

CITY OF SEBASTOPOL CITY COUNCIL

AGENDA ITEM REPORT FOR MEETING OF: August 06, 2024

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To: Honorable Mayor and City Councilmembers
From: Mario Landeros, Interim City Engineer
Subject: Resolution Conditionally Approving Parcel Map No. 154 for Lands of Benedetti, 6809 Sebastopol Avenue

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RECOMMENDATIONS:

The item is to request Council adopt a resolution conditionally approving the Parcel Map No. 154 for Lands of Benedetti, 6809 Sebastopol Avenue, APN 004-063-029 (Property).

EXECUTIVE SUMMARY:

Pursuant to City Council Resolution 6332-2021 that, in addition to various other entitlements, approved the Tentative Map for 6809 Sebastopol Avenue (file number 2019-27), the Property Owner (Owner) has provided Parcel Map No. 154 and is requesting Council approval. Approval of Parcel Map No. 154 will subdivide the Property into three parcels. After subdivision of the Property is completed, two resulting lots will consist of an existing single building and related landscaping, parking and access and the third resulting lot, which is currently vacant, will similarly accommodate a single building and related landscaping, parking and access.

BACKGROUND AND DISCUSSION:

On March 2, 2021, Council adopted Resolution 6332-2021 with Conditions of Approval for Benedetti Car Wash (Project) located at the Property. The Project involves additional development as part of the existing businesses, Benedetti Tire & Express Lube, and will include an automated car wash with second floor office/equipment space on the vacant lot. The Conditions of Approval for Parcel Map No. 154 require:

- A parcel map prepared by a licensed surveyor or civil engineer be submitted for the review and approval of the City Engineer. The parcel map shall show a public sidewalk easement along the southern property line that is at least 5-ft in width for the future extension (by others) of Abbot Avenue sidewalk.
- Construction of the required improvements is to be completed prior to recording the parcel map or, alternatively Owner must enter into an Improvement Agreement, which is recorded together with the parcel map, agreeing to complete the required construction within 24 months after parcel map recordation and post security with the City of Sebastopol.
- A covenant running with the land on behalf of Owner and its successors, heirs, and assigns agreeing to annex the subdivision into the existing City of Sebastopol Lighting Assessment District.
- Concurrently with the recordation of the parcel map Owner is to also record a maintenance and access agreement that allows all three parcels complete and unrestricted access to the other parcels, Barnes Avenue, Sebastopol Avenues and onsite parking, and use of the trash enclosure.

Owner has submitted Parcel Map No. 154 as prepared by a licensed surveyor and other documents in satisfaction of the Conditions of Approval. The parcel map shows a 5.00-ft wide public sidewalk easement and coaligned public utility easement along the southern property line. Parcel Map No. 154 has been reviewed and approved for compliance by the City Engineer. Owner has not constructed the required improvements and therefore seeks to enter into an agreement for completing construction of required improvement within 24 months after parcel map recordation.

STAFF ANALYSIS:

Parcel Map No. 154, as submitted, complies with the Conditions of Approval. Parcel Map No. 154 also includes Owner’s irrevocable offer of dedication for public purposes the 5-ft easement along the southern property line for future extension of Abbot Avenue sidewalk and public utilities. In addition, Owner provided a draft joint maintenance and access agreement affecting all three parcels in accordance with the Conditions of Approval that is to be recorded concurrently with Parcel Map No. 154. Owner has also provided a signed Improvement Agreement stipulating to complete construction of required improvement within 24 months after parcel map recordation and has arranged for delivery of the required security within 30 days after adoption of the proposed resolution as contemplated in the Conditions of Approval.

Once Parcel Map No. 154 is conditionally approved Owner, within 30-days of conditional approval and prior to recordation of Parcel Map No. 154, shall provide to the City the required security and the fully executed Improvement Agreement.

As to Owner’s irrevocable offer of dedication for public purposes the 5-ft easement along the southern property line for future extension of Abbot Avenue sidewalk and public utilities, Council may reserve the right to accept the dedication in the future after the extension by others of Abbot Avenue sidewalk.

COMMUNITY OUTREACH:

This item has been noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

FISCAL IMPACT:

There is no fiscal impact from this action.

OPTIONS:

No reasonable alternatives have been identified.

ATTACHMENTS:

- 1 - Resolution
- 2 - Parcel Map
- 3 – Signed Joint Maintenance Agreement
- 4 - Draft Improvement Agreement

APPROVALS:

Department Head Approval: Approval Date: 7/31/24

CEQA Determination (Planning): Approval Date: 7/31/24

The proposed action is not a project under the California Environmental Quality Act (CEQA)

Administrative Services (Financial) Approval Date: 7/31/24

Costs authorized in City Approved Budget: Yes No N/A

Account Code (f applicable) _____

City Manager Approval: Approval Date: 7/31/24

RESOLUTION NUMBER: 2024-___

CITY OF SEBASTOPOL

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL CONDITIONALLY APPROVING PARCEL MAP NO. 154, LANDS OF BENEDETTI, 6809 SEBASTOPOL AVENUE AND AUTHORIZING THE CITY MANAGER TO EXECUTE IMPROVEMENT AGREEMENT

WHEREAS, the City Council of the City of Sebastopol on March 2, 2021, did adopt Resolution No. 6332-2021, approving the Tentative Major Subdivision Map for 6809 Sebastopol Avenue (file number 2019-27), Sebastopol, California (APN 004-063-029), subject to certain conditions; and

WHEREAS, in these certain conditions is included the requirements that:

- A parcel map prepared by a licensed surveyor or civil engineer be submitted for the review and approval by the City Engineer.
- A minimum 5-ft. wide public sidewalk easement along the southern property line be shown on the parcel map for the future extension of Abbot Avenue sidewalk.
- Required improvements be completed prior to recording the parcel map or, alternatively an improvement agreement be recorded together with the parcel map and security therefore posted with the City, for completing the required construction within 24 months after recording the parcel map.
- A covenant running with the land on behalf of the Property Owner and its successors, heirs, and assigns agreeing to annex the subdivision into the existing City of Sebastopol Lighting Assessment District.
- A joint maintenance and access agreement covering the new lots be recorded concurrent with the parcel map; and

WHEREAS, the Property Owner (Owner) of 6809 Sebastopol Avenue has submitted Parcel Map No. 154 for LANDS OF BENEDETTI prepared by a licensed surveyor; and

WHEREAS, Owner has made an irrevocable offer of dedication for public purposes a 5-ft. wide easement for sidewalk and public utilities along the southern property line as shown on Parcel Map No. 154; and

WHEREAS, Parcel Map No. 154 has been reviewed for approval by the City Engineer; and

WHEREAS, Owner proposes to construct required improvements within 24 months after recordation of Parcel Map No. 154; and

WHEREAS, Owner has provided the draft Improvement Agreement stipulating to complete construction of required improvement within 24 months after recordation of Parcel Map No. 154; and

WHEREAS, Owner has arranged for delivery of the required security for completion of the required improvements within 30 days after adoption of the proposed resolution as contemplated in the Conditions of Approval.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby:

1. Conditionally approves Parcel Map No. 154, Lands of Benedetti, 6809 Sebastopol Avenue for filing with the County Recorder pending Owner, within 30-days of conditional approval and prior to recordation of Parcel Map No. 154, provides to the City the required securities and the signed

- Improvement Agreement; and
2. Authorizes the City Manager to execute the signed Improvement Agreement after Owner posts with the City the required securities.
 3. Reserves its right to accept the 5' wide public sidewalk easement along the southern property line in the future for the extension, by others, of Abbot Avenue sidewalk

The above and foregoing Resolution was duly passed, approved, and adopted at a meeting by the City Council on the 6th day of August 2024 by the following vote:

VOTE:

Ayes:

Noes:

Absent:

Abstain:

APPROVED: _____
Mayor Diana Rich

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

Exhibit – Parcel Map No. 154

OWNER'S STATEMENT

I/We, the undersigned, hereby state that I/we am/are the owner(s) of or have some right, title or interest in and to the real property shown on this map entitled "Parcel Map 154"; that I/we am/are the only person(s) whose consent is necessary to pass clear title to said real property; and that we hereby consent to the preparation and recording of said map, and hereby make an irrevocable offer of dedication for public purposes that certain 5.00' Sidewalk Easement and Public Utility Easement as shown on said map.

Owners:

Harry E. Polley and Jean E. Polley, Trustees of the Harry E. Polley and Jean E. Polley Revocable Trust, as amended, dated July 20, 1993

Harry E. Polley, Trustee

Jean E. Polley, Trustee

David R. Madsen and Carleen M. Madsen, Trustees of the David R. Madsen and Carleen M. Madsen Revocable Trust, dated February 20, 1997

David R. Madsen, Trustee

Carleen M. Madsen, Trustee

Bradford C. Benedetti and Kathleen Benedetti, Trustees of the Bradford C. Benedetti and Kathleen Benedetti Revocable Trust, as amended and restated, dated April 10, 2006

Bradford C. Benedetti, Trustee

Kathleen Benedetti, Trustee

NOTARY'S STATEMENT:

STATE OF CALIFORNIA COUNTY OF SONOMA

"A notary or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document."

On _____, before me, _____ a Notary Public, personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity on behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Notary Public Signature

my Commission No. _____ my Commission Expires _____

Fidelity National Title Company

Order No. FSNX-3102200348-CC Dated June 17, 2024

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STATE OF CALIFORNIA COUNTY OF SONOMA

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Notary Public Signature

my Commission No. _____ my Commission Expires _____

RECORDER'S STATEMENT:

Filed this _____ day of _____, 202__ at _____, M. in Book _____ of Maps at Page(s) _____, at the request of the County Surveyor.

Recorder _____ Deputy _____ Fee Paid _____ Doc. No. _____

SURVEYOR'S STATEMENT

This map was prepared by me or under my direction and is based upon a field survey in conformance with the requirements of the Subdivision Map Act and local ordinance at the request of Patrick Slayter in June, 2021. I hereby state that this Parcel Map substantially conforms to the conditionally approved tentative map, if any, and that all monuments are of the character and occupy the positions indicated, and are sufficient to enable the survey to be retraced.

Dated: _____

Signed: Aaron R. Smith, PLS 7901



CITY ENGINEER'S STATEMENT

I hereby state that the map of this subdivision was examined by me or under my direction; that it is substantially as it appears on the tentative map and any approved alterations thereof; that all provisions of the Subdivision Map Act as amended and of any local ordinances applicable at the time of approval of the tentative map have been complied with and I am satisfied that said map is technically correct.

Signed this _____ day of _____, 202__.

Mario Landeros, C.E. 47511 City Engineer, City of Sebastopol

I, the undersigned, do hereby state that I have examined this map on behalf of the City of Sebastopol and I am satisfied that the survey data shown upon the map is technically correct.

Signed this _____ day of _____, 202__.

Richard A. Maddock, P.L.S. 8131

Parcel Map No.154

A Division Of The Lands Of Bradford C. Benedetti and Kathleen Benedetti, Trustees of Bradford C. Benedetti and Kathleen Benedetti Revocable Trust As Described By Grant Deed Recorded Under Document Number 2017-040853, Sonoma County Records, And Also The Lands Of Harry E. Polley And Jean E. Polley, Trustees Of The Harry E. Polley and Jean E. Polley Revocable Trust, And David R. Madsen And Carleen M. Madsen, Trustees Of The David R. Madsen And Carleen M. Madsen Revocable Trust As Described By Corporation Grant Deed Recorded Under Document Number 2002-080529; Being Lot 2 As Shown And Delineated On That "Parcel Map No. 99" Filed May 22, 1984 In Book 358 Of Maps, At Pages 10-11, Sonoma County Records, City of Sebastopol, County of Sonoma, State of California

1.51 Acres ± Total Number of Parcels: 3 File Number: Date: June, 2024



adobe associates, inc. civil engineering land surveying wastewater 1220 N. Dutton, Ave., Santa Rosa, Ca. 95401 P (707) 541-2300; F (707) 541-2301

APN 004-063-029

Job Number 18267

sheet 1 of 4

RECORD TITLE INTEREST

Signatures of the owners of the following easements have been Omitted under the provisions of Section 66436 of the Subdivision Map Act. Their interest is such that it cannot ripen in to a fee Title and such signatures are not required by the governing body.

