



County of Santa Cruz

DEPARTMENT OF PUBLIC WORKS

701 OCEAN STREET, ROOM 410, SANTA CRUZ, CA 95060
(631) 4543160 FAX (631) 4649365 TDD (631) 4542123

JOHN A. FANTHAM
DIRECTOR OF PUBLIC WORKS

AGENDA: APRIL 11, 2000
MARCH 30, 2000

SANTA CRUZ COUNTY BOARD OF SUPERVISORS

701 Ocean Street
Santa Cruz, California 95060

SUBJECT: TRACT 1328 CAPITOLA GARDENS
ASSESSOR'S PARCEL NUMBER 029-111-47, CAPITOLA ROAD
AND MACIEL AVENUE

Members of the Board:

Submitted herewith is the final map for Tract 1328, Capitola Gardens, containing three sheets. This map has been duly checked and processed by Public Works and is now submitted for your consideration.

The following items are being submitted with the map:

Subdivision Agreement

Irrevocable Letter of Credit from Heritage Bank East Bay dated March 9, 2000, in the amount of \$840,904.77 and cash securities of \$10,650.00 for the following items:

Faithful Performance Security	\$ 560,603.18
Labor and Materials Security	\$ 280,301.59
Guarantee, Warranty, and Maintenance (To be retained from Faithful Performance)	\$ 280,301.59
Inspection	\$ 5,000.00 (cash)
Monumentation	\$ 6,150.00
Taxes	\$ 4,500.00 (2000/01 lien)

The Guarantee, Warranty, and Maintenance amount of \$280,301.59 is not included in the total \$851,554.77, submitted in accordance with the Subdivision Agreement.

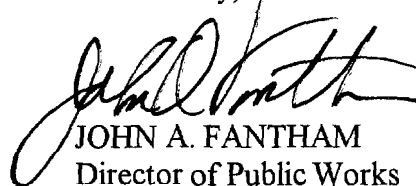
The affordable housing requirement for this project has been met (a copy of the Affordable Housing Agreement is attached).

The Planning Department advised us on January 18, 1999, that this subdivision complies with all the tentative map requirements. The taxes have been paid in full. The last fee paid was \$5,000.00 for Construction Inspection.

It is therefore recommended that the Board of Supervisors take the following action:

1. Approve the final map of Tract 1328, Capitola Gardens.
2. Authorize the Director of Public Works to sign the Subdivision Agreement on behalf of the County.
3. Direct the Clerk of the Board to file the executed Subdivision Agreement and securities, execute the certificates of the Board of Supervisors and the Clerk of the Board of Supervisors, and submit the final map to the Public Works Department for recording with the County Recorder.

Yours truly,




JOHN A. FANTHAM
Director of Public Works

JLC:mg

Attachments

RECOMMENDED FOR APPROVAL:



County Administrative Officer

Copy to: Public Works
Planning Department

FNLMP.DOC/CTPM

HERITAGE
BANK EAST BAY

0151

IRREVOCABLE STANDBY LETTER OF CREDIT

OUR #2463000101

DATE: March 9.2000

BENEFICIARY:
County of Santa Cruz

CUSTOMER:
TPI CAPITOLA GARDENS, LLC
43363 Mission Boulevard
Fremont, CA 945 39

Gentlemen:

We hereby establish our Irrevocable Standby Letter of Credit #2463000 10 1 in favor of the County of Santa Cruz (the "Beneficiary"), for the account of the customer up to the aggregate sum of Eight Hundred Forty Thousand Nine Hundred Four and 77/00 Dollars (\$40,904.77), represented by the following amounts and purposes:

- A. Faithful performance security in the amount of \$560,603.17.
- B. Labor and material security in the amount of \$280,301.60.

Partial drawings are permitted.

Funds are available by your drafts drawn on us at sight bearing the clause "Drawn under Heritage Bank East Bay Letter of Credit #2463000 10 1" and must be accompanied by your statement signed by an authorized representative, that the amount of the draft is due. The amount of the draft must be endorsed on the reverse of this credit and the original presented for payment.

This letter of Credit expires March 8th of each year for review purposes. I will be deemed automatically extended without amendment for one year from expiry date or any future expiry date unless at least thirty (30) days prior to such date we notify you by registered letter that we elect not to consider this Letter of Credit renewed for such additional period. Upon receipt by you of such notice from us, you may draw your draft on us at sight when accompanied by your statement described above.

Each item of the security will be released, in whole or part, when the item covered is accepted by the County. Release shall be in written form and issued by the County.

This Standby Letter of Credit will not become valid until the final map is recorded by the County of Santa Cruz.

Irrevocable Standby Letter of Credit
March 9, 2000
Page 2

This Letter of Credit has a full and final maturity date of March 8, 2002 and the automatic renewal clause will no longer be applicable after any extension made in 2001.

We hereby engage drawers and/or bonafide holder that drafts drawn and negotiated in conformity with the terms of the credit will be duly honored upon presentation.

Sincerely,

HERITAGE BANK EAST BAY

By: 

Bill Nethercott,
Executive Vice President

Please examine this instrument carefully. If you are unable to comply with the terms or conditions, please communicate with your buyer to arrange for an amendment. This procedure will facilitate prompt handling when documents are presented.

Except as otherwise stated herein, this Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision) International Chamber of Commerce Publications No. 500, and to the extent not inconsistent therewith the Uniform Commercial Code of the State of California.

SUBDIVISION AGREEMENT

(Partial Release Tract)

0153

THIS AGREEMENT, by and between ^{TPI} CAPITOLA GARDENS, LLC, hereinafter referred to as SUBDIVIDER, and the COUNTY OF SANTA CRUZ, hereinafter referred to as COUNTY.

WITNESSETH:

WHEREAS, in connection with the development of that certain subdivision known as Tract 1328 CAPITOLA GARDENS, SUBDIVIDER has previously filed with the Santa Cruz County Planning Director a tentative map of said subdivision, which said tentative map was duly approved; and

WHEREAS, SUBDIVIDER has submitted, for approval and acceptance, a final map of said subdivision; and

WHEREAS, certain work and improvements required by Chapter 14.01 of the Santa Cruz County Code have not been completed, to wit:

Work and improvements required as conditions for approval of the tentative subdivision map for this subdivision, including, but not limited to, site grading, driveway access, drainage, erosion control, including the prevention of sedimentation or damage to off-site property, street construction, sewer construction, and landscaping, all to be built or completed in accordance with improvement plans on file with, and approved by the Director of Public Works of the County of Santa Cruz, the Santa Cruz County Code and the Subdivision Map Act.

WHEREAS, SUBDIVIDER hereby proposes to enter into an agreement with COUNTY, by the terms of which agreement SUBDIVIDER agrees to have the work and improvements set forth above completed on or before two years from the date of execution of this agreement, pursuant to Sections 14.01.510, et seq. of the Santa Cruz County Code.

NOW, THEREFORE, in consideration of the premises and the mutual promises and covenants of the parties hereto, it is agreed as follows:

1. CONSTRUCTION OF IMPROVEMENTS: SUBDIVIDER shall do all necessary work and construct the improvements described hereinabove, and complete such work and improvements in accordance with the provisions of the conditions of the tentative map approval, which are incorporated herein by reference. described above shall be completed on or before two years from the date of the execution of this agreement pursuant to Sections 14.01.101, et seq. of the Santa Cruz County Code, unless a written extension has been granted by the County.

All required off-site improvements shall be substantially complete to the satisfaction of the County Engineer, prior to the granting of occupancy for any new unit.

All off-site work if any, shall be done prior to or concurrently with on-site work, unless otherwise expressly specified by the conditions of the tentative map.

