



HOLLISTER PLANNING COMMISSION AGENDA

Regular Meeting
October 27, 2022
6:00 PM

CITY OF HOLLISTER
CITY COUNCIL CHAMBERS, CITY HALL
375 FIFTH STREET
HOLLISTER, CA 95023
(831) 636-4360
www.hollister.ca.gov

NOTICE TO PUBLIC

Persons who wish to address the Planning Commission are asked to complete a Speaker's Card and give it to the Secretary before addressing the Planning Commission. Those who wish to address the Planning Commission on an Agenda item will be heard when the presiding officer calls for comments from the audience. City related items not on the Agenda will be heard under the Public Input Section of the agenda. Following recognition persons desiring to speak are requested to advance to the podium and state their name and address. If you are joining us by Zoom, please click on the bottom of your screen to raise your hand. If you are joining us by Zoom using a cell phone, please press *9. After hearing audience comments, the public portion of the meeting will be closed, and the matter brought to the Planning Commission for discussion.

PUBLIC PARTICIPATION NOTICE

The public may watch the meeting via live stream at:

Community Media Access Partnership (CMAP) at:
<http://cmaptv.com/watch/>

or

City of Hollister YouTube Channel:
https://www.youtube.com/channel/UCu_SKHetqbOiiz5mH6XgpYw/featured

Public Participation: The public may attend meetings.

NOTICE: The Planning Commission will hold its public meetings in person, with a virtual option for public participation based on availability. The City of Hollister utilizes Zoom teleconferencing technology for virtual public participation; however, we make no representation or warranty of any kind, regarding the adequacy, reliability, or availability of the use of this platform in this manner. Participation by members of the public through this means is at their own risk. (Zoom teleconferencing may not be available at all meetings.) If you wish to make a public comment remotely during the meeting, please use the zoom registration link below:

https://us02web.zoom.us/webinar/register/WN_JOJDYWeARY2iuYpkpD-Wlw

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

Commissioners: David Huboi, Roxanne Stephens,
Kevin Henderson, Luke Corona, Steven Belong

VERTIFICATION OF AGENDA POSTING Friday, October 21, 2022 at 2:00PM

APPROVAL OF MINUTES September 22, 2022

PUBLIC INPUT

This is the time for anyone in the audience to speak on any item not on the agenda and within the subject matter jurisdiction of the Planning Commission. Speaker cards are available in the lobby, and are to be completed and given to the Secretary before speaking. When the Secretary calls your name, please come to the podium, state your name and city for the record, and speak to the City Planning Commission. If you are joining us by Zoom, please click on the bottom of your screen to raise your hand. If you are joining us by Zoom using a cell phone, please press *9. Each speaker will be limited to three (3) minutes with a maximum of 30 minutes per subject. Please note that state law prohibits the Planning Commission from discussing or taking action on any item not on the agenda.

PUBLIC HEARINGS

1. **Site & Architectural Review 2022-4** – Jeffrey Eaton/E2 Architecture – The applicant is requesting Site & Architectural Review approval for the construction of a 45,705 square foot addition to an existing 52,729 square foot industrial building and related improvements, including a new parking lot, located at 1700 Shelton Drive in the M1 Zoning District, further identified as San Benito County Assessor Parcel Number 051-120-022. CEQA: Categorically Exempt.
2. **Site and Architectural Review 2022-7 Completeness Determination Appeal** – KB Home/Charlie Hazelbaker - _ The applicant for Site & Architectural Review 2022-7, KB Homes, has filed an appeal of Staff's determination that the Application for a Site and Architectural Review for 60 cluster lots within the West of Fairview Specific Plan Area is incomplete and requires an additional application type.

NEW BUSINESS

OLD BUSINESS

PLANNING DEPARTMENT REPORTS

PLANNING COMMISSION REPORTS

ADJOURNMENT

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City of Hollister's Planning Division at (831) 636-4360. Notification of 48 hours prior to the meeting will enable the City to attempt to make reasonable arrangements to ensure accessibility to this meeting [28 CFR 2.102-35. 104 ADA Title II].

Materials related to an item of this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection at the City Clerk's office at City Hall, 375 Fifth Street, Hollister, Monday through Friday, 8:00 a.m. to noon, 1:00 p.m. to 5:00 p.m. (closed between 12:00 and 1:00 p.m.). Materials are also available at the Development Services Department office located 339 Fifth Street, Hollister, Monday through Thursday, 8:30 a.m. to noon, 1:00 p.m. to 4:30 p.m. (closed between 12:00 p.m. and 1:00 p.m.).

Notice to anyone attending any public meeting: The meeting may be broadcast live on Cable 17 and/or videotaped or photographed. Recent Planning Commission meetings may also be viewed at www.CMAP.com and periodically on Cable Channel 17.

The next Planning Commission Meeting is scheduled as follows:

Regular Planning Commission Meeting – Thursday, November 17, 2022 at 6:00 p.m.

MINUTES

HOLLISTER REGULAR PLANNING COMMISSION MEETING

September 22, 2022

PUBLIC PARTICIPATION NOTICE

CALL TO ORDER

The Regular meeting of the Planning Commission was called to order by Vice Chairperson Kevin Henderson on September 22, 2022 at 6:02 p.m. in the City Council Chambers at 375 fifth Street, Hollister, CA 95023.

PLEDGE OF ALLEGIANCE

Commissioner Luke Corona led the Pledge of Allegiance.

ROLL CALL

Attendee Name	Title	Status	Arrived
David Huboi	District 2	Present	
Roxanne Stephens	Chairperson / Entire City	Absent	
Kevin Henderson	Vice Chairperson/ District 1	Present	
Vacant	District 3	N/A	
Luke Corona	District 4	Present	

Chairperson Roxanne Stephens was absent.

STAFF IN ATTENDANCE

Attendee Name	Title	Status	Arrived
Jennifer Thompson	City Attorney	Present	
Adrianna Ortiz	Development Services Director (4LEAF, Inc.)	Present	
Eva Kelly	Interim Planning Manager	Present	
Erica Fraser	Senior Planner (4LEAF, Inc.)	Remote	
Ambur Cameron	Senior Planner	Present	
Liz Gagliardi	Associate Planner (4LEAF, Inc.)	Present	
Mark Falgout	Acting City Engineer (Kimley-Horn & Associates)	Remote	

VERTIFICATION OF AGENDA POSTING

The Agenda for the City of Hollister Planning Commission Meeting for Thursday, September 22, 2022 was posted on the bulletin board at City Hall on Monday, September 19, 2022 at 1:08 p.m. per Government Code Section 54956.

APPROVAL OF MINUTES

Commissioner Huboi motioned to approve the minutes for the Thursday, August, 25, 2022 Regular Planning Commission meeting, clarifying that Resolution 2022-12 approved Vesting Tentative Map 2021-3, and correcting the approving Resolution number for Conditional Use Permit 2021-10 for a Planned Unit Development from Resolution 2022-12 to 2022-13.

Motion seconded by Commissioner Corona.

Development Service Director Ortiz called the roll call vote.

Commissioner Huboi voted Yes, Commissioner Corona voted Yes, and Chairperson Henderson voted Yes.

Motion carried unanimously. 3-0-0-1.

RESULT:	Carried [Unanimous]
MOTION:	David Huboi
SECOND:	Kevin Henderson
AYES:	Huboi, Corona, Henderson
NOES:	
RECUSED:	
ABSTAIN:	
ABSENT:	Stephens

PUBLIC INPUT

None.

PUBLIC HEARINGS

1. **Site & Architectural Review 2021-12** – Dennis Townsend, AIA, NCARB – The applicant is requesting Site & Architectural Review approval for the construction of a 6,639 square foot industrial building, parking lot and related improvements on a 1.01-acre lot located at 1901 Lana Way in the M-1 (Industrial) Zoning District, further identified as San Benito County Assessor Parcel 051-162-002. CEQA: Categorically Exempt.

Senior Planner, Erica Fraser presented the staff report.

Open Public Hearing: 6:18 p.m.

Public Providing Testimony: None.

Closed Public Hearing: 6:18 p.m.

Commissioner Huboi made a motion to ADOPT Resolution 2022-14 to approve Site & Architectural Review 2021-12 subject to the finding and conditions contained in the draft resolution. Motion seconded by Commissioner Corona.

Interim Development Service Director Ortiz called the roll call vote.

Commissioner Huboi voted Yes, Commissioner Corona voted Yes, and Chairperson Henderson voted Yes.

Resolution 2022-14 was unanimously adopted by the Planning Commission. 3-0-0-1.

RESULT:	Adopted [Unanimous]
MOTION:	David Huboi
SECOND:	Luke Corona
AYES:	Huboi, Corona, Henderson
NOES:	
RECUSED:	
ABSTAIN:	
ABSENT:	Stephens

2. **Minor Subdivision 2022-2** – Bebek Development Co. – The applicant is requesting a Minor Subdivision approval to subdivide an approximately 4.85-acre vacant parcel into two lots. The project site consists of one parcel bisected by Westside Boulevard. The parcel is located at the northwest and northeast corners of the intersection of Fourth Street and Westside Boulevard, further identified by two San Benito County Assessor Parcel Numbers: 052-180-005 and 052-040-020. The 4.079-acre northwest portion of the parcel identified as APN 052-180-005 is in the West Gateway (WG) Zoning District, and the 0.564-acre northeast portion of the parcel identified as APN 052-040-020 is located in the Neighborhood Mixed Use (NMU) Zoning District. CEQA: Categorically Exempt.

Associate Planner, Liz Gagliardi presented the staff report.

Open Public Hearing: 6:28 p.m.

Public Providing Testimony: None.

Closed Public Hearing: 6:28 p.m.

The following condition for MS 2022-2 were discussed:

1. This Condition was amended to read as follows: *Approval. This approval is for APNs 502-180-005 and 052-040-020 (MS 2020-2). The proposed subdivision shall be in substantial conformance to Exhibit A (Project Plans) prepared by Allen T. Andrade for MH Engineering Co., dated June 6, 2022 and stamped "Received August 9, 2022" on file with the Planning Division, and other plans, text and diagrams relating to this Tentative Parcel Map, except as modified by the following conditions. The parcel map and improvements shall strictly adhere to the approved set of plans unless prior approval is granted by the Director for changes.*

7. This condition was removed. Previously read: Noise During Construction. Construction activities on the project site must employ noise suppression devices and techniques and shall be limited to the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 6:00 p.m. on Saturdays and shall be prohibited on Sundays and federally recognized holidays per Ordinance 1137 of the Hollister Municipal Code. No construction, landscape maintenance or grounds maintenances actives shall occur on federal holidays. Construction equipment and activities shall not use noise suppression devices and techniques.

8. This condition was removed. Previously read: Overtime Inspections. Arrangements for overtime inspection services and payment of fees for same shall be made at least 48 hours in advance and are subject to inspection availability and approval by the City Engineer. Alternatively, the Applicant may engage a third-party inspector at its own expense, so long as the identity of such inspector and work is approved in advance in writing by the City. Any work performed without inspection is subject to rejection by the City if in City's reasonable determination.

9. This condition was removed. Previously read: Code Enforcement. Prior to issuance of a building permit, the applicant shall not be in violation of the City of Hollister Municipal Code involving the project site. More specifically, Section 1.16.100, Refusal to issue permits, licenses or other entitlements, which states "no departments, commission or public employee of the city which is vested with the duty or authority to issue or approve permits, licenses or other entitlements shall issue or approved such permits, licenses or other entitlements where there is an outstanding violation involving the property upon which there is a pending application for such permit, license or other entitlement."

10. This condition was removed. Previously read: Final Landscape and Irrigations Plans. Final Landscape and Irrigation Plans, all written documentation and an Application Fee as required by Chapter 15.22 Water Efficient Landscape Ordinance, shall be submitted to the Planning Division in conjunction with an application for a building permit. The Plans shall be prepared and stamped by a State licensed landscape architect or registered engineer and shall be submitted for review and approval by the Development Services Director. The Plans shall be approved and all landscaping shall be installed prior to Occupancy.

11. This condition was removed. Previously read: Landscaping. The Applicant/Development shall construct all landscaping within the site and along the project frontage. The on-site landscaping shall be to the satisfaction of the Director of Development Services. The street trees on the frontage landscaping shall be a minimum of 36" box, their exact tree locations and varieties shall be approved by the Director of Development Services and the City Engineer.

12. This condition was removed. Previously read: Standard Plans and Specifications. All improvements required shall be designed in accordance with City Design Standards and constructed in accordance with the City of Hollister Standard Plans and Specifications and receive approval by the City of Hollister Engineering Department. All applicable codes and

ordinances, along with the recommendations of the City Engineer and any required Geological Investigation, are to be adhered to, and all required fees shall be paid.

13. This condition was amended to read as follows: *Right-of-Way Indicated. The Parcel Map shall be in substantial conformance with the Tentative Map for Minor Subdivision.*

15. This condition was amended to read as follows: *Parcel Map Submittal. The developer shall submit a parcel map package for review and approval by the City Engineer and City Council for the subdivision. The submittal shall be in complete form and accompanied by the traverse sheets, and map checking fees.*

16. This condition was removed. Previously read: *Water Supply. Prior to filing of the parcel map, the developer shall provide to the Engineering Department, water calculations based on recent hydrant tests showing sufficient water supply for domestic and fire suppression use.*

17. This condition was removed. Previously read: *Subdivision Improvement Agreement. Prior to filing of the parcel map and Subdivision Improvement Agreement, all material necessary to present the subdivision to the City Council shall be submitted to the City Engineer at least two weeks prior to the Council meeting. The material shall be submitted in a form satisfactory to the City Engineer.*

18. This condition was removed. Previously read: *Utility Providers. The developer shall submit three prints of the approved tentative parcel map to each of the following utilities: PG&E, Pacific Bell, AT&T, and Charter Cable. The developer shall subsequently provide the City Engineer with each utility's easement needs as part of the initial submittal.*

19. This condition was removed. Previously read: *Rights-of-Way. The developer shall dedicate, improve, and guarantee by bond full rights-of-way for the following road improvements as shown on the approved tentative parcel map, including street lighting and street trees; all underground utilities including, but not limited to, sanitary and storm sewers, gas, electrical, telephone, cable TV, fiber optic conduits, and water lines; and all other improvements necessary to bring the existing public rights-of-way into full conformance with all applicable City standards. Existing overhead utilities shall be undergrounded.*

a. 4th Street Improvements. As shown of the tentative parcel map, 4th Street frontage to the south of the site shall have full road improvements including but not limited to sidewalk, curb, gutter, lighting, undergrounding of any existing overhead utilities, irrigation, and landscaping on the north side of 4th Street, connecting to the existing roads, as determined by the City Engineer and in conformance with the West Gateway Beautification Plan.

b. Westside Boulevard Improvements. As shown of the tentative parcel map, 4th Street frontage to the east and west of the site shall have full road improvements including but not limited to sidewalk, curb, gutter, lighting, undergrounding of any existing overhead utilities, irrigation, and landscaping on the east and west sides of Westside Boulevard, connecting to

the existing roads, as determined by the City Engineer and in conformance with the West Gateway Beautification Plan.

20. This condition was removed. Previously read: *Public Roads on Tentative Parcel Map.* The streets as shown on the Tentative Parcel Map as public right-of-way in their alignments and dimensions shown are to be public roadways designed to City standards.

21. This condition was removed. Previously read: *Temporary maintenance and operation of utilities.* The developer shall be responsible for all maintenance and operation of all utilities and improvements from the time of installation until acceptance of the subdivision improvements.

22. This condition was removed. Previously read: *Street Names.* Prior to recordation of the parcel map the developer shall submit all proposed private and public street names for the new streets to the City of Hollister Engineering Department for review and approval by the City of Hollister Development Review Committee (DRC) and County Communications. The approved street names shall be included on the parcel map and improvement plans. Any alterations to the street names may be allowed only after re-submittal of the revised street names to the City Engineering Department for review and approval of the DRC and County Communications.

23. This condition was removed. Previously read: *Site Clearance.* Prior to receiving issuance of a grading permit, the project site shall be properly cleared of all fences, wells, septic tanks, irrigation pipes, fuel tanks and other structures. Certificates from the County Environmental Health Department shall be provided to the City Engineer for any well or septic tank abandonment, and from the City Fire Department for abandoned fuel tanks.

24. This condition was removed. Previously read: *Temporary barricades.* All streets temporarily ending at property lines shall be barricaded in accordance with City Standards. A sign shall be posted stating that the road will be extended.

25. This condition was removed. Previously read: *Residential Fencing.* Prior to occupancy, residential fencing shall be installed or replaced along the residential boundary, in accordance with City standards. Residential fencing shall be approved by the City Engineering Department and Planning Division prior to installation. Residential fencing on interior lots shall comply with the fence standards in the Hollister Municipal Code. Fencing of the subdivision shall be placed along all residential boundaries. Double fencing shall not be allowed.

26. This condition was removed. Previously read: *Soils Report.* As part of the parcel map submission, a geotechnical soils report shall be submitted to comply with the current building code in accordance with the provisions of the City Subdivision Ordinance.

27. This condition was removed. Previously read: *Construction Stormwater BMP Control Plan (CSCP).* Prior to any site development or grading, the applicant shall submit for review

and approval by the Engineering Department a CSCP for construction stormwater runoff BMP control measures.

28. This condition was removed. Previously read: Post-construction Stormwater Control Plans (SWCP). Prior to any site development or grading, the applicant shall submit a SWCP for review and approval by the Engineering Department. The SWCP shall meet the requirements of the California Regional Water Quality Control Board Central Coast Region, Resolution No. R3-2013-0032 dated July 12, 2013 (PCRs), entitled Post-Construction Storm Water Management Requirements for Development Projects in the Central Coast Region, as applicable and shall address all required post-construction stormwater runoff BMP control measures, as applicable. The applicant shall submit the SWCP as part of the plan, for City review and approval. The applicant is advised that the Engineer of Record shall inspect and provide certification to the City of Hollister that all stormwater post-construction improvements are properly installed and comply with the approved civil design plans.

29. This condition was removed. Previously read: Drainage Report. Prior to parcel map, a drainage report shall be submitted for review and approval by the City Engineer. The drainage report shall include, but is not limited to, depiction of all tributary areas on and to the site, and shall provide all information pertinent to the capability of the proposed drainage facilities to handle the expected post-construction storm water management (LID, runoff control and reduction, water quality treatment, etc.), and flood control measures as required for the site. Additionally, the report shall include or incorporate the grading plan, CSCP, SWCP, and landscape plan for the project.

30. This condition was removed. Previously read: Grading and drainage plan. Prior to any site development or grading, the applicant shall submit for review and approval by the Engineering Department a grading plan that complies with Chapter 15.24 “Grading and Best Management Practice Control” and Section 17.16.140 “Stormwater Management” of the Hollister Municipal Code and all subsequent amendments to those codes. Low Impact Development (LID) strategies shall be considered and incorporated as part of site planning and design as appropriately feasible.

31. This condition was removed. Previously read: Storm water and grading permit. Prior to approval of any storm water permit, grading permit or improvement plans, the applicant shall obtain all applicable permits directly associated with the grading activity, including, but not limited to, the State Water Board’s CGP, State Water Board 401 Water Quality Certification, U.S. Army Corps 404 permit, and California Department of Fish and Game 1600 Agreement. Further, the applicant shall provide evidence to the City Engineer that the required permits have been obtained.

32. This condition was removed. Previously read: Stormwater Management Post-Construction Application. As part of the improvement plan review process, the applicant shall submit to the Engineering Department a Stormwater Management Post-Construction Requirements application to be reviewed for compliance with the post-construction stormwater regulations and approved prior to Improvement Plans approval.

33. This condition was removed. Previously read: *Sediment/Trash Separator. Drainage improvements shall include, but not be limited to, all necessary sediment traps and trash separator devices, such as hydrodynamic vortex separator, as directed by the City Engineer.*

34. This condition was removed. Previously read: *Water Line Improvements. The water system improvements shall be subject to the review and approval of either the City of Hollister and shall meet the following requirements:*

a. All water system improvements shall be installed in accordance with the City of Hollister's standards that are in effect at the time of improvement plan approval.

b. Any offsite waterlines necessary to be installed under proposed pavements shall be installed at the time of the roadway improvements.

35. This condition was removed. Previously read: *Improvement Plans. Prior to permit issuance for onsite and/or offsite work, Improvement Plans shall be submitted to the Engineering Department for review of all necessary improvements.*

36. This condition was removed. Previously read: *School Impact Fee. Unless otherwise required by law, all school impact fees shall be paid at the time of building permit issuance.*

38. This condition was removed. Previously read: *Reduced Pressure Principle (RPP). When the City of Hollister deems it necessary, the applicant shall be required to install an RPP backflow prevention device at their sites which shall meet the following criteria:*

a. The RPP shall conform to all AWWA (American Water Works Association) standards and shall be appropriately sized for the specific application on the site.

b. The RPP shall be inspected by a certified California-Nevada AWWA Backflow Prevention Assembly General Tester. The Utility Division shall provide a list of acceptable Assembly Testers within the area.

c. The Utility Division shall receive a copy of the initial RPP inspection report.

d. Any and all RPP defects shall be immediately repaired or replaced prior to the Utility Division reestablishing water service to the sites. The owner/operators shall have the RPP inspected/tested each year thereafter, with all reports forwarded to the Utility Division.

e. Should the RPP fail to pass any inspection or test, the device shall be immediately repaired or replaced, with all repair and/or replacement reports forwarded to the Utility Division.

f. The RPP shall be installed according to AWWA standards, in regards to concrete padding and surrounding landscape/RPP height requirements.

g. The RPP shall be installed inside a wire-mesh cage enclosure, preferably green in color, with a hinge on one end and a locking hasp device on the other to prevent vandalism and unauthorized entries.

h. The RPP shall be installed at a site between the City's water meter and the building inside the property line where the RPP can be readily observed and be easily accessible for future inspections.

39. This condition was removed. Previously read: Sewer Mains and Laterals. Prior to burial, the Engineering Department shall inspect all building laterals, the project's main sanitation collection system, the connection to the City's main sanitary collection system, and the interceptor installation. The owner/developer shall contact the Engineering Department at least 24 hours prior to all necessary inspections.

40. This condition was removed. Previously read: Water Mains and Services. Prior to connection and burial of services and mains, the Engineering Department shall inspect all water services, mains, meters, and meter boxes. At the time of the service inspection, a lay length spacer pipe shall be set in place of the meter which shall be drilled with holes that have a minimum diameter of 1/4", as approved the City inspector. The owner/developer shall contact the Engineering Department at least 24 hours prior to all necessary inspections.

41. This condition was removed. Previously read: Storm Drain Facilities. Prior to burial or connection of storm drain fallibilities, the Engineering Department shall inspect the installation and connection of such facilities to assure compliance with the City's standards. The owner/developer shall contact the Engineering Department at least 24 hours prior to all necessary inspections.

42. This condition was removed. Previously read: Water Meter Applications. The Engineering Department shall process applications for new water meters and meter boxes for irrigation and potable water systems. The owner/developer may contact the Engineering Department (831) 636-4340 for information.

43. This condition was removed. Previously read: Fire Hydrants. Prior to improvement plan and parcel map approval, the applicant shall coordinate with the Fire Chief at (831) 636-4325 for the placement of fire hydrants and provide an approved plan to the Engineering Department.

44. This condition was removed. Previously read: Slurry Seal. Prior to the City's acceptance of the subdivision improvements, roads directly impacted construction activities and construction traffic shall be in a good state of repair as determined by the City Engineering Department. Roads on the project site and impacted by construction determined not to be in a good state of repair by the City Engineering Department, or that have utility trench cuts, shall be repaired curb to curb by the applicant using Type II slurry seal or by an alternate method approved by the City of Hollister. Upon the overlay, all pavement legends and striping shall be placed and/or redone. Thermoplastic material shall be used for the road markings.

45. This condition was removed. Previously read: Water Sampling. Prior to parcel map submittal, the map shall identify a water sampling device for water analysis at opposite ends of the project site to avoid using water hydrants for water analysis. The map shall be submitted to the City of Hollister Development Services Department and placement of the water sampling device on the map and ultimately on the site shall be reviewed and approved by the City of Hollister Utilities Department.

46. This condition was removed. Previously read: Community Facilities District No. 4. Prior to early start approval, building permit or final map, the applicant shall cooperate with the City to facilitate the annexation of the entire subdivision project to the Community Facilities District No. 4. The entire subdivision project shall be included within the boundaries of the communities facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (California Government Code 53311 et seq.) and be subject to a special tax levied hereunder. The special tax shall be in an amount that will be updated with the annual CPI> per unit per year, subject to an annual increase in accordance with the designated consumer price index as of January 1 of each year. The subdivider shall cooperate with the City to accomplish the inclusion of the subdivision in the community facilities district, either through annexation to an existing district or through the formation of a new district. Such cooperation shall include, but not be limited to, executing and filing with the City Clerk, in a form acceptable to the City Attorney, any approval, consent or waiver required by the City in order to expedite the inclusion of the subdivision in such a district.

47. This condition was removed. Previously read: Encroachment Permit. An encroachment permit shall be issued in addition to the grading permit for the work within the City of Hollister right-of-way or public easements within the property. This includes improvements such as: driveway approaches, water line connection for domestic water or fire services, sewer lateral installations and any other improvements on right-of-way. Encroachment Permits are issued at the Engineering Department located at 339 Fifth Street, in Hollister CA.

48. This condition was removed. Previously read: Grading and Subdivision Improvement Work. Prior to issuance of a grading permit, applicant shall provide approved surety in the amount of 100% of the Engineers Estimate for Performance surety and Labor and Material surety, pay all applicable fees, provide a work schedule, as well as insurance certificates as required per City Standards and Municipal Code sections 15.24.120 and 15.24.315.

49. This condition was amended to read as follows: AutoCAD and GIS. An electronic copy of the approved parcel map shall be submitted to the Development Services Department in both AutoCAD and GIS format, prior to recording of the map, as applicable. An electronic copy of the map shall be submitted to the Development Services Department in both AutoCAD and GIS format, prior to the recording of the map, as applicable.

50. This condition was removed. Previously read: Water and Sewer Utility Clearance. No buildings, trees, bushes, other structures or materials shall be placed within ten feet (10') of the meters, water lines or sanitary sewer connections and laterals.

51. This condition was removed. Previously read: Construction Equipment. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. All non-road diesel construction equipment shall at a minimum meet Tier 3 emission standards listed in the Code of Federal Regulations Title 40, Part 89, Subpart B, 89.112.

52. This condition was removed. Previously read: *Hazardous Materials*. Prior to the issuance of a demolition permit or of a grading permit that involves demolition of existing structures, the developer shall contract with a certified asbestos/lead paint consultant to perform an asbestos and lead paint inspection prior to the demolition of regulated structures. Should the inspection identify the presence of asbestos and/or lead paint, the developer shall contract for material abatement. Removal or disturbance of asbestos and lead paint requires adherence to the California Division of Occupational Safety and Health and California Department of Public Health regulations. Should the asbestos and lead paint inspection indicate the presence of the significant levels of asbestos, the developer shall contract a California State registered and licensed asbestos abatement contractor to perform the asbestos work. The asbestos and lead paint inspection and evidence of abatement of any identified lead based paint and regulated asbestos containing materials shall be presented to the city prior to issuance of a grading and/or demolition permit.

53. This condition was removed. Previously read: *Damage During Construction*. The property owner/developer shall replace any street or sidewalk improvements or utility services that are removed or damaged during the construction of the project as determined by the City Engineer. This could include, but is not limited to, permeable paving, PCC curbs, gutters, sidewalks; street lighting; signing and striping; all underground utilities including, but not limited to, sanitary sewer, gas, electrical, telephone, and water and fire services lines; and all other improvements to bring the right-of-way into full conformance with applicable City standards. All construction in the right-of-way shall be completed prior to final building approval.

54. This condition was removed. Previously read: *As-Built Plans*. Prior to occupancy, developer must provide the City Engineering Department with an electronic pdf and AutoCAD copy of the final as-built plans as well as one Mylar print and one reproduction copy. The final as-built must be updated with all changes made during construction such as additions and deletions, including changes that were made to reflect actual site conditions.

55. This condition was amended to read as follows: *Approved Resolution*. A complete hard copy of the approved signed resolution shall be included with the submittal of the parcel map to the City Engineer.

