



## City of Sebastopol Design Review Board/Tree Board Staff Report

Meeting Date: February 28, 2023  
Agenda Item: 7A  
To: Design Review Board  
From: John Jay, Associate Planner  
Subject: Design Review, Tree Removal, Tree Protection Plan for 771 and 773 First Street  
Recommendation: Approval with conditions

Applicant/Owner: Thrive Construction/Builders' Studio (Gregory Beale & Marilyn Standley & Ryan Connelly) / Steve and Rose Schoch  
File Number: 2021-28  
Address: 771 and 773 First Street  
CEQA Status: Exempt  
General Plan: Medium Density Residential (MDR)  
Zoning: Single Family Residential (R3)

### **Introduction:**

The applicant is seeking approval of Design Review, Tree Removal, and Tree Protection Plan to construct a new single-family residence and accessory dwelling unit at 771 and 773 First Street. Design Review Board approval is required because the application involves the development of a new single-family dwelling unit in a new residential subdivision of three or more units per Section 17.450.010.A(2) of the Zoning Ordinance. The single-family dwelling will be located on one of the three lots approved by the City Council on September 18, 2001, as part of the 'Schoch Subdivision.'

### **Project Description:**

The project proposes to construct a new 3,977 square foot single family residence with an attached 1,288 square foot garage/shop/storage space along with an 801 square foot ADU and a 301 square foot garage. The project also includes a tree protection plan as there are on-site trees that need to be removed for development of the site along with escaped exotic trees that should be removed. Of the 16 trees noted within the tree protection plan, trees #4,12,13,15, and 16 are proposed for removal while the other trees in the report have mitigation measures noted.

### **Project History:**

Submitted May 2021

First DRB hearing on August 18, 2021

At that meeting, the DRB provided direction to revise the project as follows:

- Grading, as it related to the entire site and proximity to trees.
- Design of the structure and overall mass of the home.

- Trees and what the appropriate mitigation measures would need to be in place to ensure the survivability of those trees being kept.

(See attachments for meeting minutes)

The DRB also discussed the requirements of City Council Resolution No. 5220, which was adopted at the time this, and the adjacent parcels were approved through a subdivision map. The DRB requested additional guidance regarding how to interpret the Resolution at the time. As a result, staff scheduled a subsequent meeting (held January 5, 2022, discussed below) to focus only on the interpretation of the Resolution and the included environmental Mitigation measures (conditions of approval) as it related to the design and development of the property.

Second DRB hearing on January 5, 2022

At this meeting, the DRB provided staff and the applicant direction on how to meet the mitigation measure 8 from the approved resolution No5220.

- Discussion on what general area meant.
- Discussion on home size in relation to resolution No.5220

The conclusion of that meeting was a continuance as voted on by the Board (See attachments for meeting minutes)

The applicant met with Planning staff and the City Arborist to review the Resolution interpretation as well as the site issues raised in the first DRB meeting throughout 2022, and resubmitted the project on December 15, 2022.

This DRB meeting and report is to review the revised proposal as detailed below in the Analysis section.

#### **General Plan Consistency:**

The General Plan Land Use Designation for this site is Medium Density Residential. The General Plan describes Medium Density Residential as the following: "Designates areas suitable for single family dwellings at a density of 2.1 to 6.0 units per acre. Smaller existing parcels within this designation would not be precluded from developing one housing unit. Population density for this designation for this density would range from 5.0 to 14.4 persons per acre." The project is consistent with the Medium Density Residential Designation in that it involves the development of a single-family dwelling in an area that contains an array of residential uses.

#### **Zoning Ordinance Consistency:**

The project is consistent with the Zoning Ordinance in terms of building height, lot coverage, and required parking. It is consistent with the Building Envelope designated in the Parcel Map. It is also consistent with the R3: Single-Family Residential zoning district in that it proposes to develop a single-family dwelling and accessory dwelling, both of which are permitted uses.

#### **Subdivision Approval Consistency:**

City Council Resolution No.5220 approved a three-lot subdivision located off First Street in the Southwest corner of the City of Sebastopol. This resolution was approved by the City Council on October 16<sup>th</sup>, 2001, with mitigation measures to ensure the character of Sebastopol as well as preservation of its trees and creek systems, this site has a portion of Calder Creek running through the western portion. The mitigation measure that is most important to this discussion is M8, which states:

*"The homes to be built within this project shall be subject to the review and approval of the Sebastopol Design Review Board. The Board will be guided in their review of the proposal by their adopted Project Review Guidelines; by the design criteria set forth in*

*the General Plan, and by the following infill development standard: In general, the size and height of the homes to be constructed within this subdivision shall not exceed those of similar homes of the more recent construction in the general area, including both the First Street area and the Swain Woods neighborhood (Jewell near Hayden)."*

This language provides some discretion as to what an allowable home size is and gives the authority to the Design Review Board to make that determination as to what an allowable home size is, based on the "Project Review Guidelines", as well as the "infill development standard" as specified in the Resolution. With that, the Board is tasked to determine what an appropriate home size should be for this site, in addition to the other mitigation measures relevant to this resolution which also include a Tree Protection Plan prior to the approval of a grading permit, and the City's Design Guidelines.

**Analysis:**

**Prior Review**

This project was initially submitted in May of 2021 and one revision where the hot tub that was proposed was removed. The first DRB meeting for this project was held with the Design Review Board on August 18, 2021 where staff presented a report to the Board siting concerns with grading, design of the structure, grading and pruning for the trees on the site. Below is a chart of what has changed from the first submission to the second. The project also includes a detached Accessory Dwelling Unit (ADU), however those square footages are not included in the overall calculations per new state law, and the ADU is consistent with state law and the City's ADU ordinance (the ADU was also required to be included for the site in the Resolution for the subdivision)

		<b>1<sup>st</sup> Submission</b>		<b>2<sup>nd</sup> Submission</b>		<b>Change</b>
House footprint*		4,668 SF		3,343 SF		-1,325 SF
Conditioned Space		4,521 SF		3,977 SF		-544 SF
Unconditioned Space (inc garage)		2,092 SF		1,288 SF		-804 SF
Grading (cubic yards)						
- Cut		660		360		-300
- Fill		300		360		+60
- Off haul		360		0		-360

\*The house footprint includes decks and porches, and the unconditioned space includes the workshop and garage spaces within the lower floor.

The Board had a lengthy discussion about several issues:

- Grading, as it related to the entire site and proximity to trees.

The grading on the site and most specifically around the large cluster of oak trees along the Eastern property line (Trees #5, #7, #8, #9, #10). Those concerns included retaining wall impacts to the root zone for that tree as the building was located at the 20' property line however the trenching for draining and construction of that wall would encroach within that 20' setback. Tree #5 was discussed at length as this is a large clustered oak tree that provides buffering and screening from the neighbors and with its removal many of the neighbors had concerns about privacy and the loss of a large tree.

- Design of the structure and overall mass of the home.

Staff recommended that the Board discuss the overall mass and size of the building. Staff noted that setting a size would help with the overall massing of the home along with helping in the tree preservation. Multiple members of the Board did mention that the proposed size and massing of the home was trying to fit to much into the site. One of the members of the Board also commented on the fact that its unreasonable to not include the lower floor into the overall massing because the main living floor is roughly 3,000 square feet and there was another 2,000 square feet of space below and that lower floor space puts the project up high, adding to its massing.

- Trees and what the appropriate mitigation measures would need to be in place to ensure the survivability of those trees being kept.

Lastly, there was discussion about the trees on the site and the City Arborist provided a report noting that she met with the applicant's arborist and discussed property line trees and that those trees fall under the protection of all adjoining owners should anything happen to those trees during construction. The eastern trees also provide screening for both the project along with the neighboring lots up the hill.

#### January 5, 2022 discussion

The continuance of that meeting was then held on January 5, 2022 where the Board was tasked with providing staff input on the appropriate size of the home as it related to mitigation measure 8 of the approved subdivision resolution in 2001 (see attachments).

At that meeting, staff outlined options for the Board's consideration as they sought to provide direction to staff and the applicant on: 1) what constitutes the 'general area' as noted in the Resolution (in regards to home size language); and 2) how to determine the appropriate size of the home in accordance with the parameters of the Resolution ('In general, the size and height of the homes to be constructed within this subdivision shall not to 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).

Staff outlined an option regarding the "general area" from the project site including using the 600' mailing radius which is used for when a project requires public notice. This is a distance the City determined at an earlier time as the 'project area' appropriate for noticing The Board concurred that this 600' radius was a reasonable way to determine the general area.

Staff also noted the Resolution refers to "recent construction" to mean homes built within the last 20-30 years which narrowed that search further. The number that is a part of that staff report is an average of those homes within the 600' radius and homes built within that time frame.



The staff report also included a diagram of the conditioned and unconditioned space in the lower floor and within that report further explains that whether or not its conditioned or not it adds to the overall mass of the home. Staff suggested some options to consider, including looks at averages, and then allow for an overage to this (125-150%). The Board discussed at length what that size measurement should be allowed for this project and came to the conclusion that an average of what was provided within the staff report. The Board came up with a recommendation to staff that 125% of the average home size within the 600-foot notice area and that the unconditioned space be determined later based on the evidence the applicant would bring back at a future meeting as the direction for the application to head.

While the Board framed their recommendation as a 'motion', staff and the City's legal counsel analyzed this at the request of the applicant, and have determined that this was not a binding motion for several reasons, including that it was not agendaized as a potential action for the meeting. Both staff and the applicant took this information. Board members can consider this, as well as new information and the Design Guidelines as they evaluate the project's design and massing against both the Subdivision Resolution and the Design Guidelines.

The applicant's attorney has also noted that the Subdivision Resolution language notes that the size of the home *shall not exceed* the size of recently constructed homes in the area, and does not reference the 'average' size of homes. Staff feels this would be entirely appropriate to consider along with the other factors such as massing and design guidelines. The DRB should weigh this element as well as the design guidelines. Staff has confirmed that the revised home size (conditioned space, as unconditioned space is not listed in home statistics) is below two homes in the area, as discussed below and included in the applicant's information, including one home one block away (Bayberry Court), and therefore meets this requirement from the Resolution.

#### Revised Submittal

After that meeting staff had several on-site conversations with the applicant and their team regarding the home size, site grading and tree protection. One of the items that was discussed on site was the location of the retaining walls along the eastern property line and how they relate to the tree roots of the large multi trunk tree (Tree #5). Since then, the applicant has provided revisions to the project that respect the roots of that tree by removing the sewing room and changing the laundry room which opens up the bottom wall and creates an open space as suggested by the DRB.

The revised plan set also modifies the lower floor to address the concerns regarding the unconditioned and conditioned space. With that, the conditioned space has been reduced by roughly 1,300 square feet and provides a more open floor plan. However, staff does have grading concerns around the previous hot tub area as it projects into the setbacks and drip line of the trees. The building's footprint has not changed from the original submission, which is a bit of a concern to staff, however the applicant has reduced the lower floor square footage to address the conditioned space concerns that were originally apart of the January 5<sup>th</sup> meeting. This area is to be replaced with a planted area and open patio space for the lower floor. The Engineering department has also made comments and a condition to remove the grading work that is located within the 20' setback on the eastern property line, where the hot tub was previously located. Planning staff concurs with this recommendation, as this would also help to reduce grading within the drip line of the nearby tree, and provide additional buffer to adjoining properties.

The applicant also provided data for the homes within the general area and square footage numbers for those. As it's noted within the application materials, the homes construction years range from 1913 to 2011 while this is helpful to understand the overall scope of the homes constructed in this area, that date range does not completely relate to Mitigation Measure #8 "similar homes of more recent construction". With that, staff still feels that homes constructed since 1990, as outlined in the December 15, 2022 staff report as a more accurate representation of the intent behind that specific language. As for the mass of the homes located within this area the spreadsheet provided includes two homes that exceed the proposed home square footage.

**Environmental Review:**

The project is categorically exempt from the requirements of CEQA, pursuant to Section 15303, Class 3, which includes the construction and location of limited numbers of new, small facilities or structures. One single-family residence, or a second dwelling unit in a residential zone constitutes as a categorical exemption of CEQA under Section 15303(a). The project is consistent with this categorical exemption in that it involves the development of a single-family dwelling in a single-family residential zoning district.

Additionally, the project is consistent, as outlined in the Findings, with the Mitigated Negative Declaration (MND) adopted by the City Council for the subdivision of this land on October 16, 2001.

**Public Comment:**

Staff has not received any public comments as of writing this report since the January 2022 DRB meeting.

**City Departmental Comment:**

The Planning Department previously circulated the application to the following City departments for review prior to the August 4<sup>th</sup> DRB meeting: Building and Safety, Engineering, Fire, City Manager and Assistant City Manager, and Public Works. The following comments were received.

- Fire sprinklers, smoke detectors, and carbon monoxide detectors are required for both residences. 2019 California Building and Fire Codes apply.
- Developer shall submit a grading plan prepared by a registered civil engineer to the Public Works Department, and pay all fees associated with a grading plan check (may be deferred to building permit application).
- Developer's contractor shall obtain a Grading Permit from the Public Works Department before beginning any work on the property.

The second revision, submitted on December 15, 2022, was routed out to the same city departments and comments are as follows:

- Remove proposed building/grading activities from the 20' building setback area on the east setback side.
- Grading, drainage and erosion control plans shall be required for Lot 3, submitted to the
- Engineering Department for review and approval by the City Engineer prior to issuance of a building permit, including but not limited to a foundation-only permit.

- A traffic impact fee, the amount of which shall be determined by the City Traffic Engineer, shall be paid prior to issuance of a building permit on Lot 3.
- New water meter installations shall be located in or adjacent to the public right of way (First St.)
- Provide storm drainage design calculations supporting the proposed storm drain design.

**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:

- a) The design of the proposal would be compatible with the neighborhood and with the general visual character of Sebastopol.
- b) The design provides appropriate transitions and relationships to adjacent properties and the public right of way.
- c) It would not impair the desirability of investment or occupation in the neighborhood.
- d) The design is internally consistent and harmonious.
- e) The design is in conformity with any guidelines and standards adopted pursuant to this Chapter,

Additionally, the project is subject to the

- f) The design is in conformity to the Subdivision Resolution and associated Environmental Mitigations.

**Recommendation:**

If the Design Review Board feels the project can be approved, with conditions, then staff recommends the Board approve the project based on the facts, findings, and analysis set forth in this staff report, and subject to the conditions of approval outlined in the attached Exhibit A, Recommended Findings for Approval, Exhibit B, Recommended Conditions of Approval, and Exhibit C, Standard Conditions of Approval.

Alternatively, the Board may find that revisions are necessary and a continuance is appropriate. Staff recommends that the Board provide direction for redesign to the applicant in the event of a continuance or rationale in the event of a denial.

**Attachments:**

- Revised application materials
- August 18, 2021 meeting minutes
- January 5, 2022 meeting minutes
- Denial of Appeal request
- Exhibit A – Findings of Approval
- Exhibit B – Conditions of Approval
- Exhibit C – Standard Conditions of Approval



**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 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
<b>Building Setbacks – Primary</b>			
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
<b>Building Setbacks – Accessory</b>			
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
<b>Special Setbacks (if applicable)</b>			
Other ( <u>    </u> 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." 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:

A general plan

A specific plan

An ordinance affecting building permits or grading permits

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:  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

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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

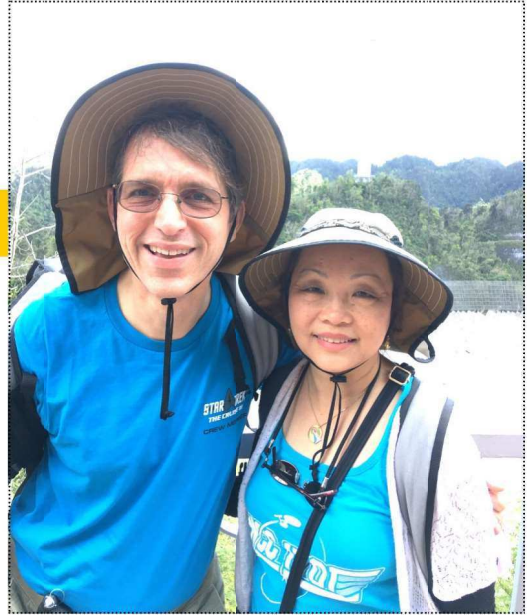
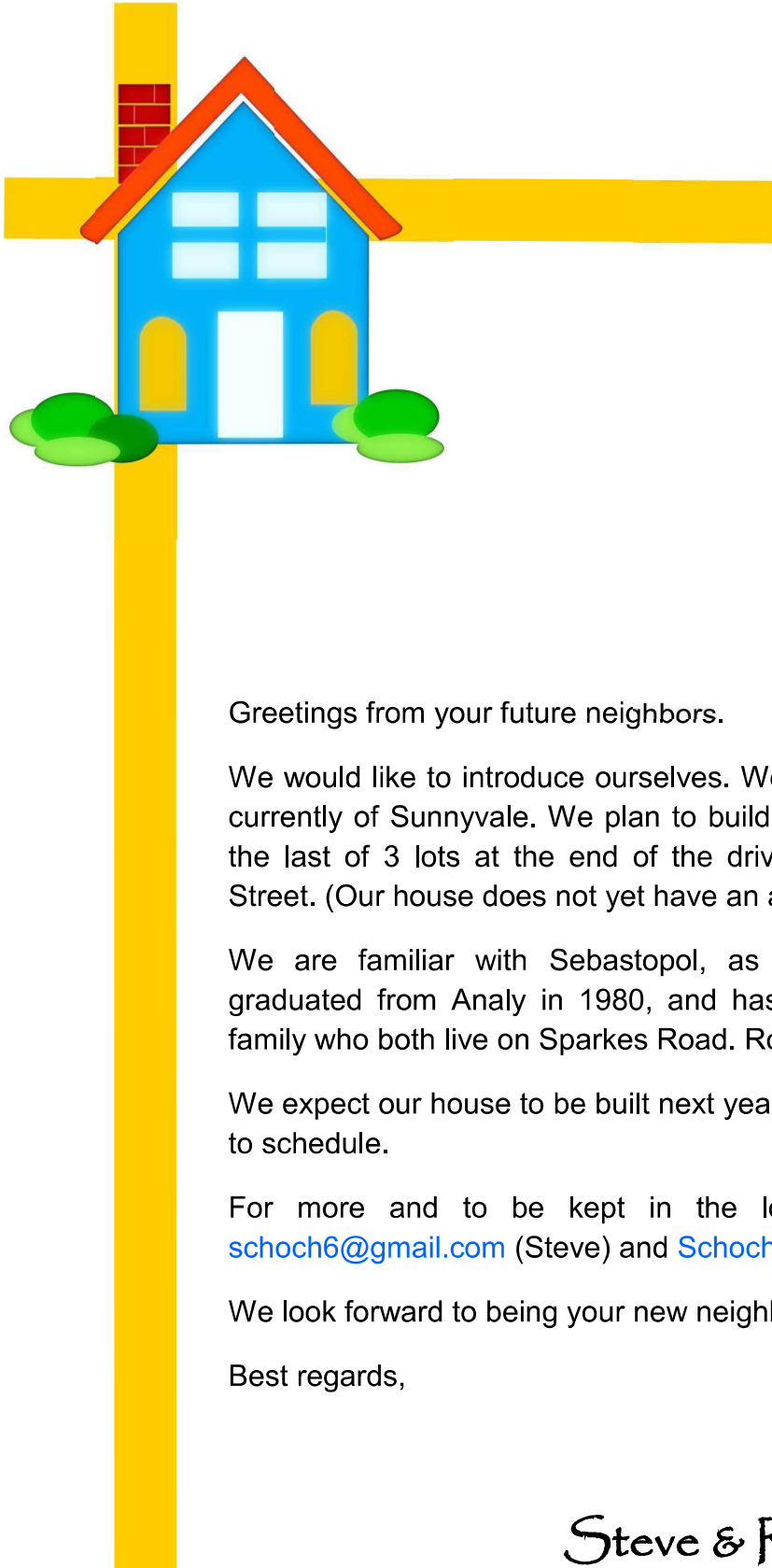
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Applicants for major development projects (which involves proposed development of **10,000 square feet of new floor area or greater, or 15 or more dwelling units/lots**), are required to create a project website in conjunction with submittal of an 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](mailto:schoch6@gmail.com) (Steve) and [SchochEmail@yahoo.com](mailto:SchochEmail@yahoo.com) (Rose).

We look forward to being your new neighbors.

Best regards,

*Steve & Rose*





1 MAIN RESIDENCE FRONT ELEVATION

**NOTE:** FOR INFORMATION NOT NOTED PLEASE REFER TO ARCHITECTURAL OR LANDSCAPE SHEETS AND ACCOMPANYING NOTES FOR ADDITIONAL DETAILS REGARDING; FINISHES, MATERIALS, LOCATIONS AND HEIGHTS.

FOR '1E' PLEASE SEE ATTACHED SEPARATELY 8.5X11 CUT-SHEETS FOR BULB AND SENSOR INFORMATION.

PLEASE NOTE A CHANGE IN MATERIALS MAY REQUIRE RESUBMITTAL AND REVIEW FROM PLANNING BEFORE BUILDING PERMIT CAN BE FINALIZED.



1E EXTERIOR LIGHT FIXTURE  
W/ TESLAR OR EQUIVELANT LED BULB 4.5  
WATTS (3) PER FIXTURE



WITH OR WITHOUT CAP PER LANDSCAPE  
DRAWINGS



'New England' STONE VENEER  
OVER CONCRETE

1L RETAINING & LANDSCAPE WALLS  
SEE LANDSCAPE PLANS  
FOR LOCATIONS

Sherwin Williams  
Crushed Ice 7647

D1 BASE COLOR  
Sherwin-Williams 'Crushed Ice' SW7647

Vanillin SW 6371

D2 BASE COLOR  
Sherwin-Williams 'Vanillin' SW6371



Rustic Craftsman Wood Stain  
Weather Gray

E SPA TRELLIS STAIN  
SEE ARCHITECTURAL PLANS  
FOR TRELLIS LOCATION



Idaho Gold Quartzite  
(Only at lower level steps & Patios)



'Road' TILE at steps and porch decks

I PATIO AND STAIR SURFACE  
SEE ARCHITECTURAL AND LANDSCAPE  
PLANS FOR LOCATIONS



MAIN DRIVEWAY (Permeable)  
Techo-Bloc 'Pure' Paver in Sandlewood color (Or Similar)



TURN AROUND AT ADU  
Lunix Eco permeable pavement (Or Similar)

J DRIVEWAY SURFACE  
SEE LANDSCAPE PLANS  
FOR PAVER DESIGNATIONS & LOCATIONS



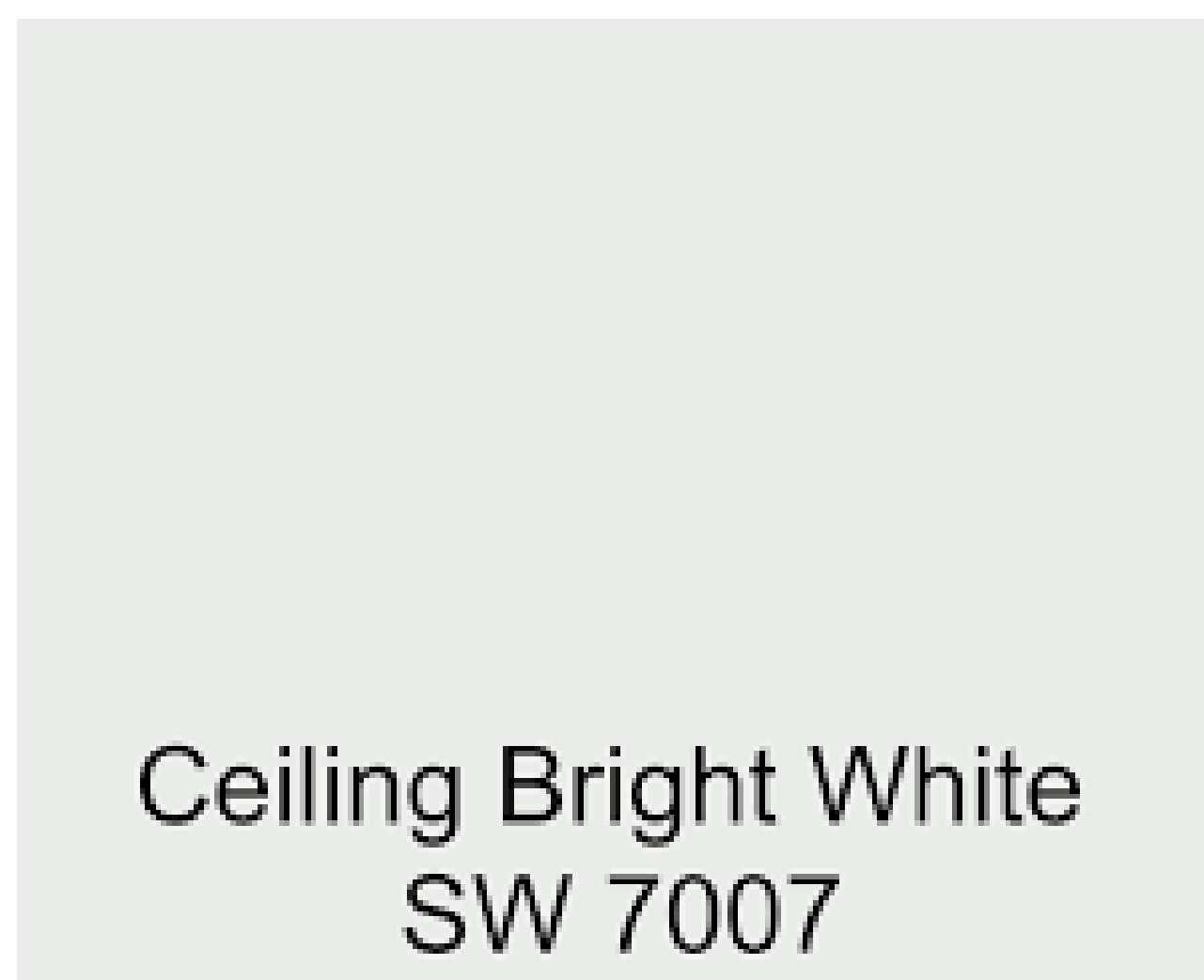
A SIDING STYLE - 'James Hardie' Horizontal Siding  
'JH' HORIZONTAL V-GROOVE SIDING



B LOWER SIDING - Stone Veneer  
'New England' Stone



C WINDOW STYLE  
'MARVIN' ELEVATE - WHITE



Ceiling Bright White  
SW 7007

F TRIM - TRELLIS - RAILING COLOR  
Sherwin-Williams Ceiling Bright White SW 7007

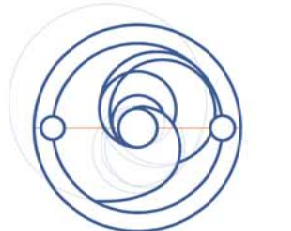


Festoon Aqua SW 0019

G DOOR COLOR  
Sherwin-Williams Festoon Aqua SW 0019



H ROOFING - Asphalt Shingle  
Dark Grey w/ 'Architectural' Shingle



**Builder's Studio**  
OF SEBASTOPOL  
555 SO. MAIN STREET SUITE 1  
SEBASTOPOL, CALIFORNIA 95472  
OFFICE: (707) 827-3388 FAX: (707) 827-3253  
WWW.BUILDERSSTUDIOINC.COM  
CSL: 878243

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CHECKED	DRAWN	DESIGNED	DESCRIPTION	DATE	REV.

