



CITY OF ATASCADERO CITY COUNCIL AMENDED AGENDA

HYBRID MEETING INFORMATION:

The City Council meeting will be available via teleconference for those who wish to participate remotely. The City Council meeting will also be held in the City Council Chambers and in-person attendance will be available at that location.

HOW TO OBSERVE THE MEETING REMOTELY:

To participate remotely, residents can livestream the meeting on [Zoom](#), SLO-SPAN.org, on Spectrum cable Channel 20 in Atascadero, and listen live on KPRL Radio 1230AM and 99.3FM. The video recording of the meeting will repeat daily on Channel 20 at 1:00 am, 9:00 am, and 6:00 pm and will be available through the City's website and on the City's YouTube Channel. To participate remotely using the Zoom platform please visit https://us02web.zoom.us/webinar/register/WN_ZwJ7a031S3KXauEym9ehaA.

HOW TO SUBMIT PUBLIC COMMENT:

Individuals who wish to provide public comment in-person may attend the meeting in the City Council Chambers. Individuals who wish to participate remotely may call **(669) 900-6833** (Meeting ID: 889 2347 9018) to listen and provide public comment via phone or via the [Zoom](#) platform using the link above.

If you wish to comment but not via a live platform, please email public comments to cityclerk@atascadero.org. Such email **comments must identify the Agenda Item Number in the subject line of the email**. The comments will be forwarded to the City Council and made a part of the administrative record. ***To ensure distribution to the City Council prior to consideration of the agenda, the public is encouraged to submit comments no later than 12:00 p.m. the day of the meeting.*** Those comments, as well as any comments received after that time, but before the close of the item, will be distributed to the City Council, posted on the City's website, and will be made part of the official public record of the meeting. ***Please note, email comments will not be read into the record.***

AMERICAN DISABILITY ACT ACCOMMODATIONS:

Any member of the public who needs accommodations should contact the City Clerk's Office at cityclerk@atascadero.org or by calling 805-470-3400 at least 48 hours prior to the meeting or time when services are needed. The City will use their best efforts to provide reasonable accommodations to afford as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

City Council agendas and minutes may be viewed on the City's website: www.atascadero.org/agendas.

Copies of the staff reports or other documentation relating to each item of business referred to on the Agenda are on file in the office of the City Clerk and are available for public inspection on our website, www.atascadero.org. Contracts, Resolutions and Ordinances will be allocated a number once they are approved by the City Council. The Minutes of this meeting will reflect these numbers. All documents submitted by the public during Council meetings that are made a part of the record or referred to in their statement will be noted in the Minutes and available for review by contacting the City Clerk's office. All documents will be available for public inspection by appointment during City Hall business hours.



CITY OF ATASCADERO CITY COUNCIL

AMENDED AGENDA

Tuesday, October 10, 2023

City Hall Council Chambers, Fourth Floor
6500 Palma Avenue, Atascadero, California

<u>City Council Regular Session:</u>	6:00 P.M.
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REGULAR SESSION – CALL TO ORDER: 6:00 P.M.

PLEDGE OF ALLEGIANCE: Council Member Newsom

ROLL CALL:
Mayor Moreno
Mayor Pro Tem Funk
Council Member Bourbeau
Council Member Dariz
Council Member Newsom

APPROVAL OF AGENDA: Roll Call

Recommendation: Council:

1. Approve this agenda; and
2. Waive the reading in full of all ordinances appearing on this agenda, and the titles of the ordinances will be read aloud by the City Clerk at the first reading, after the motion and before the City Council votes.

CLOSED SESSION REPORT:

a. **September 26, 2023**

PRESENTATIONS:

1. **Employee Recognition**
2. **Proclamation declaring October 8-14, 2023 as Fire Prevention Week**

A. CONSENT CALENDAR: (All items on the consent calendar are considered to be routine and non-controversial by City staff and will be approved by one motion if no member of the Council or public wishes to comment or ask questions. If comment or discussion is desired by anyone, the item will be removed from the Consent Calendar and will be

considered in the listed sequence with an opportunity for any member of the public to address the Council concerning the item before action is taken.)

1. City Council Draft Minutes – September 26, 2023

- Recommendation: Council approve the September 26, 2023 Draft City Council Regular Meeting Minutes. [City Clerk]

2. Ordinance Regulating Camping in Areas of the City

- Fiscal Impact: None.
- Recommendation: Council adopt, on second reading, a Draft Ordinance repealing and replacing, in its entirety, Title 5, Chapter 15 (Prohibited Camping) of the Atascadero Municipal Code, to better define prohibited camping on public and private property; define time, manner, and place for legal camping; regulate storage of personal property on public property; and establish time, manner, and place regulations for camping by necessity. [Police Department]

3. Formation of New Positions and Reclassification of Existing Positions Throughout the City

- Fiscal Impact: Estimated ongoing cost of \$480,000 per fiscal year.
- Recommendation: Council:
 1. Authorize the City Manager to establish new positions, including Senior Recreation Coordinator, Finance Analyst, Planning Manager, and Community Services & Promotions Director; and
 2. Authorize the City Manager to reclassify employees into appropriate pay classifications of Deputy City Manager, Human Resources Manager, Zoo Director, and Police Chief; and
 3. Amend the fiscal year 2023-2024 monthly salary schedule to include new positions as follows:

CLASSIFICATION	RANGE	STEP A	STEP B	STEP C	STEP D	STEP E
Community Services & Promotions Director	M57	12,290.67	12,905.20	13,550.46	14,227.98	14,939.38
Deputy City Manager	M54	11,419.91	11,990.91	12,590.46	13,219.98	13,880.98
Finance Analyst	M39	7,922.68	8,318.81	8,734.75	9,171.49	9,630.06
Human Resources Manager	M46	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91
Planning Manager	M46	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91
Police Chief	M64	14,575.03	15,303.78	16,068.97	16,872.42	17,716.04
Senior Recreation Coordinator	24	5,405.39	5,675.66	5,959.44	6,257.41	6,570.28
Zoo Director	M46	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91

4. Adopt Draft Resolution for Non-Represented Professional and Management Workers and Confidential Employees; and
5. Authorize the City Manager to execute a Side Letter with the Local 620 Service Employees International Union (SEIU) for the existing Memorandum of Understanding (MOU), dated July 1, 2021, through June 30, 2024, adding the title of Senior Recreation Coordinator at the salary range shown above; and
6. Authorize the City Manager to approve the Employment Agreement for Terrie Banish to serve as Community Services & Promotions Director; and
7. Authorize the Director of Administrative Services to allocate \$140,000 in salary savings from fiscal year 2023-2024 for labor costs in fiscal year 2024-2025. [City Manager]

4. Revegetation Contract Award for the Santa Lucia Road Bridge Replacement Project

- Fiscal Impact: \$628,027.

- Recommendation: Council award a construction contract for \$628,027 to Quincon, Inc. for the revegetation phase of the Santa Lucia Road Bridge Replacement Project (City Project No. C2015B03[2], Federal Project No. BRLO-5423[029]). [Public Works]

5. Revegetation Contract Award for the Via Avenue Bridge Replacement Project

- Fiscal Impact: \$767,933.
- Recommendation: Council award a construction contract for \$767,933 to Quincon, Inc. for the revegetation phase of the Via Avenue Bridge Replacement Project (City Project No. C2015B02[2], Federal Project No. BRLS-5423[032]). [Public Works]

6. City Attorney Services – Request for Proposals

- Fiscal Impact: None.
- Recommendation: Council authorize the City Manager to issue a Request for Proposals for City Attorney services and to appoint Karl Berger, of Burke, Williams & Sorensen, as Interim City Attorney. [City Attorney]

UPDATES FROM THE CITY MANAGER: (The City Manager will give an oral report on any current issues of concern to the City Council.)

COMMUNITY FORUM: (This portion of the meeting is reserved for persons wanting to address the Council on any matter not on this agenda and over which the Council has jurisdiction. Speakers are limited to three minutes. Please state your name for the record before making your presentation. Comments made during Community Forum will not be a subject of discussion. A maximum of 30 minutes will be allowed for Community Forum, unless changed by the Council. Comments will be allowed for the entire 30-minute period so if the final speaker has finished before the 30 minute period has ended and a member of the public wishes to make a comment after the Council has commenced another item, the member should alert the Clerk within the 30 minute period of their desire to make a comment and the Council will take up that comment upon completion of the item which was commenced. Any members of the public who have questions or need information may contact the City Clerk’s Office, between the hours of 8:30 a.m. and 5:00 p.m. at (805) 470-3400, or cityclerk@atascadero.org.)

B. PUBLIC HEARINGS:

1. Appeal of Grand Oaks Paseo Common Area Amendment

- Fiscal Impact: Minor negative fiscal impact expected if the building is not built due to a lower than planned assessed valuation.
- Recommendation: Council:
 1. Adopt Draft Resolution A, affirming the Planning Commission’s approval of amendments to the Grand Oaks Paseo project master plan of development to allow modifications to the common amenity space.
 - a. Modifications to the conditions of approval related to amenities, timing, etc. can be included.

OR

2. Adopt Draft Resolution B, reversing the Planning Commission's action and denying amendments to the Grand Oaks Paseo project master plan of development to allow modifications to the common amenity space. [Community Development]

2. Appeal of Conditional Use Permit for RV Storage Facility

- Fiscal Impact: None.
- Recommendation: Council:
 1. Adopt Draft Resolution A, affirming the Planning Commission's approval of a conditional use permit to establish an RV storage facility at 6805 Sycamore Road, subject to findings and conditions of approval.

OR

2. Adopt Draft Resolution B, reversing the Planning Commission's action and denying a conditional use permit to establish an RV storage facility at 6805 Sycamore Road, subject to findings. [Community Development]

C. MANAGEMENT REPORTS: None.

D. COUNCIL ANNOUNCEMENTS AND COMMITTEE REPORTS: (On their own initiative, Council Members may make a brief announcement or a brief report on their own activities. The following represent standing committees. Informative status reports will be given, as felt necessary):

Mayor Moreno

1. City Selection Committee
2. County Mayors Round Table
3. Regional Economic Action Coalition (REACH)
4. SLO Council of Governments (SLOCOG)
5. SLO Regional Transit Authority (RTA)

Mayor Pro Tem Funk

1. Atascadero Basin Ground Water Sustainability Agency (GSA)
2. Design Review Committee
3. Homeless Services Oversight Council

Council Member Bourbeau

1. City of Atascadero Finance Committee
2. City / Schools Committee
3. Integrated Waste Management Authority (IWMA)
4. SLO County Water Resources Advisory Committee (WRAC)

Council Member Dariz

1. Air Pollution Control District
2. California Joint Powers Insurance Authority (CJPIA) Board
3. Community Action Partnership of San Luis Obispo (CAPSLO)
4. Design Review Committee
5. Visit SLO CAL Advisory Committee

Council Member Newsom

1. City of Atascadero Finance Committee
2. City / Schools Committee

3. League of California Cities – Council Liaison

E. INDIVIDUAL DETERMINATION AND / OR ACTION: (Council Members may ask a question for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda. The Council may take action on items listed on the Agenda.)

1. City Council
2. City Clerk
3. City Treasurer
4. City Attorney
5. City Manager

ADJOURNMENT



CITY OF ATASCADERO CITY COUNCIL

DRAFT MINUTES

Tuesday, September 26, 2023

City Hall Council Chambers, Fourth Floor
6500 Palma Avenue, Atascadero, California

<u>City Council Closed Session:</u>	5:00 P.M.
<u>City Council Regular Session:</u>	6:00 P.M.

CITY COUNCIL CLOSED SESSION:

Mayor Moreno called Closed Session to order at 5:00 p.m.

1. **CLOSED SESSION — PUBLIC COMMENT – None**
2. **COUNCIL LEAVES CHAMBERS TO BEGIN CLOSED SESSION**
3. **CLOSED SESSION — CALL TO ORDER**
 - a. **Public Employee Performance Evaluation**
Government Code Sec. 54957
Title: City Manager
 - b. **Conference with Real Property Negotiators**
Government Code Sec. 54956.8
Real Property: 6005 Lewis Avenue (APN 029-332-005 – City Property),
6105 Olmeda Avenue (APN 029-091-001 – State of California Property),
Atascadero, California 93422
Agency Negotiator: James R. Lewis, City Manager
Negotiating Parties: State of California
Subject of Negotiations: Purchase price and/or terms of payment
 - c. **Conference with Legal Counsel – Existing Litigation**
Government Code Sec. 54956.9(d)(1)
Name of Case: Sunderland v. City of Atascadero
San Luis Obispo Superior Court Case No. 21CVP-0074
 - d. **Conference with Legal Counsel – Anticipated Litigation**
Significant exposure to litigation pursuant to Government Code
Sec. 54956.9(d)(2): 1 potential case – California Voting Rights Act
4. **CLOSED SESSION — ADJOURNMENT**

Mayor Moreno recessed the Closed Session at 5:55 p.m.

5. COUNCIL RETURNS

6. CLOSED SESSION — REPORT, if any:

City Attorney Pierik reported that there was no reportable action from Closed Session on Item a (above).

Mayor Moreno noted that more time would be needed to discuss Closed Session Items b, c, and d, and that Council had recessed Closed Session until after the close of Regular Session.

REGULAR SESSION – CALL TO ORDER: 6:00 P.M.

Mayor Moreno called the meeting to order at 6:00 p.m. and Council Member Dariz led the Pledge of Allegiance.

ROLL CALL:

Present: Council Members Bourbeau, Dariz, Newsom, Mayor Pro Tem Funk, and Mayor Moreno

Absent: None

Others Present: None

Staff Present: City Manager Jim Lewis, Administrative Services Director Jeri Rangel, Community Development Director Phil Dunsmore, Fire Chief Casey Bryson, Interim Police Chief Joe Allen, Public Works Director Nick DeBar, City Attorney Brian Pierik, Deputy City Manager/City Clerk Lara Christensen, and Deputy City Manager – IT Luke Knight

APPROVAL OF AGENDA:

MOTION: By Council Member Bourbeau and seconded by Mayor Pro Tem Funk to:

- 1. Approve this agenda; and,**
- 2. Waive the reading in full of all ordinances appearing on this agenda, and the titles of the ordinances will be read aloud by the City Clerk at the first reading, after the motion and before the City Council votes.**

Motion passed 5:0 by a roll-call vote.

A. CONSENT CALENDAR:

- 1. City Council Draft Minutes – September 12, 2023**
 - Recommendation: Council approve the September 12, 2023 Draft City Council Regular Meeting Minutes. [City Clerk]
- 2. August 2023 Accounts Payable and Payroll**
 - Fiscal Impact: \$4,184,743.25.
 - Recommendation: Council approve certified City accounts payable, payroll and payroll vendor checks for August 2023. [Administrative Services]

3. Downtown District Pavement Rehabilitation Project Phase 2 Construction Contract Award

- Fiscal Impact: \$1,254,513 in Local Transportation Funds for the Base Bid plus Bid Alternate 1.
- Recommendation: Council
 1. Award a construction contract for \$1,254,513 (Base Bid plus Alternate 1) to Souza Construction for Phase 2 of the Downtown District Pavement Rehabilitation Project (Project No. C2021R02[2]); and
 2. Authorize the Director of Administrative Services to allocate an additional \$407,660 in Local Transportation Funds to the Downtown District Pavement Rehabilitation Project budget; and
 3. Authorize staff to include the Traffic Way (Bid Alternate 2) and Olmeda Avenue (Bid Alternate 3) portions of the Downtown District Pavement Rehabilitation Project with the Traffic Way Pavement Rehabilitation (South) Project scheduled for fiscal year 2025-2026 construction. [Public Works]

5. Sediment and Erosion Control Work for 2023 Pine Mountain Slide

- Fiscal Impact: \$55,000.
- Recommendation: Council authorize the Director of Administrative Services to allocate \$55,000 in General Fund Reserves toward Sediment and Erosion Control Work for the 2023 Pine Mountain Slide. [Public Works]

Mayor Moreno removed Item A-4 for separate discussion and vote.

**MOTION: By Council Member Bourbeau and seconded by Council Member Newsom to approve Consent Calendar Items A-1, A-2, A-3, and A-5. (#A-3 Contract No. 2023-032)
*Motion passed 5:0 by a roll-call vote.***

4. Affordable Housing Development Impact Fee Deferral Policy Resolution Adoption and Second Reading of Ordinance

- Fiscal Impact: Approximately \$15,000 to \$19,000 in combined deferment of impact and wastewater fees for each residential unit.
- Recommendation: Council:
 1. Adopt Draft Resolution approving a policy to allow deferral of development impact fees and wastewater capacity charges for affordable housing projects in accordance with the City Housing Element Policy; and
 2. Adopt on second reading, by title only, Draft Ordinance to amend the Municipal Code, Title 3-14.070, to include the deferral of impact fees for affordable housing projects as an option for payment for impact fees. [Community Development]

City Manager Lewis and Community Development Director Dunsmore updated the Council on changes made to the policy as requested at the September 12 Council Meeting. The Council asked questions of staff and discussed the interest rate calculation.

MOTION: By Council Member Bourbeau and seconded by Mayor Pro Tem Funk to:

1. **Adopt Resolution No. 2023-068 approving a policy to allow deferral of development impact fees and wastewater capacity charges for affordable housing projects in accordance with the City Housing Element Policy with the following change in**

interest rate calculation to Section 3 of the Resolution and the Fee Deferment Terms in Exhibit A:

*The simple interest rate shall be calculated as of the date of the request for deferral to the City, and shall be **the higher of the City's investment return or the City's 2-Year Treasury Weighted Portfolio Yield** as presented in the most recently Council adopted quarterly Treasurer's Report, plus 1%.*

2. Adopt on second reading, by title only, Ordinance No. 666 to amend the Municipal Code, Title 3-14.070, to include the deferral of impact fees for affordable housing projects as an option for payment for impact fees.

Motion passed 5:0 by a roll-call vote.

UPDATES FROM THE CITY MANAGER:

City Manager Jim Lewis gave an update on events, projects and issues within the City.

COMMUNITY FORUM:

The following citizens spoke by telephone or through the webinar on this item: Austin Solheim and Geoff Auslen.

Mayor Moreno closed the COMMUNITY FORUM period.

B. PUBLIC HEARINGS: None

C. MANAGEMENT REPORTS:

1. Ordinance Regulating Camping in Areas of the City

- Fiscal Impact: None.
- Recommendation: Council:
 1. Adopt Draft Urgency Ordinance A repealing and replacing, in its entirety, Title 5, Chapter 15 (Prohibited Camping) of the Atascadero Municipal Code, to better define prohibited camping on public and private property; regulate storage of personal property on public property; and establish time, manner, and place regulations for camping by necessity; and
 2. Introduce for first reading, by title only, Draft Ordinance B repealing and replacing, in its entirety, Title 5, Chapter 15 (Prohibited Camping) of the Atascadero Municipal Code, to better define prohibited camping on public and private property; regulate storage of personal property on public property; and establish time, manner, and place regulations for camping by necessity. [Police Department]

Interim Police Chief Allen gave the report and answered questions from the Council. City Manager Lewis and City Attorney Pierik also answered questions from the Council.

PUBLIC COMMENT:

The following citizens spoke on this item: Brenda Mack, Geoff Auslen, and Austin Solheim

Mayor Moreno closed the Public Comment period.

MOTION: By Council Member Newsom and seconded by Council Member Dariz to:

1. Adopt Draft Urgency Ordinance No. 667 repealing and replacing, in its entirety, Title 5, Chapter 15 (Prohibited Camping) of the Atascadero Municipal Code, to better define prohibited camping on public and private property; regulate storage of personal property on public property; and establish time, manner, and place regulations for camping by necessity fixing the clerical errors in:
 - 5-15.106(B)(4) to reflect **100 square feet** not ten square feet
 - 5-5.107(A)(c) changing that to **than**

Deputy City Manager/City Clerk Christensen read the title of the Urgency Ordinance:

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, REPEALING AND REPLACING, IN ITS ENTIRETY, TITLE 5, CHAPTER 15 (PROHIBITED CAMPING), OF THE ATASCADERO MUNICIPAL CODE TO ADDRESS PROHIBITED CAMPING ON PUBLIC AND PRIVATE PROPERTY; REGULATE STORAGE OF PERSONAL PROPERTY ON PUBLIC PROPERTY; AND ESTABLISH TIME, MANNER, AND PLACE REGULATIONS FOR CAMPING BY NECESSITY.

Motion passed 5:0 by a roll-call vote.

MOTION: By Council Member Newsom and seconded by Council Member Dariz to:

2. Introduce for first reading, by title only, Draft Ordinance B repealing and replacing, in its entirety, Title 5, Chapter 15 (Prohibited Camping) of the Atascadero Municipal Code, to better define prohibited camping on public and private property; regulate storage of personal property on public property; and establish time, manner, and place regulations for camping by necessity fixing the clerical errors in:
 - 5-15.106(B)(4) to reflect **100 square feet** not ten square feet
 - 5-5.107(A)(c) changing that to **than**

Deputy City Manager/City Clerk Christensen read the title of the Draft Ordinance:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, REPEALING AND REPLACING, IN ITS ENTIRETY, TITLE 5, CHAPTER 15 (PROHIBITED CAMPING), OF THE ATASCADERO MUNICIPAL CODE TO ADDRESS PROHIBITED CAMPING ON PUBLIC AND PRIVATE PROPERTY; REGULATE STORAGE OF PERSONAL PROPERTY ON PUBLIC PROPERTY; AND ESTABLISH TIME, MANNER, AND PLACE REGULATIONS FOR CAMPING BY NECESSITY.

Motion passed 5:0 by a roll-call vote.

D. COUNCIL ANNOUNCEMENTS AND COMMITTEE REPORTS:

Mayor Moreno

1. County Mayors Round Table
2. SLO Council of Governments (SLOCOG)

Mayor Pro Tem Funk

1. Design Review Committee
2. Homeless Services Oversight Council

Council Member Bourbeau

1. Integrated Waste Management Authority (IWMA)

Council Member Dariz

3. Community Action Partnership of San Luis Obispo (CAPSLO)

Council Member Newsom

1. League of California Cities – Council Liaison

While individual Council Members discussed the League Conference during their reports, City Clerk Christensen noted, for clarification of the record, that Council Members Dariz and Newsom and Mayor Moreno attended the League of California Cities annual conference in Sacramento from September 20-22, 2023.

E. INDIVIDUAL DETERMINATION AND / OR ACTION: None.

F. ADJOURN

Mayor Moreno recessed the Regular Meeting at 8:00 p.m. and reconvened the Closed Session Meeting at 8:01 p.m.

The meeting was adjourned at 9:34 pm; no reportable action.

MINUTES PREPARED BY:

Lara K. Christensen
City Clerk

APPROVED:



Atascadero City Council

Staff Report – City Manager’s Office

Ordinance Regulating Camping in Areas of the City (Atascadero Municipal Code Title 5, Chapter 15)

RECOMMENDATION:

Council adopt, on second reading, a Draft Ordinance repealing and replacing, in its entirety, Title 5, Chapter 15 (Prohibited Camping) of the Atascadero Municipal Code, to better define prohibited camping on public and private property; define time, manner, and place for legal camping; regulate storage of personal property on public property; and establish time, manner, and place regulations for camping by necessity.

DISCUSSION:

At the September 26, 2023, meeting, Council introduced the attached Draft Ordinance on a 5:0 vote, which repeals and replaces Title 5, Chapter 15 (Prohibited Camping) of the Atascadero Municipal Code, and said Draft Ordinance is before Council for adoption and final approval tonight.

This ordinance was developed to set forth standards for camping and sheltering on City rights-of-way and public and private property in response to legislative and court decisions limiting the City’s ability to take enforcement action for violation of the City’s previously adopted Prohibited Camping Ordinance.

This new ordinance seeks to address public peace, health, and safety issues by clearly defining camping and when and where camping by necessity is not permitted, as well as defining unlawful storage of personal property on public property and the process for notification for abatement of stored property. The updated Ordinance will provide City staff with additional tools where enforcement action becomes necessary. City staff will continue to respond compassionately with a multi-disciplinary team to address the needs of the homeless population with the goal being to connect the unhoused to services and housing.

FISCAL IMPACT:

None.

ATTACHMENT:

1. Draft Ordinance

DRAFT ORDINANCE B

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, REPEALING AND REPLACING, IN ITS ENTIRETY, TITLE 5, CHAPTER 15 (PROHIBITED CAMPING), OF THE ATASCADERO MUNICIPAL CODE TO ADDRESS PROHIBITED CAMPING ON PUBLIC AND PRIVATE PROPERTY, REGULATE STORAGE OF PERSONAL PROPERTY ON PUBLIC PROPERTY, AND ESTABLISH TIME, MANNER AND PLACE REGULATIONS FOR CAMPING BY NECESSITY

WHEREAS, homelessness continues to be a significant challenge not only in the City of Atascadero but throughout the entire county and state; and

WHEREAS, the City Council originally adopted a Prohibited Camping Ordinance in 2013 to address camping on public property; and

WHEREAS, the United States Ninth Circuit Court of Appeals decisions in *Martin v. Boise* and *Johnson v. City of Grants Pass*, combined with voter-approved ballot measures and state legislation, have severely limited the City's ability to take enforcement action for violation of the City's Prohibited Camping Ordinance; and

WHEREAS, the City has received numerous complaints from, and appeals to address camping throughout the City by, residents impacted by campers in their residential neighborhoods, local businesses and places of worship expressing health and safety concerns due to encampments encroaching near and or on their properties, and the Atascadero Unified School District to address camping in and around school properties; and

WHEREAS, the Atascadero Mutual Water Company, concerned with pollution of the City's water source caused by human waste contamination as a result of camping in and around waterways, recently appealed to the City to prohibit camping near Atascadero Creek, Graves Creek, and the Salinas River; and

WHEREAS, in response to these requests and the *Boise* and *Grants Pass* decisions, staff researched many communities' recently adopted prohibited camping ordinances to assist in developing an updated ordinance that meets the health and safety needs of all residents in the community (housed and unhoused) as well as complies with these United States Ninth Circuit Court of Appeals decisions; and

WHEREAS, the proposed draft ordinance was developed to regulate the time, place, and manner of camping on public and private property given enforcement limitations, regulate vehicle habitation on public property and rights-of-way, vehicle camping on private property, and camping on public property; and

WHEREAS, it is staff's intention to continue to respond compassionately, with a multi-disciplinary team to address the needs of the homeless population.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATASCADERO
HEREBY ORDAINS AS FOLLOWS:**

SECTION 1. Recitals: The above recitals are true and correct.

SECTION 2. Determination. The City Council has determined that Title 5, Chapter 15 is repealed and replaced in its entirety, as set forth in Exhibit “A” of this Ordinance, attached hereto and incorporated herein by reference.

SECTION 3. CEQA. The proposed Title 5, Chapter 15 is exempt from the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., because it can be seen with certainty that there is no possibility that the enactment of this Ordinance would have a significant effect on the environment (Pub. Resources Code § 21065; CEQA Guidelines §§ 15378(b)(4), 15061(b)(3)).

SECTION 4. Interpretation. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council’s intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 5. Preservation. Repeal of any provision of the AMC or of any previous Code Sections, does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance’s effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 6. Effect of Invalidation. If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the AMC or other City Ordinance by this Ordinance will be rendered void and cause such previous AMC provision or other City Ordinance to remain in full force and effect for all purposes.

SECTION 7. Severability. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 8. Notice. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Atascadero’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 9. Effective Date. This Ordinance will take effect on the 30th day following its final passage and adoption.

INTRODUCED at a regular meeting of the City Council held on _____, 2023, and **PASSED, APPROVED** and **ADOPTED** by the City Council of the City of Atascadero, State of California, on _____, 2023.

CITY OF ATASCADERO:

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Brian A. Pierik, City Attorney

CHAPTER 15. - CAMPING AND STORAGE OF PERSONAL PROPERTY

5-15.101. - PURPOSE.

This Chapter is intended to protect the public health, welfare, and safety by reserving open spaces and facilities within the City limits for their intended purposes. Public property within the City should be readily accessible and available to residents and the general public at large. Unregulated use of public property for camping or storage of personal property interferes with the rights of others to make use of such shared public spaces for their intended purposes and frequently contributes to blight or pollution, and causes damage to public property. This Chapter is intended to avoid unsafe and potentially disorderly conditions, unsanitary and unhealthful conditions, and the degradation or destruction of open spaces and facilities within the City, and preserve such open spaces and natural resources.

5-15.102. - DEFINITIONS.

The following words and phrases, when used in this Chapter, shall have the below meanings unless it is readily apparent from the context that another meaning is intended.

- (a) "Camp" or "Camping" means—the conduct of more than one of the following activities on public property, when it reasonably appears, in light of all circumstances, that a person is using such public or private property for living accommodation purposes:
- i. sleeping or preparing to sleep (including the laying down of bedding for the purpose of sleeping), including undertaking such activities in a vehicle (including any motorhome, camp trailer, camper, coach, fifth wheel travel trailer, house car, recreational vehicle, mobile home), or obscuring some or all of the vehicle's windows;
 - ii. erecting or using any tent, camp facilities, or building any other form of shelter;
 - iii. unattended storage of personal belongings (including but not limited to clothing, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware) or camp paraphernalia;
 - iv. possessing inside or on a vehicle items that are not associated with ordinary vehicle use, such as a sleeping bag, bedroll, blanket, sheet, pillow, kitchen utensils, cookware, or cooking equipment;
 - v. making or using any fire, for purpose of heating or cooking, or using any flame, grill, portable stove, or similar flame producing device for cooking of meals on public property, except for in City parks with designated barbeque and cooking areas while using City-provided cooking facilities designed for such purposes; or

- vi. doing any digging or earth breaking activities for purpose of creating or improving a shelter.

Camping shall be deemed to occur regardless of whether a full night is actually spend occupying any specific location on public property.

- (b) "Camp facilities" include, but are not limited to, tents, huts, or similar temporary shelters consisting of any material with a top or roof or any other upper covering or that is otherwise enclosed by sides that is of sufficient size for a person to fit underneath or inside while sitting or lying down and includes the use of a tarp or other material tied or affixed to a structure or bush to create an enclosed area.
- (c) "Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks, or non-City designated cooking or heating equipment.
- (d) "Public property" means any publicly owned property in the City, whether improved or unimproved, including, but not limited to, any of the following: public alleyways; public parking lots; public passageways; public streets; public rights-of-way; park playgrounds; freeway on-ramps and off-ramps; publicly owned, maintained, or operated parks; publicly owned, maintained, or operated landscaped areas or greenbelts; publicly owned fences, trees, light poles, or equipment boxes; publicly owned, maintained, or operated open spaces including, but not limited to, public facilities or buildings of any kind; public sidewalks, curbs, and gutters; public educational institutions; or other government owned, maintained, or operated properties located within the City.
- (e) "Public utilities" means any outdoor water, sewer, or electrical outlets or fixtures on government owned, maintained, or operated properties located within the City.
- (f) "Vehicle" means a vehicle as defined in California Vehicle Code section 670.
- (g) "Very High Fire Severity Zones" means such areas as are designated by the City pursuant to Government Code Section 51179.

5-15.103. UNLAWFUL CAMPING.

It shall be unlawful for any person to camp on any public property within the City, except as otherwise provided herein.

5-15.104. STORAGE OF PERSONAL PROPERTY ON PUBLIC PROPERTY.

It shall be unlawful for any person to store any personal property, including camp facilities and camp paraphernalia, on any public property within the City, except as otherwise provided in this chapter.

Prior to removing any personal property, any enforcing employee shall attempt to provide any apparent owners with notice of intent to remove the personal property at least 24 hours in advance of any action to remove any personal property. Notice shall be in writing and shall be served personally on the owners of such property if readily apparent, or otherwise shall be left on or with the property. In addition, the enforcing employee shall post the notice on or near the personal property so as to reasonably communicate the notice to persons living at the camp facility but not present during the attempt to serve notice. The notice shall contain the following information:

- A. The location of the personal property;
- B. The date and time notice was served or posted;
- C. A statement that the storage of personal property violates this Chapter;
- D. An advisement that the City will remove the personal property 24 hours after the date and time of the notice;
- E. Information about any housing or shelter and homeless services available for the owners of the personal property, the phone number and address to contact in order to obtain the housing or shelter or other health and human services;
- F. An advisement that any personal property remaining at the site when the enforcing employee returns to remove the personal property and it will be impounded for no fewer than 90 days and will be discarded thereafter if not claimed; and
- G. The address, phone number, and operating hours of the location where the personal property will be stored and may be retrieved, and that the City will charge no fee for storage or retrieval.

A person occupying a camp facility who is present at the time the enforcing employee is removing the personal property can retain his or her personal property except items that constitute an immediate threat to the health or safety of the public or items that constitute evidence of a crime or contraband that may be seized, as permitted by law.

5-15.105. OFFER OF HOUSING, SHELTER AND SERVICES.

Prior to directing a person to remove camp facilities or prior to removing the camp facilities, the enforcing employee shall offer information to the occupant(s) regarding any available housing or shelter and other health and human services that said employee reasonably believes are relevant to the occupant(s) and their individual circumstances.

5-15.106. EXEMPTION FOR NECESSITY – TIME, PLACE, AND MANNER REGULATIONS.

The provisions of this Chapter shall not apply, except as stated below, to any individual camping by necessity, including, for example, those instances in which every shelter in the local area is at capacity. The City Manager may establish local guidelines to determine whether an individual is camping by necessity.

If an individual is camping by necessity, the following time, manner and place requirements shall apply and strict compliance with them shall be required in order to avoid the prohibitions otherwise specified in this Chapter, and the imposition of penalties as otherwise specified in this code:

- A. Time. No person shall erect, configure, or construct any camp facilities from 7:00 a.m. to 8:00 p.m. (except during stormy weather). A person must take down, fold, and completely remove or put away any camp facilities erected, configured, or constructed on any public property between the hours of 7:00 a.m. and 8:00 p.m. (except during stormy weather).
- B. Manner. At no time shall any person obstruct access to a street, sidewalk, park playground, public utility, public property, or other public right-of-way open for pedestrian travel or governmental use:
 - 1. By sitting, lying or sleeping, or by storing, using, maintaining or placing personal property in a manner that does not allow for passage as required by the Americans with Disabilities Act of 1990, as amended from time to time; or
 - 2. By sitting, lying or sleeping, or by storing, using, maintaining or placing personal property within ten feet of any operational or utilizable entrance, exit, driveway, or loading dock; or
 - 3. By creating any barrier with string, wire, rope, or chain, or other attachments or appurtenances upon City owned trees, light poles, fences, equipment, or other public facilities.
 - 4. A camp or camping, including outside stored personal property, must be limited to a spatial footprint of no more than ~~ten~~100 square feet, or ten-foot by ten-foot area. The intent of this provision is to allow a person to sleep protected from the elements and maintain the essentials for living, while still allowing others to use public spaces as designed and intended.
 - 5. Individuals may not:
 - a. Accumulate, discard, or leave behind garbage, debris, unsanitary or hazardous materials, or other items of no apparent utility in a public right-of-way, on city property, or on any adjacent public or private property.

- b. Start or maintain any fire for the purposes of burning any combustible material or use a gas heater in or around a campsite.
 - c. Erect, install, place, leave, or set up any type of permanent or temporary fixture or structure of any material(s) in or upon public property or a public right-of-way. Items such as tents and similar items used for shelter that are readily portable are not structures for purposes of this section.
 - d. Dig, excavate, terrace soil, alter the ground or infrastructure, cause environmental damage, or damage vegetation or trees in and around a campsite.
 - e. Accumulate, discard, or leave behind garbage, debris, unsanitary or hazardous materials, sewage, drug paraphernalia, improperly disposed of syringes, other evidence of conspicuous drug use in the public right-of-way, on city property, or any adjacent public or private property.
- C. Place. Camping is prohibited on the following public property, which shall be deemed to include the entire parcel, unless signage is posted designating permissible camping locations on the parcel as part of an overnight sleeping program established by the City:
- 1. Atascadero City Hall
 - 2. Centennial Plaza
 - 3. Atascadero Public Library
 - 4. Atascadero Transit Center
 - 5. Colony Park Community Center
 - 6. Atascadero Lake Park Pavilion
 - 7. Atascadero Zoo
 - 8. Faces of Freedom Veterans Memorial
 - 9. The Plaza on El Camino
 - 10. Within 500 feet of any school
 - 11. Within 500 feet of the banks of the Salinas River, Atascadero Creek, or Graves Creek
 - 12. On the entirety of the Juan Bautista de Anza trail and Historic Trail corridor
 - 13. Areas of City parks: athletic fields and sports courts, irrigated or landscaped areas, park playgrounds, synthetic turf areas, and park picnic areas including tables, bleachers, benches, and pavilions
 - 14. Within 500 feet of any bridge, highway underpasses or highway overpasses, or any freeway onramps and off-ramps
 - 15. In all Very High Fire Severity Zones
 - 16. Within 500 feet of all Atascadero government buildings
- D. Camping shall be prohibited within 100 feet of any public property where signs are posted stating that camping is prohibited at that location. The City Manager or their designee is authorized under this subsection to post signage on public

property prohibiting camping for periods of 30 days upon determining that camping or storage of personal property at such location has created nuisance conditions that affects the health and safety of the public or occupants.

5-15.107. OVERNIGHT CAMPING ON PRIVATE PROPERTY

Notwithstanding any other provision of this code, a total of three vehicles per parcel, may be used by people who lack access to permanent or safe shelter and who cannot obtain other housing for overnight camping in a parking lot or paved or gravel surface of a parcel of any size owned or leased by a faith based institution, non-profit, or a business, with permission of the property owner and lessee, and only after the owner is issued a City permit by the Community Development Department.

- A. A property owner or lessee who allows overnight camping on a property, pursuant to this section shall:
 - a. Provide persons camping overnight with access to sanitary facilities, including, but not limited to toilet, hand washing and trash disposal facilities at all times when people are authorized to be present for overnight camping.
 - b. Not require payment of any fee, rent or other monetary charge for overnight camping authorized by this section.
 - c. Restrict the use of the owner's or lessee's property for no longer ~~that~~ than 72 hours for each vehicle.
 - d. Not allow the dumping of wastewater or trash on the property unless sufficient city approved receptacles are available.
 - e. Not allow for the storage of personal property outside of or adjacent to the vehicle.
 - f. Not allow on-site storage of personal property when the personal property owner or lessee is no longer staying on the property being used for camping.
- B. A property owner or lessee who permits overnight camping pursuant to this section may revoke that permission at any time and for any reason. Any person who has permission to sleep on that property as provided in this section shall leave the property immediately after permission has been revoked.
- C. The provisions of this section are not intended to limit or otherwise change any permitted land use on a property.
- D. This section shall not apply when the camping by tent or other removable structure is by minor children, under the direct care and supervision of a parent or guardian who is related to or visiting the owner of such property, or the lessee of such property, or the person in lawful possession of the property. This exception is only intended to cover short term and temporary camping in no event longer than three days.

5-15.108. OTHER EXEMPTIONS.

The provisions of this Chapter shall not apply in the event of a declared state of emergency, nor to any persons participating in organized and supervised recreational activities in parks within the City, if approved by the City's Recreation Supervisor or City Manager, nor to camping in public accommodations that are properly zoned, legally established and designated for camping purposes.



Atascadero City Council

Staff Report – City Manager’s Office

Formation of New Positions and Reclassification of Existing Positions Throughout the City

RECOMMENDATIONS:

Council:

1. Authorize the City Manager to establish new positions, including Senior Recreation Coordinator, Finance Analyst, Planning Manager, and Community Services & Promotions Director; and
2. Authorize the City Manager to reclassify employees into appropriate pay classifications of Deputy City Manager, Human Resources Manager, Zoo Director and Police Chief; and
3. Amend the fiscal year 2023-2024 monthly salary schedule to include new positions as follows:

CLASSIFICATION	RANGE	STEP A	STEP B	STEP C	STEP D	STEP E
Community Services & Promotions Director	M57	12,290.67	12,905.20	13,550.46	14,227.98	14,939.38
Deputy City Manager	M54	11,419.91	11,990.91	12,590.46	13,219.98	13,880.98
Finance Analyst	M39	7,922.68	8,318.81	8,734.75	9,171.49	9,630.06
Human Resources Manager	M46	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91
Planning Manager	M46	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91
Police Chief	M64	14,575.03	15,303.78	16,068.97	16,872.42	17,716.04
Senior Recreation Coordinator	24	5,405.39	5,675.66	5,959.44	6,257.41	6,570.28
Zoo Director	M46	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91

4. Adopt Draft Resolution for Non-Represented Professional and Management Workers and Confidential Employees; and
5. Authorize the City Manager to execute a Side Letter with the Local 620 Service Employees International Union (SEIU) for the existing Memorandum of Understanding (MOU), dated July 1, 2021, through June 30, 2024, adding the title of Senior Recreation Coordinator at the salary range shown above; and
6. Authorize the City Manager to approve the Employment Agreement for Terrie Banish to serve as Community Services & Promotions Director; and
7. Authorize the Director of Administrative Services to allocate \$140,000 in salary savings from fiscal year 2023-2024 for labor costs in fiscal year 2024-2025.

DISCUSSION:

Background:

City staff continues to look for better and more efficient ways to deliver many and varied City services in a cost-effective manner. At the core of this continual improvement are the City employees who manage these services. The City is very fortunate to have recruited and retained highly skilled and professional employees that keep the City running, and organizing personnel for each department is an important component of optimizing City services and functions.

During the budget preparation for the 2023-2025 budget, additional funds were included in the General Fund to allow for any potential adjustments a new City Manager may want to make with regards to staffing. A new City Manager on board provides an opportunity to evaluate City Management as a whole and enhance the overall growth of the organization. The City Manager is looking to empower current management staff to increase innovation and develop or enhance programs in their departments to elevate the service level and overall benefit to the community. Additionally, the City Manager desires to have the organization be structured in a way that best supports employees and the effective delivery of services. An assessment has been completed with every department head to look at positions within each department where there is potential for increased responsibility and operational impact.

In order to retain and develop the caliber of employee that the City depends on to provide quality services, and to continue to best serve the community, the following adjustments are being proposed:

Creation of New Positions

- Finance Analyst
 - Will provide support for upcoming financings for public safety facilities and the wastewater treatment plant, allow for additional grant applications and management, support for addressing new and more stringent audit requirements and compliance with new state regulations, and will provide direct administrative support and analysis for the Administrative Services Department's operations.
- Planning Manager
 - Will manage the Planning Division, mentor and train planning staff, manage planning/zoning special projects and serve as a lead staff person for supporting the Planning Commission. Additionally, this frees up the Community Development Director to work on long-term community building and economic development, visioning, operational efficiencies and process improvements, etc.

Reclassification to New Position/New Title

- Recreation Coordinator (1 of 3) reclassified to Senior Recreation Coordinator for management of the Pavilion on the Lake and special events and supervision of related staff.
- Deputy City Manager (1 of 3) reclassified to Community Services & Promotions Director, creating a new department to provide more effective management, organizational effectiveness and accountability, and clarity for staff at the Zoo and Recreation Division.

Reclassification of Existing Position based on Market Conditions

- Deputy City Manager (2 of 3)
- Human Resources Manager
- Police Chief
- Zoo Director

Per the City's Municipal Code, the City Council must concur with any staffing adjustment proposed by the City Manager. Staff is proposing that the changes to the salary schedule and proposed reclassifications become effective on October 11, 2023, immediately following the October 10, 2023, Council meeting. Staff has reviewed the long-term fiscal impact of these changes and believes them to be in alignment with Council's overall financial strategy. The seven actions proposed tonight are necessary to make these needed staffing changes. No changes other than the above reclassifications and title changes are included in the updated labor agreements.

FISCAL IMPACT:

The creation and reclassifications of these positions has an estimated cost of \$276,000 for the remainder of fiscal year 2023-2024 in budgeted funds. These changes have the estimated ongoing cost of \$480,000 per fiscal year, \$340,000 of which is already included in the budget.

ALTERNATIVE:

Council may give direction to the City Manager not to make any changes to the current titles and staffing throughout the City.

