

RESOLUTION NO. NS-30,341

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ DENYING THE APPEALS OF IAN AND NATASHA GUY AND LAURA LIVINGSTON REPRESENTING THE LAUREL AND CLEVELAND AREA NEIGHBORS THEREBY ACKNOWLEDGING THE CATEGORICAL EXEMPTION AND APPROVING A NONRESIDENTIAL DEMOLITION AUTHORIZATION PERMIT TO DEMOLISH TWO COMMERCIAL BUILDINGS, BOUNDARY ADJUSTMENT TO COMBINE TWO PARCELS, AND A DESIGN PERMIT, SPECIAL USE PERMIT, WATERCOURSE DEVELOPMENT PERMIT AND HERITAGE TREE REMOVAL PERMIT TO CONSTRUCT A FIVE-STORY MIXED-USE BUILDING CONSISTING OF 2,907 SQUARE FEET OF GROUND FLOOR COMMERCIAL SPACE AND 48 SINGLE ROOM OCCUPANCY (SRO) RESIDENTIAL UNITS ABOVE. THE PROJECT ALSO INCLUDES A REQUEST FOR A DENSITY BONUS AND WAIVERS TO EXCEED BUILDING HEIGHT, SETBACKS, AND FAR, AS WELL AS PROPOSES TO UTILIZE AB2097 TO REDUCE ON-SITE PARKING. THE PARCELS ARE BOTH LOCATED IN THE CC (COMMUNITY COMMERCIAL)/MU-M (MIXED-USE MEDIUM DENSITY) ZONE DISTRICT AND THE MISSION STREET OVERLAY ZONE (APPLICATION NO. CP23-0103)

WHEREAS, On June 7, 2023, Workbench submitted an application for a Nonresidential Demolition Authorization Permit to demolish two commercial buildings, Boundary Adjustment to combine two parcels, and a Design Permit, Special Use Permit, Watercourse Development Permit and Heritage Tree Removal Permit to construct a five-story mixed-use building consisting of 2,627 square feet of ground floor commercial space and 59 single room occupancy (SRO) residential units above. The project also includes a request for density bonus including waivers to exceed building height, setbacks, and floor area ratio (FAR), as well as proposes to utilize AB2097 to reduce on-site parking. The parcels are both located in the CC (Community Commercial)/MU-M (Mixed-Use Medium Density) zone district and the Mission Street Overlay Zone; and

WHEREAS, the project site and its development is governed by the standards and guidelines contained in Municipal Code Title 24, the Zoning Ordinance, and the City of Santa Cruz General Plan; and

WHEREAS, the project qualifies for a Categorical Exemption in State California Environmental Quality Act (CEQA) Guidelines Section 15332 as articulated below; and

WHEREAS, the Planning Commission conducted a public hearing on January 18, 2024 and, after hearing public testimony, voted 5-1 to acknowledge the environmental determination and approve the Nonresidential Demolition Authorization Permit to demolish two commercial buildings, Boundary Line Adjustment to combine two parcels, and a Design Permit, Special Use Permit, Watercourse Development Permit and Heritage Tree Removal Permit to construct a five-story mixed-use building consisting of 2,627 square feet of ground floor commercial space and 59 single room occupancy (SRO) residential units above. The project also includes a request for density bonus including waivers to exceed building height, setbacks, and FAR, as well as proposes

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to utilize AB2097 to reduce on-site parking; and

WHEREAS, the Planning Commission's approval was appealed to the City Council on January 29, 2023 by Ian & Natasha Guy and the Laurel and Cleveland Area Neighbors; and

WHEREAS, following Planning Commission's approval of the project, for reasons stated in a letter received by the Planning Department in March 2024, the applicant submitted revised plans to the Planning Department proposing 48 SRO's with 2,907 square feet of commercial space;

WHEREAS, the City Council City Council on April 30, 2024 approved a motion referring the application to the Planning Commission to provide a recommendation on the applicant's proposed changes and continued the appeal to be heard by the City Council on May 28, 2024.

WHEREAS, the Planning Commission conducted a public hearing on May 16, 2024 to consider the proposed changes to the project and voted 7-0 with a recommendation to the City Council to deny the appeal and approve the 48-unit SRO Density Bonus project that was found to meet all City and State requirements with recommended conditions; and

WHEREAS, the City Council conducted a duly noticed public hearing on May 28, 2024 to consider the application and appeal; and

WHEREAS, at the May 28, 2024 City Council hearing a motion was made to deny the appeals and approve the 48-unit SRO project and the permits needed for that project, including the granting of requested waivers for height, setbacks, and FAR but only to the extent necessary to facilitate construction of a 48-unit project that does not include the 11 proposed storage units on the west side of the project; and

WHEREAS, the motion also included an amendment to condition of approval 57(c) and a new condition regarding Major Modifications to the project to be brought back to the Planning Commission for approval; and

WHEREAS, the City Council now makes the following findings:

With Respect to the Environmental Determination

The project is categorically exempt from environmental review under Article 19 of the California Environmental Quality Act (CEQA) Guidelines, Section 15332, related to infill development. The Class 32 categorical exemption applies to a proposed project fulfilling the following criteria:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations;
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;
- (c) The project site has no value as habitat for endangered, rare, or threatened species;
- (d) Approval of the project would not result in any significant effects relating to traffic, noise,

- air quality, or water quality; and
- (e) The site can be adequately served by all required utilities and public services.

The proposed project complies with all of the foregoing criteria and demonstrates eligibility for implementation of a Class 32 Categorical Exemption as afforded by CEQA. The application exhibits consistency with General Plan and zoning designations, policies, and regulations, with a project site comprising 12,502 square feet (.287 acres) in size, below the maximum threshold of five (5) acres, located within city limits and surrounded by existing residential and commercial urban uses. As a previously-developed urban infill site, the subject lot holds no value as habitat for endangered, rare, or threatened species, with none known to exist on the site; development of the project would not result in any significant impact relating to traffic, noise, air quality or water quality as supported by the submitted information; and the site can be adequately served by all required utilities and public services. Therefore, the proposal qualifies for the Categorical Exemption found in CEQA Guidelines Section 15332, infill exemption.

None of the exceptions to the exemptions under Section 15300.2 apply to the project in that the project site is not located in a mapped environmentally sensitive area, the project is not part of a larger project that could result in a cumulative impact, there are no unusual circumstances associated with the project or subject parcel, the project will not result in damage to resources associated with an officially designated scenic highway, the project site is not included on any lists compiled pursuant to Section 65962.5 of the Government Code related to Hazardous Waste Sites, and the project will not result in substantial adverse changes in the significance of a historical resource site in that there are no known historic resources on the property.

FINDINGS

Nonresidential Demolition Authorization Permit, Section 24.08.1230

- 1. The cultural resources evaluation is accepted as accurate and complete; and the cultural resources evaluation concludes that the building or structure is not eligible for listing on the city historic building survey.**

A historic report (DPR 523 Form) was prepared by historian Joseph Van Den Berg of *Garavaglia Architecture* which evaluates the existing buildings and the history of the site. Based on records, the existing buildings were constructed in 1966, with subsequent additions and modifications occurring in 1974 and 1975. The report finds that the subject property does not display a level of historical significance or integrity that would qualify it for listing as a historic resource on the National Register of Historic Places, the California Register of Historical Places, or the City of Santa Cruz Historic Building Survey. The site is not associated with any important historic events or patterns of history, is not associated with any historic people, the architecture is not notable and contains almost not character-defining features. Thus, the structure is not eligible for listing on the City Historic Building Survey.

- 2. The project which will replace the demolished building or structure has been, or is concurrently being, approved by the city, and an appropriate building permit has been,**

or is concurrently being, issued; unless some other practical hardship can be documented rendering this requirement inappropriate.

