



CITY OF CARMEL-BY-THE-SEA CITY COUNCIL AGENDA

Mayor Dave Potter, Councilmembers Jeff Baron,
Alissandra Dramov, Karen Ferlito, and Bobby
Richards
Contact: 831.620.2000 www.ci.carmel.ca.us

All meetings are held in the City Council Chambers
East Side of Monte Verde Street
Between Ocean and 7th Avenues

REGULAR MEETING Tuesday, October 1, 2024

4:30 PM

HYBRID MEETING ATTENDANCE OPTIONS

This meeting will be held in person and via teleconference ("hybrid"). The public is welcome to attend the meeting in person or remotely via Zoom, however, the meeting will proceed as normal even if there are technical difficulties accessing Zoom. The City will do its best to resolve any technical issues as quickly as possible. To view or listen to the meeting from home, you may also watch the live stream on the City's YouTube page at: <https://www.youtube.com/@CityofCarmelbytheSea/streams>. To participate in the meeting via Zoom, copy and paste the link below into your browser.

**<https://ci-carmel-ca-us.zoom.us/j/83289524838> Webinar ID: 832 8952 4838 Passcode:
904814 Dial in: (253) 215-8782**

HOW TO OFFER PUBLIC COMMENT

The public may give public comment at this meeting in person, or using the Zoom teleconference module, provided that there is access to Zoom during the meeting. Zoom comments will be taken after the in-person comments. The public can also email comments to cityclerk@ci.carmel.ca.us. Comments must be received at least 2 hours before the meeting in order to be provided to the legislative body. Comments received after that time and up to the beginning of the meeting will be made part of the record.

OPEN SESSION 4:30 PM

TOUR OF INSPECTION - 4:00 PM

Prior to calling the meeting to order, the Board/Commission will conduct an on-site tour of inspection of the properties listed on the agenda and the public is welcome to join. After the tour is complete, the Board/Commission will begin the meeting in the City Council Chambers no earlier than the time noted on the agenda.

- A. Torres Street 4 northeast of 6th Avenue, Carmel, 93921 (Voris)

CALL TO ORDER AND ROLL CALL - 4:30 PM

PLEDGE OF ALLEGIANCE

EXTRAORDINARY BUSINESS

- A.** Carmel Youth Center Presentation

ANNOUNCEMENT REGARDING PUBLIC APPEARANCES

PUBLIC APPEARANCES

Members of the public are entitled to speak on matters of municipal concern not on the agenda during Public Appearances. Each person's comments shall be limited to 3 minutes, or as otherwise established by the Chair. Persons are not required to provide their names, however, it is helpful for speakers to state their names so they may be identified in the minutes of the meeting. Under the Brown Act, public comment for matters on the agenda must relate to that agenda item and public comments for matters not on the agenda must relate to the subject matter jurisdiction of this legislative body. If a member of the public attending the meeting remotely violates the Brown Act by failing to comply with these requirements of the Brown Act, then that speaker will be muted.

ANNOUNCEMENTS

- A.** City Administrator Announcements
- B.** City Attorney Announcements
- C.** Councilmember Announcements
- D.** Ad Hoc Committees - Report Out

ORDERS OF BUSINESS

Orders of Business are agenda items that require City Council, Board or Commission discussion, debate, direction to staff, and/or action.

- 1.** Receive the 2024 Car Week After Action Report and provide staff with feedback and direction
- 2.** Receive a report from the Traffic Safety Committee on a proposed plan regarding the implementation of AB413 and provide direction
- 3.** Resolution 2024-085 authorizing the City Administrator to execute a construction contract with Sharp Engineering & Construction, Inc., in an amount, including a contingency, of \$503,470 for the San Antonio Avenue Pedestrian Pathway Reconstruction Project
- 4.** Receive a follow up presentation by Wave Astound Broadband to address public comments regarding their Fiber Optic Project and authorize issuance of an Encroachment Permit with Special Conditions of Approval.
- 5.** Update on City Council Resolution 2024-062 to develop alternative sites and programs that would allow for an amendment to the City's adopted 6th cycle Housing Element to remove Vista Lobos and Sunset Center from the Housing Sites Inventory List

PUBLIC HEARINGS

- 6. PERM EN 240129 (Voriss):** Consideration of a Permanent Encroachment Permit application, PERM EN 240129 (Voriss), for a stone border around a landscape planter in the public right-of-way, fronting a single-family residence located on Torres Street 4

northeast of 6th Avenue. APN: 010-092-010-000.

FUTURE AGENDA ITEMS

ADJOURNMENT

This agenda was posted at City Hall, Monte Verde Street between Ocean Avenue and 7th Avenue, Harrison Memorial Library, located on the NE corner of Ocean Avenue and Lincoln Street, the Carmel-by-the-Sea Post Office, 5th Avenue between Dolores Street and San Carlos Street, and the City's webpage <http://www.ci.carmel.ca.us> in accordance with applicable legal requirements.

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

Any supplemental writings or documents distributed to a majority of the City Council regarding any item on this agenda, received after the posting of the agenda will be available for public review at City Hall located on Monte Verde Street between Ocean and Seventh Avenues during regular business hours.

SPECIAL NOTICES TO PUBLIC

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at 831-620-2000 at least 48 hours prior to the meeting to ensure that reasonable arrangements can be made to provide accessibility to the meeting (28CFR 35.102-35.104 ADA Title II).



CITY OF CARMEL-BY-THE-SEA CITY COUNCIL Staff Report

October 1, 2024
EXTRAORDINARY BUSINESS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Chip Rerig, City Administrator

APPROVED BY: Chip Rerig, City Administrator

SUBJECT: Carmel Youth Center Presentation

RECOMMENDATION:

Receive a presentation from the Carmel Youth Center.

BACKGROUND/SUMMARY:

FISCAL IMPACT:

PRIOR CITY COUNCIL ACTION:

ATTACHMENTS:

Attachment 1) CYC Presentation

CVC



Attachment 1 WHO WE ARE & WHY WE CARE

EXECUTIVE COMMITTEE

John Ruskell - President
Retired Business Owner
CYC Alumni
Board member for 7+ years

John Plastini - Vice President
TSD Carmel Properties, L.P.
Carmel-by-the-Sea Rotary
Board member for 7+ years

Bill Kiernan
Director at Cloudera
Board member for 6 months

Marci Meaux - Secretary
Pebble Beach Company
Carmel Public Library Foundation
Board member for 3 years

BOARD MEMBERS

Pam Neiman
Pebble Beach Company
Board member for 3 years

Linda Frye, CTC
Carmel Unified School District
Carmel Host Lions Club
Board member for 3 years

Devon Meeker
Realtor, Monterey Coast Realty
Children attend CYC
Board member for 1 year

Cyndy Hodges, CPA
Retired CPA
Board member for 9 months

Robin Stelle
Realtor, Coldwell Banker Realty
Board member for 9 months

James Emerson
Retired Lawyer
Board member for 4 months

Anton Forbes-Roberts
Co-Founder & COO Soar Media
Board member for 2 months



John Ruskell, President & Alumni



Sherilyn Napoli, Executive Director

Attachment 1

CARMEL YOUTH CENTER

SINCE 1949

For 75 years, our mission has been to grow future leaders who can change our community and the world for the better. Since then, we have served over 32,000 youth members and recruited 80,000+ volunteers, solidifying our legacy as a staple in the community.

Our vision is to meet young youth where they are. To provide them with the support and opportunities in order to build independence and leadership skills, in turn, transforming their lives.

A TRUE COMMUNITY CENTER

Youth Camps

JiuJitsu

After School Care

Blood Drives

Early Learning

Employer

Facility Rentals

Warming Center

WE HAVE OUR LICENSE !!



... and we have a plan

WHAT WE'VE ACCOMPLISHED

Attachment 1

- January 2023: Retained a Grant Writer
- July 2023: Master plan for Building approved by City of Carmel by the Sea
- September 2023: Hired Director of Childcare/ Executive Director Sherilyn Napoli, with 25+ years of teaching experience
- September 2023: Submitted application to the California State Department of Social Services, expanding our offerings to include preschool care
- November 2023: Capital improvements around the facility and grounds to ensure safety and code compliance
- December 2023: Conducted site visits with the State to ensure our facilities met compliance and provided ample space regulations per child
- January 2024: Upgraded heating system in the gym to meet State requirements (cost of \$39,000)
- February 7, 2024: Awarded our license from the State to operate as a Child Care Facility!!
- February 2024: Posted job positions on indeed.com for teachers and aides
- June 2024: Opened Summer Camps for Youth. Served 72 families
- August 2024: Opened After School Program.

CYC 2-YEAR STRATEGIC PLAN

Attachment 1



BUSINESS PRIORITIES

- Programs
- Financials
- Facility Management
- Non-Profit Business Management

KEY INITIATIVES

- Enhance & Enrich Programming
- Build Financial Resiliency
- Improve our Facility
- Demonstrate 501©3 Business Best Practices

OUTCOMES

- Positive Community Impact
- Community Trust and Increased Attractiveness to Donors
- Expansion of Services and Program Offerings
- Sustainable Growth and Impact

CYC 2-YEAR STRATEGIC PLAN INITIATIVES

Attachment 1

- **Enhance and enrich programming**
 - Ensure success and growth of new pre-school
 - Successfully re-introduce and grow our program offerings
 - Deliver a multi-faceted, skill-based youth leadership program with community partners
 - Deliver a culinary arts hospitality program with community partners
- **Build Financial Resiliency**
 - Add a Fund-raising expert to the organization
 - Plan and execute a 75th Anniversary Fundraising Celebration
 - Build our financial reserves
 - Maximize grants and matching funds
- **Improve our Facility with future capital improvements**
 - Permitting and building additional all- gender bathrooms
 - Converting large garage to future preschool. Includes bathrooms, heating , stairs
 - ADA accessibility to all levels of the facility
 - Multi-purpose Learning Kitchen
- **Demonstrate 501©3 business best practices**
 - Build best practices and internal financial controls
 - Build and maintain donor relationships
 - Board development and engagement through committees
 - Build a positive inclusive working environment

PROGRAM OFFERINGS

Attachment 1

Summer Camps

June 10th – August 2nd

CAPACITY: 65 CHILDREN

SERVES: KINDERGARTEN - 8TH GRADE (AGES 5-13)

MONDAY - FRIDAY, 8:30AM - 5:30PM

Afterschool Enrichment

Starts August 7th

CAPACITY: 65 CHILDREN

SERVES: KINDERGARTEN - 8TH GRADE (AGES 5-13)

MONDAY - FRIDAY, 3:00PM - 6:00PM

Early Learners

Target Start Date November 2024

CAPACITY: 12 CHILDREN

SERVES: POTTY TRAINED, AGES 3 - 5

YEAR ROUND, MONDAY - FRIDAY 7:00AM - 3:00PM

JOB OFFERINGS

TWO TEACHERS

TWO TEACHER ASSISTANTS

TWO TEACHERS

TWO TEACHER ASSISTANTS

TWO TEACHERS

ONE TEACHER ASSISTANT

2024 – SEVEN 1-WEEK SUMMER CAMPS

Attachment 1



2024 – SUMMER CAMP TESTIMONIAL

Attachment 1

Hi, my name is Jason Lande and my 11-year-old son Beck has been participating this summer in the newly re-activated Carmel Youth Center Summer Day Camp. This is his third week of CYC summer camp.

As residents of Carmel and past participants in CYC summer camps and after-school activities, we have been keenly interested in the developments at CYC and have been curious to see how CYC would emerge, newly bolstered with proper certifications and new leadership.

We couldn't be more pleased and excited. Our son Beck has had a wonderfully supportive and confidence-building experience this summer. As a kid who's struggled with self-confidence and bullying at school this past year, Beck started out uncertain and quiet. In his several weeks at CYC, Beck has shown new-found self-assurance and has, with the active and ongoing support of Executive Director Sherilyn Napoli and her staff, stepped up as a mentor and leader with his fellow campers. The nurturing and supportive environment Ms. Napoli has created, imbued with kindness and clear expectations and accountability, is remarkable and appreciated.

I want to call out that Sherilyn Napoli is a fantastic asset to CYC, and I want to make sure that her strong positive impact and influence are recognized and acknowledged. She is kind and welcoming. She also holds all of the campers to high standards and puts up with no nonsense. She expects accountability and kindness from them towards each other, and works consistently to encourage, support, and coach them to the best versions of themselves. Please do everything in your power to reinforce the work that Ms. Napoli is doing. She's a keeper :-).

Sincerely,

Jason Lande

Father of 11 yr. old Beck Lande, CYC Summer Day Camper

650.796.8675

To whomever it may concern,

I am writing on behalf of my children's experience at their first summer camp. From registration, to applying for a scholarship for both of my girls, to arriving on their first day of camp, we have been nothing but happy. Sherilyn and her employees are always greeting us with a smile that welcomes you with warmth. When I pick up my girls at the end of the day they are smiling ear to ear trying to tell me absolutely everything that happened that day, and all I feel is security, happy vibes, and inclusiveness.

Our experience at the CYC is exactly what we needed for our family that is transitioning financially and struggling emotionally. They have truly touched our hearts and I will never stop talking about how wonderful this place is for my 5 year old twin girls, and every child that receives an opportunity to attend. The activities, art, themes, and follow through each day is well thought out and I feel like my girls are learning just as much as they are having fun. I truly feel we were blessed, and I hope my girls can return for many years to come. We love the CYC!

Sincerely,

Marisa, Lena and Lila

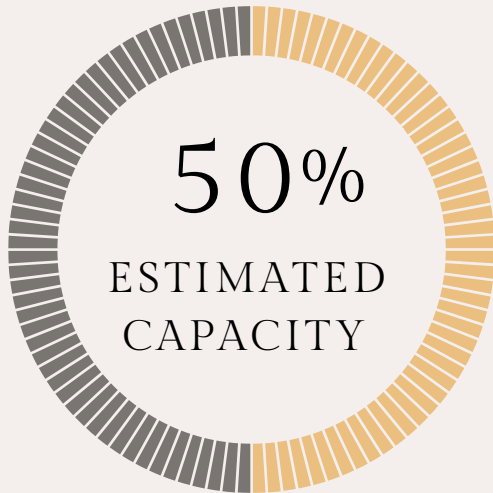
Attachment 1

SERVING THE CARMEL AREA & BEYOND

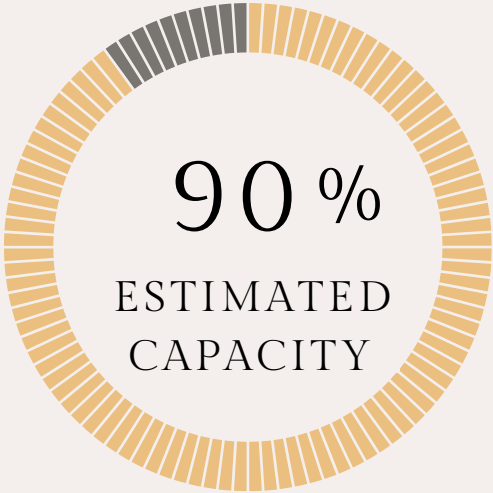
- providing care for residents, neighbors, and the Carmel labor force -



○ —————
2021



○ —————
2024



○ —————
2025



○ —————
2026

*ASSUMING
CAPITAL IMPROVEMENTS



CITY OF CARMEL-BY-THE-SEA CITY COUNCIL Staff Report

October 1, 2024
ORDERS OF BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Ashlee Wright, Director, Libraries & Community Activities
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Receive the 2024 Car Week After Action Report and provide staff with feedback and direction

RECOMMENDATION:

Receive the 2024 Car Week After Action Report and provide staff with feedback and direction.

BACKGROUND/SUMMARY:

Since its inception, “Car Week” has evolved from being just a handful of events during the span of a week, to tens of public and private events held over the span of a week and a half on the peninsula.

This year “Car Week” took place from Friday, August 9 through Sunday, August 18. This After Action Report seeks to discuss traffic and safety impacts to Carmel-by-the-Sea during Car Week, as well as a breakdown of any issues with events held in the Village and to propose mitigation tactics to counter these effects in subsequent years.

EVENTS HELD IN CARMEL-BY-THE-SEA

For 2024 staff worked with event organizers from the previous year to build on the events that they presented in 2023, understanding that if there are events in Carmel during Car Week that they would like to get back to the look and feel of the pre-pandemic events. With the expansion of Concours for a Cause on Tuesday and Prancing Ponies and the Concorso Carmel on Thursday this year looked and felt more like Car Week pre-pandemic than it has in the past few years. There were four permitted events in Carmel-by-the-Sea this year:

- Tuesday, August 13 Concours for a Cause
- Wednesday, August 14 Astons on the Avenue
- Thursday, August 15 Prancing Ponies

- Thursday, August 15 Ferrari Owners' Club Concours Carmel

Concours for a Cause

The Concours for a Cause event was held Tuesday, August 13, 2024 in Devendorf Park from 10:00 a.m. to 4:00 p.m. The event was held on Ocean Avenue between Junipero and Dolores Streets, inclusive of the side streets between Sixth and Seventh Avenues. Event set-up began at 12:00 a.m. and event breakdown was completed by 8:00 p.m. This was the second year for this event in Carmel-by-the-Sea and it featured classic cars organized by country, some of which were previous participants and award winners at past Concours on the Avenue events. In addition there were local artisans creating car centric artwork, as well as music, by The Sun Kings, The Money Band, and the Italian All-stars, and seating for a respite after walking the village. In addition the event organizer partnered with local restaurants to feature them within the event. There were no issues with safety or the load-in/load-out of the event.

Astons on the Avenue

This was the first year for Astons on the Avenue event, which grew out of parking stall rentals in front of the Meuse Gallery in 2023. The event was held on Wednesday, August 14, 2024 from 10:00 a.m. to 4:00 p.m. on Ocean Avenue from Dolores Street down to Monte Verde Street. Load-in started later than anticipated, but all of the cars were in place by late morning. There were no issues with this small event and they plan to return next year.

Prancing Ponies All Woman Car Show

The Prancing Ponies event was held Thursday, August 15, 2024 from 10:00 a.m. to 4:00 p.m. This is the 6th year this event was held in the City. Ocean Avenue was closed from Junipero to San Carlos Street. Mission Street was also closed between Red Eagle Lane and Sixth Avenue. Event set-up began at 12:00 a.m. and event breakdown began at 4:00 p.m. There were no major issues with this event.

Ferrari Owners Club Concorso Carmel

This was the second year of the Concorso held on Thursday, August 16, 2024 from 9:00 a.m. to 4:00 p.m. The event was held on Dolores Street between Ocean and Seventh Avenues. Event set-up began at 1:00 a.m. and breakdown was completed by 7:30 p.m. This judged event featured curated vintage and modern Ferraris and Italian motorcycles, music, interviews with car owners and award ceremony. There were no issues with safety or the load-in/load-out of the event. We will work with the organizers to work towards clearing the event out quicker so we can open up traffic and set up the traffic calming system as close to 6:00pm as possible.

Overall Event Summary

Overall, each event ran very smoothly and there were no major issues to report. Since Car Week 2022 staff have been receiving feedback that they would like to see a Concours on the Avenue-like event. The village's

patience was rewarded this year with the expansion of Concours for a Cause, the addition of Astons and the Avenue, and the expansion of Prancing Ponies and Concorso Carmel. Staff is looking forward to working with all of the event organizers for 2025.

Further, staff received positive feedback on this year's Czinger event held at the Sunset Center, which had had some issues in 2023 that impacted the neighbors.

PARKING STALL PERMITS

In the early 2000's the City began renting individual parking stalls in the downtown commercial district for non-construction purposes or as part of a special event permit. The purpose of the individual parking stall rentals was intended to allow businesses to set-up valet services during busy times of the year for their patrons or to park prestigious vehicles in front of their businesses to draw visitors to their establishments. Prior to the pandemic parking stall permits were not issued on the Tuesday and Thursday of Car week, due to the all-encompassing size of the events traditionally held on these days - COTA and the Tour. Spaces were rented for the remaining days of the week during Car Week.

Currently, if someone wants to rent a parking stall they must complete a parking stall permit application through the Community Activities Department. If the applicant is requesting the placement of carpet, stanchions, etc. in the parking stall in addition to parking a vehicle they must also submit an Encroachment Permit through the Community Planning and Building Department.

Pricing for the rental of parking stalls is scaled based on the time of year, with higher rental rates during Peak Demand times, including the weeks surrounding the December Holidays, major golf events at Pebble Beach, and during Car Week. The cost for the rental of parking stalls is \$100 per stall/day and \$200 per stall day during Peak Demand Rental time. If the applicant is requesting the placement of carpet, stanchions, etc. in the parking stall in addition to parking a vehicle they must also pay the fee for a Temporary Encroachment. During recent years demand for parking stall permits has been concentrated during and around Car Week, very few if any parking stall permit applications are received around the December Holidays or major golf events.

Last year the Council approved some additional restrictions on parking stall rentals during Car Week that included:

- Vehicles placed in the rented parking stalls remain in that stall for the entire day unless they are actually being used for valet services.
- Businesses who rent the parking stalls understand that they are responsible for whatever happens as a result of that parking stall rental regardless of who owns the vehicle - including providing security to keep onlookers out of the streets.
- No rental of the green zone 30 minute parking stalls at the corners of blocks, as this contributes to congestion around intersections which can be hazardous to onlookers, as well as through traffic.

Staff recommends keeping these restrictions in place for next year. In particular, L'Auberge worked with City staff through multiple meetings to develop a plan for managing crowds and traffic control with private

security with excellent results.

TRAFFIC, NOISE, AND SAFETY IMPACTS

Again, as in past years, Carmel-by-the-Sea was inundated with specialty vehicles known as “exotics”. Exotics are a group of exclusive and expensive high performance vehicles owned or rented by enthusiasts and members of car clubs. “Exotic” cars have a large following and can draw substantial crowds and car enthusiast videographers who produce videos and other content for display on the internet and social media sites. Subgroups of exotics enthusiasts also enjoy demonstrating the engine power and high performance capabilities of exotic cars and similar cars designed for street racing. These enthusiasts or groups have in the past taken over streets and intersections in towns and cities to conduct illegal street races or to engage in reckless driving behavior in events called “Sideshows”. Groups and enthusiasts sometimes use messaging platforms like Twitter, Snapchat, You Tube, and/or Facebook to post videos of reckless driving and illegal car show activities. They also utilize social media to post the intended location of street racing sites with the intent to draw crowds to be spectators to dangerous acts, including speeding and burnouts through intersections. These groups have come to Carmel-by-the-Sea in the past and continue to conduct illegal “Sideshow” events all over the country.

Due to previous illegal “sideshows” in Carmel-by-the-Sea during Car Week, the City and Police Department coordinated plans to implement traffic calming measures on Ocean Avenue in the evenings to deter the take over of intersections on Ocean Avenue. Carmel-by-the-Sea has become known as a location where some of the most expensive and rare exotic cars are on display and drive the streets during car week. The high end exotics were parked on display throughout Car Week and were here in our City the entire week.

Like previous years, the high end exotic cars were parked in and around the downtown area prominently presented and displayed. Due to the multiple county wide events throughout the week it appeared more visitors ascended to our city to view the exotics parked everywhere after hours. By Friday and Saturday, there were large groups of people in town all day to view the cars, and the crowds increased into the evenings as other local events concluded. In response to past activity, the Police Department was able to control and dissipate the crowds using planned staffing of additional personnel, planned traffic calming measures on Ocean Avenue, engineered controls of traffic to alleviate cruising activities, and by utilizing mutual aid from neighboring agencies, including the traffic units from STOPP (Strategic Traffic Observation and Prevention Program) made up of units from Carmel, Monterey, Marina, and Salinas Police Departments.

As in years past, the Police Department took a “No Tolerance” approach to dangerous driving and to that end officers conducted 141 traffic stops for various violations including; Speeding, Exhibition of Speed, Reckless Driving, Registration Violations and Modified Exhaust. The Police Department also made two DUI arrests. The Police Department also issued approximately 447 parking citations for the week.

This year, the City experimented with speed bump traffic calming measures on Ocean Ave which proved successful at slowing down traffic entering and exiting the village. We also utilized our VIP program (Volunteers in Policing) program throughout the week. The VIPs were helpful in the successful outcome of these events by providing direction and guidance to event attendees. They provided a total of 45 hours of service during these events.

SURVEY RESULTS

After Car Week, staff issued a survey to the community seeking feedback on the events held in Carmel and Car Week overall (**Attachment 1**). There were 379 respondents and 151 of those were residents of 93921. Of all respondents 66.7% loved Car Week overall, 17.5% thought it was okay, and 15.9% did not like it at all. Last year 35% of respondents did not like Car Week in Carmel which decreased this year by close to 20%.

The stronger approval rating for 2024 was due in part to the expansion of the Concours for a Cause events which received very positive feedback this year, as well as the expansion of the Ferrari Owners' Club event on Thursday, and the addition of Astons on the Avenue. In terms of number of events, event layout throughout the downtown and overall feeling, this was the closest Car Week has been to the pre-pandemic days of Concours on the Avenue and the Tour d'Elegance.

Events continue to mostly receive positive ratings. The community's largest concerns and complaints around Car Week center around dangerous and reckless driving in Carmel and around the peninsula, disrespectful visitors, and noise. As with last year's survey, traffic and noise impacts were of concern, not only in the village, but peninsula wide, posing challenges for locals getting to appointments, school and work. Staff does participate in interjurisdictional meetings - both for public safety agency communications and planning, and for staff processing special event permits. While these concerns are discussed, at the staff level, it would likely take a larger change in mindset not only between all of the jurisdictions regarding number of and timing of events, but also that of the business and hospitality community who are a driving force championing the economic benefits of Car Week for the entire peninsula.

PLANNING FOR 2025

At the conclusion of Car Week, the Police Department made an evaluation of efforts and will be looking to re-evaluate traffic calming and engineered controls, staffing and planning of events, seek direction on how Car Week may be adjusted next year and in years to come, and evaluate best practices and implement changes to our planning and event management based on the expectations of Council, residents, and the business communities.

Staff recommends the following for next year to try mitigate the some negative effects of Car Week:

- Continuing to refine traffic calming measures in the downtown business district to seriously deter the cruising behavior that draws the exotics or similarly-minded car enthusiasts who come to Carmel to view and film the cars in the evenings.
- Continuing to work with event organizers to ensure security and non-police staffing for their events so that the Police Department can reserve resources for the evenings or other times to ensure Village security and to ensure a timely emergency response.
- Continuing to work with regional and state law enforcement assets to monitor car events and social media for information on illegal car activities.
- Continuing to enforce the "No Tolerance" approach to dangerous or illegal street activity.
- Continuing to work with Peninsula L.E. partners in developing mutual aid responses for partner cities,

including more planned resource sharing in the City.

- Continuing to improve signage and messaging through press, media, and social media to directly educate the public and potential visitors on Carmel-by-the-Sea event events and plans for road closures and police enforcement of traffic and parking rules.

Staff are also looking for Council direction on the following proposed additional mitigation tactics for next year:

- Increasing fines for certain violations of the Municipal Code during Car Week.
- Completely closing Ocean Ave during the evening hours to mitigate the street takeover/block party mentality and create a safe, friendly walking environment.
- Implementing the aforementioned modifications for the rental of parking stalls during Car Week

CONCLUSION

All of the permitted events held in Carmel-by-the-Sea went very smoothly this year and staff are looking forward to working with event organizers to start planning for Car Week 2025.

The traffic calming measures deployed on Ocean Avenue worked well to deter many of the fuel run groups, “side show” events, and street takeovers. City staff will look for ways to continue to improve these types of measures, in addition to exploring the deployment of strategically placed temporary speed bumps and other traffic calming measures at other potential key spots within the City limits.

Through thoughtful planning and coordination within City departments and other outside jurisdictions, staff will continue to strive to improve the safety and success of future Car Week events, and the safety of the village overall, as Car Week continues to grow in size and attendance throughout the peninsula.

FISCAL IMPACT:

There is no fiscal impact associated with receiving this report.

PRIOR CITY COUNCIL ACTION:

The Council receives an after-action report on Car Week each October.

ATTACHMENTS:

Attachment 1) Car Week Survey (Responses) Link

2024 Car Week Survey Results

Timestamp	I am:	How did you feel about Car Week in Carmel-by-the-Sea overall this year?	Why do you feel that way?
8/23/2024 14:55:11	A worker in 93921	It was okay.	Wish there were free snacks and drinks to give out
8/23/2024 17:01:42	A resident of 93921	It was okay.	Concours for a Cause was a hit. The other events were just ok.
8/23/2024 17:37:46	A resident of 93921	It was okay.	It was noisy, but am happy to see people having fun.
8/23/2024 17:45:18	police dept volunteer	Loved it.	It was such an upgraded 3 day event.....the cars, the bands, even the people attending were upgraded'

To view the entire 2024 Car Week Survey Results, go to our website here: https://ci.carmel.ca.us/sites/main/files/file-attachments/2024_car_week_survey_responses_for_website.pdf



CITY OF CARMEL-BY-THE-SEA

CITY COUNCIL

Staff Report

October 1, 2024
ORDERS OF BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Paul Tomasi, Chief of Police & Public Safety Director
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Receive a report from the Traffic Safety Committee on a proposed plan regarding the implementation of AB413 and provide direction

RECOMMENDATION:

Receive a report from the Traffic Safety Committee on a proposed plan regarding the implementation of AB413 and provide direction.

BACKGROUND/SUMMARY:

On October 2023, Governor Gavin Newsom signed assembly Bill 413 (AB413) into law (**Attachment 1**). The bill was authored by assembly member Alex Lee of San Jose and aims to increase visibility at crosswalks across California. The bill went into effect January 1, 2024 and adds a section to the existing California Vehicle Code Section; 22500: Stopping, Standing & Parking.

AB413, more commonly known as the Daylighting Bill went into effect January 1, 2024, with enforcement required to begin on January 1, 2025.

The added language to the California Vehicle Code Section 22500 is as follows: (n)(1)(A) Within 20 feet of the vehicle approach side of any marked or unmarked crosswalk or within 15 feet of any crosswalk where a curb extension is present.

Additional language to Section 22500 includes options for implementation and compliance of the law.

Option #1: A local authority may establish a different distance if both of the following requirements are met; (1) The local authority establishes the different distance by ordinance that includes a finding that the different distance is justified by established traffic safety standards; and (2) A local authority has marked the different distance at the intersections using paint or signs.

Option #2: A local authority may permit commercial vehicle loading or unloading within 20 feet of the vehicle approach side of any marked or unmarked crosswalk or within 15 feet of any crosswalk where a curb extension is present if both of the following requirements are met. (A) A local authority authorizes the commercial loading and unloading by ordinance and identifies the crosswalk or crosswalks in the ordinance; and (B) A local authority has marked the commercial loading and unloading areas with paint or signage.

Option #3: A local authority may permit spaces be used for bicycles or motorized scooters within 20 feet of a crosswalk.

In order to develop a plan for the city, where we meet the requirements of AB413, and increase pedestrian safety, staff took a three step approach to the proposed plan.

Step 1: Analyze accident data for the village:

- Over the past six years, analyzing accident data from 2019 to August 2024 there have been a total of 9 pedestrian versus vehicle accidents. Of those 9, only one potentially would have been avoided by the requirements of AB413. In this single accident, a contributing factor was darkness due to the time of night, which impacted the driver's ability to see the person in the crosswalk. In all other accidents, improving the sight view on the approach side of the intersection would not have made a difference in the outcome of the accident as the visibility being gained by this law would not have changed the outcome.

Step 2: Identify the intersections that have the highest probability for pedestrian versus vehicle accidents:

- This study focused on primarily the business district, including streets and intersections from Junipero to Monte Verde, and 5th Avenue to 8th Avenue.
- Intersections with the heaviest traffic and pedestrian traffic were identified.
- Intersections were identified by staff were primarily along Ocean Avenue and the intersections surrounding Devendorf Park.

Step 3: Determine the number of spaces in the business district.

Staff initially tallied all of the parking spaces available in the core of the village, consisting of Junipero to Monte Verde and 5th Avenue to 8th Avenue. Spaces counted include 2-hour, Commercial loading, 30/10-minute zones, and Disabled parking. Spaces not included are Hotel Loading Zones and spaces contained within parking lots or curbs that are already painted red.

Current Parking Stock (Attachment 2):

810 total spaces:

- 696 Two-hour parking spaces
- 102 Thirty/Ten minute zones
- 8 Commercial Loading Zones
- 4 Disabled Parking

The development of the proposed plan took into consideration the large number of 30-minute parking zones in the village and looked for opportunities to convert a number of these spaces into 20-minute commercial vehicle loading zones. This would still allow short term parking for vehicles.

The following plan, besides being flexible, may also help reduce the number of small vehicles double parking, which is often done for pick-ups and/or deliveries. The double parking creates lane closures which impacts traffic flow and increases an arguably greater risk to pedestrians. This plan does not address full size trucks which legally still can double park for deliveries.

Staff proposes the following plan (Attachment 3):

810 Total Spaces	Previously
687 Two-Hour Spaces	(696)
42 Thirty/Ten minute zones (Green)	(102)
39 Commercial Loading Zones (Yellow)	(8)
8 Bicycle/Motorized Scooter Spaces (White)	(0)
4 Disabled Spaces (Blue)	(4)
30 Red No Parking Spaces (Red)	(0)

Staff completed a study of the remainder of the city where spaces would be impacted by AB413. The following intersections were identified, and staff has made recommendations for these intersections.