**SCHOCH RESIDENCE**  
New Residence and ADU  
7xx First Street • SEBASTOPOL • CALIFORNIA • 95472

DATE: 10-14-22

Sheet

**A-DR1**

Scale





1 ACCESSORY DWELLING UNIT FRONT ELEVATION

**NOTE:** FOR INFORMATION NOT NOTED PLEASE REFER TO ARCHITECTURAL OR LANDSCAPE SHEETS AND ACCOMPANYING NOTES FOR ADDITIONAL DETAILS DETAILS REGARDING; FINISHES, MATERIALS, LOCATIONS AND HEIGHTS.

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1E EXTERIOR LIGHT FIXTURE  
W/ TESLAR OR EQUIVELANT LED BULB 4.5  
WATTS (3) PER FIXTURE

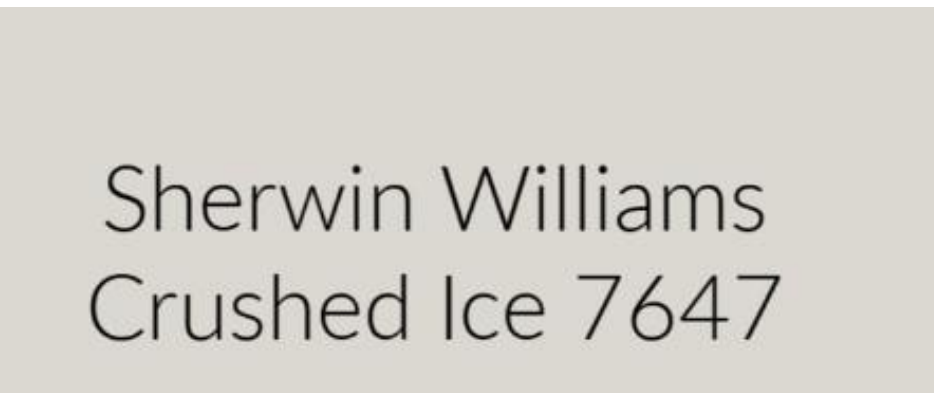


WITH OR WITHOUT CAP PER LANDSCAPE  
DRAWINGS

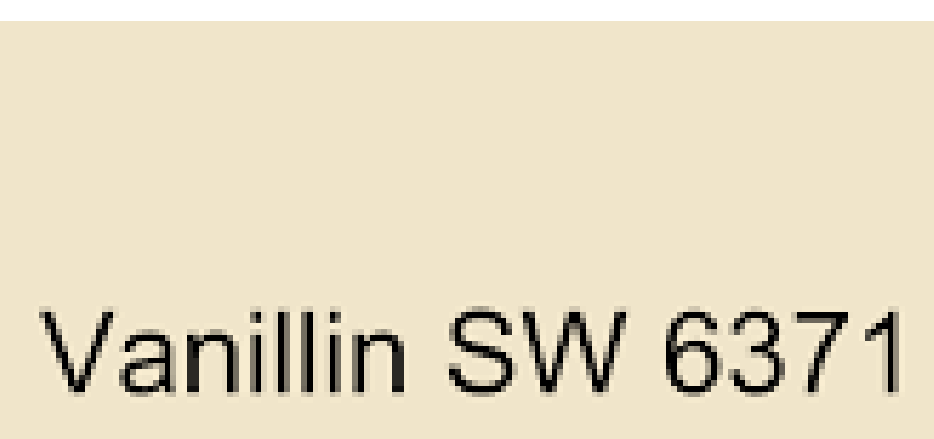


'New England' STONE VENEER  
OVER CONCRETE

1L RETAINING & LANDSCAPE WALLS  
SEE LANDSCAPE PLANS  
FOR LOCATIONS



D1 BASE COLOR  
Sherwin-Williams 'Crushed Ice' SW7647



D2 BASE COLOR  
Sherwin-Williams 'Vanillin' SW6371



E SPA TRELLIS STAIN  
SEE ARCHITECTURAL PLANS  
FOR TRELLIS LOCATION



Idaho Gold Quartzite  
(Only at lower level steps & Patios)



'Road' TILE at steps and porch decks

I PATIO AND STAIR SURFACE  
SEE ARCHITECTURAL AND LANDSCAPE  
PLANS FOR LOCATIONS



ADU DRIVEWAY  
3/8" ANGULAR CRUSHED GRANITE W/ EDGE



TURN AROUND AT ADU  
Lunix Eco permeable pavement (Or Similar)

J DRIVEWAY SURFACE  
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A SIDING STYLE - 'James Hardie' Horizontal Siding  
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F TRIM - TRELLIS - RAILING COLOR  
Sherwin-Williams Ceiling Bright White SW 7007



G DOOR COLOR  
Sherwin-Williams Festoon Aqua SW 0019

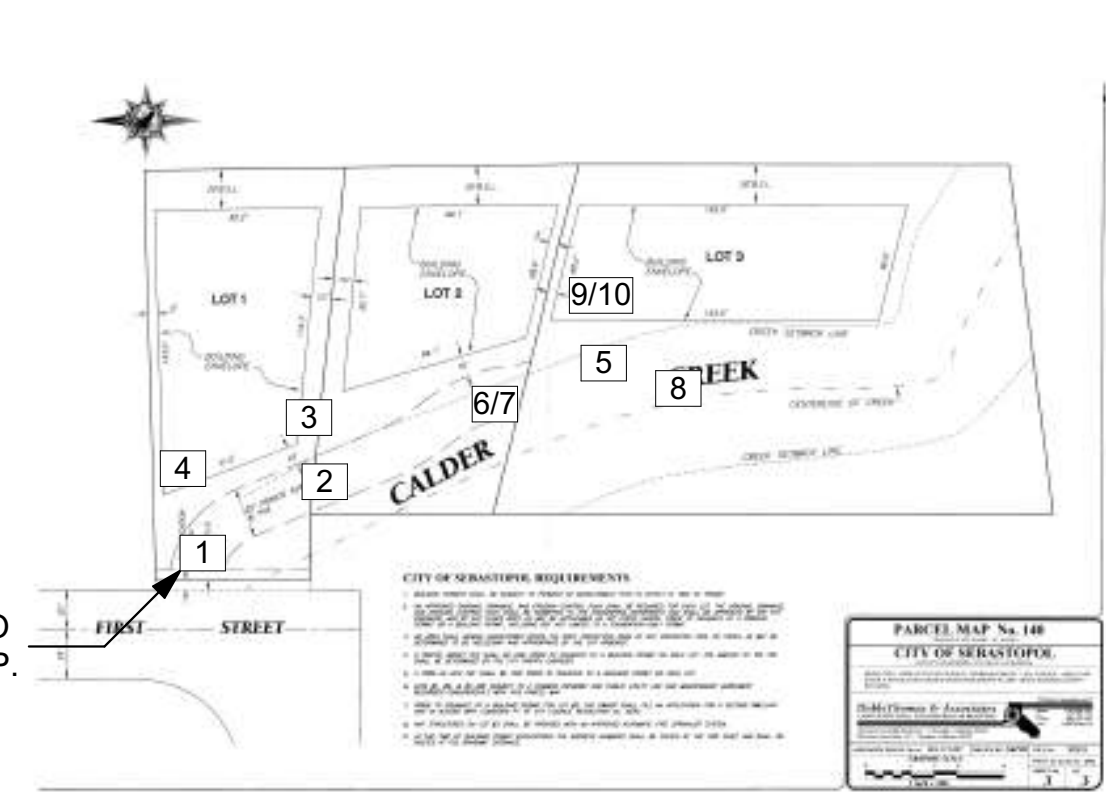


H ROOFING - Asphalt Shingle  
Dark Grey w/ 'Architctural' Shingle

CHECKED	DRAWN	DESIGNED	DESCRIPTION	DATE	REV.

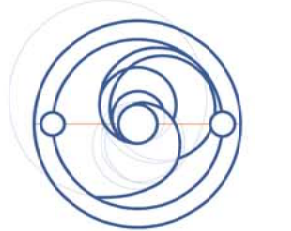


**NOTE:** PHOTOS TAKEN ONSITE 4/27/2021 AT APPROXIMATELY 3:30PM ON A SUNNY AND CLEAR DAY.



APPROXIMATE PHOTO LOCATION, TYP.

LOCATION MAP



**Builders Studio**  
OF SEBASTOPOL  
555 SO. MAIN STREET SUITE 1  
SEBASTOPOL, CALIFORNIA 95472  
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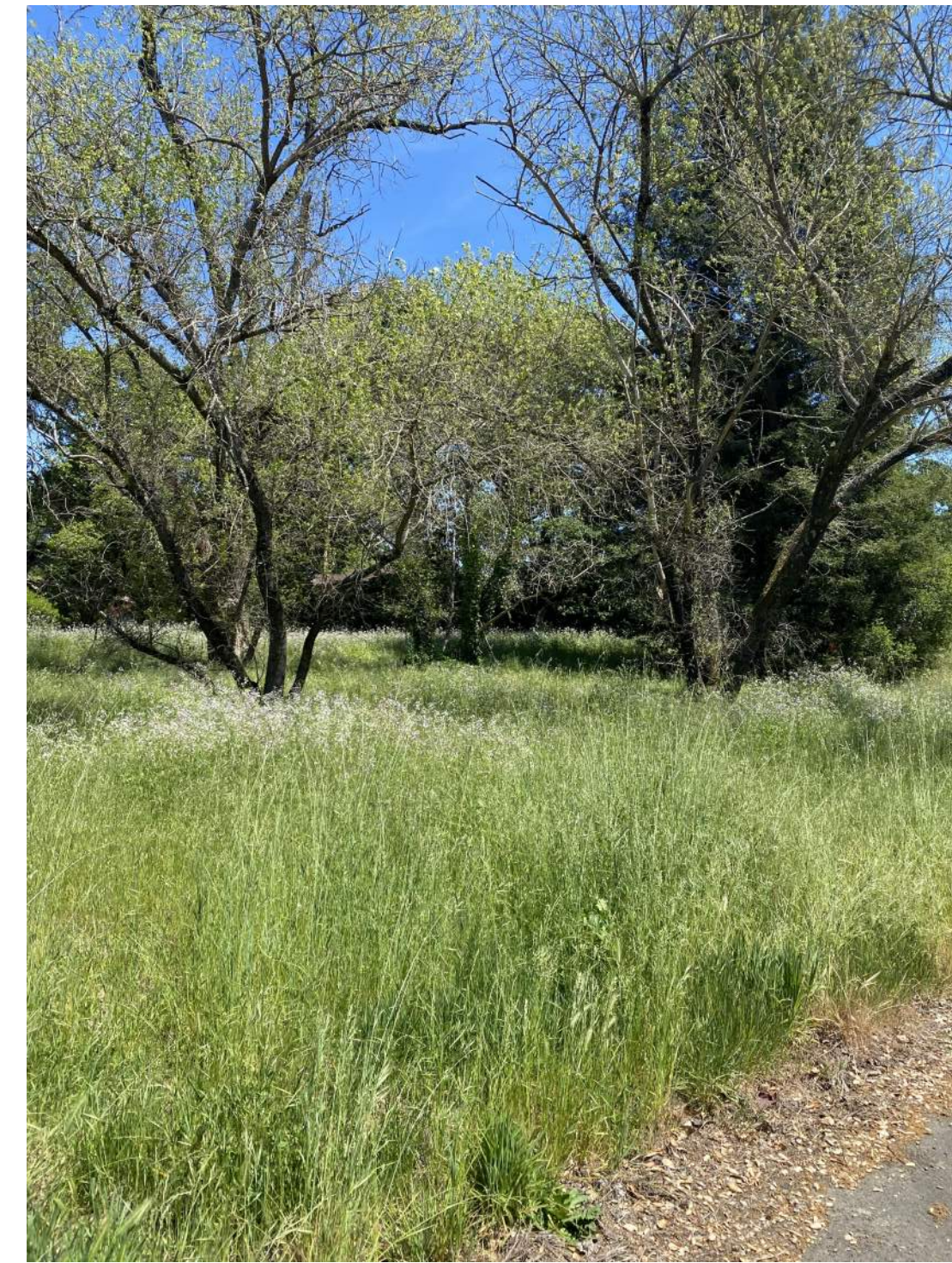
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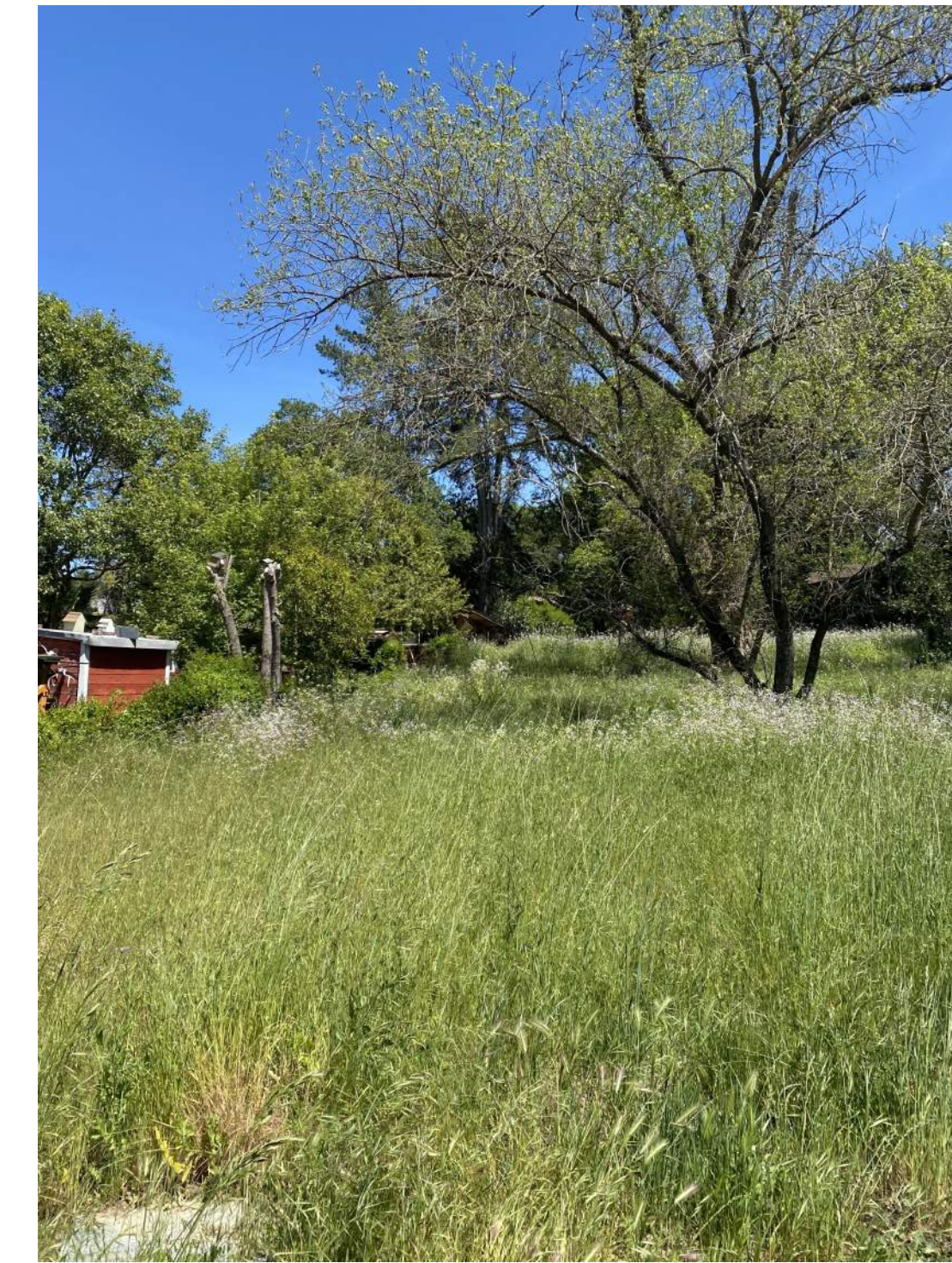
1 PROPERTY ENTRANCE



2 EXISTING ASPHALT DRIVEWAY (SOUTH)



3 EXISTING VEGETATION AND TREES



4 EXISTING NORTH PROPERTY LINE



5 PROPOSED PROJECT LOCATION



6 EXISTING ASPHALT DRIVEWAY (NORTH)



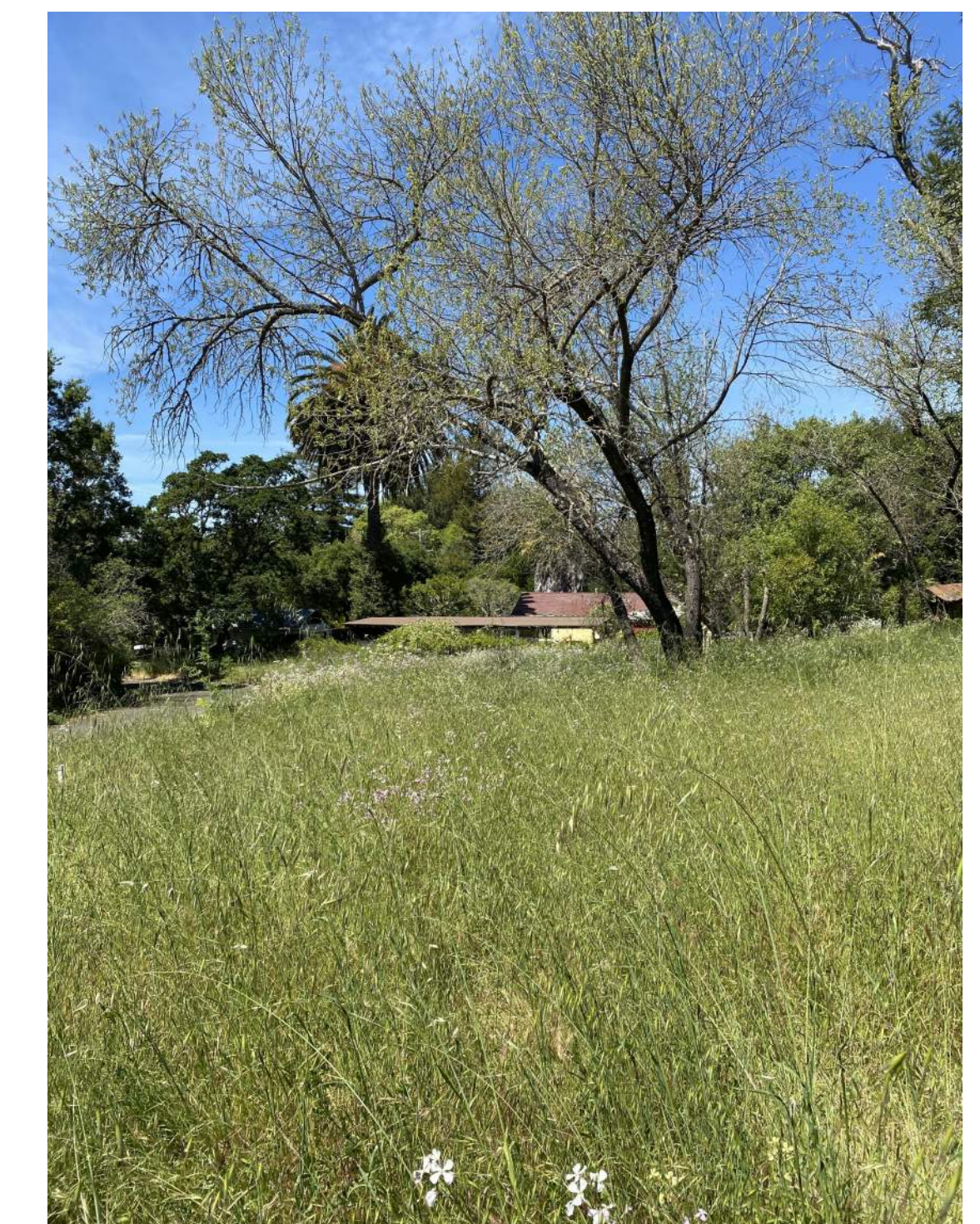
7 END OF (E) DRIVEWAY



8 PROPOSED PROJECT LOCATION (SOUTH)



9 PROPOSED PROJECT LOCATION (S/E)



10 PROPOSED PROJECT LOCATION (SOUTH)

REV.	DATE	DESCRIPTION	DESIGNED	DRAWN	CHECKED

**SCHOCH RESIDENCE**  
New Residence and ADU  
7xx First Street • SEBASTOPOL • CALIFORNIA • 95472

DATE: 10-14-22

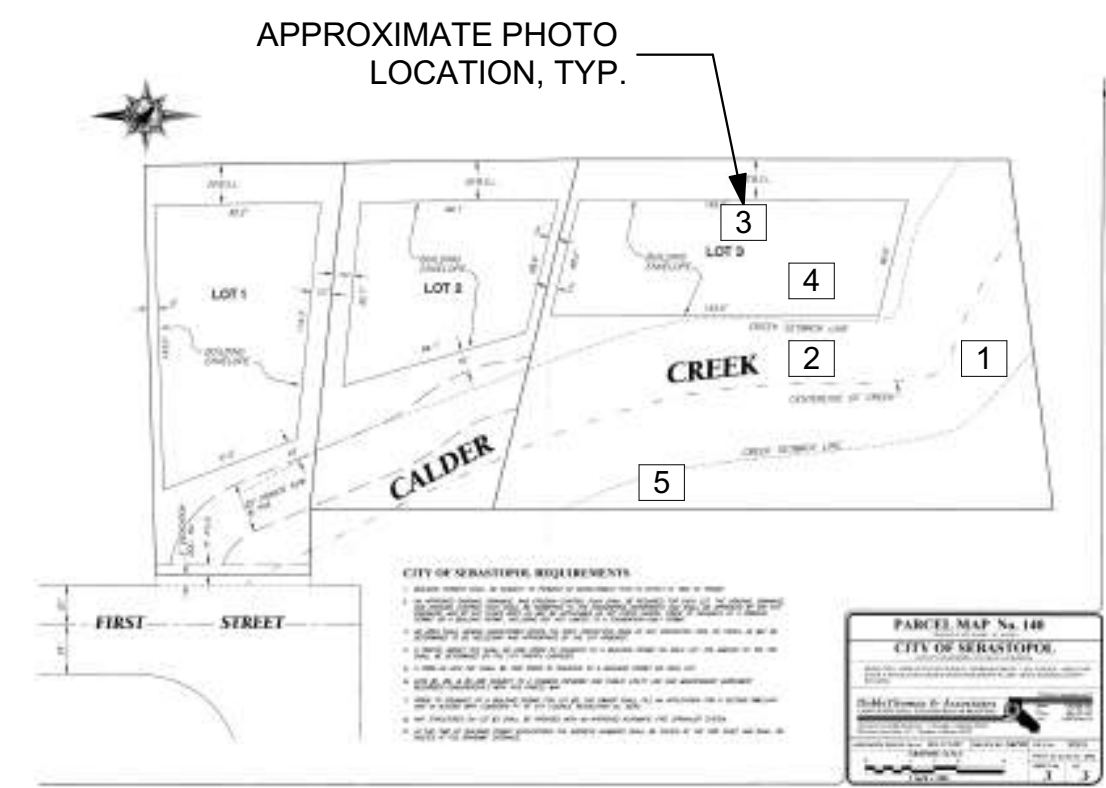
Sheet

**A-DR3**

Scale



**NOTE:** PHOTOS TAKEN ONSITE 10/18/2022 AT APPROXIMATELY 3:30PM ON A SUNNY AND CLEAR DAY.



LOCATION MAP

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1 TREE NUMBER 5 WITH BROKEN LIMBS



2 TREE NUMBER 5 WITH BROKEN LIMBS



3 TREE NUMBER 5 WITH BROKEN LIMBS



4 TREE NUMBER 5 WITH BROKEN LIMBS



5 TREE NUMBER 7 WITH BROKEN LIMBS

REV.	DATE	DESCRIPTION	DESIGNED	DRAWN	CHECKED

**SCHOCH RESIDENCE**  
 New Residence and ADU  
 7xx First Street • SEBASTOPOL • CALIFORNIA • 95472

DATE: 10-14-22

Sheet

**A-DR4**

Scale



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 30<sup>th</sup>, 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.<sup>1</sup> (*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].)

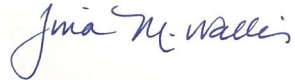
DRB denied the Applicant due process: The DRB's insertion of the word "average" relative to the allowed home sizing denied the applicant due process, decades after the statute of limitations passed to challenge the COA/MM8. The statute of limitations to challenge the language of COA/MM8 is linked to 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].)

<sup>1</sup> 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.

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.

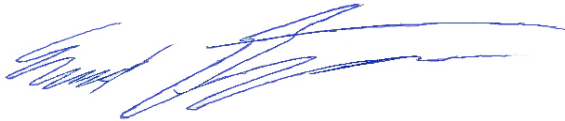
The City considers that the guidance provided by the DRB at the January 5, 2022 DRB meeting was advisory in nature, which is not binding on your clients or others. Therefore, the DRB’s guidance does not constitute an appealable “determination or interpretation” by the DRB. As you are aware, your client 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
<b>FIRST STREET</b>						
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
<b>763 First Street</b>	<b>3966</b>	<b>43124.4</b>	<b>0.09</b>	<b>2</b>	<b>3 car</b>	<b>2023</b>
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

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

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



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

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 6<sup>th</sup> 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 therefor 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.