The proposed mixed-use project is being approved concurrently with the approval to demolish the subject structure.

- 3. The property owner has been advised of the benefits of listing the property on the city historic building survey and incorporating the preservation of the historic resource into the proposed project.**

Not applicable as the property has been determined to not be eligible for listing.

- 4. The cultural resources evaluation determines that the resource is eligible for listing on the city historic building survey, appropriate environmental review has been completed in accordance with the California Environmental Quality Act, and the zoning administrator can make a finding of overriding consideration that the replacement project will have public benefits which will outweigh the impact of loss of the historic resource.**

It has been determined that the property does not qualify as a historic resource. Therefore, this finding does not apply.

Boundary Line Adjustment Section, 23.12.030.1(b)

- 5. The parcels resulting from the lot line adjustment will conform to the general plan, any applicable specific plan, any applicable coastal plan, zoning and building ordinances.**

The proposal to merge parcels 006-203-24 and -25 into one 12,502 square foot parcel is consistent with the General Plan and Community Commercial zone district standards which require a minimum 8,000 square foot parcel size for mixed-use projects.

- 6. A greater number of parcels than originally existed are not created by the lot line adjustment.**

The proposed Boundary Adjustment will not result in the creation of any additional parcels or building sites, but rather the two parcels will be combined to result in one parcel.

Design Permit, Section 24.08.430

- 7. The site plan and building design are consistent with design and development policies of the General Plan, any element of the General Plan, and any area plan, specific plan, or other city policy for physical development. If located in the Coastal Zone, the site plan and building design are also consistent with policies of the Local Coastal Program.**

The subject parcel has a Mixed-Use Medium Density (MXMD) General Plan designation. This designation applies to sites along the Ocean Street and the Mission Street corridor between

Swift and Laurel Street. Typical commercial uses are similar to those in the Community Commercial (CM) designation, and pedestrian-oriented commercial uses are encouraged on the ground floor. For reference, the CM designation calls for “businesses that serve the general needs of the community, including retail, service, and office establishments. Typical uses in these areas include restaurants, grocery stores, furniture stores, general merchandise, medical and legal offices, and auto parts stores, as well as mixed-use projects that include these commercial uses on the ground floor.”

The Mixed-Use Medium Density (MXMD) designation allows a Floor Area Ratio (FAR) range from .75 to 1.75. FAR is the total gross floor area of the development divided by the net area of the site. The total floor area for the proposed mixed-use project is 43,237 square feet and the net lot size (with deduction of riparian setback area) is 11,182 square feet, resulting in a FAR of 3.86 for the proposed development. With the proposed FAR exceeding the allowed FAR, a waiver to FAR is included as part of the Density Bonus request.

The proposed mixed-use project is consistent with the policies of the General Plan, including the following:

- **Land Use Development Policy LU3.3.1** - *Discourage strip commercial development in favor of clustered commercial and mixed-use development along transit corridors.*
- **Land Use Development Policy LU3.7** - *Encourage higher-intensity residential uses and maximum densities in accordance with the General Plan Land Use designations.*
- **Land Use Development Policy LU3.7.1** - *Allow and encourage development that meets the high end of the General Plan Land Use designation density unless constraints associated with site characteristics and zoning development standards require a lower density.*
- **Land Use Development Policy LU3.8** - *Allow the following residential uses to exceed the maximum densities in this chapter: Density bonus units.*
- **Community Design CD3.3** – *Encourage the assembly of small parcels along transit corridors to achieve pedestrian-oriented development compatible with neighborhoods.*
- **Community Design CD4.1.1** – *Support compact mixed-use development Downtown, along primary transportation corridors, and in employment centers.*
- **Community Design CD4.1.1** – *Where possible, site buildings at the street frontage and place parking areas away from street corners and to the rear of buildings.*
- **Community Design CD4.1.3** – *On major corridors, encourage mixed-use development, especially projects with priority for commercial uses that can provide services to the adjacent community.*
- **Mobility Development Policy M1.1** - *Reduce automobile dependence by encouraging appropriate neighborhood and activity center development.*
- **Mobility Development Policy M1.3** - *Create pedestrian-friendly frontage and streetscapes and attractive pedestrian-oriented areas.*
- **Mobility Development Policy M3.2.11** - *Improve traffic flow and safety and reduce impacts on arterial streets by limiting driveways, mid-block access points, and intersections; removing on-street parking; clustering facilities around interconnected parking areas; providing access from side streets; and other similar measures.*

- **Economic Development Policy 1.1.3** - *Encourage the development of year-round businesses and visitor activities, resources, and destinations that can also attract and engage local residents.*
- **Economic Development Policy 5.2** - *Provide for residents' daily shopping needs in local-serving neighborhood commercial centers.*
- **Economic Development Policy 5.2.1** - *Encourage neighborhood shopping in nodes of commercial development that serve residential areas and have adequate transit, pedestrian, and bicycle access.*
- **Economic Development Policy 5.2.2** - *Support the development of neighborhood gathering places in conjunction with local-serving neighborhood commercial.*

The project site is located within the Mission Street Urban Design Plan (MSUDP) which encourages developments such as this. The community's vision is to re-establish Mission Street as a vibrant commercial corridor that recognizes and carefully balances its functions as both a State Highway and local-serving commercial street. As noted in the MSUDP, the corridor should maintain a predominantly commercial mixed-use character. Residential uses should be restricted to multi-family residential units, and to residential above ground floor retail or office. The remaining single-family residential uses should be allowed to eventually phase out. The intent is to create a corridor that is safe, attractive, economically and socially vibrant, which in turn will improve the quality of life for Westside residents.

The project site is within the "Westside Zone" area of the *Mission Street Urban Design Plan*. The Westside Zone, which extends from Laural Street to Swift Street includes predominantly retail and service type uses with scattered residential, office and institutional uses. The project meets the objectives of the Westside Zone by establishment of a development that provides retail and services for both residents and visitors and employing streetscape improvements such as street trees, lighting, and street furnishings to visually unify this section of the corridor and enhance the pedestrian environment. The project also meets the following areawide land use and redevelopment strategy plan policies:

- **Policy 4a** – Encourage a mix of higher density residential and office uses along Mission Street that will complement and support the retail base and contribute to the creation of a neighborhood with around-the-clock vitality.
- **Policy 4b** – Establish the Mission Street corridor as an attractive pedestrian-oriented, mixed-use district.
- **Policy 4c** – Encourage "mixed-use" development and "local-serving" commercial uses as a means of reducing automobile use within the planning area. Development of complementary uses (retail and office, retail and housing, office and housing) in proximity to each other allows residents, employees, and visitors to walk and/or bicycle when undertaking many of the typical daily trips, whether it is going to lunch, running errands, or going out for the evening.
- **Policy 5c** – Encourage redevelopment and infill development along Mission Street that will improve the corridor's economic vitality, enhance the definition and character of the corridor, and create better pedestrian scale and orientation.

8. **For nonresidential projects, the project's location, size, height, operations, and other significant features and characteristics are compatible with and do not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, safety, and welfare. For residential projects, the project complies with the objective standards and requirements of the zoning district in which it is located, as well as any objective standards of any area plan or other regulatory document that applies to the area in which the project is located.**

The project contains both nonresidential and residential components. Commercial uses surround the site, with the exception of residential uses to the west and across the creek to the north. The commercial retail use will abut Mission Street maintaining a substantial distance from the neighboring residences and will not adversely affect or further degrade adjacent properties. For the residential portions of the development the project complies with the objective standards and requirements of the zoning district as well as the Mission Street Urban Design Overlay District, taking into consideration the waivers requested as part of the Density Bonus request.

