



REGULAR MEETING

**JOINT SAND CITY COUNCIL AND
SUCCESSOR AGENCY OF THE
REDEVELOPMENT AGENCY**

TUESDAY, JULY 5, 2022

5:30 PM

AGENDA
JOINT SAND CITY COUNCIL AND SUCCESSOR AGENCY OF THE REDEVELOPMENT
AGENCY

Regular Meeting - Tuesday, July 5, 2022
5:30 PM

THIS MEETING WILL BE HELD VIRTUALLY AND IN PERSON, IS COMPLIANT WITH ASSEMBLY BILL ("AB") 361, SIGNED INTO LAW ON SEPTEMBER 16, 2021, WHICH AMENDS GOVERNMENT CODE SECTION 54953 TO PROVIDE AUTHORITY FOR PUBLIC AGENCIES TO HOLD VIRTUAL MEETINGS DURING A PROCLAIMED STATE OF EMERGENCY AND REMAIN IN COMPLIANCE WITH THE BROWN ACT (GOV. CODE §§ 54950 ET SEQ.).

TO PARTICIPATE IN THE ZOOM COUNCIL MEETING LIVE:

<https://us02web.zoom.us/j/4614728829>

Meeting ID: 461 472 8829

To participate telephonically by calling the number below:

(669) 900-6833

Meeting ID: 461 472 8829#

If prompted to enter a participant ID, press #

TO PARTICIPATE IN PERSON:

City Hall Council Chambers

1 Pendergrass Way

Sand City, CA

How to submit written Public Comments:

If any member of the public would like to provide written comments at the meeting, please do as set forth below.

Written: All comments received before 8:00 am the day of the meeting will be posted on the City's website as "Correspondence" under the relevant agenda item and provided to the City Council members at the meeting. Please email your comments to connie@sandcityca.org.

Read Aloud During the Meeting: Email your comments to connie@sandcityca.org when the Mayor opens the public comment period for the relevant agenda item; please indicate the agenda item and title in your email subject line. If you want your comment read aloud, prominently write "Read Aloud at Meeting" at the top of the email and your comments will be read into the record (not to exceed three minutes at staff's cadence).

DURING EACH MEETING, members of the public may participate by calling and speaking live during the designated time(s), subject to time limits that may be imposed pursuant to the Brown Act at the number provided above. Please use the "raise your hand" option on Zoom meetings, and the City Clerk will call on and acknowledge you for public comment.

1. **ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **INVOCATION**
4. **ANNOUNCEMENT BY MAYOR, CITY ATTORNEY, & CITY MANAGER**

5. **COMMUNICATIONS**

Members of the public may address the City Council/Successor Agency on matters not appearing on the City Council/Successor Agency Agenda at this time for up to three minutes. In order that the City Clerk may later identify the speaker in the minutes of the meeting, it is helpful if speakers state their names. Public comments regarding items on the scheduled agenda will be heard at the time the item is being considered by the City Council/Successor Agency.

The City Council Chambers podium is equipped with a portable microphone for anyone unable to come to the podium. If you need assistance, please advise the City Clerk as to which item you would like to comment on and the microphone will be brought to you.

6. **CONSENT CALENDAR**

The Consent Agenda consists of routine items for which City Council approval can be taken with a single motion and vote. A Council member may request that any item be placed on the Regular Agenda for separate consideration.

- 6A. Approval of May 24, 2022 SPECIAL Meeting Minutes
[5.24.22 Special Meeting Minutes.pdf](#)

- 6B. Approval of June 7, 2022 Council Meeting Minutes
[6.07.22 Regular Meeting Minutes.pdf](#)

- 6C. Approval of Designation of Voting Delegate and Alternate for the 2022 League of California Cities Conference
[Staff Report. Designation of Voting Delegate.pdf](#)

- 6D. Approval of City RESOLUTION Authorizing the Extension of Remote Teleconference Meetings of the City Council and Boards, Commissions, and Committees for the Period of July 6, 2022 through August 5, 2022 pursuant to AB 361 and Ralph M. Brown Act Provisions
[Resolution. Authorizing Extension of Remote Teleconference Meetings of City Council and Boards, Commissions and Committees.pdf](#)

- 6E. Approval of City Donation/Contribution
1) Arts Habitat for Monterey County - \$500
[Memo.Review of City Donation.pdf](#)

7. **CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR**

8. **PUBLIC HEARING**

- 8A. Consideration of City RESOLUTION to Approve Conditional Use Permit 653 for Captain + Stoker Coffee Roasters to Operate a Coffee Roasting Production and

Wholesale Operation within an Existing Commercial Building at 350 Orange Avenue

[Staff Report. CUP for Captain and Stoker Coffee Roasters.pdf](#)

[Resolution. Approve CUP 653 for Captain and Stoker Coffee Roasters to Operate a Coffee Roasting Production.pdf](#)

- 8B. Consideration of City RESOLUTION Approving Conditional Use Permit 652 for Jayson Fann to Conduct Open Yard Art Creation

[Staff Report. CUP for Jayson Fann Sculpture Activities.pdf](#)

[Resolution. Approving CUP 652 for Jayson Fann.pdf](#)

- 8C. SECOND READING: of Ordinance of the City of Sand City Replacing the Existing General Purpose Transactions and Use Tax at a Rate of One Percent and Imposing a General Purpose Transactions and Use Tax at a Rate of One and One-Half Percent, to be Administered by the California Department of Tax and Fee Administration, subject to Adoption by the Electorate

[Staff Report.2nd Reading Sales Tax Ballot Measure.pdf](#)

[EXHIBIT A.Ordinance Transactions and Use Tax.pdf](#)

- 8D. SECOND READING: of Ordinance to Establish Standards, Procedures and Fees for Short-Term Rental of Property in Sand City (Short-Term Rental Ordinance)

[Staff Report. 2nd Reading Ordinance. Short Term Rental.pdf](#)

[Ordinance. Exhibit A. Short Term Rental.pdf](#)

9. NEW BUSINESS

- 9A. Consideration of City RESOLUTION Establishing a Short-Term Rental Permit CAP and Adopting a Short-Term Rental Permit Application Fee and Inspection Fee and a Short-Term Rental Renewal Fee

[Staff Report. Short Term Rental Permit Cap and Adopting Fees.pdf](#)

[Exhibit A.Resolution.STR Permit Cap and Adopting STR Permit Application Fee.pdf](#)

- 9B. Consideration of City RESOLUTION Naming the City Park Easement within the South of Tioga Project and Rescinding Resolution SC 22-51, 2022

[Staff Report.Naming of Park Easement.pdf](#)

[EXHIBIT A.Resolution SC 22-51 Naming the Park Easement.pdf](#)

[Attachment 1.Park Easment Map.pdf](#)

[Resolution.Naming the Park Easement.pdf](#)

- 9C. Consideration of City RESOLUTION Authorizing Cost of Living Adjustment for Regular (Miscellaneous) Employees

[Staff Report.Miscellaneous Employees' COLA.pdf](#)

[Resolution.Authorizing Cost of Living Adjustment for Regular Miscellaneous Employees.pdf](#)

- 9D. Council Discussion on the Process for Organizing Campaign to Support the Transaction and Use Tax Measure
- 9E. Consideration of Cancelling Future City Council meeting scheduled for August 2, 2022
- 9F. Comments by Council Members on Items of Interest to Sand City
- 9G. Upcoming Meetings/Events

10. ADJOURNMENT

The current agenda is available in PDF format on our website at:
www.sandcity.org

If you have a request for a disability-related modification or accommodation, including auxiliary aids or services, which will allow you to participate in a Sand City public meeting, please call the City Clerk at (831) 394-3054 extension 220, or give your written request to the City Clerk at 1 Pendergrass Way, Sand City, CA 93955 at least 48 hours prior to the scheduled meeting to allow the City Clerk time to arrange for the requested modification or accommodation.

**AGENDA ITEM
6A.**

**Approval of May 24, 2022 SPECIAL
Meeting Minutes**

MINUTES
JOINT SAND CITY COUNCIL AND SUCCESSOR
AGENCY OF THE REDEVELOPMENT AGENCY

Special Meeting - Tuesday, May 24, 2022

3:00 PM

As allowed per Assembly Bill (AB361), this meeting was conducted in person and by
teleconference

Mayor Carbone opened the meeting at 3:00 p.m.

AGENDA ITEM 1, ROLL CALL

Present: Mayor Mary Ann Carbone
Council Member Cruz (recused due to a possible conflict)
Council Member Sofer
Council Member Hawthorne (excused absence)
Council Member Blackwelder

Staff: Vibeke Norgaard, City Manager

AGENDA ITEM 2, COMMUNICATIONS

3:03 P.M. Floor opened for Public Comment.

There were no comments from the Public in person, via writing or through
telecommunications.

3:03 P.M. Floor closed to Public Comment.

AGENDA ITEM 3, ORDER OF BUSINESS

3.A Consideration of City RESOLUTION Authorizing the City Manager to Accept and Sign the Grant of Easements Agreement for a Public Park within the South of Tioga Project and Rescinding Resolution (SC 22-36 (2022))

City Manager Norgaard reported the Council previously considered grant of a substantially similar easement. The area lies between the R1 and R2 parcels within the South of Tioga project area and contains an access gate to the habitat. The California Department of Fish and Wildlife (CDFW) had additional changes to the easement that they required to be incorporated. The amendments to the grant of easements are relatively minor and approval of the resolution would also rescind the prior resolution. Changes requested by CDFW pertained to a detailed map exhibit and clear delineation regarding access to the gate

Todd Sheller added that it will still be a City park with play structures placed there. The changes also indicated minor things that cannot be done at the location such as drilling of oil and that it should be a beautiful park.

City Manager Norgaard commented on prohibited activities such as no commercial uses.

