



City of Sebastopol

Planning Department
 7120 Bodega Avenue
 Sebastopol, CA 95472
 (707) 823-6167

MASTER PLANNING APPLICATION FORM

APPLICATION TYPE

- | | | |
|--|---|---|
| <input type="checkbox"/> Administrative Permit Review | <input type="checkbox"/> Lot Line Adjustment/Merger | <input type="checkbox"/> Temporary Use Permit |
| <input type="checkbox"/> Alcohol Use Permit/ABC Transfer | <input type="checkbox"/> Preapplication Conference | <input type="checkbox"/> Tree Removal Permit |
| <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Preliminary Review | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Design Review | <input type="checkbox"/> Sign Permit | <input type="checkbox"/> Other _____ |

This application includes the checklist(s) or supplement form(s) for the type of permit requested: Yes No

REVIEW/HEARING BODIES

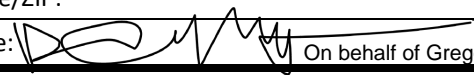
- Staff/Admin Design Review/Tree Board Planning Commission City Council Other _____

APPLICATION FOR

Street Address: _____ Assessor's Parcel No(s): _____
 Present Use of Property: _____ Zoning/General Plan Designation: _____

APPLICANT INFORMATION

Property Owner Name: _____
 Mailing Address: _____ Phone: _____ 408-732-4479 _____
 City/State/ZIP: _____ Email: _____
 Signature: _____ Date: _____

Authorized Agent/Applicant Name: _____
 Mailing Address: _____ Phone: _____
 City/State/ZIP: _____ Email: _____
 Signature:  On behalf of Gregory Beale. Date: 5/13/21

Contact Name (If different from above): _____ Phone/Email: _____

PROJECT DESCRIPTION AND PERMITS REQUESTED (ATTACH ADDITIONAL PAGES IF NECESSARY)

CITY USE ONLY

Fill out upon receipt:	Action:	Action Date:
Application Date: _____	Staff/Admin: _____	Date: _____
Planning File #: _____	Planning Director: _____	Date: _____
Received By: _____	Design Review/Tree Board: _____	Date: _____
Fee(s): \$ _____	Planning Commission: _____	Date: _____
Completeness Date: _____	City Council: _____	Date: _____

SITE DATA TABLE

If an item is not applicable to your project, please indicate "Not Applicable" or "N/A" in the appropriate box; do not leave cells blank.

SITE DATA TABLE	REQUIRED / ZONING STANDARD	EXISTING	PROPOSED
Zoning	N/A		
Use	N/A		
Lot Size			
Square Feet of Building/Structures <i>(if multiple structures include all separately)</i>			
Floor Area Ratio (F.A.R)	_____ FAR	_____ FAR	_____ FAR
Lot Coverage	_____ % of lot	_____ % of lot	_____ % of lot
	_____ sq. ft.	_____ sq. ft.	_____ sq. ft.
Parking			
Building Height			
Number of Stories			
Building Setbacks – Primary			
<i>Front</i>			
<i>Secondary Front Yard (corner lots)</i>			
<i>Side – Interior</i>			
<i>Rear</i>			
Building Setbacks – Accessory			
<i>Front</i>			
<i>Secondary Front Yard (corner lots)</i>			
<i>Side – Interior</i>			
<i>Rear</i>			
Special Setbacks (if applicable)			
<i>Other (_____)</i>			
Number of Residential Units	_____ Dwelling Unit(s)	_____ Dwelling Unit(s)	_____ Dwelling Unit(s)
Residential Density	1 unit per _____ sq. ft.	1 unit per _____ sq. ft.	1 unit per _____ sq. ft.
Useable Open Space	_____ sq. ft.	_____ sq. ft.	_____ sq. ft.
Grading	Grading should be minimized to the extent feasible to reflect existing topography and protect significant site features, including trees.	N/A	Total: _____ cu. yds. Cut: _____ cu. yds. Fill: _____ cu. yds. Off-Haul: _____ cu. yds
Impervious Surface Area	N/A	_____ % of lot	_____ % of lot
		_____ sq. ft.	_____ sq. ft.
Pervious Surface Area	N/A	_____ % of lot	_____ % of lot
		_____ sq. ft.	_____ sq. ft.

CONDITIONS OF APPLICATION

1. All Materials submitted in conjunction with this form shall be considered a part of this application.
2. This application will not be considered filed and processing may not be initiated until the Planning Department determines that the submittal is complete with all necessary information and is "accepted as complete." The City will notify the applicant of all application deficiencies no later than 30 days following application submittal.
3. The property owner authorizes the listed authorized agent(s)/contact(s) to appear before the City Council, Planning Commission, Design Review/Tree Board and Planning Director and to file applications, plans, and other information on the owner's behalf.
4. The Owner shall inform the Planning Department in writing of any changes.
5. **INDEMNIFICATION AGREEMENT:** As part of this application, applicant agrees to defend, indemnify, release and hold harmless the City, its agents, officers, attorneys, employees, boards, committees and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of which is to attack, set aside, void or annul the approval of this application or the adoption of the environmental document which accompanies it or otherwise arises out of or in connection with the City's action on this application. This indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the City's action on this application, whether or not there is concurrent passive or active negligence on the part of the City.

If, for any reason, any portion of this indemnification agreement is held to be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect.

NOTE: The purpose of the indemnification agreement is to allow the City to be held harmless in terms of potential legal costs and liabilities in conjunction with permit processing and approval.

6. **REPRODUCTION AND CIRCULATION OF PLANS:** I hereby authorize the Planning Department to reproduce plans and exhibits as necessary for the processing of this application. I understand that this may include circulating copies of the reduced plans for public inspection. Multiple signatures are required when plans are prepared by multiple professionals.
7. **NOTICE OF MAILING:** Email addresses will be used for sending out staff reports and agendas to applicants, their representatives, property owners, and others to be notified.
8. **DEPOSIT ACCOUNT INFORMATION:** Rather than flat fees, some applications require a 'Deposit'. The initial deposit amount is based on typical processing costs. However, each application is different and will experience different costs. The City staff and City consultant time, in addition to other permit processing costs, (i.e., legal advertisements and copying costs are charged against the application deposit). If charges exceed the initial deposit, the applicant will receive billing from the City's Finance department. If at the end of the application process, charges are less than the deposit, the City Finance department will refund the remaining monies. Deposit accounts will be held open for up to 90 days after action or withdrawal for the City to complete any miscellaneous clean up items and to account for all project related costs.
9. **NOTICE OF ORDINANCE/PLAN MODIFICATIONS:** Pursuant to Government Code Section 65945(a), please indicate, by checking the boxes below, if you would like to receive a notice from the City of any proposal to adopt or amend any of the following plans or ordinances if the City determines that the proposal is reasonably related to your request for a development permit:

- | | |
|---|---|
| <input type="checkbox"/> A general plan | <input type="checkbox"/> A specific plan |
| <input type="checkbox"/> An ordinance affecting building permits or grading permits | <input type="checkbox"/> A zoning ordinance |

Certification

I, the undersigned owner of the subject property, have read this application for a development permit and agree with all of the above and certify that the information, drawings and specifications herewith submitted are true and correct to the best of my knowledge and belief and are submitted under penalty of perjury. I hereby grant members of the Planning Commission, Design Review Board and City Staff admittance to the subject property as necessary for processing of the project application.

Property Owner's Signature: _____ **Date:** _____

I, the undersigned applicant, have read this application for a development permit and agree with all of the above and certify that the information, drawings and specifications herewith submitted are true and correct to the best of my knowledge and belief and are submitted under penalty of perjury.

Applicant's Signature:  **Date:** 5/13/21
On behalf of Gregory Beale.

NOTE: It is the responsibility of the applicant and their representatives to be aware of and abide by City laws and policies. City staff, Boards, Commissions, and the City Council will review applications as required by law; however, the applicant has responsibility for determining and following applicable regulations.

Neighbor Notification

In the interest of being a good neighbor, it is highly recommended that you contact those homes or businesses directly adjacent to, or within the area of your project. Please inform them of the proposed project, including construction activity and possible impacts such as noise, traffic interruptions, dust, larger structures, tree removals, etc.

Many projects in Sebastopol are remodel projects which when initiated bring concern to neighboring property owners, residents, and businesses. Construction activities can be disruptive, and additions or new buildings can affect privacy, sunlight, or landscaping. Some of these concerns can be alleviated by neighbor-to-neighbor contacts early in the design and construction process.

It is a "good neighbor policy" to inform your neighbors so that they understand your project. This will enable you to begin your construction with the understanding of your neighbors and will help promote good neighborhood relationships.

Many times, development projects can have an adverse effect on the tranquility of neighborhoods and tarnish relationships along the way. If you should have questions about who to contact or need property owner information in your immediate vicinity, please contact the Building and Safety Department for information at (707) 823-8597, or the Planning Department at (707) 823-6167.

I have informed site neighbors of my proposed project: Yes No

If yes, or if you will inform neighbors in the future, please describe outreach efforts:

The attached letter was sent to the neighbors last August. We then sent them a Christmas card in December. The letters were sent to:
761, 830, 835, 850, 855, 865, & 885 First Street; 810 & 814 Jewell Ave; and 7480 Hayden Ave.

We received email from Paul & Laurie Olson of 810 Jewell Ave; Jerry Threet & Seth Ubogy of 885 First Street, Delora & Robert Porter of 850 First Street; and Judy & Steve Fabian of 855 First Street.

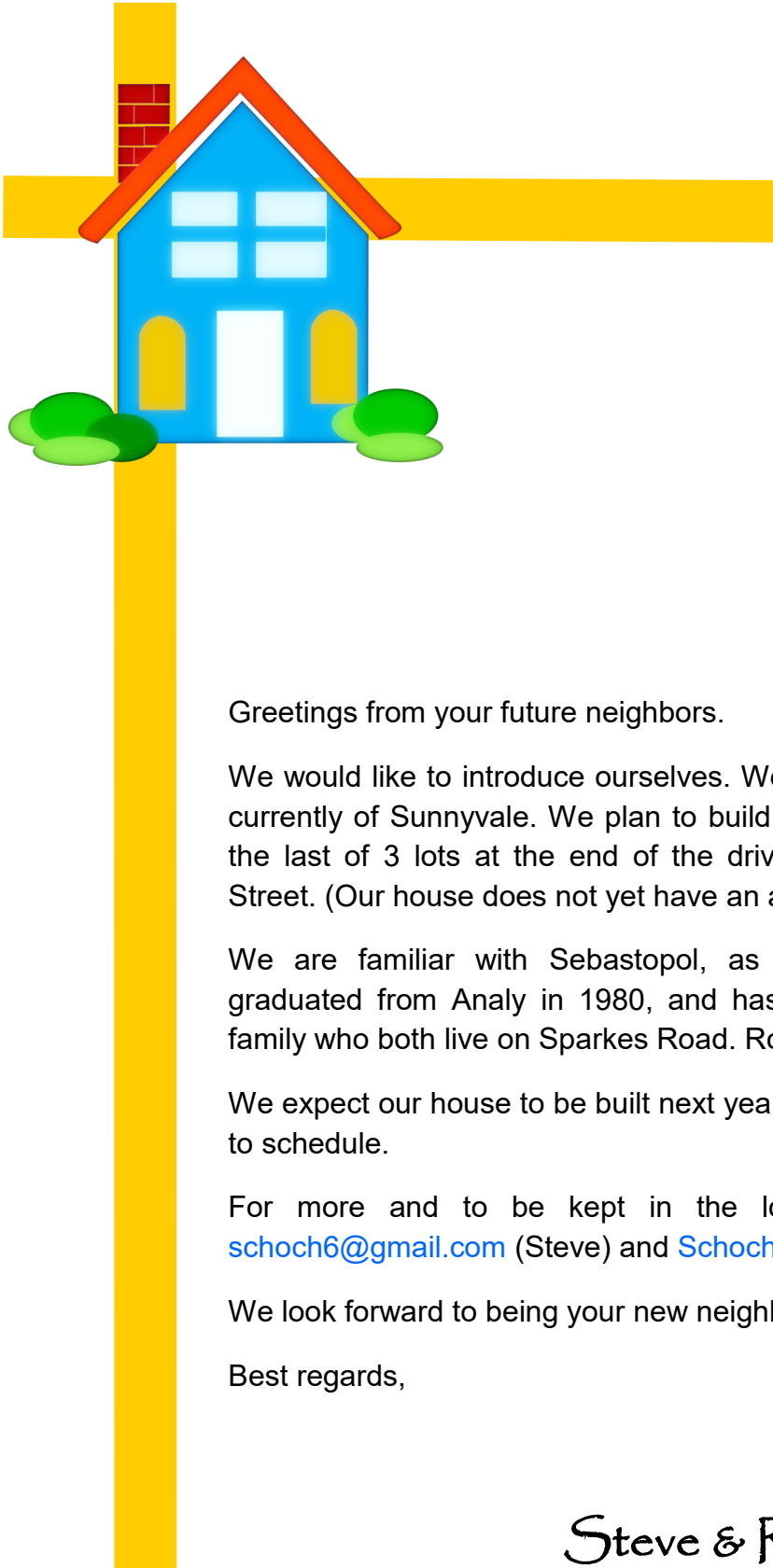
Website Required for Major Projects

Applicants for major development projects (which involves proposed development of **10,000 square feet of new floor area or greater, or 15 or more dwelling units/lots**), are required to create a project website in conjunction with submittal of an application for Planning approval (including but not limited to Subdivisions, Use Permits, Rezoning, and Design Review). Required information may be provided on an existing applicant web site.

