



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET - 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

Agenda Date: March 14, 2018

Item: 5

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

Subject: Application 171363
Assessor's Parcel Numbers: 032-092-01 and 05
Request to extend the approved Tentative Map for the Lumberyard project
approved under Permit 141157

Members of the Commission:

Project History

Application No. 141157 (John Swift, for Northpoint Investments – Tentative Map, Commercial Development Permit, Coastal Development Permit and Height Exception) was approved by your Commission on December 9, 2015. This approval allowed for the construction of a 20,800 square foot mixed use building with one 9,600 commercial condominium unit at the lower floor and eight residential condominium units at the second and third floors, together with 1,600 square feet of shared service/circulation areas, and the construction of a detached 2,033 square foot residential parking structure. This approval was appealed to the California Coastal Commission on January 6, 2016. On February 11, 2016, the California Coastal Commission, after a public hearing, found that no substantial issue existed with respect to the grounds on which the appeal was filed, and the therefore the approval of 141157 became effective on February 11, 2016.

The approved Tentative Map approved with 141157 is included as Exhibit A, and the Subdivision Findings and Conditions of Approval for Permit 141157 are included as Exhibits B and C. For complete project background information, the staff report to your Commission dated January 9, 2014, including all Exhibits, is available online via the Planning Department website at www.sccoplanning.com.

The expiration date established for 141157 is February 11, 2019, however the expiration of the Tentative Map, as set out in County Code Section 14.01.315(a), is 24 months from the effective date of the approval, which is February 11, 2018. The applicant continues to plan to construct the proposed mixed-use building and to divide the property and expects that all requirements will have been met prior to February 11, 2019. However, so that the Tentative Map will have the same expiration date as the approved Development Permit, the applicant has requested a one-year extension for the Tentative Map.

Permit Extension Process

County Code Section 18.10.133 (B) allows for the extension of a Tentative Map for a period not to exceed a total of five years from the date of original expiration, if an application for extension is filed prior to the expiration of the conditionally approved Tentative Map. This mirrors the language in the Subdivision Map Act, Government Code Section 66452.6 (e). County Code requires that requests to extend tentative maps be processed pursuant to Level VI (Planning Commission) review for Subdivisions of 5 – 19 lots.

In the case of the Tentative Map for Permit 141157, the map would expire on February 11, 2018. The request for an extension was submitted on December 11, 2017, prior to the expiration date of the map. The applicant is requesting a one-year extension to February 11, 2018.

Staff Recommendation

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- **APPROVAL** of Application Number **171363**, extending the Tentative Map for Subdivision 141157 to February 11, 2019, based on the findings (Exhibit B) and conditions (Exhibit C) for Permit 141157.

Sincerely,


Lezanne Jeffs
Development Review Planner

Reviewed by:


Steven Guiney, AICP
Principal Planner

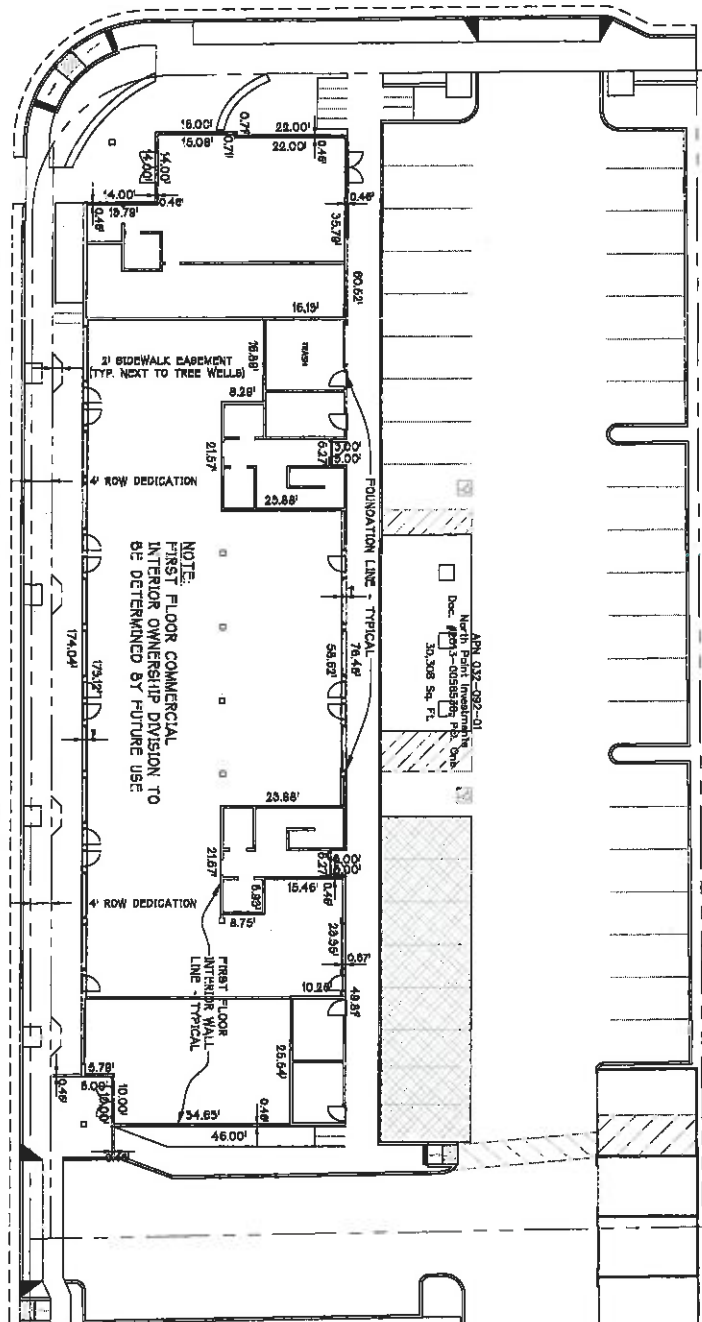
Exhibits:

- A. Tentative Parcel Map for Minor Land Division 141157
- B. Subdivision Findings for Approval of Permit 141157
- C. Conditions of Approval for Permit 141157
- D. Notice of Exemption from the California Environmental Quality Act
- E. Location Map

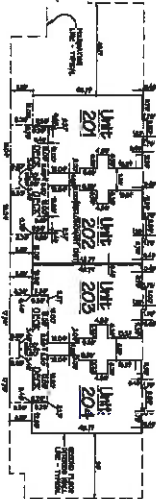
A complete copy of the staff report to the Planning Commission with Exhibits (for project background) is available via the Planning Department website at www.sccoplanning.com > Planning Commission > Agendas > Year 2015 > December > 12/9/2015 Agenda >- Item #7.

