



County of Santa Clara - Clerk-Recorder's Office  
State of California

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ENVIRONMENTAL FILING

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Expires: 11/08/2025

**LOUIS CHIARAMONTE, Clerk-Recorder**

By: Corinne Vasquez, Deputy Clerk-Recorder

*hec. 25.048*  
**SANTA CLARA COUNTY CLERK  
CEQA FILING COVER SHEET**

THIS SPACE FOR CLERK'S USE ONLY

Complete and attach this form to each CEQA Notice filed with the County Clerk

**TYPE OR PRINT CLEARLY**

**Check Document being Filed:**

- ☐ Environmental Impact Report (EIR)
- ☐ Filing Fee (new project)
- ☐ Previously Paid F&W (must attach F&W receipt and project titles must match)
- ☐ No Effect Determination (F&W letter must be attached)
- ☐ Mitigated Negative Declaration (MND) or Negative Declaration (ND)
- ☐ Filing Fee (new project)
- ☐ Previously Paid F&W (must attach F&W receipt and project titles must match)
- ☐ No Effect Determination (F&W letter must be attached)
- ☐ Notice of Exemption (NOE)
- ☒ Other (Please fill in type):

Government Code Section 65589.5(h)(6)(D) - Challenged Conduct Notice

1. LEAD AGENCY: Town of Los Gatos
2. LEAD AGENCY EMAIL: rsafy@losgatosca.gov
3. PROJECT TITLE: 14288 Capri Drive
4. APPLICANT NAME: Kurt B. Anderson, AIA PHONE: (408)202-5462
5. APPLICANT EMAIL: kanderson@andarchinc.com
6. APPLICANT ADDRESS: 120 W. Campbell Ave, Suite D, Campbell, CA 95008
7. PROJECT APPLICANT IS A: ☐ Local Public Agency ☐ School District ☐ Other Special District ☐ State Agency ☒ Private Entity
8. NOTICE TO BE POSTED FOR 30 DAYS.

Filing fees are due at the time a Notice of Determination/Exemption is filed with our office. For more information on filing fees and No Effect Determinations, please refer to California Code of Regulations, Title 14, section 753.5.

**County of Santa Clara**  
**Clerk-Recorder's Office**

110 West Tasman Drive, First Floor  
San Jose, California 95134  
(408) 299-5688



11/10/2025

**TOWN OF LOS GATOS**

110 E. Main St.  
Los Gatos, CA 95030

**Re: CALIFORNIA ENVIRONMENTAL QUALITY ACT POSTINGS**

**Dear Lead Agency:**

**Enclosed please find the public copy posted in Santa Clara County  
Clerk-Recorder's Office for 30 days per CALIFORNIA CODES PUBLIC  
RESOURCES CODE SECTION 21152 (c)**

Sincerely,

County Clerk-Recorder



By:   
Mike Louie, Deputy Clerk-Recorder

**From:** SoCal Industrial Equities  
**To:** Ryan Safty; Kurt Anderson; Ben Eilenberg; Richard Jacobs  
**Subject:** 14288 Capri Drive - Follow-up re: September 17, 2025 and September 18, 2025 letters  
**Date:** Thursday, October 2, 2025 2:14:29 PM  
**Attachments:** 9-18-2025 Letter.pdf  
9-17-2025 Letter.pdf

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[EXTERNAL SENDER]

Ryan,

I am following up on our letters sent two weeks ago. We have not received a substantive response to either one.

To remind you, the September 17, 2025 letter outlined the CEQA exemption in Public Resources Code Section 20180.66. The September 18, 2025 letter addressed the improper fees and requirements for the project imposed by the Town.

Please get back to us with a response from the Town on or before October 7, 2025.

Please consider this our request to move forward with the administrative process set forth in Government Code Section 65589.5(h)(6)(D). We will consider withdrawing the request depending on the substantive response. The violations are set forth in detail in the September 17, 2025 and September 18, 2025 letters, both of which are attached.

Thank you in advance.