The website address shall be provided as part of the application. The website shall be maintained and updated, as needed until final discretionary approvals are obtained for the project.

Such website shall include, at a minimum, the following information:

- ✓ Project description
- ✓ Contact information for the applicant, including address, phone number, and email address
- ✓ Map showing project location
- ✓ Photographs of project site
- ✓ Project plans and drawings



August 20, 2020

Greetings from your future neighbors.

We would like to introduce ourselves. We are Steven & Rose Schoch, currently of Sunnyvale. We plan to build a house on our lot near you, the last of 3 lots at the end of the driveway that starts at 763 First Street. (Our house does not yet have an address assigned.)

We are familiar with Sebastopol, as Steve has grown up here, graduated from Analy in 1980, and has parents, and a brother and family who both live on Sparkes Road. Rose grew up in Fremont.

We expect our house to be built next year, if everything goes according to schedule.

For more and to be kept in the loop, please send email to schoch6@gmail.com (Steve) and SchochEmail@yahoo.com (Rose).

We look forward to being your new neighbors.

Best regards,

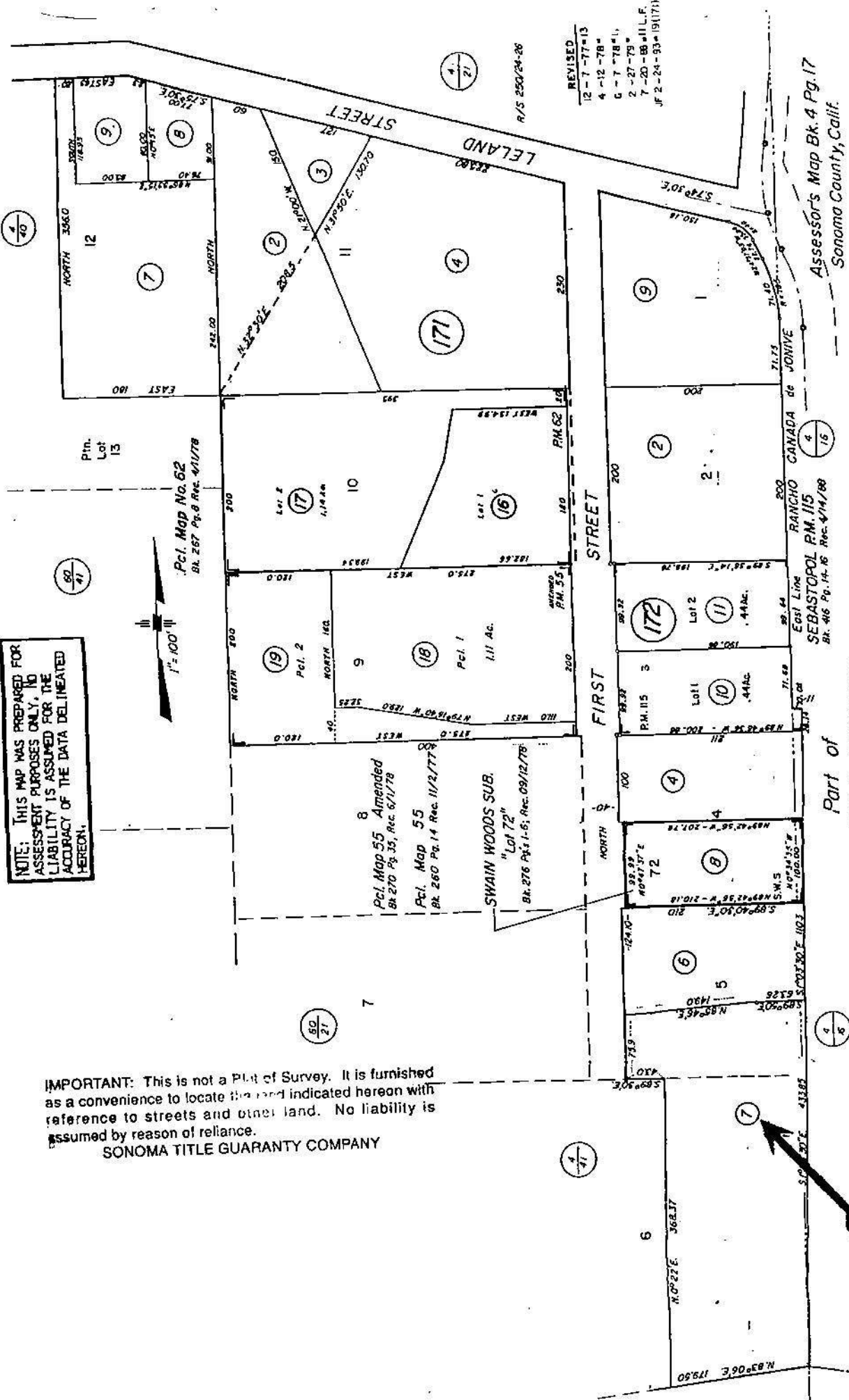
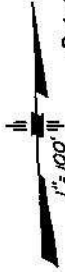
Steve & Rose

4-17

TAX CODE AREA
5-001

COUNTY ASSESSOR'S PARCEL MAP

NOTE: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA DELINEATED HEREON.

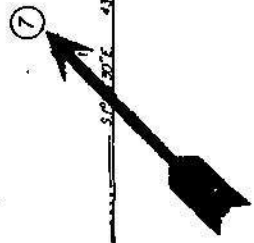


IMPORTANT: This is not a Plat of Survey. It is furnished as a convenience to locate the land indicated hereon with reference to streets and other land. No liability is assumed by reason of reliance.
SONOMA TITLE GUARANTY COMPANY

- REVISED
- 12-7-77=15
- 4-12-78=
- 6-7-78=1)
- 2-27-79=
- 7-20-88 all L.F.
- IF 2-24-93=19(171)

Assessor's Map Bk. 4 Pg. 17
Sonoma County, Calif.

Part of
THE LINCOLN ADDITION





Builders' Studio

OF SEBASTOPOL

Date: 5/11/21

Schoch – New Residence and ADU
7?? First Street
Sebastopol, CA 95472

Re: Site Data - Design Review

1. Zoning District: R-3
2. Use: Existing – Empty undeveloped lot; Proposed – Residential Home and ADU
3. Lot Size: .99 Acres or 43,181 square-feet
4. Lot Coverage: 5.6% or 6,542 square-feet
5. Number of units: 2, one single-family dwelling and one detached ADU
6. Building Floor Area: Existing – 0% & 0 square-feet; Proposed: 6,613 square-feet total (main residence) - 2,990 SF (main floor), 3,623 SF (lower floor including 611 SF unconditioned space and 1,481 SF garage/shop/storage); 1,107 square-feet total (ADU + Garage) - 801 SF conditioned space and 306 SF garage
7. Floor Area Ratio: N/A – Residential Project
8. Parking Spaces: 3 covered main residence, 1 covered ADU
9. Height: 27'-8 ½" main residence, 16'-1" ADU – closest height from grade to ridge for both main residence and ADU.
10. Setbacks: R-3; 30' Front, 20' Secondary Front Yard, 10' Side, 20' min./30' max. Rear; ADU – 30' Front, 20' Second Front Yard, 3' Side, 20' min./30' max. Rear. See attached subdivision map for actual limits for this lot.
11. Landscaping: See attached, performance based approached used.
12. Trees: See attached, removal of one existing dying oak tree.
13. Grading: Cut - 660 yds Fill – 300 yds
 Import – 0 yds Off-Haul – 360 yds



Builders' Studio

OF SEBASTOPOL

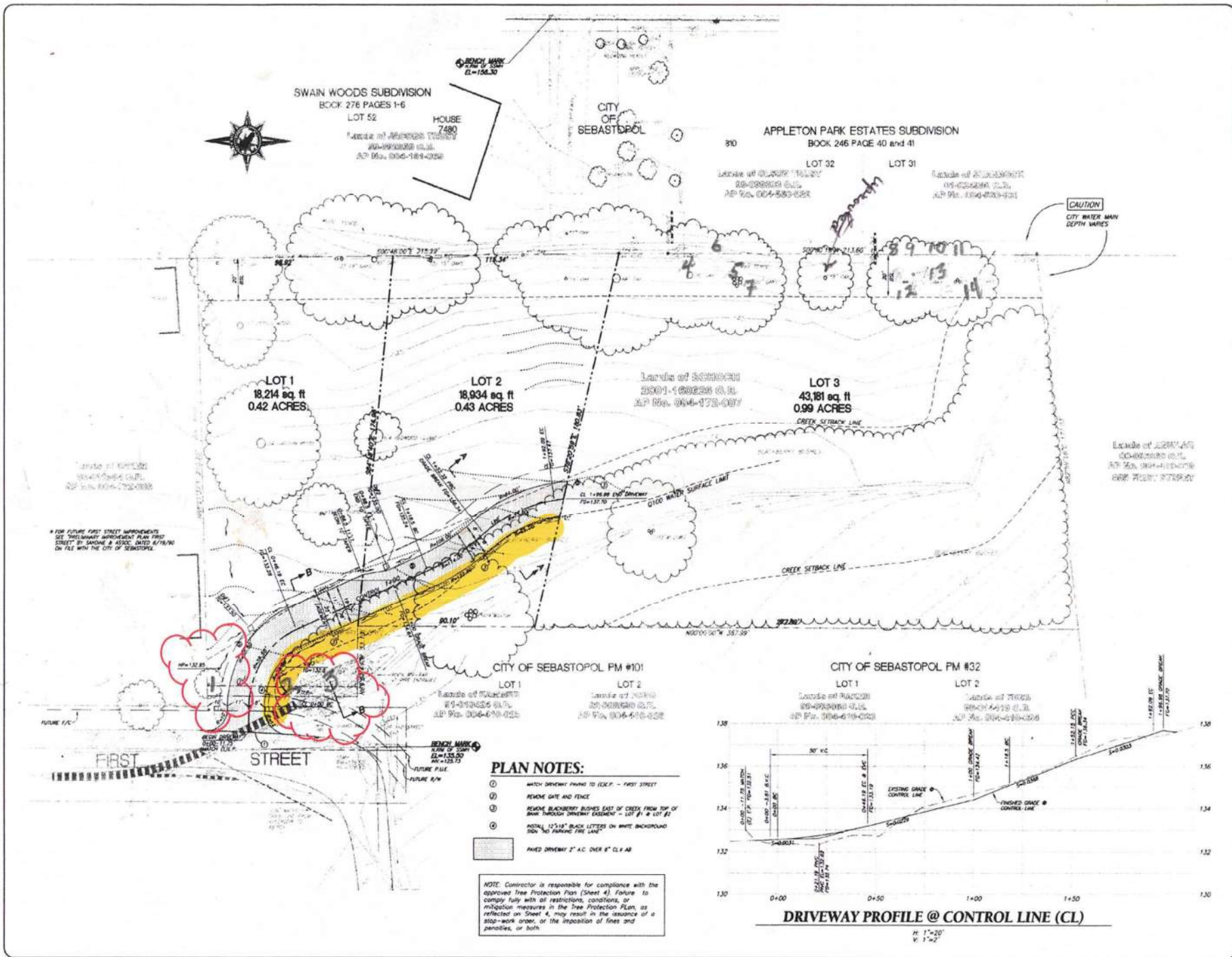
Date:

Schoch – New Residence and ADU
7?? First Street
Sebastopol, CA 95472

Re: Written Statement – Design Review

New Residence and ADU on an existing R-3 zoned lot of .99 acres (43,181 SF).

1. Locate and construct a new two-story home that is 5,132 SF not including garage/storage.
2. Locate and construct a new one-story ADU that is 801 SF not including garage/storage.
3. Grading, landscaping, utilities for new residence and ADU.
4. Tree removal of one existing dying oak tree per arborist report.