PORTOLA DRIVE

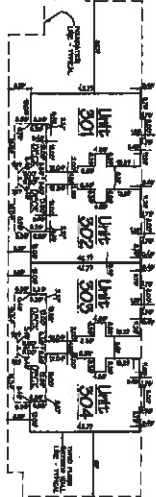
38th AVENUE



First Floor Plan
SCALE: 1/8" = 1'-0"



Second Floor Plan
SCALE: 1/8" = 1'-0"



Third Floor Plan
SCALE: 1/8" = 1'-0"

GENERAL NOTES:

1. MAP PREPARED BY: IFLAND ENGINEERS, INC. 3800 PORTOLA DRIVE, SANTA CRUZ, CA 95061. PHONE: (408) 426-0999. COPYRIGHT © 2015 IFE.
2. BOUNDARIES: 38th AVENUE, PORTOLA DRIVE, 38th AVENUE, PORTOLA DRIVE.
3. OWNERS: 3800 PORTOLA DRIVE, SANTA CRUZ, CA 95061. IFLAND ENGINEERS, INC. 3800 PORTOLA DRIVE, SANTA CRUZ, CA 95061.
4. NOTES: THIS MAP IS A TENTATIVE MAP FOR CONDOMINIUM PURPOSES. IT IS NOT A FINAL MAP. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE.

EXHIBIT A

Subdivision Findings

- 1. That the proposed subdivision meets all requirements or conditions of the Subdivision Ordinance and the State Subdivision Map Act.**

This finding can be made, in that the project meets all of the technical requirements of the Subdivision Ordinance and is consistent with the County General Plan and the Zoning Ordinance.

- 2. That the proposed subdivision, its design, and its improvements, are consistent with the General Plan, and the area General Plan or specific plan, if any.**

The proposed division of land, its design, and its improvements, will be consistent with the General Plan. The project creates one commercial condominium unit, eight residential condominium units and a common area parcel, and is located in the Community Commercial (C-C) General Plan designation. Mixed use developments are allowed in the C-C General Plan designation when the residential portion of the project does not exceed 50% of the total use area. In this case, 9,600 square feet of commercial space is proposed at the ground floor, and 9,600 square feet of residential space is proposed on the second and third floors and therefore the proposed mixed use building conforms to this requirement.

Density for the residential portion of mixed use developments is based upon the Urban High Residential (R-UH) General Plan designation, which allows a maximum density of one unit for every 2,500 square feet of developable land. In this case, eight units are proposed, but a total of fourteen could be allowed.

The project is consistent with the General Plan in that the project is located inside the Urban Services Line and the full range of urban services is available, including public water and sewer service. Each condominium parcel will be accessed from both Portola Drive and 38th Avenue and the proposed two-way driveway and circulation between these entrances through the associated parking area will provide adequate and safe access to all portions of the project. The proposed land division is similar to the pattern and density of other surrounding mixed use developments along Portola Drive, and is located in an area that has been specifically zoned to allow for commercial and mixed use development.

The land division, as conditioned, will be consistent with the General Plan regarding infill development, in that the proposed mixed use development will be consistent with the pattern of the surrounding commercial developments, and the design of the proposed structure, as conditioned is, with the approval of a Height Exception with Design Review, consistent with the site and development standards of the implementing C-2 (Community Commercial) zone district.

Therefore this finding can be made.

- 3. That the proposed subdivision complies with Zoning Ordinance provisions as to uses of land, lot sizes and dimensions and any other applicable regulations.**

The project proposes the development of one commercial condominium unit, eight residential condominium units and a common area to be developed on two existing parcels that will be

combined to have a total area of 35,365 square feet. Mixed commercial and residential developments are an allowed use on a commercially zoned parcel and, within the Urban Services Line, the minimum parcel size for the creation of new commercial parcels is 10,000 square feet as required by the C-2 zone district. The commercial condominium unit and associated common area parcel will exceed the required 10,000 square foot minimum parcel size and therefore this finding can be made. Further, the proposed residential condominium units meet the minimum lot size and dimensional standards for the RM-2.5 (Multi-family residential – 2,500 square foot minimum) zone district, that applies to residential developments within the C-2 zone district, and the project, with the approval of a Height Exception, will be consistent with the all of the required site standards of the C-2 zone district as set out in 13.10.333 – Development standards for commercial districts.

County Code section 13.10.510(D)(2) (Height Exceptions) allows that, within a commercial zone district, any commercial building may exceed the height limit as established by the zone district by up to 5 feet subject to Design Review and approval by the Planning Commission following a public hearing. The required findings for a Height Exception are included with this report.

The proposed mixed use development also complies with the parking requirements set out in section 13.10.553(A) of the zoning ordinance, in that a specific parking plan prepared by a Professional Traffic Engineer has been submitted for the project that shows that the proposed parking lot for the development will be adequate to serve the approved mix of uses within the proposed building and that meets the purposes of County Code section 13.10.552. Signs for the proposed commercial uses will comply with County Code section 13.10.581 - Signs in C, CT, VA, PA, PF and M Districts.

4. That the site of the proposed subdivision is physically suitable for the type and density of development.

This finding can be made, in that the site is almost entirely flat and no challenging topography affects the building site. To adequately address the risks associated with developing the site which has an 18 to 24 inch thick layer of highly expansive clay located approximately two feet below the ground surface, all recommendations of the Soils Report prepared by the Geotechnical Engineers, Dees and Associates, dated July 31, 2014 will be followed.

The proposed commercial and residential condominium units within a common area parcel will be properly configured to allow for development that, with the approval of a Height Exception, is in compliance with the required site standards. Also, no environmental resources exist which would be adversely impacted by the proposed development.

5. That the design of the proposed subdivision or type of improvements will not cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat.

To comply with the California Environmental Quality Act (CEQA), Environmental Review was required for Permit 141157. The project was reviewed by the County's Environmental Coordinator and a preliminary determination to issue a Negative Declaration with Mitigations (Exhibit A) was made on August 24, 2015. The mandatory public comment period expired on October 13, 2015, with XX comments received.

The environmental review process focused on the potential impacts of the project in the areas of noise, both during construction and also potential ongoing noise generated by traffic entering and exiting the site, and also on the potential for hazardous materials on site. The environmental review process generated mitigation measures that will reduce potential impacts from the proposed development and adequately address these issues.

The proposed development will not injure fish or wildlife or their habitat. According to the California Natural Diversity Data Base (CNDDB), maintained by the California Department of Fish and Wildlife, there are three known special status plant or animal species mapped in the site vicinity. These include a species of insect, *Trimeropteris infantilis* (Zayante band-winged grasshopper), a species of native grass, *Pentachaeta bellidiflora* (white-rayed pentachaeta) and a native bat, *Antrozous pallidus* (pallid bat). However, both the white-rayed pentachaeta and Zayante band-winged grasshopper are species that are generally only found in association with the Sandhills habitat. The Santa Cruz Sandhills are a unique community of plants and animals found only on outcrops of Zayante sand soil that does not exist at the project site. Furthermore, the lack of suitable habitat and the disturbed nature of the site make it unlikely that either of these special status species occur at the project site.

To conclusively rule out the potential presence of pallid bats within the disused lumberyard building, a Bat Study Report was prepared for this project. Based upon the bat Study, no sign of use of the existing barn-like structure by bats was observed and no echolocation calls were recorded at the building. Therefore, it was concluded that there are no species of bat, including the pallid bat, existing on the parcel, and that no protective measures for bats are necessary during the demolition of the existing structures.

