of this tree exhibits fair to poor health at this time. Care must be taken to ensure that the Critical Root Zone of this tree is protected during the construction of the new apartments (Units 4 & 5) and during any landscape improvements within their proximity.

I recommend that the Critical Root Zone of this tree is protected during the construction period with a Tree Protection Zone Fence, the final location of which will be determined by the project arborist in the field.

Preliminary Inspection Schedule:

The project arborist must inspect the project site at the following times:

- 1 – When Tree Protection Zone Fences are installed, before demolition proceeds.
- 2 – When any excavation and construction activities encroach within defined Tree Protection Zones.
- 3 – In the event that roots two inches or larger are encountered during excavation and construction activities concerning trees designated for preservation.

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205 CLARES STREET, CAPITOLA

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

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Please contact me if you have any questions regarding the recommendations provided in this report.

Respectfully submitted



Nigel Belton

Attachments:

- Assumptions and Limiting Conditions
- Tree Survey Chart
- Tree Location map

A SURVEY OF THE TREES LOCATED WITHIN PROPOSED DEVELOPMENT AND IMPROVEMENTS AT 4199 & 4205
CLARES STREET, CAPITOLA

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A on November 8, 2016

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Assumptions and limiting Conditions

1. Any legal description given by the appraiser/consultant is assumed to be correct. No responsibility is assumed for matters legal in character nor is any opinion rendered as to the quality of any title.
2. The appraiser /consultant can neither guarantee nor be responsible for accuracy of information provided by others.
3. The appraiser/consultant shall not be required to give testimony or to attend court by reason of this appraisal unless subsequent written arrangements are made, including payment of an additional fee for services.
4. Loss or removal of any part of this report invalidates the entire appraisal/evaluation.
5. Possession of this report or a copy thereof does not imply right of publication or use for any purpose by any other than the person(s) to whom it is addressed without written consent of the appraiser/consultant.
6. This report and the values expressed herein represent the opinion of the appraiser/consultant, and the appraiser's/consultant's fee is in no way contingent upon the reporting of a specified value nor upon any finding to be reported.
7. Sketches, diagrams, graphs, photos, etc in this report, being intended as visual aids, are not necessarily to scale and should not be construed as engineering reports or surveys.
8. This report has been made in conformity with acceptable appraisal/evaluation/diagnostic reporting techniques and procedures, as recommended by the International Society of Arboriculture.
9. When applying any pesticide, fungicide, or herbicide, always follow label instructions.
10. No tree described in this report was climbed, unless otherwise stated. We cannot take responsibility for any defects which only could have been discovered by climbing. A full root collar inspection, consisting of excavating the soil around the tree to uncover the root collar and major buttress roots was not performed, unless otherwise stated. We cannot take responsibility for any root defects which could only have been discovered by such an inspection.

Consulting Arborist Disclosure Statement

Arborists are tree specialists who use their education, knowledge, training, and experience to examine trees, recommend measures to enhance the beauty and health of trees, and attempt to reduce risk of living near trees. Clients may choose to accept or disregard the recommendations of the arborist, or to seek additional advice.

Arborists cannot detect every condition that could possibly lead to the structural failure of a tree. Trees are living organisms that fail in ways we do not fully understand. Conditions are often hidden within the trees and below ground. Arborists cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specified period of time. Likewise, remedial treatments, like medicine, cannot be guaranteed.

Trees can be managed, but they cannot be controlled. To live near trees is to accept some degree of risk. The only way to eliminate all risk associated with trees is to eliminate all trees.

Nigel Belton
ISA Certified Arborist – WE 410A

TREE SURVEY CHART – PREPARED FOR CLARES STREET PARTNERS, LLC.
 LOCATION – 4199 CLARES STREET, CAPITOLA - CALIFORNIA

#	SPECIES	TRUNK DIAMETER @ 54" ABOVE GRADE – (DBH)	ESTIMATED HEIGHT	ESTIMATED SPREAD	HEALTH (1 = BEST RATING)	STRUCTURE (1 = BEST RATING)	SUITABLE FOR PRESERVATION (BASED ON CONDITION RATING)	RECOMMENDED FOR REMOVAL (BASED ON CONDITION RATING)	REMOVAL REQUIRED FOR PROPERTY IMPROVEMENTS	SUITABLE FOR RELOCATION	COMMENTS
1	Canary Island Date Palm <i>(Phoenix canariensis)</i>	36	45	20	1	2	X			X	Both of these palms are good specimens worthy of preservation and relocation to another site.
2	Canary Island Date Palm	33	45	20	1	2	X			X	Worthy of preservation and relocation.
3	Eugenia <i>(Syzygium australe)</i>	6/5	25	10	2	3	X		X		All of the Eugenia Trees exhibit good health. A number of adjacent smaller diameter, multi stem Eugenia Trees were not included in the survey (being under six-inches DBH).
4	Eugenia	7	20	10	2	3	X		X		Good overall condition ratings. Note that three additional Eugenia Trees are shown on the accompanying Tree Location Map (denoted Trees #4A, #4B and #4C). These trees were not tagged in the field, nor, were they included in this chart because their individual trunk diameters do not exceed six-inches DBH (protected size trees). The additional trees also exhibit good overall condition ratings.
5	Eugenia	8/5	25	10	2	3	X		X		Good overall condition ratings.
6	Eugenia	9/5	25	15	2	3	X		X		Good overall condition ratings.
7	Eugenia	6/5	25	10	2	3	X		X		Good overall condition ratings.
8	Eugenia	9/6	25	15	2	3	X		X		Good overall condition ratings.
9	Blue Gum Eucalyptus <i>(Eucalyptus globulus)</i>	66	110	45	3	3	X		X		Fair overall condition ratings. Located within close proximity to an existing structure and proposed residential structures.

Attachment: Clares Street - Arborist Report (4199 and 4205 Clares Street)

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A – November 8, 2016

TREE SURVEY CHART – PREPARED FOR CLARES STREET PARTNERS, LLC.
 LOCATION – 4199 CLARES STREET, CAPITOLA - CALIFORNIA

#	SPECIES	TRUNK DIAMETER @ 54" ABOVE GRADE – (DBH)	ESTIMATED HEIGHT	ESTIMATED SPREAD	HEALTH (1 = BEST RATING)	STRUCTURE (1 = BEST RATING)	SUITABLE FOR PRESERVATION (BASED ON CONDITION RATING)	RECOMMENDED FOR REMOVAL (BASED ON CONDITION RATING)	REMOVAL REQUIRED FOR PROPERTY IMPROVEMENTS	SUITABLE FOR RELOCATION	COMMENTS
10	Podocarpus (<i>Afrocarpus falcatus</i>)	12	20	15	1	3	X		X		Good overall condition ratings.
11	Wild Plum (<i>Prunus ssp.</i>)	8/6/12/10	20	20	4	4		X	X		Poor condition rating.
12	Wild Plum	15/7	25	20	2	4		X	X		Poor condition rating.
13	Wild Plum	14/7/10	25	10	4	4		X	X		Poor condition rating.
14	Coast Live Oak (<i>Quercus agrifolia</i>)	6/4	15	10	1	4		X	X		Poor structure due to co-dominant growth pattern which cannot be effectively corrected without severely damaging the trunk.
15	Wild Plum	7/8/6	15	15	2	4		X	X		Remove all of the Plums within this grouping because of their poor condition ratings and undesirable characteristics.
16	Wild Plum	6/5/4	20	15	2	4		X	X		Poor condition rating.
17	Scots Pine (<i>Pinus sylvestris</i>)	7	40	10	2	4		X	X		Poor condition rating. Noted a significant structural defect in the b: trunk
18	Scots Pine	13	40	20	2	3	X		X		
19	Coast Live Oak	11/9	30	20	1	4		X	X		Poor condition rating due to weak growth pattern.
20	Coast Live Oak	5	31	10	2	4		X	X		Noted a deformity in the base of the trunk and poor growth pattern.
21	Southern Magnolia (<i>Magnolia grandiflora</i>)	8	20	15	3	3	X				Attractive specimen worthy of preservation.
21A	Southern Magnolia	5/3	20	10	3	3	X				Adjacent to #21. Also, worthy of preservation (no tag).

Attachment: Clares Street - Arborist Report (4199 and 4205 Clares Street)

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A – November 8, 2016

TREE SURVEY CHART – PREPARED FOR CLARES STREET PARTNERS, LLC.
 LOCATION – 4199 CLARES STREET, CAPITOLA - CALIFORNIA

SHEET 3.											
#	SPECIES	TRUNK DIAMETER @ 54" ABOVE GRADE – (DBH)	ESTIMATED HEIGHT	ESTIMATED SPREAD	HEALTH (1 = BEST RATING)	STRUCTURE (1 = BEST RATING)	SUITABLE FOR PRESERVATION (BASED ON CONDITION RATING)	RECOMMENDED FOR REMOVAL (BASED ON CONDITION RATING)	REMOVAL REQUIRED FOR PROPERTY IMPROVEMENTS	SUITABLE FOR RELOCATION	COMMENTS
22	Black Acacia <i>(Acacia melanoxylon)</i>	12/8	30	25	1	4		X	X		Poor structure due to co-dominant trunks at grade and strong lean. Noted root damage to adjacent parking area within property.
23	Silver Dollar Eucalyptus <i>(Eucalyptus polyanthemos)</i>	16	50	35	1	3	X		X		Good condition rating but noted root damage to adjacent parking area. Noted canopy was topped for utility line clearance.
24	Black Acacia	9/18	70	30	1	4		X	X		Poor condition rating due to co-dominant growth pattern and adjoining cut stump at near grade. Dominant trunk leans out toward apartment structure.
25	Silver Dollar Eucalyptus	23	75	35	2	3	X				Good condition rating.
26	Liquidambar <i>(Liquidambar styraciflua)</i>	13	40	15	1	3	X				Good condition rating.
27	Hollywood Juniper <i>(Juniperus chinensis "Torulosa")</i>	10	20	10	1	2	X				Good condition rating.
28	Hollywood Juniper	10	25	15	1	2	X				Good condition rating.
29	Avocado <i>(Persea Americana)</i>	7	30	10	4	4		X			Poor condition rating. Noted canopy decline.

