

Donovan Arteaga

From: Mike Reis <reismj88@gmail.com>
Sent: Tuesday, October 21, 2025 6:32 PM
To: Donovan Arteaga
Subject: Re: 10/22 Planning Commission hearing for 241371 / 841 Capitola - Resident providing comment
Attachments: 841 Capitola - Reis submission, final comments, timelines .pdf; 841 Capitola - Reis submission, final comments, timelines (reference).pdf

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Hi Donovan,

I've attached one final set of comments / supporting documentation. Thanks for helping with this - we didn't get access to the Staff Report until Thursday afternoon and I've spent the last few days pulling together documentation in support of our position.

Thanks

On Tue, Oct 21, 2025 at 10:50 AM Donovan Arteaga <Donovan.Arteaga@santacruzcountyca.gov> wrote:

Thanks, Mike. This will be shared with the Commission.

Best,



Donovan Arteaga

Planning Technician

Community Development & Infrastructure

Phone: 831-454-2801

701 Ocean Street, Room 400

From: Mike Reis <reismj88@gmail.com>
Sent: Tuesday, October 21, 2025 10:13 AM
To: Donovan Arteaga <Donovan.Arteaga@santacruzcountyca.gov>
Subject: Fwd: 10/22 Planning Commission hearing for 241371 / 841 Capitola - Resident providing comment

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Hi Donovan,

The message below was sent to all members of the Planning Commission, our 1st District Supervisor, and County Planning Staff. I wasn't sure who else I had to add, but I saw your email on an article this morning so I figured I could send it to you as well:

Hello members of the Planning Commission and Planning Department,

My name is Mike Reis, I live on Grey Seal Road, and I am one of several residents surrounding 841 Capitola road that are concerned with Workbench's 5-story, 57 unit apartment building; this application will be heard on Wednesday 10/22.

The following concerns and talking points will be reiterated during the hearing, but I wanted to provide them ahead of time to be put on the record for reference. I've added everyone that I believe I needed to in order to provide my official comments on the record, but I apologize if anyone is on here by mistake. I've also attached two PDFs - one with the text below, and one with references (images, law citations, measurements) to support.

In short, our concerns can be summarized as follows:

- Traffic, specifically on Grey Seal road - Workbench's proposal uses our safe, kid-friendly, cul de sac (Grey Seal Road) as the main driveway for all 57 unit's worth of traffic (residents, deliveries, guests, etc.). To their credit, Workbench signaled support for our request to move the planned

emergency vehicle bollards from their existing location on Capitola Road to our shared property border (at the end of our cul de sac); this is indicated in the minutes from our April community meeting. Workbench (and a representative from Supervisor Koenig's office) informed us that an existing County General Plan policy *discourages* (but not prohibits?) adding more entrances onto main / arterial roads

- From a traffic perspective, making a left turn onto Grey Seal Road can be challenging given the conditions just after the traffic light (2-1 lane merge, allowable turn lane space, oncoming traffic) - requiring an additional 57 unit's worth of traffic to queue up for that turn will exacerbate the situation. The distance between Grey Seal Road and the entrance for 841 Capitola Road will be more than 100 feet apart (> 1730 Grey Seal lot size), which will allow for their residents to queue outside of the flow of traffic
 - Especially without permit parking, and given the number of provided spaces, there will likely be an additional (significant) amount of unnecessary traffic on Grey Seal as the development's residents enter (and then turn around and leave) as they look for parking
- The Capitola road entrance should be the main entrance given the property's address (841 **Capitola Road**)
- Grey Seal Road is currently a dead-end (no through traffic), which is very different from other "side streets" that have through traffic and more street connections (such as Thurber lane, re: the Anton Solana development)
 - For developments with access to these more relevant "side streets", moving the main entrance to those side street has a significantly different impact on the neighborhood at large as compared to this development
- Parking (or lack thereof) - Workbench is only providing 31 spaces for their 57 units. There is nowhere near enough street parking to support the demand that their development will create. Existing (and planned) transit options are insufficient to justify any assumptions related to their resident's lack of vehicle ownership
 - State Density Bonus Law caps the maximum number of spaces at 65 - the property is not eligible for the reduced maximums set in 65915p2 as there are no major transit stops within one-half mile
 - Street parking is extremely limited already on Capitola and 7th, as that real estate is taken up by bike lanes
- Privacy - Workbench's 5-story building will have balconies on every floor from the second up with no meaningful obstructions in the way.
 - The trees they're planning to put in between their 60 foot building and its perimeter fence, when mature, will be at best 30 feet tall. For us, and our neighbors, that means that we will have virtually zero privacy both inside and outside our homes
 - Given the size of their proposed building compared to the surrounding neighborhood, this concern cuts both ways - their apartments will be plainly visible to every surrounding property in the area

- At 5-stories tall, it will likely be the tallest *structure* in Live Oak, let alone the mostly-residential area that it's being placed in
- Given the net negative impact on the quality of life for the residents of Grey Seal Road (construction, privacy, parking, traffic, kid's safety), we are requesting that the Planning Commission condition approval of the development with a revision to the location of the bollards in order to preserve Grey Seal Road's status as a vehicle dead end; this would go a **long** way in meaningfully helping the residents on Grey Seal Road. We believe that this request is reasonable and would expect Workbench to agree

Thank you for your time - I look forward to discussing this on Wednesday.

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Timeline of events relevant to 841 Capitola

1. **January 2021** - Tim Gordin (Workbench CEO) is appointed to the 5-member County Planning Commission, serving a 4 year term
2. **January, 2022** - Tim Gordin becomes Planning Commissioner
3. **January 7, 2022** - Tim Gordin creates 841 LLC
4. **January 26, 2022** - 841 LLC purchases 841 Capitola Road
5. **October, 2022** - Santa Cruz County begins 6th cycle HE process
6. **April 21, 2023** - Workbench files application # 231160 to subdivide 841 Capitola road into 15 SF parcels
 - a. Found on the permit history for the parcel
7. **Jun 14, 2023** - County Planning Commission study session on 2023 Housing Element updates
 - a. [Community Development and Infrastructure Agenda](#)
8. **July 24, 2023** - SC CDI submits HE draft to HCD for review
9. **September 27, 2023** - County Planning Commission study session on 2023 Housing Element updates
 - a. [Community Development and Infrastructure Agenda](#)
10. **October 9, 2023** - SC CDI submits HE Draft revisions to HCD
11. **October 23, 2023** - HCD response to SC CDI (Stephanie Hansen) highlighting deficiencies in the **July 24** submission with **October 9** revisions
 - a. [County of Santa Cruz's 6th Cycle \(2023-2031\) Draft Housing Element](#)
12. **October 25, 2023** - County Planning Commission meeting to discuss resolution recommending adoption of 2023 Housing Element
 - a. [Community Development and Infrastructure Agenda](#)
 - b. [Community Development and Infrastructure Minutes](#)
 - c. Staff report:
www2.santacruzcountyca.gov/planning/plnmeetings/PLNSupMaterial/PC/agendas/2023/20231025/008.pdf
 - d. Commission (with Gordin motioning) recommends HE to Board of Supervisors, following Staff guidance (and acknowledging that changes are needed to address 25Oct HCD feedback)
13. **November 14th 2023** - Santa Cruz (SC) adopts their 2023 Housing Element (HE) and sends it to the State to be certified
 - a. [Board of Supervisors - Regular Meeting - Nov 14, 2023 9:00 AM](#)
14. **January 16, 2024** - CA HCD notifies SC County that the November 14th HE is still deficient, highlighting unaddressed feedback from HCD's letter in October
 - a. [County of Santa Cruz's 6th Cycle \(2023-2031\) Adopted Housing Element](#)
 - b. County is now non-compliant enabling SB330 applications
15. **February 23, 2024** - SC CDI submits revisions to the November HE for HCD review
16. **March 20, 2024** - Email between HCD and CDI confirming County's position was that changes to address 01/16 HCD letter are non-substantive - **no re-adoption will be required**
 - a. "[CDI] received concurrence that the responses to the comments from the 1/16/2024 letter were non-substantive changes and re-adoption is not necessary"
17. **County's position is therefore that the adopted 2023 HE is effectively in substantial compliance (no re-adoption is necessary)**
 - a. At worst, the changes made to the HE in the 02/23 submission are what could be considered in substantial compliance

18. **April 09, 2024, 10:18am** - Email between HCD and CDI confirming that County BoS accepted the responses to HCD's letter as "non-substantive"
 - a. "[The Board accepted Staff's responses to HCD comments as non-substantive, on consent, with no further action. So no re-adoption, or consideration of our Housing Element will occur]"
19. **April 09, 2024** - Workbench files application **#PA241013**, which is a 28 unit development, split into two buildings
 - a. This application uses SB330
 - b. This counts as a preliminary application, and vests the project in the Builder's Remedy legislative mechanism
 - c. Planning page link: [Planning Status](#)
 - d. Starts the **180d** clock to submit a final / formal application to remain vested
20. **April 9, 2024** - Save Pleasure Point group wrote open letter to Supervisor Koenig about the appearance of a conflict of interest between Tim Gordin, in his role as Commissioner, and upcoming votes on projects his company submitted
21. **April 12, 2024** - California HCD certifies the SC HE, ending the non-compliance window
 - a. [County of Santa Cruz 6th Cycle \(2023-2031\) Adopted Housing Element](#)
22. **May 20, 2024** - Workbench files application **#PA241027**, which is a 32 unit development, split into two buildings
 - a. This application uses SB35 and removes SB330 language
 - b. Can be considered a revision to the 09April application
 - c. Planning page link: [Planning Status](#)
23. **October 3, 2024** - Workbench formally files application **#241371**, which is a 32 unit development, split into two buildings
 - a. The original details of this application can be found here: [Builder's Remedy](#)
 - b. **This formal application meets the 180d deadline set by their April 09 preliminary submission and does not change the scope or size by 20%**
24. **November 1, 2024** - Application **#241371** is deemed incomplete by SC County (as per Jonathan DiSalvo [JD] on 2/13/2025)
 - a. Workbench is granted a 90d resubmission deadline
25. **November 16, 2024** - Tim Gordin resigns as Commissioner
26. **January 1, 2025** - SB330 is amended by AB1893 and builders are offered a chance to convert previously completed applications over to the new law if they meet certain requirements
 - a. AB1893 revises 65589.5, but does not remove 65941.1 (d) (the 20% revision requirement)
27. **January 17, 2025** - Clay Toombs emails Jonathan asking to open the ePlan portal for resubmission on 1/30
 - a. Jonathan responds and instructs Clay to follow the step-by-step instructions on page 2 of the ePlan instruction PDF
 - b. ePlan instructions say that the intake appointment would be scheduled **one week after the request is received**
 - c. **ePlan instructions require that the PLG-130 have an itemized response to the incomplete letter**
28. **January 30, 2025** - Workbench formally resubmits application **#241371**, which is now a 63 unit development, 5 story building
 - a. **Did not address November 1st deficiencies**
 - i. **County and Applicant "mutually agreed" to extend deadline to March 17th**
 - b. Submitted updated PLN along with PLG-130 TTL forms on January 30th
29. **March 17, 2025** - Workbench submits revision to **#241371**

- a. Development is now a 5-story 63 unit building with 33 parking spaces
 - b. Adds supporting documents along with PLG-130 forms
 - c. Applicant cites AB1893 in their PLG-130 LTR submission
 - d. Applicant cites 65915(p) for parking concessions and baseline
30. **April 16, 2025** - County provides letter of incompleteness in response to application
- a. Several technical updates needed (traffic study, biotic report, CEQA compliance review)
31. **May 23, 2025** - Workbench submits revision to #241371
- a. Reduces total units from 63 to 57 units (addressing the CTCAC resource change from High to Medium)
 - b. Parking reduced from 30 + 3 to 28 + 3
32. **June 20, 2025** - CDI Staff provide letter indicated #241371 is now deemed complete
- a. Compliance issues still outstanding (as indicated in the letter)
33. **October 15, 2025** - CDI Staff provides Staff Report to support Planning Commission agenda scheduled for 10/22 to review application
- a. Staff Report recommends approval, mostly as-is
34. **Remaining open, and unaddressed concerns include:**
- a. **PLG-130 submission discrepancies**
 - i. County's decision to ignore consequences set in November incompleteness letter in response to a late (and woefully inadequate) re-submission
 - b. **Lack of a formal County response to the provided traffic report for public review**
 - c. **Lack of a response from the FPPC regarding Tim Gordin's potentially unethical behavior as Planning Commissioner and CEO of Workbench**
 - i. Complaint was officially submitted on July 2nd, 2025 (COM-07102025-02095)

Investigation into potential conflicts of interest

Form 700 filings

What is FPPC Form 700?

FPPC (CA Fair Political Practices Commission) requires applicable elected and public officials to file Statements of Economic Interest to ensure accountability and provide transparency

Was Tim Gordin, as a member of the Planning Commission, required to file FPPC (Fair Political Practice California) form 700?

Yes

1. FPPC Form 700 (2023/2024), on page 3, says “elected **and appointed** officials and candidates listed in Government Code Section 87200” [21]
2. Planning Commission members (and therefore also Commissioners) are specifically mentioned in Gov. Code 87200 [22]
3. FPPC Form 700 (2023/2024), on page 12, specifically uses a City Planning Commissioner in an example for how to disclosure financial income

Government Code Section 87200 says

87200 - This article is applicable to elected state officers, judges and commissioners of courts of the judicial branch of government, members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members of the High-Speed Rail Authority, members of planning commissions, members of the board of supervisors, district attorneys, county counsels, county treasurers, and chief administrative officers of counties, mayors, city managers, city attorneys, city treasurers, chief administrative officers and members of city councils of cities, and other public officials who manage public investments, and to candidates for any of these offices at any election.

When was Tim Gordin required to file FPPC form 700?

30 days after assuming office

April 1st of each year

[23]

Given his effective start date in 2021, his first filing should have been within 30d of taking office, and possibly again in April of 2021 (depending on the 30d window and his effective date)

When did Tim Gordin file his first FPPC Form 700?

According to the public portal for Form 700 statements [23], the first available filing is from **3/16/2023**

This filing covered the purchase period for both 841 Capitola Road (01/07/2022, 841 LLC) and 3500 Paul Sweet Road (12/07/2022, Sweet Developments LLC). It also shows other properties he owned at the time, as well as his position at Workbench

How does FPPC define a conflict of interest

According to FPPC's website on conflicts of interest [24], there are five (5) types of interests that may result in disqualification (voting):

- **Business Entity.** A business entity in which the official has an investment of \$2,000 or more; or in which the official is a director, officer, partner, trustee, employee, or manager
- **Real Property.** Real property in which the official has an interest of \$2,000 or more including leaseholds. (However, month-to-month leases are not considered real property interests.)
- **Income.** An individual or an entity from whom the official has received income or promised income aggregating to \$500 or more in the previous 12 months, including the official's community property interest in the income of his or her spouse or registered domestic partner.
- **Gifts.** An individual or an entity from whom the official has received gifts aggregating to \$630 or more in the previous 12 months.
- **Personal Finances.** The official's personal finances including his or her expenses, income, assets, or liabilities, as well as those of his or her immediate family.

FPPC goes on to say

If a decision may have a financial impact or effect on any of the foregoing interests, an official is disqualified from governmental decision if the following two conditions are met:

- The financial impact or effect is foreseeable, and
- The financial impact or effect is significant enough to be considered material

Generally, a financial impact or effect is presumed to be both foreseeable and material if the financial interest is "explicitly" or directly involved in the decision. A financial interest is explicitly involved in the decision whenever the interest is a named party in, or the subject of, a governmental decision before the official or the official's agency.

If the interest is "not explicitly involved" in the decision, a financial impact or effect is reasonably foreseeable if the effect can be recognized as a realistic possibility and more than hypothetical or theoretical. A financial effect need not be likely to occur to be considered reasonably foreseeable.

However, for interests "not explicitly involved" in the decision, different standards apply to determine whether a foreseeable effect on an interest will be material depending on the nature of the interest. The FPPC has adopted rules for deciding what kinds of financial effects are important enough to trigger a conflict of interest. These rules are called "materiality standards," that is, they are the standards that should be used for judging what kind of financial impacts resulting from governmental decisions are considered material or important.

Regarding recusal

An official with a disqualifying conflict of interest may not make, participate in making, or use his or her position to influence a governmental decision.

Certain officials (including city council members, planning commissioners, and members of the boards of supervisors) have a mandated manner in which they must disqualify from decisions made at a public meeting (including closed session decisions) and must publicly identify a conflict of interest and leave the room before the item is discussed.

How does the FPPC define “reasonably foreseeable”

The FPPC separates this definition based on whether the financial impact or effect is explicitly or not explicitly involved.

The language and criteria for interests “not explicitly involved” seem most applicable to the scenario being discussed. To that end, here’s the relevant text from Gov. Code 18701

18701. Determining Whether a Financial Effect Is Reasonably Foreseeable.

(a) ...

(b) **Financial Interest Not Explicitly Involved in Decision:** A financial effect need not be likely to be considered reasonably foreseeable. In general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official's control, it is not reasonably foreseeable. **In determining whether a governmental decision will have a reasonably foreseeable financial effect on a financial interest** other than an interest described in subdivision (a), **the following factors should be considered.** These factors are not intended to be an exclusive list of all the relevant facts that may be considered in determining whether a financial effect is reasonably foreseeable, but are included as general guidelines.

(1) The extent to which the occurrence of the financial effect is contingent upon intervening events, not including future governmental decisions by the official's agency, or any other agency appointed by or subject to the budgetary control of the official's agency.