Owner of Interest DN/OR Type of Easement
Larry H. Winkler, DN 2006-018472 Sewer Lateral & Storm Drain
Nicole M. Winkler,
Richard E. Jones,
& Mary S. Jones

COUNTY CLERK'S STATEMENT

I certify that all bonds, money or negotiable bonds required under the provisions of the Subdivision Map Act to secure payment for taxes and assessments have been filed with and approved by the County of Sonoma, namely bond(s) under Government Code Sections 66493(a) and 66493(c) in the sum of \$_____ and \$_____ respectively.

Dated: _____

Signed _____
Clerk of the Board of Supervisors
County of Sonoma, State of California

TAX COLLECTOR'S STATEMENT

According to the records in the office of the undersigned, there are no liens against this subdivision, or any part thereof, for unpaid State, County, Municipal or local taxes or special assessments collected as taxes, except taxes or special assessments collected as taxes not yet payable. My estimate of taxes and special assessments collected as taxes and not yet payable is \$_____.
The land in said subdivision is not subject to a special assessment or bond which may be paid in full.

Security required pursuant to Government Code Sections 66493(a) and 66493(c) are hereby approved and accepted.

Dated: _____
Tax Collector
County of Sonoma,
State of California

CITY CLERK'S STATEMENT

This is to certify that the City Council of the City of Sebastopol, State of California, on this _____ day of _____, 202____, by resolution duly passed and entered in the minutes of said Council, did approve this Parcel Map, and reserves the right to accept the irrevocable offer of dedication of the 5.00' Sidewalk Easement and Public Utility Easement as shown on said map.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this _____ day of _____, 20____.

City Clerk, City of Sebastopol

BENEFICIARY'S STATEMENT

We, Redwood Credit Union, the Beneficiary under that certain Deed of Trust recorded May 25, 2017, under Document Number 2017-040854 of Sonoma County Records, against the tract of land shown hereon, do hereby consent to the preparation and filing of this map.

Signed: _____

Title: _____

NOTARY'S STATEMENT:

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STATE OF CALIFORNIA
COUNTY OF SONOMA

On _____, before me, _____,
a Notary Public, personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity on behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Notary Public Signature

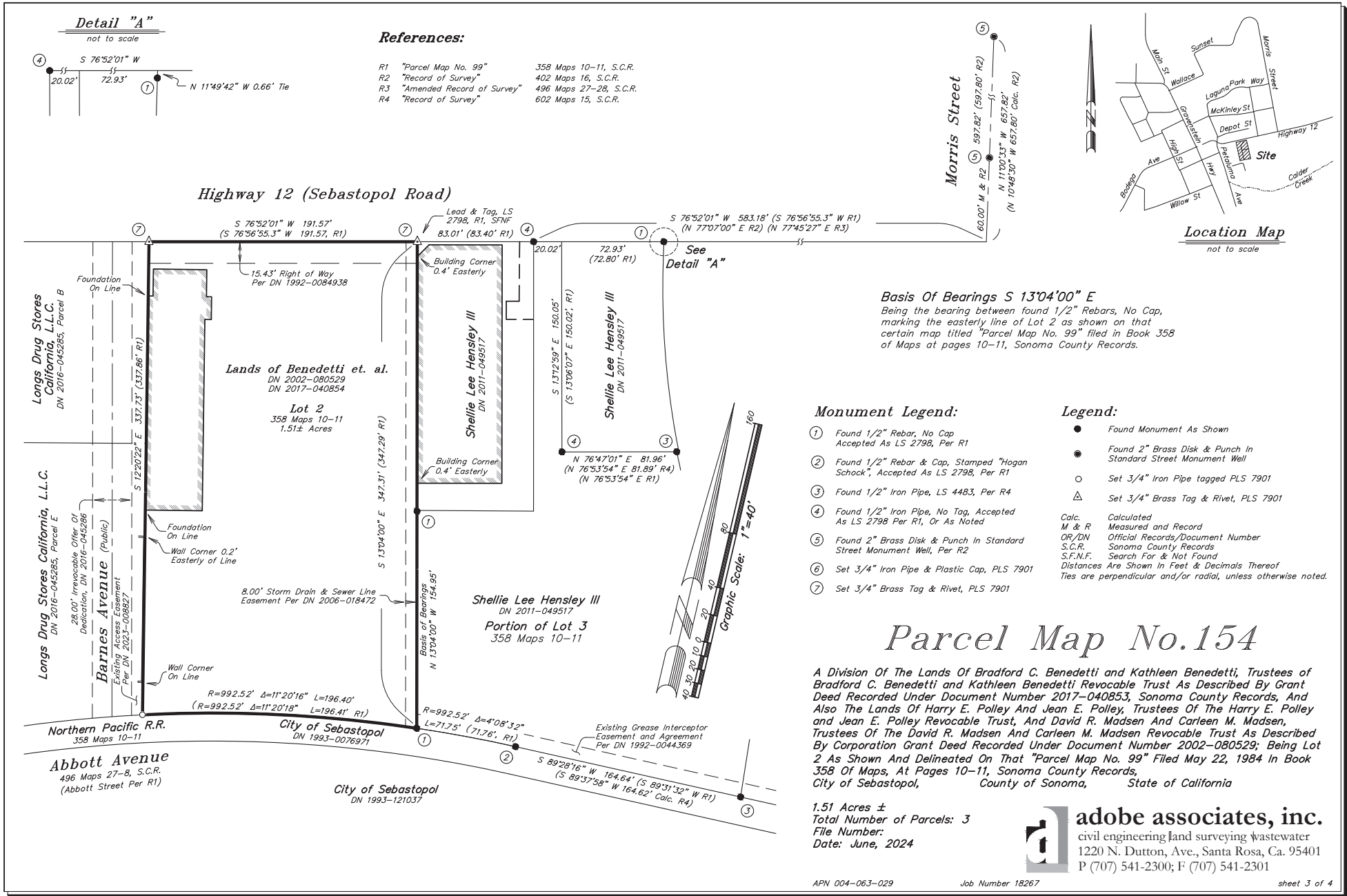
my Commission No. _____ my Commission Expires _____

Parcel Map No.154

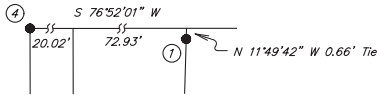
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1.51 Acres ±
Total Number of Parcels: 3
File Number:
Date: June, 2024

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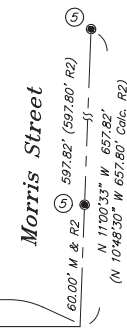


Detail "A"
not to scale



References:

- R1 "Parcel Map No. 99" 358 Maps 10-11, S.C.R.
- R2 "Record of Survey" 402 Maps 16, S.C.R.
- R3 "Amended Record of Survey" 496 Maps 27-28, S.C.R.
- R4 "Record of Survey" 602 Maps 15, S.C.R.



Highway 12 (Sebastopol Road)

Lands of Benedetti et. al.
DN 2002-080529
DN 2017-040854

Lot 2
358 Maps 10-11
1.51± Acres

Shellie Lee Hensley III
DN 2011-049517
Portion of Lot 3
358 Maps 10-11

Basis Of Bearings S 13°04'00" E

Being the bearing between found 1/2" Rebars, No Cap, marking the easterly line of Lot 2 as shown on that certain map titled "Parcel Map No. 99" filed in Book 358 of Maps at pages 10-11, Sonoma County Records.

Monument Legend:

- ① Found 1/2" Rebar, No Cap Accepted As LS 2798, Per R1
- ② Found 1/2" Rebar & Cap, Stamped "Hogan Schack", Accepted As LS 2798, Per R1
- ③ Found 1/2" Iron Pipe, LS 4483, Per R4
- ④ Found 1/2" Iron Pipe, No Tag, Accepted As LS 2798 Per R1, Or As Noted
- ⑤ Found 2" Brass Disk & Punch In Standard Street Monument Well, Per R2
- ⑥ Set 3/4" Iron Pipe & Plastic Cap, PLS 7901
- ⑦ Set 3/4" Brass Tag & Rivet, PLS 7901

Legend:

- Found Monument As Shown
- Found 2" Brass Disk & Punch In Standard Street Monument Well
- Set 3/4" Iron Pipe tagged PLS 7901
- △ Set 3/4" Brass Tag & Rivet, PLS 7901
- Calc. Calculated
- M & R Measured and Record
- OR/DN Official Records/Document Number
- S.C.R. Sonoma County Records
- S.F.N.F. Search For & Not Found
- Distances Are Shown In Feet & Decimals Thereof
- Ties are perpendicular and/or radial, unless otherwise noted.

Parcel Map No. 154

A Division Of The Lands Of Bradford C. Benedetti and Kathleen Benedetti, Trustees of Bradford C. Benedetti and Kathleen Benedetti Revocable Trust As Described By Grant Deed Recorded Under Document Number 2017-040853, Sonoma County Records, And Also The Lands Of Harry E. Polley And Jean E. Polley, Trustees Of The Harry E. Polley and Jean E. Polley Revocable Trust, And David R. Madsen And Carleen M. Madsen, Trustees Of The David R. Madsen And Carleen M. Madsen Revocable Trust As Described By Corporation Grant Deed Recorded Under Document Number 2002-080529; Being Lot 2 As Shown And Delineated On That "Parcel Map No. 99" Filed May 22, 1984 In Book 358 Of Maps, At Pages 10-11, Sonoma County Records, City of Sebastopol, County of Sonoma, State of California

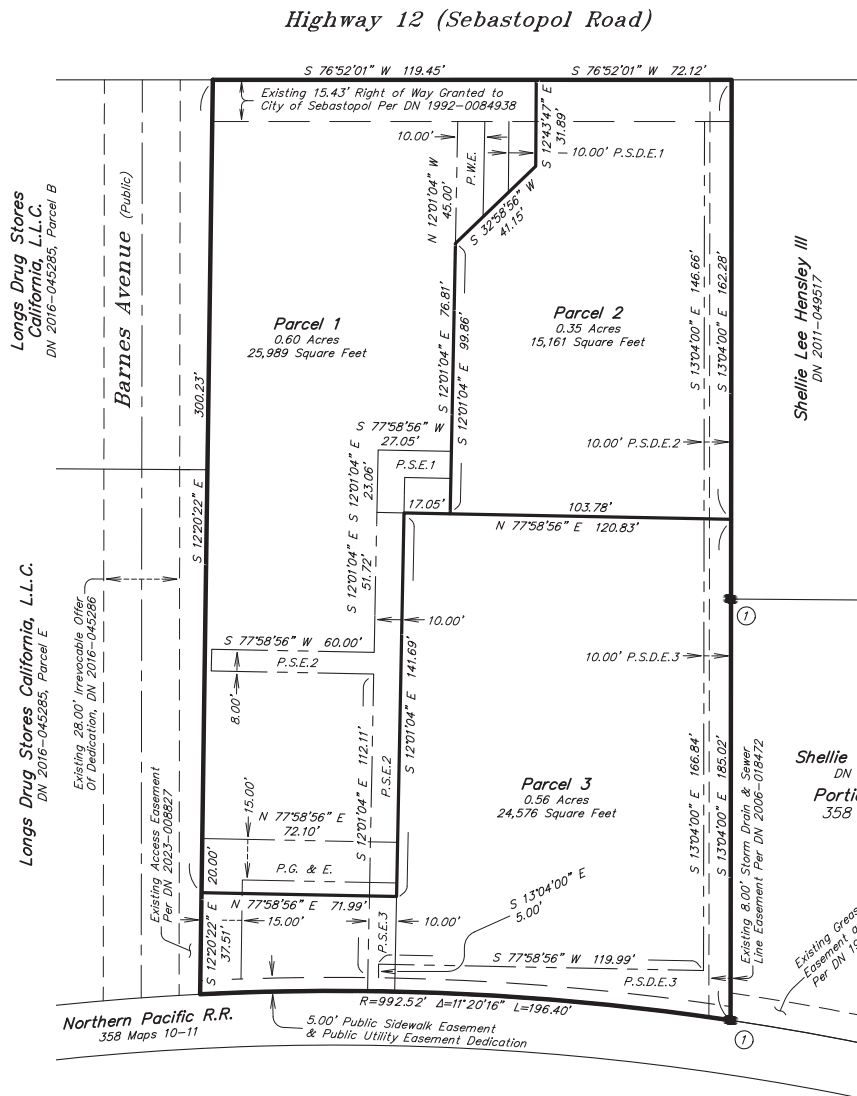
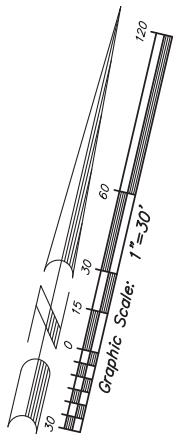
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APN 004-063-029