9. **For nonresidential projects, the project provides for an arrangement of uses, buildings, structures, open spaces, and other improvements that are compatible with the scale and character of the adjacent properties and surrounding neighborhood.**

Commercial uses surround the site, with the exception of residential uses to the west and across the creek to the north. The commercial retail use will abut Mission Street maintaining a substantial distance from the neighboring residences, and fronting Mission Street will be compatible as well as add to the Mission Street commercial streetscape.

10. **The exterior design and appearance of buildings and structures and the design of the site plan shall be compatible with design and appearance of other existing buildings and structures in neighborhoods which have established architectural character worthy of preservation.**

The proposed building has a contemporary design, incorporating a variety of exterior finish materials including textured concrete (board formed/textured), metal panels, fiber cement panel or stucco, patterned metal fence/gates/screens/sunshades, and a glazed aluminum windows. This stretch of Mission Street has a wide variety of building types and appearances, none of which have established architectural character worthy of preservation.

11. **Design of the site plan respects design principles in terms of maintaining a balance of scale, form and proportion, using design components which are harmonious, and materials and colors which blend with elements of the site plan and surrounding areas. Location of structures takes into account maintenance of public views; rooftop mechanical equipment is incorporated into roof design or screened from public rights-of-way to the extent possible. Utility installations such as trash enclosures, storage units, traffic-control devices, transformer vaults and electrical meters are accessible and screened.**

The Mixed-Use Medium Density (MXMD) designation allows a Floor Area Ratio (FAR) range from .75 to 1.75. FAR is the total gross floor area of the development divided by the net area of the site. The total floor area for the proposed mixed-use project 43,237 square feet and the net lot size (with deduction of riparian setback area) is 11,182 square feet, resulting in a FAR of 3.86 for the proposed development. A waiver to exceed FAR is included as part of the Density Bonus request, as complying with the designated FAR would reduce the volume of the building and would physically preclude the construction of the project that would include the number of residential units allowed under the State Density Bonus Law.

With the exception of height and setbacks, the siting and design standards are consistent with the zone district standards. The proposed building has been designed in a contemporary style with rooftop equipment incorporated into the roof design and screened from adjacent properties. Utility installations such as trash enclosures, storage units, and parking are designed into the building, making them accessible but screened from view.

- 12. Where a site plan abuts, or is in close proximity to, uses other than that proposed, the plan shall take into account its effect on other land uses. Where a nonresidential use abuts or is in close proximity to a residential use, the effect of the site plan should maintain the residential quality of adjacent or nearby areas.**

Commercial uses surround the site, with the exception of residential uses to the west and across the creek to the north. The commercial retail use will abut Mission Street maintaining a substantial distance from the neighboring residences.

- 13. To the extent feasible, the orientation and location of buildings, structures, open spaces and other features of the site plan maintain natural resources including significant trees and shrubs, minimize impacts to solar access of adjacent properties, and minimize alteration of natural land forms; building profiles, location, and orientation must relate to natural land forms.**

The flat site is mostly paved with two commercial buildings constructed in the 1960s that are proposed for demolition. There are seven trees located on the site, two of which qualify as heritage due to their size. No special status plant species have been recorded for this property, and no special status species were observed and the potential presence of is considered very low due to the lack of suitable substrates/habitats and developed condition of the site. The majority of the proposed development will occur within areas supporting existing structures, parking areas, and non-native landscaping. The removal of this vegetation is not considered a significant impact to local or regional botanical resources. Recommended measures to protect the creek have been included as conditions of approval, including removal of invasive species, using locally native plant species for the new landscaping, and scheduling of vegetation removal to avoid the bird nesting season. The site will remain flat, with minimal alteration to the existing land forms.

- 14. The site plan ensures that the scale, bulk, and setbacks of new development preserves important public views along the ocean and of designated scenic coastal areas. Where**

appropriate and feasible, the project shall restore and enhance visual quality of visually degraded areas.

The project site is not located adjacent to the coastline or within any scenic view area.

- 15. The site plan shall reasonably protect against external and internal noise, vibration and other factors, which may tend to make the environment less desirable. The site plan should respect the need for privacy of adjacent residents.**

The applicant will be required to obtain a building permit for the new building. The structure will be required to meet all applicable regulations of the California Building Code pertaining to noise, vibration, and other factors affecting indoor and exterior environmental quality. Conditions of approval require that the applicant submit a project-level noise assessment for review and approval prior to building permit issuance and require compliance with the reports' recommendations to ensure compliance with the noise policies in the General Plan.

- 16. Building and structures shall be so designed and oriented to make use of natural elements such as solar radiation, wind, and landscaping for heating, cooling, ventilation, and lighting.**

The proposed building will be designed to meet the City's Green Building Program requirements. New planted trees and landscaping will reduce the heat island effect.

Special Use Permit, Section 24.08.050

- 17. The proposed structure or use conforms to the requirements and the intent of this title, and of the General Plan, relevant area plans, and the Coastal Land Use Plan, where appropriate.**

The subject parcel has a Mixed-Use Medium Density (MXMD) General Plan designation. This designation applies to sites along the Ocean Street and the Mission Street corridor between Swift and Laurel Street. Typical commercial uses are similar to those in the Community Commercial (CM) designation, and pedestrian-oriented commercial uses are encouraged on the ground floor. For reference, the CM designation calls for "businesses that serve the general needs of the community, including retail, service, and office establishments. Typical uses in these areas include restaurants, grocery stores, furniture stores, general merchandise, medical and legal offices, and auto parts stores, as well as mixed-use projects that include these commercial uses on the ground floor."

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The proposed mixed-use project is consistent with the policies of the General Plan, including the following:

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- **Land Use Development Policy LU3.8** - *Allow the following residential uses to exceed the maximum densities in this chapter: Density bonus units.*
- **Community Design CD3.3** – *Encourage the assembly of small parcels along transit corridors to achieve pedestrian-oriented development compatible with neighborhoods.*
- **Community Design CD4.1.1** – *Support compact mixed-use development Downtown, along primary transportation corridors, and in employment centers.*
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- **Mobility Development Policy M1.1** - *Reduce automobile dependence by encouraging appropriate neighborhood and activity center development.*
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The project site is located within the Mission Street Urban Design Plan (MSUDP) which encourages developments such as this. The community's vision is to re-establish Mission Street as a vibrant commercial corridor that recognizes and carefully balances its functions as both a State Highway and local-serving commercial street. As noted in the MSUDP, the corridor should maintain a predominantly commercial mixed-use character. Residential uses should be

restricted to multi-family residential units, and to residential above ground floor retail or office. The remaining single-family residential uses should be allowed to eventually phase out. The intent is to create a corridor that is safe, attractive, economically and socially vibrant, which in turn will improve the quality of life for Westside residents.

The project site is within the “Westside Zone” area of the *Mission Street Urban Design Plan*. The Westside Zone, which extends from Laural Street to Swift Street includes predominantly retail and service type uses with scattered residential, office and institutional uses. The project meets the objectives of the Westside Zone by establishment of a development that provides retail and services for both residents and visitors and employing streetscape improvements such as street trees, lighting, and street furnishings to visually unify this section of the corridor and enhance the pedestrian environment. The project also meets the following areawide land use and redevelopment strategy plan policies:

- **Policy 4a** – Encourage a mix of higher density residential and office uses along Mission Street that will complement and support the retail base and contribute to the creation of a neighborhood with around-the-clock vitality.
- **Policy 4b** – Establish the Mission Street corridor as an attractive pedestrian-oriented, mixed-use district.
- **Policy 4c** – Encourage “mixed-use” development and “local-serving” commercial uses as a means of reducing automobile use within the planning area. Development of complementary uses (retail and office, retail and housing, office and housing) in proximity to each other allows residents, employees, and visitors to walk and/or bicycle when undertaking many of the typical daily trips, whether it is going to lunch, running errands, or going out for the evening.
- **Policy 5c** – Encourage redevelopment and infill development along Mission Street that will improve the corridor’s economic vitality, enhance the definition and character of the corridor, and create better pedestrian scale and orientation.

