



PLANNING COMMISSION  
AGENDA REPORT

DATE: November 22, 2023

AGENDA OF: November 30, 2023

ITEM NO: CP22-0164

900 High Street

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**RECOMMENDATION: That the Planning Commission deny the appeal, upholding the Zoning Administrator acknowledgement of the environmental determination and approval of the Minor Land Division, Design Permit, Slope Development Permit, Density Bonus Request, and Heritage Tree Removal Permit based on the findings listed below and the Conditions of Approval listed as Exhibit A of the staff report.**

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**PROJECT DATA:**

Property Owner: Peace United Church of Christ APN: 001-022-40

Project Applicant: Workbench Built, Diana Alfaro

Application Type: Minor Land Division, Design Permit, Slope Development Permit, Density Bonus Request, and Heritage Tree Removal Permit to divide a parcel into two lots and construct a 40 unit (including four Low Income units and five Very Low Income units), four-story apartment building within 20 feet of a 30-percent slope and to remove 14 heritage trees on a site with an existing church in the R-1-10 (Single Family Residence) zone district.

Zoning: R-1-10 (Single Family Residence)

Project Consistency: Consistent with the above listed zone district, except as modified by California Government Code Section 65589.5(j)(4) (Density Bonus Law)

General Plan: L (Low Density Residential)

Project Consistency: Consistent with the General Plan designation

Land Use - existing: Church with preschool and dwelling

- proposed: 40-unit apartment building; church with preschool and dwelling

- surrounding: UCSC housing (north) quarry, single family homes, city-owned land, church (east), single-family homes (south), elementary school (west)

Lot Area: 5.9 acres (258,825 square feet)

Lot Dimensions: Irregular

Coastal Review: Not in Coastal Zone

Environmental Review: Statutory Exemption per section 21083.3 of the Public Resources Code (Sec. 15183 of the CEQA Guidelines)

Planning Staff: Brittany Whitehill

## **PROJECT DESCRIPTION & HISTORY**

The project site is a 5.9-acre lot located on the north side of High Street immediately to the northeast of its intersection with Moore Street. The site is surrounded by UCSC campus housing to the north; a quarry, single-family homes, city-owned land, and a church to the east; single-family homes across High Street to the south; and Westlake Elementary School to the west. The property is developed with a church that was constructed in 1957. The church campus hosts a preschool as well as a caretaker dwelling unit. The site slopes upward from north to south, and the unimproved north end of the site comprises open grassland and trees.



The project proposes to split the parcel into two lots. The lower lot will be 3.9 acres and will retain the existing church campus. The upper lot will be 2.0 acres. On the upper lot, the project proposes to construct a 40-unit, four-story residential apartment building. The project requires approval of a Minor Land Division to approve the tentative map for the lot split. In addition, the project requires approval of a Design Permit as it involves the construction of three or more units.

The project proposes to provide five low-income units and four very low-income units, amounting to 22.5-percent of the 40 total units at the low-income or lower level. This level of affordability exceeds the minimum 10-percent lower-income threshold to qualify the project for a density bonus. The density bonus request does not include a request for density bonus units but rather requests two concessions/incentives and one waiver from development standards. Per Municipal Code Section 24.16.225, the project qualifies for two incentives/concessions since it provides at least 20-percent of units to lower-income households.

Because the building is proposed on a slope of 30- to 50-percent, the project requires approval of a Slope Development Permit. Finally, the project proposes to remove 14 heritage trees, requiring approval of a Heritage Tree Removal Permit. Because the project involves a Minor Land Division and a Density Bonus Request, the application was required to be approved at a Zoning Administrator public hearing.

The applicant submitted a preapplication for this project in 2022, and the preapplication was deemed complete on January 11, 2023, for consistency with the preapplication submittal requirements under SB330. The project is locked into all standards and policies in place at the time it was deemed complete under SB330, including standards in place prior to the effective date of the most recent objective development standards ordinance.

The Zoning Administrator heard this item on October 4, 2023. Fifteen members of the public spoke at the meeting. Eight public comments were generally supportive of the project, citing the project's

contributions towards the City's housing supply. Seven public comments opposed the project, citing concerns with vehicle congestion generated by the project, traffic safety impacts at the project site and adjacent Westlake Elementary, tree removal, and compatibility with the character of the neighborhood. Additionally, 28 pieces of written correspondence on the project have been received by Planning staff during the duration of the project review.

On October 15, 2023, Deborah Elston, representing the Westlake Neighborhood Association, filed an appeal of the Zoning Administrator's approval of the project. Since the appeal was filed, twenty-five additional pieces of written correspondence were received (as of November 21, 2023). Two comment letters opposed the project and twenty-three expressed support.

### **ANALYSIS**

The attachment entitled Zoning Administrator Staff Report from October 4, 2023, provides an in-depth analysis of the proposed project. This staff report addresses the issues raised in the appeal letter submitted by the appellant. The following summarizes each point made in the appeal (shown in bold text), followed by staff responses for each item. The appellant raises the following objections to the project in question:

**The appellant claims that preliminary geotechnical analysis on the site (included borings and drilling in various areas to identify potential geotechnical hazards and appropriate construction recommendations) may have resulted in a murky appearance of Westlake Pond.**

The geotechnical analysis performed at the site is typical of pre-construction geotechnical analysis and reflects industry best practices. The appellant did not provide evidence or rationale as to how the borings could have resulted in changes to the appearance of Westlake Pond, which is located approximately 750 feet from the project site.

In response to these claims, the project's geotechnical engineer, Rebecca L. Dees of Dees & Associates, Inc. provided a letter, dated November 2, 2023, summarizing the geotechnical investigation that has occurred to date and confirming that no groundwater was encountered when borings were drilled.

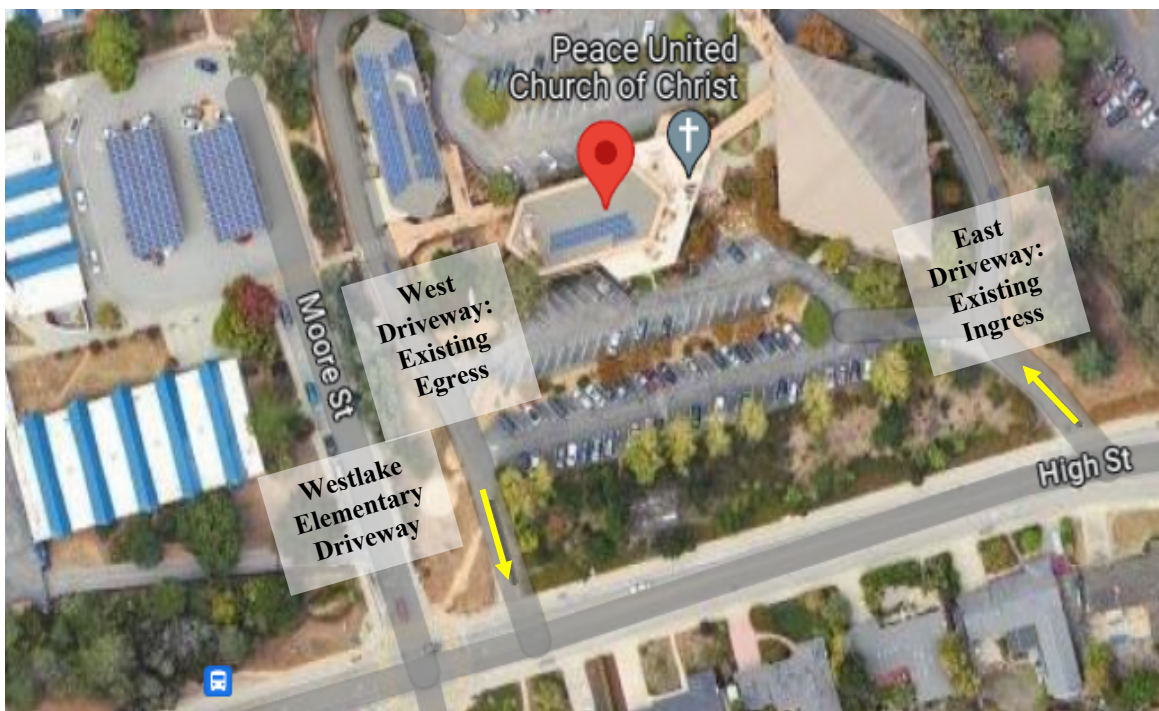
**The appellant questions where stormwater runoff associated with the project will flow, citing concerns with existing flooding on High Street and storm water runoff into Westlake Pond.**

The project was reviewed by the City's Stormwater Division for compliance with the City's Storm Water Best Management Practices Manual for Private and Public Development and the project was found to be compliant with City and State requirements related to stormwater retention and drainage. The project's drainage will integrate into the existing storm drainage system on High Street, which ultimately flows to Neary Lagoon. Additionally, as required by City and State stormwater design regulations the project proposes to treat and retain a portion of the stormwater onsite. The Department of Public Works has confirmed that the existing storm drain system has

the capacity to accommodate any additional runoff that may be generated by the project. Public Works staff have also confirmed that there are no known flooding concerns along High Street.