Job Number 18267

sheet 3 of 4



Legend:

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- M & R Measured and Record
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- S.C.R. Sonoma County Records
- S.F.N.F. Search For & Not Found
- Distances Are Shown In Feet & Decimals Thereof
- Ties are perpendicular and/or radial, unless otherwise noted.

Monument Legend:

- ① Found 1/2" Rebar, No Cap Accepted As LS 2798, Per R1

Easement Legend:

- P.G. & E. Existing Pacific Gas and Electric Easement, DN 20XX-XXXXXX, S.C.R.
- P.S.D.E.1 Private Storm Drain Easement One in Favor of Parcel 2
- P.S.D.E.2 Private Storm Drain Easement Two in Favor of Parcel 1 and Parcel 3
- P.S.D.E.3 Private Storm Drain Easement Three in Favor of Parcel 1 and Parcel 2
- P.S.E.1 Private Sewer Easement One in Favor of Parcel 2
- P.S.E.2 Private Sewer Easement Two in Favor of Parcel 2 and Parcel 3
- P.S.E.3 Private Sewer Easement Two in Favor of Parcel 1 and Parcel 2
- P.W.E. Private Water Line Easement in Favor of Parcel Parcel 2

Parcel Map No.154

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APN 004-063-029

Job Number 18267

sheet 4 of 4

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

APN: 004-063-029-000

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DECLARATION OF AGREEMENT FOR MAINTENANCE AND ACCESS

This Declaration of Agreement for Maintenance and Access ("Declaration") is made as of this ____ day of _____, 2024 by between and among:

Bradford C. Benedetti and Kathleen Benedetti, Trustees of the Bradford C. Benedetti and Kathleen Benedetti Revocable Trust, as amended and restated under the provisions of a trust agreement dated April 10, 2006, as to an undivided 1/3 interest ("BENEDETTI"), Harry E. Polley and Jean E. Polley, Trustees of the Harry E. Polley and Jean E. Polley Revocable Trust under the provisions of a trust agreement dated July 20, 1993, as to an undivided 1/3 interest ("POLLEY"), and David R. Madsen and Carleen M. Madsen, Trustees of the David R. Madsen and Carleen M. Madsen Revocable Trust under the provisions of a trust agreement dated February 20, 1997, as to an undivided 1/3 interest ("MADSEN"), as Tenants-In-Common.

RECITALS

A. BENEDETTI, POLLEY and MADSEN as Tenants-In Common are the fee owners of certain real property located in the City of Sebastopol, County of Sonoma, State of California, consisting of improved and unimproved land more particularly described on Exhibit A attached hereto, and hereafter referred to collectively as the "Master Site."

B. The Master Site has been divided into three parcels, identified in this Declaration as "Parcel 1", "Parcel 2", and "Parcel 3" as shown on Parcel Map No. _____ recorded on _____ as instrument no. _____, a copy of which is attached hereto as Exhibit B (the "Parcel Map").

C. Parcel 1 consists of approximately 0.60 acres (25,989± square feet) and is currently being used and operated as a Tire Center.

D. Parcel 2 consists of approximately 0.35 acres (15,161± square feet) and is currently being used and operated as an Xpress Lube automobile service facility.

E. Parcel 3 consists of approximately 0.56 acres (24,576± square feet) and is currently planned to be developed for the use and operation of a car wash.

F. A copy of “USE PERMIT FOR PARCEL 3 OF THE BENEDETTI MINOR SUBDIVISION” dated August 12, 2020 (“Use Permit/Master Site Approval”) is attached as Exhibit C and sets forth the general location and configuration of the Parcels, access, and other matters referred to in this Declaration.

G. Exhibit C-1, attached hereto, sets forth additional detail regarding the easement locations of the Trash Enclosure, Bicycle Storage & Access, Parking, Electrical Vehicle Parking and charging stations, Pedestrian Access and Ingress, Egress and Access easements for the mutual and shared benefit of Parcel 1, Parcel 2 and Parcel 3.

H. The easements, covenants, agreements and declarations set forth herein are part of a general plan for the beneficial use and development of the Master Site and Parcels consistent with the Use Permit/Master Site Approval.

I. Upon the severance by BENEDETTI, POLLEY and MADSEN of the fee ownership of any one or more of the Parcels, BENEDETTI, POLLEY and MADSEN desire to and by this Declaration do establish:

- i. A temporary construction easement over all Parcels for the benefit of Parcel 3 for the initial construction of those Improvements which the Parcel 3 Owner shall have the right to construct in substantial conformance with the Use Permit/Master Site Approval;
- ii. Reciprocal vehicular, pedestrian, and utility easements over portions of Parcel 1, Parcel 2, and Parcel 3 included within the Ingress, Egress and Access Easement area, and Pedestrian Easement areas for Ingress and Egress to, from and between the Parcels;
- iii. Reciprocal easements for the benefit of each of the Parcels for shared parking stalls within the Parking Easement Areas as shown on Exhibit C-1 and Electric Vehicle Charging Stations as shown on Exhibit C-1;
- iv. An easement for the benefit of each of the Parcels for the use and access of a shared Trash Enclosure as shown on Exhibit C-1;
- v. Private water line and storm drain easements as shown on the Parcel Map;
- vi. Private sewer easements as shown on the Parcel Map;
- vii. An easement for mutual benefit of each of Parcel 1, Parcel 2 and Parcel 3 for access and use of a shared Bicycle Storage & Access as shown on Exhibit C-1; and
- viii. Requirements for shared maintenance obligations.

THEREFORE, BENEDETTI, POLLEY and MADSEN hereby declare that all Parcels that comprise the Master Site shall be held, sold, leased, mortgaged, encumbered, rented, used, occupied, improved and conveyed, in whole or in part, subject to the easements, rights and obligations created upon the severance of fee title of any of the Parcels from the remainder of the Master Site, and subject to the quasi-easements created as of the date of this Declaration.

ARTICLE 1: DEFINED TERMS

"Easement" or "Easements" means the easements referenced in this Declaration and referenced or described in the Parcel Map, Use Permit/Master Site Approval or on Exhibit C-1.

"Easement Areas" means those portions of any Parcel subject to an Easement created pursuant to this Declaration.

"Governmental Authority(ies)" means the City of Sebastopol or other applicable governmental, quasi-governmental and/or public agencies or public utility having jurisdiction over the development of the Master Site or work to be performed in connection with such development, including without limitation, the Improvements.

"Improvements" means anything constructed, installed, or planted on the real property, including but not limited to buildings, streets, fences, walls, paving, pipes, wires, grading, landscaping, lighting and other works of improvement as defined in California Civil Code Section 8050, excluding only those Improvements or portions thereof which are dedicated to the public or a Governmental Authority, and accepted for maintenance by the Governmental Authority.

"Ingress and Egress" means access over the Ingress, Egress and Access Easement Areas to permit the ingress and egress of persons, motor vehicles, wheelchairs, bicycles and similar conveyances from, over and across any Parcel for access, ingress and egress to or from the public street or another Parcel.

"Ingress, Egress and Access Easement Areas" means those portions of Parcel 1, Parcel 2 and Parcel 3 as shown on Exhibit C-1 which include paving, surface and other Improvements on the Parking Easement, Ingress, Egress and Access Easement, Pedestrian Access Easement, Electric Vehicle Charging Station Easement, Bike Storage & Access Easement, and Trash Enclosure Easement for vehicular and pedestrian access ingress and egress to, from and through the Parcels from Barnes Avenue and Sebastopol Avenue and for Electric Vehicle Charging Stations, Pedestrian Access, and Bicycle Storage & Access.

"Ingress, Egress and Access Easement Areas Maintenance" as applied to the Ingress, Egress and Access Easement Areas, means the maintenance, repair and replacement of the surfaces, pavements, underlayment, related Improvements, and the lateral and subjacent support therefor, without limitation, including but not limited to sweeping and cleaning, resurfacing and repaving, signage or appropriate traffic and safety Improvements or changes arising by operation or requirements of law, and including weed abatement and drainage as necessary and appropriate for the use and upkeep of the Ingress, Egress and Access Easement Areas, and including repair of the effects of wear and tear, natural conditions, damage, erosion, acts of God, or other causes, so as to allow, the full and proper use of the Ingress, Egress and Access Easement Areas to the Parcels.

"Ingress, Egress and Access Easement Areas Use Restrictions" means that all Ingress, Egress and Access Easement Areas, except for areas specifically designated for vehicular parking, bicycle storage, electric vehicle charging stations, and trash bin shall be kept clear for Ingress and Egress including for emergency vehicles at all times; no Permittee shall park any vehicle or other equipment within such Ingress, Egress and Access Easement Areas at any time for any purpose (except in a designated parking spot), or take any other action that interferes with vehicular or pedestrian Ingress or Egress, except as may be necessary for repairs or periodic scheduled maintenance. Other than vehicles properly parked in a designated parking space, any vehicle parked within or blocking any portion of the Ingress, Egress and Access Easement Areas may be towed at the vehicle owner's expense, provided such signage and notice is in place as permitted or required by applicable law.

"**Master Site**" is defined in Recital A above.

"**Use Permit/Master Site Approval**" is defined in recital F above.

"**Owner(s)**" means the fee owner or owners of record of any one or more of the Parcels.

"**Parcel(s)**" means, singularly or collectively, Parcel 1, Parcel 2, and Parcel 3, as shown on the Parcel Map.

"**Percentage Share**" means the percentage of Shared Costs allocated to each Parcel in respect of each Easement pursuant to this Declaration. The Percentage Share of each Parcel shall be one-third (33 1/3%).

"**Permittees**" means all Persons granted permission to utilize a particular Easement created under this Declaration.

(i) As to rights of Ingress and Egress via the Ingress, Egress and Access Easement Areas and Parking Easements, 'Permittees' shall include each Parcel Owner, and their employees, tenants, service persons, licensees, invitees, customers, contractors and agents.

(ii) As to all other Easements, 'Permittees' shall mean the Owner of a dominant tenement, and such Owner's or its tenants' authorized employees, service persons, licensees, invitees, contractors and agents, entering upon such Easement(s) in connection with the rights granted hereunder.

"**Person**" means any natural person, corporation, business trust, joint venture, association, company, limited liability entity, firm, partnership, or other entity or Governmental Authority.