56. This condition was removed. Previously read: *Bicycle Lanes*. Prior to map approval, bicycle lanes shall be designed in accordance with the San Benito County Bikeway and Pedestrian Master Plan. The design shall be reviewed and approved by the City Engineer. Pending approval of the bicycle lanes, the developer shall make the bicycle lane improvements on site in a method approved by the City Engineer in accordance to City standards.

57. This condition was removed. Previously read: *Construction Dust and Emissions*. To reduce dust emissions from demolition, grading, and construction activities on the project site, the following language shall be included in all grading and construction plans for the project prior to issuance of demolition or grading permits.

58. This condition was removed. Previously read: *Utility Work Authorization. The developer shall make arrangements for P.G.&E., AT&T, or any other utilities authorized to operate in the City of Hollister. All such utility work shall be done in accordance with Joint Utility requirements as well as the City of Hollister Specifications and Details.*

59. This condition was removed. Previously read: *With respect to all off-site improvements, prior to filing of the Parcel Map, the subdivider shall either:*

a. Clearly demonstrate their right to construct the improvements by showing title or interest in the property in a form acceptable to the City Engineer; or,

b. Demonstrate, in writing, that the subdivider has exhausted all reasonable efforts to acquire interest to the subject property and request that the City assist in acquiring the property required for the construction of such improvements and exercise its power of eminent domain in accordance with Government Code Section 66462.5 to do so, if necessary. Subdivider shall also enter into an agreement with the City to pay all costs of such acquisition including, but not limited to, all costs associated with condemnation. Said agreement shall be in a form acceptable to the City Engineer and the City Attorney. If condemnation proceedings are required, the subdivider shall submit, in a form acceptable to the City Engineer, the following documents regarding the property to be acquired:

i. Property legal description and plat stamped and signed by a Licensed Land Surveyor or Civil Engineer authorized to practice land surveying in the State of California;

ii. Preliminary title report including chain of title and litigation guarantee;

iii. Appraisal of the property by a City approved appraiser. In the course of obtaining such appraisal, the property owner(s) must be given an opportunity to accompany the appraiser during any inspection of the property or acknowledge in writing that they knowingly waived the right to do so;

iv. Copies of all written correspondence with off-site property owners including purchase summary of formal offers and counter offers to purchase at the appraised price.

v. Prior to submittal of the aforementioned documents for City Engineer approval, the Subdivider shall deposit with the City all or a portion of the anticipated costs, as determined by the City Attorney, of the condemnation proceedings. The City does not and cannot guarantee that the necessary property rights can be acquired or will, in fact, be acquired. All necessary procedures of law would apply.

60. This condition was removed. Previously read: *The improvement plan submittal shall include a complete construction phasing plan in accordance with the mitigation measures, conditions of approval, City codes, and standards.*

61. This condition was removed. Previously read: *Detailed plans shall be provided for any off-site or out-of-phase improvements in conjunction with the proposed phasing plans unless preliminary or final designs are needed for orderly development and/or to substantiate the design of an adjoining phase.*

62. This condition was removed. Previously read: All public streets shall conform to City Engineering Standards and the specific plan including curb, gutter, and sidewalk, driveway approaches, and curb ramps as approved by the City Engineer. Where conflicts occur between the City Engineering Standards and concepts identified in the Chappell Road project approval documents and/or represented on the tentative parcel map, the City Engineer shall make the final determination of design approval and/or exceptions.

63. This condition was removed. Previously read: All subdivision improvements shall be consistent with the City Engineering Standards except where the applicant has requested and been granted a formal design exception by the City Engineer. Design exceptions shall be requested in a format approved by the City and shall be accompanied by the required application and review fee. The applicant shall summarize the need for the request, alternatives, and may be asked to propose final construction details, specifications, and minimum construction tolerances/testing for review and approval by the City Engineer in support of the request. The request shall be approved by the City Engineer prior to submittal of complete public improvement plans.

64. This condition was removed. Previously read: Final street sections shall be approved in conjunction with the review and approval of the final project geotechnical report. The final design shall consider drainage, transitions, and accessibility.

65. This condition was removed. Previously read: Street trees are required as a condition of development. Street trees shall generally be planted at the rate of one 15-gallon street tree for each 35 lineal feet of property frontage. Landscape plans may include grouping of trees to vary this standard to honor site/public improvements, achieve visual variety, or to honor line-of-sight corridors within the subdivision.

66. This condition was removed. Previously read: Improvement plans for the entire subdivision, including any off-site improvements shall be approved to the satisfaction of the Public Works Department, Utilities Department, and Fire Department prior to map recordation. Off-site improvements may include but are not limited to roadways, sewer mains, water mains, recycled water mains, and storm drain improvements. Off-site improvements may include off-site access roadways, transportation improvements, and utility system improvements.

67. This condition was removed. Previously read: The improvement plans shall clearly show all existing structures, site improvements, utilities, water wells, septic tanks, leach fields, gas and wire services, etc. The plan shall include any pertinent off-site water well and private waste disposal systems that are located within regulated distances to the proposed drainage and utility improvements. The plan shall include the proposed disposition of the improvements and any proposed phasing of their demolition and removal.

68. This condition was removed. Previously read: The map and improvement plans shall show and clarify the extent of all existing public and private easements. The developer shall provide any additional clarification regarding the use and disposition of any water wells. Any

private water well service piping that crosses or is proposed to cross an existing or future public right-of-way shall be approved by the City and shall be covered by an Encroachment Agreement to be recorded in a format approved by the City. The developer shall provide any additional clarifications, amendments, and/or quit-claims on any outstanding private easement agreements, as necessary.

69. This condition was removed. Previously read: *A truck circulation plan and construction management and staging plan shall be included with any demolition, stockpile, grading, or improvement plan submittal. General truck routes shall be submitted for review and acceptance by the City. The engineer of record shall provide a summary of the extent of cut and fill with estimates on the yards of import and export material. The summary shall include rough grading, utility trench construction, road construction, AC paving, concrete delivery, and vertical construction loading estimates on the existing City of Hollister roadways. The developer shall either: 1) complete roadway deflection testing before and after construction to the satisfaction of the City Engineer and shall complete repairs to the pre-construction condition, or 2) shall pay a roadway maintenance fee in accordance with City Engineering Standards and guidelines, or 3) shall propose a pavement repair/replacement program satisfactory to the City Engineer. The roadway impacts analysis and mitigation strategy shall be approved prior to commencing with grading or construction.*

70. This condition was removed. Previously read: *The public improvement plan submittal shall show all existing and proposed overhead wire utilities. Any existing overhead primary and secondary wiring within the tract boundary shall be undergrounded in conjunction with the subdivision improvements. Unless otherwise specifically approved, pole relocation in lieu of undergrounding is not permitted. Off-site service drops shall be eliminated. The new service feeds for the subdivision shall be completed by underground wiring without a net increase in utility poles. Terminal end utility poles shall be located off-site unless otherwise approved by the City.*

71. This condition was removed. Previously read: *Any widening of streets with existing overhead wire utilities shall include the undergrounding of the existing wiring. The City Engineer may require replacement streetlights per City Standards where streetlights exist on wood poles.*

72. This condition was removed. Previously read: *The developer shall exhaust all reasonable efforts to eliminate or underground the existing overhead wiring located along the tract boundary. The elimination and/or undergrounding shall consider existing services and/or utilization equipment to remain. The plan to eliminate, reduce, or underground the existing services shall be approved to the satisfaction of the City, Caltrans, PG&E, and billboard easement grantee. Undergrounding service to any existing or proposed water well shall consider standard farming operations and the depth of deep ripping. Any proposal for partial undergrounding, waiver, or deferral shall be subject to the approval of the Community Development Director.*

73. This condition was removed. Previously read: *Preliminary undergrounding plans for the entire subdivision shall be processed through PG&E and any respective wire utility companies in conjunction with public improvement plan submittal. The preliminary PG&E plans/memo shall be provided to the engineer of record and the City for review and approval prior to commencing with the PGE final handout package. The final PGE handout package shall be approved by the engineer of record and City prior to commencing with construction.*

74. This condition was removed. Previously read: *Rustic Basin Improvements. The City has tested the infiltration rates for the Rustic Basin for inclusion in the storm drain model to see the effects of improvements previously made by the City. The results show the basin is deficient for the total tributary area in the 25-year storm event. The developer shall either mitigate the 25-year storm on-site or increase the capacity of the Rustic Basin by increasing infiltration or basin volume to provide capacity for future flows.*

75. This condition was removed. Previously read: *West Gateway Beautification Plan. All frontage improvements shall conform to the West Gateway Beautification Plan, and shall be approved by the City Engineer prior to approval of the improvement plans.*

76. This condition was removed. Previously read: *Airport Land Use Commission (ALUC). Prior to building permit issuance, the applicant must receive land use consistency from the Airport Land Use Commission. For more information, please contact the San Benito County Council of Governments at (831) 637-7665.*

77. This condition was removed. Previously read: *FAA Crane Requirements. Prior to building permit issuance for any site improvement, the applicant must notify the City of Hollister Airport director any dates that a crane would be used on site. If the crane exceeds 80 feet in height, the applicant must complete an airspace analysis with the FAA (<https://oeaaa.faa.gov/oeaaa/external/portal.jsp>), If the crane is less than 80 feet in height, the Airport Director will file the required NOTAM with the FAA. The crane will be required to display an orange and white checkered aircraft flag at its highest point, if the crane is left elevated at night it must also have a flashing red beacon. For more information please contact the Hollister Airport at (831) 636-4365.*

78. This condition was removed. Previously read: *Lighting Plan. Prior to occupancy of any building permit issued, the applicant shall submit a site plan to the City of Hollister Airport Manager and obtain approval for project lighting. For more information, contact the Airport Manager at (831) 636-4365*

79. This condition was removed. Previously read: *Storm Drainage. All standard requirements regarding storm drainage shall be followed. There shall be no standing water for more than five days, nor shall any types of bodies of water, including bio retention swales, be allowed to form with any type of improvement on site in order to avoid attraction of birds in the vicinity of the airport that can interfere with aircraft. For details, please contact the Airport Manager at (831) 636-4365.*

Commissioner Huboi made a motion to ADOPT Resolution 2022-15 approving Minor Subdivision 2022-2, subject to the findings and conditions contained in the draft resolution, with amendments to conditions 1, 13, 15, 49 and 55, and with the removal of conditions 7-12, 16-38, 38-48, 50-54, and 65-67 as discussed. Motion seconded by Vice Chairperson Henderson.

Interim Development Service Director Ortiz called the roll call vote.

Commissioner Huboi voted Yes, Commissioner Corona voted Yes, and Vice Chairperson Henderson voted Yes.

Resolution 2022-15 was adopted unanimously by the Planning Commission. 3-0-0-1.

RESULT:	Adopted [Unanimously]
MOTION:	David Huboi
SECOND:	Kevin Henderson
AYES:	Huboi, Corona, Henderson
NOES:	
RECUSED:	
ABSTAIN:	
ABSENT:	Stephens

3. **Tentative Map No. 2020-1, Site & Architectural Review 2020-9 Extension** – San Benito Engineering – The applicant is requesting a one-year extension to Tentative Map approval 2020-1 and Site & Architectural Review 2020-9 approval to subdivide an approximately 1.70-acre parcel into six (6) lots and construct multifamily residential units and attached accessory dwelling units on each lot. Two of the lots within the development would have a duplex with two attached accessory dwelling units. Four of the lots within the development would have a triplex with two attached accessory dwelling units for a total of sixteen (16) three-bedroom multifamily units and twelve (12) one-bedroom accessory dwelling units. This project is located at 2001 Memorial Drive in the R3 Medium Density Residential Zoning District, further identified as San Benito County Assessor Parcel Number 057-770-040. CEQA: Categorically Exempt.

Associate Planner, Liz Gagliardi, presented the staff report.

Open Public Hearing: 6:38 p.m.

Public Providing Testimony: Anne Hall

Closed Public Hearing: 6:41 p.m.

The following condition was discussed:

11. This condition was amended to read as follows: *Prior to building permit issuance, the Applicant shall submit a site plan to the Planning Division for review and approval which shows the trash enclosures to be sized to accommodate a 3-stream trash system for waste, recycling, and organics. The site plan shall also include elevations which together demonstrate that the trash enclosures are properly sized, plumbed to the City's sewer system, contain hose-bibs, are covered, are architecturally compatible with the proposed structures, and otherwise meet all regulations of the City of Hollister and Recology.*

Commissioner Huboi made a motion to ADOPT Resolution 2022-16 approving a one-year extension for Tentative Map 2020-1 and Site & Architectural Review 2020-9, subject to the findings and conditions contained in the draft resolution, with the amendment to Condition 11 as discussed. Motion seconded by Commissioner Corona.

Interim Development Service Director Ortiz called the roll call vote.

Commissioner Huboi voted Yes, Commissioner Corona voted Yes and Vice Chairperson Henderson voted Yes.

Resolution 2022-16 was unanimously adopted by the Planning Commission. 3-0-0-1.

RESULT:	Adopted [Unanimously]
MOTION:	David Huboi
SECOND:	
AYES:	Huboi, Corona, Henderson
NOES:	
RECUSED:	
ABSTAIN:	
ABSENT:	Stephens

4. **Tentative Map 2021-4, Conditional Use Permit 2022-1 for a Planned Unit Development** – PAD Investment Trust, et al – The applicant is requesting a Vesting Tentative Map and Conditional Use Permit for a Planned Unit Development approval to subdivide 13.79 acres into 85 lots. The subdivision would create 82 new residential single family detached lots, a parcel to be dedicated for public park space, a parcel for stormwater treatment, and a remainder lot with an existing home that will remain. The property has a General Plan designation of Low Density Residential, and is within the Low Density Residential Performance Overlay (R1-L/PZ) Zoning District. Site and Architectural Review is not part of the application. The project is located between North Chappell Road and the Highway 25 Bypass, north of Primavera Drive, further identified as San Benito County Assessor Parcel Number 051-230-005. CEQA: Environmental Impact Report (previously prepared).

Interim Planning Manager, Eva Kelly, presented the staff report.

Open Public Hearing: 6:58 p.m.

Public Providing Testimony: Augie Dent

Closed Public Hearing: 6:59 p.m.

The following condition was discussed:

13. This condition was amended to read follows: *Chappell Road Master Plan Linear Park. Prior to the approval of the improvement plans, the applicant shall submit the proposed linear park design improvements for the review of the City of Hollister Parks and Recreation Commission shall be forwarded to the City Council for ultimate approval to ensure compliance with the adopted Chappell Road Master Plan and to ensure there will be consistency of the linear park across all development within the plan area.*

Commissioner Huboi made a motion to ADOPT Resolution 2022-17 approving Vesting Tentative Map 2021-4 for a Planned Unit Development, subject to the finding and conditions contained in the draft resolution, with the modifications to Condition 13 as discussed. Motioned seconded by Commissioner Corona.

Interim Development Service Director Ortiz called a roll call vote.

Commissioner Huboi voted Yes, Commissioner Corona voted Yes, and Vice Chairperson Henderson voted YES.

Resolution 2022-17 was unanimously adopted by the Planning Commission. 3-0-0-1.

RESULT:	Adopted [Unanimously]
MOTION:	David Huboi
SECOND:	Luke Corona
AYES:	Huboi, Corona, Henderson
NOES:	
RECUSED:	
ABSTAIN:	
ABSENT:	Stephens

Commissioner Huboi made a motion to ADOPT Resolution 2022-18 approving Conditional Use Permit 2022-1 for a Planned Unit Development, subject to finding and conditions contained in the draft resolution. Motion seconded by Commissioner Corona.

Interim Development Service Director Ortiz called a roll call vote.

Commissioner Huboi voted Yes, Commissioner Corona voted Yes, and Vice Chairperson Henderson voted Yes.

Resolution 2022-18 was unanimously adopted by the Planning Commission. 3-0-0-1.

RESULT:	Adopted [Unanimously]
MOTION:	David Huboi
SECOND:	Luke Corona
AYES:	Huboi, Corona, Henderson
NOES:	
RECUSED:	
ABSTAIN:	
ABSENT:	Stephens

NEW BUSINESS None.

OLD BUSINESS None.

PLANNING DEPARTMENT REPORTS

Interim Planning Manager Kelly informed that Commission that a date for the next Joint Session meeting between the Planning Commission and the City Council was still in the process of being scheduled.

PLANNING COMMISSION REPORTS

None.

ADJOURNMENT

There being no further business to discuss, Commissioner Corona moved to adjourn the meeting at p.m. Motion seconded by Commissioner Corona.

Interim Development Service Director Ortiz, called the roll call vote.

Commissioner Huboi voted Yes, Commissioner Corona voted Yes, and Vice Chairperson Henderson voted yes.

Motion carried unanimously, 3-0-0-1.

RESULT:	Adopted [Unanimously]
MOTION:	Huboi
SECOND:	Corona
AYES:	Huboi, Corona, Henderson
NOES:	
RECUSED:	
ABSTAIN:	
ABSENT:	Stephens



Planning Commission

Staff Report

October 27, 2022

Item 1

SUBJECT: **Site and Architectural Review 2022-4** The applicant is requesting Site & Architectural Review approval for the construction of a 45,705 square foot addition to an existing 52,729 square foot industrial building and related improvements, including a new parking lot, located at 1700 Shelton Drive in the M1 Zoning District, further identified as San Benito County Assessor Parcel Number 051-120-022.

STAFF PLANNER: Eva Kelly, Interim Planning Manager (831) 636-4360
Erica Fraser, AICP, Consulting Planner

ATTACHMENTS: 1. Email received from the Applicant October 19, 2022

RECOMMENDATION: Continue the item to the November 16, 2022
Planning Commission Meeting

The Applicant has requested a continuance of this Item to the November 16, 2022 Planning Commission meeting (Attachment 1) to better meet the Applicant's needs.

Staff has no concerns with this request. Staff recommends that the Planning Commission open the Public Hearing and continue the Item to November 16, 2022 for review by the Planning Commission during a Public Hearing.

Erica Fraser

From: Jeffrey Eaton <jeffrey@e2astudio.com>
Sent: Wednesday, October 19, 2022 1:18 PM
To: Erica Fraser
Cc: Juliana De La Cruz
Subject: RE: Draft COAs - 1700 Shelton

Hi Erica!

If possible, the client would like to push our project to the next Planning Commission Meeting as they have some coordination to resolve before they can confirm the conditions of approval. Please advise if you need anything else to make this happen!
Thank you!
Jeffrey

Jeffrey Eaton, AIA



Jeffrey Eaton Architect, Inc. | 1501 The Alameda, Ste 105 | San Jose, CA 95126 | 408.691.8998

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From: Erica Fraser <efraser@4leafinc.com>
Sent: Wednesday, October 19, 2022 11:35 AM
To: Jeffrey Eaton <jeffrey@e2astudio.com>
Subject: FW: Draft COAs - 1700 Shelton

I just got an out of office message from Juliana. I will need an email from you as discussed below asap. Staff Reports are being finalized.

Thanks,
Erica

From: Erica Fraser <efraser@4leafinc.com>
Sent: Wednesday, October 19, 2022 11:33 AM
To: Erica Fraser <efraser@4leafinc.com>
Subject: Fwd: Draft COAs - 1700 Shelton

Begin forwarded message:

From: Erica Fraser <efraser@4leafinc.com>
Date: October 19, 2022 at 11:23:38 AM PDT
To: Juliana De La Cruz <juliana@e2astudio.com>
Cc: Jeffrey Eaton <jeffrey@e2astudio.com>
Subject: Re: Draft COAs - 1700 Shelton

Please send me an email clearly stating that you would like 1700 Shelton to be continued to the next available planning commission. I need you to acknowledge that that date is unknown at this time. I need this email within the next two hours.

FYI. We will need a quorum and with the holidays the city cannot guarantee when the meeting will occur.

Erica

On Oct 18, 2022, at 1:31 PM, Juliana De La Cruz <juliana@e2astudio.com> wrote:

Hi Erica,

Yes, let's proceed with the continuance please.

Thank you,

Juliana De La Cruz
Project Manager | LEED Green Associate | C: 805.440.1059



Jeffrey Eaton Architect, Inc. | 1501 The Alameda, Ste 105 | San Jose, CA 95126 |

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From: Erica Fraser <efraser@4leafinc.com>
Sent: Tuesday, October 18, 2022 8:54 AM
To: Juliana De La Cruz <juliana@e2astudio.com>
Cc: Jeffrey Eaton <jeffrey@e2astudio.com>
Subject: Re: Draft COAs - 1700 Shelton

I can ask the Planning commission for a continuance and you would be on the November planning commission meeting if that is what you would like to do.

Erica

On Oct 18, 2022, at 8:49 AM, Juliana De La Cruz

<juliana@e2astudio.com> wrote:

Thank you Erika.

Is there any chance we could extend this deadline for another week?
The client and our consultants are still looking through the document, as there are a couple items that we don't think apply and others that are of concern.

Please let us know if this would be possible.

Thank you,

Juliana De La Cruz

Project Manager | LEED Green Associate | C: 805.440.1059



Jeffrey Eaton Architect, Inc. | 1501 The Alameda, Ste 105 | San Jose, CA 95126 |

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From: Erica Fraser <efraser@4leafinc.com>

Sent: Tuesday, October 18, 2022 8:26 AM

To: Juliana De La Cruz <juliana@e2astudio.com>; Jeffrey Eaton <jeffrey@e2astudio.com>

Subject: RE: Draft COAs - 1700 Shelton

If you want to discuss I need to know by the end of the day, The Staff Report and Conditions will be printed tomorrow.

Erica

From: Juliana De La Cruz <juliana@e2astudio.com>

Sent: Monday, October 17, 2022 6:33 PM

To: Erica Fraser <efraser@4leafinc.com>; Jeffrey Eaton <jeffrey@e2astudio.com>

Subject: RE: Draft COAs - 1700 Shelton

Hi Erica,

Thank you for checking in.

We are still reviewing the documents and will get back to you in the next couple of days with comments/questions.

Thank you,

Juliana De La Cruz

Project Manager | LEED Green Associate | C: 805.440.1059



Jeffrey Eaton Architect, Inc. | 1501 The Alameda, Ste 105 | San Jose, CA 95126 |

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From: Erica Fraser <efraser@4leafinc.com>

Sent: Monday, October 17, 2022 8:44 AM

To: Juliana De La Cruz <juliana@e2astudio.com>; Jeffrey Eaton <jeffrey@e2astudio.com>

Subject: RE: Draft COAs - 1700 Shelton

Just checking in to see if you have any questions or comments on the Conditions?

Erica

From: Juliana De La Cruz <juliana@e2astudio.com>

Sent: Friday, October 7, 2022 4:19 PM

To: Erica Fraser <efraser@4leafinc.com>; Jeffrey Eaton <jeffrey@e2astudio.com>

Subject: RE: Draft COAs - 1700 Shelton

Thank you Erica. We will review and let you know if we have any questions/comments.

Thanks,

Juliana De La Cruz

Project Manager | LEED Green Associate | C: 805.440.1059



Jeffrey Eaton Architect, Inc. | 1501 The Alameda, Ste 105 | San Jose, CA 95126 |

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above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

From: Erica Fraser <efraser@4leafinc.com>
Sent: Friday, October 7, 2022 1:52 PM
To: Jeffrey Eaton <jeffrey@e2astudio.com>
Cc: Juliana De La Cruz <juliana@e2astudio.com>
Subject: Draft COAs - 1700 Shelton

Attached are the draft COAs for the addition at 1700 Shelton for your review. Please let me know if you approve of the conditions or if you have any questions by next Friday Oct 14th.

Fire did have some additional comments over their standard COAs. They are included in the draft COAs, but I have included theirs as a separate attachment. They highlighted their areas of concern (in highlighted text) and it is easier to find in their document.

Let me know if you have any questions.

Erica



Planning Commission

Staff Report

October 27, 2022

Item 2

SUBJECT:

Site & Architectural Review 2022-7 Completeness Determination Appeal – KB Home/Charlie Hazelbaker – The applicant for Site & Architectural Review 2022-7, KB Homes, has filed an appeal of Staff's determination that the Application for a Site and Architectural Review for 60 cluster lots within the West of Fairview Specific Plan Area is incomplete and requires an additional application type.

STAFF PLANNER:

Eva Kelly, Interim Planning Manager (831) 636-4360
Erica Fraser, AICP, Consulting Planner

ATTACHMENTS:

1. Appeal Letter received from KB on September 8, 2022
2. Letter from Cox, Castle and Nicholson dated August 5, 2022 (and referenced in the Appeal Letter)
3. Tentative Map 2005-1
4. Email Chain dated April 11, 2022
5. Tract 303, Phase II Final Map
6. Incomplete Letter dated August 24, 2022
7. Email from Staff to KB dated September 6, 2022
8. Email from Staff to KB dated October 6, 2022
9. West of Fairview Specific Plan excerpt, pages 71-76
10. Email to KB regarding submittal of S&A
11. Receipt dated July 25, 2022 for S&A
12. Email dated March 3, 2022
13. Resolution of the Planning Commission Denying the Appeal
14. Resolution of the Planning Commission Granting the Appeal

RECOMMENDATION:

Staff recommends that the Planning Commission select one of the following options:

1. Deny the appeal and require the Applicant to apply for a Specific Plan Amendment
2. Deny the appeal and require the Applicant to apply for a Planned Development
3. Deny the appeal and require the Applicant to apply for a Density Bonus
4. Uphold the appeal and direct Staff to bring the Site and

Architectural Review to the Planning Commission for review during a Public Hearing where the Planning Commission will prepare the required findings

BACKGROUND:

On July 25, 2022, KB Homes (hereafter KB) filed for a Site and Architectural Review (at their own risk) for the construction of 60 cluster lots in the West of Fairview Specific Plan Area. The KB portion of the project is located within the Award Homes identified Phase 2 of the West of Fairview Subdivision Project. KB proposes to construct a detached single family residential development with reduced front yard and side yard setbacks. On September 9, 2022, KB filed an appeal appealing Staff's determination that the Site and Architectural Review was incomplete and appealing Staff's determination that an additional permit (hereafter referred to as a secondary permit) was required in order to approve their project as proposed.

The following background information is provided in regards to the West of Fairview area and Staff's history with KB on their portion of the West of Fairview development.

West of Fairview History:

- 1989 - San Benito County receives applications for major subdivisions including for land within Hollister's Sphere of Influence which included the West of Fairview Road area.
- February 1990 – It was determined that a Specific Plan for the 300 acre West of Fairview Road area would be required with the County as the Lead Agency (the application for development was originally filed with the County).
- Fall of 1992 - The City becomes the Lead Agency for the West of Fairview Specific Plan because 1/3 of the project area was annexed by the City.
- February 17 and March 16, 1998 – The City of Hollister approved the West of Fairview Specific Plan, amendments to the Zoning Ordinance related to zoning of the properties within the Specific Plan Area and certified an Environmental Impact Report related to the Specific Plan and development of the Plan Area.
- October 10, 2000 – The City Council entered into a Development Agreement with Award Homes related to the construction of the Award Homes portion of the West of Fairview Specific Plan Area.
- May 6, 2002 – The Hollister City Council passes an urgency Ordinance suspending

building permits related to water treatment capacity of the City.