6. That the proposed subdivision or type of improvements will not cause serious public health problems.

This finding can be made in that municipal water and sewer are available to serve the proposed units on all three parcels. In addition, mitigations included within the Mitigated Negative Declaration for Permit 141157 includes mitigations regarding the potential for hazardous materials on site so that no public health problems will occur.

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

This finding can be made in that no existing easements are known to encumber the property.

8. The design of the proposed land division provides, to the extent feasible, for future passive or natural heating or cooling opportunities.

This finding can be made, in that the commercial condominium at the first floor and residential condominium units at the second and third floors of the proposed development have been located so as to take advantage of an unobstructed eastern and western exposure and each of the residential condominium units has open deck areas located at the western elevation that have been oriented to the fullest extent possible in a manner to take advantage of solar opportunities.

9. The proposed development project is consistent with the Design Standards and Guidelines (sections 13.11.070 through 13.11.076) and any other applicable requirements of this chapter.

The ground floor commercial area of the proposed building has been designed to be open and inviting, and has a sense of human scale and pedestrian interest as required by County Code section 13.11.073(D). The commercial area will have high ceilings, extensive multi-paned storefront glazing facing Portola Drive and full-height glass roll-up doors that open directly onto the sidewalk at 38th Avenue and onto a paved plaza area set within the parking area located east of the building. An open market type use with stalls is also proposed within the central area and open to the street, so that the pedestrian circulation will extend seamlessly from the inside out and from the outside in. The project also includes outdoor seating areas that would be open for use by all patrons of the center which will enhance the pedestrian environment and further increase the sense of human scale.

The modestly sized residential condominium units at the second and third floors, located above the central portion of the commercial space, have been designed to include two bedrooms. In accordance with County Code sections 13.11.072(H)(1)b) and 13.10.323(F), all of the units have comfortable private terraces that open off the living areas.

In accordance with the objectives of County Code section 13.11.073(D)(1), the proposed mixed-use building and residential garages would be constructed using a variety of materials that include cement plaster walls, paired with vertical siding elements over portions of the residential units and a standing-steel roof to break up the bulk and mass of the structure. The color palette includes soft off-white and muted grey shades, broken up by the use of natural wood at canopies extending out over the entrances to the commercial spaces at the first floor to blend the proposed building into the surrounding neighborhood.

The height of the central portion of the building would be 38 feet 4 inches measured to the peak of the roof, with two roofed ventilation shafts that, combined, cover less than ten percent of the roof area and are approximately 2 feet 6 inches taller. However, as is encouraged by in section 13.11.073(B)(1), and to provide a better relationship with the surrounding area, the northern and southern ends of the building have a reduced height. At the northern end of the building, adjacent to the corner of Portola Drive and 38th Avenue, the commercial space has also been designed to include a small decorative tower with a height of approximately 27 feet to add a focal point and visual interest. At the southern end of the building, so that the scale of the building will relate to the adjacent residential neighborhood, the maximum height to the peak of the roof would be reduced to approximately 23 feet, which is lower than the 28 foot maximum height limit that is allowed for residential structures.

The proposed additional 3 feet 4 inches in height over the maximum 35 feet height for the zone district can be permitted in accordance with County Code section 13.10.510(D) - "Height Exceptions". This has been requested to allow for a design that incorporates high ceilings, and a light and airy feel at the ground floor, while at the same time allowing for a pitched roof that is broken up by clerestory style windows at the upper floor. This conforms to the objectives set out in section 13.11.073(D)(1)(a) which encourages variation in wall planes and roof line to reduce the bulk and scale of buildings. If the height were reduced to be 35 feet this design concept would be compromised, resulting in either a less inviting commercial use area or a flat roofed,

blocky structure. It should be noted that the high point at the ridge will be set back from the wall line of the structure and that the height at the eave would be around 31 feet 6 inches in height, less than the maximum allowed. The topmost extent of the clerestory windows would be about 36 feet at their peak. The two roofed ventilation shafts that have been designed to be an integral part of the building as required by 13.11.073(E)(1)(a), will extend above the peak of the roof. These taller features, which are allowed without additional design review in accordance with County Code section 13.10.510(D)(2), will serve to further break up the roofline of the proposed building.

New landscaping is proposed throughout the project site and also within the public and private sidewalk areas along both Portola Drive and 38th Avenue as required by County Code section 13.11.075 and 13.11.074(C). No trees have been removed to facilitate the development and a minimum of seventeen new trees are to be planted, along with shrubs, vines and perennials. As encouraged in 13.11.07(C)(1) trees within the parking areas will be large canopy trees to break up the parking area and reduce heat and glare. The street frontage of the site (Portola Drive and 38th Avenue) will also include tree planting in accordance with the County street tree program. The two existing Queen Palm trees at the corner of Portola Drive and 38th Avenue will be maintained as a decorative landscape element that matches similar plantings at other intersections in the neighborhood. Additional improvements including sidewalks with street tree planting will also be constructed along the entire frontage with both Portola Drive and 38th Avenue. Decorative bicycle racks will be included within the broad sidewalk running along 38th Avenue.

All of the proposed lighting for the project will comply with the provisions of County Code section 13.11.074(D)(1) and will be directed onto the site and away from adjacent properties. Where the proposed development fronts onto 38th Avenue and is opposite existing homes the light sources on the building will not be visible. At the lower floor they will be located beneath the proposed decorative awning so that the light illuminates only the lower portion of the building and sidewalk. The design of light fixtures at the second and third floor condominiums will ensure that no light source is visible.

Along the southern boundary between the driveway access and the adjacent home, a minimum 6 foot high masonry sound wall is proposed to mitigate potential noise impacts as encouraged by 13.11.072G(2). Climbing vines would be planted along the wall and also along other fences where they face the parking lot, to screen and soften these structures.

To preserve the integrity of the surrounding commercial area, as encouraged in County Code section 13.11.072(A)(1), a decorative roofed entrance has been proposed over the main driveway access to the site from Portola Drive. This feature would enclose and screen the parking area as well as continue the architectural character of the development across the primary frontage of the site.

The proposed commercial building with eight condominium units at the second and third floors above therefore complies with the requirements of the County Design Review Ordinance, in that the proposed project will incorporate site and architectural design features such as reduced building heights at the corner of Portola Drive and 38th avenue and adjacent to residential properties, articulated facades, open and inviting commercial storefronts, elements from the original lumberyard building and new landscaping and tree planting to reduce the visual impact

Application #: 141157
APN: 032-092-01 and 05
Owner: Northpoint Investments Fund LLC

of the proposed development on surrounding land uses and the natural landscape. Further, the proposed Height Exception will allow for a superior design that incorporates both a pitched roof together with a light, airy and inviting commercial area and is therefore appropriate for the setting of the project along an arterial road and within an important and upcoming commercial area.

Therefore this finding can be made.