Ben

**LAW OFFICE OF RICHARD B. JACOBS**

September 17, 2025

The Town of Los Gatos

Sent via email to Ryan Safty and uploaded

**RE: CEQA Exemption under Public Resources Code Section 65589.5 for the project located at 14288 Capri Drive**

As per the meeting this morning regarding this project located at 14288 Capri Drive I have been requested to prepare a short memorandum on the question of CEQA exemption for the project. As you may be aware, AB-130 was recently passed by the Legislature and signed by Governor Newsom. Among other matters, AB-130 added Section 21080.66 to the Public Resources Code. For your convenience, the link to AB-130 is

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202520260AB130](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260AB130).

Section 21080.66(a) sets forth an 8-part test to determine whether a project is exempt from CEQA. I have included each of the 8 parts below with an explanation of how this project meets the criteria:

1. The project must be less than 20 acres, or if it is a Builder's Remedy project, the project must be less than 5 acres. (§ 21080.66(a)(1)(A)&(B).)
  - a. This project is a Builder's Remedy project. Therefore it must be less than 5 acres.
  - b. This project is less than 1 acre.
2. The project site must be either within the boundaries of an incorporated municipality or be located within an urban area as defined by the U.S. Census Bureau. (§21080.66(a)(2)(A)&(B).)
  - a. This project is located within the Town of Los Gatos.
  - b. The Town of Los Gatos was incorporated in 1887.
3. The project must be on a parcel that meets any of the following criteria: (A) the parcel was previously developed with an urban use; or (B) at least 75% of the perimeter of the site adjoins parcels that are developed with urban uses; or (C) at least 75% of the area within one-quarter mile radius of the site is developed with urban uses; or (D) for sites with 4 sides, at least 3 of the 4 sides are developed with urban uses and at least 2/3 of the perimeter of the parcel adjoins parcels that are developed with urban uses.
  - a. While any of the four preceding criteria are acceptable, this project meets all of the four different methods of satisfying this question.
  - b. For convenience, I have included a satellite image of the project site:

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- c. The project parcel is already developed for urban use.
  - d. At least 75% of the surrounding parcels are developed for urban use.
  - e. At least 75% of the area within one-quarter mile is developed for urban use.
  - f. All 4 of the 4 sides are developed with urban uses and over 2/3 of the perimeter of the site adjoin parcels that are developed for urban uses.
4. The project is consistent with the general plan and/or zoning.
- a. This is a Builder's Remedy project subject to Government Code Section 65589.5.
  - b. As per Government Code Section 65589.5(f)(6)(D)(iii), "(f)(6) Notwithstanding paragraphs (1) to (5), inclusive, all of the following apply to a housing development project that is a builder's remedy project: ... (D)(iii) Any project that complies with this paragraph shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, redevelopment plan and implementing instruments, or other similar provision for all purposes, and shall not be considered or treated as a nonconforming lot, use, or structure for any purpose."
  - c. Summarized, Builder's Remedy projects are deemed consistent with general plans and zoning for all purposes.
  - d. As this is a Builder's Remedy project, it is therefore legally deemed consistent with the general plan and zoning.
5. The project will be at least one-half of the applicable density specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2 of the Government Code.
- a. This is also known as the "Mullin Density."
  - b. This means that the project must be at least five units per acre for an unincorporated area in a nonmetropolitan county, 10 units per acre in a suburban jurisdiction, and 15 units per acre in a metropolitan jurisdiction.