The property is not located within the Coastal Zone Overlay.

18. That any additional conditions stipulated as necessary in the public interest have been imposed;

Additional conditions have been added to the approval in order to ensure the commercial and residential activities do not negatively impact surrounding uses.

19. That such use or structure will not constitute a nuisance or be detrimental to the public welfare of the community; and

The project meets all district development standards, and the overall building mass is broken up by architectural treatment. Rooftop equipment is incorporated into the roof design and screened from adjacent properties. Utility installations such as trash enclosures, storage units, and parking are designed into the building, making them accessible but screened from view. Taking all of these into consideration, the proposed uses incorporated into the project will not constitute a nuisance or be detrimental to the public welfare of the community. Additional

conditions have been added to the approval in order to ensure the development does not constitute a nuisance or would be detrimental to the public welfare of the community.

- 20. That all thrift store uses shall include a management plan that identifies collection facilities for donated items, operating hours for donation facilities which discourage unsupervised dropoffs, adequate storage areas for sorting the materials, and provides a plan to properly dispose of unusable items in a timely, secure, and orderly fashion and maintains premises in a clean and attractive condition.**

Not applicable.

Watercourse Development Permit, Section 24.08.2190

- 21. The development and the project as a whole is consistent with the City-Wide Creeks and Wetlands Management Plan.**

The project as a whole is consistent with the City-Wide Creeks and Wetlands Management Plan with the approval of the Density Bonus waiver to the required creeks setbacks and incorporation of the recommendations in the biotic report as conditions of approval. The stretch of Laurel Creek adjacent to the site is an open channel, with a mixture of natural and concrete-lined side slopes and is comprised of non-native landscaping and non-native forbs and vines. The value of the riparian corridor to native wildlife is moderated due to its small size and the lack of native riparian vegetation that would provide cover and forage for native wildlife. However, it provides value due to the year-round presence of surface water and the structure of the woody vegetation likely provides perching, roosting, and nesting sites for several bird species. Common wildlife species adapted to urban land uses are expected to inhabit the creek and the adjacent landscaping. Approximately 68 square feet of the building will overhang the riparian corridor (16 feet above grade); however, this feature will not impact any existing riparian woodland vegetation. No special status plant species have been recorded for this property, and no special status species were observed and the potential presence of is considered very low due to the lack of suitable substrates/habitats and developed condition of the site. The majority of the proposed development will occur within areas supporting existing structures, parking areas, and non-native landscaping. The removal of this vegetation is not considered a significant impact to local or regional botanical resources.

- 22. That the development is permitted per Section 24.08.2150 or that the zoning administrator has determined that the project is in substantial conformance with the listed permitted uses.**

With the structure cantilevering into the 10-foot riparian corridor setback and the 15-foot development setback areas, the City-Wide Creeks and Wetlands Management Plan would require the issuance of a Watercourse Variance. However, with the project including a Density Bonus, a waiver to the creek setback is being requested in place of the Watercourse Variance. Similar to the requirements of a Watercourse Variance, the biotic report evaluated the potential impacts of the project on the creek. Appropriate conditions of approval are included to improve the habitat of the creek by removing invasive, non-native plant species, improving water quality and flow with implementation of proper erosion control and best management

practices, and planting of appropriate species. Therefore, the development is permitted with the issuance of a Watercourse Development Permit and Density Bonus waiver to the creek setbacks.

23. That the development complies with the applicable watercourse development standards stated in Section 24.08.2180.

A biotic review was prepared by Biotic Resources Group in August of 2023 with the focus of the assessment being to identify watercourse setbacks and sensitive biotic resources within the project area and evaluate the proposed project relative to the resources. The report recommends measures consistent with the applicable watercourse development standards stated in Section 24.08.2180 which have been included as conditions of approval.

24. That the project has met the requirements of all other reviewing agencies including but not limited to state and federal government requirements.

The limit of the development is outside of state and federal government jurisdiction and therefore is not required to meet state and federal requirements.

Density Bonus, Section 24.16.270

25. The housing development is eligible for a density bonus and any concessions, incentives, waivers, modifications, or modified parking standards requested; conforms to all standards for affordability included in this section; and includes a financing mechanism for all implementation and monitoring costs.

Pursuant to Zoning Code Section 24.16.020(5)(b), "SRO Developments. In a rental residential development comprised of SRO units, twenty percent of the single-room occupancy units shall be made available for rent to very low-income households at an affordable rent." With a base density of 33 units, six (20%) of the residential units are required to be provided as affordable housing units at the very-low income level (50% AMI). According to AB 2345 Government Code Section 65915(f)(2), if 15% of the total conforming base density is designated very low-income, development projects then qualify for a 50% density bonus. Therefore, the housing development is eligible for a density bonus and the requested waivers. All financing mechanisms for implementation and monitoring costs will be provided by the applicants.

26. Any requested incentive or concession will result in identifiable and actual cost reductions to provide for affordable rents or affordable ownership costs based upon appropriate financial analysis and documentation if required by Section.

Not applicable. The project does not include any requests for incentives/concessions.

27. If the density bonus is based all or in part on dedication of land, the approval body has made the findings included in Section 24.16.230.

Not applicable. The project does not include any requests for dedication of land.

- 28. If the density bonus, incentive, or concession is based all or in part on the inclusion of a child care center, the development conforms to the standards included in Section 24.16.235.**

Not applicable. The project does not include a proposal for a child care center.

- 29. If the density bonus incentive or concession is approved for a condominium conversion, the development conforms to the standards included in Section 24.16.240.**

Not applicable. The project does not include a proposal for a condominium conversion.

- 30. If the incentive or concession includes mixed-use buildings or developments, the nonresidential land uses will reduce the cost of the housing development and the proposed nonresidential uses are compatible with the housing development and with existing or planned development in the area where the proposed housing development will be located.**

Not applicable. The project does not include any requests for incentives/concessions.

- 31. If a waiver or modification is requested, the applicant has shown that the development standards for which the waiver or modification is requested will have the effect of physically precluding the construction of the housing development at the densities or with the incentives or concessions permitted by this Part 3.**

The applicant has requested three waivers of development standards, all of which are required to be waived if they preclude project development. The applicant is requesting waivers to height, setbacks, and FAR. The city must grant these waivers unless they violate state or federal law, create a specific adverse impact on health and safety or the physical environment that cannot be mitigated, or adversely impact real property listed on the California Register of Historical Resources. With regard to the proposed project, failure to grant the waivers requested would physically preclude construction of the project accommodating the number of residential units allowed under Density Bonus Law. As presented, the project would not induce any specific, adverse impact upon public health or safety and includes no characteristics constituting grounds for reduction in residential density or project denial pursuant to the provisions of SB330. No evidence has been revealed which would suggest that the requested waivers should not be granted as required by State law.

- 32. If a commercial development bonus is requested, the project complies with the requirements of Section 24.16.258, the city has approved the partnered housing agreement, and the bonus has been mutually agreed upon by the city and the commercial developer.**

Not applicable. The project does not include a proposal for a commercial development bonus.

33. If the housing development or the commercial development is in the coastal zone, any requested density bonus, incentive, concession, waiver, modification, modified parking standard, or commercial development bonus is consistent with all applicable requirements of the certified Santa Cruz local coastal program, with the exception of density.

Not applicable as the site is not located in the coastal zone.

Heritage Tree Removal, Resolution NS-23,710

34. The heritage tree or heritage tree shrub has, or is likely to have, an adverse effect upon the structural integrity of a building, utility, or public or private right of way;

Not applicable.