**The appellant expresses concerns with the proposed onsite circulation plan of the project and potential offsite safety and quality of life impacts.**

The church and ancillary uses at 900 High Street are currently serviced by a driveway that circumnavigates the site in a counterclockwise direction, providing ingress at the eastern edge of the site and egress at the western edge, adjacent to Westlake Elementary, as shown below:



During review of the project the City’s Public Works Department identified that the existing onsite circulation was suboptimal due to the proximity of the egress driveway to the driveway for Westlake Elementary. To address existing onsite circulation deficiencies, the project will renavigate onsite traffic by providing a right turn only, entrance/ ingress point at the west driveway adjacent to Westlake Elementary. The primary ingress and egress will be provided at the east driveway, away from Westlake Elementary. Signage will be placed onsite to deter residents and visitors from turning left across High Street onto the “west” driveway. Members of the public have requested that a barrier be placed in the middle of High Street to prevent vehicles from turning left into the west driveway. Public Works staff have considered this request, and ultimately determined it could create an additional traffic safety hazard. Additionally, the west driveway will provide emergency vehicle and trash collection access to the site, therefore it needs to be accessible from both directions on High Street.



The redirection of onsite vehicle circulation is anticipated to reduce potential conflicts between vehicles exiting the project site and pedestrians and vehicles at or around Westlake Elementary.

**The appellant claims that the project does not encourage a reduction in automobile use, citing the lack of grocery stores nearby and inconvenience of buses. The appellant contends that the project violates General Plan Policy LU4.2. - Encourage land use changes that reduce the need for automobiles.**

The project site is located within one-half mile walking distance from several community-serving uses, including UCSC, Westlake Elementary School, Westlake Park, several churches, and a small (approximately 6,300 square foot) strip mall including a convenience store (7-Eleven) and laundromat located at 224 Cardiff Place. The small commercial center has a Neighborhood Commercial (NC) General Plan land use designation. The General Plan includes the following language for NC designated properties: *Intended for small scale commercial uses that serve residential neighborhoods, such as laundromats, grocery stores, and convenience stores. These uses can provide a focal point for the neighborhood and help reduce the number of automobile trips that nearby residents must take.*

The site is located approximately one mile from Mission Street and surrounding streets, which provides access to numerous commercial uses, including grocery stores, restaurants and medical offices. Mission Street and surrounding areas can be accessed via High Street and Bay Drive, which are both fully improved roadways providing bike lanes, sidewalks, street trees and lighting. For many, this may be a reasonable distance to travel by bike or foot. Additionally, the site is

within one-half mile of several major transit stops, which provide bus service with 15-minute headways to destinations throughout the region, which the state has determined is adequate to supersede any on-site parking requirements (AB2097).

Under the state’s provisions, the project provides 20 dedicated resident parking spaces to accommodate the 40 proposed units, so residents will not be guaranteed onsite parking. For some who rely heavily on automobile use, a lack of onsite parking with the project may be viewed as an inconvenience; however, convenience is a highly subjective and personal metric. Those who are deterred by a lack of onsite parking will likely opt not to rent a unit at this apartment.

**The appellant states that tribal resources, including burials and artifacts, have been identified during other construction projects in the vicinity and notes that the project is located within a Highly Sensitive Archeological Area. The appellant states that that an “oversite person” should be present onsite (presumably during construction activities).**

The site is located within areas mapped in the General Plan as sensitive and highly sensitive for archaeological resources. Albion Environmental prepared an initial archaeological investigation in June 2019, and subsequent Extended Phase I Study in March 2023. The reports did not indicate the presence of any intact archaeological resource. Typically, if initial archaeological investigations do not identify intact archeological resources, an archaeologist is not required to monitor the site unless otherwise indicated. Alternatively, the archaeological report recommended that the applicant notify the appropriate authorities should earth-moving work result in discovery of an intact resource. This recommendation is consistent with a City standard condition of approval that is included for this project.

In the event that archeological resources, artifacts or human remains are discovered during earth-moving activities, the applicant is required to immediately stop work, stake off the vicinity where resources were discovered, and notify both the Santa Cruz County Sheriff-Coroner and Director of Planning and Community Development. At that time, an appropriate course of action would be determined by the County Sheriff’s Office and Department of Planning and Community Development based on the specific situation.

**The appellant makes various claims related to the methodologies used to analyze Vehicle Miles Travelled (VMT) and Level of Service (LOS) impacts of the project.**

The first portion of the response to these claims provides background information on the City’s VMT and LOS policies and how traffic impacts of the project were analyzed. Following the background discussion are specific responses to the appellant’s claims.

#### *SB743 Background Information*

In 2013, the State of California passed Senate Bill 743 (SB743), which altered how transportation impacts from new development are measured under the California Environmental Quality Act (CEQA). Prior to SB743, transportation impacts were assessed in terms of Level of Service (LOS), a measure of automobile delays along a roadway. While LOS was the default metric for

determining transportation environmental impacts for many years, LOS is an automobile-centric metric that does not support statewide sustainability goals and, therefore, can no longer be used as part of a project’s CEQA analysis. SB743 requires that Lead Agencies replace LOS CEQA analysis with VMT analysis to better align transportation impacts analysis and mitigation outcomes under CEQA with statewide goals, including reduction of greenhouse gas emissions, increase of infill development, and improved public health.

On June 9, 2020, the City of Santa Cruz City Council enacted Resolution NS-29,676, which adopted a VMT threshold as the new transportation measure of transportation-related environmental impacts. The threshold generally establishes that a project exceeding a level of 15% below the County-wide average VMT may result in a significant transportation impact. The City’s VMT policy also established that certain projects can be assumed to have a non-significant CEQA transportation impact (“screen out”) based upon their project location and characteristics.

#### *Project-Specific VMT Analysis*

As part of the required CEQA review for the project, a project-specific VMT analysis was conducted. The project was determined to meet two screening criteria of the City’s VMT guidelines. Firstly, a review of ‘VMT Screening Maps’ for Residential land use for the Santa Cruz County indicated that proposed project location is within the area which is at or below City VMT Threshold. Secondly, the ‘VMT Screening Tool’ was used, indicating that project-generated VMT is less than 15% below the county-wide per capita average VMT, resulting in no significant VMT impact. A detailed discussion of the project’s VMT analysis can be found in the attachment entitled “Statutory Exemption Checklist”.

#### *Project-Specific LOS Analysis*

While LOS is no longer a valid metric for analyzing environmental impacts under CEQA, agencies may continue to implement LOS-focused policies outside of the CEQA process. The Santa Cruz General Plan includes several aspirational LOS-related policies. City staff strives to implement these policies through development review, to the extent that they do not conflict with VMT related policies of the General Plan or violate the requirements of SB743. Additionally, project-specific LOS analysis provides useful information to the City by identifying key locations where traffic infrastructure improvements could improve LOS.

The City requires a Traffic Impact Study (TIS) to be prepared for any project that is estimated to generate 50 or more vehicle trips during the PM peak hour. A primary goal of the TIS is to determine potential traffic impacts that may be associated with a project and to provide a nexus for offsite improvements to mitigate the impacts. Projects generating less than 50 PM peak hour trips are exempt from TIS requirements but required to pay a Traffic Impact Fee (TIF), which is used to fund City transportation-related Capital Improvement Projects.

A Trip Generation Memo dated December 12, 2022, was prepared for the project. The Trip Generation Memo estimated that the new apartment complex could generate between 20 and 26 PM peak hour trips. The trip generation estimation of 20 trips utilized the Institute of

Transportation Engineers (ITE) Land Use Code 220 for Multifamily Housing. The 26-trip estimation was based on Land Use Code 225 for Off-Campus Student Apartments, due to the site's proximity to UCSC and potential for students to rent units onsite. Because both trip generation estimations were below 50 vehicle trips during the PM peak hour, a traffic impact study was not required to be prepared; however, the project includes a condition of approval requiring payment of the TIF prior to issuance of the building permit, as is typical for projects of this scale.

The following provides responses to the specific LOS and VMT claims in the appeal letter:

**The VMT analysis used data from a baseline year of 2019 and did not account for traffic generated by Westlake Elementary or UCSC.**

As described above, the goal of VMT analysis is not to study the presence of traffic or LOS. The 2019 VMT baseline referenced in the appellant's letter does not reflect traffic counts. Alternatively, the City's adopted VMT policy establishes that a project may result in significant VMT impact if the project generated VMT is greater than 15% below baseline VMT values, which were established in the year 2019. These baseline VMT values reflect regional average per-capita VMT and are not reflective of traffic counts as implied by the appellant's letter.

**The VMT calculations are based on unit count as opposed to potential number of residents and do not accurately reflect the project generated VMT.**

The project was determined to screen out from any potential VMT impact by meeting two screening criteria established in the City's adopted VMT guidelines: 'VMT Screening Maps' and 'VMT Screening Tool'. The project is not anticipated to create a significant VMT impact due to its location and characteristics. The potential number of residents is not an input used to determine a project's eligibility to screen out of VMT impacts.

