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February 7, 2023

Via Email and Overnight Mail

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Re: Agenda Item #3-Barrel Creek Planned Development Project (PNLN No. DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699)

Dear Chair van den Eikhof, Honorable Planning Commission members, Mr. Dunsmore and Ms. Gleason:

We are writing on behalf of Californians Allied for a Responsible Economy ("CARE CA") with respect to February 7, 2023 Agenda Item #3, the Barrel Creek Planned Development Project (PNLN No. DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699) ("Project"), proposed by Legacy Realty and Development, LLC.

The Project proposes to develop a mixed-use development at the intersection of Del Rio Road and San Ramon Road in the City of Atascadero ("City"), San Luis Obispo County, California. The Project includes a proposal for 48,000 square feet (sf) of commercial/light industrial space, a 120-room hotel, 40 multi-family apartment units, 5,000 sf of restaurant or brewery space, 16 short-term stay

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cottages, and a 20-lot single family subdivision. The Project address is 6010, 6020, 6030 Del Rio Rd. and 1505, 1855 San Ramon Rd., Atascadero, CA 93422 on Assessor Parcel Numbers: 049-131-043, 044, 052, 058, and 066.

CARE CA hereby requests that the Planning Commission defer its consideration of the Project and continue the public hearing until after the close of the public review and comment period on the Project's Initial Study/Mitigated Negative Declaration ("MND")¹ and until the City has fully complied with the California Environmental Quality Act² ("CEQA").

As discussed below, the City recently released a revised Initial Study/Mitigated Negative Declaration ("MND") with a new public comment period running at least through February 22, 2023. The proposed Planning Commission recommendations to adopt the MND and approve the Project are therefore premature because the City has not received or reviewed the public comments which have yet to be submitted during the public review process, a necessary step before approving the Project.³ Following review of comments and evidence submitted by the public, the City may be also required to make revisions to the Project, add additional mitigation, consider Project alternatives, or prepare an environmental impact report ("EIR") in order to comply with CEQA and the municipal code. It is premature to recommend approval based on an unstable project description and incomplete CEQA document.

CARE CA is in the process of reviewing the revised MND with its experts and expects to submit comments and expert comments prior to the close of the public comment period. Based on our initial review of the MND and available supporting documents, we conclude that the MND fails to comply with the requirements of CEQA. The MND lacks a clear and consistent project description, fails to disclose and analyze the Project's potentially significant environmental impacts and is devoid of data or evidence supporting many of its findings on environmental impacts. The Planning Commission therefore lacks substantial evidence upon which to make the required findings to support the recommendations for Project approvals, and the City is required to prepare a legally adequate EIR for the Project to comply with CEQA.

¹ As used herein, "MND" refers to the revised Initial Study/Mitigated Negative Declaration released by the City on or about February 3, 2023.

² Pub. Resources Code, §§ 21000 et seq.; 14 Cal. Code Regs. ("C.C.R") §§ 15000 et seq. ("CEQA Guidelines").

³ 14 Cal. Code Regs. § 15074(b).

We urge the Planning Commission to continue this hearing until the Project's environmental review process is complete.

I. STATEMENT OF INTEREST

CARE CA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental impacts of the Project. The coalition includes Atascadero residents Lucas Falkenstern and Matt Macias and Paso Robles resident Frank Ortega, and other individuals who live and work in Atascadero and the surrounding area.

CARE CA advocates for protecting the environment and the health of their communities' workforces. CARE CA seeks to ensure a sustainable construction industry over the long-term by supporting projects that offer genuine economic and employment benefits, and which minimize adverse environmental and other impacts on local communities. CARE CA members live, work, recreate, and raise their families in the City of Atascadero and surrounding communities. Accordingly, they would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist onsite.

In addition, CARE CA has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making the area less desirable for new businesses and new residents. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

II. THE MND IS INADEQUATE AS A CEQA DOCUMENT AND AN EIR IS REQUIRED

CEQA requires that lead agencies analyze any project with potentially significant environmental impacts in an EIR.⁴ "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR protects not only the environment, but also

⁴ See Pub. Resources Code § 21000; CEQA Guidelines § 15002.

informed self-government.”⁵ The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.”⁶

CEQA’s purpose and goals must be met through the preparation of an EIR, except in certain limited circumstances.⁷ CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the “fair argument” standard. Under that standard, a lead agency “shall” prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.⁸

In contrast, a mitigated negative declaration may be prepared only when, after preparing an initial study, a lead agency determines that a project may have a significant effect on the environment, but:

(1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review *would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur*, and (2) there is *no substantial evidence* in light of the whole record before the public agency that the project, as revised, *may have a significant effect on the environment*.⁹

Courts have held that if “no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.”¹⁰ The fair argument standard creates a “low threshold” favoring environmental review through an EIR, rather than through issuance of a negative

⁵ *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564 (internal citations omitted).

⁶ *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

⁷ See Pub. Resources Code § 21100.

⁸ Pub. Resources Code §§ 21080(d), 21082.2(d); CEQA Guidelines §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.

⁹ Pub. Resources Code § 21064.5 (emphasis added).

¹⁰ See, e.g., *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320.

declaration.¹¹ An agency's decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.¹²

“Substantial evidence” required to support a fair argument is defined as “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.”¹³ According to the CEQA Guidelines, when determining whether an EIR is required, the lead agency is required to apply the principles set forth in Section 15064, subdivision (f):

[I]n marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

With respect to this Project, the MND fails to satisfy the basic purposes of CEQA. The City failed to adequately investigate, analyze, disclose and mitigate the Project's potentially significant impacts. Therefore, the City's conclusions that the Project will have less than significant impacts are unsupported and an EIR is required.

III. THE PLANNING COMMISSION HEARING IS PREMATURE AS THE CITY RECENTLY RELEASED A REVISED MND

On February 3, 2023, the City released a revised MND, triggering a new 20-day public review and comment period. Any action on the Project by the Planning Commission at its February 7 hearing would be premature because the State and public review and comment periods will still be open. While these comments are being offered based upon a preliminary review of the revised MND, CARE CA and its experts intend to submit further substantive comments on the MND's deficiencies under CEQA, and it is possible that other public commenters and State agencies will comment as well. The Planning Commission is being asked to make

¹¹ *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.

¹² *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th, 1307, 1318; see also *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002 (“If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an EIR and adopt a negative declaration, because it could be ‘fairly argued’ that the project might have a significant environmental impact”).

¹³ CEQA Guidelines § 15384(a).

recommendations to the City Council regarding the MND's compliance with CEQA without consideration of the full record, i.e., State agency and public comments. Moreover, each of the proposed resolutions recommending approval of the Project's various entitlements refers to and relies on the Commission's assessment of the adequacy of the revised MND. This assessment, and the resulting recommendations to the City Council, will be of little value without consideration of the entire record, which includes State and public comments on the MND.¹⁴

IV. THE MND FAILS TO INCLUDE A COMPLETE, STABLE AND ACCURATE PROJECT DESCRIPTION

The MND does not meet CEQA's requirements because it fails to include a complete, stable project description, rendering the entire analysis inadequate. Without a complete and accurate project description, the environmental analysis under CEQA can be impermissibly narrow, thus minimizing the Project's impacts and undercutting public review.¹⁵

CEQA places the burden of environmental investigation on the lead agency rather than the public. Accordingly, a lead agency may not hide behind its failure to provide a complete and accurate project description.¹⁶ Under CEQA, the "project" is defined as "the whole of an action" and the lead agency therefore must describe the entirety of the project's activities to ensure that all potential impacts of the project will be examined prior to approval.¹⁷ An initial study that fails to describe the entire project is fatally deficient: "[A] correct determination of the nature and scope of the project is a critical step in complying with the mandates of CEQA."¹⁸ Where an agency fails to provide an accurate project description, or fails to gather information and undertake an adequate environmental analysis in its initial study, a negative declaration is inappropriate.¹⁹ An accurate and complete project description is necessary to fully and intelligently evaluate the project's potential environmental effects.²⁰ Without a complete project description, the environmental analysis under CEQA will be impermissibly narrow, thus minimizing the project's impacts and undercutting public review.²¹

¹⁴ See e.g., 14 CCR § 15074

¹⁵ See, e.g., *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376.

¹⁶ *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

¹⁷ CEQA Guidelines § 15378.

¹⁸ *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 267; see also, *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214.

¹⁹ *El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal.App.4th 1591, 1597.

²⁰ *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406.

²¹ *Laurel Heights Improvement Association, supra*, 47 Cal.3d 376.

Here, the MND and its supporting technical appendices contain conflicting descriptions of the Project's construction schedule. These varying descriptions include the following:

- The MND's air quality impact analysis states that the Project will be constructed in 2 phases: the commercial portion followed by the residential portion. "While the project will take 5-8 years for buildout, parameters were set for the commercial portion to be operational by 2026 and the residential operational by 2027 to provide a conservative analysis."²²
- The MND's air quality impact analysis also states that the Project will include "intensive construction over a short period of time (estimated at 5-years)."²³
- The MND's greenhouse gas ("GHG") impact analysis states that the Project will include "intensive construction over a short period of time (estimated at 4-years)."²⁴
- The MND's report on the CalEEMod modeling for the Project, upon which both the air quality and GHG impacts analyses are based, is not consistent with any of the foregoing estimates. Per that report, Phase 1 construction is estimated to run from November 1, 2023 to February 25, 2025, for a total of approximately 15 months.²⁵ Phase 2 is estimated to run from July 10, 2025 to July 31, 2026, for a total of approximately 13 months.²⁶

Given the shifting descriptions cited above, it is impossible to know the actual proposed duration of Project construction. What is clear is that the pollutant and GHG emissions estimates in the MND are not based on a realistic construction timeline, and the modeling results therefore do not give an accurate picture of the Project's actual air quality and GHG impacts. A realistic, accurate and stable project description with respect to the duration of construction is critical to the air quality and GHG impact analyses and modeling.

The City must prepare and circulate an EIR with a complete, stable and accurate project description, and analyze all of the Project's potential impacts using the same project description.

²² MND, pg. 9.

²³ MND, pg. 11.

²⁴ MND, pg. 20.

²⁵ MND, Figure 6, CalEEMod detailed report, pg. 68/89

²⁶ MND, Figure 6, CalEEMod detailed report, pg. 56/76.

V. THE MND FAILS TO ANALYZE POTENTIALLY SIGNIFICANT IMPACTS OR TO PROVIDE SUPPORT FOR ITS CONCLUSIONS

A lead agency's significance determination must be supported by accurate scientific and factual data.²⁷ An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.²⁸ Here, the City used the initial study checklist authorized by the CEQA Guidelines in preparing its findings for the MND.²⁹ Impact findings pursuant to this checklist must be explained to show that there is some evidence supporting the findings.³⁰ A key purpose of the initial study is to provide documentation of the factual basis for the MND's finding that the Project will not have a significant impact on the environment.³¹ Indeed, it is an abuse of discretion under CEQA where an agency's decision is not supported by the findings, or the findings are not supported by the evidence.³² CEQA requires that the initial study disclose data or evidence upon which the study relies. "Mere conclusions simply provide no vehicle for judicial review."³³

The City's findings regarding several impact areas, including air quality, energy, noise and transportation are mere conclusions without any explanation, discussion or evidentiary support which violate basic CEQA requirements. An EIR is required to fully disclose, analyze and mitigate all of the Project's potentially significant impacts and to support the City's conclusions with substantial evidence.

A. Air Quality

The MND's narrative discussion regarding air quality focuses on emissions of PM₁₀ and ozone (and its precursors ROG and NO_x), pollutants for which the Project region is nonattainment. It also purports to find that the Project will not expose nearby sensitive receptors to substantial pollutant concentrations with mitigation incorporated. However, the MND fails to identify the nearest sensitive receptors, a crucial omission given that the Project site is currently zoned for residential use and the site is surrounded on three sides by single family residences. The MND contains no discussion, let alone a specific finding, as to the Project's impacts on neighboring sensitive receptors. There is no disclosure or analysis of toxic air contaminants ("TACs") that will be emitted during Project construction or the

²⁷ 14 C.C.R. § 15064(b).

²⁸ *Kings County Farm Bureau*, 221 Cal.App.3d at 732.

²⁹ 14 C.C.R. § 15063(d) and (f), and Appendix G.

³⁰ 14 C.C.R. § 15063(d)(3).

³¹ *Citizens Ass'n for Sensible Development v. County of Inyo* (1985) 172 Cal.App.3d 151, 171.

³² *Id.*; Code of Civil Procedure § 1094.5(b).

³³ *Citizens Ass'n, supra*, 172 Cal.App.3d at 171.

impact on nearby sensitive receptors. The MND fails to indicate whether the proposed construction air quality mitigation measures (most of which are aimed at dust control) are purported to reduce sensitive receptors' exposure to substantial pollutant concentrations. Whatever significance determinations the City is making with respect to exposure of sensitive receptors to pollutants from the Project, they are unexplained and unsupported by scientific and factual data. As noted above, such conclusions must be supported by rigorous analysis and concrete substantial evidence justifying the finding. The MND contains no such analysis or substantial evidence.

These standards apply to an agency's analysis of public health impacts of a project under CEQA. In *Sierra Club v. County of Fresno*, the California Supreme Court affirmed CEQA's mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.³⁴ In *Sierra Club*, the Supreme Court held that the EIR for the Friant Ranch Project—a 942-acre master-planned, mixed-use development with 2,500 senior residential units, 250,000 square feet of commercial space, and open space on former agricultural land in north central Fresno County—was deficient as a matter of law in its informational discussion of air quality impacts as they relate to adverse human health effects.³⁵ As the Court explained, “a sufficient discussion of significant impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact.”³⁶ The Court concluded that the County's EIR was inadequate for failing to disclose the nature and extent of public health impacts caused by the project's air pollution. As the Court explained, the EIR failed to comply with CEQA because after reading the EIR, “the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin.”³⁷ CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.³⁸

³⁴ *Sierra Club*, 6 Cal.5th at 518–522.

³⁵ *Id.* at 507–508, 518–522.

³⁶ *Id.* at 519, citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514–515.

³⁷ *Id.* at 518. CEQA's statutory scheme and legislative intent also include an express mandate that agencies analyze human health impacts and determine whether the “**environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.**” (Public Resources Code § 21083(b)(3) (emphasis added).) Moreover, CEQA directs agencies to “take immediate steps to identify any critical thresholds for the **health and safety of the people** of the state and take all coordinated actions necessary to prevent such thresholds being reached.” (Public Resources Code § 21000(d) (emphasis added).)

³⁸ *Sierra Club*, 6 Cal.5th at 518–522.