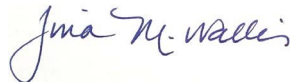
The tree of concern is an oak tree cluster at the eastern boundary of the property, numbered tree four on the relevant site plans. The entirety of the trunks of the oak cluster lies on the Schoch property.

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



**City of Sebastopol**  
*Incorporated 1902*  
Planning Department  
7120 Bodega Avenue  
Sebastopol, CA 95472

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

## **APPROVED DRAFT MINUTES**

TREE/DESIGN REVIEW BOARD  
CITY OF SEBASTOPOL  
MINUTES OF August 18, 2021  
4:00 P.M.

The notice of the meeting was posted on August 12, 2021.

### **DESIGN REVIEW BOARD:**

**1. CALL TO ORDER:** Chair Luthin called the meeting to order at 4:00 P.M. and read a procedural statement.

**2. ROLL CALL:**

<b>Present:</b>	Ted Luthin, Chair Lars Langberg, Vice Chair Marshall Balfe, Board Member Christine Level, Board Member Cary Bush, Board Member
<b>Absent:</b>	None.
<b>Staff:</b>	Kari Svanstrom, Planning Director Jeff Setterlund, Contract Planner Becky Duckles, City Arborist

### **3. APPROVAL OF MINUTES**

**June 16, 2021**

Vice Chair Langberg moved to approve the minutes as submitted.

Board Member Bush seconded the motion.

Chair Luthin noted that he had not received the minutes and would therefore recuse himself from approving them.

AYES: Vice Chair Langberg, and Board Members Balfe, Bush, and Level

NOES: None

ABSTAIN: Chair Luthin

ABSENT: None.

### **4. PLANNING DEPARTMENT UPDATE ON MATTERS OF GENERAL INTEREST:**

Director Svanstrom suggested this item be moved to the end of the meeting and Chair Luthin agreed.

**5. COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THE AGENDA:** None.

**6. STATEMENTS OF CONFLICTS OF INTEREST:** None.

**7. REGULAR AGENDA:**

**A. DESIGN REVIEW, TREE REMOVAL, AND TREE PROTECTION PLAN – Thrive Construction/Builders’ Studio: 771 and 773 First Street** – Project No. #2021-028 – The applicant is seeking approval of Design Review, Tree Removal, and Tree Protection Plan to construct a new single-family residence and accessory dwelling unit at 771 and 773 First Street. *This item was continued from the regular meeting of August 04, 2021.*

Director Svanstrom provided a brief introduction.

Contract Planner Setterlund presented the staff report.

The Board had no questions for Contract Planner Setterlund.

City Arborist Duckles presented and was available for questions.

The Board asked questions of staff.

The applicant provided a presentation of the project.

The Board asked questions of the applicant.

Chair Luthin opened public comment.

**Paul Olson**

Hi, my name is Paul Olson, 810 Jewel Avenue, directly east of the proposed development. We’ve lived there for 34 years. I want to thank the Board for their work for the City of Sebastopol and considering our concerns, and I want to thank Becky for her comments about the tree. The inevitability of the residence behind our house was apparent to us for a long time. We did not contest their right to build the home, but in the last few weeks our level of concern went from zero to one hundred when we finally saw plans that detailed the size and the scope of the project and we have several concerns that we indicated in our letter. Number one was the size of the project. I’m concerned about the size of the structure compared to the surrounding residences. At 5,321 square feet for the main house it is 92% to 248% larger than any adjacent home on First Street or Jewell. Comments about Swain Woods and other places within a quarter mile are not going to be looking at that house. The staff analysis that was presented in the plan cites concerns that “the overall mass of the primary dwelling is considerably larger than the surrounding homes,” and it recommends review and discussion of modified mass. I wish to cite Ken Jacobs letter which you have in your packet from the Resolution 2001 about the approval for the Schoch subdivision that the size and height in the subdivision shall not exceed those of similar homes in the general area. Ken Jacobs was a member of the planning commission at the (inaudible) Board at the time of that application. I contend it doesn’t fit with the neighborhood design. Number two, the tree planting and the foundation location. The arborist report regarding trees number four through twelve shows four removals and others that may require removal if they do not

survive. The tree root pruning process to accommodate the close proximity of the foundation wall makes it very likely that these trees will require extensive pruning and therefore threaten their health, the stability of the tree, and ultimately removal. These trees have provided my property with shade and privacy for over three decades. The arborist further states regarding trees five to fourteen that the minimal distance from the east foundation wall to the trunk of the tree is presumed extensive root removal may be necessary and he adds, "A large percentage of these trees' roots are in harm's way from the project." While I understand the desirability to save the trees I feel it is in the developer's interest to have them removed. Property line: we see in the plans that our property line is being claimed by the Schochs. No communication has been received about this issue and I have no idea of how much of our fence line is going to be moved. That fence has been there since 1987 or before. Finally, my concerns about the grading and Calder Creek with the slope and the scope of the excavation. I have seen over the last 34 years that creek flood many times and I'm concerned about the creek's health, the water flow, and the riparian system that it supports.

### **Jo McCormick**

Hi, I'm Jo McCormick. I'll put on a timer for three minutes. This is my husband, Armand Gilinsky. We live directly opposite the driveway that we've looked at for 22 years and wondered what's happening? I'm very pleased to say hi to who will be our new neighbors, Steve and Rose. Thanks for the communications, the little notes; that's very nice. We knew nothing about the size and scale of this project and now I know why, because you don't have to tell us about it. So, my concerns are twofold: One, for 22 years we've lived here and we've looked at that driveway and we've wondered what's going on? At least it's a single-family home and not eight dwelling units at some point and some years ago it was considered appropriate. Our driveways will face one another like this. It is on a blind corner of First Street. I wonder if that's been taken into account. It's a very unsafe corner. If anyone has ever tried to walk on First Street we have no sidewalks, or anyone who's tried to just drive the other driveway could attest. Second, I'm wondering now that I understand better the guidelines about shall not in general exceed a reference point for square footage of surrounding homes, when homes are built, and you could consider ours a large home but it is 2,646 square feet, when homes are built and others are allowed or not based on a reference point that keeps getting bigger and bigger, isn't there a sort of precedent being set by squeezing in a 5,000 square foot home on that property? I completely worry about that for the long term. Well, the future of our town, the character of our town, and more importantly, our neighborhoods. With that I wanted to pass to my husband, but otherwise I'm glad for the opportunity. It's the first chance we've had to really understand what was planned.

### **Armand Gilinsky**

And I'm just curious why a couple who are planning to retire need a home with such a large size and a three-car garage, which will add to the traffic in addition to whoever is going to be renting out and staying in the ADU. So, there could be up to four or five cars coming back and forth through that area. This is a neighborhood where a lot of people walk around with strollers and dogs and pigs, among others. I'm just concerned about the amount of noise, pollution, and impact on what is essentially a bucolic area in a city of a moderate size.

### **Jo McCormick**

If we have any seconds left I do want to just clarify the main entrance and egress from that property, from that lot on that property, will be on First Street, right?

Director Svanstrom indicated that that is correct.



**Jo McCormick**

That's a question. Okay, so we will be getting to know you, Steve and Rose, because we'll be coming out at the same time and going in. Luckily we have one car, and on that I'll put my concerns to the group.

**Steve Fabian**

Hi, I'm Steve Fabian. I live on First Street pretty just west of these three lots. What I'm concerned about is that the size of this structure is going to be 6,800 square feet. You know, you can talk about the living part and you can talk about the attached garage and workshop, but it's a huge structure and what I'm afraid is going to happen is that we're going to wind up having what's going on in Silicon Valley and the Peninsula where people buy houses and then they wind up taking small houses and getting bigger and putting mcmansions in, and frankly that's exactly what this house is going to be. I mean, it's just huge. The total mass of these two structures is going to be almost 8,000 square feet. That's a lot of structure being put on this property and I think it's very much out of character with the rest of the neighborhood. I really believe that even though we want the Schochs to have a nice place to live in, and I'm not trying to take that away from them, I think that if you look at mitigation eight, that is not trying to envision a situation where the houses keep getting bigger and bigger, because if you're going 150% over what the average house is in this neighborhood, between 2,000 and 3,000 square feet, the next people that want to build a house they're going to start going from 2,000 to 3,000 square feet, it's going to be between 2,000 and 4,500 square feet, and it's just going to keep moving us to having Sebastopol be a city of mcmansions instead of the residential character that we have now. I'm done, but Judy may want to speak.

**Judy McCann**

Hi. I want to say hi to the Schochs. I was extremely surprised by the size of the dwelling and the ADU, and I personally do not feel like that design and size fits with our neighborhood. There was mention of Swain Woods having large houses as larger or bigger or comparable but we're really not Swain Woods. Swain Woods is a different neighborhood, and you know that when you're out on a walk you're okay we're in Swain Woods now, and that is where big houses are. I'm concerned about the trees mainly, and I think there's going to be a lot more discussion and work on that and maybe more understanding about the impact on the oak. I'm certainly no expert, in fact far from it, but I just want to express my concern that we are seriously considered that the oaks maintain their health and can shade both properties and also create a curtain between the properties. It is pretty close to the properties on the east side. That's all I have to say.

**Daniel Celidore**

Thank you. I'm here with Dale Jewel and we bought the house at 814 Jewell Avenue, which is just to the east of the proposed Schoch residence. Hi Steve, and hi Rose. Generally it seems to me a lot of the issues could be solved by reducing the size of this place. If you've got a 6,700 square foot building that includes the multipurpose room, the garage space and the living area, that's an enormous structure. If you add up the 38 houses that are directly around it, across the street on First Street, on Jewell Avenue, and you add up these 38 homes you get an average size of 2,140 square feet and the size of this thing at 6,700 square feet of structure is just enormous compared to those. It's huge. Even if you guys somehow say the average size is 3,000 square feet, which it is not, it's 2,400 square feet of every single house around it. There are some that are 1,075 and others that are even smaller on First Street, so that's one thing. Making this a smaller place would solve that. Secondly, we're right up against the eastern wall of this place, its foundation wall, and the existing heritage trees. If we take all the necessary steps to assure their long term survival, and that's advocated by the City of Sebastopol Tree Protection Plan, then you would not be



excavating the roots and pruning their roots. You would not be pruning their roots to allow for the eastern foundation wall by quite a bit and a very short distance from those trees; you're going to kill those trees. In addition to that you also take out the overhead umbrella of these trees and then balance them on the other side by removing more limbs, which is all suggested in the arborist's report, then you are really doing a lot of damage to those trees and their chance of overall survivability is hugely lessened by those practices. Now, Paul's got trees on his property that are going to be then on the Schoch's property when they move the fence, and those trees are also going to need root pruning and they're going to need overhead canopy pruning, and so those trees are in danger as well. Then we've got the whole business about Calder Creek. The issue is that excavating soil and debris produced by the construction phase may find its way into Calder Creek, which runs through that lot, which is Lot Three. Reducing the size of the project would make that less likely. It's also possible that runoff from landscaping may find its way into the creek and reducing landscaping may make that less likely. So, here's Dale and she's got a few things to say.

### **Dale Jewel**

I don't have too much more to add. I was concerned about comparing our neighborhood to Swain Woods, which is not a good comparison. Swain Woods is a different kind of animal altogether. I'm not opposed to having a home go into that lot but I just wonder how suitable it is to have a home there given the fact that the creek and the trees are so susceptible to damage, and there is also they are a home to the endangered tiger salamander. It's just the last riparian area in Sebastopol and I'm worried about it, about its survivability and its viability, so anything that could be done to preserve the area, the trees, the creek, the salamanders, the beauty of that area, will be really important to me. It seems like a smaller dwelling would do that, so that's my concern, that the smaller footprint would be beneficial.

### **Loretta Wilson**

I'm Loretta Wilson. My husband and I, we were here for 35 years on the other side of town and built a house. We've raised our family here. We moved back on July 9<sup>th</sup>. We were not informed of any of this, number one. Number two, we are on the south side of this and it's adjacent to this property; full impact for us as far as watershed is concerned. We've already had issues in Sebastopol many years ago about culverts and things like that because we're in a gully here. That's where this house happens to be, our house that we just purchased, and we're returning to Sebastopol for our golden years, bringing our grandchildren here to learn all about Sebastopol. The only person that notified us was Daniel who last Sunday came and knocked at our door while our grandchildren were here. We all just moved in and now we find we're in a really bad position as far as watershed, and those beautiful trees back there, I can't imagine that anybody living in Sebastopol would approve removing any trees that have been here longer than all of us put together. We are exposed in a declining position and I would love to see Gregory Beale come and show me that my house and my yard is not going to get flooded by Calder Creek. It is going to. It's going to be backed up, it's going to be horrific for us, and we're in our seventies. We spent a lot of time in this town raising our kids. I worked at Brook Haven School. I know Paul's wife Laurie and I know all his children. It's just amazing to me that Sebastopol of all towns would actually be okay with this. I would love to talk to the arborist, Becky. I would invite anybody to come to my property, even the Schochs, and have them tell me we're not going to be flooded. I can tell we'll be flooded; it's a no brainer. It backs up. The whole thing is going to be backed up. Those poor trees, it's just ridiculous. I get the shade thing but we didn't buy this home to be flooded, we bought this home as our last home. This is our forever home and we are in our seventies. When I retired we did leave, but we left to follow our children. Now are children are coming back to follow us, and this is not okay. It's just not okay. We've been in this home for six weeks; we're still unpacking. Daniel was kind enough to come to our front door

and share what the heck is going on and I think it's absurd. I'm sorry that the Schochs own the property, but something smaller, maybe, with a guarantee that the watershed is not going to impact us. It's going to impact us greatly as it does everybody else.

**Stephen Wilson**

Hello. Hi Rose and Steve. We had experienced over at 666 Ellis Court where we lived when the Garman project was developed behind us, I think they subdivided back there about ten homes, and the loss of watershed was just devastating to our property. Everyone guaranteed me they were going to exchange the culvert and everything and I wouldn't have a problem. Well, I had a massive buildup of water because of loss of watershed, so I'm sort of like a quasi type expert on watershed in Sebastopol based upon the soil and rain. We had to order in like two double loads of rocks. Now, I don't know how many tons of rocks we had to order, but that's all the soil we lost with all the big rains and everything. I'm wondering what inspection or consideration has been given to downstream owners with the 6,700 feet of loss of watershed, excluding driveway land? What consideration has been given to the downstream owners on possible increase in water and probably maybe an increase in flow speed? Because on our property it just devastated us. It was all at my expense and I was guaranteed everything was going to be taken care of. I went to the City and I got no satisfaction. I think I even spoke with Paul. And another thing here, when we came into this property we had a gardener come and clean it up and on the north side there is a big, gigantic culvert like this. I have no idea what it is doing over there and it's all rusted out and I have grandchildren. I'm just curious what department of the City do I discuss that with? I'm just about finished. Plus there was a big fallen tree over there, but I'm just wondering what City department do I speak to about this unsafe culvert on my property, and I don't even know whether it's a water culvert or a gas culvert. You see, we just moved here like five weeks ago and we're finding about all of these things all of a sudden and we're unpacking boxes and now we're spending time with you guys and everything because of our concerns, but I would appreciate knowing what department I could speak to. Thank you.

Chair Luthin closed public comment.

The Board discussed the application as follows:

**Ted Luthin, Chair**

It seems like the big ticket items here are footprint sized, which I think speaks to building envelope and impact on trees and the square footage issue is obviously related to that, but maybe we can just kind of go around and give some initial comments on first thoughts.

**Christine Level, Board Member**

I would like to ask a question of Becky Duckles. I would like to hear Becky's comments on this tree root pruning business and what she thinks about it because it seems like it's going to be fairly substantial under the current proposal.

Director Svanstrom indicated that she had the tree map with the trees identified that she could put on the screen.

City Arborist Duckles responded that she would appreciate that.

**Becky Duckles, City Arborist**

I have two concerns. One is for after consulting about trees and all of that for more than 30 years I'm really uncomfortable with the idea of when a construction project is underway and plans are approved and the contractors are just trying to do their job that an arborist on the

site says a tree is losing too many roots, too many branches, too many trunks, and needs to be removed. I think this needs to be addressed proactively ahead of time in the planning, and thank you all for addressing it and inviting me to participate. I think that it's really important because even the project arborist said some of the trees might need to be removed if they are losing too many roots and too many branches. Well, again, these are property line trees and this is something that really should be addressed early on in the planning in the design stages, so that's my one little message from the pulpit. My second is that black oaks, interestingly in more than 30 years of looking at oaks, are a species that are particularly intolerant of construction impact, grading, filling, and all those things, so we need to look closely at them, and they are property line trees owned by other people too. My suggestion is that we just look closely at the planning, closely at the excavation, grading, plane construction, and we figure out what's going to happen. I'll just give you one of my little factoids about trees and that is that 90% of their roots are in the top two feet of soil, so if that zone is impacted by construction, grading, retaining walls and all that, then you need to look at what's going to be happening to the roots, and retaining walls are particularly important because, and Christine can address this, they have different methods of construction and design and they might have T footings or L footings and they might be this or that, but it's important to think about how they're designed and what the detail is and how that is going to impact the tree roots within the top two feet of soil. One last thing is that these trees on that east property line are really important for screening and privacy and protecting heritage native trees, and we can go into detail about the tree health and condition and things like that later but just as a planning construction description discussion I'd like you to think about the roots as well as everything else. Thank you.

**Christine Level, Board Member**

My understanding, and actually I have you to thank for my vastly increased knowledge of trees, is the tree itself is creating its own internal balance by way of its root systems and its trunk systems, and if I'm understanding this correctly if you start cutting off roots or trunks, especially some that may be substantial, you are running the risk of imbalancing that tree and it could just go over. Is that reasonable thinking?

**Becky Duckles, City Arborist**

That's a really good question and I run into that almost every day. Tree services are really fond of using the words balance and structure and lightening and thinning and cleaning and clearing, and so balance and all those things are kind of relative and our ideas of balance and structure and stability and anchorage really aren't quite the same as what the tree does to hold itself upright. We have to look at the tree root structure, and Chip Sandborn is really good at that and he really knows about tree roots and things, but we have to look at how those trees are maintaining themselves at an upright position and receiving water, so we have to look at that in terms of where potential grading is going to be. But also, when I do inventories of trees I look at tree's structure very differently from tree health and condition. A tree can be really healthy and look really green and full of leaves but be truly unsound, so we have to look at those things separately.

Chair Luthin asked Board Member Level for her preliminary comments.

**Christine Level, Board Member**

I'm going to go back to this language in the conditions of approval for the subdivision. First of all, in general I have to pick a bone with that a little bit because its general meaning is—I'm reading here from the Collins Dictionary meaning—that you are talking about something as a whole rather than a part of it. So, I don't really think that that language goes towards allowing you to change the meaning of the rest of the sentence, and the rest of the sentence goes back to this subdivision, "shall not exceed those of similar houses," and then

it gets specific, "of more construction in the general area, including both the First Street area and the Swain Woods neighborhood, Jewell Avenue near Hayden Avenue." That language to me says that it's looking in a specific close proximity to this residence in this subdivision, not all over Swain Woods, but Swain Woods, Jewell near Hayden. I feel like Gregory came up and he ran through all these houses that were larger sizes but it would be helpful to see some kind of a map, like further in this document here there's a map showing the square footage of the houses that are in close proximity to this subdivision. Gregory mentioned some street names but it would be helpful to have a map that showed where those were, because I'm stuck on this square footage things because this is very specific language, "shall not exceed." That's my initial comment on the size. Additionally, I'm concerned about the trees of course, and the grading and the pruning, and those trees are essential, obviously, being heritage trees, but also for the properties to the east because if something were to happen to those trees those people are going to be overcome with a westward exposure and that's going to be really difficult in terms of energy and heat gain and the impact upon their homes. That's the hardest exposure around here. Then I'm also concerned about this property line survey because it seems like we have this existing condition that's been accepted generally going on since the eighties at some point in time and now suddenly we're moving the property line over, and it doesn't seem like the neighbors have had any say so in this or understanding where this came from or really anything. It's almost like a taking to that, so I'd like to see some further discussion about this. Then finally, because of the couple that just spoke that are just to the south, it's an interesting issue of having the water because we're taking a lot that has the water coming down and absorbing into the soil and going into the creek and now we have all this hardscape and that water's going to be collected, and I'm curious to know where does that water go? Where is it daylighted? That's a question for the civil engineer and this might help to mitigate some of the concerns of the property to the south, or not if it's being dumped into the creek. I don't know where that water drainage goes, and I'd like to know. So, those are my initial preliminary comments.

Chair Luthin thanked Board Member Level for her comments and asked Board Member Balfe for his initial comments.

**Marshall Balfe, Board Member**

I really am focused on what is to me the major asset of this house, the tree behind it with the seven trunks. The problem as I see it is the sewing and crafts room. I think that could be basically eliminated and the master suite above could stay. If you get rid of that down there then there's plenty of room around the tree for the roots and there's square footage to burn down there. I think with a little bit of puzzling around that could be put somewhere else, but if you just had the natural grade under the master suite and the retaining wall did a jog there you'd have incredible space for those roots below that master bedroom, incredible space for the tree and there's a good chance it could survive. The way this retaining wall is in there it's definitely going to die or fall over. At my house I have two of those big trees and I only live where I live because of those trees. I just can't imagine somebody on purpose killing that tree. So, that's my main comment. I think everyone else has addressed the other issues thoroughly, so I'll just be quiet at this point. Thank you.

Chair Luthin thanked Board Member Balfe for his initial comments and asked Board Member Bush for his thoughts.

**Cary Bush, Board Member**

Well, there's a lot to talk about here, but I'd like to start with the applicants; I'd like to thank them for their submittal. It's important to recognize the amount of time and energy and effort that goes into these submittals. There's a lot of work and a lot of money, so we

try to respect that and understand that. I also feel like you guys threaded a needle with your program and the program is a rather large one. You've got a lot of wants and needs in a very small space, and I think Builders' Studio did a heck of a job really responding to that site plan. When I think of site planning for our own firm we look at context and we think about how structures really kind of marry sites, and the big question to me is how does a structure like this respond to a site like that? And is it a structure that responds to a creek or is a structure that responds to a much bigger open flat space? So, that's something to consider as an architect and a site planner: how does it really respond to a site? And here we are, we're sitting before each other, and I think the program is a large program and to avoid any conflict being a neighbor, because that's what makes a home are your neighbors. You're talking to a guy who lives in a home that's less than 950 square feet, and just for perspective and full disclosure it's a large structure on a very restricted site, so the pushback is not to me quite abnormal, it's quite normal, especially when you have mature over-story trees that are being monitored and protected by the City, as they should and that's why the Board is here, it's understanding how that responds to the overall site plan. If we all had to really look at that as the biggest picture of all, it's the response to a program and how it responds to a site. We can get into the details. I wanted to ask Ms. Duckles if she felt like tree number seven, a black oak that's kind of marrying a white oak, it's really kind of an anomaly in that way but it's a rather large six-foot diameter prong, but is it considered mature or over-mature? As you mentioned earlier, Ms. Duckles, black oaks in particular don't respond to people; they hate people and construction. Most trees do and that's understood. So, if I could, would you consider this a mature black oak or is it an over-mature black oak?

**Becky Duckles, City Arborist**

It's mature and possibility over-mature, but it's well worth preserving because it has value not only to the property owners on this site but the adjacent property owners who share ownership. And again, it's a black oak that's not tolerant of construction. I think it's worth preserving and I think that the analysis by the project arborist, Chip Sandborn, was interesting and based on his experience with tree service, and he tried to evaluate the trees a little bit in terms of their survivability and quality, and so I agree with you, or not. It is a heritage tree, it's worth preserving, it's worth looking at further in terms of protection and keeping it onsite upright, intact, but without providing hazard to other people. One small comment about construction is that when roots are cut on a tree during construction, over my 30 years experience doing this, it might be five years before the tree declines or dies or falls over because of root loss, and so when a tree experiences root loss during construction there's a wound to the roots and usually oak root fungus infects those roots and then it takes a while to progress to the main stem and destabilize the tree, and so we try to prevent that. Thank you.

**Cary Bush, Board Member**

Something's go to give, right? You've heard it from an arborist that we have a significantly worth preserving black oak. It's all over the critical root zone. The foundation of anything is without a doubt within the critical root zone. I did a quick calculation from the optimal tree protection zone for a mature, and not an over-mature, tree, but I could be seventy-two feet based on a six foot diameter trunk, but it's just that I think the program is trying to force too much in a very confined space and this is the result. We can talk about possibly all the other issues that come with it, but size of structure is one thing, and the architecture itself, the colors, there's a lot to talk about, so overall those are my just general comments and we'll likely be looking at a continuance in my opinion.

Chair Luthin thanked Board Member Bush for his comments and asked Vice Chair Langberg for his initial thoughts.

**Lars Langberg, Vice Chair**

Thanks very much for the very detailed application. There's a lot to look at. It's a tricky place for sure and also has a very different feel from First Street as the access, but it's closer to Jewell and trying to mitigate those two things I think is pretty challenging. I agree that tree needs to be preserved. You walk onto that site and that's the thing you look at, and for the site and for the Olsons right behind, like if that tree comes down everything changes for them and for the uphill side. But really, I think you can have a square footage discussion and then you can play that a lot of different ways and I appreciate Gregory's analysis of all that, but it's not just the size, it's the scale of the building. If you come onto this site—and the 3D renderings are great, they're so helpful to look at—it's a big project, it's a big house and I appreciate that the program is driving that. We all want different spaces in our homes to do different things but I think given the restrictions of the creek and tree that it's too big of a house for this site; it just is. I think even if you're only living in 3,000 of the 5,300 square feet there is still 2,300 square feet in addition to the 3,000. You can't just say that's sort of dismissive. It's not; it's a big house. The downstairs put it up high, it's part of the project and you can't just kind of brush it aside. I understand in our purview it's challenging and it meets the height restrictions and the setbacks, it's doing a lot right, but as an overall sense on the property it feels like it's too much. That's my overall impression.

Chair Luthin thanked Vice Chair Langberg for his comments and gave his own thoughts.

