County of Santa Cruz

DEPARTMENT OF PUBLIC WORKS

701 OCEAN STREET, ROOM 410, SANTA CRUZ, CA 95060
(831) 454-2160 FAX (831) 454-2385 TDD (831) 454-2123

THOMAS L. BOLICH
DIRECTOR OF PUBLIC WORKS

AGENDA: JUNE 20,2006

June 8,2006

SANTA CRUZ COUNTY BOARD OF SUPERVISORS
701 Ocean Street
Santa Cruz, California 95060

SUBJECT: TRACT 1506, CAPITOLA GARDENS, NO. 2
ASSESSOR'S PARCEL NUMBER 029–371-1**8,** MACIEL AVENUE

Members of the Board:

Submitted herewith is the final map for Tract 1506, Capitola Gardens No. 2, containing three sheets. This map has been duly checked and processed by Public Works and is now submitted for your consideration.

The following items are being submitted with the map:

Subdivision Agreement

Irrevocable Letter of Credit from Comerica Bank dated June 6,2006 in the amount of $440,275 for the following items:

Faithful Performance Security	$290,000
Labor and Materials Security	$145,000
Guarantee, Warranty, and Maintenance (To be retained from Faithful Performance)	$145,000
Monumentation	$ 2,775
Taxes	$ 2,500

The Guarantee, Warranty, and Maintenance amount of $145,000 is not included in the total $440,275 submitted, in accordance with the Subdivision Agreement. When the Faithful Performance Security is released, a portion of it will be converted to the Guarantee Security.

The affordable housing agreement for this project was recorded on June 5,2006.

The Planning Department advised us on June 8,2006, that this subdivision complies with all the tentative map requirements. The taxes have been paid in full. The last fee paid was a $5,000 deposit for Construction Inspection.

It is therefore recommended that the Board of Supervisors take the following action:

1. Approve the final map of Tract 1506, Capitola Gardens No. 2.

2. Authorize the Director of Public Works to sign the Subdivision Agreement on behalf of the County.

3. Direct the Clerk of the Board to file the executed Subdivision Agreement and securities, execute the certificates of the Board of Supervisors and the Clerk of the Board of Supervisors, and submit the final map to the Public Works Department for recording with the County Recorder.

Yours truly,

for — THOMAS L. BOLICH
Director of Public Works

TLB:CDR:mh

Attachments

RECOMMENDED FOR APPROVAL:

County Administrative Officer

copy to: Public Works
Planning Department

FNLMP.DOC/1506mh.wpd

Statement of Owner

We hereby certify that we are the owners of the real property included within the subdivision shown on this map and that we are the only persons necessary to sign said map pursuant to provision of Section 66445(E) of the Government Code of the State of California, and we consent to the making of said map and said subdivision as shown within the distinct border lines and we hereby offer for dedication "Parcel A" and "Parcel B" for street purposes and public utility purposes, and those strips labeled "6' P.U.E." for public utilities purposes.

Capitola Gardens II, L.L.C.

By: _____

Comerica Bank

The undersigned, as trustee under Deed of Trust recorded in Document 2006-_____, of Official Records of Santa Cruz County, does hereby join in and consent to the execution of the above Owner's Statement.

By: _____

Tax and Assessment Certificate

I hereby certify that there are no liens for unpaid state, county, municipal or local taxes or special assessments collected as taxes against the land included in the within subdivision or against any part thereof, except taxes which are not yet payable and which it is hereby estimated will not exceed the sum of $2,500.00 for the year 2006-2007, and that said land is not, nor is any part thereof, subject to any special assessment which has not been paid in full and that this certificate does not include any assessment of any assessment district, the bonds of which have not yet become a lien against said land or any part thereof.

Dated: June 7, 2006

MARY JO WALKER
Auditor-Controller of the County
of Santa Cruz, State of California

By: Loan Nguyen
Deputy

Board of Supervisors Certificate

It is hereby ordered that the map of Tract 1506, Capitola Gardens #2, be, and the same is hereby approved, and that "Parcel A" and "Parcel B", are hereby rejected for road purposes. "Parcel A", "Parcel B" and the 6' P.U.E. shown hereon are hereby accepted for public utilities purposes.

I certify that the foregoing was adopted by the Board of Supervisors of the County of Santa Cruz at a meeting said board held on the _____ day of _____ 2006.

_____
Clerk of the Board of Supervisors of the County of Santa Cruz, State of California

_____
Deputy Clerk

Statement of Surveyor

This map was made by me or under my direction and is based on a field survey in conformance with the requirements of the Subdivision Map Act and local ordinance at the request of Capitola Gardens II, LLC in February, 2006. The survey is true and complete as shown. All monuments are of the character and occupy the positions indicated, or they will be set in those positions on or before December 31, 2007. The monuments are, or will be, sufficient to enable the survey to be retraced. This map substantially conforms to the approved tentative map.

Signed: _____ 6/7/06
Gary R. Irland PLS No. 7637 - Date

Statement of County Surveyor

I hereby certify that I have examined this Final Map and the subdivision as shown is substantially the same as it appeared on the tentative map and any approved alterations thereof. All provisions of the Subdivision Map Act, (Sections 66410 et. seq.) and the County of Santa Cruz Subdivision Ordinance applicable at the time of approval have been complied with. I am satisfied that this map is technically correct and conforms with the action on the Tentative Map thereof taken by the Planning Commission of the County of Santa Cruz on April 26, 2006.

