



STAFF REPORT

TO: PLANNING COMMISSION

PREPARED BY: Corey Simon, Senior Planner *CS*

REVIEWED BY: Terry Blount, AICP, Planning Manager

GENERAL INFORMATION

**OWNER/
APPLICANT:** Shell Heights Associates, LLC/ Bill Schrader

LOCATION: Shell Avenue - vacant 5½ acre parcel located between La Salle Manor Apartments and Alhambra Terrace (Housing Authority) Apartments; APN: 376-010-011

GENERAL PLAN: Site within multiple Central Martinez Specific Area Plan designations:
(Land Use – Specific Area Plan)

- 1.6 acre portion adjacent to Shell Avenue: “Group 4 Residential” – Multi-Family Residential, up to 29 units/acre.
- Southerly most ¼ acre portion, adjacent to Lands of Christ Lutheran Church: “Group 1 Residential” – Single-Family Residential, up to 6 units/acre.
- Remainder of site: “Open Space”

(Open Space/
Conservation Element) Visually Significant Hillside

ZONING: Site within multiple zoning districts:

- 1.6 acre portion adjacent to Shell Avenue: R-1.5 (Multi-Family Residential: 1,500 square feet per dwelling unit/10,000 square feet minimum lot size)
- Southerly most ¼ acre portion, adjacent to Lands of Christ Lutheran Church: R-100 (One Family Residential: 100,000 square feet minimum lot size)
- Remainder of site: OS (Open Space)

**ENVIRONMENTAL
REVIEW:** A Mitigated Negative Declaration was approved by the City Council on January 20, 2010. No additional environmental review is required.

PROPOSAL: A 43 unit residential development with: a) a 42 unit multi-family project, with one three story, 23 unit building and one three story, 19 unit building, and b) one 4 acre (approximate) custom home parcel, with a ¼ acre building site and the balance to be within an open space easement.

**APPROVALS
REQUESTED:** a) Two-lot Minor Subdivision;
b) Use Permit and Design Review for a Planned Unit Development, which includes exceptions to the normally required development standards of the R-1.5 (Multi-Family Residential) Zoning District.

RECOMMENDATION

Approve Minor Subdivision MS #551-09, PUD #10-01 and DR #09-11.

BACKGROUND

Past project approvals and application history

In mid-2008, the applicant began discussions with staff regarding the possibility of developing the approximately 1½ acre site adjacent to Shell Avenue with 40+ units of multi-family housing. The multi-family proposal was to replace the applicant's 2006 approvals for 20 townhomes on the same site. After receiving Planning Commission approval in 2006, the applicant graded the lower 1½ acre portion of the site, and installed utilities and retaining walls, anticipating the imminent construction of units. While the 2006 townhome project was consistent with the medium density residential General Plan and Zoning Map designations that were in place at that time, staff informed the applicant that General Plan and Zoning Map amendments would be needed to allow the proposed multi-family project, as the existing General Plan and Zoning designations only allowed for single family and townhome configurations. In March 2009, the applicant made his request for General Plan and Zoning Map amendments, and for Planned Unit Development and Design Review approvals for a revised project. As initially presented, the proposal was for 46 units, in two three-story buildings, with 23 units in each.

Two-tiered review of application

As per the Planning Commission's policy direction to staff, staff advised the applicant to present his proposal, including specific site and building plans, to the Planning Commission at a study session. The applicant chose not to apply for study session review. Given both the broad land use policy question raised by the application for multi-family housing, and the need for broad policy discussions with the public, Commission and Council prior to engaging in a detailed discussion of site and building design, both the applicant and staff agreed to the following two-tiered review of the application:

- Amend General Plan/Zoning Map, with Public Hearings before Planning Commission (for its recommendation) and City Council (for final action; site plan/design package for informational purposes only).
- Approval of site and building design, by going to Design Review Committee (for recommendation) and Planning Commission for final action, unless appealed.

Role of California Environmental Quality Act (CEQA) and Initial Study/Proposed Mitigated Negative Declaration

Notwithstanding the two-tiered review process outlined above, California Environmental Quality Act CEQA requires that potential environmental impacts of all components of the project as defined by CEQA (which in this case included both the proposed land use map changes and the proposed site and building plans) must be evaluated together. Thus, two key concerns regarding the design as initially proposed, on-site parking availability and building mass, were evaluated in the Initial Study and Draft Mitigated

Negative Declaration prepared for the project. The City Council approved the Initial Study and Mitigated Negative Declaration, with the following two key mitigation measures:

- The mass of the southerly building shall be reduced so that both greater visual access is provided to the open space behind the buildings and that a larger area is available for tree plantings. The length of the southerly building should be reduced by approximately 20 percent, adding the former building area to the adjacent landscape areas between: a) this building and the shared entry drive between the two buildings and, b) this building and the southerly property line.
- The applicant shall adjust the number of units and/or available parking so that the number of spaces provided is closer to the upper end of the actual observed parking demand measured by Omni-Means, City of Concord surveys (1.50–1.64 spaces per unit).

The plans the applicant presented to the City Council in January 2010 illustrated compliance with the above mitigation measures. These revised plans modified the initial proposal by reducing the number of units from 46 to 42 (a reduction of four units in the southerly building) and the number of on-site parking spaces from 65 to 63 (a reduction of two spaces). The resulting parking ratio would be within the recommended rate at 1.5 spaces per unit. With the revised plan, the applicant illustrated how both proposed mitigation measures could be met. It should be noted that the revised plans for 42 units and 63 parking spaces were only presented to the Council to illustrate how implementation of the Mitigation Measures could be achieved. While the Council's approval of the Initial Study, Mitigated Negative Declaration and land use map amendments are final, no action was taken on Planned Unit Development or Design Review requests.

Past Planning Commission recommendation and Council's direction to Commission

On November 10, 2009, the Planning Commission held a public hearing to make its recommendations to the City Council on the Initial Study/Draft Mitigated Negative Declaration and the subject land use map changes. At that time as noted above, the applicant had yet to alter the project proposal incorporating the proposed Mitigation Measures and all discussions were based on the original 46 unit/65 parking space plan from March 2009. On a vote of 4/3, the consensus of the Commission's majority was not to support the proposal. These concerns were summarized to the City Council in a resolution adopted by the Commission on December 8, 2009, and it provided as Attachment D for reference.

The City Council held its initial hearing on the Initial Study/Draft Mitigated Negative Declaration and the subject land use map changes on January 6, 2010. Stating that cities need to better utilize such vacant in-fill parcels to provide for a variety of housing needs, the Council unanimously supported the General Plan and Zoning Map amendments to allow the multi-family use. While the Council showed its support for the proposed high density land use, the Council also repeated and discussed many of the

Commission's concerns regarding parking and design at the hearings (City Council minutes are provided as Attachment E). The Council stated that the Commission had full authority to "refine" and "perfect" what was generally seen as a promising proposal, but one that needs to be of high-quality to be worthy of approval.

DISCUSSION and ANALYSIS

TOPIC ONE: TRAFFIC AND PARKING – CONDITIONS ON SHELL AVENUE

The Initial Study and Mitigated Negative Declaration approved by the City Council in January 2010 evaluated the impact of the added traffic from the proposed project. The Transportation Element of the City's General Plan classifies Shell Avenue as a Collector Street, which are streets intended to serve more than just local traffic, and have a capacity of up to 12,000 vehicles per day. As a Collector Street, Shell Avenue has a relatively low volume of 3,536 vehicles per day. Given the existing level of traffic the City's consulting traffic engineer found that the added traffic from the proposed project would have no impact on either the street's level of service or residents' perception of traffic volume. However, residents, Commission and Council members all expressed their discomfort over existing traffic conditions in the past and at the subject hearings regarding the potential development of this property.

Subsequent to the Commission's November hearing when it made its recommendations to the City Council on the Initial Study/Draft Mitigated Negative Declaration, staff conducted additional analysis on Shell Avenue conditions. The summary of that review, as provided in January to the City Council, is provided below:

Shell Avenue is an important link between Alhambra High School, Alhambra Avenue, and central Martinez to Pacheco Boulevard and beyond. Many segments of Shell Avenue are narrow and unimproved, lacking curb, gutter and sidewalk. Certain sections of Shell Avenue are steep and have tight curves.

Despite these shortcomings Shell Avenue functions at Level of Service A which correlates to free flowing traffic. The roadway will continue to operate at a level of Service A with the added traffic from the proposed project. Although the accident rate does not necessarily warrant action, City staff has identified six measures that should be implemented independent of the project construction as outlined below.

In the project area Shell Avenue is improved along the east side. The segment is bound by two tight curves requiring drivers to reduce speeds to safely navigate the roadway. Sight distance is better at the project site than the neighboring apartment complex. The sight distance to the north is well in excess of the 250 feet needed for the measured vehicle speeds. To the south, the sight distance is limited to about 240-250 feet due to the roadside slope along the inside of the curve and foliage. The apartment complex has had only one reported accident in the last six years relating to vehicles entering or exiting the facility. With fewer vehicle trips

generated from the proposed project than the adjacent apartment complex and better overall sight distance, we should expect the same or lower annual accident rate (0.17) associated with vehicles entering and exiting the proposed project site.

Independent of the outcome of the applicant's proposals, Engineering Division staff has, or is in the process of, implementing the following signage and visibility improvements:

1. Install speed limit sign for east bound "D" Street near Castro Street.
2. Supplement curve warning sign for east bound Shell Avenue at Estudillo Street with 15 MPH recommended speed.
3. Install curve warning sign (15 MPH) for north bound Shell Avenue along the frontage of La Salle Manor apartments.
4. Extend "No Parking" for east bound Shell Avenue from La Salle Manor apartments to Harbor View Drive.
5. Replace all old and faded warning and regulatory signs.
6. Have vegetation that encroaches in roadway or obstructs visibility pruned or removed.
7. In addition, residents at the Council meeting recommended extending the prohibition of parking along the west side of Shell Avenue. Residents indicated that pedestrians J-walking to and from the La Salle Manor Apartments, especially at night, posed a danger. At the meeting, staff agreed that the situation should be changed with the installation of additional "no parking" signs.

With the City Council's approval of the Initial Study and Mitigated Negative Declaration in January, there is no need for additional environmental analysis regarding the proposed project's off-site traffic impacts.

TOPIC TWO: TRAFFIC AND PARKING – ON-SITE PARKING

Number of parking spaces to be provided on-site

As referenced in the above background discussion, the approved Initial Study and Mitigated Negative Declaration included the following mitigation measure:

The applicant shall adjust the number of units and/or available parking so that the number of spaces provided is closer to the upper end of the actual observed parking demand measured by Omni-Means, City of Concord surveys (1.50–1.64 spaces per unit).

The applicant adjusted the project to comply with the above mitigation measure, and the current plan provides 63 spaces for 42 units, achieving a parking ratio of 1.5 spaces per unit. While the current proposal meets the minimum requirements of the adopted mitigation measure, the applicant still needs Planning Commission approval of an exception (as part the requested Planned Unit Development approval) to the City's current code requirement of 2.25 spaces per unit.

The above mitigation measure does not mandate the approval of an exception to allow parking at a ratio of 1.5 spaces per unit, where 2.25 is normally required, but established the minimum ratio that can be approved without there being a significant environmental impact as defined by CEQA. The Commission may wish to further discuss options in regard to alternatives to the current proposal.

For points of reference, the following three tables compare what parking requirements would be for the current 42 unit proposal under: a) current zoning code requirements, b) adopted mitigation measure (which is the applicant's current proposal) and c) the revised multi-family residential parking standards recommended for adoption by the Commission at its March 23, 2010 meeting:

REQUIREMENTS PER CURRENT CODE REQUIREMENTS:

TYPE AND NUMBER OF UNITS	SPACES PER UNIT REQUIRED	GUEST PARKING SPACES PER UNIT REQUIRED	TOTAL SPACES PER EACH UNIT	TOTAL SPACES FOR EACH TYPE OF UNIT
ONE & TWO BEDROOMS – 42	2.0	.25	2.25	95
TOTAL NUMBER OF SPACES REQUIRED: 95				

CURRENT PROPOSAL AND APPROVED MITIGATION MEASURE

TYPE AND NUMBER OF UNITS	SPACES PER UNIT REQUIRED	GUEST PARKING SPACES PER UNIT REQUIRED	TOTAL SPACES PER EACH UNIT	TOTAL SPACES FOR EACH TYPE OF UNIT
ONE & TWO BEDROOMS – 42	(na)	(na)	1.50	63
TOTAL NUMBER OF SPACES PROPOSED : 63				

REQUIREMENTS PER DRAFT CODE CHANGES RECOMMENDED BY COMMISSION:

TYPE AND NUMBER OF UNITS	SPACES PER UNIT REQUIRED	GUEST PARKING SPACES PER UNIT REQUIRED	TOTAL SPACES PER EACH UNIT	TOTAL SPACES FOR EACH TYPE OF UNIT
ONE BEDROOM – 30 UNITS	1.5	.33	1.83	55
TWO BEDROOMS – 12 UNITS	2.0		2.33	28
TOTAL NUMBER OF SPACES HYPOTHETICALLY REQUIRED: 83				

In reviewing the above three tables, it should be recalled that the City's current requirement for 2.25 spaces per unit is an anomaly among neighboring Cities, where requirements ranging from 1.5 to 2.0 spaces per unit are common. The consultant traffic engineer who prepared the Initial Study and Mitigated Negative Declaration reviewed actual parking demand surveys conducted at four apartment/condominium developments in neighboring Concord (2006-2009) and found actual demand ranging

from 1.17 to 1.64 parking spaces per unit. The average total demand was 1.37 spaces per unit, and about 15% of the total demand (about 0.21 spaces per unit) was attributed to guests. The consultant continued that should the actual demand for parking at the project be closer to the upper end of the 1.17 to 1.64 spaces per unit range, there would be inadequate spaces were the project to be approved with the initially proposed ratio of 1.41 spaces per unit (65 spaces to serve 46 units).

In concluding his recommendations, the traffic engineer proposed the mitigation measure that has been adopted by the City Council, requiring that parking be provided at the minimum ration of 1.5 spaces per unit. The current plan provides 63 spaces for 42 units, achieving the minimum required ratio. Any potential requirement the Commission may now consider increasing the ratio of parking spaces for this project above 1.5 spaces per unit would most likely serve to create a surplus of parking supply. But with any minimum requirement, there remains the possibility that on occasion, the demand for guest parking will exceed the on-site supply, and that the overflow will turn to the limited parking spaces along Shell Avenue. Should the Commission make such a requirement, the resulting surplus in parking supply would most likely add a level of comfort to residents and guests, rather than correct a functional shortage.

Parking space dimensions and configurations

In addition to analyzing the applicant's proposal in regards to the number of parking spaces to be provided, the consulting traffic engineer who worked on the initial Study also looked at both the dimensions and configurations of the parking spaces being proposed:

1. Tandem garage spaces. The traffic engineer found no data to show that two-car tandem garages spaces were less efficient, or less likely to be used, than more conventional side-by-side parking. Tandem garage parking has become common in multi-family development throughout the region, and staff is not aware of any problems. One potential item for discussion is the size of unit for which the tandem parking is being proposed. Most typically, tandem parking is provided for larger two- and three-bedroom units, where parking at ratios of two or more spaces per unit are common. The subject proposal may be atypical, as the majority of units being proposed are one-bedroom in size. Since only one space is typically assigned to one-bedroom units, the second tandem space could theoretically go unused in the assigned garages of the three ground floor one-bedroom units where direct access tandem garages are being proposed. But since there is no guarantee that all residents of two-bedroom units will have two cars, and renters of one-bedroom units will only have one, higher pricing of the one-bedroom units with the two car garage may effectively manage the use of the project's available parking supply. While staff does not believe it is necessary, the Commission may wish to consider restricting the use of the two-car tandem garages to two-bedroom units.
2. Parking space dimensions. While not as significant as the adopted mitigation measure in regards to number of parking spaces to be provided, another mitigation measure was approved, requiring adjustments to the length of parking spaces,

assuring that all will be usable. The mitigation measures requires that the minimum length of the tandem garage parking spaces be 18', as opposed to 17' as originally proposed (resulting in a total garage length of 36' as opposed to 34' as originally proposed). The applicant has agreed to the change, as reflected in the plans provided. But just as with the requested changes to the code requirements for the number of parking space required, Planned Unit Development approval is required for changes in the dimensional requirement of parking spaces. As with many older codes, Martinez' parking space dimensional requirement is for all spaces to be a minimum of 20' long, when a minimum length of 18' has become more common.