"**Private Sewer Easement**" means those portions of the Parcels identified as such on the Parcel Map or the Use Permit/Master Site Approval used for sewer connection and access and for any required construction, use, operation, maintenance, repair and replacement of the sewer connection associated with a Private Sewer Easement.

"**Private Storm Drain Easement**" means those portions of a Parcel identified as such on the Parcel Map or the Use Permit/Master Site Approval and includes surface, subsurface or elevated pipes and pipelines, and related systems or facilities, intended to function as part of a private stormwater drainage system. The Private Storm Drain Easement does not include any stormwater Improvements or portions thereof which are dedicated to the public or Governmental Authority, and accepted for maintenance by the Governmental Authority.

"**Private Water Line Easement**" means the Private Water Line Easement identified on the Parcel Map.

"**Shared Costs**" means the reasonable and actual third party costs and expenses incurred by an Owner with respect to the operation, maintenance, repair, replacement, refurbishment and protection of the Ingress, Egress and Access Easement Areas and/or Shared Improvements, including without limitation garbage pick-up, power, water and all other utility charges related to the operation and maintenance of Shared Improvements, but shall not include costs or expense with respect the Private Sewer Easement,

Private Storm Drain Easement, Private Water Line Easement or any Utility Easement to or for the sole benefit of a single Parcel.

"Shared Improvement" means any Improvement to a Parcel or Parcels consisting of paving and surface Improvements of the Ingress, Egress and Access Easement Areas for parking and for vehicular access, ingress and egress, and including without limitation improvement to the shared trash enclosure, electric vehicle parking stalls and charging stations, shared parking stalls, and bicycle storage area identified on the Use Permit/Master Site Approval and on Exhibit C-1, and as to which the Parcels benefitting from such Improvement(s) are allocated a Percentage Share of costs.

"Shared Bicycle Storage Area" means the area identified as such on the Use Permit/Master Site Approval and on Exhibit C-1 for bicycle parking and storage.

"Surface Maintenance" means the maintenance, repair, reconstruction, replacement, and operation of pavement, lighting fixtures and lights, sidewalk and pathway, and related Improvements, including weed abatement, drainage, garbage pick-up, power, water and all other utility charges, incurred in connection with the use and upkeep of the surface of the Ingress, Egress and Access Easement Areas as well as the correction, remedy, and repair of the effects of wear and tear, natural conditions, damage, erosion, acts of God, or other causes, so as to allow the full and proper use of such Shared Improvements and the Ingress, Egress and Access Easement Areas for the use and benefit of the Parcel Owners and their respective Permittees.

"Utility" or **"Utilities"** means any public or private service, including but not limited to the supply of gas, electricity or other power, the provision of communications by telephone, cable, or fiber optics, or the provision of water, or any new utility reasonably and customarily necessary for the development of a Parcel.

"Utility Easement" means an Easement on, under and through a Parcel, for the installation, repair, and maintenance of Utilities to be provided to a Parcel or Parcels as reasonably necessary for the development, use and operation of a particular Parcel.

ARTICLE 2: EASEMENTS

2.1 Grant and Creation of Easements. Subject to the quasi easements created as of the date of this Declaration, and the licenses, limitations, restrictions, covenants, conditions, and charges set forth in this Declaration and to all existing matters of public record, upon (i) recordation of this Declaration and (ii) the severance of fee title of any one of the Parcels, the easements, licenses, limitations, restrictions, covenants, conditions, and charges created by this Declaration shall be effective, and shall run with the land and with each and all of the Parcels within the meaning of California Civil Code section 1468 and any successor statute thereto. All of the Parcels shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the easements, licenses, limitations, restrictions, covenants, conditions, and charges as set forth in this Declaration, all of which are declared and agreed to be in furtherance of a plan for the use, improvement, sale, and ownership of the Parcels and are established and agreed upon for the purposes of enhancing, maintaining and protecting the value, desirability and attractiveness of the Parcels and every part thereof. All of said easements, licenses, limitations, restrictions, covenants, conditions, and charges shall be binding upon and inure to the benefit of each Owner of any one or more of the Parcels, and all persons having or acquiring any right, title, or interest in the Parcels, and shall be binding upon and inure to the benefit of the successors in interest of all of such parties. Each Owner retains, reserves and shall continue to use and enjoy its respective Parcel for any and all purposes which do not unreasonably interfere with or prevent the use of the Easements created hereby by the Owners to whom

such rights have been granted for the purposes herein described. Each such Easement is perpetual and nonexclusive. The specific Easements granted hereunder are:

(a) Grant of Easements For Initial Construction. The Owners of Parcel 1 and Parcel 2 each grant to and for the benefit of Parcel 3 a temporary construction Easement for the initial construction of those Improvements described in the Use Permit/Master Site Approval, responsibility for which is allocated to Parcel 3 pursuant to this Declaration. This temporary construction Easement shall be limited in scope to that which is reasonably necessary to construct and install the Improvements on Parcel 3, as described in the Use Permit/Master Site Approval. Each such temporary Easement shall terminate, as to such Easement and as to such Parcel, upon the completion of the construction of the Improvements for which the initial temporary construction Easement has been granted.

(b) Grant Of Reciprocal Easements On Ingress, Egress and Access Easement Areas. Each Owner grants to all other Owners a reciprocal Easement over such granting Owner's respective portion of the Ingress, Egress and Access Easement Areas, for Ingress and Egress by all Permittees subject to the "Ingress, Egress and Access Easement Areas Use Restrictions." Parcel 3 Owner shall be responsible for the initial development and construction of the Improvements to be constructed on Parcel 3.

(c) Grant Of Reciprocal Easements For Parking. Each Owner grants to all other Parcel Owners a reciprocal Easement for parking of vehicles, parking of electric vehicles and charging of electric vehicles on those portions of each Parcel designated as such on the Use Permit/Master Site Approval and on Exhibit C-1. The Owners of at least two Parcels upon written notice to all Owners, shall have the right to adopt rules applicable to the use of the Ingress, Egress and Access Easement Areas, shared parking, shared trash enclosure, shared bicycle storage area, shared electric vehicle charging stations and other shared facilities as designated on the Use Permit/Master Site Approval and on Exhibit C-1. Such rules may include procedures regarding parking enforcement, including the right to tow vehicles parked in violation of established rules as long as applicable ordinances and laws and required notices are observed, including but not limited to the requirements of California Vehicle Code Section 22658, if applicable. Such rules may provide that any vehicle which is parked in violation of the provisions of this Declaration may be removed and stored at the sole expense of the owner of the vehicle, in accordance with applicable laws.

(d) Creation of Private Water Line Easements, Private Sewer Easements and Private Storm Drain Easements. Private Storm Drain Easements, Private Sewer Easements, and Private Water Line Easements are created as indicated on the Parcel Map. Each Parcel Owner shall be responsible for all costs incurred in connection with the construction, use, operation, maintenance, repair and replacement of improvements and utilities in connection with a Storm Drain Easement, Sewer Easement, or Water Line Easement for the benefit of the Parcel Owned by such Parcel Owner.

ARTICLE 3: USE, MAINTENANCE AND REPAIRS

3.1 Repairs and Maintenance. Whenever it is determined by the Owners of at least two Parcels that the Ingress, Egress and Access Easement Areas or any of the Shared Improvements require repairs or maintenance, such Owners shall notify all Owners in writing specifying the scope of the proposed work. The initiating Owner(s) shall then solicit at least two bids or estimates for the work and provide copies of such bids to the other Owner(s), with their recommendation for acceptance and a request for payment for each Owner's one-third Percentage Share. Within 15 days after such request is made, each Owner shall pay his or her share of the amount requested, by check payable to the person or entity that is to perform the work. If payment is not so received, the requesting Owners may, but shall not be required to, proceed with the work and advance the share of any Owner from whom payment was not received subject to the lien described in Section 3.3 below.

3.2 Obligation for Repair and Maintenance Costs. Each charge for repair and/or maintenance of the Ingress, Egress and Access Easement Areas incurred as provided in this Article 3, together with interest, attorneys' fees and costs of collection shall be a separate, distinct and personal obligation of the Owner of the Parcel against which such charge is assessed and allocated at the time when the charges were incurred and shall bind such Owner's heirs, devisees, personal representatives and assigns. Each Owner on becoming an Owner, is deemed to covenant to pay the obligations described in this Article 3 and is deemed to consent to the enforcement and remedies as set forth herein. Any Owner may enforce the obligations of the other Owners provided for in this Declaration in any manner provided by law or in equity including an action for specific performance, and further including without limitation, by commencement and maintenance of a suit at law against any such Owner or Owners personally obligated hereunder.

3.3 Lien for Maintenance and Repair of Ingress, Egress and Access Easement Areas. Any expense or cost incurred on behalf of the Owner of any Parcel under the provisions of this Article 3, together with any interest thereon, costs of collection and reasonable attorney's fees, shall be a continuing lien on such Parcel. Any person who has advanced or incurred such cost shall have a separate lien which is hereby expressly created upon each Parcel and every portion thereof to secure payment therefor. In the event of a transfer of any Parcel or any portion thereof as a result of the exercise of the power of sale or judicial foreclosure involving a default under any first mortgage or deed of trust the lien for charges due and payable hereunder prior to such transfer shall be extinguished; but the new Owner shall not be relieved from liability of the lien for any charges which thereafter may be incurred. There is a present lien with power of sale on each such Parcel and any portion thereof to secure payment of any and all costs and expenses incurred by any party which is the responsibility of any other party under the provisions of this Article 3, together with interest thereon, costs of collection and reasonable attorney's fees.

3.4 Notice of Claim of Lien. No action shall be brought to foreclose the lien for any unpaid charge until notice of the amount due and the lien claim, signed by a party, has been delivered to the defaulting party and a copy of such notice has been recorded in the office of the recorder of Sonoma County, California. The notice shall state the amount of the charges, a description of the property against which the lien is sought to be foreclosed, and the names of the record Owner or Owners thereof. After the expiration of thirty days from the date the notice has been recorded and delivered to such party, an action may be commenced to foreclose the lien.

3.5 Subordination to First Trust Deeds. Any lien upon any Parcel arising out of the provisions of this Article 3 shall be subject and subordinate to and shall not affect the rights of a holder of indebtedness secured by any first mortgage or deed of trust upon such Parcel made in good faith and for value; provided such first mortgage or deed of trust is recorded prior to the recording of a notice of claim of lien as provided in the preceding paragraph. No foreclosure of any such mortgage or deed of trust shall impair the right of any other party to enforce the provisions of this instrument against the purchaser at such foreclosure sale as to existing or future repairs or maintenance.

3.6 Payment of Shared Costs. Each Owner shall pay its Parcel's Percentage Share of all Shared Costs as set forth above; provided, however, that costs made necessary by the negligence or other wrongful act or omission of an Owner (or its Permittee) of a particular Parcel shall be borne solely by the Owner of the particular Parcel. The covenant to pay an Owner's Percentage Share of Shared Costs shall be a personal obligation of the Owner of record. If there is more than one Owner of a Parcel, the payment obligation shall be joint and several. Each Owner having a responsibility for a payment under this Declaration shall make payment in full to the Owner rightfully performing work under this Declaration within 30 days after receipt of a payment statement from such Owner with reasonable back-up documentation (collectively, a "Payment Statement"), and shall be in default if payment in full is not made within the required time. If an Owner

fails to pay the amount due on the Payment Statement within 30 days of the receipt thereof (the "Defaulting Owner"), the Owner who is entitled to reimbursement may bring an action in any court of appropriate jurisdiction for breach of the personal obligation to pay such other Owner's share of such costs and in such action shall be entitled to recover interest on the amount due at the rate of 10% per annum on any delinquent amounts due, and the prevailing party in such action shall be entitled to recover all costs of such action, including reasonable attorneys' fees and costs.