Furthermore, in *Berkeley Jets*, the Court of Appeal held that a CEQA document must analyze the impacts from human exposure to toxic substances.³⁹ In that case, the Port of Oakland approved a development plan for the Oakland International Airport.⁴⁰ The EIR admitted that the Project would result in an increase in the release of toxic air contaminants (“TACs”) and adopted mitigation measures to reduce TAC emissions, but failed to quantify the severity of the Project’s impacts on human health.⁴¹ The Court held that mitigation alone was insufficient, and that the Port had a duty to analyze the health risks associated with exposure to TACs.⁴² As the CEQA Guidelines explain, “[t]he EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected.”⁴³

The San Luis Obispo County Air Pollution Control District (“APCD”) recognizes that diesel particulate matter from construction equipment is a TAC.⁴⁴ “Depending on the construction site location and proximity to sensitive receptors, a project that generates high levels of construction emissions, including diesel PM, may be required to perform a health risk assessment to evaluate short-term exposures to high pollutant concentrations and, if necessary, to implement mitigations measures.”⁴⁵ The APCD further recognizes that proximity of sensitive receptors, including residential dwelling units, to a construction site constitutes a special condition and may require a more comprehensive evaluation of diesel particulate matter (“DPM”) impacts.⁴⁶ “Sensitive receptor locations for a project need to be identified during the CEQA review process and mitigation to minimize toxic diesel PM impacts need to be defined. The types of construction projects that typically require a more comprehensive evaluation include large-scale, long-term projects that occur within 1,000 feet of a sensitive receptor location(s).”⁴⁷ This Project will involve construction over 5-8 years, and there are numerous single family residences well within 1000 feet of the Project boundaries. Despite the fact that it cites and incorporates the APCD Handbook by reference, the City ignores the

³⁹ *Berkeley Jets*, 91 Cal.App.4th at 1369–1371.

⁴⁰ *Id.* at 1349–1350.

⁴¹ *Id.* at 1364–1371.

⁴² *Id.*

⁴³ 14 C.C.R. § 15003(b).

⁴⁴ San Luis Obispo Air Pollution Control District CEQA Air Quality Handbook, pg. 2-1, available at https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/CEQA_Handbook_2012_v2%20%28Updated%20MemoTable1-1_July2021%29_LinkedwithMemo.pdf, last accessed on February 7, 2023.

⁴⁵ *Id.*

⁴⁶ *Id.*, pg. 2-3.

⁴⁷ *Id.*

requirement to identify sensitive receptors, to perform a “more comprehensive” health risk analysis, or to define mitigation to minimize toxic DPM impacts.

The City must prepare an EIR that properly discloses and analyzes the Project’s potentially significant air quality impacts, identifies the nearest sensitive receptors, includes a health risk analysis, and fully analyzes potentially significant impacts of the Project’s construction and operations on these receptors.

B. Energy

The MND concludes that the Project will have a less than significant impact as to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation. The entire analysis on this point is as follows: “The proposed project is located on a mostly vacant opportunity site within the urban services line and adjacent to Highway 101 which will provide key services, jobs, lodging, and entertainment opportunities for existing residents and work to correct the City’s jobs/housing/commercial imbalance. None of the proposed uses are expected to result in wasteful energy use and all buildings and operations will be required to meet current California energy code requirements, thus, no mitigation is required.”⁴⁸ The MND’s energy analysis makes no mention whatsoever of the Project’s energy use over the 5-8 years of construction, and its conclusion with respect to operational energy use is a bare conclusion, without any analysis or evidentiary support.

CEQA Appendix F explains that the potentially significant energy implications of a project should be considered in an EIR and should consider (a) The project’s energy requirements and its energy use efficiencies by amount and fuel type for each stage of the project including construction, operation, maintenance and/or removal. If appropriate, the energy intensiveness of materials may be discussed; (b) The effects of the project on local and regional energy supplies and on requirements for additional capacity; (c) The effects of the project on peak and base period demands for electricity and other forms of energy; (d) The degree to which the project complies with existing energy standards; (e) The effects of the project on energy resources; and (f) The project’s projected transportation energy use requirements and its overall use of efficient transportation alternatives.⁴⁹ A CEQA document is “fatally defective” when it fails to include the energy analysis required by CEQA, including a detailed statement setting forth the mitigation measures proposed to reduce wasteful, inefficient, and unnecessary consumption of energy.⁵⁰

⁴⁸ MND, pg. 16.

⁴⁹ CEQA Guidelines, Appendix F (Energy Conservation), Section II.

⁵⁰ *People v. County of Kern* (1976) 62 Cal.App.3d 761, 774.

The MND lacks the energy impact analysis required by CEQA and its findings are not supported by substantial evidence. An EIR must be prepared to disclose, analyze and mitigate the Project's energy impacts.

C. Noise

The Project site is currently undeveloped and is surrounded by private residences. In addition to new residential development, the Project is expected to include a new hotel, retail, restaurant, brewery, artisan manufacturing, offices and entertainment uses.⁵¹ The commercial areas are designed to encourage restaurants and similar outdoor uses, and will include a raised patio with outdoor spaces for restaurant and other eating and drinking establishments.⁵² The Project design includes a small outdoor amphitheater. The amphitheater and other outdoor use areas were originally proposed to allow amplified outdoor sound, with a condition of approval prohibiting amplified outdoor sound after 10pm.⁵³ The staff report for the February 7 Planning Commission hearing states that, based on community feedback, “the applicants have decided to withdraw the request for outdoor amplified sound.”⁵⁴

The MND concludes that the Project's noise impacts will be less significant with mitigation, but this conclusion is devoid of any analysis or evidentiary support. The MND asserts that due to the design of the project, “the project design **self-mitigates potential noise impacts** to surrounding neighborhoods [emphasis added].”⁵⁵ As to construction noise, the MND states that “[w]hile construction of the site **will result in an increase** in temporary ambient noise levels, the long-term occupancy of the sites **are not expected to increase ambient levels** above those specified in the General Plan [emphasis added].”⁵⁶ The MND includes a single construction noise mitigation measure limiting Saturday construction to 9am to 7pm and prohibiting Sunday construction.⁵⁷

There is no substantial evidence—indeed, no evidence at all—supporting the City's conclusion that Project noise impacts will be less than significant.

⁵¹ MND, pg. 28.

⁵² City of Atascadero Staff Report for January 17, 2023 Planning Commission hearing, pg. 11.

⁵³ *Id.*

⁵⁴ City of Atascadero Staff Report for February 7, 2023 Planning Commission hearing, pg. 56; however, the proposed Ordinance which would establish a Planned Development Zone for the Project and amend the City's Zoning Map still allows outdoor amplified sound between the hours of 11:00 a.m. and 10:00 p.m.

⁵⁵ MND, pg. 28.

⁵⁶ *Id.*

⁵⁷ *Id.*

First, the MND includes no baseline noise measurements to establish the existing ambient noise levels at the Project site. Without characterizing existing ambient noise levels in the Project area, it is impossible to determine the significance of the Project's noise impacts.

Second, there is no effort to quantify expected noise levels from construction or operations, or to identify sensitive receptors (i.e., existing neighbors) who might be impacted by noise from the Project.

Third, the MND provides no support for the remarkable assertion that the Project's design will "self-mitigate" noise impacts to surrounding neighbors. Moreover, it fails to specify the relevant ambient noise levels from the City's General Plan and simply concludes that Project operations "are not expected to increase ambient noise levels" above the unspecified General Plan standards. There is no explanation of how the MND's single construction mitigation measure will reduce construction noise to less than significant levels.

Finally, the MND lacks any mention of potential impacts of the Project's restaurant, brewery and outdoor entertainment uses on the new residents in the Project's residential developments.

In short, there is absolutely no basis or evidentiary support for the MND's conclusion that the Project's noise impacts will be less than significant with mitigation. Speculation and unsubstantiated opinion or narrative do not constitute substantial evidence.⁵⁸ The Project's noise impacts must be fully analyzed in an EIR that identifies enforceable mitigation measures to reduce impacts to a less than significant level.

D. Transportation

The MND concludes that the Project will have a less than significant impact on vehicle miles traveled ("VMT"). The MND's impact analysis is based on a Traffic Impact Study ("TIS"), which contains a brief VMT analysis. The TIS does not provide substantial evidence in support of the City's VMT conclusions for at least two reasons.

First, the TIS states, "[t]he project is expected to increase overall regional VMT slightly and reduce residential, office, and retail VMT."⁵⁹ The TIS also asserts that the Project's residential and employee-based VMT will be more than 15 percent

⁵⁸ 14 CCR §15384(a).

⁵⁹ September 2022 Barrel Creek Transportation Impact Study, pg. 28.

below the regional average VMT. There is no explanation for the apparently contradictory statements that the Project is expected to *increase* the overall regional VMT while at the same time *reducing* residential, office and retail VMT.

Second, the VMT analysis is based on a travel demand model for which none of the supporting documentation has been provided. The TIS sets forth estimated Project VMT figures purporting to demonstrate a less than significant VMT impact, but since these figures were derived from the undisclosed travel demand modeling, there is no way to evaluate the accuracy of the analysis without disclosure of the assumptions and calculations associated with the modeling.

The MND itself contains no analysis or evidence supporting its conclusion regarding VMT impacts, and the TIS contains bare conclusions purportedly based on a modeling that is undisclosed and unexplained. The City therefore lacks substantial evidence supporting its conclusions with respect to VMT and must prepare an EIR that analyzes these impacts and supports its conclusions with substantial evidence.

VI. THE MND LACKS A PROPER CUMULATIVE IMPACTS ANALYSIS

The City is required by CEQA to perform an analysis of the Project's cumulative impacts.⁶⁰ The MND includes a finding that the Project's cumulative impacts will be less than significant⁶¹ but fails to conduct any analysis or support the finding with evidence.

In its LOS discussion in the Transportation Impact analysis, the MND identifies “multiple other approved development projects” near the Project site that were considered in traffic modeling for the Project. These projects include a Taco Bell, a gas station, retail pad, sit-down restaurant, Tiny Hotel (22 units), Emerald Ridge (208 dwelling units), Del Rio Ridge (42 dwelling units), the Edge (unidentified 15,000 sq. ft. project) and Del Rio Marketplace (203,700 sq. ft.).⁶² The MND recognizes that “[m]ajor commercial development is planned for the ease [sic] side of the 101 freeway at del Rio Road and this project will provided added residential and tourist serving uses in addition to providing light industrial spaces for local artisans.”⁶³ The MND completely fails to assess the potentially significant cumulative impacts of this “major commercial development”—or any of the multiple other approved development projects cited above—with respect to impact areas

⁶⁰ Pub. Res. Code § 21083(b)(2); 14 C.C.R. §§ 15130 and 15064(h).

⁶¹ MND, pg. 41.

⁶² MND, pg. 33.

⁶³ MND, pg. 42.

including air quality, public services, population and housing and utilities. There is no explanation whatsoever for the conclusion that the Project's cumulative impacts will be less than significant.

To the extent the City may be asserting that the Project's cumulative impacts are less than significant if the Project-specific impacts are less than significant, this approach has been rejected by the Courts and fails to comply with CEQA's requirement that a project mitigate impacts that are "cumulatively considerable."⁶⁴

The leading case on this issue is *Kings County Farm Bureau v. City of Hanford*.⁶⁵ In *Kings County*, the city prepared an EIR for a 26.4-megawatt coal-fired cogeneration plant. Notwithstanding the fact that the EIR found that the project region was out of attainment for PM10 and ozone, the City failed to incorporate mitigations for the project's cumulative air quality impacts from project emissions because it concluded that the Project would contribute "less than one percent of area emissions for all criteria pollutants."⁶⁶ The city reasoned that, because the project's air emissions were small in ratio to existing air quality problems, that this necessarily rendered the project's "incremental contribution" minimal under CEQA. The court rejected this approach, finding it "contrary to the intent of CEQA." The court stated:

We find the analysis used in the EIR and urged by GWF avoids analyzing the severity of the problem and allows the approval of projects which, when taken in isolation, appear insignificant, but when viewed together, appear startling. Under GWF's "ratio" theory, the greater the over-all problem, the less significance a project has in a cumulative impacts analysis. We conclude the standard for a cumulative impacts analysis is defined by the use of the term "collectively significant" in Guidelines section 15355 and the analysis must assess the collective or combined effect of energy development. The EIR improperly focused upon the individual project's relative effects and omitted facts relevant to an analysis of the collective effect this and other sources will have upon air quality.⁶⁷

The City has made the same error here. While the MND admits that the Project region is out of attainment for ozone and PM₁₀, the City fails to analyze or

⁶⁴ PRC § 21083(b)(2); 14 CCR § 15130.

⁶⁵ *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App. 3d 692 ("Kings County").

⁶⁶ *Id.* at 719.

⁶⁷ *Id.* at 721.

mitigate the Project's emissions' cumulative air quality impacts while falsely claiming that the Project-specific impacts will be mitigated to a less than significant level. The MND is woefully inadequate in its analysis of any of the Project's potentially significant cumulative impacts, and the City must prepare an EIR that properly evaluates and mitigates such impacts.

VII. THE CITY MAY NOT APPROVE THE PROJECT'S ENTITLEMENTS

The Project requires that the City approve several entitlements, including a General Plan amendment, a Zoning Map Amendment, a Conditional Use Permit ("CUP"), and a Vesting Tentative Tract Map ("VTTM"). The Planning Commission is being asked to recommend that the City Council approve each of these entitlements. The Commission should not make these recommendations because each of the entitlements requires findings that are not supported by the record.

As an initial matter, each of proposed resolutions recommending approval of the Project entitlements includes a statement regarding the CEQA determination for this Project, and assumes a Planning Commission recommendation that the City Council "certify the environmental determination for the Barrel Creek project."⁶⁸ As discussed above, however, the CEQA process is not complete. The City just released the revised MND on February 3, and the public comment period will remain open at least through February 22. The Commission is simply not in a position to recommend certification of the Project's environmental determination before the CEQA process is complete.

In addition, the Project's proposed General Plan Amendment requires a finding that the Project is in conformance with General Plan goals, policies and programs, and each of the other entitlements likewise requires a finding that the Project is consistent with the General Plan. As discussed below, the Commission lacks substantial evidence to make those findings.

A. General Plan Amendment

In order to recommend approval of the General Plan Amendment, the Commission must make each of the following findings: that the proposed amendment (1) is in the public interest; (2) is in conformance with the adopted General Plan Goals, Policies and Programs and the overall intent of the General Plan; (3) is compatible with existing development, neighborhoods and the environment; and (4) will not create any new significant and unavoidable impacts to

⁶⁸ See, e.g., City of Atascadero Staff Report for February 7, 2023 Planning Commission hearing, pg. 68.

traffic, infrastructure or public services.⁶⁹ Given the City's failure to supply evidence supporting the MND's analyses of the Project's potential impacts on noise, transportation and public health from construction emissions, the Planning Commission lacks substantial evidence to find that the Project is in the public interest, that it is compatible with existing development, neighborhoods and environment and that it will not create any new significant and unavoidable impacts to traffic, infrastructure or public services.