Staff is recommending allowing: a) all parking spaces to be a minimum 18' length, b) allowing uncovered and carport spaces to be 8½' wide where 9' is normally required and c) allowing a reduction in the drive isle width from 25' to 24'. These minor adjustments greatly facilitate the design of the common parking area while preserving some minimal planting areas on this very constrained site. Planning and engineering staff also believe that the application's initial proposal for providing 30% of all parking as smaller compact spaces (which is allowed by the current regulations) would be more problematic than allowing for a slightly reduced yet uniform parking standard for the project.

TOPIC THREE – APPLICATION OF HILLSIDE DEVELOPMENT REGULATIONS

The Hillside Development Regulations apply to properties within any Residential Zoning Designation, and limit the potential development of a parcel by:

- *Establishing the maximum possible units that can be built, reducing the allowable "slope density" of a property in inverse proportion to the steepness of the property's natural slope.*

DISCUSSION: As a tool to preserve the scenic quality of natural hillsides, City policy is to only apply the reduction in allowable density to naturally sloping areas. Thus the allowed density of any previously mass graded property is the maximum allowed for the subject zoning district (i.e. for properties of less than 10% slope), regardless of the slope of the graded property. Under the R-1.5 zoning district regulations (1,500 sq. ft. per dwelling unit) approved by the City Council in January, a maximum of 46 units can be permitted on the 1.6 acre multi-family development site. Thus the current 42 unit proposal would be consistent with this aspect of the Hillside Development Regulations.

- *Prohibiting the creation of new lots for development on areas with natural slopes over 30% and landslide areas.*

DISCUSSION: As the development area is limited to that already graded per the 2006 approval, no new naturally sloped areas are to be disturbed. Areas of 30% slope and graded areas are illustrated in Attachment F.

- *Establishing development standards for all hillside development and requiring*

special findings to allow development on a Visually Significant Hillside as designated in the General Plan's Open Space/Conservation Element.

DISCUSSION: It appears that the project is generally consistent with the following standards, which are intended to minimize the negative visual consequence of hillside development:

- *The proposed grading of the property shall be designed to minimize disruption of the natural topography.*
- *All proposed roads shall follow contours lines, where feasible, to minimize grading.*
- *The proposed development shall protect natural features on the site in their natural state, such as trees.*
- *Development is designed to take place as far beneath the visually significant ridge as practicable or in the least visible portion of the visible hillside.*

The Visually Significant Hillside, as designated in the General Plan's Open Space/Conservation Element, is illustrated in Attachment G. Both the 2006 and current proposal, which cluster units at the base of the hill, appear to meet the above standards. In addition, access to the proposed custom homesite will be as per the 2006 approval through the adjoining Christ Lutheran Church property, eliminating the need for the grading of an access road across the highly visible slope.

In regards to implementing the intent of Hillside Development Regulations, it should be noted that as a condition of approval, the portion of the custom home lot within the Open Space zoning district (over 3½ acres) will also be placed within a scenic easement where development rights will be dedicated to the City (as illustrated in Attachment H). The implementation of this condition requires that a slightly larger portion of tentative parcel map Parcel "A" be placed within the scenic easement than is shown on the applicant's tentative map.

TOPIC FOUR – R-1.5 DISTRICT DEVELOPMENT STANDARDS & PLANNED UNIT DEVELOPMENT APPLICATION

The City Council's ordinance, rezoning the subject site from the R-3.5 (Family Residential: 3,500 square feet per dwelling unit) District to the R-1.5 (Multi-Family Residential: 1,500 square feet per dwelling unit) District was introduced on January 20, 2010 and became effective on March 2, 2010. While the project is substantially in compliance with the developments standards of the R-1.5 District, exceptions to the applicable standards are being requested, as illustrated below.

R-1.5 DISTRICT REQUIREMENTS

(AS APPLIED TO PROPOSED PARCEL AND ADJACENT OPEN SPACE/SCENIC EASEMENT)

Criteria	Minimum Required/ <i>Maximum Allowed</i>	Proposed	Conformity
Density	<i>46 units maximum</i>	42 units	Y
Coverage	<i>Maximum 40%</i>	32%	Y
Side yard	Minimum 10'	north - 16' south - 12' (to retaining wall) 32' (to building)	Y
Rear yard	Minimum 20'	80'+	Y
Front yard	10' (to building)	6'-8" (to building)	Planned Unit Development Approval Required
Height	<i>Maximum 30'</i>	43' (at highest ridge)	
Parking <ul style="list-style-type: none"> • Number of spaces • Length of spaces • Width of spaces (open and carport) • Width of drive isle 	<ul style="list-style-type: none"> • 2 ¼ spaces/unit (95 spaces for 42 units) • 20' • 9' • 25' 	<ul style="list-style-type: none"> • 1 ½ spaces/unit (63 spaces for 42 units) • 18' • 8 ½' • 24' 	
Usable Open Space	400 sq. ft./unit (min. 16, 800 sq ft.)	approx. 3,500 sq. ft./unit (approx. 3.5 ac.)	Y

The Planned Unit Development (PUD) regulations state that exceptions to the normally applied zoning regulations can be granted with the goal of providing “a significantly better environment than would otherwise have occurred in a reasonable development in strict accord with the zoning regulations.” The proposal appears to be an effective way of building on a difficult site.

The requested exception to allow building in excess of the R-1.5 District's normally permitted 30' height limit (maximum of 3-story/43' building height) will allow for more compact 3 story buildings, which place some of the required parking within the building itself. It should be acknowledged that the architectural mass is well articulated, with nestled hipped roofs that effectively reduce the visual mass of the buildings. While the maximum height of the roof ridge would be at approximately 43', the height of the fascia and gutter above the third story will range from approximately 30' to 35' above grade, making the buildings appear comparable in height to the adjacent La Salle Manor Apartments.

Exceptions are also being requested for the front yard along Shell Avenue. Under conventional R-1.5 district standards, a minimum 10' front and street-side side yard would be required. With the minimum yard area, no walls or fences over 6' would be permitted. While the proposed units would technically be within the normally required 10' front yard setback, the area of the right-of-way between the front property line and curb is unusually wide at 14' (as opposed to the typical 10'). So the proposed setback of 6'-8" to face of building will actually slightly exceed that of a conforming 10' setback. The placement of the front porches within the setback can be appropriate along a collector street such as Shell Avenue, where existing homes face the street. The integration of the ground floor units' entry porches and landscaping appear to provide an attractive streetscape, with an acceptable measure of separation between street and residences.

And as discussed previously under Topic Two: Traffic and Parking – On-Site Parking, the proposed exceptions to parking standards are appropriate modifications to address both the difficulties of this constrained site and conform the site specific requirements for this project to more current parking standards implemented by neighboring Cities, as well as to the parking demand surveys conducted as part of Initial Study.

TOPIC FIVE – DESIGN REVIEW

The Design Review Committee first reviewed the proposal on February 23, 2010. As per the City's Design Review procedures, committee members filled out their individual comment sheets, making requests of the applicant to provide additional information and/or suggestions as to how to make improvements. Subsequent to that first meeting, staff and the Committee explored ways to improve the process so that the Committee's recommendations can be more effectively communicated to the applicant and Commission. It was decided that rather than continue with the individual comment sheets, staff and the Committee will primarily use these sheets for its initial review only as a way to provide feedback to the applicant. To facilitate the incorporation of the Committee's concerns into the Planning Commission's deliberations, staff will now summarize the Committee's final consensus (in cases where a consensus is reached) into its report to the Commission. The Committee completed its review of the proposal on March 24, 2010. The Design Review Committee's consensus was to recommend that the Planning Commission approve the project, subject to the

Recommendations outlined below:

Open space and recreational amenities

The criteria for review is the City's current Usable Open Space requirements, rather than those of the draft Zoning Ordinance amendments reviewed by the Commission in September 2009. As such, the open space behind the development allows the proposal to be in compliance with the current requirements of providing 400 sq. ft. per unit of Open Space, which in this case may include areas of preserved natural landscape. But while no additional open space amenity is mandated by the current regulations, the applicant has been aware of the City's draft regulations to update Usable Open Space requirements, where such natural landscape areas would not be counted toward meeting this requirement for recreational areas. In order to address the City's desire for amenities in new multi-family projects, the applicant's March 2009 submittal included an approximate 1,000 sq. ft. triangular area as a possible tot lot space. Unfortunately, the space proposed for the tot-lot is separated from the residential buildings by the common parking area, and may be too isolated to serve the small children it would be intended for.

The Design Review Committee, aware that no such facility is mandated by the current code, recommends that the tot-lot facility be replaced with upgraded landscaping, such as a small grove of evergreen trees (the change has been proposed as a condition of approval). The Committee's consensus was that the benefit of adding significant planting to the one area at the rear of the site where such planting can be accommodated would be of greater benefit to what the Committee saw as a token amenity.

It should be noted that the applicant has incorporated some aspects of the proposed updated Usable Open Space requirements: while no private open space areas is currently required for each individual unit, most units will have balconies and porches of 70-80 sq. ft. which is larger than the minimum 60 sq. ft. that would be required as private open space in the draft regulations. However, even if the new regulations were in effect, the large amount of natural open space to be set aside by the proposal would lend the project to a possible exception to the proposed common open space requirements.

Site plan and landscape design

In addition to the recommendations regarding the tot lot area above, the Committee recommends the following upgrades to the site and landscape plan (the draft conditions of approval include the requirements to implement these changes, subject to staff review at time of applicant's building permit plan submittal).

1. Decorative paving, such as darkened, salted and scored concrete, shall be installed at the entry drive's throat and at the southern and northern terminuses of the rear parking aisle, as conceptually shown on Attachment I.

2. The bioretention area (along the southern property line) shall be augmented with aesthetic elements, which may include, but are not limited to, additional decorative plantings, boulders, stepping stones, as such are not detrimental to the intended function of stormwater treatment and as approved by the City Engineer. Amenities such as additional tree plantings and benches shall be provided adjacent to the bioretention area, in planting areas next to parking lot.
3. The following trees shall be installed at larger than the typical 15 gallon size:
 - a) The tree proposed in the planting finger at the terminus of the entry drive (*Quercus suber* - red oak) shall be a minimum 36" box size.
 - b) The six deciduous accents trees at the entry drive (*Cersis canadensis* 'Forest Pansy' – eastern redbud) shall be a minimum 24' box size.
4. The 10' wide storm drain and sewer easement at the southern property line shall be landscaped with permanently irrigated ground covers and shrubs. No trees shall be planted in the easement. At such time the property owner of MS 551-09 Parcel A (custom home site) removes irrigation and planting for installation of utilities, the owner(s) of the multi-family development on Parcel B shall replace the irrigation and plantings once utilities are installed.
5. Visual separation between the northern terminus of the rear parking aisle and the LaSalle Manor Apartments further to the north shall be provided. Should existing plantings on the La Salle Manor side not provide this separation, additional solid, or lattice fencing shall be installed by developer.

Architectural Design

The Committee was generally supportive of the Spanish Revival architectural theme as proposed. In order to provide a greater degree of visual interest and unity among the design elements, the Committee recommends the following upgrades to the site and landscape plan (the draft conditions of approval include the requirements to implement these changes, subject to staff review at time of applicant's building permit plan submittal).

1. Trellises, with integrated design details, shall be constructed over the following three building/site elements:
 - a) Freestanding trellises, approximately 5' x 5' in size, shall be built at the two ground floor common entries (for the 2nd and 3rd story units) adjacent to the entry drive.
 - b) Cantilevered trellises shall be built over the garages and recreation room of the rear elevations, and at the two ground floor common entries (for the 2nd and 3rd story units) adjacent to the side property lines.
 - c) Trellises details shall be built around required solid roof at trash enclosures.
2. Iron grill work shall be added to the faux window recesses at the elevator towers, matching that of the adjacent stairwell openings.

3. All clearstory windows at ground floor units shall have unifying features; the arched windows at the right (southerly) side of the buildings should be rethought so these windows are more related to the balance of the elevation.
4. All wrought iron railings shall have decorative details as conceptually shown on the plans submitted to the Design Review Committee on March 23, 2010. Alternative railing treatments subject to review and approval of the Design Review Committee.

TOPIC SIX – OTHER TECHNICAL CONSIDERATIONS

Staff's preliminary observations and comments are provided below:

Geotechnical, drainage and soils

The applicant will be building on the work of the previous proposal (which had completed the peer review process), and no changes regarding geotechnical factors have been proposed. No major changes to the grading plan are anticipated.

On-site storm water treatment

Provisions for the on-site treatment of storm water (as mandated by Clean Water 3.C regulations) have been made. Calculations to document the adequacy of treatment areas are required as part of the development submittal requirements.

Tree removal

No tree removal beyond that shown as part of the 2006 approval is being proposed.

ATTACHMENTS

- A. Site Context Map
- B. Site Context Aerial
- C. Aerial Perspective, Looking East
- D. Planning Commission Resolution, December 8, 2009
- E. City Council Meeting Minutes, January 6 and 20, 2010
- F. Hillside Development Regulations – Areas of 30% and Graded Areas
- G. General Plan – Open Space/Conservation Element
- H. Illustration of Scenic Easement limits
- I. Illustration of Design Review Committee's Recommended Paving Treatments
- J. Correspondence
Planning Commission Resolution 10-03 **[DRAFT]**
Conditions of Approval **[DRAFT]**

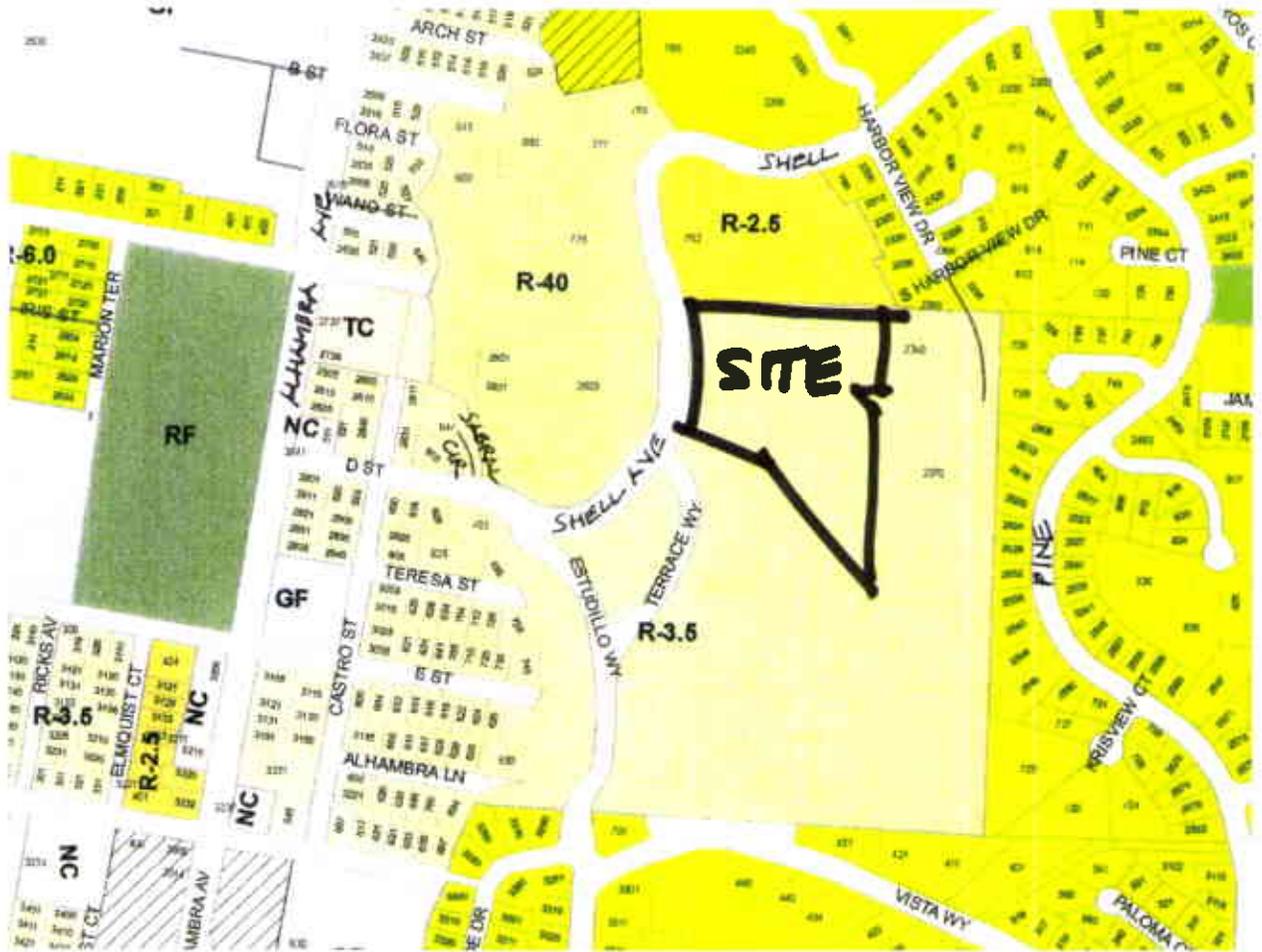
EXHIBITS

Site/grading plan, tentative parcel map and landscape plan (full sized)
Applicant's proposal, with reductions of above and architectural plans (11" x 17" format)

