

# City of Capitola

## City Council Meeting Agenda

### Thursday, September 22, 2022 – 7:00 PM



City Council Chambers  
420 Capitola Avenue, Capitola, CA 95010

**Mayor:** Sam Storey  
**Vice Mayor:** Margaux Keiser  
**Council Members:** Jacques Bertrand, Yvette Brooks, Kristen Brown

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### Regular Meeting of the Capitola City Council – 7 PM

*All correspondences received prior to 5:00 p.m. on the Wednesday preceding a Council Meeting will be distributed to Councilmembers to review prior to the meeting. Information submitted after 5 p.m. on that Wednesday may not have time to reach Councilmembers, nor be read by them prior to consideration of an item.*

#### 1. Roll Call and Pledge of Allegiance

Council Members Jacques Bertrand, Yvette Brooks, Kristen Brown, Margaux Keiser, and Mayor Sam Storey.

#### 2. Additions and Deletions to the Agenda

##### 1. Presentations

*Presentations are limited to eight minutes.*

- A. Present a Mayor's Proclamation in Honor of Public Works Director Steve Jesberg's Retirement

##### 2. Additional Materials

*Additional information submitted to the City after distribution of the agenda packet.*

##### 3. Oral Communications by Members of the Public

*Please review the Notice of Remote Access for instructions. Oral Communications allows time for members of the Public to address the City Council on any "Consent Item" on tonight's agenda, or on any topic within the jurisdiction of the City that is not on the "General Government/Public Hearings" section of the Agenda. Members of the public may speak for up to three minutes, unless otherwise specified by the Mayor. Individuals may not speak more than once during Oral Communications. All speakers must address the entire legislative body and will not be permitted to engage in dialogue. A **maximum of 30 minutes** is set aside for Oral Communications.*

##### 4. Staff / City Council Comments

*Comments are limited to three minutes.*

##### 5. Consent Items

*All items listed as "Consent Items" will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Council votes on the action unless members of the City Council request specific items to be discussed for separate review. Items pulled for separate discussion will be considered following General Government. Note that all Ordinances*

*which appear on the public agenda shall be determined to have been read by title and further reading waived.*

- A.** Consider the minutes from the September 8, 2022, regular City Council meeting  
Recommended Action: Approve minutes.
- B.** Clares Street Traffic Calming Project Contract Change Order #1  
Recommended Action: Approve Contract Change Order #1 for the Clares Street Traffic Calming Project in the amount of \$118,925, increasing the limits of the road rehabilitation work to 40<sup>th</sup> Avenue and adding vehicle activated safety lights to the library driveway.
- C.** Consider Adopting Proposed Resolution Allowing for the Continuation of Teleconferencing  
Recommended Action: 1) Make the determination that all hazards related to the worldwide spread of the coronavirus (COVID-19) as detailed in Resolution No. 4168 adopted by the City Council on March 12, 2020, still exist and there is a need to continue action; and 2) Adopt the proposed resolution authorizing the City Council (along with the Planning Commission and all advisory bodies) to continue to conduct teleconferencing meetings.

## 6. General Government / Public Hearings

*All items listed in “General Government / Public Hearings” are intended to provide an opportunity for public discussion of each item listed. The following procedure pertains to each General Government item: 1) Staff explanation; 2) Council questions; 3) Public comment; 4) Council deliberation; 5) Decision.*

- A.** Appeal of 1410 Prospect Avenue Design Permit, Historical Alteration Permit, Variance, and Coastal Development Permit to demolish an existing residence and construct a new home. This project is in the Coastal Zone and requires a Coastal Development Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.  
Environmental Determination: Categorical Exemption  
Property Owner: Alex Johnson,  
Appellant: SCC Regional Transportation Commission, Filed: 04.18.22  
Recommended Action: 1) Uphold the Planning Commission’s decision to approve the variance; and 2) adopt a resolution with additional conditions of approval and findings that address the matter appealed.
- B.** Consider a Petition to Create a Dogs Off-Leash Area at Monterey Avenue Park  
Recommended Action: Take no action; thereby maintaining existing rules requiring dogs remain on leash at Monterey Avenue Park due to existing Park uses.
- C.** Lifeguard Tower Budget Amendment  
Recommended Action: Approve a resolution to amend the budget increasing the budgeted amount of \$45,000 to \$62,000, increase of \$17,000, for the purchase of a new Lifeguard Tower.

## 7. Adjournment

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### Notice of In-Person & Remote Access

**In accordance with Assembly Bill 361, City Council meetings are open to the public for in-person attendance at the Capitola City Council Chambers located at 420 Capitola Avenue, Capitola, California, 95010. Council and Staff will be meeting in-person and remotely, and the public can choose to attend either in-person or via remote access.**

**Other ways to Watch:**

- Spectrum Cable Television channel 8
- City of Capitola, California YouTube Channel

**For Remote Access, Join Zoom Application or Call in to Zoom:**

- Meeting link:  
<https://us02web.zoom.us/j/89658842157?pwd=VS9WamYwMkgxRDAvV1NrVkp6V0xDZz09>
- Or dial one of these phone numbers: **1 (669) 900 6833, 1 (408) 638 0968, 1 (346) 248 7799**
- Meeting ID: **896 5884 2157**
- Meeting Passcode: **826489**

**To make a remote public comment:**

- **Via Zoom Application:** Use participant option to “raise hand”. The moderator will unmute you
- **Via Zoom phone call:** Dial \*9 on your phone to “raise your hand”. The moderator will unmute you

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

**Notice regarding City Council:** The City Council meets on the 2nd and 4th Thursday of each month at 7:00 p.m. (or in no event earlier than 6:00 p.m.), in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

**Agenda and Agenda Packet Materials:** The City Council Agenda and the complete Agenda Packet are available for review on the City’s website: [www.cityofcapitola.org](http://www.cityofcapitola.org) and at Capitola City Hall prior to the meeting. Agendas are also available at the Capitola Post Office located at 826 Bay Avenue Capitola. Need more information? Contact the City Clerk’s office at 831-475-7300.

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

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

**Televised Meetings:** City Council meetings are cablecast “Live” on Charter Communications Cable TV Channel 8 and are recorded to be rebroadcasted at 8:00 a.m. on the Wednesday following the meetings and at 1:00 p.m. on Saturday following the first rebroadcast on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings are streamed “Live” on the City’s website at [www.cityofcapitola.org](http://www.cityofcapitola.org) by clicking on the Home Page link “**Meeting Agendas/Videos.**” Archived meetings can be viewed from the website at any time.

# Capitola City Council Agenda Report

**Meeting:** September 22, 2022

**From:** City Manager Department

**Subject:** Consider the minutes from the September 8, 2022, regular City Council meeting



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Recommended Action: Approve minutes.

Discussion: Attached for Council review and approval are the draft minutes from the regular City Council meeting on September 8, 2022.

Attachments:

1. September 8 draft

Report Prepared By: Chloé Woodmansee, Assistant to the City Manager

Reviewed/Approved By: Jamie Goldstein, City Manager

# City of Capitola

## City Council Meeting Minutes

### Thursday, September 08, 2022 – 7:00 PM



City Council Chambers  
420 Capitola Avenue, Capitola, CA 95010

**Mayor:** Sam Storey  
**Vice Mayor:** Margaux Keiser  
**Council Members:** Jacques Bertrand, Yvette Brooks, Kristen Brown

### Regular Meeting of the Capitola City Council – 7 PM

#### 1. Roll Call and Pledge of Allegiance

Council Members Jacques Bertrand, Yvette Brooks, Kristen Brown, Margaux Keiser, and Mayor Sam Storey.

#### 2. Additions and Deletions to the Agenda – none

#### 3. Presentations

A. Introduction of Recreation Division Staff; Brennan Howard, Recreation Coordinator: Beach Lifeguard Services, Junior Guards & Sports

Recreation Division Manager Bryant-LeBlond introduced Brennan Howard, the City's new Recreation Coordinator: Beach Lifeguard Service.

B. Junior Guard Participant Recognition

Recreation Coordinator Howard explained the meaning behind the awards and then introduced recipients.

#### 4. Additional Materials – none

#### 5. Oral Communications by Members of the Public

Laurie Hill thanked Council for their support of the Capitola Begonia Festival and announced that the Capitola Historical Museum received more than \$1,000 in donations during the event.

#### 6. Staff / City Council Comments

City Manager Goldstein announced that there is a current Flex Alert making rolling blackouts a possibility. He said that if power is lost, the meeting would be rescheduled.

Council Member Brooks thanked the Public Works Department for their work to move a fire hydrant that blocked a resident's sidewalk access.

City Attorney Zutler said that Council met in a closed session at 3:30pm this afternoon and that no reportable action was taken

#### 7. Consent Items

Council Member Bertrand thanked the school district for the donation. Mayor Storey requested an edit to the draft minutes.

**Motion: Approve Items 7.A, 7.B, 7.C, 7.D, 7.E as recommended**

**Result: Passed, 5:0 (Unanimous)**

**Mover:** Council Member Brown

**Second:** Vice Mayor Keiser

**Yea:** Mayor Storey, Vice Mayor Keiser, Council Member Bertrand, Council Member Brooks, Council Member Brown, Mayor Storey

- A. Consider the minutes from the August 25, 2022, regular City Council meeting  
Recommended Action: Approve minutes.
- B. Approval of City Check Registers Dated July 15, July 22, July 29, August 5, and August 19.  
Recommended Action: Approve check registers.
- C. Afterschool Scholarship Donation  
Recommended Action: Accept donation of \$20,000 from the Soquel Union Elementary School District for Afterschool Rec Club participant scholarships.
- D. Hybrid Meeting Administrative Policy  
Recommended Action: Approve draft policy.
- E. Consider Adopting Proposed Resolution Allowing for the Continuation of Teleconferencing  
Recommended Action: 1) Make the determination that all hazards related to the worldwide spread of the coronavirus (COVID-19) as detailed in Resolution No. 4168 adopted by the City Council on March 12, 2020, still exist and there is a need to continue action; and 2) Adopt the proposed resolution authorizing the City Council (along with the Planning Commission and all advisory bodies) to continue to conduct teleconferencing meetings.

## 8. General Government / Public Hearings

- A. Resolution Supporting Local Measure K on the November 8, 2022 Ballot  
Recommended Action: Adopt resolution supporting Local Measure K (Santa Cruz High School District Bond) on the November 8, 2022 Ballot.

Superintendent Munros introduced Sam Rollins, Chief of Communications and Community Engagement for the Santa Cruz City School District, who presented on Local Measure K.

Council Member Brown asked about the dedicated workforce housing and confirmed it would be for teachers and other district employees.

Council Member Bertrand asked about the bond’s financial plan over its 33-year lifespan.

There was no public comment.

Mayor Storey commented that school safety and sustainability is important.

Council Member Brown commented that to her, Measure K is reminiscent of the 2016 library measurer, which had a positive impact on the entire community.

**Motion: Adopt resolution**

**Result: Passed, 5:0 (Unanimous)**

**Mover:** Council Member Brown

**Second:** Council Member Brooks

**Yea:** Mayor Storey, Vice Mayor Keiser, Council Member Bertrand, Council Member Brooks, Council Member Brown, Mayor Storey

- B. Village Palm Tree Lights Proposal  
Recommended Action: Consider a request from the Capitola Village and Wharf Business Improvement Area to replace existing “bright-white” rope lights on the palm trees throughout the Village with “warm-white” rope lights.

Public Works Director Jesberg presented a staff report.

Council Member Brooks asked for clarification. Director Jesberg explained that the BIA wants to test out newly discovered coaxial lights prior to installing them.

Carin Hanna gave more details on coaxial lights and emphasized that the BIA hopes to have lights professionally installed by The Christmas Tree Light Pros before Thanksgiving.

There was no public comment.

Vice Mayor Keiser asked if approval for either coaxial or rope lights was necessary. Ms. Hanna said the BIA wants to be able to move forward quickly, and while they hope the coaxial lights are as good as anticipated, they appreciate the flexibility of having the warm-white rope lights as a backup plan.

**Motion: Approve the BIA’s plan to test Coaxial Lights and either install warm-white Coaxial or LED warm-white rope lights for the Village Holiday Lights display**

**Result: Passed, 5:0 (Unanimous)**

**Mover:** Council Member Brown

**Second:** Council Member Brooks

**Yea:** Mayor Storey, Vice Mayor Keiser, Council Member Bertrand, Council Member Brooks, Council Member Brown, Mayor Storey

C. Park Avenue Traffic Calming Report

Recommended Action: 1) Provide feedback on traffic calming options for Park Avenue and 2) Direct Public Works staff to conduct public outreach on the proposed alternatives.

Public Works Project Manager Mozumder presented a staff report with the results of the Park Avenue traffic calming analysis.

Council Member Brown confirmed that residents will receive mailed notice regarding upcoming outreach meetings.

Council Member Bertrand suggested staff communicate with the Bicycle Coalition.

Mayor Storey sought clarification on lane diets. He also asked if an additional stop sign had been considered. In response to a question about curb-outs, Project Manager Mozumder explained that bike lanes prohibit them.

Council Member Brooks asked about the crossing at Park and Kennedy and McGregor. Project Manager Mozumder responded that the Kennedy Sidewalk Project is funded with an RTC grant and will address this issue.

Vice Mayor Keiser asked about fully green bike lanes.

In public comment:

Alexander Pedersen commented on road delineators such as bumps that create physical feedback for drivers but do not trap debris.

Janet Edwards (via Zoom) commented on the heavy traffic along Park Avenue and suggested outreach to the school so that parents can give input.

Council Member Bertrand said that this project will address a long-standing issue and that he appreciates the different options to address it.

**Outcome: feedback given to staff**

D. Consider an Ordinance Amending Capitola Municipal Code Section 2.04.275 as Recommended by the Finance Advisory Committee

Recommended Action: Consider the Finance Advisory Committee recommendation to adjust Council Member compensation and approve the first reading of an Ordinance amending Capitola Municipal Code Section 2.04.275 pertaining to City Council Member salary to provide an adjusted salary of \$660 per month for members of the City Council, to be effective upon the

start of new terms of office following the November 2022 General Municipal Election.

Finance Director Malberg presented a staff report on the Finance Advisory Committee recommendation to increase Council Compensation beginning at the start of the next Council term.

In public comment:

Carin Hanna said that she disagreed with an automatic increase every two-years.

Mayor Storey clarified that an automatic increase every two-years is not being suggested.

City Attorney Zutler said that an automatic increase is not possible, and the increase amount is also governed by State code. She said that a periodic review of Council salary is common and best practice.

**Motion: Approve 1) the FAC recommendation to increase Council Compensation to \$660/month effective upon the start of new Council terms after the November 2022 election and 2) the FAC review of Council compensation every two years**

**Result: Passed, 5:0 (Unanimous)**

**Mover:** Council Member Brooks

**Second:** Council Member Bertrand

**Yea:** Mayor Storey, Vice Mayor Keiser, Council Member Bertrand, Council Member Brooks, Council Member Brown, Mayor Storey

## 9. Adjournment

The meeting was adjourned at 8:58pm to the next regular City Council meeting on September 22, 2022.

**ATTEST:**

\_\_\_\_\_  
Sam Storey, Mayor

\_\_\_\_\_  
Chloé Woodmansee, City Clerk



# Capitola City Council

## Agenda Report

**Meeting:** September 22, 2022

**From:** Department of Public Works

**Subject:** Clares Street Traffic Calming Project Contract Change Order #1



**Recommended Action:** Approve Contract Change Order #1 for the Clares Street Traffic Calming Project in the amount of \$118,925, increasing the limits of the road rehabilitation work to 40<sup>th</sup> Avenue and adding vehicle activated safety lights to the library driveway.

**Background:** On April 28, 2022 the City Council authorized the Department of Public Works to advertise for construction bids on the Clares Street Traffic Calming Project with an approved budget of \$1,153,000 and available funding of \$1,247,696. On June 29, 2022 bids were opened; the low bid received was from McKim Corporation in the amount of \$1,052,667. Based on the bid being lower than the approved budget a contract was awarded to McKim. Because the bid was \$100,333 below the approved budget, the Public Works Department contacted the contractor to negotiate pricing to add to the scope of the project to include two additional components that were originally omitted to reduce project costs.

**Discussion:** The proposed additional work includes the extension of the road rehabilitation limits along Clares Street to 40<sup>th</sup> Avenue and the inclusion of library safety lights at the library driveway on Wharf Road. The extension of the road work will address an additional 1600 square yards of roadway on Clares Steet, including the intersection at 40<sup>th</sup> Avenue. The safety lighting at the library will provide flashing yellow warning lights aimed at cars on Wharf Road when a car is exiting the library driveway.

**Fiscal Impact:** The total available funding for the project is \$1,247,696. The addition of CCO No.1 will bring the total contract project cost to \$1,171,592. The revised total project cost leaves \$76,104 in contingencies for the project.

### Funding

Measure D	\$	264,432
General Fund	\$	150,000
SCCRTC - multiple sources	\$	833,264
<b>Total</b>	<b>\$</b>	<b>1,247,696</b>

### Contract Project Costs

McKim Contract	\$	1,052,667
Proposed CCO No. 1	\$	118,925
<b>Total Cost</b>	<b>\$</b>	<b>1,171,592</b>

Remaining Contingency	\$	76,104
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### Attachments:

1. Contract Change Order #1 for the Clares Street Traffic Calming Project

**Report Prepared By:** Kailash Mozumder, Public Works Project Manager

**Reviewed By:** Chloé Woodmansee, Assistant to the City Manager, Steve Jesberg, Public Works Director

**Approved By:** Jamie Goldstein, City Manager

CITY OF CAPITOLA
DEPARTMENT OF PUBLIC WORKS
CONTRACT CHANGE ORDER

Project: Clares Street Traffic Calming Change Order No. 1

Contractor: McKim Corporation Date: September 22, 2022

Scope of Work or Change: Additional work increasing the limits of the road rehabilitation to 40th avenue and adding vehicle activated safety lights to the library driveway.

Table with 5 columns: Description, Add/Subtract, Unit, Change in price, Notes. Rows include 'Extended work area to 40th Ave.', 'Library Safety Lights', and a 'Total' row.

This Change Order will [X] increase the contract amount by \$118,925
[ ] decrease
[ ] not change

and is based on [X] Agreed lump sum/unit price proposal.
[ ] Contract unit prices.
[ ] Cost plus 15 percent (Force Account)

NOTE: Approval of this Change Order by the Contractor constitutes agreement as to the final compensation for the scope of work listed in accordance with Section 4.03 of the Standard Specifications.

Approved for By: \_\_\_\_\_ Date: \_\_\_\_\_

Contractor Title: \_\_\_\_\_

Approved for By: \_\_\_\_\_ Date: \_\_\_\_\_
[X] City of Capitola Title: Public Works Director

\*\*\*\*\*

Summary of Amounts Payable Under Contract

Table with 2 columns: Description, Amount. Rows include 'Net effect of previous Change Orders', 'This Change Order', 'Net effect of all Change Orders', 'Original contract amount', and 'New contract amount'.



Lic #: 976269 - A - (8/31/22)  
 DIR#: 1000005844 (7/31/22)  
 :: SBE: 2013496 / DBE: 50630 ::

**REQUEST FOR CHANGE ORDER**

DATE: 9/8/2022  
 PROJECT NAME: \_\_\_\_\_

Clares Street, Capitola, CA

**:: SCOPE OF WORK ::**

BID ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL
	<b>CCO #2 OPTION 1 - New Exsit System with Loop Detectors</b>				
1	Mobilization (Bond Cost + Mobilization)	1	LS	\$ 2,500.00	\$ 2,500.00
2	ELECTRICAL WORK	1	LS	\$ 49,320.00	\$ 49,320.00
<b>CONTRACT CHANGE ORDER #2 OPTION 1 TOTAL</b>					<b>\$ 51,820.00</b>
	<b>CCO #2 OPTION 2 - New Exsit System with Radar Detection</b>				
1	Mobilization (Bond Cost + Mobilization)	1	LS	\$ 2,500.00	\$ 2,500.00
2	Traffic Control	1	LS	\$ 38,824.00	\$ 38,824.00
<b>CONTRACT CHANGE ORDER #2 OPTION 2 TOTAL</b>					<b>\$ 41,324.00</b>

**NOTES:**

McKim Corporation includes USA 811 Markings

McKim Corporation includes Bond & Insurance Cost with both CCO's

**\*\* ALL WORK NOT LISTED ABOVE BY OTHERS \*\***

**City of Capitola  
Change Order #1**

**Project Title : Clares Street Traffic Calming Improvements**

		UNITS	Bid QTY
1	Mobilization	LS	1
2	Construction Area Signs	LS	1
3	Traffic Control System	LS	1
4	Survey and Construction Staking	LS	1
5	Temporary Water Pollution Control and Erosion Control	LS	1
6	Adjust Water Valve Box to Grade	EA	26
7	Adjust Sanitary Sewer Manhole to Grade	EA	15
8	Adjust Storm Drain Manhole to Grade	EA	4
9	Adjust Gas Valve Box to Grade	EA	4
10	Adjust Utility Frame and Cover to Grade	EA	5
11	Cold Plane Asphalt Concrete Pavement	SQYD	1130
12	Cold In-Place Recycling (CIR)	SQYD	10784
13	Wedge and Conform Grinding	LF	4568
14	Conform Grinding	SQYD	86
15	Aggregate Base (Class 2)	CY	73
16	Hot Mix Asphalt (Type A)	TON	1483
17	Minor Concrete (Curb and Gutter)	LF	185
18	Minor Concrete (Valley and Cross Gutter)	SQFT	492
19	Minor Concrete (Sidewalk)	SQFT	1154
20	Minor Concrete (Driveway)	SQFT	266
21	Minor Concrete (Curb Ramp Remove and Replace)	EA	10
22	Thermoplastic Traffic Stripe	LF	11,218
23	Thermoplastic Pavement Marking	SQFT	4169
24	Thermoplastic Pavement Marking (Green)	SQFT	3079
25	Decorative Crosswalk	LS	1
26	Blue Fire Hydrant Pavement Marker	EA	4
27	Roadside Sign	EA	37
28	Rectangular Rapid Flashing Beacon (RRFB) Assembly	LS	3
CO1	Library Entrance Vehicle Activate Safety Lights	LS	1

McKim Corporation Base Bid	
Unit Price	Total
22,000.00	\$22,000
2,500.00	\$2,500
131,000.00	\$131,000
9,000.00	\$9,000
4,000.00	\$4,000
600.00	\$15,600
900.00	\$13,500
900.00	\$3,600
600.00	\$2,400
400.00	\$2,000
11.50	\$13,000
21.15	\$228,082
4.73	\$21,600
79.07	\$6,800
198.08	\$14,460
147.05	\$218,070
103.89	\$19,222
39.84	\$19,600
22.18	\$25,600
62.78	\$16,700
7,000.00	\$70,000
3.29	\$36,852
6.00	\$25,014
11.00	\$33,869
24,340.00	\$24,340
15.00	\$60
150.00	\$5,550
22,750.00	\$68,250

McKim Corporation CO1	
Unit Price	Total
	\$1,400.00
	\$6,210.00
3	\$1,800.00
1	\$900.00
1600	\$33,840.00
570	\$2,696.10
178	\$26,174.90
1000	\$3,290.00
215	\$1,290.00
	\$41,324.00

<b>Total Cost</b>	<b>\$1,052,667.00</b>
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	<b>\$118,925.00</b>
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**Summary**  
 Original Bid \$1,052,667.00  
 Changes \$118,925  
 Final Cost \$1,171,592.00

# Capitola City Council

## Agenda Report



**Meeting:** September 22, 2022

**From:** City Manager Department

**Subject:** Consider Adopting Proposed Resolution Allowing for the Continuation of Teleconferencing

**Recommended Action:** 1) Make the determination that all hazards related to the worldwide spread of the coronavirus (COVID-19) as detailed in Resolution No. 4168 adopted by the City Council on March 12, 2020, still exist and there is a need to continue action; and 2) Adopt the proposed resolution authorizing the City Council (along with the Planning Commission and all advisory bodies) to continue to conduct teleconferencing meetings.

**Background:** In December 2019, an outbreak of a respiratory illness linked to the novel coronavirus (COVID-19) was first identified. In March 2020, the State of California, the County of Santa Cruz, and the City of Capitola each declared a state of emergency due to the virus. Also in March 2020, the World Health Organization declared COVID-19 a pandemic. State and local health officers issued health orders to stop the spread of COVID-19; in Santa Cruz County this included March, April, and May 2020 Shelter-In-Place orders that were more restrictive than statewide guidance. Since then, the County Health Officer has incorporated all Orders of the State Public Health Officer, which set baseline statewide restrictions on travel and business activities.

Currently (and since February 2022), there are no State required COVID-19 restrictions, other than minimal masking requirements in certain settings. COVID-19 public safety economic restrictions were mostly removed in June 2021 when the state met the criteria to fully reopen the economy and moved beyond the Blueprint for a Safer Economy.

**Discussion:** The Governor signed Assembly Bill 361 on September 16, 2021. The Bill allows cities to continue virtual meetings (much as Capitola City Council Meetings function now) as long as the state is under a proclaimed state of emergency; through 2024 when the bill will sunset. The Bill requires legislative bodies to comply with the requirements set forth in Government Code section 54953(e)(2) to ensure the public can safely participate and observe local government meetings. One of the requirements is for Council to adopt findings every thirty days.

Attached is a resolution that makes the following findings:

- 1) Find that current conditions authorize teleconference public meetings, based on the Governor's state of emergency regarding the COVID-19 Pandemic
- 2) Authorize legislative bodies to conduct teleconference meetings, allowing Capitola City Council, Planning Commission, and other advisory bodies to continue to meet using Zoom.

Council will need to adopt resolutions making findings required by AB361 as long as Hybrid Meetings (with Council Members attending remotely) continue.

**Fiscal Impact:** Fiscal impacts are continually reviewed by Staff as business restrictions and consumer behaviors change in our community. City Council has maintained \$385,000 in a resiliency fund to help ensure the City has available resources should the pandemic result in further unforeseen impacts, which remains in the approved FY 2022-23 Budget.

**Attachments:**

1. Proposed Teleconferencing resolution

**Report Prepared By:** Chloé Woodmansee, Assistant to the City Manager

Approved By: Jamie Goldstein, City Manager

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA AND ON BEHALF OF COMMISSIONS AND COMMITTEES CREATED BY THE CITY COUNCIL PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54952(b) AUTHORIZING TELECONFERENCE MEETINGS IN COMPLIANCE WITH AB 361 (GOVERNMENT CODE SECTION 54953(e)) TO CONTINUE TO ALLOW MEMBERS OF THE PUBLIC TO SAFELY PARTICIPATE IN LOCAL GOVERNMENT MEETINGS**

**WHEREAS**, the City Council is committed to ensuring public access to observe and participate in local government meetings; and

**WHEREAS**, all meetings of the City Council and other legislative bodies created pursuant to Government Code Section 54952(b) are open and public, as required by the Ralph M. Brown Act, so that any member of the public may participate in local government meetings; and

**WHEREAS**, the recently adopted AB 361, codified at Government Code section 54953(e), makes provisions for remote teleconferencing participation in local government meetings, without compliance with the requirements of 54953(b)(3), during a Governor-proclaimed state of emergency and if the local legislative body determines, by majority vote, that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees, and

**WHEREAS**, on March 4, 2020, Governor Newsom proclaimed a State of Emergency due to the outbreak of respiratory illness due to a novel coronavirus (now known as COVID-19) and that State of Emergency is still in effect in the State of California; and

**WHEREAS**, on March 12, 2020, the Capitola City Council proclaimed the existence of a local emergency due to the worldwide spread of the coronavirus with Resolution No. 4168, pursuant to Section 8.08.020 of the Capitola Municipal Code and Section 8625 of the California Emergency Services Act in response to the COVID-19 pandemic; and

**WHEREAS**, COVID-19 continues to threaten the health and lives of City residents; and

**WHEREAS**, the SARS-CoV-2 Delta Variant (Delta Variant) is highly transmissible in indoor settings; and

**WHEREAS**, on July 28, 2021, the California Department of Public Health issued guidance calling for the use of face coverings and stating that the Delta Variant is two times as contagious as early COVID-19 variants, leading to increasing infections, the Delta Variant accounts for over 80% of cases sequenced, and cases and hospitalizations of COVID-19 are rising throughout the state; and

**WHEREAS**, the Delta Variant has caused, and will continue to cause, conditions of imminent peril to the health safety of persons within the City; and

**WHEREAS**, on October 14, November 23, and December 9, 2021, January 13, February 10, and February 27, March 10, March 24, April 14, April 28, May 12 and May 26, June 9, June 23, and July 28, 2022, August 25, and September 8, 2022 the City Council adopted a resolution proclaiming the need to meet by teleconference pursuant to Government Code Section 54953; and

**WHEREAS**, the City Council, acting as a legislative body pursuant to Government Code section 54952(a) and for the benefit of the commissions, committees and other bodies that were created by the City Council pursuant to Government Code section 54952(b) (collectively referred to as "Legislative Bodies"), finds that the current conditions meet the circumstances set forth in

Government Code section 54953(e)(3) to allow Legislative Bodies to continue to use teleconferencing to hold open and public meetings if the Legislative Bodies comply with the requirements set forth in Government Code section 54953(e)(2) to ensure the public can safely participate in and observe local government meetings.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Capitola that the City Council does hereby:

- 1. Recitals. The Recitals set forth above are true and correct and are hereby incorporated by this reference.
- 2. Find that Current Conditions Authorize Teleconference Public Meetings of Legislative Bodies. The City Council has reconsidered the circumstances of the state of emergency and finds that based on the California Governor’s continued declaration of a State of Emergency and current conditions, meeting in person would present imminent risks to the health or safety of attendees, such that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.
- 3. Authorize Legislative Bodies to Conduct Teleconference Meetings. The Legislative Bodies are hereby authorized to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e)(2) and other applicable provisions of the Brown Act.

**I HEREBY CERTIFY** that the foregoing resolution was PASSED and ADOPTED by the City Council of the City of Capitola on the 25<sup>th</sup> day of August 2022, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Sam Storey, Mayor

ATTEST: \_\_\_\_\_  
Chloé Woodmansee, City Clerk





# Capitola City Council

## Agenda Report



**Meeting:** September 22, 2022

**From:** Community Development Department

**Subject:** Appeal of 1410 Prospect Avenue Design Permit, Historical Alteration Permit, Variance, and Coastal Development Permit to demolish an existing residence and construct a new home.

This project is in the Coastal Zone and requires a Coastal Development Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption

Property Owner: Alex Johnson,

Appellant: SCC Regional Transportation Commission, Filed: 04.18.22

**Recommended Action:** 1) Uphold the Planning Commission's decision to approve the variance; and 2) adopt a resolution with additional conditions of approval and findings that address the matter appealed.

**Background:** On August 24, 2021, the City received an application proposing to demolish an existing 1,606 square-foot, two story, single family residence and construct a new 1,422 square-foot, two story, single family residence with a 796 square foot basement. The applicant sought a design permit, historical alterations permit, variance, and coastal development permit.

On January 26, 2022, the application was reviewed by the Development and Design Review Committee. The committee provided guidance on several items which the applicant addressed in a revised plan.

On April 7, 2022, the Planning Commission unanimously approved the application for a Design Permit, Historic Alteration Permit, Variance, and Coastal Development Permit (CDP), to demolish an existing residence and construct a new home.

On April 18, 2022, the City received an appeal from Santa Cruz County Regional Transportation (RTC) (Attachment 1). RTC appealed the Planning Commission's decision granting a variance.

On August 18, 2022, the City received an independent peer review letter for slope stability analysis from Pacific Crest Engineering.

On August 31, 2022, the applicant submitted a revised plan set which relocated the primary structure three feet away from the rear property line.

On September 8, 2022, the RTC submitted a follow-up letter in response to the peer review findings and proposed design revisions, indicating the revised proposal was generally satisfactory and that the RTC would agree to retract its appeal provided several considerations were addressed (Attachment 2).

**Discussion:** As proposed, the project revisions and proposed conditions of approval have addressed the RTC's concerns with the project. Nevertheless, the City Council must take action on the appeal in order for the revised conditions to take effect.

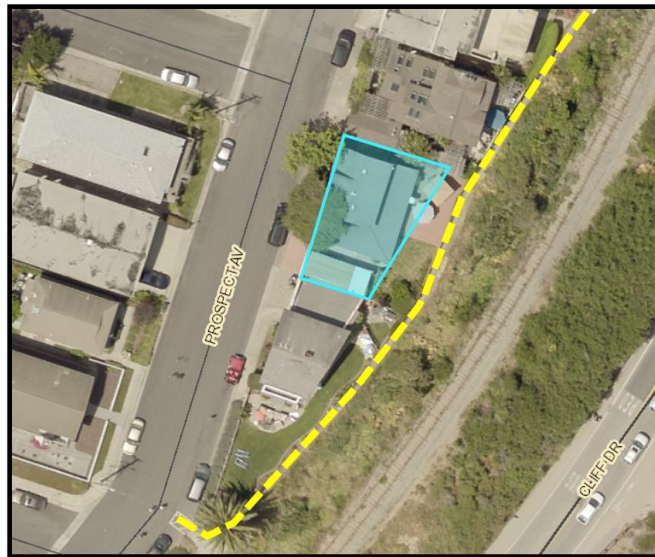
The analysis in this staff report is focused on the appeal, including the variance to the rear setback and slope stability issues. The staff report for the April 7, 2022, Planning Commission meeting includes in-depth analysis on the Design Permit, Historic Alteration Permit, Variance, and CDP, to demolish an existing residence and construct a new home and modify the detached garage (Attachment 7).

The subject property is located on the southeast side of Prospect Avenue on a gently sloping terrace above a coastal bluff which overlooks the Capitola Village. The property shares its rear boundary with the RTC right-of-way, which includes the railway corridor and a public walking path. The RTC property

is terraced, with the pathway level with the residences and the railway closer to the ocean and twenty feet lower.

The existing residence is non-conforming as it does not comply with setback and floor area ratio requirements. The approved design includes a variance for setbacks and floor area, however the extent of the nonconformities is reduced. Specifically, the variance allowed for the future structure to be constructed within five feet of the front property line and a zero-lot-line condition at the rear property line. Also, the structure exceeds the floor area ratio by 39 square feet.

Development along the southeast side of Prospect Avenue is typified by a near-continuous span of fences and residential structures located along the front property line. Parcels towards the southern end of Prospect Avenue decrease in both lot size and depth. The irregular shape, minimum size, and shallow depths of the subject property support the required variance findings of unusual circumstances. The image below shows the unique property boundaries of 1410 Prospect Avenue and the adjacent pedestrian pathway.



Appeal: Rather than appeal the Planning Commission's decision on all approvals, the RTC appealed the Commission's decision to grant a variance for the rear setback that would allow the applicant to construct the home along the rear property line adjacent to the RTC property. The RTC also appealed conditions of approval #8, #11, and #12, requiring a geotechnical report; a drainage, grading, sediment and erosion control plan; and stormwater management plan prior to issuance of building permits. The appeal letter describes several concerns regarding reduced setbacks towards RTC property, including potential to interfere with the RTC's uses, operations, inspections and maintenance, to constrain public access, to increase erosion, and to reduce stability of the bluff.

Since the appeal was received, the property owner has taken steps to address the concerns of the RTC. The property owner and RTC are now in agreement on a modified design and added conditions of approval. The following outlines the steps that have been taken since the appeal was submitted.

On August 31, 2022, the applicant submitted modified plans which relocate the proposed residence three feet, three inches away from RTC property and towards Prospect Avenue. Moving the home forward reduced the front yard from five feet to one-foot, seven-inches. Historically, the home was located on the front property line, similar to those on adjacent properties. The updated plans do not alter the siting of the detached garage.

The property owner also addressed RTC's concerns related to slope stability. In July of 2021, the property owner of 1410 Prospect Avenue had a geotechnical investigation report prepared by Dees and Associate (Attachment 6). Following the filing of appeal, the City contracted Pacific Crest Engineering to perform an independent peer review of the geotechnical investigation (Attachment 7). The peer review

provides an overview of different types of slope stability analysis and concludes that original geotechnical investigation is adequate, and no additional study should be required.

On September 8, 2022, the RTC submitted a follow-up letter in response to the peer review findings and proposed design revisions, indicating the revised proposal was generally satisfactory (Attachment 2). The RTC outlined five considerations related to the RTC pathway and stairs, runoff from the site, right-of-entry onto RTC property, and review of future building permit submittals. Conditions of approval have been added to address the RTC concerns. Attachment 4 includes analysis of each RTC consideration and the resulting condition of approval, as necessary.

Options for Ruling on the Appeal: Pursuant to CMC Section 17.152.030(F), as the review authority for the appeal, the City Council has three options:

1. Affirm, affirm in part, or reverse the action that is the subject of the appeal;
2. Adopt additional conditions of approval that address the matter appealed; or
3. Remand the appeal for further review, recommendation, or action of the previous review authority.

Since the property owner has addressed the concerns of the RTC, staff recommends the City Council adopt the additional conditions of approval as drafted and shown in underline that address the issues raised in the appeal.

Fiscal Impact: None.

Attachments:

1. Appeal Filing – 04.18.22
2. Appeal Follow-Up Letter – 09.08.22
3. Revised Plan Set – 08.29.22
4. Response to Appeal Follow-Up Letter
5. Development Standards table for revised plan set
6. Geotechnical Investigation Report
7. Peer Review of Geotechnical Investigation
8. Previous Staff Report with attachments – 04.07.22
9. Resolution

Report Prepared By: Sean Sesanto, Associate Planner

Reviewed By: Chloé Woodmansee, Assistant to the City Manager; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager



# CITY OF CAPITOLA APPEAL INFORMATION

Item 6 A.

CITY OF CAPITOLA COMMUNITY DEVELOPMENT DEPARTMENT  
420 CAPITOLA AVENUE, CAPITOLA, CA 95010  
831-475-7300 WWW.CITYOFCAPITOLA.ORG

## Appeals Overview

The City of Capitola appeals process enables applicants and other affected parties to challenge a City decision by having the matter considered by a higher level decision making authority.

## Who May Appeal

Any Capitola resident may file a permit appeal. Non-residents may file an appeal if they can demonstrate that they have a significant interest in the matter.

## Appeal Deadlines

An appeals must be filed by 5:00 PM within 10 calendar days of a permit decision unless a longer appeal period is specified. Appeals filed after the deadline will not be accepted or considered. Postmarks are not accepted.

## Appeal Requirements

Individuals wishing to file an appeal must submit a completed appeal application and pay applicable fees. Applicants who file an appeal and have a developer deposit account will also be charged for staff time to process the appeal.

## Types of Appeals

1. **Administrative (Staff Determinations):** Appeals of administrative staff determinations are cases which do not involve a discretionary permit, such as a conditional use permit, design permit, or a subdivision map. Administrative appeals are considered by the City Council.
2. **Permit Decisions:** Appeals of permit decisions involve decisions issued by the Community Development Director or the Planning Commission. Director decisions are considered by the Planning Commission. The City Council considers appeals of Planning Commission decisions.
3. **Code Enforcement Actions:** Individuals cited with a code enforcement action may appeal the City's determination. Depending on the nature of the code enforcement action, the appeal may be considered by the Planning Commission or an appeal officer.
4. **Building Code Interpretations:** A property owner, applicant, or contractor may appeal an interpretation made by the Building Official to the Building Appeals Board.
5. **Coastal Appeals:** A decision by the City Council to approve a Coastal Development Permit may be appealed to the Coastal Commission if the project is located in the Coastal Appeal Zone.

## Appeal Fees

All appeal applications must be accompanied by a non-refundable appeal fee as established by the City's adopted Fee Schedule.

## Appeal Hearing

All appeals are considered at a public hearing before the applicable decision making body. Appellants should always attend the hearing to present their case to the decision makers.



# CITY OF CAPITOLA APPEAL APPLICATION FORM

Item 6 A.

TYPE OF APPEAL (check one)	APPEAL FEE
<input type="checkbox"/> Administrative - Staff Determination	See Fee Schedule
<input checked="" type="checkbox"/> Planning Commission Decision	See Fee Schedule
<input type="checkbox"/> Code Enforcement Action	See Fee Schedule
<input type="checkbox"/> Building Code Interpretation	See Fee Schedule
<input type="checkbox"/> Coastal Appeal	\$0

### APPELLANT INFORMATION

**Name:** Santa Cruz County Regional Transportation Commission

**Address:** 1101 Pacific Ave, Suite 250      **City** Santa Cruz      **Zip** 95060

**Phone:** 831-460-3200

**Email:** info@sccrtc.org

### APPEAL INFORMATION

**Project Address:** 1410 Prospect Avenue

**Property Owner:** Alex Johnson

**Application Number:** 21-0376

### REASONS FOR APPEAL

Please note the reasons and grounds for your appeal. Attach additional pages as necessary.  
See attached additional pages.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SIGNATURE**       **DATE** 4/18/2022



Community Development Department  
 City of Capitola  
 420 Capitola Ave  
 Capitola, CA 95010

April 18, 2022

**Subject: Appeal of Permit Application Number 21-0376**

The Santa Cruz Regional Transportation Commission (RTC) respectfully appeals the April 7, 2022 decision of the Capitola Planning Commission to grant a variance for Permit Number 21-0376.

Background Discussion:

The Applicant's proposal is to demolish an existing 1,606 square-foot, two-story, single-family residence at the property known as 1410 Prospect Avenue (APN: 034-046-19) and to construct a new 1,422 square-foot, two-story, single-family residence with a 796 square-foot basement. The proposal includes the relocation and remodel of an existing detached garage and a variance request allowing the project to not conform to the setbacks and maximum allowable floor area required by the City's Development Standards. The project is within in the R-1-GH (Single-Family Residential, Geologic Hazards) zoning district. The project is within the Coastal Zone and require a Coastal Development Permit.

According to the April 7, 2022 Agenda Report considered by the Capitola Planning Commission for Permit Number 21-0376, the City's Development Standards, R-1 regulations require a Rear Yard (1<sup>st</sup> Story) setback of seven feet and seven inches (7'-7") and a Rear Yard (1<sup>st</sup> Story) setback of seven feet and seven inches (7'-7"). The Agenda Report does not state the City's Development Standards, R-1 regulations setback requirements for basements; however, from discussions with City staff, it is understood that the standard practice of the City is to apply the 1<sup>st</sup> Story setback requirements to basements. It is also understood that the R-1 regulation for Rear Yard setbacks is based on 20% of parcel depth; due to the geometry of this parcel, the required Rear Yard setback may be variable due to the variable depth of the parcel.

The Applicant's Design Permit included a variance request to construct the proposed new single-family residence with a zero foot (0') 1<sup>st</sup> Story and basement setbacks. A Variance Application Form was submitted. On this Form, the Applicant lists the following as reasons supporting the Variance request:

- A. In response to "There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property," the Applicant stated:



## SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION

1101 Pacific Avenue, Suite 250, Santa Cruz, CA 95060-4418 • (831) 460-3200 • [info@scrtc.org](mailto:info@scrtc.org)

The subject parcel is 2,415 square feet and triangular in shape. It has a buildable envelope of 390 square feet.

- B. In response to “The strict application of the zoning code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property,” the Applicant stated:

The strict application of the zoning requirements would render the parcel virtually unbuildable

- C. In response to “The variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone as the subject property,” the Applicant stated:

The requested variances will allow reconstruction of an historic property while reducing the existing encroachments without the requested variances the reconstruct could not be done.

- D. In response to “The variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity or in the same zone as the subject property,” the Applicant stated:

The requested variances will not be harmful to the public health, safety, or be injurious to the properties in the near vicinity.

- E. In response to “The variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property,” the Applicant stated:

Variances to setbacks are numerous in this neighborhood and will not constitute granting of special privilege.

- F. In response to “The variance will not have adverse impacts on coastal resources,” the Applicant stated:

No coastal resources will be disturbed.

The RTC owns the right-of-way (ROW) for the Santa Cruz Branch Railroad Line (SCBRL) with existing freight railroad tracks located within the ROW. The RTC purchased the SCBRL ROW in accordance with the following purpose:

- preserve it as a transportation corridor;
- continue existing freight and recreational rail service;
- facilitate increased freight and recreational rail service;
- explore passenger rail service options;
- construct a bicycle and pedestrian trail alongside the track where feasible; and
- maximize its use as a transportation corridor.





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In support of this purpose, the RTC entered into an administration, coordination, and license agreement (ACL) with St. Paul & Pacific Railroad, LLC (“Railway”) to conduct common carrier freight railroad operations (“Freight Service”) on and over the Freight Easement within the ROW. The property at 1410 Prospect Avenue abuts the northerly ROW line of the SCBRL. Through the terms of the ACL, both the Freight Easement and the remaining ROW are maintained. Full access to the entire SCBRL ROW is required to undertake maintenance operations and Freight Service.

The RTC seeks to maximize use of the SCBRL ROW as a transportation corridor including transportation infrastructure for Freight Service, passenger rail transportation service (including transit stations), and both paved and unpaved trails. The design for a paved section of trail within this portion of the SCBRL ROW is currently being prepared. In support of this design effort, the RTC has conducted a survey of the existing encroachments within this portion of the SCBRL ROW and is currently developing a strategy to address the existing encroachments in accordance with the attached *REVISED Policies for Leases, Licenses, Rights of Entry and Encroachments for the Santa Cruz Branch Line Right-of-Way*, approved by the RTC August 6, 2020. Encroachments that impact the uses, operations, inspections and maintenance of the SCBRL ROW; those that impact implementation of public projects within or in the vicinity of the SCBRL ROW; and those that impact liabilities to the RTC are prioritized as encroachments to be addressed.

The City of Capitola entered into a license agreement in 2004 (see attached) to maintain and repair the walking path within the SCBRL ROW at the top of the bluff adjacent to the 1410 Prospect Avenue property for use of pedestrians seeking recreational access to ocean beach. The license is to “construct, maintain, use, repair, renew and reconstruct the three (3) existing stairways and connecting walking path....”

Several encroachments at the top of bluff exist on this section of the bluffs between 1400 Prospect Avenue and 1560 Prospect Avenue (the addressing of these encroachments is being studied, as discussed above). These encroachments mainly comprise fences, landscaping, and decking. In a few instances, structures encroach into the SCBRL ROW. However, only one zero foot (0’) lot line setback is known to the RTC staff: that being 1400 Prospect Avenue. Existing encroachments impact the RTC’s use, operation, inspection and maintenance of the SCBRL ROW. Moreover, instabilities along this section of bluff have occurred in the past and were exacerbated and potentially caused by these encroachments. In a recent incident about 100 feet north of the 1410 Prospect Avenue property, a section of bluff failed adjacent to the City-maintained walking path, and restoration of this bluff required significant expense by the City and effort on behalf of both the RTC staff and City staff.

As discussed, the section of bluff in this area has had a history of previous slope failures. These failures are exacerbated and sometimes potentially caused by encroachments into the SCBRL ROW (which generally constrain the ability of the City and the RTC to inspect, maintain, and operate the SCBRL ROW). Construction of new structures adjacent to the bluffs may reduce overall bluff stability by construction vibrations and impacts, which can locally reduce soil



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cohesion and *will* change both surface subsurface drainage characteristics of the area. This is partly why the property is located within the Geologic Hazards overlay. Construction affects will be more apparent immediately during and after construction, when soils are first disturbed, but will persist years into the future as well. Any slope failure *toward* the railroad tracks will be the responsibility of the City and/or the RTC to repair.

Due to the operation of Freight Service on the SCBRL via the ACL, any entry into the SCBRL ROW requires special railway protective liability insurance and right-of-entry agreements from both the RTC and the Railway. Coordinating, executing and implementing these rights-of-entry are bespoke to each purpose and require significant coordination with RTC staff. Any zero foot (0') setback will necessitate the future need for multiple rights-of-entry with the RTC and the Railway, as any entry to the ROW for maintenance of the 1410 Prospect Avenue property at these locations will require a right-of-entry; in fact, the current design proposal includes a portion of the property isolated on each side by zero foot (0') setback portions of the structure ... this portion of the 1410 Prospect Avenue property will be inaccessible without a right-of-entry from the RTC and the Railway.