Mayor Carbone mentioned that the property behind the former Orchard Supply contains a hot spring.

3:12 P.M Mayor Carbone opened the floor for public comment, and seeing none, closed the floor for public comment.

Motion to approve the City **Resolution** authorizing the City Manager to Accept and Sign the Grant of Easements Agreement for a Public Park within the South of Tioga Project and Rescinding Resolution (SC 22-36 (2022)) was made by Council Member Blackwelder, seconded by Council Member Sofer. Roll call Vote AYES: Council Members Blackwelder, Carbone, Sofer. NOES: None. ABSENT: Council Member Hawthorne ABSTAIN: Council Member Cruz. Motion carried.

AGENDA ITEM 4, ADJOURNMENT

There was consensus of the Council to adjourn the meeting at 3:11 p.m. to the next regularly scheduled Council meeting on June 7, 2022.

Connie Horca, City Clerk

**AGENDA ITEM
6B.**

**Approval of June 7, 2022 Council Meeting
Minutes**

MINUTES
JOINT SAND CITY COUNCIL AND SUCCESSOR
AGENCY OF THE REDEVELOPMENT AGENCY

Regular Meeting - Tuesday, June 7, 2022

5:30 PM

As allowed per Assembly Bill (AB361), this meeting was conducted in person and by
teleconference

Mayor Carbone called the meeting to order at 5:30 p.m.

AGENDA ITEM 1, ROLL CALL

Present: Mayor Mary Ann Carbone
Council Member Blackwelder
Councilmember Cruz (virtual attendance)
Councilmember Hawthorne (joined virtually at 5:35 p.m.)
Councilmember Sofer

Staff: Vibeke Norgaard, City Manager
Connie Horca, City Clerk
Adam Lindgren, Interim City Attorney (virtual attendance)
Chuck Pooler, City Planner (virtual attendance)
Devon Lazzarino, Finance/HR Specialist (Virtual attendance)

AGENDA ITEM 2, PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Mary Ann Carbone.

AGENDA ITEM 3, INVOCATION

The invocation was led by Reverend Robert Hellam.

AGENDA ITEM 4, ANNOUNCEMENT BY MAYOR, CITY ATTORNEY & CITY MANAGER

Mayor Carbone expressed her condolences to the Taylor Family regarding the death of Mr. Taylor. She also reported on an email correspondence invitation of the Forest Guild Theatre's veterans dinner and dress rehearsal performance hosted by the Gary Sinise Foundation.

City Manager Norgaard reported on the progress of the West Bay Repair projects right of entry permit, the second reading for the Short-Term Rental Ordinance, status of the final map and documents for the South of Tioga project, and results of the survey that was conducted regarding citizen votes on city improvements that they would like to see.

Council Member Hawthorne expressed his condolences to everyone, reported on the upcoming Arts Committee meeting that would consider mural applications, and plans to work with Mr. Vagnini as the we.mural and West End Celebration approaches

AGENDA ITEM 5, COMMUNICATIONS

5:45 P.M. Floor opened for Public Comment.

There were no comments from the Public in person, via writing or through telecommunications.

5:45 P.M. Floor closed to Public Comment.

AGENDA ITEM 6, CONSENT CALENDAR

- 6A. There was no discussion of the City **Resolution** authorizing the City Manager to Execute an Extension of Service Agreement with EMC Planning Group Incorporated to Complete the Parking Plan.
- 6B. There was no discussion of the Status Report regarding Grant and City Expenditures for the Sustainable Transportation Plan.
- 6C. There was no discussion of the City **Resolution** authorizing the Extension of Remote Teleconference Meetings of the City Council and Boards, Commissions, and Committees for the Period of June 7, 2022 through July 7, 2022 Pursuant to AB 361 and Ralph M. Brown Act Provisions.
- 6D. There was no discussion of the City/Successor Agency Monthly Financial Report, April 2022.
- 6E. There was no discussion of the City **Resolution** authorizing the Monterey County Health Department to Apply for State Block Grant Funding on behalf of Sand City towards the Countywide Used Oil Recycling Program.
- 6F. There was no discussion of the City **Resolution** to Amend the Memorandum of Understanding Between the Monterey Regional Waste Management District and the City of Sand City for Continued Assistance in Achieving SB 1383 Compliance.

5:46 P.M. Floor opened for Public Comment.

There were no comments from the Public in person, via writing or through telecommunications

5:46 P.M. Floor closed to Public Comment.

Motion to approve the Consent Calendar was made by Council Member Blackwelder, seconded by Council Member Sofer. Roll call Vote AYES: Council Members Blackwelder,

Carbone, Cruz, Hawthorne, Sofer. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

AGENDA ITEM 7, CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR

There were no items pulled from the Consent Calendar.

AGENDA ITEM 8, PRESENTATIONS

8A. Presentation by Laurabeth Messimer of G.I.Josie, Inc.

Laurabeth Messimer reported on the partnership between G.I Josie, Inc. and the Alliance on aging, their work with veterans that assist those experiencing trauma, and the Blue Water Project that assist women experiencing challenges. She suggested the creation of a memorial tribute wall to women veterans, and the idea of placing tiles on the walls with a message.

The Council discussed the idea of a wall and tiles, how many, whether it would be an ongoing project, and a design element. Mayor Carbone suggested that Ms. Messimer stay in contact with the City Manager.

8B. Status Report and Update by West End Coordinator Stephen Vagnini on 2022 West End Celebration

West End Celebration (WEC) coordinator Steve Vagnini reported that this year's celebration will be held on August 27 & 28, 2022, is titled "Celebrating the Arts & Community", and the new website design. He mentioned the contribution of musical instruments to G.I. Josie Inc., reported on this year's footprint, entryways and accessibility to the event, that 100 vendors will be participating, 3-4 music stages, stilts, dancers, involvement of community businesses, and the donation of signs from Sign Works.

Mr. Vagnini expressed his appreciation for a stage sponsorship by Mechanics Bank, encouraged the Council to volunteer at the booth, advertisement of the event by the Coast Weekly beginning in June, and looks forward to the Mayor give a blessing at the festival.

Council Member Hawthorne commented on the great job Mr. Vagnini is doing and announced that everything is going well with the mural festival.

Council Member Sofer mentioned the helium balloons released last year and its impact on the environment.

City Manager Norgaard reported on the upcoming meeting to be held with the Arts Committee that would include the review of mural submissions.

6:12 P.M. The Mayor opened the floor for Public Comment, and seeing none, closed the floor for Public Comment.

AGENDA ITEM 9, NEW BUSINESS

9A. Consideration of City RESOLUTION Adopting the Proposed City Budget Amendment #2 for Fiscal Year 2021-2022

City Manager Norgaard reported that the Amendment #2 for the fiscal year budget includes a summary on page 156 of the agenda packet, noted the \$1.6M surplus, and that the Budget Personnel Committee reviewed and approved the Budget Amendment #2 at their meeting held on May 24, 2022.

Finance Specialist Lazzarino added that the 1.6M was due to recovery during the pandemic years, that several expenses were removed due to supply chain issues and was moved to next years budget. She pointed out that changes are highlighted in bold.

Council Member Cruz commented on the efforts to reduce expenses, and part of the surplus in anticipation in future loss of revenues.

Ms. Lazzarino pointed out the HdL report that indicated actual sales revenues were up by 3.4%, and responded to Council Member Blackwelder's inquiry whether the City has contributed to its Unfunded Liability.

6:36 P.M. The Mayor opened the floor for Public Comment, and seeing none, closed the floor for Public Comment.

Motion to approve the City **Resolution** adopting the Proposed City Budget Amendment #2 for Fiscal Year 2021-2022 was made by Council Member Blackwelder, seconded by Council Member Hawthorne. Roll call Vote AYES: Council Members Blackwelder, Carbone, Cruz, Hawthorne, Sofer. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried

9B. Consideration of City RESOLUTION Adopting the Proposed City Budget for Fiscal Year 2022-2023

City Manager Norgaard reported that the Proposed City Budget for fiscal year 2022-2023 includes the loss of revenue from the lease payment of \$850,000, supply chain issues, and pre-approved items from last fiscal year that will fall into this fiscal year that leaves a budget surplus of approximately \$500,000.

Finance Specialist Devon Lazzarino added that HdL is projecting a good sales tax return, that Total Wine has contributed to the increase in revenue.

City Manager Norgaard responded to Council Member Blackwelder's inquiry on the receipt of grant funds, the expenses for the start of construction on the street work and Calabrese Park project.

There was discussion regarding the costs for street work, the amount of funds available to begin construction, cost estimates that exceed 10% of the project costs, and the possibility that engineering costs may double.

6:31 P.M. The Mayor opened the floor for Public Comment, and seeing none, closed the floor for Public Comment.

Motion to approve the City **Resolution** adopting the Proposed City Budget for Fiscal Year 2022-2023 was made by Council Member Blackwelder, seconded by Council Member Sofer. Roll call Vote AYES: Council Members Blackwelder, Carbone, Cruz, Hawthorne, Sofer. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

9C. Consideration of City RESOLUTION Establishing an Appropriations Limit for Fiscal Year 2022-2023 Pursuant to Article XIIIB of the California Constitution

City Manager Vibeke Norgaard introduced the resolution and deferred to Interim City Attorney Adam Lindgren who reported out that the appropriations limit is calculated by Staff each year and establishes an amount that sets a cap on the amount a City may spend which is also referred to as the Gann Limit. This year's Gann limit is for Sand City is \$16,777,823. Staff recommends approval of the attached resolution.

6:36 P.M. The Mayor opened the floor for Public Comment, and seeing none, closed the floor for Public Comment.

