

VALLEJO CITY COUNCIL
SPECIAL MEETING
5:30 P.M. – CITY COUNCIL CHAMBERS
TUESDAY, JUNE 3, 2008

In accordance with the provisions of the Ralph M. Brown Act, Government Code, Section 54956, you and each of you are hereby notified that I, Osby Davis, the undersigned, have called a special meeting of the City Council of the City of Vallejo at the City Council Chambers, 555 Santa Clara Street, Vallejo, California, on Tuesday, June 3, 2008 at 5:30 p.m. to consider only the following matters:

***NOTICE:** Members of the public shall have the opportunity to address the City Council concerning any item listed on this notice before or during consideration of that item. No other items may be discussed at this special meeting.*

1. INTERVIEWS FOR APPOINTMENT TO THE BEAUTIFICATION ADVISORY COMMISSION
2. INTERVIEWS FOR APPOINTMENT TO THE COMMISSION ON AGING

Dated: May 28, 2008




OSBY DAVIS, Mayor

CERTIFICATION

I, Mary Ellsworth, City Clerk, undersigned, do hereby certify that I have caused a true copy of the above notice and agenda to be delivered to each of the members of the City Council of the City of Vallejo, California, at the time and in the manner prescribed by law, or said members have waived notice thereof by their consent attached hereto.

Dated: May 28, 2008



MARY ELLSWORTH, City Clerk



AGENDA VALLEJO CITY COUNCIL JUNE 3, 2008

City Hall
555 Santa Clara Street
Vallejo, CA 94590

MAYOR
Osby Davis

CITY COUNCIL
Tom Bartee, Vice Mayor
Hermie Sunga
Stephanie Gomes
Michael Wilson
Joanne Schivley
Erin Hannigan

This AGENDA contains a brief general description of each item to be considered. The posting of the recommended actions does not indicate what action may be taken. If comments come to the City Council without prior notice and are not listed on the AGENDA, no specific answers or response should be expected at this meeting per State law.

Those wishing to address the Council on any matter for which another opportunity to speak is not provided on the AGENDA but which is within the jurisdiction of the Council to resolve may come forward to the podium during the "COMMUNITY FORUM" portion of the AGENDA. Those wishing to speak on a "PUBLIC HEARING" matter will be called forward at the appropriate time during the public hearing consideration.

Copies of written documentation relating to each item of business on the AGENDA are on file in the Office of the City Clerk and are available for public inspection. Information may be obtained by calling (707) 648-4527, TDD (707) 649-3562, or at our web site: <http://www.ci.vallejo.ca.us/>



Vallejo City Council Chambers is ADA compliant. Devices for the hearing impaired are available from the City Clerk. Requests for disability related modifications or accommodations, aids or services may be made by a person with a disability to the City Clerk's office no less than 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act of 1990 and the federal rules and regulations adopted in implementation thereof.

NOTICE: Members of the public shall have the opportunity to address the City Council concerning any item listed on the notice before or during consideration of that item. No other items may be discussed at this special meeting.

VALLEJO CITY COUNCIL SPECIAL MEETING 5:30 P.M. – CITY COUNCIL CONFERENCE ROOM

- A. INTERVIEWS OF APPLICANTS FOR APPOINTMENT TO THE BEAUTIFICATION ADVISORY COMMISSION
- B. INTERVIEWS OF APPLICANTS FOR APPOINTMENT TO THE COMMISSION ON AGING

VALLEJO CITY COUNCIL
REGULAR MEETING
7:00 P.M. – CITY COUNCIL CHAMBERS

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. PRESENTATIONS AND COMMENDATIONS -NONE
5. FIRST COMMUNITY FORUM

Anyone wishing to address the Council on any matter for which another opportunity to speak is not provided on the agenda, and which is within the jurisdiction of the Council to resolve, is requested to submit a completed speaker card to the City Clerk. When called upon, each speaker should step to the podium, state his /her name, and address for the record. The conduct of the community forum shall be limited to a maximum of fifteen (15) minutes, with each speaker limited to three minutes pursuant to Vallejo Municipal Code Section 2.20.300. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the second Community Forum listed later on the agenda.

6. PUBLIC COMMENT REGARDING CONSENT CALENDAR ITEMS

Members of the public wishing to address the Council on Consent Calendar Items are requested to submit a completed speaker card to the City Clerk. Each speaker is limited to three minutes pursuant to Vallejo Municipal Code Section 2.02.310. Requests for removal of Consent Items received from the public are subject to approval by a majority vote of the Council. Items removed from the Consent Calendar will be heard immediately after approval of the Consent Calendar and Agenda.

7. CONSENT CALENDAR AND APPROVAL OF AGENDA

- A. CONSIDERATION OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF VALLEJO AND MOORE CONSULTING FOR THE PROVISION OF CONTRACT PLANNING SERVICES; AND AUTHORIZING THE CITY MANAGER TO EXECUTE A REIMBURSEMENT AGREEMENT BETWEEN LOWE'S HIW, INC. AND THE CITY OF VALLEJO FOR SAID PROFESSIONAL SERVICES

PROPOSED ACTION: Adopt the resolution authorizing the City Manager to execute a consultant and professional service agreement between the City of Vallejo and Moore Consulting for planning consultant services, and authorize the City Manager to execute a reimbursement agreement between Lowe's HIW, Inc. and the City of Vallejo for said professional service.

- B. APPROVAL OF A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008 RIDGECREST MAINTENANCE DISTRICT BUDGET

PROPOSED ACTION: Adopt the resolution amending the Ridgecrest Maintenance District Budget (Fund 169) for Fiscal Year 2007-2008 by an increase of \$8,418.00 from \$19,487.00 to \$27,905.00.

- C. APPROVAL OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF VALLEJO AND LAK ASSOCIATES, LLC FOR THE PROVISION OF CONTRACT PLANNING SERVICES; AND A REIMBURSEMENT AGREEMENT BETWEEN CHEROKEE BROOKS STREET VALLEJO, LLC AND THE CITY OF VALLEJO FOR SAID PROFESSIONAL SERVICES

PROPOSED ACTION: Adopt the resolution authorizing the City Manager to enter into a professional services agreement between the City of Vallejo and LAK Associates for planning consultant services, and authorizing the City Manager to execute a reimbursement agreement between Cherokee Brooks Street Vallejo, LLC and the City of Vallejo for said professional services..

- D. RESOLUTION SETTING A PUBLIC HEARING DATE FOR ESTABLISHING AD VALOREM ASSESSMENTS FOR FOURTEEN (14) LANDSCAPE MAINTENANCE DISTRICTS: CIMARRON HILLS/MADIGAN; COLLEGE HILLS; COSTA DEL RIO (SEAVIEW); SOMERSET HIGHLANDS I/II; HUNTER RANCH I/II; MONICA PLACE; RIDGECREST; SOMERSET HIGHLANDS III; SPRINGTREE/FLEMING HILL; SUMMIT II; TOWN AND COUNTRY I; WOODRIDGE; GLEN COVE I/II AND GREENMONT/SEAPORT HILLS FOR FISCAL YEAR 2008/2009

PROPOSED ACTION: Adopt the resolution setting a public hearing date for June 24, 2008 at 7:00 p.m. for setting ad valorem assessments for fourteen (14) Landscape Maintenance Districts for FY 2008/2009.

- E. APPROVAL OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT 1 TO THE CONSULTANT SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR ON-CALL TRAFFIC ENGINEERING SERVICES FOR THE CITY OF VALLEJO

PROPOSED ACTION: Adopt the resolution authorizing the City Manager or his designee to execute Amendment 1 to the Consultant Services Agreement between the City of Vallejo and Kimley-Horn and Associates, Inc. in the amount of \$59,825.00 to provide additional traffic engineering services in the City of Vallejo Public Works Department for a new contract limit of \$209,825.00.

- F. APPROVAL OF A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008 FIRE DEPARTMENT BUDGET TO RELECT THE ACCEPTANCE OF THE ASSISTANCE TO FIREFIGHTERS GRANT FUNDS IN THE AMOUNT OF \$480,067

PROPOSED ACTION: Adopt the resolution amending the fiscal year 2007-2008 Fire Department budget to reflect the acceptance of the Assistance to Firefighters Grant funds in the amount of \$480,067.

8. PUBLIC HEARINGS

- A. CONSIDERATION OF A RESOLUTION HOLDING ON FIRST READING AN ORDINANCE AMENDING CHAPTER 16.70 "SCREENING AND LANDSCAPING REGULATIONS" OF THE VALLEJO MUNICIPAL CODE (ZONING ORDINANCE)

PROPOSED ACTION: Adopt the resolution holding on first reading an Ordinance amending Chapter 16.70, "Screening and Landscaping Regulations" of the Vallejo Zoning Ordinance.

- B. CONSIDERATION OF A RESOLUTION AMENDING THE HIDDENBROOKE SPECIFIC PLAN AND HOLDING ON FIRST READING AN ORDINANCE AMENDING THE HIDDENBROOKE PLANNED DEVELOPMENT MASTER PLAN TO PERMIT TELECOMMUNICATION FACILITIES WITHIN THE HIDDENBROOKE COMMUNITY

PROPOSED ACTION: Adopt the resolution amending the Hiddenbrooke Specific Plan and holding on first reading an Ordinance amending the Hiddenbrooke Planned Development Master Plan to allow telecommunication facilities within the Hiddenbrooke community, subject to the adopted Specific Plan telecommunication facility general standards.

- C. CONSIDERATION OF A RESOLUTION AMENDING THE MARE ISLAND SPECIFIC PLAN AND HOLDING ON FIRST READING AN ORDINANCE AMENDING THE PLANNED DEVELOPMENT MASTER PLAN REGARDING BICYCLE FACILITIES ON MARE ISLAND (SP #98-01D); AND ADOPTING THE ADDENDUM TO THE FINAL SEIR

PROPOSED ACTION: Adopt the resolution amending the Mare Island Specific Plan and holding on first reading an Ordinance amending the Planned Development Master Plan regarding bicycle facilities on Mare Island; and adopting the addendum to the Final SEIR

9. POLICY ITEMS - NONE

10. ADMINISTRATIVE ITEMS

- A. CONSIDERATION OF TWO RESOLUTIONS; 1) TO INITIATE PROCEEDINGS FOR THE LEVY AND COLLECTION OF ASSESSMENTS, PRELIMINARY APPROVAL OF ENGINEER'S REPORT AND DECLARATION OF INTENTION FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR TEN (10) LANDSCAPE MAINTENANCE DISTRICTS: CARRIAGE OAKS, GARTHE RANCH, GLEN COVE III, HUNTER RANCH 3, MARINE WORLD/FAIRGROUNDS, MARINVIEW, SANDPIPER POINT, SOUTH VALLEJO BUSINESS PARK, TOWN AND COUNTRY 2-5 AND THE NORTHEAST QUADRANT FOR FISCAL YEAR 2008/2009; AND 2) A RESOLUTION OF INTENTION TO CONDUCT PROPERTY OWNER BALLOTING TO INCREASE ASSESSMENTS FOR EIGHT (8) LANDSCAPE MAINTENANCE DISTRICTS: CARRIAGE OAKS, GARTHE RANCH,

SANDPIPER POINT, SOUTH VALLEJO BUSINESS PARK, HUNTER RANCH 3,
GLEN COVE 3, TOWN & COUNTRY 2-5, AND MARINE WORLD.

PROPOSED ACTION: Adopt the resolution initiating proceedings for fiscal year 2008/2009 for the levy and collection of assessments, preliminary approval of Engineer's Report and declaration of intention for the levy and collection of assessments for ten (10) Landscape Maintenance Districts and adopt a Resolution of Intention to conduct property owner balloting to increase assessments for eight (8) Landscape Maintenance Districts and set a public hearing on July 22, 2008 at 7:00 p.m. for each district.

11. APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

- A. APPOINTMENT OF THREE MEMBERS TO THE BEAUTIFICATION ADVISORY COMMISSION

PROPOSED ACTION: Appoint three members to the Beautification Advisory Commission.

- B. APPOINTMENT OF THREE MEMBERS TO THE COMMISSION ON AGING

PROPOSED ACTION: Appoint three members to the Commission on Aging.

12. WRITTEN COMMUNICATIONS

Correspondence addressed to the City Council or a majority thereof, and not added to the agenda by the Mayor or a Council member in the manner prescribed in Government Code, Section 54954.2, will be filed unless referred to the City Manager for a response. Such correspondence is available for public inspection at the City Clerk's office during regular business hours.

13. CITY MANAGER'S REPORT

14. CITY ATTORNEY'S REPORT

15. COMMUNITY FORUM

Anyone wishing to address the Council on any matter for which another opportunity to speak is not provided on the agenda, and which is within the jurisdiction of the Council to resolve, is requested to submit a completed speaker card to the City Clerk. When called upon, each speaker should step to the podium, state his /her name, and address for the record. Each speaker is limited to three minutes pursuant to Vallejo Municipal Code Section 2.20.300.

16. REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE CITY COUNCIL

17. CLOSED SESSION - NONE

18. ADJOURNMENT



Agenda No. CONSENT A

COUNCIL COMMUNICATION

Date: June 3, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Craig Whittom, Assistant City Manager/Community Development *CW*
Bob Adams, Development Services Director *BA*
Don Hazen, Planning Manager *DH*

SUBJECT: CONSIDERATION OF A RESOLUTION AUTHORIZING 1) THE CITY MANAGER TO EXECUTE A CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF VALLEJO AND MOORE CONSULTING FOR THE PROVISION OF CONTRACT PLANNING SERVICES; AND 2) AUTHORIZE THE CITY MANAGER TO EXECUTE A REIMBURSEMENT AGREEMENT BETWEEN LOWE'S AND THE CITY OF VALLEJO FOR SAID PROFESSIONAL SERVICES.

BACKGROUND AND DISCUSSION

In August, 2007, Lowe's submitted applications to develop a 20.62 acre site north of Columbus/Auto Mall Parkway across from the intersection with Admiral Callaghan Lane. The project was put on hold while the Lowe's and their engineering team worked out geotechnical issues that limited construction on the site. These issues have been solved, and the processing of this project will resume soon.

In September 2007, the City Council authorized the City Manager to execute a consulting contract with Richard Bottarini. Mr. Bottarini recently took a job in the public sector and is terminating all consultant contracts. It is necessary for the Planning Division to hire a new consultant to complete the processing of the application.

Four planning consulting firms were interviewed by a panel consisting of the Planning Manager and two Associate Planners, including the staff project manager. Anne Moore of Moore Consulting was selected based on her past experience in environmental issues and site planning expertise. Ms. Moore has considerable experience with environmental review and has over 30 years of planning experience, working for municipalities as well as providing consulting services for private and municipal clients.

Ms. Moore has submitted a Scope of Services for the project that was reviewed by City staff (see Exhibit A of Attachment 2). The fee for the consultant's work will be based on a time and material basis at a billing rate of \$165.00 per hour. The previous consultant was being paid \$120.00 per hour. Lowe's consents to paying for the contract costs.

As was the case with Richard Bottarini, Anne Moore would work for the City of Vallejo and under the direction of the Development Services Director or his designee. Ms. Moore's role will be to manage the contract of the environmental consultant, prepare memos, staff reports and coordinate local meetings, as well as maintain a point of contact for the community. It is anticipated that her role will last anywhere from 6-18 months.

To secure the funding for the services of the planning consultant, it is recommended that Council authorize the City Manager to enter into a reimbursement agreement with Lowe's Inc. where Lowe's would be financially responsible for the cost of the consulting services (see Attachment 3).

ENVIRONMENTAL REVIEW

The application for Lowe's Home Improvement Center is subject to the California Environmental Quality Act (CEQA), and staff will need to ultimately determine whether an EIR or Negative Declaration will be required. As part of the environmental review process, a public scoping meeting will be held to solicit input on those environmental topics to be evaluated. Staff anticipates the need for contract services to prepare the required environmental assessment if an EIR is required.

With regard to this contract approval, the proposed contract and the execution of a reimbursement agreement with Lowe's are not activities in and of themselves that will directly result in a direct or indirect physical change in the environment. Thus these proposed actions are not considered a project under CEQA, (See Guidelines, Section 15378(a)), and do not require separate CEQA review.

FISCAL IMPACT

Under the requirements of the proposed agreement, Lowe's will fund all costs associated with these contracts for professional services. The proposed agreement with Lowe's requires that they pre-pay the City for the costs anticipated for Ms. Moore to complete the work. These funds are considered "developer deposits" and will be held in trust, separate from the General Fund, or any other discretionary fund. As Ms. Moore's costs are incurred and then invoiced, the City will draw down the payments from this special fund. Both agreements include safeguards to ensure all the work produced by Ms. Moore is pre-paid and fully funded by Lowe's. Thus, neither of these proposed agreements will have any impact on the General Fund.

RECOMMENDATION

Adopt the resolution authorizing 1) the City Manager to enter into a consultant and professional services agreement between the City of Vallejo and Moore Consulting; and 2) authorize the City Manager to execute a reimbursement agreement between Lowe's and the City of Vallejo for said professional services.

ATTACHMENTS

1. Draft City Council Resolution
2. Consultant and Professional Services Agreement, including the following attachments:
 - Exhibit A – Scope of Work
 - Exhibit B – Compensation
 - Exhibit C – Insurance Requirements for Consultant
3. Reimbursement Agreement

PREPARED BY / CONTACT

Don Hazen, Planning Manager, 707-648-4328. e-mail dhazen@ci.vallejo.ca.us

RESOLUTION NO. 08- N.C.

A RESOLUTION TO 1) AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT WITH ANNE MOORE OF MOORE CONSULTING TO PROVIDE CONTRACT PLANNING SERVICES FOR PROCESSING OF THE PROPOSED LOWE'S PROJECT, AND 2) TO EXECUTE A REIMBURSEMENT AGREEMENT BETWEEN LOWE'S AND THE CITY FOR SAID CONTRACT PLANNER SERVICES

BE IT RESOLVED by the City Council of the City of Vallejo as follows:

WHEREAS, Lowe's has approached the City with conceptual proposals to develop the property north of Columbus Parkway near the intersection of Admiral Callaghan Lane. The Lowe's project involves the proposed development of a one-story home improvement supply retail structure with garden center totaling approximately 171,661 square feet; with ancillary retail pads on a 20.62 acre site.

WHEREAS, the proposed Lowe's project will be subject to comprehensive and environmental review under the California Environmental Quality Act, a Zone Change, a Planned Development Master/Unit Plan, and a Tentative Map.

WHEREAS, the Development Services function within the Community Development Department currently has insufficient staff available to process and manage this large project. City staff has determined that hiring a contract planner to manage this project is desirable and necessary; and

WHEREAS, the Development Services Department has received a proposal for planning services from Anne Moore of Moore Consulting, a contract-planning consultant. This proposal outlines services and tasks that would be needed to manage the Lowe's project through the next phase of the City's planning and environmental review process. The proposal is structured for charges and payment on a time and material basis, which will best accommodate the uncertain scope and duration of these tasks; and

WHEREAS, Lowe's has agreed to pay all the costs associated with Moore Consulting's services and has executed a reimbursement agreement documenting this commitment; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves a consultant and professional services agreement with Moore

CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT

This Consultant and Professional Services Agreement ("Agreement") is made at Vallejo, California, dated for reference this 3d day of June, 2008, by and between the City of Vallejo, a municipal corporation ("City"), and Anne Moore, dba Moore Consulting, a sole proprietorship, hereinafter referred to as "Consultant", who agree as follows:

1. Services. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide the City professional services as specified in Exhibit A, entitled "Scope of Work."

2. Payment. City shall pay Consultant for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit B, entitled "Compensation." The payments specified in Exhibit B shall be the only payments to be made to Consultant for services rendered pursuant to this Agreement.

3. Facilities and Equipment. Consultant shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.

4. Indemnification. Consultant shall indemnify, hold harmless, and defend City, its officers, officials, directors, employees, agents, volunteers and affiliates and each of them from any and all claims, demands, causes of action, damages, costs, expenses, actual attorney's fees, consultant's fees, expert fees, losses or liability, in law or in equity, of every kind and nature whatsoever arising out of or in connection with Consultant's operations, or any subcontractor's operations, to be performed under this agreement for Consultant's or subcontractor's tort negligence including active or passive, or strict negligence, including but not limited to personal injury including, but not limited to bodily injury, emotional injury, sickness or disease, or death to persons and/or damage to property of anyone, including loss of use thereof, caused or alleged to be caused by any act or omission of Consultant, or any subcontractor, or anyone directly or indirectly employed by any of them or anyone for the full period of time allowed by the law, regardless to any limitation by insurance, with the exception of the sole negligence or willful misconduct of the City. The provisions of this section shall survive the expiration or termination of this Agreement.

5. Insurance Requirements. Consultant agrees to comply with all of the Insurance Requirements set forth in Exhibit C, entitled "Insurance Requirements for Consultant." Failure to maintain required insurance at all times shall constitute a default and material breach.

6. Accident Reports. Consultant shall immediately report (as soon as feasible,

but not more than 24 hours) to the City Risk Manager any accident or other occurrence causing injury to persons or property during the performance of this Agreement. The report shall be made in writing and shall include, at a minimum: (a) the names, addresses, and telephone numbers of the persons involved, (b) the names, addresses and telephone numbers of any known witnesses, (c) the date, time and description of the accident or other occurrence.

7. Conflict of Interest. Consultant warrants and represents that to the best of its knowledge, there exists no actual or potential conflict between Consultant's family, business, real property or financial interests and the services to be provided under this Agreement. Consultant shall comply with the City of Vallejo Conflict of Interest Code and not enter into any contract or agreement during the performance of this Agreement which will create a conflict of interest with its duties to City under this Agreement. In the event of a change in Consultant's family, business, real property or financial interests occurs during the term of this Agreement that creates an actual or potential conflict of interest, then Consultant shall disclose such conflict in writing to City.

8. Independent Contractor. Consultant is an independent contractor. Neither Consultant nor any of Consultant's officers, employees, agents or subcontractors, if any, is an employee of City by virtue of this Agreement or performance of any services pursuant to this Agreement. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement; however, City shall not have the right to control the means by which Consultant accomplishes services pursuant to this Agreement.

9. Licences, Permits, Etc. Consultant represents and warrants to City that all consultant services shall be provided by a person or persons duly licensed by the State of California to provide the type of services to be performed under this Agreement and that Consultant has all the permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant represents and warrants to City that it shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession.

10. Business License. Consultant, and its subcontractors, has obtained or agrees to apply prior to performing any services under this Agreement to City's Finance Department for a business license, pay the applicable business license tax and maintain said business license during the term of this Agreement. The failure to obtain such license shall be a material breach of this Agreement and grounds for termination by City. No payments shall be made to Consultant until such business license(s) has been obtained. I HAVE PHONED ASKING FOR APPLICATION.

11. Standard of Performance. Consultant shall provide products and perform all services required pursuant to this Agreement in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised under similar conditions by a member of

Consultant's profession currently practicing in California.

Consultant is responsible for making an independent evaluation and judgment of all conditions affecting performance of the work, including without limitation applicable federal, state, and local laws and regulations, and all other contingencies or considerations.

Consultant's responsibilities under this section shall not be delegated. Consultant shall be responsible to City for acts, errors, or omissions of Consultant's subcontractors.

Consultant is responsible for making an independent evaluation and judgment of all conditions affecting performance of the work and shall prepare plans, reports, and/or other work products in such a way that additional costs will not be incurred beyond a project budget approved or amended by the City Manager or his or her designee.

Whenever the scope of work requires or permits review, approval, conditional approval or disapproval by City, it is understood that such review, approval, conditional approval or disapproval is solely for the purposes of administering this Agreement and determining whether the Consultant is entitled to payment for such work, and not be construed as a waiver of any breach or acceptance by the City of any responsibility, professional or otherwise, for the work, and shall not relieve the Consultant of responsibility for complying with the standard of performance or laws, regulations, industry standards, or from liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of Consultant.

12. Force Majeure. Neither party shall be considered in default of this Agreement to the extent performances are prevented or delayed by causes or circumstances beyond either party's reasonable control, such as war, riots, strikes, lockouts, work slow down or stoppage, acts of God, such as floods or earthquakes, and electrical blackouts or brownouts.

In the event that the Consultant is unable to meet the completion date or schedule of services, Consultant shall immediately inform the City Representative of this in writing. If additional time is required to perform the work, the City Representative may adjust the schedule.

13. Time is of the Essence. Time is of the essence in this Agreement. Any reference to days means calendar days, unless otherwise specifically stated.

14. Personnel. Consultant agrees to assign only competent personnel according to the reasonable and customary standards of training and experience in the relevant field to perform services under this Agreement. Failure to assign such competent personnel shall constitute grounds for termination of this Agreement .

The payment made to Consultant pursuant to this Agreement shall be the full and

complete compensation to which Consultant and Consultant's officers, employees, agents, and subcontractors are entitled for performance of any work under this Agreement. Neither Consultant nor Consultant's officers or employees are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to employees of the City. The City will not make any federal or state tax withholdings on behalf of Consultant. The City shall not be required to pay any workers' compensation insurance on behalf of Consultant.

Consultant shall pay, when and as due, any and all taxes incurred as a result of Consultant's compensation hereunder, including estimated taxes, and shall provide City with proof of such payments upon request.

15. Consultant Not Agent. Except as authorized under this Agreement or as City may authorize in a letter of authorization signed by the City Manager or his or her designee, Consultant shall have no authority, express or implied to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, under this Agreement, to bind City to any obligation whatsoever.

16. Term. The term of this Agreement shall commence on the date of complete execution of this Agreement and shall continue in full force and effect until terminated by CITY pursuant to the terms of this Agreement.

17. Termination or Abandonment by City. The City has the right, at any time and in its sole discretion, to immediately terminate or abandon any portion or all of the services to be provided under this Agreement by giving notice to Consultant. Upon receipt of a notice of termination, Consultant shall perform no further work except as specified in the notice. Before the date of termination, Consultant shall deliver to City all City records and documents, all work product, whether completed or not, as of the date of termination and not otherwise previously delivered.

The City shall pay Consultant for services performed in accordance with this Agreement before the date of termination. If this contract provides for payment of a lump sum for all services or by task and termination occurs before completion of the work or any defined task which according to the performance schedule was commenced before the notice of termination, the fee for services performed shall be based on an amount mutually agreed to by City and Consultant for the portion of work completed in conformance with this Agreement before the date of termination.

In addition, the City will reimburse Consultant for authorized expenses incurred and not previously reimbursed. The City shall not be liable for any fees or costs associated for the termination or abandonment except for the fees, and reimbursement of authorized expenses, payable pursuant to this section.

18. Products of Consulting Services. The work product, including without limitation, all writings, work sheets, reports, recordings, drawings, files, detailed calculations and other work products, whether complete or incomplete, of Consultant resulting from services rendered pursuant to this Agreement, shall become the property of City. Consultant agrees that all copyrights which arise from creation of the work under this Agreement shall be vested in the City and waives

and relinquishes all claims to copyright or other intellectual property rights in favor of the City. City acknowledges that its use of the work product is limited to the purposes contemplated by the scope of work and that the Consultant makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

Documents submitted to the City in electronic format shall be formatted according to specifications provided by the City, or if not otherwise specified, in Microsoft Word, Excel, PowerPoint or other Microsoft Office Suite (2002) format as appropriate for the particular work product or, if directed by the City Representative in Adobe Acrobat PDF format.

19. Cooperation by City. City shall, to the extent reasonable and practicable, assist and cooperate with Consultant in the performance of Consultant's services hereunder.

20. Assignment and Subcontracting. Consultant shall not subcontract, assign or transfer voluntarily or involuntarily any of its rights, duties or obligation under this Agreement without the express written consent of the City Manager or his or her designee in each instance. Any attempted or purported assignment of any right, duty or obligation under this Agreement without said consent shall be void and of no effect.

If subcontracting of work is permitted, Consultant shall pay its subcontractor within ten (10) days of receipt of payment by City for work performed by a subcontractor and billed by the Consultant. Use of the term subcontractor in any other provision of this contract shall not be construed to imply authorization for Consultant to use subcontractors for performance of any service under this Agreement.

The City is an intended beneficiary of any work performed by Consultant's subcontractor for purposes of establishing a duty of care between the subcontractor and City.

21. Successors and Assigns. All terms, conditions, and provisions of this Agreement shall apply to and bind the respective heirs, executors, administrators, successors, and assigns of the parties. Nothing in this section is intended to affect the limitation on assignment.

22. Non-Discrimination/Fair Employment Practices.

(a) Consultant shall not, because of race, religious creed, color, sex, national origin, ancestry, disability, medical condition, age, marital status or sexual orientation of any person, refuse to hire or employ, or to bar or discharge from employment, or to discriminate in compensation, or in terms, conditions or privileges any person, and every employee will receive equal opportunity for employment and shall be granted equal treatment with respect to compensation, terms, conditions or other privileges of employment, without regard to his race, religious creed, color, sex, national origin, ancestry, or disability, medical condition, age, marital status or

sexual orientation.

Consultant warrants and represents it is an equal opportunity employer and agrees it shall not discriminate on the basis of race, religious creed, color, sex, national origin, ancestry, disability, medical condition, age, marital status or sexual orientation in the selection and retention of employees, subcontractors or procurement of materials or equipment.

In all solicitations either by competitive bidding or negotiations made by Consultant for work to be performed under any subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligation under this Agreement relative to nondiscrimination and fair employment practices.

Consultant shall include the above provisions of this section in every subcontract, including procurement of materials or equipment.

(b) Consultant agrees to comply with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, the Americans with Disabilities Act of 1990, any other applicable federal and state laws and regulations and City ordinances and regulations hereinafter enacted.

23. Notices. All notices or instruments required to be given or delivered by law or this Agreement shall be in writing and shall be effective upon receipt thereof and shall be by personal service or delivered by depositing the same in any United States Post Office, registered or certified mail, postage prepaid, addressed to:

If to City:

Bob Adams
Development Services Director
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

If to Consultant:

Anne Moore
President
Moore Consulting
29 Surrey Lane, Suite 101
San Rafael, CA 94903

Any party may change its address for receiving notices by giving written notice of such change to the other party in accordance with this section.

Routine administrative communications shall be made pursuant to section 1 of Exhibit A.

24. Integration Clause. This Agreement, including all Exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. This Agreement shall not be amended or modified except by a written agreement executed by each of the parties hereto. In the event of ambiguity or conflict between the documents comprising this Agreement, including the Exhibits, this Agreement will control, and the Exhibits will have descending order of importance.

25. Severability Clause. Should any provision of this Agreement ever be deemed to be legally void or unenforceable, all remaining provisions shall survive and be enforceable.

26. Law Governing. This Agreement shall in all respects be governed by the law of the State of California without regard to its conflicts of law rules. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of Solano County in the State of California or in the United States District Court, Eastern District of California, Sacramento, California, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

27. Waiver. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

28. Ambiguity. The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

29. Gender. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identifications of the person or persons, firm or firms, corporation or corporations may require.

30. Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

31. Compliance with Laws. Consultant will comply with all statutes, regulations and ordinances in the performance of all services under this Agreement.

32. Confidentiality of City Information. During the performance of services under this Agreement, Consultant may gain access to and use City information regarding, but not limited to, procedures, policies, training, operational practices, and other vital information (hereafter collectively referred to as "City Information") which are valuable, special and unique assets of the City. Consultant agrees that it will not use any information obtained as a consequence of the performance of services under this Agreement for any purpose other than fulfillment of Consultant's

scope of work , to protect all City Information and treat it as strictly confidential and proprietary to City, and that it will not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City Information to any third party, other than its own employees, agents or subcontractors who have a need for the City Information for the performance of services under this Agreement, without the prior written consent of City, or as required by law.

Consultant shall treat all records and work product prepared or maintained by Consultant in the performance of this Agreement as confidential.

A violation by Consultant of this section shall be a material violation of this Agreement and will justify legal and/or equitable relief.

Consultant's obligations under this section shall survive the completion of services, expiration or termination of this Agreement.

33. News and Information Release. Consultant agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from City through the City Representative.

34. City Representative. The City Representative specified in Exhibit A, or the representative's designee, shall administer this Agreement for the City.

35. Counterparts. The parties may execute this Agreement in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument.

36. Authority. The person signing this Agreement for Consultant hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of Consultant.

37. Exhibits. The following exhibits are attached hereto and incorporated herein by reference :

Exhibit A, entitled "Scope of Work," including any attachments.

Exhibit B, entitled "Compensation," including any attachments.

Exhibit C, entitled "Insurance Requirements," including any attachments.

Exhibit D, entitled "City's April 2, 2008, Request for Proposal/Request for Qualifications "

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year shown below the name of each of the parties.

Moore Consulting
A sole proprietorship

CITY OF VALLEJO,
A municipal corporation

By: _____
Anne Moore
President/ Proprietor

By: _____
Joseph M. Tanner
City Manager

DATE: _____

DATE: _____

Vallejo Business License No.

ATTEST:

Tax ID 68-0253472.

By: _____
Mary Ellsworth, Acting City Clerk

(City Seal)

APPROVED AS TO CONTENT:

Bob Adams
Development Services Director

APPROVED AS TO INSURANCE
REQUIREMENTS:

Harry L. Maurer
Risk Manager

APPROVED AS TO FORM:

Frederick G. Soley
City Attorney

EXHIBIT A
SCOPE OF WORK

1. Representatives.

The City Representative for this Agreement is:

The City Representative for this Agreement is:

Bill Tuikka
Associate Planner
Development Services Department
555 Santa Clara Street
Vallejo CA 94590
707-648-5391 phone, 707-649-3540 fax
btuikka@ci.vallejo.ca.us

The Consultant's Representative for this Agreement is:

Anne Moore
Moore Consulting
29 Surrey Lane, Suite 101
San Rafael, CA 94903
415-472-2148 phone, 415-472-0899 fax.
acm.mc@infoasis.com

All routine administrative communications between the parties will be between the above named representatives and may be by personal delivery, mail, facsimile transmission or electronic mail as agreed between the Consultant Representative and City's Representative.

2. Services to be Provided.

PROFESSIONAL DUTIES

Moore Consulting (Consultant) would perform duties listed in the City's April 2, 2008, Request for Proposal/Request for Qualifications (Exhibit D) and as directed by City Development Services management staff, generally including:

- Project management and administration
- Maintenance of City public project files
- Referral of project revised materials to City departments and other agencies
- Determination of completeness of revised application materials within 30 days of submittal
- Preparation of Initial Study or coordination with the previously selected CEQA consultant, PBS&J, or other City-authorized CEQA consultant in order to scope an EIR or Mitigated Negative Declaration to be prepared by the selected CEQA consultant
- Oversight of CEQA consultant, if required, and its preparation of CEQA document

Review of the design merits of proposed project and identification of any design modifications or alternatives to be explored to respond to CEQA mitigation measures and/or to meet City standards, guidelines, or precedents for the type of project and its location

Evaluation of the planning merits of the proposed project and its consistency with the City General Plan, zoning and subdivision ordinances and other pertinent City plans, policies, regulations and guidelines

Drafting of all City correspondence, staff reports, etc., for review and approval by Development Services management staff

Coordination with the City Attorney's Office during all phases of project review

Coordination and facilitation of neighborhood, staff, applicant and other meetings leading up to formal Planning Commission and City Council meetings

Scheduling project for staff, Commission and Council reviews

Preparation of public notices, staff reports, draft findings, resolutions, etc.

Attendance at all related meetings

Public presentations of staff analyses and recommendations, as directed by management staff

Project administration

Other tasks as assigned by Development Services management staff would also be performed.

SCHEDULE AND COST ESTIMATES

Consultant is prepared to initiate work on the Lowe's project as soon as authorized by the City. Timelines for review of project application materials and determination of environmental review status would be consistent with any City or State requirements, but typically time periods can be less than the maximums specified due to the focused nature of Consultant's work. (Moore will be out of the country and unavailable from June 2 through 10, 2008. Any other absences of more than a long weekend would be coordinated with Development Services management staff.)

Moore Consulting charges on a time and materials basis. Moore Consulting public agency hourly billing rate of \$165 applies, and travel time is not charged if hours spent at the public agency meeting with applicant, staff, neighbors, other consultants, etc., are consolidated and limited to pre-arranged times each week.

Consultant's expected limited expenses (copies, deliveries, etc.) would be reimbursed at cost. The project applicant would pay the City for the direct and any reasonable indirect costs for Moore Consulting carrying City required Errors & Omissions insurance.

Invoicing for each calendar month will be submitted to the City during the first week of the subsequent month, with payment due within thirty (30) days. It is expected that sufficient funds from the applicant would always be on hand at the City in advance for timely payment of Moore Consulting invoices. The applicant has advised City staff that the pro forma budget for the project is challenging. Consequently, Consultant wants to insure that if the applicant were to withdraw the applications, there would be sufficient remaining funds from the applicant for the City to pay Consultant for outstanding work performed.

Moore Consulting has prepared the following general schedule and time estimates for the various Tasks involved with environmental and planning review

of the Lowe's project. Costs would not be expected to exceed the maximums below, unless additional rounds of project modification are required for processing of the Lowe's project and/or environmental and planning merit issues are not readily resolved or are found to be more complicated than expected at initiation of Consultant's work.

Task 1

Review in detail all City and applicant project and related materials to date: 20 to 30 hours of Consultant work over 2 weeks time.

Task 2

Review revised applicant submittals and coordinate with City staff and CEQA consultant to determine completeness of applications and information needed for CEQA review: 10 to 20 hours of Consultant work over 2 weeks, possibly overlapping with a week of Task 1 time.

Task 3

Notice project proponent of completeness status of revised application and CEQA information materials: 4 to 8 hours within the timeframe of Task 2. (Additional time would be involved if the applicant's re-submittal is not complete.)

Task 4

Determine CEQA status of the project, notify the applicant and draft public notice (NOP or NOI): 4-10 hours over a one-week period, assuming applicant concurrence.

Task 5

Manage the CEQA consultant's preparation of a Mitigated Negative Declaration or EIR, based on the City's prior selection of PBS&J for the CEQA document. Additional time will be required if another approach or firm is used for preparation of the CEQA document: Approximately 10 to 20 hours per month during preparation of the Draft CEQA document, assuming approximately 3-4 months time for preparation of an Administrative Draft EIR or Mitigated Negative Declaration.

Task 6

Edit the administrative draft CEQA document; secure and distribute the final draft CEQA document and associated notices: 8-12 hours over a two-week period, due to printing and mailing time.

Task 7

Review public and agency comments on the draft CEQA document and manage CEQA consultant preparation of a Final EIR or Mitigated Negative Declaration: Time would vary depending on comments received and range from 8-24 hours of work over a 1-4 week period of time.

Task 8

Draft staff reports, findings and conditions of approval for Planning Commission and City Council review (assumes single meetings at each body): 20-40 hours over a 6-12 week period, overlapping with Tasks 5-7.

Task 9

Prepare for and attend Planning Commission and City Council meetings and present staff reports and recommendations as directed by Development Services management staff (assumes 2 meetings): 8 hours per meeting over the 4-8 week period of Task 9.

Task 10

Coordinate all City staff review and interact with other agency representatives, vicinity property and business owners, and other interested parties: 10-20 hours per month over time frame of Tasks 2-9.

Task 11

Administer project and Consultant contract (Consultant files, City files, invoicing, administration of CEQA consultant contract, etc.): 4-12 hours per month.

3. Key Personnel. All of the individuals identified below are necessary for the successful prosecution of the services due to their unique expertise and depth and breadth of experience. There shall be no change in the personnel listed below, without written approval of the City Representative. Consultant recognizes that the composition of this team was instrumental in the City's decision to award the work to Consultant and that compelling reasons for substituting these individuals must be demonstrated for the City's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this section shall constitute a material breach of Consultant's obligations under this Agreement and shall be grounds for termination.

Key personnel are as follows: Anne Moore

EXHIBIT B

COMPENSATION

1. Consultant's Compensation. DRAFTING NOTE: IF COMPENSATION WILL BE BASED ON AN HOURLY RATE, THEN USE THE FOLLOWING LANGUAGE;

A. Services: City agrees to pay Consultant, at the rate(s) specified below, for those services set forth in Exhibit A of this Agreement and for all authorized reimbursable expenses.

Consultant shall notify City in writing no later than thirty (30) days prior to the estimated date when Consultant will have billed City the maximum estimated payment amount permitted under this Agreement (\$60,000) and Consultant shall provide City with an estimate of the additional compensation required to complete the project.

City agrees to pay Consultant for those services set forth in Exhibit A of this Agreement and for all authorized reimbursable expenses on a time and material basis as follows:

ESTIMATES:

Cumulative Moore Consulting hours:	average of 30-50 hours per month
Cumulative Project Processing Time*:	5 to 8 months
Cumulative Consultant Charges:	\$25,000-\$60,000

*Subject to various assumptions above; ranges depend on whether the shorter period for a Mitigated Negative Declaration or the longer period for an EIR is required. If there is any delay in completing the project submittal, unexpected or more complicated issues than expected, or credible project opposition, processing time may be longer.

B. Additional Services:

1. Additional Services are those services related to the scope of Services of Consultant as set forth in Exhibit A but not anticipated at the time of execution of this Agreement. Additional Services shall be provided only when a Supplemental Agreement authorizing such Additional Services is approved by the City Manager, or his or her designee. City reserves the right to perform any Additional Services with its own staff or to retain other

Consultants to perform said Additional Services.

2. Consultant's compensation for Additional Services shall be based on the total number of hours spent on Additional Services multiplied by the employees' appropriate billable hourly rate as established below. City, at its option, may negotiate a fixed fee for some or all Additional Services as the need arises. Where a fixed fee for Additional Services is established by mutual Agreement between City and Consultant, compensation to Consultant shall not exceed the fixed fee amount.

3. Consultant's Reimbursable Expenses.

Reimbursable Expenses shall be limited to actual reasonable expenditures of Consultant for expenses that are necessary for the proper completion of the Services and shall only be payable if specifically authorized in advance by City. I hereby request advance authorization for necessary copy, delivery and similar minor expenses to be reimbursed at cost!

4. Payments to Consultant.

A. Payments to Consultant shall be made within a reasonable time after receipt of Consultant's invoice, said payments to be made in proportion to services performed. Consultant may request payment on a monthly basis. I have done that in my Scope of Work. Consultant shall be responsible for the cost of supplying all documentation necessary to verify the monthly billings to the satisfaction of City.

B. All invoices submitted by Consultant shall contain the following information:

1. Description of services billed under this invoice
2. Date of Invoice Issuance
3. Sequential Invoice Number
4. City's Purchase Order Number (if issued)
5. Social Security Number or Taxpayer Identification Number
6. Amount of this Invoice (Itemize all Reimbursable Expenses")
7. Total Billed to Date

C. Items shall be separated into Services and Reimbursable Expenses. Billings that do not conform to the format outlined above shall be returned to Consultant for correction. City shall not be responsible for delays in payment to Consultant resulting from Consultant's failure to comply with the invoice format described above.

D. Request for payment shall be sent to:

Don Hazen
Planning Manager
Development Services Department, City of Vallejo
555 Santa Clara Street
Vallejo CA 94590

5. Accounting Records of Consultant.

Consultant shall maintain for three (3) years after completion of all services hereunder, all records under this Agreement, including, but not limited to, records of Consultant's direct salary costs for all Services and Additional Services performed under this Agreement and records of Consultant's Reimbursable Expenses, in accordance with generally accepted accounting practices. Consultant shall keep such records available for audit, inspection and copying by representatives of the City's Finance Department or other government agencies during regular business hours upon twenty four (24) hours notice.

The obligations of Consultant under this section shall survive this Agreement.

6. Taxes.

Consultant shall pay, when and as due, any and all taxes incurred as a result of Consultant's compensation hereunder, including estimated taxes, and shall provide City with proof of such payments upon request.

7. Taxpayer Identification Number. Consultant shall provide City with Consultant's complete Request for Taxpayer Identification Number and Certification, Form W-9, as issued by the Internal Revenue Service, and any other State or local tax identification number requested by City.

TAXPAYER ID # 68-0253472

EXHIBIT C

INSURANCE REQUIREMENTS

Consultant shall procure and maintain for the duration of this Agreement, including any extensions thereto, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by the Consultant, their agents, representatives, or employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office form number GL 0002 (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/78) covering Automobile Liability, code 1 any auto and endorsement CA 0025.
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Professional Liability insurance appropriate to the Consultant's profession (Errors and Omission).

B. Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability: \$1,000,000 per accident for bodily injury or disease. If Consultant is not subject to California Workers' Compensation requirements, Consultant shall file

a completed certificate of exemption form which may be obtained from the City prior to commencing any activity authorized hereunder.

4. Professional Liability (Errors and Omission): \$1,000,000 combined single limit per occurrence, and annual aggregate.

C. Deductible and Self-Insured Retention

Any deductibles or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City of Vallejo, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions

The general liability and automobile liability policies, as can be provided, are to contain, or be endorsed to contain, the following provisions:

1. The City of Vallejo, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects; liability, including defense costs, arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Vallejo, its officers, officials, employees, agents or volunteers. The insurance is to be issued by companies licensed to do business in the State of California.
2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City of Vallejo, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City of Vallejo, its officers, officials, employees, agents or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.
4. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to

state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

The workers' compensation and employer's liability policy required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against City, its officers, officials, employees, agents and volunteers, which might arise by reason of payment under such policy in connection with Consultant's performance under this Agreement.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

F. Verification of Coverage

Consultant shall furnish the City with certificates of insurance and original endorsements effecting general and automobile liability insurance coverage required by this clause. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences.

G. Subcontractors

Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

H. Payment Withhold

City will withhold payments to Consultant if the certificates of insurance and endorsements required in Paragraph F, above, are canceled or Consultant otherwise ceases to be insured as required herein.

**Lowe's
Reimbursement Agreement**

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into this 3rd day of June 2008, ("Effective Date"), between Lowe's, Inc., a Washington corporation ("Developer") and the CITY OF VALLEJO, a municipal corporation organized and existing under the laws of the State of California ("City").

RECITALS

This Agreement is predicated upon the following findings:

- A. Developer submitted an application to develop the property north of Columbus Parkway/Auto Mall Parkway near the intersection of Admiral Callaghan Lane with a Lowe's Home Improvement store ("project"). The Lowe's project includes the proposed development of an approximately 171,661 square foot-one story Lowe's building and ancillary retail pads on a 20.62 acre site.
- B. The proposed Lowe's project will be subject to a comprehensive planning and environmental review process, which will include a Planned Development Master/Unit Plan, a Tentative Map and Zone Change. An Economic Impact Analysis under the City's "Superstore Ordinance" (Chapter 16.76 of the Vallejo Municipal Code) is required in addition to environmental review for this project.
- C. Based on the Department work load, the City needs to higher additional contract staff to expedite the review of the Developer's project on the condition that the developer reimburse the City for its expense in contracting with an outside vendor ("contract planner").
- D. Staff interviewed three planning consultants.
- E. Based on these interviews, Anne Moore of Moore Consulting was selected to serve as the contract planner to assist in the processing of this application and the preparation of reports.
- F. Public Resource Code section 21082.1 authorizes the City to enter into agreements for completion of environmental documents for the Project and Public Resource Code section 21089 authorizes the City to collect fees to recover the costs for the preparation of these documents.
- G. Vallejo Municipal Code section 16.76.040 requires Developer to pay the entire expense of the preparation of the environmental documents.

The intent of this Agreement is to set forth procedures and a funding mechanism for the provision of environmental and economic analysis services, the completion of the EIR and EIA by the Consultant for the Project, as detailed in Exhibit 1 of Consultant's agreement with City, entitled "Scope of Work", and the legal services detailed above.

The planning, environmental and economic analysis services described herein are henceforth referred to as "Professional Services". Any additional analysis may only be conducted upon agreement by all parties to this Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

1. Reimbursement. City will contract directly with Consultant to provide planning, environmental and economic consulting services including but not limited to preparation of the EIR and EIA for the Project. Developer will reimburse City for all costs associated with or arising out of the contracts with the Consultant and Counsel to the extent that they relate to the Project. It is understood that these reimbursement costs are in addition to any generally applicable processing or development fees which may also be due to the City. Developer agrees to be liable to City for any costs resulting from the planning, environmental and economic consulting services contracted by City on behalf of Developer's project.
2. Deposit. Developer shall deposit twenty thousand dollars and no cents (\$20,000.00) with the City within 15 days of receiving notice of the execution of either or both contracts for professional services. The City will hold the deposit and charge invoices received from the Consultant and Counsel against the deposit. Each time the deposit is drawn down due to professional services charges to a balance of less than \$5,000, Developer shall deposit ten thousand dollars and no cents (\$10,000.00) ("Lowe's Deposit") with City. Developer shall submit the Lowe's Deposit within 15 days of receiving notice from the City and shall continue to make such deposits until all of City's costs for professional services are reimbursed. In the event that funds remain on deposit at the conclusion of the services contemplated by this Agreement, they shall be refunded to Developer.
3. Binding Effect of Agreement. The burdens of this Agreement shall apply to and bind and the benefits of the Agreement inure to the successors in interest to the parties to it.
4. Relationship of Parties.
 - a. It is understood that the contractual relationships between the City and Consultant and the City and Counsel is such that both Consultant and Counsel are independent contractors.
 - b. City and Developer agree that nothing contained herein or in any document executed in connection herewith shall be construed as making Developer and City joint venturers or partners.
 - c. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.
5. No Entitlements Granted. Nothing in this Agreement shall provide Developer with any right to secure approval of any development plan, certification of the EIR or other entitlement. The EIR shall be prepared for the City in fulfillment of the obligations of the

City as the public agency having primary responsibility for discretionary actions involved in said Project. Accordingly, Consultant shall prepare said reports so as to be accurate and objective as reasonably possible. It is further agreed that in all matters pertinent to Developer, the Consultant and its subconsultants shall act solely as the Consultant to the City and shall not act, in any capacity as consultant to, representative of, or agent of the Developer. The Developer shall not engage in communications or contact with the Consultant and its subconsultants without prior written authorization of the City. Likewise,

6. Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the principal offices of the City and Developer and its representative and Developers' successors and assigns. Notice shall be effective on the date it is delivered in person, or the date when the postal authorities indicate the mailing was delivered to the address of the receiving party indicated below:

Notice to City:

Bill Tuikka, Associate Planner
Planning Division
555 Santa Clara Street
Vallejo, CA 94590

Notice to Developer:

Jim Manion
Lowe's HIW Inc.
1350 Faraday Avenue, Suite 140
Carlsbad, CA 92008

7. Indemnification, Defense and Hold Harmless.

a. Developer agrees to and shall indemnify, defend and hold the City, its council members, officers, agents, environmental consultants, employees and representatives harmless from liability for damage or claims of damage, for personal injury, including death, and claims for property damage which may arise from City's hiring of a Consultant and Counsel and the professional services provided thereby.

b. Developer's obligation under this section to indemnify, defend and hold harmless the City, its council members, officers, agents, environmental consultants, employees, and representatives shall not extend to liability for damage or claims for damage arising out of the sole negligence or willful act of the City, its council members, officers, agents, employees or representatives. In addition, developer's obligation shall not extend to any award of punitive damages against the City resulting from the conduct of the City, its council members, officers, agents, employees or representatives.

c. With respect to any action challenging the validity of this Agreement or any environmental, financial or other documentation related to approval of this Agreement, Developer further agrees to defend, indemnify, hold harmless, pay all damages, costs and fees, if any incurred to either the City or plaintiff (s) filing such an action should a court award plaintiff(s)

damages, costs and fees, and to provide a defense for the City in any such action. The City may elect, at its discretion, to participate in the defense of any such action.

8. Amendments. No amendment of this Agreement shall be valid or binding unless made in writing, signed, and duly authorized on behalf of both parties.

9. No Third Party Beneficiaries. This Agreement is solely for the benefit of the parties, and it does not, nor is it intended to, create any rights in favor of or obligation owing to any third parties.

10. Administrator. The City employee with responsibility for administering this Agreement is Don Hazen, Planning Manager or other employee as designated by the Development Services Director.

11. Integration Clause. This Agreement contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement.

12. Severability Clause. Should any provision of this Agreement ever be deemed to be legally void or unenforceable, all remaining provisions shall survive and be enforceable.

13. Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

14. Waiver. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

15. Public Record. This Agreement and all written non-privileged documents prepared pursuant to this Agreement shall be maintained as a public record.

16. Ambiguity. The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

17. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of Solano County in the State of California or in the United States District Court, Eastern District of California, Sacramento, California, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

18. Counterparts. The parties may execute this Agreement in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument.

19. Authority. The person signing this Agreement for Developer hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of Developer.

(SIGNATURES ARE ON FOLLOWING PAGE)

IN WITNESS WHEREOF this Agreement has been executed by the parties on the day and year first above written.

LOWE'S, INC.
A Washington corporation

CITY OF VALLEJO
a California municipal corporation

By: _____

Joseph M. Tanner, City Manager

Its: _____

(City Seal)

Attest: _____
Mary Ellsworth
Acting City Clerk

Approved as to Content:

Bob Adams
Development Services Director

Approved as to Indemnification:

Harry Maurer
Risk Manager

Approved as to Form

Frederick G. Soley
City Attorney

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Agenda Item No.

CONSENT B

COUNCIL COMMUNICATION

Date: June 3, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Gary Leach, Public Works Director 

SUBJECT: APPROVAL OF A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008 RIDGECREST MAINTENANCE DISTRICT BUDGET

BACKGROUND AND DISCUSSION

On May 13, 2008, the City Council approved a Resolution of Intention to Amend the Ridgecrest Maintenance District Budget. The Ridgecrest Landscape Maintenance District was formed in 1978 under the Improvement Act of 1911, Part 3 of Division 7 of the California Streets and Highways Code (the "1911 Act"). This District lies within the City of Vallejo, generally located within the Woodvale Court cul-de-sac and the area bounded by Sylvia Court, Hale Street, Delgado Street, Clatyon Court, Elna Drive, Henry Street, and Woodvale Court. The district is composed of six (6) Pacific Gas & Electric (PG&E) easements and one (1) area of ornamental plantings. The PG&E easements are composed of four (4) with ornamental plants and two (2) with weed height control and native/drought resistant plants.

On November 9, 1995 a Maintenance Service Agreement was entered into between the City of Vallejo and the Vallejo Ridgecrest Homeowners Association, Inc. ("ASSOCIATION"), a California, non-profit public benefit corporation, for the ASSOCIATION to assume the responsibility for the landscape maintenance of this District. The ASSOCIATION is continuing perform this function.

The Ridgecrest Maintenance District is assessed in accordance with the 1911 Act. These assessments are collected by the County of Solano and forwarded to the City for deposit into the Ridgecrest Maintenance District Fund (Fund #169). The City provides monthly payments, as agreed upon in the Maintenance Service Agreement, to the ASSOCIATION for the maintenance of this District. This payment is based on work performed and the Solano County Assessors assessment of the District. The anticipated Fiscal Year (FY) 2007-2008 revenue from this District is \$27,905.00. The original budget was only established at \$19,487.00, which falls short of the eligible funding required for the maintenance of the District. Therefore, this item will amend the FY 2007-2008 Ridgecrest Maintenance District Budget by an increase of \$8,418.00 to \$27,905.00, which is necessary to continue to perform the required maintenance.



COUNCIL COMMUNICATION

Fiscal Impact

This action, if approved, has no impact on the General Fund as the anticipated FY 2007-2008 revenue from this District is \$27,905.00.

RECOMMENDATION

Staff recommends that the City Council approve a resolution to increase the Ridgecrest Maintenance District Budget.

ENVIRONMENTAL REVIEW

This action is not considered a project as defined by the California Environmental Quality Act (CEQA) pursuant to section 15378 (b) (4) of Title 14 of the California Code of Regulations and is not subject to CEQA review.

PROPOSED ACTION

Approve a resolution amending the Fiscal Year 2007-2008 Ridgecrest Maintenance District Budget.

DOCUMENTS AVAILABLE FOR REVIEW

- a. Resolution amending the Fiscal Year 2007-2008 Ridgecrest Maintenance District Budget.

CONTACT PERSON:

John Cerini, Maintenance Superintendent/ Public Works
707 648-4557
jcerini@ci.vallejo.ca.us

Joe Bates, Assistant Maintenance Superintendent/ Public Works
707 649-3414
JoeB@ci.vallejo.ca.us

JUNE 3, 2008

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RESOLUTION NO. 08- N.C.

BE IT RESOLVED by the Council of the City of Vallejo as follows:

WHEREAS, the Ridgecrest Landscape Maintenance District was formed in 1978 under the Improvement Act of 1911; and

WHEREAS, this District is an ad valorem Landscape Maintenance District; and

WHEREAS, these assessments are collected by the County of Solano and forwarded to the City for deposit into the Ridgecrest Maintenance District Fund (Fund 169); and

WHEREAS, these funds are utilized to fund the Maintenance Service Agreement between the City of Vallejo and the Vallejo Ridgecrest Homeowners Association for the maintenance of the Ridgecrest Maintenance District; and

WHEREAS, the Ridgecrest Maintenance District Budget needs to be increased by \$8,418.00 from \$19,487.00 to \$27,905.00 to continue service; and

WHEREAS, on May 13, 2008, the City Council approved a resolution of intention to amend the Ridgecrest Maintenance District Fund (Fund 169); and

WHEREAS, adequate funding will be available to support this budget increase and to continue this service,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Vallejo does hereby approve the amendment of the Ridgecrest Maintenance District Budget for Fiscal Year 2007-2008 by an increase of \$8,418.00 from \$19,487.00 to \$27,905.00.

JUNE 3, 2008

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Agenda No. CONSENT C

COUNCIL COMMUNICATION

Date: June 3, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Craig Whittom, Assistant City Manager/Community Development *CW*
Bob Adams, Development Services Director *BA*
Don Hazen, Planning Manager *DH*

SUBJECT: CONSIDERATION OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE 1) A CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF VALLEJO AND LAK ASSOCIATES, LLC FOR THE PROVISION OF CONTRACT PLANNING SERVICES; AND 2) A REIMBURSEMENT AGREEMENT BETWEEN BROOKS STREET AND THE CITY OF VALLEJO FOR SAID PROFESSIONAL SERVICES.

BACKGROUND AND DISCUSSION

On May 21, Brooks Street submitted an application to develop a 28-acre parcel that was the site of the former General Mills flour mill processing plant, located at 800 Derr Street. The proposal for the property is a "waterfront village" incorporating adaptive reuse of existing structures, new buildings that will include ancillary office and retail space and 370 + residential units, and public shoreline access. It is necessary for the Planning Division to hire a planning consultant to assist with the planning process based on current staffing levels and project load within the planning division. Additionally, the project applicant desires a dedicated planner to assist in processing this application.

Four planning consulting firms were interviewed by a panel consisting of the Planning Manager and two Associate Planners, including the staff project manager. LAK Associates, LLC was selected based on their past experience working on large projects with environmental issues and for their site planning expertise. LAK Associates is a father and son team of Larry and Sean Kennings. Larry Kennings has considerable experience with environmental review and has over 30 years of planning experience, working for municipalities as well as providing consulting services for private and municipal clients.

LAK Associates has submitted a Scope of Services for the project that was reviewed by City staff (see Exhibit A of Attachment 2). The fee for the consultant's work will be based on a time and material basis at a billing rate of \$210.00 per hour for Larry Kennings and \$125.00 per hour for Sean Kennings. Brooks Street consents to paying for the contract costs.

LAK Associates, LLC would work for the City of Vallejo and under the direction of the Development Services Director or his designee. LAK's role will be to manage the contract of the environmental consultant, prepare memos, staff reports and coordinate local meetings, as well as maintain a point of contact for the community. It is anticipated that its role will last anywhere from 12 to 18 months.

To secure the funding for the services of the planning consultants, it is recommended that Council authorize the City Manager to enter into a reimbursement agreement with Brooks Street. This will ensure that Brooks Street would be financially responsible for the cost of the consulting services (see Attachment 3).

ENVIRONMENTAL REVIEW

The application for a mixed use project on the former General Mills flour mill site is subject to the California Environmental Quality Act (CEQA), and staff will need to ultimately determine the scope of environmental review. As part of the environmental review process, a public scoping meeting will be held to solicit input on those environmental topics to be evaluated. Staff anticipates the need for contract services to prepare the required environmental assessment if an EIR is required.

With regard to this contract approval, the proposed contract and the execution of a reimbursement agreement with Brooks Street are not activities in and of themselves that will directly result in a direct or indirect physical change in the environment. Thus these proposed actions are not considered a project under CEQA, (See Guidelines, Section 15378(a)).

FISCAL IMPACT

Under the requirements of the proposed agreement, Brooks Street will fund all costs associated with these contracts for professional services. The proposed agreement with Brooks Street requires that they pre-pay the City for the costs anticipated for LAK Associates to complete the work. These funds are considered "developer deposits" and will be held in trust, separate from the General Fund, or any other discretionary fund. As LAK's costs are incurred and then invoiced, the City will draw down the payments from this special fund. Both agreements include safeguards to ensure all the work done by LAK is pre-paid and fully funded by Brooks Street. Thus, neither of these proposed agreements will have any impact on the General Fund.

RECOMMENDATION

Adopt the resolution authorizing the City Manager to execute a 1)a consultant and professional services agreement between the City of Vallejo and LAK Associates; and 2) a reimbursement agreement between Brooks Street and the City of Vallejo for said professional services.

ATTACHMENTS

1. Draft City Council Resolution
2. Consultant and Professional Services Agreement, including the following attachments:
 - Exhibit A – Scope of Work
 - Exhibit B – Compensation
 - Exhibit C – Insurance Requirements for Consultant
3. Reimbursement Agreement

PREPARED BY / CONTACT

Don Hazen, Planning Manager, 707-648-4328. e-mail dhazen@ci.vallejo.ca.us

RESOLUTION NO. 08- N.C.

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE 1) A CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF VALLEJO AND LAK ASSOCIATES, LLC FOR THE PROVISION OF CONTRACT PLANNING SERVICES; AND 2) A REIMBURSEMENT AGREEMENT BETWEEN BROOKS STREET AND THE CITY OF VALLEJO FOR SAID PROFESSIONAL SERVICES.

BE IT RESOLVED by the City Council of the City of Vallejo as follows:

WHEREAS, Brooks Street has approached the City with conceptual proposals to develop the former General Mills flour processing plant site at 800 Derr Street. The General Mills project involves the proposed development of 370+ residential units with adaptive reuse of existing structures, public shoreline access and retail/office development.

WHEREAS, the proposed General Mills site project will be subject to environmental review under the California Environmental Quality Act, and will require the approval of various entitlements including a Zone Change, a Planned Development Master/Unit Plan, and a Tentative Map.

WHEREAS, the Development Services function within the Community Development Department currently has insufficient staff available to process and manage this large project. City staff has determined that hiring a contract planner to manage this project is desirable and necessary; and

WHEREAS, the Development Services Department has received a proposal for planning services from LAK Associates, LLC, a contract-planning consultant. This proposal outlines services and tasks that would be needed to manage the General Mills site project through the next phase of the City's planning and environmental review process. The proposal is structured for charges and payment on a time and material basis, which will best accommodate the uncertain scope and duration of these tasks; and

WHEREAS, Brooks Street has agreed to pay all the costs associated with LAK Associates services and has indicated that they will execute a reimbursement agreement documenting this commitment;

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby authorizes the City Manager to enter into and execute a consultant and professional services agreement with LAK Associates, LLC, subject to review, approval, and minor amendments by the City Attorney; and

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager or his designee to enter into and execute a reimbursement agreement with Brooks Street for the provision of said consultant and professional services, subject to review, approval and minor amendments by the City Attorney; and

BE IT FURTHER RESOLVED that the City Manager or his designee are hereby authorized to execute any other document or instrument and take any additional action, including an amendment to the terms of this agreement that do not require the expenditure of City funds, as may be necessary to carry out the purposes of these agreements.

CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT

This Consultant and Professional Services Agreement ("Agreement") is made at Vallejo, California, dated for reference this 3rd day of June, 2008, by and between the City of Vallejo, a municipal corporation ("City"), and LAK Associates, LLC, hereinafter referred to as "Consultant", who agree as follows:

1. **Services.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide the City professional services as specified in Exhibit A, entitled "Scope of Work."
2. **Payment.** City shall pay Consultant for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit B, entitled "Compensation." The payments specified in Exhibit B shall be the only payments to be made to Consultant for services rendered pursuant to this Agreement.
3. **Facilities and Equipment.** Consultant shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.
4. **Indemnification.** Consultant shall indemnify, hold harmless, and defend City, its officers, officials, directors, employees, agents, volunteers and affiliates and each of them from any and all claims, demands, causes of action, damages, costs, expenses, actual attorney's fees, consultant's fees, expert fees, losses or liability, in law or in equity, of every kind and nature whatsoever arising out of or in connection with Consultant's operations, or any subcontractor's operations, to be performed under this agreement for Consultant's or subcontractor's tort negligence including active or passive, or strict negligence, including but not limited to personal injury including, but not limited to bodily injury, emotional injury, sickness or disease, or death to persons and/or damage to property of anyone, including loss of use thereof, caused or alleged to be caused by any act or omission of Consultant, or any subcontractor, or anyone directly or indirectly employed by any of them or anyone for the full period of time allowed by the law, regardless to any limitation by insurance, with the exception of the sole negligence or willful misconduct of the City. The provisions of this section shall survive the expiration or termination of this Agreement.
5. **Insurance Requirements.** Consultant agrees to comply with all of the Insurance Requirements set forth in Exhibit C, entitled "Insurance Requirements for Consultant." Failure to maintain required insurance at all times shall constitute a default and material breach.

6. Accident Reports. Consultant shall immediately report (as soon as feasible, but not more than 24 hours) to the City Risk Manager any accident or other occurrence causing injury to persons or property during the performance of this Agreement. The report shall be made in writing and shall include, at a minimum: (a) the names, addresses, and telephone numbers of the persons involved, (b) the names, addresses and telephone numbers of any known witnesses, (c) the date, time and description of the accident or other occurrence.

7. Conflict of Interest. Consultant warrants and represents that to the best of its knowledge, there exists no actual or potential conflict between Consultant's family, business, real property or financial interests and the services to be provided under this Agreement. Consultant shall not enter into any contract or agreement during the performance of this Agreement which will create a conflict of interest with its duties to City under this Agreement. In the event of a change in Consultant's family, business, real property or financial interests occurs during the term of this Agreement that creates an actual or potential conflict of interest, then Consultant shall disclose such conflict in writing to City.

8. Independent Contractor. Consultant is an independent contractor. Neither Consultant nor any of Consultant's officers, employees, agents or subcontractors, if any, is an employee of City by virtue of this Agreement or performance of any services pursuant to this Agreement. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement; however, City shall not have the right to control the means by which Consultant accomplishes services pursuant to this Agreement.

9. Licences, Permits, Etc. Consultant represents and warrants to City that all consultant services shall be provided by a person or persons duly licensed by the State of California to provide the type of services to be performed under this Agreement and that Consultant has all the permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant represents and warrants to City that it shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession.

10. Business License. Consultant, and its subcontractors, has obtained or agrees to apply prior to performing any services under this Agreement to City's Finance Department for a business license, pay the applicable business license tax and maintain said business license during the term of this Agreement. The failure to obtain such license shall be a material breach of this Agreement and grounds for termination by City. No payments shall be made to Consultant until such business license(s) has been obtained.

11. Standard of Performance. Consultant shall provide products and perform all services required pursuant to this Agreement in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised under similar conditions by a member of

Consultant's profession currently practicing in California.

Consultant is responsible for making an independent evaluation and judgment of all conditions affecting performance of the work, including without limitation applicable federal, state, and local laws and regulations, and all other contingencies or considerations.

Consultant's responsibilities under this section shall not be delegated. Consultant shall be responsible to City for acts, errors, or omissions of Consultant's subcontractors.

Consultant shall prepare plans, reports, and/or other work products in such a way that additional costs will not be incurred, beyond a project budget approved or amended by City.

Whenever the scope of work requires or permits review, approval, conditional approval or disapproval by City, it is understood that such review, approval, conditional approval or disapproval is solely for the purposes of administering this Agreement and determining whether the Consultant is entitled to payment for such work, and not be construed as a waiver of any breach or acceptance by the City of any responsibility, professional or otherwise, for the work, and shall not relieve the Consultant of responsibility for complying with the standard of performance or laws, regulations, industry standards, or from liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of Consultant.

12. Time for Performance.

Consultant will perform the services according to the schedule contained in Exhibit D, entitled "Performance Schedule." If the schedule calls for the services to be performed in phases or discrete increments, Consultant shall not proceed from one phase or increment to the next without written authorization from the City's Representative. Consultant will complete all services by [insert date].

13. Force Majeure. Neither party shall be considered in default of this Agreement to the extent performances are prevented or delayed by any cause, present or future, by circumstances beyond either party's reasonable control, such as war, riots, strikes, lockouts, work slow down or stoppage, acts of God, such as floods or earthquakes, and electrical blackouts or brownouts.

In the event that the Consultant is unable to meet the completion date or schedule of services, Consultant shall inform the City Representative of the additional time required to perform the work and the City Representative may adjust the schedule.

14. Time is of the Essence. Time is of the essence in this Agreement. Any reference to days means calendar days, unless otherwise specifically stated.

15. Personnel. Consultant agrees to assign only competent personnel

according to the reasonable and customary standards of training and experience in the relevant field to perform services under this Agreement. Failure to assign such competent personnel shall constitute grounds for termination of this Agreement. Consultant is aware of the requirements of the Immigration Reform and Control Act of 1986 and shall comply with those requirements, including, but not limited to, verifying the eligibility for employment of all of Consultant's officers, employees, agents and subcontractors that are included in this Agreement.

The payment made to Consultant pursuant to this Agreement shall be the full and complete compensation to which Consultant and Consultant's officers, employees, agents, and subcontractors are entitled for performance of any work under this Agreement. Neither Consultant nor Consultant's officers or employees are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to employees of the City. The City will not make any federal or state tax withholdings on behalf of Consultant. The City shall not be required to pay any workers' compensation insurance on behalf of Consultant.

Consultant shall pay, when and as due, any and all taxes incurred as a result of Consultant's compensation hereunder, including estimated taxes, and shall provide City with proof of such payments upon request.

Consultant agrees to defend, indemnify and hold harmless, pursuant to the indemnification provisions of this Agreement, the City for any obligation, claim, losses, costs, fees, liabilities, suit or demand for tax, retirement contribution including any contribution to the Public Employees Retirement System (PERS), social security, salary or wages, overtime payment, or workers' compensation payment which the City may be required to make on behalf of Consultant or any employee of Consultant, or any employee of Consultant construed to be an employee of the City, for work done under this Agreement. This is a continuing obligation that survives the completion of the services, expiration or termination of this Agreement.

16. Consultant Not Agent. Except as City may authorize in writing, Consultant shall have no authority, express or implied to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, under this Agreement, to bind City to any obligation whatsoever.

17. Termination or Abandonment by City. The City has the right, at any time and in its sole discretion, to immediately terminate or abandon any portion or all of the services to be provided under this Agreement by giving notice to Consultant. Upon receipt of a notice of termination, Consultant shall perform no further work except as specified in the notice. Before the date of termination, Consultant shall deliver to City all work product, whether completed or not, as of the date of termination and not otherwise previously delivered.

The City shall pay Consultant for services performed in accordance with this Agreement before the date of termination. If this contract provides for payment of a lump sum for all services or by task and termination occurs before completion of the work or any defined task which according to the performance schedule was

commenced before the notice of termination, the fee for services performed shall be based on an amount mutually agreed to by City and Consultant for the portion of work completed in conformance with this Agreement before the date of termination.

In addition, the City will reimburse Consultant for authorized expenses incurred and not previously reimbursed. The City shall not be liable for any fees or costs associated for the termination or abandonment except for the fees, and reimbursement of authorized expenses, payable pursuant to this section.

18. Products of Consulting Services. The work product, including without limitation, all writings, work sheets, reports, recordings, drawings, files, detailed calculations and other work products, whether complete or incomplete, of Consultant resulting from services rendered pursuant to this Agreement, shall become the property of City. Consultant agrees that all copyrights which arise from creation of the work under this Agreement shall be vested in the City and waives and relinquishes all claims to copyright or other intellectual property rights in favor of the City. City acknowledges that its use of the work product is limited to the purposes contemplated by the scope of work and that the Consultant makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

Documents submitted to the City in electronic format shall be formatted according to specifications provided by the City, or if not otherwise specified, in Microsoft Word, Excel, PowerPoint or other Microsoft Office Suite (2002) format as appropriate for the particular work product or, if directed by the City Representative in Adobe Acrobat PDF format.

19. Cooperation by City. City shall, to the extent reasonable and practicable, assist and cooperate with Consultant in the performance of Consultant's services hereunder.

20. Assignment and Subcontracting. Consultant shall not subcontract, assign or transfer voluntarily or involuntarily any of its rights, duties or obligation under this Agreement without the express written consent of City in each instance. Any attempted or purported assignment of any right, duty or obligation under this Agreement without City's consent shall be void and of no effect.

If subcontracting of work is permitted, Consultant shall pay its subcontractor within ten (10) days of receipt of payment by City for work performed by a subcontractor and billed by the Consultant. Use of the term subcontractor in any other provision of this contract shall not be construed to imply authorization for Consultant to use subcontractors for performance of any service under this Agreement.

The City is an intended beneficiary of any work performed by Consultant's subcontractor for purposes of establishing a duty of care between the subcontractor and City.

21. Successors and Assigns. All terms, conditions, and provisions of this Agreement shall apply to and bind the respective heirs, executors, administrators,

successors, and assigns of the parties. Nothing in this section is intended to affect the limitation on assignment.

22. Non-Discrimination/Fair Employment Practices.

(a) Consultant warrants and represents it is an equal opportunity employer and agrees it shall not discriminate on the basis of race, religious creed, color, sex, national origin, ancestry, disability, medical condition, age, marital status or sexual orientation in the selection and retention of employees, subcontractors or procurement of materials or equipment.

In all solicitations either by competitive bidding or negotiations made by Consultant for work to be performed under any subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligation under this Agreement relative to nondiscrimination and fair employment practices.

Consultant shall include the above provisions of this section in every subcontract, including procurement of materials or equipment.

(b) Consultant agrees to comply with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, the Americans with Disabilities Act of 1990, any other applicable federal and state laws and regulations and City ordinances and regulations hereinafter enacted.

(c) To the fullest extent permitted by law, without limitation by the insurance provisions of this Agreement, and in addition to Consultant's obligations under section 4 of this Agreement, the Consultant shall also indemnify, defend and hold harmless the City, pursuant to the indemnification provisions of this Agreement, from and against all liability (including without limitation all claims, damages, penalties, fines, and judgments, associated investigation and administrative expenses, and defense costs, including but not limited to reasonable attorneys' fees, court costs, and costs of alternative dispute resolution) resulting from any claim of discrimination or harassment, including but not limited to sexual harassment, arising from the conduct of the Consultant or any of the Consultant's officers, employees, agents, licensees, or subcontractors. In the event of a discrimination or harassment complaint against any employee, agent, licensee or subcontractors of the Consultant or its subcontractors, the Consultant shall take immediate and appropriate action in response to such complaint, including, but not limited to termination or appropriate discipline of any responsible employee, agent, licensee or subcontractors. The provisions of this section survive completion of the services or termination of this Agreement.

23. Notices. All notices or instruments required to be given or delivered by law or this Agreement shall be in writing and shall be effective upon receipt thereof and shall be by personal service or delivered by depositing the same in any United States Post Office, registered or certified mail, postage prepaid, addressed to:

If to City:

Bob Adams
Development Services Director
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

If to Consultant:

Larry Kennings
LAK Associates, LLC
3030 Bridgeway, Suite 103
Sausalito, CA 94965

Any party may change its address for receiving notices by giving written notice of such change to the other party in accordance with this section.

Routine administrative communications shall be made pursuant to section 1 of Exhibit A.