**Ted Luthin, Chair**

I'm feeling much the same way. As you both said, it's a very complete application. I could definitely hear it in Gregory saying that first floor, that upper floor, and getting these spaces and these orientations is what drove this whole thing, and I totally understand that. It is a big piece of property, it's an acre site, and I think if someone said I've got a big, flat acre piece of property and I want to put up a 5,000 square foot house, I wouldn't think twice about it. But this isn't just any one-acre property, this is a heavily encumbered one-acre property that has an envelope of a third of that and it has tree issues that carve into that envelope even more. Everything isn't doable everywhere and I think what we've got is something that someone really wants trying to get put in place that it's just not going to fit, because I do think that those heritage trees along the east side are enormously valuable to not only this property but the other. We've talked a lot about the root pruning and those sorts of things, but the other thing that needs to happen is some severe canopy work to get up and over this building, because this is a two-story building and a lot of those branches are not up that high on a lot of those trees, so not only is there going to be root pruning but there's going to be canopy pruning and I think you're just going to have a real problem. I really think it just comes from trying to pack too much single-story program into an encumbered site; that's kind of what we have. I do agree that the condition of approval issue with the square footage is something we should take seriously; these things are written into agreements for a reason. I agree with Christine's observation that the in general text means in general to these three properties in this subdivision, in general these houses shall not exceed, so that's my interpretation of that. I understand that the first floor drives it, because on the second floor there's just space everywhere. On the lower floor there's just storage space after storage space after unconditioned space. There's just space everywhere down there, so I don't think it's an issue of overall square footage or what's conditioned or what's not conditioned, I think it's an issue of the area of the footprint when this thing hits the ground, that's what's driving the problem; at least for me it is. So, I agree with Cary that I think a continuance is in order. What I would like to see would be something that gives those heritage trees the space they need, and also not only addresses

the root systems but addresses the canopy and starts showing some of those things happening so we know what the impact up top is going to be as well.

Chair Luthin summarized that members of the Board were in agreement that a continuance is in order.

Members of the Board concurred.

Chair Luthin said before he asks the Board if there were specifics that could be addressed he would allow the applicant to speak.

**Gregory Beale, Applicant**

Thank you. So much of this I feel like in-person conversations and dialogue could have helped, and I don't blame many of the comments that have been made both by neighbors and by the Board. I think interpretation of the parameters that we are allowed legally and just as a respectful neighbor is really complicated, and we were aware of that throughout this design process, and I just want to say we'd be crazy if we weren't exponentially more aware of that with everybody's concerns and comments here. This is a really unique site. The subdivision three years ago provides the legal right to build on this and an envelope to build with it. We worked within those parameters and we interpreted the words of the subdivision as well as everything related to the City. I just want everybody to hear, and I think that Steve and Rose will not object to me saying this, that all of us want to preserve every tree we can on this property. I learned a lot. I was on the Design Review Board and Tree Board for years, and Becky, I always appreciate your feedback. Christine, I appreciate yours, and Lars and Cary. I haven't met Marshall yet, and Ted. This is really helpful to us to understand how this project comes off, and I actually feel like I let my client's down by how this project was presented, especially with the square footages being all over the place and not telling more of a story of how we got to this point. They have an RV, that's a third garage, and to preserve the RV but also not have the neighbors look at RVs, because I know most neighbors don't want to stare at RVs, we created a space for that. We found in studies that providing parking and storage and shop for all these things as a separate building, yes, on paper would result in three smaller masses of structures, but we felt very, very confident, and maybe mistakenly so, that the impact of putting this underneath the house would be less to the neighbors, especially on the east side of the property. I appreciate Marshall's comment about the sewing/craft room. I have 3D renderings now if and when it's worthy, but we've explored a number of options. We want that tree to stay too; I don't think there's any question about that. We've learned a lot from Becky and I've read a lot of Chip's reports both as a Tree Board member but also on this side of things, and I learned every time looking at it I'm trying to understand it. There is terminology in there I don't understand and Becky helps explain it and her perspective as well. Cary bringing up the question of seventy-two feet of clearance needed to be away from this tree to not affect it at all, well, the building envelope and the location, which we didn't choose that location, pretty much limits it so significantly, but we want to take that into consideration. I think we're completely open to doing more research and more testing, and I agree with Becky that when construction is there and everybody is hot to trot and money is on the line it's hard to make decisions about what to do with trees, and I didn't even actually ever know about common ownership of trees until this evening, so I'm just kind of offering some humble pie here. I have a laundry list from listening to everybody's comments, the public as well as each Board member, about what I was feeling, like justifications or a story behind how we got to certain things. With what I've heard from the community and heard from the Board I think those comments would be better served as a follow up in a continuance and I would really like to invite a way to communicate more with the neighbors now that we understand how this is being perceived and felt by everybody. As I mentioned at the

beginning of this, I live in this neighborhood, I work in this neighborhood, my kids go to school here, and it's really important to Steve and Rose that they be part of the community. I feel like a lot of people have taken offense to this project, if that's fair to characterize it, and none of us meant that, and I think once again there's a story and a rhyme and a reason behind a lot of those points, but I think this has been going on for two hours. I want to respect everybody's points. I want to meet with our clients and our team. I'd love to be able to talk with Becky more if she's available, and I would really like to proactively come up with some options and scenarios, which we already were, but I feel like there's even more information we've learned here and at the end of the day this delay is going to cause some hardship for our company and the chances of being able to start this before the winter, and it's going to cause some hardship for our clients who are going to delay the start of this project and them moving back into their neighborhood and being welcomed and glad to see the neighbors and feeling like everybody's been heard. There are limitations. A lot of these requests we can't meet, and I understand why you guys are bringing these comments up. I'm talking about public comment. This is private property; there are all of these things that the City and the subdivision allows a private owner to do there. Another public comment is design review doesn't participate in new construction, so this is setting a precedent of what other people are going to do and you won't have a chance to say anything in all of those. This is a unique situation because of it being part of the subdivision. And like I said, as a human being and as a neighbor I'm glad it was, because we learned a lot tonight, and I know Steve and Rose really well now after this last year or more working with them. This is a community thing, and I just feel horrible for how all of you have felt not being notified about this, feeling like you're having to come up in strong defense of all this. I'll stop there. I think I've said what I need to say, Ted. Go ahead.

Chair Luthin called on Board Member Bush.

**Cary Bush, Board Member**

Thanks, Gregory. I want to say something hopefully useful and also something to take back to the arborist. Having read through the arborist report I know it's kind of contingent on the trees, but it's legit and I've read the report. I won't say we because I'm not speaking for the Board but for myself. It's a legit report; Sandborn does great work. Their approach and strategy I felt seemed adequate. The idea of air spading and understanding what the root systems are doing, having read that report is valuable. It's not a real dogmatic approach to how they're going to approach the construction and the impact to the trees, that's one thing, so that's tree number seven. Tree number four, it was half removed and is half gone anyway, so that's a simple removal in my opinion, so as for giving you some feedback and some guidance to move forward as a designer I feel like that's pretty straightforward. Also, the cottonwoods and the acacias that we're asked to review or at least discuss as a board, they're exempt from protection. There are significant trees but I see them as weedy species and I think there are always opportunity to do better, and I see from the plan and the site plan that you're going to try to populate valley oaks within the creek watershed and that is a great idea. These are great values for moving forward in the project, so I just wanted to note that and hopefully that gives you a little bit of feedback to build up.

**Gregory Beale, Applicant**

It does. Thank you, Cary. Appreciate it.

Chair Luthin thanked Board Member Bush for his comments and called on Director Svanstrom.



**Kari Svanstrom, Planning Director**

I do just want to make a couple of notes. Cary, your comment about acacias, they are actually a pyrophytic tree and so I fully support removing acacias along with some of the other invasive species like eucalyptus. I know that can be controversial because some people like their big eucalyptus trees, but obviously all you have to do is look out your window today to know that we need to be cautious of those things. I did just want to clarify a couple of things for the Board and the members of the public. One is we do require design review for certain residential projects in town. If it's a subdivision I believe of four or more lots, or in this case three lots, as part of the subdivision approval it does require design review for each of the homes. That is not an everyday occurrence, but given we do have a few vacant lots that are not subject to that but more and more of our vacant lots will be subject to that in the future, just for the Board's context on why this single-family home is coming. It's not simply that subdivision ordinance; it is in our code as well. In terms of the property line question, I know this is not always fun to hear, but fences are not property lines. We do go by a site survey and what the actual property line is. Most fences were just built over time and no one knows where they came from. I mean, my own property, my neighbors and I are working together because half the fence is on her property and half the fence is on my property and we agreed over time as we replace it we'll try to fix it. But that does not designate property line; we do go by a site survey, such as was done for the subdivision on that. And then I do want to note one thing. Unfortunately my planning director report is at the end of the meeting, but for this particular neighborhood and maybe of use to the applicant and owners as well, next Tuesday at the Planning Commission meeting at 6:00 P.M. we are having a presentation on Calder Creek. The project for the City is focused on naturalization in Ives Park but the presenters will also be talking about upstream and downstream, so for those who might be interested in this neighborhood that information will be posted tomorrow on the City's website and the Zoom link won't be confusing, so please join us there. One of the members of the public had a question about storm water and who to contact at the City department, and that would be the City engineer for storm water related issues, so I did just want to make sure we got that information out there. Thank you.

**Gregory Beale, Applicant**

Just to clarify, Kari, I think what the neighbor was commenting on is actually not a culvert. The City easement on their property just south of the Schoch's property, I'm not sure if it's a water or sewage line, but that was I think on the public records. I think it's water, not a culvert.

**Kari Svanstrom, Planning Director**

Thank you for clarifying. If there is an easement on your property it should be on your title report. It sounds like they just purchased the property, so they have a title report, but if you do have questions about if it's sewer, storm water, or water easement of any sort the City engineer would still be the right person to talk to to get more information on that. Thank you, Greg.

Chair Luthin thanked Director Svanstrom and asked the Board for a motion for continuance.

Board member Bush moved to continue the public hearing for 771 and 773 First Street, Project #2021-028, to a date uncertain.

Vice Chair Langberg seconded the motion.

**Kari Svanstrom, Planning Director**

It would help staff as we work with the applicant if there was discussion or direction regarding square footage limits for the home. I realize it's maybe somewhat nebulous given it still needs to be placed in the right location.

**Christine Level, Board Member**

That's what my comment was going to be regarding. We're continuing, but shouldn't we have some direction for the applicant? My general feeling is we've got this document and we have available the person that was involved in producing that planning document, Ken Jacobs. It might be interesting to hear from him. He couldn't be here today I guess you said.

Director Svanstrom confirmed that Mr. Jacobs could not be at the meeting.

**Christine Level, Board Member**

The intent of the thinking behind that, the words, the language.

**Kari Svanstrom, Planning Director**

Oh, you mean the language. I was going to say we actually redid the analysis of the sizes. Yeah, I hear what you're saying. Thank you, Christine.

Chair Luthin called on the applicant.

**Gregory Beale, Applicant**

I just wanted to say that I feel like that is a very complicated topic. I would like to ask permission to find a way to discuss that with the Board and to make that public to neighbors and everybody else prior to our next meeting. Ken Jacobs was the biggest opponent to this subdivision to begin with, so him being biased to his interpretation of this he may not be the right person to talk to, but we should involve the City attorney to establish this, because I think this is so critical and important to our project I don't think it's fair to rush a (inaudible) and I want to make sure everybody knows about it before next meeting and I want to give it its due diligence.

**Ted Luthin, Chair**

On the subject of maximum square footage, I for one am hesitant to do that. For me it's more about the footprint than it is square footage, and I think that's the issue we have right now, that conditioned air space is 4,000 square feet or whatever it is, but that's very different than the mass of the size of the footprint, and that's what's driving the problem. It's not the overall square footage that's the issue; it's the footprint on hitting the ground that's the problem. If I had direction to add to the motion it would be to resolve the impacts on protected trees along the eastern frontage, however they choose to do that. We've got a building envelope that they have to stay within. I guess to me the overall square footage can be sliced and diced all sorts of different ways, so I'm less inclined to put a limit on that. It seems like the driver is the envelope.

**Christine Level, Board Member**

I would just like to reiterate the point that the language in this planning document, which is law, is very specific, and so I'm trying to get to the point where we have an accurate understanding and interpretation of what that language means. English language has words with meaning and those words are pretty specific and definite, and that's law. That planning document is the law, so that's why I'm being particular about this. On the other side we have people that are paying very close attention to what that law is, so yes, I think it would be useful to include Larry McLaughlin possibly in this conversation, because he's the legal

interpreter for the City of Sebastopol. That's where I'm going with this and I think it's very important. Generalities are nice about footprints and things like that, but this is a very specific legal language.

**Ted Luthin, Chair**

You're right. Point taken. I agree it would be a good thing to get to the bottom of because it has impact on the footprint, but also just like you said, words mean something and they have to.

**Lars Langberg, Vice Chair**

So how is that done? Is that the responsibility of the Board, the City, the client, or the applicant? What is the way it's done?

**Christine Level, Board Member**

Excellent question, Lars.

**Ted Luthin, Chair**

Yeah, who is the arbiter of that?

**Kari Svanstrom, Planning Director**

I'm not raising my hand because I'm the arbiter of that, that is discretionary, but just in terms of the process one option that we could look at is setting a special meeting, and I'm hesitant to continue it to a date certain for the purposes not for the project review but of discussing the square footage issue when the City attorney can be available. I'm not going to be able to get ahold of him right now to see when that is, so that is an option. I would probably still do it as a date uncertain. I have a lot of emails from folks, however if you want to be notified by email we can certainly do a radius mailing; even though it's not required it doesn't prohibit us from doing that and so we can certainly do that. But if you also want to be notified by email send your email to Rebecca Mansour—she's on our website—or myself and my email is also on the website. Or Jeff who is a Planning temp at cityofsebastopol.org; probably the easiest of all of us to know. We'll make sure that you get an email notification of future meetings as well. But Chair Luthin, that's one option, to continue this to be able to discuss the square footage issue.

**Ted Luthin, Chair**

I think that would be beneficial. Does everybody agree?

Members of the Board concurred.

**Ted Luthin, Chair**

That sounds good. So, Kari, step one would be a continuance to have that square footage discussion, and then we would move forward from there, or do we need a general continuance?

**Kari Svanstrom**

You can continue it just with the motion that Board Member Bush has already made, and what you would talk about in that meeting is up to you, and I think we've clarified maybe what that next step is.

**Ted Luthin, Chair**

Perfect, okay. So, back to our motion. We have a motion and a second. I think we are all in agreement we would like to have that legal conversation about square footage, and any further discussion? Hearing and seeing none, let's call the question.

AYES: Chair Luthin, Vice Chair Langberg, and Board Members Balfe, Level, and Bush  
NOES: None  
ABSTAIN: None  
ABSENT: None.

**Kari Svanstrom, Planning Director**

Thank you. This is to be continued to a date uncertain and we'll work with the City attorney and the applicant as well as the DRB members to find a time that will work to continue that, and then we'll let people know both via email and public notice.

**Ted Luthin, Chair**

Sounds great. Once again, I'd like to thank our applicant. I'd like to thank our neighborhood participants, and also staff and Becky for an excellent planning report, so I really appreciate it.

**8. DISCUSSION:**

**A. TOUR OF PAST PROJECTS**

**Kari Svanstrom, Planning Director**

The only thing I wanted to talk about was Calder Creek and the water conservation. If you are a resident in Sebastopol you probably got a big packet from BayREN and you can take the opportunity to have someone come to your house and look at potential ways to save water, and there is financing available as well through that. The other thing that I wanted to talk about with the Board, and I'll just leave it at this for now, is that I had suggested I think in a conversation with Cary Bush the idea of doing tours of past projects to talk about design review guidelines, how they're implemented, what the outcome was, and things like that. For right now, if the Board members, especially those of you who have been on for a while, know of addresses of projects you'd like to include in that kind of a walking or driving tour, please just send those suggestions to me and we'll pick that up at a future meeting.

**9. ADJOURNMENT:** Chair Luthin adjourned the meeting at 6:22 p.m. The next regularly scheduled Tree/Design Review Board meeting will be held on Wednesday, September 1, 2021 at 4:00 p.m.



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## **APPROVED DRAFT MINUTES**

TREE/DESIGN REVIEW BOARD  
CITY OF SEBASTOPOL  
MINUTES OF January 5, 2022  
4:00 P.M.

The notice of the meeting was posted on December 30, 2021.

### **DESIGN REVIEW BOARD:**

**1. CALL TO ORDER:** Chair Luthin called the meeting to order at 4:00 P.M. and read a procedural statement.

**2. ROLL CALL:**

<b>Present:</b>	Ted Luthin, Chair Lars Langberg, Vice Chair Marshall Balfe, Board Member Christine Level, Board Member Cary Bush, Board Member
<b>Absent:</b>	None.
<b>Staff:</b>	John Jay, Associate Planner

### **3. APPROVAL OF MINUTES:**

**August 18, 2021**

Board Member Bush moved to approve the minutes as submitted.

Vice Chair Langberg seconded the motion.

AYES: Chair Luthin, Vice Chair Langberg, and Board Members Balfe, Bush, and Level  
NOES: None  
ABSTAIN: None  
ABSENT: None.

### **4. PLANNING DEPARTMENT UPDATE ON MATTERS OF GENERAL INTEREST:**

Associate Planner Jay advised the Board that consultants are doing surveys regarding local housing for the Housing Element. A Housing Element draft summary will be presented to the City Council in February 2022.

**5. COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THE AGENDA:** None.

**6. STATEMENTS OF CONFLICTS OF INTEREST:** None.

**7. REGULAR AGENDA:**

- A. 771-773 First Street Proposed Single-Family Dwelling with Detached Accessory Dwelling Unit** – The applicant and staff are asking the Design Review Board to provide direction on appropriate size of single-family dwelling that meets guidelines stated in Subdivision Resolution No. 5220.

Associate Planner Jay presented the staff report.

Chair Luthin asked for Board questions of staff.

**Ted Luthin, Chair**

The point of this meeting, to give some guidance on what Mitigation Measure #8 means and how it should be interpreted, correct?

**John Jay, Associate Planner**

That's correct.

The applicant gave a presentation and was available for questions.

The Board had no questions for the applicant.

Chair Luthin opened public comment.

**Ken Jacobs, a member of the public**

My name is Ken Jacobs, 7480 Hayden Avenue. I served for eight years on the Planning Commission and have an understanding of the challenge you face today. I think everyone here would agree that Condition of Approval #M8 leaves much to be desired in terms of its clarity. However, it's what we have and you, the Board, have the unenviable task of interpreting it. I suspect much of the discussion today will be legalistic, focusing on the meaning of terms such as "shall," "general area," "neighborhood," and "size." Despite all this, please, do not be distracted by all the legalize. You are not here as lawyers and judges, rather you are a citizens Commission with an expectation that you will utilize your experience, professional skills, and common sense in applying M8 to the proposed project. I would suggest rather than getting bogged down in debating the terms used in M8 you take a common sense approach instead. What exactly did the City Council intend when they adopted M8 as part of the subdivision back in 2001? It seems pretty clear the overall intention was that the houses built on that three-lot subdivision be of similar size to the neighboring houses. That's it. That's what it says. For example, the applicant has suggested that "general area" means the entire zip code including unincorporated West County. Applying common sense here, does anyone actually believe that was what the Council intended? Another example: the applicant suggests that parts of their proposed house that they have labeled as unconditioned space should not be counted in determining total square footage. According to the applicant not only should an internally connected two-car garage and a separate RV garage not be counted, but neither should a proposed workshop, a sewing room, five storage rooms, closets, a west mud room, an east mud room, and a roughly 600 square foot multipurpose room with a combined square footage of well over 2,000 square feet all under the same massive roof. Again, applying common sense here. Does anyone actually think this is what the Council intended? For the comparable houses staff has suggested a 600-foot radius, which I understand is based on the noticed

requirement for public hearings on land use issues in Sebastopol. This seems very reasonable in that it relies on an existing City ordinance that already defines what the City considered to be neighbors affected by development projects in town. This makes sense. Further, if you take a holistic approach to M8 it seems clear that the Council was looking at something akin to a neighborhood average. They did not say that the homes to be constructed on the subdivision shall not exceed the largest house in the neighborhood; rather they directed that the homes to be constructed on the subdivision shall not exceed those of similar homes in the general area. This is plural: homes. It all must be considered, or in other words, an average. I am fully in favor of the applicant being permitted to build their home. We have always known that a house would eventually be built on that lot and the others in the subdivision and we accept that. But, it is truly in our back yard and we have always assumed that whatever is built there would be of similar size to us and to our neighbors. This is what we were told back in 2001, this is what the Schoch family agreed to when they subdivided the lot, and this is what the City Council mandated for this property. Thank you for your time.

**Daniel, a member of the public**

According to the presentation we just saw it's not unusual to get larger and larger homes, so I would submit that by 2025, if I have the money, I can build a 10,000 square foot home on any place I want. That's my comment. Thank you.

**Steven Wilson, a member of the public**

I'm Steven Wilson. My wife and I live at 885 4<sup>th</sup> Street. We live in the basin of Calder Creek, which I like to call Calder Creek Natural Preserve and Watershed Area, which has never been mentioned. In comparison to homes that we've been shown pictures of I feel like I'm being shown a grid in a desert someplace. This house is this big; this house is this big. I think the point that everyone seems to miss, and I think in the subdivision done in 2001 what they and possibly earlier members of the Commission failed to recognize, is that we are in a watershed area, and this watershed area consumes a lot of water and downstream owners are affected by loss of watershed which is diverted into Calder Creek, which on my property has clearly been made into a drainage ditch rather than a friendly running creek. I have deep holes in my property that are 2-3 feet deep from the water that has been diverted from City streets or wherever. I lived at 666 Ellis Court off of Healdsburg; we bought the house in 1983. I also was in a winter creek watershed area and the City told me that once a culvert was put underneath my driveway everything would be fine, but from their lack of consulting a hydrologist and really finding out what would happen with the building behind us in the Garman project, which was 12 or 13 homes, and City streets and everything, I had deep gorges on my property down five and six feet and seven feet wide. I went to the City and said you said everything would be all right and if you put a culvert underneath my driveway it would be fine. Well, guess what? All my topsoil went downstream. I had to haul in two double loads of rock from Forestville or someplace and my son and I in a wheelbarrow just filled in. I know the people on Jewell Avenue are not really belonging to this area. I'm on the flat area practically, I'm almost on the creek, and as far as Swain Woods Terrace is concerned, they're not part of this watershed area. They can build what they want to build. I'm down below on the bottom where the water flows and I'm saying this is a very sensitive area. We have magnificent oak trees that are taking up this watershed. They're producing tremendous amounts of oxygen and they're diluting all this carbon dioxide in the air. It's a nature area; it's not just a grid area like a desert grid. It's a very, very special and sensitive area and I don't think the City has for the last 20 or 30 years acknowledged that. Even Trees Unlimited is speaking to the City right now and they are going to extend from Ives Park to Laguna an open Calder Creek so the public can enjoy it and have walking paths on it and everything. I have no idea what the City has done with this Calder Creek area. The only thing I know is I have tremendous holes because of loss of

watershed. I have no idea when this big monstrosity house is going to be built, and stealing of the watershed from this preserve area and what's going to happen to downstream owners, I don't know, but I really want to object to the size of this house being built in a very sensitive natural area, an ecological area in our city that I believe the City has failed to recognize for many years. That's my input concerning the watershed that the City has ignored for many years. Thank you.

**Unidentified Female, a member of the public**

This is a huge house. I would be like having a hotel in our neighborhood with only two guests. It just seems pretty ridiculous. Even at 4,000 square feet they would have a very large home. It's just that 6,000 square feet and up is so out of character for this neighborhood. It really doesn't belong here and I don't know why two people need that many square feet, but if they do maybe they should build it somewhere else. I don't really want to turn into a weird hotel neighborhood. Thank you.

**Dale, a member of the public**

I still object to comparing our neighborhood to Swain Woods. That seems like a very different neighborhood than Jewell Avenue and First Street. The nature of the homes is different; the sizes of the homes are different. I know it's not real far away, but it's just a different neighborhood, a different feel. I wish Steve and Rose could build their house in Swain Woods; it would maybe fit in better than what they're planning. I'm happy to have them as neighbors, but I really hope they can figure out how to build a house that's more in keeping with the sizes in our neighborhood right now. We live right at 814 Jewell Avenue, right behind maybe where the ADU would go.

**Paul Olson, a member of the public**

My name is Paul Olson; I live at 810 Jewell Avenue adjacent to the east side of the property that's proposed. I've already spoken at the last meeting regarding my concerns about the size of the property—I think that's been brought up several times—and the health and the ongoing safety of the heritage oak trees along the east side of the property as well. I feel that this property building this close to the root systems is going to damage them irreparably and cause them to be taken out at some point. My question is I understand that the City requires ADU units to be part of new construction and I would like to put the question out: are there any plans for the use? Is it for family, for guests? Is it going to be a rental or a VRBO? These are things that might concern the neighborhood. The last thing I want to say is that on page four of the staff report there was a paragraph regarding the visual impact of the property to the neighbors, and yes, we're definitely going to be looking down on it. It's going to be below our living area and we'd be looking at the roof; the size of it to be determined. Tree work was completed during the month of December along the Calder Creek side of the property, the west side, and several trees were taken down, some ground up, and now I have a complete view of three more neighbors' houses on First Street, both on the east and the west side of the street, that we've never seen before in 37 years that were shielded by trees and growth. I now look directly into the back of the house directly across from our property. I'm not sure when that tree work was authorized. I realize they took out some vegetation down towards the road in, but that's just a question I have now that tree work has been done and those trees are not going to come back. Thank you.

**Dale, a member of the public**

Does the ADU absolutely have to be built? I know the idea is to get more infill in the City but I wondered if there was any way to build it somewhere else, or not build it at all? I was just curious about that. It seems like the rest of the project is so overwhelming that it would be wonderful to at least not have that part.



**John Jay, Associate Planner**

In the resolution that was signed in 2001 there is a planning condition for Lot #3, which is the lot that we're here for tonight, that it is required to have an ADU on that lot. It's part of the original resolution that was signed. Unfortunately, that's what is in place.

**Unidentified Female, a member of the public**

What will the process be going forward, and will the Planning Commission votes have any accountability in terms of deciding on both the care of the trees on the property and the house size? Will this come before the Commission and the public again many times, and how will that happen?

**John Jay, Associate Planner**

The meeting tonight is going to be to determine what the appropriate path forward is for the applicant and staff as it relates to the house size and height in Mitigation Measure #8. Once that's determined there would be another public meeting that is in specific regard to the design of what's being proposed for that parcel, so this item will come again at a later time.