- May 30, 2002 – LAFO denies annexation of the project area.
- 2003-2005 – Award Homes sues the City of Hollister.
- May 3, 2004 – The City of Hollister and Award Home entered into a Mutual Release and Settlement Agreement related to the lawsuit filed by Award Homes.
- December 2004 – LAFCO approves annexation of 125 acres of Award Homes land and the Award Homes portion of West of Fairview is annexed to the City with a Stipulated Settlement Agreement.
- April 16, 2007 – The City Council certified the Award Homes Subdivision and Specific Plan Amendment Supplemental Final Environmental Impact Report (SCH # 2005111094) to increase the overall project density by increasing the acreage of medium and high-density residential development from 6 to 9.1 acres.
- June 27, 2007 – Resolution 2007-16 was adopted by the Planning Commission approving Tentative Map 2005-01 (Attachment 3) for the remaining undeveloped portion of the West of Fairview Specific Plan area for the subdivision of 125.9 acres into 517 individual lots, 60 garden homes on clustered lots (hereafter referred to as “cluster lots”), and 100 apartments on a single lot. The Applicant indicated that the construction of the lots shown in the Tentative Map would be constructed in phases as noted below:

Table 1: Phasing of the Award Homes/West of Fairview Development Identified Under Tentative Map 2005-01

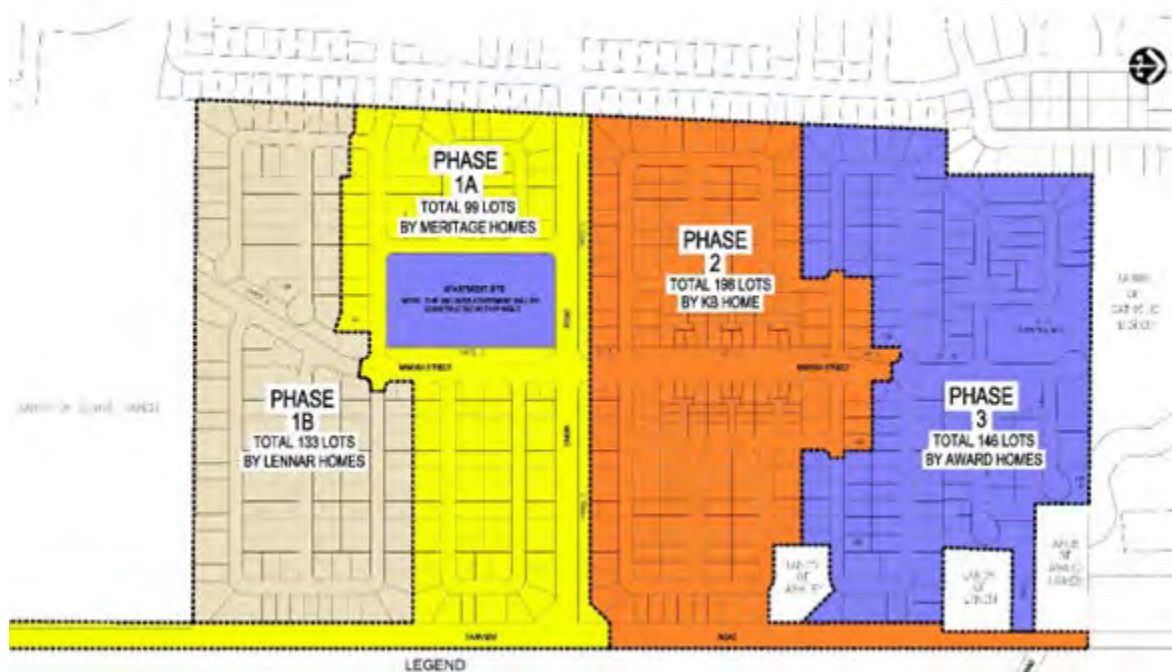
Phase #	Total Units	Type of Unit
1	322	100 Apartment Units 222 Market Rate Single Family Residences
2	64	64 Market Rate Single Family Residences
3	60	30 Cluster Lots* 30 Market Rate Single Family Residences
4	81	30 Cluster Lots* 51 Market Rate Single Family Residences
5	77	77 Market Rate Single Family Residences
6	63	63 Market Rate Single Family Residences

**Cluster Lots under review pursuant to S&A 2022-7*

Phasing of the project has changed since approval of the Tentative Map.

- April 27, 2008 – An amendment/correction to the Tentative Map was approved.
- December 2010 – First Development Agreement expires.
- April 2, 2012- The City Council adopted Ordinance No. 1082 amending the Development Agreement (First Amendment) at Award Homes request to extend the term of the Development Agreement by five years (the DA had expired), to place a recordation timeline for the final map for Phase I, and to revise the affordable housing component of the original Development Agreement. This Amendment included the requirement that Award Homes construct 33 small lot/single family detached homes. This Development Agreement expired April 1, 2017.
- May 17, 2021 – The City Council adopted Ordinance No. 1201 amending the Development Agreement (Second Amendment) at Award Homes request to extend the term of the Development Agreement until May 1, 2027 and to require the construction of 100 apartments available for moderate income households on Lot 100 of the Tentative Map).
- 2018-2022 – Award Homes began selling off their portion of the West of Fairview Specific- Plan area to various housing developers. Phasing of the project has changed over time and the current project phasing can be seen on the map below. Construction of the site does not follow the phasing numbers, however, the affordable units are required to be constructed pursuant to the timelines established under the current Development Agreement. The KB portion of West of Fairview (including the cluster lots) is shown in orange on the map below and is Phase II.

Figure 1: Current Phasing Plan for West of Fairview



KB History West of Fairview Cluster Lots

- February 14, 2022 – KB met with City Staff to review their proposal for the cluster lots and discuss possibilities of what entitlements would be required in order to process the Cluster Lots, given the complexities of the Specific Plan, Development Agreement, West Fairview Road Zoning Designation, and approved Award Homes Tentative Map. Staff indicated at this meeting that a Site & Architectural Review application would definitely be required, but because of the varying overruling documents for the site, that a Director decision would be required on whether a variance, conditional use permit for Planned Development, a specific plan amendment, and/or a similar application process would be required additionally. Staff directed the applicant to provide a preliminary plan set showing their proposal for review.
- March 3, 2022 – KB sent an email to Staff indicating that they would like to submit project plans for review and would like to work with Staff on establishing reasonable setbacks and lot coverage for the cluster lots prior to review by the Planning Commission.
- March 17, 2022 – KB sent an email to Staff which included plans with setbacks and lot coverage information.
- March 21, 2022 – KB sent a follow-up email with revised setbacks.

- April 11, 2022 – Staff sent an email to KB (attachment 4) indicating that the project would need a Site and Architectural Review as well as a Planned Unit Development Application (as discussed in a prior meeting). KB responded indicating that they would process the project in whatever way Staff determined that the project was to be reviewed and indicated that they would like to get approval as soon as possible to meet requirements for the construction of the affordable units.
- April 19, 2022 – The City Engineer signs the Final Map for Tract 303, Phase II of Tentative Map 2005-1 related to the KB portion of the Tentative Map. The Final Map was signed and recorded by the County Recorder on May 11, 2022 (Attachment 5).
- May 9, 2022 – KB reached out to Staff regarding the project. Staff worked on facilitating an in-person meeting between KB and the Planner that would be assigned to the Project at KB's request.
- May 23, 2022 – Staff met with two representatives from KB (Peter Lezak and Charlie Hazelbaker) in person to discuss the cluster lot project. During this meeting Staff informed the Applicants that a Specific Plan Amendment would be required to allow the setbacks shown on the proposed plans. Staff suggested that KB apply for a Specific Plan as soon as possible so that Staff could bring the matter to the Planning Commission and City Council as soon as possible in order to meet the Applicants' desired timeline for approval. Staff also noted that Staff would recommend approval of the project as proposed and would clearly discuss why the Planning Commission and City Council should approve the Specific Plan Amendment.

During the meeting, KB expressed concerns regarding review of the development at the City Council and requested that the City Attorney to weigh in on whether or not a Specific Plan Amendment would be required. Based on their request, Staff told them that we would contact the City Attorney. Staff also identified several items that would be required to be submitted for a Site and Architectural Review in addition to any application(s) the City Attorney would determine necessary in order to recommend approval of their project.

- June 9, 2022 – Staff sent KB an email with 3 options, based upon the City Attorney's recommendation, that would allow Staff to process the project and recommend approval of the Project. The options provided to KB in the email were:
 1. Option 1: Modify the site plan to comply with the requirements of the specific plan;
 2. Option 2: Apply for a Specific Plan Amendment to allow the proposed setbacks, lot coverage and configurations shown on KB's site plan; or

3. Option 3: Apply for a Planned Unit Development.

- June 13, 2022 – KB indicated in an email that they would like to get the process started ASAP.
- June 13, 2022 – Staff sent an email noting the required fees for the project. KB indicated that they would like the Attorneys on both sides to talk prior to applying for a permit.
- June 14, 2022 – Staff sent KB the contact information for our new City Attorney.
- July 8, 2022 – The City Attorney met with KB's Attorney to discuss the project. The City Attorney told KB that they would do further research into the project and would get back to them. Following the meeting, the City Attorney conducted further research and confirmed its original recommendation that the project required either a Specific Plan Amendment, a Planned Development, or project modifications to comply with the West of Fairview Specific Plan.
- July 15, 2022 – KB applied for a Building Permit prior to obtaining approval from the Planning Commission of their project and without approval of the City Manager and Development Services Director. Staff sent KB an email noting that we would be required to deny the building permit review for the cluster lots until the Planning Commission reviewed the project. The required Application Fees for a Site and Architectural Review as well as a Specific Plan Amendment were emailed to KB.
- July 20, 2022 – KB expressed concerns with the time it takes to process a permit multiple times. In an effort to assist KB and to limit any delays in processing the Site and Architectural portion of the project, which is required to be routed to the DRC, Staff sent an email to KB indicating that KB could apply for the Site and Architectural Review only, at their own risk, while KB and Staff continue to discuss the Specific Plan Amendment or Planned Unit Development. Staff stated that we would be unable to bring the matter before the Planning Commission until a secondary permit was applied for, if determined necessary by the City Attorney, although the City Attorney had determined that a secondary permit was required multiple times at this point.
- July 20, 2022 - KB emailed the Site and Architectural Review project plans to Staff so that Staff could route the Site and Architectural Review once the payment was received (Application is not complete for submittal until the Application Form, plans and fee are received) in order to speed up the review and allow Staff to route the project once the Application Fee was received.
- July 25, 2022 – The Planning Department is closed on Friday. The Fee was received by

Staff on Monday and was processed immediately and a file number was assigned. Staff began reviewing the Site and Architectural Review permit.

- July 25, 2022 – The City Attorney sent an email to KB and noted that the proposed setbacks of the homes in the development did not meet the required setbacks of the Specific Plan. The email reiterated the three options to move the project forward (as identified in the June 9, 2022 email).
- July 28, 2022 – KB sent an email requesting when a determination on a permit would need to be made in order to be placed on the Planning Commission agenda for August. Staff responded and indicated that we were trying to move the project forward as quickly as possible, but that KB would need to apply for a separate permit as required by the City Attorney, by that Thursday to make it to the Planning Commission in August (due to noticing requirements for Public Hearings). Again, at this point the City Attorney had in fact determined that if KB wanted to move forward with the setbacks and lot coverage as proposed, that they would need to apply for a Specific Plan Amendment or a Planned Unit Development in order to approve the project.
- August 5, 2022 – The Attorney for KB submitted a letter to the City Attorney regarding the email sent on July 25, 2022 (Attachment 2).
- August 24, 2022 – An incomplete letter was sent to KB noting that the project was incomplete because we needed six sets of project plans for the Planning Commission packets and also noted that a separate permit (A Specific Plan Amendment of a Planned Development) was required to continue processing the development application and bring the development to the Planning Commission for review during a public hearing.
- August 25, 2022 – KB spoke with the City Manager and the Development Services Director and expressed concern that the Planned Unit Development would require approval by the City Council. Staff sent a follow up email restating Option 2 in the August 23 letter which stated that a Planned Unit Development is reviewed by the Planning Commission in Hollister. Following this email KB sent a follow-up email requesting the City Attorney weigh in on Staff's letter. Staff forwarded the request to KB and let them know that if they wanted to make it to the next Planning Commission meeting (in September), that they would need to apply for one of the permits Staff identified and submit complete plans within the next few days.
- On August 29, 2022 – The City Attorney sent a letter to the Attorney for KB reiterating what Staff sent in the August 23, 2022 letter. After receiving the email, KB requested a meeting with Staff, the City Attorney and the Attorney for KB.
- August 30, 2022 – The City Attorney and the Attorneys for KB met to discuss the status

of the project. Following this meeting, KB requested that the City work towards bringing them to the September Planning Commission meeting.

- September 6, 2022 – Staff met with KB to discuss the project and their request that the City proceed forward with a Density Bonus application without information or an Application Form (required by the Chapter 17.04, Article II, Density Bonus, of the Zoning Ordinance) signed by KB. At that meeting, Staff indicated that because Staff had not reviewed the request for a Density Bonus, Staff was unable to determine if the project met the requirements of the State Density Bonus Law without additional research. Staff recommended that KB move forward with a Planned Unit Development. Following the meeting, Staff sent a follow-up email to KB (Attachment 7) providing them with five options for their project. Option 1 in the email was noted as Staff's preferred option and the option that Staff believed would allow the City to process their development the fastest and Staff noted that we would recommend approval of their applications. Option 1 would have allowed Staff to bring the project to the Planning Commission meeting on October 27, 2022 with the Site and Architectural Review applied for by KB as well as a Planned Unit Development which Staff would initiate (the Applicant would not be required to fill out an Application Form or submit any additional information), prepare all necessary items, waive the Application Fee and would recommend approval of the S&A and PUD to the Planning Commission. Staff offered this option and the waiver of fees (authorized by the City Manager) because Staff wanted to bring the matter to the Planning Commission as quickly as possible in order to move the project forward without delay.
- September 8, 2022 – KB filed an appeal (Attachment 1) of Staff's determination that the Application for a Site and Architectural Review was incomplete and Staff's determination that an additional application was required in order to approve their project. Once the appeal was filed, all work on the Site and Architectural Review (the only application type applied for by KB) was halted and Staff began working on the appeal.
- September 29, 2022 - The Attorney for KB sent a letter indicating that they would like to move forward with a Density Bonus but did not specifically withdraw the appeal. Because the appeal was not withdrawn, Staff was unable to work on their request for a Density Bonus.
- October 4, 2022 – KB sent an email requesting a status update on the Density Bonus and requesting information on whether or not the project would be up for approval at the October Planning Commission meeting.
- October 5, 2022 – Staff sent a follow-up email indicating that once the appeal was filed, work on the project was stopped while Staff began working on the appeal. The email

also noted that Staff was unable to begin working on the Density Bonus because the appeal was not withdrawn in the letter and asking if KB wanted to withdraw the appeal.

- October 6, 2022 – Staff sent another follow-up email (Attachment 8) seeking to clarify if the appeal filed by KB was rescinded. In the email Staff indicated that we would be unable to bring a Density Bonus request to the Planning Commission during the October meeting because Staff would need to review the Density Bonus for its applicability to State Law, review the Development Agreement to make sure the requirements for affordable housing complies with State Law for Density Bonus and to obtain any necessary information to deem the Density Bonus request complete. In the email, Staff reiterated that Staff would like to move the project forward as quickly as possible and provided three scenarios for moving the project forward for approval. Scenario 3 was identified in the email which would require KB to rescind their appeal and Staff would move forward with a Planned Unit Development and place the project on the October Planning Commission Agenda.
- October 7, 2022 – No follow-up was received by KB regarding Staff's October 6 email and the notice regarding the appeal was sent to the newspaper in time for the printing deadline.
- October 11, 2022 – KB's Attorney spoke with the City Attorney and indicated that they may want to stay their appeal.
- October 17, 2022 – KB sent an email to the City Attorney requesting a "stay" of their appeal. The only option available to KB is to withdraw an appeal. A "stay" of an appeal is not recognized by our Municipal Code.

PROJECT ANALYSIS (KB Cluster Lots):

In order to assist the Planning Commission with a review of the Appeal filed by KB, Staff has provided the following analysis of the proposed residential development.

The West of Fairview Specific Plan, Zoning Ordinance and Conditions of Approval for Tentative Map 2005-1 all require review of the development pursuant to a Site and Architectural Review.

The Applicant, KB Homes, is requesting approval of a residential development with 60 "cluster lot" or "garden homes" (the Development Agreement refers to these homes as garden homes). The size of these lots was permitted by the Tentative Map approved by the Planning Commission on June 27, 2022 (Resolution 2007-16) included as Attachment 3. Prior to approval of the Tentative Map, the City Council approved a Specific Plan Amendment, related to increasing the acreage of medium and high-density residential within the Specific Plan Area. Award Homes did not also request modified development standards for the "cluster lots" at that time.

The West of Fairview Specific Plan was adopted by the City Council on March 17, 1998. The purpose of the Specific Plan was to guide development of a 300-acre area that was to be annexed into the City with detail on how the area would be developed, above what was included in the General Plan in effect at that time, and to allow for a more diverse development other than what would have been allowed under a typical Zoning District.

The Specific Plan allowed for a wide variety of housing types to promote diversity within the project area and identified small lot, large lot, standard lot, zero lot line, multi-family and duette housing types. The Specific Plan also included regulations on street design, general design guidelines for residential dwellings, development standards (height, lot coverage, setbacks, etc.) and other design requirements. These provisions were used to encourage developers to use good design techniques, promote visual interest throughout the Specific Plan Area, ensure adequate landscaping and screening, and to ensure an attractive residential development within the City.

Construction of a residential development within the Specific Plan area is required to conform to the requirements of the West of Fairview Specific Plan, Section 17.04.060, Residential, West Fairview Road (WFR) Standards, of the Zoning Ordinance and all applicable requirements of the Municipal Code that do not conflict with the standards established in the Specific Plan.

The lot sizes and dimensions of the cluster lots within KB's portion were approved as part of Tentative Map 2005-1 approved by the Planning Commission on June 27, 2007. The request for a Tentative Map included a Specific Plan Amendment, but the Applicant did not propose to modify the development standards already included in the Specific Plan for these smaller lots. While the lots are small, smaller homes could be built on these lots which meet the setbacks included in the Specific Plan.

Tentative Map 2005-1 is included as Attachment 3 and shows the location of the cluster lots within the Award Homes portion of the West of Fairview Specific Plan Area. Lot dimensions vary in the cluster lot development with a minimum lot width of 34 feet wide and a minimum lot depth of 59 feet, however the width and depth vary from lot to lot. Minimum lot dimensions are not included in the Specific Plan, however the Specific Plan does utilize property size (total square footage) in determining developments standards. Based on Staff's review of the plans provided to Staff, it appears that the parcels vary in size from 2,300 square feet to 3,600 square feet.

The West of Fairview Specific Plan does not include development standards for lots of this size. The closest housing type in the Specific Plan is for "duettes" (shown on page 75 of the Specific Plan and included as Attachment 9). The duette category allows for two dwelling units to be located on one property (the Specific Plan does not prohibit these lots from being split to allow for different owners for each dwelling unit). The Specific Plan requires lots to be developed as a duette to have 7,000 square feet for two units, or 3,500 per dwelling unit. This lot size is compatible with the lot sizes approved under Tentative Map 2005-1. The required setbacks for

duettes are 15 feet to the structure and 20 feet to the garage (front setbacks), 6 foot side yard setbacks (one is zero because the units are attached), 10 feet street side yard setbacks and 15 foot rear setbacks. The maximum lot coverage is 50% for two dwelling units on a parcel.

Development Standards are also included for other housing types on pages 71-76 of the Specific Plan (Attachment 9). These standards are all similar to the setbacks for the duettes, with the exception of small lot residential dwellings (lots of 4,000 square feet) which allow for a 4 foot side yard setback. By comparison, the City also has a Residential Performance Overlay Zoning District (Section 17.14.010 of the Municipal Code) which allows for a reduced lot size of 2,500 square feet for parcels located within this District. Many properties in the City are zoned R1 L/PZ which allows for a 2,500 square foot lot. Development of properties in the R1-L/PZ Zoning District is required to conform to the development standards in the R1 Zoning District, unless they seek approval of a Planned Unit Development to allow for modified development standards.

Development of a lot must conform to development standards within the Specific Plan. Because no development standards exist for lots of the size approved under the Tentative Map, the lots are currently considered legal non-conforming. Despite this, setbacks are established by the Specific Plan and the Zoning District in which it is located. In this case, Staff believes that the duette designation in the Specific Plan is the most applicable to the project.

By their own emails, KB has been aware that their project is proposing development standards that do not conform to the requirements of the Specific Plan and Residential West Fairview Road Zoning District. Development standards are not waived for legal non-conforming properties. Rather, in this case, although these substandard lots were previously approved, they are still required to conform to the setbacks previously established, unless they receive approval of a Specific Plan Amendment or a Planned Unit Development.

Staff has provided the following table which shows the proposed setbacks and lot coverage of the cluster lots and the requirements of the Specific Plan and the Zoning Ordinance for comparison.

Table 2: Development Standards

Development Standard type	Proposed	Duette Standards (Specific Plan)	R-1 L/PZ Standards (for comparison)
Front Setback	5 feet to garage and structure	15 feet to structure 20 feet to garage	18 feet to structure 20 feet to garage
Side Yard Setback	5 feet	6 feet	6 feet
Street Side Yard Setback	10 feet	10 feet	10 feet

Development Standard type	Proposed	Duette Standards (Specific Plan)	R-1 L/PZ Standards (for comparison)
Rear Setback	15 feet minimum	15 feet	20% of the depth of the lot, 15 feet minimum, 20 feet maximum
Lot Coverage		25% (or 50% for two units)	50%
Parking		1 car covered, 1 car uncovered	2 spaces
Height		30 feet	30 feet
Street Trees	0, however some trees are proposed to be located in the development at varying locations	1 per House	1 per House

As shown above, the proposed cluster lot development does not meet the established requirements for Front, Side Yard and Lot Coverage as established under the regulations for Duette units in the Specific Plan or in the Zoning District in which it is located, nor does it meet the standards for a property located in the R1, Low Density Residential District, or the R-1 L/PZ, Low Density Residential/Performance Overlay, which allows a minimum 2,500 square foot lot.

Modifications to a Specific Plan can be proposed by a developer within that Specific Plan Area and are subject to the provisions in Section 17.24.270 of the Municipal Code.

In order to allow developer maximum flexibility and allow for a variety of housing types within a development, a developer may choose to apply for a Planned Development Permit pursuant to Section 17.24.240 of the Municipal Code. This allows a developer the ability to establish lot sizes, housing types and or development standards that would otherwise not be allowed by the Zoning District in which they are located. Planned Development Permits are subject to the review and approval of the Planning Commission.

KB, has of their own accord, elected to not apply for one of the above permits which would have allowed Staff to bring the project for review by the Planning Commission with a recommendation for approval by Staff.

APPEAL ANALYSIS:

The Appeal filed by KB was filed on two main points, Staff's determination that the project was

incomplete and the Director's interpretation that the project is not consistent with the Municipal Code and the Specific Plan and as a result, a secondary permit would be required for processing the project as proposed. Section 17.24.140.A of the Zoning Ordinance allows an Applicant to Appeal the following actions of Staff or the Director:

- "1. Determinations on the meaning or applicability of the provisions of this Zoning Ordinance that are believed to be in error, and cannot be resolved with Department staff;
2. Any determination that a permit application or information submitted with the application is incomplete, in compliance with Government Code 65943..."

In order to assist the Planning Commission with the review of the appeal filed by KB on September 8, 2022, Staff has broken up the appeal letter (Attachment 1) and the August 5, 2022 letter from Cox, Castle, and Nicholson (Attachment 2), referenced in the appeal letter into the following Appeal Points. A response to each Appeal Point is provided by Staff.

Appeal Point 1: The transmittal of the incomplete letter dated August 24, 2022 was not provided to KB Homes in a timely manner as required pursuant to the Permit Streamlining Act.

Staff's Response: The Permit Streamlining Act requires a City to make a determination of completeness on a project no later than 30 days after the submittal of an Application and any required materials for processing (i.e. a project cannot be taken in without payment of a fee or plans for the City to review). A determination of completeness does not require a City to recommend approval of a project.

Office Hours are posted on the City's website and the door to the Planning Department. These hours clearly state that the Planning Department is closed on Friday. Additionally, KB has worked with the City of Hollister previously and has applied for several permits. KB is aware that the Planning Department is closed on Fridays and does not accept development applications. Although a check was mailed and arrived at City Hall, the check could not be received by the Planning Department until normal business hours on Monday July 25, 2022. An Application is not complete and ready for processing by the City until an Application Form, Project Plans and a Fee is received by the City. Once the Fee was received, the Planning Department entered the project into our system, assigned a project file number and routed the project for review by the City's Design Review Committee.

In this case, the City allowed KB to mail in a check in order to assist them with meeting their timelines for project review and a public hearing because they repeatedly expressed concerns that their project would be delayed and they would be unable to make it to the next Planning Commission meeting (now September at this point). As noted on the City's website and as told to KB several times, the City requires an appointment for an Application submittal. In this case requiring an appointment would have delayed processing of their project and KB expressed

concerns regarding this. Staff worked with KB to identify a quicker way to begin the routing of their project which involved emailing plans so that Staff could route to DRC immediately following the receipt of the check (required Application Fee) by the Planning Department for processing (email to KB included as Attachment 10). The check was received by the Planning Division on July 25, 2022 (receipt attached as Attachment 11) and Staff began routing the project in order to assist KB with a timely review.

A letter was then emailed to KB on August 24, 2022 (Attachment 6) indicating that the project was not complete because the City needed six additional (physical) plan sets to include with the Planning Commissioner packets. This letter was transmitted within 30 days of the Planning Commission receiving the check from KB, on July 25, 2022, and beginning the intake of the Application. In the Appeal letter, while appealing the completeness determination of the City, KB does note that they are willing to provide these extra plan sets for the Planning Commission.

Staff believes this appeal point should be denied and Staff's determination of the incompleteness of the project upheld because the incomplete letter was sent to KB within 30 days of the Planning Department reviewing a complete submittal for processing.

Appeal Point 2: KB has also appealed the City's determination that an additional permit is required and referenced the letter submitted from Cox, Castle and Nicholson to the City (Attachment 2) on August 5, 2022.

Staff Response: As previously discussed The West of Fairview Specific Plan does not include development standards for lots of this size. The Specific Plan does include development standards for a variety of housing types and lot sizes which can be applied to this project. The City considers the lots legal nonconforming and the lots are still required to conform to the development standards identified for the Zoning District in which they are located. In this case, the duette units allow for a similar lot size and that is what has been used for comparison.

KB has requested approval of development standards that are not consistent with any of the established development standards in the West of Fairview Specific Plan. Despite this, Staff has continuously expressed a willingness to recommend approval of the development, as proposed, as long as there is a legal, proper way to do so. For this reason, Staff recommended that KB apply for a Specific Plan Amendment or a Planned Unit Development. Either of these options would allow KB to propose the development standards shown on their project plans and noted in Table 2 of this Staff Report.

A Specific Plan Amendment would allow Staff to include an additional housing type in the Specific Plan for "Cluster Lot Homes". This would allow Staff to insert the proposed housing type along with the development standards listed in Table 2. Review under the California Environmental Quality Act would be exempt because this modification would not increase density or the proposed number of dwelling units for the project site. Approval of a Specific Plan Amendment

would be reviewed by the City Council.

The City's Zoning Ordinance allows a developer to apply for a Planned Unit Development to allow development standards or housing types that would otherwise be prohibited in the Zoning District in which the property is located. This allows more freedom when designing a project and can lead to unique residential developments throughout the City. The Planning Commission reviews and approves requests for Planned Unit Developments often.

Additionally, by requiring KB to codify the proposed development standards, the City will establish a record which can be used for future requests in the development for additions, modifications or accessory dwelling units. By clearly establishing the development standards, the Planning Department will be able to provide future property owners with clear guidance on any improvements they may wish to make in the future. For example, rear setbacks shown on the project plans indicate a rear yard setback which varies from 15 feet to 18 feet. By establishing a rear yard setback for the development of 15 feet, property owners would be allowed to add on to their house as long as the rear yard setback of 15 feet is maintained.

KB has been told multiple times in writing, at in person meetings and over the phone that a secondary permit would be required in order to approve the development as proposed. Staff has always maintained that Staff is in favor of the development as proposed, but the proposed with a secondary permit in order to legally establish the proposed development standards. Staff has continuously told KB that we would recommend approval of the project, with a Specific Plan Amendment or a Planned Unit Development. Staff and the City Attorney have spent considerable hours working on this particular development. Had the Applicant applied for a Specific Plan Amendment following the meeting on May 23, 2022, Staff believe this project could possibly have already been under construction.

Staff recommends the Planning Commission deny the appeal based on the request that KB obtain a Specific Plan Amendment or Planned Unit Development (a secondary permit type) because one of these permits would legally allow the development standards KB is requesting.

While the issues of concern from this letter are not specifically outlined in the Appeal Letter dated September 8, 2022, Staff has broken down the items of concern from KB in the August 5, 2022 letter in detail as additional appeal points as follows.

Appeal Point 3: "The Specific Plan does not contain setbacks applicable to the cluster lots and, as evidenced by the City's own findings, the Project is consistent with applicable, objective Specific Plan Standards."

Staff Response: The absence of the preferred setbacks for KB does not mean that they do not need to comply with the Specific Plan. Further, as discussed in detail above, development standards provided can be enforced on these non-conforming lots. The absence of a specific

standard related to a lot size which does not meet the Zoning Ordinance or the Specific Plan does not mean that no development standards can be enforced or that a property owner can pick their own requirements for setbacks or lot coverage. Staff has identified the duette standard as an appropriate standard for this development.