24. Integration Clause. This Agreement, including all Exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. This Agreement shall not be amended or modified except by a written agreement executed by each of the parties hereto.

25. Severability Clause. Should any provision of this Agreement ever be deemed to be legally void or unenforceable, all remaining provisions shall survive and be enforceable.

26. Law Governing. This Agreement shall in all respects be governed by the law of the State of California. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of Solano County in the State of California or in the United States District Court, Eastern District of California, Sacramento, California, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

27. Waiver. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

28. Ambiguity. The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

29. Gender. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identifications of the

person or persons, firm or firms, corporation or corporations may require.

30. Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

31. Compliance with Laws. Consultant will comply with all statutes, regulations and ordinances in the performance of all services under this Agreement.

32. Confidentiality of City Information. During the performance of services under this Agreement, Consultant may gain access to and use City information regarding, but not limited to, Planning Division procedures, policies, training, operational practices, and other vital information (hereafter collectively referred to as "City Information") which are valuable, special and unique assets of the City. Consultant agrees that it will not use any information obtained as a consequence of the performance of services under this Agreement for any purpose other than fulfillment of Consultant's scope of work, to protect all City Information and treat it as strictly confidential and proprietary to City, and that it will not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City Information to any third party, other than its own employees, agents or subcontractors who have a need for the City Information for the performance of services under this Agreement, without the prior written consent of City, or as required by law.

Consultant shall treat all records and work product prepared or maintained by Consultant in the performance of this Agreement as confidential.

A violation by Consultant of this section shall be a material violation of this Agreement and will justify legal and/or equitable relief.

Consultant's obligations under this section shall survive the completion of services, expiration or termination of this Agreement.

33. News and Information Release. Consultant agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from City through the City Representative.

34. City Representative. The City Representative specified in Exhibit A, or the representative's designee, shall administer this Agreement for the City.

35. Counterparts. The parties may execute this Agreement in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument.

36. Facsimile Signatures. This Agreement shall be binding upon the receipt of facsimile signatures; provided, however, that any person transmitting his or her

signature by facsimile shall promptly send an original signature to the other party.

37. Authority. The person signing this Agreement for Consultant hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of Consultant.

38. Exhibits. The following exhibits are attached hereto and incorporated herein by reference:

Exhibit A, entitled "Scope of Work," including any attachments.

Exhibit B, entitled "Compensation," including any attachments.

Exhibit C, entitled "Insurance Requirements," including any attachments.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year shown below the name of each of the parties.

CITY OF VALLEJO,
A municipal corporation

By: _____
Anne Moore
Planning Consultant

By: _____
Joseph M. Tanner
City Manager

DATE: _____

DATE: _____

Vallejo Business License No.

ATTEST:

By: _____
Mary Ellsworth, Acting City Clerk

(City Seal)

APPROVED AS TO CONTENT:

Bob Adams
Development Services Director

APPROVED AS TO INSURANCE
REQUIREMENTS:

Harry Maurer
Acting Risk Manager

APPROVED AS TO FORM:

Frederick G. Soley
City Attorney

EXHIBIT A
SCOPE OF WORK

1. Representatives.

The City Representative for this Agreement is:

Bill Tuikka
Associate Planner
Development Services Department
555 Santa Clara Street
Vallejo CA 94590
707-648-5391 phone, 707-649-3540 fax
btuikka@ci.vallejo.ca.us

The Consultant's Representative for this Agreement is:

Larry Kennings
LAK Associates, LLC
3030 Bridgeway, Suite 103
Sausalito, CA 94956
415-331-4551 phone, 415-331-4573 fax.
lakassoc@pacbell.net

All routine administrative communications between the parties will be between the above named representatives and may be by personal delivery, mail, facsimile transmission or electronic mail as agreed between the Consultant Representative and City's Representative.

2. Services to be Provided. The services provided shall be as set forth in Attachment 1 of Exhibit A, attached hereto and incorporated herein by this reference.

3. Term. The term of this Agreement shall commence on the date of complete execution of this Agreement and shall continue in full force and effect until terminated by CITY pursuant to Paragraph 17 of this Agreement.

If the term of this Agreement extends into fiscal years subsequent to that in which it is approved, such continuation of the Agreement is contingent on the appropriation of funds for such purpose by the City Council of the City of Vallejo. If funds to effect such continued payment are not appropriated, Consultant agrees to terminate any services supplied to City of Vallejo under this Agreement, and relieve City of any

further obligation therefore.

4. Key Personnel. All of the individuals identified below are necessary for the successful prosecution of the services due to their unique expertise and depth and breadth of experience. There shall be no change in the personnel listed below, without written approval of the City Representative. Consultant recognizes that the composition of this team was instrumental in the City's decision to award the work to Consultant and that compelling reasons for substituting these individuals must be demonstrated for the City's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this section shall constitute a material breach of Consultant's obligations under this Agreement and shall be grounds for termination.

Approach and Scope of Work

The LAK Associates, LLC approach to these assignments is simple while being comprehensive. We will work with representatives of the City of Vallejo to expeditiously review the merits of the application while achieving the primary objectives for each applicant. We will review the available background information, including all materials on file, plans and supporting data as well as reports prepared by city staff. If there are any critical gaps in the data, we will identify the methodologies required to obtain the necessary materials. We will then identify the necessary steps to achieve project approval and schedules required to gain these approvals. Working with the city staff, we will strive to create an efficient and appropriate work plan to satisfy both the applicant and the greater Vallejo community.

LAK Associates will work with each applicant to create a project timeline for submittal deadlines. Working with the appropriate members of Vallejo city staff, LAK will coordinate review and approval efforts to streamline the permitting process. LAK will also help coordinate with local community leaders to receive input and support for each development.

For the Lowe's, Jordan Square, and General Mills project, LAK Associates would perform the following general services:

- Review of the city's General Plan, Zoning Ordinance, specific plans, reports and other background materials relevant to the proposed development site.
- Review of proposed development plans prepared by applicant, as directed by city staff.
- Establish office space at City of Vallejo for point of contact, coordination, and file storage.
- Meetings with applicant, as directed by the Development Services Director.
- Site visits, and analysis thereof, as directed by city staff.
- Meetings, as directed by Development Services Director from time to time, with city staff, federal, state and local agency staff, interested stakeholders, including special interest groups and individuals to further the objectives of the city.
- Telephone and electronic communication, as necessary, to facilitate the project application process.
- Assist city staff during public hearings of the Planning Commission and City Council, as directed by the Development Services Director
- Assistance in the identification, selection and management of technical environmental consultants, as directed by Development Services Director.
- Written staff reports, memoranda, letters, and other documentation, as requested by the Development Services Director.
- Oral presentations, as required by the Development Services Director.
- Other, unspecified services, as requested by Development Services Director.

LOWE'S

The following Scope of Work represents our understanding of the level of effort required to prepare a Mitigated Negative Declaration for the Lowe's Center off Columbus Parkway in Vallejo. In late 2007, the City contract planner required the applicant for the Lowe's Center to submit studies for biology, traffic, hydrology, and geotechnical analysis. Some of these studies have been completed, but at the time of the RFP, the application was still considered incomplete.

In addition to further geotechnical site analysis, the project applicant may need to demonstrate that on-site wetlands can be properly avoided or mitigated. On site hydrologic conditions and storm water management may also need to be further defined so that no development impacts will trigger further layers of environmental review. Lastly, we understand that the applicant shall demonstrate that the development has the appropriate design for circulation and access within the project.

For the Lowe's project, LAK will do the following:

Task 1.0 – Project Initiation

1. Refine the final work plan including tasks, estimated hours, available information, interaction with City of Vallejo staff, and project schedule.

Products: Final Work Plan and a Plan Outline: 8 hours
Schedule: Week One of the assignment

Task 2.0 – Project Review and Observation

2. Review the staff file for information and data in the form of site plans and technical appendices, other relevant plans, reports, studies, and contact information for the applicant and interested members of the public. Review the City of Vallejo General Plan and Zoning and other pertinent plans and regulations. Collect from project applicant any outstanding studies or plans, including but not limited to: traffic reports, wetlands studies, and visual simulations.

Products: Meetings with staff planner, applicant and staff report: 10 hours
Schedule: Weeks Two and Three

Task 3.0 – Provide Planning and Design Assistance

3. In the event that future site analysis requires redesign of the existing site plan, LAK will assist the applicant to revise and refine application based on City of Vallejo's development standards and design guidelines, staff recommendations and environmental site analysis. Schedule, prepare and help facilitate public hearings or meetings for draft project determination.

Products: Staff Reports; public hearing: 15 hours
Schedule: Weeks Four to Six
Meetings: Two to Three meetings with applicant and applicant's consultant

Task 4.0 – Preparation of Mitigated Negative Declaration

4. Prepare draft Initial Study for internal review. Prepare Mitigated Negative Declaration based on final submittal and review of outstanding studies. Prepare final staff report indicating the City of Vallejo’s position on the final design of the project. Schedule, prepare and help facilitate public hearing for project determination.

Products: Mitigated Negative Declaration and Staff Reports; public hearing; 30 hours

Schedule: Weeks Four to Six (Weeks Six to Eight if revised plan)

Weekly status reports, in electronic mail format, will be submitted to the Bill Tuikka for review and discussion. Monthly status reports, using a format developed jointly with the City of Vallejo, will be submitted to staff for review and discussion. Action items, with responsibilities and schedules will be included with both types of reports.

Draft and final documents will be submitted to City Staff in Microsoft Word format, Adobe PDF, or compatible files using a CD-ROM format as determined by the City. In addition, all printed materials will be prepared in the most appropriate format to permit ease of photocopying, as defined by the Planning Division Coordinator.

JORDAN SQUARE

The following Scope of Work represents our understanding of the level of effort required to prepare a Mitigated Negative Declaration for the Jordan Square residential and commercial development near the intersection of Magazine Street and Jordan Street in Vallejo. City staff has requested that the project applicant produce a detailed economic analysis for a mixed-use development. Currently, the applicant is proposing a residential use consisting of 211 townhome units. The applicant also proposes a 3,500 sq ft commercial building. Due to the need for a General Plan and Zoning Map Amendment, it is our understanding that staff would like the applicant to demonstrate that uses consistent with the existing designations are possible. The C-F (Freeway Commercial) designation, while appropriate for areas near freeway interchanges, could however prove to be obsolete for this part of Vallejo. LAK Associates will review the economic study and evaluate staff expectations for the development location.

The economic study is a critical piece of the site investigation and will undoubtedly influence the applicant's site plan. However, a public hearing was held on April 9, 2008, and community comments could also influence expectations for the planning process. LAK Associates would use the minutes and notes from this meeting to begin its review of the subject property. City staff indicated that the application was lacking several environmental and economic analyses, but comments recorded at the most recent community meeting may indicate the level of support or opposition for the project. These public comments, coupled with the latest economic study will influence the next phase of site planning for the applicant. Outstanding site analysis, including traffic studies, can be revised to better characterize the final site design and configuration. LAK Associates will also coordinate with the applicant to complete the Phase I and II Site Assessment investigation. We will also confirm that the applicant has contacted the Northwest Information Center at Sonoma State and local Native American tribes to document possible cultural resources on site.

For the Jordan Square project, LAK will assist the applicant in preparation of an environmental superior project:

Task 1.0 – Project Initiation

1. Refine the final work plan including tasks, estimated hours, available information, interaction with City of Vallejo staff, and project schedule.

Products: Final Work Plan and a Plan Outline: 8 hours
Schedule: Week One of the assignment

Task 2.0 – Project Review and Observation

2. Review staff file for information and data in the form of site plans and technical appendices, other relevant plans, reports, studies, including the minutes and comments from April 9, 2008 community meeting. Review the City of Vallejo General Plan and Zoning and other pertinent plans and regulations. Collect from project applicant any outstanding studies or plans, including but not limited to: traffic reports, Phase I / II Site

Assessment, report, cultural resources report, and any other available relevant reports, plans, and studies.

Products: Meetings with staff planner, applicant and staff report: 15 hours
Schedule: Weeks Two and Three

Task 3.0 – Review and Determination of Economic Analysis

3. Review updated economic analysis of mixed-use development alternatives. Based on final submittal and review of economic analysis studies, assist staff to determine the appropriate site development program for the project. Prepare a draft report for internal review by the city staff incorporating the studies noted above and recommendations for appropriate uses on the property.

Products: Staff Reports; public hearing: 20 hours
Schedule: Weeks Four to Six

Task 4.0 – Provide Planning and Design Assistance

4. Assist applicant to revise and refine application based on City of Vallejo’s development standards and design guidelines, staff recommendations and community input. Schedule, prepare and help facilitate public hearings or meetings for draft project determination.

Products: Staff Reports; public hearing: 40 hours
Schedule: Weeks Six to Ten
Meetings: Two to Three meetings with applicant and applicant’s consultant

Task 5.0 – Review of Final Project Design

5. Coordinate delivery schedule for application submittal based on staff findings and recommendations. Review revised site plan and prepare revised draft Initial Study. Schedule, prepare and help facilitate community meeting and staff meetings to discuss Final project determination.

Products: Staff Reports, draft Initial Study, and weekly updates;
public hearing: 30 hours
Schedule: Months Three to Six

- 5.1 Prepare Draft Mitigated Negative Declaration based on feedback from city staff and public process.

Task 6.0 – Preparation of Mitigated Negative Declaration

6. Prepare Mitigated Negative Declaration based on final site plan submittal and review of final environmental studies. Prepare final staff report indicating the City of Vallejo’s position on the final design of the project. Schedule, prepare public notices and help facilitate public hearing for approval of Mitigated Negative Declaration.

Product: Mitigated Negative Declaration, public hearing: 30 hours
Schedule: Months Six and Seven: 40 hours
Meeting: Public Hearing

Weekly status reports, in electronic mail format, will be submitted to the Marcus Adams for review and discussion. Monthly status reports, using a format developed jointly with the City of Vallejo, will submitted to staff for review and discussion. Action items, with responsibilities and schedules will be included with both types of reports.

Draft and final documents will be submitted to City Staff in Microsoft Word format, Adobe PDF, or compatible files using a CD-ROM format as determined by the City. In addition, all printed materials will be prepared in the most appropriate format to permit ease of photocopying, as defined by the Planning Division Coordinator.

GENERAL MILLS

It is our understanding that the proposed General Mills development will transform an existing light industrial use to a waterfront village. The property, located at the waterfront terminus of Derr Street, presents a unique development opportunity but comes with site constraints that will require a creative site plan with an integrated circulation plan. The project objectives will be achieved by the adaptive reuse of existing structure through sustainable design. The introduction of approximately 370 residential units to nearby Downtown Vallejo will present a unique linkage opportunity to the waterfront. The village would provide public shoreline access and numerous public shoreline amenities. LAK will work with the project applicant to develop a unique residential community consisting of different unit types and sizes with both market rate and affordable options. We will assist the project applicant in developing a site plan that highlights past uses of the site, creating a dynamic live-work neighborhood core area with possibilities for ancillary commercial and retail uses. The incorporation of a commercial and retail center could attract pedestrians interested in accessing the public shoreline.

While processing the development application, we will work with the applicant in developing comprehensive environmental studies characterizing the project site, including but not limited to: the historical significance of the site and structures, Phase I and II Site Assessment analysis, geotechnical engineering, traffic and circulation, environmental analysis with regards to biology, air, noise and global warming impacts, and visual impacts with regards to aesthetics. LAK Associates has extensive experience managing multi-disciplinarian planning teams and understands the importance of coordinated environmental review.

LAK Associates will also work with the applicant to coordinate meetings with public agencies responsible for regulating waterfront access and development. A project of this nature could fall under the jurisdiction of regulatory agencies such as Bay Conservation and Development Commission (BCDC), the Department of Fish and Game, Department of Fish and Wildlife, as well as the Army Corps of Engineers. LAK will work with the applicant to ensure that the scheduling of these meetings does not delay the overall planning and approval process.

In the event that the underlying environmental characteristics of the site show substantial impacts during project development, LAK will prepare an Initial Study to determine the level of mitigation required to reduce those impacts. Upon completion of the Initial Study, it may be determined that an Environmental Impact Report will be required under the provisions set forth in the California Environmental Quality Act. If it is determined that an EIR is required, LAK will coordinate and facilitate the RFP process for interviewing and selecting the appropriate environmental consultant. LAK will manage the work of the EIR consultants, including their budget, schedule, and deliverables.

Task 1.0 – Project Initiation

1. Refine the final work plan including tasks, estimated hours, available information, interaction with City of Vallejo staff, and project schedule.

Products: Final Work Plan and a Plan Outline: 10 hours
Schedule: Week One of the assignment

Task 2.0 – Project Review and Observation

2. Review the staff file for and contact information for the applicant and interested members of the public. Review the City of Vallejo General Plan and Zoning and other pertinent plans and regulations. Outline the necessary studies needed from project applicant.

Products: Meetings with staff planner, applicant and staff report: 15 hours
Schedule: Weeks Two through Four

Task 3.0 – Project Schedule and Deliverables

3. Develop work plan and schedule for application process. Coordinate deliverables and timelines for project applicant in conjunction with bi-weekly or monthly updates. Develop review process for the appropriate studies to complete application.

Products: Project Schedule; meetings with applicant: 20 hours
Schedule: Weeks Three through Six

Task 4.0 – Provide Planning and Design Assistance

4. Assist applicant to revise and refine application based on City of Vallejo’s development standards and design guidelines, staff recommendations and community input. Schedule, prepare and help facilitate public hearings or meetings for draft project determination.

Products: Staff Reports; public hearing: 40 hours
Schedule: Weeks Six to Ten
Meetings: Two to Three meetings with applicant and applicant’s consultant

Task 5.0 – Ongoing Project Management

5. Coordinate and review environmental studies based on project schedule. Oversee project applicant’s progress in achieving necessary approvals from all interested parties and public agencies. Prepare weekly updates and staff reports as necessary.

Products: Meetings with staff planner, applicant and staff reports: 40 hours
Schedule: Months Two to Six

Task 6.0 - Preparation of Draft Initial Study

- 6.1 Prepare Draft Initial Study based on final submittal and review of environmental studies. Prepare final staff report indicating the City of Vallejo’s viewpoint on the final design of the project. Schedule, prepare public notices and help facilitate public hearing for project determination.

Products: Draft Initial Study: 20 hours

Schedule: End of Month Seven

- 6.2 Prepare Final Staff Report outlining recommendation for project approval or EIR review. In the event that an EIR is not required, LAK will prepare Mitigated Negative Declaration.

Product: Final Initial Study, Staff Report, and public notices: 15 hours
(Additional 20 hours for Mitigated Negative Declaration if needed)
Schedule: End of Month Eight (and Nine)

Weekly status reports, in electronic mail format, will be submitted to the contact planner for review and discussion. Monthly status reports, using a format developed jointly with the City of Vallejo, will be submitted to the appropriate staff contact for review and discussion. Action items, with responsibilities and schedules will be included with both types of reports.

Draft and final documents will be submitted to City Staff in Microsoft Word format, Adobe PDF, or compatible files using a CD-ROM format as determined by the City. In addition, all printed materials will be prepared in the most appropriate format to permit ease of photocopying, as defined by the Planning Division Coordinator.

Environmental Impact Report

If an EIR is determined necessary, LAK Associates will coordinate with City staff to set up the interview and selection process to hire an outside consultant. The EIR process could take between 12 to 18 months and would require a city contact person to oversee deliverables. LAK Associates has extensive experience in managing and reviewing EIRs for Bay Area projects under CEQA. If an EIR is needed for the General Mills project, LAK would provide the following services:

Task: 7.0 – Coordinate EIR consultant selection process

7. Write RFP for General Mills EIR announcement. Review, respond and contact potential EIR consultants based on RFP responses. Schedule, facilitate, and interview potential consultants at one day interview session.

Product: RFP, response letters, consultant interviews: 25 hours
Schedule: Three to Four weeks
Meeting: All-day session consultant interview

Task: 8.0 – Coordinate EIR schedule and Draft EIR review process

- 8.1 Coordinate with selected consultant to prepare environmental reports if needed. Circulate finished reports within Vallejo City departments for review and comment.

Product: Environmental studies, staff reports, updates: 50 hours
Schedule: Four to Six Months

Meeting: Meetings as needed to review schedule and deliverables

- 8.2 Review the Administrative Draft EIR. Coordinate with inter-Vallejo agencies to review and provide comments. Compile all City agency generated comments into one document and send to consultant for revision.

Product: Admin Draft EIR: 40 hours
Schedule: Three to Four weeks
Meeting: Inter-agency comment meeting

- 8.3 Review screen-check Draft EIR and provide feedback prior to Draft EIR release. Schedule and facilitate public comment hearing for Draft EIR comments. Compile and submit public comments to EIR consultant for review and response.

Product: Public Comments: 20 hours
Schedule: Two weeks for Screen Check review: 45 days for public comment
Meeting: Public Comment Hearing

Task 9.0 – Final EIR and Approval Process

- 9.1 Review the Administrative Draft Final EIR and prepare draft comments for internal review. Coordinate with inter-Vallejo agencies to review and provide comments. Compile City generated comments into single document for consultant revision.

- 9.2 Review screen-check Final EIR and provide feedback prior to Final EIR release.

Product: Public Comments: 10 hours
Schedule: Two weeks for Screen Check review

- 9.3 Schedule Planning Commission Hearing for FEIR certification. Prepare staff report indicating staff recommendation. Coordinate and prepare staff report for entitlements and Planning Commission hearing. Coordinate and prepare staff report for City Council hearing.

Product: Staff reports: 20 hours
Schedule: Four to Six weeks
Meeting: Planning Commission / City Council Hearing

BUDGET AND HOURLY BILLING RATES

The current billing rates for LAK Associates are listed below. The rates shown include all individual costs, including administrative time and time spent in hearings, workshops and meetings. Extra Services, as requested and/or authorized by the Coordinator, will be charged at the rates shown below. Travel expenses will comply with the schedule developed by the City of Vallejo. Only out-of-pocket travel related expenses, including fuel and pre-diem costs, will be charged to this project. We believe that our experience and combination of specialties allow us to produce high quality work, expert advice to local decision makers, and to do it quickly. Simply put, we have done it before.

Team Member	Billing Rate/Hour
Larry Kennings	\$210
Sean Kennings	\$125
Estimated Cost:	
Lowe's	\$6,000 - \$13,950
Jordan Square	\$16,875 - \$28,350
General Mills	\$20,000 - \$33,600 (\$23,750 - \$40,000 for EIR process)

LAK Associates already carries the level of insurance required by the City of Vallejo.

EXHIBIT B
COMPENSATION

1. Consultant's Compensation.

A. Services: City agrees to pay Consultant, at the rate(s) specified below, for those services set forth in Exhibit A of this Agreement and for all authorized reimbursable expenses.

B. Additional Services:

1. Additional Services are those services related to the scope of Services of Consultant as set forth in Exhibit A but not anticipated at the time of execution of this Agreement. Additional Services shall be provided only when a Supplemental Agreement authorizing such Additional Services is approved by the City Manager, or his or her designee, in accordance with City's Supplemental Agreement procedures. City reserves the right to perform any Additional Services with its own staff or to retain other Consultants to perform said Additional Services.

2. Consultant's compensation for Additional Services shall be based on the total number of hours spent on Additional Services multiplied by the employees' appropriate billable hourly rate as established below. City, at its option, may negotiate a fixed fee for some or all Additional Services as the need arises. Where a fixed fee for Additional Services is established by mutual Agreement between City and Consultant, compensation to Consultant shall not exceed the fixed fee amount.

2. Appropriate Billable Hourly Rates for Services and Additional Services.

Consultant's billable hourly rates shall be \$165,00 per hour. Funds will be submitted to the City by the developer, deposited into a City account, and paid by the City when invoices are received.

3. Consultant's Reimbursable Expenses.

Reimbursable Expenses shall be limited to actual reasonable expenditures of Consultant for expenses that are necessary for the proper completion of the Services and shall only be payable if specifically authorized in advance by City.

4. Payments to Consultant.

A. Payments to Consultant shall be made within a reasonable time after receipt of Consultant's invoice, said payments to be made in proportion to services performed. Consultant may request payment on a monthly basis. Consultant shall be responsible for the cost of supplying all documentation necessary to verify the monthly billings to the satisfaction of City.

B. All invoices submitted by Consultant shall contain the following information:

1. Description of services billed under this invoice
2. Date of Invoice Issuance
3. Sequential Invoice Number
4. City's Purchase Order Number (if issued)
5. Social Security Number or Taxpayer Identification Number
6. Amount of this Invoice (Itemize all Reimbursable Expenses")
7. Total Billed to Date

C. Items shall be separated into Services and Reimbursable Expenses. Billings that do not conform to the format outlined above shall be returned to Consultant for correction. City shall not be responsible for delays in payment to Consultant resulting from Consultant's failure to comply with the invoice format described above.

D. Request for payment shall be sent to:

Don Hazen
Planning Manager
Development Services Department, City of Vallejo
555 Santa Clara Street
Vallejo CA 94590

5. Accounting Records of Consultant.

Consultant shall maintain for three (3) years after completion of all services hereunder, all records under this Agreement, including, but not limited to, records of Consultant's direct salary costs for all Services and Additional Services performed under this Agreement and records of Consultant's Reimbursable Expenses, in accordance with generally accepted accounting practices. Consultant shall keep such records available for audit, inspection and copying by representatives of the City's Finance Department or other government agencies during regular business hours upon twenty four (24)

hours notice.

The obligations of Consultant under this section shall survive this Agreement.

6. Taxes.

Consultant shall pay, when and as due, any and all taxes incurred as a result of Consultant's compensation hereunder, including estimated taxes, and shall provide City with proof of such payments upon request. Consultant hereby agrees to indemnify and defend City for any claims, losses, costs, fees, liabilities, damages or injuries suffered by City arising out of Consultant's breach of this section pursuant to the Indemnification provisions of this Agreement.

- 7. Taxpayer Identification Number.** Consultant shall provide City with Consultant's complete Request for Taxpayer Identification Number and Certification, Form W-9, as issued by the Internal Revenue Service, and any other State or local tax identification number requested by City.

EXHIBIT C

INSURANCE REQUIREMENTS

Consultant shall procure and maintain for the duration of this Agreement, including any extensions thereto, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by the Consultant, their agents, representatives, or employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office form number GL 0002 (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/78) covering Automobile Liability, code 1 any auto and endorsement CA 0025.
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Professional Liability insurance appropriate to the Consultant's profession (Errors and Omission).

B. Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability: \$1,000,000 per

accident for bodily injury or disease. If Consultant is not subject to California Workers' Compensation requirements, Consultant shall file a completed certificate of exemption form which may be obtained from the City prior to commencing any activity authorized hereunder.

4. Professional Liability (Errors and Omission): \$1,000,000 combined single limit per occurrence, and annual aggregate.

C. Deductible and Self-Insured Retention

Any deductibles or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City of Vallejo, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions

The general liability and automobile liability policies, as can be provided, are to contain, or be endorsed to contain, the following provisions:

1. The City of Vallejo, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects; liability, including defense costs, arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Vallejo, its officers, officials, employees, agents or volunteers. The insurance is to be issued by companies licensed to do business in the State of California.
2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City of Vallejo, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City of Vallejo, its officers, officials, employees, agents or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.
4. The Consultant's insurance shall apply separately to each insured

against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

The workers' compensation and employer's liability policy required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against City, its officers, officials, employees, agents and volunteers, which might arise by reason of payment under such policy in connection with Consultant's performance under this Agreement.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

F. Verification of Coverage

Consultant shall furnish the City with original endorsements effecting general and automobile liability insurance coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences.

G. Subcontractors

Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

H. Payment Withhold

City will withhold payments to Consultant if the certificates of insurance and endorsements required in Paragraph F, above, are canceled or Consultant otherwise ceases to be insured as required herein.

**Brooks Street
Reimbursement Agreement**

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into this 3rd day of June 2008, ("Effective Date"), between Brooks Street, Inc., a California corporation ("Developer") and the CITY OF VALLEJO, a municipal corporation organized and existing under the laws of the State of California ("City").

RECITALS

This Agreement is predicated upon the following findings:

- A. Developer submitted an application to develop the 28-acre former General Mills flour mill processing site at 800 Derr Street with a mixed-use adaptive reuse project containing 370+ residential units, office and retail space and public shoreline access.
- B. The proposed General Mills redevelopment project will be subject to a comprehensive planning and environmental review process, which will include a Planned Development Master/Unit Plan including a zone change and a Tentative Map. Environmental review is also required for this project.
- C. Based on the Department work load, the City needed to higher additional contract staff to expedite the review of the Developer's project on the condition that the developer reimburse the City for its expense in contracting with an outside vendor ("contract planner").
- D. Staff interviewed four planning consultants.
- E. Based on these interviews, LAK Associates, LLC was selected to serve as the contract planner to assist in the processing of this application and the preparation of reports.
- F. Public Resource Code section 21082.1 authorizes the City to enter into agreements for completion of environmental documents for the Project and Public Resource Code section 21089 authorizes the City to collect fees to recover the costs for the preparation of these documents.
- G. Vallejo Municipal Code section 16.76.040 requires Developer to pay the entire expense of the preparation of the environmental documents.

The intent of this Agreement is to set forth procedures and a funding mechanism for the provision of environmental and economic analysis services, the completion of the EIR and EIA by the Consultant for the Project, as detailed in Exhibit 1 of Consultant's agreement with City, entitled "Scope of Work", and the legal services detailed above. The environmental and economic analysis services and the legal services described herein are henceforth referred to as "Professional Services". Any additional analysis may only be conducted upon agreement by all parties to this Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

1. Reimbursement. City will contract directly with Consultant to provide environmental and economic consulting services including but not limited to preparation of the EIR and EIA for the Project. City will also contract with Counsel to advise City on Consultant's preparation of the EIR and EIA and to advise the City Council of the City of Vallejo and City staff in processing the application, including the EIR and EIA, for review, certification, and approval. Developer will reimburse City for all costs associated with or arising out of the contracts with the Consultant and Counsel to the extent that they relate to the Project. It is understood that these reimbursement costs are in addition to any generally applicable processing or development fees which may also be due to the City

2. Deposit. Developer shall deposit twenty thousand dollars and no cents (\$20,000.00) with the City within 15 days of receiving notice of the execution of either or both contracts for professional services. The City will hold the deposit and charge invoices received from the Consultant and Counsel against the deposit. Each time the deposit is drawn down due to professional services charges to a balance of less than \$5,000, Developer shall deposit ten thousand dollars and no cents (\$10,000.00) ("Brooks Street Deposit") with City. Developer shall submit the Brooks Street Deposit within 15 days of receiving notice from the City and shall continue to make such deposits until all of City's costs for professional services are reimbursed. In the event that funds remain on deposit at the conclusion of the services contemplated by this Agreement, they shall be refunded to Developer.

3. Binding Effect of Agreement. The burdens of this Agreement shall apply to and bind and the benefits of the Agreement inure to the successors in interest to the parties to it.

4. Relationship of Parties.

a. It is understood that the contractual relationships between the City and Consultant and the City and Counsel is such that both Consultant and Counsel are independent contractors.

b. City and Developer agree that nothing contained herein or in any document executed in connection herewith shall be construed as making Developer and City joint venturers or partners.

c. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

5. No Entitlements Granted. Nothing in this Agreement shall provide Developer with any right to secure approval of any development plan, certification of the EIR or other entitlement. The EIR shall be prepared for the City in fulfillment of the obligations of the City as the public agency having primary responsibility for discretionary actions involved in said Project. Accordingly, Consultant shall prepare said reports so as to be accurate

and objective as reasonably possible. It is further agreed that in all matters pertinent to Developer, the Consultant and its subconsultants shall act solely as the Consultant to the City and shall not act, in any capacity as consultant to, representative of, or agent of the Developer. The Developer shall not engage in communications or contact with the Consultant and its subconsultants without prior written authorization of the City. Likewise, Counsel shall render legal advice and/ or legal work product to City, and Counsel shall not act in any capacity as counsel to, representative of, or agent of Developer. The Developer shall not engage in communications or contact the Counsel without prior written authorization of the City.

6. Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the principal offices of the City and Developer and its representative and Developers' successors and assigns. Notice shall be effective on the date it is delivered in person, or the date when the postal authorities indicate the mailing was delivered to the address of the receiving party indicated below:

Notice to City:

Bill Tuikka, Associate Planner
Planning Division
555 Santa Clara Street
Vallejo, CA 94590

Notice to Developer:

Devin Hassett
Brooks Street
900 Walnut Avenue, Quarters D
Vallejo, CA 94592

7. Indemnification, Defense and Hold Harmless.

a. Developer agrees to and shall indemnify, defend and hold the City, its council members, officers, agents, environmental consultants, employees and representatives harmless from liability for damage or claims of damage, for personal injury, including death, and claims for property damage which may arise from City's hiring of a Consultant and Counsel and the professional services provided thereby.

b. Developer's obligation under this section to indemnify, defend and hold harmless the City, its council members, officers, agents, environmental consultants, employees, and representatives shall not extend to liability for damage or claims for damage arising out of the sole negligence or willful act of the City, its council members, officers, agents, employees or representatives. In addition, developer's obligation shall not extend to any award of punitive damages against the City resulting from the conduct of the City, its council members, officers, agents, employees or representatives.

c. With respect to any action challenging the validity of this Agreement or any environmental, financial or other documentation related to approval of this Agreement, Developer further agrees to defend, indemnify, hold harmless, pay all damages, costs and fees, if any incurred to either the

City or plaintiff (s) filing such an action should a court award plaintiff(s) damages, costs and fees, and to provide a defense for the City in any such action. The City may elect, at its discretion, to participate in the defense of any such action.

8. Amendments. No amendment of this Agreement shall be valid or binding unless made in writing, signed, and duly authorized on behalf of both parties.

9. No Third Party Beneficiaries. This Agreement is solely for the benefit of the parties, and it does not, nor is it intended to, create any rights in favor of or obligation owing to any third parties.

10. Administrator. The City employee with responsibility for administering this Agreement is Don Hazen, Planning Manager or other employee as designated by the Development Services Director.

11. Integration Clause. This Agreement contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement.

12. Severability Clause. Should any provision of this Agreement ever be deemed to be legally void or unenforceable, all remaining provisions shall survive and be enforceable.

13. Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

14. Waiver. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

15. Public Record. This Agreement and all written non-privileged documents prepared pursuant to this Agreement shall be maintained as a public record.

16. Ambiguity. The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

17. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of Solano County in the State of California or in the United States District Court, Eastern District of California, Sacramento, California, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

18. Counterparts. The parties may execute this Agreement in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument.

19. Authority. The person signing this Agreement for Developer hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of Developer.

(SIGNATURES ARE ON FOLLOWING PAGE)

IN WITNESS WHEREOF this Agreement has been executed by the parties on the day and year first above written.

Brooks Street
A California corporation

CITY OF VALLEJO
a California municipal corporation

By: _____

Joseph M. Tanner, City Manager

Its: _____

(City Seal)

Attest: _____
Mary Ellsworth
Acting City Clerk

Approved as to Content:

Bob Adams
Development Services Director

Approved as to Indemnification:

Harry Maurer
Risk Manager

Approved as to Form

Frederick G. Soley
City Attorney




Agenda Item No. CONSENT D

COUNCIL COMMUNICATION

Date: June 3, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Gary A. Leach, Public Works Director 

SUBJECT: RESOLUTION SETTING A PUBLIC HEARING DATE FOR ESTABLISHING AD VALOREM ASSESSMENTS FOR FOURTEEN (14) LANDSCAPE MAINTENANCE DISTRICTS: CIMARRON HILLS/MADIGAN; COLLEGE HILLS; COSTA DEL RIO (SEAVIEW); SOMERSET HIGHLANDS I/II; HUNTER RANCH I/II; MONICA PLACE; RIDGECREST; SOMERSET HIGHLANDS III; SPRINGTREE/FLEMING HILL; SUMMIT II; TOWN AND COUNTRY I; WOODRIDGE; GLEN COVE I/II AND GREENMONT/SEAPORT HILLS FOR FISCAL YEAR 2008/2009

BACKGROUND

The City of Vallejo currently has twenty-six (26) Landscape Maintenance Districts (LMD's), fourteen (14) of which, were created in accordance with the Improvement Act of 1911. These districts require annual determination of each district's costs, and allocation of those costs by means of annual assessments to the dwelling units within each district. The other twelve (12) LMD's, created under the Landscape and Lighting Act of 1972, will be considered by the Council under a separate action.

Previous City Council actions formed the 1911 Act Landscape Maintenance Districts (LMD) and set a maximum annual assessment rate as determined by the City and approved by a majority of the parcel owners at the time of each District's formation. The City has not exceeded the authorized maximum assessment rate for any of the districts. Until such time that the maximum rate is exceeded, the 1911 Act districts are exempt from the procedures and approval process required by Proposition 218.

The City Council is required to have a public hearing to take public comments regarding Fiscal Year (FY) 2008/2009 assessments within the following fourteen (14) Ad Valorem Landscape Maintenance Districts, formed pursuant to the Improvement Act of 1911: Cimarron Hills/Madigan; College Hills; Costa Del Rio (Seaview); Somerset Highlands I/II; Hunter Ranch I/II; Monica Place; Ridgcrest; Somerset Highlands III; Springtree/Fleming Hill; Summit II; Town & Country I; Woodridge; and Glen Cove I/II and Greenmont/Seaport Hills. The 1911 Act requires annual determination of each district's costs, and allocation of those costs by means of annual assessments to the parcels within each district. Assessments for the 1911 Act districts are determined by



applying the established assessment rate to each one hundred dollars (\$100.00) of assessed value of each parcel.

The assessments are collected by the County of Solano and forwarded to the City for deposit into specific fund accounts for each district. All assessments are expended for landscape maintenance, repair of damage due to vandalism or natural occurrence, site rehabilitation or improvements, water and utilities, and City administration and inspection.

The FY 2007/2008 and the proposed FY 2008/2009 assessments are shown below. The fourteen (14) districts are recommended to remain at the same rate as assessed in FY 2007/2008:

<u>DISTRICT</u>	<u>MAX RATE</u>	<u>FY 2007/08</u>	<u>PROPOSED FY2008/2009</u>	<u>% ANNUAL INCREASE</u>
Cimarron Hills-Madigan	1.50/100	\$.153	\$.153	0
College Hills	1.50/100	\$.124	\$.124	0
Costa Del Rio (Seaview)	4.00/100	\$.373	\$.373	0
Somerset I/II	1.25/100	\$.081	\$.081	0
Greenmont/Seaport Hills	1.25/100	\$.103	\$.103	0
Monica Place	1.25/100	\$.187	\$.187	0
Ridgecrest	1.50/100	\$.060	\$.060	0
Somerset III	1.50/100	\$.139	\$.139	0
Springtree-Fleming	1.50/100	\$.210	\$.210	0
Summit II	1.50/100	\$.103	\$.103	0
Town & Country I	1.50/100	\$.134	\$.134	0
Woodridge	1.50/100	\$.117	\$.117	0
Glen Cove I/II	1.50/100	\$.140	\$.140	0
Hunter Ranch I/II	1.50/100	\$.103	\$.103	0

All of the costs associated with the above landscape maintenance districts are paid by the assessments levied upon the parcels within them. The amount of funds to assess for all 1911 Acts is \$1,343,594.00 (One Million Three Hundred Forty-three thousand Five Hundred Ninety-Four Dollars).

The preliminary engineer's reports for the above districts are available in the City Clerk's Office and in the Public Works Department for review.



RECOMMENDATION

Begin the process of setting a public hearing for establishing ad valorem assessments for fourteen (14) Landscape Maintenance Districts for fiscal year 2008-2009. This is to comply with the legal requirements of the 1911 Act and the provisions of the California Constitution Article XIID (Proposition 218).

ENVIRONMENTAL REVIEW

No environmental review is necessary to take this action.

PROPOSED ACTION

Adopt a resolution setting a public hearing for June 24, 2008 at 7:00 p.m. for setting Ad Valorem assessments for fourteen (14) Landscape Maintenance Districts for FY 2008/2009.

DOCUMENTS AVAILABLE FOR REVIEW

- a. A resolution setting a public hearing on June 24, 2008 at 7:00 p.m. for setting Ad Valorem assessments for fourteen (14) landscape maintenance districts for FY 2008/2009.
- b. Copy of the Engineer's Report Available in City Clerk's Office and the Public Works Department
- c. Location Map

CONTACT PERSONS:

John Cerini, Maintenance Superintendent
(707) 648-4557
JCerini@ci.vallejo.ca.us

Joe Bates, Assistant Maintenance Superintendent/Landscape
(707) 649-3414
JoeB@ci.vallejo.ca.us

JUNE 3, 2008

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RESOLUTION NO. 08-_____ N.C.

BE IT RESOLVED by the Council of the City of Vallejo as follows:

WHEREAS, the City Council by previous resolutions formed and levied annual assessments for the fourteen (14) Landscape Maintenance Districts (hereafter referred to as the "Districts"), pursuant to the provisions of the Improvement Act of 1911 (California Streets and Highways Code section 5000 et seq.) (hereafter referred to as the "Act"); and

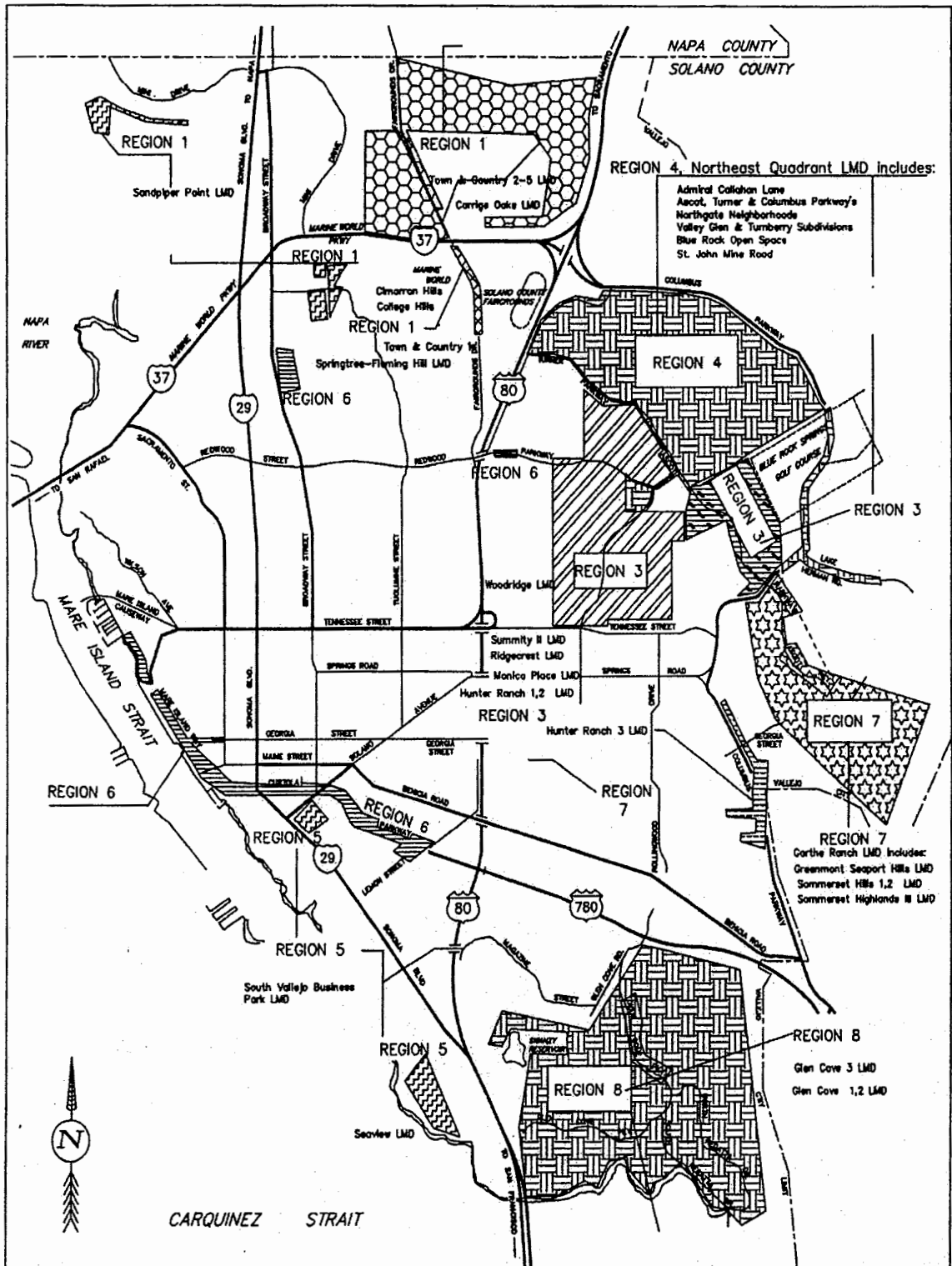
WHEREAS, the fourteen Districts are Cimarron Hills/Madigan, College Hills, Costa Del Rio (Seaview), Somerset Highlands I/II, Summit I/II, Hunter Ranch I/II, Monica Place, Ridgecrest, Somerset Highlands III, Springtree/Fleming Hill, Town & Country I, Woodridge, Glen Cove I/II; and, Greenmont/Seaport Hills; and

WHEREAS, the Act provides the City Council the authority to annually levy and collect assessments for the Districts on the Solano County tax roll on behalf of the City of Vallejo to pay the maintenance and services of all improvements and facilities related thereto.

NOW, THEREFORE, BE IT RESOLVED that a Public Hearing on these matters is hereby set for Tuesday, June 24, 2008, at 7:00 p.m., or as soon thereafter as feasible in the City Council Chambers, located at 555 Santa Clara Street, Vallejo, California.

JUNE 3, 2008

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CITY OF VALLEJO

DEPARTMENT OF PUBLIC WORKS
LANDSCAPE DIVISION

DWG. NO. <u>Regions</u>	SHEET <u>1</u> OF <u>1</u>	DISTRICT KEY MAP by REGION
DRAWN BY <u>SSG</u>	FILE NO. <u>REGION</u>	
DATE <u>Rev.03/27/06</u>	REF. _____	PREPARED BY: _____
CHECKED <u>SSG</u>	SCALE <u>NONE</u>	LANDSCAPE MAINTENANCE MANAGER _____ DATE _____




Agenda Item No. CONSENT E

COUNCIL COMMUNICATION

Date: June 3, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Gary A. Leach, Public Works Director 

SUBJECT: APPROVAL OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT 1 TO THE CONSULTANT SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR ADDITIONAL ON-CALL TRAFFIC ENGINEERING SERVICES FOR THE CITY OF VALLEJO.

BACKGROUND AND DISCUSSION

On October 23, 2007, the City Council approved a Resolution authorizing the City Manager to execute a Consultant Services Agreement with Kimley-Horn and Associates, Inc. for traffic engineering services for the City of Vallejo for the period October 24, 2007, through October 23, 2008.

Two traffic studies need to be accomplished which fall under the purview of the Kimley-Horn consultant performing traffic engineering services. The first is mitigation monitoring for the Mare Island Amended and Restated Specific Plan. The City of Vallejo is preparing a mitigation monitoring report as required in the Mare Island Amended and Restated Specific Plan. To understand the existing condition of the transportation network, the City has requested consultant services to analyze existing traffic counts and report the operating level of the intersections near and on Mare Island. Amendment 1 to the Consultant Services Agreement will authorize Kimley-Horn to complete the evaluation and documentation to analyze the peak hour level of service of intersections near Mare Island using the *TRAFFIX* software to evaluate the existing peak hour vehicular turning movement counts, existing intersection geometry, and existing intersection signal operations.

The second traffic study is to update the City speed limits, and includes engineering and traffic surveys for 170 roadway segments throughout Vallejo. The California Vehicle Code (CVC) requires local agencies to conduct an Engineering and Traffic Survey in accordance with the Caltrans Traffic Manual when establishing speed limits below 65 miles per hour. These surveys must be updated every five years or when roadway conditions change. The City Traffic Engineer reviews and updates speed limits to ensure that the posted limit provides orderly movement of traffic in a safe and efficient manner and that all posted limits conform to the requirement in the CVC for the purpose of setting and enforcing speed limits. The last traffic study performed in the City of Vallejo was approved by the City Council by Resolution 03-08 N.C. on January 7, 2003, at which time City speed limits were updated in Ordinance 1502 N.C. The traffic study now being proposed fulfills this requirement and will include data compilation, analysis, and a recommendation of appropriate speed limits.



Fiscal Impact

The fee for the traffic engineering services to perform Mitigation Monitoring for the Mare Island Amended and Restated Specific Plan will be \$16,725.00. This portion of the contract will be paid by Lennar Mare Island LLC reimbursement. The fee for traffic engineering services to perform traffic and engineering surveys for 170 roadway segments throughout the city will be \$43,100.00, and will be paid from professional services funds (general funds) allocated within the current Public Works budget. No budget amendment is being requested.

RECOMMENDATION

Staff recommends adopting the resolution authorizing the City Manager or his designee to execute Amendment 1 to the Consultant Services Agreement between the City of Vallejo and Kimley-Horn and Associates, Inc. to provide additional traffic engineering services for the City of Vallejo in an amount not to exceed \$59,825.00.

ALTERNATIVES CONSIDERED

Alternatives were not considered. The first study is being entirely funded by Lennar Mare Island, LLC and thus has no financial impact. The second study is required by regulation, and directly impacts the ability of the Vallejo Police Department to enforce the posted speed limits. Without the updated engineering and traffic surveys, the City has a potential loss in revenue totaling approximately \$240,000 per year. This onetime cost of \$43,100 will provide valid roadway speed data for the next five years. It should also be noted that the original estimated cost of this study was over \$100,000, which included the cost of performing radar studies on each of the 170 roadway segments. However, with the assistance from the police cadets in performing these radar studies the cost was reduced substantially.

ENVIRONMENTAL REVIEW

No environmental clearance required for this action.

PROPOSED ACTION

Approve the Resolution Authorizing the City Manager or his designee to Execute Amendment 1 to the Consultant Services Agreement with Kimley-Horn and Associates, Inc. to provide additional traffic engineering services to the City of Vallejo in an amount not to exceed \$59,825.00.



DOCUMENTS AVAILABLE FOR REVIEW

- a. A resolution authorizing the City Manager or his designee to execute Amendment 1 to the Consultant Services Agreement between the City of Vallejo and Kimley-Horn and Associates, Inc. to provide additional traffic engineering services in the City of Vallejo Public Works Department for an amount not to exceed \$59,825.00.
- b. Amendment 1 to the Consultant and Professional Services Agreement between the City of Vallejo and Kimley-Horn and Associates, Inc.

CONTACT PERSON

David A. Kleinschmidt, City Engineer
(707) 648-4318
david@ci.vallejo.ca.us

Gary Leach, Public Works Director
(707) 648-4315
garyl@ci.vallejo.ca.us

JUNE 3, 2008
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RESOLUTION NO. 08-____ N.C.

BE IT RESOLVED by the Council of the City of Vallejo as follows:

WHEREAS, on October 23, 2007, the Vallejo City Council approved a Resolution authorizing the City Manager to execute a Consultant Services Agreement with Kimley-Horn and Associates, Inc. to provide on-call traffic engineering services for the City of Vallejo; and

WHEREAS, the Kimley-Horn engineer has been onboard since that time, and has been fulfilling all the duties of the City Traffic Engineer for the City of Vallejo; and

WHEREAS, in accordance with mitigation and monitoring associated with Mare Island Amended and Restated Specific Plan, Lennar Mare Island LLC is required to report on the current traffic counts and operating level of service of the intersections near and on Mare Island; and

WHEREAS, Lennar Mare Island LLC has agreed to reimburse the City of Vallejo for the cost of the associated traffic study; and

WHEREAS, the California Vehicle Code requires local agencies to conduct Engineering and Traffic Surveys in accordance with the Caltrans Traffic Manual, and to update these surveys every five years; and

The City of Vallejo last had these traffic studies performed in 2002, with the resultant report accepted by the City Council at their regular meeting of January 7, 2003 by Resolution No. 03-08 N.C.; and

WHEREAS, traffic studies fall under the purview of the City Traffic Engineer, a position currently filled by the consultant engineer of Kimley-Horn and Associates, Inc.; and

WHEREAS, the consultant's fee for the additional transportation engineering services included in the traffic studies will not exceed \$59,825.00.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby authorizes the City Manager or his designee to execute Amendment 1 Consultant Services Agreement between the City of Vallejo and Kimley-Horn and Associates, Inc. in the amount of \$59,825.00 to provide additional traffic engineering services in the City of Vallejo Public Works Department for a new contract limit of \$209,825.00.

JUNE 3, 2008

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**FIRST AMENDMENT TO
AGREEMENT BETWEEN
City OF VALLEJO
AND
KIMLEY-HORN AND ASSOCIATES, INC.**

This First Amendment to the Principal Agreement made and entered into on 23 October 2007, hereafter referred to as Agreement, between Kimley-Horn and Associates, Inc., a California corporation, therein referred to as Design Professional, and the City of Vallejo, a municipal corporation, therein referred to as City, is made and entered into on this 3rd day of June, 2008.

Contractor and City do mutually agree as follows:

1. Additional Services. The scope of services to be provided as specified in Exhibit A of the Agreement is amended to include the services described in Exhibit A of this First Amendment ("Additional Services"), including Mitigation Monitoring for Mare Island Amended and Restated Specific Plan; and Engineering and Traffic Surveys for 170 Roadway Segments.

2. Payment for Additional Services. In consideration of Contractor providing the Additional Services, Contractor shall be paid an amount not to exceed fifty nine thousand eight hundred twenty five dollars and no/100 cents (\$59,825.00). The maximum not to exceed amount specified in Exhibit B of the Agreement is increased by said amount and the new not to exceed amount is two hundred nine thousand eight hundred twenty five dollars and no/100 cents (\$209,825.00).

Design Professional agrees that the amount of increase in the not to exceed amount specified above shall constitute full compensation for the Additional Services, and shall fully compensate Design Professional for any and all direct and indirect costs that may be incurred by Design Professional in connection with the Additional Services, including costs associated with any changes and/or delays in work schedules or in the performance of other services or work by Design Professional.

3. Integration. This First Amendment contains the entire agreement between the parties with respect to its subject matter and supersedes whatever oral or written understanding they may have had prior to the execution of this First Amendment. This First Amendment shall not be amended or modified except by a written agreement executed by each of the parties. Except as specifically revised herein, all terms and conditions of the Agreement shall remain in full force and effect, and Design Professional shall perform all duties, obligations and conditions required under the Agreement.

4. Inconsistencies. In the event of any conflict or inconsistency between the provisions of this First Amendment and the Agreement, the provisions of this First Amendment shall control in all respects.

5. Ambiguities. The parties have each carefully reviewed this First Amendment and have agreed to each term of this First Amendment. No ambiguity shall be presumed to be construed against either party.

6. Counterparts. This First Amendment may be executed by the parties in one or more counterparts all of which collectively shall constitute one document and agreement.

7. Authority. The person signing this First Amendment for Design Professional hereby represents and warrants that he or she is fully authorized to sign this First Amendment on behalf of Design Professional.

IN WITNESS WHEREOF, the parties have entered into this [insert number, e.g. First] Amendment on the day and year first hereinabove appearing.

CITY OF VALLEJO,
a Municipal Corporation

KIMLEY-HORN AND ASSOCIATES, INC.
a California Corporation

BY: _____
Joseph M. Tanner
City Manager

BY: _____
James E. West
Vice President

APPROVED AS TO CONTENT:

ATTEST: _____
Mary Ellsworth
City Clerk

Gary A. Leach
Public Works Director

(City Seal)

APPROVED AS TO FORM:

Frederick G. Soley
City Attorney

EXHIBIT A

ADDITIONAL SERVICES

1. Mitigation Monitoring for Mare Island Amended and Restated Specific Plan

Task 1 – Project Management and Meetings

Design Professional will attend an initial meeting with the City of Vallejo to review the scope of services, project schedule, and discuss project goals. Some of the issues to be discussed are as follows:

- Existing traffic volume data and intersection geometry
- Recent traffic study information that may include traffic volume data or intersection geometry
- Signal timing sheets

No additional meetings, other than the kick-off meeting, are included in the scope of services. Project invoicing, correspondence and other external project management functions are included herein.

Task 2 – Data Collection and Field Reconnaissance

Several elements of information will be needed to complete the traffic analysis, summarized below:

AM and PM peak hour turning movement counts will be collected at the following locations:

- State Route 37 EB Ramps/Mare Island
- State Route 37 WB Ramps/Mare Island
- Azuar Avenue and G Street
- Railroad Avenue and G Street
- Walnut Avenue and G Street
- Wilson Avenue and SR 37 EB Ramps
- Mare Island Way/Wilson Avenue and Mare Island Causeway/Tennessee Street
- Sonoma Boulevard and Tennessee Street
- I-80 WB Ramps and Tennessee Street
- Admiral Callaghan Lane and I-80 EB Ramps
- Humboldt Street and Tennessee Street
- Humboldt Street and I-80 EB Ramps
- Hose tube counts will be collected for 72 hours at the following locations:
- Railroad Avenue south of SR 37
- Mare Island Causeway west of Mare Island Way

- Railroad Avenue north of G Street
- Railroad Avenue south of G Street
- Walnut Avenue north of G Street
- Walnut Avenue south of G Street

Services shall include field observations at each of the study intersections documenting existing field conditions during the peak traffic period. Design Professional will observe and note the following:

- Intersection turning movement geometrics
- Any unusual problems identified during field reconnaissance
- Qualitative observation of overall intersection performance

Task 3 – Traffic Level-of-Service Analysis

The analysis time periods for this study will be the weekday AM and PM peak hours at the 10 study intersections and two freeway ramps identified in the Mitigation Monitoring Plan. The total traffic entering and leaving Mare Island during the daily, peak three-hour and peak hour time periods, and the current directional distribution of traffic will be summarized. The mitigation monitoring study will calculate level of service at each of the 10 intersections and two freeway ramps using the operations analysis methodology from the most current Highway CapaCity Manual as applied by the *TRAFFIX* software program. Existing signal timings will be used, as provided by City staff.

If the average control delay at a signalized intersection exceeds 50.0 seconds (upper quartile of LOS D conditions) or the volume/capaCity ratio exceeds 0.95 during either the A.M. or P.M. peak hour, intersection improvements and/or traffic demand management measures will be identified to provide average control delays less than 50.0 seconds and a volume/capaCity ratio less than 0.95.

Peak hour signal warrants will be evaluated for each unsignalized intersection. The signal warrant analysis will be based on the Federal Highway Administration (FHWA) Manual on Uniform Traffic Control Devices (MUTCD) as amended by the 2003 California Supplement.

Task 4 – Project Documentation

Design Professional will document the analysis and prepare a memorandum of findings. One electronic and two hardcopies of the Draft Technical Memorandum shall be prepared and submitted to City staff review and comment. The report shall include text, charts, and figures describing the process, assumptions, and results. Following receipt of one set of non-conflicting comments, Design Professional will revise the Draft Technical Memorandum and prepare one electronic and two hardcopies of the Final Technical Memorandum for City's use.

SCHEDULE

Data collection and analysis will occur in the fall of 2008 once schools have resumed.

WORK HOURS AND FEE PROPOSAL

Scope of Services outlined in Task 1 through Task 4 will be paid a Lump Sum fee of \$16,725, representing 71 hours of engineering labor effort. The fee includes direct expenses for the project including expenses for in-house duplicating, facsimile, local mileage, telephone, postage, in-house blueprinting and computer time. The services will be invoiced and payable monthly in accordance with the Standard Billing Rate Schedule and on a percent (%) complete basis. All permitting, application, and similar project fees will be paid directly by the City.

2. Engineering and Traffic Surveys for 170 Roadway Segments

Task 1 - Project Management and Staff Meetings

This task includes general project administration and project meetings.

Design Professional will coordinate with City staff (Vallejo Police Department) to continue to collect information necessary to complete the study. The information to be collected from the City includes:

- Radar speed information

After review of the Draft Report (Task 6), Design Professional will meet with City staff to review City comments.

Task 2 - Data Collection

Design Professional will conduct the field observations for various roadway segments to be surveyed. The purpose of the field observation is to identify roadway conditions, land uses, parking turnover, pedestrian and bicycle activity, sight distance constraints, existing posted speed limit of adjacent jurisdiction, driveways, geometry and other roadside conditions not readily apparent to the driver.

Vallejo Police Department staff will collect the necessary radar speed surveys. Design Professional shall provide the data sheet format with which to collect the data. Speed surveys must be conducted in good weather and on weekdays only. The selected roadway segments will be surveyed during off-peak periods, and a minimum of 100 samples will be taken in each direction at each high-volume location. For low volume locations, the survey will be conducted for a minimum of one hour, and will continue until a minimum of 50 samples is obtained. For extremely low volume locations, a maximum of three hours are to be dedicated to collecting samples.

Task 3 – Speed Survey Analysis

Following data collection, the radar speed surveys will be entered into a statistical analysis software package. For each location surveyed, Design Professional will calculate the 50th and 85th percentile speeds, 10 MPH pace, percent in pace speed, percentage over and under pace speed, and average speed.

Task 4 - Collision Analysis

Crossroads collision or SWITRS data will be for a minimum of two prior years will be analyzed to determine the number of mid-block and intersection collisions attributed to each street segment surveyed within the specified two-year period.

Mid-block accident rates will be calculated based on the two-year mid-block collision experience and the average daily traffic volume for each segment. The calculated rates will be compared to expected collision rates for similar streets developed by the California Department of Transportation.

Task 5 - Recommendation of Speed Limits

Based on the statistical results of the speed surveys, accident analysis and the field review of roadside conditions and characteristics, a recommendation of posted speed limits will be made for each roadway segment surveyed. The results and recommended speed limit for each location will be summarized individually and in tabular form.

Task 6 - Preparation of the Draft and Final Study Report

A draft study report will be prepared and will include an introduction, a discussion on "realistic speed zoning," operational procedures, applicable California Vehicle Code sections, a summary table of recommended speeds, individual summary sheets, statistical data sheets, and raw radar speed survey data for each street segment. Following review and comments by the City, Design Professional will incorporate the City's comments and prepare a final study report. The final study report will be suitable for filing with the court system. The City will be provided with three copies of the completed final study report.

SCHEDULE

Deliverable

Draft Study Report

Final Study Report

Time

8 weeks from final delivery of radar speed surveys

2 weeks after City review

FEE PROPOSAL

Scope of Services outlined in Task 1 through Task 5 will be paid a Lump Sum fee of \$43,100, including labor costs and indirect and direct expenses incurred in performing these services. Direct expenses consist of traffic counts, in-house blueprinting and postage. Other direct expenses, if any are necessary, will not be incurred without City's authorization.

Services other than those set forth in the Scope of Services shall constitute additional services. Additional services, such as attendance at meetings other than those included in the Scope of Services and changes in project location, shall be performed only with City's authorization, and for additional fees to be negotiated prior to authorization. Fees will be invoiced monthly based upon the percentage of the services completed as of the invoice date.

If requested by the City, additional locations can be surveyed and summarized for an additional cost of \$350 per location. In addition, if requested by the City, Design Professional will attend a public meeting for an additional cost of \$400 per meeting.



Agenda Item No. CONSENT F

COUNCIL COMMUNICATION

Date: June 3, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Russell Sherman, Fire Chief (RS)

SUBJECT: CONSIDERATION OF RESOLUTION TO ACCEPT ASSISTANCE TO FIREFIGHTERS GRANT FUNDS, AMEND THE 2007/08 FIRE DEPARTMENT BUDGET, AND TO AUTHORIZE USE OF MATCHING FUNDS AND PURCHASE OF VIDEO CONFERENCING EQUIPMENT.

BACKGROUND AND DISCUSSION

The Vallejo Fire Department received a federal grant in 2006 for video conferencing equipment for training in each fire station, and for community education programs to schools and senior centers. Prior to the installation of this equipment, fire companies had to travel from their local fire station to the school, senior complex or fire training facility on Curtola Parkway to conduct training exercises. This left the fire district to be covered by another engine company and increased response times during training activities. The equipment purchased under this grant was installed and operational in 2007.

In late 2007, the Vallejo Fire Department applied for a regional federal grant to increase and coordinate video conferencing training activities on a county-wide basis. Several months ago we received notification of the acceptance of that grant application. The approved grant covers the purchase, installation and maintenance of video conferencing equipment in the amount of \$480,067, which requires twenty percent (20%) matching funds. The total cost of the Vallejo equipment, installation and maintenance is \$231,461 with a matching requirement of \$46,292. This will allow the participating Fire Departments and the Solano County Office of Emergency Services (OES) to participate in coordinated joint training, and have additional communication capabilities in the Emergency Operations Centers during a state or federal disaster or emergency. Agencies participating in this grant include Benicia, Fairfield, Rio Vista, Solano County, Vacaville City and Fire Protection District and Vallejo.

RECOMMENDATION

Approve the resolution to amend the 2007/08 Fire Department budget to accept the Assistance to Firefighters Grant Funds and matching funds from other agencies in the amount not to exceed \$480,067, and approve the purchase of regional video-conferencing equipment not to exceed the same amount.

ALTERNATIVES CONSIDERED

No alternatives were considered due to the nature of the grant request.

FISCAL IMPACT

When authorized, the fire department budget will be increased by \$ 480,067 in grant and matching funds and an increase in the fire department's expenditures will be authorized by the same amount to purchase video-conferencing equipment for public education and departmental training purposes. The approximately \$46,000 in matching funds required by the City of Vallejo will be split between the 2007/08 Fire Department and Information Technology budgets.

Proposed Budget Amendment:

Capital Project: Video Conferencing (FIRE09)
Fund: Capital Grant Fund
Revenues: 221-330-54.15 \$480,067
Expenditures: 221-2301-34.01 \$480,067

PROPOSED ACTION

Approve the resolution.

DOCUMENTS AVAILABLE FOR REVIEW

- a. Resolution
- b. Equipment/materials list

CONTACT PERSON

Russell Sherman, Fire Chief, 648-4420

RESOLUTION NO. _____

BE IT RESOLVED by the Council of the City of Vallejo as follows:

WHEREAS, the Vallejo Fire Department has identified an opportunity to maintain and improve the level of service; and

WHEREAS, the Vallejo Fire Department has been approved to receive a regional federal Assistance to Firefighters Grant; and

WHEREAS, this grant will provide an opportunity to improve community education with the Fire Department and enhance in-house training for fire personnel within participating Solano County jurisdictions through the use of video-conferencing;

NOW THEREFORE, BE IT RESOLVED that the City Council hereby approves amending the fiscal year 2007-2008 Fire Department budget to allow for the acceptance of the federal Assistance to Firefighters grant funds in the amount of \$480,067.

ADOPTED by the City Council of the City of Vallejo at a regular meeting held on _____ by the following vote:

CONSIDERATION OF RESOLUTION ACCEPTING A REGIONAL FEDERAL ASSISTANCE TO FIREFIGHTERS GRANT IN THE AMOUNT OF \$480,067, AMENDING THE FISCAL YEAR 2007-08 FIRE DEPARTMENT BUDGET TO ALLOW FOR THE ACCEPTANCE OF THE GRANT, AND TO AUTHORIZE THE CITY MANAGER TO ISSUE A PURCHASE ORDER TO PROVIDEA FOR THE PURCHASE, INSTALLATION AND MAINTENANCE OF VIDEO CONFERENCING EQUIPMENT IN THE AMOUNT OF \$480,067

RECOMMENDATION: Adopt the resolution accepting a regional federal Assistance to Firefighters Grant in the amount of \$480,067, amending the fiscal year 2007-08 Fire Department budget to allow for the acceptance of the grant, and to authorize the City Manager to issue a purchase order to Providea for the purchase, installation and maintenance of video conferencing equipment in the amount of \$480,067.

Proposal Summary

Solano County Fire District

<input checked="" type="checkbox"/> Vallejo FD—Codian 4520	\$210,121.43
<input checked="" type="checkbox"/> Vallejo FD—Tactical	\$21,340.36
<input checked="" type="checkbox"/> Vacaville FD—6000 system	\$93,903.91
<input checked="" type="checkbox"/> Fairfield FD	\$93,903.91
<input checked="" type="checkbox"/> Rio Vista FD	\$12,141.29
<input checked="" type="checkbox"/> Benicia FD	\$24,282.58
<input checked="" type="checkbox"/> Solano County	\$12,141.29
<input checked="" type="checkbox"/> Vacaville District FD	\$12,141.29
Total	\$479,976.04

Videoconferencing Proposal

Vallejo Fire Department



ADDRESS 703 Curtola Parkway
CITY, STATE ZIP Vallejo, CA

CONTACT Rich MacKenzie
PHONE

DATE 4/29/2008
QUOTE # Vallejo-Codian 30 port bridge

	Qty	Part Number	Description	Discount Price	Total
SYSTEMS	1	194515	MCU-4515 30 Port High Definition MCU	\$181,999.00	\$181,999.00
					Total Systems
PERIPHERALS					
					Total Peripherals
SERVICES	1	ST-194510-OIXX	On-site Installation with Implementation and On-site Training - TANDBERG Codian 30 Port High Definition MCU.	\$14,500.00	\$14,500.00
	1	Sales Tax	Estimated Sales Tax (7.375%)	\$13,422.43	\$13,422.43
	1	Freight	Estimated Freight	\$200.00	\$200.00
				Total Services	\$28,122.43

Available Network Services *

Domestic SDS point-to-point rate (includes ISDN to IP calls) at 384kbps is \$85/hour
 Domestic 384Kbps multi-point rate is \$88/hour + \$10 Meet'and'Greet

ProvideaDirect monthly recurring charge for IP-2 DSL with 1.2M Maximum Video Call Speed is \$599.00

* ProvideaDirect services subject to availability.

Total Hardware \$181,999.00
Total Services \$28,122.43
GRAND TOTAL \$210,121.43

20% MATCH: \$42,024.29

Freight, Taxes, duty, and VAT are NOT INCLUDED in the quoted pricing.
 Pricing is valid for 30 days. Deposit is due on order placement, balance due net-30 days from date of invoice. Restocking fee will apply to all returned hardware.

Adam Moss--Providea--408-280-0537

Customer Signature

Date

Videoconferencing Proposal

Vallejo Fire Department

ADDRESS 703 Curtola Parkway
 CITY, STATE ZIP Vallejo, CA

CONTACT Rich MacKenzie
 PHONE

DATE 4/29/2008
 QUOTE # Vallejo-Tactical MXP

	Qty	Part Number	Description	Discount Price	Total
SYSTEMS	1	114151	TANDBERG Tactical MXP	\$16,899.00	\$16,899.00
	1	114487NPP	TANDBERG Tactical MXP Natural Presenter Package (NPP)	\$950.00	\$950.00
				Total Systems	\$17,849.00
PERIPHERALS					
					Total Peripherals
	1	Sales Tax	Estimated Sales Tax (7.375%)	\$1,316.36	\$1,316.36
	1	Installation	On-Site Installation and Implementation	\$2,000.00	\$2,000.00
	1	Freight	Estimated Freight	\$175.00	\$175.00
				Total Services	\$3,491.36

Available Network Services *

Total Hardware \$17,849.00
Total Services \$3,491.36
GRAND TOTAL \$21,340.36

20% MATCH: \$4,268.07

* ProvideaDirect services subject to availability.

Freight, Taxes, duty, and VAT are NOT INCLUDED in the quoted pricing. Pricing is valid for 30 days. Deposit is due on order placement, balance due net-30 days from date of invoice. Restocking fee will apply to all returned hardware.

Adam Moss--Providea--408-280-0537

Customer Signature

Date



COUNCIL COMMUNICATION

Date: June 3, 2008

TO: Mayor and Members of the City Council

FROM: Craig Whittom, Assistant City Manager / Community Development *aw*
Bob Adams, Development Services Director *BA*
Don Hazen, Planning Manager *DH*

SUBJECT: CONSIDERATION OF A RESOLUTION HOLDING ON FIRST READING AN ORDINANCE AMENDING CHAPTER 16.70 "SCREENING AND LANDSCAPING REGULATIONS" OF THE VALLEJO MUNICIPAL CODE (ZONING ORDINANCE)

BACKGROUND & DISCUSSION

On April 16, 2006, at the request of Commissioner Robert McConnell, the Planning Division brought before the Planning Commission a Resolution of Intention to revise the Screening and Landscaping Regulations of the zoning ordinance. The Resolution of Intention was approved by the Commission on September 6, 2006. On May 7, 2007, staff brought proposed Resolution revisions to the Planning Commission, at which time, the Planning Commission voted to continue the item to allow staff to meet with a subcommittee of the Planning Commission to discuss specific issues brought up at the Planning Commission hearing. Staff met with the subcommittee and brought the revised draft code text amendment back to the Planning Commission on August 20, 2007. At this hearing, the Planning Commission requested that staff make further revisions and return with a revised draft on September 17, 2007. The Planning Commission approved the revised code text amendment on a vote of 6 to 1. Due to staffing shortages and Council budget priorities, staff had delayed forwarding this item to Council earlier.

Commissioner Gourley's dissenting vote was based on his opinion that the words used to describe acceptable "wall and open fence" screening types, "attractive, complement" were "broad terms" which could be subjective (see Attachment 2, 9/17/07 Planning Commission minutes, pg. 9). Commissioner Gourley also felt that the prohibition of front yard chain link fencing was "intrusive."

Following is a summary of the major changes being proposed to the Zoning Ordinance. A complete text of the revisions is included as Attachment 1, Exhibit 1, with highlighted changes included as Attachment 5.

- Section 16.70.015- Applicability.

New Section added specifying when the regulations would be applicable, i.e. new development; landscaping installation related to major renovation or repair. Not applicable for permitted existing fencing or landscaping.

- Section 16.70.030- Design standards applicable to required screening.

Open fencing only allowed when constructed of *attractive* welded wire with wood or other appropriate frame, designed to be free-standing.

Chain link fencing within residentially zoned districts only allowed when behind the front plane of the house and on corner lots, side property line fencing behind side plane of the house.

Barb type or razor wire fencing not allowed in residential, planned development, and pedestrian commercially zoned districts.

Electric fences not allowed in the City of Vallejo (*new addition to the ordinance, per Police Dept. recommendation*).

- Section 16.70.060- Height standards applicable to fencing and screening.

Screening type maximum height limits allowed a one foot increase with administrative permit approval.

Site development approval may be waived for "Courtyard fences, walls," etc. if the Planning Manager determines the project is appropriate for the site and would not adversely impact the neighborhood and there are no neighborhood objections after the site has been posted, and neighbors within 500' (neighborhood groups within 1,000') notified.

- Section 16.70.62- Fencing on retaining walls.

Higher fences on retaining walls may be approved with administrative permit approval rather than site development approval.

- Section 16.70.70- Required landscaping.

Required landscaping to be "continually" maintained.

Automatic irrigation system, with precipitation sensor, required in all zoning districts.

Required landscaping within front yards of residential properties shall contain no more than 20% decorative nonliving materials (rather than 30%).

Single family residence rear and side yards shall not exceed 50% coverage of non-porous surface area.

"Parking lot standards," including but not limited to: boundary landscaping on all sides of parking lot area; parking lot shade plan submittal requirement; landscape planter requirements; automatic irrigation system required.

- Section 16.70.090- Design standards applicable to required landscaping.

Required landscaping plants to be chosen from approved City lists, or approved drought tolerant/native selections.

If the amount of required street trees is reduced, a like number of trees are to be provided to the City, to be planted elsewhere.

Required landscape standards may be waived or partially waived when appropriate for new construction abutting street property lines, typically in developed commercial areas.

Staff believes that the proposed "Screening and Landscaping" revisions are environmentally conscious and will enhance the aesthetic value of the City.

ENVIRONMENTAL REVIEW

The proposed Code Text Amendment was reviewed pursuant to the requirements of the California Environmental Quality Act (CEQA) and was determined to be exempt per Section 15061(b)(3), Title 14 of the California Code of Regulations. This particular text amendment is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The text amendment and any actions resulting from it would not result in significant effects on the environment. Environmental review for individual projects would occur in the project approval process. Any potential impacts associated with a particular project would be addressed at that time.

