

## Staff Responses to RTC Appeal Comments

RTC Comment 1: The RTC would like Design Permit and Variance approval conditioned to require that the proposed development does not interfere with or inhibit the City's continued maintenance of the walking path and landscaping at the top of the bluff. It is important that the walking path and landscaping at the top of the bluff is adequately maintained in order to promote stability of the bluff slope.

Staff Response: The City of Capitola and the Union Pacific Railroad Company entered into an agreement in 2004 granting the City use of, and maintenance responsibility for the pathway and three stairways. The updated design creates a three-foot, three-inch rear setback. The increased setback will allow the owner to maintain their home without entering RTC property. The development will not interfere with or inhibit the City's continued maintenance of the walking path and staircases at the top of the bluff.

RTC Comment 2: With respect to the referenced 2004 license agreement, the position of the walking path at the top of the bluff requires that the City of Capitola maintain the bluff slope that supports the walking path. In support of this maintenance obligation:

1. [The] RTC requests to condition the proposed development that no irrigation be permitted on, above or adjacent to either the bluff slope or the bluff top.
2. [The] RTC requests to condition the proposed development that surface and subsurface runoff from the property:
  - a. Be controlled
  - b. Be directed to the front (northeastern) boundary of the property
  - c. Not be permitted to pond adjacent to the bluff top or bluff slope
  - d. Not be permitted to flow over the bluff top or bluff slope

Staff Response: As a policy, the City seeks to minimize drainage onto adjacent properties. The proposed landscape plan allows for infiltration and directs structural runoff away from the bluff. The following existing and recommended conditions apply to these construction and post-construction considerations:

Condition 10. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.

Condition 11. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID; including a detail of the pervious pavers and drainage emitter as shown on plans 8/24/22). (Staff recommends adding the underlined portion to the existing Condition 11.)

[Recommended] Condition 16. Structural and surface runoff shall flow towards the Prospect Avenue frontage and shall not flow onto RTC property to the rear.

RTC Comment 3: [The] RTC as a policy seeks to minimize and whenever practicable eliminate the need for other parties to need to access the SCBRL ROW through a right-of-entry agreement with the RTC. Therefore, the RTC would like to condition the Design Permit and Variance approval to require that the proposed development is completed in such a way that access to the SCBRL ROW is not required in order to undertake future maintenance of the structure, appurtenances, property or landscaping on the 1410 Prospect Avenue property.

Staff Response: The project approval does not grant any present or future right of access or improvement. As proposed, the development has been designed in a manner that future maintenance should not necessitate access to RTC property. Staff does not recommend adding a condition to address this request. The RTC, not the City, holds the authority to enforce access onto the railway.

RTC Comment 4: The RTC would like the Design Permit and Variance be conditioned so that City of Capitola staff must consult with the RTC during review (and prior to issuance of a Building Permit) of technical reports and plans that are required by the conditions of approval, in particular the conditions relating to review of building plans, landscape plans, geotechnical and geological reports, drainage plans, grading plans, sediment and erosion control plan, and stormwater management plan.

Staff Response: Staff recommends adding Condition #18: "Prior to issuance of a building permit, the City shall consult with the RTC with respect to the required plans and technical reports associated with this permit. This is for informational purposes only. The RTC has no formal review authority over the application."

RTC Comment 5: The RTC would like the proposed development conditioned such that no entry to the SCBRL ROW, including for the storage of any materials or equipment within the SCBRL ROW, is allowed unless entry is granted via a valid right-of-entry agreement by and between the entering party and the RTC.

Staff Response: Staff recommends adding Condition #17: "Prior to entry or any equipment or material storage within the SCBRL (RTC) right-of-way, the applicant shall first obtain a right-of-entry agreement from the RTC."