

RESOLUTION NO. 6410-2022

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL ADOPTING A MITIGATED NEGATIVE DECLARATION (MND) AND ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT,  
FOR THE PROPERTY AT 7950 BODEGA AVENUE (APN 004-350-024)

WHEREAS, an application for a zoning amendment to modify the zoning from Multifamily Residential (R7) to a Planned Community (PC), a Conditional Use Permit for development in a PC district, and a Tentative Map for a 10-Unit townhome project known as Huntley Square (the "Project"), was filed on January 21, 2020, by Bob Massaro, which consists of subdividing a vacant 0.39 acre parcel (APN 004-350-024) into 10 lots and four common areas, to be developed with 10 townhome-style studio units, landscaped areas, and parking. Parking will be provided via a surface parking lot on a common area lot; and

WHEREAS, the Project was the subject of an Initial Study and Mitigated Negative Declaration prepared in compliance with the California Environmental Quality Act (CEQA), which was circulated for public comment from September 28, 2021, to October 27, 2021, including CEQAnet and the Federated Indians of the Graton Rancheria, consistent with local and State CEQA requirements;

WHEREAS, no comments were received from any State, Tribal, or other responsible agency, and no tribal consultation pursuant to California Public Resources Code Section 21080.3.1 was requested by the Federated Indians of Graton Rancheria; and

WHEREAS, one public comment was received related to the Draft Initial Study/Mitigated Negative Declaration component of the Project and three general comments related to the overall Project; and

WHEREAS, the Mitigated Negative Declaration identifies potentially significant impacts regarding Aesthetics, Air Quality, Biological Resources, Cultural and Tribal Resources, and Noise as outlined in the Initial Study/Draft Mitigated Negative Declaration; and

WHEREAS, there are available feasible mitigation measures listed below that would reduce these impacts below a level of significance and would be applied to the Project as conditions of approval:

1. **Aesthetics** – *Aesthetic concerns are associated primarily with temporary construction impacts.*
  - a. AES-1: Construction fencing shall be placed along the periphery of the project site to screen construction activity from view.
  
2. **Air Quality** – *Air quality concerns are associated primarily with temporary construction impacts.*
  - a. AQ-1: Basic measures to control dust and exhaust shall be utilized during construction. During any construction period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to a less

than significant level. The contractor shall implement the following best management practices that are required of all projects:

- i. All haul trucks transporting soil, sand, and other loose material off-site shall be covered.
- ii. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per week. The use of dry power sweeping is prohibited.
- iii. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
- iv. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- v. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- vi. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- vii. Post a publicly visible sign with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

3. **Biological Resources** – *Biological Resources concerns are associated with special-status and common bats, nesting birds, and native trees.*

- a. BIO-1: Special-status and Common Bats
  - i. To avoid impacts on special-status and common bat species within the project site, the following protection measures shall be implemented.
  - ii. Prior to tree removal or trimming (for all trees greater than 6 inches DBH), a qualified biologist shall survey for bat roosts. If active bat roosts area identified, disturbance shall not be allowed until the roost is abandoned or unoccupied. If the qualified biologist determines special-status bat species area present, CDFW consultation may be required.
  - iii. If occupied roosting habitat is identified by the qualified biologist, disturbance of roost trees shall not be allowed until the roost is abandoned or unoccupied and/or CDFW is consulted. If bats are present, a number of deterrent methods can be used to encourage bats to relocate (for non-CDFW listed species). This could include changes to lighting, air flow patterns, and noise disturbance. Exclusion methods shall be developed based on the species present and location of occupied roosts. Bat exclusion shall not be performed during the maternity season (June through August) or during winter hibernation (November through February). Bat exclusion shall be overseen by a qualified biologist. This could only occur in March, April, May, September, and October.

- iv. If tree trimming or removal is postponed or interrupted for more than two weeks from the date of the initial bat survey, the biologist shall repeat the pre-construction survey.
- v. Construction shall be limited to daylight hours to avoid interference with the foraging abilities of bats and other nocturnal wildlife.