All materials used shall comply with the County's specifications. SUBDIVIDER hereby guarantees that the above mentioned work and improvements shall in all respects meet specifications prescribed by the Director of Public Works of the County of Santa Cruz. SUBDIVIDER guarantees and warrants all work and materials, and further agrees to replace defective work and materials and maintain all of said work and improvements to the satisfaction of COUNTY in accordance with Chapter 14.01 of the Santa Cruz County Code. SUBDIVIDER further agrees that all survey work shall comply with the requirements prescribed by the COUNTY SURVEYOR.

2. EROSION CONTROL: SUBDIVIDER will take all necessary actions during the course of construction to prevent erosion damage to adjacent properties during inclement weather. It is understood and agreed that in the event of failure on the part of SUBDIVIDER to prevent erosion, COUNTY may do the work on an emergency basis and back-charge the SUBDIVIDER for the actual expenses incurred, or, if necessary, proceed against the Faithful Performance Security to cover COUNTY'S expenses.

3. SECURITY. At the time of execution of this agreement, SUBDIVIDER shall furnish to COUNTY the following security in the form of cash deposits, or instrument of credit satisfactory to the County:

- A. Faithful Performance Security in the amount of \$560,603.18 to assure that all work specified in this agreement will be completed; except for that amount retained to provide the Guarantee, Warranty and Maintenance of Work Security, the Faithful Performance Security shall be released upon completion of the work and acceptance of the work to be performed hereunder, in whole or in part; provided that a partial release shall not be in an amount less than 25% of the total security amount and that no more than 50% of the total security amount shall be released prior to final completion and acceptance of the work hereunder. Since partial releases are to be made, a schedule of construction shall be made a part of this agreement. The schedule shall specify the portions of the work to be completed and target completion dates for those portions of work, as well as the amounts of partial release to be made for each portion of work. Failure on the part of SUBDIVIDER to meet a target date shall result in forfeiture of the corresponding partial release. Any partial release thus forfeited may be regained at the next target date if all portions of work due prior to and on that next target date are completed by that next target date. Any extension or modification of the schedule must be granted in writing by the County.

Provisions for partial release may be made at the written request of SUBDIVIDER. SUBDIVIDER shall submit documentation to the County in order to verify that the work required to gain a partial release has been completed.

- B. Labor and Material Security in the amount of \$280,301.59, which said

security, by its terms, shall secure payment to materialmen and laborers furnishing materials and/or labor in connection with the above-described work or improvement; the Labor & Material Security shall be released 90 days after the completion of all the work and provided that no liens have been filed against the project. 0155

- C. Inspection Security in the amount of \$5,0000.00 (CASH DEPOSIT)
- D. Tax Security: CURRENT PAID PLUS \$4,500.00 LIEN
- E. Monumentation Security in the amount of \$6,150.00

At the time the COUNTY Board of Supervisors accepts the improvements and coincident with the release of the Faithful Performance Security, a sufficient amount of said security shall be retained to provide:

- F. Guarantee, Warranty and Maintenance of Work Security in the amount of \$280,301.59, which said security, by its terms, shall guarantee and warrant all work for a minimum period of twelve months following the completion and acceptance thereof by the Board against any defective work or labor done, or defective materials furnished and to maintain such work to the satisfaction of the County for said period, all as provided in Section 14.01511(b) (3) of the Santa Cruz County Code and Section 66499.3(c) of the Government Code. The Guarantee Warranty & Maintenance Security shall be released twelve months after the completion of the work and provided that the workmanship is approved.

Securities held by COUNTY on behalf of other agencies shall be included in the categories above. Work of improvements required under this agreement requires the holding of securities by COUNTY on behalf of the following agencies or companies in the following amounts:

- a. Water Purveyor: CITY OF SANTA CRUZ WATER DEPARTMENT
Name of Agency
___ Security held by County: \$
X Security is held by agency.
- b. Fire Agency N/A
Name of Agency
___ Security held by County: \$
___ Security is held by Agency.
- c. Utilities N/A
Name of Agency
___ Security held by County: \$
___ Security is held by Company(ies)
- d. Other N/A
Name(s)
___ Security held by County: \$
___ Security is held by Company(ies)

In all cases where the performance of the obligation for which the security is required is subject to the approval of another agency, COUNTY shall not release the security until the obligation is performed to the satisfaction of such other agency, pursuant to Government Code Section 66499.8.

0156

Deposits to COUNTY for the acquisition of any necessary easements or right-of-way shall be required. Work of improvements required under this agreement involves the acquisition of an easement or easements, or a right-of-way or rights-of-way, over the following parcels of land: APN(s) N/A. These easements or rights-of-way:

N/A HAVE been acquired. (Describe and attach documentation).

N/A HAVE NOT been acquired and the following standard condemnation clause is made a part of the agreement. At the time of execution of this agreement, SUBDIVIDER shall furnish to COUNTY a cash deposit in the amount of \$ N/A for processing and acquisition as outlined in the following condemnation clause.

4. FAILURE TO COMPLETE IMPROVEMENTS: In the event SUBDIVIDER has not completed the specified work and improvements within the period of time allowed by this agreement, SUBDIVIDER shall not proceed further with such work and improvements unless and until approval to do so is obtained from the COUNTY. Under normal circumstances, if it is not found to be contrary to the public interest, the COUNTY will allow renewals of this agreement, provided that all applicable requirements are met by SUBDIVIDER. The COUNTY reserves the right, upon each renewal, to increase the security amounts to reflect fluctuations in material and labor prices. It is understood that in the event the SUBDIVIDER fails to complete the work and improvements within the specified period of time that the COUNTY may proceed against the Faithful Performance Security, to obtain completion of such work and improvements, or may initiate proceedings to revert the subdivided property to acreage pursuant to the provisions of Sections 14.01.344 et. seq. of the Santa Cruz County Code.

5. INDEPENDENT CONTRACTOR: SUBDIVIDER agrees that, in making the above-mentioned improvements, SUBDIVIDER is an independent contractor and not an employee of COUNTY, and all persons hired to furnish labor and/or materials in connection with proposed improvements are not employees of COUNTY.

6. INDEMNIFICATION: SUBDIVIDER agrees to defend and hold the COUNTY, its' officers, employees, and agents harmless from any losses or damages occasioned by injuries to persons and/or property arising out of or in any way connected with the 1328 CAPITOLA GARDENS above-mentioned work or improvement.

7. FILING OF FINAL SUBDIVISION MAP: COUNTY, for and in consideration of the execution of this agreement and fulfillment by SUBDIVIDER of the terms set forth herein, agrees to accept for filing the final map of Tract No. 1328 CAPITOLA GARDENS.

8. BINDING ON SUCCESSORS AND ASSIGNS: This agreement shall be binding upon the successors and assigns of each of the parties. SUBDIVIDER shall inform potential buyers of parcels of land created by the underlying subdivision of the obligations on successors and assigns created by this paragraph. SUBDIVIDER shall provide copies of this executed agreement to those potential buyers. SUBDIVIDER is advised that the sale of all or part

of the lands of the underlying subdivision does not automatically transfer from the SUBDIVIDER of the land the security obligations of this agreement. Those security obligations attach to SUBDIVIDER until all obligations of SUBDIVIDER under this agreement are fulfilled or 0157 transferred by substitution of a replacement agreement and replacement securities acceptable to the County.

IN WITNESS WHEREOF, this agreement has been duly executed by the parties hereto on _____, 20__.