Attachment: Clares Street - Arborist Report (4199 and 4205 Clares Street)

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TREE SURVEY CHART – PREPARED FOR CLARES STREET PARTNERS, LLC.
 LOCATION – 4199 CLARES STREET, CAPITOLA - CALIFORNIA

SHEET 4.											
#	SPECIES	TRUNK DIAMETER @ 54" ABOVE GRADE – (DBH)	ESTIMATED HEIGHT	ESTIMATED SPREAD	HEALTH (1 = BEST RATING)	STRUCTURE (1 = BEST RATING)	SUITABLE FOR PRESERVATION (BASED ON CONDITION RATING)	RECOMMENDED FOR REMOVAL (BASED ON CONDITION RATING)	REMOVAL REQUIRED FOR PROPERTY IMPROVEMENTS	SUITABLE FOR RELOCATION	COMMENTS
30	Victorian Box <i>(Pittosporum undulatum)</i>	10	30	15	1	3	X				Good condition rating but could also be considered for replacement with another species because roots will most likely the adjacent pathway over time.
31	Liquidambar	15	45	20	2	4		X			Poor structural condition due to limb development exclusively on the south side of the canopy which will become increasingly vulnerable to failure over time. Noted the close proximity of the two concrete patio slabs next to the trunk. Significant root damage will likely occur in the future.
32	Wild Plum	8	35	15	3	3		X			Fair condition rating. Recommend that this Plum and the two adjacent Plums are replaced at this time with more appropriate species choices for this location.
33	Wild Plum	11/10	35	25	3	4		X			Poor structural rating due to the weak co-dominant trunk which is vulnerable to failure.
34	Wild Plum	10	35	15	4	3		X			Poor condition rating. Declining health.
35	Coast Live Oak	9	25	20	2	3	X				Worthy of preservation.
36	Scots Pine	21	50	30	3	3		X	X		Poor structure resulting from topping work. Noted Bark Beetle infestation in the base of the trunk and on exposed roots. Noted Pitch Canker infection in upper canopy.
37	Leyland Cypress <i>(Cupressus leylandii)</i>	20	70	25	3	3	-	-	-		Neighbor's Tree near north of boundary fence. Fair overall condition rating.

Attachment: Clares Street - Arborist Report (4199 and 4205 Clares Street)

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TREE SURVEY CHART – PREPARED FOR CLARES STREET PARTNERS, LLC.
 LOCATION – 4199 CLARES STREET, CAPITOLA - CALIFORNIA

<i>SHEET 5.</i>											
#	SPECIES	TRUNK DIAMETER @ 54" ABOVE GRADE – (DBH)	ESTIMATED HEIGHT	ESTIMATED SPREAD	HEALTH (1 = BEST RATING)	STRUCTURE (1 = BEST RATING)	SUITABLE FOR PRESERVATION (BASED ON CONDITION RATING)	RECOMMENDED FOR REMOVAL (BASED ON CONDITION RATING)	REMOVAL REQUIRED FOR PROPERTY IMPROVEMENTS	SUITABLE FOR RELOCATION	COMMENTS
38	Leyland Cypress	20	70	25	3	3	-	-	-		Neighbor's Tree near north of boundary fence. Fair overall condition rating.
39	Leyland Cypress	14	65	15	4	3	-	-	-		Neighbor's Tree near north of boundary fence. Poor overall condition rating (Noted Seiridium Canker Disease in canopy).
40	Leyland Cypress	20	70	25	3	3	-	-	-		Neighbor's Tree near north of boundary fence. Fair overall condition rating.

Attachment: Clares Street - Arborist Report (4199 and 4205 Clares Street)

Site inspection by Nigel Belton, ISA Certified Arborist WE-0410A – November 8, 2016



Not Just Density Bonuses: Dealing with Demands Beyond the Bonus

Friday, October 7, 2016 General Session; 8:00 – 10:15 a.m.

Lynn E. Hutchins, Goldfarb & Lipman
 Karen M. Tiedemann, Goldfarb & Lipman

DISCLAIMER: *These materials are not offered as or intended to be legal advice. Readers should seek the advice of an attorney when confronted with legal issues. Attorneys should perform an independent evaluation of the issues raised in these materials.*

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**A GUIDE TO CALIFORNIA
DENSITY BONUS LAW
(*AT LEAST UNTIL THE NEXT
LEGISLATIVE SESSION*)**

Lynn Hutchins & Karen M. Tiedemann

GOLDFARB & LIPMAN LLP

**League of California Cities
City Attorneys Department Fall Conference
Long Beach, CA
October 7, 2016**

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Attachment: League of California Cities. Not Just Density Bonuses (4199 and 4205 Clares Street)

A GUIDE TO CALIFORNIA DENSITY BONUS LAW

The State's density bonus law (Government Code Section 65915 – 65918) has over the course of the last several legislative sessions been the subject of bills modifying the statute and once again is the subject of three bills currently poised for adoption by the California legislature. Although the goal of several past bills was to clarify the statutory language, the results have often been to create even more confusion for cities attempting to implement this poorly drafted law. The overall intent of the law is to create incentives for developers to include affordable housing within their projects by granting increased density and other regulatory incentives. The reality of the law is that developers who include only small amounts of affordable housing in their projects – as little as 5 percent – are entitled to receive large incentives: density bonuses of 20 to 35 percent, depending on the amount and type of affordable housing provided; parking reductions; up to three "concessions and incentives," and unlimited "waivers" from development standards.

This paper will discuss the background and current provisions of the state density bonus law, including calculation of the density bonus, incentives and concessions, waivers of development standards and reduced parking mandates; the relationship of state density bonus law to other planning documents; and some strategies to consider in the context of a city's overall regulatory planning scheme. We anticipate providing an addendum to this paper at the conference to address any new statutory provisions if the pending legislation is enacted.

A. Background of the State Density Bonus Law.

The State's density bonus law, prior to amendments adopted in 2004, provided a 25 percent increase in density in exchange for 10 to 20 percent affordable housing. Anecdotal reports indicated that few developers took advantage of the legislation because of the relatively high percentage of affordable housing required to receive a bonus.

In 2004, a coalition of housing advocates and the California Association of Realtors (CAR) achieved the passage of SB1818, which made significant changes in the law. The changes reduced the proportion of affordable units needed to obtain a density bonus, increased the maximum bonus from 25 to 35 percent, required local governments to grant additional concessions, and added a bonus for land donation. The Legislature has since amended the law six times.

Most recently, the density bonus law was amended in 2014 to increase the duration of affordability restrictions required for rental units, to require equity-sharing for all for-sale units, and to add replacement housing requirements for units occupied by or affordable to low and very low income households. In 2015 the statute was amended again to reduce parking requirements for certain projects located near transit stops. In the current legislative session there are three bills being considered to further amend the law. Regardless of the statute's ambiguity and complexity, all cities and counties must adopt an ordinance specifying how they will comply with the legislation.¹ The law is applicable to charter cities.²

¹ Government Code §65915(a). All further references are to the Government Code unless otherwise indicated. In addition, all references are to the statute as amended by SB744, Chapter 699, Statutes of 2015 (effective January 1, 2016.)

Attachment: League of California Cities. Not Just Density Bonuses (4199 and 4205 Clares Street)

B. Basic Provisions.

Density bonuses must be given for affordable housing, senior housing (whether or not affordable), donations of land for affordable housing, condominium conversions that include affordable housing, and child care facilities. In addition to density bonuses, applicants who provide the required amount of affordable housing qualify for various zoning modifications (defined as "incentives and concessions" or "waivers") and for reduced parking standards. If a development provides the required affordable housing, the applicable density bonus and reduced parking standards must be provided. There are no grounds in the statute to deny a developer's request. The density bonus law does contain specific findings by which incentives, concessions and waivers may be denied.

1. Projects Eligible for Density Bonuses. Density bonuses are available to five categories of residential projects:

- a. Affordable Housing.** Housing developments for at least five dwelling units or unimproved lots³ are eligible for density bonuses if *either*:
- **Five percent** of the units are affordable to *very low income* households earning **50 percent** of median income or less;⁴ *or*
 - **Ten percent** are affordable to *lower income* households earning **80 percent** of median income or less;⁵ *or*
 - **Ten percent** are affordable to *moderate income* households earning **120 percent** of median income or less, but only if the project is a common interest development⁶ where *all* of the units, including the moderate-income units, are available for sale to the public.⁷ Rental units affordable to moderate-income households are not eligible for a density bonus.

These required percentages of affordable housing apply only to the project *without* any density bonus, not the entire project.⁸ For instance, assume that a 100-unit project is

² §65918.

³ §65915(i) (which states that the bonuses apply to housing developments consisting of five or more dwelling units but also defines "housing development" as including residential units, subdivisions, conversion of commercial buildings to residences, and rehabilitation of apartments that creates additional dwelling units). The definitions are poorly written and could be interpreted to allow a density bonus for an existing affordable development. However, §65915(b)(1) states that a bonus is available when an applicant "agrees to *construct*" a housing development, implying that the bill does not apply to existing developments.

⁴ §65915(b)(1)(B) (referring to Health & Safety Code §50105 for definition of very low income households; *see also* 25 CCR §6926). Income levels for all categories are adjusted by household size and published annually for each county by the California Department of Housing and Community Development. *See* 25 CCR § 6932.

⁵ §65915(b)(1)(A) (referring to Health & Safety Code §50079.5 for definition of lower income households; *see also* 25 CCR §6928).

⁶ As defined by Civil Code §4100.

⁷ §65915(b)(1)(D) (referring to Health & Safety Code §50093 for definition of moderate income households; *see also* 25 CCR §6930).

⁸ §65915(b)(3).

entitled to a 20 percent density bonus, resulting in a total of 120 units. To qualify for the 20 percent bonus, the project need only provide:

- five very low income units (five percent of 100); *or*
- ten lower income units (ten percent of 100).

Continued Affordability. To be eligible for a density bonus, the affordable units must be sold or rented at affordable prices or rents and rental units must remain affordable for a specified period.

