



**City of Sebastopol**  
*Incorporated 1902*  
Planning Department  
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## **UNAPPROVED DRAFT MINUTES**

TREE/DESIGN REVIEW BOARD  
CITY OF SEBASTOPOL  
MINUTES OF November 16, 2022  
4:00 P.M.

The notice of the meeting was posted on November 10, 2022.

### **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 Marshall Balfe, Board Member Melissa Hanley, Board Member Cary Bush, Board Member
<b>Absent:</b>	Lars Langberg, Vice Chair, Christine Level, Board Member (arrived late)
<b>Staff:</b>	John Jay, Associate Planner

**3. APPROVAL OF MINUTES:** None.

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

Associate Planner Jay reported that:

- The Hotel Sebastopol has pulled building permits, is doing the last archeological study, and anticipates construction to begin in January 2023.
- The City Council met November 15<sup>th</sup> and heard an appeal of the Planning Commission's approval of a temporary use permit for the Safe Parking RV Village at 845 Gravenstein Highway North to extend the project for an additional two years. Council denied the appeal and upheld the Planning Commission decision.
- The City anticipates receiving comments back from HCD for the City's Housing Element update soon and will respond to them and give the report to boards and commissions with an adoption by the end of January 2023.
- The Design Review Board application deadline is November 28, 2022, with three positions open.

Chair Luthin asked for Board questions of the staff. Seeing none, he moved to the next item.

**5. COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THE AGENDA:**

**Laura Hagar Rush**

I have a question for Associate Planner Jay. Do you know what is happening with the former Burger King that appears to be completely demolished?

**John Jay, Associate Planner**

The Burger King building is being renovated and a Starbucks will be moving into the space. The Design Review Board and Planning Commission approved the project earlier this year and Starbucks has pulled building permits. A sign permits application will come to the Design Review Board next month for review. Time of completion is yet to be determined.

Chair Luthin asked for further public comments. Seeing none, he moved to the next item.

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

**7. REGULAR AGENDA: FAÇADE IMPROVEMENT PROGRAM REQUESTS CONTINUED FROM NOVEMBER 2, 2022 MEETING.**

**A. 420 Morris Street – Coaches Corner**

- a. The proposal is to improve the building by updating and replacing the 30-year-old front door with a new one.

Associate Planner Jay presented the staff report and was available for questions.

Chair Luthin asked for Board questions of staff. Seeing none, he invited the applicant to speak.

The applicant gave a presentation and was available for questions.

Chair Luthin asked for Board questions of the applicant.

**Cary Bush, Board Member**

Is this a one-for-one replacement of a full light door of similar type, make, and model?

**Lou**

Yes, it's a similar door brought up to more modern hinge standards. Since 1992 they designed the outside framing a little different than the one in there now, so it will be 4-inches wide bronze framing instead of the 2.5-inch wide that it is now. It is pretty much a one-for-one replacement other than the different hinge system.

Chair Luthin asked for further Board questions of the applicant. Seeing none, he moved to Board deliberations.

The Board discussed the application as follows:

**Ted Luthin, Chair**

This seems appropriate for the façade improvement program. Is everyone more or less in agreement?

**Cary Bush, Board Member**

Yes. It’s a good investment. I imagine it will provide some energy efficiency and is a good improvement to the façade and seems like a good use of allocated funds.

**Melissa Hanley, Board Member**

Especially for a business that has been in Sebastopol for so long and is a great supporter of our community. I think it’s a great thing to do.

Board Member Bush moved to approve the application as submitted.

Board Member Balfe seconded the motion.

**John Jay, Associate Planner**

Board Member Bush, is that to approve the maximum as well?

**Cary Bush, Board Member**

Yes.

AYES: Chair Luthin, and Board Members Balfe, Bush, and Hanley

NOES: None

ABSTAIN: None

ABSENT: Vice Chair Langberg, Board Member Level

**B. 6906 Sebastopol Avenue – Create It**

- a. The proposal is to add landscaping in planters with drought-tolerant plants outside the business.