ATTACHMENTS:

1. Draft Resolution for Non-Represented Professional and Management Workers and Confidential Employees
2. SEIU Side Letter to the MOU, adding the title of Senior Recreation Coordinator
3. Updated 2023-2024 Citywide Full Time Salary Schedule
4. Employment Agreement for Terrie Banish

DRAFT RESOLUTION

**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF ATASCADERO, CALIFORNIA, ESTABLISHING
THE COMPENSATION AND BENEFIT PLAN FOR
NON-REPRESENTED PROFESSIONAL AND MANAGEMENT
WORKERS AND CONFIDENTIAL EMPLOYEES,
EFFECTIVE OCTOBER 11, 2023 – JUNE 30, 2024**

WHEREAS, the Government Code of the State of California prescribes a procedure for discussing and resolving matters regarding wages, hours and other terms and conditions of employment; and

WHEREAS, the City Personnel System Rules provided for a Compensation Plan; and

WHEREAS, the City desires to set forth salaries and benefits for Non-Represented Professional and Management workers and Confidential employees; and

WHEREAS, the City Council adopted Resolution 2023-042 on June 13, 2023, establishing the compensation and benefit plan for Non-Represented Professional and Management workers and Confidential employees and desires to replace that resolution with this resolution and rescind said adoption.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Atascadero:

SECTION 1. All prior Resolutions for Non-Represented employees are repealed.

SECTION 2. The Non-Represented Professional and Management Workers and Confidential Employees Compensation and Benefit Plan is hereby established as follows:

Positions

The following positions are included in this Resolution. The City Manager and Department Heads have individual employment agreements defining other terms and conditions of employment not described herein.

Executive Management Positions

Administrative Services Director

~~Deputy City Manager~~

City Manager

Community Development Director

Community Services & Promotions Director

Deputy City Manager

Fire Chief

Police Chief

Public Works Director

ITEM NUMBER: A-3
DATE: 10/10/23
ATTACHMENT: 1

Management Positions

- Battalion Chief
- Deputy Administrative Services Director
- Deputy Community Development Director
- Deputy Community Development Director/Building Official/Economic Development Director
- Deputy Public Works Director
- Finance Analyst
- Human Resources Manager
- Planning Manager
- Police Commander
- Public Works Analyst
- Zoo Director

Confidential (Includes only designated positions within the classifications)

- Accounting Specialist
- Administrative Assistant
- Finance Technician

Salaries

This one (1) year agreement shall provide salary increases according to the following formula and schedule:

The following monthly salaries are effective October 11, 2023:

SALARY WORKSHEET
MONTHLY SALARY
Effective July 1, 2023

CLASSIFICATION	STEP A	STEP B	STEP C	STEP D	STEP E
Accounting Specialist-Confidential	-5,675.66	-5,959.44	-6,257.41	-6,570.28	-6,898.79
Administrative Assistant-Confidential	-5,147.99	-5,405.39	-5,675.66	-5,959.44	-6,257.41
Administrative Services Director	12,290.67	12,905.20	13,550.46	14,227.98	14,939.38
Battalion Chief	10,358.19	10,876.10	11,419.91	11,990.91	12,590.46
City Manager	18,030.35	18,931.87	19,878.46	20,872.38	21,916.00
Community Development Director	12,290.67	12,905.20	13,550.46	14,227.98	14,939.38
Deputy Administrative Services Director	-9,395.18	-9,864.94	10,358.19	10,876.10	11,419.91
Deputy City Manager	-9,864.94	10,358.19	10,876.10	11,419.91	11,990.91
Deputy Community Development Director	-9,395.18	-9,864.94	10,358.19	10,876.10	11,419.91
Deputy Community Development —Director / Building Official / Economic —Development Director	10,617.14	11,148.00	11,705.40	12,290.67	12,905.20
Deputy Public Works Director	-9,395.18	-9,864.94	10,358.19	10,876.10	11,419.91
Finance Technician-Confidential	-5,147.99	-5,405.39	-5,675.66	-5,959.44	-6,257.41
Fire Chief	13,219.98	13,880.98	14,575.03	15,303.78	16,068.97
Human Resources Manager	-7,010.83	-7,361.37	-7,729.44	-8,115.91	-8,521.71
Police Chief	13,219.98	13,880.98	14,575.03	15,303.78	16,068.97
Police Commander	10,358.19	10,876.10	11,419.91	11,990.91	12,590.46
Public Works Analyst	-7,922.68	-8,318.81	-8,734.75	-9,171.49	-9,630.06
Public Works Director	12,290.67	12,905.20	13,550.46	14,227.98	14,939.38

**SALARY WORKSHEET
 MONTHLY SALARY
 Effective October 11, 2023**

CLASSIFICATION	STEP A	STEP B	STEP C	STEP D	STEP E
Accounting Specialist- Confidential	5,675.66	5,959.44	6,257.41	6,570.28	6,898.79
Administrative Assistant- Confidential	5,147.99	5,405.39	5,675.66	5,959.44	6,257.41
Administrative Services Director	12,290.67	12,905.20	13,550.46	14,227.98	14,939.38
Battalion Chief	10,358.19	10,876.10	11,419.91	11,990.91	12,590.46
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Community Services & Promotions Director	12,290.67	12,905.20	13,550.46	14,227.98	14,939.38
Deputy Administrative Services Director	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91
Deputy City Manager	11,419.91	11,990.91	12,590.46	13,219.98	13,880.98
Deputy Community Development Director	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91
Deputy Community Development Director / Building Official / Economic Development Director	10,617.14	11,148.00	11,705.40	12,290.67	12,905.20
Deputy Public Works Director	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91
Finance Analyst	7,922.68	8,318.81	8,734.75	9,171.49	9,630.06
Finance Technician- Confidential	5,147.99	5,405.39	5,675.66	5,959.44	6,257.41
Fire Chief	13,219.98	13,880.98	14,575.03	15,303.78	16,068.97
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Planning Manager	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91
Police Chief	14,575.03	15,303.78	16,068.97	16,872.42	17,716.04
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Zoo Director	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91

Work Period

The normal work period for non-exempt employees shall be seven (7) days with a maximum non-overtime of forty (40) hours.

Overtime Rate

Overtime for non-exempt employees; shall be compensated at the rate of time and one-half the regular rate of pay. All overtime shall be recorded and paid in the following manner:

- 1 to 15 minutes, overtime compensation – ¼ hour
- 16 to 30 minutes, overtime compensation – ½ hour
- 31 to 45 minutes, overtime compensation – ¾ hour
- 46 to 60 minutes, overtime compensation – 1 hour

Overtime Hours Paid

Overtime for non-exempt employees shall be paid after forty (40) hours worked in a work period. Paid time off shall be considered time worked for overtime purposes.

Schools/Training/Conferences

Hours traveling, studying, or evening classes, etc., when a non-exempt employee is attending an out-of-town school shall be paid in accordance with all FLSA provisions.

Compensatory Time (CT)

Notwithstanding the provisions of this section, non-exempt employees may be granted CT for overtime credit computed at time and one-half at the mutual convenience of the City and the employee. Non-exempt employees may accumulate a maximum of one hundred and twenty (120) hours in their CT account.

Scheduling Compensatory Time

Requests to use CT shall be granted with due regard for operational necessity such as staffing levels.

Deferred Compensation

The City will match an eligible employee's contribution to a deferred compensation program. The match will be up to a maximum of \$1,000 annually for executive management employees and \$500 annually for management employees. All deferred compensation contributions are fully vested in the employee and shall not be available to the City.

Longevity Exclusively as Section 457 Contribution

- a. For those active employees that have attained 10 years of continuous full time employment, the City, consistent with sections (b) through (f) below, shall deposit funds into a separate deferred compensation plan Section 457 account for each employee in the following amounts:
 - i. Fiscal Year 2021-2022: \$50 for each whole year of continuous full-time employment with the City
 - ii. After July 1, 2022: \$100 per year for each whole year of continuous full-time employment with the City
- b. Only employees who have received an overall rating of "satisfactory" or better on their last evaluation on file will be eligible for the longevity 457 contribution.
- c. Whole years of full time employment shall be determined on September 1st of each year for each active employee.
- d. Fractions of a year will be rounded down to the nearest whole year.
- e. For Fiscal Year 2021-2022, deposit into the deferred compensation account shall be made in one lump sum no later than 60 days after execution of this MOU. Thereafter, deposit into the deferred compensation account shall be made in one lump sum annually no later than the second pay period in September.
- f. Based on title 2 of the California Code of Regulations Section 571, the annual City deferred contribution for longevity into the separate deferred compensation plan, will not be considered special compensation, will not be reported to CalPERS as compensation and will

not be considered as compensation when calculating an employee's retirement benefits. In the event that CalPERS at some time in the future determines that the longevity Section 457 Contribution meets the definition of "Special Compensation", both parties agree to reopen negotiations related to the financial impacts and implementation of this issue.

Health Benefits

1. Effective January 1, 2023, for unit members who elect to have "Family" coverage, the City shall pay an amount not to exceed \$2,156.19 per month for employees electing Family coverage. The City contribution shall go toward the cost of all medical, dental, vision and life insurance benefit premiums for the unit member employee and dependents. City shall pay for increased costs to medical, dental, vision and life insurance premiums for the employee and fifty percent (50%) of increased costs for dependents based upon HMO plan costs.
2. Effective January 1, 2023, for unit members who elect to have "Employee +1" coverage, the City shall pay an amount not to exceed \$1,607.23 per month for employees electing Employee +1 coverage. The City contribution shall go toward the cost of all medical, dental, vision and life insurance benefit premiums for the unit member employee and dependent. City shall pay for increased costs to medical, dental, vision and life insurance premiums for the employee and fifty percent (50%) of increased costs for the dependent based upon HMO plan costs.
3. Effective January 1, 2023, for unit members who elect to have "Employee Only" coverage, the City shall pay amount not to exceed \$1,216.16 per month for employees electing Employee Only coverage. The City contribution shall go toward the cost of all medical, dental, vision and life insurance benefit premiums for the unit member employee for the term of this agreement. City shall pay for increased costs to medical, dental, vision and life insurance premiums for the employee based upon the HMO plan costs.

For unit members who elect to have "Employee Only" coverage, available funds remaining from the City's contribution toward insurance coverage shall be paid to an employee hired on or before September 1, 2000 as additional compensation. This amount shall not exceed \$240.56 per month.

4. The City of Atascadero has established a Post Retirement Health Benefit for Executive Management and Council. The City agrees to reimburse the retiree for retiree and/or retiree's dependent health (medical/dental/vision) insurance premiums, disability insurance, long-term health care or life insurance premiums in a method determined by the Administrative Services Director following retirement.

The program parameters are:

- The benefit is available upon retirement from PERS or other similar retirement program after age 50; and
- The employee must have served for a minimum of 8 years with the City of Atascadero. (Council serving consecutive full terms totaling 8 consecutive years shall be eligible regardless of swear in dates); and
- For employees hired after July 1, 2016 the employee must begin drawing retirement within 6 months of separating from the City of Atascadero; and
- The benefit extends between the date of retirement and age 65; and

- The current benefit is \$200.00 monthly.

Life Insurance

The City shall provide a term life insurance policy on each employee (Executive Management, Management, Confidential and Council) in the amount of Fifty-Thousand Dollars (\$50,000).

The City shall provide a term life insurance policy for each eligible dependent of Executive Management, Management and Confidential employees enrolled in health coverage in the amount of One Thousand Dollars (\$1,000) per dependent.

Long-Term Disability Insurance

The City shall provide a City-paid program to provide Long-Term Disability Insurance for Executive Management and Management employees.

State Disability Insurance

The City provides State Disability Insurance as a payroll deduction for each employee in the Confidential classification only. State Disability Insurance shall be integrated with sick leave with the objective of providing full compensation.

Leave

Administrative Leave

Executive Management Employees, and Management Employees will receive Administrative Leave, which will vest as of July 1 annually. Except as provided below, Administrative Leave will not be carried over or accrue from one fiscal year to the next. If an employee is unable to use his/her Administrative Leave prior to the end of the fiscal year for work related reasons beyond his/her control, said leave will be carried over into the next fiscal year for a period not to exceed three (3) months. Said time will be available to the employee for use during that period, but will not be accrued for the purpose of payoff in the event of termination. In the event an employee covered by this Agreement is employed after January 1 of the fiscal year, the employee shall be eligible for one half of their annual allotment of Administrative Leave. Employees shall receive Administrative Leave at the following annual rates:

- Executive Management shall receive 80 hours.
- Management Employees shall receive 48 hours.

Vacation Leave

- a. Employees shall receive vacation leave consistent with the Personnel System Rules.
- b. In addition to the vacation leave accrued as outlined in Section 15.2 B of the City of Atascadero Personnel System Rules, employees shall receive:
 - An additional two days of vacation annually upon completing 15 years of service for a total accrual of 22 days per year or 6.77 hours per pay period; and
 - Two more days of vacation annually upon completing 20 years of service for a total accrual of 24 days per year or 7.385 per pay period.

Holidays

The City shall recognize the following days as official City holidays:

<u>Holiday</u>	<u>Day Observed</u>
New Year's Day	January 1
Martin Luther King, Jr. Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	1st Monday in September
Veteran's Day	November 11
Thanksgiving Day	4th Thursday in November
Day After Thanksgiving	Friday after Thanksgiving
Christmas Eve Day	December 24
Christmas Day	December 25
"Floating" Holiday	Off As Scheduled; Accrues January 1

Each unit member employed by the City as of January 1st of each year shall be eligible for one floating holiday (8 hours). Floating holidays must have prior department approval and shall be consistent with the efficient operation of the department. The floating holiday may be used between January 1 and December 31 of each year.

Sick Leave

1. Sick leave accumulates at a rate of 3.69 hours per pay period. There is no limit to the accumulation.
2. Stay Well Bonus. Employees with 384 or more hours of accumulated sick leave shall be eligible for the Stay Well Bonus. The Stay Well Bonus will be implemented as follows:
 - a. The sick leave pay-off will occur during the twelve- (12) month period beginning the first day after the second pay period in October and ending on the last day of the second pay period in October of the following year after an employee has accumulated and maintained 384 hours of sick leave.
 - b. Once the eligibility requirements have been met, an employee may opt to receive a pay-off equal to one-third (1/3) of the unused annual allotment of sick leave. (The annual allotment is 95.94 hours).
 - c. Checks will be prepared by December 15 of each year.
3. Sick Leave Payback. When an executive management employee, a management employee or confidential employee terminates employment in good standing, after five (5) years of continuous service with the City of Atascadero in an executive management, management, or confidential position, as defined in this Resolution, he/she shall be paid one-half of his/her accumulated Sick Leave.

4. In any calendar year, up to two days (16 hours) of sick leave may be used for personal reasons without explanation. These days are not intended as vacation days and may not be used to extend vacations or holidays.

Bereavement Leave

Employees shall be granted bereavement leave pursuant to the City of Atascadero Personnel System Rules.

The City shall provide up to twenty-four (24) hours of paid bereavement leave for bereavement purposes. Bereavement purposes include (1) the death of a member of the employee's immediate family, and (2) the critical illness of a member of the employee's immediate family where death appears to be imminent. The amount of bereavement leave provided under this section is twenty four (24) hours per family member.

The employee may be required to submit proof of a relative's death or critical illness before final approval of leave is granted.

For purposes of this section, "immediate family" means: spouse or domestic partner, parent (including biological, foster, or adoptive parent, a stepparent, or a legal guardian), grandparent, grandchild, child (including biological, foster, or adopted child, a stepchild, a legal ward, a child of a domestic partner, or a child of a person standing in loco parentis), brother, sister, aunt, uncle, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law or significant other.

Twenty-four (24) hours of the paid absence shall be considered "bereavement leave", and any remaining time shall be from other paid time off available to the employee.

When an employee has exhausted the bereavement leave provided in this section, the employee may submit a request to his/her Department Head and request additional time off work. If approved, the employee must use their other accrued paid leave. The employee may elect which accrued paid leave he/she shall use during the additional leave. However, the employee may not use more than forty (40) hours of accrued sick leave for bereavement purposes. If the additional leave approved by the Department Head is longer than forty (40) hours, the employee is required to use accrued paid leave other than sick leave.

Retirement

CalPERS Non-Sworn Miscellaneous Members (as defined by CalPERS)

- a. Non-Sworn Miscellaneous Member employees (as defined by CalPERS) are provided retirement benefits through the California Public Employees Retirement System (CalPERS).

TIER 1

Non-sworn Miscellaneous Member employees hired on or before July 14, 2012 are provided benefits pursuant to the 2.5% @ 55 Benefit Formula (Government Code Section 21354.4), Final Compensation 1 Year (G.C. Section 20042) and Unused Sick Leave Credit (G.C. Section 20965). The City will pay 3.3% (three point three percent) of the Non-sworn Miscellaneous Member employee contribution of 8% (eight percent). Non-sworn

Miscellaneous Member employees will pay the remaining 4.7% (four point seven percent) of the employee contribution.

TIER 2

Non-sworn Miscellaneous Member employees hired between July 14, 2012 and December 31, 2012, and Non-sworn Miscellaneous Member employees hired on or after January 1, 2013 who meet the definition of a Classic Member under CalPERS, are provided benefits pursuant to the 2% @ 55 Benefit Formula (G.C. Section 21354), Final Compensation 3 Year (G.C. Section 20037) and Unused Sick Leave Credit (G.C. Section 20965). The City will pay 2.3% (two point three percent) of the Non-sworn Miscellaneous Member employee contribution of 7% (seven percent). Non-sworn Miscellaneous Member employees will pay the remaining 4.7% (four point seven percent) of the employee contribution.

TIER 3

Pursuant to the California Public Employees' Pension Reform Act of 2013 (PEPRA), Non-sworn Miscellaneous Member employees hired on or after January 1, 2013 who meet the definition of a CalPERS new member under PEPRA are provided benefits pursuant to 2% @ 62 Benefit Formula (G.C. Section 7522.20) with Final Compensation 3 Year (G.C. Section 20037). The Non-sworn Miscellaneous Member employee will pay a member contribution rate of 50% (fifty percent) of the expected normal cost rate.

- b. The City shall provide CalPERS the Post Retirement Survivor benefit for Miscellaneous Members.
- c. Employee contributions shall be contributed to CalPERS on a pre-tax basis.

CalPERS Sworn Safety Members (as defined by CalPERS)

- a. Sworn Safety Member employees (as defined by CalPERS) are provided retirement benefits through the California Public Employees Retirement System (CalPERS).

TIER 1

Sworn Safety Member employees hired on or before July 14, 2012 are provided benefits pursuant to the 3% @ 50 Benefit Formula (Government Code Section 21362.2), Final Compensation 1 Year (G.C. Section 20042) and Unused Sick Leave Credit (G.C. Section 20965). The City will pay 0% (zero percent) of the Sworn Safety Member employee contribution of 9% (nine percent). Sworn Safety Member employees will pay the employee contribution of 9% (nine percent).

TIER 2

Sworn Safety Member employees hired between July 14, 2012 and December 31, 2012, and Sworn Safety Member employees hired on or after January 1, 2013 who meet the definition of a Classic Member under CalPERS, are provided benefits pursuant to the 3% @ 55 Benefit Formula (G.C. Section 21363.1), Final Compensation 3 Year (G.C. Section 20037) and Unused Sick Leave Credit (G.C. Section 20965). The City will pay 0% (zero percent) of the Sworn Safety Member employee contribution of 9% (nine percent). Sworn Safety Member employees will pay the employee contribution of 9% (nine percent).

TIER 3

Pursuant to the California Public Employees' Pension Reform Act of 2013 (PEPRA), Sworn Safety Member employees including hired on or after January 1, 2013 who meet the definition of a CalPERS new member under PEPRA are provided benefits pursuant to the 2.7% @ 57 Benefit Formula (G.C. Section 7522.25(d)) with Final Compensation 3 Year (G.C. Section 20037). The Sworn Safety Member employee will pay a member contribution rate of 50% (fifty percent) of the expected normal cost rate.

- b. The CalPERS retirement for Sworn Safety Members (as defined by CalPERS) includes Level Four (4) of the 1959 Survivor's Benefit. The employees shall pay the monthly cost of the benefit.
- c. Employee contributions shall be contributed to CalPERS on a pre-tax basis.

Education Incentive Pay

Employees shall be reimbursed up to \$1,600.00 per fiscal year for books, tuition and related educational expenses for attending college or other professional training, providing the coursework is job-related, and the employee received a passing grade.

Uniform/Safety Equipment Allowance

- a. The City shall provide an annual uniform allowance of eight hundred dollars (\$800) for Police Chief and Commanders, and eight hundred fifty dollars (\$850) for the Fire Chief and Battalion Chiefs. Upon initial hire the employee will receive \$800/\$850. In the second year the amount will be prorated based upon the actual number of months employed in the prior year. When an employee separates from the City the Uniform Allowance will be prorated based upon the number of months worked in the then current fiscal year.
- b. The City will make a lump sum payment of the uniform allowance no later than the second payday in July.
- c. Uniforms damaged on duty shall be replaced as prorated by the Chiefs. Employees are required to seek reimbursement through the courts with all practical diligence.
- d. The City shall make available a bulletproof vest. Employees requesting a vest shall certify that they will wear the vest at all times, except in extreme climatic conditions. Vests shall be replaced or refurbished on an as needed basis as determined by the Chief of Police. Employees already owning a vest shall continue to use them until repair or refurbishment becomes necessary, as determined by the Chief of Police.
- e. Rain boots - The City shall comply with the requirements of CAL/OSHA as it relates to providing rain gear including rain boots.

Commitment to Fair and Reasonable Changes to the CalPERS System

The interests of the City and the employees whose positions are covered under this resolution are generally aligned: both seek fair and reasonable changes to the CalPERS system to ensure long-term sustainability of the system. Needed State-level changes acceptable to both executive management and City labor groups are most likely to be initiated by CalPERS member agencies and labor, working collaboratively.

City and the employees covered under this resolution hereby jointly commit to:

- Request state-level membership organizations (e.g., the League of California Cities, state-wide labor affiliates) to alert and engage members, to make this issue a priority, and encourage committing to a set of collaborative solutions;
- Encourage, educate, and engage peers (e.g., other cities, other labor groups) to make this issue a priority and to lend their voice to our request to state-level membership organizations;
- Jointly analyze options with an open mind as to potential solutions; and
- Other potential collaborative efforts as they arise.

PASSED AND ADOPTED at a regular meeting of the City Council held on the ____th day of October, 2023.

On motion by _____ and seconded by _____, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

CITY OF ATASCADERO:

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

Side Letter of Agreement

**City of Atascadero
 And
 Local 620 Service Employees International Union Atascadero Chapter**

October 11, 2023

Pursuant to the provisions of the Meyers-Milias-Brown Act (“MMBA”), and Sections 1.4.b and 6.2 of the Memorandum of Understanding (“MOU”) between the City of Atascadero (“City”) and the Local 620 Service Employees International Union Atascadero Chapter (“Union”) effective July 1, 2021 through June 30, 2024 (“MOU”), as amended by Side Letters dated 09/28/21, 9/14/22, and 6/13/23, this Side Letter of Agreement (“Side Letter Agreement”) is entered into on October 11, 2023, between the City and the Union as an amendment to the MOU. The Union and the City are collectively referred to herein as the “parties.” It is understood and agreed that the specific provisions contained in this Side Letter Agreement shall supersede any previous agreements, whether oral and written, regarding the matters contained herein. Except as provided herein, all wages, hours and other terms and conditions of employment presently enjoyed by the Union in the MOU shall remain in full force and effect.

The City and Union have met and conferred in good faith concerning the terms and conditions of this Side Letter Agreement and its implementation and agree to the following:

Section 1.2 Recognition:

- a. The City of Atascadero recognizes the Union as the recognized and exclusive representative for the following classification:
 - Senior Recreation Coordinator

Section 4.1 Salary:

SALARY WORKSHEET						
MONTHLY SALARY						
Effective October 11, 2023						
CLASSIFICATION	RANGE	STEP A	STEP B	STEP C	STEP D	STEP E
Senior Recreation Coordinator	24	5,405.39	5,675.66	5,959.44	6,257.41	6,570.28

All other provisions of the 2021-2024 MOU shall remain in full force and effect.

Local 620 SEIU Atascadero Chapter

City of Atascadero

Date:

By:

SEIU

Date:

By:

SEIU

Date:

By:

SEIU

Date:

By:

James R. Lewis, City Manager

Date:

By:

Heather Moreno, Mayor

MONTHLY SALARY
Approved October XX, 2023
Effective October 11, 2023

CLASSIFICATION	STEP A	STEP B	STEP C	STEP D	STEP E
Account Clerk II	4,131.96	4,338.56	4,555.49	4,783.26	5,022.42
Accounting Specialist- Confidential	5,675.66	5,959.44	6,257.41	6,570.28	6,898.79
Administrative Assistant	4,902.85	5,147.99	5,405.39	5,675.66	5,959.44
Administrative Assistant- Confidential	5,147.99	5,405.39	5,675.66	5,959.44	6,257.41
Administrative Services Director	12,290.67	12,905.20	13,550.46	14,227.98	14,939.38
Assistant Planner	5,675.66	5,959.44	6,257.41	6,570.28	6,898.79
Associate Civil Engineer - Registered Engineer	8,180.99	8,590.04	9,019.54	9,470.52	9,944.05
Associate Civil Engineer/Storm Water Manager	7,420.40	7,791.42	8,180.99	8,590.04	9,019.54
Associate Planner	6,410.02	6,730.52	7,067.05	7,420.40	7,791.42
Battalion Chief	10,358.19	10,876.10	11,419.91	11,990.91	12,590.46
Building Inspector I	5,537.22	5,814.08	6,104.78	6,410.02	6,730.52
Building Permit Technician	4,447.03	4,669.38	4,902.85	5,147.99	5,405.39
City Manager	18,030.35	18,931.87	19,878.46	20,872.38	21,916.00
Code Enforcement Officer	5,537.22	5,814.08	6,104.78	6,410.02	6,730.52
Community Development Director	12,290.67	12,905.20	13,550.46	14,227.98	14,939.38
Community Services & Promotions Director	12,290.67	12,905.20	13,550.46	14,227.98	14,939.38
Community Services Officer	4,521.64	4,747.72	4,985.11	5,234.37	5,496.09
Deputy Administrative Services Director	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91
Deputy City Manager	11,419.91	11,990.91	12,590.46	13,219.98	13,880.98
Deputy Community Development Director	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91
Deputy Community Development Director / Building Official / Economic Development Director	10,617.14	11,148.00	11,705.40	12,290.67	12,905.20
Deputy Public Works Director	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91
Finance Analyst	7,922.68	8,318.81	8,734.75	9,171.49	9,630.06
Finance Technician	5,022.42	5,273.54	5,537.22	5,814.08	6,104.78
Finance Technician- Confidential	5,147.99	5,405.39	5,675.66	5,959.44	6,257.41
Fire Captain	8,174.21	8,582.92	9,012.07	9,462.67	9,935.80
Fire Captain Specialist I	8,255.95	8,668.75	9,102.19	9,557.30	10,035.17
Fire Captain Specialist II	8,337.69	8,754.57	9,192.30	9,651.92	10,134.52
Fire Captain/Paramedic	8,991.63	9,441.21	9,913.27	10,408.93	10,929.38
Fire Captain/Paramedic/Specialist I	9,073.37	9,527.04	10,003.39	10,503.56	11,028.74
Fire Captain/Paramedic/Specialist II	9,155.12	9,612.88	10,093.52	10,598.20	11,128.11
Fire Chief	13,219.98	13,880.98	14,575.03	15,303.78	16,068.97
Fire Engineer	6,893.06	7,237.71	7,599.60	7,979.58	8,378.56
Fire Engineer Specialist I	6,961.99	7,310.09	7,675.59	8,059.37	8,462.34
Fire Engineer Specialist II	7,030.92	7,382.47	7,751.59	8,139.17	8,546.13
Fire Engineer/OIC	7,030.92	7,382.47	7,751.59	8,139.17	8,546.13
Fire Engineer/OIC/Specialist I	7,099.85	7,454.84	7,827.58	8,218.96	8,629.91
Fire Engineer/OIC/Specialist II	7,168.78	7,527.22	7,903.58	8,298.76	8,713.70
Fire Engineer/Paramedic	7,582.37	7,961.49	8,359.56	8,777.54	9,216.42
Fire Engineer/Paramedic/Specialist I	7,651.30	8,033.87	8,435.56	8,857.34	9,300.21
Fire Engineer/Paramedic/OIC	7,720.23	8,106.24	8,511.55	8,937.13	9,383.99
Fire Engineer/Paramedic/Specialist II	7,720.23	8,106.24	8,511.55	8,937.13	9,383.99
Fire Engineer/Paramedic/OIC/Specialist I	7,789.16	8,178.62	8,587.55	9,016.93	9,467.78
Fire Engineer/Paramedic/OIC/Specialist II	7,858.09	8,250.99	8,663.54	9,096.72	9,551.56
Firefighter	6,404.70	6,724.94	7,061.19	7,414.25	7,784.96

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CLASSIFICATION	STEP A	STEP B	STEP C	STEP D	STEP E
Firefighter Specialist I	6,468.75	6,792.19	7,131.80	7,488.39	7,862.81
Firefighter Specialist II	6,532.79	6,859.43	7,202.40	7,562.52	7,940.65
Firefighter/FEO	6,532.79	6,859.43	7,202.40	7,562.52	7,940.65
Firefighter/FEO/Specialist I	6,596.84	6,926.68	7,273.01	7,636.66	8,018.49
Firefighter/FEO/Specialist II	6,660.89	6,993.93	7,343.63	7,710.81	8,096.35
Firefighter/Paramedic	7,045.17	7,397.43	7,767.30	8,155.67	8,563.45
Firefighter/Paramedic/Specialist I	7,109.22	7,464.68	7,837.91	8,229.81	8,641.30
Firefighter/Paramedic/FEO	7,173.26	7,531.92	7,908.52	8,303.95	8,719.15
Firefighter/Paramedic/Specialist II	7,173.26	7,531.92	7,908.52	8,303.95	8,719.15
Firefighter/Paramedic/FEO/Specialist I	7,237.31	7,599.18	7,979.14	8,378.10	8,797.01
Firefighter/Paramedic/FEO/Specialist II	7,301.36	7,666.43	8,049.75	8,452.24	8,874.85
Human Resources Manager	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91
Inspector	5,147.99	5,405.39	5,675.66	5,959.44	6,257.41
Lead Maintenance Worker	4,783.26	5,022.42	5,273.54	5,537.22	5,814.08
Lead Zookeeper	4,669.38	4,902.85	5,147.99	5,405.39	5,675.66
Maintenance Worker I	3,747.81	3,935.20	4,131.96	4,338.56	4,555.49
Maintenance Worker II	4,338.56	4,555.49	4,783.26	5,022.42	5,273.54
Network Analyst	6,257.41	6,570.28	6,898.79	7,243.73	7,605.92
Office Assistant II	3,841.51	4,033.59	4,235.27	4,447.03	4,669.38
Office Assistant III	4,131.96	4,338.56	4,555.49	4,783.26	5,022.42
Planning Manager	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91
Police Chief	14,575.03	15,303.78	16,068.97	16,872.42	17,716.04
Police Commander	10,358.19	10,876.10	11,419.91	11,990.91	12,590.46
Police Corporal	7,770.35	8,158.86	8,566.80	8,995.14	9,444.90
Police Corporal - Intermediate POST	7,964.61	8,362.84	8,780.98	9,220.03	9,681.03
Police Corporal- Advanced POST	8,158.86	8,566.80	8,995.14	9,444.90	9,917.15
Police Lead Records Technician	5,633.48	5,915.15	6,210.91	6,521.46	6,847.53
Police Level 3 Reserve Officer	7,047.93	7,400.33	n/a	n/a	n/a
Police Officer	7,047.93	7,400.33	7,770.35	8,158.87	8,566.81
Police Officer - Intermediate POST	7,224.13	7,585.34	7,964.61	8,362.84	8,780.98
Police Officer - Advanced POST	7,400.33	7,770.35	8,158.87	8,566.81	8,995.15
Police Officer Recruit	5,496.09	n/a	n/a	n/a	n/a
Police Sergeant	9,029.20	9,480.66	9,954.69	10,452.42	10,975.04
Police Sergeant - Advanced POST	9,254.93	9,717.68	10,203.56	10,713.74	11,249.43
Police Sergeant - Supervisory POST	9,480.66	9,954.69	10,452.42	10,975.04	11,523.79
Public Safety Dispatcher	5,496.09	5,770.89	6,059.43	6,362.40	6,680.52
Public Safety Dispatcher - EMD	5,546.09	5,823.39	6,114.56	6,420.29	6,741.30
Public Safety Dispatcher w/Longevity	5,770.89	6,059.43	6,362.40	6,680.52	7,014.55
Public Safety Dispatcher - EMD with Longevity	5,820.89	6,111.93	6,417.53	6,738.41	7,075.33
Public Safety Lead Dispatcher	6,059.43	6,362.40	6,680.52	7,014.55	7,365.28
Public Safety Lead Dispatcher - EMD	6,109.43	6,414.90	6,735.65	7,072.44	7,426.06
Public Safety Lead Dispatcher w/ Longevity	6,362.40	6,680.52	7,014.55	7,365.28	7,733.54
Public Safety Lead Dispatcher - EMD with Longevity	6,412.40	6,733.02	7,069.68	7,423.17	7,794.32
Public Works Analyst	7,922.68	8,318.81	8,734.75	9,171.49	9,630.06
Public Works Director	12,290.67	12,905.20	13,550.46	14,227.98	14,939.38

MONTHLY SALARY
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CLASSIFICATION	STEP A	STEP B	STEP C	STEP D	STEP E
Public Works Inspector	5,814.08	6,104.78	6,410.02	6,730.52	7,067.05
Public Works Operations Manager	7,605.91	7,986.21	8,385.52	8,804.80	9,245.04
Recreation Coordinator	4,902.85	5,147.99	5,405.39	5,675.66	5,959.44
Recreation Supervisor	5,959.43	6,257.40	6,570.27	6,898.78	7,243.72
Senior Building Inspector	7,067.05	7,420.40	7,791.42	8,180.99	8,590.04
Senior Planner	7,420.40	7,791.42	8,180.99	8,590.04	9,019.54
Senior Property Evidence Specialist	7,365.28	7,733.54	8,120.22	8,526.23	8,952.54
Senior Property Evidence Specialist- EMD	7,415.28	7,786.04	8,175.35	8,584.12	9,013.32
Senior Property Evidence Specialist w/Longevity	7,733.54	8,120.22	8,526.23	8,952.54	9,400.17
Senior Property Evidence Specialist - EMD with Longevity	7,783.54	8,172.72	8,581.36	9,010.43	9,460.95
Senior Recreation Coordinator	5,405.39	5,675.66	5,959.44	6,257.41	6,570.28
Systems Administrator III	7,067.05	7,420.40	7,791.42	8,180.99	8,590.04
Technical Support Specialist II	4,902.85	5,147.99	5,405.39	5,675.66	5,959.44
Website and Social Media Technician	4,902.85	5,147.99	5,405.39	5,675.66	5,959.44
WWTP Operator in Training	3,935.20	4,131.96	4,338.56	4,555.49	4,783.26
WWTP Operator I	4,669.38	4,902.85	5,147.99	5,405.39	5,675.66
WWTP Operator II	5,405.39	5,675.66	5,959.44	6,257.41	6,570.28
Zoo Director	9,395.18	9,864.94	10,358.19	10,876.10	11,419.91
Zoo Education Curator	3,747.81	3,935.20	4,131.96	4,338.56	4,555.49
Zoo Supervisor	4,902.85	5,147.99	5,405.39	5,675.66	5,959.44
Zookeeper I	3,747.81	3,935.20	4,131.96	4,338.56	4,555.49

**EMPLOYMENT AGREEMENT
COMMUNITY SERVICES & PROMOTIONS DIRECTOR**

THIS AGREEMENT, (hereinafter referred to as the "Agreement") was made and entered into the October 11, 2023 by and between the City of Atascadero, County of San Luis Obispo, State of California, a municipal corporation (hereinafter referred to as the "City") and Terrie Banish (hereinafter referred to as "Banish").

SECTION 1 EMPLOYMENT

A. The City agrees to and shall employ Banish as the Community Services & Promotions Director of the City of Atascadero. Banish agrees to perform the functions and duties of the position of Community Services & Promotions Director of the City of Atascadero as described by state law, the Municipal Code of the City of Atascadero, the job description of the position of Community Services & Promotions Director as developed by the City Manager of the City, and all other duties and functions as the City Manager of the City shall from time to time assign.

B. Banish agrees to perform all such functions and duties to the best of her abilities and in a competent and efficient manner. Banish agrees to focus her full professional time, ability and attention to City business during the term of this Agreement and agrees not to engage in any other business pursuits whatsoever or, directly or indirectly, render any services of a business, commercial or professional nature to any other person or organization, whether for compensation or otherwise, without the prior written consent of the City Manager. However, Banish shall be permitted to provide incidental support to any business owned by Banish in whole or in part.

SECTION 2 TERM

A. Banish shall serve at the will and pleasure of the City Manager. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Manager to terminate the employment of Banish at any time and for any reason, or for no reason, subject only to the provisions specified in Section 3 of this Agreement.

B. This Agreement shall become effective on October 11, 2023, and unless otherwise terminated under the provisions of Section 3, shall remain in effect indefinitely.

C. Nothing in this Section shall or is intended to prevent, limit or otherwise interfere with the right of the City or Banish to terminate the employment of Banish prior to the expiration of this Agreement, or any extension thereof, in accordance with Section 3 of this Agreement.

SECTION 3 TERMINATION

A. The City Manager and Banish may agree mutually in writing to terminate Banish's employment.

B. The City may terminate Banish's employment at any time without cause. In the event that Banish is terminated by the City, and Banish is otherwise ready, willing and able to perform her duties under this Agreement, the City shall pay Banish severance compensation equal to six (6) months of salary and benefits. In consideration of this severance payment, Banish agrees that she shall not be entitled to any other payment or compensation of any kind from the City in connection with the termination of her employment.

C. Banish may terminate her employment at any time for any reason by providing 90 days prior written notice to the City Manager. In the event that Banish provides such written notice, she shall be entitled to receive at the termination of this employment only such accrued unused and other such benefits as may be due and payable under applicable City rule, regulation or policy, and/or under applicable local, state or federal law. Banish shall not, however, be entitled to any severance pay or other compensation at the termination of her employment. During the period subsequent to Banish's submission of her notice terminating her employment, she shall continue to perform her duties as Community Services & Promotions Director pursuant to this Agreement unless removed from those duties and/or terminated by the City Manager pursuant to the terms of this Agreement. However, in the event that Banish is then removed from those duties and/or terminated by the City Manager, Banish shall continue to receive compensation in the form of salary and benefits through the completion of the 90 (ninety) day notice period.

D. The City Manager may terminate Banish's employment for cause. In the event that Banish is terminated for cause, she shall not be entitled to the payment of any severance pay or compensation, other than the payment of accrued unused vacation leave. In the event that Banish is terminated for cause, Banish shall be entitled to prior written notification of the reason(s) for the termination, the facts upon which such reason(s) are based, copies of all supporting evidence and investigations regarding the facts and reason(s) for the termination, and the right to respond, orally or in writing or both, to the City Manager within five (5) working days of receipt of the notice of such termination. Furthermore, if requested by Banish, Banish shall have the right to a hearing before the City of Atascadero City Council which shall be a hearing de novo. In the event the decision to terminate for cause is reversed by the City Council and the City Manager terminates Banish's employment without cause, the terms of Subsection B hereof shall apply.

E. The City Manager and/or Banish may terminate this Agreement in the event that Banish has been unable to perform the essential functions of her position due to disability for a period of three (3) months and it is medically determined that Banish is permanently disabled from performing the essential functions of her position.

1. A determination that Banish is permanently disabled shall be made by the City Manager based upon competent medical evidence and evaluation and in accord with the applicable state and federal laws pertaining to the protection of disabled persons and in accord with the laws governing the City's membership in CalPERS.

2. In the event it is determined by the City Manger that a question exists as to Banish's ability to perform the essential functions of her position, based upon objective facts, the City Manager may require Banish to undergo a fitness for duty examination. Nothing in this subsection shall obligate Banish to waive her right to privacy under California Civil Code § 56.10(c)(8), nor shall the City seek any report pursuant to this subsection beyond that to which it would be entitled under California Civil Code § 56.10(c)(8).

F. In the event Banish is convicted of a crime involving an abuse of her office or position as defined in California Government Code section 53243.4, Banish shall be required to fully reimburse the City in accordance with California Government Code sections 53243, 53243.1, and/or 53243.2.

SECTION 4 SALARY AND COMPENSATION

A. Effective upon the commencement of this Agreement, the City shall pay to Banish a base salary within the range established for the Community Services & Promotions Director. This

salary shall be paid on a pro rata basis in regular installments pursuant to the City's normal payroll procedures.

B. The City Manager may set forth annually in writing certain goals consisting of duties and responsibilities above and beyond Banish's ordinary duties and responsibilities. In the event that Banish achieves such goals, she may be entitled to receive other compensation in addition to her regular salary and benefits. The City Manager shall set forth the amount of additional compensation to which Banish would be entitled in the same writing setting forth the annual goals. Any such additional compensation will be at the discretion of the City Manager with the approval of the City Council if necessary.

C. The City shall deduct or withhold from Banish's salary any and all sums as Banish may from time to time direct, or as required by law, including, but not limited to, sums for the payment of federal, state and/or local income taxes and retirement or pension plans.

D. In addition to the compensation set forth above, Banish shall be entitled to receive the benefits as set forth in the City Council Resolution establishing compensation and benefits for Management.

E. In its sole discretion, the City may increase Banish's base salary and/or other benefits beyond those set forth in this Agreement in such amounts and/or to such an extent as may be recommended by the City Manager on the basis of a salary review made at least annually by the City Manager. Any such increases shall be subject to the approval of the City of Atascadero City Council as required.

F. The City shall budget for and pay the travel and subsistence expenses of Banish's for a reasonable number of local, state and national conferences relevant to her duties and responsibilities as Community Services & Promotions Director with the approval of the City Manager.

G. Banish shall receive three hundred dollars (\$300.00) each month as an automobile allowance. The allowance is in exchange for employee making available (1) for her own use a personal automobile, and (2) her use of her personal automobile for City related business and/or functions during, before and after normal work hours. Employee is not precluded from using City vehicles for City business during, before and after the normal workday. A City vehicle will not be provided to Employee for her exclusive use and no City vehicle shall be utilized by Employee for commuting purposes.

H. The City Manager shall fix any other terms and conditions of employment relating to Banish's performance as the City Manager may from time to time determine, provided that such other terms and conditions of employment are not contrary to or inconsistent with the terms set forth in this Agreement, the City's rules, regulations and ordinances, local, state and/or federal law.

I. Any provisions of the City code, rules, regulations and ordinances relating to management employee benefits as they now exist or may later be amended shall also apply to Banish, in addition to any benefits set forth in this Agreement, except as those provisions of the City code, rules, regulations and ordinances relating to management employee benefits may conflict or be inconsistent with the terms of this agreement, in which case the terms of this Agreement shall control.

SECTION 5 PERFORMANCE EVALUATION

A. Annually, the City Manager, with the assistance of Banish, may define such goals and performance objectives which the City Manager determines necessary for the proper operation of City's Community Services & Promotions Department and shall further establish a relative priority among those various goals and objectives. These goals and objectives shall be reduced in writing and should be reasonably attainable within the time limitations specified by the City Manager and in light of the appropriations provided through the annual operating and capital budgets.

B. The City Manager shall review and evaluate Banish's performance annually. This review and evaluation shall take into account any goals that may have been developed by the City Manager, as well as Banish's performance of other functions and duties. The City Manager shall provide to Banish a summary written statement of the evaluation and shall provide Banish with the opportunity to discuss the evaluation with the City Manager.

SECTION 6 GENERAL PROVISIONS

A. This Agreement constitutes the sole understanding and agreement of the City and Banish with respect to the matters set forth herein and supersedes any and all prior negotiations, statements, instructions, representations or agreements, whether written or oral.

B. The parties agree and acknowledge that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or by anyone acting on behalf of any party, which are not contained herein and that any agreement, statement or promise not contained in this Agreement shall not be valid or binding on either party.

C. Any amendment to this Agreement shall be valid only if in writing approved and signed by both parties, unless otherwise specified in this Agreement.

D. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect.

E. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs in addition to any other relief to which that party may be entitled.

F. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date and year first written above.

City:

Banish:

James R. Lewis
City Manager

Terrie Banish
Community Services & Promotions Director



Atascadero City Council

Staff Report - Public Works Department

Revegetation Contract Award for the Santa Lucia Road Bridge Replacement Project

RECOMMENDATION:

Council award a construction contract for \$628,027 to Quincon, Inc. for the revegetation phase of the Santa Lucia Road Bridge Replacement Project (City Project No. C2015B03[2], Federal Project No. BRLO-5423[029]).