### Discussion of Design Permit Coordination:

RTC staff first became aware of the proposed development at 1410 Prospect Avenue at the end of January 2022. RTC staff on different occasions in late January and on February 1, respectively, spoke with City staff and the property owner regarding existing encroachments at this property and the potential plan for these encroachments. At that time and in a follow-up conversations with City staff and the property owner on February 7, 2022, the discussions centered around the existing fencing and landscaping adjacent to the City's path at the top of the bluff.

On February 8, 2022, RTC staff and City staff discussed the proposed project in more detail, at which time City staff recommended that RTC staff reach out to the Applicant to discuss the plans and any potential impacts to the SCBRL ROW. City staff provided RTC staff with a contact email for the designer, Derek VanAlstine, which RTC staff sent emails to on February 8, 2022 in an effort to further discussions about the project. RTC staff requested an opportunity to discuss the project and review the proposed plans prior to submission for a permit, in an effort to understand how the proposed development may "affect the railroad right-of-way."

No response was ever provided to the RTC in reply to these emails. The Applicant's representative in the Public Hearing acknowledged that they had not spoken to the RTC regarding the proposed development.

The RTC was first made aware of the City Planning Commission Public Hearing for the proposed development on April 12, 2022, when RTC staff were advised by a third party that the Planning Commission had approved the Design Permit and Variance. RTC staff who receive public notices did not receive a notice of the Public Hearing in advance of the hearing.



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### Appeal:

The RTC respectfully appeals the decision to grant the Applicant a Variance to have non-conforming zero foot (0') 1<sup>st</sup> Story and basement rear setbacks to the property line shared with the RTC. The RTC requests that the City of Capitola require the Applicant to comply with the rear property setbacks required by the City's Development Standards. The RTC secondly supports City staff's recommendation to condition that swinging doors, which when opened, not be constructed in such a way that they would extend over and into the SCBRL ROW; the development should in no way result in a situation that would necessitate entry into and/or encroachment into the SCBRL ROW without the RTC's and Railways prior and express written consent via a right-of-entry agreement or lease agreement.

The RTC does not appeal the variances for front or side property setbacks or for the Floor Area Ratio. With these other variances in tact, a sufficiently sized structure is able to be built and enjoyed by the property owner.

Approval of the Variance for rear setbacks would result in a situation that constrains the RTC's and the Railway's uses, operations, inspections and maintenance of the SCBRL ROW and Freight Easement. The Variance for rear setbacks would constrain the RTC's ability to preserve the SCBRL ROW as a transportation constrain, and it would also constrain its future uses for rail and active transportation uses. The RTC seeks to maximize usage of the SCBRL ROW corridor for a variety of active transportation and rail transportation, and it seeks to increase public access to coastal resources; the construction of new encroachments into or structures adjacent to the ROW limit the RTC's ability to deliver these advantages to the public. This injures the RTC's SCBRL ROW property and disturbs the public coastal access along the bluff top. Requiring the Applicant to comply with the rear property setbacks required by the City's Development Standards would preserve the RTC's ability to deliver its purpose for the SCBRL ROW and would preserve and enhance (by removal of existing encroachments) the existing public coastal access, which will be furthermore be enhanced by the trail project currently in design for the SCBRL ROW.

Approval of the Variance for rear setbacks would result in a situation in which the property owner would need to obtain a right-of-entry from the RTC and the Railway for access to the SCBRL ROW to undertake future maintenance of the structure, property and landscaping. In fact, a portion of the property (between the lightwell and the corner of the 1<sup>st</sup> story structure) would be inaccessible from the exterior without traversing over the SCBRL ROW, which would require rights-of-entry from the RTC and the Railway. Due to liability impacts, insurance requirements, maintenance concerns, railway safety concerns, and operational concerns, the RTC as a policy seeks to minimize and wherever practicable eliminate the need for other parties to need to obtain right-of-entries onto the SCBRL ROW.

Approval of the Variance for rear setbacks would result in a situation that could reduce stability of the bluff and exacerbate existing slope stability issues, which would result in a future increased maintenance liability for the City of Capitola (in relation to the City's walkway) and



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for the RTC and Railway. Approval of the Variance for rear setbacks would change surface and subsurface drainage characteristics in the area, which could exacerbate existing erosion problems in this area. Requiring the Applicant to comply with the rear property setbacks required by the City's Development Standards would limit and minimize the potential bluff instabilities caused by the project by keeping the disturbances farther away from the bluff top. The RTC also appeals condition #8, requesting that the condition be amended such that a geological report also be prepared and that the geotechnical report and geological report both numerically assess the outward slope stability impacts to the bluff (by "outward" meaning toward the railroad tracks) and that the project be revised to mitigate any impacts that in any way reduce the stability of the existing soils and/or bluff. The RTC requests that the City Planning Commission also amend conditions #8, #11 and #12 to require City staff to consult with RTC staff during City staff's review of such reports and plans required by said conditions.

RTC staff's review of existing rear yard setbacks along the top of this section of bluff contradicts City staff's analysis and Applicant's assertions that "Variances to setbacks are numerous in this neighborhood and will not constitute granting of special privilege." RTC staff's review indicate that the existing rear yard setback variances are potentially limited to 1400, 1410, 1420, 1430 and 1450 Prospect Avenue. Whilst the remaining properties are deeper, and thus further analysis is required, those properties have significantly larger rear yard structure setbacks that do not similarly constrain the RTC's and the Railway's uses, operations, inspections and maintenance of the SCBRL ROW and Freight Easement.

Sincerely,

Riley Gerbrandt, P.E.

Regional Transportation Commission

- Attachments:
1. City of Capitola License for Maintenance on Railroad Property
  2. RTC's *REVISED Policies for Leases, Licenses, Rights of Entry and Encroachments for the Santa Cruz Branch Line Right-of Way* (Approved August 6, 2020)

# REMS FileNet Cover Sheet

**AUD NBR: 238600**

**FLDR NBR: 0220951**

**CITY: CAPITOLA**

**STATE: CA**

**PARTY NAME: CAPITOLA, CITY OF**

**PURPOSE: LICENSE FOR MAINTENANCE**

**AGMT. DATE: 10/5/2004**

**MP STRT: 16.3**

**PRIM CRC7: CB115**

**BOX NBR: 0**

**BATCH: 0**

**LICENSE FOR MAINTENANCE OF STAIRWAYS  
ON RAILROAD PROPERTY**

**Duplicate Original  
Railroad Copy**

THIS AGREEMENT is made this 5<sup>TH</sup> day of OCTOBER, 2004, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware Corporation ("UP" or Licensor) and the **CITY OF CAPITOLA**, whose address is 420 Capitola Avenue, Capitola, CA 95010 ("City" or "Licensee").

WHEREAS, certain stairways with a connecting walking path have previously been constructed on Licensor's property by parties unknown in order to facilitate recreational users accessing the adjacent ocean beach.

WHEREAS, City wishes to maintain and repair the stairways and walking path due to the frequent use of the same by pedestrians seeking such recreational access to ocean beach.

WHEREAS, City has also agreed to install and maintain additional fencing for access to that stairway closest to the southerly end of Licensor's bridge over Soquel Creek.

NOW THEREFORE, IT IS AGREED as follows:

Section 1. RIGHTS GRANTED.

A. Subject to the terms and conditions of this Agreement, UP hereby grants to Licensee, its successors and assigns, a license to construct, maintain, use, repair, renew and reconstruct the three (3) existing stairways and connecting walking path which are located at Licensor's right of way on UP's Santa Cruz Subdivision in the City of Capitola, County of Santa Cruz, State of California in the locations shown on the print dated June 11, 2004, marked **Schedule 1**, which is attached hereto and hereby made a part hereof (hereinafter the "Stairways", "Walking Path" or the "Licensed Area").

B. The rights granted herein are made subject to and subordinate to the prior and continuing right of UP, its successors and assigns, to use all of the tracks and property adjacent to and above the Stairways and Walking Path in the performance of its duty as a common carrier, and there is reserved unto UP, and its successors and assigns, the right to construct, reconstruct, maintain, repair, use and operate existing or future additional railroad tracks, track appurtenances, fiber optic or signal lines and facilities, pipe, and wire lines over, under and across the property, including without limitation, the Licensed Area.

C. The rights granted herein are given only insofar as UP may lawfully grant the same and UP makes no covenant or warranty of title, or for quiet possession or against encumbrances. No damages shall be recoverable from UP because of any dispossession of Licensee or because of failure of, or defect, in UP's title to the Property. The rights granted herein are also subject to any and all outstanding or existing licenses, leases, licenses, restrictions, conditions, covenants, claims of title and other rights (whether public or private and whether recorded or unrecorded) including, but not limited to, those for communication, pipeline and wire line facilities and also to any and all extensions and renewals thereof.

D. Licensee, by virtue of this license, shall not encroach upon, or occupy or use any other property of UP.

E. UP grants to Licensee only the right for the purposes aforesaid and Licensee shall not use or permit use of the Licensed Area for any other purpose.

F. If the right granted herein shall result in a substantial operational or safety problem for UP, then the parties shall negotiate in good faith to resolve such problem to the mutual satisfaction of the parties.

G. Fiber optic cable systems may be buried on UP's right-of-way. Protection of the fiber optic cable system is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Licensee, or its contractors, shall telephone UP during normal business hours (7:00 a.m. to 9:00 p.m., Central Time, Monday through Friday, except for holidays) at 1-800-336-9193 (also a 24-hour seven day number for emergency calls) to determine if fiber optic cable is buried anywhere on the right-of-way to be used by Licensee. If it is, Licensee, or its contractors, will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the right-of-way.

H. Licensee acknowledges that UP would not have granted this License without Licensee's agreement to comply with the covenants in this Section 1, and that a breach of any covenant constitutes a material breach of this Agreement.

## Section 2. CONTRACTOR'S RIGHT OF ENTRY AGREEMENT; FLAGGING.

A. The Licensee confirms that all work described herein, will be performed by a contractor or contractors hired by the Licensee. The Licensee agrees to require each of its contractors, (and their respective subcontractors), to execute UP's form of Contractor's Right of Entry Agreement that is marked **Schedule 3**, attached hereto and hereby made a part hereof, and to provide UP the insurance binders or certificates set forth in Exhibit A-1 of the Contractor's Right of Entry Agreement before commencing any work on any UP property.

B. The Licensee shall also require its contractors/subcontractors to perform their construction work in such a manner so as not to endanger or delay the movement of trains, engines or cars of UP, and so as not to injure or endanger UP's officers, agents, employees or damage their property. The Licensee shall also require its contractors/subcontractors to give precedence to the movement of trains, engines and cars of UP, over the movement of vehicles or equipment or construction activities of the Licensee's contractors/subcontractors.

C. If at any time during the construction or reconstruction of the Stairways, UP deems that flagging protection is necessary, such flagging shall be provided by UP at no cost to UP as set forth in the Contractor's Right of Entry Agreement described in Section 2A above.

## Section 3. LIABILITY.

A. To the extent permitted by law, Licensee shall save, protect, defend, indemnify and hold harmless UP, and its respective affiliates, and their respective officers, agents and employees, against and from any and all liability, loss, damages, claims, demands, costs and expenses, fines and penalties of whatsoever nature, including court costs and attorney's fees, arising from and growing out of any injury or death of persons whomsoever (including officers, agents and employees of UP or the Licensee and of any contractor as well as other persons) or loss of or damage to property whatsoever (including property of or in the custody of UP, the

Licensee or any contractor as well as other property), when such injury, death, loss or damage occurs or arises from Licensee's presence upon, or use of, or actions in the Licensed Area.

**Section 4. MAINTENANCE OF STAIRWAYS.**

Licensee, at its sole cost and expense and without any contribution whatsoever from Licensor, shall at all times during the term of this Agreement repair and maintain the Stairways in good and clean condition and repair, including without limitation, control of pest and vegetation. Licensee further agrees to rebuild the existing wooden stairway and to construct a fence along the pathway directing pedestrians to the steel stairway that leads to Wharf Road.

**Section 5. INSURANCE.**

Licensee is self-insured. Licensee may self insure for the coverages provided in **Schedule 2**, as customary under its respective risk management programs; provided its self-insurance retention is in keeping with its net worth and cash flows and is consistent with that of other Licensees of its size and operation.

**Section 6. TERMINATION; WAIVER OF BREACH; TERM.**

A. UP may terminate this Agreement by giving Licensee notice of termination if Licensee defaults under any obligation of Licensee under this license and, if after written notice is given by UP to Licensee specifying the default, Licensee fails either to immediately begin to cure the default, or to complete the cure expeditiously but in any event within thirty (30) days after the default notice is given. A waiver by UP of a breach of Licensee of any covenant or condition of this Agreement shall not impair the right of UP to avail itself of any subsequent breach thereof.

B. UP may also terminate this Agreement by giving written notice to Licensee if safety and operational needs of UP are materially affected or impaired by Licensee's use of the Property, and UP and Licensee cannot come to any mutual agreement or understanding as to how Licensee, at Licensee's sole cost and expense, will eliminate such material effect or impairment.

C. This Agreement and the license and permission herein granted shall be effective as of the date first herein written, and shall remain in full force and effect until terminated as herein provided.

**Section 7. REMOVAL OF STAIRCASES UPON TERMINATION**

Within ninety (90) days after termination of this Agreement the Licensee, at its sole cost and expense, shall remove the Staircases from the Property and restore the Property to its original condition, failing in which UP may perform such activities at the expense of Licensee.



**Section 8. NOTICES.**

Any notices required or desired to be given under this Agreement shall be in writing and personally served, given by overnight express delivery, or given by mail. Telecopy notices shall be deemed valid only to the extent they are (a) actually received by the individual to whom addressed, and (b) followed by delivery of actual notice in the manner described above within three (3) business days thereafter. Any notice given by mail shall be sent, postage prepaid, by certified mail, return receipt requested, addressed to the party to receive at the following address or at such other address as the party may from time to time direct in writing:

UP: Union Pacific Railroad Company  
ATTN: Gen. Mgr. Real Estate  
Real Estate Department  
1416 Dodge Street, WP001  
Omaha, Nebraska 68102  
Facsimile: (402) 997-3601/3602

Licensee: City of Capitola  
ATTN: Public Works Director  
420 Capitola Vaenue  
Capitola, CA 95010  
Facsimile: (831) 479-8879

Express delivery notices shall be deemed to be given upon receipt. Postal notices shall be deemed to be given three (3) days after deposit with the United States Postal Service.

**Section 9. SUCCESSORS AND ASSIGNS.**

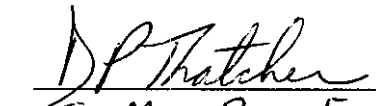
This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns, but Licensee shall not assign this Agreement or any rights herein to any party without the prior written consent of UP.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate as of the day and year first above written.

WITNESS:

LICENSOR  
UNION PACIFIC RAILROAD COMPANY


By:   
Title: General Director-Real Estate

  
SR. MGR. REAL ESTATE  
UPRR

LICENSEE  
CITY OF CAPITOLA

By:   
Title: City manager

WITNESS:

  
Pamela Greeninger  
CITY CLERK 9/27/04



**SCHEDULE 2****UNION PACIFIC RAILROAD  
CONTRACT INSURANCE REQUIREMENTS**

Political Body and/or its Contractor shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

**A. Commercial General Liability insurance.** This insurance shall contain broad form contractual liability with a single limit of at least \$1,000,000 each occurrence or claim and an aggregate limit of at least 5,000,000. Coverage must be purchased on a post 1998 ISO or equivalent form, including but not limited to coverage for the following:

- Bodily injury including death and personal injury
- Property damage
- Fire legal liability
- Products and completed operations

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance:**

- "For purposes of this insurance, Union Pacific Railroad payments related to the Federal Employers Liability Act or a Union Pacific Wage Continuation Program or similar programs are deemed not to be either payments made or obligations assumed under any Workers Compensation, disability benefits, or unemployment compensation law or similar law."
- The exclusions for railroads (except where the Job Site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed.
- Separate general aggregate for the project
- Coverage for Railroad's employees shall not be excluded
- Waiver of subrogation

**B. Business Automobile Coverage insurance.** This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence or claim, including but not limited to coverage for the following:

- Bodily injury and property damage
- Any and all motor vehicles including owned, hired and non-owned

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance:**

- "For purposes of this insurance, Union Pacific Railroad payments related to the Federal Employers Liability Act or a Union Pacific Wage Continuation Program or similar programs are deemed not to be either payments made or obligations assumed under any Workers Compensation, disability benefits, or unemployment compensation law or similar law."
- Motor Carrier Act Endorsement- Hazardous materials clean up (MCS-90)

**C. Workers Compensation and Employers Liability** insurance including but not limited to:

- Political Body and/or its Contractor's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit, \$500,000 each employee

If Workers Compensation insurance will not cover the liability of Political Body and/or its Contractor in states that require participation in state workers' compensation fund, Political Body and/or its Contractor shall comply with the laws of such states. If Political Body and/or its Contractor is self-insured, evidence of state approval must be provided along with evidence of excess workers compensation coverage. Coverage shall include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable. The policy shall also contain the following endorsement **which shall be indicated on the certificate of insurance:**

- Alternate Employer Endorsement

**D. Umbrella or Excess Policies** In the event Political Body and/or its Contractor utilizes Umbrella or excess policies, these policies shall "follow form" and afford no less coverage than the primary policy.

**E. Railroad Protective Liability** insurance naming only the Railroad as the insured with a combined single limit of \$1,000,000 per occurrence with a \$5,000,000 aggregate. The policy shall be broad form coverage for "Physical Damage to Property" (ISO Form CG 00 35 07 98 or equivalent). A binder stating the policy is in place must be submitted to the Railroad until the original policy is forwarded to the Railroad.

### **Other Requirements**

**F.** Punitive damage exclusion must be deleted, **which deletion shall be indicated on the certificate of insurance.**

**G.** Political Body and/or its Contractor agrees to waive its right of recovery, and its insurers, through policy endorsement, agree to waive their right of subrogation against Railroad. Political Body and/or its Contractor further waives its right of recovery, and its insurers also waive their right of

subrogation against Railroad for loss of its owned or leased property or property under its care, custody and control. Political Body and/or its Contractor's insurance shall be primary with respect to any insurance carried by Railroad. All waivers of subrogation **shall be indicated on the certificate of insurance.**

**H.** All policy(ies) required above (excluding Workers Compensation) shall provide severability of interests and shall name Railroad as an additional insured. **Severability of interest and naming Railroad as additional insured shall be indicated on the certificate of insurance.**

**I.** Prior to commencing the Work, Political Body and/or its Contractor shall furnish to Railroad original certificate(s) of insurance evidencing the required coverage, endorsements, and amendments, and reference the contract audit/folder number if available. The certificate(s) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Railroad in writing of any cancellation or material alteration. **Upon request from Railroad, a certified duplicate original of any required policy shall be furnished.**

**J.** Any insurance policy shall be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

**K.** Political Body and/or its Contractor **WARRANTS** that this Agreement has been thoroughly reviewed by Political Body and/or its Contractor's insurance agent(s)/broker(s), who have been instructed by Political Body and/or its Contractor to procure the insurance coverage required by this Agreement and acknowledges that Political Body and/or its Contractor insurance coverage will be primary.

**L.** If Political Body and/or its Contractor fails to procure and maintain insurance as required, Railroad may elect to do so at the cost of Political Body and/or its Contractor plus a 25% administration fee.

**M.** The fact that insurance is obtained by Political Body and/or its Contractor or Railroad on behalf of Political Body and/or its Contractor shall not be deemed to release or diminish the liability of Political Body and/or its Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad shall not be limited by the amount of the required insurance coverage.

**SCHEDULE 3**

**CONTRACTOR'S  
RIGHT OF ENTRY AGREEMENT**

**THIS AGREEMENT** is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation (the "Railroad"); and \_\_\_\_\_, a \_\_\_\_\_ corporation (the "Contractor").

**RECITALS:**

Contractor has been hired by \_\_\_\_\_ to perform work relating to \_\_\_\_\_

\_\_\_\_\_ (the "work"), with all or a portion of such work to be performed on property of Railroad in the vicinity of \_\_\_\_\_ [, which work is the subject of a contract dated \_\_\_\_\_ between Railroad and \_\_\_\_\_].

Contractor has requested Railroad to permit it to perform the work on the portion of Railroad's property shown on the print dated \_\_\_\_\_, marked **Exhibit A**, attached hereto and hereby made a part hereof, and Railroad is agreeable thereto, subject to the following terms and conditions.

**AGREEMENT:**

**NOW, THEREFORE**, it is mutually agreed by and between the Railroad and Contractor, as follows:

**ARTICLE 1 - DEFINITION OF CONTRACTOR.**

For purposes of this agreement, all references in this agreement to the Contractor shall include the Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

**ARTICLE 2 - RIGHT GRANTED; PURPOSE.**

The Railroad hereby grants to the Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of performing any work described in the Recitals above. The right herein granted to Contractor is limited to those portions of Railroad's property specifically described herein, or as designated by the Railroad Representative named in Article 4.

**ARTICLE 3 - TERMS AND CONDITIONS CONTAINED IN EXHIBITS A, B, C AND D.**

The terms and conditions contained in **Exhibit A, Exhibit B, Exhibit C and Exhibit D**, attached hereto, are hereby made a part of this agreement.

**ARTICLE 4 - ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE.**

A. The Contractor shall bear any and all costs and expenses associated with any work performed by the Contractor, or any costs or expenses incurred by the Railroad relating to this agreement.

B. The Contractor shall coordinate all of its work with the following Railroad representative or his or her duly authorized representative (the "Railroad Representative"):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. The Contractor, at its own expense, shall adequately police and supervise all work to be performed by the Contractor and shall ensure that such work is performed in a safe manner as set forth in Section 7 of **Exhibit B**. The responsibility of the Contractor for safe conduct and adequate policing and supervision of the Contractor's work shall not be lessened or otherwise affected by the Railroad's approval of plans and specifications involving the work, or by the Railroad's collaboration in performance of any work, or by the presence at the work site of the Railroad Representative, or by compliance by the Contractor with any requests or recommendations made by the Railroad Representative.

**ARTICLE 5 - TERM; TERMINATION.**

A. The grant of right herein made to Contractor shall commence on the date of this agreement, and continue until \_\_\_\_\_, unless sooner terminated as herein provided, or at such time as Contractor has completed its work on Railroad's property, whichever is earlier. Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad property.

B. This agreement may be terminated by either party on ten (10) days written notice to the other party.

**ARTICLE 6 - CERTIFICATE OF INSURANCE.**

A. Before commencing any work, Contractor will provide Railroad with the insurance binders, policies, certificates and/or endorsements set forth in **Exhibit C** of this agreement.

B. All insurance correspondence, binders, policies, certificates and/or endorsements shall be directed to:

Union Pacific Railroad Company  
\_\_\_\_\_  
[Insert mailing address]  
\_\_\_\_\_  
Attn: \_\_\_\_\_

**ARTICLE 7 - DISMISSAL OF CONTRACTOR/SUBCONTRACTOR EMPLOYEE.**

At the request of Railroad, Contractor shall remove from Railroad property any employee of Contractor or any subcontractor who fails to conform to the instructions of the Railroad Representative in connection with the work on Railroad's property, and any right of Contractor shall be suspended until such removal has occurred. Contractor shall indemnify Railroad against any claims arising from the removal of any such employee from Railroad property.



**ARTICLE 8 - ADMINISTRATIVE FEE.**

Contractor shall pay to Railroad \_\_\_\_\_ Dollars (\$\_\_\_\_\_) as reimbursement for clerical, administrative and handling expenses in connection with the processing of this agreement.

**ARTICLE 9 - CROSSINGS.**

No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Railroad's trackage shall be installed or used by Contractor without the prior written permission of Railroad.

**ARTICLE 10.- EXPLOSIVES.**

Explosives or other highly flammable substances shall not be stored on Railroad property without the prior written approval of the Railroad.

**IN WITNESS WHEREOF**, the parties hereto have duly executed this agreement in duplicate as of the date first herein written.

**UNION PACIFIC RAILROAD COMPANY**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
(Name of Contractor)

By: \_\_\_\_\_  
Title: \_\_\_\_\_

## **EXHIBIT B TO CONTRACTOR'S RIGHT OF ENTRY AGREEMENT**

### **Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.**

A. The Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least ten (10) working days in advance of proposed performance of any work by the Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such ten (10)-day notice, the Railroad Representative will determine and inform the Contractor whether a flagman need be present and whether the Contractor need implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by the Railroad, such services will be provided at Contractor's expense with the understanding that if the Railroad provides any flagging or other services, the Contractor shall not be relieved of any of its responsibilities or liabilities set forth herein. Contractor shall promptly pay to Railroad all charges connected with such services within thirty (30) days after presentation of a bill.

B. The rate of pay per hour for each man will be the prevailing hourly rate in effect for an eight hour day for the class of men used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect on the day of execution of this agreement. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays; two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between the Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized Governmental Agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, the Contractor shall pay on the basis of the new rates and charges.

C. Reimbursement to the Railroad will be required covering the full eight hour day during which any flagman is furnished, unless he can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by said flagman following his assignment to work on the project for which the Railroad is required to pay the flagman and which could not reasonably be avoided by the Railroad by assignment of such flagman to other work, even though the Contractor may not be working during such time. When it becomes necessary for the Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, the Contractor must provide the Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5)-days notice of cessation is not given, the Contractor will still be required to pay flagging charges for the five (5)-day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional ten (10) days notice must then be given to the Railroad if flagging service are needed again after such five day cessation notice has been given Railroad.

### **Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED**

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of the Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by the Railroad without liability to the Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of the Railroad's property, and others) and the right of the Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

### **Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.**

A. The Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of the Railroad, including without limitation, the operations of the Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by the Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's machinery and materials shall be kept at least fifty (50) feet from the centerline of the Railroad's nearest track, and there shall be no vehicular crossings of Railroads tracks except at existing open public crossings.

B. Operations of the Railroad and work performed by the Railroad personnel and delays in the work to be performed by the Contractor caused by such railroad operations and work are expected by the Contractor, and Contractor agrees that the Railroad shall have no liability to Contractor, its subcontractors or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of the Railroad and third parties so as to avoid interference with railroad operations. The safe operation of the Railroad takes precedence over any work to be performed by the Contractor.

### **Section 4. LIENS.**

The Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. The Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of the Railroad for any such work performed. The Contractor shall indemnify and hold harmless the Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If the Contractor fails to promptly cause any lien to be released of record, the Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

### **Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.**

A. Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall telephone the Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. The Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

B. In addition to other indemnity provisions in this Agreement, the Contractor shall indemnify, defend and hold the Railroad harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of any act or omission of the Contractor, its contractor, agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Railroad's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Railroad's property. Contractor shall not have or seek recourse against Railroad for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Railroad's property or a customer or user of services of the fiber optic cable on Railroad's property.

**Section 6. PERMITS - COMPLIANCE WITH LAWS.**

In the prosecution of the work covered by this agreement, the Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

**Section 7. SAFETY.**

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by the Contractor. The Contractor shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. The Contractor shall at a minimum comply with the Railroad's safety standards listed in **Exhibit D**, hereto attached, to ensure uniformity with the safety standards followed by the Railroad's own forces. As a part of the Contractor's safety responsibilities, the Contractor shall notify the Railroad if the Contractor determines that any of the Railroad's safety standards are contrary to good safety practices. The Contractor shall furnish copies of **Exhibit D** to each of its employees before they enter on the job site.

B. Without limitation of the provisions of paragraph A above, the Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. The Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. The Contractor shall promptly notify the Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. The Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of the Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

D. If and when requested by the Railroad, the Contractor shall deliver to the Railroad a copy of the Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but not the obligation, to require the Contractor to correct any deficiencies in the Safety Plan. The terms of this agreement shall control if there are any inconsistencies between this agreement and the Safety Plan.

**Section 8. INDEMNITY.**

A. To the extent not prohibited by applicable statute, the Contractor shall indemnify, defend and hold harmless the Railroad, its affiliates, and its and their officers, agents and employees ("Indemnified Parties") from and against any and all loss, damage, injury, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, the Contractor, or any employee of the Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by the Contractor, or (ii) any act or omission of the Contractor, its officers, agents or employees, or (iii) any breach of this agreement by the Contractor.

B. The right to indemnity under this Section 8 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.

C. The Contractor expressly and specifically assumes potential liability under this Section 8 for claims or actions brought by the Contractor's own employees. The Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify the Railroad under this Section 8. Contractor acknowledges that this waiver was mutually negotiated by the parties hereto.

D. No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against a party to this agreement may be relied upon or used by the Contractor in any attempt to assert liability against the Railroad.

E. The provisions of this Section 8 shall survive the completion of any work performed by the Contractor or the termination or expiration of this agreement. In no event shall this Section 8 or any other provision of this agreement be deemed to limit any liability the Contractor may have to any Indemnified Party by statute or under common law.

**Section 9. RESTORATION OF PROPERTY.**

In the event the Railroad authorizes the Contractor to take down any fence of the Railroad or in any manner move or disturb any of the other property of the Railroad in connection with the work to be performed by Contractor, then in that event the Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. The Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

**Section 10. WAIVER OF DEFAULT.**

Waiver by the Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by the Contractor shall in no way impair the right of the Railroad to avail itself of any remedy for any subsequent breach or default.

**Section 11. MODIFICATION - ENTIRE AGREEMENT.**

No modification of this agreement shall be effective unless made in writing and signed by the Contractor and the Railroad. This agreement and the exhibits attached hereto and made a part hereof constitute the entire understanding between the Contractor and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by the Contractor.

**Section 12. ASSIGNMENT - SUBCONTRACTING.**

The Contractor shall not assign or subcontract this agreement, or any interest therein, without the written consent of the Railroad. The Contractor shall be responsible for the acts and omissions of all subcontractors, and shall require all subcontractors to maintain the insurance coverage required to be maintained by the Contractor as provided in this agreement, and to indemnify the Contractor and the Railroad to the same extent as the Railroad is indemnified by the Contractor under this agreement.

**EXHIBIT C  
TO  
CONTRACTOR'S  
RIGHT OF ENTRY AGREEMENT**

**Union Pacific Railroad Company  
Insurance Provisions For  
Contractor's Right of Entry Agreement**

Contractor shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

**A. Commercial General Liability insurance.** This insurance shall contain broad form contractual liability with a single limit of at least \$5,000,000 each occurrence or claim and an aggregate limit of at least \$10,000,000. Coverage must be purchased on a post 1998 ISO or equivalent form, including but not limited to coverage for the following:

- Bodily injury including death and personal injury
- Property damage
- Fire legal liability (Not less than the replacement value of the portion of the premises occupied)
- Products and completed operations

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance:**

- "For purposes of this insurance, Union Pacific Railroad payments related to the Federal Employers Liability Act or a Union Pacific Wage Continuation Program or similar programs are deemed not to be either payments made or obligations assumed under any Workers Compensation, disability benefits, or unemployment compensation law or similar law."
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed.
- Coverage for Contractor's (and Railroad's) employees shall not be excluded
- Waiver of subrogation

**B. Business Automobile Coverage insurance.** This insurance shall contain a combined single limit of at least \$5,000,000 per occurrence or claim, including but not limited to coverage for the following:

- Bodily injury and property damage
- Any and all motor vehicles including owned, hired and non-owned

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance:**

- "For purposes of this insurance, Union Pacific Railroad payments related to the Federal Employers Liability Act or a Union Pacific Wage Continuation Program or similar programs are deemed not to be either payments made or obligations assumed under any Workers Compensation, disability benefits, or unemployment compensation law or similar law."
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed.
- Motor Carrier Act Endorsement- Hazardous materials clean up (MCS-90) if required by law.

**C. Workers Compensation and Employers Liability insurance** including but not limited to:

- Contractor's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement

- Employers' Liability (Part B) with limits of at least  
\$500,000 each accident, \$500,000 disease policy limit  
\$500,000 each employee

If Workers Compensation insurance will not cover the liability of Contractor in states that require participation in state workers' compensation fund, Contractor shall comply with the laws of such states. If Contractor is self-insured, evidence of state approval must be provided along with evidence of excess workers compensation coverage. Coverage shall include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy shall also contain the following endorsement **which shall be indicated on the certificate of insurance:**

- Alternate Employer Endorsement

- D. **Umbrella or Excess Policies** In the event Contractor utilizes Umbrella or excess policies, these policies shall "follow form" and afford no less coverage than the primary policy.
- E. **Railroad Protective Liability** insurance naming only the Railroad as the insured with a combined single limit of \$2,000,000 per occurrence with a \$6,000,000 aggregate. The policy shall be broad form coverage for "Physical Damage to Property" (ISO Form CG 00 35 07 98 or equivalent). A binder stating the policy is in place must be submitted to the Railroad until the original policy is forwarded to the Railroad.

**Other Requirements**

- F. Punitive damage exclusion must be deleted, **which deletion shall be indicated on the certificate of insurance.**
- G. Contractor agrees to waive its right of recovery, and its insurers, through policy endorsement, agree to waive their right of subrogation against Railroad. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against Railroad for loss of its owned or leased property or property under its care, custody and control. Contractor's insurance shall be primary with respect to any insurance carried by Railroad. All waivers of subrogation **shall be indicated on the certificate of insurance.**
- H. All policy(ies) required above (excluding Workers Compensation) shall provide severability of interests and shall name Railroad as an additional insured. **Severability of interest and naming Railroad as additional insured shall be indicated on the certificate of insurance.**
- I. Prior to commencing the Work, Contractor shall furnish to Railroad original certificate(s) of insurance evidencing the required coverage, endorsements, and amendments. The certificate(s) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Railroad in writing of any cancellation or material alteration. **Upon request from Railroad, a certified duplicate original of any required policy shall be furnished.**
- J. Any insurance policy shall be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.
- K. Contractor **WARRANTS** that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement and acknowledges that Contractor's insurance coverage will be primary.
- L. The fact that insurance is obtained by Contractor or Railroad on behalf of Contractor shall not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of

this Agreement. Damages recoverable by Railroad shall not be limited by the amount of the required insurance coverage.



**EXHIBIT D TO CONTRACTOR'S RIGHT OF ENTRY AGREEMENT****MINIMUM SAFETY REQUIREMENTS**

The term "employees" as used herein refer to all employees of the Contractor as well as all employees of any subcontractor or agent of the Contractor.

**I. Clothing**

- A. All employees of the Contractor will be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing, or free use of their hands or feet.

Specifically, the Contractor's employees must wear:

- (i) Waist-length shirts with sleeves.
  - (ii) Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
  - (iii) Footwear that covers their ankles and has a defined heel. Employees working on bridges are required to wear safety-toed footwear that conforms to the American National Standards Institute (ANSI) and FRA footwear requirements.
- B. Employees shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal.
- C. Employees must not wear loose or ragged clothing, neckties, finger rings, or other loose jewelry while operating or working on machinery.

**II. Personal Protective Equipment**

The Contractor shall require its employees to wear personal protective equipment as specified by Railroad rules, regulations, or recommended or requested by the Railroad Representative.

- (i) Hard hat that meets the American National Standard (ANSI) Z89.1 – latest revision. Hard hats should be affixed with the contractor's or subcontractor's company logo or name.
- (ii) Eye protection that meets American National Standard (ANSI) for occupational and educational eye and face protection, Z87.1 – latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, etc.
- (iii) Hearing protection, which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Hearing protection, in the form of plugs or muffs, must be worn when employees are within:
  - 100 feet of a locomotive or roadway/work equipment
  - 15 feet of power operated tools
  - 150 feet of jet blowers or pile drivers
  - 150 feet of retarders in use (when within 10 feet, employees must wear dual ear protection – plugs and muffs)
  -
- (iv) Other types of personal protective equipment, such as respirators, fall protection equipment, and face shields, must be worn as recommended or requested by the Railroad Representative.

### III. On Track Safety

The Contractor is responsible for compliance with the Federal Railroad Administration's Roadway Worker Protection regulations – 49CFR214, Subpart C and Railroad's On-Track Safety rules. Under 49CFR214, Subpart C, railroad contractors are responsible for the training of their employees on such regulations. In addition to the instructions contained in Roadway Worker Protection regulations, all employees must:

- (i) Maintain a distance of twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- (ii) Wear an orange, reflectorized workwear approved by the Railroad Representative.
- (iii) Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Contractors must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track. The Contractors will also receive special instructions relating to the work zone around machines and minimum distances between machines while working or traveling.

### IV. Equipment

- A. It is the responsibility of the Contractor to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of the Contractor's equipment is unsafe for use, the Contractor shall remove such equipment from the Railroad's property. In addition, the Contractor must ensure that the operators of all equipment are properly trained and competent in the safe operation of the equipment. In addition, operators must be:
  - Familiar and comply with Railroad's rules on lockout/tagout of equipment.
  - Trained in and comply with the applicable operating rules if operating any hy-rail equipment on-track.
  - Trained in and comply with the applicable air brake rules if operating any equipment that moves rail cars or any other railbound equipment.
- B. All self-propelled equipment must be equipped with a first-aid kit, fire extinguisher, and audible back-up warning device.
- C. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.
- D. Cranes must be equipped with three orange cones that will be used to mark the working area of the crane and the minimum clearances to overhead powerlines.

### V. General Safety Requirements

- A. The Contractor shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.
- B. The Contractor shall ensure that all employees participate in and comply with a job briefing conducted by the Railroad Representative, if applicable. During this briefing, the Railroad Representative will specify safe work procedures, (including On-Track Safety) and the potential hazards of the job. If any employee has any questions or concerns about the work, the employee must voice them during the job briefing. Additional job briefings will be conducted during the work as conditions, work procedures, or personnel change.
- C. All track work performed by the Contractor meets the minimum safety requirements established by the Federal Railroad Administration's Track Safety Standards 49CFR213.
- D. All employees comply with the following safety procedures when working around any railroad track:

- (i) Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.
- (ii) Do not step or walk on the top of the rail, frog, switches, guard rails, or other track components.
- (iii) In passing around the ends of standing cars, engines, roadway machines or work equipment, leave at least 20 feet between yourself and the end of the equipment. Do not go between pieces of equipment if the opening is less than one car length (50 feet).
- (iv) Avoid walking or standing on a track unless so authorized by the employee in charge.
- (v) Before stepping over or crossing tracks, look in both directions first.
- (vi) Do not sit on, lie under, or cross between cars except as required in the performance of your duties and only when track and equipment have been protected against movement.

E. All employees must comply with all federal and state regulations concerning workplace safety.

**REVISED Policies for Leases, Licenses, Rights of Entry and Encroachments for the Santa Cruz Branch Line Right-of-Way  
Approved August 6, 2020**

**Background**

Purpose for Purchase of Branch Line

The Regional Transportation Commission (RTC) purchased the Santa Cruz Branch Rail Line (Branch Line) right-of-way (ROW) to:

- preserve it as a transportation corridor;
- continue existing freight and recreational rail service;
- facilitate increased freight and recreational rail service;
- explore passenger rail service options;
- construct a bicycle and pedestrian trail alongside the track where feasible; and
- maximize its use as a transportation corridor.

Funding for Purchase of Branch Line

The purchase of the Branch Line right-of-way was facilitated by funding from Proposition 116 of 1990, which provided Santa Cruz County with \$11 million to use for "rail projects within Santa Cruz County which facilitate recreational, commuter, intercity and intercounty travel." The California Transportation Commission (CTC) developed policies and requirements for projects funded with Proposition 116 funds. The CTC imposed certain conditions on its approval of Proposition 116 funds for purchase of the Branch Line right-of-way. The Proposition 116 funds were provided through a master funding agreement and a program supplement agreement with the State of California and administered by Caltrans.

Rail Service Operations for Branch Line

When the RTC purchased the Branch Line ROW, Union Pacific retained an easement for freight operations. That easement was transferred to the shortline freight and recreational rail operator selected by the RTC for the Branch Line. Over time, as the RTC selects new or replacement rail operators that easement is expected to be transferred to that operator. The Surface Transportation Board (STB) designates the RTC selected rail operator as the common carrier for freight service on the Branch Line, as long as the operator meets the requirements of the STB. The RTC enters into an administration, coordination and license (AC&L) agreement with the selected rail operator. That agreement outlines the responsibilities of the operator and provides the operator with a license to operate recreational passenger rail service on the Branch Line. There are a

number of operating agreements for the rail line including crossing agreements and a trackage rights agreement with Santa Cruz Big Trees and Pacific Railway. Rail operations on the Branch Line are governed and inspected by the Federal Railroad Administration (FRA) and the California Public Utilities Commission (CPUC) to help ensure safety.

#### RTC Planning Documents Affecting Branch Line

The RTC adopts every 4 or 5 years a regional transportation plan with projects on the Branch Line. The RTC also completed a master plan and environmental document for the Monterey Bay Sanctuary Scenic Trail Network (MBSST), which includes as its spine a trail on the Branch Line right-of-way alongside the operating track, which is referred to as the Coastal Rail Trail. In addition, the RTC has completed a passenger rail service feasibility study for the rail line, a Unified Corridor Investment Study that includes the Branch Line ROW, and is in the process of completing a Transit Corridor Alternatives Analysis for the Branch Line ROW. The RTC may undertake other studies which may affect the Branch Line ROW.

#### **Policies for Leases, Licenses, Encroachments and Rights of Entry on the Rail Line ROW**

The RTC currently manages several long-term leases of the Branch Line for various uses including parking, storage, and related uses. A lease analysis completed in 2009 concluded that most of the existing leases that were assumed by the RTC at the time of the purchase are significantly below market rate and in need of an update. The RTC periodically receives requests for updates to existing leases and additional long-term leases on the Branch Line. The Branch Line also includes licenses for pipelines, crossings, etc. In addition, the RTC regularly receives requests for temporary use of the Branch Line, primarily for construction staging, utility crossings, and road construction projects that impact or cross the Branch Line. The RTC manages these requests by granting temporary rights of entry for use of its property consistent with authorization given to the Executive Director by the RTC Board under these policies. Finally, the RTC is working with entities who are implementing capital projects within the Branch Line property, including the various segments of the MBSST.

The following policies shall apply to all leases, licenses, encroachments and rights of entry managed and/or issued by the RTC:

1. Leases, licenses, rights of entry and encroachments on the Santa Cruz Branch Rail Line right-of-way shall be consistent with:
  - a. The RTC's purpose for purchasing the right-of-way;
  - b. Funding requirements of Proposition 116, the California Transportation Commission, and agreements with the State;

- c. Rail service operations and safety requirements of the STB, the FRA, the CPUC, agreements with the shortline rail operator, licenses and other agreements and arrangements affecting railroad operations;
  - d. Standards of the American Railway Engineering and Maintenance of Way Association (AREMA)
  - e. The RTC's Regional Transportation Plan for Santa Cruz County;
  - f. The RTC master plan for the MBSST;
  - g. Measure D and Measure D policies outlined in the Measure D Strategic Implementation Plan (SIP) for improvements funded by Measure D;
  - h. RTC policies for capital projects implemented by others within the Branch Line right-of-way and any associated agreements for implementation and maintenance of such projects;
  - i. Plans developed by the RTC for high capacity transit service or other uses on the Branch Line; and
  - j. All applicable federal, state and local laws and regulations.
2. To ensure that there is no gift of public funds, new and updated leases shall be at market rate defined as:

The most probable rent that a property should bring in a competitive and open market reflecting all conditions and restrictions of the specified lease agreement including term, rental adjustment and revaluation, permitted uses, use restrictions, and expense obligations; the lessee and lessor each acting prudently and knowledgeably, and assuming consummation of a lease contract as of a specified date and the passing of the leasehold from lessor to lessee under conditions whereby:

- a. Lessee and lessor are typically motivated;
  - b. Both parties are well informed or well advised, and acting in what they consider their best interests, which can be aided by the production of a market rental rate survey or formal appraisal utilized during negotiations;
  - c. A reasonable time is allowed for exposure in the open market;
  - d. The rent payment is made in terms of cash in U.S. dollars, and is expressed as an amount per time period consistent with the payment schedule of the lease contract; and
  - e. The rental amount represents the normal consideration for the property leased unaffected by special fees or concessions granted by anyone associated with the transaction.
3. The RTC shall use closed sessions consistent with the Brown Act to direct its lease negotiators regarding updated and new leases.
4. Leases (new and updated), licenses and rights of entry for a one-time or an annual amount exceeding the Executive Director's procurement authority for a single transaction, as established in the RTC's Administrative and Fiscal

policies, shall be presented to the RTC for consideration in public session and the Executive Director is authorized to approve others.

5. There shall be a public review period of lease terms and conditions of at least 21 days prior to approval of a lease or lease update to give all responsible persons the opportunity to make credible and responsible offers with better lease terms and conditions to the RTC.
6. Leases shall include terms for escalation of rental rates consistent with market conditions.
7. Every five years, the RTC shall review existing leases to ensure that the rent is at market rates and for any leases found to be below market rates, the RTC shall work to update them to market rates based on a market rental rate survey, formal appraisal or other appropriate information.
8. Leases shall include a termination clause to ensure that leases will not unduly impact the development of transportation projects on the Branch Line right-of-way. Licenses and rights of entry that could potentially impact planned transportation projects on the Branch Line right-of-way due to length of term, purpose, etc. shall also include a termination clause.
9. Licenses and rights of entry shall include fees to the RTC and the rail service operator as applicable to reimburse the RTC and rail service operator for their cost to provide such right of entry in addition to a determined or negotiated market rate for the right of use provided by the license or right of entry.
10. Any lease, license, or right of entry that also crosses or otherwise impacts the rail service operator's easement or operations shall require review and acknowledgement by the rail operator.
11. If the license or right of entry will provide a service to the RTC benefiting its ownership, management, maintenance, improvement or operation of the Branch Line right-of-way, fees may be reduced or waived by the RTC.
12. Leases and rights of entry shall include appropriate indemnification to the RTC and the rail service operator as applicable.
13. Rights of entry shall include appropriate insurance requirements to protect the interests of the RTC and the rail service operator as applicable.
14. Leases, licenses, and rights of entry shall include prohibition against any alteration of RTC property except as approved by the corresponding lease, license, or right of entry.

15. Rights of entry and licenses shall include a requirement for notification of the rail service operator prior to entering the property as authorized.
16. Revenues from leases, licenses and rights of entry shall be used to cover costs of the RTC to negotiate, produce and implement such leases, licenses and rights of entry and for costs associated with the RTC's responsibility to manage, maintain, operate and improve the Branch Line as established in the funding agreements with the State.
17. Any encroachments onto the Branch Line shall be resolved by removal of the encroachment or conversion of the encroachment to a long-term lease, license or right of entry.
18. As resources allow and needs arise, the RTC will work to identify and address encroachments on the Branch Line ROW. Encroachments may also be brought to the attention of the RTC or discovered inadvertently.
19. Identification and addressing of encroachments shall prioritize encroachments which:
  - a. Impact the uses, operations, inspections and maintenance of the Branch Line ROW;
  - b. Impact the implementation of projects by the RTC or RTC partner agencies on or in the vicinity of the Branch Line ROW; and/or
  - c. Impact liabilities to the RTC.
20. Encroachments that are not the subject of an approved lease, license or right of entry in accordance with this Policy are not permitted, and are subject to removal in accordance with applicable law. Depending on the nature of the encroachment, and at the sole discretion of the RTC, options may include:
  - a. Immediate removal;
  - b. Removal within a specified period of time;
  - c. Possible modifications to the encroachment; and/or
  - d. Development of a lease, license, or right of entry at Fair Market Value.
21. For areas that should be fenced as determined by RTC:
  - a. RTC will gather relevant, available information to confirm the location of the applicable RTC property boundaries.
  - b. RTC will notify neighboring property owners in advance of the decision to install fences, barricades, and other barriers in the specified area.



c. RTC will cause the fences, barricades, and other barriers to be installed in the specific locations at the times specified in the notice to the property owners.



September 7, 2022

Community Development Department  
 Attn: Katie Herlihy, AICP, Director  
 City of Capitola  
 420 Capitola Avenue  
 Capitola, CA 95010

**Subject: Appeal of Permit Application Number 21-0376**

On April 18, 2022, the Santa Cruz Regional Transportation Commission (RTC) filed an appeal to the April 7, 2022 decision by the Capitola Planning Commission to grant a variance for Permit Number 21-0376 regarding proposed development at 1410 Prospect Avenue, APN 034-046-19.