F:\Community Development\All Projects\RESIDENTIAL\Shell Ave - CASCARA CYN APTS-2009\CascaraPUD-PC-Rpt-2010 04 27.doc

ATTACHMENT A

SITE CONTEXT MAP



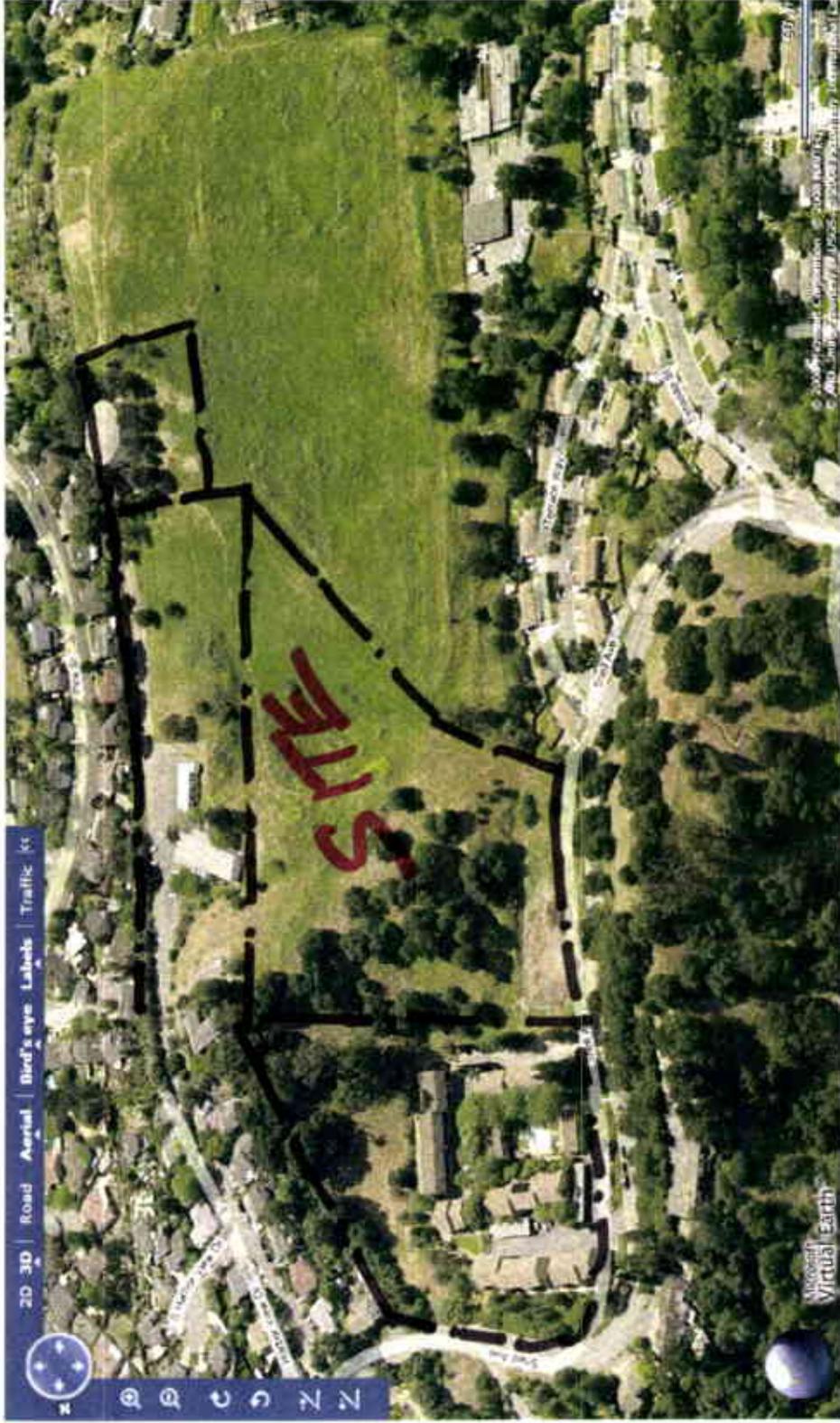
ATTACHMENT B

SITE CONTEXT AERIAL



ATTACHMENT C

AERIAL PERSPECTIVE, LOOKING EAST



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ATTACHMENT D

PLANNING COMMISSION RESOLUTION, DECEMBER 8, 2009

RESOLUTION NO. PC 09-08

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MARTINEZ,
RECOMMENDING THAT THE CITY COUNCIL NOT ADOPT A MITIGATED
NEGATIVE DECLARATION AND DENY AMENDMENTS TO THE GENERAL PLAN
AND ZONING MAP TO ALLOW FOR MULTI-FAMILY DEVELOPMENT OF UP TO 29
UNITS/ACRE ON A 1.6 ACRE PORTION, AND ONE CUSTOM HOMESITE, OF A 5½
ACRE PARCEL LOCATED ON SHELL AVENUE (APN: 376-010-011)
GPA #09-01, REZ #09-01

WHEREAS, the City of Martinez has received a request to allow development of multi-family housing on a 1.6 acre portion of a 5½ acre parcel requiring a General Plan Amendment (Central Martinez Specific Area Plan) from "Group 2 Residential" – up to 12 units per acre to "Group 4 Residential" – up to 29 units per acre and a Rezoning from R-3.5 (Family Residential, minimum 3,500 square feet per dwelling unit) to R-1.5 (Multi-Family Residential, minimum 1,500 square feet per dwelling unit); and;

WHEREAS, the proposal to develop the remainder of the property as a custom homesite includes requests for a General Plan Amendment and Rezoning of the ¼ acre building site at the southerly most corner of the parcel from "Group 2 Residential" – up to 12 units per acre to "Group 1 Residential" – up to 7 units per acre and Rezoning from R-3.5 (Family Residential, minimum 3,500 square feet per dwelling unit) to R-100 (Single-Family Residential, minimum 100,000 square feet per dwelling unit), with the balance to be designated Open Space; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) the City has conducted an Initial Study, to address the project's potential impacts on the environment; and

WHEREAS, on the basis of said Initial Study, a Mitigated Negative Declaration has been prepared; and

WHEREAS, the Planning Commission of the City of Martinez held a duly noticed public hearing on November 10, 2009, and listened to testimony from the public.

NOW, THEREFORE, the Planning Commission of the City of Martinez resolves as follows:

1. That the above recitals are found to be true and constitute part of the findings upon which this resolution is based.
2. That the Planning Commission hereby recommends to the City Council, that on the basis of the whole record before it, including the Initial Study and any comments received, that the proposed Mitigated Negative Declaration and Mitigation Measures

not be certified as proposed. While the Initial Study correctly identifies potentially significant impacts regarding scenic resources, in that views toward a Visually Significant Hillside (as identified in the General Plan) would be significantly impacted by the development proposal, the proposed Mitigation Measures are inappropriately limited to reducing the length of one of the two, three-story, 23 unit buildings being proposed. The Commission recommends that a broader range of possible mitigation measures, including but not limited to a reduction of building height and/or the building site's pad elevation, be considered as a means of mitigating the potential blockage of views. The Commission also believes that the Initial Study did not properly study the existing traffic conditions or the traffic impacts associated with the proposed project.

3. That the Planning Commission hereby recommends that the City Council deny the requested General Plan Amendment #09-01, in that the proposal to replace the current Central Martinez Specific Area Plan designation of "Group 2 Residential" (medium density - up to 12 units/acre) with "Group 4 Residential" (high density - up to 29 units/acre) on the 1.6 acre portion adjacent to Shell Avenue, allowing up to 46 units, is too great of an increase in density over that permitted under the current designation, and is therefore not in the public interest due to the following potential impacts that would result from the added density:
 - a) Based on the site and development plan proposed by the applicant, a ratio of 1.4 parking spaces per unit would be provided for the 46 unit project, where a parking ratio within the range of 1.50-1.64 is recommended by the traffic engineer who was consulted for the preparation of the Initial Study. Based on the information provided by the applicant at this time, the proposed development, which is at the maximum density allowed by the "Group 4 Residential" (high density - up to 29 units/acre) designation, would provide insufficient on-site parking. Given the lack of readily accessible off-site (on-street) parking in the immediate vicinity, the shortfall of on-site parking would negatively impact existing residents because of the area's limited on-street parking.
 - b) Shell Avenue, adjacent to the proposed project, is a former rural county highway, which now serves as a major collector street. Between Estudillo Street and Harbor View Drive, Shell Avenue's curves do not conform to modern suburban collector street standards. Also, only the south/east side of the street has a sidewalk and a parking lane. Existing neighbors have stated their concerns regarding navigating this street, the use of which is complicated by driveways and the single parking lane serving the existing adjacent multi-family development. With the street in its current condition, development of the property at any density above that allowed under the current "Group 2 Residential" (medium density - up to 12 units/acre) designation would add additional traffic to this street without providing for an upgrade to current standards.
 - c) Based on the site and development plan proposed by the applicant, on site

recreational areas are limited to an approximate 1,000 square foot triangular shaped area, to be improved as a "tot lot," and individual balconies for second and third floor units. No common outdoor recreational area is proposed for adult residents. The proposed project, to be developed at the maximum density allowed by the "Group 4 Residential" (high density - up to 29 units/acre) designation, would lack the desired recreational amenities that would warrant the approval of added density above what is currently allowed under the existing "Group 2 Residential" (medium density - up to 12 units/acre) designation.

- d) With the shortcomings of the conceptual site plan identified in a) through c) above, the Commission finds it premature to support the proposed General Plan Amendment to allow the maximum density requested. Approval of the General Plan Amendment should be deferred until a revised conceptual plan, resolving the issues identified, is available for review concurrently with the General Plan Amendment request.
4. That the Planning Commission hereby recommends that the City Council deny Rezone #09-01 as the Commission recommends denial of the General Plan Amendment and as such the requested Zoning Map Amendments would be inconsistent with the current General Plan Land Use Designations.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the Planning Commission of the City of Martinez at a regular meeting of said Commission held on the 8th day of December, 2009:

AYES: Allen, Burt, Busby, Ford and Kluber

NOES: Keller

ABSENT: Avila Farias, Marchiano

ABSTAINED:

BY: 

Frank Kluber
Planning Commission Chair



Corey M. Simon
Senior Planner

F:\Community Development\All Projects\RESIDENTIAL\Shell Ave - CASCARA CYN APTS-2009\Cascara2009 GPA+RZ-PC-RESO-2009 12 08 F-DENY.doc

ATTACHMENT E

CITY COUNCIL MEETING MINUTES, JANUARY 6 and 20, 2010

CITY COUNCIL
Regular Meeting
January 6, 2010
Martinez, CA

PRESENT: Janet Kennedy, Councilmember, Michael Menesini, Councilmember,
Mark Ross, Councilmember, Lara DeLaney, Vice Mayor, and Rob
Schroder, Mayor.
EXCUSED: None
ABSENT: None

PUBLIC HEARING(S)

4. Public Hearing to consider and provide direction to staff regarding possible action on the following requests regarding a vacant 5.6 acre parcel on Shell Avenue, located between La Salle Manor Apartments and Alhambra Terrace (Contra Costa County Housing Authority) Apartments (APN # 376-010-011) Name of Project: Cascara Canyon. [C.Simon&K.Majors/9.02.01]
 - A. *Mitigated Negative Declaration; and*
 - B. *General Plan Amendment to re-designate approximately 1.6 acres from "Group 2 Residential" to "Group 4 Residential," to allow for the development of multi-family housing with a density of up to 29 units per acre, on property that is currently designated "Group 2 Residential" (single-family or townhouse development) and to re-designate the remainder of the Subject Property to be developed as a custom home parcel, with a ¼ acre building site to be re-designated from "Group 2 Residential" to "Group 1 Residential" and the balance of the approximately 3.75 remaining acres to be re-designated from "Group 2 Residential" to Open Space); and*
 - C. *Rezoning a 1.6 acre area of the Subject Property from "R-3.5 (Family Residential: 3,500 square feet per dwelling unit/4,000 square feet minimum lot size)" to "R-1.5 (Multi-Family Residential: 1,500 square feet per dwelling unit/10,000 square feet minimum lot size) and to rezone the remainder of the Subject Property to be developed as a custom home parcel, with a ¼ acre building site to be re-zoned from "R-3.5 (Family Residential: 3,500 square feet per dwelling unit/4,000 square feet minimum lot size)" to "R-100 One Family Residential: 100,000 square feet minimum lot size)" and the balance of the approximately 3.75 remaining acres to be rezoned from "R-3.5 (Family Residential: 3,500 square feet per dwelling unit/4,000 square feet minimum lot size)" to OS- Open Space.*

Assistant City Manager Karen Majors explained the requests under consideration and remarked on the staff report that would be presented. Assistant City Attorney Nebb noted that she was available for questions and reminded the Council that a resolution would not be under discussion until a later meeting.

Senior Planner Corey Simon presented the staff report, summarizing the project proposal, recent changes, as well as the approvals and amendments that were needed. He also discussed the issues raised by the environmental review, including traffic, parking, and aesthetics; and he reviewed the Planning Commission's recommendations and concerns concerning the project, especially regarding traffic and parking. He explained the Council actions under discussion. He also reviewed the past developmental proposals for the property.

Councilmember Ross asked for a clarification on the changes in the plans for the parking lot. Mr. Simon confirmed there were three more parking spaces and four less units so the ratio of spaces per unit was improved.

Councilmember Menesini asked whether the buildings were pedestal, with parking underneath. Mr. Simon said no, they were slab-on-grade buildings, with some garages and carports in the rear. Councilmember Menesini asked whether the public would have access to the open space from Shell Avenue. Mr. Simon said no. Councilmember Menesini also asked for an explanation of the difference in number of bedrooms between the current proposal and the previously approved plan. Mr. Simon indicated there likely would be more bedrooms under the new plan, although the number of bedrooms per unit was reduced from 2-3 to 1-2.

Vice Mayor DeLaney asked about the acceptable range of parking spaces to units as cited in the staff report. Mr. Simon referred to the EIR, noting that the acceptable range is 1.17 to 1.64, and this ratio is 1.64.