3.7. General Provisions Regarding Construction. Any construction, maintenance or repair work undertaken by an Owner on any Parcel shall be done in a first class and workmanlike manner in accordance with good construction practices and in compliance with all applicable laws and regulations, and the standards for first-class commercial construction in Sonoma County, California; (i) any such work shall be done to the extent reasonably practicable to minimize the disruption to the use and enjoyment of the other Parcels, including disruption of access, or additional noise, vibration, particulates and dust infiltration or other disturbances which would unreasonably disturb Owners or occupants of other Parcels; (ii) the Owner shall have its contractor(s) provide the insurance coverages required below; and (iii) keep the Parcel(s) on which work is performed free of liens.

3.8 Compliance With Laws. Except to the extent an Owner has a right of contribution from another Owner(s) of their respective Percentage Share, each Owner, without cost or expense to any other Owner, shall promptly comply or cause compliance with all laws, ordinances, rules and regulations of any Governmental Authority that may at any time be applicable to its Parcel or the buildings and Improvements thereon, or to an Easement Area, to the extent such party is responsible for the maintenance of such Easement Area.

3.9. Use of Hazardous Materials. For purposes of this Section 3.9, the following terms shall have the following meanings:

(a) Environmental Laws. All present and future statutes, ordinances, orders, rules and regulations of all Governmental Authorities ("Laws") relating to the use, generation, manufacture, installation, release, discharge, storage or disposal of Hazardous Materials, including the Federal Water Pollution Act, as amended (33 U.S.C. section 1251 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. section 6901 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. section 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. section 1801 et seq.), or comparable provisions of the laws of the State of California.

(b) Hazardous Materials. Petroleum, asbestos, polychlorinated biphenyls, radioactive materials, radon gas or any chemical, material or substance now or hereafter defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste;" "restricted hazardous waste" or "toxic substances," or words of similar import, under any Environmental Laws.

(c) Regulation of Use; Remedial Actions. No Owner shall use, or allow any Permittee to use, Hazardous Materials on, about, under or in the Easement Areas, except in the ordinary course of construction and maintenance of Improvements and in compliance with all Laws and in accordance with the standards of this Declaration. In the event of a release of any Hazardous Materials in, about, under or on the Easement Areas or any portion thereof, then (i) the Parcel Owner who caused such release shall immediately take such remedial actions as may be necessary to clean up the same if required pursuant to and in accordance with the requirements of Environmental Laws.

3.10. Owner's Insurance.

(a) Liability Insurance. Each Owner shall maintain and/or shall cause its tenant(s) or contractor(s) at all times to maintain commercial general liability insurance, to insure against any claim that may arise in connection with the use of the Easement Areas by such Owner, its tenant or their respective Permittees. All such policies shall have a contractual liability endorsement covering the indemnity set forth below and shall have coverage limits of at least Two Million Dollars (\$2,000,000.00) combined single limit per occurrence for bodily injury and property damage.

(b) Property Insurance. Each Owner shall maintain and/or shall cause its tenants at all times to maintain property insurance for the full replacement cost of any Improvement on such Owner's Parcel that is subject to Shared Costs pursuant to this Declaration, naming each Owner as a loss payee.

(c) Periodic Increases In Insurance Coverages. The policy limits for commercial general liability insurance required of Owner(s), tenant(s) and contractors(s) pursuant to this Paragraph shall be adjusted for inflation commencing on the fifth (5th) anniversary date of this Declaration and every five (5) years thereafter based on increases in the U.S. Consumer Price Index or such other comparable index then in use. Upon request by an Owner, the Owner having the obligation to carry insurance coverage shall provide the requesting Owner satisfactory evidence of such insurance, in the form of a certificate of insurance.

3.11. Indemnity. Each Owner shall indemnify, defend and hold each other Owner harmless from and against all claims, damages, liabilities and costs (including without limitation reasonable attorneys' fees) (collectively, "Claims") that relate to or arise out of such Owner's maintenance activities under this Declaration, the use and enjoyment of the Easement Areas by such Owner, its tenants and their Permittees, except to the extent that such Claims result from of the gross negligence or willful misconduct of the indemnified party or failure of the indemnified Owner to comply with such indemnified party's obligations under this Declaration.

3.12. Construction and Repair Affecting Easement Areas. Each Owner shall have the right, from time to time, to temporarily close any Ingress, Egress and Access Easement Areas on its Parcel to perform construction, resurfacing or other major repairs, subject to the following conditions: (1) the Owner performing the repairs shall provide not less than thirty (30) days prior written notice to each other benefitted Owner of such closure; (2) such closure shall be for the minimum period of time required to complete the necessary work (subject to Force Majeure events), (3) the Owner shall diligently pursue said work to completion, and upon the termination of such construction the Ingress, Egress and Access Easement Areas shall be open for access, and (4) to the extent reasonably possible, alternatives to the use of the temporarily closed Ingress, Egress and Access Easement Areas shall be provided for the duration of the closure of any portion of the Ingress, Egress and Access Easement Areas.

ARTICLE 4: GENERAL TERMS AND CONDITIONS.

4.1. Notices. All notices required by this Declaration shall be in writing and shall be delivered by personal service, by overnight or same-day commercial delivery service or by United States mail, certified or registered, postage prepaid. All such notices shall be deemed received: (a) the day of personal service or of sending such notice via same-day commercial delivery service; (b) the next business day following sending such notice via overnight commercial delivery service or (c) five (5) days after deposit in the United States mail. The Owners shall provide their notice addresses from time to time to each of the other Owners. Any required notice to any Parcel Owner may also be provided to the address as used by the Assessor's Office of the County for the payment of real property taxes with respect to each Parcel. If the

last day for service of any notice provided for in this Declaration is a Saturday, Sunday or holiday, any notice which is served on the next business day following the Saturday, Sunday, or holiday shall be deemed timely served on the last day for service.

4.2. Negation of Partnership. None of the terms or provisions of this Declaration create a partnership between or among the Owners in their respective businesses or otherwise or constitute the Owners as joint venturers or members of any joint enterprise.

4.3. No Third-Party Beneficiary. Subject to the rights given by any Owner to its/their respective mortgagees, the provisions of this Declaration are for the exclusive benefit of the Owners and not for the benefit of any third Person, and this Declaration does not confer any rights, express or implied, upon any such third Person.

4.4. Successors and Assigns. All the terms and provisions of this Declaration shall be binding upon and inure to the benefit of the Owners, and all respective transferees, and each's respective successors in interest and assigns with respect to the Parcels, including without limitation any Person who acquires title to any Parcel, or interest therein, by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise (including any mortgagee or beneficiary under a deed of trust or such mortgagee's or beneficiary's nominee or designee or any third party transferee obtaining title from such mortgagee or beneficiary or such mortgagee's or beneficiary's nominee or designee) (a "Successor Owner"). This Declaration, and the rights, privileges, benefits, and burdens thereof, are appurtenant to the relevant Parcels. No Owner shall have the right to assign or otherwise transfer any rights or obligations under this Declaration separate and apart from its rights, title and interest in a Parcel. Each and every successor in title to any Owner of any Parcel described herein shall be subject to all terms and provisions of this Declaration which shall automatically vest with title or ownership of a Parcel described herein. All of the easements, licenses, limitations, restrictions, covenants, conditions, and charges created by this Declaration shall be effective, and shall run with the land and with each and all of the Parcels within the meaning of California Civil Code section 1468 and any successor statute thereto. Except as otherwise provided by this Declaration, upon the assignment, conveyance, sale or other transfer by an Owner of its entire interest in any Parcel and notice to the other Owners of such transfer, that Owner shall be released from the obligations of this Declaration accruing after the effective date of such transfer with respect to such Parcel. No transferee of an Owner shall be liable for a transferring Owner's default under this Declaration if such default occurred prior to the effective date of the transfer.

4.5. Amendment. This Declaration may be amended by a written amendment signed by all of the Owners. The Owners shall cooperate in good faith and diligently perform such acts as may be necessary to effectuate any amendment to this Declaration that may be required by any Governmental Authority or to provide for changes required by the parties in order to effectively complete their developments, to the extent such changes do not materially adversely affect their respective developments. Without limitation of the foregoing, the Owners shall promptly execute and deliver for recording in the Official Records of the County any amendments to this Declaration that may be required to reflect changes in the legal descriptions to the Easement Areas as may be needed as a result of: requirements of the Governmental Authority, conformance to the final approved set of the plans or the final Use Permit/Master Site Approval, changes in the location of the Improvements due to field conditions discovered during construction, conformance to the final as-built condition of the Improvements upon Completion, or similar events.

4.6. Applicable Law. This Declaration shall be governed by and interpreted in accordance with the laws of the State of California.

4.7. Execution In Counterparts. This Declaration may be executed in one or more counterparts, each of which, when so executed, shall be deemed an original. Such counterparts shall together constitute one and the same instrument.

4.8. Entire Declaration. This Declaration contains the entire Declaration of the parties hereto and shall not be modified except by a document in writing made, executed and recorded in the Official Records of the County in which the Parcels are located.

4.9. Interpretations and Captions. Wherever the singular or masculine pronoun is used, it shall be construed as meaning the plural, feminine, neuter or body politic or corporate or the combination of individuals where the context or the parties hereto shall require. The captions contained in this Declaration are for reference purposes only and shall not affect in any way the meaning or interpretation of this Declaration.

4.10. Not A Public Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of any portion of any of the Parcels to the general public or for any public purposes whatsoever, it being the intention of the Owners that the use of the Ingress, Egress and Access Easement Areas shall be strictly limited to and for the purposes expressed in this Declaration.

4.11. Time. Time is of the essence in this Declaration and all provisions thereof.

4.12. Force Majeure. Whenever performance is required of an Owner hereunder, that Owner shall use all due diligence and take all necessary measures in good faith to perform, but if completion of performance is delayed by reason of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, damage to work in progress by casualty, governmental order of a general nature, or by other cause beyond the reasonable control of an Owner (financial inability, imprudent management and negligence excepted), then the specified time for performance shall be extended by the amount of the delay actually so caused.

4.13. Severability. Each provision of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of each of the other provisions.

4.14. Mortgagee Protection. This Declaration and any amendments, modifications or supplements hereto, and the rights, obligations, covenants, conditions, restrictions and easements hereunder with respect to each Parcel, shall be superior and senior to any lien placed upon any Parcel, including the lien of any mortgage or deed of trust, but no breach of this Declaration shall defeat, render invalid, diminish, or impair the lien of any mortgage or deed of trust made in good faith and for value. This Declaration, and all of the covenants, conditions, restrictions and easements hereunder, shall be binding upon and effective against any Person (including any mortgagee or beneficiary under a deed of trust) who acquires title to any Parcel, or interest therein, by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise.

4.15. Estoppel Certificate. Any Owner may, from time to time in connection with a sale or transfer of the Owner's interest in its Parcel, or the financing or refinancing of such interest by mortgage, deed of trust or sale leaseback made in good faith and for value, request the other Owners to certify that (i) this Declaration is in full force and effect, (ii) this Declaration has not been amended or modified, either orally or in writing, or, if so amended, identifying the amendments, and (iii) to the knowledge of the certifying Owner, no Owner is in default of its obligations under this Declaration, or, if in default, describing the nature of such default. Each Owner receiving such request shall provide such certificate within twenty (20) days following such request.

4.16. Breach Will Not Permit Termination. A breach of the obligations set forth in this Declaration shall not entitle any Owner to cancel, rescind or otherwise terminate the rights and obligations set forth herein. This limitation shall not affect any other rights or remedies which an Owner may have by reason of such breach.

4.17 Attorney's Fees. In the event any legal action is instituted to enforce or interpret the terms of this Declaration, the party that obtains substantially the relief sought in such action shall be entitled to reasonable attorneys' fees in addition to all other relief to which it may be entitled.