- Junipero & 4th - Center Median - Red
- Mission & 4th - NE Corner - Loading
- Mission & 4th - NW Corner - Loading
- San Carlos & 4th - SE Corner - Loading
- San Carlos & 4th - NE Corner - Loading
- San Carlos & 12th - SE Corner - Red
- San Carlos & 9th - SE Corner - Loading
- San Carlos & 9th - SW Corner - Loading
- Dolores & 9th - SW Corner - Loading
- Casanova & 8th - NE Corner - Red
- Camino Real & 8th - NE Corner - Loading
- Camino Real & 8th - SW Corner - Loading
- Carmelo & 8th - NE Corner - Loading
- Carmelo & 8th - SE Corner - Loading
- San Antonio & 8th - NE Corner - Red
- Camino Real & 7th - NE Corner - Red

A total of:

- Five (5) Red Zones
- Eleven (11) Commercial Loading Zones

This plan was presented to the Traffic Safety Committee on August 28, 2024. The Traffic Safety Committee received the report with a proposal to bring the final plan to City Council for approval and recommendations.

This plan gets us complaint with AB413 and allows for flexibility based on future needs of the city while limiting the impact on our existing available parking. Future changes to the plan would be made by the Traffic Safety Committee, unless required to be made through the City Council. If approved by Council, staff will return in November for the first reading of an ordinance identifying the parking spaces being converted to Commercial Loading Zones and begin implementation of the proposed plan.

FISCAL IMPACT:

There is virtually no additional fiscal impact as the proposed plan involves the application of paint by Public

Works, which is already a function fully budgeted by the Department.

PRIOR CITY COUNCIL ACTION:

None

ATTACHMENTS:

Attachment 1) AB 413 Vehicle Code Amendment

Attachment 2) Existing Parking Map

Attachment 3) Proposed Parking Map

Assembly Bill No. 413

CHAPTER 652

An act to amend Section 22500 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 10, 2023. Filed with Secretary of State October 10, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 413, Lee. Vehicles: stopping, standing, and parking.

Existing law prohibits the stopping, standing, or parking of a vehicle in certain places and under certain conditions, including within an intersection, on a sidewalk or crosswalk, or in front of a fire station. Existing law additionally authorizes local jurisdictions to, by ordinance, restrict parking in certain areas, at certain times, and for certain reasons, and to establish metered parking.

This bill would prohibit the stopping, standing, or parking of a vehicle within 20 feet of the vehicle approach side of any unmarked or marked crosswalk or 15 feet of any crosswalk where a curb extension is present, as specified. The bill would, prior to January 1, 2025, authorize jurisdictions to only issue a warning for a violation, and would prohibit them from issuing a citation for a violation, unless the violation occurs in an area marked using paint or a sign.

By restricting parking in certain areas, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Digest Key

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

Bill Text

The people of the State of California do enact as follows:

SECTION 1.

Section 22500 of the Vehicle Code is amended to read:

22500.

A person shall not stop, park, or leave standing any vehicle whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or official traffic control device, in any of the following places:

- (a) Within an intersection, except adjacent to curbs as may be permitted by local ordinance.
- (b) On a crosswalk, except that a bus engaged as a common carrier or a taxicab may stop in an unmarked crosswalk to load or unload passengers when authorized by the legislative body of a city pursuant to an ordinance.
- (c) Between a safety zone and the adjacent right-hand curb or within the area between the zone and the curb as may be indicated by a sign or red paint on the curb, which sign or paint was erected or placed by local authorities pursuant to an ordinance.
- (d) Within 15 feet of the driveway entrance to a fire station. This subdivision does not apply to any vehicle owned or operated by a fire department and clearly marked as a fire department vehicle.
- (e) (1) In front of a public or private driveway, except that a bus engaged as a common carrier, schoolbus, or a taxicab may stop to load or unload passengers when authorized by local authorities pursuant to an ordinance.
- (2) In unincorporated territory, where the entrance of a private road or driveway is not delineated by an opening in a curb or by other curb construction, so much of the surface of the ground as is paved, surfaced, or otherwise plainly marked by vehicle use as a private road or driveway entrance, shall constitute a driveway.
- (f) On a portion of a sidewalk, or with the body of the vehicle extending over a portion of a sidewalk, except electric carts when authorized by local ordinance, as specified in Section 21114.5. Lights, mirrors, or devices that are required to be mounted upon a vehicle under this code may extend from the body of the vehicle over the sidewalk to a distance of not more than 10 inches.
- (g) Alongside or opposite a street or highway excavation or obstruction when stopping, standing, or parking would obstruct traffic.
- (h) On the roadway side of a vehicle stopped, parked, or standing at the curb or edge of a highway, except for a schoolbus when stopped to load or unload pupils in a business or residence district where the speed limit is 25 miles per hour or less.
- (i) Except as provided under Section 22500.5, alongside curb space authorized for the loading and unloading of passengers of a bus engaged as a common carrier in local transportation when indicated by a sign or red paint on the curb erected or painted by local authorities pursuant to an ordinance.

(j) In a tube or tunnel, except vehicles of the authorities in charge, being used in the repair, maintenance, or inspection of the facility.

(k) Upon a bridge, except vehicles of the authorities in charge, being used in the repair, maintenance, or inspection of the facility, and except that buses engaged as a common carrier in local transportation may stop to load or unload passengers upon a bridge where sidewalks are provided, when authorized by local authorities pursuant to an ordinance, and except that local authorities pursuant to an ordinance or the Department of Transportation pursuant to an order, within their respective jurisdictions, may permit parking on bridges having sidewalks and shoulders of sufficient width to permit parking without interfering with the normal movement of traffic on the roadway. Local authorities, by ordinance or resolution, may permit parking on these bridges on state highways in their respective jurisdictions if the ordinance or resolution is first approved in writing by the Department of Transportation. Parking shall not be permitted unless there are signs in place, as may be necessary, to indicate the provisions of local ordinances or the order of the Department of Transportation.

(l) In front of or upon that portion of a curb that has been cut down, lowered, or constructed to provide wheelchair accessibility to the sidewalk.

(m) In a portion of a highway that has been designated for the exclusive use of public transit buses.

(n) (1) (A) Within 20 feet of the vehicle approach side of any marked or unmarked crosswalk or within 15 feet of any crosswalk where a curb extension is present.

(B) Notwithstanding subparagraph (A), a local authority may establish a different distance if both of the following requirements are met:

(i) A local authority establishes the different distance by ordinance that includes a finding that the different distance is justified by established traffic safety standards.

(ii) A local authority has marked the different distance at the intersection using paint or a sign.

(2) Notwithstanding paragraph (1), a local authority may permit commercial vehicle loading or unloading within 20 feet of the vehicle approach side of any marked or unmarked crosswalk or within 15 feet of any crosswalk where a curb extension is present if both of the following requirements are met:

(A) A local authority authorizes the commercial vehicle loading and unloading by ordinance and identifies the crosswalk or crosswalks in the ordinance.

(B) A local authority has marked the commercial loading and unloading areas with paint or signage.

(3) Notwithstanding paragraph (1), a local authority may permit parking for bicycles or motorized scooters within 20 feet of a crosswalk.

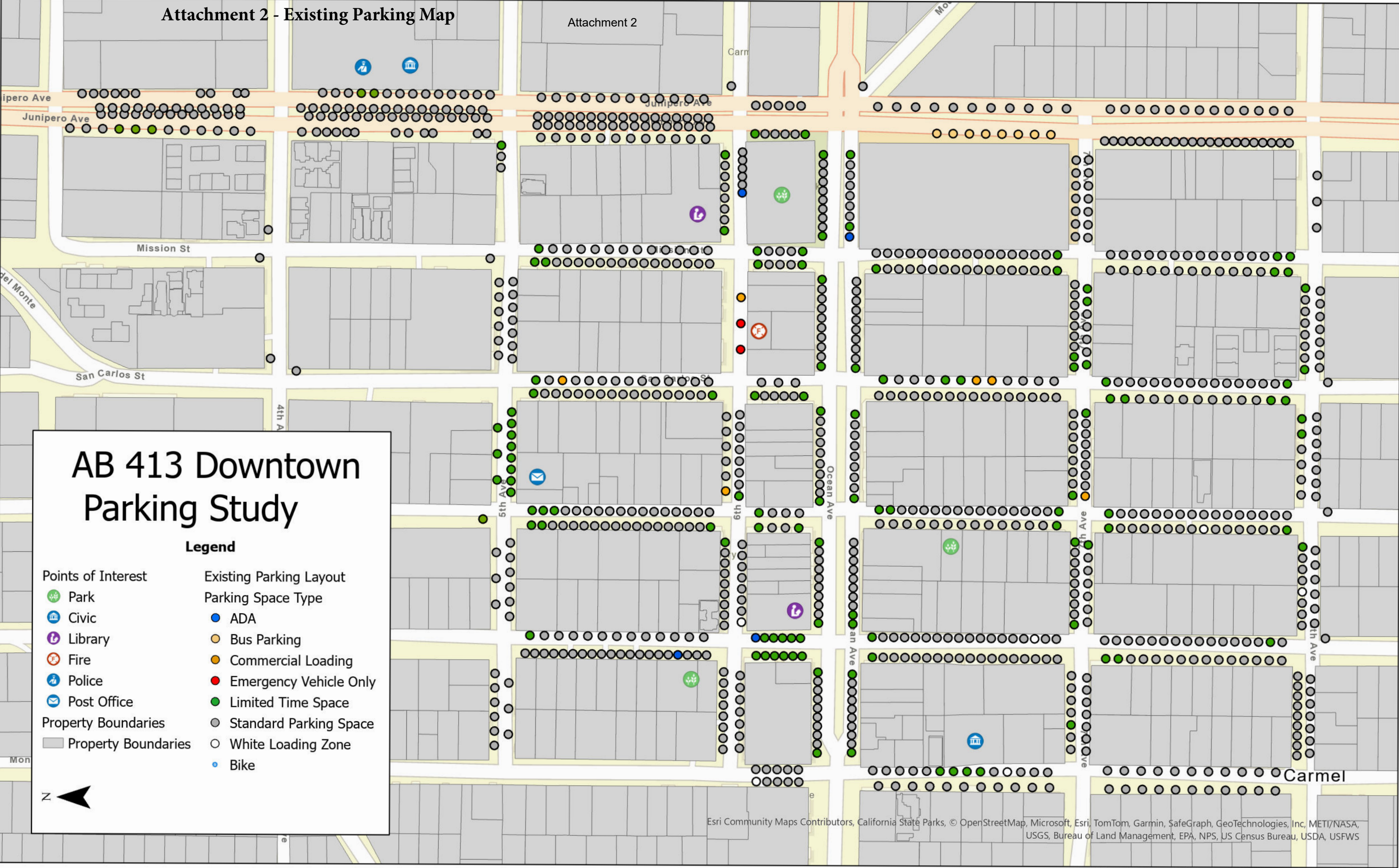
(4) Prior to January 1, 2025, jurisdictions may only issue a warning, and shall not issue a citation, for a violation unless the violation occurs in an area marked using paint or a sign.

SEC. 2.

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Attachment 2 - Existing Parking Map

Attachment 2



AB 413 Downtown Parking Study

Legend

Points of Interest

- Park
- Civic
- Library
- Fire
- Police
- Post Office

Property Boundaries

- Property Boundaries

Existing Parking Layout

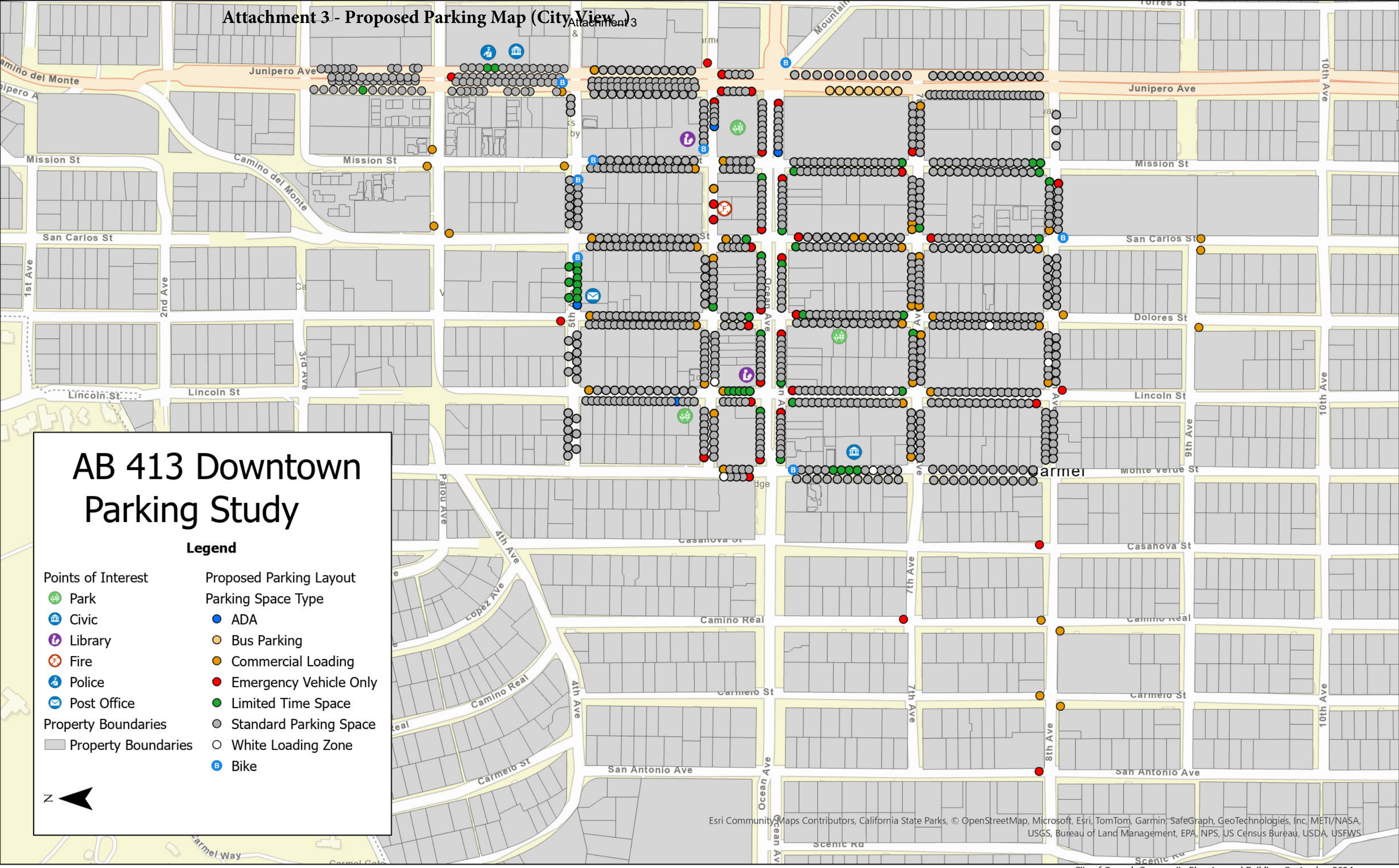
Parking Space Type

- ADA
- Bus Parking
- Emergency Vehicle Only
- Limited Time Space
- Standard Parking Space
- White Loading Zone
- Bike



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Attachment 3 - Proposed Parking Map (City View)



AB 413 Downtown Parking Study

Legend

Points of Interest

- Park
- Civic
- Library
- Fire
- Police
- Post Office

Property Boundaries

- Property Boundaries

Proposed Parking Layout

Parking Space Type

- ADA
- Bus Parking
- Commercial Loading
- Emergency Vehicle Only
- Limited Time Space
- Standard Parking Space
- White Loading Zone
- Bike



Esri Community Maps Contributors, California State Parks, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA, USFWS

AB 413 Downtown Parking Study

Legend

Points of Interest

- Park
- Civic
- Library
- Fire
- Police
- Post Office

Property Boundaries

- Property Boundaries

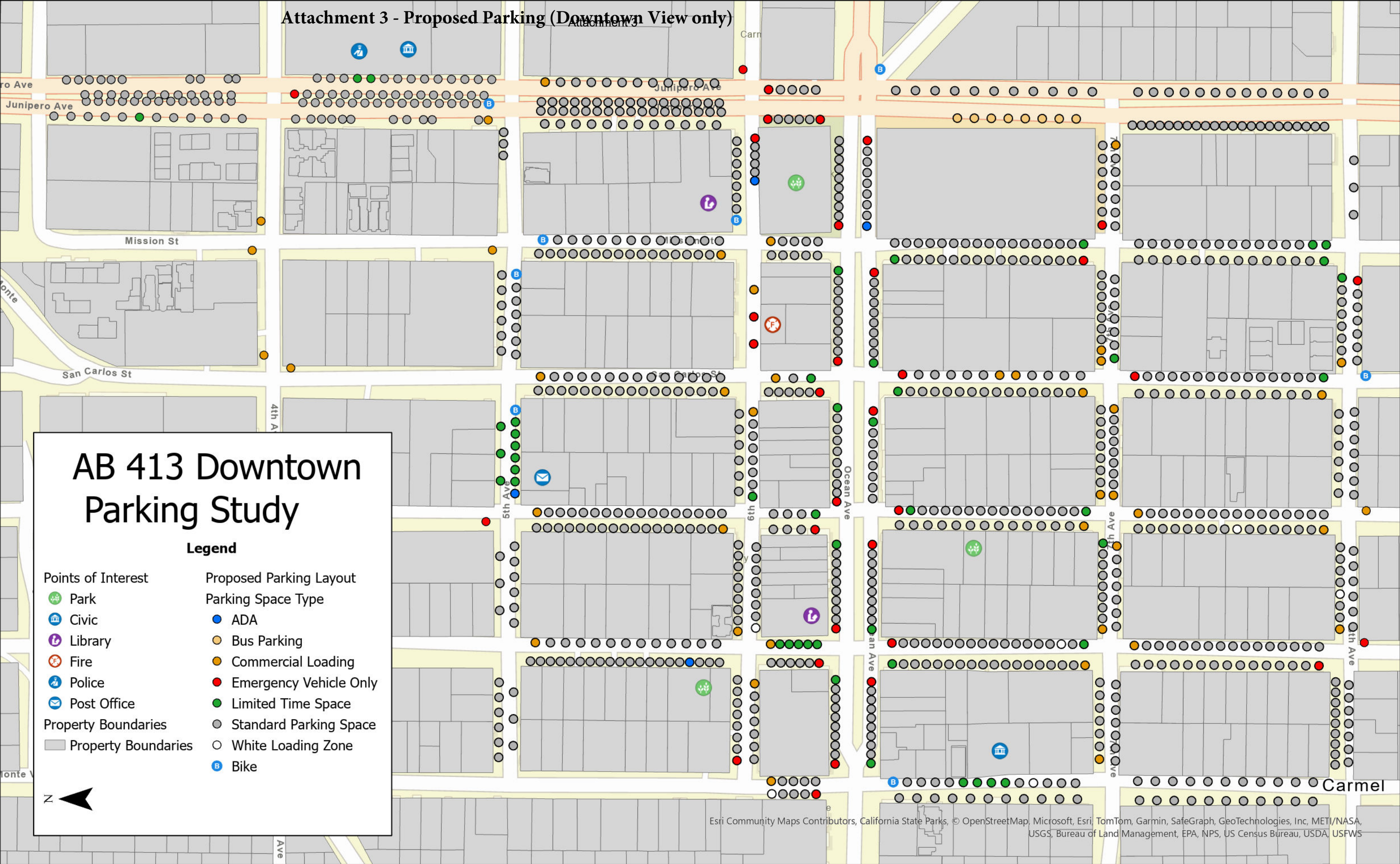
Proposed Parking Layout

Parking Space Type

- ADA
- Bus Parking
- Commercial Loading
- Emergency Vehicle Only
- Limited Time Space
- Standard Parking Space
- White Loading Zone
- Bike

North Arrow

▲



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CITY OF CARMEL-BY-THE-SEA CITY COUNCIL Staff Report

October 1, 2024
ORDERS OF BUSINESS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Robert Harary, P.E, Director of Public Works

APPROVED BY: Chip Rerig, City Administrator

SUBJECT: Resolution 2024-085 authorizing the City Administrator to execute a construction contract with Sharp Engineering & Construction, Inc., in an amount, including a contingency, of \$503,470 for the San Antonio Avenue Pedestrian Pathway Reconstruction Project

RECOMMENDATION:

Adopt Resolution 2024-085 authorizing the City Administrator to execute a construction contract with Sharp Engineering & Construction, Inc., in an amount, including a contingency, of \$503,470 for the San Antonio Avenue Pedestrian Pathway Reconstruction Project.

BACKGROUND/SUMMARY:

The San Antonio Avenue Pedestrian Pathway, located on the west side between Second and Fourth Avenues, was damaged by winter storms in early 2023. FEMA funding was promptly sought for reconstruction costs. While over \$100,000 of FEMA reimbursement is anticipated for storm damage, debris removal, and beach access, funding for these pathway repairs was not successful.

In January 2024, the City Administrator executed a Professional Services Agreement with ZFA Engineering, a local structural engineering firm, for design plans, structural calculations, technical specifications, and construction support for repairs needed to restore both this San Antonio Pathway and for approximately eight damaged walls surrounding the Sunset Center complex, for a combined not-to-exceed fee of \$55,500. The fee to design the San Antonio Pathway of \$19,500 was funded out of the Public Works/Streets and Forestry operating budgets in Fiscal Year (FY) 2023/24 and was substantially completed by the end of last FY. The plans and supporting documents were reviewed by the Building Department for a Building Permit readiness review. The design process revealed that the original construction was deficient in that while the original buried concrete piers were fine, the wooden lagging and posts supporting the grape stake fencing was not properly connected to the piers. Consequently, stormwater traveled along the west edge of the pathway, rotting the wooden lagging and bases of the wooden posts, resulting in the fence falling down.

In June 2024, Council adopted the Capital Improvement Program (CIP) Budget for FY 2024/2025 which included \$550,000 for the San Antonio Avenue Pedestrian Pathway Reconstruction Project, and a CIP

Contingency Fund of \$400,000 to cover any cost overruns that may occur during this current FY.

In July, the City's Project Management consultants at Ausonio, Inc. completed the plan reviews, compiled bidding and construction contract documents, and provided support during the bidding phase. Bid advertisement notices were published in the Carmel Pine Cone, Central Coast Builders Association, and posted on the City's and other public purchasing websites. In addition, courtesy calls and emails were sent to 30 contractors, including to the six contractors who attended the pre-bid meeting and site tour which took place on August 6th.

Three responsive, responsible bid proposals were received and opened at a Public Bid Opening held on August 29, 2024, with the following results:

Bidder	Bid Amount
Sharp Engineering & Construction, Inc.	\$437,800
Tyman Construction	490,000
The Don Chapin Company	739,000

Sharp Engineering & Construction's bid of \$437,800 is 3% below the Project Team's cost estimate of \$450,000.

Located in the Carmel Crossroads and established in 2009, Sharp Engineering & Construction possesses both Class A - General Engineering and B - General Building Contractor's licenses. They had favorable references, and in the past few years have completed several projects of a similar type and scope, including Public Works projects for the Carmel Area Wastewater District, City of Pacific Grove, California State Parks, and Sunnyslope Water District in Hollister.

The repair involves excavating around 44 concrete piers, constructing steel-reinforced concrete pier caps to support new steel column posts, replacing the wood lagging, installing grape stake fencing to match the appearance of the original fence, and restoring the pathway. Because much of the project involves underground construction on top of existing retaining walls in a narrow work zone, a 15% construction contingency of \$65,670 is recommended.

Work will take approximately three months to complete from the Notice to Proceed, weather permitting. Construction work will require the removal and pruning of a significant number of shrubs in the public right-of-way under the direction of the City Forester. Depending on the Contractor's proposed equipment and construction operations, up to three, non-significant City trees may also need to be removed and/or pruned. City crews will provide replanting following construction.

Construction will require the southbound lane of San Antonio Avenue, between Second and Fourth Avenues, to be shut down for construction staging and operations; however, all private driveways will remain accessible. The north-bound lane of San Antonio Avenue going into Pebble Beach will remain open. Southbound traffic from Pebble Beach into Carmel will need to detour east onto Second Avenue and then south on Camino Real to the end of the detour on Fourth Avenue. The Police Department agrees that this is the preferred detour plan during construction. As the City's construction managers, Ausonio will coordinate with the contractor to provide notifications to all affected residents and communicate regular updates as construction progresses.

Please note that a majority of the work will be completed along San Antonio Avenue in the southerly one third of the project site and the northerly one third of the site. The middle portion of the fence, approximately mid-way between Second and Fourth Avenues, did not encounter damage and does not warrant

reconstruction.

FISCAL IMPACT:

In June 2024, Council adopted the CIP Budget for FY 2024/2025 which included \$550,000 for this Project in CIP Account Number 301-311-00-43008. Council also approved a separate CIP Contingency Fund of \$400,000 for any CIP project that may need additional funds to proceed into construction.

The total estimated cost for this Project in the current FY, including the cost for the proposed construction contract with contingency of \$503,470, as well as required special building code inspections and geotechnical testing, are listed below.

No.	Company	Services	Cost
1	Ausonio, Inc.	Construction Management	\$45,000
2	ZFA Structural Engineers	Design Support during Construction	7,200
4	Sharp Engineering & Construction, Inc.	Construction – Base Bid	437,800
5	Sharp Engineering & Construction, Inc.	15% Contingency for Unforeseen Conditions	65,670
6	Moore Twinning & Assoc	Special Welding and Anchor Inspections (on-call)	15,000
7	Haro, Kashunich & Assoc	Geotechnical and Concrete Testing (on-call)	7,410
Total Cost			\$578,080

The total estimated Project cost of \$578,080 would deplete the \$550,000 CIP Budget appropriated for this Project. The balance needed to award the construction contract of \$28,080 is available from the \$400,000 CIP Contingency Fund and would leave \$371,920 (93%) available in the Contingency Fund for any future needs.

PRIOR CITY COUNCIL ACTION:

In June 2024, Council adopted Resolution 2024-047 adopting the FY 2024/25 CIP Budget which appropriated \$550,000 for the San Antonio Pedestrian Pathway Reconstruction Project plus \$400,000 for a separate CIP Contingency Fund.

In July 2024, Council adopted Resolution 2024-052 approving Amendment No. 2 to the Professional Services Agreement with Ausonio, Inc. to continue to manage the design and construction of five CIP projects, including this Project, during FY 2024/25 for a total not-to-exceed fee of \$125,000.

ATTACHMENTS:

Attachment 1) Resolution 2024-085

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL**

RESOLUTION NO. 2024-085

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA
AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONSTRUCTION CONTRACT
WITH SHARP ENGINEERING & CONSTRUCTION, INC., IN AN AMOUNT, INCLUDING A
CONTINGENCY, OF \$503,470, FOR THE SAN ANTONIO AVENUE PEDESTRIAN PATHWAY
RECONSTRUCTION PROJECT**

WHEREAS, the San Antonio Avenue Pathway fencing, located on the west side between Second and Fourth Avenues, was damaged by winter storms in early 2023; and

WHEREAS, in January 2024, the City Administrator executed a Professional Services Agreement with ZFA Engineering to prepare structural design plans, calculations, and specifications for repairs needed to restore the Pathway; and

WHEREAS, in June 2024, Council adopted Resolution 2024-047 approving the Fiscal Year (FY) 2024/25 Capital Improvement Program (CIP) Budget which appropriated \$550,000 to fund this Project and established a separate CIP Contingency Fund in the amount of \$400,000 for any CIP project that may need additional funds to proceed into construction; and

WHEREAS, in July 2024, Council approved Amendment No. 2 to the Professional Services Agreement with Ausonio, Inc. to continue to provide Project and Construction Management services to oversee five CIP projects, including this Project; and

WHEREAS, three responsive construction bids were received at the Public Bid Opening held on August 29, 2024; and

WHEREAS, Sharp Engineering & Construction, Inc., of Carmel, submitted the lowest base bid of \$437,800 which was 3% below the Project Team's cost estimate; and

WHEREAS, due to risks associated with underground construction on top of existing retaining walls within a narrow work zone, a 15% contingency of \$65,670 is recommended, resulting in a total contract amount of \$503,470; and

WHEREAS, the total estimated Project cost for FY 2024/25, including the cost for construction with contingency, plus fees for construction management, engineering design support, special materials inspections, and geotechnical and concrete testing during construction, is \$578,080 which exceeds the \$550,000 CIP funding appropriated for this Project; and

WHEREAS, the balance needed of \$28,080 is available in the CIP Contingency Fund for FY 2024/25, leaving 93% of the Contingency Fund remaining for any CIP project that may need additional funds to proceed into construction; and

WHEREAS, a temporary detour will be required during construction limiting one-way travel along San Antonio Avenue, between Second and Fourth Avenues, with a detour via Second Avenue, Camino Real, and onto Fourth Avenue.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

Authorize the City Administrator to execute a Construction Contract with Sharp Engineering & Construction, Inc., in an amount, including a 15% contingency, of \$503,470 for the San Antonio Avenue Pedestrian Pathway Reconstruction Project.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 1st day of October, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Nova Romero, MMC
City Clerk



CITY OF CARMEL-BY-THE-SEA CITY COUNCIL Staff Report

October 1, 2024
ORDERS OF BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Robert Harary, P.E, Director of Public Works
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Receive a follow up presentation by Wave Astound Broadband to address public comments regarding their Fiber Optic Project and authorize issuance of an Encroachment Permit with Special Conditions of Approval.

RECOMMENDATION:

Receive a follow up presentation by Wave Astound Broadband to address public comments regarding their Fiber Optic Project and authorize issuance of an Encroachment Permit with Special Conditions of Approval.

BACKGROUND/SUMMARY:

At the October 3, 2023 City Council meeting, Public Works staff and a representative of Wave Astound Broadband (Wave) presented a proposed Fiber Optic Project that has been in review in some form with the City since 2017. The bulk of the Project consists of installing a continuous fiber optic cable attached to existing PG&E power poles in the northern and central portions of the City, and installing a segment of fiber optic conduit below San Carlos Street between Ocean and Seventh Avenues. The Staff Report, which includes the Project Location Map, is included in **Attachment 1**.

The Public Works and Community Planning and Building Departments have performed extensive reviews of the proposed Project alignment, plans, and potential impacts. Thirty Nine (39) Special Conditions of Approval to a proposed Encroachment Permit were prepared to minimize public disruption during and after installation, and all conditions were accepted by Wave. Included in the permit application process was an Arborist Report documenting all trees in the easterly half of the Project. Although aerial cables are to be installed through existing tree crowns, no trees will be removed, and utility pruning, which is expected to be minimal, will be performed by a Certified Arborist with utility line clearance certification under the direction of the City Forester.

Once started, construction is anticipated to last approximately three months, pending weather conditions. Wave will provide construction management over their contractors, and Public Works will lead the oversight during construction and help resolve problems as they arise. The Directors of Public Works and Public Safety have the authority to immediately shut down the Project if serious problems or safety issues arise.

October 2023 Council and Public Comments and Responses

At the October meeting, Councilmembers and the public voiced various questions and concerns regarding the proposed Project. Council directed staff to work with Wave to address these comments and return to Council with responses.

Below are the questions and comments received at that meeting and our collective responses. At the next Council meeting, Wave will expand on certain responses, such as how the existing poles are checked to ensure their stability when the additional cable is added, size and weight of the cable, pros and cons for undergrounding at this time, customer service ratings, and potential benefits for upgrading the fiber optic network.

1. Question: Can the public see Wave's Application?

Response: The Permit Application is included in **Attachment 2**. The construction plans, traffic control plans, technical reports, and other information are available for review at the Public Works Office upon appointment. Staff does not recommend attaching all of the detailed plans and technical documents to the Staff Report.

2. Question: Was the weight of the cable evaluated with the structural integrity of the power poles they are being placed on?

Response: Yes. Up to eight support anchors or guy wires are required to reinforce the poles. See also Question 15 and a letter from Wave shown in **Attachment 5**.

3. Question: Can Wave ensure the Project will be constructed in its entirety and to the satisfaction of the City? Can they post a Performance Bond?

Response: In response to this comment, a Special Condition of Approval was added to require Wave to post a Performance Bond in the amount of \$100,000. See **Attachment 3**, Condition #4.

4. Comment: This Project is not minor and is not Exempt under the California Environmental Quality Act (CEQA).

Response: Staff confirmed that this Project is exempt from CEQA in accordance with Section 15303 (Class 3) of the CEQA Statutes.

5. Question: Will the cable be attached to any trees?

Response: No.

6. Question: Will more fiber optic lines be installed in the City?

Response: Possibly from Wave and/or other utility providers in the future. This would require a separate Encroachment Permit(s) and project-specific Conditions of Approval based on the scope of the proposed future projects.

7. Question: Is Wave entitled to install the new Fiber Optic as a matter of right? _

Response: The company has a state franchise to use the public right-of-way for their new fiber optic facilities, but it is subject to the City's authority to reasonably determine whether the proposed installations will incommode the public use of the streets. This can include a consideration of aesthetics. The City cannot charge a fee for using the public right-of-way, but can charge for permits.

8. Question: What discretion does the City have regarding this item in terms of either denying the encroachment permit or imposing conditions?

Response: Under state law, denial is allowed if the installation would incommode the public use. The City established the criteria for exercising its authority over utility encroachments in Carmel Municipal Code (CMC) Chapter 12.08, (see 12.08.050 and 12.08.060 among others), for the standards, process, and some conditions. The City would have to approve the application if the applicant meets the code standards. Conditions of approval are common. They must be reasonable and proportionate. Also refer to Special Legal Counsel analysis in **Attachment 6**.

9. Question: Is the City entitled to collect a Franchise fee for this project?

Response: The City will not receive any Franchise Fees for the proposed fiber cable for the following reasons. Under state law, local governments have no authority to grant or refuse to grant franchises to communications companies to allow them to use local public rights of way. Franchises are granted pursuant to state law. Telephone companies have a statutory state franchise under Public Utility Code 7901 to use all public rights of way within the state, and in most cases are also required to obtain a Certificate of Public Convenience and Necessity (CPCN) from the California Public Utilities Commission (CPUC). Cable TV/video service providers are required to obtain a state video franchise from the CPUC under Public Utility Code 5840.