35. The physical condition or health of the tree or shrub, such as disease or infestation, warrants alteration or removal; or

Not applicable.

36. A construction project design cannot be altered to accommodate existing heritage trees or heritage shrubs.

An arborist report was prepared by Davey Resource Group in August of 2023 and revised in October of 2023. Seven trees located on or near the site were assessed, with two qualifying as heritage trees requiring a permit for removal. One of the heritage trees, a Black Walnut located adjacent to the site in the riparian area, is proposed to be retained with tree protection measures provided and included as conditions of approval. All other trees on site, including one heritage Evergreen Ash, are proposed to be removed due to the extent of the proposed construction. The project's proposed tree and planting plan includes a total of 6 new trees:

- Nine 24-inch box Armstrong Gold Maple (street trees)
- Seven 10-15 gallon Dogwoods (2nd level open space terrace)
- Five 10-gallon Variegated Box Elder Maples (5th level open space)

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Cruz that it hereby acknowledges the Categorical Exemption and approves the Nonresidential Demolition Authorization Permit to demolish two commercial buildings, Boundary Line Adjustment to combine two parcels, and a Design Permit, Special Use Permit, Watercourse Development Permit and Heritage Tree Removal Permit to construct a five-story mixed-use building consisting of 2,627 square feet of ground floor commercial space and 48 single room occupancy (SRO) residential units above. The project also includes a request for density bonus including waivers to exceed building height, setbacks, and FAR, as well as proposes to utilize AB2097 to reduce on-site parking. The parcels are both located in the CC (Community Commercial)/MU-M (Mixed-Use Medium Density) zone district and the Mission Street Overlay

RESOLUTION NO. NS-30,341

Zone, thereby denying the appeals; and subject to the Findings listed above and the Conditions of Approval listed in Exhibit "A," attached hereto and made a part hereof, thereby denying the appeals.

PASSED AND ADOPTED this 28th day of May 2024, by the following vote:

AYES: Councilmembers Newsome, Brown, Watkins, Brunner, Kalantari-Johnson;
Vice Mayor Golder; Mayor Keeley.

NOES: None.

ABSENT: None.

DISQUALIFIED: None.

APPROVED: _____

Fred Keeley, Mayor

ATTEST: _____

Bonnie Bush, City Clerk Administrator

RESOLUTION NO. NS-30,341
EXHIBIT A

CONDITIONS OF APPROVAL FOR THE PROJECT ON PROPERTY AT

1130/1132 Mission Street – CP23-0103

Nonresidential Demolition Authorization Permit to demolish two commercial buildings, Boundary Adjustment to combine two parcels, and a Design Permit, Special Use Permit, Watercourse Development Permit and Heritage Tree Removal Permit to construct a five-story mixed-use building consisting of 2,907 square feet of ground floor commercial space and 48 single room occupancy (SRO) residential units above. The project also includes a request for a density bonus and waivers to exceed building height, setbacks, and FAR, as well as proposes to utilize AB2097 to reduce on-site parking. The parcels are both located in the CC (Community Commercial)/MU-M (Mixed-Use Medium Density) zone district and the Mission Street Overlay Zone.

1. If one or more of the following conditions is not met with respect to all its terms, then this approval may be revoked.
2. All plans for future construction which are not covered by this review shall be submitted to the City Planning and Community Development Department for review and approval.
3. This permit shall be exercised within three (3) years of the date of final approval, or it shall become null and void. When a building permit is required, a zoning permit shall be considered exercised following the issuance of a valid building permit.
4. If, upon exercise of this permit, this use is at any time determined by the Planning Commission to be incompatible with the surrounding neighborhood, revocation of, or amendment to, this permit by the Planning Commission could occur.
5. The use shall meet the standards and shall be developed within limits established by Chapter 24.14 of the Santa Cruz Municipal Code as to the emission of noise, odor, smoke, dust, vibration, wastes, fumes, or any public nuisance arising or occurring incidental to its establishment or operation.
6. The applicant shall be responsible for the completeness and accuracy of all forms and supporting material submitted in connection with any application. Any errors or discrepancies found therein may result in the revocation of any approval or permits issued in connection therewith.
7. All final working drawings shall be submitted to the Zoning Administrator for review and approval in conjunction with building permit application. The plans submitted for building permits shall have the same level of articulation, detailing, and dimensionality as shown in the approved plans. All approved exterior finishes and materials shall be clearly notated on the building permit plans. Renderings shall accurately reflect the proposed materials, and details shall be provided demonstrating the mix of materials at the corners of the building.
8. Plans submitted for building permit issuance shall be internally consistent.

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9. The development of the site shall be in substantial accordance with the approved plans submitted and on file in the Department of Planning and Community Development of the City of Santa Cruz. All aspects of construction must be completed prior to occupancy. Major modifications to plans or exceptions to completion may be granted only by the City authority which approved the project.
10. The applicant and contractor who obtains a building permit for the project shall be required to sign the following statement at the bottom of these conditions, which will become conditions of the building permit:

“I understand that the subject permit involves construction of a building (project) with an approved Design Permit. I intend to perform or supervise the performance of the work allowed by this permit in a manner which results in a finished building with the same level of detail, articulation, and dimensionality shown in the plans submitted for building permits. I hereby acknowledge that failure to construct the building as represented in the building permit plans, may result in delay of the inspections process and/or the mandatory reconstruction or alteration of any portion of the building that is not in substantial conformance with the approved plans, prior to continuation of inspections or the building final.”

Signature of Building Contractor

Date

11. All requirements of the Building, Fire, Public Works, Environmental Health, and Water Departments shall be completed prior to occupancy and continuously maintained thereafter.
12. All refuse and recycling activities during construction shall be done in accordance with Chapter 6.12 of the Santa Cruz Municipal Code. Private companies offering refuse or debris box services are not allowed to operate within the City limits, except under certain limited circumstances detailed in Chapter 6.12.160.
13. Plans submitted for building permit issuance shall include electric vehicle charging stations as required per Section 24.12.241 of the Zoning Ordinance. Plans shall indicate at least one parking space in the garage that will be designated for residential and commercial tenant loading and rideshare by restricting to adequate time limits, such as 3 or 5 minutes maximum.
14. Adequate provisions shall be made to supply water to each of the premises covered by this application. The design of water facilities shall be to standards of the Water Department, and plans therefore must be submitted to the Water Department Director for review and approval prior to the issuance of a building permit.
15. Plans submitted for building permit issuance shall show all exterior site lighting locations and fixture details. All exterior building lighting shall be shielded and contained in a downward direction. No exterior lighting shall produce off-site glare. A photometric site plan shall be provided to verify this, and planning department staff shall observe the final lighting at night before Certificate of Occupancy is granted.