**The project will result in a significant cumulative impact to Level of Service (LOS), as was determined for a previously approved and litigated project located on Cardiff Street and High Street in 2005 (Case No CV 149246).**

The project and subsequent court decision referenced in the appellant's letter occurred prior to the enactment of SB743, when LOS was the metric used to identify transportation-related impacts under CEQA. Under SB743, lead agencies must evaluate projects for VMT impacts under CEQA. The project was thoroughly evaluated for VMT impacts under CEQA and found to result in no project-specific VMT-related CEQA impact, as described above.

**A cumulative traffic study should have been conducted as part of the development review.**

The City has an adopted threshold of 50 PM peak hour trips whereby a Traffic Impact Study is required. A trip generation memo satisfying the requirements of the Public Works Department was prepared for the project and concluded that the project would not generate more than 26 PM peak hour trips, therefore a Traffic Impact Study was not required to be prepared. Importantly, this



uniformly applied threshold is an objective development standard. Applying a different threshold could be considered a violation of the Housing Accountability Act.

**The project should have been analyzed for LOS impacts as opposed to VMT impacts, as an LOS analysis would more accurately depict traffic safety.**

Under SB743, the City is not allowed to utilize LOS as a metric to determine environmental impacts under CEQA. Nevertheless, the project was analyzed for impacts to traffic safety. During the development review process, the project was revised to improve existing onsite circulation and reduce potential impacts to traffic safety, as described above.

**The traffic on High Street during from approximately 2:30-6:30 PM greatly impacts the mental health of neighbors.**

Citywide traffic impacts and roadway capacity were studied in the 2030 General Plan. The General Plan EIR identified two impacted intersections in the project vicinity: High Street/Laurent Street and High Street/Western Drive intersections. The High Street/Laurent Street intersection could be improved to acceptable service levels with signalization, and improvements at the High Street/Western Drive intersection would reduce delays but would not achieve acceptable levels of service.

The project is expected to result in marginal increases in traffic, but as described in detail in the attachment entitled Statutory Exemption Checklist, the project size would be within the potential buildout evaluated in the EIR traffic analyses. Therefore, the proposed project is within the scope of traffic analyses conducted for the General Plan EIR and would not result in new significant or more severe significant impacts evaluated in the General Plan EIR. Additionally, as previously described, following the passage of SB743, LOS can no longer be used as a transportation metric for determining environmental impacts under CEQA.

Moreover, the Housing Accountability Act strictly limits the City's ability to deny or reduce residential or mixed-use project's unit count or square footage when said project is consistent with a city's objective standards. To do so, the City would need to find a "significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete," pursuant to Government Code Section 65589.5(j)(1)(A). In other words, the project would need to violate an existing written health and safety standard in effect on the date the application is deemed complete. While there are impacted intersections and, at times, significant traffic in the project vicinity, there is no evidence to suggest that marginal additions to vehicle traffic generated by the project would result in significant, quantifiable, direct and unavoidable impacts to public health and safety.

**The project violates the following General Plan Policies:**

- **M1.2.2 – Maintain Street access to neighborhoods through the Capital Improvements Program.** The City will continue to implement the Capital Improvements Program, which includes two approved transportation-related infrastructure projects in the vicinity: Bay Drive Protected Bike Lanes and Pedestrian Path (Project # c402304), which will add protected bike lanes and an improved pedestrian path along Bay Drive, between Escalona Drive and High Street; and Bay/High Intersection Improvements (Project # c401103), which will improve the intersection at Bay Drive and High Street. The project will be required to pay a Traffic Impact Fee prior to issuance of the building permit, which will be used to fund City transportation-related Capital Improvement Projects.
- **M3.1 – Acknowledge and manage congestion, and M3.1.3 – Strive to maintain the established “level of service” D or better at signalized intersections.** In response to the policies set forth in the General Plan Mobility chapter, M3.1, the project is located in an infill environment: near transit, jobs, goods, services, education facilities and recreation, and with a sidewalk and bike lane network. The project provides easy access to many daily residential needs, and characteristics of the project incentivize use of alternative modes of transportation. Therefore, the project supports many of the General Plan transportation policies and goals.

Regarding M3.1.3, the City has studied intersection LOS as part of the 2030 General Plan and acknowledges the existing deficiencies at the High Street/Laurent Street and High Street/Western Drive intersections, near the project site. However, due to the size of the project and anticipated trip generation, the project is not expected to significantly worsen these intersections.

- **M3.2 – Ensure road safety for all users.** As described in appeal point 3, the project was reviewed by traffic and transportation engineering staff of the Public Works Department. In response to the traffic and transportation review, the existing onsite circulation was modified to reduce potential conflicts with Westlake Elementary.
- **M3.3 – Discourage, reduce, and slow through-traffic and trucks on neighborhood streets.** Addressing Policy M3.3, the closest residential neighborhood is the Westlake neighborhood, comprised of Laurent Street, Moore Street, Escalona Drive and other local residential streets. The General Plan identifies Escalona Drive and Laurent Street as collector streets, whereas both High Street and Bay Drive are designated as arterial streets. All other streets in the immediate project vicinity are designated as residential/local streets. None of the local/residential streets appear to provide more direct or efficient access to or from the project site, therefore, it is unlikely that substantial traffic will be added to those streets because of congestion on Bay Drive or High Street.

**The appellant questions how the entire project site area (5.9 acres) was used to establish the base residential density for the project site, when the proposed apartment would be located on a single lot within the project site comprising 2 acres.**

The site's General Plan land use designation of Low Density Residential accommodates single-family residential neighborhoods typically comprising detached homes and with a density range of 1.1 to 10 dwellings per acre. The project site, in its entirety, is 5.9 acres in size, therefore the General Plan land use designation would accommodate up to 59 units on the site. The project proposes 40 units, which is consistent with the residential density that was studied and anticipated in the 2030 General Plan.

The residential development will be contained entirely on Lot 1, comprising 2 acres. General Plan Policy LU3.7.1 supports clustering of residential development, with units closer together or attached, to respond to a site's topography, environmental constraints, or adjacent uses. In this case, the existing church campus on the site limits the buildable area to the vacant land above the campus, which comprises the new 2.0-acre Lot 1. This layout, in addition to constraints associated with City policy to maximize retention of heritage trees and a steep slope that limits access to the upper part of the site, supports the clustering of the units into a single apartment building. To ensure future development does not exceed the density ranges envisioned in the General Plan, a condition of approval requires a deed restriction to be recorded on both new parcels to limit the overall site base density to the maximum allowed under the General Plan.

The practice of "clustering" of density on a singular lot within a project site was recently litigated on a separate approved project within the City, located at 126 Eucalyptus Street (Santa Cruz Superior Court 22CV02838 Segal v. City of Santa Cruz). The Court ruled in favor of the City's practice of clustering residential density.

**The appellant questions how occupancy will be limited in lease to 85 residents, whether the units could be converted to condominium units, and why the project provides 96 bike parking spaces and 15 vehicle parking spaces.**

The City does not regulate lease agreements between property owners and lessees. Allowed occupancy of units is based on requirements set forth in the Uniform Housing Code and California Health and Safety Code. Applying additional restrictions on the number of occupants who can inhabit a unit could be argued as a violation of the Fair Housing Act.

Santa Cruz Municipal Code Section 23.37 et. seq. includes regulations and procedures related to condominium conversions of existing residential structures. As described in Section. 23.37.020, generally speaking, condominium conversions are not permitted unless the multifamily dwelling vacancy rate in Santa Cruz exceeds five percent. When there is a vacancy surplus, application for residential condominium conversions may be filed. Approvals may be allowed up to the number of units that would bring the vacancy rate no lower than five percent. Staff is unaware of any time period during the last 20 years where vacancy rates exceeded five percent. Given the unprecedented demand for housing in the City of Santa Cruz, it is unlikely that condominium conversion will be a possibility for the foreseeable future.

If the citywide multifamily residential vacancy rates were such that condominium conversion was allowed, and the City were to receive a request for condominium conversion at this site, the project would need to comply with all applicable requirements of the Santa Cruz Municipal Code and Subdivision Map Act related to condominium conversion in effect at the time of the requested condominium conversion, which may include modifications to the building and/or site, establishment of a homeowners association and covenants, conditions and restrictions (CC&Rs), and noticing, first right of refusal, and relocation assistance to residential tenants.

Regarding vehicle parking, recently adopted State laws have reduced parking requirements that would have otherwise been required in the Zoning Ordinance for this project. Effective January 1, 2021, AB1851 added California Government Code section 65913.6, which allows up to 50-percent of existing church parking to be eliminated to accommodate a new housing development and allows the remaining church parking to be double counted toward the housing parking requirement. Furthermore, effective January 1<sup>st</sup> of this year, AB2097 modified California Government Code Section 65863.2 to eliminate any parking requirement for a site within half a mile of an existing or planned major transit stop. Locally, this bill was codified into the Zoning Ordinance by the City Council in April, 2023. The entire project site is within half a mile of a planned major transit stop, and therefore parking is not required. While new parking is not required, and the existing parking serving the church can be eliminated without replacement, the project proposes new driveways leading to and from the building and 20 new parking spaces adjacent to the new building.