**C. 195 North Main Street – Silk Moon**

- a. The proposal is to add landscaping in planters with drought-tolerant plants outside the business.

Associate Planner Jay presented the staff report and was available for questions.

The applicant gave a presentation and was available for questions.

Chair Luthin asked for Board questions of the applicant.

**Cary Bush, Board Member**

I was looking at page 13 of Create It’s application and trying to make heads or tails out of the depth of the planters. It’s clear on Silk Moon’s application that planter model 7328 is 13-inches deep, but on Create It’s application it says the planter model number is 7248 and I couldn’t assess the depth of that planter.

**Laura Hagar Rush**

I think she meant 7328, the one marked 439.

**Cary Bush, Board Member**

So it would be the same exact planter as Silk Moon at 13 inches deep, is that correct?

**Laura Hagar Rush**

Exactly.

**Cary Bush, Board Member**

I'm just trying to get a sense of what's going to push out off that façade.

**Laura Hagar Rush**

She also gave some thought to getting the wider one. I had some concerns about the width of the sidewalk there, because we don't know what's going to happen with the Depot Street parklet, so we're going to opt for the skinnier one.

**Cary Bush, Board Member**

That was my next question. I went by both sites and I noticed there's a lot of infrastructure in that area, not only in front of Silk Moon but also in front of Create It. There's a tree well with a tree grate and you're looking at 5.5 feet to 6 feet tops between the face of the tree grate to the façade itself, so another 13 inches pushes into that right-of-way clearance. John, what is allowed within that public easement right-of-way as far as ADA compliance? Is it a 5-foot clear minimum? Even in front of Silk Moon you've got about 6-foot, you've got light poles and street lamps, etc., unlike Dressers, because the planters are recessed and tuck in near the façade and they look great, so pushing things off the façade makes me wonder if that's allowed as a compliant ADA path of travel?

**Laura Hagar Rush**

My understanding was that we would have to apply for a Caltrans encroachment grant, and I just didn't want to do that until we had the okay from you guys.

**John Jay, Associate Planner**

Because both of those are Caltrans right-of-ways they would have to go through the Caltrans encroachment permit process. It's possible. I don't know what their regulations are as far as minimum requirements, so there could potentially be a modification that they might have to go narrower, but until they go through that process I'm not sure what those minimum dimensions are. The project did get routed to the Public Works Department and they mentioned that an encroachment permit would be required as part of the process, and any façade improvement program application mentions that there is an encroachment permit requirement if you're doing any work within the public right-of-way. I don't have a definite answer on that, and it could be that if they require a minimum setback or minimum clearance requirement that the 13-inch depth might have to go to 11-inches or 9- or 10-inch depth potted plants. Essentially they would have to change the application to appropriately reflect those.

**Laura Hagar Rush**

John, for Create It one of the things that is already on the sidewalk is a moveable newspaper stand, and it seems that the businesses should have priority over a moveable newspaper stand.

**John Jay, Associate Planner**

There are a lot of those within town that are right in the middle of the sidewalk in some instances, especially along Healdsburg. I'm not sure if that's a City regulation or if it's done through a news correspondent, but yes, it would make sense to have the priority go towards the business owner.

**Melissa Hanley, Board Member**

Do we know how long the Caltrans encroachment permits process takes?

**Laura Hagar Rush**

They guarantee it in less than 30 days.

**Melissa Hanley, Board Member**

I'm actually shocked. My concern would be tying up this money for other applicants on something that may or may not happen, but 30 days is not like six months that we could be denying somebody, so I don't think that's a big issue.

**Ted Luthin, Chair**

John, remind me of what the City's fiscal year dates are.

**John Jay, Associate Planner**

It is July 1<sup>st</sup> to June 30<sup>th</sup>.

**Ted Luthin, Chair**

So we're about half way through the fiscal year.

**John Jay, Associate Planner**

Yes, and the City also has an opportunity during the mid-season budget review to apply for additional façade improvement funds, and that is something that Kari and I are looking at putting on the agenda for City Council. We did get some interest in two other applicants looking at the later façade improvement program deadlines in January and then in April of next year, so there is a possibility that we could get additional funding to get us through the rest of the fiscal year.