Telephone companies and cable TV/video service providers do not need any additional franchise or authorization to provide internet services. Under state law, the City may collect very limited franchise fees. Cable TV/video service providers must pay a franchise fee to the City in the amount of 5% of gross revenues derived solely from the provision of cable TV/video services to residents and businesses within the City; they do not pay franchise fees on other revenues such as internet. No franchise fees may be collected from telephone companies.

Astound LLC is authorized by the state both as a telephone company with a CPCN, and as a video/cable TV services provider. Astound intends to use its fiber network to offer business and enterprise class broadband internet and telephone. The current footprint of Astound's video/cable TV authorization does not include Carmel-by-the-Sea so it cannot offer cable TV/video services to residents/businesses at this time. If in future, the company decides to offer video services within the City, then it would have to obtain an amendment to its state authorization from the CPUC, and Astound would then have to pay franchise fees to the City on those cable TV/video services revenues.

10. Comment: The Project appears to be inconsistent with the General Plan.

Response: The General Plan does not include a specific policy requiring undergrounding of new electrical/fiber utilities. In the General Plan Public Facilities and Services Element, Graph 6.1, "Priorities for Improving/Maintaining City Facilities," notes that based on a 1982 community survey, 59% of respondents stated that undergrounding utilities was "most important."

11. Comment: The Project appears to be inconsistent with Carmel Municipal Code Section 13.32, Cable System Regulations.

Response: Staff's review of CMC Section 13.32 did not reveal any inconsistencies with the proposed Project.

12. Question: What customer service ratings does Wave have?

Response: Wave will provide this information in their presentation at the Council meeting.

13. Question: Why can't Wave install the fiber optic cable underground by micro-trenching? Can Wave assure the City that they will relocate their aerial cable to underground when PG&E and other utilities are converting to underground, at no cost to the City?

Response: See Wave's letter in Attachment 5. The pros and cons of installing the fiber optic cable underground will also be explained by Wave during their presentation at the Council meeting.

14. Question: What types of benefits will this Project bring to Carmel-by-the-Sea?

Response: Wave will provide this information in their presentation.

February 2024 Additional Public Comments and Responses

Attachment 4 provides additional, written public comments that were received prior to the cancellation of the February 6, 2024 Council meeting. These additional comments and questions, and staff responses, are listed below.

15. Question: The (February 6th) staff report did not address the public and council's questions from the 10/3/23 meeting concerning safety and responsibility. Here are some links verifying that the California Public Utilities Commission cannot ensure our safety from electrical risk of overloading our telephone poles with joint utilities. There is a history of electrical fire death and destruction due to overloading telephone poles with joint utilities. (See Attachment 4.)

Response: Wave is required by the CPUC General Order 95 to evaluate every pole and confirm that they meet or exceed a factor of safety of 2.67. Generally, all poles have a safety factor of 3 or greater. Based on the evaluation of every pole, Wave will need to install 8 anchors with each requiring a down guy to the utility pole. Also see Wave's letter in **Attachment 5**.

16. Question: Please find enclosed an article from The Fiber Optic Association.

FTTA - Fiber to the Antenna

Today's users of mobile devices depend on wireless connections for their voice, data and even video communications. Even homes and businesses may depend on wireless, especially those who are not in urban or suburban areas served by FTTH (fiber to the home) or FTTC (fiber to the curb.) Some of us in the business now use the term FTTW for fiber to wireless, since wireless depends on fiber for the communications backbone and increasingly the connection to the wireless antennas, no matter what kinds of wireless we use.

Wireless is not entirely wireless. The easiest way to understand wireless is to think of it as a link that replaces the cable that connects your cellular or wireless phone to the phone system or the patch cord that connects your computer or other portable Internet device to the network. To understand wireless, it is necessary to look at several different and unique types of wireless systems, including cellular wireless phones, wireless in premises cabling, municipal or private wireless links and even some of the short distance links used for computer peripheral connections.

This FOA page focuses on fiber to the antenna, primarily looking at cell towers, but also antennas mounted on rooftops, small cells and distributed antenna systems (DAS.) Because of its variety, DAS will be covered in a separate page in more detail.

It became apparent to me after reading this article that the proposed Wave/Astound fiber optic installation is for Verizon. I also learned that Astound is a subcontractor for Verizon. Verizon's fiber network is the backbone for their wireless network so the project map makes it apparent to me that the route chosen was to hook up the fiber to Verizon's tower on the Dowd Arcade & also to hook up the fiber to Verizon's antennas on the Sunset Center roof. Why wasn't this explained in the Staff Reports? Because fiber is the backbone of Verizon's wireless network, this fiber optic project must start over & follow the protocol in our wireless ordinance. Wave/Astound has to begin again with the CBT S' Planning & Building & then present to the Planning Commission.

Response: Astound's cables here are not subject to the City's Wireless Ordinance. Astound is a public utility with the right to construct lines and serve the Village in its own right. That Verizon Wireless may be an Astound customer and contract with Astound to use fiber in these cables to connect its wireless facilities in the Village to the public switched telephone network, does not make the cables themselves a wireless facility. Astound is likely going to have other customers as well, and even if it didn't, that would not change its legal right to install the cables and provide its service to Verizon's site (like any other commercial customer). The Wireless Ordinance would also not apply for the reasons discussed below.

The Wireless Ordinance has some language about communications cables, but that language wasn't intended to capture cables connecting a wireless facility site to the public switched telephone network (the fiber/cables referred to by industry as "**backhaul**" – Mr. McWalters calls it the "backbone"). Astound's cables may be providing the backhaul for Verizon. But the Wireless Ordinance applies to the wireless facility at the fixed site, so it would capture only those cables between the antennas and other equipment at the site. The only situation where it might capture cables in the public right-of-way, is where multiple wireless facilities operate together as a system. That system would be the wireless facility (the Ordinance gives examples of Distributed Antenna System or small-cell network). That facility or system of facilities is then connected by backhaul to the public switched telephone network.

The Ordinance's definitions of wireless facility, base station, personal wireless service facility, and structure (among others) are also relevant to understand the overall distinctions. Also refer to Special Legal Counsel Legal Analysis in **Attachment 6**.

17. Question: Why isn't there an explanation for not putting all of the fiber optic cable underground?

Response: See Question 13 and letter from Wave in **Attachment 5**. The pros and cons of installing the fiber optic cable underground will also be explained by Wave during their presentation at the Council meeting.

18. Question: Why do the telephone poles need guy wires? How do you stress test the telephone poles to know which ones need guy wires or do they all need guy wires? From the 10/3/23 Staff Report under "Background Summary", 5th paragraph, is the following sentence: "Additionally, Wave will install up to 9 support anchors & guy wires to reinforce certain existing power poles." Why?

Response: See Questions 2, 16, and Wave's letter in **Attachment 5**. Wave will further explain how the power poles were checked and the need for support anchors and guy wires during their presentation at the Council meeting.

19. Question: Why did Wave/Astound pay \$19,306 towards an “Encroachment Permit” before the Permit was issued?

Response: City permits are not issued until applicable fees are paid to the City. Anticipating issuance of an encroachment permit approximately two years ago, Wave posted the Encroachment Permit fees that were applicable at that time, although that may have been premature. The project evolved over the past two years, and the applicable fees have also increased. Wave is required to pay the balance of the fees prior to issuance of the Encroachment Permit.

20. Question: Under “Prior City Council Action” from 10/3/23 Staff Report is the following: “In September 2018, Council received a project presentation & authorized issuance of an Encroachment Permit with Special Conditions of Approval for a PG&E gas pipeline project installed across the northern portion of the city.” Why are you mentioning “a gas pipeline project” in a fiber optic staff report?

Response: The last time that the City Council approved an Encroachment Permit with Special Conditions of Approval for a significant utility project was in September 2018. That project consisted of installation of approximately one mile of new gas pipeline across the northern portion of the City. There are no other correlations between the two projects.

21. Question: In the 2/6/24 Staff Report under “Background” is the following sentence: “At the 10/3/23 City Council meeting, Public Works staff & a representative of Wave Astound Broadband (Wave) presented a proposed Fiber Optic Project that has been in review in some form with the City since 2017.” Is this supposed to reassure us that Wave/Astound has been properly vetted? It doesn’t reassure me.

Response: Wave submitted their original project plans to the City in 2017. Different configurations and alignments, as well as personnel changes, occurred since that time. The currently-proposed alignment, plans, and reports have been checked and are now acceptable to Public Works and the Community Planning and Building Departments. To minimize impacts to the public for this unique project, Special Conditions of Approval were developed as part of the Encroachment Permit. Staff is recommending that the Project proceed into the installation phase pending Council approval of the Encroachment Permit with these Special Conditions.

March 2024 Additional Public Comments and Responses

Verbal testimony was received from Mr. Twomey and Ms. Witt under Public Appearances at the March 5, 2024 Council meeting. Key additional (unique) comments and questions, and staff responses, are listed below.

22. Are the businesses along San Carlos, between Ocean and Seventh Avenues, and 100 feet towards Eighth Avenue aware of this underground boring?

Response: The underground portion of the project, along San Carlos Street, from south of Eighth Avenue to Ocean Avenue, will not be constructed by the open cut trench method. Rather, there will only be several boring pits excavated, and conduits will be jacked underneath the roadway between the pits. This will minimize disruption to the adjacent businesses. In addition, public notification requirements in Conditions of Approval #14 - #19 are also intended to notify all businesses that may be very temporarily affected along the alignment.

23. Comment: This project rises to the level of public concern, and we really owe it to the impacted residents and business community to have the Planning Commission provide oversight and insight to guide this significant project.

Response: The City Attorney's office has confirmed that there is no legal basis for the Planning Commission to review this Encroachment Permit. Refer to the Legal Analysis in **Attachment 6**.

24. How will the fiber optic connect from the public right-of-way to people's homes? I do not want overhead wires coming onto my home.

Response: The proposed fiber optic cable will not be directly attached to any private home. The only connections are at the terminus points at the Dowd Arcade and Sunset Center facilities. The proposed project will also not change any utility services to private properties.

25. Is Astound providing new services, or does this provide services that are already available to our residences?

Response: Wave is proposing to upgrade the existing service by replacing copper wire cables with state-of-the-art fiber optic cables.

26. What is the full geographic buildout of their fiber network (in the City)?

Response: The Project Map included in **Attachment 1** shows the entirety of this project within the City limits for this Encroachment Permit application. If Wave, or any other utility, requests to extent the fiber network beyond this project's limits in the future, that proposed project would be subject to a separate Encroachment Permit with special conditions of approval specific to that future project.

Environmental Review

The City finds that this Project is exempt from CEQA in accordance with Section 15303 (Class 3) of the CEQA Statutes for new construction and conversion of small structures. A Notice of Exemption will be filed by the City upon Project approval by the City Council.

FISCAL IMPACT:

Based on the combined length of the aerial cables and underground conduit, this Encroachment Permit fee is \$25,155, of which Wave previously paid \$19,306.

PRIOR CITY COUNCIL ACTION:

In October 2023, Council received a presentation from Wave Astound Broadband regarding installation of their proposed Fiber Optic Project and requesting authorization for issuance of an Encroachment Permit with Special Conditions of Approval. Council directed staff to work with Wave to address public comments and return to Council with responses.

This item was posted on the February 6, 2024 meeting agenda; however, the meeting was cancelled due to storms.

ATTACHMENTS:

Attachment 1) October 3, 2023 Staff Report and Project Map

Attachment 2) Encroachment Permit Application

Attachment 3) Updated Special Conditions of Approval, January 2024

Attachment 4) Additional Comments received prior to the February 6, 2024 meeting

Attachment 5) Wave Letter April 18, 2024

Attachment 6) Legal Analysis from City Attorney Office



CITY OF CARMEL-BY-THE-SEA CITY COUNCIL Staff Report

October 3, 2023
ORDERS OF BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Robert Harary, P.E, Director of Public Works
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Receive a Presentation by Wave Astound Broadband to introduce a new Fiber Optic Project and authorize issuance of an Encroachment Permit with Special Conditions of Approval

RECOMMENDATION:

Receive a Presentation by Wave Astound Broadband to introduce a new Fiber Optic Project and authorize issuance of an Encroachment Permit with Special Conditions of Approval.

BACKGROUND/SUMMARY:

Public Works and Community Planning & Building have been meeting with representatives of Wave Astound Broadband (Wave) off and on since 2017 to review Wave's proposed fiber optic project (Project). This Project has gone through multiple iterations over the years, and Wave and staff have recently reached consensus on the preferred alignment and measures to minimize impacts to the public during installation of this unique Project. Staff has also approved the construction plans, traffic control plans, and arborist report.

The bulk of the Project consists of installing continuous fiber optic cables attached to existing PG&E power poles in the northern and central portions of the City, and installing a segment of fiber optic conduit below San Carlos Street as detailed below.

As shown in the Project Location Map in **Attachment 1**, the overhead route begins in the County off of the Highway 1 Carpenter Street exit, and heads south along Carpenter Street into the City limits to the intersection with Ocean Avenue. The alignment turns west along Ocean Avenue to the intersection with Torres Street, and then turns south along Torres Street to the intersection of Eighth Avenue. At this point, the Project extends west along Eighth Avenue to the intersection with Cassanova Street. Finally, the alignment turns north along Cassanova Street until it veers northwest along Palou Avenue to a terminus pole near Second Avenue.

In conjunction with the overhead cables, a 2-inch conduit will be installed via boring, extending along San Carlos Street from Ocean Avenue to approximately 100-feet south of Seventh Avenue.

Additionally, Wave will install up to nine support anchors and guy wires to reinforce certain existing power poles. Each guy wire location has been found acceptable to Community Planning and Public Works staff.

Wave also submitted an Arborist Report documenting all trees in the easterly half of the Project. While the aerial fiber cables will be installed through existing tree crowns, no trees will be removed, and utility pruning, which is expected to be minimal, will only be performed by a Certified Arborist with utility line clearance certification, paid for by Wave, and under the direction of the City Forester. Based on the Arborist Report, the minimal impacts to existing trees, and required, continuous oversight by an Arborist, a report for the westerly portion of the project was excused.

As part of the Encroachment Permit process, staff developed 38 Special Conditions of Approval, as shown in **Attachment 2**. These Special Conditions were tailored to minimize disruption to residents along the alignment, protect or restore City and other facilities that may inadvertently be damaged, and provide a safe environment during construction.

Per the Special Conditions of Approval for the Encroachment Permit, Wave shall:

- Execute a Hold Harmless Agreement
- Provide increased general liability insurance limits
- Display a 24/7 hotline phone number for public concerns
- Provide ongoing coordination with Police, Fire, MST, GreenWaste, etc.
- Conform to approved traffic control plans
- Place parking notices 72-hours in advance
- Provide updated construction schedules on a weekly basis

- Coordinate and shutdown, if necessary, during City special events
- Provide a Certified Arborist with line clearance certification during all aerial fiber installations, and consult with City Forester for utility pruning
- Provide an archaeological monitor for underground work in archaeologically-sensitive zones
- For the San Carlos Street underground boring, protect City storm drains, CAWD sewer facilities, and Cal Am water lines, provide an independent testing laboratory for backfill, and restore the concrete street
- Reconstruct any damaged streets, sidewalk, sign, pavement markings, etc. to the City's satisfaction
- Reconstruct any damage to private property

At this time, construction is anticipated to begin by the end of the year and be completed within three months, pending weather conditions. Wave will provide construction management over their contractors, and Public Works will lead the oversight during construction and help resolve problems as they arise. The Directors of Public Works and Public Safety have the authority to immediately shut down the Project if serious problems or safety issues arise.

At the October 3, 2023 Council meeting, staff will introduce Mr. John Mosher, Senior Construction Manager at Wave, who will provide the presentation. The presentation will briefly describe the purpose of the Project, anticipated construction impacts, and mitigation measures.

Wave and City staff welcome comments from the public and City Council regarding this Project. Based on comments received, staff will finalize the Special Conditions of Approval for the Encroachment Permit to further minimize adverse impacts. Council is also requested to authorize the issuance of the Encroachment Permit.

ENVIRONMENTAL REVIEW

The City finds that this Project is exempt from CEQA in accordance with Section 15303 (Class 3) of the CEQA Statutes for new construction and conversion of small structures. A Notice of Exemption will be filed by the City upon Project approval by the City Council.

FISCAL IMPACT:

Based on the combined length of the aerial cables and underground conduit, this Encroachment Permit fee is \$25,155, of which Wave has previously paid \$19,306.

PRIOR CITY COUNCIL ACTION:

In September 2018, Council received a project presentation and authorized issuance of an Encroachment Permit with Special Conditions of Approval for a PG&E gas pipeline project installed across the northern portion of the City.

ATTACHMENTS:

[Attachment 1\) Project Location Map](#)

[Attachment 2\) Special Conditions of Approval for Encroachment Permit](#)





PERMANENT ENCROACHMENT PERMIT APPLICATION

City of Carmel-by-the-Sea
Department of Community Planning & Building
P.O. Box CC, Carmel, CA 93921
(831) 620-2010 OFFICE

EN Attachment 2
FEE PD _____
REC # _____
Copy Given to: _____
Date: _____

1. Property Owner: Astound Broadband, LLC Date: 03/24/2023

2. Project Location: See Attached Supplemental Page

Block: _____ Lot(s): _____ Parcel #: _____

Mailing Address: 215 Mason Circle City: Concord State: CA Zip: 94520

3. Contractor/Contact Person (Circle One): Albert Borbon

Mailing Address: 215 Mason Circle City: Concord State: CA Zip: 94520

Telephone # (925) 532-5670 E-Mail: albert.borbon@astound.com

Contractor State Lic #: See Supplemental Page
Type: _____

Contractor City Lic #: See Supplemental Page

4. Date Work is Scheduled to Begin: 05/01/2023 Projected Completion Date: 06/02/2023

PLEASE ATTACH SITE PLAN AND PHOTOS DETAILING PROPOSED

FULLY DESCRIBE ALL WORK PROPOSED: All work operations are detailed on attached plans and supplemental page for this project.

→PLEASE NOTIFY **USA DIG** (Call 811) **48 HOURS PRIOR** TO DIGGING

→PLEASE NOTIFY **PUBLIC WORKS DEPT.** (831-620-2074) **48 HOURS PRIOR** TO START OF WORK

→CONTROL OF DRAINAGE DURING **AND** AFTER CONSTRUCTION IS **REQUIRED.**

Applicant Acknowledgement

I understand and agree to comply with all pertinent conditions, standards and requirements as specified by the Carmel Municipal Code, State, County and Federal regulations pertaining to this permit application. I agree to properly maintain the subject work at no expense to the City and to indemnify the City from any liability arising from the permit issued. Acceptance by the City of the work described herein is not a waiver of my obligations as stated herein.

Applicant Name (Print Clearly): Cory L Pacheco on behalf of Astound Broadband, LLC

Signature: Cory L Pacheco Date: 03/24/2023

Digitally signed by Cory L Pacheco
Reason: I attest to the accuracy and integrity of this document
Location: Gilroy, CA
Date: 2023.03.24 10:48:58
Public Key: _____

CITY USE ONLY BELOW

Attachment 2

Lead Department: ☐ Planning & Building

☐ Public Works

Public Works: Approve/Disapprove

Forestry/Beach: Approve/Disapprove

By: _____ Date: _____

By: _____ Date: _____

Planning Department: Approve/Disapprove
(Optional)

Police Department: Approve/Disapprove
(Optional)

By: _____ Date: _____

By: _____ Date: _____

Additional Insurance: Approve/Disapprove
(Optional)

By: _____ Date: _____

Please protect all trees during construction:

→HAND DIG WITHIN 10 FEET OF TREES.

→NOTIFY FORESTER OF ROOTS 2" OR MORE THAT NEED TO BE CUT.

FINAL INSPECTION FROM PUBLIC WORKS: _____

DATE: _____

Attachment 2

**INSTRUCTIONS TO THE APPLICANT
PERMIT FOR ENCROACHMENT IN THE PUBLIC RIGHT-OF-WAY
CITY OF CARMEL-BY-THE-SEA**

An application for an encroachment in the public right-of-way includes all of the following steps.

1. Encroachment Permit Application

This is the first step in the process of requesting the City's approval for an encroachment in the public right-of-way. The application and the form entitled "Information Regarding Improvements in the ROW" are to be completed and returned, along with the encroachment application fee, as determined by the master fee schedule, to the Department of Community Planning & Building. A site plan sketch on an 8.5" x 11" sheet is also typically required (refer to the Site Plan Requirements handout, included with this application packet).

2. Hold Harmless Encroachment Agreement

Upon preliminary staff approval of the Encroachment Permit Application forms, submittal of the Hold Harmless Encroachment Agreement is required. This document must be executed by the legal owner(s) of the property adjacent to the public right-of-way upon which the encroachment is planned to be installed. The names must be written and signed as they appear in the official records of the City, i.e., "William L. and Elizabeth W. Jones" – not "Bill and Liz Jones." The applicant(s)' signature(s) must be notarized.

Special attention should be paid to paragraph 3 of this Agreement and the insurance requirements set forth therein. If the application is approved, **WORK MAY NOT BEGIN** until the Certificate of Insurance is on file with the City Clerk's Office.

IMPORTANT NOTICE

TO THE AGENT PROVIDING INSURANCE COVERAGE ON THE ADDITIONAL INSURED POLICY FORM

When required to supply Liability Insurance, either in the amount of **\$2,000,000** in combined single limit insurance for personal injury and/or property damage per occurrence and **\$4,000,000** in aggregate caused by or due to the present of the encroachment in the CC, SC, RC and R-4 districts OR **\$500,000** in the R-1 district it is imperative that the additional insurance coverage be in the form of an "endorsement" using the following language:

3. Notice Pursuant to Municipal Code § 12.08.110

"The City of Carmel-by-the-Sea, its elected officials, officers, agents and employees are additionally insured under the policy."

INFORMATION REGARDING IMPROVEMENTS IN THE PUBLIC

RIGHT-OF-WAY

NAME: Astound Broadband, LLCMAILING ADDRESS: 215 Mason Circle, Concord, CA 94520TELEPHONE: (Business): (925) 459-1038 (Home or Cell): (925) 532-5670
(E-Mail Address): albert.borbon@astound.comEXACT LOCATION OF PROPOSED ENCROACHMENT(S): See Supplemental Page

BLOCK: _____ Lot(s): _____ APN: _____

TYPE OF ENCROACHMENT(S): If there is more than one required (e.g. fence and steps), please list each separately.
Attach additional sheet(s) if necessary.

1. O'lash 11,607' +/- of Existing Strand/Cable w/ (1) FOC
2. Place 11 New Anchors
3. Open Trench/Directional Bore 378' from Existing Utility Pole to New Vault

DIMENSION(S) OF ENCROACHMENT(S): (Attach an 8 1/2" x 11" site plan showing all existing and proposed improvements in the right-of-way.)

1. AER Layout | Sheets 12-23
2. Anchor Details | Sheets 24-27
3. UG Layout | Sheet 4

TYPE OF MATERIAL TO BE USED FOR EACH ENCROACHMENT REQUESTED:

1. Fiber Optical Cable (FOC) to be used for Overlash on Existing OSP
2. Concrete Anchors to be used for Guying
3. 2" HDPE Conduit to be used for Open Trench and Directional Bore
4. Reinforced Concrete Box to be used for Proposed New Vaults

WHEN RECORDED, MAIL TO:

CITY OF CARMEL-BY-THE-SEA
ATTN: ENCROACHMENTS
PO BOX CC
CARMEL-BY-THE-SEA, CA 93921

THIS SPACE FOR RECORDER'S USE ONLY

HOLD HARMLESS ENCROACHMENT AGREEMENT

AGREEMENT made this _____ day of _____, 20____, between the CITY OF CARMEL-BY-THE-SEA, hereinafter called CITY, and _____, hereinafter called OWNER, with reference to the following facts:

OWNER is in possession of and owns certain real property in CITY known as Block _____, Lot(s) _____, Assessor's Parcel No. _____
Zoning District _____, street location _____.

OWNER has requested from CITY permission to construct and maintain a structural encroachment on CITY street or sidewalk area adjacent to or near the property, described as follows:

_____.

NOW, THEREFORE, the parties, in consideration of the mutual covenants contained herein, agree as follows:

1. CITY grants permission to OWNER to construct and maintain a structural encroachment on CITY street or sidewalk area adjacent to or near OWNER'S property, as described above. Said permission is subject to the following conditions:

a. Execution of the Hold Harmless Agreement and compliance with the provisions of paragraph 3 below.

b. _____

2. OWNER, his successors and assigns, agrees to name CITY an additional insured and to hold CITY harmless from any and all claims, actions and demands of third parties of any kind, character and description arising out of or due to any accident or mishap in, on, or about said structural encroachment so constructed or so maintained or any error or omission resulting in personal injury or property damage.

3. OWNER, agrees to provide CITY and maintain a certificate of insurance from an insurance carrier acceptable to CITY certifying that OWNER has public liability and property damage insurance with limits of not less than \$500,000 combined single limit for personal injury and/or property damage for property located in the R-1 zoning district and limits of not less than \$4,000,000 for property located in all other zoning districts. The certificate must indicate this insurance is primary over any other valid or collectible insurance CITY may have, insures owner's performance of this Hold Harmless Agreement and that the Carrier will notify CITY in the event of any material change in the policy, including the nonrenewal thereof. Said Certificate of Insurance must name CITY, its elected officials, officers, agents and employees as additional insured insofar as the insurance pertains to this encroachment. Owner further agrees to maintain said insurance as long as said encroachment remains on CITY property.

In the event of cancellation or nonrenewal, the insurance company will give thirty (30) days' written notice to CITY. The Certificate must be signed by an authorized employee of the insurance carrier and mailed to: City Clerk, Carmel-by-the-Sea, P.O. Box CC, Carmel-by-the-Sea, CA 93921.

4. CITY may terminate and revoke this Agreement at any time that it is determined by the City Council to be in the best interests of City and necessary to promote the public health, safety or welfare. Any expenses caused to OWNER, his successors or assigns, by termination of this Agreement shall be borne by OWNER, his successors or assigns.

5. The parties agree that this contract is for the direct benefit of the land in that it makes the property more usable and increases its value, as such, agree that the covenants herein shall run with the land, and the parties agree that the covenants shall bind the successors and assigns of OWNER.

CITY OF CARMEL-BY-THE-SEA:

OWNER(S):

By: Chip Rerig, City Administrator or
Designee

Print Name

ATTEST:

Britt Avrit, City Clerk

Print Name

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 _____

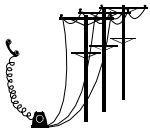
On _____ before me, _____
Insert Name and Title of the Officer

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 paragraphs is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)



Structure Leasing & Engineering, Inc.

8833 Monterey Road, Suite B
Gilroy, CA 92020
<http://www.slegroup.net>

Attachment 2

TO: City of Carmel-by-the-Sea
Department of Community Planning & Building
PO Box CC, Carmel, CA 93921
(831) 620-2010 Office

March 24, 2023

RE: Submittal of Supplemental Application Page – Aerial and UG – Carmel-by-the-Sea

To Whom It May Concern:

Enclosed is the Permanent Encroachment Permit Application we are submitting on behalf of Astound Broadband, LLC. This is a supplemental page to identify the Contractors and their Work Operations for this Project.

UG Contractor:

J. Moraga Construction
385 Grogan Avenue
Merced, CA 95341
P: (209) 388-9200
Cont. St. Lic#: 882920, Type A
Cont. City Lic#: 2764

Proposed UG Work:

Place (1) 2" HDPE Conduit by Open Trench and Directional Bore at a Minimum Depth of 48", 378' from Existing Utility Pole to Proposed New Vault along and crossing San Carlos Street through the 7th Avenue Intersection.

Aerial Contractor:

EDT TEC, Inc.
4398 Contractors Common
Livermore, CA 94551
P: (925) 245-9533
Cont. St. Lic#: 830873, Type A, B, C-7
Cont. City Lic#: On File

Proposed Aerial Work:

O'lash 11,607' +/- of Existing Strand with (1) FOC Aerially on Existing Utility Poles along Palou Avenue, N Casanova Street, 8th Avenue, Ocean Avenue, Carpenter Street, Torres Street and San Carlos Street.

Please advise if there are any issues, corrections or redlines.

Sincerely,

Cory L Pacheco / Site Acquisition/CFO

(408) 767-8119 cpacheco@sleinc.net

ENCROACHMENT PERMIT # _____

WAVE ASTOUND BROADBAND FIBER INSTALLATION PROJECTSPECIAL CONDITIONS OF APPROVALJanuary 22, 2024

The following Conditions of Approval of the Encroachment Permit were developed by the City, and reviewed and accepted by WAVE Astound Broadband (WAVE), to minimize impacts and inconvenience to the public while accommodating construction. All Conditions of Approval are subject to modification by the City to ensure the safety and welfare of the public, construction workers, and public and private property. References to the City mean the Director of Public Works Robert Harary, P.E., or his designee.

Administrative

1. **Revocability:** This permit shall be revocable by the City at any time. Encroachment permit actions may be appealed to the City Council by filing an appeal with the City Clerk within fifteen (15) days of the date of notification.
2. **Hold Harmless Agreement:** Prior to issuance of and encroachment permit a Hold Harmless Agreement will need to be completed and recorded.
3. **Liability Insurance:** WAVE will provide evidence of general liability insurance to the City with a minimum limit of \$3 million per incident and \$5 million in aggregate.
4. **Performance Bond:** WAVE will provide a performance bond to the City in the amount \$100,000.
5. **City Business License:** Prior to conducting any work in the City right-of-way, all contractors, subcontractors, and consultants must obtain a City Business License.
6. **Encroachment Permit:** City acknowledges receipt of \$19,306.75 deposit for this permit. WAVE to submit the balance due of \$5,848.16 for the Permit plus \$50.00 to reimburse the City's CEQA filing fee.
7. **Fiscal Impact:** In the event that staff becomes increasingly involved with oversight and inspection of this Project during construction, an agreement with WAVE will be deployed so that WAVE reimburses the City for any actual City labor costs and expenses incurred.

Environmental

8. **CEQA Documentation:** The City finds that this Project is exempt from CEQA in accordance with Section 15303 (Class 3) of the CEQA Statutes for new construction and conversion of small structures. A Notice of Exemption will be filed by the City upon Project approval by the City Council.
9. **Environmental Mitigation:** The following measures are of particular concern to the City:
 - Enclose or cover exposed stockpiles daily.
 - Designate worker parking areas that minimize parking displacement along the Alignment in the downtown area
 - Sweep all paved access roads no less than weekly or as requested by the City
10. **BMP's:** All construction activities require adequate protection for any catch basin, drain inlet, or drainage swale to prevent spills, sediment, or construction debris from entering the drainage system. Provide sediment filter bags at catch basins, place 2-bag high gravel berms for silt protection, and provide stockpile covers with sediment barrier. Provide secondary containment tray with sanitary facility.
11. **Arborist Report:** Report provided to the City is sufficient for the work being conducted. This project does not have to be presented to the Forest and Beach Commission. However, it is the responsibility of Astound to provide a City approved, Certified Arborist with line clearance certification for the duration of the Project.
12. **Street Trees:** No trees are to be removed under this Permit. A Certified Arborist shall be on site for the aerial cable installation and utility pruning. Minimal impact utility pruning shall meet ISA BMP's and Standards. *"No pruning will come remotely close to excessive pruning."* Arborist will consult with City Forester prior to pruning and to address treatment requirements, if any, See also Condition #39, Tree Protection Requirements.
13. **Archeologist Monitoring:** WAVE acknowledges that archeologically-sensitive zones exist in the vicinity of San Carlos Street and Eighth Avenue, and near the Casanova Street and Palou Avenue. WAVE will provide a qualified archeological monitor for any below groundwork in these areas. Monitoring shall be done by a City-approved consultant. If any archaeological finds are encountered, all excavating is to cease immediately and the City shall be so notified.

Public Notifications

14. **City Council:** This project would need to be presented to City Council at an upcoming meeting, date to be determined, plan on a 5 to 10-minute presentation.
15. **Public Relations:** Implement the following outreach program as a minimum during

construction:

- Provide a 24/7 WAVE Public Hotline Number
- Provide door hangers and notices to each property/business prior to working along the next street segment
- Place barricades at each road or lane closures identifying the Project name and including the WAVE hotline number

WAVE to keep the City's Project Manager informed as to these public relations activities. City will support such efforts in good faith.

16. **Emergency Access:** Maintain access for emergency vehicles at all times.
17. **Emergency Response Notifications:** Contractor shall notify Police and Fire (831) 646-3914, and ambulance service providers at least 48 hours in advance as to proposed road or lane closures, and detours. Also, provide schedule updates.
18. **Road/Lane Closure Notifications:** Notify postal carrier, MST, Green Waste, and affected residences and businesses at least 48 hours in advance as to proposed road/lane closures. Also, provide schedule updates.
19. **Ingress, Egress, and Parking Impacts:** Notify, coordinate, and resolve access, ingress, egress, special needs (disabilities), and parking Issues with all private property owners/tenants and businesses along the alignment.

Utilities and Private Improvements

20. **Potholing for Utilities:** Call Underground Service Alert, at 811, before you dig.
21. **Damage to Existing Facilities:** Promptly make repairs to the public right-of-way or underground utilities that are damaged by the work authorized by this Permit. Damage to City streets outside of the alignment caused by construction operations shall also be repaired to pre-construction conditions. These repairs shall be to the satisfaction of the City. Damage to third party utilities shall be repaired as required by the applicable utility.
22. **Private Improvements:** Restore, repair, or replace private property improvements damaged by construction operations to pre-construction conditions as commercially practical and to the private property owner's satisfaction. In the event the private property owner is not satisfied with the restoration or repair of damaged improvements, WAVE's Project Manager, and/or other such representative, shall meet with the property owner to resolve the issue. The City may be asked to assist in the resolution of private improvement repair matters, but the City shall not be responsible for such repairs.