COUNTY OF SANTA CRUZ

By: _____
Director of Public Works

By: TPI CAPITOLA GARDENS, LLC
Subdivider By: D. Leamon, Managing Member


Address:

43363 Mission BLVD.

FREMONT, CA 94539

Phone: 510.438.9697

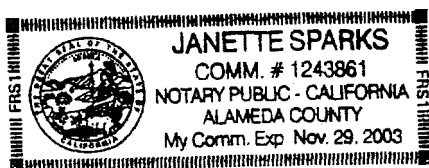
APPROVED AS TO FORM:

 3-7-00
Chief Assistant County Counsel

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of CaliforniaCounty of AlamedaOn 3-8-2000 before me, Janette Sparks, Notary Public
DATE NAME, TITLE OF OFFICER, EG, 'JANE WE NOTARY PUBLIC'personally appeared Darrell Leamon
NAME(S) OF SIGNER(S)

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



WITNESS my hand and official seal.

Janette Sparks
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- ☒ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL

- ☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR

☒ OTHER: Managing Member

SIGNER IS REPRESENTING:
 NAME OF PERSON(S) OR ENTITY(IES)

DESCRIPTION OF ATTACHED DOCUMENT

Subdivision Agreement
 TITLE OR TYPE OF DOCUMENT

5
 NUMBER OF PAGES

DATE OF DOCUMENT

County of Santa Cruz - Director of
Public Works & Assistant County Counsel
 SIGNER(S) OTHER THAN NAMED ABOVE

18-Jan. 2000 2000-0002756

Has not been compared with
original

SANTA CRUZ COUNTY RECORDER

0159

After recording please return to:

Measure J Housing Program
Santa Cruz Co. Planning Dept.
701 Ocean Street, Fourth Floor
Santa Cruz, CA 95060

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

TO BE RECORDED AT NO FEE FOR THE BENEFIT OF THE COUNTY OF SANTA CRUZ

CERTIFICATION AND PARTICIPATION AGREEMENT
SANTA CRUZ COUNTY AFFORDABLE HOUSING PROGRAM

THIS AGREEMENT, is made and entered into this 17 day of January, 2000, by and between the County of Santa Cruz, hereinafter called "COUNTY" and Capitola Gardens LLC hereinafter collectively called "DEVELOPER"; and

WHEREAS, DEVELOPER is the owner and developer of that parcel of real property commonly known as 2545 Capitola Road, Santa Cruz, Tract Number 1328, and Assessor's Parcel Number : 029-111-47 called "PROPERTY"; and

WHEREAS, DEVELOPER proposes to develop a seventeen (17) lot subdivision with One (1) remainder lot, and to construct seventeen (17) residential units, hereinafter called "PROJECT", on the above-described PROPERTY; and

WHEREAS on June 6, 1999 the COUNTY by approval of Residential Development Permit No. 98-0564, approved the development of said PROJECT in a manner consistent with specified terms and conditions, one of such conditions being DEVELOPER's participation in the Affordable Housing Program of the COUNTY; and

WHEREAS it is the intention of both parties to set forth in this separate document the covenants, conditions and restrictions applicable to the certification and participation of the PROJECT in the Affordable Housing Program of the COUNTY.

NOW, THEREFORE, in consideration of the foregoing, and of the mutual terms and covenants hereinafter set forth, the parties hereby agree that DEVELOPER shall participate in the Affordable Housing Program of COUNTY, in accordance with the attached Exhibit A: Inclusionary Housing Provisions (description and construction schedule for affordable units); and with the requirements of the COUNTY's Affordable Housing Program as set forth in the COUNTY's affordable housing ordinance, County Code Chapter 17.10, and the COUNTY's Affordable Housing Guidelines, including any subsequent amendment to said Chapter and/or Guidelines; and with any other regulations and resolutions issued pursuant thereto, all of which are necessary to maintain the affordability of the designated affordable lot(s) and/or housing unit(s) upon sale or resale thereof. In the case of any conflict between the provisions of Exhibit A and the COUNTY's Affordable Housing Program, the stricter shall prevail.

CERTIFICATION AND PARTICIPATION AGREEMENT
SANTA CRUZ COUNTY AFFORDABLE HOUSING PROGRAM

Page 2

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1. SATISFACTION OF CONDITIONS. COUNTY hereby agrees that execution, recordation and performance of this Agreement, and compliance with the requirements of the COUNTY's Affordable Housing Program, shall constitute satisfaction of those conditions of approval for the PROJECT which relate to fulfillment of DEVELOPER's obligation to provide for the development of affordable housing, and such execution and recordation shall be sufficient in that respect to permit recordation of the subdivision Final Map and issuance of Building Permits subject to the satisfaction of all other applicable conditions of approval and compliance with all provisions of law.
2. RENTAL OR SALE OF AFFORDABLE HOUSING UNIT(S). DEVELOPER agrees that if DEVELOPER offers designated affordable housing unit(s) (hereinafter called "UNIT(S)" for rent pursuant to this Agreement, DEVELOPER shall offer said UNIT(S) for rent in conformance with Exhibit A and to households which are certified by the COUNTY or its designee to be qualified in conformance with the COUNTY's Affordable Housing Program. The sale or conveyance of the PROJECT shall similarly be subject to the execution and recording of a Declaration of Restriction by the purchaser.
3. RECORDATION. DEVELOPER shall execute this Agreement, cause the same to be acknowledged, and deliver said executed and acknowledged document to the County Planning Department. Following execution by the COUNTY, this agreement shall be recorded in the office of the County Recorder of the County of Santa Cruz. COUNTY shall not be obligated to permit the issuance of Building Permits for the PROJECT prior to the recording of this Agreement.
4. LIMITED CONSTRUCTION. Nothing contained herein shall be deemed to constitute compliance with, or waiver of, any provision of law or condition of PROJECT approval except as expressly stated herein with respect to conditions relating to affordable housing units.
5. AGREEMENT BINDING. The terms, covenants and conditions of this Agreement shall apply to, and shall bind, the heirs, successors, executors, administrators, assigns, agents, contractors, subcontractors and grantees of both parties and shall be covenants running with the land. Except as otherwise provided in County Code Chapter 17.10, neither the PROPERTY nor any parcel therein shall be released from the affordability requirement of the COUNTY's Affordable Housing Program due to a trustee's sale or judicial foreclosure.
6. WAIVERS. The waiver by any party of any breach or violation of any term, covenant or condition of this Agreement or of any statute, ordinance or applicable requirement shall not be deemed to be a waiver of such term, covenant, condition, statute, ordinance or applicable requirement or of any subsequent breach or violation of the same or of any other term, covenant, condition, statute, ordinance or applicable requirement.

**CERTIFICATION AND PARTICIPATION AGREEMENT
SANTA CRUZ COUNTY AFFORDABLE HOUSING PROGRAM**

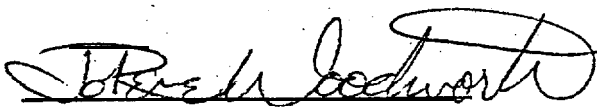
Page 3

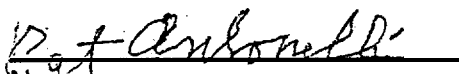
7. **COSTS AND ATTORNEY'S FEES.** The prevailing party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and attorney's fees expended in connection with such an action from the other party.
8. **AUTHORITY OF SIGNATORIES.** Each signatory hereto represents that he/ she has the legal authority to execute this document and bind the party(s) on whose behalf he/she is signing.