Moreover, the Commission may not find that the Project is in conformance with the General Plan's goals, policies and programs. For example, General Plan Policy 10.3 is to "support regional efforts to maintain clean air."⁷⁰ While CARE CA's technical review of the MND's air quality analysis is ongoing, the MND completely ignores the APCD's requirements to identify sensitive receptors, to perform a health risk analysis, or to define mitigation to minimize toxic DPM impacts. And the MND lacks any discussion of the potentially significant cumulative impacts of multiple other developments in the Project vicinity.

Similarly, the General Plan's Safety and Noise Element includes Goal SFN 6 ("Protect citizens from harmful and annoying effects of exposure to excessive noise") and SFN 8 ("Preserve tranquility of residential areas by preventing the encroachment of noise producing uses.")⁷¹ As discussed above, the MND contains no technical analysis of either the ambient noise at any of the residences neighboring the Project site, nor any assessment of predicted noise from Project construction or operations. The MND's conclusory and unsupported statements that the Project's design will "self-mitigate" noise impacts to neighbors and that Project operations "are not expected to increase ambient noise levels" above unspecified General Plan standards simply provide no basis for the Commission to make the required findings.

For the foregoing reasons, the Commission may not make the findings required to recommend approval of the General Plan Amendment.

B. Zoning Map Amendment

Approval of the Zoning Map Amendment requires findings that the amendment is consistent with the General Plan, and will not result in significant environmental impacts. The Commission cannot make the finding of consistency with the General Plan for the reasons set forth above. A finding with respect to

⁶⁹ City of Atascadero General Plan, pg. II-51.

⁷⁰ *Id.*, pg. II-37.

⁷¹ *Id.*, pg. IV-30.

significant environmental impacts would be premature, as the CEQA review and comment period remains open. Even so, it is clear from the above discussion of the MND's deficiencies with respect to air quality, noise, transportation and cumulative impacts that the Commission may not make the required finding that the Project will not result in significant environmental impacts.

C. Conditional Use Permit and Vesting Tentative Tract Map

Approval of a CUP for the Project requires a finding of consistency with the General Plan, as well as a finding that the project will not be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the Project.⁷² Approval of the Project's proposed VTTM also requires a finding of consistency with the General Plan, as well as a finding that the development will not cause serious health problems.

The Commission cannot make the required findings of consistency with the General Plan for the reasons set forth above. A finding of no detriment to public health, safety or welfare or that the Project will not cause serious health problems would be premature and unsupported for all of the same reasons described in these preliminary comments. The Commission therefore also cannot make the required findings to approve the Project's CUP or VTTM.

VIII. CONCLUSION

CEQA requires that an EIR be prepared if there is substantial evidence demonstrating that any aspect of a project, either individually or cumulatively, may cause a significant effect on the environment.⁷³ As discussed herein, there is substantial evidence supporting a fair argument that the Project would result in significant adverse impacts that were not identified in the MND, and that are not adequately analyzed or mitigated. The MND also fails to contain the basic information and analysis required by CEQA, deficiencies which "cannot be dismissed as harmless or insignificant defects."⁷⁴

The Commission's proposed findings regarding Project impacts either do not comply with the law or are not supported by substantial evidence. The City cannot

⁷² See, e.g., City of Atascadero Staff Report for February 7, 2023 Planning Commission hearing, pgs. 84-85.

⁷³ Pub. Res. Code § 21151; 14 CCR §15063(b)(1).

⁷⁴ *Bakersfield Citizens for Local Control v. Bakersfield* ("Bakersfield") (2004) 124 Cal. App. 4th 1184, 1220.

February 7, 2023

Page 19

approve the Project, nor should the Planning Commission recommend its approval, until it prepares an EIR that resolves these issues and complies with CEQA.

Sincerely,



Richard M. Franco

RMF:acp

B

To: the Atascadero Planning Commission Members

Re: Barrel Creek Project

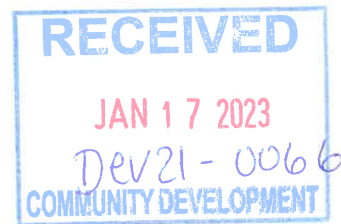
My father moved to Atascadero in the 1930's and I am an Atascadero native. As a member of Atascadero First Assembly Church (renamed Legacy Church) for over 15 years, I speak in support of the project.

- 1) The well-designed project offers neighborhood dining, experiences, and artisan spaces that are much needed in Atascadero.
- 2) The nicely designed residential portion compliments the existing residential neighborhoods on Del Rio and San Ramon Roads.
- 3) The sale of the property plus hotel, neighborhood retail, and short-term stay portions provides the much-needed tax dollars for our city.

After design and planning for over 3 years now, numerous modifications have been made which were completed from direction by the staff of the City of Atascadero. We are excited to present this beautiful project to you.

Sincerely,

Jan Bewley



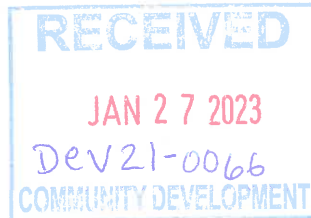
California Department of Transportation

CALTRANS DISTRICT 5
50 HIGUERA STREET | SAN LUIS OBISPO, CA 93401-5415
(805) 549-3101 | FAX (805) 549-3329 TTY 711
www.dot.ca.gov



January 27, 2023

Kelly Gleason, Senior Planner
City of Atascadero
6500 Palma Ave.
Atascadero, CA 93422



SCH# 2022120699
SLO US101 PM48.33

COMMENTS TO THE MITIGATED NEGATIVE DECLARATION (MND) FOR THE BARREL CREEK PROJECT

Dear Kelly Gleason:

The California Department of Transportation (Caltrans) appreciates the opportunity to review the MND for the Barrel Creek Project. The project includes a proposal for 35,000 square feet of commercial/ light industrial space, a 120-room hotel, 40 multi-family apartment units, 5,000 square feet of restaurant or brewery space, 16 short-term stay cottages, and a 20-lot single family subdivision. At this time, we offer the following comments in response to the MND:

Caltrans supports development that is consistent with State and Federal planning priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety. We accomplish this by working with local agencies to achieve a shared vision of how the transportation system can and should accommodate interregional and local travel and development. Caltrans believes that continued coordination with your agency is imperative to achieve overall network connectivity.

Project Management:

The Cooperative Agreement between the City and Caltrans for the Del Rio Road Interchange Improvements Project (05-1F330) has been terminated as of January 2023 and the project is no longer on the Caltrans Approved Project Listing (APL). With that being said, any capital improvements on the State Highway System (SHS) as a result of this proposed development would need to be delivered either through the encroachment permit office process or the quality management assessment process (QMAP), depending on the project detail.

Traffic Operations:

Significant changes are being proposed at or near a state highway intersection (MM-TRANS-04 to MM-TRANS-06). An Intersection Control Evaluation (ICE) will need to be prepared to the satisfaction of Caltrans prior to issuance of an encroachment permit for the work indicated in MM-TRANS-05 within the Caltrans right-of-way. We recommend the City include a mitigation measure requiring an ICE step 1 be prepared prior to occupancy. We are also in support of the project being conditioned to pay their fair share towards improvements listed in MM-TRANS-04 to MM-TRANS-06.

Hydraulics:

The proposed development is in close proximity to US101 and associated drainage facilities; the development should not negatively impact downstream flows. Prior to the issuance of a permit, Caltrans will need to review pre- and post-drainage calculations.

Permits:

Any work within the State's right-of-way will require an encroachment permit from Caltrans and must be done to our engineering and environmental standards, and at no cost to the State. The conditions of approval and the requirements for the encroachment permit are issued at the sole discretion of the Permits Office, and nothing in this letter shall be implied as limiting those future conditioned and requirements. For more information regarding the encroachment permit process, please visit our Encroachment Permit Website at: <https://dot.ca.gov/programs/traffic-operations/ep/applications>

We look forward to continued coordination with the City on this project. If you have any questions, or need further clarification on items discussed above, please contact me at (805) 835-6432 or Jenna.Schudson@dot.ca.gov

Sincerely,

Jenna Schudson

Jenna Schudson
Development Review Coordinator
Caltrans District 5, LD-IGR South Branch

cc: Governor's Office of Planning and Research
State Clearinghouse

G

From: Anne Gallagher
Sent: Monday, January 16, 2023 10:18 AM
To: Planning Commission Public Comments
Subject: Planning Commission Meeting 1/17 - Barrel Creek Agenda Item #2

Hello,

Regarding the proposed Barrel Creek project, as a resident, I am OPPOSED to the project and its zoning exceptions, because I believe it would create too much traffic/congestion in the general area, disrupt the peaceful residential area with noise & pollution, and negatively affect environmental factors. There is plenty of un-used retail property already existing that needs to be filled (e.g. the old Kmart plaza at El Camino & San Anselmo).

Thank you,
Annie Gallagher
Atascadero resident

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K

From: Personal Gmail
Sent: Tuesday, January 17, 2023 11:12 AM
To: Planning Commission Public Comments
Subject: Barrel Creek Project

The proposed Barrel Creek project would be a tremendous addition to Atascadero. The housing, retail, as well as the intentional design and aesthetic compliments our city's heritage and needs. This would be the new go-to place in our county. Atascadero needs this. It's not another strip-mall, it's not another drive-thru fast food or discount grocery store; Barrel Creek is beautiful, intentional, and would bless our city, if not make it the envy of other towns.

Please vote in favor of this project.

—Garrett Kruse

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L

From: Chad Langford
Sent: Tuesday, January 17, 2023 11:20 AM
To: Planning Commission Public Comments
Subject: Re: Barrel Creek

I would like to offer my support the Barrel Creek project. I believe this project is in the best interest of Atascadero as it provides housing and a destination that will attract business to our community rather than pass us by on the way to our neighboring towns. This project has painstakingly been through remediation after remediation to get to the point to where it can move forward today with a project that blends the existing landscape and the possibility of what Atascadero could be. I appreciate the positions both for and against this change to our community. With that stated, I ask that the Barrel Creek project be approved as recommended.

Thank you for your time and consideration.
Chad Langford

On Tue, Jan 17, 2023, 11:13 AM Chad Langford <...>

I would like to offer my support the Barrel Creek project. I believe this project is in the best interest of Atascadero as it provides housing and a destination that will attract business to our community rather than pass us by on the way to our neighboring towns. This project has painstakingly been through remediation after remediation to get to the point to where it can move forward today with a project that blends the existing landscape and the possibility of what Atascadero could be. I appreciate the positions both for and against this change to our community. With that stated, I ask that the Barrel Creek project be approved as recommended.

Thank you for your time and consideration.
Chad Langford

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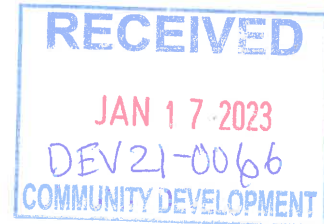
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JAN 17 2023
Dev 21-0066
COMMUNITY DEVELOPMENT

M

From: Kelly Gleason
Sent: Monday, January 16, 2023 8:34 PM
To: Annette Manier
Subject: FW: Opposition, Barrel Creek Planned Development

Please distribute and place in the file. Thank you.

Kelly Gleason
Senior Planner
(805) 470-3446



----- Original message -----

From: Katherine Morrison
Date: 1/16/23 8:04 PM (GMT-08:00)
To: Kelly Gleason <kgleason@atascadero.org>
Subject: Opposition, Barrel Creek Planned Development

Dear Ms. Gleason,

I am part owner of . . . San Gregorio Rd. I am concerned that our neighbors most affected by the proposed Barrel Creek development who reside on Garcia Rd and lower San Gregorio Rd will have their rural quality of life affected by this development, due to light pollution, reduction of wildlife habitat, and noise. Please urge the planners to provide at least a 3-month window for property owners to review the EIR which is over 300 pages in length.

Thank you for your consideration

Katherine Morrison
ATTENTION:

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2

From: Kelly Gleason
Sent: Tuesday, February 7, 2023 7:41 AM
To: Annette Manier
Subject: FW: Barrell Creek Planned Development

Kelly Gleason
Senior Planner
(805) 470-3446



----- Original message -----

From: "Candace Nalepa, Myron Nalepa"
Date: 2/6/23 10:56 PM (GMT-08:00)
To: Kelly Gleason <kgleason@atascadero.org>
Subject: Barrell Creek Planned Development

Ms. Gleason,

We are opposed to the above-listed development for the following reasons:

1. This type of development results in impacts which can realistically be mitigated by location at commercial nodes along the El Camino Real corridor. This planning commitment to commercial development has been documented by past planning directors and city councils.
2. Cal Trans has stated in letter to the city dated 1-27-23 that the Del Rio Road Interchange Improvement Project was terminated 1-23. The additional average daily trips generated by this project cannot be realistically mitigated without a four lane overpass and expansion of Del Rio Road.
3. This project is not compatible with the surrounding residential neighborhood. The project is a prime example of spot zoning that should have been previously addressed in a general plan update..

We have resided at 2400 Monterey Road for 48 years and request that the City of Atascadero staff and leaders deny this development as proposed.

Myron and Candace Nalepa

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R

From: Madeline Rothman
Sent: Tuesday, January 17, 2023 10:40 AM
To: Planning Commission Public Comments
Subject: Planning Commission Public Hearing on 1/17/23, Agenda Item No. 2, Barrel Creek Planned Development

My name is Madeline Rothman, and I have lived on San Ramon Road in Atascadero with my husband for the past 50 years. We chose to live in this most northern part of Atascadero because of its rural character, low density, privacy, and the beautiful natural environment, which includes the sensitive environment of Graves Creek that runs behind our San Ramon Road property and all of the properties on the west side of the original section of San Ramon Road. When we moved to San Ramon Road in 1972, there were steelhead trout in Graves Creek and beavers that thrived at the creek. Little by little we have seen the steady erosion of that precious natural environment due to increased development. Sadly, those days of seeing trout and beavers in the creek, along with other native species of plants and animals, are gone forever. The health of the creek and the animals and plants that live there are in constant jeopardy!

I am deeply concerned about the negative environmental impacts a project of this size would inflict on the area and surrounding areas. The serious and deleterious environmental impacts would include noise pollution, light pollution, air and water pollution caused by increased traffic on San Ramon Road and Del Rio Road, with toxic-laden run-off impairing the water quality of Graves Creek.

In addition, the environment of the original section of San Ramon Road has been a neighborhood with a long history of families raising their children here, and some of their children raising their children on this street. San Ramon Road is its own community of families, made up of many long-time residents who have joined with newcomers on the street, all who value the rural ambience and low density of this original section of San Ramon Road.

Many of our neighbors on San Ramon Road are strongly opposed to a General Plan Amendment, Zone Map Amendment, creation of a Planned development Overlay Zone, etc., that would change the zoning of an area that is currently zoned for a maximum of 6 single-family dwellings to zoning that would allow a project plan for 35,000 sq. ft. of commercial/light industrial space, a 120-room hotel, 40 multi-family apartment units, 5,000 sq. ft. of restaurant or brewery space, 16 short-term stay cottages, and a 20-lot single family subdivision!