General Construction Requirements

23. **Traffic Control Plans:** Traffic Control Plans for the Project have been submitted by WAVE and approved by the City. Additional or modifications to approved Traffic Control Plans must also be approved by the City prior to implementation along the affected street segment. Provide safe provisions for pedestrians and bicycles around construction zones.
24. **Preconstruction Video:** Prior to boring along San Carlos Street, provide City with an indexed, preconstruction video of existing surface Improvements shown from both directions of travel, of acceptable clarity and quality to the City.
25. **Project Schedule:** Provide City with a Master Project Schedule prior to construction, and updated Master Project Schedule(s) weekly or upon request by the City.
26. **Staging Areas:** Provide to the City legal evidence of the use of any staging areas located within City limits.
27. **Parking Notices:** Provide a minimum of 72-hour advance notices for no-parking zones every 25 feet in each direction affected. Parking notices will indicate the start date and anticipated duration of work within the affected area. Please do not be overly conservative as to the duration/completion of work on the signs.
28. **Construction Work Hours:** All work is to be completed between the hours of 8:00 AM – 5:00 PM, Monday through Friday. If after hours, weekend, or holiday work is requested, prior authorization must be granted by the City.
29. **Construction Inspection:** Day-to-day oversight of construction operations, including subcontractors, shall be performed by WAVE's Construction Manager. City's inspections are intended for Quality Assurance purposes.
30. **Security:** Permittee shall be exclusively responsible for the security of its property and any use thereof.
31. **Cutting Street Surfaces:** All pavement, concrete, and asphalt sidewalks, curbs, gutters, medians, and berms will be saw cut with smooth straight edges. The City shall field verify saw cut limits prior to saw cutting.
32. **Clean-up of Right-of-Way:** Upon completion of work along a street segment, all materials, equipment, traffic control devices, BMPs, and debris shall be entirely removed, and the right-of-way shall be left in a clean condition satisfactory to the City.
33. **Concrete Washout Locations:** Washout locations must be pre-approved by the City.

34. **Final Inspection:** Prior to release of the Permit, all surface improvement work must be completed and approved by the City.
35. **Guy Wire Special Conditions:**
- Detail A (8th and San Carlos) - Add Queen's Post to allow the anchor to be shifted south near perpendicular to the parking tee, this will allow sufficient clearance for doors and trunk access.
 - Detail E (Ocean and Forest) – Guy Wire is not permitted in location shown on plans. Three acceptable options are listed below in order of preference. Contractor to provide revised alternative to City prior to construction.
 - Use pole to pole tension mounting extending east two poles
 - Move location of guy wire to pole west of intersection of Ocean and Forest
 - Move location of guy wire two poles east of current designated location.

Technical Requirements

36. **Striping & Signage:** Existing signs, striping, pavement legends, markings, markers, crosswalk striping, painted curbs, and parking tees damaged by the Project will be restored to City standards and as directed by the City.
37. **Restoration of Pits Submittals and Testing Lab:** Provide shop drawings and submittals for boring pit layouts, backfill, aggregate base, and concrete surface material along San Carlos Street. Bedding, trench backfill, and Class 2 Aggregate Base shall be compacted to 95% minimum relative compaction. WAVE shall retain an independent testing laboratory to field-verify proper compaction. For the boring operations, City requests copies of inspection reports and material testing results performed by the independent laboratory.
38. **Pavement Restoration:**
- a. **Incomplete Street Openings (Barriers and Steel Plates):** Where boring openings cannot be backfilled during the day of opening, suitable barriers shall be placed around the excavation pit to prevent accidents, and lighted barricades shall be continuously maintained at the opening site. Alternatively, steel plates may be placed over the trench with temporary cold mix ramps along each edge.
 - b. **Final Surface Restoration:** Iron/valve cans, vaults, and manhole lids shall be raised to finish grade within five (5) business days of concrete surfacing.
39. **Tree Protection Requirements:** Per Carmel-by-the-Sea Municipal Code Section 12.28.340, for safeguarding of trees during construction, the following conditions shall apply to all trees:

- a. Prior to the commencement of construction, all significant trees located within 15 feet of the alignment shall be inventoried by WAVE's arborist as to size, species, and location, and the inventory shall be submitted to the City. - COMPLETED
- b. Damage to any tree during construction shall be immediately reported by a person causing the damage, or the responsible subcontractor to the Director of Public Works, and the Contractor shall treat the tree for damage in the manner specified by the City Forester.
- c. Oil, gasoline, chemicals and other construction materials shall not be stored within the drip line of any tree.
- d. Wires, signs and other similar items shall not be attached to trees.
- f. Cutting and filling around the base of trees shall be done only after consultation with the City Forester.
- g. No paint thinner, paint, plaster or other liquid or solid excess or waste construction materials or wastewater shall be dumped on the ground or into any grate between the dripline and the base of the tree, or uphill from any tree where such substance might reach the roots through a leaching process.
- h. The Contractor shall be required to erect protective barricades around all trees along the building site. These barricades must be in place prior to the start of any construction activities.
- i. Wherever cuts are made in the ground near the roots of trees, appropriate measures shall be taken to prevent exposed soil from drying out and causing damage to tree roots.
- j. Trimming cuts shall conform to arboricultural standards and shall be made along the branch bark ridge.
- k. Earth surfaces within the drip line of any tree shall not be changed or compacted. All equipment, material, and soil storage shall be kept beyond the drip line of trees.
- l. Hand digging (and/or hydro vacuum) is required within ten (10) feet of trees.
- m. Failure to protect or maintain trees on construction sites is a violation of the Municipal Code and grounds for suspension of the permit. (Ord. 91-4 §§ 1 – 7, 1991; Ord. 84-6 § 1, 1984; Ord. 83-25 § 1(G), 1983; Ord. 81-4 § 12, 1981; Code 1975 § 1237).



**Carmel-
by-the-Sea**

Robert Harary <rharary@ci.carmel.ca.us>

Fwd: Astound-Safety Dangers

6 messages

Nova Romero <nromero@ci.carmel.ca.us>

Fri, Feb 2, 2024 at 3:39 PM

To: Chip Rerig <crerig@ci.carmel.ca.us>, Brandon Swanson <bswanson@ci.carmel.ca.us>, Brian Pierik <bpierik@ci.carmel.ca.us>, Robert Harary <rharary@ci.carmel.ca.us>, Javier Hernandez <jhernandez@ci.carmel.ca.us>

See correspondence below regarding the Astound Broadband item on Tuesday's agenda. Tasha sent her comment directly to Council.



Nova Romero, MMC
City Clerk
 City of Carmel-by-the-Sea
 P.O. Box CC
 Carmel-by-the-Sea, CA 93921
 (831) 620-2016
nromero@cbts.us

----- Forwarded message -----

From: 'Tasha Witt' via cityclerk <cityclerk@ci.carmel.ca.us>

Date: Fri, Feb 2, 2024 at 3:33 PM

Subject: Astound-Safety Dangers

To: <adramov@ci.carmel.ca.us>, Bobby Richards <brichards@ci.carmel.ca.us>, Dave Potter <dpotter@ci.carmel.ca.us>, Karen Ferlito <kferlito@ci.carmel.ca.us>, Jeff Baron <jbaron@ci.carmel.ca.us>, City Clerk <cityclerk@ci.carmel.ca.us>

City Clerk please add this public comment to the Astound city council agenda for 2/6.
 Thank you

City Council Members,

The Astound proposal is on the 2/6 City Council agenda #8. The staff report did not address the public and council's questions from the 10/3 meeting concerning safety and responsibility.

Here are some links verifying that the California Public Utilities Commission cannot ensure our safety from electrical risk of overloading our telephone poles with joint utilities. There is a history of electrical fire death and destruction due to overloading telephone poles with joint utilities.

"The general allegation for the cause of the recent fire in 2023 Lahaina, Maui against the telecommunications company is that it overloaded shared utility poles with equipment. The overloaded and destabilized some of the poles. The lawyers said the cables were attached in a way that put too much tension on the poles, causing them to lean and break in the winds on Aug. 8 when flames burned down much of Lahaina, killing at least 115 people and destroying more than 2,000 structures."

<https://www.civilbeat.org/2023/11/spectrum-seeks-to-move-lahaina-fire-case-to-honolulu-court/>

Overloaded joint utility poles spark 2007 Malibu fire causing death and destruction:

2/14/24, 11:22 AM

Carmel-by-the-Sea Mail - Fwd: Astound-Safety Dangers

<https://www.latimes.com/local/la-xpm-2011-oct-23-la-me-utility-pole-fines-20111023-story.html>

"Poorly maintained utility poles and attachments have caused substantial property damage and repeated loss of life in the state. These safety issues have increased at the same time that advanced telecommunications technologies have driven demand for access to utility poles and conduit to unprecedented levels. Further, there is not a shared data repository to track where the utility poles are located and information about the condition of the poles."

<https://www.latimes.com/local/la-xpm-2011-oct-23-la-me-utility-pole-fines-20111023-story.html>

"California has the strictest utility pole safety rules in the country, yet has continually faced disastrous and deadly conditions."

"My CPUC colleagues and I ordered many of these conditions to be fixed, strengthened utility pole safety rules, and increased the authority of the CPUC's Safety and Enforcement Division to hold electric, telecommunications, and Internet companies accountable for CPUC rule violations. Despite these efforts, the CPUC's enforcement process remains hampered by antiquated information systems, spotty reporting of rule violations, limited enforcement resources, aging infrastructure designs and resources, and a system that tolerates rule violations that persist for years."

<https://www.scu.edu/ethics/all-about-ethics/principles-for-utility-regulation-in-the-face-of-increasing-wildfire-risk/>

Tasha Witt

Robert Harary <rharary@ci.carmel.ca.us>

Fri, Feb 2, 2024 at 4:37 PM

To: Javier Hernandez <jhernandez@ci.carmel.ca.us>, Timothy Melgaard <timothy.melgaard@astound.com>

2/14/24, 11:21 AM

Carmel-by-the-Sea Mail - The FOA Reference For Fiber Optics - Fiber To The Antenna for Wireless

**Carmel-
by-the-Sea**

Robert Harary <rharary@ci.carmel.ca.us>

The FOA Reference For Fiber Optics - Fiber To The Antenna for Wireless

7 messages

Mike McWalters <michaelmcwalters@gmail.com>

Mon, Feb 5, 2024 at 7:40 PM

To: dpotter@ci.carmel.ca.us, brichards@ci.carmel.ca.us, Karen Ferlito <kferlito@ci.carmel.ca.us>, jbaron@ci.carmel.ca.us, adramov@ci.carmel.ca.us, Chip Rerig <crerig@ci.carmel.ca.us>, Robert Harary <rharary@ci.carmel.ca.us>, Brandon Swanson <bswanson@ci.carmel.ca.us>

Cc: Nova Romero <cityclerk@ci.carmel.ca.us>

Hi Nova, Please include this in "Public Correspondence" for the 2/6/24 City Council meeting or if that's cancelled, then the City Council meeting when it's on the agenda. Thank you

<https://www.thefoa.org/tech/ref/appln/FTTA.html>

Dear Mayor Potter, Mayor ProTem Richards, Councilmembers Ferlito, Baron, Dramov, City Administrator Rerig, Director Harary & Director Swanson,

Please find enclosed an article from The Fiber Optic Association.

Please scroll to the 4th paragraph titled "Fiber to the Antenna".

It became apparent to me after reading this article that the proposed Wave/Astound fiber optic installation is for Verizon. I also learned that Astound is a subcontractor for Verizon.

Verizon's fiber network is the backbone for their wireless network so the project map makes it apparent to me that the route chosen was to hook up the fiber to Verizon's tower on the Dowd Arcade & also to hook up the fiber to Verizon's antennas on the Sunset Center roof.

Why wasn't this explained in the Staff Reports?

Because fiber is the backbone of Verizon's wireless network, this fiber optic project must start over & follow the protocol in our wireless ordinance.

Wave/Astound has to begin again with the CBTS' Planning & Building & then present to the Planning Commission.

There are big gaps in the report besides the Verizon omission.

For example, why isn't there an explanation for not putting all of the fiber optic cable underground?

Why do the telephone poles need guy wires?

How do you stress test the telephone poles to know which ones need guy wires or do they all need guy wires?

From the 10/3/23 Staff Report under "Background Summary", 5th paragraph, is the following sentence:

"Additionally, Wave will install up to 9 support anchors & guy wires to reinforce certain existing power poles." Why?

Why did Wave/Astound pay \$19,306 towards an "Encroachment Permit" before the Permit was issued?

Under "Prior City Council Action" from 10/3/23 Staff Report is the following: "In September 2018, Council received a project presentation & authorized issuance of an Encroachment Permit with Special Conditions of Approval for a PG&E gas pipeline project installed across the northern portion of the city."

Why are you mentioning "a gas pipeline project" in a fiber optic staff report?

In the 2/6/24 Staff Report under "Background" is the following sentence: "At the 10/3/23 City Council meeting, Public Works staff & a representative of Wave Astound Broadband (Wave) presented a proposed Fiber Optic Project that has been in review in some form with the City since 2017." Is this supposed to reassure us that Wave/Astound has been properly vetted? It doesn't reassure me.

When Wave/Astound has answered all of our questions & been thoroughly transparent, then our vetting process of them will be complete.

Michael McWalters, Scenic Road 2N of 11th

PS. Has Verizon's lawsuit against us concluded?

Sent from my iPhone

Robert Harary <rharary@ci.carmel.ca.us>

Tue, Feb 6, 2024 at 8:02 AM



Powered by **wave**

215 Mason Circle
Concord, CA 94520
astound.com

April 18, 2024

To whom it may concern,

In an effort to proactively address city and resident concerns see below responses to questions that have been raised related to the proposed Astound Broadband fiber project;

- Has undergrounding been considered as an alternative? Yes, Astound has evaluated undergrounding as an alternative to aerial construction and determined that aerial construction on utility poles where they already exist within the right of way is much less disruptive to the community and roadways, and provides symmetry with the existing overhead dry utility construction methods (you do not have all of the other dry utilities overhead and one dry utility underground). Undergrounding of the overhead dry utilities if undertaken by the city in the future is much more efficient if all of the dry utilities are undergrounded at the same time. This allows for a more cohesive and efficient design and construction incorporating all dry utility conversions at one time. Lastly underground construction is significantly more expensive than aerial construction 5x+ which puts an undue burden on Astound versus its competitors who are allowed to utilize the aerial network and are not held to the same requirement.
- Have the poles been tested to insure they can withstand the load of the added cables? Yes, Astound is required to meet CPUC General Order 95 guidelines for aerial construction, which includes evaluating every pole's strength and ensuring that they meets the required CPUC guidelines this information is compiled and sent to the pole owner for review and approval. Every utility pole is also confirmed to be structurally sound by ensuring that intrusive testing of the utility poles has been completed within the past 5 years for poles that are older than 15 years and that the testing indicates that the poles meets guidelines for structural soundness. Intrusive testing generally utilizes a resistograph to measure cracks, voids, cavities and decay inside a utility pole.
- Can you provide a more defined illustration of the wires that are to be installed? Below is a chart showing approximate cable sizes and weights of the proposed Astound fiber cable and existing CATV and Phone cables;



Provider	Cable diameter (approx.)	Cable weight/ft (approx.)
Astound	0.71"	0.14 lb/ft
CATV	1.24"	0.28 lb/ft
Phone	1.6"	1.6 lb/ft

We hope this information helps provide some additional clarity related to the proposed Astound network and project.

Sincerely,

Tim Melgaard
Senior Director - Construction Project Management - SF Region

Astound Business Solutions
powered by Wave

215 Mason Circle
Concord, CA 94596

P Office Phone # 925.459.1038
C Mobile Phone # 650.619.1456
E timothy.melgaard@astound.com

Legal Analysis of City Municipal Code

Gail A. Karish of Best, Best & Krieger (special legal counsel for the City) has provided this analysis in regard to the applicable provisions of the City Municipal Code (CMC).

1. CMC Chapter 12.08 applies to Astound's fiber project.

CMC Chapter 12.08 (Encroachments) applies to Astound's project, and not Chapter 17.46 (Telecommunications and Wireless Facilities).

Astound is a public utility and a telephone company with a statutory franchise right granted by state law to use the City's streets to install its telephone lines (which include fiber optic cable facilities) to provide communications services.¹ Astound is proposing to install fiber optic cables.

The City's authority over Astound's fiber project is limited to:

(1) regulating the placement of the facilities to ensure that they do not "incommode" the public use, which can include a consideration of aesthetics and the discretion to approve or deny permits on reasonable aesthetic grounds;²

(2) regulating "matters affecting the health, convenience, and safety of the general public, including matters such as the use and repair of public streets by any public utility, the location of the poles, wires, mains, or conduits of any public utility, on, under, or above any public streets"³ to the extent those matters are *not* regulated by the California Public Utilities Commission (CPUC);⁴ and

(3) exercising "nondiscriminatory" and "reasonable control as to the time, place, and manner in which roads...are accessed."⁵

The City exercises this regulatory authority pursuant to Chapter 12.08 which expresses the criteria which Astound must meet to obtain an encroachment permit to install its fiber project.

¹ Pub. Util. Code 7901.

² *T-Mobile West LLC v. City and County of San Francisco*, 3 Cal. App.5th 334, 355-56 (2016) ("In our view, 'incommode the public use' means 'to unreasonably subject the public use to inconvenience or discomfort; to unreasonably trouble, annoy, molest, embarrass, inconvenience; to unreasonably hinder, impede, or obstruct the public use.'" (citing with approval, *Sprint PCS Assets v. City of Palos Verdes Estates*, 583 F.3d 716 (9th Cir. 2009)). The Court of Appeal's decision was upheld by the California Supreme Court in *T-Mobile West LLC v. City and County of San Francisco*, 438 P.3d 239 (2019). ("*T-Mobile West*").

³ Pub. Util. Code 2902.

⁴ The installation of the fiber optic cable must be done in a manner that complies with the CPUC's extensive regulations on the design, construction and maintenance of all overhead and underground electric and communications facilities. CPUC General Order 95 sets forth the rules for overhead facilities and requires applicants to ensure that their proposed use of utility poles meets wind loading, pole loading and pole overturning calculations, among others. The City may not regulate matters over which the CPUC has been granted regulatory power. For those matters, the CPUC's authority is exclusive. See *S. Cal. Gas v. City of Vernon*, 41 Cal.App.4th 209 (1995).

⁵ Pub. Util. Code 7901.1. See also 47 USC Section 253(c) preserving local right of way management.

Chapter 17.46 does not apply to Astound's fiber project. Chapter 17.46 regulates wireless facilities. A wireless facility is defined in Chapter 17.46 as: "the transmitters, antenna structures and other types of installations used for the provision of wireless services at a fixed location, including, without limitation, any associated tower(s), structure(s), and base station(s)."

There are some references to "communications cables" in some of the defined terms in Chapter 17.46, but that is acknowledging the fact that every wireless facility will have cables connecting the antennas and equipment at the fixed location to each other.⁶ Separate from those cables that are part of the wireless facility, each wireless facility at a fixed location will also need to be connected to other telephone networks (known as the public switched telephone network). That connection is typically provided by a copper or fiber telephone line and Astound may intend to provide this service to Verizon Wireless as one of its commercial customers, but that does not make Astound's fiber optic project a wireless facility subject to Chapter 17.46.

2. Requirements of Chapter 12.08 for issuance of an encroachment permit to Astound.

CMC Section 12.08.060 lists the encroachment application review standards that apply to Astound's project. Staff has reviewed the project in depth and concluded that the standards have been met.

In considering whether Astound's application meets the standards, the City must bear in mind the limits on its authority discussed above. For example, regarding safety, CPUC General Order 95 provides detailed construction, maintenance and safety requirements that apply to all overhead electrical supply and communication facilities that come within the jurisdiction of the CPUC, and are located outside of buildings, including facilities that belong to non-electric utilities.⁷ The rules are intended to protect utility works and the public. General Order 95 was initially adopted in 1941 and has been updated many times, most recently in 2020 to strengthen the requirements for utility pole safety.⁸

General Order 95, Rule 44.2 imposes a mandatory obligation on any entity planning a new attachment to ensure that the utility pole will not be overloaded, regardless of the amount of increase in load. The pole loading calculations must include the results of intrusive inspections of the poles if the poles are over 15 years old. In other words, Astound must ensure the poles being used meet current standards or take steps to ensure that they meet those standards. The addition of guy wires proposed would be a common technique used to strengthen the poles to ensure they meet current General Order 95 standards.

⁶ Sometimes the components of a wireless facility are spread among several fixed locations but operate together as one local network, such as a Distributed Antenna System or small-cell network. In those instances, the fiber in the street that is connecting the components of the local network could be part of the wireless facilities reviewed under Ch. 17.46. However, the fiber connecting the local network to the public switched telephone network still would not be.

⁷ See General Order 95, Rule 12- Applicability of Rules. The entire 602 page GO 95 can be viewed at this link: <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M338/K730/338730245.pdf>

⁸ See CPUC Decision No. 20-01-010 (as corrected by D.20-05-029).

As another example, regarding aesthetics, the CMC's standard for visual impacts in public rights-of-way is in Section 12.08.060(E)(1) which provides: "The proposed encroachment shall not diminish public use or enjoyment, either visual or physical, of the City property or public right-of-way to be encroached upon." Aesthetic regulation of communications facilities is on its face lawful according to the *T-Mobile West* cases discussed above. However, how the City applies the CMC's standard for visual impacts to individual applications can be subject to challenge. The Court of Appeal in *T-Mobile West*, while denying a facial challenge to San Francisco's ordinance regulating the aesthetics of communications facilities, explained that whether any particular installation might "aesthetically 'incommode' the public use of the right-of-way" would turn on the existing aesthetics of the proposed location.⁹

Astound's proposal is to (1) "overlash" one fiber optic cable with a diameter of 0.71 inches onto existing strand/cable strung along existing utility pole lines for approximately 2.2 miles, (2) to add up to a *total* of 8 support anchors or guy wires at various points for structural support, and (3) to place additional fiber optic cable underground. In other words, the poles that will be used already have cables and power lines on them, and by overlashing, the applicant will physically tie its new cable to an existing communications cable/strand that is already strung on the existing utility pole. The installation will not add any new lines below or above the existing lines. Instead, an existing line of cable/strand on the poles will become slightly thicker with the addition of the applicant's fiber optic cable. There will be a small number of guy wires added along the route. The remainder of the fiber project is underground.

Considering the project scope and location, denial of the permit on the basis that the visual public use or enjoyment of the public right-of-way would be diminished is highly likely to be subject to a successful legal challenge. In *T-Mobile West*, the Court of Appeal stated, should a permit be denied "in an area already cluttered with other electrical and telecommunications equipment, we again have no doubt [the applicant] may pursue an as-applied challenge."¹⁰ In *Pacific Bell Telephone Co. vs. City of Livermore*, Court of Appeal, 1st District, Division 3, (filed Dec. 28, 2017)(unpublished, 2017 WL 8232408), the city denied an application for aboveground fiber optic cable on existing poles and required the applicant to place its facilities underground. The court overturned the city's decision, finding that adding more wires to existing cluttered utility poles cannot reasonably be considered to be incommoding the public use due to aesthetics. That project was similar to the current project in that the fiber optic cable was proposed to be overlashed onto existing lines.

⁹ *T-Mobile* at 355 (Court of Appeal contrasting the level of potential aesthetic "incommodation" of the same facility proposed "very close to Coit Tower or the oft photographed 'Painted Lady'" compared to "other parts of the urban landscape.").

¹⁰ *Id.* at 356.



CITY OF CARMEL-BY-THE-SEA CITY COUNCIL Staff Report

October 1, 2024
ORDERS OF BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Marnie R. Waffle, AICP, Principal Planner
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Update on City Council Resolution 2024-062 to develop alternative sites and programs that would allow for an amendment to the City's adopted 6th cycle Housing Element to remove Vista Lobos and Sunset Center from the Housing Sites Inventory List

RECOMMENDATION:

Receive the report and provide feedback as appropriate.

BACKGROUND/SUMMARY:

On April 8, 2024, the City Council adopted the 6th Cycle Housing Element, which covers 2023-2031. The City is responsible to plan for 349 new housing units by 2031.

On April 25, 2024, the State Department of Housing and Community Development (HCD) certified the City's Housing Element. Two city-owned sites, Vista Lobos and Sunset Center, were included as potential affordable housing sites to achieve certification (Housing Element Program 1.1.B: City-Owned Sites).

On July 9, 2024, in response to concerns regarding the redevelopment of the city-owned sites, the City Council passed Resolution 2024-062 directing staff to begin work immediately exploring and developing alternative affordable housing sites and programs to submit a formal general plan housing element amendment that provides alternative affordable housing opportunities and removes the need for housing units at Vista Lobos and Sunset Center. Additionally, staff was directed to return to the City Council in September and October with updates on progress.

On September 10, 2024, the City Council was provided with an update on the joint efforts of the Affordable Housing Alternatives (AHA) community group and City staff exploring four strategies to provide lower-income housing in lieu of developing city-owned sites (**Attachment 1**).

October Update

City Council Resolution 2024-062 directed staff to return at the October 2024 meeting with a rough draft of an amendment that would ultimately be submitted to the State Department of Housing and Community

Development (HCD) (**Attachment 2**). Three months was not a sufficient amount of time to prepare a draft amendment that contains the level of detail required for consideration by HCD. To present alternative sites that can satisfy lower-income housing requirements, additional research and analysis is needed. City staff and the AHA community group will meet with the consultant, Veronica Tam, on Thursday, September 26th, to review the work completed and determine the next steps in preparing the amendment. Staff will update the City Council on the outcome of that meeting in our presentation on October 1st.

What is our goal?

The goal of pursuing an amendment to the adopted Housing Element is to identify alternative sites (i.e. private property) to accommodate the very-low, low, and moderate income units currently planned for Vista Lobos and the north and south parking lots of Sunset Center. Below is a breakdown of units by income category for each site.

Table 1. City-Owned Sites

	Very Low Income	Low Income	Moderate Income	Market Rate	Total
Vista Lobos	28	11	17	0	56
Sunset Center North	20	10	3	0	33
Sunset Center South	30	25	5	0	60
Total	78	46	25	0	149

The four strategies that are currently being pursued are:

1. Accessory Dwelling Units & Junior Accessory Dwelling Units (Housing Element Program 1.3.C).
 - a. The adopted Housing Element projects a total of 34 new ADUs/JADUs by 2031.
 - b. Based on the number of ADUs constructed and the number currently under construction, the City is projected to meet this target.
 - c. The proposed amendment to the Housing Element seeks to establish a higher projected number based on current trends producing new units.
 - d. Potential changes to this program may include more robust incentives for the development of new ADUs.
 - e. The proposed amendment also includes an analysis of the ADUs produced and whether smaller units could be deemed “affordable by design” satisfying a portion of the lower income housing need without the requirement for deed restrictions.

- f. The ADU sub committee of the AHA community group has delved into the details of ADUs to gain a more holistic understanding of the process to plan, permit, and construct an ADU. A draft resource guide has been prepared to provide homeowners with all the information they need to know, in one place, when exploring adding an ADU or JADU to their property. A draft of the guide is being shared with the Council and the community for feedback.

City staff has continued collecting and updating data on Accessory Dwelling Units that are going through the city's permitting process. The preliminary results of the data show the average size of an ADU is 468 square feet. A summary of the data is provided below.

- In the 6th cycle Housing Element, the city estimated an average of four ADUs per year for the eight-year cycle (2023-2031) for a total of 34 new ADUs.
- In 2023, the city exceeded estimates, issuing **six** certificates of occupancy for new ADUs.
- As of September 2024, the city has issued **five** certificates of occupancy for new ADUs.
- To date, the City has produced **11** of the **34** projected new ADUs. An additional 22 ADUs are currently under construction and are expected to be complete by 2031.
- An additional **four** ADUs are currently in planning review.
- If no additional ADUs were constructed for the remainder of the 6th cycle, the City would exceed the ADU projection by three units.
- Approximately 58% of ADUs constructed or currently under construction are conversions of existing square footage (living space, garages, guesthouses, or studios).

City staff will be surveying property owners of completed ADUs to determine how they are currently being used. Smaller ADUs can be "affordable by design" due to their size. The survey results will inform a revised projection for ADUs in the various income categories (very low income, low income, moderate income, and above-moderate/market rate).

2. Hotel-to-Residential Conversions (Housing Element Program 1.3.B).

- a. The adopted Housing Element sets a goal of converting 33 hotel rooms to permanent housing and transferring the development rights for 33 hotel rooms to another site within the commercial district.
- b. A number of smaller, older, lower-performing hotels are being evaluated as potential sites for conversion to residential. In some cases, these sites were apartments before being converted to hotel rooms and may still retain kitchens.
- c. The proposed amendment seeks to create a more robust program for the conversion of hotel

rooms with the goal of absorbing a portion of the lower-income housing requirement that is currently assigned to the city-owned sites.

- d. The Hotel subcommittee of the AHA community group has drafted a white paper and revised program language that is currently being reviewed by the consultant, Veronica Tam.
- e. The hotel subcommittee continues its work to identify potential hotel-to-residential conversions. An inventory of existing hotel properties and the number of hotel rooms per property has been compiled and provided to the consultant for further analysis.

3. Housing on Church Sites (Housing Element Program 1.1.D).

- a. The adopted Housing Element sets a goal of providing nine (9) new housing units on church sites (six affordable units and three market-rate units).
- b. The proposed amendment seeks to create a more robust program to increase the number of potential housing units on church sites with the goal of absorbing a portion of the lower-income housing requirement that is currently assigned to the city-owned sites.
- c. City staff and the Church subcommittee of the AHA community group are reaching out to local religious institutions to gauge interest in the development of housing and better understand the church's needs and constraints to make housing a reality.

4. Downtown Housing Opportunities (various Housing Element programs).

- a. The adopted Housing Element includes a variety of programs to encourage the creation of new housing units throughout the downtown area.
- b. The proposed amendment seeks to identify specific sites (privately owned) that can absorb a portion of the lower-income housing requirements currently assigned to the city-owned sites.
- c. The Downtown subcommittee of the AHA community group has started surveying properties in the commercial district to identify potential housing opportunities.
- d. The AHA community group has prepared maps that divide the downtown area into different sectors so teams of volunteers can focus on specific areas (**Attachment 3**).
- e. Two sectors of the downtown area have been canvassed, and existing and potential housing opportunities are being collected. The results will be shared with the consultant, Veronica Tam, who will utilize the information when analyzing alternative downtown housing sites.

Since the September 10, 2024, meeting, City staff and the AHA community group have continued to meet weekly.

The City has also entered into a Professional Services Agreement with Veronica Tam & Associates to provide technical assistance.

FISCAL IMPACT:

The City Administrator entered into a Professional Services Agreement with Veronica Tam & Associates to provide technical assistance to develop alternative sites and programs that would allow for an amendment to the City's adopted 6th cycle Housing Element to remove Vista Lobos and Sunset Center from the Housing Sites Inventory List. The contract is for a not-to-exceed amount of \$59,999.

PRIOR CITY COUNCIL ACTION:

On April 8, 2024, the City Council adopted Resolution 2024-029, approving a General Plan Amendment and adopting the 2023-2031 6th cycle Housing Element update.

On July 9, 2024, the City Council adopted Resolution 2024-062 directing staff to begin work immediately exploring and developing alternative affordable housing sites and programs in order to submit a formal general plan housing element amendment which provides alternative affordable housing opportunities and removes the need for housing units at the Sunset Center and Vista Lobos properties as part of the city's 6th cycle housing element.

ATTACHMENTS:

Attachment 1) September 10, 2024, City Council Staff Report

Attachment 2) Resolution 2024-062

Attachment 3) Downtown Sector Maps



CITY OF CARMEL-BY-THE-SEA CITY COUNCIL Staff Report

September 10, 2024
ORDERS OF BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Marnie R. Waffle, AICP, Principal Planner
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Update on City Council Resolution 2024-062 to develop alternative sites and programs that would allow for an amendment to the City's adopted 6 th cycle Housing Element to remove Vista Lobos and Sunset Center from the Housing Sites Inventory List.

RECOMMENDATION:

Receive the report and provide feedback as appropriate.

BACKGROUND/SUMMARY:

On April 8, 2024, the City Council adopted the 6th Cycle Housing Element, which covers 2023-2031. The City is responsible to plan for 349 new housing units by 2031.

On April 25, 2024, the State Department of Housing and Community Development (HCD) certified the City's Housing Element. Two city-owned sites, Vista Lobos and Sunset Center, were included as potential affordable housing sites to achieve certification (Housing Element Program 1.1.B: City-Owned Sites).

On July 9, 2024, in response to concerns regarding the redevelopment of the city-owned sites, the City Council passed Resolution 2024-062 directing staff to begin work immediately exploring and developing alternative affordable housing sites and programs to submit a formal general plan housing element amendment that provides alternative affordable housing opportunities and removes the need for housing units at Vista Lobos and Sunset Center. Additionally, staff was directed to return to the City Council in September and October with updates on progress.

September Update

City staff has been participating in the weekly meetings of the Affordable Housing Alternatives (AHA) community group since July 16th. AHA has formed subcommittees of its members to focus on specific housing strategies. Four housing strategies in particular: accessory dwelling units, hotel-to-residential conversions, church sites, and downtown sites are being further explored. These strategies are discussed below in the August 21st community meeting recap.

It is important to note that these strategies already exist as programs in the certified Housing Element. The

main focus of the AHA and City collaboration has been to “supercharge” these programs to produce enough potential affordable housing units that the City sites can be removed from the Sites Inventory List altogether.

Each subcommittee is developing a “one-pager” that includes a) proposals and mechanics, b) challenges and mitigating factors, and c) questions.

Additionally, AHA contacted consulting firms with experience preparing housing elements and arranged meetings to discuss strategies to facilitate the proposed housing element amendment. Three introductory calls were conducted jointly by AHA and City staff to get early feedback on strategies that could successfully amend the City’s certified housing element.