Conditions of Approval

Minor Land Division and Development Permit for the construction of a mixed use building with one commercial condominium unit at the lower floor and eight residential condominium units at the second and third floors above - 141157

Applicant: Hamilton Swift and Associates, Attn. John Swift

Property Owner: NORTHPOINT INVESTMENT FUND, LLC.

Assessor's Parcel Number: 032-092-01 & 032-092-05

Property Address and Location: The property is located at 3800 Portola Drive, Santa Cruz, at the southeastern corner of the intersection with 38th Avenue.

Planning Area: Live Oak

Exhibit D: Tentative Map (1 sheet) and Preliminary Improvement Plans (4 sheets) - prepared by Ifland Engineers, dated June 15, 2015, Architectural and design plans (9 sheets) – prepared by Thacher and Thompson Architects, dated January 9, 2015; Landscape plans (2 sheets) - prepared by bfs Landscape Architects, dated January 13, 2015 and a Photometrics Study (1 sheet) - prepared by Prime Design Group, dated March 26, 2015.

All correspondence and maps relating to this land division shall carry the land division number noted above.

- I. Prior to exercising any rights granted by this Approval, the owner shall:
 - A. Pay the required fee to the Clerk of the Board of the County of Santa Cruz for posting the Negative Declaration as required by the California Department of Fish and Wildlife mitigation fees program. Currently, the fee is \$2,210, but is subject to change.
 - B. Sign, date and return one copy of the Approval to indicate acceptance and agreement with the conditions thereof.
 - C. Record the Conditions of Approval with the Final Map. The Conditions of Approval shall be applicable to all resulting parcels.
 - D. Obtain a Demolition Permit from the Santa Cruz County Building Official.
 - E. Obtain a Building Permit and, if also required, a Grading Permit from the Santa Cruz County Building Official.
 1. Any outstanding balance due to the Planning Department must be paid prior to making a Building Permit application. Applications for Building Permits will not be accepted or processed while there is an outstanding balance due.
 - F. Obtain an Encroachment Permit from the Department of Public Works for all off-site work performed in the County road right-of-way.

EXHIBIT C

II. A Final Map for the land division must be recorded prior to the expiration date of the Tentative Map and prior to sale, lease or financing of any new lots. The Final Map shall be submitted to the County Surveyor (Department of Public Works) for review and approval prior to recordation. No improvements, including, without limitation, grading and vegetation removal, shall be done prior to recording the Final Map unless such improvements are allowable on the parcel as a whole (prior to approval of the land division).

A. The Final Map shall meet the following requirements:

1. The Final Map shall be in general conformance with the approved Tentative Map and shall conform to the conditions contained herein. All other State and County laws relating to improvement of the property, or affecting public health and safety shall remain fully applicable.
2. This land division shall result in no more than one (1) commercial condominium unit, eight (8) residential condominium units and a common area parcel in conformance with the Tentative Map.
3. The minimum aggregate parcel area for the commercial condominium shall 10,000 square feet per unit and for the residential units shall be 2,500 square feet of net developable land per unit.
4. The following items shall be shown on the Final Map:
 - a. Building envelopes, common area and/or building setback lines located according to the approved Tentative Map. The building envelopes for the perimeter of the project shall meet the minimum setbacks for the C-2 zone district of 10 feet for front yards, 10 feet for side yards opposite a residential district, 0 feet for interior side yards and 0 feet for rear yards.
 - b. Show the gross and net area of each condominium unit to nearest square foot.
 - c. All easements and dedications to be recorded prior to recordation of the Final Map.
5. The following requirements shall be noted on the Final Map as items to be completed prior to obtaining a building permit on lots created by this land division:
 - a. New parcel numbers for all of the parcels must be assigned by the Assessor's Office prior to application for a Building Permit on any parcel created by this land division.

B. The following items are required for submission before the approval of the Final Map:

1. Engineered Sewer Plans: Prior to applying for approval of the Final Map, provide a complete engineered sewer plan, addressing all issues required

EXHIBIT C

by District staff and meeting CDC standards (unless a variance is requested and allowed). District approval of the Final map must be withheld until it can be demonstrated that the plan meets all the requirements.

- C. All future construction shall conform to the approved Development Permits and Design Review for the proposed mixed use building and residential garages associated with this land division.
 - D. All future development on the lots shall comply with the requirements of the approved geotechnical report(s) for this project.
 - E. Meet all drainage requirements of the Department of Public Works, Stormwater Management Services section including, without limitation, the following conditions, before the approval of the Final Map:
 - 1. The detention system for Area 1 runoff to the Portola Drive drainage area shall be designed to detain the 10-year storm and to discharge to an existing 12 inch storm drain pipe in Portola Drive. The detention system for Area 2 runoff to 38th Avenue drainage area shall be designed to detain the 25-year storm and to discharge via overland release from the driveway onto 38th Avenue. The project stormwater management design submitted with the building plans shall be prepared to satisfy the requirements of County of Santa Cruz Design Criteria Part 3-Stormwater Management.
 - F. Prior to recordation of the Final Map, the following requirements shall be met:
 - 1. Submit a letter of certification from the Tax Collector's Office that there are no outstanding tax liabilities affecting the subject parcels.
- III. Prior to issuance of a Building Permit for the construction of the proposed mixed use building or detached residential garages, the applicant/owner shall:
- A. Submit final architectural plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "D" on file with the Planning Department. Any changes from the approved Exhibit "D" for this development permit on the plans submitted for the Building Permit must be clearly called out and labeled by standard architectural methods to indicate such changes. Any changes that are not properly called out and labeled will not be authorized by any Building Permit that is issued for the proposed development. The final plans shall include the following additional information:
 - 1. A copy of the text of these conditions of approval incorporated into the full size sheets of the architectural plan set.
 - 2. One elevation shall indicate materials and colors as they were approved by this Discretionary Application. If specific materials and colors have not been approved with this Discretionary Application, in addition to showing the materials and colors on the elevation, the applicant shall supply a color and material sheet in 8 1/2" x 11" format for Planning Department review and approval.

3. Grading, drainage, and erosion control plans.
4. The building plans must include a roof plan and a surveyed contour map of the ground surface, superimposed and extended to allow height measurement of all features. Spot elevations shall be provided at points on the structure that have the greatest difference between ground surface and the highest portion of the structure above. This requirement is in addition to the standard requirement of detailed elevations and cross-sections and the topography of the project site which clearly depict the total height of the proposed structure. Maximum height is 38 feet 4 inches at the peak of the main roof and 40 feet 10 inches at the ventilation shafts.
5. Details showing compliance with fire department requirements.
6. Final plans shall be revised to include for the provision of two additional parking spaces in the area of the proposed rear plaza.
7. A Landscape Plan prepared in accordance with the requirements of the City of Santa Cruz Water Department's Water Efficient Landscape Ordinance (Chapter 16 of the Santa Cruz Municipal Code) by a certified/licensed landscape architect, landscape contractor, civil engineer, landscape irrigation designer, landscape irrigation auditor, or water manager.
 - a. In addition to all tree, shrub, groundcover and vines shown on the Landscape plan prepared by bfs Landscape Architects, dated January 13, 2015, the Landscape Plan shall include a minimum of three additional trees adjacent to the southern elevation of the proposed building and/or adjacent to the driveway access from 38th Avenue.
8. All requirements of the Environmental Planning Section of the Planning Department shall be met, including the following:
 - a. Plans shall reference the soils report and include a statement that the project shall conform to the report's recommendations.
 - b. The applicant shall provide a plan review letter from the project soils engineer approving the final revised plans once all agency comments have been addressed.
 - c. The applicant shall provide a stormwater pollution control plan that meets the requirements set forth in the County's Construction Site Stormwater Pollution Control BMP Manual. The Manual may be found on our website at www.ccoplanning.com by navigating to Environmental / Erosion and Stormwater Pollution Control / Construction Site Stormwater BMP Manual.
9. All site, building, security and landscape lighting, including all exterior lighting for the residential condominium units, shall be directed onto the site and away from adjacent properties. Light sources may be shielded by landscaping, structure, fixture design of other physical means.