As demonstrated in the record, KB has been aware that the proposed development standards do not comply with City standards and began working with Staff with that in mind (Attachment 12). KB moved forward in the design of their project knowing that there was a conflict between the Specific Plan and their preferred design.

As further discussed under Appeal Point 2, the City Attorney and Staff believe that the project, as proposed, do not meet the requirements of the Specific Plan. Therefore, Staff recommends that the Planning Commission deny the appeal based on this statement.

Appeal Point 4: “Staff has never mentioned the need to amend the Specific Plan or apply for a PUD permit, and it remained KB Home’s understanding that the City would work reasonably with KB on any future applications.” (pages 2-3 of Attachment 2)

Staff’s Response: All potential applicants for a project within the City may apply for a Preliminary Review for an informal review by the City prior to applying in order to receive written feedback from the City. In this case, KB did not apply for a Preliminary Review, but instead began contacting the City. At that time, the Planning Department was severely understaffed and response times were slower for questions that were not related to an active project or a project review under a Preliminary Review Application.

Staff did begin conversations with KB via email in February 2022 (please refer to the ‘KB History of West of Fairview Cluster Lots’ in the Background Section of this Staff Report for a detailed history of Staff’s interactions with KB). Emails between KB and the City demonstrate that KB was aware that the development did not comply with established development standards, rather KB asked the City to work with KB on what they felt were reasonable setbacks for the development. KB began emailing information and project plans for review by the City in several emails. On April 11, 2022, Eva Kelly emailed KB stating that the project would require a Planned Unit Development in order to process the request (Attachment 4).

Following that email, the City’s Planning Manager, Abraham Prado, left the City. The City began further discussions and reviewed the proposal as proposed over email as a courtesy (a development application for a project was not submitted nor was a Preliminary Review Application filed).

As a courtesy to KB, without a formal application submittal, Staff began conducting additional background research into the West of Fairview Specific Plan, Development Agreement (and related amendments), Tentative Map 2005-1 and project conditions and Municipal Code

requirements in order to assist KB with the submittal of their project for quicker processing.

Following this review, Staff met with KB once again on May 23, 2022 where Staff indicated that a Site and Architectural Review was required pursuant to the Conditions of Approval for Tentative Map 2005-1 and the requirements of the Zoning Ordinance and the West of Fairview Specific Plan. Additionally, in order to recommend approval of the lot coverage and setbacks proposed by KB, Staff noted that a Specific Plan Amendment would be required in order to allow these development standards which are different from all of the standards that are required in Section 17.04.060 of the Municipal Code and on pages 71 – 76 of the West of Fairview Specific Plan. Staff also indicated that if any other conflict with the Specific Plan should arise during Staff's in-depth review, once an Application was submitted, Staff would also include any of these items in the Specific Plan Amendment which would be solely related to the KB cluster lot project. Staff discussed why the setbacks proposed by KB required a separate approval to allow the proposed setbacks. Additionally, Staff informed KB that we would recommend approval of the setbacks they proposed in the plans that Staff briefly reviewed at this meeting.

Following this meeting, KB and KB's Counsel have been told multiple times, by both Staff and the City Attorney (in person and in writing) that Staff could not recommend the project as proposed. Despite this, KB has continuously asked the City Attorney to reconsider their recommendation that a Specific Plan Amendment or a Planned Unit Development would be required in order to approve the project as proposed. KB's unwillingness to accept the decision of the City Attorney does not mean that the City is unwilling to work with KB or that we have not properly informed KB that the proposed project required a secondary permit in order to approve (since April 2022). Throughout the process, Staff has willingly worked with KB, asked the City Attorney to work with KB and has provided assistance in an effort to bring this project for review by the Planning Commission where Staff could recommend approval of the project. KB's desire to continuously push for a desired, alternative decision by the City Attorney, in no way means that Staff is not working with KB on their project. The continued willingness of the City to work with an applicant does not require the City to give a developer exactly what they have requested or proposed.

Additionally, as noted in the email dated September 6, 2022 (Attachment 7), Staff expressed a desire to bring the matter to the October 27, 2022 Planning Commission meeting where Staff would recommend approval of the project. To that end, Staff stated that we would waive the required application form and materials (a consideration Staff has never extended to any other developer). Staff also obtained permission from the City Manager to waive the Application Fee for KB (a considerable concession on the City's part) despite the fact that many City dollars have been spent on this project and despite the fact that considerable Staff time would be spent in the preparation of the necessary documents, Staff Report and Resolution related to the Planned Development Permit. Staff asked the City Manager to waive the Application Fee in order to move the project along without delay. Despite this, KB filed for an Appeal of the Completeness Determination on September 8, 2022.

Staff recommends the Planning Commission deny this appeal point because the record clearly shows that KB has been notified (in writing and in person) that a Planned Development Permit or Specific Plan Amendment was required in April of 2022 and has been consistently told the same by the Staff and the City Attorney since then. Additionally, Staff has consistently provided KB with deadlines, reminders and assistance so that the development could be brought to a Planning Commission meeting, even going so far as to waive all application requirements and the application fee for KB.

Appeal Point 5: “KB Home then submitted an application for Site and Architectural Review for Phase 2 on May 18, 2022 [May 23, 2022], but City planning staff would not accept the application without guidance from the City Attorney...To date, City staff has refused to process the Application.” (page 3 of Attachment 2).

Staff's Response: As relayed to KB prior to the meeting on May 23, 2022, the purpose of the meeting was to discuss the submittal requirements for KB's project and not for an application submittal. At the meeting on May 23, 2022, Staff expressed a desire to receive an Application for both a Site and Architectural Review as well as a Specific Plan Amendment. At that meeting, KB specifically asked for Staff to review if a Specific Plan Amendment was necessary with the new City Attorney and get back to KB on what the City Attorney determined prior to submittal. During this meeting, KB expressed that they did not want to apply for a Specific Plan Amendment and have the project reviewed by the City Council.

As discussed under Appeal Point 1, at KB's request and in an effort to move the project forward, KB applied, at their own risk, for a Site and Architectural Review while discussions regarding the need for a secondary permit continued. The submittal of this application was another concession on the part of the City in order to move the project forward without any delays to KB. This Application was promptly routed for review by the City's Design Review Committee to ascertain if any of the City Departments had comments, questions or conditions of approval related to the Site and Architectural Review.

Staff recommends the Planning Commission deny the Appeal based on Appeal Point 5 because the City in fact accepted the Site and Architectural Review application and began processing the development project in accordance with City standards and the California Government Code.

Appeal Point 6: ‘The Project is Consistent with the Applicable Provisions of the Specific Plan’ (page 3 of Attachment 2).

Staff's Response: Please see Staff's responses under Appeal Point 2 and 3. No further discussion is necessary.

Appeal Point 7: “The Housing Accountability Act Requires the City to Approve the Project...the HAA (including several recent amendments to increase the supply of housing throughout

California by, among other things, presumptively requiring the approval of housing project that comply with objective local land use standards.” (page 3 of Attachment 2).

Staff's Response: The Housing Accountability Act requires a City to approve a project that complies with objective standards established by the City. As discussed under Appeal Point 2 and 3, both Staff and the City Attorney disagree with KB and their Counsel that the project complies with the Specific Plan. While the lot size allowed under the Tentative Map was approved with smaller lot sizes than allowed under the Specific Plan. A request for any reduction in setbacks or lot coverage was not requested at that time. Staff had no way of knowing that a future developer would want reduced setbacks in order to accommodate their preferred housing type.

Nothing in the Housing Accountability Act prohibits the City from requiring an additional permit type in order to allow the project to be approved. In fact, the purpose of the Housing Accountability Act is to require cities to work with developers in order to increase housing in the State. Again, this does not mean that a city must approve any residential development before them, but asks a city to exhaust all efforts in order to allow a pathway for approval (if one can be identified). The record clearly shows that Staff has shown a continued willingness to work on KB's development project in order to bring the matter before the required reviewing body so that the Applicants could begin construction of the project. At several times throughout the history of the project, Staff has continuously tried to get KB to apply for a secondary permit so that Staff can recommend approval to the reviewing body.

Additionally, in order to move this project along so that the project could be reviewed by the Planning Commission at an upcoming public hearing, Staff asked KB to allow Staff to proceed with a Planned Unit Development (PUD) Application. As noted in this email, Staff agreed to waive all Application Fees associated with this Application and told KB that Staff would prepare all necessary documents related to the PUD. By selecting this option, Staff noted that we would also recommend approval to the Planning Commission at the Planning Commission Meeting. After this email was sent, KB filed for an Appeal (Attachment 1) of Staff's determination that the Application was incomplete and Staff's determination that a secondary application was required in order to approve the proposed development (as proposed). If KB had selected this option, instead of appealing the incomplete letter, Staff and KB would be before the Planning Commission at tonight's meeting with a recommendation from Staff for approval.

Staff recommends the Planning Commission deny this appeal with respect to this appeal point because a pathway has been clearly identified which would allow for City approval of the project as proposed and the Housing Accountability Act does not prohibit a City from requiring an additional permit for approval.

Appeal Point 8: “The HAA prohibits a city from disproving, or conditioning on lower density, housing that comply with applicable, objective general plan, zoning and subdivision standards and criteria...unless the city makes written findings...” (page 4 of Attachment 2)

Staff's Response: The density of the site has previously been established by the West of Fairview Specific Plan and the Final Map. The City does not propose to lower the density of the area (density refers to the number of dwelling units, not the size of the unit, per gross acre of land). The HAA does not prohibit a city from imposing development standards on an applicant. The Act does require a city to provide notification to an applicant on the ways in which they may not meet a development standard or other requirement. The City can then identify ways in which the development could meet the requirements of the city. In no way does the HAA require a city to waive development standards.. This, however, is a moot point in this case, because Staff has clearly identified a way for KB to move forward with the development standards they are requesting. As previously mentioned, Staff has continuously provided assistance to KB in order to get their project approved, even going so far as to waive application requirements and fees. This level of effort goes above and beyond what is required of a city in the HAA.

As previously discussed, setbacks and lot coverage are established for residential dwellings in the West of Fairview Specific Plan and Section 17.04.060 of the Hollister Zoning Ordinance. The Specific Plan does not specifically, as currently written, allow for the setbacks proposed by KB for this project. Because of this, Staff has asked KB to apply for a secondary permit so that the setbacks and lot coverage proposed by KB can be legalized into the record.

At no point has Staff expressed an unwillingness to work with KB on receiving a recommendation from Staff on approval of the proposed project. At every step in this process, Staff has merely expressed a desire to process the project appropriately so that Staff can meet the required findings for the project. If KB were to move forward without a secondary permit, as discussed, Staff believes that the findings could be made, consistent with the Housing Affordability Act, that the project does not meet the objective standards of the West of Fairview Specific Plan or the Zoning Ordinance.

As discussed in detail throughout this Staff Report, Staff does not want to recommend denial of the project. Staff has consistently expressed a desire to the Applicant to see this project reviewed by the City consistent with State Law, the General Plan, the West of Fairview Specific Plan, and the Municipal Code. Staff has identified a way to meet those requirements through a secondary application which would allow the City to approve the setbacks, lot coverage, and other items noted under Appeal Point 2 which are inconsistent with the West of Fairview Specific Plan and the Zoning Ordinance.

Staff recommends the Planning Commission deny the Appeal based on this appeal point.

Appeal Point 9: "The City seeks to impose on the cluster lots setbacks applicable to lots of at least 5,000 square feet....Notably , even if the 5,000 square foot lot setbacks were applicable to the cluster lots, KB Home would be entitled to a waiver of such setbacks pursuant to the State Density Bonus Law." (page 4)

Staff's Response: Please refer to Staff's discussion in the Project Analysis section as well as Staff's discussion under Appeal Point 2 regarding the established development standards and the development standards proposed by KB in this development.

A request that the City look into a Density Bonus for the KB project was not made until August 5, 2022. Chapter 17.04, Article II, Density Bonuses, requires an Application Form and lists materials that are required for processing of a Density Bonus Request. Following the letter, KB stated that they did not want to apply for or provide information in order for Staff to adequately review this request. As of the printing of this Staff Report, KB has not applied for a Density Bonus.

While the Counsel for KB is correct in that the State Density Bonus Law allows for the waiver of development standards in order to provide affordable housing in California, Staff is unsure if this project qualifies for a density bonus. The State Density Bonus Law allows for an increase in the density of a project site and the waiver of development standards that would preclude a qualified project from being built. Qualified projects are defined in the State Density Bonus Law and are for affordable units that are provided in the affordable type and percentage of the development as listed in the Law and cannot be combined with any affordable unit required pursuant to an Ordinance or other City requirement.

Staff has not had an opportunity to adequately review this project with respect to the State Density Bonus Law due to the filing of an Appeal by the Applicant. At this time, Staff is uncertain if the proposed number of affordable units required to be constructed in return for the granting of an extension of the Development Agreement, and provided for the total number of residential properties located within the Award Homes portion of the West of Fairview Specific Plan qualifies for a Density Bonus under the law. An amendment to the Development Agreement (which requires review and approval by the City Council) could also be required in order to comply with the affordability requirements of the State Density Bonus Law.

For these reasons, Staff believed that a request for a Density Bonus could further delay review of the project and could require Staff to recommend denial if the project does not comply with the State Density Bonus Law. As previously mentioned throughout this Staff Report and in discussions with KB, Staff wants this development to be built, as was the intention of the adopted Specific Plan, Development Agreement and subsequent amendments, and Tentative Map. In order to quickly move the project forward, Staff recommends the Planning Commission deny this Appeal based on Appeal Point 9. Staff has included this as an option to the Planning Commission should the Planning Commission determine that they would like to deny the Appeal and direct KB to apply for a Density Bonus for further review.

Staff recommends that the Planning Commission deny the Appeal based on this appeal point.

Appeal Point 10: "Given the Project's compliance with applicable, objective standards, the City cannot deny the Project or condition it to a lower density unless the City finds... (Government

Code Section 655895.5(j)(1)..." (page 5 of Attachment 2)

Staff's Response: Staff and the City Attorney respectfully disagree with KB's assertion that the project complies with the requirements of the West of Fairview Specific Plan and the Hollister Zoning Ordinance. As previously discussed, Staff has no intention of recommending that the Planning Commission or City Council amend the Final Map to require larger lots in this development, which would lower the density of the project site and total unit count in the West of Fairview Specific Plan Area and on the Tentative Map which would be a violation of the Development Agreement. Staff's only desire is to see the development standards proposed in the project plans codified into the record so that Staff can make the following findings, which the City requires in a Resolution for a Site and Architectural Review.

- A. The proposed Project, as conditioned, will comply with the policies of the General Plan and the West of Fairview Specific Plan because:
- B. The proposed Project, as conditioned, is consistent with Section 17.04.060, Residential, West Fairview Road (RWF) Standards, Chapter 17.18, Pedestrian, Bicycle, Parking and Loading Standards and Section 17.16.080, Landscaping Design and Standards because:
- C. The proposed Project would not be detrimental to the health, safety, and welfare of persons residing or working in the neighborhood or to the general welfare of the City because:

KB is proposing development standards that are not consistent with any of the established setbacks in the West of Fairview Specific Plan, nor are these standards consistent with the standards for Single Family Residential in the City. Because of this, Staff does not believe that the required findings can be made in order to approve the project as proposed.

A Specific Plan Amendment or a Planned Unit Development would allow KB to establish their preferred development standards to the site. Staff would then be able to make the findings that the proposed development is consistent with the established standards for the site.

Staff recommends that the Planning Commission deny the Appeal based on this appeal point.

Appeal Point 11: "The Housing Accountability Act Imposes Penalties for Noncompliance" (page 5)

Staff's Response: The Housing Accountability Act does not preclude a city from requiring permits they believe necessary in order to approve a proposed project. In this case, the proposed project does not meet development standards for a single family residential development under the

Specific Plan or Zoning Ordinance. KB has chosen this type of housing and the development standards noted on their plans. A secondary permit, would however, allow KB to construct the project as proposed (with approval by the City's regulatory body). As previously discussed, the Housing Accountability Act does not require the City to approve a project which is not consistent with development standards in the City. As previously discussed, even though the lot size is not included in the Specific Plan, this does not waive all development standards for the project. Rather, the site is legal non-conforming and must still comply with the established requirements of the Zoning District in which it is located. Unless modified pursuant to a Specific Plan Amendment or Planned Unit Development. As consistently noted in this Staff Report and as continuously discussed with KB, Staff has expressed a continuous desire to allow KB to develop the site as proposed, with the application of a secondary permit which would allow the development standards they are proposing to be established in a legal manner.

Discussion on a violation of the HAA is premature at this point, because Staff is not recommending denial of the residential development. Staff recommends the Planning Commission deny the Appeal based on this appeal point. Additionally, Staff has consistently shown a way for the city to approve the project as recommended.

Appeal Point 12: "The Housing Crisis Act of 2019 Precludes a Specific Plan Amendment to Add Setbacks for the Cluster Lots" (page 5 of Attachment 2)

Staff's Response: The requirement for a secondary permit to allow the development as proposed does not conflict with the Housing Crisis Act. The lots have been approved under the Tentative Map and Final Map. At no time did the Applicant, Award Homes, indicate that they would like development standards other than what was in the Specific Plan at that time. In fact, the request for a Tentative Map included a request for a Specific Plan Amendment. If Award Homes was considering modified development standards, they could have included those at that time.

Rather, upon purchase of the site from Award Homes, KB chose a house plan and lot configurations which do not conform to any City requirements for development of a single family lot. As demonstrated throughout this Staff Report and in the record, KB was aware that their project did not conform to the development standards in the West of Fairview Specific Plan and the Zoning District. This does not obligate the City to approve development standards which do not meet the requirements of the Specific Plan or Zoning Ordinance. Staff is not recommending that the lot size or dimension be modified in order to reduce density on the site. Rather, Staff is recommending a secondary permit in order to legally allow the setbacks as proposed and to recommend approval of the project as proposed. The Act does not preclude a city from requiring permits which it deems necessary to properly process a development application and recommend approval of said application.

Staff recommends the Planning Commission deny the Appeal based on this appeal point because the Housing Crisis Act does not preclude a city from requiring a permit that the City has identified

as necessary to approve a project.

Appeal Point 13: “ The City’s Refusal to Process the Application Violates the Permit Streamlining Act.” (page 6 of Attachment 2)

Staff Response: Please refer to Staff’s response under Appeal Point 1. The incomplete letter was sent to KB within the required 30 days. KB has also expressed a willingness to submit the required plans.

CONCLUSION

As noted above, Staff recommends that the Planning Commission deny the Appeal on all Appeal Points noted above. The Applicant was sent a letter indicating that the project was incomplete within 30 days of the receipt of the Application Fee, which allowed the City to begin review of the Application. With respect to the Applicant’s determination that the project is consistent with the requirements of the Municipal Code and the West of Fairview Specific Plan, as previously discussed, the absence of the preferred development standards of an Applicant does not waive those standards. While standards exist which could be utilized for this project, the City has two ways in which KB could move forward with a request for approval of those development standards as proposed (through a Specific Plan Amendment of a Planned Development). By applying for a secondary permit, the Applicant could bring the project before the Planning Commission for review and the project would then be consistent with the requirements of the Specific Plan and Municipal Code (if the secondary permits were approved). As continuously discussed with KB, Staff has stated that we would recommend approval of the development as proposed if a secondary permit was applied for because Staff could then make the required finding for the project.

PLANNING COMMISSION OPTIONS:

KB has filed for an appeal of the determination that the Application was complete and of the Director’s determination that the project, as proposed, did not meet the requirements of the West of Fairview Specific Plan and the Municipal Code and therefore a secondary permit was required in order to process.

The Planning Commission may choose to uphold the Appeal (and reversing Staff and the Director’s determination) or to deny the Appeal for each of the two reasons listed above at this meeting. Following that determination, staff recommends that the Planning Commission also determine the next steps for the processing of this project in order to provide clear direction to KB and Staff on the path forward for this project.

The Planning Commission can choose one of the following options with regards to this appeal:

1. Deny the appeal and require the Applicant to apply for a Specific Plan Amendment

Advantages: This option would allow the City to make the required findings for the development as proposed and would establish requirements specific to this development which can be used in the future by homeowners of the development who wish to improve their property. The Specific Plan Amendment would allow Staff to insert development standards directly into the Specific Plan which then can easily be found in the future. Additionally, Staff would use the minimum setbacks and maximum lot coverage shown on KB's plans which could potentially allow for additions or other modifications to the houses in the future.

Disadvantages: This option would increase the review time of the proposed development by requiring review of the proposed Specific Plan Amendment by the Planning Commission who would then make a recommendation to the City Council. The City Council would then make a final action on the project.

2. Deny the appeal and require the Applicant to apply for a Planned Development

Advantages: This option would allow the City to make the required findings for the development, as proposed by KB, and would establish requirements specific to this development which can be used in the future by homeowners of the development who wish to improve their property. Staff would use the minimum setbacks and maximum lot coverage shown on KB's plans which could potentially allow for additions or other modifications to the houses in the future and insert these development standards into the Planned Unit Development Resolution. This would also allow the City to review and potentially approve the development more quickly than the other options identified.

Disadvantages: This option does not allow the City Council to weigh in on the project. Additionally, a Specific Plan Amendment would be a clearer way of establishing these development standards.

3. Deny the appeal and require the Applicant to apply for a Density Bonus

Advantages: This option is KB's preferred option as expressed in the letter dated July 5, 2022 (Attachment 2).

Disadvantages: All setbacks, lot coverage and configuration shown on the site plan approved with the density bonus request would be locked in and future modifications to the homes would be limited. As previously discussed, while this is a preferred option by KB, Staff has not adequately reviewed this project for compliance with the State Density Bonus Law. The Applicant did not request a density bonus until the project had been under review for some time. Additionally, the Applicant never submitted the necessary

information required for a Density Bonus Application in the Zoning Ordinance in order to allow Staff to review this request as part of their project. Based on a very preliminary review, Staff is unsure if the development is consistent with State Density Bonus Law and could require an Amendment to the Development Agreement. This option requires significant research and review by Staff and the City Attorney and a timeline for review by the Planning Commission is unknown. If the development does not comply with the State Density Bonus Law, Staff would have to bring the project to the Planning Commission for denial if this is the only option selected by the Planning Commission. As continuously mentioned, Staff would like to move this project forward for review by the Planning Commission as quickly as possible so that the project can be constructed and provide additional housing in the City.

4. Uphold the appeal and direct Staff to bring the Site and Architectural Review to the Planning Commission for review during a Public Hearing where the Planning Commission will prepare the required findings

Advantages: The Planning Commission would be responsible for listing the ways in which the development is consistent with the General Plan, Specific Plan and Zoning Ordinance. Staff would bring the project for review during a Public Hearing. After closing the Public Hearing, the Planning Commission would dictate the findings to Staff who will write them down verbatim. The Planning Commission in this case would establish the legal record for approval of the project.

Disadvantages: The Planning Commission, and not Staff, would be required to write the findings for this project which will provide a legal basis for approving the project. If the Planning Commission did not feel comfortable in doing so, this could further delay action on the project or potentially result in a denial of the project which could lead to litigation. All findings for the project become part of the legal record for the project and if not done correctly can open up the project to a legal challenge from anyone. If during the meeting the Planning Commission determined that they would not be able to make the findings for approval of the project, the project would be further delayed. Deny the Appeal and direct the project applicants to redesign their project to meet all of the requirements of the Municipal Code and the West of Fairview Specific Plan for the “duette” category

5. Deny the appeal and direct KB to redesign the project so that the cluster home development meets the development standards for the duette housing type in the Municipal Code and the West of Fairview Specific Plan.

Advantages: The Planning Commission would be able to provide clear direction to KB that the standards for the ‘duette’ homes apply to these units. These standards can be used by all future homeowners and the City when evaluating future modifications to these homes.

Disadvantage: This option could further delay review of the project because the Applicant would be required to redesign their project.

Staff recommends the Planning Commission select Option 2 for this Item.

Two Resolutions are provided for the Planning Commission's use. A Resolution denying the Appeal is included as Attachment 13, and direction provided by the Planning Commission at tonight's meeting will be included should the Planning Commission choose to deny the Appeal. A Resolution approving the Appeal is also included (Attachment 14) and the Planning Commission's reasoning for granting the Appeal will be inserted at the direction of the Planning Commission during the meeting.

Appeal of Incompleteness Determination by Development Services Department

Response to Appeal Application Question No. 9 – Basis of the Appeal

KB Home (the “Applicant”) appeals the City of Hollister Development Services Department’s (the “Department”) August 24, 2022 written determination that the Applicant’s application for Site and Architectural Review for the cluster lots in the West of Fairview Road Specific Plan Area – Tract 303, Phase 2 (S&A 2022-7) (the “Application”) is “incomplete for processing.” The appeal is made pursuant to the Permit Streamlining Act (Gov. Code, §§ 65920 et seq.) and the City of Hollister Municipal Code Sections 17.24.090 and 17.24.140.

Municipal Code Section 17.24.090 provides “[w]hen the Department has determined that an application is incomplete, and the applicant believes that the application is complete or that the information requested by the Department is not required, the applicant may appeal the determination in compliance with Section 17.24.140 (Appeals).” Section 17.24.140(A)(2) in turn provides that the following action may be appealed to the Planning Commission and then to the City Council: “Any determination that a permit application or information submitted with the application is incomplete, in compliance with Government Code Section 65943.”

The Applicant electronically submitted the Application for Site and Architectural Review on July 20, 2022. On July 21, 2022, the Applicant delivered a check for the associated planning fees by overnight courier, which the City received on July 22, 2022. After the close of business on Wednesday, August 24, 2022, the Department electronically transmitted to Applicant its written determination that the Application was incomplete. This transmittal was not timely.

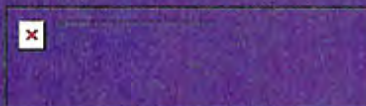
Under the Permit Streamlining Act, cities have 30 calendar days after the submittal of an application to determine in writing whether the application is complete. (Gov. Code, § 65943(a).) If a written determination is not timely made, the application is deemed complete. (Gov. Code, § 65943.) Thirty calendar days from July 22, 2022 (conservatively using the date the City received the fees) was Sunday, August 21, 2022. The City’s transmittal of its written determination after the close of business on Wednesday, August 24, 2022, was not timely. Accordingly, the Application has been deemed complete per Government Code Section 65943, and the City’s subsequent letter stating that the Application was incomplete has no effect. Nonetheless, the Applicant is willing to submit extra plan sets as needed to process the Application, subject to the limitation that any such provision does not waive any of the rights asserted in this appeal.

Although not relevant to the completeness determination, the Department’s request in its letter for additional information also has no effect. The letter directed the Applicant to apply for: (i) a Specific Plan Amendment; or (ii) a Planned Unit Development. For the reasons set forth in the August 5, 2022 letter to the City from Cox, Castle & Nicholson (also attached to this appeal), the City lacks authority to require the Applicant to apply for either of these additional approvals. Instead, the Housing Accountability Act requires the City to approve the Application.

Hazelbaker, Charles

From: TrackingUpdates@fedex.com
Sent: Friday, July 22, 2022 11:13 AM
To: Robbins, Sara L
Subject: FedEx Shipment 777450785313: Your package has been delivered

EXTERNAL EMAIL: Do not click links or open attachments unless you recognize the source of the email.



Hi. Your package was
delivered Fri, 07/22/2022 at
11:11am.



Delivered to 375 5TH ST, HOLLISTER, CA 95023
Received by D.DIAZ

OBTAIN PROOF OF DELIVERY

TRACKING NUMBER [777450785313](#)

FROM KB HOME South Bay Inc
5000 Executive Parkway
Suite 125
SAN RAMON, CA, US, 94583

Hazelbaker, Charles

From: Erica Fraser <efraser@4leafinc.com>
Sent: Wednesday, August 24, 2022 5:07 PM
To: Hazelbaker, Charles; Lezak, Peter
Cc: Eva Kelly; Adrianna Ortiz
Subject: Status Letter for KB Homes - Cluster Lots
Attachments: Incomplete Letter S&A.pdf

Follow Up Flag: Flag for follow up
Flag Status: Flagged

EXTERNAL EMAIL: Do not click links or open attachments unless you recognize the source of the email.

Hello –

Attached is the Status Letter for the S&A submitted to the City regarding the “cluster lots” in the West of Fairview Specific Plan Area. Please let me know if you have any questions.