On August 16th, city staff released a request for statements of qualifications for technical assistance with preparing an amendment to the housing element. The city received two responses to the request and is in the process of making a final selection. AHA, city staff, and the selected consultant will collaborate throughout September to refine strategies and alternatives to Vista Lobos and Sunset Center for affordable housing.

On August 21st, AHA and the City jointly sponsored a community meeting at Sunset Center, Carpenter Hall, from 6:00 to 8:00 p.m. The meeting was advertised in the Carmel Pine Cone and via Constant Contact. The Carmel Residents Association also promoted the meeting through its channels of communication. Approximately 50 attendees (in person and via Zoom) participated. Feedback was collected both orally and in writing. Another community meeting is tentatively scheduled for early October. The meeting will focus on accessory dwelling units and junior accessory dwelling units.

The four strategies discussed at the August 21st community meeting include:

1. Accessory Dwelling Units & Junior Accessory Dwelling Units (Housing Element Program 1.3.C). This program incentivizes the development of accessory dwelling units.
 - a. The AHA subcommittee on ADUs is developing an educational brochure.
 - b. City staff is developing a property owner interest form to better understand needs and constraints.
 - c. City staff has been collecting data on ADU/JADU approvals and production to demonstrate to HCD a track record of creating new housing units.
 - d. City staff is working with HCD to determine how reporting of ADUs constructed can satisfy lower-income housing requirements.
2. Hotel-to-Residential Conversions (Housing Element Program 1.3.B). This program encourages the conversion of older hotels to permanent multi-family rental housing. In exchange for providing 15 percent lower-income units, the hotel units can be transferred to another site within one of the commercial districts.
 - a. The AHA subcommittee on hotel conversions is developing an enhanced program to incentivize conversions.
 - b. The AHA subcommittee has reached out to industry leaders for input.
 - c. The AHA subcommittee is exploring the program's financial feasibility, including what incentives may be necessary to generate more interest.
3. Housing on Church Sites (Housing Element Program 1.1.D). This program implements State law, which allows religious institutions to construct housing on their property, irrespective of local zoning.

- a. Interest from the faith community was expressed following the August 21st community meeting.
 - b. The AHA subcommittee on churches is following up with local churches to understand needs and constraints.
4. Downtown Housing Opportunities (various Housing Element programs).
 - a. The AHA subcommittee is exploring lot consolidations to create a potential project site(s) that is/are financially feasible for affordable housing development.

City staff will return at the October 1, 2024, Council meeting with another update on the efforts to identify affordable housing alternatives to Vista Lobos and Sunset Center.

FISCAL IMPACT:

There will be costs associated with securing a consultant to provide technical assistance. The cost will be billed on a time-and-materials basis not to exceed \$59,999.

PRIOR CITY COUNCIL ACTION:

None.

ATTACHMENTS:

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL**

RESOLUTION NO. 2024-062

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DIRECTING STAFF TO BEGIN WORK IMMEDIATELY, UPON ADOPTION OF THIS RESOLUTION, EXPLORING AND DEVELOPING ALTERNATIVE AFFORDABLE HOUSING SITES AND PROGRAMS, IN ORDER TO SUBMIT A FORMAL GENERAL PLAN HOUSING ELEMENT AMENDMENT WHICH PROVIDES ALTERNATIVE AFFORDABLE HOUSING OPPORTUNITIES AND REMOVES THE NEED FOR HOUSING UNITS AT THE SUNSET CENTER AND VISTA LOBOS PROPERTIES AS PART OF THE CITY'S 6TH CYCLE HOUSING ELEMENT. STAFF IS FURTHER DIRECTED TO RETURN TO COUNCIL NO LATER THAN THE REGULAR SEPTEMBER 2024 COUNCIL MEETING WITH AN UPDATE ON PROGRESS AND RETURN NO LATER THAN THE REGULAR OCTOBER, 2024 CITY COUNCIL MEETING WITH A ROUGH DRAFT OF AN AMENDMENT THAT WOULD ULTIMATELY BE SUBMITTED TO THE STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD)

WHEREAS, the City of Carmel-by-the-Sea (City) currently has an adopted General Plan Housing Element (Housing Element) which is certified by the California Department of Housing and Community Development (HCD) for the State's 6th Housing Cycle spanning the years 2023-2031 (6th Cycle) which plans for the potential development of market rate and affordable housing totaling 349 new units; and

WHEREAS, the City wishes to maintain certification of the Housing Element throughout the entire 6th Cycle; and

WHEREAS, the City has, and continues to support the development of new affordable housing units within the city limits while protecting and honoring its design character; and

WHEREAS, the Sunset Center and Vista Lobos parking lots (City Owned Sites) are currently included on the certified Housing Element 'Sites Inventory' as sites that could collectively be developed with a total of 149 affordable housing units; and

WHEREAS, the City Owned Sites, in conjunction with others on the 'Sites Inventory', make up the total number of 231 affordable units required to be planned for development as part of the City's 6th Cycle Regional Housing Needs Allocation (RHNA); and

WHEREAS, the City wishes to find viable alternative sites and further develop programs (Alternatives) that would better spread affordable housing units around the City and remove the need to utilize the City Owned Sites; and

WHEREAS, the City wishes to move quickly and efficiently, with public input, to develop Alternatives and submit a Housing Element Amendment for certification by HCD which removes the City Owned Sites from the 'Sites Inventory', but does not reduce the total number of 231 new affordable units planned for development as part of the currently certified 6th Cycle Housing Element.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Carmel-By-The-Sea does hereby direct staff to begin work immediately, upon adoption of this resolution, exploring and developing alternative affordable housing sites and programs, in order to submit a formal General Plan Housing Element Amendment which provides alternative affordable housing opportunities and removes the need for housing units at The Sunset Center and Vista Lobos properties as part of the City's 6th Cycle Housing Element. Staff is further directed to return to Council no later than the regular September, 2024 Council meeting with an update on progress and return no later than the regular October, 2024 City Council meeting with a rough draft of an amendment that would ultimately be submitted to the State Department of Housing and Community Development (HCD).

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 9th day of July 2024, by the following vote:

AYES: Councilmembers Baron, Dramov, Ferlito, Richards, and Mayor Potter

NOES: None

ABSENT: None

ABSTAIN: None

APPROVED:



Dave Potter, Mayor

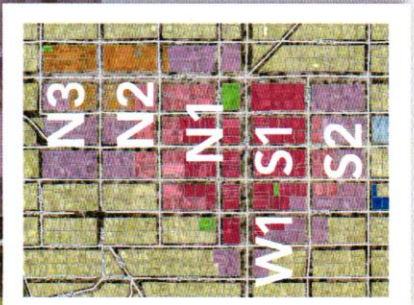
ATTEST:



Nova Romero, MMC, City Clerk

N3

Attachment 3 - Downtown Sector Maps



N3

Attachment 3 - Downtown Sector Maps



N2

Attachment 3 - Downtown Sector Maps



N2

Attachment 3 - Downtown Sector Maps



Attachment 3 - Downtown Sector Maps





Attachment 3 - Downtown Sector Maps



Attachment 3 - Downtown Sector Maps



S1



S1

Attachment 3 - Downtown Sector Maps



S2

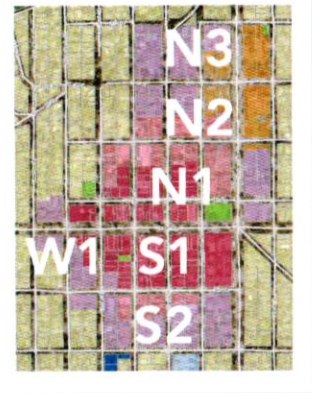
Attachment 3 - Downtown Sector Maps



Attachment 3 - Downtown Sector Maps



Attachment 3 - Downtown Sector Maps



W1

Attachment 3 - Downtown Sector Maps



W1



CITY OF CARMEL-BY-THE-SEA CITY COUNCIL Staff Report

October 1, 2024
PUBLIC HEARINGS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Marnie R. Waffle, AICP, Principal Planner

APPROVED BY: Chip Rerig, City Administrator

SUBJECT: **PERM EN 240129 (Voris):** Consideration of a Permanent Encroachment Permit application, PERM EN 240129 (Voris), for a stone border around a landscape planter in the public right-of-way, fronting a single-family residence located on Torres Street 4 northeast of 6th Avenue. APN: 010-092-010-000.

RECOMMENDATION:

Consider a Permanent Encroachment application (PERM EN 240129, Voris) for existing encroachments in the public right-of-way adjacent to the historic Hansel & Gretel cottages located on Torres Street 4 northeast of 6th Avenue (APN 010-092-010-000).

BACKGROUND/SUMMARY:

On March 13, 2024, the Planning Commission adopted Resolution 2024-019-PC approving the construction of a 250-square-foot detached garage in the front yard setback of the historic Hansel and Gretel Cottages (**Attachment 1**). The Planning Commission recommended the removal of existing encroachments in the public right-of-way and adopted Condition of Approval No. 21, requiring the encroachments to be removed prior to the final inspection of the detached garage (**Attachment 2**). The standard condition would have typically included "...or apply for an encroachment permit." This verbiage was inadvertently left out of the condition of approval. The encroachment permit review standards were not discussed in detail with the Planning Commission, only the treatment of the right-of-way as described in the Residential Design Guidelines. On behalf of the owners, the Applicant is requesting City Council consideration of the encroachments (**Attachment 3**). As of the writing of this report, nine (9) public comment letters supporting the encroachments have been received (**Attachment 4**).

Project Description:

The Applicant is seeking approval for existing stone borders around landscaped areas in the public right-of-way in front of the historic Hansel & Gretel cottages (**Attachment 5**). The stone border resembles Carmel stone and compliments the stone patio and pathways on the property, as well as the stone foundation and chimney on Hansel. Secondary encroachments include the Carmel stone walkway at the front entry gate and excess asphalt across the property frontage. Previously installed landscape lights have been removed from the right-of-way.

Applicable Regulations:

General Plan Policy P1-43 states,

Maintain and enhance the informal, vegetated, open space character of the City's rights-of-way. Trees in the rights-of-way shall not be removed to provide parking. With the exception of driveways, installation of new paving in the rights-of-way by private property owners is prohibited. (LUP)

CMC Section 17.34.070.B (Public Right-of-Way in the R-1 District) states that pathways paved only with decomposed granite or other soil materials are permitted and above-ground encroachments are prohibited (except paving for driveways). The full text of the section is provided below.

1. Landscaping in public rights-of-way in the R-1 district is limited to drought-tolerant plants that are native and are consistent with the character of the Monterey Peninsula environment.

2. Plants should be natural in character and informally arranged to reflect the surrounding forest atmosphere. Landscaping shall not include bedding plants, highly colorful flowering plants and "formal plant arrangements."

3. Landscaping should consist of leafy ground covers, low shrubs and/or trees of the urbanized forest. Natural dirt rights-of-way with pine needles is also permitted. Parking spaces may be defined in the unpaved right-of-way with landscaping.

4. Paving, gravel, boulders, logs, timbers, planters or other above-ground encroachments are prohibited, except paving for driveways. Pathways paved only with decomposed granite or other soil materials made of soil materials are permitted.

Residential Design Guideline 1.5 states,

Maintain and enhance the informal, vegetated, open space character of the right-of-way.

- Use simple planting plans when right-of-way landscaping is proposed.
- Emphasize native plants.
- Do not add paving or boulders to the right-of-way.

Residential Design Guideline 1.7 states,

Where a parking area in the right-of-way is to be defined, use a design that will reinforce the forest image.

- Natural soil, shredded bark and wood chips are preferred surface materials. Gravel is prohibited.
- Separate an existing parking space in the right-of-way from any driveway with plantings.
- Only the city is authorized to add paving or boulders in the public right-of-way, except in the cases of driveways and authorized encroachments.

Residential Design Guideline 2.2 states,

Maintain existing patterns of street edge design and street paving.

- Avoid adding new pavement at the edge that would widen the street or create a parking space.
- Maintain an informal unpaved and/ or landscaped edge where it exists.

Residential Design Guideline 10.3 states,

Planting in areas visible from the street or other public places should continue the forest character. Locate plants in relaxed, informal arrangements that are consistent with the urban forest character.

- Avoid formal, unnatural arrangements of plants and paving except in areas out of public view.
- Reserve the use of bedding plants and exotic flowering plants to small accents at walkways, entries or near special site features. Lawns visible from the street are inappropriate to the forest setting and should be avoided.

Residential Design Guideline 10.4 states,

Plants in the public right-of-way should be predominantly green foliage plants, in keeping with the design traditions of Carmel.

- Leaving the right-of-way natural is encouraged.
- Naturalized landscaping consistent with the City's forest character may be added to the right-of-way and be designed to blend into landscaping on site to enhance the sense of open space.
- If planted, the use of native trees, ground covers and low shrubs is preferred.
- Avoid the use of bedding plants and exotic species in the public right-of-way.

Note: No new paving for parking may be created in the right-of-way and when development occurs on a site any existing paving in the right-of-way must be removed unless specifically authorized through an encroachment permit.

Carmel Municipal Code Chapter 12.08 (Encroachments) states that it is the policy of the City to discourage encroachments onto public lands. When approving an encroachment, they shall be kept to a minimum and permitted only when a) consistent with the General Plan, b) preserve the public health, safety, or welfare, c) contribute to the general planning and zoning objectives of the City, and d) are characteristic with the appearance of the neighborhood and City.

A permit is required to place or maintain any encroachment in the public right-of-way. "Encroachment" is defined as, *any excavation, structure or object, temporary or permanent, upon, over, or under any City property or public right-of-way, except driveways...* A permanent encroachment is any encroachment that remains in the public right-of-way for more than 90 days.

Applications for encroachments are submitted to the Director of Community Planning & Building for coordination of reviews by appropriate City departments. The City Administrator is authorized to approve encroachments that conform to the standards in CMC 12.08.060. If the proposed encroachment does not conform to these standards, or it is the opinion of the City Administrator that the nature of the encroachment is contrary to the public interest or should be referred to the City Council for determination, then the application shall be scheduled for action by the City Council. Due to the nature of the encroachment, the City Administrator is referring the application to the City Council for action. Each standard is listed below, followed by the applicant's response to the standard and the staff's response. The City Council has the authority to exercise discretion in determining conformance with applicable review standards.

ANALYSIS:

Encroachment Application Review Standards

There are nine (9) review standards A through I. Standard I applies only to wireless communication facilities and does not apply to this application.

A. Need. The applicant shall be determined to have a justifiable need for the encroachment, and the encroachment shall not be contrary to the public interest.

Applicant's Response: The request is to retain a previously installed stone border around planting areas. The border is needed to (a) retain water and soil in the planting area; (b) prevent auto traffic from driving into

the planting area; and (c) identify planting area from paved area for pedestrians and vehicles by contrasting color of the border.

Staff's Response: The applicant has provided justification for the stone border. The stone border establishes a perimeter around the landscaping to prevent vehicular and foot traffic from damaging the plant material. It also defines the public viewing areas of the historic cottages directing people to the driveway and front entry gate.

The Carmel stone path defines the front entry and is compatible with other stone features on the property. It provides a stable surface where the public can view the historic cottages.

The asphalt also provides a stable, solid surface for the many visitors to the cottage and an area for vehicles to pull out of the travel lane on Torres Street to take photographs. The encroachments benefit the public due to the volume of visitors that Hansel & Gretel attracts.

B. Safety. The granting of an encroachment permit shall not create a hazard to public health or safety.

Applicant's Response: The 6" high stone border is similar to a curb, separating planting from paved areas. The light stone color contrasts with pavement and planting, identifying the demarcation and directing cars and pedestrians to remain on paved areas. Unlike boulders, etc., the curb is familiar to persons as a change in grade.

Staff Response: The stone border is intended to function like a curb protecting the landscaping from vehicular and pedestrian traffic. However, the stone border may also pose a tripping hazard. Hansel & Gretel are arguably the most visited Comstock cottages. This increases the probability of the public tripping over the stone curb. The high contrast between the stone curb and the asphalt makes the border more visible, but the amount of asphalt also detracts from the forested edge character of the residential district. The property owner is required to maintain liability insurance in the event of an accident.

The stone border has been in place for two years, and staff is unaware of any accidents. The Planning Commission recommends that the stone border be removed. While the plants may fall victim to trampling by pedestrians or vehicles, protecting public safety is paramount. The Council may consider whether the stone curb is no more of a hazard than a typical rolled asphalt berm.

The Carmel stone entry path creates a stable surface on which the public can gather to take photographs of the historic cottages. The path is not hazardous to the public health or safety.

The asphalt area allows vehicles to pull out of the travel lane on Torres Street when taking photographs from their vehicles which may improve safety. The width of Torres Street is narrow, and the historic cottages are across the street from a commercial driveway that provides access to the Carmel Bay View Inn. The asphalt extends the improved portion of the roadway and is not a hazard to public safety.

C. Drainage. The proposed encroachment shall not adversely affect the normal drainage of surface water, unless an acceptable mitigation is included that will be advantageous to the general public and meet the standards herein.

Applicant's Response: The border retains the normal drainage of surface water within the planting area, whereas if the border is eliminated, water will run off into the street and into the storm drain system.

Staff Response: The stone border will mitigate erosion from the landscaped areas. It will also act as a barrier, redirecting surface water away from the landscaping, where it might have an opportunity to percolate

back into the soil. This could be mitigated by reducing the amount of asphalt along the property's frontage and restoring the right-of-way to a more natural state. The Council should consider whether the potential safety benefits of the asphalt should take precedence over drainage flows.

The Carmel stone entry path does not affect the flow of drainage.

D. Circulation and Parking.

1. The proposed encroachment shall not adversely affect vehicular and/or pedestrian traffic nor the parking of vehicles.

Applicant's Response: This section is critical pertaining to the Hansel Cottage. Approximately 4-6 persons per hour, all day every day, come looking for the Hansel & Gretel cottages. The planting areas and borders direct pedestrian onlookers (tourists from across the world who come to see Hansel and Gretel to the viewpoint in front of Hansel. The planting areas, approved in 2018 as part of the Gretel restoration/addition project, prevent parked cars from blocking that view and access. As noted above, the borders protect and define that viewpoint.

Staff's Response: The landscaped areas protect important public views of the historic Hansel & Gretel cottages by preventing parked cars from interfering with the views of the cottages. The defined landscape areas direct visitors to ideal viewing locations, such as the driveway and the front entry gate. While parking along the street edge is encouraged, the Council should consider whether protecting the views of Hansel & Gretel takes precedence over parking in front of this 60-foot wide lot.

2. The proposed encroachment shall not adversely impact existing rights-of-way nor preclude or make difficult the establishment or improvement of existing or potential streets or pedestrian ways.

Applicant's Response: The planting areas help define the roadway and parking spaces, and the borders define the planting areas. There is no existing or proposed adverse impact on rights-of-way.

Staff's Response: The stone borders extend far enough into the right-of-way to prevent on-street parking but not so far as to encroach into the travel lane on Torres Street. The stone border is not so permanent that it would preclude the City's ability to improve the street in the future.

The Carmel stone entry path defines the front entry and would not preclude the City's ability to improve the street in the future.

The additional asphalt provides a benefit by creating enough space for a vehicle to pull out of the travel lane and take photographs of the cottages. The asphalt would not preclude the City's ability to improve the street in the future.

E. Public Use and Enjoyment.

1. The proposed encroachment shall not diminish public use or enjoyment, either visual or physical, of the City property or public right-of-way to be encroached upon.

Applicant's Response: As noted above, the encroachment (stone borders defining the planting areas) enhances, rather than diminishes, the public enjoyment of this privately owned and city-honored historic resource.

In addition to the characteristics noted above (separation of pavement from planting, definition of pedestrian viewpoint), the stone border is most compatible with the historic stonework and cottages beyond.

Staff's Response: The stone border enhances public use and enjoyment by protecting important views of the historic cottages. The border is easy to remove in the future.

The Carmel stone entry path enhances public use and enjoyment by creating a stable surface to gather and photograph the historic cottages. Its architectural compatibility with the stone site features and the stone on Hansel contributes to the overall experience of visiting these historic cottages. The path is easy to remove in the future.

2. The encroachment and enjoyment shall be in the public interest.

Applicant's Response: The Voris's, owners of Hansel & Gretel, have been and continue to be, stewards of the cottages as public treasures, achieving a balance between tourists desiring to see the resources and their private use of their residence. They do this by discouraging access onto the property while encouraging viewing from the street. To improve this viewpoint, they recently removed an arbor from over the front gate, so visitors can more easily frame and photograph the Hansel Cottage.

Staff's Response: The landscaped areas defined by the stone border are an extension of the on-site landscaping. Combined with the Carmel stone entry path, the encroachments provide an attractive environment for the many visitors observing and photographing the historic cottages.

3. The length of time an encroachment has existed shall not by itself prejudice a decision.

Applicant's Response: Although the request is to retain an existing encroachment, time of existence is not considered a factor. The borders were installed as part of the landscape improvements of the Gretel Restoration/Addition project, and were requested for removal by the Planning Commission as a condition of approval of the upcoming garage construction. Because the border is a positive incremental element to the planting, we now request continuation of that encroachment.

Staff's Response: The stone border, Carmel stone path, and asphalt were installed Spring of 2022. The extent of the planter areas and the landscaping in the right-of-way were shown and approved on a landscape plan. The Carmel stone border and path were not identified on the approved plans. The extent of the asphalt area is shown on the approved plan.

F. Compatibility.

1. The proposed encroachment and its mitigation shall be consistent with the General Plan and the adopted ordinances of the City. Particular attention shall be given to Section P1-48 of the General Plan, which prohibits the construction of sidewalks and concrete curbs in the R-1 district, unless necessary for drainage and/or pedestrian safety.

Applicant's Response: No sidewalks are proposed; the asphalt of the roadway extends as a path to the gate at the property line, allowing visitors to view the resource. No concrete is proposed; the borders separating planting beds from the asphalt are Carmel stone, to reflect the character of the resource. The borders retain drainage.

Staff's Response: General Plan Policy P1-43 states, *Maintain and enhance the informal, vegetated, open space character of the City's rights-of-way. Trees in the rights-of-way shall not be removed to provide parking. With the exception of driveways, installation of new paving in the rights-of-way by private property owners is prohibited. (LUP)*

The property frontage has been improved with new asphalt and landscaping defined by the stone borders. No trees were removed in the right-of-way to accommodate the improvements. A more traditional treatment to the right-of-way would be a natural finish, with or without landscaping, and a rolled asphalt berm at the street edge to keep surface water from flowing from the street onto private property.

A 4-foot wide decomposed granite path is the preferred material for paths in the right-of-way in the R-1 District. Due to the volume of visitors to the historic cottages, the stone path would be more stable and durable than decomposed granite. The Carmel stone path is compatible with similar stone features on the property.

2. The encroachment shall not create, extend, or be reasonably likely to lead to an undesirable land use precedent.

Applicant's Response: Planting areas throughout the city and near to Hansel and Gretel are currently defined by a number of border elements; most are desirable and compatible elements to the properties. There is no precedent made by retention of this stone border.

Staff's Response: It is not uncommon for property owners to propose defining the boundary of a landscaped area with stones, rocks, logs, etc. These features are typically discouraged in favor of a natural, informal forest edge.

While located in the R-1 District, the historic cottages are directly across the street from the Residential and Limited Commercial (RC) District and a commercial driveway that provides ingress and egress to the Carmel Bay View Inn. The proximity of this commercial activity is not so common that it would create an undesirable land use precedent. Residential areas adjacent to commercial districts often contain features in the right-of-way not found in other areas of the R-1 District such as asphalt sidewalks, designated on-street parking spaces, and an improved right-of-way up to the street edge. These improvements support increased vehicular and pedestrian traffic in these areas.

3. Granting of a permit shall not adversely affect the usability or enjoyment of one or more adjoining parcels.

Applicant's Response: Approval will have no bearing on adjoining parcels.

Staff's Response: The proposed encroachments are contained within the frontage of the historic cottages and will not affect the usability or enjoyment of adjoining parcels. The volume of visitors to Hansel & Gretel would not be any less without the encroachments.

4. The proposed encroachment and its mitigation shall be compatible with the surrounding area and adjoining properties.

Applicant's Response: As noted above, some adjoining properties have similar features, and are similar in design to Hansel and Gretel. The encroachment of stone borders around planting areas is compatible with these properties.

Staff's Response: The block of Torres Street between 5th and 6th Avenues is steep. On the downhill side of the street to the south, there are multiple encroachments, including stone/rock curbs/walls and small wooden logs, which retain the natural soil and define landscaped areas in the right-of-way on the east side of the street. On the west side of the street is the Carmel Bay View Inn; to the south of the hotel is the back of Surf & Sand. At this location, on the west side of the street, is an asphalt sidewalk and stone curb. Considering the immediate context, the proposed encroachments are in keeping with the neighborhood character.

G. Public Property/Greenbelt.

1. The proposed encroachment shall not adversely affect any public property, including existing vegetation or its root structure, and shall not significantly reduce greenbelt area that may be used for tree planting.

Applicant's Response: The stone borders will have no effect on root structures. The planting areas enhance greenbelt area; if damaged or dented by persons or cars because the borders aren't allowed, that could be an adverse effect on the vegetation and greenbelt area.

Staff's Response: The stone borders provide some protection for the landscaping. The excess asphalt does reduce the greenbelt area; however, these areas would not be practical for planting additional trees due to their proximity to the edge of the roadway and the presence of electrical transmission lines on the east side of the street.

2. Significant trees which would be affected by the proposed encroachment shall be identified by the Director of Forest, Parks and Beach and approval for removal shall follow City policy.

Applicant's Response: There is no relationship between the stone borders and existing trees.

Staff's Response: This standard is not applicable. The encroachments do not affect any significant trees.

H. Mitigation. When deemed appropriate by the City, the applicant shall include those measures appropriate to compensate the City for the loss of the use of City property or the public right-of-way, or to repair damage thereto.

Applicant's Response: The stone borders are, in fact, protective to City property by defining the planting areas, and as such, should be considered a mitigation.

Staff's Response: The encroachments do not result in a loss of the use of the right-of-way. The landscaping enhances the right-of-way and defines public viewing areas of Hansel and Gretel by preventing vehicles from blocking the view of the cottages and directing the public to important viewing areas.

FISCAL IMPACT:

None.

PRIOR CITY COUNCIL ACTION:

None.

ATTACHMENTS:

Attachment 1 Detached Garage Plans
Attachment 2 Applicant Letter
Attachment 3 Resolution 2024-019-PC
Attachment 4 Public Comments in Support
Attachment 5 Existing Photo



PROPOSED GARAGE
FOR
MICHAEL & ROBERTA VORIS

TORRES STREET 4 NE SIXTH AVENUE
CARMEL-BY-THE-SEA, CALIFORNIA

PROJECT DATA:

NEW DETACHED GARAGE - EXISTING HISTORIC COTTAGES
REMOVAL OF TWO SMALL OAK TREES AND
ONE SPAR OF A LARGE MULTI-SPAR OAK TREE

LEGAL DESCRIPTION: LOT 10 & NORTH 1/2 OF LOT 12, BLOCK 60
APN 010-092-010-000

LOCATION: TORRES STREET 4 NE SIXTH, CARMEL-BY-THE-SEA CA.
LOT SIZE: 6,000 SF. ZONING: R1

OWNERS: MICHAEL & ROBERTA VORIS
1823 GARDEN HIGHWAY
SACRAMENTO, CALIFORNIA
EMAIL: r.voris@comcast.net m.voris@comcast.net

LOT SIZE: 6,000 SQUARE FEET		ZONING: R1
GARAGE SETBACKS:	ALLOWED	PROPOSED
FRONT (WEST):	0	1'-6"
NORTH SIDE:	3'-0"	33'-11"
SOUTH SIDE:	3'-0"	8'-6"
COMPOSITE:	15'-0"	48'-3"
REAR	3'-0"	16'-10"
HEIGHT:	15'-0"	12'-0"

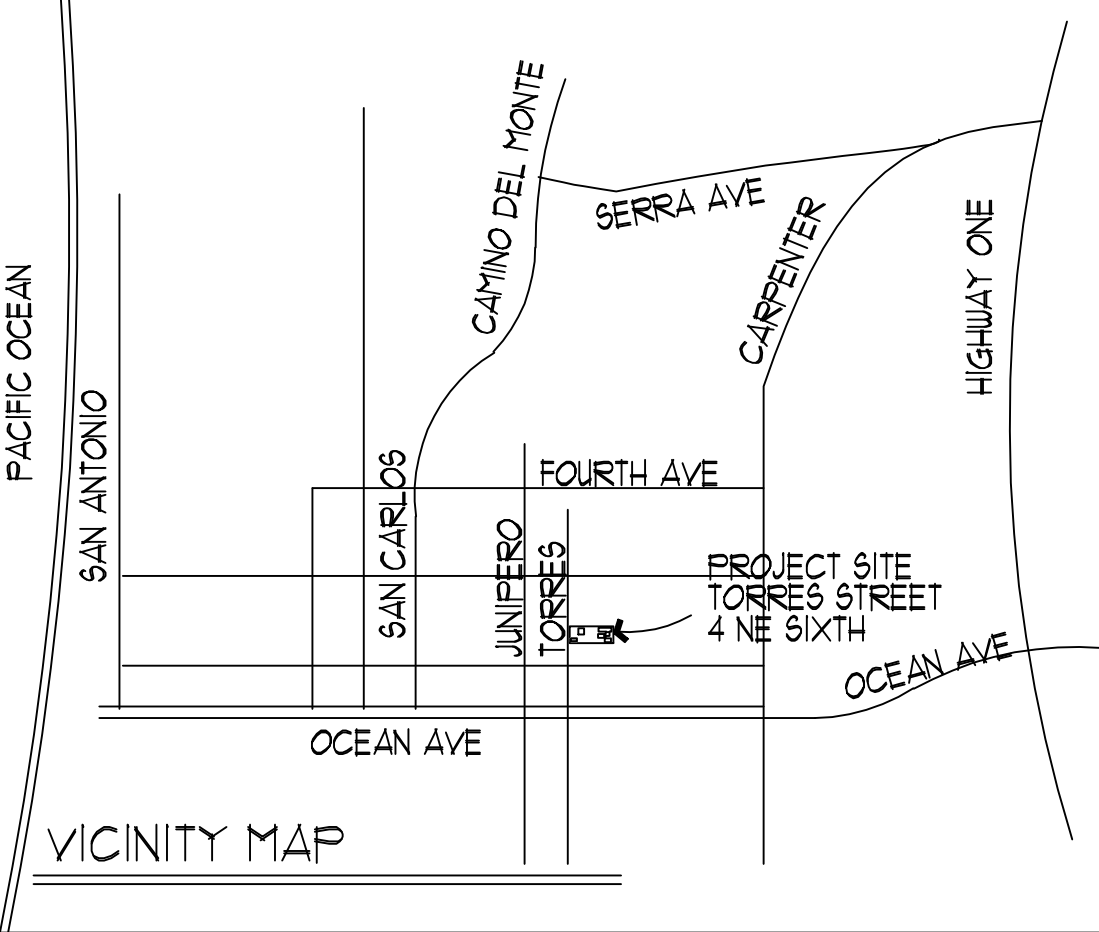
FLOOR AREA:	(E) HANSEL COTTAGE	250 SF.
	(E) GRETEL COTTAGE	1,889 SF.
	PROPOSED GARAGE	250 SF.
	DEDUCT PARKING PAD	(-200 SF.)
TOTAL FLOOR AREA:		2,189 SF.

ALLOWED FLOOR AREA: 2,460 SF.

PROPOSED VOLUME - ADDITION ONLY OPTION

GARAGE		
ROOF	250 SF. x 4' / 2 =	500 CF.
FLOOR-TO-PLATE LINE	250 SF. x 8 =	2,000 CF.
AVG GROUND TO FLOOR	250 SF. x 5 =	125 CF.
TOTAL VOLUME PROPOSED =		2,625 CF.
VOLUME ALLOWED: 250 x12		3,000 CF.

SITE COVERAGE:
EXISTING COVERAGE IS AS APPROVED DURING PREVIOUS PROJECT.
NO CHANGE TO COVERAGE FOR CONVERSION OF PARKING PAD TO GARAGE.