Motion to approve the City **Resolution** establishing an Appropriations Limit for Fiscal Year 2022-2023 pursuant to Article XIIIB of the California Constitution was made by Council Member Sofer, seconded by Council Member Blackwelder. Roll call Vote AYES: Council Members Blackwelder, Carbone, Cruz, Hawthorne, Sofer. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

{Council Member Cruz stepped recused from the meeting due to a possible conflict of interest by residing within 500' of the subject property}

9D. Consideration of City RESOLUTION Naming the City Park Easement within the South of Tioga Project

City Manager Norgaard reported that the Council considered this item on May 3rd and was directed Staff to come back with more names. The new names suggested are the Orosco Family Park, Orosco Corner, Veterans Park, West End Park, Blue Butterfly Park, Esselen People's Park. Other suggested names by Council were Sand Dues Park, Rip Tide Park, Sneaker Wave Park, Buckwheat Park and Smith's Blue Butterfly Park.

Council Member Sofer commented that Mr. Morgan suggested Wind, Sand, and Sun Park.

Council Member Hawthorne commented that Don's Park would be a short and simple name.

Council Member Blackwelder suggested Butterfly Park. Council Member Hawthorne concurred that it was a nice name.

Mayor Carbone mentioned in response to the name that Esselen Peoples Park that the territory was formerly inhabited by the Ohlone Tribe, not the Esselen tribe.

Council Member Sofer like Buckwheat Park because it brings back fond images, and is also due to the buckwheat plant in the area.

Council Member Hawthorne added that Buckwheat was his favorite Little Rascal, and also liked Buckwheat Park.

6:42 P.M. The Mayor opened the floor for Public Comment, and seeing none, closed the floor for Public Comment.

City Manager Norgaard tallied the suggested names, that Buckwheat Park received the most suggestions, and it gives a sense of the location.

Mayor Carbone confirmed with the Council that it seems unanimous to name the Park Buckwheat.

Motion to approve the City **Resolution** naming the City Park Easement within the South of Tioga Project was made by Council Member Sofer, seconded by Council Member Hawthorne. Roll call Vote AYES: Council Members Blackwelder, Carbone, Hawthorne, Sofer. NOES: None. ABSENT: None. ABSTAIN: Council Member Cruz. Motion carried.

{Council Member Cruz returned to the virtual meeting}

9E. Comments by Council Members on Items of Interest to Sand City

Council Member Sofer reported on her meeting with the TAMC Bike Committee where a presentation of the trail in Del Rey Oaks was given.

Council Member Cruz reported on her attendance at the TAMC Rail meeting and are thinking of signing a lease for the handrail carts or as a bicycle trail.

Mayor Carbone mentioned that her Mayor's report will be provided at the next meeting.

9F. Upcoming Meetings/Events

Mayor Carbone announced the League of California Cities Conference in September.

Council Member Sofer mentioned the housing RHNA numbers and the importance of the letter regarding that was sent regarding the RHNA numbers.

Mr. Pooler elaborated and clarified the submittal of Sand City's appeal.

Mayor Carbone reported on the lack of water for projects in the area that also effects the lack of housing, and her meetings with individuals during the Leadership Summit regarding the lack of affordable housing and water.

AGENDA ITEM 10, CLOSED SESSION

Mayor Carbone mentioned that she and Council Member Cruz are in conflict with closed session item 10A(3).

6:57 P.M. Public Member Meli Hill apologized for stepping away during the Park Name item, that she added notes to the chat, and expressed her concern with the name Buckwheat. As much as she loves watching the 'Little Rascals', there may be some underlying racial concerns, and that some groups may be offended by the name.

City Manager Norgaard commented that she is not familiar with the television show and if the name is offensive, suggested that Council reconsider the resolution and or discuss.

City Attorney Adam Lindgren commented that a member of the Council may make the motion to reconsider that decision, make a motion to rescind that decision, and make a motion to discuss at the next meeting.

Council Member Hawthorne commented that the Buckwheat is referenced as a plant in the area, and that a reference to the Little Rascals was during a different time in the past. It should not offend to have the name Buckwheat Park, expressed his opinion on how it may or may not offend people, and that kids in this generation may not even know of the show.

City Attorney Lindgren commented that a motion can be made to reconsider the item.

Motion to reconsider the item was made by Council Member Sofer, seconded by Mayor Carbone. Roll call Vote AYES: Council Members Sofer, Carbone. NOES: Council Members Hawthorne, Blackwelder. ABSENT: None. ABSTAIN: Council Member Cruz. Motion failed.

Mayor Carbone commented that the previous motion and vote stands.

7:06 P.M. Floor closed to Public Comment.

7:06 p.m.

10A. City Council/ Successor Agency Board to adjourn to Closed Session regarding:

1) Conference with labor negotiator pursuant to Government Code section 54957.6

Agency designated representative: Vibeke Norgaard, City Manager

Employees: Sand City Police Officers Association

2) Conference with labor negotiator pursuant to Government Code section 54957.6

Agency designated representative: Vibeke Norgaard, City Manager

Employees: Misc. Employees

{Council Members Cruz and Carbone recused from the meeting due to a possible conflict of interest by residing within 500 feet of the subject property}-Agenda item 10A(3)}

3) Conference with Real Property Negotiator pursuant to Government Code section 54956.8

Property: APN 011-133-009

Agency Negotiators: Vibeke Norgaard, City Manager; Adam Lindgren, City Attorney

8:05 p.m.

10B. Re-adjourn to Open Session to report any action taken at the conclusion of Closed Session in accordance with 54957.1 of the Ralph M. Brown Act.

The Council received updates and provided direction to legal counsel, and took no other reportable action.

AGENDA ITEM 11, ADJOURNMENT

There was consensus of the Council to adjourn the meeting at 8:06 p.m. to the next regularly scheduled Council meeting on June 21, 2022 at 5:30 p.m.

Connie Horca, City Clerk

**AGENDA ITEM
6C.**

**Approval of Designation of Voting
Delegate and Alternate for the 2022
League of California Cities Conference**



City of Sand City

STAFF MEMO

TO: City Council
FROM: Connie Horca, City Clerk
DATE: June 24, 2022
FOR: July 5, 2022 Council meeting
SUBJECT: Designation of Voting Delegate and Alternate for the
2022 League of California Cities Conference

The upcoming 2022 Annual League of California Cities Conference will be held on September 7 through September 9, 2022 in Long Beach, California. Each year, all California cities represented at the conference are required to appoint a voting delegate and alternate to represent their local jurisdictions. The voting delegate and alternate must be approved by Council action at its regular meeting.

It is recommended that Mayor Mary Ann Carbone serve as voting delegate, and City Manager Vibeke Norgaard serve as the alternate to represent the City of Sand City.



JUN 08 2022

CITY OF SAND CITY

Council Action Advised by August 31, 2022

DATE: June 1, 2022

TO: City Managers and City Clerks

RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference & Expo – September 7-9, 2022

Cal Cities 2022 Annual Conference & Expo is scheduled for September 7-9, 2022 in Long Beach. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly) on Friday, September 9. At this meeting, Cal Cities membership considers and acts on resolutions that establish Cal Cities policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote if the designated voting delegate is unable to serve in that capacity.

Please complete the attached Voting Delegate form and return it to Cal Cities office no later than Friday, September 2. This will allow us time to establish voting delegate/alternate records prior to the conference.

Please view Cal Cities' [event and meeting policy](#) in advance of the conference.

- **Action by Council Required.** Consistent with Cal Cities bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. Conference registration will open by June 1 on the Cal Cities website. In order to cast a vote, at least one voter must be present at the Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.

- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.
- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Long Beach Convention Center, will be open at the following times: Wednesday, September 7, 8:00 a.m. – 6:00 p.m.; Thursday, September 8, 7:00 a.m. – 4:00 p.m.; and Friday, September 9, 7:30 a.m.–12:30 p.m. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to Cal Cities office by Friday, September 2. If you have questions, please call Darla Yacub at (916) 658-8254.

Attachments:

- Annual Conference Voting Procedures
- Voting Delegate/Alternate Form



Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to Cal Cities policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the Cal Cities Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in their possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: _____

**2022 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM**

Please complete this form and return it to Cal Cities office by Friday, September 2, 2022. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

To vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: Mary Ann Carbone

Title: Mayor

2. VOTING DELEGATE - ALTERNATE

Name: Vibeke Norgaard

Title: City Manager

3. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: Connie Horca Email connie@sandcityca.org

Mayor or City Clerk _____ Date _____ Phone 831-394-3054
(circle one) (signature)

Please complete and return by Friday, September 2, 2022 to:

Darla Yacub, Assistant to the Administrative Services Director

E-mail: dyacub@calcities.org; Phone: (916) 658-8254

**AGENDA ITEM
6D.**

**Approval of City RESOLUTION Authorizing
the Extension of Remote Teleconference
Meetings of the City Council and Boards,
Commissions, and Committees for the
Period of July 6, 2022 through August 5,
2022 pursuant to AB 361 and Ralph M.
Brown Act Provisions**

**CITY OF SAND CITY
RESOLUTION SC 22-, 2022**

**RESOLUTION OF THE CITY COUNCIL OF SAND CITY
AUTHORIZING THE EXTENSION OF REMOTE TELECONFERENCE MEETINGS OF
THE CITY COUNCIL AND BOARDS, COMMISSIONS, AND COMMITTEES
FOR THE PERIOD OF JULY 6, 2022 THROUGH AUGUST 5, 2022 PURSUANT TO
AB 361 AND RALPH M. BROWN ACT PROVISIONS**

WHEREAS, the City of Sand City (“the City”) is committed to preserving and nurturing public access and participation in meetings of the City Council and boards, commissions, and committees (collectively, “legislative bodies”); and

WHEREAS, all meetings of the City’s legislative bodies are open and public, as required by Government Code sections 54950-54963 (the “Ralph M. Brown Act”) so that any member of the public may attend public meetings, watch the City’s legislative bodies conduct their public business, and participate by directly addressing the legislative bodies; and