IN WITNESS WHEREOF, the undersigned has executed this Declaration as of the date first written above.

BENEDETTI:

Bradford C. Benedetti and Kathleen Benedetti, Trustees of the Bradford C. Benedetti and Kathleen Benedetti Revocable Trust, as amended and restated under the provisions of a trust agreement dated April 10, 2006

By: _____
Bradford C. Benedetti, Trustee

By: _____
Kathleen Benedetti, Trustee

MADSEN:

David R. Madsen and Carleen M. Madsen, Trustees of the David R. Madsen and Carleen M. Madsen Revocable Trust under the provisions of a trust agreement dated February 20, 1997

By: _____
David R. Madsen, Trustee

By: _____
Carleen M. Madsen, Trustee

POLLEY:

Harry E. Polley and Jean E. Polley, Trustees of the Harry E. Polley and Jean E. Polley Revocable Trust under the provisions of a trust agreement dated July 20, 1993

By: _____
Harry E. Polley, Trustee

By: _____
Jean E. Polley, Trustee

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature (Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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Signature (Seal)

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State of California)
County of _____)

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(Seal)

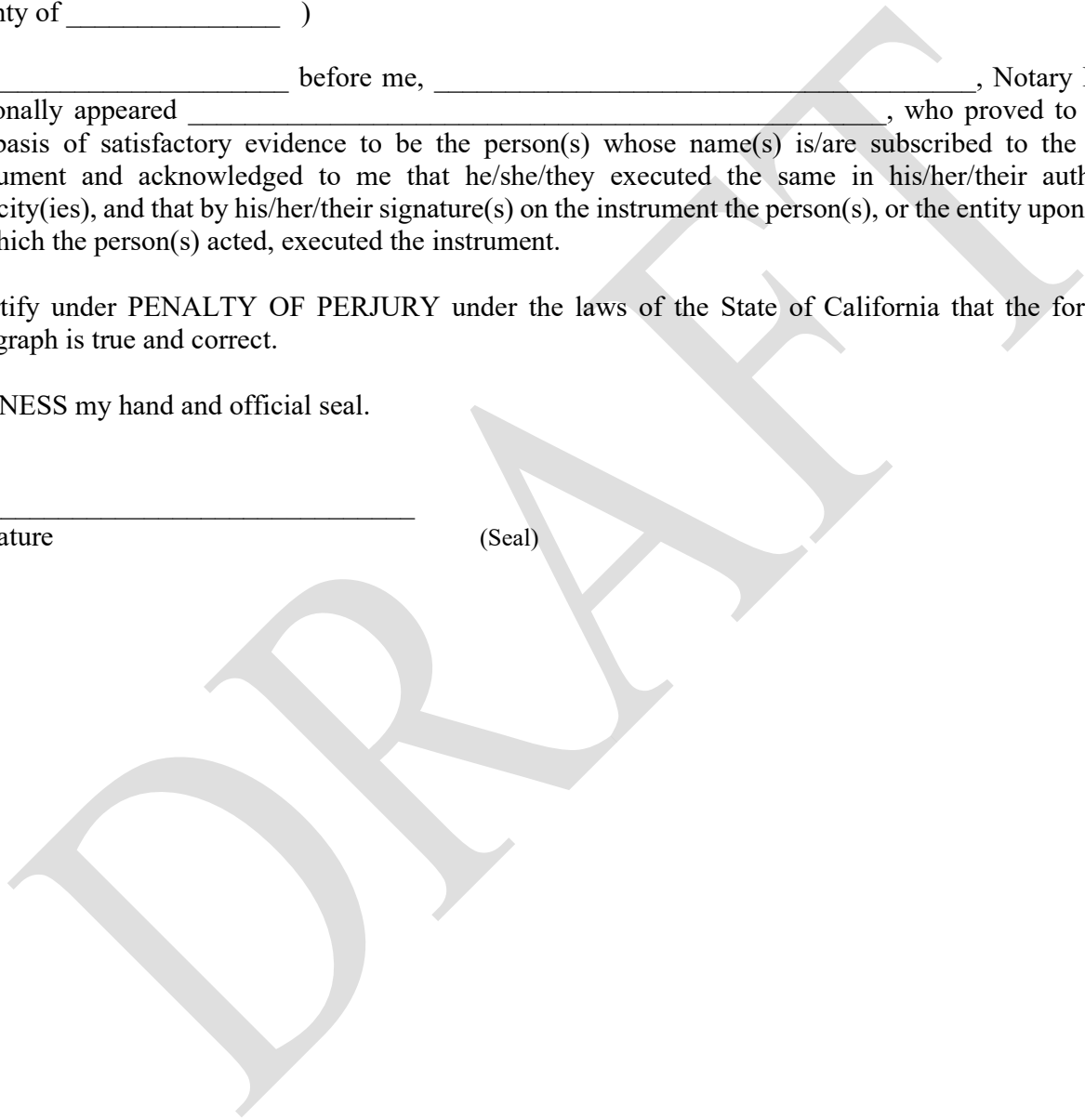


EXHIBIT A
Legal description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SEBASTOPOL,
COUNTY OF SONOMA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

Lot 2 as shown on that certain map entitled "City of Sebastopol, Parcel Map No. 99", filed for Record
May 22, 1984, in Book 358 of Maps, at Pages 10 and 11, Sonoma County Records.

APN/Parcel ID(s): 004-063-029-000

DRAFT

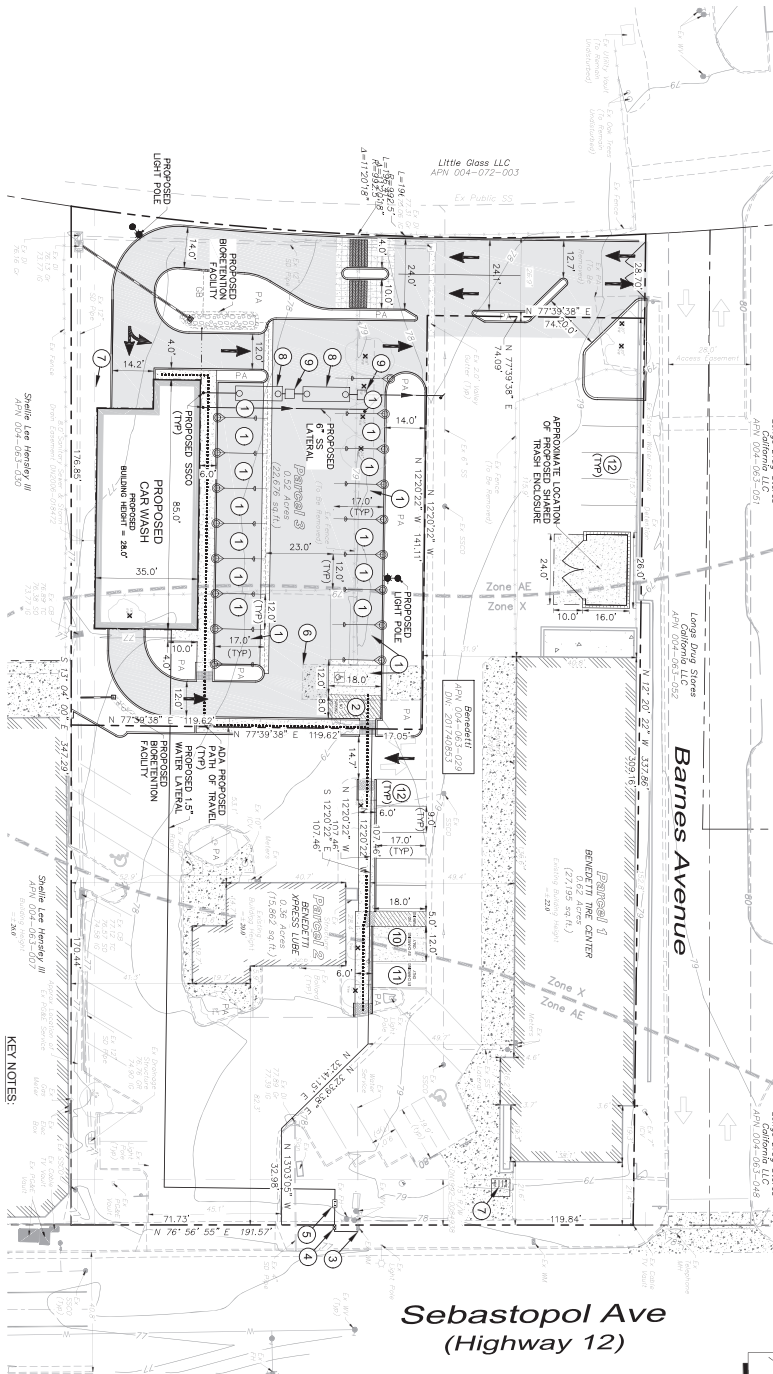
EXHIBIT B
Parcel Map

[final map to be attached]

DRAFT

EXHIBIT C

USE PERMIT FOR PARCEL 3 OF THE BENEDETTI MINOR SUBDIVISION 6809 Sebastopol Avenue Sebastopol, California APN 004-063-029

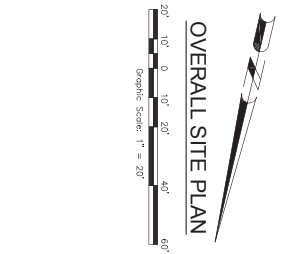


DEMOLITION LEGEND:
 X EX HERE TO BE REMOVED

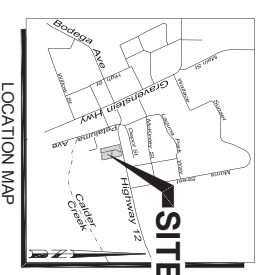
ADOLEGEND:
 ••••• ACCESSIBLE PATH
 OF TRAVEL (POI)

THE PLAN OF TRAVEL (POI) IDENTIFIED IN THESE CONSTRUCTION PERMITS IS THE MINIMUM REQUIRED FOR ACCESSIBILITY. THE OWNER SHALL VERIFY THAT THE PROPOSED CONSTRUCTION MEETS ALL APPLICABLE ACCESSIBILITY REQUIREMENTS AND SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

PURPOSE STATEMENT
 TO OBTAIN PRELIMINARY DESIGN CONCERNING PARCEL 3 & THE IMPACT TO THE ADJACENT PARCELS & BUSINESSES. SEE THE BENEDETTI MINOR SUBDIVISION TENTATIVE MAP (UNDER SEPARATE PERMIT).