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16. Exterior site lighting shall be provided along pedestrian pathways and in the vehicle parking area. Security lighting shall be motion sensor only.
17. Landscape and irrigation plans shall be submitted at the time of the building permit application and will be reviewed by both the Planning Department and Water Department. The landscape and irrigation plans shall demonstrate compliance with all requirements of the City's Water-Efficient Landscaping Ordinance in Chapter 16.16 of the Santa Cruz Municipal Code prior to issuance of the building permit. All landscaping shall be installed prior to occupancy.
18. All landscaping shall be installed prior to final utility release or issuance of occupancy permits.
19. Subsequent to occupancy of the premises, all landscaping shall be permanently maintained. Such maintenance shall be secured through an 18-month bond prior to occupancy.
20. All utilities and transformer boxes shall be placed underground unless otherwise specified.
21. A drainage plan shall be submitted in conjunction with application for building permits.
22. Prior to commercial/business use of a building or site, owners or tenants shall obtain a Zoning Clearance/Occupancy Permit from the City Planning Department and a Business License from the City Finance Department.
23. Prior to issuance of the demolition permit, the applicant shall obtain a building permit for the construction of the new mixed-use development. Issuance of the demolition permit may be made prior to building permit issuance at the discretion of the Planning Director.
24. Plans submitted for building permit issuance shall include the following note: Any person exercising a development permit or building permit who, at any time in the preparation for or process of excavating or otherwise disturbing earth, discovers any human remains of any age or any artifact or any other object which reasonably appears to be evidence of an archaeological/cultural resource or paleontological resource, shall:
 - a. Immediately cease all further excavation, disturbance, and work on the project site;
 - b. Cause staking to be placed completely around the area of discovery by visible stakes not more than ten feet apart forming a circle having a radius of not less than one hundred feet from the point of discovery; provided, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking;
 - c. Notify the Santa Cruz County sheriff-coroner and the city of Santa Cruz planning director of the discovery unless no human remains have been discovered, in which case the property owner shall notify only the planning director;
 - d. Grant permission to all duly authorized representatives of the sheriff-coroner and the planning director to enter onto the property and to take all actions consistent with this section.

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25. Prior to issuance of any demolition or building permit, asbestos and lead based paint testing shall be performed by either Environmental Protection Agency (EPA) or California (CA) state health certified individuals to determine the extent of the onsite hazardous materials prior to any demolition of existing structures. Approval shall then be obtained from Monterey Bay Air Resources District (MBARD) for the hazardous or other regulated material removal. Applicant shall provide the city with a copy of the ASB application or a copy of an email from MBARD stating no application is required. A separate building permit application and plans are required for the proposed demolition from the City of Santa Cruz Building Division if prior to issuance of the building permit application.
26. Bike Parking. Plans submitted for building permit issuance shall demonstrate that the bike parking demonstrated on the approved plans are provided on the building permit plans. The plans shall include specifications for the Class 2 bike parking racks including manufacturer, dimensions, and design, and a description of the access privileges to any proposed secure bike parking areas.
27. Affordable Housing Agreement: Applicant shall comply with the inclusionary housing requirements and density bonus requirements set forth at SCMC Chapter 24.16 Parts 1 and 3, together with any applicable State statutes involving density bonus. With a base density of 33 units, six (20%) of the residential units will be required to be deed-restricted as affordable units at the VLI (50% AMI). The applicant shall enter into and record an affordable housing development agreement prior to issuance of a building permit for any affordable unit in the residential development. The affordable housing development agreement shall run with the land and bind all future owners and successors in interest.
28. A new property description shall be recorded with the County Recorder's office and a copy of the recorded description provided to the City Planning Department. The deed(s) of conveyance must contain the following statement after the description of the property(ies) or portion(s) of property to be transferred:

"The purpose of the deed is to adjust the boundary between Assessor's Parcel Number 006-203-24 and Assessor's Parcel Number 006-203-25 as approved by the City of Santa Cruz under Application CP23-0103. This conveyance may not create a separate parcel, and is null and void unless the boundary is adjusted as stated."
29. Trash Enclosure: Plans submitted for building permit shall include a new trash enclosure. A floor drain shall be installed in the slab and connected to the sanitary sewer system; and a hose bib shall be installed for the purpose of cleaning the interior of the structure. The final trash enclosure design shall be shown in the plans submitted for building permit and shall be subject to review and approval by the Public Works Department.
30. New Sanitary Sewer Connection: Plans submitted for building permit shall show a new sanitary sewer connection, which will be required to connect to the existing City sanitary sewer manhole. A City standard clean-out will be required.

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31. Existing Sanitary Sewer Lateral(s): Plans submitted for building permit shall show the existing sanitary sewer lateral(s) abandoned at the City sewer main by method of mechanical plug or factory cap.
32. Street Trees. City street trees, each of minimally 24-inch-box size, shall be planted in a quantity and at locations as determined by the City's Urban Forester. City Street Trees to be planted must conform to the City's approved Street Tree List.
33. Any tree marked for preservation which is subsequently removed shall be replaced by two (2) specimen trees of a variety and at locations specified by the Director of Planning and Community Development or authorized designee. All such trees shall be replaced prior to occupancy of the premises.
34. The plans submitted for building permit shall include a tree protection plan indicating the manner by which all trees designated for retention will be preserved during project construction.
35. TIF: Prior to Certificate of Occupancy, the applicant shall pay Traffic Impact Fees (TIF) as required by the Public Works Department.
36. Stormwater Management: Prior to submittal of any application for demolition permit or building permit, the applicant shall submit all necessary information, documentation, and plans necessary to demonstrate compliance with all applicable requirements of the City, State Water Resources Control Board, and any other regulatory agencies related to satisfactory management and treatment of stormwater.
37. Compliance with Recommendations of Project Reports/Technical Studies. At all times, the project applicant/property owner shall ensure compliance with all recommendations included in reports/technical studies related to natural resources, including, but not limited to, the geotechnical report dated October 18, 2022, prepared by *Rock Solid Engineering Inc.*; the arborist report and tree protection plan dated October 2023, prepared by *Davey Resource Group*; and the biotic report dated August 17, 2023, prepared by *Biotic Resources Group*.
38. Bird-Safe Development. Plans submitted for building permit shall demonstrate compliance with the City's Bird Safe Development Guidelines and shall include the use of glass with a frit pattern, or other bird-safe methods compliant with American Bird Conservancy guidelines, on the west facing elevation within 40-feet of grade.
39. During Any person exercising a development permit or building permit who, at any time in the preparation for or process of excavating or otherwise disturbing earth, discovers any human remains of any age or any artifact or any other object which reasonably appears to be evidence of an archaeological/cultural resource or paleontological resource, shall:
 - a. Immediately cease all further excavation, disturbance, and work on the project site;
 - b. Cause staking to be placed completely around the area of discovery by visible stakes not more than ten feet apart forming a circle having a radius of not less than one hundred feet from the point of discovery; provided, that such staking need not take

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place on adjoining property unless the owner of the adjoining property authorizes such staking;

c. Notify the Santa Cruz County sheriff-coroner and the city of Santa Cruz planning director of the discovery unless no human remains have been discovered, in which case the property owner shall notify only the planning director;

d. Grant permission to all duly authorized representatives of the sheriff-coroner and the planning director to enter onto the property and to take all actions consistent with this section.

40. Grading shall be done during periods of dry weather and protective measures shall be incorporated during grading to prevent siltation from any grading project halted due to rain.
41. All new mechanical equipment and appurtenances, including, but not limited to, rooftop and ground-mounted equipment, including gas and water meters, electrical boxes, roof vents, air conditioners, antennas, etc. visible from the public way and from adjacent properties, shall be screened with material compatible with the materials of the building and shall be subject to the approval of the Zoning Administrator. Sound control shall be considered when designing this screening.
42. Final colors shall be approved by the Director of Planning and Community Development prior to application for building permits, provided there are no substantial deviations from the final colors as shown on the approved plans. ~~as proposed in the Project submittal and application materials.~~
43. Prior to Certificate of Occupancy, the applicant shall pay the Park and Recreation Facility Tax pursuant to Chapter 5.72 of the City of Santa Cruz Municipal Code based on the final building permit plans.
44. Prior to Certificate of Occupancy, the applicant shall pay the Park and Recreation Facility Tax pursuant to Chapter 5.72 of the City of Santa Cruz Municipal Code based on the final building permit plans.
45. Prior to Certificate of Occupancy, the applicant shall pay the childcare impact fee pursuant to Chapter 8.48 of the City of Santa Cruz Municipal Code based on the final building permit plans.
46. Prior to Certificate of Occupancy, the applicant shall pay the public safety impact fee pursuant to Chapter 8.49 of the City of Santa Cruz Municipal Code based on the final building permit plans.
47. All downspouts shall be directed either to the City street or into percolation wells provided for the handling of such runoff.
48. Acoustic Report. Prior to issuance of building permit, an acoustic evaluation (noise study), prepared by an acoustic engineer licensed in the State of California must be submitted, subject to review and approval by the Director of Planning and Community Development or authorized

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designee. Plans and documents provided by the applicant/developer in conjunction with the application for Building permit shall incorporate building and site design demonstrating compliance with all recommendations of the acoustic report. Compliance with all recommended measures for noise attenuation must be ensured at all times.