(2) Whether the public official should anticipate a financial effect on the official's financial interest as a potential outcome under normal circumstances when using appropriate due diligence and care

(3) Whether the public official has a financial interest that is of the type that would typically be affected by the terms of the governmental decision or whether the governmental decision is of the type that would be expected to have a financial effect on businesses and individuals similarly situated to those businesses and individuals in which the public official has a financial interest

(4) Whether a reasonable inference can be made that the financial effects of the governmental decision on the public official's financial interest might compromise a public official's ability to act in a manner consistent with the official's duty to act in the best interests of the public

(5) Whether the governmental decision will provide or deny an opportunity, or create an advantage or disadvantage for one of the official's financial interests, including whether the financial interest may be entitled to compete or be eligible for a benefit resulting from the decision

(6) Whether the public official has the type of financial interest that would cause a similarly situated person to weigh the advantages and disadvantages of the governmental decision on the official's financial interest in formulating a position.

How does the FPPC define a materially significant effect

Under the FPPC's materiality standards, these are the two relevant sections (business entity and real property), found in Gov. Code 18702.1 and 2

18702.1. Materiality Standard: Financial Interest in a Business Entity

(a) **The reasonably foreseeable financial effect of a governmental decision on an official's financial interest in a business entity is material if any of the following criteria are met:**

(1) Explicitly Involved. The entity is a named party in, or the subject of, the decision, including any decision in which the entity:

(A) Initiates the proceeding by filing an application, claim, appeal, or other request for action concerning the entity with the official's agency;

(B) Offers to sell a product or service to the agency;

(C) Bids on, or enters into, a contract with the agency, or is identified as a subcontractor on a bid or contract with the agency;

(D) Is the named or intended manufacturer or vendor of any products to be purchased by the agency with an aggregate cost of \$1,000 or more in any 12-month period;

(E) Applies for a permit, license, grant, tax credit, exception, variance, or other entitlement from the agency;

(F) Is the subject of any inspection, action, or proceeding under the regulatory authority of the agency; or

(G) Is subject to an action taken by the agency that is directed at the entity.

(2) **Gross Revenues and Assets or Liabilities.** The decision may result in an increase or decrease of the entity's annual gross revenues, or the value of the entity's assets or liabilities, in an amount equal to or more than:

(A) \$1,000,000; or

(B) Five percent of the entity's annual gross revenues and the increase or decrease is at least \$10,000.

(3) Expenses. The decision may cause the entity to incur or avoid additional expenses or to reduce or eliminate expenses in an amount equal to or more than:

(A) \$250,000; or \

(B) One percent of the entity's annual gross revenues and the change in expenses is at least \$2,500.

(4) Real Property. The official knows or has reason to know that the entity has an interest in real property and:

(A) The property is a named party in, or the subject of, the decision under Regulations 18701(a) and 18702.2(a)(1) through (6); or

(B) There is clear and convincing evidence the decision would have a substantial effect on the property.

18702.2. Materiality Standard: Financial Interest in Real Property

(a) **The reasonably foreseeable financial effect of a governmental decision on a parcel of real property in which an official has a financial interest, other than a leasehold interest, is material whenever the governmental decision:**

(1) Involves the adoption of or amendment to a development plan or criteria applying to the parcel;

(2) Determines the parcel's zoning or rezoning, other than a zoning decision applicable to all properties designated in that category; annexation or de-annexation; inclusion in or exclusion from any city, county, district, or local government subdivision or other boundaries, other than elective district boundaries;

- (3) Would impose, repeal, or modify any taxes, fees, or assessments that apply to the parcel;
- (4) Authorizes the sale, purchase, or lease of the parcel;
- (5) Involves the issuance, denial or revocation of a license, permit or other land use entitlement authorizing a specific use of or improvement to the parcel or any variance that changes the permitted use of, or restrictions placed on, the property;

(6) - (7) not relevant

(b) - (c) not relevant

(d) Exceptions. The financial effect of a governmental decision on a parcel of real property in which an official has a financial interest is not material if:

(1) The decision solely concerns repairs, replacement or maintenance of existing streets, water, sewer, storm drainage or similar facilities.

(2) The decision solely concerns the adoption or amendment of a general plan and all of the following apply:

(A) The decision only identifies planning objectives or is otherwise exclusively one of policy. A decision will not qualify under this subdivision if the decision is initiated by the public official, by a person that is a financial interest to the public official, or by a person representing either the public official or a financial interest to the public official.

(B) The decision requires a further decision or decisions by the public official's agency before implementing the planning or policy objectives, such as permitting, licensing, rezoning, or the approval of or change to a zoning variance, land use ordinance, or specific plan or its equivalent.

(C) The decision does not concern an identifiable parcel or parcels or development project. A decision does not "concern an identifiable parcel or parcels" solely because, in the proceeding before the agency in which the decision is made, the parcel or parcels are merely included in an area depicted on a map or diagram offered in connection with the decision, provided that the map or diagram depicts all parcels located within the agency's jurisdiction and economic interests of the official are not singled out.

(D) The decision does not concern the agency's prior, concurrent, or subsequent approval of, or change to, a permit, license, zoning designation, zoning variance, land use ordinance, or specific plan or its equivalent.

(e) Definitions. The definitions below apply to this regulation:

(1) A decision "solely concerns the adoption or amendment of a general plan" when the decision, in the manner described in Sections 65301 and 65301.5, grants approval of, substitutes for, or modifies any component of, a general plan, including elements, a statement of development policies, maps, diagrams, and texts, or any other component setting forth objectives, principles, standards, and plan proposals, as described in Sections 65302 and 65303.

(2) "General plan" means "general plan" as used in Sections 65300, et seq.

(3) "Specific plan" or its equivalent means a plan adopted by the jurisdiction to meet the purposes described in Sections 65450, et seq. (4) Real property in which an official has a financial interest does not include any common area as part of the official's ownership interest in a common interest development as defined in the Davis-Stirling Common Interest Development Act (Civil Code Sections 4000 et seq.)

Investigating Tim's role and voting record on the Planning Commission regarding the 2023 Housing Element

Reviewing publicly available agendas, meeting minutes, staff reports, and audio recordings, the following details are important

1. From the October 25th Planning Commission Staff Report:
 - a. CDI Staff's anticipated schedule, following a submission to HCD on November 15th, [expected certification on January 15th, 2024](#)
2. From the audio of the October 25th Planning Commission:
 - a. Tim Gordin acknowledged the HCD letter received on October 23rd and its content
 - i. HCD had determined that the draft submitted in July / October was not compliant
 - b. CDI recommended including amendments to the Housing Element (per the guidance from HCD's letter) [in parallel](#) to moving it to the Board of Supervisors for approval
 - c. Tim motioned to send the Housing Element to the Board of Supervisors for adoption, following Staff's recommendation
3. No further reviews were requested. No concern was given to the (realistic) potential scenario in which the draft HE would be found deficient again; this concern should have been obvious given the timing of the HCD feedback and proposed adoption dates

Putting it all together

Based on the evidence presented, how was Tim Gordin *not* in violation of the conflict of interest rules set by the FPPC? While seated on the Planning Commission, Mr. Gordin participated in, voted on, and guided the County's 2023 Housing Element, all while he (and his company) owned at least two properties contained within the Element's underutilized / vacant inventory list.

Given the short timeframe between HCD's October 23rd notice to the County, and the submission deadline of November 15th, would it not have been prudent to schedule or request an intermediate review prior to the Board of Supervisors meeting on November 14th?

How does Tim's decision to motion, and vote for, moving the draft forward to the Board of Supervisors, while knowing that it was deficient, *not* meet the bar set in 18701(b)(5)? Although CDI staff made the recommendation for the draft to be further amended prior to the Board of Supervisors meeting, the decision to move it forward ultimately came from the Commission. In the realistic scenario in which HCD found the submitted Housing Element deficient, Tim's company *would be given the opportunity to take advantage* of the State's Builder's Remedy protections for developments on his properties, which were included in the Housing Element.

In the realistic scenario in which the County became non-compliant after HCD deemed its Housing Element deficient, how would the advantages afforded to Tim and Workbench under Builder's Remedy *not* meet the bar set in 18702.1(a)(2), 18702.2(a)(1), and 18702.2(a)(2)? With protections from Builder's Remedy, Tim and Workbench would be able to propose high density developments *that would otherwise not be possible under local zoning laws*, while preventing the County from interfering.

Tim's properties (841 Capitola and 3500 Paul Sweet) were *specifically identified* and included in the Housing Element's inventory of underutilized lots, *and were not* "merely included in an area depicted on a map" (18702.2(d)(2)(C)).

Ultimately, HCD sent a letter to CDI on January 16th in which they identified feedback that was unaddressed from HCD's October 23rd notice. In at least one instance, HCD re-stated feedback from their prior notice verbatim.

Within the County's non-compliant window, Tim's company submitted two Builder's Remedy applications for his properties which were included in the Housing Element's inventory

CDI submitted a new draft on February 23rd, which was certified by HCD on April 12th, 2024

241371, 05/23 Submission Document review

Are they calculating their base density correctly?

The applicant is calculating their base density pursuant to 65589.5(h)(11), which defines a “Builder’s Remedy Project” as meeting all of the density criteria laid forth in (C). Specifically, the applicant is citing the following criteria;

65589.5(h)(11)(C)(i)(II) - Three times the density allowed by the general plan, zoning ordinance, or state law, whichever is greater

65589.5(h)(11)(C)(ii)(III) - If a property is in a high or higher resource area (according to tax credit allocation, CTCAC 2025), they can add 35 units/acre to the value from (C)(i)

The result of **65589.5(h)(11)(C)(i)(II)** is 45 units / acre, based on general plan zoning (r-um, 15 units / acre)

~~While the applicant is also attempting to use **65589.5(h)(11)(C)(ii)(III)**, none of the (C)(ii) criteria are met (not in a CTCAC high resource region, not within one-half mile of a “major transit stop”, and not in a very low vehicle traffic area) [17]~~

~~CTCAC currently defines our *neighborhood* as high resource, **but the property address is located in a moderate zone (Census Tract 06087121401) [17]**~~

Major transit proximity is answered below

Therefore, the total density is 45 units / acre, and with a parcel size of 0.877 acres, the total allowable base density should be 40 units

The applicant is claiming a base density of 40 units

Santa Cruz County has a zoning designation, R-UHF, which would allow a base density of 45 units (though this property remains R-UM, which is 15/acre)

Do they have enough parking?

The applicant cites SDBL, 65915(p), as their sole source for concession requests.

SCC 13.16.050 defines the normally-required amount, per general code, as 8x spaces

They acknowledge that 65915(p)(1) would require a baseline of 65 parking spaces on sheet GP02. They are requesting a parking **concession** to reduce the ratio, pursuant to 659185(p)(2).

65915(p)(2) can only be granted if one of two conditions are met:

- 20% Low-income or 11% Very-low income **and** within one-half mile of a “major transit stop”
- 40% Moderate-income **and** within one-half mile of a “major transit stop”

The applicant chose 65915(b)(1)(B) as their incentives claim (> 5% VLI)

The applicant is providing 4 total VLI units (1 VLI + 3 ELI), and a base density of 40 units.

If:

- $4 / 40 = 10\%$ VLI, then **both** portions of 65915(p)(2) are unmet
- $4 / 40 = 10\% + 3\%$ bonus from ELI (pursuant to 65589.5(f)(6)(C)(iv)), then **only the major transit stop** requirement is unmet

65589.5(f)(6)(C)(iv) states [10]

(iv) A project that dedicates units to extremely low-income households pursuant to subclause (i) of clause (i) of subparagraph (C) of paragraph (3) of subdivision (h) [requirement > 7% of base] shall be eligible for the same density bonus, incentives or concessions, and waivers or reductions of development standards as provided to a housing development project that dedicates three percentage points more units to very low income households pursuant to paragraph (2) of subdivision (f) of Section 65915.

65589.5(f)(6)(C)(iv) only provides the 3% bonus with respect to 65915(f)(2). **This bonus does not apply to calculating total VLI for any other section of 65915**

As for the “major transit stop” requirement, see below

65915(p)(7) Enables the City or County to “impose a higher vehicular parking ratio” (though not exceeding 65915(p)(1)) if a parking study has been performed in the last seven years. The wording of (7) overrules the ratios set in (2) and (3), but does not contest the applicant’s eligibility.

65915(p) (1) Except as provided in paragraphs (2), (3), and (4), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: one and one-half onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(D) One bedspace in a student housing development: zero parking spaces.

(2) (A) Notwithstanding paragraph (1), *if a development includes at least 20 percent low-income units for housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b) or at least 11 percent very low income units for housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), is located within one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development*, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, *that exceeds 0.5 spaces per unit*. Notwithstanding paragraph (1), if a development includes at least 40 percent moderate-income units for housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and the residents of the development have unobstructed access to the major transit stop from the development then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per bedroom.

(3) Notwithstanding paragraph (1), *if a development meets the criteria of subparagraph (G) of paragraph (1) of subdivision (b)*, then, upon the request of the developer, a city, county, or city and county shall not impose vehicular parking standards if the development meets any of the following criteria:

(A) The development is located *within one-half mile of a major transit stop* and there is unobstructed access to the major transit stop from the development.

(B) The development is a for-rent housing development for individuals who are 55 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(C) The development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(7) Notwithstanding paragraphs (2) and (3), *if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.*

Applicant referenced AB2097 (65863.2) in an attempt to resist parking requirements, however:

- 65863.2 only limits the County from imposing a parking requirement on projects that are within one-half mile of public transit - this limitation does not apply to 841 Capitola road
- “Public transit” is later defined as having the same definition as “major transit stop”, as defined in 21155 (see below)

65863.2. (a) *A public agency shall not impose or enforce any minimum automobile parking requirement on a residential, commercial, or other development project if the project is located within one-half mile of public transit.*

(e) For purposes of this section:

(1) “Housing development project” means a housing development project as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(2) “Low- and very low income households” means the same as “lower income households” as defined in Section 50079.5 of the Health and Safety Code.

(3) “Moderate-income households” means the same as “persons and families of moderate income,” as defined in Section 50093 of the Health and Safety Code.

(4) "Public agency" means the state or any state agency, board, or commission, any city, county, city and county, including charter cities, or special district, or any agency, board, or commission of the city, county, city and county, special district, joint powers authority, or other political subdivision.

(5) "Public transit" means a major transit stop as defined in Section 21155 of the Public Resources Code.

Is 841 Capitola road within 1/2 mi of a “major transit stop”

There are three main CA State references to “major transit stop”:

- 21064.3 (major transit stop)
- 21060.2 (bus rapid transit)
- 21155 (major transit stop, but also included in the applicable regional transportation plan)

A “major transit stop” can either be a “bus rapid transit station” (21064.3(a)) or an intersection of two major bus routes with a frequency of 20 min or less (21064.3(c)). A “bus rapid transit station” is defined in 21060.2(a).

Bus route 3A and 3B have a frequency of > 20min [19].

- 3A / 3B, Mon - Fri inbound / outbound: 60min
- 3A / 3B, Saturday - Sunday inbound / outbound: 60min

Bus route 2 has a frequency of 20min

Bus route 1 has a frequency of 20min

“Bus rapid transit station” means a clearly defined bus station served by a bus rapid transit. 21060.2(a) requires all of its criteria be met to count as a “bus rapid transit station”:

- 21060.2(a)(1) requires a frequency of less than 15 min *and* a dedicated transit lane
 - Technical guidance for AB2097 suggests that this requirement needs to be met **at** the qualifying BRT stop (having sections of a route that meet this does not count)
- 21060.2(a)(2) is signal priority for intersections
- 21060.2(a)(3) through (5) are met by bus stops along route 1 and 2

“Public transit” (from 65863.2) “means a *major transit stop* as defined in Section 21155”. Given it’s specifically referencing how a “*major transit stop*” is defined in 21155 (and not “high-quality transit corridor”), this then directs to 21064.3 but also any qualifying stops included in the regional transportation plan (future major transit stops)

No individual bus route meets the requirements from 21064.3a or 21060.2.

The nearest intersection of bus routes 1 and 2 (Soquel and Park Way) is >0.5mi (through the air) and >0.6mi (walking)

On page 50 of Workbench's 0523 LTR submission, as part of the CEQA streamlining checklist, they acknowledge that there are no "major transit stops" within one-half mile (indicated with a red "X"). They put a "?" next to "future major transit stops", although Pete Rasmussen has confirmed that this is not planned

Per the definition of 65915(o)(3), 841 capitola is **0.38mi** (2,050ft) away from the route 1 bus stop on Soquel and 7th, through the air, or **0.6mi** by walking

21064.3 states [3]

21064.3.

"Major transit stop" means a site containing any of the following:

- (a) An existing rail or **bus rapid transit station**.
- (b) A ferry terminal served by either a bus or rail transit service.
- (c) **The intersection of two** or more major bus routes with a **frequency of service interval of 20 minutes or less** during the morning and afternoon peak commute periods.

"Bus rapid transit station" is defined in 21060.2 [4]

21060.2.

(a) "**Bus rapid transit**" means a public mass transit service provided by a public agency or by a public-private partnership **that includes all of the following features:**

- (1) Full-time dedicated bus lanes or operation in a separate right-of-way dedicated for public transportation with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
- (2) Transit signal priority.
- (3) All-door boarding.
- (4) Fare collection system that promotes efficiency.
- (5) Defined stations.

21155 states:

21155

(b) For purposes of this chapter, a transit priority project shall (1) contain at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75; (2) provide a minimum net density of at least 20 dwelling units per acre; and (3) **be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. A major transit stop is as defined in Section 21064.3, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan.** For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. A project shall be considered to be within one-half mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.