Councilmember Kennedy asked about the basis for the amount of proposed open space and the possibility of more green space with the new proposal. Mr. Simon confirmed the amount of open space is virtually the same. He clarified, however, that this is not recreational open space or public open space, but rather visual open space. He noted that this property will not have the same problems as the Freitas property because it will be clear that the open space will not be buildable. Councilmember Kennedy questioned whether it would be possible to increase the green space by changing the configuration of the buildings. Mr. Simon acknowledged that there is always the potential for changes to the design prior to the final development approval.

Vice Mayor DeLaney asked about the minutes from the Planning Commission meeting. Planning Manager Blount explained that they had been received too late to be included.

Mayor Schroder commented on traffic on Shell Avenue and the parking on both sides of the street at LaSalle Manor although the parking lot for LaSalle was not full. City Engineer Tim Tucker confirmed that the traffic study indicated that about 25% of the parking at LaSalle was not being used; he thought the residents were probably parking on the street for convenience. Mayor Schroder suggested that overnight parking on Shell Avenue could be eliminated for safety reasons. Mr. Tucker agreed and stated that other safety changes were being considered for implementation, regardless of the outcome of this project proposal.

Councilmember Ross also commented on the number of cars parking on Shell Avenue and agreed that something should be done to mitigate it, but he did not think all the responsibility should fall on this applicant.

Councilmember Menesini asked about the Planning Commission's issues regarding parking and traffic. Mr. Tucker explained that the Planning Commission was concerned about safety, while the traffic study focused on levels of service.

Councilmember Menesini also asked about the density of the properties on either side. Mr. Simon stated that one was 20 units per acre, and the other was 15 units per acre.

Vice Mayor DeLaney asked for staff's opinion on the adequacy of the water supply for the project, since a member of the public cited that as a potential issue. Mr. Tucker said it was adequate, noting that building codes have gotten stricter in recent years regarding water conserving fixtures, and this project will meet those requirements.

Bill Schrader, applicant, thanked staff for their work. He explained the need for the changes in the project as well as the attempt to remain as close to the original project as possible. He discussed the modifications in the proposal in response to Planning Commission concerns. He encouraged the Council to allow the proposal and listed several benefits that the project would bring to the area.

Mayor Schroder asked about the construction standards for condos as opposed to apartments, and Mr. Schrader explained that the standards for condos were higher.

Councilmember Ross asked about the cost of liability insurance, the timeline, and the setup of the Homeowners' Association.

Vice Mayor DeLaney brought up the concerns of the Planning Commission and asked for an explanation of the process the project had gone through.

Councilmember Menesini asked about the possibility of a different parking configuration to increase the amount of open space, and Mr. Schrader explained the parking locations in the proposal.

Mayor Schroder opened the item for public comment.

Norman McDonald agreed with the concerns about the irregular process the project had gone through, and expressed disapproval with the continual increase in the size of the project, the lack of parking, and the safety problems.

John Bellato agreed that parking was a problem and also expressed disapproval with the increase in the size of the project.

Barbara Kapsalis expressed concerns for traffic and safety and stated that in her opinion the traffic study was not done properly.

Benny Chetcuti noted the need for the smaller apartments in the area and his experience of the quality of Mr. Schrader's construction.

John Slimonse agreed that Mr. Schrader's other projects were well-done, and pointed out the need for new housing in the City and increased revenue in property taxes.

James Porter expressed his disapproval of the project because of its size and parking and safety considerations.

Brilynn O'Neal agreed with the need for more one- and two-bedroom apartments in the City.

Ann Cochran pointed out the need for more adequate signage on the street. Mayor Schroder noted that the Council understood the safety considerations of the intersections.

Mark Hughes expressed his approval for the project and for Mr. Schrader's past projects. He also agreed with the need for more small apartments in the City.

Rob McGuire also expressed support for the project and for Mr. Schrader's past projects.

Rich Paoli listed several benefits of the project.

Ana Marie Avila-Farias expressed support for the project and pointed out that the developer was not responsible for the traffic problems.

Sergio Raya agreed with the need for additional housing but stated that safety concerns outweighed that need.

Donna Allen pointed out that the Planning Commission had not had an opportunity to discuss the merits of the project, but only the General Plan Amendments. She suggested that improvements to the road come before any additional projects.

Mike Alford stated his opinion that the project would not bring income to the City and suggested that senior housing be put in instead. Mayor Schroder pointed out that property taxes would go to the City.

Philip Ciaramitaro encouraged the Council to pay attention to the concerns of the neighborhood and suggested that the most important issue was that of sustainability.

Kevi Toumacos expressed concern for the traffic, safety, and aesthetics of the area.

Seeing no further speakers, Mayor Schroder closed public comment on the item.

Mr. Schrader stated that the community had had a chance to express opinions or make suggestions about the project at a community meeting, but that there was very little response. He expressed his desire to accommodate the wishes of the City, but stated that

the people objecting to the project could not give a viable alternative.

Councilmember Kennedy asked for, and Mr. Schrader gave, a figure on the percentage of vacancies in the City.

Mayor Schroder asked about the people who had been invited to the community meeting. Mr. Schrader responded that the list of names was from the title company representing property owners within a 500' radius of the project.

Councilmember Ross pointed out that the safety level of the street made any developments problematic, and suggested that the site plan could be reworked to accommodate more parking and better access, since the space in the garages might be used for storage. He also agreed with the concern for sustainability.

Councilmember Menesini pointed out that the use of the garages could be regulated. He agreed that traffic and safety were a problem but suggested that the Council could allow the project while addressing the safety issues. He pointed out that other issues with the project could be addressed during the planning process. He affirmed the suggestion of restricting the parking on the street and agreed with the need for more housing. He expressed his support of the project in general.

Vice Mayor DeLaney agreed with Councilmember Menesini. She pointed out that most sites were problematic for development in some way and stated that this project was an opportunity to address some of the traffic and safety issues on the street. She expressed her support for the project and its ability to address the lack of housing. She also expressed concern that the Council had only recently received copies of the initial study for the proposed Mitigation Declaration and expressed her desire to read it before approving it.

Councilmember Kennedy concurred with the opinions expressed by her fellow Councilmembers and agreed that the issues regarding traffic and safety on Shell Avenue were a separate issue. She expressed faith in the ability of the Planning Commission to continue the planning process and perfect the project.

Councilmember Menesini suggested that the Council approve of the two zoning issues and leave the Mitigation Declaration until the next meeting. Ms. Majors stated that what was needed was direction to staff to prepare resolutions and an ordinance for the Zoning Amendments and the Declaration, which would be formally approved at the next meeting.

On motion by Michael Menesini, Councilmember, seconded by Janet Kennedy, Councilmember, direct staff to prepare two resolutions and an ordinance approving a Negative Declaration, General Plan and Zoning Amendments, and continue the Public Hearing to the January 20, 2010 Council meeting. Motion unanimously passed 5 - 0. Yes: Janet Kennedy, Councilmember Michael Menesini, Councilmember Mark Ross, Councilmember Lara DeLaney, Vice Mayor, Rob Schroder, Mayor.

Mayor Schroder expressed his appreciation of and agreement with Councilmember Menesini's comments, and he commented on the importance of focusing on high-density housing development at the same time as working out the associated problems.

The Council recessed for 5 minutes, and reconvened with all members present except Councilmember Ross.

**CITY COUNCIL
Regular Meeting
January 20, 2010
Martinez, CA**

PUBLIC HEARING(S)

11. Continued Public hearing Cascara Canyon: [C.Simon/T.Blount/9.02.01]
- A. *Resolution No. 012-10 adopting a Mitigated Negative Declaration and a Mitigation and Monitoring and Reporting Program for a development project consisting of a General Plan Amendment, Rezoning, Subdivision Map, exceptions to Development Standards and Design Review for 42 multi-family units and one custom home, to be built on 5.6 acre site located at Shell Avenue ("Cascara Canyon").*
 - B. *Resolution No. 013-10 amending the General Plan, (Central Martinez Specific Area Plan) designation from "Group 2 Residential" - up to 12 units per acre to a combination of: "Group 4 Residential" - up to 29 units/acre, " Group 1 Residential - up to 6 units/acre and "Open Space" to allow development of 42 multi-family units and one custom home on 5.6 acre site located at Shell Avenue ("Cascara Canyon"), GPA #09-01.*
 - C. *Introduce an ordinance rezoning a 5.6 acre property located on Shell Avenue from R-3.5 (family residential, 3,500 square feet site area/unit) to a combination of R-1.5 (multi-family residential: 1,500 square feet per dwelling unit/10,000 square feet minimum lot size), R-100 (one family residential: 100,000 square feet minimum lot size) and OS (Open Space) to allow development of 42 multi-family units and one custom home ("Cascara Canyon"), RZ #09-01.*

Assistant City Manager Karen Majors presented the staff report. She stated that the resolution presented by staff was based on the direction given by the Council at the previous meeting.

Mayor Schroder opened the item for public comment.

Norman McDonald stated that voting to approve the resolution would allow the developer to disregard the wishes of the Planning Commission. He suggested a plan with fewer units would be better and that the City should not settle for an inferior plan.

Barbara Kapsalis stated her disapproval and that of her neighborhood of the proposed plan. She suggested that not enough attention was given to traffic and safety, and 42 units were too many.

Phillip Ciaramitaro asked for an explanation of the term "mitigated negative declaration." He also asked about the process the plan would go through after this meeting. Ms. Majors explained that the zoning and the General Plan Amendment were a different issue than the design review for the plan for the specific site, and that the design review would be considered later by the Commission. Assistant City Attorney John Abaci noted that there would have to be a separate vote for each item of the resolution. Mr. Ciaramitaro stated that the wishes of the neighborhood deserved as much consideration as possible.

Mike Alford reminded the Council that the Commission had voted not to approve the plan, and suggested that the traffic and air quality should be studied more. He also stated that family housing was needed instead of smaller units.

Mayor Schroder confirmed with Ms. Majors that the effects of construction on air quality had been studied as part of the environmental review. Ms. Majors also said that the project was not large enough for further study of the air quality to be necessary. Councilmember Ross noted that the quote of his from the San Jose Mercury News that Mr. Alford had referenced was in regard to a large downtown urban project, which was very different from this one.

Seeing no further speakers, Mayor Schroder closed public comment on the item.

Councilmember Menesini noted that some of the requirements for the Mitigated Negative Declaration were very subjective, and that the Declaration, General Plan Amendment, and rezoning would give the Planning Commission an opportunity to examine the whole project extensively and require changes if necessary. He also pointed out the great need for smaller housing units in the community. He said that initially the project seemed to be high-quality, and if the final project did not solve the issues of traffic and safety, he would not vote for it. He expressed his support for the recommendations given by staff.

Vice Mayor DeLaney stated that the Council had not had time to read the Mitigated Negative Declaration before the previous meeting. She also stated that the traffic study had been done by a trustworthy firm, and that the road's capacity was large enough for more cars, although the configuration was problematic, and that the City's engineers could work on that. She said the community needed more housing, and that projects creating higher-density housing were always opposed by the current residents, but it was still a superior use of resources to build in previously existing communities. She expressed her trust in the benefits of the project and in the Planning Commission's ability to refine the project.

Councilmember Kennedy agreed with Councilmember Menesini and Vice Mayor DeLaney and affirmed that the Planning Commission would have an opportunity to review the particulars of the project. She also noted that the project reserved some open space on the property.

Councilmember Ross stated that he agreed with some of the aspects of the project, but that he was concerned about parking and expected improvements in that area. He suggested that because there was no public transit near the project, a shuttle route be added at a later date, adding that the City was attempting to improve its public transportation. He noted the potential of public transit to ease the parking and traffic issues at the site. He concluded that the current lack of services and public transit at the site was a problem that would need to be addressed.

Mayor Schroder noted that it would be useful to look into the location of the nearest bus stop but stated that adding a full-size bus on Shell Avenue would be problematic. He affirmed that the Transit Authority was working on improvements to the transportation system, including hybrid buses. He added that the City would continue to work on resolving the traffic and parking issues on Shell Avenue.

Councilmember Menesini noted that the Mitigated Negative Declaration would require the Planning Commission to examine all of the issues raised by Mayor Schroder and Councilmember Ross.

On motion by Michael Menesini, Councilmember, seconded by Janet Kennedy, Councilmember, to approve Resolution No. 012-10 adopting a Mitigated Negative Declaration and a Mitigation and Monitoring and Reporting Program for a development project consisting of a General Plan Amendment, Rezoning, Subdivision Map, exceptions to Development Standards and Design Review for 42 multi-family units and one custom home, to be built on 5.6 acre site located at Shell Avenue ("Cascara Canyon").

Vice Mayor DeLaney noted two typographical mistakes in the resolution and suggested an amendment to correct them.

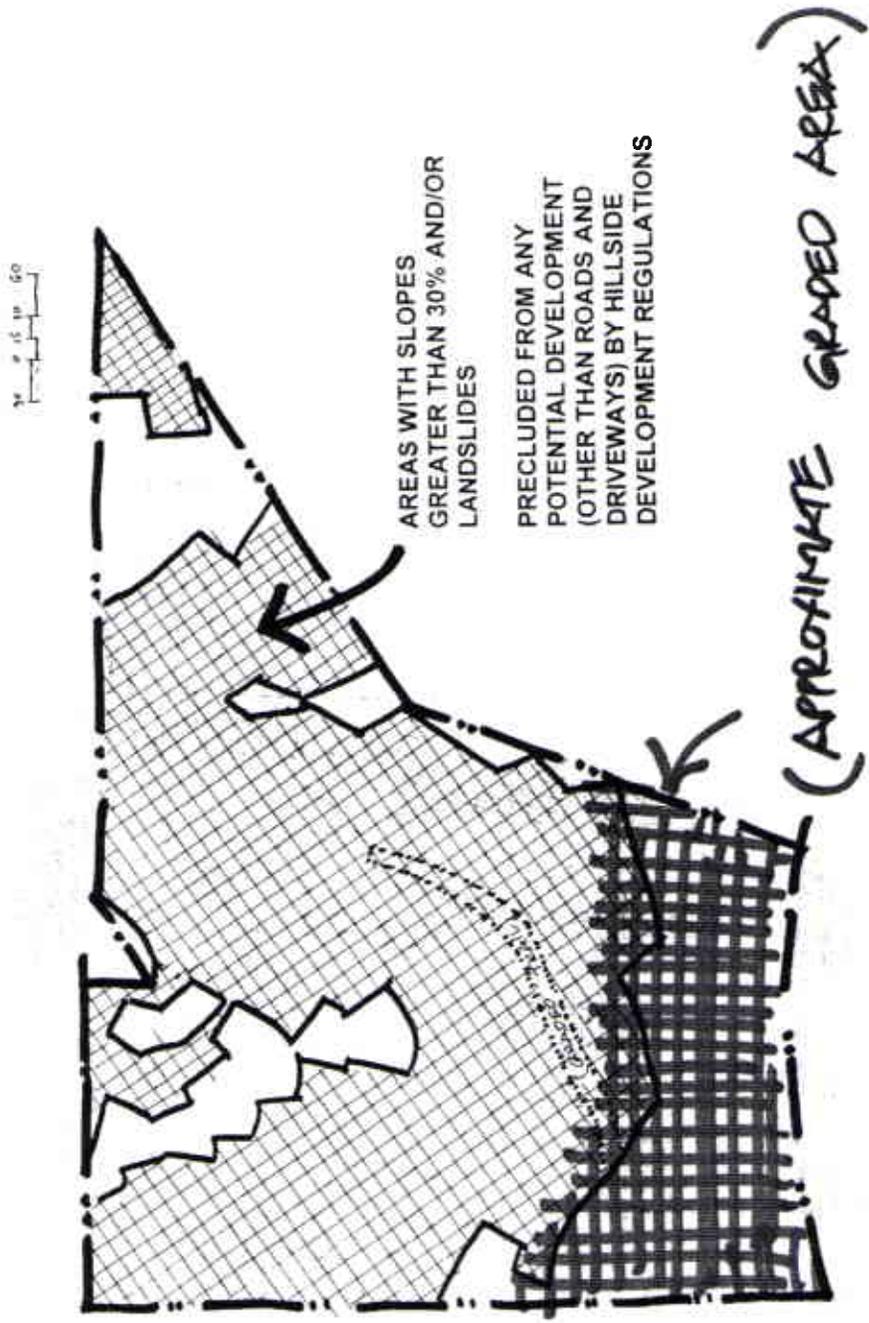
Motion unanimously passed 5 - 0. Yes: Janet Kennedy, Councilmember Michael Menesini, Councilmember Mark Ross, Councilmember Lara DeLaney, Vice Mayor, Rob Schroder, Mayor.