11 JUNE 2002

DATE	DESCRIPTION
11 JUN 2002	ISSUED FOR PERMIT
11 JUN 2002	ISSUED FOR PERMIT
11 JUN 2002	ISSUED FOR PERMIT

GRAPHIC SCALE

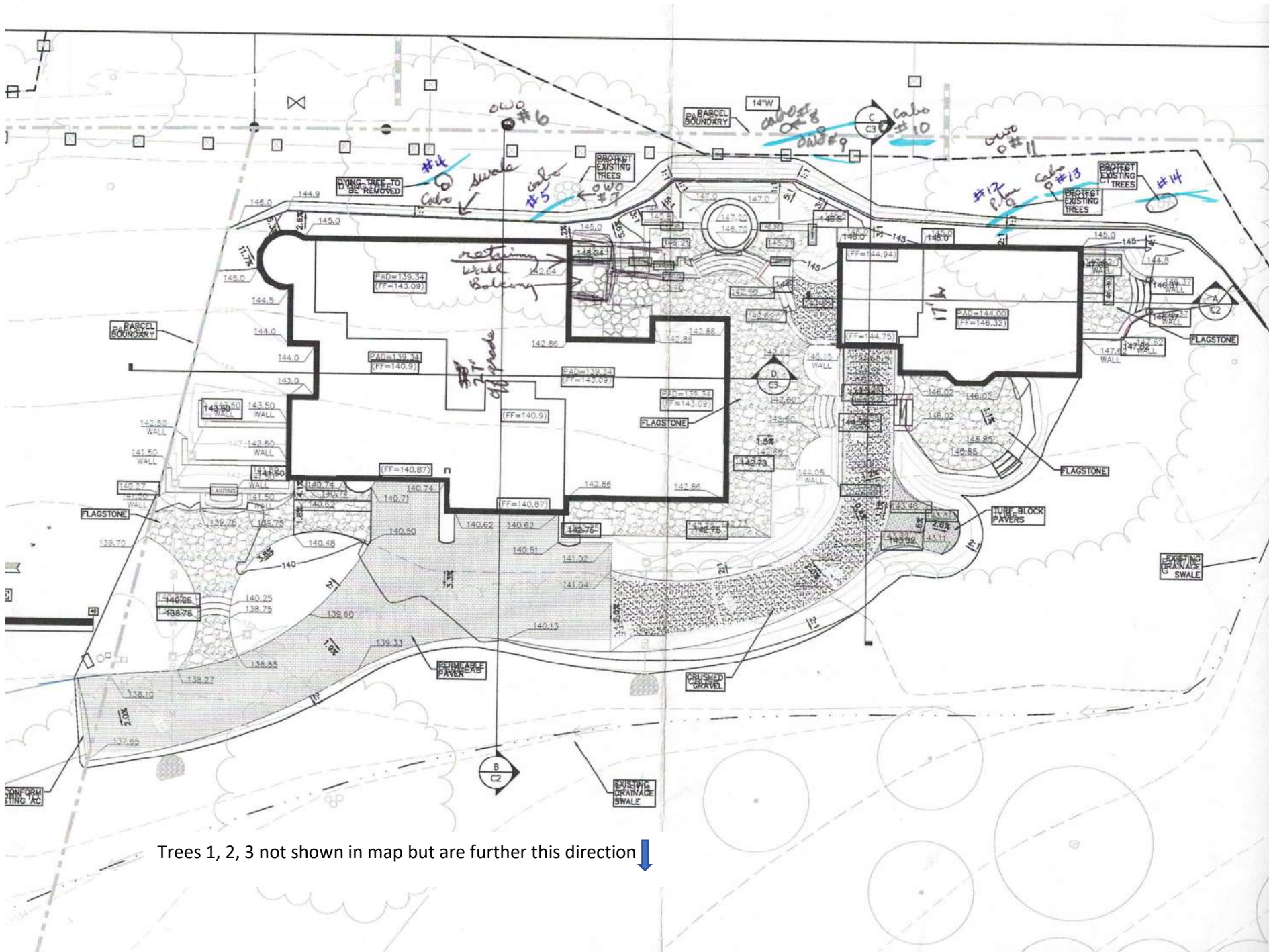
PREPARED BY
STEVEN, THOMAS, LISA & DAVID SCHOCH CO
STEVEN SCHOCH
1000 W. WASHINGTON STREET
SEBASTOPOL, CA 95472
(408) 732-4479

PROJECT DESCRIPTION
SCHOCH MINOR SUBDIVISION
745 FIRST STREET
SEBASTOPOL, CA 95472
APP. 004-112-007

SHEET IDENTIFICATION
GRADING PLAN - DRIVEWAY PLAN

PAUL L. SCHOCH
CONSULTING CIVIL ENGINEER
P.O. BOX 1287 SEBASTOPOL, CA 95472 (707) 821-4802
Paul L. Schoch, P.E. No. 2
Exp. 03/01/03

SCALE	1"=20'
DRAWN BY	VRG/EC
CHECKED BY	P.L.S.
FILE NO.	0802-05
SHEET NO.	18



Trees 1, 2, 3 not shown in map but are further this direction ↓

Builders Studio of Sebastopol
 555 S. Main Street
 Sebastopol, Ca
 May 26th, 2021
 Schock Residence



SANDBORN
 Tree Service Inc.
 Since 1975

Schock Residence
 763 First Street Sebastopol, Ca 95472

To Whom it may concern,

1. Quercus garryana (Oregon White Oak) 13.8" d.b.h. north + 13.9" d.b.h. south.
 Tree is shared with the north neighbor. Structure is fair, vitality good - Raise over drive to 15' high.
2. Quercus agrifolia (California Live Oak) 16" d.b.h. ± just south of south neighbor's fence at driveway entrance. Structure is fair, vitality is good - Raise crown to 15' over drive.
3. Salix sp. (Creek Willow) 4'+ d.b.h., forks at 4' ± high into five large (30" diameter +) trunks, all of which have been broken at heights from 20'-35'. The tree is rooted on the creek channel approximately 40' east of the south neighbor's house.
 Structure is poor, vigor is poor. Removal is recommended. If the tree is retained, reduce its height to stubs 8'-10' tall, monitor response growth.
4. Quercus kelloggii (California Black Oak) 27.5" d.b.h. x 30' high. Vigor is fair, structure is poor. The tree previously forked into 5'-6' x 12" ± diameter leaders from 5'-7' high on the trunk. Pruning occurred in the past which removed all but one 12" diameter fork which bows heavily to the west. The old pruning wounds will inevitably coalesce into joining cavities which will (if they haven't already) render the remaining leader subject to failure. As it targets the house, removal is recommended.
5. Quercus kelloggii (California Black Oak) 19.3", 28.4", 10.3", 16.5", 17.2", 22.3", 13.3" d.b.h. large spreading multi (7) trunked tree, apparently was cut to the ground 6-10 decades ago. The resultant response growth has grown to 50'+ tall and spreads 40' east, west and south. Vitality is good while structure is poor due to the multiple co-dominant leaders. The tree is located 6' east of the proposed house and 40' west of the east neighbor's house. It requires substantial crown

raising on the west to accommodate the roof and requires clearance for fire suppression vegetation management. It will require several large branches to be removed from the east side to acquire a semblance of balance. It may require significant root pruning to install the foundation at the back of the house. It also targets the proposed house, as well as east neighbor's deck and house. It is recommended to Excavate the trunk for the foundation beneath the tree by hand, air or water, exposing all roots encountered. Once the Arborist has inspected the roots to be pruned at the sites where they are to be pruned, he/she is to determine a pruning or removal strategy for the tree.

6. *Quercus garryana* (Oregon White Oak) 11.3"d.b.h. x 20' high. Vitality is good structure is fair to poor. The tree is oddly shaped, growing approximately 12' northeast of #5 and constantly in its shadow. It leans hard to the east and at 10' above ground grows back to the north in search of sunlight. It requires no special protection as root pruning is anticipated to be of minimal effect on its root system. It targets the neighbor's back yard which shows no evidence of use.
7. *Quercus garryana* (Oregon White Oak) 10.4"d.b.h. x 16' high. This tree is encapsulated by #6 and grows to the southwest beneath the crown of #5. It requires removal to accommodate the roof of the proposed house.
8. *Quercus kelloggii* (California Black Oak) 28" diameter x 50' high, rooted on or near the east property line. This tree has good vigor and fair to poor structure as it is response growth from ancient removal. Previously removed shoots have created several basal cavities. It is rooted 12' east of the proposed structure. With mitigation pruning, anticipated root pruning should not impact the trees anchorage unduly. The crown should be pruned to clean out deadwood and reduce end weight of overburdened branches, as they target the propose structure and two east neighbor's back yard.
9. *Quercus garryana* (Oregon White Oak) 5.9" d.b.h. x 15' tall. This tree is rooted 5' south of #8. It has good vigor and structure. It is not anticipated to suffer the effect of root pruning.
10. *Quercus kelloggii* (California Black Oak) 20"d.b.h. x 45' high ±. Vitality is good, structure is poor. This tree is rooted in the extreme southwest corner of the east neighbor's back yard on Schock property. It leans heavily to the south. Its 18" diameter central leader was headed at 20' above the ground over the east neighbor's back yard. A 14" diameter branch forks off the central leader at 8' high,

and grows at a slight upward angle towards the southwest where it rests on another Black Oak. It is recommended for removal or pruning to minimize overloading the propping Oak. Construction impacts should be minimal.

11. *Quercus garryana* (Oregon White Oak) 9.1"d.b.h. x 20' high. Tree is rooted 15' south of the east neighbor's south fence and 2' west of the southeast neighbor's west fence. It grows in the shadow of tree #8. Its structure is poor, unbalanced. Its vitality is good. Pruning is recommended to minimize imbalance.
12. *Prunus prunus* (escaped exotic plum) 7.2"d.b.h. x 30' high. Tree has good vitality and poor structure. It leans into and grows up through the commingled crowns of #10 and #13, two Black Oaks worthy of retention. It detracts from and competes with both trees. Removal is recommended.
13. *Quercus kelloggii* (California Black Oak) 20" d.b.h., 50'± high, 12' southwest of #11. It is single trunked as it is the dominant stump sucker of the response grown from an ancient removal. It forks into three at 8' high. The dominant fork is reasonably upright with a lean to the east and has been pruned heavily on that side. There is a 12" diameter branch growing vertical then pendulous to the west drooping fairly low over the proposed building. That branch supports another growing north from a Black Oak 20' south. Additionally, an escaped exotic plum grows from 10' north up into the crown of the Black Oak. The Black oak has good vigor and weak structure due to the west growing branch. It is recommended to prune to clean crown to $\geq 1/4$ " diameter branch size, raise and reduce the west growing branch. Remove the plum.
14. *Quercus kelloggii* (California Black Oak) has four main forks at ground level due to ancient removal of the parent tree. This tree is rooted 20' south of #13 and 12' west of the east fence. It leans and is heavily weighted on the west, south and north quadrants. All four main forks are co-dominant leaders with embedded bark. The south growing fork (16.5"d.b.h.) has a large (10" wide x 4' long) tear at the branch union 20' high. The north fork (9.2"d.b.h.) is supported by a west growing branch from tree #13. The smaller (11.6") fork grows low and to the west. The largest (20.2"d.b.h.) fork grows west leaning to 60' tall. The three smaller forks are severely overburdened and at risk of failure. As such, structure is poor. Recommendation is to prune to the south fork to as stub just below the tear at 20', removing its upper branch. Reduce end weight of its lower branch significantly. Raise lower branches on the lower middle fork and reduce it to the

3" upright near its terminus. Prune the north fork off at its attachment near ground level. Prune the parent branch to clean the crown to $\geq 1/4$ " diameter, reduce end weight of all its branches.

15. Malus species variety unknown, appears to be stump suckers located 15' south of #14. Probably not fruiting or attractive. Removal is recommended.
16. Malus species Gravenstein 14.6" d.b.h.. The trunk is hollow from ground level to 5.5' high. It is long, un-pruned but has fruit. It could be kept as a landscape feature. Removal is a more practical option as its shady location (40' southwest of #14) requires height to capture sun and most fruit grows 15'-18' high. Vitality is good while structure is poor. Removal is recommended.

Recommended tree protection for trees #5-#14

Tree protection, principally root protection for this project is essential to the survivability structural future and anchorage of these trees. The minimal distance from the east foundation wall and the trunks of the trees presumes extensive root removal may be necessary. Before any tree care measures are undertaken, I recommend to use a combination of hand labor, water (vac truck) and/or pneumatic (air spade) to excavate the trench for the east foundations in order to expose any roots that need to be cut for the installation. Once completed, the arborist should then examine the roots to make a determination of whether individual trees should be retained or removed based on their number, size and etc.. They should also consider other pruning or removal needs and the likelihood of long term structural integrity, vitality, and survivability.

Assuming retention, prune as indicated above. Additionally apply a ≥ 6 " deep layer of woody mulch (chips, arbormulch or equivalent) from the foundation trenches to the east property line, as well as around to the south and west of tree #14 beyond its dripline. Perform all construction when soil is dry. These measures are to minimize soil compaction. Install temporary but sturdy fencing from the east property line on the north side of the dripline of tree #5, 1'-2' west of the tree nearest the trench and south to encompass the dripline of tree #14 (as practical, considering access needs for construction). Trees #1-#3 need no additional protection as they are sufficiently far enough from the site to exclude them from potential construction impacts.

Tree roots and their mycorrhizal associations are essential to the trees' vitality, survivability, anchorage, structural integrity and aesthetics. They are susceptible to soil compaction, cuts, fills, severing, debarking, and equipment damage. Use methods and equipment that minimize the effects of construction whenever possible as a very large percentage of these trees roots are in harms way

from this project. If root pruning is necessary, make pruning cuts with a sharp saw on all roots greater than 2" diameter. Additional measures such as irrigation, fertilization or alternative pruning may be recommended as determined by the onsite Arborist.