DISCUSSION:

Background:

Environmental permits for the Santa Lucia Road Bridge Replacement Project over Graves Creek require revegetation of areas disturbed by the bridge construction, as well as replanting of removed vegetation at specified ratios. Pre-construction tree removal work commenced in January 2023 and bridge construction work commenced the following June. Bridge work within the jurisdictional area (top of banks) is on schedule to be completed prior to October 31, 2023. Following completion of the bridge structure, the bridge contractor (Souza Construction) will have remaining roadway approach work and other miscellaneous closeout items that are expected to continue through mid-November 2023.

Permits required for this project included a 401 Certification from the Regional Water Quality Control Board, a Lake and Streambed Alteration Agreement (LSAA) from the California Department of Fish and Wildlife, and a Section 404 Permit from the US Army Corps of Engineers. Each of these permits require protective measures taken during construction, as well as environmental mitigation (replanting) following completion of bridge construction. Along with the initial planting, the City (as the permittee) is required under the permits to maintain or contract maintenance to ensure survival of plantings for five years. Other requirements include monitoring and annual reporting to the permitting agencies.

Public construction projects typically require the contractors to warranty their work for one year following final completion of the project. Since permit conditions require revegetation work to occur over five years after construction, this revegetation work was bid out as a separate project from the bridge construction.

Bid Analysis:

The revegetation project was publicly bid on August 28, 2023, for a minimum of 30 days in accordance with State Contracting Laws and City of Atascadero Purchasing Policies. A public bid opening occurred on September 28, 2023, with a single bid received from

Quincon, Inc. for \$628,027. The bid was reviewed for accuracy and compliance with project bidding requirements, and the City Engineer has determined that Quincon, Inc. of Grover Beach is the lowest responsive bidder at \$628,027.

Although the bid for this work was significantly higher than the Engineer’s Estimate, the Santa Lucia Road Bridge Replacement Project does have sufficient funds for this work. The bridge construction project is currently at or below the initial contract amount with approximately 50% the costs completed, and the majority of the higher-risk work items (excavation, piles, foundations) complete. As such, staff recommends lowering the reserved construction contingency to 8% at this time as shown in the estimated expenditures table below.

An evaluation of the bid revealed that the majority of the costs are associated with the five-year maintenance of the plantings. Since there is not a water source at the site, the contractor will be required to truck water to the site for irrigation, and the location is a significant distance from the town center. It is likely that if this work was added to the primary bridge contract, it would be substantially higher due to prime contractor markup and the ongoing management of the work by the prime contractor. The overall construction costs (bridge contract + revegetation contract) of \$4,189,711 is expected to remain below the Engineer’s Estimate of \$4,292,200.

ENVIRONMENTAL REVIEW:

The proposed project is a Mitigated Negative Declaration (MND) from the provisions of the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., “CEQA”) and CEQA Guidelines (Title 14 California Code of Regulations §§ 15000, et seq.) The CEQA Admin Final is on file in the project records.

FISCAL IMPACT:

The fiscal impact of this award is the expenditure of \$628,027 in Highway Bridge Replacement and Rehabilitation Program (HBRRP) grant funds. The Santa Lucia Road Bridge project is 100% funded with HBRRP grant funding. The current projected uses and sources of funds for the project are as follows:

ESTIMATED EXPENDITURES	
Design and Bid Phase	\$ 777,500
Right-of-Way Acquisition and Utility Relocations	347,000
Construction Contract	3,561,684
Construction Engineering / Testing / Administration	785,000
Construction Contingency @ 7.5%	267,126
Revegetation Construction Contract	628,027
Revegetation Construction Contingency (10%)	62,803
Revegetation Administration	33,110
Total Estimated Expenditures:	\$ 6,462,250

BUDGETED FUNDING SOURCES	
Highway Bridge Replacement and Rehabilitation Program Grant	\$6,462,250
Total Budgeted Funding Sources:	\$6,462,250

Should costs exceed the total budgeted amount, the City may request a post-construction adjustment for actual construction costs.


ALTERNATIVES:

Staff does not recommend any alternatives. Council may direct staff to rebid the project, however, revegetation of the site is required by the environmental permits and vegetation will have the best opportunity to be established if planted prior to the upcoming rainy season.

ATTACHMENT:

1. Bid Summary

City of Atascadero
Office of the City Clerk
Bid Summary

TO: Public Works
 FROM: Dillon Dean James, Deputy City Clerk 
 BID NO.: 2023-011
 OPENED: 9/28/2023
 PROJECT: Revegetation for Graves Cr. Bridge at Santa Lucia Rd Proj. No. C2015B03(2)

1

Bid was received and opened today, as follows:

<u>Name of Bidder</u>	<u>Base Bid Total</u>	<u>Add Alternate</u>
Quincon, Inc.	\$628,027.00	



Atascadero City Council

Staff Report - Public Works Department

Revegetation Contract Award for the Via Avenue Bridge Replacement Project

RECOMMENDATION:

Council award a construction contract for \$767,933 to Quincon, Inc. for the revegetation phase of the Via Avenue Bridge Replacement Project (City Project No. C2015B02[2], Federal Project No. BRLS-5423[032]).

DISCUSSION:

Background:

Environmental permits for the Via Avenue Bridge Replacement Project over Atascadero Creek require revegetation of areas disturbed by the bridge construction, as well as replanting of removed vegetation at specified ratios. Construction on the bridge commenced in May 2023 and bridge work within the jurisdictional area (top of banks) is on schedule to be completed prior to October 31, 2023. Following completion of the bridge structure, the bridge contractor (Souza Construction) will have remaining roadway approach work and other miscellaneous closeout items that are expected to continue through mid-November 2023.

Permits required for this project included a 401 Certification from the Regional Water Quality Control Board, a Lake and Streambed Alteration Agreement (LSAA) from the California Department of Fish and Wildlife, and a Section 404 Permit from the US Army Corps of Engineers. Each of these permits require protective measures taken during construction, as well as environmental mitigation (replanting) following completion of bridge construction. Along with the initial planting, the City (as the permittee) is required under the permits to maintain or contract maintenance to ensure survival of plantings for five years. Other requirements include monitoring and annual reporting to the permitting agencies. Due to space limitations at the Via Avenue Bridge site, revegetation for this project will have both an on-site and off-site component.

Public construction projects typically require the contractors to warranty their work for one year following final completion of the project. Since permit conditions require revegetation work to occur over five years after construction, this revegetation work was bid out as a separate project from the bridge construction.

Bid Analysis

The revegetation project was publicly bid on August 28, 2023, for a minimum of 30 days in accordance with State Contracting Laws and City of Atascadero Purchasing Policies. A public bid opening occurred on September 28, 2023, with a single bid received from

Quincon, Inc. for \$767,933. The bid was reviewed for accuracy and compliance with project bidding requirements, and the City Engineer has determined that Quincon, Inc. of Grover Beach is the lowest responsive bidder at \$767,933.

Although the bid for this work was significantly higher than the engineer’s estimate, the Via Avenue Bridge Replacement Project does have sufficient funds for this work. The bridge construction project is currently at or below the initial contract amount, with approximately 50% the costs completed, and the majority of the higher-risk work items (excavation, piles, foundations) complete.

An evaluation of the bid revealed that the majority of the costs are associated with the five-year maintenance of the plantings. Since there is not a water source at the site, the contractor will be required to truck water to the site for irrigation. Additionally, the Via Avenue Bridge Replacement Project has two separate mitigation locations, increasing project costs. It is likely that if this work was added to the primary bridge contract, it would be substantially higher due to prime contractor markup and the ongoing management of the work by the prime contractor. The overall property construction costs (bridge contract + revegetation contract) of \$3,914,562 remain below the engineer’s estimate of \$4,247,622.

ENVIRONMENTAL REVIEW:

The proposed project is a Mitigated Negative Declaration (MND) from the provisions of the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., “CEQA”) and CEQA Guidelines (Title 14 California Code of Regulations §§ 15000, et seq.) The CEQA Admin Final is on file in the project records.

FISCAL IMPACT:

The fiscal impact of this award is \$679,851 in Highway Bridge Replacement and Rehabilitation Program (HBRRP) grant funds and \$88,082 in Local Transportation Funds (LTF). The Via Avenue Bridge project is funded with HBRRP grant funding, which cover 88.53% of total costs with the remaining local share of 11.47% paid by the City. The current projected uses and sources of funds for the project are as follows:

ESTIMATED EXPENDITURES	
Design and Bid Phase	\$ 675,000
Right-of-Way Acquisition and Utility Relocations	255,000
Construction Contract	3,146,629
Construction Engineering / Testing / Administration	800,000
Construction Contingency @ 10%	314,663
Revegetation Construction Contract	767,933
Revegetation Construction Contingency (10%)	76,793
Revegetation Administration	35,000
Additional Project Contingency	158,982
Total Estimated Expenditures:	\$ 6,230,000

ESTIMATED FUNDING SOURCES	
Highway Bridge Replacement and Rehabilitation Program Grant	\$5,515,420
Local Transportation Funds	\$714,580
Total Budgeted Funding Sources:	\$6,230,000

Should costs exceed the total budgeted amount, the City may request a post-construction adjustment for actual construction costs.


ALTERNATIVES:

Staff does not recommend any alternatives. Council may direct staff to rebid the project, however, revegetation of the site is required by the environmental permits and vegetation will have the best opportunity to be established if planted prior to the upcoming rainy season.

ATTACHMENT:

1. Bid Summary

City of Atascadero
Office of the City Clerk
Bid Summary

TO: Public Works
 FROM: Dillon Dean James, Deputy City Clerk 
 BID NO.: 2023-010
 OPENED: 9/28/2023
 PROJECT: Revegetation for Atascadero Creek Bridge at Via Ave Project No. C2015B02(2)

1

Bid was received and opened today, as follows:

<u>Name of Bidder</u>	<u>Base Bid Total</u>	<u>Add Alternate</u>
Quincon, Inc.	\$767,933.00	



Atascadero City Council

Staff Report – City Attorney

City Attorney Services – Request for Proposals

RECOMMENDATION:

Council authorize the City Manager to issue a Request for Proposals for City Attorney services and to appoint Karl Berger, of Burke, Williams & Sorensen, as Interim City Attorney.

DISCUSSION:

On November 27, 2007, the City Council approved retaining the law firm of Burke, Williams & Sorensen (“Burke”) to provide City Attorney services and appointed Brian Pierik, a partner in the Burke firm, to serve as the City Attorney.

Brian Pierik has advised that he is reducing the scope of his legal practice and, consequently, the City will need to appoint a new City Attorney.

The recommendation is for the City Council to authorize the City Manager to issue a Request for Proposals for City Attorney services and to appoint Karl Berger, a partner in the Burke firm, to serve as Interim City Attorney commencing October 10, 2023. Mr. Berger is an experienced City Attorney and currently serves as the City Attorney for the City of Monterey Park and the City of Bellflower.

FISCAL IMPACT:

None

ALTERNATIVES:

Other direction as determined appropriate by the City Council.

ATTACHMENT:

1. Karl Berger Bio



Karl H. Berger

Partner

Los Angeles

444 South Flower Street, Suite 2400
Los Angeles, California 90071

PRACTICE GROUPS

Public

EDUCATION

J.D., Creighton University School of Law,
1995

B.A., University of California, Davis, 1991

ADMISSIONS

State Bar of California

State Bar of California

United States District Court for the
Central District of California

United States District Court for the
Southern District of California

RECOGNITIONS

Named "Rising Star" by Super Lawyers
magazine in 2006, 2007, 2008

Karl Berger's more than twenty-five years of practicing law are exclusively devoted to representing public agencies. He is the City Attorney for the City of Bellflower; the City Attorney for the City of Monterey Park; and the General Counsel for the Carpinteria Sanitary District. Additionally, Karl is the Assistant City Attorney for the City of Santa Clarita and provides regular legal services for the cities of Atascadero and Carmel-by-the-Sea.

Karl previously served as the City Attorney for Santa Paula; Acting City Attorney for the City of Port Hueneme; Deputy City Attorney for the City of Port Hueneme; Assistant City Attorney for the cities of El Segundo, Santa Clarita, and Camarillo; Assistant City Attorney for the City of San Buenaventura; and research attorney for the City of El Cajon. He previously served as General Counsel for the Montecito Sanitary District and Lamont Public Utility District.

In addition to these appointed public official positions, Karl provides special counsel services to dozens of public agencies. Most recently he was special counsel for the cities of Brentwood, Evanston, Goleta, Santa Paula and Simi Valley; he is also special counsel for the Lamont Public Utility District.

Karl is knowledgeable in a wide range of public law areas, including conflicts of interest, open meeting laws, public works contracts, redevelopment and successor agencies, personnel matters, all aspects of land use and planning laws, and CEQA.

Karl currently serves as a member of the Legal Advocacy Executive Committee. He previously served on the Housing, Community & Economic Development Policy Committee with the League of California Cities. Karl is also a contributing author for the Municipal Law Handbook (League of California Cities) and author for the Charter City Project (Institute for Local Government).



Atascadero City Council

Staff Report - Community Development Department

Appeal of Grand Oaks Paseo Common Area Amendment Grand Oaks Paseo

RECOMMENDATIONS:

Council:

1. Adopt Draft Resolution A, affirming the Planning Commission's approval of amendments to the Grand Oaks Paseo project master plan of development to allow modifications to the common amenity space (Attachment 8).
 - a. Modifications to the conditions of approval related to amenities, timing, etc. can be included.

OR

2. Adopt Draft Resolution B, reversing the Planning Commission's action and denying amendments to the Grand Oaks Paseo project master plan of development to allow modifications to the common amenity space (Attachment 9).

REPORT-IN-BRIEF:

The Grand Oaks Paseo development was approved by the City Council in November 2019. The project included a small-lot cottage residential subdivision with common area amenities and live-work units with ground floor commercial space along the El Camino Real frontage in the commercial zone. A total of 26 cottage units and 4 live-work units were approved. The project included approval of a custom Planned Development Overlay Zone to allow for the small lot subdivision and subsequent sale of each unit. As part of the project approval, the Council found that the project met the special findings for approval of the Planned Development Overlay Zone, including:

- The provision of affordable housing
- High quality architectural design
- High quality landscape design
- Higher density to meet Housing Element goals

Construction began in 2020 with approximately 50% of the units complete to date. The live-work portion of the project has not been started. During the time of construction, the project encountered challenges associated with the COVID pandemic, unstable construction material costs and availability, and above normal rainfall. During this time,

the applicants continued to purchase and improve other properties inside and outside the City with construction crews diverted to other projects. These factors contributed to a substantially delayed completion schedule. The developers are requesting modifications to the approved Master Plan of Development to reduce the common residential amenities as a cost savings measure.

The applicants requested:

1. Amendments to the common central open space areas to remove a proposed deck and instead install mulch, a fire pit, and barbeque; and
2. Elimination of the community building to be replaced with a dog run and passive seating area.

On September 5, 2023, the Planning Commission (the Commission) reviewed the project and voted 7-0 to approve amendments to only the central common open space area with modified conditions related to completion timing. The Commission did not take action on the elimination of the community building and instead asked the applicant to return with a new proposal after vetting options with the HOA. At the hearing, members of the HOA spoke in opposition to the amendments and noted that the removal of the Community Building would remove amenities that are critical to homeowners due to the small size of the residences.

On September 19, 2023, an appeal was received from Council Member Heather Newsom on the basis that the amendments may be inconsistent with the character of the neighborhood or may or may not be contrary to the orderly development of the project, and therefore, necessitates being raised to the level of City Council review (Attachment 4).

DISCUSSION:

Existing Project Entitlement

The existing Master Plan of Development was designed with two main resident amenity spaces:

1. The central open space; and
2. A community building adjacent to the El Camino Real frontage (Attachment 6).

The central community space was originally approved with a deck surrounding the large oak trees at the center of the site. Adjacent to this area was a residential cottage that the applicants decided not to construct to allow more openness in the unit layout. During the construction process, one of the central mature oak trees died due to extensive site grading, root exposure, and a prolonged heat wave, and was removed. The remaining oak tree is in a state of decline at this time and an arborist has recommended that minimal improvements be located under the tree.

The Community Building was proposed on a separate parcel and was intended to provide a space for larger events and gathering for members of the Grand Oaks Paseo community, with the opportunity to be rented out to the larger public and provide an income source, either for the property owner or HOA. The space included a kitchen and

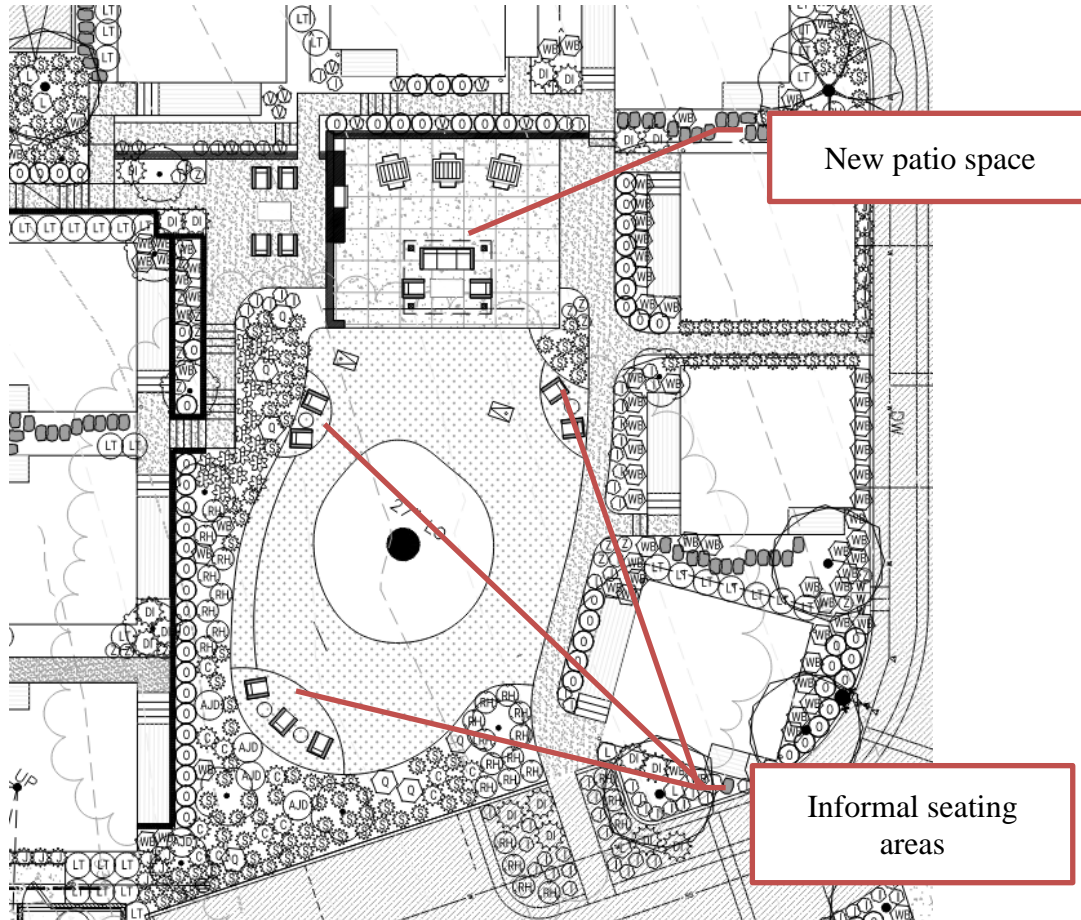
dining/gathering space with meeting room areas to support remote workers and potential tenants of the live-work spaces. It is important to note that the community building is within a commercial zoned portion of the planned development.

Revised Community Amenity Proposal: Central Area



A concrete patio space is proposed where the additional residential unit would have been. This patio is designed with a propane BBQ and counter area, gathering space with tables and chairs, and propane firepit with seating. This new area would be flat with a retaining wall along the western edge to accommodate access from the surrounding units and create a more usable space. Informal seating areas are proposed under the remaining oak tree with mulch to reduce impacts to the rootzone as much as possible.

The applicant submitted labeled plans prior to the Commission’s hearing. While not specifically called out, the plans also show a trellis or covered area above the fire pit and seating area to provide shade. No elevations were submitted to know if the roof material was intended to be open lattice or solid.



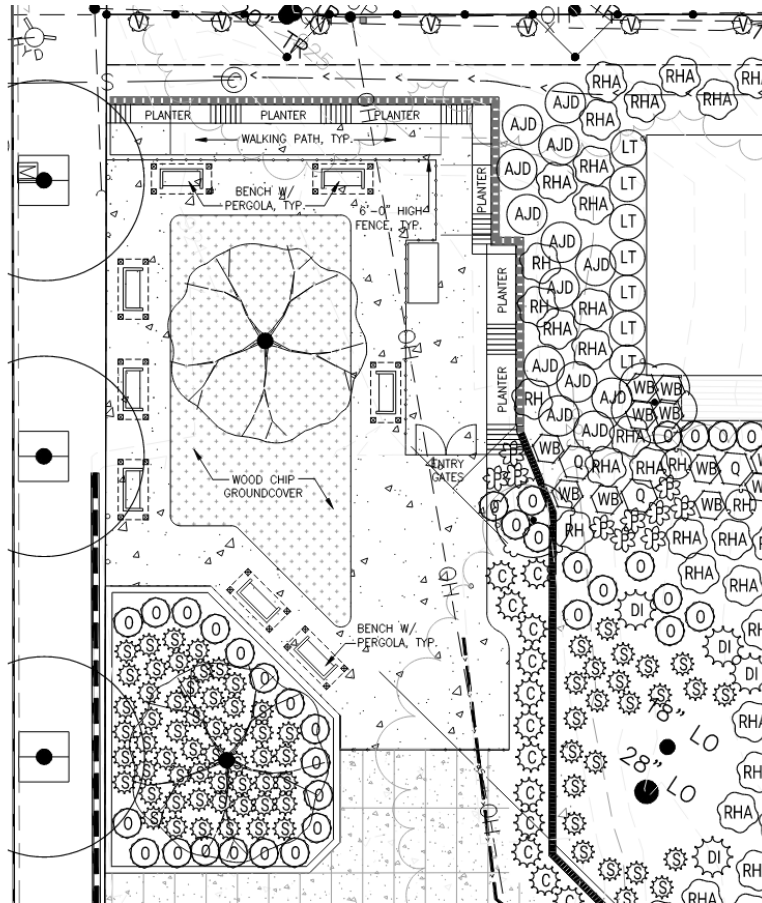
Planning Commission’s discussion and decision included the following actions:

- Staff recommended installation of a gas line to the BBQ. This condition was revised to allow for a portable propane tank that would need to be periodically replaced.
- A sink tied into the sewer line was discussed adjacent to the BBQ and was endorsed by HOA members. Planning Commission’s approval did not include this feature
- Staff recommended linking completion of the amenity space to final occupancy of the 4 units nearing completion. Planning Commission’s approval modified completion timing to prior to frame inspection of two future additional units that had not yet been constructed. Permits were issued for those units the day of the Planning Commission hearing.

Revised Community Amenity Proposal: Community Building

The construction of the 1,900 square foot community building has become financially infeasible for the developers. In order to continue construction on the remaining units, including the live-work building, the developer is requesting replacement of the community building with an additional outdoor amenity space. The proposal includes paved gathering space surrounding a large at-grade planter. This planter could accommodate a large shade tree. Permanent benches would be installed surrounding the planter. A narrow dog run/pet area is also proposed. As there is a grade change from the sidewalk to the adjacent residential cottages, retaining walls will be required.

The Planning Commission voted to continue this portion of the amendment to their second meeting in October with direction to return with revisions and greater resident input.



Findings

As an amendment to the Master Pan of Development the Council must make the following findings to approve the amendments:

1. The proposed project or use is consistent with the General Plan; and
2. The proposed project or use satisfies all applicable provisions of this title; and
3. The establishment, and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use; and
4. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development; and
5. The proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved in conjunction with the project, or beyond the normal traffic volume of the surrounding neighborhood that would result from full development in accordance with the land use element; and
6. The proposed project is in compliance with any pertinent City policy or criteria adopted by ordinance or resolution of the City Council

In addition, because this project is part of a Planned Development, the following additional findings must be made:

7. The project provides high quality landscape design.

The Council can modify conditions of approval to enhance the ability of the proposal to meet the above findings. If one of these findings cannot be made, the project cannot be approved. If the Council votes to reverse the Planning Commission action, the finding that cannot be made should be clearly stated and reasoning given.

Staff Recommended Conditions

Staff has heard a lot of concern expressed about project timing from current and potential future residents. Based on this feedback, staff recommends adding the below conditions to project timing if Council affirms the Planning Commission's approval of the amendments to the Grand Oaks Paseo project master plan of development to allow modifications to the common amenity space.

- Require merger of the proposed central open space patio area parcel into the common HOA parcel. (The location of the proposed central open space patio feature is on a separate parcel originally proposed for another cottage.)
- Require completion of the central common open space area prior to final of any additional units.
- Require completion of any approved improvements to the community building/modified common space parcel prior to final of any additional units beyond the final of lots 17, 18, 19, and 20.
- Require completion of the live-work units and carport/bike storage prior to final of any additional units beyond the final of lots 17, 18, 19, 20, 22 and 23.

With these recommendations, the project completion order would be:

1. Completion of central open space area and recordation of lot merger of proposed central open space patio area parcel into the common HOA parcel.
2. Completion of 2 cottage units (including 1 remaining affordable unit) and any approved improvements to the community building/modified common space parcel.
3. Completion of the live-work units and carport/bike storage.
4. Completion of remaining 3 cottages.

Conclusion

The Grand Oaks Project is partially complete with 16 of the cottage units sold and construction nearing or at completion on 4 additional units. Permits were pulled for 2 additional units, including the last deed restricted affordable unit on September 5, 2023. Construction has not begun on the remaining 3 cottages nor the live-work building, the carport, or bike storage building. Many of the amenities that were intended to be completed at this time are not in place, and both the current residents and the City are concerned about the existing and future condition of the property. The developer is requesting modifications to the community amenity spaces in response to challenging financial conditions and deletion of one of the units adjacent to the central amenity space.

- If Council takes action to uphold the Planning Commission's approval of the project, all findings must be made to support the Use Permit, as detailed in Draft Resolution A.

- As noted above, conditions may be added to modify the proposed amenities or conditions of approval related to timing.
- If Council takes action to reverse the Planning Commission's approval of the project, they must determine that the project does not meet at least one of the findings as detailed above and in Draft Resolution B. If Council reverses the Planning Commission's approval and denies the project, Council will need to state the reason(s) for denial which will then be included in Draft Resolution B. Denial of the project will require the developer to build the improvements, both the central common area and community building, as originally approved.

ALTERNATIVE:

Council may continue the item for further discussion and direction. Council should provide clear direction to staff or the project applicant on specific information needed to return for review.

FISCAL IMPACT:

There is a minor negative fiscal impact expected if the building is not built, due to a lower than planned assessed valuation.

ATTACHMENTS:

1. Draft Resolution A
2. Draft Resolution B
3. Revised Project Landscape and Community Amenity Plan
4. Appeal Email
5. Arborist Letter
6. Originally Approved Common Amenity Areas
7. Planning Commission Minutes: September 5, 2023
8. Supplemental Information Packet (prior hearing materials) available online at:
<http://records.atascadero.org/WebLink/ElectronicFile.aspx?docid=120985&dbid=0>

DRAFT RESOLUTION A

**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF ATASCADERO, CALIFORNIA, AFFIRMING THE PLANNING
COMMISSION'S APPROVAL OF AMENDMENTS TO THE GRAND OAKS
PASEO PROJECT MASTER PLAN OF DEVELOPMENT (AMND23-0080)
TO ALLOW MODIFICATIONS TO THE COMMON AMENITY SPACE**

**APN 029-274-032, 029-274-03, 029-274-014
GRAND OAKS COMMUNITY AMENITIES
ATASCADERO CALIFORNIA MANOR, LP
(AMND23-0080)**

WHEREAS, an application has been received from Cal Coastal Holdings, LLC, (Applicant/ Owner), 242 El Dorado Way, Pismo Beach, CA 93449, (AMND23-0080) to consider an Amendment to the Master Plan of Development (Resolution 2019-082) to revise the common community amenity areas; and

WHEREAS, the site has a General Plan Designation of High Density Residential (HDR) and General Commercial (GC); and

WHEREAS, the site is in the Residential Multi-Family 24 (RMF-24) zoning district and Commercial Retail (CR) with a Planned Development Overlay Zone (PD27); and

WHEREAS, A Master Plan of Development was approved by the City Council consistent with the PD overlay standards on November 12, 2019 (Resolution 2019-082); and

WHEREAS, per the conditions of approval for the project, the Planning Commission has the authority to consider modifications to the Master Plan of Development; and

WHEREAS, the laws and regulations relating to the preparation and public notice of environmental documents, as set forth in the State and local guidelines for implementation of the California Environmental Quality Act (CEQA) have been adhered to; and

WHEREAS, a timely and properly noticed Public Hearing upon the subject conditional use permit application was held by the Planning Commission of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said use permit; and

WHEREAS, the Planning Commission of the City of Atascadero, at a Public Hearing held on September 5, 2023, studied and considered the proposed amendments; and

WHEREAS, the Planning Commission of the City of Atascadero approved a portion of the requested amendments, subject to conditions of approval, on a 7-0 vote at the September 5, 2023, hearing; and

WHEREAS, an appeal was filed for review of the Planning Commission action by the City Council on September 19, 2023, in accordance with the provisions of Atascadero Municipal Code Section 9-1.111; and

WHEREAS, the City Council held a duly noticed public hearing to consider the appeal on October 10, 2023, at 6:00 p.m. in accordance with the provisions of Atascadero Municipal Code Section 9-1.110 and considered testimony and reports from staff, the applicants, and the public.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Atascadero:

SECTION 1. Recitals: The above recitals are true and correct.

SECTION 2. Public Hearing. The City Council of the City of Atascadero, at a duly noticed public hearing assembled on October 10, 2023, resolved to affirm the Planning Commission’s action to approve a conditional use permit for amendments to the common amenity area in the Grand oaks Paseo development, subject to conditions of approval, and as show in Exhibits A and B, attached hereto and incorporated herein by this reference.

SECTION 3. Findings. The City Council makes the following findings, determinations and approvals with respect to the Conditional Use Permit:

1. Findings for Affirming the Planning Commission’s Approval of Amendments to the master Plan of Development (Conditional Use Permit)

A. FINDING: The proposed amendments are consistent with the General Plan.

FACT: The proposed amendments are consistent with the General Plan. The project site is designated General Commercial and High-Density Multi-Family and was approved as a custom-small lot subdivision with shared amenity space and a mixed-use component along the project frontage, consistent with the General Plan goals and policies. The proposed amendments do not change the overall use or character of the project.

B. FINDING: The proposed amendments satisfy all applicable provisions of the Zoning Ordinance.

FACT: The project was approved as part of a master planned residential and live-work project and a custom Planned Development Overlay zoning district was approved for the project to allow for the small-lot subdivision and flexibility in zoning standards. Findings were made at the time of project approval that the project satisfied all additional findings to qualify for the Planned development Overlay zone. The proposed amendments do not change the overall use or character of the project.

C. FINDING: The establishment, and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use.

FACT: The amendments will not change the use or character of the project and will not be detrimental to the health, safety, or welfare of the general public or residents within the project.

- D. FINDING: The proposed amendments will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development.

FACT: The proposed amendments are to the common amenity areas only. No changes are proposed to the overall site development plan or unit design.

- E. FINDING: The proposed amendments will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved in conjunction with the project, or beyond the normal traffic volume of the surrounding neighborhood that would result from full development in accordance with the land use element.

FACT: The proposed amendments will not affect the use of the project site. No new uses are proposed.

- F. FINDING: The proposed amendments is in compliance with any pertinent City policy or criteria adopted by ordinance or resolution of the City Council.

FACT: As conditioned, the amendments meets all City and State development standards. City Council policy requires special findings to be made to approve a Planned Development Overlay Zone, which include high quality landscape design. The proposed amendments include high quality plant material and design, consistent with required findings.

SECTION 4. CEQA. The proposed amendments are consistent with the previously environmental analysis and determinations for the project.

SECTION 5. Approval. The City Council of the City of Atascadero, in a regular session assembled on October 10, 2023, resolved to affirm the Planning Commission’s action to approve a Conditional Use Permit to allow a modification to the Master Plan of Development related to common area amenity space:

EXHIBIT A: Conditions of Approval

EXHIBIT B: Revised Project Landscape and Community Amenity Plan

PASSED AND ADOPTED at a regular meeting of the City Council held on the ___th day of ___, 2023.

On motion by Council Member _____ and seconded by Council Member _____, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

CITY OF ATASCADERO:

Heather Moreno, Mayor

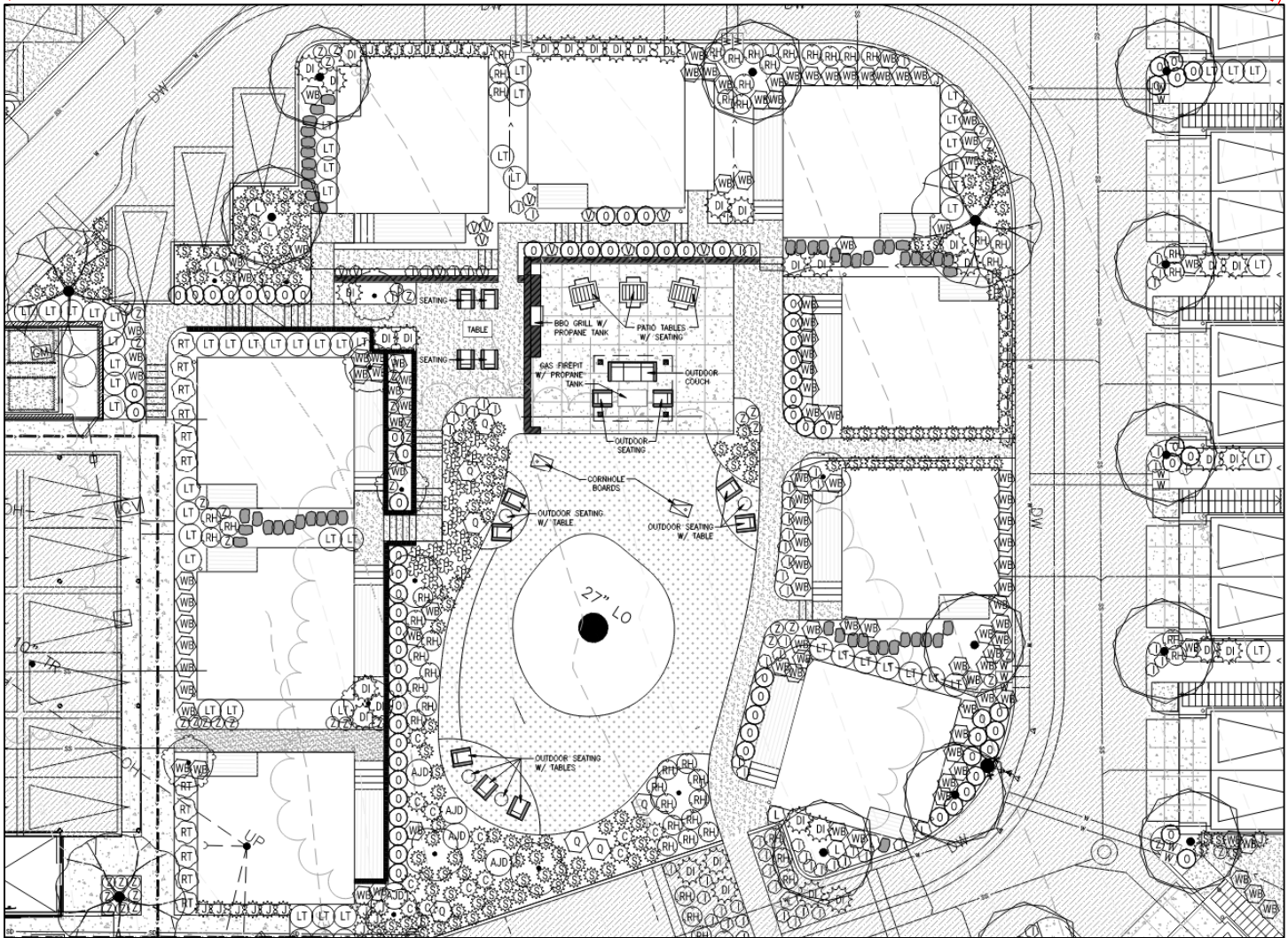
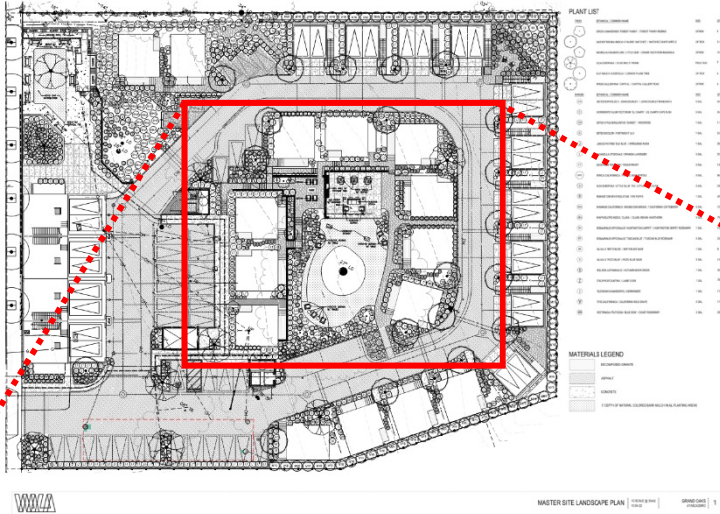
ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Brian Pierik, City Attorney

<p>Conditions of Approval</p> <p><i>Grand Oaks Paseo</i> Common Area Amendments AMND23-0050</p>	<p>Timing</p> <p>BL: Business License FM: Final Map GP: Grading Permit BP: Building Permit FI: Final Inspection TO: Temporary Occupancy FO: Final Occupancy</p>	<p>Responsibility /Monitoring</p> <p>PS: Planning Services BS: Building Services FD: Fire Department PD: Police Department CE: City Engineer WW: Wastewater CA: City Attorney</p>
<p>Planning Services</p>		
<p>1. City Council Resolution 2019-082 and all associated entitlements shall be amended to revise the design of the community amenity spaces as depicted in EXHIBIT B, subject to the conditions listed herein. All previous conditions approved as part of DEV19-0049 shall remain in effect unless specifically amended by this resolution. The project site is known as the Grand Oaks Paseo project and this approval shall be in effect regardless of owner.</p>	<p>Ongoing</p>	<p>PS</p>
<p>2. The approval of these entitlements shall become final and effective for the purposes of issuing building permits the day after the hearing, unless an appeal is made within 14 days of the approval hearing in accordance with the Atascadero Municipal Code.</p>	<p>Ongoing</p>	<p>PS</p>
<p>3. The Community Development Department shall have the authority to approve minor changes to the project that (1) result in a superior site design or appearance, and/or (2) address a construction design issue that is not substantive to the Tentative Tract Map.</p>	<p>FM</p>	<p>PS</p>
<p>4. The applicant shall defend, indemnify, and hold harmless the City of Atascadero or its agents, officers, and employees against any claim or action brought to challenge an approval by the City, or any of its entities, concerning this Conditional Use Permit.</p>	<p>Ongoing</p>	<p>PS</p>
<p>5. The common amenity space shall include the features, detailed in EXHIBIT B, and as modified below prior to final, including, but not limited to:</p> <p>Central Open Space area</p> <ul style="list-style-type: none"> • Movable seating within the central open space area • A minimum of 2 natural gas or propane fire pit tables • A minimum of 3 BBQs • An outdoor natural gas fireplace with permanent gas line installed <p>El Camino Frontage Amenity Space</p> <ul style="list-style-type: none"> • 8 fixed benches • Minimum 15-gallon shade tree in the center planter with a minimum trunk diameter of 1.5 inches and minimum height of 8 feet from the soil level to the top of the tree. If a 15-gallon tree cannot be found that meets the minimum measurements, a 24" box shall be planted. • Retaining walls shall be of the same base material as shown for the live-work building. • Bollard and low-level lighting for safety 	<p>Ongoing</p>	<p>PS</p>
<p>6. The El Camino Frontage amenity space shall be raised in elevation from the public way.</p>		
<p>7. The Central Open Space area shall be completed prior to final of any units requesting final after 08/22/23.</p>		
<p>8. The El Camino Frontage Amenity Space shall be completed prior to final of the last unit in the grouping of lots 22 through 26 or any mixed-use unit, whichever occurs first.</p>		



Revisions approved to central common space only as detailed above.

DRAFT RESOLUTION B

**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF ATASCADERO, CALIFORNIA, REVERSING THE PLANNING
COMMISSION'S ACTION AND DENYING AMENDMENTS TO THE
GRAND OAKS PASEO PROJECT MASTER PLAN OF
DEVELOPMENT (AMND23-0080) TO ALLOW MODIFICATIONS TO THE
COMMON AMENITY SPACE**

**APN 029-274-032, 029-274-03, 029-274-014
GRAND OAKS COMMUNITY AMENITIES
ATASCADERO CALIFORNIA MANOR, LP
(AMND23-0080)**

WHEREAS, an application has been received from Cal Coastal Holdings, LLC, (Applicant/ Owner), 242 El Dorado Way, Pismo Beach, CA 93449, (AMND23-0080) to consider an Amendment to the Master Plan of Development (Resolution 2019-082) to revise the common community amenity areas; and

WHEREAS, the site has a General Plan Designation of High Density Residential (HDR) and General Commercial (GC); and

WHEREAS, the site is in the Residential Multi-Family 24 (RMF-24) zoning district and Commercial Retail (CR) with a Planned Development Overlay Zone (PD27); and

WHEREAS, A Master Plan of Development was approved by the City Council consistent with the PD overlay standards on November 12, 2019 (Resolution 2019-082); and

WHEREAS, per the conditions of approval for the project, the Planning Commission has the authority to consider modifications to the Master Plan of Development; and

WHEREAS, the laws and regulations relating to the preparation and public notice of environmental documents, as set forth in the State and local guidelines for implementation of the California Environmental Quality Act (CEQA) have been adhered to; and

WHEREAS, a timely and properly noticed Public Hearing upon the subject conditional use permit application was held by the Planning Commission of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said use permit; and

WHEREAS, the Planning Commission of the City of Atascadero, at a Public Hearing held on September 5, 2023, studied and considered the proposed amendments; and

WHEREAS, the Planning Commission of the City of Atascadero approved a portion of the requested amendments, subject to conditions of approval, on a 7-0 vote at the September 5, 2023 hearing; and

WHEREAS, an appeal was filed for review of the Planning Commission action by the City Council on September 19, 2023 in accordance with the provisions of Atascadero Municipal Code Section 9-1.111; and

WHEREAS, the City Council held a duly noticed public hearing to consider the appeal on October 10, 2023 at 6:00 p.m. in accordance with the provisions of Atascadero Municipal Code Section 9-1.110 and considered testimony and reports from staff, the applicants, and the public.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Atascadero:

SECTION 1. Recitals: The above recitals are true and correct.

SECTION 2. Public Hearing. The City Council of the City of Atascadero, at a duly noticed public hearing assembled on October 10, 2023, resolved to affirm the Planning Commission’s action to approve a conditional use permit for amendments to the common amenity area in the Grand Oaks Paseo development, subject to conditions of approval, and as show in Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 3. Findings. The City Council makes the following findings, determinations and approvals with respect to the Conditional Use Permit:

1. Findings for Denial of Amendments to the Master Plan of Development (Conditional Use Permit)

A. **FINDING**: The proposed project or use is inconsistent with the character of the immediate neighborhood or contrary to its orderly development

FACT: The proposed amendments are inconsistent with the orderly development of the Grand Oaks Paseo Development

B. **FINDING**: The proposed project is not in compliance with a pertinent City policy or criteria adopted by ordinance or resolution of the City Council.

FACT: The proposed amendments are inconsistent with the City’s Planned Development policy in the context of the Grand Oaks Paseo Planned development Overlay project

SECTION 4. CEQA. The proposed amendments are consistent with the previously environmental analysis and determinations for the project.

SECTION 5. Denial. The City Council of the City of Atascadero, in a regular session assembled on October 10, 2023, resolved to reverse the Planning Commission’s action and deny modifications to the master plan of development related to common area amenity space.

PASSED AND ADOPTED at a regular meeting of the City Council held on the ___th day of ___, 2023.