Dated: June 8, 2006

Thomas L. Bolich
County Surveyor of the County of Santa Cruz
State of California RCE 26862, Exp. 3-31-07

REGISTERED PROFESSIONAL ENGINEER
THOMAS LeROY BOLICH
No. 26862
CIVIL
STATE OF CALIFORNIA

Certificate of Clerk of Board

The Clerk of the Board of Supervisors of the County of Santa Cruz does hereby certify that all certificates and securities required under the provisions of Sections 66492 and 66493 of the Government Code have been duly filed and deposits have been duly made. Pursuant to the authority delegated to me by said Board, I hereby approve said certificates and securities on behalf of the County of Santa Cruz.

_____
Clerk of the Board of Supervisors

Date: _____

By: _____ Deputy Clerk

Certificate of Recorder

Serial Number: _____

I hereby certify that this map was presented at _____ m, on the _____ day of _____, 2006, by the Clerk of the Board of Supervisors of the County of Santa Cruz, State of California and that after examination, I accept said map for recordation on the _____ day of _____, 2006 at _____ m, in Volume _____ of Maps, Page _____, Santa Cruz County Records

Dated: _____

Signed: _____
County Recorder

Signed: _____
Deputy

Owner's Acknowledgment

State of California
County of Santa Cruz

On this 5th day of June, 2006, before me, the undersigned, a notary public in and for said county and state, personally appeared Bob Hulter and _____, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal

Notary Public in and for the County of Santa Cruz, State of California

Commission # 1442374
Expires Sept 28, 2007

Trustee's Acknowledgment

State of California
County of Sacramento

On this 5 day of June, before me, the undersigned, a notary public in and for said county and state, personally appeared David J. Lambson and _____, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal

Notary Public in and for the County of Sacramento, State of California

Commission # 1504743
Exp: July 31, 2008

TRACT NUMBER 1506

Capitola Gardens No. 2

BEING THE LANDS, WITHIN THE COUNTY OF SANTA CRUZ
CONVEYED TO CAPITOLA GARDENS II, LLC
BY DEEDS RECORDED IN _____
OF THE OFFICIAL RECORDS OF SANTA CRUZ COUNTY.

MAY, 2006 APN 029-371-18 SCALE: N/A

Irland ENGINEERS, INC.
1100 WATER STREET
SANTA CRUZ, CA 95062
TEL (831) 426-5313
FAX (831) 426-1763

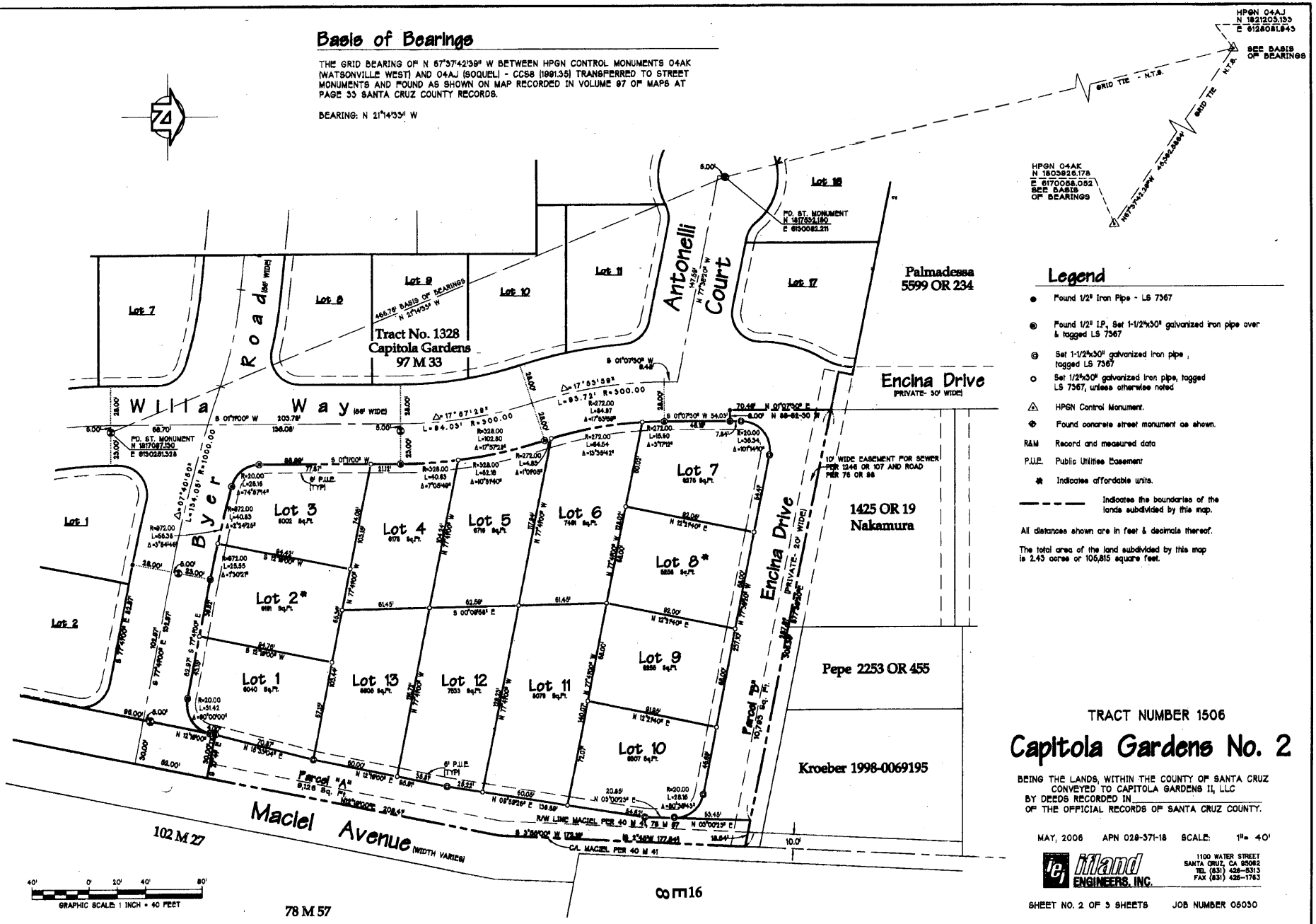
SHEET NO. 1 OF 3 SHEETS JOB NUMBER 05030