10. The plans submitted for the residential garage structure shall include details to show that a portion of all interior partition walls will be open or transparent to an extent that will allow for visibility between garage spaces to enable easy verification that these spaces are available for vehicle parking.
- B. Any changes from the approved Exhibit "D", including but not limited to the Tentative Map or Preliminary Improvement Plans, must be submitted for review and approval by the Planning Department. Changes may be forwarded to the decision making body to consider if they are sufficiently material to warrant consideration at a public hearing noticed in accordance with Section 18.10.223 of the County Code. Any changes that are on the final plans which do not conform to the project conditions of approval shall be specifically illustrated on a separate sheet and highlighted in yellow on any set of plans submitted to the County for review.
- C. Prior to any building permit issuance or ground disturbance, a detailed erosion control plan shall be reviewed and approved by the Department of Public Works and the Planning Department. Earthwork between October 15 and April 15 requires a separate winter grading approval from Environmental Planning that may or may not be granted. The erosion control plans shall identify the type of erosion control practices to be used and shall include the following:
 1. Silt and grease traps shall be installed according to the approved improvement plans.
 2. An effective sediment barrier placed along the perimeter of the disturbance area and maintenance of the barrier.
 3. Spoils management that prevents loose material from clearing, excavation, and other activities from entering any drainage channel.
- D. Meet all requirements of the Santa Cruz County Sanitation District including, without limitation, the following standard conditions:
 1. Attach an approved (signed by the District) copy of the sewer system plan to the building permit submittal. A condition of the development permit shall be that Public Works has approved and signed the civil drawings for the land division improvement prior to submission for building permits.
- E. Driveway Encroachment: Submit final details of the ramp at the termination of sidewalk.

Note: it may be requested that some of the landscaping proposed near the driveway approaches be removed due to maintenance issues, this may be further reviewed at the time of the building permit application or Encroachment Permit application reviews.

- F. Meet all requirements of and pay Zone 5 drainage fees to the County Department of Public Works, Stormwater Management:
1. With the building plans, provide final analysis for water quality treatment demonstrating compliance with either the State Water Resources Control Board Municipal General Permit or the Central Coast Regional Water Quality Control Board Post Construction Requirements that has just become incorporated into County criteria as of March 2014. Revise the proposed discretionary level mitigations if needed to comply.
 2. Provide arrangements for ongoing maintenance of BMP mitigation facilities.
 - a. Include maintenance instructions on the development plans and in any CC&Rs or similar document.
 - b. Include private easements as necessary
 - c. Provide for effective property transfers
 3. The applicant will need to complete Part 3, Section C, item 3h of the CDC governing long term maintenance of BMP mitigation measures and legal documentation of this requirement, recording form Fig.SWM-25B, or equivalent documents, fully addressing all issues included in item 3h.
 4. A drainage fee will be assessed if there is any net increase in impervious area over the currently existing pre-development situation. Fee credits will be available for existing impervious surfaces. The fees are currently \$1.17 per square foot, and are subject to increase based on the amount applicable at permit issuance date. Reduced fees (50%) are assessed for semi-pervious surfacing (such as gravel, base rock, paver blocks, porous pavement, etc.) to offset costs and encourage more extensive use of these materials.
- G. Obtain an Environmental Health Clearance for this project from the County Department of Environmental Health Services.
1. Prior to BP approval, submit food facility plans for review and approval, and, obtain EH permits to operate any proposed food facilities.
- H. Meet all requirements and pay any applicable plan check fee of the Central Fire Protection District.
- I. Submit 3 copies of a soils report prepared and stamped by a licensed Geotechnical Engineer.
- J. Pay the current fees for Parks and Child Care mitigation for 16 bedrooms. Currently, these fees are, respectively, \$750 and \$109 per bedroom.
- K. Pay the current fees for Roadside and Transportation improvements:
1. The project will be subject to Live Oak Transportation Improvement Area (TIA) fees at a rate of \$600 (\$300 for roadside improvement fees + \$300 for transportation improvement fees) per daily trip-end generated by the proposed non-residential development use and \$4,200 (\$2,100 roadside

improvement fees + \$2,100 transportation improvement fees) per multi-family residential unit. Table 3 Project Trip Generation included with the Traffic Impact Study, dated January 14, 2015, prepared by Kimley Horn provides the trip-ends generated by the development as well as the number of proposed residential units. The TIA fees for the project are estimated as follow:

New trip-ends (commercial) = 353 (412 – 59 (residential uses) = 353).

TIA fees (commercial) = \$211,800.00 (353 X \$600).

TIA fees (residential) = \$33,600 (8 units x \$4,200 = \$33,600).

Total TIA fees = \$211,800 + \$33,600 = \$245,400.

Note: The above TIA fee estimate was calculated using the current fee rate. The rate in effect at the time of filing a final map or acquiring a commercial building permit will be used to determine the actual TIA fees for the project.

2. A total of up to \$40,000 of the TIA fees shall be allocated specifically for the construction of drainage improvements along 38th Avenue.
- L. Meet the requirements of the Affordable Housing Guidelines adopted by the Board of Supervisors:
1. Enter into an Affordable Housing Participation Agreement that will identify how you will meet the affordable housing obligation for both the residential and non residential development.
 - a. Developers may choose to provide 15% of the units on site as affordable as defined by the Affordable Housing Guidelines or pay an impact fee for all the new residential units set at \$15 per square foot.
 - b. If you decide to provide the unit on site then all 17.10.032 requirements of onsite affordable units are applicable regarding unit size, bedroom count, exterior design, etc.
 2. A Non residential affordable impact fee will be charged for all non-residential square footage, currently this is \$2 per square foot.
- M. Provide required off-street parking for ~~50~~ 52 cars as follows: ~~36~~ 38 regular parking spaces; 4 compact parking spaces and 2 accessible parking spaces, together with 8 residential spaces located within a residential garage for the exclusive use of condominium tenants. Regular parking spaces must be a minimum of 8.5 feet wide by 18 feet long, compact spaces must be a minimum of 7.5 feet wide by 16 feet long and accessible spaces must comply with CBC 1109A. All parking spaces must be located entirely outside vehicular rights-of way. Parking must be clearly designated on the plot plan.
- N. Provide required off-street parking for 24 bicycles. Parking spaces must be 2 feet wide by 6 feet long and must be located entirely outside vehicular rights-of way. In addition, within the sidewalk along 35th Avenue provide 4 decorative/sculptural bicycle racks.