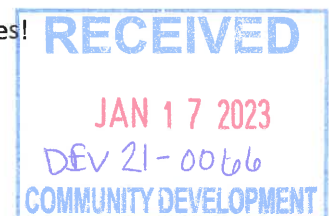
If this project were to go ahead, it would cause a major change to a neighborhood, and most probably the loss of a long-time neighborhood community, loss of the rural character of the area, greater erosion of the precious natural environment of Graves Creek and the surrounding area, and loss of the valued quality of life that brought families to this street.

It greatly saddens us to see a proposal, such as this one, that would erode another part of the beautiful rural character that was once plentiful in Atascadero! Once you take away a beautiful, special piece of rural Atascadero found on San Ramon Road, bordered by Graves Creek on the west side, and change it to high-density living units, commercial/light industrial, multiple buildings, a hotel, 20-lot single family homes, 16 short-term cottages, and probably more, the environment is forever changed! So Much is Lost Forever!

There is Priceless Value and Importance to —

- ~ preserving and protecting the environment from noise and light pollution, air and water pollution that would negatively impact the very special and sensitive natural environment of Graves Creek;
- ~ preserving the beautiful rural environment that drew families to this area; and
- ~ preserving the quality of life that is enjoyed by a neighborhood of San Ramon Road families!

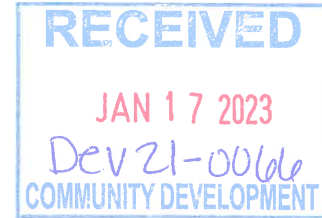
Madeline Rothman



R

From: Kelly Gleason
Sent: Tuesday, January 17, 2023 8:29 PM
To: Annette Manier
Subject: FW: Barrel Creek Planned Development

Kelly Gleason
Senior Planner | City of Atascadero
6500 Palma Ave | Atascadero, CA 93422
805.470.3446 | kgleason@atascadero.org



Rec'd after deadline

City Hall is offering in-person meetings **by appointment only**. Community Development staff is available by phone and email. We will respond as soon as possible to your request. Thank you for your patience! Please call (805) 461-5000 if you need an appointment.

From: JuLee Rocha
Sent: Tuesday, January 17, 2023 8:16 PM
To: Kelly Gleason <kgleason@atascadero.org>
Subject: Barrel Creek Planned Development

Dear Ms. Gleason,

I strongly OPPOSE your Barrel Creek Planned Development, PLN NO. DEV21-0066, Environmental Document No. 2022-0005. I have been a resident of San Ramon Rd, Atascadero, for 57 years. This "planned" development will RUIN the small town, close neighborhood of San Ramon Rd. between Del Rio and Santa Cruz Roads. I have known my neighbors for this length of time, and we all agree that this tragic development will ruin what we have all grown and loved about our little road.

Not only am I concerned about the "dwellings" proposed, but the noise and lights that will ruin this quite road, but the impact of this outrageous idea of yours! I have grown up raising all types of animals. From my early years, raising, sheep, chickens, ducks, and rabbits, I feel that I will no longer be able to enjoy the comfort of having my "farm" animals on my property. I was raised a 4-H-er, and have kept those goals and traditions onto my adult life. I have 2 grown children, and a 13 year-old daughter, who also enjoys her 4-H project animals. I am VERY concerned, that her raising of animals may in fact, be destroyed by this development.

I also object to this project, as when the City of Atascadero was incorporated, in 1979, that is was stated that there was to be NO COMMERCIAL building west of Highway 101. Again, the City of Atascadero had lied to their citizens!!!! This area should REMAIN RESIDENTIAL! The quality of life so many residents have moved from other areas, to enjoy the "simple life", is being compromised by this project you are considering...

I have concerns about the redundancy of this project and the proposed "Rancho Del Rio", or similar name, to be built across from Mission Oaks (formerly the Factory Outlets) on El Camino Real and Del Rio Road.

I have very deep and heartfelt concerns that a zone change should be enacted for the Barrel Creek Project, I believe that the property in question is zoned for large lot single family homes. I sincerely believe that the zoning NOT be changed or amended, as to save our rural way of life.

Given the timing of this notification, there is no way for me to peruse the entire 300+ page document in due time, and to decipher the goals of the developer... perhaps tabling any action on this project for 60-90 days?

Specifically, in regards to my property, the newest map alludes to four "apartments" (C-1, C-2, C-3,C-4) that will abut my property line, without much of a buffer zone at all. I can not tell, from the map supplied, if the apartments are single-story or multi-story. Initially, there were to be four "rent-by-the-hour-day-week-month" dwellings to be used by travelers, not for continuous occupancy. These four buildings appear to have been slightly relocated, which would directly affect me and my privacy.

The new lighting and noise will disrupt our way of life as well... we go to bed early... I suppose legally, the "noise law" takes effect at ten p. m., so, hypothetically, I ask, what are we to do for up to 90 minutes each and every night, be kept awake until 10 p.m. and call the cops at 10:01, each and every night? I'm asking you and the powers that be to have compassion for an OLD and ESTABLISHED neighborhood and long-time residents' ways of life. Isn't there a way to deflect the lights and noise closer to Del Rio, where no one currently resides, as opposed to the 3 properties (1555, 1705 and 1775) to be adversely affected... forever? I have serious concerns about the traffic, noise, dark sky and other impacts that would be caused by this development.

Another point; Why were we, those impacted by this proposal, given notice just prior to the holidays? We cannot possibly review the entire 300+ page EIR in the few days that have been allotted. **At a minimum, the EIR review period should be extended to three months.**

I hope you sincerely take all or our neighbors concerns to heart, and realize that many, many residents oppose this idea / plan.

Sincerely,
JuLee Rocha

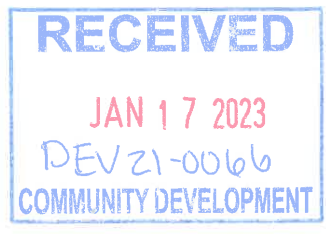
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R

From: Kelly Gleason
Sent: Sunday, January 15, 2023 9:56 PM
To: Annette Manier
Subject: FW: Opposition, Barrel Creek Planned Development

Please forward to the Planning Commission and file.

Kelly Gleason
Senior Planner
(805) 470-3446



----- Original message -----

From: Janet Rucci
Date: 1/15/23 1:00 PM (GMT-08:00)
To: Kelly Gleason <kgleason@atascadero.org>
Cc: Janet
Subject: Opposition, Barrel Creek Planned Development

RE: Barrel Creek Planned Development, Plan No. DEV21-0066, Environmental Document No. 2022-0005

Dear Ms. Gleason,

My name is Janet Rucci and I own the property at Garcia Road. Even though my property is within a few hundred feet of the proposed Barrel Creek development, I received no notice from the City and only learned about this project from another concerned neighbor. I have serious concerns about the traffic, noise, dark sky and other impacts that would be caused by this development, but I can't possibly review the entire 300+ page EIR in the few days that have been allotted. At a minimum, the EIR review period should be extended to three months.

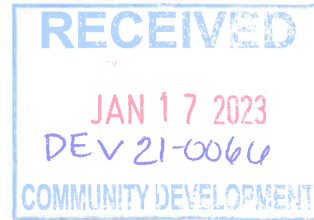
Sincerely,
Janet Rucci

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W

From: Kelly Gleason
Sent: Tuesday, January 17, 2023 4:58 PM
To: Annette Manier
Subject: FW: Barrel Creek Planned Development

Kelly Gleason
Senior Planner
(805) 470-3446



Rec'd after deadline

----- Original message -----

From: Dave Watson
Date: 1/17/23 4:35 PM (GMT-08:00)
To: Kelly Gleason <kgleason@atascadero.org>
Subject: Barrel Creek Planned Development

Ms. Gleason, et al,

In regards to Barrel Creek Planned Development, PLN NO. DEV21-0066, Environmental Document No. 2022-0005, I have lived on San Ramon Road for 62 years, and I very much oppose much of this proposed development, as it will certainly affect and negatively impact my way of life.

I have very serious concerns and dread about new traffic behind me, the new abundance of traffic on San Ramon Road (a normally fairly sleepy road), the noise level, the effect on wildlife that use my property daily and or nightly... on any given night, I have between ten and fourteen deer that bed down, visiting raccoons, possums, skunks and random other "critters", that my wife and I have interacted with for over 35 years, not to mention the established buzzard roost in the neighborhood trees, that have resided here for almost ten years. I fear that these simple life's pleasures will disappear, never to return, if this project comes to fruition in its current proposal. Also, if a zone change is allowed, what of my large animals (sheep) I raise periodically? Do they, and I "get tossed out with the bath water"? Some neighbors have or have had horses and 4-H / FFA animals. Are we just "collateral damage?" for a developer?!?... 62 years, I've lived here... on San Ramon Road. Please consider the ramifications.

I have concerns about the redundancy of this project and the proposed "Rancho Del Rio", or similar name, to be built across from Mission Oaks (formerly the Factory Outlets) on El Camino Real and Del Rio Road.

I have very deep and heartfelt concerns that a zone change should be enacted for the Barrel Creek Project, I believe that the property in question is zoned for large lot single family homes. I sincerely believe that the zoning NOT be changed or amended, as to save our rural way of life.

Given the timing of this notification, there is no way for me to peruse the entire 300+ page document in due time, and to decipher the goals of the developer... perhaps tabling any action on this project for 60-90 days?

Specifically, in regards to my property, the newest map alludes to four "apartments" (C-1, C-2, C-3,C-4) that will abut my property line, without much of a buffer zone at all. I can not tell, from the map supplied, if the apartments are single-story or multi-story. Initially, there were to be four "rent-by-the-hour-day-week-month" dwellings to be used by travellers, not for continuous occupancy. These four buildings appear to have been slightly relocated, which would directly affect me and my privacy.

The new lighting and noise will disrupt our way of life as well... we go to bed early... I suppose legally, the "noise law" takes effect at ten p. m., so, hypothetically, I ask, what are we to do for up to 90 minutes each and every night, be kept awake until 10 p.m. and call the cops at 10:01, each and every night? I'm asking you and the powers that be to have compassion for an OLD and ESTABLISHED neighborhood and long-time residents' ways of life. Isn't there a way to deflect the lights and noise closer to Del Rio, where no one currently resides, as opposed to the 3 properties (1555, 1705 and 1775) to be adversely affected... forever?

Please put yourselves in my shoes /predicament.

Sincerely,
Dave Watson

ATTENTION:

This email originated from outside the City's network. Use caution when opening links and attachments.

W

-----Original Message-----

From: Darryl Whisnand

Sent: Friday, January 6, 2023 11:06 AM

To: Kelly Gleason <kgleason@atascadero.org>

Subject: Barrel Creek Planned Development. Public Input



To: Kelly Gleason,

I am a 14 year resident in Apple Valley and have some input and concerns about the Barrel Creek Development.

First, It is troubling that Residential Zoned Properties within a residential area is being rezoned and developed in the manner that they are. Residents have expectations of the future property usage when they buy property in an area like this. It feels like our voices are not being given any value. This development does not fit into this bedroom area at all. Please at least mitigate the following huge issues.

1. Del Rio Road frontage: The Barrel Creek Development should provide the property along Del Rio Road to have nice landscape and a nice side walk. The design should be a similar design as the south side of Del Rio (that Midland provided when Apple Valley was built).
2. Parks: What is the plan for a park in the Barrel Creek development? Months ago I was told that it will not have a park and that the Apple Valley Park will be the park they use. Ok then.... Apple Valley has a district to pay for about 1/2 the maintenance of the park. Do the Apartment and Houses in the Barrel Creek pay into the district or has a funding mechanism through the city been developed to offset their part of Apple Valley Park maintenance? This is huge to us in Apple Valley!!!!

I do feel that the developers are putting together a nice development, but It is too much for this residential area the way it is currently designed. 13 pounds of sugar in a 10 pound bag so to speak.

Thank you so much for receiving and hopefully acting on my concerns. I love our city and am thankful for all you city staff do for us!

Darryl Whisnand

Sent from my iPad

ATTENTION:

This email originated from outside the City's network. Use caution when opening links and attachments.

2

From: Kelly Gleason
Sent: Sunday, January 15, 2023 10:11 PM
To: Annette Manier
Subject: FW: Barrel Creek Planned Development, Plan No. DEV21-0066, Environmental Document No. 2022-0005

Please forward to the Planning Commission and place a copy in the file.

Kelly Gleason
Senior Planner
(805) 470-3446



----- Original message -----

From: Kevin Zimmer
Date: 1/15/23 7:41 PM (GMT-08:00)
To: Kelly Gleason <kgleason@atascadero.org>
Cc: Kevin Zimmer
Subject: Barrel Creek Planned Development, Plan No. DEV21-0066, Environmental Document No. 2022-0005

Dear Ms. Gleason,

We own the property at Garcia Road, on the other side of Graves Creek from the planned "Barrel Creek" development cited above. We built our house on this lot in 1988, and have lived here ever since. Our impetus for building on this site, was the semi-rural nature of the entire "neighborhood" combined with the natural beauty of living at the ecotone of oak woodland and a riparian corridor, with all of the native vegetation and wildlife that entails. Inevitably, the unoccupied properties to the north and south of us have been bought up and houses have sprung up where once there were only empty fields. However, this development to this point, has been consistent with the theme of well-spaced, single-family dwellings, each occupying lots of 1 acre or more, allowing the area to retain its semi-rural, quiet charm, with wildlife literally at our doorsteps, and relatively little vehicular traffic or noise.

Conversely, the plan to re-zone the area directly across the creek, from rural to commercial or semi-industrial, represents a radical departure from what residents of this area signed up for when we made the decision to settle and build our homes here. I know we are not alone in having serious concerns about the changes in traffic patterns, noise, and overall environmental degradation that will surely result from the construction of high-density housing and a variety of commercial enterprises being jammed between the creek and Hwy 101. Changing the zoning on this area is akin to staging an athletic competition and then changing the agreed-upon rules in the final quarter. To make matters worse, it appears this is being further jammed through by giving the community short notice to a restrictive period allotted for public review and comment on the environmental impact assessment. We would hope, at the very least, that the city would tap the brakes a little, and be more transparent with the current residents of the area, and look for ways to mitigate the negative impacts of any re-zoning and subsequent development on those of us who have invested so much of our lives in settling here, and who stand to have our quality of life significantly altered for the worse.

Sincerely,

Kevin and Susan Zimmer

BELSHER LAW, PC

3450 Broad Street, Suite 101
San Luis Obispo, CA 93401
805-316-5892

RECEIVED

FEB 7 2023

SBD VJZ-0095

COMMUNITY DEVELOPMENT

Rec'd after deadline

Planning Commission
City of Atascadero
6500 Palma Avenue
Atascadero, CA

PC-comments@atascadero.org

Re: Feb 7, 2023 Agenda Item 2 – 10850 El Camino Real Tentative Tract Map

Dear Commissioners:

I represent the owner of property at 920 La Costa in Atascadero, Paula Ramsum. This property includes a custom rental house rented out by Ms. Ramsum for several years. The property has an 18" culvert which is designed to accept some run-off from the property at 10850 El Camino Real. Prior to construction next door by 10850 LLC, there is no record of any flooding at my client's property.