b. BIO-2: Nesting Birds

- i. To the extent feasible, vegetation and tree removal shall occur during the non-breeding season (late August to early March) to limit the potential for birds to nest within the project site.
- ii. To avoid potential losses of nesting native birds, if work occurs from February through August, preconstruction breeding bird surveys shall be completed for special-status, migratory birds, and raptors. The preconstruction surveys shall be conducted within two weeks prior to initiation of vegetation clearing, tree removal and trimming, or other construction related activities within vegetated areas. The survey shall be completed within the construction area and an appropriate buffer around it.
- iii. If the biologist finds no active nesting or breeding activity, then work can proceed without restrictions.
  - If active raptor or owl nests are identified within 100 feet of the construction area or active nests of other birds are identified within 50 feet of the construction area, a qualified biologist shall determine whether or not construction activities may impact the active nest or disrupt reproductive behavior. If it is determined that construction would not affect an active nest or disrupt breeding behavior, construction can proceed without restrictions. The determination of disruption shall be based on the species' sensitivity to disturbance (which can vary among species); the level of noise or construction disturbance and the line of sight between the nest and the disturbance.
  - If a qualified biologist determines that construction activities would likely disrupt breeding or nesting activities, then a no-disturbance buffer shall be placed around the nesting location. The no-disturbance buffer shall include the active nest or breeding areas plus a 50-foot buffer for small songbirds and a 100-foot buffer for larger birds (e.g., raptors, owls); buffer distances are applicable for urban settings with existing levels of human disturbance. Construction activities in the no disturbance buffers shall be avoided until the nests have been vacated.
  - If the site is left unattended for more than one week following the initial surveys, additional surveys shall be completed. If state and/or federally listed birds are found breeding within the area, activities shall be halted, and consultation with the CDFW and USFWS should occur to identify how to proceed.

c. BIO-3: Native Trees

- i. Where compatible with safety requirements, pruning instead of removal for mature oaks shall be considered. To offset the impacts from removal of

protected trees, replacement trees shall be planted, following the Tree Ordinance ratios and species with replacement of native oaks with native oaks, to provide similar benefits to the site and community. If on-site planting of an adequate number of native trees is not possible, off-site planting of native oaks in a suitable nearby location (e.g., a City park) shall be considered.

- ii. Protective measures defined in the Tree Preservation and Mitigation Report shall be followed during construction activities to minimize impacts to trees that will be retained.

4. **Cultural Resources** - *Cultural Resources concerns are associated with any potential prehistoric or historic-era resources and human remains encountered during construction activities.*

a. CR-1: Post-Review Discovery

- i. If a prehistoric or historic-era resource(s) is encountered by equipment operators during project-related ground-disturbing activities, work shall be halted within 50-feet of the discovery area until a Secretary of Interior-qualified Archaeologist is retained to inspect the material and provide further recommendations for appropriate treatment of the resource.

b. CR-2: Human Remains

- i. If human remains are encountered within the project area, all work shall stop within 100-feet of the discovery area, the area shall be secured to prevent further disturbance, and the Sonoma County Coroner shall be notified immediately. The Coroner will determine if the remains are pre-contact period Native American remains or of modern origin and if there are any further investigation by the Coroner or Sonoma County Sheriff is warranted. If the remains are suspected to be those of a pre-contact period Native American, the Coroner shall contact the NAHC by telephone within 24-hours. The NAHC will immediately notify the person it believes to be the most likely descendant (MLD) of the remains. The MLD has 48-hours to make recommendations to the landowner for treatment or disposition of the human remains. If the MLD does not make recommendations within 48-hours, the landowner shall reinter the remains in an area of the property secure from further disturbance. If the landowner does not accept the descendant's recommendations, the owner or the descendant may request mediation by NAHC. According to the California Health and Safety Code, six (6) or more human burials at one (1) location constitute a cemetery (Section 8100), and willful disturbance of human remains is a felony (Section 7052). An archaeologist shall also be retained to evaluate the historical significance of the discovery, the potential for additional remains, and to provide further recommendations for treatment of the site in coordination with the MLD.

5. **Noise** – *Noise concerns are associated primarily with temporary construction impacts.*

a. NOI-1: Prior to Grading Permit issuance, the applicant shall demonstrate, to the satisfaction of the City Engineer, that the project complies with the following:

- i. Construction hours are specified as 7:00 a.m. to 8:00 p.m., Monday through Friday, and from 8:00 a.m. to 5:00 p.m. on Saturdays.
- ii. During construction, the contractor shall ensure all construction equipment is

equipped with appropriate noise attenuating devices that will reduce noise levels 3 to 10 dBA.

- iii. The contractor shall locate equipment staging areas in order to create the greatest distance between construction-related noise/vibration sources and sensitive receptors nearest the project site during all project construction.
- iv. Idling equipment shall be turned off when not in use.
- v. Equipment shall be maintained so that vehicles and their loads are secured from rattling and banging.