On motion by Michael Menesini, Councilmember, seconded by Janet Kennedy, Councilmember, to approve Resolution No. 013-10 amending the General Plan, (Central Martinez Specific Area Plan) designation from "Group 2 Residential" - up to 12 units per acre to a combination of: "Group 4 Residential" - up to 29 units/acre, " Group 1 Residential - up to 6 units/acre and "Open Space" to allow development of 42 multi-family units and one custom home on 5.6 acre site located at Shell Avenue ("Cascara Canyon"), GPA #09-01. Motion unanimously passed 5 - 0. Yes: Janet Kennedy, Councilmember Michael Menesini, Councilmember Mark Ross, Councilmember Lara DeLaney, Vice Mayor, Rob Schroder, Mayor.

On motion by Michael Menesini, Councilmember, seconded by Janet Kennedy, Councilmember, introduce an ordinance rezoning a 5.6 acre property located on Shell Avenue from R-3.5 (family residential, 3,500 square feet site area/unit) to a combination of R-1.5 (multi-family residential: 1,500 square feet per dwelling unit/10,000 square feet minimum lot size), R-100 (one family residential: 100,000 square feet minimum lot size) and OS (Open Space) to allow development of 42 multi-family units and one custom home ("Cascara Canyon"), RZ #09-01. Motion unanimously passed 5 - 0. Yes: Janet Kennedy, Councilmember Michael Menesini, Councilmember Mark Ross, Councilmember Lara DeLaney, Vice Mayor, Rob Schroder, Mayor.

ATTACHMENT F

HILLSIDE DEVELOPMENT REGULATIONS – AREAS OF 30% SLOPE AND GRADED AREA



ATTACHMENT G

GENERAL PLAN – OPEN SPACE/CONSERVATION ELEMENT



VISUAL ENVIRONMENT

-----> MAJOR SCENIC ROUTES

X MAJOR VISUAL GATEWAYS

▲ VISUALLY SIGNIFICANT HILLTOPS AND RIDGES

▬ VISUALLY SIGNIFICANT HILLSIDE

▬ VISUALLY SIGNIFICANT RIPARIAN VEGETATION

▬ VISUALLY SIGNIFICANT SKYLINE VEGETATION

▬ MARSH

▬ OLD ORCHARD

SOURCE: ANALYSIS BY SEDWAY/COOKE

THE CITY OF
MARTINEZ
CALIFORNIA

SEDWAY/COOKE

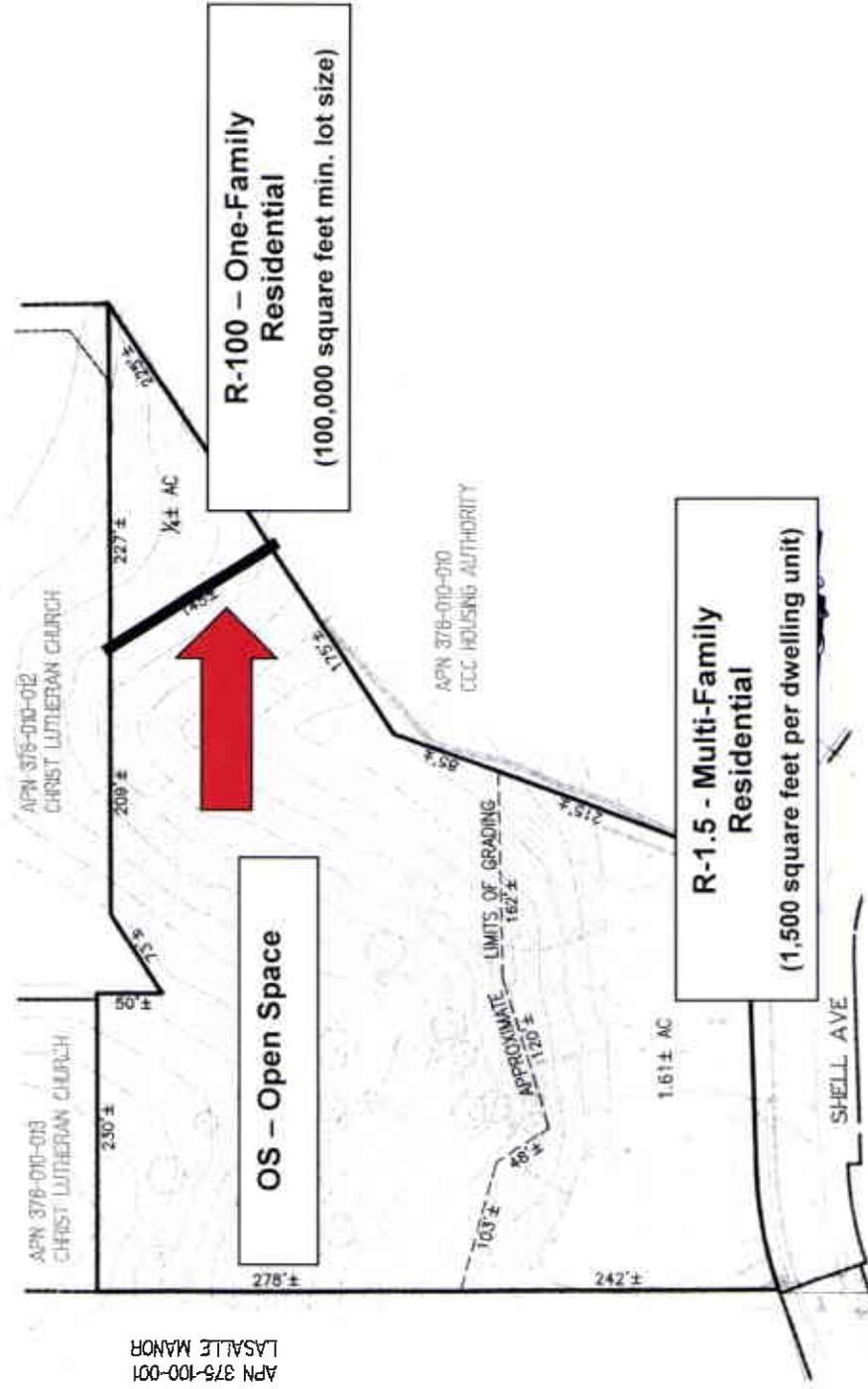
URBAN AND ENVIRONMENTAL
PLANNERS AND DESIGNERS



Scale (1000 feet)
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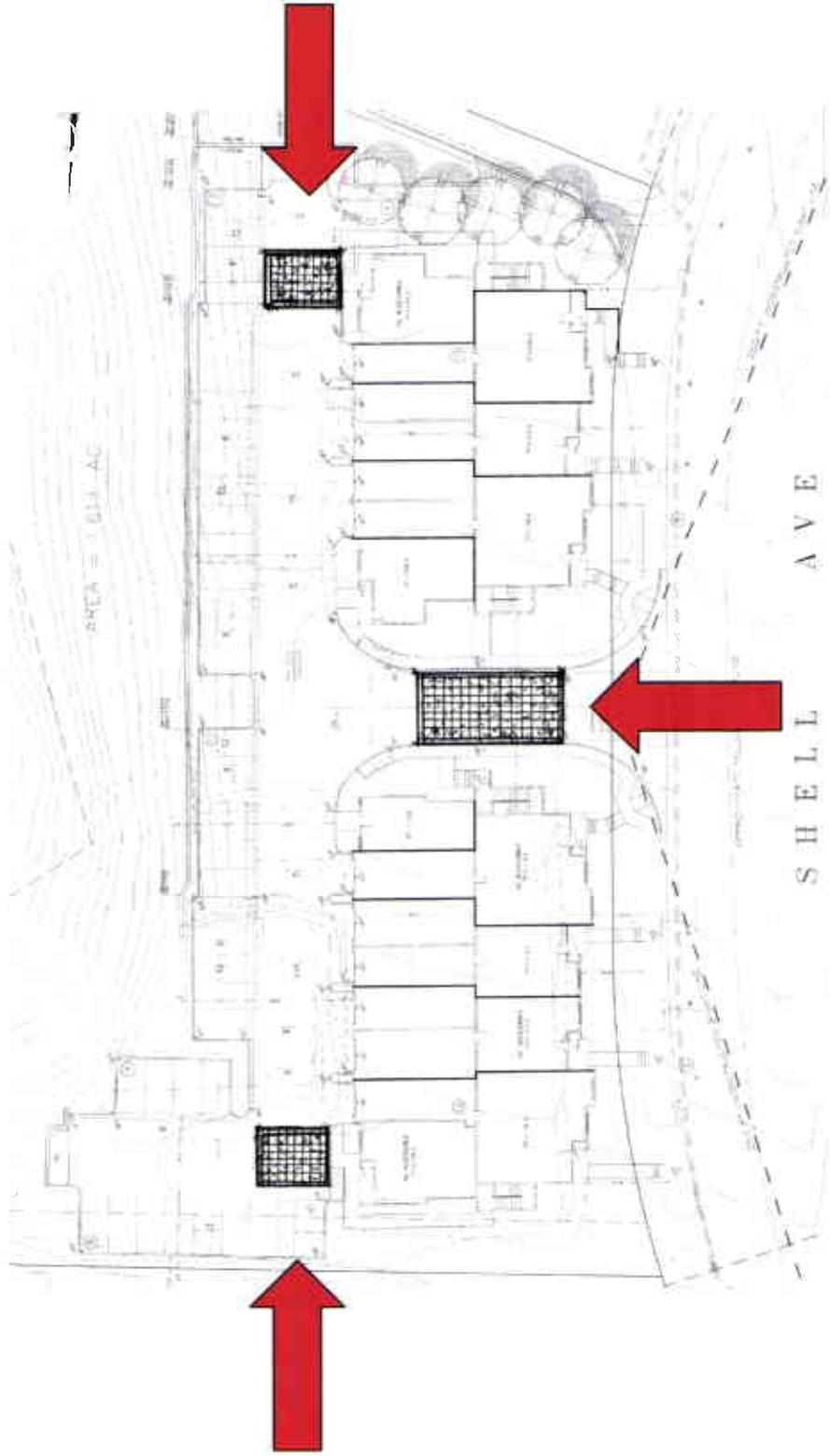
ATTACHMENT H

ILLUSTRATION OF SCENIC EASEMENT BOUNDARY AT CUSTOM HOME SITE



ATTACHMENT I

DESIGN REVIEW COMMITTEE'S RECOMMENDED PAVING TREATMENTS



ATTACHMENT J

CORRESPONDENCE

Norman W. McDonald
775 Shell Ave.
Martinez, CA 94553



April 17, 2010

Martinez Planning Commission
525 Henrietta Street
Martinez, CA 94553

Dear Members of the Planning Commission,

I am aware that it is fantasy to hope for less density on this project; regarding the Cascara Canyon Project the City Council refused a compromise to 32 unites so there could be an increase of on site parking from 1.24/unit to 1.85/unit.

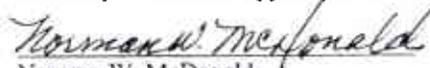
The problem that **Might Be Addressed** by you is to require more on-site/guest parking, because this is already a problem at La Salle Manor, and they are only 1/2 occupied. That is what they told me when I talked with them on the phone. Can more parking be gained by paying more of the property towards the back of the site?

You should require more on site parking to relieve this eventual coming problem. I'm not sure how that can be done but it would make this project much better designed for such a small area. Can more parking be gained by paving more of the property towards the back of the property?

You must also see that the **Private Open Space** be recorded so that no other building can be done anytime in the future. Make it irreversible in the covenant when it is recorded on this property. That is what was promised by the developer.

You know that I still disagree with the decision of the City Council that over ruled your no vote on this project. They seem to show little respect to what this commission should be about, to create better planned projects in this city.

Sincerely, I remained opposed to the size of Cascara Canyon Project.


Norman W. McDonald

RESOLUTION NO. PC 10-03 [DRAFT]

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MARTINEZ,
APPROVING A USE PERMIT FOR A PUD, TENTATIVE MAP PARCEL MAP AND
DESIGN REVIEW FOR THE DEVELOPMENT OF A 42 MULTI-FAMILY UNIT AND
ONE CUSTOM LOT PLANNED UNIT DEVELOPMENT (CASCARA CANYON) ON A
5¼ ACRE PARCEL LOCATED ON SHELL AVENUE (APN: 376-010-011)
PUD #10-01, MS #551-09, DR #09-11**

WHEREAS, on March 12, 2009, the City of Martinez received a request to allow development of a 46 unit multi-family housing project on a 1.6 acre portion of a 5½ acre parcel requiring a General Plan Amendment (Central Martinez Specific Area Plan) from "Group 2 Residential" – up to 12 units per acre to "Group 4 Residential" – up to 29 units per acre and a Rezoning from R-3.5 (Family Residential, minimum 3,500 square feet per dwelling unit) to R-1.5 (Multi-Family Residential, minimum 1,500 square feet per dwelling unit); and

WHEREAS, the proposal to use the remainder of the property as a custom homesite included requests for a General Plan Amendment and Rezoning of the ¼ acre building site at the southerly most corner of the parcel from "Group 2 Residential" – up to 12 units per acre to "Group 1 Residential" – up to 7 units per acre and Rezoning from R-3.5 (Family Residential, minimum 3,500 square feet per dwelling unit) to R-100 (Single-Family Residential, minimum 100,000 square feet per dwelling unit), with the balance to be designated Open Space; and

WHEREAS, the application included a request for Minor Subdivision approval to create two parcels, one for the multi-family housing and the other for the one custom homesite; and

WHEREAS, the application included requests for approval of Use Permit and Design Review for a 42 unit (reduced in number during the review process from the original request of 49) multi-family Planned Unit Development, which includes exceptions to the normally required development standards of the R-1.5 (Multi-Family Residential) Zoning District, including a reduction in the number of required parking spaces and parking space dimensions; and

WHEREAS, the applicant and staff had agreed to defer action on the requests for approval of Subdivision Map, Use Permit and Design Review for a the multi-family Planned Unit Development until after the City Council approved the environmental documents as required under the California Environmental Quality Act (CEQA) and the requested General Plan and Zoning Map Amendments; and

WHEREAS, on January 20, 2010, the City Council adopted Resolution No. 012-10, approving a Mitigated Negative Declaration, finding, on the basis of an Initial Study

prepared as required under CEQA, that the subject General Plan and Zoning Map Amendments, and proposed development would not have significant environmental effects; and

WHEREAS, on January 20, 2010, the City Council adopted Resolution No. 013-10, approving a General Plan Amendment to re-designate approximately 1.6 acres from "Group 2 Residential" to "Group 4 Residential," to allow for the development of multi-family housing with a density of up to 29 units per acre, on property that is currently designated "Group 2 Residential" (single-family or townhouse development) and to re-designate the remainder of the Subject Property to be developed as a custom home parcel, with a ¼ acre building site to be re-designated from "Group 2 Residential" to "Group 1 Residential" and the balance of the approximately 3.75 remaining acres to be re-designated from "Group 2 Residential" to "Open Space"; and

WHEREAS, the proposed 42 unit multi-family development is consistent with the Central Martinez Specific Area designation of "Group 4 Residential" – up to 29 units; and

WHEREAS, on February 3, 2010, the City Council adopted Ordinance No. 1354 C.S. rezoning a 1.6 acre area of the subject property from "R-3.5 (Family Residential: 3,500 square feet per dwelling unit/4,000 square feet minimum lot size)" to "R-1.5 (Multi-Family Residential: 1,500 square feet per dwelling unit/10,000 square feet minimum lot size)" and to rezone the remainder of the Subject Property to be developed as a custom home parcel, with a ¼ acre building site to be re-zoned from "R-3.5 (Family Residential: 3,500 square feet per dwelling unit/4,000 square feet minimum lot size)" to "R-100 One Family Residential: 100,000 square feet minimum lot size)" and the balance of the approximately 3.75 remaining acres to be rezoned from "R-3.5 (Family Residential: 3,500 square feet per dwelling unit/4,000 square feet minimum lot size)" to "OS-Open Space"; and