65915(o)(5)

65915(o)(3) "**Located within one-half mile of a major transit stop**" means that any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, **is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop**

65915(o)(5) states that the definition of "major transit stop" can be found at 21155(b)

65915(o)(5) "**Major transit stop**" has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.

AB1893 reference to "major transit stop" can be found in state code [2]

(III) "**Major transit stop**" has the same meaning as defined in **Section 21064.3** of the Public Resources Code.

Technical advisory for AB2097 [18]

HCD recommends that a **BRT (bus rapid transit) station may qualify as a major transit stop if the station itself is adjacent to a full-time dedicated transit lane**, since AB 2097 is based on distance from a major transit stop as opposed to a corridor. Public Resources Code section 21064.2, subdivision (a) defines “major transit stop” to include a site that contains an existing BRT station, which in turn is defined as a bus station served by BRT. In addition to frequent peak service intervals, transit signal priority, and other boarding features, **BRT is considered a faster bus-based system because the service includes operation in a full-time dedicated bus lane or separate right-of-way dedicated for public transportation**. However, the statute does not indicate whether the entirety of the BRT route, a majority portion of the BRT route, or just the station itself must be within or adjacent to a separate lane from other vehicular traffic.

Are they calculating their bonus density correctly?

Assuming a base density of **40**, and an allotment of **1** VLI and **3** ELI, the total bonus density % they are claiming is **42.5%**

- ~~1 VLI / 40 = 2.5% + 3% from providing 3 ELI units per 65589.5(f)(6)(C)(iv) (3 / 40 > 7%)~~
- ~~5.5% corresponds to a 20% bonus in 65915(f)(2)~~
- ~~40 * 1.20 = 48 units~~
- ~~40 * 1.225 = 49 units~~

IF VLI includes ELI units for the purpose of calculating % in 65915(f)(2), then:

- 4 VLI / 40 = 10% + 3% from providing 3 ELI units per 65589.5(f)(6)(C)(iv) (3 / 40 > 7%)
- **13%** corresponds to a **42.5%** bonus in 65915(f)(2)
- **40 * 1.425 = 57 units**

Is the application complete?

“The Application (No. 241371) was deemed incomplete on November 1st, 2024” - Jonathan DiSalvo, February 13th, 2025

“second Incomplete Letter issued to the Applicant on 4/16/25” - Jonathan DiSalvo, April 18th, 2025

“deemed complete” and “completed application” are two different definitions.

65589.5(h)(5) defines “deemed complete” as:

(5) Notwithstanding any other law, until January 1, 2030, “deemed complete” means that the applicant has submitted a preliminary application pursuant to Section 65941.1 or, if the applicant has not submitted a preliminary application, has submitted a complete application pursuant to Section 65943. The local agency shall bear the burden of proof in establishing that the application is not complete.

The applicant submitted a preliminary application in April of 2024, meaning their application is “deemed complete” for the sections where that phrase is cited:

- **65589.5(d)(2)** uses “deemed complete” in the context of criteria by which a County can deny a housing development (specifically, if there are adverse findings at the time the application was “deemed complete”)
- **65589.5(d)(5)** uses “deemed complete” in the context of criteria by which a County can deny a housing development. Specifically if there was a substantially compliant housing element adopted by the County at the time of the application being “deemed complete”, and the application was inconsistent with the zoning
 - **65589.5(d)(5)(A)** provides an exception to this if the application is consistent with the adopted housing element. The housing element zoned 841 capitola road as R-UM, with a maximum density of 15 units
- **65589.5(d)(6)** uses “deemed complete” in the context of criteria by which the County can deny a housing development. Specifically, if the development was not a builder’s remedy project, despite the County not having adopted a compliant HE
- **65589.5(f)(5)** uses “deemed complete” in the context of protection for a development in the situation where zoning changes after the application was “deemed complete”
- **65589.5(f)(7)(A)** and **(B)** are noted below and use “deemed complete” in the context of allowing the Applicant to choose whether to use the provisions in effect at the time of the application being “deemed complete” (April of 2024) or the latest
- **65589.5(f)(8)**, which is an exception noted in **65589.5(f)(1)**, reiterates **65589.5(d)(5)** and **(5)(A)** as criteria for a development to be subject to **65589.5(6)(A), (B), (D)** and **65589.5(9)(A), (B), (D)**
- **65589.5(h)(5)** finally defines “deemed complete” to mean that an applicant submitted a preliminary application, pursuant to **65941.1**

65589.5(f) uses “deemed complete” in the context of allowing an applicant to use the updated “builder’s remedy” language:

(f) (1) Except as provided in paragraphs (6) and (8) of this subdivision, and subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development. **Nothing in this section shall limit a project's eligibility for a density bonus, incentive, or concession, or waiver or reduction of development standards and parking ratios, pursuant to Section 65915.**

65589.5(f)(1) only states that the **eligibility** for a density bonus cannot be limited by the section. **65915(p)(7)** overrules the concession from (p)(2) to mandate a higher parking ratio. The Applicant's eligibility to request (2) is not being contested.

(f) (7) (A) For a housing development project application that is deemed complete before January 1, 2025, the development proponent for the project may choose to be subject to the provisions of this section that were in place on the date the preliminary application was submitted, or, if the project meets the definition of a builder's remedy project, it may choose to be subject to any or all of the provisions of this section applicable as of January 1, 2025.

The distinction in (A) is that the applicant may "choose to be subject" to the provisions of **65589.5** that were in place at the time of the preliminary **or** it may choose to be subject to any or all of the new provisions. The application must **choose** which set of provisions to follow.

(f) (7) (B) Notwithstanding subdivision (c) of Section 65941.1, **for a housing development project deemed complete** before January 1, 2025, the development proponent may choose to revise their application so that the project is a builder's remedy project, without being required to resubmit a preliminary application, even if the revision results in the number of residential units or square footage of construction changing by 20 percent or more.

By revising the project up by 97%, the Applicant is invoking this clause, and therefore adopting the definition of a "builder's remedy project" - in other words, by invoking this, they've **chosen** to use the newest provisions.

65915 defines "deemed complete" in the context of a density bonus application:

(3) In order to provide for the expeditious processing of a density bonus application, the local government shall do all of the following:

(A) Adopt procedures and timelines for processing a density bonus application.

(B) Provide a list of all documents and information required to be submitted **with the density bonus application in order for the density bonus application to be deemed complete**. This list shall be consistent with this chapter.

Support of other resident's claims

Claim 1 -

2023 HE compliance

County CDI received a letter from CA HCD on 1/16 indicating changes were needed to the adopted 2023 Housing Element. The County submitted a revision to the Housing Element on February 23rd to address the feedback.

An email (obtained through a public records request) between County staff (Mark Connolly) and HCD (Anthony Errichetto) dated **March 20th** indicated that the County's position was that the changes required to address the 1/16 HCD letter were **non-substantive and would not require re-adoption:**

[Mark Connolly to Anthony, March 20, 2024] - "As a follow up to our conversation last Friday regarding verifying the status of adoption with our Board; We received concurrence that the responses to the comments from the 1/16/2024 letter were non-substantive changes and re-adoption is not necessary."

A subsequent email between Mark and Anthony, on **April 9th (10:18am)** confirmed that the County BoS accepted the results:

[Mark Connolly to Anthony] - "Great news! At this morning's regular meeting of the County Board of Supervisors, the Board accepted Staff's responses to HCD comments as non-substantive, on consent, with no further action. So no re-adoption, or consideration of our Housing Element will occur."

This means that the 2023 HE, adopted in November 2023, was believed to be effectively **in substantial compliance with State law as of (at least) March 20th, 2024**. The April 9th SB330 application submitted by Workbench therefore should **not** have been eligible for Builder's Remedy protections.

While Legislature later amended the Housing Element Law in 2024 (AB 1886) to provide that a Housing Element can only be deemed in "substantial compliance" (thereby closing the door on the Builder's Remedy) if either HCD or a court says so - an agency's own assertion that its Element is compliant is now irrelevant, this change took effect 1/1/25. **Since these events took place in 2024, the County's self-determination would suffice; the non-compliance period should have closed no later than March 20th**

Builder's remedy 2.0 eligibility

The text of bill AB1893 only references a "housing development project" in the scope of what can be grandfathered into Builder's Remedy (BR) 2.0 without re-submitting in the scenario

where a project is revised by more than 20%. AB1893 also allows a developer to “lock in” building standards that were written at the time of the original submission after making revisions and adopting BR 2.0

It's unclear if “housing development project” includes previously-vested SB330 Builder's Remedy projects

If a “housing development project” is exclusive of previously-vested SB330 applications, then Workbench **should not be eligible** to adopt the new (and extremely financially generous, given their updates) Builder's Remedy protections.

Workbench's initially-revised application, from March of 2025, changed the development in several **material** ways when compared to the original SB330 vested proposal from October:

1. 2 3-story buildings --> 1 5-story building
2. 32 units (28 + 4 ADU) --> 63 units
3. Parking ratio from ~1 (30 spaces for 32 units) to ~0.5 (33 spaces for 63 units)

Ignoring **if** Workbench could adopt Builder's Remedy 2.0, the changes they made violate the **spirit** of the law. AB1893 allows developers to revise their projects, even if the changes are beyond 20% of the original submission, and maintain adherence to the original written building standards and codes. Workbench instead **replaced** their original submission with something wholly different; the two projects are completely and materially different.

This interpretation should be challenged - AB1893 was meant to strengthen BR and close up loop-holes, not allow a developer to radically redesign a project to be inconsistent and outside of the scope of building codes and standards that were applied to a previous revision.

Claim 2 -

PLG-130 Form submission

At the time of the submission in January of 2025, County document PLG-130, which is a resubmittal request form, specified that the County would create an appointment to virtually open a portal on the Monday **after** the request was submitted. Form PLG-130 required that submissions address County feedback.

The County produced an incompleteness letter to Workbench in November and set a deadline of 1/30 to resubmit. **Failure to do so would've triggered the application to become abandoned.**

Emails from Workbench can prove that they did not attempt to submit the request prior to 1/27. **A signed PLG-130 request form was submitted on 1/30.** The developer *also* submitted a LTR document along with the PLG-130, **in an apparent deviation from the process specified on the form.**

The process, as specified on the form, should have allowed the developer to upload the LTR, and any other supporting documentation, on the following Monday (2/2), **which would've been past the deadline specified in the November incompleteness letter.**

The uploaded LTR file **did not address any of the County's concerns**, and instead notified the County that further updates were in process and that an extension would be required.

The submission (a) did not meet the specified deadline and (b) did not constitute a good-faith response, the County's concerns. Instead of following through with the policy specified in the November incompleteness letter, the County "mutually agreed" to extend the deadline.

Emails can show that the County **failed to explain or provide justification for the extension, including what criteria need to be met to meet internal policy guidelines.** Responses included references to vague guidelines from other Counties or Cities (Los Gatos, for example). **Given Workbench did not address any of the concerns laid out in the November incompleteness letter, it's difficult to imagine how the County could've come to their decision.**

Since the extension, the only explanation given (from the Supervisor's office), was that the County was concerned with being sued by Workbench. This position does not reflect the best interest of the public, which the County is meant to serve.

Claim 5 -

Tim Gordin and potentially unethical behavior

Supporting information for this can be found in the chapters above (Tim Gordin and the FPPC)

Claim 6 -

Traffic study review, and public disclosure

It's unclear whether CEQA exemptions, which the County found the project is eligible for, also removes the requirement for the County to share the traffic study's findings with the public for review.

The results of the traffic study were provided by Workbench in a SUPP submission. Prior to the 10/15 Staff Report, no public notice of the results, nor the County's review of them, were ever provided. The existence of the traffic study was only determined through a records request appointment.

Background

How to calculate base density

For 841 capitola, the **maximum** density is 45 units / acre, when factoring Builder's Remedy. Without Builder's Remedy, the maximum is 15 units / acre (R-UM zoning)

In 2025, AB1893 amended 65589.5 and added criteria for a project to be considered a "builder's remedy project". Added with this criteria are new maximum and minimum density limits, with the maximum density specified at 65589.5(h)(11)(C) [1].

65589.5(h)(11)(C)(i) sets one part of the density through determining the largest density from three calculations.

The maximum of 65589.5(h)(11)(C)(i) is

(I) $1.50 * (30 \text{ units / acre}) = 45 \text{ units / acre}$

(II) $3 * (15 \text{ units / acre}) = 45 \text{ units / acre}$

(III) $(15 \text{ units / acre}) = 15 \text{ units / acre}$

(11) "Builder's remedy project" means a project that **meets all of the following criteria**:

(A) The project is a housing development project that provides housing for very low, low-, or moderate-income households.

(B) On or after the date an application for the housing development project or emergency shelter was deemed complete, the jurisdiction did not have a housing element that was in substantial compliance with this article.

(C) The project has a density such that the number of units, **as calculated before the application of a density bonus pursuant to Section 65915**, complies with all of the following conditions:

(i) **The density does not exceed the greatest of the following densities:**

(I) **Fifty percent** greater than the minimum density deemed appropriate to accommodate housing for that jurisdiction as specified in **subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2**.

(II) Three times the density allowed by the **general plan, zoning ordinance**, or state law, whichever is greater.

(III) The density that is consistent with the density specified in the **housing element**.

(ii) Notwithstanding clause (i), the greatest allowable density shall be 35 units per acre more than the amount allowable pursuant to clause (i), if any portion of the site is located within any of the following:

(I) One-half mile of a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

(II) A very low vehicle travel area, as defined in subdivision (h).

(III) A high or highest resource census tract, as identified by the latest edition of the "CTCAC/HCD Opportunity Map" published by the California Tax Credit Allocation Committee and the Department of Housing and Community Development.

To calculate 65589.5(h)(11)(C)(i)(I):

65583.2(c)(3)(B) says the density is 30 units per acre. Santa Cruz County is part of the **Santa Cruz–Watsonville Metropolitan Statistical Area (MSA)** [6]

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) **The following densities shall be deemed appropriate** to accommodate housing for lower income households:

(i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.

(ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.

(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.

(iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

To calculate 65589.5(h)(11)(C)(i)(II) and (III):

General plan, zoning ordinance or state law density for 841 capitola road is:

- **10 / acre** (currently R-1-5)
- **15 / acre** (general plan R-UM) [8]

How do you calculate bonus density for builder's remedy?

241371 is providing 1 VLI and 3 ELI units, with a base density of 40 units (per their plan)

1 VLI + 3 ELI units satisfies 65915(b)(1)(B) - $4 / 40 = 10\%$

3 ELI units satisfies 65589.5(f)(6)(C)(iv) - $3 / 40 = 7.5\%$ (> 7%), grants 3% bonus to VLI

VLI total % becomes 13% (10 + 3)

65915(b)(1)(B) connects to 65915(f)(2)

"The amount of density increase to which the applicant is entitled" is

VLI 13% --> 42.5% bonus density --> 17 bonus units

References

- [1] [Builder's Remedy info \(AB1893\)](#)
- [2] [AB1893 Full Text](#)
- [3] [CA Gov. Code 21064.3 \(major transit stop\)](#)
- [4] [CA Gov. Code 21060.2 \(bus rapid transit\)](#)
- [5] [Santa Cruz Metro schedule](#)
- [6] [CA Gov. Code 65583.2](#)
- [7] [Santa Cruz County Application history, 2024](#)
- [8] [Santa Cruz County Housing Element Table HE-E \(property inventory\), rev13October23](#)
- [9] [CA Gov. Code 65915 \(SDBL\)](#)
- [10] [CA Gov. Code 65589.5 \(Builder's Remedy\)](#)
- [11] [CA Gov. Code 21155](#)
- [12] [SB330 Full Text](#)
- [13] [STAFF MEMORANDUM.DOCX.pdf](#)
- [14] [Santa Cruz County Code 17.12 \(Density Bonus\)](#)
- [15] [New Multifamily Dwellings + UpCodes](#)
- [16] [CA Gov. Code 50079.5 \(Lower income housing\)](#)
- [17] [2025 CTCAC Map](#)
- [18] [CA AB2097 Technical Advisory](#)
- [19] [Santa Cruz Metro map](#)
- [20] [CA Gov. Code 65863.2](#)
- [21] [Santa Cruz County Form 700 Portal](#)
- [22] [CA Gov. Code 87200 \(Form 700 applicable officials\)](#)
- [23] [FPPC Form 700 Reference Pamphlet 2024](#)
- [24] [FPPC Conflict of Interest general rules](#)
- [25] [FPPC § 18701. Determining Whether a Financial Effect Is Reasonably Foreseeable.](#)
- [26] [FPPC § 18702.1. Materiality Standard: Financial Interest in a Business Entity.](#)
- [27] [FPPC § 18702.2. Materiality Standard: Financial Interest in Real Property.](#)

Emails in support

1. 841 Capitola - Workbench requests resubmittal (0127)
 - a. Shows timeline that confirms PLG-130 submittal request could not have been submitted in time to meet 1/30 deadline
 - b. Confirms Jonathan references submittal instructions on "page 2"
2. 841 Capitola - 0130 Signed PLG-130
3. 841 Capitola - Original PLG-130 form, with instructions
 - a. Version of PLG-130 that was available at the time of the 01/30 submission
 - b. Subsequent revision (~May) removed references to 'following monday' portal unlocking
4. 841 Capitola - email (0324) to County Counsel covering PLG-130, SB330 eligibility
 - a. Email to County Counsel highlighting concerns regarding SB330 eligibility (20% affordability)
 - b. Violating of 20% revision constraint, assuming AB1893 does not apply given its prior SB330 vesting as a BR project
5. 841 Capitola - initial conversation (0324) regarding PLG-130 timing, SB330 eligibility (Reis, Riley, CDI)
 - a. Email between residents and County highlighting PLG-130 submission timeline discrepancies
 - b. Request for County's guidance on granting extensions (in light of a lack of an effort from Workbench to respond by the deadline)
6. 841 Capitola - email (0502) from Manu's office regarding 90d extension justification
 - a. Email suggesting County granted extension primarily to defend against future lawsuits from Workbench
 - b. States that extension was congruent with County policy, but no further details were given
7. 841 Capitola - followup conversation (0604) regarding PLG-130 timing, after records request
 - a. Request for a response to the still-unaddressed questions on PLG-130 timing
 - b. Provides direct evidence, using Workbench email, confirming timeline leading up to the 01/30 submission
8. 841 Capitola - 0320 Email between SCC and HCD stating HE changes are non-substantive
 - a. Indicates that the County's position was that the changes required to address the 1/16 HCD letter were **non-substantive** and would **not require re-adoption**
9. 841 Capitola - 0409 Email between SCC and HCD confirming BoS approval
 - a. Confirms that BoS accepted County's position

Jonathan DiSalvo

From: Jonathan DiSalvo
Sent: Monday, January 27, 2025 2:20 PM
To: Clay Toombs; Discretionary ePlanReview
Cc: Omar Hason; Elizabeth Bishop; Libby Barnes
Subject: RE: Incomplete Letter No. 1 for Application No. 241371 - 841 Capitola Rd

Hello Clay,

Submittal of paper plans is not required at this time. The Department may request paper plans prior to a public hearing for the project, but that is unlikely as most reviewing bodies are now comfortable with viewing the plans digitally and are no longer asking for paper sets.