**Unidentified Female, a member of the public**

Are you saying that before this meeting ends tonight we'll know what size that house is going to be?

**John Jay, Associate Planner**

It's up to the Board to determine what that size or what they feel is appropriate is going to be.

**Unidentified Female, a member of the public**

And that's going to happen today? That's going to happen right now?

**John Jay, Associate Planner**

Correct.

**Daniel, a member of the public**

I think it was just mentioned that the reasoning is that this law was passed in 2001 to have that ADU on that property, is that correct?

**John Jay, Associate Planner**

Correct.

**Daniel, a member of the public**

I also wanted to comment that if that statute for the ADU, which was in 2001, applies without any recourse to this property then shouldn't M8, which was also I believe 2001, apply without any resource to this property? The size of the place, saying that it shall be consistent with the neighboring properties is consistent in 2001, I think from what has been said, then it should hold equal binding force with the ADU statute of 2001.

**John Jay, Associate Planner**

I am not sure. Larry, are you able to offer any advice on that?

**Lawrence McLaughlin, City Manager**

If I understand the question, perhaps this would be the answer. The condition M8 is a mandatory condition, meaning it shall apply to this project.

Chair Luthin asked for any additional public comments. Hearing none, Chair Luthin closed public comment.

Chair Luthin asked for Board questions.

**Christine Level, Board Member**

John, can you please explain the significance of the 650-foot radius?

**John Jay, Associate Planner**

The radius that was given there is the same radius that we use for any notice that goes out to the public in regard to a project that's being affected by those neighbors within that radius. For the general area in the Mitigation Measure #8, that was staff's determination as far as what that radius should be.

**Ted Luthin, Chair**

As a follow up to that, where does that 650 feet come from? Is that a state thing? Is that just a City thing?

**John Jay, Associate Planner**

It's within the City noticing ordinance.

**Marshall Balfe, Board Member**

Is there any language anywhere about the ADU having to be a separate structure? So many of them are built within existing structures, either lower or above. I'm thinking of alternatives to reduce the size down and so that to me is a very important question. Can it not be part of the main house and limited onsite?

**John Jay, Associate Planner**

The resolution for the planning condition does not specify whether it's to be detached or attached, from what I can read.

**Marshall Balfe, Board Member**

I do a lot of these ADUs and we squeeze them in anywhere we can, on downslopes or in the attics or whatever, and so that's good food for thought.

**Lars Langberg, Vice Chair**

I have a question for the applicant. I think it would be helpful to know, since we're talking about size and there's been some confusion according to the applicant or the staff report, what is the overall size of the proposed project, conditioned versus unconditioned space?

**Gregory Beale, Applicant**

Currently there is no proposed project. There was the project we submitted for the previous meeting until M8 came up. We've been working with Planning and going through everything to figure out what M8 implies for this site, and therefore there is currently no proposed project. The previously proposed project was, I believe, 4,500-and-change for the conditioned square footage.

**Lars Langberg, Vice Chair**

So we're meeting to talk about M8 for any project on these three lots?

**Gregory Beale, Applicant**

Correct.

**Lars Langberg, Vice Chair**

So we're now sort of erasing from our memory any project proposed for any of these three lots?

**Gregory Beale, Applicant**

Correct.

**Lars Langberg, Vice Chair**

And we're talking about M8 not just generally, but also we understand Lot #3 is going to have a project proposed and coming before us in the near future?

**Gregory Beale, Applicant**

Correct.

**Ted Luthin, Chair**

I think that is exactly what we're doing. We are here to determine the interpretation of M8 and the square footage associated with that condition.

**Marshall Balfe, Board Member**

I personally have a problem with trying to establish something for all three lots, since they're different sizes, unless we talk about percentages or FARs or some such thing, because the size for this project theoretically could be larger.

**Ted Luthin, Chair**

I think the other part of this particular subdivision is creek setbacks, existing trees, and those sorts of things that are limiting factors on the parcel, and that we've talked about before, also encumber it. I think there are going to be even more limiting factors on the other parcels: height limits, setbacks, driveways, those sorts of things are all going to slice into that.

**Lars Langberg, Vice Chair**

I have a further comment to my comment. Is it really our purview to talk about the appropriate size of a home on one of these lots, or is it from the wording in M8? We are to respond to a proposed project on one of these lots and is it appropriate or does it meet our Design Review Board standards?

**Ted Luthin, Chair**

That's a good question. Are we picking a number and that's the number and it just applies, or are we going to basically kick the can down the road and say bring a project and we'll respond? I guess we could do either one of those things.

**Lars Langberg, Vice Chair**

Maybe this is a question for Larry, but what is in the language? Is the language designed for us to respond to just any project that comes along and we think it should be within a certain square footage, or is it really language that should be tied to a specific project proposal?

**Lawrence McLaughlin, City Manager**

Ultimately it will be tied to a specific project proposal. That is the function of the Design Review Board. I don't regularly attend these meetings. As I understand, the nature of this particular meeting is it is intended to be helpful to the applicant to have a discussion of condition M8, to assist the applicant in not wasting the applicant's resources and attempting to craft a project that they hope comes within the Design Review Board's interpretation of M8 ultimately; they reserve resources, so that what they do will be useful. But ultimately,

as you said, it is to apply condition M8 and any other applicable conditions and City statutes, et cetera, to a specific project that will come to you in the future.

**Christine Level, Board Member**

I have a question of staff. The term "conditioned space" keeps being thrown about and I'd like to have a discussion about what that means. Of course, I know what that means, but if we're talking about the size of the homes and then we're going to say we're going to interpret that to only mean the conditioned space of the home, then that would imply that we could have a home with, say, 2,000 square feet with a 10,000 square foot garage and another 5,000 square feet of storage. What is meant by the square footage here that M8 interprets? What square footage are we talking about?

**Lars Langberg, Vice Chair**

It doesn't talk about square footage; it talks about size and height. I think if you're talking about size, it could include conditioned and unconditioned. Size means to me the whole building, the whole thing.

**Christine Level, Board Member**

That's what I'm asking, because this "conditioned space" term keeps getting thrown around and what I'm trying to say, and I'm asking John for the interpretation, is although I appreciate what you're saying, Lars, if we're just talking about conditioned space then we could have a 2,000 square foot home with a 10,000 square foot garage and another 5,000 square foot all within a bulk, and we're going to be getting a rather large size of bulk that would be substantially bigger than the average of the houses in the neighborhood, if I'm making sense here.

**John Jay, Associate Planner**

I would consider it as an overall footprint of the building, whether the conditioned space is within that unconditioned area. The overall exterior walls, whether they be conditioned or not, are still a footprint on the parcel and that those should be considered as that

**Lawrence McLaughlin, City Manager**

Christine, I concur with John on that.

**Lars Langberg, Vice Chair**

Here's a staff question. In their analysis related to this there was a 3,732 number thrown about as the maximum home built in the general area in the last 30 years. Based on what you just said, John, we can assume those numbers are footprints conditioned or unconditioned?

**John Jay, Associate Planner**

Correct. The data that we have available through GIS is the overall footprint of the parcel.

**Gregory Beale, Applicant**

I know this is the Board's time to speak amongst themselves, but I've obviously spent the last few months deep into this, and so I wanted to put a question to the Board, and there are actually a couple of comments that we had in our letter. In our previous submittal we took every overhang, every covered porch, eaves, everything, and included it in our numbers to account for everything, and there is zero data for what other existing homes have other than their conditioned square footage. The question I was hoping could be discussed is if we are deeming that it is overall every bit of space, whether it's conditioned or not, how do you make that comparison? Also, I know the 650-foot radius is used for notification, but I also would like to ask the Board to not just take that as a standard, because I don't think there's

any precedence to using that as a definitive line of what to compare or not to compare for a project. I just want to make sure that's part of the conversation. The other thing is that I found multiple inaccuracies in square footage and dates of original build in the GIS database; I just wanted to add those to the formula. Thank you.

**Christine Level, Board Member**

I don't actually have a conflict with 650 square feet. I do think that that's actually very relevant because we've got this approved planning document here and the M8, which we're trying to interpret, and if we were going to change that or allow for something different than that it would require notices. Wouldn't that be normal? It seems a reasonable number, because to make that change you would have to notice the people within 650 feet. Does that make sense, John?

**John Jay, Associate Planner**

Yes.

**Christine Level, Board Member**

The 650 feet seems very reasonable and logical to me. It makes a lot of sense to me.

**Ted Luthin, Chair**

Yes, me too. Maybe we can break this down a little bit, starting with that question. First of all, when the Board is looking at how is M8 determined: "Similar homes and most recent construction in the general area," how do we all feel about the 650-foot radius? Are we all in agreement that that is reasonable, or do some of us think that it is unreasonable? I'll throw my hat in the reasonable ring, because it sounds very reasonable to me.

**Christine Level, Board Member**

I've made my point. I feel that it's reasonable.

**Ted Luthin, Chair**

Marshall agrees?

**Marshall Balfe, Board Member**

Yes.

**Ted Luthin, Chair**

Lars, how are you feeling about the 650-foot radius?

**Lars Langberg, Vice Chair**

That makes sense to me.

**Ted Luthin, Chair**

Gregory, do you have something to chime in on?

**Gregory Beale, Applicant**

That actually amends M8, which is not the intent. I'd like to ask Larry this question, because general area equals 650-foot radius and I'm not sure where it says that. Is there is a precedence or standard that has already taken place in the City of Sebastopol elsewhere that gives relevance to that?

**Lawrence McLaughlin, City Manager**

I obviously haven't studied what's happened elsewhere, but I will say that generally the noticing requirement is intended to give notice to the neighborhood that is affected, so

affected neighborhood works both ways. It makes reasonable sense to me that if you're looking at a general area and trying to interpret what was meant in 2001 by the words "general area," you're looking at the affected neighborhood both ways. To me that signals what was in the intent at the time that this was written. A very relevant and reasonable way to interpret M8 is within that particular radius, so I do agree with staff's analysis of that.

**Ted Luthin, Chair**

I also think that falls right into the language of M8, including both the First Street area and the Swain Woods neighborhood and then Jewell near Hayden, so it really gave a sub-segment of the Swain Woods neighborhood as the general area and all that falls within that 650-foot radius. I think that all points to that general area as being the general area in M8.

**Cary Bush, Board Member**

I find it reasonable. I think it was well noted right there. It's been established as an area for the general neighborhood, so therefore I think it seems suitable.

**Ted Luthin, Chair**

I think it was Ken Jacobs that mentioned earlier that we have to think about what was the original intent when M8 was written, and I think the intent was we've got a subdivision here, we want these houses to fit in with the neighborhood houses, and I think that all makes sense to me. I think the next issue is what does size mean?

**Gregory Beale, Applicant**

Tina Wallis is part of our group here. Is it possible for her to add to this, please?

**Ted Luthin, Chair**

Yes. Tina, do you have something to share?

**Tina Wallis, Attorney at Law**

Yes, thank you. I wanted to go back to the plain language of M8, because the plain language references a general area and then it identifies two sub-areas. It speaks of the general area including both the First Street area and the Swain Woods neighborhood, Jewell near Hayden, so M8 did not contemplate arbitrarily adding the 650-foot radius or circumference because it excludes the larger general area and only captures two of the exemplar sub-areas. Also, there are jurisdictions that have extended their notice requirements out to 3,000 feet in the past couple of years, so Sebastopol may be using 650 feet but other jurisdictions are going much, much larger. I would ask you to look at the plain language of M8 and take that language on its face, which is any principle of statutory interpretation, and consider that the general area was intended to be much larger than the two exemplar sub-areas.

**Ted Luthin, Chair**

Thank you for that.

**Christine Level, Board Member**

It's looking like we're going to be having a back and forth conversation with the applicant, which I don't think is appropriate to this phase of our discussion, but what I would like to do is make a motion to adopt the 650 feet as part of our discussions.

**Marshall Balfe, Board Member**

I'll second it.

**Ted Luthin, Chair**

We have a motion and a second to adopt 650 feet as the reasonable boundary of M8. Any additional discussion on this?

**Cary Bush, Board Member**

I'm having a hard time accepting that as a fulfilling notion and motion here to make this a concrete item to this discussion without the full scope of what we're trying to discuss here. Is this the notion for M8 right here, to adopt 650 feet? There's clearly an area that we're talking about, there's a size that we're talking about, so maybe we make our motions at the end of this discussion versus at the current moment.

**Ted Luthin, Chair**

A question for Larry. Is our end product today a motion or set of motions that are approved, or is our end product today basically encapsulated in verbal direction to future applicants on these properties?

**Lawrence McLaughlin, City Manager**

Bear in mind I haven't been regularly attending DRB meetings, however, as I mentioned earlier I think the intent today is that you're giving the applicant such guidance as the Board can give to assist the applicant in structuring a project that will ultimately meet this Board's interpretation of what M8 requires. You're trying to assist the applicant in that regard. You are not making a final decision in any way on a project. To give assistance I think what you should do today is develop a Board consensus over how M8 is interpreted and give the substance of that consensus to the applicant in sufficient detail that the applicant will be assisted, assuming they wish to do so, in structuring a project that would meet that interpretation that this Board is making. This is not a final decision on a project, so I don't think it matters as much what structure you use to try to develop a consensus, whether that's by motions, or a series of motions, or just developing a consensus, or you could even do it by an elaborate discussion and you can sense the consensus from the comments of individual Board members. Anything will work at this stage where you're trying to give assistance to the applicant, but I would say try to develop a consensus around an interpretation of M8. It seem rather clear to me that the Board believes that this 650-foot radius is what was meant by the general area referenced within that condition. If you develop a consensus around that you could do it by motion, or you could do it simply by a show of hands, and any other element of M8 that you want to discuss in a similar manner. I hope this is helpful. I'm trying to stress that you're not making a final decision on a project; you are trying to give guidance for future review.

**Christine Level, Board Member**

Larry, I believe that since this M8 applies to all three lots that our guidance that we're giving today on M8 would apply generally to all three lots, for example, the 650-foot radius.

**Lawrence McLaughlin, City Manager**

I would agree with that.

**Christine Level, Board Member**

What I'm trying to do here is establish a limit for the general area that we're discussing. We can establish that limit and move forward with the rest of our discussion. Not limiting the rest of our discussion, but if we don't come up with an area limit that we're discussing the average size house of, then we're not going to get anywhere and we'll be here all day, and that is why I'm proposing a motion to limit it to the 650-foot radius, which seems reasonable and makes sense from a planning point of view with the current planning standards of the City of Sebastopol.

**Ted Luthin, Chair**

I'm okay with proceeding either with motions or just with general agreement that a 650-foot radius is fair and reasonable. Do we need to put a hard cap on it at 650 feet or can we all agree a 650-foot radius is fair and reasonable?

**Cary Bush, Board Member**

I think we have established that, Ted. It's my understanding as a general consensus that it's been acceptable. To actually make a motion and vote on it didn't seem appropriate at the time.

**Ted Luthin, Chair**

I'm not sure I'm feeling the need to be that hard and fast with that, and I think the same is going to be true of my feelings about size and height, because I think the three issues are: What is the area for comparison? What is a reasonable size, or how is reasonable size determined? What about a reasonable height? It seems like those are the three issues to me. Christine, are you satisfied if we just go on record as saying we all agree that a 650-foot radius is fair and reasonable, or do you want something harder and faster than that?

**Christine Level, Board Member**

I would like to see it as a motion, because otherwise we're just leaving it vague. It could be appealed, anybody could continue to argue about it, and comments are just comments with no basis behind them; there's no firm decision. If we're going to get to the bottom of this and resolve this problem we need to start making some decisions, and one decision that I'm making a motion of is that the limit for the area is a 650-foot radius. Otherwise, what's to keep somebody from coming back later and saying I don't like that and argue with us again all day long about a 3,000-foot radius or 5-mile radius? That's my thinking behind this.

Board Member Level moved to establish a limit for the general area to the 650-foot radius as a fair and reasonable limit for comparison.

**Ted Luthin, Chair**

We do have a motion on the table and we have a second on that motion. If there's further discussion, let's keep talking about it, and if not, let's call the question.

**Lars Langberg, Vice Chair**

Larry made a good point, that this is sort of an advisory moment, so whether we give it a motion or it's a consensus I think it will have the same weight.

**Marshall Balfe, Board Member**

I think we should just let it be not something we vote on but I think it's clear to the applicant how we feel about it.

**Ted Luthin, Chair**

We have a motion on the table and it has been seconded. Christine, do you want to proceed with the motion? If so, I will call the question.

**Christine Level, Board Member**

Yes, let's proceed.

Chair Luthin called the question.



AYES: Chair Luthin, Vice Chair Langberg, and Board Members Balfe, and Level  
NOES: Board Member Bush  
ABSTAIN: None  
ABSENT: None.

**Ted Luthin, Chair**

We have one nay in Cary. The motion carries. Six hundred and fifty feet is the directed fair and reasonable radius. Let's move on to height. It says, "...shall not exceed size and height of the homes to be constructed within the subdivision." Are there any thoughts on interpretation of height? My knee-jerk reaction is to accept the City's height limits as the maximum height and call it a day. Is there any reason to further limit height on the subdivision?

**Christine Level, Board Member**

I agree with you, Ted.

**Lars Langberg, Vice Chair**

That's part of the zoning code, so that would apply regardless, but size and height as far as I can see in this language is related to similar homes in the neighborhood, so it's an interpretation by the applicant to say if they go to the max height allowed by zoning, but actually it may need to be lower because it could stick out and be too big, so to say height is only about what's in the zoning code is not enough. It's like its character of a place, in a way, and how it fits into a parcel.

**Ted Luthin, Chair**

In this neighborhood I see very tall houses, single-story homes, and a broad range of things. I'd feel more strongly about wanting to limit it if I saw uniformly single-story homes in this neighborhood, but we have two-story homes on downslopes that create fairly tall buildings that probably are pushing the City's height limit. Are there any more thoughts on height relative to the similar homes in the general area?

**Christine Level, Board Member**

Do we have any data on the heights of the homes? We have square footages, but I didn't see any information on heights.

**Cary Bush, Board Member**

I don't see any either.

**John Jay, Associate Planner**

No, I don't have anything. The GIS data that we use for the size does not include building height.

**Ted Luthin, Chair**

Just looking at that neighborhood, I'm having trouble coming up with a compelling reason to limit height to anything less than what is allowed, but does anyone see something that I'm not?

**Lars Langberg, Vice Chair**

I'll just echo what I said. I don't think we have to establish a lower height limit than what's allowed by zoning. Determining the height of a building on a sloping site is already a tricky exercise, and to make it a good building that minimizes grading and deals with drainage, et cetera, there is an appropriate height range of a building. I don't think we have to do more than what the zoning allows. We could say the size discussion includes the height. It's the

bulk, it's the size, it's the footprint, and it's the appropriate scale of the building on the parcel.

**Ted Luthin, Chair**

Can we all generally agree in terms of just pure height of a building that the zoning standards are adequate and we don't feel compelled to impose anything more restrictive than that? Cary is nodding.

**Marshall Balfe, Board Member**

I agree with that.

**Ted Luthin, Chair**

Marshall sounds like agreement. Christine, are you in agreement with that?

**Christine Level, Board Member**

Yes, I am.

**Ted Luthin, Chair**

Then there's this idea of whether size includes conditioned air space or unconditioned air space. What we don't want is what we had with the previous application where there is manipulation of those numbers to get a larger footprint by calling things unconditioned air space. I'm in agreement with a lot of staff's recommendations that unconditioned air space needs to be included when we're considering the size of a proposed home. It does say homes, not home, in terms of the M8 language, so I think taking some sort of an average makes sense to me. "The size and height of the homes to be constructed within the City. Not exceed similar *homes* of the most recent construction in the general area." To me, that speaks to an average, it speaks to taking not necessarily just the biggest house, unless they were all similarly large size, but we've got a whole smattering of things from pretty modest size homes to good size homes.

**Lars Langberg, Vice Chair**

Where are you reading that? Has the City cataloged every house in a 650-foot radius and that's what we're going on? We should be clear on that. What are we comparing it to?

**Ted Luthin, Chair**

I'm looking at the staff report, page 3, top first paragraph. "Homes constructed from 1990 to present best capture the recent construction. Largest home is 3,700 square feet, smallest is 1,300, average of 2,440 square feet."

**Cary Bush, Board Member**

Page 6 of the analysis from our prior report also compared the square footage of the common size home with similar homes with a calculation that staff had made recommendations for the Board not to go beyond 150% of 3,000 square feet; that's the upper end of the range of sizes in the area. There was somewhere between 125-150% of the average or upper end of the surrounding homes, so that was applied to the prior application. That's a guideline that I've been looking at for some time, dating back to these old documents. Again, staff analysis here.

**Lars Langberg, Vice Chair**

If the average is 2,440 and the largest is 3,732, what you're saying, Cary, is that's kind of like the staff is being generous on the upper end of this range.

**Cary Bush, Board Member**

Correct.

**Ted Luthin, Chair**

If you take 150% of the 2,400 you end up with 3,600 square feet.

**Christine Level, Board Member**

I'd like to comment on this briefly. The M8 kind of implied the average of the similar homes, but where did the 125% and 150% come from in your relationship to M8? That doesn't seem to have any basis anywhere.

**Lars Langberg, Vice Chair**

M8 is not very clear, and so it seems to me that staff is doing a pretty good job of analysis and trying to give some guidance to the Board, like here's where what seems like a good size.

**Cary Bush, Board Member**

Exactly.

**Christine Level, Board Member**

Where did those numbers come from? This is a question for John, I guess. Where did those averages come from? They seem to have disappeared from the current staff report, or have they?

**Lars Langberg, Vice Chair**

The average is still there, 2,440 square feet.

**Christine Level, Board Member**

But where did those 125% and 150% numbers come from besides the fact that the staff put them in there? What is the reasoning behind that number? This is a question for John.

**John Jay, Associate Planner**

Jeff Setterlund, who was a consultant working with Director Svanstrom, originally stated this problem. That is what their determination was as far as a percentage that felt appropriate and met the language in M8. The additional analysis is going off of that report that was already done prior to this meeting.

**Christine Level, Board Member**

So, they just decided themselves that this would be an appropriate number? Is that what you're saying?

**John Jay, Associate Planner**

Correct. From my understanding that's what they based that percentage, 125% or 150%, number off of.

**Christine Level, Board Member**

I'm struggling a little bit with this "felt appropriate" language. What is that based on, just their feeling?

**John Jay, Associate Planner**

I don't know, because I was not part of that conversation before. That was before I was brought on to the City so I don't know the full detail as to how those numbers were determined.

**Christine Level, Board Member**

Because what I'm looking for is some kind of precedent or something based on what we did over here or based on the knowledge. It looks like we can't get that question answered at this moment because the individuals involved are not available.

**John Jay, Associate Planner**

Correct. Larry's got his hand up. Can Larry comment on this?

**Lawrence McLaughlin, City Manager**

I want to point out that with respect to size and height it uses the words, "shall not exceed," so to me shall not exceed points the Board toward the largest square footage figure within that footage range that you've already talked about, and then sets it at the highest limit. Shall not exceed means it can go to the highest limit, but should not go above it. So, if you're looking at a square footage that's the "largest," that sets the ceiling. I think that should be the interpretation of M8, in my opinion.

**Christine Level, Board Member**

I have a kind of a nuanced question about that, Larry, which may or may not be relevant. It's using not the largest home but homes. Is that relevant, because the largest homes would encapsulate smaller homes and the largest home?

**Lawrence McLaughlin, City Manager**

That makes it a bit difficult I have to admit. I suppose if you wanted to really stretch an analysis you could start counting homes within the footage area and average what the largest one was, but I still think it's a reasonable interpretation to go to the largest square footage because of the specific use of "shall not exceed."

**Lars Langberg, Vice Chair**

I would agree with that, Larry. We also have an average, so I go back to it's up to the applicant to take these numbers and come up with the appropriate design for the site, and we could almost say it's from the average to the highest and that's their range. That would be one way to interpret it.

**Ted Luthin, Chair**

Personally I don't think I would have a problem with that. I don't know that we need to set a lower limit on it. If they want a smaller home they certainly can do that. I think it's like Larry said, we need to establish that upper limit, and I don't think the upper limit should be the average, because there are a lot of very modest size homes in there and they were probably built fairly early. I'm guessing probably what Jeff Setterlund was getting at with his 150% was making that number come out somewhere toward the higher end of the houses in the neighborhood. Am I concerned about one of these houses being one of the larger houses in the neighborhood? It doesn't seem like that was the intent of M8, to say that it should be smaller than the largest home. It seems like the intent of M8 was that it should fit into the neighborhood, and if a 3,700 square foot house fits into the neighborhood because there's one already there it seems like a 3,600 square foot could fit into the neighborhood again, so it seems like that fits the spirit of what M8 was after.

**John Jay, Associate Planner**

I see Greg has his hand up.

**Ted Luthin, Chair**

Go ahead. Do you have something relevant to what exactly we're talking about?

**Gregory Beale, Applicant**

It was maybe more relevant to a little bit earlier regarding the data of Planning's report in comparing square footage, and also John's previous comment about size that he gleaned off of the GIS. That is all conditioned square footage. This had more to do with the conditioned/unconditioned question. There is no available data for house heights, house unconditioned square footage, and what is counted for that. Is it seven feet and below and no concrete floor? Is it under an eave or a covered porch? Is it a detached garage? Is it a six-car garage? There's no data for that and there's also no definition for it either.

**Ted Luthin, Chair**

Back to size, we've got an average of 2,440 and we've got the largest house is 3,732. What are we thinking? Go ahead, Lars.

**Lars Langberg, Vice Chair**

I think Gregory's point is a good one, that if we give this guideline of not to exceed 3,732, what does that actually mean if we don't know? Does it include a garage or not? Does it include a workshop underneath or not? I don't know that we can get to that data point. Can we give a guideline of this is what's on record that the staff has given us? We also know there are setbacks, we know there are trees, there is common sense design, there are other actors we can put forward, but if an applicant comes back with a 3,700 square foot house attached to a two-car garage, is that good, bad, too big? Can we talk about that now or not?

**Ted Luthin, Chair**

John, to clarify, the largest on the 3,732, that does not include things like garages?