WHEREAS, the proposed 42 unit multi-family development is substantially consistent with the regulations of the R-1.5 (Multi-Family Residential, 1,500 sq. ft. site area /unit) zoning district and the applicable requirements for the granting of exceptions to those regulations through the approval of a planned unit development; and

WHEREAS, the Planning Commission held a duly noticed public hearing on April 27, 2010, in regards to the said actions and has considered public testimony and all other substantial evidence in the record; and

NOW, THEREFORE, the Planning Commission of the City of Martinez resolves as follows:

1. That the above recitals are found to be true and constitute part of the findings upon which this resolution is based.
2. That in order to approve the Use Permit granting the Planned Unit Development

requesting exceptions to the R-1.5 Zoning District that are proposed, the Planning Commission must make the following findings, which it hereby does:

- a) **The planned unit development as proposed, or as recommended for approval, will result in a significantly better environment than otherwise would have occurred in a reasonable development in strict accord with the zoning;** The requested exception to the 30' height limitations will allow for two 3-story buildings, providing some units with 2-car garages underneath the 2nd and 3rd floor units, thus allowing for a more effective use of the constrained site and reducing impervious site area. In a similar fashion, the proposed reductions in number of parking spaces and parking space dimensions will not diminish the functionality of the supply and maneuverability of the parking facilities, but will reduce the surface area dedicated to parking uses, thus providing a better environment, with larger common landscape/passive recreation areas, and the preservation of the upper elevations of the site as private open space, than what would otherwise be possible.
- b) **The planned unit development is compatible with and has a meaningful relationship to the neighborhood in which it is located;** The proposed 42-unit multi-family complex is a natural extension of the existing multi-family use (La Salle Manor) immediately to the north of the subject site. Front and side yard setbacks, as well as the open area at the central entry drive, provide adequate areas for landscaping and views to the open space areas behind the proposed project, allowing the project to blend into its existing multi-family setting along Shell Avenue.
- c) **The planned unit development will not result in significant adverse environmental impacts;** As documented in the Mitigated Negative Declaration approved by City Council on January 20, 2010, the 42-unit multi family project and one custom homesite will not result in any significant adverse impacts. The placement of compact development at the base of the slope and the custom homesite on a relatively gentle hillside site, will diminish significantly the otherwise likely environmental impacts of tree removal and visually disruptive grading. In addition, the preservation of over 3½ acres of the 5 ½ acre site as Open Space, by means of General Plan Land Use Designation, Zoning District and required scenic easement dedicating development rights to the City, further reduces the potential for future adverse environmental impacts.
- d) **The planned unit development is in accord with the objectives of the General Plan in all its elements;** The proposed planned unit development is consistent with the General Plan land use designation *Residential: 6-12 units/gross acre*, the Central Martinez Specific Plan Area designation *Group 4 Residential; Multi-Family dwellings (up to 29 units/acre)* and the goals of the Open Space/Conservation Element by providing a needed opportunity of new multi-family housing options to an area that has not seen new construction of a similar scale in over 20 years, while preserving the scenic quality of the

designated *Visually Significant Hillside*.

3. The Planning Commission finds the proposal substantially conforms to the requirements of the applicable R-1.5, R-100 and OS-Open Space Zoning Districts, the State Subdivision Map Act, and Title 21 (Subdivisions) of the Martinez Municipal Code, and hereby approves the Tentative Map for Minor Subdivision #551-10.
4. In order to approve the Design Review application for the proposed units and landscaping, the Commission must make the following findings, which it hereby does:
 - a) **The project complies with all other applicable provisions of the Martinez Municipal Code involving the physical development of buildings, structures and property, including use restrictions**, in that the development standards for the R-1.5 District are generally complied with, and where applicable, the applicable standards for the granting exceptions to those standards are met with the concurrent Planned Unit Development approval.
 - b) **The project provides a desirable surrounding for the occupants and neighbors**, in that the proposed two multi-family residential buildings are compact, and located at the base of the steep hillside, which is to be retained in its natural state. Substantial landscaping is to be provided at the building's periphery and Shell Avenue frontage, and most all units will have porches and balconies providing private open space.
 - c) **The project has a harmonious relationship with existing and proposed neighboring development**, in that the proposed Spanish Revival architecture works to minimize the appearance of visual mass, with earthtone colors, well articulated front and side elevations, and nestled hipped tile roofs, allowing the relatively larger buildings to be visually compatible with the older and somewhat smaller neighboring multi-family buildings. The proposed Shell Avenue and side yard plantings are in informal clusters echoing the informal semi-rural context theme of the area.
 - d) **The palette of exterior colors is harmonious and architecturally compatible with the surrounding environment**, in that the proposed muted earthtone colors will not conflict with the landscape.
 - e) **A limited number of materials is used on the exterior of the project**, in that all stucco siding, with stucco over foam detailing and wrought iron accents are proposed.
 - f) **The project has exterior lighting appropriately designed with respect to convenience, safety, and effect on occupants as well as neighbors**, in that only minimal wall or carport exterior lighting is proposed, and non-glare fixtures

are required as a condition of approval.

- g) **Effectively concealing work areas, both inside and outside of buildings, in the case of non-residential facilities.**(not applicable)
 - h) **Undergrounding all utility boxes unless it can be shown that they can be effectively screened from the view of the general public.** The undergrounding and/or screening of all such utility boxes is required as a condition of approval.
 - i) **Designing the type and location of planting with respect to the preservation of specimen and landmark trees, water conservation as set forth in Chapter 22.35, and maintenance of all planting.** The majority of the 5¼ acre site's mature oak trees will be preserved within a 3½ + acre scenic easement (private restricted open space). As a condition of approval, turf areas shall generally be limited to those needed for bio cell filters (C-3 stormwater management), entry accents and recreation areas.
 - j) **Establishing a circulation pattern, parking layout and points of ingress and egress (both vehicular and pedestrian), designed to maximize pedestrian safety and convenience and to minimize traffic congestion resulting from the impediment of vehicular movement. When applicable, access for handicapped individuals should be considered.** The Engineering Division staff has found the circulation plan appropriate for the proposed residential use.
 - k) **Ensuring that all signs be designed so that they are in scale with the subject development, and will not create a traffic hazard. Emphasis is placed upon the identification of the use or building rather than the advertising of same.** (No building signs are proposed) If neighborhood signage is proposed, it shall be subject to review by the Design Review Committee to assure compliance with the above standards.
 - l) **Views are substantially preserved from nearby properties,** that the proposed residences are somewhat set into the hill's existing grade, negating the possibility of blocking views from residents above. The nearest residential properties are at a much higher elevation, so views will be unaffected.
5. All the findings contained above are part and parcel of this Resolution and are incorporated herein by this reference.

NOW, BE IT FURTHER RESOLVED that the Planning Commission approves Minor Subdivision MS 551-10, PUD #10-01, and Design Review #09-11, subject to the attached conditions of approval, incorporated herein by this reference

I **HEREBY CERTIFY** that the foregoing is a true and correct copy of a resolution duly adopted by the Planning Commission of the City of Martinez at a regular meeting of said Commission held on the 27th day of April, 2010 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

BY: _____
Lynette Busby
Planning Commission Chair

Corey M. Simon
Senior Planner

CONDITIONS OF APPROVAL [DRAFT]
AS APPROVED BY PLANNING COMMISSION

NOTE: Changes and additions to
Standard City conditions
are in **boldface type**

Project Name: "CASCARA CANYON"

Site Location: SHELL AVENUE; APN: 376-010-011

I. Description of Permit

These conditions apply to and constitute the approval of:

- A. Planned Unit Development #10-01 consisting of up a multi-family development with 42 units on a 1.6 site adjacent to Shell Avenue, and an approximate 3½ acre custom home parcel (with a ¼ acre building site and the balance to be within an open space easement). The following exceptions to normal the R-1.5 Zoning District development standards are allowed by this permit:
1. Height: up to 43' and 3-stories, where a maximum of 30' is normally permitted
 2. Front yard setback: from approximately 6'-8", when minimum of 10' is normally required.
 3. Parking requirements:
 - a) Number of spaces: 63 spaces for 42 units (1.5 spaces per unit) when a minimum of 95 spaces (2.2.5 spaces per unit) is normally required.
 - b) Length of spaces: 18', when a minimum of 20' is normally required.
 - c) Width of spaces (open and carport only): 8.5', where 9' is normally required.
 - d) Width of drive isle: 24', when a minimum of 25' is normally required.
- C. These conditions apply to and constitute the approval of Tentative Parcel No. MS 551-09 consisting of two lots.
- D. These conditions apply to and constitute the approval of Design Review #09-11 consisting of: development plans, building elevations and sections, landscape plan, colors and materials for development of a 42-unit multi-family development.

II. Exhibits

The following exhibits are incorporated as conditions of approval, except where specifically modified by these conditions:

EXHIBIT	DATE RECEIVED	PREPARED BY	PAGES
Tentative Parcel Map-for MS 551-09	Apr. 22, 2010	Humann Co., Engineering	1
Site Plan	Apr. 22, 2010	Humann Co., Engineering	1
Landscape Plans	Apr. 22, 2010	Thamas Baak & Assoc. Landscape Architecture	1
Architectural Plans and exhibits	Apr. ??, 2010	Arete Inc., Architecture	15 (*11x17" sized)

All construction plans, including but not limited to the final map, improvement/grading plans and construction plans for the individual units shall conform to these exhibits, except as modified by these conditions, and shall incorporate all mitigation measures identified in the adopted Initial Study and Mitigated Negative Declaration. Where a plan or further information is required by these conditions, it is subject to review and approval by the Planning Division, Engineering Division and/or Building Department, or as noted.

III. Special Requirements for Final Approval and Recordation of MS 551-09

A. An Open Space Easement Deed, Deed Restrictions and Agreements, containing the following easements, restrictions and disclosures regarding Parcel "A" (custom home parcel), shall be submitted for staff and City Attorney's review and approval. The required documents shall be recorded before or concurrently with the final map, and prior to constructing improvements, or approved by the City Engineer:

1. Recordation of Scenic Easement. All of Parcels "A," except for an approximate ¼+ acre homesite (as illustrated on Conditions of Approval Exhibit 1 and conforming to boundary between the R-100 and OS-Open Space Zoning Districts approved by City Council January 2010), shall be placed within a "Scenic Easement". The restrictions, as outlined below, shall be referenced on the *owner's statement* on the Parcel Map, and within an Open Space Easement and Deed Restriction, to be recorded as a separate instrument. Final recordation method and wording of the scenic easement's restrictions subject to staff and City Attorney review and approval:

a) The easement shall be a non-exclusive private easement for the purpose of preserving the designated hillside areas

as privately owned and maintained open space, to be left in the naturalized condition.

- b) Development rights shall be ceded to the City of Martinez for the purpose of generally prohibiting: the erection of structures and obscuring fencing, grading, paving, tree removal and outdoor storage of vehicles or similar items. Limited grading, subject to the approval of the Community Development Director may be permitted for: a) geologic hazard abatement if such is ever necessary to safeguard improvements on the subject or surrounding properties, b) or to accommodate mandatory adjustments of existing easements and improvements (i.e. storm and sewer drain lines), as such is required by these Conditions of Approval and/or future requirements of public utilities, or the Contra Costa Fire Protection District, or designee or c) as such grading may be approved at such time Design Review Approval is given by the City for development of Parcel "A."

2. **Recordation of Drainage Easements and Drainage Release.** A drainage release and private storm drain easement(s) shall be given to the Lutheran Church properties (or subsequent owners of properties) described as Parcels "C" and "B" of Minor Subdivision 501-88 recorded in Map Book number 137 at page 10, Contra Costa County records (Assessor's Parcel Numbers 376-010-013 & 012) allowing existing surface runoff from the undeveloped portions of these properties to continue across Parcel A of this subdivision, as well as providing a minimum of 10 feet wide private storm drain easement(s) for future drainage connection for these parcels to the existing storm drainage facilities at Shell Ave. The exact dimensions and locations of these easements shall be shown on the Parcel Map and determined by the developer's engineer in coordination with the owner(s) of these adjacent parcels. The final location of these easement(s) shall be subject to the approval of the City Engineer.

3. **Recordation of Maintenance Responsibility.** The required Deed Restriction and Agreement shall specify that the owner of Parcel "A" is solely responsible for maintenance of the property within the scenic easement, including but not limited to storm drainage facilities, required slope repair, weed abatement and debris removal, as mandated by the Contra Costa Fire Protection District, or designee. These responsibilities shall be also be referenced listed on the *owner's statement*.

4. **Geologic Conditions Disclosures.** The required Deed Restriction and Agreement shall disclosure, for all future owners of Parcel "A", the parcel's geologic conditions (e.g un-repaired landslides) as outlined in reports by ENGEO titled "Geotechnical Exploration Update Shell Heights, Martinez, California," dated June 2, 2003, revised March 14, 2006 and Letter by ENGEO to the Austin Group titled "Response to Peer Review Comments, Shall Heights, Martinez, California," dated March 23, 2006.

5. **Required Access Easement Through Parcel "A" Homesite to Open Space Area.** A non-exclusive easement, of not less than 20' width, shall be provided through the proposed homesite, to allow access to the open space area for geologic hazard repair and emergency vehicle access. The final location of this easement shall be shown on the Parcel Map prior to recordation of final map, and recoded by a separate document, or as required by the City Engineer.

6. **Homesite Limitations and Development Requirements.** The development of Parcel "A" is restricted to areas not within the scenic easement, and the additional limitations and requirements as outlined below:

- a) Access to the homesite of Parcel "A" shall be from the easement recorded through Christ Lutheran Church property – APN 376-010-012 (recorded on August 11, 2006, instrument number DOC 2006-0255261, Contra Costa County records), or alternative as approved by City. The final dimensions of the access driveway to Parcel "A" and turnaround, if required, shall be subject to the approval of the fire department and City Engineer.
- b) All required discretionary approvals, including but not limited to Design Review and, if applicable, exceptions to applicable zoning district development standards, is required prior to any development. No grading, other than that allowed to provide emergency vehicle access (i.e. as required by Contra Costa Fire Protection District Fire protection District shall be permitted on any parcel until such approvals and subsequent Building Permit is issued. Furthermore, the owner/developer shall obtain the approval of the Contra Costa County Fire Protection District of the proposed access and water supply for parcel "A" prior commencing development.

B. Deed Restrictions and Agreements, containing the following restrictions and disclosures regarding Parcel "B" (Cascara Canyon Multi-family) shall be submitted for staff and City Attorney's review and approval. The Deed restrictions and Agreement shall give the City the right, but not the duty, to enforce the applicable restrictions and maintenance responsibilities. The required documents shall be recorded before or concurrently with the final map, and prior to constructing improvements, or approved by the City Engineer :

1. The owner/developer of Parcel "B" or his successor in interest, shall be responsible for all exterior maintenance, including repainting of buildings, inspection and maintenance of private improvements such as: storm drain system, debris fence clearing and maintenance, storm water management plan facilities (NPDES Requirements as per Conditions of approval Section XI/C.3 requirements), landscaping and irrigation system, retaining walls, access roads, sidewalks, parks, sewer, signs, lighting, and private utilities. The owner/developer of Parcel "B" or his successor in interest shall also responsible for inspection,

maintenance, and reporting plan for the storm water management plans required by the Contra Costa County Clean Water Program -C.3 requirements.

2. The following restrictions shall be places on the uses of garages and carports:
 - a) That garages always be kept sufficiently clear so as to permit the parking of 2 motor vehicles in addition to any incidental household storage.
 - b) That carport and guest parking spaces be used solely for the parking of operable vehicles. Storage of any other kind is prohibited.
 - c) Residents shall use their assigned garages or carports to capacity before using guest or on-street parking.