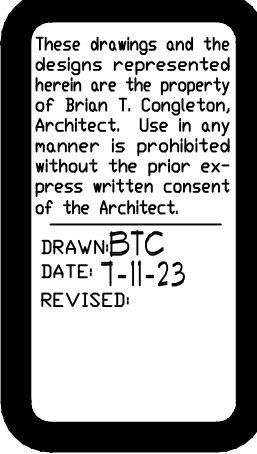


ARCHITECT & ENGINEERS
ARCHITECT: BRIAN CONGLETON
24720 PINE HILLS DRIVE
CARMEL CALIFORNIA 93823
831/915-2666 brian@congletonarchitect.com

- INDEX TO DRAWINGS**
- 11 PROJECT DATA
 - 12 SURVEY
 - 13 SITE/ROOF PLAN
 - 14 TREE PLAN
 - 21 GARAGE PLAN & ELEVATIONS
 - DOOR & WINDOW SCHEDULE & DETAILS
 - 22 STREET ELEVATIONS
 - 23 STREET PHOTO & RENDERING

PROJECT DATA

DESIGN REVIEW SUBMITTAL
JULY 11, 2023



Brian Congleton Architect

VORIS GARAGE
TORRES 4 NE SIXTH - CARMEL CALIFORNIA

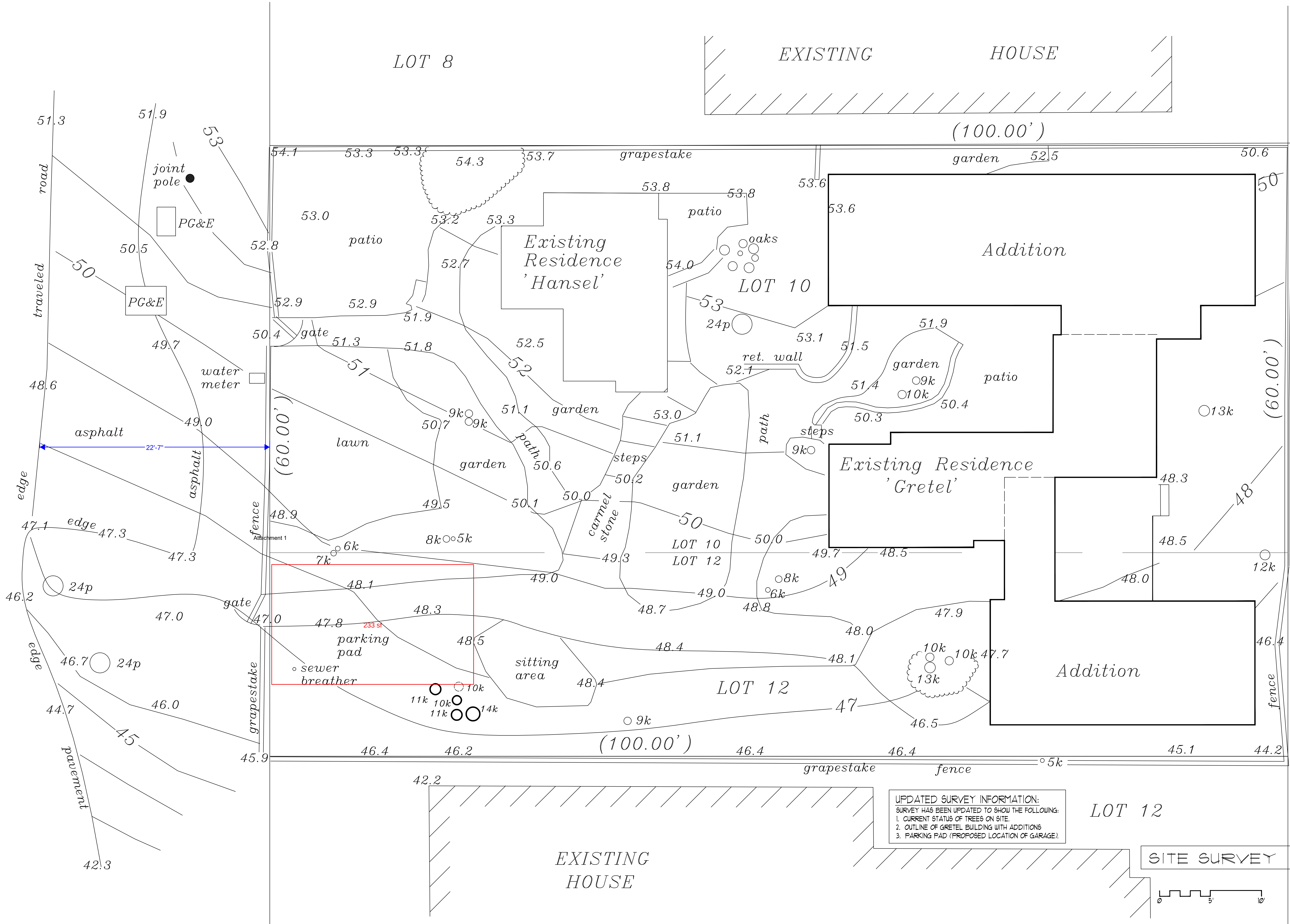


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DATE: 1-11-23
REVISED:

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License No. C-16030
(831) 915-2686 brian@congletonarchitect.com

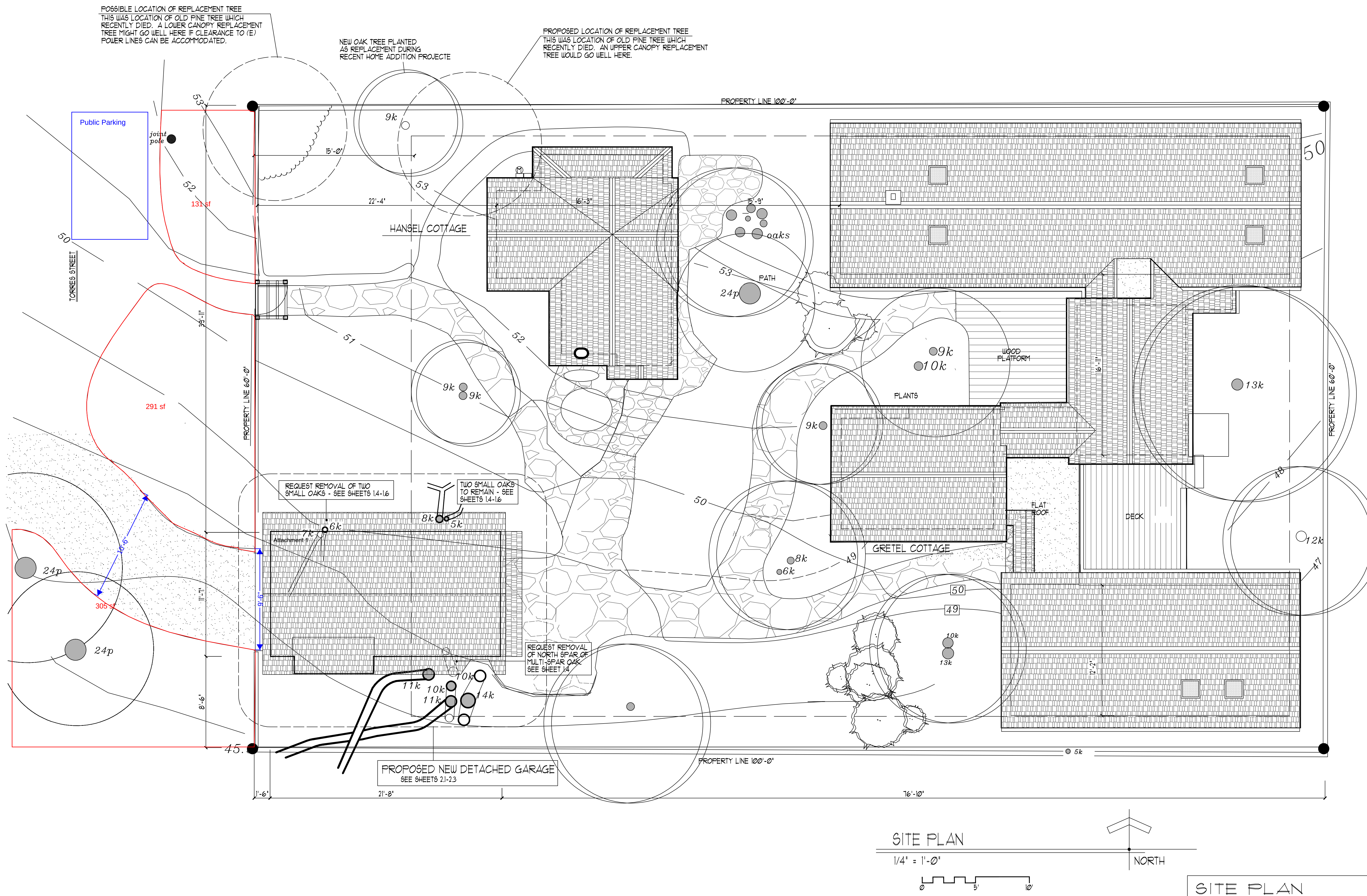
VORIS GARAGE
TORRES 4 NE SIXTH - CARMEL, CALIFORNIA

SHEET NUMBER
1.2



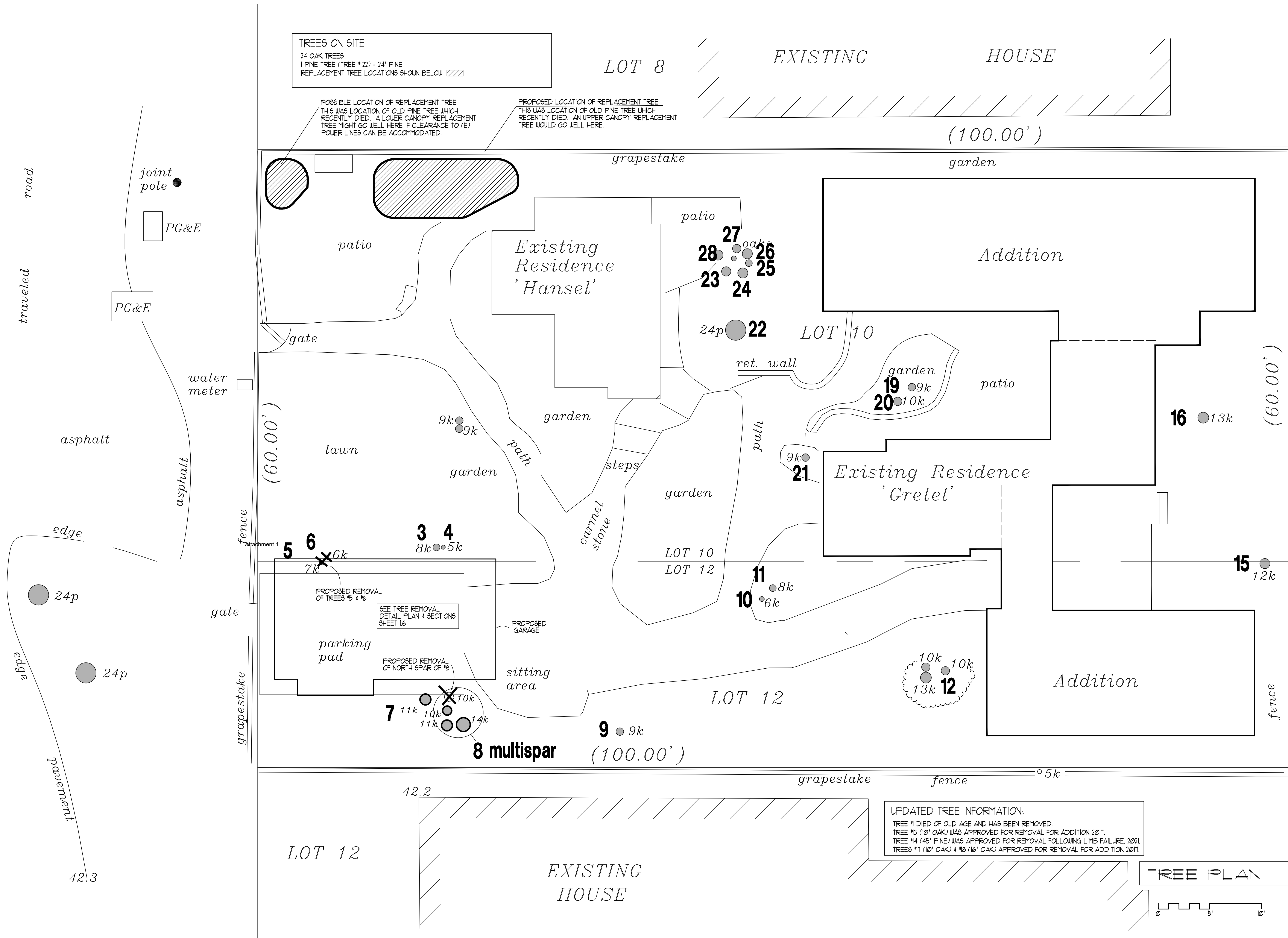
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REVISED: 2-28-24



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DATE: 7-11-23
REVISED:



F. What is the age and vigor of the tree?

Tree #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
score	1	2	2	-	2	2	2	2	1	1	2	2	1	2	2	2

Tree #	17	18	19	20	21	22	23	24	25	26	27	28
score	1	2	2	2	2	2	2	2	2	1	2	2

- 0 points:** The tree is over-mature or shows signs of poor or declining vigor such as die-back of major limbs or of the crown, small leaves/needles and/or minimal new growth.
- 1 point:** The tree is mature but retains normal vigor and is likely to continue as a forest asset for a substantial period into the future.
- 2 points:** The tree is young to middle age and shows normal vigor.
- 3 points:** The tree is young to middle age and shows exceptional vigor.

G. Are environmental conditions favorable to the tree?

Tree #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
score	1	1	1	-	1	1	1	1	1	1	1	2	1	2	1	1

Tree #	17	18	19	20	21	22	23	24	25	26	27	28
score	1	2	1	1	1	2	1	1	1	1	1	1

- 0 points:** The tree is crowded or has no room for growth to maturity. The tree has poor access to light, air or has poor soil for the species.
- 1 point:** The tree has average environmental conditions including room for growth to maturity, access to light, air and soils suitable for the species.
- 2 points:** The tree has room for growth to maturity with no crowding from other significant trees or existing buildings nearby. The tree also has excellent access to light, air and excellent soils for root development.

Part Three: Final Assessment

Please record the total points scored on pages two and three for each tree.

Tree #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Total Score	4	7	7	-	7	7	7	7	4	4	7	7	5	8	7	7

Tree #	17	18	19	20	21	22	23	24	25	26	27	28
Total Score	5	9	7	7	7	8	7	7	7	4	7	7

A. Did all assessment categories in Part Two achieve a minimum score of 1-point?

Tree #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
YES	X	X	X	-	X	X	X	X	X	X	X	X	X	X	X	X
NO				-												

Tree #	17	18	19	20	21	22	23	24	25	26	27	28
YES	X	X	X	X	X	X	X	X	X	X	X	X
NO												

B. Are there any other factors that would disqualify a tree from a determination of significance? (Explain any 'yes' answer)

No ___X___ Yes _____

(Explanation)

NOTES:

Conclusion: Does The Tree Qualify As Significant Or Moderately Significant?

If the tree meets the species, size and safety criteria identified in Part One and scores at least one point under each of the criteria in Part Two, it shall be classified as Significant if it achieves a score of **6 or more points** or shall be classified as Moderately Significant if it achieves a score of **4 or 5 points**. Tree species not listed in Part One-B that meet other screening criteria in Part One may be classified by the City Forester as Significant if they score at **least 7 points**, or as Moderately Significant if they score at **least 4 points**. All other trees are classified as non-significant.

Tree #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
SIGNIF	X	X			X	X	X	X			X	X		X	X	X
MOD SIGNIF	X								X	X			X			
NOT SIGNIF				X												

Tree #	17	18	19	20	21	22	23	24	25	26	27	28
SIGNIF		X	X	X	X	X	X	X	X		X	X
MOD SIGNIF	X									X		
NOT SIGNIF												

Significant Tree Evaluation Worksheet

Voris 111716

Page 1 of 5

Block: 60 Lot(s): 10 + N1/2 12 Street Location: E/Torres 4 north of 6th

Part One: Initial Screening:

Complete Part One to determine if further assessment is warranted. Trees must pass all criteria in Part One to be considered significant or moderately significant.

A. Does the tree pose an above-normal potential risk to life and property?

Tree #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
YES																
NO	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

Tree #	17	18	19	20	21	22	23	24	25	26	27	28
YES												
NO	X	X	X	X	X	X	X	X	X	X	X	X

Any tree with structural impairment likely to cause failure should be marked as unsafe and removed. Use page five of this worksheet to document the safety risk. Trees that have limited and specific defects that can be remedied with selective pruning or other mitigation should be marked as safe and specific recommendations should be given to the owner for tree care. Such trees may still be assessed for significance.

B. Is the tree one of the following native species on the Carmel-by-the-Sea recommended tree list?

Tree #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Species	MP	CO	CO	CO	CO	CO	CO	CO	CO	CO	CO	CO	MP	CO	CO	CO
YES	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
NO																

Tree #	17	18	19	20	21	22	23	24	25	26	27	28
Species	CO	CO	CO	CO	CO	MP	CO	CO	CO	CO	CO	CO
YES	X	X	X	X	X	X	X	X	X	X	X	X
NO												

MP – Monterey pine
BP – Bishop pine
CO – Coast live oak
CS – California sycamore
OT – Other

MC – Monterey cypress
CR – Coast redwood
CI – Catalina Ironwood
BL – Big leaf maple

(Note: Other species on the recommended tree list may be determined to be Significant Trees only if they are exceptional examples of the species. Such trees also must exhibit excellent health, form, vigor, and substantial size to rate an overall score of at least 7 points in Part Two of the assessment.)

C. Does the tree meet the minimum size criteria for significance?

Tree #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
YES	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X
NO				X												

Tree #	17	18	19	20	21	22	23	24	25	26	27	28
YES	X	X	X	X	X	X	X	X	X	X	X	X
NO												

	Diameter	Height
Monterey pine, Monterey cypress, Bishop pine, Coast redwood	4 inches @ dbh	15 Feet
Coast live oak – single trunk tree	6 inches @ dbh	N/A
Coast live oak – cluster or multi-trunk tree measured as an average diameter of all the trunks that reach breast height	6 inches @ dbh	N/A
California sycamore, Big leaf maple, Catalina ironwood	10 inches @ dbh	25 Feet

dbh = diameter at breast height or 4.5 feet above the adjacent ground surface

Part Two: Assessment For Tree Significance

For each of the criteria below assign points as shown to assess the tree. If any criteria score is zero the assessment may stop as the tree cannot qualify as significant or moderately significant.

D. What is the health and condition of the tree?

Tree #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
score	1	2	2	-	2	2	2	2	1	1	2	2	2	2	2	2

Tree #	17	18	19	20	21	22	23	24	25	26	27	28
score	2	3	2	2	2	2	2	2	2	1	2	2

- 0 points:** The tree is heavily infested with pests or has advanced signs of disease that indicates the tree is declining and has very limited life expectancy.
- 1 point:** The tree shows some pests or disease that impair its condition, but which does not immediately threaten the health of the tree. The tree may recover on its own, or with appropriate intervention.
- 2 points:** The tree appears healthy and in good condition.
- 3 points:** The tree shows excellent health, is free of pests and disease and is in very strong condition.

Voris 111716

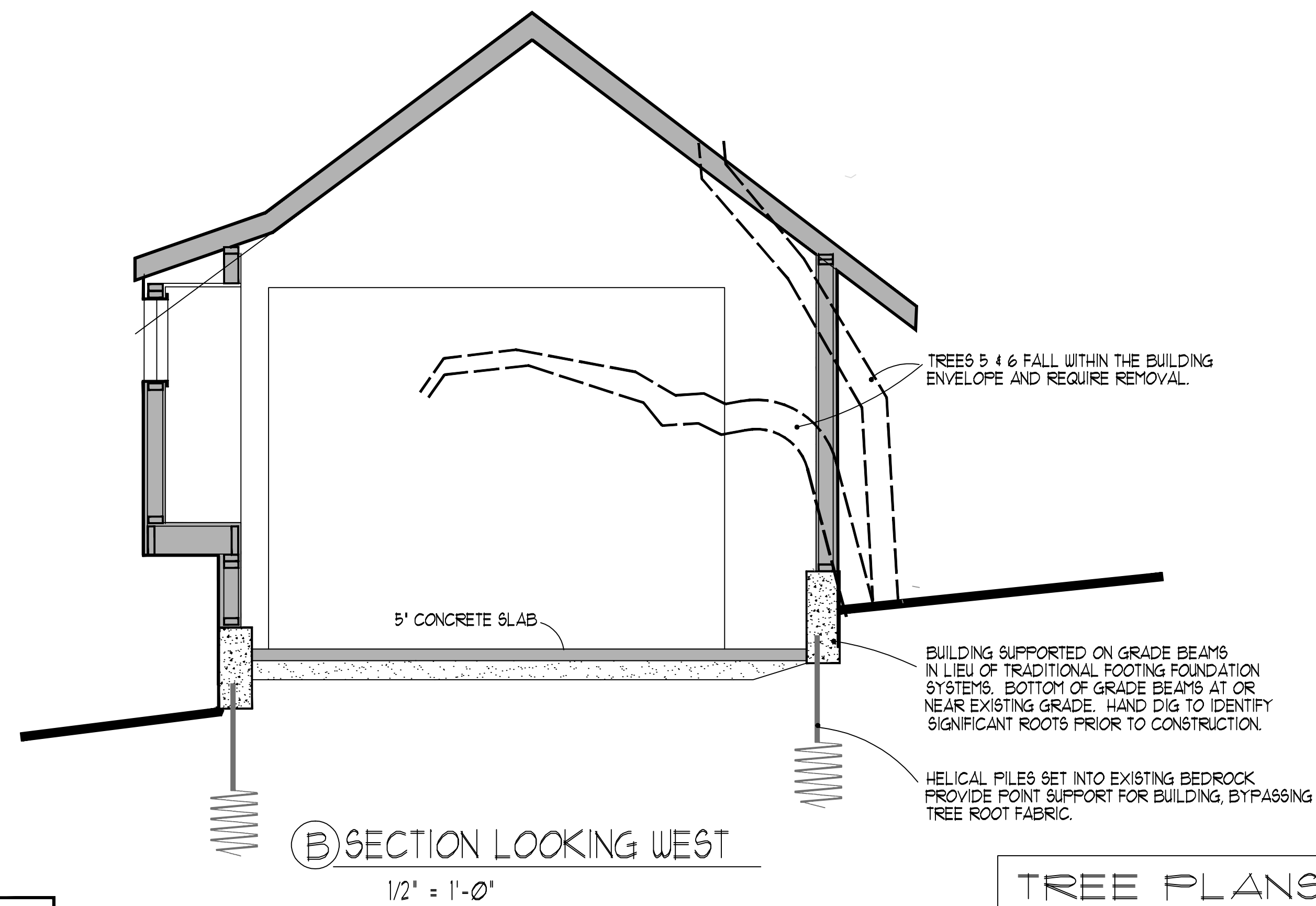
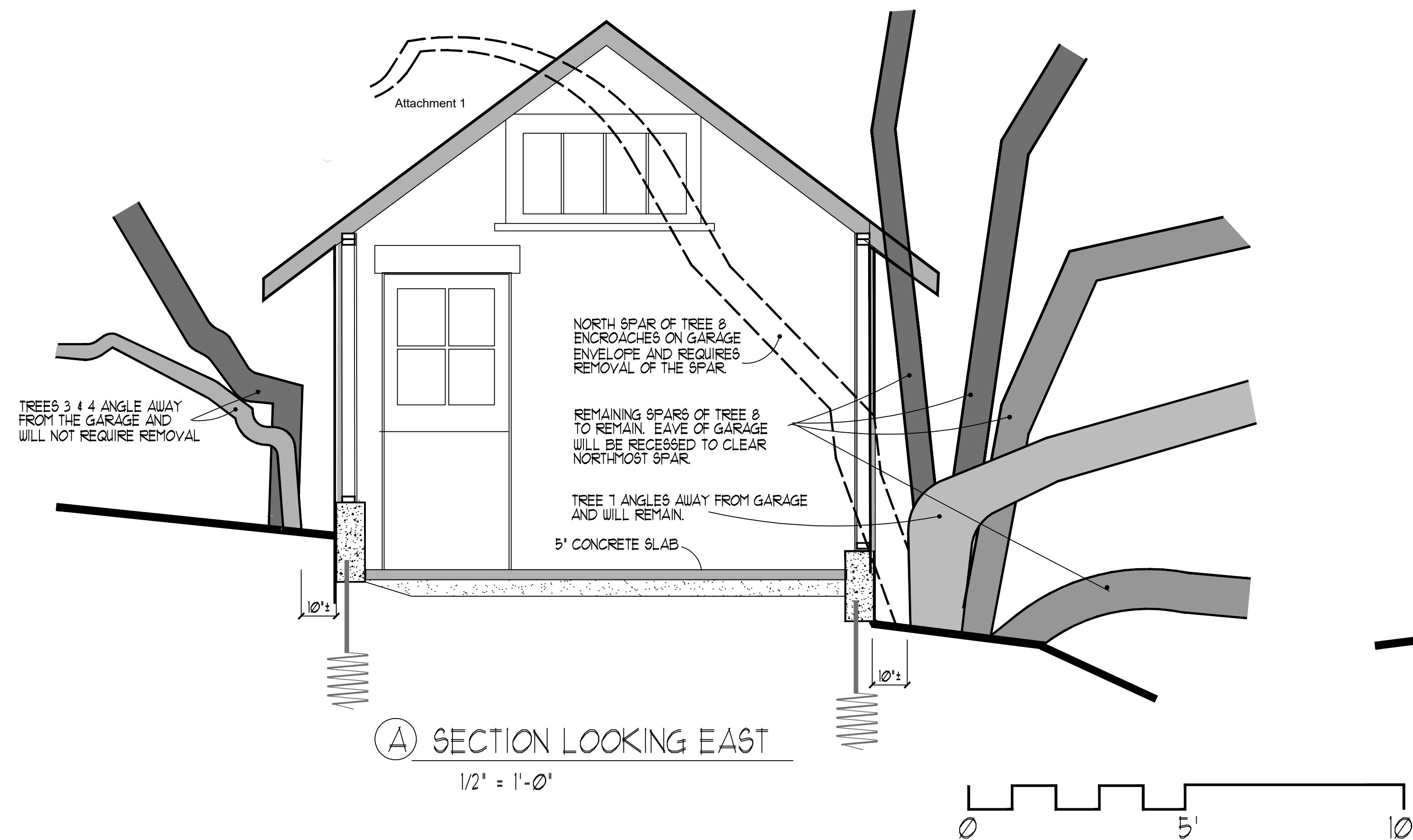
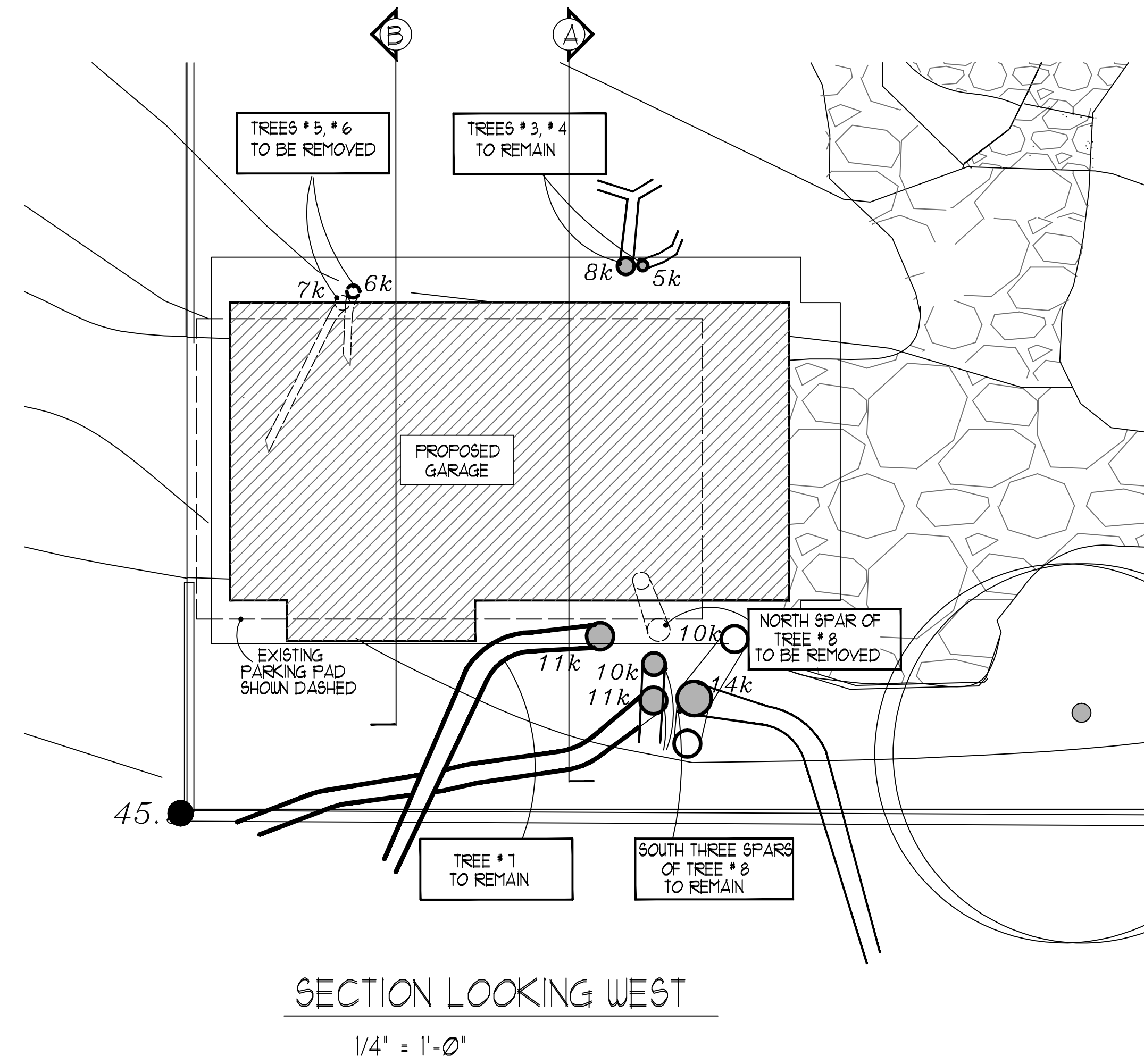
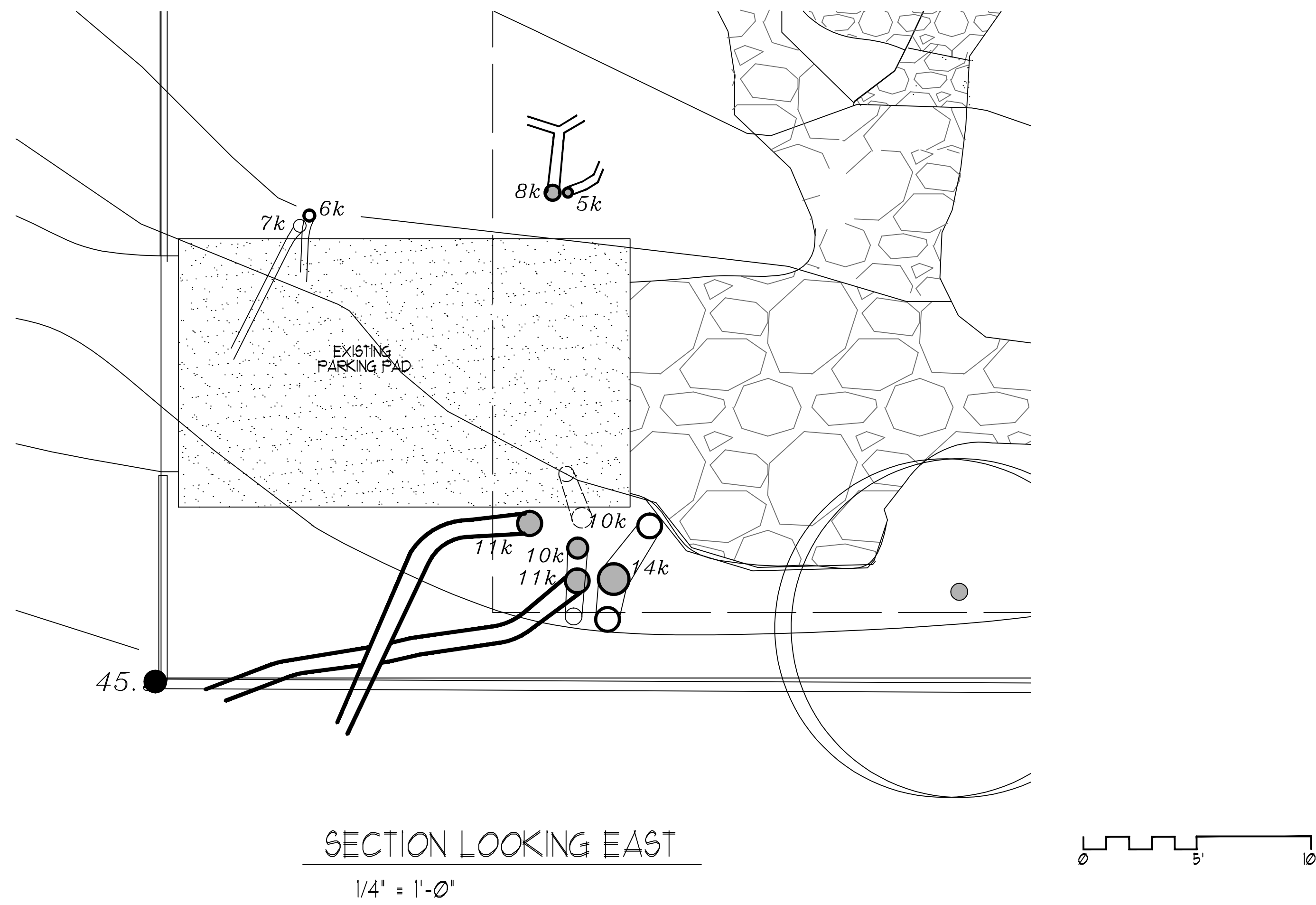
Page 3 of 5

E. What is the overall form and structure of the tree?

Tree #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
score	1	2	2	-	2	2	2	2	1	1	2	1	1	2	2	2

Tree #	17	18	19	20	21	22	23	24	25	26	27	28
score	1	2	2	2	2	2	2	2	2	1	2	2

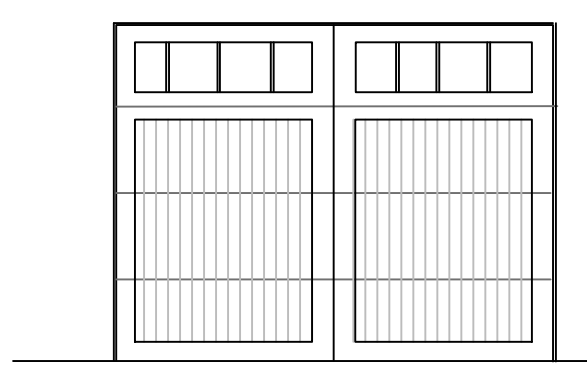
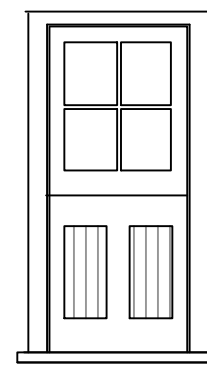
- 0 points:** Prior pruning, disease or growth habit have left the tree deformed or unsound to an extent that it cannot recover or will never be a visual asset to the neighborhood or will likely deteriorate into a structural hazard.
- 1 point:** The tree has poor form or structure but (a) can recover with proper maintenance or (b) it provides visual interest in its current form, and does not have structural defects that are likely to develop into a safety hazard.
- 2 points:** The tree has average form and structure for the species but does not exhibit all the qualities of excellent form and structure.
- 3 points:** The tree exhibits excellent form and structure. For all species there will be a good distribution of foliage on multiple branches with no defects. For conifers, the tree will have a single straight leader with balanced branching and with good taper. Oaks will exhibit a well-developed canopy with no suppressed branches. Oaks may be single-trunked or multi-trunked and will have a balanced distribution of foliage on each trunk/branch.