WHEREAS, pursuant to Governor Newsom’s signing of Assembly Bill 361 (“AB 361”) on September 16, 2021, Government Code section 54953(e) provides for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, AB 361 applies to meetings during a proclaimed state of emergency and when state or local officials have imposed or recommended measures to promote social distancing; and

WHEREAS, a state of emergency exists in California as a result of the threat of COVID-19 as proclaimed by Governor Newsom on March 4, 2020, and the state of emergency has not been terminated pursuant to Government Code section 8629; and

WHEREAS, the California Department of Public Health (“CDPH”) and the federal Centers for Disease Control and Prevention (“CDC”) caution that the Delta variant of COVID-19, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations; and

WHEREAS, other variants of COVID-19 exist, and it is unknown at this time whether other variants may result in a new surge in COVID-19 cases; and

WHEREAS, the CDC has established a “Community Transmission” metric with four tiers designed to reflect a community’s COVID-19 case rate and percent positivity, and

community transmission in Monterey County, as of January 31, 2022, is ranked as “high” (the most serious level) based on data collected by the CDC; and

WHEREAS, due to the severity of the current pandemic situation, the CDPH has required that all unvaccinated persons wear facial coverings indoors, and the CDC and CDPH recommend that all persons, regardless of vaccination status, wear facial coverings indoors; and

WHEREAS, due to the severity of the current pandemic situation in the County of Monterey, the Monterey County Health Department issued, on September 22, 2021, a recommendation to local legislative bodies recommending physical and social distancing strategies, including the use of remotely attended public meetings; and

WHEREAS, the City Council has an important governmental interest in protecting the health, safety and welfare of those who participate in meetings of the City’s legislative bodies subject to the Brown Act; and

WHEREAS, the City Council does hereby confirm the circumstances of the state of emergency and finds that meeting in person for meetings of the legislative bodies of the City would present imminent risks to the health or safety of attendees, and therefore that the legislative bodies of the City may conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of Section 54953; and

WHEREAS, in order to ensure that the public has full access to observe and participate in the public meetings of its legislative bodies, the City provides free internet-based public meeting attendance options, allowing members of the public to address the City’s legislative bodies directly in real time; and

WHEREAS, the City determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 (CEQA Guidelines), Article 20, Section 15378).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sand City as follows:

SECTION 1. The recitals set forth above are true and correct and are adopted by the City Council as findings in support of this Resolution.

SECTION 2. The City Manager, City Attorney, staff, and legislative bodies of the City are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

SECTION 3. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) August 5, 2022, or (ii) such time as the City Council adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the City of Sand City may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the City Council of Sand City on this 5th day of July, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Mary Ann Carbone, Mayor

Connie Horca, City Clerk

**AGENDA ITEM
6E.**

**Approval of City Donation/Contribution 1)
Arts Habitat for Monterey County - \$500**

Memo

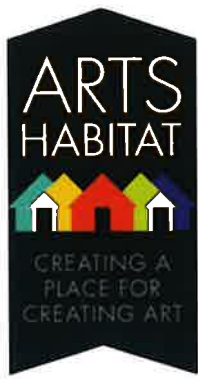
To: Mayor and City Council
From: Vibeke Norgaard, City Manager 
Date: June 27, 2022 (for July 5, 2022 Council meeting)
Subject: Review of City Donation/Contribution

Attached is a request for support and contribution for fiscal year 2021-22. After reviewing this request, the following donation is recommended:

- Arts Habitat for Monterey County - \$500

If any Council member wants to discuss this request or to propose a different contribution, then this item should be pulled from the consent calendar for discussion with the full Council.

The following finding is specified in the annual City/Successor Agency Budget: *"The Sand City Council finds that it is a valid public purpose and in the best interest of this small city to support and participate in various community programs and activities of the larger Monterey Peninsula area. This support includes not only the City's financial contributions outlined in the attached pages but also the active involvement/participation by council members, city staff, Sand City businesses and citizens. This is Sand City's pledge and commitment of support for the larger regional community in which it is an active and dedicated member".*



Dear Mary Ann;

June 2022

As the world begins to inch back towards normal, we hope you still believe the arts are an essential resource. We need your help to keep on going.

Save the dates for the 2022 Artists Studio Tour: October 8-9 and 15-16.

We have good news to report:

- The 2021 Artists Studio Tour was a success for all. People turned out, talked, enjoyed, and bought works of art from the participants. It was wonderful to see so much enthusiasm and appreciation for all the work on display.
- Our work on finally building an arts community with 65 affordable live/work studios at East Garrison continues, with regular meetings between us, Century Communities (the for-profit developer), Artspace Projects (the non-profit developer), and County staff. We expect to see a draft design and construction schedule soon.
- We have begun a new initiative we're calling JEDI (Justice, Equity, Diversity, Inclusion). The purpose of this program is to explore opportunities for Monterey County artists and arts organizations to collaborate in creating vibrant, equitable and inclusive arts programming and events that are welcoming to all communities. Creating a vibrant arts community is what we're all about—this work helps fulfill our mission.

If you are in a position to donate to allow us to continue our work bringing art to our community, and providing live and work space for artists, it would mean a lot. Please send your tax-deductible donation in the enclosed envelope or go to ArtsHabitat.org to pay by credit card.

Your donation, big or small, is always appreciated.

Thank you and best wishes,

Martha Manson, Arts Habitat President and
the Arts Habitat Board of Directors

RECEIVED

JUN 24 2022

CITY OF SAND CITY

Mailing Address

Arts Habitat
Post Office Box 4104
Monterey, CA 93942

Administrator

Shirmaine Jones
831.624.6111
Staff@ArtsHabitat.org

Web Address

ArtsHabitat.org

Board Members

Martha Manson
President

Nick Papadakis
Vice President

Marsha Lubow
Treasurer

Kimm Barnes
Secretary

Darcie Fohman

Sandra Gray

Garland Thompson, Jr.

Funded in part by



**AGENDA ITEM
8A.**

**Consideration of City RESOLUTION to
Approve Conditional Use Permit 653 for
Captain + Stoker Coffee Roasters to
Operate a Coffee Roasting Production and
Wholesale Operation within an Existing
Commercial Building at 350 Orange
Avenue**

CITY OF SAND CITY

STAFF REPORT

JUNE 13, 2022
(For City Council Review on July 5, 2022)

TO: Mayor and City Council

FROM: Charles Pooler, City Planner

SUBJECT: Application for Conditional Use Permit - Captain + Stoker Coffee Roasters

BACKGROUND

An application was submitted by Tyler Ellis of Captain + Stoker Coffee Roasters (the "Applicant") for conditional use permit approval to establish and operate a coffee roasting production, packaging, and wholesale operation with accessory office (the "Applicant's Use") in an approximate 2,200 square foot portion of an existing commercial building at 350-B Orange Avenue (portion of APN 011-254-009) in Sand City (the "Subject Property"). Captain + Stoker Coffee is a local Peninsula coffee company. The Subject Property has a non-coastal Planned-Mixed Use (MU-P) zoning designation and a General Plan land use designation of Mixed-Use (MU-D). A conditional use permit is required for all new commercial uses within the MU-P zoning district. The Applicant's Use at the Subject Property qualifies for a categorical exemption, under State CEQA (California Environmental Quality Act) Guidelines, Section 15301.

Site Description:

The Subject Property is 50-feet wide and 150 feet deep with a 1-story commercial building divided into four units; each unit at 25-feet wide and 55-feet deep, with 2 units fronting Orange Avenue and 2 units fronting Olympia Avenue. All units have roll-up doors opening to the street, but there is no access between units. The building's front Orange Avenue setback is approximately 20-feet, which can provide on-site perpendicular parking for up to five perpendicular parked vehicles. There are currently no residential dwellings on the south side of Orange Avenue's 300 block; however, there are residential units across the street from the Applicant's building. The Applicant's unit has been previously used for warehousing and various manufacturing and contractor operations. Utilities (i.e. gas, electric, water, sewer, etc.) are available to the building and street improvements (i.e. curb, gutter, sidewalk, drive-apron, etc.) are in fair condition along the Subject Property's Orange Avenue frontage.

DISCUSSION

Project Description:

The Applicant proposes to establish and conduct a coffee roasting production operation

with accessory office. The facility will utilize coffee roasting equipment and bean grinder, along with packaging and supplies. The coffee-roasting process consists of sorting, roasting, cooling, and packaging of the beans, but can also include grinding prior to packaging (source: Wikipedia). The Applicant's activities will also include the bottling of cold brew coffee beverages. Packaged roasted bean products will be shipped or delivered to clientele. Initially, the Applicant is looking to just perform the roasting and packaging, but may eventually want to conduct wholesale and cold roast sales on-site. Staff recommends the permit include those activities with conditions to negate the need to amend the permit at a future time. On-site brewed coffee beverage sales to the public is not anticipated at this time. Public sales of beverages on-site will require a water allocation (see discussion under "Water"). There will be 6 employees. Shipments are to local cafes/and wholesale accounts/clients. Materials used and stored on-site would include roasting equipment, packaging, cold brew supplies, and espresso equipment. There is one company vehicle to be parked at the Subject Property during non-business hours.

Land Use: The Subject Property has a General Plan land use and Zoning Map designation of "Mixed-Use". The applicable zoning does not specifically list the Applicant's Use (coffee roaster, coffee house, etc.); however, Section 18.13.040.C of the City's Zoning Ordinance does list 'light manufacturing' as an allowable use subject to the issuance of a conditional use permit, pending review of potential impacts upon a mixed residential/commercial neighborhood. Furthermore, section 18.13.040.P enables the City Council to approve conditional use permits for uses the "*...City Council finds to be consistent with the goals and policies of the Sand City General Plan and for the purposes of this district.*". The City's General Plan (2002 ed.) Policy 2.1.1 encourages the establishment of new land uses that provide goods and services required by the community, are generally complementary to other desirable businesses and are residentially compatible, and contribute a diversity of activities such as artisans, markets, restaurants, and incubator industries. The Applicant's Use is consistent with General Plan Policy 2.1.1 and Municipal Code section 18.26.040.P. Furthermore, Zoning Code section 18.13.040(H) also list "brew pubs" as allowable with a conditional use permit, which could also be considered somewhat comparable with the Applicant's coffee roasting/grinding activities and potential future wholesale activity.