**John Jay, Associate Planner**

From the data that I was able to pull, and that's within that picture on page three of the staff report, those parcels that are outlined in blue are the 18 that were taken. That was the recent construction of 1990 to present. The largest home within those subject parcels was 3,732 square feet but the data that we're able to see does not say if that includes a garage, workspaces, or anything like that. It just says what the County has recorded as square footage residence.

**Christine Level, Board Member**

I'm going to go back to this language one more time, and then I want to talk about what's included in the home. Again, it says. "The size of the home to be constructed in this subdivision shall not exceed those of similar *homes* of more recent construction in the general area." So, we have this outlier at 3,732, but that's not generally applicable to the rest of the homes in that area, so I think that using that number is not within the intent of this language at all. I think we would have to include more—maybe higher than the average—homes in the plural to be used in this number, because it's clearly an outlier. Second, when we're talking about the home, I think the home itself is the bulk structure. You can see the slippery slope you're going to go down if you're just going to say I'm going to condition this part of the bulk structure and I'm not going to condition the rest of this part of the bulk structure, and therefore my bulk structure is now twice as big as the determined number, because I'm not calling it conditioned space. I think that the home itself must include the entire bulk of that building.

**Ted Luthin, Chair**

I agree. I think it's best if we include the entire bulk of the building in whatever guidance we give, or conversely we could include some maximum allowance for square footage that is outside of the maximum, we could say that too. We could say a three-car garage is 600

square feet, so in addition to the maximum you could have up to 600 square feet of unconditioned air space or whatever you want to call it.

**Cary Bush, Board Member**

What do other municipalities do? Are we reinventing the wheel? What's common sense? Seriously, if you apply for a home, you build a home, do you build unconditioned space or do you build conditioned space? What are we talking about? I understand the undertones to much of what this discussion is about, but the bottom line is why are we writing this, why are we voting on this measure inventing a new wheel? It doesn't seem appropriate. It goes beyond a field of purview of these guidelines. I know we're trying to give direction and we're trying to provide consensus, but let's be realistic. If we build a home for a client, we build in conditioned space or unconditioned space. What do we put down on our application to the County, to the City? We ultimately will be here as a Design Review Board to judge the common sense of a project. It can be within a max cap of 3,700 square feet. You can't build a home bigger than that. They do and they have a 20,000 square foot garage attached to that, and we know it's not common sense, so therefore does it go before the Board? Sure. But does the Board approve it? We don't know. We just need to be realistic about what we're talking about in this language. What do other municipalities require? I'm not an architect, so I don't know when I'm applying for a building permit if I'm putting down conditioned space versus unconditioned space and such, I don't know. Tell me, Lars. Maybe I'm off bases here.

**Lars Langberg, Vice Chair**

You put down everything. You can put down the garage, you can put down a deck, or a covered deck, because whatever is built has evaluation and then a permit fee gets associated with it, so it's all recorded, but that's a building permit level, not a planning, zoning, bulk kind of site level; those are two very different things.

**Cary Bush, Board Member**

So, again, reading back to a staff analysis that's been given to us, this is what I go on every time I get a report from the staff. I'm looking at percentages and generally I'm looking at that staff report with some real meat and bones behind it, not second-guessing what it is. It's about what's recommended and what's not recommended. This is their job; this is not my job.

**Lars Langberg, Vice Chair**

I think that's a good point. The term "common sense" to me is what's so important and was brought up by Ken Jacobs at the beginning in public comments, and that includes wise use of resources and energy efficiency. To me, if somebody comes in with a 6,000 square foot house in this day and age for two people, it's not an appropriate development, and the trees on this site are a big deal. How do you work around those trees, and how do you deal with the slope and the off haul, a balanced grading approach? All of that is up to the applicant to come forward with a really good project and us to judge it, and I think there's enough good analysis from the staff, as Cary just said, and zoning requirements, that a good appropriate development could be done for this site. For us to give it a square footage number is not necessarily in the spirit of what we want to do.

**Cary Bush, Board Member**

Thank you, Lars.

**Marshall Balfe, Board Member**

Also, I think we have to be clear about if an ADU is attached, for example. Obviously we'd count that as separate square footage even though it's attached. There needs to be some clarity about that so that people don't just wander around wondering what to do.

**Ted Luthin, Chair**

I think the ADU square footage, whether it's attached or detached, would be counted as separate from the maximum size of the house.

**Lars Langberg, Vice Chair**

It's separate square footage, but to Christine's point, if it's attached it is bulk of the building, so you look at it differently. If it's separate it's going to have a very different character on the site.

**Christine Level, Board Member**

Going back to the square footage thing, I think our hand is kind of forced to put some sort of square footage number associated with this M8 to determine what is meant by "shall not exceed those of similar homes," is it not? How do we get around that if we don't start attaching some real numbers to it? Don't we end up in the same situation?

**Cary Bush, Board Member**

It's why we're here tonight. They tried to do that to us in the last meeting with our applicant and we didn't quite know how to do that, so we're here to do that apparently tonight. My comment in the last meeting was what more information are we given to make these valuations realistic, and we're given similar information. That's why I went back to my initial staff-calculated square footage, between 125% and 150% on high-end or a high-end average. Does this Board really want to give that recommendation tonight?

**Christine Level, Board Member**

If I understand you correctly though, Cary, are we talking about that 150% of the largest number? The house can be 150% bigger than 3,732 square footage? I would say that that definitely goes against the intent of M8 entirely with the high-end average.

**Cary Bush, Board Member**

I would agree with you, Christine.

**Lars Langberg, Vice Chair**

I thought it was 150% of the average.

**Christine Level, Board Member**

Maybe one of these numbers or these percentages is attached to some part of an average, not a high-end. Interestingly enough, if you attach the 150% to the average you get approximately 3,600 square feet.

**Cary Bush, Board Member**

That's what I got as well. Where I'm really trying to get to right there is are we just going to say 150% on the average? That's 3,660 square feet I believe it was.

**Christine Level, Board Member**

But that still begs the question of where the 150% came from. We don't know because it was somebody's feeling that that would be good, but we don't have those people here to ask if there's any basis for that besides just somebody's feeling.

**Lars Langberg, Vice Chair**

But if we look at like what Larry said about M8, we could say that it's not to exceed 3,732.

**Cary Bush, Board Member**

In addition, it also said that it's understanding is that these homes could add an addition at any time and also increase over time. But again, that would also probably go before Planning, staff, and such, so there are alterations to that. Again, it would need to meet another sense of approval.

**Christine Level, Board Member**

I think I'm still getting back to the general spirit of M8, and I think that the general spirit and intent of M8 is to keep everything the same size and the same look, so I would be looking at maybe more like 125% of the average increase. That gets us at the high end of the homes in that neighborhood without the outlier, which I think is reasonable.

**Marshall Balfe, Board Member**

I like what you're saying; I agree with that. But also the extra things like garage and workshops and so fourth, that could be a technical design review, couldn't it, or not?

**Ted Luthin, Chair**

It could be.

**Christine Level, Board Member**

Another discussion we need to have is what is included in this number? Let's look at the neighborhood here, for example. In this neighborhood do we have three-car garages? Do we have detached or attached garages? I don't know the answer. I suspect we do not have three-car garages. A three-car garage is a look; it's a feeling. You get to a four-car garage. I'm trying to establish the intent of this M8, which is to keep the neighborhood in its character. If I had a 3,000 square foot house or a 2,000 square foot house and a five-car garage I do not think that that would be characteristic of the neighborhood by any stretch of the imagination. I think a two-car garage, 22x24-ish, is more of an average, the sort of thing that might be attached to a house. But I don't know the neighborhood well enough to know if this is normal. I would say that this is probably certainly not exceeded in this neighborhood anywhere.

**Ted Luthin, Chair**

There are a couple three-car garages in that neighborhood. Up at the top of First Street there's a private street that takes off to the west after you go around the bend that's got four or five fairly new homes on it, and there's one good size home right on First Street right around the bend that has a three-car garage.

**Christine Level, Board Member**

And that's in the 650-foot limit, Ted?

**Ted Luthin, Chair**

Yes, on First Street it's the bottom left four parcels. Those are all bigger homes. I'm guessing our outlier home is the lowest left. Those are all fairly new construction and I think you've got a mixture of two- and three-car garages. But yes, I think a three-car garage is definitely an unusual thing in the neighborhood, but not unheard of and they do exist.

**Christine Level, Board Member**

So, again, it would be the outlier. I guess where I'm going is similar homes. We could mince this down and be here until midnight, but if you have similar homes I would ask myself the question: In order to determine what would be normal, how many homes are we talking



about in this 650-foot radius and, again, what are the garages? What's typical, not what's an outlier?

**Ted Luthin, Chair**

For that reason, if you took your 125% and that got you to 3,100 square feet, and you said a shop and a garage could be another 500 square feet, now you're at the 3,600 square foot mark again.

**Christine Level, Board Member**

Unfortunately, I don't know what these numbers that we have on the chart with the square footages include. I have a question for John. If you have an attached garage, do those numbers include the attached garage?

**John Jay, Associate Planner**

We don't know. I can't say for sure whether it does or does not include that number within the square footage that's given from the GIS parcel tool.

**Gregory Beale, Applicant**

I can tell you with 100% certainty that it is conditioned square footage that is listed on GIS. I've verified multiple homes and that is how everything, real estate, everything, is referred to conditioned square footage 100% of the time.

**Ted Luthin, Chair**

My feeling is I'd be happy to take the 150% of the average, or cap it at 3,700 square feet and just say it can be similar to the largest home. I don't think that would be unreasonable. I don't see going in excess of largest homes. I don't think that meets the intent of M8. I think M8 certainly wasn't going there, it was intending for it to fit in somehow. In my opinion, being on the larger size seems to fit that intent. If anything, we would want to err on the generous side.

**Christine Level, Board Member**

Where does that throw in lots of square footage of storage, workshop, all attached, et cetera, where you could substantially increase that number with all this other "unconditioned" stuff? I'm leaving the garage separate from this, by the way, but these other types of rooms are just going to increase the bulk. Normally, when you're looking at your house you've got your bulk of your house and your garage.

**Ted Luthin, Chair**

Ideally, I think we'd pick a number that was all-inclusive and just say total square footage. Inclusive of garages, shops, unconditioned air space and not be ambiguous.

**Lars Langberg, Vice Chair**

But we can't do that with the data we have. Thirty seven hundred is a number we've been given, but Gregory has chimed in that that would be 3,700 conditioned space. We could then do another survey that finds in this 650-foot radius the garages are X, or typically the average of unconditioned space is 500 or 200 or 10,000 or whatever. We don't have that data though.

**Lawrence McLaughlin, City Manager**

I agree. I don't think you have the data tonight to figure out an exact square footage, because you need to compare apples to apples and you don't know what the apples are of the structures that were averaged out at 3,732 square feet. Do they include garages, workspaces, et cetera? You need to compare apples to apples, but you don't necessarily

need to do that work. You can tell the applicant how you're going to interpret it and ask them to do the analysis and bring you the data back to justify whatever project they bring you in the future to show you that it meets that criteria.

**Lars Langberg, Vice Chair**

The applicant has done a lot of research, as we saw, in looking at all the different photos. It seems like it wouldn't be that much extra work to limit the area and put them in a spreadsheet or whatever, unless it's knocking on people's doors or looking up old drawings if it's not what's on the GIS.

**Christine Level, Board Member**

I'd like to go back to the M8 one more time. We're talking about the size of the homes, not the conditioned square footage of the homes, and I can see that the intent of this is not to have really large buildings, so I could see a situation where you had a building size total bulk and you might have additional structures for these other uses, such as a workshop, or maybe you have your size and you've got the garage that is attached. You're reducing the monolith that you're creating by limiting the size, not the conditioned square footage. That's what it says there. That's an important consideration when you get back to the intent of M8, which is to keep the neighborhood in its character. I think that's the intent here: size, bulk, and monolith.

**Gregory Beale, Applicant**

Short of knocking on doors, where is this information available? I've never seen, except for maybe confidential tax records, additional information about the size of a home that is anything other than the conditioned square footage. We're not trying to push and create boundaries to make a Greek temple here. The problem and the confusion before is that size was a big question in the previous meeting, and I don't know any other way to do research or define it other than per GIS database where everything size means conditioned square footage. I want to make really clear that when we submitted the last plan we were not even aware of M8, so we weren't trying to trick anyone with what was conditioned or unconditioned. I don't know another way to define size and I don't know another way to get data on it to compare that doesn't involve getting out tape measures and going to all homes, which is obviously not an option.

**Marshall Balfe, Board Member**

M8 talks about homes in the last 20-30 years. When projects are submitted to Planning you go through that exercise and conditioned and unconditioned spaces and covered porches and so on. They have a rule for how they're going to interpret your submittal, so can that information not be gotten from the Planning Department since these homes that we're concerned with are all in the last 20-30 years?

**John Jay, Associate Planner**

On building permits it's done through the Building Department, so we would have to work with the Building Department to pull the permit applications for each of those homes to see what that number is for each specific home.

**Gregory Beale, Applicant**

I have submitted many plans and built off of many others' plans, and my father was a land use planner for 30 years, so I've been around this for a long time. How somebody submitted a set of plans determines what to count and not to count, especially outside of conditioned space, which is where the main, critical focus is when it comes to fees and size and all those different things, if very inconsistent. I want to reiterate, we realize we made mistakes by blowing everybody's tops off in our previous projections, but we included everything, eaves

and deck and porch and everything, and that's typically not the case for building construction permits, but we took everything as far and literally and specific as possible. There's a lot of inconsistency in that data, even if you can find it, if it's even required to include it.

**Ted Luthin, Chair**

Understood. I think we need to get to the bottom of this whole thing.

**Christine Level, Board Member**

I think if we take the average size and add 125% and a two-car garage we come up with the 3,732, and I think that would reasonably meet the intent of keeping the size the same. This does not preclude other structures. Like I said, the intent is to keep the size and height similar to what is there for *the* home. You can still have the workshop, the detached garage, but if we take the average square footage and we add 125% to that and a two-car garage we're going to be right up there at that maximum size that's already recorded in the neighborhood.

**Tina Wallis, Attorney at Law**

I do agree with Mr. Beale that there are almost no public records available for unconditioned space. The only source of those records that I know of is the County Assessor's Office and those records there are confidential and only available to the landowner. Going back to Larry's suggestion, maybe a solution would be with whatever submittal the applicant makes we make our best effort to provide readily available public information, which is going to be primarily conditioned space, because that is what's in all the public records, but if we can find reliable information about unconditioned space we could include that if it's available in a cost effective and reasonable way. I'm just wondering if that's a reasonable path forward for everyone.

**Cary Bush, Board Member**

Absolutely. It goes back to that apples and apples. If we only can compare some apples to apples that we have based on conditioned space, to throw a pear in this fruit basket is a bad idea. I think we stick with just putting down a cap for conditioned space, 125% would be 3,750, which was what staff had made available, and we put that as a cap for conditioned space. We've talked about the idea of all these languages that M8 is trying to provide, but it comes back to common sense. We need to put a cap there and look at a project—not just this project, but also any project that goes forward—with a cap that has multiple facets to it, but how does it really fit and marry a site? That's a big part of what we're doing as a Design Review Board, not sticking to a hold fast number and making a dogmatic solution. We've had staff calculate numbers here; let's just stick with that. It's what we need to decide on tonight. Thirty seven fifty is 125% of 3,000 square feet. Do you want to do 150% on 2,440 square feet? You could do that. We could do math all night long, but we have a chart here. Let's move on this.

**Ted Luthin, Chair**

We keep going back to that 3,732 square feet, and if our 3,732 is conditioned air space then our 3,750 should be conditioned air space; I agree with that. Anybody have a problem with that? Lars, does that make sense?

**Lars Langberg, Vice Chair**

I think that makes sense, and I appreciate what Tina said about the applicant could do some research as part of what they bring forward in the next round; it will include some sense of unconditioned space in the area.

**Ted Luthin, Chair**

Yes. Christine, does that make sense to you?

**Christine Level, Board Member**

I'm a little confused about this. If we're saying 3,700 square feet, whatever the number, what keeps that building from being 5,400 square feet and calling 3,700 square feet conditioned space?

**Cary Bush, Board Member**

It doesn't, Christine.

**Christine Level, Board Member**

So, the house would not be a similar size of the other houses then, it would be 5,400 square feet?

**Lars Langberg, Vice Chair**

Well, we don't know that.

**Christine Level, Board Member**

As a hypothetical.

**Lars Langberg, Vice Chair**

We don't know the data of what the other houses are in terms of their overall square footage. We just don't know. But to Cary's point, we can say the staff has given us this data and we were giving that back to the applicant and asking them to do a little more research and bring forward an appropriate project for us to look at. I don't know how we can do more than that.

**Cary Bush, Board Member**

Yes.

**Ted Luthin, Chair**

But I think we'd also probably want to say that if unconditioned air space comes back to us that exceeds something that's obviously typical to the neighborhood, i.e. a two-car garage, there needs to be some justification to support that. If somebody were going to come back with 2,000 square feet of shop and unconditioned space the onus would be on them to demonstrate that that's typical to the neighborhood.

**Lars Langberg, Vice Chair**

And it doesn't exceed.

**Cary Bush, Board Member**

The point that I would like to make is that we have Sebastopol Design Review Guidelines that really give us guidelines. I'm on the DRB, I'm looking at guidelines all the time, and this is the Bible that makes a great project. That's what we're here to review. To me, that's where it really applies. That's where the rubber meets the road for a project. Square footage is a big consideration, there's no question about it, but how it marries a site, all the conditions that are given through these guidelines, they're an enormous guideline for an applicant and for us. Again, we're trying to get to an apples and apples comparison using common sense. It seems to me that yes, there are so many variables, but I don't think we can keep going down the variable road without really looking at the guidelines to protect not only an applicant but also to protect the neighborhood and everything the guidelines have to say.

**Christine Level, Board Member**

Cary, I agree with you on that point, but this particular discussion involves size. M8 is size, and I agree within the size those guidelines are very important, but this particular subdivision was developed with an agreement about size and I think that's what we're discussing for this lot.

**Cary Bush, Board Member**

I'm with you, Christine, I just don't think you're going to fit a 5,000 square foot home on a quarter-acre lot with setbacks in each direction; it's just not applicable. Again, it comes back to all the guidelines that also have that sway in regard to setting a cap, which was something that was mentioned earlier. We're looking at a cap. It's not the Holy Grail here, but it's a cap; it's just a guideline for an applicant.

**Ted Luthin, Chair**

We did see an application for a 6,000 square foot proposal on this property.

**Christine Level, Board Member**

Thank you, Ted.

**Gregory Beale, Applicant**

Forty five hundred. It was misstated as 6,000 I think.

**Lars Langberg, Vice Chair**

Forty five hundred conditioned.

**Ted Luthin, Chair**

Yes, a bulk thing of 6,613 square feet.

**Lars Langberg, Vice Chair**

Yes.

**Ted Luthin, Chair**

So, we did see that before.

**Cary Bush, Board Member**

But does it fit the significant natural site features? Does it minimize its reflection to topography? Does it meet context of design for impermeable surfaces? Does it meet the massing requirements? These are guidelines. These are the things that we review when we look at any project of any size.

**Ted Luthin, Chair**

But we keep being asked to chime in on this M8 thing, and a big part of M8 is size, so I don't think one precludes the guidelines. The guidelines still apply, but we're being asked to chime in on exactly what is the interpretation of M8, which is really beyond our normal purview and I think that's where the discomfort comes.

**Lars Langberg, Vice Chair**

What I suggested was the staff report has given us information; we're assuming it's about conditioned space. The applicant needs to use that information. Then what Tina suggested was they also come forward with some sort of survey; it doesn't have to be incredibly detailed, but to say here's what the unconditioned space generally is in the neighborhood,

therefore we've come up with this design. Is that not enough to just put that forward as our recommendations?

**Ted Luthin, Chair**

I'm okay with that. I'm okay with the 3,750 and the unconditioned space has to be supported by documentation from the neighborhood. I don't have a problem with that. I see hands being raised, and I think we're in the middle of a discussion that we want to stick with here, so we'll get to you in a minute.

**Marshall Balfe, Board Member**

I agree with both of you.

**Christine Level, Board Member**

I'm going to go back to the 3,700 square feet for conditioned space then. That defies the similar size of the home, so I think we need to back that down. I'm willing to take the average plus 125% for the conditioned space, because that's an outlier. That's not average; that's not consistent with the M8.

**Lars Langberg, Vice Chair**

The M8 also says not to exceed.

**Christine Level, Board Member**

Homes, not home.

**Lars Langberg, Vice Chair**

Right. Well, but how many homes are that big? Do we have that list?

**Christine Level, Board Member**

Yes, we do. That is an outlier. That's why I'm willing to say we take the average of the homes on that list, increase by 125%, a magical number based on feeling. Then we have our unconditioned space on top of that, which is typical of the other unconditioned space in the neighborhood, which is probably garages; there's probably not another 2,000 square feet of other stuff. I think it's probably typical.

**Ted Luthin, Chair**

Got it. Christine, or maybe this is a question for John. Do we have the list of homes? You've mentioned this before, the 3,732 is an outlier. Do we have the list?

**John Jay, Associate Planner**

Yes.

**Christine Level, Board Member**

There's a list in the staff report.

**Ted Luthin, Chair**

Oh, is there? What page is that on? I missed the list.

**Christine Level, Board Member**

It's on the back of page 14, so I guess that's page 15. And I believe that's where John came up with his average. John, is that true?

**John Jay, Associate Planner**

Correct.

**Christine Level, Board Member**

So we take the average, we use the magical feelings number of 125% increase, and then we allow unconditioned space on top of that, but that unconditioned space has to be typical of what's in the neighborhood: a garage, maybe some other items that are typical of what's in the neighborhood. That's seems reasonable to me.

**Ted Luthin, Chair**

Yes.

**Lars Langberg, Vice Chair**

Seems reasonable to me.

**Ted Luthin, Chair**

I'm okay with that.

**Cary Bush, Board Member**

Yes.

**Ted Luthin, Chair**

It sounds like we're in agreement. So, we're talking about 125% of the 2,440. Is that what we're talking about?

**Christine Level, Board Member**

It says around 3,000, and then we have unconditioned space outside of that, but that unconditioned space must be typical of the neighborhood, however we're going to determine that.

**Ted Luthin, Chair**

Right, and the onus would be on the applicant to justify that.

**Christine Level, Board Member**

Correct. I think this can be a motion.

Board Member Level moved that the conditioned square footage of the house be maximized at 125% of the average based on the staff report, and that the unconditioned space, which would be the two-car garage and other space, would be determined later based on an interpretation of what is typical of the neighborhood.

**Ted Luthin, Chair**

I'm okay with that. We've got a couple of hands up. Let's hear what some people have to say before we proceed. Tina, you want to go ahead?

**Tina Wallis, Attorney at Law**

I want to clarify what I suggested for unconditioned space, and the reason I want to clarify this is that there may not be any public records available to justify this. We will make our best effort to do that, but if there are no public records, there is no public data, then we're just going to have to say we drove by and counted garages but we don't know if those garages were converted to bedrooms and they're now conditioned space. I don't think this Board intends to ask us to do something that is impossible, so I would say give us a little latitude and let us make our best effort based on publicly available or otherwise reliable data.

**Cary Bush, Board Member**

Yes.

**Ted Luthin, Chair**

Sounds reasonable. There has to be some common sense in determining that since we don't have hard and fast data, that we're going to have to drive around the neighborhood and say I see two-car garages and occasional three-car garages, so that square footage that you're proposing seems to make sense in that context. If an applicant comes along with 2,000 square feet of unconditioned air space I think we're all going to ask how is that justified? We don't see that when we drive down the street and there would have to be some explanation and some justification for that application.

**Marshall Balfe, Board Member**

I think there has to be some trust from the DRB now and in the future and I'm not hearing a lot of that. I know we have to resolve this, but design review is not going to ever approve a two-car garage and an additional 1,000 square feet of unconditioned space. I think we have to trust them. Also, I thought I heard in the language that was being bounced around a little while ago that we have to not exceed what exists now, so we cannot exceed 3,732. Now I'm hearing 3,000, and that's a big difference in the design of a home, and I'm not so sure we should just jump to something like that. Can we clarify that a little?

**Christine Level, Board Member**

I can clarify that for you, Marshall. The statement in the M8 says the average size of the homes, not home in singular. Now, 3,700 square feet is an outlier, so this is not consistent with the M8. It would have to be with the plural, and that's why we're taking the average of the homes within the 650-foot radius and then giving 125% addition to that. Does that make sense?

**John Jay, Associate Planner**

Marshall, was there anything else that you wanted to add? I don't hear anything else, so Greg, go ahead.

**Gregory Beale, Applicant**

I think we all want to wrap things up here, but I want to follow what both Cary and Ted said earlier. What we're talking about today takes nothing away from the standard process of a design review. I've been using the same guidelines that Cary was holding up when I was on the Board and preparing for this meeting. None of that gets diminished or taken away, so how you want to judge massing or all those different things still applies, whether it's conditioned, unconditioned, or whatever else. Tonight we're just trying to talk about M8 to find out if there's anything more unique, specific, or restrictive in M8 than the general review guidelines you guys normally use. It doesn't mean that we don't go through that same process. I want to take this off the pedestal a little bit. These things are very important because the language here has significant impact, and I don't necessarily agree with Planning or what you guys are coming to, but there will be another chance for us to go over this in a standard meeting. I have concerns about the accuracy of staff's data on what homes they chose to use for this, where they drew their radius from, whether it's from the middle of one property, the edge of another, or whatever else, and so maybe it takes it off the pedestal a little bit. Once again, I don't necessarily agree with what this outcome is, but once again the onus is on the applicant to come back and say within 125% of average of this, but to pick a number from Planning's report when I know there is incorrect information in there with comparisons of the data of conditioned neighboring properties to the total square footage, including everything of ours, to say it's 600% larger in how they chose the homes, I don't know if we can say that's the exact average number. So, if you guys are



agreeing on 125% of average per these things, then we can know that's what you're expecting, we'll do our research and present it to you. Here's our radius, here's our average, here's the data we did for this many-car garages and size and these things and this is the way we've interpreted it. And you guys, per any Design Review Board meeting, whether we had M8 or not, could say that house is too big. That's still there. This isn't taking from that, so I just wanted to make that clear that this is not taking away from a standard process.

**Christine Level, Board Member**

I'd like to speak to this. We have the staff report. That is the data that we have. I believe that you have an appeal period where you could correct that, so I think that we just go on the data that we have now presented by staff. This is not a discussion back and forth with you, and I've made a motion that we condition the size on 125% of the average plus unconditioned space that is determined later. I think that was a discussion that we were having before all this other conversation happened.