Regarding bike parking, the project would be required to provide 53 bike parking stalls and the applicant has opted to provide 96. By providing an abundance of secure bike parking onsite, relative to the amount of vehicle parking, the project will incentivize use of alternative modes of transport for residents and visitors. The provision of abundant bike parking is aligned with several General Plan policies, including PR1.6.4 (provide and encourage provision of adequate bike parking) and M4.4.3 (increase the supply of bicycle parking throughout the City).

**The appellant questions how visitors and deliveries will be accommodated on the property and claims that visitors and deliveries will create adverse traffic impacts.**

Pursuant to AB2097, the City cannot require the project to provide designated guest parking. However, the project will provide 20 parking spaces on the proposed Lot 1, which could accommodate some guest parking. Additionally, guests will be able to access the site using alternative modes of transportation, including by bicycle or bus.

The ITE land use codes used to estimate trip generation associated with land uses are based on observed trip count averages associated with specific land uses and account for typical numbers of residents and visitors. Therefore, the fact that visitors may visit the site would not change the expected trip generation detailed in the attachment entitled “Trip Generation Memo”.

Regarding deliveries, the project was deemed complete prior to the adoption of the Objective Standards for Multifamily Development. When the project was deemed complete, the City did not have an adopted objective standard requiring an onsite loading space associated with a multi-

family residential use. Nevertheless, the project site is large and provides ample parking and circulation areas where delivery vehicles could temporarily park. The apartment building will be set back over 300 feet from High Street. Delivery vehicles are expected to park close to the apartment building to complete deliveries and are not expected to park on High Street or cause any disruptions to offsite circulation.

**The appellant requests more information regarding social events at the existing church, including frequency of events and how parking will be managed.**

In response to this question, Peace United Church of Christ has specified that the majority of events occurring onsite are small events (such as meetings) for which the existing parking supply is sufficient. Periodically, Peace United will either host or rent facilities for larger events, such as weddings, memorial services, and special holiday church services. The City has not received complaints regarding any past events onsite. If a significant event beyond the scope of what would be allowed at the church campus were to be proposed, a Five-Day Use Permit would need to be obtained, pursuant to Sec. 24.10.180 of the Zoning Code. At that time, possible impacts of the special event would be evaluated, however, the City's ability to regulate parking on the site would remain limited under the provisions of AB1851 and AB2097, as described above.

**The appellant claims that vistas from the residences on Hagar Court will be impacted by the project, and that the project violates General Plan policies related to protection of public views and preservation of open space:**

- **CD1.2 – Ensure that the scale, bulk, and setbacks of new development preserve important public scenic views and vistas.** The project would not impact a significant public view identified in Figure 4.3-1 of the City of Santa Cruz General Plan 2030 Environmental Impact Report (EIR); however, project impacts to public views were considered as part of the project review.

The nearest vantage points from which the coast may be viewable where the project could conceivably impact coastal views are located along Hagar Court, north (uphill) from the project. These vantage points are obstructed by existing buildings on private properties; therefore, the proposed project would not create any new impact on important public views or designated scenic coastal areas.

Although the new building may be visible from nearby properties and the public right of way, the building has been designed to step down in height, mimicking the sloped topography of the site and reducing the appearance of building mass and bulk. The site is designed such that the new building will be substantially screened from view from public right-of-way on High Street and Hagar Court, and from surrounding properties. The site design includes significant setbacks from surrounding property lines, which allow for a landscape buffer comprised of existing trees and naturalized grasses, as well as a varied palette of new plants.

- **CD1.4 – Ensure that development adjacent to open space lands maintains visual and physical connections to that open space.** Although a large portion of the project site is currently undeveloped and in a natural state, the project is not adjacent to any designated open space, therefore this General Plan policy is not directly applicable to the project.
- **CD 2.1 – Protect and enhance the distinctive physical and design characteristics of neighborhoods and districts throughout the city.** The site is not located within a historic district or within an area plan that seeks to preserve an established architectural style. Additionally, the Housing Accountability Act prohibits agencies from requiring projects to comply with standards that are not objective, quantifiable, written development standards. The subjective nature of CD 2.1 precludes the City from using it to deny or reduce the density or intensity of the project unless a finding can be made that the project would have a specific, adverse impact upon public health or safety. The appellant has not provided any evidence that such a condition exists nor is City staff aware of any standard that meets this threshold based on these policies.

**The appellant requests that construction vehicles not be allowed to cross through neighborhood streets, and that they must access High Street via Bay Drive. The appellant demands construction deliveries not occur during the drop-off and pickup hours of Westlake Elementary.**

To address the appellant’s concerns regarding construction-related traffic and conflicts with the Westlake Elementary pick-up and drop-off timeframes, staff has included a recommended condition of approval that a construction access and management plan be submitted to the City prior to issuance of the building permit. Through review of the construction access and management plan, staff will be able to review construction logistics, such as construction hours, truck routes, and construction staging areas to avoid conflicts where possible.

**The appellant claims that residents enter into a “zoning contract” when they purchase property in a neighborhood, citing *Longtin’s California Land Use and California Zoning Practice*, as well as a California Supreme Court case *Topanga Association for a Scenic Community v. County of Los Angeles*. The appellant suggests that the project will result in a diminution in property values, economic obsolescence, and adverse impacts to the community.**

The publications *Longtin’s California Land Use and California Zoning Practice* cited by the applicant may be educational but are not legally binding regulatory documents. Land use on the site is regulated by the city’s Zoning Code, General Plan, and various state laws. The project was reviewed for compliance with applicable requirements in the Zoning Code and General Plan, and found to be compliant with all applicable requirements, except as modified by State Density Bonus Law and SB330.

The California Supreme Court case cited by the applicant, *Topanga Association for a Scenic Community v. County of Los Angeles*, dates back to 1974 and is related to a proposed mobile home development in Los Angeles County on a site zoned for single-family residential and light agricultural uses. The County of Los Angeles granted a variance to allow the project. The project approval was litigated, and ultimately the California Supreme Court found that the County did not make sufficient, evidence-based variance findings required to grant the variance. A variance is not requested as part of the 900 High Street project, nor is a variance required to approve the project, so the decision in the referenced court case is not relevant.

The project site is located in the R-1-10 zone district, which primarily provides for single family residential uses. While the R-1-10 zone district does not provide for multi-family residential development, California Government Code Section 65589.5(j)(4) states that a project shall not be considered inconsistent with applicable zoning standards if it meets the General Plan density. A prohibition of multi-family development on the site would preclude development at the allowed density under the General Plan, and thus be inconsistent with the California Government Code. While the project does deviate from certain development standards, these deviations are either a result of the allowed density under the General Plan, or directly tied to the project's density bonus request, as described fully in the attachment entitled "October 4, 2023 Zoning Administrator Staff Report".

**The appellant opposes the proposed removal of 14 Heritage trees, claiming that these trees provide noise and wind buffering, and that their removal will result in soil instability.**

The project proposes removal of 14 heritage trees, six that are in poor condition and eight that are within the project footprint. The project arborist evaluated whether an alternative building location would enable preservation of additional heritage trees. Due to various constraints, including required setbacks from highly-slopes areas of the site and the quarry to the east, a feasible alternative building placement that resulted in a greater degree of heritage tree preservation was not identified. A condition of approval requires the project to replace each removed heritage tree with either one 24-inch size tree or three 15-gallon trees, pursuant to City Council Resolution No. NS-30,072.

Staff found inconclusive research to support the idea that trees can be planted in a manner to provide wind buffering, however, the City has no adopted policy requiring trees to be planted or maintained in a manner to buffer wind.

The research surrounding the efficacy of trees as noise buffers also appears to be inconclusive. A publication by the US Department of Agriculture describes that trees can potentially provide some noise dampening effects only if they are planted specifically for the purpose of noise buffering (either immediately adjacent to the source or recipient of the noise, and in a dense, wide buffer). The existing trees onsite proposed to be removed do not possess the characteristics that may contribute to effective noise buffering.

Importantly, the California Supreme Court recently made a decision regarding the *Make UC a Good Neighbor v. Regents of University of California* case that noise impacts generated by people

residing at housing developments cannot be viewed as a significant environmental impact under CEQA. Following the Supreme Court decision, Assembly Bill 1307, which specifies that the effects of noise generated by residential project occupants and their guests on human beings is not a significant effect on the environment for purposes of CEQA, was passed by the California State Assembly and signed into law by Governor Newsom on September 7, 2023.

Regarding soil instability, most research surrounding the potential erosion impacts related to tree removal seems to study impacts of clear cutting many trees. The proposed tree removal is selective, therefore research related to the impacts of large-scale tree removal is not applicable. Most trees onsite will remain, and the plant palette proposes a net increase in the existing number of trees onsite to mitigate any possible erosion impacts. Additionally, extensive geotechnical analysis of the project has been conducted and the project will be required to implement all recommendations of the project geotechnical engineer.