Regards,

A handwritten signature in cursive script that reads "Chip Sandborn". The signature is written in dark ink and is positioned below the word "Regards,".

Chip Sandborn, Certified Arborist

ISA WE#0177A



Builders' Studio
OF SEBASTOPOL

555 S. Main Street
Sebastopol, CA 95472

**NEW
RESIDENCE
& ADU**

Schoch
763 First Street
Sebastopol, CA
95472

PROJECT NO: 20289

DATE: 5/4/2021

ARCHITECT: M. Standley

DRAFTING: R. Connelly

**LOCATION
MAP**

DR





City of Sebastopol

Planning Department
7120 Bodega Avenue
Sebastopol, CA 95472
(707) 823-6167

MASTER PLANNING APPLICATION FORM

APPLICATION TYPE

- | | | |
|--|---|---|
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| <input checked="" type="checkbox"/> Design Review | <input type="checkbox"/> Sign Permit | <input type="checkbox"/> Other _____ |

This application includes the checklist(s) or supplement form(s) for the type of permit requested: Yes No


REVIEW/HEARING BODIES

- Staff/Admin Design Review/Tree Board Planning Commission City Council Other _____

APPLICATION FOR

Street Address: 763 FIRST STREET Assessor's Parcel No(s): 004-172-017
Present Use of Property: Vacant Lot Zoning/General Plan Designation: R3/MDR

APPLICANT INFORMATION

Property Owner Name: Steve & Rose Schoch
Mailing Address: 974 Bluebonnet Drive Phone: - 408-732-4479
City/State/ZIP: Sunnyvale, CA 94086 Email: schoch6@gmail.com schochemail@gmail.com
Signature: _____ Date: _____
Authorized Agent/Applicant Name: Thrive Construction/Builders' Studio of Sebastopol - Gregory Beale & Marilyn Standley & Ryan Connelly
Mailing Address: 555 S. Main Street Phone: 707-827-3388
City/State/ZIP: Sebastopol, CA 95472 Email: marilyn@buildersstudioinc.com
Signature:  On behalf of Gregory Beale. Date: 12/15/22
Contact Name (If different from above): Ryan Connelly Phone/Email: ryan@buildersstudioinc.com

PROJECT DESCRIPTION AND PERMITS REQUESTED (ATTACH ADDITIONAL PAGES IF NECESSARY)

New Residence and ADU on an existing R-3 zoned lot of .99 acres (43,181 SF).
1. Locate and construct a new two-story home that is 3,977 SF.
2. Locate and construct a new one-story ADU that is 801 SF.
3. Grading, landscaping, utilities for new residence and ADU.
4. Tree removal of one existing dying oak tree per arborist report.

CITY USE ONLY

Fill out upon receipt:	Action:	Action Date:
Application Date: _____	Staff/Admin: _____	Date: _____
Planning File #: _____	Planning Director: _____	Date: _____
Received By: _____	Design Review/Tree Board: _____	Date: _____
Fee(s): \$ _____	Planning Commission: _____	Date: _____
Completeness Date: _____	City Council: _____	Date: _____

SITE DATA TABLE

If an item is not applicable to your project, please indicate "Not Applicable" or "N/A" in the appropriate box; do not leave cells blank.

SITE DATA TABLE	REQUIRED / ZONING STANDARD	EXISTING	PROPOSED
Zoning	N/A	R3	R3
Use	N/A	Vacant Lot	Residential
Lot Size	8,000 SF Min.	0.99/43,181SF	0.99/43,181 SF
Square Feet of Building/Structures (if multiple structures include all separately)		-	Main Residence - 3,977 ADU - 801
Floor Area Ratio (F.A.R)	<u> </u> N / <u> </u> A <u> </u> FAR	<u> </u> N / <u> </u> A <u> </u> FAR	<u> </u> N / <u> </u> A <u> </u> FAR
Lot Coverage	<u> </u> 20 <u> </u> % of lot	<u> </u> 0 <u> </u> % of lot	<u> </u> 13.2 <u> </u> % of lot
	<u> </u> sq. ft.	<u> </u> 0 <u> </u> sq. ft.	<u> </u> 5,987 <u> </u> sq. ft.
Parking	2 Main/ 1 ADU	-	3 Main, 1 ADU
Building Height	30 FT./17 FT.	-	27'-8.5"/16'-1"
Number of Stories	2 MAIN/1 ADU	-	2 MAIN/1 ADU
Building Setbacks – Primary			
Front	30 FT.	-	SEE ATTACHED SUB DIVISION MAP
Secondary Front Yard (corner lots)	20 FT.	-	SEE ATTACHED SUB DIVISION MAP
Side – Interior	10 FT. MAIN	-	SEE ATTACHED SUB DIVISION MAP
Rear	20 FT. MIN./30 FT. MAX.	-	SEE ATTACHED SUB DIVISION MAP
Building Setbacks – Accessory			
Front	30 FT.	-	SEE ATTACHED SUB DIVISION MAP
Secondary Front Yard (corner lots)	20 FT.	-	SEE ATTACHED SUB DIVISION MAP
Side – Interior	3 FT.	-	SEE ATTACHED SUB DIVISION MAP
Rear	20 FT. MIN./30 FT. MAX	-	SEE ATTACHED SUB DIVISION MAP
Special Setbacks (if applicable)			
Other (Mechanical Equipment <u> </u>)	50% or 5 FT. MIN.	-	50% or 5 FT. MIN.
Number of Residential Units	<u> </u> N/A <u> </u> Dwelling Unit(s)	<u> </u> N/A <u> </u> Dwelling Unit(s)	<u> </u> N/A <u> </u> Dwelling Unit(s)
Residential Density	1 unit per <u> </u> N/A <u> </u> sq. ft.	1 unit per <u> </u> N/A <u> </u> sq. ft.	1 unit per <u> </u> N/A <u> </u> sq. ft.
Useable Open Space	<u> </u> N/A <u> </u> sq. ft.	<u> </u> N/A <u> </u> sq. ft.	<u> </u> sq. ft.
Grading	Grading should be minimized to the extent feasible to reflect existing topography and protect significant site features, including trees.	N/A	Total: <u> </u> 360 <u> </u> cu. yds. Cut: <u> </u> 360 <u> </u> cu. yds. Fill: <u> </u> 360 <u> </u> cu. yds. Off-Haul: <u> </u> 0 <u> </u> cu. yds
Impervious Surface Area	N/A	<u> </u> 0 <u> </u> % of lot	<u> </u> 22% <u> </u> % of lot
		<u> </u> 0 <u> </u> sq. ft.	<u> </u> 9,809 <u> </u> sq. ft.
Pervious Surface Area	N/A	<u> </u> 100 <u> </u> % of lot	<u> </u> 6.9 <u> </u> % of lot
		<u> </u> 37,026 <u> </u> sq. ft.	<u> </u> 2,992 <u> </u> sq. ft.

CONDITIONS OF APPLICATION

- 1. All Materials submitted in conjunction with this form shall be considered a part of this application.
2. This application will not be considered filed and processing may not be initiated until the Planning Department determines that the submittal is complete with all necessary information and is "accepted as complete."
3. The property owner authorizes the listed authorized agent(s)/contact(s) to appear before the City Council, Planning Commission, Design Review/Tree Board and Planning Director and to file applications, plans, and other information on the owner's behalf.
4. The Owner shall inform the Planning Department in writing of any changes.
5. INDEMNIFICATION AGREEMENT: As part of this application, applicant agrees to defend, indemnify, release and hold harmless the City, its agents, officers, attorneys, employees, boards, committees and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities...

If, for any reason, any portion of this indemnification agreement is held to be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect.

NOTE: The purpose of the indemnification agreement is to allow the City to be held harmless in terms of potential legal costs and liabilities in conjunction with permit processing and approval.

- 6. REPRODUCTION AND CIRCULATION OF PLANS: I hereby authorize the Planning Department to reproduce plans and exhibits as necessary for the processing of this application.
7. NOTICE OF MAILING: Email addresses will be used for sending out staff reports and agendas to applicants, their representatives, property owners, and others to be notified.
8. DEPOSIT ACCOUNT INFORMATION: Rather than flat fees, some applications require a 'Deposit'. The initial deposit amount is based on typical processing costs. However, each application is different and will experience different costs.
9. NOTICE OF ORDINANCE/PLAN MODIFICATIONS: Pursuant to Government Code Section 65945(a), please indicate, by checking the boxes below, if you would like to receive a notice from the City of any proposal to adopt or amend any of the following plans or ordinances...

- [X] A general plan [X] A specific plan
[X] An ordinance affecting building permits or grading permits [X] A zoning ordinance

Certification

I, the undersigned owner of the subject property, have read this application for a development permit and agree with all of the above and certify that the information, drawings and specifications herewith submitted are true and correct to the best of my knowledge and belief and are submitted under penalty of perjury. I hereby grant members of the Planning Commission, Design Review Board and City Staff admittance to the subject property as necessary for processing of the project application.

Property Owner's Signature: _____ Date: _____

I, the undersigned applicant, have read this application for a development permit and agree with all of the above and certify that the information, drawings and specifications herewith submitted are true and correct to the best of my knowledge and belief and are submitted under penalty of perjury.

Applicant's Signature: [Handwritten Signature] On behalf of Gregory Beale. Date: 10/14/22

NOTE: It is the responsibility of the applicant and their representatives to be aware of and abide by City laws and policies. City staff, Boards, Commissions, and the City Council will review applications as required by law; however, the applicant has responsibility for determining and following applicable regulations.

Neighbor Notification

In the interest of being a good neighbor, it is highly recommended that you contact those homes or businesses directly adjacent to, or within the area of your project. Please inform them of the proposed project, including construction activity and possible impacts such as noise, traffic interruptions, dust, larger structures, tree removals, etc.

Many projects in Sebastopol are remodel projects which when initiated bring concern to neighboring property owners, residents, and businesses. Construction activities can be disruptive, and additions or new buildings can affect privacy, sunlight, or landscaping. Some of these concerns can be alleviated by neighbor-to-neighbor contacts early in the design and construction process.

It is a "good neighbor policy" to inform your neighbors so that they understand your project. This will enable you to begin your construction with the understanding of your neighbors and will help promote good neighborhood relationships.

Many times, development projects can have an adverse effect on the tranquility of neighborhoods and tarnish relationships along the way. If you should have questions about who to contact or need property owner information in your immediate vicinity, please contact the Building and Safety Department for information at (707) 823-8597, or the Planning Department at (707) 823-6167.

I have informed site neighbors of my proposed project: Yes No

If yes, or if you will inform neighbors in the future, please describe outreach efforts:

The attached letter was sent to the neighbors last August. We then sent them a Christmas card in December. The letters were sent to: 761, 830, 835, 850, 855, 865, & 885 First Street; 810 & 814 Jewell Ave; and 7480 Hayden Ave.

We received email from Paul & Laurie Olson of 810 Jewell Ave; Jerry Threet & Seth Ubogy of 885 First Street, Delora & Robert Porter of 850 First Street; and Judy & Steve Fabian of 855 First Street.