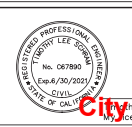
- KEY/NOTES:**
- 1 PROPOSED VACUUM PARKING STALL
 - 2 PROPOSED ADA VACUUM PARKING STALL
 - 3 MAINTAINED PROPOSED WATER SERVICE FROM EXISTING LATERAL CONNECTION
 - 4 PROPOSED WATER METER FOR NEW DEVELOPMENT
 - 5 PROPOSED PRESSURE BREAKDOWN PREVENTOR FOR NEW DEVELOPMENT
 - 6 DRAIN EXISTING TRASH ENCLOSURE AND RELOCATE
 - 7 PROPOSED SHARED BIODEFACTORY STORAGE AREA
 - 8 2000-COLLON JENSEN PRECAST MODEL AP#2000BE-50 SAND AND GRAVEL INTERCEPTION/CHAMFER (USP)
 - 9 CONTROL SAMPLING MANHOLE
 - 10 ELECTRIC VEHICLE PARKING STALL & SHARED CHARGING STATION (STALL TO BE GRADED FOR ACCESSIBILITY)
 - 11 ELECTRIC VEHICLE PARKING STALL & SHARED CHARGING STATION
 - 12 PROPOSED SHARED STANDARD PARKING STALL



SCALE: AS NOTED
 Date: August 12, 2020
 Design by: TRC/TRC
 Drawn by: TRC
 Checked by: TRC

1 of 2 Sheets
 Job # 18267

Use Permit
 for Parcel 3 of the
 Benedetti Minor Subdivision
 6809 Sebastopol Avenue
 Sebastopol, California
 APN 004-063-029



adobe associates, inc.
 civil engineering | land surveying | wastewater
 1220 N. Dutton Ave., Santa Rosa, CA 95404
 P. (707) 541-2300 F. (707) 541-2301
 Website: www.adobeinc.com

Revisions		
No.	Date	Description

Exhibit C-1 Sebastopol Road







Vehicular, Pedestrian, Trash & Bicycle Easements

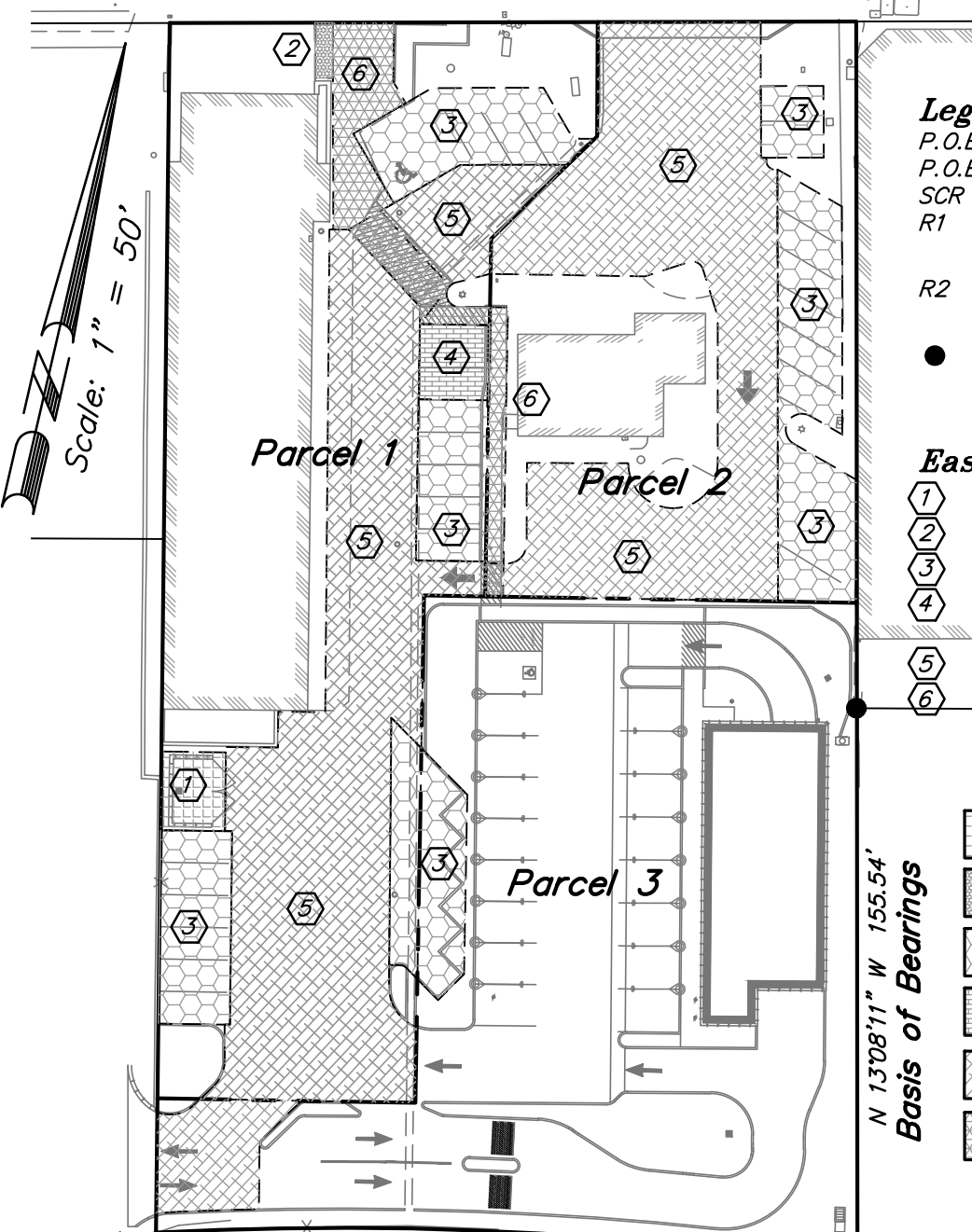
Legend

- P.O.B. Point of Beginning
- P.O.C. Point of Commencement
- SCR Sonoma County Records
- R1 parcel Map No. 99
358 Maps 10-11
- R2 Parcel Map No. xx
xxx Maps xx-xx
- Found 1/2" Rebar, No
Cap Per R1

Easement Index

- ① Trash Enclosure
- ② Bicycle Storage & Access
- ③ Parking
- ④ Electric Vehicle Charging Station
- ⑤ Ingress, Egress & Access
- ⑥ Pedestrian Access

-  Trash Enclosure Easement
-  Bicycle Storage & Access Easement
-  Parking Easement
-  Electric Vehicle Charging Station Easement
-  Ingress, Egress & Access Easement
-  Pedestrian Easement



File: T:\2018 PROJECTS\18267\dwg\Adobe-Survey\18267-estate-exhibit-C.dwg Time: Apr 19, 2024 - 11:22am



Aaron R. Smith
 Aaron R. Smith, PLS 7901

Private Easement
 adobe associates, inc.
 civil engineering | land surveying | wastewater
 1220 N. Dutton, Ave., Santa Rosa, Ca. 95401
 P (707) 541-2300; F (707) 541-2301

Job No. 18267-(RBT)

APN 004-063-029

April 19, 2024

Recording Requested by and When Recorded
Return to:

CITY OF SEBASTOPOL
P. O. BOX 1776
SEBASTOPOL, CA 95473

SUBDIVISION IMPROVEMENT AGREEMENT
PARCEL MAP NO. 154
BENEDETTI MINOR SUBDIVISION
Assessor's Parcel No. 004-063-029

THIS SUBDIVISION IMPROVEMENT AGREEMENT (this "Agreement"), made and entered into August 6, 2024 (the "Effective Date"), at Sebastopol, California by and between the CITY OF SEBASTOPOL, a Municipal Corporation (the "CITY") and Bradford C. Benedetti and Kathleen Benedetti, Trustees of the Bradford C. Benedetti and Kathleen Benedetti Revocable Trust, David R. Madsen and Carleen M. Madsen, Trustees of the David R. Madsen and Carleen M. Madsen Revocable Trust, and Harry E. Polley and Jean E. Polley, Trustees of the Harry E. Polley and Jean E. Polley Revocable Trust ("DEVELOPER").

WITNESSETH:

WHEREAS, DEVELOPER has presented to CITY a certain proposed subdivision of land located within the corporate limits of the City of Sebastopol, called "PARCEL MAP NO. 154 BENEDETTI MINOR SUBDIVISION", which said map is hereby referred to and made a part of this Agreement for any and all particulars (the "Map"), and have requested that CITY approve the Map to the end that the Map may be recorded as required by law; and

WHEREAS, CITY requires, as a condition precedent to acceptance and approval of the Map, the irrevocable offering of dedication of such easements as delineated and shown on the Map for the future Abbot Avenue extension sidewalk and completion of certain site improvements (the "Required Work").

WHEREAS, Developer shall retained a licensed contractor ("Contractor") to perform the Required Work.

NOW THEREFORE, in consideration of the promises and of the acceptance after improvement of the offers of dedication of all easements as shown and delineated on the Map and the approval of the Map for filing and recording as provided and required by law, it is mutually agreed and understood by and between CITY and DEVELOPER, and DEVELOPER and CITY do hereby mutually agree as follows:

1. Incorporation by Reference

The Conditions of Approval contained in City of Sebastopol City Council Resolution 6332-2021, and all plans as listed in Section 2 below, are incorporated herein by reference.

2. Construction of Improvements

DEVELOPER shall construct and install within a period of 24 months from the Effective Date, at its own cost and expense within and adjoining said tract, and to the lines and grades approved by the City Engineer of the City of Sebastopol, and in accordance with all other ordinances, resolutions, specifications and standard plans in force and effect in the CITY and applicable thereto, all improvements, as shown on the Improvement Plans for said tract entitled “BENEDETTI MINOR SUBDIVISION IMPROVEMENT PLANS”, as approved by the City Engineer on August 6, 2024 which are included as part of this Agreement and made a part of this Agreement by reference (the “Approved Plans”).

3. Permits

Prior to any construction within any public right of way or public utilities easement, DEVELOPER and DEVELOPER’s Contractor(s) shall obtain an Encroachment Permit from the City of Sebastopol Public Works Department, and shall provide and maintain such public liability and property damage insurance as shall protect DEVELOPER from all claims for damages for personal injuries, including accidental death, as well as claims for property damage which may arise from its operations under this Agreement. Such public liability insurance shall be in accord with Exhibit A, Insurance Requirements for Improvement Agreements, which is attached hereto and hereby made a part of this agreement.

4. Adjacent Properties Affected by Construction

DEVELOPER warrants that construction of improvements performed under this Agreement shall not adversely affect any portion of adjacent properties. Any damage to adjacent public or private properties or facilities shall be repaired or replaced at DEVELOPER's expense prior to acceptance of the improvements by CITY.

5. Additional Work and Modification of Plans

It is understood that additional work may be required which is not shown on the Approved Plans. Accordingly, the cost estimate includes a reasonable contingency amount to cover any additional work not shown on the Approved Plans. DEVELOPER shall provide a complete set of "As Built" plans to the CITY prior to final acceptance of public improvements.

6. Improvement Security – REVIEW BOND REQUIREMENTS

- a. **Performance Bond and Labor and Materials Bond:** DEVELOPER shall deliver to the CITY proper bonds (100% Performance Bond and 100% Labor and Material Bond) by one or more duly authorized corporate sureties or an instrument of credit as provided by law to secure the faithful performance of this Agreement which shall be substantially in the form of Government Code 66499.1 and 66499.2, each in the amount of \$372,925. In the event of the failure or in the event of the default of Developer or contractor to complete any portion of the construction, the CITY shall look to the bonding company to complete the entire project.
- b. The amount includes total estimated cost of improvements plus estimated engineering and contingency fund. All costs for gas, electric, telephone, streetlights, and TV constructed by other utilities shall be paid by DEVELOPER direct to the respective utility. The DEVELOPER shall be responsible to coordinate improvement drawings with utility company regarding undergrounding of utilities.
- c. **Reduction in Bonding Amounts:** DEVELOPER may request reductions in the amount of the Performance and Labor and Materials Bonds, subject to the approval of the City Engineer, after 6 months have elapsed from the date of

recording of this Agreement. No reduction will be allowed until such time as a minimum of 50% of work has been completed, to the satisfaction of the City Engineer. Reductions in the bond amount shall not be less than 50% or more than 80% of the amount of security for Faithful Performance, and shall be in proportion to the improvements completed, as determined by the City Engineer. Developer's request for reduction in bonding amounts and City Engineer's approval thereof shall be in writing, and directed to the Engineering Department.

- d. **Maintenance Security:** Prior to acceptance of improvements and release of Performance Bond DEVELOPER shall furnish City bond, letter of credit, or cash as evidence that the said improvements are guaranteed against failure of materials or installations for a one-year period from date of acceptance by CITY. Bond, letter of credit, or cash shall be in the amount of 20% of total construction costs in the amount of **\$74,589**.
- e. **Monumentation Bond:** DEVELOPER shall set all monuments shown on said final map. Such monumentation shall be secured by a performance bond or other form of security as permitted in Section 6(a) above in the sum of **\$5,000.00**.