TREE PLANS
BUILDING SECTIONS

NOTE: DO NOT ORDER FROM THIS SCHEDULE ALONE.
REVIEW PLAN & FIELD CONDITIONS FOR DOOR LOCATIONS AND SIZES

TYPE	LOCATION	WIDTH	HEIGHT	TYPE	MATL	HARDWARE	REMARKS
	EXTERIOR DOOR	3'-0"	x 6'-8"	DUTCH DOOR WOOD PANEL	CLAD WD	L&S DBT	TEMPERED GLASS
	GARAGE DOOR	8'-6"	x 7'-0"	WOOD PANEL	STAINED WD	O.H.	TEMPERED GLASS



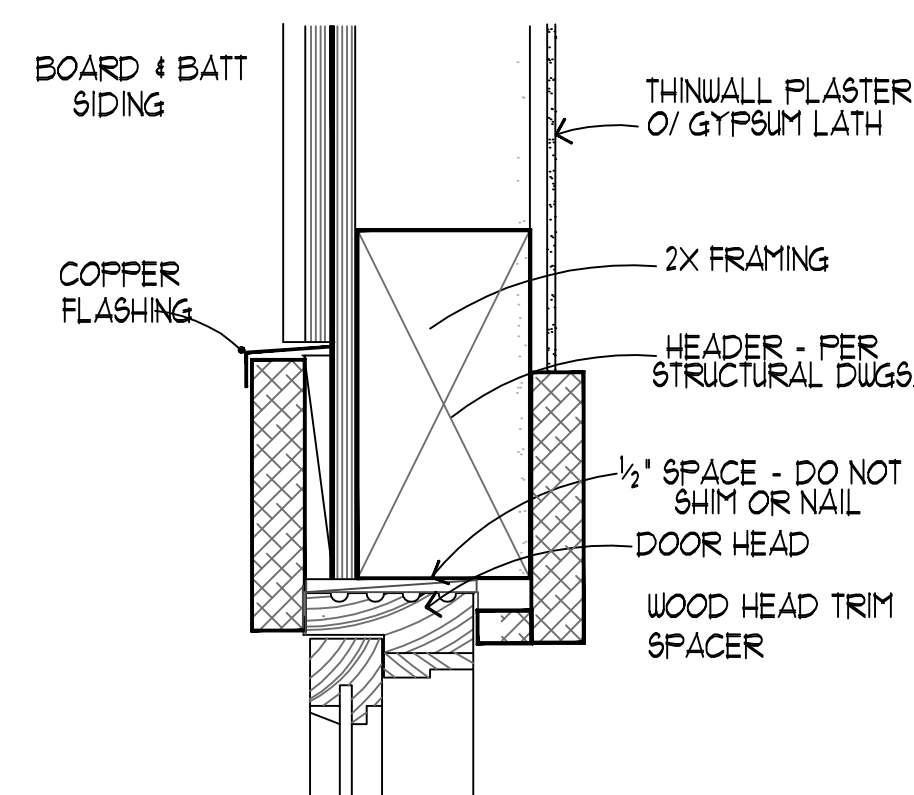
T	THRESHOLD
DB	DEADBOLT
LS	LOCKSET
TEMP.	TEMPERED
INSUL	INSULATED
O.H.	OVERHEAD TRACK

DOOR/WINDOW NOTES

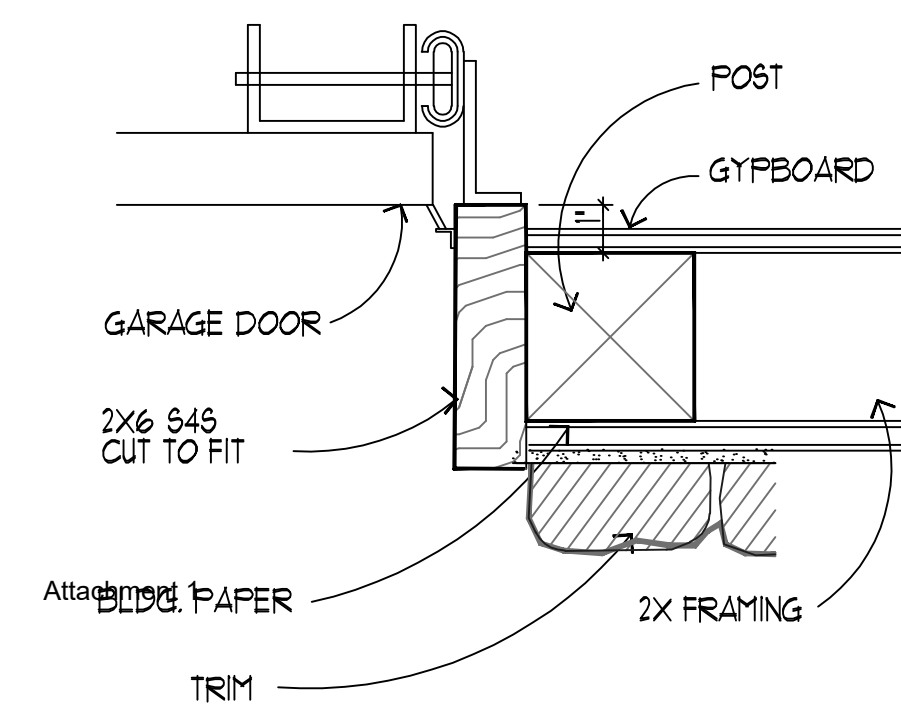
1. FIELD VERIFY ALL OPENING SIZES PRIOR TO WINDOW FABRICATION. OPENINGS MAY VARY PARTICULARLY WHERE MULTIPLE UNITS FORM A 'WINDOW WALL'.
 2. NEW WINDOW UNITS SHALL BE GLAD WOOD SIERRA PACIFIC
 2. ALL WINDOW TRIM, DOORS & TRIM SHALL BE PAINTED WOOD.
 3. MULLIONS ON WINDOWS & DOORS SHALL BE TRUE DIVIDED LIGHT.
- INSTALL HEAD & SILL FLASHING @ ALL WINDOWS & DOORS.
- INSULATE GLASS ALL NEW WDS
- TEMPERED GLASS WHERE REQUIRED BY CODE, WHETHER OR NOT INDICATED ON PLANS.

WINDOW TYPES

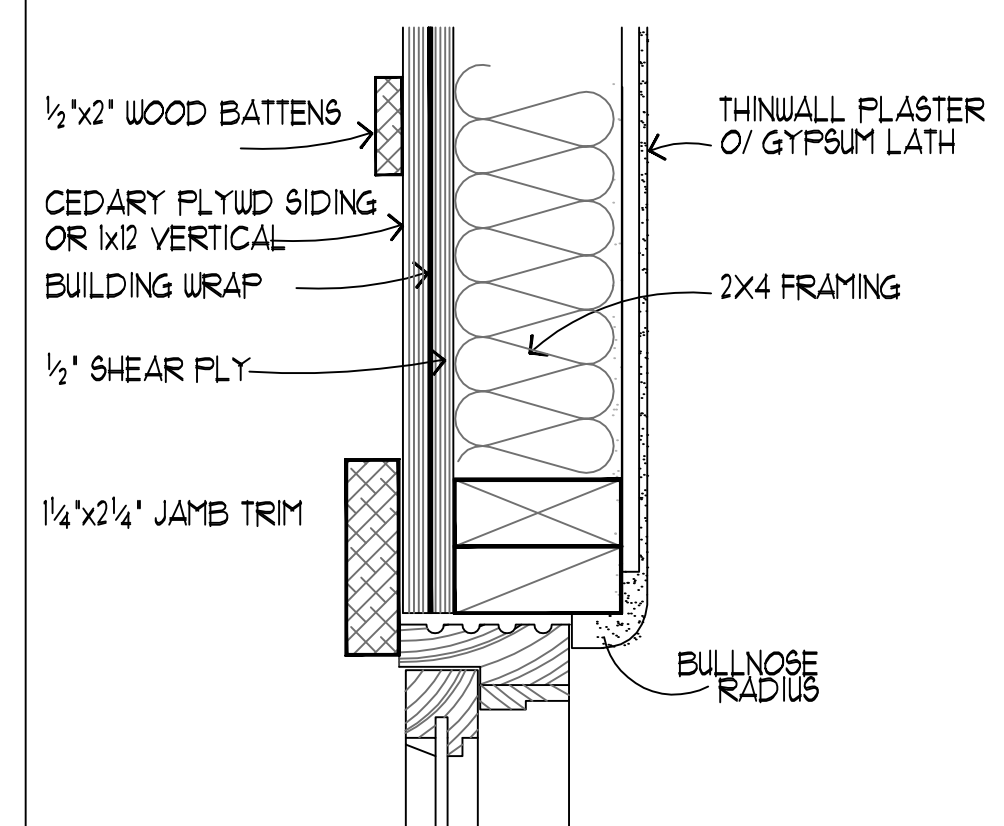
WDO TYPE	UNIT WIDTH	UNIT HEIGHT	MATERIAL	TYPE	FLOOR TO GILL	FLOOR TO HEAD	REMARKS
(A)	6'-6" x	1'-6"	CLAD WOOD	FIXED	5'-2"	6'-8"	FROSTED GLASS
(B)	4'-0" x	2'-4"	CLAD WOOD	FIXED	8'-1"	10'-5 1/2"	



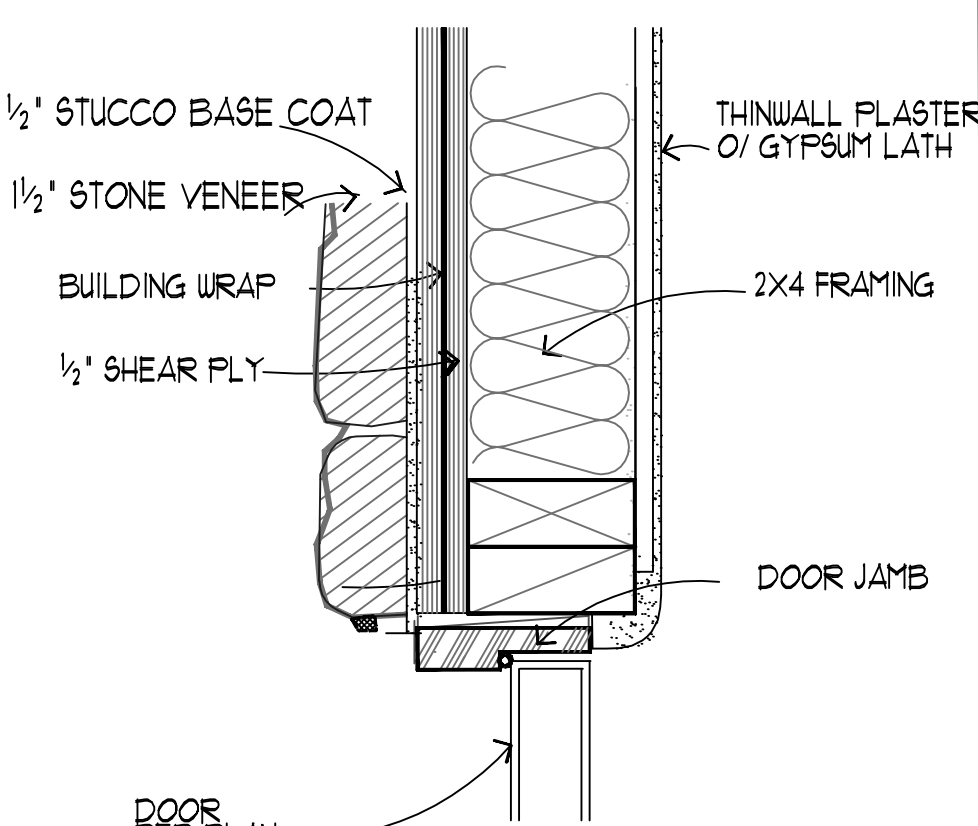

 WINDOW HEAD
 SCALE: 3"=1'-0"




 GARAGE DOOR JAMB
 SCALE: 3"=1'-0"



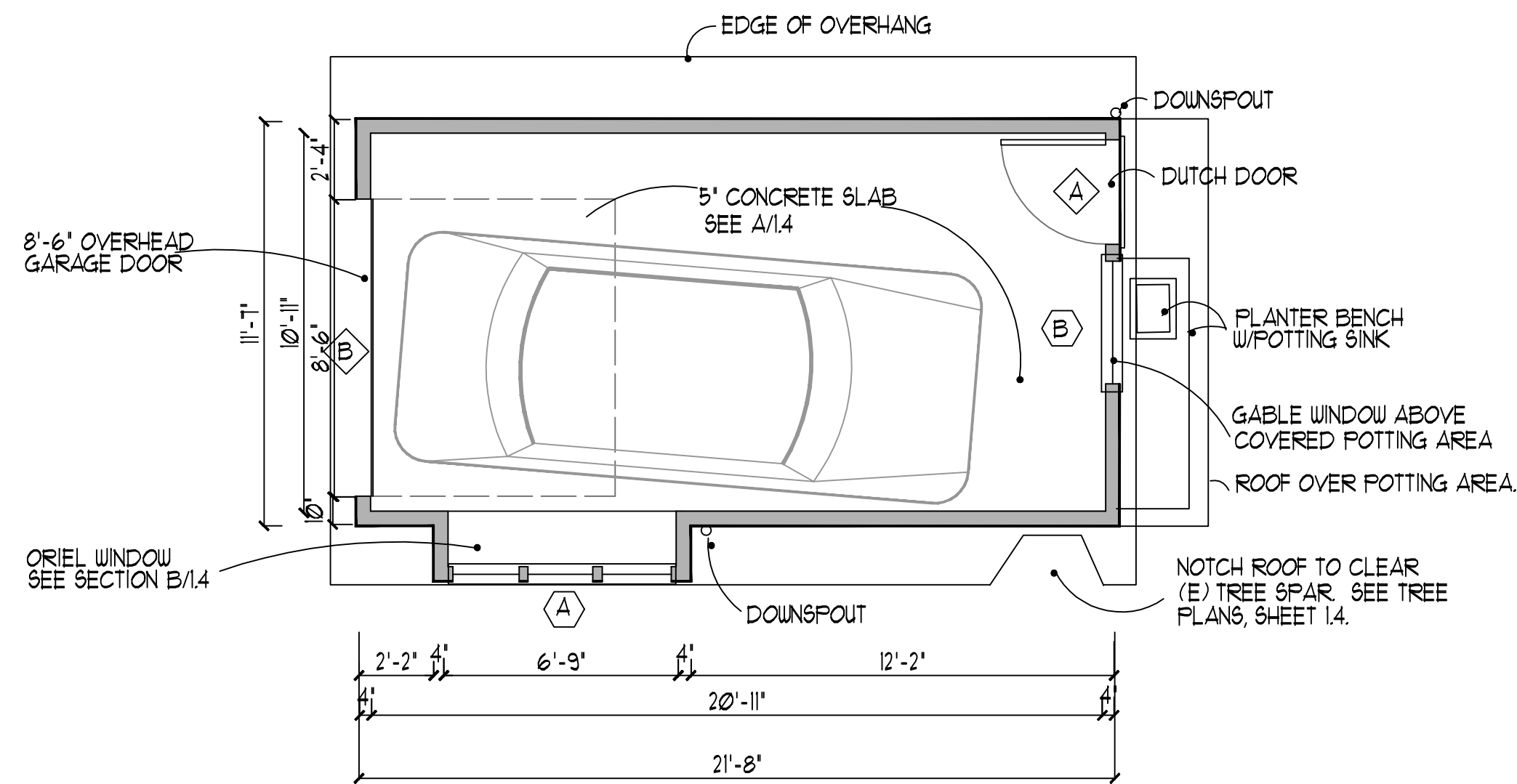

 WINDOW JAMB
 SCALE: 3' = 1'-0"



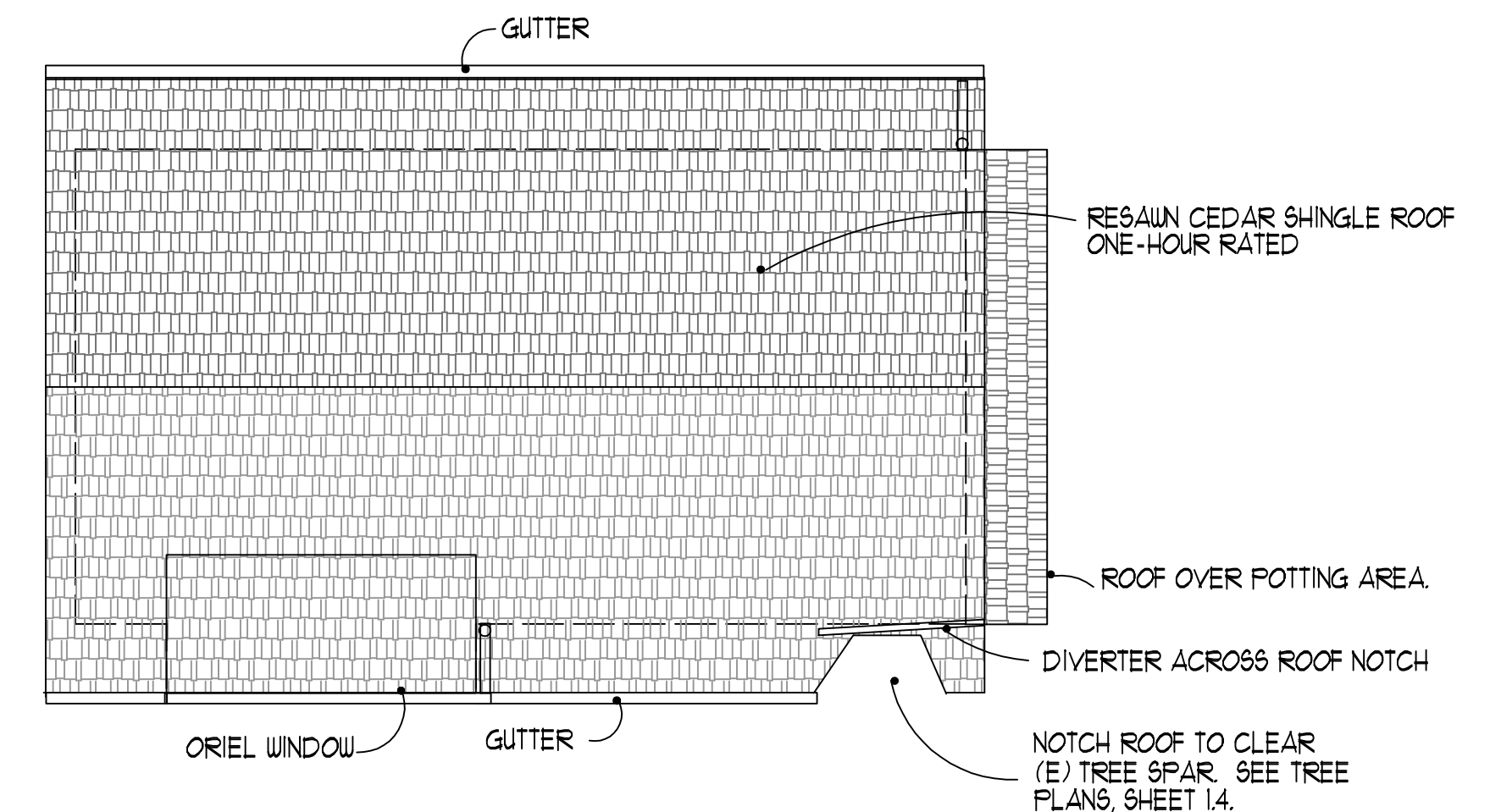
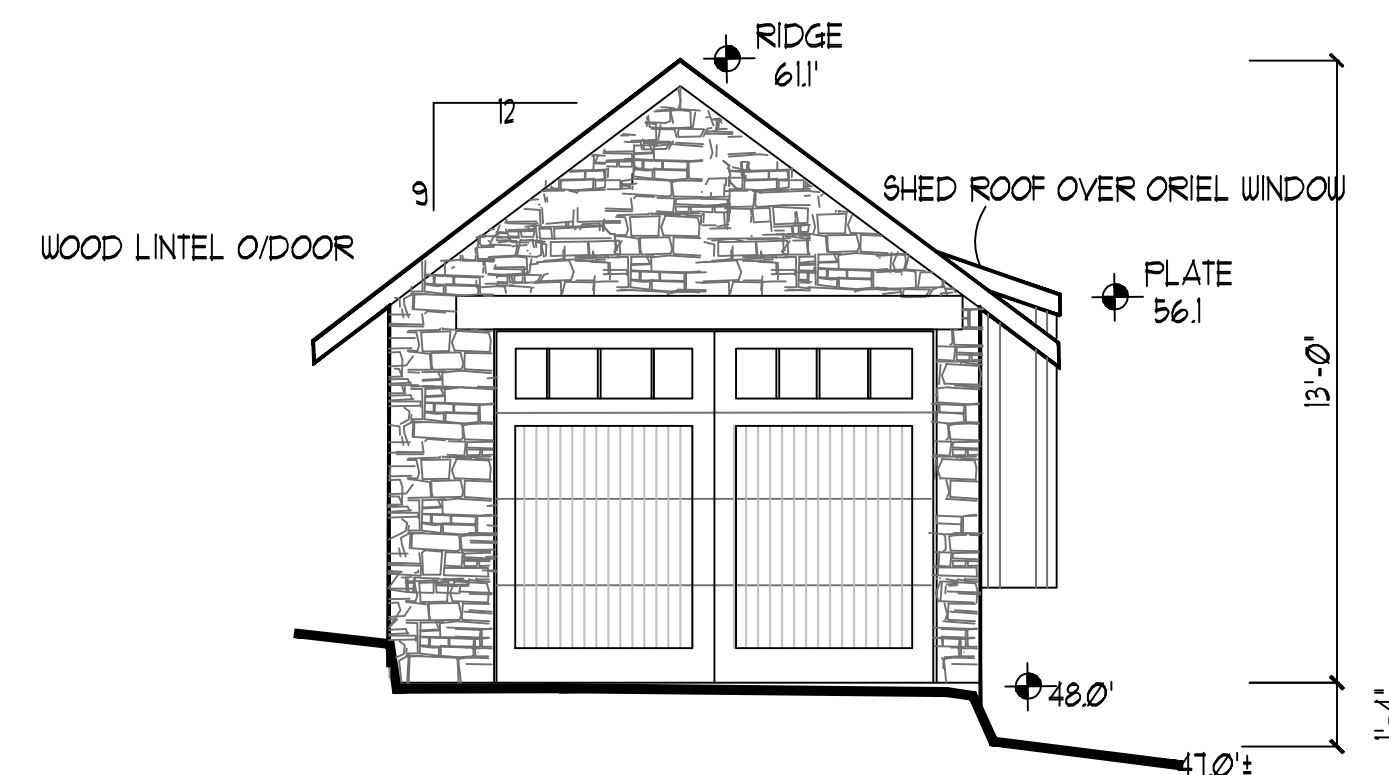
DOOR
PER PLAN

(B) DOOR JAMB

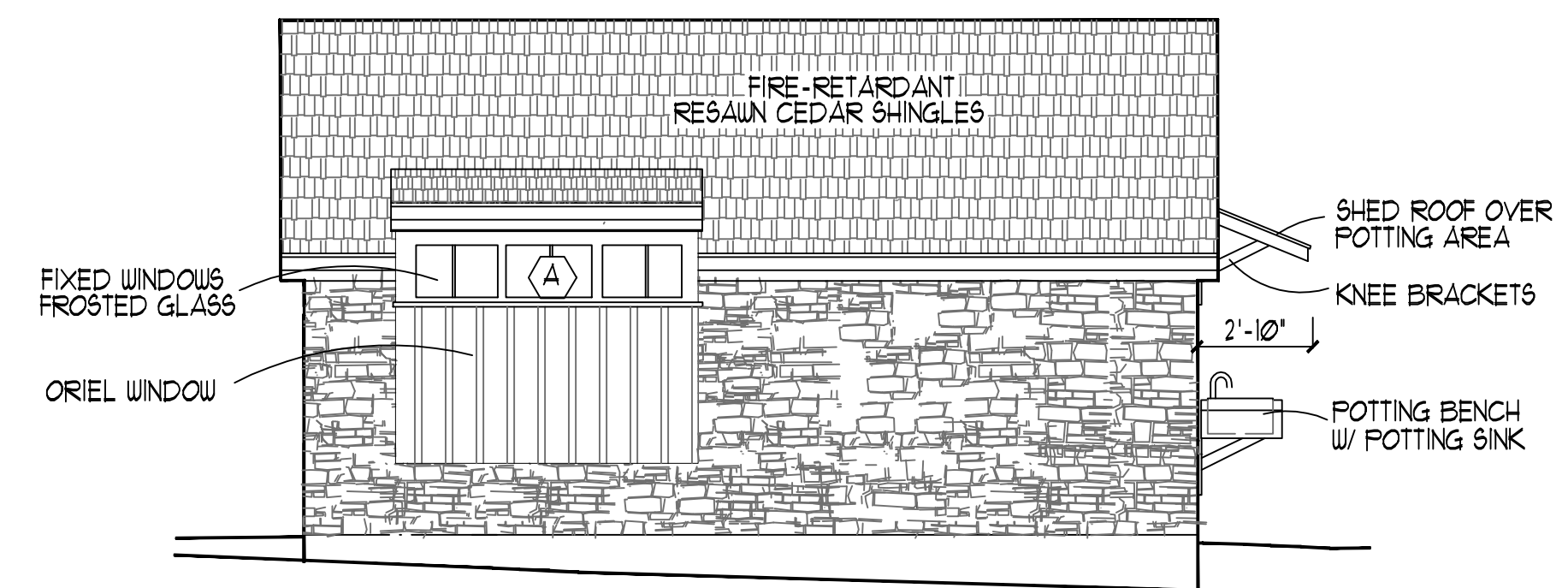
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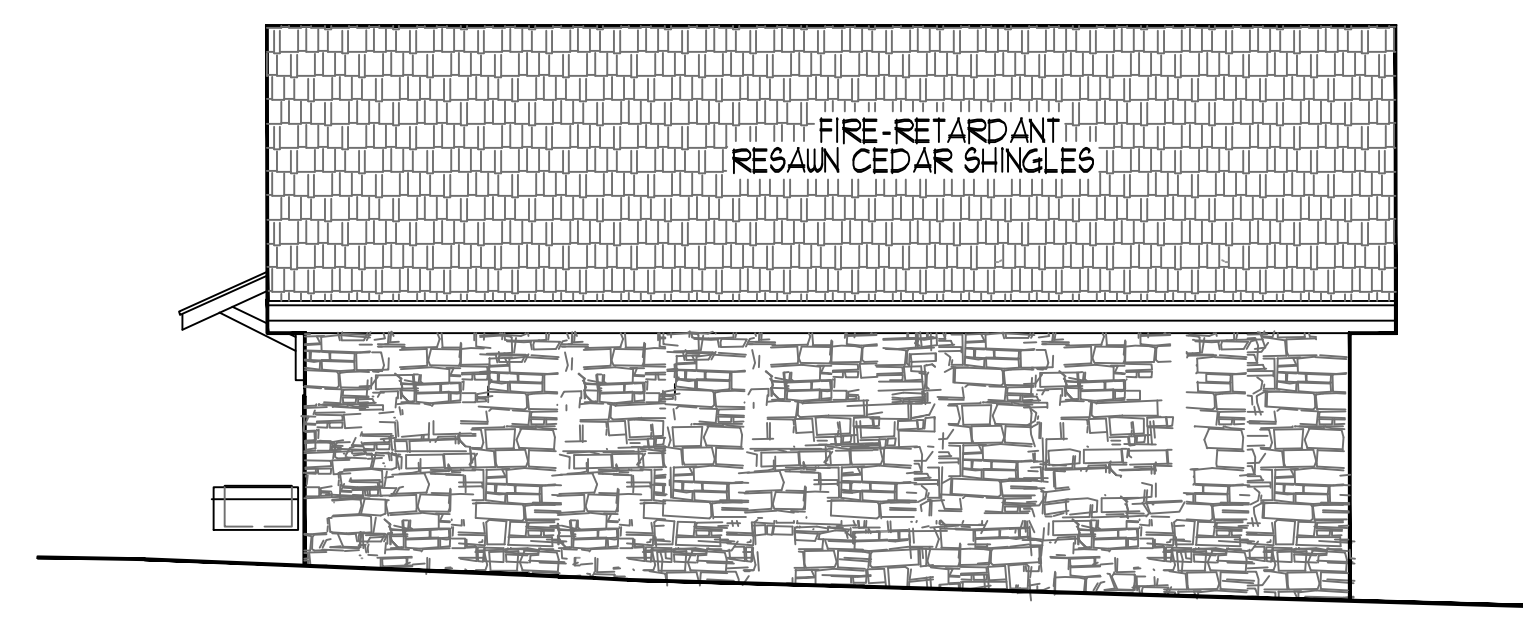
GARAGE PLAN



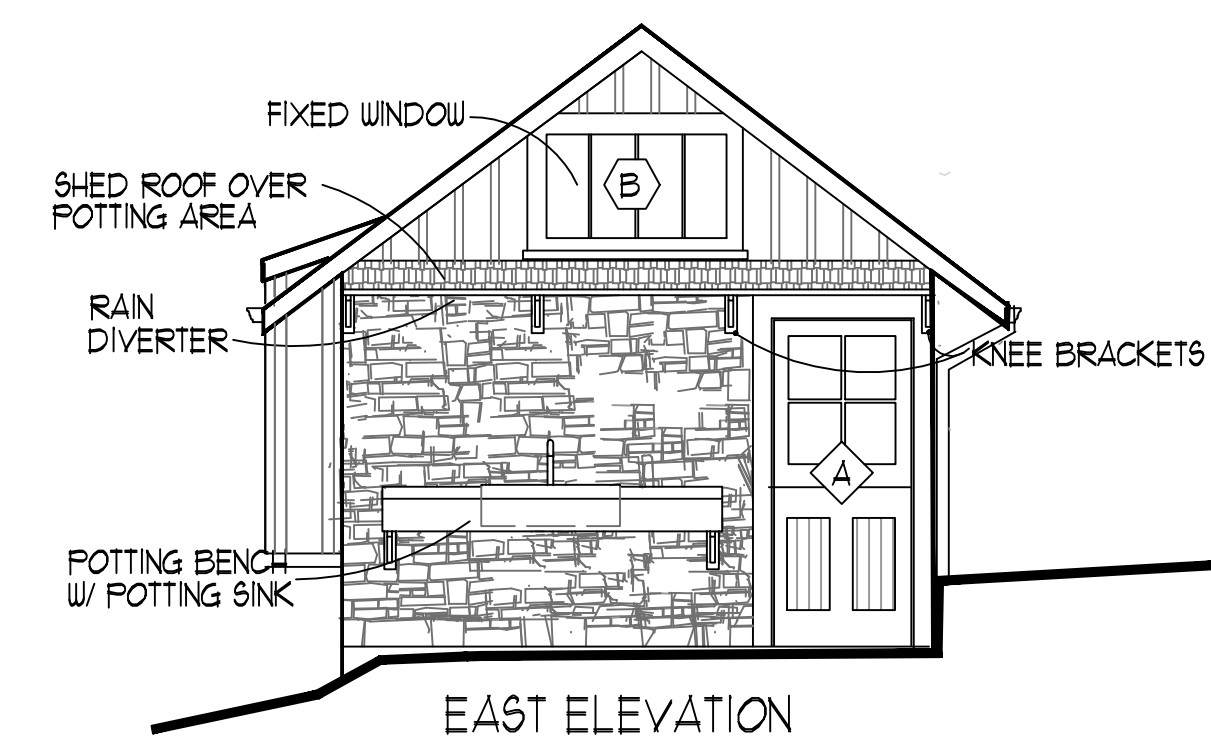
ROOF PLAN



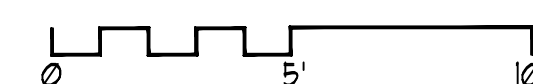
SOUTH ELEVATION



NORTH ELEVATION



EAST ELEVATION



GARAGE PLANS GARAGE ELEVATIONS DOOR & WINDOW SCHEDULE

These drawings and the designs represented herein are the property of Brian T. Congleton, Architect. Use in any manner is prohibited without the prior express written consent of the Architect.