Resubmittal instructions can be found here, (beginning on page 2): [Disc Permit Eplan Instructions.pdf](#)

Please make sure you are following the step-by-step resubmittal instructions provided above. In your request to resubmit, please inform intake staff you are requesting an intake appointment on Thursday, 1/30.

Regards,



Jonathan DiSalvo

Senior Planner
Community Development & Infrastructure

Phone: 831-454-3157
701 Ocean Street, Room 400



From: Clay Toombs <clay@workbenchbuilt.com>
Sent: Monday, January 27, 2025 11:50 AM
To: Jonathan DiSalvo <Jonathan.DiSalvo@santacruzcountyca.gov>; Discretionary ePlanReview <Discretionary.ePlanReview@santacruzcountyca.gov>
Cc: Omar Hason <omar@workbenchbuilt.com>; Elizabeth Bishop <elizabeth@workbenchbuilt.com>; Libby Barnes <libby@workbenchbuilt.com>
Subject: RE: Incomplete Letter No. 1 for Application No. 241371 - 841 Capitola Rd

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Hi Jonathan and ePlan folks,

We would like to resubmit 841 Capitola Application No. 241371 on Thursday January 30, 2025. Could you please have the ePlan portal open for the resubmittal.

Also, how many hard-copy plan sets will you need?

Thanks so much!!

Clay Toombs
o. 831.227.2217 ext. 310
c. 323.363.0257
clay@workbenchbuilt.com



We're hiring designers and developers! See available opportunities here. [Join Our Team!](#)

From: Jonathan DiSalvo <Jonathan.DiSalvo@santacruzcountyca.gov>
Sent: Friday, November 1, 2024 4:50 PM
To: Clay Toombs <clay@workbenchbuilt.com>
Subject: Incomplete Letter No. 1 for Application No. 241371 - 841 Capitola Rd

Hello Clay,

Please see attached Incomplete Letter for Application No. 241371 at 841 Capitola Rd.

Thank you,



Jonathan DiSalvo

Senior Planner
Community Development & Infrastructure

Phone: 831-454-3157
[701 Ocean Street, Room 400](#)





841 Cap. 401a

This form is used to resubmit a discretionary permit application after staff comments have been received.

A. Resubmittal Process

To resubmit your application materials (except for vacation and hosted rental permits), request an appointment by emailing: Discretionary_ePlanReview@santacruzcountyca.gov. Please provide the application number in your request.

For vacation and hosted rental permits and renewals, request an appointment by emailing the vacation/hosted rental intake team at: vacation.eplanreview@santacruzcountyca.gov. Please provide the application number in your request.

Upon receipt of your resubmittal request, staff will notify you of your resubmittal appointment date, which will be a Monday unless it is a holiday. On your appointment date, the intake team will “unlock” the portal and notify you by email that you may upload your files. Once the portal is unlocked, log into ePlan, upload your files, and click “Send Notification” to finalize submitting your materials.

The deadline to upload your files is 11:59 PM of the day following your appointment. Failure to upload your files will prompt a rescheduling of your intake appointment to the next available date.

B. File Standards

- Files must be in PDF format.
- Revised documents must contain all sheets / pages (not simply revised items).
- All files must be unlocked & flattened (no layers).
- Bookmarks must be set to Fit Page with names matching the File Index.
- Stamps/signatures must be embedded.

C. Resubmittal Files

Check the appropriate boxes below to indicate which files you are resubmitting. **Note that the LTR file (PLG-130) is required for every resubmittal. It is important that this document (PLG-130) is submitted via the LTR file. Please submit your documents in the appropriate LTR, APP, PLN, or SUP file.** A minimum of two files is required to resubmit a project.

- REQUIRED FILE:** The LTR (letter) file: The LTR file must contain this form (PLG-130) with all fields completed, including Section D “Description of Changes to Project Materials” where you must detail the changes made to the project documents. If additional space is needed, you may attach a document to this form and submit both together as the LTR file.
- The APP (application) file: This file is used to resubmit the application form (PLG-100) and the List of Required Information.
- The PLN (project plans) file: This file is used to resubmit the plan set. Be sure to provide the complete plan set, not just the revised sheets.
- The SUP (supplemental documents) file: The first page of the SUP file is the Supplement Forms Index - PLG135 form (available online [here](#)). The index will list the documents included in the SUP file such as a Soils Report or other technical reports and design review materials.



D. Description of Changes to Project Materials

In the text box below, please detail the changes made to the project materials. If necessary, you may attach an additional file to this form and save both as the LTR file.

This resubmittal is being made on 1/30/2025 to comply with the 90-day time limit for resubmittal required by SB 330. Additional revisions are pending. More information will be provided.

The undersigned applicant hereby authorizes the filing of this application and authorizes staff to visit the subject property. I understand that staff may visit the property both during the review process and following the issuance of the permit. I certify to the best of my ability that the submittal information is true and correct, and that I have read and understand the above.

Applicant Signature: Clay Toome Date: 1/30/2025



Welcome to the Discretionary Permit ePlan Portal. The ePlan portal facilitates the online submission of PDF documents for Discretionary Permit review. The following is an overview of the Discretionary Permit Intake and Resubmittal procedures. **PLEASE NOTE: For all submittals, including resubmittals, an electronic submittal appointment is now required.** Appointments for new projects are assigned on a first-come, first-served basis. Typical wait times are two – three weeks. Resubmittals are scheduled on the following calendar week (from the date of request).

NOTE: Wireless Communication Facility applications may only be applied for in-person.

ePlan Step-by-Step Procedures: New Submittals

1. Create an ePlan account and project file. To create an ePlan account, log into ePlan at: [SCC ePlan Home](#). If already registered, log into your existing ePlan account. To create a project file, select the “Create Project” tab and follow the prompts. Be sure to select “Discretionary” when prompted for the permit type.
2. **At this stage, the ePlan portal will lock and you will receive a notification that the intake cannot be completed without clearance to unlock the portal.** To unlock the portal, please complete the [Discretionary Permit Submittal Request Form](#). Be sure to select “Initial Submittal” for all project types, except for Vacation/Hosted rental projects where you will select “Vacation/Hosted Rental Initial Submittal”.
3. Upon receipt of the Discretionary Permit Intake Request Form, staff will notify you of your electronic submittal appointment date.
 - All appointment dates fall on a Monday (except for Monday holidays).
 - On your appointment date, the ePlan Portal will be unlocked and you will be able to upload your application files.
 - In preparation for your submittal appointment, fill out all required forms and prepare your application files. Discretionary permit ePlan forms are available on the ePlan Review page under the “Discretionary” drop down menu here: [SCC ePlan Home](#).
4. **On your scheduled appointment date**, the intake team will “unlock” your project file and notify you by email that you may upload your application documents.
 - You will have until 11:59 PM on the following day to upload all required documents for your application.
 - Failure to upload a complete application by the deadline will prompt the rescheduling of your intake appointment to the next available date.



5. For all **Discretionary Permit types** (except *Vacation and Hosted Rental Permits and renewals*), the *initial* application shall consist of three file types which must be formatted as follows:
 - a. **APP file:** This contains ePlan Submittal Checklist PLG-130 Form, PLG-100 Form, and the List of Required Information.
 - b. **PLN file:** This is the plan set for your project.
 - c. **SUP file:** This begins with PLG-135. This file will contain any additional documents needed for your project, such as a Soils Report, or other technical reports and design review materials.

For all **Vacation and Hosted Rental Permits**, including renewal applications, the initial application shall consist of the following file types which must be formatted as follows:

- a. **APP file:** This file shall contain the Vacation Rental Application Form PLG-150, Hosted Rental Application Form PLG-155, or Hosted Rental Renewal Form PLG-160.
- b. **PLN file (applicable to applications for NEW permits, as well as some RENEWALS. See Vacation Rental Application for more information):** This is the plan set for your project.
- c. **SUP file:** This file shall contain a copy of current rental/lease agreement (including house rules), and any other supplement documents as described in the PLG-150.

Once all files are uploaded, **do not forget to click the green “Send New Permit Notification” button.** Otherwise, your application will not be reviewed as this notification alerts staff that there is a new project submittal.



Send New Permit Notification Notify Planning when submittal is ready for review.

For help with submittals, refer to the ePlan User Guide and ePlan Video Series for guidance under the “info and Help” drop down menu here: [SCC ePlan Home](#).

ePlan Step-by-Step Procedures: Resubmittals

1. All resubmittals require an electronic appointment. Appointments will be scheduled the week after the request is received. To request a resubmittal appointment, please complete the [Discretionary Permit Submittal Request Form](#). Be sure to select “Resubmittal” for all project types, except for Vacation/Hosted rental projects, where you will select “Vacation/Hosted Rental Resubmittal”.
2. **Prepare your resubmittal files.** Discretionary permit ePlan forms are available on the ePlan Review page under the “Discretionary” drop down menu here: [SCC ePlan Home](#). Resubmittals must consist of a minimum of two file types:
 - a. **LTR file (required):** This contains the *Discretionary Permit Resubmittal Letter - PLG130*. You must include a response to the incomplete application comments, including an itemized checklist of the location of all required outstanding items as identified in the Letter of Incomplete Application.
 - b. **A minimum of one additional file:** Your resubmittal will also include an APP, PLN, and/or SUP file. *****Note: The green “Send New Permit Notification” button will not activate without a minimum of two files being uploaded, one of which must be a LTR file.*****



Send New Permit Notification

Notify Planning when submittal is ready for review.

- 3. On your scheduled appointment date**, the intake team will “unlock” your project file and notify you by email that you may upload your files. The deadline to upload your files is 11:59 PM of the day following your appointment. Failure to upload your files by the deadline will prompt a rescheduling of your resubmittal to the next available appointment date.

Application Intake Review Procedures

On the scheduled appointment date, staff will review your submittal to ensure all required documents are included in the submittal, i.e., the submittal is “correct.”

Upon determination that the submittal is “correct”, the submittal will be scheduled for “completeness” review. Please allow approximately four working days for this review. If complete, staff will notify you via email, perform the intake, and email the applicant the link to pay. *Processing of your application will commence upon payment of the Application Fees.*

For most projects, an At-Cost Contract will be emailed to you for signature, and once returned, you will be cleared to pay the application fees online here: [Fees & Payments](#). **You will have 5 business days to pay the fees. Failure to pay the fees within 5 business days will render your application VOID.**

Upon payment of all application fees, review of the application will begin. *This starts the Permit Streamlining Clock per the Permit Streamlining Act (PSA).* You will be notified of review results within 30 days (except for some wireless projects and projects not subject to the PSA). The application will be deemed either “complete” or “incomplete.” The determination, along with all reviewer comments, will be sent to the applicant and property owner by mail.

841 Capitola Road - 63 unit, 5 story development in Live Oak?

Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>
To: Mike Reis <reismj88@gmail.com>

Mon, Mar 24, 2025 at 4:46 PM

Thank you for reaching out to the Planning Department.

Your message will be added to the public comment for this application.

Sincerely,



Nicholas Brown

Planning Technician
Community Development & Infrastructure

Phone: 831-454-5317
701 Ocean Street, Room 400

From: Mike Reis <reismj88@gmail.com>
Sent: Friday, March 21, 2025 6:56 PM
To: Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>; County Counsel <CountyCounsel@santacruzcountyca.gov>
Subject: Re: 841 Capitola Road - 63 unit, 5 story development in Live Oak?

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Hi all,

Quick correction to my original email:

5. Workbench is requesting (and expecting without contention) a parking provision waiver to reduce the required ratio of spaces / units. As they note in their proposal, they would normally be required to provide 71 spaces (a combination of 1.0 and 1.5 spaces / units, per Santa Cruz County Code 13.16, table 050 or 69515(p)(1) ~~CDBL-20-32-060 (4)~~). They're requesting their waiver by claiming proximity to a "mass transit hub" (the bus stops on Capitola and 7th). At the state level, CDBL (69515) provides a mechanism for the City or County to enforce a larger ratio (though not to exceed what's set forth in 69515(p)(1) ~~CDBL-20-32-060~~) **if there has been a parking study performed in the last 7 years** (69515(p)(7)). There is no evidence that this has been done, and given the **real and obvious concerns with parking and traffic in this section of Live Oak**, I believe this study **must be conducted as soon as possible**

1. For reference, there is essentially **zero** parking on Capitola road and 7th ave due to bike lanes - the same goes for Grey Seal Road, which has at most 5 spaces before and after commute times

I had incorrectly cited the county code from Newport Beach. I replaced the references with the overruling sections from State law (CDBL, 69515). Santa Cruz County's density bonus code, 17.12.020 (eligibility) and 17.12.090 (parking) largely cite 69515 (including when defining the required ratio of parking / unit). I will note that 17.12.020 says that the county "may require reasonable documentation" to justify a waiver, whereas 69515(p)(7) specifically calls for a parking study.

Thanks - looking forward to discussing these with you further.

On Thu, Mar 20, 2025 at 9:05 PM Mike Reis <reismj88@gmail.com> wrote:

Hello Jason, Nicholas

I am reaching out to you two as part of a broader effort to get visibility and traction regarding concerns raised about the 63 unit development on 841 Capitola road.

I am a current resident on Grey Seal Road, in Santa Cruz. I was recently made aware of an ongoing development proposal for 841 Capitola Road, by Workbench, that seeks to build a 63 unit, 5 story building on a lot currently zoned SFR. I will add that, as of 2/24 when I physically reviewed the application, Workbench was providing 33 parking spaces (including 3 ADA). The residents of Grey Seal Road have been in contact with a few people at the County office (namely Jonathan DiSalvo), however several technical questions and concerns remain unanswered - the community meeting is now scheduled for April 1st and represents one of the **final steps** in their application process. Below is a list, with edits based on recent communications, of our concerns that we are looking to have addressed.

1. The original PA241013 application did not include Government Code Section 65589.5(d) requirements for housing developments for deed-restricted affordable units, which are **REQUIRED** for the development to be considered eligible for Builder's Remedy.* Since neither the original April 9, 2024 SB330 application nor the subsequent October 2024 meet the requirements to invoke Builder's Remedy (namely, do not meet the requirement of 20% affordable units), how can the proposal continue to claim that it is a Builder's Remedy project? The original applications failed to meet the Builder's Remedy criteria, so the application should be subject to the County's zoning and general plan now that the 6th Cycle HE is certified

1. According to Government Code Section 65589.5(d), for a housing development project to qualify for the "Builder's Remedy", the project must be a housing development project for "very low, low-, or moderate-income households" as defined. To meet this definition, the project must meet one of three requirements for deed-restricted affordable units; specifically, and citing AMBAG's technical overview, the housing development project **must** meet one of the following three requirements:

- 20% of the total units sold or rented to lower income households;
- 100% of the units sold or rented to moderate income households; or
- 100% of the units sold or rented to middle income households

2. AB1893 does not allow for a project that was not deemed complete (which the County's 11/1/24 letter asserts is the case for Application 241371, as do emails to us at the end of Jan 2025 and beginning of Feb 2025) to utilize the provisions of Gov Code 65589.5(f)(7). Since Gov Code 65589.5(f)(7) does not apply to the Applicant's resubmission because the original application was not deemed complete as of 1/1/2025, the Applicant's 1/30/2025 resubmission is not allowable because it is a 97% increase from the April preliminary application, which would require the Applicant to re-submit as a new application (which is not possible, because the County has a certified 6th Cycle HE). Therefore, the Applicant should not be entitled to another 90-day extension for resubmission

1. 65589.5 (h)(5) states that an application is "deemed complete" if they submitted a *preliminary application* - this clause was added in AB1893, however 65941.1 (d) remains in effect. It appears that 65589.5 (h)(5) is being interpreted to give **all** existing preliminary applications (both before and after January 1st, 2025) an exemption when it comes to the 20% revision requirement - given the 20% requirement was left untouched in the state law for 2025, I would argue that the intent is for it to continue to be applied to preliminary (not complete) applications and that the current interpretation is skewed favorably in the applicant's interest

1. 65941.1 (d), introduced in SB330, states that "after the submittal of a preliminary application...a housing development project would not be deemed to have submitted a preliminary application...if the development proponent revises the project such that the number of residential units or square footage of construction changes by 20% or more..."