7. Inspections

At least fifteen (15) calendar days prior to the commencement of any work under this Agreement, Developer shall notify the City in writing of the planned start of construction. No construction shall commence until DEVELOPER's contractor(s) has(have) obtained all required permits and a pre-construction meeting has been held. During the course of construction, DEVELOPER and/or Contractor(s) shall provide CITY with a minimum of 24 hours' notice in advance of needed inspections.

8. Time of Performance

- a. DEVELOPER agrees to perform and complete all improvements contemplated by this Agreement within twelve (12) months from the Effective Date (subject to any Excusable Delay).
- b. It is further agreed by and between DEVELOPER and CITY that in the event it is deemed necessary by the CITY to extend the time of completion of the

Improvements, said extension may be granted by CITY, and shall in no way affect the validity of this Agreement or release the surety(ies) on any bond or other security attached hereto or the financial institution guaranteeing the same.

- c. DEVELOPER may request extension of the time of performance. Such request shall be made in writing, not fewer than thirty (30) days prior to the expiration of this Agreement. Such extension, if approved, shall be for a period of time as recommended by the City Engineer, subject to City Council approval, but in no case shall exceed twelve (12) months from the expiration date of this Agreement.
- d. If an extension is approved, DEVELOPER shall enter into an extension agreement with CITY.
- e. DEVELOPER agrees to maintain the security(ies) described in Section 6 above in full force and effect during the term of this Agreement, including any extensions of time as may be granted, and until such time as the Improvements have been accepted by CITY.

9. Work Performance

- a. DEVELOPER shall construct all of the Improvements in a good and workmanlike manner, and furnish all required materials incident thereto, in accordance with the Plans and to the reasonable satisfaction of CITY.
- b. DEVELOPER shall designate an on-site supervisor who shall be on the work site during construction of the Improvements, and who has the authority to act on behalf of DEVELOPER and/or Contractor when communicating with City personnel.
- c. DEVELOPER is responsible for all dust, mud, dirt and debris created by construction. DEVELOPER is required to control dust at all times in accordance with standard practices. This control means that watering to lay dust must be accomplished not only during times of construction, but on weekends and holidays, should weather and site conditions dictate. DEVELOPER is also responsible for any mud or debris deposited on adjacent public or private property.
- d. No Building Permit for Tenant Improvements shall be issued for any lot within

said tract until construction of the following improvements have been completed to the satisfaction of the City Engineer: rough grading, retaining walls, drainage improvements, street paving base, sewer mains and laterals, water mains and services, and all other underground facilities, as shown on the approved plans, or as may be required per Paragraph 1 above.

10. Insurance Requirements

Prior to signature approval by CITY of this Agreement, DEVELOPER shall provide evidence of public liability and property damage insurance, with appropriate endorsements naming the CITY as additional insured, in accord with Exhibit A (Insurance Requirements for Improvement Agreements), which is attached hereto and thereby made a part of this Agreement.

11. Indemnification

DEVELOPER agrees to protect and indemnify the CITY, its officers, agents and employees and save them harmless in every way from all suits, actions of law, claims for damages or injuries to persons and property which may arise out of or be occasioned in, for, or on account of any injuries or damages whatsoever sustained or arising from any way by the performance of the work hereinabove specified to be performed by the DEVELOPER, its agents, subcontractors or employees or in consequence thereof, excepting only that resulting from the negligence or intentional misconduct of the City, its employees, officials, or agents.

12. Provision of City Services Prior to Acceptance by City

DEVELOPER agrees to be financially responsible for all required City services provided to the premises prior to acceptance of the improvements by CITY.

13. Fees and other payments

- a. **Impact Fees** - All applicable impact fees including, but not limited to school, traffic, park, affordable housing linkage fee, wastewater mitigation, water and sewer connection fees shall, and any other applicable fees shall be paid prior to issuance of Building Permits. Fees paid shall be those in effect at the time the Building Permit is issued.

- b. **Development Fees:** DEVELOPER shall pay to CITY any and all balances due and as periodically invoiced for City of Sebastopol staff development processing including:
 - i. Planning
 - ii. Engineering
 - iii. Construction Engineering and Inspection (applicable of public improvements only)

DEVELOPER shall pay CITY the foregoing fees prior to City approval of the Map for filing.

- c. **Other Fees:** DEVELOPER is notified that, prior to issuance of any Building Permit, a School Impact Fee shall be paid to the Local School District, and satisfactory evidence thereof shall be presented to CITY.
- d. **Soil Testing** - DEVELOPER shall pay the cost of construction soils testing as may be required to complete the subdivision improvements.

14. Waiver

Waiver by CITY or DEVELOPER of any breach of any of the provisions of the Agreement shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of the same or any other provision of this agreement. Acceptance by CITY of any work by DEVELOPER shall not be a waiver of any of the provisions of this Agreement.

15. Notices

All notices herein required shall be in writing and shall be personally delivered or mailed to the City Engineer, City of Sebastopol Public Works Department, 714 Johnson Street, Sebastopol, CA, 95472.

16. Noncompliance

If CITY determines that DEVELOPER is in violation of any applicable laws or regulations, or of the terms and provisions of this Agreement, it may issue a cease and desist order, stop work order, or other action the City deems necessary.

17. Notice of Breach and/or Default

CITY may serve written notice upon DEVELOPER and surety of breach of this agreement or of any portion thereof, and default of DEVELOPER for any of the following circumstances:

- a. DEVELOPER refuses or fails to complete the improvements as required in this agreement.
- b. DEVELOPER or any of DEVELOPER's contractors, subcontractors, agents or employees should materially violate any of the provisions of this Agreement and not cure the violation within a reasonable time.

Upon receipt of the written notice, the Developer shall have thirty (30) days to remedy such event of default (or such longer period of time as may reasonably be required, provided that the Developer shall commence to remedy such default within thirty (30) days period and thereafter diligently prosecute such remedy to completion). If the Developer fails to remedy the event of default within the prescribed time period, the City shall have the right to do all work necessary to remedy the event of default and charge the Developer actual costs incurred by the City for such work.

18. Successors in Interest

This Agreement shall run with the land, and may be assigned, pursuant to a written request from DEVELOPER, with the consent of the CITY, which consent shall not be unreasonably withheld, conditioned or delayed.

19. Effective Date

This Agreement shall be effective as of the Effective Date.

20. Amendment of Agreement

This Agreement may be amended by mutual consent of the original parties or their successors in interest. Any such amendment shall be executed in writing by the parties to be bound thereby, and copies of any such amendments shall be sent to surety(ies).

21. Excusable Delay.

"Excusable Delay" means an act of God, strike, lockout, explosion, act of sabotage, riot, civil

commotion, act of war, fire, flood, other casualty, Pandemic, public health crisis or other health-related events that cause any government or health agency to declare a public health emergency, quarantine, travel restrictions or limitations on public gatherings or that cause businesses or schools or athletic events to close or adopt restrictive practices or any other cause beyond the reasonable control of the DEVELOPER which delay any performance required under this Agreement.

22. Execution

By signing this Agreement, the person signing states that he or she is authorized to enter into contracts on behalf of DEVELOPER, and binds DEVELOPER, its partners, successors, executors, administrators and assigns with respect to the terms and conditions contained herein.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, said CITY has caused its name to be hereunto affixed by its CITY CLERK, thereunto duly authorized by Resolution of the CITY COUNCIL, and said DEVELOPER has hereunto set his hand, the day and year first above written.

DEVELOPER:

Bradford C. Benedetti and Kathleen Benedetti, Trustees of the Bradford C. Benedetti and Kathleen Benedetti Revocable Trust, David R. Madsen and Carleen M. Madsen, Trustees of the David R. Madsen and Carleen M. Madsen Revocable Trust, and Harry E. Polley and Jean E. Polley, Trustees of the Harry E. Polley and Jean E. Polley Revocable Trust

By: Harry E. Polley
Harry E. Polley, Trustee

By: Jean E. Polley
Jean E. Polley, Trustee

By: David R. Madsen
David R. Madsen, Trustee

By: Carleen M. Madsen
Carleen M. Madsen, Trustee

By: Bradford C. Benedetti
Bradford C. Benedetti, Trustee

By: Kathleen Benedetti
Kathleen Benedetti, Trustee

CITY OF SEBASTOPOL

BY: _____
Don Schwartz, City Manager

Approved as to form: _____
Don Schwartz, City Manager

ALL SIGNATURES MUST BE NOTARIZED-ATTACH NOTARY CERTIFICATES AFTER THIS PAGE

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

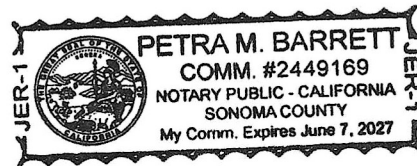
State of California
County of SONOMA

On July 31, 2024 before me, Petra M Barrett, Notary Public
(insert name and title of the officer)

personally appeared David R Madsen and Carleen M. Madsen,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.



Signature Petra M Barrett (Seal)

* Attached to Subdivision Improvement Agreement
Parcel Map No. 154
Benedetti Minor Subdivision
Assessor's Parcel No. 004-063-029

ACKNOWLEDGMENT

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State of California
County of SONOMA

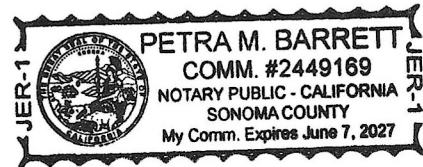
On July 31, 2024 before me, Petra M. Barrett Notary Public
(insert name and title of the officer)

personally appeared Bradford C. Benedetti and Kathleen Benedetti
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Petra M. Barrett* (Seal)



* Attached to Subdivision Improvement Agreement
Parcel Map No. 154
Benedetti Minor Subdivision
Assessor's Parcel No. 004-063-029

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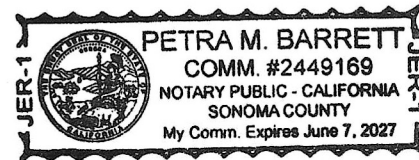
State of California
County of SONOMA

On July 31, 2024 before me, Petra M. Barrett, Notary Public
(insert name and title of the officer)

personally appeared Henry E. Polley and Jean E. Polley
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Petra M. Barrett (Seal)

* Attached to Subdivision Improvement Agreement
Parcel Map No. 154
Benedetti Minor Subdivision
Assessor's Parcel No. 004-063-029

Exhibit A
CITY OF SEBASTOPOL
INSURANCE REQUIREMENTS FOR IMPROVEMENT AGREEMENTS

DEVELOPER shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the DEVELOPER, his agents, representatives, employees or subcontractors.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

Insurance Services Office Commercial General Liability coverage (occurrence form CG0001).

Minimum Limits of Insurance

DEVELOPER shall maintain limits no less than:

General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City of Sebastopol. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the DEVELOPER shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

All required general liability policies are to contain, or be endorsed to contain, the following provisions:

1. The *named additional insured* with respect to this contract shall include the following:

The CITY OF SEBASTOPOL, its Officers, Officials and Employees

2. The *named additional insured* are to be covered as insureds with respect to liability arising out of work or operations performed by or on behalf of the DEVELOPER including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the DEVELOPER'S insurance, or as a separate owner's policy.

3. For any claims related to this agreement, the DEVELOPER's insurance coverage shall be primary insurance as respects the *named additional insured*. Any insurance or self-insurance maintained by the *named additional insured* shall be excess of the DEVELOPER's insurance and shall not contribute with it.
4. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

Verification of Coverages

DEVELOPER shall furnish the City with original certificates and amendatory endorsements effecting the coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms or a separate owners policy, provided those forms or policies are approved by the City and amended to conform to the City's requirements. All certificates and endorsements are to be received and approved by the City before the Agreement is executed by the City. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

All certificates and endorsements shall reference the appropriate policy number, names of insured, and shall be signed by an authorized representative of the insurer.