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- c. As this is a project in a suburban jurisdiction, the project must have at least 10 units per acre.
- d. The project has more than the requisite units per acre.
- 6. The project satisfies the requirements specified in paragraph (6) of subdivision (a) of Section 65913.4 of the Government Code.
  - a. Government Code Section 65913.4(a)(6) requires that a project not be on a site that is any of the following:
    - i. An area of the coastal zone subject to paragraph (1) or (2) of subdivision (a) of Section 30603 of the Public Resources Code.
    - ii. An area of the coastal zone that is not subject to a certified local coastal program or a certified land use plan.
    - iii. An area of the coastal zone that is vulnerable to five feet of sea level rise, as determined by the National Oceanic and Atmospheric Administration, the Ocean Protection Council, the United States Geological Survey, the University of California, or a local government's coastal hazards vulnerability assessment.
    - iv. In a parcel within the coastal zone that is not zoned for multifamily housing.
    - v. In a parcel in the coastal zone and located on either of the following:
      - 1. On, or within a 100-foot radius of, a wetland, as defined in Section 30121 of the Public Resources Code.
      - 2. On prime agricultural land, as defined in Sections 30113 and 30241 of the Public Resources Code.
  - b. This project is not in a coastal zone, therefore none of the above criteria are implicated.
- 7. The project does not require the demolition of a historic structure.
  - a. There are no historic structures on the site.
- 8. For a project that was deemed complete on or after January 1, 2025, no portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging.
  - a. This project was deemed complete after January 1, 2025.
  - b. No portion of this project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging.

Therefore, as set forth in detail above, this project falls within the CEQA exemption created by AB130 and codified in Public Resources Code Section 21080.66(a).

Please confirm to me and my client that the Town will comply with Public Resources Code Section 21080.66(a) and issue a determination that this project is CEQA exempt on or before September 26, 2025.

Sincerely,

Richard B. Jacobs

**LAW OFFICE OF RICHARD B. JACOBS**

September 18, 2025

The Town of Los Gatos

Sent via email to Ryan Safty and uploaded

**RE: Improper Requirements And Fees for the project located at 14288 Capri Drive**

As per the meeting yesterday morning regarding this project located at 14288 Capri Drive I have been requested to prepare a short memorandum on the question of whether there are improper requirements and fees being demanded by the Town of Los Gatos. There are.

This letter specifically addresses the items listed in the September 17, 2025 Staff Technical Review for the project.

1. Project Consistency Related Items: Letters

- a. Item 1 – “Multi-Family Residential is not a principally permitted use (or an allowed conditional use) in the C-1 zone. The C-1 zone allows “multiple-family dwelling (in a mixed-use project)” with a conditional use permit. You must apply for a Conditional Use Permit, and request that the “mixed-use” component of the be removed as a part of the application. • Contact project planner when you are ready to pay the CUP fee, and staff will invoice. Please also confirm if you will be paying by check or credit card. • Previous deficiency comment moved to consistency. • This remains outstanding. The fee is now \$3,524.26 based on the Town’s new fee schedule. See the Town’s letters from March 3, 2025, and May 27, 2025, addressing this comment and applicant responses in detail. The application materials continue to make the same argument, without responding to the Town’s responses. • The response letter submitted on July 18, 2025, as well as the letter from the Law Office of Richard Jacobs dated May 16, 2025, state that this requirement is not in the “New Residential Submittal Requirements.” As noted in the staff’s response to the May 16, 2025, letter, the “New Residential Submittal Requirements” is not the Town’s submittal checklist for a discretionary planning application. The “New Residential Submittal Requirements” is a checklist for Building Permit submittals”
  - i. The primary issue that CUP’s are not an allowable requirement for Builder’s Remedy projects. This is because Government Code Section 65589.5 deems projects to be consistent with zoning and general plans once the planning application is complete.
    1. As per Government Code Section 65589.5(f)(6)(D)(iii), “(f)(6) Notwithstanding paragraphs (1) to (5), inclusive, all of the following apply to a housing development project that is a builder’s remedy project: ...(D)(iii) Any project that complies with this paragraph shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, redevelopment plan and implementing

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instruments, or other similar provision for all purposes, and shall not be considered or treated as a nonconforming lot, use, or structure for any purpose.”