Hours of Operation: The Applicant's intended hours of operation at the Subject Property is 8:00 a.m. to 4:00 p.m. Monday through Friday. No weekend hours were identified. Staff recommends the permit specify and authorize the standard operational hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and 10:00 a.m. to 5:00 p.m. on weekends, which is consistent with other permit approvals and grants the Applicant greater operational flexibility. This would also be the period for which shipments/deliveries and loading/unloading activities should occur. On-site office and janitorial activities beyond permit specified hours of operation are acceptable, provided such activities do not pose a nuisance to adjoining units and surrounding properties and the unit is not accessible to the general public.

Parking: The Applicant's Use is best described as a wholesale and light-manufacturing operation with the production, packaging, and distribution of coffee products. The Applicant's light manufacturing/wholesale use will occupy approximately 2,200 square

feet of floor area, which requires three (3) on-site parking spaces (rounded down from 3.1 spaces), based upon a 1/700 parking ratio as specified by Municipal Code section 18.64.050(K). Wholesale activities require less parking based on a 1/1000 parking ratio. The Orange Avenue frontage can provide five (5) parking spaces split between the two units fronting Orange Avenue. There is adequate on-site parking for the Applicant to satisfy zoning code requirements. The permit should require the Property Owner to be responsible for allocating and managing the parking spaces for all tenants of the Subject Property; provided zoning and use permit requirements are satisfied without conflicting with other reserved parking for other building tenants.

Loading/Unloading: Inventory will arrive and products will be shipped via a small van truck. Semi-truck shipments/deliveries are not anticipated for the Applicant's Use. Additionally, all loading/unloading activities should only occur during permit specified daytime business hours (see discussion under "Hours of Operation").

Trash: The Applicant states that the roasting process produces little waste with exception to 'chaff' from the skin of the coffee bean, which gets collected in a chamber inside of the roaster equipment and is vacuumed out a couple times a week. All of the chaff goes into composting food bags. Grinding produces little to no waste. With the implementation of SB 1383 on January 1st of this year, the Applicant may be required to implement organic waste collection from the City's franchised waste hauler. As a condition of permit approval, the Applicant should be required to contact and arrange the appropriate organic material collection service from the City's franchised waste hauler Greenwaste Recovery.

The Subject Property does not provide an enclosure for trash receptacles. Therefore, trash bin(s) or dumpster(s) should only be maintained within the building. The permit should include the standard requirement prohibiting the outside/unscreened storage of debris, pallets, waste, etc beyond the confines of the building or a City approved trash enclosure. There is not sufficient area beyond the building on the Subject Property to install a trash enclosure without impacting the on-site parking. Therefore, trash bins and/or dumpsters should only be stored within the building and placed out on scheduled pick-up days/times.

Hazardous Materials: According to the Monterey County Hazardous Material Questionnaire completed and submitted by the Applicant (see Exhibit G), only small amounts of hazardous materials will be on-site. The Applicant clarified to staff that this response was in reference to expected coffee fumes and not actual toxic elements. This Questionnaire form was provided to the Monterey County Health Department by City staff in the processing of this application.

Air District: The Applicant has already received approval from the Monterey Bay Air Resources District (MBARD) for the relocation and establishment of the coffee roaster and afterburner equipment to the Subject Property (see Exhibit H). This approval was for the following:

- San Francisco Coffee PER, Model SF-25, 25 pound Batch Capacity, with 100,000-BTU/HR Natural Gas Fired Burner, 3/4-HP Exhaust Fan, equipped with an

Afterburner.

- San Francisco Afterburner, with natural gas fired burner rated at 250,000-BTU/HR, serving coffee roaster.

Impacts: The bean roasting process is not expected to create detrimental levels of noise or vibrations; however, some level of aroma is anticipated, but the intensity of such is unknown. According to the Applicant, the coffee roasting equipment operates extremely quiet with no vibrations. Resulting vapors from the roasting process will be ventilated from the roaster equipment to outside, mitigating potential excessive fumes/odors from impacting other units inside this building. Per the Applicant, the only aroma will be of roasted coffee. Grinding beans may generate some level of noise, but is not anticipated to be at detrimental levels and should be adequately contained within the building. As this is primarily a wholesale and production operation, staff does not anticipate customer parking demand unless customer services are implemented on-site. Activities such as storage, packaging, and shipping are not anticipated to create detrimental impacts provided such activities are maintained inside the Applicant's unit.

Signs: The Applicant intends to establish a business sign on the Subject Property; however, no information has yet been provided regarding this sign. Commercial signs are subject to City Design Review Committee (DRC) review and approval in the issuance of a sign permit prior to installation. This should be a condition of permit approval.

Water:

City staff conferred with the Monterey Peninsula Water Management District (MPWMD) as to the group classification for the Applicant's Use. The roasting, grinding, packaging, and distribution activities, in addition to on-site wholesale of packaged products, fall into a Group I category per the regulations of the MPWMD, for which the Subject Property has sufficient water credit. However, if the Applicant chooses to expand operation to provide on-site beverage service and sales to the public, then the operation would fall into a Group II water use category that is a higher water use, which would require additional water to be allocated to the Subject Property if or when that activity is implemented.

Staff recommends authorizing the on-site public wholesale activity of packaged products as part of this use permit application to avoid the necessity of a future permit amendment or new permit. However, if the applicant chooses to eventually have on-site brewing and beverage sales, a permit amendment or new permit would be required, and the Applicant would have to acquire a water allocation from the City, record that allocation on the Subject Property, and then obtain a water permit from the Monterey Peninsula Water Management District prior to implementing such service/activity on the Subject Property. It should be noted that water allocated to a property stays with that property and cannot relocate to another site if the Applicant chooses to move at a later date. Staff also recommends the permit contain the standard language stating that approval of the permit does not grant the Applicant and/or Subject Property's owner any right or privilege to any allocation of water from the City or other Agency.

Stormwater Control:

The Applicant's Use is of an existing commercial building on a developed site, and the Applicant does not intend construction or pavement improvements to the Subject Property that would trigger storm water control requirements. Therefore, storm water control regulations do not apply to this application.

Covid-19 Epidemic:

Issuance of a conditional use permit does not override any Federal, State, or County orders that may impact the Applicant's Use in terms of operating during the pandemic. The conditional use permit outlines the authorized land use and the conditions and restrictions upon which the Applicant may conduct business during normal circumstances. The Applicant will have to coordinate with the Monterey County Health Department as to determine the conditions and restrictions that would impact and/or limit the Applicant during the current pandemic.

Advisory Agencies:

Information on the Applicant's project was circulated to the City's advisory agencies. The City's building official has already initiated discussions with the Applicant for building code compliance. No other comments were received at the time of preparing this report.

RECOMMENDATION

Staff recommends **APPROVAL** of the Conditional Use Permit for the Applicant, with the conditions/restrictions proposed by staff and as discussed in this report.

Findings for Approval:

1. The Applicant's Use is of a type, scope, and scale that is compatible with the coastal zoned "Planned Mixed-Use" zoning designation of the Subject Property and surrounding neighborhood.
2. The Applicant's Use is consistent with General Plan Policy 2.1.1 and Municipal Code section 18.26.040.P in the issuance of a coastal development permit.
3. The Applicant's Use, as conditioned and at the scope and scale proposed, is not foreseen to create negative impacts detrimental to adjoining units and/or properties.
4. There is sufficient on-site water credit on the Subject Property to accommodate the Applicant's proposed roasting, grinding, packaging of coffee beans.
5. There is sufficient water credit currently available from the City's water entitlement (desalination facility) to accommodate future on-site public beverage sales/services, subject to discretionary allocation by the City Council, if the Applicant chooses to instigate and incorporate such activity at the Subject Property.
6. Utilities (electricity, gas, water, sewer, etc.) are sufficiently available to facilitate the Applicant's Use at the Subject Property.
7. The Project qualifies for a categorical exemption, under State CEQA Guidelines, Section 15301.