FISCAL IMPACT

Any associated costs increases due to the proposed code text amendment would be borne by private property owners; therefore there would be no direct fiscal impact on the City.

RECOMMENDATION

Adopt the resolution holding on first reading an ordinance amending Vallejo Municipal Code, Chapter 16.70, based on the resolution findings with reference to the staff report attached,

ATTACHMENTS

1. Resolution (Exhibit 1- Ordinance, Exhibit 2- text *w/highlighted changes*)
2. September 17, 2007 Planning Commission minutes & staff report
3. August 20, 2007 Planning Commission minutes
4. August 20, 2007 Planning Commission staff report
5. Examples of "attractive" open fences

PREPARED BY/CONTACT

Marcus Adams, Associate Planner/Don Hazen, Planning Manager, 707-648-4328; dhazen@ci.vallejo.ca.us

RESOLUTION NO. ____ N.C.

**A RESOLUTION OF THE CITY COUNCIL HOLDING ON FIRST
READING AN ORDINANCE AMENDING CHAPTER 16.70 OF THE
VALLEJO MUNICIPAL CODE**

BE IT RESOLVED by the City Council of the City of Vallejo as follows:

WHEREAS a request was made by Commissioner McConnell to revise Chapter 16.70 "Screening and Landscaping Regulations" of the Vallejo Municipal Code; and

WHEREAS a Resolution of Intention to revise Chapter 16.70 was approved by the Planning Commission on September 6, 2006; and

WHEREAS the City of Vallejo Planning Commission conducted a duly noticed public hearing to consider a proposed Code Text Amendment at which testimony and evidence, both written and oral, were presented to and considered by the Planning Commission; and

WHEREAS the Planning Commission voted 7 – 0 to continue the item to allow a subcommittee of the Planning Commission to meet with staff; and

WHEREAS the subcommittee met with staff and new revisions were proposed; and

WHEREAS the City of Vallejo Planning Commission conducted a second duly noticed public hearing to consider the proposed Code Text Amendment on August 20, 2007, at which testimony and evidence, both written and oral, were presented to and considered by the Planning Commission; and

WHEREAS the City of Vallejo Planning Commission voted 7-0 to continue the item to allow staff to make specific changes requested by the Planning Commission; and

WHEREAS the City of Vallejo Planning Commission conducted a third duly noticed public hearing to consider the proposed Code Text Amendment, attached herein as Attachment 2 to the staff report, on September 17, 2007, at which testimony and evidence, both written and oral, were presented to and considered by the Planning Commission; and

WHEREAS based on evidence received at the public hearing, the Planning Commission made factual findings relevant to code text amendments; the California Environmental Quality Act; and General Plan consistency; and

WHEREAS, the proposed amendment to the Zoning Ordinance is referenced as Code Text Amendment 06-0004; and

WHEREAS, Chapter 16.70 of the Zoning Ordinance shall be as amended by Code Text Amendment 06-0004; and

WHEREAS, when compared to Chapter 16.70 of the Zoning Ordinance, the Zoning Ordinance, as amended by Code Text Amendment 06-0004 includes changes to the regulations regarding screening and landscaping standards; and

WHEREAS, pursuant to Government Code Section 65090, notice of the City Council's hearing was published in at least one newspaper of general circulation within the City of Vallejo at least 21-calendar days before the Commission's public hearing; and

WHEREAS the City of Vallejo Planning Commission conducted a duly noticed public hearing to consider the proposed Code Text Amendment on June 3, 2008, at which testimony and evidence, both written and oral, were presented to and considered by the Planning Commission;

WHEREAS on September 17, 2007, the City of Vallejo Planning Commission voted 6-1 to adopt the Resolution of Intention to amend the Chapter 16.70 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby holds on first reading an ordinance of the City of Vallejo amending Chapter 16.70 relating to "Screening and Landscaping Regulations" of the Vallejo Municipal Code, attached as Exhibit 1 to this resolution.

ADOPTED by the Council of the City of Vallejo at a regular meeting held on June 3, 2008 with the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

//s//
OSBY DAVIS, Mayor

ATTEST: _____
//s//
MARY ELLSWORTH, Acting City Clerk

ORDINANCE NO. ____ N.C. (2d)

**AN ORDINANCE OF THE CITY OF VALLEJO AMENDING SECTION 2 (PART) OF
ORDINANCE NO. 558 N.C. (2d), AS AMENDED, OF THE VALLEJO MUNICIPAL
CODE REVISING CHAPTER 16.70 – SCREENING AND LANDSCAPING
REGULATIONS**

The City Council of the City of Vallejo, California, does hereby ordain as follows:

SECTION 1. 00 . an amended Chapter 16.70 of the Vallejo Municipal code is hereby enacted and entitled to read:

16.70

SCREENING AND LANDSCAPING REGULATIONS

Sections:

- 16.70.010 Title and purpose.
- 16.70.015 Applicability
- 16.70.020 Required screening.
- 16.70.025 Temporary fencing.
- 16.70.030 Design standards applicable to required screening.
- 16.70.040 Screening of residential property.
- 16.70.050 Safety standards applicable to required screening and landscaping.
- 16.70.060 Height standards applicable to fencing and screening.
- 16.70.061 Measurement of height of screening.
- 16.70.062 Fences on retaining walls.
- 16.70.065 Measurement of location of fencing and screening.
- 16.70.070 Required landscaping.
- 16.70.080 Special regulations applicable to landscaping along designated scenic highways.
- 16.70.090 Design standards applicable to required landscaping.

SECTION 1.01. Section 16.70.015 is hereby added to the City of Vallejo Municipal Code to read as follows

16.70.015 Applicability

These regulations shall apply to new development or upon the installation of new landscaping and/or fencing due to either major renovation or repair consisting of fifty percent or more of the front or rear

yard fencing and/or landscaping or of thirty percent or more of the fencing and/or landscaping for the entire property. Except for required landscaping (Section 16.70.70) in single and multi-family residences, these regulations do not apply to existing fencing or landscaping that was permitted when it was installed unless major renovations or repairs are undertaken

SECTION 1.02. Section 16.70.030 of the City of Vallejo Municipal Code is amended to read as follows

16.70.030 Design standards applicable to required screening.

- A. Screening Types. A screen may consist of one or more of the following types:
1. Walls. A wall shall consist of concrete, stone, brick, tile or similar type of solid masonry material a minimum of four inches thick. Plain concrete (smooth-faced) blocks are not allowed as fencing material unless capped and finished with stucco or other material as approved by the Planning Manager. The color, materials, and design of the wall shall compliment or otherwise enhance the site and the surrounding area.
 2. Berms. A berm shall be constructed of earthen materials, and it shall be landscaped.
 3. Open Fence. An open fence may be constructed of attractive welded wire either with a wood or other appropriate frame or of a type designed to be free-standing, chain link or wrought iron, or other material approved by the Planning Manager. Chain link fencing shall be allowed in residential zoning districts only behind the front plane of the house. For corner lots, chain link fencing shall not be allowed on the exterior side property line beyond the side plane of the house.
 4. Solid Fence. A solid fence shall be constructed of wood, masonry, welded wire or chain link type fence combined with plant materials or wood slats to form an opaque screen or other material approved by the Planning Manager. Chain link fencing shall be allowed in residential zoning districts only behind the front plane of the house. For corner lots, chain link fencing shall not be allowed on the exterior side property line beyond the side plane of the house.
 5. Planting. Plant materials, when used either alone or combined with welded wire or chain link fence as a screen, shall consist of compact evergreen plants, planted in a minimum four-foot-wide planting strip. They shall be of a kind, or used in such a manner, so as to provide screening having a height which meets the requirements set forth in Section 16.70.050 and a minimum height of two feet and width of two feet within twelve months after initial installation. The planning manager may require installation of walls, berms or solid fence, if, after twelve months after installation, the

plant materials have not formed an opaque screen or if, at any time, the plant materials are not continuously maintained so as to create the desired screen.

- B. Barb or Razor Wire. Barb type or razor wire is allowed in resource conservation and rural-residential zoning districts and may be permitted in linear commercial, freeway commercial, waterfront commercial and intensive use zoning districts when not visible from the street or from low, medium, or high density residential or public and quasi public facility districts. Barb type or razor wire is not allowed in other zoning districts
- C. Electrified Fences. Electrified fences are not allowed in any zoning district.

SECTION 1.03. Section 16.70.060 of the City of Vallejo Municipal Code is amended to read as follows:

16.70.060 Height standards applicable to fencing and screening.

In accordance with the provision of Section 16.70.050 or in addition to those provisions, fences, walls and other screening shall be subject to the following height standards. These heights can be increased by up to one foot with approval of an administrative permit, with noticing as described in Section 16.70.060E.

- A. Commercial, Professional and Limited Offices and Medical Districts. Required screening, except for plant material, shall not be more than six feet in height.
- B. Intensive Use Districts. Required screening, except for plant materials, shall not be more than eight feet in height.
- C. Automotive and Equipment Type Uses. Notwithstanding the provisions of an applicable zone, fences, walls and other screening on any building site with an automotive and equipment use type, except sales/rental-light equipment, required screening shall not be more than eight (8) feet in height. Fences, walls and other screening on any building site with an automotive and equipment sales/rental-light use shall not be more than six (6) feet in height.
- D. Parking Facilities. Notwithstanding the provisions of an applicable zone, screening around an unenclosed off-street parking facility shall not be more than six feet in height.
- E. Courtyard. Fences, walls and other screening installed to create a courtyard without a roof shall be a maximum of five feet in height and be set back a minimum of ten feet from the front property line or back of sidewalk, whichever is the least. If the Planning Manager determines that the project may be inappropriate for the property or may adversely impact physically or visually the neighborhood, the property owner shall submit a site development application per

Chapter 16.90. If the Planning Manager determines that the project is appropriate for the property and would not adversely affect the neighborhood, a notice shall be posted in three visible locations in the vicinity of the property and sent to the property owners within a five hundred foot radius of the site and every identified neighborhood group within one thousand feet of the subject property at least fifteen calendar days prior to the date on which a decision would be made. If neighboring property owners believe the project would adversely affect their properties or the neighborhood character, the property owner shall submit a site development application per Chapter 16.90. If no objections are received from neighboring property owners within the comment period, the plans may be signed off to allow issuance of a building permit. In reviewing the plan for the proposed courtyard, the planning manager shall consider, but not be limited to, the following:

1. Building characteristics including the dimensions, color and architectural design;
2. Compatibility of the architectural and design features of the proposed courtyard with the features of the adjoining, as well as neighboring buildings; and
3. Landscaping, including the effort to minimize removal of existing vegetation and to match replacements with vegetation of the site.

F. All Other Building Sites. Fences, walls, and other screening on building sites not subject to the regulations of subsections A through E shall be subject to the following height limits:

1. Within Required Front Yard Setback. Except as provided in Sections 16.70.050 and 16.70.065, the maximum height of screening located within any required front setback shall be three feet unless the Traffic Engineer determines that a four foot fence would not create a visibility hazard and six feet thereafter. One entry gateway, trellis, or other entry feature may be permitted in the required front yard setback area with the approval of the Traffic Engineer, provided the maximum height and width of the feature do not exceed ten feet.
2. Within Required Side Yard Setback for Corner Lot. Except as provided in Sections 16.70.050 and 16.70.065, the maximum height of screening located within ten feet of a side property line, adjoining a public street shall be three feet, unless the Traffic Engineer determines that a four foot fence would not create a visibility hazard, and six feet thereafter. The planning manager, in consultation with the traffic engineer, may reduce the fence setback to three feet from the back of the sidewalk where the side yard is three feet below street grade.
3. An encroachment permit shall be obtained prior to erecting a fence or wall between the curb or sidewalk and the property line.
4. Within Required Side and Rear Yard Setbacks for Interior Lots. The maximum height shall not be more than six feet.

5. A fence shall be provided around swimming pools as required in Chapter 12.44 of this code.
 6. All Other Areas.
 - a. Whenever a wall or fence is installed along a rear property line that will obstruct a view, it shall be limited to four feet in height.
 - b. Open fences that do not obstruct the view may be six feet in height.
- G. For designated city landmarks and properties that are located within a designated heritage or historic district:
1. The maximum height for fences within the front setback area and/or the street side yard setback area shall be three feet six inches.
 2. Requests for a variance to allow a fence on any property subject to the regulations of Chapter 16.36, which exceeds the height limits of this chapter shall be subject to review and approval by the architectural heritage and landmarks commission.
 3. Requests for minor exceptions shall be subject to review and approval by the secretary of the architectural heritage and landmarks commission or his/her designee.

SECTION 1.04. Section 16.70.061 of the City of Vallejo Municipal Code is amended to read as follows:

16.70.061 Measurement of height of screening.

The height of fences, walls and other screening not including retaining walls shall be measured above the actual adjoining level of finished grade as defined in Section 16.04.230, except that where there is a difference in elevation on opposite sides of such fence, wall or other screening, the height shall be measured from the highest elevation. Notwithstanding these requirements, where the finished elevation of the property is lower at the boundary line, or within five feet inside the boundary line, than an abutting property elevation, such change in elevation may be used in lieu of, or in combination with, additional screening to satisfy a screening requirement. Where screening is required along a public or private street and the roadway elevation is higher than the property in question, the planning manager may require screens to be higher than permitted by the applicable height limit.

SECTION 1.05. Section 16.70.062 of the City of Vallejo Municipal Code is amended to read as follows:

16.70.062 Fencing on retaining walls.

The total height of fences and the retaining walls that they are mounted on or attached to shall be limited in height to six (6) feet. However, the Planning Manager may approve higher fencing through the Administrative Permit Process as described in

Section 16.70.060E if it is determined that there will be little or no impact on the adjoining properties and the adjoining property owners consent.

SECTION 1.06. Section 16.70.065 of the City of Vallejo Municipal Code is amended to read as follows:

16.70.65 Measurement of location of fencing and screening.

In all but residential zoning districts, fencing required by this chapter is to be installed on the property line except when adjacent to a public street; in that case, the fencing is to be installed behind required landscaping. In residential zones, when the back of the sidewalk is not the property line, the planning manager may allow the setback to be measured from the inside of the sidewalk. If there is no sidewalk, the planning manager, in conjunction with the public works department, may allow the setback to be measured from the future location of the sidewalk. Further, if a fence is to be located in the public right-of-way, an encroachment permit will be required.

SECTION 1.07. Section 16.70.070 of the City of Vallejo Municipal Code is amended to read as follows:

16.70.70 Required landscaping.

The following landscaping shall be installed and continuously maintained in accordance with the regulations of Section 16.70.090. Provisions of Section 16.74.030 Water Conservation Guidelines shall also apply.

A. Neighborhood, Waterfront Shopping and Service, Limited Office, Professional Office and Medical Districts.

1. **Boundary Landscaping.** Boundary landscaping is required for a minimum depth of five feet along all property lines abutting streets except for the area required for street openings.
2. **Additional Landscaping.** Additional landscaping, equal to at least ten percent of the total lot area is required and a minimum of twenty-five percent of such landscaping shall be located in the area devoted to parking. All portions of the building site, exclusive of structures, parking areas, recreational uses, driveways and walkways, shall be landscaped.
3. **Trees.** At least two street trees are required for each fifty feet of street frontage or fraction thereof.
4. **Irrigation.** An automatic irrigation system shall be installed in conjunction with all required landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off

each system when irrigation is not required due to precipitation.

B. Linear Commercial and Pedestrian Shopping and Service Districts.

1. **Boundary Landscaping.** Boundary landscaping is required for a minimum depth of five feet along all property lines abutting streets except for the area required for street openings.
2. **Additional Landscaping.** All portions of the building site, exclusive of structures, parking areas, recreational uses, driveways and walkways, shall be landscaped.
3. **Trees.** At least two street trees are required for each fifty feet of street frontage or fraction thereof.
4. **Irrigation.** An automatic irrigation system shall be installed in conjunction with all required landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off each system when irrigation is not required due to precipitation.

C. Intensive Use District.

1. **Boundary Landscaping.** Boundary landscaping is required for a minimum depth of five feet along all property lines abutting streets except for the area required for street openings.
2. **Additional Landscaping.** All portions of the building site, exclusive of structures, parking areas, recreational uses, driveways and walkways, shall be landscaped.
3. **Trees.** At least two street trees are required for each fifty feet of street frontage or fraction thereof.
4. **Irrigation.** An automatic irrigation system shall be installed in conjunction with all required landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off each system when irrigation is not required due to precipitation.

D. Freeway Shopping and Service Districts.

1. **Boundary Landscaping with Vehicular Easement.** Where a vehicular easement is created parallel to a street, it shall be separated from such street by landscaping at least five feet wide except for the area required for street openings.
2. **Boundary Landscaping without Vehicular Easement.** Where a vehicular easement is not created parallel to the street, landscaping at least fifteen feet wide shall be installed along and adjacent to the ultimate right-of-way line of any abutting street except for the area required for street openings.
3. **Trees.** At least two street trees are required for each fifty feet of street frontage or fraction thereof.

4. **Irrigation.** An automatic irrigation system shall be installed in conjunction with all required landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off each system when irrigation is not required due to precipitation.

E. Nonresidential and Multifamily Uses in Residential Zoning Districts. Where nonresidential and multifamily uses are located in residential zoning districts, landscaping shall be installed and maintained in accordance, with the following provisions and the provisions of Section 16.70.090:

1. **Area.** Landscape areas shall comprise a minimum of twenty percent of all building sites and shall include as a minimum:
 - a. A fifteen-foot wide area along all street frontages; and
 - b. A ten-foot wide area along all interior property lines exclusive of structures.
 - c. For multi-family uses, no more than fifty percent of the front yard in front of the building line shall be covered by nonporous surfaces such as concrete, brick or asphalt for driveways and walkways. Of the remaining portion of front setback, no more than twenty percent shall be covered by decorative nonliving materials such as sand, stone, gravel, wood or water.
2. **Trees.** At least two street trees are required for each fifty feet of street frontage or fraction thereof.
3. **Irrigation.** An automatic irrigation system shall be installed in conjunction with all required landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off each system when irrigation is not required due to precipitation.

F. Single-family Uses in Residential Zoning Districts. Where single-family uses are located in residential zoning districts, landscaping shall be installed and maintained in accordance with the following provisions and the provisions of Section 16.70.090:

1. **Trees.** At least two street trees are required for each fifty feet of street frontage or fraction thereof.
2. **Materials.** No more than fifty percent of the front yard in front of the building line shall be covered by nonporous surfaces, such as concrete, brick or asphalt, for driveways and walkways. Of the remaining portion of front setback, no more than twenty percent shall be covered by decorative nonliving materials such as sand, stone, gravel, wood or water. Of the rear and side yards, no more than fifty percent shall be covered with non-porous surfaces.

3. Timing. Landscaping of front yard setbacks shall be completed prior to occupancy.
4. Irrigation. An automatic irrigation system shall be installed in conjunction with all new landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off each system when irrigation is not required due to precipitation.

G. Automotive and Equipment Use Types. Notwithstanding the provisions of an applicable zoning district, on any building site with an automotive and equipment use type, only the following landscaping shall be required in accordance with the regulations of Section 16.70.160. Boundary landscaping is required for a minimum depth of five feet along all property lines abutting streets except for the area required for street openings and the area within four feet on either side of street openings. An automatic irrigation system shall be installed in conjunction with all required landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off each system when irrigation is not required due to precipitation.

H. Parking Lot Standards. Landscaping in parking lots shall be required as follows. These are minimum standards and the Planning Manager may require additional landscaping as appropriate on a case by case basis. All required dimensions are minimum interior dimensions, not including required curbing around the planting area.

1. Where the parking lot dimension adjoining a property line is one hundred feet or less, a minimum of five feet of boundary landscaping shall be provided along all sides of the parking area except the area required for street and walkway openings. Where a parking lot dimension adjoining a street or residential use or district is greater than one hundred feet, a minimum of ten feet of boundary landscaping shall be provided along all sides of the parking area except the area required for street and walkway openings.

2. A minimum of one tree per each seven parking spaces shall be provided within the parking lot (i.e. total number of spaces divided by seven equals number of trees required). In addition, a parking lot shade plan shall be submitted that demonstrates that a minimum of fifty percent of the parking lot will be shaded within ten years. Shading provided by trellises with vining plant cover over walkways within the parking lot may contribute to the percentage of shaded area. The tree plan and lighting plan for the parking lot shall be coordinated to ensure that the lighting for the parking lot will not be obscured by the mature tree canopy.

3. Planting areas. All planting areas, including tree wells, shall have a minimum

interior dimension of four feet. Per Sections 16.62.140 B and C, a maximum of two feet of the parking stall depth may be landscaped with low-growth, hearty plant materials in lieu of paving, allowing a bumper overhang while maintaining the required parking dimensions. This two-foot overhang is in addition to the required four-foot planter depth. Ends of parking rows shall be capped with a landscape planter with minimum interior width of four feet and a minimum length equal to the length of the adjoining parking space(s). In addition, a landscape finger of the same dimensions as the row caps shall be provided between adjacent side-by-side parking spaces at least every eight parking spaces in a row. In parking lots with more than four rows of parking or one hundred total spaces, a landscaped walkway shall be provided between parking rows from the back of the parking lot to the front. All areas of parking lots not used for driveways, drive aisles, parking spaces, or walkways shall be landscaped.

4. Planting materials. Landscape areas within parking lots shall be planted with a combination of trees, shrubs, ornamental grasses, and groundcovers to provide maximum visual interest. All plant materials shall be of types that tolerate parking lot conditions.

5. Irrigation. An automatic irrigation system shall be installed in conjunction with all new landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off each system when irrigation is not required due to precipitation.

SECTION 1.08. Section 16.70.075 of the City of Vallejo Municipal Code is hereby repealed.

SECTION 1.09. Section 16.70.090 of the City of Vallejo Municipal Code is amended to read as follows:

16.70.090 Design standards applicable to required landscaping.

A. All required landscaping materials are defined as follows:

1. Shrubs, of one-gallon size or larger;
2. Street trees, of fifteen-gallon size or larger, and double-staked. In certain prominent public areas, trees larger than fifteen gallon size may be required to create a strong design element;
3. Ground cover: and
4. Decorative nonliving landscaping materials such as sand, stone, gravel, wood or water may be used to satisfy a maximum of twenty percent of required landscaping area when approved by the planning division; except as provided in Section 16.70.070F.
5. Plants used in landscaping shall be chosen from the Approved List for Street and Median Planting, the Recommended Shrub Plant List, or shall

be drought tolerant and suited to the climate of the City.

- B. Separation. Any landscaped area shall be separated from an adjacent vehicular area by a wall or curb at least six inches higher than the adjacent vehicular area.
- C. Existing Vegetation. Every effort shall be made to incorporate on-site trees and shrubbery into the required landscaping. Significant trees to be removed shall be replaced on a one for one basis with large size boxed trees.
- D. Maintenance. Required landscaping shall be maintained in a neat, clean and healthy condition. This shall include continuous pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary and the regular watering of all plantings. Automatic irrigation systems shall be required for all required landscaping.
- E. Reduction of standards prescribed in this chapter are as follows:
 - 1. The planning division may reduce these standards by not more than fifty percent when adherence to these standards would be impractical due to:
 - a. Location of existing structure;
 - b. Special site organization requirements;
 - c. Topography; and
 - d. Novel or experimental techniques of design or land development.

If the required number of street trees is reduced, a like number of trees shall be provided to the City to be planted elsewhere.

- 2. The planning division may waive partially or completely these standards in cases where the existing building abuts street property line or is within five feet of the street property line, or when it would be appropriate for new construction to abut street property lines, such as in a developed commercial area. Landscape planters, window boxes, or other container plantings may be required in these circumstances

SECTION 2. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or its application to other persons. The Council for the City of Vallejo hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, subdivisions, paragraphs, sentences, clauses or phrases, or the application thereof to any person, be declared invalid or unconstitutional.

SECTION 3. FINDINGS INCORPORATED BY REFERENCE. These amendments are based on findings adopted on this date in conjunction with the adoption of this code, incorporated herein by reference.

SECTION 4. EFFECTIVE DATE. This Ordinance shall become effective and in full force 30 days from and after its final passage. The City Clerk shall certify to the passage of this Ordinance and shall cause the same to be published as required by law.

FIRST READ at a regular meeting of the Council of the City of Vallejo held the ___ day of _____, 2008 and finally passed and adopted at a regular meeting of the Council held on the _____ day of _____, 2008.

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Chapter 16.70 changes

Note: Proposed new text is *shown in bold italics*, text to be deleted ~~shown as strikeout~~.

Chapter 16.70

SCREENING AND LANDSCAPING REGULATIONS

Sections:

- 16.70.010 Title and purpose.
- 16.70.015 *Applicability***
- 16.70.020 Required screening.
- 16.70.025 Temporary fencing.
- 16.70.030 Design standards applicable to required screening.
- 16.70.040 Screening of residential property.
- 16.70.050 Safety standards applicable to required screening and landscaping.
- 16.70.060 Height standards applicable to fencing and screening.
- 16.70.061 Measurement of height of screening.
- 16.70.062 Fences on retaining walls.
- 16.70.065 Measurement of location of fencing and screening.
- 16.70.070 Required landscaping.
- ~~16.70.075 Required landscaping along Springs Road.~~
- 16.70.080 Special regulations applicable to landscaping along designated scenic highways.
- 16.70.090 Design standards applicable to required landscaping.

16.70.10 Title and purpose.

The provisions of Section 16.70.010 through Section 16.70.090, inclusive, shall be known as the screening and landscaping regulations. The purpose of these provisions is to prescribe standards for screening, fences, walls, and landscaping within the city for the conservation and protection of property, the assurance of safety and security, the enhancement of privacy, the control of dust, the abatement or attenuation of noise, and the improvement of the visual environment, including the provision of a neat appearance in keeping with neighborhood character. (Ord. 1385 N.C. (2d), 1 (part), 1997; Ord. 558 N.C.(2d), 2 (part), 1980.)

16.70.015 *Applicability*

These regulations shall apply to new development or upon the installation of new landscaping and/or fencing due to either major renovation or repair consisting of fifty percent or more of the front or rear yard fencing and/or landscaping or of thirty percent or more of the fencing and/or landscaping for the entire property. Except for

required landscaping (Section 16.70.70) in single and multi-family residences, these regulations do not apply to existing fencing or landscaping that was permitted when it was installed unless major renovations or repairs are undertaken.

16.70.020 Required screening.

A screen shall be installed and maintained in the following locations in accordance with the regulations in Sections 16.70.040 and 16.70.050, inclusive:

- A. Civic, Commercial, Industrial, Agricultural and Extractive Use Types. Along all boundaries other than streets, where the building site abuts residential uses.
- B. Automotive and Equipment Use Types. On building sites with automotive and equipment use types, regardless of zoning, along all off-street parking and zoning district boundaries, other than streets.
- C. Storage and Loading Areas. Storage or loading areas wherever such facilities are adjacent to residential zoning district or storage and loading areas visible from a public street. Also along the perimeter of open off-street parking adjacent to residential zoning districts.
- D. Nonresidential and Multi-dwelling Uses in or Adjacent to Residential Districts. On building sites with nonresidential or multi-dwelling uses located in or adjacent to residential zoning districts along all property lines abutting single-family residences. For the purpose of this subsection, nonresidential use shall not include home occupations. (Ord. 1385 N.C.(2d) 1 (part), 1997; Ord. 947 N.C. (2d) 1 (part), 1987; Ord. 649 N.C.(2d) 17, 1982; Ord. 558 N.C. (2d) 2 (part), 1980.)

16.70.25 Temporary fencing.

Temporary fencing may be used to provide security for approved "special events", for construction sites, for vacant structures, and for vacant land, which can not otherwise be secured. The fencing shall consist of chain link fencing or other materials as approved by the Planning Manager and be limited in height to six (6) feet. The fencing around approved "special events" shall be removed at the conclusion of the event. The fencing for construction sites shall not be installed until a Building Permit or Grading Permit has been issued and shall be removed prior to final inspection. In the event that the Building Permits expire before the construction is completed, the Planning Manager may issue an Administrative Permit to allow the fencing to remain for a longer period of time. The use of temporary fencing around occupied structures that can be secured by other means is prohibited. The use of temporary fencing around vacant land or vacant structures shall be subject to the terms and conditions specified in an Administrative Permit authorizing this fencing. (Ord. 1385 N.C.(2d) 1 (part), 1997.)

16.70.030 Design standards applicable to required screening.

- A. Screening Types. A screen may consist of one or more of the following types:
1. Walls. A wall shall consist of concrete, stone, brick, tile or similar type of solid masonry material a minimum of four inches thick. ***Plain concrete (smooth-faced) blocks are not allowed as fencing material unless capped and finished with stucco or other material as approved by the Planning Manager. The color, materials, and design of the wall shall compliment or otherwise enhance the site and the surrounding area.***
 2. Berms. A berm shall be constructed of earthen materials, and it shall be landscaped.
 3. Open Fence. An open fence may be constructed of ***attractive*** welded wire ***either with a wood or other appropriate frame or of a type designed to be free-standing***, chain link or wrought iron, ***or other material approved by the Planning Manager. Chain link fencing shall be allowed in residential zoning districts only behind the front plane of the house. For corner lots, chain link fencing shall not be allowed on the exterior side property line beyond the side plane of the house.***
 4. Solid Fence. A solid fence shall be constructed of wood, masonry, welded wire or chain link type fence combined with plant materials or wood slats to form an opaque screen, ***or other material approved by the Planning Manager. Chain link fencing shall be allowed in residential zoning districts only behind the front plane of the house. For corner lots, chain link fencing shall not be allowed on the exterior side property line beyond the side plane of the house.***
 5. Planting. Plant materials, when used ***either alone or combined with welded wire or chain link fence*** as a screen, shall consist of compact evergreen plants, planted in a minimum ~~three~~**four**-foot-wide planting strip. They shall be of a kind, or used in such a manner, so as to provide screening having a height which meets the requirements set forth in Section 16.70.050 and a minimum height of two feet and width of two feet within twelve months after initial installation. The planning manager may require installation of walls, berms or solid fence, if, after twelve months after installation, the plant materials have not formed an opaque screen or if, at any time, the plant materials are not ***continuously*** maintained so as to create the desired screen.
- B. Barb or Razor Wire. Barb type or razor wire is allowed in resource conservation and rural-residential zoning districts and may be permitted in linear commercial, freeway commercial, waterfront commercial and intensive use zoning districts when not visible from the street or ***from*** low, medium, or high density residential or public and quasi public facility districts. ***Barb type or razor wire is not***

allowed in other zoning districts. (Ord. 1385 N.C.(2d) 1 (part), 1997; Ord. 947 N.C.(2d) 1 (part), 1987; Ord. 558 N.C. (2d) 2 (part). 1980.)

C. *Electrified Fences. Electrified fences are not allowed in any zoning district.*

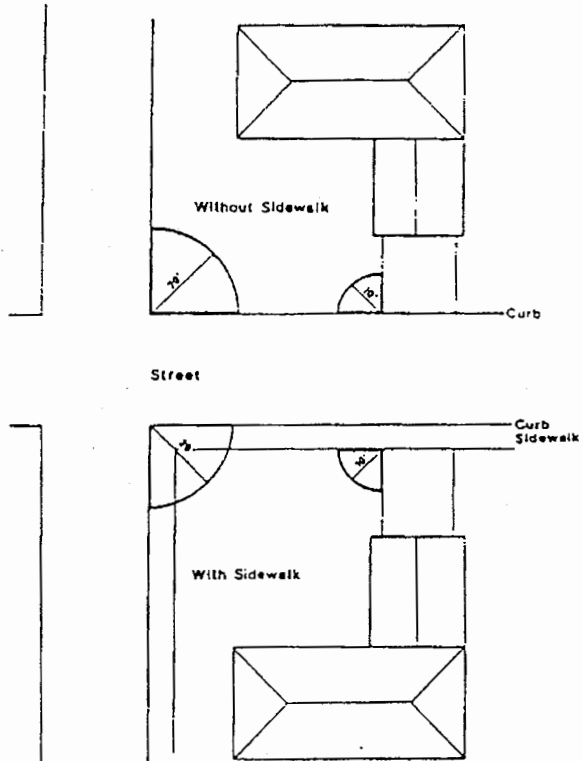
16.70.040 Screening of residential property.

Whether required as a condition of project approval, or desired by the property owner, residential property shall be screened using "walls", "open fencing" or "solid fencing" as described above. Additional acceptable materials include decorative metals, such as wrought iron, and stucco. The use of wood products shall be limited to pickets, 1" by 6" redwood boards, or as otherwise "commonly used in the industry". The use of "plywood or other composite panels or materials" shall be prohibited, unless the Planning Manager determines that the material is appropriate ~~in order~~ to maintain or enhance the architectural character of the subdivision.

16.70.050 Safety standards applicable to required screening and landscaping.

- A. Safety Standards. Fences, walls, other screening and landscaping, whether provided in accordance with the provisions of Section 16.70.020 or provided in addition to those provisions, shall be subject to review by the traffic engineer in the following areas:
1. Within ten feet of the point of intersection of:
 - a. A vehicular accessway or driveway and a street; or
 - b. A vehicular accessway or driveway and a sidewalk.
 2. Within twenty feet of the point of intersection of two or more vehicular access ways, including driveways, alleys, or streets.
 3. As used in this section, "point of intersection" shall be measured from the face of curb or, if none, from the edge of pavement.
- B. Applicability. The standards described in subsection A shall govern the areas as illustrated in the "areas subject to safety standards." The "areas subject to safety standards" is a part of this title and all references to this section include it. (Ord. 1385 N.C.(2d) 1 (part), 1997; Ord. 558 N.C.(2d) 2 (part), 1980.)

AREAS SUBJECT TO SAFETY STANDARDS



16.70.060 Height standards applicable to fencing and screening.

In accordance with the provision of Section 16.70.050 or in addition to those provisions, fences, walls and other screening shall be subject to the following height standards: *These heights can be increased by up to one foot with approval of an administrative permit, with noticing as described in Section 16.70.060E.*

- A. Commercial, Professional and Limited Offices and Medical Districts. Required screening, except for plant material, shall not be more than six feet in height.
- B. Intensive Use Districts. Required screening, except for plant materials, shall not be more than eight feet in height.
- C. Automotive and Equipment Type Uses. Notwithstanding the provisions of an applicable zone, fences, walls and other screening on any building site with an automotive and equipment use type, except sales/rental-light equipment, required screening shall not be more than eight (8) feet in height. Fences, walls and other screening on any building site with an automotive and equipment sales/rental-light use shall not be more than six (6) feet in height.
- D. Parking Facilities. Notwithstanding the provisions of an applicable zone, screening around an unenclosed off-street parking facility shall not be more than six feet in height.
- E. Courtyard. Fences, walls and other screening installed to create a courtyard without a roof shall be a maximum of five feet in height and be set back a minimum of ten feet from the front property line or back of sidewalk, whichever is the least. ~~Such screening is subject to the site development plan procedure, described in Chapter 16.90.~~ *If the Planning Manager determines that the project may be inappropriate for the property or may adversely impact physically or visually the neighborhood, the property owner shall submit a site development application per Chapter 16.90. If the Planning Manager determines that the project is appropriate for the property and would not adversely affect the neighborhood, a notice shall be posted in three visible locations in the vicinity of the property and sent to the property owners within a five ~~two~~ hundred foot radius of the site and every identified neighborhood group within one thousand feet of the subject property at least fifteen calendar days prior to the date on which a decision would be made. If neighboring property owners believe the project would adversely affect their properties or the neighborhood character, the property owner shall submit a site development application per Chapter 16.90. If no objections are received from neighboring property owners within the comment period, the plans may be signed off to allow issuance of a building permit.* In reviewing the plan for the proposed courtyard, the planning manager shall consider, but not be limited to, the following:
 - 1. Building characteristics including the dimensions, color and architectural design;

2. Compatibility of the architectural and design features of the proposed courtyard with the features of the adjoining, as well as neighboring buildings; and
 3. Landscaping, including the effort to minimize removal of existing vegetation and to match replacements with vegetation of the site.
- F. All Other Building Sites. Fences, walls, and other screening on building sites not subject to the regulations of subsections A through E shall be subject to the following height limits:
1. Within Required Front Yard Setback. Except as provided in Sections 16.70.050 and 16.70.065, the maximum height of screening located within any required front setback shall be three feet unless the Traffic Engineer determines that a four foot fence would not create a visibility hazard and six feet thereafter. ***One entry gateway, trellis, or other entry feature may be permitted in the required front yard setback area with the approval of the Traffic Engineer, provided the maximum height and width of the feature do not exceed ten feet.***
 2. Within Required Side Yard Setback for Corner Lot. Except as provided in Sections 16.70.050 and 16.70.065, the maximum height of screening located within ten feet of a side property line, adjoining a public street shall be three feet, unless the Traffic Engineer determines that a four foot fence would not create a visibility hazard, and six feet thereafter. The planning manager, in consultation with the traffic engineer, may reduce the fence setback to three feet from the back of the sidewalk where the side yard is three feet below street grade.
 3. An encroachment permit shall be obtained prior to erecting a fence or wall between the curb or sidewalk and the property line.
 4. Within Required Side and Rear Yard Setbacks for Interior Lots. The maximum height shall not be more than six feet.
 5. A fence shall be provided around swimming pools as required in Chapter 12.44 of this code.
 6. All Other Areas.
 - a. Whenever a wall or fence is installed along a rear property line that will obstruct a view, it shall be limited to four feet in height.
 - b. Open fences that do not obstruct the view may be six feet in height.
- G. For designated city landmarks and properties that are located within a designated heritage or historic district:
1. The maximum height for fences within the front setback area and/or the street side yard setback area shall be three feet six inches.
 2. Requests for a variance to allow a fence on any property subject to the regulations of Chapter 16.36, which exceeds the height limits of this chapter shall be subject to review and approval by the architectural heritage and landmarks commission.

3. Requests for minor exceptions shall be subject to review and approval by the secretary of the architectural heritage and landmarks commission or his/her designee. (Ord. 1385 N.C.(2d) 1 (part), 1997; Ord. 1250 N.C. (2d) 1, 1992; Ord. 947 N.C. (2d).1 (part), 1987; Ord. 649 N.C. (2d).18, 1982; Ord. 578 N.C. (2d).1, 1980; Ord. 558 N.C. (2d).2 (part), 1980.)

16.70.61 Measurement of height of screening.

The height of fences, walls and other screening *not including retaining walls* shall be measured above the actual adjoining level of finished grade as defined in Section 16.04.230, except that where there is a difference in elevation on opposite sides of such fence, wall or other screening, the height shall be measured from the highest elevation. Notwithstanding these requirements, where the finished elevation of the property is lower at the boundary line, or within five feet inside the boundary line, than an abutting property elevation, such change in elevation may be used in lieu of, or in combination with, additional screening to satisfy a screening requirement. Where screening is required along a public or private street and the roadway elevation is higher than the property in question, the planning manager may require screens to be higher than permitted by the applicable height limit. (Ord. 1385 N.C.(2d) 1 (part), 1997; Ord. 588 N.C. (2d). 2 (part), 1980.)

16.70.62 Fencing on retaining walls.

The total height of fences and the retaining walls that they are mounted on or attached to shall be limited in height to six (6) feet. However, the Planning Manager may approve higher fencing through the ~~Site Development~~ *Administrative* Permit Process *as described in Section 16.70.060E* if it is determined that there will be little or no impact on the adjoining properties and the adjoining property owners consent.

16.70.65 Measurement of location of fencing and screening.

In all but residential zoning districts, fencing *required by this chapter* is to be installed on the property line except when adjacent to a public street; in that case, the fencing is to be installed behind required landscaping. In residential zones, when the back of the sidewalk is not the property line, the planning manager may allow the setback to be measured from the inside of the sidewalk. If there is no sidewalk, the planning manager, in conjunction with the public works department, may allow the setback to be measured from the future location of the sidewalk. Further, if a fence is to be located in the public right-of-way, an encroachment permit will be required. (Ord. 1384 N.C.(2d) 1 (part), 1997; Ord. 947 N.C.(2d).2 1987.)

16.70.70 Required landscaping.

The following landscaping shall be installed and *continuously* maintained in accordance with the regulations of Section 16.70.090. Provisions of Section 16.74.030 Water Conservation Guidelines shall also apply.

A. Neighborhood, Waterfront Shopping and Service, Limited Office, Professional Office and Medical Districts.

1. Boundary Landscaping. Boundary landscaping is required for a minimum depth of five feet along all property lines abutting streets except for the area required for street openings.
2. Additional Landscaping. Additional landscaping, equal to at least ~~five~~ *ten* percent of the total *lot* area of the building site, is required and a minimum of twenty-five percent of such landscaping shall be located in the area devoted to parking. *All portions of the building site, exclusive of structures, parking areas, recreational uses, driveways and walkways, shall be landscaped.*
3. Trees. At least two street trees are required for each fifty feet of street frontage or fraction thereof.
4. *Irrigation. An automatic irrigation system shall be installed in conjunction with all required landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off each system when irrigation is not required due to precipitation.*

B. Linear Commercial and Pedestrian Shopping and Service Districts.

1. Boundary Landscaping. Boundary landscaping is required for a minimum depth of ~~two~~ *five* feet along all property lines abutting streets except for the area required for street openings.
2. Additional Landscaping. All portions of the building site, exclusive of structures, parking areas, recreational uses, driveways and walkways, shall be landscaped.
3. Trees. At least ~~one~~ *two* street trees is *are* required for each fifty feet of street frontage or fraction thereof.
4. *Irrigation. An automatic irrigation system shall be installed in conjunction with all required landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off each system when irrigation is not required due to precipitation.*

C. Intensive Use District.

1. Boundary Landscaping. Boundary landscaping is required for a minimum depth of ~~four~~ *five* feet along all property lines abutting streets except for the area required for street openings.

- ~~2. Vehicle Storage and Parking Areas. In addition to the landscaping required by subsection A, not less than two percent of any vehicle storage or parking area shall be landscaped.~~
32. Additional Landscaping. All portions of the building site, exclusive of structures, parking areas, recreational uses, driveways and walkways, shall be landscaped.
43. Trees. At least ~~one~~ *two* street trees ~~is~~ *are* required for each fifty feet of street frontage or fraction thereof.
4. ***Irrigation. An automatic irrigation system shall be installed in conjunction with all required landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off each system when irrigation is not required due to precipitation.***

D. Freeway Shopping and Service Districts.

1. Boundary Landscaping with Vehicular Easement. Where a vehicular easement is created parallel to a street, it shall be separated from such street by landscaping at least five feet wide except for the area required for street openings.
2. Boundary Landscaping without Vehicular Easement. Where a vehicular easement is not created parallel to the street, landscaping at least ~~ten~~ *fifteen* feet wide shall be installed along and adjacent to the ultimate right-of-way line of any abutting street except for the area required for street openings.
3. Trees. At least two street trees are required for each fifty feet of street frontage or fraction thereof.
4. ***Irrigation. An automatic irrigation system shall be installed in conjunction with all required landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off each system when irrigation is not required due to precipitation.***

E. Nonresidential and Multifamily Uses in Residential Zoning Districts. Where nonresidential and multifamily uses are located in residential zoning districts, landscaping shall be installed and maintained in accordance, with the following provisions and the provisions of Section 16.70.090:

1. Area. Landscape areas shall comprise a minimum of twenty percent of all building sites and shall include as a minimum:
 - a. A fifteen-foot wide area along all street frontages; and
 - b. A ten-foot wide area along all interior property lines *exclusive of structures.*

c. *For multi-family uses, no more than fifty percent of the front yard in front of the building line shall be covered by nonporous surfaces such as concrete, brick or asphalt for driveways and walkways. Of the remaining portion of front setback, no more than twenty percent shall be covered by decorative nonliving materials such as sand, stone, gravel, wood or water.*

2. Trees. At least two street trees are required for each fifty feet of street frontage or fraction thereof.
3. ~~Off Street Parking. Landscaping of off street parking areas shall include, but not be limited to the following:~~
 - a. ~~Ends of parking rows capped with a landscape planter to define rows;~~
 - b. ~~A maximum distance of thirty five feet between planted areas located along parking rows.~~

Irrigation. An automatic irrigation system shall be installed in conjunction with all required landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off each system when irrigation is not required due to precipitation.

F. **Single-family Uses in Residential Zoning Districts.** Where single-family uses are located in residential zoning districts, landscaping shall be installed and maintained in accordance with the following provisions and the provisions of Section 16.70.090:

1. Trees. At least ~~one~~ *two* street trees ~~is~~ *are* required for each fifty feet of street frontage or fraction thereof.
2. Materials. No more than fifty percent of the front yard setback *in front of the building line* shall be covered by nonporous surfaces, such as concrete, brick or asphalt, for driveways and walkways. Of the remaining portion of front setback, no more than ~~thirty~~ *twenty* percent shall be covered by decorative nonliving materials such as sand, stone, gravel, wood or water. *Of the rear and side yards, no more than fifty percent shall be covered with non-porous surfaces.*
3. ~~Trimming Timing.~~ Landscaping of front yard setbacks shall be completed within six months of *prior to* occupancy.
4. *Irrigation. An automatic irrigation system shall be installed in conjunction with all new landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off each system when irrigation is not required due to precipitation.*

G. Automotive and Equipment Use Types. Notwithstanding the provisions of an applicable zoning district, on any building site with an automotive and equipment use type, only the following landscaping shall be required in accordance with the regulations of Section 16.70.160. Boundary landscaping is required for a minimum depth of five feet along all property lines abutting streets except for the area required for street openings and the area within four feet on either side of street openings. *An automatic irrigation system shall be installed in conjunction with all required landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off each system when irrigation is not required due to precipitation.* (Ord. 1148 N.C. (2d).1, 1991; Ord. 649 N.C. (2d).19, 1982; Ord. 595 N.C. (2d). 12, 1981; Ord. 558 N.C. (2d). 2 (part), 1980.)

H. Parking Lot Standards. *Landscaping in parking lots shall be required as follows. These are minimum standards and the Planning Manager may require additional landscaping as appropriate on a case by case basis. All required dimensions are minimum interior dimensions, not including required curbing around the planting area.*

1. Where the parking lot dimension adjoining a property line is one hundred feet or less, a minimum of five feet of boundary landscaping shall be provided along all sides of the parking area except the area required for street and walkway openings. Where a parking lot dimension adjoining a street or residential use or district is greater than one hundred feet, a minimum of ten feet of boundary landscaping shall be provided along all sides of the parking area except the area required for street and walkway openings.

2. A minimum of one tree per each seven parking spaces shall be provided within the parking lot (i.e. total number of spaces divided by seven equals number of trees required). In addition, a parking lot shade plan shall be submitted that demonstrates that a minimum of fifty percent of the parking lot will be shaded within ten years. Shading provided by trellises with vining plant cover over walkways within the parking lot may contribute to the percentage of shaded area. The tree plan and lighting plan for the parking lot shall be coordinated to ensure that the lighting for the parking lot will not be obscured by the mature tree canopy.

3. Planting areas. All planting areas, including tree wells, shall have a minimum interior dimension of four feet. Per Sections 16.62.140 B and C, a maximum of two feet of the parking stall depth may be landscaped with low-growth, hearty plant materials in lieu of paving, allowing a bumper overhang while maintaining the required parking dimensions. This two-foot overhang is in addition to the required four-foot planter depth. Ends of parking rows shall be capped with a landscape planter with minimum interior width of four feet and a minimum length equal to the length of the adjoining parking space(s). In

addition, a landscape finger of the same dimensions as the row caps shall be provided between adjacent side-by-side parking spaces at least every eight parking spaces in a row. In parking lots with more than four rows of parking or one hundred total spaces, a landscaped walkway shall be provided between parking rows from the back of the parking lot to the front. All areas of parking lots not used for driveways, drive aisles, parking spaces, or walkways shall be landscaped.

4. Planting materials. Landscape areas within parking lots shall be planted with a combination of trees, shrubs, ornamental grasses, and groundcovers to provide maximum visual interest. All plant materials shall be of types that tolerate parking lot conditions.

5. Irrigation. An automatic irrigation system shall be installed in conjunction with all new landscape installation. Irrigation shall be controlled and programmed to apply water at an appropriate rate for infiltration into the soil and plant root zone and to avoid run-off or ponding. An automatic rain sensor shall be installed for each controller to automatically turn off each system when irrigation is not required due to precipitation.

16.70.075 — Required landscaping along Springs Road.

~~For all properties along Springs Road between Modoc Street and Rollingwood Drive the following landscape requirement shall apply. Landscaping is required along Springs Road for a minimum depth of five (5) feet from the property line except for the area required for driveway openings. No structures except approved signs shall be constructed or installed within this area. (Ord. 1385 N.C.(2d) 1 (part), 1997~~

16.70.090 Design standards applicable to required landscaping.

- A. All required landscaping materials are defined as follows:
1. Shrubs, of one-gallon size or larger;
 2. Street trees, of fifteen-gallon size or larger, and double-staked. *In certain prominent public areas, trees larger than fifteen gallon size may be required to create a strong design element;*
 3. Ground cover: and
 4. Decorative nonliving landscaping materials such as sand, stone, gravel, wood or water may be used to satisfy a maximum of ~~thirty~~ *twenty* percent of required landscaping area when approved by the planning division; except as provided in Section 16.70.070F.
 5. *Plants used in landscaping shall be chosen from the Approved List for Street and Median Planting, the Recommended Shrub Plant List, or shall be drought tolerant and suited to the climate of the City.*
- B. Separation. Any landscaped area shall be separated from an adjacent vehicular area by a wall or curb at least six inches higher than the adjacent vehicular area.

- C. Existing Vegetation. Every effort shall be made to incorporate on-site trees and shrubbery into the required landscaping. Significant trees to be removed shall be replaced on a one for one basis with large size boxed trees.
- D. Maintenance. Required landscaping shall be maintained in a neat, clean and healthy condition. This shall include *continuous* pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary and the regular watering of all plantings. *Automatic irrigation systems shall be required for all required landscaping.*
- E. Reduction of standards prescribed in this chapter are as follows:
 - 1. The planning division may reduce these standards by not more than fifty percent when adherence to these standards would be impractical due to:
 - a. Location of existing structure;
 - b. Special site organization requirements;
 - c. Topography; and
 - d. Novel or experimental techniques of design or land development.

If the required number of street trees is reduced, a like number of trees shall be provided to the City to be planted elsewhere.

- 2. The planning division may waive partially or completely these standards in cases where the existing building abuts street property line or is within five feet of the street property line, *or when it would be appropriate for new construction to abut street property lines, such as in a developed commercial area. Landscape planters, window boxes, or other container plantings may be required in these circumstances.* (Ord. 1148 N.C.(2d). 2, 1991; Ord. 558 N.C. (2d). 2 (part), 1980.)

Katherine Donovan: It depends on the exact agreement. It depends on what Public Works has in mind in the future. The applicant may be able to answer that more fully because he has been working with Public Works on this.

Chairperson Legalos: Okay. Would the applicant care to respond to that?

John Howland with ARC, Inc.: We are the architects. Basically what's happening is: All of Virginia Street is going to be improved and the applicant will be partaking his portion of the funds that will improve that property when all the improvements are made down Virginia Street.

Chairperson Legalos: Are there any other questions or comments by the Commission?

Commissioner Manning: I just wanted to make a comment that this is a wonderful restaurant and they have been really good. Business owners in the Downtown are really making a difference, and I see this as the next step for them as a business and also for the Downtown.

Commissioner Turley: I also want to piggyback on that, Gail. I went down there the other day and met with Mr. Ingersol and had a long, informative visit with him. I think he is a wonderful man, probably one of the best business men in Vallejo, probably one of the best restaurateur's in Vallejo, and has a couple more restaurants in mind, so we are going to be seeing him again.

Commissioner Peterman: I move that we approve Use Permit # 07-0009 with the findings and conditions.

AYES: McConnell, Turley, Peterman, Legalos, Manning, Gourley, Harrington-Cole.

NOS: None.

ABSENT: None.

Motion carries.

Staff recommends **approval** based on the findings and conditions.

- 2. Code Text Amendment 06-0004** would revise the City's Screening and Landscaping Regulations to update requirements for fencing and landscaping throughout the City and to clarify certain sections of the existing regulations. Issues reviewed will include fence heights and allowed materials, landscape setbacks, and restrictions within the front yard area of single-family residences. Proposed CEQA Action: Exempt. Staff Planner: Katherine Donovan 648-4327. *Continued from the meeting of August 20, 2007.*

Staff recommends a recommendation of **approval** to City Council based on the findings and conditions.

Katherine Donovan: There is a Memo before you with a couple of corrections that we wanted to make. One is to the title of the resolution. It should have said "Resolution of Intention". It went out as just "Resolution", so I corrected that. We have also revised a couple of sections. The Applicability section if you recall when we met last time about this ordinance, we discussed applicability. I had originally just added it to Section 16.70.010 with the title and purpose. At the advice of the

City Attorney's Office, we have given it its own section, and I expanded just slightly on that. I also caught an error this evening right before the meeting. There is actually two places in the Code where we referred to chain link fences being allowed. One is in the Open Fencing and one is in the Closed Fencing and I didn't make the change in the Closed Fencing section so that second correction is to echo the same language in the Closed Fencing section. As you probably recall, this item was originally requested by Commissioner McConnell and a Resolution of Intention was approved on September 6, 2006. We brought the original Proposed Revisions to the Planning Commission on May 7, 2007, when the Planning Commission voted to set up a Sub-Committee to meet with staff to discuss some of the major issues. After the meeting with the Sub-Committee, we brought this back to the Commission on August 20 and it was continued to address some very specific issues including applicability, the description of the welded wire, the clarification of the location where chain link fencing would be allowed, and an increase in noticing radius for projects that could be approved through an Administrative Permit Process. Regarding the applicability, as noted in the Memo, we have added an entire new section that would deal with applicability. It would apply to new development and when new fencing and landscaping is installed as renovation and repair that is more than either 50 percent of a front or back yard, or 30 percent of the total property, and it would not apply if major renovation or repair to existing fencing and landscaping was not undertaken. Regarding the welded wire, we described what would be allowed as attractive welded wire, either with wood or appropriate framing or of the type that is designed to stand alone. We changed the description of where chain link fencing would be allowed to behind the front plane of the house and on corner lots, not beyond the side plane of the house. The noticing radius was expanded from 200 feet to 500 feet and we added that neighborhood groups within 1000 feet of the property would also receive notices. This is our standard noticing for 500 foot radius noticing. Staff also made one change at the request of the Police Department to prohibit electrified fences and this was because an issue came up where someone had put in a high voltage electrical fence in a residential district and the Police Department felt that it was a hazard, and we agreed, so we added that section. We continue to recommend approval, and if you have any questions, I would be happy to answer.

Commissioner Peterman: First, I would like to thank Commissioner McConnell for bringing up the issue, and I think that, along with many other things, this will certainly be one of your legacies on the Planning Commission. Secondly, I drive through many different neighborhoods in our City including one that is one of our least affluent areas. In that area there were several homes that had a larger percentage than 10 percent of non-living things but they also had shrubs and plants of different kinds and they were very attractive and very well maintained. In that same area there were lots and lots of lawns that were brown and looked bad. I would encourage us to change that percent back to 30 percent.

Chairperson Legalos: Ms. Donovan: I have a question about Section 16.07.010. If there is no ground cover or landscaping at all for an existing building, I am assuming it would be a Code Enforcement responsibility to require that the owner install some kind of landscaping. But, given that in case of an existing building, wouldn't an irrigation system also be required?

Katherine Donovan: Yes, if it is new landscaping then the irrigation system would be required.

Chairperson Legalos: And, if there is no ground cover in case of, for example, an owner who (I am thinking of one specific absentee landlord who sprays defoliant on his property), and he uses it to bare dirt. Now, would they be required to put in

ground cover of some kind, and if so, would they also be required to put in an irrigation system?

Katherine Donovan: Their dirt is non-living material, so they could have (unless we change this), no more than 10 percent of the remaining unpaved 50 percent of the front yard in their dirt. So, basically, a minimum of 40 percent would need to be planted.

Chairperson Legalos: Okay, thank you. On part 16.70.060, Part E: Other than neighborhood associations, what is an "identified neighborhood group"?

Katherine Donovan: We have a list of neighborhood associations that includes . . . some of them are homeowners' associations; some of them are neighborhood associations. Deborah, can you think of others? They all have a geographical component to them and they are a neighborhood group. They registered with the City so they have a list of those people. We have a contact person. If you form your own neighborhood group and don't tell us about it; it doesn't count. It is not an identified neighborhood group.

Chairperson Legalos: So, they are identified and they are somehow registered with the City. And then, I have a question on 16.70.070, Part E, Subpart C: On the coverage for walkways and driveways, now I have seen some houses on Wilson Avenue where they have just poured concrete and completely covered everything. (This was done years ago, I might add) Would this allow someone to cover 50 percent with concrete, for example? And then, 10 percent of the remaining 50 percent gives you a total of 55 percent, and claim it to a walkway? Or is there some agreement as to what is a walkway?

Katherine Donovan: You are allowed to have 50 percent paved and the language includes driveways, walkways, etc. but the way it has been applied previously is that 50 percent of your front yard can be paved. Then, an additional of the remaining 50 percent could be in non-living material, so, as you said, 55 percent could be non-living but 45 percent would have to be living.

Chairperson Legalos: So, it doesn't have to be a walkway, in fact.

Katherine Donovan: No. It could be a patio.

Commissioner Gourley: A couple of quick questions, both of which will probably show my ignorance. Who is the Planning Manager that is referred to?

Katherine Donovan: Currently, it is Don Hazen.

Commissioner Gourley: So, Don would be responsible for making decisions when people come to you with a question. The other one that I had was, in the parking areas and other areas, if the total amount of trees wouldn't fit for some reason, and they waived that requirement, and the requirement is to give the City the like number of trees, does the City have some place to put them or some place to store them, or is it like they owe us a tree?

Don Hazen: This is where we might be looking to offer some flexibility on the parking lot landscaping. It would probably be those cases where they are able to mitigate that by planting them somewhere else on the site. Very rarely would they be supportive of parking lots without meeting the minimum amount of parking lot landscape requirements.

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Commissioner Gourley: The requirement and the statute indicated that if you had waived the total number and they were in like kind, then it supplied another tree to the City.

Don Hazen: That's correct.

Commissioner Gourley: So, do we have a place to put those trees, and if not, do we have some place to store them?

Don Hazen: Well, we would be looking for other places on the site to plant those trees, so if it is not in the parking lot, we would be looking in the setbacks. (I think Katherine wants to respond).

Katherine Donovan: I think that you are referring to page 12, Section C. That happens more often not in a parking lot but, though you have a street frontage and there is a mailbox and there is a bus stop or the sidewalk is not wide enough and you can't put a street tree in there. My feeling is we probably, rather than taking a tree itself, more likely our landscape division of our corp yard would take a deposit into a tree fund. They have a landscape fund that does things like that. You know, the Curtola Parkway Median and things like that, and then it would be used in that manner to apply street trees. It seems to make more sense than to actually make them give us a tree. I think our landscape guys would prefer to pick their own trees.

Chairperson Legalos: If there are no further questions, I will open the Public Hearing, and we have one card: Mr. Thom Morgan.

Thom Morgan: I live here in Vallejo, and it looks like we are getting close on this. I did have a couple of questions on it, and it was in the "View from Solid Fencing", which would be 16.70.030, Section 3. It says "Chain link fencing shall not be allowed on the exterior side of the property line behind the side of the plane of the house." Directly below it says: "Chain link fencing shall not be allowed in residential zoning districts or is visible from a public right-of-way." We brought this up at the last meeting as far as side hills and everything else that is seen over the fence. The other one is the landscaping area and, again, in commercial areas where you are saying that there ought to be 5 feet of landscaping, just this last week, along Tennessee Street, there was a new iron fence put up for a car lot, and it is right behind the sidewalk. No landscaping. How is the City going to control existing businesses that come in and do that? The fence still has to be painted but it just went up last week. Everything else is great other than that visual from the street.

Chairperson Legalos: There being no further speakers, I will close the Public Hearing and bring the matter back into the hands of the Commission.

Commissioner McConnell: If I may refer to Commissioner Peterman's observation about a change he would like to see made. Could you restate that please?

Commissioner Peterman: I would be glad to. One of the things I am thinking of is that as our population ages, it is oftentimes more difficult for people to go out and garden, etc. I would like to see it change back from 10 to 30 percent of non-living things and the living remaining 50 percent.

Commissioner McConnell: Mr. Chairman: I would like to move the adoption of the Resolution of Intention to amend the Zoning Ordinance as set forth in Attachment 3 with the findings and the conclusions therein stated.

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Chairperson Legalos: That does not include Commissioner Peterman's amendment.

Commissioner McConnell: No, it does not.

Commissioner Peterman: I would like to add a friendly amendment that we change the net percentage from 10 to 30.

Chairperson Legalos: Commissioner McConnell: Do you accept the friendly amendment?

Commissioner McConnell: No, but I would accept, say, 20 percent.

Commissioner Peterman: Deal. You drive a hard bargain, Commissioner.

Chairperson Legalos: Thank you. Please vote.

AYES: McConnell, Turley, Peterman, Legalos, Manning, Harrington-Cole.

NOS: Gourley.

ABSENT: None.

6 to 1. Motion carries.

Don Hazen: Mr. Chairman: May I ask just for the benefit of the record so when this goes on to City Council that maybe Commissioner Gourley could help us for the purpose of the Minutes of expressing his thoughts on the "no". Just because I will probably be asked that by council.

Chairperson Legalos: Certainly. Commissioner Gourley?

Commissioner Gourley: I have several problems with it. No. 1: I think it is a little intrusive. No. 2: After just looking around my neighborhood and other neighborhoods since this came up, I have had nightmares about chain link fences for the last two weeks, which I never thought I would have. I find that of the fences in my neighborhood, 75 percent of them are in the front yards in particular, are chain link fences. Some of them look pretty tacky; I will be honest with you. Some of them look pretty good. I think we are sending the wrong message, personally. I have some problems with some of the terminology such as complement and enhance. Very broad terms. What complements my view may not complement yours. "Attractive material." Well, what's attractive to me may not be attractive to you, and vice versa. I have got some serious problems with some of the language, and the terminology describing what is attractive and what is not, and I think it is an intrusive requirement that City is placing on its citizens. I will be honest with you. If you were to poll 100,000 plus citizens in this town as to whether or not they like chain link fences – the way we have described it here, my guess is the vast majority would say "leave us alone." I think we are trying to basically shove something down their throat that most of them don't want. That is just my opinion.

Don Hazen: Thank you for helping to clarify that for the Council.

L. OTHER ITEMS

1. Changing of seat assignments.

The new seating assignments will be as follows:

**STAFF REPORT – PLANNING
CITY OF VALLEJO
PLANNING COMMISSION**

DATE OF MEETING: September 17, 2007

PREPARED BY: Katherine Donovan

PROJECT NUMBER: Code Text Amendment 06-0004

PROJECT DESCRIPTION:

The proposed Code Text Amendment would revise Chapter 16.70 "Screening and Landscaping Regulations" of the Vallejo Municipal Code to update requirements for screening, fencing, and landscaping throughout the City and to clarify certain sections of the existing regulations. Issues reviewed include fence heights and allowed materials, landscape setbacks, parking lot landscape requirements, and restrictions within the front yard area of single-family and multi-family residences.

RECOMMENDATION: Forward a Recommendation of Approval to City Council

CEQA: Exempt per Section 15061(b)(3), Title 14 of the California Code of Regulations.

Applicant: City of Vallejo

BACKGROUND SUMMARY

The Planning Commission approved a Resolution of Intention to revise the Screening and Landscaping Regulations on September 6, 2006. Staff brought proposed revisions to the Planning Commission on May 7, 2007, when the Planning Commission voted to continue the item to allow staff to meet with a subcommittee of the Planning Commission to discuss specific issues brought up at the Planning Commission hearing. Staff met with the subcommittee and brought the revised draft Code Text Amendment back to the Planning Commission on August 20, 2007. At this hearing, the Planning Commission requested that staff make revisions related to five specific issues and return with the revised draft on September 17, 2007. These five issues included: 1) the types of welded wire that would be allowed as fencing; 2) the applicability of the ordinance; 3) changing the wording of where chain link fencing would be allowed from "visible from the public right-of-way" to "visible from public streets"; 4) where chain link fencing would be allowed (this item would replace item 3); and 5) expand the public noticing radius from 200 feet to 500 feet and include neighborhood associations in the noticing requirement. The Planning Commission also requested staff to provide the Commission with a management analysis of code enforcement within the City indicating what departments were involved and the specific areas of enforcement responsibility of each department, which is not a part of the proposed Code Text Amendment.

ANALYSIS

New Revisions. In addition to the previously presented revisions to the Screening and Landscaping Regulations (see Exhibit B of Exhibit C, Staff Report dated August 20, 2007), the following changes, shown in bold, italicized text in Exhibit B, have been made:

In Section 16.70.010, the following statement has been added to address the applicability of the ordinance: "These regulations shall apply to new development or upon the installation of new landscaping and/or fencing due to either major renovation or repair." This statement was added to clarify when the new regulations would apply and to ensure that screening and landscaping that was legally installed prior to the adoption of these revisions would not need to be removed and replaced unless the landscaping and/or fencing was undergoing a major renovation.

In Section 16.70.030(A)(3), the description of welded wire fencing that would be allowed has been expanded. The new wording requires that the welded wire be attractive, with either a wood or other appropriate frame or of a type that is designed to be free-standing. In the same section, the location of chain link fencing has been revised. The new draft language states that "Chain link fencing shall be allowed in residential zoning districts only behind the front plane of the house. For corner lots, chain link fencing shall not be allowed on the exterior side property line beyond the side plane of the house."

In Section 16.70.060(E), the noticing radius has been changed from two hundred to five hundred feet and the requirement that a notice be sent to every identified neighborhood group within one thousand feet of the subject property has been added.

One final revision has been included at the request of the Vallejo Police Department. In Section 16.70.030, Subsection C has been added to prohibit electrified fences within the City.

Conclusion. The proposed revisions to the Screening and Landscaping Regulations have been subject to two public hearings, with revisions as requested by the Planning Commission. This final draft of the proposed revisions would clarify certain sections of the ordinance, update other sections to current standards, and provide new standards for parking lot landscaping that would ensure high quality development within the City.

ENVIRONMENTAL DETERMINATION

The proposed Code Text Amendment was reviewed pursuant to the requirements of the California Environmental Quality Act (CEQA) and was determined to be exempt per Section 15061(b)(3), Title 14 of the California Code of Regulations. This particular text amendment is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The text amendment and any actions resulting from it would not result in significant effects on the environment. Environmental review for individual projects would occur in the project approval process. Any potential impacts associated with a particular project would be addressed at that time.

CONCLUSION/RECOMMENDATION

Staff has determined that the proposed code text amendment is consistent with the City's General Plan and will provide better standards and guidelines for existing and future development in the City. Therefore, staff recommends that the Planning Commission forward a recommendation of approval to City Council of Code Text Amendment 06-0004 based on the following findings.

FINDINGS

1. The proposed amendment is consistent with the City's General Plan.
2. The proposed amendment would increase the quality of screening and landscaping within the City.

ATTACHMENTS

Attachment 1. Resolution

Attachment 2. Proposed Ordinance

Attachment 3. Draft Minutes from August 20, 2007 Planning Commission meeting

Attachment 4. Staff report dated August 20, 2007

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Chairperson Legalos: There is some indication that both of those uses are permitted.

Dina Tasini: I think that will be fine.

Chairperson Legalos: If there are no further questions from the Commission, and I have no cards on this item, I will close the Public Hearing and bring the matter back into the hands of the Commission.

Commissioner McConnell: Thank you Chairman Legalos. I will offer the motion that is in the packet with the conditions and findings as presented by Staff and the additional request is articulated by staff tonight.

Commissioner Turley: I do have one quick question for Ms. Hightower. Have there been any public comments on this?

Michelle Hightower: No, there were not.

Commissioner Turley: Would you accept from the amendment to add as a Condition of Approval, signage indicating that the biking and pedestrian areas are in fact designated for both those activities?

Commissioner McConnell: Signage is fine.

AYES: McConnell, Turley, Manning, Peterman, Legalos, Gourley, Harrington-Cole.

NOS: None.

ABSENT: None.

It is unanimous. Motion carries.

- 2. Code Text Amendment 06-0004** would revise the City's Screening and Landscaping Regulations to update requirements for fencing and landscaping throughout the City and to clarify certain sections of the existing regulations. Issues reviewed will include fence heights and allowed materials, landscape setbacks, and restrictions within the front yard area of single-family residences. Proposed CEQA Action: Exempt. Staff Planner: Katherine Donovan 648-4327.

Staff recommends a recommendation of **approval** to City Council based on the findings and conditions.

Katherine will present this item.

Katherine Donovan: Good evening, Commission and welcome to the two new Commissioners: Commissioner Harrington-Cole and Commissioner Gourley. This item came before you in May. We reviewed a lot of the issues. There was quite a bit of discussion and at the end of that meeting, the item was sent back to be reviewed by Staff with a Sub-Committee of the Commission, and we also got comments from the Commissioners that were reviewed by the Sub-Committee and by Staff. As you can see, we have made a number of additional revisions, and I think the end result is a much tighter, better document, and I would like to thank Commissioner Turley and Commissioner McConnell for meeting with me and going over these issues and discussing a lot of different aspects of how to get the best possible revision that we could. Some of the things that are new this time around, we included wording that would allow fencing materials that were not specifically listed as allowed materials to be approved by the Planning Manager. This was one

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of the items we discussed because, as you know, there are new materials on the market all the time now and, rather than listing each and every allowed material, we felt that this was a good way to address it. It would require some review but we would not need to adjust the Ordinance each time something new came on. We also discussed fence heights, and rather than changing the existing fence height requirements, we added a process through which we could approve up to one foot additional fence height in a relatively quick manner, but we would notify neighbors and there would be a posting requirement so that neighborhood people would see the notice, even if they had not received it and would be able to respond to the Planning Division. We also added a requirement that, for new required landscaping, automatic irrigation systems would be installed. This is actually generally done. It is one of our Standard Requirements. By tightening it up and adding that to the Ordinance, it is now firmly understood that that is a requirement of the City. We also added a requirement that the Lighting Plan and the Tree Shading Plan be coordinated so we wouldn't have the problems that you are aware of at the Home Depot parking lot where once the trees grow and mature, all of the sudden, the lighting is no longer adequate because the tree canopy is below the lighting. I think that this is commonly done in other cities, and I think this is a very good suggestion.

And, finally, we had a requirement that when landscaping, and particularly street trees, had to be reduced because of specific site constraints, that that specific number of street trees would be provided to this City by the Applicant to be planted elsewhere, and I think that's a very good suggestion. As you know, the streets that have street trees are very lovely, and this would be a mechanism where we could increase our street trees in other areas.

At the original meeting and even before the meeting, there are really two main issues of concern that came up. One was relating to the fence site and there was a lot of disagreement as to whether to keep it at the existing height levels or to increase it, and I think we have come up with a very nice compromise which I discussed a little bit earlier, allowing up to one foot additional fence height and having a streamlined process. We did have a process before but it was a fairly lengthy and expensive process. This would be a much quicker, cheaper process but would still allow input from the neighborhood. The other issue was whether or not to prohibit chain link fence, and it just didn't seem that there was a compromise possible. The suggestion that we had originally included in the Ordinance was to allow it only where it would not be visible from a public right-of-way, and since it was an issue that was either a yea or nay issue, there did not seem to be any other way to make a compromise. We left it the way it is with the understanding that the Planning Commission would ultimately vote one way or the other, and actually, ultimately, it will be City Council's decision. But, just because we left it in, don't feel that that is something we are not giving you any leeway on. We understand that this was a very divisive issue.

There were other suggestions that came up that we did not include in the additional revisions we made. A couple of the Commissioners wanted to remove the view protection that we have. Right now there is a condition that for view lots, fencing around the real property line be no higher than four feet; however, if you can see through it, you can make it up to five feet. In the 6 ½ years that I have worked here in this City, that has become a contentious issue only once, and so it seems like it was not something that was extremely controversial and did not cause a lot of problems, and so we kept that in.

There were also a number of different suggestions for revising the proposed parking lot standards. Included in your packet was a matrix of different cities and what their

requirements were, and I think that the standards that had been proposed were pretty much middle of the road. They were certainly not radical compared to other cities, and so, the decision was made to leave them as they are. Again, if the Planning Commission voted to change that, it is certainly up to you. Another suggestion was that we add a definition of ground cover and a list of acceptable ground covers. We did not do that because we felt it was beyond the scope of what we were doing here with this Ordinance revision. We do have a City Street Tree List. We also have a new Shrub List which was developed in consultation with the Beautification Commission, the City Landscape Manager, and some of the Planners, and I felt that it would be more appropriate to develop a list in that group too – that same mechanism, rather than as part of the Ordinance itself. In the Proposed Changes, we have included a reduction of the Allowable Non-Living Materials, and there was a discussion of whether that was appropriate or not because in some areas specifically mentioned in the Southwest areas such as New Mexico, non-living materials are used very beautifully and they are very good for low water use. However, I have not seen that done here in the City very effectively, and it does not seem to be a technique that has made its way here yet, and so, we left the proposed changes to the Ordinance as it is.

And, finally, there was some descriptive language that was suggested in the original Amendment Revisions proposed by Commissioner McConnell, and we went through and some of those descriptive items have been added, and some were not. Specifically, in the very beginning of the Ordinance, there is sort of a Preamble that is a description of the intent of the Ordinance, and Commissioner McConnell had two specific suggestions. The first suggestion, we determined that it was really already covered by a more general description, and since this is a very general description in that first portion, we felt that that existing description was more appropriate. The second descriptive passage that Commissioner McConnell wanted to include in the Preamble piece related to whom the Ordinance was geared and who it should apply to. The entire Municipal Code applies to private development, and under some circumstances, it does not apply to public projects, and adding into this specific section of the Code that it would apply where it could apply, seemed to be at one time, both redundant, and also somewhat to imply that the rest of the Code may not apply in that manner, and so for that reason; we declined to add that. With that, if you have any questions, I would be glad to answer any questions from the Commission.

Commissioner Gourley: I had a couple of questions regarding parking structure versus parking lots. We are hopefully, sometime soon, have a parking structure in town. Will we have trees in it?

Katherine Donovan: The standard here applies specifically to parking lots, however; I can see at some point in time where we might actually have underground parking structures that had nothing above or that had a lot above, and if it was simply a flat lot; I think it would apply. Otherwise, even if it was a structure that had parking at the top that was not covered, it is a different situation, and I don't think it would apply because the circumstances would be different. You wouldn't have soil below. It would be above the ground level. It would not be having the same impact. I think a parking structure would be reviewed more like a building site is reviewed.

Don Hazen: Commissioner Gourley: I might also add that most of the Master Plans in the City where parking structures are envisioned such as the Downtown, Waterfront, and Mare Island have their own Design Guidelines that do address parking structures, and in that respect we would be looking to vegetation to help soften the visual impact of those. Whether they are actually planted every so many

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spaces is probably a fair statement. I would agree with Katherine, but we will not preclude landscaping with parking structures.

Commissioner Gourley: How would that work? For so many parking places or, I guess, square footage, you need another tree? Or, is that not applicable?

Don Hazen: As Katherine mentioned, and I agree, we would not treat them the same as we would a surface parking lot, but we would still be looking for landscaping to help augment the architecture and the visual appearance of that.

Commissioner Gourley: Okay. Now, one of the other questions I have is: This, I assume, when we make these changes, it affects new construction. It also indicates somewhere in there, when ownership is changed. Or they sell their home.