2. 65589.5 (f) (7) (B), introduced in AB1893, states "for a housing development project deemed complete before January 1 2025, the development proponent may choose to revise their application so that the project is a builder's remedy project, without being required to resubmit a preliminary application, even if the revision results in the number of residential units or square footage of construction changing by 20 percent or more"

3. 65589.5 (h) (5), introduced in AB1893, states that "Notwithstanding any other law, until January 1, 2030, "deemed complete" means that the applicant has submitted a preliminary application pursuant to Section 65941.1 or, if the applicant has not submitted a preliminary application, has submitted a complete application pursuant to Section 65943. The local agency shall bear the burden of proof in establishing that the application is not complete."

3. The applicant submitted a signed PLG-130 form on 1/30/2025 (a Thursday), but it is not clear how they were able to upload the required documents within the timeframe required by the County's notice (Nov 1, 2024) considering PLG-130 requires an appointment be scheduled to upload the revised proposal **after** the signed form is submitted

1. Form PLG-130 states (emphasis mine):

1. *"To resubmit your application materials (except for vacation and hosted rental permits), request an appointment by emailing: Discretionary.ePlanReview@santacruzcountyca.gov. Please provide the application number in your request. Upon receipt of your resubmittal request, staff will notify you of your resubmittal appointment date, which will be a Monday unless it is a holiday. On your appointment date, the intake team will "unlock" the portal and notify you by email that you may upload your files. Once the portal is unlocked, log into ePlan, upload your files, and click "Send Notification" to finalize submitting your materials. The deadline to upload your files is 11:59 PM of the day following your appointment. Failure to upload your files will prompt a rescheduling of your intake appointment to the next available date."*

4. The County's Nov 1, 2024 notice of incomplete application letter states:

1. "In the interest of ensuring development applications are processed in a timely manner, resubmittals must be received within ninety (90) days of this letter, or the application shall be deemed abandoned. (Gov. Code §65941.1(d)(2).) Thus, you have until **1/30/25**, to submit all of the information required in this letter. Pursuant to Section 18.10.430 of the Santa Cruz County Code and Section 65941.1 of the Government Code, failure to timely submit the required information may lead to abandonment of your application and forfeiture of fees. Alternatively, you may withdraw the application and any unused fees will be refunded to you. If you wish to withdraw the application, please notify me in writing."

2. **If, per Form PLG-130, the Applicant has to wait for the Monday after a signed submission (1/30, in this case) to have an appointment and to upload application files**, then this appointment should have been scheduled for February 3, 2025, at which time the Applicant would have been able to upload their resubmittal files. **Was this the case, and the Applicant actually submitted (uploaded) the revised application files on or after Feb 3, 2025?** If the Applicant was allowed to resubmit files in a manner other than as specified on Form PLG-130, why was this exception granted and what was the justification for an exception?

3. If this is the case, then the Applicant did not by 1/30/2025 "submit all of the information required in the [Incomplete Application] letter" dated 11/1/2024, and the Application should be deemed abandoned? **(please clarify)**.

5. Workbench is requesting (and expecting without contention) a parking provision waiver to reduce the required ratio of spaces / units. As they note in their proposal, they would normally be required to provide 71 spaces (a combination of 1.0 and 1.5 spaces / units, per Santa Cruz County Code 13.16, table 050 or CDBL 20.32.060 (4)). They're requesting their waiver by claiming proximity to a "mass transit hub" (the bus stops on Capitola and 7th). CDBL provides a mechanism for the City or County to enforce a larger ratio (though not to exceed what's set forth in CDBL 20.32.060) **if there has been a parking study performed in the last 7 years**. There is no evidence that this has been done, and given the **real and obvious concerns with parking and traffic in this section of Live Oak**, I believe this study **must be conducted as soon as possible**.

1. For reference, there is essentially **zero** parking on Capitola road and 7th ave due to bike lanes - the same goes for Grey Seal Road, which has at most 5 spaces before and after commute times

6. On a subjective note, there does not seem to be any consideration given by Workbench towards the identity of Live Oak, nor the safety of the children who live on Grey Seal Road

1. A 5 story building would likely be the largest structure in Live Oak

2. 63 units worth of residents driving through Grey Seal would **significantly and adversely impact the lives of our children**, who currently use the cul-de-sac for outdoor play

3. There is no evidence that an impact study has been done regarding the influx of 63 new units (including families) on our local infrastructure, community, and schools

I understand that this application is still in progress, however given *how long* this application has been in process for, I believe answers to the questions above should not be gated by yet another 30d review period.

Thank you for your time and attention to this matter,

--

--

Michael Reis
(c) 732 754 8197
(e) reismj88@gmail.com

[Quoted text hidden]

Application No. 241371 for 841 Capitola Road

Mike Reis <reismj88@gmail.com>

Mon, Mar 24, 2025 at 5:36 PM

To: Jonathan DiSalvo <Jonathan.DiSalvo@santacruzcountyca.gov>, Matt Machado <matt.machado@santacruzcountyca.gov>, countycounsel@santacruzcountyca.gov
Bcc: Oppose Capitola <oppose841capitolaroad@gmail.com>

Hey Jonathan, any update on these questions?

I physically reviewed several documents at the records office today.

I could not find a copy of PA241013, so I was unable to verify the 20% affordable unit claim. Looks like we're going to need to rely on your confirmation here.

Did the preliminary application filed on 4/9/24 meet the 20% affordable unit requirement per SB330? If it did not, then it could not be considered a complete preliminary application under SB330.

I would like to add that I reviewed the applicant's 3/17 revision, including their collection of PLG-130 forms. The project has not changed - the 3/17 submission simply added the required supporting civil documents.

I would like to highlight, however, that the 1/30 PLG-130 form **only** included the signed title page and a set of updated plans (still need to understand *how* these were uploaded at the same time as PLG-130, despite the clear process laid out on the form). As I understand it, the County provided comments and highlighted the application's deficiencies on November 1st. In response, Workbench uploaded new *plans* on 1/30 but **omitted any response to the County's comments**. How, then, was a "mutual" extension granted? I want to reiterate my question about the *criteria* to grant an extension. In this case, Workbench seemingly **ignored** all of the County's comments and uploaded a completely new development plan instead. How is this a good faith response?

I also noted a few other details in today's review:

- The arborist report included in their PLG-130 SUPP package noted that there were "26 Heritage Trees marked for removal that would require a permit from the City of Santa Cruz". Is this accurate?
- Workbench asserts, on several occasions across their PLG-130 forms, that a "traffic study is not required" for a complete application. How can this be the case? Does the County or City **truly** not have any power to enforce the *most basic of impact studies* related to the wellbeing of the community they serve? Are we simply at the mercy of whatever Workbench wants to place on the parcel?

As of close of business today, we have **five** business days remaining before Workbench's community meeting, which given the speed and lack of transparency we've dealt so far, may well be the **only** opportunity we have to discuss this project with them.

Thank you

On Fri, Mar 21, 2025 at 2:26 PM Mike Reis <reismj88@gmail.com> wrote:

Hi Jonathan,

Thank you for providing some more information. Reading through your responses, I note that there are some details from our questions that remain unanswered:

The SB 330 Preliminary Application provides an optional vesting opportunity for housing development projects under SB 330, which freezes the policies, standards, and fees in effect when the Preliminary Application is submitted. The SB 330 Preliminary Applications were submitted and fees were paid on 3/11/24 and 4/9/24, respectively.

Did the preliminary application filed on 4/9/24 meet the 20% affordable unit requirement per SB330? If it did not, then it could not be considered a complete preliminary application under SB330.

..The Applicant resubmitted their application on 1/30/2025. The subject application resubmittal was deficient in its content and instead of wasting staff and reviewers' time reviewing an application which did not include civil plan sheets among other items, the Applicant requested an extension of the 90-day deadline. The 90-day resubmittal deadline was extended via mutual agreement, and the full resubmittal was then submitted on 3/17/25. The County must now issue a determination of completeness or incompleteness within 30 days from 3/17/25.

What is the general criteria for granting deadline extensions? If the applicant's 1/30/25 response was immediately recognizable as "deficient in its content" (determined *without* the need for a review), yet they were *still* granted an extension, what checks and balances exist to prevent this applicant from continuing to waste everyone's time with "deficient" revisions? The applicant was given 90 days from the 11/1/24 response letter to provide the required documents, so their response in providing a deficient application on 1/30/25 is frustrating. Can they continue to request and be granted deadline extensions indefinitely?

In regard to your comments pertaining to PLG-130, it appears you are referring to guidance provided on the form for scheduling a resubmittal appointment date. Their application resubmittal was uploaded on their resubmittal appointment date, which was for 1/30/25.

I'm confused with this response - if PLG-130 states that an applicant must wait for an appointment to be scheduled in order to upload their documents, how were they able to do so on 1/30/25 (the *same day* as the PLG-130 resubmitted request)? If there was an exception granted that deviated from the process set in PLG-130, where is that defined?

I'll also use this thread to repeat my question regarding parking studies. In our separate thread, you mentioned that there are no relevant *traffic* studies that can be used to challenge the applicant's assumptions. Is "traffic study" and "parking study" one in the same? Given the applicant is attempting to use CDBL's "mass transit" justification to request a ratio of 0.5 spaces per unit (for a total of **30** spaces), and given the *reality* of the parking in this area of Live Oak, a parking study **must be conducted**.

Thank you

On Fri, Mar 21, 2025 at 2:06 PM Jonathan DiSalvo <Jonathan.DiSalvo@santacruzcountyca.gov> wrote:

Hello Riley,

Indeed, these projects are complex, subject to State Law, and nontypical as compared to standard development applications. I will try to summarize things as simply as I can here.

The *process*, or the project submittal timeline, is dictated by State Law, by SB 330.

The SB 330 Preliminary Application provides an optional vesting opportunity for housing development projects under SB 330, which freezes the policies, standards, and fees in effect when the Preliminary Application is submitted. The SB 330 Preliminary Applications were submitted and fees were paid on 3/11/24 and 4/9/24, respectively.

After a SB 330 Preliminary Application is filed, an applicant has 180 days to submit a full discretionary permit application.

A full discretionary permit application (App. No. 241371) was submitted and fees were paid on 10/3/24, within 180 days of filing of a SB 330 Preliminary Application.

Once a discretionary application is submitted, the County must issue a completeness determination within 30 days after the discretionary application submittal. An incomplete letter was issued by the County within 30 days on 11/1/24.

Once deemed incomplete, the Applicant must submit additional materials to complete the application within 90 days of receiving the County’s incomplete letter. The Applicant resubmitted their application on 1/30/2025. The subject application resubmittal was deficient in its content and instead of wasting staff and reviewers’ time reviewing an application which did not include civil plan sheets among other items, the Applicant requested an extension of the 90-day deadline. The 90-day resubmittal deadline was extended via mutual agreement, and the full resubmittal was then submitted on 3/17/25. The County must now issue a determination of completeness or incompleteness within 30 days from 3/17/25.

In regard to your comments pertaining to PLG-130, it appears you are referring to guidance provided on the form for scheduling a resubmittal appointment date. Their application resubmittal was uploaded on their resubmittal appointment date, which was for 1/30/25.

The amended provisions for Builders Remedy (sometimes referred to as “Builders Remedy 2.0”), cited in prior correspondence per Gov. Code 65589.5 contains pipeline provisions, allowing projects that were “deemed complete” (per State Law “deemed complete” means either the discretionary application itself was deemed complete or an SB 330 Preliminary Application was filed) prior to the effective date of the statute (effective on 1/1/25) to elect for the amended provisions of Builders Remedy. The project is electing for provisions under Builders Remedy 2.0.

This application is under review.

I hope this helps clarify where this application is currently in the process.

Thank you,



Jonathan DiSalvo

Senior Planner
Community Development & Infrastructure

Phone: 831-454-3157
701 Ocean Street, Room 400



From: R Gerbs <riley.gerbrandt@gmail.com>

Sent: Thursday, March 20, 2025 1:45 PM

To: Jonathan DiSalvo <Jonathan.DiSalvo@santacruzcountyca.gov>

Cc: Stephanie Hansen <Stephanie.Hansen@santacruzcountyca.gov>; Jamie Sehorn <Jamie.Sehorn@santacruzcountyca.gov>; Mark Deming <demcruz@sbcglobal.net>; mollybrame@gmail.com; reismj88@gmail.com; Jocelyn Drake <Jocelyn.Drake@santacruzcountyca.gov>; Matt Machado <Matt.Machado@santacruzcountyca.gov>

Subject: Re: Application No. 241371 for 841 Capitola Road

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Hi Jonathan. I am confused. The County's Nov 2024 letter stated that the application was incomplete. So, how is it that in your answer you state, "all required items were included in the application, the processing fee was paid, and the application is considered vested." The County deemed the application incomplete, so how is it that the County now says that "all required items were included in the application"?

As I stated in my questions, the County's PLG-130 Form states that **the Applicant has to wait for the following Monday to have an appointment and to upload application files.**

Per your email, The applicant provided the signed PLG-130 Form on Friday, January 30, 2025. So, the applicant per Form PLG-130 should not have had the opportunity to upload the required documents until Monday, February 2, 2025, which was after the 1/30/25 deadline to do so. **Please explain**, as according to the apparent rules, the applicant should not have been able to file the required items in time, unless the County didn't enforce its own rules with respect to the requirements of Form PLG-130.

We have yet to receive adequate reasoning as to why an application that does not meet the requirements of Builders Remedy, per Gov Code requirements, is allowed to continue pursuing an application for a development under the precept of those Builders Remedy allowances.

I appreciate your attention to this matter, as it is of extreme importance to our neighborhood and our surrounding area neighbors.

Riley

Riley Gerbrandt, P.E., M.ASCE
Professional Civil & Geotechnical Engineer

Email: Riley.Gerbrandt@gmail.com

On Thu, Mar 20, 2025 at 12:11 PM Jonathan DiSalvo <Jonathan.DiSalvo@santacruzcountyca.gov> wrote:

Hello Riley,

As an update on the progress of this application, a resubmittal for Application No. 241371 was submitted on 3/17/25. As I have noted previously, you are welcome to view the application materials via a Records Request by submitting a Records Request Form, here: [Records Request Form](#)

The resubmittal has been routed to reviewers, and is subject to a 30-day completeness review at the conclusion of which a review letter will be issued.

I do recommend you take a look the latest application materials, as it includes responses by the Applicant to review comments issued via the first incomplete letter for the project.

Responses to your questions are provided below:

1. (In response to question nos. 1 and 2):

65589.5 (h)(5) *Notwithstanding any other law, until January 1, 2030, “deemed complete” means that the applicant has submitted a preliminary application pursuant to Section 65941.1 or, if the applicant has not submitted a preliminary application, has submitted a complete application pursuant to Section 65943. The local agency shall bear the burden of proof in establishing that the application is not complete.*

Two preliminary applications (PA241010 and PA241013) were submitted on the subject property pursuant to Section 65941.1. The statute also provides that an “affirmative determination” is not required to be made by the local agency when processing a Preliminary Application. In other words, all required items were included in the application, the processing fee was paid, and the application is considered vested.

65589.5 (7) (A) *For a housing development project application that is deemed complete before January 1, 2025, the development proponent for the project may choose to be subject to the provisions of this section that were in place on the date the preliminary application was submitted, or, if the project meets the definition of a builder’s remedy project, it may choose to be subject to any or all of the provisions of this section applicable as of January 1, 2025.*

(B) *Notwithstanding subdivision (c) of Section 65941.1, for a housing development project deemed complete before January 1, 2025, the development proponent may choose to revise their application so that the project is a builder’s remedy project, without being required to resubmit a preliminary application, even if the revision results in the number of residential units or square footage of construction changing by 20 percent or more.*

In regard to the affordability level proposed by the project, you will note that there were a number of compliance comments that were issued by County staff as part the first incomplete letter pertaining to the proposed affordable units. As the resubmittal for this project was just

provided a few days ago, and the project scope has been substantially modified as compared to their initial proposal, staff have not yet had the opportunity to conduct a detailed analysis of the updated project scope or provide review comments. These comments will be provided as part of the 30-day completeness review letter, or as part of deliberations at a future and duly-noticed public hearing.

2. (In response to questions no. 3 through 9):

Yes, a signed PLG-130 Form was provided by the Applicant on 1/30/25. You are welcome to review said form via the aforementioned Records Request. I have provided information to you in prior correspondence pertaining to the executed time extension of the 90-day deadline, so I will not reiterate it here again, but here is the requested link to 8/30/24 HCD Technical Guidance Letter to the Town of Los Gatos pertaining to time extensions: Town of Los Gatos – Saratoga Road Project – Letter of Technical Assistance. You can also review the extension agreement correspondence provided in the application file via a Records Request.

I hope this information helps for the time being.

Thank you,



**Jonathan
DiSalvo**

Senior
Planner

Community
Development
&
Infrastructure

Phone: 831-
454-3157

701 Ocean
Street, Room
400





From: R Gerbs <riley.gerbrandt@gmail.com>
Sent: Wednesday, March 19, 2025 5:04 PM
To: Jonathan DiSalvo <Jonathan.DiSalvo@santacruzcountyca.gov>
Cc: Stephanie Hansen <Stephanie.Hansen@santacruzcountyca.gov>; Jamie Sehorn <Jamie.Sehorn@santacruzcountyca.gov>; Mark Deming <demcruz@sbcglobal.net>; mollybrame@gmail.com; reismj88@gmail.com; Jocelyn Drake <Jocelyn.Drake@santacruzcountyca.gov>; Matt Machado <Matt.Machado@santacruzcountyca.gov>
Subject: Re: Application No. 241371 for 841 Capitola Road

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Hi Jonathan,

Welcome back (your auto-reply said that you would be back today).