- O. Provide 8 striped on-street parking spaces along the 38th Avenue frontage of the project, one of which shall be designated as a Loading Zone between the hours of 7:00am and 1:00pm Monday through Friday.
- P. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
- Q. Submit a detailed master sign program for the Shopping Center specifying the final sign designs, dimensions, materials, colors, illumination, and placement of all proposed signs. The final sign program shall include a name sign containing the name of the center, "The Lumberyard", which may be either separate or combined with a name sign or signs for a business(es), and one small pedestrian-oriented sign for each shop. If desired, a directory sign may be provided to show all of the businesses located in the building. The following additional conditions shall apply:
 - 1. The total area of the center's name sign or signs, together with a directory sign if proposed, may not exceed 50 square feet. Individual shop signs with an aggregate additional area of up to 18 square feet may also be provided.
 - 2. All proposed signs will be designed to be an integral part of the building design.
 - 3. All lighted signage shall include indirect illumination only and no signs shall include flashing lights.
 - 4. No lighting of any signs, including "open/closed" signs in store windows, shall be permitted at the southern elevation of the building (tenant space 6) or at the western elevation of the building fronting onto 38th Avenue (tenant spaces 6-15)
- R. Submit for Planning Director review and approval, a Transportation and Parking Demand Management Plan, prepared by a qualified professional, detailing measures that may be employed to reduce parking demand for the project, or provide additional parking facilities. The plan may include such measures as: The deletion of the rear plaza to allow for additional on-site parking spaces; the provision of new off-site parking areas; restrictions on condominium resident parking within the open parking lot; the provision of special transit incentives for employees; the operation of effective pooling programs; a valet parking plan, flexible work hours; or any other method that can be demonstrated to be effective for the reduction and management of parking demand.

IV. Prior to demolition of existing structures:

- A. **(Mitigation Measure AQ-1):** Prior to the commencement of work, a survey for asbestos would be required and written notification for asbestos removal and/or demolition would be provided 10 working days prior to commencing any regulated activities.

- B. **(Mitigation Measure HAZ-1):** A comprehensive survey for the presence of lead based paint shall be performed prior to the demolition of the building on the parcel and all such materials shall be properly identified and removed in accordance with applicable laws pertaining to lead based paint.

Ongoing monitoring for the presence of lead based paint shall continue through the entire demolition process.

- C. **(Mitigation Measure HAZ-2):** A comprehensive survey for the presence of asbestos containing materials shall be performed prior to the demolition of the building on the parcel and all such materials shall be properly identified and removed in accordance with applicable laws pertaining to asbestos containing materials.

Ongoing monitoring for the presence of asbestos shall continue through the entire demolition process.

- D. **(Mitigation Measure NOI-5):** Prior to demolition of the existing structure or construction of the proposed commercial mixed-use building, require construction of a permanent masonry sound wall with a minimum height on 6 feet along the property boundary with 718 38th Avenue.

- E. **(Mitigation Measure NOI-6):** Construct a masonry sound wall with a minimum height of 6 feet along the southern property boundary adjacent to the southern driveway access from 38th Avenue where it borders the adjacent residential property at 718 38th Avenue.

V. Prior to and during construction:

- A. **(Mitigation Measure AQ-2):** Contracted Diesel Control Measures: In addition to the use of Tiered engines and California ultralow sulfur diesel fuel, the following requirements will be incorporated into contract specifications:

- To minimize potential diesel odor impacts on nearby receptors (pursuant to MBUAPCD Rule 402, Nuisances), construction equipment will be properly tuned. A schedule of tune-ups will be developed and performed for all equipment operating within the project area. A written log of required tune-ups will be maintained and a copy of the log will be made available to the County of Santa Cruz Planning Department for inspection upon request.
- Fixed temporary sources of air emissions (such as portable pumps, compressors, generators, etc.) will be electrically powered unless the contractor submits documentation and receives written approval from the County of Santa Cruz Planning Department that the use of such equipment is not practical, feasible, or available (generally contingent upon power line proximity, capacity, and accessibility). California ultralow sulfur diesel fuel with maximum sulfur content of 15 ppm by weight (ppmw S), or an approved alternative fuel, will be used for on-site fixed equipment not using line power.
- To minimize diesel emission impacts, construction contracts will require off-road compression ignition equipment operators to reduce unnecessary idling with a 2-minute time limit, subject to monitoring and written documentation.

EXHIBIT C

- On-road material hauling vehicles will shut off engines while queuing for loading and unloading for time periods longer than 2 minutes, subject to monitoring and written documentation.
- Off-road diesel equipment will be fitted with verified diesel emission control systems (e.g., diesel oxidation catalysts) to the extent reasonably and economically feasible.
- Utilize alternative fuel equipment (i.e., compressed or liquefied natural gas, biodiesel, electric) to the extent reasonably and economically feasible.
- Feasibility will be determined consistent with Best Available Control Technology (BACT) general criteria: 1) achieved in practice; 2) contained in adopted control measures; 3) technologically feasible; and 4) cost-effective.

VI. During Construction

A. **(Mitigation Measure AQ-3): Diesel Particulate Matter Emissions Control Measures:** In addition, the project will implement the following measures to reduce particulate matter emissions from diesel exhaust:

- Grid power will be used instead of diesel generators where it is feasible to connect to grid power (generally contingent upon power line proximity, capacity, and accessibility).
- The project specifications will include 13 CCR Sections 2480 and 2485, which limit the idling of all diesel-fueled commercial vehicles (weighing over 10,000 pounds, both California- or non-California-based trucks) to 30 seconds at a school or 5 minutes at any location. In addition, the use of diesel auxiliary power systems and main engines will be limited to 5 minutes when within 100 feet of homes or schools while the driver is resting.
- The project specifications will include 17 CCR Section 93115, Airborne Toxic Control Measure for Stationary Compression Ignition Engines, which specifies fuel and fuel additive requirements; emission standards for operation of any stationary, diesel-fueled, compression-ignition engines; and operation restrictions within 500 feet of school grounds when school is in session.
- A schedule of low-emissions tune-ups will be developed and such tune-ups will be performed on all equipment, particularly for haul and delivery trucks.
- Low-sulfur (≤ 15 ppmw S) fuels will be used in all stationary and mobile equipment.

B. **(Mitigation Measure AQ-4): Dust Control Measures:** The following controls will be implemented at the construction and staging sites as applicable:

- Water all active construction areas at least twice daily as necessary and indicated by soil and air conditions.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard.
- Pave, apply water three times daily, or apply (nontoxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.

- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
- All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, will be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.
- All on-site unpaved roads and off-site unpaved access roads will be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
- All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities will be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.
- When materials are transported off site, all material will be covered, or effectively wetted to limit visible dust emissions, and at least 6 inches of freeboard space from the top of the container will be maintained.
- All operations will limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.)
- Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles will be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
- Within urban areas, trackout will be immediately removed when it extends 50 or more feet from the site and at the end of each workday.
- Any site with 150 or more vehicle trips per day will prevent carryout and trackout.
- Hydroseed or apply (nontoxic) soil stabilizers to inactive construction areas (previously graded areas inactive for 10 days or more).
- Enclose, cover, water twice daily, or apply (nontoxic) soil binders to exposed stockpiles (dirt, sand, etc.).
- Limit traffic speeds on unpaved roads to 15 miles per hour.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than 1 percent.
- Replant vegetation in disturbed areas as quickly as possible.
- Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.
- Install wind breaks at windward side(s) of construction areas.
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 20 miles per hour.
- Limit the area subject to excavation, grading, and other construction activity at any one time.

- C. **(Mitigation Measure NOI-1):** Limit construction activity to between the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday, 9:00 a.m. to 5:00 p.m. Saturday in order to avoid noise during more sensitive nighttime hours. Prohibit construction activity on Sundays.
- D. **(Mitigation Measure NOI-2):** Require that all construction and maintenance equipment powered by gasoline or diesel engines have sound-control devices that are at least as effective as those originally provided by the manufacturer and that all equipment be operated and maintained to minimize noise generation.
- E. **(Mitigation Measure NOI-3):** Prohibit gasoline or diesel engines from having unmuffled exhaust.
- F. **(Mitigation Measure NOI-4):** Use noise-reducing enclosures around stationary noise-generating equipment capable of 6 dB attenuation.
- G. **(Mitigation Measure NOI-7):** Construct fencing or other solid barrier with a minimum height of 6 feet, together with landscape plantings that include large shrubs/small trees with dense woody foliage along the southern property boundary adjacent to the proposed residential garages.
- H. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:
- I. All site improvements shown on the final approved Building Permit plans shall be installed.
- J. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
- K. The project must comply with all recommendations of the approved soils reports.
- L. Pursuant to Sections 16.40.040 and 16.42.080 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.080, shall be observed.

VII. Operational Conditions

A. Master Occupancy Program

All uses listed in the current C-2 (Community Commercial) use charts are allowed in conformance with the following requirements:

Allowed Uses:

- 1. Uses that require higher levels of parking such as restaurants, coffee houses, craft beer establishments, wine bars, and ice cream shops are limited to a maximum total combined area of 3,200 square feet.

2. Non food service uses including a market style use that incorporates smaller vendors selling a variety of goods such as locally grown produce, artisan cheeses, meats, art and crafts etc; retail stores for clothing/skin care products/jewelry; retail food related uses such as a candy or chocolate shop, wine shops, flower shops and art stores are limited to a maximum total combined area of 3,200 square feet.
 3. Office and service commercial type uses such as a beauty salon, computer repair store or pet grooming are limited to a maximum total combined area of 3,200 square feet.
 4. Physical culture studios (sports clubs, yoga and pilates studios etc) are not permitted unless it can be demonstrated that the demand for additional parking can be met or that the proposed combination of uses on site would not require more than the total number of spaces available.
- B. Outdoor use areas: Outdoor areas not used for parking, driveways or pedestrian circulation (approximately 1,218 square feet), may include public seating, tables etc. The outdoor area along Portola Drive at the north end of the building may be used for the exclusive use of the adjacent tenant. Other outdoor use areas shall at all times be kept open for the use of all members or the public using the shopping center.
- C. Occupancy Permits: All tenants within the commercial portion of the project shall obtain an Occupancy Permit issued over-the counter by the Planning Department in accordance with the following requirements and the above mix of uses:
1. All new uses within individual tenant spaces require the issuance of an Initial Occupancy Permit. Subsequent changes in use require the approval of a Change of Occupancy Permit.
 2. For open, market style areas the commercial management for the building shall apply for an Initial Occupancy Permit for the area as a whole, listing the total area of the use and all of the vendors/businesses that will lease space within the larger area. An annual update of this Occupancy shall then be submitted for review to ensure ongoing compliance with the allowed mix of uses on an ongoing basis.
- Note: If it can be shown that the area of the use and mix of vendors remains stable over time, this requirement for an annual accounting may subsequently be waived at the discretion of the Planning Director.
- D. All uses on the site will be required to be properly licensed and inspected as may be required by Federal, State or County standards.
- E. Any business involving the sale of alcoholic beverages, either for on-site or off-site consumption, must meet all requirements of the California Alcoholic Beverage Control (ABC) and also obtain all necessary County Permits

- F. A minimum four foot wide clear width shall be maintained at all times within the sidewalk areas along the site's frontage with 38th Avenue, to allow for pedestrian circulation.
- G. Hours of Operation: The hours of operation for businesses within the front two thirds of the building (tenant spaces 1 through 4 and 11 through 13) shall be between 8:00am and 10:00pm Sunday through Thursday and between 8:00am and 11:00pm on Friday and Saturday. The hours of operation for the rear portion of the building (tenant spaces 5 through 10) shall be restricted to be between 8:00am and 8:00pm daily. (Tenant space numbers referred to above are those shown on the First Floor Plan, sheet A3 of the project plans included as Exhibit D).
- H. Property management and business owners are to take all measures as required to prevent customers from loitering on the sidewalk at 38th Avenue after the close of business and causing disturbance to residential properties. If there are any documented incidents of violence, disturbance of the peace or any other deleterious impacts to the surrounding community or if complaints are submitted to the business owners or their staff, to the County of Santa Cruz Planning Department or to the Sheriff's Department the business owner may be required to hire an independent security officer to patrol the parking area and areas in the vicinity in order to maintain a peaceful and orderly environment and to ensure that such disturbances do not continue. The property management are to accept full responsibility for instigating these measures
- I. Parking: The property management company shall monitor parking on site to ensure that sufficient parking is made available for patrons and employees of the proposed development and for residents of the residential units and their guests as follows:
1. The Covenants Codes and Restrictions (CC&Rs) for the property shall restrict the use of residential garages to ensure that they are maintained in a condition that allows for vehicular parking at all times and that residential storage does not encroach into the parking area. In addition, the CC&Rs shall include a restriction on the number of additional vehicles owned by tenants of condominium units that may be parked on site within the within the unenclosed surface parking area. The maximum number of allowed additional vehicles shall be one per condominium unit.
 - a. Internal visibility between individual garages shall be maintained such that compliance with residential parking requirements may be verified.
 - b. No enlargement of the residential garage or conversion of any part of the structure to any other use will be permitted.
 - c. The property management shall monitor the use of the within the unenclosed surface parking area by residential tenants, and enforce the CC&R requirement that a maximum of only one additional car per condominium unit may be parked on site.