Katherine Donovan: No. That was a suggestion that was made but it is not the way that the Ordinance would be applied. Normally, when someone comes forward with a Project that requires some sort of a planning approval, at that time we review the Project with the current Ordinance to see that it complies with all of the requirements of the current Ordinance. So, if you live in your home or if you have a business and you are not doing anything, then nothing changes. It is only when you come forward and you are doing something new that these would be applied.

Commissioner Gourley: What about business changes, and you sell your residence. Does the new owner have to comply?

Katherine Donovan: No. Only if there is new development. If you bought a home or had your existing home and you did a major addition, it might apply at that time. We might require site development at that time if the addition was of a magnitude that required that site development. If you had an existing commercial building and new business moved in, and as part of their business, they needed a Major Use Permit, or they needed to do a major remodel that would require site development or some other planning approval; at that time we would review and apply these standards.

Commissioner Peterman: Thank you Katherine for all the work that you have done on this. I notice that you have a required irrigation system but we have had projects before where the people were going to plant drought resistant plants and water them until they took hold. Will there be some kind of provision for that in this Ordinance? Where it is very difficult to get water – for example?

Katherine Donovan: I think we could use that in that last Reduced Landscape Requirement section, however, my experience has been, unless you time things very well and you are very vigilant, even the most drought tolerant landscaping requires fairly regular watering until it has been established. We would certainly work with Applicants to do our best, but I have had very few Applications come through that I felt were drought tolerant enough that I felt they did not require an irrigation system.

Commissioner Peterman: Okay. Then, I was one of the people who thought that six feet was high enough, and ivy use is a great compromise, and I like the fact that you are going to noticing the neighbors because I would hate for it to become such a streamline process that anybody could go just slap an extra foot onto their fence and call it good, so I appreciate that that is going to be done. Then, we have had this discussion before about the nonliving materials. I think Commissioner Salvadori said it best at our May 7 meeting when he said that there is a heck of a lot of brown grass throughout the City. I have seen in our City a lot of places that used some of the materials and the effect, so I would hate to eliminate that as a

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possibility, especially with water becoming an issue, and global warming and changing climates. We have had droughts. We could easily have them again. I would hate for us not to be able to use all of those kinds of resources to beautify our City as well as saving water. My other question is when you talk about that kind of fencing and you mention molded wire. I envision that it would be kind of stapled on to some wood framing, but is that pretty much the way it is usually done?

Katherine Donovan: You know, I was thinking of this the other day, trying to remember when I had last seen anyone use welded wire as fencing, and frankly, I can't remember ever having seen it in the recent past. I have a picture in my mind of exactly what you are talking about. There is like a wood frame with welded wire, but I can't remember having seen it. Does anyone on the Commission remember having seen such a thing?

Commissioner Peterman: That's why that vision came to mind. My concern would be that if that wasn't in place, then I am sure you would require people to do something like that. They could become the chain link of the new millennium, you know, plunked around, sort of unrolled and stuck into the ground so that's my fear, and I am sure that is something you would address with each Applicant.

Commissioner Gourley: One of the questions I was going to ask had to do with the fencing issue, and I think that is where I got the idea that these were going to be not grandfathered, because it does state in one of the sections, any chain link fence not otherwise authorized by this order shall be removed or replaced by an approved type upon transfer of title.

Katherine Donovan: I think that you are reading the suggested ordinance by Commissioner McConnell. That's not the ordinance we are reviewing tonight. If you will look in your packet, just after the Staff report, Exhibit B, this is what we are proposing.

Commissioner Gourley: Okay, that's great. I am glad you brought up the welded wire because that was another question. I don't even know what it is.

Katherine Donovan: It comes in rolls. There are various types. Some of it comes with vinyl coating. I am trying to think of where . . . Commissioner Peterman, you said you had seen some. Where have you seen it?

Commissioner Peterman: They use it in concrete.

Commissioner Gourley: It is kind of the rectangular type?

Katherine Donovan: Yes, sometimes you see it in concrete. I use it myself around the vegetable garden to keep rabbits out.

Commissioner Gourley: From what I have read, and if I have gotten the correct section, that is acceptable, and the chain link is not.

Katherine Donovan: The welded wire is part of the Code, and frankly it didn't occur to anyone to change that. It is so rarely used that I don't think it is really a problem. We certainly could strike that from the Code if the Commission felt it would be appropriate. But, the chain link was actually something we had discussed at Staff level, and it was included in Commissioner McConnell's suggested Ordinance, and various people have actually brought it up to me, and that is why we included that one.

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Commissioner Manning: We are all getting educated tonight on the different types of metal fencing. So, and probably Commissioner McConnell knows this. I know that in some older communities (I am thinking of Grass Valley and Nevada City), there is a lot of that old, what I thought was welded wire, and it is just kind of got a welded top to it, and it is actually quite lovely. That's what I thought they were referring to. It is lovely and sort of vintage.

Katherine Donovan: I don't know where you would get that anymore but I know exactly what you are talking about. I think all of those things are welded wire. I think welded wire is sort of like saying "a wooden fence." It is a large field.

Commissioner Manning: Okay, thanks.

Commissioner Turley: In regard to welded wire, they sometimes put that in concrete rather than low bars and I have some in the back of my house. When I bought my house I have a view of the Carquinez Straits, so they allowed a four foot fence, and then, because I have a pool, then they required me to have a five foot fence, and so, I forget the Director's name that was here 20 years ago. He told me "Okay, why don't you just box in with 2x4's on top of the four foot fence" (every 8 feet – a big box), and then put the welded wire on and I think it has rectangle openings of about two inches by about four inches, and that is where it was used at my house.

Katherine Donovan: Now that you mention it, I believe I have seen it used in the Bridgeport subdivision and in the Northgate subdivision under those exact circumstances to keep a view fence.

Commissioner Peterman: I have also seen it used where people have planted things along a trail up the fence which is effective and a quite nice application of it.

Chairperson Legalos: I have never seen it used and don't know what it is and what it looks like, and I am wondering if there is a concern here that it would be an attractive and cheap way around the prohibition on chain link fencing. In most cases, it is attractive, or it tends not to be attractive?

Katherine Donovan: It tends to be very invisible. It is probably the least visibly obtrusive type of fencing you can find, and I think that is why it is used in these View Ordinances. Unlike chain link, it is not sturdy enough to stand on its own. You really need a good framework to support it, and so I think it is not going to be as cheap. I may be wrong about that. I tried to research prices, and it was not easy.

Chairperson Legalos: I am more concerned with it being ugly. We have an artist rendering here that comes from Commissioner Peterman, which reassures me a bit.

Don Hazen: Mr. Chair, you might find it useful to qualify if you are leaning in that direction to permit welded wire, that you kind of specify welded wire required with framing of wooden material or a decorative welded wire so that it leaves a little bit open for interpretation, but you could set those sort of quality standards in with that.

Chairperson Legalos: We have done that to some extent with chain link in the past. We required that chain link be painted or coated, which I am not arguing in favor of chain link, but simply in favor of being able to establish some requirements to improve the appearance of welded wire if we want to allow that.

Commissioner Turley: I would like to know how Mr. McConnell feels about that welded wire.

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Commissioner McConnell: When Commissioner Manning described the fences in Nevada City, Grass Valley, I envisioned what are really cast iron fences that you see in turn-of-the-century homes that are really quite elaborate and specially made. Of course, when Commissioner Turley talks about the grid pattern around his swimming pool, that's quite a different type of fencing. I think I do appreciate and would embrace the suggestion of our Planning Director Mr. Hazen that we adopt maybe a modification of requiring enhanced visual appearances of welded wiring. I think that is an excellent suggestion and I would like to incorporate that into our resolution.

Chairperson Legalos: Ms. Donovan: I have a couple of questions. Would this prohibit replacing an existing chain link fence?

Katherine Donovan: I think that if normally we have a nonconforming use, that nonconforming use can continue to exist indefinitely unless it has been "abandoned for one year or more", so I think the way that we would apply this, and Claudia, I think, can confirm this, is that, if a chain link fence were taken down and one was not there for a year, and then you wanted to replace it – you could not. Otherwise, if you had an existing chain link fence and you were just replacing the chain or redoing it, I think it would be allowed because it would be an existing nonconforming use.

Chairperson Legalos: Ms. Quintana, can you comment on that?

Claudia Quintana: Yes, my understanding was that the existing Ordinance was applied to new development. I actually whispered a question to Don Hazen a few minutes ago about the applicability of this Ordinance, and it seems to be that the Commission can determine the applicability and we can just articulate what that is and put it in here. We can put in a section about applicability. If you would like it to apply to redevelopment you can say that and we will stick it on there, or if you would like there to be nonconforming uses, you can put that there, or whatever you want.

Don Hazen: And, I would also supplement what Katherine said about nonconforming. It is more than just an abandonment, but there is also a provision that if more than 50 percent of the value of that fence is destroyed, you know, say a car crashes through the chain link fence and wipes out more than 50 percent of that fence, then you lose nonconforming rights as well. So, it is a two-fold test.

Chairperson Legalos: Would that also apply in a less dramatic case, the cost of replacing the fence or repairing the fence for just simple deterioration which is equivalent to at least 50 percent of the cost of the fence.

Don Hazen: Generally, on nonconforming uses, you are allowed to maintain them in the normal course of maintenance to protect your investment, but if you decide to start replacing it piece by piece, and you take out more than 50 percent of that fencing, you lose the nonconforming status for the whole entire piece. You can certainly repaint and re-nail this welded wire if it comes lose. That sort of thing is allowed under the nonconforming statutes.

Commissioner Harrington-Cole: Is that 50 percent, say, in a year, or 50 percent all at once, or . . . ?

Don Hazen: The value. So, you would make an assumption on what that structure is worth. So, if you have a 50 foot long stretch of chain link fencing and Staff . . .

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there is two ways you can go about it. If fancy elements of it contributed to the value of it and more than 50 percent of the value of that structure is removed, then you have to take out the entire thing. So, it is easy to say with a fence – 50 percent of the 50 foot would be 25 feet, and that wipes out half of the value of the fence. We use that more so in buildings and signs, for example. The wind blows down part of a sign and the sign doesn't meet our current codes but they have protected at least more than 50 percent of the value of that structure, then they are allowed to rebuild it. The same would transfer to fences as well.

Commissioner Harrington-Cole: So, if I have a fence and it is falling over and I have a guy come out and replace 10 percent of it, and then I wait two months and I have him come out and do the next 10 percent.

Don Hazen: Yes, you have discovered one of the oldest secrets in the world. That would be legitimate replacement: ten percent at a time. Some cities actually go a little further and say "within any calendar year", and things like that, but we don't do that.

Claudia Quintana. I don't know whether it is really feasible to put 10 percent in the Ordinance because it gets a little hard to calculate, but my thought, if you are interested, and I am thinking perhaps some of the Commissioners are interested in this line. It is that if we could say it is the intent of these regulations to apply to new development or upon the installation of new landscaping and fencing due to either renovation and repair, and if you like, we can put that in and I think that will assure people that they don't have to rush out and repair or actually replace everything right away.

Commissioner Manning: Katherine, just a further clarification about the chain link fences and residential. When we say public right-of-way, does that include alleys?

Katherine Donovan: Alleys are public right-of-way, although that is not my intent. We might want to change the wording from "public right-of-way" to "public street".

Commissioner Manning: That would be good. I am just thinking about all of the old neighborhoods where they really need more protection for the alleys.

Commissioner Gourley: For example, a person buys a new home – an existing home. The front yard has no fence. He wants to fence it in because of his kids, or his dog, or the neighbor's dog. He puts in a chain link fence. If this were to pass as is, he would be in violation. Is there anything currently that deals with enforcement?

Katherine Donovan: We have a Code Enforcement Division, and it is their job to enforce certain portions of the Municipal Code, including at this time, the Zoning Ordinance, and so that is our enforcement mechanism. If you are in violation of some portion of the Zoning Ordinance, it is the Code Enforcement Division's job to go after you.

Commissioner Gourley: More specifically, what is the likelihood, without a complaint from a neighbor, that that would happen?

Katherine Donovan: I think the vast majority of our Code Enforcement is done by complaint, and, on something like this, where they don't require a building permit unless they are over six feet, and in residential areas you are not allowed to have a fence over six feet. So, it has been consistently a problem, but I think that having the Ordinance that we want is important, and dealing what the enforcement as we can, is what we will do. It is particularly difficult. If we don't have the Ordinance that

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we want; we can't enforce it. So, although we may have some problems with the enforcement, it is better to have the good Ordinance to begin with.

Chairperson Legalos: Ms. Donovan: In connection with that line of questioning, would the fencing companies be notified of these changes?

Katherine Donovan: It is not standard that we notify any particular general body when we do changes, but I think that there is probably a fairly limited number of fencing companies, and I don't think it would be a hardship for the Planning Division once the Ordinance is completed and approved, to send out the revised Ordinance to the fencing companies, certainly in the City, and probably, I would suggest, in the neighboring cities also.

Chairperson Legalos: I think that would be a good idea given the fact that our Code Enforcement Department is stretched pretty thin at this time. Also, the question on the Application of this to other places like public utilities, PG&E - I had a question from a resident about PG&E switching station out in Glen Cove where PG&E wants to put six foot chain link fencing around that is fully visible from the street. The switching station is at the end of a cul-de-sac and directly across from this individual's house. Would this apply in those situations?

Katherine Donovan: I am going to have to defer to Don on this one.

Don Hazen: Yes, they do have to come before the City Public Works Department for an Encroachment Permit because those utilities are generally in public right-of-ways or public utility easements, and those are routed to the Planning Department, and if this was adopted as is, we would definitely tell them to change over to something that is permitted by the City, so, yes, we have jurisdiction over that.

Chairperson Legalos. My next question is about ground cover. I know have this as acceptable street trees and acceptable shrubs. Where would we create a list of acceptable ground cover, and how would we go about doing that? One of my main concerns here is that if we require ground cover, the easiest thing for anybody to do is to put in ivy, which is so invasive that you cannot keep it out of adjacent properties, so how and where could we specify acceptable, or maybe unacceptable ground covers, would be easier.

Katherine Donovan: My suggestion would be that a liaison from the Planning Commission go before the Beautification Commission and ask them if they would be willing to work with the Planning Commission if you are interested. The Landscape Maintenance Manager and some of the Planning Division could come up with a list of acceptable and unacceptable landscaping. When I was working on this Ordinance, I came across some very interesting sites that had really good plant lists of drought tolerant plants or plants that were good in the Bay Area, or other things. Normally we use the Sunset Western Garden Book as our "bible", but these sites had some really good alternatives. East Bay MUD also has a really, really good book out called "Water Wise Gardening" that has got incredible plant lists.

Chairperson Legalos: I think that is a great suggestion. We might just have the right person here to do that.

Don Hazen: I would be glad to. I also wanted to say that I think that one of the good things about those lists that come out of the Beautification Commission, is that they very carefully look at the kinds of plants and make sure that they are the kinds of plants that would grow well in Vallejo and I think that is very vital.

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Chairperson Legalos: My last question: Can you describe in a little more detail, the permitting process that would allow more neighborhood involvement in minor approvals. How do you get the neighborhood involvement and what is the nature of it?

Katherine Donovan: Okay. The generic process is – let me find the exact section. It is described on page 4 of this Ordinance under “E – Courtyard.” And, in general, we started with the process that we use in the Residential View District where we notify the neighbors within a 200 foot radius of any project that is going to change the footprint of the existing building, and that was the basis for this Ordinance. One of the newer revisions was that it also be posted in three visible locations, and I believe we increased (let me just check here), this is also within a 200 foot radius. There was some discussion of increasing that to a 500 foot radius, and at this point and time I can't quite remember why we didn't. Do you remember, Commissioner McConnell?

Commissioner McConnell: I think we were just concentrating on many other items, but I think 500 is desirable.

Katherine Donovan: Okay, so that might be something to include in the resolution . . . to change that number to 500 feet. The difference from this and the Residential View District is the posting requirement. There is no posting requirement in the Residential View District. In the Residential View District, when we send out these notices, on the vast majority of them, we get no comment on. When we do get comment, then it goes before the Planning Commission for site development. I read the majority of these three months ago and I don't remember all of the ins and outs. We did not require the fencing to go before the Planning Commission for two reasons. One: Because we didn't feel that in most cases it would rise to that level of controversy, and the price of an Application going to the Planning Commission is significantly higher than the price of an Application at a Staff level.

Chairperson Legalos: If there are no further questions. Commissioner Harrington-Cole.

Commissioner Harrington-Cole: I just have one. Occasionally or often when you send out a notice, you also notify the neighborhood associations?

Katherine Donovan: We always do. Yes.

Commissioner Harrington-Cole: That is not included in here, but is that a given?

Katherine Donovan: You know, it is a given, but I think it should be included.

Chairperson Legalos: There being no further questions, I will now open the Public Hearing. We have one card. The speaker is Mr. Thom Morgan.

Thomas Morgan: If I can take two minutes, I can educate you on welded wire. I am a fencing contractor. Welded wire is a thinner steel than chain link. And, yes it is welded in a grid pattern. There are multiple patterns, and it is predominantly used with a wooden frame, particularly in view lots. Like you said, up in the Northgate area where three or four feet of it is the mesh or the welded wire to where you can see through it, but it is a lighter gauge wire than the chain link, and that is the major difference. But it doesn't last as long because it is just spot welded. If people do grow ivy over it, it will pull it down.

What I came to here tonight about is the landscaping. The requirements on this look like it is predominantly directed towards residential. We can drive up and down Solano, Sonoma Boulevard. There are businesses that have weeds growing. We can go along public roads where there are weeds growing. There is no enforcement on it now. How could we make the requirements stricter and expect them to be enforced. There is nothing there occurring now where on the public streets and the public medians there are two foot, three foot high weeds. It is not getting taken care of by the City personnel, let alone, requiring the City to go after the public. The other comment I had was, on the chain link fence, it is visible from the street right-of-way. If I have got a dog and I want to enclose it, I am going to use a chain link material because it is sturdier than wood. You can see if it is a large dog, it is going to knock down a wood fence. If you are on a sloped street, and the street is coming down the hill, somebody can look over a front yard six foot high fence and see into a back yard a six foot high fence. That fence now is not going to be acceptable but yet if you walk right up to the fence and stand right in front of it, there is no way that you can see it because of the slope of the hill. I don't think going into the back yards is what the City needs to be doing. That's getting a little too close to inspecting everybody. The front yard – that's great. You, know, it isn't the best looking fence in the world. There are other options out there, and you have made some of the changes to it. There are still a few more, but you have allowed that with the wording that says "others are acceptable", but you know, the view to the backyard. . . You start off no fences, then you had the chain link fences, and your neighbors would talk through the fence. Now we have got permanent privacy by wood fencing to where you don't know your neighbors. Years ago, you could go to a lot of the older neighborhoods. That's all they had. You could sit in your backyard and have a barbeque, and look over and see your neighbors. So, it actually does allow a little bit of neighborhood togetherness because you can see everybody and you can make sure nobody else is checking out everybody else's houses or breaking in because you can see through them. But, that was my biggest concern on this which was the requirement of the back yard being visible from the street and just a great idea. The Planning Commission or the City Council just needed to come up with a way to enforce it.

Chairperson Legalos: Excuse me. I have a question. On the welded wire, in your estimation, how long would a welded wire fence remain in good condition in our climate?

Thom Morgan: In our climate? One is going to be the construction because the wood will be the first part to fail, and the wood these days is not as good as it was ten – fifteen years ago. You could be looking at having to do repairs and replacement within five to ten years, and if you are growing something on there, sooner.

Commissioner Turley: To you, just for the record, my welded wire fencing is 20 years old, and it is just as good today as it was when it was put up.

Chairperson Legalos: I will now close the Public Hearing and bring the matter back into the hands of the Commission.

Commissioner Manning: I thought the speaker brought up a good point about the chain link fence and since Commissioner Engelman is no longer with us, I feel that I have to bring it up for her, but it does promote community between yards, and I don't think our intention was to preclude it from being in the back yard, and we do have a lot of homes that have up slopes and could see a chain link fence from the street. I don't think our intent was to preclude those. This is the same thing that I brought up in the older neighborhoods with alleys. I don't think our intent is to

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preclude chain link fences from the alleys either necessarily. At least, I am not comfortable with that. So, I would like to just reword this or tighten this up a little bit to be clear about what I thought out intent was which was that at the street side, facing in front of the house, there would be no visible chain link along the front property line or the front entrance of the house.

Don Hazen: Commissioner Manning, I think the intent also is on the side yards where it is visible from the street, so not as you start to approach the rear part of a lot where the homes screen the side yard, but in the front 20 foot or so setback, if people were to put chain link on those sides in basically what is the front yard of most lots, that was also the intent of the Staff too, to prohibit that, because it was visible from the street.

Katherine Donovan: I actually have a suggestion so that if we change this so that it doesn't say where it is visible from the public right-of-way, we change it to something like that it can't be in front of the front wall of the house, so that the fence could be . . . and we have this issue of calling it the front setback because we have a required setback and then there is where the setback actually is, and so what I would like to have it say is behind where the house actually sits. So, you could have it, as long as it was not in front of the house.

Chairperson Legalos: So, are you saying, up to the front corner? Is that what you are saying?

Katherine Donovan: To the front wall of the house.

Chairperson Legalos: Up to the front wall of the house.

Katherine Donovan: Or, you could not have it beyond the front wall of the house.

Commissioner Gourley: Until I got this packet and started looking at chain link fences, I never realized how much of an issue it could be. So, this afternoon on the way down here, I took a ride around my block and looked. Had you asked me this morning before I took this ride, and understand, I drive down this street every day more than once, I probably would have said, "I think there are one or two chain link fences in this block and specifically in the front yards of these homes." I would have told you maybe there is one or two in my neighborhood. I went around three blocks. The street I live on is one block long. There is one of each side, and I encountered 40 fences in front yards. I didn't count the number of houses total, so I don't know what percentage of houses have their front yards fenced. Of those 40 fences, 30 of them were chain link. It concerns me greatly for two reasons. Before I say why, first I want to congratulate Commissioner McConnell for all of the work that he has done on this. I think it is great, and I see a lot of progress being made on behalf of the City and the beautification thereof and the encouragement of new people coming in. I have a real problem with the unenforceable regulations that we currently have with no immediate, foreseeable change in the enforcement ability in the near future, and I think it sends the wrong message to the community that we will pass regulations, knowing they are not enforceable. It cheapens the regulation if citizens know they are not enforceable. I think a lot of the landscaping issues are right on, and I am obviously not that concerned about chain link fences but I have a real problem which is completely disallowing them and so I would probably not support the issue with the chain link fences in there. Also, on the way down here, driving by, now I can't get chain line fences out of my mind, I drove by several schools, churches, businesses, and City property, all with chain link fences, and from what I am hearing is that in the future, we would have none of those.

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Katherine Donovan: If I might respond to that: Schools and City property would not apply. Churches are private, so it would apply to churches. Any government owned property would not apply.

Commissioner Gourley: The only thing I can think of is that two friends, a little older than I am, who, at one point in their life, decided to put in a fence in their front yard. One of them for sure put it in because he had replaced a wooden fence every six months or repaired it every six months because he lived next door to a school and it got kicked out or had graffiti on it. He put in a chain link fence. He no longer had problems. The chain link keeps his dogs in the yard and the kids out, which is what his purpose was. Let's face it; he put a fence there for a reason. Not necessarily to talk to his neighbors, either through or over, but to either keep things out or keep things in. The expense to him when he had to maintain a wooden fence or something along that line was more than he could afford, particularly in his later years. I have two friends like that. I may have others but I just happen to know of those two chain link fences. So, I have a real problem just completely disallowing chain link fences.

Commissioner Turley: We talked about prohibiting chain link fences from the front of the house toward the street. If you don't like chain link fences so much, why not prohibit them anywhere where they would be visible from the street?

Commissioner Harrington-Cole: Katherine, if we don't want to see not in the front of the house – I walk dogs regularly and there are houses that have chain link fences that go from the house wall over to the wooden wall. Would you exclude those as well or would you be okay with chain link fences from the back yard house back?

Katherine Donovan: The way it was originally written, the thought was that if you wanted a chain link fence in your backyard, you would have a wooden fence across the side yards that would block the visibility of it. But, I think the speaker had a good comment that, you know, if you live on a hillside site, then you can't have chain link at all because it is visible. I guess the question is: "How much of a hardship is it to people to not allow chain link fence if you are visible at all?" I guess it is where the Commission wants to draw the line, and I, myself, have mixed feelings. I don't like chain link fence but on the other hand, I can see where there are a certain set of circumstances under which a chain link fence really serves the purpose that no other kind of fencing will really serve. So, I have to admit we threw it in the hands of the Commission because it was a very difficult decision. That's your job.

Don Hazen: To further cloud the issue, I might suggest that if you are leaning towards backing off on that restriction on residential properties, that we not forget about industrial/commercial/office, etc., so if you are thinking of maybe having like a two-tier set of regulations that you have would have maybe, I would suggest nonresidential uses shall not have chain link fences when they are visible from the public street and then if the Commission is thinking about the hardship being created for residential properties, and the other thing, there has been quite a bit of mention about the lack of enforceability of this. I would just throw out my thoughts that we should be building these regulations for how we want the future of the City to be, and our current lack of adequate staff to do the enforcing shouldn't be a deterrent to build for the future, and in addition to that, I take the view that most citizens are law-abiding, and the law of averages is on our side in that respect.

Chairperson Legalos: Thank you Mr. Hazen. It seems to me that we may be taking a position that the only available economically feasible solution is chain link and their must be other options that are not prohibitively expensive, and if there are not,

and the chain link is not allowed, I am certain that some innovative individual or company is going to come up with some more options when they see the opportunity here. I can agree with making some changes in perhaps allowing chain link on the side up to the front wall of the building. But, what the concern was is appearance of the City in upgrading the City. We have been working in other areas, trying to do that, and I think it is important to stay focused on that and to support that and to not allow chain link fences. I think changing "what is visible from the public right-of-way" to "not visible from the public street" is fine, but I am not in favor of continuing to allow chain link fencing across the front of properties.

Commissioner McConnell: I have listened to everyone's comments tonight, and I think there have been some excellent suggestions that probably need to be included within the resolution, whether we adopt it tonight or send it back to staff for further writing, and bring it back to us in 30 days. This suggestion to Mr. Hazen about enhanced visual appearances of welded wiring and posts that go with them or the supporting structure I think is something that needs to be addressed and probably included. The suggestion of our City attorney, Ms. Quintana, should be included. The 500 foot notification requirement, I believe, should be included. I would really not like to see us not address the overall intent and concern of this Ordinance simply because we wind up debating and disagreeing upon chain link fences, per se, and most of it seems to be relating to enforceability, if I am hearing the discussion properly. My understanding of the City's position and their policy is that Code Enforcement is splintered amongst three different offices and agencies to begin with, and secondly, they only respond to complaints that are received. I know that I have seen and heard and witnessed other complaints that have been received and been ignored by City staff. I believe that with this resolution we should consider recommending to the City Council, an adoption of a change in policy, and that recommendation should be that the City Code Enforcement be consolidated in one office, and secondly, that it not be complaint driven only. That the enforcement procedures should be able to be initiated by City staff and not only in response to a complaint. I believe that would address some of the concerns of our newest Commissioners and some of the concerns of our citizens about enforceability because, I agree, we shouldn't keep the Ordinance, and in that sense, I don't think we are, but I believe we should free up our City staff to do the job that they are capable of doing, and by having a policy of it being only complaint reactionary, defeats that very purpose. So, I would like us to consider that recommendation as well, and maybe we should continue this for 30 days just to finalize or try to tighten the language so that we can come back and actually see what we are voting on in written form.

Claudia Quintana: I have a procedural suggestion. There have been a lot of possible changes discussed tonight, and it is not clear to me whether we had a majority go a particular way, and I am wondering whether the Commission would be open to voting on those changes one by one, and perhaps from there on Staff could take it and incorporate the changes where a majority has the upper hand and perhaps the ones where they don't.

Chairperson Legalos: Ms. Quintana: Would we need to take a vote on whether to vote on the specific issues? Do we have to vote on whether or not we want to follow your suggestion?

Claudia Quintana: We could if you want to. I think it is a reasonable suggestion. I think if there is any opposition, certainly we should talk about it.

Commissioner Turley: One simple question. How is it there are no public comments on this project?

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Katherine Donovan: I haven't received a single phone call at both of the hearings we had. This evening we had one and I believe at the last hearing, we had only one speaker also. I think Commissioner McConnell had indicated when we had discussions about it that he has friends that he has discussed it with but we didn't get any phone calls. Keep in mind however that an ordinance like this, because it is City wide, we don't send out a notice to individuals. It is only advertised in the paper. So, it is a slightly different notification process and unless people are in the habit of following City agendas or looking in the paper under the legal ads, they may not be aware of what is happening.

Commissioner Peterman: In my discussions with Nimat Shakoor-Grantham, it is my understanding from talking to her that the policy isn't necessarily only to go after complaint driven issues but that they just don't have the staffing to necessarily report the issues, but if they see something out of compliance they can certainly deal with it. Is that correct?

Katherine Donovan: That's correct. In order to be responsive to citizens, they address the complaints that have come in first, and if they are out there and they notice other things in that vicinity, they certainly address them, but at this time we don't have the staff levels to be just going out looking for enforcement.

Commissioner Turley: I move that we accept a suggestion from the City Attorney to vote on these various suggestions.

Commissioner Manning: So, we are voting on whether or not we want to vote on the changes?

Claudia Quiñana

~~Katherine Donovan:~~ Yes, I want to vote on the changes.

Commissioner Gourley: We are voting in total, individually, and they are going to be enumerated individually.

Chairperson Legalos: That's correct. Go ahead. Yes.

AYES: McConnell, Legalos, Peterman, Turley, Harrington-Cole.

NOS: Gourley, Manning

ABSENT: None.

It is unanimous.

Chairperson Legalos: Do we have a motion on voting. . .

Commissioner Peterman: ^{It} would like to add to that welded wire fencing should be framed and appropriately installed, and attractive.

Commissioner Manning: As we talked about before, I don't know if all welded wire needs to be framed, so in principle, I have concern about that one piece of Commissioner Peterman's motion. It can be attractive without a frame. That's a maybe. I need some clarification.

Don Hazen: You know, the trend in most of the newer zoning ordinances throughout the various jurisdictions is to include photos and pictures, and I am just wondering if maybe during this if we eventually do a 30-day continuance, if Staff might be able to come back with some examples of welded wire and then we can

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kind of flush out the final acceptance of that at the next meeting or we can even distribute it with the packet so that you are already sort of primed for the meeting.

Chairperson Legalos: That's an excellent suggestion. What are we voting on?

Don Hazen: Let me try to take a stab at each one of these and go down, and I think regarding the welded wire, we don't need to get so specific as to what type of welded wire, but are you basically directing Staff that you want that to be a part of the Ordinance that we bring back in 30 days? Some type of welded wire to be defined.

Chairperson Peterman: I would just like to include that it would be attractive welded wire so that if Commissioner Manning comes up with a non-framed wonderful wire, I'm open to that.

Commissioner Manning: Yes, I am fine with clarifying welded wire.

Commissioner Gourley: Are we voting on clarifying welded wire?

Don Hazen: I just would offer my assistance to kind of walk us through the various things and to kind of follow up on what Claudia is suggesting is okay. You have all agreed as a group that we can come back in 30 days so now we are just going to take a voice vote on what components the majority of you feel should be included in the next Ordinance draft. The welded wire was the only thing I think that is pretty vague still. Everything else as we go down the list will be cut and dry; I promise you that.

So for now, I think, unless there was somebody that was opposed to welded wire, for now you can just vote to go along with that and then when we come back, you can make the final decision.

Chairperson Legalos: So, we are voting on welded wire? Thank you.

Don Hazen: Right. That would be a component of the next draft Ordinance that we bring to you.

Chairperson Legalos: Right. Please vote.

AYES: Manning, Gourley, McConnell, Legalos, Peterman, Turley, Harrington-Cole.

NOS: None.

ABSENT: None.

Motion carries.

Chairperson Legalos: Mr. Hazen: The next component, please.

Don Hazen: Please jump in if I have missed a few here. But, the applicability of . . . I think that is a critical point that Claudia has suggested, and I think that really deals with the issue of "Who should this Ordinance apply to?", and I will ask Claudia if she could assist me in that discussion on the applicability. We want to vote on applicability now. Is there any policy decision that they should make in having that be a part of our next Ordinance as far as how far reaching this new Ordinance would be?

Claudia Quintana: I think the issue of applicability is a policy issue and you will be determining how far you want to go at this point and if you need to re-read the

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paragraph that I had read before and if you have a different suggestion, you can vote on that as well. What I had written here – I had said that "these Guidelines would apply to new development or upon the installation of new landscaping and/or fencing due to renovation or repair." So, since we are sort of being lax about this, that would be the general framework. Obviously, if we think of a better way to say it, we will say it better and bring it back to you. You would have the ultimate vote on that, but that is the general direction that we are seeking from you, and that is what you are voting on – whether this is the general direction you want to take.

Chairperson Legalos: Okay. Please vote.

AYES: Manning, Gourley, McConnell, Legalos, Peterman, Turley, Harrington-Cole.

NOS: None.

ABSENT: None.

It is unanimous. Motion carried.

Don Hazen: Okay, the next thing I show is changing the language from view from public right-of-way to public streets.

Chairperson Legalos: Okay. May we have a vote?

AYES: McConnell, Legalos, Peterman, Turley, Harrington-Cole.

NOS: Manning, Gourley,

ABSENT: None.

It is 5-to-2. Motion carries.

Don Hazen: I think I am going to jump into a dicey one now. I think the whole provision about the chain link fencing, with a lot of discussion occurring on that – whether it should be allowed in front yards or in the front half of sides and we are just not sure what the majority view of the Commission is on that - a full issue - I should have probably actually done that before I got into the street versus right-of-way thing because I have a feeling that is the only . . . Claudia has got something.

Claudia Quintana: Actually I was just going to suggest again if one of you feel strongly about it, just pose your position and have people vote on whether or not they agree with you. And, then we can take it from there.

Commissioner Turley: I move that cyclone fences be prohibited wherever they are visible from the street.

Commissioner Manning: What do I do, make a counter motion. I am not sure what the protocol is. A substitute amendment?

Claudia Quintana: You can certainly do that or you can vote on it. You can certainly do a substitute motion. You can have a talk about it right now and flush out the issues.

Commissioner Manning: You know, again, I just want to put the argument out there that I understand from the street front that we want to improve the looks of our community, and I will support that, but again, we have a lot of neighborhoods that have the backyards that go up a hill, and so you are going to see the chain link fence and, if we put this Ordinance in, you may not be able to do that. I don't think that is appropriate. I don't think it is fair, and I think it is excessive, and I think we want to do something that is fair. I want to say that we are talking about this now

*Done of house
Exterior site*

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and we are envisioning it but it is going to go down in writing, and all of us will be gone in five years – ten years from now, and people are going to have to live by this. I think there is going to be a lot of regrets about it and a lot of frustration. People putting in dog walks or those kind of things which this is not in particular for, but I think we want to do this in a way that it is a little less onerous to people, and again, I would support what we had suggested which was up to the front wall of the house. I think that is a fair compromise but I really don't support anything beyond that.

Commissioner McConnell: Thank you Mr. Chairman. I would like to maybe clarify something about our language selection here. We are talking in terms that maybe need to be defined more clearly. The front wall of the house, the backyard, the visible from the street idea, and perhaps we need to more specifically address some of our concerns. For instance, "viewable from the street". Mr. Morgan brings up the point that on a drive down or up a hill, you can see them, and I think that phrase may be a little vague. The front of the house - we have side yards as well as interior lots, and the side yard presents a different configuration because you frequently have an L-shaped fence which is on two different streets, and I would not be in favor of having a chain link fence directly on the street, so I think maybe we need to clarify that point as well. Between two backyards, I don't have any problem with chain link fences there because those are communal property lines and it would require an agreement of both neighbors, I believe. Where we could run into trouble is where we did have the one occurrence a year and a half ago where somebody wanted to build a fence and he didn't want to put it on his neighbor's property so he built one six inches or three feet back, so he had two fences with a no-man's land in between, and that is not good either. So, as long as we have a good neighbor chain link fence on back lots; I think that would be agreeable. But, I wouldn't want to see a repeat of two fences on each person's lots where one is maybe a wooden fence and the other one is a chain link fence where there is nothing in between but dead ground and weeds. That doesn't make any sense at all either. So, maybe we need to have Staff more clearly delineate where we would permit chain link fences rather than where we would like to ban them. It might make more sense if we approach it from that idea. So, I would offer the motion that Staff be directed to specify the areas where chain link fence can be permitted as compared to where it will be banned.

Chairperson Legalos: We have a motion on the floor. Is that a substitute motion?

Commissioner McConnell: Yes, it is.

We will vote on the substitute motion first.

AYES: Manning, McConnell, Legalos, Peterman, Turley, Harrington-Cole.

NOS: Gourley.

ABSENT: None.

Motion carries.

Don Hazen. The next thing I have in my notes is dealing with the noticing. I think there was a suggestion of increasing it to 500 feet.

Chairperson Legalos: Excuse me, Mr. Hazen. I need to ask Commissioner Turley to withdraw his motion. We have a substitute motion.

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Don Hazen: I know, but at the same time, there was talk of doing a greater notification, so there was a suggestion that we do a 500 foot radius and also have the text indicate the applicable neighborhood associations as well.

Chairperson Legalos: Thank you. Please vote.

AYES: Manning, McConnell, Legalos, Peterman, Turley, Harrington-Cole.

NOS: Gourley.

ABSENT: None.

It is so ordered.

Don Hazen: And, then the last thing that my notes show, and I feel free to add others that I have missed, but I believe it had to do with more of an organizational recommendation that the Code Enforcement functions be consolidated into one Department and that it not restrict itself to only complaint driven type of enforcement. It would also open it up to proactive type of code enforcement as well.

Chairperson Legalos: Thank you. I would like to ask Commissioner McConnell. I am aware of the Fire Prevention and the Code Enforcement. What is the third organization that deals with those issues?

Commissioner McConnell: People also frequently call the Police Department for code enforcement. This is a recommendation only. We don't have a jurisdiction to adopt it, but my idea is that there should be a central phone number where anybody can look up in the phone book or on a website, you know, Code Enforcement, and regardless of what area it actually falls within, they can reach one person who can direct it to the appropriate internal office.

Don Hazen: I might also add that it is my understanding as well that I believe the Building Division is also interested in adding some building code enforcement inspection services as well. I might suggest because this really is getting into areas I know that Commissions don't typically deal with, but I would suggest that in 30 days when we come back with the revised Ordinance, that maybe we come back with a description of the current enforcement structure and why we believe (and this would be from the City Manager's level on down) the structure is either working or not working and what areas of improvement City Management would also recommend in light of what you are saying and then we could then give you an opportunity to view from the internal management structure why we believe this either is working or is not, and let us handle it this way if you concur.

Chairperson Legalos: I think that would be very helpful, and I am glad that you pointed out that the Building Department does get involved in those issues because I have seen it happen myself with someone putting up an un-permitted retaining wall and having construction done on site without a permit. So, I think it would be very useful to the Commission to have a very clear view of what all of the enforcement mechanisms are in the City.

Commissioner Manning: I just wanted to make a comment about Code Enforcement since we have been talking about it so much tonight. I want to just commend our City's Code Enforcement. Over the last five years it has made tremendous strides in the City and I know we still have a long way to go, but even with the shortage of Staff, I think they have done a phenomenal job. I know having a business in the Downtown starting in 2000, just information about how to reach Code Enforcement and how responsive they are and from when, you know, I have

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constantly had dumped couches and refrigerators in the alley, and that isn't the case anymore. Things have changed dramatically, especially in the alleys in our community, and, I just wanted to put that out there, and there have been great strides made in our community with the Code Enforcement.

Chairperson Legalos: Thank you. Mr. Hazen. Can you restate your suggestion to vote on?

Don Hazen: My suggestion on the issue of the structure of Code Enforcement in the City that we come back to you with a management analysis that describes the current structure and why we believe it is the most effective structure or why we believe it is not, and then, in light of the thoughts that you have, I think you would be able to kind of finalize your recommendations after you hear from City Management and then we could defer you making a formal recommendation until the next meeting.

Chairperson Legalos: Thank you. Please vote.

AYES: Manning, Gourley, McConnell, Legalos, Peterman, Turley, Harrington-Cole.

NOS: None.

ABSENT: None.

Unanimous.

Chairperson Legalos: I would like to thank Mr. Hazen for his willingness to take on this extra work. I think it can be very helpful to the Commission and to the community. Thank you.

Don Hazen: And, now we are back to the agenda as far as do you wish to continue this for 30 days, and I might actually pull my calendar out here and see when that next meeting is. Thank you, Katherine. You would be voting on the continuance to September 17.

Chairperson Legalos: Please vote

AYES: Manning, Gourley, McConnell, Legalos, Peterman, Turley, Harrington-Cole.

NOS: None.

ABSENT: None.

It is unanimous. Motion carries.

L. OTHER ITEMS

None.

**STAFF REPORT – PLANNING
CITY OF VALLEJO
PLANNING COMMISSION**

DATE OF MEETING: August 20, 2007
PREPARED BY: Katherine Donovan
PROJECT NUMBER: Code Text Amendment 06-0004

PROJECT DESCRIPTION:

The proposed Code Text Amendment would revise Chapter 16.70 "Screening and Landscaping Regulations" of the Vallejo Municipal Code to update requirements for screening, fencing, and landscaping throughout the City and to clarify certain sections of the existing regulations. Issues reviewed include fence heights and allowed materials, landscape setbacks, parking lot landscape requirements, and restrictions within the front yard area of single-family and multi-family residences.

RECOMMENDATION: Forward a Recommendation of Approval to City Council

CEQA: Exempt per Section 15061(b)(3), Title 14 of the California Code of Regulations.

Applicant: City of Vallejo

BACKGROUND SUMMARY

At the request of Commissioner McConnell, a Resolution of Intention to revise Chapter 16.70 "Screening and Landscaping Regulations" of the Vallejo Municipal Code was brought before the Planning Commission and approved on September 6, 2006. Commissioner McConnell submitted proposed amendments for staff "review and suggestions" (see Attachment 3 of Exhibit C). Staff prepared a proposed revision of Chapter 16.70, which included many of Commissioner McConnell's suggestions, and presented it to the Planning Commission on May 7, 2007. After lengthy discussion of various proposed revisions and some existing text, the item was continued with the understanding that a subcommittee composed of Commissioners McConnell and Turley would meet with Planning Division staff to discuss the proposed Code Text Amendment. In addition, all the commissioners were asked to submit their comments regarding the proposed revisions to staff.

Staff met with Commissioners McConnell and Turley to discuss the proposed revisions to Chapter 16.70 and to review the suggestions made by the other commissioners. A number of additions were made to the previously proposed revisions; however, there are several issues that staff and the subcommittee were unable to resolve, either because of a fundamental disagreement or because the Commission was divided on a particular issue. In those cases, staff has made the revisions the Planning Division believes will best serve the City with the knowledge that the Planning Commission may vote to make specific changes to the proposed amendment as the Commission sees fit.

ANALYSIS

New Revisions. In addition to the previously presented revisions to the Screening and Landscaping Regulations (see Attachment 1 of Exhibit C, Staff Report dated May 7, 2007), the following changes, shown in bold, italicized text in Exhibit B, have been made:

In Section 16.70.030(3) and (4), "or other material approved by the Planning Manager" has been added to the list of materials allowed for fencing. This language has been added to address the concerns of several commissioners regarding new materials that are coming into usage for fencing. The minimum depth for plant materials as screening was also increased from three feet to four feet. Throughout the chapter, the word "continuously" has been added to requirements for watering and maintenance.

In Section 16.70.060, a process to allow the approval of increased fence heights up to one foot more than would normally be allowed has been added through the approval of an administrative permit with public noticing. The noticing requirement to allow the approval of walled courtyards within the front setback has been revised to include that the notice be posted in 3 visible locations in the vicinity of the property.

In Section 16.70-065, the requirement that fencing be installed on the property line except when adjacent to a public street has been modified to apply only to fencing that is required by this chapter.

In Section 16.70.070 "Required Landscaping", a requirement has been added for each zoning district that an automatic irrigation system be installed. In Section 16.70.070(D), the required boundary landscape width has been increased from ten to fifteen feet. In Section 16.70.070, the same restriction on the percentage of paved surface that is allowed in single-family districts has been applied to multi-family properties.

In the new parking lot standards, Section 16.70.070(H), the location of the boundary landscaping has been clarified. In addition, a requirement has been added that the tree plan and the lighting plan be coordinated to ensure that the mature tree canopy does not obscure the parking lot lighting.

In Section 16.70.090(A)(5) "Design Regulations Applicable to Required Landscaping", a reference to the City's street tree and shrub lists has been added. In Section 16.70.090(E)(1), a requirement has been added that if the required number of street trees is reduced for a project, a like number of trees will be provided for planting elsewhere in the City.

Issues of General Concern. At the previous public hearing on May 7, 2007, there were two issues over which the Commission was divided: fence height and the proposed prohibition on chain link fencing. The subcommittee came up with a compromise on the fence height issue by leaving the heights at their current limits but allowing a streamlined process for approving heights up to one foot over the limit (see Section 16.70.060). Regarding the prohibition on chain link fencing, it appeared that the Planning Commission was split on this issue and that no compromise was possible. The staff recommendation remains to prohibit chain link fencing when visible from the public right-of-way; however, if the majority of the Commission disagrees, this proposed revision to the ordinance would be eliminated.

Suggested Revisions Not Included. In addition to suggestions related to fence heights and chain link fencing, a variety of revisions were proposed by individual commissioners,

some of which were not included in the proposed revisions. Two commissioners suggested that Section 16.70.060(F)(6) (a) and (b), which limit fences or walls along rear property lines that would obscure views to four feet unless open fencing is used be stricken from the ordinance. As this existing section if the code provides view protection to residential property owners and has been the subject of controversy only once in the past six years, staff did not include its removal in the proposed revisions.

Another suggestion was to include a definition of "ground cover" and provide a list of acceptable and unacceptable species. This revision was not included in the proposed ordinance as it is beyond the scope of this code text amendment.

The ordinance currently requires that trees be a minimum 15 gallon size. One commissioner requested that staff look into the feasibility of reducing the required size from 15 gallon to 5 gallon. After consulting with a professional landscape architect and the City's landscape maintenance superintendent, staff has determined that the 15 gallon requirement will ensure that trees have the best chance to survive and thrive.

Several commissioners expressed concerns about the parking lot standards. The concerns related to the burden such standards would place on business owners and developers. In a review of six other local communities (see Attachment 4 of Exhibit C), the proposed standards are actually less stringent than most of the other communities; only one community, Fairfield, allowed fewer trees than is required in the proposed parking lot standards. As these standards would apply only to new development or substantial remodels of existing development, staff does not believe that the proposed parking lot standards are unreasonable.

One other comment related to the decrease in the allowed use of pervious, non-living materials such as sand, stone, gravel, wood, or water, particularly as they might relate to water conservation techniques. At the Planning Commission meeting, this issue was raised using New Mexico and Arizona as examples of areas where such materials were more commonly utilized in landscape design. Although staff concurs that such materials can be well-utilized to provide attractive designs, the technique has not been much used locally. Staff would prefer to revise the ordinance to address conditions that more commonly occur rather than making modifications to allow a technique that isn't utilized locally.

There are several text changes that Commissioner McConnell proposed that, after consulting with the City Attorney's office, staff has not included in the proposed revisions. In Section 16.70.010 "Title and Purpose", Commissioner McConnell proposed to add two statements (see Attachment 3 of Exhibit B, Staff Report dated May 7, 2007). The first statement, "the enhancement of high quality visually appealing screening, fences, walls, and landscaping", has not been included because staff believes that the existing, more generic statement "the improvement of the visual environment" covers the intent of Commissioner McConnell's proposed addition in a more appropriate manner. The second statement, "The provisions and standards established herein shall apply to all private and government projects, sites, and land use unless otherwise prohibited" has not been included because the Municipal Code always applies to all projects unless otherwise prohibited and stating that these standards in particular apply is both redundant and implies that other standards may not apply to all projects.

Finally, a general concern that was voiced several times at the Planning Commission hearing related to the enforcement of the ordinance. While acknowledging that staff levels have not allowed adequate enforcement of existing ordinances, staff believes that

the enforcement of higher standards would be no more onerous than the enforcement of the existing standards. Procedures that would streamline existing processes have been included, which would allow better regulation while permitting more neighborhood involvement in minor approvals.

Conclusion. At the previous public hearing, a number of issues were raised regarding the Screening and Landscaping Regulations. These new revisions to the proposed Code Text Amendment address concerns raised by the Commission and members of the public, providing regulations that would ensure better development of the City.

ENVIRONMENTAL DETERMINATION

The proposed Code Text Amendment was reviewed pursuant to the requirements of the California Environmental Quality Act (CEQA) and was determined to be exempt per Section 15061(b)(3), Title 14 of the California Code of Regulations. This particular text amendment is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The text amendment and any actions resulting from it would not result in significant effects on the environment. Environmental review for individual projects would occur in the project approval process. Any potential impacts associated with a particular project would be addressed at that time.

CONCLUSION/RECOMMENDATION

Staff has determined that the proposed code text amendment is consistent with the City's General Plan and will provide better standards and guidelines for existing and future development in the City. Therefore, staff recommends that the Planning Commission forward a recommendation of approval to City Council of Code Text Amendment 06-0004 based on the following findings.

FINDINGS

1. The proposed amendment is consistent with the City's General Plan.
2. The proposed amendment would increase the quality of screening and landscaping within the City.

ATTACHMENTS

- Exhibit A. Resolution
- Exhibit B. Proposed Ordinance
- Exhibit C. Staff report dated May 7, 2007
- Exhibit D. Minutes from May 7, 2007 Planning Commission meeting



Europe's 3rd Decorative Wire Inc. creates a comfortable setting in which to relax, entertain and enjoy the pleasures of outdoor living. (As seen in the 2003 Sunset Life 1 Home.)

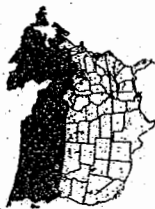
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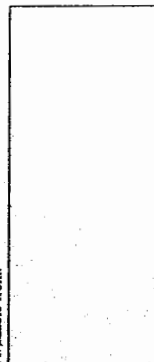
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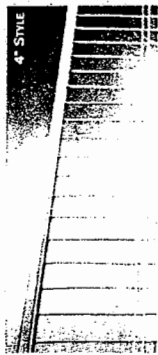


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For the Life You Live

Much more than simply marking the boundary of your property, the right fence should make your home more comfortable and inviting, and make your life more enjoyable. Master Halco's popular Lifestyle Collection offers a wide range of residential fencing systems designed to suit your style and the way you live.



A New Solution

Our EuroScape 300 Decorative Wire provides an ideal blend of our industry-leading chain-link and ornamental iron with sturdy steel and wire mesh construction.



Pool Safety with Style

Our 1 1/2" style is designed to meet BOCA swimming pool code, making it a stylish solution for pool fencing. Check your local pool enclosure code for compliance.

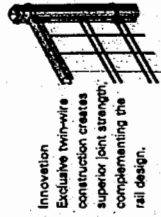
Your home is much more than just the place where you live. It's your private sanctuary, where life is enjoyed and memories are made. Home is a feeling of peace and contentment, a sense of serenity and security. All the pleasures of home are framed by the fencing that embraces your yard, your house, your life.

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Our EuroScape 300 Decorative Wire offers all the advantages of conventional wire fencing but with innovative construction and design quality reminiscent of ornamental iron. The result is an elegant fencing solution for residential and light commercial applications that blends exceptional strength and style.

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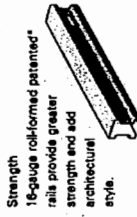
www.FenceOnline.com Connect



Innovation
Exclusive twin-wire construction creates superior joint strength, complementing the rail design.



Maintenance-free
Manufactured from galvanized steel for corrosion protection and polyester powder coated for long-lasting beauty.



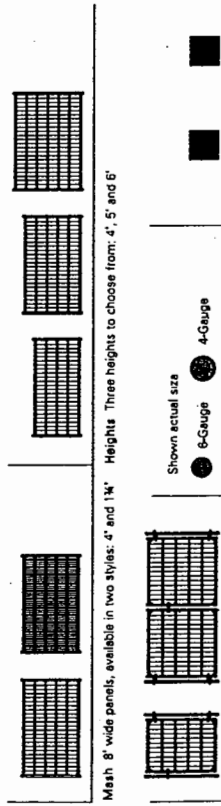
Strength
16-gauge roll-formed patented rails provide greater strength and add architectural style.

*Patent pending



With its unique open mesh design, our EuroScape 300 Decorative Wire creates an attractive and secure perimeter without obstructing views around you. The feeling is protected yet unconfined, embraced by fencing that blends in beautifully with its surroundings.

Choosing the style that perfectly enhances your property is easy with the variety of configurations and options our EuroScape 300 offers. And for long-lasting beauty, it's backed by a



Mesh: 8' wide panels, available in two styles, 4' and 14'. Heights: Three heights to choose from, 4', 5' and 6'.
 Shown actual size
 ● 6-Gauge ● 4-Gauge
 Gates: Available in single and double swing, both mesh sizes and all three heights. Built to last with 6-gauge horizontal wires and 4-gauge vertical wires.
 Colors: Brilliant White, Midnight Black, Camel Tan and Bronze



CITY OF VALLEJO

Agenda Item No. PUBLIC
HEARING B

COUNCIL COMMUNICATION

Date: June 3, 2008

TO: Mayor and Members of the City Council

FROM: Craig Whittom, Assistant City Manager / Community Development (CW)
Bob Adams, Development Services Director
Don Hazen, Planning Manager

SUBJECT: CONSIDERATION OF A RESOLUTION AMENDING THE HIDDENBROOKE SPECIFIC PLAN AND HOLDING ON FIRST READING AN ORDINANCE AMENDING THE HIDDENBROOKE PLANNED DEVELOPMENT MASTER PLAN TO PERMIT TELECOMMUNICATION FACILITIES WITHIN THE HIDDENBROOKE COMMUNITY

BACKGROUND & DISCUSSION

In 1987, the City Council adopted the Hiddenbrooke Specific Plan which established standards and procedures for the development of Hiddenbrooke. As part of the standards, the Specific Plan prohibited above-ground communication structures, i.e. antennas, satellite dishes, etc. in order to achieve the Specific Plan goal of "facilitating subdivision design and zoning implementation that will conserve the city's natural beauty, improve its appearance and enhance its physical character."

In 2007, the Planning Division received inquiries from Verizon Wireless regarding establishing a telecommunication facility in the Hiddenbrooke community. Staff initially informed the carriers that based on the Specific Plan development standards and policies, no additional telecommunication facilities would be allowed in the Hiddenbrooke community (see Attachment 3 "staff report, pg. 2" for related detailed background summary). Upon receiving another inquiry regarding cellular service in Hiddenbrooke from Metro PCS, staff consulted with the City Attorney's Office and determined that enforcement of the Hiddenbrooke Specific Plan's limitations on telecommunication facilities would be a violation of the Federal Telecommunications Act of 1996.

On April 10, 2008, staff hosted a community meeting with the applicant present to discuss: the purpose of the Specific Plan amendment; the antenna design options available; Metro PCS site selection process for an associated Planned Development Unit Plan application, and to receive comments and respond to questions about the project. The General Standards for telecommunication facilities located within Hiddenbrooke, found in Attachment 1, Exhibit 2, were based largely on neighborhood comments and concerns expressed at this community meeting. The amendment includes the requirement that each proposed facility be required to obtain Planned Development, Unit Plan approval, and encourages co-location and/or clustering of facilities.

On April 21, 2008, the Planning Commission unanimously approved a resolution amending the Hiddenbrooke Specific Plan to allow telecommunication facilities within the Hiddenbrooke community, as recommended by staff.

General Plan Consistency

The proposed telecommunication use is clearly compatible with the General Plan land use designation of "low density residential" and is consistent with the Land Use Policy of using the "Hiddenbrooke and Northgate Specific Area Plans to evaluate projects proposed within these areas."

ENVIRONMENTAL REVIEW

The Specific Plan Amendment is exempt per Section 15061(b)(3) of the California Environmental Quality Act (CEQA) because the amendment is not a project that has the potential for causing a significant effect on the environment.

FISCAL IMPACT

Telecommunication facilities on private property have no fiscal impact to the City. Telecommunication facilities located on City owned property are required to enter into long term lease agreements, with monthly revenues typically ranging from \$1,000 to \$2,800 per month, depending on site configuration.

RECOMMENDATION

Adopt the resolution amending the Hiddenbrooke Specific Plan and holding on first reading an ordinance amending the Hiddenbrooke Planned Development Master Plan based on the resolution findings with reference to the staff report attached, including Exhibit 2, the proposed text.

ATTACHMENTS

1. Specific Plan Resolution(Exhibit 1- Ordinance, Exhibit 2- Amendment)
2. April 21, 2008 Planning Commission minutes and staff report
3. Conflict of Interest Map

PREPARED BY/CONTACT

Marcus Adams, Associate Planner/Don Hazen, Planning Manager, 707-648-4328;
dhazen@ci.vallejo.ca.us

RESOLUTION NO. ____ N.C.

**A RESOLUTION AMENDING THE HIDDENBROOKE SPECIFIC PLAN
TO PERMIT TELECOMMUNICATION FACILITIES WITHIN THE
HIDDENBROOKE COMMUNITY**

WHEREAS, Section 65450 et seq. of the California Government Code provides for preparation and adoption of Specific Plans for the systematic implementation of the General Plan; and

WHEREAS, the Hiddenbrooke Specific Plan was prepared to guide the development and allowed uses within the Hiddenbrooke community; and

WHEREAS, the Specific Plan also serves as the Master Plan for the Hiddenbrooke Planned Development; and

WHEREAS, the Specific Plan was adopted in September 1987; and

WHEREAS an application was submitted by NSA Wireless (care of Metro PCS) on February 11, 2008, to amend the Hiddenbrooke Specific Plan for the purpose of allowing above-ground telecommunication facilities;

WHEREAS upon review of the application received by NSA Wireless, the Planning Division determined that an amendment of the Hiddenbrooke Specific Plan would be necessary;

WHEREAS, the proposed amendment to the Specific Plan is referenced as Specific Plan Amendment 08-0001 (SP #87-02J); and

WHEREAS, Section 3 of the Specific Plan shall be as amended by Specific Plan Amendment 08-0001 (SP #87-02J); and

WHEREAS, when compared to Section 3 of the Specific Plan, the Specific Plan, as amended by Specific Plan Amendment 08-0001 (SP #87-02J) includes changes to the policies regarding future telecommunication facilities in Hiddenbrooke; and

WHEREAS, the City has complied with the requirements of the Local Planning Law (Government Code section 65300 et seq.), the current State of California General Plan Guidelines, and the City's applicable ordinances and resolutions with respect to approval of the amendment to the Specific Plan, as amended by Specific Plan Amendment 08-0001 (SP #87-02J); and

WHEREAS, pursuant to Government Code Section 65090, notice of the City Council's hearing was published in at least one newspaper of general circulation within the City of Vallejo at least 21-calendar days before the Commission's public hearing; and

WHEREAS the City of Vallejo Planning Commission conducted a duly noticed public hearing to consider the proposed Specific Plan Amendment on April 21, 2008, at which testimony and evidence, both written and oral, were presented to and considered by the Planning Commission;

WHEREAS, on April 21, 2008, the City of Vallejo Planning Commission unanimously adopted a resolution amending the Hiddenbrooke Specific Plan to allow telecommunication facilities within the Hiddenbrooke community, and recommended that City Council approve said resolution; and

WHEREAS, pursuant to Vallejo Municipal Code section 17.04.040, a public hearing noticed was published one in a newspaper of general circulation in the City of Vallejo at least ten days prior to the date scheduled for the hearing; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby Makes the following findings:

1. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

The Specific Plan Amendment is exempt per Section 15061(b)(3) of the California Environmental Quality Act (CEQA) because the amendment is not a project that has the potential for causing a significant effect on the environment.

2. SPECIFIC PLAN AMENDMENT FINDINGS

Section 1. The City Council of the City of Vallejo finds, based on the facts contained in the staff report incorporated herein by this reference, and given the evidence presented at the public hearing, and on the record, that as amended, the Hiddenbrooke Specific Plan

a) Is consistent with the goals and policies of the Vallejo General Plan.

b) Is consistent with the Provisions of Chapter 16 of the Vallejo Municipal Code.

Section 2. The City Council further finds that the Hiddenbrooke Specific Plan is also the Master Plan for the Planned Development District ,

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF VALLEJO HEREBY RESOLVES TO:

(1) ADOPT the Hiddenbrooke Specific Plan, as amended by Specific Plan Amendment 08-0001 (SP #87-02J), the Text of which is attached to this resolution as Exhibit 2.

(2) ADOPT an Ordinance (Exhibit 1) incorporating said amendments to the Hiddenbrook Specific Plan/Planned Development Specific Plan Amendment 08-0001 (SP #87-02J) Master Plan to ensure consistency.

K:\PUBLIC\A\PL\hiddenbrooke\SPA(telecom)\CC resolution.doc

ORDINANCE NO. ____ N.C. (2d)

**AN ORDINANCE OF THE CITY OF VALLEJO AMENDING SECTION 3
(COMMUNITY SERVICES) AND SECTION 4 (GENERAL STANDARDS) OF THE
HIDDENBROOKE SPECIFIC PLAN**

THE COUNCIL OF THE CITY OF VALLEJO DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings and Determination.

The City Council hereby finds and determines as follows:

1. The Hiddenbrooke Specific Plan is also the Planned Development Master Plan for Hiddenbrooke.
2. Planned Development Master Plans may be amended pursuant to 16.116.140 of the Vallejo Municipal Code,
3. The City Council adopted the Specific Plan Amendment 08-0001 (SP #87-02J) in a resolution concurrent with this action.
4. The City Council hereby finds that the Hiddenbrooke Specific Plan/ Planned Development Master as amended by Specific Plan Amendment 08-0001 (SP #87-02J), meets the requirements of Vallejo Municipal Code 16.116.060 in that:
 - a) The amended Hiddenbrooke Specific Plan / Planned Development Master Plan is consistent with the goals and policies of the Vallejo general plan and
 - b) The amended Hiddenbrooke Specific Plan/ Planned Development Master Plan is consistent with the stated purpose of the Planned Development, District.
 - c) The amended Hiddenbrooke Specific Plan / Planned Development Master Plan is in conformity with public convenience, the general welfare and good land use practice as discussed in the Planning Commission staff report relative to the Specific Plan Amendment.
 - d) The amended Hiddenbrooke Specific Plan / Planned Development Master Plan will not be detrimental to the health, safety and general welfare.
 - e) The amended Hiddenbrooke Specific Plan / Planned Development Master Plan will not adversely affect the orderly development or the preservation of property values

SECTION 2. Approval of (Amended) Master Plan.

The City Council approves the Hiddenbrooke Specific Plan as amended by Specific Plan Amendment 08-0001 (SP #87-02J) as the Hiddenbrooke Planned Development Master Plan.

SECTION 3. Effective Date

This ordinance shall take effect and be in full force and effect from and after thirty days after its final passage

Specific Plan Amendment 08-0001 (SP #87-02J)

Note: New text is shown in *italics*; text to be deleted is shown as ~~strikeout~~.

COMMUNITY SERVICES

Page 15- Telephone

Individual residential telephone service will be provided by ~~Pacific Bell~~ *a carrier chosen by the resident.*

GENERAL STANDARDS

Page 26- General Standards (Permitted uses)

Essential services (*including telephone providers upon City of Vallejo approval*) *

Page 27- General Standards (Bullet item 13)

~~Satellite dishes~~, Television and radio antennas and other outdoor communication devices, except as required by those uses defined as essential services, shall not be permitted.

Page 27-General Standards: Telecommunication Facilities (Bullet item 19-new)

- *Telecommunication facilities shall be determined by the City of Vallejo in consultation with the Hiddenbrooke community on a case by case basis.*
- *When reviewing telecommunication facility applications and determining their location, the City of Vallejo shall take into consideration: proximity to existing and future residences; aesthetic impacts; preservation of neighborhood character; and limiting the amount of antenna poles/towers to the greatest extent possible, while complying with the Federal Telecommunications Act of 1996.*
- *Telecommunication facilities shall be subject to the standards set forth in Section 16.75.100 VMC.*
- *Telecommunication facility applications shall include the following supplemental information:*
 - *Service area and network maps, i.e. existing and proposed coverage*
 - *Alternative site analysis and facility designs. The analysis shall at a minimum, address the following: potential for co-location at an existing or new site; and, the rationale for the selection of the proposed site, relative to the merits of feasible alternatives. The intent of the analysis would be to*

limit the number of facilities within Hiddenbrooke and their visual impacts.

- *Visual impact analyses, i.e. photo simulations, of proposed and alternative sites.*

- *Telecommunication facilities shall be sited to be visually compatible with their surroundings. This shall include, but not be limited to, such measures as: locating, designing, and screening structures and equipment to blend with the existing natural or built surroundings in order to reduce visual impacts.*

- *Telecommunication facilities/antennas which are not co-located on an existing structure shall be designed to blend with the surrounding existing natural and man-made environment so as to be unnoticeable to the greatest extent possible.*

- *Telecommunication support facilities (i.e. utilities and equipment enclosures) in areas of high visibility and/or in the public right-of-way shall be placed in underground vaults to all extent possible. Proposed above-ground support facilities shall be accompanied by a written rationale of why the facilities could not be placed underground. The above-ground support facilities shall be screened from public view and blend with the surrounding existing and man-made environment to the greatest extent possible.*

Vallejo Planning Commission Minutes
April 21, 2008

~~Don Hazen: That is condition No. 1, City Engineer, on page 7. We have got that addressed.~~

~~Chairperson Legalos: Hearing no further questions from the Commission, I will open the public hearing. Does the applicant wish to address the Commission?~~

~~Mark Drayson: My name is Mark Drayson. I work for Grocery Outlet and I want to thank the Commissioners and especially Marcus for helping me to get to this stage and for their courtesy. I am here to answer any questions that you may have. Oh, concerning the delivery. We reluctantly agreed to the 9:00 pm to 5:00 am restriction there. It is possible. It is a bit difficult but we will do it. I would ask that we don't want them to load any further than 5:00 am. If we do that, we could have trouble with our delivery guys. They want to get in and out. You can imagine, if you were a bread guy, a milk guy, and you wanted to get on down the road before traffic hits, so that would be fairly difficult to delay it beyond 5:00. We can agree to the 9:00 pm to 5:00 am restriction. That would be okay.~~

~~Chairperson Legalos: Thank you. If there are no further questions from the Commission, and seeing no cards, I will close the public hearing and bring the matter back into the hands of the Commission. If there are no further comments or discussion, may we have a motion, please.~~

~~Commissioner McConnell: Yes, Mr. Chairperson, I will move the adoption of the resolution in the packet set forth as Attachment A.~~

~~Commissioner Manning: I am sorry. I have one thing to add. There is actually a new resolution, so I would like you to make reference to the resolution that was handed out right before the hearing, not the one in the packet, if that is okay.~~

~~Commissioner McConnell: Yes, I believe that is the Attachment A which is on the top of our desk, providing for the findings and environmental findings and the conditions as set forth in this Attachment A.~~

~~Chairperson Legalos. Thank you. Please vote.~~

~~AYES: Manning, Harrington-Cole, Gourley, Legalos, McConnell.~~

~~NOS: None.~~

~~ABSENT: Commissioners Peterman and Turley.~~

~~It is unanimous. Motion carries.~~

~~Chairperson Legalos: Thank you Ms. Marshall. May we have Item K-2 please?~~

2. Specific Plan Amendment #08-0001 is an application to allow telecommunication uses in the Hiddenbrooke Specific Plan. Proposed CEQA Action: Exempt. Staff Planner, Marcus Adams, 648-5392.

Staff recommends **approval** based on the findings and conditions.

Marcus Adams: As just stated, the next application is a proposal to amend the Hiddenbrooke Specific Plan to allow for telecommunication facilities within the Hiddenbrooke community. Once again, I have a short PowerPoint presentation to go over the project.

Here is an overview of the Hiddenbrooke community. As you can see, as most of us are aware, it is the most notable isolated kind of community, off by itself. Here you can see the closest one to that Northgate area. So, as you can imagine, the cellular service there can be kind of spotty.

Chairperson Legalos: Excuse me, Mr. Adams, I believe Commissioner Manning may have a conflict.

Commissioner Manning: I just want a clarification from our City Attorney, and that is, I work for Verizon Wireless, and I just wanted to disclose that on the record. I don't feel that I need to recuse myself but I just want to confirm that that won't be an issue.

Claudia Quintana: I don't think Verizon is the applicant. I don't think you have a conflict.

Marcus Adams: The Hiddenbrooke plan was adopted back in 1987, so at that time, the cellular service was kind of in its infancy stages, and the Specific Plan, in trying to retain the natural character of Hiddenbrooke . . . the hills, and not having the hills be marred by any type of structure or anything, prohibited telecommunications, antennas, or structures that would be on a hillside or even within the development itself, and so, alas, now, here we are in the 21st century and cellular services as we know for some people, are the only means of telephone service. And, there is actually an existing cellular site here by the water tower on Broadway which was originally established for emergency services, for police and fire. What the City did is that we did allow cell companies to co-locate on that tower, but once that tower was filled, we informed cellular service providers that there would be no more service allowed within Hiddenbrooke, once that tower was full. Well, the tower is full, and after reading of the Telecommunications Act by staff and the City Attorney's office, we believe that the Specific Plan does need to be amended to allow a few more providers within Hiddenbrooke so that we don't run afoul of the Telecommunications Act. The applicant for a proposal in Hiddenbrooke, which is Metro PCS, had come before us with this proposal to go right over here on Misawa Court. They have since had a chance to review the staff report and have not officially withdrawn that location but are looking at some other sites within Hiddenbrooke due to the community concerns about that. So, here is just a location, once again. Here is where the existing towers are. This was the proposal for a new tower and here, I just put this on here, because there is an existing PG&E tower, and one of the things that the amendments of the Specific Plan would do would be to try to have all carriers, whenever possible, pre-locate on either an existing tower or maybe another existing type of utility tower such as an existing PG&E tower. That is why you have that on there tonight. It is kind of hard to see, but there is the existing telecommunication/emergency service tower. That tower is actually going to be replaced with a more sturdy pole because we have a carrier that is already approved that is going to go on to that site . . . that PG&E tower. You can't see it because of the lighting, but it is right there, and this was the Misawa Court proposal and, once again, some of the language we have there for the proposed amendment recommends doing such pilots. Such policy matters such as matching the existing environment by means of things such as tree poles or maybe using existing light poles or those type of things, what the industry calls stealth poles. So, what we did with this specific plan amendment is, we tried to keep in mind, the original intent of the Hiddenbrooke Specific Plan which was, once again, to try to retain the natural beauty but then also to allow for telecommunication facilities within Hiddenbrooke, and so that was the goal with

our amendment language. I am available to answer any questions you may have regarding the application.

Chairperson Legalos: Thank you Mr. Adams. If there are no questions from the Commission, I will open the public hearing and ask if the applicant would like to address the Commission. The applicant is not here, so, seeing no cards, I will close the public hearing and bring the matter back into the hands of the Commission.

Commissioner McConnell: I will move the adoption of Resolution PC07-27, on telecommunications on the general findings and circa findings and relevant findings in the specific plan amendment as set forth in the package.

Don Hazen: Mr. Chairperson, I think we would want to reference the revised resolution also on this one.

Commissioner McConnell: Okay, that is the revised resolution that I have here that was presented to us and is on our handout on the dais this evening.

Chairperson Legalos: Please vote.

AYES: Harrington-Cole, Manning, Gourley, Legalos, McConnell.

NOS: None.

ABSENT: Peterman, Turley.

It is unanimous. Motion carries.

3. Specific Plan 98-01D Lennar Mare Island, to replace a Class I multi-use path with a Class III bike route along Walnut Avenue. Proposed CEQA Action: An addendum to the 2005 SEIR has been prepared. Staff Planner: Michelle Hightower, 645-4506.

Staff recommends **approval** based on the findings and conditions.

Michelle Hightower: Good evening Commissioners. As Deborah stated, this is a Mare Island Specific Plan. It is number 3. It is regarding the Walnut Avenue corridor, specifically regarding the bicycle and pedestrian facilities. The Specific Plan that is currently active, the 2007 Plan, designates three types of bicycle/pedestrian facilities. The first is the Class I that is an off-street bicycle path, typically 8-feet wide with 2-feet shoulders. A Class II is an on-street bike lane and that usually has a bike lane on each side of the roadway, and the bike lane is typically 5-feet wide and we also have an on-street shared bike route that is a Class III, and that is typically a bicycle route that is shared where bicyclists share the route with motor vehicles. The Specific Plan currently designates Walnut Avenue, shown here in blue, as a Class I path. Also, there are two Class I paths that run along the edges of the Mare Island area, a west island path and an east island path along the waterfront promenade, and these paths all end up along Azuar Drive and will take the bicyclists out to the regional park. The proposal is to replace the bicycle path along Walnut Avenue with a Class III bicycle route. The Mare Island Specific Plan currently does include a bicycle lane that is already in place . . . a striped lane, along Flagship, and also a bike route along Azuar connecting with this Class I facility. The proposal is to place another bike route along Walnut Avenue to connect with the Class I facility. There is a correction, however, along 8th Street which is here at the edge of Alden Park and fronting the mansions that are historic. The proposal is to take away the bicycle route and have the path connect to the Class I path through



**STAFF REPORT – PLANNING
CITY OF VALLEJO
PLANNING COMMISSION**

DATE OF MEETING: April 21, 2008

PREPARED BY: Marcus Adams *M.A.*

PROJECT NUMBERS: SPA #08-0001

**PROJECT
DESCRIPTION:**

The applicant has submitted an application to amend the Hiddenbrooke Specific Plan to allow for telecommunication facilities, i.e. cell phone tower/antennas, within the Hiddenbrooke community at-large.

RECOMMENDATION: Approve

CEQA: Categorically Exempt: Section 15061(b)(3), "Review for Exemption-no significant effect on environment"

PROJECT DATA SUMMARY

Name of Applicant: NSA Wireless, Inc. (for Metro PCS)

Date of Completion: February 11, 2008

General Plan Designation: Low Density Residential

Zoning Designation: Mixed Use Planned Development (MUPD)

Site/Surrounding Land Use:

Site: Hiddenbrooke Community

North: Residential/Open Space

South: Residential/Open Space

East: Residential/Open Space

West: Residential/Open Space

Lot Area:

N/A

square feet

Total Floor Area: N/A

Landscape Area/Coverage: N/A

Parking Required/Provided: N/A

BACKGROUND SUMMARY

In 1987, the City Council adopted the Hiddenbrooke Specific Plan which established standards and procedures for the development of Hiddenbrooke. As part of the standards, the Specific Plan prohibited above-ground communication structures, i.e. antennas, satellite dishes, etc. in order to achieve the Specific Plan goal of "facilitating subdivision design and zoning implementation that will conserve the city's natural beauty, improve its appearance and enhance its physical character."

On September 1, 2000, the Planning Division approved an emergency communication monopole tower in the central-east section of Hiddenbrooke which was to provide services for the departments of Police, Fire, Water and up to three cell phone providers (currently AT&T, Nextel/Sprint, T-Mobile).

Originally, it was staff's belief that allowance of three carriers on the pole tower would be sufficient for cell phone coverage in Hiddenbrooke and there would not be a need for additional towers or antennas. After receiving multiple inquiries from other cell phone providers regarding locating a facility within Hiddenbrooke, staff consulted with the City Attorney's Office and determined that enforcement of the Hiddenbrooke Specific Plan's limitations on telecommunication facilities would be a violation of the Federal Telecommunications Act of 1996.