49. Soils Engineer Verification. The plans submitted for building permit shall include a letter from the project soils engineer, verifying that the scope of work and design of the project is consistent with, and in all respects complies with, the geotechnical report prepared for the project and the recommendations included in the geotechnical report, including, but not limited to, grading, drainage, and erosion control.
50. County Environmental Health and Safety. Compliance with all requirements of the County of Santa Cruz Department of Environmental Health and Safety Department related to on-site assessment and remediation must be ensured at all times.
- ~~51. Future Food Service Use. All commercial spaces shall each be constructed to support a future food service use. Plans must include ducting and venting plans for all commercial spaces. All ducting and venting should be designed to be hidden or incorporated into the building design. Plans shall also show the locations of grease traps, grease lines, and grease storage facilities, which shall be located outside of the public right of way.~~
52. No signs shall be installed on the site without prior approval of a Sign Permit.
53. The property owner shall be responsible for the ongoing maintenance of the building and site in good condition including maintenance of exterior materials, landscaping, sidewalks, street furniture, lighting, open space areas, appropriate window treatments, and the parking garages.
- ~~54. The property owner and/or project applicant agree(s) as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the City of Santa Cruz or its agents, officials, officers and employees from any claim, action or proceeding against the City or its agents, officials, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner and/or project applicant will reimburse the City for any court costs and attorney's fees, which the City may be required by a court to pay as a result of such action. City may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve the property owner and/or project applicant of these obligations under this condition. An agreement to this effect shall be recorded upon demand of the City Attorney or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The City shall promptly notify the property owner and/or project applicant of any such claim, action or proceeding and the City shall cooperate fully in the defense thereof. If the City fails to promptly notify the property owner and/or project applicant of any such claim, action or proceeding or fails to cooperate fully in the defense~~

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~~thereof, the property owner and/or project applicant shall not thereafter be responsible to defend, indemnify or hold the City harmless.~~

54. Applicant's/Property Owner's Duty to Defend, Indemnify, and Hold Harmless.

- a. Applicant and Property Owner agree to defend, indemnify, and hold harmless the City, its officials, officers, employees, attorneys, and agents (the "City Parties") from and against all liabilities, losses, liens, damages, judgments, costs, and expenses, including, without limitation, reasonable attorney's fees ("Losses"), arising in any way related to this Project.
- b. Applicant and Property Owner agree to defend, indemnify, and hold harmless City, its officials, officers, employees, attorneys, and agents ("City Parties") from and against any and all claims, demands, actions, and proceedings (collectively, "Actions") brought against the City, its officials, officers, employees, attorneys, or agents to attack, set aside, void, or otherwise modify the decision on the Project, permit decision, or environmental review related to the Project; or Actions alleging failure to comply with the requirements of any federal, state, or local laws, including, but not limited to, CEQA, general plan, or zoning requirements related to the Project. The defense and indemnification obligation includes reimbursing the City for any and all costs incurred in connection with such Actions, including but not limited to, costs of suit, expenses, payment of attorney's fees, City staff costs, court costs, damages, liabilities, judgments, and settlement costs.
- c. Applicant and Property Owner shall also defend, indemnify and hold harmless City Parties for all costs incurred in additional investigation of or study of, or for supplementing, redrafting, revising, or amending any document (such as an EIR, negative declaration, specific plan, general plan amendment, or ordinance) if made necessary by said Actions and if the Applicant or Property Owner seeks to pursue securing such approvals and/or clearances, after initiation of the Actions, which are conditioned on the approval of these documents.
- d. City shall notify Applicant and Property Owner of any such Actions and City agrees to cooperate in the defense of the Actions. Upon receipt of such notification, Applicant and/or Property Owner shall assume the defense of the Actions, including the employment of counsel reasonably satisfactory to the City. In the event of a conflict of interest, City may employ separate counsel to represent the City; and Applicant and/or Property Owner agrees to pay for the reasonable attorneys' fees and costs of the City's separate counsel.
- e. Applicant and Property Owner agree that City may, at its sole discretion, participate in the defense of such Actions; but such participation shall not relieve Applicant or Property Owner of any of the obligations herein to defend, hold harmless, and indemnify the City Parties. If the City Attorney's Office participates in the defense, all of the City Attorney's Office fees and costs, and City staff costs, shall be paid by the Applicant and/or Property Owner.

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- f. In the event that Applicant and/or Property Owner is required to defend City in connection with any Actions, City shall retain the right to reasonably approve: the counsel to so defend City; all significant decisions concerning the manner in which the defense is conducted; and any and all settlements, which approval shall not be unreasonably withheld but which is contingent on the approval of the City council.
 - g. Applicant and Property Owner agree to reimburse and indemnify the City for all of City's costs, fees, including attorney's fees and costs, staff costs, and damages incurred in enforcing these provisions to defend, hold harmless, and indemnify the City Parties.
 - h. Applicant's and Property Owner's duty to indemnify and hold harmless shall not apply to the extent such Actions or Losses are caused by the gross negligence or willful misconduct of the City Parties. Applicant's and Property Owner's obligation to defend shall arise regardless of any claim or assertion that City Parties caused or contributed to the Losses.
 - i. The obligations of Applicant and Property to defend, indemnify, and hold harmless the City Parties, are joint and several.
 - j. The obligations in this section shall survive the expiration or termination of this application.
55. The applicant and/or property owner shall be responsible for ensuring that any existing buildings approved for demolition or conversion remain occupied by a tenant or, if any buildings are vacant or become vacant prior to demolition or conversion, that these buildings are adequately secured to prevent break-ins and other vandalism. All windows, doors, and other openings into vacant buildings shall be completely covered and a six-foot tall chain link fence shall be installed around the perimeter of the property. Graffiti shall be removed or painted over within 72 hours. If a break-in occurs, the applicant and/or property owner shall, within 24 hours, clean the site of trash and debris, and re-secure the site and building(s). Additionally, following a break-in, the applicant/property owner shall provide the Planning Department, SCFD Fire Marshall and SCPD with a copy of a signed contract with a private security company to provide ongoing monitoring of the site. If a break-in or other public safety concern occurs at the site that requires an emergency response, the applicant and/or property owner shall be responsible for paying the fully burdened hourly rates for Police, Fire, Code Compliance, or other City Staff to respond and follow up.
56. Prior to final inspection of a Building Permit, all rental units in the project shall be enrolled in the City of Santa Cruz Residential Rental Inspection Program. The units are exempt from inspections and annual registration fees for the first five years of occupancy (based on the date of building permit's final inspection) and will be activated automatically after five years. If the project consists of ownership units, each individual property owner is responsible for enrolling in the Rental Inspection Program prior to renting their unit(s).