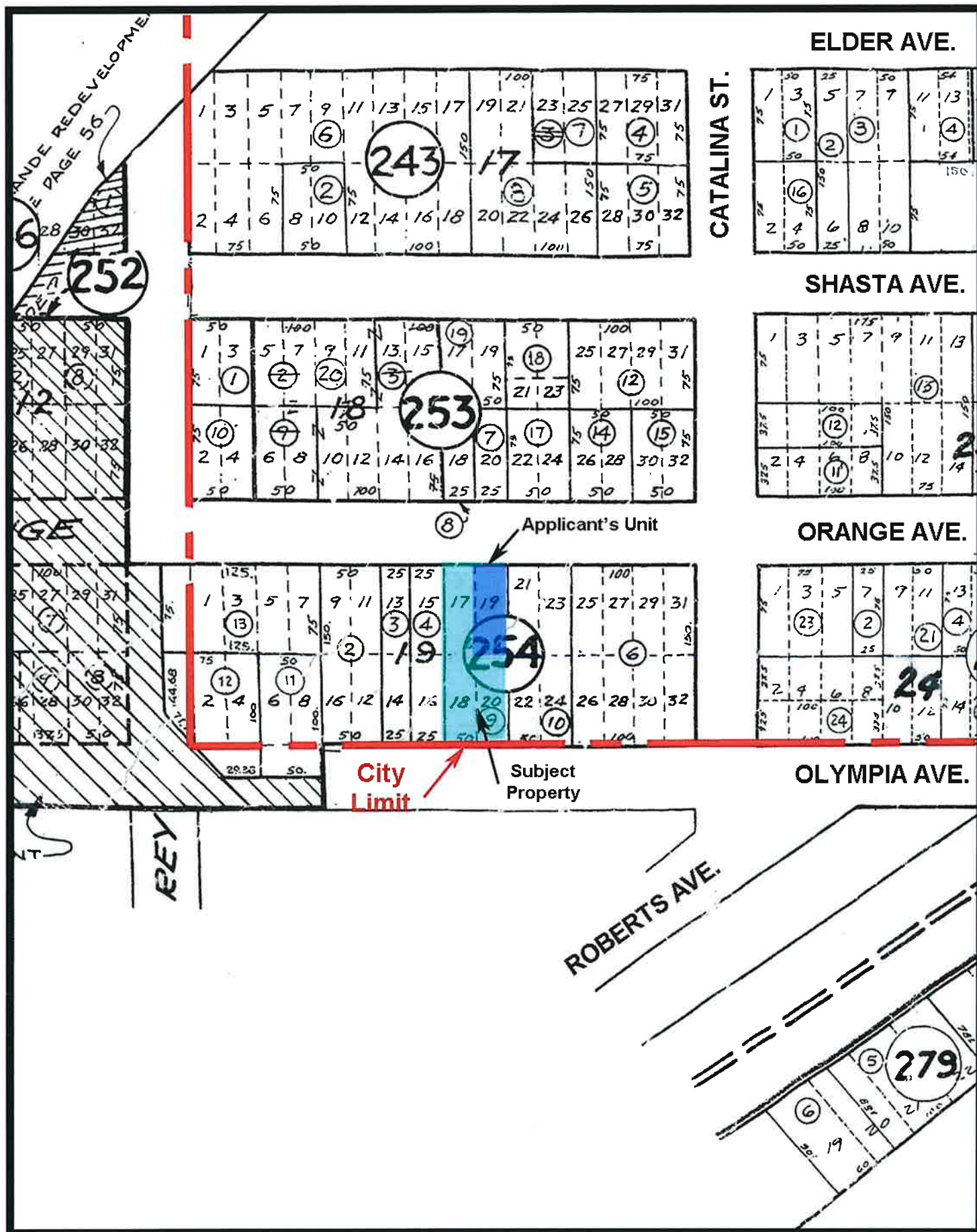
Exhibits:

- A. Location Map
- B. Aerial Site Map (via Google Earth)

Attachments:

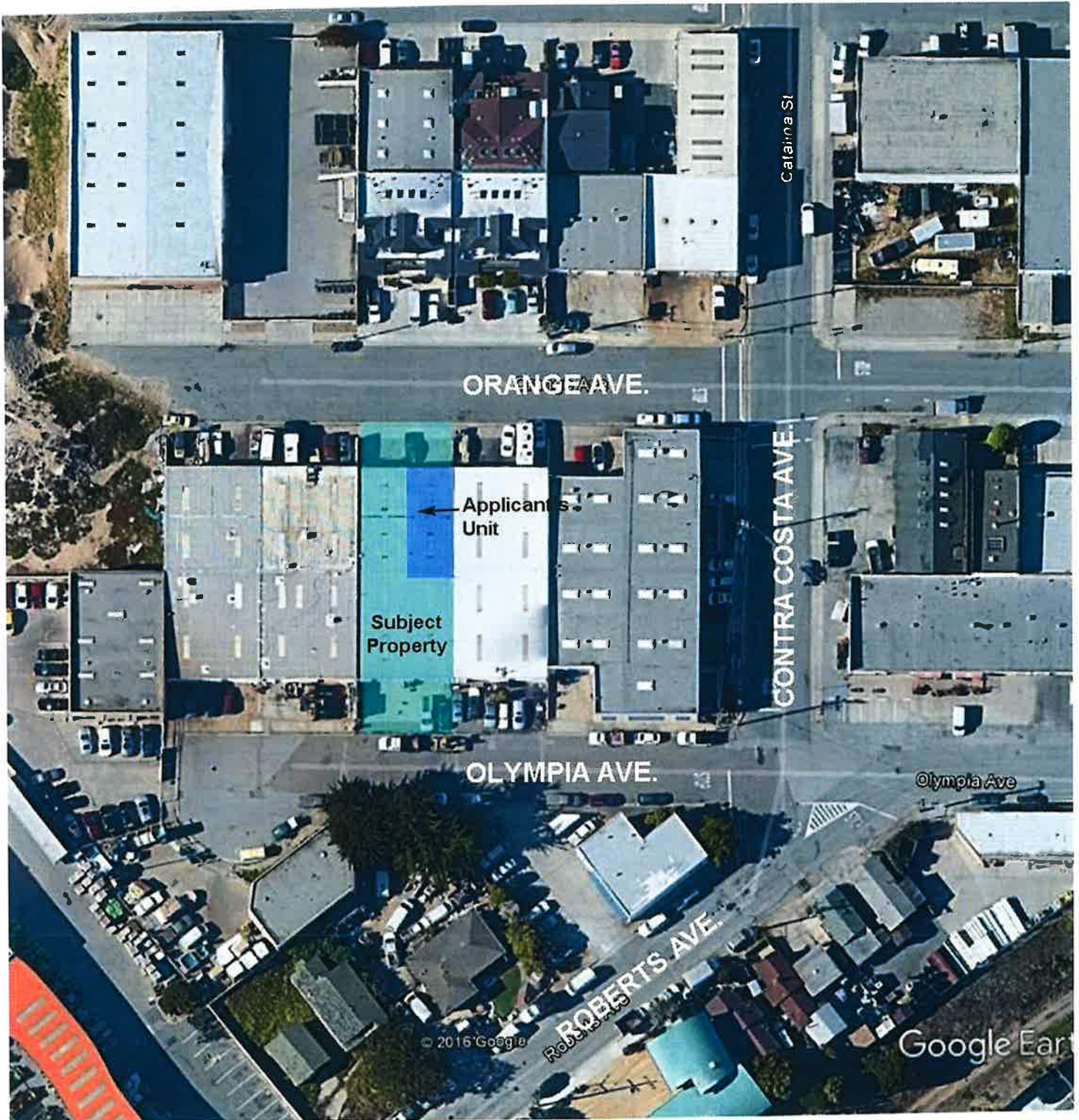
1. Draft Resolution to approve Coastal Development Permit

- C. Site Photograph (via Google Earth)
- D. Site Plan
- E. Floor Plans
- F. Applicant's Letter of Intent
- G. Mont. Cnty. Health Dept. Hazardous Material Questionnaire
- H. Monterey Bay Air Resource District - Authorization to Construct (ATC)



Location Map

EXHIBIT A



Aerial Map

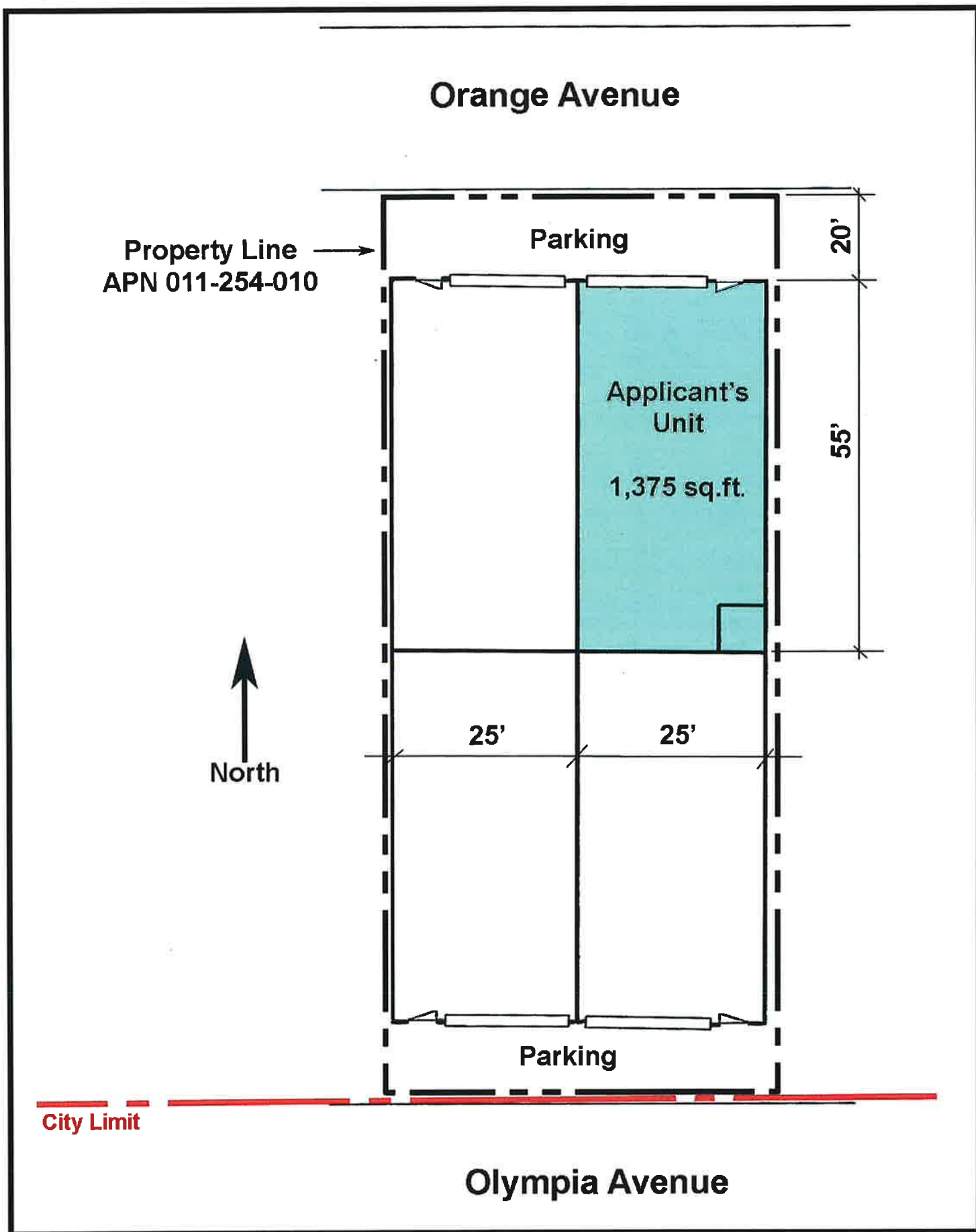
EXHIBIT B



350-B Orange Avenue

Photograph (via Google Earth)