Erica



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Margo N. Bradish
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August 5, 2022

VIA E-MAIL

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Re: Site and Architectural Review for West of Fairview, Tract 303, Phase 2

Dear Mary and Jennifer:

We are writing with respect to KB Home's ("KB Home") pending application for Site and Architectural Review for West of Fairview, Tract 303, Phase 2 (the "Project"), located near Union Road and Mimosa Street in the City of Hollister (the "City"), within the West of Fairview Road Specific Plan (the "Specific Plan") area. The Project seeks Site and Architectural Review approval for 198 single family dwellings, including 60 homes on "cluster" lots (all 198 lots already exist, with a final map having been recorded on May 11, 2022). Thirty-three of the homes on the cluster lots would be made available at affordable levels and would provide much needed high quality, affordable single family homes in the City, in the midst of a housing crisis.

Recently, City staff has taken the position that the Project is inconsistent with the Specific Plan with respect to the proposed setbacks for the cluster lots. City staff has offered KB Home three options: (i) modify the Project to comply with the Specific Plan; (ii) apply for a Specific Plan Amendment; (iii) or apply for a Planned Unit Development ("PUD"). In the meantime, City staff has refused to process the Project application.

As described below, the Specific Plan does not contain setbacks applicable to the cluster lots and, as evidenced by the City's own findings, the Project is consistent with applicable, objective Specific Plan standards. Staff's refusal to process KB Home's application is contrary to

the Housing Accountability Act (“HAA”), the Housing Crisis Act (“HCA”), the Development Agreement and Settlement Agreement applicable to the Project, and the Permit Streamlining Act (“PSA”). As you are aware, the HAA imposes substantial penalties on cities for noncompliance. Accordingly, we respectfully request that the City immediately process the Site and Architectural Review application as proposed by KB Home - without the need for a Specific Plan Amendment, PUD, or additional setbacks -consistent with its obligations under the HAA, the Development Agreement, the Settlement Agreement, and the PSA.

1. The Specific Plan, the Development Agreement, and the Project

The City adopted the Specific Plan in 1994 and subsequently amended it around 1998. Since that time, the Specific Plan has included setbacks for 5,000 square foot and larger lots, but not for lots smaller than 5,000 square feet.

In 2000, the City approved a Development Agreement pertaining to the Specific Plan area. The Development Agreement requires the City “to accept, process and review, in good faith and in a timely manner . . . all applications” required for the property. (Development Agreement, Section 3.3.) In 2004, the City and Award Homes, Inc. (KB’s predecessor in interest) entered into a Mutual Release and Settlement Agreement (“Settlement Agreement”) in connection with litigation related to the Development Agreement. The Settlement Agreement required Award Homes, among other things, to construct certain affordable housing on its property. The Settlement Agreement includes a “Covenant of Good Faith and Fair and Expeditious Dealing” requiring the City to act in a “fair, diligent, best efforts, expeditious and reasonable manner” in acting upon all subsequent approvals for the West of Fairview project. The court retained jurisdiction to enforce the Settlement Agreement.

The City approved the vesting tentative map for the West of Fairview area in 2007. At the time of approval, the City found that the project as proposed, which included the 60 cluster lots ranging in size from approximately 2,300 to 3,600 square feet (an average of 2,800 square feet), was “consistent with the City of Hollister General Plan and the West of Fairview Road Specific Plan.” Further, Jennifer’s July 25, 2022 e-mail to me acknowledges with regard to the cluster lots that, with the approval of the map, “the City considers the smaller lot size allowable.”

In 2012, the City and Award Homes entered into a First Amendment to the Development Agreement (the “First Amendment”) and an amendment to the Settlement Agreement, which among other things required the developer to construct at least 33 small lot, affordable single family detached homes on specific cluster lots depicted on the tentative map. (First Amendment, Secs. 4, 5.) In 2021, the City and Award Homes entered into a Second Amendment to the Development Agreement and an amendment to the Settlement Agreement, which among other things extended the term of the Development Agreement.

As early as mid-January 2022, prior to acquiring the Phase 2 land from Award Homes, KB Home reached out to City staff to discuss the intended application. It took approximately six weeks, however, until an initial phone call could be scheduled for late February, and KB Home

also had follow-up discussions with Abraham Prado (then City Planning Director). Throughout these discussions, staff indicated it would work with KB on any future application processing. Staff never mentioned the need to amend the Specific Plan or apply for a PUD permit, and it remained KB Home's understanding that the City would work reasonably with KB on any future applications. KB Home then acquired the Phase 2 land from Award Homes on April 5, 2022. In May of 2022, the City approved the Phase 2 final map, which includes the cluster lots. KB Home recorded the Phase 2 final map on May 11, 2022.

KB Home then submitted an application for Site and Architectural Review for Phase 2 on May 18, 2022, but City planning staff would not accept the application without guidance from the City Attorney. KB Home submitted its application for Site and Architectural Review for Phase 2 again, and paid the accompanying submittal fees, on July 21, 2022 (the "Application"). The Application proposes homes ranging in size from approximately 1,735 to 2,538 square feet (an average of 1,970 square feet) on each of the cluster lots, with minimum setbacks of generally five feet (four feet for side porches). To date, City staff has refused to process the Application.

2. The Project is Consistent with the Applicable Provisions of the Specific Plan.

As noted above, the Specific Plan only establishes setbacks for parcels of 5,000 square feet or larger. Jennifer's July 25, 2022, email specifically acknowledges that "the Specific Plan still does not provide setbacks specifically for the cluster lots." Lacking any applicable setback, staff has suggested that the Specific Plan setbacks applicable to lots of at least 5,000 square feet (lots almost double the size of the cluster lots) be applied to the cluster lots, and Jennifer's email suggests that failure of the cluster lots to comply with the setbacks for these larger lots somehow renders the cluster lots inconsistent with the Specific Plan. Application of the setbacks to lots of at least 5,000 square feet to the cluster lots would preclude the construction of the homes proposed in the Application.

Staff's approach would imply into the Specific Plan a setback requirement that does not exist and then find the Application inconsistent with this nonexistent requirement. This approach defies logic, particularly in light of the City's own finding that the tentative map including the cluster lots is consistent with the Specific Plan. Moreover, as described below, this approach is inconsistent with the HAA.

3. The Housing Accountability Act Requires the City to Approve the Project

The California Legislature has found and declared that "California has a housing supply and affordability crisis of historic proportions." (Gov. Code, § 65589.5(a)(2).) While the causes are varied, the Legislature found that the absence of "meaningful and effective policy reforms" to significantly enhance the approval and supply of housing at all income levels has been a key factor. (*Id.*) To that end, it enacted the HAA (including several recent amendments) to increase the supply of housing throughout California by, among other things, presumptively requiring the approval of housing projects that comply with objective local land use standards.

The HAA prohibits a city from disapproving, or conditioning on lower density, housing development projects that comply with *applicable, objective* general plan, zoning, and subdivision standards and criteria, including design review standards, unless the city makes written findings, supported by a preponderance of the evidence, that the project would have a specific, adverse impact on public health or safety that cannot be mitigated in any way other than by rejecting the project or reducing its density. (Gov. Code, § 65589.5(j)(1).) For purposes of the HAA, “objective” means “involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.” (*Id.* § 65589.5 (h)(8).) “Lower density” includes “any conditions that have the same effect or impact on the ability of the project to provide housing.” (*Id.* § 65589.5(h)(7).)

a. Development Standards That Apply to Lots of At Least 5,000 Square Feet Are Not Applicable Objective Standards for the Cluster Lots Under the HAA

The Application seeks Site and Architectural Review approval for, among other things, the 33 affordable and 27 market rate single family homes on the cluster lots identified in the recorded map, the Development Agreement, and the Settlement Agreement. The designs proposed for these cluster lots would provide high quality, affordable homes subject to reasonable design parameters that would ensure compatibility with proposed surrounding development.

The City seeks to impose on the cluster lots setbacks applicable to lots of at least 5,000 square feet, in violation of the HAA. First, as noted above, these setbacks are not “applicable” to the cluster lots, which are less than 5,000 square feet. Second, these setbacks do not constitute an “objective” standard in that there is no verifiable benchmark or criterion knowable by KB Home or City staff establishing that the setbacks for lots of at least 5,000 square feet apply to the cluster lots, which are less than 5,000 square feet. Rather, staff is making a subjective judgment that, in the absence of applicable setbacks in the Specific Plan, these inapplicable setbacks should apply. The HAA leaves no room for the City to apply such a subjective judgment to the Application. Finally, application of these setbacks would effectively condition the cluster lots on “lower density” in that the building footprints would have to be reduced, impacting the ability of KB to provide housing, including affordable housing, in reasonably sized units. Pursuant to the HAA, the City cannot apply the setbacks for the minimum 5,000 square foot lots to the cluster lots.

Notably, even if the 5,000 square foot lot setbacks were applicable to the cluster lots, KB Home would be entitled to a waiver of such setbacks pursuant to the State Density Bonus Law. The Application would be entitled to a waiver of the setbacks because the setbacks constitute a development standard that would “physically preclude the construction of a development” providing over 10 percent of the units for sale to moderate income households (even though the Application does not propose additional density authorized by the Density Bonus Law). (Gov. Code, § 65915(b)(1)(D), (e)(1), (f), (o); see also *Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755 [unless a statutory exceptions applies, a city may not apply any standard that

would physically preclude construction of a project *as designed*].) Refusal to approve such a waiver would expose the City to an award of attorney’s fees. (Gov. Code, § 65915(e)(1).)

b. The Project Would Not Have an Adverse Impact on Public Health or Safety

Given the Project’s compliance with applicable, objective standards, the City cannot deny the Project or condition it on a lower density unless the City finds, based on a preponderance of the evidence, that the project would have a specific, adverse impact on public health or safety that cannot be mitigated in any way other than by rejecting the project or conditioning it on lower density. (Gov. Code, § 65589.5(j)(1).) “Specific, adverse impact” means a “significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions.” (*Id.*) There is no evidence, let alone a preponderance of evidence, that the cluster lots with the setbacks proposed in the Application would cause such an adverse impact.

Indeed, when the City approved the tentative map in 2007, it found the project would not cause substantial environmental damage or result in significant environmental effects, and would not otherwise be detrimental to the health, safety, and welfare of persons in the neighborhood or to the general welfare of the City. Nothing in the Project as currently proposed in the Application would alter any of these findings. Indeed, the Project would benefit public health and safety by offering much needed single family affordable housing in the City in a time of great need.

c. The Housing Accountability Act Imposes Penalties for Noncompliance

The HAA imposes considerable penalties on cities that deny compliant housing projects without evidence of a permissible basis to do so. In such a situation, a court must issue an order compelling compliance with the HAA within 60 days, including, but not limited to, an order that the city take action on the project. Any city that does not comply within 60 days must be fined at least \$10,000 per housing unit and may be ordered to approve the project. The HAA also makes attorneys’ fees presumptively available to prevailing plaintiffs. (Gov. Code, § 65589.5(k)(1).)

4. The Housing Crisis Act of 2019 Precludes a Specific Plan Amendment to Add Setbacks for the Cluster Lots

The City’s suggested pathway of amending the Specific Plan to newly create setbacks and other standards for the cluster lots—where none currently exist—would be precluded by the Housing Crisis Act of 2019, which prohibits the City from enacting any development standard “reducing the intensity of land use” within a specific plan land use designation below what was in effect on January 1, 2018, unless the City makes concurrent changes to other parcels to ensure no net loss in residential capacity. (Gov. Code, § 66300(b)(1)(A), (i).) As defined, “reducing the intensity of land use” includes, among other things, “new or increased setback requirements . . . or any other action that would individually or cumulatively reduce the site’s residential development capacity.” (Gov. Code, § 66300(b)(1)(A).)

The City's suggestion of amending the Specific Plan to create new setback requirements for the cluster lots would fall squarely within the definition of "reducing the intensity of land use" on the mapped cluster lots. Thus, the City could not undertake such an amendment without a concurrent change to ensure no net loss. We are unaware of the City proposing such a change.

5. The City's Refusal to Process the Application Violates the Development Agreement and the Settlement Agreement.

As noted above, the Development Agreement and Settlement Agreement obligate the City to process applications for development within the Specific Plan area "in good faith and in a timely manner" and in a "fair, diligent, best efforts, expeditious and reasonable manner." The City's refusal to process the Application based on staff's subjective insinuation of an inapplicable setback requirement to the Specific Plan, in violation of the HAA, is a breach of the City's covenants in both the Development Agreement and the Settlement Agreement. Having approved the cluster lots, the City is obligated to work "in good faith and in a timely manner" using "fair, diligent, best efforts" to process the Application as proposed. In the event that the City fails to resume processing of the Application in accordance with the Development Agreement and the Settlement Agreement, KB intends to explore all available remedies under both Agreements.

6. The City's Refusal to Process the Application Violates the Permit Streamlining Act

Pursuant to the PSA, no later than thirty days after a city receives an application for a development project, the city must determine in writing whether the application is complete and, if not, provide the applicant with "an exhaustive list of items that were not complete." (Gov. Code, § 65943(a).) If a written determination is not made within 30 days after receipt of the application and the application includes a statement that it is an application for a development permit, the application is deemed complete. (*Id.*) Thereafter, the PSA timelines for action on the development permit apply. (See Gov. Code, § 65950.) Failure to act is deemed an approval. (Gov. Code, § 65953.)

Here, as early as mid-January 2022 (prior to even acquiring the Phase 2 land from Award Homes), KB Homereached out to City staff to discuss its application, and had to wait approximately six weeks to even obtain an initial phone call in late February. KB Home submitted an application for Site and Architectural Review for Phase 2 on May 18, 2022, but City planning staff refused to accept the application without guidance from the City Attorney. KB Home submitted its Application for Site and Architectural Review for Phase 2 again, and paid the accompanying submittal fees, on July 21, 2022. To date, we understand that City staff has refused to process the Application. Nonetheless, the City cannot simply refuse to move forward. Under the PSA, the City is required to determine in writing within 30 calendar days whether the Application is complete or else the Application is deemed complete.

* * *

Mary Lerner
Jennifer Thompson
August 5, 2022
Page 7

Senator Nancy Skinner, the author of the 2018 amendments to the HAA, summarized the HAA's requirements as follows: "If developers play by the rules, they should get a permit." (Scott Lucas, "The Housing Caucus," San Francisco Magazine, November 29, 2017.) Here, KB Home has played by the rules and, moreover, has set forth reasonable design proposals that would ensure compatibility of the Project with surrounding development. Having done so, it is entitled to approval of the Project under State law. We therefore request the City immediately process the Application as proposed by KB Home- without the need for a Specific Plan Amendment, PUD, or additional setbacks - consistent with its obligations under the HAA, the Development Agreement, and the Settlement Agreement, and the PSA.

Please do not hesitate to contact me should you have any questions with regard to this matter.

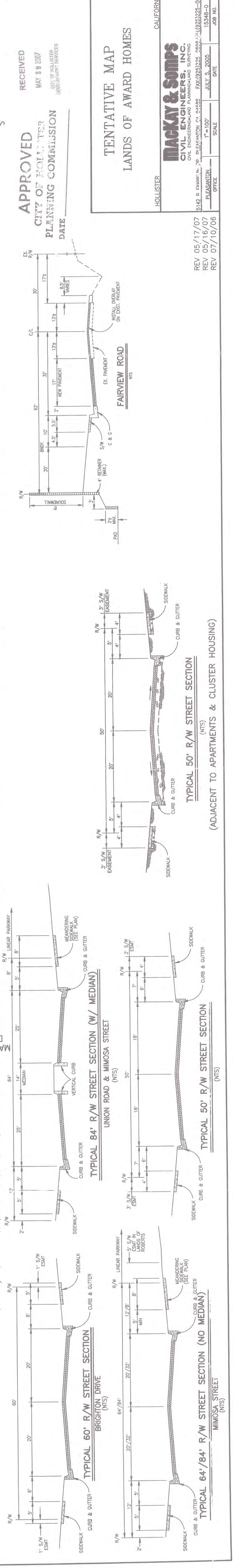
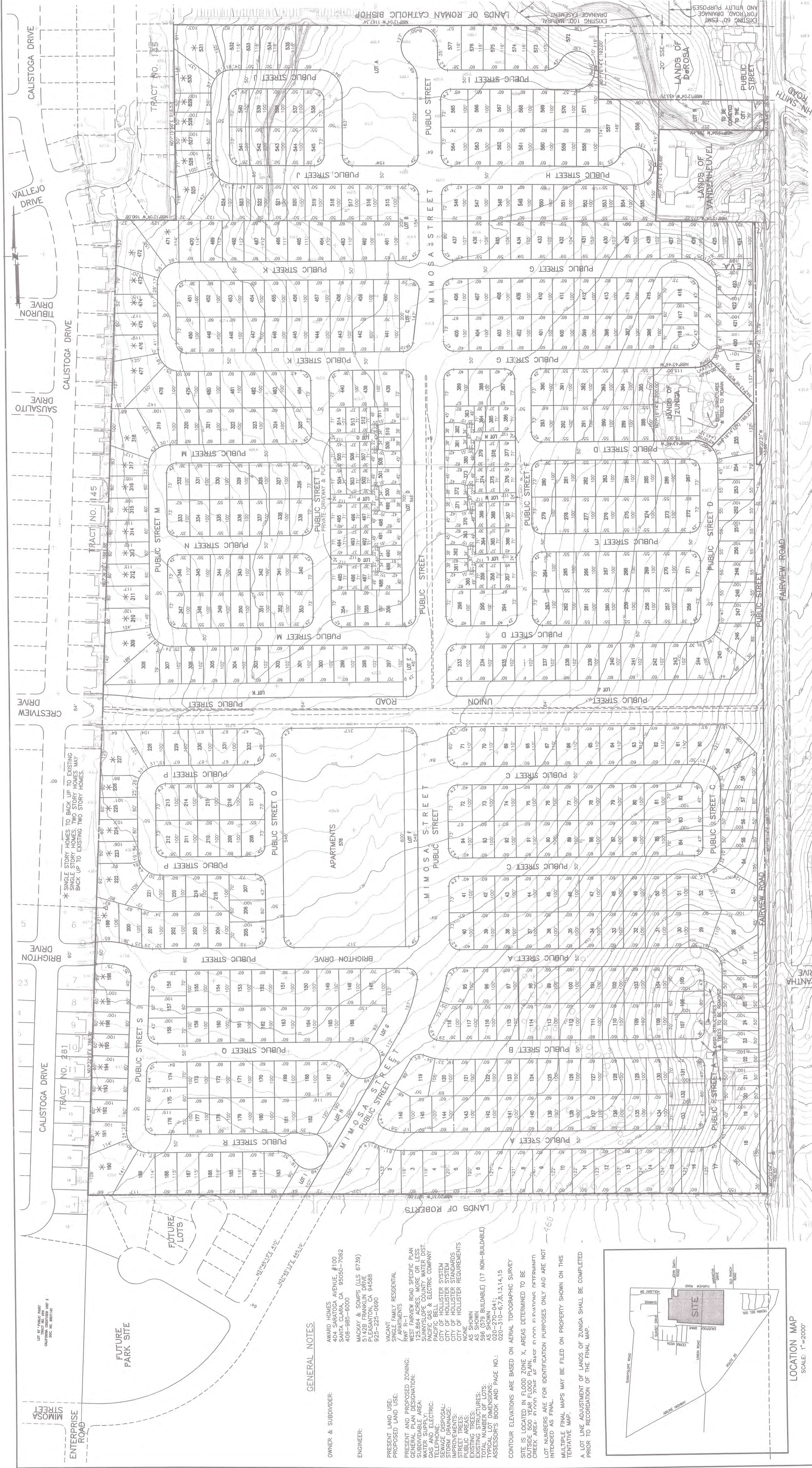
Sincerely,

A handwritten signature in black ink, appearing to read "Margo N. Bradish".

Margo N. Bradish

cc: Michael Mac Donald, Esq.
Mr. Charles Hazelbaker

101279\15622181



RECEIVED
CITY OF HOLISTER
PLANNING COMMISSION
DATE

TENTATIVE MAP
LANDS OF AWARD HOMES

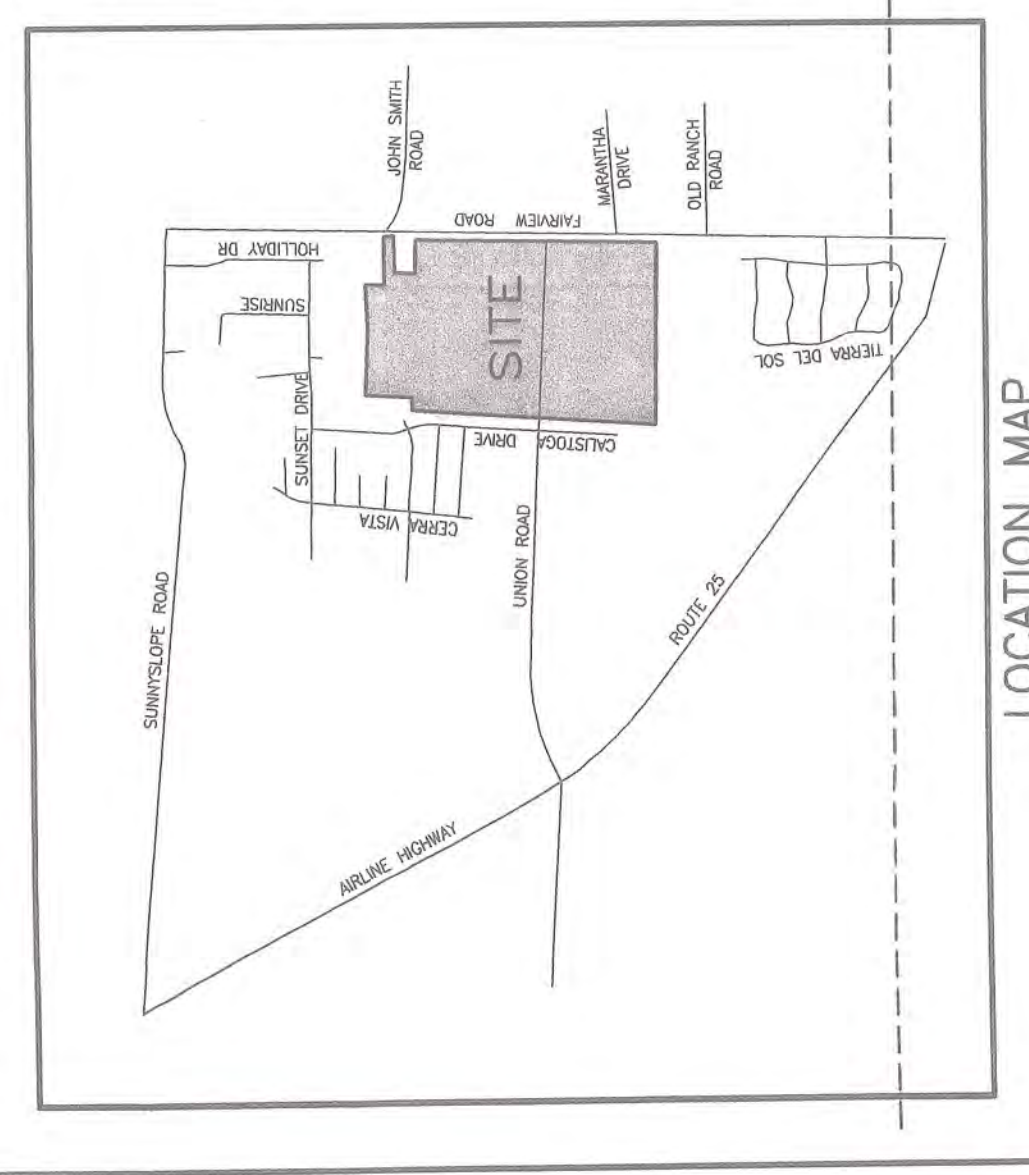
Mackay & Samps
CIVIL ENGINEERS, INC.
1540 E. EXETER AVE., SUITE 100
PLEASANTON, CA 94566
TEL: (925) 225-0990
FAX: (925) 225-0990

HOLLISTER
CALIFORNIA

REV 05/17/07
REV 05/16/07
REV 05/10/06

GENERAL NOTES

- OWNER & SUBDIVIDER:
AWARD HOMES AVENUE, #100
404 SARATOGA AVENUE, SUITE 100
PLEASANTON, CA 94566-7062
408-585-6000
- ENGINEER:
MACKAY & SAMPS (LLS 6739)
51428 FRANKLIN DRIVE
PLEASANTON, CA 94588
925-225-0990
- PRESENT LAND USE:
APARTMENTS
- PROPOSED LAND USE:
R/W F-1 HIGH ROAD SPECIFIC PLAN
GENERAL PLAN DESIGNATION:
125.864 ACRES, MORE OR LESS,
SUNNYSLOPE COUNTY, WATER DIST.
WATER SUPPLY:
PACIFIC BELT
GAS AND ELECTRIC:
CITY OF HOLISTER SYSTEM
SEWAGE DISPOSAL:
CITY OF HOLISTER STANDARDS
STREET TREES:
NOT SHOWN
PUBLIC AREAS:
AS SHOWN
EXISTING STRUCTURES:
598 (579 BUILDABLE) (17 NON-BUILDABLE)
TOTAL NUMBER OF LOTS:
020-310-67.6, 13.1, 4.15
ASSESSOR'S BOOK AND PAGE NO.:
- CONTOUR ELEVATIONS ARE BASED ON AERIAL TOPOGRAPHIC SURVEY
SITE IS LOCATED IN FLOOD ZONE X. AREAS DETERMINED TO BE
OUTSIDE 500 YEAR FLOOD PLAIN.
CREAK AREA: FLOOD ZONE X
LOT NUMBERS ARE FOR IDENTIFICATION PURPOSES ONLY AND ARE NOT
INTENDED AS FINAL.
MULTIPLE FINAL MAPS MAY BE FILED ON PROPERTY SHOWN ON THIS
TENTATIVE MAP.
A LOT LINE ADJUSTMENT OF LANDS OF ZUNIGA SHALL BE COMPLETED
PRIOR TO RECORDED OF THE FINAL MAP.



From: [Hazelbaker, Charles](#)
To: [Eva Kelly](#)
Cc: [Brett Miller](#); [Lezak, Peter](#); [Planning Dept](#)
Subject: RE: WOF2 Clusters
Date: Monday, April 11, 2022 10:58:00 AM
Attachments: [image001.png](#)
[image002.jpg](#)

Thanks so much for the response! We will go whichever route you feel is best, I look forward to hearing back from you so we can get the process moving. Our urgency stems from the fact that Engineering has now burdened the project's timing of building permits in relation to Affordable Housing building permits which are all within the Cluster product. We need to make sure we get this approved so that we don't end up incurring a big delay later.

Thanks,

Charlie
(209) 345-6836

From: Eva Kelly <eva.kelly@hollister.ca.gov>
Sent: Monday, April 11, 2022 10:49 AM
To: Hazelbaker, Charles <chazelbaker@kbhome.com>
Cc: Brett Miller <brett.miller@hollister.ca.gov>; Lezak, Peter <plezak@kbhome.com>; Planning Dept <planning@hollister.ca.gov>
Subject: RE: WOF2 Clusters

EXTERNAL EMAIL: Do not click links or open attachments unless you recognize the source of the email.

Hi Charlie,

Sorry for the delayed response. Please accept this email as acknowledgement of receipt of your emails. It is definitely going to require a formal application submittal, but I still need to verify with leadership to make sure we are all on board with the process. Per our meeting a few months ago, I believe the best course of action is going to be Site & Architectural Review application and a CUP for a Planned Development application, which can be submitted concurrently. However, let me confirm and I will get back with you with details as soon as I can.

Best,
Eva



Get Involved In Community Planning!

General Plan Update

Hollister2040.org | generalplan@hollister.ca.gov

-

DEVELOPMENT SERVICES DEPT. REGULAR PUBLIC HOURS

Monday - Thursday 8:30a - 12:00p, 1:00p - 4:30p

Friday - Sunday CLOSED

ALL Planning Applications require an appointment with a City Planner for submittal.

From: Hazelbaker, Charles <chazelbaker@kbhome.com>

Sent: Monday, April 11, 2022 10:37 AM

To: Planning Dept <planning@hollister.ca.gov>

Cc: Brett Miller <brett.miller@hollister.ca.gov>; Eva Kelly <eva.kelly@hollister.ca.gov>; Lezak, Peter <plezak@kbhome.com>

Subject: Re: WOF2 Clusters

Importance: High

Good morning,

KB submitted our proposed site plan with adjusted setbacks and motor court/cluster architecture just over 2 weeks ago and I haven't received any sort of response yet. I know everyone is busy, especially with Abraham leaving, but can someone at least acknowledge receipt?