DRAWN BY: BTC
DATE: 7-11-23
REVISED: 2-28-24

These drawings and the designs represented herein are the property of Brian T. Congleton, Architect. Use in any manner is prohibited without the prior express written consent of the Architect.
DRAWN: BTC
DATE: 7-11-23
REVISED:

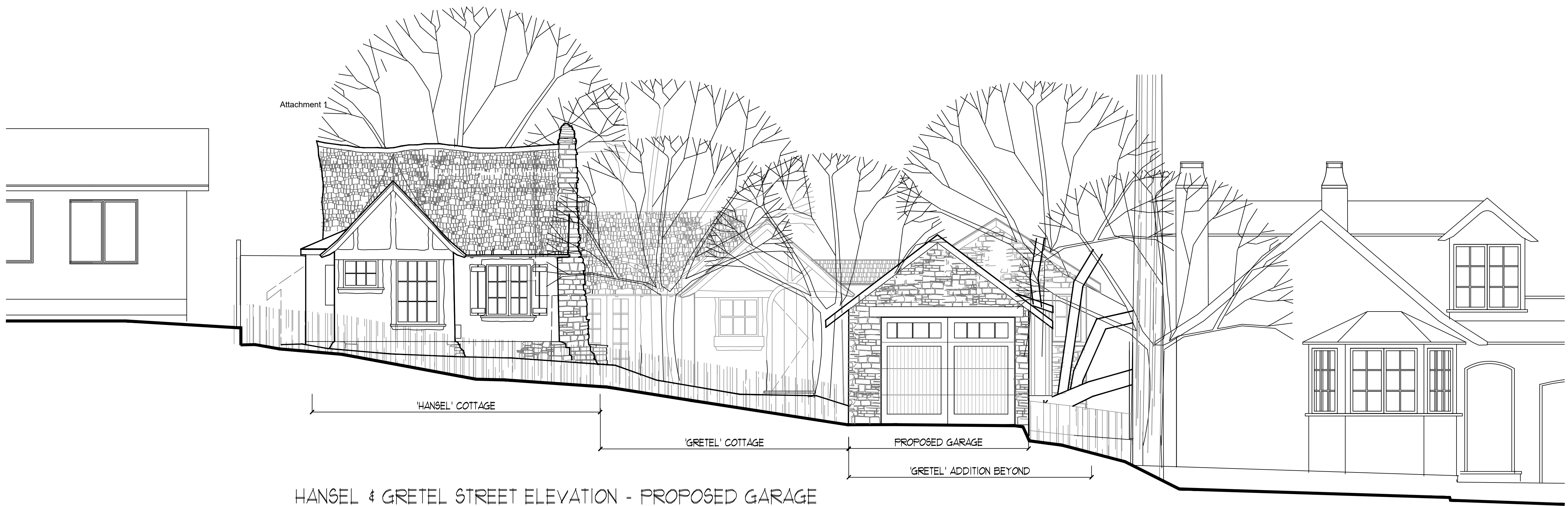
Brian Congleton Architect
(831) 915-2666 briancongletonarchitect.com
License No. C-18030

VORIS GARAGE
TORRES & NE SIXTH - CARMEL, CALIFORNIA

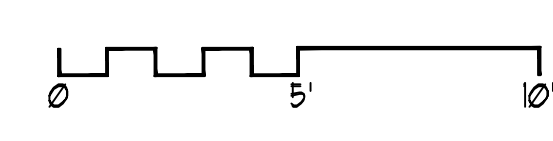
SHEET NUMBER
2.2



HANSEL & GRETEL STREET ELEVATION - EXISTING
1/4" = 1'-0"



HANSEL & GRETEL STREET ELEVATION - PROPOSED GARAGE
1/4" = 1'-0"



STREET ELEVATIONS



Torres Street Elevation



Street Elevation showing Proposed Garage

EXISTING STREET PHOTO
PROPOSED STREET RENDERING



August 5, 2024

Marnie Waffle, Principal Planner
Carmel Planning & Building Department
Post Office Drawer C
Carmel-by-the-Sea, California 93921
Via email

RE: Encroachment Permit Application
Voris – Torres 5 NE Sixth (Hansel & Gretel)
Relief from DS23-217 Condition No. 21 (remove stone border)
Letter Addressing City Standards for Encroachment Permits

Dear Marnie:

In reviewing the Voris Application for an encroachment permit to waive Condition of Approval #21 and retain the existing stone border in the right-of-way, you sent me the following list of standards by which City Council will review our application. You requested the Voris's and I provide our response to the standards as we present our request.

Following are Owner Statements to address City Encroachment Application Review Standards. Answers are shown in different typeface from standard:

12.08.060 Encroachment Application Review Standards.

A. Need. The applicant shall be determined to have a justifiable need for the encroachment, and the encroachment shall not be contrary to the public interest.

The request is to retain a previously installed stone border around planting areas. The border is needed to (a) retain water and soil in the planting area; (b) prevent auto traffic from driving into the planting area; and (c) identify planting area from paved area for pedestrians and vehicles by contrasting color of the border.

Brian Congleton Architect
24920 Pine Hills Drive – Carmel CA 93923
831-915-2666
Email: brian@congletonarchitect.com

B. Safety. The granting of an encroachment permit shall not create a hazard to public health or safety.

The 6" high stone border is similar to a curb, separating planting from paved areas. The light stone color contrasts with pavement and planting, identifying the demarcation and directing cars and pedestrians to remain on paved areas. Unlike boulders, etc., the curb is familiar to persons as a change in grade.

C. Drainage. The proposed encroachment shall not adversely affect the normal drainage of surface water, unless an acceptable mitigation is included that will be advantageous to the general public and meet the standards herein.

The border retains the normal drainage of surface water within the planting area, whereas if the border is eliminated, water will run off into the street and into the storm drain system.

D. Circulation and Parking.

1. The proposed encroachment shall not adversely affect vehicular and/or pedestrian traffic nor the parking of vehicles.

This section is critical pertaining to the Hansel Cottage. Approximately 4-6 persons per hour, all day every day, come looking for the Hansel & Gretel cottages. The planting areas and borders direct pedestrian onlookers (tourists from across the world who come to see Hansel and Gretel to the viewpoint in front of Hansel. The planting areas, approved in 2018 as part of the Gretel restoration/addition project, prevent parked cars from blocking that view and access. As noted above, the borders protect and define that viewpoint.

2. The proposed encroachment shall not adversely impact existing rights-of-way nor preclude or make difficult the establishment or improvement of existing or potential streets or pedestrian ways.

The planting areas help define the roadway and parking spaces, and the borders define the planting areas. There is no existing or proposed adverse impact on rights-of-way.

E. Public Use and Enjoyment.

1. The proposed encroachment shall not diminish public use or enjoyment, either visual or physical, of the City property or public right-of-way to be encroached upon.

As noted above, the encroachment (stone borders defining the planting areas) enhances, rather than diminishes, the public enjoyment of this privately-owned and city-honored historic resource.

In addition to the characteristics noted above (separation of pavement from planting, definition of pedestrian viewpoint), the stone border is most compatible with the historic stonework and cottages beyond.

2. The encroachment and enjoyment shall be in the public interest.

The Voris's, owners of Hansel & Gretel, have been and continue to be, stewards of the cottages as public treasures, achieving a balance between tourists desiring to see the resources and their private use of their residence. They do this by discouraging access onto the property while encouraging viewing from the street. To improve this viewpoint, they recently removed an arbor from over the front gate, so visitors can more easily frame and photograph the Hansel Cottage.

3. The length of time an encroachment has existed shall not by itself prejudice a decision.

Although the request is to retain an existing encroachment, time of existence is not considered a factor. The borders were installed as part of the landscape improvements of the Gretel Restoration/Addition project, and were requested for removal by the Planning Commission as a condition of approval of the upcoming garage construction. Because the border is a positive incremental element to the planting, we now request continuation of that encroachment.

F. Compatibility.

1. The proposed encroachment and its mitigation shall be consistent with the General Plan and the adopted ordinances of the City. Particular attention shall be given to Section P1-48 of the General Plan, which prohibits the construction of sidewalks and concrete curbs in the R-1 district, unless necessary for drainage and/or pedestrian safety.

No sidewalks are proposed; the asphalt of the roadway extends as a path to the gate at the property line, allowing visitors to view the resource. No concrete is proposed; the borders separating planting beds from the asphalt are Carmel stone, to reflect the character of the resource. The borders retain drainage.

2. The encroachment shall not create, extend, or be reasonably likely to lead to an undesirable land use precedent.

Planting areas throughout the city and near to Hansel and Gretel are currently defined by a number of border elements; most are desirable and compatible elements to the properties. There is no precedent made by retention of this stone border.

3. Granting of a permit shall not adversely affect the usability or enjoyment of one or more adjoining parcels.

Approval will have no bearing on adjoining parcels.

4. The proposed encroachment and its mitigation shall be compatible with the surrounding area and adjoining properties.

As noted above, some adjoining properties have similar features, and are similar in design to Hansel and Gretel. The encroachment of stone borders around planting areas is compatible with these properties.

G. Public Property/Greenbelt.

1. The proposed encroachment shall not adversely affect any public property, including existing vegetation or its root structure, and shall not significantly reduce greenbelt area that may be used for tree planting.

The stone borders will have no effect on root structures. The planting areas enhance greenbelt area; if damaged or dented by persons or cars because the borders aren't allowed, that could be an adverse effect on the vegetation and greenbelt area.

2. Significant trees which would be affected by the proposed encroachment shall be identified by the Director of Forest, Parks and Beach and approval for removal shall follow City policy.

There is no relationship between the stone borders and existing trees.

H. Mitigation. When deemed appropriate by the City, the applicant shall include those measures appropriate to compensate the City for the loss of the use of City property or the public right-of-way, or to repair damage thereto.

The stone borders are, in fact, protective to City property by defining the planting areas, and as such, should be considered a mitigation.

I. For applications that are subject to both Chapters 12.08 and 17.46 CMC, only the

standards in Chapter 17.46 CMC and the applicable administrative guidelines shall apply.

17.46 applies to telecommunications facilities and does not apply to this application.

Marnie, I trust this provides the information you need from the Voris's to process the application for Encroachment Permit. If not, please reach out.

Sincerely,

A handwritten signature in black ink, appearing to read "B.T. Congleton". The signature is stylized with a large, looped "B" and a trailing flourish.

Brian T. Congleton

CITY OF CARMEL-BY-THE-SEA
PLANNING COMMISSION

PLANNING COMMISSION RESOLUTION NO. 2024-019-PC

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA
APPROVING A TRACK ONE DESIGN STUDY FOR THE CONSTRUCTION OF A 250-SQUARE-FOOT
DETACHED GARAGE IN THE FRONT YARD SETBACK OF THE HISTORIC “DOLL HOUSE” ALSO
KNOWN AS “HANSEL & GRETEL” LOCATED AT TORRES STREET 5 NORTHEAST OF 6TH AVENUE IN
THE SINGLE-FAMILY RESIDENTIAL (R-1) ZONING DISTRICT; APN 010-092-010.**

WHEREAS, on July 18, 2023, Brian Congleton (“Applicant”) applied on behalf of Michael and Roberta Voris (“Owners”) requesting approval of Track One Design Study application DS 23-217 (Voris) described herein as (“Application”); and

WHEREAS, the Application has been submitted for a 6,000-square-foot lot located at Torres Street 5 northeast of 6th Avenue in the Single-Family Residential (R-1) Zoning District (Block 60, Lot 10 and N. 20’ of 12); and

WHEREAS, the Applicant is proposing to construct a 250-square-foot detached garage in the front yard setback; and

WHEREAS, in accordance with CMC Section 17.58.040.A (Residential District Track One Design Review), exterior alterations and additions that do not increase the existing floor area by more than 10 percent are eligible for track one review; and

WHEREAS, in accordance with Carmel Municipal Code (CMC) Section 17.10.030.A.1 (Detached Garages and Carports), to encourage variety and diversity in neighborhood design, detached garages, and carports may be authorized by the Planning Commission within rear yard setbacks or front or side yard setbacks facing a street, subject to certain standards; and

WHEREAS, on March 1, 2024, a notice of the public hearing scheduled for March 13, 2024, was published in the Carmel Pine Cone in compliance with State law (California Government Code 65091) and mailed to owners of real property within a 300-foot radius of the project indicating the date and time of the public hearing; and

WHEREAS, on or before March 3, 2024, the Applicant posted the public notice on the project site and hand-delivered a copy of the public notice to each property within a 100-foot radius of the project site indicating the date and time of the public hearing; and

WHEREAS, on or before March 8, 2024, the meeting agenda was posted in three locations in compliance with State law indicating the date and time of the public hearing; and

WHEREAS, on March 13, 2024, the Planning Commission held a duly noticed public hearing to receive public testimony regarding the project, including, without limitation, the information provided to the Planning Commission by City staff and through public testimony on the project; and

WHEREAS, this Resolution and its findings are made based upon the evidence presented to the Commission at the hearing date, including, without limitation, the staff report and attachments submitted by the Community Planning and Building Department; and

WHEREAS, the Planning Commission did hear and consider all said reports, attachments, recommendations, and testimony herein above set forth and used their independent judgment to evaluate the project; and

WHEREAS, the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., “CEQA”), together with State Guidelines (14 California Code Regulations §§ 15000, et seq., the “CEQA Guidelines”) and City Environmental Regulations (CMC 17.60) require that certain projects be reviewed for environmental impacts and that environmental documents be prepared; and

WHEREAS, the Planning Commission finds that pursuant to CEQA regulations, the Application is categorically exempt under Section 15303 (Class 3) – New Construction or Conversion of Small Structures, and no exceptions to the exemption exist pursuant to section 15300.2 of the CEQA Guidelines; and

WHEREAS, the facts set forth in the recitals are true and correct and are incorporated herein by reference.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Carmel-By-The-Sea does hereby make the following findings and determinations regarding the Residential Track One Design Study (CMC 17.58.040.A):

FINDINGS REQUIRED FOR DESIGN REVIEW APPROVAL		
For each of the required design findings listed below, staff has indicated whether the application supports adopting the findings. For all findings checked "no," the staff report discusses the issues to facilitate the Planning Commission's decision-making. Findings checked "yes," depending on the issues, may or may not be discussed in the report.		
CMC 17.58.060.B, Findings for Design Review Approval	YES	NO
1. Conform to the applicable policies of the General Plan and the Local Coastal Program;	✓	
2. Comply with all applicable provisions of this code;	✓	
3. Are consistent with applicable adopted design review guidelines.	✓	

BE IT FURTHER RESOLVED that the Planning Commission of the City of Carmel-by-the-Sea does hereby APPROVE the Design Study DS 23-217 (Voris) for construction of a 250-square foot

detached garage in the front yard setback of a property with an existing residence located at Torres Street 4 northeast of 6th Avenue in the Single-Family Residential (R-1) Zoning District, APN 010-092-010, subject to the following Conditions of Approval:

CONDITIONS OF APPROVAL	
No.	Standard Conditions
1.	Authorization. This approval of Design Study DS 23-217 (Voriss) for the construction of a 250-square-foot detached garage in the front yard setback of the historic “Doll House” also known as “Hansel & Gretel” located at Torres Street 5 northeast of 6th Avenue in the Single-Family Residential as depicted in the plans prepared by Brian Congleton Architect approved by City of Carmel-by-the-Sea Planning Commission on March 13, 2024 unless modified by the conditions of approval contained herein.
2.	Codes and Ordinances. The project shall be constructed in conformance with all requirements of the R-1 zoning district. All adopted building and fire codes shall be adhered to when preparing the working drawings. If any codes or ordinances require design elements to be changed, or if any other changes are requested when such plans are submitted, such changes may require additional environmental review and subsequent approval by the Planning Commission.
3.	Permit Validity. This approval shall be valid for one year from the date of action unless an active building permit has been issued and maintained for the proposed construction.
4.	Setback and Height Certifications. A State licensed surveyor shall survey and certify the following in writing: • The footing locations are in conformance with the approved plans prior to footing/foundation inspection; • The roof height and plate height are in conformance with the approved plans prior to roof sheathing inspection. Written certifications prepared, sealed, and signed by the surveyor shall be provided prior to footing/foundation inspection and roof sheathing inspection. In the event that multiple footing/foundation pours are required, a survey letter shall be submitted for each separate section.
5.	Service Laterals. All electrical service laterals to any new building or structure, or to any building or structure being remodeled when such remodeling requires the relocation or replacement of the main service equipment, shall be placed underground on the premises upon which the building or structure is located. Undergrounding will not be required when the project valuation is less than \$200,000 or when the City Forester determines that undergrounding will damage or destroy significant trees(s) (CMC 15.36.020).
6.	Modifications. The Applicant shall submit in writing, with revised plans, to the Community Planning and Building staff any proposed changes to the approved project plans prior to incorporating those changes. If the Applicant changes the project without first obtaining City approval, the Applicant will be required to submit the change in writing, with revised plans, within 2 weeks of the City being notified. A cease work order may be issued any time at the discretion of the Director of Community Planning and Building until: a) either the Planning Commission or Staff has approved the change, or b) the property owner has

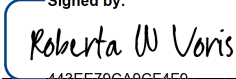
	eliminated the change and submitted the proposed change in writing, with revised plans, for review. The project will be reviewed for its compliance to the approved plans prior to final inspection.
7.	Exterior Revisions to Planning Approval Form. All proposed modifications that affect the exterior appearance of the building or site elements shall be submitted on the “Revisions to Planning Approval” form on file in the Community Planning and Building Department. Any modification incorporated into the construction drawings that is not listed on this form, shall not be deemed approved upon issuance of a building permit.
8.	Conflicts Between Planning Approvals and Construction Plans. It shall be the responsibility of the Owner, Applicant, and Contractor(s) to ensure consistency between the project plans approved by Planning Staff, the Planning Commission, or the City Council on appeal, and the construction plans submitted to the Building Division as part of the Building Permit review. Where inconsistencies between the Planning approval and the construction plans exist, the Planning approval shall govern, unless otherwise approved in writing by the Community Planning & Building Director, or their designee. When changes or modifications to the project are proposed, the Applicant shall clearly list and highlight each proposed change and bring each change to the City’s attention. Changes to the project that are incorporated into the construction drawings that were not clearly listed or identified as a proposed change shall not be considered an approved change. Should conflicts exist between the originally approved project plans and the issued construction drawings that were not explicitly identified as a proposed change, the plans approved as part of the Planning Department Review, including any Conditions of Approval, shall prevail.
9.	Indemnification. The Applicant agrees, at his or her sole expense, to defend, indemnify, and hold harmless the City, its public officials, officers, employees, and assigns, from any liability; and shall reimburse the City for any expense incurred, resulting from, or in connection with any project approvals. This includes any appeal, claim, suit, or other legal proceeding, to attack, set aside, void, or annul any project approval. The City shall promptly notify the Applicant of any legal proceeding, and shall cooperate fully in the defense. The City may, at its sole discretion, participate in any such legal action, but participation shall not relieve the Applicant of any obligation under this condition. Should any party bring any legal action in connection with this project, the Superior Court of the County of Monterey, California, shall be the situs and have jurisdiction for the resolution of all such actions by the parties hereto.
10.	Driveway. The driveway material shall extend beyond the property line into the public right of way to connect to the paved street edge. A minimal asphalt connection at the street edge may be required by the Superintendent of Streets or the Building Official, depending on site conditions, to accommodate the drainage flow line of the street. The driveway material and asphalt connection shall be identified on the construction drawings submitted with the building permit application. If a driveway is proposed to be sand set, a dimensioned construction detail showing the base material shall be included in the construction drawings.
11.	Cultural Resources. All new construction involving excavation shall immediately cease if cultural resources are discovered on the site, and the Applicant shall notify the Community

	Planning & Building Department within 24 hours. Work shall not be permitted to recommence until such resources are properly evaluated for significance by a qualified archaeologist. If the resources are determined to be significant, prior to resumption of work, a mitigation and monitoring plan shall be prepared by a qualified archaeologist and reviewed and approved by the Community Planning and Building Director. In addition, if human remains are unearthed during the excavation, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and distribution pursuant to California Public Resources Code (PRC) Section 5097.98.
12.	Truck Haul Route. Prior to Building Permit issuance, the Applicant shall provide for City (Community Planning and Building Director in consultation with the Public Services and Public Safety Departments) review and approval, a truck-haul route, and any necessary temporary traffic control measures for the grading activities. The Applicant shall be responsible for ensuring adherence to the truck-haul route and implementation of any required traffic control measures.
13.	USA North 811. Prior to any excavation or digging, the Applicant shall contact the appropriate regional notification center (USA North 811) at least two working days, but not more than 14 calendar days, prior to commencing that excavation or digging. No digging or excavation is authorized to occur on-site until the Applicant has obtained a Ticket Number and all utility members have positively responded to the dig request. (Visit USANorth811.org for more information)
14.	Conditions of Approval. All conditions of approval for the Planning permit(s) shall be printed on a full-size sheet and included with the construction plan set submitted to the Building Safety Division.
Landscape Conditions	
15.	Tree Removal. Trees on the site shall only be removed upon the approval of the City Forester or Forest and Beach Commission, as appropriate; all remaining trees shall be protected during construction by methods approved by the City Forester.
16.	Significant Trees. All foundations within 15 feet of significant trees shall be excavated by hand. If any tree roots larger than two inches (2") are encountered during construction, the City Forester shall be contacted before cutting the roots. The City Forester may require the roots to be bridged or may authorize the roots to be cut. If roots larger than two inches (2") in diameter are cut without prior City Forester approval or any significant tree is endangered as a result of construction activity, the building permit will be suspended and all work stopped until an investigation by the City Forester has been completed. Six inches (6") of mulch shall be evenly spread across the inside the dripline of all trees prior to the issuance of a building permit.
17.	Erosion Control in the Right-of-Way. Projects with a natural slope within the right-of-way immediately adjacent to the property where parking is not practical shall install jute netting and a drought-tolerant ground cover to manage post-construction erosion control. Plants installed within the drip line of trees shall be selected from the City's "List of Compatible Plants Under and Around Native Trees" located in the Forest Management Plan.
18.	Tree Protection Measures. Requirements for tree preservation shall adhere to the following tree protection measures on the construction site.

	● Prior to grading, excavation, or construction, the developer shall clearly tag or mark all trees to be preserved. ● Excavation within 6 feet of a tree trunk is not permitted. ● No attachments or wires of any kind, other than those of a protective nature shall be attached to any tree. ● Per Municipal Code Chapter 17.48.110 no material may be stored within the dripline of a protected tree including the drip lines of trees on neighboring parcels. ● Tree Protection Zone -- The Tree Protection Zone shall be equal to dripline or 18 inches radially from the tree for every one inch of trunk diameter at 4.5 feet above the soil line, whichever is greater. A minimum of 4-foot-high transparent fencing is required unless otherwise approved by the City Forester. Tree protection shall not be resized, modified, removed, or altered in any manner without written approval. The fencing must be maintained upright and taught for the duration of the project. No more than 4 inches of wood mulch shall be installed within the Tree Protection Zone. When the Tree Protection Zone is at or within the drip line, no less than 6 inches of wood mulch shall be installed 18 inches radially from the tree for every one inch of trunk diameter at 4.5 feet above the soil line outside of the fencing. ● The Structural Root Zone -- Structural Root Zone shall be 6 feet from the trunk or 6 inches radially from the tree for every one inch of trunk diameter at 4.5' above the soil line, whichever is greater. Any excavation or changes to the grade shall be approved by the City Forester prior to work. Excavation within the Structural Root Zone shall be performed with a pneumatic excavator, hydro-vac at low pressure, or another method that does not sever roots. ● If roots greater than 2 inches in diameter or larger are encountered within the approved Structural Root Zone the City Forester shall be contacted for approval to make any root cuts or alterations to structures to prevent roots from being damaged. If roots larger than 2 inches in diameter are cut without prior City Forester approval or any significant tree is endangered as a result of construction activity, the building permit will be suspended and all work stopped until an investigation by the City Forester has been completed and mitigation measures have been put in place.
SPECIAL CONDITIONS	
19.	Condition of Approval Acknowledgement. The Condition of Approval Acknowledgement form, available from the Community Planning and Building Department, shall be signed by the appropriate parties prior to the issuance of a building permit. A signed copy of the acknowledgement shall also be printed in the building plan set.
20.	Copper Gutters & Downspouts Not Permitted. Copper gutters and downspouts are prohibited. If gutters and downspouts are required, an alternative material shall be used and shall be reviewed and approved by the Community Planning and Building Department prior to installation.
21.	Right-of-way Encroachments. Prior to final inspection, the applicant shall remove the stone border around the flower beds and the path lights that are located in the public

	right-of-way.
22.	Artificial Turf Removal. Prior to the final inspection, the applicant shall remove the artificial turf in the front yard and replace it with an informal garden of native drought-tolerant plantings.

Acknowledgment and acceptance of conditions of approval.

Signed by:  443EE79CA9CF4F9... Property Owner Signature	Roberta W Voris Printed Name	8/28/2024 Date
DocuSigned by:  607D52BD1F804DF... Property Owner Signature	MICHAEL J VORIS Printed Name	8/30/2024 Date
DocuSigned by:  AB7E4679726947C... Applicant Signature	Brian Congleton Printed Name	8/28/2024 Date

PASSED, APPROVED, AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA this 13th day of March 2024, by the following vote:

AYES: ALLEN, KARAPETKOV, LOCKE, LEPAGE

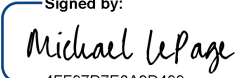
NOES:

ABSENT: DELVES

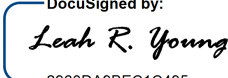
ABSTAIN:

APPROVED:

ATTEST:

Signed by:

4FF97D7E0A3D499...

Michael LePage
Chair

DocuSigned by:

2960DA9BEC1C495...

Leah Young
Planning Commission Secretary

August 10, 2024

Attachment 4

Marnie Waffle
Carmel Planning & Building Department
Post Office Drawer C
Carmel-by-the-Sea, California 93921

Re: The Voris's Encroachment Permit

Dear Ms. Waffle:

I own the Comstock house on the corner of Torres and 6th and I consider myself a neighbor of Hansel and Gretel.

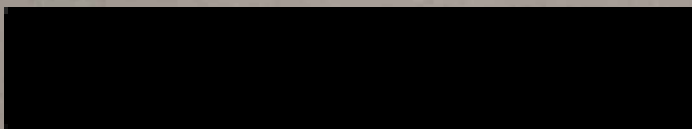
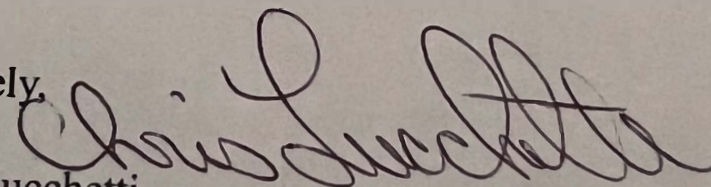
As a fellow Comstock owner, I believe what the Voris's have done with the stone border on the planting beds outside their gates completely fits in with the neighborhood - especially with those cottages, since it repeats the theme of the garden inside their fence.

Not only that, it retains the soil and water in that area on a hill.

Please consider approving their encroachment permit.

Sincerely,

Chris Lucchetti



August 11, 2024

Marnie Waffle
Carmel Planning and Building Department
Post Office Drawer C
Carmel by the Sea, Ca. 93921

Regarding the Hansel & Gretel Encroachment

Dear Marnie,

I own a Comstock cottage in Hansel and Gretel's neighborhood. I strongly urge the city to approve this encroachment permit for several reasons – not the least of which, it fits in and enhances the neighborhood character.

Because I own a house that can be greatly affected by drainage, that is a concern to me. Although this case wouldn't affect me directly, I believe the rock border in question will keep both soil and water in place better than an asphalt berm would.

Unlike the recent encroachment permit application, the area in question does not add to the Voris's yard, it merely enhances the view of Hansel and Gretel for both residents and tourists alike.

Regards,

Carole Lutz

August 10, 2024

Marnie Waffle
Carmel Planning & Building Department
Post Office Drawer C
Carmel-by-the-Sea, California 93921

Re: Voris Encroachment of stone border

Dear Ms. Waffle:

I am the next door neighbor to Hansel and Gretel on Torres Street.

I understand the Voris's have applied for an encroachment permit to keep the stone border around their streetside verge.

I strongly support the approval of this as I believe it fits the neighborhood character and certainly Hansel & Gretel's character. Literally huge amounts of people walk up our street daily to see those houses. I believe the area in question adds to their enjoyment - not to mention mine as a resident of Carmel-by-the-Sea and the neighbor.

Also, our street is quite sloped and this stops water and soil from running down the street.

Sincerely,

Diana Bearman



Yes on Encroachment for Hansel & Gretel

Marnie R. Waffle <mwaffle@ci.carmel.ca.us>
To: "Marnie R. Waffle" <mwaffle@ci.carmel.ca.us>

Mon, Aug 12, 2024 at 8:26 AM

----- Forwarded message -----

From: **Gael Gallagher** <REDACTED>
Date: Sun, Aug 11, 2024 at 9:20 AM
Subject: Yes on Encroachment for Hansel & Gretel
To: <mwaffle@ci.carmel.ca.us>

Dear Ms. Waffle,

As a tour director and owner of CARMEL WALKS since 2012 , I would like to offer my opinion to urge the Carmel City Council to approve the encroachment permit for Hansel & Gretel.

The Carmel Stone border in question enhances the gardens, the neighborhood and clearly points out to the enchanted visitors where they should stand/ walk to take pictures.

This is a "must see " stop on the popular CARMEL WALK.

Mike & Bobbie keep this iconic property beautiful and available for the visitors eye.

I also noticed they removed the arbor over the Hansel gate so pictures could be better composed of these iconic cottages.

Anything that enhances residents and visitors experience should be important to the city.

Again I am hoping for approval to keep that lovely stone border.

All smiles,

Gael Gallagher

www.Gaelgallagher.com
www.Carmelwalks.com



August 18, 2024

To: Marnie Waffle at mwaffle.ci.carmel.ca.us

Dear Ms. Waffle,

I am writing in regard to the Hansel and Gretel property on Torres in Carmel.

I am local working artist on the Monterey peninsula. I am a licensed contractor and decorative painter. Because of my profession, I have had the opportunity to see a wide variety of homes on the peninsula. I am exposed daily to numerous examples of tasteful and not-so-tasteful landscape designs.

I feel the stone border around the plants on the outside of Hansel and Gretel's fence fits in with the character of neighborhood and is a perfect addition to the view of that famous cottage.

From a practical standpoint, the border also appears to retain water and soil well, which I assume the neighbors and the city appreciate.

Sincerely, Lisa Haas

August 10, 2024

Marnie Waffle
Carmel Planning & Building Department
Post Office Drawer C
Carmel-by-the-Sea, California 93921

Re: Encroachment for the Voris's DS23-217
Condition No. 21 (remove stone border)

Dear Marnie:

I live on Torres Street two doors from Hansel and Gretel.

I support allowing the encroachment permit for the stone border around the front plantings. An asphalt berm wouldn't be as attractive as what is there now; and, as our street is on a slope, the existing border keeps soil and water in place better.

We witness Hansel and Gretel getting a huge number of tourists daily. In addition to the historic houses, the landscaping (both inside the yard, and outside) adds greatly to the public enjoyment of the property.

The City must surely see an advantage to maintaining these plantings and their border also.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. Henderson', with a long, sweeping horizontal line extending to the right.

Rebecca Henderson

A solid black rectangular redaction box covering the address information.

August 11, 2024

Marnie Waffle
Carmel Planning & Building Department
Post Office Drawer C
Carmel-by-the-Sea, California 93921

Re: Encroachment Permit for Hansel and Gretel

Dear Marnie:

I own a Comstock house on Junipero in Carmel-by-the-Sea.

As a fellow Comstock owner, I believe the way the border in question repeats the theme of the garden inside the fence fits with the neighborhood character, and especially with the character of Hansel and Gretel. It's certainly looks better than what was there before and better than a rolled asphalt berm - not to mention it solves any drainage issues.

I would hope you would consider approving this encroachment permit.

Sincerely,

Stephanie Ager Kirz

August 19, 2024

Attachment 4

Ms. Marnie Waffle
mwaffle@ci.carmel.ca.us

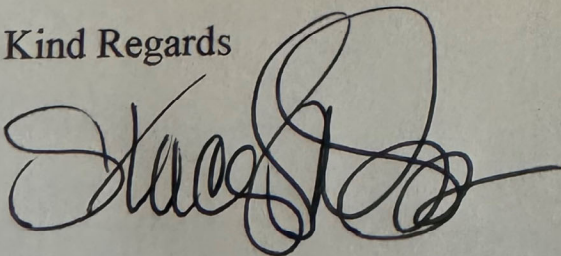
To: Ms. Marnie Waffle:

I own an historic home on Santa Rita, a few blocks from Hansel and Gretel on Torres Street.

The Voris' have told me they have applied for an encroachment permit to keep a stone border around their streetside plantings. My home is in a bit of a low spot, so I can appreciate how important it is to keep water and soil from running down the street or onto neighboring properties.

I believe this border fits in with the neighborhood character and the character of the two historic cottages. I know large amounts people daily go to see Hansel and Gretel. I think the landscaping, including the stone border, add to the tourist's experience - as well as mine as a nearby homeowner.

Kind Regards

A handwritten signature in black ink, appearing to read 'Stacey Gregg', with a large, stylized loop at the end.

Stacey Gregg

August 10, 2024

Marnie Waffle
Carmel Planning & Building Department
Post Office Drawer C
Carmel-by-the-Sea, California 93921

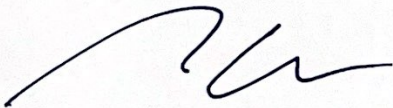
Re: Encroachment
Voris – Torres 4 NE of Sixth (Hansel and Gretel)
Relief from DS23-217 Condition No. 21 (remove stone
border)

Dear Ms. Waffle:

I am a neighbor writing in support of granting the Voris's an encroachment permit for a planting bed's stone border on the street-side of their front fence. The low stone border retains water and soil better than a rolled asphalt berm would, is certainly more attractive, and presents a more obvious demarcation between paved and planted areas.

This encroachment also adds to the public enjoyment of this historic property (and the City benefits by the increased tourism these houses attract.) In the past parked cars blocked the view of Hansel from the street. Because of the plantings and stone border, it is now easily seen and photographed by all who appreciate it.

Sincerely,



Steve White
Comstock Studio
Santa Fe 666th