- **Rental Units:** All very low income and lower income rental units must remain affordable for **55 years** (unless a subsidy program requires a longer period of affordability).⁹ Housing costs for very low income units cannot exceed 30 percent of 50 percent of median income. For lower income units, rents cannot exceed 30 percent of 60 percent of median income.¹⁰

- **Ownership Units:** For-sale units are *only* required to be affordable to the initial occupants of the units, who must be very low income, lower income or moderate income, as applicable. The for-sale unit must be sold to the initial occupant at an affordable housing cost as defined in Health and Safety Code Section 50052.5.¹¹ At resale, the local government must enforce an equity-sharing agreement (involving sale of the home at fair market value and sharing of the profits with the city) unless an equity sharing agreement conflicts with another public funding source or "law."¹² This latter provision is significant because it allows counties and cities to adopt their own laws imposing stricter resale controls on for-sale units, if desired. However, the requirement should be adopted by ordinance.

Any equity sharing agreement must provide for the local government to recapture the difference between the fair market value of the home at time of sale and the actual sales price to the initial occupants plus any other assistance provided by the city or county, as well as a proportionate share of the appreciation.¹³ Any amounts recovered by the city or county must be used within five years to promote homeownership opportunities in the community.¹⁴ In housing markets with rapidly increasing costs, the equity sharing formula mandated by the statute will rarely provide enough funds for the city to acquire another affordable unit at the same income level, with the result that the developer will have received permanent zoning concessions without the city's receiving long-term affordable housing.

⁹ §65915(c)(1).

¹⁰ §65915(c)(1) (referring to Health & Safety Code §50053). Agencies should use HCD's published income charts for each county to determine applicable very low, low, and moderate-income limits. These are available on HCD's web site.

¹¹ §65915(c)(2) (referring to Health & Safety Code §§50093 & 50052.5).

¹² §65915(c)(2).

¹³ §65915(c)(2).

¹⁴ §65915(c)(2)(A) requires that the funds be spent for the purposes described in subdivision (e) of §33334.2 of the Health and Safety Code, the statute that governed the expenditure of low and moderate income housing funds held by redevelopment agencies.

Affordable rents and sales prices for the affordable units must be determined by using the methodology included in the California Code of Regulations.¹⁵ Total housing costs for rentals include rent, utilities, and any fees and service charges levied by the landlord. Total housing costs for ownership units must include principal, interest, property taxes, insurance, private mortgage insurance (if any), utilities, homeowners' association fees, and an allowance for maintenance costs. These formulas tend to result in lower sales prices than would be typical in the private market. Banks would generally be willing to loan more money to these buyers than is the case when the statutory formulas are used.

b. Senior Housing. A senior citizen housing development, as defined by Civil Code Sections 51.3 and 51.12,¹⁶ or a mobile home park that limits residency to seniors in accordance with Civil Code Sections 798.76 or 799.5, is eligible for a density bonus even if none of the units are affordable. Senior housing projects eligible under Civil Code Section 51.3 must contain at least 35 units.¹⁷ A developer of senior affordable housing may elect either the low income or senior bonus, although the low income bonus is much more advantageous (as discussed below).

c. Replacement Units. The 2014 amendments to the density bonus law added replacement housing requirements for developments that result in the demolition or removal of rental units affordable to or occupied by very low or low income households. The language of the replacement housing sections of the statute is particularly confusing and difficult to implement. Under the statute, a density bonus is not allowed for a development proposed on property on which occupied rental dwellings exist at the time of application, or rental dwellings were vacated or demolished in the five year period preceding the application, if the dwelling unit was:

- Subject to a recorded covenant, ordinance or law that restricts rents to levels affordable to very low or lower income households;
- Subject to rent control; or
- Occupied by households with very low or lower incomes;¹⁸

unless the proposed development is 100 percent affordable (other than the manager's unit) to lower or very low income households or the proposed development replaces the units and provides enough total affordable units, which may include any replacement units, to be eligible for a density bonus. Projects with applications submitted before January 1, 2015, are exempt from this provision.

Many of the replacement housing requirements contained in the 2014 amendments are either ambiguous or cannot be ascertained from the statute. It appears that AB2556 will be enacted in the 2016 legislative session to clarify these requirements but at the time of this paper the bill is still pending.

¹⁵ 25 CCR §§6910, 6918 & 6920.

¹⁶ This code Section is applicable only to Riverside County.

¹⁷ Civil Code §51.3(b)(4).

¹⁸ §65915(c)(3).

d. Donations of Land. A land donation can qualify a project for a density bonus if the parcel donated is large enough to accommodate at least ten percent of the market-rate units at densities suitable for very low income housing.¹⁹ In other words, a 500-unit market-rate project can receive a density bonus by donating land zoned at densities that can accommodate, and are suitable for, a 50-unit very low income project.

Land donations must meet strict criteria. In particular, the land donation must satisfy all of the following requirements:²⁰

- Land must have the appropriate general plan designation, zoning, and development standards to permit the feasible development of units affordable to very low income households in an amount equal to at least ten percent of the units in the residential development;
- Be at least one acre in size or large enough to permit development of at least 40 units;
- Be served by adequate public facilities and infrastructure;
- Be located within the boundary of the residential development or within one-fourth mile of it (if approved by the local agency);
- Have all necessary approvals except building permits needed to develop the very low income housing, unless the local government chooses to permit design review approval at a later date;
- Be subject to a deed restriction to ensure continued affordability;
- Be transferred to either the local agency or a housing developer approved by the local agency; and
- Be transferred no later than the date of approval of the final map, parcel map, or discretionary approval of the housing development receiving the bonus.
- Proposed source of funds for the construction of the very low income units must be identified.

These criteria in effect make land donation an option only for larger projects which can donate sites of at least one acre. This option can be quite favorable for large developers, however, because a site large enough to accommodate ten percent very low income units will normally include much less than ten percent of the projects land area. That is because very low income projects are usually built at densities of at least 20 units per acre, greater than the density of most market-rate projects in "greenfield" areas. If a county or city is willing to allow higher densities, this can be an effective way to create significant affordable housing.

¹⁹ §65915(g).

²⁰ §65915(g)(2)(A – H).

e. Condominium Conversions. A condominium conversion is eligible for a density bonus if either 33 percent of units are affordable to *moderate-income* households or 15 percent are affordable to *lower income* households.²¹ *The bonus units must be located entirely within the structures proposed for conversion.*²²

f. Child Care Facilities. A housing development is eligible for an *additional* bonus if it includes a child care facility *and* either qualifies as a senior citizens housing development or includes enough affordable housing to be eligible for a density bonus.²³ The statute requires counties and cities to place strict operating requirements on the child care facilities. The child care centers must:

- Remain in operation for the period of time that affordable units must remain affordable (55 years in the case of rental units affordable to very low and lower income households, the affordability duration on ownership units is not specified so it is unclear how long the child care facility would be required to operate in an ownership development); and
- Ensure that the children attending the facility come from households with the same or greater proportion of very low, lower, or moderate incomes as qualified the project for the density bonus.²⁴ In other words, if the housing development qualified for a density bonus because ten percent of the units were affordable to moderate-income households, then ten percent of the children at the child care center must come from moderate-income households.

These conditions are in a practical sense virtually impossible to enforce over time, although they must be imposed as conditions of approval.

2. Density Bonuses Available.

a. Affordable Housing. The density bonus law gives higher bonuses for lower income housing and lower bonuses for moderate-income housing. Housing developments are eligible for a **20 percent density bonus** if they contain:

- Five percent of units affordable to very low income households;²⁵
- or
- Ten percent of units affordable to lower income households.²⁶

Housing developments qualify for only a **five percent density bonus** if **ten percent** of the units are affordable to **moderate-income families**.²⁷

²¹ §65915.5(a) (referring to Health & Safety Code §50093 for definition of moderate income households and to Health & Safety Code §50079.5 for definition of lower income households).
²² §65915.5(b). Given how unusual it would be for existing rental apartments to accommodate a 25 percent increase in density, this Section must have been intended for one particular project.
²³ §65915(h). §65917.5 also allows a city or county to provide a density bonus for a commercial or industrial project that includes a child care facility.
²⁴ §65915(h)(2).
²⁵ §65915(f)(2).
²⁶ §65915(f)(1).

Attachment: League of California Cities. Not Just Density Bonuses (4199 and 4205 Clares Street)

In addition, there is a sliding scale that requires:

- An additional **2.5 percent density bonus** for each additional one percent increase in very low income units;²⁸
- An additional **1.5 percent density bonus** for each additional one percent increase in lower income units;²⁹ and
- An additional **one percent density bonus** for each one percent increase in moderate income units.³⁰

No total density bonus can be greater than **35 percent** unless the city or county by local ordinance allows for a higher density bonus.³¹ The maximum density bonus is reached when a project provides *either* 11 percent very low income units, 20 percent lower income units, or 40 percent moderate income units. The table on page 8 shows these calculations.³²

A developer must choose a density bonus from **only one affordability category** and cannot combine categories.³³ Thus a project that includes, say, ten percent moderate-income units and ten percent lower income units must choose the bonus from *either* the moderate-income category or the lower income category. Since the project would be entitled to a 20 percent bonus based on the lower income units, but only a five percent bonus based on the moderate-income units, the developer would presumably select the density bonus based on the lower income category and would get no additional bonus for the moderate-income units. The effect is to encourage developers to concentrate units in either the lower or very low income categories.

b. Senior Housing. A project qualifying only as a senior citizen housing development is entitled to a **20 percent density bonus of additional senior units only**.³⁴ The bonus *cannot* be combined with the bonuses granted for affordable housing, but the developer of an affordable senior project can elect to use the very low or lower income bonus.³⁵ Because this bonus is so limited, it is typically used only by market-rate senior projects.

c. Donations of Land. *Additional* density, which may be combined with the density bonuses given for affordable and senior housing, is available for projects that donate land for very low income housing. However, in no case can the total bonus granted exceed 35 percent.³⁶

²⁷ §65915(f)(4).

²⁸ §65915(f)(2).

²⁹ §65915(f)(1).

³⁰ §65915(f)(4).

³¹ §65915(n).

³² SB435 (2005) amended the law to include tables for each category showing the specific bonus granted for varying percentages of affordability.

³³ §65915(b)(2).

³⁴ §65915(f)(3).

³⁵ §65915(b)(2).

³⁶ §65915(g)(2).