**Ted Luthin, Chair**

I agree that we're going to have to work with the data we have, and I don't know that we want to say 125% of some speculative average that's to be determined later. I think we go with the data we have, and if new data comes along, then new data comes along.

**Christine Level, Board Member**

I think we can say 125% of the average that we have with the data that we have at this time from the staff report.

**Ted Luthin, Chair**

Right. Larry has a comment.

**Lawrence McLaughlin, City Manager**

I'd like to caution the Board not to talk about appeal periods and the like. As I stated a couple hours ago, this is guidance to the applicant who is going to prepare a new project to meet your in-consensus development interpretation of M8. Whether you do that by developing a consensus or by motion you're giving the applicant general guidance, and there's leeway even in your guidance because you're asking the applicant to bring back additional information that could sway your ultimate opinion, so I just want to caution the Board again. That's where you are this evening, and I would suggest just developing a consensus and then keep an open mind when they come back with the project. This has been a very enlightening conversation, obviously. I think you've made a lot of headway towards your next analysis when you'll have a specific project in front of you.

**Ted Luthin, Chair**

Sound good. Steve Fabian, your hand has been up for a while. Do you have something you want to say?

**Steve Fabian**

I want to support Board Member Level's analysis of what this neighborhood is about. The reality is that if we used the biggest house at 3,700-plus square feet as being the maximum that this project can be, if that's what it's going to be for this neighborhood, what's going to happen is if every house went to that level the whole neighborhood would be totally different. It would change the whole nature of the neighborhood. You can't use the biggest house to say this is what the average of the neighborhood is like, and I think that to set the biggest house as being the average not to be exceeded could change what the whole

neighborhood is about in the future and would really destroy the feeling that the neighborhood has. Thank you.

**Ted Luthin, Chair**

Thank you for that.

**Christine Level, Board Member**

I would like to proceed with the motion if possible.

**Ted Luthin, Chair**

Let's proceed with the motion.

**John Jay, Associate Planner**

Tina has her hand up as well.

**Ted Luthin, Chair**

Tina, go ahead.

**Tina Wallis, Attorney at Law**

Just a suggestion. I'm hearing from some Board members a desire for a hard number and percentage. I'm also hearing from Greg that there are mistakes in the staff report. So, maybe again a solution is the Board can adopt a percentage of whatever, but leave some room for the applicant to come back and say here's what the Board did on January 5<sup>th</sup>, we voiced concerns about the accuracy of some of the data, we are providing additional data, and just give us some room. If we've got the data for conditioned space, let's bring it back to you and keep an open mind. It seems like that satisfies all of the concerns.

**Ted Luthin, Chair**

Thank you for that.

**Lars Langberg, Vice Chair**

That's where we are. I don't think we're putting a hard cap on. Nobody has suggested that. We're just trying to give some guidance. At this point it feels like the Board should move forward. Other comments need to wait till the future.

**Ted Luthin, Chair**

I agree. So, Christine, would you please restate your motion so we all understand what we're agreeing or disagreeing to?

**Christine Level, Board Member**

I would like to make a motion that the conditioned square footage of the house be maximized at 125% of the average based on the staff report, and that the unconditioned space, which would be the two-car garage and other space, would be determined later based on an interpretation of what is typical of the neighborhood.

Chair Luthin asked for a second to the motion.

Vice Chair Langberg seconded the motion.

**Ted Luthin, Chair**

We have a motion and we have a second.

Chair Luthin asked for any additional Board discussion. Hearing none, he called the question.

AYES: Chair Luthin, Vice Chair Langberg, and Board Members Balfe and Level

NOES: Board Member Bush

ABSTAIN: None

ABSENT: None.

**Ted Luthin, Chair**

Motion carried. So, that is our guidance for today. John, do we have anything further on our agenda?

**John Jay, Associate Planner**

No, I do not believe we have any other agenda items.

**Ted Luthin, Chair**

I will thank our applicant. Thank you very much. That was a good exchange. We appreciate the input from the community.

**Gregory Beale, Applicant**

Thank you as well. This is a difficult conversation, we're all trying to do the right thing, and I really appreciate everybody's time in the late hour, so thank you.

**8. SUBCOMMITTEE UPDATES:** None.

**9. ADJOURNMENT:** Chair Luthin adjourned the meeting at 6:41 p.m. The next regularly scheduled Tree/Design Review Board meeting will be held on Wednesday, January 19, 2022 at 4:00 p.m.



COPY FOR PLANNING DEPT.

# City of Sebastopol APPEAL FORM

Date: 1/12/22  
\* Filing Fee Paid: \_\_\_\_\_  
File #: \_\_\_\_\_

To: (check one):

- PLANNING COMMISSION (limited to the appeal of staff determination not involving design matters or Planning Director Use Permit decision)
- DESIGN REVIEW BOARD (limited to the appeal of staff determination on design matters)
- TREE BOARD (limited to the appeal of staff determination on tree removals)
- CITY COUNCIL (all other appeals)

FROM:

GREG BEALE  
(Please print your name)

SUBJECT:

I wish to appeal the action of: (check one):

- CITY STAFF (please give name or title) \_\_\_\_\_
- PLANNING DIRECTOR PUBLIC HEARING
- TREE BOARD
- DESIGN REVIEW BOARD
- PLANNING COMMISSION

Taken or made on 1/5/22 with regards to FILE # 2021-28 771 & 773 FIRST STREET  
(Date of action or decision) (Name of use, applicant, project or other description of item you are appealing)

I ask that the decision or determination made above be reversed and/or modified, and that the original application be:  
(Check one):  granted  denied  modified

The reason(s) that my appeal should be granted by the Board, Commission, or Council named above  are set forth below: or,  are attached.

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

I understand that there is a filing fee for appeal, whether the appeal is from a Staff Determination, Design Review Board Decision, or Planning Commission Decision, and that the fee must be paid on the date that the appeal is submitted. Appeals must be submitted within 7 calendar days from the day of the original staff determination, or of the Board/Commission action. (The date of the decision is not included in the calculation of 7 days.)\*

You will be notified by mail of the date of the Board, Commission or City Council hearing on review of your appeal. All interested persons will be entitled to attend the meeting and be heard.

Greg Beale GREGORY BEALE  
Your Signature Print Name

555 So. MAIN ST, SUITE ONE, SEB  
Your Mailing Address 95472

707-827-9600 GREGORY@THEBEALE.GROUP  
Your Phone Number Your Email Address

\* If a staff determination was mailed to you, and a public meeting has not been held, the appeal must be submitted within seven (7) days of the mailing of the letter.



# City of Sebastopol

Planning Department  
7120 Bodega Avenue  
Sebastopol, CA 95472

(707) 823-6167 (Phone) or (707) 823-1135 (Fax)  
Website: [www.ci.sebastopol.ca.us](http://www.ci.sebastopol.ca.us)

## MASTER PLANNING APPLICATION FORM

PROJECT INFORMATION		FOR CITY USE ONLY	
ADDRESS:	771 & 773 FIRST ST	PLANNING FILE #	_____
PARCEL #:	354-172-017	DATE FILED	_____
PARCEL AREA:		TOTAL FEES PAID \$	_____
		RECEIVED BY	_____
		DATE APPLICATION DEEMED COMPLETE	_____

### APPLICANT OR AGENT:

Name: GREGORY BEALE  
 Email Address: GREGORY@THEBEALEGROUP  
 Mailing Address: 555 So. Main St, Suite 206  
 City/State/Zip: SEBASTOPOL, CA 95472  
 Phone: 707-827-9600  
 Fax: \_\_\_\_\_  
 Business License #: 1229 (BSOS)  
 Signature: [Signature]  
 Date: 1/12/22

### OWNER OF PROPERTY

#### IF OTHER THAN APPLICANT:

Name: ROSE & STEVE SCHUCH  
 Email Address: SCHUCH6@gmail.com  
 Mailing Address: 974 Bluebonnet Drive  
 City/State/Zip: SUNNYVALE, CA 94086  
 Phone: 408-732-4479  
 Fax: \_\_\_\_\_  
 Business License #: \_\_\_\_\_  
 Signature: [Signature] Rose Schuch  
 Date: 2022-01-12

### OTHER PERSONS TO BE NOTIFIED: (Include Agents, Architects, Engineers, etc.)

Name: <u>TINA WALLS</u>	Name: <u>KENYON WEBSTER</u>
Email Address: <u>TWALLS@TWALLSLAW.COM</u>	Email Address: <u>KENYONW222@gmail.com</u>
Mailing Address: _____	Mailing Address: _____
City/State/Zip: _____	City/State/Zip: _____
Phone: _____	Phone: _____
Fax: _____	Fax: _____



LAW OFFICES OF TINA WALLIS

1400 North Dutton Avenue, No. 22      tel (707) 595-8681  
Santa Rosa, California 95401      website www.twallislaw.com

January 12, 2022

City of Sebastopol  
City Clerk  
City Planning Department  
7120 Bodega Avenue  
Sebastopol, CA 95472

RE: Appeal from January 5, 2022, Design Review Board's Motions, Interpretations,  
and Decisions

To Whom It May Concern:

This letter, the attached appeal form, and appeal fee payment are an appeal of the Design Review Board's (DRB) January 5, 2022, Brown Act violations and adoption of motions, interpretations, and decisions.<sup>1</sup> This letter is also a request that the City of Sebastopol cease and desist from any further Brown Act violations.

**A. Background**

The City of Sebastopol (City) approved a three-lot subdivision of 763 First Street in 2001. This subdivision created 771 and 773 First Street, among other parcels.<sup>2</sup> As part of the subdivision approval the City adopted a Mitigated Negative Declaration (MND), which included Mitigation Measure 8, or "M8". Because CEQA requires mitigation measures to be enforceable, M8 also became subdivision condition of approval M8. M8 states:

8. The homes to be built within this project shall be subject to the review and approval of the Sebastopol Design Review Board. The Board will be guided in their review of the of the proposal by their adopted Project Review Guidelines; by the design criteria set forth in the General Plan, and by the following infill development standard: In general, the size and height of the homes to be constructed within this subdivision shall not 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).

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<sup>1</sup> This matter was set for a hearing on December 15, 2021, however staff was not able to make the hearing technology work on December 15, 2021, so the hearing was changed to January 5, 2022.

<sup>2</sup> 771 and 773 First Street are addresses for one parcel. One address is for the primary house and the other is for the mandatory accessory dwelling unit on the same parcel.

**B. The DRB violated the Brown Act.**

On January 5, 2022, the Design Review Board considered M8 and how it would be applied to 771-773 First Street as its street addresses. The agenda for the January 5, 2022, meeting stated:

**7. REGULAR AGENDA**

- A. 771-773 First Street Proposed Single-Family Dwelling with detached Accessory Dwelling Unit. – The applicant and staff are asking the Design Review Board to provide direction on appropriate size of single-family dwelling that meets guidelines stated in Subdivision Resolution No.5220.**

The DRB’s agenda noticed the January 5, 2022, discussion to provide *direction* about *size*. Contrary to what was on the agenda and the City Attorney’s advice and suggestions, the DRB adopted formal motions and discussed far more than size. For example, the DRB discussed trees, traffic, building height, whether or not the accessory dwelling unit (ADU) must be attached or detached, who will occupy the ADU, and parcels that were not listed in the hearing notice. The video of this meeting is not yet available to the public; therefore, this is a preliminary list, and we reserve the right to augment it. The DRB also violated the Brown Act when it purported to regulate all three parcels created by the 2001 subdivision, when only one parcel was noticed on the agenda. The DRB violated the Brown Act again when it adopted motions that purportedly apply to all three lots, even though the agenda notice stated that the DRB “would provide direction” and gave no notice and did not make any draft resolutions or motions available to the public before the January 5, 2022, meetings. The Brown Act violations alone require the City Council (Council) to grant this appeal and reverse and revise the DRB’s adoption of motions, determinations, and interpretations.

**C. The DRB was arbitrary, capricious, and abused its discretion.**

During the January 5, 2022, hearing, the applicants’ representative, Greg Beale, confirmed that there was no specific design for the DRB to consider. Also, during the hearing, the City Attorney advised the DRB to reach a consensus and give guidance and refrain from making any formal actions. In addition to violating the Brown Act, the DRB was arbitrary, capricious, and prejudicially abused its discretion when it:

1. “Interpreted” the phrase “general area” in M8 as limiting consideration of houses within a 650-foot radius of 771 and 773 First Street (“Property”). The DRB did this despite ample evidence that this radius conflicts with the plain language of M8 because a 650-foot radius does not include all of First Street, or all of Swain Woods and there is no evidence anywhere that M8 limits “general area” to a 650-foot radius. The DRB cannot

ignore or insert language into M8. (*Harbor Fumigation, Inc. v County of San Diego Air Pollution Control Dist.* (1996) 43 Cal.App.4th 854, 860.) Setting a 650-foot radius illegally added language to M8 while also ignoring the plain language of M8, which requires consideration of the “general area” and the entirety of two specific subareas – Swain Woods and First Street;

2. Limited the size of a house on any of the three lots to the conditioned square footage of the house to be maximum of 125% of the average, based on the staff report-identified average in the prescribed area (2440 square feet), and the unconditioned space to be determined later based on an interpretation on what is typical of the neighborhood; establishing this formula while ignoring testimony that the staff data may not have been accurate. Again, the DRB acted illegally by adding requirements to M8 that are not a part of M8. The City cannot create “guidelines” or “interpretations” of M8 that effectively rewrite M8, as occurred here. (*Yamaha Corp. v State Bd. of Equalization* (1998) 19 Cal.4th 1, 12.)

The City’s initial staff report on the proposed home was favorable and did not arbitrarily rewrite M8. City staff reversed course only after neighbor-opponents activated. The City’s inconsistent positions and reversals undermine the DRB’s actions. (See *Yamaha Corp. v State Bd. of Equalization*, supra, 19 Cal.4th 1.)

3. Added language to the M8 that does not exist. For example, M8 does not call for an average of other home sizes, nor does it establish a measurement to determine the “general area.” These were illegal, impermissible additions and underground amendments to M8;
4. Converted M8 from a “guideline” to a bright-line radius and square footage limit, which is contrary to the plain language of M8;
5. Ignored the fact that the “comparison homes” included in the staff report can be expanded with only ministerial permits. Since the comparison homes can change, the proposed home should also be able to expand with only ministerial permits. A hard and fast square foot cap on the proposed home on the Property may constitute taking without compensation and create liability for the City’s failure to discharge a ministerial duty if future owners submit applications for ministerial permits, including ministerial permits that add to the square footage of the proposed home.



**D. The DRB made appealable interpretations and determinations, leaving the applicants no choice but to file this appeal.**

The applicant's representative, Greg Beale, contacted staff member John Jay to ask what the DRB did on January 6, 2022, because the Board's action was not clear, and the video was not yet available. Mr. Jay responded on January 11, 2022 and took the position that the DRB's actions were a "preliminary" motion and are not appealable.<sup>3</sup> However, the DRB never stated that its motions were preliminary and, to the contrary, stated that its January 5, 2022, motions would be binding on all three subdivision lots. Moreover, the Sebastopol City Code states: [a]n appeal may be taken to the City Council by an applicant or any interested party, *from any determination or interpretation* made by the Planning Commission or the Design Review/Tree Board, as the case may be, under the Zoning Code. (Sebastopol City Code, § 17.455.020, subd. B.2.)(Emphasis added.)

The DRB adopted formal motions, interpreted M8 and made determinations about the "general area", the size of houses on future lots, the size of conditioned space, and the size of unconditioned space. There is no evidence, currently available to the public, that the DRB's actions were "preliminary", and staff's position directly contradicts the DRB's statements during the January 5, 2022, hearing that its actions were binding on all three subdivision lots and future applications for a home and ADU on 771 and 773 First Street. If the applicant did not appeal the DRB's actions, we have little doubt that at future hearings the DRB and staff would take the position that the decisions were binding on all three lots.

The DRB ignored the City Attorney's advice to reach a consensus and provide guidance. Instead, the DRB, adopted formal motions interpreting M8, determined that only structures within a 650-foot radius of the Property could and would be considered when interpreting M8, and the DRB determined that the house on 771-773 First Street would be limited to 125% of the identified average of 2,440 square feet of conditioned space, and that unconditioned space must be "typical of the neighborhood". Thus, the DRB left the landowners with no choice but to follow the City Code and appeal the DRB's actions.

**E. Prejudicial staff analysis adversely affected the Board's actions.**

The December 15 staff report on page 2 states "...it's also important to keep in mind the other mitigation measures relevant to this resolution which also include a Tree Protection Plan prior to the approval of a grading permit." Then on pages 3 - 5, the report focuses *at length* on tree and grading issues associated with the submitted design; however, these issues were not agendaized, were not what the Board directed be addressed at the meeting, were not what the applicant

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<sup>3</sup> A copy of the January 11, 2022, Beale/Jay email exchange is attached to this letter.

understood needed to be addressed for the hearing, and their inclusion prejudiced the matter that was supposed to be before the Board: how to interpret Mitigation Measure No. 8.

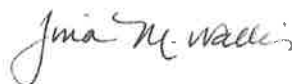
The staff report also stated it would be “unfair” to discount uninhabitable/unconditioned or storage space. This language was judgmental and prejudicial. It is incontrovertible that the Zoning Ordinance definition of ‘dwelling’ does not include uninhabitable spaces, and that the common understanding of home “size” matches that definition. Further, the applicant pointed out that the City staff’s data for other homes was limited to conditioned space, which was compared in the staff report to the proposed house’s conditioned *and* unconditioned spaces. The City Attorney stated that an apples-to-apples comparison was appropriate; after extended discussion the Board followed the City Attorney’s suggestion and limited the comparison to conditioned space; however, the staff report inappropriately encouraged the Board to do otherwise.

The applicant submitted a detailed letter outlining specific and serious concerns with the December 15 staff report, and fully expected the staff to respond and possibly modify their report or recommendations. Such response might have assisted the Board in their deliberations, but no written response from staff was provided to the Board or the applicant.

Given that the DRB violated the Brown Act, abused its discretion, and acted arbitrarily and capriciously, we respectfully request that the Council reverse the DRB, reconsider M8, and follow the law. Finally, the applicants preserve their ability to add additional facts and grounds for this appeal if and when the January 5, 2022, hearing video is made available to them.<sup>4</sup>

Thank you for your consideration.

Very truly yours,



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

**Attachments:**

1. January 11, 2022, Beale/Jay email exchange.

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<sup>4</sup> 1. The applicants are entitled to a fair and unbiased hearing. (Code Civ. Proc., § 1094.5 and *Nightlife Partners v. City of Beverly Hills* (2003) 108 Cal.App.4th 91, 90.) Having a “fair hearing” includes unbiased reviewers and an opportunity to review the evidence *the agency* considered. If opponent/city communications occurred outside of the hearing, the applicants preserve this issue.

**From:** [Brenda Martin](#)  
**To:** [Brenda Martin](#)  
**Subject:** FW: First Street Project: Request for clarification on last nights motion  
**Date:** Wednesday, January 12, 2022 3:19:56 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

---

**From:** John Jay <[jjay@cityofsebastopol.org](mailto:jjay@cityofsebastopol.org)>  
**Sent:** Tuesday, January 11, 2022 1:58 PM  
**To:** Gregory Beale <[gregory@thebeale.group](mailto:gregory@thebeale.group)>; Kari Svanstrom <[ksvanstrom@cityofsebastopol.org](mailto:ksvanstrom@cityofsebastopol.org)>; Lawrence McLaughlin <[lmclaughlin@cityofsebastopol.org](mailto:lmclaughlin@cityofsebastopol.org)>  
**Cc:** Tina Wallis <[twallis@twallislaw.com](mailto:twallis@twallislaw.com)>; Kenyon Webster <[kenyonw222@gmail.com](mailto:kenyonw222@gmail.com)>  
**Subject:** RE: First Street Project: Request for clarification on last nights motion

Hello Greg,

I was able to go back and get the motion from the recording and it is as follows: **the conditioned square footage of the house to be maximum of 125% of the average, based on the staff report (2440), and the unconditioned space to be determined later based on an interpretation on what is typical of the neighborhood.**

Regarding the appeal on the motion, it was a preliminary motion which set forth guidance for the applicant to move forward and propose a project that the board would feel adheres to the guidelines mentioned in M8. The process would be to proceed in compliance with that, or contrary to that. The DRB would then review for a final determination along with the project entitlement/Design Review. You could then appeal that decision per our normal process.

Thank you,

John Jay  
Associate Planner

City of Sebastopol | Planning Department  
7120 Bodega Avenue | Sebastopol, CA 95472  
(707) 823-6167 phone  
[www.cityofsebastopol.org](http://www.cityofsebastopol.org)



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**From:** Gregory Beale <[gregory@thebeale.group](mailto:gregory@thebeale.group)>  
**Sent:** Tuesday, January 11, 2022 9:36 AM  
**To:** John Jay <[jjay@cityofsebastopol.org](mailto:jjay@cityofsebastopol.org)>; Kari Svanstrom <[ksvanstrom@cityofsebastopol.org](mailto:ksvanstrom@cityofsebastopol.org)>; Lawrence McLaughlin <[lmclaughlin@cityofsebastopol.org](mailto:lmclaughlin@cityofsebastopol.org)>  
**Cc:** Tina Wallis <[twallis@twallislaw.com](mailto:twallis@twallislaw.com)>; Kenyon Webster <[kenyonw222@gmail.com](mailto:kenyonw222@gmail.com)>  
**Subject:** RE: First Street Project: Request for clarification on last nights motion

Good morning John,

Thank you for your email yesterday to check in and let us know that you are working on gathering and defining the motion from last Wednesday's meeting. I do need to emphasize the urgency of this to you formally. If we are to follow the law, our deadline for appeal is tomorrow, and at this point we don't even know what the motion states in order for us to consider this option. Larry made a valiant effort to steer the board away from an official motion, but they disregarded this and made one anyways. Because this motion will 'restrict' all three lots for any future projects it is vital for us to have a reasonable amount of time to advise our clients on the risk/rewards and pros/cons of this motion. We do not want to appeal any

ruling under any circumstances, but also need the reasonable opportunity to advise our clients and consider all options.

Please advise asap. Thank you again for all your time and effort thus far.

As always, please feel free to contact me with any questions.

Many thanks,

**Greg Beale**  
Founder and CEO



Main: (707) 827-9600  
Direct: (707) 827-9601  
Fax: (707) 827- 3253  
Cell: (707) 481-9941

555 So. Main St. Suite 1  
Sebastopol CA 95472



**From:** John Jay <[jjay@cityofsebastopol.org](mailto:jjay@cityofsebastopol.org)>

**Sent:** Monday, January 10, 2022 11:03 AM

**To:** Gregory Beale <[gregory@thebeale.group](mailto:gregory@thebeale.group)>; Kari Svanstrom <[ksvanstrom@cityofsebastopol.org](mailto:ksvanstrom@cityofsebastopol.org)>

**Subject:** RE: First Street Project: Request for clarification on last night's motion

Hi Greg,

You are welcome I knew this meeting was going to be a difficult one going into it.

I am going to go back and watch the recording of the meeting and confirm what the motion was and the square footage they agreed to that way we have no confusion on what the allowable amount is.

Thank you,

John Jay  
Associate Planner

City of Sebastopol | Planning Department  
7120 Bodega Avenue | Sebastopol, CA 95472  
(707) 823-6167 phone  
[www.cityofsebastopol.org](http://www.cityofsebastopol.org)



City offices are open Monday – Thursday, 7:00 am – 5:30 pm, Closed every Friday and holidays

**From:** Gregory Beale <[gregory@thebeale.group](mailto:gregory@thebeale.group)>

**Sent:** Thursday, January 06, 2022 6:25 PM

**To:** Kari Svanstrom <[ksvanstrom@cityofsebastopol.org](mailto:ksvanstrom@cityofsebastopol.org)>; John Jay <[jjay@cityofsebastopol.org](mailto:jjay@cityofsebastopol.org)>

**Subject:** First Street Project: Request for clarification on last night's motion

Hi John,

Kari, you were missed and hope you are feeling better. John, thank you for doing your best to keep things on the rails last night.

I would like to take the opportunity to request clarification on last night's motion. Would you please confirm that the board voted to accept a maximum size (conditioned square footage) equal to 125% of 3,000? Within that conversation we heard several members of the board stating that 3750 square feet was the number... and that nonconditioned square footage would be scrutinized at the subsequent 'standard' meeting, as usual?

Thank you in advance.