2. CUP's are only required for projects that are inconsistent with the “by right” uses for a zone. In this case, Government Code Section 65589.5(f)(6)(D)(iii) makes this project consistent with the “by right” uses for the zone.
- ii. The second issue is that CUP's are, by their very nature, discretionary.
  1. According to Section 29.20.180 of the Town's Municipal Code, “Conditional use permits. The adoption of this chapter is based on the premise that there are uses which can be specified for each zone which, in practically all instances, will be mutually compatible. In addition, there are other uses which might be compatible with ordinarily allowed uses if properly located and regulated. These are called conditional uses. They are listed in section 29.20.185. However, the listing of a conditional use does not indicate that the use must be allowed. There will be locations or instances where a specified conditional use is inappropriate in a zone regardless of the extent of regulation.”
  2. However, with Builder's Remedy projects all discretion must be exercised in favor of the approval and provision of housing. (Gov. Code § 89(a)(2)(L).) Therefore, any discretion must be exercised in favor of the project, meaning that the CUP process is both irrelevant and improper.
- iii. The third issue is that CUP's do not address the only five questions that may be addressed by the Town under Government Code Section 65589.5(d)(5).
  1. As noted above, this project is a Builder's Remedy project under Government Code Section 65589.5. As this project was submitted while the Town's Housing Element was non-compliant, the five questions that may be addressed are encapsulated in Government Code Section 65589.5(d)(5). They are:
    - a. (1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or

more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the housing development project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

- b. (2) The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. The following shall not constitute a specific, adverse impact upon the public health or safety:
  - i. (A) Inconsistency with the zoning ordinance or general plan land use designation.
  - ii. (B) The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.
- c. (3) The denial of the housing development project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.
- d. (4) The housing development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation

purposes, or which does not have adequate water or wastewater facilities to serve the project.

- e. (5) On the date an application for the housing development project or emergency shelter was deemed complete, the jurisdiction had adopted a revised housing element that was in substantial compliance with this article, and the housing development project or emergency shelter was inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan.
  - i. (A) This paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed on a site, including a candidate site for rezoning, that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element if the housing development project is consistent with the density specified in the housing element, even though the housing development project was inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation on the date the application was deemed complete.
  - ii. (B) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

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- f. A CUP does not fit this five point analysis.
- b. Item 3 – “CEQA: Clarify whether the applicant team anticipates providing any technical studies related to environmental analysis (traffic, habitat, cultural, air quality, noise, soils etc.) for peer review by the Town Environmental Consultants. If not provided, the studies determined to be required by the Environmental Consultant will be prepared by the Town Environmental Consultants at the cost of the applicant. • You previously indicated via email that your team will prepare an Arborist Report and Traffic Study. Please confirm. Additionally, an email was forwarded to your team on 9/13/24, requesting some additional information in the Phase I ESA and the Noise Report. Please provide a response. • The response letter uploaded in July 2025 states that, “under the new laws passed, CEQA no longer applies to this project.” Please specify which CEQA exemption you believe applies to this project, and provide substantial evidence that the project meets each requirement of the exemption. Staff will then review to determine eligibility.
  - i. This item has already been addressed in my letter dated September 17, 2025, a courtesy copy of which is attached hereto as **Exhibit 1**.
  - ii. I will also note, to the extent that the Town wishes to attempt to seek additional reports on environmental matters that would be addressed in the CEQA process, those reports are now unnecessary as this project is CEQA exempt.
- c. Item 4 – “CEQA: Staff is coordinating with Town Environmental Consultants to determine what environmental analysis will be required for the project. Environmental analysis is required at cost to the applicant. Staff will require payment of a deposit at a future date. • The response letter uploaded in July 2025 states that, “under the new laws passed, CEQA no longer applies to this project.” Please see response to #9 above.”
  - i. This item has already been addressed in my letter dated September 17, 2025, a courtesy copy of which is attached hereto as **Exhibit 1**.
  - ii. I will also note, to the extent that the Town wishes to attempt to seek additional reports on environmental matters that would be addressed in the CEQA process, those reports are now unnecessary as this project is CEQA exempt.
- d. Item 5 – “Review by the Town’s Consulting Arborist is required to provide a peer review of the arborist report submitted by the applicant. A deposit payment of \$2,750 is required. • This continues to remain outstanding.”
  - i. The primary issue is that the standards of review for the Town Arborist are, by their very nature, discretionary.
    - 1. According to Section 29.10.0990 of the Town’s Municipal Code, “Standards of review.
    - 2. The Director or deciding body shall review each application for a tree removal permit required by this division using the following standards of review. The standards of review are intended to serve as criteria for evaluating tree removal requests and the basis upon