Since Stephanie is gone for several more days, can you respond to a few of these questions at least. Particularly, the following:

1. The original PA241013 application did not include Government Code Section 65589.5(d) requirements for housing developments for deed-restricted affordable units, which are REQUIRED for the development to be considered eligible for Builder's Remedy.* Since neither the original April 9, 2024 SB330 application nor the subsequent October 2024 meet the requirements to invoke Builder's Remedy (namely, do not meet the requirement of 20% affordable units), how can the proposal continue to claim that it is a Builder's Remedy project? The original applications failed to meet the Builder's Remedy criteria, so the application should be subject to the County's zoning and general plan now that the 6th Cycle HE is certified.
2. AB1893 does not allow for a project that was not deemed complete (which the County's 11/1/24 letter asserts is the case for Application 241371, as does your emails to us at the end of Jan 2025 and beginning of Feb 2025) to utilize the provisions of Gov Code 65589.5(f)(7). Since Gov Code 65589.5(f)(7) does not apply to the Applicant's resubmission because the original application was not deemed complete as of 1/1/2025, the Applicant's 1/30/2025 resubmission is not allowable because it is a 97% increase from the April preliminary application, which would require the Applicant to re-submit as a new application (which is not possible, because the County has a certified 6th Cycle HE). Therefore, the Applicant should not be entitled to another 90-day extension for resubmission. **If the Applicant is erroneously using a clause from AB1893, which does not apply to this project, we should not have to wait until the end of the resubmission window to review the status of their application.**
3. Did the Applicant submit a signed from PLG-130 to the County's ePlan portal on January 30th, 2025 as required? (**please confirm**)

4. Did the Applicant submit revised plans to the County's ePlan portal on January 30th, 2025 as required? **(please confirm)**
5. To where and on what date and via what means (letter/form/etc.) did the Applicant submit a request for an extension of the 90-day time limit to submit the information required in the Nov 1, 2024 incomplete notice?
6. Form PLG-130 states:
 1. *"To resubmit your application materials (except for vacation and hosted rental permits), request an appointment by emailing: Discretionary.ePlanReview@santacruzcountyca.gov. Please provide the application number in your request. Upon receipt of your resubmittal request, staff will notify you of your resubmittal appointment date, which will be a Monday unless it is a holiday. On your appointment date, the intake team will "unlock" the portal and notify you by email that you may upload your files. Once the portal is unlocked, log into ePlan, upload your files, and click "Send Notification" to finalize submitting your materials. The deadline to upload your files is 11:59 PM of the day following your appointment. Failure to upload your files will prompt a rescheduling of your intake appointment to the next available date."*
7. The County's Nov 1, 2024 notice of incomplete application letter states:
 1. "In the interest of ensuring development applications are processed in a timely manner, resubmittals must be received within ninety (90) days of this letter, or the application shall be deemed abandoned. (Gov. Code §65941.1(d)(2).) Thus, you have until **1/30/25**, to submit all of the information required in this letter. Pursuant to Section 18.10.430 of the Santa Cruz County Code and Section 65941.1 of the Government Code, failure to timely submit the required information may lead to abandonment of your application and forfeiture of fees. Alternatively, you may withdraw the application and any unused fees will be refunded to you. If you wish to withdraw the application, please notify me in writing."
 2. **Question:** It appears that the Applicant submitted documents on 1/30/2025 (which was a Friday). **If, per Form PLG-130, the Applicant has to wait for the following Monday to have an appointment and to upload application files**, then this appointment should have been scheduled for February 3, 2025, at which time the Applicant would have been able to upload their resubmittal files. **Was this the case, and the Applicant actually submitted (uploaded) the revised application files on or after Feb 3, 2025?** If the Applicant was allowed to resubmit files in a manner other than as specified on Form PLG-130, why was this exception granted and what was the justification for an exception?
 3. If this is the case, then the Applicant did not by 1/30/2025 "submit all of the information required in the [Incomplete Application] letter" dated 11/1/2024, and the Application should be deemed abandoned? **(please clarify)**.
8. Can you provide me the link to the referenced HCD Letter of Technical Assistance to the Town of Los Gatos, dated August 30, 2024, which you referred to in your February 7, 2025 email, and which provides technical background pertaining to time extensions?
9. Is the Applicant's submitted form PLG-130 something that can be viewed via a County Records Room request?

Thank you,

Riley Gerbrandt

* According to Government Code Section 65589.5(d), for a housing development project to qualify for the "Builder's Remedy", the project must be a housing development project for "very low, low-, or moderate-income households" as defined. To meet this definition, the project must meet one of three requirements for deed-restricted affordable units; specifically, and citing AMBAG's technical overview, the housing development project **must** meet one of the following three requirements:

- 20% of the total units sold or rented to lower income households;
- 100% of the units sold or rented to moderate income households; or
- 100% of the units sold or rented to middle income households

Hi Stephanie,

I called just now spurred on by the receipt of the Community Meeting Announcement that I just received in the mail for the subject development application.

Given the way in which this project is proceeding and the lack of information, clarity or complete responses from County Planning staff, we are very frustrated and want to get some answers and have a dialogue.

Our neighborhood group has been trying to get answers to some specific questions since early February. Jonathan Di Salvo has been very kind and answered some questions, but we have not had our more critical questions answered. Now that there is this community meeting scheduled, we really need to get these questions answered.

We of course, oppose this project. However, that notwithstanding, we argue that it is unapprovable on merit for several reasons, and we really need Planning to provide answers.

1. The original PA241013 application did not include Government Code Section 65589.5(d) requirements for housing developments for deed-restricted affordable units, which are REQUIRED for the development to be considered eligible for Builder's Remedy.* So, PA241013 does not meet the requirements to invoke Builder's Remedy, so the application should be subject to the County's zoning and general plan, despite the applicant's *assertion* that the County did not have a certified 6th Cycle Housing Element.
2. The County's 11/1/2024 letter "Incomplete Application" for Application 241371 (which was for 39 units) requires the applicant to have addressed several things, including a traffic study, providing 20% affordable units, and a community meeting by 1/30/2025. A new application was submitted by the Applicant on 1/30/2025 for 63 units, but neither a traffic study nor a community meeting were held (those are just the things we know for sure, as we haven't reviewed the full application). The Applicant can't just keep submitting incomplete and non-compliant applications to "keep the review process going and keep their application alive". **This is a waste of everyone's time. They didn't meet the requirements of the County's 11/1/2024 notice, so in accordance with CA Gov Code 65941.1(e) (2), as of 1/30/2025 (90 days from 11/1/2024) regardless of the Co's completeness regulations, the Builder's Remedy availability based on the pre-application expired, and the project is abandoned.**
3. AB1893 does not allow for a project that was not deemed complete (which the County's 11/1/24 letter asserts is the case for Application 241371, as does Jonathan DiSalvo's emails to us at the end of Jan 2025 and beginning of Feb 2025) to utilize the provisions of Gov Code 65589.5(f)(7). Since Gov Code 65589.5(f)(7) does not apply to the Applicant's resubmission because the original application was not deemed complete as of 1/1/2025, the Applicant's 1/30/2025 resubmission is not allowable because it is a 97% increase from the April preliminary application, which would require the Applicant to re-submit as a new application (which is not possible, because the County has a certified 6th Cycle HE). Therefore, the Applicant should not be entitled to another 90-day extension for resubmission. **If the Applicant is erroneously using a clause from AB1893, which does not apply to this project, we should not have to wait until the end of the resubmission window to review the status of their application.**
4. Gov Code 65941.1 (e)(2) states that the "preliminary application **shall expire** and **have no further force or effect** [if the Applicant does not submit the specific information needed to complete the application within the 90-day period of receiving the agency's written identification of the necessary information]" (emphases mine). The County stated in the 1/1/2025 letter that the Applicant needed to submit to the County the "Results of Neighborhood Meeting", which the Applicant cannot have done since no such Neighborhood Meeting was held (we know, as we are neighbors with properties adjoining the subject property). Therefore, Application 241371 should now be expired, and it should have no further force or effect.

There are several other things wrong with the application, which we have conveyed before, but the above are the most egregious.

We asked for the following other information, which we have not yet been provided:

- Did the Applicant submit a signed form PLG-130 to the County's ePlan portal on January 30th, 2025 as required? **(please confirm)**
- Did the Applicant submit revised plans to the County's ePlan portal on January 30th, 2025 as required? **(please confirm)**
- To where and on what date and via what means (letter/form/etc.) did the Applicant submit a request for an extension of the 90-day time limit to submit the information required in the Nov 1, 2024 incomplete notice?
- Form PLG-130 states:
 - *"To resubmit your application materials (except for vacation and hosted rental permits), request an appointment by emailing: Discretionary.ePlanReview@santacruzcountycalifornia.gov. Please provide the application number in your request. Upon receipt of your resubmittal request, staff will notify you of your resubmittal appointment date, which will be a Monday unless it is a holiday. On your appointment date, the intake team will "unlock" the portal and notify you by email that you may upload your files. Once the portal is unlocked, log into ePlan, upload your files, and click "Send Notification" to finalize submitting your materials. The deadline to upload your files is 11:59 PM of the day following your appointment. Failure to upload your files will prompt a rescheduling of your intake appointment to the next available date."*
 - The County's Nov 1, 2024 notice of incomplete application letter states:
 - "In the interest of ensuring development applications are processed in a timely manner, resubmittals must be received within ninety (90) days of this letter, or the application shall be deemed abandoned. (Gov. Code §65941.1(d)(2)).) Thus, you have until **1/30/25**, to submit all of the information required in this letter. Pursuant to Section 18.10.430 of the Santa Cruz County Code and Section 65941.1 of the Government Code, failure to timely submit the required information may lead to abandonment of your application and forfeiture of fees. Alternatively, you may withdraw the application and any unused fees will be refunded to you. If you wish to withdraw the application, please notify me in writing."
 - **Question:** It appears that the Applicant submitted documents on 1/30/2025 (which was a Friday). If, per Form PLG-130, the Applicant has to wait for the following Monday to have an appointment and to upload application files, then this appointment should have been scheduled for February 3, 2025, at which time the Applicant would have been able to upload their resubmittal files. **Was this the case, and the Applicant actually submitted (uploaded) the revised application files on or after Feb 3, 2025?** If the Applicant was allowed to resubmit files in a manner other than as specified on Form PLG-130, why was this exception granted and what was the justification for an exception?
 - If this is the case, then the Applicant did not by 1/30/2025 "submit all of the information required in the [Incomplete Application] letter" dated 11/1/2024, and the Application should be deemed abandoned? **(please clarify)**.
- Can you provide me the link to the referenced HCD Letter of Technical Assistance to the Town of Los Gatos, dated August 30, 2024, which Jonathan Di Salvo referred to in his February 7, 2025 email, and which provides technical background pertaining to time extensions?
- Is the Applicant's submitted form PLG-130 something that can be viewed via a County Records Room request?

We also argue that the original pre-application PA241013 does not qualify for Builder's Remedy because the County had a Housing Element that met the state requirements before the application was submitted in April 2024, even though the State HCD hadn't certified the HE, because HCD told County what they would need to do in order for the HE to be in compliance with state law, and if they made those changes, the County's HE would be in substantial conformance (so, in effect, it was conditional certification of the HE). Since PA241013 was supposedly deemed complete on 4/9/2024, **prior to AB 1886 being signed into law on 9/19/2024**, the LAW does not state that HCD must certify a Housing Element for it to be "adopted and in substantial compliance with state law". HCD took the position that it must certify the housing element for it to be in substantial compliance with state law, but this is simply the *assertion* of HCD; nowhere in state law in effect on 4/9/24 is this actually stated as a requirement.

I was told on 11/20/24 in an email from you, " HCD did not provide staff with a conditional certification. The certification letter was received on April 23rd." However, based on email correspondence from HCD circa February 2024 which specified what the County would need to do in order to make the HE comply with state law, this is in effect conditional certification, because HE specifically stated what changes needed to be made, and once made, the HE would be in substantial conformance. **Why does the County take an opposite position?**

Also, a related question which is really frustrating to County citizens: **Why didn't the County 't give HCD 90 days to review the draft element, per policy, when they knew when the HE was due? HCD provided review comments to the County back in Oct 2023 saying what needed to be changed to the draft HE to be in substantial conformance, but the Nov 2023 HE that the County adopted somehow didn't meet state law requirements, despite HCD's review comments to County back in Oct 2023; this lead to the County being out of compliance. Why didn't the Nov 2023 adopted HE incorporate the changes required by the Oct 2023 HCD review?**

We have repeatedly reached out to Workbench regarding the updates to their application, but they've said they will only respond to our questions at the next public forum opportunity.

All of the neighbors in our area are concerned about the negative impacts that a large project using the Grey Seal Road cul-de-sac as the only access road would bring with it (parking queues, ultra dense urban environment, traffic, etc.). A 5 story, 63 unit development (that presumes to use builder's remedy, despite the facts presented above would also be one of the largest buildings in Live Oak, on a residential parcel in a family neighborhood, creating immense issues for the community.

Thank you,

Riley Gerbrandt

* According to Government Code Section 65589.5(d), for a housing development project to qualify for the "Builder's Remedy", the project must be a housing development project for "very low, low-, or moderate-income households" as defined. To meet this definition, the project must meet one of three requirements for deed-restricted affordable units; specifically, and citing AMBAG's technical overview, the housing development project **must** meet one of the following three requirements:

- 20% of the total units sold or rented to lower income households;
- 100% of the units sold or rented to moderate income households; or
- 100% of the units sold or rented to middle income households

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Riley Gerbrandt, P.E., M.ASCE
Professional Civil & Geotechnical Engineer

Email: Riley.Gerbrandt@gmail.com

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Riley Gerbrandt, P.E., M.ASCE
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Michael Reis
(c) 732 754 8197
(e) reismj88@gmail.com

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Michael Reis
(c) 732 754 8197
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841 Capitola Road - 2 April follow-up

Jamie Sehorn <Jamie.Sehorn@santacruzcountyca.gov>
To: Mike Reis <reismj88@gmail.com>

Fri, May 2, 2025 at 12:04 PM

Hi Mike,

Sorry for the delay, it was a busy week! I did get some info about the granting of the extension:

The decision to grant an extension was made by the Assistant CDI Director, Permitting division, and the Planner, in accordance with County Counsel's interpretation of the applicable laws that pertain to extensions. This decision was made because, in the event the County faces a lawsuit on this project in the future, the County wants to make sure we have the most defensible position possible and Counsel advised that this was the best course of action. This extension was not unusual – the County regularly grants mutual extensions to the PSA in accordance with the PSA. It's important to understand that, if the County had not granted the extension, the outcome would have been routing of an incomplete submittal for review, which would have garnered another round of incompleteness comments and a subsequent resubmittal, and so on, until the point the application is deemed complete. It would not have killed the project. Planning determined the extension was a better way to go – supported and congruent with the regulations and does not result in a waste of staff review time of a clearly incomplete submittal.

Best,

Jamie

Jamie Sehorn*County Supervisor's Analyst**Supervisor Manu Koenig, First District*

County of Santa Cruz

701 Ocean Street, Room 500

Santa Cruz, CA 95060

831.454.2200

jamie.sehorn@santacruzcountyca.gov

From: Mike Reis <reismj88@gmail.com>
Sent: Thursday, April 24, 2025 12:18 PM
To: Jamie Sehorn <Jamie.Sehorn@santacruzcountyca.gov>
Subject: Re: 841 Capitola Road - 2 April follow-up

Thank you for the update Jamie,

It's great to hear that the traffic study is being required. In the November incompleteness letter, Jonathan requested the results of a parking or traffic study, to which the Applicant refused and attempted to cite various tangentially-related court cases in a rebuttal to the County. Is the County firm in their commitment to require traffic study?

For my own understanding, is parking included in a traffic study (are they synonymous)?

Thank you for confirming the CEQA portion. I'll start digging into that to understand more of its implications. Is this a hard stance, or something we can expect the Applicant to wiggle out of?

I'll take a look at the meeting minutes and video regarding point 3 - thanks for sharing that.

Were you able to gain any insight on the PLG-130 process deviation?

Thanks

--

Michael Reis
(c) 732 754 8197
(e) reismj88@gmail.com

On Thu, Apr 24, 2025 at 10:00 Jamie Sehorn <Jamie.Sehorn@santacruzcountyca.gov> wrote:

Hi Mike,

In regards to #2 – We spoke about this with Stephanie; Planning is requiring a Traffic study and has put that requirement in the Incomplete letter. Please also note this project will need to go through CEQA.

In regards to #3 – you can review the minutes and/or video of the Planning Commission meetings in which the PC reviewed the Housing Element: Planning Commission. In my review, I did not see any actions by Commissioner Gordin that served to delay the process.

Kind regards,

Jamie

Jamie Sehorn

County Supervisor's Analyst

Supervisor Manu Koenig, First District

County of Santa Cruz

701 Ocean Street, Room 500

Santa Cruz, CA 95060

831.454.2200

jamie.sehorn@santacruzcountyca.gov

From: Mike Reis <reismj88@gmail.com>

Sent: Thursday, April 24, 2025 9:08 AM

To: Stephanie Hansen <Stephanie.Hansen@santacruzcountyca.gov>

Cc: Manu Koenig <Manu.Koenig@santacruzcountyca.gov>; Jamie Sehorn <Jamie.Sehorn@santacruzcountyca.gov>

Subject: Re: 841 Capitola Road - 2 April follow-up

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Hey all,

I have an appointment to review the letter of incompleteness coming up this next Monday.