COUNTY OF SANTA CRUZ:


by: 
Name: Alvin D. James Title: Planning Director

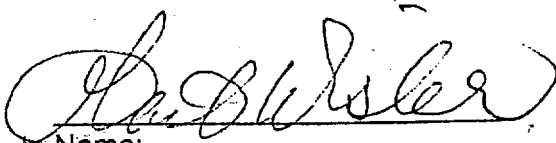
DEVELOPER: (The signature(s) of the DEVELOPER must to be notarized)

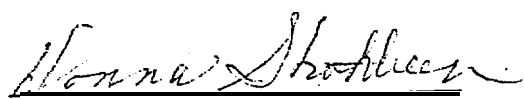
By: 
Name: _____ Title: Property Owner

By: 
Name: _____ Title: Property Owner

By: 
Name: _____ Title: Property Owner

By: 
Name: _____ Title: Property Owner

By: 
Name: _____ Title: Property Owner

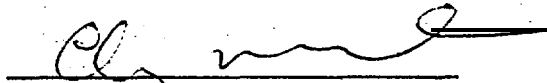
By: 
Name: _____ Title: Trustee for Deed of Trust

**CERTIFICATION AND PARTICIPATION AGREEMENT
SANTA CRUZ COUNTY AFFORDABLE HOUSING PROGRAM**

Page 4

APPROVED FOR CONTENT:

By:



Name: Cherry McCormick

Title: County Housing Coordinator

ATTACHMENT: 1) Exhibit A: Inclusionary Housing Provisions
2) Approved Tentative map (8.5" x 11") with affordable lots indicated
(to be provided by OWNER)



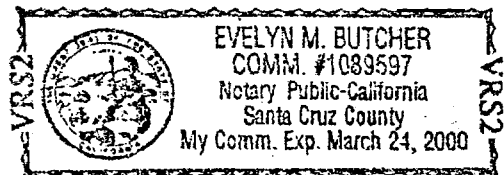
0163

STATE OF CALIFORNIA }
COUNTY OF Santa Cruz }ss.

On December 15, 1999 before me, Evelyn M. Butcher, personally appeared Donna Strohbeen and Gail Lvnn Wisler personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my h&d and official seal.

Signature Evelyn M. Butcher



(This area for official notarial seal)

Title of Document:

Date of Document:

Other signatures not acknowledged:

No. of Pages:



0164

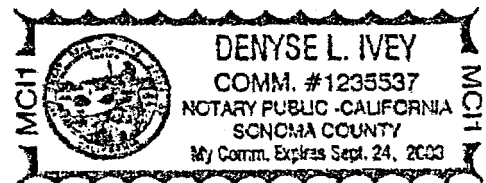
STATE OF CALIFORNIA }
COUNTY OF Sonoma }ss.

On December 10, 1999 before me, Denvse L Ivey, personally appeared JoRene Woodworth

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

WITNESS my hand and official seal.

Signature *Denvse L Ivey*



(This area for official notarial seal)

Title of Document: Certification & Participation Agreement

Date of Document:

No. of Pages:

Other signatures not acknowledged: _____

10



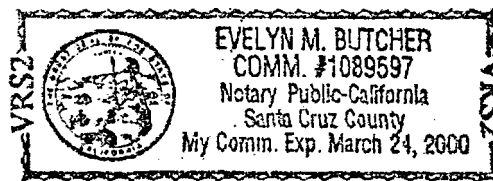
0165

STATE OF CALIFORNIA }
COUNTY OF Santa Cruz } ss.

On December 14, 1999 before me, Evelyn M. Butcher, personally appeared Pat Antonelli, Peter Antonelli and Dora Antonelli personally known to 'me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Evelyn M. Butcher



(This area for official notarial seal)

Title of Document:

Date of Document:

Other signatures not acknowledged:

No. of Pages:

COUNTY ACKNOWLEDGMENT

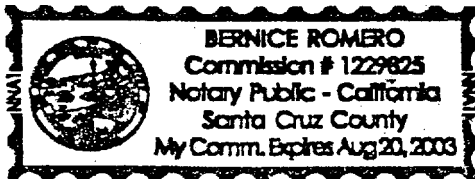
0166

STATE OF CALIFORNIA)
COUNTY OF SANTA CRUZ)

On 12-22, 1999, before me Bernice Romero, Notary Public
personally appeared Alvin D. James

☒ personally known to me, or ☐ proved to me on the basis of satisfactory evidence, to be the
person whose name is subscribed to the within instrument and acknowledged to me that
he executed the same in his authorized capacity, and that by his signature on the
instrument the person, or the entity upon behalf of which the person acted, executed the
instrument.

WITNESS my hand and official seal.



Bernice Romero
Signature of Notary Public

WITNESS my hand and off OWNER ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

On _____, 199__, before me _____
personally appeared _____
, ☐ personally known to me, or ☐ proved to me on the basis of satisfactory evidence, to be the
person(s) whose name is subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their
signature(s) on the instrument the person(s) or the entity(ies) upon behalf of which the
person(s) acted, executed the instrument. icial seal:

Signature of Notary Public

EXHIBIT A: INCLUSIONARY HOUSING PROVISIONS

0167

A. CONSTRUCTION OF AFFORDABLE HOUSING

DEVELOPER agrees to restrict the following residential unit(s) to be affordable housing unit(s) pursuant to the COUNTY's Affordable Housing Program in fulfillment of the inclusionary housing requirements for this PROJECT. Prior to issuance of a Building Permits for each of the restricted units, DEVELOPER may purchase an affordable housing credit, if and as such credits are identified pursuant to Section 'B' below, in place of restricting the residential unit pursuant to the COUNTY's Affordable Housing Program:

1. Number of Affordable Housing Units To Be Constructed:

Three (3) affordable unit(s) to be provided on-site as follows:
Lot Number(s) / Unit Number(s): 2,6,10

 () affordable unit(s) to be provided off-site as follows:

Project Name: N/A

Tract Number:

Permit Number:

APN(s): N/A

Lot Number(s) / Unit Number(s) / Address(es):

2. Size of affordable unit(s): (average number of bedrooms must equal or exceed the average number of bedrooms in the PROJECT's market rate units)

	<u>No. Units</u>	<u>No. Bedrooms</u>	<u>No. Square Feet</u>
Moderate Income	3	4	approx. 1800
Lower Income			
Very Low Income			

3. Timing of Construction of Affordable Units: Concurrent with market-rate, to begin April, 2000.

Timing of construction of the affordable housing unit(s) shall be in accordance with the

**CERTIFICATION AND PARTICIPATION AGREEMENT
SANTA CRUZ COUNTY AFFORDABLE HOUSING PROGRAM**

Page 8

requirements of County Code Chapter 17.10.

**CERTIFICATION AND PARTICIPATION AGREEMENT
SANTA CRUZ COUNTY AFFORDABLE HOUSING PROGRAM**

Page 9

B. TRANSFER OF AFFORDABLE HOUSING CREDITS

DEVELOPER certifies that the PROJECT includes the development of residential units; and certifies that if the PROJECT includes a subdivision, more than one third (1/3) of the lots shall be either retained by the subdivider or sold to one individual for the construction of housing units. Based on this certification, DEVELOPER may transfer affordable housing credit(s) as indicated below to meet the inclusionary housing obligation of the PROJECT in place of the construction of affordable residential units pursuant to Section 'A' above. DEVELOPER agrees that if affordable housing credits are transferred to meet the affordable housing obligations of the PROJECT, and that subsequently less than one third of the lots are retained by the DEVELOPER or are sold to one individual for the construction of housing units, the cost paid for the credit(s) shall be treated as a payment towards the payment of the lot in lieu fee obligation as defined in Section 'C' below for those lots restricted for affordable units under Section 'A' above.