Specifically, Section 704 of the Act states in part, "The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof:

- 1. Shall not unreasonably discriminate among providers of functionally equivalent services;*
- 2. Shall not prohibit or have the effect of prohibiting the provision of personal wireless services.*
- 3. No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.*

ANALYSIS

Specific Plan Amendment

After reviewing the Act and associated court cases, it is staff's belief that while the Act does not allow cities to prohibit wireless service outright, local governments can consider visual, aesthetic, and neighborhood character when reviewing an application as long as there are provisions for "functionally equivalent providers," i.e., competition is not decreased or deterred.

Staff has determined that the most appropriate way to respect the original intent of the Specific Plan with regard to preserving the City's "natural beauty," and still comply with the Telecommunications Act would be to establish Specific Plan guidelines and procedures which would ensure that when reviewing telecommunication facility applications, the City is sensitive to: proximity to residences; aesthetic impacts; preservation of neighborhood character; and limiting the amount of antenna poles/towers to the greatest extent possible

Following are the proposed text changes to the Hiddenbrooke Specific Plan:

Note: New text is shown in *italics*; text to be deleted is shown as ~~strikeout~~.

Page 15- Telephone

Individual residential telephone service will be provided by ~~Pacific Bell~~ a carrier chosen by the resident.

Page 26- General Standards (Permitted uses)

*Essential services (including telephone providers upon City of Vallejo approval) **

Page 27- General Standards (Bullet item 13)

~~Satellite dishes, Television and radio antennas and other outdoor communication devices, except as required by those uses defined as essential services, shall not be permitted.~~

Page 27-General Standards: Telecommunication Facilities (Bullet item 19-new)

- *Telecommunication facilities shall be determined by the City of Vallejo in consultation with the Hiddenbrooke community on a case by case basis.*
- *When reviewing telecommunication facility applications and determining their location, the City of Vallejo shall take into consideration: proximity to existing and future residences; aesthetic impacts; preservation of neighborhood character; and limiting the amount of antenna poles/towers to the greatest extent possible, while complying with the Federal Telecommunications Act of 1996.*

- *Telecommunication facilities shall be subject to the standards set forth in Section 16.75.100 VMC.*
- *Telecommunication facility applications shall include the following supplemental information:*
 - *Service area and network maps, i.e. existing and proposed coverage*
 - *Alternative site analysis and facility designs. The analysis shall at a minimum, address the following: potential for co-location at an existing or new site; and, the rationale for the selection of the proposed site, relative to the merits of feasible alternatives. The intent of the analysis would be to limit the number of facilities within Hiddenbrooke and their visual impacts.*
 - *Visual impact analyses, i.e. photo simulations, of proposed and alternative sites.*
- *Telecommunication facilities shall be sited to be visually compatible with their surroundings. This shall include, but not be limited to, such measures as: locating, designing, and screening structures and equipment to blend with the existing natural or built surroundings in order to reduce visual impacts.*
- *Telecommunication facilities/antennas which are not co-located on an existing structure shall be designed to blend with the surrounding existing natural and man-made environment so as to be unnoticeable to the greatest extent possible.*
- *Telecommunication support facilities (i.e. utilities and equipment enclosures) in areas of high visibility and/or in the public right-of-way shall be placed in underground vaults to all extent possible. Proposed above-ground support facilities shall be accompanied by a written rationale of why the facilities could not be placed underground. The above-ground support facilities shall be screened from public view and blend with the surrounding existing and man-made environment to the greatest extent possible.*

Misawa Court Site (PD #08-0003) Community Meeting

NSA Wireless (the Applicant), representing Metro PCS, has proposed a telecommunication facility in the southwest section of the Hiddenbrooke community at the base of an existing water tower. Metro PCS chose the subject site after being informed by the City that the existing cell phone tower located at the Broadleigh Place water tower in the northeast section of Hiddenbrooke was full and could not support another carrier.

On April 10, 2008, staff hosted a community meeting with the applicant present to discuss: the purpose of the Specific Plan amendment; the antenna design options available; Metro PCS site selection process, and to receive comments

and respond to questions about the project. The majority of the meeting attendees were opposed to the site selected by Metro PCS for their facility based on aesthetic concerns, proximity to existing homes and radio frequency emissions.

Based on the unanimous requests of the meeting attendees for the City to direct Metro PCS to explore other locations in Hiddenbrooke for their proposed facility, including the Broadleigh Place water tower site, staff withdrew the Planned Development application from the public hearing item with the Specific Plan Amendment. The Planned Development Unit Plan application will be processed administratively, with a public notice, consistent with past unit plan applications, with the possibility of a public hearing if the community is opposed to Metro PCS's site location after evaluation of other sites.

General Plan Consistency

The proposed telecommunication use is clearly compatible with the General Plan land use designation of "low density residential" and is consistent with the Land Use Policy of using the "Hiddenbrooke and Northgate Specific Area Plans to evaluate projects proposed within these areas."

ENVIRONMENTAL DETERMINATION

The Specific Plan Amendment is exempt per Section 15061(b)(3) of the California Environmental Quality Act (CEQA) because the amendment is not a project that has the potential for causing a significant effect on the environment.

CONCLUSION/RECOMMENDATION

Staff has determined that the proposed amendments and use are consistent with the City's General Plan and Municipal Code, Hiddenbrooke Specific Plan and all applicable ordinances, standards, guidelines, and policies. Therefore, staff recommends that the Planning Commission:

Approve Specific Plan Amendment #SPA 08-0001 based on the findings;

FINDINGS

The Planning Commission finds, based on the facts contained in this staff report and incorporated herein by this reference, given the evidence presented at the public hearing, and subject to the conditions attached to this resolution that:

1. The proposed amendments are consistent with the overall intent and purpose of the Hiddenbrooke Specific Plan.
2. The proposed amendments are consistent with the goals and policies of the Vallejo General Plan.
3. The proposed amendments are consistent with the Federal Telecommunications Act of 1996.

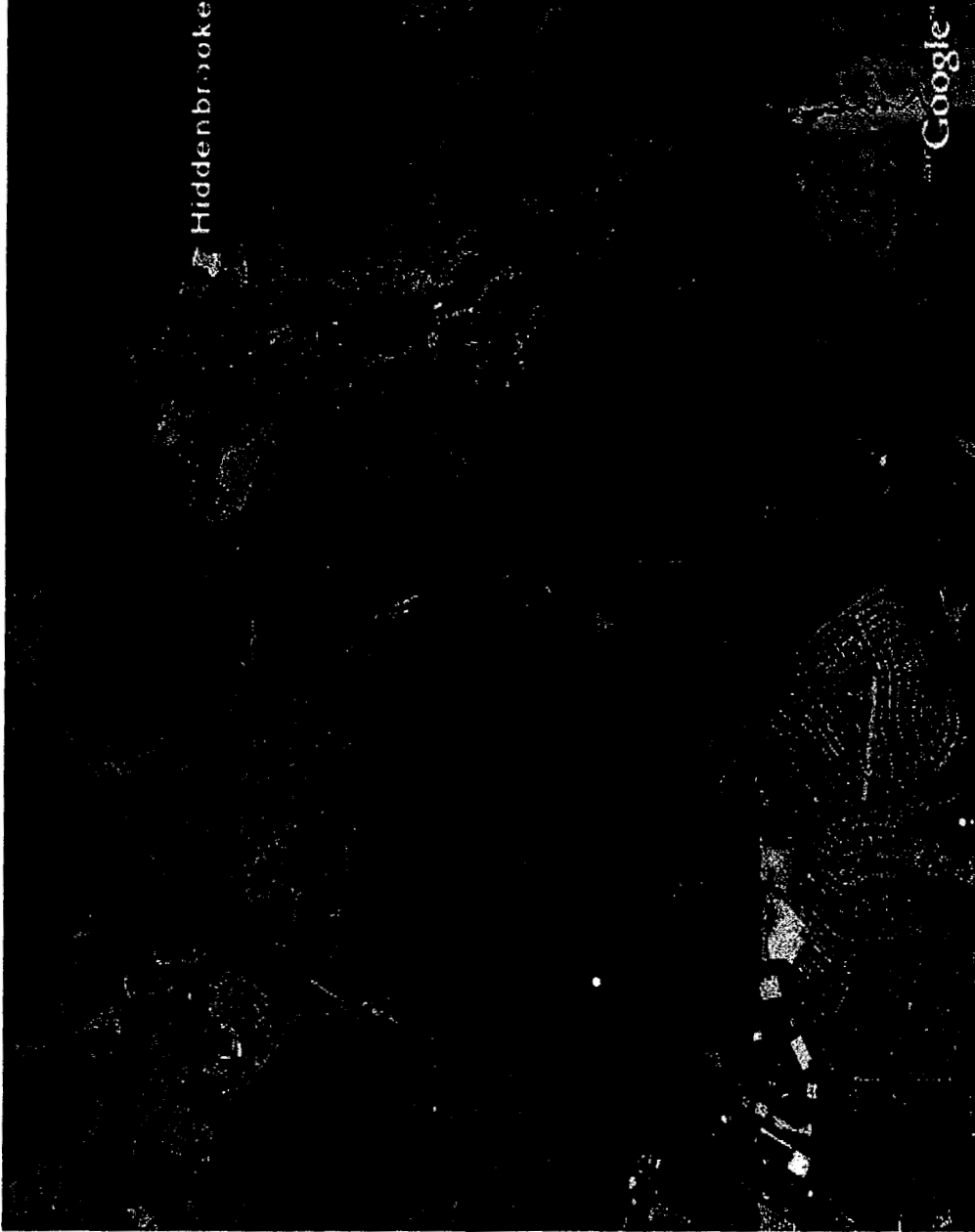
APPEAL

The applicant or any party adversely affected by a decision of the Planning Commission may within ten days after the rendition of the decision of the Planning Commission appeal in writing to the City Council by filing a written appeal with the City Clerk and Planning Division. Such written appeal shall state the reason or reasons for the appeal and why the applicant believes he or she is adversely affected by the decision of the Planning Commission. Such appeal shall not be timely filed unless it is actually received by the City Clerk or designee no later than the close of business on the tenth calendar day after the rendition of the decision of the Planning Commission. If such date falls on a weekend or city holiday, then the deadline shall be extended until the regular business day.

ATTACHMENTS

1. Specific Plan Resolution/Ordinance
2. Conflict of Interest Map

Hiddenbrooke: Specific Plan Amendment



500' conflict of interest/vicinity map



CITY OF VALLEJO

Agenda Item No. PUBLIC
HEARING C

COUNCIL COMMUNICATION

Date: June 3, 2008

TO: Mayor and Members of the City Council

FROM: Craig Whittom, Assistant City Manager/Community Development *EW*
Bob Adams, Development Services Director *BA*
Don Hazen, Planning Manager *DH*

SUBJECT: CONSIDERATION OF A RESOLUTION AMENDING THE MARE ISLAND SPECIFIC PLAN AND HOLDING ON FIRST READING AN ORDINANCE AMENDING THE PLANNED DEVELOPMENT MASTER PLAN REGARDING BICYCLE FACILITIES ON MARE ISLAND (SP #98-01D); AND ADOPTING THE ADDENDUM TO THE FINAL SEIR.

BACKGROUND & DISCUSSION

Lennar Mare Island, LLC (Lennar), master developer of Mare Island, proposes to amend the Mare Island Specific Plan (Specific Plan) regarding bicycle facilities on the Island. The Specific Plan was Amended and Restated in 2005 and subsequently amended in July 2007. The subject amendment is referenced as SPA III. The purpose of the amendment is to:

- A. Eliminate a Class I Bikeway, Bicycle/Pedestrian Multi-Use Path planned along the west side of Walnut Avenue south of G Street and replace it with a Class III Bike Route.
- B. Construct a monolithic sidewalk (defined as a typical concrete walkway that abuts the street curb) generally along both sides of the roadway from G Street to Connolly Street and retain the historic sidewalks from Connolly Street to 10th Street.
- C. Amend the Specific Plan document to allow the Planning Manager discretion in selecting the final type of all future bikeway/paths on Mare Island.

Class I Bikeway

The Transportation Element of the Specific Plan (Section 5) defines the bicycle and pedestrian facilities proposed for the Island. Three types of facilities are planned: Class I Bikeway/Multi-Use Path - an off-street facility that accommodates both two-way bicycle and pedestrian traffic; Class II Bikeway: On-Street, Dedicated Lane - an on-street bike lane with pavement markings on both sides of the street; and Class III Bikeway: On-Street, Shared Use Sign Designation - a shared lane between bicycles and motor vehicles that does not require pavement markings. As illustrated in Figure 5.3 of the Specific Plan, two Class I bikeway/multi-use paths are designated along the outer edges of the Island, specifically along Azuar Drive (West Island Path), and the Waterfront Promenade (East Island path) and a third mid-island bikeway/multi-use path is proposed along Walnut Avenue, south of G Street.

Lennar proposes to amend the Transportation Element of the Specific Plan to eliminate the Class I bikeway/multi-use path designation along Walnut Avenue, south of G Street and replace it with a Class III bikeway/route. The purpose of the amendment is to provide a bicycle facility along Walnut that would maintain the existing historic character of the street. The proposed Class I bikeway/route would begin at G Street, end at 8th Street and connect with the Class I bikeway/multi-use path through Alden Park from 8th to 10th Street. (See Attachment 1, Exhibit C.) As part of the proposed Class III bikeway/route, signage indicating a shared on-street bicycle/motor vehicle lane would be installed every three blocks between G Street to 8th Street. To improve the safety for bicyclists, 25 MPH speed limit signs would also be posted on every block.

Walnut Avenue is a major north-south collector road that accommodates two-way traffic. The street is entirely within the Mare Island Historic District and the area generally south of Connolly Street is within the National Historic Landmark Area A. At present, Walnut Avenue contains an inconsistent sidewalk pattern, including monolithic sidewalks of varying widths, separated sidewalks with landscaped strips, and historic sidewalks with hexagonal shaped pavers fronting the Captains Row mansions. In some cases, no sidewalks are provided. Walnut Avenue is part of the Town Center commercial area that is envisioned as a vibrant pedestrian friendly area that will attract and maintain a mix of uses with new commercial/industrial buildings on vacant sites as well as reuse of existing buildings.

Monolithic Sidewalk

To provide a consistent sidewalk pattern along most of Walnut Avenue, Lennar has also proposed to construct a 6-foot wide monolithic sidewalk along the west and east sides of the road from G Street to Connolly Street. At Connolly Street, the monolithic sidewalk would continue on the west side only due to the location of an existing historic building (Building 253), and at Kansas Street, the new sidewalk would continue only on the east side, as the existing sidewalks fronting the historic mansions would be retained on the west.

Specific Plan Text Amendment

The proposal also includes an amendment to Section 5.0 to allow the Planning Manager flexibility and discretion in selecting the appropriate bicycle facility for an area in the future. This selection would be made based on the existing development character, and would include consultation with appropriate City Staff and bicycle organizations.

Architectural Heritage and Landmarks Commission Action

On March 27, 2008, the Architectural Heritage and Landmarks Commission (AHLC) unanimously recommended that SPA III be forwarded to City Council for approval. The AHLC found the project to be consistent with the Mare Island Historic Project Guidelines and the Design Guidelines for the Mare Island Historic District.

Planning Commission Action

A public hearing regarding SPA III was held before the Planning Commission on April 21, 2008. During the public hearing, three of the Commissioners expressed concern regarding the potential safety hazard for bicyclists sharing the road with motor vehicles. The Commission voted in favor of continuing the public hearing to the May 5, 2008 meeting, and directed staff to find solutions for improving the safety for bicyclists along the roadway. A memo prepared by Staff was presented to the Planning Commission outlining additional measures to improve safety. This included the installation of bike route signs in three block intervals, "share the road" pavement markings, and the installation of 25 mph speed limit signs attached to the street light poles on every block, as noted above. The Planning Commission voted unanimously to approve the SPA III project, approved the Addendum to the 2005 SEIR, and recommended that the documents be forwarded to City Council for approval.

FISCAL IMPACT

The proposed amendment will support the current Specific Plan, by allowing Lennar to finalize the improvement plans for Walnut Avenue and ultimately recording a final map for the area, facilitating private ownership and redevelopment. This will provide revenue benefits to the City from revenue sources such as property taxes, property transfer taxes, sales tax revenues from residents, employees, and business-to-business transactions, and other permit fees. These revenues will be invested in the Community Facilities District to support municipal service costs on Mare Island. The proposed amendment will assist the City in meeting and sustaining its future fiscal responsibilities related to Mare Island.

ENVIRONMENTAL REVIEW

The Mare Island Specific Plan/ Planned Development Master Plan was adopted by City Council in April 1999. The environmental review of the project included the previous certification of the Final Environmental Impact Statement/ Environmental Impact Report (FEIS/EIR) for the Disposal and Reuse of Mare Island on November 17, 1998. In April of 1999, the City Council adopted an Addendum to the FEIS/EIR when it considered the approval of the Mare Island Specific Plan, and its approval of the Mare Island Specific Plan as the Planned Development Master Plan. A Subsequent Environmental Impact Report (SEIR) was certified by the City Council in November 2005 for the 2005 amendment to the Mare Island Specific Plan. In July, 2007, the City Council adopted a first addendum to 2005 SEIR for the 2007 amendment to the Mare Island Specific Plan. A second addendum to the previously certified SEIR has been prepared for the proposed project and concludes the following: 1) there are no substantial changes to the project that necessitate revisions to SEIR, 2) there are no substantial changes in the circumstances under which the project is undertaken that necessitate revisions to SEIR, and 3) there is no new information of substantial importance which was not known and could not have been known at the time SEIR was certified that indicates that the project will cause more significant or severe impacts than what was discussed in SEIR. Additionally, the mitigation measures established in SEIR have been adopted and will be implemented as applicable.

On May 5, 2008, the Planning Commission approved the Second Addendum to the Final Subsequent EIR for the proposed 2008 amendment to the Mare Island Specific Plan (SPA III.)

RECOMMENDATION

Staff recommends that the City Council approve the Mare Island Specific Plan, as amended by SPA III (SP #98-01D) Hold on First Reading an ordinance adopting the Mare Island Specific Plan, as amended by SPAIII as the Planned Development Master Plan for Mare Island, and adopt the Addendum to the Final 2005 SEIR

The Planning Commission and the Architectural Heritage and Landmarks Commission both unanimously support the amendment.

PROPOSED ACTION

Adopt the resolution approving the Mare Island Specific Plan, as amended by SPA III, (SP #98-01D) Holding on First Reading an ordinance adopting the Mare Island Specific Plan, as amended by SPAIII (SP #98-01D) as the Planned Development Master Plan for Mare Island, and adopting the Addendum to the 2005 Final SEIR.

DOCUMENTS ATTACHED

1. Resolution Approving the Mare Island Specific Plan, as amended by SPA III, (SP #98-01D), Holding on First Reading an ordinance adopting the Mare Island Specific Plan, as amended by SPAIII (SP #98-01D) as the Planned Development Master Plan for Mare Island; and adopting the Addendum to the Final 2005 SEIR

Exhibit A: [Draft] Addendum to the Final SEIR for the Amendment to the Mare Island Specific Plan (SP #98-01D)

Exhibit B: [Draft] Ordinance of the City of Vallejo adopting the Mare Island Specific Plan, as amended by SP #98-01D, as the Mare Island Planned Development Master Plan.

Exhibit C: Proposed Text Changes to Section 5.0 of the Mare Island Specific Plan

Exhibit D: Proposed Amendment to Figure 5.3 of the Mare Island Specific Plan

2. Planning Commission Resolution, Draft Meeting Minutes and Staff Memo w/ Attachments Dated May 5, 2008 which includes Planning Commission Staff Report

Dated April 21, 2008 and Architectural Heritage and Landmarks Commission Staff Report Dated March 27, 2008 and Planning Commission Meeting Minutes Dated April 21, 2008.

3. Architectural Heritage and Landmarks Commission Meeting Minutes Dated March 27, 2008.

PREPARED BY/CONTACT:

Michelle Hightower, Senior Planner (707) 648-4506, mhightower@ci.vallejo.ca.us
Don Hazen, Planning Manager (707) 648-4326, dhazen@ci.vallejo.ca.us

**City Council Staff Report
June 3, 2008**

ATTACHMENT 1

Resolution Approving an Addendum to the Final SEIR for the Amendment to the Mare Island Specific Plan (SPA #98-01D)

Exhibit A: [Draft] Addendum to the Final SEIR and Amending the Mare Island Specific Plan (SPA #98-01D)

Exhibit B: [Draft] Ordinance of the City of Vallejo approving the Amendment to the Mare Island Specific Plan, as amended by SP #98-01D.

Exhibit C: Proposed Text Changes to Section 5.0 of the Mare Island Specific Plan

Exhibit D: Proposed Amendment to Figure 5.3 of the Mare Island Specific Plan

RESOLUTION NO. _____ N.C.

RESOLUTION OF THE VALLEJO CITY COUNCIL AMENDING THE MARE ISLAND SPECIFIC PLAN AND HOLDING ON FIRST READING AN ORDINANCE AMENDING THE PLANNED DEVELOPMENT MASTER PLAN REGARDING BICYCLE FACILITIES ON MARE ISLAND (SP #98-01D); AND ADOPTING THE ADDENDUM TO THE FINAL SEIR

WHEREAS, on March 13, 2008, an application and supplemental materials were filed by Lennar Mare Island, LLC to amend the Specific Plan regarding bicycle facilities on the Island; and

WHEREAS, the proposed amendment to the Specific Plan is referenced as Specific Plan Amendment III or SPA III (SP #98-01D) and the proposed text and figure amendments to the Mare Island Specific Plan are depicted and shown in exhibits C and D attached to this Resolution; and

WHEREAS, on March 27, 2008, the Architectural Heritage and Landmarks Commission held a public hearing to consider an Amendment to the Mare Island Specific Plan (Specific Plan) referred to as SPA III (SP #98-01D) and voted unanimously to recommend approval of the project to City Council, specifically regarding the bicycle facilities on Mare Island; and

WHEREAS, on April 21, 2008 and on May 5, 2008 the Planning Commission held public hearings to consider an Amendment to the Specific Plan and voted unanimously to recommend approval of the project to City Council; and

WHEREAS, on May 5, 2008, the Planning Commission further adopted an Addendum to the Final Subsequent Environmental Impact Report for the 2005 Specific Plan (Final SEIR) prepared for SPA III which determined that pursuant to Section 15164 of the California Environmental Quality Act (CEQA) Guidelines, no subsequent Environmental Impact Report or additional CEQA compliance is required for the required for the approval of SPA III; and

WHEREAS, the Mare Island Specific Plan also serves as the Master Plan for the Mare Island Planned Development; and

WHEREAS, when compared to Section 5.7 and Figure 5.3 of the Specific Plan, the Specific Plan, as amended by the SPA III (SP #98-01D) includes changes to the bicycle and pedestrian facilities along Walnut Avenue and policies regarding future bicycle and pedestrian facilities on Mare Island; and

WHEREAS, the City has complied with the requirements of the Local Planning Law (Government Code section 65300 et seq.), the current State of California General Plan

Guidelines, and the City's applicable ordinances and resolutions with respect to approval of the amendment to the Specific Plan, as amended by the SPA III (SP #98-01D); and

WHEREAS, an Addendum to the certified Final Subsequent Environmental Impact Report (SEIR) for the 2005 Mare Island Specific Plan has been prepared for SPA III (SP#98-01D); and

WHEREAS, the City Council has reviewed the reports on SPA III (SP #98-01D) provided to the Architectural Heritage and Landmarks Commission on March 27, 2008 and Planning Commission on April 21, 2008 and on May 5, 2008, draft meeting minutes, and all other comments and information provided by the applicant; and

WHEREAS, the City Council, on June 3, 2008, in the City Council Chambers of City Hall, 555 Santa Clara Street, held a public hearing to consider the Addendum to the Final SEIR and SPA III (SP #98-01D); and

WHEREAS, the City Council finds that the notice of the hearing was given for the time and in the manner prescribed by law; and

WHEREAS, all interested persons filed written comments with the City Clerk at or before the hearing, all persons desiring to be heard were given an opportunity to be heard in this matter, and all such verbal and written testimony was considered by the City Council.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Vallejo hereby makes the following findings:

Section 1. Pursuant to Section 15164 of the California Environmental Quality Act (CEQA) Guidelines, an Addendum to the Final SEIR for the Mare Island Specific Plan, as amended, has been prepared for SPA III and based on the analysis provided in the Addendum, the proposed project does not require major changes to the Mare Island Specific Plan, no new significant or substantially more severe environmental effects would result from the proposed project, and none of the criteria in CEQA Guidelines Section 15162 are present; therefore no subsequent Environmental Impact Report or additional CEQA compliance is required for the adoption of the amendment to the Mare Island Specific Plan or Chapter 16.38 of the Vallejo Municipal Code.

Section 2. The City's role in the project is not complete and changes or additions are necessary, but none of the conditions triggering a Subsequent EIR, negative Declaration or Supplemental EIR have occurred, as only minor technical changes or additions are necessary in this action.

Section 3. The Council concurs with staff's decision to prepare an Addendum to the Final Subsequent EIR as no new significant or substantially more severe environmental effects would result from the proposed project, as described in the staff report.

Section 4. The Council has independently considered the Addendum with the Final SEIR and exercised its independent judgment and analysis and in doing so the Addendum to the Final SEIR is deemed certified as complete, adequate and prepared in compliance with CEQA.

Section 5. As amended by SPAIII (SP #98-01D), the Mare Island Specific Plan:

A) Is consistent with the goals and policies of the Vallejo General Plan including but not limited to:

i) General Plan Land Use Compatibility and Density Goal 3 in that the Mare Island Specific Plan, as amended, continues to encourage mixed use commercial, industrial and residential development on Mare Island in a manner that accounts for Mare Island's unique and complex land use patterns, historic resources, and environmental constraints;

ii) General Plan Commercial Development Goal 7 in that the Mare Island Specific Plan, as amended, continues to promote the use of Mare Island as a commercial and economic asset for the City of Vallejo; and

iii) General Plan Industrial Development Goal 3, Policy 3 in that the Mare Island Specific Plan, as amended, continues to guide industrial development on Mare Island, which recognizes and encourages flexible design and land use standards.

iv) The findings contained in the December 2005 "City of Vallejo Findings Related to the Approval of the Mare Island Reuse Project" and adopted by the Vallejo City Council on March 20, 1999 continue to exist, and as they related to the amendments to the Mare Island Specific Plan are incorporated herein by this reference.

B) Is consistent with the provisions of Chapter 16 of the Vallejo Municipal code and Part I of Chapter 17 of the Vallejo Municipal Code.

BE IT FURTHER RESOLVED, after consideration of all the evidence in the record, the City Council of the City of Vallejo hereby :

1. APPROVES the Amendment to the Mare Island Specific Plan [SPA III (SP #98-01D)], as shown in Exhibits B and C attached to this resolution.
2. ADOPTS the Second Addendum to the Final Subsequent Environmental Impact Report, and

3. **HOLDS ON FIRST READING** an ordinance of the City of Vallejo, attached hereto as Exhibit A, adopting the Mare Island Specific Plan as amended by the SPA III (SP #98-01D) as the Planned Development Master Plan for Mare Island.

D R A F T

**ADDENDUM II
TO THE 2005 FINAL SUBSEQUENT
ENVIRONMENTAL IMPACT REPORT
FOR THE MARE ISLAND SPECIFIC PLAN
AMENDED AND RESTATED**

**ADOPTED BY
THE VALLEJO CITY COUNCIL
JUNE 2008**

A. INTRODUCTION

This document is an Addendum to the Subsequent Environmental Impact Report (SEIR), State Clearinghouse #2003092057 for the 2005 Mare Island Specific Plan Amended and Restated (2005 Specific Plan). The SEIR was certified by the Vallejo City Council in November 2005. The purpose of this Addendum is to disclose and discuss any potential environmental impacts associated with a proposed amendment to the Specific Plan, referenced in this document as SPA III.

Pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15164, an Addendum to a previously-certified EIR may be prepared by the Lead Agency when a proposed action will not lead to a new significant effect or a significant effect being substantially more severe than shown in the previous EIR. CEQA requires that the decision making body consider the Addendum with the Final EIR prior to making a decision on the project.

The fundamental conclusion of this Addendum, as further described in Section C of this document, is that the SPA III will not result in new significant impacts beyond those already identified in the SEIR for the original project (2005 Specific Plan) and will not result in substantially more severe impacts than those disclosed in the SEIR. Thus, a subsequent or supplemental EIR need not be prepared.

B. PROJECT DESCRIPTION

Project Location and Setting

Mare Island occupies approximately 5,250 acres within the City of Vallejo. The Island is bounded by the San Pablo Bay to the west, Carquinez Strait to the southwest, Mare Island Strait to the northeast, with the mainland further east, and a series of sloughs and marshlands and Highway 37 to the north. Mare Island generally encompasses 1,400 acres of dry uplands and 3,800 acres of wetlands, submerged lands and inactive dredged material disposal ponds.

Mare Island Naval Shipyard closed operation as a naval facility in 1996. The Shipyard was listed as a National Historic Landmark (NHL) in 1975 and in the National Register in 1997. The entire project area is within the Mare Island Historic District and portions are within the NHL District A.

The proposed amendment involves changes to Walnut Avenue, one of the primary roadways on the Island. Walnut Avenue contains two travel lanes and generally runs north-south. The street has sidewalks that range from three to seven feet in width along most of the west side and portions of the east side. The surrounding area is developed with a diverse mix of uses including former military barracks that have been renovated as office space, large vacant industrial warehouse buildings, a sports center, open space (Morton Field and Alden Park), existing historic mansions that are currently being used as office space, and several vacant sites.

Project Background and Previous Environmental Review

In 1993 prior to closure of the Shipyard, the City of Vallejo conducted a community-based planning process for the potential reuse of Mare Island as a civilian area of the City. This effort resulted in the development of the Final Mare Island Reuse Plan (Reuse Plan), which identified 13 Reuse Areas for Mare Island, as well as wetlands and dredge ponds areas on the west side of the Island. The Reuse Plan described the desired character of each Reuse Area and the potential redevelopment opportunities. The City Council accepted the Final Mare Island Reuse Plan in July 1994 and certified an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Disposal and Reuse of Mare Island Naval Shipyard in 1998.

In 1999 the City Council adopted the Mare Island Specific Plan (1999 Specific Plan) as the implementation document for the Reuse Plan after approving an Addendum to the 1998 EIS/EIR. The 1999 Specific Plan included additional detail regarding land use policies, allowable land uses and development standards. Amendments to the City of Vallejo Municipal Code (V.M.C.) Zoning Ordinance and General Plan were also made to

address policies related to the treatment of the historic resources, and to ensure consistency with the 1999 Specific Plan.

The City selected Lennar Mare Island (Lennar) as the Master Developer of approximately 650 acres of uplands on Mare Island, and in 2001 entered into a Development Agreement (DA) with Lennar to provide a binding mechanism to ensure the timely, efficient, and orderly development of the area. In December 2005, the City Council approved Lennar's proposal to amend and restate the 1999 Mare Island Specific Plan and adopted the 2005 Mare Island Specific Plan Amended and Restated (2005 Specific Plan). The 2005 Specific Plan covers the entire Island and generally consists of a development program similar to that in the 1999 Specific Plan as well as the 1994 Mare Island Final Reuse Plan. The primary changes from the 1999 Specific Plan included an additional 2.7 million square feet of development potential; more detailed development policies; elimination of a third access point from the mainland to the Island, via the Southern Crossing; and inclusion of the Historic Project Guidelines. The adopted 2005 Specific Plan replaced and superseded the 1999 Specific Plan.

Pursuant to the requirements of the California Environmental Quality Act (CEQA), the City Council certified a Final Subsequent Environmental Impact Report (SEIR) for the 2005 Specific Plan on November 29, 2005. The SEIR identified and analyzed the significant impacts associated with the incremental change in intensity and distribution of land uses on Mare Island from the 1999 Specific Plan, as described in the 2005 Specific Plan. The SEIR concluded that the incremental change would result in unavoidable adverse impacts in cultural resources, transportation, air quality, and noise categories. Three project alternatives were also analyzed that included a No Project Alternative, Historic Preservation Alternative, and the Reuse Area 1A Increased Development Alternative.

The SEIR identified mitigation measures to lessen the severity of potential adverse environmental impacts, some of which would not reduce the impacts to a level of insignificance. While most of the mitigation measures were incorporated as part of the approved project, several were rejected by the City Council as infeasible. The Council concluded that although the 2005 Specific Plan would result in adverse environmental impacts that cannot be avoided even with the incorporation of all feasible mitigation measures into the project, the anticipated economic, social, technological or other benefits of the project outweighed the unavoidable adverse effects, and such effects were considered acceptable. Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15093, the City Council adopted a Statement of Overriding Considerations for the 2005 Specific Plan and SEIR. A Mitigation Monitoring Program was also adopted. The SEIR is available at the City of Vallejo Planning Division and is incorporated herein by reference.

In July 2007, the City Council adopted a second amendment to the Specific Plan (SPA II) and the Vallejo Municipal Code (V.M.C.) as proposed by Lennar that addressed policies generally related to historic resources on Mare Island. An Addendum was prepared and

adopted by City Council for the SPA II project. The July 2007 Specific Plan supersedes both the 1999 and 2005 Specific Plan documents.

Proposed SPA III

Lennar proposes to amend the Specific Plan to eliminate a planned 12-foot wide Class I Bikeway/Multi-Use Path Off-Street (bikeway/path) along the west side of Walnut Avenue from G Street to 10th Street, and replace it with a Class III Bikeway, On-Street Shared, Signage designation. A six-foot wide monolithic sidewalk (typical concrete walkway next to the curb), generally along both sides of the roadway would also be constructed. The purpose of the amendment is to provide consistent sidewalks along Walnut Avenue from G Street to 8th Street, planned as part of the Town Center, and to maintain the historic integrity of the area, which previously did not contain a multi-use path. The proposed amendment would affect the south side of the Island only (South of G Street) and would require modifications to Section 5.7 and Figure 5.3 of the Specific Plan document, as well as applicable sheets in Appendix D Street Cross-sections.

The Specific Plan currently designates three Class I bikeway/paths for the Island. The Class I designation is planned to accommodate both bicycles and pedestrians on an off-street facility contained within an 8-foot area with a two-foot shoulder on each side. Two of the bikeway/paths are planned along the outer east and west edges of the Island, specifically along the Waterfront Promenade and Azuar Drive that ultimately link to the Regional Park at the southern end. The third mid-Island bikeway/path is designated along Walnut Avenue. The proposed amendment would maintain the two bikeway/paths along the outer edges, eliminate the center path, and provide a Class III bikeway along Walnut Avenue as a mid-Island bikeway.

SPA III also includes text changes to Section 5.7 that would allow the Planning Manager to have flexibility and discretion in selecting the final type of all future bikeway/paths appropriate for an area in light of the surrounding character and development along the paths. Such determination could be made as long as the exercise of flexibility remains consistent with the Specific Plan and applicable laws and ordinances and is done so in consultation with appropriate City Staff and bicycle organization.

C. SCOPE OF THE ADDENDUM

This Addendum to the 2005 SEIR examines the potential environmental impacts associated with the proposed SPA III. The Addendum has been prepared pursuant to the requirements of CEQA and in accordance with the CEQA Guidelines, and is intended to inform the public and the City Council of potential environmental impacts that may occur with the adoption of the proposed SPA III.

CEQA Guidelines Section 15164 provides authority for use of an addendum to document the basis for a lead agency's decision not to require a Subsequent or Supplemental EIR for a project that is already adequately analyzed in an existing certified EIR. That section states, in pertinent part:

- a. The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.
- b. An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.
- c. The decision making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.
- d. A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

As noted above, the lead agency's decision to use an addendum must be supported by substantial evidence that none of the following conditions that would trigger the preparation of a Subsequent EIR, as provided in Section 15162, are present. That section limits the requirement for preparation of a Subsequent EIR to the following situations, presented below in pertinent part:

- a. Substantial changes are proposed in the project, which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects, or a substantial increase in the severity of previously identified significant effects;

- b. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- c. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete ... shows [that]: The project will have ...significant effects not discussed in the previous EIR...[or] Significant effects previously examined will be substantially more severe than shown in the previous EIR.

SPA III would not trigger preparation of a Subsequent EIR, under conditions set forth in CEQA Guidelines Section 15162 for the following reasons:

- a. The proposed SPA III does not represent a substantial change from the 2005 Specific Plan. The replacement of an off-street bikeway/path along Walnut with a shared bikeway modifies the type of bicycle/pedestrian facility provided in the current plan; however, the two more appropriately located bikeway/paths would remain as part of the Plan and are generally one to three blocks from Walnut Avenue. The proposal does not involve any change in the development plan that would affect the environmental impacts analyzed as part of the Subsequent EIR.
- b. SPA III contains no substantial changes that would require major revisions to the 2005 SEIR due to the involvement of significant environmental effects or a substantial increase in the severity of previously identified significant effects.

The SEIR references the provision of a "pedestrian-bicycle corridor along Walnut Avenue" as part of the proposed plan and identified a "Less Than Significant" impact for the project, citing that the "bicycle and pedestrian network should provide a high degree of convenient connections between the residential, recreational, employment and education uses on Mare Island and should minimize the number of intra-island automobile trips." The bicycle/pedestrian facilities designated in the Specific Plan provides for three bikeway/paths within a five-block area. The retention of two of the paths as well as the provision of an on-street bikeway along Walnut Avenue would maintain the high degree of connections between uses on the Island and would not have a significant environmental effect nor substantially increase the significant effects previously identified in the SEIR.

The SEIR also identifies a project related impact resulting from modification of streets, sidewalks, landscaping and infrastructure within the Historic District, potentially affecting the Historic District's integrity of setting. The SEIR indicates that this impact would have a "Less Than Significant Impact" with the implementation of the Mare Island Historic Design Guidelines (Design Guidelines). The Design Guidelines provides policies for projects and generally recommends that new construction should be minimized within the Historic District. The proposal to eliminate a 12-foot wide bikeway/path and construct a 6-foot monolithic path within the Historic District would require less modification of the sidewalks and adjacent landscaping, and would therefore minimize the project impact and is consistent with the Design Guidelines.

- c. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous SEIR was certified as complete, and the proposed SPA III would not have significant effects not discussed in the previous SEIR. SPA III proposes to modify the type of bicycle/pedestrian facility provided on the Island along Walnut Avenue. This change would not result in new or substantially increased environmental effects previously identified in the SEIR.

Environmental Analysis

The following is a complete list and analysis of the significant and mitigable impacts and the significant unavoidable impacts identified in the SEIR. In this case, the proposed project is in reference to the 2005 Mare Island Specific Plan. (A complete description, analyses and associated mitigation measures are contained in the SEIR.) Importantly, in analyzing the impacts of the proposed SPA III to the project as originally approved, the City is not assessing whether the impacts are significant compared with existing physical conditions. Rather, the City is assessing the significant impacts compared with the level of significance disclosed in the certified SEIR. Based on the analysis, no new significant impacts will result from the proposed SPA III.

A. Cultural Resources

Impact A.1: The proposed demolition of Contributing Resources would diminish the integrity of the Mare Island Historic District.

The proposed SPA III would not affect the demolition of Contributing Resources that could diminish the integrity of the Mare Island Historic District. Elimination of a new 12-foot wide bikeway/path planned in an area where this type of facility did not historically exist would maintain the integrity of the Historic District.

Impact A.2: The proposed demolition of Notable Resources would impact each of these Contributing Resources at the level of the individual resource.

The proposed SPA III would not affect the demolition of Notable Resources.

Impact A.3: The proposed project would contribute to the cumulative impacts on Mare Island historical resources.

The proposed SPA III would lessen the cumulative impacts on Mare Island historical resources. The proposal to not construct a 12-foot wide bikeway/path would reduce the cumulative impact of the project on historic resources.

B. Traffic

Impact B.6: The full buildout of the proposed project would increase demand for public transit service to an area that is not currently served by transit.

The proposed SPA III project would not affect the total amount of development on Mare Island as defined in the 2005 Specific Plan, nor buildout of the project and would therefore not result in any new or increased impacts related to the use of public transit. The bicycle system as proposed would be modified but would continue to provide a high level of connectivity throughout the Island which may reduce intra-island vehicle trips and the demand for public transit.

Impact B.10: Traffic generated by full buildout of the proposed project would cause levels of service to degrade to unacceptable levels on one roadway segment in the long-term 2020 Future Baseline Plus Project scenario.

The proposed SPA III project would not affect the buildout of the project and would therefore not result in any new or increased impacts related traffic. As previously stated, the bicycle system as proposed would be modified but would continue to provide a high level of connectivity throughout the Island which may reduce intra-island vehicle trips.

Impact B.11: Traffic generated by full buildout of the proposed project with the 2020 Baseline would cause several impacts to study intersections and roadway segments that are significant and unavoidable.

The proposed SPA III project would not affect the buildout of the project and would therefore not result in any new or increased impacts related traffic. The bicycle system as proposed would be modified but would continue to provide a high level of connectivity throughout the Island which may reduce intra-island vehicle trips and reduce the traffic generated by full build-out.

C. Air Quality

Impact C.2: Operation including occupation and use of the development would cause long-term traffic-related emissions of ozone precursors and particulate matter.

The proposed SPA III project would not affect the buildout of the project and would therefore not result in any new or increased impacts related traffic-related air-quality issues.

D. Noise

Impact D.5: Traffic would cause noise increases at locations near sensitive land uses.

The proposed SPA III project would not affect the buildout of the project and would therefore not result in any new or increased impacts related to traffic or noise. The bicycle system as proposed would be modified but would continue to provide a high level of connectivity throughout the Island which may reduce intra-island vehicle trips and noise increases at locations near sensitive land uses.

D. CONCLUSION

The proposed SPA III lessens the environmental impacts to the Mare Island Historic District by eliminating the construction of an off-street multi-use bikeway/path along Walnut Avenue and retaining the historic character of the street. Based on the environmental analysis supported by substantial evidence provided in this Addendum, the City concludes that the proposed SPA III does not require major changes to the 2005 Specific Plan and the proposed changes do not rise to the level of change that require a Subsequent EIR. The City concludes, as set forth in this Addendum, that no new significant or substantially more severe environmental effects would result from the proposed SPA III. The City also determines that none of the criteria in CEQA Guidelines Section 15162 are present and therefore no subsequent EIR or additional CEQA compliance is required for the adoption of SPA III.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF VALLEJO AMENDING
THE MARE ISLAND PLANNED DEVELOPMENT MASTER PLAN

THE COUNCIL OF THE CITY OF VALLEJO DOES ORDAIN AS FOLLOWS:

The City Council hereby finds and determines as follows:

SECTION 1. General Findings.

1. By separate resolution, and concurrently with this action, the City Council has adopted the Addendum to the certified Subsequent Environmental Impact Report for the Mare Island Specific Plan Amended and Restated regarding the subject Amendment to the Specific Plan [SPA III (SP #98-01D)].
2. The Mare Island Specific Plan is also the Planned Development Master Plan for Mare Island.
3. Planned Development Master Plans may be amended pursuant to 16.116.140 of the Vallejo Municipal Code,

SECTION 2. Master Plan Adequacy. The City Council hereby finds that the Mare Island Specific Plan/ Planned Development Master as amended by Specific Plan Amendment [SPA III (SP #98-01D)], meets the requirements of Vallejo Municipal Code 16.116.060 in that:

- a) The amended Mare Island Specific Plan / Planned Development Master Plan is consistent with the goals and policies of the Vallejo general plan and
- b) The amended Mare Island Specific Plan/ Planned Development Master Plan is consistent with the stated purpose of the Planned Development District.
- c) The amended Mare Island Specific Plan / Planned Development Master Plan is in conformity with public convenience, the general welfare and good land use practice as discussed in the Planning Commission staff report relative to the Specific Plan Amendment.
- d) The amended Mare Island Specific Plan / Planned Development Master Plan will not be detrimental to the health, safety and general welfare.
- e) The amended Mare Island Specific Plan / Planned Development Master Plan will not adversely affect the orderly development or the preservation of property values

SECTION 3. Adoption of the Amendment to the Mare Island Specific Plan.

Based on the findings herein and in the resolutions approved concurrently with this action, the City Council hereby adopts the Mare Island Specific Plan, as amended by Specific Plan Amendment No. 98-01D, (as specified in Exhibits C and D attached to the resolution holding on first reading of this ordinance).

SECTION 4. Severability.

This Ordinance and the various parts thereof are hereby declared to be severable. Should any section of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

SECTION 5. Effective Date.

The effective date of this Ordinance shall be thirty (30) days after the final passage.

FIRST READ at a regular meeting of the Council of the City of Vallejo held on the ____ of _____, and finally passed and adopted at a regular meeting of the Council held the ____ day of _____, by the following vote:

THE MARE ISLAND SPECIFIC PLAN IS HERBY AMENDED AS FOLLOWS:

Note: New text is shown in **bold**, deleted text as ~~strikeout~~.

5.7 BICYCLE AND PEDESTRIAN

The existing bicycle and pedestrian network of off-street pathways, sidewalks, and on-street bike lanes should be interconnected in order to enhance the overall attractiveness of these modes of access. The compact nature of development within the Reuse Areas, together with the historic reliance on these modes during the military's use of Mare Island, creates the potential for a large number of residents to walk or bike from their homes to their workplace. The bicycle and pedestrian network should provide a high degree of convenient connections between the residential, recreational, employment, and educational uses on Mare Island and should minimize the number of intra-island automobile trips (see **Figure 5-3: Bicycle and Pedestrian Routes**). See also **Appendix D (Street Cross-Sections)** for a depiction of the locations and widths of sidewalks and bicycle pathways.

The designation of bike routes should indicate to bicyclists that there are particular advantages to using these routes as compared with alternative routes. This means that responsible agencies have taken actions to assure that these routes are suitable as shared routes and will be maintained in a manner compatible with the needs of bicyclists. Normally, bike routes are shared with motor vehicles. Whenever possible, the bike paths and walks provided on Mare Island should connect to existing or proposed facilities being provided by others.

There are three types of designated bikeways or routes planned for Mare Island:

- Class I Bikeway/Multi-Use Path: Off-street
- Class II Bikeway: On-Street, Dedicated Lane
- Class III Bikeway: On-Street, Shared Use Sign Designation

The Planning Manager will have flexibility and discretion in selecting which of these types, or which combination of these types, and which configuration is appropriate in light of the surrounding character and development along the paths preliminarily indicated in Figure 5-3, and in consultation with appropriate City Departments and bicycle organizations, as long as the exercise of this flexibility remains consistent with the Mare Island Specific Plan and applicable laws and ordinances. The configuration and type of the Bicycle and Pedestrian Routes shown in Figure 5.3 and also in Appendix D (Street Cross Sections) will be instructive, but not determinative.

(A) Class I Bikeway/Multi-Use Path: Off-Street

An off-street, multi-use Class I bikeway/path is proposed around the east and west edges of the developed portion of Mare Island and along a **small segment of Walnut Avenue**. Due to the developed nature of the Island, these facilities would not in all cases include all elements of a typical Class I/multi-use path, such as a continuous route with limited interruptions, grade-separations, wide intersection approaches, and signage.

The West Island shared bikeway/path generally follows the alignment of Azuar Drive and Flagship Drive, with an extension along Nereus at the Marine Parade Grounds for a connection with a future pathway to the open wetlands area on the west side of the Island. An East Island shared bikeway/path is proposed as part of the Waterfront Promenade that would connect along 8th Street **through Alden Park** and follow the alignment of Walnut Avenue, **Azuar Drive** and Club Drive southward to end at the proposed Regional Park (Reuse Area 12).

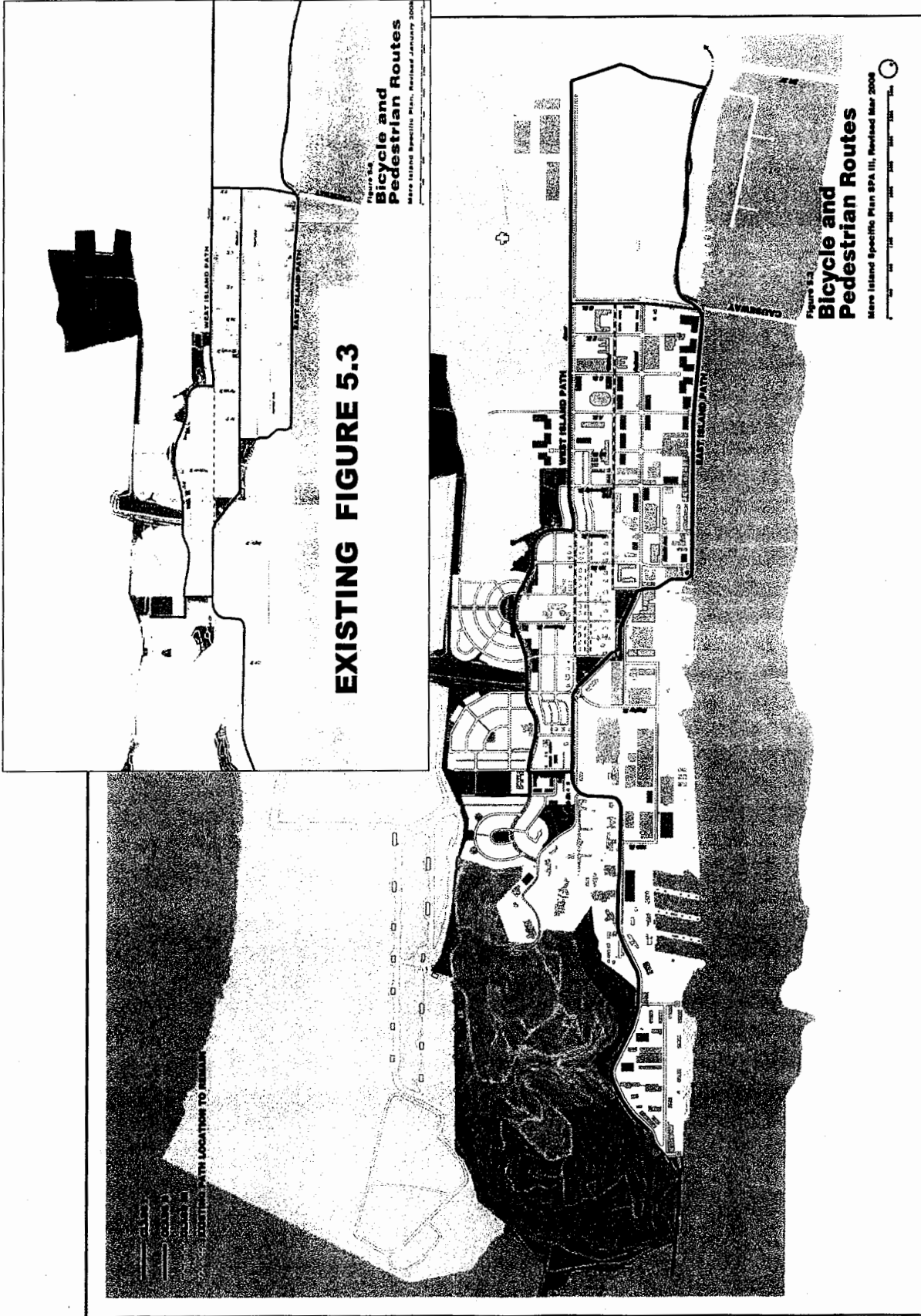
The West Island shared bikeway/path would also extend north of the Waterfront Promenade through the easterly portion of Reuse Area 1A to connect with the pier and the San Pablo Bay National Wildlife Refuge. There would also be a connector bikeway/path along the northerly edge of Reuse Area 1A to the West Island bikeway/path along the portion of Azuar Drive north of G Street. A multi-use path along the south side of G Street also would connect the East and West Island bikeway/paths at the Causeway, which could provide a direct connection with the City of Vallejo waterfront.

(B) Class II Bikeway: On-Street, Dedicated Lane

Class II bikeways require pavement markings identifying a separate, on-street lane for bicycles. A Class II bikeway is proposed along Flagship Drive from Azuar Drive to approximately Nereus Street. As discussed above, a multi-use path along the west side of Flagship Drive also would be part of an overall bikeway/path network and would serve the residential neighborhoods in this portion of the Island.

(C) Class III Bikeway: On-Street, Shared Use, Sign Designation

Class III bikeways, or bike routes, provide for shared use between bicycles and motor vehicles. Class III bike routes are designated through the installation of bike route signs (G93) and do not require pavement markings of any kind. Sidewalks should not be used as Class III bikeways. A Class III bikeway is proposed as part of the Azuar Drive roadway between the Kansas (formerly 5th) Street intersection and the roundabout, **and along Walnut Avenue from G Street to 8th Street**.



PROPOSED FIGURE 5.3

**City Council Staff Report
June 3, 2008**

ATTACHMENT 2

Planning Commission Resolution
Planning Commission Draft Meeting Minutes for May 5, 2008
Planning Commission Staff Memo Dated May 5, 2008
w/Attachments that includes Staff Report Dated
April 21, 2008 & AHLC Report Dated March 27, 2008
Planning Commission Meeting Minutes Dated April 21, 2008

CITY OF VALLEJO PLANNING COMMISSION

RESOLUTION NO. PC 08-10

A RESOLUTION OF THE PLANNING COMMISSION APPROVING THE THIRD AMENDMENT TO THE MARE ISLAND SPECIFIC PLAN (SPAIII) AND MAKING RECOMMENDATIONS TO CITY COUNCIL

WHEREAS, Section 65450 et seq. of the California Government Code provides for preparation and adoption of Specific Plans for the systematic implementation of the General Plan; and

WHEREAS, the Mare Island Specific Plan (Specific Plan) was prepared to guide the reuse of the former Mare Island Naval Shipyard ("Mare Island") on approximately 5,250 acres of land located within the City; and

WHEREAS, the Specific Plan also serves as the Master Plan for the Mare Island Planned Development; and

WHEREAS, the Specific Plan was adopted in March 1999, amended and restated in November 2005, and amended in July 2007; and

WHEREAS, on March 13, 2008, an application and supplemental materials were filed by Lennar Mare Island, LLC to amend the Specific Plan; and

WHEREAS, the proposed amendment to the Specific Plan is referenced as Specific Plan Amendment III or SPA III; and

WHEREAS, Section 5.7 and Figure 5.3 of the Specific Plan shall be as amended by the SPA III (SP #98-01D); and

WHEREAS, when compared to Section 5.7 and Figure 5.3 of the Specific Plan, the Specific Plan, as amended by the SPA III (SP #98-01D) includes changes to the bicycle and pedestrian facilities along Walnut Avenue and policies regarding future bicycle and pedestrian facilities on Mare Island; and

WHEREAS, the City has complied with the requirements of the Local Planning Law (Government Code section 65300 et seq.), the current State of California General Plan Guidelines, and the City's applicable ordinances and resolutions with respect to approval of the amendment to the Specific Plan, as amended by the SPA III (SP #98-01D); and

WHEREAS, pursuant to Government Code Section 65090, notice of the Planning Commission's hearing was published in at least one newspaper of general circulation within the City of Vallejo at least 21-calendar days before the Commission's public hearing; and

WHEREAS, an Addendum to the certified Final Subsequent Environmental Impact Report for the Mare Island Specific Plan has been prepared for SPA III (SP#98-01D); and

WHEREAS, on March 21, 2008 the Architectural Heritage and Landmarks Commission held a public hearing on the project and voted unanimously to forward a recommendation to the City Council to adopt SPA III (SP #98-01D); and

WHEREAS, the official record for this project includes, but is not limited to, the staff reports, minutes, application materials, and all letters, comments and materials received at the public hearings; and

WHEREAS, the Planning Division and designated City Staff have reviewed the project in accordance with applicable regulations and have recommended the proposal to the Planning Commission, as set forth in the staff report dated April 21, 2008; and

WHEREAS, the City of Vallejo Planning Commission conducted a duly noticed public hearing to consider SPA III (SP #98-01D) on April 21, 2008 and on May 5, 2008 at which testimony and evidence, both written and oral, were presented to and considered by the Planning Commission; and

WHEREAS, based on evidence received at the public hearing, the Planning Commission makes the following factual findings:

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

Section 1. Pursuant to Section 15164 of the CEQA Guidelines, an Addendum to the Final Subsequent EIR for the 2005 Mare Island Specific Plan has been prepared for SPA III (SP #98-01D) and based on the analysis provided in the Addendum, the proposed project does not require major changes to the 2005 Mare Island Specific Plan, no new significant or substantially more severe environmental effects would result from the proposed project, and none of the criteria in CEQA Guidelines Section 15162 are present; therefore no subsequent Environmental Impact Report or additional CEQA compliance is required for the adoption of SPA III (SP #98-01D).

II. SPECIFIC PLAN AMENDMENT FINDINGS

Section 1. The Planning Commission finds, based on the facts contained in the staff report incorporated herein by this reference, and given the evidence presented at the public hearing, that the proposed amendment to the Mare Island Specific Plan:

- A) Is consistent with the goals and policies of the Vallejo General Plan, including but not limited to:

i) General Plan Circulation and Transportation, Non-Motorized Transportation Goal 1 in that the amendment supports the provision of facilities that encourage greater use of bicycles for recreation, commuting and shopping.

ii) General Plan Circulation and Transportation, Non-Motorized Transportation Goal 1s in that the amendment provides safe and pleasant access for pedestrians throughout the community.

B) Is consistent with the provisions of Chapter 16 of the Vallejo Municipal Code Zoning Ordinance/Mare Island Historic Project Guidelines, Appendix B.2 to the Specific Plan.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF VALLEJO HEREBY RESOLVES TO:

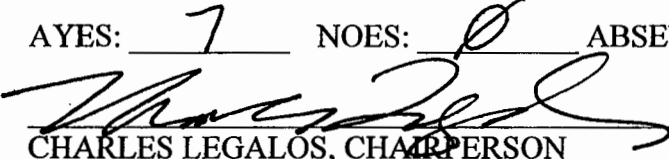
- (1) ADOPT the Addendum to the certified Final Subsequent Environmental Impact Report for the 2005 Mare Island Specific Plan, as amended by SPA III (SP #98-01D).
- (2) APPROVE the amendment to Section 5.7 and Figure 5.3 of the Mare Island Specific Plan, as amended by SPA III (SP #98-01D), and RECOMMEND THAT CITY COUNCIL ADOPT the amendment to the Mare Island Specific Plan, as amended by SPA III (SP #98-01D).
- (3) RECOMMEND THAT CITY COUNCIL ADOPT an Ordinance provided hereto as Attachment B-2, amending Section 5.7 and Figure 5.3 of the Mare Island Specific Plan, as amended by SPA III (SP #98-01D).

The Planning Commission bases this Resolution on the evidence at the hearing, and the findings contained in this Resolution and in the staff report.

III. VOTE

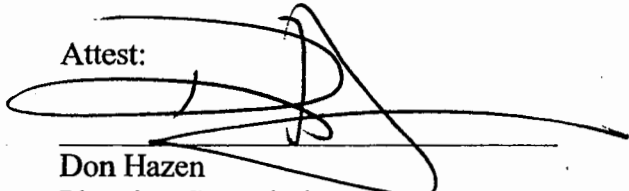
PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Vallejo, State of California, on the 5th day of May 2008, by the following vote to-wit:

AYES: 7 NOES: 0 ABSENT: 0



CHARLES LEGALÓS, CHAIRPERSON
City of Vallejo PLANNING COMMISSION

Attest:



Don Hazen
Planning Commission Secretary

DRAFT

Vallejo Planning Commission Minutes
May 5, 2008

Chairperson Legalos: If any members of the Commission need to use the facilities, please use them out in the lobby area because the City Council is meeting in the conference room behind us.

- I. *Members of the public wishing to address the Commission on items not on the agenda are requested to submit a completed speaker card to the Secretary. The Commission may take information but may not take action on any item not on the agenda*

Chairperson Legalos: I see we have no cards. Is that correct, Ms. Marshall? May we have a motion for approval of the Consent Calendar and the Agenda, please?

J. CONSENT CALENDAR AND APPROVAL OF THE AGENDA

Consent Calendar items appear below in Section K, with the Secretary's or City Attorney's designation as such. Members of the public wishing to address the Commission on Consent Calendar items are asked to address the Secretary and submit a completed speaker card prior to the approval of the agenda. Such requests shall be granted, and items will be addressed in the order in which they appear in the agenda. After making any changes to the agenda, the agenda shall be approved.

All matters are approved under one motion unless requested to be removed for discussion by a commissioner or any member of the public.

Commissioner Peterman: I move that we approve the Consent Calendar and the Agenda.

Chairperson Legalos: Please vote.

AYES: Harrington-Cole, Gourley, Manning, McConnell, Legalos, Peterman, Turley.

NOS: None.

ABSENT: None.

It is unanimous. Motion carries.

K. PUBLIC HEARINGS

1. Specific Plan 98-01D Lennar Mare Island, to replace a Class I multi-use path with a Class III bike route along Walnut Avenue. Proposed CEQA Action: An addendum to the 2005 SEIR has been prepared. Staff Planner: Michelle Hightower, 648-4506. *This was continued from a meeting of April 21, 2008.*

Staff recommends approval based on the findings and conditions.

Michelle Hightower: Thank you. Good evening Commissioners. As Deborah stated, this item came before you in your meeting of April 21, 2008. It is for an Amendment to the Mare Island Specific Plan. It is Amendment No.3, and the proposal is to replace a Class I Bikeway (Multi-Use Path) with a Class III Bikeway along Walnut Avenue and also to construct 6-foot wide sidewalks, generally along both sides of the roadway. Also, as part of this Specific Plan Amendment, we included a text change that would provide discretion to the Planning Manager to determine the appropriate bike facilities for an area in the future. The Mare Island Specific Plan, the existing plan shown in the top diagram, highlights that there are several types of facilities planned for Mare Island. Just as a reminder, a Class I bicycle facility is an off-street facility that allows bicycles and pedestrians to use it on two-way traffic and then separated for motor vehicles. A Class II Bikeway is an on-street bike lane. It is generally 5-feet with a stripe on each side of the roadway. It is a shared facility with bicycles and motor vehicles. And, also, a Class III is an on-street shared roadway facility. It is signed so the Class III is what is being proposed here in the bottom diagram along Walnut

Comment [d1]:

Vallejo Planning Commission Minutes
May 5, 2008

Avenue. The Class I would be replaced with a Class III shown here in orange. There are other Class I facilities proposed as part of the Mare Island Specific Plan. One is the east island path along the Waterfront Promenade, and the other is the west island path shown here on the bottom, that shows that it continues and connects to a Class I path going out to the Regional Park. Also, a Class II on-street bike lane is planned. Portions of this particular bike lane have been completed. It is along Flagship, and another bike route, a Class III, is planned for Azuar Drive.

The area of discussion during the April 21 meeting was primarily around bicycling safety. The Class III facility, as stated, is an on-street, share the road, type of facility with motor vehicles, and the concern was that bicycles would not be safe sharing the road on this narrow roadway. Also, with respect to signage, there was a request for City staff to go back and take a look at how we could improve bicycle safety. Just as a reminder, I indicated that there are two other Class I facilities planned for Mare Island. This shows the Waterfront Promenade, the east island path, and it shows the views and the existing study for the Class I. It is continuous. There are no street interruptions, and there would be a multi-use path, but it would be separated from the street. Also, within two blocks of Walnut Avenue is Azuar Drive. This is also proposed as a Class I route. It is also continuous with these two (pointing to map) and there will be no cross traffic. The smaller picture shows a Class I facility as part of the Azuar Drive extension which is currently being constructed. So, as you can see, the proposed Class I routes are quite different from Walnut Avenue which is proposed to be a Town Center with commercial use and light industrial use proposed on both sides of the roadway.

To address some of the concerns that came out of the meeting, we have proposed safety enhancements. That includes increased signage. Speed limit signs would be posted on every block. The current speed limit is 25 miles per hour. These would be posted on the street lights. Bike route signs would be posted at every three blocks and share-the-road pavement markings would be posted or marked near the bicycle route signs. Lastly, it was suggested quite recently that we should prohibit trucks from using Walnut Avenue, so we would post "no through truck traffic" within the area. They would be posted near G Street and 10th Streets, at the beginning and the end of the streets. . . the north and south ends.

In conclusion, this proposal enhances pedestrian safety for bikes and motor vehicles to share the road. It also allows consistent 6-foot wide sidewalks within the Town Center. As I indicated, the Town Center was envisioned to be a pedestrian-friendly environment with development on both sides of the road, light, industrial, commercial uses. It allows for a consistent development pattern on both sides of the roadway within the Town Center and it also maintains the existing street width which preserves the historic character of Walnut Avenue which is intended to be a quaint, two-lane roadway with historic character. So, the recommendation to you this evening is to approve the resolution that is provided in your packet, that is, to adopt the Addendum that is the SEQA finding for the project and also to approve SPA III with the noted changes that I have provided for you this evening. David Kleinschmidt is here to answer any questions that you might have. He is with our Public Works Department. Also, Lennar Mare Island would like to give a brief presentation as well.

Chairperson Legalos: If there are no questions or comments from the Commission, I will open the public hearing and ask if the applicant wishes to make the presentation.

DRAFT

Vallejo Planning Commission Minutes
May 5, 2008

Tom Sheaff: Good evening. I am with Lennar Mare Island. Thank you for allowing us to make possibly a little bit more informational presentation tonight. First of all, Michelle Hightower did do a great job of hitting the high points and summarizing the presentation. However, I would like just to hit a couple of things here and we can go to the next slide. Rather than go through the text item by item, why don't we just start from the next slide . . . one more. Thank you.

We are talking about this area right in here, and I think, for most of the people on the Planning Commission and certainly the members of the public, this is one of the areas in which we first started to plan, down in this area . . . the historic core. And, the reason for that is that it is by far the most complex. It is the most complex from a building rehabilitation standpoint, from an infrastructure standpoint, from a landscaping, but probably, more importantly, it was most important from a public standpoint. The historic character of the island, its former uses, all of the members of this community that used to work on Mare Island paid a lot of attention to this area. And, as we started planning this area, one thing became clear, and that was that from a planning and historic preservation and from a public works standpoint, to marry all of those became very difficult because everyone had to compromise. One of the things that we did is that we realized very early that from a transportation standpoint, Walnut Avenue was not the most perfect situation, mostly because of the historic constraints associated with Walnut Avenue. Our need to keep what the planning vision was, was a smaller street, quaint, pedestrian-friendly . . . all of those issues that Michelle addressed earlier. The other thing that we had to do up in this area (this is the main job-producing area) and with the Tentative Map 2A which this body approved last August; it really set in motion the opportunity to bring businesses in, sell land, and also renovate buildings and ultimately get the private investment that this community is demanding. So, that area did not lend itself particularly well to a large multi-use path, and once you got down about 40 to 50 percent of the way through Walnut Avenue, those opportunities almost cease. In fact, even as was originally proposed, that multi-use path was not going to be a continuous path because of the sidewalks and landscape and historic buildings down in the historic core. So, we believe that this is a good balance of preservation, safety, and recreation. We believe that this is something that should go forward that will still allow the public a lot of access into that area. They will still have the ability to drive on streets that are not the main thoroughfares, which would be Azuar Drive up here and also Railroad Avenue down here. Walnut Avenue was always anticipated to be much more lightly traveled, and I think that the safety precautions that the Public Works Department has suggested will certainly go a long way towards ensuring the public safety along that area. You should also know that in Alden Park, in Chapel Park, we have begun improvements in these areas right now and, in fact, dealt with a situation right here at that corner. I think for most of you who have been out there, it is a very sharp turn, and one of the things that we recently did was build a wall on the east side of Walnut Avenue in order to push the public crossing of the crosswalk a little bit further to the south so that you only have to deal with one-way traffic coming down from the Chapel and you are not blocked by the stairs that are right in front of the most southerly mansion down there. There are a lot of little things that we can do to make sure that the public safety is addressed. Again, I think that Public Works has done some things that everybody can live with in order to make that happen. With that, I will turn it back over to the Commission. I am available to answer any questions.

Commissioner McConnell: Thank you Mr. Sheaff. You and I had detailed telephone conversations on this matter since the last meeting, and one of the

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things we discussed was the potentiality of the turning Walnut Avenue into one-way traffic. I understand that that would require a complete re-engineering of the entire traffic pattern out there as well as cross streets, so I have decided not to endorse that idea. But, there is a comment that we are going to have no through truck traffic, and my understanding of through truck traffic is that it permits some trucks on the premises but restricts them as to distance. So, I would like to ask the engineers if there is a difference between no through traffic and no truck traffic at all.

David Kleinschmidt: Our intent is to limit the through truck traffic. We do need to provide the ability for trucks to make local deliveries, and if the businesses are located facing Walnut Avenue, we have to provide a mechanism for those trucks to be able to deliver to the businesses. The signing that we are proposing will restrict that to a certain weight limit and for local deliveries only.

Commissioner McConnell: And, can we restrict that, maybe, to weekdays, Monday through Friday so we don't have trucks out there on the weekend, competing with recreational bike riders?

David Kleinschmidt: We would look into that. One of the things we are attempting to continue to point out is the proximity of much more desirable bike routes in very close proximity to Walnut Avenue that, if you intended to ride a bike, you would surely choose Azuar or the Waterfront and not be riding a bike down Walnut Avenue. With that said, we will continue to look into what the possibilities are of restricting it on the weekends, but enforcement becomes a big issue there, and the need to have a number of signs to try to explain to the truck drivers when you can and when you can't drive on Walnut Avenue. One of the things we don't want to do is get into a situation where we are over-signing Walnut Avenue with too much information.

Commissioner McConnell: That leads me into second point. Mr. Sheaff and I discussed the possibility of an informative directional sign right after one comes off the bridge . . . something architecturally consistent with the area where that would designate the Class I and Class III bicycle routes so that a recreational rider who doesn't ride 60 to 100 miles a week would know which route is what, and I believe he has agreed with that, so I will put that into a request as a condition as well. We are talking about no truck traffic signs only at the start and the end of Walnut Avenue. What if we have a truck driver coming down Railroad and then turning up one of the cross streets to get to Walnut? It seems to me he will be coming in the middle of the Walnut traffic pattern and have no knowledge or no possibility for knowledge of restricted truck traffic on that route. Can we increase the signage without over-signing the area?

David Kleinschmidt: I know there is a possibility of that situation happening and, what we are attempting to do is, limit the truck traffic that would intentionally come down there from each end. I am not sure if you were to be a truck driver that if you drove down Walnut Avenue, turned down a cross street, and then all of the sudden realized that you shouldn't be driving on Walnut Avenue . . . you don't have many choices. The option would be to continue on to Azuar and then go around the circle again. My guess if we were to try to sign it like that is that it would be ineffective at best. I am concerned about over-signing because we defeat the purpose of the historic character, and, the signs are most likely going to be mounted onto our street lights. With the speed limit signs, the bike route signs, and any other regulatory signs within that corridor and the fact that you want to make these truck traffic signs larger than, for example, a No Parking Sign. These are larger signs to alert the truck drivers. Having that many large

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signs would not be something I would want to support. If I could add one more sign in the middle it seems feasible, but trying to put them on every block would be an overkill, I think.

Commissioner McConnell: Okay. And, would there be any signs on the pavement surface itself indicating bike riders, or are we just going to have a straight roadway out there?

David Kleinschmidt: You were asking about pavement markings for the bike riders?

Commissioner McConnell: Yes.

David Kleinschmidt: There are two types of markings that we are proposing. One is a sign on the signpost that says "Bike Route" and "Share the Road." The other one is a pavement marking on the pavement that is actually stenciled on that says "Share the Road."

Don Hazen: Commissioner McConnell, I would like to kind of supplement what Mr. Kleinschmidt is saying is that at some point I think that the Commission needs to be comfortable with the actual roadway design and trucks sharing the road with the bicyclists in spite of staff's best attempts to provide additional visibility by signage and stenciling and those sort of things. I would like to ask Mr. Kleinschmidt if he might be able to address the design on kind of a city-wide scale because this is not a unique design as I understand it to have bike routes and truck traffic and if he might be able to talk to the lane widths and the combination of speed limit and whether this is a unique situation in Mare Island or whether it is typical in city-wide roadway design so that we don't put too much emphasis on signage because we are not doing that elsewhere in the City, and I would be curious as to how this situation compares with the rest of the City.

Commissioner McConnell: That is always interesting but that is a very tall order though.

David Kleinschmidt: One of the things we addressed at the last Council meeting, and I will update everyone today in that the shared facilities are, by default, any public roadway. Bicycles are allowed on all city streets in the same capacity that we are proposing them to be on Walnut Avenue. One of the things that we are adding to Walnut Avenue is the bike route signs to allow bike riders to know that there is a connection from one end to the other, or they can get to another destination by going down this route. It is designated. In all city streets, there are many times where bike riders, and trucks, and cars are sharing the facilities, and bike riders who use those roadways are more aware of the vehicles associated with them and they are not in a protected environment or a bike lane or a Class I Bike Path. So, what we are doing is that we are not trying to restrict the bike traffic, but we are attempting to alert the public that there is the potential for more bikes to be within this particular corridor. I am recalling other truck routes within the City of Vallejo and streets where we restrict truck traffic. Springs Road is one where we have restrictions on truck traffic. We notify that truck restriction at each end and not necessarily post signs along that entire corridor. That would be a situation similar to Mare Island where we would have cross streets that a truck could potentially arrive on Springs and then not know they weren't supposed to be there. Truck drivers know truck routes. That is part of their business to know where the City permits trucks to traverse through, and the Police Department works with the community in enforcing that. Other than that, to try to add additional signing for this one, particular roadway, I think, would

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possibly set a precedent and not really achieve what we are trying to get to in the end.

7 Commissioner McConnell: Thank you very much.

Chairperson Legalos: We have one speaker on this issue, Mr. Chris Naughton.

Chris Naughton: Good evening Commissioners. My name is Chris Naughton, and I am the Chair of the Architectural Heritage and Landmarks Commission and a member of the American Institute of Architects.

Chairperson Legalos: Mr. Naughton, are you representing your Commission, or, are you representing yourself?

Chris Naughton: I am representing myself but I would like to speak about the Commission's actions related to this item. I am representing myself.

Chairperson Legalos: Ms. Quintana, are we dealing with a three-minute limit here or a five-minute limit?

Chris Naughton: I would take less than three minutes.

Claudia Quintana: I think it is the Chair's prerogative as to what limit you would like to impose on the speaker.

Chairperson Legalos: Well, we could split the difference and I would give you four minutes. Go ahead.

Chris Naughton: I wanted to share with you a little bit about the process that came before us related to the Amendment to the Specific Plan. This item came before us on March 27 with basically the same presentation and the same set of issues that were presented to us. I wanted to share with you that the proposed bike path, or the change of bike path, falls within the Historic District and also bounds up against and shares the National Historic Landmark District which is basically the roadhouses or the mansion houses that are on Walnut Avenue. Those two districts, specifically the NHL, is of higher criteria in terms of preservation, feelings, association, and context related to those particular properties. It is not only the properties itself but the area surrounding it and the general context that we consider when talking about a Multi-Use Path which was part of the Department of Public Works original plan in the Specific Plan. The central issue for us that was asked was: "What effect would a Multi-Use Path have on Walnut Avenue specifically on the west side and specifically within the National Historic Landmark District. The answer to the issue that was deliberated was that it was going to be a very significant effect on the NHL within the district itself. One of the things that the AHLC considers is not only the overall context but the effect on those properties, and it was the unanimous opinion of the AHLC that a 12-foot wide, Multi-Use Path would have a detrimental effect on the NHL. When you look at the overall context of the island, it is related to sidewalks and paths. It is utilitarian in nature. They tend to be all concrete. Specifically in front of the mansion homes there is hexagonal concrete pavers, and it was the opinion of the HLC that that should be maintained. There were a couple of other things to consider. One of them was the continuity itself of the path systems. A 12-foot wide Multi-Use Path would be, as was indicated by Tom, discontinuous, and I think one of the considerations that the AHLC made and which I would ask you to make, is also the continuity of the whole. What are the paths? How are they connected to the overall island, and would a 12-foot

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wide Multi-Use Path be in the overall keeping and nature and context of the island? It was the unanimous opinion of the AHLC that it would not and I would respectfully ask that you consider this Amendment for the 6-foot wide paths on both sides of Walnut Avenue to be the appropriate measure. We think that this balanced preservation and future use on the island would be for both cars and pedestrians as well as bike riders. Thank you.