Based on the conversations that I had with Eva and Abraham before he left, I am still unclear as to how to formally submit this to the City. Will this email suffice, or do you need hard copies? Is there an actual application? Are there 2 separate applications? One for design review of the architecture and one for the setbacks? Would be setbacks be approved under a variance? Or a CUP? Or even a minor specific plan amendment to add our sheet to the existing setback information in the Lot Development Standards section?

Please let me know how to proceed and if you have any initial questions or concerns on the architectural drawings or setbacks. We would like to ensure that Staff is on board in favor of what we are proposing.

Thanks,

Charlie
(209) 345-6836



From: Hazelbaker, Charles <chazelbaker@kbhome.com>
Sent: Wednesday, April 6, 2022 3:49 PM
To: planning@hollister.ca.gov <planning@hollister.ca.gov>
Subject: Re: 310.533 WOF Clusters

Good afternoon,

Just checking in on this. I haven't heard anything from you guys yet. Please get back to me on how to proceed.

Thanks,

Charlie
(209) 345-6836

From: Hazelbaker, Charles
Sent: Monday, March 28, 2022 11:08:45 AM
To: planning@hollister.ca.gov <planning@hollister.ca.gov>
Subject: FW: 310.533 WOF Clusters

FYI – Got an out of office – no longer works for the City email from Abraham.

Thanks,

Charlie
(209) 345-6836

From: Hazelbaker, Charles
Sent: Monday, March 28, 2022 11:02 AM
To: abraham.prado@hollister.ca.gov; Eva Kelly <eva.kelly@hollister.ca.gov>
Cc: McMullen, Jeff <JMcMullen@kbhome.com>; Huertas, Daniel <dh Huertas@kbhome.com>; Lezak, Peter <plezak@kbhome.com>
Subject: FW: 310.533 WOF Clusters
Importance: High

Good Morning Abraham,

Per our previous conversations and emails, please find our design review package for the cluster/motorcourt units. There is also a link below. The package includes floor plans and elevations for the 4 different plans as well as the setback plan I sent to you last week.

I am still unclear as to how to formally submit this to the City. Will this email suffice, or do you need hard copies? Is there an actual application? Are there 2 separate applications? One for design review of the architecture and one for the setbacks? Would be setbacks be approved under a variance? Or a CUP? Or even an minor specific plan amendment to add our sheet to the existing setback information in the Lot Development Standards section?

Please let me know how to proceed and if you have any initial questions or concerns on the architectural drawings or setbacks. We would like to ensure that Staff is on board in favor of what we are proposing.

Thanks,

Charlie
(209) 345-6836

See link below for full size and low resolution files.

<https://www.dropbox.com/sh/jwq66q4gv4ngs7b/AABWB-Dbw8a4fAjBBy7IXoEsa?dl=0>

OWNER'S STATEMENT:

THE UNDERSIGNED, HEREINAFTER REFERRED TO AS "OWNER" DOES HEREBY STATE THAT THEY ARE THE OWNERS OF ALL THE LANDS DELINEATED AND EMBRACED WITHIN THE HEAVY BROKEN LINE BY TWO SHORT DASHES UPON THE HEREIN EMBODIED FINAL MAP ENTITLED: "TRACT 303 - PHASE 2 WEST FAIRVIEW", CONSISTING OF TEN (10) SHEETS, THIS STATEMENT BEING UPON SHEET ONE (1) THEREOF; AND CONSENTS TO THE PREPARATION AND FILING OF SAID MAP; THAT SAID MAP PARTICULARLY SETS FORTH AND DESCRIBES ALL OF THE LOTS AND PARCELS INTENDED FOR SALE BY THEIR NUMBER AND LETTER WITH PRECISE WIDTH AND LENGTH; THAT SAID MAP PARTICULARLY SETS FORTH AND DESCRIBES THE PARCELS OF LAND RESERVED FOR PUBLIC OR PRIVATE PURPOSES BY THEIR BOUNDARIES, COURSES, AND EXTENT.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED IN FEE FOR PUBLIC PURPOSES:

1. THE UNDERSIGNED DOES HEREBY DEDICATE IN FEE TO THE CITY OF HOLLISTER FOR PUBLIC RIGHT OF WAY PURPOSES, THOSE PORTIONS OF LAND DESIGNATED ON SAID MAP AS "HYDRANGEA DRIVE", "MOSS DRIVE", "PEONY STREET", "GLADIOLA DRIVE", "MIMOSA STREET", "MARIGOLD STREET", "FUCHSIA DRIVE", "DAISY DRIVE", AND "MINT DRIVE". ALL AS SHOWN ON THIS FINAL MAP.
2. THE UNDERSIGNED DOES HEREBY DEDICATE IN FEE TO THE CITY OF HOLLISTER FOR PUBLIC ACCESS AND LANDSCAPING. THOSE PORTIONS OF LAND DESIGNATED ON SAID MAP AS LOTS A, H, AND I, ALL SHOWN ON THIS FINAL MAP.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES:

1. THE AREAS DESIGNATED AS "EMERGENCY VEHICLE ACCESS EASEMENT" (EVAE) AS SHOWN AS LOTS B, C, D, E, F, AND G UPON SAID MAP ARE FOR INGRESS AND EGRESS OF PUBLIC SAFETY VEHICLES AND EMERGENCY EQUIPMENT.
2. THE AREAS DESIGNATED AS "PUBLIC UTILITY EASEMENT" (PUE) AS SHOWN UPON SAID MAP AS LOTS B, C, D, E, F, AND G, AND AS LOTS A, H, AND I ARE HEREBY DEDICATED TO THE PUBLIC. SAID EASEMENTS ARE FOR ANY AND ALL PUBLIC SERVICE PURPOSES INCLUDING ACCESS FOR SIDEWALKS, POLES, WIRES, STORM DRAINAGE, SANITARY SEWER, WATER, GAS, ELECTRIC, TELEPHONE AND TELEVISION FACILITIES, SOUND WALLS, PUBLIC UTILITIES AND APPURTENANCES. PUBLIC UTILITY EASEMENT SHALL REMAIN OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT PUBLIC UTILITY STRUCTURES AND THEIR APPURTENANCES, SIDEWALKS, IRRIGATION SYSTEMS AND THEIR APPURTENANCES, DRAINAGE STRUCTURES, AND LAWFUL FENCES.

3. WE FURTHER HEREBY DEDICATE AND RELINQUISH TO THE CITY OF HOLLISTER ANY AND ALL RIGHTS VEHICULAR INGRESS AND EGRESS OVER AND ACROSS THE SIDE LINES OF STREETS WHERE DESIGNATED "NO VEHICULAR ACCESS" ON THE HEREIN MAP AND SHOWN THUSLY: |||||.

THE UNDERSIGNED DOES HEREBY RESERVE TO ITSELF AND TO THE OWNERS, RESIDENTS, CUSTOMERS, AND OTHER DESIGNATED BY THE HOMEOWNER ASSOCIATION, THE AREAS MARKED AS PRIVATE ACCESS EASEMENT (PAE), AND LOTS B THROUGH G, AS SHOWN UPON SAID MAP, SAID PARCELS ARE FOR THE PURPOSE OF BUT NOT LIMITED TO PRIVATE INGRESS AND EGRESS, PRIVATE UTILITIES, PRIVATE STORM DRAINS, LANDSCAPING AND ALL APPURTENANCE. MAINTENANCE OF SAID PRIVATE ACCESS WAYS IS TO BE THE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION, ALL IN ACCORDANCE WITH THE SUBDIVISION RESTRICTIONS GOVERNING THIS PROJECT. SAID PARCELS ARE TO BE CONVEYED TO THE HOMEOWNERS ASSOCIATION BY SEPARATE DOCUMENT SUBSEQUENT TO THE FILING OF THIS FINAL MAP.

THE OWNER HEREBY WAIVES NOTICE OF THE PUBLIC HEARING FOR THE ANNEXATION OF SAID LAND TO THE COMMUNITY FACILITY DISTRICTS NO.5 (FIRE AND POLICE) AND NO. 4 (MAINTENANCE/OPERATION OF THE LANDSCAPING & IRRIGATION SYSTEMS, SOUNDWALL, DETENTION PONDS/FENCE/ACCESS ROAD, STORM DRAIN & RELATED STRUCTURES), AND SPECIFICALLY WAIVES THE NOTICE, PROTEST AND HEARING REQUIREMENTS IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA GOVERNMENT CODE SECTIONS 53339 THROUGH 53339.7 OF THE MELLO ROOS COMMUNITY FACILITY ACT OF 1982.

KB HOME SOUTH BAY, INC., A CALIFORNIA CORPORATION

BY: _____ DATE: _____

SURVEYOR'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED ON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF AWARD HOMES, INC., A CALIFORNIA CORPORATION IN SEPTEMBER OF 2007. I HEREBY STATE THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THAT THEY WILL BE SET IN THOSE POSITIONS BEFORE DECEMBER 2022, AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP. THE SURVEY IS TRUE AND COMPLETE AS SHOWN.

DATED THIS _____ DAY OF _____, 2021

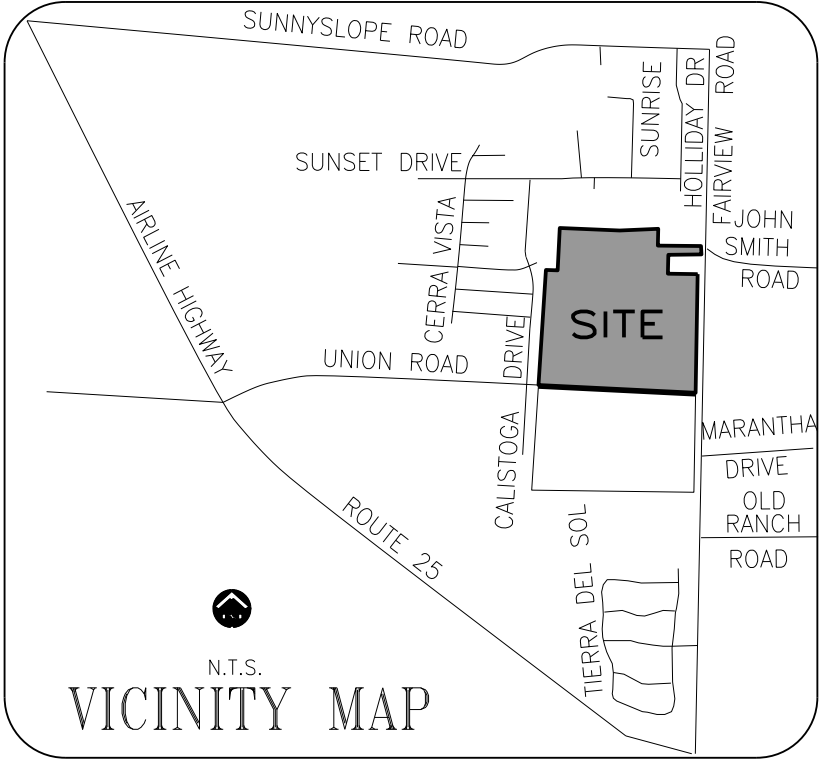
IAN BRUCE MACDONALD, L.S. 8817
STATE OF CALIFORNIA



TRACT 303 - PHASE 2
WEST FAIRVIEW

BEING A SUBDIVISION OF PARCEL 1 OF PARCEL MAP RECORDED IN
SERIES NO. 2022-0002352 SAN BENITO COUNTY RECORDS
LYING WITHIN SECTION 1, TOWNSHIP 13 SOUTH, RANGE 5 EAST,
MOUNT DIABLO BASE AND MERIDIAN
CITY OF HOLLISTER, SAN BENITO COUNTY, CALIFORNIA

Mackay & Soms
ENGINEERS PLANNERS SURVEYORS
5142B FRANKLIN DR, PLEASANTON, CA 94588 (925)225-0690
MARCH 2022



OWNER'S ACKNOWLEDGMENT:

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA
COUNTY OF _____)

ON _____, 2021, BEFORE ME _____, A NOTARY PUBLIC, PERSONALLY APPEARED _____ WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

SIGNATURE: _____

PRINTED NAME, NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

PRINCIPAL PLACE OF BUSINESS: _____

COMMISSION EXPIRES: _____

COMMISSION # OF NOTARY: _____

STATEMENT OF THE PLANNING COMMISSION:

I HEREBY CERTIFY THAT THE TENTATIVE MAP NO. 2005-1 WAS DULY APPROVED BY THE PLANNING COMMISSION OF THE CITY OF HOLLISTER, CALIFORNIA, ON JUNE 27, 2007. THE MAP SHOWN HEREON CONFORMS TO THE APPROVED TENTATIVE SUBDIVISION MAP.

DATE _____, 2021
ABRAHAM PRADO
PLANNING COMMISSION SECRETARY

CITY ENGINEER'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THE FINAL MAP OF "TRACT 303 - PHASE 2 WEST FAIRVIEW" AND THAT THE SUBDIVISION SHOWN THEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF, THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND OF ANY LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH.

DATE _____, 2021
MARK FALGOUT
ACTING CITY ENGINEER
R.C.E.: 63394

CITY SURVEYOR'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THE FINAL MAP OF "TRACT 303 - PHASE 2 WEST FAIRVIEW" AND THAT I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

DATE _____, 2021
KENNETH J. WEATHERLY, L.S.
CONTRACT CITY LAND SURVEYOR
L.S.: 6875

STATEMENT OF SUNNYSLOPE COUNTY WATER DISTRICT:

I, DREW A. LANDER, GENERAL MANAGER OF THE SUNNYSLOPE COUNTY WATER DISTRICT, DO HEREBY CERTIFY THAT ON THE _____ DAY OF _____, 2021, I ACCEPT ON BEHALF OF THE PUBLIC, FOR WATER SERVICE PURPOSES, THOSE CERTAIN LOTS AND EASEMENTS OF LAND DESIGNATED ON THE MAP ENTITLED, "TRACT 303 - PHASE 2 WEST FAIRVIEW", AS "HYDRANGEA DRIVE", "MOSS DRIVE", "PEONY STREET", "GLADIOLA DRIVE", "MIMOSA STREET", "MARIGOLD STREET", "FUCHSIA DRIVE", "DAISY DRIVE", AND "MINT DRIVE", "PUBLIC UTILITY EASEMENT" (PUE), AND LOTS A, H AND I.

DREW A. LANDER
GENERAL MANAGER
SUNNYSLOPE COUNTY WATER DISTRICT

DATE _____

THE CITY CLERK'S STATEMENT:

I HEREBY CERTIFY THAT THIS MAP IS APPROVED BY APPLICATION OF GC SECTION 66458(b) ON _____, 2021.

IT IS DEEMED THAT THE MAP OF "TRACT303 - PHASE 2 WEST FAIRVIEW" TO BE THE SAME IS HEREBY APPROVED THAT "HYDRANGEA DRIVE", "MOSS DRIVE", "PEONY STREET", "GLADIOLA DRIVE", "MIMOSA STREET", "MARIGOLD STREET", "FUCHSIA DRIVE", "DAISY DRIVE", AND "MINT DRIVE", EASEMENTS SHOWN AS (PUE), EMERGENCY VEHICLE ACCESS EASEMENT (EVAE), LOTS B THROUGH G AND LOTS A, H, & I ARE HEREBY ACCEPTED ON BEHALF OF THE PUBLIC FOR THE PURPOSES SET FORTH IN THE OFFER OF DEDICATION. THE CITY OF HOLLISTER SHALL INCUR NO LIABILITY, NOR BE RESPONSIBLE, FOR ANY OFFERS OF DEDICATION OR EASEMENTS WHICH HAVE NOT BEEN ACCEPTED PURSUANT TO THIS CERTIFICATE UNTIL ACCEPTED BY RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HOLLISTER.

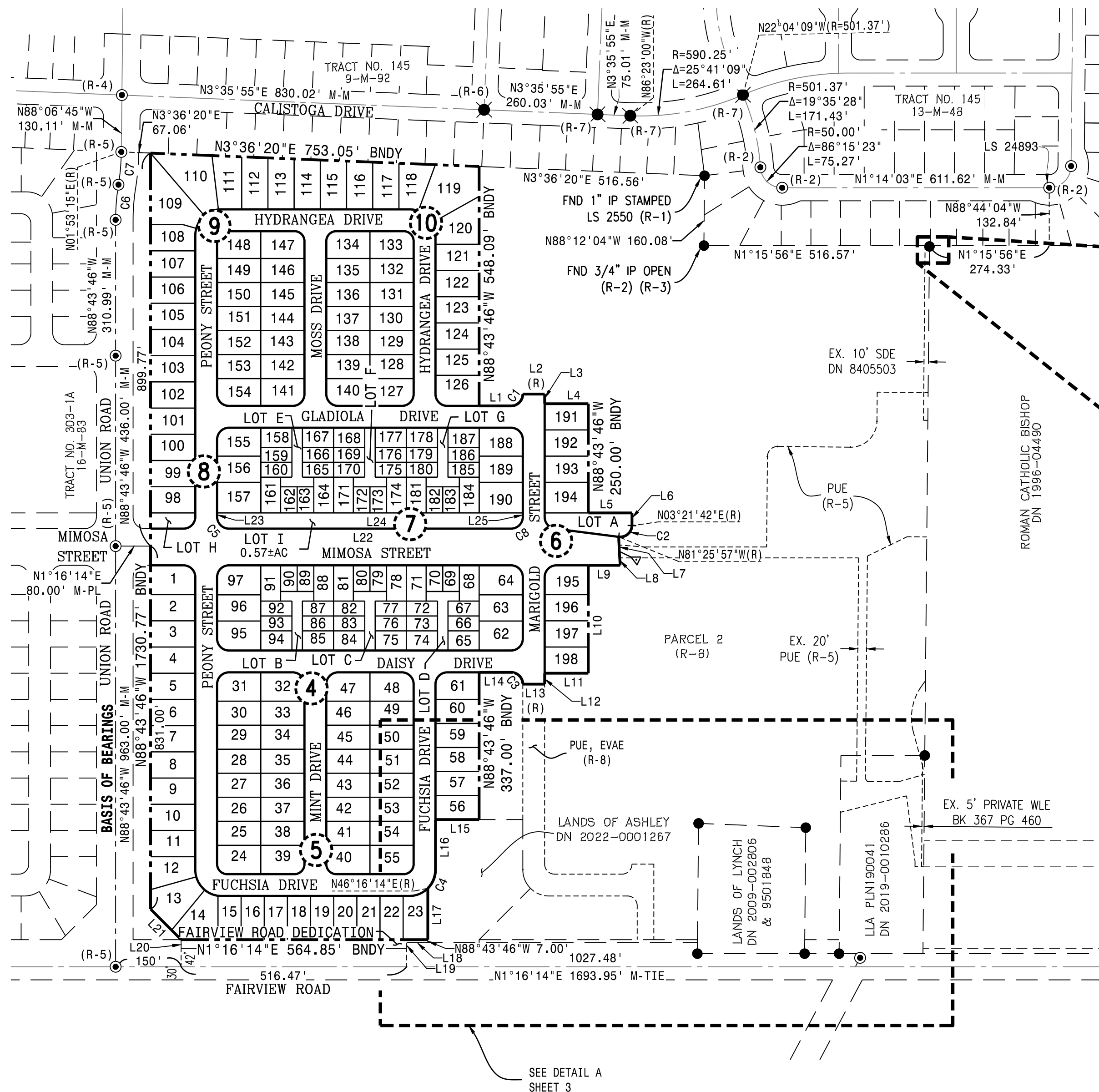
DATE _____
CHRISTINE BLACK
CITY CLERK
CITY OF HOLLISTER

COUNTY RECORDER'S STATEMENT:

FILED FOR RECORD THIS _____ DAY OF _____, 2021 AT _____, IN BOOK _____ OF MAPS AT PAGE _____, UNDER SERIES NO. 2021-_____, AT THE REQUEST OF FIRST AMERICAN TITLE COMPANY IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SAN BENITO, STATE OF CALIFORNIA.

DATE _____ JOE PAUL GONZALEZ, COUNTY RECORDER

BY _____
DEPUTY



LEGEND

---	BOUNDARY LINE
---	RIGHT OF WAY LINE
---	PROPERTY LINE
---	EXISTING PROPERTY/RIGHT OF WAY LINE
---	EASEMENT LINE
---	EXISTING EASEMENT LINE
---	MONUMENT LINE
---	NO VEHICULAR ACCESS
⊙	FOUND CITY STANDARD STREET MONUMENT
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CL	CENTERLINE
EX.	EXISTING
M	MONUMENT
(NOR)	NOT OF RECORD
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PAE	PRIVATE ACCESS EASEMENT
PUE	PUBLIC UTILITY EASEMENT
WLE	WATERLINE EASEMENT
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4	INDICATES SHEET NUMBER

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(R-6)	TRACT NO. 145-UNIT 7B	9-M-92
(R-7)	TRACT NO. 145-UNIT 4B	9-M-65
(R-8)	PARCEL MAP	2022-0002352

ABANDONMENT NOTE:

PURSUANT TO GOVERNMENT CODE SECTION 66434(G) AND 66499.20.2 OF THE SUBDIVISION OF MAP ACT, THE EASEMENT LISTED BELOW AS THEY AFFECT THE PARCELS BEING SUBDIVIDED HEREON, WILL BE ABANDONED WITH THE FILING OF THIS MAP AND ARE THEREFORE NOT SHOWN HEREON:

1. PUBLIC UTILITY EASEMENT (PUE) IN FAVOR OF THE CITY OF HOLLISTER AS SHOWN ON TRACT NO. 303-PHASE 1A, FILED IN BOOK 16 OF MAPS, AT PAGE 83, SAN BENITO COUNTY RECORDS.

NOTES:

1. BEARINGS AND DISTANCES LABELED "BDNY" PER (R-8)
2. ALL DISTANCES ARE MEASURED OR CALCULATED FROM RECORD INFORMATION UNLESS OTHERWISE NOTED AND ARE SHOWN IN FEET AND DECIMALS THEREOF.
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TRACT 303 - PHASE 2 WEST FAIRVIEW

BEING A SUBDIVISION OF PARCEL 1 OF PARCEL MAP RECORDED IN SERIES NO. 2022-0002352 SAN BENITO COUNTY RECORDS LYING WITHIN SECTION 1, TOWNSHIP 13 SOUTH, RANGE 5 EAST, MOUNT DIABLO BASE AND MERIDIAN
CITY OF HOLLISTER, SAN BENITO COUNTY, CALIFORNIA

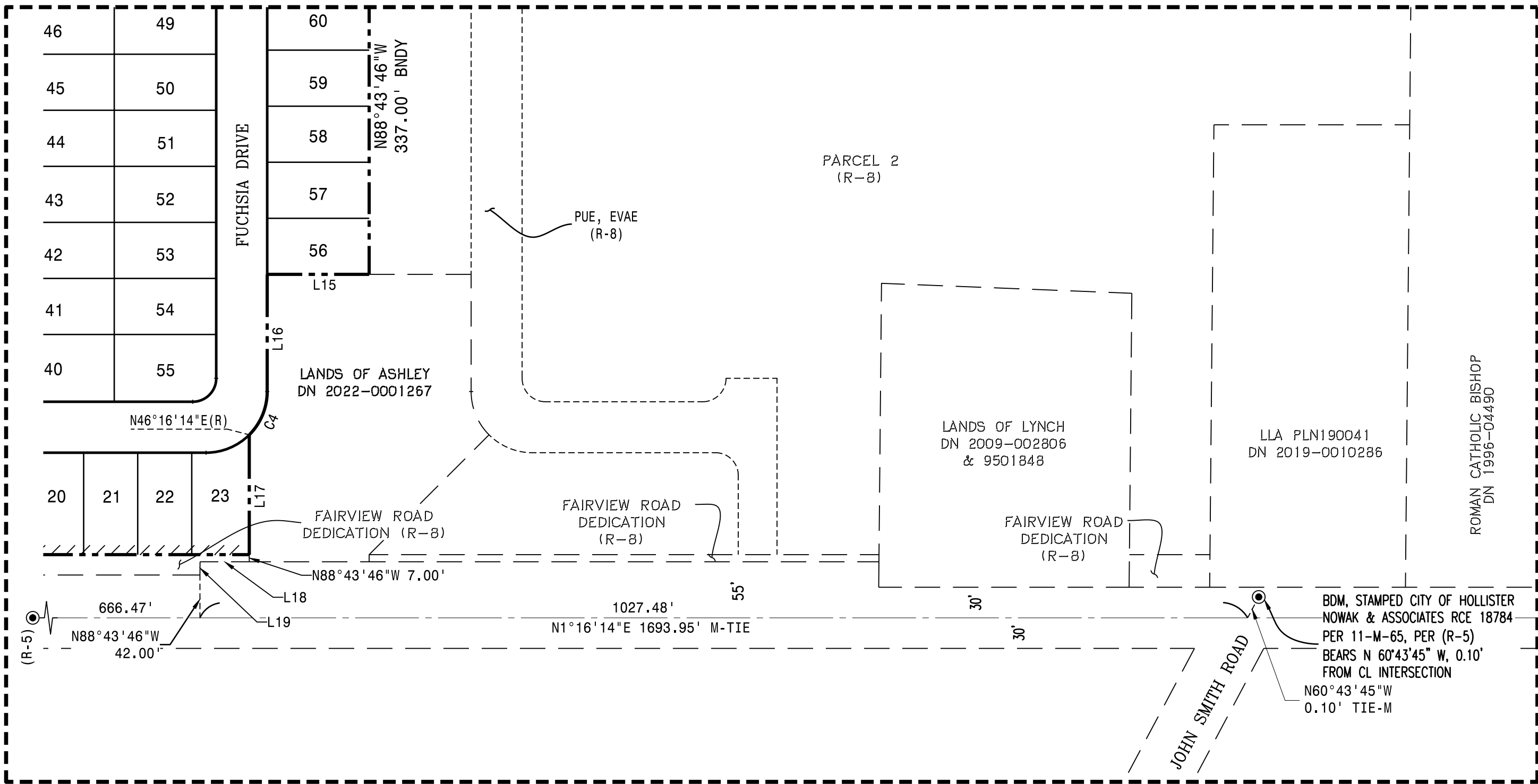
Mackay & Somps

ENGINEERS PLANNERS SURVEYORS
5142B FRANKLIN DR, PLEASANTON, CA 94588 (925)225-0690
MARCH 2022



0 100 200 400
SCALE: 1"=200'

SEE SHEET 3 FOR LINE AND CURVE TABLES



DETAIL A
SCALE: 1"=100'

Line Table		
Line #	Bearing	Length
L1	N1°16'14"E	73.00'
L2	N1°16'14"E	50.00'
L3	N88°43'46"W	22.00'
L4	N1°16'14"E	100.00'
L5	N1°16'14"E	100.00'
L6	N88°43'46"W	29.00'
L7	N88°56'53"E	33.23'
L8	N87°34'44"E	32.07'
L9	N1°16'14"E	73.00'
L10	N88°43'46"W	247.00'
L11	N1°16'14"E	100.00'
L12	N88°43'46"W	25.00'
L13	N1°16'14"E	50.00'
L14	N1°16'14"E	73.00'
L15	N1°16'14"E	100.00'

Line Table		
Line #	Bearing	Length
L16	N88°43'46"W	115.00'
L17	N88°43'46"W	117.57'
L18	N1°16'14"E	48.29'
L19	N88°20'31"W	13.00'
L20	N88°43'46"W	20.00'
L21	N46°16'14"E	98.99'
L22	S1°16'14"W	646.00'
L23	N88°43'46"W	9.00'
L24	S1°16'14"W	700.00'
L25	N88°43'46"W	9.00'

Curve Table			
Curve #	Radius	Delta	Length
C1	27.00'	90°00'00"	42.41'
C2	27.00'	95°12'21"	44.86'
C3	27.00'	90°00'00"	42.41'
C4	60.00'	45°00'00"	47.12'
C5	27.00'	90°00'00"	42.41'
C6	500.00'	9°15'33"	80.80'
C7	500.00'	8°38'32"	75.42'
C8	27.00'	90°00'00"	42.41'

LEGEND

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- CL
- EX.
- M
- (NOR)
- PL
- IP
- EVAE
- PAE
- PUE
- WLE
- (R)
- (R-#)
- M-M
- INDICATES SHEET NUMBER

BASIS OF BEARINGS:

THE BEARING N88°43'46"W BETWEEN MONUMENTS SET IN UNION ROAD AS SHOWN ON TRACT 303 - PHASE 1A, WEST FAIRVIEW RECORDED IN BOOK 16 OF MAPS, AT PAGE 83, SAN BENITO COUNTY RECORDS, IS TAKEN AS THE BASIS OF BEARINGS FOR THIS MAP.