**Marshall Balfe, Board Member**

I was under the impression the parklet was approved. Could you bring me up to date on that, because to me it is very relevant to what happens in front of Create It.

**John Jay, Associate Planner**

I believe the parklets are good until the end of February. I don't know the exact dates, but there is a sunset on those, and then I believe the plan is to do some sort of urban park in that one in front of Screamin' Mimi's and Create It, but as far as temporary parklets go, they will be expiring at the end of February of next year.

**Laura Hagar Rush**

Maybe you already know this, but the City is attempting to acquire that section of Depot Street, and that seems to be moving forward.

**John Jay, Associate Planner**

There is some sort of agreement going between Caltrans and the City to purchase that part of the Caltrans right-of-way to be a part of the City right-of-way, which would be maintained by the City, and then whatever they decide to allow within that space would be under the City's jurisdiction rather than Caltrans' right-of-way.

**Ted Luthin, Chair**

But even if there were a decision to change Depot Street, that's going to take planning and design and a fairly long time.

**Cary Bush, Board Member**

I have a couple of more questions for our applicant. Has anyone discussed the care and maintenance of these programs? Who is going to take care of them and who replaces the seasonality of the material, deals with possible vandalism, and watering because they're facing full southern heat.

**Laura Hagar Rush**

We made an agreement with the owners of the shops that they would take care of them. The question of the seasonal plants, the plants that are in there are supposedly plants that can make it through multiple seasons, they're not annuals, and thus far they're doing a pretty good job. The jeweler guy let his plants not look so good for a while. He actually wanted a different style than he got initially, and so we got him the new style. He was jealous of Dressers and liked their plants more, so we got him the taller and skinnier planters and I think he's happier now and his plants are happier too.

**Cary Bush, Board Member**

I looked at the plant list, and I know these plants, and they're well chosen; they're good plants. In some sense they're tender perennials because raised potted plants can freeze, they can be pretty susceptible to drying out, and they do recover but sometimes they don't. There are vandalism issues. I'm a downtown owner, I have small planters, and you come to work sometimes and plants are in your parking lot, so how does that work?

**Laura Hagar Rush**

We haven't had that problem yet, but I did go into this knowing that this was a problem. For now Relaunch Sebastopol will be picking up that bill.

**Cary Bush, Board Member**

As I said, I know these plants, and the isotoma has got a rating for poisonous qualities, so it may not be a candidate for consideration.

**Laura Hagar Rush**

Do you happen to know the common name for that particular plant?

**Cary Bush, Board Member**

They just call it isotoma. It's the glowing violet. Isotoma is actually a really cute plant, it's a great plant, it's just when you're in a public setting and you've got kids and dogs around you've got to be careful.

**Laura Hagar Rush**

Would you recommend switching that one out?

**Cary Bush, Board Member**

You've got a great list of things here already, so I would think whatever you're targeting would be similar to what you're doing. I saw you've got a little Chinese plumbago up the street at the jewelers; that's a cute little plant too, and it's pretty tough, so that's a good one. It's a sub-shrub, you can do varieties, but I'll leave that to you guys.

**Laura Hagar Rush**

I think you have one in the back of your office.

**Cary Bush, Board Member**

I do. But we get pounded. I mean people ride their bikes through gardens; we've had plants in the parking lot on multiple occasions. Planters are fun, but it becomes a real maintenance issue. It's a romantic notion, and I don't want us to be fooled by the notion that planters can look good all the time, because generally they really don't, especially if they're not cared for. Where I'm going with this is I promote the notion of having plants and planters, but there is care that comes with it.

**Laura Hagar Rush**

In my research, especially when I was researching baskets, many people said that they started out with the stores doing the work, or volunteers doing the work, but in the end they went to professionals.

**Cary Bush, Board Member**

They're so hard to keep wet; that's the bottom line. You've got to bring a big bucket full of water and just dunk them.