Chairperson Legalos: There being no further speakers, I will close the public hearing and bring the matter back into the hands of the Commission.

Commissioner McConnell: I will move the adoption of the Amendment to the Specific Plan with the additional conditions that there be further study by the City Traffic Engineers concerning the through traffic signage and also the additional requirement that there be an informative sign at the start of Walnut Avenue at G Street, informing bicyclists of the different types of routes and their locations.

Chairperson Legalos: Before we continue, I have a question in relation to signage. How would that be indicated to people that there were differences? Would it just be a matter of a sign stating there are Class I, II, and III Bike Routes, because I doubt that most people would know what the difference was?

Commissioner McConnell: I think the actual context of that informational sign will have to be worked out. I think that we definitely support that and want to have a sign that is clear that would tell the story of what we are trying to get people to do and inform the public of their options. It will take a little bit of working with Lennar to make sure that we meet their sign standards and the Specific Plan sign standards and get the right language on it before we can really come to you with a sign that is going to work, but I think that working with the Planning Department and Lennar, we will come up with a sign that works.

Chairperson Legalos: I think it needs to be very clear that the options include sharing the road with vehicles with no lane markings on one extreme, and the other extreme being off the public way altogether and not sharing with vehicles. Thank you. We had a motion. Please vote.

AYES: Manning, Harrington-Cole, Gourley, Legalos, McConnell, Peterman, Turley.

NOS: None.

ABSENT: None.

It is unanimous. Motion carries.

L. OTHER ITEMS

1. Development Agreement 08-0001, Lennar Mare Island Development Agreement Annual Review. Staff Planner: Michelle Hightower, 648-4506.

Michelle Hightower: Good evening again, Commissioners. Lennar Mare Island, as the master developer of Mare Island, entered into a Development Agreement with the City in the year 2001 and a requirement of that Development Agreement is for them to submit to the City on an annual basis, a review of their compliance with the Development Agreement. The Development Agreement itself states that the Development Services Director shall determine if Lennar is in compliance with the Development Agreement. If that determination is made, notification is provided to you, the Planning Commission. Tonight, we are informing you that we have received the 2008 Development Agreement Annual Review. The



CITY OF VALLEJO
DEVELOPMENT SERVICES DEPARTMENT
555 Santa Clara Street - P.O. Box 3068
Vallejo, California 94590-5934

MEMORANDUM

TO: City of Vallejo Planning Commission
FROM: Don Hazen, Planning Manager
Michelle Hightower, Senior Planner
DATE: May 5, 2008
SUBJECT: Item K-1, SP #98-01D

BACKGROUND

The proposed Mare Island Specific Plan Amendment III (SP #98-01D) regarding bicycle facilities on Mare Island came before the Planning Commission at the Commission meeting of April 21, 2008. Lennar Mare Island, master developer of Mare Island, proposes to amend the current Specific Plan to eliminate a Class I Bikeway, Bicycle/Pedestrian Multi-Use Path planned along the west side of Walnut Avenue south of G Street, replace it with a Class III Bike Route, and construct a 6-foot wide monolithic sidewalk generally along both sides of the roadway. The proposal also includes text changes to the Specific Plan document to allow the Planning Division discretion in selecting the final type of all future bikeway/paths on Mare Island.

During the public hearing, three of the Commissioners expressed concern regarding the potential safety hazard for bicyclists. The Class III Bike Route is an on-street facility and requires bicycles to share the road with motor vehicles. The Commission voted in favor of continuing the public hearing to the May 5, 2008 meeting, and directed staff to find solutions for increasing the safety for bicyclists along the roadway.

DISCUSSION

The issues raised during the meeting included the basic desirability of Walnut Avenue to recreational bicyclists, the potential of adding a striped bicycle lane (Class II facility), and appropriate signage for vehicle speed and the proposed bike route.

With regards to the desirability of Walnut Avenue for recreational purposes, staff believes this attraction is due to the existing land use conditions along the street. This includes vacant land, several vacant buildings, large parking lots, low traffic volumes, and most importantly Alden Park and the row of historic mansions along the southern end, south of Kansas Street. However, as part of the Town Center, the land use plan for this area, primarily north of Kansas Street, includes new infill development and rehabilitation of existing buildings for commercial and light industrial

uses. As such, it is anticipated that this area will contain an active pedestrian environment during the week, and the preference would be for recreational bicyclists to access the southern part of the street via the proposed Pedestrian Waterfront Promenade or Azuar Drive.

In addressing the removal of the off-street Class I Bikeway along Walnut Avenue, Lennar and staff discussed the potential of providing on-street bike lanes as a replacement. However, in order to provide two, five-foot lanes (one along each side of the roadway), Walnut Avenue would need to be widened. Given the historic integrity of Walnut Avenue, it has always been the intent of the Specific Plan to maintain the existing street width.

To improve the safety conditions of the proposed Class III bike route, the Public Works Department will require the following: (1) installation of bike route signs in three block intervals – at G Street, A Street, Kansas Street and 8th Street; (2) pavement markings indicating "Share the Road" near the bike route signs; and (3) installation of 25 mph speed limit signs attached to the street light poles on every block. Staff believes the additional signage will improve bicycle safety for the proposed bike route along Walnut Avenue.

In addition to addressing the safety issues discussed during the public hearing, staff proposes to amend the text changes to the Specific Plan document as follows: (Please note strike-out and new text in bold lettering.)

The Planning ~~Division~~ **Manager** will have flexibility and discretion in selecting which of these types, or which combination of these types, and which configuration is appropriate in light of the surrounding character and development along the paths preliminarily indicated in Figure 5-3, **and in consultation with appropriate City Departments and bicycle organizations**, as long as the exercise of this flexibility remains consistent with the Mare Island Specific Plan and applicable laws and ordinances. The configuration and type of the Bicycle and Pedestrian Routes shown in Figure 5.3 and also in Appendix D (Street Cross Sections) will be instructive, but not determinative.

Recommendation:

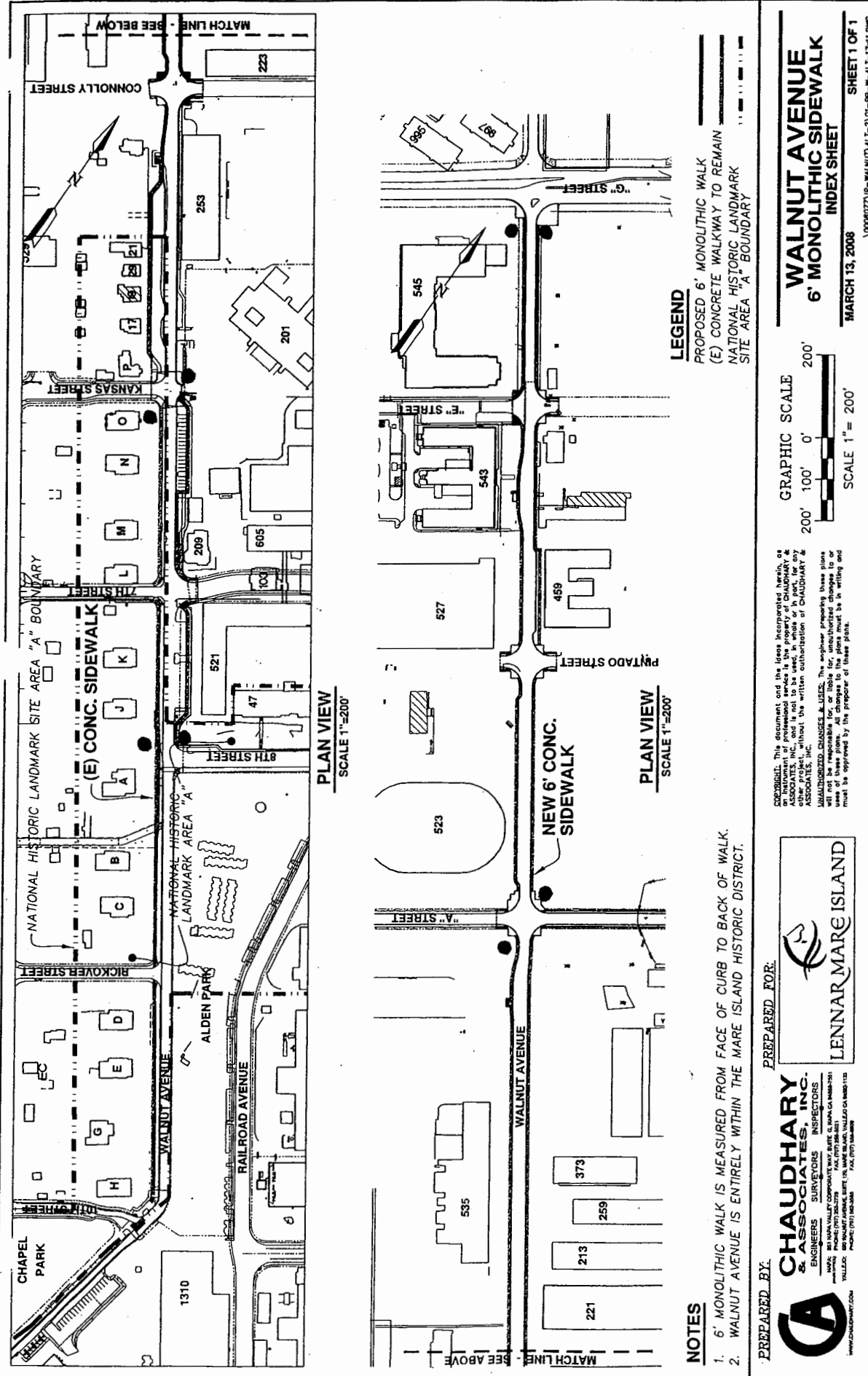
Staff recommends that the Planning Commission:

1. Adopt the Addendum to the certified Final Subsequent Environmental Impact Report for the Mare Island Specific Plan as amended by the SPA III (SP #98-01D), as provided in the Staff Report dated April 21, 2008.
2. Approve the amendment to the Mare Island Specific Plan, as amended by the SPA III (SP #98-01D), as provided in the Staff Report dated April 21, 2008 with the above noted changes.
3. Recommend that the City Council Adopt an Ordinance adopting an amendment to the Mare Island Specific Plan, as amended by the SPA III

(SP #98-01D), as provided in Attachment B-2, with the above noted changes.

ATTACHMENTS:

- A. Proposed Bike Route Signage Locations
- B. B-1. Planning Commission Resolution
B-2. Ordinance to Amend the Mare Island Specific Plan
Exhibit A - Text Amendment to the Mare Island Specific Plan
Exhibit B - Revised Figure 5.3
- C. Planning Commission Agenda Report /Attachments Dated April 21, 2008



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PREPARED FOR:
LENNAR MARE ISLAND

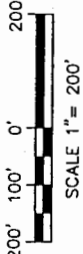
NOTES

- 6' MONOLITHIC WALK IS MEASURED FROM FACE OF CURB TO BACK OF WALK.
- WALNUT AVENUE IS ENTIRELY WITHIN THE MARE ISLAND HISTORIC DISTRICT.

LEGEND

- PROPOSED 6' MONOLITHIC WALK
- (E) CONCRETE WALKWAY TO REMAIN
- NATIONAL HISTORIC LANDMARK
- SITE AREA "A" BOUNDARY

GRAPHIC SCALE



**WALNUT AVENUE
 6' MONOLITHIC SIDEWALK
 INDEX SHEET**

MARCH 13, 2008

SHEET 1 OF 1

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Proposed Bike Route Signage Locations

CITY OF VALLEJO PLANNING COMMISSION

RESOLUTION NO. PC 08-10

A RESOLUTION OF THE PLANNING COMMISSION
APPROVING THE THIRD AMENDMENT TO THE MARE
ISLAND SPECIFIC PLAN (SPAIII) AND MAKING
RECOMMENDATIONS TO CITY COUNCIL

WHEREAS, Section 65450 *et seq.* of the California Government Code provides for preparation and adoption of Specific Plans for the systematic implementation of the General Plan; and

WHEREAS, the Mare Island Specific Plan (Specific Plan) was prepared to guide the reuse of the former Mare Island Naval Shipyard ("Mare Island") on approximately 5,250 acres of land located within the City; and

WHEREAS, the Specific Plan also serves as the Master Plan for the Mare Island Planned Development; and

WHEREAS, the Specific Plan was adopted in March 1999, amended and restated in November 2005, and amended in July 2007; and

WHEREAS, on March 13, 2008, an application and supplemental materials were filed by Lennar Mare Island, LLC to amend the Specific Plan; and

WHEREAS, the proposed amendment to the Specific Plan is referenced as Specific Plan Amendment III or SPA III; and

WHEREAS, Section 5.7 and Figure 5.3 of the Specific Plan shall be as amended by the SPA III (SP #98-01D); and

WHEREAS, when compared to Section 5.7 and Figure 5.3 of the Specific Plan, the Specific Plan, as amended by the SPA III (SP #98-01D) includes changes to the bicycle and pedestrian facilities along Walnut Avenue and policies regarding future bicycle and pedestrian facilities on Mare Island; and

WHEREAS, the City has complied with the requirements of the Local Planning Law (Government Code section 65300 *et seq.*), the current State of California General Plan Guidelines, and the City's applicable ordinances and resolutions with respect to approval of the amendment to the Specific Plan, as amended by the SPA III (SP #98-01D); and

WHEREAS, pursuant to Government Code Section 65090, notice of the Planning Commission's hearing was published in at least one newspaper of general circulation within the City of Vallejo at least 21-calendar days before the Commission's public hearing; and

WHEREAS, an Addendum to the certified Final Subsequent Environmental Impact Report for the Mare Island Specific Plan has been prepared for SPA III (SP#98-01D); and

WHEREAS, on March 21, 2008 the Architectural Heritage and Landmarks Commission held a public hearing on the project and voted unanimously to forward a recommendation to the City Council to adopt SPA III (SP #98-01D); and

WHEREAS, the official record for this project includes, but is not limited to, the staff reports, minutes, application materials, and all letters, comments and materials received at the public hearings; and

WHEREAS, the Planning Division and designated City Staff have reviewed the project in accordance with applicable regulations and have recommended the proposal to the Planning Commission, as set forth in the staff report dated April 21, 2008; and

WHEREAS, the City of Vallejo Planning Commission conducted a duly noticed public hearing to consider SPA III (SP #98-01D) on April 21, 2008 and on May 5, 2008 at which testimony and evidence, both written and oral, were presented to and considered by the Planning Commission; and

WHEREAS, based on evidence received at the public hearing, the Planning Commission makes the following factual findings:

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

Section 1. Pursuant to Section 15164 of the CEQA Guidelines, an Addendum to the Final Subsequent EIR for the 2005 Mare Island Specific Plan has been prepared for SPA III (SP #98-01D) and based on the analysis provided in the Addendum, the proposed project does not require major changes to the 2005 Mare Island Specific Plan, no new significant or substantially more severe environmental effects would result from the proposed project, and none of the criteria in CEQA Guidelines Section 15162 are present; therefore no subsequent Environmental Impact Report or additional CEQA compliance is required for the adoption of SPA III (SP #98-01D).

II. SPECIFIC PLAN AMENDMENT FINDINGS

Section 1. The Planning Commission finds, based on the facts contained in the staff report incorporated herein by this reference, and given the evidence presented at the public hearing, that the proposed amendment to the Mare Island Specific Plan:

- A) Is consistent with the goals and policies of the Vallejo General Plan, including but not limited to:

i) General Plan Circulation and Transportation, Non-Motorized Transportation Goal 1 in that the amendment supports the provision of facilities that encourage greater use of bicycles for recreation, commuting and shopping.

ii) General Plan Circulation and Transportation, Non-Motorized Transportation Goal 1s in that the amendment provides safe and pleasant access for pedestrians throughout the community.

B) Is consistent with the provisions of Chapter 16 of the Vallejo Municipal Code Zoning Ordinance/Mare Island Historic Project Guidelines, Appendix B.2 to the Specific Plan.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF VALLEJO HEREBY RESOLVES TO:

- (1) ADOPT the Addendum to the certified Final Subsequent Environmental Impact Report for the 2005 Mare Island Specific Plan, as amended by SPA III (SP #98-01D).
- (2) APPROVE the amendment to Section 5.7 and Figure 5.3 of the Mare Island Specific Plan, as amended by SPA III (SP #98-01D), and RECOMMEND THAT CITY COUNCIL ADOPT the amendment to the Mare Island Specific Plan, as amended by SPA III (SP #98-01D).
- (3) RECOMMEND THAT CITY COUNCIL ADOPT an Ordinance provided hereto as Attachment B-2, amending Section 5.7 and Figure 5.3 of the Mare Island Specific Plan, as amended by SPA III (SP #98-01D).

The Planning Commission bases this Resolution on the evidence at the hearing, and the findings contained in this Resolution and in the staff report.

III. VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Vallejo, State of California, on the 5th day of May 2008, by the following vote to-wit:

AYES: 7 NOES: 0 ABSENT: 0

CHARLES LEGALOS, CHAIRPERSON
City of Vallejo PLANNING COMMISSION

Attest:

Don Hazen
Planning Commission Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF VALLEJO ADOPTING
SPECIFIC PLAN AMENDMENT NO. 98-01D and AMENDING
THE MARE ISLAND SPECIFIC PLAN/
PLANNED DEVELOPMENT MASTER PLAN

THE COUNCIL OF THE CITY OF VALLEJO DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings and Determination.

The City Council hereby finds and determines that:

- A. As required by Government Code Section 65358(a), the proposed Specific Plan Amendment No. 98-01D regarding the Amendment to the Mare Island Specific Plan, as defined and described in City Council Resolution No. () is in the public interest of the people of the City of Vallejo, and is in conformity with public convenience, the general welfare and good land use practice by converting and reusing the former Mare Island Naval Shipyard for industrial, commercial, residential, open space, recreation, cultural and institutional uses for the benefit of the greater Vallejo community, and
- B. The Amendment to the Mare Island Specific Plan is consistent with the objectives, goals, policies and general land uses specified in the City's General Plan.
- C. By Resolution No.(), the City Council has adopted the Addendum to the certified Subsequent Environmental Impact Report for the Mare Island Specific Plan Amended and Restated.

SECTION 2. Adoption of the Amendment to the Mare Island Specific Plan.

Based on the findings herein and in the resolutions recited above, the City Council hereby adopts and incorporates Specific Plan Amendment No. 98-01D, entitled "Amendment to the Mare Island Specific Plan, dated _____," as specified in Exhibit A and B attached hereto and incorporated herein by this reference.

SECTION 3. Severability.

This Ordinance and the various parts thereof are hereby declared to be severable. Should any section of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

SECTION 4. Effective Date.

The effective date of this Ordinance shall be thirty (30) days after the final passage.

FIRST READ at a regular meeting of the Council of the City of Vallejo held on the _____ of _____, and finally passed and adopted at a regular meeting of the Council held the ____ day of _____, by the following vote

THE MARE ISLAND SPECIFIC PLAN IS HERBY AMENDED AS FOLLOWS:

Note: New text is shown in **bold**, deleted text as ~~strikeout~~.

5.7 BICYCLE AND PEDESTRIAN

The existing bicycle and pedestrian network of off-street pathways, sidewalks, and on-street bike lanes should be interconnected in order to enhance the overall attractiveness of these modes of access. The compact nature of development within the Reuse Areas, together with the historic reliance on these modes during the military's use of Mare Island, creates the potential for a large number of residents to walk or bike from their homes to their workplace. The bicycle and pedestrian network should provide a high degree of convenient connections between the residential, recreational, employment, and educational uses on Mare Island and should minimize the number of intra-island automobile trips (see **Figure 5-3: Bicycle and Pedestrian Routes**). See also **Appendix D (Street Cross-Sections)** for a depiction of the locations and widths of sidewalks and bicycle pathways.

The designation of bike routes should indicate to bicyclists that there are particular advantages to using these routes as compared with alternative routes. This means that responsible agencies have taken actions to assure that these routes are suitable as shared routes and will be maintained in a manner compatible with the needs of bicyclists. Normally, bike routes are shared with motor vehicles. Whenever possible, the bike paths and walks provided on Mare Island should connect to existing or proposed facilities being provided by others.

There are three types of designated bikeways or routes planned for Mare Island:

- Class I Bikeway/Multi-Use Path: Off-street
- Class II Bikeway: On-Street, Dedicated Lane
- Class III Bikeway: On-Street, Shared Use Sign Designation

The Planning Manager will have flexibility and discretion in selecting which of these types, or which combination of these types, and which configuration is appropriate in light of the surrounding character and development along the paths preliminarily indicated in Figure 5-3, and in consultation with appropriate City Departments and bicycle organizations, as long as the exercise of this flexibility remains consistent with the Mare Island Specific Plan and applicable laws and ordinances. The configuration and type of the Bicycle and Pedestrian Routes shown in Figure 5.3 and also in Appendix D (Street Cross Sections) will be instructive, but not determinative.

(A) Class I Bikeway/Multi-Use Path: Off-Street

An off-street, multi-use Class I bikeway/path is proposed around the east and west edges of the developed portion of Mare Island and along a small segment of Walnut Avenue. Due to the developed nature of the Island, these facilities would not in all cases include all elements of a typical Class I/multi-use path, such as a continuous route with limited interruptions, grade-separations, wide intersection approaches, and signage.

The West Island shared bikeway/path generally follows the alignment of Azuar Drive and Flagship Drive, with an extension along Nereus at the Marine Parade Grounds for a connection with a future pathway to the open wetlands area on the west side of the Island. An East Island shared bikeway/path is proposed as part of the Waterfront Promenade that would connect along 8th Street ~~with the Walnut Avenue~~ through Alden Park bikeway/path and follow the alignment of Walnut Avenue, Azuar Drive and Club Drive southward to end at the proposed Regional Park (Reuse Area 12).

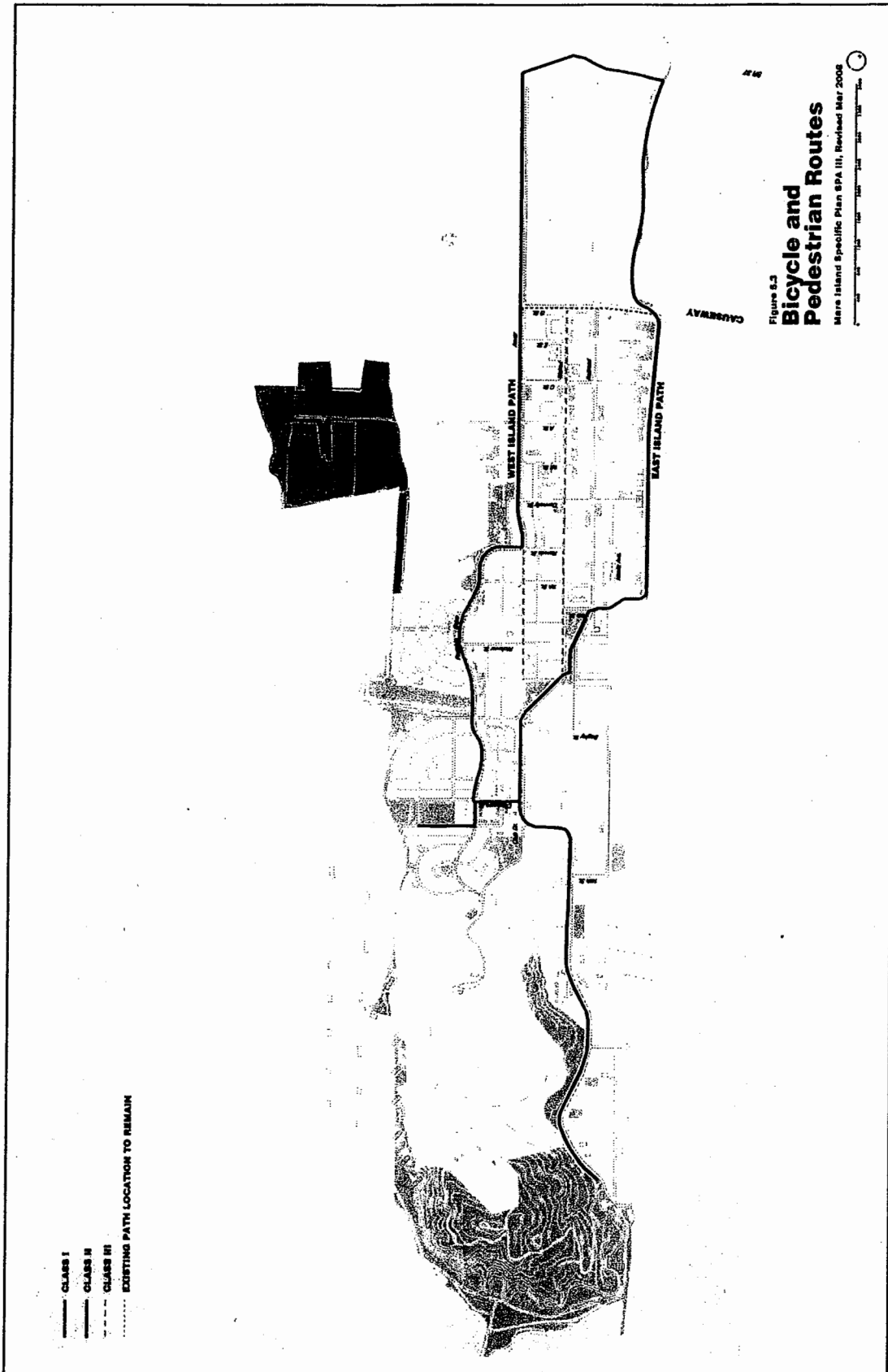
The West Island shared bikeway/path would also extend north of the Waterfront Promenade through the easterly portion of Reuse Area 1A to connect with the pier and the San Pablo Bay National Wildlife Refuge. There would also be a connector bikeway/path along the northerly edge of Reuse Area 1A to the West Island bikeway/path along the portion of Azuar Drive north of G Street. A multi-use path along the south side of G Street also would connect the East and West Island bikeway/paths at the Causeway, which could provide a direct connection with the City of Vallejo waterfront.

(B) Class II Bikeway: On-Street, Dedicated Lane

Class II bikeways require pavement markings identifying a separate, on-street lane for bicycles. A Class II bikeway is proposed along Flagship Drive from Azuar Drive to approximately Nereus Street. As discussed above, a multi-use path along the west side of Flagship Drive also would be part of an overall bikeway/path network and would serve the residential neighborhoods in this portion of the Island.

(C) Class III Bikeway: On-Street, Shared Use, Sign Designation

Class III bikeways, or bike routes, provide for shared use between bicycles and motor vehicles. Class III bike routes are designated through the installation of bike route signs (G93) and do not require pavement markings of any kind. Sidewalks should not be used as Class III bikeways. A Class III bikeway is proposed as part of the Azuar Drive roadway between the Kansas (formerly 5th) Street intersection and the roundabout, and along Walnut Avenue from G Street to 8th Street.



REVISED FIGURE 5.3

ATTACHMENT C

**STAFF REPORT
CITY OF VALLEJO
PLANNING COMMISSION**

AGENDA ITEM:

DATE OF MEETING: April 21, 2008

PREPARED BY: Michelle Hightower

PROJECT NUMBER: SP #98-01D

PROJECT DESCRIPTION: Amendment to the 2007 Mare Island Specific Plan to eliminate a Class I Bike/Pedestrian Multi-Use Path planned along the west side of Walnut Avenue south of G Street, replace it with a Class III Bike Route, and to construct a 6-foot wide monolithic sidewalk generally along both sides of the roadway. The proposal also includes text changes to the Specific Plan document to allow the Planning Division to have discretion in selecting the final type of all future bikeway/paths on Mare Island.

PROJECT DATA SUMMARY:

Name of Applicant: Tom Sheaff, Lennar Mare Island, LLC

General Plan Designation: Employment, Commercial-General, Residential-Medium Density

Zoning Designation: Mixed-Use Planned Development/Mare Island Specific Plan

Location: Walnut Avenue – G Street to 10th Street, Mare Island Historic District

RECOMMENDATION: Recommend City Council Approval

CEQA: Addendum to the SEIR for the 2005 Specific Plan (Section 15164 CEQA Guidelines)

PROJECT SUMMARY

Background

In December 2005, the City Council approved a proposal to amend and restate the 1999 Mare Island Specific Plan (Specific Plan) submitted by Lennar Mare Island (LLC), master developer of Mare Island (Lennar). The Specific Plan guides the future development of Mare Island, a former Naval Shipyard which closed operation in 1996, and serves as the Master Plan for the Island. The 2005 Specific Plan was subsequently amended in July 2007, as proposed by Lennar and the City, to primarily address historic preservation issues. The 2007 Specific Plan supersedes both the 1999 and 2005 documents.

Project Area

The proposed amendment involves the future bicycle/pedestrian circulation plan for Mare Island and mainly the Walnut Avenue corridor, south of G Street near the Mare Island Causeway, to 10th Street near Chapel Park. (See Attachment 2-A, Vicinity Map.) Walnut Avenue is a major north-south collector road that accommodates two-way traffic. The street is entirely within the Mare Island Historic District and the area generally south of Connolly Street is within the National Historic Landmark Area A.

At present, Walnut Avenue contains an inconsistent sidewalk pattern, including monolithic sidewalks of varying widths, defined as a typical concrete walkway that abuts the street curb, separated sidewalks with landscaped strips, and historic sidewalks with hexagonal shaped pavers fronting the Captains Row mansions. In some cases, no sidewalks are provided. (See Attachment 2-B for photographs of the area.)

The Walnut Avenue corridor contains an historic mix of land uses, including former military barracks renovated into office space, vacant and partially occupied warehouses and commercial buildings, an indoor sports/recreation center, light industrial uses, a medical clinic for veterans, historic mansions currently being used for offices, parking lots, open space areas including Morton Field, Alden Park and Chapel Park, and several vacant parcels. The corridor is within several Specific Plan Reuse areas including 2A (Town Center), 2B (West Business Park), 3B (Waterfront Mixed-Use) and 4 (Historic Core).

Specific Plan Transportation Element and Street Cross-Section

The Transportation Element of the Specific Plan (Section 5) defines the bicycle and pedestrian facilities proposed for the Island. Three types of facilities are planned: Class I Bikeway/Multi-Use Path - an off-street facility that accommodates both two-way bicycle and pedestrian traffic; Class II Bikeway: On-Street, Dedicated Lane - an on-street bike lane with pavement markings on both sides of the street; and Class III Bikeway: On-Street, Shared Use Sign Designation - a shared lane between bicycles and motor vehicles that do not require pavement markings. As illustrated in Figure 5.3 of the Specific Plan, two Class I bikeway/multi-use paths are designated generally

along the outer edges of the Island, specifically along Azuar Drive (West Island Path), and the Waterfront Promenade (East Island path) as shown in blue, and a third mid-island bikeway/multi-use path is propped along Walnut Avenue, south of G Street. The Class II Bikeway is shown along Flagship Drive in red, and the Class III Bikeway is shown in orange dashes along Azuar Drive from Flagship Drive to Walnut Avenue. (See Attachment 2-C and Diagram 1 below.)

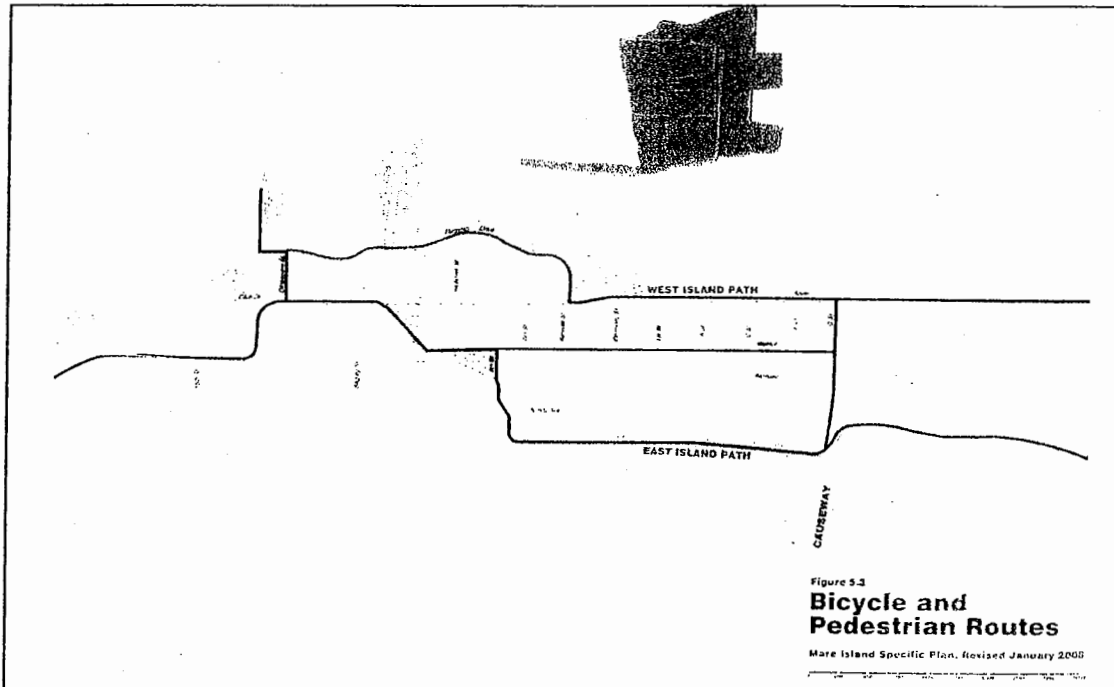


Diagram 1: Existing Figure 5.3

The Walnut Avenue Street Cross-Sections in Appendix D of the Specific Plan more specifically illustrate the suggested future street alignment and right-of-way for Walnut Avenue. This shows a Class I bikeway/multi-use trail (path) generally along the west side of Walnut Avenue from G Street to Kansas Street. The path is 12-feet wide that includes an 8-foot bicycle/pedestrian area and a 2-foot shoulder on each side. (See Diagram 2 below.) As shown, the east side of Walnut Avenue includes a 5-foot wide sidewalk and a 6.5-foot wide planter.

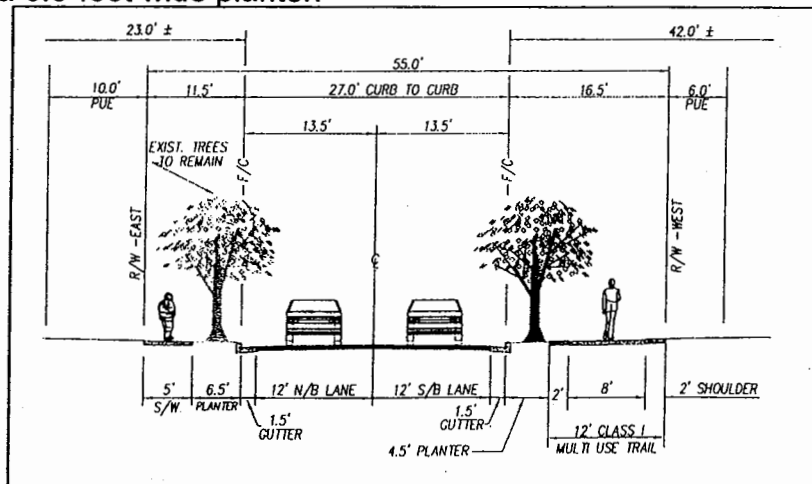


Diagram 2: Existing Street Cross-Section, Walnut Avenue, G Street to E Street (Typical)

Proposal

Lennar proposes to amend the Transportation Element of the Specific Plan to eliminate the Class I bikeway/multi-use path designation along Walnut Avenue, south of G Street and replace it with a Class III bikeway/route. The purpose is to provide a bicycle facility along Walnut that would maintain the existing historic character of the street. The proposed Class I bikeway/route would begin at G Street, end at 8th Street and connect with the Class I bikeway/multi-use path through Alden Park from 8th to 10th Street. (See Attachment 2-C.) The Architectural Heritage and Landmarks Commission (AHLC) recently approved a Certificate Of Appropriateness (COA) to allow the repair and replacement of the existing path through Alden Park ranging from three to five feet wide with a consistent 5-foot wide path. The Transportation Element allows for flexibility in providing the typical elements and size of a Class I multi-use path due to the developed nature of the Island. As part of the proposed Class III bikeway/route, signage indicating a shared on-street bicycle and motor vehicle lane would be installed between G Street to 8th Street.

To provide a consistent sidewalk pattern along most of Walnut Avenue, Lennar has also proposed to construct a 6-foot wide monolithic sidewalk along the west and east sides of the road from G Street to Connolly Street. At Connolly Street, the monolithic sidewalk would continue on the west side only due to the location of an existing historic building (Building 253), and at Kansas Street, the new sidewalk would continue only on the east side, as the existing sidewalks fronting the historic mansions would be retained on the west. To construct the monolithic sidewalk, the 6.5' planter planned along the east side of the street would be eliminated; however, a 10-foot wide public utility and landscape easement would be included behind the sidewalk. (See Diagram 3 below.)

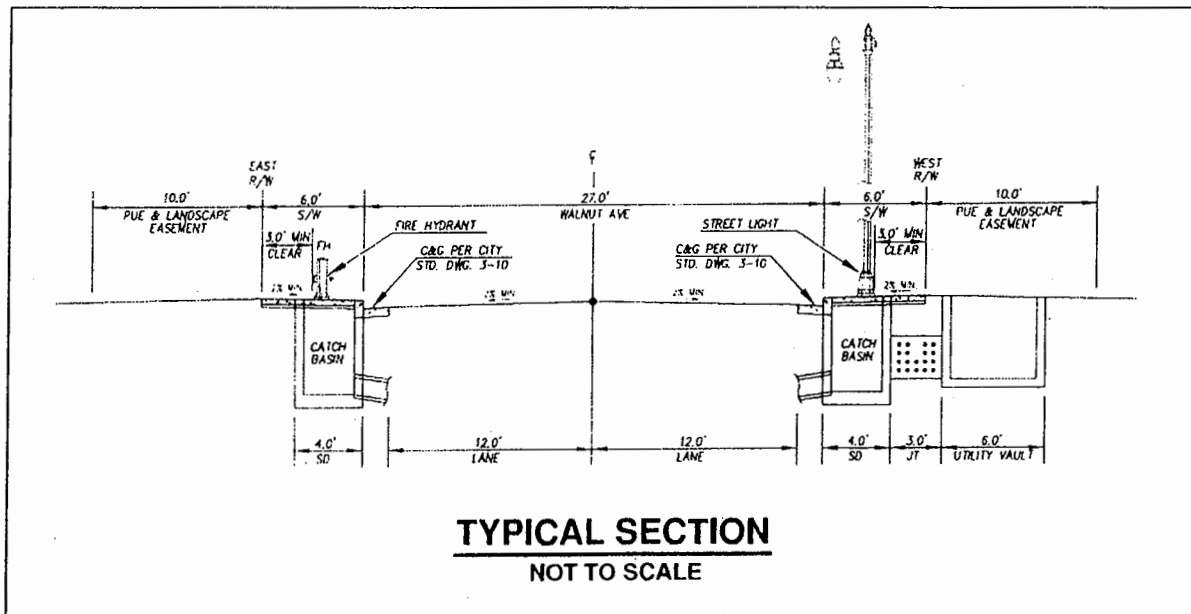


Diagram 3: Proposed Street Cross-Section Walnut Avenue (Typical)

The proposed amendment also includes text changes to the Transportation Element that would allow the Planning Division to have discretion in selecting the final type of all future bikeway/paths appropriate for an area. This selection would be made in light of the surrounding character and development along the paths and coordinated with the Department of Public Works and Lennar.

SPA III modifies Figure 5.3 and amends Section 5.7 (See Attachment 1-B) of the Specific Plan. Given that Appendix D Mare Island Street Cross-Sections allows for street design changes to be made as deemed necessary, modification to the Walnut Avenue Street Cross-Sections is not warranted.

ANALYSIS

The project proposes to: (1) preserve Walnut Avenue within the Historic District as a two-lane roadway where bicycles and motor vehicles share a travel lane; (2) install signage for the bike route; (3) construct a typical 6-foot wide sidewalk along both sides of Walnut Avenue, except as noted above; and (4) preserve the historic sidewalks fronting the mansions. The project is consistent with several policies of the General Plan and Vallejo Municipal Code/Mare Island Specific Plan, as described below.

Consistency with the General Plan

The proposed amendment is consistent with the General Plan policies to (1) provide facilities that encourage greater use of bicycles for recreation, commuting and shopping; and (2) to have safe and pleasant access for pedestrians throughout the community. The reclassification of the Class I bikeway/multi-use path along Walnut Avenue maintains bicycle and pedestrian connections throughout the Island; the proposed signage for the Class I bikeway provides for a safe environment for bicyclist alerting vehicles of the shared lane environment; and the proposed sidewalks will provide exclusive use for pedestrians allowing for safe pedestrian access throughout the area.

Consistency with the Vallejo Municipal Code/Mare Island Specific Plan

The proposed amendment is consistent with the Vallejo Municipal Code/Zoning Ordinance. The adopted Mare Island Specific Plan Historic Project Guidelines, as required by the Zoning Ordinance requires projects to be consistent with the Mare Island Historic District Design Guidelines, Appendix B.4 of the Specific Plan. As illustrated in the Character Area Map provided in the Design Guidelines, the project is within three historic character areas including Residential, Industrial, and Administrative/Institutional. The proposal to remove the multi-use path from Walnut Avenue, replace it with a Class III bikeway, and to construct sidewalks on both sides in the areas as mentioned above is consistent with following Design Guidelines:

10.1 Improvements to the streetscape should not impede on one's ability to interpret the historic industrial character of the area.

The replacement of an off-street bicycle/pedestrian facility with an on-street shared lane, and the construction of 6-foot wide monolithic sidewalks within the area would not affect the ability to interpret the historic character of the area.

10.4 Visually blend a sidewalk with the adjacent ground plane.

The construction of monolithic sidewalks would allow blending of the walk with adjacent ground plane.

10.4 (a.) Pedestrian walkways and sidewalks should be simple in character, reflecting the industrial nature of the area.

A 6-foot wide monolithic sidewalk is considered simpler in character than an off-street Class I bikeway/multi-use path and would better reflect the industrial nature of the area.

10.5 (c) An attached sidewalk is appropriate.

The proposed monolithic sidewalk is considered an attached sidewalk and is consistent with this policy.

11.1 The overall character of the streetscape should respect historic development and use patterns.

The proposed construction of 6-foot wide monolithic sidewalks would accommodate pedestrian access throughout the historic and future mix of land uses in the area.

11.1 (b.) Streetscape improvements should be simple and modest in character and meet basic function requirements for improvements typically found within the public right-of-way.

The project proposes a simple, modest sidewalk that is typically found within the public right-of-way of a commercial/industrial area rather than an off-street bicycle and pedestrian facility.

11.2 (a) Maintain the alignment of Railroad and Walnut Avenues.

The project proposes to maintain the general alignment of Walnut Avenue. In some areas where the right-of-way allows, on-street parking will be provided where it currently does not exist.

11.5 Sidewalks should reflect those seen historically in the Administrative Institutional Character Areas.

Historically, parts of the Administrative/Institutional Character Areas provided three to six-foot wide sidewalks. There are several existing monolithic walks in

this area and the proposal to construct a consistent 6-foot wide monolithic sidewalk complies with this policy.

Related Approvals

In September 2007, the Planning Commission approved Tentative Map #07-0006 (Town Center) to subdivide an 82-acre commercial area on Mare Island. A portion of Walnut Avenue is part of the Town Center subdivision. To complete the subdivision process that would ultimately allow the property to be transferred and redeveloped, the Public Works Department must approve Public Improvement Plans for Walnut Avenue. The subject SPA III will facilitate the completion of these Improvement Plans.

The proposed SPA III project area is entirely within the Mare Island Historic District, for which the AHLC has project review authority. On March 21, 2008, the AHLC unanimously approved Certificate Of Appropriateness (COA) #08-0004 to construct the monolithic sidewalks along most of Walnut Avenue and recommended the City Council approve SPA III to eliminate the Class I bikeway/multi-use path and replace it with a Class III bike route, based on the findings and conditions contained in the staff report. (See Attachment 4 for AHLC staff report dated March 21, 2008). The report concluded that the proposal is consistent with the Secretary of Interior Standards and applicable policies of the Mare Island Historic District Design Guidelines.

Conclusion

The inclusion of a Class I bikeway/multi-use path through the Historic District has long been a source of discussion due to its potential impact along the Walnut Avenue corridor. As mentioned, part of the corridor is within Reuse Area 2A Town Center, which is planned as a vibrant pedestrian friendly area that will attract a continued mix of uses with new commercial/industrial buildings on the vacant sites as well as reuse of the existing buildings. Although the Class I designation was intended to provide a mid-Island bike/pedestrian facility, a Class III bikeway/route is more appropriate given the developed nature and proposed mix of land uses planned along the Walnut Avenue corridor. The remaining two Class I paths planned along the outer edges of the Island where limited or no vehicular traffic and street crossings are planned, and where a smaller mix of land uses are proposed are more suitable for an off-street bike/pedestrian facility and will remain as part of the transportation plan. The monolithic sidewalks on both sides of the roadway within the Town Center area will also allow for a consistent development pattern along the Walnut Avenue corridor as well as the establishment of a pedestrian friendly environment for area.

ENVIRONMENTAL REVIEW

A Subsequent Environmental Impact Report (SEIR) was certified by the City Council in November 2005 for the 2005 Specific Plan. In accordance with Section 15164 of the California Environmental Quality Act, (CEQA). In July 2007, the City Council adopted a first addendum to 2005 SEIR for the 2007 Specific Plan amendment. A second addendum to the previously certified SEIR has been prepared for the proposed project and concludes

the following: 1) there are no substantial changes to the project that necessitate revisions to SEIR, 2) there are no substantial changes in the circumstances under which the project is undertaken that necessitate revisions to SEIR, and 3) there is no new information of substantial importance which was not known and could not have been known at the time SEIR was certified that indicates that the project will cause more significant or severe impacts than what was discussed in SEIR. Additionally, the mitigation measures established in SEIR have been adopted and will be implemented as applicable.

RECOMMENDATION

Staff has determined that the proposed amendment is consistent with the City's General Plan, the Vallejo Municipal Code Zoning Ordinance/Mare Island Specific Plan, and all applicable ordinances, standards, guidelines, and policies. Therefore, staff recommends that the Planning Commission:

1. Adopt the Addendum to the certified Final Subsequent Environmental Impact Report for the Mare Island Specific Plan as amended by the SPA III (SP #98-01D)
2. Approve the amendment to the Mare Island Specific Plan, as amended by the SPA III (SP #98-01D)
3. Recommend that the City Council Adopt an Ordinance adopting an amendment to the Mare Island Specific Plan, as amended by the SPA III (SP #98-01D)

APPEAL

The applicant or any party adversely affected by a decision of the Planning Commission may within ten days after the rendition of the decision of the Planning Commission appeal in writing to the City Council by filing a written appeal with the City Clerk and Planning Division. Such written appeal shall state the reason or reasons for the appeal and why the applicant believes he or she is adversely affected by the decision of the Planning Commission. Such appeal shall not be timely filed unless it is actually received by the City Clerk or designee no later than the close of business on the tenth calendar day after the rendition of the decision of the Planning Commission. If such date falls on a weekend or city holiday, then the deadline shall be extended until the regular business day.

ATTACHMENTS

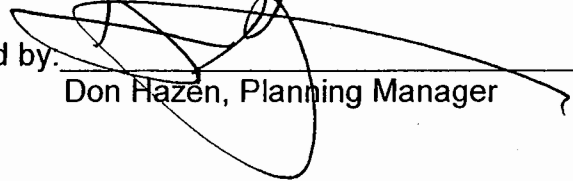
1. Resolutions and Ordinances
 - A. Planning Commission Resolution
 - B. Ordinance to Amend the Mare Island Specific Plan
 - Exhibit A – Text Amendment to the Mare Island Specific Plan
 - Exhibit B – Revised Figure 5.3
2. Staff Report Exhibits

- A. Vicinity and 500' Radius Map
- B. Photographs of the Area
- C. Existing and Proposed Figure 5.3
- D. Proposed 6-Foot Monolithic Sidewalk

3. Draft Addendum to the 2005 Subsequent Environmental Impact Report

4. AHLC Staff Report dated March 27, 2008 w/o Attachments

Prepared by: 
Michelle Hightower, Senior Planner

Approved by: 
Don Hazen, Planning Manager

ATTACHMENT 1

RESOLUTIONS AND ORDINANCES

- A. Planning Commission Resolution
- B. Ordinance to Amend the Mare Island Specific Plan

CITY OF VALLEJO PLANNING COMMISSION

RESOLUTION NO. PC 08-10

A RESOLUTION OF THE PLANNING COMMISSION APPROVING THE THIRD AMENDMENT TO THE MARE ISLAND SPECIFIC PLAN (SPAIII) AND MAKING RECOMMENDATIONS TO CITY COUNCIL

WHEREAS, Section 65450 et seq. of the California Government Code provides for preparation and adoption of Specific Plans for the systematic implementation of the General Plan; and

WHEREAS, the Mare Island Specific Plan (Specific Plan) was prepared to guide the reuse of the former Mare Island Naval Shipyard ("Mare Island") on approximately 5,250 acres of land located within the City; and

WHEREAS, the Specific Plan also serves as the Master Plan for the Mare Island Planned Development; and

WHEREAS, the Specific Plan was adopted in March 1999, amended and restated in November 2005, and amended in July 2007; and

WHEREAS, on March 13, 2008, an application and supplemental materials were filed by Lennar Mare Island, LLC to amend the Specific Plan; and

WHEREAS, the proposed amendment to the Specific Plan is referenced as Specific Plan Amendment III or SPA III; and

WHEREAS, Section 5.7 and Figure 5.3 of the Specific Plan shall be as amended by the SPA III (SP #98-01D); and

WHEREAS, when compared to Section 5.7 and Figure 5.3 of the Specific Plan, the Specific Plan, as amended by the SPA III (SP #98-01D) includes changes to the bicycle and pedestrian facilities along Walnut Avenue and policies regarding future bicycle and pedestrian facilities on Mare Island; and

WHEREAS, the City has complied with the requirements of the Local Planning Law (Government Code section 65300 et seq.), the current State of California General Plan Guidelines, and the City's applicable ordinances and resolutions with respect to approval of the amendment to the Specific Plan, as amended by the SPA III (SP #98-01D); and

WHEREAS, pursuant to Government Code Section 65090, notice of the Planning Commission's hearing was published in at least one newspaper of general circulation within the City of Vallejo at least 21-calendar days before the Commission's public hearing; and

WHEREAS, an Addendum to the certified Final Subsequent Environmental Impact Report for the Mare Island Specific Plan has been prepared for SPA III (SP#98-01D); and

WHEREAS, on March 21, 2008 the Architectural Heritage and Landmarks Commission held a public hearing on the project and voted unanimously to forward a recommendation to the City Council to adopt SPA III (SP #98-01D); and

WHEREAS, the official record for this project includes, but is not limited to, the staff reports, minutes, application materials, and all letters, comments and materials received at the public hearings; and

WHEREAS, the Planning Division and designated City Staff have reviewed the project in accordance with applicable regulations and have recommended the proposal to the Planning Commission, as set forth in the staff report dated April 21, 2008; and

WHEREAS, the City of Vallejo Planning Commission conducted a duly noticed public hearing to consider SPA III (SP #98-01D) on April 21, 2008 at which testimony and evidence, both written and oral, were presented to and considered by the Planning Commission; and

WHEREAS, based on evidence received at the public hearing, the Planning Commission makes the following factual findings:

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

Section 1. Pursuant to Section 15164 of the CEQA Guidelines, an Addendum to the Final Subsequent EIR for the 2005 Mare Island Specific Plan has been prepared for SPA III (SP #98-01D) and based on the analysis provided in the Addendum, the proposed project does not require major changes to the 2005 Mare Island Specific Plan, no new significant or substantially more severe environmental effects would result from the proposed project, and none of the criteria in CEQA Guidelines Section 15162 are present; therefore no subsequent Environmental Impact Report or additional CEQA compliance is required for the adoption of SPA III (SP #98-01D).

II. SPECIFIC PLAN AMENDMENT FINDINGS

Section 1. The Planning Commission finds, based on the facts contained in the staff report incorporated herein by this reference, and given the evidence presented at the public hearing, that the proposed amendment to the Mare Island Specific Plan:

- A) Is consistent with the goals and policies of the Vallejo General Plan, including but not limited to:

i) General Plan Circulation and Transportation, Non-Motorized Transportation Goal 1 in that the amendment supports the provision of facilities that encourage greater use of bicycles for recreation, commuting and shopping.

ii) General Plan Circulation and Transportation, Non-Motorized Transportation Goal 1s in that the amendment provides safe and pleasant access for pedestrians throughout the community.

B) Is consistent with the provisions of Chapter 16 of the Vallejo Municipal Code Zoning Ordinance/Mare Island Historic Project Guidelines, Appendix B.2 to the Specific Plan.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF VALLEJO HEREBY RESOLVES TO:

- (1) ADOPT the Addendum to the certified Final Subsequent Environmental Impact Report for the 2005 Mare Island Specific Plan, as amended by SPA III (SP #98-01D);
- (2) APPROVE the amendment to Section 5.7 and Figure 5.3 of the Mare Island Specific Plan, as amended by SPA III (SP #98-01D), and RECOMMEND THAT CITY COUNCIL ADOPT the amendment to the Mare Island Specific Plan, as amended by SPA III (SP #98-01D);
- (3) RECOMMEND THAT CITY COUNCIL ADOPT an Ordinance amending Section 5.7 and Figure 5.3 of the Mare Island Specific Plan, as amended by SPA III (SP #98-01D).

The Planning Commission bases this Resolution on the evidence at the hearing, and the findings contained in this Resolution and in the staff report.

III. VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Vallejo, State of California, on the 21st day of April 2008, by the following vote to-wit:

AYES: _____ NOES: _____ ABSENT: _____

CHARLES LEGALOS, CHAIRPERSON
City of Vallejo PLANNING COMMISSION

Attest:

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF VALLEJO ADOPTING
SPECIFIC PLAN AMENDMENT NO. 98-01D and AMENDING
THE MARE ISLAND SPECIFIC PLAN/
PLANNED DEVELOPMENT MASTER PLAN

THE COUNCIL OF THE CITY OF VALLEJO DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings and Determination.

The City Council hereby finds and determines that:

- A. As required by Government Code Section 65358(a), the proposed Specific Plan Amendment No. 98-01D regarding the Amendment to the Mare Island Specific Plan, as defined and described in City Council Resolution No. () is in the public interest of the people of the City of Vallejo, and is in conformity with public convenience, the general welfare and good land use practice by converting and reusing the former Mare Island Naval Shipyard for industrial, commercial, residential, open space, recreation, cultural and institutional uses for the benefit of the greater Vallejo community, and
- B. The Amendment to the Mare Island Specific Plan is consistent with the objectives, goals, policies and general land uses specified in the City's General Plan.
- C. By Resolution No.(), the City Council has adopted the Addendum to the certified Subsequent Environmental Impact Report for the Mare Island Specific Plan Amended and Restated.

SECTION 2. Adoption of the Amendment to the Mare Island Specific Plan.

Based on the findings herein and in the resolutions recited above, the City Council hereby adopts and incorporates Specific Plan Amendment No. 98-01D, entitled "Amendment to the Mare Island Specific Plan, dated _____," as specified in Exhibit A and B attached hereto and incorporated herein by this reference.

SECTION 3. Severability.

This Ordinance and the various parts thereof are hereby declared to be severable. Should any section of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

SECTION 4. Effective Date.

The effective date of this Ordinance shall be thirty (30) days after the final passage.

FIRST READ at a regular meeting of the Council of the City of Vallejo held on the _____ of _____, and finally passed and adopted at a regular meeting of the Council held the ____ day of _____, by the following vote

THE MARE ISLAND SPECIFIC PLAN IS HERBY AMENDED AS FOLLOWS:

Note: New text is shown in **bold**, deleted text as ~~strikeout~~.

5.7 BICYCLE AND PEDESTRIAN

The existing bicycle and pedestrian network of off-street pathways, sidewalks, and on-street bike lanes should be interconnected in order to enhance the overall attractiveness of these modes of access. The compact nature of development within the Reuse Areas, together with the historic reliance on these modes during the military's use of Mare Island, creates the potential for a large number of residents to walk or bike from their homes to their workplace. The bicycle and pedestrian network should provide a high degree of convenient connections between the residential, recreational, employment, and educational uses on Mare Island and should minimize the number of intra-island automobile trips (see **Figure 5-3: Bicycle and Pedestrian Routes**). See also **Appendix D (Street Cross-Sections)** for a depiction of the locations and widths of sidewalks and bicycle pathways.

The designation of bike routes should indicate to bicyclists that there are particular advantages to using these routes as compared with alternative routes. This means that responsible agencies have taken actions to assure that these routes are suitable as shared routes and will be maintained in a manner compatible with the needs of bicyclists. Normally, bike routes are shared with motor vehicles. Whenever possible, the bike paths and walks provided on Mare Island should connect to existing or proposed facilities being provided by others.

There are three types of designated bikeways or routes planned for Mare Island:

- Class I Bikeway/Multi-Use Path: Off-street
- Class II Bikeway: On-Street, Dedicated Lane
- Class III Bikeway: On-Street, Shared Use Sign Designation

The Planning Division will have flexibility and discretion in selecting which of these types, or which combination of these types, and which configuration is appropriate in light of the surrounding character and development along the paths preliminarily indicated in Figure 5-3, as long as the exercise of this flexibility remains consistent with the Mare Island Specific Plan and applicable laws and ordinances. The configuration and type of the Bicycle and Pedestrian Routes shown in Figure 5.3 and also in Appendix D (Street Cross Sections) will be instructive, but not determinative.

(A) Class I Bikeway/Multi-Use Path: Off-Street

An off-street, multi-use Class I bikeway/path is proposed around the east and west edges of the developed portion of Mare Island and along a small segment of Walnut Avenue. Due to the developed nature of the Island, these facilities would not in all cases include all elements of a typical Class I/multi-use path, such as a continuous route with limited interruptions, grade-separations, wide intersection approaches, and signage.

The West Island shared bikeway/path generally follows the alignment of Azuar Drive and Flagship Drive, with an extension along Nereus at the Marine Parade Grounds for a connection with a future pathway to the open wetlands area on the west side of the Island. An East Island shared bikeway/path is proposed as part of the Waterfront Promenade that would connect along 8th Street ~~with the Walnut Avenue~~ through Alden Park bikeway/path and follow the alignment of Walnut Avenue, Azuar Drive and Club Drive southward to end at the proposed Regional Park (Reuse Area 12).

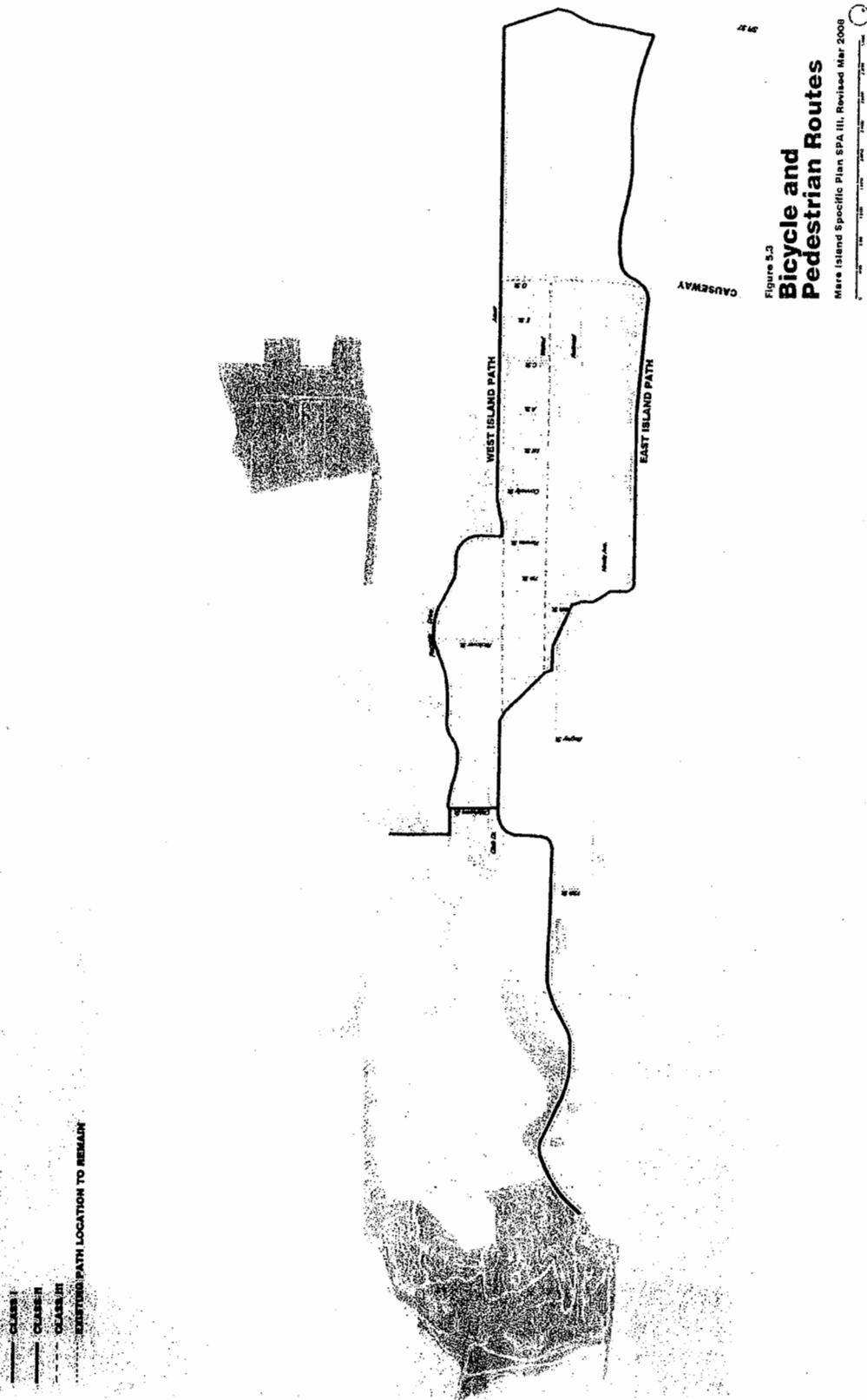
The West Island shared bikeway/path would also extend north of the Waterfront Promenade through the easterly portion of Reuse Area 1A to connect with the pier and the San Pablo Bay National Wildlife Refuge. There would also be a connector bikeway/path along the northerly edge of Reuse Area 1A to the West Island bikeway/path along the portion of Azuar Drive north of G Street. A multi-use path along the south side of G Street also would connect the East and West Island bikeway/paths at the Causeway, which could provide a direct connection with the City of Vallejo waterfront.

(B) Class II Bikeway: On-Street, Dedicated Lane

Class II bikeways require pavement markings identifying a separate, on-street lane for bicycles. A Class II bikeway is proposed along Flagship Drive from Azuar Drive to approximately Nereus Street. As discussed above, a multi-use path along the west side of Flagship Drive also would be part of an overall bikeway/path network and would serve the residential neighborhoods in this portion of the Island.

(C) Class III Bikeway: On-Street, Shared Use, Sign Designation

Class III bikeways, or bike routes, provide for shared use between bicycles and motor vehicles. Class III bike routes are designated through the installation of bike route signs (G93) and do not require pavement markings of any kind. Sidewalks should not be used as Class III bikeways. A Class III bikeway is proposed as part of the Azuar Drive roadway between the Kansas (formerly 5th) Street intersection and the roundabout, and along Walnut Avenue from G Street to 8th Street.

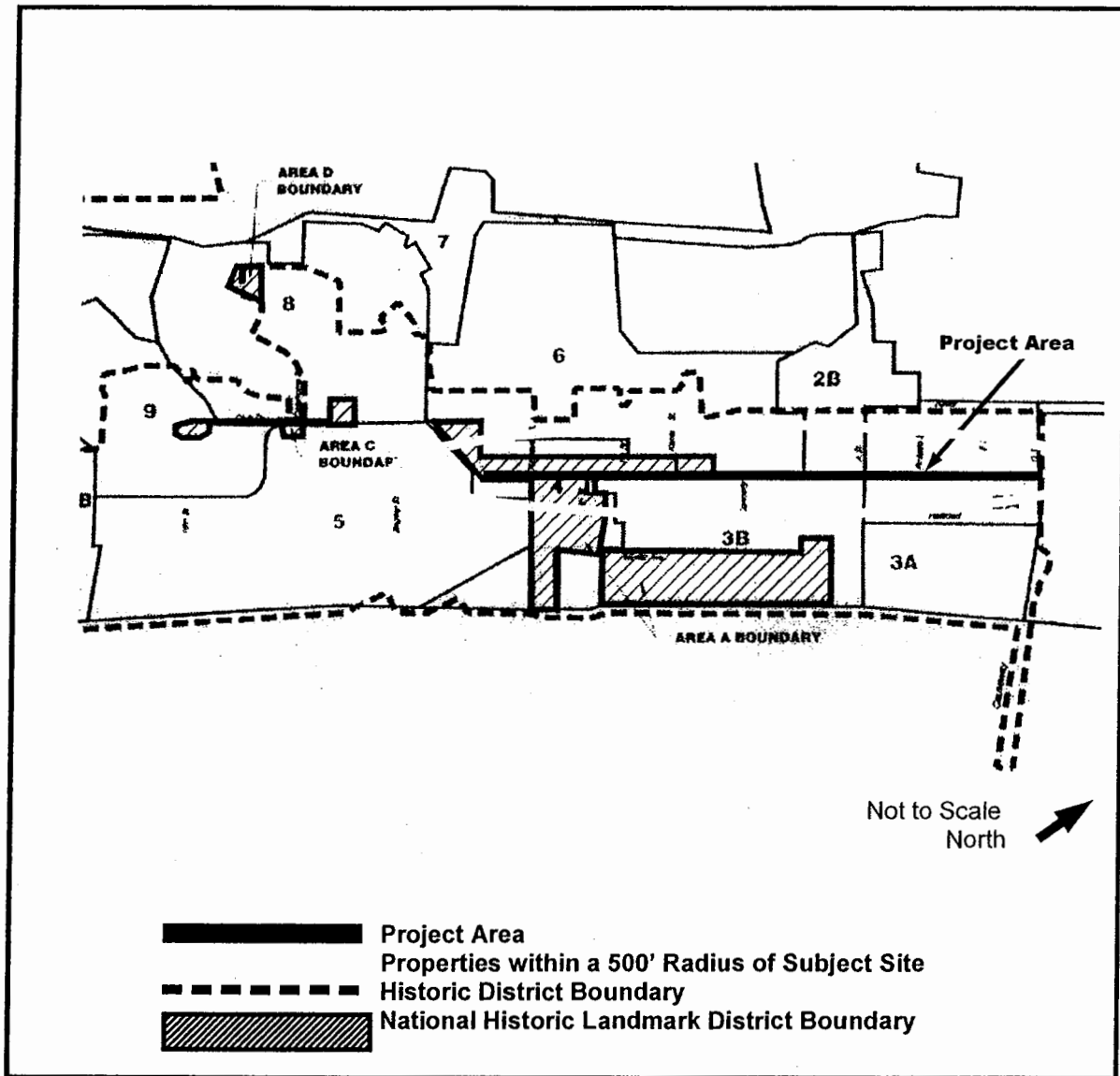


REVISED FIGURE 5.3

ATTACHMENT 2

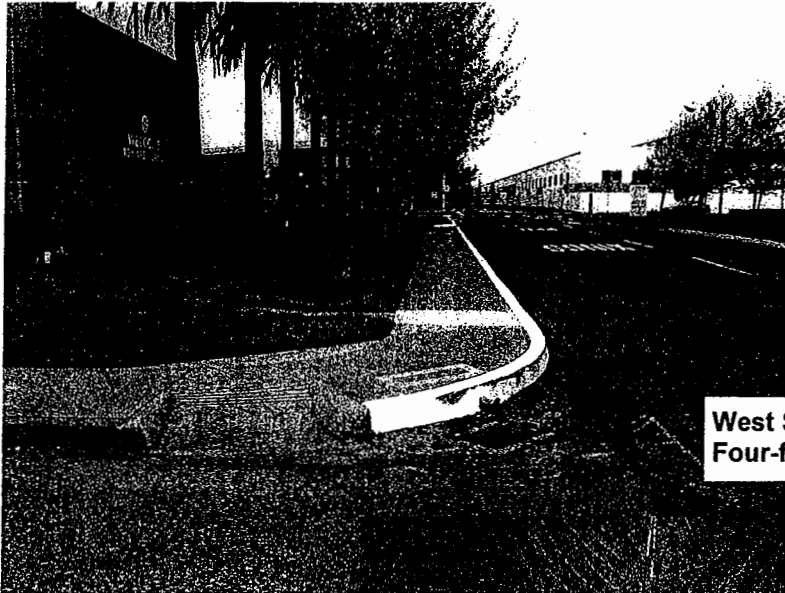
STAFF REPORT EXHIBITS

- A. Vicinity and 500' Radius Map
- B. Selected Photographs of the Area
- C. Existing and Proposed Figure 5.3
- D. Proposed 6-Foot Wide Monolithic Sidewalk



**SPECIFIC PLAN #98-01D
MARE ISLAND SPA III
PROJECT VICINITY/500' RADIUS
CONFLICT OF INTEREST MAP**

SELECTED PHOTOGRAPHS OF WALNUT AVENUE



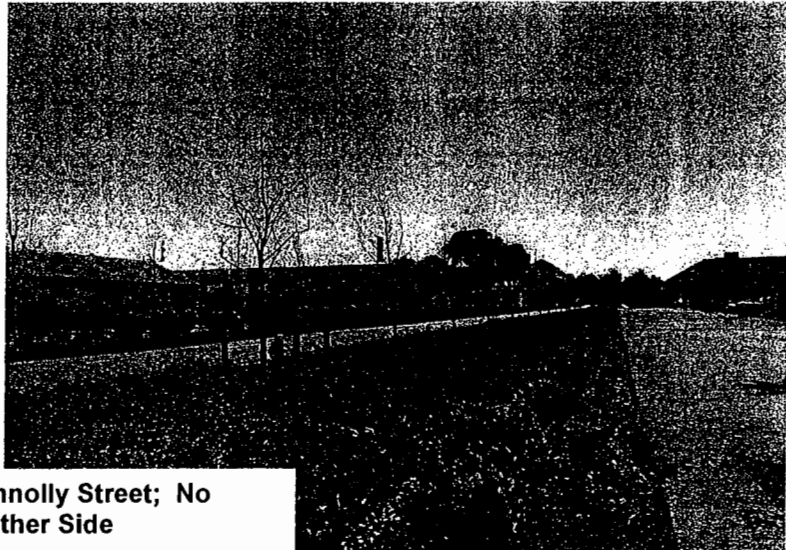
West Side at Rodman Center
Four-foot Monolithic Sidewalk



East Side at Pintado Street
Six-foot Separated Sidewalk
Near 690 Walnut Avenue



West Side at Pintado Street
No Sidewalk Near Building 523



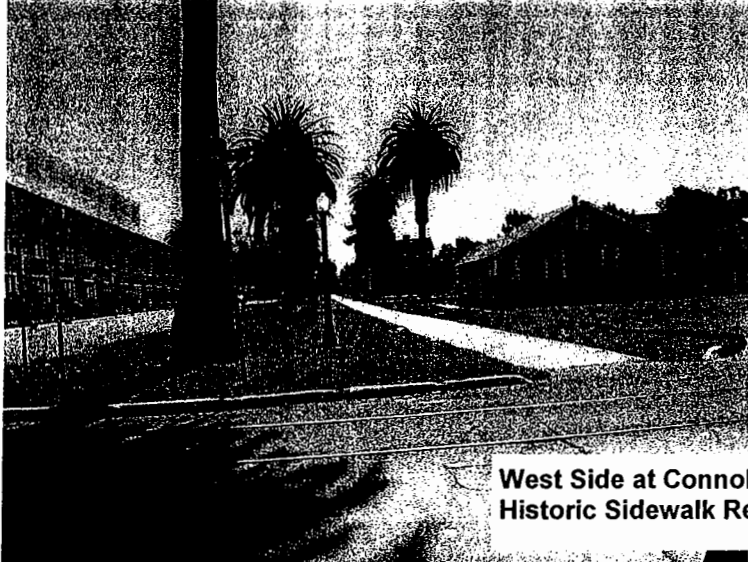
A Street to Connolly Street; No Sidewalk on Either Side



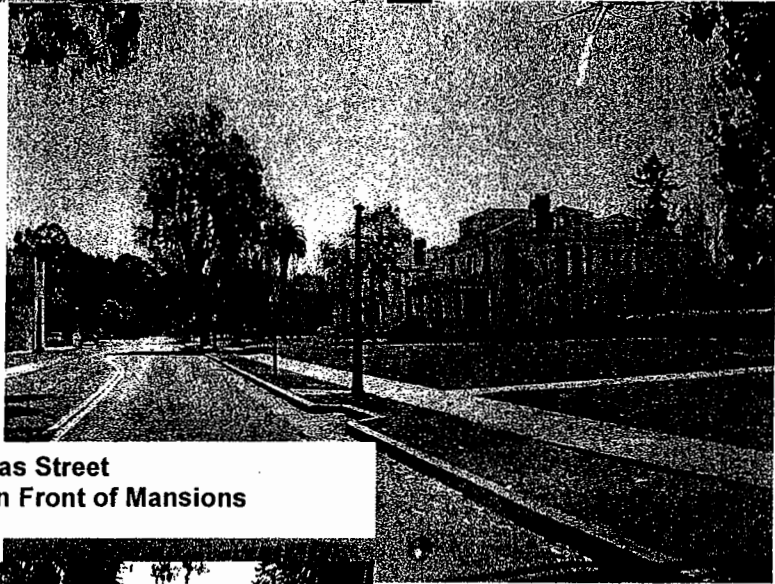
East Side—Two-Foot Separated Sidewalk Near Building 253



**East Side Near Veterans Clinic Parking Lot
Four-foot Monolithic Sidewalk**



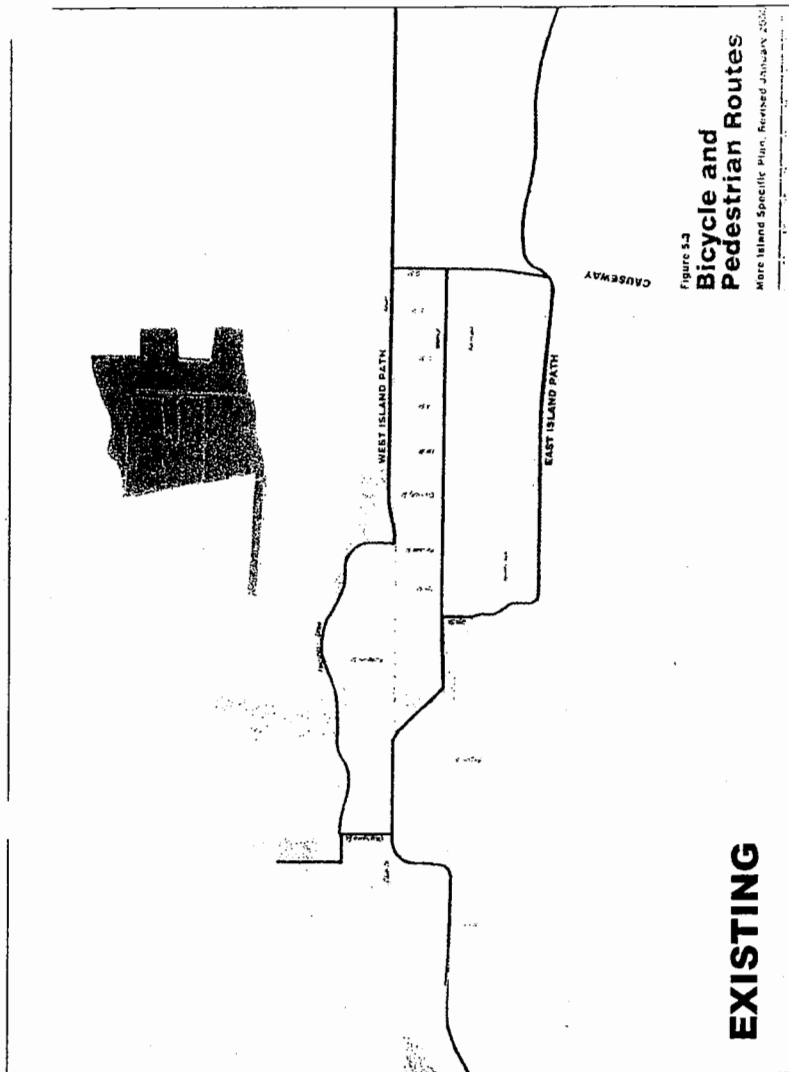
**West Side at Connolly Street
Historic Sidewalk Replacement near Quarters 21**



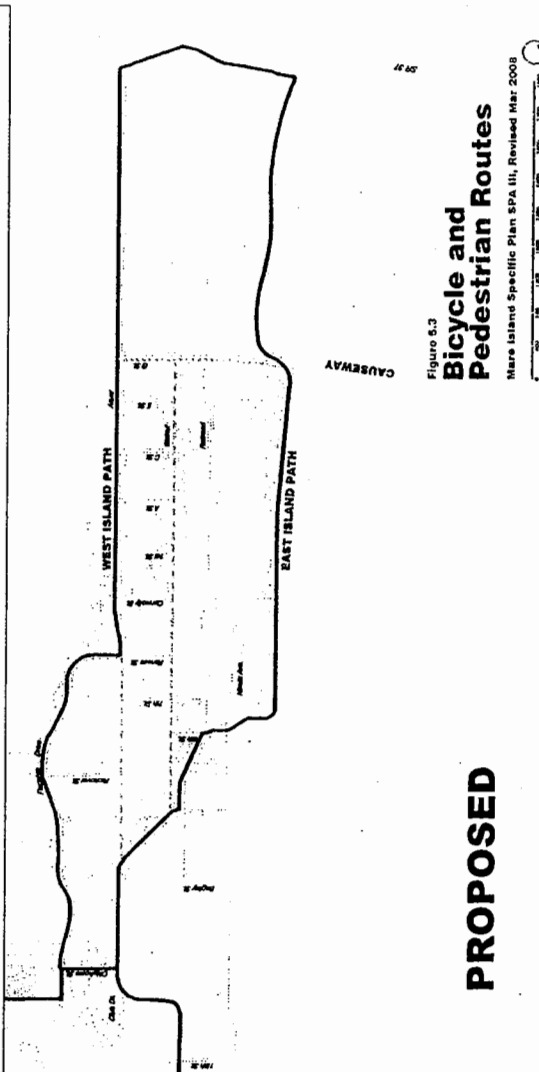
**West Side at Kansas Street
Historic Sidewalk in Front of Mansions**

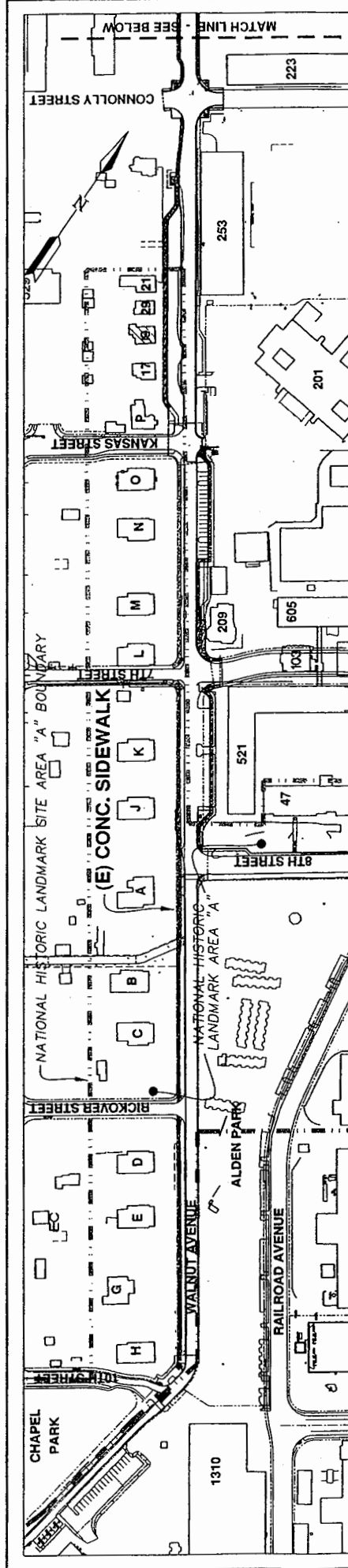


**West Side at 10th Street
Historic Sidewalk and Steps in Front of Mansion**

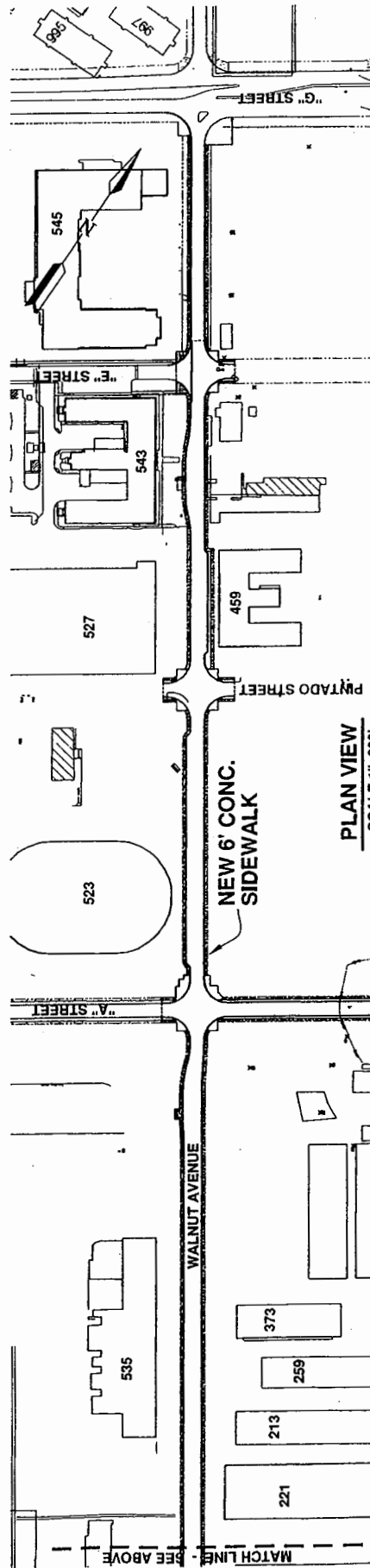


CLASS I
CLASS II
CLASS III
EXISTING PATH LOCATION TO REMAIN





PLAN VIEW
SCALE 1"=200'



PLAN VIEW
SCALE 1"=200'

LEGEND

- PROPOSED 6' MONOLITHIC WALK
- (E) CONCRETE WALKWAY TO REMAIN
- NATIONAL HISTORIC LANDMARK SITE AREA 'A' BOUNDARY

NOTES

1. 6' MONOLITHIC WALK IS MEASURED FROM FACE OF CURB TO BACK OF WALK.
2. WALNUT AVENUE IS ENTIRELY WITHIN THE MARE ISLAND HISTORIC DISTRICT.