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(R-7)	TRACT NO. 145-UNIT 4B	9-M-65
(R-8)	PARCEL MAP	2022-0002352

NOTES:

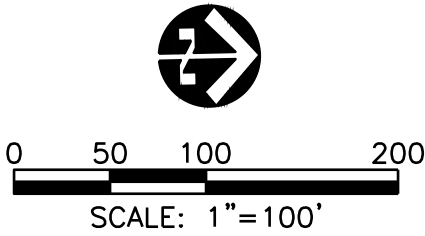
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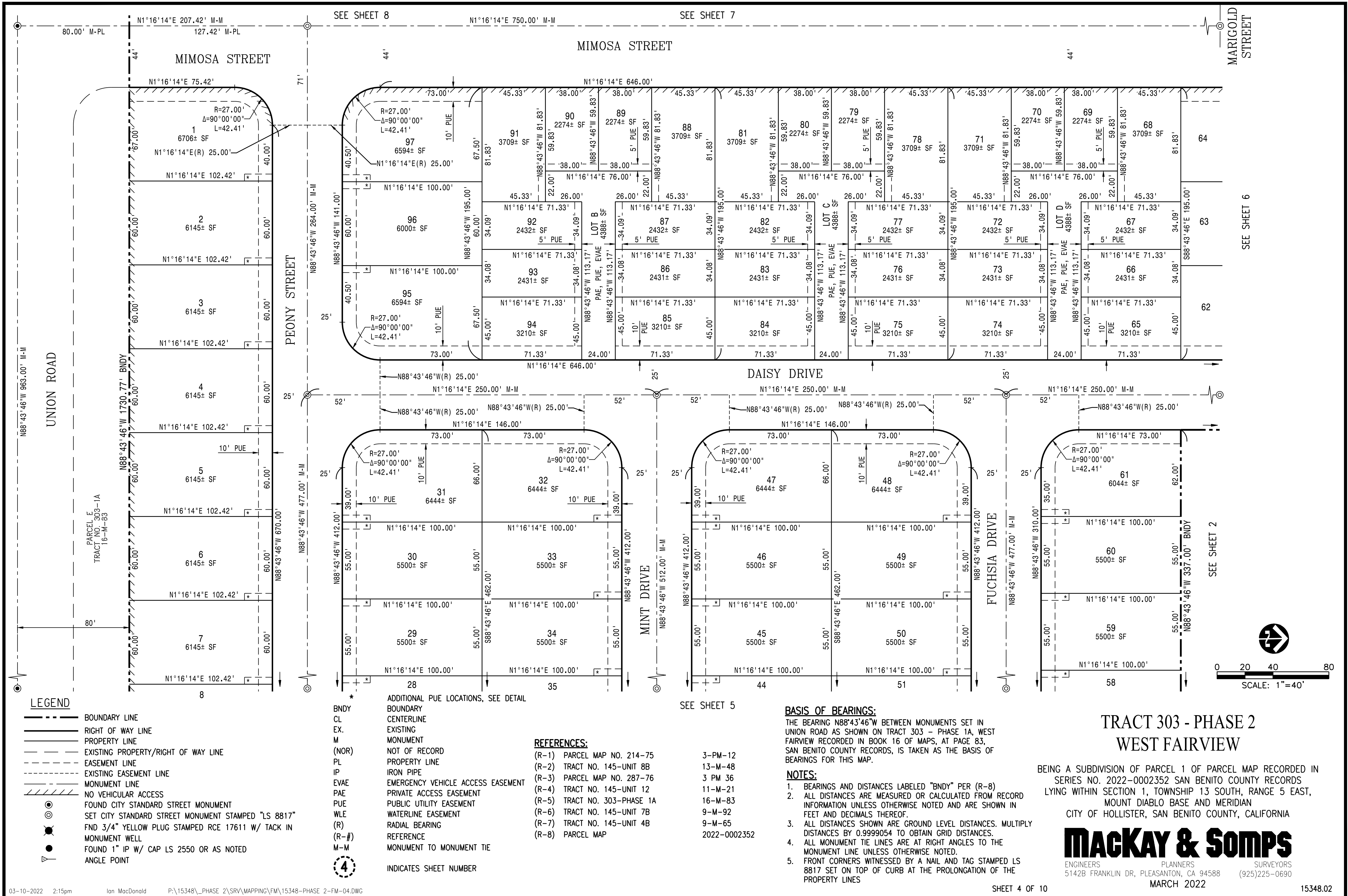
TRACT 303 - PHASE 2
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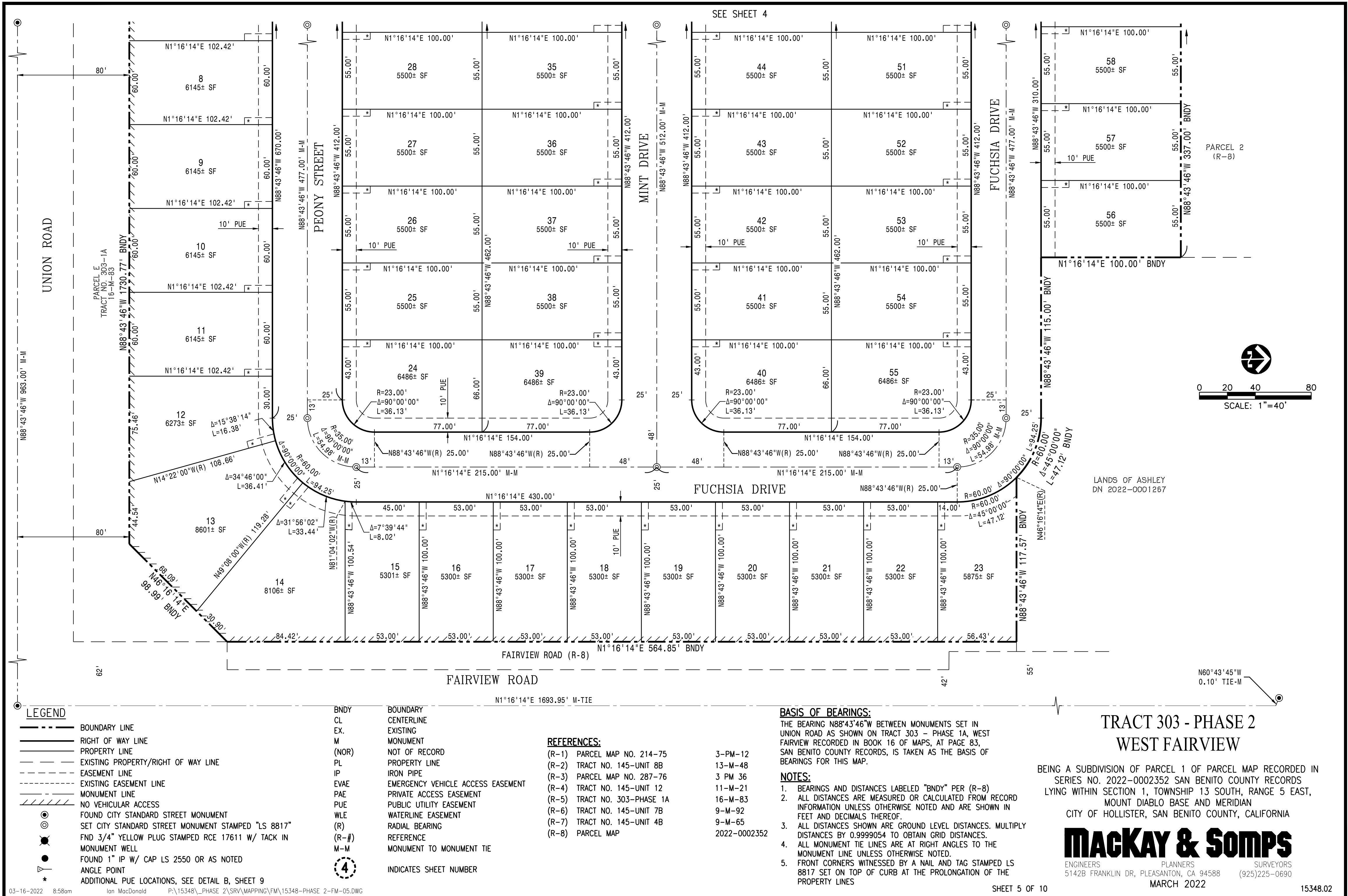
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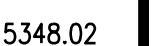
MACKEY & SOMPS

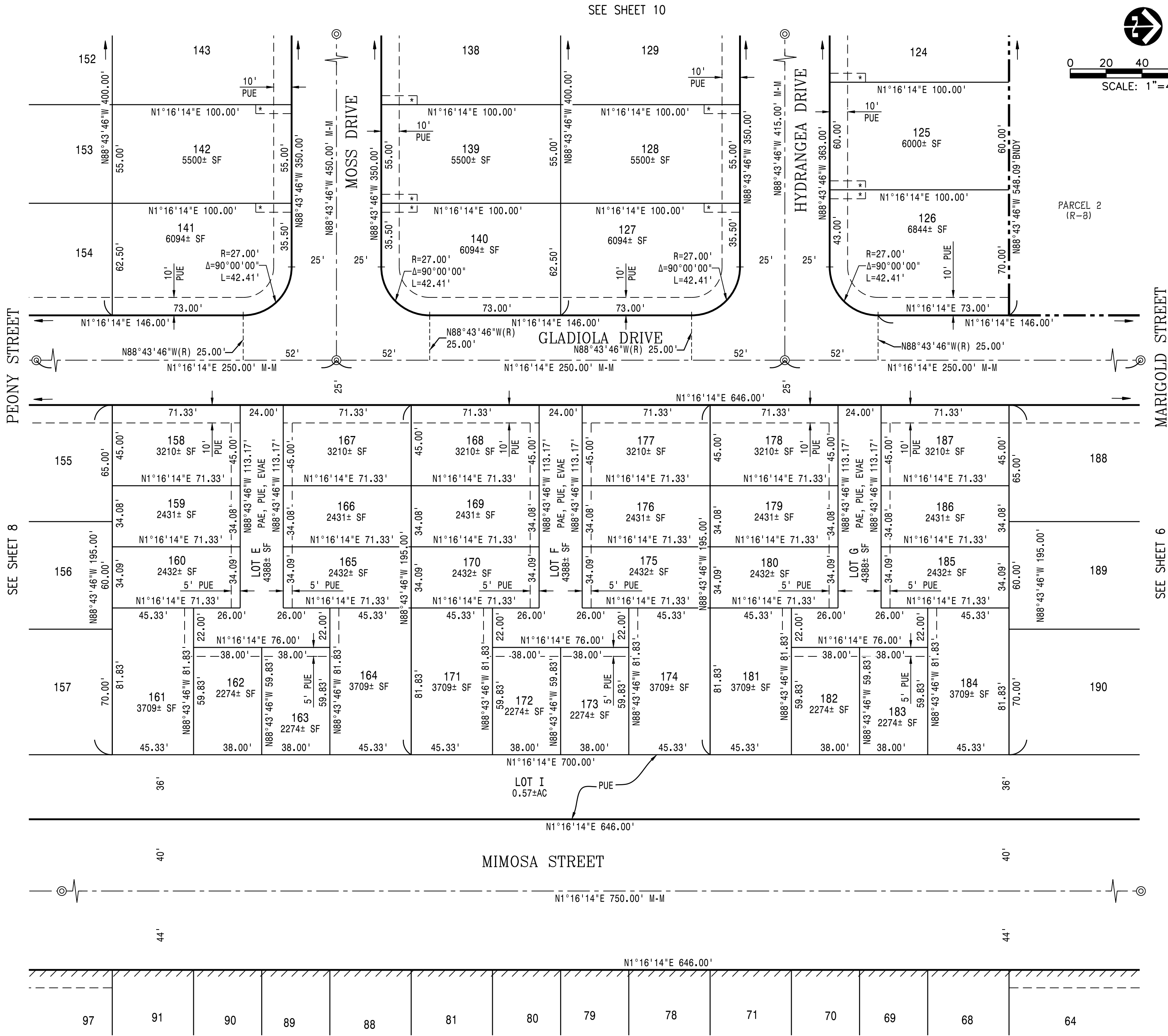
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MARCH 2022











LEGEND

--- BOUNDARY LINE
--- RIGHT OF WAY LINE
--- PROPERTY LINE
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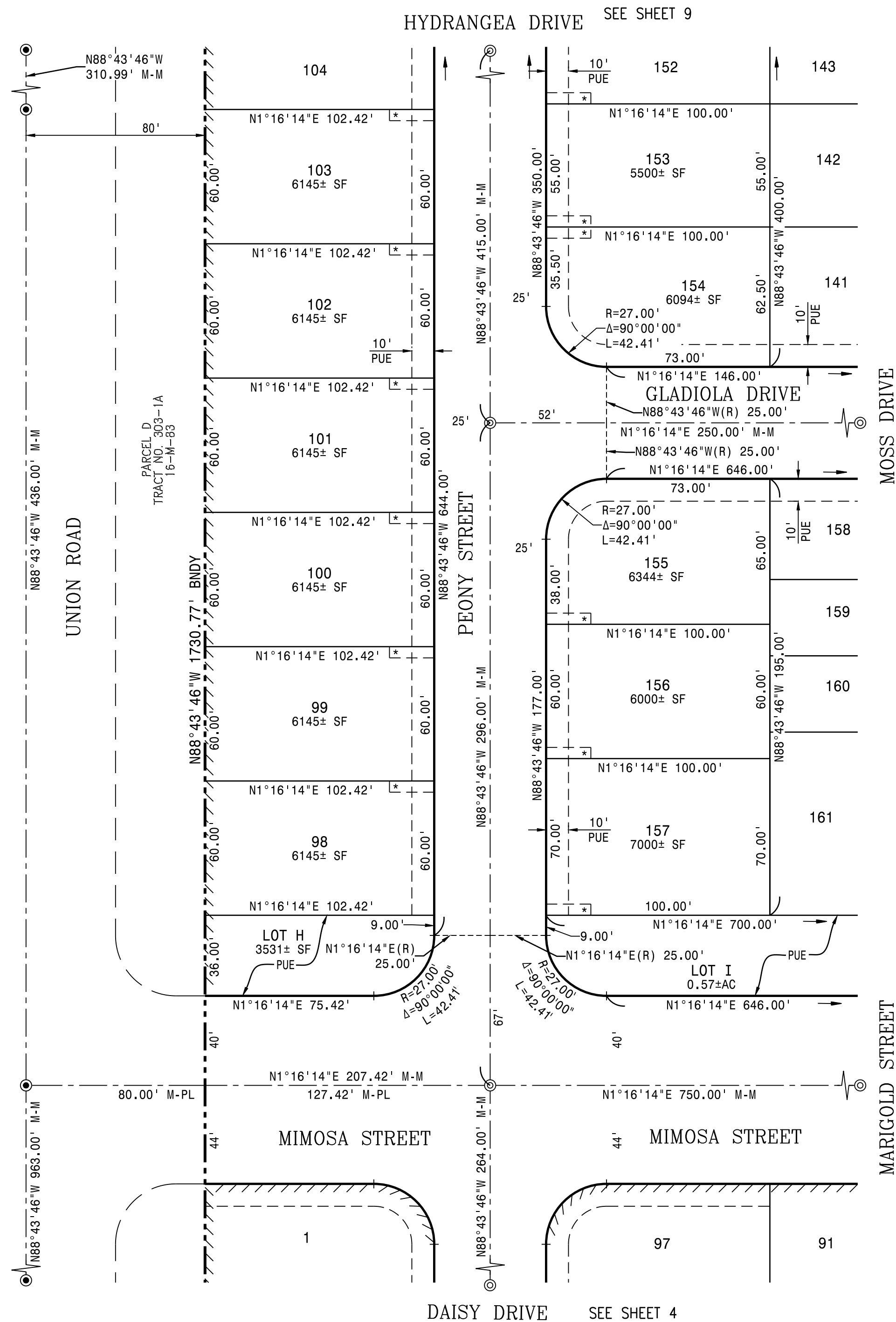
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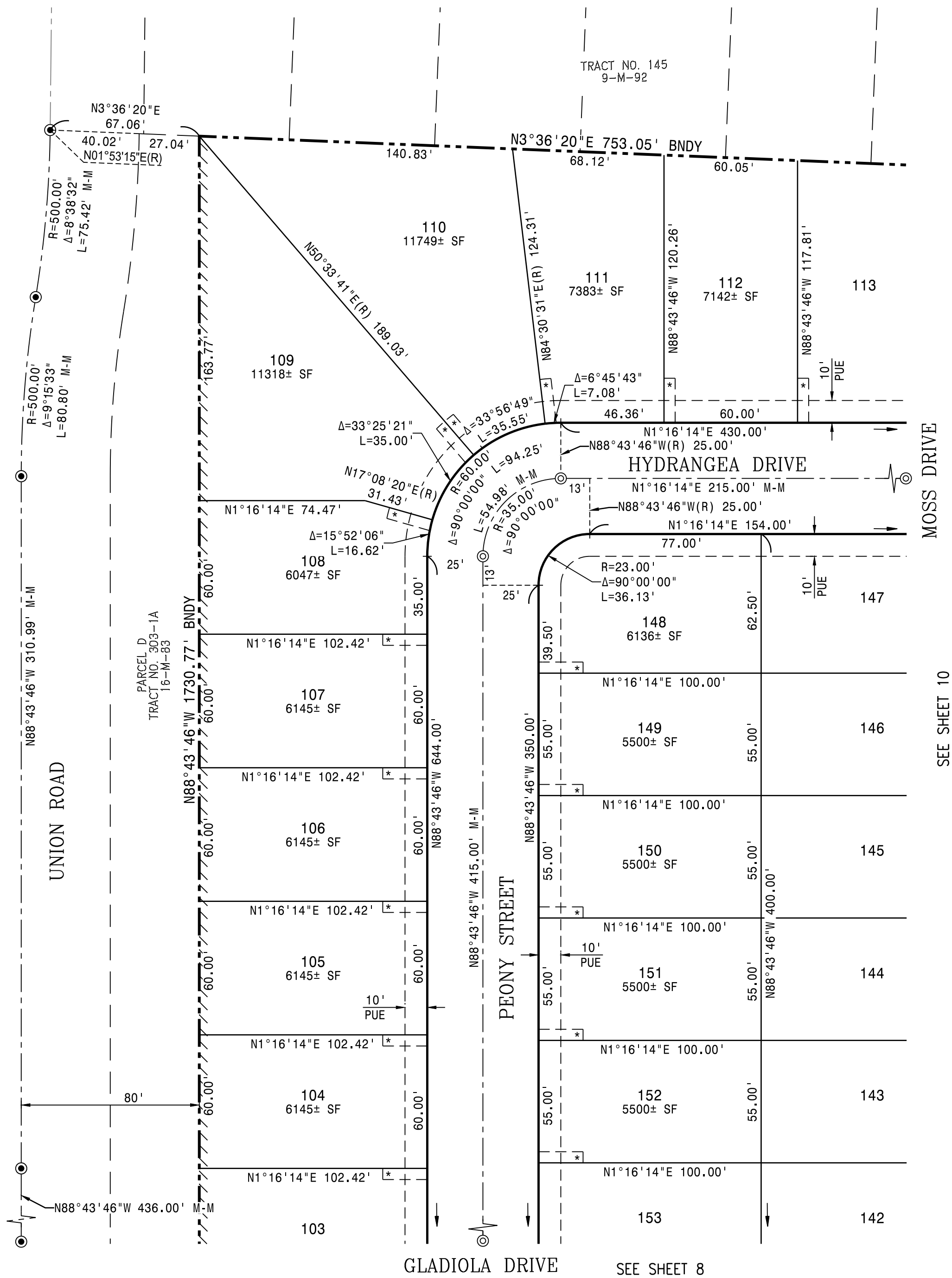
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MARCH 2022

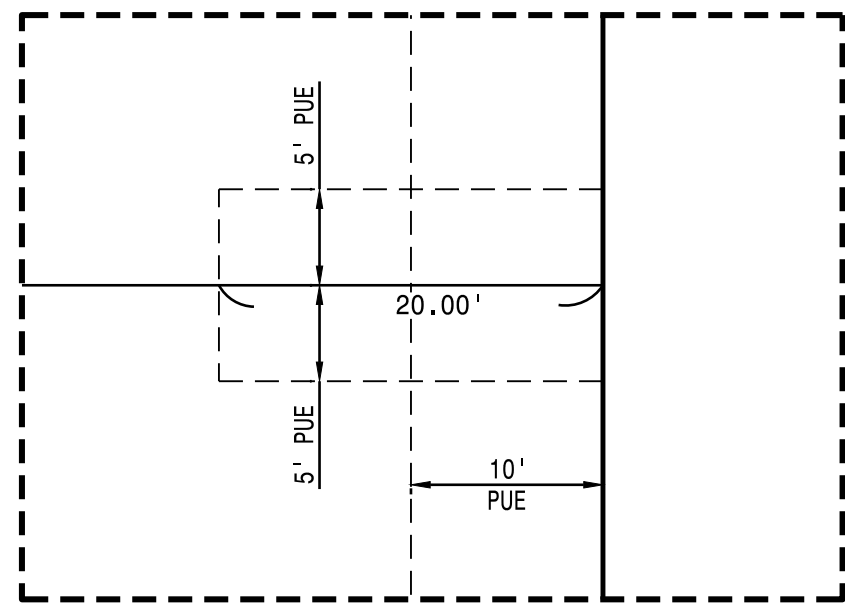




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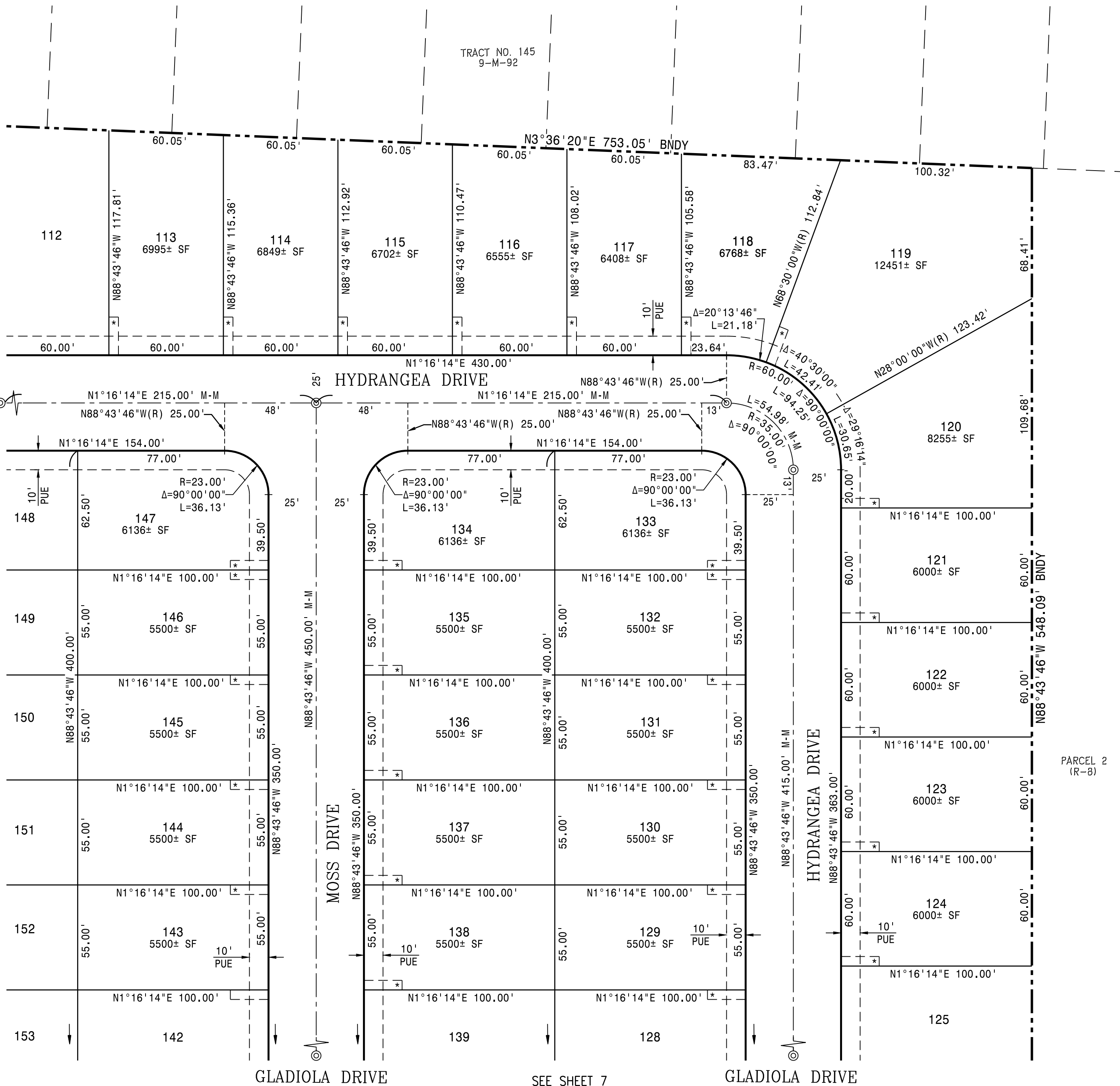
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Mackay & Somps

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MARCH 2022

LILY STREET

SEE SHEET 9



LEGEND

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TRACT 303 - PHASE 2 WEST FAIRVIEW

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Mackay & Somps

ENGINEERS PLANNERS SURVEYORS
5142B FRANKLIN DR, PLEASANTON, CA 94588 (925)225-0690
MARCH 2022



City of Hollister Development Services

339 Fifth Street, Hollister, CA. 95023 • **Telephone** (831) 636-4360 • **Fax** (831) 634-4913

Wednesday August 24, 2022

To: Charlie Hazelbaker
KB Home, South Bay
500 Executive Parkway Suite 125
San Ramon, CA 94583

From: Erica Fraser, AICP
Development Services Department – Planning Division
City of Hollister
375 Fifth Street
Hollister, California 95023

RE: S&A 2022-7 – Site and Architectural Review for the Cluster Lots in the West of Fairview Specific Plan Area - Tract 303, Phase 2

Dear Mr. Hazelbaker,

The City of Hollister has reviewed your application for a Site and Architectural Review of 60 small lot homes (commonly referred to as “cluster lots”) in the West of Fairview Specific Plan Area.

A preliminary review of the application and plans indicates that pursuant to §65943(a) of the Government Code, the application is incomplete for processing. Please note that because several items were missing from your submittal that additional items may be required upon review of your next submittal. The following items are required, in accordance with the Municipal Code and the City of Hollister’s Site Plan Guidelines and Requirements in order for your application to be considered complete for processing:

1. Plan Sets

- A total of 6 sets of plans must be submitted. Each plan set shall have the elevations, typical lot layout and location of the phase in the West of Fairview Specific Plan Area.

At this time, Staff is unable to proceed with the project as proposed because the development does not conform to the West of Fairview Specific Plan. In order to continue processing your project, you must choose from one of the two following options. Once applied for and upon submittal of the above materials, Staff will be able to schedule your project for the earliest available Planning Commission Public Hearing.

1. **Option1 – Specific Plan Amendment.** This option would require the submittal of an Application Form with the requested modification to the West of Fairview Specific Plan and an Application Fee of \$12,992.50. Staff would then bring the request for an Amendment to the Planning Commission for review and recommendation on the request to the City Council. The City Council would make the final decision on the proposed Amendment.
2. **Option 2 – Application for a Planned Unit Development.** This option would require an Application Form with the request for a Planned Unit Development and an Application Fee of \$8,899.39. All submittal requirements listed in Section 17.24.240, Planned Development Permits, would need to accompany the Application and Fee. This option would require review and approval by the Planning Commission.

This letter serves as notice that the above project has been deemed incomplete in accordance with the provisions of Chapter 4.5 Section 65943 of the Planning and Zoning Law of the State of California. If you have any questions, please contact me by email at efraser@4leafinc.com or by phone at (925) 918-2822.

The City of Hollister Planning Division is located at 339 Fifth Street in Hollister. Our regular hours of operation are Monday through Thursday, 8:30 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m., closed Fridays. Thank you.