1. Transfer of Credits: N/A

_____ () affordable unit(s) may be provided through transfer of affordable housing credit(s) from the following projects:

Project Names:

Tract Number:

Applicant Name:

APN(s):

Participation Agreements recorded on:

2. Timing of Credit Transfer: N/A

DEVELOPER agrees to transfer an affordable housing credit to the PROJECT prior to issuance of a Building Permit for each unit restricted pursuant to Section 'A' above for development as an affordable unit. If there are no credits available for purchase at the time the transfer is required to be completed, DEVELOPER may not exercise this option, and shall instead construct the affordable housing unit(s) as restricted pursuant to Section 'A' above and the COUNTY'S Affordable Housing Program.

**CERTIFICATION AND PARTICIPATION AGREEMENT
SANTA CRUZ COUNTY AFFORDABLE HOUSING PROGRAM**

Page 10

C. DEDICATION OF SUBDIVISION LOTS

DEVELOPER certifies that the PROJECT consists of a lot subdivision in which individual lots shall be sold to parties other than DEVELOPER for the construction of housing. Based on this certification, the COUNTY shall allow the DEVELOPER to meet the inclusionary housing requirement for the PROJECT by one of the two options below.

1. Dedication of Affordable Residential Lots: N/A

DEVELOPER agrees to dedicate the following lot(s) to the County of Santa Cruz at the time of recording the subdivision Final Map:

_____ () affordable lot(s) shall be dedicated to the County as follows:

Lot Number(s) / Unit Number(s):

2. Payment of In-Lieu Fees: N/A

DEVELOPER agrees to pay the following in-lieu fees to the County in place of dedicating lots for affordable housing. In the event that more than one third (1/3) of the lots in the PROJECT are retained by DEVELOPER or are sold to one party, the County may at its discretion refund any in lieu fee paid for a period of up to three years following payment and require that DEVELOPER enter into an amended Certification and Participation Agreement to fulfill the inclusionary housing obligation of the PROJECT pursuant to the COUNTY's Affordable Housing Program. The COUNTY shall not be obligated to issue Building Permits in the PROJECT prior to the payment in full of the required in lieu fees.

_____ () lot(s) in the subdivision are designated as affordable lots for the calculation of in-lieu fees as follows:

Lot Number(s) / Unit Number(s):

DEVELOPER agrees to pay an in lieu fee for each of these lots as follows: (select one)

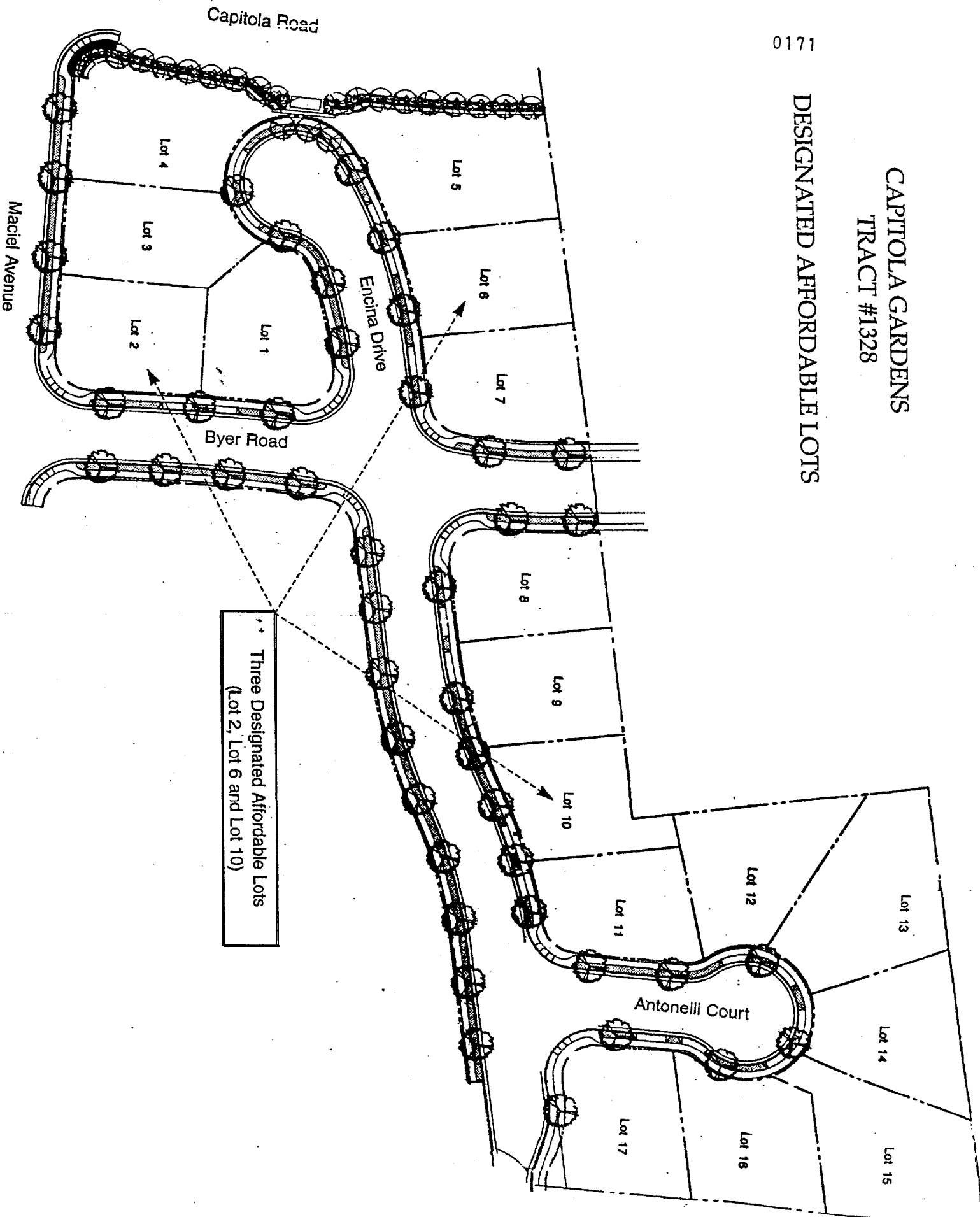
- _____ a) A fee equal to the price of the first market-rate unit sold; DEVELOPER agrees to notify the COUNTY 30 days prior to the close of escrow on the first lot sold and to pay the in lieu fee from escrow with the proceeds of the sale.
- b) A fee equal to the appraised value of the affordable lot with completed site and frontage improvements; DEVELOPER agrees to notify the COUNTY within 5 working days of the completion of site and frontage improvements and to pay the in lieu fee within 15 days of completion of improvements.

End

CAPITOLA GARDENS TRACT #1328

0171

DESIGNATED AFFORDABLE LOTS



Three Designated Affordable Lots
(Lot 2, Lot 6 and Lot 10)

Statement of Owner

We hereby certify that we are the owners of the real property included within the subdivision shown on this map and that we are the only persons necessary to sign said map pursuant to provision of Section 66445(E) of the government code of the State of California, and we consent to the making of said map and said subdivision as shown within the distinct border lines and we hereby offer for dedication "Byer Road", "Encina Drive", "Antonelli Court", and those strips labeled "6' P.U.E." for public utilities purposes including, but not limited to, Pacific Bell Corporation. We offer for dedication to the Santa Cruz County Sanitation District "Byer Road", "Encina Drive" and "Antonelli Court" for sanitary sewer purposes. We hereby irrevocably offer for dedication the lands shown hereon as "Byer Road", "Encina Drive" and "Antonelli Court", to the County of Santa Cruz for road purposes. We hereby offer to the County of Santa Cruz the "1' non-access strip" shown along the southerly and easterly boundary of the lands subdivided.

Capitola Gardens, L.L.C.