A **density bonus of 15 percent** is available for a land donation that can accommodate ten **percent of the market-rate units** in the development. An additional **one percent density bonus** is available for each **one percent increase** in the number of units that can be accommodated on the donated land, up to a maximum of 35 percent.³⁷

d. Condominium Conversions. A condominium conversion is entitled to a flat density bonus of 25 percent when either 33 percent of the units are moderate-income units or 15 percent of the units are lower income units.³⁸ Here, however, the local agency can instead choose to provide an alternative incentive of "equivalent financial value" if it does not choose to grant the density bonus.³⁹ Note that a conversion is ineligible for a bonus if the apartments to be converted received a density bonus when they were originally built.⁴⁰

e. Child Care Facilities. A child care facility meeting the operational requirements of the statute and constructed in association with an affordable or senior project is entitled to either an *additional* density bonus equal to the amount of square footage in the child care center; or an alternative incentive that "contributes significantly to the economic feasibility" of the center.⁴¹ Since a "density bonus" is usually interpreted to refer to the number of dwelling units permitted on a site, it is unclear how this requirement for additional *square feet* relates to the otherwise permissible residential density.

The following table summarizes the available density bonuses.

Affordable Units or Category	Minimum Percent Units in Category	Bonus Granted	Additional Bonus for Each One Percent Increase in Units in Category	Percent Units in Category Required for Maximum 35 percent Bonus
Very-low income	5%	20%	2.5%	11%
Lower-income	10%	20%	1.5%	20%
Moderate-income (ownership units only)	10%	5%	1%	40%
Senior housing (35 units or more; no affordable units required) or Senior Mobile Home Parks	100% senior	20% (senior units only)	--	--
Condominium conversion – moderate-income	33%	25% ^(a)	--	--
Condominium conversion – lower-income	15%	25% ^(a)	--	--
<i>A density bonus may be selected from only one category above, except that bonuses for land</i>				

³⁷ §65915(g)(1).

³⁸ §65915.5(a) & (b).

³⁹ §65915.5(a).

⁴⁰ §65915.5(f).

⁴¹ §65915(h)(1).

Affordable Units or Category	Minimum Percent Units in Category	Bonus Granted	Additional Bonus for Each One Percent Increase in Units in Category	Percent Units in Category Required for Maximum 35 percent Bonus
<i>donation may be combined with others, up to a maximum of 35%, and an additional sq. ft. bonus may be granted for a child care center.</i>				
Land donation for very-low income housing	10% of market-rate units	15%	1%	30%
Child care center	--	Sq. ft. in day care center ^(a)	--	--
Notes: ^(a) Or an incentive of equal value, at the city's option.				

f. Calculating the Density Bonus.

- Bonus over Zoning Maximum or General Plan Maximum?**

The density bonus is to be calculated over the "maximum allowable residential density." Section 65915(o)(2) defines "maximum allowable residential density" as that allowed under the zoning ordinance and the land use element of the general plan, or, if a range of density is specified, the maximum allowed. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density will prevail.

Effectively, this provision means that the bonus is calculated over that shown in the land use element of the general plan. In some cases the maximum density allowed by the zoning ordinance is considerably less than the maximum density range shown in the land use element. Cities should attempt to make these consistent to avoid a surprise request for a density bonus substantially greater than allowed by zoning.

Alternatively, developers may desire a bonus over the zoning maximum but have no interest in a bonus over a higher land use element maximum. While strict construction of the statutory language suggests this is not a request for a "density bonus," local agencies typically ignore this problem and treat the application as a density bonus request.

Attachment: League of California Cities. Not Just Density Bonuses (4199 and 4205 Clares Street)

• **What If There's NO Maximum Density in the Zoning Ordinance?**

A few communities do not place *any* limit on the number of dwelling units that can be constructed on a site, but instead allow as many units as can be constructed given limitations on height, setbacks, floor area, and other zoning regulations. How is a density bonus calculated in that case?

In at least one court decision, the fact that the city did not have a maximum density standard in its zoning ordinance meant that the bonus was calculated over the density standards in the land use element. In *Wollmer v. City of Berkeley ("Wollmer II")*,⁴² the petitioner argued that the city misapplied the density calculation by using the density standards of the zoning ordinance rather than the general plan. The city's zoning ordinance did not have a maximum density for the applicable zoning classification but rather relied upon the land use element of the general plan to determine density, which limited density by area rather than a particular property. The density bonus was based on the general plan densities and was upheld by the Court.

• **Rounding Up.**

Any density bonus calculation resulting in a fraction entitles the developer to another bonus unit.⁴³ For instance, a project with 102 units, ten percent of which are affordable to lower income households, is entitled to 21 bonus units (20% x 102 = 20.4, or 21 bonus units). The number of affordable units to be provided must also be rounded up. Thus, in a 102-unit project, a developer would need to provide 11 units to meet the ten percent requirement (10% x 102 = 10.2, or 11 affordable units). With only ten affordable units, the developer would not reach the ten percent threshold.

3. Concessions, Incentives, Waivers and Reductions.

Of greatest concern to cities are the requirements in the statute that give applicants the right to modifications in local development standards: zoning, subdivision controls, and design review requirements. As developers have become more familiar with the density bonus laws, they have frequently proposed projects with large height and setback exceptions, creating substantial public opposition. Unfortunately, if faced with requests for even large variations from local ordinances, cities' discretion may be limited.

Applicants can have standards relaxed in two ways: by requesting "concessions and incentives;" and by asking for "waivers and reductions." In addition, applicants can request the reduced parking standards contained in the statute even if the applicant is not requesting a density bonus, as discussed in Section 4 below.

a. Concessions and Incentives. An applicant who: (1) applies for a density bonus; and (2) bases the request on the provision of affordable housing may also apply for one to three "concessions or incentives." "Concessions and incentives" are defined as:

⁴² 193 Cal. App. 4th 1329 (2011).

⁴³ §65915(f)(5) & (g)(2).

- **Reductions in site development standards or modifications of zoning and architectural design requirements**, including reduced setbacks, increase in height limits, and square footage required, that result in "identifiable, financially sufficient, and actual cost reductions."⁴⁴

- **Mixed used zoning** that will reduce the cost of the housing, if the non-residential uses are compatible with the housing development and other development in the area.⁴⁵

- **Other regulatory incentives or concessions** that result in "identifiable, financially sufficient, and actual cost reductions."⁴⁶

One to three incentives or concessions may be requested on a sliding scale, depending on the amount of affordable housing provided, as shown in the table below.

Target Units or Category	Percent of Target Units		
	5%	10%	15%
Very-low income	5%	10%	15%
Lower-income	10%	20%	30%
Moderate-income (ownership units only)	10%	20%	30%
Condominium conversion – 33% moderate-income	(d) ⁴⁷		
Condominium conversion – 15% lower-income	(d) ⁴⁸		
Day care center	(d) ⁴⁹		
Maximum Incentive(s)/Concession(s) ^{(a)(b)(c)}	1	2	3
Notes: (a) A concession or incentive may be requested only if an application is also made for a density bonus. (b) Concessions or incentives may be selected from only one category (very-low, lower, or moderate). (c) No concessions or incentives are available for land donation or market-rate senior housing. (d) Condominium conversions and day care centers may have one concession or a density bonus at the city's option, but not both.			

The developer has the right to select the incentives, although a city or county may of course encourage the developer to select other incentives on a voluntary basis. Many jurisdictions offer a menu of incentives that the city will approve without further evidence from the developer. However, to deny the specific incentives proposed, the local government must either find that they do not meet the threshold requirements set in the statute—in particular, that they do not result in "identifiable, financially sufficient, and actual cost reductions"—or make the findings required to deny a request for an incentive, discussed below. Many communities

⁴⁴ §65915(k)(1).

⁴⁵ §65915(k)(2).

⁴⁶ §65915(k)(3).

⁴⁷ §65915.5(a).

⁴⁸ §65915.5(a).

⁴⁹ §65915(h).

require a pro forma to justify an incentive. As a consequence, developers have increasingly requested waivers rather than incentives. No published case evaluates incentives.

Note that there is *no* requirement that local government provide any "direct financial incentives" for a project. "Direct financial incentives" include provision of publicly owned land and waivers of fees and dedication requirements.⁵⁰

b. "Waivers and Modifications" of "Development Standards."

Localities may not enforce any "development standard" that would physically preclude the construction of a project with the density bonus and the incentives or concessions to which the developer is entitled.⁵¹ In addition to requesting "incentives and concessions," applicants may request the waiver of an unlimited number of "development standards" that would physically preclude the construction of a project with the density bonus and the incentives or concessions to which the developer is entitled. These waivers and modification do not change the number of incentives or concessions available to the developer. Waivers and modifications are not limited to projects containing affordable housing and may be requested by any applicant requesting a density bonus, including bonuses for senior housing, condominium conversions, and child care centers.

The statute defines a "development standard" as "a site or construction condition, including, but not limited to, a height limitation, setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter or other local condition, law, policy, resolution or regulation."⁵² "Site and construction conditions" appear to be confined to conditions affecting the *physical* location or type of construction and do not include use restrictions, procedural requirements, affordable housing requirements, and impact fees. Given the overlap of the use of "development standard" in both the "concession or incentive" context and the "waiver" context, developers typically request any number of waivers of development standards and focus their limited requests for incentives or concessions on standards they could not justify as a waiver.

It is not clear how to determine that a development standard "physically precludes" a project with a density bonus. It means something less than "physically impossible." In *Wollmer II*, the plaintiff argued that height and setback waivers were not needed because ceiling heights could be reduced below nine feet, and amenities including an interior courtyard and community plaza could be eliminated. The court explicitly rejected this contention, stating: "Standards may be waived that physically preclude construction of a housing development meeting the requirements for a density bonus, period. The statute does not say that what must be precluded is a project with no amenities, or that amenities may not be the reason a waiver is needed."⁵³ No case examines what changes a city *can* require to be made in a project when a waiver is requested, or what evidence is required to deny a waiver.

⁵⁰ § 65915(l).

⁵¹ § 65915(e).

⁵² § 65915(o)(1).

⁵³ 193 Cal. App. 4th 1329, 1346-47 (2011) (citation omitted).