**The appellant claims that, in the event of a catastrophic fire or earthquake, the combination of residents from the 900 High Street project and the UCSC population will make it impossible for the neighborhood to evacuate safely.**

Planning staff have consulted with the Fire Department regarding this claim. There is no adopted plan detailing the specifics of how an evacuation of the neighborhood would occur because an evacuation would need to respond to the specific challenges posed by the specific disaster prompting the evacuation. However, from a procedural standpoint, evacuations are highly coordinated and closely managed by the Office of Emergency Services. If an evacuation were necessary, evacuation zones would be established. Designated zones would be evacuated at staggered times to minimize congestion of evacuees (for example, UCSC and the Westlake neighborhood would be evacuated at different times). In terms of evacuation notification, evacuees would first be alerted by an online notification system, then by a reverse 911 call, and finally, first responders would conduct door-to-door evacuation notifications. Natural disaster evacuation is a city-wide and regional issue, and a project of this size would have no implications on the City's established evacuation procedures.

**The appellant claims that a Police Officer required to be stationed at High and Moore Streets because of existing traffic accident hazards, and that traffic monitoring at Westlake Elementary is causing a significant staffing burden on the Police Department.**

The Planning Department has consulted the Police Department regarding this claim. The Police Department has confirmed that officers are not stationed at any intersection in the City. There is a crossing guard at the intersection of High Street and Moore Street during pickup and drop-off times, but this is a standard practice near elementary schools throughout the City. The Police Department has analyzed the accident records at the High Street and Moore Street intersection and did not find an unusually high rate of accidents.

**The appellant requests the project be conditioned to require the property be managed by a certified, professional property manager.**



The California Department of Real Estate requires that any residential development with sixteen or more rental units have an onsite manager. Violation of this requirement is punishable under state law. This requirement is not typically regulated or monitored by the City; however, the applicant has indicated that they fully intend to comply with this requirement.

**The appellant requests that the residents of the 900 High Street development enter into an agreement disallowing their participation in the City’s street parking permit program.**

The City has an established procedure for granting parking permits subject to municipal code section 10.41. If a property is within an existing parking permit district, the property must present a qualified petition and receive an affirmative vote of two-thirds of the district in order to become eligible to participate in the parking permit program. The 900 High Street development would be required to follow the procedure detailed in municipal code section 10.41 to become eligible to participate in the City’s street parking permit program. Staff does not recommend deviating from the established parking permit program procedures and requirements on a case-by-case basis.

**The appellant acknowledges that some form of a project may proceed, but requests that the density be reduced.**

The Housing Accountability Act strictly limits cities’ ability to deny or reduce residential or mixed-use project’s unit count or square footage when said project is consistent with a city’s objective standards, as modified by State Density Bonus Law, if applicable. The City would not be able to deny the project, or condition the project to require reduced density, floor area ratio or unit count, unless the City made written findings that the project would have a specific, adverse impact (as cited and defined above) upon public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. The appellant has provided no evidence to support these findings.

**The appeal submittal includes a letter from Coastal Community Preschool, Inc, which is the preschool currently operating at 900 High Street. The Coastal Community Preschool letter raises a variety of concerns, which are summarized below. On November 7, 2023, Staff received a follow up email from Coastal Community Preschool indicating that the concerns expressed in their original letter have been addressed through coordination with their landlord, Peace United Church of Christ. Both parties have indicated that they intend to work in coordination as the project progresses.**

The following summarizes points raised in Coastal Community Preschool’s initial letter.

- **The letter expresses concerns that the proposed subdivision and ownership of the properties could adversely impact their business.** Ultimately, the property owner is entitled to subdivide and develop the property in a way that complies with adopted standards and regulations. This particular concern is a private civil matter in which the City cannot get involved. City staff is encouraged that the original

concerns raised by Coastal Community Preschool seem to have been addressed and encourages ongoing coordination between both parties.

- **Traffic generated by the project will cause emissions, noise and dust negatively impacting children at the preschool.** Potential air quality impacts of the project were analyzed extensively as part of the CEQA statutory exemption checklist. With implementation of City standard conditions of approval and applicable General Plan EIR mitigation measures, the project is not expected to result in any new or more severe air quality impacts than those previously studied in the General Plan EIR. As previously noted, staff is recommending a new condition of approval whereby the applicant must submit a construction access and management plan prior to issuance of the building permit. Through review of the construction access and management plan, staff will be able to review construction logistics and may be able to alleviate adverse impacts to the preschool resulting from construction.
- **Parking spaces currently used by preschool staff will be taken away, so the preschool requests that a dedicated parking area be established to accommodate their use.** As previously described, the City cannot require parking to be provided or maintained as part of this project pursuant to AB2097. That said, Lot 2, containing the church and preschool, contains ample parking that exceeds the minimum required parking for the land uses based on municipal code requirements, which will remain with the project. Community Coastal Preschool has indicated that their concerns related to parking have been addressed through coordination with the Peace United Church of Christ. Staff encourages ongoing coordination between both parties regarding the parking and circulation needs of the preschool use.
- **The preschool's security will be compromised during construction.** The preschool did not specify the nature of their security concerns during construction; however, construction logistics will be evaluated during the building permit process through the construction access and logistics plan referenced above. City staff encourages the both parties to coordinate regarding potential construction-related security concerns.
- **The proposed circulation will impact an existing offsite crosswalk traversing High Street, which is used by students of Westlake Elementary and the preschool:** The onsite circulation has been re-navigated in a clockwise fashion to reduce any potential conflicts between cars exiting the site and pedestrians crossing High Street to or from Westlake Elementary, as fully described above.

#### **ENVIRONMENTAL DETERMINATION:**

The project has been determined to be exempt from the California Environmental Quality Act (CEQA) under a Statutory Exemption pursuant to Public Resources Code Section 21083.3 and

State CEQA Guidelines Section 15183 (Projects Consistent with General Plan, Community Plan or Zoning). Public Resources Code Section 21083.3 allows a lead agency to avoid repeating analyses that were already provided in a certified general plan EIR for a development project that is consistent with the general plan. Public Resources Code section 21083.3 and its parallel CEQA Guidelines provision, section 15183, provide for streamlined environmental review for projects consistent with the general plan for which an EIR was certified. Subsection (d) further indicates that an effect of a project upon the environment shall not be considered “peculiar to the parcel or to the project...if uniformly applied development policies or standards” have been previously adopted by the city or county, with a finding based upon substantial evidence, that the development policies or standards will substantially mitigate that environmental effect when applied to future projects, unless substantial new information shows that the policies or standards would not substantially mitigate the environmental effect. Under these provisions of CEQA, the project has been found to be consistent with the General Plan. It has been determined that the City’s General Plan 2030 EIR has adequately addressed most environmental issues related to the project, and some site-specific project impacts have been analyzed and determined to be less than significant due to substantial mitigation resulting from General Plan policies, zoning regulations and/or development standards that are uniformly applied to development projects throughout the City. Therefore, no further environmental review is required pursuant to Public Resources Code section 21083.3 and section 15183 of the CEQA Guidelines, and the project is exempt from further CEQA review. An environmental checklist attached to the Planning Commission staff report provides the explanations and support for this determination.

**SUMMARY:**

In summary, the assertions presented in the appeal are generally unsubstantiated and/or irrelevant to the project, and staff continues to support the project as designed and with the conditions approved by the Zoning Administrator, with the addition of three new conditions of approval to address specific concerns related to construction activity raised in the appeal: one requiring the applicant to provide a construction access and management plan for staff review and approval prior to issuance of the building, one requiring that stationary construction equipment meet specified emissions standards, and one requiring a “Neighbor Liaison” contact be identified and contact information be posted onsite to field questions and concerns related to construction activity.

The project is consistent with the General Plan and meets all the applicable required objective site development standards except as modified by density bonus waivers and concessions. As such, the City is limited in its discretion, especially when it involves reducing density or denying a housing development project under the Housing Accountability Act. The number of affordable units exceeds density bonus and Inclusionary Housing Ordinance requirements. Staff recommends that the Planning Commission deny the appeal, upholding the Zoning Administrator approval of the Minor Land Division, Design Permit, Slope Development Permit, Density Bonus Request, and Heritage Tree Removal Permit based on the Findings listed below and the Attached Conditions of Approval.

**FINDINGS:**

**Tentative Parcel Map, Section 23.16.020.6, 23.16.050.4**

**1. The proposed subdivision, together with provisions for its design and improvements, is consistent with applicable general or specific plans adopted by the city of Santa Cruz.**

The proposal to divide the 258,825 square foot (5.9-acre) project site into two parcels is consistent with the density requirements, goals, and policies of the L (Low Density Residential) General Plan designation and is consistent with the development standards of the R-1-10 zone district. The land division will result in the two parcels exceeding the minimum 10,000 square foot parcel size and 70-foot minimum lot width required in the R-1-10 zone district.