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57. Management Plan: Applicant shall submit a finalized management plan that provides the criteria specified in Zoning Code Section 24.12.1040, which shall be subject to approval by the Planning Director prior to building permit issuance. The management plan shall include the following:
- a. The name and contact information for the property manager and that they will be available to respond to resident and community concerns at all times.
 - b. That the building shall comply with the city noise ordinance (9.56), which restricts offensive noise between the hours of 10:00 PM and 8:00 AM. Further, the plan shall specify that noise from the rooftop terraces between these hours shall not be audible off-site.
 - c. The owner's intent to prioritize tenancy to households that do not own a car, and inclusion of a provision in all lease agreements requiring tenants to acknowledge (and initial their acknowledgment) that surrounding neighborhoods include permit parking zones and that tenants in the project do not qualify for parking permits.
 - d. Details regarding trash bin placement and removal from driveway.
58. The applicant shall implement riparian restoration/enhancement actions within the 10-foot wide riparian corridor. Within this zone, invasive, non-native plant species shall be removed, primarily bamboo, Himalaya berry, and English ivy, and install shade-tolerant locally native riparian species. Suitable species may include creek dogwood (*Cornus sericea*), California rose (*Rosa californica*), snowberry (*Symphoricarpos albus*) and flowering currant (*Ribes sanguineum*). The applicant shall implement maintenance of the corridor, including continued removal of invasive, non-native plant species and maintenance of installed plantings for a minimum of 5 years, providing yearly progress reports to the City. Within the 15-foot wide development setback area, the plantings in the bioremediation area of the proposed Landscape Plan shall exclude plant species that are not locally native and/or inappropriate for the region. Any/all milkweed species (*Asclepias spp.*) shall be removed.
59. The project shall utilize locally-native plant species within the 10-foot riparian corridor. Plants shall be obtained from a local native plant nursery. Invasive, non-native plant species shall not be used for landscaping. Plant species that should not be used on the site include all plants recognized by California Invasive Plant Council (Cal-IPC). This list includes: all brooms (i.e., French broom, Spanish broom and Scotch broom), periwinkle (*Vinca sp.*), Cape ivy, English ivy, Algerian ivy, acacia (all kinds), eucalyptus (all kinds), Monterey pine, cotoneaster, and pyracantha. A full list of prohibited species is found on www.cal-ipc.org. Existing occurrences of invasive species that should be removed/controlled from the riparian corridor include: Himalaya, English ivy, valerian, and bamboo.
60. Lighting within the riparian corridor shall be prohibited and lighting in the development setback area shall be limited to low-level walkway, motion detection security, or entry lighting. Direct lighting shall be hooded and directed downward, away from the watercourse.
61. Mowing or removal of riparian vegetation shall be prohibited. Pre-construction bird nesting surveys shall be conducted adjacent to identified habitat areas.

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62. Vegetation removal shall be scheduled to occur between September 1 and March 1 of any given year(s) to avoid the bird nesting season for this part of the central coast. If that schedule is not practical, then a qualified biologist shall be hired to conduct nesting bird surveys no more than two weeks (14 days) prior to vegetation removal. If any active bird nests are observed, the biologist shall designate a buffer zone around the nest tree or shrub as follows: 200 feet for nesting raptors and 50 feet for all other bird species. No vegetation removal shall take place within the buffer zone until the biologist has determined that all chicks have fledged and are able to feed on their own. Because this is a relatively small lot, it may not be practical to work around the buffer zone, in which case vegetation removal shall be postponed until the biologist has determined that all chicks have fledged and are able to feed on their own.
63. The project shall implement standard erosion control BMP's and riparian habitat protection measures during the project construction period to minimize impacts to the creek located adjacent to the work area, including:
 - a. Install devices to divert surface water away from the work area.
 - b. Install plastic mesh fencing at the perimeter of the work area to prevent inadvertent impacts to the riparian corridor, stream channel, and injury to any vegetation to be retained. Protective fencing shall be in place prior to ground disturbances and removed once all construction is complete. During construction, no grading, construction or other work shall occur outside the designated limits of work. Ensure no construction materials enter the creek/riparian area while construction the Building overhang.
 - c. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored outside the designated limits of work.
 - d. All staging of equipment and materials, and refueling of equipment, shall be located in existing roadways and parking areas. The contractor shall prepare and implement a fuel spill prevention and clean-up plan.
64. The project shall apply native or other appropriate erosion control hydroseed mix on exposed soils and slopes and use biotechnical bank stabilization to the maximum extent feasible.
65. All diesel-fueled off-road construction equipment greater than 75 horsepower shall be zero-emissions or equipped with California Air Resources Board (CARB) Tier 4 Final or Interim compliant engines. Alternatively, CARB Tier 2 or 3 compliant engines may be used if CARB Level 3 Verified Diesel Emissions Control Strategy (VDECS) filters are added to each piece of off-road diesel-fueled equipment.
66. The developer shall work with the Metro to implement existing bus pass programs for the project tenants.
67. The amenity/laundry rooms shall include motion-sensor lighting in compliance with the 2002 Energy Code. The windows facing the creek shall be equipped with blinds, shades or other window coverings and there shall be signage installed in the amenity/laundry rooms stating

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- that such coverings shall be used during all hours of darkness to limit light trespass to the creek.
68. On the western roof terrace, plans submitted for building permit issuance shall include the use of vegetation, seat walls, or other design elements on the western edge to provide privacy buffering.
 69. The curbside loading space within the Laurel Street right-of-way (north end of the driveway) shall be maintained and used for residential and commercial delivery trucks, and rideshare⁸. The owner shall work with delivery services to the greatest extent possible to request loading on Mission for large semi-trucks.
 70. As volunteered by the property owner, the property owner shall pay the remaining balance on the cost of the solar panels of the adjacent property at 1212 Laurel St., not to exceed \$10,000. The property owner shall provide evidence of the payment to the City prior to final or temporary occupancy.
 71. Fast-food uses, such as a Grab and Go window or food prepared at a deli counter, are not permitted with this permit. The applicant shall obtain approval of an Administrative Use Permit prior to such use, or shall otherwise comply with the code in effect at the time of application.
 72. Future building colors shall be consistent with the Mission Street Urban Design Plan, with the exception of the mural.
 73. Plans submitted for building permit issuance shall include the mural as shown on the approved plans, Sheet GP0.07. Significant changes in mural design shall be subject to the following artist selection process:
 - a. Prior to building permit issuance, the applicant shall work with the City to select a mural artist and design concept for the mural on the Laurel Street elevation as shown on the plans. A panel consisting of one member of the Arts Commission, one member of the Downtown Association, and the Economic Development Director shall work in coordination with the applicant to select the artist and design. Prior to building permit issuance, the applicant shall provide evidence that a contract has been entered into with the selected artist for the approved design.
 74. Mural shall be complete prior to occupancy, including temporary occupancy.
 75. As volunteered by the property owner, plans submitted for building permit issuance shall include an electronic sign and system to display available parking spaces within the garage, if it is technically feasible. Sign shall not be illuminated past close of business.
 76. As volunteered by the property owner, the property owner shall post a cash bond in the amount of \$7,500 with the City or Metro, which the City or Metro may use for future bus stop improvements anywhere within the City of Santa Cruz. Any remaining amount of the

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cash bond not used by City or Metro for bus stop improvements, after 5 years from the date of posting of the bond, shall be returned to Property Owner.

77. An environmental soil management plan must be reviewed and approved by the Central Coast Regional Water Quality Control Board (CCRWQCB) prior to any soil excavation or trenching. If contaminated soil or groundwater is encountered during the redevelopment, please notify the CCRWQCB for further direction.
78. A six-foot tall solid wall or fence shall be constructed along the length of the western property line abutting the adjacent single-family home.
79. Prior to building permit issuance, the applicant shall reimburse the city for the costs associated with the peer review of the biotic report, as indicated in the Master Fee Schedule for Watercourse Variance Permits, "This application may require the use of expert outside analysis. Any consultants costs and/or additional staff time will be charge to and recovered from applicant."
80. The project shall not include the 11 storage units located on floors two through five on the west side of the project.
81. If there are major modifications to the project it shall be brought back to the Planning Commission for approval.