4. Reduced Parking Requirements.

The density bonus law entitles a developer who qualifies for a density bonus to parking reductions as a separate entitlement. A developer could request even lower parking ratios as a concession or waiver under the density bonus law.⁵⁴

a. Basic Parking Standards. If a project qualifies for a density bonus because it is a senior project or provides affordable housing, a city or county, at the request of the developer, must reduce the required parking for the entire project—including the market-rate units—to the following:

- zero to one bedroom – one on-site parking space;
- two to three bedrooms – two on-site parking spaces; and
- four or more bedrooms – two and one-half on-site parking spaces.⁵⁵

These numbers include guest parking and handicapped parking. The spaces may be in tandem or uncovered, but cannot be on-street. The standards are uniform throughout the state, with no ability to vary them for local conditions.

b. Parking Standards Near Transit Stops

AB744, effective January 1, 2016, mandates additional parking reductions for affordable housing and housing located within one-half mile of major transit stops if requested by the developer, as shown in the table on the next page.⁵⁶

A "major transit stop" is a site containing a rail station, a ferry terminal served by bus or rail, or the intersection of two or more bus routes that provide service every 15 minutes, or more frequently during the morning and afternoon peak commute periods, or a major transit stop identified in a regional transportation plan.⁵⁷ This definition permits lower parking requirements even where a major transit stop included in a regional transportation plan has not yet been constructed.

A site has "unobstructed access" if a resident can "access" the stop "without encountering natural or constructed impediments."⁵⁸ It is not clear how access must be obtained (on foot? by car?), but it is possible that some sites that appear to be within a one-half mile radius of a major transit stop may be excluded if the street network does not allow a driver or pedestrian to reach the stop in one-half mile.

⁵⁴ §65915(p)(5) & (6).

⁵⁵ §65915(p)(1).

⁵⁶ §65915(p)(2).

⁵⁷ Public Resources Code § 21155(b).

⁵⁸ §65915(p)(2).

Type of Development	Maximum Ratio of Required Off-Street Parking Spaces
Rental or ownership housing development with: 1. At least 11% very low income or 20% low income units; and 2. Within one-half mile of a major transit stop; and 3. Unobstructed access to the major transit stop.	0.5 per bedroom
Rental housing development with: 1. All units affordable to lower income households except manager's unit(s); and 2. Within one-half mile of a major transit stop; and 3. Unobstructed access to the major transit stop.	0.5 per unit
Rental housing development with: 1. All units affordable to lower income households except manager's unit(s); and 2. A senior citizen housing development; and either 3. Has paratransit service; or 4. Is within one-half mile of fixed bus route service that operates 8 times per day, with unobstructed access to that service.	0.5 per unit
Rental housing development with: 1. All units affordable to lower income households except manager's unit(s); and 2. A special needs housing development ^(a) ; and either 3. Has paratransit service; or 4. Is within one-half mile of fixed bus route service that operates 8 times per day, with unobstructed access to that service.	0.3 per unit
Notes: (a) "Special needs" housing is any housing designed to serve persons with needs related to mental health, physical or developmental disabilities, or risk of homelessness. ⁵⁹	

c. **Local Parking Studies.** Communities may require higher parking ratios than those mandated for the housing types located near transit stops described in subsection 4(b) of this paper if a community adopts findings supporting the need for higher parking ratios, which are **based on a study**, paid for by the community and conducted in the last seven years, that includes: (1) an analysis of available parking; (2) differing levels of transit access; (3) walkability to transit; (4) potential for shared parking; (5) effect of parking requirements on housing costs; and (6) car ownership rates for lower income households, seniors, and residents

⁵⁹ Health & Safety Code §51312.

with special needs. However, the *maximum* parking ratios that may be required by a city are those set forth in subsection 4.a above.⁶⁰

d. Relationship to Density Bonuses. Although the new parking provisions are incorporated into state density bonus law, a developer need not request a density bonus nor any other regulatory incentive to take advantage of the lower parking requirements. However, any development that is eligible to use the AB744 parking standards will also be eligible for a 35 percent density bonus and incentives and concessions under state density bonus law. It is possible that the lower parking standards allowed for a project containing only 11 percent affordable housing may induce some market-rate developers to provide the affordable units and then seek a density bonus and other incentives.

5. Local Agency Discretion.

Can counties and cities deny requests for density bonuses, incentives, concessions, waivers, and reduced parking? Only with difficulty: either by making specified findings, supported by substantial evidence; or, by finding that the request does not meet the threshold requirements laid out in the statute.

a. Threshold Requirements. Projects do not qualify for a density bonus – and hence the local agency may disapprove a request – if they do not meet the standards set in the statute. Local agencies can require that applicants show that they have met these threshold requirements. Some of the most important are these:

- **For affordable housing:** Initial sales prices and rents must meet the requirements of the Health and Safety Code and California Code of Regulations. The applicant and local government must enter into appropriate restrictions to ensure affordability for rental units and equity sharing documents for ownership units.
- **For projects involving the demolition of residential rental units affordable to or occupied by lower income households:** The project must comply with the replacement housing requirements set forth in Section B.1.c. above.
- **For senior housing:** The project must meet the requirements of a senior housing development or mobile home park set forth in the Civil Code.
- **For land donations:** The project must comply with the long list of conditions included in Section 65915(g)(2).
- **For incentives and concessions:** The regulatory concessions requested must result in "identifiable, financially sufficient, and actual cost reductions."⁶¹ Local agencies can encourage applicants to apply for certain concessions and incentives by making a finding in their ordinances that certain concessions do result in actual cost reductions, and the developer need not provide his or her own economic analysis.

⁶⁰ §65915(p)(7).

⁶¹ §65915(k)(1) & (3).

- **For waivers and reductions:** The applicant must show that the development standard being waived will preclude the physical construction of the project with the density bonus, incentives and concessions to which the project is entitled.⁶²

- **For additional reduction of parking requirements near transit stops:** The applicant must show that the project meets one of the three requirements set forth in Section 4.b. above.

Because projects are eligible for a density bonus, incentives, waivers and additional reduced parking ratios only if they meet the threshold requirements contained in the statute, local agencies should be able to deny these requests if the application fails to meet these requirements.

b. Findings for Disapproval. The statute lists findings required to deny incentives, concessions, waivers and reductions, however, no findings are listed for the denial of a density bonus or the mandated reduction in parking requirements.⁶³

Findings that may be used to deny incentives/concessions or waivers are listed in the table below.

Code Section	Applicable To:	Procedural Requirements	Finding
65915(d)(1)	Incentives & concessions	In writing, based on substantial evidence	(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c); (B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, ^(a) upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which 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 (C) The concession or incentive is contrary to state or federal law.

⁶² §65915(e)(1).

⁶³ §65915(p)(1) ("Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio . . . that exceeds the following ratios . . .").

Code Section	Applicable To:	Procedural Requirements	Finding
65915(e)(1)	Waivers & modifications	Agency must adopt procedures for granting waivers ^(b)	<p>1. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5^(a) upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.</p> <p>2. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.</p>
<p>Notes: ^(a) Paragraph (2) of subdivision (d) of §65589.5 states: "[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." ^(b) This requirement is in §65915(d)(3).</p>			

c. **Attorneys' Fees.** An applicant is entitled to attorneys' fees and costs if a city or county denies a request for a density bonus, incentive, concession, waiver, or reduction in violation of Section 65915.⁶⁴

6. Local Ordinances and Procedures.

The density bonus law requires all cities to adopt an ordinance that specifies how the city will implement compliance with the density bonus law. Failure to adopt an ordinance does not relieve a city from complying with the density bonus law.⁶⁵ Additionally, Section 65915(d)(3) mandates that communities establish procedures for dealing with incentive or concessions requests, which should be covered in the local ordinance or local guide to administering the density bonus law. Section D below discusses provisions that cities may want to consider including in their local ordinances.

In the past cities often prepared detailed density bonus ordinances that attempted to explain the requirements of the statute in more easily accessible language. Given the frequent amendments, cities may wish to confine their ordinances to procedural requirements and prepare informal guidance for the benefit of staff and applicants. Nonetheless, cities should consider updating their ordinances, procedures and application requirements in the near future to ensure that they are consistent with the recent amendments to the statute.

⁶⁴ §§65915(d)(3) & 65915(e)(1).
⁶⁵ §65915(a).

C. Issues.

1. Relationship to Local General and Specific Plans.

The density bonus law, at its heart, prioritizes the provision of incentives for affordable housing over local planning. By allowing 35 percent bonuses and unlimited waivers to accommodate density bonuses, the law assumes that the need for any amount of affordable housing is more important than any other local planning requirement. But the state Department of Housing and Community Development (HCD) gives no credit to communities that encourage density bonuses in its review of housing elements. In calculating zoning capacity (the number of dwellings that can be built given present zoning), HCD does not allow communities to increase their presumed site capacity based on developers' ability to obtain a density bonus.

The statute provides specifically that the granting of a density bonus, concession, or incentive by itself shall not require a general plan amendment, zoning change, local coastal plan amendment, *or any other discretionary approval*.⁶⁶ Consequently, cities cannot establish a "density bonus permit" or other special permit for projects that request density bonuses. Rather, the density bonus and any request for concessions or waivers should be heard as part of any other discretionary approval needed.

2. Relationship to Local Inclusionary Requirements.

a. **Inclusionary Units Count as Affordable Units for Density Bonus.** In *Latinos Unidos del Valle de Napa y Solano v. County of Napa*,⁶⁷ the Court held that affordable units required by a local inclusionary ordinance could be used to make a project eligible for a density bonus. Napa County's ordinance had provided that the affordable units required under density bonus law were to be provided in addition to the affordable units required by the County's inclusionary ordinance. Although the County's ordinance resulted in the creation of more affordable units before a developer was entitled to a density bonus, the Court found that "[t]o the extent the ordinance requires a developer to dedicate a larger percentage of its units to affordable housing than required by Section 65915, the ordinance is void."⁶⁸

However, any units proposed to meet the requirements of *both* a local inclusionary ordinance and to qualify the project for a density bonus must meet the requirements of *both* the local ordinance and state law. Similarly, if a local inclusionary ordinance requires more affordable units than required by density bonus law, nothing excuses the developer from compliance with the local inclusionary ordinance.

b. **Avoiding the Application of the Costa-Hawkins Act by Granting Density Bonuses.** The Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.51 *et seq.*) regulates local rent control. It gives the owner of any rental unit the right to set both the initial rent and the rent when a tenant vacates the unit ("vacancy decontrol"). In *Palmer/Sixth*

⁶⁶ §§ 5915(f)(5) & 65915(j)(1).

⁶⁷ 217 Cal. App. 4th 1160 (2013).

⁶⁸ 217 Cal. App. 4th at 1169.