Santa Cruz Municipal Code Sec. 23.24.030.6 (i) allows for the creation of a flag lot where warranted by physical conditions of land form, existing lot pattern, or unusual size and shape of parcels. It requires the strip of land connecting the main portion of a flag lot to the street to be not less than twenty feet wide at any point and requires that it provide practical vehicular access; but the code specifies that it shall not be used to help satisfy the minimum lot area requirement of the zoning district.

The proposed subdivision results in a flag lot configuration to allow for infill development on the site while preserving the existing church and associated uses. The flag lot configuration allows for the proposed residential development to be located on a portion of the site with relatively low slope and minimal impacts to Heritage trees.

The project is also consistent with the goals and policies in the General Plan and the current Housing Element in that the project will maximize development on an underutilized infill parcel (Policy LU3.7.1) in a way that is consistent with surrounding single-family land uses (GP Policy LU4.1.2; Housing Element Policy 1.4). The subdivision and development have been configured to maximize preservation of heritage trees on the site (Policy LU2.3.6).

**2. The site is physically suitable for the type of development proposed.**

The subdivision and development have been designed to consolidate residential density on a portion of the site most suitable for development. The proposed subdivision and building configuration results in a site plan which preserves the existing church use onsite and allows for reuse of existing vehicular circulation areas.

The site is located within areas mapped in the General Plan as sensitive and highly sensitive for archaeological resources. Albion Environmental prepared an initial archaeological investigation in June 2019, and subsequent Extended Phase I Study in March 2023. The reports did not indicate the presence of any intact archaeological resource at the site that could be impacted by the proposed project; however, the report included recommendations

that the applicant stop work and contact the appropriate authorities should earth-moving work result in discovery of an intact resource. This recommendation is consistent with a standard condition of approval that is included for this project.

The building will be constructed on a portion of the site with a relatively low degree of slope and high soil stability, thereby minimizing grading associated with the project and potential geological hazards. A geotechnical investigation prepared by Dees and Associates dated August 11, 2021, found the soils suitable for residential development with implementation of recommendations in the report, which have been included as conditions of approval.

The northeastern portion of the site contains a eucalyptus grove that is identified in the General Plan as potentially containing monarch butterfly habitat. A report prepared by Ecosystems West Consulting Group dated May 20, 2020, and a follow-up report, dated January 4, 2023, concluded that the eucalyptus grove was not providing fall or winter roosting habitat, and was unlikely to provide suitable habitat in the future. The reports recommended a preconstruction survey be conducted in the fall prior to the commencement of construction, and that tree removal occur outside of the fall roosting period. Both recommendations are included as conditions of approval.

By adhering to the recommendations in the archaeological, geotechnical and biotic reports, the project is not anticipated to create any adverse impacts to resources and the portion of the site where development is proposed is suitable for development.

The newly created lot where the housing development will be sited will be physically suitable for the development of the residential use. The developable portion of the lot meets the minimum net lot area requirements for the R-1-10 zone district. The project site is surrounded by other residential uses and will have access to public utilities including sewer and water.

The design and improvements of the proposed land division are consistent with the applicable policies of the General Plan in that the applicant is required to make streetscape improvements including the construction of a new sidewalk with curb and gutter improvements at each frontage (CD4.3.5, M.4.1.7-M4.1.9) and all utilities serving future development will be required to be placed underground (CD4.2.3). The parcel is not located within a specific plan area.

**3. The site is physically suitable for the proposed density of development.**

The newly created lot where the housing development will be sited will be physically suitable for the density of residential development proposed. The developable portion of the lot meets the minimum net lot area requirements for the R-1-10 zone district. The project site is surrounded by other residential uses and will have access to public utilities including sewer and water.

The site's General Plan land use designation of Low Density Residential accommodates single family residential neighborhoods typically consisting of detached homes and with a

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density range of 1.1 to 10 dwellings per acre. The project site, in its entirety, is 5.9 acres in size, therefore the General Plan land use designation would accommodate up to 59 units on the site. The project proposes 40 units, which is consistent with the residential density that was studied and anticipated in the 2030 General Plan.

The residential development will be contained entirely on Lot 1, comprising 2 acres. General Plan Policy LU3.7.1 supports clustering of residential development, with units closer together or attached, to respond to a site's topography, environmental constraints, or adjacent uses. In this case, the existing church campus on the site limits the buildable area to the vacant land above the campus, which comprises the new 2.0-acre Lot 1. This layout, in addition to constraints associated with City policy to maximize retention of heritage trees and a steep slope that limits access to the upper part of the site, supports the clustering of the units into a single apartment building. To ensure future development does not exceed the density ranges envisioned in the General Plan, a condition of approval requires a deed restriction to be recorded on both new parcels to limit the overall site base density to the maximum allowed under the General Plan.

The practice of "clustering" of density on a singular lot within a project site was recently litigated on a separate approved project within the City, located at 126 Eucalyptus Street (Santa Cruz Superior Court 22CV02838 Segal v. City of Santa Cruz). The Court ruled in favor of the City's practice of clustering residential density.

- 4. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.**

The northeastern portion of the site contains a eucalyptus grove that is identified in the General Plan as potentially containing monarch butterfly habitat. An analysis prepared by Ecosystems West Consulting Group concluded that the eucalyptus grove was not providing fall or winter roosting habitat and was unlikely to provide suitable habitat in the future. The reports recommended a preconstruction survey be conducted in the fall prior to the commencement of construction, and that tree removal occur outside of the fall roosting period. Both recommendations are included as conditions of approval with the project to avoid potential adverse impacts to wildlife habitats.

The project includes a standard condition of approval that, if project site work occurs anytime between February 1 and August 31, the applicant shall submit documentation of a preconstruction nesting bird survey by a qualified biologist prior to the start of work. Preconstruction surveys of nesting birds and roosting monarchs will minimize any potential adverse impact to wildlife or their habitat on the site.

- 5. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.**

The design of the subdivision will not cause serious public health problems in that the applicant will be required to construct site and utility improvements in accordance with City Standards and Public Works design criteria. Storm water treatment and retention facilities designed for the proposed Lot 1 and residential development comply with City standards. The new residential development on the proposed Lot 1 will be required to meet all requirements of the California Building Code and all applicable City Ordinances.

6. **The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through, or the use of, property within the proposed subdivision.**

The site does not contain any existing public easements that would be impacted by the project or subdivision.

**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.**

Although the site's General Plan land use designation Low Density Residential General Plan Land Use Designation and R-1-10 zone district envisions primarily single-family development, Senate Bill 330 (SB330), and the amendments it made to the Housing Accountability Act, identifies the General Plan as superseding any inconsistent zoning designation and requires an agency to permit residential development on a particular site at the density allowed under the General Plan. In this case, the density proposed is within the density range envisioned in the General Plan.

The entire project site is 5.9 acres, and the new 40-unit building plus the existing unit within the church complex results in a density of 6.9 dwellings per acre, in the middle of the density range. To ensure future development does not exceed the density range envisioned in the General Plan, conditions of approval require limitations to be recorded on both new parcels to limit the overall site density to the maximum allowed.

The project bolsters several policies of the existing Housing Element related to facilitating the development of affordable housing through density bonus and other means (HE2.2), encouraging fully integrated neighborhoods with new affordable residential development featuring a variety of housing types in areas of the City low concentrations of affordable housing (HE 2.7 and 4.8), and ensuring that the character and design of both infill development and remodel/rehabilitation projects promote the vitality of existing neighborhoods (HE 5.3). The is consistent with General Plan Policy LU1.1 by optimizing development intensity of an infill parcel that is adequately served by public utilities, and

located near community amenities, including several religious facilities, elementary and higher education facilities, and existing public transit service.

The site is located within areas mapped in the General Plan as sensitive and highly sensitive for archaeological resources. Archeological assessments of the site during did not indicate the presence of any intact archaeological resource but recommended that the applicant stop work and contact the appropriate authorities should earth-moving work result in discovery of an intact resource. This recommendation is consistent with a standard condition of approval, which aims to identify and protect archeological resources throughout the construction process. This condition of approval is included in the recommended conditions of approval.

General Plan policy HZ3.2.3 requires that interior noise in all new multifamily housing does not exceed 45 dBA. An initial noise assessment letter prepared by Edward L Pack Associates Inc. dated August 9, 2022, noted that the only possible source of significant noise at the site would be the playgrounds at the adjacent Westlake Elementary School. Given the distance between the playgrounds and the proposed building footprint (approximately 400 feet), noise impacts on residents are expected to be minimal and consistent with the General Plan policy.

The project is not located in any area plan boundary. The project is not located in the Coastal Zone.

8. **For non-residential 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 complies with all development standards of the R-1-10 zone district and all other applicable sections of Chapter 24 (Zoning) of the Santa Cruz Municipal Code, that were in effect at the time the project’s SB330 preapplication was deemed complete, except as modified by density bonus concessions and waivers. An SB330 preapplication associated with the project was deemed complete prior to the City’s adoption of the citywide Objective Design Standards for Multifamily Housing (Objective Standards) contained in Section 24.12.185 of the Zoning Ordinance, therefore the project is not subject to the Objective Standards.