On motion by Council Member _____ and seconded by Council Member _____, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

CITY OF ATASCADERO:

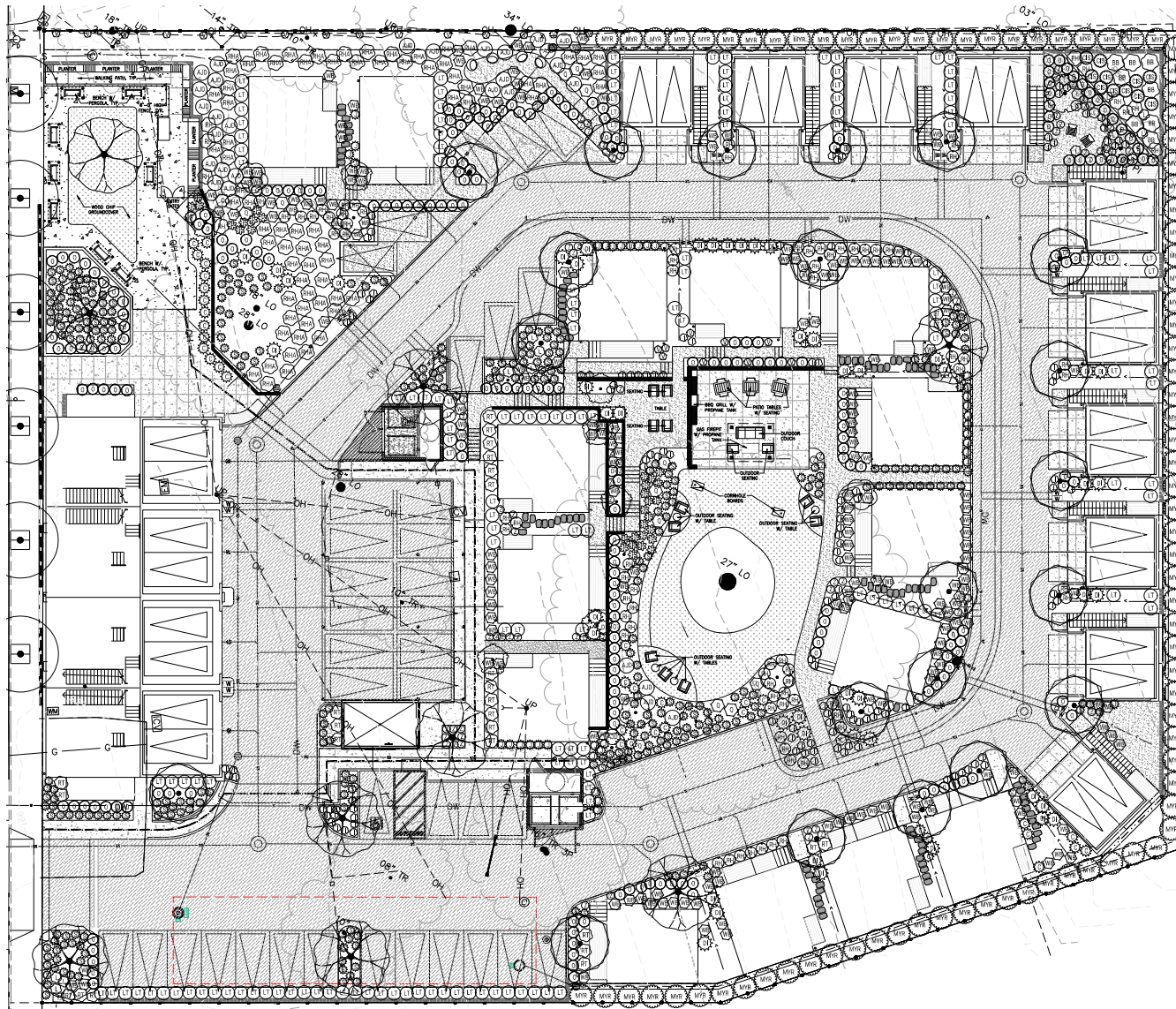
Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Brian Pierik, City Attorney



PLANT LIST

TREES	BOTANICAL / COMMON NAME	SIZE	QTY
(1)	QUERCUS CANADENSIS / FOREST PINEY NODULO	24" BOX	9
(2)	LAGERSTROMIA INDICA x FAUREI / NATCHEZ / NATCHEZ GRAPE MYRTLE	24" BOX	21
(3)	MAONDIJA GRANDIFLORA / LITTLE GEM / DWARF SOUTHERN MADAGASCAR	24" BOX	10
(4)	OLEA EUROPAEA / OLIVE MULTI TRUNK	FIELD GUG	9
(5)	PLATANUS x ACERIFOLIA / LONDON PLANE TREE	24" BOX	6
(6)	PIRUS CALLERYANA / CAPITAL / CAPITAL GALLERY PEAR	24" BOX	6
SHRUBS	BOTANICAL / COMMON NAME	SIZE	QTY
(7)	ARCTOSTAPHYLOS x JOHN DOORLEY / JOHN DOORLEY MANDARINA	5 GAL	30
(8)	CHONDROPetalum TECTORUM 'EL CAMPO' / EL CAMPO CAPE RUSH	5 GAL	36
(9)	CESTIS x PALMERI / SUNSET / ROCKROSE	1 GAL	11
(10)	DIETES BICOLORE / FORTNIGHT LILY	1 GAL	35
(11)	ANDROS PATENS 'SILV BLUE' / SPREADING RUSH	1 GAL	38
(12)	LAVANDULA STOECHAS / SPANISH LAVENDER	5 GAL	20
(13)	UGLUSTRUM TUDANUM / TUDANUM PINE	5 GAL	154
(14)	MYRTICA CALIFORNICA / PACIFIC WAX MYRTLE	5 GAL	86
(15)	OLEA EUROPAEA 'LITTLE OLIVE' / LITTLE OLIVE	5 GAL	229
(16)	ROMARINUS OFFICINALIS 'SANTALUM' / PINE PINE	1 GAL	34
(17)	ROMARINUS CALIFORNICA 'MOUNTAIN SAN BRUNO' / CALIFORNIA COFFEEBERRY	5 GAL	70
(18)	ROMARINUS OFFICINALIS 'CLARA' / CLARA INDIAN HARTHTON	5 GAL	79
(19)	ROMARINUS OFFICINALIS 'HUNTINGTON CARPET' / HUNTINGTON CARPET ROSEMARY	1 GAL	10
(20)	ROMARINUS OFFICINALIS 'TUSCAN BLUE' / TUSCAN BLUE ROSEMARY	5 GAL	25
(21)	SALVIA x BEE'S BUSS / BEE'S BUSS SAGE	1 GAL	8
(22)	SALVIA x PIZZO BLUE / PIZZO BLUE SAGE	5 GAL	13
(23)	SISYRINCHIA AUTUNNALIS / AUTUMN WISDOM GRASS	1 GAL	229
(24)	STACHYS BYZANTINA / LAMB'S EAR	1 GAL	78
(25)	TEUCRIUM CHAMAELIPS / GERMANDER	1 GAL	117
(26)	VITIS CALIFORNICA / CALIFORNIA WILD GRAPE	5 GAL	17
(27)	WESTRINGIA FRUTICOSA 'BLUE GEM' / COAST ROSEMARY	5 GAL	201

MATERIALS LEGEND

	DECOMPOSED GRANITE
	ASPHALT
	CONCRETE
	3" DEPTH OF NATURAL COLORED BARK MULCH IN ALL PLANTING AREAS



Lara Christensen

From: Heather Newsom
Sent: Tuesday, September 19, 2023 1:14 PM
To: City Clerk
Subject: Planning Commission Appeal

City Clerk

I am appealing the Planning Commission's Decision on September 5, 2023 for the following proposal: 4701, 4711, 4721, 4731, 4741 EL CAMINO REAL and 5900 THROUGH 5938 GRAN PASEO WAY (Project is to consider a request for common area amenity space modifications for the Grand Oaks Paseo Project on APN 029-274-001 through 029- 274-032 for Cal Coastal Holdings, LLC). (AMND23-0080)

The proposed project or use may or may not be inconsistent with the character of the immediate neighborhood, may or may not be contrary to its orderly development. I am requesting that it be heard before the City Council.

Sincerely,

Heather Newsom, Atascadero City Council Member



Office: 2550 Tienda Place • Arroyo Grande, CA 93420 • (805) 474-8013
Mail: P.O. Box 414 • Arroyo Grande, CA 93421
E-Mail: Dave@AceCertifiedTreeCare.com • Web: <http://acecertifiedtreecare.com>



Arborist Report/Review Grand Oaks Project

Cal Coast Properties, Inc.
242 El Dorado Wy.
Pismo Beach, CA 93449
805-215-2703 cell

jack@calcoastalslo.com

Ted@calcoastalslo.com

4711 El Camino Real, Atascadero, CA

I met with Jack and Ted on Friday the 18th and they told me about the options for decking or synthetic turf to go on the root zone of the White Oak. When I began to educate them about the effect that would have on the tree they realized that they would like to change the plan to treat the root zone as naturally as possible, creating the least disturbance to as much of the root zone as is possible.

This really will be the only workable plan to be able to save the tree and all of its benefits.

They began to realize it was better to leave the root zone in as natural a state as possible, even repairing the presently grade-changed area to the natural grade that existed pre-construction. Oak litter and freshly chipped tree chippings will be used if any additional mulch will be needed to create a 3 inch mulch layer on top of the soil in all exposed areas of the root zone.

They mentioned a non-machinery compacted base DG walkway through the root zone area which they will show on their plans.

Synthetic turf anywhere near 40 feet of the trunk of the tree will absolutely stop the root activity underneath said turf area due to the compacted base that needs to be created for synthetic turf installation. The tree would respond negatively as a result and then would be at much higher risk of drought stress and eventual death.

Please let me know if you have any other questions or if there is anything I can do.

Prepared by:
David Brown
805-474-8013



DECORATIVE PAVING AND STAMPED CONCRETE INSPIRATION SAMPLES. FINAL SELECTION BY LANDSCAPE ARCHITECT IN COORDINATION WITH CITY PLANNING STAFF.



STREET TREES IN TREE GRATES ALONG EL CAMINO REAL (30' SPACING)

TYPICAL LOW FENCING AT PRIVATE RESIDENTIAL AREAS TO BE OFFERED AS AN OPTION TO HOME OWNERS WITH SMALL PETS.



CONCEPT PLANT SCHEDULE

- STREET TREE
PLATANUS X ACERFOLIA / LONDON PLANE TREE
- ACCENT TREE
ARBUTUS MENZIESII / PACIFIC MADRONE
CERCIS OCCIDENTALIS / WESTERN REDBUD MULTI-TRUNK
X CHITALPA TASHIRENENSIS / BURGUNDY / SAURGUNDY CHITALPA
- SHADE TREE
QUERCUS LOBATA / VALLEY OAK
QUERCUS SUBER / CORK OAK
- SCREEN
DODONAEA VISCOSA 'PURPUREA' / PURPLE LEAFED HOPESEED BUSH
PITOSPORUM TENUIFOLIUM / SILVER SHEEN / TAWHIWHI
- EXISTING TREES TO REMAIN AND PROTECT IN PLACE
- DROUGHT TOLERANT LANDSCAPE PLANTINGS (Sunset Zone 7)
20,500 SQ. FT.
- SYNTHETIC TURF
1,020 SQ. FT.

LANDSCAPE MATERIALS

- BOULDERS
- DECORATIVE STAMPED CONCRETE TREATMENT WITH NATURAL COLOR TONES. PATTERN SELECTION BY LANDSCAPE ARCHITECT.
- DECORATIVE PAVING - DRIVE ASLE
- DECORATIVE PAVING - PEDESTRIAN/PARKING AREAS
- DECOMPOSED GRANITE PAVING
- CONCRETE PAVING

IRRIGATION AND PLANTING DESIGN CRITERIA:

A WEATHER SENSING, 'SMART CONTROLLER' WILL BE USED TO MONITOR THE IRRIGATION WATER AND MANAGE DAILY WATER CONSUMPTION TO THE MINIMUM REQUIREMENTS FOR EACH HYDROZONE.

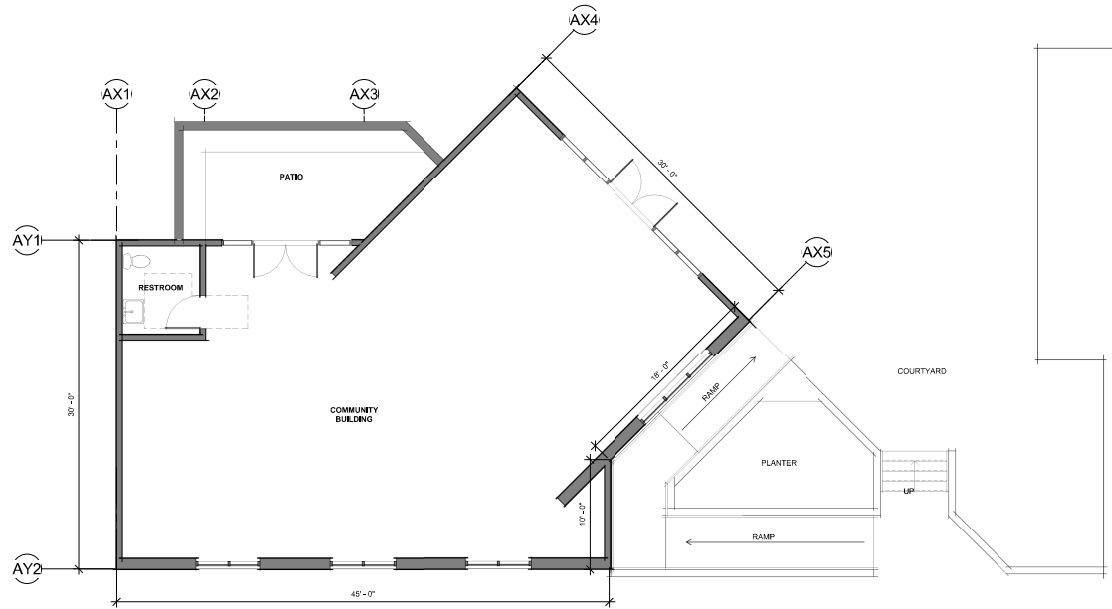
ALL TREES, SHRUBS AND GROUND COVER AREAS WILL BE IRRIGATED ON SEPARATE HYDROZONES, SO THAT ONCE ESTABLISHED, WATER CAN BE REGULATED IN A MORE EFFICIENT MANNER.

TREES WILL BE IRRIGATED BY BUBBLERS. ALL PLANTING WILL RECEIVE DRIP IRRIGATION.

THE PLANT PALETTE IS COMPOSED OF PLANT MATERIAL AND TREES KNOWN TO THRIVE IN THE LOCAL SUNSET ZONE 7 CLIMATE AND SOIL CONDITIONS.

ALL ABOVE GROUND UTILITIES WILL BE SCREEN WITH VEGETATION.

LANDSCAPE AREAS PROPOSED
COMMON LANDSCAPE AND DECK AREA = 7,530 SF
COMMUNITY BUILDING PATIO = 166 SF
OUTDOOR COURTYARD AREA = 1,250 SF



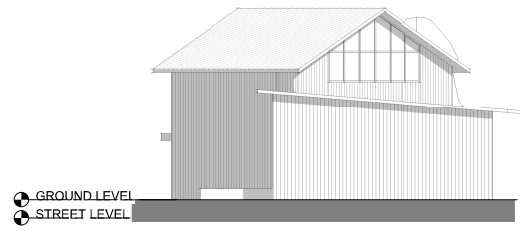
AREA CALCS - TYPICAL UNIT	
NAME	AREA
COMMUNITY BUILDING	1897 SF

① GROUND LEVEL
3/16" = 1'-0"

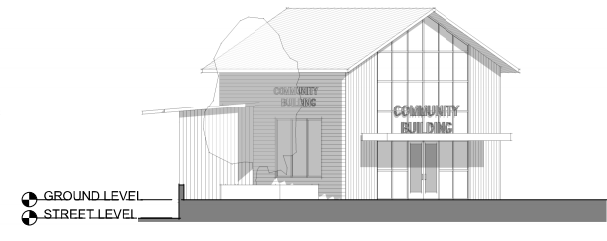




3 FRONT ELEVATION - EL CAMINO REAL
1/8" = 1'-0"



2 Left Elevation
1/8" = 1'-0"



5 Right Elevation
1/8" = 1'-0"



1 Rear Elevation
1/8" = 1'-0"



4 Main Elevation
3/16" = 1'-0"





APPROVED

SEP 19 2023

BD

**CITY OF ATASCADERO
PLANNING**

**CITY OF ATASCADERO
PLANNING COMMISSION**

ITEM NUMBER: B-1
DATE: 10/10/23
ATTACHMENT: 7

MINUTES

**Regular Meeting – Tuesday, September 5, 2023 – 6:00 P.M.
City Hall
6500 Palma Avenue, Atascadero, California**

CALL TO ORDER - 6:00 p.m.

Chairperson van den Eikhof called the meeting to order at 6:02 p.m. and Commissioner Hughes led the Pledge of Allegiance.

ROLL CALL

Present: Commissioners Anderson, Carranza, Heath, Hughes, Schmidt, Vice Chairperson Keen, and Chairperson van den Eikhof
Absent: None
Vacant: None
Others Present: Annette Manier, Recording Secretary
Staff Present: Community Development Director, Phil Dunsmore
Senior Planner, Kelly Gleason

APPROVAL OF AGENDA

MOTION: By Commissioner Heath and seconded by Commissioner Hughes to approve the Agenda.

Motion passed 7:0 by a roll-call vote.

PUBLIC COMMENT

None.

Chairperson van den Eikhof closed the Public Comment period.

CONSENT CALENDAR

- 1. APPROVAL OF THE DRAFT MINUTES OF JULY 18, 2023**
 - Recommendation: Commission approve the July 18, 2023 Minutes.

MOTION: By Commissioner Schmidt and seconded by Vice Chairperson Keen to approve the Consent Calendar.

Motion passed 7:0 by a roll-call vote.

PLANNING COMMISSION BUSINESS

None

COMMUNITY DEVELOPMENT STAFF REPORTS

None

PUBLIC HEARINGS

2. 4701, 4711, 4721, 4731, 4741 EL CAMINO REAL and 5900 THROUGH 5938 GRAN PASEO WAY

The proposed project is to consider a request for common area amenity space modifications for the Grand Oaks Paseo Project on APN 029-274-001 through 029-274-032 for Cal Coastal Holdings, LLC. (AMND23-0080)

- Recommendation: Staff's recommendation is for the Planning Commission to approve the requested modifications as conditioned.

DISCLOSURE OF EX PARTE COMMUNICATIONS:

Commissioner Carranza stated that she visited the site today and knocked on doors, but was not able to reach any residents. She did run into one of the brokers, Marco Caracas from Cal Coastal, who is in the audience tonight.

All other commissioners had no ex parte.

Planner Gleason presented the staff report, and she and Director Dunsmore answered questions from the Commission.

PUBLIC COMMENT

The following members of the public spoke: Ted Lawton/Cal Coastal who answered questions from the Commission, Olivia Montiano, Tyler Smith, Marco Caracas, and Korey Jones.

Chairperson van den Eikhof closed the Public Comment period.

Chairperson van den Eikhof adjourned the meeting at 7:13 p.m. for a break.

Chairperson van den Eikhof called the meeting back to order at 7:18 p.m. with all present.

PUBLIC COMMENT

The following members of the public spoke: Ted Lawton/Cal Coastal who answered questions from the Commission, Marco Caracas, Tyler Smith, and Gonzalo (resident).

Chairperson van den Eikhof closed the Public Comment period.

The Commission agreed to split the approval of the proposed amendments to the project into Phase 1 and Phase 2, with Phase 2, (the removal and replacement of the community room), to be considered at a future hearing on October 17th. The Commission strongly encouraged residents of the project to voice their wants/needs for the meeting in October.

MOTION: By Vice Chairperson Keen and seconded by Commissioner Carranza to adopt a portion of Draft Resolution (PHASE 1) of the amendments to the common amenity space area (specifically the common open space) amending Grand Oaks Master Plan of Development (Resolution 2019-082) as follows:

- **Strike all conditions and portions thereof that relate to the El Camino frontage amenity space.**
- **Add a condition that the alternative design for the community building lot, be presented at the October 17th PC hearing.**
- **In no case shall an inspection past slab be permitted and completed on two additional residential units that have started construction, or any other residential units that may be constructed, until the removal and replacement of the community room is brought back to the Commission for consideration.**
- **Add a condition that a minimum of two 15-gallon shade trees be installed within the central open space area.**
 - **There will be a minimum of one community BBQ with a countertop.**
 - **Strike the requirement for a gas fireplace.**
 - **Modify condition that requires completion of central open space area prior to final of Lots 17-20 (4-week timeframe). Instead, require completion completed prior to framing inspection for Lots 22 or 23 or any other future lot (18+months timeframe.)**

Motion passed 7:0 by a roll-call vote.

COMMISSIONER COMMENTS AND REPORTS

None

DIRECTOR'S REPORT

Director Dunsmore stated that there is a lot of policy work going on, including the General Plan, and asked the Commissioners to stay posted on upcoming public outreach. Director Dunsmore stated that Objective Design Standards and CEQA thresholds (incl. creeks, PPNs, historic preservation), will be forthcoming. On Oct. 7th, there will be another General Plan meeting, and on October 14th, there will be a meeting at the Lake Pavilion.

On September 19th, the Commission will hear a small care facility project on Olmeda, and a mixed-use project on Curbaril/Morro Road.

ADJOURNMENT – 8:39 p.m.

The next regular meeting is scheduled for September 19, 2023, at City Hall, 6500 Palma Avenue, Atascadero.

MINUTES PREPARED BY:

Annette Manier

Annette Manier, Recording Secretary
Administrative Assistant

Adopted 9/19/23



Atascadero City Council

Staff Report - Community Development Department

Appeal of Conditional Use Permit for RV Storage Facility 6805 Sycamore Road

RECOMMENDATIONS:

Council:

1. Adopt Draft Resolution A, affirming the Planning Commission's approval of a conditional use permit to establish an RV storage facility at 6805 Sycamore Road, subject to findings and conditions of approval (Attachment 8).

OR

2. Adopt Draft Resolution B, reversing the Planning Commission's action and denying a conditional use permit to establish an RV storage facility at 6805 Sycamore Road, subject to findings (Attachment 9).

REPORT-IN-BRIEF:

The owners of VS Marine are proposing to establish an RV storage yard on land owned by Atascadero Mutual Water Company (AMWC) within the Industrial Zone, adjacent to the Sycamore Industrial Park at 6805 Sycamore Road. AMWC has agreed to lease the land to allow this land use. The use requires a conditional use permit within the Industrial Zoning District.

On July 28, 2022, the Design Review Committee (DRC) reviewed the proposed project and made recommendations regarding new and existing fencing and landscaping for the project. The applicant revised the plans in accordance with the DRC's recommendations.

On November 15, 2022, this item was presented to the Planning Commission (PC). Public comment focused on potential environmental impacts. In one letter received, staff was notified from a local Native American tribe that the site may be archeologically sensitive. The Commission voted to continue the meeting to a date uncertain, with a recommendation to provide an Archeology Study and a Visibility Study with the applicant to mark the boundaries of the storage yard.

On June 20, 2023, the item returned to the PC for continued review. Two motions were made by the PC to deny the conditional use permit application, both of which failed with a 4:2 vote and 3:3 vote. A third motion was made to approve the conditional use permit which also failed with a 3:3 vote. A fourth motion was made to continue the item until the City analyzes appropriate land uses for the property as part of the General Plan update. The General Plan update is likely to be completed in 2024, however there is no definitive

completion date to amend the zoning maps, therefore the motion to continue on that basis was determined to be an invalid action.

On July 18, 2023, the Commission reheard the project. Following substantial public comment, the commission voted 4-3 to approve the use permit, adding a condition to provide a nesting bird and special status species survey prior to development of storage yard.

On July 28, 2023, an appeal was received from David Broadwater, a resident of Atascadero. The basis of the appeal claims that the environmental impacts of the project were not adequately addressed and that qualified professionals should be utilized to evaluate the project (Attachment 1).

On July 31, 2023, a second appeal was received from Michael Jenkins on behalf of BioDiversity First!, Inc. of Shandon, CA. The basis of this appeal notes that the project's adjacency to a flood plain is problematic and an unacceptable risk. The appeal notes that the City's compliance with CEQA is incomplete and under an unspecified categorical exemption (Attachment 2).

DISCUSSION:

Project Logistics

The subject site is located on the north side of Sycamore Avenue, adjacent to the Sycamore Industrial Park and west of the Salinas River. Historically, the site was graded and filled with a large quantity of gravel and material and a large berm was constructed near the eastern boundary of the site adjacent to the river, most likely as a flood prevention measure. The site is owned by Atascadero Mutual Water Company (AMWC) and contains an existing fenced construction yard with storage buildings on a portion of the property.

The proposed project includes a six-acre outdoor storage yard designed to accommodate up to 262 unoccupied recreational vehicles and boats. The applicant is proposing to complete the project in two phases. The first phase consists of 138 RV storage spaces, a new perimeter chain link fence along the Phase 1 area, site grading with Class II base (in Phase 1 areas only), construction of an entrance gate, and completion of a required stormwater basin. Phase 2 includes the addition of 124 RV storage spaces, removal of the fence between the two phases and extension of a chain link fence at the rear of the site. In phase one, Project development will include a formal entry to the Anza trail and an improved pathway, split rail fencing, and landscaping along the realigned access path that will link to the established trail alignment adjacent to the Salinas River.

Land Use Entitlement

The land use proposed, *Outdoor Vehicle and Equipment Storage*, is a conditionally allowed use in the Industrial Zoning district. Section 9-6.140 of the City's Zoning Regulations provides a set of site design standards for storage yards in addition to the provisions of the use permit.

Archaeological Assessment

An archaeological consultant, *Cultural Resource Management Services*, conducted an archaeological inventory survey (Phase I) within the proposed project area to determine if any resources might be present and whether further analysis would be warranted. The

archaeological assessment found that no further investigations are necessary. Historical records indicate that in 1969 and 1972 the entire parcel of land was flooded and the banks of the Salinas river changed substantially. Following this time, until the 1990s, the County of San Luis Obispo and Caltrans utilized this area to dispose of excess materials, such as asphalt, concrete, fill soil, and rock. According to a source at the Atascadero Mutual Water Company, this raised the level of the parcel around 10 feet. Evidence of this previous grading and fill still remains on site. During the field investigation, all materials were found to be consistent with fill dirt that would have been imported into this site. There does not appear to be any native grade remaining on this property, therefore archeological evidence is not present.

Landscaping, Fencing, Lighting, and Security

Landscaping

Atascadero Municipal Code (AMC) 9.4-125 requires 5% of a project site in an industrial zone to be landscaped. The applicant is requesting an exception to this requirement due to maintenance concerns and visibility into the site. Since the site is screened by fencing and landscaping along Sycamore Road, landscaping added within the RV lot will not be visible from the outside. Based on location and this specific land use, staff had recommended that the Planning Commission allow for a modification to only require landscaping along Sycamore Road and the Anza Trail along the project frontage.

Fencing

The applicant is proposing new six-foot-tall vinyl-coated chain link fencing around the RV storage lot. AMC 9-4.128 requires all new vinyl-coated chain link fencing to be screened with evergreen vegetation. The new fence adjacent to the Anza Trail will be heavily screened with landscaping. However, new fencing around the rear of the site is not proposed to have landscape screening as it is adjacent to a tall berm that separates the site from the Salinas River. The applicant is proposing a powered gate that will be keypad controlled. There will be no regular onsite workers so the RV storage will be self-service.

Lighting

Lighting is provided by pole lights throughout the site. Five security cameras will be installed on the proposed light poles. The applicant has a pre-existing contract with a local security company for their existing VS marine site. They plan to continue using them for this site for 24-hour security coverage.

Use Permit Entitlement

A use permit to allow an RV storage yard will run with the land, regardless of the business owner/operator, unless the use permit is revoked or modified by the City, or unless the uses ceases for a period of six months or more. Project conditions were incorporated into the project to ensure that storage was only allowed for operable RVs and boats. Conditions were designed to prevent nuisances from accumulating at the site and to ensure appropriate quality and maintenance (PC Resolution, Attachment 7).

CEQA determination

The project to establish an outdoor storage yard at this site consists of the installation of fencing, lighting, road base, and a small drainage basin to ensure that any stormwater on this site enters the basin without leaving the site. The project does not involve the construction of buildings, infrastructure, or paved areas. The site was evaluated as part of the 2002 General Plan for the Industrial Uses within the General Plan EIR and is a

historically graded, leveled, and filled site void of natural features, drainage courses, trees, or habitat areas. The site has been historically utilized for construction yard operations and passive outdoor recreation. Following a phase I archeological evaluation, along with several site visits by staff, it was determined that the “project” should be exempt from CEQA as it does not involve substantial grading nor development and the site is not within a sensitive habitat zone, nor does it have the potential to provide archeological or historical artifacts. Staff recommended the use of CEQA Guidelines Section 15304 to provide an exemption to this project. This section states that projects shall be exempt from CEQA that involve “*minor public or private alterations in the condition of land, water and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes*”.

Appeal 1

The appeal filed by David Broadwater (Attachment 1) claims that the environmental impacts of the project were not adequately addressed and that qualified professionals should be utilized to evaluate the project. The appeal states:

“There is no evidence that the project has been reviewed by qualified professionals regarding the environmental, recreational, social and aesthetic values of the site and the river’s watershed, or the potential impacts on beaver habitat which brings the benefits of water retention, groundwater recharge, and wildlife and riparian enhancement.”

Mr. Broadwater’s appeal was supplemented by additional information that was submitted on September 8, 2023. This supplemental information is included in Attachment 1 and details arguments about the entitlement process along with relevant sections of the existing General Plan and the potential for this designation to be altered with the ongoing General Plan update.

A second supplement to Mr. Broadwater’s appeal was received on September 15, 2023 (Attachment 1). This second supplement is a series of statements, evidence, and policy review from the SLO Beaver Brigade. In summary, the Beaver Brigade opposes the RV storage project stating that the project is not consistent with the intent of the General Plan, the project review did not consider mitigation for a Bald Eagle nest that may be located on the other side of the Salinas River from the proposed storage site, and that the project could impact the health of the beaver habitat in the Salinas River.

Appeal 2

Appeal two was received on July 31, 2023, and was filed by Michael Jenkins on behalf of the nonprofit BioDiversity First!, Inc. This appeal claims that the project site is problematic and risky due to the flood plain adjacency and that the City failed to properly address CEQA (Attachment 2).

A supplement to appeal two was received on September 19, 2023. The supplement expands on the potential environmental impacts of the project while focusing on the potential of climate change and “Channelization” of the Salinas River. The appeal supplement seems to claim that the installation of a storage facility on this site would result in reducing the flood plain of the Salinas River, therefore resulting in a “channelization” of the river system.

Use Permit Findings

As noted in the Council's action options below, the Council must make all project findings to support the project and deny either of the appeals, or only one finding in order to deny the project and reverse the Planning Commission's action.

Findings are as follows:

- a. The proposed project or use is (or is not) consistent with the General Plan; and
- b. The proposed project or use does (or does not) satisfy all applicable provisions of this title; and
- c. The establishment, and subsequent operation or conduct of the use will not (or will), because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use; and
- d. The proposed project or use will not (or will) be inconsistent with the character of the immediate neighborhood or contrary to its orderly development; and
- e. The proposed use or project will not (or will) generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved in conjunction with the project, or beyond the normal traffic volume of the surrounding neighborhood that would result from full development in accordance with the land use element; and
- f. The proposed project is (or is not) in compliance with any pertinent City policy or criteria adopted by ordinance or resolution of the City Council;

Conclusion

Since the AMWC owns the site, permanent development of the property with buildings and other improvements that are suitable within the industrial zone may not be an option at this time. This land constitutes a significant portion of rare industrial land in the City and has the benefit of not being within close proximity to residential neighborhoods, nor along a significant view corridor such as Highway 101 or El Camino Real. The 2002 General Plan evaluated this site for industrial land uses and adopted an Environmental Impact Report accordingly. Although the EIR does not evaluate property on a project specific basis, it does assume that these sites will be developed with industrial land uses. The far eastern portion of the property nearest the Salinas River is within an open space designation, which creates a suitable setback for commercial development. Although a storage land use is not the highest and best use of any property within the City, this site is suited for this land use due to its isolated location, level topography, adequate separation from the habitat area associated with the river, and its limited visibility from view corridors or other properties. The General Plan update will continue to evaluate these sites for commercial viability and the future land use plan can be modified to take into account a land use list that best suits the City.

The use of the site for a storage yard does not involve substantial changes to this site nor does it alter the habitat adjacent to, or within, the floodplain. No beaver dams, bird nests, nor drainage courses exist on the project site. No buildings, substantial paving, or

substantial construction is proposed to take place with the proposed project. All stormwater on the project site would be required to remain on site and drain to a proposed basin, which would allow for on-site groundwater infiltration. The project does not result in any changes to the Salinas River basin, its banks, or any other land that has not been previously graded or leveled.

- If Council takes action to uphold the Planning Commission's approval of the project, all findings must be made to support the Use Permit, as detailed in Draft Resolution A. As noted above, conditions may be added to enhance the project's compatibility with the General Plan and with the compatibility with the site and surroundings.
- If Council takes action to overturn the Planning Commission's approval of the project, they must determine that the project does not meet at least one of the findings as detailed in Draft Resolution B. If Council overturns the Planning Commission's approval and denies the project, Council will need to state the finding that cannot be made and reason(s) for denial which will then be included in Draft Resolution B.

ALTERNATIVE:

Council may continue the item for further discussion and direction. Council should provide clear direction to staff or the project applicant on specific information needed to return for review. As an option, Council may choose to allow a phased project or only a portion of the proposed six acres to be used for RV storage with the other portion to remain vacant until further review.

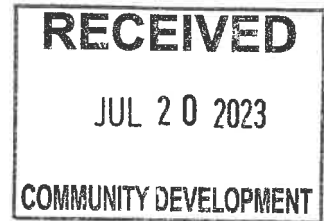
FISCAL IMPACT:

There is no significant fiscal impact expected.

ATTACHMENTS:

1. Appeal Letter and Supplements (Appeal 1, David Broadwater)
2. Appeal Letter and Supplements (Appeal 2, Friends of the Beaver)
3. Planning Commission Meeting Minutes- June 20, 2023
4. Planning Commission Meeting Minutes- July 18, 2023
5. Planning Commission Resolution
6. Draft Resolution A
7. Draft Resolution B
8. Public Comments (prior to agenda posting)
9. Supplemental Information Packet (prior hearing materials) available online at:
<http://records.atascadero.org/WebLink/ElectronicFile.aspx?docid=120999&dbid=0>

From: David Broadwater <csi@thegrid.net>
Sent: Thursday, July 20, 2023 10:45 PM
To: Lara Christensen <lchristensen@atascadero.org>
Subject: Appeal of 7-18-23 Planning Commission permit for RV Storage near Salinas River



to:
Atascadero City Clerk
re: Appeal of Planning Commission Approval of 6805 Sycamore Road RV Storage
date: 7-20-23

This is an appeal to the Atascadero City Council to rescind the Planning Commission's 7-18-23 approval of a permit for an RV storage facility within the Salinas river watershed. On 7-18-23, the Planning Commission approved a permit for a 6-acre RV storage facility within the Salinas River watershed at 6805 Sycamore Road. Many public comments opposed to this permit were registered both in person and digitally, including mine. None of those posted on-line over months of meetings since November 2022 were in favor of the permit. This project was given a categorical exemption from CEQA according to the 6-20-23 Planning Commission Staff Report. There is no distinct section in that report devoted to any

2

environmental analysis of the site by any person or agency qualified to conduct such an analysis. The report includes the headings "Project site", "Project description", "Project Review History", "Analysis", "Archaeological Assessment", "Landscaping", "Fencing, lighting and security", and "Storage Yard Conditions".

There is no evidence that the project has been reviewed by qualified professionals regarding the environmental, recreational, social and aesthetic values of the site and the river's watershed, or the potential impacts on beaver habitat which brings us the benefits of water retention, groundwater recharge, and wildlife and riparian enhancement.

The approval of this project was, therefore, based on insufficient and insubstantial information and grounds, lacking in proper analysis of its potential consequences. It must be reviewed, reevaluated and rejected by the City Council, until such time that a proper evaluation is conducted.

David Broadwater
Atascadero

ATTENTION:
This email originated from outside the City's network. Use caution when opening links and attachments.

to: Atascadero City Council
re: Supplement to Appeal of 7-18-23 Planning Commission
Approval of a CUP for RV Storage Facility at 6805 Sycamore
Rd.
from: David Broadwater
date: 9-8-23



This is a supplement to be included as an integral part of and to be attached to the appeal I filed on 7-20-23 for the purpose of refining my request that the City Council deny the Conditional Use Permit for this RV storage facility.

Included herein are:

- Relevant excerpts from the minutes of the 6-20-23 and 7-18-23 Planning Commission meetings,
- Relevant excerpts from the current General Plan,
- Relevant excerpts from documents relating to the General Plan Update,
- My 7-14-23 comments to the Planning Commission, and
- My 7-20-23 appeal of the CUP approval.

I've mentioned my objections to the categorical exemption granted for this CUP in my comments to the Planning Commission and appeal to the City Council. I would add that I see no evidence that an initial study was conducted regarding potential environmental impacts under CEQA (California Environmental Quality Act) guidelines, and no evidence of an effort to consider either a Negative Declaration or Mitigated Negative Declaration under those guidelines. Additionally, I've seen no evidence that any alternatives analysis has been conducted to determine whether other sites in the City could provide the service of RV storage with less potential negative environmental impacts.

As may become apparent when considering this proposed project in relation to the General Plan and its pending updated version, there are number of opportunity costs involved with approval of this CUP. There may be additional potentially missed opportunities beyond those made apparent by the General Plan updating process. The

foreclosure of these opportunities should be given serious consideration and subjected to due discussion and deliberation.

RELEVANT EXCERPTS FROM THE MINUTES OF THE 6-20-23 AND 7-18-23 PLANNING COMMISSION MEETINGS:

In three of the four motions made at the 6-20-23 meeting:

Two Commissioners moved to deny the project "pending review of this property with the future General Plan" due to its inconsistency with the area's natural character and orderly development, its proximity to the Salinas River, and potential negative impacts on wildlife.

Two Commissioners moved to deny the project due to its being "inconsistent with the General Plan" and the "land use and conservation policy of the General Plan" goal to "enhance the rural character and appearance of the city".

Two Commissioners moved to "continue the Conditional Use Permit (CUP) USE21-0107 until staff reviews the General Plan analysis where the City Council feels comfortable with the future land use designation on this site."

The first two motions failed and the third passed unanimously.

It is apparent, therefore, that the three Commissioners who made the first two motions consider this project either inconsistent with the current General Plan or inconsistent with its updated version.

It's also apparent that all of the commissioners present desired to wait for the City Council's assessment of this project in the context of the pending updated General Plan. No such assessment took place. When asked by this appellant via email, in reference to the third unanimous motion cited above, "Has such a review regarding an 'analysis where the City Council feels comfortable with the future land use designation on this site' occurred?", Community Development Director, Phil Dunsmore, on 8-21-23 replied via email, "No such analysis has occurred."

Note that the Community Development Director stated that the future uses of properties similarly zoned will be decided within the

next few months, and that this property is within the Salinas River flood plain.

I encourage the City Council to take these perspectives into account when considering whether to deny this CUP.

Minutes of 6-20-23 Planning Commission meeting:

<http://records.atascadero.org/WebLink/ElectronicFile.aspx?docid=119081&dbid=0>

CITY OF ATASCADERO
PLANNING COMMISSION AGENDA
REGULAR MEETING
Tuesday, July 18, 2023

...

CITY OF ATASCADERO PLANNING COMMISSION
DRAFT MINUTES
Regular Meeting – Tuesday, June 20, 2023

...

4. CONDITIONAL USE PERMIT FOR 6805 SYCAMORE ROAD
(CONTINUED FROM 11-15-22)

The proposed project is a request to add RV storage lot to an existing site for VSM Leasing & Rentals with an exception to minimum landscape standards on APN 028-121-001. (USE21-0107)

- Recommendation: Staff's recommendation is for the Planning Commission to allow a new business for outdoor recreational vehicle (RV) storage in the Industrial Park zone.

PUBLIC COMMENT

The following members of the public spoke: Don McAdam (who answered questions from the Commission), Kate Montgomery, Audrey Taub, Fred Frank, and Doug Reynolds.

Commissioners discussed **whether this area was being evaluated with the General Plan Update**. Director Dunsmore stated that **staff has not made a determination on future uses of Industrial zones, and that the City will be making these decisions in the next 6-8 months**.

Chairperson van den Eikhof asked if **this parcel** is still in the flood plain, and Director Dunsmore stated that it **is in a flood plain**.

Chairperson van den Eikhof closed the Public Comment period.

[page 4]

MOTION:

By Vice Chairperson Keen and seconded by Commissioner Carranza to adopt draft Resolution **denying** Conditional Use Permit (CUP) USE21-0107 allowing a new business for outdoor Recreational Vehicle storage in the Industrial Park zone **pending review of this property with the future General Plan**, because of the finding #4 that this **project will be inconsistent** with the **character of the immediate neighborhood** or contrary to its orderly development because of its location **near the Salinas river**, since the riverbed is full of animals and this could potentially have **negative effects of wildlife** in the area. Because it's **inconsistent** with the **natural character** of its current setting.

Motion failed 4:2...

MOTION:

By Commissioner Carranza and seconded by Commissioner Anderson to adopt draft Resolution **denying** Conditional Use Permit (CUP) USE21-0107 allowing a new business for outdoor Recreational Vehicle storage in the Industrial Park zone, because of Finding #1, the project is **inconsistent with the General Plan** specifically the portion that states "enhance the **rural character** and **appearance** of the city including commercial corridor, gateways and public facilities, **land use and conservation policy of the General Plan**. She would like to see this item tabled until the next General Plan is finalized, instead of denied

Motion failed 3:3...

...

MOTION:

By Commissioner Anderson and seconded by Vice Chairperson Keen to **continue** the Conditional Use Permit (CUP) USE21-0107 until **staff reviews the General Plan analysis** where the **City Council feels comfortable with the future land use designation** on this site.

Motion passed 6:0...

During the 7-18-23 Planning Commission meeting, only one motion was made regarding this CUP, which passed by one vote to approve it.

<http://records.atascadero.org/WebLink/ElectronicFile.aspx?docid=120669&dbid=0>

CITY OF ATASCADERO PLANNING COMMISSION AGENDA
REGULAR MEETING Tuesday, September 5, 2023

...
DRAFT MINUTES Regular Meeting – Tuesday, July 18, 2023

...
3. CONDITIONAL USE PERMIT FOR 6805 SYCAMORE ROAD
(CONTINUED FROM 6-20-23)

...
MOTION:

By Commissioner Schmidt and seconded by Commissioner Hughes to approve the Conditional Use Permit (CUP) USE21-0107 allowing a new business for outdoor Recreational Vehicle (RV) storage in the Industrial Park zone, with the included additional condition recommended by staff.

Motion passed 4:3 by a roll-call vote. (Anderson, Carranza and Keen voted no)

Findings:

Below, in the minutes of the 6-20-23 Planning Commission meeting including the Staff Report recommending approval of the CUP for this RV storage facility, are four of the findings used to justify its approval. They assert that, because it's "consistent with the General Plan", it won't be "detrimental to the general public", isn't "inconsistent with the character" of the area, and the property is "zoned Industrial Park", this use of it should be approved.

These assertions are invalid when the current General Plan and the documented planning for its revision are taken into account. Regarding the former, as clearly stated in current Open Space Policy Goal LOC 6, Policy 4: "Scenic and sensitive lands including creeks, riparian corridors, wetlands and other areas of significant habitat

value shall be protected from destruction, overuse, and misuse by the use of zoning... ”.

The records of the 6-20-23 and 7-18-23 Planning Commission meetings show that, in two of the four findings subject of this supplement, the Industrial Park zoning of this land is used to support approval of this CUP. The City Council is required by the General Plan to consider whether this constitutes “misuse by the use of zoning”.

A perusal of the current General Plan and information generated regarding its pending revision will demonstrate that these findings cannot withstand scrutiny and are unfounded.

The same applies to four of the findings made at the 7-18-23 Planning Commission meeting, which are identical to those made during the 6-20-23 meeting. This appellant was provided with the findings declared at the 7-18-23 Planning Commission meeting by a Community Development Department Assistant Planner on 8-11-23 who wrote, “The following are the full list of findings from the July 18 Planning Commission hearing on the Sycamore RV project.”. Among them are the four findings identical to those made on 6-20-23 cited above and included below in the Draft Minutes of the 6-20-23 meeting. It would be superfluous and needlessly repetitive to include the text of those findings in this supplement.