Street Properties L.P. v. City of Los Angeles,⁶⁹ the Court found that the regulation of rents through inclusionary ordinances violates the Costa-Hawkins Rental Housing Act.

However, Costa-Hawkins states that its provisions do not apply when the owner of rental apartments has agreed by contract with a public agency to control rents in consideration for "a direct financial contribution or any other form of assistance specified in . . . Section 65915."⁷⁰ Inclusionary rental units are therefore exempt from Costa-Hawkins when the project includes: (1) a contract with the local agency; and (2) any of the incentives listed in the density bonus law.

Consequently, giving density bonuses and the other development concessions for rental inclusionary units allows the provision of affordable rents in rental housing. To avoid the application of Costa-Hawkins, an agreement with the developer must be recorded. It should recite that the developer has agreed to control rents in exchange for the incentives granted by the locality, consistent with Costa-Hawkins.

3. Relationship to Local Coastal Plans.

The statute provides that it shall not be construed to supersede or in any way alter the effect of the California Coastal Act.⁷¹ However, it also provides that density bonuses, incentives, and concessions do not, in and of themselves, require an amendment to a local coastal plan.⁷² Coastal communities should refer to their local coastal plan and Coastal Commission staff to coordinate implementation of density bonus law under their local ordinances with the local coastal plan requirements and process.

4. Application of CEQA to Density Bonus Projects.

Section 65915 does not establish an exemption from CEQA requirements. The regulatory concessions that must be offered to a qualifying project cannot include non-compliance with CEQA, which would violate state law. CEQA is not limited by the statute.

Under the state density bonus law, the granting of a density bonus and incentives or concessions, *in and of themselves*, are not discretionary approvals,⁷³ so those actions are not subject to CEQA as ministerial acts.⁷⁴ The new mandatory parking requirements also leave no discretion to the local government and should also be considered exempt from CEQA. The density bonus statute does not address whether waivers or reductions of development standards are discretionary or ministerial. Most typically, however, cities require that requests for bonuses and all other incentives requested under the statute be submitted with all other required discretionary applications, and the CEQA analysis is completed on the project as a whole, including any requests submitted under the density bonus law.

⁶⁹ 175 Cal. App. 4th 1396 (2009).

⁷⁰ See Civil Code §1954.52(b).

⁷¹ §65915(m).

⁷² §65915(f)(5) & §65915(j)(1).

⁷³ §65915(f)(5) & §65915(j)(1).

⁷⁴ Public Resources Code §21080(b)(1); 14 CCR §§15002(i)(1) & 15268.

Two recent appellate cases have discussed the density bonus statute relative to CEQA. In *Wollmer v. Berkeley* ("*Wollmer I*"),⁷⁵ the court found that appellant failed to demonstrate that the city's actions in interpreting and complying with the state density bonus law (including providing a larger density bonus than mandated under the state law) was a change in policy that constituted a project to which CEQA applied. In *Wollmer II*, the city waived a number of development standards and approved the CEQA categorical exemption for infill projects (CEQA Guideline Section 15332). That exemption requires compliance with *applicable* general plan and zoning code designations, policies and regulations. The Court noted that the density bonus law specifically states that a granting of a density bonus does not require any discretionary approval and that the city is prohibited by state density bonus law from applying any development standard that physically precludes the construction of a density bonus development. Accordingly, the court found that the waived development standards were not *applicable* general plan and zoning designations, policies, and regulations, and so the use of the infill exemption was not precluded by use of state density bonus law.

Because density bonus projects will exceed general plan and zoning densities and may include reduced development standards, they may not be within the scope of program EIRs and similar EIRs prepared for general plans, specific plans, and zoning ordinances; although, based on *Wollmer II*, a court could find that since the granting of a density bonus is not discretionary, no further environmental analysis may be required.

A local agency may deny a proposed incentive, concession, or waiver when there is substantial evidence that it would have a "specific adverse impact," as defined in Section 65589.5(d)(2), on "public health and safety" or the physical environment, and 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." Similarly, a local government may deny a proposed incentive, concession or waiver that would have an adverse impact on a property listed on the California Register of Historical Resources, or that is contrary to state or federal law. An EIR would likely provide the basis for such findings. The agency could deny a proposed incentive, concession, or waiver if an EIR or other study identified: (1) significant public health or safety impacts; (2) based on objective written standards; (3) that either cannot be avoided; or (4) that could be mitigated but the mitigation would make the project unaffordable.

D. Density Bonus Requirements in the Context of a Land Use Regulatory Scheme.

There are some strategies that localities can use in drafting their own density bonus ordinances to enable local plans to be implemented to the extent possible. A local ordinance with defined requirements can also better protect the agency from legal challenge. Some provisions to include are these:

1. Application requirements. Require detailed information to ensure that the project complies with the threshold requirements discussed earlier. These may include, for instance, calculations of affordability, evidence that incentives and concessions provide "identifiable, financially sufficient, and actual cost reductions," and analysis to show that any waivers are required to avoid physically precluding the construction of the project.

⁷⁵ 179 CA. App. 4th 933 (2009).

2. Enforceable written agreements. Require that the affordability requirements be enforced through a recorded written agreement. Some communities also require the developer to provide the documents to be recorded that will enforce the obligation, or to pay for ongoing public agency monitoring of affordability or public agency preparation of the documents. There is also no requirement to subordinate these agreements to project financing.

3. Findings required for approval and denial. Include as findings in the ordinance the threshold criteria needed for project approval (such as the need for incentives to result in "identifiable, financially sufficient, and actual cost reductions") and, for those projects that meet the threshold criteria, the statutory findings that could justify denial. This will help guide decision-makers' deliberations to those aspects of the project that justify approval or denial of the bonus, incentives, or waivers.

Note that the city or county retains full discretion to approve or deny the project for reasons unrelated to the density bonuses, incentives, or waivers.

4. Encouraging certain incentives and concessions. Although the developer, rather than the public agency, has the right to choose the incentive or concession, some ordinances attempt to encourage certain favored incentives by requiring less information from the developer when the favored incentives are proposed.

5. Limitations on certain incentives. If the local zoning ordinance already grants incentives for affordable projects, ensure that these incentives do not automatically apply to a density bonus project. This will prevent the project from requesting incentives *in addition to* those that the project is already entitled, but will allow the public agency to grant the normal incentives pursuant to density bonus law.

6. Conduct a parking study. If the community anticipates a higher need for parking within 1/2 mile of major transit stops than allowed by AB744, the community should conduct a transit study to permit it to require the maximum parking ratios rather than the parking requirements mandated by the statute for projects within 1/2 mile of a major transit stop.

7. Require long term affordability for ownership units. To avoid losing affordable ownership units with the first resale, adopt a requirement that requires long-term affordability for ownership units that make a project eligible for a density bonus.

CONCLUSION

California's density bonus law is a confusing, poorly drafted statute that allows major exceptions to local planning and zoning requirements. The law contains numerous protections for applicants, and communities that are unprepared may find themselves seemingly forced to approve an undesirable project. Preparing a local density bonus ordinance and procedures that clarify ambiguities and require detailed information from the applicant can give cities the tools they need to better evaluate these projects and achieve results similar to those intended by local planning.

Attachment: League of California Cities. Not Just Density Bonuses (4199 and 4205 Clares Street)



STAFF REPORT

TO: PLANNING COMMISSION
 FROM: COMMUNITY DEVELOPMENT
 DATE: DECEMBER 7, 2017
 SUBJECT: **115 Saxon Avenue 16-115 036-131-02**

115 Saxon Avenue #16-115 APN: 036-131-02

Plan revision to a previously approved Design Permit for remodel and addition to a single-family dwelling in the R-1 (Single-Family) zoning district.

The project is located in the Coastal zone and received a coastal permit on February 2, 2017.

Property Owner: Brian Wiese & Diane Krigel Filed: 11.29.2017
 Representative: Derek Van Alstine

APPLICANT PROPOSAL

Plan revision to a previously approved Design Permit for remodel and addition to a single-family dwelling in the R-1 (Single-Family) zoning district.

BACKGROUND

The Planning Commission approved a Design Permit to remodel an existing non-conforming residence and add an addition of 324 square feet at 115 Saxon Avenue during the February 2nd, 2017, public hearing.

On September 7, 2017, the property was red tagged by the building division for framing a doorway on the second story bedroom in a location noted on the plans as “existing window to remain”. Upon inspection, the owner explained to staff that the plans were incorrect and that the note for the “existing window” should have stated existing door. The approved design permit noted that the existing second story deck would be removed and the area would be utilized as a rooftop. By removing the second story deck, the owner could utilize the floor area of the deck within the new addition. During the September code inspection, staff required that a window be framed in the location of the door. Staff required the height of the window to match the other windows in the bedroom of four feet four inches. Staff also required the owner to sign off on a memo acknowledging the reallocation of the floor area of the previous deck and requirement that the rooftop shall not be utilized as deck (Attachment 2).

On November 27th, during a requested planning inspection, staff determined that the exterior building materials had been modified in the field from the approved set of plans. Pursuant to the original conditions of approval, any significant modifications to the exterior of the structure must be approved by the Planning Commission.

DISCUSSION

During the onsite inspection of the single-family home at 115 Saxon Avenue, staff identified modifications to the exterior materials that had not been approved by staff or the Planning Commission. Condition of Approval #6 of the Design Permit states “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.”

The following changes were made during construction:

1. Exterior material changed from wood shingle to horizontal siding (cement fiberboard) in multiple locations on the north, east, and south elevations.
2. The three master bedroom windows on the second story of the east elevation were changed from the approved 2'-4" x 4'-4" to 2'-0" x 3'-2".
3. Window at the top of the stairs on the second story north elevation changed from 2'-4" x 4'-4" to 2'-4" x 4'-8". The window was also lowered, as the approved window was approximately two feet eight inches from the floor and the existing window is only one foot eight inches from the floor. This modification creates easy access to rooftop.
4. Door replaced with window on the first floor of the north elevation.
5. Two front gables changed from horizontal siding to wood shingle and false beams and trusses under both gables were removed.
6. Trellis added above sliding glass door on the first floor of the north elevation.
7. Window omitted on first floor west elevation.
8. All windows on approved plans (except the three windows on the west elevation) were divided light windows but none of the windows installed are divided light windows.
9. Dutch door at main entrance replaced with craftsman style door.
10. Trim of parapet wall was carried across the front of the east elevation under the second story master bedroom windows.