Although the 18" pipe on 920 La Costa connects directly to a City storm drain on La Costa, the City denies owning the 18" pipe. This issue is a subject of dispute and is under litigation.

On January 27, 2021, stormwater from 10850 El Camino overwhelmed the 18" culvert at 920 La Costa, causing extensive flooding of the house at 920 La Costa as well as a neighboring house. The construction site at 10850 was a mess, with grading going on that very day. Erosion control measures were unsuccessful and in fact clogged up the 18" culvert on Ms. Ramsum's property. Despite promises to help from both the City and the Developer, no help was forthcoming (aside from the much appreciated disaster response of the fire department). There is now a lawsuit filed against the City and the developer for damages to Ms. Ramsum from this incident. After two years, my client has not yet been able to bring her tenants back into the property, suffering mounting losses.

Against this backdrop the City is now contemplating a tentative map to allow the developer to proceed with further development of the property at 10850 El Camino. We appreciate that there is already an approved development. However, there are a few issues which the Planning Commission can and should take a close look at. I will list them here.

1. The project does not conform to the drainage documents approved by the City.
 - A. The project was approved previously with reference to a “Grading plan” which was reported to be under review by Public Works. See 2017 project staff report, at page 8. There is no known record of this “grading plan”. The 2017 approval is found at [https://www.atascadero.org/files/CD/RECENT PROJECTS/Hartberg_PC Staff Report.pdf](https://www.atascadero.org/files/CD/RECENT_PROJECTS/Hartberg_PC_Staff_Report.pdf)
 - B. After project approval in 2017, the City accepted a Drainage Report and Stormwater Control Plan, which was updated March 3, 2021. https://netorg8050650.sharepoint.com/:b:/s/BelsherLaw/ETnFaXurPQhEinmSYIz339IBwejqswJDYo2gfKKtYUdc_A?e=hQhzdo Attached is an excerpt from this report showing the area of concern. This report includes a mapping of the site into various drainage areas. The area next to Ms. Ramsum’s site is designated DMA8. The water from this area is described as flowing through an unidentified “swale” back to the private street on the 10850 property. However, there is no such swale and it is actually uphill. Instead there is a drainage inlet placed in the 18” pipe belonging to 10850, which appears to be intended to siphon this water from DMA 8 directly into the 18” pipe of 10850. The result is that there is a large area of this site which is unaccounted for as to stormwater drainage and appears to add to the volume of water metered out to the 18” culvert on the property at 920 La Costa.
 - C. The Improvement Plans approved by the City in 2021 include new provisions for connecting the two 18” pipes. See the attached excerpt, page C-15 from the updated Improvement Plans. This may be a good solution. However, it has not

been discussed by anyone at the City or 10850, LLC with Ms. Ramsum or her representatives. In addition, the City has added numerous new conditions addressing the need for private easements. So far the developer has ignored all these needs and conditions, trespassing on Ms. Ramsum's property on numerous occasions, including today when a crew came onto Ms. Ramsum's property to "maintain" the culvert on her property. Previously the developer actually demolished and removed Ms. Ramsum's fence, both along her property line and for several feet into her property. Ms. Ramsum had to re-build portions of this fencing following the January 2021 flood event, at her cost. The developer provided a replacement property line fence in the form of a concrete block unfinished wall with fencing on top of it, as shown in photos submitted by Ms. Ramsum.

- D. Recent stormwater management by 10850, LLC has dumped water from the front of its property into the culvert on Ms. Ramsum's property. In her letter submitted to you today there are photos of 10850's new improvised drainage course running alongside El Camino and then behind the houses at 900 and 910 La Costa, dumping into the 18" drain collection area on Ms. Ramsum's property. This is not on any plan we know of. On one occasion during a storm event in December 10, 2022, the Fire Department breached this impromptu ditch and diverted water to El Camino, where it ended up back on La Costa but not at the entrance to the 18" pipe on Ms. Ramsum's property. This action saved certain flooding at 920 La Costa, where the drainage pipe was at full capacity. See photo with Ms. Ramsum's letter of today's date.

- E. Condition 28 of the proposed project approval requires the developer identify and secure easements for overflow routes. This does not appear to have a plan. Ms. Ramsum has not been approached. Given that flooding her house was the previous "overflow" route she would truly love to have this clarified. Deferring to some unspecified engineering at this point seems inadequate and irresponsible.

2. The parking for the proposed project appears to be short of City requirements. In the 2017 approval there was a reduction of parking based on the proposed senior use. The senior use has been removed. Although density dropped somewhat in the current plan, there does not appear to be an explanation of the significant parking reduction afforded in 2017 and apparently carried through to 2023 as applied to the present new approval.

3. The environmental document should be reviewed. The present staff report refers to an environmental approval but the environmental document is nowhere to be found, even after inquiry to the City Community Development department. Instead the agenda report refers us to a one-page Negative Declaration from 2017, which is supposed to be the result of an environmental review. That document says it is releasing “a draft initial study and Mitigated Negative declaration”. It then says “This document may be viewed by visiting the Community Development Department listed under the lead agency address, or accessed via the City’s website.” When we requested the document from the Community Development Department yesterday no one could find it. A search of the City’s web site also came up empty. It is not included with the 2017 staff report for this project. Many City actions are represented with extensive environmental documents which are found on-line. Not so for this project. There is no trail of evidence to support the Negative Declaration. Normally this would include a checklist and supporting studies. There is a planning “checklist” in the 2017 staff report but it has only a few items relating to environmental issues. Normally this checklist is extensive and discloses many different issues of consideration. Referenced in the 2017 approval and its limited checklist are visual studies by staff, a grading plan with public works and other studies or evidence to back up the conclusions leading to mitigation and the Negative Declaration. These evidentiary bases for the Negative Declaration are not part of any public record online that could be located. The CEQA process should be reviewed in light of the concerns over stormwater management, visual concerns and parking, as well as other environmental issues the Commissioners may feel are relevant. At the very least, the City staff should produce the actual environmental document upon which the 2017 Negative Declaration was based. If the Commission determines the project has changed in any significant way (altered stormwater management) or new environmental

impacts are recognized (stormwater management), a new environmental document should be required.

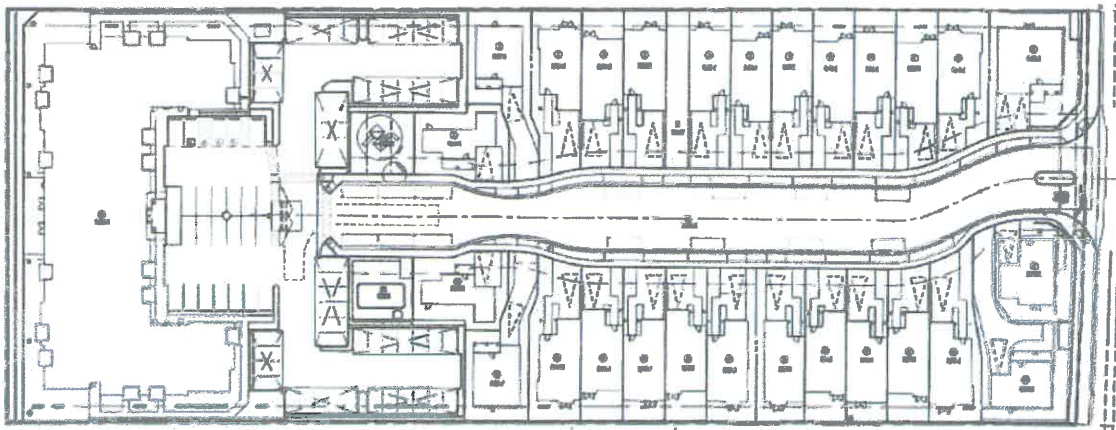
It is hoped the Commission will recognize that serious issues have arisen as a result of the construction of the current project. It is procedurally and ethically correct to re-assess the impacts of the project in light of these issues at this time. We hope the Planning Commission will get some solid answers to the concerns raised by this neighboring property owner.

John Belsher

Cc: Paula Ramsum

**FINAL DRAINAGE REPORT
and
STORMWATER CONTROL PLAN
for
HARTBERG PROPERTIES
VESTING TENTATIVE TRACT MAP #3099**

**Prepared for:
Hartberg Properties, LLC**



**Prepared by:
Wallace Group**



WALLACE GROUP

**January 31, 2018
Revised March 3, 2021**

discharge into an 18-inch storm drain and discharge downstream within its historic pathway and ultimately into the Salinas River.

DMA 1 and DMA 2 consist of the northerly rooftop area of the apartment building and the northerly parking lot areas and will discharge flows into an underground detention chamber, C1. Stormwater runoff from the southern rooftop and southern parking lot (DMA 3 and DMA 4) will discharge into C2. For large storms, flow from C1 and C2 will be conveyed to detention Chamber C3. DMA 5 and DMA 6 consist of the roadway (Keffury Lane) and the front portion of the proposed townhomes. Runoff from these two DMAs will be directed to Keffury Lane and conveyed to a curb inlet connected to Chamber C3. DMA 7 and DMA 8 consist of the rear portions of the townhomes. This runoff will be conveyed through a rear yard drainage swale sloping to Keffury Lane. Runoff from DMAs 5 through 8 will discharge into detention Chamber 3 and will ultimately be discharged offsite.

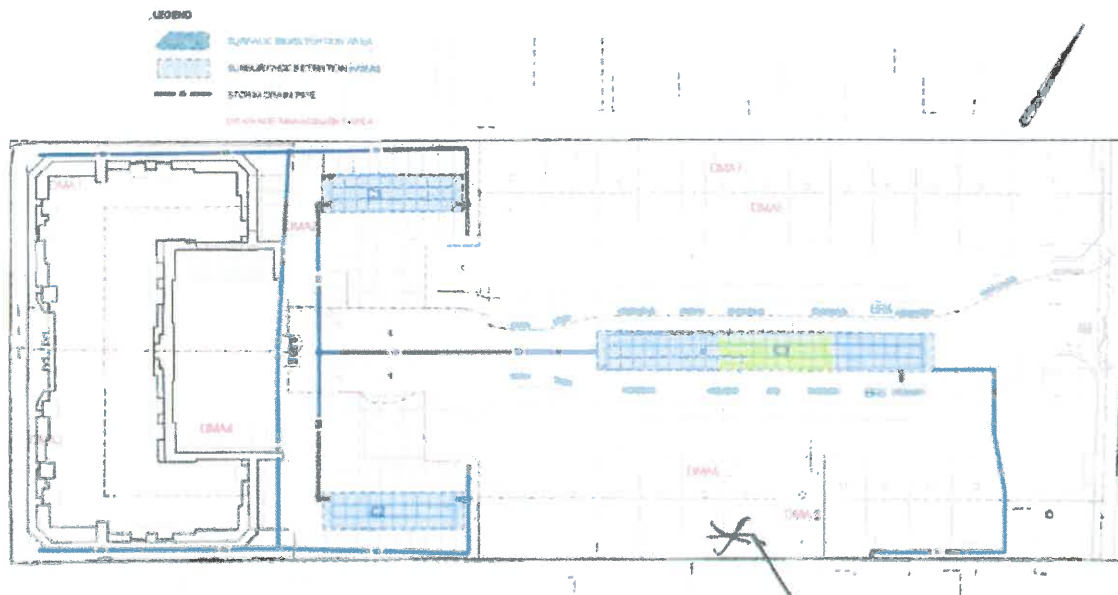


Figure 4 – Drainage Management Area Delineation

This water supposed to flow in a swale to private street How?

flows back to pre-development rates. The City of Atascadero Stormwater Control Plan Permit Documentation is included in Appendix B.

The individual drainage basin peak flow rates are provided in Table 3 below:

**TABLE 3
DMA PEAK FLOW RATES**

| | Storm Event Peak Flow | 95TH | 2-YR | 10-YR | 50-YR | 100-YR |
|----------|-----------------------|-------|-------|-------|-------|--------|
| Basin | Area (ac) | (cfs) | (cfs) | (cfs) | (cfs) | (cfs) |
| Existing | 3.72 | 0.06 | 1.63 | 3.88 | 7.19 | 8.42 |
| DMA1 | 0.245 | 0.12 | 0.23 | 0.41 | 0.66 | 0.75 |
| DMA2 | 0.458 | 0.29 | 0.55 | 0.90 | 1.37 | 1.54 |
| DMA3 | 0.246 | 0.12 | 0.24 | 0.41 | 0.66 | 0.75 |
| DMA4 | 0.453 | 0.32 | 0.58 | 0.93 | 1.40 | 1.57 |
| DMA5 | 0.622 | 0.31 | 0.62 | 1.07 | 1.69 | 1.93 |
| DMA6 | 1.119 | 0.66 | 1.25 | 2.09 | 3.23 | 3.65 |
| DMA7 | 0.273 | 0.10 | 0.22 | 0.41 | 0.68 | 0.78 |
| DMA8 | 0.305 | 0.12 | 0.26 | 0.47 | 0.78 | 0.89 |

The routing schematic of storm flows through the bioretention basins and retention/detention chambers is shown in Figure 5 and outlined in Table 4 below.