They correspond with four of the seven required findings for approval of CUPs listed in Title 9 – Planning & Zoning of the Municipal Code, Chapter 2 - Applications: Content, Processing & Time Limits, Section 9-2.110 – Conditional Use Permit, specifically:

(i) Conditions of Approval. After the conclusion of a public hearing, the Planning Commission may approve, conditionally approve, or disapprove the conditional use permit. In conditionally approving a conditional use permit, the Planning Commission **shall designate such conditions to satisfy any requirements of CEQA...**:

...

(iv) Required Findings. If the Planning Commission approves or conditionally approves a conditional use permit, it **shall** first find that:

a. The proposed project or use is consistent with the

General Plan; and

...

c. The establishment, and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use; and

d. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development; and

..

f. The proposed project is in compliance with any pertinent city policy or criteria adopted by ordinance or resolution of the city council; and

...

<http://records.atascadero.org/WebLink/ElectronicFile.aspx?docid=119081&dbid=0>

CITY OF ATASCADERO PLANNING COMMISSION
AGENDA REGULAR MEETING
Tuesday, July 18, 2023

...

[approved] **DRAFT MINUTES** [page 1 of 6]
Regular Meeting – Tuesday, June 20, 2023

...

Atascadero Planning Commission [page 23]
Staff Report - Community Development Department
Sycamore RV Storage
USE 21-0107
(VSM Leasing & Rentals LLC)

...

ATTACHMENTS: Attachment 1: **June 20, 2023 Planning Commission Staff Report** [page 26]

...

DRAFT RESOLUTION [page 36]

...

SECTION 3. Findings. The Planning Commission makes the following findings, determinations and approvals [page 37]

1. Findings for Approval of a Conditional Use Permit

FINDING: The proposed project or use is consistent with the General Plan

FACT: The use is consistent with the General Plan. Specifically, it relates to intended uses in the Industrial Park zone. The General Plan states that one of the intended uses of this zone is for outdoor storage facilities. General Plan Policy 14.2 aims to identify locations with adequate land to accommodate industrial uses to retain and expand existing businesses. The municipal code allows outdoor vehicle storage operations with a conditional use permit.

...

FINDING: The establishment, and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use

FACT: The proposed recreational vehicle storage facility will not be detrimental to the general public or working person's health, safety, or welfare.

FINDING: The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development

FACT: The proposed project is on a property that is zoned Industrial Park with a construction yard on it. The property is at the edge of the city in an area that has been designated for industrial uses.

...

FINDING: The proposed project is in compliance with any pertinent City policy or criteria adopted by ordinance or resolution of the City Council.

FACT: The project is consistent with the General Plan and municipal code, as conditioned.

...

RELEVANT EXCERPTS FROM THE CURRENT GENERAL PLAN:

Included herein are excerpts from the Open Space Policies of the Land Use, Open Space & Conservation Element of the current

General Plan. They include evidence that the RV storage CUP is, in fact, inconsistent with the current General Plan and contradict findings that it is, e.g., findings that it will not be detrimental to the health, safety or welfare of the general public, findings that it will not be inconsistent with the character of the immediate neighborhood, and findings that, simply because the property is currently zoned as Industrial Park, other factors that must be included in decision-making may be neglected or overridden.

Of note, the Open Space Policy cites the need for protection of the Salinas River corridor from detrimental developments.

Please examine this RV storage project in light of the current General Plan's Open Space Policies and find that it is inconsistent with them. Selected text in Open Space Policies is highlighted in **BOLD** to indicate those with which this CUP may be deemed by the City Council to be inconsistent, and to support findings that it should be denied.

<https://www.atascadero.org/files/CD/General%20Plan/AtasGP-CH2-LU.Con.OS.pdf>

Land Use, Open Space & Conservation Element

June 25, 2002

...

E. Land Use, Open Space, and Conservation Goals, Policies and Programs [page II-13]

...

2. Open Space Policies [page II-27]

...

Goal LOC 6. Preserve natural flora and fauna and protect scenic lands, sensitive natural areas...

Policy 6.1: Ensure that development does **not degrade scenic and sensitive areas**, including historic sites, **creeks, riparian corridors, wetlands**, woodlands, hillsides and other valuable **habitats**.

Programs:

...

4. Scenic and sensitive lands including **creeks, riparian corridors, wetlands** and other areas of significant **habitat** value

shall be protected from **destruction, overuse, and misuse by the use of zoning**, tax incentives, easements, or fee acquisition.

5. Public and private development in **close proximity** to scenic and sensitive lands, including **creek reservations**, wooded areas, **flood plains**, prominent view sheds and historic sites **shall** be designed to **minimize impacts**.

6. Scenic and open space easements, parklands and **open space dedications shall be required** as mitigation for subdivisions and development projects that impact, **floodplains, creek reservations**, wooded areas, scenic backdrops, sensitive areas, historic sites, cultural sites, and similar areas.

7. The City **shall** carefully evaluate both public and private projects to **require the preservation** of trees, **watersheds**, natural slopes, and **other natural features**.

...

Goal LOC 8. **Watershed** areas of Atascadero **shall be protected**.

Policy 8.1: **Ensure** that **development** along Atascadero Creek, Graves Creeks, the **Salinas River**, blue line creeks, and natural springs, lakes, or other **riparian areas** does **not** interrupt natural flows or **adversely impact riparian ecosystems** and water quality.

Programs:

1. **Work with other agencies** to implement the Erosion Control Assistance Program for **review** of development proposals to **minimize sedimentation** of creeks and the **Salinas River**.

2. Update the Appearance Review Manual to include provisions for **preserving, reclaiming and incorporating riparian features** in conjunction with new development.

3. The waterways in the City shall be maintained in a natural state...

...

6. **Prohibit** new structures or **disturbance of riparian habitat** along **creek banks** except for restoration purposes.

...

8. Prior to permit approval, refer projects along blue-line creeks to the Corps of Engineers, Department of Fish and Game, Regional Water Quality Control, and Upper Salinas-Las Tablas Resource Conservation District.

9. Creek reservations and the **Salinas River shall be preserved for open space and recreational use**, with appropriate areas **left in their natural state** for public enjoyment and habitat purposes. Any recreational use of the River and creeks shall minimize its impact on the habitat value and open space qualities of the creeks.

10. **Land disturbance shall be minimized in proximity to watercourses** including necessary flood protection measures, such as selective brush clearing, and low-impact trail development.

11. **Areas subject to flooding**, as identified through flood hazard overlay zoning and flood maps, **shall be protected** from unsound development consistent with the City's flood hazard ordinance requirements.

...

13. **Support** the establishment and **protection of floodable terraces, wetlands, and revegetation along creeks and streams.**

Policy 8.2: Establish and **maintain setbacks** and development standards for **creek side development.**

Program:

1. Adopt and maintain a creek setback ordinance that will establish building **setbacks** and development standards **along the banks** of Atascadero Creek, Graves Creek, blue line creeks and the **Salinas River** to ensure the uninterrupted natural flow of the streams and **protection** of the **riparian ecosystem...**

...

Policy 8.3: **Preserve public creek reserves for public access**, and ensure that recreational use does not impact habitat value and open space qualities.

Programs:

1. **Develop** park, **trail**, and **recreational amenities** where appropriate in public **creek reserves.**

2. **Require** the dedication of **trail easements** and **access points** as part of subdivision maps or development permits consistent with the Circulation Element.

...

Goal LOC 11. Provide an adequate supply of City park facilities to all

Atascadero residents.

Policy 11.1: **Acquire parkland** needed for future development of **park and recreation facilities** and ensure that park improvements are consistent with adopted master plans to accommodate future growth.

Programs:

...

7. **Require** new subdivisions along the Salinas River to provide controlled **public access** to the **Salinas River** and **De Anza Trail** for **pedestrian and equestrian recreation**.

8. **Support** the development of **equestrian staging areas** and **trail systems** throughout the community including a **Salinas River / De Anza trailhead** at the north end of town and other **appropriate locations**.

...

RELEVANT EXCERPTS FROM DOCUMENTS RELATING TO THE GENERAL PLAN UPDATE:

Included herein are excerpts from two documents generated as part of the process of updating the General Plan as they pertain to decision-making on the proposed RV storage project. They address many goals related to the preservation, enhancement, enjoyment, and educational and economic value of our natural surroundings. Please note, especially, the last sentence included here in the Existing Conditions Atlas:

“the Salinas River has been identified as a key natural resource that should be protected and bolstered as a regional attraction for tourism, recreation, and education.”

Please also note that in the Community Engagement Series #1 Summary under Recreation and Open Spaces - “Protect and Preserve Native Flora, Fauna and Habitat” is this:

“regenerate/protect native wildlife, habitat, and plants, specifically beavers”.

The unanimous motion of the Planning Commission on 6-20-23 to refer this project to the City Council for consideration in the context of the pending General Plan update indicates a strong consensus for

reconsideration of the 7-18-23 approval of this CUP by the City Council now, and, perhaps, the possibility of considering a future application for an RV storage facility after the General Plan Update is completed.

Please examine this RV storage project in light of the “vision for the future” foreseen as we update our General Plan, and find that it is inconsistent with it.

Selected text in these documents is highlighted in **BOLD** to indicate findings the City Council may deem supportive of a denial of this CUP, and to indicate some of the opportunity costs that may result from an approval of this RV storage facility.

https://www.atascadero2045.org/files/managed/Document/84/AGPU_Comm%20Engagement%20Series%201%20Summary_7.25.23.pdf

Community Engagement Series #1 Summary: Vision for the Future

City of Atascadero 2045 General Plan Update – July 25, 2023

...

Existing Conditions Atlas (January 2023) [page 6]

...

Summary of Major Themes [page 7]

...

Recreation and Open Spaces [page 11]

- Increase Walking/Biking Trails. Recommendations to **create more walking** and **biking** and **walking trails** and **make connections** between existing trails, parks and **open spaces** and throughout the city. ...
- Increase or Improve and Maintain Parks and Open Space. **Acquire and create more** parks and **open space**, including multi-use parks. Extend or incorporate into open space and/or revitalize locations such as Atascadero Lake, Eagle Lake, Three Bridge Oak Preserve, Paloma Creek, among others. ...
- Value Rivers as a Community Asset. **Create more** community amenities, **open space, access points and paths** all along creeks and rivers (**particularly the Salinas River** throughout town) with amenities (tables/benches, places to recreate) to make them safer and more enjoyable. Maintain regular stream/creek

cleanups. **Create a river center for research** (Cal Poly/Cuesta students/professors) and **education**.

- Parks and Open Space as Economic Opportunity. As also addressed under Economic and Fiscal Health, **creating more attractions, open spaces, increasing and improving parks, river-related features** and recreational options and events promoting their use will help create jobs, draw visitors interested in nature and ecotourism.
- Protect and Preserve Native Flora, Fauna and Habitat. **Plant more trees** in the city (also addressed under Infrastructure); **regenerate/protect native wildlife, habitat**, and plants, **specifically beavers** and native oaks (e.g., extending Three Bridges Oak Preserve)
- Provide **More Outdoor Recreational Facilities and Activities**.
...- Provide Family-Inclusive and Age-Specific Activities. Provide activities that are inclusive of all ages... caring for playgrounds and connecting them to trails providing easy hikes and nature walks with educational signage.

...
https://www.atascadero2045.org/files/managed/Document/62/AGPU_Atlas_Revised%20Admin%20Draft_01-24-23.pdf

Existing Conditions Atlas

Revised Administrative Draft | January 24, 2023

...
Recreation and Open Spaces [page 14]
Challenges and Emerging Opportunities
Parks, Open Spaces and Trails: ...

... Opportunities exist to **improve linkages** to parks through **new or expanded trails** (... **Juan Bautista de Anza National Historic Trail**).

... **New trail connections** could be created to better **link** major recreational destinations and the **Salinas River**...

...
Creeks and Rivers: ... The waterways **provide important wildlife corridors** connecting the **Salinas River** to the Santa Lucia Mountains are designated **critical habitat** areas for South-Central

California Steelhead Trout. They also **provide recreational opportunities** for many residents. The creeks have been highly impacted by problems with trash, illegal dumping, off-road vehicle use, and urban pollution that has significantly degraded the quality of the habitat. **Protecting and enhancing** these areas can better **support the local ecosystem**, and improve water flow (and reduce localized flooding risks), and **increase the quality of life** for residents. In addition, the **Salinas River** has been identified as a **key natural resource** that should be **protected and bolstered** as a **regional attraction** for **tourism, recreation, and education**.

...

My 7-14-23 comments to the Planning Commission:

Subject: Atas Plan Comm 7-18-23 Agenda - RV Storage Lot

From: David Broadwater <csi@thegrid.net>

Date: July 14, 2023 9:31:39 PM PDT

To: jvandeneikhof@atascadero.org, tkeen@atascadero.org, janderson@atascadero.org, vcarranza@atascadero.org, rhughes@atascadero.org, gheath@atascadero.org, dschmidt@atascadero.org

to: Atascadero Planning Commission

re: Sycamore RV Storage

date: 7-18-23

I've lived in Atascadero for 51 years, owned a home here for 45 years, raised two children here who are raising my four grandchildren here - over a half century and three generations making this town our home. For years, I've hiked along the Salinas River with them for miles up- and down-stream from the trail head near the sewage plant. I know this river, seen the beaver dams, the fish living in their pools, the waterfowl, the lush vegetation, and experienced it as the most easily accessible place close to town where the wild lives and refreshes one's relationship with, and appreciation of, nature.

The value of this river and watershed is immeasurable, as is the damage to both the river's wildness and its human neighbors if this plan is approved. You must stop this.

In the Staff Report, under "Project Info In-Brief", the project is

given a categorical exemption from CEQA, i.e., no EiR or even a mitigated negative declaration. I've seen no evidence that the potential impacts of this project could have on the floodplain, watershed, groundwater, riparian habitat, marsh land, beavers, fish, waterfowl, and the human interaction and experience have been examined.

This vote must not proceed without incorporating these factors into your deliberations.

Please either deny this application or, once-again, postpone a decision until an adequate analysis of the potential impacts is conducted. It's the least we owe to this river that gives us the water we use, the plants and animals retaining it recharging our groundwater supply, and a place where we can relax and absorb this wonderful wild space near town.

David Broadwater
Atascadero

My 7-20-23 appeal of the CUP approval:

Subject: Appeal of 7-18-23 Planning Commission permit for RV Storage near Salinas River

From: David Broadwater <csi@thegrid.net>

Date: July 20, 2023 10:45:19 PM PDT

To: Lara Christensen <lchristensen@atascadero.org>

to: Atascadero City Clerk

re: Appeal of Planning Commission Approval of 6805 Sycamore Road RV Storage

date: 7-20-23

This is an appeal to the Atascadero City Council to rescind the Planning Commission's 7-18-23 approval of a permit for an RV storage facility within the Salinas river watershed.

On 7-18-23, the Planning Commission approved a permit for a 6-acre RV storage facility within the Salinas River watershed at 6805 Sycamore Road. Many public comments opposed to this permit were registered both in person and digitally, including mine. None of those posted on-line over months of meetings since November 2022 were in favor of the permit.

This project was given a categorical exemption from CEQA according to the 6-20-23 Planning Commission Staff Report. There is no distinct section in that report devoted to any

environmental analysis of the site by any person or agency qualified to conduct such an analysis. The report includes the headings "Project site", "Project description", "Project Review History", "Analysis", "Archaeological Assessment", "Landscaping", "Fencing, lighting and security", and "Storage Yard Conditions".

There is no evidence that the project has been reviewed by qualified professionals regarding the environmental, recreational, social and aesthetic values of the site and the river's watershed, or the potential impacts on beaver habitat which brings us the benefits of water retention, groundwater recharge, and wildlife and riparian enhancement.

The approval of this project was, therefore, based on insufficient and insubstantial information and grounds, lacking in proper analysis of its potential consequences. It must be reviewed, reevaluated and rejected by the City Council, until such time that a proper evaluation is conducted.

David Broadwater
Atascadero

Supplement to Appeal by David Broadwater
of RV Storage Project at 6805 Sycamore Road
September 11, 2023



The SLO Beaver Brigade would like to express our concerns about the following issues with the RV storage project that was approved by the Atascadero Planning Commission on July 18, 2023 and ask that the City Council deny this project.

1. The city staff presented a list of other possibilities for this site that misled the Commissioners and defined the conversation falsely going forward.
2. The city staff offered an environmental mitigation for the bald eagle nest located directly across the river from the site location. This is a CEQA violation by the city.
3. There is a lack of consideration for the health of the beaver wetland habitat in the vicinity of the project site and of the wildlife that live there, which will be detrimental to the riparian area in the vicinity of this use. Attached letter from Dr. Emily Fairfax included in this supplement. This is in direct contrast to Finding: "The establishment, and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use."
4. There is a deviation from the current Atascadero General Plan. This is in direct contrast to Finding: "The proposed project or use is consistent with the General Plan."
5. More than one Planning Commissioner expressed dis-ease at making this decision. 'This commission should not be deciding this project', was expressed by more than one Commissioner, including the Commission Chairperson van den Eikhof. There are substantial reasons to revisit this decision.

implementation of the California Environmental Quality Act (CEQA) have been adhered to;”

3. See attached letter from Dr. Emily Fairfax, Assistant Professor, University of Minnesota, Twin Cities. This project will be a detriment to the adjacent riparian zone and thus inhibit the functioning of our floodplain and beaver habitat to provide increasing groundwater recharge, flood control and wildfire buffers. It will reduce the ability of our wetland to provide a wildfire break. For these reasons, it will be a detriment to the general public. This is in direct contrast to Finding: “The establishment, and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use.”
4. This project does not align with our current General Plan LOC 1.3, LOC 6 and LOC 8.
 - a. Policy 1.3 states, *“Enhance the rural character and appearance of the City, including commercial corridors, gateways and public facilities.”* This location is at the gateway of the City of Atascadero from the East, just south of highway 41. It is currently a beautiful vista and this project would not enhance this gateway but instead would become an eyesore to all who enter our city from the east.
 - b. Policy 6.1 states, *“Ensure that development does not degrade scenic and sensitive areas, including historic sites, creeks, riparian corridors, wetlands, woodlands, hillsides and other valuable habitats.”* Please read Dr. Emily Fairfax’s letter (attached). This project will degrade our wetland habitat by:
 - i. Run-off from this property will degrade wetland habitat. Rain water will drain into the river, taking with it all substances on the surface; anti-freeze, oil, herbicides, toxic cleaning products. Everything. The Salinas River and its groundwater basin provides 100% of our drinking water. This will be a detriment to the health of all residents in Atascadero. This should matter to all of us.
 - ii. Parking leaky vehicles on a permeable surface next to our water source is asking for water quality issues. Providing drip

pans for the owners of RVs that **admit** they have a leak is not enough to protect the nearby riparian zone from contamination and negatively affecting our water supply. Without 24 hour monitoring of and immediate response to any leakage of toxic chemicals onsite, the River is vulnerable and becomes even more so during a flooding event.

- iii. This is an encroachment on an active eagle nest, a disturbance to a State Listed Endangered Species.
 - iv. This site is a nuisance attractor, attracting crime and other issues. Public comment submitted on Nov 14, 2022 by Cindee Yandow, **who manages 50 storage facilities states**, “RVs are a huge problem and get broken into often and people try to sneak and live in them. We have very little sites that allow vehicle storage and the ones we do **have onsite residences with a live-in manager.**” This project suggests video surveillance will be enough, **which we are hearing from someone with relevant experience is simply not true.**
 - v. RV Storage sites are active sites; owners work on their vehicles and owners wash their vehicles there; it is not a passive site as it is being represented. These activities should not occur next to the Salinas River, the source of our city’s drinking water.
- c. Policy 8.1 states, *“Ensure that development along Atascadero Creek, Graves Creeks, the Salinas River, blue line creeks, and natural springs, lakes, or other riparian areas does not interrupt natural flows or adversely impact riparian ecosystems and water quality.”* This project will adversely affect the riparian habitat adjacent to the property by reducing the ability of our riverscape and beaver habitat to replenish our groundwater, to reduce intensity of floods, to provide wildfire buffers, and other benefits of beaver wetlands.

This is in direct contrast to the Finding: “The proposed project or use is consistent with the General Plan.”

It is disheartening to be spending so much time on updating our General Plan 2045, and yet in the same moment witness our city staff ignore the

General Plan we currently have. **If we have a General Plan, shouldn't we therefore use it?**

It can also be noted that during the public comment period during the General Plan Update meeting on August 30th, Mr. Cleveland spoke about his development project that has been **on hold for 3 years awaiting the update to the General Plan**. In contrast, the Planning Commission was informed by the City lawyer that their decision on June 20th to postpone this decision on the RV Project 6-8 months until staff reviews the future land use designation on this site for the General Plan Update, was invalid and needing to be decided upon now. These two sets of directions seem to be in contradiction with each other. **How is this possible?**

The General Plan Update refers to the potential of the Salinas River as an economic stream for the City of Atascadero. Quoted from the Existing Conditions Atlas, "In addition, the Salinas River has been identified as a key natural resource that should be protected and bolstered as a regional attraction for tourism, recreation, and education." **Currently, the SLO Beaver Brigade attracts visitors regularly from Los Angeles to San Francisco. We provide tours of the Salinas River to the public, to boy & girls scout groups, environmental organizations and clubs, school groups, landowners and more. One high school group from the UK will be visiting our beaver ponds in October 2023.** These folks who come to our tours need places to stay, places to eat, all of which will bring, and is currently bringing, revenue to the City of Atascadero. The potential for this to grow is very large, and recognized by the very consultants hired to create our Existing Conditions Atlas. We are in conversation with multiple organizations to form a Salinas River Center to help highlight the natural resources in this area, similar to the visitor center at Elkhorn Slough and San Joaquin River Centers.

We can not expect the Salinas River to continue to become a regional attraction for tourism if we are putting sites such as RV Storage next to the river.

In developing our city zone maps, our city allows for transitional zoning, where a 10 acre home will not be situated next to a 30 unit apartment

complex. There will be numerous transitional zones between these two types of properties. Yet, sites that are rich with biodiversity and potential eco-tourist sites are zoned next to extreme, waste producing sites such as industry. **This has to change.** And The City does have a precedent for improving. It wasn't long ago when the city would dump chunks of broken cement into the river, including in locations known to have cultural/archaeological value (See photos below). And while the city would never do that today, it was a common practice not long ago. **It could be that putting Industrial zones next to diverse, active, wildlife areas, and floodplains will be a thing of the past that we will look on as shockingly as we look on the act of dumping concrete into the river today.** The city has already set a precedent to improve their actions, we can continue to do so as we gain knowledge and perspective.

5. Planning Commission members stated they do not think they are the body to decide this project, and in fact, there are serious concerns still to be addressed; we urge the City Council to revisit this decision.

For these reasons, we ask the City Council to reevaluate the decision from the very divided Planning Commission and deny this project on the grounds that it does not satisfy the Finding "The proposed project or use is consistent with the General Plan." or the Finding "The establishment, and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use."

Thank you for giving this issue your utmost consideration. We are available for any questions or concerns.

Thank you,
Audrey Taub on behalf of the SLO Beaver Brigade
www.slobeaverbrigade.com





To Whom It May Concern:

The Salinas River corridor in Atascadero, California contains several beaver-engineered wetlands. These wetlands have been part of ongoing research by my lab group for the past 3+ years. In that time, we have seen them become a key part of the local community and popular wildlife viewing area. Further, our data suggests that they are ecological hotspots for biodiversity in an otherwise highly developed landscape. Beaver-engineered riverscapes are not only home to numerous other species but are also shown in the scientific literature to be uniquely resistant to drought, flood, and wildfire – all of which are an inevitable part of Central California's climate future. Beaver wetlands preserve critical habitat during these natural disasters and improve the overall resilience of the landscape afterwards. None of these benefits will be realized if the river corridor is excessively altered and the beavers are driven away.

Ensuring that full, proper biologic, geomorphic, and hydrologic assessments are conducted prior to further development in the river corridor is important for preserving the ecological and cultural value of the wetlands within in. It is also prudent given the magnitude of flood events that activated the entire floodplain this past winter – it is in no one's best interest if infrastructure is built then immediately washed away.

Attached is a species list of animals directly observed by my lab via camera trapping in the Salinas River beaver complexes in Atascadero, CA.

Please do not hesitate to reach out with questions about the status or conservation of beaver wetlands and the associated ecosystem services they provide on the Salinas River and its floodplains.

Emily Fairfax, PhD
Assistant Professor of Geography
University of Minnesota
efairfax@umn.edu

Species Observed at Beaver Ponds in Salinas River Corridor, Atascadero, California

Summer 2020 – present

Observed on Game Cameras and Classified by Fairfax Lab

Species: 61 birds, 14 mammals, 3 reptiles, 1 crustacean, 1 amphibian

Alligator Lizard	Green Heron	Virginia Rail
American Coot	Hermit Thrush	Western Bluebird
American Crow	Hooded Merganser	White-crowned Sparrow
American Goldfinch	House Finch	Wild Turkey
Anna's Hummingbird	House Sparrow	Wilson's Snipe
Bat	Lawrence's Goldfinch	Wilson's Warbler
Beaver	Least Sandpiper	Wood Duck
Belted Kingfisher	Lesser Goldfinch	Yellow-rumped Warbler
Bewick's Wren	Long-tailed Weasel	
Black Phoebe	MacGillivray's Warbler	
Black-crowned Night Heron	Mallard Duck	
Black-headed Grosbeak	Marsh Wren	
Bobcat	Morning Dove	
Brewer's Blackbird	Mouse/Rat	
Bullfrog	Muskrat	
Bushtit	Northern Flicker	
California Meadow Vole	Northern Mockingbird	
California Quail	Oak Titmouse	
California Scrub-Jay	Opossum	
California Thrasher	Phainopepla	
California Towhee	Pied-billed Grebe	
Canada Goose	Purple Finch	
Common Merganser	Rabbit	
Common Yellowthroat	Raccoon	
Cooper's Hawk	Red-shouldered Hawk	
Coyote	Red-winged Blackbird	
Crayfish	Ruby-crowned Kinglet	
Deer	Ruddy Duck	
Double-crested Cormorant	Say's Phoebe	
Downy Woodpecker	Skunk	
Fence Lizard	Snowy Egret	
Fox Sparrow	Song Sparrow	
Great Blue Heron	Sora	
Great Egret	Spotted Towhee	
Greater Yellowlegs	Squirrel	
	Turkey Vulture	
	Turtle	

BEFORE THE HONORABLE MAYOR AND CITY COUNCIL
OF THE CITY OF ATASCADERO, STATE OF CALIFORNIA

BIODIVERSITY FIRST!, INC.,
A California Non-Profit Corporation,
Appellant

- versus -

CITY OF ATASCADERO
PLANNING COMMISSION,
Respondent; VSM LEASING &
RENTALS, LLC, Applicant and Real
Party in Interest; ATASCADERO
MUTUAL WATER COMPANY,
Real Party in Interest.



APPEAL BY BIODIVERSITY FIRST!, INC. OF JULY 18, 2023
DECISION OF THE ATASCADERO PLANNING
COMMISSION APPROVING A SIX (6) ACRE
RECREATIONAL VEHICLE STORAGE LOT FOR TWO-
HUNDRED SIXTY-TWO (262) VEHICLES AT 6805
SYCAMORE ROAD, ATASCADERO BE ADDED TO
EXISTING SITE APN 028-121-001

APPEAL HEARING DATE: SEPTEMBER 12, 2023
CITY COUNCIL CHAMBERS
6500 PALMA AVENUE
ATASCADERO, CALIFORNIA 93422

Submitted by Appellant
BIODIVERSITY FIRST!, INC.
3650 GILLIS CANYON
SHANDON, CALIFORNIA 93461
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Introduction/Preface

One hundred years ago, almost to the month, a newspaper in the Salinas Valley, in a community that sits astride the Salinas River, north and downstream from but much like Atascadero, reported that over a weekend members of the community had caught in a makeshift wire net stretched across the river an estimated twenty seven *tons* of fish, predominately steelhead, from the Salinas River. In large wagons, they hauled the fish to the fields where they spread their bounty – and most believed it was a divine gift - to be plowed into the earth of their fields as fertilizer. The fishery and sense of plenty seemed inexhaustible.

Fast forward to today. Atascadero is the first city and sits near the top of the Salinas River after the river originates and descends from the Los Machos Hills of the Los Padres National Forest. We enjoy the freshest and cleanest water which may be a big reason the beavers thrive here and up stream and why other species including endangered ones nest near and on the periphery of the river and floodplain, witness the existing Bald Eagle nest near the Project.

It is time - long past time frankly - that we reclaim the potential bounty of the river and give it a hand up. That we stop seeing the river as a convenient waste disposal system and that we do a better job of sharing the river's gifts and bounty with our neighbors downstream. I think our ancestors - including, recently, our parents, grandparents, and great grandparents - are calling for us to do just that. The water that comes to us from the Los Machos Hills comes to us first, before it begins its almost 200 mile journey to the sea and before it brings its bounty to more than 300,000 people who live within 5 miles of the river's path, roughly ten percent of whom reside in our City. Our relationship

to our neighbors downstream is most akin to a trusteeship, that we care for it, don't degrade it, and pass it along in as good condition as we receive it.

The pending general plan update is an opportunity to make course corrections as a City. Planning - land use planning at least - is all about grouping compatible uses together and keeping incompatible uses apart. But this single land use decision is a place to start: good and needed project, wrong place. The consequent vulnerability of getting the mix and proportions wrong invites unnecessary loss, City liability, inflated insurance premiums, and damage to human and natural life and to both personal and real property..

**THE SITING OF THIS PROJECT ON OR ADJACENT TO A
DEMARCATED FLOOD PLAIN IS PROBLEMATIC AND AN
UNACCEPTABLE RISK**

There is probably no better place to start than the fact that the Project's six acre site on which 262 recreational vehicles, some having replacement values in insurance terms well into the six-figure range, will be stored, washed, serviced, and serve as garages for lithium battery bikes, camping supplies, fire starter, and the rest of the paraphilia needed for high adventures on the road, at least in part on but in any event adjacent to a designated "floodplain". Not to belabor the obvious but a floodplain is "an area of low lying ground adjacent to a river, formed mainly of river sediments and subject to flooding." Despite stretches of the River regularly running dry, the Salinas River has flooded frequently, sometimes notably for example in 1964 and 1995. The fact that a weather-triggered flash flood sweeps, say just 10% of the stored RVs into the river course, battering the RV shells, and dumping propane tanks, Comet cleanser, Windex, motor fuel and lubricants, plumber's helpers, Drano, and fancy entertainment systems into the river course with a one-way

ticket to Templeton or maybe Paso should not surprise us., So the river is contaminated and downstream residents and business are exposed to health hazards and property loss and hopefully no loss of limb.. Because the Applicant has good lawyers, they may have suggested the project owner require tenants to waive “flood damage”. This is like a law school hypothetical: is the property owner (AMWC)) liable ?, how about the City ? Or because the insurance company had anticipated with climate change more such events, there might be no - zero - compensation.

But what if instead of the relative paucity of serious floods and uncertain odds and vagaries of flash floods caused by natural or human-assisted climate conditions, the hazard is man-made. Take for example the sixty-two year old Salinas Dam built on the Salinas River, above Atascadero, in 1941 by the War Department , fully permitted and holding 23,843 acre feet of water. Possible expansion of the Salinas Dam is possible and has been widely publicized. Any failure of the Salinas Dam could have catastrophic impacts on down river communities. The age of the dam and the fact it was designed and built before much of what we now know about the plethora of local faulting was known make it one to be watched by Atascadero officials - Atascadero and its floodplain would bear the brunt of a Salinas Dam failure but the fact it is a fully engineered dam, built by the War Department, is fully permitted and regularly inspected make it less the focus of attention than its nearby unpermitted sister dam.

The second dam, below the Salinas Dam but still above Atascadero, is much more worrisome. The second dam is a non-engineered, virtually “home-made”, unpermitted dam on private property that in the 50 or more years

since it was built has obstructed the river's flow and now restrains not only hundreds of acre feet of water but mega tons of sediment. Concern over safety and environmental and water resources led to an effort a few years ago by a team of State-agency personnel and CalPoly staff, invited by the then owner and manager of the property, to devise a plan to safely remove the dam, contain some and remove other tons of sediment, Unfortunately, just a short time - weeks - before this deal to remove the hazard was to be signed off on by all parties the manager/owner of the property the dam sits on, passes. Tragic. The successors pull the plug on the whole dam removal scheme, and ordered the university to close and keep confidential its files on this project . Experts - academic-based and state employed - identify the hazard at least to necessary emergency personnel, a blow-out of the dam after a large storm launching a fusillade of water and mud down the river, wiping out almost everything in its path, from old bridges to beaver dams.

If the first order effects and impacts of a failure of one or God forbid, both dams don't make patently obvious that the RV Storage project is likely to be in the wrong place at the wrong time, the second order effects are equally insidious. Insurance companies were slow to read the tea leaves of climate change but now, wiser, have sharply raised premiums or, like in nearby Los Osos, suspended altogether flood, fire, and seismic coverages. Imagine how these already once burned insurance companies are likely to respond to insuring \$100K+ RVs that have a virtual Sword of Damocles hanging over their and their owners' heads simply by virtue of being tenants of this RV storage project. Atascadero business, at least those close to the river, may also find themselves paying higher premiums or being spurned entirely. Consequences. Worst case? In three years you have a ghost town of

abandoned, ransacked, tireless RVs, gaping holes in ssecurity fence, and occasional whiffs of cannabis. Skeletons of the dreams once of geezers like me. Bad idea? You think!?'¹

Local seismic activity and weather wierding are also threats to the integrity of this dam. The City knows about the hazard, the property owner knows about the hazard. But someone forgot to tell the Planning Commission

THE CITY'S ATTEMPTED COMPLIANCE WITH CEQA IS INCOMPLETE AND ITS CLAIM UNDER AN UNSPECIFIED "CATEGORICAL EXEMPTION" VAGUE AS TO CONSTITUTE A FAILURE TO COMPLY WITH THE LETTER AND INTENT OF CEQA

This project was given a categorical exemption from CEQA according to the 6-20-23 Planning Commission Staff Report. There is no distinct section in that report devoted to any environmental analysis of the site by any person or agency qualified to conduct such an analysis. The report includes the headings "Project site", "Project description", "Project Review History", "Analysis", "Archaeological Assessment", "Landscaping", "Fencing, lighting and security", and "Storage Yard Conditions".²

There is no evidence that the project has been reviewed by qualified

¹ It is important to understand what BDF's appeal is NOT. We are in favor of planning and providing for services and support of all recreation users. Hiking the John Muir Trail is not for all of us, especially those of us north of 70 years of age. Atascadero has a bright future as a gateway city, a gateway to recreation, the outdoors, California's Serengeti, elephant seals, and Highway 1. But we need to get RVs especially large RVs out of our driveways and to stop being fixtures on our residential streets. BDF believes we need convenient, safe, and secure RV storage. But APN 028-121-001 is the WRONG place. Let's help and support the applicant's search for a good alternative site.

² This section uses and adapts research and briefing conducted by David Waterford.

professionals regarding the environmental, recreational, social and aesthetic values of the site and the river's watershed, or the potential impacts on beaver habitat which brings us the benefits of water retention, groundwater recharge, and wildlife and riparian enhancement. The approval of this project was, therefore, based on insufficient and insubstantial information and grounds, lacking in proper analysis of its potential consequences. It must be reviewed, reevaluated and rejected by the City Council, until such time that a proper evaluation is conducted.³

The CEQA Portal admonishes that “In addition, a project cannot be “mitigated into an exemption” by adding measures or controls during the project’s approval process to avoid identified potential environmental impacts. “

Notice of Intent to File CEQA Petition.

Respondent hereby gives notice under the provisions of the California Public Resources Code § 21167.5, that in the event this Project is pursued in its present form, Respondent intends to file a petition under the provisions of the California Environmental Quality Act against the City of Atascadero challenging its approval and addition of the RV Storage Project to APN 028-121-001

THE ABSENCE OF EVEN A CURSORY SITE ENVIRONMENTAL REVIEW MUCH LESS ASSESSMENT AND BLIND RELIANCE ON AN UNSPECIFIED “CATEGORICAL EXEMPTION” PREVENTS ANY MEANINGFUL ENVIRONMENTAL EVALUATION OR MITIGATION

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There are many signs and evidence of environmental activity on and adjacent to the proposed project site but the City's ill-considered use of a blanket claim of categorical exemption provides few clues to environmental factors. Because of the apparent likelihood of the need for CEQA briefing BDF is engaging experts, including avian and other wildlife experts, to evaluate and where appropriate opine on water and wildlife factors, including the currently nesting pair of Bald Eagles adjacent to the site. Federal and State officials have been or will be notified of the nest and we believe after consulting with an avian expert that the applicable state and federal laws including the Bald Eagle Protection Act protect the Eagles and nest from any disturbance. We try to investigate if projects like this one might sometimes be mitigated and developed but neither the applicant nor the City has manifested any interest in exploring such an approach. Thus our Public Resources Code notice and efforts to retain experts.

CONCLUSION

We ask and urge the Mayor and Council Members to REVERSE and VACATE the Planning Commission's July 18, 2023 4-3 decision in this matter; and GRANT the appeal of BIODIVERSITY FIRST.

Respectfully submitted, *with thanks to our many Atascadero-based members, friends, and colleagues*

BIODIVERSITY FIRST!

By: Michael R. Jencks, J.D., for the
BDF Board of Directors

Addendum (Under Separate Cover)

About Appellant .

BioDiversity First!, Inc.,

California Non-Profit Corporation and IRC §501(c)(3)

Mission Statement Biodiversity First! (BDF!) Working to preserve and protect the wild lands and species upon which we depend for our own physical and spiritual survival.

“Beaver dams build climate resiliency by slowing water down and storing it in their ponds and the surrounding riparian area. Their wetlands are uniquely resistant to disturbances like droughts and fire.”

Emily Fairfax 2019

ITEM NUMBER: B-2
DATE: 10/10/23
ATTACHMENT: 2

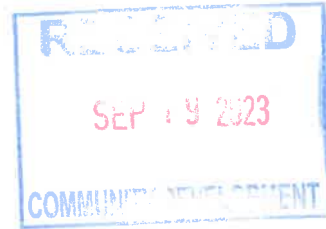
Word Count 2310
Baskerville Old Face

**BEFORE THE HONORABLE MAYOR MORENO AND CITY COUNCIL
OF THE CITY OF ATASCADERO, STATE OF CALIFORNIA**

BIODIVERSITY FIRST!, INC.,
A California Non-Profit Corporation,
Appellant,

- versus -

**CITY OF ATASCADERO
PLANNING COMMISSION**,
Respondent; **VSM RENTALS and
LEASING, LLC**, Project Applicant;
**ATASCADERO MUTUAL WATER
COMPANY**, Real Party in Interest; and
DOES 1 through 10,
Respondents.



**SUPPLEMENT TO APPEAL BY BIODIVERSITY FIRST!, INC. OF
JULY 18, 2023 DECISION OF THE ATASCADERO PLANNING
COMMISSION APPROVING A SIX (6) ACRE RECREATIONAL
VEHICLE STORAGE LOT FOR TWO-HUNDRED SIXTY-TWO (262)
VEHICLES AT 6805 SYCAMORE ROAD, ATASCADERO**

APPEAL HEARING DATE: OCTOBER 10, 2023
CITY COUNCIL CHAMBERS
6500 PALMA AVENUE
ATASCADERO, CALIFORNIA 93422

Submitted by Appellant
BIODIVERSITY FIRST!, INC.
3650 GILLIS CANYON
SHANDON, CALIFORNIA 93461

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SUPPLEMENT TO BDF APPEAL¹

Appellant Biodiversity First!, Inc. (BDF) respectfully supplements its previously filed and served Appeal of July 18, 2023 Decision of the Atascadero Planning Commission Approving a Six (6) Acre Recreational Vehicle Storage Lot for Two-hundred Sixty-two (262) Vehicles at 6805 Sycamore Road, Atascadero be added to existing site APN 028-121-001.,² The purpose of this supplement is to provide additional detail to the Mayor and City Council and to respond to questions raised by City staff, co-appellants, media, and citizens.

**Appellant BDF Supports and Endorses
the Respective Supplements of Co-Appellants**

Let me quickly put to rest any confusion about one-or-two appeals and the “joint hearing”. BDF supports and endorses the arguments advanced by our co-appellants (“Broadwater *et al.*”) in their respective supplemental submissions, particularly those based on General Plan law and precedent, and will not in this supplement reiterate the importance and primacy of their work. At BDF we have a distinctive perspective given our experience in this watershed and our nonprofit corporate purposes but find ourselves largely in step with many of the positions of Mr. Broadwater, local residents, and Atascadero’s home-grown Beaver Brigade and do not intend in this supplement in support of our appeal to merely reiterate others’ good works some of which have been incorporated by prior reference in BDF’s own appeal papers. That being said, and despite
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¹ Two separate and independent appeals were filed after the Planning Commission 4-3 vote on July 18, 2023 approving the six-acre recreational vehicle lot on Sycamore Road property belonging to Real Party in Interest Atascadero Mutual Water Company lot, APN 028-121-001. The first appeal was filed by long-time Atascadero resident David Broadwater and the second by California nonprofit 501c3 corporation Biodiversity First!, Inc. Each had timely filed opposition to the planning commission matter on the proposed RV Storage on the floodplain and each timely filed a notice of appeal. Each appeal was required to pay - and paid - the filing fee. City planning director Phil Dunsmore proposed a “joint hearing” of the two appeals be set and heard by the Mayor and City Council on October 10, 2023. It is our understanding that the Joint Hearing Transcript will constitute the hearing transcript for any further proceedings, whether by City, Mr. Broadwater, or BDF.

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our agreement to enter into this *joint* hearing for the sake of efficiency and on account of relatedness on some issues, BDF's appeal and relief it seeks are entirely independent and warrant the need for a separate appeal (even if doubling the appeal fees paid to the City!).

Categorical Exemptions to CEQA are Subject to Express Exceptions

As noted and cited in BDF's opening appeal brief "the categorical exemptions are not absolute" Although a project might otherwise be eligible for a categorical exemption, **an exemption must be denied if "there is a reasonable possibility of a significant effect on the environment due to unusual circumstances"** 14 Cal.Code Regs §15300.2(c)", **significant cumulative impacts from projects of the same type will result** 14 Cal.Code Regs §15300.2(b), and **the project will have impacts on a uniquely sensitive environment**" 14 Cal.Code Regs §15300.2(a).

The Planning Commission's narrow-majority's reliance on a Categorical Exemption from CEQA is Misplaced. **Although a project might otherwise be eligible for a categorical exemption, an exemption must be denied if there is a reasonable possibility of a significant effect on the environment due to unusual circumstances or if significant cumulative impacts from projects of the same type will result.**

Unusual Circumstances. If there is a reasonable possibility that an activity or project will have a significant effect - just one - on the environment due to unusual circumstances or "significant cumulative impacts", an agency may **not** find the activity or project to be categorically exempt from CEQA. 14 Cal.Code Regs §15300.2(c)³

"Unusual Circumstances" and "Significant Cumulative Impacts" are present in number and require this Council's exception of project from Categorical Exemptions under CEQA⁴ If even just one of these is present, the claimed exemption must be disallowed and CEQA must be followed and implemented.