Greg

(ORIGINAL COPY FOR REFERENCE  
SINCE SIGNED COPY IS FADED)



### City of Sebastopol

Planning Department  
7120 Bodega Avenue  
Sebastopol, CA 95472  
(707) 823-6167 (Phone) or (707) 823-1135 (Fax)  
[www.ci.sebastopol.ca.us](http://www.ci.sebastopol.ca.us)

### MASTER PLANNING APPLICATION FORM

#### PROJECT INFORMATION:

ADDRESS:	771 & 773 FIRST ST
PARCEL #:	004-172-017
PARCEL AREA:	

FOR CITY USE ONLY	
PLANNING FILE #:	_____ / _____
DATE FILED:	_____
TOTAL FEES PAID: \$	_____
RECEIVED BY:	_____
DATE APPLICATION DEEMED COMPLETE:	_____

#### APPLICANT OR AGENT:

Name: GREGORY BEALE

Email Address: GREGORY@THEBEALE.GROUP

Mailing Address: 555 So. Main St, Suite One

City/State/Zip: SEBASTOPOL, CA 95472

Phone: 707-827-9600

Fax: \_\_\_\_\_

Business License #: 1229 (BSOS)

Signature: [Signature]

Date: 1/12/22

#### OWNER OF PROPERTY

#### IF OTHER THAN APPLICANT:

Name: ROSE & STEVE SCHOCH

Email Address: SCHOCH6@gmail.com

Mailing Address: 974 Bluebonnet Drive

City/State/Zip: SUNNYVALE, CA 94086

Phone: 408-732-4479

Fax: \_\_\_\_\_

Business License #: \_\_\_\_\_

Signature: \_\_\_\_\_

*I certify that this application is being made with my consent.*

Date: \_\_\_\_\_

#### OTHER PERSONS TO BE NOTIFIED: (Include Agents, Architects, Engineers, etc.).

Name: TINA WALLS

Email Address: TWALLS@TWALLSCAW.COM

Mailing Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Name: KENYON WEBSTER

Email Address: KENYONW222@gmail.com

Mailing Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_



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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

**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  
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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



**EXHIBIT A**  
**DRAFT FINDINGS FOR APPROVAL**  
**DESIGN REVIEW and TREE REMOVAL APPLICATION**  
**File 2021-28**  
**771 and 773 First Street**  
**Thrive Construction/Builders' Studio**

The Design Review Board finds:

1. That the Project is categorically exempt from the requirements of CEQA, pursuant to 15303, Class 3, New Construction or Conversion of Small Structures as it proposes to build a single-family dwelling unit in a residential zone.
2. That the Project, as conditioned, will be consistent with the General Plan and Zoning Ordinance in that it involves the development of a single-family dwelling and accessory dwelling unit in an area that contains an array of residential uses, and is consistent with development standards.
3. That the Project, as conditioned, is consistent with the Mitigated Negative Declaration (MND) was adopted in accordance with the California Environmental Quality Act by the Sebastopol City Council on October 16, 2001, for the Subdivision of the land on which this project is constructed, as follows:
  - a. As conditioned, Mitigation Measures M1 and M3, related to grading, erosion control, and re-planting, will be met.
  - b. Mitigation Measure M2, requirements of the Final Map, have been met.
  - c. As conditioned, Mitigation Measure M4 will be met in that the project does not include a fireplace, chimney or woodstove.
  - d. Mitigation Measure M5 as conditioned will be met as the Design Review Board has reviewed the proposed Tree Protection Plan and Tree Removal Permit.
  - e. As conditioned, Mitigation Measure M6 will be met in that trees being replaced from removal will be consistent with the requirements of the Sebastopol Municipal Code section 8.12.060.E *Replacement Trees*.
  - f. As conditioned, Mitigation Measure M7 will be met as the project proposes to remove one heritage tree and will be required to replace with two 15-gallon trees and a 24" box tree (or equivalent).
  - g. Mitigation Measure M8 will be met as the proposed home size and height does not exceed that of similar homes in the general area of more recent construction including both the First Street area and Swain Woods neighborhood, and is consistent with the City's development standards.
  - h. As conditioned, Mitigation Measure M9 will be met in that the garage for the main dwelling and Accessory Dwelling Unit face inwards to the site and any parking along the driveway to 773 First Street will be screened by the required replanting along the western property line facing Calder Creek.

4. That the Project, as conditioned, is consistent with the Design Review Guidelines, as follow:
  - a. Significant natural site features as the project now protects and saves Tree #5 and limits grading within the rootzone.
  - b. Private open space as the project includes useful private open space in the affect of multiple porches, patios, decks, and balconies.
  - c. Grading has been reduced to limit the amount of work to be done on the site and has removed the need for any off haul.
  - d. The proposed materials for the project are durable and of high quality along with being complementary to the surrounding area.
  - e. The proposed roof layout avoids large flat roofs and varies vertically and horizontally to provide a visual relief.
  - f. No irrigation is located within drip lines of existing trees.
5. That the dwelling, as conditioned, will be compatible with the neighborhood in that its size and design are consistent with several existing dwellings in the area and that it is consistent with Mitigation Measure 8 in not exceeding home size in the general area.
6. That the dwelling, as conditioned, will be compatible with the general visual character of greater Sebastopol in that it is well designed and contributes to the architectural diversity of the community.
7. That the design, as conditioned, will provide appropriate transitions and relationships to adjacent properties and the public right of way in that the design provides a buffer from the creek setback and proposes to save a large oak tree that will screen the property from the neighboring homes. Additionally, as conditioned, there will be no accessory structures or grading within the setbacks.
8. That the proposed improvements, as conditioned, will not impair the desirability of investment or occupation in the neighborhood as the exterior colors contribute to the overall design of the building, creating a more aesthetically pleasing environment. Additionally, as conditioned, the creek setback will be respected and maintained to prevent erosion and enhance the native habitat, in that the site will be replanted with native grasses and native tree replacements.
9. That the design is internally consistent and harmonious in that the improvements, colors, materials, and design are consistent in character throughout the site, in that the main home and the accessory dwelling unit are located outside of the creek setback; the design and materials of the accessory dwelling unit compliments the main structure; and the exterior spaces provide for shared and private open space within the development.
10. That the design, as conditioned, will be in conformity with Design Review Guidelines as the improvements, colors, materials, and design will be complementary to the surrounding residential area, in that the design includes neutral color palettes and is consistent with surrounding exterior home materials.

11. That the project, as conditioned, will be consistent with Resolution No. 5220 of the Sebastopol City Council.

Tree Removal Findings:

The City's Tree Ordinance (SMC Section 8.12.060.D of the Tree Protection Ordinance) states that a Tree Removal Permit may be approved when an International Society of Arboriculture (ISA) Certified Arborist has verified at least one of the following conditions:

1. Tree #4 is diseased or structurally unsound and, as a result, is likely to become a significant hazard to life or property within the next two (2) years. The arborist report also notes that old pruning wounds would spread to other cavities in the tree and render the remaining leader subject to failure.

**EXHIBIT B**  
**RECOMMENDED CONDITIONS OF APPROVAL**  
**DESIGN REVIEW and TREE REMOVAL APPLICATION**  
**File 2021-28**  
**771 and 773 First Street**  
**Thrive Construction/Builders' Studio**

1. Approval is granted for the Design Review submittal described in the application and revised plans date-stamped December 15, 2022, except as modified herein:
  - a. The spa shall be eliminated from the project.
  - b. Remove proposed building and grading activities from the 20' setback area. The planter boxes on the north property line may remain.
  - c. Landscape plan shall include a minimum of one 24" box tree and two 15-gallon trees for each protected tree removed as required by Mitigation Measure 7.
2. A final Tree Protection Plan shall be submitted to the Planning for the City's review and approval by the City prior to issuance of a building permit.
3. All tree removals shall be replaced prior to final inspection, with two native trees replaced for each protected tree that is removed, unless otherwise authorized by the Planning Department. Tree replacement shall conform to the requirements of Resolution No. 5220.
4. All Conditions of Approval listed in the Schoch Subdivision Resolution No. 5220 (October 16, 2001) shall remain valid.
5. The new residence shall be connected to existing sewer and water lateral services installed at the time of the Minor Subdivision. All work shall be done in accord with City Standard Details and Specifications, and any modifications to existing services will require plan approval and permits from the Engineering Department.
6. Any work to be done within any street right of way or City utility easement will require a City Encroachment Permit.
7. Prior to approval of the Building Permit, the applicant shall submit a Grading Plan to the Engineering Department for Engineering Review and approval. Upon approval of the Grading Plan, the contractor shall obtain a Grading Permit.
8. All new utility services must be placed underground.
9. Storm water pollution prevention measures for erosion and sediment control will be required for any work performed between October 15th and April 15th.
10. Roof drainage from the new unit should be either piped through curb or connected to an existing onsite drainage system. No drainage may discharge across public sidewalks or across property lines.
11. Grading, drainage and erosion control plans shall be required for Lot 3, submitted to the Engineering Department for review and approval by the City Engineer prior to issuance of a building permit, including but not limited to the foundation-only permit.

12. Impact fees shall be paid prior to issuance of a building permit.
13. New water meter installations shall be located in or adjacent to public right of way (First St.)
14. Provide storm drainage design calculations supporting the proposed storm drain design for review and approval by the City.
15. On undisturbed soil near the preserved property line trees, contractor or tree service shall hand dig holes the width of the posts/piers to 24" depth to determine if roots are present.
16. The project arborist – Sandborn Tree Service, or another certified arborist approved by the City, shall perform clearance and hazard reduction pruning, and shall monitor work within root zones of trees to be preserved. The Arborist shall be on-site or on-call when foundation excavation is taking place within the drip line and/or tree protection areas of trees to be preserved.
17. There should be specific tree protection notes printed on plans and observed as part of the construction documents during construction.
  - a. To include the following: monitoring during work within tree driplines/root zones, applying a 4-6" layer of arbormulch on the surface of the soil under tree driplines where activity will occur

**EXHIBIT C**  
**STANDARD CONDITIONS OF APPROVAL**  
**File 2021-28**  
**771 and 773 First Street**  
**Thrive Construction/Builders' Studio**

1. All plans shall include a brief description of the project on the cover sheet.
2. All submitted building permit plan check sets shall include a plan sheet incorporating these conditions of approval.
3. Except as otherwise noted in these conditions of approval, the plans submitted to the Building Department for plan check shall be in substantial conformance to those approved by the review body. If any changes are made to submitted plans which were approved by the review body the applicant shall work with the Planning Department to determine if the changes are significant enough to once again be seen by the review body, or if staff can approve the changes. Any changes that have not been approved by Planning staff are not approved. Construction or demolition work that does not conform to the Planning approval is not valid and shall be subject to stop work orders and may require removal.
4. Site landscaping shall be generally consistent with the Landscape Plan included as part of "Exhibit A" on file with the Sebastopol Planning Department. The final landscape plan shall be stamped by a licensed landscape architect and filed with the Planning Department prior to occupancy. Plans for any irrigation of the site shall be incorporated into the landscape plan. All planting shown on the approved plan shall be installed prior to occupancy of the proposed project. Upon the request of an Applicant to receive a Temporary Certificate of Occupancy and at discretion of the Planning Director, landscape installation may be suitably guaranteed by posting a cash bond equal to 100% of the cost and installation of any landscape improvements.
5. Acceptance of the construction drawings and specifications does not release the applicant and owner from correction of mistakes, errors, or omissions contained therein. If, during the course of construction, the field conditions or other previously unknown conditions require a modification or a departure from the accepted plans, the applicant shall provide the modifications or departure and specify the correction of mistakes errors, or omissions in compliance with the CBC and City Standards.
6. The City of Sebastopol and its agents, officers and employees shall be defended, indemnified, and held harmless from any claim, action or proceedings against the City, or its agents, officers and employees to attach, set aside, void, or annul the approval of this application or the environmental determination which accompanies it, or which otherwise arises out of or in connection with the City's action on this application, including but not limited to, damages, costs, expenses, attorney's fees, or expert witness fees.
7. A Construction Management Plan (CMP) shall be submitted to the City as part of the Building Permit and/or Grading Permit and shall be incorporated into the plans, unless waived by staff. The City's CMP template, provided by the Planning Department, may be used for small, infill projects. Revisions to the CMP to increase or add on time to the construction timeline shall be coordinated with the Building Official and any additional requests will be at the applicant's responsibility.

This CMP shall be a binding document. Failure to adhere to the CMP may result in a "Stop Work Notice" being placed on the project. An electronic copy of the APPROVED CMP shall be submitted to the City, and may be posted to the city's website. The CMP shall be updated as project conditions warrant. Updates to the CMP shall be provided to the City for review and approval. The CMP shall include but not be limited to:

- a) Work schedule (start of construction date, road or lane closure intent/dates, important milestones and proposed final dates)
- b) Construction Hours
- c) Travel routes and turn-around locations with staff approval
  - Impact to state highways
- d) Road and/or lane closures (Applicant to provide information on how many anticipated road closures, and the reasons for each road closure).
- e) Worker auto parking space locations/construction parking
- f) Phasing (if applicable)
- g) If construction improvements are located in areas of slopes 15% or greater, the Contractor shall provide safe temporary hard surface stair access to the improvements, unless waived by the Building Official. This access shall be shown on the CMP.
- h) Projects that require a grading permit shall comply with the City's grading ordinance.

The CMP may be more stringent if the project is located close to schools or in impacted neighborhoods. A CMP may be required to be modified if a neighborhood becomes "impacted" during the course of the construction. Impacted neighborhoods are defined as areas in geographic proximity (i.e. using the same streets for access) with a significant number of simultaneous construction projects.

The hours of construction activity shall be limited 7:00 a.m. to 8:00 p.m., Monday through Friday, 8:00 a.m. to 5:00 p.m. on Saturdays with staff approval, depending on scope of work being done, or unless modified by a project's Specific Conditions of Approval.

A 24-inch by 36-inch weatherproof copy with items A-F posted on site. The remaining Construction Management Plan shall be made available on site. The Construction Management Plan shall be posted on the site as part of the job site signage and should include:

- a) Address of the project site.
  - b) Permitted hours of construction and of deliveries/off-haul.
  - c) Name, e-mail address and direct phone number of the General Contractor.
  - d) Name, e-mail address and direct phone number of the person responsible for managing the project.
  - e) Name and direct phone number of the party to call in case of an emergency.
  - f) City of Sebastopol Building Department (707-823-8597).
8. All construction materials, debris and equipment shall be stored on site. If that is not physically possible, an encroachment permit shall be obtained from the Public Works Department prior to placing any construction materials, debris, debris boxes or unlicensed equipment in the right-of-way. The fee for using the right-of-way for storage of construction materials or equipment is \$10.00 per day. A minimum of 11' passable auto traffic clearance (paved travel way) shall be maintained at all times along the roadway. The placing of portable restroom facilities in the City right-of-way will not be permitted.

9. All portions of the job site shall be maintained in an organized and professional condition. All trash, debris, construction scraps and broken/deteriorated machinery shall be removed from the site by the end of each week. If off loaded construction materials are not used within 2 weeks, they shall be screened from public view. All sidewalks, driveways and public/private roadways fronting the subject site shall be broom cleaned at the end of each business day.
10. A pre-construction meeting is required with city staff for projects that:
  - a) Require a City encroachment permit, a Caltrans encroachment permit, or a City grading permit; or
  - b) Have 5 dwelling units or more; or
  - c) Have a total of 5,000 square feet of building or more; or
  - d) Have a creek setback requirement; or
  - e) Are required to have a pre-construction meeting under a specific condition of approval.
11. All permits and/or inspection fees required shall be paid in full prior to final occupancy being granted unless otherwise stipulated by the City.
12. All required construction signage and any required tree-protection shall be posted and available for City inspection at the time of the Pre-construction meeting or, if no pre-construction meeting is required, prior to commencing construction. If these measures are not in place at the time of the pre-construction meeting, a re- inspection fee will be required, and issuance of building permit will be delayed.
13. The Planning Director shall interpret applicable requirements in the event of any redundancy or conflict in conditions of approval.

**Planning Department Standard Conditions of Approval:**

14. This approval is valid for a period of three (3) years during which time the rights granted must be exercised. However, the applicant may request one (1) one-year extension of this Use Permit from the Planning Director, pursuant to Zoning Ordinance §17.400.100.
15. The light source for all exterior lighting fixtures shall be shielded from adjacent properties. Cut sheets for all exterior lighting shall be submitted as part of the Design Review or other planning application.
16. For projects with new foundations or retaining walls less than 10' away from a required setback property lines shall be physically identified (string line or equal), and the applicant shall submit a letter or certificate from a licensed surveyor that confirms that the structure complies with the approved setbacks prior to placing the foundation. For any project that includes new foundations or retaining walls more than 10' away from a required setback, the applicant may apply for a waiver from this requirement from the City Engineer and Planning Department.
17. For any project that includes new structures within 2 feet of the allowed height limit, a letter or certificate from a surveyor confirming that the height of the roof complies with the approved plans shall be submitted to the Planning Department at the earliest point



possible.

18. All landscape and irrigation plans must be designed in accordance with the most current City of Sebastopol landscape requirements. Prior to providing water service for new landscape areas, or improved or modified landscape areas, the Planning Department must review and approve the project's working drawings for planting and irrigation systems. Any question regarding the City of Sebastopol current water conservation and Landscape Ordinance should be directed to the Planning Department.

New construction and rehabilitated (renovations or changes made to sites with an existing irrigation system) landscape projects will be affected by these requirements if the altered landscape area is greater than 500 square feet.

19. For any new housing unit development, the developer/owner shall submit the total amount of fees and exactions associated with the project prior to issuance of certificate of occupancy or final inspection.

#### **Engineering and Public Works Department Standard Conditions of Approval:**

20. All projects are subject to Impact Fees as adopted by the City Council, which are due at the time of issuance of the Building Permit unless otherwise stipulated by the City.
21. An Encroachment Permit is required from the Public Works Department for any and all work within the public right-of-way. If the work is within a CalTrans right-of way, an Encroachment Permit from CalTrans shall also be procured by the applicant. Encroachment Permit shall not be issued until the City Engineer approves the applicant's site improvement plans.
22. Construction within the public right-of-way is limited to that necessary to support the lot's use. This may include but is not limited to: driveways, sidewalks and any utility connections. For all improvements within the public right of way, the applicant shall submit plans to adequately describe the work. Plans shall include but not be limited to drainage details, cross-sections, driveway/roadway grades and utility locations as necessary.
23. The applicant shall prepare and submit site improvement plans for the construction of all improvements including water, sanitary sewer, storm drain, water quality facilities, roadway improvements, curbs, gutters, sidewalks, elevated or structural pedestrian walkways, landscaping, landscape irrigation, signing, striping, joint trench and streetlights. All design and construction shall conform to the latest edition of the City of Sebastopol Design and Construction Standards and other applicable codes, standards, guidelines and specifications. Public improvement drawings shall be drafted in the City-approved sheet format.
24. Once approved by the City Engineer, the applicant shall submit PDF files of the signed improvement plans. As-Built record drawings shall also be submitted as PDF files.
25. Deviations from City Standards and applicable Code requirements shall be approved by the City Engineer. The applicant's engineer shall request all design exceptions in writing.

26. Any improvements, public or private, damaged during construction shall be replaced, by the applicant, in-kind or with new improvements. All cracked, broken, or uplifted sidewalk, driveway and/or curb and gutter fronting the property shall be replaced. Applicant shall coordinate with the Public Works Department prior to the first submittal of project improvement plans to identify the extents and limits of replacement.
27. An erosion and sediment control plan are required as part of the building permit application. The plan shall be prepared by a certified erosion control specialist and in full compliance with CASQA standards, The plan is subject to review and approval by the Engineering Department prior to the issuance of the building or grading permit. No modifications to the approved plans shall be made without approval of the City Engineer.
28. Mailbox plans and locations shall be approved by the Sebastopol Postmaster prior to improvement plan approval. The developer shall provide a letter and exhibit showing mailbox locations from the Sebastopol Postmaster approving mailbox locations.
29. City Public Water and Sewer and Drainage utility easements as required by the City Engineer utility companies shall be provided within the development. Easement locations shall be subject to review and approval by the City Engineer.

***Roadway Improvements:***

30. The improvement plans for the first phase of development shall include and provide for the construction of all offsite improvements as required to support full project build-out. Each subsequent phase of development shall construct sufficient onsite roadway and utility improvements to support the cumulative development proposed to be constructed as approved by the City Engineer.
31. Road closures, if permitted by the Project Approval, will only be permitted with prior authorization from the Public Works Department consistent with the City's road closure policy. Signs containing details of the proposed closure must be posted 48 hours in advance. Coordinate road closures with the Sebastopol Public Works Department. Contact the Public Works Department at 707-823-5331 to obtain a road closure permit.
32. An emergency vehicle access, meeting the requirements of the Sebastopol Fire Department shall be constructed.
33. All private driveway areas less than 24-foot wide shall require the approval of the Sebastopol Fire Department.
34. Sidewalk warps shall be provided to allow a clear five-foot walkway at all locations, including areas where mailboxes, street furniture, streetlights, street signs and fire hydrants are to be installed, or as otherwise approved by the City Engineer.
35. The structural section of all public road improvements shall be designed using a soil investigation which provides the basement soils R-value and expansion pressure test results. A copy of Geotechnical report and structural section calculations shall be submitted with the first improvement plan check.
36. The structural section of the private on-site drive aisles and parking areas shall meet the requirements and recommendations of the geotechnical report for the project.
37. Retaining walls and retaining curbs may be required to protect damage to trees as

determined by a licensed Arborist. All retaining structures shall be designed and constructed to minimize damage to trees.

38. Pedestrian curb ramps, meeting City standards and current accessibility requirements, shall be provided at all intersections and crosswalks where sidewalks are proposed.

***Drainage Improvements:***

39. All project related flooding impacts shall be mitigated by the project developer. Drainage improvements shall be designed by a Civil Engineer registered in the State of California in accordance with the Sonoma County Water Agency's Flood Management Design Manual (FMDM). Public and private drainage improvements shall be shown on the improvement plans and the City Engineer may require the applicant to acquire the review and recommendations by the Sonoma County Water Agency (Sonoma Water) prior to approval by the City Engineer. Private storm drain easements will be required for any portions of the private storm drain not entirely located with the lot being served or for any portion of a private utility located on an adjacent parcel.
40. No lot-to-lot drainage will be allowed between the project site and any adjacent parcels. No concentrated drainage may discharge across sidewalks. All site drains must be connected to the public storm drain system or discharged through the face of curb or to an established waterway.
41. Plans and certifications shall demonstrate compliance of all improvements, including building finished floor elevations, with the City's Flood Ordinance, to the satisfaction of the Building Official and City Engineer. Building finished floor elevations shall be constructed at a minimum of 2 foot above the 100-year storm event water surface elevation as determined by the City and certified by the project engineer. The Engineer of Record shall provide a signed and stamped letter indicating the project meets the requirements of the Ordinance before plan approval.

***Stormwater Quality:***

42. Projects that create or replace 10,000 square feet or more of impervious surface area are subject to design and construction requirements of the most recent edition of City of Sebastopol Low Impact Development (LID) Technical Design Manual. Improvement plans with required LID design features shall be approved by the City Engineer.
43. Projects that will disturb 1.0 acre or more of developed or undeveloped land shall provide evidence that a Notice of Intent (NOI) has been submitted by the applicant and received by the State Water Resources Control Board for a General Construction Activity Storm Water Permit. Two copies of the project Storm Water Pollution Protection Plan (SWPPP) shall be provided to the City prior to issuing a grading permit, encroachment permit, or building permit.
44. For required LID features constructed on private property or on street frontage, the owner shall provide a Declaration Letter to the City Manager regarding the owner's commitment to ongoing maintenance of said LID features (LID Declaration) prior to occupancy.

***Grading:***

45. The improvement plans shall include a site-grading plan prepared by a Civil Engineer registered in the State of California as part of the required improvement drawings. Lots shall be generally designed to drain to public and private streets or parking areas, unless otherwise approved in the interest of tree preservation or other unusual circumstances.
46. The City of Sebastopol shall require a grading permit for projects that meet these requirements.
  - a) Cut or fill exceeding 50 cubic yards
  - b) Cut or fill greater than 3 feet in depth
  - c) Cut creating a cut slope greater than 5 feet in height and steeper than 2 units horizontal to 1 unit vertical
  - d) Fill intended to support a structure or surcharge greater than 1 foot in depth or placed on terrain with a natural slope steeper than 15 percent
47. When required by the Building Official the applicant shall submit to the City for review and approval, a detailed Geotechnical Report prepared by a Geotechnical Engineer registered in the State of California. The grading plan shall incorporate the recommendations of the approved Geotechnical Report.
48. Where soil or geologic conditions encountered during grading operations are different from those anticipated in the Geotechnical Report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted for approval by the City Engineer. It shall be accompanied by an engineering and geological opinion as to the safety of the site from hazards of land slippage, erosion, settlement, and seismic activity.
49. Existing wells, septic tanks and/or underground fuel storage tanks that are defective or will no longer be in use shall be permanently destroyed or removed under permit and inspection by the Sonoma County Permit and Resource Management Department, Well and Septic Division and/or Sonoma County Environmental Health or other designated agency. Underground fuel storage tanks are subject to UST regulations of the State Water Resources Control Board.
50. The grading plan shall clearly show all existing survey monuments and property corners and shall state that they shall be protected and preserved. Should monuments be damaged or destroyed during construction, they shall be replaced by the developer.
51. Improvements plans shall include an erosion control (winterization) plan. The plan shall include an order of work and staging/scheduling component indicating when facilities must be installed and when they may be removed.
52. Sewer services and laterals shall be CCTV inspected to determine if the service needs to be removed and replaced. A copy of the CCTV report shall be provided to the City Engineer. A waiver for CCTV inspection may be waived by the City Engineer, if the sewer lateral has been replaced within ten years of the submittal of the improvement plans. A copy of the documentation evidencing such replacement shall be included in the submittal package.
53. If the proposed project is located in or adjacent to a waterway, within an area

designated as habitat for threatened or endangered species, or other special status area, it possibly falls under the jurisdiction of another agency such as the United States Army Corps of Engineers, the California Regional Water Quality Control, or the California Department of Fish & Wildlife, U. S. Fish & Wildlife Service, etc. These agencies shall be contacted to determine if the project lies within their respective jurisdictions. All necessary permits and/or approvals shall be obtained prior to the City issuing any permits. If permits are not required, a letter stating so shall be submitted to the City as part of the record.

54. Trees and vegetation shall be trimmed according to Section 8.12 of the Sebastopol Municipal Code. Trees and shrubs shall be kept trimmed so that the lowest branches projecting over public properties provide a clearance of not less than eight (8) feet over sidewalks and not less than twelve (12) feet over streets.

**Fire Department. Standard Conditions of Approval:**

55. The address shall be posted in accordance with requirements of the California Building Code and California Fire Code. The Fire Chief shall review and approve all requests for new addresses. Inspection and signoff of address posting shall be coordinated through Building Department.
56. Smoke and CO detectors shall be installed in accordance with the California Building Code. Final inspection and signoff of smoke detectors shall be coordinated through Building Department.
57. Noncombustible roofing shall be provided for:
  - a. All new roofs shall be non-combustible.
  - b. Roof Repairs or replacement:
    - i. Less than 25% - no requirement
    - ii. 25Hr to 50% - Class C minimum
    - iii. 50% or more — Non-Combustible
  - c. In no case shall the roofing material used to be less fire resistive than the existing roof.

NOTE: A "noncombustible" roof is a Class A roof (for other than Group R Occupancies, a Class A or Class A assembly) as defined in the California Building Code and approved by the Building Department.

58. Prior to occupancy, a spark arrester shall be installed on the chimney(s) 3/8" mesh minimum.

**Building Department Standard Conditions of Approval:**

59. All construction shall comply with all applicable Title 24 Codes in effect at the time of building permit submittal. It is the responsibility of the designer(s) to ensure that all applicable Title 24 codes, as well as any applicable Sebastopol Municipal Codes are incorporated into the design.
60. The project shall comply with the Green Building regulations contained in the Sebastopol Municipal Code that are in effect at the time of building permit submittal.

END OF STANDARD CONDITIONS OF APPROVAL