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which the Director or the deciding body will subsequently determine whether or not one (1) or more of the Required Findings listed in section 29.10.0992 can be made. (1)The condition of the tree or trees with respect to: (a) disease, (b) imminent danger of falling, (c) structural failure, (d) proximity to existing or proposed structures, (e) structural damage to a building, or (f) a public nuisance caused by a tree. The International Society of Arboriculture (ISA) Best Management Practices for Tree Risk Assessment shall be used where appropriate in determining a Tree Risk Rating.(2)The condition of the tree giving rise to the permit application cannot be reduced to a less than significant level by the reasonable application of preservation, preventative measures or routine maintenance.(3)The removal of the tree(s) will not result in a density of trees or tree cover that is inconsistent with the neighborhood.(4)The number of trees the particular parcel can adequately support according to good urban forestry practices, or whether a protected tree is a detriment to or crowding another protected tree.(5)In connection with a proposed subdivision of land into two (2) or more parcels, the removal of a protected tree is unavoidable due to restricted access to the property or deemed necessary to repair a geologic hazard (landslide, repairs, etc.).(6)Except for properties located within the hillsides, the retention of a protected tree would result in reduction of the otherwise-permissible building envelope by more than twenty-five (25) percent.(7)The Hillside Development Standards and Guidelines.(8)Removal of the protected tree(s) will not result in a substantial adverse change in the site's aesthetic and biological significance; the topography of the land and the effect of the removal of the tree on erosion, soil retention, or diversion or increased flow of surface waters.(9)Whether the Protected Tree has a significant impact on the property. Significant impact from a tree is defined in section 29.10.0955. Definitions.(10)The species, size (diameter, canopy, height), estimated age and location on the property of the protected tree."

3. However, with Builder's Remedy projects all discretion must be exercised in favor of the approval and provision of housing. (Gov. Code § 89(a)(2)(L).) Therefore, any discretion must be exercised in favor of the project, meaning that the consulting arborist review is both irrelevant and improper.
4. As the Town cannot create new standards to apply to the project after the submission of the SB330 Preliminary Application under Government Code Sections 65941 *et seq.*, the Town's Arborist

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cannot perform the discretionary review called for in the Town's Municipal Code.

- e. Item 6 – “Review by the Town’s Consulting Architect requires payment of a \$8,250 deposit. • This continues to remain outstanding.”
  - i. The primary issue for this requirement is that it is unsupported by my review of the Town’s Municipal Code. I did not find any reference to a requirement that the Town’s Consulting Architect be retained to review the project.
  - ii. The second issue is that any review of the project is limited to the Town’s objective design standards in place at the time of the submission of the SB330 Preliminary Application. (Gov. Code § 65589.5(f).) Review of the objective design standards is traditionally the purview of the Planning Staff, not an outside architectural consultant. If you contend that the Town’s Consulting Architect is the party conducting the Town’s objective design standard analysis, please provide the following:
    - 1. The statutory authorization delegating that power to the Town’s Consulting Architect; and
    - 2. The contract for the Town’s Consulting Architect showing that his/her duties include the review of projects for objective design standards.
- f. Item 7 – “Please reach out to all necessary outside agencies and neighboring properties regarding this project (Caltrans, VTA, FAA for the helipad, etc.). • plan.review@vta.org • This remains outstanding. The July 2025 response letter says that VTA communication has already been provided. Staff has not been provided with this information. Staff reached out to VTA, who provided comments on 5/29/25, which were forwarded to your team. Provide a response letter to VTA’s comments, explaining what has been addressed.”
  - i. There is no helipad on this project, so the FAA is irrelevant.
  - ii. My clients have already posted all required signage regarding the development providing notice to the neighbors. Please send us any statutory authority for additional requirements regarding noticing the neighbors.
  - iii. As to Caltrans and VTA, traffic impacts are part of the CEQA analysis. This item has already been addressed in my letter dated September 17, 2025, a courtesy copy of which is attached hereto as **Exhibit 1**.
  - iv. Finally, there does not appear to be a basis for imposing exactions from Caltrans and VTA. The VTA’s own admission in its email dated May 29, 2025 that it is not providing ADA compliant facilities two blocks away from my client’s project does not obligate my client to pay for the VTA coming into compliance with the ADA. Please provide any basis for imposing this exaction on the project.
- g. Item 8 – “Below Market Price Units: The floor plans and the “Project Description/Letter of Justification” need to specify which units are Below Market Price (BMP) and specify how compliance with the Town’s BMP requirements are