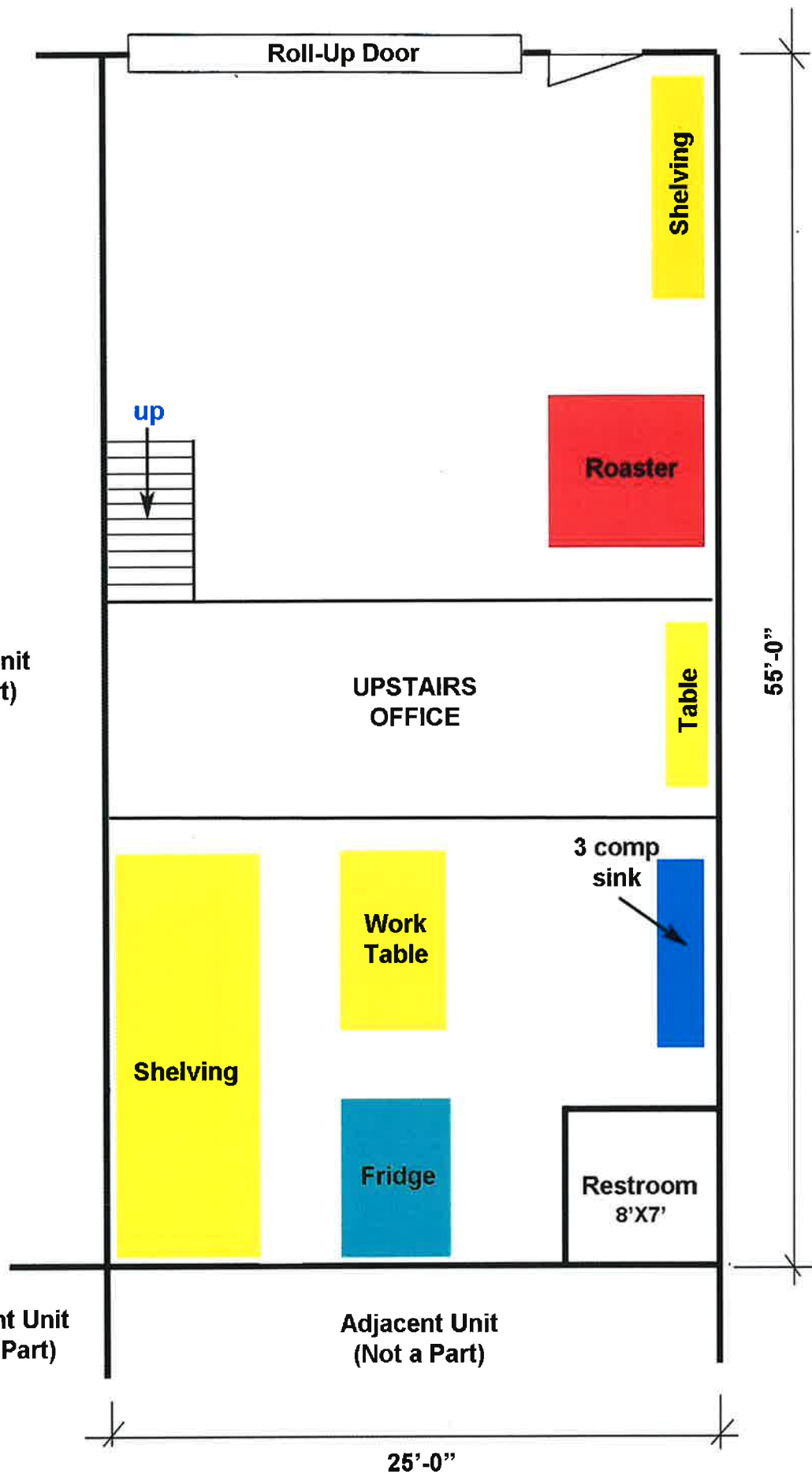
EXHIBIT C
41



Site Plan

EXHIBIT D

North
Note: this is
not to scale



Floor Plan

EXHIBIT E



Letter of Intent

Hours and days of proposed operation : Monday - Friday 8am - 4pm

How many employees : 6

How many company vehicles : 1

Schedule and frequency of deliveries : Unknown

List of materials, equipment and vehicles.

- Beverage packaging
- Coffee grinders
- Coffee roaster
- Cold brew containers
- 1 company vehicle with 2-3 vehicles used

Captain + Stoker Coffee is a local coffee company extending their brand and growing. We are very happy to be in Sand City and are excited for our future here. If you have any questions please do not hesitate to reach out to Tyler@captainandstoker.com

Monterey County Health Department
1270 Natividad Road, Room B301
Salinas, CA 93906
(831) 755-4511
Fax (831) 755-8954

Jurisdiction Name Sand City
Use Permit # COP
Or _____
Building Permit # _____
Contact Name _____
Phone # _____

HAZARDOUS MATERIAL QUESTIONNAIRE

Business Name Captain + Stoker Coffee Type of Business Coffee roasting and packaging
Site Location 350 B orange ave City Sand City APN: 011-254-009
Mailing Address 350 B orange ave
Business Contact Tyler Ellis 6164229477
Name Phone Number
Property Owner Kirk Ask 831-901-4700
Name Phone Number

- Will your business/proposed project be using any hazardous materials such as oil, fuels, solvents, compressed gases, acids, corrosives, pesticides, fertilizers, paints or other chemicals?
☒ Yes Fumes from roasting. ☐ No
- Will your business/proposed project be using hazardous materials in quantities of 55 gallons and above for liquids, 500 lbs. and above for solids and/or 200 cubic feet and above for compressed gases?
☐ Yes ☒ No
- Will your business/proposed project be using any quantities of acutely hazardous materials such as ammonia, chlorine, sulfuric acid, formaldehyde, hydrogen peroxide, methyl bromide or other restricted pesticides?
☐ Yes ☒ No
- Will your business/proposed project be using underground storage tanks to store hazardous materials?
☐ Yes ☒ No
- Will your business/proposed project be generating any quantities of hazardous waste such as waste oil, waste solvents, etc?
☐ Yes ☒ No
- Will your business/proposed project be emitting any hazardous air emissions?
☐ Yes ☒ No

CERTIFICATION:

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct to the best of my knowledge and belief.

Executed AT:

ANY QUESTIONS REGARDING THIS FORM CAN BE DIRECTED TO:

Monterey County Health Department
Division of Environmental Health
1270 Natividad Road, Room B301
Salinas, CA 93906
(831) 755-4511

City, State

Print Name of Owner/Operator: Tyler Ellis

Signature of Owner/Operator: 

For Local Jurisdiction Use Only:

- Is there a known or proposed school, hospital, day care, or long term care facility within 1,000 feet of this site location?
☐ Yes ☒ No
- Is there a known or proposed school, hospital, day care, or long term care facility ¼ mile of this site location?
☐ Yes ☒ No

Health Department Clearance

Air Pollution District Clearance

Signature: _____ Date: _____

Print Name and Title: _____

Signature: _____ Date: _____

Print Name and Title: _____

EXHIBIT G

May 16, 2022

Tyler Ellis,
Captain & Stocker
354 B Orange Avenue,
Sand City, CA 93955

**SUBJECT: AUTHORITY TO CONSTRUCT (ATC) AMD-22-0012
RELOCATION OF COFFEE ROASTING FACILITY**

Dear Tyler Ellis:

The District has completed your request for an Authority to Construct for the relocation of the following equipment from 398 East Franklin in Monterey to 345 B Orange Avenue in Sand City:

- San Francisco Coffee PER, Model SF-25, 25 Pound Batch Capacity, With 100,000-BTU/HR Natural Gas Fired Burner, 3/4-HP Exhaust Fan, And Equipped With An Afterburner.
- San Francisco Afterburner, With Natural Gas Fired Burner Rated At 250,000-BTU/HR, Serving Coffee Roaster.

Per the District evaluation, it has been determined that the proposed Coffee Roaster, with operating restrictions, has the capability to comply with all applicable District rules and regulations. Accordingly, ATC AMD-22-0012 has been issued for the equipment. The ATC must be posted or readily accessible at the operating site and cannot be considered as permission to violate applicable laws, ordinances, regulations, or statutes of other governmental agencies.

Please review the conditions associated with the ATC to ensure that the equipment will operate in accordance with District rules. In particular, **Condition 1** requires that no later than twenty-four (24) hours prior to start-up of the equipment, Captain & Stocker shall notify the District and arrange for an inspection of the equipment during normal operations to verify compliance with District rules and regulations.

If you have any questions, please contact me at the District office (831) 718-8009.