WHEREAS, the Project complies with CEQA Guidelines Section 15074 as detailed below:

- a. Any advisory body of a public agency making a recommendation to the decision-making body shall consider the proposed negative declaration or mitigated negative declaration before making its recommendation.
  - i. The IS/MND is provided as an attachment to the staff report.
- b. Prior to approving a project, the decision-making body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration together with any comments received during the public review process. The decision-making body shall adopt the proposed negative declaration or mitigated negative declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the negative declaration or mitigated negative declaration reflects the lead agency's independent judgment and analysis.
  - i. The City Council should consider any public comment received during public review period for the IS/MND and during the public hearing before making a recommendation.
- c. When adopting a negative declaration or mitigated negative declaration, the lead agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based.
  - i. The IS/MND and any other material which constitute the record of proceedings will be kept on file with the Planning Department at 7120 Bodega Avenue, Sebastopol, CA 95472
- d. When adopting a mitigated negative declaration, the lead agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to mitigate or avoid significant environmental effects.
  - i. A Mitigation Monitoring Reporting Program is attached to this resolution at Exhibit A.
- e. A lead agency shall not adopt a negative declaration or mitigated negative declaration for a project within the boundaries of a comprehensive airport land use plan or, if a comprehensive airport land use plan has not been adopted, for a project within two nautical miles of a public airport or public use airport, without first considering whether the project will result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.
  - i. Not applicable. The Project site is not within the boundaries of a comprehensive airport land use plan or within two nautical miles of a public airport or public use airport.

- f. When a non-elected official or decisionmaking body of a local lead agency adopts a negative declaration or mitigated negative declaration, that adoption may be appealed to the agency's elected decisionmaking body, if one exists. For example, adoption of a negative declaration for a project by a city's planning commission may be appealed to the city council. A local lead agency may establish procedures governing such appeals.

WHEREAS, on April 21, 2021, the Design Review Board conducted a preliminary review of the proposed Planned Community zoning for the Project and provided a recommendation to the Planning Commission and City Council to approve the proposed Planned Community Zoning as proposed; and

WHEREAS, on November 9, 2021, the Planning Commission held a duly-noticed Public Hearing and considered the request, including, but not limited to, the application materials, Mitigated Negative Declaration, staff report, and public comments, and unanimously adopted PC Resolution 21-02 recommending the City Council adopt the Mitigated Negative Declaration, and PC Resolution 21-03 recommending approval of the Project to the City Council; and

WHEREAS, on March 1, 2022, the City Council held a duly noticed public hearing, received a staff report, accepted public testimony, and duly considered the application.


NOW, THEREFORE, BE IT RESOLVED THAT, The City Council of the City of Sebastopol, California, does hereby adopt the Mitigated Negative Declaration and adoption of findings pursuant to the California Environmental Quality Act as set forth above, with the mitigation measures set forth above and in the Mitigated Negative Declaration, which are hereby incorporated into the Project and made Conditions of the Project.

The above and foregoing Resolution was duly passed, approved and adopted at a meeting by the City Council on the 1<sup>st</sup> day of March, 2022, by the following vote:

**VOTE:**

Ayes: Councilmembers Glass, Gurney, Rich, Vice Mayor Hinton and Mayor Slayter  
Noes: None  
Absent: None  
Abstain: None

APPROVED:   
Mayor Patrick Slayter

ATTEST:   
Mary Gourley, Assistant City Manager/City Clerk, MMC

  
Larry McLaughlin, City Attorney

**Attachments:**

Exhibit A: Mitigation Monitoring Reporting Program

**Exhibit A**

<b>MITIGATION MONITORING AND REPORTING PROGRAM</b>					
<i>Huntley Square – 7950 Bodega Avenue – file 2020-005</i>					
<i>Mitigation Measure</i>	<i>Implementation Procedure</i>	<i>Monitoring Responsibility</i>	<i>Monitoring / Reporting Action &amp; Schedule</i>	<i>Non-Compliance Sanction/Activity</i>	<i>Monitoring Compliance Record (Name/Date)</i>
<b>I. AESTHETIC RESOURCES</b>					
<b>AES-1:</b> Construction fencing shall be placed along the periphery of the project site to screen construction activity from view.	<i>Require as a condition of approval</i>	<i>Planning Division</i>	<i>Incorporate as condition of project approval</i>	<i>Deny issuance of building permit</i>	
<b>II. AIR QUALITY</b>					
<b>AQ-1:</b> Basic measures to control dust and exhaust shall be utilized during construction. During any construction period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to a less than significant level. The contractor shall implement the following best management practices that are required of all projects: i. All haul trucks transporting soil, sand, and other loose material off-site shall be covered. ii. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per week. The use of dry power sweeping is prohibited. iii. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph). iv. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. v. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title	<i>Require as a condition of approval</i>	<i>Planning Division</i>  <i>Engineering Division</i>	<i>Incorporate as condition of project approval</i>	<i>Deny issuance of building permit</i>  <i>Stop Work Order</i>	