43

Basis of Bearings

THE GRID BEARING OF N 67°37'42'39" W BETWEEN HPGN CONTROL MONUMENTS 04AK (WATSONVILLE WEST) AND 04AJ (SOQUEL) - CCS8 (1991.35) TRANSFERRED TO STREET MONUMENTS AND FOUND AS SHOWN ON MAP RECORDED IN VOLUME 97 OF MAPS AT PAGE 33 SANTA CRUZ COUNTY RECORDS.

BEARING: N 21°14'33" W



Legend

- ● Found 1/2" Iron Pipe - LS 7367
- ◉ Found 1/2" I.P., Set 1-1/2"x30" galvanized iron pipe over & tagged LS 7367
- ⊙ Set 1-1/2"x30" galvanized iron pipe, tagged LS 7367
- ○ Set 1/2"x30" galvanized iron pipe, tagged LS 7367, unless otherwise noted
- △ HPGN Control Monument.
- ◆ Found concrete street monument as shown.
- R&M Record and measured data
- P.U.E. Public Utilities Easement
- ✱ Indicates affordable units.
- — — — Indicates the boundaries of the lands subdivided by this map.

All distances shown are in feet & decimals thereof.

The total area of the land subdivided by this map is 2.43 acres or 105,815 square feet.

TRACT NUMBER 1506

Capitola Gardens No. 2

BEING THE LANDS, WITHIN THE COUNTY OF SANTA CRUZ CONVEYED TO CAPITOLA GARDENS II, LLC BY DEEDS RECORDED IN _____ OF THE OFFICIAL RECORDS OF SANTA CRUZ COUNTY.

MAY, 2006 APN 028-371-18 SCALE: 1"= 40'

ifland ENGINEERS, INC.
1100 WATER STREET
SANTA CRUZ, CA 95062
TEL (831) 426-5313
FAX (831) 426-1763

SHEET NO. 2 OF 3 SHEETS JOB NUMBER 05030

Non-Title Notes

The following requirements shall be noted on the Final Map as items to be completed prior to obtaining a building permit on lots created by this land division:

1. Lots shall be connected for water service to Santa Cruz City Water Department.

2. Lots shall be connected for sewer service to Santa Cruz County Sanitation District. All regulations and conditions of the Sanitation district shall be met.

3. All future construction on the lots shall conform to the Architectural Floor Plans and Elevations, and the Perspective Drawing as stated or depicted in Exhibits "A" and shall also meet the following additional conditions:

a. Exterior finishes shall conform to the materials specified in Exhibit "A" and shall be painted in earth tones with accents and details as shown on the approved plans. T1-11 type wood siding is not permitted.

b. Notwithstanding the approved preliminary architectural plans, all future development shall comply with the development standards for the R-1-6 zone district. The development of any lot shall not exceed 30 percent lot coverage, or 50 percent floor area ratio, or other standard as may be established for the zone district. All required on-site parking must be provided.

c. For any structure proposed to be within 2 feet of the maximum height limit for the zone district, the building plans must include a roof plan and a surveyed contour map of the ground surface, superimposed and extended to allow height measurement of all features. Spot elevations shall be provided at points on the structure that have the greatest difference between ground surface and the highest portion of the structure above. This requirement is in addition to the standard requirement of detailed elevations and cross-sections and the topography of the project site, which clearly depict the total height of the proposed structure.

d. For building sites containing fill placed as part of the land division improvements above the original grade, the total building height shall include the height of the fill above the original grade.

e. No fencing shall exceed three feet in height within the required front yard or street-side setbacks and shall not exceed six feet in height within the required interior side or rear yard setbacks.

f. All foundation and grading designs shall conform to the recommendations of the accepted soils report by Tharp and Associates dated April 2006. Final plans shall reference the project soils report and soils engineer. A plan review letter from the project soils engineer is required.