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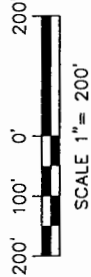
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PREPARED FOR: LENNAR MARE ISLAND



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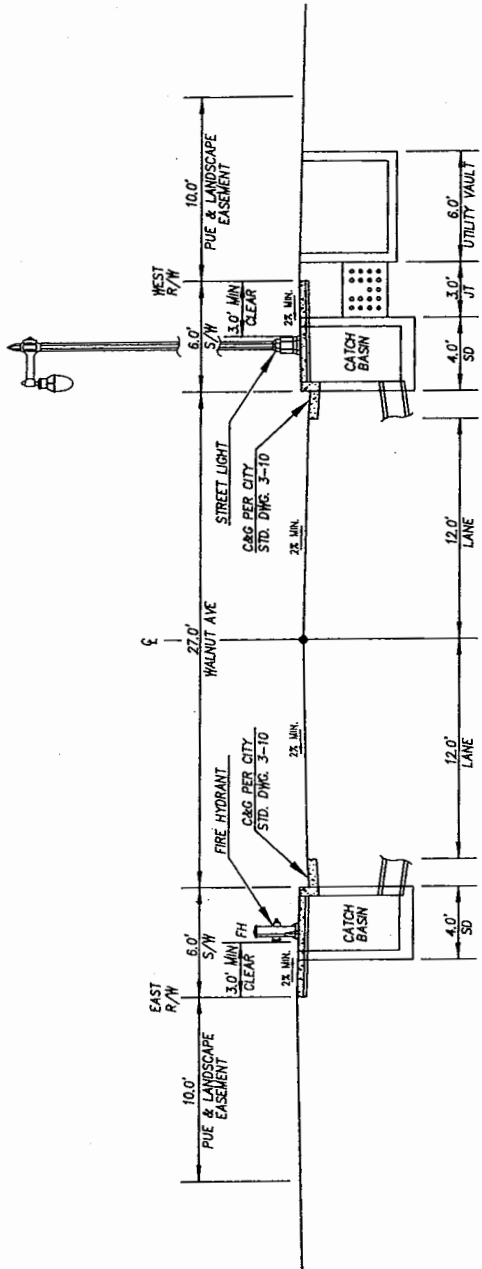
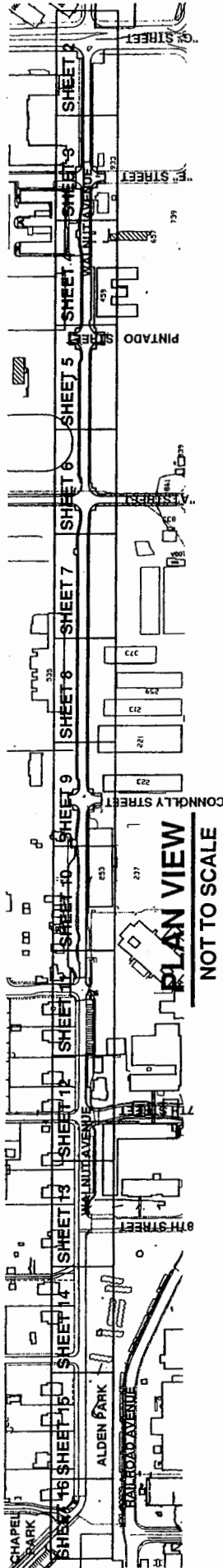
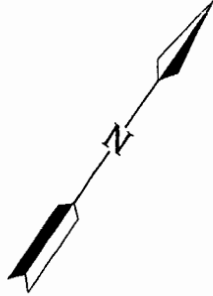
GRAPHIC SCALE



**WALNUT AVENUE
6' MONOLITHIC SIDEWALK
INDEX SHEET**

MARCH 13, 2008 SHEET 1 C

10008077-IP-WALNUT-ALT-2 (91-PP-W-ALT-17)



TYPICAL SECTION
NOT TO SCALE

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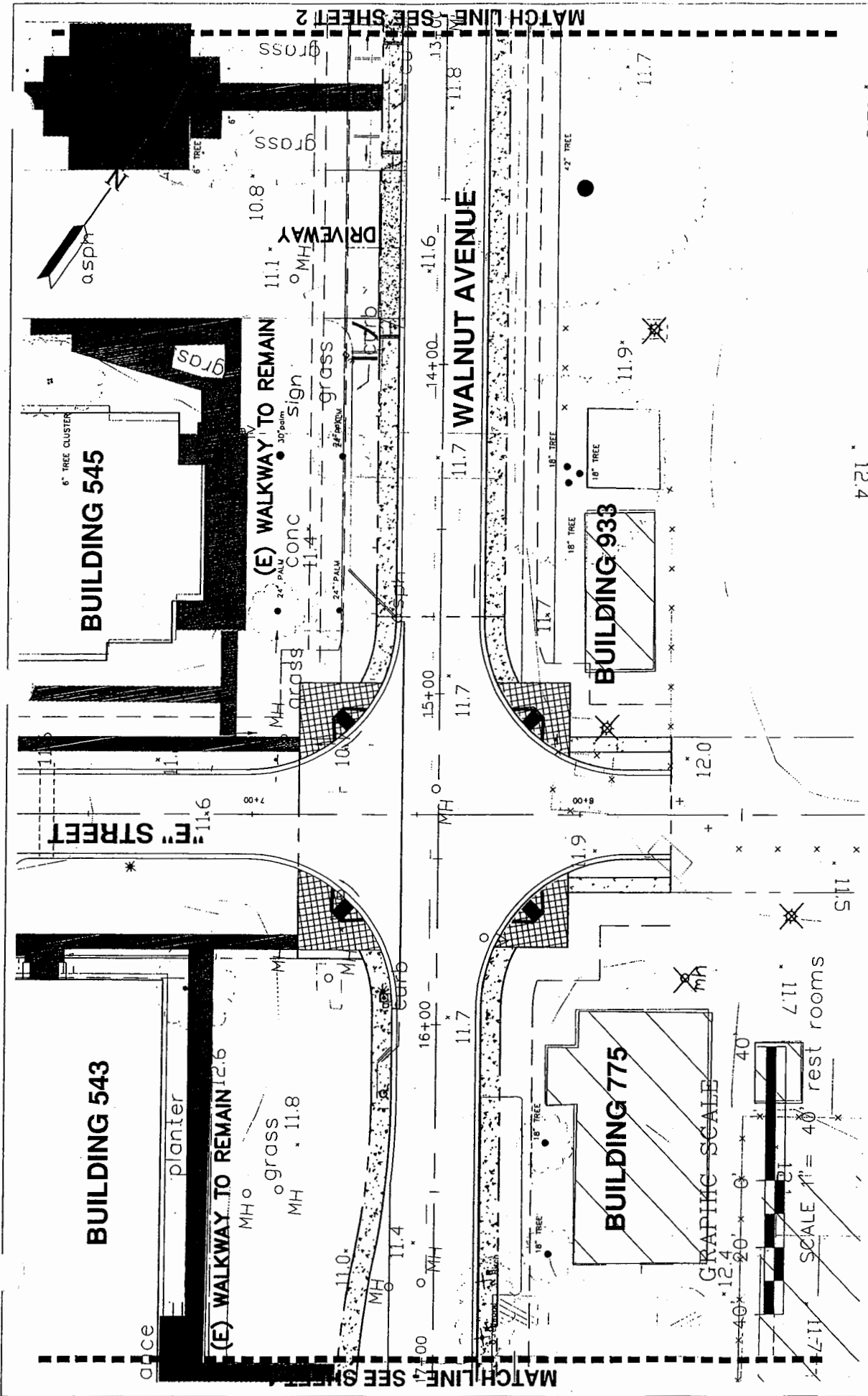
LENNAR MARE ISLAND

WALNUT AVENUE
6' MONOLITHIC SIDEWALK
INDEX SHEET

APRIL 1, 2008

SHEET 1 OF 16


\\0008077\IP-WALNUT\ALT-2\01-PP-W-ALT.DWG



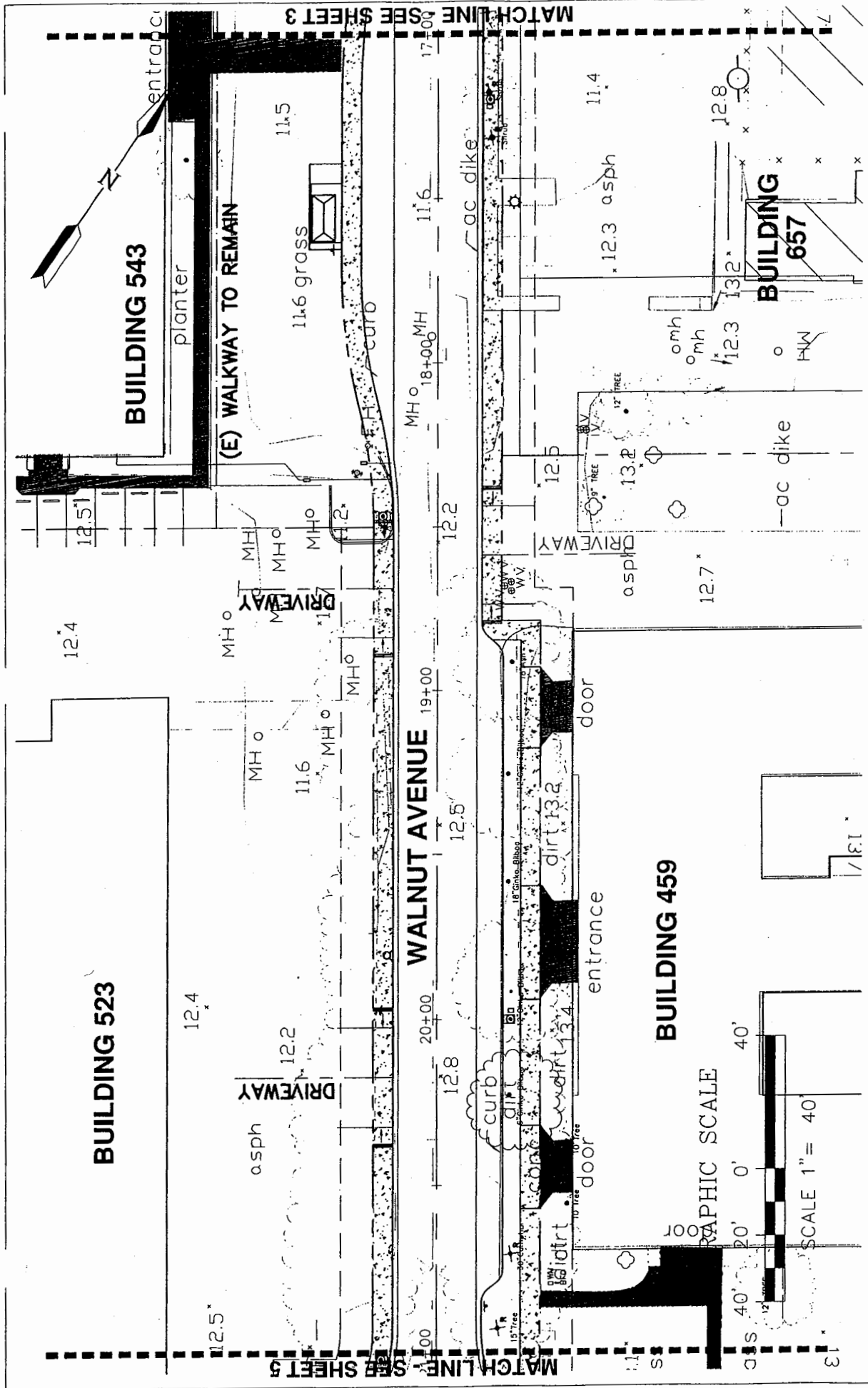
MATCH LINE SEE SHEET 2

MATCH LINE SEE SHEET 1

WALNUT AVENUE
6' MONOLITHIC SIDEWALK
 STA: 13+00 TO 17+00
 APRIL 1, 2008
 SHEET 3 OF 16
 \0008077\IP-WALNUT\AL T-2\01-PP-W-AL.T.DWG

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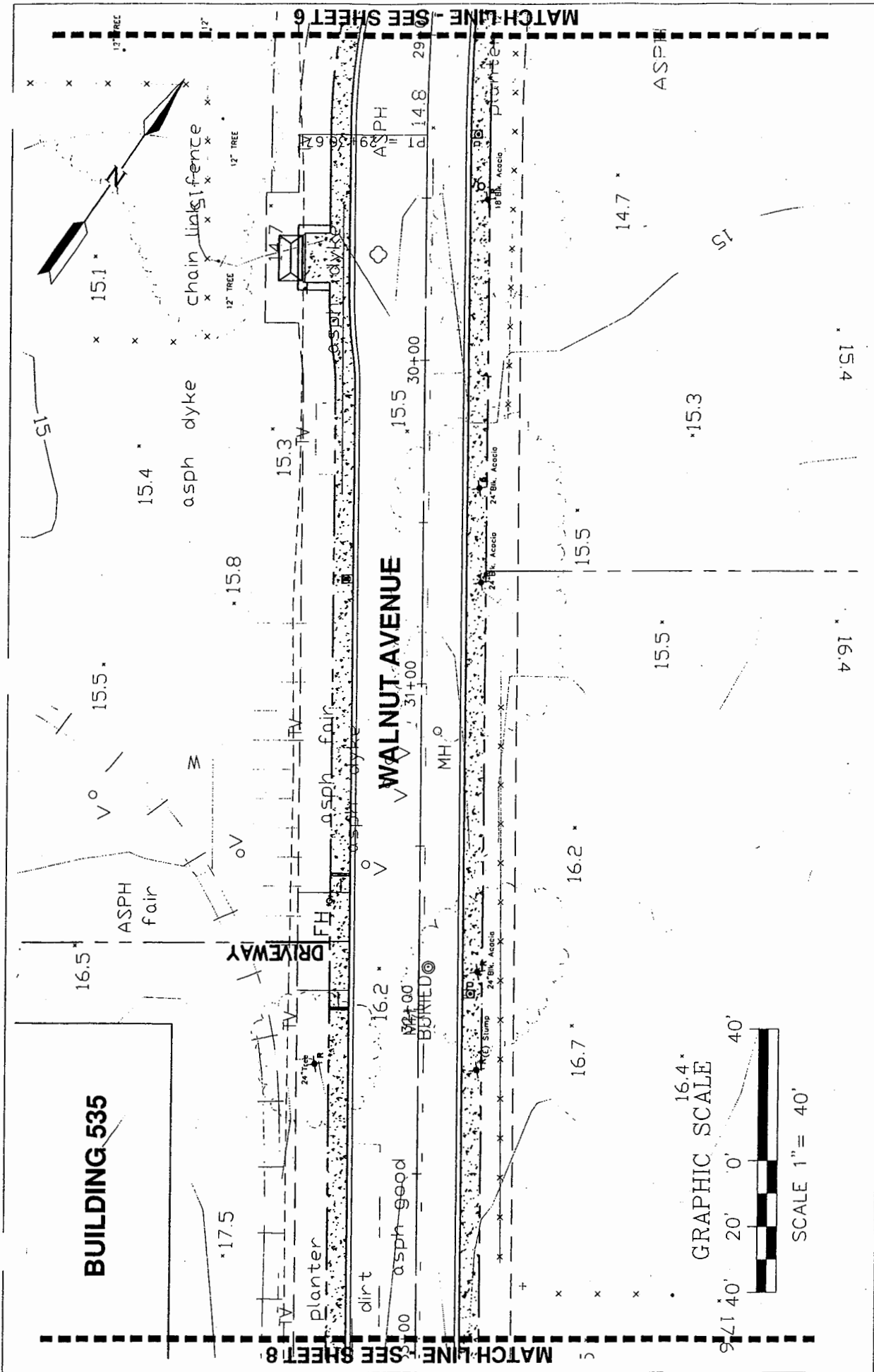
**WALNUT AVENUE
 6' MONOLITHIC SIDEWALK**

STA: 17+00 TO 21+00

APRIL 1, 2008

SHEET 4 OF 16

\\0008077\JP - WALNUT\AL T-2\01 - PP - W - AL T.DWG



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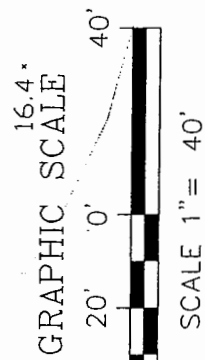
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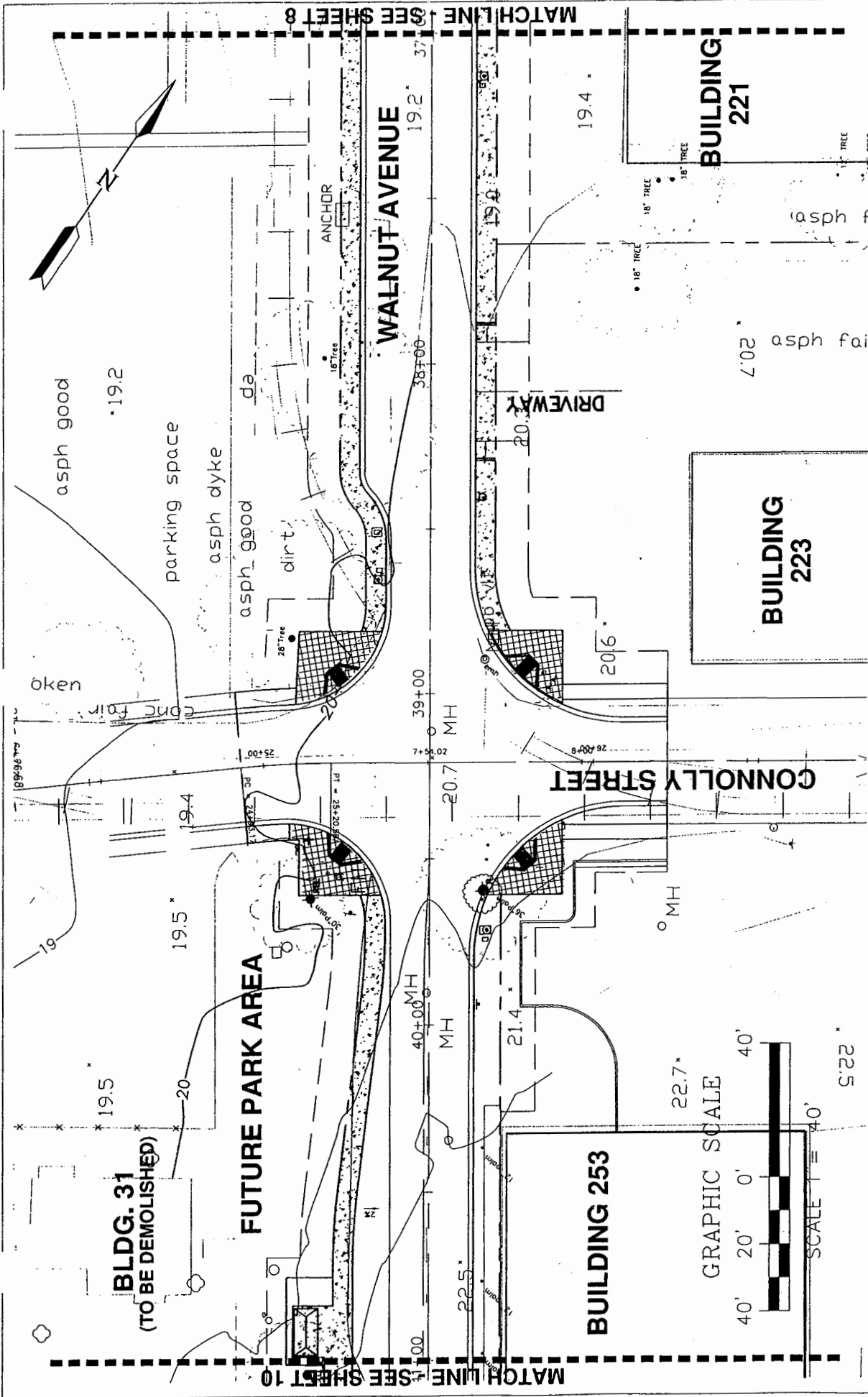
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LENNAR MARE ISLAND

WALNUT AVENUE
6' MONOLITHIC SIDEWALK
 STA: 29+00 TO 33+00
 APRIL 1, 2008
 SHEET 7 OF 16
 \0008077\IP-WALNUT\ALT-2\01-PP-W-ALT.DWG





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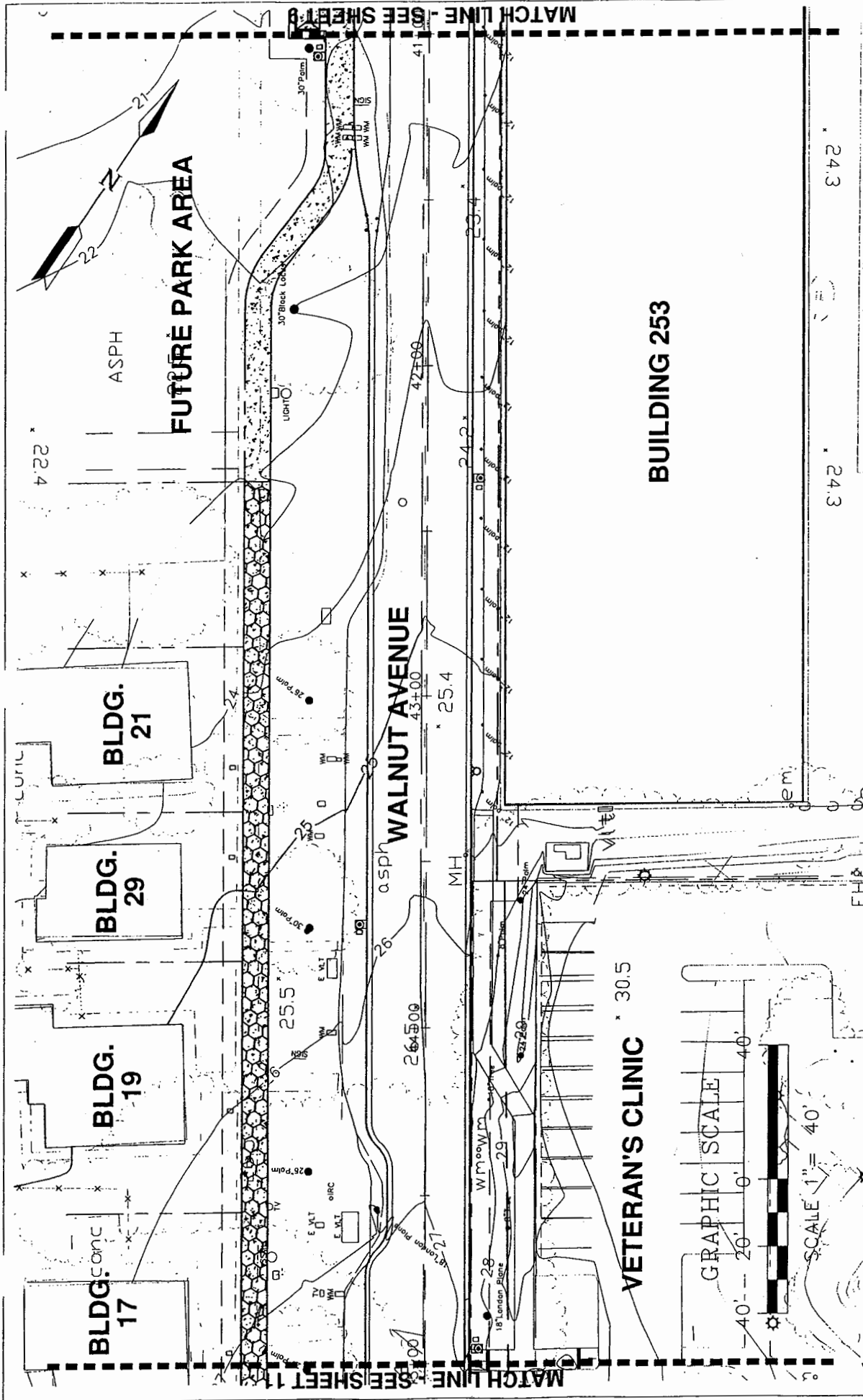
**WALNUT AVENUE
 6' MONOLITHIC SIDEWALK**

STA: 37+00 TO 41+00

APRIL 1, 2008

SHEET 9 OF 16

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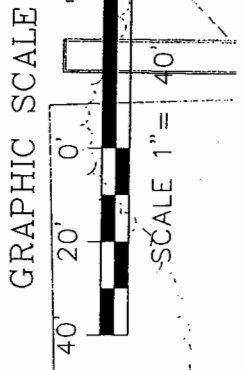
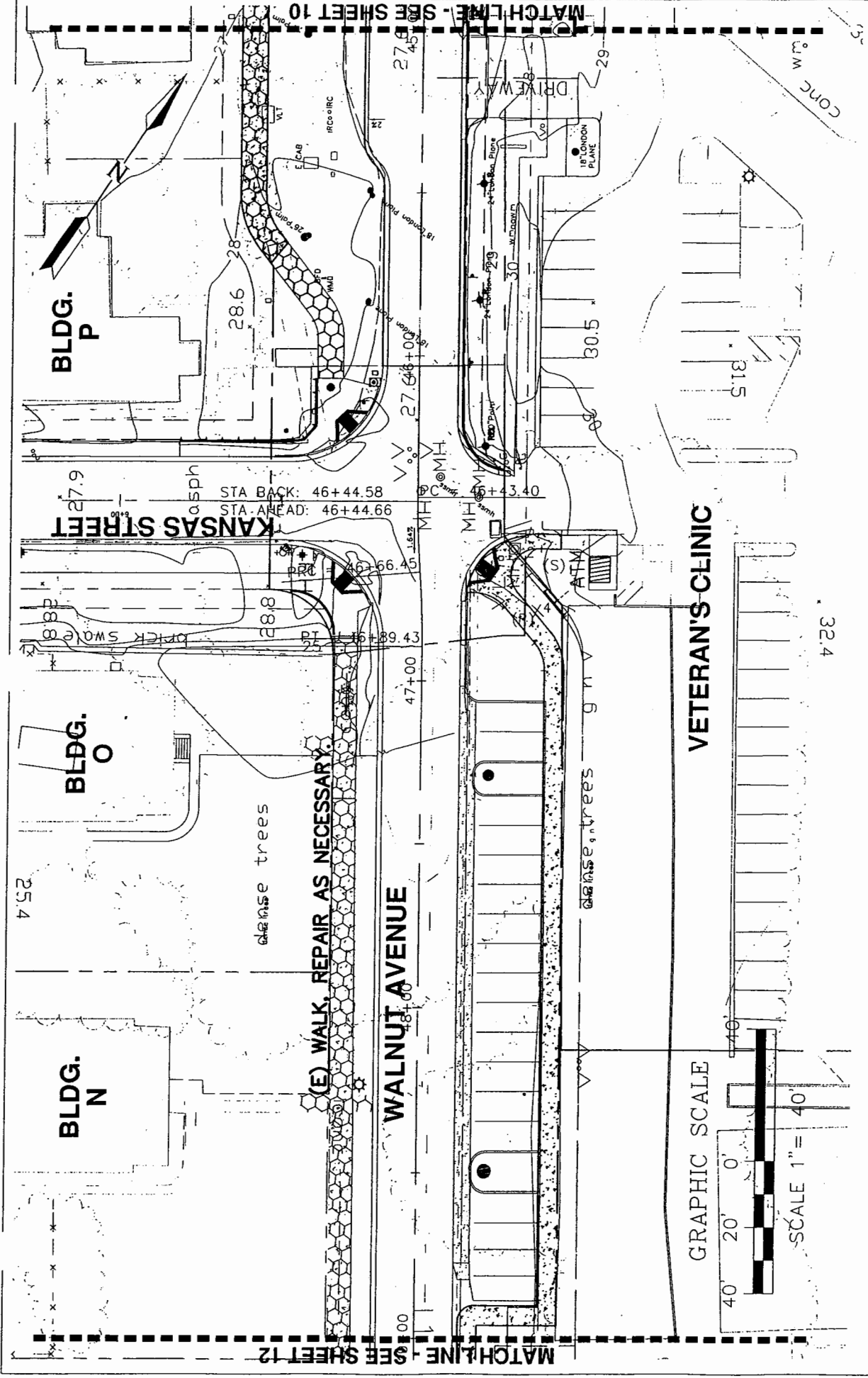


LENNAR MARE ISLAND

**WALNUT AVENUE
 6' MONOLITHIC SIDEWALK**
 STA: 41+00 TO 45+00

APRIL 1, 2008

SHEET 10 OF 16
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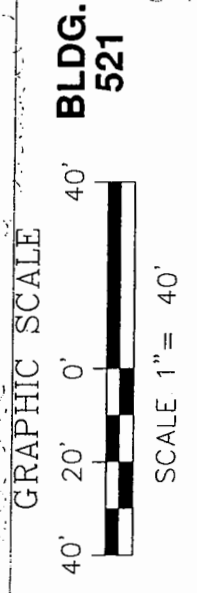
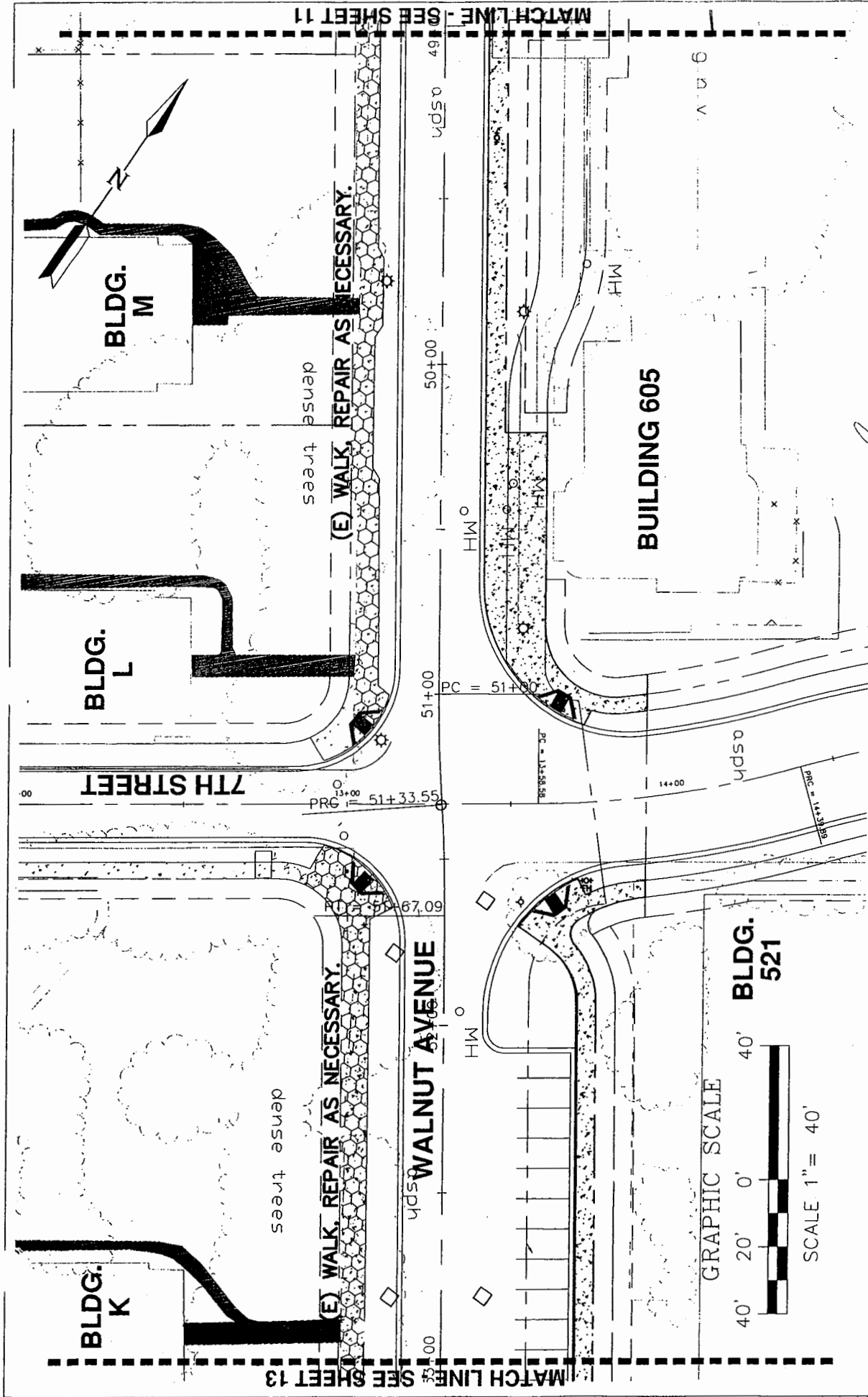
LENNAR MARE ISLAND

WALNUT AVENUE
6' MONOLITHIC SIDEWALK
 STA: 45+00 TO 49+00

APRIL 1, 2008

SHEET 11 OF 16

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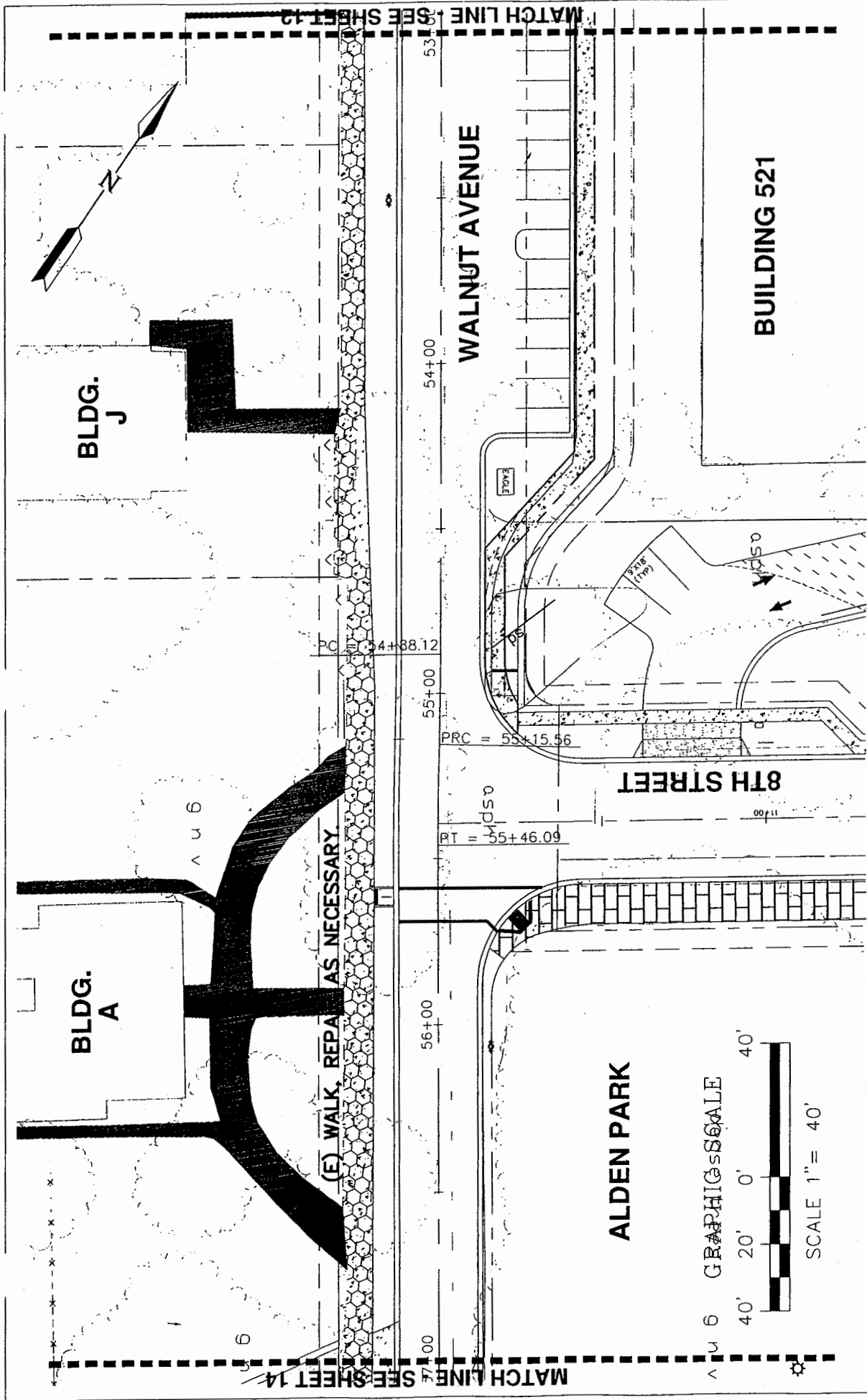
**WALNUT AVENUE
 6' MONOLITHIC SIDEWALK**

STA: 49+00 TO 53+00

APRIL 1, 2008

SHEET 12 OF 16

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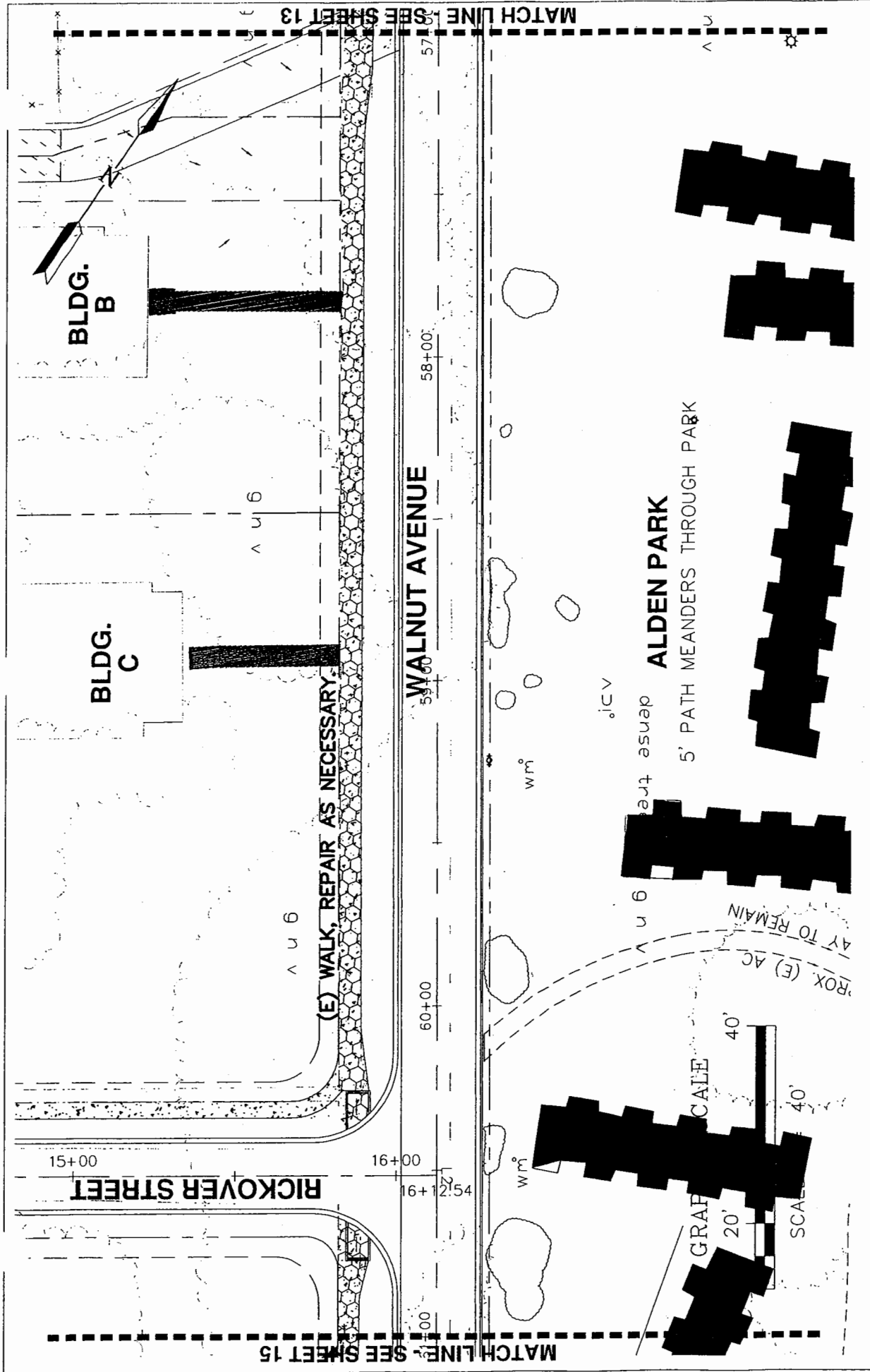
**WALNUT AVENUE
 6' MONOLITHIC SIDEWALK**

STA: 53+00 TO 57+00

APRIL 1, 2008

SHEET 13 OF 16

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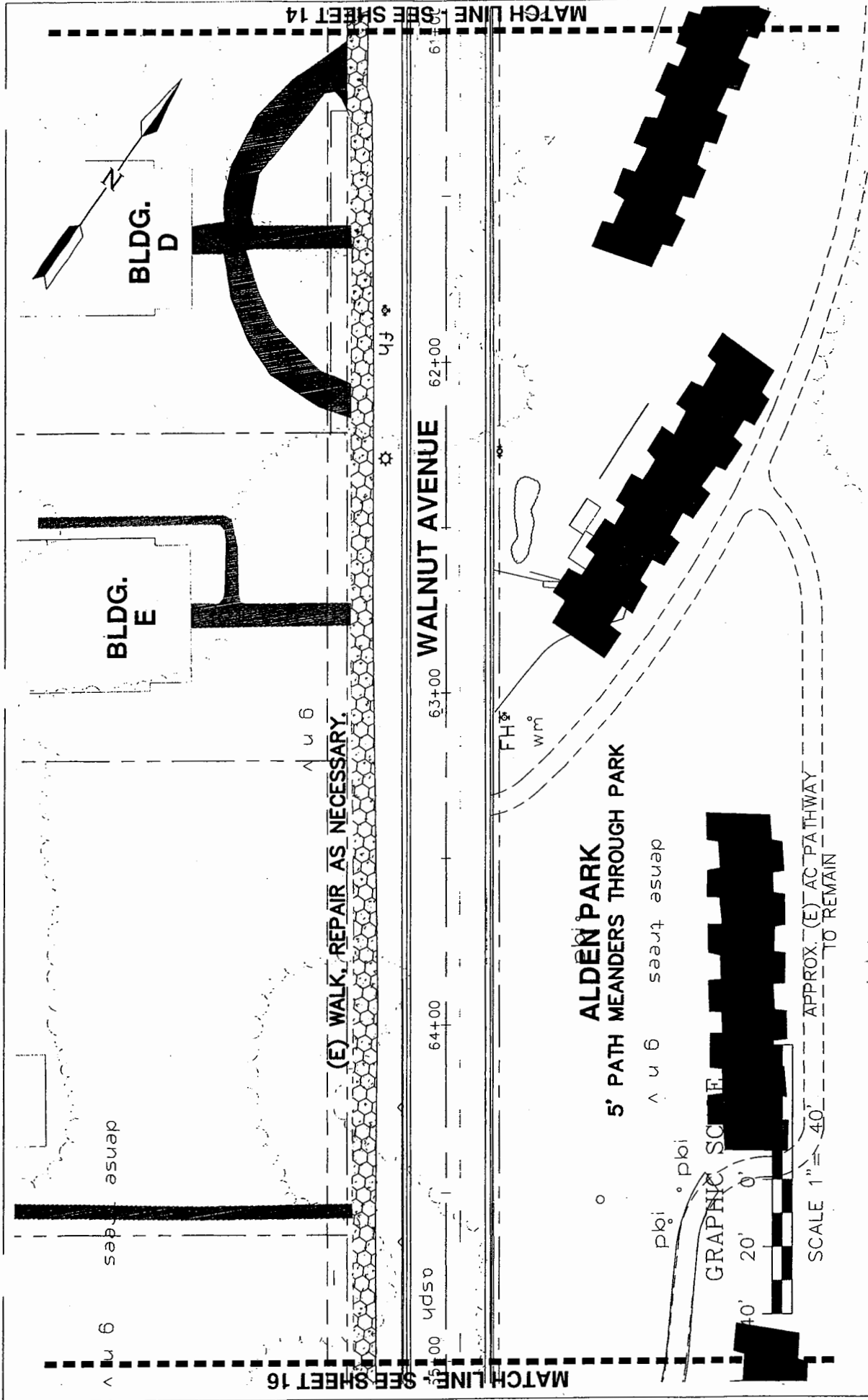
WALNUT AVENUE
6' MONOLITHIC SIDEWALK

STA: 57+00 TO 61+00

APRIL 1, 2008

SHEET 14 OF 16

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LENNAR MARE ISLAND

WALNUT AVENUE
6' MONOLITHIC SIDEWALK
 STA: 61+00 TO 65+00

APRIL 1, 2008

SHEET 15 OF 16

\\0008077\VP-WALNUT\ALT-2\01-PP-W-ALT.DWG

ATTACHMENT 3

DRAFT ADDENDUM TO THE 2005 SUBSEQUENT
ENVIRONMENTAL IMPACT REPORT

DRAFT

**ADDENDUM II
TO THE 2005 FINAL SUBSEQUENT
ENVIRONMENTAL IMPACT REPORT
FOR THE MARE ISLAND SPECIFIC PLAN
AMENDED AND RESTATED**

**ADOPTED BY
THE VALLEJO CITY COUNCIL
MAY 2008**

A. INTRODUCTION

This document is an Addendum to the Subsequent Environmental Impact Report (SEIR), State Clearinghouse #2003092057 for the 2005 Mare Island Specific Plan Amended and Restated (2005 Specific Plan). The SEIR was certified by the Vallejo City Council in November 2005. The purpose of this Addendum is to disclose and discuss any potential environmental impacts associated with a proposed amendment to the Specific Plan, referenced in this document as SPA III.

Pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15164, an Addendum to a previously-certified EIR may be prepared by the Lead Agency when a proposed action will not lead to a new significant effect or a significant effect being substantially more severe than shown in the previous EIR. CEQA requires that the decision making body consider the Addendum with the Final EIR prior to making a decision on the project.

The fundamental conclusion of this Addendum, as further described in Section C of this document, is that the SPA III will not result in new significant impacts beyond those already identified in the SEIR for the original project (2005 Specific Plan) and will not result in substantially more severe impacts than those disclosed in the SEIR. Thus, a subsequent or supplemental EIR need not be prepared.

B. PROJECT DESCRIPTION

Project Location and Setting

Mare Island occupies approximately 5,250 acres within the City of Vallejo. The Island is bounded by the San Pablo Bay to the west, Carquinez Strait to the southwest, Mare Island Strait to the northeast, with the mainland further east, and a series of sloughs and marshlands and Highway 37 to the north. Mare Island generally encompasses 1,400 acres of dry uplands and 3,800 acres of wetlands, submerged lands and inactive dredged material disposal ponds.

Mare Island Naval Shipyard closed operation as a naval facility in 1996. The Shipyard was listed as a National Historic Landmark (NHL) in 1975 and in the National Register in 1997. The entire project area is within the Mare Island Historic District and portions are within the NHL District A.

The proposed amendment involves changes to Walnut Avenue, one of the primary roadways on the Island. Walnut Avenue contains two travel lanes and generally runs north-south. The street has sidewalks that range from three to seven feet in width along most of the west side and portions of the east side. The surrounding area is developed with a diverse mix of uses including former military barracks that have been renovated as office space, large vacant industrial warehouse buildings, a sports center, open space (Morton Field and Alden Park), existing historic mansions that are currently being used as office space, and several vacant sites.

Project Background and Previous Environmental Review

In 1993 prior to closure of the Shipyard, the City of Vallejo conducted a community-based planning process for the potential reuse of Mare Island as a civilian area of the City. This effort resulted in the development of the Final Mare Island Reuse Plan (Reuse Plan), which identified 13 Reuse Areas for Mare Island, as well as wetlands and dredge ponds areas on the west side of the Island. The Reuse Plan described the desired character of each Reuse Area and the potential redevelopment opportunities. The City Council accepted the Final Mare Island Reuse Plan in July 1994 and certified an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Disposal and Reuse of Mare Island Naval Shipyard in 1998.

In 1999 the City Council adopted the Mare Island Specific Plan (1999 Specific Plan) as the implementation document for the Reuse Plan after approving an Addendum to the 1998 EIS/EIR. The 1999 Specific Plan included additional detail regarding land use policies, allowable land uses and development standards. Amendments to the City of Vallejo Municipal Code (V.M.C.) Zoning Ordinance and General Plan were also made to

address policies related to the treatment of the historic resources, and to ensure consistency with the 1999 Specific Plan.

The City selected Lennar Mare Island (Lennar) as the Master Developer of approximately 650 acres of uplands on Mare Island, and in 2001 entered into a Development Agreement (DA) with Lennar to provide a binding mechanism to ensure the timely, efficient, and orderly development of the area. In December 2005, the City Council approved Lennar's proposal to amend and restate the 1999 Mare Island Specific Plan and adopted the 2005 Mare Island Specific Plan Amended and Restated (2005 Specific Plan). The 2005 Specific Plan covers the entire Island and generally consists of a development program similar to that in the 1999 Specific Plan as well as the 1994 Mare Island Final Reuse Plan. The primary changes from the 1999 Specific Plan included an additional 2.7 million square feet of development potential; more detailed development policies; elimination of a third access point from the mainland to the Island, via the Southern Crossing; and inclusion of the Historic Project Guidelines. The adopted 2005 Specific Plan replaced and superseded the 1999 Specific Plan.

Pursuant to the requirements of the California Environmental Quality Act (CEQA), the City Council certified a Final Subsequent Environmental Impact Report (SEIR) for the 2005 Specific Plan on November 29, 2005. The SEIR identified and analyzed the significant impacts associated with the incremental change in intensity and distribution of land uses on Mare Island from the 1999 Specific Plan, as described in the 2005 Specific Plan. The SEIR concluded that the incremental change would result in unavoidable adverse impacts in cultural resources, transportation, air quality, and noise categories. Three project alternatives were also analyzed that included a No Project Alternative, Historic Preservation Alternative, and the Reuse Area 1A Increased Development Alternative.

The SEIR identified mitigation measures to lessen the severity of potential adverse environmental impacts, some of which would not reduce the impacts to a level of insignificance. While most of the mitigation measures were incorporated as part of the approved project, several were rejected by the City Council as infeasible. The Council concluded that although the 2005 Specific Plan would result in adverse environmental impacts that cannot be avoided even with the incorporation of all feasible mitigation measures into the project, the anticipated economic, social, technological or other benefits of the project outweighed the unavoidable adverse effects, and such effects were considered acceptable. Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15093, the City Council adopted a Statement of Overriding Considerations for the 2005 Specific Plan and SEIR. A Mitigation Monitoring Program was also adopted. The SEIR is available at the City of Vallejo Planning Division and is incorporated herein by reference.

In July 2007, the City Council adopted a second amendment to the Specific Plan (SPA II) and the Vallejo Municipal Code (V.M.C.) as proposed by Lennar that addressed policies generally related to historic resources on Mare Island. An Addendum was prepared and

adopted by City Council for the SPA II project. The July 2007 Specific Plan supersedes both the 1999 and 2005 Specific Plan documents.

Proposed SPA III

Lennar proposes to amend the Specific Plan to eliminate a planned 12-foot wide Class I Bikeway/Multi-Use Path Off-Street (bikeway/path) along the west side of Walnut Avenue from G Street to 10th Street, and replace it with a Class III Bikeway, On-Street Shared, Signage designation. A six-foot wide monolithic sidewalk (typical concrete walkway next to the curb), generally along both sides of the roadway would also be constructed. The purpose of the amendment is to provide consistent sidewalks along Walnut Avenue from G Street to 8th Street, planned as part of the Town Center, and to maintain the historic integrity of the area, which previously did not contain a multi-use path. The proposed amendment would affect the south side of the Island only (South of G Street) and would require modifications to Section 5.7 and Figure 5.3 of the Specific Plan document, as well as applicable sheets in Appendix D Street Cross-sections.

The Specific Plan currently designates three Class I bikeway/paths for the Island. The Class I designation is planned to accommodate both bicycles and pedestrians on an off-street facility contained within an 8-foot area with a two-foot shoulder on each side. Two of the bikeway/paths are planned along the outer east and west edges of the Island, specifically along the Waterfront Promenade and Azuar Drive that ultimately link to the Regional Park at the southern end. The third mid-Island bikeway/path is designated along Walnut Avenue. The proposed amendment would maintain the two bikeway/paths along the outer edges, eliminate the center path, and provide a Class III bikeway along Walnut Avenue as a mid-Island bikeway.

SPA III also includes text changes to Section 5.7 that would allow the Planning Division to have flexibility and discretion in selecting the final type of all future bikeway/paths appropriate for an area in light of the surrounding character and development along the paths. Such determination could be made as long as the exercise of flexibility remains consistent with the Specific Plan and applicable laws and ordinances.

C. SCOPE OF THE ADDENDUM

This Addendum to the 2005 SEIR examines the potential environmental impacts associated with the proposed SPA III. The Addendum has been prepared pursuant to the requirements of CEQA and in accordance with the CEQA Guidelines, and is intended to inform the public and the City Council of potential environmental impacts that may occur with the adoption of the proposed SPA III.

CEQA Guidelines Section 15164 provides authority for use of an addendum to document the basis for a lead agency's decision not to require a Subsequent or Supplemental EIR for a project that is already adequately analyzed in an existing certified EIR. That section states, in pertinent part:

- a. The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.
- b. An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.
- c. The decision making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.
- d. A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

As noted above, the lead agency's decision to use an addendum must be supported by substantial evidence that none of the following conditions that would trigger the preparation of a Subsequent EIR, as provided in Section 15162, are present. That section limits the requirement for preparation of a Subsequent EIR to the following situations, presented below in pertinent part:

- a. Substantial changes are proposed in the project, which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects, or a substantial increase in the severity of previously identified significant effects;

- b. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- c. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete ... shows [that]: The project will have ...significant effects not discussed in the previous EIR...[or] Significant effects previously examined will be substantially more severe than shown in the previous EIR.

SPA III would not trigger preparation of a Subsequent EIR, under conditions set forth in CEQA Guidelines Section 15162 for the following reasons:

- a. The proposed SPA III does not represent a substantial change from the 2005 Specific Plan. The replacement of an off-street bikeway/path along Walnut with a shared bikeway modifies the type of bicycle/pedestrian facility provided in the current plan; however, the two more appropriately located bikeway/paths would remain as part of the Plan and are generally one to three blocks from Walnut Avenue. The proposal does not involve any change in the development plan that would affect the environmental impacts analyzed as part of the Subsequent EIR.
- b. SPA III contains no substantial changes that would require major revisions to the 2005 SEIR due to the involvement of significant environmental effects or a substantial increase in the severity of previously identified significant effects.

The SEIR references the provision of a "pedestrian-bicycle corridor along Walnut Avenue" as part of the proposed plan and identified a "Less Than Significant" impact for the project, citing that the "bicycle and pedestrian network should provide a high degree of convenient connections between the residential, recreational, employment and education uses on Mare Island and should minimize the number of intra-island automobile trips." The bicycle/pedestrian facilities designated in the Specific Plan provides for three bikeway/paths within a five-block area. The retention of two of the paths as well as the provision of an on-street bikeway along Walnut Avenue would maintain the high degree of connections between uses on the Island and would not have a significant environmental effect nor substantially increase the significant effects previously identified in the SEIR.

The SEIR also identifies a project related impact resulting from modification of streets, sidewalks, landscaping and infrastructure within the Historic District, potentially affecting the Historic District's integrity of setting. The SEIR indicates that this impact would have a "Less Than Significant Impact" with the implementation of the Mare Island Historic Design Guidelines (Design Guidelines). The Design Guidelines provides policies for projects and generally recommends that new construction should be minimized within the Historic District. The proposal to eliminate a 12-foot wide bikeway/path and construct a 6-foot monolithic path within the Historic District would require less modification of the sidewalks and adjacent landscaping, and would therefore minimize the project impact and is consistent with the Design Guidelines.

- c. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous SEIR was certified as complete, and the proposed SPA III would not have significant effects not discussed in the previous SEIR. SPA III proposes to modify the type of bicycle/pedestrian facility provided on the Island along Walnut Avenue. This change would not result in new or substantially increased environmental effects previously identified in the SEIR.

Environmental Analysis

The following is a complete list and analysis of the significant and mitigable impacts and the significant unavoidable impacts identified in the SEIR. In this case, the proposed project is in reference to the 2005 Mare Island Specific Plan. (A complete description, analyses and associated mitigation measures are contained in the SEIR.) Importantly, in analyzing the impacts of the proposed SPA III to the project as originally approved, the City is not assessing whether the impacts are significant compared with existing physical conditions. Rather, the City is assessing the significant impacts compared with the level of significance disclosed in the certified SEIR. Based on the analysis, no new significant impacts will result from the proposed SPA III.

A. Cultural Resources

Impact A.1: The proposed demolition of Contributing Resources would diminish the integrity of the Mare Island Historic District.

The proposed SPA III would not affect the demolition of Contributing Resources that could diminish the integrity of the Mare Island Historic District. Elimination of a new 12-foot wide bikeway/path planned in an area where this type of facility did not historically exist would maintain the integrity of the Historic District.

Impact A.2: The proposed demolition of Notable Resources would impact each of these Contributing Resources at the level of the individual resource.

The proposed SPA III would not affect the demolition of Notable Resources.

Impact A.3: The proposed project would contribute to the cumulative impacts on Mare Island historical resources.

The proposed SPA III would lessen the cumulative impacts on Mare Island historical resources. The proposal to not construct a 12-foot wide bikeway/path would reduce the cumulative impact of the project on historic resources.

B. Traffic

Impact B.6: The full buildout of the proposed project would increase demand for public transit service to an area that is not currently served by transit.

The proposed SPA III project would not affect the total amount of development on Mare Island as defined in the 2005 Specific Plan, nor buildout of the project and would therefore not result in any new or increased impacts related to the use of public transit. The bicycle system as proposed would be modified but would continue to provide a high level of connectivity throughout the Island which may reduce intra-island vehicle trips and the demand for public transit.

Impact B.10: Traffic generated by full buildout of the proposed project would cause levels of service to degrade to unacceptable levels on one roadway segment in the long-term 2020 Future Baseline Plus Project scenario.

The proposed SPA III project would not affect the buildout of the project and would therefore not result in any new or increased impacts related traffic. As previously stated, the bicycle system as proposed would be modified but would continue to provide a high level of connectivity throughout the Island which may reduce intra-island vehicle trips.

Impact B.11: Traffic generated by full buildout of the proposed project with the 2020 Baseline would cause several impacts to study intersections and roadway segments that are significant and unavoidable.

The proposed SPA III project would not affect the buildout of the project and would therefore not result in any new or increased impacts related traffic. The bicycle system as proposed would be modified but would continue to provide a high level of connectivity throughout the Island which may reduce intra-island vehicle trips and reduce the traffic generated by full build-out.

C. Air Quality

Impact C.2: Operation including occupation and use of the development would cause long-term traffic-related emissions of ozone precursors and particulate matter.

The proposed SPA III project would not affect the buildout of the project and would therefore not result in any new or increased impacts related traffic-related air-quality issues.

D. Noise

Impact D.5: Traffic would cause noise increases at locations near sensitive land uses.

The proposed SPA III project would not affect the buildout of the project and would therefore not result in any new or increased impacts related to traffic or noise. The bicycle system as proposed would be modified but would continue to provide a high level of connectivity throughout the Island which may reduce intra-island vehicle trips and noise increases at locations near sensitive land uses.

D. CONCLUSION

The proposed SPA III lessens the environmental impacts to the Mare Island Historic District by eliminating the construction of an off-street multi-use bikeway/path along Walnut Avenue and retaining the historic character of the street. Based on the environmental analysis supported by substantial evidence provided in this Addendum, the City concludes that the proposed SPA III does not require major changes to the 2005 Specific Plan and the proposed changes do not rise to the level of change that require a Subsequent EIR. The City concludes, as set forth in this Addendum, that no new significant or substantially more severe environmental effects would result from the proposed SPA III. The City also determines that none of the criteria in CEQA Guidelines Section 15162 are present and therefore no subsequent EIR or additional CEQA compliance is required for the adoption of SPA III.

ATTACHMENT 4

STAFF REPORT TO THE ARCHITECTURAL
HERITAGE AND LANDMARKS COMMISSION
DATED MARCH 27, 2008
(Without Attachments)

ARCHITECTURAL HERITAGE & LANDMARKS COMMISSION

STAFF REPORT

Date of Hearing: March 27, 2008

Agenda Item: 13a

Applications: Amendment to the 2007 Mare Island Specific Plan, (SP #98-01D); and Certificate of Appropriateness #08-0004 as governed by Chapter 16.38, Architectural Heritage and Historic Preservation, Vallejo Municipal Code.

Recommendation: Forward a recommendation to the City Council to **Adopt** an Amendment to the Mare Island Specific Plan, (SP #98-01D) subject to the findings contained in this staff report; and **Approve** Certificate of Appropriateness #08-0004 subject to the findings and conditions contained in this staff report.

-
1. **LOCATION:** Walnut Avenue, South from G Street to 10th Street;
Mare Island Historic District
 2. **APPLICANT:** Tom Sheaff
Lennar Mare Island LLC
690 Walnut Ave, Suite 100
Vallejo, CA 94592
 3. **MASTER DEVELOPER:** Lennar Mare Island, LLC
690 Walnut Avenue
Vallejo, CA 94590
 4. **PROJECT DESCRIPTION SUMMARY:**

Lennar Mare Island, LLC (Lennar) proposes to amend the 2007 Mare Island Specific Plan, (Specific Plan), referenced as Specific Plan Amendment III (SPA III), to eliminate a 12-foot wide bikeway/path planned along the west side of Walnut Avenue south of G Street, replace it with a Class III Bike Route, and to construct a six-foot wide monolithic sidewalk generally along both sides of the roadway. The purpose of the amendment is to provide a consistent sidewalk pattern along Walnut Avenue and to maintain the historic character of the street.

The project area includes the southern portion of Walnut Avenue from G Street to 10th Street. (See Attachment A.) The subject area is entirely within the Mare Island Historic District and partially within the National Historic Landmark (NHL) Area A. The NHL area generally includes the north side of Alden Park and the

Captain's Row of mansions located on the west side of Walnut from Connolly to 10th Street.

SPA III also includes text changes that would allow the Planning Division to have discretion in selecting the final type of all future bikeway/paths appropriate for an area in light of the surrounding character and development along the paths.

5. ENVIRONMENTAL REVIEW

A Subsequent Environmental Impact Report (SEIR) was certified by the City Council in November 2005 for the Mare Island Specific Plan Amended and Restated (2005 Specific Plan). In accordance with Section 15164 of the California Environmental Quality Act, (CEQA), a second addendum to the previously certified SEIR has been prepared for the proposed project and concludes the following: 1) there are no substantial changes to the project that necessitate revisions to SEIR, 2) there are no substantial changes in the circumstances under which the project is undertaken that necessitate revisions to SEIR, and 3) there is no new information of substantial importance which was not known and could not have been known at the time SEIR was certified that indicates that the project will cause more significant or severe impacts than what was discussed in SEIR. Additionally, the mitigation measures established in SEIR have been adopted and will be implemented.

It is worth noting that in July 2007, the City Council adopted a first addendum to 2005 SEIR for the 2007 Specific Plan amendment, which superseded the 2005 document.

6. NOTICING AND PUBLIC COMMENTS

On March 17, 2008, a public notice was mailed to property owners on Mare Island, Mare Island federal tenants, nearby neighborhood groups, and interested parties. Notices were also mailed to bicycle interest groups in the area.

7. PROJECT DESCRIPTION

Background

In December 2005, the City Council approved Lennar's proposal to amend and restate the 1999 Mare Island Specific Plan. The Mare Island Specific Plan guides the future development of Mare Island, a former Naval Shipyard which closed operation in 1996. As previously mentioned, the City Council adopted an amendment to the 2005 Specific Plan in July 2007. The 2007 amendment addressed historic preservation issues.

Transportation Element and Street Cross-Section

The Transportation Element of the Specific Plan defines the bicycle and pedestrian facilities proposed for the Island. As illustrated in Figure 5.3 of the Specific Plan (See Attachment B and Diagram 1 below), two Class I bikeway/paths are designated along the outer edges of the Island specifically along Azuar Drive and the Waterfront Promenade (shown in blue), and a third mid-Island bikeway/path is proposed along Walnut Avenue, south of G Street. The bikeway/paths would accommodate both pedestrians and bicycles within an 8-foot wide area with a two-foot shoulder on each side.

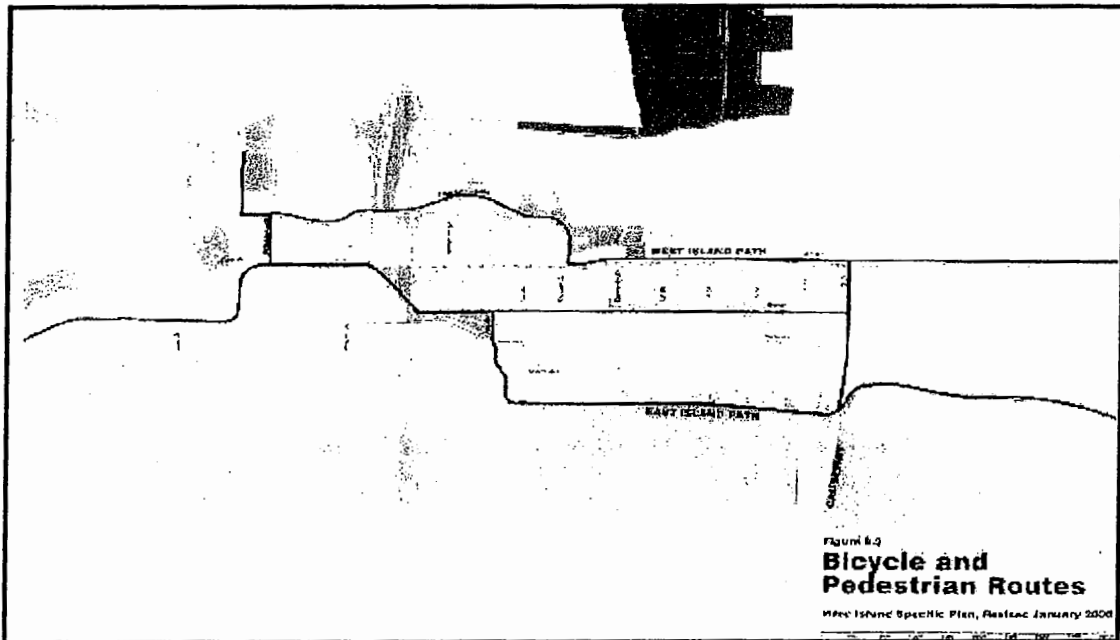


Diagram 1: Existing Figure 5.3

The Walnut Avenue Street Cross-Sections (Appendix D) of the Specific Plan specifically shows a bikeway/path along the west side of Walnut Avenue from G Street to Kansas Street. At Kansas Street, the path crosses Walnut Avenue to the east side of the street up to 8th Street. Thereafter, the path meanders through Alden Park (outer edge along the east side of Walnut Avenue) to 10th Street where it links to the path along the west side of Chapel Park, connects with Azuar Drive and ultimately the Regional Park in Reuse Area 12. As indicated in the Street Cross-sections, most of the east side of Walnut Avenue includes a five-foot wide sidewalk. (See Diagram 2 Below.)