**Laura Hagar Rush**

Especially in that sun, but I was actually quite pleased with how the plants did in that sun, because they did pretty well.

**Cary Bush, Board Member**

That little pelargonium that you have there is a favorite of mine. It has an almost magenta flower, it's so contrasting to the foliage, and it lives on air. That's a great one to put on your list.

**Christine Level, Board Member**

Who owns the real estate that these plants are actually sitting on? Is that City property?

**Laura Hagar Rush**

My understanding is it is Caltrans property.

**John Jay, Associate Planner**

It is Caltrans right-of-way, so the applicant would be subject to a Caltrans encroachment permit, which they are aware of, and they would go through that process, and if these planters that are suggested encroach too much into the public right-of-way then they would have to meet the minimum requirements to be able to move forward. That was discussed before you were able to join the meeting.

**Christine Level, Board Member**

Those planters are not on the property of the building itself. That's a separate property, correct?

**Ted Luthin, Chair**

Yes, they're in the right-of-way.

**Christine Level, Board Member**

So they're in the public property?

**Ted Luthin, Chair**

Yes, Caltrans control.

**Christine Level, Board Member**

But who owns it? Is that City-owned and controlled by Caltrans, or does Caltrans own that property?

**John Jay, Associate Planner**

It would be Caltrans if it is on the state highways.

**Laura Hagar Rush**

Although I would say if the City acquires it, then it would be City property probably.

**John Jay, Associate Planner**

Correct.

**Ted Luthin, Chair**

And supposedly the Caltrans encroachment permit process takes about 30 days; they've committed to that.

**Cary Bush, Board Member**

I'm pretty sure that Caltrans does own almost to the face of the building, especially on Main and South Main here. I'm pretty certain that Caltrans does own to basically to the back of sidewalk, which would be almost the face of the building.

**Ted Luthin, Chair**

Yes, right to the property line.

Chair Luthin asked for further questions of the applicant. Seeing none, he began Board deliberations.

The Board discussed the application as follows:

**Marshall Balfe, Board Member**

I have no more questions and think we should move on to voting.

**Cary Bush, Board Member**

There's a commitment by Relaunch Sebastopol to have some maintenance protocol attached to these planters. I'd love to know how that would be enforced and how would the public be assured that these would be cared for? And when you water something that water goes right across the sidewalk, so there's maintenance that comes with these planters. I would love to see it be a really successful notion, and the maintenance and the care would be a significant part of that success.

**Laura Hagar Rush**

I can't guarantee that the owners would do that in perpetuity, but it seems it would be in their self-interest to keep those planters looking good, because it would destroy the ambience of the front of their building if they didn't, so it seems like there's a built-in self-interest for them.

**Christine Level, Board Member**

I have an issue, which is this program is a façade improvement program, and façade is directed toward the building structure itself and attachments, but what we're asked to approve here are planter boxes on public property that are removable. We've got limited funds and people are applying to do something to their buildings in Sebastopol to make them look better and we have a detached item on public property, so I question whether this is even appropriate at all to be discussing.

**Laura Hagar Rush**

Landscaping is actually a part of the façade improvement program. This just seemed to fit into that for me.

**Christine Level, Board Member**

Permanent improvements on their property. This is a removable item on public property.



**Ted Luthin, Chair**

Yes, it is kind of an interesting thing.

**Christine Level, Board Member**

We could spend the money that somebody else could use on their building and these planter boxes could be there and then next week they would get hauled off; they're not part of the property, so I question this in its fundamental sense.

**Melissa Hanley, Board Member**

I concur with Board Member Level's comments that it isn't part of the property itself. Landscaping would be permanent landscaping in my opinion. My office is on a very lovely tree lined street with planter boxes out front, very beautiful, and you would think it would be in everyone's best interests to keep the planter box outside their business looking great, but I can tell you from experience that it can be very hit or miss. My concern is that we'd also be approving something that isn't by right, so they still have to go through the Caltrans approval process, so I would be hesitant to commit public funds to something that is still at issue as to whether or not it's something they can actually do. I would rather see this come back after it's been through the appropriate channels to get approval, and then we could take a look at it again, but I also concur with Board Member Level that I don't think it's an appropriate use of façade money.