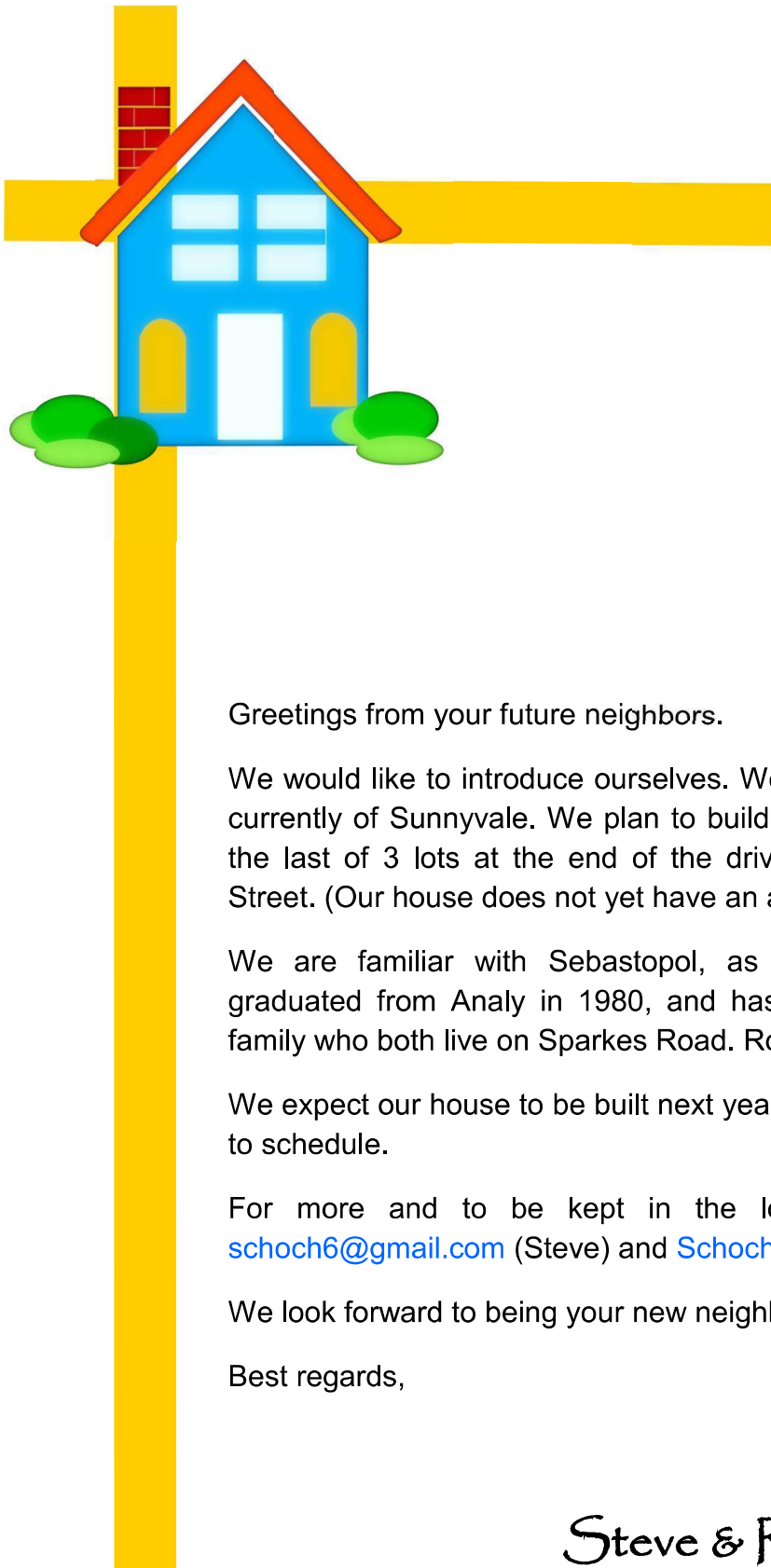
Website Required for Major Projects

Applicants for major development projects (which involves proposed development of **10,000 square feet of new floor area or greater, or 15 or more dwelling units/lots**), are required to create a project website in conjunction with submittal of an application for Planning approval (including but not limited to Subdivisions, Use Permits, Rezoning, and Design Review). Required information may be provided on an existing applicant web site.

The website address shall be provided as part of the application. The website shall be maintained and updated, as needed until final discretionary approvals are obtained for the project.

Such website shall include, at a minimum, the following information:

- ✓ Project description
- ✓ Contact information for the applicant, including address, phone number, and email address
- ✓ Map showing project location
- ✓ Photographs of project site
- ✓ Project plans and drawings



August 20, 2020

Greetings from your future neighbors.

We would like to introduce ourselves. We are Steven & Rose Schoch, currently of Sunnyvale. We plan to build a house on our lot near you, the last of 3 lots at the end of the driveway that starts at 763 First Street. (Our house does not yet have an address assigned.)

We are familiar with Sebastopol, as Steve has grown up here, graduated from Analy in 1980, and has parents, and a brother and family who both live on Sparkes Road. Rose grew up in Fremont.

We expect our house to be built next year, if everything goes according to schedule.

For more and to be kept in the loop, please send email to schoch6@gmail.com (Steve) and SchochEmail@yahoo.com (Rose).

We look forward to being your new neighbors.

Best regards,

Steve & Rose

Date: 12/12/2022

Schoch – New Residence and ADU
763 First Street
Sebastopol, CA 95472

Written Statement – Design Review

New Residence and ADU on an existing R-3 zoned lot of .99 acres (43,181 SF):

- Construct new two-story home
- Construct new one-story ADU (Requirement of subdivision)
- Grading, landscaping, utilities
- Tree removal of one existing small dying oak tree per arborist report (tree #4).
- Zoning is R3- “Medium Density Residential” 5.4 units per acre

Please make note:

763 First St is one of the **largest lots** within the city limits of Sebastopol.

It has **unique rural character, lack of visibility from the public right of way** and is at a **lower elevation than the closest neighbors.**

The “general area” is **separate of and in addition to**, “Swain Woods Neighborhood” and “First Street Area” per the plain language and meeting with planning and city attorney held June 14, 2022.

The **building envelop was established as part of the subdivision more than 20 years** ago with the restraints influenced by the stream setback, mandatory ADU and special subdivision conditions.

All neighbors that contacted Rose and Steve in response to their original neighborhood mailer had their **concerns met** and did not attend any subsequent DRB meetings or contact planning with objection to the project.

Tree limbs have continued to break and/or fall from the east boundary of the property.

Several meetings have been held by zoom and on site with planning, city arborist and city attorney.

On April 30th, 2022 **Rose, Steve and their extended family hosted a barbeque** on the property and invited neighbors. Many attended and a great time was had.

Rose and Steve **never wanted to remove tree #5** but were advised by arborist that it would pose a risk to them and their home due to its poor and unusual structure. It was advised that it would be easier to remove prior to building their new home. A final decision was not made at the time of the first DRB meeting, and no neighbors contacted them prior to the meeting to express concern. In hindsight we would have approached this differently if we had known what we know now.

Summary of updates made to address concerns of the DRB and planning staff:

Many alternatives have been explored at significant time and expense.

The **proposed project reduces size and mass** from the original design and **is appropriate to the scale and setting of the property.**

- The meditation/prayer room and tower has been eliminated from main level (aka Jeannie room)
- Conditioned and nonconditioned square footage has been substantially reduced at the lower level to accommodate a greater setback to tree #5, and reduce size and mass.

The hot tub has been removed from scope

The DRB's motions to add language to M8 was deemed non-binding by City's outside council.

The plan **accommodates and respects the surrounding trees beyond the city arborist's recommendations by providing a greater setback to structure and drainage than requested by city arborist.**

Tree #5 will be trimmed and not removed.

The amount of **grading has been reduced and importing/hauling has been potentially eliminated.**

There are many homes with two and three car garages, and/or large outbuildings in the area.

You will also find that:

The proposed project is **sensitively designed to respect existing patterns and reinforce the character and context of the diverse neighborhood.**

The **proposed project is appropriate to the size and setting of the property.**

The **proposed project conforms with all the mitigation measures** of the 2001 subdivision.

The proposed project is in compliance with all objective city guidelines and ordinances.

TABLE OF CONTENTS

SECTION 1: 2001 SUBDIVISION MITIGATION MEASURES:

- A. Intent of M8 and how the abandoned Hayden extension influenced many measures
- B. Size of residence: This project is within the allowed parameters
 - c. Letter from Law Offices of Tina Wallace with regards to “size”
 - d. Letter from City’s outside council in response to our appeal of the DRB’s motions with regards to M8
- C. Comparative Areas: Area map showing all three zones- Swain Woods Neighborhood, First St Area & General Area (650’ radius)
- D. Research: On-line research and in-person tours of the areas provided information on lot and home sizes, garages and FAR
 - a./c./e. Property data spreadsheet

SECTION 2: “STANDARD” DESIGN REVIEW BOARD PROCESS:

- A. Design Guidelines/Statements
- B. Consistent with Required Findings
- C. Massing
- D. Grading

SECTION 3: TREE BOARD

- A. Tree Protection: purpose
- B. Response to accommodate arborist and board comments
- C. Letter from the Law Offices of Tina Wallace with regards to boundary trees

SECTION 1. 2001 SUBDIVISION MITIGATION MEASURES:

The proposed project adheres to the word and intent of M8.

- A. M8 was poorly written measure, and evidently the **Hayden extension was still part of the proposed subdivision at the time it was written**. See M9 for example, as it mentions exiting vehicles onto Jewell Ave. Since the Hayden extension did not come to fruition it is believed that the intersection of Jewell and Hayden is less critical than originally intended as it relates to the subdivision.
- B. **Size:** Pertains to conditioned square footage and the proposed home “in general” cannot exceed the size of homes in the area (not the average of select homes from inaccurate publicly available database).
 - a. The proposed project does not exceed the height and size of homes in the area.
 - b. Sizes of homes listed on the GIS map appear to list original square footage and do not track square footage added later.
 - c. You will find the Legal analysis provided by The Law Offices of Tina Wallace on pages 5-7.
- C. **Area:** Per meeting with city attorney and planning, the comparative areas consist of total of three described areas:
 - a. The “general area” includes homes within a 650-foot radius of the subdivision
 - b. “Swain Woods neighborhood”
 - c. And “the First Street area”
 - d. Note: We have determined that the “(Jewell near Hayden)” was included in the description of the areas due to the Hayden extension component, which was later abandoned.
- D. **Research:** We surveyed the homes within the area. See included spreadsheets of data gathered of properties within the above-described areas. No information is available for non-conditioned areas of primary structures or detached accessory structures.
 - a. **Size of home:** We found that the proposed home would not be the largest and there are several others of similar size.
 - b. **Storage or Shop Area:** In our research and in person tours, we have not seen any evidence that the amount of storage or shop space proposed is inconsistent with other homes in the area.
 - c. **Garages:** We also toured these areas in person to tally garages. The number of garages proposed is not unusual:
 - i. Four Car Garages- at least 2 other homes
 - ii. Three Car garages - at least 15 other homes
 - iii. Two Car garages – at least 100 homes
 - d. **Height:** Planning, DRB and applicant all agreed to default to standard city ordinance/guidelines, which the proposed project complies with.
 - i. **Main House:** 30’ max height, 27’- 8 ½” provided
 - ii. **ADU:** 17’ max height, 16’-1” provided
 - iii. **FAR:** The proposed project would have one of the lowest Floor Areas.

December 13, 2022

Design Review Board
City of Sebastopol
7120 Bodega Avenue
Sebastopol, CA 95472

Via Electronic Mail: ksvanstrom@cityofsebastopol.org

RE: 771 and 773 First Street Design Review

Dear Chair Luthin and Distinguished Board Members:

During its January 5, 2022, Design Review Board hearing, the DRB purportedly took the nonbinding action of how it would interpret COA/MM8. The applicant appealed the DRB's actions, but the City rejected the appeal on the grounds that the DRB did not take any action during its January 5, 2022, meeting. The DRB's actions are legally and fatally flawed.

DRB ignored the plain meaning of terms: Rather than utilize the meaning of the word "size" clearly intended by COA/MM8 in reference to the allowed size of the homes within the subdivision, the DRB chose to apply its own interpretation to the word "size" used in COA/MM8. Much like a statute, courts must apply the plain-meaning rule when interpreting conditions of approval. (*Torres v. Parkhouse Tire Serv., Inc.* (2001) 26 Cal.4th 995, 1003.) This means that a court must apply the plain language, or usual or ordinary meaning, of the condition of approval. Only if the language is ambiguous, or if a literal interpretation would lead to an absurd result, may a court look to the intent behind the statute or regulation. (*Castenada v. Holcomb* (1981) 114 Cal.App.3d 939, 942.) Courts are prohibited from inserting or ignoring language in the statute or regulation. (*Harbor Fumigation, Inc. v. County of San Diego Air Pollution Control District* (1996) 43 Cal.App.4th 854, 860.) The DRB must follow basic legal principles of statutory construction. The word "size" is not ambiguous and is defined as, "the relative extent of something; a thing's overall dimensions or magnitude; how big something is." (Oxford Languages Dictionary.) Rather than contrive a formula relative to size based on averages (which DRB staff conceded was not necessarily accurate) to add components to the definition of "size," the DRB is required by the plain-meaning rule to utilize the ordinary meaning of the terms in COA/MM8 instead, including "size."

DRB cannot insert words, unlawfully amending the COA/MM8: The DRB used "average" as a qualifier to the allowed size of homes at the subdivision—an interpretation of COA/MM8 that amounts to an after-the-fact illegal underground amendment. The DRB effectively revises COA/MM8 to read (in pertinent part): In general, the size and height of the homes to be constructed within this subdivision shall not exceed [the average size] those of similar homes of

more recent construction in the general area, including both the First Street area and the Swain Woods neighborhood (Jewell near Hayden). For the DRB to change the COA/MM8, it must provide a legitimate reason for making the change and support those reasons with substantial evidence. (*Napa Citizens for Honest Gov't v Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 359.) It has not done so. The DRB's December 15, 2021 staff report contains opinions and recommendations of the staff supporting the use of averages and the formula ultimately used by the DRB related to the size restriction—not substantial evidence or legitimate reasons for amending COA/MM8 after the City Council already adopted it through its Resolution 5220.¹ (*See, e.g.,* DRB Staff Report (Aug. 8, 2021), at p. 6 [citing staff's "belief" and "recommendations" related to the use of averages and related to the sizing formula].)