³ Please note this exception applies only when both unusual circumstances and a significant impact as a result of these unusual circumstance are shown. *Berkeley Hillside Preservation v. City of Berkeley* 2015 60C4th1086, 1104

⁴ In evaluating whether a categorical exemption may apply, the agency may **not** rely on mitigation measures as a basis for concluding that a project is categorically exempt, or as a basis for determining that one of the significant effects exemptions does not apply. See, e.g. *Salmon Protection & Watershed Network County of Marin* 2004 125 CA4th 1098, 1102

- Contemporaneous development and processing of major General Plan Update with approval of putative storage facility extending across floodplain to River's edge is itself an **unusual**, even inconsistent, circumstance with public discussions of changes in the GP, with many echoes of Monterey County experience that resulted in a very channelized river and the consequent floods and meanders of the river. We must be cautious about imputing bad motive to anyone so best to leave it that the optics - the rush to get this facility in ahead of the general plan update -are not good;
- The project will have an **unusual** and significant effect on the use and function of the River and associated floodplain as a wildlife corridor;
- The project poses an **unusual** and significant - and potentially expensive to the applicant and City - circumstance should it disturb, harass, or interfere with, much less drive the avian inhabitants away, from the active Bald Eagle nest in proximity to the project. The Bald Eagle is protected by an eighty-three year old federal statute which imposes up to a \$100,000 fine on individuals and up to \$200,000 on organizations/businesses that so disturb, harass, interfere with, or evict the Eagle pair;
- The project is proposed to be situated on APN 028-121-00 portions of which h have been historically, at least until very recently, used to dump asphalt, construction dirt and aggregate, serving sometimes as a borrow pit, and other contaminated material and substances. It is not proposed that any removal or mitigation of the residue of the site's past use need occur although the location of the residue appear to be close and sometimes overlie river aggregate sedimentary deposits and underflow. This is an unusual and significant environmental effect;
- Atascadero is the first incorporated city on the River below its headwaters and a number of cities and communities and more than an estimated 300,000 persons, including 30,000+ Atascadero residents, live within five miles of the River over the approximately 170 miles the River travels before it discharges into the Pacific Ocean. Any discharge or release of waste, pollutants, solvents, PPSMs will be carried downstream and give rise to potential liability of Atascadero under the federal Clean Water Act and various state laws. This is an unusual and significant environmental effect.
- Two dams are immediately upriver from Atascadero, the War Department's pre-World Was II "Salinas Dam" holding over 25,000 acre feet of River water, and rated and assessed as High Risk, and a few miles below the Salinas Dam an unnamed rogue, unlicensed, uninspected dam estimated at less than one-fifth the volume of water of the Salinas Dam. Both dams were built before good seismic mapping had been done and before fortifications to guard against sabotage but in the interest of security more detailed assessments of the hazard from the Salinas Dam are no

longer available to the public.⁵ Atascadero sits at the bottom of the hills with both dams perched above it; both dams have accumulated large amounts of sediment trapped behind them. The existence of the dams and their hazard potential, both to humans and Atascadero's environment and to the upriver environment, are **unusual** and pose significant and substantial environmental threats. The very inadequacy and unavailability of more detailed hazard assessment information concerning upriver dams⁶ require early CEQA Review

- Climate change projections for increased rainfall on the Central Coast have not yet been incorporated into FEMA flood and floodplain projections but the recent hurricane, Hillary, brought serious flooding to areas just East of our Coast Range. This is yet another **unusual** and while significant still not fully quantified environmental effect.
- Channelization from moving fencing and improvements to the River's water edge, the planned density of the siting of the 262 RV spaces shown on the project map (see exhibit attached to this supplement), and relocation of the De Anza trail away from the River will have significant environmental effects on the function of the floodplain to deal with disparity of river flows, use and function of the river and floodplain to serve as connecting corridor for wildlife. This is an unusual circumstance and has a significant environmental effect.
- One of the most important issues raised by this project as proposed falls under the general category of "**channelization**". On our part of the river (as opposed to down river, particularly north of Salinas) channelization is rarely talked about at least out loud and so is "unusual" and it has potentially devastating impacts on the environment and on the character of our community. The proposed project, nominally an RV Storage Yard⁷, is an example of intentional and strategic channelization, the intentional reduction in the lateral dimension of rivers for, most commonly, purposes of flood control and navigation (increasing water depth) but here is to convert floodplain land into more productive and economically remunerative use (imagine two story condos lining the river). To channelize is exactly what it sounds like, the human process of straightening and deepening channels in rivers. Most often it is done to make the river easier and safer for larger boats to pass through, to provide a channel that is stable and unchanging, and to protect developed cities and towns from river

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⁵ Salinas Dam is one of a number of dams for which the downstream hazard potential is "not available" to the public and is "restricted to approved government users" only.

⁷ As described in our opening submission on appeal and since confirmed in conversations with insurance company executives, the likelihood of an RV owner or the "storage" facility owner even being able to procure a policy covering flood damage to a vehicle stored on a FEMA-mapped floodplain, much less an affordable policy, is almost nil.

meander, but here the only obvious function is to add to the real estate value of the land reclaimed from floodplain use.

- Before a river like the Salinas River receives a channelized makeover, it typically is long and meandering, lined with tree snags and islands, a swath and corridor of natural habitat in a flood plain able to absorb and buffer the seasonal fluctuations in flow and manmade emergencies of flooding whether it be the result of a fifty year storm, enhanced precipitation linked to climate change, or dam emergency. For agriculture, channelizing on and bank stabilizing on makes land that is closer to rivers more stable and thus easier to farm. This has been the case down river, particularly north of Salinas.
- However, with such major changes, in the case before us, to augment development and profitable enterprise, come serious environmental consequences. Some of the greatest effects include loss of wetland habitats, reduced woody debris being washed into the River, erosion, channel incision and a decrease in species diversity. Erosion and channel incision can be a serious threat to infrastructure, especially in developed areas. Erosion is increased particularly by the straightening aspect of channelization. By removing the natural bends from rivers, the water has a longer me to build up speed, and this means the water pulls much more of the surrounding soil with it.
- That channelization has been deliberately kept below the public's radar, is **unusual**, and poses **dramatic impacts on the environment**. The remedy is to reverse the planning commission decision - without prejudice - to renewal either following adoption of the updated and revised City General Plan or upon full compliance with CEQA after striking the categorical exemption.
- Cumulative impacts from projects of the same type will result in more River channelization, elimination of floodplain, and a River system much less tolerant and able to handle fluctuations in River volume due to storms, climate change enhanced storms, dam releases and failures, displacement and/or termination of floodplain corridor and trail benefits, and violation of the laws and regulations governing navigable rivers requiring court and/or legislative intervention.

It will take only one (1) of the above ten (10) itemized exceptions to operate to extinguish the categorical exemption asserted by City staff and return this project to normal CEQA processing.

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An Invitation to Mayhem What Could They Have Been Thinking?

The textbook definition of a “floodplain” is an “area of low-lying ground adjacent to a river, formed mainly of alluvial river-borne sediments and prone to flooding.” We’ve already addressed the fact that property – structures and RVs for example – on the floodplain probably will not even be eligible for flood damage insurance coverages and the proximity of the stored property to the main river channel means that property is unlikely to fare well when a fifty-year storm arrives, or the next hurricane Hillary wanna-be’s path is a degree or two west of the recent storm, or the rogue, unlicensed, unengineered dam gets blown out and thousands of acre feet of water and tons of alluvial deposits are launched down the river at Atascadero. What if the eighty-three year old, hurriedly designed and built on the eve of World War II Salinas Dam fails and launches over 25,000 acre-feet of River water and sediment at Atascadero? Some people have suggested that the “RV Park” may just be a ruse to justify deliberate channelization (maybe an EIR will help us understand) but one must ask what was the four-person majority of the Planning Commission thinking? They admit the RV Park sits on designated floodplain! Please look at the RV Park map that appears as Exhibit A to this Supplement to see not just the obvious vulnerability of property so close to the main River channel but to see how dramatic the Commission’s departure from the current General Plan’s policies, guidelines, and principles is (see next section). And with 262 recreational vehicles, what kind of emergency evacuation is possible on Sycamore Road? Tropical storm or hurricane? Upstream dam blow out? An invitation to mayhem indeed. Imagine attempts by some local owners to remove their recreational vehicles in emergency and likely to be poor conditions to begin with and the likelihood that not only is getting them out of the RV storage problematic but the congestion they are likely to cause on evacuation routes needed by residents in direct danger?

The Project is Inconsistent With Existing Policies of the Current General Plan

The first filed appeal, brought by Mr. Broadwater, has done a detailed “consistency” review of the Open Space Policies of the Land Use, Open Space & Conservation Element of the current General Plan. That review points to evidence that the RV storage CUP is, in fact, inconsistent with the current General Plan and contradicts key

findings that it is, e.g., findings that it will not be detrimental to the health, safety or welfare of the general public, findings that it will not be inconsistent with the character of the immediate neighborhood, and findings that, simply because the property is currently zoned as Industrial Park, other factors that must be included in decision-making may be neglected or overridden.

The Open Space Policy cites the need for protection of the Salinas River corridor from detrimental developments. This RV storage project is plainly inconsistent with the current General Plan's Open Space Policies and we join Mr. Broadwater in urging the Council find that the project is inconsistent with them. Selected text in Open Space Policies is highlighted in **BOLD** to indicate those with which this CUP may be deemed by the City Council to be inconsistent, and to support findings that it should be denied or delayed.

Land Use, Open Space & Conservation Element

June 25, 2002 ...

E. Land Use, Open Space, and Conservation Goals, Policies and Programs [page II-13]

...

2. Open Space Policies [page II-27] ...

Goal LOC 6. Preserve natural flora and fauna and protect scenic lands, sensitive natural areas...

Policy 6.1: Ensure that development does **not degrade scenic and sensitive areas**, including historic sites, **creeks, riparian corridors, wetlands**, woodlands, hillsides and other valuable **habitats**.

Programs: ...

4. Scenic and sensitive lands including **creeks, riparian corridors, wetlands** and other areas of significant **habitat** value **shall be protected** from **destruction, overuse, and misuse by the use of zoning**, tax incentives, easements, or fee acquisition.

5. Public and private development in **close proximity** to scenic and sensitive lands, including **creek reservations**, wooded areas, **flood plains**, prominent view sheds and historic sites **shall** be designed to **minimize impacts**.

6. Scenic and open space easements, parklands and **open space dedications shall be required** as mitigation for subdivisions and development projects that impact, **floodplains, creek reservations**, wooded areas, scenic backdrops, sensitive areas, historic sites, cultural sites, and similar areas.

7. The City **shall** carefully evaluate both public and private projects to **require the preservation** of trees, **watersheds**, natural slopes, and **other natural features**.

...
Goal LOC 8. **Watershed** areas of Atascadero **shall be protected**.

Policy 8.1: **Ensure** that **development** along Atascadero Creek, Graves Creeks, the **Salinas River**, blue line creeks, and natural springs, lakes, or other **riparian areas** does **not** interrupt natural flows or **adversely impact riparian ecosystems** and water quality.

Programs:

1. **Work with other agencies** to implement the Erosion

Control Assistance Program for **review** of development proposals to **minimize sedimentation** of creeks and the **Salinas River**.

2. Update the Appearance Review Manual to include provisions for **preserving, reclaiming and incorporating riparian features** in conjunction with new development.

3. The waterways in the City shall be maintained in a natural state...

...

6. **Prohibit** new structures or **disturbance** of **riparian habitat** along **creek banks** except for restoration purposes.

...

8. Prior to permit approval, refer projects along blue-line creeks to the Corps of Engineers, Department of Fish and Game, Regional Water Quality Control, and Upper Salinas-Las Tablas Resource Conservation District.

9. Creek reservations and the **Salinas River shall be preserved for open space and recreational use**, with appropriate areas **left in their natural state** for public enjoyment and habitat purposes. Any recreational use of the River and creeks shall minimize its impact on the habitat value and open space qualities of the creeks.

10. **Land disturbance shall be minimized** in **proximity to watercourses** including necessary flood protection measures, such as selective brush clearing, and low-impact trail development.

11. **Areas subject to flooding**, as identified through flood hazard overlay zoning and flood maps, **shall be protected** from unsound development consistent with the City's flood hazard ordinance requirements.

...

13. **Support** the establishment and **protection** of **floodable terraces, wetlands, and revegetation** along **creeks and streams**.

Policy 8.2: Establish and **maintain setbacks** and development standards for **creek side development**.

Program:

1. Adopt and maintain a creek setback ordinance that will establish building **setbacks** and development standards **along the banks** of Atascadero Creek, Graves Creek, blue line creeks and the **Salinas River** to ensure the uninterrupted natural flow of the streams and **protection** of the **riparian ecosystem**...

...

Programs:

1. **Develop** park, **trail**, and **recreational amenities** where

appropriate in public **creek reserves**.

2. **Require** the dedication of **trail easements** and **access**

points as part of subdivision maps or development permits

consistent with the Circulation Element.

BDF Standing

This section is more informational than argument - no one has asserted or alleged Biodiversity First! (BDF!) lacks standing to appear before the Planning Commission or to appeal the Planning Commission's narrow 4-3 vote to the Council. BDF timely filed written opposition to the application of VSM/AMWC before the Planning Commission, and timely filed a brief and paid the appeal fee in full in support of its appeal of the Planning Commission 4-3 vote approving the application.

BDF is an nine year old California not-for-profit corporation in good standing and certified and recognized as an IRC §501(c)3 tax exempt organization. As stated on its popular website, "Biodiversity First!'s purpose is the protection and recovery of, and securing a future for, all species of wild animals and plants by protecting and conserving the lands, waters, watersheds, and connectivity that support a symbiotic community that enables climate change resilience".

BDF supports the now more than ten-year-old initiative of Ecologistics Inc. known as “Dreaming the Salinas” and BDF’s board members, staff, and volunteers have experience with many Salinas River watershed issues, including legal representation of other Salinas watershed cities. Our board members and staff members have been involved with early efforts to mitigate the flood danger of the unpermitted dam a few miles below the Salinas Dam and up-river from Atascadero. We believe in letting our funded projects and litigation speak for us. ⁸

And that is the case with our projects inside the City boundaries of Atascadero, two of the most recent ones being the two research grants, totaling more than \$50,000 with faculty, researchers and students at California State University Channel Island, under the guidance and leadership of Dr. Emily Fairfax, currently Assistant Professor of Physical Geography , Department of Geography, Environment, and Society University of Minnesota, Twin Cities.

Through these research grants, BDF hopes to contribute to establishing a new language for this keystone species in our region that will assist land and water management decisions to shift toward embracing the benefits that beavers offer to wild animals, local and migratory birds, frogs, amphibians, insects, and aquatic plants as they help restore the ecosystem in the Salinas River watershed. The first grant, made in 2020, was titled “**2020 Biodiversity First! Research Grant: Beavers, Climate Change, and Ecosystem Resilience**”, and the second grant followed two years later. In addition to these Atascadero-specific grants, BDF has also funded technical training of employee(s) and volunteer(s) to staff and provide technical assistance to groups working with or in collaboration with the Beaver Brigade.⁹

⁸ BDF’s board of directors, staff, members (many residents of Atascadero), and volunteers are comprised of a diverse group of caring and committed citizens, and include persons who have been employed by or worked for the Governor’s Office of Planning and Research, served as staff to the California Coastal Commission, represented the State Energy Commission in federal court litigation, were among founders of the SLO County-based Municipal Advocates Group, and have argued cases before many of the highest courts in the State and country.

⁹ We are impressed by and grateful for the remarkable cooperation and knowledge of City of Atascadero staff but we’ve also appreciated the candidly offered opinions of a couple of persons to the effect that “you don’t understand how things are done here” . We listen but we are concerned that for too long the default may have trended to place dirty or otherwise problematic uses next to

BDF has also organized and sponsored several well-attended programs
venued in Atascadero.

Other Issues And Investigation

Preparation of an EIR will address many of the issues addressed in this
brief. Should the applicant and/or Real Party withdraw the project application,
or should one or both of the appeals not be sustained by Council and
proceedings in appellate courts ensue, it still appears advisable that the City
Council consider directing City staff to investigate and if they deem it
advisable meet with regulators of Salinas Dam and with the owner(s) of the
unlicensed dam to produce a risk assessment of the partial or total failure of
said dams and the impacts of such failure(s) on City property; that staff
consider and recommend to Council whether to incorporate the goal and
waste standard of net zero degradation of River including underflow.; that
Staff consult and retain the assistance of an avian species expert to identify
what activities should be regulated and at what proximity to the extant Bald
Eagle nest.

Bald Eagle Protection: Our Canaries in the Coal Mine

I have included the Bald Eagle issue also as one of the “unusual circumstances”
operating to discharge the CEQA exemption and it is discussed in that context above. But
the eagles in a sense are the canaries in our coal mine, they don’t depend on CEQA being
triggered to have some hope of surviving the threat of the RV project.

The Act defines "take" as to "pursue, shoot, shoot at, poison, wound, kill, capture,
trap, collect, molest or disturb." Regulations further define "disturb" as “to agitate or bother
a bald or golden eagle to a degree that causes, or is likely to cause, based on the best
scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by
substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest

the River (sort of upside down zoning, placing your dirtiest and most toxic uses closest to your most
pristine and sensitive habitats) and floodplain and not to be fully accountable for any harmful or
noxious impacts or environmental degradation.

abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior" ([50 CFR 22.6](#)).

We don't think we should have to belabor the point but is the unanticipated discovery in the project vicinity of an active nest of a bird of prey protected by not just any federal law but one named after the avian species that is our national symbol and enacted not in the flurry of environmental laws enacted in 1969-1974, but eighty-three years prior in 1940, and carrying penalties of \$100,000 to \$200,000 for disturbing or dislocating the nest or its inhabitants"; is that an "unusual circumstance"? Is it made more unusual if the federal law protects the avian species from any disturbance or dislocation? Or do the six figure penalties for violation of the law by the applicant or by the City as the permitting agency render it unusual? Similarly, does the fact that there is a rogue, unpermitted dam on the Salinas River upstream from the project site for which the owner has restricted access to all files including by the University and state agencies that had been working on mitigation to be implemented to prevent catastrophic dam failure launching hundreds of acre feet of water and tons of accumulated settlement down the Atascadero floodplain? Is it unusual that an 83 year old dam upstream holding upwards of 25,000 acre feet of water is rated "High Risk" but all other risk assessment data is impounded and unavailable to the public? Is it unusual that the project site is on top of a flood plain consisting of yards-deep cover of alluvial aggregate? and is it unusual that recent storms have shown that the need to enlarge protection and operation of the floodplain to both deal with bigger storms and to protect the City from up river dam failures? Most of the foregoing are situations where there is reasonable possibility of a significant effect on the environment due to unusual circumstances but *cumulative* impacts from projects of the same type are also possible adding another independent ground for sustaining an exception to an exemption. Does the City's approval of this project, rejecting consideration of significant environmental impacts, not operate as an invitation to other projects of the same or similar type and ilk to locate on the river, overlying its underflow and deposits of aggregate matter forming the floodplain, without having to account for the cumulative impact of such projects? Really?

But the rigid enforcement of the categorical exemption choice, before an initial study and attributing absolute cut-off to the choice, barring introduction and consideration of both statutory and general exceptions, is directly contrary to state statutory and decisional law, and constitutes prejudicial error.\

The planning commission's decision should be reversed and vacated and the matter referred and returned to the Community Development Department for further proceedings consistent with this opinion.

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Applicant and Non-Appearance By Real Party In Interest

A brief note on the parties before the Council may be appropriate here. The project applicant, VSM Leasing & Rentals LLC, is appearing before this Council as the *presumed* lessee of land from the property owner of record and real party in interest Atascadero Mutual Water Company. AMWC advertises that it serves 30,000 customers through more than 10,000 connections., *presumed* because AMWC has not itself appeared in this action and the lease - or at least proof of AMWC's consent to the lease- does not appear in the record provided to and reviewed by appellant, perhaps to try to avoid any real or perceived voting conflicts of interest by Council members should they hold shares or other beneficial interests in AMWC. This may be relevant because the recent trend, including at the north end of this watershed, is for the owners of record of mapped floodplain lands to favor channelization, buttressing of river banks, and then development of the floodplain properties. Appellant believes the lease itself and real party's consent to that lease should be part of the public record in this proceeding as are the Council's individual conflict filings.

The City of Atascadero Is Effectively the Constructive Trustee of Salinas River Water When It's Within City Boundaries; Zero Discharge of Contaminants Must Be Atascadero's Strategic Goal

The City of Atascadero's position as a subordinate entity of the State of California can be best thought of as being in the position of a constructive trustee¹⁰ of the Salinas River flow and underflow passing through the city and within its municipal boundaries. Most of Atascadero's population reside and/or work within five miles of the River, a number currently estimated at approximately 34,000 persons, but the River passes through two counties and a number of cities and using the same five mile delimitation, and after it leaves Atascadero it is estimated another 275,000 persons live within five miles of the River before it reaches the Pacific Ocean.

¹⁰ A constructive trust is a form of equitable remedy, often imposed by a court, to benefit a party that has been wrongfully deprived of its rights due to either a person obtaining or holding a legal property.

The City receives both benefits and liabilities from “hosting” the River for a few miles and inherits obligations from its status as the municipal entity through which the River passes through to send the water downstream to other communities in the same condition as it received it. It is the closest municipal entity to the river and floodplain and receives the cleanest, freshest water but it also bears the largest municipal burden of river floods and dam failures and to so oversee and police river and floodplain use so as to protect and not degrade the natural resource . The day is close at hand if not already passed when Atascadero water will be tested entering your city and leaving your city. In your use and zoning the City must understand it may be held liable for degradation under various provisions of state and federal law, including the federal clean water act. We cannot continue to use the river as our waste discharge utility. To place a recreational vehicle parking lot on a permeable and porous collection of river deposited aggregates and human detritus from hydrocarbons, to PFAS's¹¹, lithium, to human waste and the migration of those substances to and by river transport is actionable – it is purporting to license and permit the fouling of a public water supply.

The optics are not good should it appear the planning commission majority handed the water district a favor in the tenancy of VSM and effectively gave the tenant a license to pollute.

CONCLUSION

BDF respectfully asks and urges the Mayor and Council Members, on the factual and legal record before them, to REVERSE and VACATE the Planning Commission’s July 18, 2023 4-3 decision in this matter; and GRANT the appeal of BIODIVERSITY FIRST!, Inc.¹²

Respectfully submitted, *with thanks to our many Atascadero-based members, friends, and colleagues,*
BIODIVERSITY FIRST!, INC.

s/ *Michael R. Jencks*

¹¹ AMWC officials have indicated Real Party in Interest AMWC has already done definitive testing for PFAS contamination of Salinas River water and that laboratory reports of the testing AMWC confirms it is occurring.



APPROVED

PSD JUL 18 2023

CITY OF ATASCADERO
PLANNING

ITEM NUMBER: B-2
DATE: 10/10/23
ATTACHMENT: 3

**CITY OF ATASCADERO
PLANNING COMMISSION**

MINUTES

**Regular Meeting – Tuesday, June 20, 2023 – 6:00 P.M.
City Hall
6500 Palma Avenue, Atascadero, California**

CALL TO ORDER - 6:00 p.m.

Chairperson van den Eikhof called the meeting to order at 6:10 p.m. and Commissioner Anderson led the Pledge of Allegiance.

ROLL CALL

Present: Commissioners Anderson, Carranza, Hughes, Schmidt, Vice Chairperson Keen, and Chairperson van den Eikhof

Absent: Commissioner Heath (excused absence)

Vacant: None

Others Present: Annette Manier, Recording Secretary

Staff Present: Community Development Director, Phil Dunsmore
Associate Planner, Mariah Gasch

APPROVAL OF AGENDA

MOTION: By Commissioner Anderson and seconded by Vice Chairperson Keen to approve the Agenda.

***Motion passed 6:0 by a roll-call vote.
(Heath absent)***

PUBLIC COMMENT

None.

Chairperson van den Eikhof closed the Public Comment period.

CONSENT CALENDAR

1. APPROVAL OF THE DRAFT MINUTES OF JUNE 6, 2023

- Recommendation: Commission approve the June 6, 2023 Minutes.

MOTION: By Commissioner Schmidt and seconded by Commissioner Hughes to approve the Consent Calendar.

*Motion passed 6:0 by a roll-call vote.
(Heath absent)*

PLANNING COMMISSION BUSINESS

None

COMMUNITY DEVELOPMENT STAFF REPORTS

None

PUBLIC HEARINGS

2. 10165 EL CAMINO REAL, CALIFORNIA MANOR

The proposed project is for an amendment to revise conditions for the affordable housing agreement condition to include moderate income units on APN 030-461-044. (AMND23-0050)

- Recommendation: Staff's recommendation is for the Planning Commission to approve the revised conditions.

DISCLOSURE OF EX PARTE COMMUNICATIONS:

None.

Planner Gasch provided the staff report and she and Director Dunsmore answered questions from the Commission.

PUBLIC COMMENT

The following member of the public spoke: Harry Hamilton from Above Grade Engineering who is representing the project. Mr. Hamilton answered questions raised during Commission deliberations.

Chairperson van den Eikhof closed the Public Comment period.

MOTION: By Commissioner Carranza and seconded by Commissioner Hughes to adopt draft Resolution amending California Manor II's

Master Plan of Development (PC Resolution 21-0014 and 22-0017) and approving AMND23-0050, to revise the affordability restrictions in California Manor I to 93 “low income” units with 2 manager’s units and California Manor II from 76 low income units to 76 Senior Housing units consisting of 67 “low income” units, 8 “moderate income” units and 1 manager unit, based on findings and subject to conditions of approval.

***Motion passed 6:0 by a roll-call vote.
(Heath absent)***

3. 6225 ATASCADERO AVE., ABC CHURCH

The proposed project is for an amendment to the original use permit to revise conditions to consider allowing amplified sound on APN 030-192-018. (AMND22-0037)

- **Recommendation:** Staff’s recommendation is for the Planning Commission to approve or deny the outdoor amplified music.

Director Dunsmore stated that staff is recommending continuing this item to a date certain of July 18, 2023 at the recommendation of the City Clerk’s office.

DISCLOSURE OF EX PARTE COMMUNICATIONS:

Commissioner Anderson had a discussion with Shaun Russel regarding the project today. All other commissioners had no ex parte.

PUBLIC COMMENT

None.

Chairperson van den Eikhof closed the Public Comment period.

MOTION: By Commissioner Anderson and seconded by Commissioner Hughes to continue this item to a date certain of July 18, 2023.

***Motion passed 6:0 by a roll-call vote.
(Heath absent)***

4. CONDITIONAL USE PERMIT FOR 6805 SYCAMORE ROAD (CONTINUED FROM 11-15-22)

The proposed project is a request to add RV storage lot to an existing site for VSM Leasing & Rentals with an exception to minimum landscape standards on APN 028-121-001. (USE21-0107)

- Recommendation: Staff's recommendation is for the Planning Commission to allow a new business for outdoor recreational vehicle (RV) storage in the Industrial Park zone.

DISCLOSURE OF EX PARTE COMMUNICATIONS:

Commissioner Carranza spoke with the General Manager of the Atascadero Mutual Water Company about the project, financing, stakeholders, and general city items.

Commissioner Hughes stated that his ex parte was previously stated, in that he spoke with a representative of the Salinan Tribe, but nothing new since then.

Commissioner Anderson stated that he did visit the site, but did not speak to anyone.

All other Commissioners had no ex parte.

Planner Gasch provided the staff report. Planner Gasch and Director Dunsmore answered questions from the Commission.

Commissioner Carranza stated for the record that a condition for the visibility study was not done because the stakes were not there when she went to visit the site. Director Dunsmore stated that the study was done; however, the stakes were removed. The City asked the applicant to re-stake the property, and that was done.

PUBLIC COMMENT

The following members of the public spoke: Don McAdam (who answered questions from the Commission), Kate Montgomery, Audrey Taub, Fred Frank, and Doug Reynolds.

Commissioners discussed whether this area was being evaluated with the General Plan Update. Director Dunsmore stated that staff has not made a determination on future uses of Industrial zones, and that the City will be making these decisions in the next 6-8 months.

Chairperson van den Eikhof asked if this parcel is still in the flood plain, and Director Dunsmore stated that it is in a flood plain.

Chairperson van den Eikhof closed the Public Comment period.

MOTION: By Vice Chairperson Keen and seconded by Commissioner Carranza to adopt draft

Resolution denying Conditional Use Permit (CUP) USE21-0107 allowing a new business for outdoor Recreational Vehicle storage in the Industrial Park zone pending review of this property with the future General Plan. because of the finding #4 that this project will be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because of its location near the Salinas river, since the riverbed is full of animals and this could potentially have negative effects of wildlife in the area. Because it's inconsistent with the natural character of its current setting.

Motion failed 4:2 by a roll-call vote.

(Carranza, Keen voted yes)

(Anderson, Hughes, Schmidt, van den Eikhof voted no)

MOTION: By Commissioner Carranza and seconded by Commissioner Anderson to adopt draft Resolution denying Conditional Use Permit (CUP) USE21-0107 allowing a new business for outdoor Recreational Vehicle storage in the Industrial Park zone, because of Finding #1 , the project is inconsistent with the General Plan specifically the portion that states "enhance the rural character and appearance of the city including commercial corridor, gateways and public facilities, land use and conservation policy of the General Plan. She would like to see this item tabled until the next General Plan is finalized, instead of denied.

Motion failed 3:3 by a roll-call vote. This is a no action motion.

(Carranza, Anderson, Keen voted yes)

(Hughes, Schmidt, van den Eikhof voted no)

MOTION: By Commissioner Schmidt and seconded by Commissioner Hughes to adopt draft Resolution approving Conditional Use Permit (CUP) USE21-0107 allowing a new business for outdoor Recreational Vehicle storage in the Industrial Park zone, with the first phase of the project being approved at this time.

Motion failed 3:3 by a roll-call vote. This is a no action motion.

*(Schmidt, Hughes, van den Eikhof voted yes)
(Anderson, Carranza, Keen voted no)*

Chairperson van den Eikhof adjourned the meeting at 8:40 p.m. for a break.

Chairperson van den Eikhof called the meeting back to order at 8:48 p.m. with all present.

MOTION: By Commissioner Anderson and seconded by Vice Chairperson Keen to continue the Conditional Use Permit (CUP) USE21-0107 until staff reviews the General Plan analysis where the City Council feels comfortable with the future land use designation on this site.

***Motion passed 6:0 by a roll-call vote.
(Commissioner Heath absent)***

COMMISSIONER COMMENTS AND REPORTS

None

DIRECTOR'S REPORT

Director Dunsmore stated that on July 18th, we will hear the ABC Church project, and he gave an update on projects around the City.

ADJOURNMENT – 9:00 p.m.

The next regular meeting is scheduled for July 18, 2023, at City Hall, 6500 Palma Avenue, Atascadero.

MINUTES PREPARED BY:



Annette Manier, Recording Secretary
Administrative Assistant

Adopted 7/18/23

t:\- planning commission\pc minutes\pc minutes 2023\minutes 6.20.23.am.docx



APPROVED

RS SEP 5 2023
CITY OF ATASCADERO
PLANNING

**CITY OF ATASCADERO
PLANNING COMMISSION**

MINUTES

**Regular Meeting – Tuesday, July 18, 2023 – 6:00 P.M.
City Hall
6500 Palma Avenue, Atascadero, California**

CALL TO ORDER - 6:00 p.m.

Chairperson van den Eikhof called the meeting to order at 6:02 p.m. and Commissioner Schmidt led the Pledge of Allegiance.

ROLL CALL

Present: Commissioners Anderson, Carranza, Heath, Hughes, Schmidt, Vice Chairperson Keen, and Chairperson van den Eikhof

Absent: None

Vacant: None

Others Present: Annette Manier, Recording Secretary

Staff Present: Senior Planner, Kelly Gleason
Associate Planner, Mariah Gasch

Staff Absent: Community Development Director, Phil Dunsmore

APPROVAL OF AGENDA

MOTION: By Commissioner Carranza and seconded by Commissioner Hughes to approve the Agenda.

Motion passed 7:0 by a roll-call vote.

PUBLIC COMMENT

None.

Chairperson van den Eikhof closed the Public Comment period.

CONSENT CALENDAR

1. APPROVAL OF THE DRAFT MINUTES OF JUNE 20, 2023

- **Recommendation:** Commission approve the June 20, 2023 Minutes.

MOTION: By Commissioner Anderson and seconded by Commissioner Schmidt to approve the Consent Calendar.

Motion passed 7:0 by a roll-call vote.

PLANNING COMMISSION BUSINESS

None

COMMUNITY DEVELOPMENT STAFF REPORTS

None

PUBLIC HEARINGS

2. 6225 ATASCADERO AVE., ABC CHURCH (CONTINUED FROM 6/20/2023)

The proposed project is for an amendment to the original use permit to revise conditions to consider allowing amplified sound on APN 030-192-018. (AMND22-0037)

- **Recommendation:** Staff's recommendation is for the Planning Commission to approve or deny the outdoor amplified music.

DISCLOSURE OF EX PARTE COMMUNICATIONS:

Commissioner Anderson had a discussion with Shaun Russel regarding the project on June 20, 2023, as stated at the last meeting. All other commissioners had no ex parte.

Planner Gasch presented the staff report and answered questions from the Commission.

PUBLIC COMMENT

The following members of the public spoke: Shaun Russel and Theresa Robinson. Mr. Russel addressed questions raised during Commission deliberations, and answered questions from the Commission.

Chairperson van den Eikhof closed the Public Comment period.

MOTION: By Commissioner Carranza and seconded by Commissioner Hughes to adopt Draft Resolution A amending ABC Church's Master Plan of Development (PC Resolution 2005-0036) and approving AMND 22-0037 to

allow outdoor amplified music, based on findings and subject to conditions of approval, with the elimination of Condition 12.

Motion passed 6:1 by a roll-call vote.
(Schmidt voted no)

3. CONDITIONAL USE PERMIT FOR 6805 SYCAMORE ROAD (CONTINUED FROM 6-20-23)

The proposed project is a request to add RV storage lot to an existing site for VSM Leasing & Rentals with an exception to minimum landscape standards on APN 028-121-001. (USE21-0107)

- **Recommendation:** Staff's recommendation is for the Planning Commission to allow a new business for outdoor recreational vehicle (RV) storage in the Industrial Park zone.

DISCLOSURE OF EX PARTE COMMUNICATIONS:

All Commissioners had no new ex parte since the last meeting.

Planner Gasch provided the background on the project site, and explained why the project is coming back before the Commission. Planner Gasch presented the staff report, and she and Planner Gleason answered questions from the Commission. The applicant is requesting an exemption from the landscaping requirement. Planner Gasch shared a list of allowable uses for this site (Exhibit A).

Planner Gleason stated that the City received public comment stating that there was a Bald Eagle's nest close to the proposed site. After consulting with the City Attorney (who is available during this meeting) the City is adding a condition as follows:

- *The applicant shall hire a qualified biologist to provide a nesting bird survey and survey for special status species within 3 month of construction commencement. This survey shall include a survey for Eagle nests within 1 mile of the project site. The applicant shall follow all recommendations of the qualified biologist and shall obtain all permits from the Dept of Fish and Wildlife as necessary.*

PUBLIC COMMENT

The following members of the public spoke: Don McAdam (representing the Water Company and VS Marine) who shared a presentation (Exhibit B), Audrey Taub, Susan Harvey (representing No. Co. Watch), and Alandra (wildlife biologist).

Chairperson van den Eikhof adjourned the meeting at 7:49 p.m. for a break due to technical difficulties.

Chairperson van den Eikhof called the meeting back to order at 8:00 p.m. with all present.

PUBLIC COMMENT (CONTINUED)

The following members of the public spoke: Dolores Howard (SLO Beaver Brigade), Jodi Olson, Eric Finlayson, Susie Reynolds, Dwayne English (who stated for the record that he opposes this project), Anne Colby, John Chapman, Theresa Robinson, Scott Kelley, Ray Hasch, and Steven Plauman.

Chairperson van den Eikhof closed the Public Comment period.

Staff addressed questions raised during public comment.

MOTION: By Commissioner Schmidt and seconded by Commissioner Hughes to approve the Conditional Use Permit (CUP) USE21-0107 allowing a new business for outdoor Recreational Vehicle (RV) storage in the Industrial Park zone, with the included additional condition recommended by staff.

Motion passed 4:3 by a roll-call vote.
(Anderson, Carranza and Keen voted no)

Chairperson van den Eikhof and Planner Gleason explained that any decision made by the Planning Commission is appealable to the City Council and there is a fee if filed by the public, but no fee if filed by Council. An appeal must be made within 14-days.

COMMISSIONER COMMENTS AND REPORTS

None

DIRECTOR'S REPORT

Planner Gleason stated that we currently have no items ready for the August 1st meeting, so that meeting may be cancelled.

ADJOURNMENT – 9:00 p.m.

The next regular meeting is scheduled for August 1, 2023, at City Hall, 6500 Palma Avenue, Atascadero.

MINUTES PREPARED BY:

Annette Manier
Annette Manier, Recording Secretary
Administrative Assistant

Adopted 9-5-23

The following Exhibits are available in the Community Development Department:
Exhibit A – Allowable Uses Handout
Exhibit B - Presentation by Don McAdams

Allowed Uses – Without Use Permit

- Accessory Storage
- Adult Oriented Business
- Amusement Services
- Artisan Foods and Products
- ATM
- Auto Repair and Services
- Brewery – Production
- Building Materials and Hardware w/ outdoor sales or storage area less than 10,000 sf
- Business Support Services
- Collection Stations
- Contract Construction Services (Indoor)
- Data and Computer Services Center
- Eating and Drinking Places
- Farm Equipment and Supplies w/ outdoor storage or sales area less than 10,000 sf
- Fuel Dealer
- Government Offices and Facilities
- Large Scale Ag Manufacturing
- Laundries and Dry Cleaning Plants
- Laundromat/Coin-Operated Laundry
- Manufacturing and Processing – Low Intensity
- Medical Research
- Microbrewery – Brewpub
- Mini-Storage
- Mobile Eating and Drinking Vendors⁶
- Mortuary Services
- Printing and Publishing
- Research and Development
- Storage, Recycling and Dismantling of Vehicles and Material
- Tasting Room
- Temporary Events
- Temporary or Seasonal Sales
- Utility Infrastructure
- Vehicle and Equipment Storage (Indoor)⁴
- Warehousing
- Wholesaling and Distribution Center⁴
- Winery – Boutique
- Winery – Production

Exhibit A
PC Meeting of 7-18-23



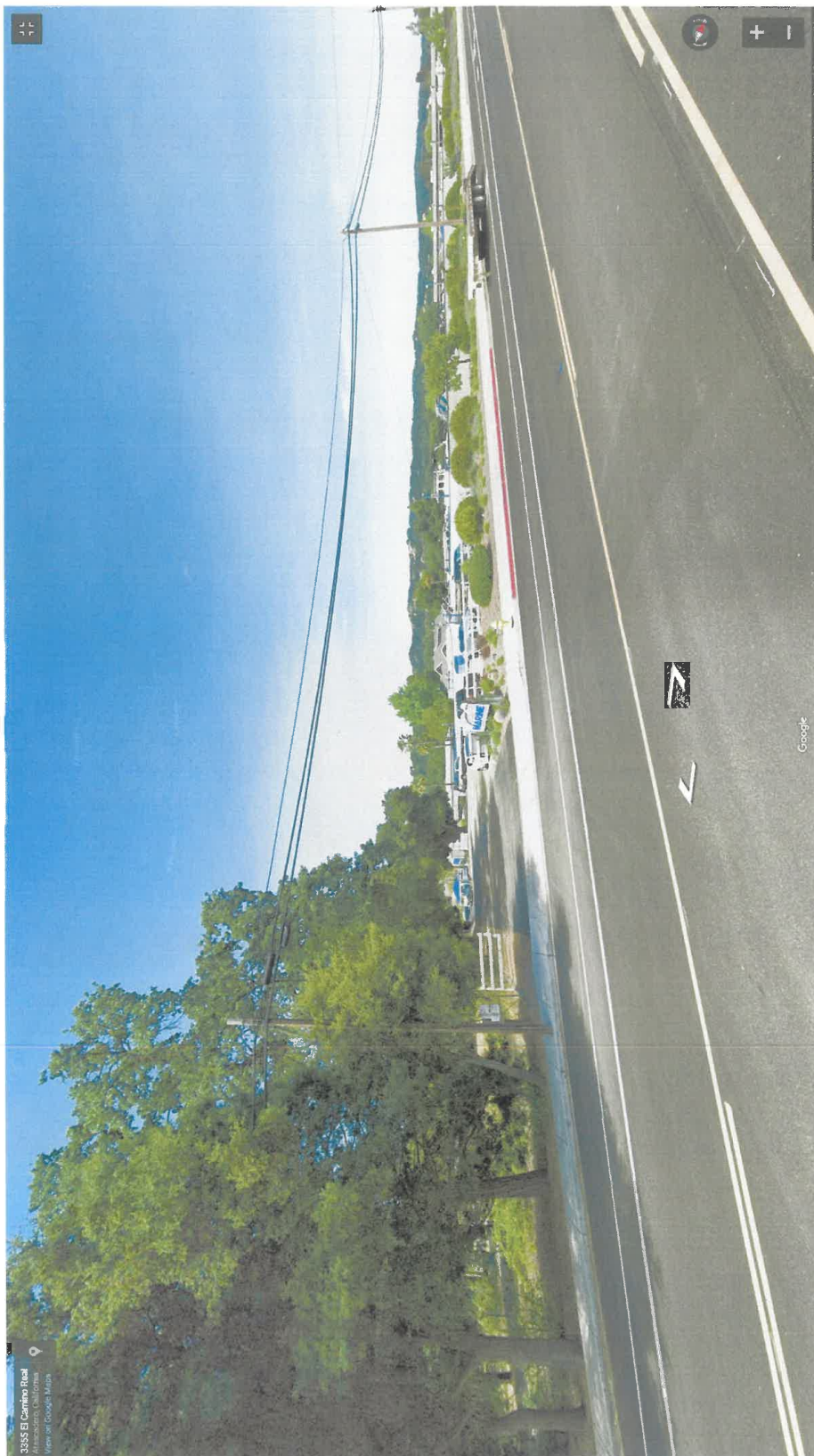
Exhibit B
PC Meeting of 7-18-23











ITEM NUMBER:
DATE:
ATTACHMENT:

B-2
10/10/23
4



ITEM NUMBER:
DATE:
ATTACHMENT:

B-2
10/10/23
4





PC RESOLUTION 2023-0011

**RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF ATASCADERO APPROVING A CONDITIONAL USE PERMIT
TO ESTABLISH AN OUTDOOR RECREATIONAL VEHICLE STORAGE
USE IN THE INDUSTRIAL PARK ZONE**

**SYCAMORE RV STORAGE
VSM LEASING & RENTALS LLC
(USE21-0107)**

WHEREAS, an application has been received from VSM Leasing & Rentals LLC (3380 El Camino Real, Atascadero, CA 93422), Applicant, and Atascadero Mutual Water Company (PO Box 6075, Atascadero, CA 93422), Owner) to consider Planning Application USE21-0107, for a Conditional Use Permit for an outdoor Recreational Vehicle (RV) storage use at 6805 Sycamore Road, Atascadero, CA 93422 (APN 028-121-001); and

WHEREAS, the site's current General Plan Land Use Designation is Industrial and Open Space (I and OS); and

WHEREAS, the site's current Zoning District is Industrial Park and Open Space (IP and OS); and

WHEREAS, an outdoor vehicle storage yard is a conditionally allowed use in the Industrial Park (IP) zoning district; and

WHEREAS, the outdoor vehicle storage yard is not located on the portion of the site zoned Open Space (OS) zoning district; and

WHEREAS, the laws and regulations relating to the preparation and public notice of environmental documents, as set forth in the State and local guidelines for implementation of the California Environmental Quality Act (CEQA) have been adhered to; and

WHEREAS, a timely and properly noticed public hearing was held by the Planning Commission of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said conditional use permit; and

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Atascadero:

SECTION 1. Recitals: The above recitals are true and correct.

SECTION 2. Public Hearing. The Planning Commission held a duly noticed public hearing to consider the project on July 18, 2023 and considered testimony and reports from staff, the applicants, and the public.

SECTION 3. Findings. The Planning Commission makes the following findings, determinations and approvals:

1. Findings for Approval of a Conditional Use Permit

FINDING: The proposed project or use is consistent with the General Plan

FACT: The use is consistent with the General Plan. Specifically, it relates to intended uses in the Industrial Park zone. The General Plan states that one of the intended uses of this zone is for outdoor storage facilities. General Plan Policy 14.2 aims to identify locations with adequate land to accommodate industrial uses to retain and expand existing businesses. The municipal code allows outdoor vehicle storage operations with a Conditional Use Permit.

FINDING: The proposed project or use satisfies all applicable provisions of the Zoning Ordinance.

FACT: The proposed outdoor vehicle storage operation can be permitted through the Conditional Use Permit process as identified in the Municipal Code. The proposed site plan is consistent with the applicable provisions of the Atascadero Municipal Code as conditioned.

FINDING: The establishment, and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use

FACT: The proposed recreational vehicle storage facility will not be detrimental to the general public or working person's health, safety, or welfare.

FINDING: The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development

FACT: The proposed project is on a property that is zoned Industrial Park with a contract construction yard on it. The property is at the edge of the city in an area that has been designated for industrial uses.

FINDING: The proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved in conjunction with the project, or beyond the normal traffic volume of the surrounding neighborhood that would result from full development in accordance with the land use element.

FACT: The proposed project and use is consistent with the traffic projections and road improvements anticipated within the General Plan. The project site is an existing site on Sycamore Road.