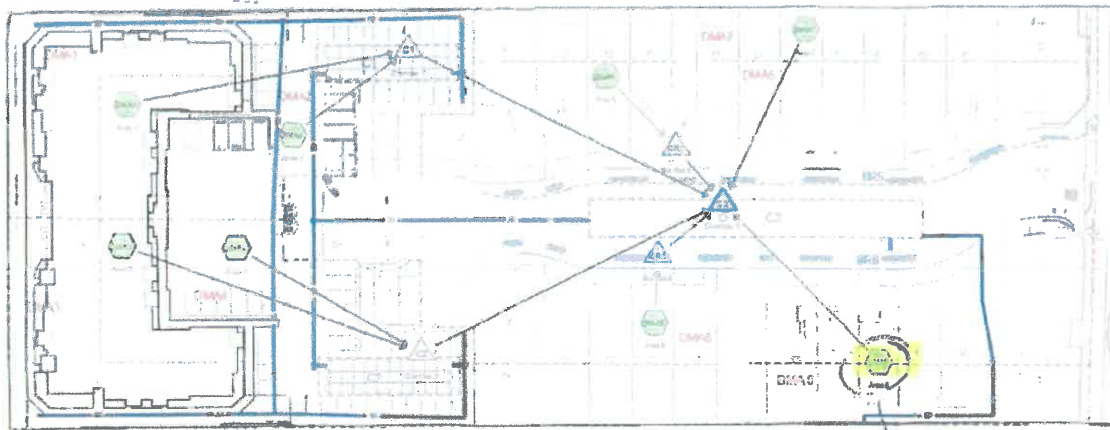


Figure 5 – Flow Routing Diagram

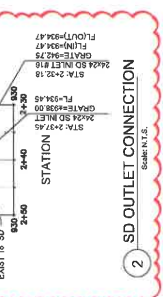
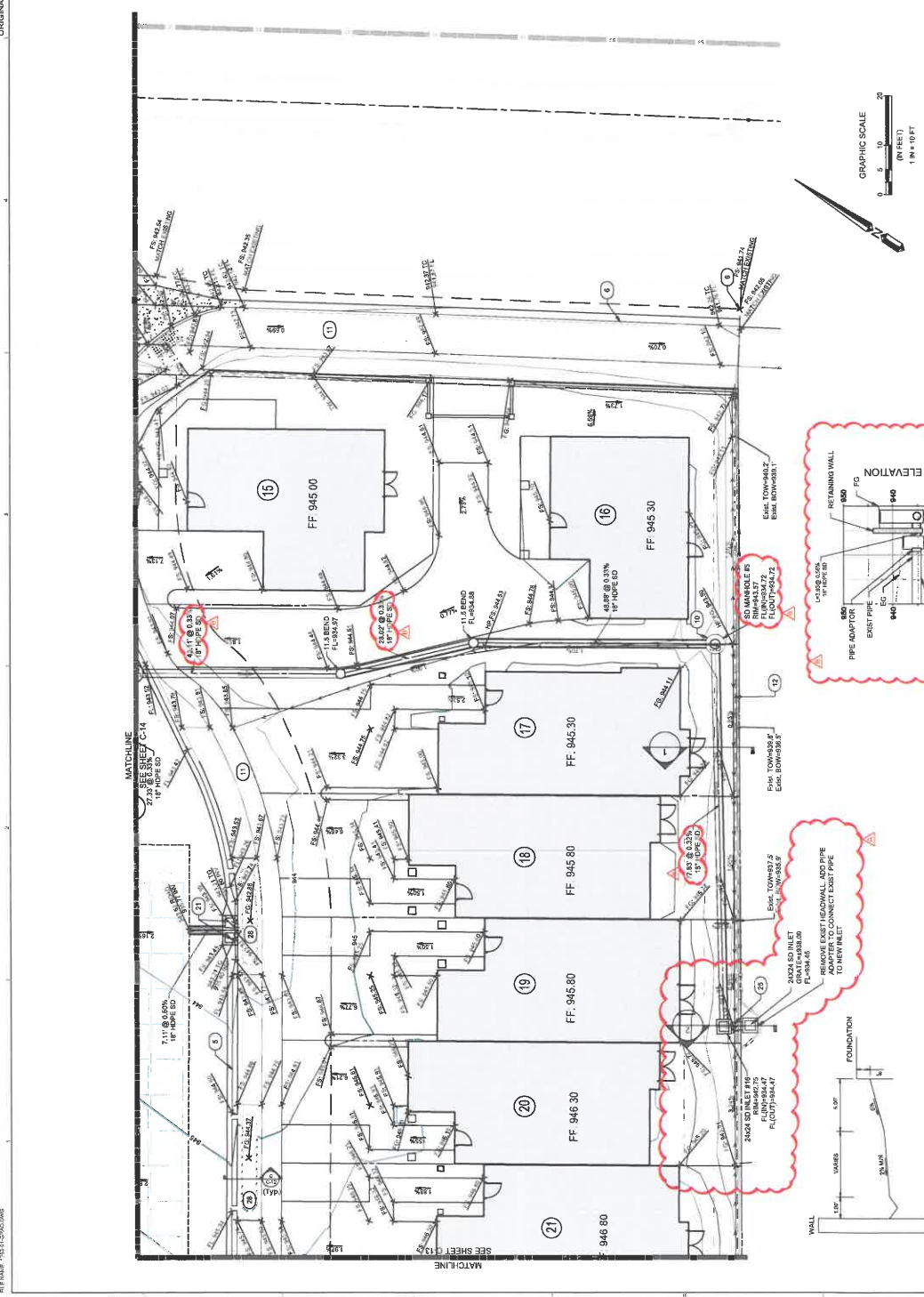
*DMA8
"basin" -
No outflow?*



| NO. | DESCRIPTION |
|-----|---|
| 1 | PAVEMENT SECTION: 3" MAX CURB, 4" 1/2 CLASS 2 AGG BASE COMPACTED TO 95% RELATIVE COMPACTION, 1" 1/2 CLASS 1.5 AGG SURFACE COMPACTED TO 95% RELATIVE COMPACTION. NOT TO BE USED FOR TRAFFIC. SEE DETAIL ON SHEET C-17. |
| 2 | TRANS ENCLOSURE PER ARCHITECTURAL PLANS |
| 3 | 4" CONCRETE CURB HEIGHT, (FLASH CURB) |
| 4 | 4" MOUNTABLE CURB, SEE DETAIL ON SHEET C-28 |
| 5 | 4" ROLLED CURB, SEE DETAIL ON SHEET C-28 |
| 6 | SAW CUT AND MATCH POINT, PROVIDE SMOOTH TRANSITION |
| 7 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 8 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 9 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 10 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 11 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 12 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 13 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 14 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 15 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 16 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 17 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 18 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 19 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 20 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 21 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 22 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 23 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 24 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 25 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 26 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 27 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 28 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 29 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |
| 30 | 15" X 15" CONCRETE BOX W/ GRATE BY MID-STATE |

NOTE:
ALL REFERENCE KEYNOTES MAY NOT APPEAR ON THIS SHEET

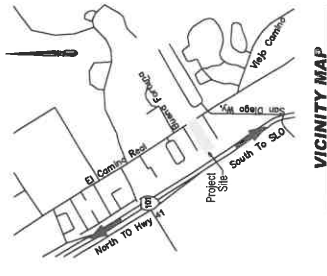
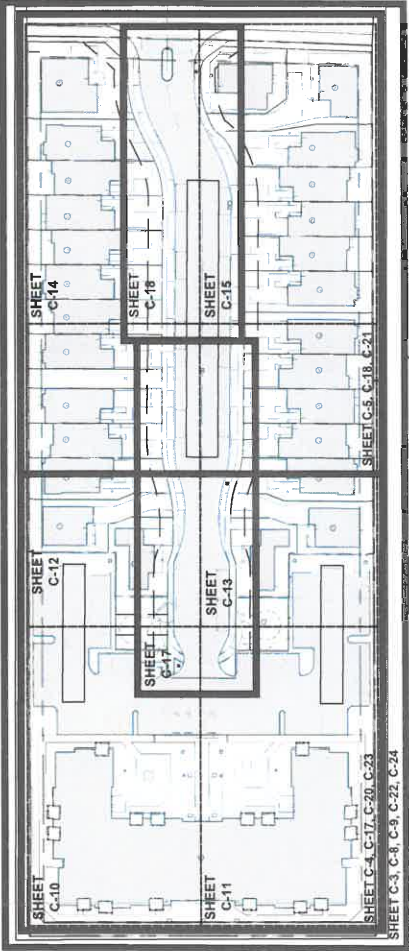
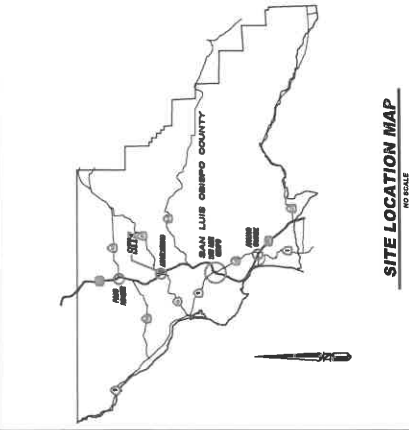
LEGEND:
--- GRADE BREAK



| Rev. | Date | Description of Revisions | By |
|------|------------|------------------------------------|----|
| 1 | 3/4/2021 | STORM DRAIN FLOWLINE/SLOPE UPDATES | BH |
| 2 | 12/23/2020 | STORM DRAIN CONNECTION | BH |

FOR REDUCED PLANS
ORIGINAL SCALE IS IN INCHES

SCALE: 1" = 40'



WALLACE GROUP
CIVIL AND TRANSPORTATION ENGINEERS
LANDSCAPE ARCHITECTURE
PLANNING
ARCHITECTURE
INTERIOR DESIGN
ENVIRONMENTAL PLANNING
WATER RESOURCES

611 CLAYTON COURT, SUITE 200
ATASCADERO, CALIFORNIA 93422
TEL: 805.544.1011 FAX: 805.544.1294
WWW.WALLACEGROUP.COM



DATE _____
UTILITY _____
GAS _____
POUR _____
SBC _____
CABLE _____

HARTBERG PROPERTIES: TRACT 3099
ON-SITE IMPROVEMENTS
TITLE SHEET

OWNER
City of Atascadero
1000 S. Coast Highway
Atascadero, CA 93422

SITE ADDRESS
1000 S. Coast Highway
Atascadero, CA 93422

ASSOCIATED PLAN LIST
Soils Report Prepared by Geotechnical, Inc.
Landscape Plans Prepared by Casey J. Patterson
Architectural Plans Prepared by Jake Anshabauer
Structural Plans Prepared by JK Engineering

SURVEY CONTROL
BASIS OF BEARINGS
THIS SURVEY TIED TO NATIONAL GEODETIC SURVEY (NGS) CONTIGUOUSLY
POINTS DESIGNATED 7207, HAVING A PUBLISHED POSITION OF: NORTHING
2,892,887.77, EASTING 5,000,296.05, AND 7208, HAVING A PUBLISHED POSITION
OF: NORTHING 2,892,887.77, EASTING 5,000,296.05. THE BEARING
PUBLISHED POSITION OF: NORTHING 2,892,887.77, EASTING 5,000,296.05. THE
BEARING SHOWN HEREAFTER REFERENCED TO CGSR, ZONE 5, ZONE 5, ZONE
NORTH.

THE HORIZONTAL DATUM FOR THIS SURVEY IS THE NORTH AMERICAN DATUM OF
1983. CGRS 1983 ADJUSTMENT (NAD83) EPOCH DATE OF 2010.0000.
THE VERTICAL DATUM FOR THIS SURVEY IS THE MEAN SEA LEVEL DATUM
OF THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD83). THIS
APPROXIMATION OF NAVD83 WAS CALCULATED AT POINT NUMBER 2 USING THE
GEOID12A GEOD HEIGHT OF -112.27 FEET, RESULTING IN AN APPROXIMATE
NAVD83 ELEVATION OF 306.88 FEET.

City of Atascadero
Director of Engineering
PLS 8039
2/26/2020
Date

Rep. Mayor
NCE 8784
2/26/2020
Date

Senior Civil Engineer

SITE IMPROVEMENT PLANS FOR HARTBERG PROPERTIES TRACT 3099 CITY OF ATASCADERO, CALIFORNIA



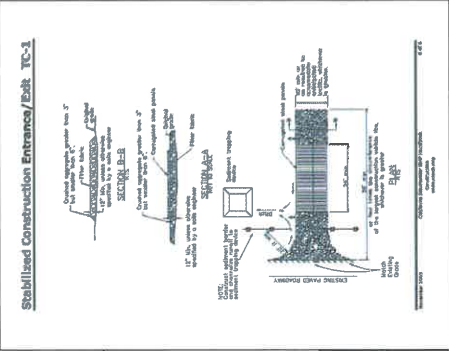
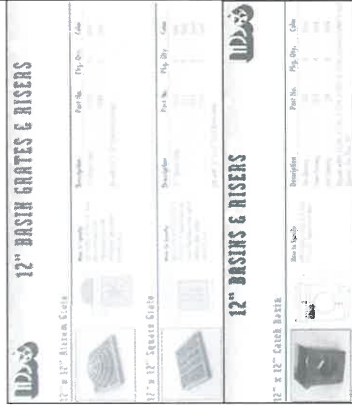
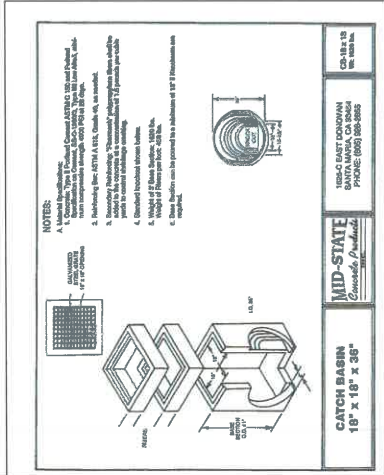
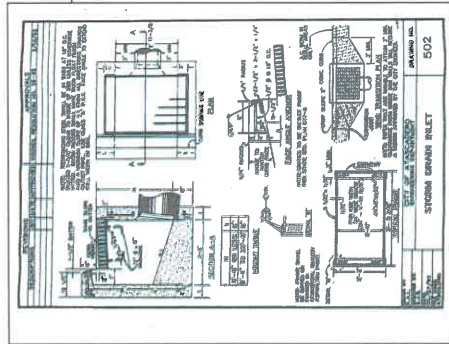
| Date | Date | Date | Date | Date |
|--|------------|------|------|-------------------------|
| Atascadero Mutual Water Company | Social Gas | POSE | ATS* | City/Port Communication |
| APPROVED FOR COMPLIANCE WITH CITY REQUIREMENTS | | | | |
| Natalie D. Dierker City Engineer, NCE 16291 | | | | |

DETAIL SHEETS:

- ON-SITE IMPROVEMENTS.....C-25
- ON-SITE IMPROVEMENTS.....C-26
- ON-SITE IMPROVEMENTS.....C-27
- ON-SITE IMPROVEMENTS.....C-28
- ON-SITE IMPROVEMENTS.....C-29
- RETAINING WALL STRUCTURAL DETAIL SHEETS:
- SITE RETAINING WALLS (TIE WALLS).....R-1.1
- SITE RETAINING WALLS (TIE WALLS).....R-2.1
- SITE RETAINING WALLS (HEEL WALLS).....R-3.1
- SITE RETAINING WALLS (HEEL WALLS).....R-4.1
- SITE RETAINING WALLS (HEEL WALLS).....R-5.1
- PARKING LOT RETAINING WALLS (HEEL WALLS).....R-6.1
- PARKING LOT RETAINING WALLS (HEEL WALLS).....R-7.1
- SITE SOUND WALL DETAIL.....SW-1.1
- LANDSCAPE PLANS
- PLANTING PLAN.....L-1
- PLANTING PLAN.....L-2
- PLANTING PLAN.....L-3
- PLANTING PLAN.....L-4
- PLANTING PLAN.....L-5
- PLANTING PLAN.....L-6
- PLANTING PLAN.....L-7
- PLANTING PLAN.....L-8
- PLANTING PLAN.....L-9
- PLANTING PLAN.....L-10
- PLANTING PLAN.....L-11

GENERAL:

- TITLE SHEET.....C-1
- LEGEND AND GENERAL NOTES.....C-2
- DEMOLITION PLAN.....C-3
- HORIZONTAL CONTROL.....C-4
- HORIZONTAL CONTROL.....C-5
- STRIPING AND SIGNAGE PLAN.....C-6
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- ROUGH GRADING PLAN.....C-8
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STATE LICENSE
 PROFESSIONAL ENGINEER
 NO. 10105
 CIVIL
 EXPIRES 12/31/00

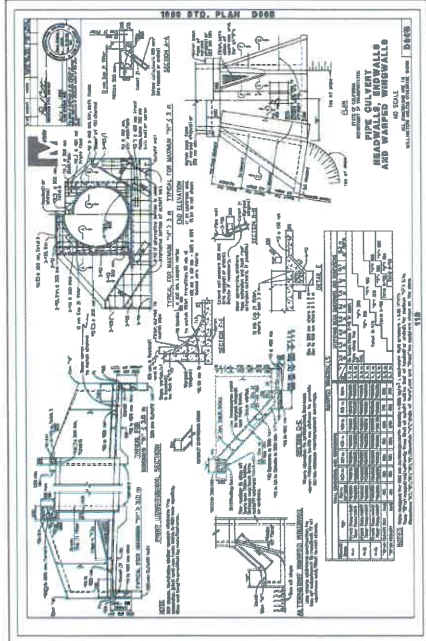
NOTES
 1. SEE GENERAL NOTES TO THESE PLANS.
 2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION, AS APPLICABLE.
 3. ALL DIMENSIONS ARE UNLESS OTHERWISE NOTED.
 4. ALL MATERIALS SHALL BE AS SHOWN OR APPROVED BY THE ENGINEER.
 5. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION, AS APPLICABLE.
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2. STORM DRAIN INLET NS

3A. 18" X 18" GRATED INLET NS

3B. 12" X 12" GRATED INLET NS

4A. STABILIZED CONSTRUCTION ENTRANCE NS

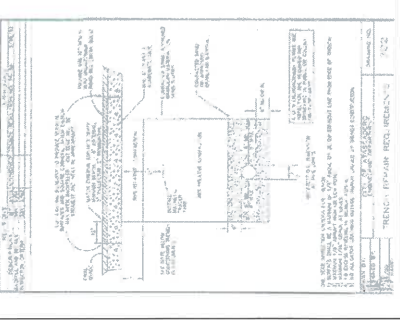


4A. HEADWALLS NS

4B. 4" MOUNTABLE CURB NS

4C. 4" ROLLED CURB NS

4D. TRENCHING DETAIL NS



SEABERG PROPERTIES, TRACT 3099
 DETAILS
 ON-SITE IMPROVEMENTS

DRAWING NO.
 C-26
 28 OF 28 SHEETS

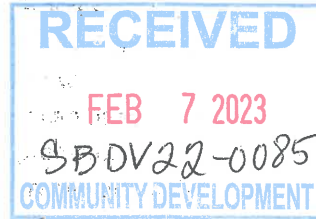
Planning Commission

City of Atascadero

6500 Palma Ave.

RE: 10850 LLC Tentative Track Map

Feb. 7, 2023



Rec'd after deadline

Dear Commissioners

My name is Paula Ramsum, and I own a custom home at La Costa Court, which is adjacent to the Project at 10850 El Camino Real. I have invested in several homes in Atascadero over the years, starting in 2010. I have found Atascadero to be a nice area to invest in and my tenants have liked living here.

This all changed the night of January 27, 2021, when my nightmare began. I got a call from my tenants late at night informing me the house they are living in is flooded with mud and water and the Fire Department had to unclog the small drain that runs across my property. I later find out the construction site had been instructed to divert all water runoff from this large 3.79 acres of newly graded unstable construction site to the small 18 inch drain at the back corner of my lot during construction. At this point, construction has taken years to build, still is not complete and now they want to build more. I was never informed of this plan to divert more water than this small drain can handle. I was never informed that my home would be in danger. There was a well-advertised and predicted rain event scheduled for January 27, 2021. Days before this rain event the construction crews removed my fence at the back of my property that backs up to the 10850 site, without any notice or permission. This fence would have protected my house holding back the mud and water and giving the Fire department more time to protect our properties. There were other properties flooded that night as well. I've been informed the contractor was out there in the rain grading the lot during the day, which only made the soil even more unstable. Then in the middle of the heavy rain event, they went home and soon afterwards my home flooded.

This was a preventable event, with proper drainage plans that actually work. My house was severally damaged, which include all the flooring, walls, cabinets and more. My tenants were displaced, I had to put them up in a hotel, and they eventually found new housing. At first the Owner of the site accepted blame and assured me they would pay for all the damage and lost rents. After many delays they turned the claim over to their insurance company. Several months later the insurance company was ready to settle with me. Then Amanda, the main contact for the property owner and construction company, instructed the insurance adjuster not to issue the settlement. Amanda told the insurance adjuster that it was the City of Atascadero's fault the flood happened because the City instructed fabric to be placed over the drain pipe which caused the pipe to clog. Now I am stuck with no insurance settlement to repair my home, not knowing who caused this flood to happen. I filled a claim against the City of Atascadero, which was denied. I have had to borrow money to make the repairs and have lost rents for over 2 years now.

You have some plans that may or may not work when the project is completed, which is a big issue. However there appears to be no real plan for during construction, which has been taking years, and now

they want to build more. Since the original flood event, January 27, 2021, I have lived in fear that it would happen again, and sure enough it did on 12-10-22. However this time I was out there monitoring the drain in the pouring rain, as well as my neighbors. I have included a picture of the drain pipe at maximum, just before the Fire Department arrived and saved our houses from damage.

I have been living this nightmare for two years and something needs to be done to solve these major flaws in the project. These flaws need to be addressed and solved before allowing this contractor to continue.

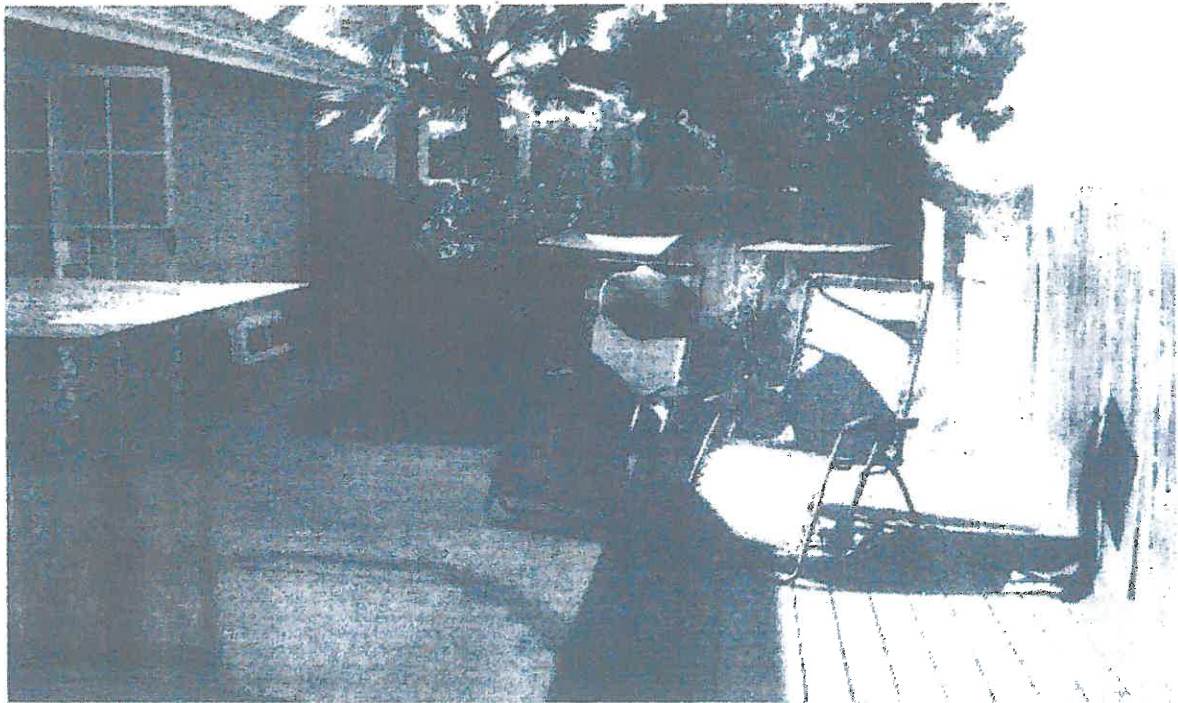
My neighbors and I have had to deal with the continuous noise, dust for well over 2 years. Now we have intrusive block walls, and massive buildings that tower over our yards.

The original construction site property used to be below the grade of my property, now it's 8 feet above my property, and I have to look at this massive block wall that was not sealed properly and is now a stained eyesore (see photos). On top of the block wall are massive two story attached buildings with high pitched roofs. The photos attached show the massive stained block wall, the open space above the wall will be blocked out with the massive second story that is to be built there. I also have a picture of my yard before construction, 5 foot fence looking out to open sky. Now we look at intrusive block wall and massive buildings.

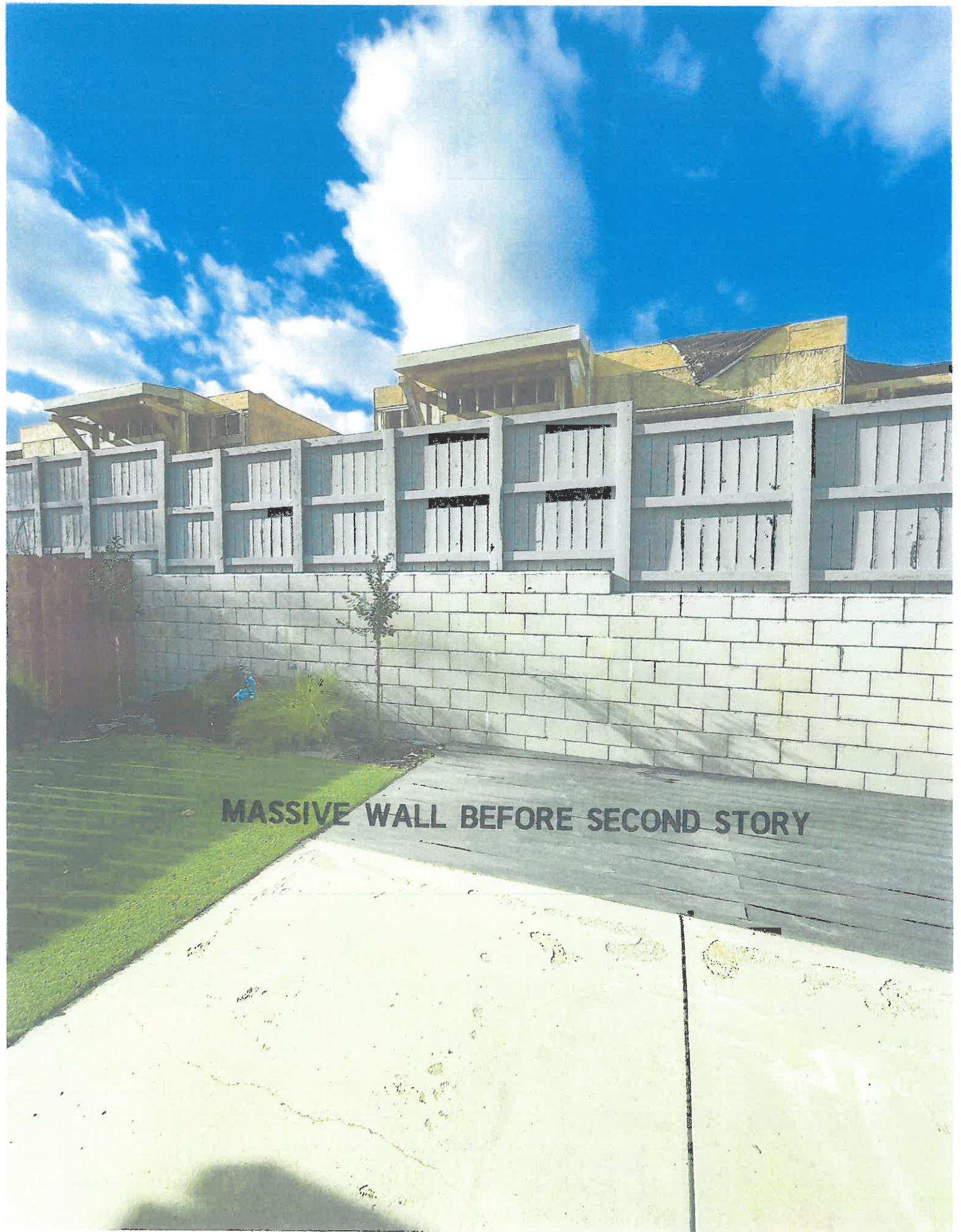
Another picture shows the drain that was installed by 10850 LLC looking through it from my side, with an inlet at the top of the developer's 18" outlet pipe discharging to my property. It shows an inlet on the top, but nowhere in the drainage plans show this. Where is this water coming from? It is not on the plan and not in the drainage calculations. Other pictures show a drainage canal that was built at the time the block wall was installed, which drains water from 10850 El Camino behind 900 and 910 La Costa Court into the 18 inch pipe at the corner of my back yard. The construction site has dug a large trench along El Camino Real, which feeds water behind my neighbor's back yards to my property. This diverts water from the front of the flooded construction site to my property. After the flood on 12-10-22, water has overflowed onto El Camino turned the corner at La Costa and funneled into another City drain at the front of my home at 920 La Costa Court. When I brought this up to Lori Azeen, she told me this was blocked off and not being used, but as of today it is still there.

Please either deny approval or table it until all the problems with this project can be solved to protect the neighboring properties. In the meantime we hope the City will control this out of control run-off situation as we still have months of potential storm action.