**Ted Luthin, Chair**

You both bring up very good points. It was mentioned earlier about holding up this money. This is two of them and I think it's going to take us down to a balance of \$2,500, so this would be basically tying this money up while they go through a process, and we're only half way through our fiscal year. I think it's a good point, Board Member Level, that you bring up about something that is not permanently affixed, because I think the nature of these façade improvements is that they are permanent things, and these planters are temporary, freestanding, not attached, or out in harm's way, so I guess I have concerns. I think Board Member Bush also brings up some good points about a maintenance program. We are being asked to invest public money in something that could walk away very easily and could die off just from neglect, because they are going to be a lot of work and someone may decide it's just too much of a pain. I think these are all valid concerns and I share Board Member Hanley's sentiment that I would much rather see it go through the process. I think I would rather have it permanently affixed as opposed to freestanding, and permanently connected to some sort of irrigation system; that seems like the right way to go about it.

**Marshall Balfe, Board Member**

These living walls that are so beautiful that are attached to the outsides of buildings, if we're going to question all this and go through that process there should be something about that included in it, because somebody could unbolt that and haul it away if someone applied to do one of those.

**Ted Luthin, Chair**

I suppose it's a little more difficult than just a freestanding planter that is sitting out there. Anything could be unbolted and hauled away to a certain extent, including Coaches Corner's new door.

**Melissa Hanley, Board Member**

I think what we're asking for is a bolt. We just want the bolt in the first place.

**Christine Level, Board Member**

I want to reiterate another point that we should not discount. These planter boxes are not on the property, they're on public Caltrans controlled property, so we have no control over what's happening. Caltrans can decide whatever they want to do in the future, such as redoing the sidewalk, so we're dealing with something that is not attached to the building and not even on the property that is controlled by the ownership of the property. I reiterate my point that I think this is an inappropriate use of these funds, period, bolted or not bolted to the Caltrans-controlled property. We have limited funds for this program and we have a lot of facades in Sebastopol that need improvement.

**Laura Hagar Rush**

I understand your points and I can see the merits in them, Board Member Level. I want you to play that out in your head about how that works for austere downtown Sebastopol. Imagine downtown Sebastopol if there were no pots or flowers. You could just be saying this money should come from somewhere else, and I get that, but if you play out your logic you're just saying we're not going to do pots and flowers, because all of downtown Sebastopol and all of Highway 12 businesses are on Caltrans property.

**Melissa Hanley, Board Member**

I don't think that's what she's saying. She's just saying we shouldn't use public funds to do something like this.

**Christine Level, Board Member**

This is not an issue of feelings, this is actually a legal matter, because we're using public funds to put something that's not on the property that's being requested and Caltrans can take that away any time they want to. It's not for this property, it's not part of the façade, it's something in front of the building on public property.

**Marshall Balfe, Board Member**

Well, who is responsible for the street trees?

**Cary Bush, Board Member**

The City is. Public Works maintains the street trees.

**Ted Luthin, Chair**

Yes, and I have no idea whether there is some sort of agreement between the City and Caltrans; there probably is something.

**Christine Level, Board Member**

The purpose of this program is so that people can fix up the fronts of their buildings, their property, to help them, but this is City property and that could be waived or decreed or taken away at any time. And if somebody steps over and breaks their neck on those planter boxes it's the City that's going to be responsible for that too, because that's who owns the property, or whoever owns the property, the City or Caltrans. It's a very straightforward legal matter.

**Ted Luthin, Chair**

I totally understand what you're saying.

**Cary Bush, Board Member**

I do too.

**Marshall Balfe, Board Member**

Why don't we see what Caltrans says with the encroachment permit, and then decide?

**Christine Level, Board Member**

But that still doesn't change this second issue about whatever Caltrans decides. It's not their province.