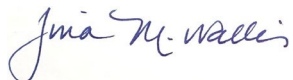
DRB denied the Applicant due process: The DRB's insertion of the word "average" relative to the allowed home sizing denied the applicant due process, decades after the statute of limitations passed to challenge the COA/MM8. The statute of limitations to challenge the language of COA/MM8 is linked to the City Council's adoption of Resolution 5220, which occurred in October 2001. Had the Applicant known that "size" referenced in COA/MM8 would mean the "average home size" of a select few homes, the Applicant could have challenged the language of COA/MM8 at the time of Resolution 5220's approval. Only now—decades later—is the DRB modifying the language of COA/MM8 without due process and without complying with the Brown Act. The City, through the DRB, may not violate the due process rights by applying changes to COA/MM8 decades after its adoption and in such a way that fundamentally impacts the development of the subdivision. This act is precisely the arbitrary and irrational action that the U.S. Supreme Court has established protections against. (*Lingle v. Chevron USA, Inc.* (2005) 544 U.S. 528, 542–43; *North Pacifica, LLC v. City of Pacifica* (9th Cir. 2008) 526, F. 3d 478, 484; *Shaw v. County of Santa Cruz* (2008) 170 Cal.App.4th 229, 284. n.51.) For any such violation of the Applicant's constitutionally protected rights to stand, the DRB must advance a legitimate government interest—which it is not—particularly when the action is based on staff opinion. (*Guggenheim v. City of Goleta* (9th Cir. 2010) 638 F. 3d 1111, 1122; *North Pacifica, LLC v. City of Pacifica* (9th Cir. 2008) 526, F. 3d 478, 484.)

The insertion of "average" into COA/MM8 by the DRB constitutes a compensable taking: By severely limiting the size of the homes in the subdivision based upon the skewed low-end of an "average" selected decades after the City Council set COA/MM8 without any language suggestive of such limitations, the DRB is liable for a compensable taking relative to the subdivision. The impact of the sizing limit is so onerous that it acts as a direct appropriation; it has a monetary impact, interferes with investment expectations, and it lacks clear governmental purpose (especially considering the noted reliance on "belief," "recommendations," and lack of substantial evidence to back the after-the-fact use of the average). (*Lingle v. Chevron USA, Inc.* (2005) 544 U.S. 528, 537 [citing *Penn Central Transp. Co. v. New York City* (1978) 438 U.S. 104, 124].)

¹ Notably, an earlier staff report, dated August 18, 2021, did not insert the word "average" into the COA/MM and would have allowed a 4,500 square foot structure instead of the much smaller structure the DRB settled on just four months later.

Through the application of the holdings in the seminal Supreme Court cases of *Lingle* and *Penn Central*, it is abundantly clear that the DRB has acted so arbitrarily and with such burdensome effect on the subdivision that a taking is without question.

Very truly yours,

A handwritten signature in blue ink that reads "Tina M. Wallis". The signature is written in a cursive, flowing style.

Tina Wallis,
The Law Offices of Tina Wallis, Inc.

555 Capitol Mall, Suite 1200
Sacramento, California 95814
tel (916) 556-1531
fax (916) 556-1516
www.meyersnave.com

Edward Grutzmacher
egrutzmacher@meyersnave.com



January 24, 2022

Via E-mail and U.S. Mail

Tina M. Wallis
Law Offices of Tina Wallis
1400 North Dutton Ave., No. 22
Santa Rosa, CA 95401
twallis@twallislaw.com

Re: Appeal from January 5, 2022 Design Review Board Meeting

Dear Ms. Wallis:

Meyers Nave serves as outside counsel to the City of Sebastopol (“City”) on various matters. The City has asked Meyers Nave to examine the issues raised in your January 12, 2022 letter and your client’s appeal concerning the January 5, 2022 Design Review Board (“DRB”) meeting in which the DRB was asked by your client to provide direction on the appropriate size of single-family dwellings that meet the requirements of the conditions of approval of Subdivision Resolution No. 5220. I have reviewed your letter, your client’s appeal, as well as the draft minutes of the January 5 meeting and have consulted with City Manager/City Attorney McLaughlin regarding the City’s official position regarding the issues raised in your letter and your client’s appeal.

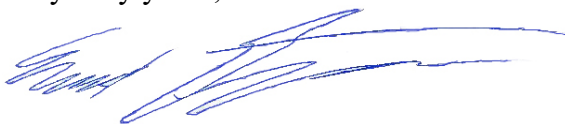
The City considers that the guidance provided by the DRB at the January 5, 2022 DRB meeting was advisory in nature, which is not binding on your clients or others. Therefore, the DRB’s guidance does not constitute an appealable “determination or interpretation” by the DRB. As you are aware, your client sought advice on design parameters for a single-family home that the DRB might find acceptable under Mitigation Measure “M8” attached as a condition of approval for Resolution No. 5220, approving a minor tentative parcel map that created your client’s parcel. M8 requires, in part, that “[i]n general, the size and height of the homes to be constructed within this subdivision shall no exceed those of similar homes of more recent construction in the general area, including both the First Street area and the Swain Woods neighborhood (Jewell near Hayden).” While the DRB made collective decisions regarding what your client should consider when designing a home that would meet the requirements of M8, the DRB made no binding or enforceable “determinations or interpretations” of M8 either generally, or as applied to a specific project proposal. Nor does the DRB’s use of “motions” as a means to determine the majority opinion of the DRB on the appropriate guidance place this advice into the category of an appealable “determination or interpretation” under Municipal Code section 17.455.020.B.

Tina M. Wallis
January 24, 2022
Page 2

As such, the City will not be scheduling an appeal before the City Council at this time. Your client is free to propose a project that fits within the guidance offered by the DRB, or not, and to file an appeal of any final DRB determination regarding the proposed project and/or interpretation of the Zoning Code or M8 at such time as the DRB makes such final determinations and/or interpretations.

If you have any questions, or would like to discuss further, please let me know.

Very truly yours,



Edward Grutzmacher
EAG:mlb

c: Larry McLaughlin

5049142.1

Section 1D a/c/e

	Smallest	763 First St	Largest
SQ FT	665	3966	4994
LOT SF	7,405	43,124.40	134,600
FAR	0.01	0.09	0.32
GARAGES	0	3	4
YEAR BUILT	1895	2023	2011

Garages		4-car	5 +/-
		3-car	15 +/-
		2-car	100 +/-

ADDRESS	SQ FT	LOT SF	FAR %	# STORIES	# GARAGES	YEAR BUILT
FIRST STREET						
435 First Street	698	38986.2	0.02	1	2 car	1895
520 First Street	1120	21083.04	0.05	1		1913
550 First Street	1879	49658.4	0.04			1986
600 First Street	1216	16901.28	0.07	1	2 car	1917
601 First Street	2298	39988.08	0.06	2	2 car	2011
620 First Street	2313	48351.6	0.05	1	2 car plus carport	1974
630 First Street	2043	30492	0.07			1977
709 1First Street	2340	19166.4	0.12	1	2 car plus barn	1976
711 First Street	1902	19602	0.10	2	2 car	1988
729 First Street	2079	21083.04	0.10	1	2 car	1946
740 First Street	720	40075.2	0.02	1	2 car	1946
749 First Street	1539	34848	0.04	1	2 car	1980
750 First Street	1328	20037.6	0.07	1		1998
754 First Street	2162	19558.44	0.11			2004
760/762 First Street	2214	15246	0.15	1	2+ car	1914
761 First Street	1750	26136	0.07	1	2 car	1983
763 First Street	3966	43124.4	0.09	2	3 car	2023
764 First Street	2296	28531.8	0.08			1993
830 First Street	2464	27181.44	0.09	1	2 car	1991
835 First Street	1732	21387.96	0.08	2	2 car	1985
838 First Street	2917	20037.6	0.15			1990
840/850 First Street	2514	12196.8	0.21	2	3+ car	1978
855 First Street	1872	16901.28	0.11	1	2 car	1986
860 First Street	1691	10105.92	0.17	2	2 car	1954

2ND SUBMISSION APPLICATION PACKAGE

862 First Street	1469	51400.8	0.03			1977
864 First Street	1971	14810.4	0.13			1999
865 First Street	1527	18730.8	0.08	1	2 car	1978
867 First Street	665	18295.2	0.04	1	2 car	2003
870 First Street	1075	13198.68	0.08	1	2 car	1953
880 First Street	2432	37461.6	0.06	1	3 car	1993
885 Frist Street	2589	11979	0.22			2000
900 First Street	2233	20473.2	0.11	1	2 car	1998
903 First Street	1367	14810.4	0.09	1		1950
909 First Street	815	12196.8	0.07	1		1920
910 First Street	1978	21780	0.09			1997
915 First Street	2653	14810.4	0.18	2	3 car	1999
920 First Street	3732	20037.6	0.19	2	3 car	1998
925 First Street	2532	19602	0.13			1999
930 First Street	3309	22215.6	0.15	2	3 car	1998
1020 First Street	1290	134600.4	0.01	2	2 car	1923
1026 First Street	2057	21780	0.09	2	2 car	1900

900 Bayberry Ct	4400	17859.6	0.25	2	3 car	1990
910 Bayberry Ct	2273	16552.8	0.14	2	2 car	1989
911 Bayberry Ct	2471	17424	0.14	2	2 car	1989
920 Bayberry Ct	2922	16552.8	0.18	2	3 car	1989
921 Bayberry Ct	2379	18295.2	0.13	2	3 car	1989
931 Bayberry Ct	2371	18730.8	0.13	2	2 car	1990

7401 Walnut Ln	1064	7405.2	0.14	2	1 car	1951
7408 Walnut Ln	864	8712	0.10	2	2 car	1951
7409 Walnut Ln	2311	10454.4	0.22	2	2 car	1978
7415 Walnut Ln	1974	8276.4	0.24	1	2 car	1978
7420 Walnut Ln	2143	8712	0.25	1	2 car	1977
7423 Walnut Ln	1990	10890	0.18	2	2 car	1977
7424 Walnut Ln	1990	10018.8	0.20	2	2 car	1977
7427 Walnut Ln	2109	10890	0.19	2	2 car	1977
7428 Walnut Ln	2545	10018.8	0.25	2	2 car	1977

7415 Shaun Ct	2372	8712	0.27	1	3 car	1977
7416 Shaun Ct	2372	10018.8	0.24	1	3 car	1977
7420 Shaun Ct	2846	10018.8	0.28	2	garage converted to living?	1978
7423 Shaun Ct	3066	10018.8	0.31	2	2 car	1978
7424 Shaun Ct	3248	11761.2	0.28	2	2 car	1978
7427 Shaun Ct	2511	10018.8	0.25	2	2 car	1978

2ND SUBMISSION APPLICATION PACKAGE

7428 Shaun Ct	2511	10890	0.23	2	2 car	1978
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7401 Giusti Ct		65775.6	0.00	2	2 car	
7429 Giusti Ct		13939.2	0.00			
7430 Giusti Ct		12196.8	0.00			
7439 Giusti Ct	2460	10890	0.23	2	2 car	2000
7440 Giusti Ct	2696	10890	0.25	2	2 car	1988

810 Jewell Ave	1990	10018.8	0.20	2	2 car	1977
811 Jewell Ave	2003	9583.2	0.21	1	2 car	1977
814 Jewell Ave	2262	10890	0.21	1	2 car	1978
815 Jewell Ave	2089	9583.2	0.22	2	2 car	1977
818 Jewell Ave	2262	10890	0.21	1	2 car	1978
821 Jewell Ave	3211	10890	0.29	2	2 car	1977
822 Jewell Ave	2520	10890	0.23	2	2 car	1977
825 Jewell Ave	2220	10890	0.20	2	2 car	1978
826 Jewell Ave	2520	13068	0.19	2	2 car	1977
830 Jewell Ave	1524	13068	0.12	1	2 car	1977
831 Jewell Ave	1649	10018.8	0.16	1	2 car	1978
900 Jewell Ave	3332	22215.6	0.15	2	3 car	1989

500 Swain Ave	4994	17424	0.29	2	2 car	1980
501 Swain Ave	2878	19166.4	0.15	2	3 car	1981
520 Swain Ave	2426	11761.2	0.21	2	2 car	1980
521 Swain Ave	1837	10018.8	0.18	2	2 car	1979
540 Swain Ave	2161	10018.8	0.22	2	2 car	1980
541 Swain Ave	1835	10018.8	0.18	2	2 car	1979
560 Swain Ave	3115	10018.8	0.31	2	2 car	1983
561 Swain Ave	2672	10018.8	0.27	2	2 car	1982
580 Swain Ave	1854	10018.8	0.19	2	3 car	1981
581 Swain Ave	2456	10018.8	0.25	2	2 car	1985
600 Swain Ave	2260	10018.8	0.23	2	2 car	1980

7351 Hayden Ave	1089	7840.8	0.14	1	2 car	1952
7400 Hayden Ave	2233	10018.8	0.22	2	2 car	1979
7409 Hayden Ave	1974	9583.2	0.21	1	2 car	1978
7410 Hayden Ave	1938	10018.8	0.19	1	2 car	1978
7415 Hayden Ave	2372	10454.4	0.23	1	2 car	1977
7419 Hayden Ave	2323	10018.8	0.23	2	2 car	1977
7420 Hayden Ave	2016	10018.8	0.20	1	2 car	1978
7423 Hayden Ave	2595	10018.8	0.26	2	4 car	1977