FINDING: The proposed project is in compliance with any pertinent City policy or criteria adopted by ordinance or resolution of the City Council.

FACT: The project is consistent with the General Plan and municipal code, as conditioned.

2. Findings for Approval of Landscape Requirement Exception

FACT: Existing vegetation topography or structural arrangement preclude the need for landscaping.

FINDING: Since the site is screened by fencing and landscaping along Sycamore Road, landscaping added within the RV lot will not be visible from the outside. Additionally, maintaining this landscape would be difficult as it would need to be irrigated and protected from vehicles driving over it. Additionally, evergreen landscaping along the Salina River will not provide useful screening. The chain-link fence requiring screening is located against a berm and landscaping will be difficult to maintain.

SECTION 4. CEQA. The project is exempt from the California Environmental Quality Act (CEQA), under Categorical Exemption § 15304, Class 4; Minor Land Alterations.

SECTION 5. Approval. The Planning Commission of the City of Atascadero, in a regular session assembled on July 18, 2023, resolved to approve a Conditional Use Permit to allow for an outdoor recreational vehicle storage yard (USE21-0107) subject to the following:

1. EXHIBIT A: Conditions of Approval
2. EXHIBIT B: Site Plan
3. EXHIBIT C: Preliminary Grading and Drainage Plan
4. EXHIBIT D: Landscape Plan (as modified)

On motion by Commissioner Schmidt and seconded by Commissioner Hughes, the foregoing resolution is hereby adopted in its entirety by the following roll call vote:

AYES:	Heath, Hughes, Schmidt, van den Eikhof	(4)
NOES:	Anderson, Carranza, Keen	(3)
ABSTAIN:	None	(0)
ABSENT:	None	(0)
ADOPTED:	July 18, 2023	

CITY OF ATASCADERO, CA


Jeff van den Eikhof
Planning Commission Chairperson

Attest:

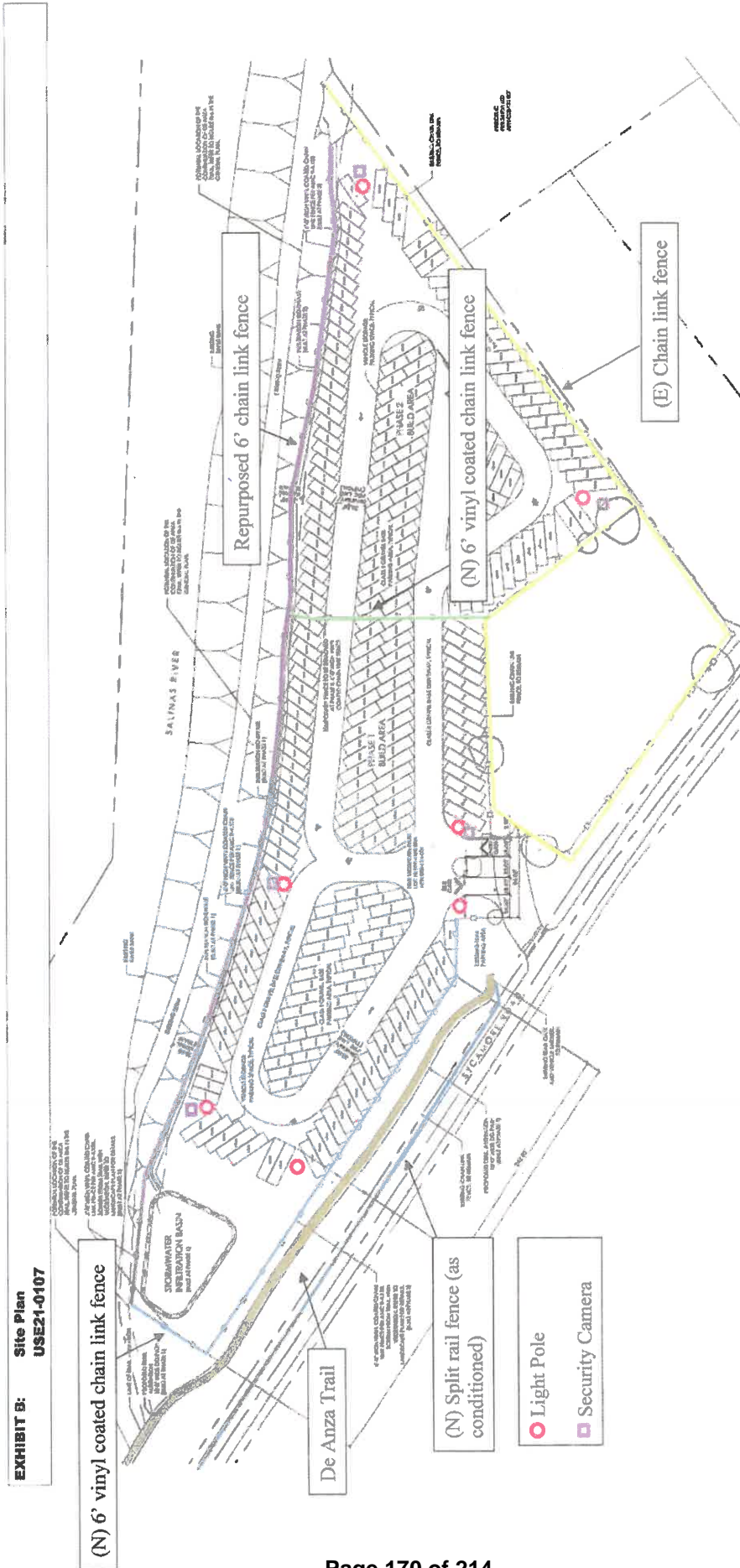

Phil Dunsmore
Planning Commission Secretary

**EXHIBIT A: Conditions of Approval
USE21-0107**

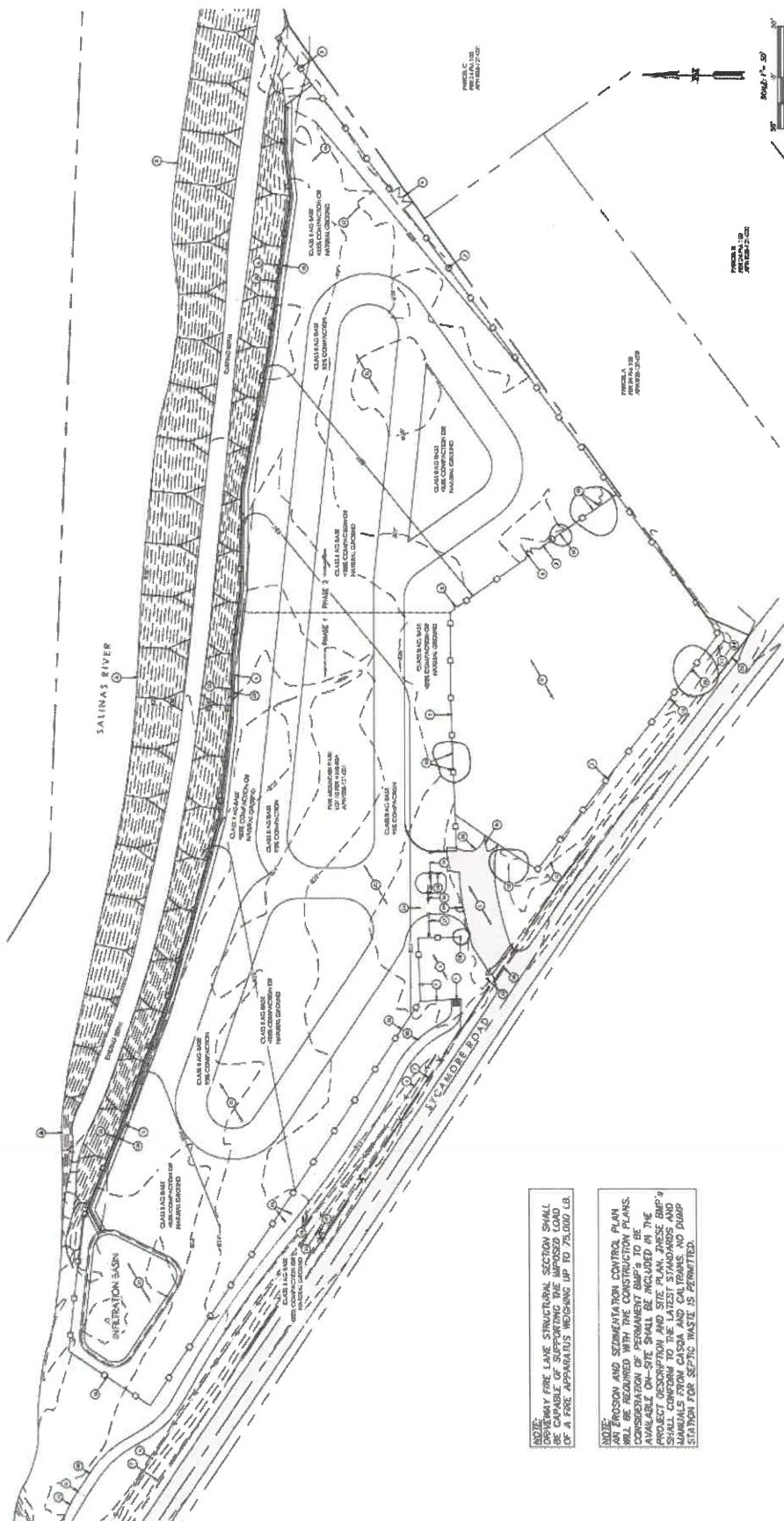
Conditions of Approval Conditional Use Permit Outdoor Recreational Vehicle Storage 6805 Sycamore Road	Timing BL: Business License GP: Grading Permit BP: Building Permit FI: Final Inspection TO: Temporary Occupancy FO: Final Occupancy	Responsibility /Monitoring PS: Planning Services BS: Building Services FD: Fire Department PD: Police Department CE: City Engineer WW: Wastewater CA: City Attorney
1. This Conditional Use Permit shall be for an outdoor recreational vehicle storage yard as described in attached Exhibits, located at 6805 Sycamore Road (APN 028-121-001), regardless of owner.	Ongoing	PS
2. The approval of this use permit shall become final and effective the date of the hearing. Issuance of building permits may not occur prior to the appeal period of fourteen (14) days following the Planning Commission approval.	Ongoing	PS
3. The Community Development Department shall have the authority to approve the following minor changes to the project that (1) modify the site plan project by less than 10%, (2) result in a superior site design or appearance, and/or (3) address a construction design issue that is not substantive to the Conditional Use Permit.	Ongoing	PS, CE
4. Approval of this Conditional Use Permit shall be valid for twenty-four (24) months after its effective date. At the end of this time period, the approval shall expire and become null and void unless the project has received a building permit or a time extension.	BP	PS
5. This use permit shall be valid for this site regardless of owner. If the storage land use ceases for more than 6 months following initial occupancy or if the City verifies that the use is not in compliance with Use Permit conditions, the use permit shall be revoked and shall be subject to the review and approval of a new use permit, subject to zoning and General Plan compliance at the time of revocation.	Ongoing	PS
6. The owner and applicant shall defend, indemnify, and hold harmless the City of Atascadero or its agents, officers, and employees against any claim or action brought to challenge an approval by the City, or any of its entities, concerning this conditional use permit.	Ongoing	CA
Planning Services		
7. The Conditional Use Permit shall allow an outdoor recreational vehicle storage yard as shown in Exhibit B.	Ongoing	PS
8. All landscaping, fencing and site improvements shall be maintained in good order. Any dead or non-performing landscape items shall be replaced within 30 days. Any damaged fencing, lighting, or site improvements shall be replaced immediately.	Ongoing	PS
9. No changes to fencing, landscaping, or site improvements may be installed without prior approval by the City.	Ongoing	PS
10. No cargo containers, inoperable vehicles, inoperable boats or inoperable RV's shall be stored on-site. Only currently registered, operable vehicles or RV's may be stored on-site.	Ongoing	PS
11. No storage of vehicles in any location other than in the designated on-site parking areas as identified in the site plan approved by Planning Commission may be stored on any portion of the site.	Ongoing	PS

12. No other land use shall be allowed in conjunction with the RV storage unless specifically approved by the City.	Ongoing	PS
13. No washing of vehicles, RV's or Boats or other equipment may occur on-site.	Ongoing	PS
14. No dumping of RV waste or water tanks may occur on site at any time.	Ongoing	PS
15. No storage, paving, stockpiling, grading, or use of the site shall be allowed within 30 feet of the top of the bank of the Salinas River.	Ongoing	PS / BS
16. The realignment of the De Anza Trail shall be consistent with what is shown in Exhibit B. The trail shall be completed and fully landscaped per the approved landscape plan. Any modifications must be approved by the Community Development Director. Generally, taller vegetation shall be focused between the RV storage lot and the realigned De Anza Trail. Shorter species shall be planted between the De Anza Trail and Sycamore Road to avoid the trail from becoming a hidden corridor	BP/ FI	PS
17. The existing chain link fence adjacent to Sycamore Road and the realigned De Anza Trail shall be replaced with a split rail or pipe rail fence with a maximum height of 4 feet tall. Fence shall be installed prior to requesting a Planning Final.	FI	PS
18. All new fencing chain link fencing, other than fencing along the Salina River, shall be vinyl coated with a dark neutral color. The maximum fence height shall not exceed 6 feet. However, the addition of barbed wire (NOT Constantine wire) may be added to the top of interior fences along the RV storage lot. Fencing shall be installed prior to requesting a Final Planning Inspection.	FI	PS
19. Existing chain link fencing along Sycamore Road may be repurposed to be used as fencing adjacent to the Salinas River.	FI	PS
20. The applicant shall submit a landscape and irrigation plan, completed by a qualified professional, with their construction documents. The landscape plan shall be consistent with what is shown inf Exhibit D with additional landscaping focused on the following areas: _ Along the De Anza Trail realignment _ In front of the existing construction yard, adjacent to Sycamore Road Landscaping and irrigation shall be installed prior to requesting a Planning Final Inspection.	BP/FI	PS
21. Ensure that the De Anza Trail realignment is built out to meet equestrian trail standards.	FI	PS
22. Maximum height of new light poles shall not be taller than 16 feet for each light pole. The lights shall be set to dim low level light until motion is detected.	BP/ FI	PS
23. A photometric light study shall be submitted with the building permits for the Phase 2 addition and shall consider all new lights proposed and all existing lights proposed to be retained. The lighting plan shall not include any lights that cause a light in excess of .01 footcandles on adjacent properties. Planning Services staff shall conduct a night-time inspection of lights before the building permits may be finalized.	BP/FI	
24. The Use Permit shall be subject to additional review upon receipt of operational complaints. Additional mitigation may be warranted upon verification of recurring noise or operational disturbances that impact residential properties.	Ongoing	PS
25. Archaeological monitoring is required with all ground disturbing activities. The applicant will be required to provide a signed contract with a certified archaeologist prior to building permit issuance. The archaeologist is required to provide a letter to the City prior to Planning Department Final stating that all recommended procedures were completed.	BP/ FI	PS
26. The applicant shall hire a qualified biologist to provide a nesting bird survey and survey for special status species within 3 month of construction commencement. This survey shall include a survey for Eagle nests within 1 mile of the project site. The applicant shall follow all recommendations of the qualified biologist and shall obtain all permits from the Department of Fish and Wildlife as necessary.	BP	PS
Public Works		

<p>27. At Building permit submittal, provide updated Stormwater Control Plan (and reflect on Grading Plans) indicating the areas outside of the drive aisles will not be compacted >85% compaction to allow infiltration to meet Post Construction requirement #1 to reduce impervious surface as far as practicable.</p>	<p>BP</p>	<p>PW</p>
<p>28. Parking spaces are noted to be native material and are susceptible to pollutant discharge from vehicles. At time of building permit submittal, on the plans and with supplemental documents, provide drip pans and spill kits for leaks or other spills, similar to what would be found in a municipal yard. (Reference industrial or municipal stormwater requirements for construction or corporation yard spill prevention.)</p> <p>A disposal station with spill kit supplies and covered cans for soiled materials shall be located on the site for individuals using the facility and maintained by the company who leases the land and runs the business.</p> <p>A contact phone number shall be made available to call if a facility user/customer has a spill. Provide copy of a Spill Response Plan to City for review and approval. This plan must be in place to provide a procedure for cleaning up major spills, including sewage or gray water leaks, in a timely manner with contact information for those who would be responsible parties.</p>	<p>BP/ Ongoing</p>	<p>PW</p>

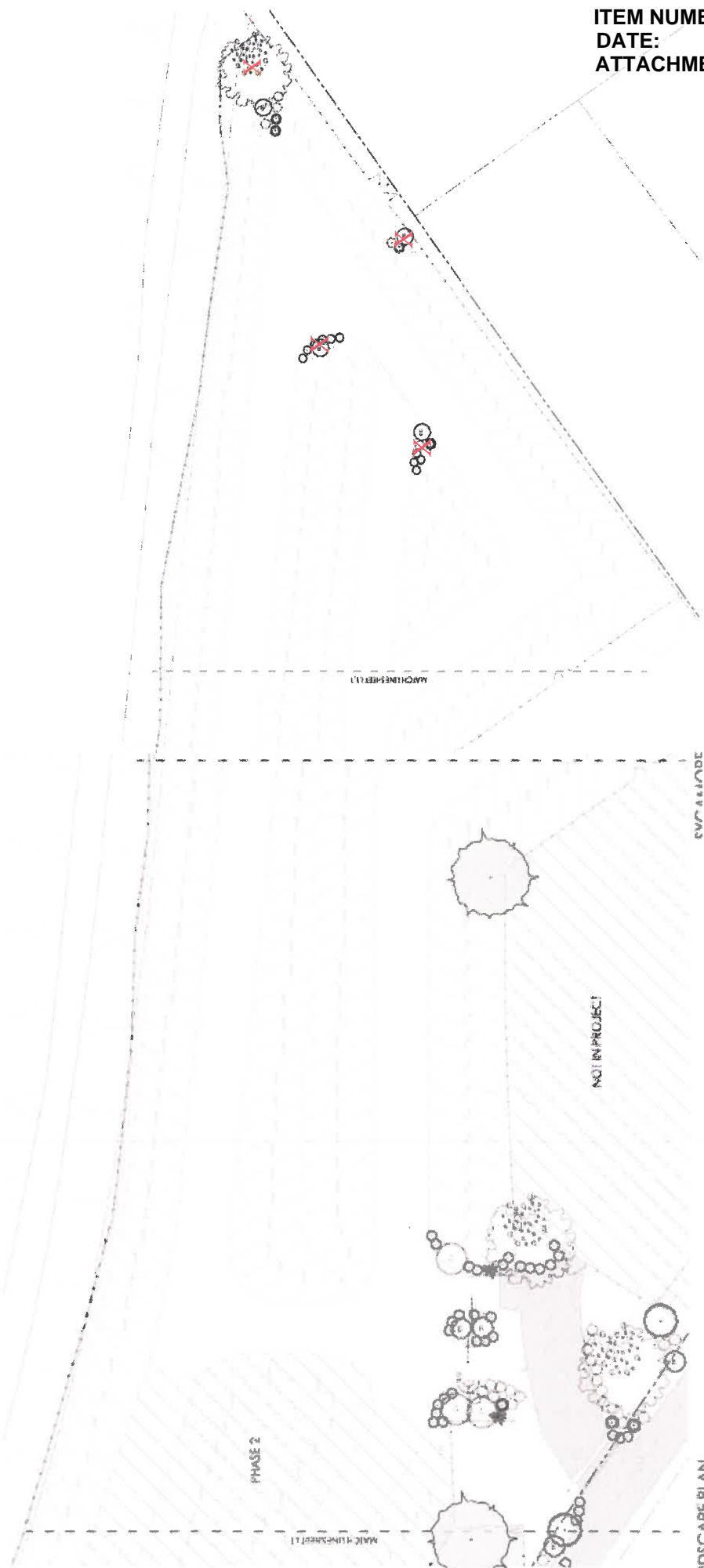


**EXHIBIT C: Preliminary Grading and Drainage Plan
USE21-0107**



NOTE: DRIVEWAY FIRE LANE STRUCTURAL SECTION SHALL BE CAPABLE OF SUPPORTING THE IMPOSED LOAD OF A FIRE APPARATUS INCLUDING UP TO 75,000 LB.

NOTE: AN EROSION AND SEDIMENTATION CONTROL PLAN SHALL BE REQUIRED WITH THE CONSTRUCTION PLANS. THE PLAN SHALL BE PREPARED BY A LICENSED PROFESSIONAL ENGINEER AND SHALL BE INCLUDED IN THE AVAILABLE ON-SITE SHALL BE INCLUDED IN THE PROJECT DESCRIPTION AND SITE PLAN. THESE BMP'S SHALL CONFORM TO THE LATEST STANDARDS AND SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION AND DUMP STATION FOR SEPTIC WASTE IS PERMITTED.



DRAFT RESOLUTION A

**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF ATASCADERO, CALIFORNIA, AFFIRMING THE PLANNING
COMMISSION'S APPROVAL OF A CONDITIONAL USE PERMIT TO
ESTABLISH AN RV STORAGE FACILITY LOCATED AT
6805 SYCAMORE ROAD**

**SYCAMORE RV STORAGE
(USE 21-0107)**

WHEREAS, an application has been received from VSM Leasing & Rentals LLC, to consider Planning Application USE 21-0107, for a Conditional Use Permit for an outdoor RV storage use on a 6-acre site at 6805 Sycamore Road, Atascadero, CA 93422 (APN 028-121-001); and

WHEREAS, the site's current General Plan Land Use Designation is Industrial; and

WHEREAS, the site's current Zoning District is Industrial; and

WHEREAS, outdoor storage of RV's is a conditionally allowed use in the industrial zoning district; and

WHEREAS, the project was reviewed by the Design Review Committee at their regularly scheduled meeting on July 28, 2022; and

WHEREAS, the laws and regulations relating to the preparation and public notice of environmental documents, as set forth in the State and local guidelines for implementation of the California Environmental Quality Act (CEQA) have been adhered to; and

WHEREAS, a timely and properly noticed Public Hearing upon the subject conditional use permit application was held by the Planning Commission of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said use permit; and

WHEREAS, the Planning Commission of the City of Atascadero, at a Public Hearing held on November 15 and continued on June 20, 2023, studied and considered the proposed use permit for an RV storage development and failed to pass a motion to approve nor deny the use permit based on tied votes; and

WHEREAS, the Planning Commission of the City of Atascadero re-heard the project on July 18, 2023, and approved the Use Permit on a 4-3 vote; and

WHEREAS, on July 28, 2023, David Broadwater filed an appeal for review of the Planning Commission’s action by the City Council, in accordance with the provisions of Atascadero Municipal Code Section 9-1.111; and

WHEREAS, on July 31, 2023, Michael Jenkins on behalf of BioDiversity, First!, Inc., filed an additional appeal for review of the Planning Commission’s action by the City Council, in accordance with the provisions of Atascadero Municipal Code Section 9-1.111; and

WHEREAS, the City Council held a duly noticed public hearing to consider the appeals on October 10, 2023, at 6:00 p.m., in accordance with the provisions of Atascadero Municipal Code Section 9-1.110, and considered testimony and reports from staff, the applicants, and the public.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Atascadero:

SECTION 1. Recitals: The above recitals are true and correct.

SECTION 2. Public Hearing. The City Council of the City of Atascadero, in a regular hearing assembled on October 10, 2023, resolved to affirm the Planning Commission’s action to approve a conditional use permit for an outdoor RV storage yard subject to conditions of approval and mitigation monitoring as show in Exhibits A through D, attached hereto and incorporated herein by this reference.

SECTION 3. Facts and Findings. The City Council makes the following findings, determinations, and approvals with respect to the Conditional Use Permit:

1. Findings for Affirming the Planning Commission’s Approval of a Conditional Use Permit

A. FINDING: The proposed project or use is consistent with the General Plan.

FACT: The use is consistent with the General Plan. Specifically, it relates to intended uses in the Industrial Park zone. The General Plan states that one of the intended uses of this zone is for outdoor storage facilities. General Plan Policy 14.2 aims to identify locations with adequate land to accommodate industrial uses to retain and expand existing businesses. The municipal code allows outdoor vehicle storage operations with a Conditional Use Permit.

B. FINDING: The proposed project or use satisfies all applicable provisions of the Zoning Ordinance.

FACT: The proposed outdoor vehicle storage operation can be permitted though the Conditional Use Permit process as identified in the Municipal Code. The proposed site plan is consistent with the applicable provisions of the Atascadero Municipal Code as conditioned.

- C. FINDING: The establishment, and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use.

FACT: The proposed recreational vehicle storage facility will not be detrimental to the general public or working person's health, safety, or welfare.

- D. FINDING: The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development.

FACT: The proposed project is on a property that is zoned Industrial Park with a contract construction yard on it. The property is at the edge of the city in an area that has been designated for industrial uses.

- E. FINDING: The proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved in conjunction with the project, or beyond the normal traffic volume of the surrounding neighborhood that would result from full development in accordance with the land use element.

FACT: The proposed project and use is consistent with the traffic projections and road improvements anticipated within the General Plan. The project site is an existing site on Sycamore Road.

- F. FINDING: The proposed project is in compliance with any pertinent City policy or criteria adopted by ordinance or resolution of the City Council.

FACT: The project is consistent with the General Plan and Municipal Code, as conditioned.

2. Findings for Approval of Landscape Requirement Exception

- G. FINDING: Since the site is screened by fencing and landscaping along Sycamore Road, landscaping added within the RV lot will not be visible from the outside. Additionally, maintaining this landscape would be difficult as it would need to be irrigated and protected from vehicles driving over it. Additionally, evergreen landscaping along the Salina River will not provide useful screening. The chain-link fence requiring screening is located against a berm and landscaping will be difficult to maintain.

FACT: Existing vegetation topography or structural arrangement preclude the need for landscaping.

SECTION 4. CEQA. The project is exempt from the California Environmental Quality Act (CEQA), under Categorical Exemption § 15304, Class 4; Minor Land Alterations.

SECTION 5. Approval. The City Council of the City of Atascadero, in a regular hearing on October 10, 2023, resolved to affirm the Planning Commission’s action to approve a Conditional Use Permit to allow for an outdoor RV storage facility subject to the following:

- 1. EXHIBIT A: Conditions of Approval
- 2. EXHIBIT B: Site Plan
- 3. EXHIBIT C: Preliminary Grading and Drainage Plan
- 4. EXHIBIT D: Landscape Plan (as modified)

PASSED AND ADOPTED at a regular meeting of the City Council held on the ___th day of ___, 2023.

On motion by Council Member _____ and seconded by Council Member _____, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

CITY OF ATASCADERO:

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Brian Pierik, City Attorney

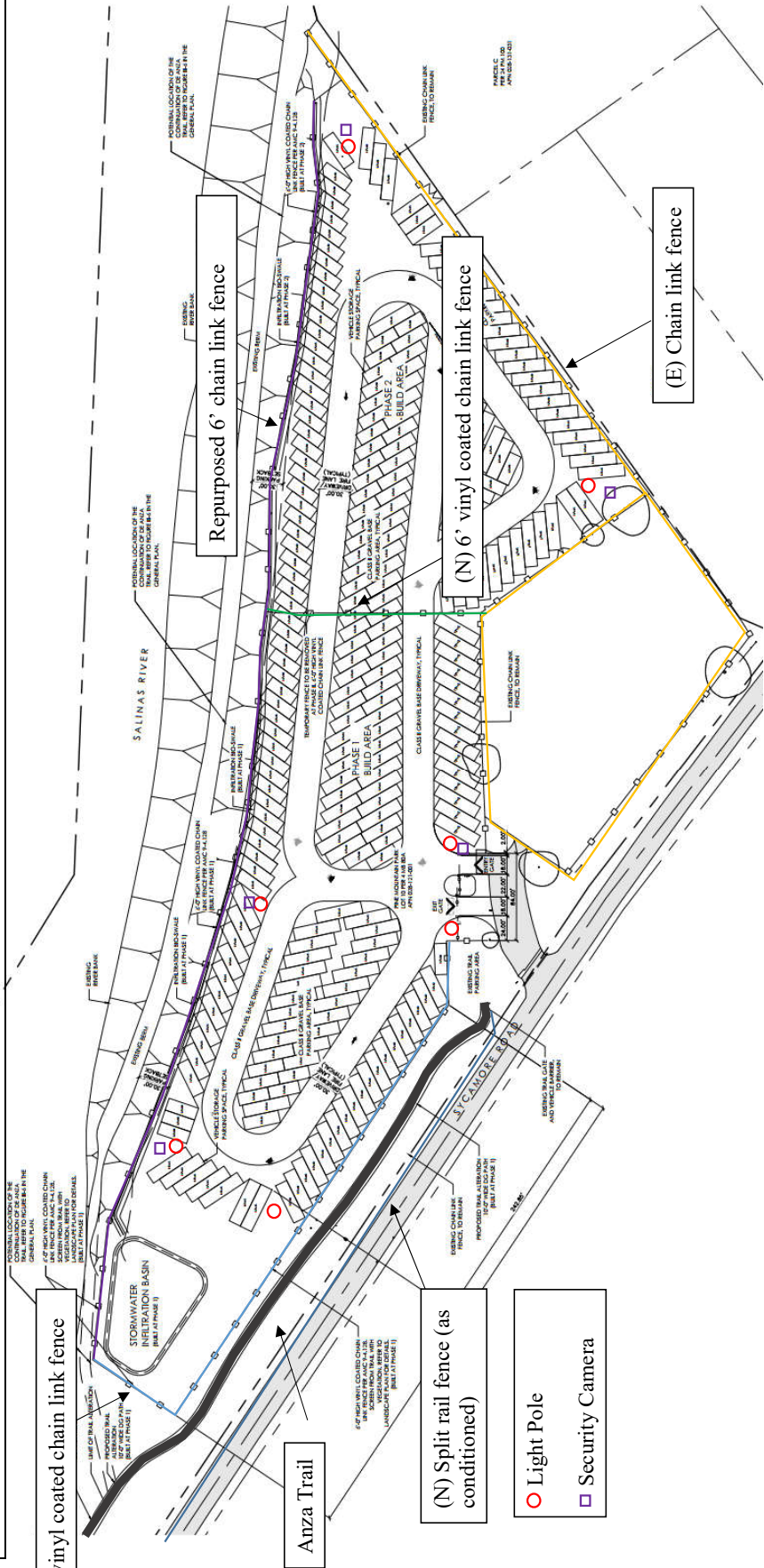
**EXHIBIT A: Conditions of Approval
USE21-0107**

Conditions of Approval Conditional Use Permit Outdoor Recreational Vehicle Storage 6805 Sycamore Road	Timing BL: Business License GP: Grading Permit BP: Building Permit FI: Final Inspection TO: Temporary Occupancy FO: Final Occupancy	Responsibility /Monitoring PS: Planning Services BS: Building Services FD: Fire Department PD: Police Department CE: City Engineer WW: Wastewater CA: City Attorney
1. This Conditional Use Permit shall be for an outdoor recreational vehicle storage yard as described in attached Exhibits, located at 6805 Sycamore Road (APN 028-121-001), regardless of owner.	Ongoing	PS
2. The approval of this use permit shall become final and effective the date of the hearing. Issuance of building permits may not occur prior to the appeal period of fourteen (14) days following the Planning Commission approval.	Ongoing	PS
3. The Community Development Department shall have the authority to approve the following minor changes to the project that (1) modify the site plan project by less than 10%, (2) result in a superior site design or appearance, and/or (3) address a construction design issue that is not substantive to the Conditional Use Permit.	Ongoing	PS, CE
4. Approval of this Conditional Use Permit shall be valid for twenty-four (24) months after its effective date. At the end of this time period, the approval shall expire and become null and void unless the project has received a building permit or a time extension.	BP	PS
5. This use permit shall be valid for this site regardless of owner. If the storage land use ceases for more than 6 months following initial occupancy or if the City verifies that the use is not in compliance with Use Permit conditions, the use permit shall be revoked and shall be subject to the review and approval of a new use permit, subject to zoning and General Plan compliance at the time of revocation.	Ongoing	PS
6. The owner and applicant shall defend, indemnify, and hold harmless the City of Atascadero or its agents, officers, and employees against any claim or action brought to challenge an approval by the City, or any of its entities, concerning this conditional use permit.	Ongoing	CA
Planning Services		
7. The Conditional Use Permit shall allow an outdoor recreational vehicle storage yard as shown in Exhibit B.	Ongoing	PS
8. All landscaping, fencing and site improvements shall be maintained in good order. Any dead or non-performing landscape items shall be replaced within 30 days. Any damaged fencing, lighting, or site improvements shall be replaced immediately.	Ongoing	PS
9. No changes to fencing, landscaping, or site improvements may be installed without prior approval by the City.	Ongoing	PS
10. No cargo containers, inoperable vehicles, inoperable boats or inoperable RV's shall be stored on-site. Only currently registered, operable vehicles or RV's may be stored on-site.	Ongoing	PS

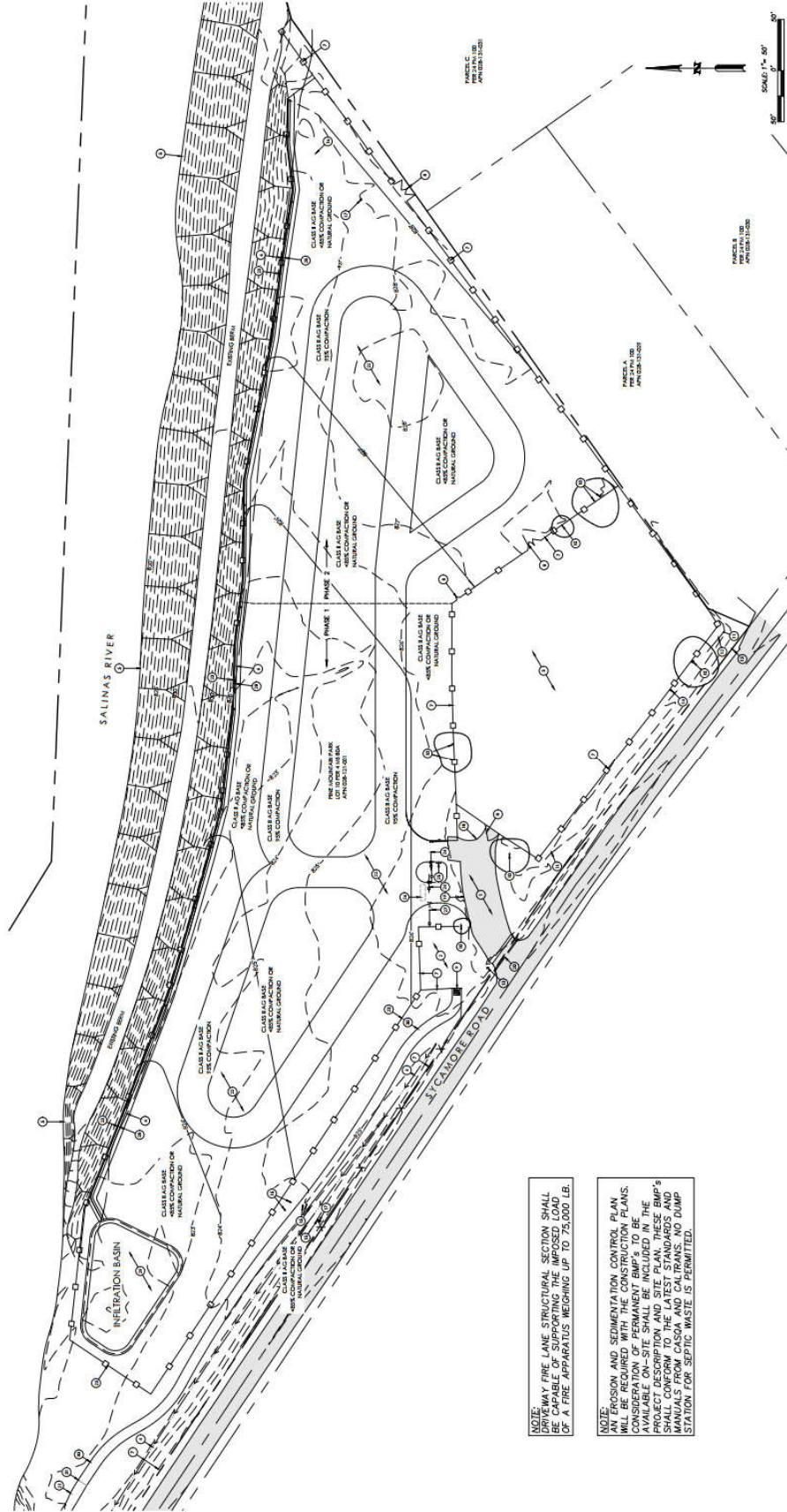
11. No storage of vehicles in any location other than in the designated on-site parking areas as identified in the site plan approved by Planning Commission may be stored on any portion of the site.	Ongoing	PS
12. No other land use shall be allowed in conjunction with the RV storage unless specifically approved by the City.	Ongoing	PS
13. No washing of vehicles, RV's or Boats or other equipment may occur on-site.	Ongoing	PS
14. No dumping of RV waste or water tanks may occur on site at any time.	Ongoing	PS
15. No storage, paving, stockpiling, grading, or use of the site shall be allowed within 30 feet of the top of the bank of the Salinas River.	Ongoing	PS / BS
16. The realignment of the Anza Trail shall be consistent with what is shown in Exhibit B. The trail shall be completed and fully landscaped per the approved landscape plan. Any modifications must be approved by the Community Development Director. Generally, taller vegetation shall be focused between the RV storage lot and the realigned Anza Trail. Shorter species shall be planted between the Anza Trail and Sycamore Road to avoid the trail from becoming a hidden corridor	BP/ FI	PS
17. The existing chain link fence adjacent to Sycamore Road and the realigned Anza Trail shall be replaced with a split rail or pipe rail fence with a maximum height of 4 feet tall. Fence shall be installed prior to requesting a Planning Final.	FI	PS
18. All new fencing chain link fencing, other than fencing along the Salina River, shall be vinyl coated with a dark neutral color. The maximum fence height shall not exceed 6 feet. However, the addition of barbed wire (NOT Constantine wire) may be added to the top of interior fences along the RV storage lot. Fencing shall be installed prior to requesting a Final Planning Inspection.	FI	PS
19. Existing chain link fencing along Sycamore Road may be repurposed to be used as fencing adjacent to the Salinas River.	FI	PS
20. The applicant shall submit a landscape and irrigation plan, completed by a qualified professional, with their construction documents. The landscape plan shall be consistent with what is shown inf Exhibit D with additional landscaping focused on the following areas: _ Along the Anza Trail realignment _ In front of the existing construction yard, adjacent to Sycamore Road Landscaping and irrigation shall be installed prior to requesting a Planning Final Inspection.	BP/FI	PS
21. Ensure that the Anza Trail realignment is built out to meet equestrian trail standards.	FI	PS
22. Maximum height of new light poles shall not be taller than 16 feet for each light pole. The lights shall be set to dim low level light until motion is detected.	BP/ FI	PS
23. A photometric light study shall be submitted with the building permits for the Phase 2 addition and shall consider all new lights proposed and all existing lights proposed to be retained. The lighting plan shall not include any lights that cause a light in excess of .01 footcandles on adjacent properties. Planning Services staff shall conduct a night-time inspection of lights before the building permits may be finalized.	BP/FI	
24. The Use Permit shall be subject to additional review upon receipt of operational complaints. Additional mitigation may be warranted upon verification of recurring noise or operational disturbances that impact residential properties.	Ongoing	PS
25. Archaeological monitoring is required with all ground disturbing activities. The applicant will be required to provide a signed contract with a certified archaeologist prior to building permit issuance. The archaeologist is required to provide a letter to the City prior to Planning Department Final stating that all recommended procedures were completed.	BP/ FI	PS
Public Works		
26. At Building permit submittal, provide updated Stormwater Control Plan (and reflect on Grading Plans) indicating the areas outside of the drive aisles will not	BP	PW

<p>be compacted >85% compaction to allow infiltration to meet Post Construction requirement #1 to reduce impervious surface as far as practicable.</p>		
<p>27. Parking spaces are noted to be native material and are susceptible to pollutant discharge from vehicles. At time of building permit submittal, on the plans and with supplemental documents, provide drip pans and spill kits for leaks or other spills, similar to what would be found in a municipal yard. (Reference industrial or municipal stormwater requirements for construction or corporation yard spill prevention.)</p> <p>A disposal station with spill kit supplies and covered cans for soiled materials shall be located on the site for individuals using the facility and maintained by the company who leases the land and runs the business.</p> <p>A contact phone number shall be made available to call if a facility user/customer has a spill. Provide copy of a Spill Response Plan to City for review and approval. This plan must be in place to provide a procedure for cleaning up major spills, including sewage or gray water leaks, in a timely manner with contact information for those who would be responsible parties.</p>	<p>BP/ Ongoing</p>	<p>PW</p>

EXHIBIT B: Site Plan USE21-0107

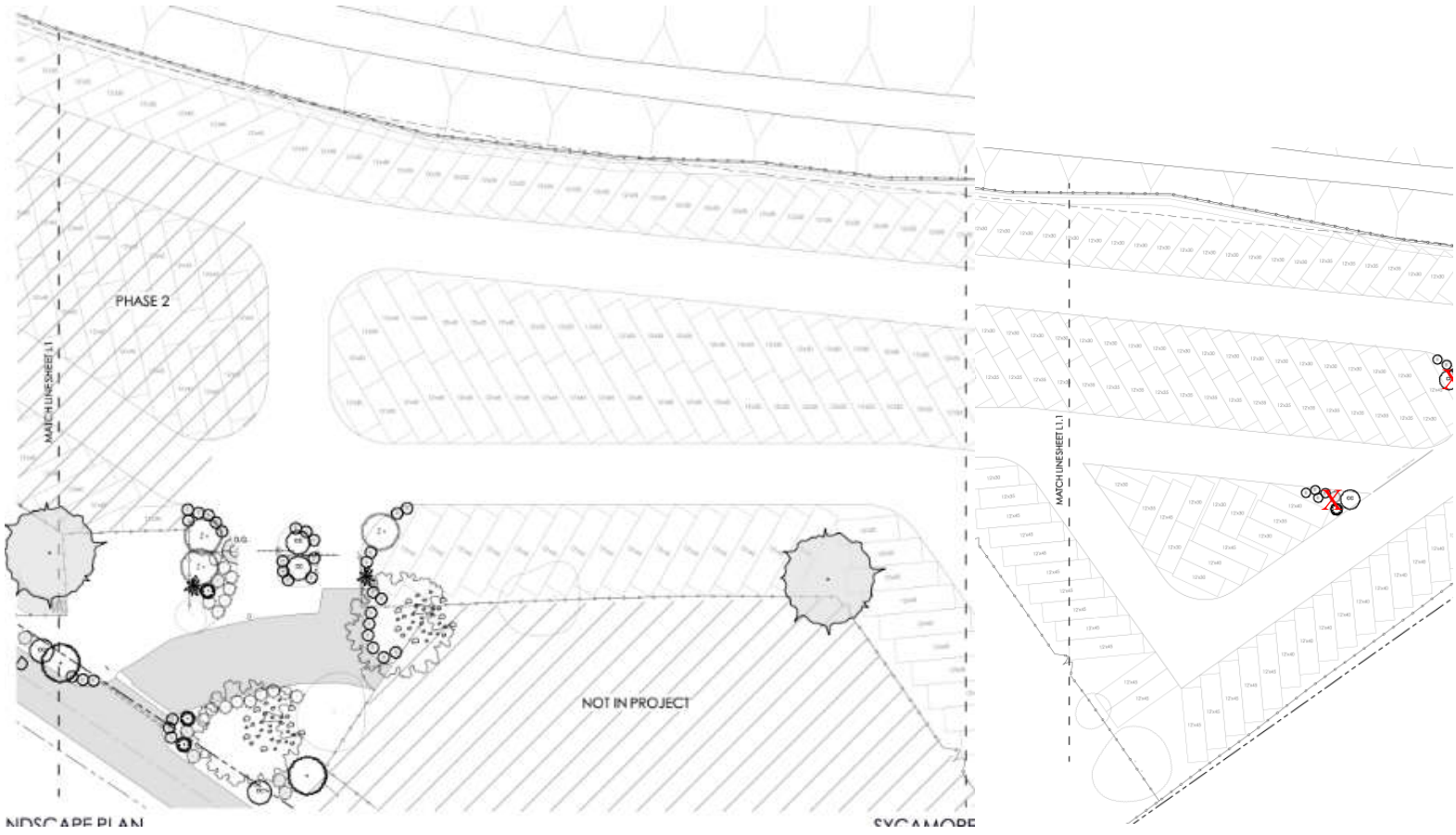


**EXHIBIT C: Preliminary Grading and Drainage Plan
 USE21-0107**



NOTE:
 DRIVEWAY FIRE LANE STRUCTURAL SECTION SHALL BE CAPABLE OF SUPPORTING THE FULL LOAD OF A FIRE APPARATUS WEIGHING UP TO 75,000 LB.