4. A final Landscape Plan for the entire site specifying the species, their size, and irrigation plans, meeting the following criteria and conforming to all water conservation requirements of the Santa Cruz City Water Department water conservation regulations:

a. Turf Limitation. Turf area shall not exceed 25 percent of the total landscaped area. Turf area shall be of low to moderate water-using varieties, such as tall or dwarf fescue.

b. Plant Selection. At least 80 percent of the plant materials selected for non-turf areas (equivalent to 60 percent of the total landscaped area) shall be well-suited to the climate of the region and require minimal water once established (drought tolerant). Native plants are encouraged. Up to 20 percent of the plant materials in non-turf areas (equivalent to 15 percent of the total landscaped area), need not be drought tolerant, provided they are grouped together and can be irrigated separately.

c. All street trees shall be a minimum size of 24-inch box trees of a species selected from the County Urban Forestry Master Plan.

d. Soil Conditioning. In new planting areas, soil shall be tilled to a depth of 6 inches and amended with six cubic yards of organic material per 1,000 square feet to promote infiltration and water retention. After planting, a minimum of 2 inches of mulch shall be applied to all non-turf areas to retain moisture, reduce evaporation and inhibit weed growth.

e. Irrigation Management. All required landscaping shall be provided with an adequate, permanent and nearby source of water which shall be applied by an installed irrigation, or where feasible, a drip irrigation system. Irrigation systems shall be designed to avoid runoff, overspray, low head drainage, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways or structures.

i. The irrigation plan and an irrigation schedule for the established landscape shall be submitted with the building permit applications. The irrigation plan shall show the location, size and type of components of the irrigation system, the point of connection to the public water supply and designation of hydrozones. The irrigation schedule shall designate the timing and frequency of irrigation for each station and limit the amount of water, in gallons or hundred cubic feet, recommended on a monthly and annual basis.

ii. Irrigation within the critical root zones established in the Arborist's Report is prohibited. Irrigation outside of the critical root zone, but under the dripline of each existing oak shall be limited to very low flow drip-type emitters.

iii. Appropriate irrigation equipment, including the use of a separate landscape water meter, pressure regulators, automated controllers, low volume sprinkler heads, drip or bubbler irrigation systems, rain shutoff devices, and other equipment shall be used to maximize the efficiency of water applied to the landscape.

iv. Plants having similar water requirements shall be grouped together in district hydrozones and shall be irrigated separately.

v. Landscape irrigation should be scheduled between 6:00 p.m. and 11:00 a.m. to reduce evaporative water loss.

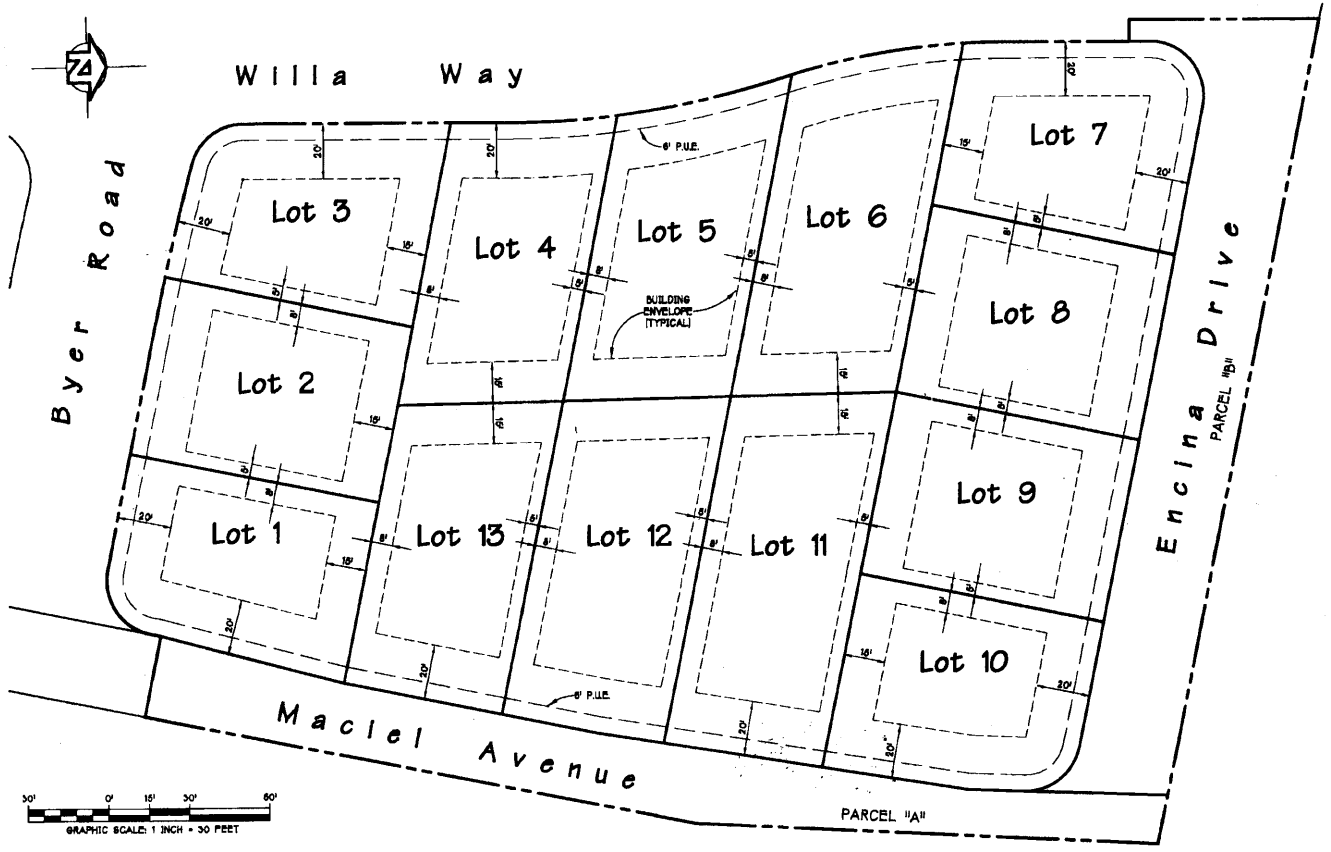
f. All planting shall conform to the preliminary plan shown as part of Exhibit A, except that all trees planted adjacent to or in the public right of way shall be 24" box in size and shall be selected from the suggested planting list in the Urban Forestry Master Plan. Also:

i. All landscaping shall be permanently maintained by the property owner including any plantings within the County right of way along the frontage of the property.

ii. Any trees planted in the County right of way shall be approved by the Department of Public Works and shall be installed according to provisions of the County Design Criteria.

5. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district in which the project is located. This project will be subject to Mello-Roos fees per the letter from the Live Oak School District dated May 10, 2006.

6. Any changes between the approved Tentative Map, including but not limited to the attached exhibits for architectural and landscaping plans, must be submitted for review and approval by the decision-making body. Such proposed changes will be included in a report to the decision-making body to consider if they are sufficiently material to warrant consideration at a public hearing noticed in accordance with Section 18.10.223 of the County Code.



NOTE:
ADDITIONAL NON-TITLE INFORMATION WAS RECORDED IN THE OFFICIAL RECORDS OF SANTA CRUZ COUNTY CONCURRENTLY WITH THIS MAP.

NON-TITLE SHEET

TRACT NUMBER 1506

Capitola Gardens No. 2

BEING THE LANDS, WITHIN THE COUNTY OF SANTA CRUZ
CONVEYED TO CAPITOLA GARDENS II, LLC
BY DEEDS RECORDED IN _____
OF THE OFFICIAL RECORDS OF SANTA CRUZ COUNTY.

MAY, 2006 APN 028-371-18 SCALE: 1" = 30'

ifland ENGINEERS, INC.
1100 WATER STREET
SANTA CRUZ, CA 95062
TEL (831) 426-5313
FAX (831) 426-1763

SHEET NO. 3 OF 3 SHEETS JOB NUMBER 05030

SUBDIVISION AGREEMENT
(Partial Release Tract)

THIS AGREEMENT, by and between CAPITOLA GARDENS II L.L.C. _____, hereinafter referred to as SUBDIVIDER, and the COUNTY OF **SANTA** CRUZ, hereinafter referred to as COUNTY.

WITNESSETH:

WHEREAS, in connection with the development of that certain subdivision known as Tract 1046 CAPITOLA GARDENS No. 2 SUBDIVIDER has previously filed with the Santa **Cruz** County Planning Director a tentative map of said subdivision, which said tentative map was duly approved; and

WHEREAS, SUBDIVIDER has submitted, for approval and acceptance, a final map of said subdivision; and

WHEREAS, certain work and improvements required by Chapter 14.01 of the Santa **Cruz** County Code have not been completed, to wit:

> Work **and** improvements required as conditions for approval of the tentative subdivision map for this subdivision, including, but not limited to, site grading, driveway access, drainage, erosion control, including the prevention of sedimentation or damage to off-site property, street construction, sewer construction, and landscaping, all to be built or completed in accordance with improvement plans on file with, and approved by the Director of Public Works of the County of Santa Cruz, the Santa **Cruz** County Code and the Subdivision Map Act.

WHEREAS, SUBDIVIDER hereby proposes to enter into **an** agreement with **COUNTY,** by the terms of which agreement SUBDIVIDER agrees to have the work and improvements set forth above completed on or before two years from the date of execution of this agreement, pursuant to Sections 14.01.5**10,** et seq. of the Santa Cruz County Code,

NOW, **THEREFORE,** in consideration of the premises and the mutual promises and covenants of the parties hereto, it is agreed as follows:

1. CONSTRUCTION OF IMPROVEMENTS: SUBDIVIDER shall do all necessary work **and** construct the improvements described hereinabove, and complete such work and improvements in accordance with the provisions of the conditions of the tentative map approval, which are incorporated herein by reference. If the approved tentative map **is** amended, the SUBDIVIDER shall apply for **and** obtain an amendment to this agreement as necessary. All the improvements described above shall be completed on or before **two** years from the date of the execution of this agreement pursuant to Sections 14.01.101, et seq. of **the Santa Cruz** County Code, unless a written extension has been granted by the County.

All required off-site improvements shall be substantially complete to the satisfaction of the County Engineer, **prior** to the granting of occupancy for any new unit.

All off-site work if any, shall be done prior to or concurrently with on-site work, unless otherwise expressly specified by the conditions of the tentative map.