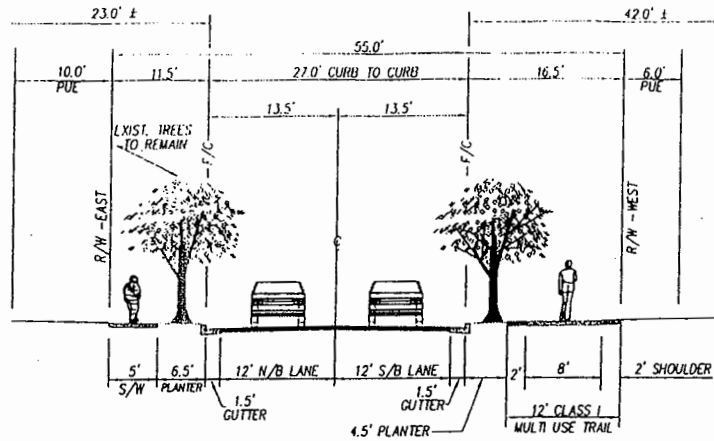


Diagram 2: Existing Street Cross-Section, Walnut Avenue, G Street to E Street

Proposal

Lennar proposes to amend the Transportation Element of the Specific Plan to eliminate the Class I bikeway/path designation along Walnut Avenue south of G Street and replace it with a Class III facility. Currently, Walnut Avenue, south of G Street, contains an inconsistent sidewalk pattern throughout the corridor, including a separated four-foot wide sidewalk in some areas, no sidewalks in other areas, and a four to seven-foot wide historic sidewalk with hexagonal shaped pavers that specifically fronts the Captains Row mansions. (See Attachment C for photographs of the area.)

A six-foot wide monolithic sidewalk, defined as a typical concrete walkway that abuts the street curb, is proposed along the west and east sides of Walnut from G Street to Connolly Street. At Connolly Street, the monolithic sidewalk would continue on the west side only, and at Kansas Street, the new sidewalk would be constructed only on the east side. In several cases, the monolithic sidewalk would also require the elimination of a 6.5' planter planned along the east side of the street. However, a 10-foot wide public utility and landscape easement would be constructed behind the sidewalk. The existing sidewalks fronting the historic mansions would be retained on the west side of Walnut from Connolly Street to 10th Street. (See Attachment E and Diagram 3 Below.)

As part of the proposed Class III route, signage indicating a shared bicycle and vehicular lane would be installed between G Street to 8th Street. At 8th Street, the Class III facility would connect with the bike/pedestrian path through Alden Park. The AHLC recently approved a COA to repair and replace an existing path ranging from three to five feet wide, with a consistent 5-foot wide path through Alden Park.

The proposal modifies Figure 5.3 (See Attachment B) and amends Section 5.7 (See Attachment D) of the Specific Plan, as well as the Walnut Avenue Street Cross-Sections.

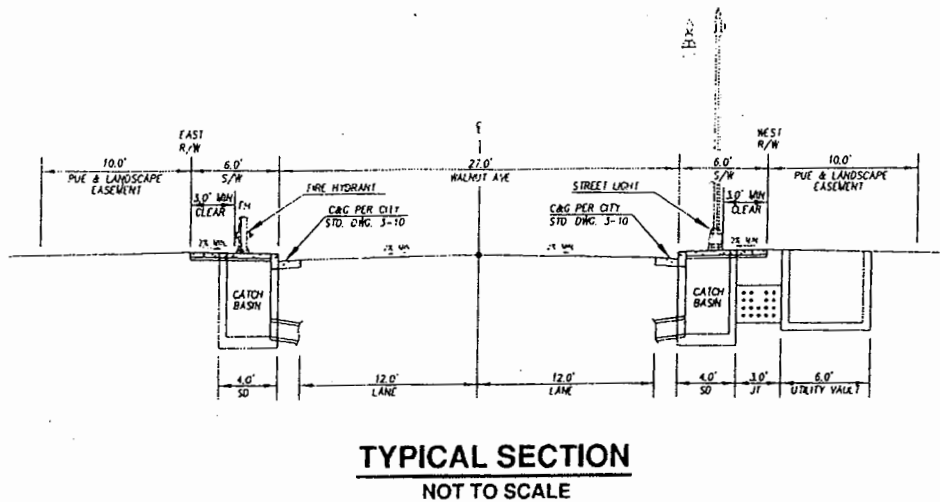


Diagram 3: Proposed Street Cross-Section Walnut Avenue (Typical)

In September 2007, the Planning Commission approved Tentative Map #07-0006 (Town Center) to subdivide a commercial area on Mare Island. A portion of Walnut Avenue is part of the Town Center subdivision. To complete the subdivision process that would ultimately allow the property to be transferred and redeveloped, Public Improvement Plans for Walnut Avenue must be approved by the Public Works Department. The subject SPA III and request to construct the sidewalks along Walnut Avenue will facilitate the completion of these Improvement Plans.

8. PROJECT ANALYSIS

AHLC Jurisdiction

The proposed project area is within the Mare Island Historic District. Per Section 8.2.1 of the Mare Island Historic Project Guidelines (Appendix B.1 to the Specific Plan), the request to construct a six-foot wide monolithic sidewalk and install signs for a Class III bikeway along Walnut Avenue requires review and approval from the AHLC. The proposed SPA III to remove the planned Class I bikeway/path and replace it with a Class III facility requires review and recommendations by the AHLC. SPA III also requires a recommendation from the Planning Commission, and the City Council is the final-decision making body on both the SPA III and supporting CEQA Addendum.

Significance Documentation

The following description of the resources are provided from the 1996 Mare Island National Register Nomination Form:

Mare Island Historic District National Register District: *"The dominant characteristic of the historic district is its diversity... Because the district is so varied, the resources included therein can only be appreciated in the*

context in which they were built. That context is defined by two variables: the function with which a resource is associated...and the period in which the resource was built.” (from Summary Description of the MINR Nomination)

Project Impact on Historic Resources

The project proposes to preserve Walnut Avenue within the Historic District as a two-lane roadway with a typical 6-foot sidewalk along both sides, except as noted above, and to maintain the historic sidewalks fronting the mansions. To achieve this goal, the project must reinforce historic spatial characteristics, materials, and forms, and be visually compatible with the character of the Historic District in general.

Secretary of Interior Standards

According to the Historic Project Guidelines, the proposed project must be reviewed for compliance with the Secretary of Interior's Standards for the Treatment of Historic Properties (Standards). The treatment that would apply to the proposed sidewalks and signage within the Historic District is Rehabilitation. "Rehabilitation" is defined as "the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use, while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values."

The project meets the Standards as per the following analysis:

1. *A property would be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.*

The proposed property use does not change for this project. Walnut Avenue will be preserved as a two-lane north-south roadway. The addition of consistent 6-foot sidewalks generally along both sides of the roadway will require minimal change to the materials, features, spaces and special relationships within the area.

The area contains an historic mix of land uses, including former military barracks renovated into office space, vacant warehouses and office buildings, an indoor sports/recreation center, light industrial uses, a medical clinic, historic mansions that are currently being used for offices, parking lots, open space areas including Morton Field and Alden Park, and several vacant parcels. As illustrated in Figure 3.1 of the Specific Plan, the Walnut Avenue corridor is part of Reuse Areas 2A, 2B, 3B, and 4. Most of the area, primarily from G Street to Connolly Street is part of the 2A Town Center, which is planned as a vibrant pedestrian friendly center that will attract a continued mix of uses with new commercial/industrial buildings on the vacant sites as well as reuse of the

existing buildings. The original designation of the Class I path along Walnut was intended to provide a mid-Island bike/pedestrian route; however, the remaining two paths designated along the outer edges of the Island where limited or no vehicular traffic or street crossings are planned, and where a smaller mix of land uses are proposed are more appropriate and will remain as part of the plan.

2. *The historic character of a property will be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property will be avoided.*

The overall character of the Historic District is preserved in this proposed project. The project does not require the removal of any historic materials and the construction of sidewalks in the area will not alter features and spaces that characterize the surrounding properties. The retention of the existing sidewalks fronting the mansions preserves the character of the Historic District.

It is recommended that the applicant submit the proposed design of signage for the Class III bikeway to the Secretary of the AHLC for review and approval prior to the construction of the sidewalks.

3. *Each property would be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, would not be undertaken.*

The project does not involve changes that create a false sense of historical development. The proposed changes will be differentiated from the original design of the sidewalks by the materials and construction details.

4. *"Changes to a property that have acquired historic significance in their own right will be retained and preserved."*

No changes to the property that have acquired historic significant in their own right will be affected by the proposed project.

5. *"Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved."*

The project does involve changes to any distinctive historic materials, features, finishes and examples of craftsmanship in the area. As proposed, the historic sidewalks fronting the mansions will be retained.

6. *"Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of*

missing features will be substantiated by documentary and physical evidence."

No deteriorated historic features are proposed for rehabilitation in this project.

7. *"Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used."*

No chemical or physical treatments are proposed for this project.

8. *"Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken."*

Archeological resources have not been previously identified in the subject area. Should any archeological resources be discovered in the course of project implementation, the practices prescribed under the Mare Island Archeological Treatment Plan shall be followed.

9. *New additions, exterior alterations, or related new construction would not destroy historic materials, features, and spatial relationships that characterize the property. The new works shall be differentiated from the old and would be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.*

The proposed concrete sidewalks would not destroy any historic materials features, or spatial relationships that characterize the property. The new 6-foot monolithic sidewalks would be differentiated from the historic sidewalks fronting the mansions.

10. *New additions and adjacent or related new construction would be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*

The addition of new sidewalks and signage would not impair the essential form and integrity of the surrounding historic district. While the area contains several vacant parcels and areas void of sidewalks, the consistent 6-wide monolithic sidewalks generally along both sides of the roadway would allow for a consistent development pattern for future uses.

Mare Island Historic District Design Guidelines Review

As required by the Historic Project Guidelines, the proposed project must be reviewed for compliance with the Mare Island Specific Plan Historic Design

Guidelines (Appendix B.4 to the Specific Plan) and referenced as Design Guidelines. The Design Guidelines provide policies for new construction, including sidewalks and streets within the Historic District. As illustrated in the Character Area Map provided in the Design Guidelines, the project is within three historic character areas including Residential, Industrial, and Administrative/Institutional. The proposal to remove the path from Walnut Avenue and to construct sidewalks on both sides is consistent with following Design Guidelines policies:

10.1 Improvements to the streetscape should not impede on one's ability to interpret the historic industrial character of the area.

The construction of six-foot wide monolithic sidewalks within the area would not affect the ability to interpret the historic character of the area.

10.4 Visually blend a sidewalk with the adjacent ground plane.

The construction of monolithic sidewalks would allow blending of the walk with adjacent ground plane.

10.4 (a.) Pedestrian walkways and sidewalks should be simple in character, reflecting the industrial nature of the area.

A six-foot wide monolithic sidewalk is considered simple in character and would reflect the industrial nature of the area.

10.5 (c) An attached sidewalk is appropriate.

The proposed monolithic sidewalk is considered an attached sidewalk and is consistent with this policy.

11.1 The overall character of the streetscape should respect historic development and use patterns.

The proposed construction of six-foot wide monolithic sidewalks would accommodate pedestrian access throughout the historic and future mix of land uses in the area.

11.1 (b.) Streetscape improvements should be simple and modest in character and meet basic function requirements for improvements typically found within the public right-of-way.

The project proposes a simple, modest sidewalk that is typically found within the public right-of-way of a commercial/industrial area.

11.2 (a) Maintain the alignment of Railroad and Walnut Avenues.

The project proposes to maintain the general alignment of Walnut Avenue. In some areas where the right-of-way allows, on-street parking will be provided where it currently does not exist.

11.5 Sidewalks should reflect those seen historically in the Administrative Institutional Character Areas.

Historically, parts of the Administrative/Institutional Character Areas provided three to six-foot wide sidewalks. The proposal to construct a consistent six-foot wide monolithic sidewalk throughout the area is consistent with this policy.

CONCLUSION

The inclusion of a Class I bikeway/pedestrian path through the Historic District has long been a source of discussion due to its potential impact along the Walnut Avenue corridor. Staff believes the proposal to replace the Class I path with a Class III bikeway, and the construction of monolithic sidewalks along this historic corridor is more in keeping with the existing character of the area and maintains the integrity of the Historic District. Staff further believes that the proposal will allow for a consistent development pattern along the Walnut Avenue corridor as well as the establishment of pedestrian friendly environment for the Town Center.

9. STAFF RECOMMENDATION:

Staff recommends that the AHLC forward a recommendation to the City Council to approve Specific Plan Amendment III (SP #98-01D) subject to the findings below:

1. The proposed amendment to the 2007 Mare Island Specific Plan is consistent with General Plan goals to: (1) provide facilities that encourage greater use of bicycles for recreation, commuting and shopping; and (2) to have safe and pleasant access for pedestrians throughout the community. The reclassification of the bikeway along Walnut Avenue maintains bicycle and pedestrian connections throughout the Island; the proposed signage for the Class I bikeway provides for a safe environment for bicyclist alerting vehicles of the shared lane condition; and the proposed sidewalks will provide exclusive use for pedestrians allowing for safe pedestrian access throughout the area.
2. The proposed amendment to the 2007 Mare Island Specific Plan is consistent with Zoning Ordinance. The adopted Historic Project Guidelines, as required by the Zoning Ordinance requires projects to be consistent with the Mare Island Historic Project Guidelines. As provided in Section 8 of this report, the project is consistent with the applicable policies of the Design Guidelines.

Further, staff recommends that the AHLC Approve COA #08-0004 subject to findings and conditions below:

Findings

1. The proposed project, as conditioned, shall not adversely affect the relationship and congruity between the subject property and the surroundings area per Section 8 of this report.
2. The proposed project, as conditioned, would not adversely affect the special character of the Historic District per Section 8 of this report.
3. The proposed project, as conditioned, is consistent with the Secretary of Interior Standards.

Conditions of Approval

1. The applicant shall submit the Class III Bikeway signage design and location for review and approval by the Secretary of the AHLC prior to the construction of the sidewalks.

Project Requirements

1. The practices for protecting archeological resources detailed in the Mare Island Archeological Treatment Plan shall be applied.
2. The applicant shall submit 3 sets of construction plans to the Department of Public Works for review and approval. Such plans shall be consistent with the Plans submitted for the subject permit.
3. All contractors and subcontractors on the project shall obtain City of Vallejo business licenses.
4. Construction-related activities shall be limited to between the hours of 7 a.m. and 6 p.m., Monday through Saturday. No construction is to occur on Sunday or federal holidays. Construction equipment noise levels shall not exceed the City's maximum allowable noise levels.
5. The conditions herein contained shall run with the property and shall be binding on the applicant and all heirs, executors, administrators, and successors in interest to the real property that is the subject of this approval.
6. The applicant shall defend, indemnify, and hold harmless the City of Vallejo and its agents, officers, and employees from any claim, action, or proceeding against the City and its agents, officers, and employees to

attack, set aside, void, or annul this approval by the City. The City may elect, at its discretion, to participate in the defense of any action.

ATTACHMENTS:

- A. Project Location/500' Radius Conflict of Interest Map
- B. Existing and Proposed Specific Plan Figure 5.3
- C. Photographs of the Project Area
- D. Section 5.7 Text Amendment to the Mare Island Specific Plan
- E. Walnut Avenue 6' Monolithic Sidewalk Drawings Prepared by Chaudhary & Associates Inc.
- F. Addendum to the 2005 Subsequent Environmental Impact Report for the Mare Island Specific Plan

Prepared by: 
Michelle Hightower, Senior Planner

Don Hazen: That is condition No. 1, City Engineer, on page 7. We have got that addressed.

Chairperson Legalos: Hearing no further questions from the Commission, I will open the public hearing. Does the applicant wish to address the Commission?

Mark Drayson: My name is Mark Drayson. I work for Grocery Outlet and I want to thank the Commissioners and especially Marcus for helping me to get to this stage and for their courtesy. I am here to answer any questions that you may have. Oh, concerning the delivery. We reluctantly agreed to the 9:00 pm to 5:00 am restriction there. It is possible. It is a bit difficult but we will do it. I would ask that we don't want them to load any further than 5:00 am. If we do that, we could have trouble with our delivery guys. They want to get in and out. You can imagine, if you were a bread guy, a milk guy, and you wanted to get on down the road before traffic hits, so that would be fairly difficult to delay it beyond 5:00. We can agree to the 9:00 pm to 5:00 am restriction. That would be okay.

Chairperson Legalos: Thank you. If there are no further questions from the Commission, and seeing no cards, I will close the public hearing and bring the matter back into the hands of the Commission. If there are no further comments or discussion, may we have a motion, please.

Commissioner McConnell: Yes, Mr. Chairperson, I will move the adoption of the resolution in the packet set forth as Attachment A.

Commissioner Manning: I am sorry. I have one thing to add. There is actually a new resolution, so I would like you to make reference to the resolution that was handed out right before the hearing, not the one in the packet, if that is okay.

Commissioner McConnell: Yes, I believe that is the Attachment A which is on the top of our desk, providing for the findings and environmental findings and the conditions as set forth in this Attachment A.

Chairperson Legalos: Thank you. Please vote.

AYES: Manning, Harrington-Cole, Gourley, Legalos, McConnell.

NOS: None.

ABSENT: Commissioners Peterman and Turley.

It is unanimous. Motion carries.

Chairperson Legalos: Thank you Ms. Marshall. May we have Item K-2 please?

2. Specific Plan Amendment #08-0001 is an application to allow telecommunication uses in the Hiddenbrooke Specific Plan. Proposed CEQA Action: Exempt. Staff Planner, Marcus Adams, 648-5392.

Staff recommends **approval** based on the findings and conditions.

Marcus Adams: As just stated, the next application is a proposal to amend the Hiddenbrooke Specific Plan to allow for telecommunication facilities within the Hiddenbrooke community. Once again, I have a short PowerPoint presentation to go over the project.

Here is an overview of the Hiddenbrooke community. As you can see, as most of us are aware, it is the most notable isolated kind of community, off by itself. Here you can see the closest one to that Northgate area. So, as you can imagine, the cellular service there can be kind of spotty.

Chairperson Legalos: Excuse me, Mr. Adams, I believe Commissioner Manning may have a conflict.

Commissioner Manning: I just want a clarification from our City Attorney, and that is, I work for Verizon Wireless, and I just wanted to disclose that on the record. I don't feel that I need to recuse myself but I just want to confirm that that won't be an issue.

Claudia Quintana: I don't think Verizon is the applicant. I don't think you have a conflict.

Marcus Adams: The Hiddenbrooke plan was adopted back in 1987, so at that time, the cellular service was kind of in its infancy stages, and the Specific Plan, in trying to retain the natural character of Hiddenbrooke . . . the hills, and not having the hills be marred by any type of structure or anything, prohibited telecommunications, antennas, or structures that would be on a hillside or even within the development itself, and so, alas, now, here we are in the 21st century and cellular services as we know for some people, are the only means of telephone service. And, there is actually an existing cellular site here by the water tower on Broadway which was originally established for emergency services, for police and fire. What the City did is that we did allow cell companies to co-locate on that tower, but once that tower was filled, we informed cellular service providers that there would be no more service allowed within Hiddenbrooke, once that tower was full. Well, the tower is full, and after reading of the Telecommunications Act by staff and the City Attorney's office, we believe that the Specific Plan does need to be amended to allow a few more providers within Hiddenbrooke so that we don't run afoul of the Telecommunications Act. The applicant for a proposal in Hiddenbrooke, which is Metro PCS, had come before us with this proposal to go right over here on Misawa Court. They have since had a chance to review the staff report and have not officially withdrawn that location but are looking at some other sites within Hiddenbrooke due to the community concerns about that. So, here is just a location, once again. Here is where the existing towers are. This was the proposal for a new tower and here, I just put this on here, because there is an existing PG&E tower, and one of the things that the amendments of the Specific Plan would do would be to try to have all carriers, whenever possible, pre-locate on either an existing tower or maybe another existing type of utility tower such as an existing PG&E tower. That is why you have that on there tonight. It is kind of hard to see, but there is the existing telecommunication/emergency service tower. That tower is actually going to be replaced with a more sturdy pole because we have a carrier that is already approved that is going to go on to that site . . . that PG&E tower. You can't see it because of the lighting, but it is right there, and this was the Misawa Court proposal and, once again, some of the language we have there for the proposed amendment recommends doing such pilots. Such policy matters such as matching the existing environment by means of things such as tree poles or maybe using existing light poles or those type of things, what the industry calls stealth poles. So, what we did with this specific plan amendment is, we tried to keep in mind, the original intent of the Hiddenbrooke Specific Plan which was, once again, to try to retain the natural beauty but then also to allow for telecommunication facilities within Hiddenbrooke, and so that was the goal with

our amendment language. I am available to answer any questions you may have regarding the application.

Chairperson Legalos: Thank you Mr. Adams. If there are no questions from the Commission, I will open the public hearing and ask if the applicant would like to address the Commission. The applicant is not here, so, seeing no cards, I will close the public hearing and bring the matter back into the hands of the Commission.

Commissioner McConnell: I will move the adoption of Resolution PC07-27, on telecommunications on the general findings and circa findings and relevant findings in the specific plan amendment as set forth in the package.

Don Hazen: Mr. Chairperson, I think we would want to reference the revised resolution also on this one.

Commissioner McConnell: Okay, that is the revised resolution that I have here that was presented to us and is on our handout on the dais this evening.

Chairperson Legalos: Please vote.

AYES: Harrington-Cole, Manning, Gourley, Legalos, McConnell.

NOS: None.

ABSENT: Peterman, Turley.

It is unanimous. Motion carries.

3. Specific Plan 98-01D Lennar Mare Island, to replace a Class I multi-use path with a Class III bike route along Walnut Avenue. Proposed CEQA Action: An addendum to the 2005 SEIR has been prepared. Staff Planner: Michelle Hightower, 645-4506.

Staff recommends **approval** based on the findings and conditions.

Michelle Hightower: Good evening Commissioners. As Deborah stated, this is a Mare Island Specific Plan. It is number 3. It is regarding the Walnut Avenue corridor, specifically regarding the bicycle and pedestrian facilities. The Specific Plan that is currently active, the 2007 Plan, designates three types of bicycle/pedestrian facilities. The first is the Class I that is an off-street bicycle path, typically 8-feet wide with 2-feet shoulders. A Class II is an on-street bike lane and that usually has a bike lane on each side of the roadway, and the bike lane is typically 5-feet wide and we also have an on-street shared bike route that is a Class III, and that is typically a bicycle route that is shared where bicyclists share the route with motor vehicles. The Specific Plan currently designates Walnut Avenue, shown here in blue, as a Class I path. Also, there are two Class I paths that run along the edges of the Mare Island area, a west island path and an east island path along the waterfront promenade, and these paths all end up along Azuar Drive and will take the bicyclists out to the regional park. The proposal is to replace the bicycle path along Walnut Avenue with a Class III bicycle route. The Mare Island Specific Plan currently does include a bicycle lane that is already in place . . . a striped lane, along Flagship, and also a bike route along Azuar connecting with this Class I facility. The proposal is to place another bike route along Walnut Avenue to connect with the Class I facility. There is a correction, however, along 8th Street which is here at the edge of Alden Park and fronting the mansions that are historic. The proposal is to take away the bicycle route and have the path connect to the Class I path through

Alden Park and that is basically due to the narrowness of the streets. In making this proposal, Lennar considered several issues. One is, given the historic nature of Walnut Avenue, it was determined that a Class I bicycle route which is shown in the top photograph, is normally a route that is continuous. It is separated from the street and it is in an area where there are more bicyclists and less pedestrians. The City does have several bicycle routes where they shared access throughout the City. The one on the left is shown along Glen Cove Parkway, and the other is shown along the frontage road. I believe that is Lincoln Road. So, the determination to place the bicycle route along Walnut Avenue took into consideration the proposed use of Walnut which is going to be a Town Center, a vibrant place for people to work, and there would be a lot of pedestrians, and there will not be a lot of traffic, but there will be a moderate level of traffic.

The existing street cross section shows that there will be two 12-foot lanes and a Class I bicycle route that is 8-foot wide with 2-foot shoulders on the side. That would be on the west side of Walnut Avenue. On the east side would be a 5-foot sidewalk with a 6.5-foot planter which is somewhat inconsistent given the area is going to be developed with industrial commercial uses for the most part. It was suggested that the sidewalk configuration be different than what is proposed.

Walnut Avenue currently has different types of sidewalk patterns. The first photograph here shows that there is no sidewalk along Walnut Avenue. In the Historic District, this is the National Historic Landmark District in front of the mansions, there is a 5 to 7 foot wide historic sidewalk. In front of the Lennar building, there is a 6-foot sidewalk with the landscape strip and, in front of the Rodman center, there is a monolithic sidewalk, and this is what we are going with in terms of consistency for the area. So, the proposal is to keep the 12-foot lanes and to put a 6-foot wide sidewalk on both sides of the street. This would provide a consistent sidewalk pattern near Town Center and it would maintain the historic character of the area, and while the consideration is given to placing bicycle lanes on the street, it would require widening the street to accommodate the bike lanes which are 5 feet. So, the determination was to allow the Class III bicycle route to be placed along Walnut Avenue and to have the two 6-foot sidewalks on both sides. Also proposed as part of this Specific Plan Amendment is to allow the Planning Manager discretion in defining the future facilities, and that would be in defining the bicycle route. In some areas, where there is base development, we would like to give the Planning Manager discretion with the cooperation of the Public Works Department and the Traffic Engineer. It would be determined which type of facility would be best on Mare Island. The agency recommended approval of the 6-foot sidewalk and also recommended approval of the Class III bikeway. And, lastly, for the CEQA determination, we prepared an Addendum to the 2005 SEIR that stated that there are no project impacts. That concludes my presentation. I would be happy to answer any questions.

Commissioner McConnell: Ms. Hightower, when the original Specific Plan was adopted, why was a Class I bicycle lane proposed along Walnut? Do you know what the reasoning was?

Michelle Hightower: In the original Specific Plan that was put into place, it was envisioned that the area could accommodate a classroom, but it didn't take into account that the historic district, as much as we are now, we are paying more close attention to the historic character of the streets. Everything is being looked at a lot more closely, and we believe that the Class I bicycle path is not appropriate for a historic street.

Commissioner McConnell: And, that is because it is a separated bicycle path?

Michelle Hightower: That is correct.

Commissioner McConnell: Alright. I have some concern about safety along Walnut Avenue and its compatibility with a bicycle path that is not separated. When I go up Walnut Avenue on several occasions, and specifically, this weekend to get a feeling for the width of the lanes, I didn't feel it would be a comfortable or a safe environment out there, given the narrowness of the road and the 5-foot bicycle lane. You said that we are not going to widen that road, correct?

Michelle Hightower: That is correct.

Commissioner McConnell: I'd like to hear from the Traffic Engineer as to why the question of safety is not of a greater concern on such a narrow roadway.

David Kleinschmidt: Good evening Commission. I am the City Engineer. I am not the Traffic Engineer, but I will address your question. As Michelle pointed out, we have classic bike routes designated throughout the City on all sorts of streets, in varying widths. One of the reasons we have considered the designation of the Class III bike route and the elimination of the Class I is that overriding the safety concerns were more the concerns of the AHLC and the preservation of the historic component of the street. Once that was a major consideration, we had to come up with an alternative and we felt it was better to provide a connection by designating it as a Class III bike route versus eliminating any delineation of a bike route altogether. So, our choice once we realized that the Class I wasn't going to happen and that we could not widen the street to create a Class II bike lane, our alternative was to either eliminate it completely and to provide no connection between the north end of the island, G Street, to the Alden Park area down Walnut or "sign" it, and that's basically what a Class III bike route is, is signs that tell the bike riders, "this is the way to get from where you are to another designated area." It is better to do that than to have nothing, so that was kind of our thought pattern. The bicycle community likes to know how to get from one place to another, and when you designate something as a bike route, it gives the bicycle community the ability to publish and to promote how you get from one way to another. There are alternatives. There is the Class I bike routes that are both at the east and west side of the island, and those are alternatives for the types of riders who want to be on a separated facility, but providing something we felt as a route, was better than none.

Commissioner McConnell: Walnut Avenue is probably the most attractive street on that island, particularly to ride a bicycle upon. My concern is compatibility with two passing vehicles and a bicycle rider where all three are aligned at the same time. I am concerned about the width of the street out there accommodating those three methods of transportation when they are bypassing each other at the same time.

David Kleinschmidt: Shared use of the roadway is always a challenge. It is something that communities all over the United States are coping with, and it is more of an education for the drivers and the bicylists than it is trying to come up with ways to tear up and widen streets to accommodate the specific lanes. Riders who use Class III bike routes are more of your commuter type riders that understand how to ride on the streets. Your young children with mom and dad riding, choose the Class I's. They don't ride on Walnut Avenue. But, the decision to designate it as a Class III was more to provide that route designation

to the bicycle community than it was to try and address safety concerns because it is less safe to have a Class III than it is a Class I. There is no doubt about that.

Don Hazen: I would like to also add that staff also did focused outreach to the local bicycle lobbyists, both at the AHLC and prior to this hearing as well, and I might also speak from a personal standpoint. I am one of those serious cyclists that probably put on a couple of hundred miles a week, and we are very familiar with these type of bike routes. We alter our riding style to actually become more visible and ride more into the travel lane, and cyclists, as you know, enjoy the same rights of the highway as vehicles. So, this is not an unusual type of bike path and it's prevalent in a lot of urban areas, but we also consulted the bicycle lobby in town and did not get any comments back. I know Michelle went out of her way, in fact, made a phone call, I believe today, just to remind them that this was coming up on the agenda. So, we have kind of consulted with the avid bicyclists in town as well.

Commissioner McConnell: Well, my concern is not the avid bicyclist who is somewhat of a highly experienced and trained and knowledgeable rider. My concern is with the recreational rider, particularly on Walnut Avenue on the weekends and I am trying to envision ways to accommodate a factoring of the need for safety on that route. The speed limit out there, I believe, is 30 miles an hour – is it not?

Michelle Hightower: 25 miles per hour.

Commissioner McConnell: That is not widely posted. Maybe we need to post some more signs. My thinking is that if we are wanting to approve a reduction from a Class I to a Class III, we need to address the concern for safety of the casual rider. The only thing I can envision is, in addition to the traditional painted white line, that we require lane markers to be placed along that white line so that there will be reflectors, both visible at night and a more clearly delineated riding surface, both for drivers and for bicyclists. I was thinking of maybe trying to accommodate the two competing needs.

Michelle Hightower: I would like to just point out that on Mare Island within a two block radius are two Class I bicycle paths that are proposed. One is along the Waterfront Promenade, and the other one is along the west island path which is Azuar, and that would be on the west side. Both of those areas would have minimal interruptions to cross traffic. Those would be the safest place for bicyclists if they are riding out for recreational purposes. The vision for Walnut Avenue is to be part of the Town Center, and while there is not a lot of traffic there now, nor a lot of pedestrians, there will be in the future. We already do have interest in developing the vacant parcels there. So, we believe that the Class I would not be appropriate because you would have a lot of pedestrians mixed in with bicyclists. We would like to route the bicycles, the recreational ones, to the Class I's along the edge of the island.

Commissioner Manning: I just wanted to get a clarification on that Class III. It is a striped line. Is that a solid striped line on this or is there no delineation on the street? There is none.

David Kleinschmidt: For your clarification, the Class III bike route is only signing, so there is no delineation of pavement markings or striping on the street, and the next step up is the Class II where you designate a bike lane and that requires an additional 10 feet of width to widen the street, and that goes against the recommendations of the AHLC.

Commissioner Manning: Then, how often would the signs for the bike designations be . . . at every block?

David Kleinschmidt: I don't know the exact spacing, but one of the things we also try to balance is not having too many signs out on the street to distract from the other uses. I would have to get back with staff to verify the frequency, but it is within our Code requirements for signing the bike routes.

Commissioner Manning: The reason I am asking . . . just to Commissioner McConnell's point, just to get clarity on the part of safety would be that the vehicles, the people driving there, would know that it was also a bike lane and that they needed to yield and obey the rules for shared car/bike lane and that is why I was asking for that clarification.

Michelle Hightower: There is also additional signage that you can place above the typical bike route sign and shared lane. So, we could also include those with the Public Works' approval.

Commissioner Gourley: Do we clearly have any Class I's on Mare Island? Fully implemented?

Michelle Hightower: No.

Commissioner Gourley: So, the proposal is for the future to give people who wish to ride their bikes access, apparently from the north of the yard and the south of the yard, on a choice of either east or west side, or the Class I bicycle path. The alternate would be a Class III on Walnut Avenue. These get to the same destination, and they get their choice which one they want to use.

Michelle Hightower: Correct.

Commissioner Gourley: Just as a comment, I am not as avid a bicyclist as Don is, but years ago I did ride to Mare Island to work on a daily basis, and I took Walnut Avenue then, and there was a lot more traffic then than I anticipate in the next couple of years, and I made it.

Chairperson Legalos: Thank you. If there are no further questions from the Commission, I will open the public hearing. Does the representative from Lennar wish to address the Commission?

Tom Sheaff: Good Evening, Commissioners. I am with Lennar Mare Island, and I will just take a couple of minutes. This has been the access down Walnut Avenue and the preservation of the historic character has been long debated in order to balance all of the uses and all of the interests, and what we are hearing tonight has certainly been an attempt to balance some of the challenges that we all face, so, I do appreciate staff spending their time, you, on the Commission spending your time, attempting to really make it a better place and I anticipate that this may be one of several issues like this over the years where we thought we had it figured out back in 2001, 2002, and 2003, and frankly this is a better way to do it today. So, thank you very much for your time and we are available if you have any questions.

Chairperson Legalos: Thank you very much. We have no cards so I will close the Public Hearing, bring the matter back into the hands of the Commission.

I would like to comment that I do share Commissioner's McConnell's concern about safety, and my own bias is that public safety should take precedence over what could be perhaps a minor or not so minor impact on the historic nature of the area. Also I feel that this area is of particular interest and is particularly attractive to recreational bicyclists, and we may find them choosing not to take the safer routes because of the attractions in the area. I have a real concern about a Class III route which essentially offers no protection whatsoever to bicyclists. My own experience is that motorists tend not to pay much attention to designated bike routes unless there are pavement markings that make it clear that they should stay off of those areas. So, I am very concerned about safety in this case.

Commissioner Manning: I hear both Commissioners have expressed concerns but I also feel that this is an issue that has to be weighed against other goals that we have here, and one is the historic nature of Walnut Avenue, and I would hate to see the change in having to widen and having to narrow, and that has to be considered here too. I think that this is a good compromise. I also am a bike rider, and I ride my bike on many streets that aren't designated one way or another, and I think signage is important, and that is included in the proposal here, and, so I have no problem supporting this as it has been proposed.

Don Hazen: I thought of an idea during this discussion about the safety and I am wondering, and this is a question to David because I know that the bicycle lane designs are set by the State, but I am wondering if it is possible, in addition to the freestanding signs that designate bike routes, to have many stenciled bicycles symbols, possibly on the pavement, either to help supplement the freestanding signage, just often enough at intervals, so that that painting on the asphalt is a reminder to the drivers. I am curious what David's thought might be to that.

David Kleinschmidt: I think that is a consideration we could surely look into. We want to be careful that we are consistent with the pavement marking criteria that is set forth by the State. That we are not indicating that the street is something that it is not but I would be an advocate, also, of anything we can do to continue promote more awareness of the presence of bicycles.

Commissioner Gourley: I have a question that concerns if we were to, in fact, not approve this, and therefore we would be "stuck", and then we would be forced to put in a Class I bicycle route on Walnut Avenue. What impact does that give us?

Michelle Hightower: This would override an AHLC decision to install the 6-foot monolithic sidewalk along the street so we would have to revise the project and go back to them with that proposal.

Don Hazen: An alternate answer would be that we would take the AHLC recommendation. We would take the Planning Commission recommendation, and we would take both of those recommendations to the City Council and the City Council would be the final judge in this issue.

Commissioner Gourley: I will offer the resolution, if it is appropriate. I offer the resolution to approve Specific Plan 98-01D. Is that sufficient, or do we need more?

Chairperson Legalos: I believe that is sufficient. Please vote.

AYES: Harrington-Cole, Manning, Gourley..

NOS: Legalos, McConnell.

ABSENT: Peterman, Turley.

Three yes. Two no. Motion does not carry.

Don Hazen: I can suggest a couple of alternatives here. We could have staff . . . we could vote for a continuance to have staff come back and address the safety issues if that might provide some alternatives that we haven't discovered this evening, or, alternatively, you could wait until we have a full Commission and let Commissioners Peterman and Turley bring themselves up to speed by reviewing the Minutes. So, I might suggest a continuance to May.

Chairperson Legalos: I would support a continuance.

Commissioner Manning: I would like to offer that we continue this until another date.

Chairperson Legalos: Please vote.

Don Hazen: If you can continue it date specific, then we do not need to re-notice it again. The first available meeting is May 5 if that is suitable.

Chairperson Legalos: Would that be the only item on the agenda for May 5?

Don Hazen: We have an annual review with Mare Island that we could also put on that agenda as well.

Chairperson Legalos: Could we continue this until the second meeting in May?

Don Hazen: The second meeting has the Touro-North Island Cancer Facilities scheduled, so, we expect a lot of public input on that one. I don't know if you would want to combine the two on the 19th.

Chairperson Legalos: That is a big item, but that is the only item on the agenda for that date.

Commissioner Manning: I would like to propose that we continue this to May 5.

Chairperson Legalos: Please vote.

AYES: Harrington-Cole, Manning, Gourley, McConnell, Legalos.

NOS: None.

ABSENT: Peterman, Turley.

It is unanimous. Motion carries. It is moved to May 5.

Chairperson Legalos: I see our liaison to the City Council, Mr. Sunga, is present. Did you wish to make a report to the Commission?

Hermie Sunga: Not unless there are any questions.

Chairperson Legalos: I see no questions at this time.

L. OTHER ITEMS

**City Council Staff Report
June 3, 2008**

ATTACHMENT 3

AHLC Meeting Minutes Dated March 27, 2008

Architectural Heritage and Landmarks Commission Minutes
March 27, 2008

report back to them. He said he can be contacted and he could get a couple of interested people and participate in the discussion so that they can know fully what the pros and cons are.

Don Hazen said it sounds like a good idea but that the time frame is out of their control at this time so they could share that with the City Manager and hopefully try to dovetail that process into what he had planned on bringing back to City Council so that there is opportunity for input.

Chairperson Naughton stated that he talked to Tom Sheaff and made this suggestion to him. He discussed what needs to be done on this matter.

Commissioner Kennedy suggested that there ought to be consideration given to preservation.

11. COMMUNITY FORUM

Those wishing to address the Commission on any matter not listed on the agenda but within the jurisdiction of the Architectural Heritage and Landmarks Commission may approach the podium at this time. The Commission may not discuss or take action but they may request that this item be placed on a future agenda. The total time allowed is fifteen minutes, with each speaker limited to three minutes. Is there anybody in the audience that would like to address the Commission on any item outside of what is on the hearings?

Caroline Graham spoke. She lives at 740 Oscar Street on the Island. She was glad to hear the concern about the preservation issue and gave her reasons for this. She feels it is extremely important that the right decisions are made for the growth of the City. She states that we need to think of the future by considering all of the facets.

12. CONSENT CALENDAR AND APPROVAL OF THE AGENDA

The Commission may adopt the agenda as presented or may rearrange the order of items pursuant to the Brown Act, the Commission may not add items to the agenda and the Commission may only discuss items on the agenda. There is one item on the agenda tonight.

Chairperson Naughton moved to approve the agenda as written here.

All in favor:

AYES: Naughton, Swanson, Kennedy, Quigley, Laraque.

NOS: None.

ABSENT: Mandap, Jones-Tranter.

It is unanimous. Motion carries.

13. PUBLIC HEARINGS

Amendment to the 2007 Mare Island Specific Plan, SP #98-01D regarding a Class I Multi-Use Path along Walnut Avenue, and Certificate of Appropriateness #08-0004 to construct a six-foot monolithic sidewalk along Walnut Avenue.

Environmental Determination: Pursuant to Section 15164 of the California Environmental Quality Act, (CEQA), an Addendum to the 2005 Subsequent

Environmental Impact Report for the Mare Island Specific Plan has been prepared for the proposed project.

Recommendation – Forward a recommendation to Adopt SPA #98-01D; and Approve Certificate of Appropriateness #08-0004 subject to the findings and conditions provided in the staff report.

Chairperson Naughton acknowledged that Councilwoman Stephanie Gomes is present as a liaison to the Commission.

Staff Report: Michelle Hightower: Lennar Mare Island has proposed a Specific Plan Amendment to the 2007 Specific Plan and they have also applied for a Certificate of Appropriateness regarding Walnut Avenue. Walnut Avenue is one of the primary roads on Mare Island. It runs north/south and it covers a variety of uses, the former Rodman Center, Lennar's building, the school district building, the Recreation Center, and then several industrial buildings, some of which are vacant. It covers the historic mansion row, and, lastly, Alden Park and Chapel Park are here. The Specific Plan proposes a Mixed-Use Area for Walnut Avenue which includes commercial, retail, light industrial, R&D, and also, residential. Currently the Mare Island Specific Plan calls for a Class I bikeway/pedestrian path along Walnut Avenue. That is shown here in blue. The plan also calls for two other Class I bikeway/pedestrian paths and these are separated paths from the street and they would allow two-way traffic on one side of the roadway. The east island path is along the waterfront promenade and the west island path is along Azuar. It connects to the bike lane which is a separate bike lane on each side of the road and then, also, on Azuar, it has a Class III Bike Route and the bike route is a shared lane with vehicles and bicycles. Thereafter it connects to the Class I Bike Route leading up to the Regional Park.

The current Walnut Avenue street cross section shown in Appendix C of the Mare Island Specific Plan shows that this Class I Multi-Use Trail is approximately 8 feet wide with 2 foot shoulders and then you would also have two 12-foot north and southbound lanes on the street with a 6 1/2 foot planter and then a 5-foot wide sidewalk on the east side of the roadway. Here is a photograph showing the west side at Connolly Street. Also, along Walnut Avenue is an historic sidewalk and you may recall it has hexagon shaped pavers. It is very historic and it ranges from 5 to 7 feet in size. Down here we have a photograph of G Street that shows sidewalks on either side, so the Plan currently has proposed a 12-foot wide sidewalk across the Multi-Use Path on this side of the road. Lennar has proposed to replace the Class I sidewalk with the Class III Bike Route along Walnut which is the same as currently planned on Azuar so what we would have from G Street all the way to 8th Street, is a Class III Bike Route. The bike route again is a shared facility with vehicles but it also has signage to alert drivers that there are bicycles sharing the road. This particular figure needs to be updated because what we have determined is from the Alden Park edge here at 8th Street to Chapel Park, this should not be a Class III Bike Route. The route would actually connect to the 5-foot path that you just recently approved through Alden Park and then connect here at the 12-foot wide Class I Bike Route in front of Chapel Park and then again, connecting along Azuar, leading out to the Regional Park. The proposal is to replace the Class I with a Class III and then on both sides of the street, a 6-foot wide monolithic sidewalk would be provided to make the street consistent. So, here it is shown that this is a 6-foot wide sidewalk and in some places there would be a light post, but for the most part, the walk would be clear. Two 12-foot lanes and then the 6-foot sidewalk on the east side with a 10-foot wide landscape

easement behind it. This particular photo shows on the east side of Pintada Street near the Lennar building, 6-foot wide sidewalks. So, this is what you would see throughout Walnut Avenue for the most part. This is not a monolithic walk, by the way. It is a separated walk, so the monolithic walk would be right next to the curb. The walk that you would see would be the sidewalk here and the landscape strip would be on the other side. The photograph down here shows the 7-foot sidewalk in front of some of the mansions. Lennar believes and it seems staff agreed, that this particular change will maintain the historic character of the street because currently there is no 12-foot wide sidewalk along the roadway. It also maintains the sidewalk within the historic mansions and it will provide a pedestrian friendly environment, allowing the bicyclists to use the street and given what is proposed to be a vibrant Town Center to allow pedestrians to freely walk on the sidewalk. It is consistent with the Secretary of Interior standards as provided in the staff report as well as applicable Mare Island Historic District Guidelines. An Addendum has been provided that concludes that there are no significant changes to the previous environmental document prepared for the Mare Island Specific Plan and so staff is recommending that the AHLC recommend approval to the Council to adopt the Specific Plan Amendment and because the project is entirely within the Historic District, you will recommend that this body approve the Certificate of Appropriateness to construct the 6.5 foot monolithic sidewalk. That concludes my presentation and I would be happy to take questions.

Commissioner Kennedy: It strikes me as questionable whether or not the monolithic sidewalk is consistent with any of the other sidewalk patterns in the vicinity. I am not seeing a single photograph in the package of the monolithic sidewalk.

Michelle Hightower: It is not consistent with any of the existing sidewalks. That is correct.

Commissioner Kennedy: Isn't that one of the findings that this would be a change made to enhance consistency? Wasn't that one of the reasons for approval?

Michelle Hightower: In many cases, the existing sidewalk is separated, and the proposal is to create a consistent sidewalk pattern throughout because in various places along the corridor, there are no sidewalks.

Commissioner Kennedy: My question is . . . we are seeing illustrations, if I am understanding your terminology correctly. . . by monolithic sidewalk, you mean a sidewalk which has no planting strip between the back of curb and the walkway, and I see a photograph labeled a monolithic sidewalk that has a planting strip greater than the walkway would, incorrectly labeled, by your language in the recommendation that says that the reason for the change in part is to ensure consistency in the sidewalk pattern but I believe a monolithic sidewalk would in fact would be inconsistent with the sidewalk pattern. That is the impression that I get.

Michelle Hightower: That is correct for some parts of the corridor. Currently, this sidewalk that is shown . . . I need to correct that particular photograph that is not a monolithic sidewalk. I corrected it in the slide. It is a separated sidewalk but it is a newer sidewalk that was put in by Lennar. The other sidewalks shown in the Historic Area are separated but they will be retained. In most of the other areas, there are no sidewalks.

Commissioner Kennedy: So, the consistent new development would be not a monolithic sidewalk. There is no extant example of a monolithic sidewalk. You couldn't get me a photograph of one, nor was the original Specific Plan recommending one. So, we are changing from a Specific Plan that recommended a sidewalk pattern that was consistent with the built environment. Again, I am not going to be argumentative, but it just seems to me that maybe I am just perseverating on this. I just would comment that the monolithic sidewalk development does not appear to be consistent with any of the historic sidewalk patterns.

Michelle Hightower: The monolithic sidewalk is not consistent with the historic sidewalks on Walnut, but in other areas of Mare Island and the terminology consistency was meant to say that the consistency would be with the development on both sides as opposed to providing a 12-foot wide multi-use path on one side and a 5-foot wide sidewalk on the other. That is what the consistency was meant to imply.

Commissioner Kennedy: Internal consistency but not consistency with the surrounding environment?

Chairperson Naughton: Thank you. I can appreciate the discussion because throughout all of Mare Island there are inconsistencies and there are different conditions in different parts because they represent different times of the year that they were built. So, just for my own understanding, I didn't realize there were different classes of bike paths so this is very interesting. How many are there altogether? More than three?

Michelle Hightower: There are three.

Chairperson Naughton: The Class I is the separated special use and then Class II is . . .

Michelle Hightower: Class II is the bike lane, and that is a separated, 5-foot wide bike lane and they do have those along Flagship.

Chairperson Naughton: Class III was . . .

Michelle Hightower: It is a bike route, which is a shared lane, with traffic but it is signed. One of the conditions of approval is that the signage be provided to the Secretary of the AHLC for approval prior to construction.

Chairperson Naughton: In the information packet that you provided, is it correctly identified here, the correction that you made, the little tip that is going through, or what we might approve tonight? Is it correct in here or do we have to make a revision, any notation, any forthcoming motion about what you were correcting on the screen? I think you indicated that there was a little strip that was incorrectly noted.

Michelle Hightower: Yes, you can make that change and eliminate the word "monolithic" on, I think it is Attachment C of the photographs and it says "east side of Pintada Street, 6-foot wide sidewalk." It should not say "monolithic."

Chairperson Naughton: Okay. Other questions of the Commissioners?

Commissioner Swanson: On Alden Park, are you going to be changing that path at all?

Michelle Hightower: No, if you will recall in January, this body approved a 5-foot wide sidewalk. Originally, the Specific Plan called for a new path meandering around the trees, along the edge of the park near Walnut Avenue and with this proposal, we have changed that to have the path be included as part of what you approved so that would be the Class I.

Commissioner Swanson: So there will be no essential change . . . ?

Michelle Hightower: No change.

Chairperson Naughton: If there are no other questions of the staff and staff report, I would like to open up the discussion about this item to anybody in the public who has an opportunity to come up and ask questions or speak about this. If no one would like to do that, I would like to take this matter back before the Commission to share any thoughts about the proposed recommendation here.

Commissioner Swanson: My thought is . . . the monolithic sidewalks going to the curb just as you and Mr. Kennedy had presented . . . Am I understanding this right that they are going to go through and change most of the sidewalks to a sidewalk straight to the curb throughout the areas or . . . ? Or, are you going to make changes to the existing standards you have there and basically what you are trying to get across to us is that you are straightening out the sidewalk system?

Michelle Hightower: That is correct. So, some of the existing sidewalks that are currently in place will be altered and the monolithic sidewalk would be put in.

Commissioner Swanson: Does that mean removing old, historic sidewalks?

Michelle Hightower: No. None of the sidewalks that are currently there such as the one shown here . . . that is not an historic sidewalk. However, if you recall, in front of Rodman Center and the School District, those sidewalks would also remain in place so there would be two. So, you would have a monolithic sidewalk in front of it because that has about a 10 to 15 foot landscape strip in front of it.

Commissioner Swanson: Yes, I am just concerned you are taking out a bunch of the old character which I feel should remain, whether or not you go to the curb or not with sidewalks. That is one of my concerns.

Commissioner Kennedy: I would have to think and go back to my notes, but this was also a fairly interesting conversation at an approval we did on some construction proposals where the landscape setback was an integral part of the approval of the new residences because it provided the old harmony with the context and stuff and without kind of refreshing my memory on that or maybe if Michelle or David remember that project better, I would sure like to at least refresh my memory on that before I voted on this.

Chairperson Naughton : This was one of the homes by Chapel Park that were recently sold and I think it was one of the owners had gone ahead and upgraded the sidewalk in front of their home and it wasn't in a manner that was consistent with the guidelines for the island which are that sidewalks and other things taking on the characteristic of something utilitarian in the context of the overall island, the feel of that, and that

sidewalk was somehow approved or it was built without approvals, etc. Is that what you were talking about?

Commissioner Kennedy: No, I think it was the mansions or the little duets or quad town homes and in the building, massing was a real issue.

Chairperson Naughton: Oh, the building that we had a couple of months ago?

Commissioner Kennedy: Yeah, and during the review and approval of them and an important part of the discussion around the building massing and its impact on the streetscape and contextual harmony did speak to the fact that there were landscape setbacks and I don't remember (I have to go back to my notes), and refresh my memory, but there certainly was discussion and I thought it was going the other way. . . that we just loved the character and it was absolutely essential to the integrity of the character that we do ADA stuff and this and that and the other. We needed that landscape setback and now I am hearing that contrary to last quarter, we now wish we didn't have landscape setback and we are going to get rid of it all.

Michelle Hightower: The difference is . . . that was along Azuar and that was all residential. This is proposed to be a more business type of area, commercial, industrial area, so the 6-foot monolithic sidewalk is a little bit more appropriate for that kind of activity. Now, in the area where there are historic sidewalks in front of the mansions, those would be retained. So, that is very consistent with what we recently approved.

Commissioner Swanson: So basically what you are getting at here is that this proposal is for the new proposed Town Center and the access for pedestrian travel and what have you, but it is not going to go throughout the whole of Mare Island in the residential areas, just as Mr. Kennedy brought up and refreshed our memory. And, thank you Mr. Kennedy, for making sure we don't backtrack on ourselves.

Chairperson Naughton: I am hearing some issues about clarification here and it is a challenging issue to understand all of these pieces and parts and how they all knit together and we appreciate staff and Lennar working hard together to do just that. Based on the discussions tonight, I think I can do this in one motion, and that is to make a recommendation that the Council adopt the Amendment that we are forwarding and then also, to approve the Certificate of Appropriateness. Is that right, Michelle? Can I do that? What I would like to move on is that we forward a recommendation to the City Council to adopt the Amendment to Mare Island Specific Plan SP #98-01D, subject to the findings contained in the staff report and approve Certificate of Appropriateness #08004 subject to the findings and conditions contained in the staff report with the modification that on Attachment C that the word monolithic be removed from that as part of that caption of that photograph.

All in favor:

AYES: Naughton, Swanson, Kennedy, Quigley, Laraque.

NOS: None.

ABSENT: Mandap, Jones-Tranter.

It is unanimous. The motion is approved.

Architectural Heritage and Landmarks Commission Minutes
March 27, 2008

14. OTHER ITEMS

Chairperson Naughton: Are there any other items that staff, Secretary, or Committee members would like to bring up? If not, I would like to make a motion to adjourn the meeting.

All in favor.

AYES: Naughton, Swanson, Kennedy, Quigley, Laraque.

NOS: None.

ABSENT: Mandap, Jones-Tranter.

It is unanimous. Motion passes.

15. ADJOURNMENT

The meeting was adjourned at 8:35 p.m.

Respectfully Submitted,
Bill Tuikka, Secretary




ADMIN
A

Agenda Item No.

COUNCIL COMMUNICATION

Date: June 3, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Gary Leach, Public Works Director 

SUBJECT: CONSIDERATION OF TWO RESOLUTIONS THAT WILL INITIATE THE LEVY AND COLLECTION OF ASSESSMENTS FOR TEN (10) LANDSCAPE MAINTENANCE DISTRICTS AND CONDUCT BALLOTING TO INCREASE ASSESSMENTS ON EIGHT (8) LANDSCAPE MAINTENANCE DISTRICTS

BACKGROUND AND DISCUSSION

The City of Vallejo has 24 Landscape and Lighting Districts, ten (10) of which were created under the Landscape and Lighting Act of 1972, and fourteen (14) created under the 1911 Act. The Council will consider the 1911 Act districts in separate action. The first of two resolutions formally starts the process for establishing the Fiscal Year 2008/2009 assessment for the following ten (10) landscape maintenance districts: Carriage Oaks, Garthe Ranch/ Garthe Ranch Highlands Zone B, Glen Cove 3, Hunter Ranch 3, Marine World/Fairgrounds, Marinview, Sandpiper Point, South Vallejo Business Park, Town and Country 2-5, and Northeast Quadrant. The Hiddenbrooke Maintenance District will come under separate council action due to timing issues working with the HMD Committee. Landscape Maintenance Districts under consideration tonight were formed and annual assessments levied pursuant to the Landscape and Lighting Act of 1972, Part 2, Division 15 of the Streets and Highways Code and Proposition 218.

Annually, Engineer's Reports are prepared for each 1972 Act District, which analyzes the district based on "equivalent benefit units" and propose assessments for each parcel. These assessments are based on the special benefit the parcels within the District receive.

The City Council appointed MuniFinancial as the "Engineer of Work" and directed them to prepare the Engineer's Reports for the eleven districts. The preliminary engineers report is on file in the Department of Public Works and at the City Clerk's office.

The following table shows the proposed assessment changes per "equivalent benefit unit" (EBU) for each 1972 Act District. One "equivalent benefit unit" or EBU is applied to a single family residence:



COUNCIL COMMUNICATION

<u>DISTRICT</u>	<u>EXISTING 07/08 ASSESSMENT PER EBU</u>	<u>PROPOSED 08/09 ASSESSMENT PER EBU</u>
Carriage Oaks	\$58.52	\$91.54
Garthe Ranch	\$128.46	\$199.48
Garthe Ranch (Highlands)	\$1638.00	\$00.00
Glen Cove 3	\$155.14	\$223.66
Hunter Ranch 3	\$72.04	\$119.78
Marine World/Fairgrounds	\$58.38	\$104.58
Marinview	\$636.00	\$636.00
Sandpiper Point	\$141.76	\$198.40
So. Vallejo Bus. Park	\$1678.00	\$2802.16
Town & Country 2-5	\$70.48	\$91.78
Northeast Quadrant	\$220.08	\$233.70
Northeast Quadrant Zone A	\$340.35	\$361.42

There are some important items to take into consideration while reviewing the above table. The first item is to note that the Garthe Ranch Highlands is a zone of Garthe Ranch. Its assessment will not be collected this year. As of this date, the City of Vallejo has not accepted this subdivision for maintenance. The developer, Discovery Homes, will pay for the maintenance of this subdivision until it is accepted. There are adequate reserves in this district and there will be no maintenance expenditures by this district in the 2008/2009 fiscal year. Thus, there is no reason to assess any of the parcels. Assessments will resume when the district takes over maintenance of this subdivision.

The Marinview Landscape Maintenance District assessment will not increase this year. The Northeast Quadrant and Northeast Quadrant Zone A district has an inflationary formula based on the CPI that would allow their assessments to increase to \$240.25 for the main district and \$371.55 for Zone A. They will not increase to that amount, but only to \$233.70 and \$361.42 respectively. This is because the City does not increase assessments more than necessary to operate the district. Since there is no change in assessment for Marinview, and no change in the formula for increasing assessments for the Northeast Quadrant (including Zone A), there is no balloting requirement for these districts.

Eight (8) Landscape Maintenance Districts need to increase their assessments to continue their level of service. The Landscape and Lighting Act of 1972 requires that the City mail ballots to all property owners within an existing district where an increase is proposed and there is no inflationary formula. The results of the ballots are made known in a public hearing with the Council. There must be at least 45 days between



COUNCIL COMMUNICATION

the resolution to conduct balloting and the public hearing. The ballot results determine if an annual assessment is approved or rejected.

There are general and specific reasons for the need to ballot for assessment increases in these eight (8) Landscape Maintenance Districts. The specific needs are illustrated in the following table:

District	Need for increase
Carriage Oaks	This district was formed in 1979 and has never had an increase. Fences need repair. Irrigation needs upgrading.
Sandpiper Point	This district was formed in 1980 and has never had an increase. Fences need repair and one side of Meadows Drive needs to be upgraded.
South Vallejo Business Park	This district was formed in 1981. It has never had an increase. It has a large amount of turf which requires water that has increased in price over the years.
Garthe Ranch	This district was formed in 1987 and has never had an increase. Irrigation needs upgrading and we need to eradicate thistle.
Hunter Ranch III	This district was formed in 1986 and has never had an increase. They rejected an increase six years ago. It has dead plant material, needs irrigation upgrades and fence repair.
Town & Country II – V	This district was formed in 1986 and has never had an increase. The landscaping is mature and needs major maintenance.
Glen Cove III	This district was formed in 1980 and has never had an increase. There is a need to maintain Eucalyptus groves, mature trees, medians and slopes. The proposed increase will include street tree maintenance.
Marine World	This district was formed in 1985 and has never had an increase. This district has landscaping that needs replacement and suffers large amounts of vandalism .



COUNCIL COMMUNICATION

While the table above illustrates specific reasons for increases there are also general reasons why all of the above districts need increases. Fuel has driven the cost of maintenance higher and all of these districts have had to use reserves to keep up with that cost. Additionally, because they have not had any changes since their formation, there have been no inflationary factors to keep up with the increase cost of maintenance. It should be noted that staff is also recommending that an annual automatic cost-of-living increase, for future years, should be included for these eight districts that are recommended for assessment increases.

Residents of these districts could reject the proposed increases. If they do, the alternative is to severely reduce maintenance activities. Preliminary outreach with residents indicates that they understand the need for increases and do not want to see the level of maintenance within their districts suffer. Staff will continue to meet with the property owners within the eight districts to explain the need for these increases.

RECOMMENDATION

Begin the process of initiating a Public Hearing to obtain public input regarding the Annual Financial Report and Engineer's Report for ten (10) of the Landscape Maintenance Districts formed under the Landscaping and Lighting Act of 1972. This is to comply with the provisions of California Constitution Article XIII D (Proposition 218).

Adopt a resolution of intention to conduct property owner balloting to increase assessments in eight (8) Landscape Maintenance Districts and to conduct a public hearing on July 22, 2008 at 7:00 p.m. at Vallejo City Hall in the Council Chambers.

ENVIRONMENTAL REVIEW

The levy and collection of these assessments is exempt from the California Environmental Quality Act under section 15273 of Title 14 of the California Code of Regulations.

DOCUMENTS AVAILABLE FOR REVIEW

- a. Resolution for levy and collection of assessments and approval of Engineer's Reports
- b. Resolution of Intention to conduct property owner balloting to increase assessments for eight (8) Landscape Maintenance Districts
- c. Location Map
- d. Copy of Engineer's report for 1972 Act Landscape Maintenance Districts available in the City Clerk's Office and Public Works Engineering



COUNCIL COMMUNICATION

CONTACT PERSONS:

Joe Bates, Landscape Maintenance Manager
(707) 649-3414
email: JoeB@ci.vallejo.ca.us

John Cerini, Maintenance Superintendent
(707) 649-4557
email: JCerini@ci.vallejo.ca.us

JUNE 3, 2008
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RESOLUTION NO. _____

BE IT RESOLVED by the Council of the City of Vallejo as follows:

WHEREAS, the City Council of the City of Vallejo (hereinafter referred to as the "City Council") through previous resolutions has established and levied annual assessments for ten (10) particular Landscape Maintenance Districts (hereinafter collectively referred to as the "Districts"), pursuant to the provisions of the Landscaping Maintenance Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (hereinafter referred to as the "Act") that provides for the collection of assessments by the County of Solano on behalf of the City of Vallejo to pay the maintenance and services of improvements and facilities related thereto, and

WHEREAS, the ten (10) Districts are designated as Carriage Oaks Landscape Maintenance District; Garthe Ranch Landscape Maintenance District; Glen Cove III Landscape Maintenance District; Hunter Ranch III Landscape Maintenance District; Marine World/Fairgrounds Drive Landscape Maintenance District; Marin View Landscape Maintenance District; Northeast Quadrant Landscape Maintenance District, Sandpiper Point Landscape Maintenance District; South Vallejo Business Park Landscape Maintenance District; and Town and Country II-V Landscape Maintenance District; and

WHEREAS, the City Council desires to initiate proceedings for the levy and collection of annual assessments against lots and parcels of land within the Districts for fiscal year 2008/2009, commencing July 1, 2008 and ending June 30, 2009, for the landscape improvements and services that will provide special benefits to properties within the Districts pursuant to Chapter 4 Article 2 of the Act and the California Constitution Article XIII D (hereinafter referred to as the "Constitution"), and

WHEREAS, the City Council has retained MuniFinacial as the Assessment Engineer of Work, for the purpose of assisting with the proceedings for the levy and collection of assessments for the Districts, the establishment of the proposed assessments, and to prepare and file Engineer's Reports with the City Clerk in accordance with the Act and the Constitution.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VALLEJO DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals: The above recitals are true and correct.

Section 2. Engineer's Reports: The City Council hereby orders the Assessment Engineer to prepare and file with the City Clerk Engineer's Reports concerning the improvements and services connected with the

Districts and the proposed levy of assessments in the fiscal year commencing July 1, 2008 and ending June 30, 2009, in accordance with Chapter 3 Section 22623 of the Act. Said Engineer's Reports shall contain a description of the improvements and services, an estimate of the costs financed by the levy of the assessments, the properties benefiting from the improvements and the method of apportioning the assessments connected therewith.

- Section 3. The City Council hereby finds that the lots, parcels of land and subdivisions within the boundaries of the Districts, includes all properties that receive special benefits from the improvements for which the City proposes to maintain or enhance the current level of service. The general location and boundaries of the Districts are shown on maps on file in the office of the City Engineer, and are incorporated herein by reference.
- Section 4. Improvements: The proposed improvements and services to be provided and for which properties within the Districts shall be assessed include, but are not limited to, the regular maintenance, operation and incidental expenses related to the landscaped areas and facilities within the public right-of-ways or easements associated with the development of properties within the Districts that may include, but are not limited to, parkways, medians, slopes, open space, and parklands. The Engineer's Reports to be prepared in connection with these proceedings shall provide a more detailed description of the improvements and associated costs.
- Section 5. Assessments: The City Council hereby determines that in order to provide an appropriate level of maintenance and related services and activities for the improvements as generally described in Section 4 of this resolution, it is necessary to propose an assessment increase to be levied against lots and parcels within eight of the ten Districts commencing in fiscal year 2008/2009. The Engineer's Reports referred to in Section 2 of this resolution shall establish the estimated budget of anticipated expenses and the resulting new maximum assessments for the Balloted Districts, including the annual inflation adjustment, that will be necessary to provide ongoing funding for sufficient levels of maintenance and servicing of the improvements associated with the Balloted Districts; and the proposed assessment increase may only be imposed pursuant to the provisions of the Act and the Constitution.

JUNE 3, 2008

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RESOLUTION NO. _____

BE IT RESOLVED by the Council of the City of Vallejo as follows:

WHEREAS, the City Council, pursuant to provisions of the Landscaping Maintenance Act of 1972 (commencing with Section 22500) Part 2, Division 15 of the California Streets and Highways Code (hereinafter referred to as the "Act"), did by previous Resolution, initiate proceedings for the annual levy of assessments within ten (10) Landscape Maintenance Districts (hereinafter collectively referred to as the "Districts"), for fiscal year 2008/2009, and

WHEREAS, the ten (10) Districts are designated as Carriage Oaks Landscape Maintenance District; Garthe Ranch Landscape Maintenance District; Glen Cove III Landscape Maintenance District; Hunter Ranch III Landscape Maintenance District; Marine World/Fairgrounds Drive Landscape Maintenance District; Marin View Landscape Maintenance District; Northeast Quadrant Landscape Maintenance District; Sandpiper Point Landscape Maintenance District; South Vallejo Business Park Landscape Maintenance District; and Town and Country II-V Landscape Maintenance District; and

WHEREAS, the City Council proposes to increase the maximum assessment for eight (8) of the ten Districts (hereinafter collectively referred to as the "Balloted Districts") including Carriage Oaks Landscape Maintenance District; Garthe Ranch Landscape Maintenance District (Zone A only); Glen Cove III Landscape Maintenance District; Hunter Ranch III Landscape Maintenance District; Marine World/Fairgrounds Drive Landscape Maintenance District; Sandpiper Point Landscape Maintenance District; South Vallejo Business Park Landscape Maintenance District; and Town and Country II-V Landscape Maintenance District; and

WHEREAS, the Assessment Engineer of Work has prepared and filed Engineer's Reports in connection with the levy of assessments and the proposed assessment increases commencing in fiscal year 2008/2009 (beginning July 1, 2008 and ending June 30, 2009) with the City Clerk pursuant to Section 22623 of the Act and the California Constitution Article XIID (hereafter referred to as the "Constitution"), and said reports have been presented to the City Council, and is incorporated herein by reference.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VALLEJO DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals: The above recitals are true and correct.

Section 2. The Engineer's Report for the Districts is hereby approved on a preliminary basis as submitted or amended by direction of this City Council, and ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection.

Section 3. The City Council hereby proposes to levy and collect assessments against parcels of land within the Districts for the fiscal year commencing July 1, 2008 and ending June 30, 2009 to pay the costs and expenses of the District improvements in accordance with the Act and the Constitution, and declares its intention conduct a property owner ballot proceeding for the proposed new or increased assessments including an annual inflation adjustment within the Balloted Districts as outlined in the Engineer's Report; and

The City Council finds that the public interest and convenience requires such action and further declares its intention to conduct a public hearing regarding the Districts, which public hearing shall include the proposed levy of an increased assessment within the Balloted Districts pursuant to the Act and calls for a property owner protest ballot proceeding related thereto in accordance with the provisions of the Constitution.

Section 4. The City Council hereby finds that the lots, parcels of land and subdivisions within the boundaries of the Districts, includes all properties that receive special benefits from the improvements for which the City proposes to maintain or enhance the current level of service. The general location and boundaries of the Districts are shown on maps on file in the office of the City Engineer, and are incorporated herein by reference.

Section 5. The proposed improvements and services to be provided and for which properties shall be assessed, include but are not limited to the regular maintenance, operation and incidental expenses related to the landscaped areas and facilities within the public right-of-ways or easements associated with the development of properties within the Districts that may include, but are not limited to, parkways, medians, slopes, open spaces, and parklands. The Engineer's Reports prepared for the Districts provide a more detailed description of the improvements and associated costs.

Section 6. The City Council hereby determines that in order to provide an appropriate level of maintenance and related services and activities for the improvements within the Balloted Districts as generally described in Section 5 of this resolution, it is necessary to increase the annual assessments to be levied against those lots and parcels commencing in fiscal year 2008/2009. The Engineer's Report establishes the estimated budget of anticipated expenses and the resulting new maximum

assessments for the Districts, including the annual inflation adjustment, that will be necessary to provide ongoing funding for the maintenance and servicing of the improvements including all operational and incidental expenses related to such improvements and services.

Section 7. Pursuant to the Constitution an assessment ballot proceeding is hereby called on the matter of confirming the proposed assessment increases for the Balloted Districts. The ballots and notices so authorized shall be distributed by first class mail to the property owners of record within the Balloted Districts as of the last County equalized roll, and property owner or owners of each affected parcel may return the ballot by mail or in person to the City Clerk not later than the conclusion of the public hearing for these matters.

Section 8. The City Council hereby declares its intention to conduct a public hearing concerning the Districts, the improvements therein, and the proposed assessments for the Districts and the assessment increases within the Balloted Districts, in accordance with Government Code, Section 54954.6 and Article XIID, Section 4(e) of the Constitution.

Notice is hereby given that a public hearing on these matters will be held by the City Council on Tuesday, July 22, 2008 at 7:00 P.M., or as soon thereafter as feasible, in the City Council Chambers, located at 555 Santa Clara Street, Vallejo, at the time so fixed. At the public hearing, all interested persons shall be afforded the opportunity to hear and be heard.

Section 9. The City Council hereby authorizes and directs the City Clerk, or their designee, to prepare and mail notice of the public hearing and property owner protest ballots to the property owners of record within the Balloted Districts regarding the proposed assessment increases, including the annual inflation adjustment as outlined in the Engineer's Reports, for return receipt prior to the date and time of the public hearing as set forth in this resolution.

A notice of the hearing and ballot shall be distributed by first class mail to the property owner of record for each parcel subject to a new or increased assessment not less than 45 days before the date of the public hearing pursuant to the Constitution.

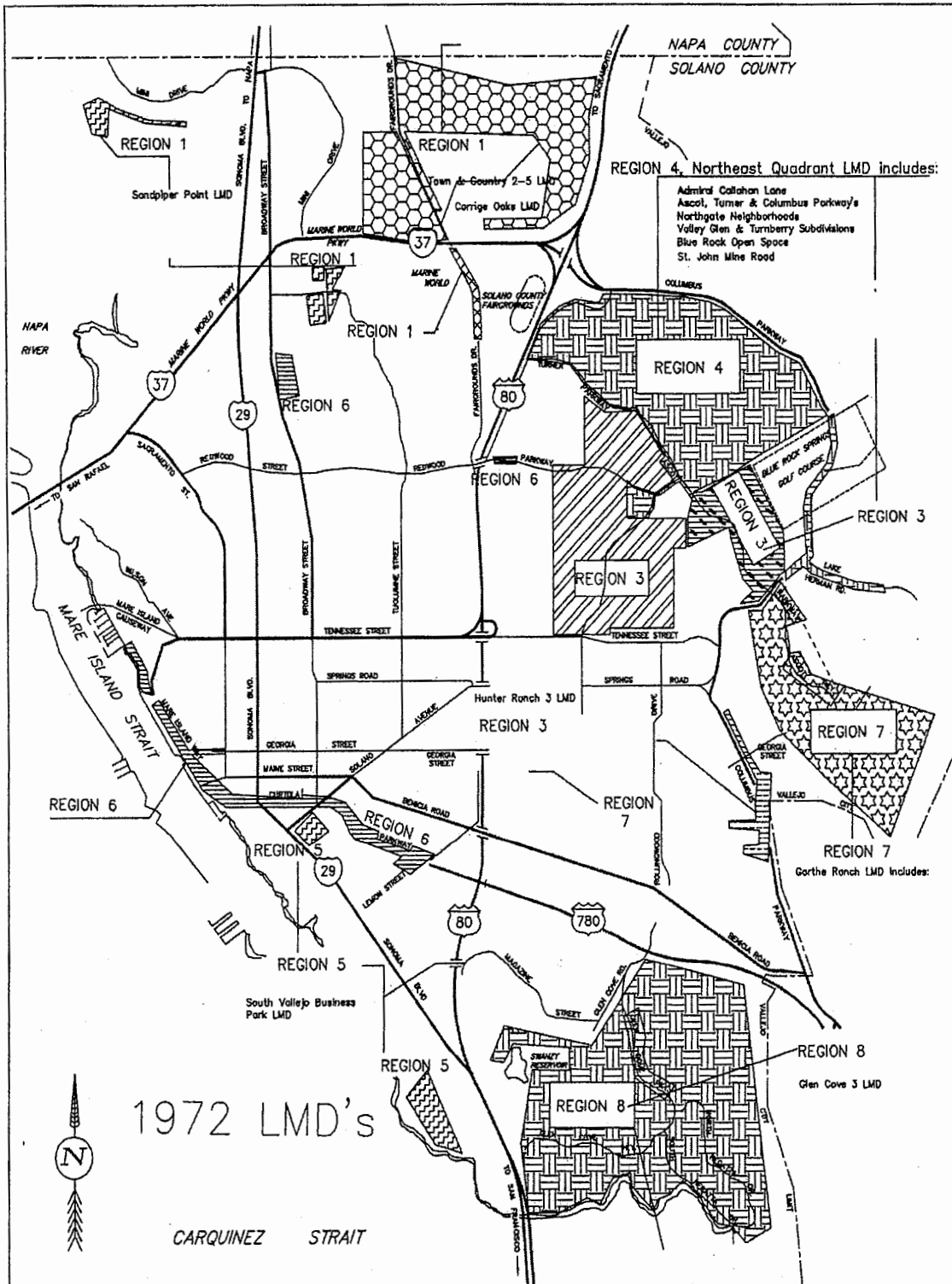
Section 10. The property owner protest ballot proceeding conducted for the Balloted Districts shall constitute the property owners' approval or rejection of the proposed new or increased assessment and annual inflation adjustment. Each property owner may return their ballot by mail or in person to the City Clerk no later than the conclusion of the public hearing scheduled for Tuesday, July 22, 2008. After the close of the Public Hearing and pursuant to Section 4 (e) of the Constitution, the City Clerk, or their designee, shall open and tabulate the ballots returned to determine if majority protest exists. Only those ballots issued by or on behalf of the City shall be considered as valid ballots and shall be weighted according to the proportional financial obligation of each affected property. Majority protest exists if, upon the conclusion of the public hearing, ballots submitted in opposition to the new or increased assessment exceed the ballots submitted in favor of the new or increased assessment for each respective District balloted.

In addition to the ballot proceedings, property owners may also file a written protest with the City Clerk prior to the conclusion of the public hearing, or having previously filed such written protest, may file a written withdrawal of that protest. A written protest shall state all grounds of objection and such protest by a property owner within the Balloted Districts and shall contain a description sufficient to identify the property owned by such property owner. At the public hearing, all interested persons shall be afforded the opportunity to hear and be heard.

Section 11. The City Clerk is hereby authorized and directed to give notice of such Public Hearing as provided by law.

JUNE 3, 2008

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REGION 4, Northeast Quadrant LMD includes:
 Admiral Callahan Lane
 Ascol, Turner & Columbus Parkway's
 Northgate Neighborhoods
 Valley Glen & Turnberry Subdivisions
 Blue Rock Open Space
 St. John Mine Road

REGION 7
 Garthe Ranch LMD includes:

REGION 8
 Glen Cove 3 LMD

1972 LMD's

CITY OF VALLEJO

DEPARTMENT OF PUBLIC WORKS
 LANDSCAPE DIVISION

DWG. NO. <u>Regions</u>	SHEET <u>1</u> OF <u>1</u>
DRAWN BY <u>ssg</u>	FILE NO. <u>REGION</u>
DATE <u>Rev.9/22/04</u>	REF. _____
CHECKED <u>ssg</u>	SCALE <u>NONE</u>

DISTRICT KEY MAP by REGION
 LANDSCAPE CONTRACTORS AREAS

PREPARED BY: _____
 LANDSCAPE MAINTENANCE MANAGER _____ DATE _____