9. **For non-residential 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.**

The project is a residential project; therefore, this finding does not apply.



- 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 project complies with all applicable objective development and design standards of Chapter 24 (Zoning) of the municipal code, except as modified by the density bonus request. The site contains a church that was constructed in 1957 and is described as a property that is eligible but has opted out of listing on Volume III of the Santa Cruz Historic Building Survey. The church will remain as part of the development; therefore, the new residential development will have no impact on the existing building. Additionally, the new apartment is sited to be largely screened from public view. The proposed development incorporates angled massing, as well as colors and materials, that are compatible with the existing church building. Therefore, any portions of the proposed building that are visible from the street will be compatible with the existing church building and will not adversely impact the church campus' context.

The site is not located within a historic district or within an area plan that seeks to preserve an established architectural style. Although there are several listed historic resources along High Street, the new development is set back substantially from High Street and will not result in any visual impacts affecting the context of any historic resource in its vicinity.

- 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 project maintains a balance of scale, form and proportion by breaking up the building massing into a V-shaped configuration and stepping the building height to mimic the sloped topography of the site. The site is designed such that the new building will be substantially screened from view from public right of way and surrounding properties. The site design includes significant setbacks from surrounding property lines, which allow for a landscape buffer comprised of existing trees and naturalized grasses, as well as a varied palette of new plants.

The design features a multitude of windows, glass doors and balconies to punctuate the façade such that there are no large, blank building walls. The plans include a proposed material palette but indicate that similar alternative materials may be proposed during the building permit phase. To ensure that the materials will be of high quality and compatible with the existing and surrounding development, a condition of approval will require that any

deviation from the proposed materials be approved by the Planning Department prior to issuance of the building permit.

The trash enclosure will be screened from public view by the existing church campus to remain onsite. Existing trees to remain along the western property line will provide a visual screen between Westlake Elementary and the trash enclosure. A condition of approval requires any rooftop mechanical equipment or utility installations to be screened from public view and requires utility installations to be accessible. The site does not include or contribute to a viewshed of any significant public views identified in the General Plan.

- 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.**

The project site does abut several different land uses, including UCSC campus housing to the north; a quarry, single family homes, city owned land, and a church to the east; single family homes across High Street to the south; and Westlake Elementary School to the west. Because the proposed residential development is consistent with the allowed densities in the General Plan, the project will not affect the use High Street beyond the expected increase in bicycle, pedestrian, and vehicle usage as anticipated under the city buildout projected in the General Plan. The residential use is located within a predominately residential neighborhood and is not anticipated to result in adverse noise or operational impacts to adjacent school and church uses, or single-family homes.

During review of the project the City’s Public Works Department identified that the existing onsite circulation was suboptimal due to the proximity of the egress driveway to the driveway for Westlake Elementary. To address existing onsite circulation deficiencies, the project will renavigate onsite traffic by providing a right turn only, entrance/ ingress point at the west driveway adjacent to Westlake Elementary. The primary ingress and egress will be provided at the east driveway, away from Westlake Elementary. Signage will be placed onsite to deter residents and visitors from turning left across High Street onto the “west” driveway.

- 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 report recommended removal of 14 heritage trees, six that are in poor condition and eight that are within the project footprint. An addendum letter dated February 3, 2023, evaluated whether an alternative building location would enable preservation of additional heritage trees, but did not identify a superior alternative. The orientation and location of the building on the site maximizes preservation of heritage trees while avoiding highly sloped areas. The building has been designed to be significantly screened from view from the street

and surrounding properties, and to step down in height with the hillside, thereby minimizing its perceived height, as well as required grading and alteration of natural landforms. The proposed landscape plan incorporates a variety of native plants while maintaining much of the site in a natural state. A shadow study was submitted by the applicant indicating that the proposed building is not expected to significantly worsen shading impacts to adjacent properties beyond current conditions.

- 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 would not impact a significant public view identified in Figure 4.3-1 of the City of Santa Cruz General Plan 2030 Environmental Impact Report (EIR); however, project impacts to public views were considered as part of the project review. The nearest vantage points from which the coast may be viewable where the project could conceivably impact coastal views are located along Hagar Court, west (uphill) from the project. These vantage points are obstructed by existing buildings on private property; therefore, the proposed project would not create any new impact on important public views or designated scenic coastal areas.

- 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.**

Any noise or vibrations that may occur as a result of construction will be temporary. Once constructed, the residential apartment building will generate noise typical of a residential neighborhood. An initial noise assessment letter prepared by Edward L Pack Associates Inc. dated August 9, 2022, noted that the only possible source of significant noise impacting the project site would be the playgrounds at the adjacent Westlake Elementary School. Given the distance between the playgrounds and the proposed building footprint (approximately 400 feet), noise impacts on residents are expected to be minimal and consistent with the General Plan policy.

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

The new building has windows on all elevations that will allow natural light and ventilation into the building. The balconies and terraces provide each unit with private outdoor space to access sunlight and fresh air. The site plan retains several heritage trees throughout the site and includes new landscaping that will provide cooling and shading. The flat roof provides a space where solar photovoltaic equipment could be installed.

**Slope Development Permit, Section 24.08.820**

**17. Measures have been included within the design of the project to mitigate impacts on environmental constraint areas identified in the Natural Resources and Conservation Element and the Safety Element of the General Plan and the Local Coastal Program.**

The northeastern portion of the site contains a eucalyptus grove that is identified in the General Plan as potentially containing monarch butterfly habitat. To identify and mitigate any adverse impacts to monarch butterfly habitat onsite, the project application submittal included a report prepared by Ecosystems West Consulting Group dated May 20, 2020, and a follow-up report, dated January 4, 2023. The reports concluded that the eucalyptus grove was not providing fall or winter roosting habitat and was unlikely to provide suitable habitat in the future. The reports recommended a preconstruction survey be conducted in the fall prior to the commencement of construction, and that tree removal occur outside of the fall roosting period.

The site is located within areas mapped in the General Plan as sensitive and highly sensitive for archaeological resources. Albion Environmental prepared an initial archaeological investigation in June 2019, and subsequent Extended Phase I Study in March 2023. The reports did not indicate the presence of any intact archaeological resource but recommended that the applicant stop work and contact the appropriate authorities should earth-moving work result in discovery of an intact resource. The recommended condition of approval includes standard conditions that are consistent with the recommendations of Albion Environmental to minimize potential impacts to archeological resources on the site.

**18. Landscaping of an appropriate type, size, and quality is proposed to mitigate any adverse environmental effect.**

The project proposes to remove fourteen heritage trees. The planting palette includes thirty-six new trees, which, at maturity, are expected to result in comparable or greater tree canopy as compared to existing conditions. The proposed plant palette includes numerous native species and incorporates a variety of groundcovers, shrubs and trees. A majority of the site will retain its existing, naturalized landscaping. The existing retained and proposed landscaping will minimize potential environmental impacts typically associated with development such as groundwater runoff, erosion, and loss of tree canopy.

**19. Usable open space is proposed in an amount equal to that normally required.**

The project is located within the R-1-10 zone district, which does not have a minimum open space requirement. However, the project provides one or more private balconies of terraces for all units, as well as a common resident amenity area at the northern portion of the site, which includes a paved path, seating areas, barbeque areas, trellises, and enhanced landscaping.

**20. A registered civil engineer or other qualified professional will design streets, buildings, and other man-made structures to conform with existing landforms and topography.**

The project applicant has engaged the services of a licensed civil engineer to aid in the design of driveway and site improvements, as well as the building. A condition of approval will require that all civil plan sheets of the building permit submittal be stamped by a licensed civil engineer.

**21. Adequate fire safety measures as required by the city fire department have been incorporated into the design of the proposed development, when located in a designated fire hazard area.**

The project was reviewed by the Santa Cruz Fire Department and was found to be in compliance with all fire department requirements for projects located in designated fire hazard areas.

**22. The proposed project employs architectural and design elements which in total serve to reduce the mass and bulk of structures to protect public views. Such elements may include:**

- a. Multiple floor levels which follow natural slopes:** The building height ranges from three stories to four stories and is staggered to follow the natural slope of the property, thereby minimizing visual impacts and grading quantities.
- b. Multiple roof lines to provide visual interest and break up the visual impact of the building:** The stepped-down design of the building results in multiple, staggered roof lines that reduce the perceived mass and bulk of the building and preserve views from onsite. The project is not expected to impact public views.
- c. Decks and balconies to provide building articulation:** The building facades are punctuated with balconies and incorporate a multitude of windows and several accent materials. These features provide building articulation to enhance visual interest of the building while reducing the appearance of mass and bulk.
- d. Foundation types such as poles, piles, or stepped levels which minimize cut and fill and need for retaining walls:** The stepped-down building design reduces grading needs to accommodate the project. Additionally, the project proposes minor improvements to existing driveways, in lieu of new driveways. Maintaining existing driveways to provide access to the site further reduces grading quantities.
- e. Fence lines, walls, and other features which blend with the terrain rather than strike off at an angle against it:** The project will maintain and improve existing fences along the shared side property lines. A new, three-foot wooden and hog wire fence is proposed along the rear property line. The fence will be of minimal height and highly transparent and will blend into the natural terrain. A low, small retaining

wall is proposed directly southeast of the proposed building. This retaining wall will be incorporated into a staggered landscape design that is compatible with the natural surroundings and will not adversely impact any public views.