After the appeal, additional information was provided by the applicant's representative, including a slope stability analysis report and revised architectural plans showing a 3'-6" setback from both the basement and ground floor to the southwestern property line. The City of Capitola provided for the RTC's review a geotechnical peer review – slope stability letter prepared by Pacific Crest Engineering, Inc.

In late August 2022, City of Capitola staff met with RTC staff regarding the RTC's April 7, 2022 appeal in light of the additional information and to discuss whether the concerns raised in the appeal could be addressed. During this meeting, the RTC indicated that the applicant's revised proposal was generally satisfactory and that the RTC would agree to retract its appeal provided the following conditions are met by the applicant's proposed development:

1. Maintenance of the bluff-top pathway and adjacent landscaped areas. In 2004, the City of Capitola entered into a license agreement to maintain and repair the walking path within the Santa Cruz Branch Rail Line (SCBRL) right-of-way (ROW) at the top of the bluff for use of pedestrian access. The license is to "construct, maintain, use, repair, renew and reconstruct the three (3) existing stairways and connecting walking path..." The RTC would like Design Permit and Variance approval conditioned to require that the proposed development does not interfere with or inhibit the City's continued maintenance of the walking path and landscaping at the top of the bluff. It is important that the walking path and landscaping at the top of the bluff is adequately maintained in order to promote stability of the bluff slope.
2. Maintenance of the bluff slope. With respect to the referenced 2004 license agreement, the position of the walking path at the top of the bluff requires that the City of Capitola maintain the bluff slope that supports the walking path. In support of this maintenance obligation:
  - a. No irrigation on, above or adjacent to the bluff slope and bluff top. Irrigation can lead to reduction of the soil strength and to an increase in the potential for a slope failure to occur, particularly when soils become saturated. Therefore, the RTC requests to



condition the proposed development that no irrigation be permitted on, above or adjacent to either the bluff slope or the bluff top.

- b. Control of surface and subsurface drainage near the bluff top and bluff slope. Control of surface and subsurface drainage and runoff is important to the stability of the bluff slope. Uncontrolled drainage is one of the leading causes of slope failures. Therefore, the RTC requests to condition the proposed development that surface and subsurface runoff from the property:
  - i. Be controlled
  - ii. Be directed to the front (northeastern) boundary of the property
  - iii. Not be permitted to pond adjacent to the bluff top or bluff slope
  - iv. Not be permitted to flow over the bluff top or bluff slope
3. Development of the property is completed such that future maintenance of the property does not require a right-of-entry from the RTC. Due to various considerations relating to operation and safety of the SCBRL, the RTC as a policy seeks to minimize and whenever practicable eliminate the need for other parties to need to access the SCBRL ROW through a right-of-entry agreement with the RTC. Therefore, the RTC would like to condition the Design Permit and Variance approval to require that the proposed development is completed in such a way that access to the SCBRL ROW is not required in order to undertake future maintenance of the structure, appurtenances, property or landscaping on the 1410 Prospect Avenue property.
4. Review of technical reports and plans. The RTC would like the Design Permit and Variance be conditioned so that City of Capitola staff must consult with the RTC during review (and prior to issuance of a Building Permit) of technical reports and plans that are required by the conditions of approval, in particular the conditions relating to review of building plans, landscape plans, geotechnical and geological reports, drainage plans, grading plans, sediment and erosion control plan, and stormwater management plan.
5. No entry into or work in SCBRL ROW without first obtaining a right-of-entry agreement. The RTC would like the proposed development conditioned such that no entry to the SCBRL ROW, including for the storage of any materials or equipment within the SCBRL ROW, is allowed unless entry is granted via a valid right-of-entry agreement by and between the entering party and the RTC.

Sincerely,

Riley Gerbrandt, P.E.  
 Associate Transportation Engineer

### Staff Responses to RTC Appeal Comments

RTC Comment 1: The RTC would like Design Permit and Variance approval conditioned to require that the proposed development does not interfere with or inhibit the City's continued maintenance of the walking path and landscaping at the top of the bluff. It is important that the walking path and landscaping at the top of the bluff is adequately maintained in order to promote stability of the bluff slope.

Staff Response: The City of Capitola and the Union Pacific Railroad Company entered into an agreement in 2004 granting the City use of, and maintenance responsibility for the pathway and three stairways. The updated design creates a three-foot, three-inch rear setback. The increased setback will allow the owner to maintain their home without entering RTC property. The development will not interfere with or inhibit the City's continued maintenance of the walking path and staircases at the top of the bluff.

RTC Comment 2: With respect to the referenced 2004 license agreement, the position of the walking path at the top of the bluff requires that the City of Capitola maintain the bluff slope that supports the walking path. In support of this maintenance obligation:

1. [The] RTC requests to condition the proposed development that no irrigation be permitted on, above or adjacent to either the bluff slope or the bluff top.
2. [The] RTC requests to condition the proposed development that surface and subsurface runoff from the property:
  - a. Be controlled
  - b. Be directed to the front (northeastern) boundary of the property
  - c. Not be permitted to pond adjacent to the bluff top or bluff slope
  - d. Not be permitted to flow over the bluff top or bluff slope

Staff Response: As a policy, the City seeks to minimize drainage onto adjacent properties. The proposed landscape plan allows for infiltration and directs structural runoff away from the bluff. The following existing and recommended conditions apply to these construction and post-construction considerations:

Condition 10. 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.

Condition 11. 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); including a detail of the pervious pavers and drainage emitter as shown on plans 8/24/22. (Staff recommends adding the underlined portion to the existing Condition 11.)

[Recommended] Condition 16. Structural and surface runoff shall flow towards the Prospect Avenue frontage and shall not flow onto RTC property to the rear.

RTC Comment 3: [The] RTC as a policy seeks to minimize and whenever practicable eliminate the need for other parties to need to access the SCBRL ROW through a right-of-entry agreement with the RTC. Therefore, the RTC would like to condition the Design Permit and Variance approval to require that the proposed development is completed in such a way that access to the SCBRL ROW is not required in order to undertake future maintenance of the structure, appurtenances, property or landscaping on the 1410 Prospect Avenue property.

Staff Response: The project approval does not grant any present or future right of access or improvement. As proposed, the development has been designed in a manner that future maintenance should not necessitate access to RTC property. Staff does not recommend adding a condition to address this request. The RTC, not the City, holds the authority to enforce access onto the railway.

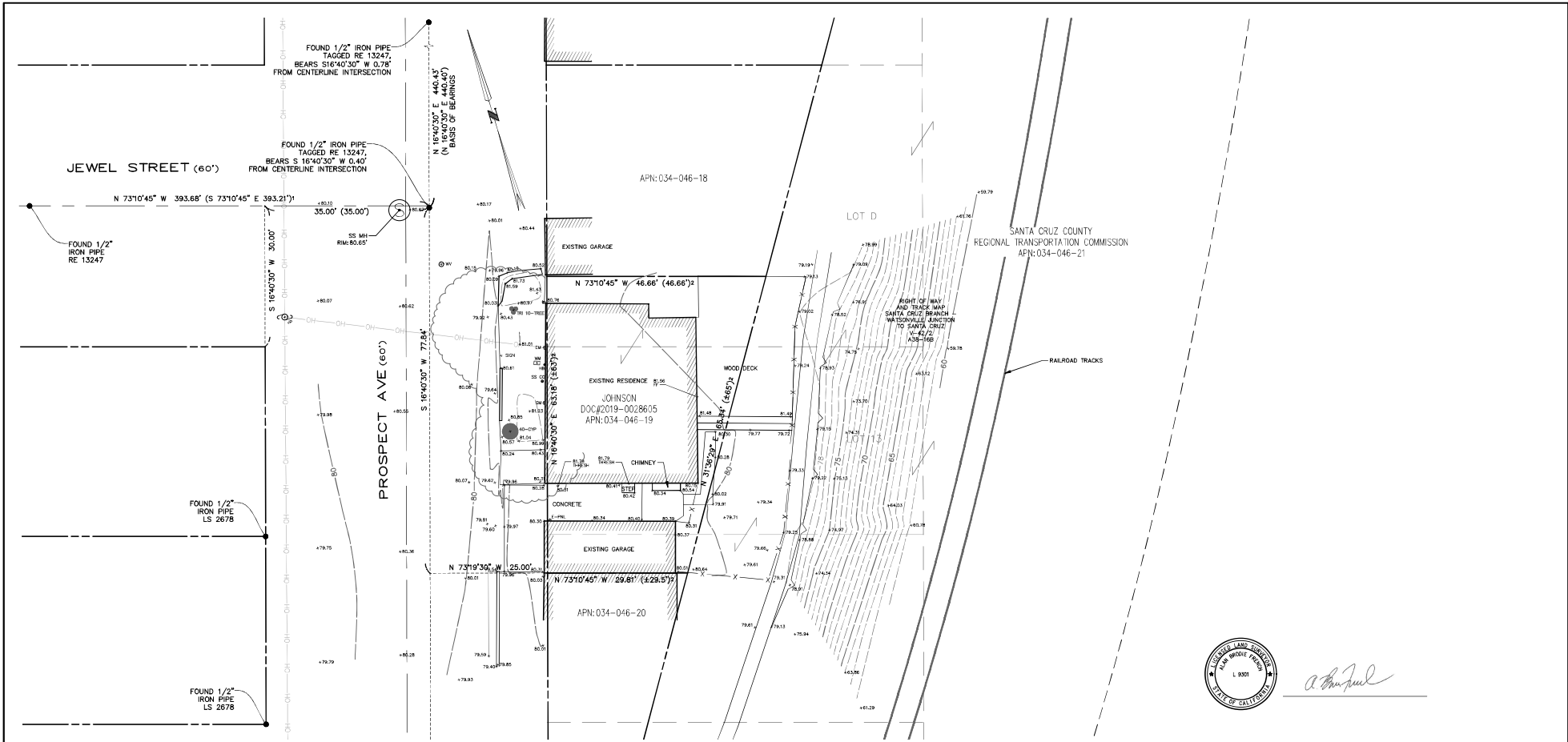
RTC Comment 4: The RTC would like the Design Permit and Variance be conditioned so that City of Capitola staff must consult with the RTC during review (and prior to issuance of a Building Permit) of technical reports and plans that are required by the conditions of approval, in particular the conditions relating to review of building plans, landscape plans, geotechnical and geological reports, drainage plans, grading plans, sediment and erosion control plan, and stormwater management plan.

Staff Response: Staff recommends adding Condition #18: "Prior to issuance of a building permit, the City shall consult with the RTC with respect to the required plans and technical reports associated with this permit. This is for informational purposes only. The RTC has no formal review authority over the application."

RTC Comment 5: The RTC would like the proposed development conditioned such that no entry to the SCBRL ROW, including for the storage of any materials or equipment within the SCBRL ROW, is allowed unless entry is granted via a valid right-of-entry agreement by and between the entering party and the RTC.

Staff Response: Staff recommends adding Condition #17: "Prior to entry or any equipment or material storage within the SCBRL (RTC) right-of-way, the applicant shall first obtain a right-of-entry agreement from the RTC."





*A. Paul*

**BASIS OF BEARINGS**

BEARINGS FOR THIS SURVEY ARE BASED ON THE MONUMENT LINE ALONG PROSPECT AVENUE AS SHOWN ON THAT RECORD OF SURVEY FILED IN VOLUME 48 OF MAPS, PAGE 53, SANTA CRUZ COUNTY RECORDS AND WAS ESTABLISHED BETWEEN MONUMENTS FOUND AS SHOWN HEREON.

SOUTH 16°40'30" WEST

**BASIS OF ELEVATIONS**

ELEVATIONS FOR THIS SURVEY ARE BASED ON A TIE TO THE SANTA CRUZ COUNTY BENCHMARK #61, LOCATED AT THE NORTHEAST CORNER OF GARNET STREET AND PROSPECT AVENUE IN CAPITOLA.

BENCHMARK ELEVATION: 86.05' (NAVD88)

**UTILITY NOTE**

UTILITY LOCATIONS ARE APPROXIMATE. UTILITIES SHOWN ON THIS MAP WERE DETERMINED FROM SURFACE EVIDENCE OF UNDERGROUND LOCATIONS, DURING A SURVEY BY ALPHA LAND SURVEYS IN MARCH 2022.

**SURVEYORS NOTES**

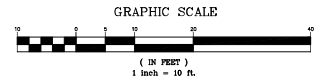
- BOUNDARY LINES DELINEATED ON THIS MAP ARE BASED ON THE SURVEYOR'S OPINION UTILIZING FOUND PHYSICAL EVIDENCE AND RECORDED MAPS AND DEEDS AS LISTED IN THE REFERENCE DOCUMENTS. NO LIABILITY IS ASSUMED BY ALPHA LAND SURVEYS FOR THE EXISTENCE OF ANY EASEMENTS, ENCUMBRANCES, DISCREPANCIES IN BOUNDARY OR TITLE DEFECTS NOT MENTIONED IN SAID DOCUMENTS AND THEREFORE NOT SHOWN ON THIS DRAWING.
- A TITLE REPORT WAS NOT PROVIDED FOR THIS SURVEY.
- NO REPRESENTATION IS MADE AS TO ANY PRESCRIPTIVE OR OTHER RIGHTS TO LANDS INCLUDED IN THIS SURVEY.
- NUMEROUS BUILDINGS ALONG EASTERN SIDE OF PROSPECT AVENUE ENCRACH INTO RIGHT OF WAY.

**LEGEND**

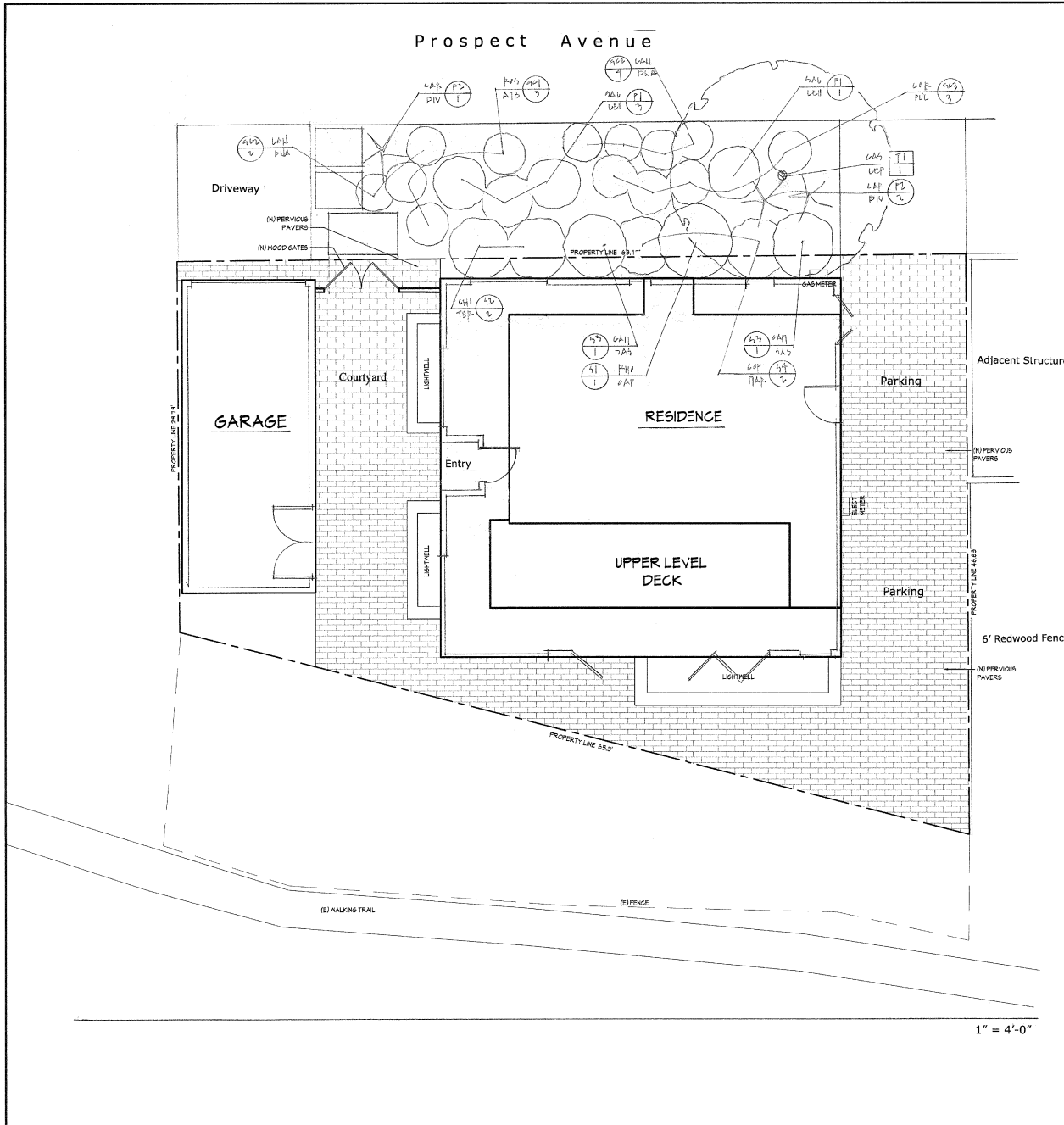
- PROPERTY LINE
  - - - EASEMENT LINE
  - OLD PROPERTY LINE
  - CENTERLINE
  - - - MONUMENT LINE OR TIE LINE
  - - - OVERHEAD UTILITY LINE
  - - - TOP OF BANK
  - DISTANCE MEASURED
  - RECORD DATA PER 9-M-19
  - RECORD DATA PER 48-M-53
  - RECORD DATA PER DOC #2019-0028605
  - FOUND MONUMENT, AS NOTED
  - TREE, AS NOTED
  - SPOT ELEVATION
- 100  
(100)  
(100)<sup>1</sup>  
(100)<sup>2</sup>
- ○
- CONTOUR INTERVAL = 1 FOOT  
DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF

**ABBREVIATIONS**

- |        |                          |
|--------|--------------------------|
| APN    | ASSESSOR'S PARCEL NUMBER |
| CO     | CLEANOUT                 |
| CYP    | CYPRESS                  |
| DOC    | DOCUMENT                 |
| EM     | ELECTRIC METER           |
| FF     | FINISHED FLOOR           |
| FH     | FIRE HYDRANT             |
| GM     | GAS METER                |
| HB     | HOSE BIB                 |
| ICV    | IRRIGATION CONTROL VALVE |
| UP     | UTILITY POLE             |
| SD     | STORM DRAIN              |
| SS     | SANITARY SEWER           |
| THRESH | THRESHOLD                |
| TRI    | TRIPLE                   |
| WM     | WATER METER              |
| WV     | WATER VALVE              |



<b>ALPHA LAND SURVEYS, INC.</b>			
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 SURVEY LANDS OF JOHNSON 1410 PROSPECT AVE CAPITOLA, CA	SHEET 1 OF ONE
1" = 10'	DATE: 3/29/22	JOB#: 2022-045	



**Plant Legend**

Sym	Botanical Name	Common Name	Size	Quan
<b>Trees</b>				
T1	Caselle leptophylla	Gold Medallion Tree	15GC	1
<b>Shrubs</b>				
S1	Rhodocoma capensis	Cape Rest	5GC	1
S2	Choysia ternata	White Mexican Orange	5GC	3
S3	Camellia sasanqua 'Sersugakka'	White Sasanqua Camellia	5GC	2
S4	Coprosma 'Marble Queen'	Green/White Variegated Mirror Shrub	5GC	2
<b>Perennials</b>				
P1	Salvia leucantha	Purple Mexican Sage	1GC	4
P2	Carex divulsa	Berkeley Sedge	1GC	3
<b>Groundcover</b>				
GC1	Rosa 'Amber Flower Carpet'	Amber Flower Carpet Rose	2GC	3
GC2	Lantana 'Dwarf White'	White Trailing Lantana	1GC	6
GC3	Correa pulchella	Light Pink Australian Fuchsia	1GC	4

**Notes**

- PLANTING AREA PREPARATION**
1. Remove soil as required to accommodate soil amendments and ensure positive drainage away from all structures.
  2. Cultivate all planting areas to a minimum of 8" incorporating a minimum of four cubic yards per 1,000 square feet of permeable area into the soil. Soils with greater than 6% organic matter in the top 6 inches of soil are exempt from adding compost and filling.
  3. After the completion of all grading and underground construction, all planting areas shall be high graded, to smooth, even surfaces with positive drainage per existing topography or to drainage swales or structures.
  4. Existing plants to be saved shall be protected from injury.
  5. No stockpiles of plants or materials to be saved shall be located within the drip line of any existing tree to be saved.
- QUALITY OF PLANT MATERIALS**
1. All plant material shall be nursery grown, healthy and free from disease and pests.
  2. Plants not conforming to common nursery standards or found unacceptable by the Landscape Architect will be considered defective and shall be replaced at no additional cost to the owner.
  3. Plants shall be protected from drying out, wind burn and injury during handling and storage.
- INSTALLATION**
1. Planting holes shall be as deep as the root ball and 3 times the width of the root ball.
  2. Each plant shall have a pre made or site made pophote basket of the appropriate size.
  3. Backfill for the planting holes shall be 80% site soil and 20% 50-50 blend mushroom compost, equal chicken manure or other approved material.
  4. All planting areas shall be mulched with 3" of redwood bark, fir bark or other approved material, except in turf areas, creeping or rooting groundcovers, or direct seeding applications.
  5. All trees shall be staked with 2, 2" x 10' lodge pole pine tree stake outside the root ball and secured with two rubber tree ties.

831.426.6845  
**Ellen Cooper**  
 Landscape Architect  
 Ca. Lic. #2937

**JOHNSON RESIDENCE**  
 1410 PROSPECT AVE.  
 CAPITOLA, CA 95010

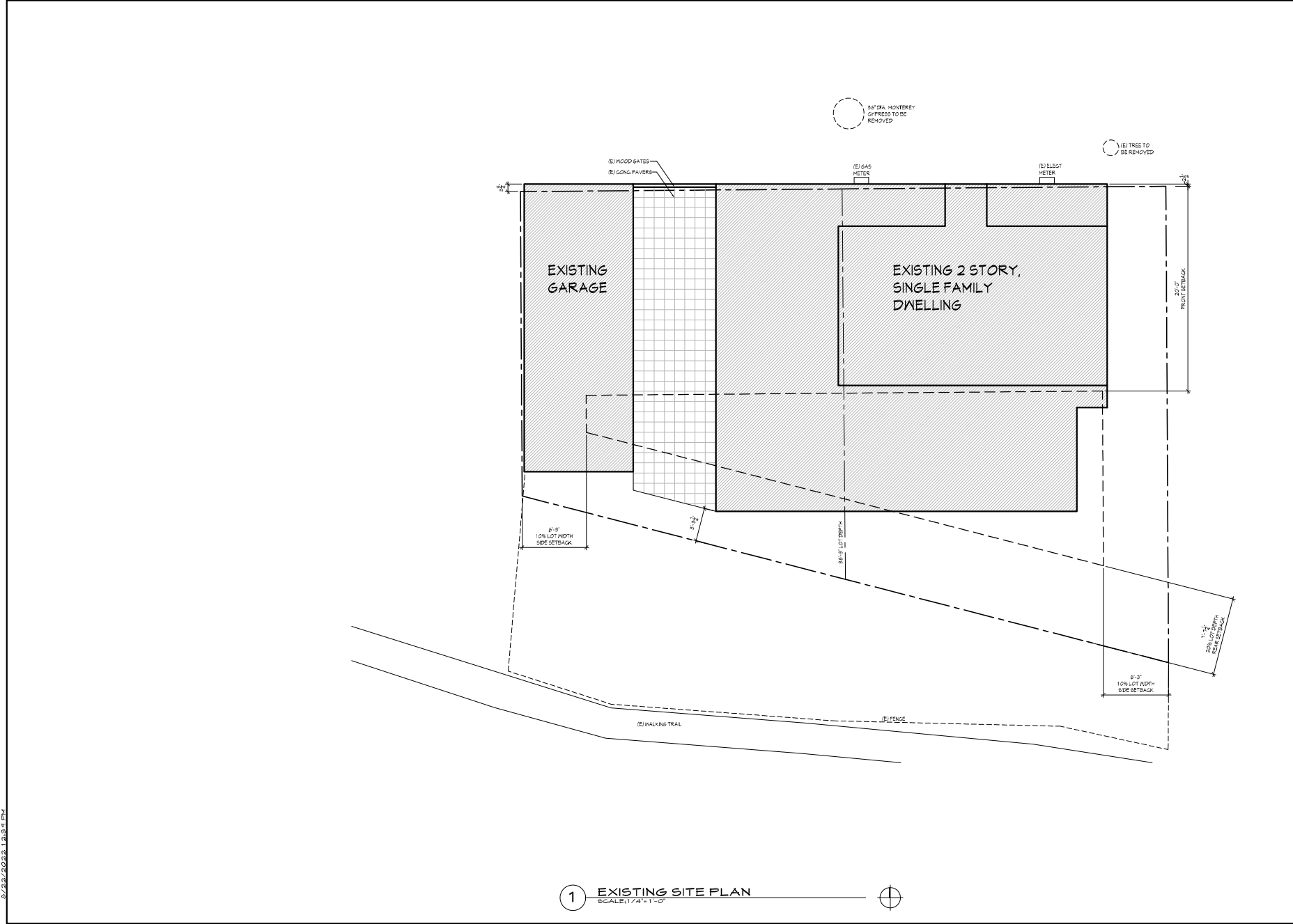
DATE	03-04-06-19
DESCRIPTION	
SCHEMATIC DESIGN	
DESIGN DEVELOPMENT	
PLANNING SUBMITTAL	AUG. 24, 2021
BUILDINGS SUBMITTAL	
REVISIONS:	
PLANNING REVISIONS	FEB. 05, 2022
PLANNING REVISIONS	MAR. 25, 2022
PLANNING REVISIONS	AUG. 24, 2022

*g. De. 20*

L1





ISSUE	03.4.022.1.0
ISSUE DESCRIPTION	
SCHEMATIC DESIGN	
DESIGN DEVELOPMENT	
PLANNING SUBMITTAL	AUG. 24, 2021
BUILDING PERMITTING	
REVISIONS	
PLANNING REVISIONS	FEB. 9, 2022
PLANNING REVISIONS	MAR. 29, 2022
PLANNING REVISIONS	AUG. 24, 2022



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

8/23/2022 1:25:51 PM

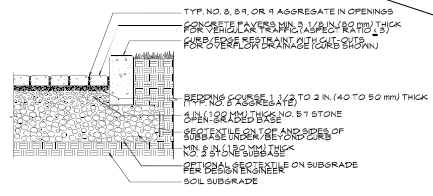
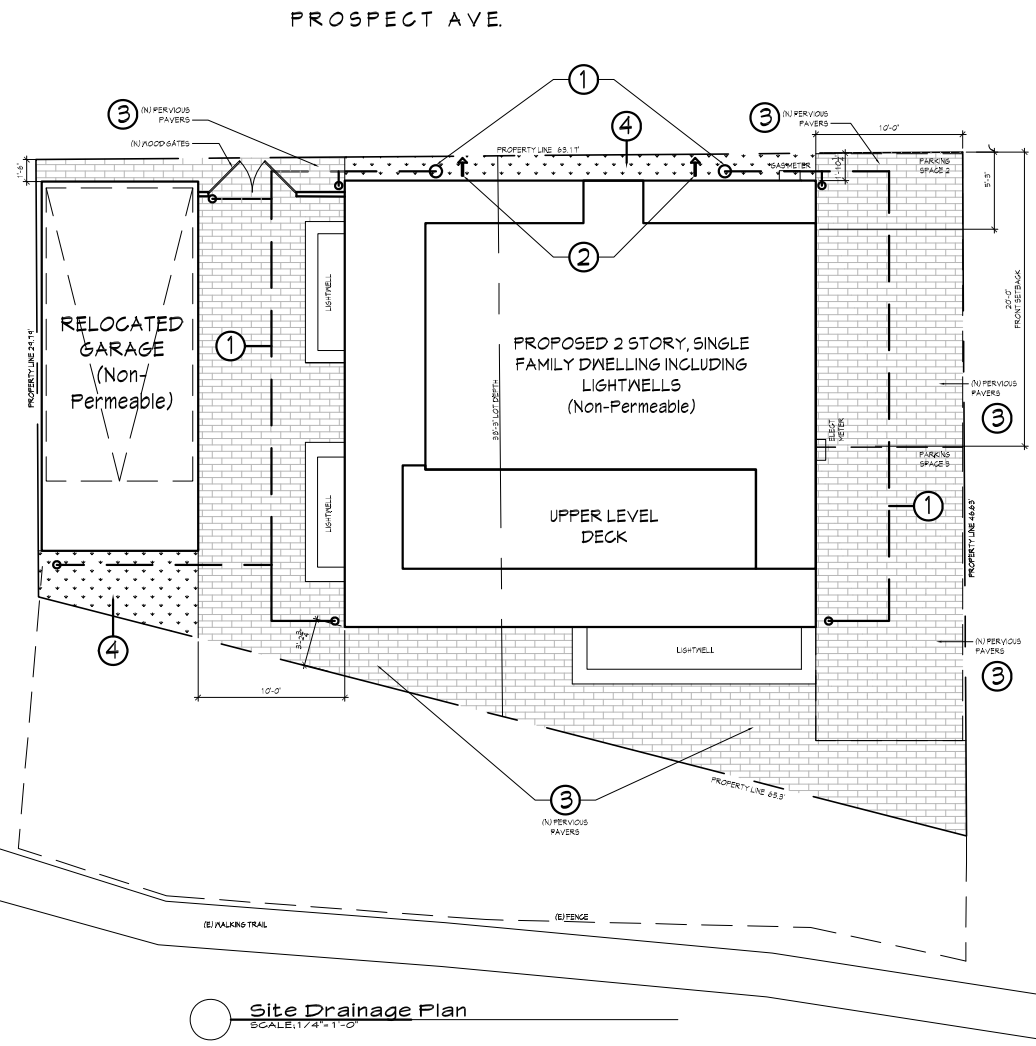
- ① Roof Downspout connected to 3" Diameter PVC D2 T29 Drain Pipe with NDS Pop-Up Drainage Emitter at Outfall.
- ② Direction of Surface Runoff
- ③ Pervious Paver Detail 
- ④ Planting Area 

**STORMWATER PROJECT INFORMATION**

1. Project Type: Residential - Detached Single Family Home
2. Tier: Basic (2,800 SF of New/Replaced Impervious Area)
3. Description: Reconstruction of an existing residence and detached garage.
4. Total Project Site Area: 2,415 SF
5. Amount of existing (pre-project) impervious surface area (e.g. existing buildings, paving (hardscapes)): 1,720 SF
6. Amount of proposed impervious surface area (e.g. paving) of replacing a building or SF
7. Amount of new impervious surface area created (e.g. new building addition and/or paving): Reduced by 424 SF via Smaller Building Footprint and Permeable Pavers Use.
8. Total Proposed (post-project) impervious surface area: 1,346 SF

**GENERAL NOTES**

1. All improvements shall be constructed in accordance with the project plans.
2. The Contractor shall verify all existing conditions, elevations, dimensions, and construction in the field prior to construction. If any discrepancies are noted, the contractor shall notify the engineer immediately for direction.
3. A minimum of 48 hours prior to construction, the Contractor shall notify underground Service Alert (USA) at 811 for existing utility locations.
4. The Contractor shall not commence work until after a pre-construction meeting has been held with the Owner and City of Capitola, and after a notice to proceed has been issued.
5. Traffic control during construction shall be the contractor's responsibility, and shall be in accordance with the approved plan submitted to the City of Capitola.
6. The Contractor shall keep existing streets free from dirt and debris during all phases of construction.
7. The Contractor shall maintain access to properties along Prospect Avenue throughout the duration of construction.
8. The Contractor shall repair any damage or interruption of public utilities, water lines, or irrigation systems immediately at no expense to the City of Capitola.
9. The Contractor is responsible for matching existing streets, surrounding landscape, and other improvements with a smooth transition in paving and grading, etc., and to avoid any abrupt or apparent changes in grades or cross slopes, low points or hazardous conditions.
10. The Contractor shall comply with the rules and regulations of the City of Capitola, County of Santa Cruz, State of California, and SDGS&D.
11. All existing irrigation, landscape materials, pavement, gutter, and other improvements, that are not to be removed but are damaged during construction, shall be replaced or restored to existing condition at no additional expense and the satisfaction of the owner.



**NOTES**

1. 2.575 IN (65 MM) THICK PAVERS MAY BE USED IN PEDESTRIAN AND RESIDENTIAL APPLICATIONS.
2. NO. 2 STONES SUBGRADE THICKNESS VARIES BY LOCAL ORDINANCE.
3. CONSULT FOR PERMEABLE INTERLOCKING CONCRETE PAVEMENT MANUAL.
4. NO. 2 STONES MAY BE SUBSTITUTED WITH NO. 3 OR NO. 4 STONES.

PERMEABLE PAVEMENT WITH FULL INFILTRATION TO SOIL SUBGRADE

SCALE: AS SHOWN  
NO SCALE

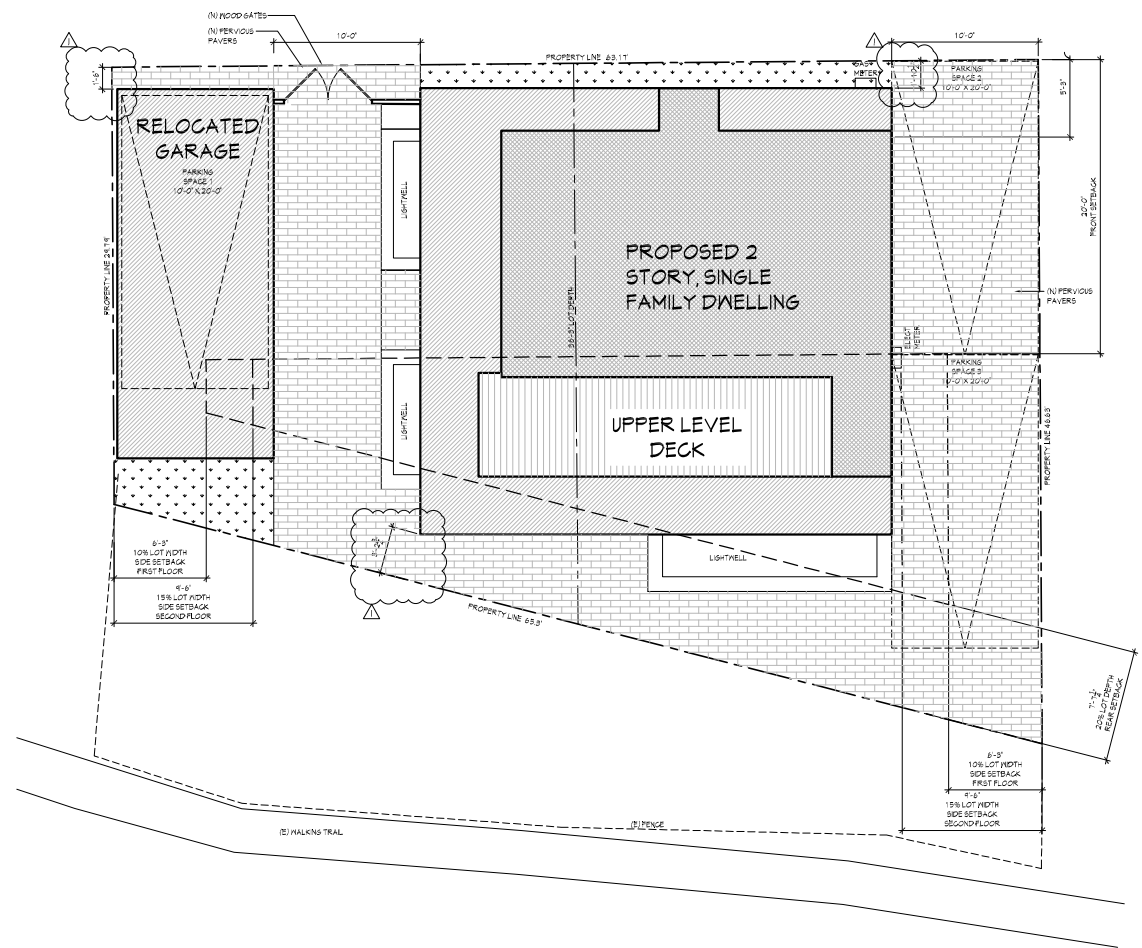
**Site Drainage Plan**  
SCALE: 1/4" = 1'-0"

Alexander Michael Johnson  
Registered Professional Engineer  
Civil - California No. 56638

JOHNSON RESIDENCE  
1410 PROSPECT AVE.  
CAPITOLA, CA 95010

NO.	DATE	DESCRIPTION
1	08/04/2021	ISSUED FOR PERMITS
2	08/04/2021	PERMITS RECEIVED
3	08/24/2021	PERMITS EXPIRED
4	08/24/2022	PERMITS RENEWED

D1



1 PROPOSED SITE PLAN  
SCALE: 1/4" = 1'-0"

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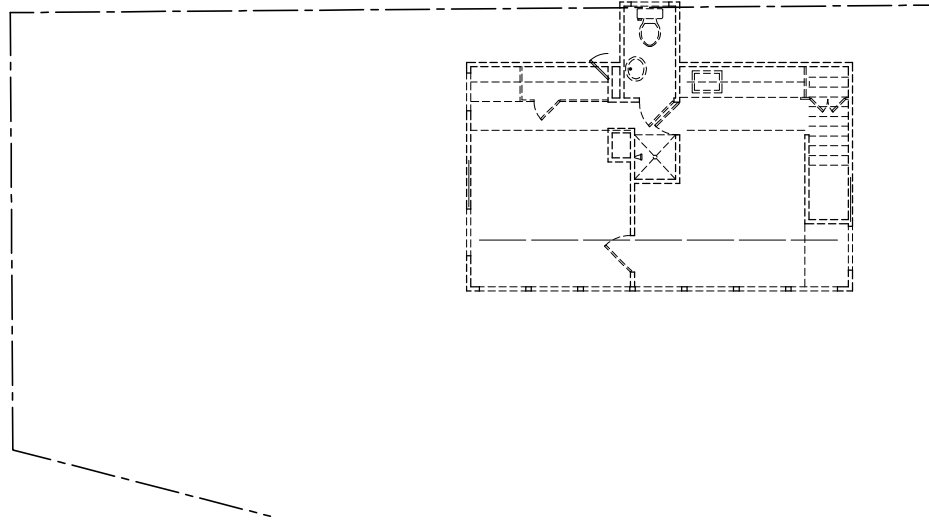
**DEREK VAN ALSTINE**  
RESIDENTIAL DESIGN INC.  
195 HERRIDGE AVENUE, STE 100, OAKLAND, CALIFORNIA  
(925) 424-2720

**DVRD**  
Derek Van Alstine Residential Design  
195 HERRIDGE AVENUE, STE 100, OAKLAND, CALIFORNIA  
(925) 424-2720

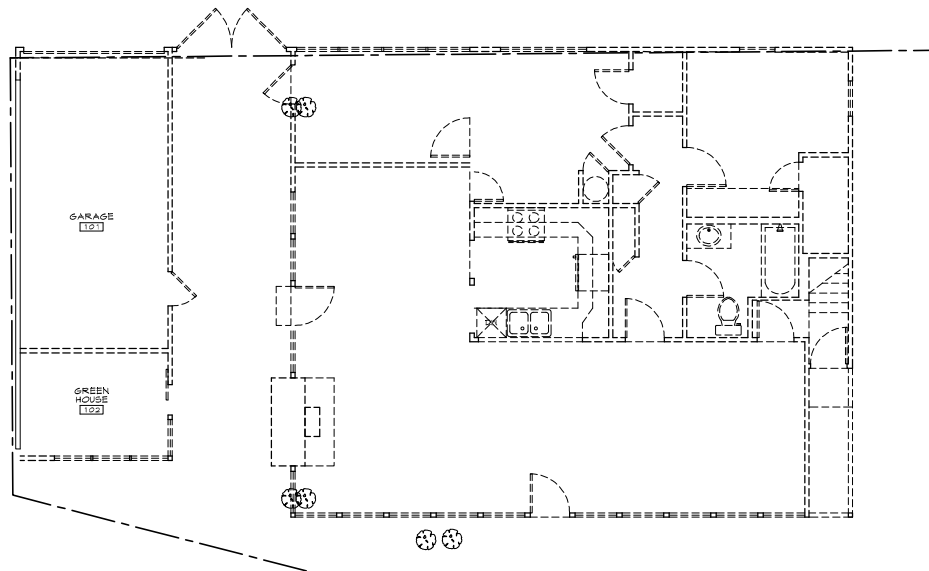
**JOHNSON RESIDENCE**  
1410 PROSPECT AVE.  
CAPITOLA, CA 95010

DATE	ISSUE DESCRIPTION
08.24.2021	PLANS SUBMITTED
09.09.2022	PLANS REVISIONS
03.28.2022	PLANS REVISIONS
08.24.2022	PLANS REVISIONS

SHEET  
**A2**



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



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

WALL LEGEND	
	NEW 2x4 STUD WALL
	NEW 2x6 STUD WALL
	EXISTING WALLS TO BE REMOVED
	EXISTING WALLS TO REMAIN

8/23/2023 1:42 PM

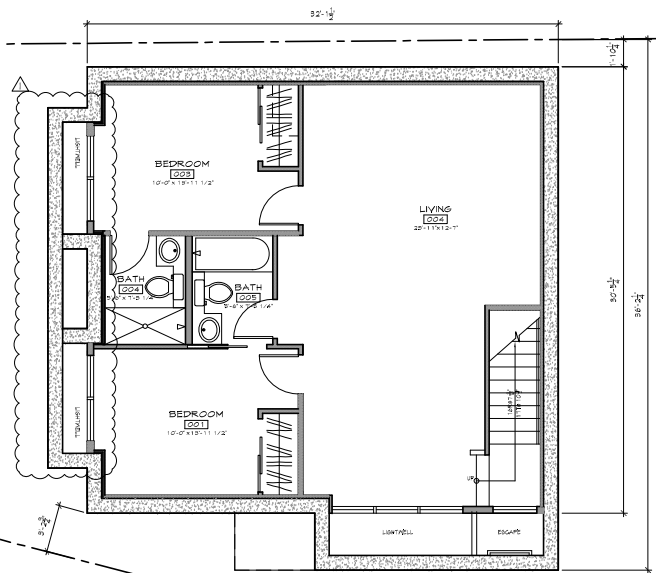
DEREK VAN ALSTINE  
RESIDENTIAL DESIGN INC.  
159 SEABRIGHT AVENUE, SUITE 100  
COLUMBIA, CALIFORNIA 95026  
(530) 938-4465 FAX



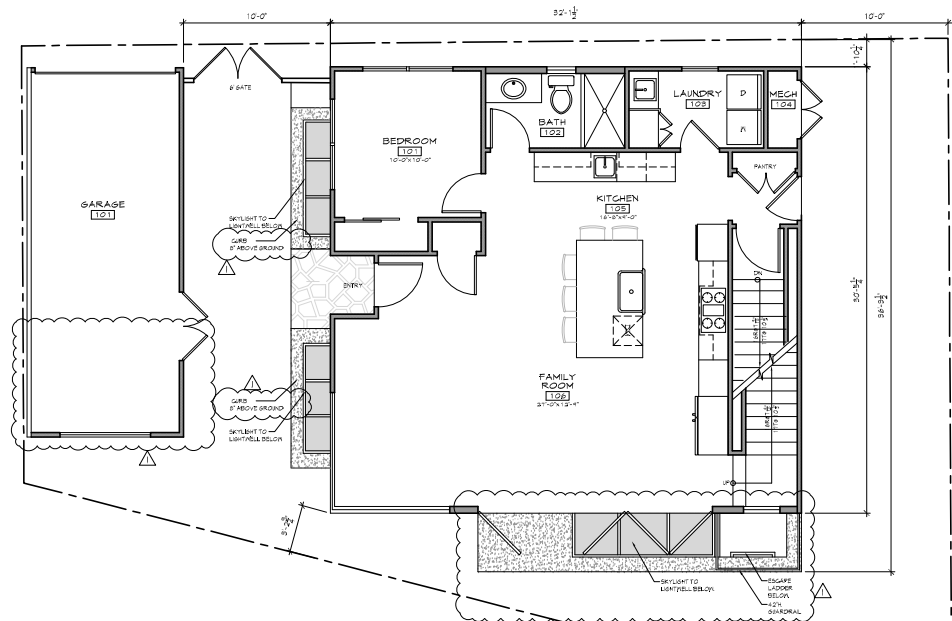
JOHNSON RESIDENCE  
1410 PROSPECT AVE.  
CAPITOLA, CA 95010

NO.	DATE	DESCRIPTION
034	02.18	
		ISSUE DESCRIPTION
		REVISIONS
		DESIGN DEVELOPMENT
		PLANNING SUBMITTAL
	AUG. 24, 2021	
		BUILDING STRATEGY
		REVISIONS
	FEB. 04, 2022	PLANNING REVISIONS
	MAR. 29, 2022	PLANNING REVISIONS
	AUG. 24, 2022	PLANNING REVISIONS

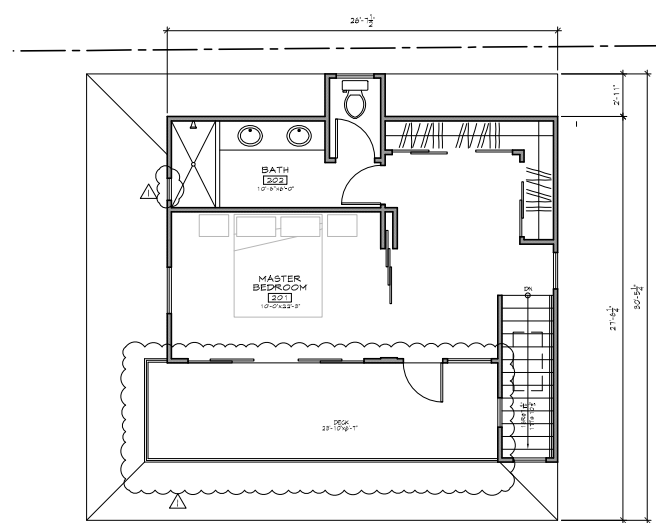
EXISTING FLOOR PLANS  
**A3**



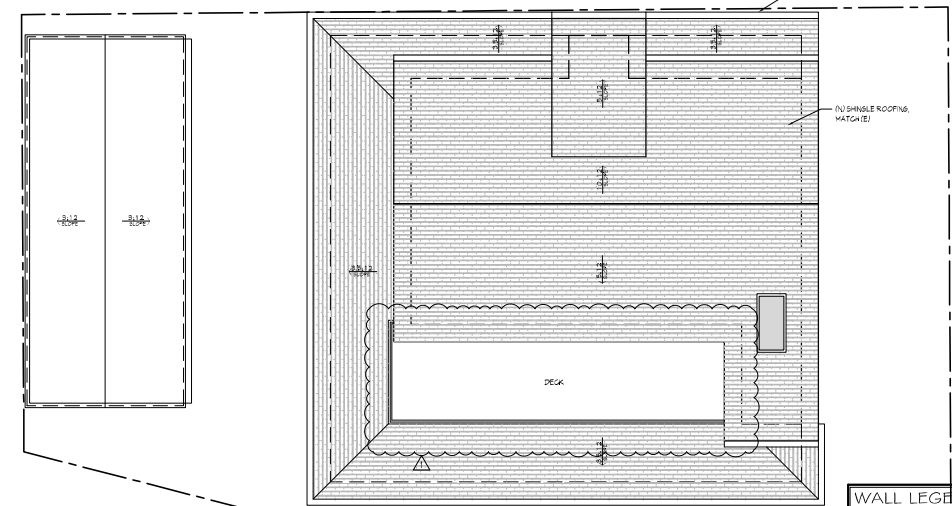
**1 BASEMENT FLOOR PLAN**  
SCALE: 1/4" = 1'-0"