**Marshall Balfe, Board Member**

Since they're liable they probably have already sorted all this out with their attorneys, so if they approve the planters and somebody trips over them they'll sue Caltrans and they don't want that, so they've probably got this all figured out.

**Christine Level, Board Member**

This is not what I'm talking about. I just threw that in there and maybe that is muddying the waters. What I'm talking about is the façade improvement program with limited funds is intended to help people improve the facades of their buildings, and this is not that. This program has a specific use and reason and intent, and in my opinion this is not that intent, because it's not on the property and it's not improving the building. It's nice in front of the façade, but it's not *the* façade of the building.

**Cary Bush, Board Member**

I'm going through my mind when we've had any particular type of other project that has fallen outside of a specific right-of-way or not on personal property, and I can't think of any other type of project that would fall under that category.

**Ted Luthin, Chair**

Yes, I don't know that we've ever crossed this path of somebody wanting to make an improvement to something that wasn't on their property, and I think that's a very valid issue.

**Laura Hagar Rush**

I see your point.

**Cary Bush, Board Member**

So we have to make a motion. Is this a motion for a continuance or is it just a denial until it is presented with more data?

**Christine Level, Board Member**

I think that this is a denial. It's not on the property, so it's a denial. I don't care what Caltrans does. It doesn't fit within this program, even though it's a nice idea; so my attitude is just deny it.

**Laura Hagar Rush**

Well, I will know not to bring any more planters before your committee.

**Ted Luthin, Chair**

I'm not sure that's necessarily the deal. I think the property issue is the crux of the issue.

**Laura Hagar Rush**

That's what I mean.

Chair Luthin asked for further Board deliberates. Seeing none, he asked for a motion.

Board Member Level moved to deny the application.

Board Member Hanley seconded the motion.

**John Jay, Associate Planner**

Before you vote, is that motion to deny both Create It and Silk Moon applications? I want to make sure we get that stated correctly.

**Christine Level, Board Member**

Well, it would be the same, right? It's the same situation.

**John Jay, Associate Planner**

We're talking about both applications, but I want to make sure on the record we're denying both applications and have it noted as such.

**Ted Luthin, Chair**

Board Member Level, are you okay with amending your denial to include both item 7.B and 7.C?

**Christine Level, Board Member**

Just so I'm really clear on this, it's the same thing. It's putting planters on property that's not in the ownership. It's the same thing, right?

**Ted Luthin, Chair**

Yes.

The maker of the motion amended the motion to deny both applications for Create It at 6906 Sebastopol Avenue and Silk Moon at 195 North Main Street.

The seconder of the motion accepted the amendment to the motion.

**Marshall Balfe, Board Member**

Even if it's denied, can they still put the planters there and just forego getting reimbursement on the cost?

**Ted Luthin, Chair**

Sure, they can pursue the encroachment permit with Caltrans on their own, and if they get it they can install the planters. The crux of Board Member Level's argument is the allocation of public funds for something that is not on the property.

Chair Luthin asked for further Board deliberations. Seeing none, he called the question.

AYES: Chair Luthin and Board Members Balfe, Bush, Hanley, Level

NOES: None

ABSTAIN: None

ABSENT: Vice Chair Langberg

## **8. SUBCOMMITTEE UPDATES**

### **John Jay, Associate Planner**

Design Guideline Subcommittee.

- The subcommittee is working on the objective design standards for the City of Sebastopol with consultants Opticos for SB 9, and met with them in October 2022. The subcommittee will meet again in a couple of weeks to go over more of the project.
- When the subcommittee processes the objective design standards and SB 9 regulations they will come to the Design Review Board, Planning Commission, and City Council as informational items. These will help provide more design standards for specific SB 9 projects or if the City is subject to an SB 39 application.
- Associate Planner Jay made amendments, which will be brought to each of the boards for the standard conditions of approval, which are geared toward tenant improvements.

- 9. ADJOURNMENT:** Chair Luthin adjourned the meeting at 5:02 p.m. The next regularly scheduled Tree/Design Review Board meeting will be held on Wednesday, December 7, 2022 at 4:00 P.M.