Are there any updates to my original three questions?

Thanks

—

Michael Reis
(c) 732 754 8197
(e) reismj88@gmail.com

On Thu, Apr 17, 2025 at 13:39 Mike Reis <reismj88@gmail.com> wrote:

Hi folks,

Two things - first and foremost, a question for Stephanie. I believe 4/17 was the deadline for the County to provide their letter to the applicant regarding their latest plan submission. Would I be able to review this letter at the Records office?

Second, are there any updates to the three main questions I originally posed?

Thank you

On Thu, Apr 10, 2025 at 6:10 PM Mike Reis <reismj88@gmail.com> wrote:

Hi Manu, Jamie, Stephanie,

Stephanie - I appreciate you sharing my notes about the application with Jonathan. My original three questions were more general (unrelate to a project's specifics), and related to topics that we had either previously discussed in various email threads, or in person at the meeting last week; I'm mostly interested in responses to these questions for the time being. I updated the parking section in blue, since I know Manu had a meeting this week.

- PLG-130 form submission timeline
 - A resubmittal request form *and* brand new plans were submitted on the deadline set by the County's November response letter (1/30).
 - PLG-130 form lays out a clear process by which the County opens up the web portal for the Applicant to upload documents on the **Monday** following the receipt of a resubmittal request form. Given PLG-130 was submitted on **1/30**, the next opportunity for the Applicant to submit their documents should've been **2/3**
 - The resubmission instructions and statutes clearly define that **all** documents needed to be submitted on or before the deadline (1/30). A late submission would have resulted in the application being abandoned
 - The date of the mutual extension appears to *after* the deadline, not before
 - Given the Applicant's disregard for the County's November deficiency notice (I likened the situation to Workbench turning in English homework when they were given a Math assignment, and then asking for an extension), I'm still a bit perplexed how the County could "mutually agree" to grant an extension. What is the minimum bar for granting these exceptions? It's hard to imagine a *lower* bar than completely ignoring the County's feedback and instead submitting a brand new development plan (that increased the units by 97%).
 - Workbench's 1/30 PLG-130 form simply said 'this resubmission is to comply with the County's deadline' and provided **no other written responses**
- Request for a parking or traffic study, pursuant to 65915(p)(7) - independent of the application currently in review, there are no currently-relevant studies for the County to fall back on when trying to make a judgement on a proposal's reasonableness
 - (update) Please let us know how the meeting with DPW went, Manu - we're eager for updates!
 - In the document I shared with you, I outlined some clear discretionary powers that the County has in setting parking minimums. For example, AB2097 (65863.2) does not apply given that the property is not within 1/2mi of a major transit stop (and regardless, the application is not completed so there's no 30d window to contend with), so the path forward looks clear - if this request needs to be initiated by someone else, I'm happy to take point
 - A traffic study itself would be able to quantify the 'adverse impacts on the safety of the community', which **is** one of the key discretionary powers that the County is provided in 65589.5. Workbench is refusing to run *any* technical studies (for traffic, they're citing that the project would have an insignificant impact?), but the County does not have such limitations
- Santa Cruz County Planning Commission involvement in the Housing Element process

- We touched on it briefly in our meeting, but the main line of questioning here is whether Tim Gordin, in his role as Commissioner, was involved in the HE drafting / review / approval process. Given what would be clear conflicting interests (as the CEO of the builder proposing an SB330 development, owner of the property in question, **and** the County Commissioner), and **especially** given the extreme concessions *Tim's company* were awarded through the SB330 mechanism, any minor delays or unaddressed State feedback leading up to the November submission will be heavily scrutinized if (when) this development goes to appeals

Thanks

On Mon, Apr 7, 2025 at 9:00 AM Mike Reis <reismj88@gmail.com> wrote:

Thank you Stephanie, I appreciate your response.

Will I be able to review the County's response letter via a records request, at the end of the review period?

Thanks

--

Michael Reis
(c) 732 754 8197
(e) reismj88@gmail.com

On Mon, Apr 7, 2025 at 08:57 Stephanie Hansen <Stephanie.Hansen@santacruzcountyca.gov> wrote:

Good morning Mike,

Thank you for your comments. I have let the Planner know. Please be patient while we finish our review.

Stephanie

From: Mike Reis <reismj88@gmail.com>

Sent: Saturday, April 5, 2025 8:32 PM

To: Manu Koenig <Manu.Koenig@santacruzcountyca.gov>; Jamie Sehorn <Jamie.Sehorn@santacruzcountyca.gov>; Stephanie Hansen <Stephanie.Hansen@santacruzcountyca.gov>

Subject: 841 Capitola Road - 2 April follow-up

******CAUTION:** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Hi Manu, Jamie, Stephanie,

I wanted to take a moment and follow up on some of the project-independent concerns that we raised in our meeting, namely:

- PLG-130 form submission timeline
 - A resubmittal request form *and* brand new plans were submitted on the deadline set by the County's November response letter (1/30).
 - PLG-130 form lays out a clear process by which the County opens up the web portal for the Applicant to upload documents on the **Monday** following the receipt of a resubmittal request form. Given PLG-130 was submitted on **1/30**, the next opportunity for the Applicant to submit their documents should've been **2/3**
 - The resubmission instructions and statutes clearly define that **all** documents needed to be submitted on or before the deadline (1/30). A late submission would have resulted in the application being abandoned
 - The date of the mutual extension appears to *after* the deadline, not before
 - Given the Applicant's disregard for the County's November deficiency notice (I likened the situation to Workbench turning in English homework when they were given a Math assignment, and then asking for an extension), I'm still a bit perplexed how the County could "mutually agree" to grant an extension. What is the minimum bar for granting these exceptions? It's hard to imagine a *lower* bar than completely ignoring the County's feedback and instead submitting a brand new development plan (that increased the units by 97%).
 - Workbench's 1/30 PLG-130 form simply said 'this resubmission is to comply with the County's deadline' and provided ***no other written responses***
- Request for a parking or traffic study, pursuant to 65915(p)(7) - independent of the application currently in review, there are no currently-relevant studies for the County to fall back on when trying to make a judgement on a proposal's reasonableness
 - I wrote to Santa Cruz County DPW formally requesting a parking study, but I'm not sure if that's the correct avenue. I've asked Jonathan separately about how to do this but did not hear back, so I'm flying a bit blind here.
 - In the document I shared with you, I outlined some clear discretionary powers that the County has in setting parking minimums. For example, AB2097 (65863.2) does not apply given that the property is not within 1/2mi of a major transit stop (and regardless, the application is not completed so there's no 30d window to contend with), so the path forward looks clear - if this request needs to be initiated by someone else, I'm happy to take point
 - A traffic study itself would be able to quantify the 'adverse impacts on the safety of the community', which **is** one of the key discretionary powers that the County is provided in 65589.5. Workbench is refusing to run *any* technical studies (for traffic, they're citing that the project would have an insignificant impact?), but the County does not have such limitations
- Santa Cruz County Planning Commission involvement in the Housing Element process
 - We touched on it briefly in our meeting, but the main line of questioning here is whether Tim Gordin, in his role as Commissioner, was involved in the HE drafting / review / approval process. Given what would be clear conflicting interests (as the CEO of the builder proposing an SB330 development, owner of the property in question, **and** the County Commissioner), and **especially** given the extreme concessions *Tim's company* were awarded through the SB330 mechanism, any minor delays or unaddressed State feedback leading up to the November submission will be heavily scrutinized if (when) this development goes to appeals

While I walked away from our meeting on Wednesday with the sense that you genuinely cared about our concerns and were willing to help (side note, I hope my citation-heavy document is easy to follow), the Workbench community meeting on Tuesday had a decidedly less positive feeling. After being shown a PR-heavy slide deck, their responses to our concerns boiled down to "tough luck, we're doing this"; their response to my question about holding them accountable to working *with* the community was "you just gotta trust us".

Suffice to say, the only avenue we seem to have at our disposal is discussing our concerns and the project's technical deficiencies with the County directly. On that note, I will be following up on the questions

mentioned above frequently - I'm happy to set aside time again to meet with you and discuss them, if that's preferred.

Thanks,

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(c) 732 754 8197
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841 Capitola Road - 2 April follow-up

Mike Reis <reismj88@gmail.com>

Wed, Jun 4, 2025 at 8:29 PM

To: Jonathan DiSalvo <Jonathan.DiSalvo@santacruzcountyca.gov>

Cc: Stephanie Hansen <Stephanie.Hansen@santacruzcountyca.gov>, Jamie Sehorn <Jamie.Sehorn@santacruzcountyca.gov>, Manu Koenig <Manu.Koenig@santacruzcountyca.gov>, Jocelyn Drake <Jocelyn.Drake@santacruzcountyca.gov>, Greg Martin <Greg.Martin@santacruzcountyca.gov>, County Counsel <CountyCounsel@santacruzcountyca.gov>, Oppose Capitola <oppose841capitolaroad@gmail.com>

(removing DPW - I'm not sure when they were added, but I don't think this topic concerns them)

Hi all,

Does anyone in this thread have any insight into the questions I raised (in the thread below), given the new evidence provided through the records request?

Thanks

On Thu, May 22, 2025 at 10:29 PM Mike Reis <reismj88@gmail.com> wrote:

Hi folks, I'd like to refresh this thread with some new supporting evidence regarding our questions about the PLG-130 submission timeline.

After submitting a records request for any discussions about the 1/30 PLG-130 form for this property, following Jonathan's suggestion, I found an email from Clay Toombs on 1/27 asking Jonathan and the ePlan folks to "have the ePlan portal open for the resubmittal"

In his response, Jonathan referred Clay to the County's resubmittal instructions (specifically page 2) and suggested that Clay request an intake appointment on 1/30. Looking at page 2 of the ePlan Resubmittal Instruction, it specifically says "all resubmittals require an electronic appointment. Appointments will be scheduled **the week after the request is received**". Now that we know the resubmittal request could not have been sent earlier than 1/27 (based on the email between Clay and Jonathan), this means the appointment would not have been possible on 1/30. This discrepancy remains **unaddressed**.

Also on page 2 of the ePlan discretionary is a requirement that the applicant "**must** include a response to the incomplete application comments, including an itemized checklist of the location of all required outstanding items as identified in the Letter of Incomplete Application". This requirement was not met, as the Applicant's PLG-130 merely said 'this form is being submitted to comply with the County's January 30th deadline, more details to follow' (or something to that extent). Given both of these findings, it looks like their PLG-130 resubmission should **not have been** submitted on time, and did **not** meet the minimum requirements. I did not capture an email regarding the time extension discussion in my records request (it was too specific, I think).

The guidance that Jonathan had provided us in response to questions about how the County and an Applicant can mutually agree to extend a deadline (Town of Los Gatos and HCD), does not appear to be related to the PLG-130 submission process. It also does not provide criteria for an extension - if someone at the County could provide guidance on what (if any) requirements need to be met by the Applicant, that would be tremendously helpful. It doesn't look like they made a good faith effort to meet the original deadline.

I've attached two items:

1. The ePlan Instructions PDF as it existed on April 15th, 2025
 1. The instructions were revised on May 12th, and one of the changes removed the language regarding the week delay after request receipt, but I had saved the previous version for reference
2. The email received through my records request between Jonathan and Clay regarding the 1/30 PLG-130 resubmittal

In the end, I'm hoping that someone at the County can help provide comments regarding the incomplete and late PLG-130 submission as well as the conditions surrounding a timeline extension.

Thanks

On Tue, May 6, 2025 at 8:12 PM Mike Reis <reismj88@gmail.com> wrote:

Hi Jonathan, one last quick note on the parking - I wanted to clarify, for the record, why I believe that SDBL provides the County with the associated discretionary power.

65915(p)(1) sets the baseline parking ratio. The Applicant **directly** cites this section on sheet GP.02 in saying that their baseline calculation is 71 spaces (there are no other regulatory references to parking in their Application besides 65915(p)).

65915(p)(2) states that "notwithstanding paragraph (1)", the Applicant can seek a concession to reduce the ratio to either 0.50 spaces / unit or 0.50 spaces per bedroom. Both are contingent on being "located within one-half mile of a major transit stop".

65915(p)(7) states that "**notwithstanding** paragraphs (2) and (3)", the "county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1)".

I'm not well-versed in legalese, but my understanding is that section (7) translates to "even though ("notwithstanding") paragraphs (2) and (3) say otherwise, the County can impose a higher (realistic) ratio above that of (2) or (3) without exceeding (1)".

I understand that the Department will not be engaging in regulatory interpretations, but I nonetheless wanted to clearly lay out our justification for the parking study request.

Thanks,

Mike

On Tue, May 6, 2025 at 7:49 PM Mike Reis <reismj88@gmail.com> wrote:

Hi Jonathan, thank you for the thorough response

In response to parking:

(1) Noted

(2) Am I correct in understanding that the Board of Supervisors can request this study directly? 65915(p)(7) states that the study would be funded by the County but, for the sake of transparency, do you know how much these studies can cost? Would there be an option for the community to fund it directly?

(3) Noted that a parking study would not be required for completeness (as the Applicant states in their PLG-130 LTR submissions)

In regards to the SDBL, and without getting into regulatory interpretations, our contention has been that the Applicant's parking ratio concession is contingent on their proximity to a major transit stop (which is easily disproved). That notwithstanding, we also contend that 65915(p)(7) provides the County with the discretionary power to impose a parking ratio higher than that set in 65915(p)(2) (which is the concession that the Applicant is aiming to use) through the use of a parking study.

All that aside, there's clearly a *chance* that a parking study can be used to impose a realistic parking ratio - given that any decision surrounding this topic will be contentious, I would think that it's in the best interest of the County to conduct a parking study in order to support its position one way or another.

Thank you for the timing of the Staff Report - we look forward to reviewing it.

On the topic of the resubmission timeline, I understand that the PLG-130 form *and* PLN were submitted on 1/30 to meet the County's deadline. I may be confused about the submission procedure, so hopefully someone can clarify. My understanding of the process, from the form itself, is as follows:

1. Applicant provides PLG-130 form to initiate the application resubmittal process
2. County receives the PLG-130 form and provides an upload appointment date (the next Monday)
3. Applicant submits their response (PLN, LTR, etc.)

My question (and possibly confusion) lies in that second step - if the PLG-130 form was submitted *on* 1/30, then the portal by which the Applicant could upload its formal response (the PLN file) should not have been opened until 2/3. Yet the PLG-130 form submitted on 1/30 *also* had the PLN file.

Thanks

On Tue, May 6, 2025 at 2:19 PM Jonathan DiSalvo <Jonathan.DiSalvo@santacruzcountyca.gov> wrote:

Hello Mike,

In regard to questions pertaining to the parking study as referenced per Government Code 65915, (1) no areawide or jurisdiction-wide parking study has been conducted in the subject area within the last seven years, (2) nor has the County Board of Supervisors directed that such study be conducted or funded, and (3) a parking study is not required to be provided by the applicant as a matter of completeness, as the project is subject to the parking requirements detailed in Density Bonus Law rather than County Code.

Secondly, even if a parking study had been conducted and supported a higher parking ratio, it would not preclude the applicant from seeking waivers, incentives, or concessions to reduce the parking requirement for the project under State Density Bonus Law.

I want to reiterate the Department will not be engaging in a discourse over regulatory interpretations at this phase.

The staff report would be published one week prior to a scheduled Planning Commission hearing. The staff report would be accessible via the Planning Commission meeting agenda. For your reference, meeting agendas can be accessed via the Department's website here: [Public Meetings & Hearings](#)

In regard to the resubmittal, it was uploaded on their scheduled appointment date: on January 30th, 2025. I have provided information to you in prior correspondence pertaining to the executed time extension of the 90-day deadline, so I will not reiterate it here again, but it was granted in conformance with State Law and guidance from the State Department of Housing and Community Development. You can also review the extension agreement correspondence provided in the application file via a Records Request.

Thank you,



Jonathan DiSalvo

Senior Planner

Community Development & Infrastructure

Phone: 831-454-3157

701 Ocean Street, Room 400



From: Mike Reis <reismj88@gmail.com>

Sent: Monday, April 28, 2025 11:41 AM

To: Jonathan DiSalvo <Jonathan.DiSalvo@santacruzcountyca.gov>; Stephanie Hansen <Stephanie.Hansen@santacruzcountyca.gov>; Jamie Sehorn <Jamie.Sehorn@santacruzcountyca.gov>; Manu Koenig <Manu.Koenig@santacruzcountyca.gov>

Cc: County Counsel <CountyCounsel@santacruzcountyca.gov>; Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>; Oppose Capitola <oppose841capitolroad@gmail.com>

Subject: Re: 841 Capitola Road - 2 April follow-up

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Hi folks,

I just got back from the Records office to review the 04/16 letter of incompleteness. It was great to see that a traffic study is stated as being required (by Jonathan, the Road Engineering report, and references to CEQA). What I did not see, however, were any references to a **Parking study**. Is a parking study contained within a traffic study, or are they synonymous terms? My comments below are made under the impression that they are two wholly distinct technical studies, so please correct me if I am wrong.

As stated by us, the impacted community, across emails going back and forth between different members of this email group, a parking study **needs to be conducted** given the size of (and concessions requested for) the project. **65915(p)(7)** clearly outlines the discretionary power that the County has in mandating a **realistic** parking ratio through the results of a parking study. I've reached out to DPW (Stacey) who bounced the request back to Planning (Jonathan) and said that the Applicant would have to be required to run it.