**2 LOWER LEVEL FLOOR PLAN**  
SCALE: 1/4" = 1'-0"



**3 UPPER LEVEL FLOOR PLAN**  
SCALE: 1/4" = 1'-0"

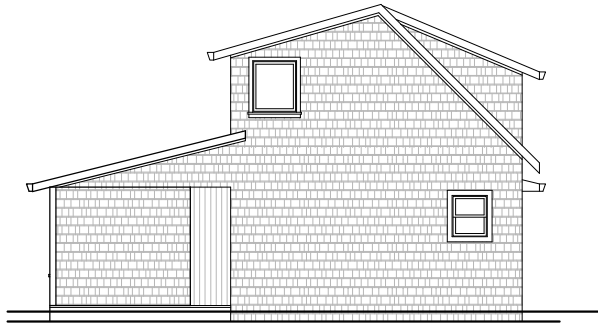


**4 ROOF PLAN**  
SCALE: 1/4" = 1'-0"

**WALL LEGEND**

	NEW 2x4 STUD WALL
	NEW 2x6 STUD WALL
	EXISTING WALLS TO BE REMOVED
	EXISTING WALLS TO REMAIN

8/23/2022 2:31 PM



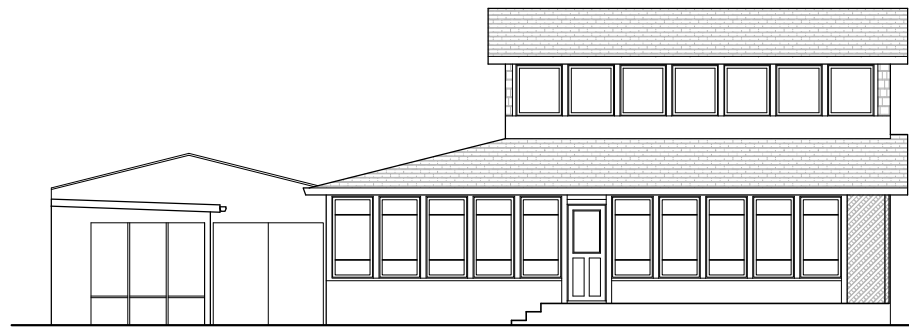
2 EXISTING NORTH ELEVATION  
SCALE: 1/4" = 1'-0"



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



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



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

DEREK VAN ALSTINE  
RESIDENTIAL DESIGN INC.  
1519 SEABRIGHT AVENUE, SUITE 100, CALICORNIA,  
CALIFORNIA 94008-4465



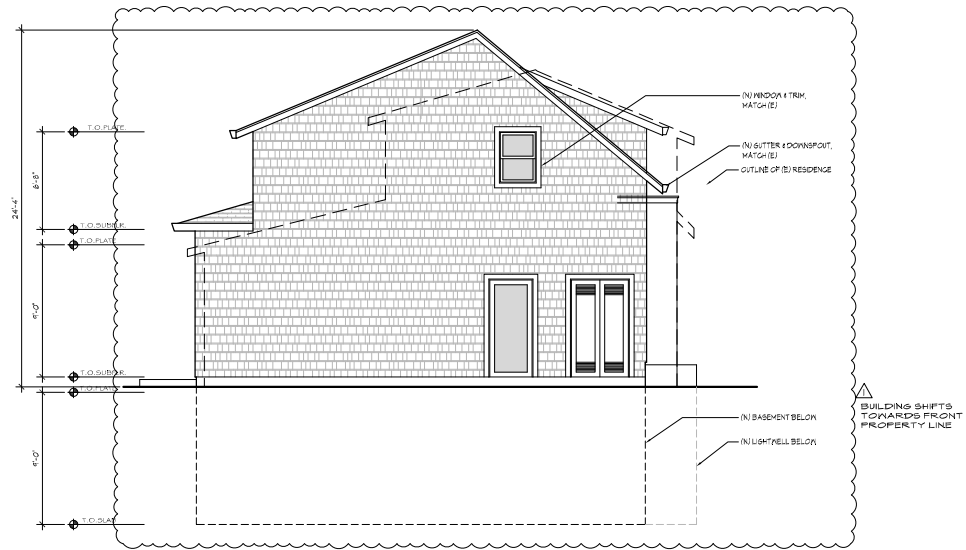
JOHNSON RESIDENCE  
1410 PROSPECT AVE.  
CAPITOLA, CA 95010

03-4-02-18	ISSUE DESCRIPTION
	SCHEDULED PERIOD
	DEVELOPER/DEVELOPER
	PLANNING SUBMITTAL
	AUG. 24, 2021
	BUILDING STRATEGY
	REVISIONS
	REVISIONS
	FEB. 9, 2022
	REVISIONS
	MAR. 29, 2022
	REVISIONS
	AUG. 24, 2022

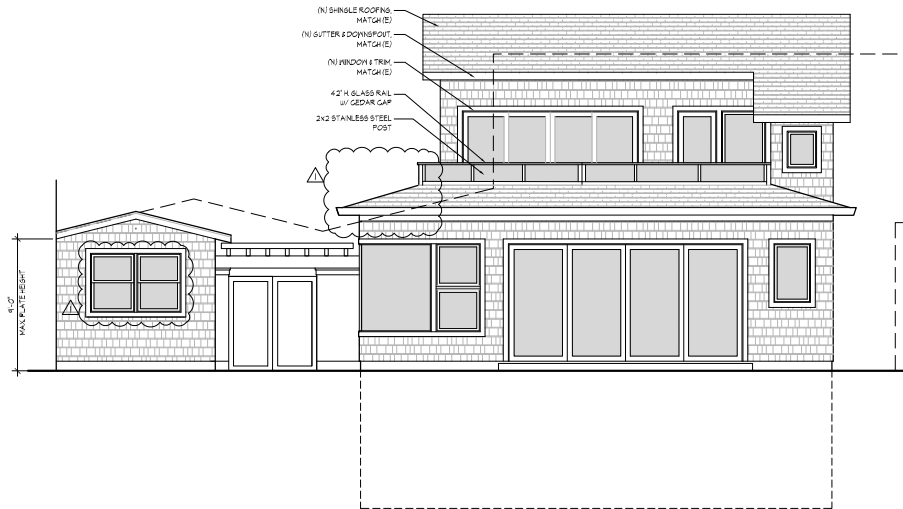
EXTERIOR ELEVATIONS

A5

8/23/2023 1:02 PM



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



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

8/23/2022 3:23 PM

**DEREK VAN ALSTINE**  
RESIDENTIAL DESIGN INC.  
195 NEUBERGER AVENUE, SUITE 100, OAKLAND, CALIFORNIA  
(510) 424-8468 FAX  
(510) 424-8277 PHONE

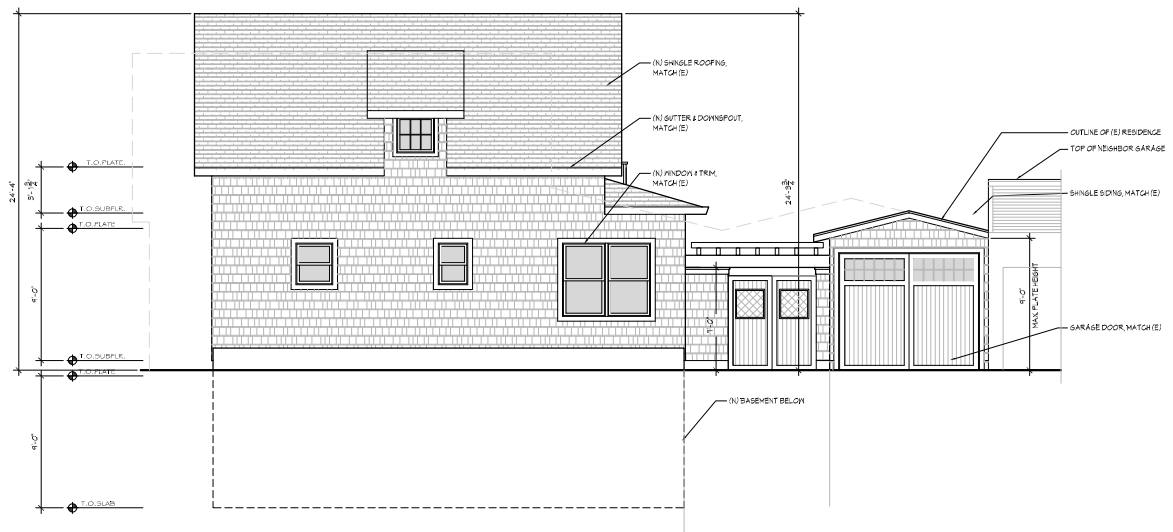
**DVRD.**  
Derek Van Alstine  
Residential Design  
Inc.  
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**JOHNSON RESIDENCE**  
1410 PROSPECT AVE.  
CAPITOLA, CA 95010

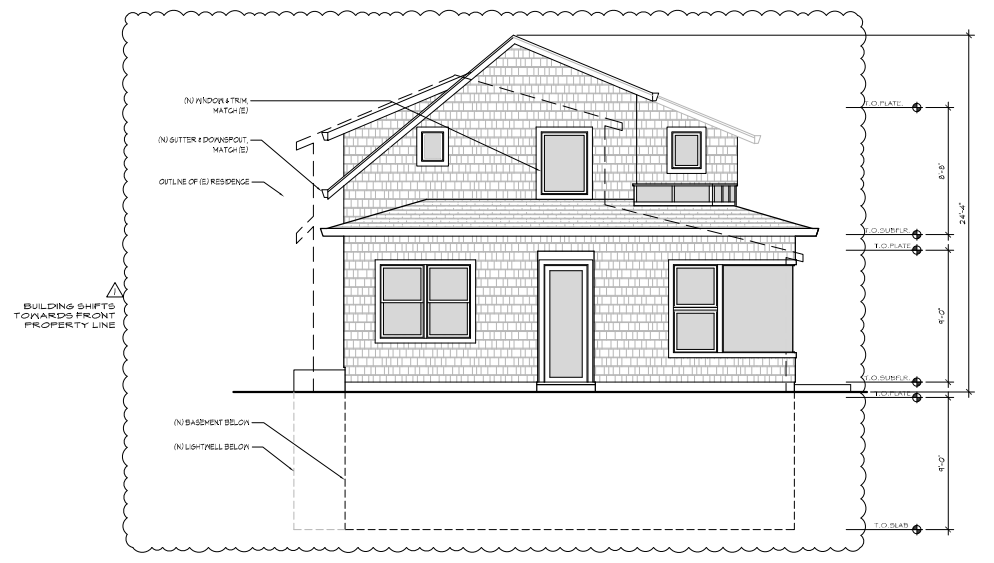
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	99.0
	100.0

EXTERIOR ELEVATIONS

**A6**



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



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

8/23/2023 12:13:11 PM

**DEREK VAN ALSTINE**  
RESIDENTIAL DESIGN INC.  
1935 NEUBERGER AVENUE, SUITE 100, OAKLAND, CALIFORNIA  
(925) 424-4444 FAX: (925) 424-4444

**DVRD**  
DEREK VAN ALSTINE  
REGISTERED ARCHITECT  
ALL RIGHTS RESERVED

**JOHNSON RESIDENCE**  
1410 PROSPECT AVE.  
CAPITOLA, CA 95010

DATE	08-24-2023
ISSUE DESCRIPTION	
REVISIONS	
DESIGN DEVELOPMENT	
PLANNING SUBMITTAL	AUG. 24, 2021
BUILDING SUBMITTAL	
DESIGNER	JAV
PLANNING REVISIONS	FEB. 9, 2022
PLANNING REVISIONS	MAR. 28, 2022
BUILDING REVISIONS	AUG. 24, 2022

EXTERIOR ELEVATIONS  
**A7**



Development Standards			
Building Height			
R-1 Regulation	Existing		Proposed
25 ft.	21 ft. 7 in.		24 ft. 4 in.
Floor Area Ratio (FAR)			
	Existing		Proposed
<b>Lot size</b>	2,416 sq. ft.		2,416 sq. ft.
<b>Maximum Floor Area Ratio</b>	58% (Max 1,401 sq. ft.)		58% (Max 1,401 sq. ft.)
First Story Floor Area	1,197 sq. ft.		978 sq. ft.
Second Story Floor Area	409 sq. ft.		444 sq. ft.
Basement	N/A		796 sq. ft. Exempt from floor area, Included in parking calc.
Detached Garage	300 sq. ft. -250 sq. ft. exempt		280 sq. ft. -250 sq. ft. exempt
<b>Total FAR</b>	68.5% (1,656 sq. ft.)		59.6% (1,440 sq. ft.) <b>Variance Requested</b>
Setbacks			
	R-1 regulation		Existing
			Proposed
<b>Front Yard 1<sup>st</sup> Story</b>	15 ft.		7 in. into ROW 1 ft. 7 in. <b>Variance Requested</b>
<b>Front Yard 2<sup>nd</sup> Story</b>	20 ft.		7 in. into ROW 1 ft. 7 in. <b>Variance Requested</b>
<b>Side Yard 1<sup>st</sup> Story</b>	10% lot width	Lot width 64 ft. 3 in. 6 ft. 5 in. min.	North: 5 ft. 9 in. South: 19 ft. 1 in. North: 10 ft. South: 20 ft. 11 in.
<b>Side Yard 2<sup>nd</sup> Story</b>	15% of width	Lot width 64 ft. 3 in. 9 ft. 8 in. min.	North: 5 ft. 9 in. South: 31 ft. 2 in. 10 ft. South: 26 ft. 5 in.
<b>Rear Yard 1<sup>st</sup> and 2<sup>nd</sup> Story</b>	20% of parcel depth	Lot depth 38 ft. 2 in. 7 ft. 7 in. min.	1st: 2 ft. 10 in. 2nd: 19 ft. 1 in. 1st: 3 ft. 3 in. <b>Variance Requested</b> 2nd: 14 ft. 1 in. 8 ft. 1 in. (Deck)
Detached Garage			
	R-1 Regulation		Existing
			Proposed
Height	12 ft. when less than 8 feet from side property line		11 ft. 9 in. 10 ft. 11 in.
Front	40 ft.		1 ft. into ROW 1 ft. 6 in. <b>Existing nonconforming</b>
Side	3 ft.		North: 52 ft. 1 in. South: 0 ft. North: 52 ft. 2 in. South: 3 in. <b>Existing nonconforming</b>
Rear	3 ft.		1 ft. 3 ft.

<b>Parking</b>			
2,001 – 2,600 sq. ft.: 3 per unit, 1 covered	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
	3 spaces total 1 covered 2 uncovered	1 spaces total 1 covered 0 uncovered	3 spaces total 1 covered 2 uncovered
<b>Underground Utilities: Required with 25% increase in area</b>			Yes

**GEOTECHNICAL INVESTIGATION  
For  
PROPOSED SINGLE-FAMILY RESIDENCE  
1410 Prospect Avenue  
APN 034-046-19  
Capitola, California**

**Prepared  
For  
ALEX AND AMY JOHNSON  
Capitola, California**

**Prepared By  
DEES & ASSOCIATES, INC.  
Geotechnical Engineers  
Project No. SCR-1655  
JULY 2021**



July 27, 2021

Project No. SCR-1655

ALEX AND AMY JOHNSON  
1410 Prospect Avenue  
Santa Cruz, California 95010

Subject: Geotechnical Investigation

Reference: Proposed Single-Family Residence  
1410 Prospect Avenue  
APN 034-046-19  
Capitola, California

Dear Mr. and Mrs. Johnson:

As requested, we have completed a geotechnical investigation for the new single-family residence proposed at the referenced site. The purpose of our investigation was to evaluate the soil conditions in the vicinity of the proposed residence and provide geotechnical recommendations for the development.

This report presents the results, conclusions, and recommendations of our investigation. If you have any questions regarding this report, please call our office.

Very truly yours,

**DEES & ASSOCIATES, INC.**

*Rebecca L Dees*

Rebecca L. Dees  
Geotechnical Engineer  
G.E. 2623

*C. Scott Clark*  
C. Scott Clark (Jul 27, 2021 13:07 PDT)

C. Scott Clark  
Staff Engineer  
E.I.T. 162365



Copies: 1 to Addressee

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## GEOTECHNICAL INVESTIGATION

### **Introduction**

This report presents the results of our geotechnical investigation for the new single-family residence proposed at 1410 Prospect Avenue in Capitola, California.

### **Purpose and Scope**

The purpose of our investigation was to explore and evaluate surface and near surface soil conditions in the vicinity of the new residence and provide geotechnical recommendations for design and construction of the development.

The specific scope of our services was as follows:

1. Site reconnaissance and review of available data in our files pertinent to the site and vicinity.
2. Exploration of subsurface conditions consisting of logging and sampling of two (2) exploratory borings drilled to depths of 1.5 and 28.5 feet.
3. Laboratory testing to evaluate the engineering properties of the subsoils.
4. Engineering analysis and evaluation of the resulting field and laboratory test data. Based on our findings, we have developed geotechnical design criteria for foundations, retaining walls, general site grading, concrete slabs-on-grade and general site drainage.
5. Preparation of this report presenting the results of our investigation.

### **Project Location and Description**

The project site is located at 1410 Prospect Avenue in Capitola, California. The 0.05-acre parcel is located just south of the intersection with Jewell Street and approximately 0.1 miles southwest of Wharf Road and Cliff Drive near downtown Capitola. See Figure 1. The site is bordered to the north and south by similar residential properties and by Prospect Avenue to the northwest.

The 0.05-acre parcel is situated on a gently sloping terrace above a moderate to steep coastal bluff that has been terraced to accommodate a railroad track and roadway. The slope immediately below the parcel descends about 20 feet to the railroad tracks at a slope gradient of 45 and 50 degrees. The slope continues on the other side of the railroad tracks down to Cliff Drive then ultimately drops down to the beach about 200 feet away.

The site is developed with a single-family residence with an attached garage. The project consists of removing the existing improvements and constructing a new residence with a detached garage. The new residence will be two stories with a full basement. See Figure 2.

### **Field Investigation**

Subsurface conditions at the site were explored on May 5, 2021, with two (2) exploratory borings drilled 1.5 and 28.5 feet below grade. Our borings were advanced with 6-inch diameter tractor mounted drilling equipment and 4-inch diameter hand drilling equipment. The approximate locations of our exploratory borings are indicated on our Boring Site Plan, Figure 2.

Representative soil samples were obtained from the exploratory borings at selected depths, or at major strata changes. These samples were recovered using the 3.0-inch O.D. Modified California Sampler (L), the Standard Terzaghi Sampler (T), or bulk samples collected from the auger cuttings (B). The penetration resistance blow counts for the (L) and (T) noted on the boring logs were obtained as the sampler was dynamically driven into the in-situ soil. The process with the tractor mounted drilling equipment was performed by dropping a 140-pound hammer a 30-inch free fall distance and driving the sampler 6 to 18 inches and recording the number of blows for each 6-inch penetration interval. The blows recorded on the boring logs present the accumulated number of blows that were required to drive the last 12 inches. The blow counts indicated on the logs have been converted to equivalent standard penetration test (SPT) values.

The soils observed in the test borings were logged in the field and described in accordance with the Unified Soil Classification System (ASTM D2487 and ASTM D2488), Figure 3. The Test Boring Logs denote subsurface conditions at the locations and times observed, and it is not warranted they are representative of subsurface conditions at other locations or times.

### **Laboratory Testing**

The laboratory testing program was directed toward a determination of the physical and engineering properties of the soils underlying the site. Moisture content and dry density tests were performed on representative undisturbed soil samples to determine the consistency of the soil and the moisture variation throughout the explored soil profile. A grain size analysis was performed to aid in classification of the soil. An Atterberg Limits test was performed to determine the shrink/swell characteristics of the soil and to aid in soil classification. An unconfined compression test and a direct shear test were performed to determine the strength characteristics of the soil.

The results of our field and laboratory testing appear on the "Test Boring Logs", opposite the sample tested, Figures 5 to 7.

### **Subsurface Soil Conditions**

The site is mapped as being underlain by lowest emergent coastal terrace deposits, (Pleistocene), which are described as, "Semi-consolidated, generally well-sorted sand with a few thin, relatively continuous layers of gravel. Deposited in nearshore high-energy marine environment. Weathered zone ranges from 5 to 20 ft. thick. As mapped, locally includes many small areas of fluvial and colluvial silt, sand and gravel, especially at or near old wave-cut cliffs"

Our borings encountered approximately 25 feet of terrace deposits over Purisima Formation sandstone. The terrace deposits consisted of approximately 7 feet of hard, fine, sandy clay over

dense to very dense clayey gravel. Purisima sandstone was encountered at 25 feet. The upper 7 feet ( $\pm$ ) of soil is clayey has a moderate to high expansion potential. The soil was moist in the upper 10 to 12 feet and very moist to 25 feet. The bedrock was moist.

### **Groundwater**

Perched groundwater was encountered at 24.5 feet. The boring logs denote groundwater conditions at the locations and times observed, and it is not warranted they are representative of groundwater conditions at other locations and times. Groundwater levels at the site may vary due to seasonal variations and other factors not evident during our investigation.

### **Seismicity**

The following is a general discussion of seismicity in the project vicinity. A detailed discussion of seismicity is beyond the scope of our services.

The closest faults to the site are the San Andreas Fault, Zayante-Vergeles Fault, San Gregorio Fault and Monterey Bay-Tularcitos Fault, Figure 8. The San Andreas Fault is the largest and most active of the faults in the site vicinity. However, each fault is considered capable of generating moderate to severe ground shaking. It is reasonable to assume that the proposed development will be subject to at least one moderate to severe earthquake from one of the faults during the next fifty years.

Fault	San Andreas	Zayante-Vergeles	Monterey Bay-Tularcitos	San Gregorio
Distance (mi.)	9.3	5.8	9.1	13.1
Direction	NE	NE	SW	WSW

Structures designed according to the 2019 California Building Code may use the following parameters in their analysis. The following ground motion parameters may be used in seismic design and were determined using the OHSPD Seismic Design Calculator and ASCE 7-16.

Seismic Design Parameters	ASCE 7-16 2019 CBC
Site Class	C
Mapped Spectral Acceleration for Short Periods	$S_s = 1.791 \text{ g}$
Mapped Spectral Acceleration for 1-second Period	$S_1 = 0.686 \text{ g}$
5% Damped Spectral Response Acceleration for Short Period	$S_{DS} = 2.149 \text{ g}$
5% Damped Spectral Response Acceleration for 1-Second Period	$S_{D1} = 0.640$
Seismic Design Category	D
PGAm	0.899 g

(Site Coordinates: 36.971157° N, 121.955055° W)



**Liquefaction**

Liquefaction occurs when saturated fine-grained sands, silts and sensitive clays are subject to shaking during an earthquake and the water pressure within the pores build up leading to loss of strength.

Due to the density of the soil below the groundwater table, the potential for liquefaction to affect the project is low.

**Landsliding**

The project is situated at the top of a coastal bluff that has been graded into two terraces. The slope directly below the site appears to have been cut into the hillside to create a 20 feet wide bench for the railroad tracks. The slope is about 20 feet high and sloped between 45 and 50 degrees. The slope continues on the other side of the railroad tracks down to Cliff Drive.

Our borings indicate the slope is comprised of dense sandy and gravelly soils overlying very dense sandstone bedrock. There is no evidence of deep-seated landslides on the slope and none have been reported to us. The slope is well vegetated and there are no concentrated drainages discharging onto the slope. There is some minor erosion that has created a small step at the top of the slope, but no slumps or shallow landslides were observed during our investigation.

The proposed residence should be setback behind a 1.5:1 (horizontal to vertical) line drawn upwards from the base of the slope. There is a low potential for landslides to affect the proposed residence as long as it is setback as recommended above.

## DISCUSSIONS AND CONCLUSIONS

Based on the results of our investigation, the new residence is feasible provided the recommendations presented in this report are incorporated into the design and properly followed during construction of the development.

Primary geotechnical concerns for the project include designing for expansive soil conditions in the upper 7 feet, embedding foundations into firm native soil, controlling site drainage and designing structures to resist strong seismic shaking.

The new residence is proposed to have a full basement. We expect the basement will be situated approximately 8 to 10 feet below grade and will penetrate the upper expansive clayey soils. The basement may be supported with spread footings embedded into the dense sand/gravel encountered below 7 feet. If the design changes and portions of the residence will not have a basement, the portion of the residence without a basement should be supported on piers that penetrate the upper clayey soils to keep the entire structure on similar materials.

If room allows, the upper 5 feet of expansive soil behind the proposed basement retaining walls should be removed to mitigate expansive soil pressures acting against the basement walls. The expansive soil that lies above a 1:1 line drawn upwards from a point located 5 feet below final grade should be removed. If the expansive soil cannot be removed, basement walls should be designed to withstand swell pressures from the expansive clay in addition to the standard lateral earth pressures.

The proposed detached garage will not have a basement so the foundation and floor slab will be situated in the expansive clays. Our calculations indicate, at the existing moisture levels, the weight of the footings in addition to a small building load will be enough load to resist soil expansion. In order to mitigate soil expansion below interior floor slabs, we recommend using at least 12 inches of baserock below the capillary break to add a surcharge load to the clay. **The soil in the footing excavations and beneath floor slabs must be kept moist to prevent the soil from drying out and developing shrinkage cracks. If the soil dries out, the soil should be moisture conditioned until the cracks close prior to placing concrete.**

Due to the clays at the ground surface and the presence of a steep slope behind the proposed residence, the site is not well suited for on-site retention of stormwater. On-site retention may be used, but a suitable overflow path will need to be provided to carry excess water to the street. In addition, retention structures should be located at least 50 feet from the top edge of the rear slope.

The site is located in a highly seismic region near several major fault zones. The proposed improvements will most likely experience strong seismic shaking during the design lifetime. Structures should be designed to resist seismic shaking in accordance with current building code requirements.

## RECOMMENDATIONS

The following recommendations should be used as guidelines for preparing project plans and specifications:

### Foundations

- The residence basement should be excavated into the dense sandy soils located about 7 feet below existing grades. If portions of the residence are not underlain by a basement, the portion of the structure not supported on the basement foundation should be supported on drilled piers embedded into the dense sandy soils below about 7 feet.
- The proposed garage may be supported on shallow spread footings embedded into the upper sandy clays or on drilled piers embedded into the sandy soils below about 7 feet. **The soil in the footing excavations and beneath floor slabs must be kept moist to prevent the soil from drying out and developing shrinkage cracks. If the soil dries out, the soil should be moisture conditioned until the cracks close prior to placing concrete.**

### Spread Footings - Residence

- Footings should be embedded into the sandy soils which are located about 7 feet below existing grades **and** be embedded at least 12 inches below the lowest adjacent grade for one story-structures and at least 18 inches below lowest adjacent grade for two-story structures.
- Spread footings should be a minimum of 12 inches wide for single-story structures, 15 inches wide for two-story structures and 18 inches wide for three-story structures.
- Conventional spread footings may be designed for an allowable soil bearing pressure of 3,000 psf for dead plus live. This value may be increased by one-third to include short-term seismic and wind loads.
- Footings located adjacent to other foundations should have their bearing surfaces founded below an imaginary 2:1 (H:V) plane projected upward from the bottom edge of the adjacent footings or utility trenches.
- Total and differential settlements from foundation loads are anticipated to be on the order of 1 inch and 1/2 inch respectively.
- Lateral load resistance may be developed in friction between the foundation base and the supporting subgrade. A friction factor of 0.35 is applicable. An allowable lateral bearing pressure of 200 pcf, equivalent fluid weight may be used where the foundation is poured neat against firm native soil. The top 12 inches of soil should be neglected in passive design.

### **Concrete Pier and Grade Beam Foundations**

- Uncased concrete piers should be embedded at least 12 feet below the ground surface to resist the uplift pressures that may occur if the clayey soils swell. If the upper 5 feet of pier length is cased (with the casing left in place), the piers should be at least 7 feet deep, or at least 1 foot into the sandy soils below the clay, whichever is deeper. Piers used for temporary shoring support should be at least 5 feet deep.
- Piers should be at least 12 inches in diameter and spaced at least 3 pier diameters apart.
- Piers may be designed using an allowable end bearing of 9,000 psf. This value may be increased by one-third under wind or seismic loads.
- Total and differential settlements for foundations supported on deep foundations are anticipated to be less than 1 inch and 0.5 inch respectively.
- A passive soil resistance of 300 pcf, equivalent fluid weight, times 2.25 pier diameters, may be used for drilled piers. The top foot of soil should be neglected in passive design.

### **Spread Footings - Garage**

- Footings should be embedded at least 12 inches below the lowest adjacent grade for one story-structures and at least 18 inches below lowest adjacent grade for two-story structures.
- Spread footings should be a minimum of 12 inches wide for single-story structures, 15 inches wide for two-story structures and 18 inches wide for three-story structures.
- Conventional spread footings may be designed for an allowable soil bearing pressure of 1,600 psf for dead plus live. This value may be increased by one-third to include short-term seismic and wind loads.
- Footings located adjacent to other foundations should have their bearing surfaces founded below an imaginary 2:1 (H:V) plane projected upward from the bottom edge of the adjacent footings or utility trenches.
- Total and differential settlements from foundation loads are anticipated to be on the order of 1 inch and 1/2 inch respectively.
- Lateral load resistance may be developed in friction between the foundation base and the supporting subgrade. An adhesion value of 200 psf is applicable. An allowable lateral bearing pressure of 300 pcf, equivalent fluid weight may be used where the foundation is

poured neat against firm native soil. The top 12 inches of soil should be neglected in passive design.

### **Basement/Retaining Wall Lateral Earth Pressures**

- Basement/retaining walls should be designed to resist both lateral earth pressures and any additional surcharge loads.
- If room allows, the upper 5 feet of expansive soil behind the proposed basement retaining walls should be removed to mitigate expansive soil pressures acting against the basement walls. The expansive soil that lies above a 1:1 line drawn upwards from a point located 5 feet below final grade should be removed. If the expansive soil cannot be removed, basement walls should be designed to withstand swell pressures from the expansive clay in addition to the standard lateral earth pressures.
- The following lateral earth pressures should be used for basement/retaining walls. Unrestrained walls may use the active pressure values while restrained retaining walls should be designed using at-rest pressures.

Slope	Active Pressure (pcf)	At-Rest Pressure (pcf)
Level	40	60

- If the clayey soils are not removed from the upper 5 feet, retaining walls should be designed to withstand swell pressures in the upper 5 feet. A swell pressure of 150 psf/ft should be used in addition to the above lateral earth pressure in the upper 5 feet of wall height.
- For retaining walls requiring seismic design, a dynamic surcharge load of 27 psf/ft, should be used in addition to the above active lateral earth pressures. The resultant force should be applied at a point located 0.6H above the base of the wall, where H is the height of the wall.
- The above lateral pressures assume that the walls are fully drained to prevent hydrostatic pressure behind the walls. Drainage materials behind the wall should consist of Class 2 permeable material (Caltrans Specification 68-1.025) or an approved equivalent. Filter fabric should not be used with Class 2 permeable material. The drainage material should be at least 12 inches thick. The drains should extend from the base of the walls to within 12 inches of the top of the backfill. A pipe should be used to collect drainage from behind the wall. **The pipe should be placed below the base of interior slab subgrade elevations (below the capillary break).** Collected water should be directed to a suitable discharge location.

### Concrete Slabs-on-Grade

- Where basement slabs penetrate the expansive clay, (roughly the upper 7 feet), slabs may be supported on firm native soil.
- The garage slab floor should be underlain by at least 12 inches of baserock to surcharge to the underlying clays. The baserock should be compacted to at least 90 percent relative compaction.
- Driveway pavements should be underlain by at least 12 inches of baserock to surcharge to the underlying clays. The baserock should be compacted to at least 95 percent relative compaction.
- **The soil beneath floor slabs and pavements must be kept moist to prevent the soil from drying out and developing shrinkage cracks. If the soil dries out, the soil should be moisture conditioned until the cracks close prior to placing baserock.**
- All concrete slabs-on-grade can be expected to suffer some cracking and movement. However, thickened exterior edges, a well-prepared subgrade including pre-moistening prior to pouring concrete, adequately spaced expansion joints and good workmanship should reduce cracking and movement.
- Dees & Associates, Inc. are not experts in the field of moisture proofing and vapor barriers. In areas where floor wetness would be undesirable, an expert, experienced with moisture transmission and vapor barriers should be consulted. At a minimum, a blanket of 4 inches of free-draining gravel should be placed beneath the floor slab to act as a capillary break. To minimize vapor transmission, an impermeable membrane (10-mil. minimum) should be placed over the gravel.

### Utility Trenches

- Utility trenches placed parallel to structures should not extend within an imaginary 2:1 (horizontal to vertical) plane projected downward from the bottom edge of the adjacent footing.
- Trenches may be backfilled with compacted engineered fill placed in accordance with the grading section of this report. The backfill material should not be jetted in place.
- The portion of utility trenches that extend beneath foundations should be sealed with 2-sack sand slurry (or equivalent) to prevent subsurface seepage from flowing under buildings.

### General Site Grading

- Areas to receive engineered fill, foundations, slabs or pavements should be cleared of obstructions, organic material and debris. The exact depth of stripping should be

determined in the field during grading. Organically contaminated soils may be stockpiled and used in landscape areas.

- Voids created during site clearing should be backfilled with engineered fill.
- The subgrade beneath areas to receive fill should be scarified and compacted to provide a firm base for fill placement.
- The upper 7 feet of clayey on-site soils are not suitable for use as engineered fill. The granular soils below 7 feet are suitable for use as engineered fill. Soils used for engineered fill should be granular, have a Plasticity Index less than 15, be free of organic material, and contain no rocks or clods greater than 6 inches in diameter, with no more than 15 percent larger than 4 inches. We estimate the existing loose soils will have about 15 to 20 percent shrinkage when compacted.
- Engineered fill should be moisture conditioned to about 2 percent over optimum moisture content, placed in thin lifts less than 8-inches in loose thickness and compacted to at least 90 percent relative compaction. Where referenced in this report, Percent Relative Compaction and Optimum Moisture Content shall be based on ASTM Test Designation D1557.
- Temporary cutslopes in the upper 7 feet of clay should be sloped no steeper than 0.75:1 (horizontal to vertical) and temporary cutslopes in the sandy soils below 7 feet should be sloped no steeper than 1:1 (horizontal to vertical). If groundwater exists in the cuts at the time of construction the above temporary cutslope angles should be re-evaluated to reflect the current groundwater conditions at the time of construction.

#### **General Site Drainage**

- Controlling surface and subsurface runoff is important to the performance of the project.
- Surface drainage should include provisions for positive gradients so that surface runoff is not permitted to pond adjacent to foundations or other improvements. Where bare soil or pervious surfaces are located next to the foundation, the ground surface within 10 feet of the structure should be sloped at least 5 percent away from the foundation. Where impervious surfaces are used within 10 feet of the foundation, the impervious surface within 10 feet of the structure should be sloped at least 2 percent away from the foundation. Swales should be used to collect and remove surface runoff where the ground cannot be sloped the full 10-foot width away from the structure. Swales should be sloped at least 2 percent towards the discharge point.
- Full roof gutters should be placed around the eaves of the structures. Discharge from the roof gutters should be conveyed away from the downspouts in a controlled manner.

- Due to the clays at the ground surface and the presence of a steep slope behind the proposed residence, the site is not well suited for on-site retention of stormwater.
- On-site retention may be used, but a suitable overflow path will need to be provided to carry excess water to the street.
- Runoff from improvements should not be allowed to flow over the steep slope at the back of the site. Retention structures should be located at least 50 feet from the top edge of the rear slope.
- The locations of drainage outlets and retention facilities should be reviewed and approved in the field prior to installation.

#### **Plan Review, Construction Observation, and Testing**

- Dees & Associates, Inc. should be provided the opportunity for a general review of the final project plans prior to construction to evaluate if our geotechnical recommendations have been properly interpreted and implemented. If our firm is not accorded the opportunity of making the recommended review, we can assume no responsibility for misinterpretation of our recommendations. We recommend that our office review the project plans prior to submittal to public agencies, to expedite project review.
- Dees & Associates, Inc. also requests the opportunity to observe and test grading operations and foundation excavations at the site. Observation of grading and foundation excavations allows anticipated soil conditions to be correlated to those actually encountered in the field during construction.
- The geotechnical engineer should be notified **at least four days** prior to any grading or foundation excavating so the work in the field can be coordinated with the grading contractor and arrangements for testing and observation can be made. The recommendations of this report are based on the assumption that the geotechnical engineer will perform the required testing and observation during grading and construction. It is the owner's responsibility to make the necessary arrangements for these required services.
- Engineered fill should be observed and tested by our firm. At a minimum, in-place density tests should be performed as follows: one test for every two feet of fill, one test for every 1,000 sq. ft. of material for relatively thin fill sections and one test whenever there is a definite suspicion of a change in the quality of moisture control or effectiveness in compaction.
- Prior to placing concrete, spread foundation excavations should be thoroughly cleaned and observed by the soils engineer.



- Our firm should be called to observe and test the baserock below interior and exterior concrete slabs-on-grade and pavements prior to placing vapor barriers or steel reinforcement.
- Our firm should be called to observe the gravel bed, perforated pipe and slope of pipe for retaining wall backdrains prior to backfilling. The perforated pipe should be placed below the base of interior slab elevations where retaining walls are behind living space.
- Drainage and erosion control preparations (swales, ground slopes, retention and detention structures and discharge areas) should be observed by the soils engineer. Discharge areas and retention areas should be reviewed and approved in the field prior to installation.
- After the earthwork operations have been completed and the geotechnical engineer has finished their observation of the work, no further earthwork operations shall be performed except with the approval of and under the observation of the geotechnical engineer.

## LIMITATIONS AND UNIFORMITY OF CONDITIONS

1. The recommendations of this report are based upon the assumption that the soil conditions do not deviate from those disclosed in the borings. If any variations or undesirable conditions are encountered during construction, or if the proposed construction will differ from that planned at the time, our firm should be notified so that supplemental recommendations can be given.
2. This report is issued with the understanding that it is the responsibility of the owner, or his representative, to ensure that the information and recommendations contained herein are called to the attention of the Architects and Engineers for the project and incorporated into the plans, and that the necessary steps are taken to ensure that the Contractors and Subcontractors carry out such recommendations in the field. The conclusions and recommendations contained herein are professional opinions derived in accordance with current standards of professional practice. No other warranty expressed or implied is made.
3. The findings of this report are valid as of the present date. However, changes in the conditions of a property can occur with the passage of time, whether they are due to natural processes or to the works of man, on this or adjacent properties. In addition, changes in applicable or appropriate standards occur whether they result from legislation or the broadening of knowledge. Accordingly, the findings of this report may be invalidated, wholly or partially, by changes outside our control. Therefore, this report should not be relied upon after a period of three years without being reviewed by a soil engineer.

**APPENDIX A**

Site Vicinity Map

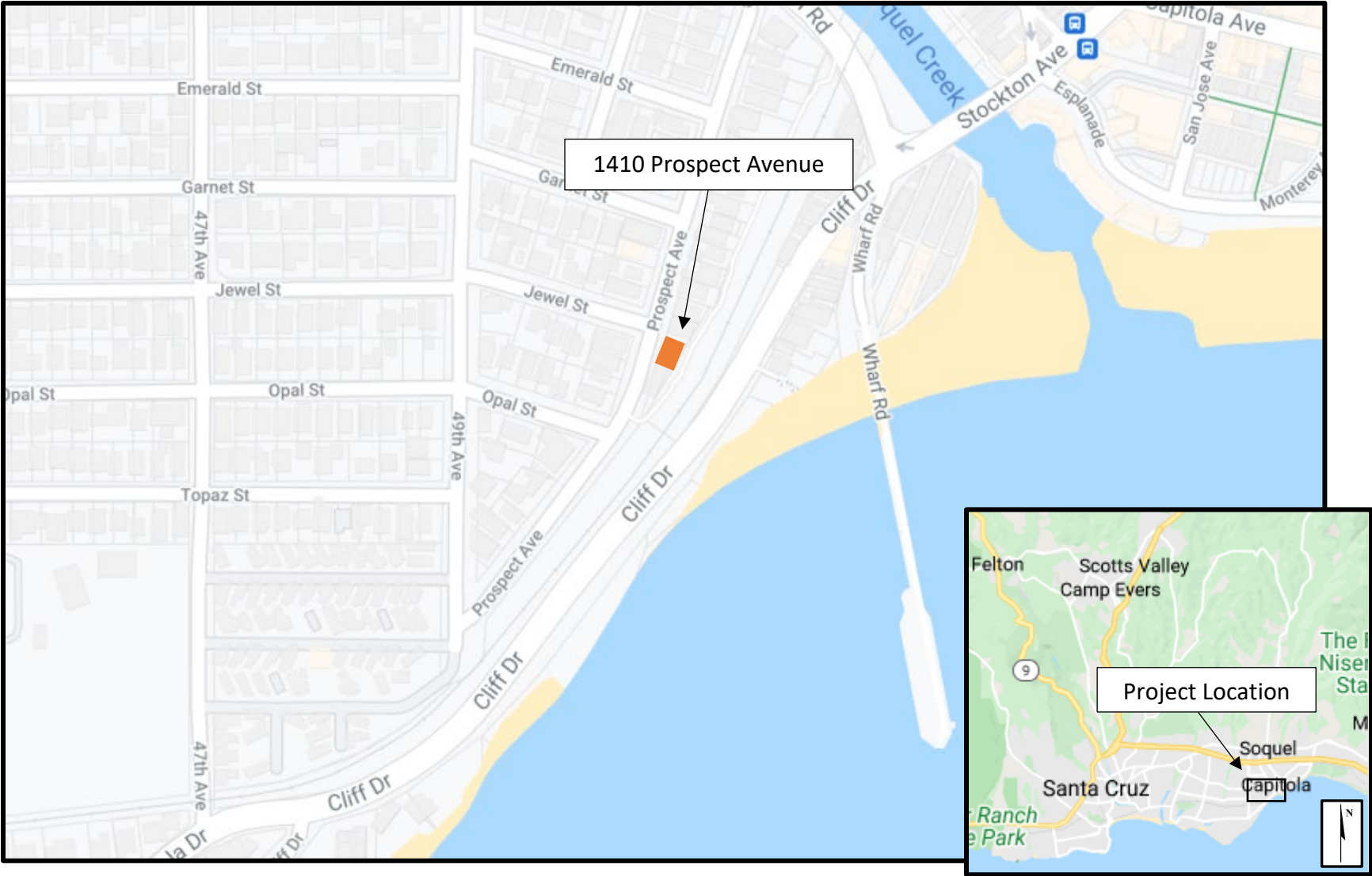
Santa Cruz County Lidar Map

Boring Site Plan

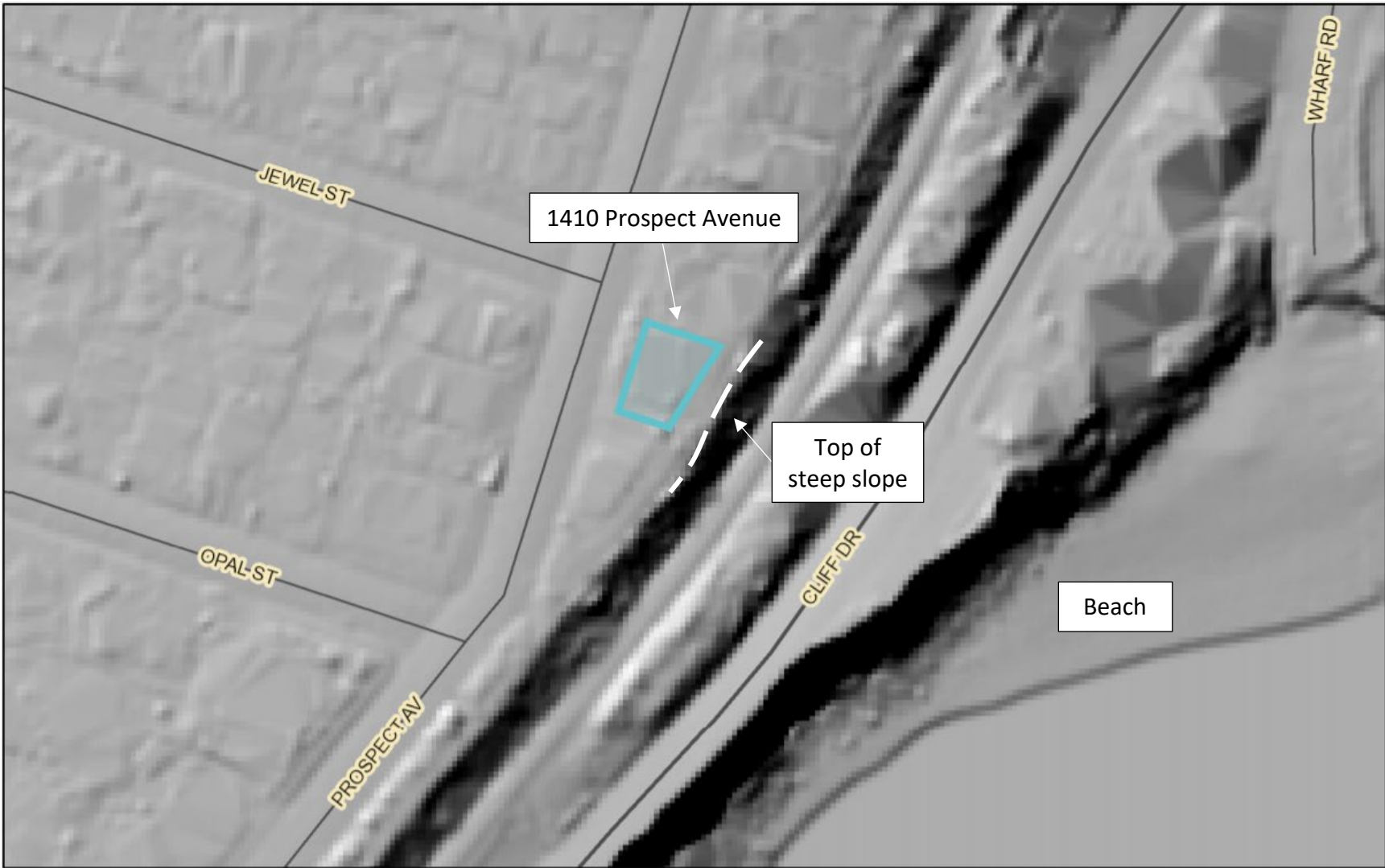
Unified Soil Classification System

Test Boring Log

Fault Map

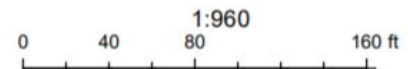


**SITE VICINITY MAP**  
**Figure 1**



July 6, 2021

**SANTA CRUZ COUNTY LIDAR MAP**  
**Figure 2**





**BORING SITE PLAN  
Figure 3**

THE UNIFIED SOIL CLASSIFICATION SYSTEM																															
MAJOR DIVISIONS		GROUP SYMBOLS	TYPICAL NAMES	CLASSIFICATION CRITERIA																											
<b>COARSE-GRAINED SOILS*</b> MORE THAN HALF OF MATERIAL IS LARGER THAN NO. 200 SIEVE SIZE (THE NO. 200 SIEVE SIZE IS ABOUT THE SMALLEST PARTICLE VISIBLE TO THE NAKED EYE)	<b>GRAVELS</b> MORE THAN HALF OF COARSE FRACTION IS LARGER THAN NO. 4 SIEVE SIZE	CLEAN GRAVELS (< 5% FINES)	<b>GW</b> Well-graded gravels, gravel-sand mixtures, little or no fines	Wide range in grain sizes and substantial amounts of all intermediate particle sizes																											
			<b>GP</b> Poorly graded gravels, gravel-sand mixtures, little or no fines	Predominantly one size or a range of sizes with some intermediate sizes missing Not meeting all gradation requirements for GW																											
		GRAVELS WITH FINES (>12% FINES)	<b>GM</b> Silty gravels, gravel-sand-silt mixtures	Non plastic fines or fines with low plasticity Atterberg limits below "A" line or PI < 4	Above "A" line with 4 < PI < 7 are borderline cases requiring use of dual symbols																										
			<b>GC</b> Clayey gravels, gravel-sand-clay mixtures	Plastic fines Atterberg limits above "A" line with PI > 7																											
	<b>SANDS</b> MORE THAN HALF OF COARSE FRACTION IS SMALLER THAN NO. 4 SIEVE SIZE	CLEAN SANDS (<5% FINES)	<b>SW</b> Well-graded sands, gravelly sands, little or no fines	Wide range in grain sizes and substantial amounts of all intermediate sizes missing																											
			<b>SP</b> Poorly graded sands, gravelly sands, little or no fines	Predominantly one size or a range of sizes with some intermediate sizes missing Not meeting all gradation requirements for SW																											
		SANDS WITH FINES (>12% FINES)	<b>SM</b> Silty sands, sand-silt mixtures	Non plastic fines or fines with low plasticity Atterberg limits below "A" line or PI < 4	Limits plotting in hatched zone with 4 < PI < 7 are borderline cases requiring use of dual symbols																										
			<b>SC</b> Clayey sands, sand-clay mixtures	Plastic fines Atterberg limits above "A" line with PI > 7																											
		<b>FINE-GRAINED SOILS</b> MORE THAN HALF OF MATERIAL IS SMALLER THAN NO. 200 SIEVE SIZE (THE NO. 200 SIEVE SIZE IS ABOUT THE SMALLEST PARTICLE VISIBLE TO THE NAKED EYE)	SILTS AND CLAYS (LIQUID LIMIT < 50)	<b>ML</b> Inorganic silts and very fine sands, rock flour, silty or clayey fine sands, or clayey silts with slight plasticity	*Gravels and sands with 5% to 12 % fines are borderline cases requiring use of dual symbols.  <b>RELATIVE DENSITY OF SANDS AND GRAVELS</b> <table border="1"> <thead> <tr> <th>DESCRIPTION</th> <th>BLOW / FT**</th> </tr> </thead> <tbody> <tr> <td>VERY LOOSE</td> <td>0 – 4</td> </tr> <tr> <td>LOOSE</td> <td>4 – 10</td> </tr> <tr> <td>MEDIUM DENSE</td> <td>10 – 30</td> </tr> <tr> <td>DENSE</td> <td>30 – 50</td> </tr> <tr> <td>VERY DENSE</td> <td>OVER 50</td> </tr> </tbody> </table> <b>CONSISTENCY OF SILTS AND CLAYS</b> <table border="1"> <thead> <tr> <th>DESCRIPTION</th> <th>BLOWS / FT**</th> </tr> </thead> <tbody> <tr> <td>VERY SOFT</td> <td>0 – 2</td> </tr> <tr> <td>SOFT</td> <td>2 – 4</td> </tr> <tr> <td>FIRM</td> <td>4 – 8</td> </tr> <tr> <td>STIFF</td> <td>8 – 16</td> </tr> <tr> <td>VERY STIFF</td> <td>16 – 32</td> </tr> <tr> <td>HARD</td> <td>OVER 32</td> </tr> </tbody> </table> **Number of blows of 140 pound hammer falling 30 inches to drive a 2 inch O.D. 12 vertical inches.	DESCRIPTION	BLOW / FT**	VERY LOOSE	0 – 4	LOOSE	4 – 10	MEDIUM DENSE	10 – 30	DENSE	30 – 50	VERY DENSE	OVER 50	DESCRIPTION	BLOWS / FT**	VERY SOFT	0 – 2	SOFT	2 – 4	FIRM	4 – 8	STIFF	8 – 16	VERY STIFF	16 – 32	HARD	OVER 32
				DESCRIPTION		BLOW / FT**																									
VERY LOOSE	0 – 4																														
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VERY STIFF	16 – 32																														
HARD	OVER 32																														
<b>CL</b> Inorganic clays of low to medium plasticity, gravelly clays, sandy clays, silty clays, lean clays																															
<b>OL</b> Organic silts and organic silty clays of low plasticity																															
SILTS AND CLAYS (LIQUID LIMIT > 50)	<b>MH</b> Inorganic silts, micaceous or diatomaceous fine sandy or silty soils, elastic silts																														
	<b>CH</b> Inorganic clays of medium to high plasticity, organic silts																														
	<b>OH</b> Organic clays of medium to high plasticity, organic silts																														