Paula Ramsum



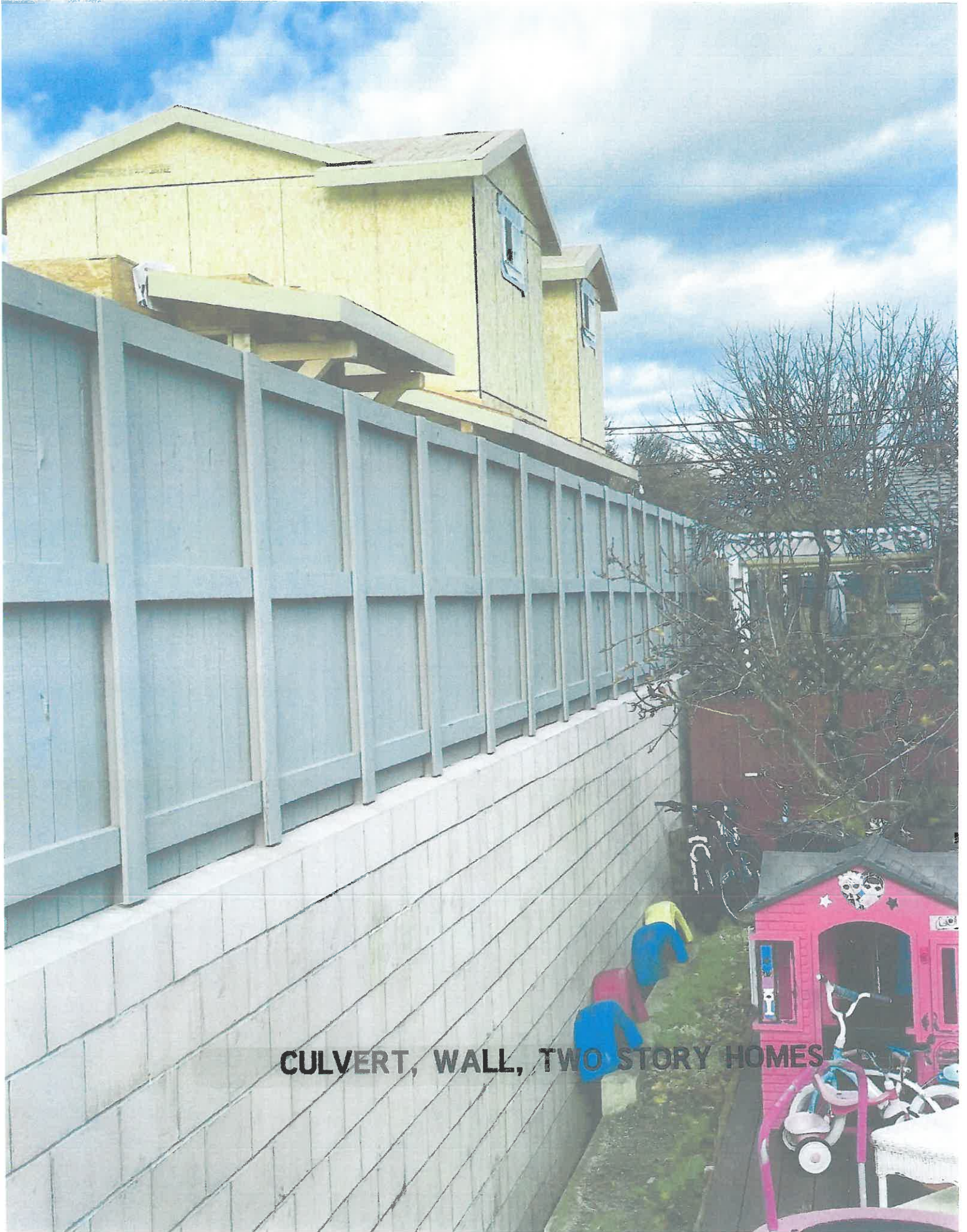
BACK YARD PRIOR TO MASSIVE WALL



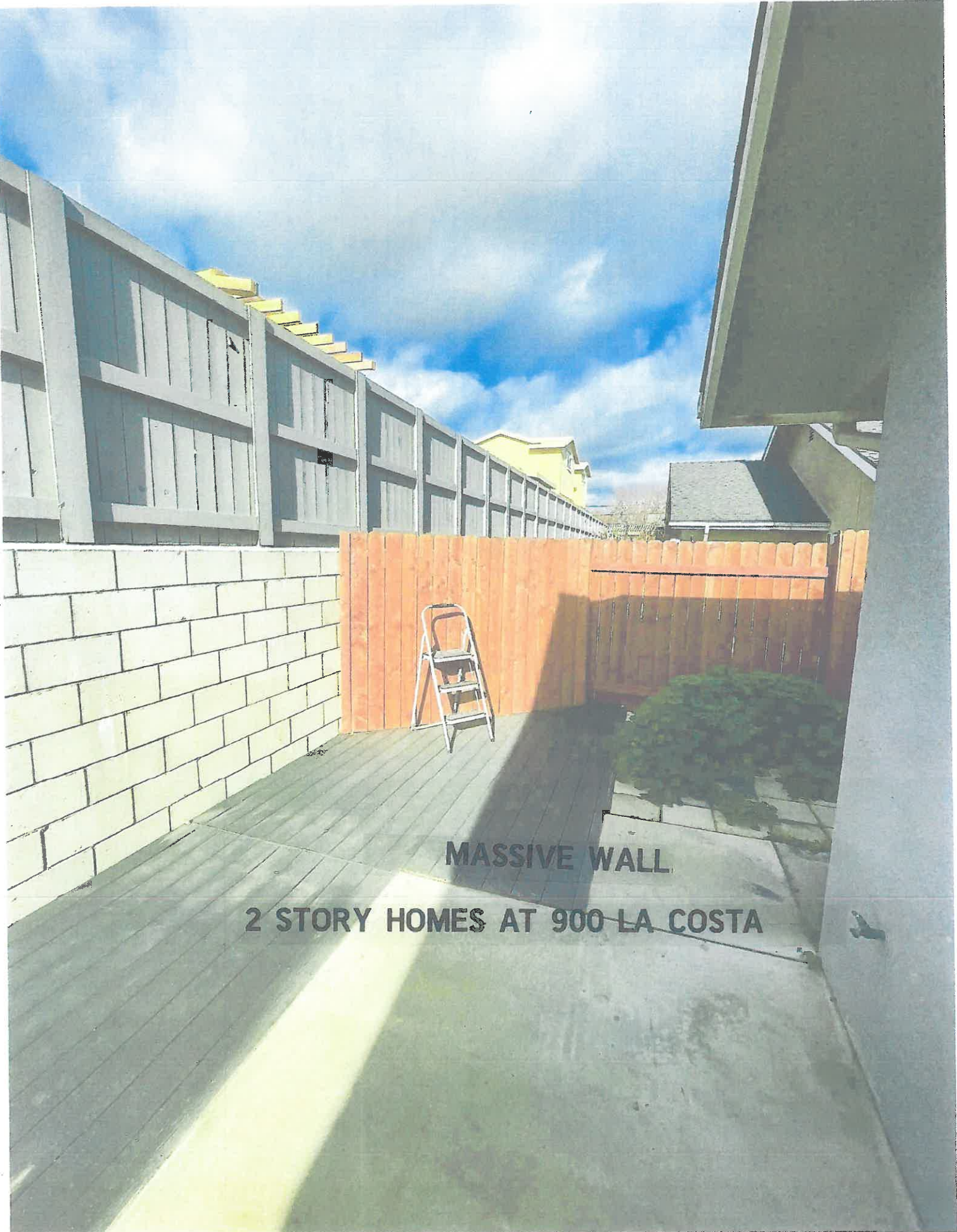
MASSIVE WALL BEFORE SECOND STORY

A photograph of a concrete block wall. The wall is composed of light-colored, rectangular blocks with visible mortar joints. A prominent vertical stain, appearing yellowish-brown, runs down the center of the wall, starting from the top and extending towards the bottom. The stain is most concentrated in the middle and bottom sections. The lighting is bright, casting soft shadows between the blocks.

STAINED, UNSIGHTLY WALL



CULVERT, WALL, TWO STORY HOMES

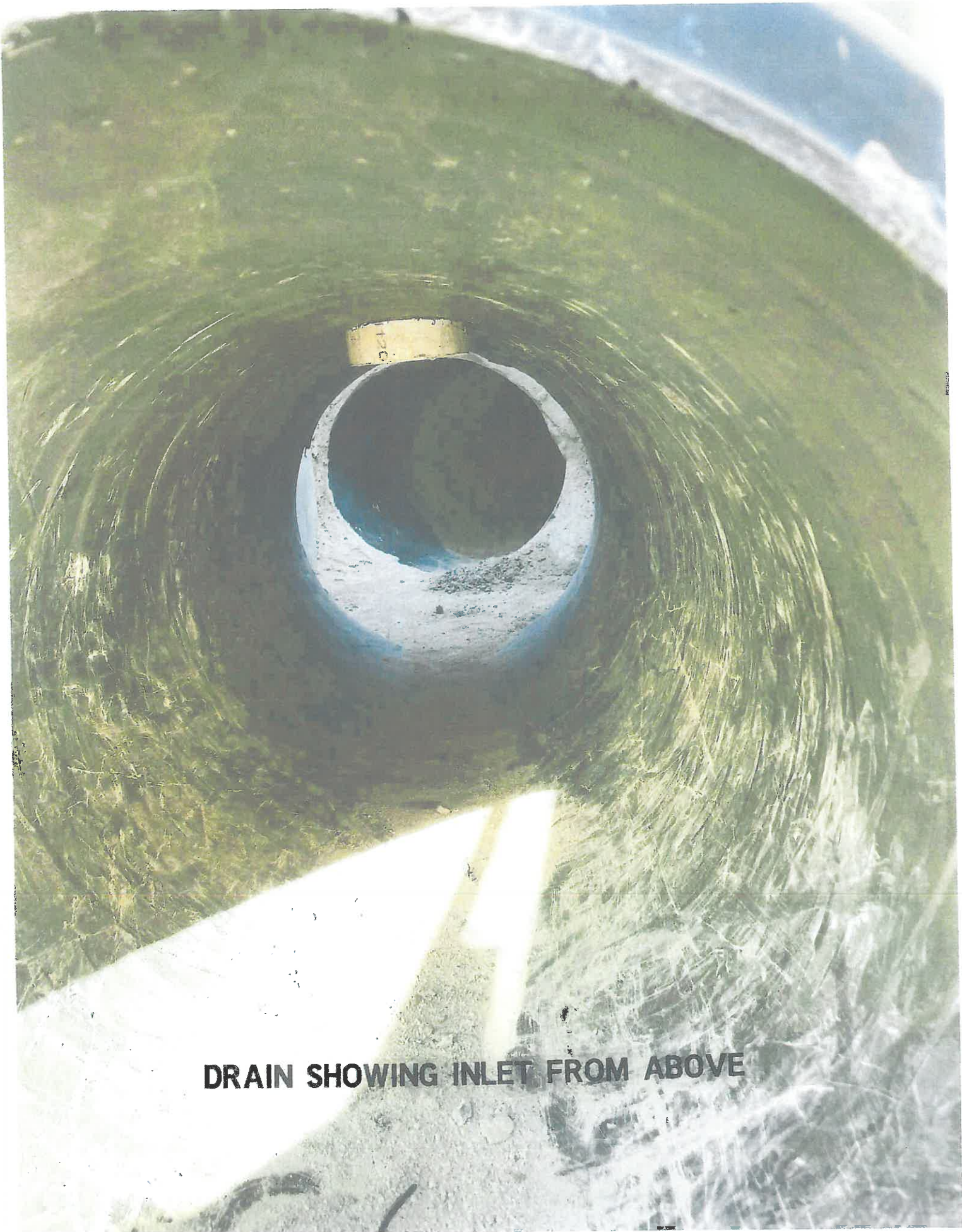


MASSIVE WALL

2 STORY HOMES AT 900 LA COSTA



DRAIN AND COLLECTION BASIN



DRAIN SHOWING INLET FROM ABOVE

7:39



December 10, 2022
9:12 PM

Edit



12/10/2022

**WATER AT TOP OF DRAIN JUST
BEFORE FIRE DEPT. ARRIVED**

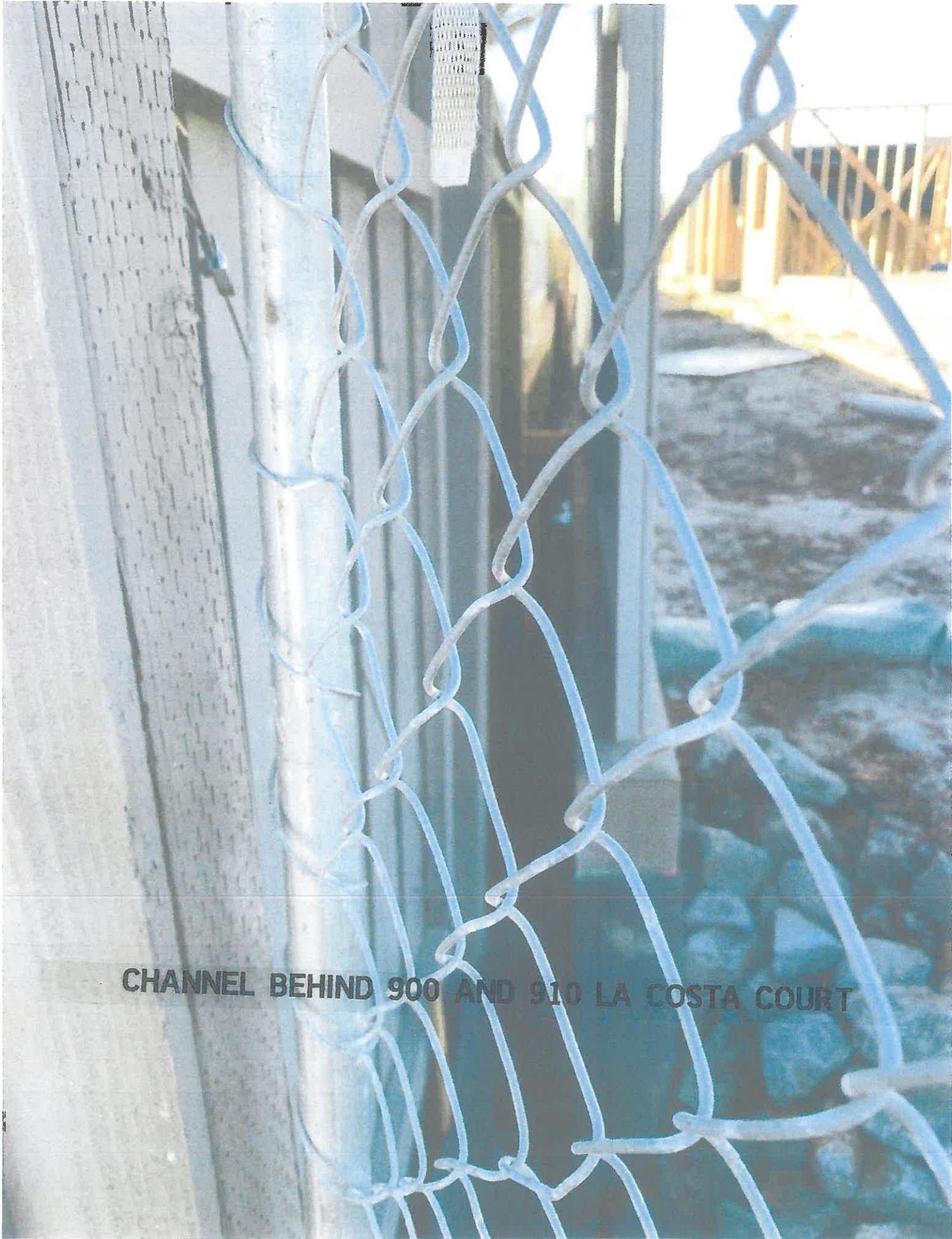




TRENCH ALONG EL CAMINO REAL



**TRENCH LEADING TO CHANNEL BEHIND
900 AND 910 LA COSTA COURT**



CHANNEL BEHIND 900 AND 910 LA COSTA COURT