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7427 Hayden Ave	1990	10018.8	0.20	2	2 car	1977
7430 Hayden Ave	1916	10018.8	0.19	1	2 car	1978
7440 Hayden Ave	2048	10018.8	0.20	1	2 car	1979
7450 Hayden Ave	1932	10018.8	0.19	1	2 car	1979
7480 Hayden Ave	2765	18295.2	0.15	1	2 car	1980

701 Acorn Ct.	2454	10018.8	0.24	2	2 car	1979
710 Acorn Ct.	2164	10018.8	0.22	2	2 car	1979
711 Acorn Ct.	1743	10018.8	0.17	1	2 car	1984
721 Acorn	2514	16988.4	0.15	2	2 car	1979

530 SWAIN WOODS TER		10018.8	0.00			
531 Swain Woods Terrace	3160	12632.4	0.25	2	2 car	1979
535 Swain Woods Terrace	2643	10890	0.24			1957
560 Swain Woods Terrace	2892	12632.4	0.23	2	2 car	1979
561 Swain Woods Terrace	0	10018.8	0.00			
590 Swain Woods Terrace	2049	10018.8	0.20	2	2 car	1982
591 Swain Woods Terrace	3198	10018.8	0.32	2	2 car	1979
621 Swain Woods Terrace	2424	10018.8	0.24	2	2 car	1979
650 Swain Woods Terrace	2583	10018.8	0.26	2	2 car	1981
651 Swain Woods Terrace	2262	8712	0.26	2	2 car	1978
660 Swain Woods Terrace	976	10018.8	0.10	2	2 car	1982
661 Swain Woods Terrace	1916	8712	0.22	2	2 car	1979
670 Swain Woods Terrace	2746	10890	0.25	2	2 car	1985
671 Swain Woods Terrace	2223	8712	0.26	1	2 car	1979
680 Swain Woods Terrace	1712	10018.8	0.17	2	3 car	1984
681 Swain Woods Terrace	1956	8712	0.22	2	2 car	1979
691 Swain Woods Terrace	2429	11761.2	0.21	2	2 car	1981

7400 Bloomsoom Wood Ave.	1945	10890	0.18	2	2 car	1981
7401 Bloomsoom Wood Ave.	1662	12196.8	0.14	1	2 car	1979
7410 Bloomsoom Wood Ave.	2166	10454.4	0.21	1	2 car	1980
7411 Bloomsoom Wood Ave.	2401	10018.8	0.24	2		1982
7420 Bloomsoom Wood Ave.	1851	10018.8	0.18	2	2 car	2003
7421 Bloomsoom Wood Ave.	2216	10018.8	0.22	2	2 car	1982
7430 Bloomsoom Wood Ave.	2198	10018.8	0.22	2	2 car	1981

2ND SUBMISSION APPLICATION PACKAGE

7431 Bloomsoom Wood Ave.	1958	10890	0.18	1	2 car	1979
7440 Bloomsoom Wood Ave.	2937	10454.4	0.28	2	2 car	1981
7441 Bloomsoom Wood Ave.	2849	11325.6	0.25	2	2 car	1979
7451 Bloomsoom Wood Ave.	1962	14810.4	0.13	2	2 car	1979
7455 Bloomsoom Wood Ave.	2086	10454.4	0.20	2	2 car	1980
7461 Bloomsoom Wood Ave.	2779	10018.8	0.28	2	2 car	1980
7465 Bloomsoom Wood Ave.	2018	10890	0.19	1	2 car	1981

514 Parquet Street		8276.4	0.00	1		
534 Parquet Street	1932	10890	0.18	1	2 car	1980
535 Parquet Street	2643	10890	0.24	1	2 car	1957
564 Parquet Street	2563	10890	0.24	2	2 car	1980
565 Parquet Street	3199	10890	0.29	2	3 car	1979
574 Parquet Street	2516	10018.8	0.25	2	2 car	1984
585 Parquet Street	1466	11325.6	0.13	1	2 car	1983

7382 Palm Ave	2294	10018.8	0.23	1	2 car	1979
7392 Palm Ave	2277	10018.8	0.23	2	2 car	1979
7393 Palm Ave	2501	10890	0.23	2	4 car	1980
7402 Palm Ave	1896	10454.4	0.18	1	2 car	1980
7403 Palm Ave	2106	13068	0.16	2	2 car	1979
7412 Palm Ave	2213	10018.8	0.22	2	2 car	1979
7413 Palm Ave	2584	13068	0.20	2	2 car	1979
7422 Palm Ave	2704	10018.8	0.27	2	2 car	1984
7423 Palm Ave	1990	11325.6	0.18	1	2 car	1980
7433 Palm Ave	2359	14810.4	0.16	2	2 car	1979
7442 Palm Ave	2178	10018.8	0.22	2	2 car	1980
7460 Palm Ave	2292	10018.8	0.23	1.5	3 car	1984

SECTION 2. "STANDARD" DESIGN REVIEW BOARD PROCESS"

A. Design guidelines and statements:

Design Review is not required for the remodel of, addition to, and construction of new single-family homes unless it is part of a subdivision of 3 or more. Therefore the decisions made today will not have any impact on future trends of single-family homes within the city limits.

There is nothing in the city guidelines, codes, ordinances, etc. that limit the size of a single-family home.

There is nothing in the city guidelines, codes, ordinances, etc. that discourage larger homes. In fact, there is significant guidance on how to disguise the mass of larger homes, therefore implying that larger homes are expected.

Small town character does not mean small homes.

The city has chosen to not adhere to one architectural style. In contrast, eclectic styles have been embraced.

B. Consistent with the required findings:

Required Findings (Section 17.450.030.B.2) of the zoning ordinance states that in considering an application for design review, the Design Review board shall determine whether the project is consistent with the following:

1. *The Design of the proposal would be compatible with the neighborhood and with the general visual character of Sebastopol.*
 - a. Planning:
 - i. "... its design is consistent with several existing dwellings in the area and contributes to the architectural diversity of the community." (Quote from staff report of original submittal)
 - ii. "Staff is aware of several larger barns, garages, and workshops in the general neighborhood: additionally, the County records do not include the square footage for these types of spaces." (Quote from staff report of original submittal)
 - iii. "Staff further recommends the Board discuss tother potential modifications which, in coordination with the reduction of the **size** of the structure, could provide for **modifying massing, reduction in grading,** and potential **reduction in impacts on trees.**" (the current proposal accommodates all of these)
 - b. Applicant:
 - i. **Current proposed plan reduces size, massing, grading and impact on trees.**
 1. **Size:** Current proposed project resulted in 3,977 conditioned SF in comparative area/s. Houses identified in the designated areas have been found with 4,994 SF, 4,400 SF, 3,966 SF, 3732, etc.

2. **Massing:** Eliminated meditation/prayer tower (aka Jeanie room) and ~1/3 of the lower-level structure.
 3. **Grading:** Although we never understood the concern over the amount of grading the current design reduces grading to approximately 390 cubic yards and the potential for no importing or exporting.
 4. **Trees:** We have changed the footings of the ADU to pier and grade beam and moved retaining/footings/drainage to approximately 20' distance from tree #5 (City arborist asked for 15').
- ii. **LOT SIZE:** Proposed project is located on the 6th largest lot in comparative area/s.
 - iii. **FAR:** Proposed project would be 130th in comparative area/s.
 - iv. **GARAGES:** Proposed project will have a 1-car garage and a 2-car garage, totaling 3 garage spaces. In the comparative area there are (~2+) residences with 4-car garages, (~15) 3-car garages and (~100) 2-car garages (Note: not all garages and homes are visible from public right of way).
 - v. **Garages/shops/storage:** The proposed project (previous and current) cannot be compared to accessory structures and what zoning ordinances state about their limitations, and therefore does not apply.
 - vi. **Body color and quantity of colors:** We surveyed the homes in the comparative area and did **not** find any with multiple body colors. We also found that the most common body color were variations of beige.
2. *The design provides appropriate transitions and relations and relationships to adjacent properties and the public right of way.*
 - a. Planning:
 - i. "One consideration the Board may wish to consider is the size of the lot, which is larger than most of the lots in the neighborhood, at just under an acre (43,181 SF)" (quote from staff report of original submittal)
 - ii. "Furthermore, staff finds that the design provides appropriate transitions and relationships to adjacent properties and the public right of way in that it contains sizeable setbacks and sets the structure low to the ground for the uphill properties to reduce the massing from adjacent parcels." (quote from staff report of original submittal)
 - b. Applicant:
 - i. Agree with planning. Current proposed project continues to prioritize its impacts to neighboring properties, while the public right of way does not apply due to its proximity to it.

- ii. Distance from proposed primary residence/ADU are a further distance from neighboring structures than existing adjacent structures from one another.
 - iii. Public indoor and outdoor spaces are oriented away from closest neighbors.
 - iv. Garages are secondary features to the primary structure and are oriented to have the least amount of sound, visual and light beam impact on neighbors.
- 3. *It would not impair the desirability of investment or occupation in the neighborhood.*
 - a. Planning: “The design does not impair the desirability if investment or occupation...”
 - b. Applicant: Agree with planning
- 4. *The design is internally consistent and harmonious.*
 - a. Planning:
 - i. “Finally, the design is internally consistent and harmonious in that it utilizes the same exterior colors and materials throughout both the primary residence and accessory dwelling unit.” (quote from staff report of original submittal)
 - ii. “The primary and accessory dwellings incorporate similar design features, articulation, façade style, and are designed to create a cohesive visual relationship while also distinguishing its own visual identity and individual address.” (quote from staff report of original submittal)
 - b. Applicant:
 - i. The current proposed project maintains the internally consistent and harmonious features, while size and mass were reduced from the original submittal.
- 5. *The design is in conformity with any guidelines and standards adopted pursuant to this chapter:*
 - a. Planning:
 - i. “The project is consistent with the design guidelines in that it avoids box-like forms, has extensive articulated facades or large, and varied roofs.” (quote from staff report of original submittal)
 - b. Applicant:
 - i. Agree with planning. By reducing the size and massing of the primary structure we believe that we even further adhere to the intent of these guidelines.

C. Massing:

- a. Design Guidelines have several sections with methods in which larger structures can reduce their impression of mass to adjacent properties and public right of ways, but zero wording discouraging larger structures or inferring that larger structures should be discouraged and/or do not adhere to “small town character” or “eclectic” style.
- b. Design Guideline Architecture A1: “Relationships to surrounding Architecture” Architectural design should be compatible with the developing character of the area and should complement the unique aspects of the site. Design compatibility includes complementary building style, form, size, color and materials. Consider architectural styles of existing structures on the site, as well as other structures in the area when designing a new building providing for a harmonious integration of the new improvements.
- c. Proposed structures are downhill from closest adjacent properties to the east
- d. Proposed structures are further than other existing adjacent properties from one another
- e. Partially recessed into slope reduces massing and height relative to the closest adjacent properties.
- f. Example of new home nearby (intersection of Fellers and Litchfield). This example is provided as evidence that size and massing, in relation to lot size and proximity to neighboring structures, does matter:





D. Grading:

- a. CBC Appendix J 102: "Regular Grading- Grading involving less than 500 cubic yards"
- b. Previous submittal projected slightly more than this threshold primarily due to poor topsoil and our civil engineer's preference to not construct structures on partial native and partial imported soil.
- c. **Current proposed project reduces grading to approximately 390 yards and potentially eliminates the need to off haul or import.**

SECTION 3. TREE BOARD

A. 8.12 TREE PROTECTION

Purpose: Encourage preservation of trees for a multitude of reasons including health, environment, beauty, privacy erosion and drainage.

“In order to promote the health, safety, and general welfare of the citizens of the City, while recognizing individual rights to develop, maintain, and enjoy private property to the fullest possible extent.”

B. Response to Arborist and Board Comments:

- a. We no longer intend to remove tree #5 but do believe that we meet the majority of the below listed conditions, when only one would be required. Assuming the fire department is not concerned about the tree’s proximity to the proposed structure, we intend to methodically prune, but not to remove. The current design exceeds the requested setback by the city arborist.
- b. Per site meeting with city arborist and planning:
 - Majority of tree roots exist within the top two feet of soil and footings, drainage systems and/or retaining walls do not typically create additional harm to tree if deeper than this depth.
 - Requested 15’ setback from tree #5. Proposed project provides ~20’.
 - Most important roots of tree are uphill from tree while downhill roots do not provide as much as stability.
 - Planning and arborist agreed that the 80’ radius from tree #5 would deem the lot unbuildable no matter the size of the primary residence and ADU.
 - Tree #5 has poor structure and is unusual.

C. Boundary Tree Law:

- a. Please find document provided by the Law offices of Tina Wallace (pgs 22 & 23)

NOTE: The Tree Board guidelines have become more lenient since the original subdivision was considered and approved of in 2001. When the subdivision was acted upon, there were fewer grounds for removal, a lower removal permit size threshold for native trees in some situations, and a more onerous process. Based on info from the City Clerk, there have been two revisions of the original ordinance. Among other changes, as compared to the original, the current ordinance allows the City Arborist to approve some types of removals (only the Board could do that in the original ordinance), increased the removal permit size threshold for native trees in some situations, made the hours/days when removals can occur more reasonable, and expanded the findings for removals.