Figure 4

TEST BORING LOG					SCR-1655 1410 Prospect Avenue							
LOGGED BY: SC		DATE DRILLED: 5/5/2021		BORING TYPE: 6" SOLID STEM			BORING NO: 1					
DEPTH (feet)	SAMPLE NO.	SOIL DESCRIPTION	USCS SOIL TYPE	FIELD BLOW COUNT	SPT BLOW COUNT*	DRY DENSITY (PCF)	MOISTURE (%) IN-SITU	MOISTURE (%) SATURATED	COHESION (PSF)	PHI ANGLE	% PASSING 200 SIEVE	PLASTICITY INDEX
1				10								
1-1-1	L	Strong brown fine Sandy CLAY, damp, hard		17								
2				35	26	112.0	14.1		Qu = 1958 psf			
3	1-2	Strong brown fine Sandy CLAY, moist, hard		7								
3	T			18								
4			CL	25	43		20.2					30.1
4				7								
4	1-3-1	Strong brown fine Sandy CLAY, moist, very stiff		10								
5	L			25	18	97.5	22.8	28.8	580.6	30.0		
6												
7												
8				10								
8	1-4	Brown Gravelly SAND with Clay, very moist, dense (almost a Sandy Gravel)	SC	25								
9	T			34	59		12.6				16.9	
10												
11		Contact approximated (gradual transition)										
12				6								
12	1-5	Dark yellowish-brown Clayey coarse SAND with Gravel, very moist, dense		10								
13	T			19	29		14.1					
14												
15			SC									
16				7								
16	1-6	Dark yellowish-brown Clayey coarse SAND with more Gravel, very moist, dense		12								
17	T			35	47		13.2					
18												
19												
20				10								
20	1-7	Dark yellowish-brown Clayey coarse SAND with Gravel, very moist to wet, dense		23								
21	T			50/6"	73							
22												
23												
24												
25												

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Figure 5

\* Blow count converted:  
L = Field Blow Count / 2  
M = Field Blow Count / 1.5



TEST BORING LOG				SCR-1655 1410 Prospect Avenue								
LOGGED BY: SC		DATE DRILLED: 5/5/2021		BORING TYPE: 6" SOLID STEM			BORING NO: 1					
DEPTH (feet)	SAMPLE NO.	SOIL DESCRIPTION	USCS SOIL TYPE	FIELD BLOW COUNT	SPT BLOW COUNT*	DRY DENSITY (PCF)	MOISTURE (%) IN-SITU	MOISTURE (%) SATURATED	COHESION (PSF)	PHI ANGLE	% PASSING 200 SIEVE	PLASTICITY INDEX
26												
27												
28	1-8	Bluish-gray Purisima SANDSTONE, moist, very dense	SM	10 50/1"	50/1"							
29		Boring terminated at 28.5 Feet Groundwater Encountered at 24.5 Feet										
30												
31												
32												
33												
34												
35												
36												
37												
38												
39												
40												
41												
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<b>DEES &amp; ASSOCIATES, INC.</b> 501 MISSION ST. STE. 8A   SANTA CRUZ, CA 95060 <a href="http://www.deesgeo.com">www.deesgeo.com</a>   (831) 427-1770				<b>Figure 6</b>				* Blow count converted: L = Field Blow Count / 2 M = Field Blow Count / 1.5				

TEST BORING LOG				SCR-1655 1410 Prospect Avenue								
LOGGED BY: SC		DATE DRILLED: 5/5/2021		BORING TYPE: 3.25" Hand Auger			BORING NO: 2					
DEPTH (feet)	SAMPLE NO.	SOIL DESCRIPTION	USCS SOIL TYPE	FIELD BLOW COUNT	SPT BLOW COUNT*	DRY DENSITY (PCF)	MOISTURE (%) IN-SITU	MOISTURE (%) SATURATED	COHESION (PSF)	PHI ANGLE	% PASSING 200 SIEVE	PLASTICITY INDEX
1	2-1	Strong brown fine Sandy CLAY, damp, stiff	CL									
B												
2		Boring Terminated at 1.5 feet										
		No Groundwater Encountered										
3												
4												
5												
6												
7												
8												
9												
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**Figure 7**

\* Blow count converted:  
 L = Field Blow Count / 2  
 M = Field Blow Count / 1.5



**FAULT MAP**  
**Figure 8**

August 18, 2022

Project No. 2266-SZ69-B36

Sean Sesanto, Associate Planner  
City of Capitola  
420 Capitola Avenue  
Capitola, CA 95010

Subject: **Geotechnical Peer Review – Slope Stability**  
1410 Prospect Avenue  
Capitola, California

References: 1) **Dees and Associates, Inc.**, Geotechnical Investigation for Proposed Single-Family Residence, 1410 Prospect Avenue APN 034-046-19, dated July 28, 2021  
  
2) **Revised Plan Set, Johnson Residence**, 1410 Prospect Ave., prepared by Derek Van Alstine and dated February 8, 2022.

Dear Mr. Sesanto,

## INTRODUCTION AND PROPOSED CONSTRUCTION

As requested, we have performed a peer review of the geotechnical aspects of References 1 and selected sheets from Reference 2. Based on our conversations with yourself it is our understanding that the City of Capitola is requesting a geotechnical peer review that focuses on how adequately the consultant (Dees and Associates) has addressed the impact of the proposed project on the stability of an adjacent slope. The subject property is located adjacent to the railroad right-of-way, and slope stability concerns due to the proposed construction are being raised by the Santa Cruz County Regional Transportation Commission.

A new 2-story house with a full basement and a detached garage is proposed for the subject property. The proposed structures will be located in approximately the same location as an existing residence and garage but will be located approximately 1-foot closer to the street (and further from the slope to the east) than the existing improvements. The one exception is that the basement “light wells” on the proposed structure will extend about 4-feet closer to the east, towards the slope in question. The existing residence and garage were constructed at pad grade and do not include a basement.

## CONSULTANT INFORMATION

The geotechnical investigation report prepared by Dees and Associates (Reference 1) describes the site and adjacent slope as “a gently sloping terrace above a moderate to steep coastal bluff that has been terraced to accommodate a railroad track and roadway. The slope immediately below the parcel descends about 20 feet to the railroad tracks at a slope gradient of 45 to 50 degrees. The slope continues on the other side of the railroad tracks down to Cliff Drive...”.

Two borings were drilled at the site, extending to 28.5 and 1.5 feet below ground surface.

Landsliding hazards were addressed qualitatively by recommending that “the proposed residence should be setback behind a 1.5:1 (horizontal to vertical) line drawn upwards from the base of the slope”, and the report concludes that “there is a low potential for landslides to affect the proposed residence as long as it is setback as recommended”.

In the “Site Drainage” section of the report Dees and Associates specify that “Runoff from improvements should not be allowed to flow over the steep slope.....retention structures should be located at least 50 feet from the top edge of the rear slope”.

### **BACKGROUND DATA AND SITE RECONNAISSANCE**

Based on our review of regional geologic maps the site is underlain by Coastal Terrace deposits and Purisima bedrock. Local experience with similar site conditions has shown that the contact between these two materials is relatively flat.

A Geotechnical Engineer from Pacific Crest Engineering visited the site on July 11, 2022. The subject slope between the site and the railway was measured at about a 42-degree inclination and 20 feet in height. Except for surficial gopher holes and minor shallow slumping, we did not see any evidence of significant slope failure or movement in the immediate area. Our understanding is that the rail line in this area was constructed over 100 years ago and it appears that the associated grading has remained essentially the same in this immediate area since that time.

### **PEER REVIEW COMMENTS**

Based on our peer review and experience with residential coastal projects in Santa Cruz County, we offer the following comments:

### **QUALITATIVE AND QUANTITATIVE SLOPE STABILITY ANALYSES**

A *qualitative* slope stability analysis or “screening analysis” as it is referred to in CGS Special Publication 117A, is one that evaluates the severity of the hazard and the risk it poses to adjacent improvements. *Qualitative* slope stability analyses typically are based on evaluating evidence for the presence of landslides, the susceptibility of the geologic formation to landsliding, and other factors indicative of slope stability (e.g. shallow groundwater etc.). If the hazard is determined to be low based on a *qualitative* analysis then a *quantitative* analysis is typically not required. A quantitative analysis is one that includes a more detailed field and subsurface investigation, site specific laboratory shear strength testing, and computer modeling to determine the factor of safety against failure for a slope.

In our opinion the *qualitative* assessment of slope stability submitted in the geotechnical investigation report by Dees and Associates (Reference 1) meets the local, generally accepted standard of care in the area. The recommended setback based on a 1.5:1 inclination measured from the base of the slope provides a roughly 20-foot horizontal setback from the top of slope, which is in accordance with CBC slope setback parameters, as well as generally accepted geotechnical engineering principles and local practice. The proposed house and garage are located behind this setback line. Additionally, the basement foundation will transmit building loads to the underlying soil at an elevation about 10-feet below ground surface. This configuration has less probability of impacting hypothetical slope failure surfaces than the current structure that transmits building loads closer to the ground surface.



## SUMMARY

In summary, the *qualitative* assessment of slope stability provided by the consultant adequately addresses landsliding hazards at the site. Further *quantitative* stability analysis should not be required for the proposed development.

## CLOSING

Our review of the above reports has been limited to the geotechnical consultant's determination of the slope stability at the site and the influence the proposed development has on the existing slope. We have not reviewed their findings, conclusions, or recommendations pertaining to the other aspects of the project and have no opinion regarding them.

Our services have consisted of peer review services only. We have based our opinions on the documents provided to us, information collected from discussions with the City of Capitola, and our own literature research and experience. We have not generated subsurface information of our own nor have we provided design or construction recommendations. In no way is Pacific Crest Engineering Inc. acting as the Geotechnical Engineer of Record for this project, nor are we responsible for the adequacy or completeness of any portion of the geotechnical design or construction.

We appreciate the opportunity provide the City of Capitola with these services. Please feel free to contact us at your convenience, we can be reached at 831-722-9446.

Sincerely,

**PACIFIC CREST ENGINEERING INC.**



Soma Goresky, GE  
Associate Geotechnical Engineer  
GE 2252



# Capitola Planning Commission

## Agenda Report



**Meeting:** April 7, 2022  
**From:** Community Development Department  
**Topic:** 1410 Prospect Avenue

**Permit Number: 21-0376**

**APN: 034-046-19**

Design Permit, Historical Alteration Permit and Variance to demolish an existing residence and construct a new home that retains nonconformities for size and setbacks. The project is located within the R-1-GH (Single-Family Residential) zoning district and (Geologic Hazards) overlay zone.

This project is in the Coastal Zone and requires a Coastal Development Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption

Property Owner: Alex Johnson

Representative: Derek Van Alstine, Filed: 08.24.21

### **Applicant Proposal:**

The applicant is proposing to demolish an existing 1,606 square-foot, two-story, single-family residence and construct a new 1,422 square-foot, two-story, single family residence with a 796 square-foot basement. The proposal includes the relocation and remodel of an existing detached garage, and a variance request to construct a residence that retains current nonconformities for the required setbacks and maximum allowable floor area. Overall, the project decreases the degree of existing non-conformities, improves onsite parking, and retains the development pattern along the street. The project is located at 1410 Prospect Avenue within in the R-1-GH (Single-Family Residential, Geologic Hazards) zoning district.

### **Background:**

On January 26, 2022, Development and Design Review Staff reviewed the application and provided the applicant with the following direction:

Public Works Representative, Danielle Uharriet: stated that the drainage must be prepared by an engineer and that a minor revocable encroachment permit will be required for improvements in the public right of way. She also stated that improvements along Prospect Avenue must maintain the existing street flowline.

Building Official, Robin Woodman: inquired about the scale of work to the existing garage and asked about basement bedroom egress.

Assistant Planner, Sean Sesanto: noted the proposed locations of the new second-story deck, the basement, and the garage remodel should not exacerbate or create nonconformities and made suggestions to better comply with setbacks and height.

Following the Development and Design Review meeting, the applicant submitted the required applications for a variance and encroachment permit. The plans were revised to address development standard comments.

**Development Standards:**

The following table outlines the zoning code requirements for development in the R-1 Zoning District. The applicant is seeking a variance to construct a new residence with similar setbacks to the existing residence which has nonconforming setbacks and, in conjunction with the existing garage, exceeds the maximum allowable floor area ratio (FAR).

<b>Development Standards</b>				
<b>Building Height</b>				
<b>R-1 Regulation</b>	<b>Existing</b>		<b>Proposed</b>	
25 ft.	21 ft. 7 in.		24 ft. 4 in.	
<b>Floor Area Ratio (FAR)</b>				
	<b>Existing</b>		<b>Proposed</b>	
<b>Lot size</b>	2,416 sq. ft.		2,416 sq. ft.	
<b>Maximum Floor Area Ratio</b>	58% (Max 1,401 sq. ft.)		58% (Max 1,401 sq. ft.)	
First Story Floor Area	1,197 sq. ft.		978 sq. ft.	
Second Story Floor Area	409 sq. ft.		444 sq. ft.	
Basement	N/A		796 sq. ft. Exempt for floor area, Included in parking calc.	
Detached Garage	300 sq. ft. -250 sq. ft. exempt		280 sq. ft. -250 sq. ft. exempt	
<b>Total FAR</b>	68.5% (1,656 sq. ft.)		60.1% (1,452 sq. ft.) <b>Variance Required</b>	
<b>Setbacks</b>				
	<b>R-1 regulation</b>		<b>Existing</b>	<b>Proposed</b>
<b>Front Yard 1<sup>st</sup> Story</b>	15 ft.		7 in. into ROW	5 ft. <b>Variance</b>
<b>Front Yard 2<sup>nd</sup> Story</b>	20 ft.		7 in. into ROW	5 ft. <b>Variance</b>
<b>Side Yard 1<sup>st</sup> Story</b>	10% lot width	Lot width 64 ft. 3 in.  6 ft. 5 in. min.	North: 5 ft. 9 in.  South: 19 ft. 1 in.	North: 10 ft.  South: 20 ft. 11 in.
<b>Side Yard 2<sup>nd</sup> Story</b>	15% of width	Lot width 64 ft. 3 in.  9 ft. 8 in. min.	North: 5 ft. 9 in.  South: 31 ft. 2 in.	North: 5 ft. 9 in. <b>Variance</b>  South: 26 ft. 5 in.
<b>Rear Yard 1<sup>st</sup> Story</b>	20% of parcel depth	Lot depth 38 ft. 2 in.	2 ft. 10 in.	0 ft. <b>Variance</b>



		7 ft. 7 in. min.		
<b>Rear Yard 2<sup>nd</sup> Story</b>	20% of parcel depth	Lot depth 38 ft. 2 in.  7 ft. 7 in. min.	19 ft. 1 in.	10 ft. 10 in.  7 ft. 7 in. Deck
<b>Detached Garage</b>				
	<b>R-1 Regulation</b>		<b>Existing</b>	<b>Proposed</b>
Height	12 ft. when less than 8 feet from side property line		11 ft. 9 in.	10 ft. 11 in.
Front	40 ft.		1 ft. into ROW	1 ft. 6 in. <b>Existing nonconforming</b>
Side	3 ft.		North: 52 ft. 1 in.  South: 0 ft.	North: 52 ft. 2 in.  South: 3 in. <b>Existing nonconforming</b>
Rear	3 ft.		1 ft.	3 ft.
Encroachments (list all)				
<b>Parking</b>				
2,001 – 2,600 sq. ft.: 3 per unit, 1 covered	<b>Required</b>		<b>Existing</b>	<b>Proposed</b>
	3 spaces total		1 spaces total	3 spaces total
	1 covered 2 uncovered		1 covered 0 uncovered	1 covered 2 uncovered
<b>Underground Utilities: Required with 25% increase in area</b>				Yes

**Discussion:**

The existing residence at 1410 Prospect Avenue is a historic, two-story single-family home with a detached garage. The property is located within the Jewel Box neighborhood along the western bluffs overlooking the Capitola Village. The lot is located within the Geologic Hazards overlay. The homes along Prospect Avenue are predominantly two-story, single-family residences. The project requires a Design Permit, Historic Alteration Permit, Coastal Development Permit, and Variance.

**Design Permit**

The existing residence and detached garage are non-conforming with existing encroachments over the front property line into the public right of way. The existing detached garage is also located directly along the south-side property line with no setback. The proposal establishes new building footprints entirely within the subject property. The home is moved toward the center-rear of the lot and the existing detached garage will be relocated a few inches away from the south side setback and 18 inches behind the front property line.

The applicant is proposing to construct a new home that maintains similar scale, massing, materials, and placement as the existing residence. The home will utilize composition roofing,

square-cut shingle siding, and an asymmetrical gable roof with one centered wall-dormer facing Prospect Avenue. The garage will be remodeled in a style similar to the home with shingle siding, a new forward-facing gable roof and shed roof accent over the garage doors.

In addition to the front doors, the proposed garage design includes swinging doorways on the east (rear) elevation which when opened would extend over the Santa Cruz County Regional Transportation Commission property. For property and slope stability considerations, staff has included condition #24 requiring any rear access doorway(s) not extend beyond the property line and not be wide enough to allow vehicular access.

#### Historic Alteration Permit

The proposed project would demolish the existing residence at 1410 Prospect Avenue and requires approval of a Historic Alteration Permit by the Planning Commission. Also, historic resources are identified as environmental resources within the California Environmental Quality Act (CEQA). Any modification to a historic resource must comply with the Secretary of Interior Standards to qualify for a CEQA exemption.

Architectural Historian Leslie Dill prepared an initial evaluation of the property for its potential historical significance prior to design submittal (Attachment 4). She noted that numerous modifications have been made to the roof and windows, that exterior siding was largely replaced, and that the original porch was enclosed and obscured much of the original design. She concluded that although much of the historic materials have been lost, the property would still be eligible for historic designation on the basis of 'broad historical patterns in the early development of the city'. During a preliminary design meeting, based on this initial evaluation, staff recommended that the design maintain the scale of the historic pattern along the street.

Historic Architect, Seth Bergstein, subsequently evaluated the proposed design for compatibility with the *Secretary of the Interior's Standards for Reconstruction*. Specifically, Mr. Bergstein cited *Standards 4-6* as most applicable with the following findings:

4. *The reconstructed building will be recreated using existing documentary evidence taken from the site prior to demolition. The new building will match the existing house in scale, massing, design, and the use of historic wood materials.*
5. *While the reconstruction will match the appearance of the original building, the new building will utilize modern window technology and detailing to clearly identify it as a contemporary re-creation, in keeping with this Standard.*
6. *While the subject house's appearance has been altered substantially over time, it's overall scale, massing, materials, and placement within the historic Prospect Avenue streetscape are the priorities in this reconstruction. These aspects of the original building will be maintained in the new construction to enable it to contribute to the established historic setting of altering rooflines and building facades along Prospect Avenue.*

Of note, the construction will maintain the unique streetscape of continuous rooflines paired with in-kind replacement of materials and preservation of massing from existing documentary evidence. Mr. Bergstein concluded that the construction would preserve the site's contribution to the historic neighborhood setting to meet the *Standards*. Therefore, the project would be a less than significant impact on the historic resource and conform with CEQA requirements.

#### Nonconforming Structure - Garage

The existing detached garage encroaches within the required front, rear, and side setbacks and is therefore a legal non-conforming structure. Pursuant to code section 17.92.070, structural

alterations to an existing non-complying structure may not exceed 80 percent of the present fair market value of the structure. Based on a full remodel and relocation under the construction cost breakdown with no additions, the alterations will not exceed 50 percent of the present fair market value of the structure, so the alterations are permissible. The project will also correct the garage encroachment into the public right of way and comply with the rear setback.

#### Floor Area

The maximum allowed floor area ratio for the site is 58% (1,401 square feet). Currently, the site exceeds the maximum floor area ratio by over 250 square feet (68.5%). The proposed application reduces the floor area but exceeds the maximum FAR by 50 square feet (60.1%), and therefore requires a variance. The application includes a new 796 square-foot basement which is exempt from the floor area calculation.

#### Parking

Although basements are excluded from floor area calculations, they are included in parking requirements pursuant to §17.48.030(6)(g). The combined conditioned space equals 2,218 square feet which requires three parking spaces, one of which must be covered. The applicant is proposing to retain the detached garage and provide two new uncovered spaces in a tandem configuration.

#### Variance

The applicant is seeking approval of a variance to the required setbacks and floor area ratio.

Pursuant to §17.128.060, the Planning Commission, on the basis of the evidence submitted at the hearing, may grant a variance permit when it finds:

**A. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property.**

Staff Analysis: The unique circumstance applicable to the subject property is that the property is a historic site, with an irregularly shaped lot that is both small and shallow by Capitola standards. The variance allows the construction of a residence that is comparably-sized with improved siting on the lot and will continue to contribute to the historic context of the Prospect Avenue streetscape.

**B. The strict application of the zoning code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property.**

Staff Analysis: The substandard lot size is unique with depths ranging from 29 to 46 feet. Incorporating the required 15 feet front yard setback and 8 feet rear yard setback, results in an extremely limited building pad of 778 square feet. The existing primary structure has a footprint 1200 square feet, and the proposed footprint is 978 square feet. The overwhelming majority of properties along the bluff side of Prospect Avenue do not comply with all minimum setbacks for primary structures, accessory structures, or both. In particular, many structures are located along the front lot lines. Lots decrease in size towards the southern end of the block and are typified by increased FAR and reduced setbacks. The subject property is the second most southern lot and is also one of the smallest on Prospect Avenue. A breakdown of the estimated floor area ratios of adjacent properties is included as Attachment 6.

**C. The variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone as the subject property.**

Staff Analysis: The variance is necessary to preserve the use already enjoyed by the subject property and is already enjoyed in the vicinity with respect to lot siting and massing.

**D. The variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the properties or improvements in the vicinity or in the same zone as the subject property.**

Staff Analysis: The variance will not impose any detrimental impacts on the public health, safety, or welfare, or be injurious to properties or improvements in the vicinity or in the same zone as the subject property. In particular, proposed project has been designed to remove existing structural encroachments into the public right of way and improve parking.

**E. The variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property.**

Staff Analysis: The majority of properties on the bluff-side of Prospect Avenue do not comply with required setbacks. On the southern half of the block many properties additionally do not comply with current floor area ratio standards.

**F. The variance will not have adverse impacts on coastal resources.**

Staff Analysis: The variance will not adversely impact coastal resources. Although there are no coastal resources on the subject property, a public pathway exists between the rear of the lot and the railway. Conditions have been added to limit construction impacts to the site and surrounding area.

In conclusion, the variance request for setbacks and floor area ratio is consistent with the historic development pattern of the block. The substandard lot size is unique with depths ranging from 29 to 46 feet. Overall, the application decreases the existing nonconformities on the site, including a 200 square foot reduction in above-ground massing.

### **Geological Hazards Overlay**

The property is located in the Geological Hazards Overlay. The property is located more than 200 feet from the coastal bluff; therefore, no increased setback regulations apply. Condition #8 requires a geotechnical report prior to issuance of building permit to ensure no impacts from the proposed development.

### **Archeological Sensitive Areas**

The property is also within the archaeological sensitive area. Conditions of Approval #25–31 require an archaeological survey and monitoring plan with procedures to follow if cultural resources are discovered. A qualified archaeological monitor shall be retained to oversee the excavation activities.

### **CEQA:**

Section 15302 of the CEQA Guidelines exempts the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. This project involves the replacement of an existing single-family residence and remodel of an existing garage subject to the R-1 (single-family residence) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.

**Recommendation:**

Staff recommends the Planning Commission review the application and consider approving the Design Permit, Historical Alteration Permit, and Variance as conditioned **or** continuing the application to the next hearing with direction on necessary modifications to the plans.

**Attachments:**

1. Plan Set
2. Material Information
3. Variance Application
4. Preliminary Historic Evaluation Letter
5. Secretary of the Interior Standards Review Letter
6. Floor Area Neighborhood Survey

**Conditions of Approval:**

1. The project approval consists of Design Permit, Historical Alteration Permit, and Variance to allow the demolition of an existing historic structure and construction of a 1,422 square-foot single-family residence with a 796 square-foot basement. The project includes a remodel of an existing 280 square-foot detached garage, and variance for the primary structure setbacks and maximum floor area ratio. The maximum Floor Area Ratio for the 2,416 square foot property is 58% (1,401 square feet). The total FAR of the project is 60.1% with a total of 1,452 square feet, exceeding the maximum FAR by 51 feet. The application does comply with front, side, and rear yard setbacks. A variance for setbacks and floor area ratio was approved for the project. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on April 7, 2022, except as modified through conditions imposed by the Planning Commission during the hearing.
2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans
3. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
4. 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.
5. 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.
6. Prior to issuance of building permit, a landscape plan shall be submitted and approved by the Community Development Department. The landscape plan can be produced by the property owner, landscape professional, or landscape architect. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of any proposed (but not required) irrigation systems.

7. Prior to issuance of building permit, all Planning fees associated with permit #21-0376 shall be paid in full.
8. Prior to issuance of building permit, the applicant shall provide a geotechnical report and demonstrate compliance with its recommendations to the satisfaction of the Building Department.
9. Prior to issuance of building permit, the developer shall pay Affordable housing in-lieu fees as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
10. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, 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, the applicant shall demonstrate compliance with the tree removal permit authorized by this permit for two trees to be removed from the property. Three replacement trees shall be planted or so as to meet fifteen percent canopy coverage and/or a replacement ratio of 2:1. Required replacement trees shall be of the same size, species and planted on the site as shown on the approved plans.

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. 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 17.156.080.
20. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
21. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
22. Prior to issuance of building permits, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
23. Prior to demolition of the existing structure, a pest control company shall resolve any pest issue and document that all pest issues have been mitigated. Documentation shall be submitted to the city at time of demolition permit application.
24. The garage doorway on the east (rear) elevation shall be of a sliding barn-door style or similar in such a way that no portion of the opening extends beyond the subject property and that vehicles may not pass through to the backyard.
25. Prior to issuance of a building permit, an archaeological survey report and monitoring plan shall be prepared for the development.
  - a. The archaeological survey report shall include, at a minimum, a field survey by an archaeologist, survey of available state resource information at the Northwest Regional Information Center of the California Archaeological Inventory, description of the site's sensitivity, and any identified archaeological resources. The city will initiate the preparation of the survey report at the applicant's expense utilizing a qualified archaeologist selected by the community development department.
  - b. The cultural resource monitoring plan shall, at a minimum:
    - i. Identify all areas of proposed grading or earth disturbing activities which have the potential to impact historic or prehistoric resources;
    - ii. Identify the qualified archaeological monitor assigned to the project;
    - iii. Describe the proposed monitoring program, including the areas to be monitored, the duration of monitoring, and monitoring protocols;
    - iv. Outline procedures to be followed if cultural resources are discovered, including requirements to stop work, consultation with the City and any Native

- American participation (as appropriate), resource evaluation, mitigation plan requirements, and protocols if human remains are encountered; and
- v. Include post-monitoring reporting requirements and curation procedures.

26. Prior to issuance of a building or grading permit, the applicant shall submit evidence that a qualified archaeological monitor has been retained to oversee all earthwork activities.
27. The archaeological monitor shall attend a construction meeting to coordinate required grading monitoring activities with the construction manager and contractors.
28. If resources are encountered, the archaeological monitor shall have the authority to stop work until a significance determination is made.
29. If significant resources are discovered, work may remain halted at the archaeologist's discretion until such time that a mitigation plan has been prepared and implemented with the concurrence of the Community Development Department.
30. Following completion of archaeological monitoring, the archaeologist shall submit a summary and findings of the monitoring work.
  - a. If no resources are recovered, a brief letter report shall be completed that includes a site record update on a California Department of Park and Recreation form 523.
  - b. If significant resources are recovered, the report shall include a preliminary evaluation of the resources, a preliminary map of discovered resources, a completed California Department of Park and Recreation form 523, and recommendations for additional research if warranted.
31. If human remains are found at any time, the immediate area of the discovery shall be closed to pedestrian traffic along the Prospect Avenue street frontage and the Santa Cruz County Coroner must be notified immediately. If the Coroner determines that the remains are Native American, the Native American Heritage Commission shall be notified as required by law.
32. The archaeological monitor may discontinue monitoring with approval by the Community Development Director if he/she finds that site conditions, such as the presence of imported fill or other factors, indicates that significant prehistoric deposits are not possible.
33. The archaeologist shall prepare a grading monitoring letter report summarizing all monitoring work and any recovered resources. The letter report shall be submitted to the Community Development Department within 30 days following completion of grading activities.

### **Design Permit Findings**



**A. The proposed project is consistent with the general plan, local coastal program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the city council.**

Community Development Staff and the Planning Commission have reviewed the proposed demolition and similar construction of an existing residence and remodel of an existing garage. With the granting of a variance to the required setbacks and maximum floor area ratio, the project secures the purpose of the General Plan, and Local Coastal Program, and design policies and regulations adopted by the City Council.

**B. The proposed project complies with all applicable provisions of the zoning code and municipal code.**

Community Development Staff and the Planning Commission have reviewed the application for the demolition and replacement of an existing residence and remodel of an existing garage. With a granting of a variance to the required setbacks and maximum floor area ratio, the project complies with all applicable provisions of the zoning code and municipal code.

**C. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).**

Section 15302 of the CEQA Guidelines exempts the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. This project involves replacement of a single-family residence and remodel of an existing garage subject to the R-1 (single-family residence) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.

**D. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.**

Community Development Staff and the Planning Commission have all reviewed the reviewed the application. The proposed project will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity. The project will improve parking in the vicinity by meeting on-site requirements.

**E. The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).**

The Community Development Staff and the Planning Commission have reviewed the application. With the granting of a variance to the required setbacks and maximum floor area ratio, the proposed complies with all applicable design review criteria in Section 17.120.070.

**F. The proposed project maintains the character, scale, and development pattern of the neighborhood.**

Community Development Staff and the Planning Commission have all reviewed the application. The design of the reconstructed residence and remodeled garage will fit in nicely with the existing neighborhood. The project will maintain the character, scale, and development pattern of the neighborhood and of the existing dwelling.

## Historic Alteration Findings

**A. The historic character of a property is retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize the property is avoided.**

Community Development Staff and the Planning Commission have reviewed the proposed similar construction of the historic structure and determined that the building will be recreated using existing documentary evidence taken from the site prior to demolition. The new building will be similar to the existing house in scale, massing, design, and the use of historic wood materials.

**B. Distinctive materials, features, finishes, and construction techniques or examples of fine craftsmanship that characterize a property are preserved.**

Community Development Staff and the Planning Commission have reviewed the proposed project and determined that the new structure will preserve the historic streetscape and alternating rooflines of Prospect Avenue, including the overall scale, massing, materials, placement.

**C. Any new additions complement the historic character of the existing structure. New building components and materials for the addition are similar in scale and size to those of the existing structure.**

Community Development Staff and the Planning Commission have reviewed the proposed determined that alterations from the original design, such as the rear deck, are in similar scale and size and compliment the historic character of the site and structure. The remodeled garage complements the primary structure and pattern of alternating rooflines of Prospect Avenue.

**D. Deteriorated historic features are repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature matches the old in design, color, texture, and, where possible, materials.**

Community Development Staff and the Planning Commission have reviewed the proposed project and determined that the existing structure has been subject to numerous structural and material alterations and replacements with limited original materials. The proposed similar construction will recreate distinctive features and incorporate in-kind replication of historic wood materials.

**E. Archeological resources are protected and preserved in place. If such resources must be disturbed, mitigation measures are undertaken.**

Community Development Staff and the Planning Commission have conditioned the project to include mitigation measures should archeological resources be identified.

### **Variance Findings**

**A. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property.**

The unique circumstance applicable to the subject property is that the property is a historic site, with an irregularly shaped lot that is both small and shallow by Capitola standards. The variance allows the construction of a residence that is comparably-sized with improved siting on the lot and will continue to contribute to the historic context of the Prospect Avenue streetscape.

**B. The strict application of the zoning code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property.**

The substandard lot size is unique with depths ranging from 29 to 46 feet. Incorporating the required 15 feet front yard setback and 8 feet rear yard setback, results in an extremely limited building pad of 778 square feet. The existing primary structure has a footprint 1200 square feet, and the proposed footprint is 978 square feet. The overwhelming majority of properties along the bluff side of Prospect Avenue do not comply with all minimum setbacks for primary structures, accessory structures, or both. In particular, many structures are located along the front lot lines. Lots decrease in size towards the southern end of the block and are typified by increased FAR and reduced setbacks. The subject property is the second most southern lot and is also one of the smallest on Prospect Avenue.

**C. The variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone as the subject property.**

The variance is necessary to preserve the use already enjoyed by the subject property and is already enjoyed in the vicinity with respect to lot siting and massing.

**D. The variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the properties or improvements in the vicinity or in the same zone as the subject property.**

The variance will not impose any detrimental impacts on the public health, safety, or welfare, or be injurious to properties or improvements in the vicinity or in the same zone as the subject property. In particular, proposed project has been designed to remove existing structural encroachments into the public right of way and improve parking.

**E. The variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property.**

The majority of properties on the bluff-side of Prospect Avenue do not comply with required setbacks. On the southern half of the block many properties additionally do not comply with current floor area ratio standards.

**F. The variance will not have adverse impacts on coastal resources.**

The variance will not adversely impact coastal resources. Although there are no coastal resources on the subject property, a public pathway exists between the rear of the lot and the railway. Conditions have been added to limit construction impacts to the site and surrounding area.

### **Coastal Findings**

**A. The project is consistent with the LCP land use plan, and the LCP implementation program.**

The proposed development conforms to the City's certified Local Coastal Plan (LCP) land use plan and the LCP implementation program.

**B. The project maintains or enhances public views.**

The proposed project is located on private property at 1410 Prospect Avenue. The project will not negatively impact public landmarks and/or public views.

**C. The project maintains or enhances vegetation, natural habitats and natural resources.**

The proposed project is located at 1410 Prospect Avenue. The near natural landforms and a coastal trail. Conditions have been added to limit impacts during construction, protect vegetation, and maintain natural vegetation cover.

**D. The project maintains or enhances low-cost public recreational access, including to the beach and ocean.**

The project involves the demolition and replacement of an existing residence and remodel of an existing garage, which will not negatively impact low-cost public recreational access.

**E. The project maintains or enhances opportunities for visitors.**

The project involves the demolition and replacement of an existing residence and remodel of an existing garage, which will not negatively impact visitor serving opportunities.

**F. The project maintains or enhances coastal resources.**

The project involves the demolition and replacement of an existing residence and remodel of an existing garage, which will not negatively impact coastal resources. Although there are no coastal resources on the subject property, a public pathway exists between the rear of the lot and the railway. Conditions have been added to limit construction impacts to the site and surrounding area.

**G. The project, including its design, location, size, and operating characteristics, is consistent with all applicable design plans and/or area plans incorporated into the LCP.**

With the granting of a variance, the proposed residential project complies with all applicable design criteria, design guidelines, area plans, and development standards. The operating characteristics are consistent with the R-1 (Single-Family Residential) zone.

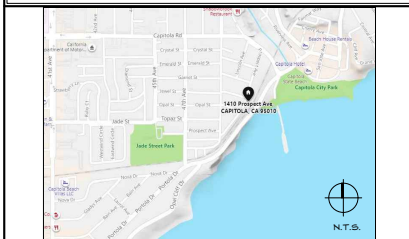
**H. The project is consistent with the LCP goal of encouraging appropriate coastal development and land uses, including coastal priority development and land uses (i.e., visitor serving development and public access and recreation).**

The project involves the demolition and replacement of an existing residence and remodel of an existing garage on a residential lot of record. The project is consistent with the LCP goals for appropriate coastal development and land uses. The use is an allowed use consistent with the R-1 zoning district.

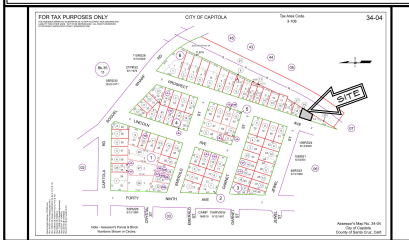
# JOHNSON RESIDENCE



VICINITY MAP



PARCEL MAP



PROJECT DATA

SETBACKS		REQUIRED	EXISTING	PROPOSED	
FRONT YARD	GARAGE	18'-0"	- 8 3/4"	1'-6"	
	1st STORY	15'-0"	- 4 3/4"	5'-1"	
	2nd STORY	20'-0"	- 4 3/4"	5'-1"	
REAR YARD	1st STORY	20'-0"	3'-4 3/4"	0'-0"	
	2nd STORY	20'-0"	18'-9 3/4"	12'-1 3/4"	
SIDE YARD	1st STORY	7'-0" (L) & 7'-0" (R)	5'-9" (L) & 4 3/4" (R)	10'-0" (L) & 4 3/4" (R)	
	2nd STORY	9'-6" (L) & 9'-6" (R)	5'-9" (L) & 3'-1 1/2" (R)	10'-0" (L) & 26'-4" (R)	
HEIGHT		25'-0"	21'-7"	23'-0"	
FLOOR AREA RATIO	LOT SIZE	MAX (56%)	EXISTING (67%)	PROPOSED (58.9%)	
	2,415 sq.ft.	1,400.7 sq.ft.	1,624 sq.ft.	1,423 sq.ft.	
	HABITABLE SPACE	FIRST FLOOR COVERED DECK OR PORCH (<150 sq.ft. CREDIT>)	SECOND FLOOR DECK	GARAGE	TOTAL
BASEMENT	<978 sq.ft.>				<978 sq.ft.>
MAIN LEVEL	978 sq.ft.	<12 sq.ft.>		608 sq.ft.	996 sq.ft.
UPPER LEVEL	427 sq.ft.		258 sq.ft.	250 = 18 sq.ft.	427 sq.ft.
(P) TOTAL					1,423 sq.ft.
** AREA NOT COUNTED PER CHAPTER 17.4B.040					
*** STAIR AREA COUNTED ONCE AT GROUND LEVEL					
PARKING		REQUIRED	PROPOSED		
		3 SPACES, ONE OF WHICH MUST BE COVERED	1 COVERED SPACE 2 UNCOVERED		
TOTAL		3 SPACES	3 SPACES		

BUILDING INFORMATION

**PROJECT DESCRIPTION:**  
DEMOLITION OF EXISTING 1,654 sq.ft. SINGLE FAMILY RESIDENCE, AND CONSTRUCTION OF A NEW TWO-STORY, 1,465 sq.ft. SINGLE FAMILY DWELLING AND 978 sq.ft. BASEMENT. RELOCATE EXISTING DETACHED GARAGE.

**PROJECT ADDRESS:**  
1410 PROSPECT AVE  
CAPITOLA, CA 95010

**PARCEL NUMBER:**  
034-146-19

**ZONING DESIGNATION:**  
R-1

**OCCUPANCY CLASSIFICATION:**  
R-3

**CONSTRUCTION TYPE:**  
TYPE V-B UNSPRINKLERED

**CODE NOTE:**  
THESE PLANS CONFORM TO THE 2019 CALIFORNIA RESIDENTIAL, BUILDING, MECHANICAL, PLUMBING, ELECTRICAL AND ENERGY CODE. STRUCTURAL ENGINEERING SHALL CONFORM TO 2019 CALIFORNIA BUILDING CODE. AS AMENDED BY THE STATE OF CALIFORNIA.

CONTACTS

**OWNER:**  
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1410 PROSPECT AVE  
CAPITOLA, CA 95010  
(650) 949-2143

**PROJECT DESIGNER:**  
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SANTA CRUZ, CA 95062  
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**STRUCTURAL ENGINEER:**  
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**SURVEYOR:**  
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JEAN PAUL HAPPEE, PLS 8607  
4444 SCOTT VALLEY DRIVE, #7  
SCOTT VALLEY, CA 95066  
PH: (831) 438-4453

DRAWING INDEX

BUILDING DESIGN	
T1	TITLE SHEET
L1	LANDSCAPE PLAN
A1	EXISTING SITE PLAN
D1	SITE DRAINAGE PLAN
A2	SITE PLAN
A3	EXISTING FLOOR PLANS
A4	FLOOR PLANS
A5	EXISTING EXTERIOR ELEVATIONS
A6	EXTERIOR ELEVATIONS
A7	EXTERIOR ELEVATIONS

DEREK VAN ALSTINE  
RESIDENTIAL DESIGN INC.  
1535 SEABRIGHT AVE SUITE 200  
SANTA CRUZ, CALIFORNIA  
95062-8400 PHONE: 831-426-8400 FAX

DVRD  
DEREK VAN ALSTINE  
REGISTERED ARCHITECT  
STATE OF CALIFORNIA  
NO. 10000

JOHNSON RESIDENCE  
1410 PROSPECT AVE.  
CAPITOLA, CA 95010

034-046-19

ISSUE DESCRIPTION

SCHEMATIC DESIGN

DESIGN DEVELOPMENT

PLANNING SUBMITTAL

AUG. 24, 2021

BUILDING SUBMITTAL

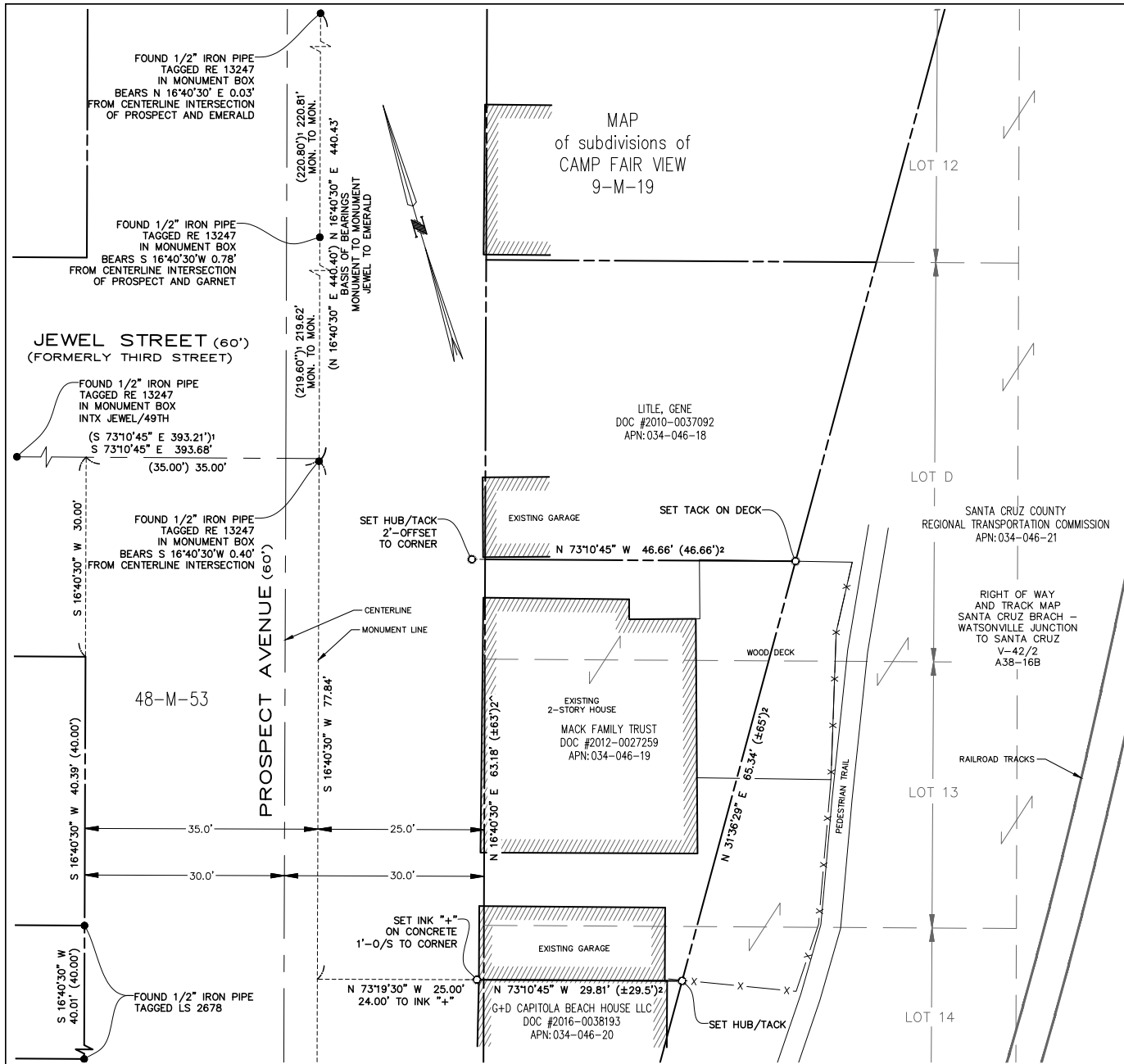
REVISIONS

REVISIONS

FEB. 6, 2022

TITLE SHEET

T 1



**BASIS OF BEARINGS**

BEARINGS FOR THIS SURVEY ARE BASED ON THE MONUMENT LINE ALONG PROSPECT AVENUE AS SHOWN ON THAT RECORD OF SURVEY FILED IN VOLUME 48 OF MAPS, PAGE 53, SANTA CRUZ COUNTY RECORDS AND WAS ESTABLISHED BETWEEN MONUMENTS FOUND AS SHOWN HEREON.