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met. Detailed floor plans for each unit must be provided. The letter should respond to each of the four characteristics listed in Section III below, and the plans should contain enough information so that staff can determine that the size of units are compatible with the market rate, that the location of BMP units are dispersed throughout the proposal, that the exterior appearance be indiscernible from the market rate units, and that all project facilities and amenities be available to the BMP units. Pursuant to the Town's Below Market Price Housing Program, Section III (Characteristics of BMP Units): A. Size of units: BMP dwelling units should to the extent possible, be consistent with the market rate units in the project. The Town and developer may negotiate regarding the size of units if more units than required are to be provided. BMP units should be provided proportionately in the same unit type mix (number of bedrooms) as the market rate units. In consideration of the household size of the households on the current program interest list, the Town and developer may negotiate to provide a greater proportion of a particular unit type. There should to the extent possible, not be a significant identifiable difference between the BMP and market-rate units visible from the exterior. The size and design of the BMP units should to the extent possible, be consistent with the market-rate units in the development. The goal of the BMP Program is for a seamless integration of the BMP units with the market-rate units in a development. B. Location of units: BMP units shall be dispersed throughout the development, to the extent feasible, in all buildings, on each floor, and in each project phase. A concentration of BMP units in one location is not desirable and will generally not be allowed. C. Finish of units: The external appearance of BMP units should be indiscernible to that of the market rate units in the project. The internal finish of BMP units should be identical to that of the market rate units in the project, except that the developer may request Town approval of substitutions for luxury interior finishes, appliances, or fixtures, if such substitutions do not violate any Town code requirement. D. Project Facilities: All project facilities and amenities, including parking, must be available on the same basis to the BMP units as to the market rate units in the project, to the extent feasible, unless the deciding body approves a reduction in parking for the BMP units. • This remains outstanding. The Project Description/Letter of Justification does not mention the Town's BMP program. If the Town's BMP program would not be complied with regarding BMP unit size or other standards, please provide the justification for this deviation."

- i. The Town's BMP program is superseded by the California State Housing Laws for this project, including the Housing Crisis Act, the Housing Accountability Act, the Permit Streamlining Act and the related measures. (Cal. Const. Art. XI, Sec. 7.) Therefore, the Town's BMP program is irrelevant to this project.
- h. Item 10 – "Project Description/Letter of Justification: (Updated 7/17/25) - Staff is requesting that this information be included in the revised "Project Description/Letter of Justification". • See comment above regarding BMP information included in the letter. The letter needs to also specify the exact

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number of proposed BMP units (not a percentage). • This continues to remain outstanding (BMP information). The July 2025 response letter says that this was included in the plans. However, staff is asking for a written statement in the Project Description/Letter of Justification. If the Town's BMP program would not be complied with regarding BMP unit size or other standards, please provide the justification for this deviation."

- i. The Town's BMP program is superseded by the California State Housing Laws for this project, including the Housing Crisis Act, the Housing Accountability Act, the Permit Streamlining Act and the related measures. (Cal. Const. Art. XI, Sec. 7.) Therefore, the Town's BMP program is irrelevant to this project.

While my client is happy to work with the Town on any items that do not conflict with the State Housing Laws, these items do conflict with those laws and therefore are improper restrictions and exactions on the project.

Please confirm to me and my client that the Town will comply with the State Housing Laws and rescind the foregoing requirements.

Sincerely,

Richard B. Jacobs