Sincerely,

Erica Fraser, AICP
Development Services Department – Planning Division

CC: Jennifer Thompson, City Attorney
Adriana Ortiz, Acting Planning Director
Eva Kelly, Interim Planning Manager

Erica Fraser

From: Erica Fraser
Sent: Tuesday, September 6, 2022 12:17 PM
To: Brett Miller; Lezak, Peter; Margo Bradish (mbradish@coxcastle.com); MacDonald, Michael; Hazelbaker, Charles; Jennifer P. Thompson; Mary F. Lerner
Cc: Eva Kelly; Adrianna Ortiz
Subject: Path Forward for KB

Hello All –

Staff discussed the proposed alternative for a Density Bonus after our meeting at 10:30 today. We wanted to provide this email as a follow-up to our discussion. After our meeting, Staff came up with an additional option for your consideration (listed as option 1 below, which we believe will save everyone time and is the cleanest option for the Developer, Staff, the Planning Commission and future homeowners). Option 2 is the density bonus request we discussed in the meeting.

Option 1- Staff will move forward with a Planned Unit Development initiated by Staff and not the developer and will waive the application fees and submittal requirements. We would then prepare all necessary items and bring you to the October Planning Commission meeting where we will recommend approval. Both the S&A and PUD are discretionary approvals.

Option 2- Density Bonus. Per your request, Staff will review the Development Agreement and Amendments, Density Bonus Law, the City's Density Bonus Ordinance and the current Site and Architectural Review application to identify a list of items the City will need from you in order to process a Density Bonus Application. Requires Planning Commission review (The Density Bonus Application would go alongside the S&A request). Date for Planning Commission unknown.

Option 3 – Specific Plan Amendment. Requires City Council approval.

Option 4 – Applicant applies for a PUD. Requires Planning Commission review and can be scheduled for the October Planning Commission upon receipt of the Application and Application Fee.

Option 5 – Revise plans to comply with the setbacks and all requirements of the Hollister Municipal Code to allow the S&A to move forward without any additional entitlement needs. Requires Planning Commission review. Date for Planning Commission unknown.

Staff is working on the list of items needed for option 2, however if you would rather move forward with a different option please let us know.

Please let me know if you have any further questions.

Erica

Erica Fraser

From: Erica Fraser
Sent: Thursday, October 6, 2022 1:34 PM
To: Hazelbaker, Charles; Brett Miller; Lezak, Peter; Margo Bradish (mbradish@coxcastle.com); MacDonald, Michael; Jennifer P. Thompson; Mary F. Lerner; MacDonald, Michael; Purvis, James M.
Cc: Eva Kelly; Adrianna Ortiz
Subject: RE: Path Forward for KB

Charlie –

I am sending this email because I haven't received a response to my email yesterday.

The letter received from KB regarding the appeal (dated September 29) does not specifically rescind your appeal. It does ask us to look into a Density Bonus for the project, an option provided by Staff in an email prior to the filing of the appeal. As noted in my email to you yesterday, because KB filed an appeal of Staff's letter of incompleteness all work on your project was directed to the preparation of the appeal.

In your email to Staff on Tuesday October 4, you asked if KB would still be at the October Planning Commission meeting. This is unlikely due to the fact that Staff needs to review the request for a Density Bonus for its applicability to State Law, review the DA to make sure the requirements for affordable housing complies with State Law for Density Bonus and to obtain any necessary information to deem the Density Bonus request complete. Staff has 30 days to deem the application complete. Because this option requires a significant amount of work and because Staff is unsure if the 33 affordable units required as part of the entire Awards Homes (679 residential dwelling units) project pursuant to the DA to extend the DA meets the requirements of the State Density Bonus Law, we would be unable to bring this matter to the Planning Commission in October. Additionally, the letter does not specifically state that you wish to withdraw your appeal. We need written confirmation that you want to withdraw the appeal or we will take the appeal forward to the Planning Commission.

Staff would like to see this project move forward. In an effort to assist KB with a timely processing of the project, Staff has outlined the following 3 scenarios for project review at this point. Notices must go to the newspaper tomorrow before noon.

Scenario 1 – Move forward with the Appeal. Staff will bring the appeal to the Planning Commission for a determination on how to move forward. The Planning Commission will have several options including 1- bring the matter to the next hearing for approval under S&A (with no further application required) 2 – require a second permit (Specific Plan Amendment or Planned Development) 3 – Direct Staff to review a Density Bonus and determine if the request complies with State Law or 4 – Recommend the appeal be heard by the City Council. No actual decision on whether to approve or deny your project will be made at this meeting. Rather the discussion will be in regards to the appeal only and how to move forward.

Scenario 2 – Formally rescind your appeal in writing. Continue forward with a Density Bonus Review. Staff will begin working on the request with completeness and review conducted pursuant to the Permit Streamlining Act. Staff will then notify you in writing if the proposal complies with State Law. Staff has 30 days to review for completeness. A complete review cannot be conducted in one day. Therefore, you would not be on the October Planning Commission Agenda.

Scenario 3 – Formally rescind your appeal in writing and request that the City process your S&A with a Planned Development Permit at no charge. No other information will be required and Staff has adequate time to prepare the necessary documents and place you on the October meeting where we will recommend approval of the S&A and the

Conditional Use Permit for a Planned Development. Any action of the Planning Commission may be appealed to the City Council.

Notices for the October Planning Commission must go to the newspaper before noon tomorrow. The notice must clearly indicate what we are reviewing at the Planning Commission meeting. If you would like to select one of the scenarios Staff has outlined please let me know no later than 11:30 AM tomorrow. If we do not hear from you by that time, Staff will select scenario 1 because the appeal has not been withdrawn.

If you have any questions please let me know.

From: Erica Fraser

Sent: Wednesday, October 5, 2022 4:18 PM

To: 'Hazelbaker, Charles' <chazelbaker@kbhome.com>; Brett Miller <brett.miller@hollister.ca.gov>; Lezak, Peter <plezak@kbhome.com>; Margo Bradish (mbradish@coxcastle.com) <mbradish@coxcastle.com>; MacDonald, Michael <mmacdonald@kbhome.com>; Jennifer P. Thompson <jthompson@lozanosmith.com>; Mary F. Lerner <mlerner@lozanosmith.com>; MacDonald, Michael <mmacdonald@kbhome.com>; Purvis, James M. <jpurvis@coxcastle.com>

Cc: Eva Kelly <eva.kelly@hollister.ca.gov>; Adrianna Ortiz <aortiz.4leaf@hollister.ca.gov>

Subject: RE: Path Forward for KB

Hi Charlie –

When the appeal was filed, Staff work was directed towards the appeal of the necessary Planning Commission plan sets needed for their packet and Staff's determination that an additional permit was necessary to recommend approval of the project. Work on any of the options Staff presented was halted once the appeal was filed.

A letter was submitted on Thursday September 29th indicating that KB wanted to move forward with a Density Bonus. The letter does not specifically state that you are withdrawing your appeal. Before we can move forward, we need to know if KB is withdrawing their appeal or not. That will help us determine how to proceed.

Erica

From: Hazelbaker, Charles <chazelbaker@kbhome.com>

Sent: Tuesday, October 4, 2022 3:44 PM

To: Erica Fraser <efraser@4leafinc.com>; Brett Miller <brett.miller@hollister.ca.gov>; Lezak, Peter <plezak@kbhome.com>; Margo Bradish (mbradish@coxcastle.com) <mbradish@coxcastle.com>; MacDonald, Michael <mmacdonald@kbhome.com>; Jennifer P. Thompson <jthompson@lozanosmith.com>; Mary F. Lerner <mlerner@lozanosmith.com>; MacDonald, Michael <mmacdonald@kbhome.com>; Purvis, James M. <jpurvis@coxcastle.com>

Cc: Eva Kelly <eva.kelly@hollister.ca.gov>; Adrianna Ortiz <aortiz.4leaf@hollister.ca.gov>

Subject: RE: Path Forward for KB

Good Afternoon Erica,

I am just checking in to see where the City is in the process. Do you have everything you need to process the density bonus? Are we still on track to go to Planning Commission on 10/27? We have not heard from Planning in weeks, please let me know if there is anything you need from me to keep this moving.

Thanks,

Charlie



#1 Customer-
Ranked
National
Homebuilder

Built on
Relationships

From: Erica Fraser <efraser@4leafinc.com>

Sent: Tuesday, September 6, 2022 12:17 PM

To: Brett Miller <brett.miller@hollister.ca.gov>; Lezak, Peter <plezak@kbhome.com>; Margo Bradish <mbradish@coxcastle.com> <mbradish@coxcastle.com>; MacDonald, Michael <mmacdonald@kbhome.com>; Hazelbaker, Charles <chazelbaker@kbhome.com>; Jennifer P. Thompson <jthompson@lozanosmith.com>; Mary F. Lerner <mlerner@lozanosmith.com>

Cc: Eva Kelly <eva.kelly@hollister.ca.gov>; Adrianna Ortiz <aortiz.4leaf@hollister.ca.gov>

Subject: Path Forward for KB

EXTERNAL EMAIL: Do not click links or open attachments unless you recognize the source of the email.

Hello All –

Staff discussed the proposed alternative for a Density Bonus after our meeting at 10:30 today. We wanted to provide this email as a follow-up to our discussion. After our meeting, Staff came up with an additional option for your consideration (listed as option 1 below, which we believe will save everyone time and is the cleanest option for the Developer, Staff, the Planning Commission and future homeowners). Option 2 is the density bonus request we discussed in the meeting.

Option 1- Staff will move forward with a Planned Unit Development initiated by Staff and not the developer and will waive the application fees and submittal requirements. We would then prepare all necessary items and bring you to the October Planning Commission meeting where we will recommend approval. Both the S&A and PUD are discretionary approvals.

Option 2- Density Bonus. Per your request, Staff will review the Development Agreement and Amendments, Density Bonus Law, the City's Density Bonus Ordinance and the current Site and Architectural Review application to identify a list of items the City will need from you in order to process a Density Bonus Application. Requires Planning Commission review (The Density Bonus Application would go alongside the S&A request). Date for Planning Commission unknown.

Option 3 – Specific Plan Amendment. Requires City Council approval.

Option 4 – Applicant applies for a PUD. Requires Planning Commission review and can be scheduled for the October Planning Commission upon receipt of the Application and Application Fee.

Option 5 – Revise plans to comply with the setbacks and all requirements of the Hollister Municipal Code to allow the S&A to move forward without any additional entitlement needs. Requires Planning Commission review. Date for Planning Commission unknown.

Staff is working on the list of items needed for option 2, however if you would rather move forward with a different option please let us know.

Please let me know if you have any further questions.

Erica

6.3 DEVELOPMENT STANDARDS

The following are the minimum development standards required for development within the Plan area. As described previously in this Section, residential areas may contain a variety of housing types and densities, with the exception of lands designated for large lots. However, an overall maximum density for the project of 5.4 units per gross acre may not be exceeded.

Large single family lot of a minimum 20,000 square feet (see Figure 6.12.):

Setbacks*: Front yard - 18 feet minimum**, 20' feet average
 Rear yard - 20 feet minimum
 Side yard - 10 feet minimum

Site Coverage: 40 percent maximum

Height Limitations: 30 feet maximum

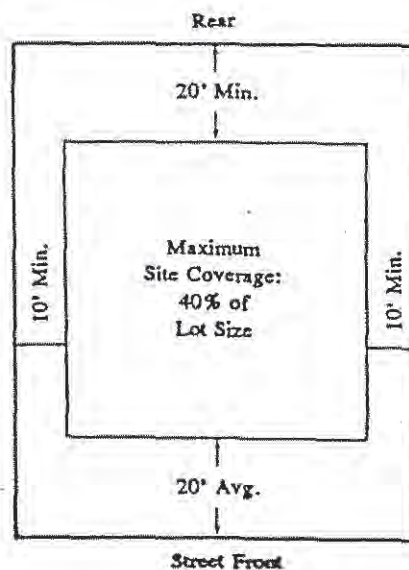
Parking Requirements: 2 car garage minimum
 3 car garage maximum

* For corner lots, the sideyard with roadway frontage shall have a minimum setback of 15 feet.

** Articulated garage doors required.

FIGURE 6.12

Large Single-Family Lot



Standard single family lot of a minimum 6,000 square feet (see Figure 6.13.):

Setbacks*: Front yard - 18 feet minimum**, 20' feet average
Rear yard - 15 feet minimum
Side yard - 6 feet minimum or 10% of lot width; but in no case less than 4 feet.

Site Coverage: 40 percent maximum

Height Limitations: 30 feet maximum

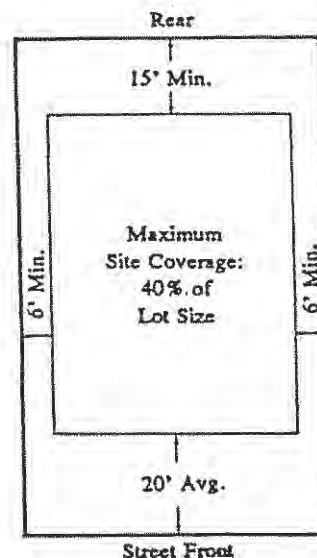
Parking Requirements: 2 car garage

* For corner lots, the sideyard with roadway frontage shall have a minimum setback of 10 feet.

** Articulated garage doors required.

FIGURE 6.13

Standard Single-Family Lot



Small single family lot of a minimum 4,000 square feet (see Figure 6.14.):

Setbacks*: Front yard - 15 feet minimum to structure
20 feet minimum to garage
Rear yard - 15 feet minimum
Side yard - 4 feet minimum

Site Coverage: 50 percent maximum

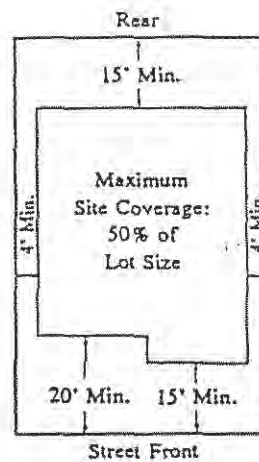
Height Limitations: 30 feet maximum

Parking Requirements: 1 car garage
1 uncovered space

* For corner lots, the sideyard with roadway frontage shall have a minimum setback of 10 feet.

FIGURE 6.14

Small Single-Family Lot



Zero lot line single family lot of a minimum 4,000 square feet (see Figure 6.15.):

Setbacks*: Front yard - 15 feet minimum to structure
20 feet minimum to garage
Rear yard - 15 feet minimum
Side yard - 8 feet minimum

Site Coverage: 50 percent maximum

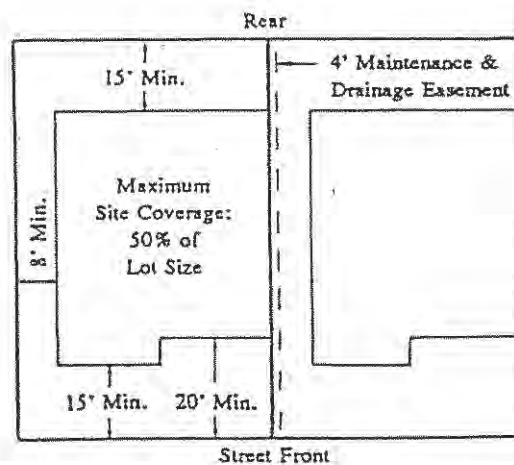
Height Limitations: 30 feet maximum

Parking Requirements: 1 car garage
1 uncovered space

For corner lots, the sideyard with roadway frontage shall have a minimum setback of 10 feet.

FIGURE 6.15

Zero Lot Line Single-Family Lot



Duette lot of a minimum 7,000 square feet (see Figure 6.16.):

Setbacks*: Front yard - 15 feet minimum to structure
20 feet minimum to garage
Rear yard - 15 feet minimum
Side yard - 6 feet minimum

Site Coverage: 25 percent maximum per dwelling unit

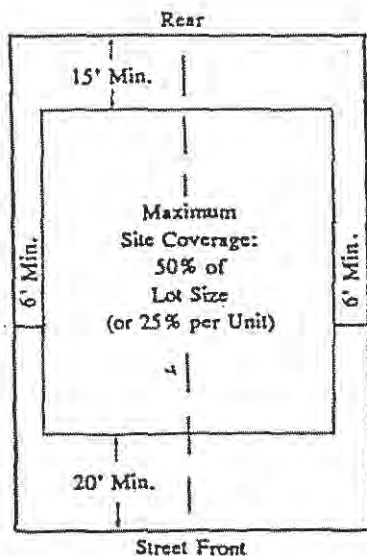
Height Limitations: 30 feet maximum

Parking Requirements: 1 car garage per dwelling unit
1 uncovered space per dwelling unit

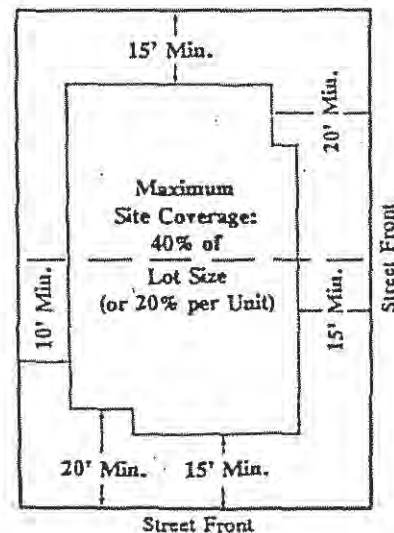
* For corner lots, the sideyard with roadway frontage shall have a minimum setback of 10 feet.

FIGURE 6.16

Duette Lot



STANDARD LOT



CORNER LOT

Senior and Multiple Family Housing

Development of senior and multi-family housing shall adhere to the guidelines set forth by the City of Hollister Zoning Ordinance, Section 24: Low Density Multiple Residence District, R3 District. Standards set forth in that Ordinance include the following:

- | | | |
|------------------------------|------------|--|
| Setbacks: | Front yard | - 15 feet minimum to structure
20 feet minimum to garage |
| | Rear yard | - 15 feet minimum * |
| | Side yard | - 6 feet or 10 percent of the lot width if that be less; but in no case shall it be less than 4 feet; provided that the side yard on the street side of a corner lot which is adjacent to a key lot shall have a width not less than half the depth of the front yard required on such key lot up to a maximum requirement of 10 feet for such side yard.* |
| Site Coverage: | | 50 percent maximum |
| Height Limitations: | | 30 feet maximum |
| Parking Requirements: | | 2 spaces per dwelling unit for the first 4 units and 1 - 1/2 space for each additional unit |

* Except as otherwise specified for dwelling groups as defined by the City of Hollister Zoning Ordinance, Section 24.8 - Low Density Multiple Residence District, R-3 District.

Erica Fraser

From: Erica Fraser <efraser@4leafinc.com>
Sent: Wednesday, October 19, 2022 9:53 AM
To: Erica Fraser
Subject: Fwd: Submitted

Begin forwarded message:

From: Erica Fraser <efraser@4leafinc.com>
Date: July 20, 2022 at 10:35:15 AM PDT
To: Charles Hazelbaker <chazelbaker@kbhome.com>
Subject: Submitted

Charlie -

I am in a place with limited phone access. I was waiting for the city attorney to respond on letting you submit, but go ahead and submit with an email or letter to me stating that you are apply for the site and ash at your own risk while we continue discussion on the specific plan amendment and that you acknowledge that if one is required we will not bring you to the planning commission until the fee is paid.

You can email me your plans and application form and just drop off or mail the check.

I will route for department review once the check is submitted.

Erica



CITY OF HOLLISTER PLANNING DIVISION

S&A : WOF Cluster Lots, KB Homes / Christine Hazelbaker

Date Prepared
7/20/2022

Project/Applicant Name
S&A 2022-7 - WOF Cluster Lots - KB Homes - MTUP Fee Estimate

TOTAL AMOUNT OWED	
\$	13,412.76

ADDITIONAL INFORMATION	
Number of Residential Units	60

SUMMARY OF APPLICATION	
Residential Site & Architectural Review	

PLANNING APPLICATION FEES		
101-1000-440039	SITE & ARCHITECTURAL REVIEW	\$ 12,056.55
101-1000-440148	PUBLIC NOTICING	\$ 420.44
101-1000-440094	GENERAL PLAN UPDATE	\$ 436.69
101-1000-440058	TECHNOLOGY FEE	\$ 499.08

Erica

City of Hollister
REC#: R00821846 7/25/2022 11:20 AM
TRAN: 12.00 PLANNING FEES
OPER: DVS Front Counter TERM: 26
TKBY: DVS Front Register
=====

S&A 2022-7_WOF Clusters_KB Home
13412.7
101-1000-440039 - SITE & ARCHITECT
DVLPM
101-1000-440039 - 12056.55
101-1000-440058 - Technology Fee
499.08
101-1000-440058 - 499.08
101-1000-440094 - GENERAL PLAN UPDATE
4
101-1000-440094 - 436.69
101-1000-440148 - PUBLIC NOTICING
420.4
101-1000-440148 - 420.44

Paid By: S&A 2022-7_WOF Clusters_KB Home
2-CK 13412.76 REF: 02301924

APPLIED 13412.76
TENDERED 13412.76
CHANGE 0.00

Erica Fraser

From: Hazelbaker, Charles
Sent: Thursday, March 3, 2022 11:08 AM
To: Eva Kelly
Cc: planning@hollister.ca.gov; abraham.prado@hollister.ca.gov; Lezak, Peter
Subject: West Of Fairview Design Review

Importance: High

Good morning Eva,

KB is moving forward with the portion of West of Fairview that we recently discussed. Per that discussion, we need to submit plans to the City for Design Review and more importantly to establish reasonable setbacks and lot coverages for the Courtyard/Motorcourt product. What is the best way to make that submittal? Is there an actual application?

My plan is to get the setbacks and lot coverages designed first, while the architect is working on the full package, and get that information in to you ASAP. That will give you and Staff some time to look at exactly what we are proposing. Then, a couple weeks later, the full package will be complete and we can hopefully go to PC.

Please let me know what you think or if you would like to go about this a different way. My goal is to get some sort of feedback before the Final Map is ready to go to Council.

Thanks,

Charlie Hazelbaker
Senior Forward Planning Manager
(209) 345-6836

PLANNING COMMISSION RESOLUTION NO. 2022-XX

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HOLLISTER DENYING THE
APPEAL AND UPHOLDING THE DECISION OF THE DIRECTOR OF DEVELOPMENT SERVICES
DIRECTOR DEEMING THE APPLICATION FOR SITE AND ARCHITECTURAL REVIEW 2022-7
INCOMPLETE AND DIRECTING THE APPLICANT TO _____ FOR THE KB CLUSTER LOT
DEVELOPMENT LOCATED IN THE
WEST OF FAIRVIEW SPECIFIC PLAN AREA**

WHEREAS, the Applicant, KB Homes has applied for a Site and Architectural Review for the construction of 60 detached single family dwelling units (commonly referred to as the “cluster lots”) located within Tract 303, Phase II of Tentative Map 2005-1 in the West of Fairview Specific Plan Area; and

WHEREAS, on August 24, 2022, the Planning Department sent a letter to KB Homes stating that the Application for a Site and Architectural Review (S&A 2022-7) was incomplete; and

WHEREAS, in the letter dated August 24, 2022, the Planning Department determined that a secondary permit was required in order to approve the residential development as proposed because the proposed residential development does not meet the requirements of the West of Fairview Specific Plan and Section 17.04.060, Residential, West Fairview Road (RWF) standards, of the Hollister Municipal Code; and

WHEREAS, on September 8, 2022, the Applicant filed an Appeal of the Development Services Director’s determination that the Application was incomplete and that a secondary permit was required in order to approve the project as proposed; and

WHEREAS, under the provisions of Section 17.24.140 of the Hollister Municipal Code, the Planning Commission actions of the Director may be appealed to the Planning Commission; and

WHEREAS, the Planning Commission held a duly noticed public hearing on October 27, 2022 to consider the Applicant’s Appeal, review the City Staff report, and receive written and oral testimony for an against the proposal; and

NOW THEREFORE BE IT RESOLVED that the Planning Commission of the City of Hollister does hereby make the following findings and determinations regarding the Appeal:

A. The Planning Commission denies the Appeal on the basis that the Application was not deemed incomplete in a timely manner because:

1. Office Hours are posted on the City's website and the door to the Planning Department. These hours clearly state that the Planning Department is closed on Friday and does not accept Applications during non business hours. A check was mailed and could not be received by the Planning Department until normal business hours on Monday July 25, 2022. An Application is not complete and ready for processing by the City until an Application Form, Project Plans and a Fee is received by the City. Once the Fee was received, the Planning Department entered the project into our system, assigned a project file number and routed the project for review by the City's Design Review Committee.
2. A letter was then emailed to KB on August 24, 2022 indicating that the project was not complete because the City needed six additional (physical) plan sets to include with the Planning Commissioner packets. This letter was transmitted within 30 days of the Planning Commission receiving the check from KB, on July 25, 2022, and beginning the intake of the Application.

B. The Planning Commission denies the Appeal on the Applicant's contention that the Application is consistent with the West of Fairview Specific Plan and the Municipal Code and therefore should not require a secondary permit in order to approve the residential development as proposed because:

1. The Applicant has proposed development standards which do not conform to the development standards for any unit type within the West of Fairview Specific Plan.
2. The Applicant has proposed development standards which do not conform to the requirements of Section 17.04.060, Residential, West Fairview Road (RWF) standards, of the Hollister Municipal Code.
3. Because the development standards, as proposed, conflict with the requirements of the West of Fairview Specific Plan and the Municipal Code, the Planning Commission would not be able to make the required findings for approval of the project as proposed.

4. The Municipal Code allows for a pathway for an Applicant to apply for a Specific Plan Amendment (Section 17.24.270) or a Planned Development Permit (Section 17.24.240) which could allow the City to make the findings that the project is consistent with all established requirements.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Hollister hereby denies the Appeal of the Director of Development Services determination that the Application for S&A 2022-7 is incomplete and that a secondary permit is required and directs the Applicant to _____.

PLANNING COMMISSION RESOLUTION NO. 2022-XX

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HOLLISTER GRANTING THE
APPEAL AND DETERMINING THAT THE APPLICATION FOR SITE AND ARCHITECTURAL REVIEW
FOR THE KB CLUSTER LOT DEVELOPMENT LOCATED IN THE
WEST OF FAIRVIEW SPECIFIC PLAN AREA IS COMPLETE AND THAT NO ADDITIONAL PERMITS
WILL BE REQUIRED FOR THE REVIEW OF THE PROJECT**

WHEREAS, the Applicant, KB Homes has applied for a Site and Architectural Review for the construction of 60 detached single family dwelling units (commonly referred to as the “cluster lots”) located within Tract 303, Phase II of Tentative Map 2005-1 in the West of Fairview Specific Plan Area; and

WHEREAS, on August 24, 2022, the Planning Department sent a letter to KB Homes stating that the Application for a Site and Architectural Review (S&A 2022-7) was incomplete; and

WHEREAS, in the letter dated August 24, 2022, the Planning Department determined that a secondary permit was required in order to approve the residential development as proposed because the proposed residential development does not meet the requirements of the West of Fairview Specific Plan and Section 17.04.060, Residential, West Fairview Road (RWF) standards, of the Hollister Municipal Code; and

WHEREAS, on September 8, 2022, the Applicant filed an Appeal of the Development Services Director’s determination that the Application was incomplete and that a secondary permit was required in order to approve the project as proposed; and

WHEREAS, under the provisions of Section 17.24.140 of the Hollister Municipal Code, the Planning Commission actions of the Director may be appealed to the Planning Commission; and

WHEREAS, the Planning Commission held a duly noticed public hearing on October 27, 2022 to consider the Applicant’s Appeal, review the City Staff report, and receive written and oral testimony for an against the proposal; and

NOW THEREFORE BE IT RESOLVED that the Planning Commission of the City of Hollister does hereby make the following findings and determinations regarding the Appeal:

A. The Planning Commission grants the Appeal because the Application was not deemed incomplete in a timely manner because:

1. _____

B. The Planning Commission grants the Appeal because the Application is consistent with the West of Fairview Specific Plan and the Municipal Code and therefore should not require a secondary permit because:

1. _____

BE IT FURTHER RESOLVED that the Planning Commission of the City of Hollister hereby grants the Appeal of the Director of Development Services determination that the Application for S&A 2022-7 is incomplete and that a secondary permit is required and directs the Planning Department to bring a Site and Architectural Review for review by the Planning Commission and that the Planning Commission will prepare the findings related to this project during the Planning Commission Public Hearing.