SOUTH 16°40'30" WEST

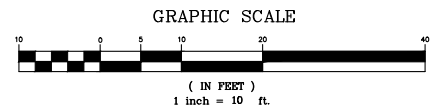
**SURVEYORS NOTES**

- BOUNDARY LINES DELINEATED ON THIS MAP ARE BASED ON THE SURVEYOR'S OPINION UTILIZING FOUND PHYSICAL EVIDENCE AND RECORDED MAPS AND DEEDS AS LISTED IN THE REFERENCE DOCUMENTS. NO LIABILITY IS ASSUMED BY ALPHA LAND SURVEYS FOR THE EXISTENCE OF ANY EASEMENTS, ENCUMBRANCES, DISCREPANCIES IN BOUNDARY OR TITLE DEFECTS NOT MENTIONED IN SAID DOCUMENTS AND THEREFORE NOT SHOWN ON THIS DRAWING.
- A TITLE REPORT WAS NOT PROVIDED FOR THIS SURVEY.
- NO REPRESENTATION IS MADE AS TO ANY PRESCRIPTIVE OR OTHER RIGHTS TO LANDS INCLUDED IN THIS SURVEY.
- NUMEROUS BUILDINGS ALONG EASTERN SIDE OF PROSPECT AVENUE ENCROACH INTO RIGHT OF WAY.

**LEGEND**

---	PROPERTY LINE
- - - -	EASEMENT LINE
- · - · -	OLD PROPERTY LINE
— · — · —	CENTERLINE
- x - x - x -	FENCE LINE
— · — · — · — · —	MONUMENT LINE OR TIE LINE
100	DISTANCE MEASURED
(100)	RECORD DATA PER 9-M-19
(100) <sup>1</sup>	RECORD DATA PER 48-M-53
(100) <sup>2</sup>	RECORD DATA PER DOC #2012-0027259
●	FOUND MONUMENT, AS NOTED
○	SET BOUNDARY, AS NOTED

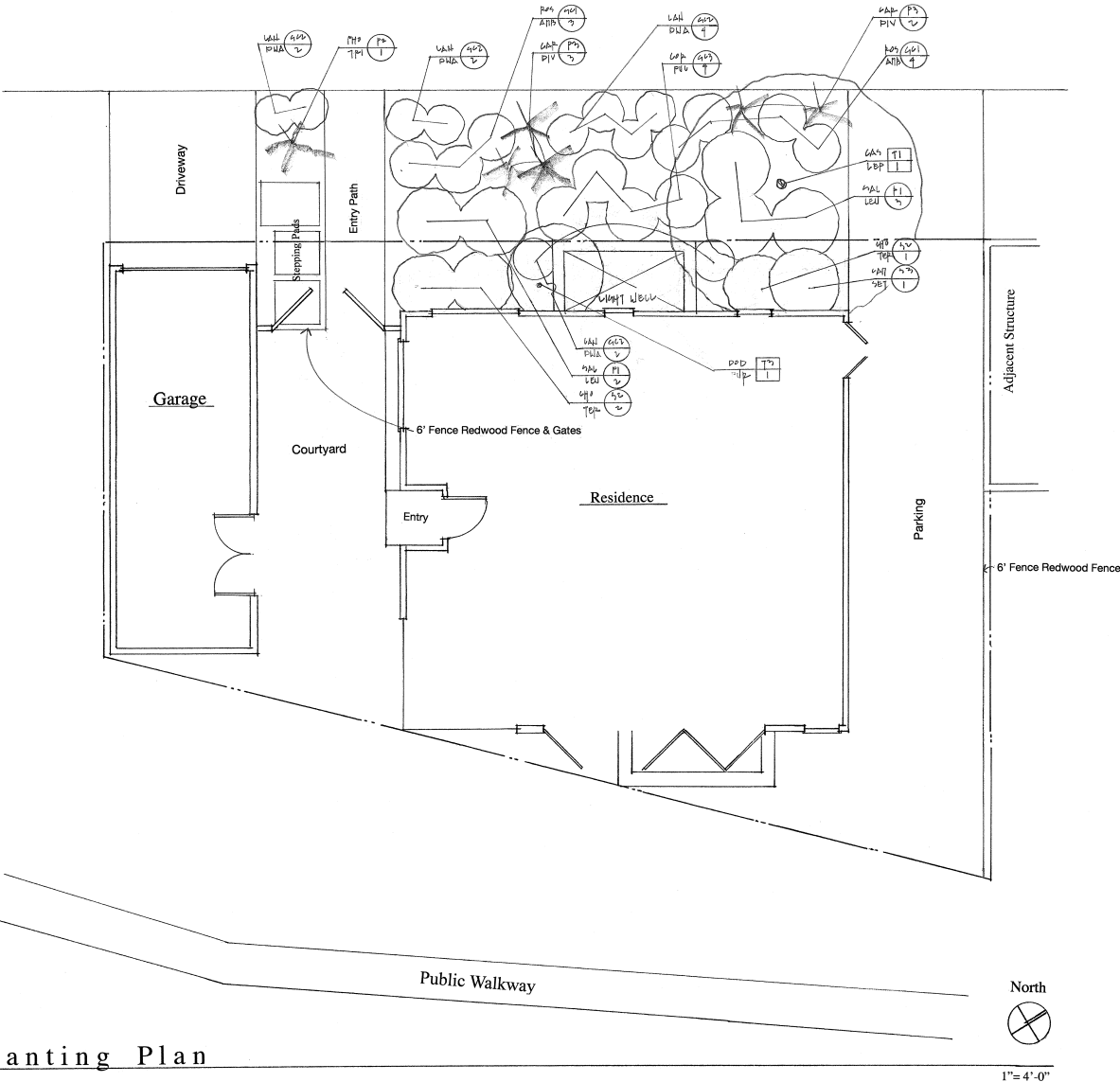
DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF



SANTA CRUZ COUNTY APN: 034-046-19

**ALPHA LAND SURVEYS, INC.**

4444 SCOTT VALLEY DR. #7 SCOTT VALLEY, CA 95066 (831) 438-4453	P.O. BOX 1146 MORGAN HILL, CA 95038 (831) 438-4453	BOUNDARY SURVEY LANDS OF MACK 1410 PROSPECT AVE CAPITOLA, CA	SHEET 1 OF ONE
1" = 10'	DATE: 10/9/19	JOB#: 2019-077	



Plant Legend

Sym	Botanical Name	Common Name	Size	Quan
<b>Trees</b>				
T1	Acer palmatum	Green Japanese Maple	15GC	1
T2	Cassia leptophylla	Gold Medallion Tree	15GC	1
T3	Dodonaea viscosa 'Purpurea' - std.	Purple Hoopseed Bush-single trunk	15GC	1
<b>Shrubs</b>				
S1	Rhodocoma capensis	Cape Rest	5GC	1
S2	Choyasia ternata	White Mexican Orange	5GC	2
S3	Camellia sasanqua 'Sersugekka'	White Sasanqua Camellia	5GC	1
<b>Perennials</b>				
P1	Salvia leucantha	Purple Mexican Sage	1GC	5
P2	Phormium 'Tricolor'	Green/White/Pink NZ Flax	5GC	1
P3	Carex divulsa	Berkeley Sedge	1GC	5
<b>Groundcover</b>				
GC1	Rosa 'Amber Flower Carpet'	Amber Flower Carpet Rose	2GC	7
GC2	Lantana 'Dwarf White'	White Trailing Lantana	1GC	10
GC3	Correa pulchella	Light Pink Australian Fuchsia	1GC	4

Notes

- PLANTING AREA PREPARATION**
1. Remove soil as required to accommodate soil amendments and ensure positive drainage away from all structures.
  2. Cultivate all planting areas to a minimum of 6" incorporating a minimum of four cubic yards per 1,000 square feet of permeable area into the soil. Soils with greater than 6% organic matter in the top 6 inches of soil are exempt from adding compost and tilling.
  3. After the completion of all grading and underground construction, all planting areas shall be finish graded, to smooth, even surfaces with positive drainage per existing topography or to drainage swales or structures.
  4. Existing plants to be saved shall be protected from injury.
  5. No stockpiles of plants or materials to be saved shall be located within the drip line of any existing tree to be saved.
- QUALITY OF PLANT MATERIALS**
1. All plant material shall be nursery grown, healthy and free from disease and pests.
  2. Plants not conforming to common nursery standards or found unacceptable by the Landscape Architect will be considered defective and shall be replaced at no additional cost to the owner.
  3. Plants shall be protected from drying out, wind burn and injury during handling and storage.
- INSTALLATION**
1. Planting holes shall be as deep as the root ball and 3 times the width of the root ball.
  2. Each plant shall have a pre made or site made gopher basket of the appropriate size.
  3. Backfill for the planting holes shall be 80 % site soil and 20% 50- 50 blend mushroom compost, aged chicken manure or other approved material.
  4. All planting areas shall be mulched with 3" of redwood bark, fir bark or other approved material, except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated.
  5. All trees shall be staked with 2, 2" x 10' lodge pole pine tree stake outside the root ball and secured with two rubber tree ties.

Planting Plan

Sheet LI  
 Revisions 2-9-12  
 Date 11-22-12  
 Ca. Lic. #2937 831.426-6845  
 Ellen Cooper Landscape Architect  
 ALEXANDY JOHNSON  
 110 PERSPECT AVE., OAKTOWN, CA.

DEREK VAN ALSTINE  
RESIDENTIAL DESIGN INC.  
1335 SHARPE DRIVE, SUITE 200, SAN ANTONIO, TEXAS 78204  
(214) 481-4444 FAX (214) 481-4444

DVRD,  
DEREK VAN ALSTINE  
REGISTERED ARCHITECT  
ALL RIGHTS RESERVED

JOHNSON RESIDENCE  
1410 PROSPECT AVE.  
CAPITOLA, CA 95010

024-016-19

ISSUE DESCRIPTION

PRELIMINARY DESIGN

DESIGN DEVELOPMENT

PLANNING SUBMITTAL  
AUG. 24, 2021

PERMITS SUBMITTAL

REVISIONS

PLANNING REVISIONS  
FEB. 6, 2022

EXISTING SITE PLAN

EXISTING SITE PLAN

EXISTING SITE PLAN

EXISTING SITE PLAN

EXISTING SITE PLAN

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EXISTING SITE PLAN

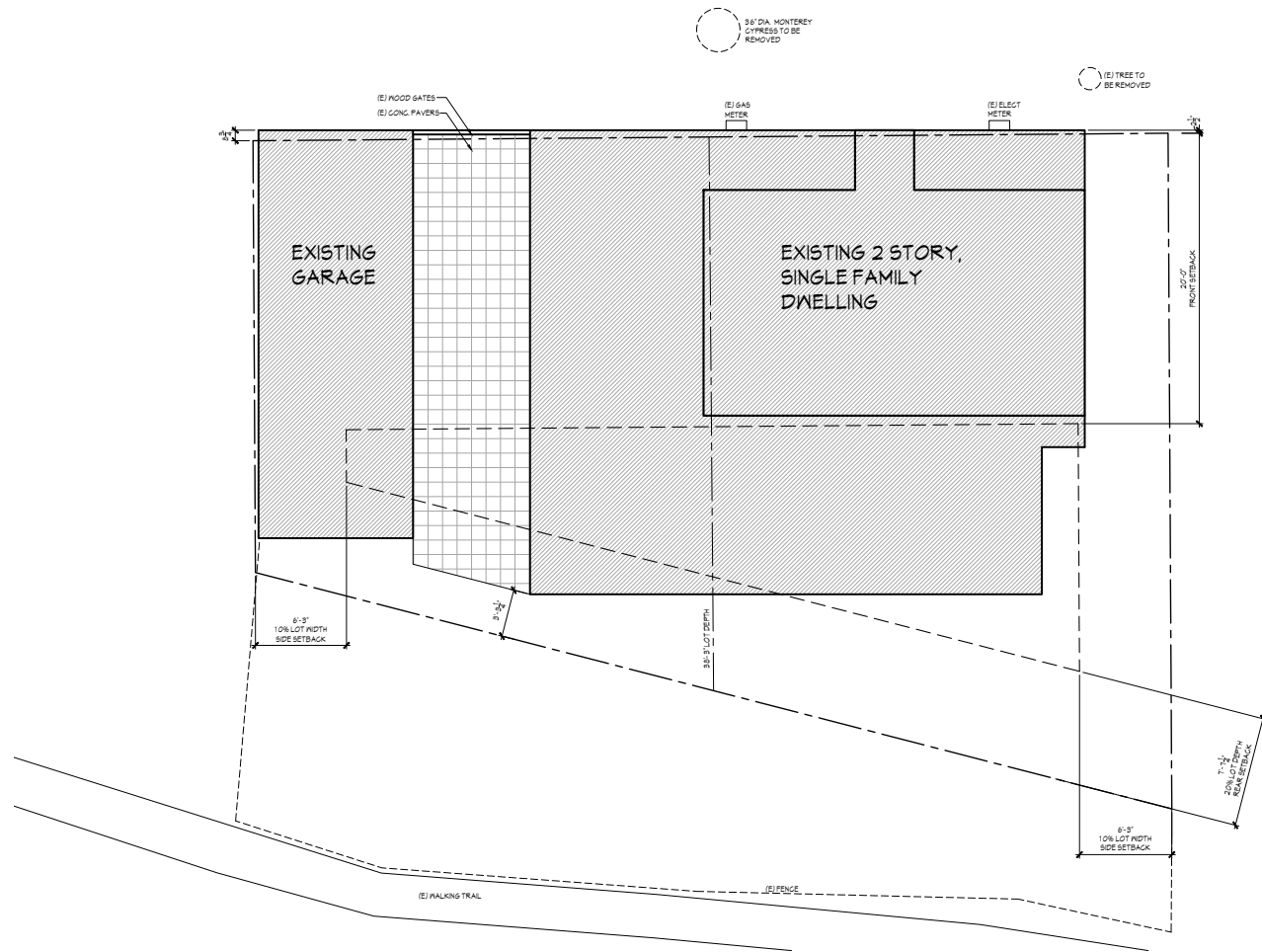
EXISTING SITE PLAN

EXISTING SITE PLAN

EXISTING SITE PLAN

EXISTING SITE PLAN

EXISTING SITE PLAN



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

4/11/2022 11:45 AM



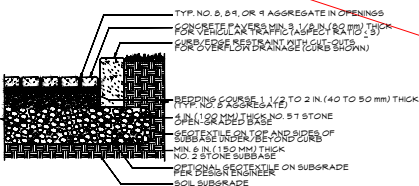
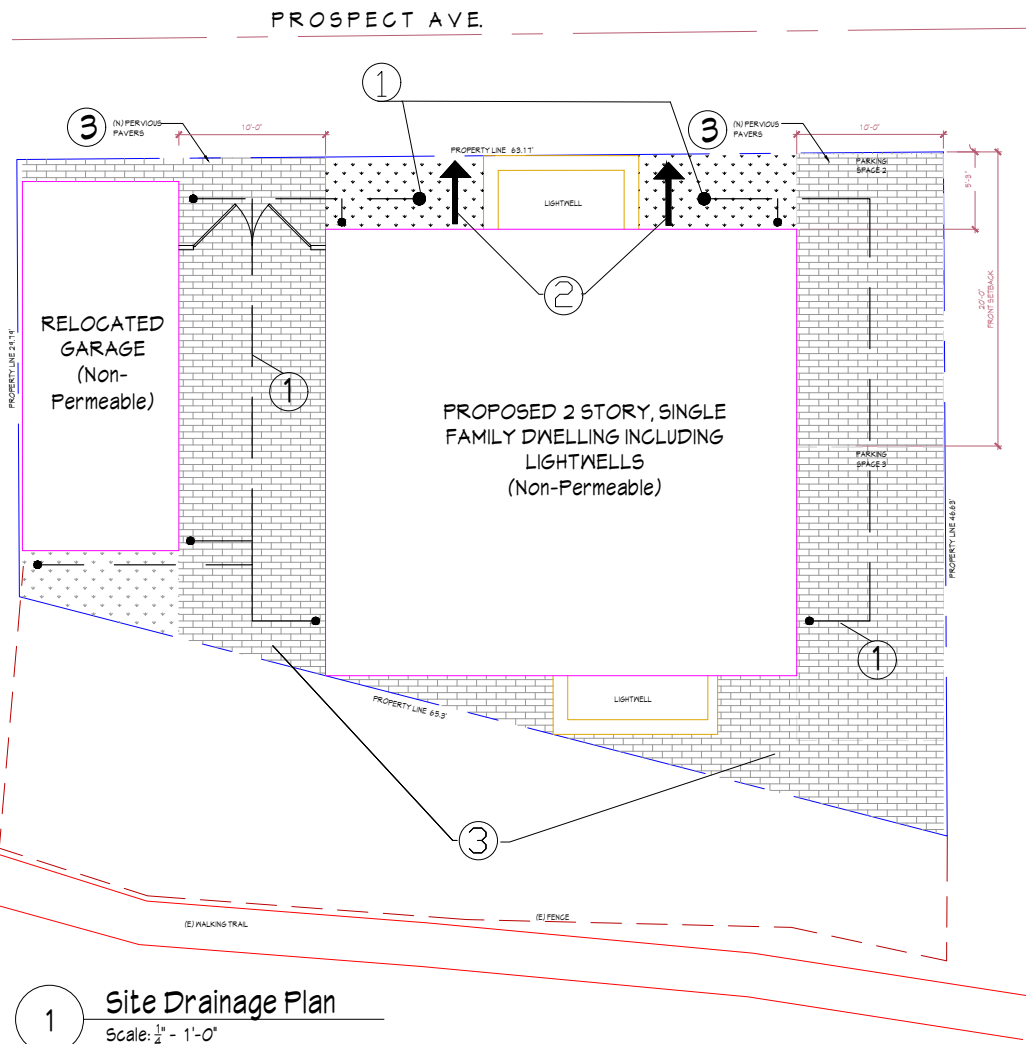
① Roof Downspout connected to 3" Diameter PVC D2729 Drain Pipe with NDS Pop-Up Drainage Emitter at Outfall.

② Direction of Surface Runoff

③ Pervious Paver Detail

- STORMWATER PROJECT INFORMATION**
1. Project Type: Residential - Detached Single Family Home
  2. Tier: Basic (12,500 SF of New/Replaced Impervious Area)
  3. Description: Reconstruction of an existing residence and detached garage
  4. Total Project Site Area: 2,418 SF
  5. Amount of existing (pre-project) impervious surface area (e.g. existing building, paving, hardscape): 1,720 SF
  6. Amount of replaced impervious surface area (e.g. parking lot replaced by a building): 0 SF
  7. Amount of new impervious surface area created (e.g. new building addition and/or patio). Reduced by 4.24 SF via Smaller Building Footprint and Permeable Pavers Use
  8. Total Proposed (post-project) impervious surface area: 1,346 SF

- GENERAL NOTES**
1. All improvements shall be constructed in accordance with the project plans.
  2. The Contractor shall verify all existing conditions, elevations, dimensions, and construction in the field prior to construction. If any discrepancies are noted the contractor shall notify the engineer immediately for direction.
  3. A minimum of 48 hours prior to construction, the contractor shall notify underground Service Alert (uSA) at D 11 for existing utility locations.
  4. The contractor shall not commence work until after a pre-construction meeting has been held with the Owner and City of Capitola, and after a notice to proceed has been issued.
  5. Traffic control during construction shall be the Contractor's responsibility and shall be in accordance with the approved plan submitted to the City of Capitola.
  6. The Contractor shall keep existing streets free from dirt and debris during all phases of construction.
  7. The Contractor shall maintain access to properties along Prospect Avenue throughout the duration of construction.
  8. The Contractor shall repair any damage or interruption of public utilities, water lines, or irrigation systems immediately at no expense to the City of Capitola.
  9. The contractor is responsible for matching existing streets, surrounding landscape, and other improvements with a smooth transition in paving and grading, etc., and is to avoid any abrupt or apparent changes in grades or cross slopes, low points or hazardous conditions.
  10. The contractor shall comply with the rules and regulations of the City of Capitola, County of Santa Cruz, State of California, and Cal/OSHA.
  11. All existing irrigation, landscape materials, pavement delineation, curb and gutter, and other improvements, that are not to be removed but are damaged during construction, shall be replaced or restored to existing condition at no additional expense and the satisfaction of the Owner.



- NOTES**
1. NO. 2 STONE SUBGRADE THICKNESS VARIES WITH SLOPE.
  2. NO. 3 STONE MAY BE SUBSTITUTED WITH NO. 3 OR NO. 4 STONE.
  3. NO. 2 STONE MAY BE SUBSTITUTED WITH NO. 3 OR NO. 4 STONE.

- PERMEABLE PAVEMENT WITH FULL INFILTRATION TO SOIL SUBGRADE  
 ○ PERVIOUS PAVEMENT WITH NO INFILTRATION TO SOIL SUBGRADE

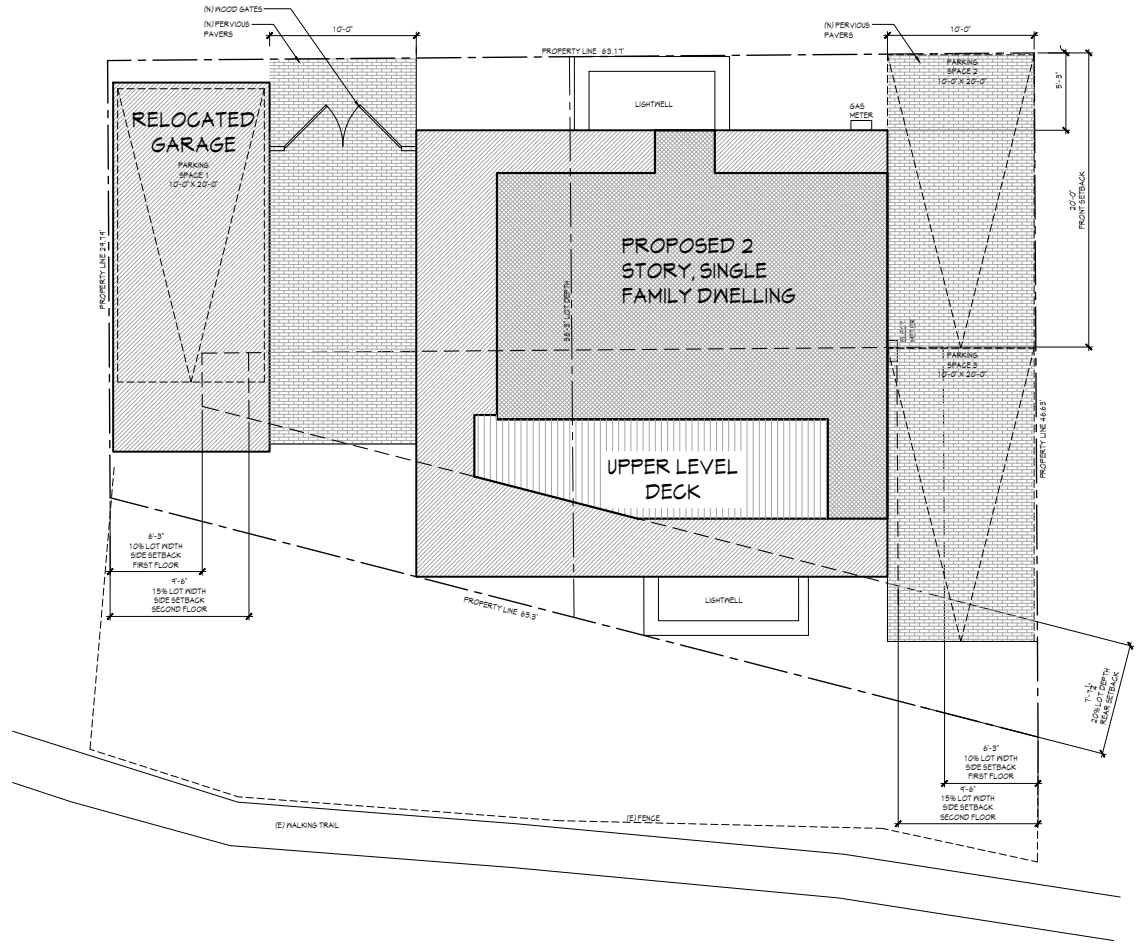
1 Site Drainage Plan  
 Scale: 1/4" = 1'-0"

Alexander Michael Johnson  
 Registered Professional Engineer  
 Civil - California No. 56635

JOHNSON RESIDENCE  
 1410 PROSPECT AVE.  
 CAPITOLA, CA 95010

DATE	03/04/2018
DESCRIPTION	SCHEMATIC DESIGN
DESIGN DEVELOPMENT	
PLANNING SUBMITTAL	AUG. 24, 2021
BUILDING SUBMITTAL	
REVISIONS	
PLANNING REVISION	FEB. 8, 2022

D1



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

2/4/2022 1:56 PM

DEREK VAN ALSTINE  
RESIDENTIAL DESIGN INC.  
1335 SHARPE DRIVE, SUITE 100, SAN ANTONIO, TEXAS 78204  
(214) 484-4444 FAX (214) 484-4445

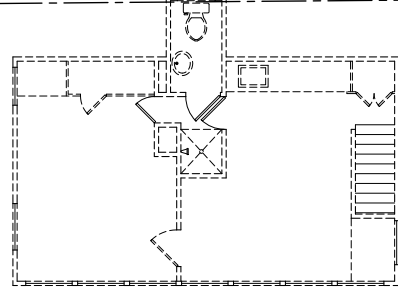
DVRD  
DEREK VAN ALSTINE  
ARCHITECT  
228 COPPERBOLT  
ALL RIGHTS RESERVED

JOHNSON RESIDENCE  
1410 PROSPECT AVE.  
CAPITOLA, CA 95010

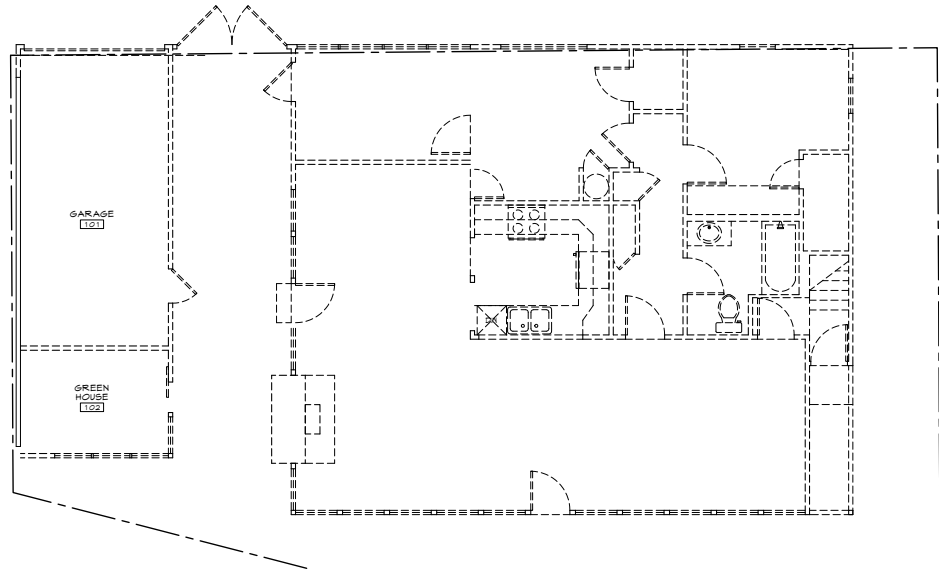
024-016-19
ISSUE DESCRIPTION
SCHEMATIC DESIGN
DESIGN DEVELOPMENT
PLANNING SUBMITTAL AUG. 24, 2021
BUILDING SUBMITTAL
REVISIONS
REVISIONS FEB. 6, 2022

SITE PLAN

A2



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



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

**WALL LEGEND**

- NEW 2x4 STUD WALL
- NEW 2x6 STUD WALL
- EXISTING WALLS TO BE REMOVED
- EXISTING WALLS TO REMAIN

DEREK VAN ALSTINE  
RESIDENTIAL DESIGN INC.  
1335 HARBOR DRIVE, SUITE 100, ANAHEIM, CALIFORNIA  
92805-3487  
TEL: 714-941-0444 FAX: 714-941-0445

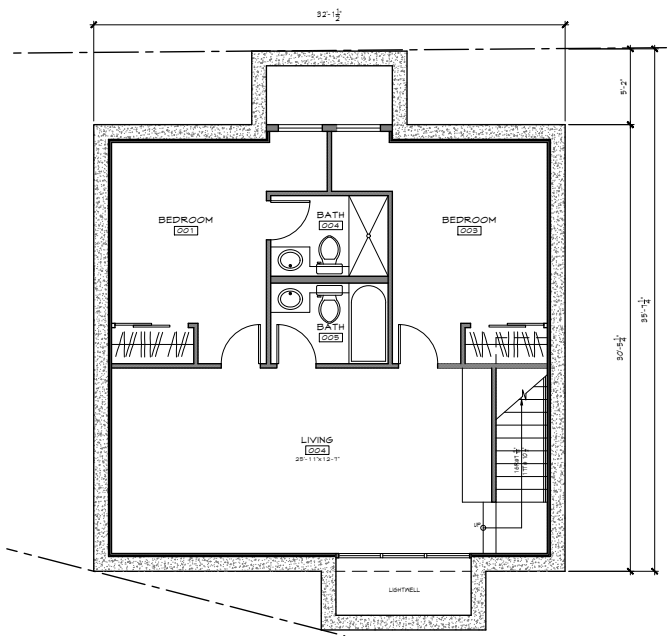
DVRD  
Derek Van Alstine  
Designer  
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ALL RIGHTS RESERVED

JOHNSON RESIDENCE  
1410 PROSPECT AVE.  
CAPITOLA, CA 95010

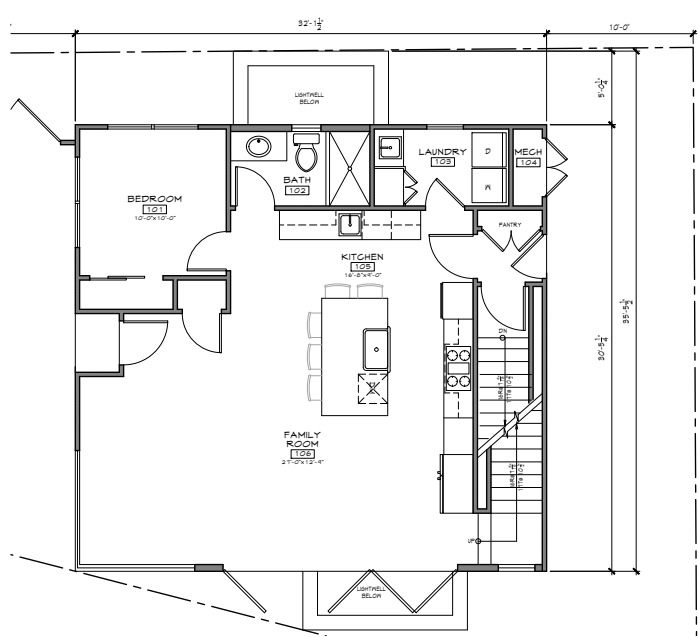
ISSUE DESCRIPTION
SCHEMATIC DESIGN
DESIGN DEVELOPMENT
PLANNING SUBMITTAL AUG. 24, 2021
BUILDING SUBMITTAL
REVISIONS REVISIONS FEB. 6, 2022
EXISTING FLOOR PLANS

A3

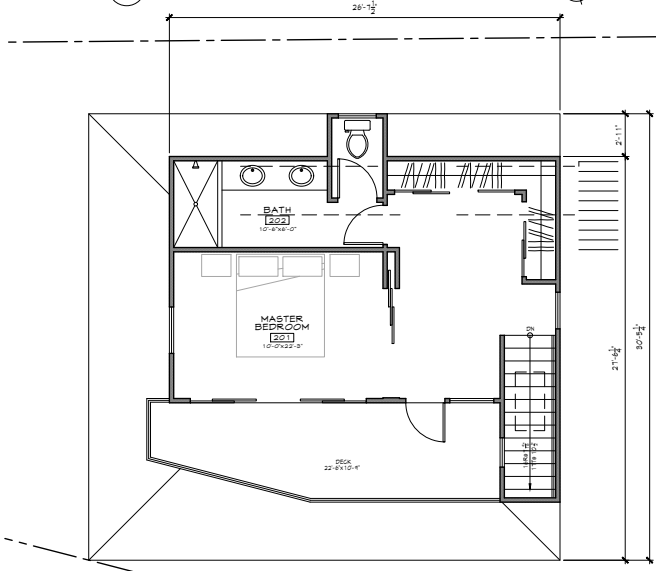
03-4-06-18
ISSUE DESCRIPTION
SCHEMATIC DESIGN
DESIGN DEVELOPMENT
PLANNING SUBMITTAL AUG. 24, 2021
BUILDING SUBMITTAL
REVISIONS
PLANNING REVISIONS FEB. 6, 2022
FLOOR PLANS



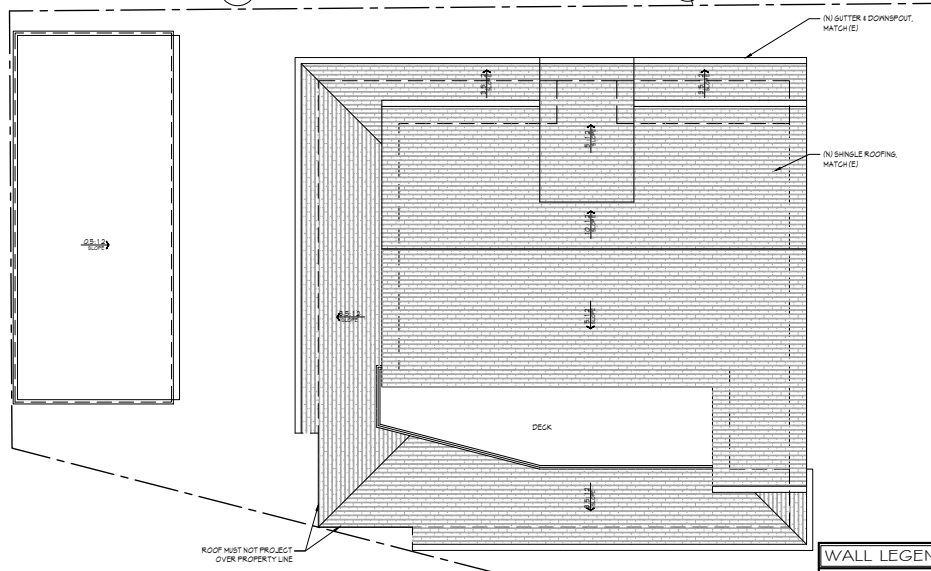
**1 BASEMENT FLOOR PLAN**  
SCALE: 1/4" = 1'-0"



**2 LOWER LEVEL FLOOR PLAN**  
SCALE: 1/4" = 1'-0"



**3 UPPER LEVEL FLOOR PLAN**  
SCALE: 1/4" = 1'-0"

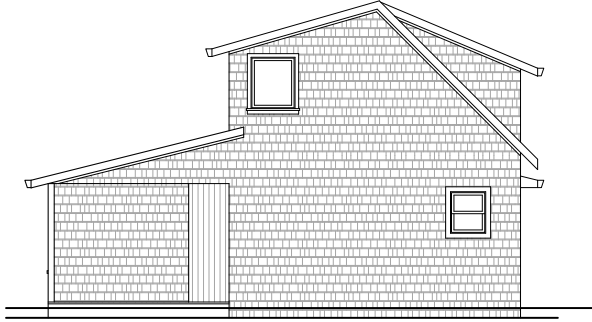


**4 ROOF PLAN**  
SCALE: 1/4" = 1'-0"

**WALL LEGEND**

[Solid line]	NEW 2x4 STUD WALL
[Dashed line]	NEW 2x4 STUD WALL
[Dotted line]	EXISTING WALLS TO BE REMOVED
[Dash-dot line]	EXISTING WALLS TO REMAIN

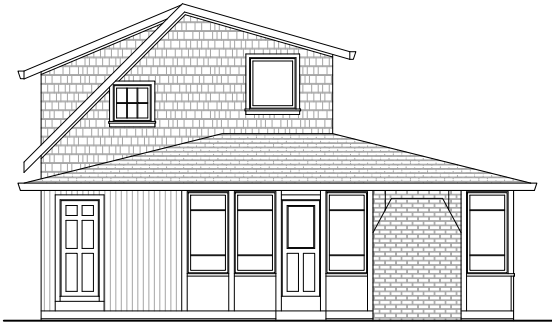
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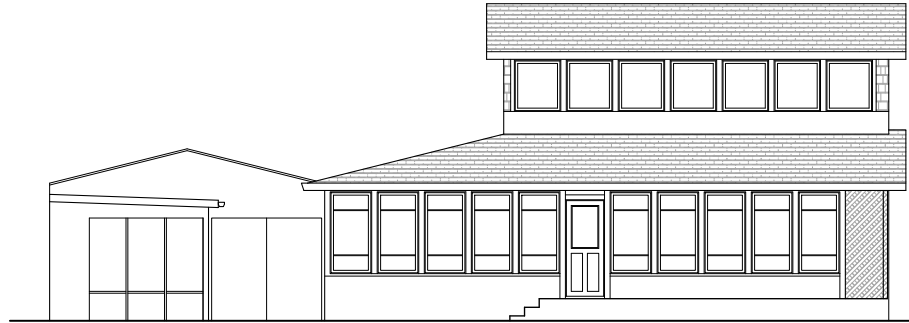
2 EXISTING NORTH ELEVATION  
SCALE: 1/4" = 1'-0"



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



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



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

2/4/2022 1:51 PM

DEREK VAN ALSTINE  
RESIDENTIAL DESIGN INC.  
1335 SHARKEY AVENUE, SUITE 100  
OAKLAND, CALIFORNIA 94612  
PHONE: 510.536.4444 FAX: 510.536.4445

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DEREK VAN ALSTINE  
ARCHITECT

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1410 PROSPECT AVE.  
CAPITOLA, CA 95010

024-046-18

ISSUE DESCRIPTION

SCHEMATIC DESIGN

DESIGN DEVELOPMENT

PLANNING SUBMITTAL

AUG. 24, 2021

BUILDING SUBMITTAL

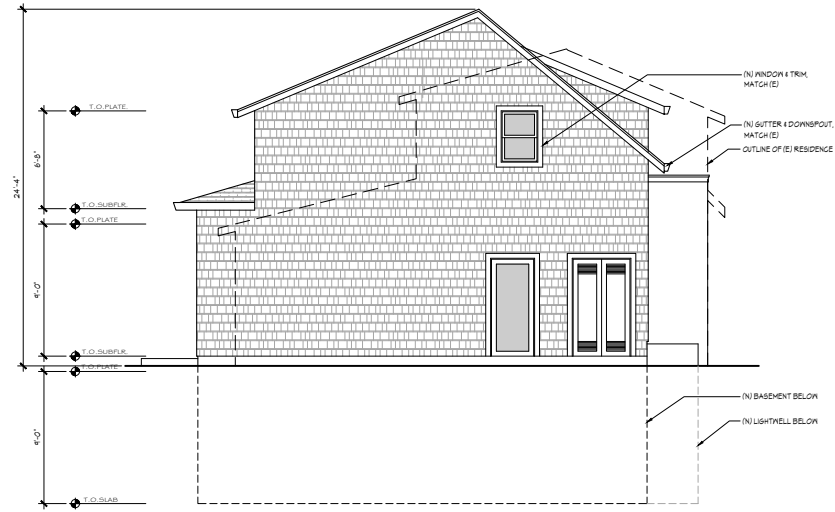
REVISIONS

REVISIONS

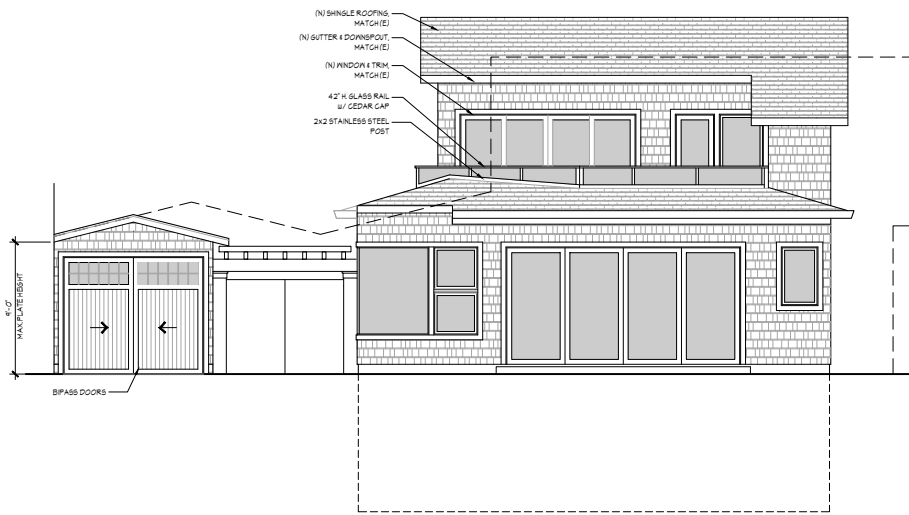
FEB. 6, 2022

EXTERIOR  
ELEVATIONS

A5



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



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

4/11/2022 11:53 AM

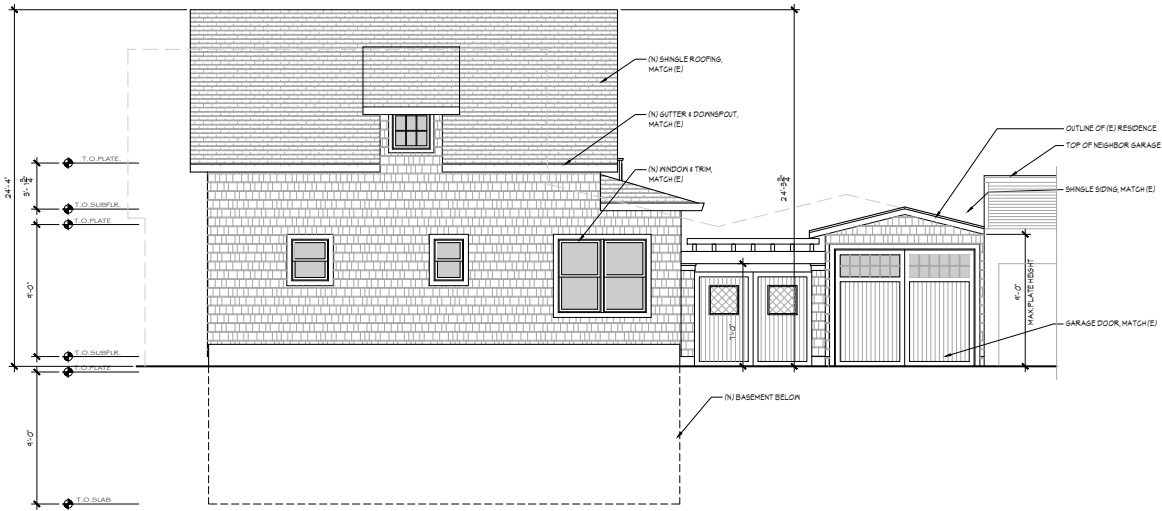
DEREK VAN ALSTINE  
RESIDENTIAL DESIGN INC.  
1335 SHARKEY AVENUE  
DUBLIN, CALIFORNIA 94568  
CONTACT PHONE: 925-938-4465 FAX: 925-938-4465

DVRD  
DEREK VAN ALSTINE  
RESIDENTIAL DESIGN INC.

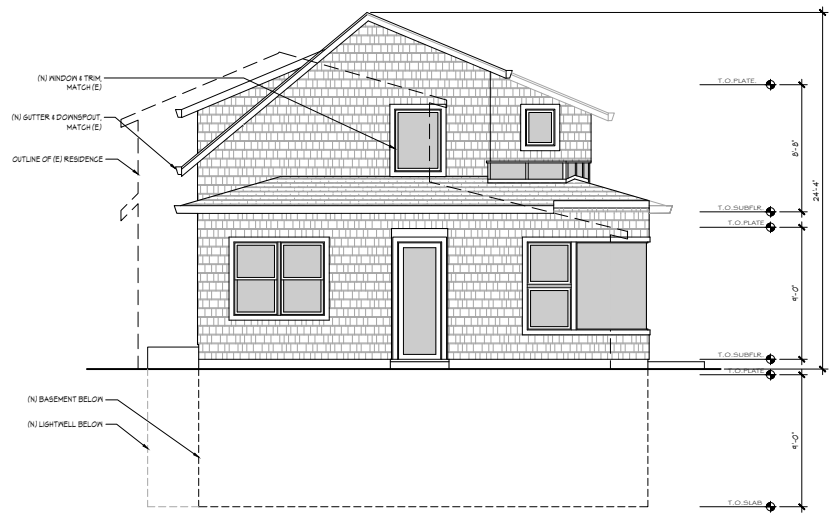
JOHNSON RESIDENCE  
1410 PROSPECT AVE.  
CAPITOLA, CA 95010

024-016-18
ISSUE DESCRIPTION
SCHEMATIC DESIGN
DESIGN DEVELOPMENT
PLANNING SUBMITTAL AUG. 24, 2021
BUILDING SUBMITTAL
REVISIONS
PLANNING REVISIONS FEB. 6, 2022
EXTERIOR ELEVATIONS

A6



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



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

2/25/2022 12:34 PM

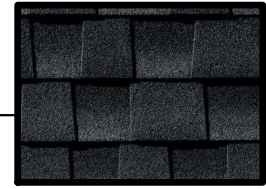
DEREK VAN ALSTINE  
RESIDENTIAL DESIGN INC.  
133 SHARKEY AVENUE  
OAKLAND, CALIFORNIA  
94612-4464 FAX

DVRD  
DEREK VAN ALSTINE  
DESIGN INC.  
DESIGNER  
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1410 PROSPECT AVE.  
CAPITOLA, CA 95010

024-016-18
ISSUE DESCRIPTION
PRELIMINARY DESIGN
DESIGN DEVELOPMENT
PLANNING SUBMITTAL AUG. 24, 2021
BUILDING SUBMITTAL
REVISIONS
PLANNING REVISIONS FEB. 6, 2022
EXTERIOR ELEVATIONS

A7



ASPHALT SHINGLE ROOFING  
DARK CHARCOAL BY GAF



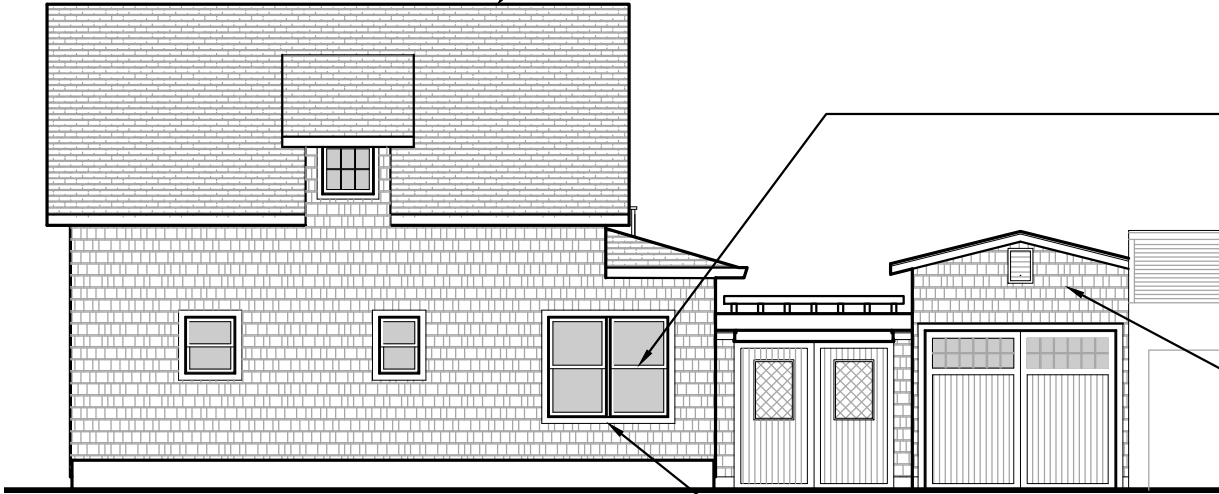
WINDOWS & DOORS  
MARVIN, OR EQUAL  
KELLY MOORE  
SWISS COFFEE 23



WOOD SHINGLES  
KELLY MOORE  
PLYMOUTH GRAY 17B



TRIM & WOODWORK  
KELLY MOORE  
SWISS COFFEE 23



DEREK VAN ALSTINE  
RESIDENTIAL DESIGN INC.