- 23. If a project proposed for construction is in a landslide area identified in a site-specific geological report prepared pursuant to Section 24.14.030(1)(d), findings must be made that mitigation measures necessary to fulfill the purpose of this part have been incorporated into project design, based on the project’s environmental review and geotechnical reports.**

A project-specific geotechnical report prepared by Dees & Associates, Inc. in March 2023 included a stability analysis of the portion of the site where the building will be situated. The analysis indicated that the portion of the site where the proposed building is stable under both static and seismic conditions. The project has been designed in accordance with the recommendations of the geotechnical report. A condition of approval will require that a Phase 2 geotechnical study focused on additional subsurface exploration of the marble formation be conducted prior to issuance of the building permit, consistent with the recommendations of the initial geotechnical report. Additionally, a condition of approval will require that the geotechnical engineer provide a letter indicating that their recommendations were incorporated into the building permit design, prior to issuance of the building permit, and implemented throughout construction, prior to building permit final.

**Density Bonus, Section 24.16.270.2**

- 24. 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.**

The project proposes to provide five low-income units and four very low-income units, amounting to 22.5-percent of the 40 total units at the low income or lower level. This level of affordability exceeds the minimum 10-percent lower-income threshold to qualify the project for a density bonus. The density bonus request does not propose additional units but does request concessions/incentives and a waiver from development standards. Per section 24.16.225 of the Santa Cruz Municipal Code, the project qualifies for two incentives/concessions since it provides at least 20-percent of units to lower-income households. Per section 24.16.255 (4), the project is eligible to request an unlimited number of waivers or modifications to development standard, if those standards physically preclude the construction of the housing development, and the housing development is eligible for density bonus. Although the project does not propose density bonus units, it is eligible for density bonus based on the number of low income and very low-income units provided and may request two incentives/concessions and unlimited waivers.

AB2097 modified California Government Code Section 65863.2 to eliminate any parking requirement for a site within half a mile of an existing or planned major transit stop. The

project site is within half a mile of a planned major transit stop, and therefore parking is not required for the project.

The project will be privately financed; all financing costs for implementation and monitoring will be provided by the applicant.

- 25. 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 24.16.255.**

Per Section 24.16.225.3, a density bonus project qualifies for concessions when the applicant provides reasonable documentation showing that the requested concession results in actual and identifiable cost savings to the project to provide for affordable rents. The project requests a concession for increased building height and stories to allow a building that is four stories and 54 feet tall at its highest point (a portion of the stair tower and trash room extend to the fifth story level; however, these areas are exempt from height limitations pursuant to Sec. 24.12.150.1.e of the Santa Cruz Municipal Code). The applicant has provided justification that the greater building height will reduce the project footprint, thus reducing costs associated with excavation, grading, and soil engineering. The project also requests a concession for a reduced front yard of 17'10.75", in lieu of the minimum 20' front setback required in the R-1-10 zone district. The applicant has provided justification that the reduced front setback enables the building to be shifted away from the significantly sloped portion of the lot, thus reducing costs associated with grading, soil engineering, and overall construction.

- 26. 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.**

The project is not based on dedication of land; therefore, this finding does not apply.

- 27. 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.**

The project does not include a child care center; therefore, this finding does not apply.

- 28. 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.**

The project does not include a condominium conversion; therefore, this finding does not apply.

- 29. 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.**

The project does not include a mixed-use building or development; therefore, this finding does not apply.

- 30. 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.**

Section 24.16.255.4 of the municipal code allows a density bonus project to qualify for an unlimited number of waivers from development standards if it is shown that the standards will physically preclude the proposed housing development. The project is required to construct a new trash enclosure to accommodate refuse. The project is requesting a waiver to allow an accessory building, the trash enclosure, to be placed adjacent to the apartment building and within the front setback of Lot 1. This is the only possible location for the trash enclosure that complies with meets Public Works refuse service standards and that avoids constraints such as steep slopes and heritage trees.

- 31. 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.**

The project does not request a commercial development bonus; therefore, this finding does not apply.

- 32. 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.**

The project site is not in the Coastal Zone; therefore, this finding does not apply.

**Heritage Tree Removal Permit, Resolution No. NS-23, 710**

- 33. Alteration of a heritage tree or shrub would only affect less than twenty-five percent (25%) of the crown of said heritage tree or heritage shrub;**

Fourteen heritage trees are proposed for complete removal; therefore, this finding does not apply.



**34. Findings by the Director of Parks & Recreation can be established in conformity with the City’s Urban Forest and Wildland Interface Policy Statement;**

The trees are located in the urban forest and in the wildland-urban interface. The proposed removal of trees is consistent with this policy statement in that prioritizes removal to those in poor condition or those that must be removed due to location within the project footprint, thus retaining the maximum number of trees given the proposed project. In addition, removal of trees in close proximity to the proposed building is consistent with wildland-urban interface policy to provide for defensible space around residential structures.

**35. One or more of the following findings are established by the applicant and confirmed by the Director of Parks & Recreation:**

- a. 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;**
- b. The physical condition or health of the tree or shrub, such as disease or infestation, warrants alteration or removal;**
- c. A construction project design cannot be altered to accommodate existing heritage trees or heritage shrubs.**

An Arborist report prepared by Kurt Fouts dated September 25, 2022, inventoried the trees in the project area, including 33 heritage trees. The report recommended removal of 14 heritage trees. Six of the heritage trees recommended for removal due to their condition. These trees include one silver wattle acacia experiencing trunk lean and co-dominant trunk, and five blackwood acacias with co-dominant trunks and/or canopy die-off. Eight additional heritage trees are proposed to be removed due to their conflict with the proposed building footprint and grading areas. An addendum letter dated February 3, 2023, evaluated whether an alternative building location would enable preservation of additional heritage trees. Due to various constraints, including required setbacks from highly-slopes areas of the site and the quarry to the east, a feasible alternative building placement that resulted in a greater degree of heritage tree preservation was not identified.

The City Urban Forester has reviewed the report and addendum and agrees with the recommendations. Each heritage tree to be removed must be replaced with one 24-inch box tree or three 15-gallon trees. Conditions of approval require the applicant to follow the recommendations in the report and to meet the tree replacement requirements for the heritage trees proposed for removal.

**ENVIRONMENTAL DETERMINATION:**

The project has been determined to be exempt from the California Environmental Quality Act (CEQA) under a Statutory Exemption pursuant to Public Resources Code Section 21083.3 and State CEQA Guidelines Section 15183 (Projects Consistent with General Plan, Community Plan or Zoning). Public Resources Code Section 21083.3 allows a lead agency to avoid repeating analyses that were already provided in a certified general plan EIR for a development project that

is consistent with the general plan. Public Resources Code section 21083.3 and its parallel CEQA Guidelines provision, section 15183, provide for streamlined environmental review for projects consistent with the general plan for which an EIR was certified. Subsection (d) further indicates that an effect of a project upon the environment shall not be considered “peculiar to the parcel or to the project...if uniformly applied development policies or standards” have been previously adopted by the city or county, with a finding based upon substantial evidence, that the development policies or standards will substantially mitigate that environmental effect when applied to future projects, unless substantial new information shows that the policies or standards would not substantially mitigate the environmental effect. Under these provisions of CEQA, the project has been found to be consistent with the General Plan. It has been determined that the City’s General Plan 2030 EIR has adequately addressed most environmental issues related to the project, and some site-specific project impacts have been analyzed and determined to be less than significant due to substantial mitigation resulting from General Plan policies, zoning regulations and/or development standards that are uniformly applied to development projects throughout the City. Therefore, no further environmental review is required pursuant to Public Resources Code section 21083.3 and section 15183 of the CEQA Guidelines, and the project is exempt from further CEQA review. An environmental checklist attached to the Planning Commission staff report provides the explanations and support for this determination.

Submitted by:

Approved by:

Brittany Whitehill  
Senior Planner

Eric Marlatt  
Assistant Director of Planning and Community  
Development

**Attachments:**

- Conditions of Approval
- Project Plans
- Statutory Exemption Checklist
- CEQA Notice of Exemption
- Appeal Letter Dated October 15, 2023
- Email Correspondence from Coastal Community Preschool Dated November 7, 2023
- Geotechnical Letter from Dees and Associates Inc. Dated November 2, 2023
- Zoning Administrator Action Minutes from October 4, 2023
- October 4, 2023 Zoning Administrator Agenda Report
- Public Correspondence