Attachment 1 includes the approved elevations for the home and as-built photographs. Each change listed above is shown in the as-built photographs with a number that corresponds with the above list (except #8, which applied to all but two of the windows). The overall changes in materials modified the design from craftsman to contemporary architecture. The main modification of concern to staff is the window at the top of the stairs that was enlarged and lowered, providing easy access to the rooftop. The Planning Commission may want to require modifications to the window at the top of the stairs to deter the use of the rooftop deck. The applicant is required to return to Planning Commission for approval of the modifications to the Design Permit due to the significance of the cumulative changes.

CEQA

Section 15303(a) of the CEQA Guidelines exempts the construction of one single-family residence in a residential zone. This project involves a remodel and addition work to an existing two-story single-family residence in the R-1 (Single-Family Residential) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.

RECOMMENDATION

Staff recommends the Planning Commission review the modifications that were made to the home and consider approval of the modifications to the Design Permit.

CONDITIONS OF APPROVAL

1. All previous conditions of approval of Permit #16-115 continue to apply.

2. The applicant shall construct any exterior modifications deemed necessary by the Planning Commission during the December 7, 2017, Planning Commission meeting prior to Building Permit Final inspection by planning staff.

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 project. The project, with the conditions imposed, secures the purpose of the Zoning Ordinance, General Plan, and Local Coastal Plan. The proposed addition area meets all zoning code requirements.

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 application for remodel and addition to an existing two-story residence. The remodeled home, with the conditions imposed, will maintain the character and integrity of the neighborhood. The proposal will update the exterior façade and remove existing, raised deck space. The proposed updated home will maintain the character of the depot hill neighborhood.

C. This project is categorically exempt under Section 15303 of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.

Section 15303(a) of the CEQA Guidelines exempts the construction of one single-family residence in a residential zone. This project involves the remodel and addition to an existing two-story single-family residence in the R-1 (Single-Family Residential) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.

ATTACHMENTS:

1. Attachment 1 - Approved Plans vs Build - 115 Saxon Ave - #16-115
2. Attachment 2 - Memorandum Re 115 Saxon Roof Top is not a deck - Signed

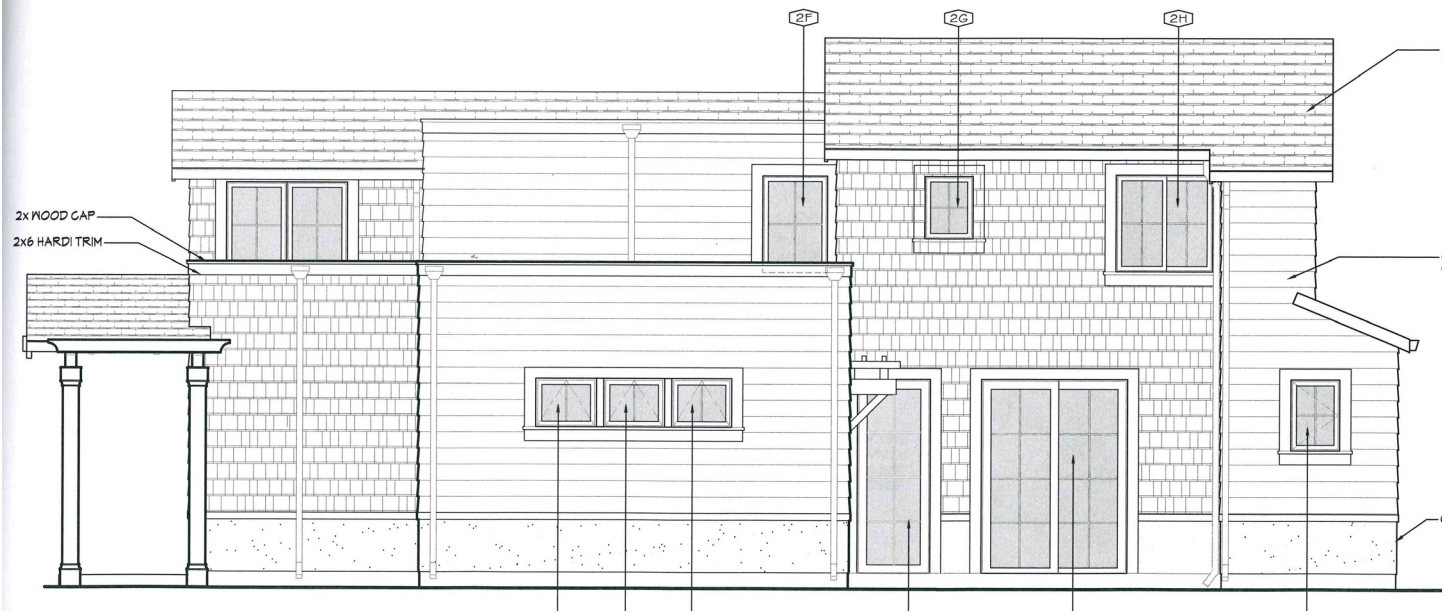
Prepared By: Matt Orbach
Assistant Planner

EAST ELEVATION



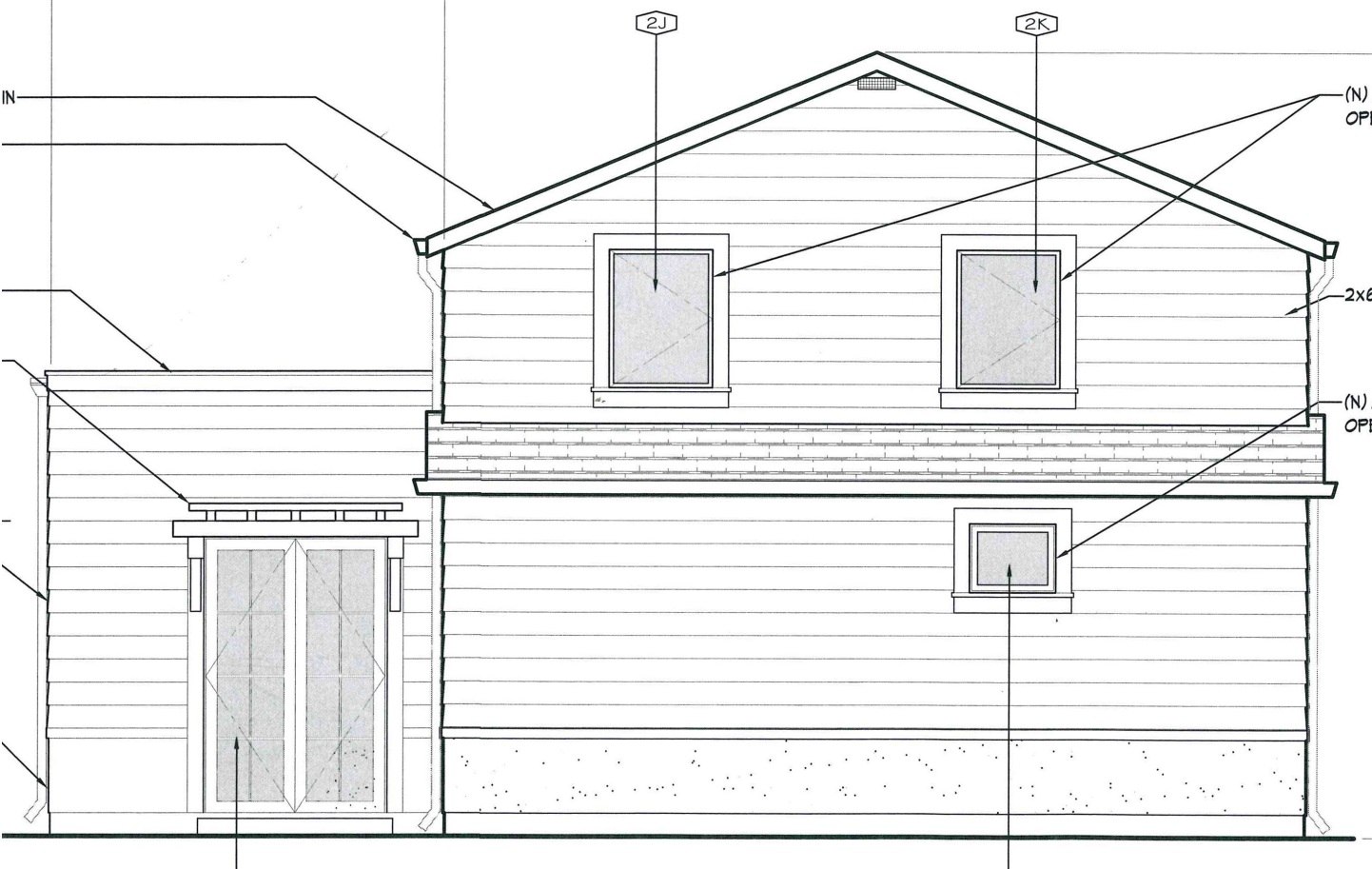
Attachment 1 - Approved Plans vs Build - 115 Saxon Ave - #16-115 (115 Saxon Avenue)