All materials used shall comply with the County's specifications. SUBDIVIDER hereby guarantees that the above mentioned work and improvements shall in all respects meet specifications prescribed by the Director of Public Works of the County of Santa Cruz. SUBDIVIDER guarantees and warrants all work and materials, and further agrees to replace defective **work** and materials and maintain all of said work and improvements to the satisfaction of COUNTY in accordance with Chapter 14.01 of the Santa Cruz County Code. SUBDIVIDER further agrees that all survey work shall comply with the requirements prescribed by the COUNTY SURVEYOR.

2. EROSION CONTROL: SUBDIVIDER will take all necessary actions during' the course of construction to prevent erosion damage to adjacent properties during inclement weather. It is understood and agreed that in the event of failure on the part of SUBDIVIDER to prevent erosion, COUNTY may do the work on an emergency basis and back-charge the SUBDIVIDER for the actual expenses incurred, or, if necessary, proceed against the Faithful Performance Security to cover COUNTY'S expenses.

3. SECURITY. At the time of execution of this agreement, SUBDIVIDER shall furnish to COUNTY the following security in the form of cash deposits, or instrument of credit satisfactory to the County:

A. Faithful Performance Security in the amount **of** $ 290,000.00 to assure that all work specified in this agreement will be completed; except for that amount retained to provide the Guarantee, Warranty and Maintenance of Work Security, the Faithful Performance Security shall be released upon completion of the work and acceptance of the work to be performed hereunder, in whole or in part; provided that **a** partial release shall not be in an amount less than 25% of the total security amount and that no more than 50% of the total security amount shall be released prior to final completion and acceptance of the work hereunder. Since partial releases are to be made, a schedule of construction shall be made a part of this agreement. The schedule shall specify the portions of the work to be completed and target completion dates for those portions of work, as well as the amounts of partial release to be made for each portion of work. Failure on the part of SUBDIVIDER to meet a target date shall result in forfeiture of the corresponding partial release. Any partial release thus forfeited may be regained at the next target date if all portions of work due prior to and on that next target date are completed by that next target date. Any extension or modification of the schedule must be granted in writing by the County.

Provisions for partial release may be made at the written request of SUBDIVIDER. SUBDIVIDER shall submit documentation to the County in order to verify that the work required to gain a partial release **has** been completed.

B. Labor and Material Security in the amount of $145,000.00 which said security, by its terms, shall secure payment to materialmen and laborers furnishing materials and/or labor in connection with the above-described work or improvement; the Labor & Material Security shall be released 90 days after the completion of all the work and provided that no liens have been filed against the project.

C. Inspection Security in the amount of $5,000.00. (CASH DEPOSIT)

D. **Tax Security** $2,500.00.

E. Monumentation Security in the amount of $2,775.00.

At the time the COUNTY Board of Supervisors accepts the improvements and coincident with the release of the Faithful Performance Security, a sufficient amount of said security shall be retained to provide:

F. Guarantee, Warranty and Maintenance of Work Security in the amount of $145,000.00, which said security, by its terms, shall guarantee and warrant all work for a minimum period of twelve months following the completion and acceptance thereof by the Board against any defective work or labor done, or defective materials furnished and to maintain such work to the satisfaction of the County for said period, all as provided in Section 14.01511**(b) (3)** of the Santa **Cruz** County Code and Section 66499.3(c) of the Government Code. The Guarantee Warranty & Maintenance Security shall be released twelve months after the completion of the work and provided that the workmanship is approved.

Securities held by COUNTY on behalf of other agencies **shall** be included in the categories above. Work of improvements required under this agreement requires the holding of securities by COUNTY on behalf of the following agencies or companies in the following amounts:

a. Water Purveyor N/A
Name of Agency
___ Security held by County: $_____
___ Security is held by agency.

b. Fire Agency N/A
Name of Agency
___ Security held by County: $_____
___ Security is held by Agency.

c. Utilities N/A
Name of Agency
___ Security held by County: $_____
___ Security is held by Company(ies)

d. Other N/A
Name(s)
___ Security held by County: $_____
___ Security is held by Company(ies)

In all cases where the performance of the obligation for which the security is required is subject to the approval of another agency, COUNTY shall not release the security until the obligation is performed to the satisfaction of such other agency, pursuant to Government Code Section 66499.8.

Deposits to COUNTY for the acquisition of any necessary easements or right-of-way shall be required. Work of improvements required under this agreement involves the acquisition of an easement or easements, or a right-of-way or rights-of-way, over the following parcels of land: APN(s) N/A. These easements or rights-of-way:

___ HAVE been acquired. (Describe and attach documentation).
___ HAVE NOT been acquired and the following standard condemnation clause is made a part of the agreement. At the time of execution of this agreement, SUBDIVIDER shall furnish to COUNTY a cash deposit in the amount of $ N/A for processing and acquisition as outlined in the following condemnation clause.

4. FAILURE TO COMPLETE IMPROVEMENTS: In the event SUBDIVIDER has not completed the specified work and improvements within the period of time allowed by this agreement, SUBDIVIDER shall not proceed further with such work and improvements unless and until approval to do so is obtained from the COUNTY. Under normal circumstances, if it is not found to be contrary to the public interest, the COUNTY will allow renewals of this agreement, provided that all applicable requirements are met by SUBDIVIDER. The COUNTY reserves the right, upon each renewal, to increase the security amounts to reflect fluctuations in material and labor prices. It is understood that in the event the SUBDIVIDER fails to complete the work and improvements within the specified period of time that the COUNTY may proceed against the Faithful Performance Security, to obtain completion of such work and improvements, or may initiate proceedings to revert the subdivided property to acreage pursuant to the provisions of Sections 14.01.344 et. seq. of the Santa Cruz County Code.