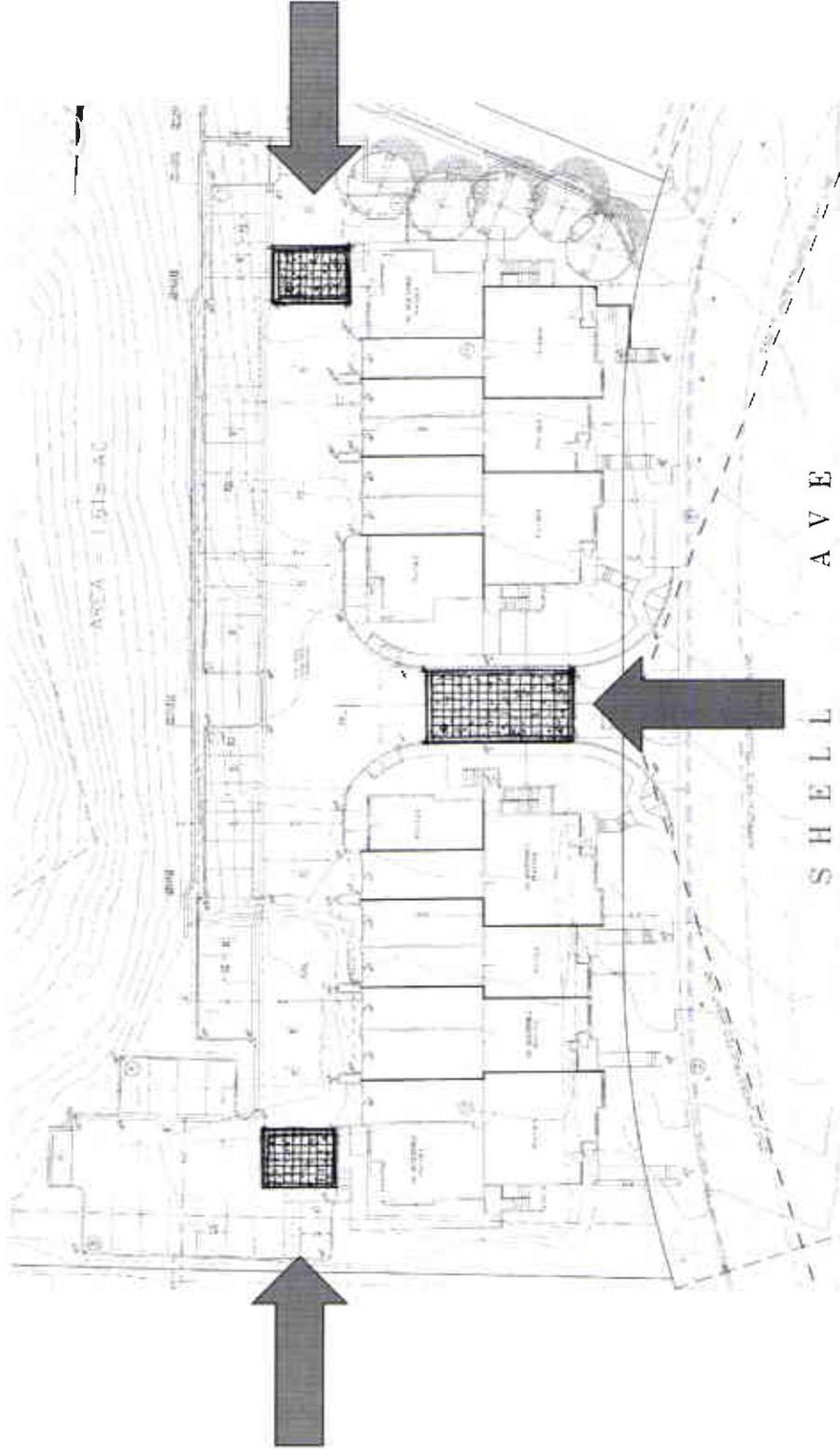
IV. Site Plan

- A. Decorative paving, such as darkened, salted and scored concrete, shall be installed at the entry drive's "throat" and at the southern and northern terminuses of rear parking isle, as conceptually shown on Conditions of Approval Exhibit 2. Paving treatment shall be specified on site improvement plans submitted for building permit review, and is subject to staff review and approval.

EXHIBIT 2

Conditions of Approval for "Cascara Canyon" Planned Unit Development
(APN 376-010-011)

APPROXIMATE AREAS OF REQUIRED DECORATIVE PAVING



320

B. Lighting:

1. **Freestanding private street and/or landscape area lighting, if such is proposed by developer, shall be shown on improvement and landscaping plans. Height and style subject to staff approval.**
2. All exterior lighting shall be directed such that lights create as little off-site glare and nuisance as is feasible. All fixtures shall be glare-shielded.
3. Energy-saving fixtures shall be used

C. **Group mailbox location(s) shall be along the private entry drive, at the entry for the 2nd and 3rd story units and or as approved by Postal Authorities and staff. A Project directory (s), indicating unit number and locations shall be located at all mailbox location(s) Final locations and designs shall be shown on landscape plans, and are subject to staff approval.**

D. All exterior and roof mounted utility and meter boxes, and mechanical equipment shall be screened from public view, **by means of architectural or landscape elements.** Equipment and screening shall be shown on final construction plans and subject to staff review and approval.

V. Architectural

A. **All building materials, windows and colors and shall be substantially as shown on the materials and color exhibit dated April 22, 2010 (as on file with the Planning Division) except where modifications are required below. The required design modifications listed below shall be incorporated in to the final building permit plan submittal, are subject to staff approval and review may be referred to the Design Review Committee prior to issuance of building permit.**

1. **Trellises, with integrated design details, shall be constructed over the following three building/site elements:**
 - a. **Freestanding trellises, approximately 5' x 5' in size, shall be built at the two ground floor common entries (for the 2nd and 3rd story units) adjacent to the entry drive.**
 - b. **Cantilevered trellises shall be built over the garages and recreation area of the rear elevations, and at the two ground floor common entries (for the 2nd and 3rd story**

units) adjacent to the side property lines.

- c. Trellises details shall be built around the required solid roof at trash enclosures.
2. Iron grill work shall be added to the faux window recesses at the elevator towers, matching that of the adjacent stairwell openings.
3. All clearstory windows at ground floor units shall have unifying features; the arched windows at the right (southerly) side of the buildings should be rethought so these windows are more related to the balance of the elevation.
4. All wrought iron railings shall have decorative details as conceptually shown on the plans submitted to the Design Review Committee on March 23, 2010. Alternative railing treatments subject to review and approval of Design Review Committee.
5. All retaining and stairway walls adjacent to building entries shall have stucco finishes and trim caps to match building finishes.

VI. Landscaping Trees, Walls and Fences

Final landscape plan (and landscape installation) shall be substantially as shown on the materials and color exhibit dated April 22, 2010 (as on file with the Planning Division) with the addition of specifications for group mail box, site furniture etc and except where modifications are required below. The required design modifications listed below shall be incorporated in to the final building permit plan submittal, are subject to staff approval and review may be referred to the Design Review Committee prior to issuance of building permit:

- A. Include the following modifications from the conceptual plan dated dated April 22, 2010 and otherwise approved:
 1. The previously indicated tot lot area (triangular planting area between hillside and "elbow" in parking drive isle) be planted with a small grove of evergreen trees.
 2. The bioretention area (along southern property line) shall be augmented with aesthetic elements, which may include but are not limited to additional decorative plantings, boulders, stepping stones, as such are not detrimental to the intended function of stormwater treatment and as approved by the City Engineer. Amenities such as additional tree plantings and benches shall be provided adjacent to the bioretention, in planting areas next to parking lot.

3. **The following trees shall be installed at larger than the typical 15 gallon size:**
 - a) **The tree proposed in the planting finger at the terminus of the entry drive (*Quercus suber* - red oak) shall be a minimum 36" box size.**
 - b) **The six deciduous accents trees at the entry drive (*Cercis canadensis* 'Forest Pansy' – eastern redbud) shall be a minimum 24' box size.**
 4. **The 10' wide storm drain and sewer easement at the southern property line shall be landscaped with permanently irrigated ground covers and shrubs. No trees shall be planted in the easement. At such time the property owner of MS 551-09 Parcel "A" (custom home site) removes irrigation and planting for installation of utilities, the owner(s) of the multi-family development on Parcel "B" shall replace the irrigation and plantings once utilities are installed.**
 5. **Visual separation between the northern terminus of the rear parking isle and the LaSalle Manor Apartments further to the north shall be provided. Should existing plantings on the La Salle Manor side not provide this separation, additional solid, or lattice fencing shall be installed by developer.**
- B. All exterior retaining walls within landscape areas shall have "split-face" block, "keystone" or similar textured treatment with decorative trim cap. Final wall designs subject to staff approval.**
- C. Final landscape plan, as prepared by the landscape architect, shall indicate that the following landscape requirements and standards:**
1. **Protect planting areas adjacent to alley with minimum 6" high concrete curbs or equivalent.**
 2. **Be prepared in accordance with the applicable water conservation and landscaping ordinance.**
 3. **Specify trees of minimum 15 gallon size (except where larger trees sizes are required above)**
 4. **Specify shrubs of minimum 5-gallon size**
 5. **Provide either lawn or a continuous ground cover with complete coverage within 3 years.**

6. Show all non-plant features: benches, lights, arbors, mail box areas paths, etc.
7. Include an irrigation plan, with automatic irrigation .
8. Fences
 - a. All fencing, retaining walls, barriers, etc., shall be installed by the developer, and shall be shown on the site and landscape plan.
 - b. The maximum height for all walls, fences and/or fences on retaining walls shall be 6 feet unless as otherwise shown on approved plans. Fences off-set from retaining walls 18 inches or greater shall be considered separate structures with a maximum height of 6 foot each.

D. Tree Preservation:

1. **None of the existing coast like oak trees on the slope area above the parking areas and adjacent retaining wall, may be removed without prior City Approval.**
2. **Prior to any additional grading near the drip line of these tree (if applicable), approved protective fencing shall be installed by the developer prior to grading and construction activities**
3. If during construction, the developer wishes to remove these oak trees, (such as unforeseen geotechnical considerations requiring an expanded area of grading), staff may approve a modified landscape plan with additional replacement trees.

VII. Noise Control, Dust and Conditions for Construction Activity

- A. All construction activities shall conform to the City's Noise Control Ordinance, Chapter 8.34 of the Municipal Code: Construction activities including delineation and starting/warming of vehicles are limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday; and 8:00 a.m. to 5 p.m. Saturday and Sunday. **Lane closures shall be limited to 9:00 a.m. to 4:00 p.m. Monday through Friday on Shell Avenue.** The permittee shall post a sign on the site notifying all workers of these restrictions.
- B. The site shall be fenced with locked gates at 7 p.m.. The gates shall remain locked until 7:00 am. Contractors shall not arrive at the site prior to the opening of the gates.

- C. Based on the site-specific sound mitigation study conducted for this project, sound levels shall be reduced to meet the following criteria for year 2000 noise contours:
 - 1. Indoor noise levels not to exceed 45 d_{BA} CNEL.
 - 2. Private outdoor noise levels not to exceed 65 d_{BA} CNEL.
- D. Contractors shall be required to employ the quietest construction equipment available, and to muffle noise from construction equipment and to keep all mufflers in good working order in accordance with State law.
- E. Adequate dust control measures shall be employed throughout all grading and construction periods. The Contractor shall regularly water areas that are exposed for extended periods to reduce wind erosion.
- F. Contractor shall ensure that surrounding streets stay free and clear of silt, dirt, dust, tracked mud, etc. coming in from or in any way related to project construction. Paved areas and access roads shall be swept on a regular basis. All trucks to be covered.
- G. Speeds of construction equipment shall be limited to **10** miles per hour. This includes equipment traveling on local streets to and from the site.
- H. Access shall be maintained to all driveways at all times.
- I. There shall be no parking of construction equipment or construction worker's cars on residential streets at any time.
- J. Truck routes for the import or export of cut/fill material shall be identified and approved by the City Engineer prior to the issuance of any permits. Developer shall be responsible for the repair of any damage to city streets (private and public) caused by the import or export of soils materials necessary for the project.
- K. Prior to construction, contractor shall contact city inspector for a pre-construction meeting. Haul route shall be from.

VIII. Agreements, Fees and Bonds

- A. All improvement agreements required in connection with said plans shall be submitted to and approved by City and other agencies having jurisdiction prior to City approval of the Parcel Map or issuance of the Building, Encroachment, Grading or Site development permit, whichever comes first.
- B. All required faithful performance bonds and labor materials bonds in penal amount equal to 100 percent of the approved estimates of construction costs

of improvements shall be submitted to and approved by City and other agencies having jurisdiction prior to City approval of the Parcel Map or issuance of the Building, Encroachment, Grading, or Site Development permit, whichever comes first.

- C. Prior to approval of the plans and issuance of permits, applicant shall pay all applicable fees, deposits as required by the Community Development Director in accordance with the City's fee schedule, the City's Municipal Code, and these conditions of the project's approval. **The fees for Parcel A as Single family units, and Parcel B as Multi family units include:** Plan check and inspection fees, drainage fees, transportation facilities fees, park (in lieu of land dedication) fees, park and recreation facilities fees, cultural facilities fees, and police facilities fees. The final amount for the above fees shall be in accordance with the fee schedule in effect of time of payment.
- D. All fees and deposits required by other agencies having jurisdiction shall be paid prior to City approval of the Parcel Map or issuance of the Building, Encroachment, Grading or Site Development Permit, whichever comes first.

IX. Grading

- A. All grading shall require a grading and drainage plan prepared by a registered Civil Engineer, a soils report prepared by a registered Geotechnical Engineer and a Grading Permit approved by the City Engineer. The grading plans and soils report shall require review by the City's geotechnical consultant with all costs to be borne by the applicant.
- B. All recommendations made in the Soil Engineers report with all subsequent amendment to the soils report, and all recommendations made by the City's geotechnical consultant shall be incorporated into the design and construction of the project.
- C. The on-site finish grading shall require drainage to be directed away from all building foundations at a slope of 2 percent minimum to 20 percent maximum toward approved drainage facilities or swales. Non-paved drainage swales shall have a minimum slope of 1 percent. A minimum 4-ft. wide clear access shall be provided around each building.
- D. Contour grading techniques with spot elevations shall be employed throughout the project to achieve a more natural appearance, even where this will increase the amount of grading. Tops of cuts or toes of fills adjacent to existing public rights-of-way or easements shall be set back two feet minimum from said rights-of-way and easements unless otherwise approved by the City Engineer.
- E. Erosion control measures shall be implemented per plans approved by the City Engineer for all grading work not completed before October 1. At the

time of approval of the improvement and/or grading plans, an approved Erosion Control Plan prepared by a registered Civil Engineer shall be filed with the City Engineer.

- F. All graded slopes in excess of 5 ft. in height shall be hydroseeded or landscaped no later than September 15 and irrigated (if necessary) to ensure establishment prior to the onset of the rainy season.
 - G. The applicant's engineer shall certify the actual pad elevation for the lot in accordance with City standards prior to issuance of Building Permit.
 - H. All front yard landscaping or alternate erosion control measures shall be installed prior to release for occupancy to mitigate erosion problems on each lot.
 - I. The finished grading shall be inspected and certified by the developer's engineer that it is in conformance with the approved Grading Plan and Soils Report pursuant to the provisions of Title 15 of the Martinez Municipal Code.
 - J. All existing trees shall be clearly indicated on the grading plan. Refer to Section V Landscaping for tree preservation requirements.
 - K. Any grading on adjacent properties will require written approval of those property owners affected.
 - L. If cultural resources are discovered during subsurface excavations, the Contractor shall cease construction and a qualified archeologist shall be contacted to make recommendations for mitigation.
 - M. The plans shall include the boundary treatment shown on cross sections, drawn to scale, for retaining walls, fencing and drainage.
- X. Drainage
- A. A hydrologic study shall be prepared and submitted to the City Engineer and Contra Costa County Flood Control District, when required, for review and approval to ensure discharge of storm runoff to facilities of adequate capacity. The developer shall make necessary upgrades to existing systems as required by the City Engineer. Drainage area is defined as all that area draining into, and including, the area of the proposed development.
 - B. All concentrated runoff shall be collected and conveyed to an approved storm drainage system. Existing slopes that have no additional discharge directed onto them or are not substantially re-graded can remain as natural runoff.