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<p>13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</p> <p>vi. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</p> <p>vii. Post a publicly visible sign with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.</p>					
<b>III. BIOLOGICAL RESOURCES</b>					
<p><b>BIO-1:</b> Special-status and Common Bats</p> <p>i. To avoid impacts on special-status and common bat species within the project site, the following protection measures shall be implemented.</p> <p>ii. Prior to tree removal or trimming (for all trees greater than 6 inches DBH), a qualified biologist shall survey for bat roosts. If active bat roosts area identified, disturbance shall not be allowed until the roost is abandoned or unoccupied. If the qualified biologist determines special-status bat species area present, CDFW consultation may be required.</p> <p>iii. If occupied roosting habitat is identified by the qualified biologist, disturbance of roost trees shall not be allowed until the roost is abandoned or unoccupied and/or CDFW is consulted. If bats are present, a number of deterrent methods can be used to encourage bats to relocate (for non-CDFW listed</p>	<p><i>Require as a condition of approval</i></p>	<p><i>Planning Division</i></p> <p><i>Qualified Biologist</i></p>	<p><i>Incorporate as condition of project approval</i></p>	<p><i>Deny issuance of building permit</i></p> <p><i>Stop Work Order</i></p>	

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<p>species). This could include changes to lighting, air flow patterns, and noise disturbance. Exclusion methods shall be developed based on the species present and location of occupied roosts. Bat exclusion shall not be performed during the maternity season (June through August) or during winter hibernation (November through February). Bat exclusion shall be overseen by a qualified biologist. This could only occur in March, April, May, September, and October.</p> <p>iv. If tree trimming or removal is postponed or interrupted for more than two weeks from the date of the initial bat survey, the biologist shall repeat the pre-construction survey.</p> <p>v. Construction shall be limited to daylight hours to avoid interference with the foraging abilities of bats and other nocturnal wildlife.</p>					
<p><b>BIO-2: Nesting Birds</b></p> <p>i. To the extent feasible, vegetation and tree removal shall occur during the non-breeding season (late August to early March) to limit the potential for birds to nest within the project site.</p> <p>ii. To avoid potential losses of nesting native birds, if work occurs from February through August, preconstruction breeding bird surveys shall be completed for special-status, migratory birds, and raptors. The preconstruction surveys shall be conducted within two weeks prior to initiation of vegetation clearing, tree removal and trimming, or other construction related activities within vegetated areas. The survey shall be completed within the construction area and an appropriate buffer around</p>	<p><i>Require as a condition of approval</i></p>	<p><i>Planning Division</i></p> <p><i>Qualified Biologist</i></p>	<p><i>Incorporate as condition of project approval</i></p>	<p><i>Deny issuance of building permit</i></p> <p><i>Stop Work Order</i></p>	

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<p>it.</p> <p>iii. If the biologist finds no active nesting or breeding activity, then work can proceed without restrictions.</p> <ul style="list-style-type: none"> <li>• If active raptor or owl nests are identified within 100 feet of the construction area or active nests of other birds are identified within 50 feet of the construction area, a qualified biologist shall determine whether or not construction activities may impact the active nest or disrupt reproductive behavior. If it is determined that construction would not affect an active nest or disrupt breeding behavior, construction can proceed without restrictions. The determination of disruption shall be based on the species' sensitivity to disturbance (which can vary among species); the level of noise or construction disturbance and the line of sight between the nest and the disturbance.</li> <li>• If a qualified biologist determines that construction activities would likely disrupt breeding or nesting activities, then a no-disturbance buffer shall be placed around the nesting location. The no-disturbance buffer shall include the active nest or breeding areas plus a 50-foot buffer for small songbirds and a 100-foot buffer for larger birds (e.g., raptors, owls); buffer distances are applicable for urban settings with existing levels of human disturbance. Construction activities in the no disturbance buffers shall be avoided until the nests have been vacated.</li> <li>• If the site is left unattended for more than one week following the initial surveys, additional</li> </ul>					