5. INDEPENDENT CONTRACTOR: SUBDIVIDER agrees that, in making the above-mentioned improvements, SUBDIVIDER is an independent contractor and not an employee of COUNTY, and all persons hired to furnish labor and/or materials in connection with proposed improvements are not employees of COUNTY.

6. INDEMNIFICATION: SUBDIVIDER agrees to defend and hold the COUNTY, its' officers, employees, and agents harmless from any losses or damages occasioned by injuries to persons and/or property arising out of or in any way connected with the above-mentioned work or improvement.

7. FILING OF FINAL SUBDIVISION MAP: COUNTY, for and in consideration of the execution of this agreement and fulfillment by SUBDIVIDER of the terms set forth herein, agrees to accept for filing the final map of Tract No. 1506 CAPITOLA GARDENS No. 2

8. BINDING ON SUCCESSORS AND ASSIGNS: This agreement shall be binding upon the successors and assigns of each of the parties. SUBDIVIDER shall inform potential buyers of parcels of land created by the underlying subdivision of the obligations on successors and assigns created by this paragraph. SUBDIVIDER shall provide copies of this executed agreement to those potential buyers. SUBDIVIDER is advised that the sale of all or part of the lands of the underlying subdivision does not automatically transfer from the SUBDIVIDER of the land the security obligations of this agreement. Those security obligations attach to SUBDIVIDER until all obligations of SUBDIVIDER under this agreement are fulfilled or transferred by substitution of a replacement agreement and replacement securities acceptable to the County.

IN WITNESS WHEREOF, this agreement has been duly executed by the parties hereto on _____, 20__.

COUNTY OF SANTA CRUZ

By: _____
Director of Public Works

By: _____
Subdivider

Address:

4444 SCOTTS VALLEY DR

SCOTTS VALLEY CALIF

Phone: 831-438-6200

APPROVED AS TO FORM:

_____
Assistant County Counsel

SUBAGR3.DOC

FIRST AMERICAN

STATE OF CALIFORNIA
COUNTY OF Santa Cruz } ss.

On 6-1-06, before me, D. Anderson,
personally appeared Bob Hulter
, personally known to me
(or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature D. Anderson

D. ANDERSON
Commission # 1442374
Notary Public - California
Santa Cruz County
My Comm. Expires Sep 28, 2007

(This area for official notarial seal)

Title of Document Subdivision Agreement
Date of Document
No. of Pages 7
Other signatures not acknowledged 2

43

Comerica

0299

Letter of Credit Division

SWIFT: MNBDUS6S
TELEX NO: 3774155
FAX NO: 415-477-3310
PHONE: 415-477-3318

COMERICA BANK
INTERNATIONAL TRADE SERVICES
2 EMBARCADERO CENTER, SUITE 300
SAN FRANCISCO, CA 94111

DATE OF ISSUE: JUNE 6, 2006
STANDBY LETTER OF CREDIT NO. 620250-41

BENEFICIARY:
COUNTY OF SANTA CRUZ
701 OCEAN STREET
SANTA CRUZ, CA 95060

LADIES/GENTLEMEN:

WE HEREBY ISSUE OUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. 620250-41 IN YOUR FAVOR, FOR ACCOUNT OF CAPITOLA GARDENS II, LLC, 4444 SCOTTS VALLEY DRIVE, SUITE 7B, SCOTTS VALLEY, CA 95066 ("APPLICANT") IN THE AMOUNT OF $440,275.00 (FOUR HUNDRED FORTY THOUSAND TWO HUNDRED SEVENTY FIVE AND 00/100 U.S. DOLLARS) AVAILBALE BY YOUR DRAFT AT SIGHT ON COMERICA BANK, WHEN ACCOMPANIED BY:

ORIGINAL

1. THIS ORIGINAL LETTER OF CREDIT AND AMENDMENT THERETO, IF ANY, WHICH WILL BE RETURNED TO YOU FOLLOWING OUR NOTATION THEREON OF THE AMOUNT OF SUCH DRAFT DRAWN HEREUNDER, IF THE AMOUNT OF THE DRAFT IS FULL AMOUNT OF THIS LETTER OF CREDIT, THE ORIGINAL LETTER OF CREDIT WILL BE RETAINED BY US.

2. A DATED STATEMENT PURPERTEDLY SIGNED BY AN AUTHORIZED OFFICER OF THE COUNTY OF SANTA CRUZ, STATING THAT THE FINAL MAP(S) FOR THAT CERTAIN SUB-DIVISION KNOWN AS TRACT 1506, CAPITOLA GARDENS 11, HAS BEEN RECORDED AND THAT THE COUNTY OF SANTA CRUZ IS ENTITLED TO DRAW ON COMERICA BANK LETTER OF CREDIT NO. 620250-41 PURSUANT TO THE TERMS OF THE EXECUTED SUBDIVISION AGREEMENT REGARDING TRACT 1506, CAPITOLA GARDENS II.