November 17, 2022

Design Review Board
City of Sebastopol
7120 Bodega Avenue
Sebastopol, CA 95472

Via Electronic Mail: ksvanstrom@cityofsebastopol.org

RE: 771 and 773 First Street Design Review: Boundary Tree Law

Dear Chair Luthin and Distinguished Board Members:

I am writing today on behalf of my clients, Steve and Rose Schoch, to clarify information pertaining to the current design review process for the single-family home and accessory dwelling unit proposed for 771 and 773 First Street. We understand that providing clarity regarding the legal status of one or more trees growing at the eastern property boundary will assist the Design Review Board in completing its assessment of the application and will better assist the City staff and the Schoch's neighbors as to the status of the trees.

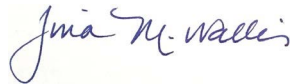
The tree of concern is an oak tree cluster at the eastern boundary of the property, numbered tree four on the relevant site plans. The entirety of the trunks of the oak cluster lies on the Schoch property.

Under California Civil Code section 833, "[t]rees whose trunks stand wholly upon the land of one owner belong exclusively to him, although their roots grow into the land of another." California courts have upheld this legal principle for over a century. (*See e.g., Fick v. Nilson* (1950) 98 Cal.App.2d 683, 685 [adjoining landowner may not enter the property of another to cut down trees even when limbs extend onto adjoining landowner's property]; *Butler v. Zeiss* (1923) 63 Cal.App. 73, 76 [trees leaning over and 'menacing' adjoining landowner did not give adjoining landowner any rights to cut down trees since trunks were wholly on another's property]; *Grandona v. Lovdal* (1886) 70 Cal. 161, 161 [branches of a tree overhanging onto the land of another may give other landowner rights to trim branches but not to cut down the tree on the property of another]; *see also* Cal. Civ. Code § 829 ["The owner of land in fee has the right to the surface and to everything permanently situated beneath or above it."].)

We understand that the Schoch's ability to remove the oak cluster with a tree permit has been well established with the City's arborist pursuant to the requirements of the Tree Board and the City's Municipal Code. While the Schochs understand they have complete ownership of the oak cluster and could remove it with a tree permit from the City, they have chosen another route. The Schochs are making several compromises in an attempt to preserve the oak cluster, pruning it and building around it to the degree possible on their property. We trust that with this letter, all parties are now in complete agreement regarding the Schoch's rights over the oak cluster at the eastern boundary of their property and that the design review of their project can proceed.

Should you have any questions or if we can be of further assistance, please let me know.

Very truly yours,

A handwritten signature in blue ink that reads "Tina M. Wallis". The signature is written in a cursive, flowing style.

Tina M. Wallis,
Law Offices of Tina Wallis, Inc.

Cc: Steve and Rose Schoch

17.100.060 Creek setback.

A minimum setback of 30 feet from top of bank shall be provided for any buildings, mobile homes, garages, swimming pools, storage tanks, parking spaces, driveways, decks more than 30 inches above natural grade, retaining walls, or other similar structures for property adjacent to Zimpher Creek, Calder Creek, or Atascadero Creek. Any grading within the creek setback area shall be subject to the review and approval of the City Engineering Director, who shall review the application in regards to its potential effects on the waterway and native plants. Where the top of bank is not defined, the Engineering Director shall determine the appropriate setback area. Bridges and utilities may cross through, over, or under a waterway setback area, provided permits are obtained from relevant State and Federal agencies, and the project has received all necessary City approvals. Storm drainage, erosion control, and creek bank stability improvements that have been approved as required by law by the governmental agencies having jurisdiction over them shall not be subject to this section. (Ord. 1111, 2018)

The Sebastopol Municipal Code is current through Ordinance 1142, and legislation passed through May 17, 2022.

Disclaimer: The City Clerk's Office has the official version of the Sebastopol Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.ci.sebastopol.ca.us](http://www.ci.sebastopol.ca.us)

[Code Publishing Company](#)

Ken Jacobs
7480 Hayden Ave.
Sebastopol, CA 95472



March 16, 2023

DRB/Tree Board
City of Sebastopol
VIA EMAIL to jjay@cityofsebastopol.org; kvanstrom@cityofsebastopol.org

RE: Design Review, Tree Removal, Tree Protection Plan for 771 and 773 First Street
File 2021-28

Dear DRB/Tree Board,

I am fully in favor of Steve and Rose Schoch being approved to build a home on their First Street property¹. However, to be approved that home must comply with both our Zoning Ordinances, and with the Conditions of Approval which were agreed to by Steve's father and the City when the Schoch Subdivision was negotiated and eventually approved back in 2001. The current plan as submitted violates both Section [17.100.060](#) of the Sebastopol Municipal Code (Creek Setback) and Condition M8 of the Conditions of Approval. Therefore, I urge the DRB to deny this application in its current form.

**1. This Application Must Be Denied Pursuant to
Sebastopol Municipal Code Section [17.100.060](#).**

Sebastopol Municipal Code Section 17.100.060 (Creek Setback) provides in part:

"A minimum setback of 30 feet from top of bank shall be provided for any buildings, mobile homes, garages, swimming pools, storage tanks, parking spaces, driveways, decks more than 30 inches above natural grade, retaining walls, or other similar structures for property adjacent to Zimpher Creek, Calder Creek, or Atascadero Creek...." (emphasis added)

¹ The applicant's representative Greg Beale stated incorrectly at the June 16, 2021, DRB meeting that "Ken Jacobs was the biggest opponent to this subdivision to begin with...". If Mr. Beale were to review the public record of the city hearings on this subdivision from 2000 and 2001 he would see that while Paul Schoch and I had a disagreement as to the access to the property via First Street or the Hayden Extension, I was never opposed to the subdivision nor the property owner's right to develop their property. Likewise, Mr. Beale's assertion in his 12/12/2022 Written Statement that "the Hayden extension was still part of the proposed subdivision at the time it was written" (apparently in order to alter which neighboring homes are to be considered for purposes of applying Condition M8) is patently untrue as evidenced by Condition P2 of the Subdivision Approval which states, "All access for the subdivision shall be provided from First Street, and the subdivision map shall be revised to so indicate. No access shall be provided from the Hayden Avenue Extension."

There was extensive discussion at the August 18, 2021 meeting regarding Condition of Approval M8. Further, the entire three hour meeting on January 5, 2022 was solely devoted to this issue. In fact, at the January 5, 2022 meeting, you gave this applicant specific guidance regarding your interpretation of condition M8. **You agreed that condition M8 means that the proposed house cannot exceed 125% of the average size of homes built within 600 feet since 1990.**

Little has changed since you interpreted condition M8 over fourteen months ago. Other than lawyer letters and litigation threats, there is really nothing new here. They did make a few minor design changes, including creating a “cave” on the ground floor, which slightly reduces the square footage but does not change the overall footprint or mass at all. In any event this slight reduction in square footage does not meet or address your advice regarding M8, nor did the applicant compile the neighborhood data you requested at the January 2022 meeting.

Furthermore, the applicant's 12/12/2022 Written Statement states, “The DRB's motions to add language to M8 was deemed non-binding by City's outside council.” This statement is misleading for two reasons:

One, the DRB did not “add language” to M8. Rather you interpreted M8, as you would interpret any other condition of approval or ordinance. This is in fact the responsibility of the DRB and something you do each and every time you review a project.

Second, while the January 24, 2022 letter from the outside counsel does say that your interpretation of M8 is “non-binding”, mentioning that out of context is totally misleading. A complete reading of that letter clearly shows the issue was whether your interpretation of M8 at the January 5, 2022 meeting was something that could be appealed to the City Council. What happened was the applicant didn't like your interpretation of M8, so they tried to appeal to the City Council by making all kinds of accusations against you, the DRB. However, the outside council and city attorney determined that they could not appeal since the DRB had not taken a final action on the application. This is an important distinction. The issue in that letter was simply and only whether your interpretation of M8 was something that could be appealed, and not whether your interpretation was appropriate. The conclusion was it was not a final action so it could not be appealed³. But that does not mean anything was wrong with your interpretation of M8.

Through this twisted interpretation the applicant now seems to be asking you to re-do your January 5, 2022 meeting by throwing out your well-reasoned interpretation and reinterpreting M8 to meet their demands. Remember, you spent three hours discussing and debating this last January. Your interpretation of M8 was consistent with recommendations of the city planners in the staff report for the January 2022 meeting. You had long conversations about things such as the fact that the phrase “those of

³ Once you take final action, including a denial of the application, the Applicant can appeal to the City Council pursuant to Municipal Code section 17.455.020(B)

similar homes” as used in M8 is plural, inferring an average. And you talked about how in the Conditions of Approval the City Council could have said “no larger than the largest home” if that was what they intended, but they didn’t, they used the word “homes”. You talked about a common sense approach, and the common understanding that the homes to be built on the Schoch subdivision would be similar in size to the neighbors.

Again, nothing has changed except for lawyer letters. I submit to you that a threat of litigation is not something the DRB needs to consider, or even should consider, in the analysis of any design application. You gave your design guidance, you interpreted M8 as it applies to this project, and you did your job as the DRB. But the applicant did not follow your guidance. Instead, their attorney wrote letters. You are the Design Review Board, not the city attorney’s office. Last January you did your design review, and instead of accepting your design guidance, or even coming back to discuss or negotiate, they brought in their lawyer. If I were you, I would be outraged.

3. Conclusion

As mentioned, I am not opposed to Steve and Rose Schoch building their home. But thus far they have been unwilling to design a home that fits within the limited footprint available due to the mandatory setbacks, and with a size that is similar to the neighbors. Frankly, the home as designed cannot work on that property. It is simply too massive.

I understand Rose & Steve are frustrated with the process. I received a “Dear Neighbors” email from them on March 10 in which they express their dismay, a copy of which is attached. While I sympathize, I hope Rose & Steve are willing to take a another look at this, and design a house that better fits this location.

In the meantime, I urge the DRB to deny this application based its failure to comply with Section 17.100.060 of the Sebastopol Municipal Code (Creek Setback) and Condition M8 of the Conditions of Approval.

Respectfully,



Ken Jacobs

From: [REDACTED]
Subject: Status of First Street Project
Date: March 10, 2023 at 6:47 PM
To: [REDACTED]



Dear Neighbors:

It has come to our attention that the DRB meeting on Feb. 28th regarding our project on First Street was once again totally unproductive and a complete waste of time. We were traveling at the time and did not have access to the internet. Now that we are back, we feel it important to share with you the status of our project.

Regarding the timing and notification about the DRB meetings, the DRB does not tell us their schedule and we only find out about it around the same time as all of you. We've been trying to get a meeting going with them without success since last year. All the necessary documents were given to them 5 months ahead of time, yet they claim they need more time and continue to delay us. This has been going on for over three years and is extremely frustrating and stressful. Not only does it delay the project but also costs us more money with every delay.

Some of the neighbors had issues with the size of the house. The permitted building envelope for our property is very small, relative to the size of the lot due to the creek setback. The ratio of the building envelope to lot size is the lowest compared to all other properties in the area. Not only that, but the rules require us to build an ADU, reducing the size for our main house even further. Because of this, our design puts the garage and workshop together in the same building as the main house. This keeps the affected area smaller as the other alternatives would be to build multiple outbuildings as you see in many other lots in the area, which leads to a more "junky" appearance, and also has a bigger effect on the natural habitat. We have already eliminated several highly desirable rooms to reduce the overall size and footprint. Every consideration in our design was given to maximizing the preservation of the natural habitat. This, however, never ended up being discussed because the members of the DRB neglected to review the documents. The DRB are the ones who is delaying this project, not us. Their neglect is one of the reasons why we stopped attending the DRB meetings.

To require a DRB for a single family home is extremely unusual in the first place. It was a requirement by the City of Sebastopol as a result of the subdivision of the lot into three parts. It is our opinion that the DRB is incompetent and disorganized. We are not responsible for their incompetence. Right from the very start, they had made up their minds that we are from some dot com company coming to taking over the town; never mind that Steve is a native Sebastopolian. We have been more than patient but our patience is running thin. According to the initial proposed plans, the house should have been built by now. Here we are three years later and we still have not even received approval yet.

The general feeling we get from some of the neighbors is that they would prefer to have absolutely no development on our lot, and leave it as a natural "park". For this to happen, the best way would be to have a government or non-government entity purchase our lot, maintain it, and turn it into a real park or a nature preserve. In the 20+ years that we have owned the lot, we have never received an offer to purchase it for such a purpose. Should we receive such an offer for the right price, we would welcome it. So if any one of you know someone or some organization who might be interested, please let us know. This whole situation has left a bad taste in our mouths both with the City and with some of the neighbors.

We hope this letter gives you all a glimpse of the challenges we are dealing with and why this project has stalled for such a long time. Please don't hesitate to reach out to us with any comments or concerns. Our contact info is as follows:

Steve: [REDACTED]
Rose: [REDACTED]

Best regards,

Steve & Rose Schoch