Despite numerous requests regarding a parking study (including clarification on whether it's included in a traffic study), we have not received any form of response from anyone in this group. If there is a specific process or person that I need to work through, please let me know.

Other than those notes, I'm still looking for feedback on these questions:

- First and foremost, since I'm **very** new to the application process, can you please elaborate on the timeline and milestones leading up to the Planning Commission public hearing? You mention that a "staff report" will be created around the time of the public hearing - will this be available for the public to review **before** the hearing? If the Planning Department will not be discussing possible code violations with the affected members of the community, I would hope that there would be sufficient time afforded to us **before** the application goes for a vote at the Commission level
- In response to the County's November letter of incompleteness, the Applicant submitted a signed PLG-130 on 1/30 (the deadline), and pursuant to the process laid out on the form, the portal to upload documents should've been opened **no sooner** than the following Monday (2/3). Despite this, a brand new set of plans was submitted at the same time as the PLG-130 form
 - Is there a justification or precedent that enabled this apparent process deviation?
 - The County's letter of incompleteness, in November, set a deadline to provide a response (1/30), which the Applicant should **not** have been able to meet if the PLG-130 process was followed

- In response to the County's November letter of incompleteness, the Applicant **completely** ignored your comments and highlighted deficiencies when providing their 1/30 PLG-130 form and instead uploaded a completely new set of plans for a larger development (+97%). Despite this, the County still mutually agreed to extend the deadline
 - What is the minimum bar for granting deadline extensions? It's difficult to imagine how their 1/30 submission could constitute a good faith response

I look forward to clarity on these questions, specifically the process for a parking study.

Thank you

On Sun, Apr 20, 2025 at 10:41 PM Oppose Capitola <oppose841capitolaroad@gmail.com> wrote:

We, the neighbors of Mike Reis, agree with his comments and expect a reply.

On Fri, Apr 18, 2025 at 9:41 PM Mike Reis <reismj88@gmail.com> wrote:

Hi Jonathan, thanks for the update. I went ahead and made a records request to review the 04/16 incompleteness letter.

I had a few other questions pertaining to the rest of your email.

First and foremost, since I'm **very** new to the application process, can you please elaborate on the timeline and milestones leading up to the Planning Commission public hearing? You mention that a "staff report" will be created around the time of the public hearing - will this be available for the public to review **before** the hearing? If the Planning Department will not be discussing possible code violations with the affected members of the community, I would hope that there would be sufficient time afforded to us **before** the application goes for a vote at the Commission level.

Regardless of whether you discuss code interpretations with the public or not, what level of scrutiny is expected in this early phase of the process? For example, the Applicant justifies several aspects of their project on criteria that are demonstrably false (65589.5(h)(11)(C)(ii) for base density and 65915(p)(2) for parking ratios being two obvious instances) - will these claims be addressed in the County's incompleteness letters, or will that have to wait until the staff report? In your previous incompleteness letters, you followed up on specific items related to 65915 (specifically, you requested a parking study and proof that their requested concessions would result in cost savings); given this, I'd assume that some level of fact-checking can be expected.

Regarding parking, I made a request to the Santa Cruz County DPW to conduct a parking and traffic study, pursuant to 65915(p)(7), but the Traffic Department bounced the request back to the Planning Department and said that the Applicant would have to run it. As we all know, the Applicant is **refusing** to acknowledge that a parking and traffic study is required. **When will the County conduct this study?** At this point, I've made requests across several emails to different people dating back to January - I have **yet** to receive a response, satisfactory or otherwise. It's **imperative** that this basic technical study be conducted, if for no other reason than to provide the County with the information needed to impose a more realistic parking ratio. It's important to note that, contrary to the Applicant's assertion, the County **does** have the power to impose a higher ratio (65863.2(b) does not apply).

Final two questions are general, and should be independent of any specific revision of the project:

- In response to the County's November letter of incompleteness, the Applicant submitted a signed PLG-130 on 1/30 (the deadline), and pursuant to the process laid out on the form, the portal to upload documents should've been opened **no sooner** than the following Monday (2/3). Despite this, a brand new set of plans was submitted at the same time as the PLG-130 form
 - Is there a justification or precedent that enabled this apparent process deviation?
 - The County's letter of incompleteness, in November, set a deadline to provide a response (1/30), which the Applicant should **not** have been able to meet if the PLG-130 process was followed
- In response to the County's November letter of incompleteness, the Applicant **completely** ignored your comments and highlighted deficiencies when providing their 1/30 PLG-130 form and instead uploaded a completely new set of plans for a larger development (+97%). Despite this, the County still mutually agreed to extend the deadline
 - What is the minimum bar for granting deadline extensions? It's difficult to imagine how their 1/30 submission could constitute a good faith response.

I appreciate your time responding to these questions.

Thanks

On Fri, Apr 18, 2025 at 3:57 PM Jonathan DiSalvo <Jonathan.DiSalvo@santacruzcountyca.gov> wrote:

Hello,

To request to review files associated with Application No. 241371, please send a Records Request Form, here: [Records Request Form](#).

Via the aforementioned records request process, you will be able to review the second Incomplete Letter issued to the Applicant on 4/16/25 and the requested time extension correspondence.

I want to assure you your comments have been received and are being taken into consideration. The Department will not be engaging in a discourse over regulatory interpretations at this phase. This application is under review, it is early in the process, and a comprehensive compliance review isn't accomplished until after the application is deemed complete. Any compliance issues with applicable codes/policies/laws will be addressed as part of the staff report associated with the public hearings for this project. Of course, we would encourage you to provide comments as part of any future public hearings. Public hearings will be duly noticed and you are encouraged to participate in these.

Thank you,



Jonathan DiSalvo

Senior Planner

Community Development & Infrastructure

Phone: 831-454-3157



From: Oppose Capitola <oppose841capitolaroad@gmail.com>
Sent: Thursday, April 17, 2025 2:41 PM
To: Manu Koenig <Manu.Koenig@santacruzcountyca.gov>; Jonathan DiSalvo <Jonathan.DiSalvo@santacruzcountyca.gov>; Stephanie Hansen <Stephanie.Hansen@santacruzcountyca.gov>; County Counsel <CountyCounsel@santacruzcountyca.gov>; Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>; Jamie Sehorn <Jamie.Sehorn@santacruzcountyca.gov>
Cc: Mike Reis <reismj88@gmail.com>
Subject: 841 Capitola Road - 2 April follow-up

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Hi Supervisor and County Staff,

Yes, we would really appreciate follow-up from County staff and Supervisor Koenig.

First and foremost, we understand 4/17 was the deadline for the County to provide their letter to the applicant regarding their latest plan submission. Does this letter include analysis pertaining to the concerns that we've repeatedly raised with the Supervisor's office and with County staff? Would we be able to review this letter at the Records office? Better yet, please will County staff send us a copy of this letter?

Second, are there any updates to the main questions that our community has originally asked?

- PLG-130 form submission timeline
- Request for a parking or traffic study, pursuant to 65915(p)(7)
- Santa Cruz County Planning Commission involvement in the Housing Element process
- Supervisor Koenig's meeting with DPW regarding parking and traffic concerns
- Mis-application of Government Code regarding on-site parking requirements for the proposed development
 - *AMBAG confirms in an email dated 3/5/2025 that the only major transit stops in Santa Cruz County are within the City of Santa Cruz per the attached map. So, the developer would only be able to request onsite parking reductions consistent with Gov Code Section 65915(p)(1) .*
- Violation of Government Code 65589.5(o)(2) by the Application's increase in residential units per square footage of construction by 20 percent or more, requiring submission of a NEW SB 330 preliminary application, and the old one from 4/9/24 is no longer deemed complete

- Does the Housing Accountability Act (Gov Code Section 65589.5) in effect during 2024, which contains the "Builders Remedy" provisions of subparagraph (d)(1-5) thereof, determine the "20 percent of the total units" in Section 65589.5(h)(3)(A) based on the total base units or on the base + bonus total units?
- Stormwater runoff concerns on this site with heavy clay mapped as low to very low permeability and expansive soils. Per County Design Criteria, the proposed development runoff must equal the existing conditions stormwater runoff. We don't understand how this can be achieved when the proposal is to create impermeable surfaces on nearly 99% of the site.
- How is the maximum base density for this property calculated? We want to double-check the Applicant's calculations.
-
- The preliminary application states that the project will seek California Density Bonus Law (Gov Code Section 65915) concessions, waivers, and parking reductions
 - *Applicants must provide detailed information on the requested waivers, incentives and concessions, identifying the actual cost reduction and demonstrating why it is necessary to accommodate the bonus.*
 - *Staff does not have discretion over the density increase, however, staff can work with the Applicant to determine which concessions are waivers would result in the least detriment to the neighborhood and adjoining properties.*
- *Gov Code Section 65915(b)(1) only discusses manager's units in relation to subparagraph (G) thereof; it is not clear how the Applicant, by mentioning that the Manager's Unit is excluded from the dwelling unit count, is accounting for a Manager's Unit on the property and if that is in addition to the 28 base + bonus units proposed.*
- *Gov Code Section 65915(b)(2) stipulates that an applicant requesting a density bonus shall elect whether the bonus be awarded on the basis of one of the subparagraphs (A), (B), (C), (D), (E), (F), or (G) of Gov Code Section 65915(b)(1).*
- *Gov Code requires that the affordable and market rate units must be comparable.*
- No where on the 4/9/24 SB 330 preliminary application document does the application state that it is a Builder's Remedy project (we reviewed the actual document ourselves in the County Records Room).
- **Where can we see the agreement document between the Applicant and the County, in which it was agreed to extend the deadline to 3/17/25?**
- if Applicant submits a flagrantly incomplete application resubmittal in response to a notice of incompleteness letter, can that be grounds for disproving the application?

Thank you in advance,

Citizens of Grey Seal Road and Surrounding Areas

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Michael Reis
 (c) 732 754 8197
 (e) reismj88@gmail.com

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Michael Reis
 (c) 732 754 8197
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Michael Reis
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From: [Mark Connolly](#)
To: anthony.errichetto@hcd.ca.gov; McDougall, Paul@HCD
Cc: [Stephanie Hansen](#); [Matthew Sundt](#); [Suzanne Ise](#)
Subject: RE: Santa Cruz County 6th Cycle Housing Element adoption status
Date: Monday, March 25, 2024 1:48:11 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

Hi Anthony-

No, we are not having the SCCO Board of Supervisors readopt the element. It is just a status update letting them know how we responded to the last HCD comments.

We appreciate anything you can do.

Thank you,



Mark Connolly

Principal Planner – Policy Section
Community Development & Infrastructure

Phone: 831-454-2682
701 Ocean Street, Room 400



From: Errichetto, Anthony@HCD <Anthony.Errichetto@hcd.ca.gov>
Sent: Monday, March 25, 2024 12:34 PM
To: Mark Connolly <Mark.Connolly@santacruzcountyca.gov>; McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>
Cc: Stephanie Hansen <Stephanie.Hansen@santacruzcountyca.gov>; Matthew Sundt <Matthew.Sundt@santacruzcountyca.gov>; Suzanne Ise <Suzanne.Ise@santacruzcountyca.gov>
Subject: RE: Santa Cruz County 6th Cycle Housing Element adoption status

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Just clarifying, the SCC Board will readopt the element? I can definitely try my best to get a letter to your team by April 9.

Anthony



Anthony Errichetto

Housing Policy Specialist

Division of Housing Policy Development
Land Use & Local Government Relations
Planning Grants & Incentives

Department of Housing & Community Development
2020 W. El Camino Avenue, Suite 550 | Sacramento, CA 95833



HCD Mission: Promote safe, affordable homes and vibrant, inclusive, sustainable communities for all Californians.

HCD Vision: Every California resident can live, work, and play in healthy communities of opportunity.

From: Mark Connolly <Mark.Connolly@santacruzcountyca.gov>

Sent: Wednesday, March 20, 2024 4:21 PM

To: Errichetto, Anthony@HCD <Anthony.Errichetto@hcd.ca.gov>; McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>

Cc: Stephanie Hansen <Stephanie.Hansen@santacruzcountyca.gov>; Matthew Sundt <Matthew.Sundt@santacruzcountyca.gov>; Suzanne Ise <Suzanne.Ise@santacruzcountyca.gov>

Subject: RE: Santa Cruz County 6th Cycle Housing Element adoption status

Good afternoon, Anthony,

After further thought, I wonder if it would be possible to obtain a Conditional Certification from HCD prior to April 9th. I think that would make the record more clear and provide our Board with the intent of HCD following our final submission.

Appreciate your thoughts.

Thank you,

Mark Connolly

Principal Planner – Policy Section
Community Development & Infrastructure

Phone: 831-454-2682



701 Ocean Street, Room 400

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 [\[santacruzcounty.us\]](#)

From: Mark Connolly

Sent: Wednesday, March 20, 2024 1:07 PM

To: Errichetto, Anthony@HCD <Anthony.Errichetto@hcd.ca.gov>; McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>

Cc: Stephanie Hansen <Stephanie.Hansen@santacruzcountyca.gov>; Matthew Sundt <Matthew.Sundt@santacruzcountyca.gov>; Suzanne Ise <Suzanne.Ise@santacruzcountyca.gov>

Subject: RE: Santa Cruz County 6th Cycle Housing Element adoption status

Good afternoon, Anthony, and Paul.

As a follow up to our conversation last Friday regarding verifying the status of adoption with our Board; We received concurrence that the responses to the comments from the 1/16/2024 letter were non-substantive changes and re-adoption is not necessary.

We are going to take a simple Director's report to the Board on April 9th, just so we have it in the record.

We wanted to let you know immediately so you could send the letter of certification out as soon as possible. Once again, our concern is that if we don't receive certification by April 29th, we would be stuck doing all our Rezoning in one year.

Thank you both again for working with us outside of the established timeframes. We appreciate it!

Mark Connolly

Principal Planner – Policy Section
Community Development & Infrastructure

Phone: 831-454-2682
701 Ocean Street, Room 400



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 [\[santacruzcounty.us\]](#)

From: [Errichetto, Anthony@HCD](mailto:Errichetto,Anthony@HCD)
To: [Mark Connolly](mailto:Mark.Connolly@HCD); [McDougall, Paul@HCD](mailto:McDougall,Paul@HCD)
Cc: [Stephanie Hansen](mailto:Stephanie.Hansen@HCD); [Suzanne Ise](mailto:Suzanne.Ise@HCD)
Subject: RE: Santa Cruz County Housing Element Certification
Date: Tuesday, April 9, 2024 10:54:25 AM
Attachments: [image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)

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That is great news, thanks for the update Mark! We will definitely have a formal letter over to your team by the 23rd.

Kind regards,
Anthony

Anthony Errichetto

Housing and Community Development Specialist

Division of Housing Policy Development
Land Use & Local Government Relations
Planning Grants & Incentives

Department of Housing & Community Development
2020 W. El Camino Avenue, Suite 550 | Sacramento, CA 95833



HCD Mission: Promote safe, affordable homes and vibrant, inclusive, sustainable communities for all Californians.

HCD Vision: Every California resident can live, work, and play in healthy communities of opportunity.

From: Mark Connolly <Mark.Connolly@santacruzcountyca.gov>
Sent: Tuesday, April 9, 2024 10:18 AM
To: Errichetto, Anthony@HCD <Anthony.Errichetto@hcd.ca.gov>; McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>
Cc: Stephanie Hansen <Stephanie.Hansen@santacruzcountyca.gov>; Suzanne Ise <Suzanne.Ise@santacruzcountyca.gov>
Subject: Santa Cruz County Housing Element Certification

Good Morning Anthony-

Great news! At this morning's regular meeting of the County Board of Supervisors, the Board accepted Staff's responses to HCD comments as non-substantive, on consent, with no further action. So no re-adoption, or consideration of our Housing Element will occur.

We look forward to receiving your certification letter before April 28th, which will preserve our ability to perform rezoning within three years, as opposed to one year.

We are prepared to make a clean copy version of our 6th Cycle HE available to you and the public via our website, upon certainty there are no additional textual edits and adding the exact date of certification.

Thank you, again for your expidited review and support.



Mark Connolly

Principal Planner – Policy Section
Community Development & Infrastructure

Phone: 831-454-2682
701 Ocean Street, Room 400

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Donovan Arteaga

From: Jonathan DiSalvo
Sent: Wednesday, October 22, 2025 7:43 AM
To: Donovan Arteaga
Subject: FW: Item #9.241371

Follow Up Flag: Follow up
Flag Status: Flagged

Please see public correspondence below and attached for Application No. 241371 for the 10/22/25 PC hearing.

Thank you,



Jonathan DiSalvo

Senior Planner
Community Development & Infrastructure

Phone: 831-454-3157
701 Ocean Street, Room 400



From: Jim More <moreemail005@gmail.com>
Sent: Wednesday, October 22, 2025 6:23 AM
To: Jonathan DiSalvo <Jonathan.DiSalvo@santacruzcountyca.gov>
Subject: Item #9.241371

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At the last minute I find myself unable to attend the public hearing this morning. I want to voice my thoughts on a 5 story monster in an area of residential housing. Visable for thousands of yards in all directions. It makes no sense, it doesn't come close to fitting in. Just because it is an undeveloped large lot in Live Oak doesn't mean it's available for building a high rise apartment complex.

We own parcel number 02668110 AO on 7th Ave, we will be in our backyard, overwhelmed by the sight of it.

How about emergency vehicles, Fire trucks accessing and turning around inside that lot. Traffic impacts from hundreds of residents will contribute to already overcrowded roads in this area.

This area is not the type of venue to create crowded housing.

We are completely opposed to this project.

James and Valerie More 7th Ave residents since 1985.