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surveys shall be completed. If state and/or federally listed birds are found breeding within the area, activities shall be halted, and consultation with the CDFW and USFWS should occur to identify how to proceed.					
<b>BIO-3: Native Trees</b> i. Where compatible with safety requirements, pruning instead of removal for mature oaks shall be considered. To offset the impacts from removal of protected trees, replacement trees shall be planted, following the Tree Ordinance ratios and species with replacement of native oaks with native oaks, to provide similar benefits to the site and community. If on-site planting of an adequate number of native trees is not possible, off-site planting of native oaks in a suitable nearby location (e.g., a City park) shall be considered. ii. Protective measures defined in the Tree Preservation and Mitigation Report shall be followed during construction activities to minimize impacts to trees that will be retained.	<i>Require as a condition of approval</i>	<i>Planning Division</i>  <i>Qualified Arborist</i>	<i>Incorporate as condition of project approval</i>	<i>Deny issuance of building permit</i>  <i>Stop Work Order</i>	
<b>IV. CULTURAL RESOURCES</b>					
<b>CR-1: Post-Review Discovery</b> i. If a prehistoric or historic-era resource(s) is encountered by equipment operators during project-related ground-disturbing activities, work shall be halted within 50-feet of the discovery area until a Secretary of Interior-qualified Archaeologist is retained to inspect the material and provide further recommendations for appropriate treatment of the resource.	<i>Require as a condition of approval</i>	<i>Planning Division</i>  <i>Secretary of Interior-qualified Archaeologist</i>	<i>Incorporate as condition of project approval</i>	<i>Deny issuance of building permit</i>  <i>Stop Work Order</i>	

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<p><b>CR-2: Human Remains</b></p> <p>i. If human remains are encountered within the project area, all work shall stop within 100-feet of the discovery area, the area shall be secured to prevent further disturbance, and the Sonoma County Coroner shall be notified immediately. The Coroner will determine if the remains are pre-contact period Native American remains or of modern origin and if there are any further investigation by the Coroner or Sonoma County Sheriff is warranted. If the remains are suspected to be those of a pre-contact period Native American, the Coroner shall contact the NAHC by telephone within 24-hours. The NAHC will immediately notify the person it believes to be the most likely descendant (MLD) of the remains. The MLD has 48-hours to make recommendations to the landowner for treatment or disposition of the human remains. If the MLD does not make recommendations within 48-hours, the landowner shall reinter the remains in an area of the property secure from further disturbance. If the landowner does not accept the descendant’s recommendations, the owner or the descendant may request mediation by NAHC. According to the California Health and Safety Code, six (6) or more human burials at one (1) location constitute a cemetery (Section 8100), and</p>	<p><i>Require as a Condition of Approval</i></p>	<p><i>Planning Division</i></p> <p><i>Qualified Archaeologist</i></p> <p><i>Coroner</i></p>	<p><i>Incorporate as condition of project approval</i></p>	<p><i>Deny issuance of building permit</i></p> <p><i>Stop Work Order</i></p>	

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<p>willful disturbance of human remains is a felony (Section 7052). An archaeologist shall also be retained to evaluate the historical significance of the discovery, the potential for additional remains, and to provide further recommendations for treatment of the site in coordination with the MLD.</p>					
<b>V. NOISE</b>					
<p><b>NOI-1:</b> Prior to Grading Permit issuance, the applicant shall demonstrate, to the satisfaction of the City Engineer, that the project complies with the following:</p> <ul style="list-style-type: none"> <li>i. Construction hours are specified as 7:00 a.m. to 8:00 p.m., Monday through Friday, and from 8:00 a.m. to 5:00 p.m. on Saturdays.</li> <li>ii. During construction, the contactor shall ensure all construction equipment is equipped with appropriate noise attenuating devices that will reduce noise levels 3 to 10 dBA.</li> <li>iii. The contractor shall locate equipment staging areas in order to create the greatest distance between construction-related noise/vibration sources and sensitive receptors nearest the project site during all project construction.</li> <li>iv. Idling equipment shall be turned off when not in use.</li> <li>v. Equipment shall be maintained so that vehicles and their loads are secured from rattling and banging.</li> </ul>	<p><i>Require as a condition of approval</i></p>	<p><i>Planning Division</i></p> <p><i>Engineering Division</i></p>	<p><i>Incorporate as condition of project approval</i></p>	<p>Deny issuance of building permit</p> <p>Stop Work Order</p>	

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