New West Associates, Inc., Member

Marsha A. Morgan, President

Steiger-Clausung and Son, Inc., Member

William A. Steiger, Vice President

The undersigned, as beneficiary, under the deed of trust recorded as _____, Official Records of Santa Cruz County, does hereby join in and consent to the execution of the above owner's statement.

By Monterey Bay Bank as beneficiary

Ben Tinker, Senior Vice President

State of California
County of _____

On this _____ day of _____, before me, the undersigned, a notary public in and for said county and state, personally appeared _____ and _____ personally known to me, or proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal

Notary Public in and for the County
of _____, State of California

Tax and Assessment Certificate

I hereby certify that there are no liens for unpaid state, county, municipal or local taxes or special assessments collected as taxes against the land included in the within subdivision or against any part thereof, except taxes which are not yet payable and which it is hereby estimated will not exceed the sum of \$ _____ for the year 1999-2000, and that said land is not, nor is any part thereof, subject to any special assessment which has not been paid in full and that this certificate does not include any assessment of any assessment district, the bonds of which have not yet become a lien against said land or any part thereof.

Dated: _____

Auditor-Controller of the County
of Santa Cruz, State of California

By: _____ Deputy

State of California
County of _____

On this _____ day of _____, before me, the undersigned, a notary public in and for said county and state, personally appeared _____ and _____ personally known to me, or proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal

Notary Public in and for the County
of _____, State of California

Board of Supervisors Certificate

It is hereby ordered that the map of Tract 1328, Capitola Gardens, be, and the same is hereby approved, and that "Byer Road", "Encina Drive" and "Antonelli Court" are hereby rejected for road and sanitary sewer purposes. "Byer Road", "Encina Drive", "Antonelli Court" and lands shown hereon as "P.U.E." are accepted for public utilities purposes, including, but not limited to, Pacific Bell Corporation. We hereby accept the "1' non-access strip".

I certify that the foregoing was adopted by the Board of Supervisors of the County of Santa Cruz at a meeting said board held on the _____ day of _____ 1999.

Clerk of the Board of Supervisors of the
County of Santa Cruz, State of California

By: _____ Deputy Clerk

Certificate of Clerk of Board

The Clerk of the Board of Supervisors of the County of Santa Cruz does hereby certify that all certificates and securities required under the provisions of Sections 66492 and 66493 of the government code have been duly filed and deposits have been duly made. Pursuant to the authority delegated to me by said Board, I hereby approve said certificates and securities on behalf of the County of Santa Cruz.

Clerk of the Board of Supervisors

Date: _____

By: _____ Deputy Clerk

Statement of Surveyor

This map was made by me or under my direction and is based on a field survey in July, 1998. The survey is true and complete as shown. All monuments are of the character and occupy the positions indicated, or they will be set in those positions on or before December 31, 2001. The monuments are, or will be, sufficient to enable the survey to be retraced.

Signed: _____ Gary R. Iland PLS No. 7637

**Statement of County Surveyor**

I hereby certify that I have examined this Final Map and the subdivision as shown is substantially the same as it appeared on the tentative map and any approved alterations thereof. All provisions of the Subdivision Map Act, (Sections 66410) and the County of Santa Cruz Subdivision Ordinance applicable at the time of approval have been complied with. I am satisfied that this map is technically correct and conforms with the action on the Tentative Map thereof taken by the Planning Commission of the County of Santa Cruz on June 9, 1999.

Dated: _____

County Surveyor of the County of Santa Cruz
State of California RCE 17572, Exp. 6-30-01

Certificate of Recorder

Serial Number: _____

I hereby certify that this map was presented at _____ m, on the _____ day of _____ by the Clerk of the Board of Supervisors of the County of Santa Cruz, State of California and that after examination, I accept said map for recordation of the _____ day on _____ at _____ in Volume _____ of Maps, Page _____ of Santa Cruz County Records

Dated: _____

Signed: _____ County Recorder

TRACT NUMBER 1328

Capitola Gardens

BEING THE LANDS, WITHIN THE COUNTY OF SANTA CRUZ CONVEYED TO THE PETER ANTONELLI REVOCABLE TRUST, ET AL, BY DEEDS RECORDED IN VOLUME 5001 AT PAGE 148, VOLUME 4769, AT PAGE 480, AND VOLUME 4912, AT PAGE 041, OF THE OFFICIAL RECORDS OF SANTA CRUZ COUNTY.

AUGUST, 1999 APN 029-111-47 SCALE: N/A



1100 WATER STREET
SANTA CRUZ, CA 95062
TEL (831) 428-5313
FAX (831) 428-1783

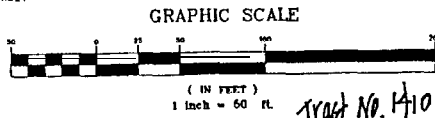
SHEET NO. 1 OF 3 SHEETS JOB NUMBER 98164

Revised 10-21-99 dx

LINE	LENGTH	BEARING
L1	24.23	N 60°20'52" E
L2	33.85	N 0°11'00" E
L3	22.11	S 83°18'30" E
L4	27.51	S 83°18'30" E
L5	21.95	S 14°16'56" W
L6	8.00	S 88°52'30" E
L7	10.00	S 12°14'40" W
L8	0.31	S 01°11'00" W
L9	15.47	S 77°41'00" E
L10	4.00	S 12°14'40" W
L11	5.72	N 01°11'00" E
L12	7.10	S 77°41'00" E
L13	20.00	S 78°43'04" E
L14	24.61	S 83°18'30" E

Base of Bearings

The centerline of Capitola Road as shown on that certain map filed in Volume 90 of Maps, at Page 34, Santa Cruz County Records, (grid bearing: S63°27'09"E), established from ties to HPGN Control Monuments 04AJ, (Soquel), and 04AK, (Watsonville West), as shown. Between 04AK & 04AJ grid bearing: N67°37'42"29"W. Coordinates are grid coordinates based on CCS83 (epoch 1991.35) per NGS data.



Legend

- Found monument as noted
- Set 1/2"x30" galvanized iron pipe, tagged LS 7367, unless otherwise noted
- ⊙ Set 1-1/2"x30" galvanized iron pipe, tagged LS 7367, unless otherwise noted.
- △ HPGN Control Monument.
- ⊕ Set concrete street monument as shown.
- R&M Record and measured data
- R&C Record and calculated data
- R&C² Record & calculated data per 40 M 41
- R&C³ Record & calculated data per 96 M 2
- () Record data per deeds
- (¹) Record data per 90 M 34
- (²) Record data per 40 M 41
- (³) Record data per 96 M 2
- P.U.E. Public Utilities Easement
- (R) Radial bearing to center

Indicates the boundaries of the lands subdivided by this map.
* Affordable Units
All distances shown are in feet & decimals thereof.

The total area of the land subdivided by this map is 6.77 acres or 293,031 square feet.

0173

TRACT NUMBER 1328'

Capitola Gardens

BEING THE LANDS, WITHIN THE COUNTY OF SANTA CRUZ, CONVEYED TO THE PETER ANTONELLI REVOCABLE TRUST, ET AL, BY DEEDS RECORDED IN VOLUME 5001 AT PAGE 149, VOLUME 4769, AT PAGE 480, AND VOLUME 4912, AT PAGE 041, OF THE OFFICIAL RECORDS OF SANTA CRUZ COUNTY.