NOTE:
 AN EROSION AND SEDIMENTATION CONTROL PLAN SHALL BE SUBMITTED WITH THE PERMITS. CONSIDERATION OF PERMANENT BMP'S TO BE AVAILABLE ON-SITE SHALL BE INCLUDED IN THE PROJECT DESCRIPTION AND SITE PLAN. THESE BMP'S SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION. MANUALS FROM CASDA AND CALTRANS. NO DUMP STATION FOR SEPTIC WASTE IS PERMITTED.



DRAFT RESOLUTION B

**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF ATASCADERO, CALIFORNIA, REVERSING THE PLANNING
COMMISSION'S ACTION AND DENYING A CONDITIONAL USE
PERMIT TO ESTABLISH AN RV STORAGE FACILITY LOCATED AT
6805 SYCAMORE ROAD**

**SYCAMORE RV STORAGE
(USE 21-0107)**

WHEREAS, an application has been received from VSM Leasing & Rentals LLC, to consider Planning Application USE 21-0107, for a Conditional Use Permit for an outdoor RV storage use on a 6-acre site at 6805 Sycamore Road, Atascadero, CA 93422 (APN 028-121-001); and

WHEREAS, the site's current General Plan Land Use Designation is Industrial; and

WHEREAS, the site's current Zoning District is Industrial; and

WHEREAS, outdoor storage of RVs is a conditionally allowed use in the Industrial zoning district; and

WHEREAS, the project was reviewed by the Design Review Committee at their regularly scheduled meeting on July 28, 2022; and

WHEREAS, the laws and regulations relating to the preparation and public notice of environmental documents, as set forth in the State and local guidelines for implementation of the California Environmental Quality Act (CEQA), have been adhered to; and

WHEREAS, a timely and properly noticed Public Hearing upon the subject conditional use permit application was held by the Planning Commission of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said use permit; and

WHEREAS, the Planning Commission of the City of Atascadero, at a Public Hearing held on November 15, 2022, and continued on June 20, 2023, studied and considered the proposed use permit for an RV storage development and failed to pass a motion to approve nor deny the use permit based on tied votes; and

WHEREAS, the Planning Commission of the City of Atascadero re-heard the project on July 18, 2023, and approved the Use Permit on a 4-3 vote; and

WHEREAS, on July 28, 2023, David Broadwater filed an appeal for review of the Planning Commission's action by the City Council, in accordance with the provisions of Atascadero Municipal Code Section 9-1.111; and

WHEREAS, on July 31, 2023, BioDiversity, First!, Inc., filed an additional appeal for review of the Planning Commission’s action by the City Council, in accordance with the provisions of Atascadero Municipal Code Section 9-1.111; and

WHEREAS, the City Council held a duly noticed public hearing to consider the appeals on October 10, 2023, at 6:00 p.m., in accordance with the provisions of Atascadero Municipal Code Section 9-1.110 and considered testimony and reports from staff, the applicants, and the public.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Atascadero:

SECTION 1. Recitals: The above recitals are true and correct.

SECTION 2. Public Hearing. The City Council of the City of Atascadero, in a regular hearing on October 10, 2023, resolved to reverse the Planning Commission’s action to approve a conditional use permit for an outdoor RV storage use.

SECTION 3. Facts and Findings. The City Council makes the following findings, determinations, and approvals with respect to the Conditional Use Permit:

1. Finding for Reversing the Planning Commission’s Action and Denying a Conditional Use Permit for RV Storage at 6805 Sycamore Road:

A. **FINDING**: The proposed project or use is inconsistent with the character of the immediate neighborhood or contrary to its orderly development.

FACT: The proposed project is on a property that is adjacent to the Salinas River open space and adjacent to an industrial park that hosts a variety of businesses, commerce, and activities. Storage of Recreational Vehicles is contrary to the orderly development of an Industrial Zoned property, while potentially contributing to aesthetic impacts.

SECTION 4. CEQA. The project is exempt from the California Environmental Quality Act (CEQA), under Categorical Exemption § 15304, Class 4; Minor Land Alterations.

SECTION 5. Denial. The City Council of the City of Atascadero, in a regular session on October 10, 2023, resolved to reverse the Planning Commission’s action and deny a Conditional Use Permit for an outdoor RV storage facility at 6805 Sycamore Road, subject to the following:

PASSED AND ADOPTED at a regular meeting of the City Council held on the ___th day of ___, 2023.

On motion by Council Member _____ and seconded by Council Member _____, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

CITY OF ATASCADERO:

Heather Moreno, Mayor

ATTEST:

Lara K. Christensen, City Clerk

APPROVED AS TO FORM:

Brian Pierik, City Attorney

ITEM NUMBER: B-2
DATE: 10/10/23
ATTACHMENT: 8

From: Kathy Reid <[REDACTED]>
Sent: Thursday, August 24, 2023 10:07 AM
To: City Council; City Clerk; Susan Funk
Subject: CONDITIONAL USE PERMIT FOR 6805 SYCAMORE ROAD

Dear City Council members:

I am opposed to the proposal to park 262 RVs on 6 acres in the Salinas River flood plain in Atascadero. We use the historic De Anza trail along the river regularly for hiking and biking, it is critical as a flood plain, and to preserve this space in its natural state to protect our environment. There are no conditioned controls regarding potential toxic runoff from the routine use of the proposed project. I support the appeals of the SLO Beaver Brigade and BioDiversity First! working to stop this destructive plan.

Sincerely,
Kathy Reid

[REDACTED]
Atascadero, CA 93422

ITEM NUMBER: B-2
DATE: 10/10/23
ATTACHMENT: 8

From: Sean Whitlock <[REDACTED]>
Sent: Saturday, September 16, 2023 5:11 PM
To: City Clerk
Cc: Autumn Hentzen; Diego Dominguez; Lynn Whitlock; Ryan Whitlock
Subject: RV Storage at 6805 Sycamore Rd

Hello,

As a north SLO county resident, I would like to express grave opposition to this proposal. This proposal is frankly appalling, and is reflective of the failure of the City of Atascadero to recognize the ecological significance and value of protecting riparian habitat.

Please please please PROTECT THE SALINAS RIVER AND DO NOT APPROVE THIS PROPOSAL.

Thank you,
Sean Whitlock

ITEM NUMBER: B-2
DATE: 10/10/23
ATTACHMENT: 8

From: Michael R. Jencks <[REDACTED]>
Sent: Tuesday, September 19, 2023 11:39 AM
To: City Clerk
Subject: Fwd: RV
Attachments: Microsoft Word - BDF Atas RV Supp.docx.pdf

Re RV Storage Project set for Council on Ovtober 10

----- Forwarded message -----

From: Michael R. Jencks <[REDACTED]>
Date: Tue, Sep 19, 2023 at 11:25 AM
Subject: RV
To: Michael R. Jencks <[REDACTED]>

BEFORE THE HONORABLE MAYOR MORENO AND CITY COUNCIL
OF THE CITY OF ATASCADERO, STATE OF CALIFORNIA

BIODIVERSITY FIRST!, INC.,
A California Non-Profit Corporation,
Appellant,

- versus -

**CITY OF ATASCADERO
PLANNING COMMISSION**,
Respondent; **VSM RENTALS and
LEASING, LLC**, Project Applicant;
**ATASCADERO MUTUAL WATER
COMPANY**, Real Party in Interest; and
DOES 1 through 10,
Respondents.

**SUPPLEMENT TO APPEAL BY BIODIVERSITY FIRST!, INC. OF
JULY 18, 2023 DECISION OF THE ATASCADERO PLANNING
COMMISSION APPROVING A SIX (6) ACRE RECREATIONAL
VEHICLE STORAGE LOT FOR TWO-HUNDRED SIXTY-TWO (262)
VEHICLES AT 6805 SYCAMORE ROAD, ATASCADERO**

APPEAL HEARING DATE: OCTOBER 10, 2023
CITY COUNCIL CHAMBERS
6500 PALMA AVENUE
ATASCADERO, CALIFORNIA 93422

Submitted by Appellant
BIODIVERSITY FIRST!, INC.
3650 GILLIS CANYON
SHANDON, CALIFORNIA 93461

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SUPPLEMENT TO BDF APPEAL¹

Appellant Biodiversity First!, Inc. (BDF) respectfully supplements its previously filed and served Appeal of July 18, 2023 Decision of the Atascadero Planning Commission Approving a Six (6) Acre Recreational Vehicle Storage Lot for Two-hundred Sixty-two (262) Vehicles at 6805 Sycamore Road, Atascadero be added to existing site APN 028-121-001.² The purpose of this supplement is to provide additional detail to the Mayor and City Council and to respond to questions raised by City staff, co-appellants, media, and citizens.

Appellant BDF Supports and Endorses
the Respective Supplements of Co-Appellants

Let me quickly put to rest any confusion about one-or-two appeals and the “joint hearing”. BDF supports and endorses the arguments advanced by our co-appellants (“Broadwater *et al.*”) in their respective supplemental submissions, particularly those based on General Plan law and precedent, and will not in this supplement reiterate the importance and primacy of their work. At BDF we have a distinctive perspective given our experience in this watershed and our nonprofit corporate purposes but find ourselves largely in step with many of the positions of Mr. Broadwater, local residents, and Atascadero’s home-grown Beaver Brigade and do not intend in this supplement in support of our appeal to merely reiterate others’ good works some of which have been incorporated by prior reference in BDF’s own appeal papers. That being said, and despite
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¹ Two separate and independent appeals were filed after the Planning Commission 4-3 vote on July 18, 2023 approving the six-acre recreational vehicle lot on Sycamore Road property belonging to Real Party in Interest Atascadero Mutual Water Company lot, APN 028-121-001. The first appeal was filed by long-time Atascadero resident David Broadwater and the second by California nonprofit 501c3 corporation Biodiversity First!, Inc. Each had timely filed opposition to the planning commission matter on the proposed RV Storage on the floodplain and each timely filed a notice of appeal. Each appeal was required to pay – and paid - the filing fee. City planning director Phil Dunsmore proposed a “joint hearing” of the two appeals be set and heard by the Mayor and City Council on October 10, 2023. It is our understanding that the Joint Hearing Transcript will constitute the hearing transcript for any further proceedings, whether by City, Mr. Broadwater, or BDF.

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our agreement to enter into this *joint* hearing for the sake of efficiency and on account of relatedness on some issues, BDF's appeal and relief it seeks are entirely independent and warrant the need for a separate appeal (even if doubling the appeal fees paid to the City!).

Categorical Exemptions to CEQA are Subject to Express Exceptions

As noted and cited in BDF's opening appeal brief "the categorical exemptions are not absolute" Although a project might otherwise be eligible for a categorical exemption, **an exemption must be denied if "there is a reasonable possibility of a significant effect on the environment due to unusual circumstances" 14 Cal.Code Regs §15300.2(c)", "significant cumulative impacts from projects of the same type will result 14 Cal.Code Regs §15300.2(b), and the project will have impacts on a uniquely sensitive environment" 14 Cal.Code Regs §15300.2(a).**

The Planning Commission's narrow-majority's reliance on a Categorical Exemption from CEQA is Misplaced. **Although a project might otherwise be eligible for a categorical exemption, an exemption must be denied if there is a reasonable possibility of a significant effect on the environment due to unusual circumstances or if significant cumulative impacts from projects of the same type will result.**

Unusual Circumstances. If there is a reasonable possibility that an activity or project will have a significant effect - just one - on the environment due to unusual circumstances or "significant cumulative impacts", an agency may **not** find the activity or project to be categorically exempt from CEQA. 14 Cal.Code Regs §15300.2(c)³

"Unusual Circumstances" and "Significant Cumulative Impacts" are present in number and require this Council's exception of project from Categorical Exemptions under CEQA⁴ If even just one of these is present, the claimed exemption must be disallowed and CEQA must be followed and implemented.

³ Please note this exception applies only when both unusual circumstances and a significant impact as a result of three unusual circumstance are shown. *Berkeley Hillside Preservation v. City of Berkeley* 2015 60C4th1086, 1104

⁴ In evaluating whether a categorical exemption may apply, the agency may **not** rely on mitigation measures as a basis for concluding that a project is categorically exempt, or as a basis for determining that one of the significant effects exemptions does not apply. See, e.g. *Salmon Protection & Watershed Network County of Marin* 2004 125 CA4th 1098, 1102

- Contemporaneous development and processing of major General Plan Update with approval of putative storage facility extending across floodplain to River's edge is itself an **unusual**, even inconsistent, circumstance with public discussions of changes in the GP, with many echoes of Monterey County experience that resulted in a very channelized river and the consequent floods and meanders of the river. We must be cautious about imputing bad motive to anyone so best to leave it that the optics - the rush to get this facility in ahead of the general plan update -are not good;
- The project will have an **unusual** and significant effect on the use and function of the River and associated floodplain as a wildlife corridor;
- The project poses an **unusual** and significant - and potentially expensive to the applicant and City - circumstance should it disturb, harass, or interfere with, much less drive the avian inhabitants away, from the active Bald Eagle nest in proximity to the project. The Bald Eagle is protected by an eighty-three year old federal statute which imposes up to a \$100,000 fine on individuals and up to \$200,000 on organizations/businesses that so disturb, harass, interfere with, or evict the Eagle pair;
- The project is proposed to be situated on APN 028-121-00 portions of which have been historically, at least until very recently, used to dump asphalt, construction dirt and aggregate, serving sometimes as a borrow pit, and other contaminated material and substances. It is not proposed that any removal or mitigation of the residue of the site's past use need occur although the location of the residue appear to be close and sometimes overlies river aggregate sedimentary deposits and underflow. This is an unusual and significant environmental effect;
- Atascadero is the first incorporated city on the River below its headwaters and a number of cities and communities and more than an estimated 300,000 persons, including 30,000+ Atascadero residents, live within five miles of the River over the approximately 170 miles the River travels before it discharges into the Pacific Ocean. Any discharge or release of waste, pollutants, solvents, PPSMs will be carried downstream and give rise to potential liability of Atascadero under the federal Clean Water Act and various state laws. This is an unusual and significant environmental effect.
- Two dams are immediately upriver from Atascadero, the War Department's pre-World War II "Salinas Dam" holding over 25,000 acre feet of River water, and rated and assessed as High Risk, and a few miles below the Salinas Dam an unnamed rogue, unlicensed, uninspected dam estimated at less than one-fifth the volume of water of the Salinas Dam. Both dams were built before good seismic mapping had been done and before fortifications to guard against sabotage but in the interest of security more detailed assessments of the hazard from the Salinas Dam are no

longer available to the public.⁵ Atascadero sits at the bottom of the hills with both dams perched above it; both dams have accumulated large amounts of sediment trapped behind them. The existence of the dams and their hazard potential, both to humans and Atascadero's environment and to the upriver environment, are **unusual** and pose significant and substantial environmental threats. The very inadequacy and unavailability of more detailed hazard assessment information concerning upriver dams⁶ require early CEQA Review

- Climate change projections for increased rainfall on the Central Coast have not yet been incorporated into FEMA flood and floodplain projections but the recent hurricane, Hillary, brought serious flooding to areas just East of our Coast Range. This is yet another **unusual** and while significant still not fully quantified environmental effect.
- Channelization from moving fencing and improvements to the River's water edge, the planned density of the siting of the 262 RV spaces shown on the project map (see exhibit attached to this supplement), and relocation of the De Anza trail away from the River will have significant environmental effects on the function of the floodplain to deal with disparity of river flows, use and function of the river and floodplain to serve as connecting corridor for wildlife. This is an unusual circumstance and has a significant environmental effect.
- One of the most important issues raised by this project as proposed falls under the general category of "**channelization**". On our part of the river (as opposed to down river, particularly north of Salinas) channelization is rarely talked about at least out loud and so is "unusual" and it has potentially devastating impacts on the environment and on the character of our community. The proposed project, nominally an RV Storage Yard⁷, is an example of intentional and strategic channelization, the intentional reduction in the lateral dimension of rivers for, most commonly, purposes of flood control and navigation (increasing water depth) but here is to convert floodplain land into more productive and economically remunerative use (imagine two story condos lining the river). To channelize is exactly what it sounds like, the human process of straightening and deepening channels in rivers. Most often it is done to make the river easier and safer for larger boats to pass through, to provide a channel that is stable and unchanging, and to protect developed cities and towns from river

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⁶ Salinas Dam is one of a number of dams for which the downstream hazard potential is "not available" to the public and is "restricted to approved government users" only.

⁷ As described in our opening submission on appeal and since confirmed in conversations with insurance company executives, the likelihood of an RV owner or the "storage" facility owner even being able to procure a policy covering flood damage to a vehicle stored on a FEMA-mapped floodplain, much less an affordable policy, is almost nil.

meander, but here the only obvious function is to add to the real estate value of the land reclaimed from floodplain use.

- Before a river like the Salinas River receives a channelized makeover, it typically is long and meandering, lined with tree snags and islands, a swath and corridor of natural habitat in a flood plain able to absorb and buffer the seasonal fluctuations in flow and manmade emergencies of flooding whether it be the result of a fifty year storm, enhanced precipitation linked to climate change, or dam emergency. For agriculture, channelizing on and bank stabilizing on makes land that is closer to rivers more stable and thus easier to farm. This has been the case down river, particularly north of Salinas.
- However, with such major changes, in the case before us, to augment development and profitable enterprise, come serious environmental consequences. Some of the greatest effects include loss of wetland habitats, reduced woody debris being washed into the River, erosion, channel incision and a decrease in species diversity. Erosion and channel incision can be a serious threat to infrastructure, especially in developed areas. Erosion is increased particularly by the straightening aspect of channelization. By removing the natural bends from rivers, the water has a longer me to build up speed, and this means the water pulls much more of the surrounding soil with it.
- That channelization has been deliberately kept below the public's radar, is **unusual**, and poses **dramatic impacts on the environment**. The remedy is to reverse the planning commission decision - without prejudice - to renewal either following adoption of the updated and revised City General Plan or upon full compliance with CEQA after striking the categorical exemption.
- Cumulative impacts from projects of the same type will result in more River channelization, elimination of floodplain, and a River system much less tolerant and able to handle fluctuations in River volume due to storms, climate change enhanced storms, dam releases and failures, displacement and/or termination of floodplain corridor and trail benefits, and violation of the laws and regulations governing navigable rivers requiring court and/or legislative intervention.

It will take only one (1) of the above ten (10) itemized exceptions to operate to extinguish the categorical exemption asserted by City staff and return this project to normal CEQA processing.

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An Invitation to Mayhem What Could They Have Been Thinking?

The textbook definition of a “floodplain” is an “area of [low-lying](#) ground adjacent to a river, formed mainly of alluvial river-borne [sediments](#) and prone to [flooding](#).” We’ve already addressed the fact that property – structures and RVs for example – on the floodplain probably will not even be eligible for flood damage insurance coverages and the proximity of the stored property to the main river channel means that property is unlikely to fare well when a fifty-year storm arrives, or the next hurricane Hillary wanna-be’s path is a degree or two west of the recent storm, or the rogue, unlicensed, unengineered dam gets blown out and thousands of acre feet of water and tons of alluvial deposits are launched down the river at Atascadero. What if the eighty-three year old, hurriedly designed and built on the eve of World War II Salinas Dam fails and launches over 25,000 acre-feet of River water and sediment at Atascadero? Some people have suggested that the “RV Park” may just be a ruse to justify deliberate channelization (maybe an EIR will help us understand) but one must ask what was the four-person majority of the Planning Commission thinking? They admit the RV Park sits on designated floodplain! Please look at the RV Park map that appears as Exhibit A to this Supplement to see not just the obvious vulnerability of property so close to the main River channel but to see how dramatic the Commission’s departure from the current General Plan’s policies, guidelines, and principles is (see next section). And with 262 recreational vehicles, what kind of emergency evacuation is possible on Sycamore Road? Tropical storm or hurricane? Upstream dam blow out? An invitation to mayhem indeed. Imagine attempts by some local owners to remove their recreational vehicles in emergency and likely to be poor conditions to begin with and the likelihood that not only is getting them out of the RV storage problematic but the congestion they are likely to cause on evacuation routes needed by residents in direct danger?

The Project is Inconsistent With Existing Policies of the Current General Plan

The first filed appeal, brought by Mr. Broadwater, has done a detailed “consistency” review of the Open Space Policies of the Land Use, Open Space & Conservation Element of the current General Plan. That review points to evidence that the RV storage CUP is, in fact, inconsistent with the current General Plan and contradicts key

findings that it is, e.g., findings that it will not be detrimental to the health, safety or welfare of the general public, findings that it will not be inconsistent with the character of the immediate neighborhood, and findings that, simply because the property is currently zoned as Industrial Park, other factors that must be included in decision-making may be neglected or overridden.

The Open Space Policy cites the need for protection of the Salinas River corridor from detrimental developments. This RV storage project is plainly inconsistent with the current General Plan's Open Space Policies and we join Mr. Broadwater in urging the Council find that the project is inconsistent with them. Selected text in Open Space Policies is highlighted in **BOLD** to indicate those with which this CUP may be deemed by the City Council to be inconsistent, and to support findings that it should be denied or delayed.

Land Use, Open Space & Conservation Element

June 25, 2002 ...

E. Land Use, Open Space, and Conservation Goals, Policies and Programs [page II-13]

...

2. Open Space Policies [page II-27] ...

Goal LOC 6. Preserve natural flora and fauna and protect scenic lands, sensitive natural areas...

Policy 6.1: Ensure that development does **not degrade scenic and sensitive areas**, including historic sites, **creeks, riparian corridors, wetlands**, woodlands, hillsides and other valuable **habitats**.

Programs: ...

4. Scenic and sensitive lands including **creeks, riparian corridors, wetlands** and other areas of significant **habitat** value **shall be protected** from **destruction, overuse, and misuse by the use of zoning**, tax incentives, easements, or fee acquisition.

5. Public and private development in **close proximity** to scenic and sensitive lands, including **creek reservations**, wooded areas, **flood plains**, prominent view sheds and historic sites **shall** be designed to **minimize impacts**.

6. Scenic and open space easements, parklands and **open space dedications shall be required** as mitigation for subdivisions and development projects that impact, **floodplains, creek reservations**, wooded areas, scenic backdrops, sensitive areas, historic sites, cultural sites, and similar areas.

7. The City **shall** carefully evaluate both public and private projects to **require the preservation** of trees, **watersheds**, natural slopes, and **other natural features**.

...

Goal LOC 8. **Watershed** areas of Atascadero **shall be protected**.

Policy 8.1: **Ensure** that **development** along Atascadero Creek, Graves Creeks, the **Salinas River**, blue line creeks, and natural springs, lakes, or other **riparian areas** does **not** interrupt natural flows or **adversely impact riparian ecosystems** and water quality.

Programs:

1. **Work with other agencies** to implement the Erosion

Control Assistance Program for **review** of development proposals to **minimize sedimentation** of creeks and the **Salinas River**.

2. Update the Appearance Review Manual to include provisions for **preserving, reclaiming and incorporating riparian features** in conjunction with new development.

3. The waterways in the City shall be maintained in a natural state...

...

6. **Prohibit** new structures or **disturbance** of **riparian habitat** along **creek banks** except for restoration purposes.

...

8. Prior to permit approval, refer projects along blue-line creeks to the Corps of Engineers, Department of Fish and Game, Regional Water Quality Control, and Upper Salinas-Las Tablas Resource Conservation District.

9. Creek reservations and the **Salinas River shall be preserved for open space and recreational use**, with appropriate areas **left in their natural state** for public enjoyment and habitat purposes. Any recreational use of the River and creeks shall minimize its impact on the habitat value and open space qualities of the creeks.

10. **Land disturbance shall be minimized** in **proximity to watercourses** including necessary flood protection measures, such as selective brush clearing, and low-impact trail development.

11. **Areas subject to flooding**, as identified through flood hazard overlay zoning and flood maps, **shall be protected** from unsound development consistent with the City's flood hazard ordinance requirements.

...

13. **Support** the establishment and **protection** of **floodable terraces, wetlands, and revegetation** along **creeks and streams**.

Policy 8.2: Establish and **maintain setbacks** and development standards for **creek side development**.

Program:

1. Adopt and maintain a creek setback ordinance that will establish building **setbacks** and development standards **along the banks** of Atascadero Creek, Graves Creek, blue line creeks and the **Salinas River** to ensure the uninterrupted natural flow of the streams and **protection** of the **riparian ecosystem**...

...

Programs:

1. **Develop** park, **trail**, and **recreational amenities** where

appropriate in public **creek reserves**.

2. **Require** the dedication of **trail easements** and **access**

points as part of subdivision maps or development permits

consistent with the Circulation Element.

BDF Standing

This section is more informational than argument - no one has asserted or alleged Biodiversity First! (BDF!) lacks standing to appear before the Planning Commission or to appeal the Planning Commission's narrow 4-3 vote to the Council. BDF timely filed written opposition to the application of VSM/AMWC before the Planning Commission, and timely filed a brief and paid the appeal fee in full in support of its appeal of the Planning Commission 4-3 vote approving the application.

BDF is a nine year old California not-for-profit corporation in good standing and certified and recognized as an IRC §501(c)3 tax exempt organization. As stated on its popular website, "Biodiversity First!'s purpose is the protection and recovery of, and securing a future for, all species of wild animals and plants by protecting and conserving the lands, waters, watersheds, and connectivity that support a symbiotic community that enables climate change resilience".

BDF supports the now more than ten-year-old initiative of Ecologistics Inc. known as “Dreaming the Salinas” and BDF’s board members, staff, and volunteers have experience with many Salinas River watershed issues, including legal representation of other Salinas watershed cities. Our board members and staff members have been involved with early efforts to mitigate the flood danger of the unpermitted dam a few miles below the Salinas Dam and up-river from Atascadero. We believe in letting our funded projects and litigation speak for us. ⁸

And that is the case with our projects inside the City boundaries of Atascadero, two of the most recent ones being the two research grants, totaling more than \$50,000 with faculty, researchers and students at California State University Channel Island, under the guidance and leadership of Dr. Emily Fairfax, currently Assistant Professor of Physical Geography , Department of Geography, Environment, and Society University of Minnesota, Twin Cities.

Through these research grants, BDF hopes to contribute to establishing a new language for this keystone species in our region that will assist land and water management decisions to shift toward embracing the benefits that beavers offer to wild animals, local and migratory birds, frogs, amphibians, insects, and aquatic plants as they help restore the ecosystem in the Salinas River watershed. The first grant, made in 2020, was titled “2020 Biodiversity First! Research Grant: Beavers, Climate Change, and Ecosystem Resilience”, and the second grant followed two years later. In addition to these Atascadero-specific grants, BDF has also funded technical training of employee(s) and volunteer(s) to staff and provide technical assistance to groups working with or in collaboration with the Beaver Brigade.⁹

⁸ BDF’s board of directors, staff, members (many residents of Atascadero), and volunteers are comprised of a diverse group of caring and committed citizens, and include persons who have been employed by or worked for the Governor’s Office of Planning and Research, served as staff to the California Coastal Commission, represented the State Energy Commission in federal court litigation, were among founders of the SLO County-based Municipal Advocates Group, and have argued cases before many of the highest courts in the State and country.

⁹ We are impressed by and grateful for the remarkable cooperation and knowledge of City of Atascadero staff but we’ve also appreciated the candidly offered opinions of a couple of persons to the effect that “you don’t understand how things are done here” . We listen but we are concerned that for too long the default may have trended to place dirty or otherwise problematic uses next to

BDF has also organized and sponsored several well-attended programs
venued in Atascadero.

Other Issues And Investigation

Preparation of an EIR will address many of the issues addressed in this
brief. Should the applicant and/or Real Party withdraw the project application,
or should one or both of the appeals not be sustained by Council and
proceedings in appellate courts ensue, it still appears advisable that the City
Council consider directing City staff to investigate and if they deem it
advisable meet with regulators of Salinas Dam and with the owner(s) of the
unlicensed dam to produce a risk assessment of the partial or total failure of
said dams and the impacts of such failure(s) on City property; that staff
consider and recommend to Council whether to incorporate the goal and
waste standard of net zero degradation of River including underflow.; that
Staff consult and retain the assistance of an avian species expert to identify
what activities should be regulated and at what proximity to the extant Bald
Eagle nest.

Bald Eagle Protection: Our Canaries in the Coal Mine

I have included the Bald Eagle issue also as one of the “unusual circumstances”
operating to discharge the CEQA exemption and it is discussed in that context above. But
the eagles in a sense are the canaries in our coal mine, they don’t depend on CEQA being
triggered to have some hope of surviving the threat of the RV project.

The Act defines "take" as to "pursue, shoot, shoot at, poison, wound, kill, capture,
trap, collect, molest or disturb." Regulations further define "disturb" as “to agitate or bother
a bald or golden eagle to a degree that causes, or is likely to cause, based on the best
scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by
substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest

the River (sort of upside down zoning, placing your dirtiest and most toxic uses closest to your most
pristine and sensitive habitats) and floodplain and not to be fully accountable for any harmful or
noxious impacts or environmental degradation.

abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior" ([50 CFR 22.6](#)).

We don't think we should have to belabor the point but is the unanticipated discovery in the project vicinity of an active nest of a bird of prey protected by not just any federal law but one named after the avian species that is our national symbol and enacted not in the flurry of environmental laws enacted in 1969-1974, but eighty-three years prior in 1940, and carrying penalties of \$100,000 to \$200,000 for disturbing or dislocating the nest or its inhabitants"; is that an "unusual circumstance"? Is it made more unusual if the federal law protects the avian species from any disturbance or dislocation? Or do the six figure penalties for violation of the law by the applicant or by the City as the permitting agency render it unusual? Similarly, does the fact that there is a rogue, unpermitted dam on the Salinas River upstream from the project site for which the owner has restricted access to all files including by the University and state agencies that had been working on mitigation to be implemented to prevent catastrophic dam failure launching hundreds of acre feet of water and tons of accumulated settlement down the Atascadero floodplain? Is it unusual that an 83 year old dam upstream holding upwards of 25,000 acre feet of water is rated "High Risk" but all other risk assessment data is impounded and unavailable to the public? Is it unusual that the project site is on top of a flood plain consisting of yards-deep cover of alluvial aggregate? and is it unusual that recent storms have shown that the need to enlarge protection and operation of the floodplain to both deal with bigger storms and to protect the City from up river dam failures? Most of the foregoing are situations where there is reasonable possibility of a significant effect on the environment due to unusual circumstances but *cumulative* impacts from projects of the same type are also possible adding another independent ground for sustaining an exception to an exemption. Does the City's approval of this project, rejecting consideration of significant environmental impacts, not operate as an invitation to other projects of the same or similar type and ilk to locate on the river, overlying its underflow and deposits of aggregate matter forming the floodplain, without having to account for the cumulative impact of such projects? Really?

But the rigid enforcement of the categorical exemption choice, before an initial study and attributing absolute cut-off to the choice, barring introduction and consideration of both statutory and general exceptions, is directly contrary to state statutory and decisional law, and constitutes prejudicial error.\

The planning commission's decision should be reversed and vacated and the matter referred and returned to the Community Development Department for further proceedings consistent with this opinion.

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Applicant and Non-Appearance By Real Party In Interest

A brief note on the parties before the Council may be appropriate here. The project applicant, VSM Leasing & Rentals LLC, is appearing before this Council as the *presumed* lessee of land from the property owner of record and real party in interest Atascadero Mutual Water Company. AMWC advertises that it serves 30,000 customers through more than 10,000 connections., *presumed* because AMWC has not itself appeared in this action and the lease - or at least proof of AMWC's consent to the lease - does not appear in the record provided to and reviewed by appellant, perhaps to try to avoid any real or perceived voting conflicts of interest by Council members should they hold shares or other beneficial interests in AMWC. This may be relevant because the recent trend, including at the north end of this watershed, is for the owners of record of mapped floodplain lands to favor channelization, buttressing of river banks, and then development of the floodplain properties. Appellant believes the lease itself and real party's consent to that lease should be part of the public record in this proceeding as are the Council's individual conflict filings.

The City of Atascadero Is Effectively the Constructive Trustee of Salinas River Water When It's Within City Boundaries; Zero Discharge of Contaminants Must Be Atascadero's Strategic Goal

The City of Atascadero's position as a subordinate entity of the State of California can be best thought of as being in the position of a constructive trustee¹⁰ of the Salinas River flow and underflow passing through the city and within its municipal boundaries. Most of Atascadero's population reside and/or work within five miles of the River, a number currently estimated at approximately 34,000 persons, but the River passes through two counties and a number of cities and using the same five mile delimitation, and after it leaves Atascadero it is estimated another 275,000 persons live within five miles of the River before it reaches the Pacific Ocean.

¹⁰ A constructive trust is a form of equitable remedy, often imposed by a court, to benefit a party that has been wrongfully deprived of its rights due to either a person obtaining or holding a legal property.

The City receives both benefits and liabilities from “hosting” the River for a few miles and inherits obligations from its status as the municipal entity through which the River passes through to send the water downstream to other communities in the same condition as it received it. It is the closest municipal entity to the river and floodplain and receives the cleanest, freshest water but it also bears the largest municipal burden of river floods and dam failures and to so oversee and police river and floodplain use so as to protect and not degrade the natural resource . The day is close at hand if not already passed when Atascadero water will be tested entering your city and leaving your city. In your use and zoning the City must understand it may be held liable for degradation under various provisions of state and federal law, including the federal clean water act. We cannot continue to use the river as our waste discharge utility. To place a recreational vehicle parking lot on a permeable and porous collection of river deposited aggregates and human detritus from hydrocarbons, to PFAS’s¹¹, lithium, to human waste and the migration of those substances to and by river transport is actionable - it is purporting to license and permit the fouling of a public water supply.

The optics are not good should it appear the planning commission majority handed the water district a favor in the tenancy of VSM and effectively gave the tenant a license to pollute.

CONCLUSION

BDF respectfully asks and urges the Mayor and Council Members, on the factual and legal record before them, to REVERSE and VACATE the Planning Commission’s July 18, 2023 4-3 decision in this matter; and GRANT the appeal of BIODIVERSITY FIRST!, Inc.¹²

Respectfully submitted, *with thanks to our many Atascadero-based members, friends, and colleagues,*
BIODIVERSITY FIRST!, INC.

s/ *Michael R. Jencks*

¹¹ AMWC officials have indicated Real Party in Interest AMWC has already done definitive testing for PFAS contamination of Salinas River water and that laboratory reports of the testing AMWC confirms it is occurring.

From: Marty Brown <[REDACTED]>
Sent: Sunday, September 24, 2023 8:50 AM
To: City Clerk
Subject: RV Storage at 805 Sycamore Road

To: The City Council of Atascadero

As a 55-year resident, property and business owner here in Atascadero, I have great concern about the protection of our water and wildlife. On the website for Atascadero Mutual Water Company it says the following:

"AMWC and the City of Atascadero allow public use of their properties that front the Salinas River. Allowable uses include horseback riding, hiking and bicycling. Motorized vehicles, fires and firearms (including paintball guns) are prohibited. Many enjoy daily walks along the Juan Bautista de Anza Trail. It is AMWC and the City's desire to maintain the precious riparian corridors so we can all enjoy them for many years to come."

I feel the same. As long as I have lived here it has been my habit and pleasure of horseback riding, hiking with my children and just visiting our Salinas River habitat to experience and learn about the fish, birds, beavers and the wide variety of wildlife that are such an important part of our environment here. Important? They are VITAL!

This proposed 262 RV parking lot is a misplaced development in our watershed. It would be such a shame to have high fencing, night lighting, extra traffic along winding Sycamore Road, people in and out at all hours, and no one checking on security. Would Atascadero Police be required to add this to their patrol duties? Also, the distinct reality of pollution from oil dripping, engine exhaust, and dumping should not be tolerated in the Salinas floodplain.

The required posting of a planned development of this size has not posted notice to the public. The one sign on the fence at the entry designates the De Anza Trail and that has been defaced, spray painted with an x-rated word. Regarding the De Anza Trail, that will be redirected along the road making it unsafe for people walking, riding horses or bicycles.

This 262 RV parking lot would be against our vision of Atascadero's rural and Tree City heartbeat. Our town is growing in commerce, as it should, but our watershed is not the place for a six acre parking lot. Blight is not right.

Respectfully submitted,

Ms. Marty Brown
[REDACTED]

ITEM NUMBER: B-2
DATE: 10/10/23
ATTACHMENT: 8

From: Marty Brown <[REDACTED]>
Sent: Sunday, September 24, 2023 12:20 PM
To: City Clerk
Subject: Correction on a letter I just sent

Hello,

I just realized the Subject of the letter I just sent should have been

6805 Sycamore Road not 805 --

Please make a note or correct it please.

Thank you very much,

Marty Brown

ITEM NUMBER: B-2
DATE: 10/10/23
ATTACHMENT: 8

From: Everett Kinkade Smet <[REDACTED]>
Sent: Tuesday, September 26, 2023 1:57 PM
To: City Clerk
Subject: RV Storage at 6805 Sycamore Road

Hi,

I am a homeowner and resident who lives on Mercedes Ave near Pine Mountain and the De Anza Trail. I enjoy both regularly and get enjoyment from the beauty of our wild spaces and access to nature. I am concerned this area will get developed, destroying the sweeping open floodplain of the Salinas River. I enjoy the wildlife there, from birds, to fish, to beavers.

I am so disappointed with the proposal to fill this space with RV storage. Please do not approve it.

Also, I am concerned with the potential pollution of the river this could cause, especially in the event of the river flooding as it did this year, with RV parts getting swept down the river.

Please do not approve this proposal.

Everett Kinkade Smet - resident, homeowner, nature lover, human who uses these spaces regularly for recreation

ITEM NUMBER: B-2
DATE: 10/10/23
ATTACHMENT: 8

From: Jacqueline Knowlton <[REDACTED]>
Sent: Thursday, September 28, 2023 2:02 PM
To: City Clerk
Subject: Appeal of Planning Commission Approval of 6805 Sycamore Road RV Storage

TO: Atascadero City Clerk

RE: Appeal of Planning Commission Approval of 6805 Sycamore Road RV Storage

DATE: September 26, 2023

We urge the Commission to **reject** the permit to allow six acres of RV storage in the floodplain of the Salinas River.

This project lacks the correct and professional analyses of this biologically and hydrologically sensitive area. To laypersons such as ourselves, this project of building in the floodplain at a time when we are getting more and more atmospheric river events seem certainly headed for disaster, and the taxpayers will likely have to foot the bill when it happens. Also, it seems obvious that the pollutant runoff from these 262 vehicles will be extremely detrimental to the Salinas River. The proper studies **must** be conducted by **qualified professionals**.

Additionally, there is a very apparent environmental disaster looming in terms of the destruction of an ecosystem which provides hydrologic, geologic, air quality and biodiversity services to our local area. We must conserve these remaining ecologically-sensitive areas if we are to survive long-term as a species ourselves. We can't continue to saw off the limb of the tree on which we are sitting. Again, professionally qualified ecologists and biologists **must** be hired to study the ramifications of this project. Until studies have been done and results have been carefully examined and weighed, this permit should be denied.

Respectfully,
Jacqueline and Bill Knowlton

From: Chris Smith <[REDACTED]>
Sent: Saturday, September 30, 2023 11:37 AM
To: City Clerk
Subject: Re: RV storage at 6805 Sycamore Rd.

Dear City Clerk:

Please pass this email along to all city council members. As a 45 year Atascadero resident, I am writing in opposition to the above referenced development project. This is a mis-use of the land for numerous reasons including:

- 1) Flood Plain issues – development in a flood plain should not be encouraged
- 2) Traffic issues – mostly non-city residents will benefit while adding noise and associated vehicle related pollution that affects city residents
- 3) Impact on historic resources – De Anza Trail
- 4) Risk for environmental degradation from run-off which could also impact the city's drinking water supplies
- 5) The mutual water company will receive rental payments for this use with no guarantees for pass-thru benefits to the public; this presents to me as a "gift" of a public resource without compensation for negative public impacts
- 6) Our City is improving its image to attract tourism. An RV storage project will
 - a) not generate local jobs,
 - b) benefits non-city residents for recreation that will not even take place in the community and,
 - c) will degrade the community's ability to exploit our valuable environmental resources in a manner that could generate eco-tourism (and local jobs) for Atascadero

I urge the City Council to deny this project or at the very least, delay the decision until a full array of economic and environmental studies are conducted and evaluated by impartial, qualified organizations.

Chris Smith
[REDACTED]
[REDACTED]

ITEM NUMBER: B-2
DATE: 10/10/23
ATTACHMENT: 8

From: Kelly O <[REDACTED]>
Sent: Monday, October 2, 2023 11:21 AM
To: City Clerk
Subject: RV Storage at 6805 Sycamore Road

To whom it may concern,

I am voicing my strong opposition to the proposed RV Storage at 6805 Sycamore Road.

This location provides access to trails and open space for recreational use in the City of Atascadero which has somewhat limited open space venues. Storage of RV's for the purposes of storage only should occur on private and potentially rural land. The eyesore of parking 200+ RV's on a major thorough fare (highway 41 above) is only a minor issue. The parking of 200+ RV's will only further deteriorate an area that already needs attention. The last time I walked along that area to gain access to the salinas river I was saddened to see the industrial waste that has collected. This area needs attention and not in the form of RV Storage.

Thank you for your consideration,
Kelly Oringer

From: Santa Lucia Sierra Club <[REDACTED]>
Sent: Monday, October 2, 2023 3:08 PM
To: City Clerk
Subject: Sierra Club comment on RV Storage at 6805 Sycamore Rd

Dear Councilmembers,

We support the appeal of the decision of the Atascadero Planning Commission approving a six acre recreational vehicle storage lot for 262 vehicles at 6805 Sycamore Road, Atascadero.

This project has been deemed categorically exempt from CEQA (Title 19, 15304 Minor Alterations to Land).

We find this to be an extraordinary claim for three reasons.

First, in a study of Salinas River beaver complexes in Atascadero, Fairfax Lab has observed and classified multiple bird, mammal and reptile species, three of which (Lawrence's Goldfinch, Black-crowned Night Heron and Snowy Egret) are on the California Dept. of Fish and Wildlife's list of Special Status Species.

Second, this project proposes a mitigation measure for potential impacts on nesting bald eagles adjacent to the site. If mitigations are found to be necessary due to a project's potential environmental impacts, the project cannot be exempt from CEQA. If a project is categorically exempt, it cannot impose mitigation measures. Whether the bald eagle monitoring requirement could be considered a mitigation measure or an avoidance measure -- utilized to avoid potential adverse environmental effects which are otherwise not significant -- that determination of significance must be made based on an environmental review, which has not occurred.

Third, the discussion of Categorical Exemptions in the CA Code of Regulations (15300.2), notes the following:

"In *McQueen v. Mid-Peninsula Regional Open Space* (1988) 202 Cal. App. 3d 1136, the court reiterated that categorical exemptions are construed strictly, shall not be unreasonably expanded beyond their terms, and may not be used where there is substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment."

The proposed project is in a flood plain. Appellants have noted the likelihood that the project will reduce the ability of the floodplain, beaver habitat, and wetland to provide groundwater recharge, flood control, wildfire buffers and a wildfire break. (Dr. Emily Fairfax, noting "the magnitude of flood events that activated the entire floodplain this past winter," has observed that "it is in no one's best interest if infrastructure is built, then immediately washed away.") In addition to the "unusual circumstances...resulting in (or which might reasonably result in) significant impacts which threaten the environment," the project presents a violation of the General Plan in that such impacts would be detrimental to the "welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use." It also fails to conform to the Open Space Policy requiring that "the City shall carefully evaluate both public and private projects to require the preservation of trees, watersheds, natural slopes, and other natural features."

Your planning commission voted to "continue the Conditional Use Permit (CUP) USE21-0107 until staff reviews the General Plan analysis where the City Council feels comfortable with the future land use designation on this site."

We urge you to uphold the appeal of this permit and direct staff to conduct that review, and to require a CEQA analysis if the applicant should reapply for a project permit in this location.

Thank you for this opportunity to comment,

Sue Harvey, Conservation Chair

Sierra Club Santa Lucia Chapter

ITEM NUMBER: B-2
DATE: 10/10/23
ATTACHMENT: 8