PARTIAL DRAWINGS AND MULTIPLE PRESENTATIONS ARE PERMITTED.

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE DEEMED AUTOMATICALLY EXTENDED WITHOUT AMENDMENT, FOR A PERIOD OF ONE YEAR FROM THE PRESENT DATE HEREOF (JUNE 5, 2007), AND UPON EACH ANNIVERSARY OF SUCH DATE, UNLESS AT LEAST THIRTY (30) DAYS PRIOR TO ANY SUCH EXPIRATION DATE, WE NOTIFY YOU BY REGISTERED MAIL OR COURIER SERVICE AT YOUR ADDRESS LISTED ABOVE, THAT WE ELECT NOT TO EXTEND THIS CREDIT FOR ANY SUCH ADDITIONAL PERIOD. UPON RECEIPT OF SUCH NOTICE, YOU MAY DRAW YOUR DRAFT ON US AT SIGHT WHEN ACCOMPANIED BY DOCUMENT DESCRIBED IN NO. 1 AND NO. 2 ABOVE.

CP 000026 (5-92)

WE ARE INFORMED BY THE APPLICANT THAT THIS LETTER OF CREDIT COVERS: FAITHFUL PERFORMANCE SECURITY $290,000.00, LABOR AND MATERIALS $145,000 00, TAX SECURITY $2,500.00 AND MONUMENTATION SECURITY $2,775.00 RELATIVE TO THE IMPROVEMENTS OF THAT CERTAIN SUBDIVISION KNOWN AS TRACT 1506, CAPITOLA GARDENS II.

BY BENEFICIARY'S ACCEPTANCE OF THIS LETTER OF CREDIT, BENEFICIARY AGREES THAT CHARGES DESCRIBED HEREIN AS FAITHFUL PERFORMANCE AMOUNTING TO $145,000.00 SHALL BE CONVERTED TO WARRANTY, AND BENEFICIARY AGREES TO PROVIDE COMERICA BANK WITH A WRITTEN NOTICE CONFIRMING ITS AGREEMENT TO SUCH CONVERSION UPON ITS ACCEPTANCE OF THE PROJECT.

BENEFICIARY MAY REDUCE THE LETTER OF CREDIT AMOUNT FROM TIME TO TIME BY PROVIDING US WITH A SIGNED RELEASE LETTER INDICATING SUCH AMOUNT TO BE REDUCED. SUCH REDUCTION IN THE LETTER OF CREDIT AMOUNT SHALL BE CONFIRMED VIA AMENDMENT BY US TO THE BENEFICIARY.

ALL DRAFTS DRAWN UNDER THIS CREDIT MUST BE MARKED "DRAWN UNDER COMERICA BANK'S STANDBY LETTER OF CREDIT NO. 620250-41."

IN THE CASE OF CANCELLATION, THE ORIGINAL LETTER OF CREDIT AND ALL AMENDMENTS THERETO MUST BE RETURNED TO US TOGETHER WITH A WRITTEN REQUEST FROM BENEFICIARY REFERENCING THIS LETTER OF CREDIT NUMBER AND AUTHORIZING ITS CANCELLATION.

EXCEPT SO FAR AS OTHERWISE EXPRESSLY STATED, THIS LETTER OF CREDIT IS SUBJECT TO THE ISP98 "INTERNATIONAL STANDBY PRACTICES, INTERNATIONAL CHAMBER OF COMMERCE (PUBLICATION 1998 VERSION AND ANY SUBSEQUENT REVISIONS).

ORIGINAL

WE HEREBY ENGAGE WITH YOU THAT ALL DRAFT(S) DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS STANDBY LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION TO COMERICA BANK AT OUR OFFICE LOCATED AT 2 EMBARCADERO CENTER, SUITE 300, SAN FRANCISCO, CA 94111 ON OR BEFORE JUNE 5, 2007 OR ANY AUTOMATICALLY EXTENDED DATE.

YOURS VERY TRULY,

AUTHORIZED SIGNATURE

AUREA BALENBIN

SIGHT DRAFT

DATE: _____ REF. NO. _____

AT SIGHT

PAY TO THE ORDER OF _____ US$_____

US DOLLARS _____

"DRAWN UNDER COMERICA BANK, IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER NO. _____ DATED _____ ___, _____"

TO: COMERICA BANK
2 EMBARCADERO CENTER, STE 300
SAN FRANCISCO, CA 94111

(INSERT NAME OF BENEFICIARY)

_____
AUTHORIZED SIGNATURE

GUIDELINES TO PREPARE THE SIGHT DRAFT:

1. **DATE:** ISSUANCE DATE OF DRAFT.
2. **REF. NO.:** YOUR REFERENCE NUMBER, IF ANY.
3. **PAY TO THE ORDER OF:** BENEFICIARY'S NAME
4. **US$:** AMOUNT OF DRAWING IN FIGURES.
5. **US DOLLARS:** AMOUNT OF DRAWING IN WORDS.
6. **LETTER OF CREDIT NUMBER:** OUR STANDBY L/C NUMBER THAT PERTAINS TO THE DRAWING.
7. **DATED:** ISSUANCE DATE OF OUR STANDBY L/C.

NOTE: BENEFICIARY'S NAME SHOULD BE PRINTED AT THE BACK OF THE SIGHT DRAFT WITH ENDORSEMENT.