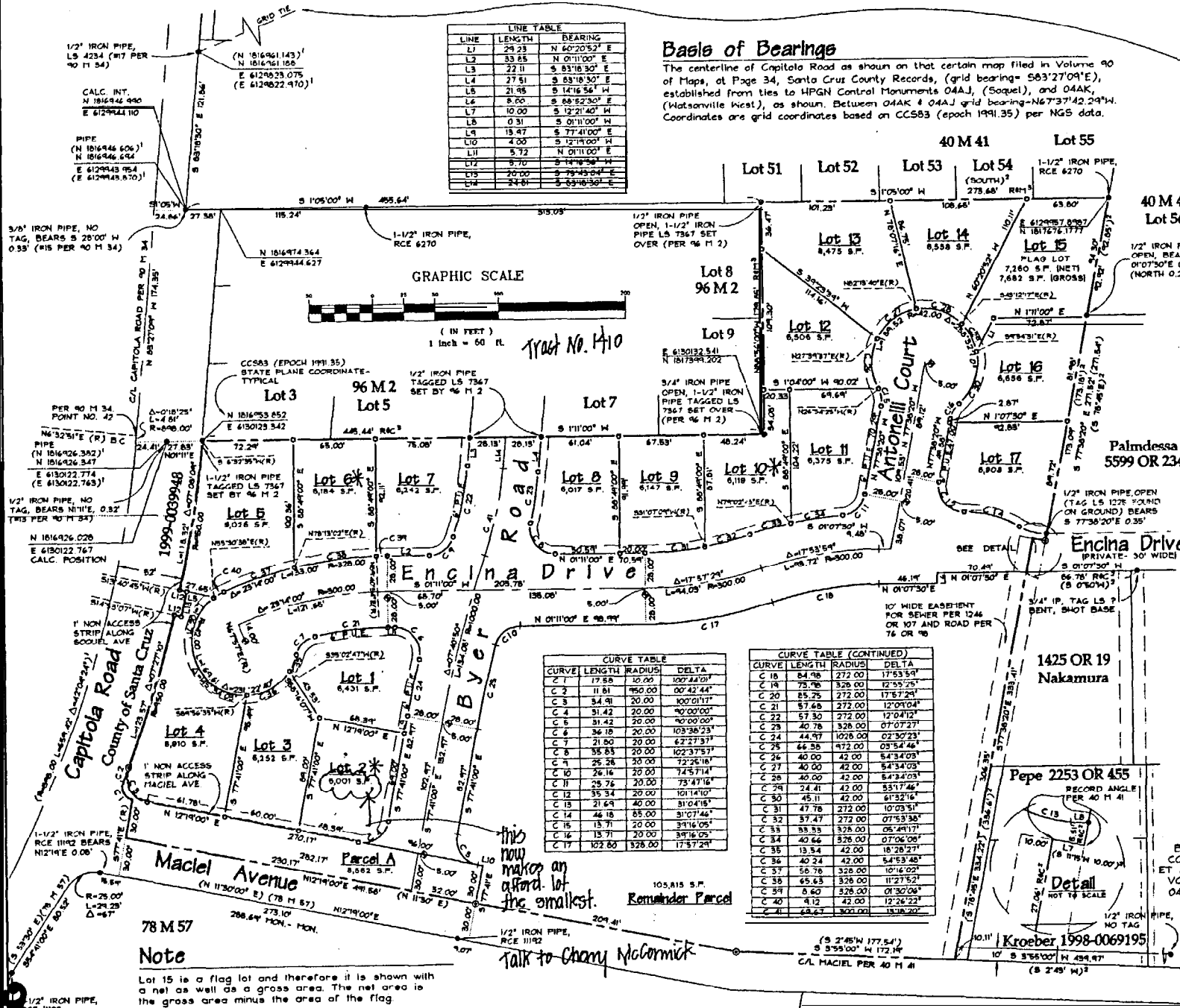
AUGUST, 1999 APN 029-111-47 SCALE: 1" = 50'

Mand
ENGINEERS, INC.

1100 WATER STREET
SANTA CRUZ, CA 95062
TEL (831) 426-5313
FAX (831) 426-1783

SHEET NO. 2 OF 3 SHEETS JOB NUMBER 96164

Revised 10-21-99 jpc



CURVE	LENGTH	RADIUS	DELTA
C 1	17.58	10.00	100°44'01"
C 2	11.81	450.00	00°42'44"
C 3	34.51	20.00	100°01'11"
C 4	31.42	20.00	90°00'00"
C 5	31.42	20.00	90°00'00"
C 6	36.18	20.00	103°38'23"
C 7	21.80	20.00	62°27'37"
C 8	35.83	20.00	102°37'57"
C 9	25.28	38.00	72°25'16"
C 10	25.14	20.00	74°57'14"
C 11	25.76	20.00	73°47'16"
C 12	35.34	20.00	101°14'10"
C 13	21.69	40.00	51°04'18"
C 14	46.18	85.00	31°07'46"
C 15	13.71	20.00	39°16'05"
C 16	13.71	20.00	39°16'05"
C 17	102.80	328.00	17°57'24"

CURVE	LENGTH	RADIUS	DELTA
C 18	84.78	272.00	17°53'54"
C 19	73.78	328.00	12°55'25"
C 20	85.25	272.00	17°57'24"
C 21	57.48	272.00	12°09'04"
C 22	57.30	272.00	12°04'12"
C 23	40.78	328.00	07°07'27"
C 24	44.87	1028.00	02°30'33"
C 25	64.36	472.00	05°54'46"
C 26	40.00	42.00	54°34'03"
C 27	40.00	42.00	54°34'03"
C 28	40.00	42.00	54°34'03"
C 29	24.41	42.00	55°17'46"
C 30	45.11	42.00	61°32'16"
C 31	47.78	272.00	02°30'33"
C 32	57.48	272.00	07°07'27"
C 33	55.53	328.00	05°49'17"
C 34	40.66	328.00	07°06'08"
C 35	13.54	42.00	16°28'27"
C 36	40.24	42.00	54°34'03"
C 37	56.76	328.00	10°16'02"
C 38	65.63	328.00	07°07'27"
C 39	57.48	272.00	02°30'33"
C 40	47.2	42.00	12°24'22"
C 41	68.67	300.00	18°38'20"

Note

Lot 15 is a flag lot and therefore it is shown with a net as well as a gross area. The net area is the gross area minus the area of the flag.

this now makes an afford. lot the smallest.