- d. The management company may adopt measures such as paid permits, or other methods as deemed appropriate, to allow for monitoring of residential vehicles associated with the condominiums and to discourage ownership of additional vehicles by condominium tenants.
 2. One year following the completion of construction and/or when stabilized occupancy of "The Lumberyard" has been achieved, the applicant shall submit for review by the Planning Commission, a parking analysis for the project, based upon the actual observed parking demand for the site. The parking analysis shall be prepared by a qualified professional and must include on-site studies of actual parking demand, overflow parking needs (if any) and daily/weekly use patterns for the site. At a minimum the study is required to include, analysis of the use of the site during both mid-week and weekend hours and in particular, must include data collected during the summer months. In addition, if the study identifies that insufficient on-site parking is available for the day-to-day operations of "The Lumberyard", the report shall, include recommendations as to which methods from the approved Transportation and Parking Demand Management Plan would best resolve the conflicts. If problems have been identified, the report must also set up procedures for a future review of parking demand to evaluate whether the management of parking demand has been achieved.
 3. Based upon, review of the parking analysis and a recommendation by the Planning Director, the Planning Commission may require the implementation of additional measures from the approved Transportation and Parking Demand Management Plan to ensure that the parking demands created by the project can be effectively managed. The Planning Commission may also determine whether future ongoing review of the parking demand will be required.
- I. Loading: The property management company shall monitor deliveries to commercial tenants and must ensure that the following conditions are met at all times:
1. One parking space along 38th Avenue shall be maintained as a loading zone between the hours of 7:00am to 1:00pm.
 2. Between the hours of 8:00pm to 8:00am daily, no truck parking or loading shall be permitted on along 38th Avenue, along the southern driveway access from 38th Avenue or at any point lying south of the commercial building. All night and early morning deliveries are required to be made from within the main parking area east of the building.
- J. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.

- VIII. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.
- A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.
 - B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
 - 1. COUNTY bears its own attorney's fees and costs; and
 - 2. COUNTY defends the action in good faith.
 - C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.
 - D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor(s) in interest, transferee(s), and assign(s) of the applicant.
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Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

Please note: This permit expires three years from the effective date listed below unless a building permit (or permits) is obtained for the primary structure described in the development permit (does not include demolition, temporary power pole or other site preparation permits, or accessory structures unless these are the primary subject of the development permit). Failure to exercise the building permit and to complete all of the construction under the building permit, resulting in the expiration of the building permit, will void the development permit, unless there are special circumstances as determined by the Planning Director.

CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF EXEMPTION

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: 171363

Assessor Parcel Numbers: 032-092-01 and 05

Project Location: 3800 Portola Drive, Santa Cruz

Project Description: Extend approved tentative map for Subdivision 141157

Person or Agency Proposing Project: John Swift for Northpoint Investments Fund, LLP

Contact Phone Number: (831) 459 9992

- A. X The proposed activity is not a project under CEQA Guidelines Section 15378.
B. The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
C. **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.
D. **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

Specify type:

- E. **Categorical Exemption**

Specify type:

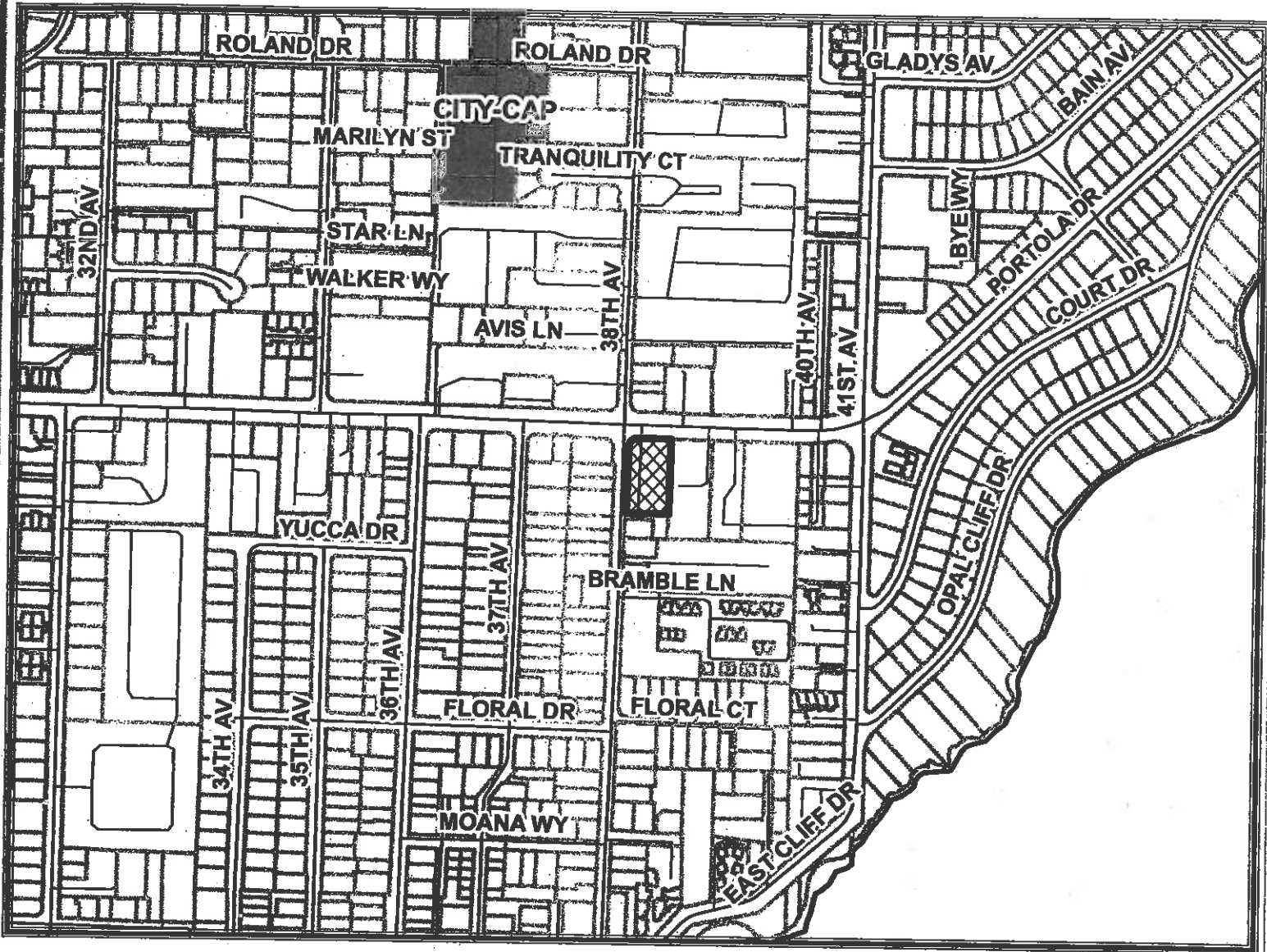
- F. **Reasons why the project is exempt:**

Lezanne Jeffs, Project Planner






Date: _____



Location Map



LEGEND

-  APN: 032-092-01
-  Assessors Parcels
-  Street
-  CITY OF CAPITOLA
-  County Boundary



Map Created by
County of Santa Cruz
Planning Department
June 2014

EXHIBIT E