1535 SEABRIGHT AVENUE #200, SANTA CRUZ, CALIFORNIA  
(831)426-8400 PHONE (831)426-8446 FAX

DVRD

DEREK VAN ALSTINE  
DESIGNER

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JOHNSON RESIDENCE

1410 PROSPECT AVENUE, CAPITOLA, CA 95010  
APN: 034-146-19





# City of Capitola Variance Application Form

### Variance Summary

Please explain your Variance request and the development standard(s) which you would like to modify.

We are requesting variances to the front yard setback, southern side yard setback, and rear yard setbacks.

### Required Findings

Please provide the reasons you believe the following findings can be made to support your Variance request. Note any special circumstances related to your property, including lot size, dimensions, shape, structure, topography, and/or a historic structure. Attach additional pages as necessary.

- A. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property.

The subject parcel is 2,415 square feet and triangular in shape. It has a buildable envelope of 390 square feet.

- B. The strict application of the zoning code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property.

The strict application of the zoning requirements would render the parcel virtually unbuildable.

C. The variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone as the subject property.

The requested variances will allow reconstruction of an historic property while reducing the existing encroachments without the requested variances the reconstruct could not be done.

D. The variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity or in the same zone as the subject property.

The requested variances will not be harmful to the public health, safety, or be injurious to the properties in the near vicinity.

E. The variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property.

Variances to setbacks are numerous in this neighborhood and will not constitute granting of special privilege.

F. The variance will not have adverse impacts on coastal resources.

No coastal resources will be disturbed.



ARCHIVES  
ARCHITECTURE

PO BOX 1332  
SAN JOSE CA 95109

February 18, 2020

Attn: Matt Orbach, Associate Planner  
City of Capitola  
420 Capitola Avenue  
Capitola, CA 95010  
(Via email)

RE: Preliminary Historical Evaluation – 1410 Prospect Avenue, Capitola, CA  
APN# 034-04-619

Dear Matt:

This letter constitutes a preliminary historic resource evaluation (Phase One Report) for the property located in the City of Capitola, County of Santa Cruz, at 1410 Prospect Avenue. The property contains two buildings: the main house and a detached garage and greenhouse.

### Executive Summary

The property at 1410 Prospect Avenue, identified in 1986 on the City of Capitola Historic Structures List, meets the criteria for designation as a Historic Feature utilizing the City of Capitola Historic Feature Ordinance, Qualities 9 and 10: “The proposed historic feature by its location and setting materially contributes to the historic character of the city, and the proposed historic feature is a long established feature of the city.” The property also appears to qualify for listing on the California Register of Historical Resource for its embodiment of the significant patterns of development history of the City of Capitola. It is not eligible, however, based on its associations with personages, nor for its architectural design, due to alterations on the exterior.



1410 Prospect Avenue  
Craftsman Influence  
c. 1905

Fully windowed facade for  
viewing bay.

*Capitola Architectural Survey 1986 (Viewed from the pathway, facing northwest)*

### **Intent of this Memorandum**

An historical resource evaluation is often required in the State of California to accompany a project submittal when a city such as Capitola determines that extant structures on the property are at least 50 years old. This property is listed on the City of Capitola 2005 Historic Structures List, referencing the City of Capitola Architectural Survey of 1986; however, a property does not have to be listed on a historic resource inventory or historic property register to warrant this type of evaluation as a part of the development review process. Depending on the findings of the review, further formal documentation could subsequently be required by the City of Capitola Community Development Department, including preparation of Department of Parks and Recreation (DPR)523 series recording forms, a more detailed assessment under the Guidelines of the California Environmental Quality Act, or other types of documentation.

The 1986 listing indicated that the property was considered a 7N, indicating that the property required additional evaluation. This letter is intended to provide that preliminary evaluation. To make significance determinations, the City of Capitola requires that the investigation be done by a qualified historical consultant who then conducts the initial investigation and prepares the preliminary evaluation.

### **Policy and Regulatory Background**

The City's historic preservation policies recognize older buildings for their historical and architectural significance as well as their contributions to the identity, diversity, and economic welfare of communities. The historic buildings of Capitola highlight the City's unique heritage and enable residents to better understand its identity through these links with the past. When a project has the potential to affect a historic resource which is either listed, or eligible for listing, on the California Register of Historical Resources, or is eligible for designation as a Historic Feature under City of Capitola's criteria, the City considers the impact of the project on this significance. Each of these listing or designation processes is based on specific historic evaluation criteria.

A preliminary historic evaluation, as presented in this letter, can be used to determine the potential for historical significance of a building, structure, site, and/or improvement.

### **Property Status**

The parcel at 1410 Prospect Avenue is listed on the 2005 City of Capitola Historic Structures List with the status of 7N. This designation, according to the State of California Historical Resource Status Codes, indicates that the property "needs to be reevaluated." The property was first identified as part of the Capitola Architectural Survey published in 1986 (indicated by the designation "D" on the Historic Structures List), and as shown in the *Capitola Architectural Survey*.

The property at 1410 Prospect Avenue has not been previously evaluated locally at an intensive level. The property is not listed or designated as a part of any state or national survey of historic resources. The preparers of this report reviewed the subject property under local, state and national criteria, to analyze eligibility for listing or designation as a historic property.

### **Qualifications**

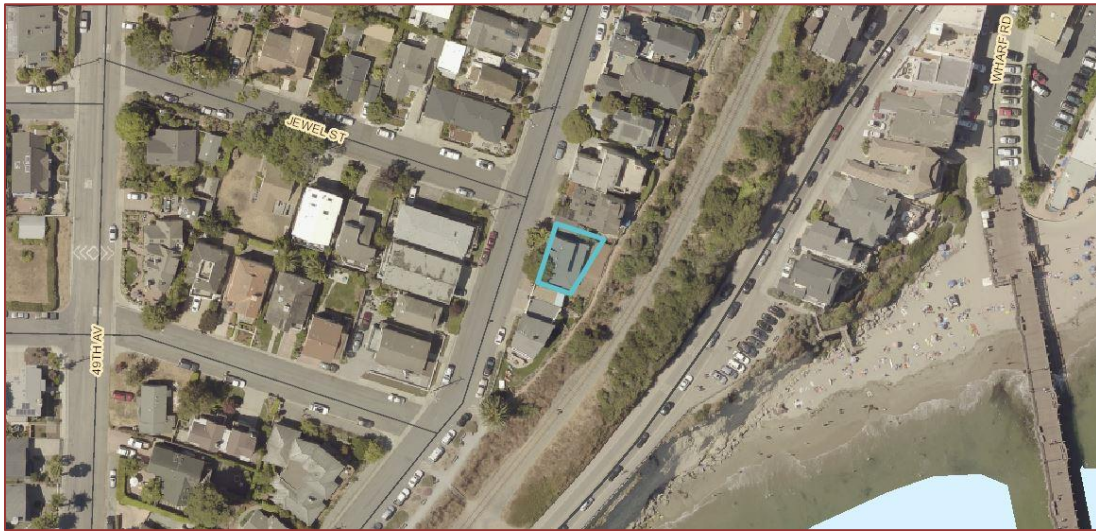
Archives & Architecture, LLC, is a cultural resource management firm located in San Jose, California. Leslie Dill, partner in the firm and the author of this letter, meets the Secretary of the Interior's qualifications within the fields of historic architecture and architectural history to perform identification, evaluation, registration, and treatment activities in compliance with state and federal environmental laws, and is listed with the California Historical Resource Information System (CHRIS). The standards for listing are outlined in 36 CFR Part 61.

## Methodology

The methodology used for this historic evaluation included an on-site visual inspection of the extant buildings and structure, a preliminary investigation into the history of the property and its associations, and an evaluation of the property within the context of the development of the local area and early development in what is now the City of Capitola.

## Property Description

The subject property consists of a trapezoidal property of just under a fifth of an acre on the east side of Prospect Avenue. The property includes portions of parcels established by the subdivision: Parcels D, 13, and 14. The two-story portion of the house is at the parcel's northwest corner and the one-story detached garage is at the southern property line. The former Southern Pacific right-of-way creates the diagonal eastern property line.



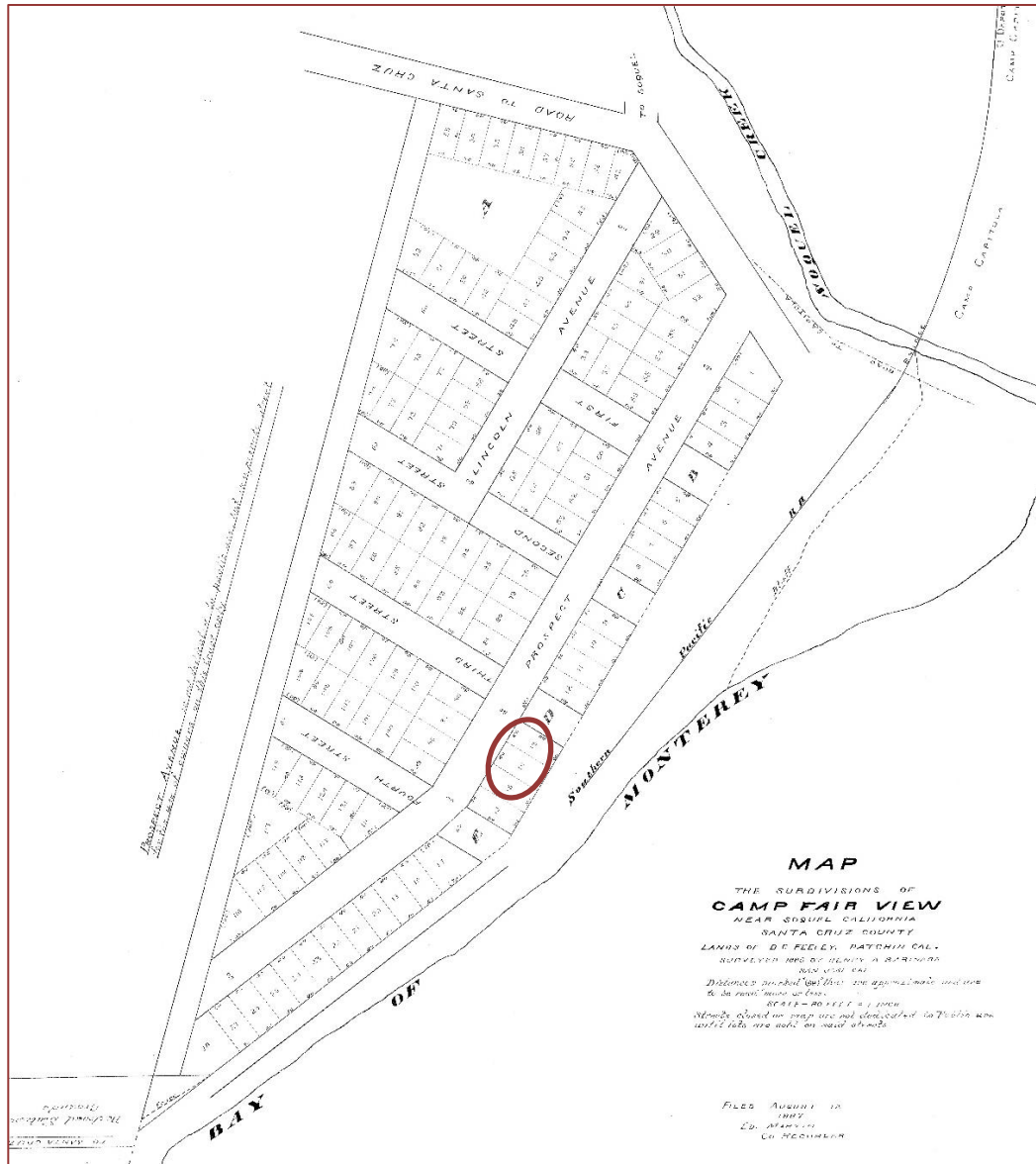
*GIS Map of 1410 Prospect Avenue, Capitola. County of Santa Cruz Office of the Assessor.*

## Historical Context

This residential property was originally part of a much larger area of unincorporated Santa Cruz County, which had been part of Rancho Rodeo in the Mexican era. It was separated from Camp Capitola by the river, set on the cliffs near the Wharf at the base of the main road to Soquel, and part of an area identified over time with a freight train spur and lumber yard known as “Opal.” Lumber from the Santa Cruz Mountains was shipped from this location, the Loma Prieta Lumber Company site, until the early twentieth century, including expansions of the tracks as late as 1912. The station was closed in 1931.

The area northeast of the spur was previously a farm area owned by a sea captain John Curtis in the late 1850s, then owned for a while by his widow, Phoebe Curtis. In turn, her second husband, Dennis Feeley, became the owner after she passed away and after he won a legal dispute with the Curtis children. He subdivided the area in 1886 and called it Camp Fairview.

Frederick A. Hihn, the significant American developer of Capitola from the mid-1800s until just after the turn of the century, acquired this land from Feeley in 1900; Hihn had also acquired the area of the cliffs to the west of Camp Fairview while developing his business concerns in Camp Capitola and throughout the region. Photographs from the late 1800s show a scattering of buildings along the cliff top. The 1905 and 1917 Sanborn Fire Insurance Maps of the area illustrate residences built on most of the parcels east of Prospect Avenue, and they illustrate the diagonal Southern Pacific right-of-way later officially adopted in 1928.



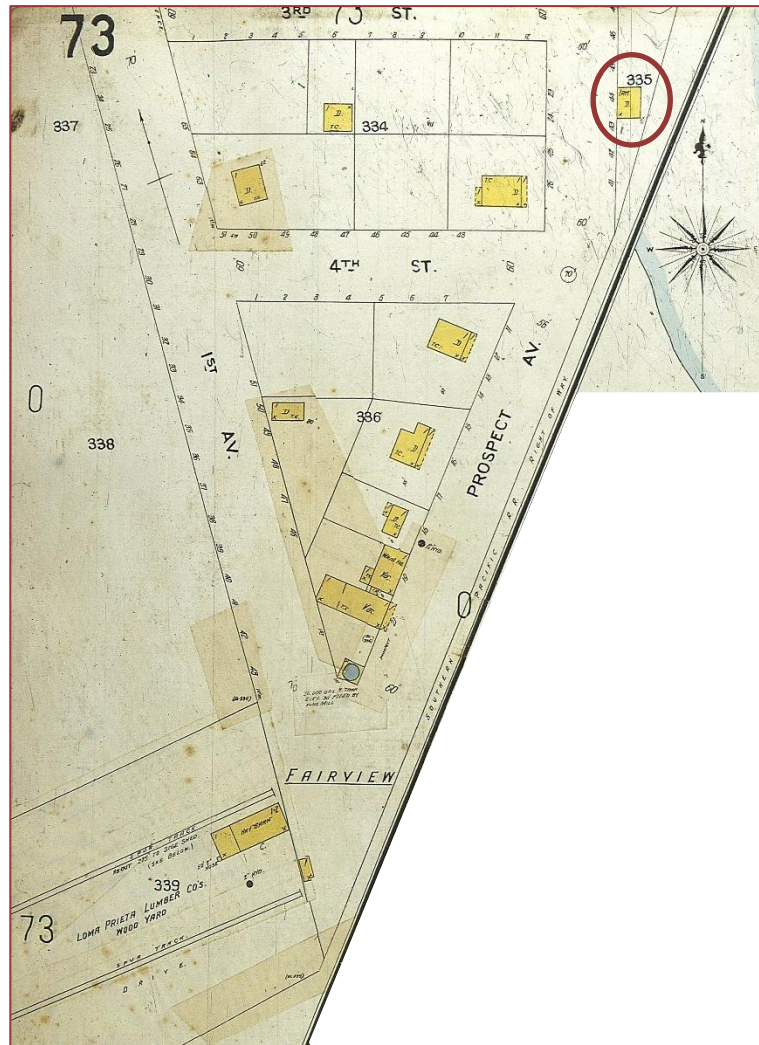
*Detail of 1886 Camp Fairview Subdivision Map. Courtesy County of Santa Cruz Assessor's Office.*

There is a small dwelling “1-story with att[ic]” near the tip of this frontage as seen on the Sanborn map on the following page. The small house is alone on the tip of the block prior to 1917. Its footprint is the same size and rectangular shape of the central core of the subject residence, but it is not sited at the location of the current residence. If this house were relocated between 1917 and 1927, it was moved just over 40 feet due north.

When Hihn passed away in 1913, he deeded the area near Opal Station to a grandson. From the City of Capitola Historic Context Statement:

*Hihn's grandson, Eulice Hihn, a surveyor, was bequeathed about two hundred acres surrounding the nearby train stop at Opal. Eulice was killed in a hunting accident and his widow, Kathryn Bothwell Hihn, inherited the land. She later married J.T. McGeoghegan. During the real estate boom after World War I, she created “Opal Subdivision 1 of the Fairview Tract,” with lots for 250 homes.*

From 1923 when the Opal Subdivision was established, it slowly filled with houses, and Camp Fairview continued to be developed. Prospect Avenue was identified as a private street. By 1927, the block between Prospect Avenue and the cliff was built-out, including the subject house in its current configuration, along with houses to the north and south. Except for Al Lent's larger house at the north end of the street, most of Prospect Avenue was home to the working class. Census records from 1930 indicate an insurance agent, schoolteacher, housekeeper, mail messenger, fisherman, mechanic, and laborer lived on this street. The censuses didn't include house numbering, and no early family could be connected with the property without additional research.

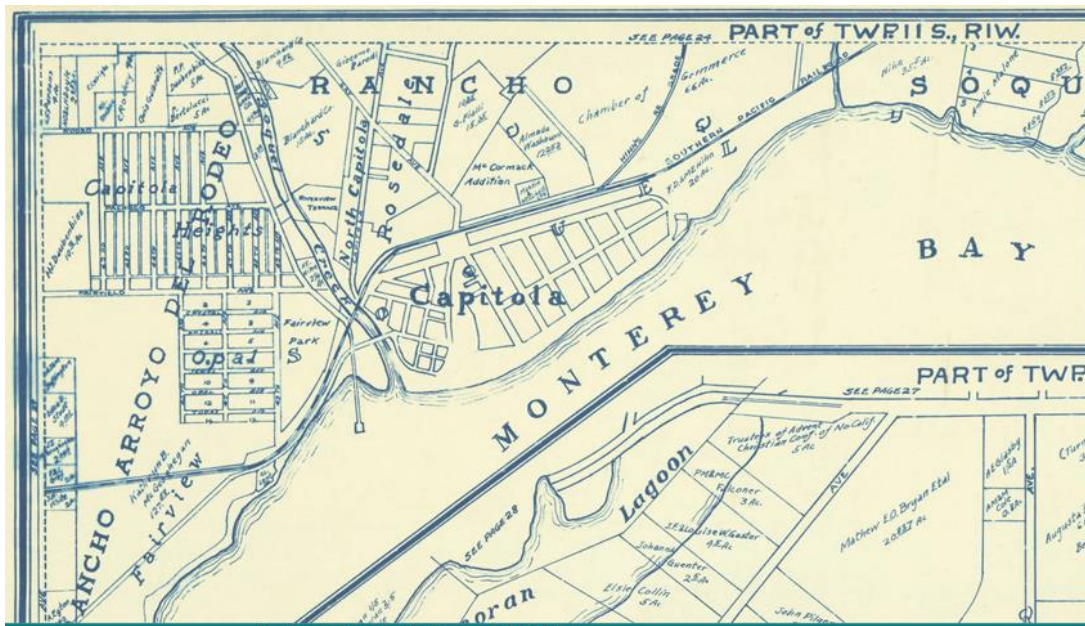


*Detail from 1917 Sanborn Fire Insurance Map, illustrating house footprint that may represent a portion of the subject house, less than fifty feet from its current location. Courtesy of the Digital Map Collection, UCSC Library.*

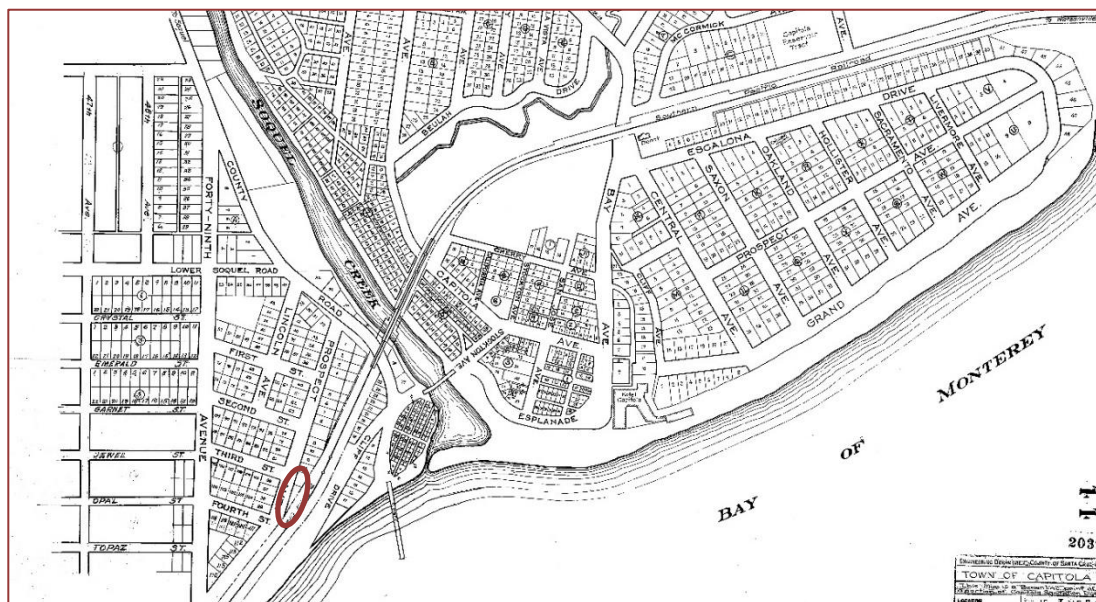
Starting sometime early in the century, Claudine Taylor (Sherman) Mack, her husband, John Fremont Mack, and their four children and grandchildren acquired and started using the home for vacationing. John F. Mack was born in Oakland in 1918; his father, Warren, was a shipyard foreman and later an oil salesman. In 1940 the family lived with his maternal grandparents in Fremont, CA, where John was working as a bank teller. Later that same year, his draft card reveals that he was married to Claudine and working for the American Trust Company in Redwood City. Claudine Mack was born in 1920 and a graduate of Stanford University, class of 1942. According to her obituary,

she was a “substitute teacher, realtor, bridge-player, golfer, and gardener...” who “...loved world travel and sitting on the deck of her beloved beach house in Capitola.” She also owned business property and a house in Los Altos. Recent advertisements for the property indicate that the “Mack Beach House enclave” had been enjoyed since 1938 for “81 years.”

The neighborhood was included in the incorporation of the City of Capitola in 1949.

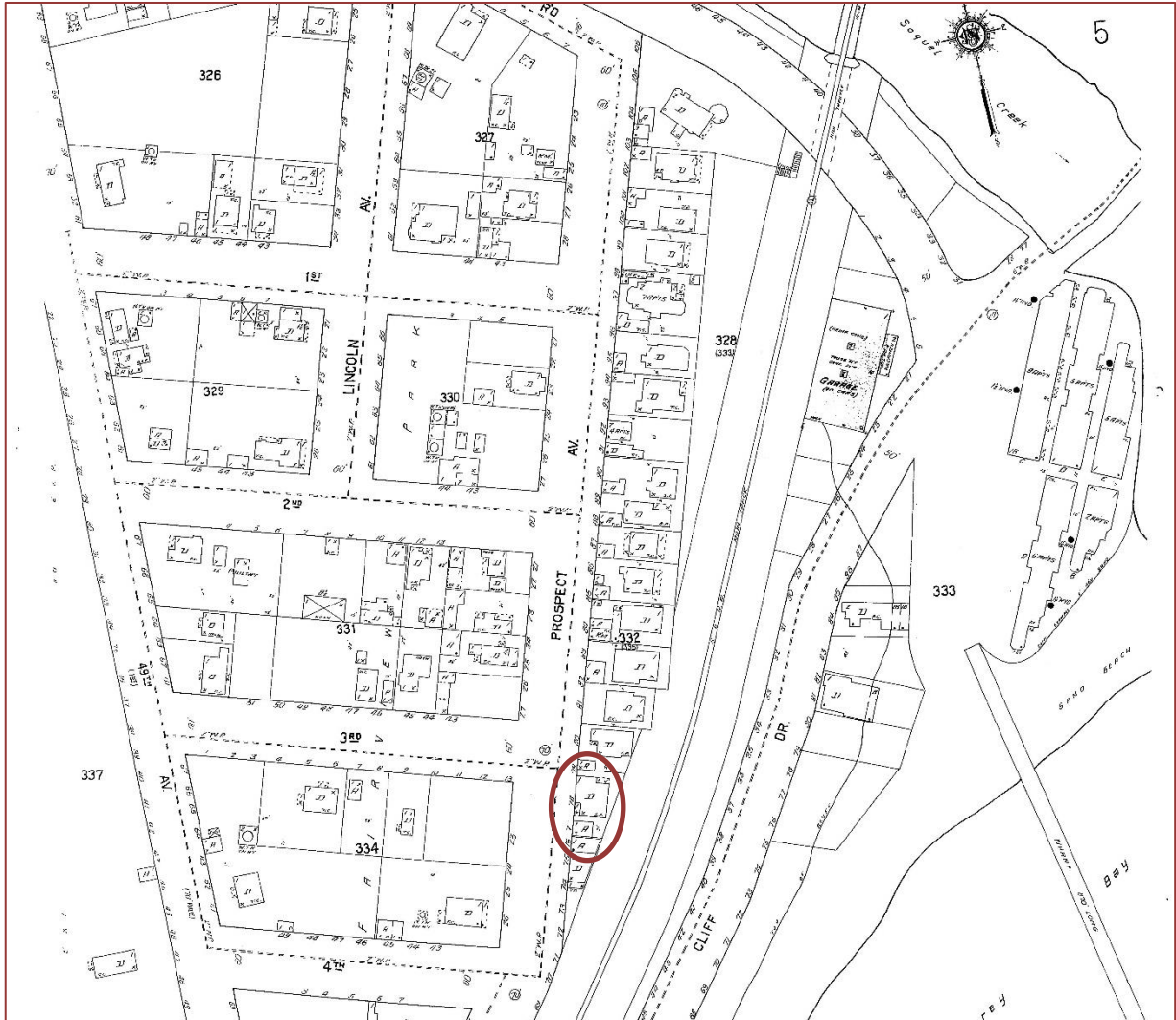


Detail of 1929 Standard Map Services Atlas, Page 29. Courtesy of UCSC Digital Collections.



Detail of 1920s Map of Capitola, Illustrating Camp Fairview and Opal Subdivisions. Courtesy County of Santa Cruz Assessor's Office.



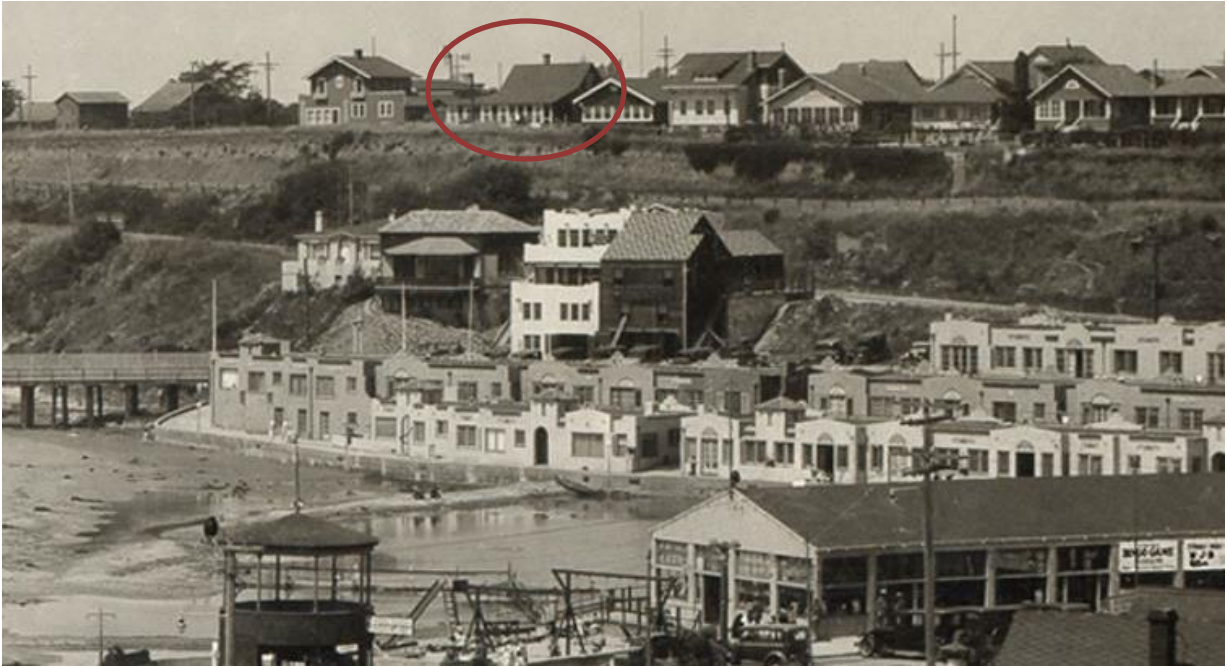


*Detail of 1927 Sanborn Fire Insurance Map. Showing development along Prospect Avenue and the 1-story footprint of the subject house. Courtesy of the Digital Map Collection, UCSC Library.*

### Site Development History

The design of the buildings at 1410 Prospect Ave. appears to have evolved in at least four main stages: the first floor of the rectangular central core features plaster walls, high ceilings, and small rooms that indicate that it was of earlier construction while the one-story “L”-shaped wing that wraps the house to the east and south appears to represent an enclosed former porch and includes materials and details from the early twentieth century. These two phases of construction were both completed before 1927, as was a former detached garage to the south. The second story of the central core wing was an attic remodeled for living space by sometime in the 1930s. This early-to-mid-century scope of alterations appears to have been undertaken by the Mack family. The earlier detached garage was replaced in 1991 by the Macks.

The Historic Resources Inventory originally estimated the house as pre-1905. This seems to be based on the early house footprint illustrated on the 1905 Sanborn Insurance Map, as well as the form and materials of the rectangular central wing of the house. The house was built in at



*View of Prospect Avenue facing southwest, including one-story subject house with enclosed porch. Capitola Village and Venetian Apartments in the foreground. After 1926. From City of Capitola 2014 General Plan.*

least three phases and was in its current form by the mid-1920s, placing it within the Phase I Period of Significance for Residential Development of Camp Fairview (1887-1913) as identified in the 2004 *Draft Historic Context Statement of the City of Capitola* (Context Statement). Per the Context Statement:

*Within the context of architectural development in Capitola, two resource types can be identified: (1) houses, including single-unit residences, vacation homes, and cabins and multi-unit residences, and (2) commercial and institutional structures.*

and

*Capitola has always been a residential community, whether its inhabitants were summer visitors or lived in Capitola full time. A substantial number of the city's residential properties were developed prior to World War II and constitute the bulk of the historically significant resources in the city. The earliest were simple vernacular style, like the small houses on Stockton, San Jose, and California Avenues in the earliest subdivision; Lawn Way in the central village; farmhouses on Hill and Pine Streets; cottages in the Riverview Avenue tract and on Central Avenue on Depot Hill, and Camp Fairview houses in the Jewel Box.*

The Context Statement defines Significance as follows: "Properties associated with the context of architectural development include single-family homes, apartments, vacation cottages and cabins..." As summarized at the end of the Context Statement, Types of Existing Resources from 1906-1920 include... *Camp Fairview houses...* with the Associated themes: *Economic Development; Industry; Agriculture; Land Development, Business, and Tourism; Real Estate Management.*



*Front (Prospect Avenue) Façade. Viewed facing southeast. January 2020. (Photo by Leslie Dill)*

### **Architectural Description**

Altered over time, the house design continues to embody its age, but much of its design qualities have been concealed or replaced. The exterior materials, form, detailing, and setting are vernacular and have changed over time; the house does not represent a specific architectural style or era. The house is set close to the roadside with no sidewalk. The northern planting area, in front of the main portion of the house, is filled with foundation plantings and edged with timbers. There are two very large, mature trees, one deciduous and one evergreen. The southern half of the frontage is set with pavers, serving as driveway and entrance walkway. Behind the front gate, the south side yard continues the pavers, indicated for potential use as off-street parking as well as entrance. The ocean-side yard is separated from a public footpath by a low wooden railing. The south half is planted as lawn and with shrubberies and the north half is filled with a low wooden deck. The north side of the house is fenced off for utility uses.

The central core of the house contains two levels. It is currently designed with an asymmetrical side-gabled roof. A steep slope and centered dormer form a one-and-one-half-story façade facing Prospect Avenue (west) while a more moderate sloping roof protects the full two stories facing Monterey Bay (east). This rectangular core massing is wrapped on the east and south by a one-story “L”-shaped wing, covered by a moderately sloped shed roof with a hipped southwest corner. The living space within this area was originally held back from two corners to create covered porch entrances. The front door used to be on the south side of the house near the street; exterior shingles are still visible within the interior of this space. A small rear porch was located at the northeast corner.

A gabled false front fills the frontage to the south of the house. Behind it is a replacement detached garage along the south property line. The second set of garage-sized doors serves as a gate to the property as well as an entrance to an uncovered parking space. There is a small greenhouse at the rear (east) end of the garage.



*North Half of Front of House. Viewed facing east. January 2020. (Photo by Leslie Dill)*



*South Half of Front of House. Viewed facing east. January 2020. (Photo by Leslie Dill)*



*South Elevation. Showing upstairs windows and enclosed former front porch. Viewed facing northeast. January 2020. (Photo by Leslie Dill)*



*South Façade of Wrap-around Wing, incl. Front Door and Chimney. Viewed facing east. January 2020. (Photo by Leslie Dill)*

The central core of the house is slightly raised, with relatively high plate lines (high ceilings), but the proportions do not suggest balloon framing from earlier in the nineteenth century. The floor height of the wrap-around wing is set lower, and the garage and greenhouse are at grade. All the foundations are concealed by siding that extends to grade.

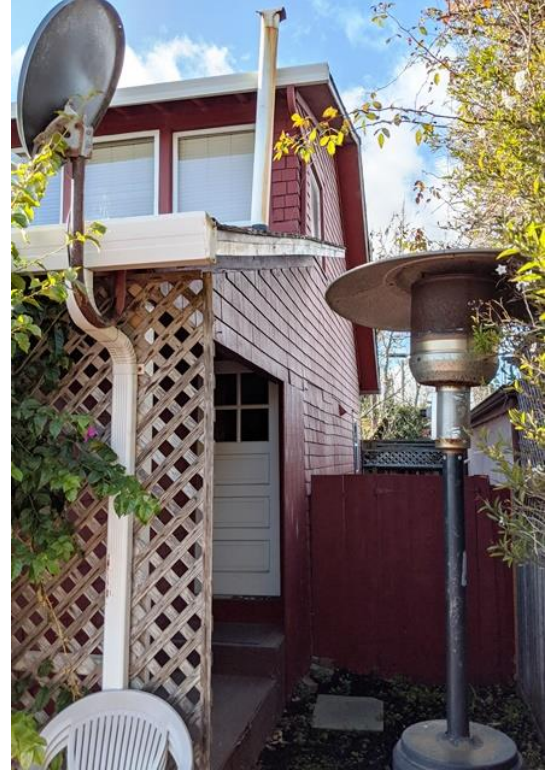
The roof is covered in composition shingles, and the eaves all include a recent “fascia-style” gutter. The eaves are shallow, with exposed rafter tails. The roof of the one-story wrap-around wing has skip sheathing exposed on the north end. This indicates some age, as board sheathing started to be laid solidly later in the twentieth century, and plywood was used after that. The upper roof has flat-board sheathing.

The house is clad primarily in square-cut shingles that, because of their placement at the windows and corners, could possibly be found to have been applied over the top of an older siding. The shingles can be seen to have been altered over time when windows were replaced, and very few seams or trim indicates previous openings. The base of the front porch enclosure is vertical boards, with a wider set of board used below the watertable. The “L”-shaped wing consists of a wall of windows divided by vertical wood mullions. The garage is clad in plywood, as is the greenhouse where it is not translucent fiberglass. Much of the exterior of the house has been altered with the addition of exposed conduit and plumbing stacks, indicating the remodeling that has occurred over the years.

The windows in the core wing consist of replacement units from a variety of eras. The front (west) façade includes one wide slider and one wide single-hung replacement unit on the first floor and an earlier six-lite wood window set into the dormer. At the enclosed front porch is a ribbon of wood 6-lite fixed windows. These windows and the dormer window have similar thin muntins, suggesting that these windows are older, and that the porch-enclosure windows could have been salvaged from other window openings during previous remodeling efforts.



*North Elevation. Viewed facing southeast.  
January 2020. (Photo by Leslie Dill)*



*North Elevation Showing Back Porch.  
Viewed facing west. January 2020.  
(Photo by Leslie Dill)*

On the north end of the house is one single-hung 1/1 replacement window at the first floor close to the west corner and one 1-lite upstairs replacement window close to the east corner. There appears to be two filled-in window openings at the first floor on this façade. These are located where the interior stairs have been added.

The south end of the house features a brick and stone chimney that is a significant focal feature of the historic design. Its top has fallen or been removed. The outer corners are brick, surrounding an irregularly shaped central stone panel, seemingly randomly placed stones within the brick face, and stone at the inner corners. Its design and wear indicate its age as 1920s or earlier, commensurate with the 1927 footprint on the Sanborn map. The lower level includes a door into the enclosed porch and an array of what are likely mid-century wood windows. The windows are fixed 3-lite units with a single board panel beneath. Three windows and a door are placed together to the west of the chimney; a single window is located at the corner of the house, to the east of the chimney. Upstairs there is a single 6-lite wood window at the front corner of the house and a single-lite hopper window at the rear corner.

The east-facing (ocean-view) façade is an array of windows, upstairs and down. The upper façade includes seven square windows, evenly spaced across the wall. These are wood 1-lite windows. The downstairs includes an entrance onto the deck flanked by a series of five windows on each side. To the far north corner, lattice and plants conceal the recessed back porch.



*Ocean-facing Façade. Viewed facing northwest. January 2020. (Photo by Leslie Dill)*



*Detail of Chimney at South Façade. Viewed facing northeast. January 2020. (Photo by Leslie Dill)*



*East Façade of Wrap-around Wing. Viewed facing northwest. January 2020. (Photo by Leslie Dill)*

The detached garage was built in 1991, replacing an earlier, smaller garage. It is a vernacular one-car garage with a gable roof, exposed rafter tails, and smooth plywood exterior. The roof slope extends into a false front that frames a gate into the property. The rear garden shed is constructed of exposed wood framing inset with translucent fiberglass panels and plywood bulkhead panels in the proportion of the first-floor main-house replacement windows.



*Detached Garage and Rear of False Front. Viewed facing west. January 2020. (Photo by Leslie Dill)*



*North Entrance to Greenhouse. Viewed facing east. January 2020. (Photo by Leslie Dill)*

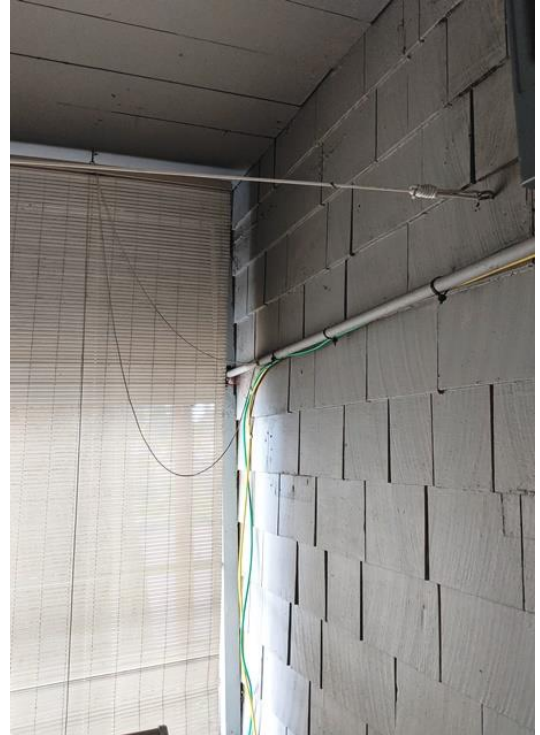
## Interiors

Interiors are not reviewed for significance in this report, but they are described here as a primary resource that illustrates the historic evolution of the house. The first floor of the main core wing includes high ceilings, plaster walls, and small rooms indicating a house built near the end of the nineteenth century or early in the twentieth century. The board-and-batten redwood paneling that characterizes the wrap-around wing is distinctly early twentieth century, likely from the 1910s. The light fixture is early, as is the brick-and-stone fireplace that matches the exterior chimney in materials and artisanship. There are plywood flooring inserts at the outer walls, possibly suggesting that the original design of these spaces might have included a wide, Craftsman-era porch guardrail or indicate that an earlier porch floor was extended or repaired. The interior of the former front porch, currently used as a laundry room, continues to have a flat-board ceiling and shingles on the former exterior wall. The upstairs is paneled in v-groove knotty pine, a material used extensively for remodeling efforts in the 1940s through 1960s. The kitchenette sink is porcelain-covered steel with integral drainboards, hinting at a post-World-War-II installation, but an element that was available earlier, as well.





*Interior of Central Wing of House. Viewed facing north. January 2020.  
(Photo by Leslie Dill)*



*Interior of Enclosed Former Front Porch. Viewed facing northwest. January 2020.  
(Photo by Leslie Dill)*



*Interior of Dining Room. Showing steps up into central wing. Viewed facing west. January 2020. (Photo by Leslie Dill)*



*Interior Detail of Dining Room Light Fixture. Viewed facing west. January 2020.  
(Photo by Leslie Dill)*



*Interior of Living Room and Fireplace. Note sloping floor that may indicate that this was originally a porch. Viewed facing south. January 2020. (Photo by Leslie Dill)*



*Interior Detail of Living Room Fireplace. Viewed facing south. January 2020. (Photo by Leslie Dill)*



*Detail of Living Room Floor Repair. Viewed facing north. January 2020. (Photo by Leslie Dill)*



*Interior Upstairs. Showing knotty-pine paneling and sloped ceiling. Viewed facing southeast. January 2020. (Photo by Leslie Dill)*



*Interior Upstairs with Cabinet and Window Alterations. Viewed facing southwest. January 2020. (Photo by Leslie Dill)*

## **Integrity**

According to the California Office of Historic Preservation *Technical Assistance Series #6*

*Integrity is the authenticity of a historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance. Historical resources eligible for listing in the California Register must meet one of the criteria of significance described above and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. Historical resources that have been rehabilitated or restored may be evaluated for listing. Integrity is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association. It must also be judged with reference to the particular criteria under which a resource is proposed for eligibility. Alterations over time to a resource or historic changes in its use may themselves have historical, cultural, or architectural significance.*

The historic integrity of the current residential property at 1410 Prospect Avenue is substantially intact, although some aspects have been compromised over time. The location has remained constant since at least 1927 and a portion of the building may be older and originally from within 50 feet of the current location, in the same orientation, and from the same block. The development of Prospect Avenue occurred relatively early within the history of Capitola, and the residential neighborhood, although altered over time with remodeling and some infill, is substantially consistent with the historic setting of the house. The house evokes some feeling of an early-twentieth-century vernacular residence; however, its interiors are more intact than its exterior. The window replacements and front porch enclosure have obscured much of the original design. These

changes have also reduced the integrity of the historic materials in a modest way. The chimney is a feature that exhibits considerable artisanship; its design and materials embody a time and place in history. The house has significant historic associations with the early development of the Camp Fairview subdivision and the collection of houses along Prospect Avenue in Capitola.

Built in very recent years of form, detailing, and materials that are not conceived to be of high quality, the garage is not reviewed for historic integrity or found to have associations or feelings that add to the potential significance of the property.

### **California Register of Historic Resources Evaluation**

The California Office of Historic Preservation describes the California Register as a “...program [that] encourages public recognition and protection of resources of architectural, historical, archeological and cultural significance, identifies historical resources for state and local planning purposes, determines eligibility for state historic preservation grant funding and affords certain protections under the California Environmental Quality Act.” There are four criteria for designation, evaluated for 1410 Prospect Avenue as follows:

#### **Historic Events and Patterns**

The house on the subject property is over 93 years old in its current configuration, and a portion of it has possibly been on the bluff in Capitola for over 115 years. As a part of the development the 1886 Camp Fairview subdivision, it can be found to be representative of broad historical patterns in the early development of the city. It is associated with the themes and boundaries of importance to the community as presented within the 2004 draft *Historic Context Statement*. The property would therefore appear to be eligible for the California Register based on significant events or patterns of history under California Register Criterion (1).

#### **Personages**

The property has been associated with one known family since the mid-twentieth century. Although the Mack family’s connection with the house and community spans many decades, and their associations with the property as long-time vacationers represents a significant pattern of history in Capitola, the Mack family have not been found to be important in the larger history of the city or region in a way that would associate their residence at 1410 Prospect Avenue with larger historic significance in the City of Capitola. The property is not eligible for the California Register under Criterion (2)

#### **Architecture**

Although recognizable as an older vernacular house from the early twentieth century, the house is not a distinguished example among buildings from this period. The materials are relatively common and used in a vernacular manner, so most do not embody exceptional significance for their quality or workmanship. Although the chimney remains a strong example of early twentieth century construction and materials, the alteration of historic exterior windows, siding, form, and other details has resulted in a loss design integrity. The designer of the house was not discovered during the research for this preliminary study, so there are no identifiable associations with a particular designer or architect. The property would therefore not qualify for the California Register under Criterion (3).

#### **Potential to Provide Information**

The property has no known associations or identified materials that indicate that it might lead to the discovery of significant information. The property would therefore not qualify for the California Register under Criterion (4).

### Capitola Historic Features Ordinance Evaluation

The Capitola Historic Features Ordinance (Municipal Code 17.87.030) allows for the designation of local historic resources, known as historic features. The designation requires that a property must “evidence one or more” of 11 qualities, including being representative of an era or style, a rare type of building, is older than most similar buildings, is associated with a rare use, the architect builder is significant, is long-established as a landmark, or that the materials are significantly unusual or remarkable, etc.

Because the house and its immediate setting are “...directly related to Capitola’s architectural chronology...” per the draft Historic Context Statement for the City of Capitola as presented above, it can be found to be a significant physical element of city’s past patterns of history. It can, therefore, be found that the house meets the criteria of the City of Capitola Historic Features Ordinance, using qualities 9 and 10:

*9. The proposed historic feature by its location and setting materially contributes to the historic character of the city,*

*10. The proposed historic feature is a long established feature of the city.*

### Conclusion

The house within the property appears to be eligible as a historic resource, meeting a criterion of the California Register of Historical Resources and two of the City of Capitola Criteria for the Designation of Historic Features.

The designation of the property would prompt “design review by the architectural and site review committee, community development department, and/or planning commission [to] include... protection of historic features.” It is recommended that efforts could be made to improve the historic integrity of the exterior of the house, based on the existing historic materials, the house’s identified historic footprint, and in accordance with the significance of the property.