- C. Applicant shall not increase storm water runoff to adjacent downhill lots unless either, (1) a Drainage Release is signed by the property owner(s) of affected downhill lots and recorded in the office of the County Recorder; or (2) site drainage is collected and conveyed in approved drainage facilities within a private drainage easement through a downhill property. This condition may require collection of on-site runoff and construction of an off-site storm drainage system. All required releases and/or easements shall be obtained prior to filing of Parcel Map or issuance of the Building, Encroachment, Grading or Site Development Permit, whichever comes first.
- D. The storm drain system shall be designed per City and County Flood Control District Standards to carry at least a 10-year storm. Furthermore, the system shall be designed to ensure that local streets remain passable during a 100-year storm. Passable is defined as one 10-ft. travel lane in each direction, pavement free of water runoff. The developer shall install a drainage system to ensure passability. Should the runoff due to the proposed development contribute incrementally to an existing flooding problem, then the developer may be required to contribute funds for his proportional share of future drainage system costs as required by the City Engineer.
- E. Parking lots and on-site drainage shall be collected and conveyed to an approved storm drainage facility. When approved by the City Engineer, drainage may be conveyed under the sidewalk and discharged through the curb in accordance with City standards. Drainage shall be directed to a concrete curb and gutter whenever practical.
- F. All public drainage facilities, which cross private lots and to be maintained by the City, shall require a 10-ft. minimum width storm drain easement. Private storm drain facilities to be maintained by the owners and shall be contained within 10-ft. private drainage reserves. Said easements and/or reserves shall be delineated on the Parcel Map or recorded by separate document prior to City approval of the Parcel Map or issuance of Building Permit, whichever comes first.
- G. Concentrated drainage flows shall not be permitted to cross sidewalks or driveways.
- H. The developer shall comply with Contra Costa County Flood Control District Design requirements.
- I. Fifteen (15) inch minimum RCP (reinforced concrete pipe) shall be used for all public storm drain lines and 12-inch minimum pipe shall be used for laterals and for private storm drain lines.
- J. **For drainage requirements from adjacent properties see Section III "Special Requirements for Final Approval and Recordation of MS 551-09."**

XI. NPDES Requirements

- A. Trash enclosures and dumpster areas shall be covered and protected from roof and surface drainage.
- B. A parking lot sweeping program, as approved by the City Engineer, shall be implemented which at a minimum, provides for sweeping immediately prior to, and once during, the storm season.
- C. Efficient irrigation, appropriate landscape design and proper maintenance shall be implemented to reduce excess irrigation runoff, promote surface filtration, and minimize use of fertilizers, herbicides, and pesticides.
- D. The developer shall submit an erosion control plan to the City for review and approval as stated in the Grading Section of these conditions of approval.
- E. All storm drain inlets (catch basins) shall be imprinted with the sign "No Dumping, Flows to Creek" as per City Standard #SD-1.
- F. **Storm Water Pollution Prevention Plan (SWPPP): For projects disturbing one (1) acre or larger, developer shall comply with the State Water Resources Control Board requirements, NPDES permit, for construction. The applicant shall be responsible for preparing and implementing a Storm Water Pollution Prevention Plan for the project. A copy of the Notice of Intent (NOI) shall be submitted to the City. The SWPPP and the NOI shall be kept at the job site during construction.**
- G. **Developer shall comply with the State Water Resources Control Board NPDES permit requirements for constructing permanent stormwater control facilities with this project. The project's plans shall include storm water treatment and flow-control measures (if required) as per the current edition of the Contra Costa Clean Water Program's *Stormwater C.3 Guidebook (4th Edition)*.**
 - a. **Applicant shall prepare and submit a complete Stormwater Control Plan and an Operation and Maintenance Plan for the proposed project for review and approval by the City Engineer prior to approval of the parcel map and plans an/or issuance building, encroachment or site improvements permits. In determining the requirements and size of the C.3 facilities for this project, the development of both parcels (Parcels A & B) shall be considered in the calculations. A PDF file of the final approved plan (including the drawings) shall be submitted to the City.**

- b. **The application for permit(s) shall contain all necessary information calculations and drawings required for the construction and future maintenance of the permanent stormwater control facilities (C.3 facilities) including, but not limited to, improvement plans, grading, drainage, landscaping, irrigation system, watershed map, calculations, and construction details to demonstrate compliance with the approved Stormwater Control Plan. The application shall also include the "Construction Plan C.3 Checklist" as described in the Stormwater C.3 Guidebook.**
 - c. **Prior to approval of the parcel map and plans and/or issuance of permits, the applicant shall submit, for the review and approval of the City of Martinez, an Operation and Maintenance Plan for the stormwater control facilities in accordance with the Contra Costa County Clean Water Program, Stormwater C.3 Guidebook. Guidelines for the preparation of Stormwater Operation and Maintenance Plans are in Appendix F of said C.3 Guidebook.**
 - d. **Prior to approval of the parcel map and plans and/or issuance of permits, the applicant shall execute all required documents and agreements identified which pertain to the transfer of ownership and/or long-term maintenance of C.3 facilities.**
 - e. **The owner(s) shall be solely responsible for all costs associated with the preparation, review fees, construction and maintenance of the C.3 facilities (including future reporting).**
- G. **Development shall include adequate accessible and convenient areas for collecting and loading recyclable materials, to the satisfaction of the City Engineer, in conformance with the California Integrated Waste Management Board Recycling Ordinance.**

XII. Street Improvements

- A. **General: Pursuant to Chapter 12.30 of the Martinez Municipal Code, sidewalks, curb, gutter, and street pavement (to centerline of the Street) shall be constructed, repaired and/or replaced along the entire property frontage to the satisfaction of the City Engineer.**
- B. **The developer shall remove existing AC sidewalk and replace it with concrete curb, gutter, and sidewalk in accordance with City Standards. Developer shall construct and dedicate to the City the improvements within the City's right-of-way, including concrete curb, gutter, sidewalk, paving, drainage system, street lights, and street trees. The existing**

street structural section shall be removed and replaced along the frontage of the property to the centerline of the street if the existing structural section is cracked or damaged in any way, or if the street structural section is determined by the City Engineer to be inadequate for the intended traffic. All improvement shall be designed and constructed to the satisfaction of the City Engineer.

- B. All streets shall be paved and improved after utilities are installed in accordance with City of Martinez Standard Drawings and Design Guidelines and the approved plans.
- C. **Private access road and parking lot:**
 - 1. **Paving design and construction control shall be based on State of California "R" value method, using Traffic Indices (T.I.'s) approved by the City Engineer. The street section design shall utilize a T.I. of 5.5 with a minimum 0.30 ft. AC pavement section over a minimum 0.50 ft. Class 2 aggregate base.**
 - 2. **Private access road on Parcel "B" shall have a minimum of 20 ft. unobstructed paved width within Parcel "B", and 24 feet wide (minimum) for the main entrance segment from Shell Ave. The maximum street slope is 15 percent grade unless otherwise approved by the City Engineer. Private streets shall also provide for approved provisions for the turning around of Police Department and Fire Department apparatus. Parking lot design shall conform to City standards unless otherwise approved by the City Engineer.**
 - 3. **All required private and public storm, water, sewer, and utility easements shall be shown on the Parcel map or recoded by a separate instrument to the satisfaction of the City Engineer.**
- E. **The minimum curb returns radiuses on Shell Ave shall be a 30 feet and 28 feet on private access road, unless an alternate curb radius is approved by the City Engineer.**
- F. **A valley gutters shall be constructed at the intersection of the private street with Shell Ave. unless otherwise approved by the City Engineer.**
- G. All new utility distribution services on-site and off-site shall be installed underground. Where required existing poles and overhead wires along the frontage of the property shall be under grounded (or relocated above ground) as approved by the City Engineer.
- H. Where required, sidewalk pipe drains shall be installed conforming to City

Standard No. S-13.

- I. A City Encroachment Permit is required for any work within the City Right-of-Way.
- J. All traffic control devices, including Stop signs, No Parking signs, legends and striping shall be installed in accordance with plans approved by the City Engineer.
- K. **Standard street lights shall be installed on Shell Avenue at applicant's expense in accordance with plans approved by the City Engineer. Applicant shall bear full costs of energizing and monthly utility charges until acceptance of improvements by the City Council. The location and design is subject to the City Engineer approval.**
- L. **Street trees shall be planted on Shell Avenue in accordance with City standards and plans approved by the City Engineer. The species of tree shall be approved by the Parks Superintendent.**
- M. The developer shall keep the adjoining streets free and clean of project dirt, mud, materials and debris during the construction period as is found necessary by the City Engineer.

XIII. Water System

- A. Water system facilities shall be designed to meet the requirements of the City of Martinez Water District and the fire flow requirements of the Contra Costa County Consolidated Fire Protection District. All requirements of the responsible agency shall be guaranteed prior to approval of the improvement plans.
- B. Water system connection, including installation of the water meter, shall be made in accordance with appropriate Water District standards. Prior to obtaining water service, all fees shall be paid in accordance with the water fee schedule in effect at time of payment.
- C. Backflow prevention, required as part of the water service installation, must be completed before occupancy of the building, and appropriately screened with suitable material.
- D. **The elevation of future home site on Parcel "A" will be above the maximum service elevation for Zone I water system (elevation 170). A private booster pump and a storage tank may be required to provide the water from Zone 1. If approved by the City Engineer, the site may be provided from nearby Zone 2 water system.**
- E. The design of the water system shall be subject to the approval of the Fire

Department and the City Engineer.

XIV. Sanitary Sewer System

- A. Sewer system connections and plans for sanitary sewer facilities shall be approved by the Central Contra Costa Sanitary District. All requirements of that District shall be met before approval of the improvement plans.

XV. Other Requirements

- A. Construction shall comply with all applicable City and State building codes and requirements including handicapped and energy conservation requirements, grading and erosion control ordinances.
- B. Design of all public improvements shall conform to the City of Martinez Design Guidelines, Standard Special Provisions, and Standard Drawings. Prior to preparation of improvement plans, the developer or his representative should contact the City's Engineering Development Review section of the Community Development Department.
- C. Complete grading, site and improvement plans, specifications and calculations shall be submitted to and approved by the City Engineer, Community Development Director, and/or other agencies having jurisdiction for all improvements within the proposed development prior to filing of the Parcel Map or issuance of a Building, Site, Grading or Encroachment Permit whichever comes first. Approved plans shall become the property of the City of Martinez upon being signed by the City Engineer and Community Development Director.
- D. Prior to City approval of the Parcel Map and the plans, all fees, bonds, and security deposits shall be paid; all agreements shall be executed and all grading and improvement plans shall be approved by the City Engineer and Community Development Director. No construction shall take place until recordation of the Parcel Map and issuance of the appropriate Encroachment, Site, Grading and/or Building Permits.
- F. The developer shall comply with all the mitigation measures listed in the approved Mitigated Negative Declaration prepared for this project. The Community Development Director shall interpret the mitigation measures and furnish the developer with specific improvements to be installed.
- G. Prior to issuance of the building permit(s), the access to building sites shall be graded and improved to at least an all-weather surface condition, and operating fire hydrants shall be in place.
- H. Prior to issuance of the first certificate of occupancy, the public improvements including streets, sewers, storm drains, street lights, and traffic

signs required for access to the sites of that phase of the project shall be completed. All public improvements shall be completed and accepted by the City prior to issuance of certificate of occupancy on final dwelling unit in the project.

- I. Prior to acceptance of improvements, offers of dedication, and release of bonds and deposits by the City, the City's record copies of the grading, site, and improvement plans shall be updated to show "As Built" conditions of the project. Said plans shall be prepared by the responsible Civil Engineer of work and shall reflect all changes made during the course of project construction. Grading and improvement plans shall be 24" x 36" in size. The as built plans and final map shall be provided in 4 mil photo mylars and in the form of electronic files compatible with AutoCAD.
- J. All on-site improvements not covered by the building permit including sidewalks, driveways, paving, sewers, drainage, curbs and gutters must be constructed in accordance with approved plans and/or standards and a Site Development Permit approved by the City Engineer.
- K. Building permits for retaining walls shall be obtained as follows:
 - 1. For major walls to be constructed during the mass-grading phase, obtain permit prior to issuance of the Grading Permit.
 - 1. For all other walls, obtain permit prior to issuance of Permits for structures on the respective lot.
 - 2. **No retaining walls (including the footings) shall be installed in the public right of way, unless otherwise approved by the City Engineer.**
- L. Any existing water wells on the property shall be filled and sealed off or otherwise disposed of as directed by the City Engineer.
- M. Swimming pools and any public facility with kitchen (restaurants, meeting and recreation rooms) shall be approved by the Contra Costa County Health Department.
- N. The Parcel Map shall clearly show the lot numbers and the property lines and shall be submitted with building permit applications. Parcel Map shall be 18" x 26" in size.
- N. There shall be no parking of construction vehicles or equipment on the surrounding residential streets, including all workers vehicles.
- O. Approval of grading plans, improvement plans and building plans shall be

required by the applicant's Soils Engineer, the City's Soils Consultant, the Fire District, the Sanitary District and the Water District prior to City approval of construction plans and issuance of any permits.

XVI. Validity of Permit and Approval

- A. The tentative parcel map, and Planned Unit Development approvals integral to the map, shall expire on **April 27, 2012** (24 months from approval date) unless:
 - 1. The final map, the Improvement plans and all required documents are filed with City Engineer prior to the expiration date;
 - 2. Or if an application for extension with all required fees are received prior to the expiration date as state in item B below.

- B. Extension of the tentative map approval: Extension(s) shall be in accordance with the City's Municipal Code and Subdivision Map Act requirements. Tentative map extension can be considered upon receiving an application with required fee at least 45 days before the original expiration date of **April 27, 2012**. If the tentative map is expired a new application is required. A public hearing will be required for all extension applications. Extensions are not automatically approved: Changes in conditions, City policies, surrounding neighborhood, and other factors permitted to be considered under the law, may require or permit denial.

- C. Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Martinez, or other public agency having jurisdiction.

- D. The permittee, Shell Heights Associates, LLC, shall defend, indemnify and hold harmless the City and its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys or employees to attack, set aside, void, or annul the Planning Commission's decision to approve PUD 10-01, Minor Subdivision MS 551-09 and DR 09-11, and any environmental document approved in connection therewith. This indemnification shall include damages or fees awarded against the City, if any, cost of suit, attorneys' fees, and other costs and expenses incurred in connection with such action whether incurred by Shell Heights Associates, LLC, the City, and/or the parties initiating or bringing such action.

- E. Shell Heights Associates, LLC, shall defend, indemnify and hold harmless the City, its agents, officers, employees and attorneys for all costs incurred in additional investigation of, or study of, or for supplementing, preparing, redrafting, revising, or amending any document (such as the Negative Declaration), if made necessary by said legal action and if Shell Heights Associates, LLC, desires to pursue securing such approvals, after initiation of

such litigation, which are conditioned on the approval of such documents, in a form and under conditions approved by the City Attorney.

- F. In the event that a claim, action or proceeding described in Subsection E, above, is brought, the City shall promptly notify Shell Heights Associates, LLC, of the existence of the claim, action or proceeding, and the City will cooperate fully in the defense of such claim, action or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action or proceeding. In the event that Shell Heights Associates, LLC, is required to defend the City in connection with any said claim, action, or proceeding, the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with Shell Heights Associates, LLC, in the defense of said claim, action or proceeding. If the City chooses to have counsel of its own to defend any claim, action or proceeding where Shell Heights Associates, LLC, has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the City, except that the fees and expenses of the City Attorney shall be paid by the applicant.
- G. Shell Heights Associates, LLC, shall indemnify the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
- H. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirement, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

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