Remainder Parcel

Talk to Chany McCormick

Non-Title Notes

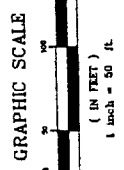
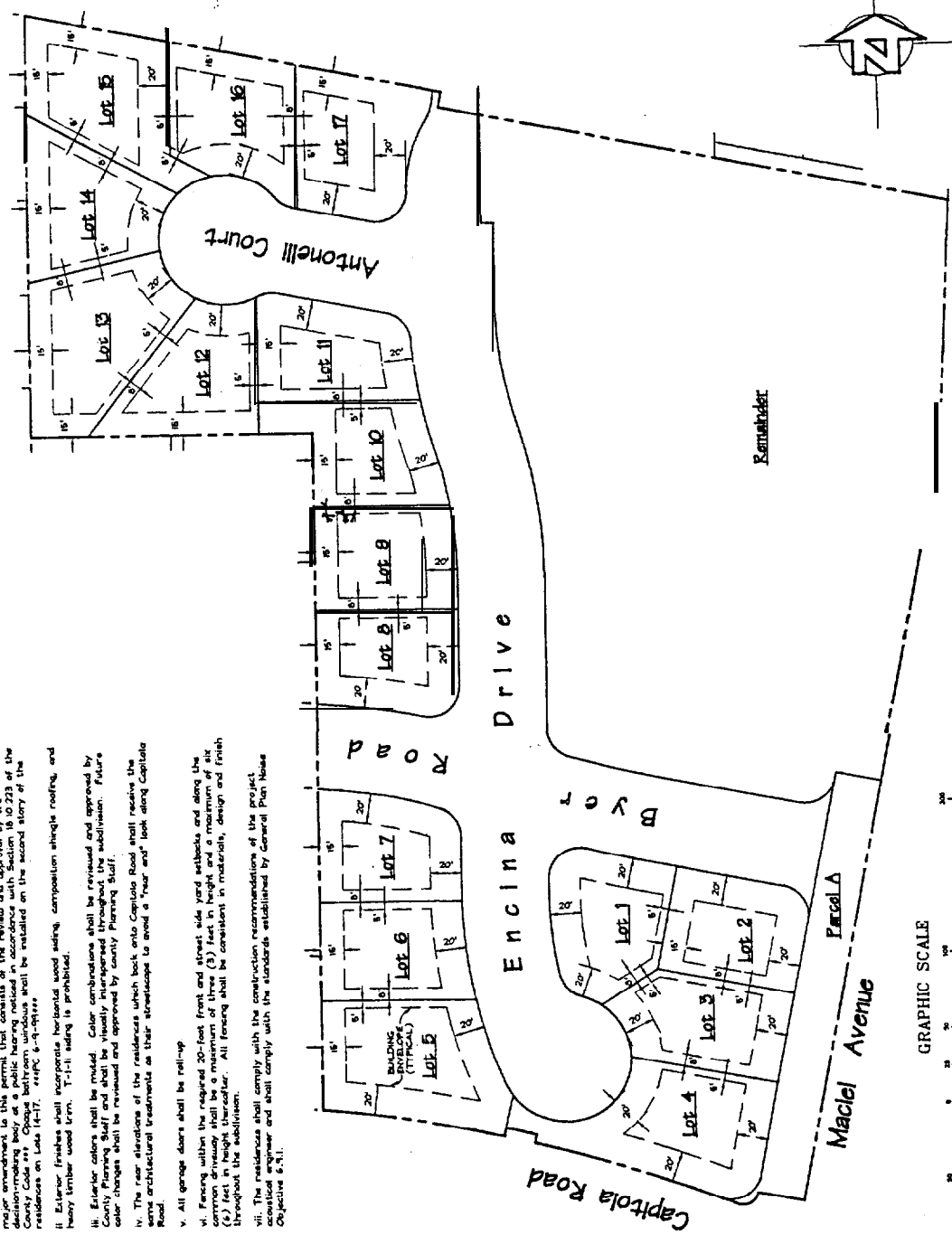
1. The following requirements are to be completed prior to obtaining a building permit on lots created by this land division.
2. Lots shall be connected for sewer service to Santa Cruz Municipal Utilities District.
3. All future construction on the lots shall conform to the design guidelines and preliminary subdivision map shown on Exhibit "B" and shall meet the following additional conditions:
- i. No changes in the placement of windows that face directly toward existing residential lots shall be permitted without the approval of the Santa Cruz Planning Staff. Future color changes shall be reviewed and approved by Santa Cruz Planning Staff.
- iv. The rear elevations of the residences which back onto Capitola Road shall receive the same architectural treatments as their street-facing elevations to avoid a "rear end" look along Capitola Road.
- v. All garage doors shall be roll-up.
- vi. Fencing within the required 20-foot front and street side yard setbacks and along the common driveway shall be a maximum of three (3) feet high and shall be constructed of six (6) inch diameter wood posts and rails. All fencing shall be consistent in materials, design and finish throughout the subdivision.
- vii. The residences shall comply with the construction recommendations of the project. The project shall comply with the standards established by General Plan Noise Ordinance 6.11.

Non-Title Notes

4. Notwithstanding the approved preliminary subdivision plan, all future development shall comply with the development standards set forth by the "B-1-6" zoning district.
5. A final Landscape Plan for the entire site specifying the species, their size, and irrigation plans and meet the following criteria:
- a. Turf Limitation. Turf area shall not exceed 25 percent of the total landscaped area. Turf area shall be of low to moderate water-using varieties, such as tall fescue. Turf areas should not be used in areas less than 7 feet in width.

Non-Title Notes

- b. Plant Selection. At least 60 percent of the plant materials selected for non-turf areas (equivalent to 50 percent of the total landscaped area) shall be well suited to the climate of the region and require minimal water once established. Plant materials shall be grouped together and can be planted separately.
- c. Soil Conditioning. In new planting areas, soil shall be tilled to a depth of 6 inches and amended with six cubic yards of organic material per 1,000 square feet to provide infiltration and water retention. After planting, a minimum of 2 inches of mulch shall be applied to all non-turf areas to retain moisture, reduce evaporation and inhibit weed growth.
- d. Irrigation Management. All required landscaping shall be provided with an adequate, permanent and nearby source of water which shall be supplied by an installed irrigation, or where feasible, a drip irrigation system. Irrigation systems shall be designed to provide sufficient water to maintain the health and growth of the plants. Irrigation systems shall be designed to provide sufficient water to maintain the health and growth of the plants. Irrigation systems shall be designed to provide sufficient water to maintain the health and growth of the plants.
- e. All planting shall conform to Exhibit "A", Landscaping Plan. The following project specific landscape requirements apply:
- i. A minimum 5-foot wide landscaping strip shall be installed on the south side of the sound wall along Capitola Road.
- ii. Forty-six minimum 18-gallon size street trees of a species selected from the County Urban Tree List shall be planted along the sound wall and a drip irrigation system shall be installed in the separated sidewalk landscaping strip.
- iii. Six minimum 18-gallon size street trees of a species selected from the County Urban Tree List shall be planted along the sound wall and a drip irrigation system shall be installed in the parking lot of the retail plant nursery. (One tree per five parking spaces is required by County Code.)
4. All future development on the lots shall comply with the requirements of the geotechnical report prepared by Geotechnical Associates, dated September 24, 1998.
7. Submit a written statement signed by an authorized representative of the school district, dated prior to the final map, indicating the school district's approval of the project and its requirements. The school district shall be responsible for the project's compliance with the requirements of the school district's policies and procedures. The school district shall be responsible for the project's compliance with the requirements of the school district's policies and procedures. The school district shall be responsible for the project's compliance with the requirements of the school district's policies and procedures.
8. Any changes between the approved Tentative Map, including, but not limited to the attached Exhibits for preliminary grading, drainage, erosion control, architectural, landscaping plan and final map, and such proposed changes will be included in a report to the decision-making body. Such proposed changes will be included in a report to the decision-making body to consider if they are sufficiently material to warrant consideration at a public hearing notified in accordance with Section 18.0223 of the County Code. Any changes that are on the Tentative Map shall be highlighted in yellow on any set of plans submitted to the County for review.
1. The following changes are permissible without re-review by the decision-making body:
- a. The residence on Lot 18 may be relocated, within the confines of the required building envelope, to provide for adequate vehicular egress and the garage.
- b. The applicant shall submit a revised site plan for Lot 17 which shows the fit of the proposed project one-story floor plan (Plan 4). If the plan fits within the required building envelope, it shall be constructed in this location. The proposed building shall be approximately 45 feet wide by 47 feet deep. Regard building envelope is trapezoidal.



Remainder

TRACT NUMBER 1328

Capitola Gardens

BEING THE LANDS, WITHIN THE COUNTY OF SANTA CRUZ, CONVEYED TO THE PETER ANTONELLI REVOCABLE TRUST, ET AL, BY DEEDS RECORDED IN VOLUME 4761, AT PAGE 041, OF THE OFFICIAL RECORDS OF SANTA CRUZ COUNTY.

AUGUST, 1999 APN 029-111-47 SCALE: 1" = 50'

SHEET NO. 3 OF 3 SHEETS
REDACTED 10-11-99 dty

JOB NUMBER 90164