NORTH ELEVATION



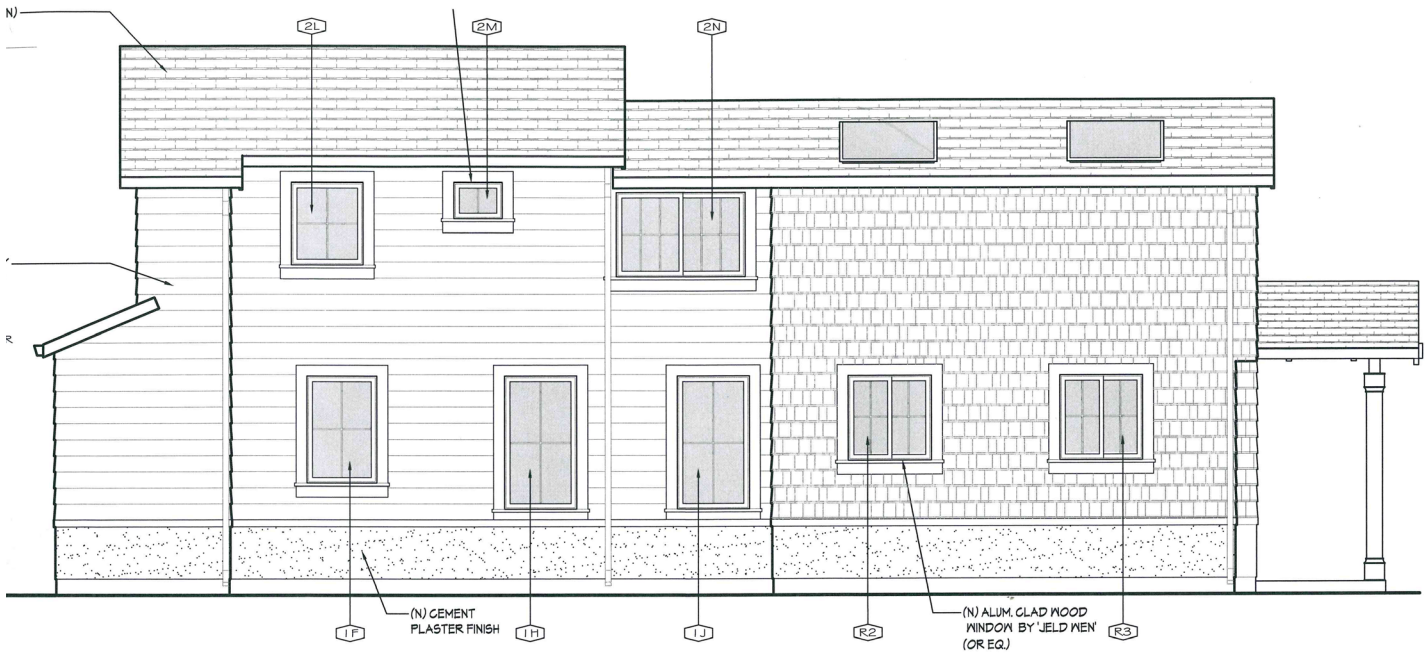
Attachment: Attachment 1 - Approved Plans vs Build - 115 Saxon Ave - #16-115 (115 Saxon Avenue)

WEST ELEVATION



Attachment 1 - Approved Plans vs Build - 115 Saxon Ave - #16-115 (115 Saxon Avenue)

SOUTH ELEVATION



Attachment 1 - Approved Plans vs Build - 115 Saxon Ave - #16-115 (115 Saxon Avenue)

WINDOW DETAILS

2 - UPPER FLOOR WINDOWS

2A	2'-4" x 4'-4"	A	MATCH (E)	3-1/2" V.I.F.	CASEMENT
2B	2'-4" x 4'-4"	A	MATCH (E)	3-1/2" V.I.F.	CASEMENT
2C	2'-4" x 4'-4"	A	MATCH (E)	3-1/2" V.I.F.	CASEMENT
2D	NOT x USED	-	-	-	-
2E	2'-0" x 3'-6"	D	6'-8"	3-1/2" V.I.F.	CASEMENT
2F	2'-8" x 4'-0"	D	6'-8"	3-1/2" V.I.F.	CASEMENT, TEMPERED
2G	2'-0" x 2'-6"	D	6'-8"	3-1/2" V.I.F.	CASEMENT, TEMPERED
2H	4'-0" x 4'-0"	C	6'-8"	3-1/2" V.I.F.	SLIDER
2J	3'-0" x 4'-0"	D	6'-8"	5-1/2" V.I.F.	CASEMENT
2K	3'-0" x 4'-0"	D	6'-8"	5-1/2" V.I.F.	CASEMENT
2L	3'-0" x 3'-6"	D	6'-8"	5-1/2" V.I.F.	CASEMENT
2M	2'-0" x 1'-6"	B	6'-8"	3-1/2" V.I.F.	AWNING
2N	5'-6" x 3'-6"	E	6'-8"	3-1/2" V.I.F.	SLIDER

ADDITIONAL NOTES:

1. WINDOW AND DOOR SIZES ARE NOMINAL. VERIFY ROUGH OPENING SIZE WITH MANUFACTURER.
2. EGRESS MINIMUM NET CLEAR HEIGHT SHALL BE 24 INCHES, MINIMUM NET CLEAR WIDTH SHALL BE 20 INCHES, AND HAVE THE BOTTOM OF THE CLEAR OPENING NOT MORE THAN 44 INCHES ABOVE THE FLOOR.
3. PROVIDE TEMPERED GLASS AT AREAS OF GLASS WITHIN 18" OF FINISH FLOOR AND ALL SKYLIGHTS.
4. PROVIDE TEMPERED GLASS WITHIN 60 INCHES ABOVE STANDING SURFACE AND DRAIN INLET IN ALL BATHROOMS.
5. PROVIDE TEMPERED GLAZING AT STAIR LANDING AND OPENING WITHIN A 24" ARC OF A DOOR.
6. NFRC LABELS MUST REMAIN ATTACHED TO THE GLAZING UNTIL AFTER INSULATION INSPECTION IS COMPLETED.
7. CONTRACTOR TO VERIFY ALL ROUGH OPENING SIZES WITH WINDOW MANUFACTURER PRIOR TO PLACING ORDER.
8. CONTRACTOR TO VERIFY SWING DIRECTION WITH EXTERIOR ELEVATION PRIOR TO PLACING ORDER.



Proposed Window Dimensions:

2'-8" x 4'-0"

Existing Window Dimensions:

2'-4" x 4'-8"

Proposed Window from Floor: 2'-8"

Existing Window from Floor: 1'-8"



Memorandum Re: 115 Saxon Avenue APN: 036-131-02

The owners of 115 Saxon Avenue are requesting a change to the roof plan to remove a wall that divides the flat roof into two sections. The design permit application approved by the Planning Commission on February 2, 2017, maximized the Floor Area Ratio of the home by removing the existing second story decks and utilizing this floor area to the internal square footage to the home. Use of the flat roof as a deck would exceed the FAR and therefore is not permitted. There is not staircase or door access to the flat roof.

By signing this memorandum, the owner acknowledges that the second story flat roofs are not approved as decks and that future access to the flat roofs will require permits by the Community Development Department and compliance with the Municipal Code.

Acknowledged and Agreed

A handwritten signature in black ink, appearing to read "Brian Wiese", written over a horizontal line.

Signature Brian Wiese, Owner

9/23/2017

Date

A handwritten signature in black ink, appearing to read "Djane Krigel", written over a horizontal line.

Signature Djane Krigel, Owner
(Danielle)

9/23/2017

Date

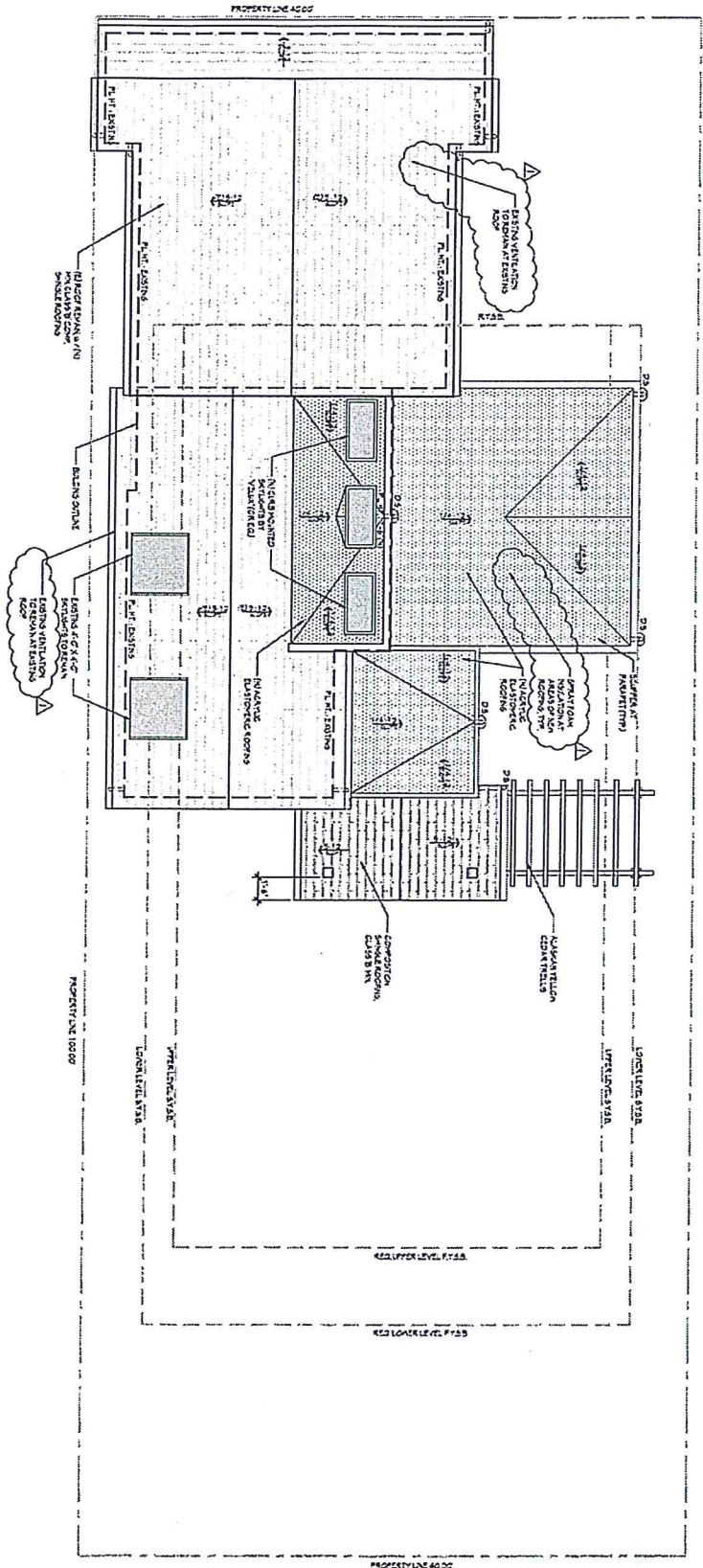
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SEP 27 2017

CITY OF CAPITOLA

Attachment: Attachment 2 - Memorandum Re 115 Saxon Roof Top is not a deck - Signed (115 Saxon Avenue)

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1 ROOF PLAN

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SEP 27 2017
CITY OF CAPITOLA