Sincerely:



Leslie A.G. Dill, Architectural Historian and Historic Architect  
Archives & Architecture, LLC

**References:**

Capitola, City of.

Application #AS/V/91-54. June 20, 1991.

*Capitola General Plan*. 2014.

Dill, Leslie A.G. for Archives & Architecture LLC. *Preliminary Historic Resource Evaluation Letter for 1810 Wharf Road, Capitola*. October 6, 2016 and February 10, 2017 addendum.

Los Altos, City of. *Building Project Permit Activity Report*. March 31, 2016.

Maggi, Franklin and Charlene Duval for ValleyViews. DPR523 Forms for 1570 Prospect Avenue Capitola. April 8, 2002.

Mielke, W.F. Standard Map Service. *Atlas of Santa Cruz County*. 1929.

Polk, R.L. & Co. *Santa Cruz County Directory*. 1929.

Swift, Carolyn.

*Historic Context Statement for the City of Capitola*. Draft 2004.

*Images of America: Capitola*. 2013.

Sanborn Fire Insurance Maps. 1905, 1917, 1927, and 1933.

Santa Cruz County Assessor

Santa Cruz County Recorder

*Stanford Magazine*. Obituaries. Claudine Taylor Sherman Mack '41. March/April 2012.

United States Census Data. 1920, 1930 and 1940.

Wright, Thomas W., M.V. Bennet, and L.B. Healy. Map of Santa Cruz County. 1880-81.

[www.ancestry.com](http://www.ancestry.com) Accessed January and February 2020

<https://www.estate.com/listings/info/1410-prospect-ave>. Accessed January 2020.

<http://www.cityofcapitola.org/capitola-museum/page/capitolas-neighborhoods> Accessed February 2020.

[www.legacy.com/obituaries](http://www.legacy.com/obituaries). *San Francisco Chronicle*. Claudine Mack. Oct 30, 2011.

[http://www.santacruztrains.com/2014\\_11\\_01\\_archive.html](http://www.santacruztrains.com/2014_11_01_archive.html) Accessed February 2020.

P A S T  
CONSULTANTS LLC

Seth A. Bergstein  
415.515.6224  
seth@pastconsultants.com

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November 11, 2021

Sean Sesanto, Assistant Planner  
City of Capitola Planning Department  
420 Capitola Ave.  
Capitola, CA 95010

Re: 1410 Prospect Ave., Capitola, CA – SOI Standards Design Review Letter  
APN. 034-046-19

Dear Mr. Sesanto:

This letter evaluates the proposed alterations to the property located at 1410 Prospect Avenue, in Capitola, California. The subject property contains a highly altered two-story house (circa-1905) constructed in the Vernacular style that is listed as a local historic resource.

### **Project Methodology**

A preliminary meeting for project review with the City of Capitola’s Planning Department was held on July 12, 2021 to discuss the proposed design and historic nature of the site. On August 3, 2021 PAST Consultants, LLC (PAST) visited the subject property to view the existing conditions of the building and neighborhood setting. Design drawings by Derek Van Alstine Residential Design, Inc., dated 8/24/2021 were the design drawings reviewed for this evaluation. The proposed project is the demolition and reconstruction of the highly altered, circa-1905 residence as a historic feature according to the City of Capitola’s historic preservation ordinance.

Prior to this meeting, the subject property was reviewed by Leslie Dill, Archives & Architecture and a preliminary historic evaluation issued dated February 18, 2020. The document states:

The property at 1410 Prospect Avenue, identified in 1986 on the City of Capitola Historic Structures List, meets the criteria for designation as a Historic Feature utilizing the City of Capitola Historic Feature Ordinance, Qualities 9 and 10: “The proposed historic feature by its location and setting materially contributes to the historic character of the city, and the proposed historic feature is a long established feature of the city.” The property also appears to qualify for listing on the California Register of Historical Resource for its embodiment of the significant

patterns of development history of the City of Capitola. It is not eligible, however, based on its associations with personages, nor for its architectural design, due to alterations on the exterior.<sup>1</sup>

On August 10, 2021 the building owner, architect and a representative from PAST attended an additional design review meeting. With recommendations by the City of Capitola Planning Department officials and the design team, the following *Secretary of the Interior's Standards* compliance review letter will suffice as the final historic review document for the subject project.

The following provides a summary of the subject property's historic significance, a description of the historic resource and an evaluation of the proposed reconstruction of the subject house for conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.

### Conclusions of the 2020 Historical Evaluation

The Preliminary Historical Evaluation prepared by Archives and Architecture notes:

The parcel at 1410 Prospect Avenue is listed on the 2005 City of Capitola Historic Structures List with the status of 7N. This designation, according the State of California Historical Resource Status Codes, indicates that the property “needs to be reevaluated.” The property was first identified as part of the Capitola Architectural Survey published in 1986 (indicated by the designation “D” on the Historic Structures List), and as shown in the Capitola Architectural Survey.

The evaluation concludes:

The Capitola Historic Features Ordinance (Municipal Code 17.87.030) allows for the designation of local historic resources, known as historic features. The designation requires that a property must “evidence one or more” of 11 qualities, including being representative of an era or style, a rare type of building, is older than most similar buildings, is associated with a rare use, the architect builder is significant, is long-established as a landmark, or that the materials are significantly unusual or remarkable, etc.

Because the house and its immediate setting are “...directly related to Capitola’s architectural chronology...” per the draft Historic Context Statement for the City of Capitola as presented above, it can be found to be a significant physical element of city’s past patterns of history. It can, therefore, be found that the house meets the criteria of the City of Capitola Historic Features Ordinance, using qualities 9 and 10: 9) The proposed historic feature by its location and setting materially contributes to the historic character of the city; and 10) The proposed historic feature is a long established feature of the city.

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<sup>1</sup> Dill, Leslie, Archives & Architecture, Preliminary Historical Evaluation – 1410 Prospect Avenue, Capitola, CA, 2/18/20. For a detailed historic context of the subject property, consult this document.



### Existing Site Conditions

The site contains a highly modified two-story house (circa-1905) constructed in the Vernacular Style. The building has an altered, asymmetrical primary gable roofline with a west-elevation (Prospect Ave.) dormer addition, a detached, gable-roofed garage, an east elevation containing banked windows, and a mixed fenestration pattern consisting of single-pane fixed and wood-sash windows of varying eras. Wall cladding is primarily square-cut, wood-shingles, with plywood boards finishing the circa-1991 garage (Figures 1 - 4).



**Figures 1 and 2.** Left image shows the Prospect Avenue (west) elevation, as viewed from the street. Right image details the west elevation, showing the false-front, gable-roofed garage.



**Figures 3 and 4.** Left image shows the asymmetrical roofline of the Monterey Bay (east) elevation. The clipped brick chimney is on the south elevation (arrow). Right image details the banked windows of the east elevation.

## The Secretary of the Interior's Standards

The *Secretary of the Interior's Standards for the Treatment of Historic Properties (Standards)* provides the framework for evaluating the impacts of additions and alterations to historic buildings. The *Standards* describe four treatment approaches: preservation, rehabilitation, restoration and reconstruction. The *Standards* require that the treatment approach be determined first, as a different set of standards apply to each approach. For the proposed project, the treatment approach is reconstruction. The *Standards* describe reconstruction as:

Reconstruction is defined as the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.<sup>2</sup>

The six *Standards* for reconstruction are:

1. Reconstruction will be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture, and such reconstruction is essential to the public understanding of the property.
2. Reconstruction of a landscape, building, structure or object in its historic location will be preceded by a thorough archeological investigation to identify and evaluate those features and artifacts that are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.
3. Reconstruction will include measures to preserve any remaining historic materials, features and spatial relationships.
4. Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the non-surviving historic property in materials, design, color and texture.
5. A reconstruction will be clearly identified as a contemporary re-creation.
6. Designs that were never executed historically will not be constructed.

## Goals of Proposed Project

The goal of the reconstruction project is to satisfy the two neighborhood quality characteristics to maintain the historic integrity of the neighborhood setting:

9. The proposed historic feature by its location and setting materially contributes to the historic character of the city; and
10. The proposed historic feature is a long established feature of the city.

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<sup>2</sup> *The Secretary of the Interior's Standards for the Treatment of Historic Properties*: Kay D. Weeks and Anne E. Grimmer, U.S. Department of the Interior, National Park Service, 1995, 62.

The established visual setting includes the varying pattern of building volumes, largely expressed in wood, that exist along Prospect Avenue. In addition, the variation of historic rooflines of the hillside location, as viewed from Monterey Bay, also represents a long established feature of the city (**Figures 5 and 6**).



**Figures 5 and 6.** Left image shows the rhythm of gable roofs and false front roofs along Prospect Avenue, looking north, with the subject property indicated by an arrow. Right image views the variety of historic rooflines along the ridge looking northwest from Cliff Drive.

Design drawings by Derek Van Alstine Residential Design, Inc., dated 8/24/2021 were the design drawings reviewed for this evaluation. To satisfy site deficiencies, the proposed project is the demolition and reconstruction of the house within current setback requirements for the property.

### Evaluation of Proposed Alterations

For the proposed reconstruction of the subject building, *Standards 4 – 6* are most applicable, with an evaluation given below each standard.

- 4. Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will recreate the appearance of the non-surviving historic property in materials, design, color and texture.*

The reconstructed building will be recreated using existing documentary evidence taken from the site prior to demolition. The new building will match the existing house in scale, massing, design and the use of historic wood materials.

- 5. A reconstruction will be clearly identified as a contemporary re-creation.*  
While the reconstruction will match the appearance of the original building, the new building will utilize modern window technology and detailing to clearly identify it as a contemporary re-creation, in keeping with this *Standard*.

- 6. Designs that were never executed historically will not be constructed.*

While the subject house’s appearance has been altered substantially over time, it’s overall scale, massing, materials and placement within the historic Prospect Avenue streetscape are the priorities in this reconstruction. These aspects of the original building will be maintained in the new construction to enable it to contribute to the established historic setting of altering rooflines and building facades along Prospect Avenue.

**Conclusion**

In conclusion, the proposed reconstruction of the house located at 1410 Prospect Avenue, Capitola, meets the *Secretary of the Interior’s Standards for Reconstruction*. Because the proposed alterations to the historic neighborhood setting meet the *Standards*, the alterations are considered as mitigated to a level of less than a significant impact on the historic resource and do not constitute a substantial adverse change to the historic resource, thus conforming to the requirements of the California Environmental Quality Act (CEQA).

Please contact me with any questions regarding this design review letter.

Sincerely,



Seth A. Bergstein  
Principal

### Neighborhood Floor Area Survey

<b>Address</b>	<b>Lot Size (sq. ft.)</b>	<b>Estimated Floor Area (sq. ft.)</b>	<b>Estimated FAR</b>
1480 Prospect	2701	1771	<b>65.6%</b>
1470 Prospect	2526	1250	49.5%
1460 Prospect	3180	2004	<b>63.0%</b>
1450 Prospect	3049	1547	50.7%
1440 Prospect	3006	2053	<b>68.3%</b>
1430 Prospect	2396	1731	<b>72.2%</b>
1420 Prospect	2265	1692	<b>74.7%</b>
<b>1410 Prospect</b>	2416	1452	<b>60.1%</b>
1400 Prospect	1960	1121	57.2%
<i>*From parcel data, aerial imagery, assessor records, and Capitola zoning standards.</i>			

**RESOLUTION NO. XXXX**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
UPHOLDING THE PLANNING COMMISSION DECISION TO APPROVE THE 1410 PROSPECT  
AVENUE APPLICATION FOR A VARIANCE WITH ADDITIONAL CONDITIONS OF APPROVAL  
AND FINDINGS ADDRESSING THE MATTER OF THE APPEAL.**

**WHEREAS**, on August 24, 2021, the City received an application proposing to demolish an existing 1,606 square-foot, two story, single family residence and construct a new 1,422 square-foot, two story, single family residence with a 796 square foot basement. The applicant sought a design permit, historical alterations permit, variance, and coastal development permit; and

**WHEREAS**, on January 26, 2022, the application was reviewed by the Development and Design Review Committee. The committee provided guidance on several items which the applicant addressed in a revised plan; and

**WHEREAS**, on April 7, 2022, the Planning Commission unanimously approved the application for a Design Permit, Historic Alteration Permit, Variance, and Coastal Development Permit (CDP), to demolish an existing residence and construct a new home; and

**WHEREAS**, on April 18, 2022, the City received an appeal from Santa Cruz County Regional Transportation (RTC) (Attachment 1) and the RTC appealed the Planning Commission's decision granting a variance; and

**WHEREAS**, on August 18, 2022, the City received an independent peer review letter for slope stability analysis from Pacific Crest Engineering; and

**WHEREAS**, on August 31, 2022, the applicant submitted a revised plan set which relocated the primary structure three feet away from the rear property line; and

**WHEREAS**, on September 8, 2022, the RTC submitted a follow-up letter in response to the peer review findings and proposed design revisions, indicating the revised proposal was generally satisfactory and that the RTC would agree to retract its appeal provided several considerations were addressed; and

**WHEREAS**, the updated plans and peer review align with the purpose of the zoning code to implement the general plan and the local coastal program land use plan and to protect the public health, safety, and welfare; and

**WHEREAS**, the updated plans with increase setbacks will maintain and enhance coastal access and visitor serving facilities and services while supporting a balance transportation system; and

**WHEREAS**, the City Council held a duly noticed public hearing on September 22, 2022, providing the opportunity for members of the public to provide comment on the appeal; and

**NOW, THEREFORE, BE IT HEREBY RESOLVED** by the City Council of the City of Capitola that City Council upholds the Planning Commission decision to approve the 1410 Prospect Avenue application for a variance with additional conditions of approval and finding as underlined addressing the matter of the appeal, as follows:

Conditions of Approval:

1. The project approval consists of Design Permit, Historical Alteration Permit, and Variance to allow the demolition of an existing historic structure and construction of a 1,422 square-foot single-family residence with a 796 square-foot basement. The project includes a remodel of an existing 280 square-foot detached garage, and variance for the primary structure setbacks and maximum floor area ratio. The maximum Floor Area Ratio for the 2,416 square foot property is 58% (1,401 square feet). The total FAR of the project is 59.6% with a total of 1,440 square feet, exceeding the maximum FAR by 39 feet. The application does comply with front, side, and rear yard setbacks. A variance for setbacks and floor area ratio was approved for

the project. The proposed project is approved as modified on the final plans reviewed and approved by the City Council on September 22, 2022, except as modified through conditions imposed by the City Council during the hearing. The modified plans and conditions replace the April 7, 2022, Planning Commission approval.

2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans
3. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
4. At 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.
5. 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.
6. Prior to issuance of building permit, a landscape plan shall be submitted and approved by the Community Development Department. The landscape plan can be produced by the property owner, landscape professional, or landscape architect. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of any proposed (but not required) irrigation systems.
7. Prior to issuance of building permit, all Planning fees associated with permit #21-0376 shall be paid in full.
8. Prior to issuance of building permit, the developer shall pay Affordable housing in-lieu fees as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
9. 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.
10. 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.
11. 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; including a detail of the pervious pavers and drainage emitter as shown on plans 8/24/22).
12. 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.

13. 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.
14. Prior to issuance of building permit, the Building Official may require additional information from the applicant related to the geotechnical report.
15. Landscaping that encroaches into the city right-of-way requires a minor revocable encroachment permit. Prior to issuance of a building permit, the applicant shall submit a completed Revocable Encroachment Permit application.
16. Structural and surface runoff shall flow towards the Prospect Avenue frontage and shall not flow onto RTC property to the rear.
17. Prior to entry or any equipment or material storage within the SCBRL (RTC) right-of-way, the applicant shall first obtain a right-of-entry agreement from the RTC.
18. Prior to issuance of a building permit, the City shall consult with the RTC with respect to the required plans and technical reports associated with this permit. This is for informational purposes only. The RTC has no formal review authority over the application.
19. 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
20. 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.
21. Prior to issuance of a Certificate of Occupancy, the applicant shall demonstrate compliance with the tree removal permit authorized by this permit for two trees to be removed from the property. Replacement trees shall be planted to not create slope stability issues related to irrigation to the satisfaction of the Community Development Director. Required replacement trees shall be of the same size, species and planted on the site as shown on the approved plans.
22. 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.
23. 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 17.156.080.
24. 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.
  25. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
  26. Prior to issuance of building permits, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
  27. Prior to demolition of the existing structure, a pest control company shall resolve any pest issue and document that all pest issues have been mitigated. Documentation shall be submitted to the city at time of demolition permit application.
  28. The garage doorway on the east (rear) elevation shall be of a sliding barn-door style or similar in such a way that no portion of the opening extends beyond the subject property and that vehicles may not pass through to the backyard.
  29. Prior to issuance of a building permit, an archaeological survey report and monitoring plan shall be prepared for the development.
    - a. The archaeological survey report shall include, at a minimum, a field survey by an archaeologist, survey of available state resource information at the Northwest Regional Information Center of the California Archaeological Inventory, description of the site's sensitivity, and any identified archaeological resources. The city will initiate the preparation of the survey report at the applicant's expense utilizing a qualified archaeologist selected by the community development department.
    - b. The cultural resource monitoring plan shall, at a minimum:
      - i. Identify all areas of proposed grading or earth disturbing activities which have the potential to impact historic or prehistoric resources;
      - ii. Identify the qualified archaeological monitor assigned to the project;
      - iii. Describe the proposed monitoring program, including the areas to be monitored, the duration of monitoring, and monitoring protocols;
      - iv. Outline procedures to be followed if cultural resources are discovered, including requirements to stop work, consultation with the City and any Native American participation (as appropriate), resource evaluation, mitigation plan requirements, and protocols if human remains are encountered; and
      - v. Include post-monitoring reporting requirements and curation procedures.
  30. Prior to issuance of a building or grading permit, the applicant shall submit evidence that a qualified archaeological monitor has been retained to oversee all earthwork activities.
  31. The archaeological monitor shall attend a construction meeting to coordinate required grading monitoring activities with the construction manager and contractors.
  32. If resources are encountered, the archaeological monitor shall have the authority to stop work until a significance determination is made.

33. If significant resources are discovered, work may remain halted at the archaeologist's discretion until such time that a mitigation plan has been prepared and implemented with the concurrence of the Community Development Department.
34. Following completion of archaeological monitoring, the archaeologist shall submit a summary and findings of the monitoring work.
  - a. If no resources are recovered, a brief letter report shall be completed that includes a site record update on a California Department of Park and Recreation form 523.
  - b. If significant resources are recovered, the report shall include a preliminary evaluation of the resources, a preliminary map of discovered resources, a completed California Department of Park and Recreation form 523, and recommendations for additional research if warranted.
35. If human remains are found at any time, the immediate area of the discovery shall be closed to pedestrian traffic along the Prospect Avenue street frontage and the Santa Cruz County Coroner must be notified immediately. If the Coroner determines that the remains are Native American, the Native American Heritage Commission shall be notified as required by law.
36. The archaeological monitor may discontinue monitoring with approval by the Community Development Director if he/she finds that site conditions, such as the presence of imported fill or other factors, indicates that significant prehistoric deposits are not possible.
37. The archaeologist shall prepare a grading monitoring letter report summarizing all monitoring work and any recovered resources. The letter report shall be submitted to the Community Development Department within 30 days following completion of grading activities.

Design Permit Findings

**A. The proposed project is consistent with the general plan, local coastal program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the city council.**

Community Development Staff and the Planning Commission have reviewed the proposed demolition and similar construction of an existing residence and remodel of an existing garage. With the granting of a variance to the required setbacks and maximum floor area ratio, the project secures the purpose of the General Plan, and Local Coastal Program, and design policies and regulations adopted by the City Council.

**B. The proposed project complies with all applicable provisions of the zoning code and municipal code.**

Community Development Staff and the Planning Commission have reviewed the application for the demolition and replacement of an existing residence and remodel of an existing garage. With a granting of a variance to the required setbacks and maximum floor area ratio, the project complies with all applicable provisions of the zoning code and municipal code.

**C. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).**

Section 15302 of the CEQA Guidelines exempts the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. This project involves replacement of a single-family residence and remodel of an existing garage subject to the R-1 (single-family residence) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.

**D. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.**

Community Development Staff and the Planning Commission have all reviewed the reviewed the application. The proposed project will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity. The project will improve parking in the vicinity by meeting on-site requirements.

**E. The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).**

The Community Development Staff and the Planning Commission have reviewed the application. With the granting of a variance to the required setbacks and maximum floor area ratio, the proposed complies with all applicable design review criteria in Section 17.120.070.

**F. The proposed project maintains the character, scale, and development pattern of the neighborhood.**

Community Development Staff and the Planning Commission have all reviewed the application. The design of the reconstructed residence and remodeled garage will fit in nicely with the existing neighborhood. The project will maintain the character, scale, and development pattern of the neighborhood and of the existing dwelling.

Historic Alteration Findings**A. The historic character of a property is retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize the property is avoided.**

Community Development Staff and the Planning Commission have reviewed the proposed similar construction of the historic structure and determined that the building will be recreated using existing documentary evidence taken from the site prior to demolition. The new building will be similar to the existing house in scale, massing, design, and the use of historic wood materials.

**B. Distinctive materials, features, finishes, and construction techniques or examples of fine craftsmanship that characterize a property are preserved.**

Community Development Staff and the Planning Commission have reviewed the proposed project and determined that the new structure will preserve the historic streetscape and alternating rooflines of Prospect Avenue, including the overall scale, massing, materials, placement.

**C. Any new additions complement the historic character of the existing structure. New building components and materials for the addition are similar in scale and size to those of the existing structure.**

Community Development Staff and the Planning Commission have reviewed the proposed determined that alterations from the original design, such as the rear deck, are in similar scale and size and compliment the historic character of the site and structure. The remodeled garage complements the primary structure and pattern of alternating rooflines of Prospect Avenue.

**D. Deteriorated historic features are repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature matches the old in design, color, texture, and, where possible, materials.**

Community Development Staff and the Planning Commission have reviewed the proposed project and determined that the existing structure has been subject to numerous structural and material alterations and replacements with limited original materials. The proposed

similar construction will recreate distinctive features and incorporate in-kind replication of historic wood materials.

**E. Archeological resources are protected and preserved in place. If such resources must be disturbed, mitigation measures are undertaken.**

Community Development Staff and the Planning Commission have conditioned the project to include mitigation measures should archeological resources be identified.

Variance Findings

**A. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property.**

The unique circumstance applicable to the subject property is that the property is a historic site, with an irregularly shaped lot that is both small and shallow by Capitola standards. The variance allows the construction of a residence that is comparably-sized with improved siting on the lot and will continue to contribute to the historic context of the Prospect Avenue streetscape.

**B. The strict application of the zoning code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property.**

The substandard lot size is unique with depths ranging from 29 to 46 feet. Incorporating the required 15 feet front yard setback and 8 feet rear yard setback, results in a limited building pad of 778 square feet. The existing primary structure has a footprint 1200 square feet, and the proposed footprint is 978 square feet. The overwhelming majority of properties along the bluff side of Prospect Avenue do not comply with all minimum setbacks for primary structures, accessory structures, or both. In particular, many structures are located along the front lot lines. Lots decrease in size towards the southern end of the block and are typified by increased FAR and reduced setbacks. The subject property is the second most southern lot and is also one of the smallest on Prospect Avenue.

**C. The variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone as the subject property.**

The variance is necessary to preserve the use already enjoyed by the subject property and is already enjoyed in the vicinity with respect to lot siting and massing.

**D. The variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the properties or improvements in the vicinity or in the same zone as the subject property.**

The variance will not impose any detrimental impacts on the public health, safety, or welfare, or be injurious to properties or improvements in the vicinity or in the same zone as the subject property. In particular, proposed project has been designed to remove existing structural encroachments into the public right of way and improve parking.

**E. The variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property.**

The majority of properties on the bluff-side of Prospect Avenue do not comply with required setbacks. On the southern half of the block many properties additionally do not comply with current floor area ratio standards.

**F. The variance will not have adverse impacts on coastal resources.**

The variance will not adversely impact coastal resources. Although there are no coastal resources on the subject property, a public pathway exists between the rear of the lot and the railway. Conditions have been added to limit construction impacts to the site and surrounding area.

Coastal Findings

**A. The project is consistent with the LCP land use plan, and the LCP implementation program.**

The proposed development conforms to the City's certified Local Coastal Plan (LCP) land use plan and the LCP implementation program.

**B. The project maintains or enhances public views.**

The proposed project is located on private property at 1410 Prospect Avenue. The project will not negatively impact public landmarks and/or public views.

**C. The project maintains or enhances vegetation, natural habitats and natural resources.**

The proposed project is located at 1410 Prospect Avenue. The near natural landforms and a coastal trail. Conditions have been added to limit impacts during construction, protect vegetation, and maintain natural vegetation cover.

**D. The project maintains or enhances low-cost public recreational access, including to the beach and ocean.**

The project involves the demolition and replacement of an existing residence and remodel of an existing garage, which will not negatively impact low-cost public recreational access.

**E. The project maintains or enhances opportunities for visitors.**

The project involves the demolition and replacement of an existing residence and remodel of an existing garage, which will not negatively impact visitor serving opportunities.

**F. The project maintains or enhances coastal resources.**

The project involves the demolition and replacement of an existing residence and remodel of an existing garage, which will not negatively impact coastal resources. Although there are no coastal resources on the subject property, a public pathway exists between the rear of the lot and the railway. Conditions have been added to limit construction impacts to the site and surrounding area.

**G. The project, including its design, location, size, and operating characteristics, is consistent with all applicable design plans and/or area plans incorporated into the LCP.**

With the granting of a variance, the proposed residential project complies with all applicable design criteria, design guidelines, area plans, and development standards. The operating characteristics are consistent with the R-1 (Single-Family Residential) zone.

**H. The project is consistent with the LCP goal of encouraging appropriate coastal development and land uses, including coastal priority development and land uses (i.e., visitor serving development and public access and recreation).**

The project involves the demolition and replacement of an existing residence and remodel of an existing garage on a residential lot of record. The project is consistent with the LCP goals for appropriate coastal development and land uses. The use is an allowed use consistent with the R-1 zoning district.

RESOLUTION NO.

**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the City Council of the City of Capitola on the 22<sup>nd</sup> day of September 2022, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- RECUSED:**

ATTEST:

\_\_\_\_\_  
Sam Storey, Mayor

\_\_\_\_\_  
Chloé Woodmansee, City Clerk

# Capitola City Council

## Agenda Report

**Meeting:** September 22, 2022

**From:** Public Works Department

**Subject:** Consider a Petition to Create a Dogs Off-Leash Area at Monterey Avenue Park



**Recommended Action:** Take no action; thereby maintaining existing rules requiring dogs remain on leash at Monterey Avenue Park due to existing Park uses.

**Background:** City Council has been presented a petition proposing a 90-day trial period for a dog off-leash area in Monterey Avenue Park. The specific language in the petition is as follows:

- 1) *The "off-leash period" would only be between 5:30pm and 6:30pm each evening (summer hours)*
- 2) *All dog owners must pay attention to their dog to ensure it does not approach or bother any other person/s that may be in the park at this time.*
- 3) *All dog owners commit to cleaning up after their dogs.*
- 4) *Dogs will not be allowed to interfere with any other activities going on in the park (e.g. baseball, etc.).*

The full petition is included as Attachment 1. A picture of Monterey Park, identifying the proposed off-leash location, is included as Attachment 2.

Currently, under the Capitola Municipal Code Section 6.14.200 (below), dogs are only allowed in Monterey Park if they are on a leash:

**6.14.200 Dogs in public places – Permitted and prohibited locations.**

*A. Except as provided in Section [6.14.210](#), it is unlawful for any person owning, having an interest in, harboring or having charge of the care, custody, control or possession of any dog to cause or permit such dog to be in any of the following locations, whether with or without a leash:*

1. *On any public beach within the city of Capitola;*
2. *Capitola Wharf;*
3. *Any other public location in the city that is posted with signage prohibiting dogs.*

*B. Dogs shall be permitted on leash in the following parks unless the city council, by resolution, declares the prohibitions of subsection A of this section applicable to such areas: Monterey Avenue Park, Noble Gulch Park, Perry Park, Soquel Creek Park, Jade Street Park (except for lawn and tennis court areas), and Esplanade Park (except for lawn areas). (Ord. [912](#) § 2, 2006)*

The petitioners have provided a copy of a Dog Off-Leash Administrative Policy enacted by the City of Cupertino where dogs are allowed off-leash at one of the City's parks for two hours each day, from one hour before sunset to one hour after sunset. A copy of Cupertino's policy is included as Attachment 3.

**Discussion:** The City of Capitola has an established off-leash dog park at McGregor Park, approximately 0.8 mile away from Monterey Avenue Park. The dog park at McGregor Park was included in the park design following multiple public hearings over several years regarding potential locations for a permanent dog facility.

Currently Monterey Park is used by New Brighton Middle School on school days from 8 a.m. to 4 p.m. for physical education classes and after school team activities. The field is also rented by youth softball and soccer sports leagues. These rentals typically run from 4 p.m. to 8 p.m. during the week and 10 a.m. to 3 p.m. on Saturdays. The fields are not rented on Sundays. Based on these existing park uses, and

the difficulty in creating a new area isolated from these uses, staff recommends the existing rules requiring dogs on-leash remain in place.

In the future, if City Council wants to increase the number of off-leash dog areas in the City, staff suggests establishing this as a goal during future goal setting / budget processes.

#### *Alternatives*

Should City Council want to establish a trial program to allow dogs off-leash at Monterey Avenue Park, Council could direct staff to prepare a resolution for consideration at a future meeting that:

- Suspended CMC 6.14.200 for the trial period
- Designated an area for the dogs off-leash use
- Established other rules

Permanent development of a dog off-leash area would require amending the municipal code and adopting a new City administrative policy, likely similar to the example from the City of Cupertino.

Fiscal Impact: Dependent upon Council direction.

#### Attachments:

1. Petition dated July 11, 2022
2. Map of Monterey Avenue Park
3. City of Cupertino Dog Off Leash Area Administrative Policy

Report Prepared By: Steven Jesberg, Public Works Director

Reviewed By: Chloé Woodmansee, Assistant to the City Manager; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager



**July 11, 2022**

**Proposal: Temporary modification of “leash law” at Monterey Park, Capitola**

**The Situation:**

Currently, Monterey Park (adjacent to New Brighton Middle School) requires all dogs to be on a leash, per Capitola Municipal Code 6:12.090B.

**Background:**

We, the undersigned, are members of the Capitola and Soquel communities. We are professional business owners, retired executives, doctors, health care providers, and homeowners - all living within walking distance of the Monterey Park.

To alleviate some of the isolation during the COVID lockdown, we began bringing our dogs together to play late afternoons (after 5:00 pm) in the back corner area of the Monterey Park. This quickly became a very enjoyable break – for both dog owners and dogs – from the forced isolation the pandemic imposed. We purposefully would go to the back corner of the park to provide a respectful distance between our group and anyone playing baseball on the diamond. We only allowed friendly dogs to participate in this small play group, and typically only stay for an hour or less.

This has brought many hours of enjoyment for both us and our dogs – and has helped generate a wonderful community of newfound friends and built neighborhood rapport. A few members of our group bring their dogs to gather even though their dogs just sit on their laps while we enjoy the time to socialize and watch playful, joyful dogs romp with each other. It brings happiness to all of us - dogs and people alike!

There are several days when we go to the park and no one else is in the park, yet we still go to the far corner to play with our dogs. Every one of us is very observant of our own dogs and other dogs who are defecating or need to be recalled so as not to greet someone walking by on the path. Every one of us picks up any poop we find in the field –even that which is left by people who are less responsible.

We respectfully request that the Capitola City Council consider the following proposal.

**Proposal:**

We believe that a park is for a community to enjoy. We are part of this community and believe we have the right to request off-leash access to one-quarter of the park for just one hour each day for people and their dogs to play.

To this end, we propose a 90-day "trial" period of suspension of the "dogs must be on leash" code 6:12.090B, subject to the following conditions:

- 1) The "off-leash period" would only be between 5:30 pm and 6:30 pm each evening (summer hours)
- 2) All dog owners must pay attention to their dog to ensure it does not approach, or bother any other person/s that may be in the park at this time.
- 3) All dog owners commit to cleaning up after their dogs.
- 4) Dogs will not be allowed to interfere with any other activities going on in the park (e.g. baseball, etc.)

Failure to do any of the above will result in the immediate cancellation of the "off-leash trial period."

If requested, we could set up a temporary expandable fence for the back quarter of the park to separate our dog group from the larger area of the field during our one-hour off-leash period. We would assume full responsibility for the setting up and removal of this fence and will insure it does not damage any of the turf. We are a self-monitoring group that only allows friendly dogs to participate. We would like to request the code be amended to reflect the allowable off-leash hour.

Thank you for your consideration. We would welcome the opportunity to present our proposal in person to the Council at your next meeting.

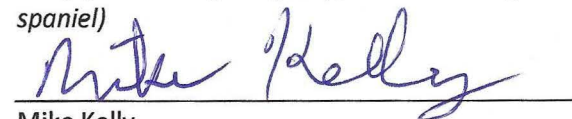
Sincerely,



David Montgomery  
Oliver (the treat-obsessed pug)



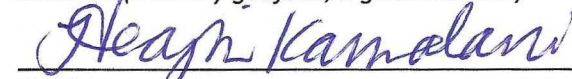
Kathy Macdonald  
Finny (the elder of the group, a Cavalier King Charles spaniel)



Mike Kelly  
Yeti (the welcoming committee of one, a goldendoodle)



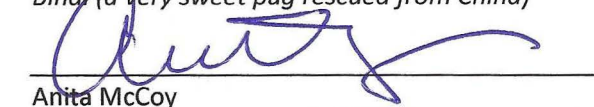
Beth Delgrande  
Satchmo (a cuddly goofball, a goldendoodle)



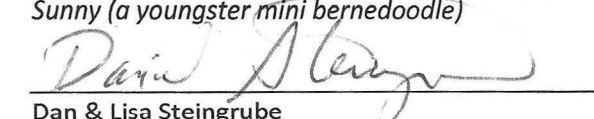
Heajin Kamalani  
Bailey (a fun-loving toy thief, a white lab)



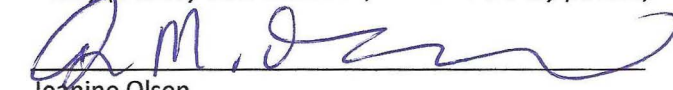
Jill Landis  
Bindi (a very sweet pug rescued from China)



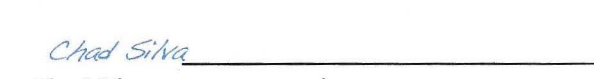
Anita McCoy  
Sunny (a youngster mini bernedoodle)



Dan & Lisa Steingrube  
Teddy (a teddy bear lookalike; an adorable toy poodle)



Jeanine Olsen  
Bader (who has the ball? a golden retriever)



Chad Silva  
Marleau (the smartest of the group; a border collie)

# Monterey Avenue Park



Approximate location of proposed Dog Off Leash Area

## Dog Off Leash Area (DOLA) Administrative Policy

City of Cupertino

### Purpose

The purpose of this policy is to outline DOLA rules and regulate the use of the ongoing DOLA program at Jollyman Park.

### Hours

- Seven days a week
- One hour before sunset to one hour after sunset

### Incidents and Injuries

- If there is an emergency, please immediately call 9-1-1
- Violation of posted rules and regulations can be reported to
  - City's 311 app
  - Code Enforcement (408) 777-3128 or
  - Non-emergency Sheriff (408) 299-2311
- Report dog bites/incidents immediately to
  - San Jose Animal Care and Services (408) 794-7297

### DOLA Rules

Dog owners are required to follow the City's rules for off-leash use during designated hours, including:

- Dogs must have current licenses and vaccinations [C.M.C. 8.03.050]
  - Licenses must be on the dog's collar
  - Collar must be on the dog
- All dogs must be on leash at all times except when in the designated DOLA during permitted times [C.M.C. 13.04.130]
- Respect other park users
  - Stop bothersome behavior immediately
  - Owners are responsible for proper disposal of trash [C.M.C. 13.04.140]
- Owners must be in control of their dogs at all times
  - Dogs with known history of dangerous behavior are not allowed
  - Leaving dogs unsupervised is prohibited
- Cleaning up after your dog is mandatory
- Consumption of food and the use of glass containers not allowed during DOLA hours
- Dogs in heat are not allowed
- No puppies less than four months of age allowed
- Owners must provide their own drinking bowls
- Owners must stop their dogs from digging and fill any holes caused by their dogs

***Owners are legally responsible and liable for the action of their dogs and injuries, or damage caused by their dogs. The City of Cupertino assumes no liability for the users of the DOLA.***

## Field Closures

- Fields may be closed to avoid turf damage due to inclement weather or field saturation. Fields may be closed for field maintenance. Call the field hotline at 408-777-3566 or check @cupertinofields on Twitter to determine whether the fields are open or closed.

## Violations - Cupertino Municipal Code [C.M.C. 1.12.010]

- A. It is unlawful for any person to perform any act that is prohibited, made, or declared to be unlawful or an offense by the code, or to violate any provision or fail to comply with any of the requirements of this code. A violation of any provision or failing to comply with any of the mandatory requirements of the code shall constitute a misdemeanor, except where the violation is specifically declared to be an infraction.
- B. Notwithstanding the above, any violation constituting a misdemeanor may, in the discretion of the City Attorney, be charged and prosecuted as an infraction.
- C. When a violation of a provision of this code which otherwise constitutes an infraction continues to occur and the violator has been charged with a violation of the same provision as an infraction on at least four separate occasions and within one year has forfeited bail on each such occasion, in that event, the City Attorney, in his or her discretion, may charge a violation of any such provision as a misdemeanor.
- D. Unless otherwise specified by this code, an infraction is punishable by:
  - a. A fine not to exceed \$100 for the first violation of a code provision.
  - b. A fine not to exceed \$200 for a second violation of the same code provision within one year; and
  - c. A fine not to exceed \$500 for each subsequent violation of the same code provision within one year.
- E. Unless otherwise specified by this code, a misdemeanor is punishable by a fine not to exceed \$1,000, imprisonment for a term not exceeding six months, or by both such fine and imprisonment.
- F. Notwithstanding the foregoing and unless otherwise specified by this code, a code violation of § [8.01.030](#), Animals Running at Large, § [8.01.030](#), Public Nuisance, § [8.03.010](#), Restraint of Dogs, § [13.04.130D](#), Behavior of Persons in Parks, and § [13.04.130P](#), Feeding Waterfowl Prohibited, shall be subject to a maximum fine as follows:
  - a. Fifty dollars for the first violation of a code provision.
  - b. One hundred dollars for the second violation of the same code provision within one year; and
  - c. Two hundred dollars for each subsequent violation of the same code provision within one year.

(Ord. 20-2203, § 5, 2020; Ord. 12-2101, § 1 (part), 2013; Ord. 09-2043, 2009; Ord. 1886, (part), 2001; Ord. 1697, (part), 1995; Ord. 1497, § 1, 1989; Ord. 1179, § 1, passed 1982; Ord. 854, (part), 1978; Ord. 829, (part), 1977; Ord. 692, § 1, 1975; Ord. 500, § 1, 1971)

Violations that necessitate calls to the Santa Clara County Sheriff or San Jose Animal Care and Services will be held to their laws and appropriate rules or policies.

## Noticing of Changes to Policy

Changes made to the DOLA Administrative Policy will be noticed via the city website at least two weeks prior to implementation.

# Capitola City Council

## Agenda Report

**Meeting:** September 22, 2022

**From:** City Manager Department

**Subject:** Lifeguard Tower Budget Amendment



**Recommended Action:** Approve a resolution to amend the budget increasing the budgeted amount of \$45,000 to \$62,000, increase of \$17,000, for the purchase of a new Lifeguard Tower.

**Background:** Since 2012 the City has partnered with the City of Santa Cruz (Santa Cruz) to provide Lifeguard Services at Capitola Beach from Memorial Day Weekend to Labor Day Weekend. As staffing and other logistical challenges have increased over the years, it has become more and more difficult for Santa Cruz to provide these services. In February 2022, Santa Cruz requested an amendment increasing the overall cost for services. The Contract with Santa Cruz ended in September 2022. To ensure the City had a dependable plan for lifeguard tower services moving forward, Council adopted a FY 2022-2023 Budget that includes the development of a Lifeguard Program, including a new Recreation staff position to help form and oversee operation of this program.

In May 2008, California State Parks donated two fiberglass lifeguard towers to the City to replace two wooden lifeguard towers that State Parks had donated in 2002. When the City received this donation, the fiberglass lifeguard towers were estimated to be about 20 years old making them an estimated 35 years old today.

In November 2019, the City purchased 2 lifeguard tower ramps from Industrial Design Research, INC the primary vendor for lifeguard towers internationally, which is used by the majority of Marine Safety Agencies in California. The two new ramps were purchased to replace wooden ramps constructed by Capitola Public Works that were creating work-related hazards for the City's contract services. Additionally, the purchase of the ramps was part of a longer-term plan to spread the cost of tower upgrades over a few years.

In December 2020, the City purchased a used Lifeguard Tower from the Santa Cruz. Santa Cruz maintains lifeguard towers for about 15 years and then plans for their replacement by 20 years. The Lifeguard tower purchased from Santa Cruz is estimated to be about 20 years old today.

With the purchase of a younger tower from Santa Cruz, one of the towers donated in 2008 was officially retired and replaced. This last summer, the tower located closest to Esplanade Park was the newer tower, and the tower located closest to the Wharf was the roughly 35-year-old tower. That tower located near the Wharf is in extremely poor condition.

**Discussion:** Over the years Staff has researched opportunities to acquire used towers, however the effort has been largely fruitless. Generally, if a Marine Safety Agency is retiring a tower, they are not willing to donate or send it to auction because the tower is at the end of its life and could present a liability issue. When Capitola received the tower in 2020 from Santa Cruz, they were comfortable with the arrangement because it would be their Lifeguards using tower, due to our shared service agreement with Santa Cruz.

The FY 22/23 budget included \$45,000 for the purchase of a new Surveyor SR Lifeguard Tower (the same model as Tower 1) to replace the City's 35-year-old tower that is in poor condition. The window cover raising process is not possible for anyone short of stature without climbing onto the railing. There are areas of exposed fiberglass throughout the structure. The door hinges have degraded preventing both doors from full operation and locks have failed allowing for vandalism when not in use. In prior years, Public Works has worked to remedy safety issues; however the degradation has past the point of repair.

In August 2022 Staff reached out to Industrial Design Research, INC, the sole source provider for Lifeguard Towers, to purchase a new Surveyor Lifeguard Tower. Due to a scarcity of the materials used to construct the towers and inflation the cost is higher; the purchase will require an additional \$17,000.

Fiscal Impact: Sufficient funds are available in the Equipment Internal Service Fund (ISF) which currently has an approximate fund balance of \$400,000. The Equipment ISF has an approved budget of \$45,000 for the purchase of the Lifeguard Tower. If approved, staff will increase the budget by \$17,000 for a total of \$62,000. The quote provided by Industrial Design Research, Inc. does not include shipping of the tower which is estimated to be \$4,000. This cost is subject to fluctuating freight rates therefore staff can only provide an estimate at this time. The recommended \$17,000 increase includes the estimated shipping cost.

Attachments:

1. Lifeguard Tower Quote

Report Prepared By: Nikki Bryant LeBlond, Recreation Division Manager

Reviewed By: Chloé Woodmansee, Assistant to the City Clerk; Jim Malberg, Director of Finance; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager



**INDUSTRIAL DESIGN RESEARCH, INC**

Surveyor Lifeguard Towers  
 3203 Bern Ct., Laguna Beach, CA 92651  
 Phone: (714) 420-0695 / email: indesre@sbcglobal.net

Date : August 17, 2022

**QUOTATION**

<b>JOB</b>		<b>REQUESTED BY</b>		
Surveyor SR Lifeguard Tower		Nikki Bryant City of Capitola		
<b>QTY</b>	<b>DESCRIPTION</b>	<b>TAXED</b>	<b>UNIT PRICE</b>	<b>LINE TOTAL</b>
1	Surveyor Senior Tower (10' x 12' Deck, 6' high)	x	\$ 45,650.00	\$ 45,650.00
1	304 Stainless Steel Support Structure	x	\$ 5,970.00	\$ 5,970.00
1	Rear Lift Structure Configuration	x	\$ 1,875.00	\$ 1,875.00
1	Credit for Stairs	x	\$ (3,150.00)	\$ (3,150.00)
1	Blue Gel-Coat	x	\$ 2,352.00	\$ 2,352.00
1	Palletize/Load (Each)		\$ 725.00	\$ 725.00
<b>COMMENTS OR SPECIAL INSTRUCTIONS</b>		<b>SUBTOTAL</b>		<b>\$ 53,422.00</b>
Buyer Pays Shipping Cost Direct		<b>TAXABLE</b>		<b>\$ 52,697.00</b>
Quote good for 30 days		<b>TAX RATE</b>		<b>7.750%</b>
Terms: Net 30 (After delivery and inspection)		<b>TAX</b>		<b>\$ 4,084.02</b>
		<b>TOTAL</b>		<b>\$ 57,506.02</b>

CONDITIONS OF SALE (APPROVAL SIGNATURE REQUIRED)

Buyer shall properly operate and maintain each tower per IDR's guidelines, as updated from time to time.  
 Buyer shall be solely responsible for denying access to each tower to the public. Only persons authorized by Buyer shall be allowed access to each tower. The towers are not designed for public use.  
 Buyer shall indemnify and hold IDR harmless for any and all damages, claims, causes of action and injuries by any person who is not an authorized agent of Buyer as a result of any contact with a tower, excluding any patent defects in a tower.  
 Buyer is solely responsible for the deployment of and securing the towers against environmental and weather conditions

Quotation, terms and conditions of sale approved by:

Signed \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_



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

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
AMENDING THE 2022-23 FISCAL YEAR CITY BUDGET AND CAPITAL IMPROVEMENT  
PROGRAM BUDGET**

**WHEREAS**, it is necessary to adopt the 2022-23 Fiscal Year Budget for all City funds and Capital Improvement Program; and

**WHEREAS**, the City Council conducted budget study sessions, heard and considered public comments, had modified and proposed a budget accordingly, and on June 23, 2022 adopted such budget for the Fiscal Year July 1, 2022, through June 30, 2023; and

**WHEREAS**, since the adoption of the budget the Recreation Division has received quotes for the purchase of a Lifeguard Tower that exceed the approved budget of \$45,000; and

**WHEREAS**, the purchase of the Lifeguard Tower necessitates an amendment of \$17,000 to the FY 2022-23 budget in order to complete the purchase and shipment of the tower; and

**NOW, THEREFORE, BE IT HEREBY RESOLVED** by the City Council of the City of Capitola that the 2022-2023 Fiscal Year Budget is hereby amended, including Exhibit A (Budget Amendment) to this Resolution; and

**BE IT FURTHER RESOLVED** that the Finance Director is directed to enter the budget into the City's accounting records in accordance with appropriate accounting practices, and the City Manager, with the Finance Director's assistance, shall assure compliance therewith.

**I HEREBY CERTIFY** that the foregoing Resolution was passed and adopted by the City Council of the City of Capitola on the 22<sup>nd</sup> day of September 2022, by the following vote:

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

\_\_\_\_\_  
Sam Storey, Mayor

ATTEST:

\_\_\_\_\_  
Chloe Woodmansee, City Clerk

### City of Capitola Budget Adjustment Form



Date 9/15/2022

Requesting Department Recreation

Administrative Council

Item # TBD  
Council Date Sept. 22, 2022  
Council Approval \_\_\_\_\_

Revenues		
Account #	Account Description	Increase/Decrease
Total		-

Expenditures		
Account #	Account Description	Increase/Decrease
2212-00-00-000-4650.400	Capital outlay machinery & equi	17,000
Total		17,000

Net Impact (17,000)

Purpose: Funding for the purchase of a Lifeguard Tower  
\_\_\_\_\_  
\_\_\_\_\_

Department Head Approval \_\_\_\_\_  
Finance Department Approval \_\_\_\_\_  
City Manager Approval \_\_\_\_\_