Sincerely,



Fernando Pena
Air Quality Engineer

Enclosure: AMD-22-0021

cc: tyler@captainandstoker.com



MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT

AUTHORITY TO CONSTRUCT

24580 SILVER CLOUD CT., MONTEREY, CA 939
TELEPHONE (831) 647-9411 • FAX (831) 647-8501

APPLICATION NUMBER

ATC AMD-22-0012

LEGAL OWNER OR OPERATOR: Captain & Stocker

EQUIPMENT LOCATED AT: 354 B Orange Avenue
Sand City, CA, 93955

EQUIPMENT DESCRIPTION AND CONDITIONS: THIS AUTHORITY TO CONSTRUCT IS ISSUED AND IS VALID FOR THIS EQUIPMENT ONLY WHILE IT IS IN THE CONFIGURATION SET FORTH IN THE FOLLOWING DESCRIPTION:

RELOCATION OF COFFEE ROSTER & AFTERBURNER:

1. Installation Of San Francisco Coffee PER, Model SF-25, 25 Pound Batch Capacity, With 100,000-BTU/HR Natural Gas Fired Burner, 3/4-HP Exhaust Fan, And Equipped With An Afterburner
2. Installation Of San Francisco Afterburner, With Natural Gas Fired Burner Rated At 250,000-BTU/HR, Serving Coffee Roaster

THE EQUIPMENT FOR WHICH THIS PERMIT TO OPERATE IS ISSUED MAY BE OPERATED ONLY WHEN IN COMPLIANCE WITH THE FOLLOWING CONDITIONS:

** Page 1 of 2 **

THIS AUTHORITY TO CONSTRUCT IS NOT A PERMIT TO OPERATE!

APPROVAL OR DENIAL OF THE APPLICATION FOR PERMIT TO OPERATE THE ABOVE EQUIPMENT WILL BE MADE AFTER AN INSPECTION TO DETERMINE IF THE EQUIPMENT HAS BEEN CONSTRUCTED IN ACCORDANCE WITH THE APPROVED PLANS AND SPECIFICATIONS, AND IF THE EQUIPMENT CAN BE OPERATED IN COMPLIANCE WITH RULES AND REGULATIONS OF THE AIR DISTRICT.

PLEASE NOTIFY **FERNANDO PENA** AT (831) 718-8009 WHEN CONSTRUCTION OF EQUIPMENT IS COMPLETED. IT IS THE APPLICANT'S RESPONSIBILITY TO COMPLY WITH ALL LAWS, ORDINANCES, AND REGULATIONS OF OTHER GOVERNMENTAL AGENCIES WHICH ARE APPLICABLE TO THE EQUIPMENT CONSTRUCTED.

THIS AUTHORITY TO CONSTRUCT WILL EXPIRE TWO YEARS FROM DATE SHOWN, OR EARLIER, IF ANY CHANGE OF OWNERSHIP, LOCATION, OR MODIFICATION OCCURS.

For,
AIR POLLUTION CONTROL OFFICER

BY

Mary Airaudo

DATE 5/16/2022

Conditions:

1. No later than twenty-four (24) hours prior to start-up of the equipment, Captain & Stocker shall notify the District and arrange for an inspection of the equipment during normal operations to verify compliance with District rules and regulations. [Basis: District Rule 207]
2. Annual roasted coffee production and fuel usage for this roaster and thermal afterburner system shall be reported to the District, upon request. [Basis: District Rule 207]
3. The thermal afterburner shall be operated at a minimum temperature of 1200°F by the time the beans within the roaster have warmed up to a temperature of 360°F. The thermal afterburner shall be maintained at a minimum of 1200°F for the remainder of the coffee roasting process. [Basis: District Rule 207]
4. The afterburner temperature shall be monitored by operational temperature indicators which are accessible and readable at a location adjacent to the roaster's controls. [Basis: District Rule 207]
5. The coffee roaster temperature shall be monitored by operational temperature indicators which are accessible and readable at a location adjacent to the roaster's controls. [Basis: District Rule 207]
6. The roaster-thermal afterburner system shall be operated in a manner to prevent the migration of smoke or odors into areas so as not to cause a public nuisance. [Basis: District Rule 402]
7. The coffee roaster and afterburner shall be maintained according to the manufacturer's written instructions. A copy of the manufacturer's instructions shall be maintained on-site. [Basis: District Rule 207]
8. No air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark or darker than Ringelmann 1, or equivalent 20 percent opacity. [Basis: District Rule 400]

Upon completion of construction and demonstration of compliance with applicable District regulations, a Permit to Operate will be issued to Captain & Stocker.

CITY OF SAND CITY

RESOLUTION SC _____, 2022

**RESOLUTION OF THE CITY COUNCIL OF SAND CITY TO
APPROVE CONDITIONAL USE PERMIT 653 FOR
CAPTAIN + STOKER COFFEE ROASTERS TO OPERATE A
COFFEE ROASTING PRODUCTION AND WHOLESALE OPERATION
WITHIN AN EXISTING COMMERCIAL BUILDING AT 350 ORANGE AVENUE**

WHEREAS, Tyler Ellis of Captain + Stoker Coffee Roasters (the “Applicant”) submitted an application to the City of Sand City (the “City”) for conditional use permit approval to establish and operate a coffee roasting production, packaging, and wholesale operation with limited on-site product sales (the “Applicant’s Use”) within an approximate 2,200 square foot portion of an existing commercial building at 350 Orange Avenue (portion of APN 011-254-009) in Sand City (the “Subject Property”); and

WHEREAS, the Applicant’s Use at the Subject Property, at the scale and intensity described in the application and with the appropriate mitigation required, is considered consistent with General Plan Policy 2.1.1 and Municipal Code section 18.26.040.P for the non-coastal “Planned Mixed-Use” (MU-P) zoning designation of the Subject Property and compatible with neighboring properties and uses; and

WHEREAS, the Subject Property can provide the minimum code required off-street parking for the Applicant’s Use; and

WHEREAS, existing on-site water credit of the Subject Property is sufficient to accommodate the coffee roasting production, grinding, packaging, and wholesale operation of the Applicant’s Use; and

WHEREAS, the type and scale of operation proposed by the Applicant is considered compatible with a mixed-use community and is not anticipated, as conditioned, to impose negative impacts or blighting influence upon the surrounding units and properties; and

WHEREAS, the Applicant’s Use within an existing building qualifies for a Categorical Exemption under CEQA (California Environmental Quality Act) Guidelines, Section 15301; and

WHEREAS, the City Council of the City of Sand City, on _____, 2022, has found and determined that the Applicant’s Use of the Subject Property, as conditioned, will not adversely impact the character of the surrounding neighborhood, nor be injurious or detrimental to adjoining properties or the rights of the owners therein, and thus Conditional Use Permit 653, (hereinafter referred to as “CUP 653”) shall be granted upon the terms and conditions set forth in this resolution and CUP 653; and

WHEREAS, the City Council of the City of Sand City accepts and adopts the findings for approving CUP 653, as outlined in the City staff report, dated June 13, 2022.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sand City to hereby grant and issue CUP 653 upon the following terms and conditions:

1. Execution & Acceptance: CUP 653 is not valid, and the Applicant's Use of the Subject Property shall not commence unless and until two copies of this Resolution/Permit, signed by the Applicant and owner of the Subject Property, acknowledging receipt of CUP 653 and acceptance of the terms and conditions therein, is returned to the City's Planning Department. Failure to return said signed/executed CUP 653 may be sufficient grounds for City termination of CUP 653.
2. Purpose: CUP 653 is for the express purpose of authorizing a coffee roasting production, packaging, and wholesale operation with limited on-site wholesale packaged product sales at the scope and scale described by the Applicant, within an approximate 2,200 square foot commercial building at 350 Orange Avenue (portion of APN 011-254-009); subject to the terms and conditions specified in CUP 653. Residential occupancy of the Applicant's unit on the Subject Property is prohibited. There shall be no expansion to the scope or intensity of the Applicant's Use beyond that as authorized by CUP 653 without either an amendment of said Permit or the issuance of a new land use entitlement permit.
3. Hours of Operation: Coffee roasting production, packaging, and wholesale activities for the Applicant's Use at the Subject Property may only occur between the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and 10:00 a.m. to 5:00 p.m. on weekends. All shipments/deliveries and loading/unloading activities should only occur during the aforementioned hours. Office and/or janitorial activities on-site by employees of the Applicant's operation may extend beyond the aforementioned hours/days provided that the Applicant's unit is not open to the public and such activities do not pose a public disturbance/nuisance.
4. On-Site Parking: A minimum of three (3) off-street parking spaces shall be provided on the Subject Property for the Applicant's Use by the Subject Property's owner and/or property manager. Curbside and/or other street parking shall not be counted towards meeting zoning parking requirements. Any vehicle parking by and for the Applicant's Use shall not double park as to encroach into public rights-of-way, including public sidewalks. The Subject Property's owner and/or property manager shall be responsible for managing tenant parking and addressing and resolving tenant disputes regarding parking, provided City zoning and permit requirements are met to the satisfaction of the City. Parking spaces shall not be utilized by the Applicant's Use for any purpose that impedes vehicle parking unless actively involved with loading/unloading activities.
5. Truck & Trailer Street Parking: In accordance with Sand City Municipal Code (the "SCMC") Chapter 10.08, the Applicant shall not park or store trucks, trailers, or other large vehicles, as listed in SCMC Chapter 10.08, within any City street at any time

unless actively involved with loading/unloading or otherwise has a valid City issued annual parking permit. Violation of this condition may result in the issuance of citations in accordance with SCMC Chapter 10.08.

6. Loading/Unloading: Deliveries/shipments and/or loading/unloading activities of inventory and/or products related to the Applicant's operation at the Subject Property shall not impede public vehicular circulation on City streets. All loading/unloading of items associated with the Applicant's Use at the Subject Property shall only occur during Permit specified hours of operation (see Permit Condition No. 3).
7. Storage: All materials, parts, tools, equipment, packaging, pallets, and/or any other item associated with the Applicant's Use, stored on the Subject Property, shall only be stored within the Applicant's unit/building, and such items are prohibited from being stored on-site beyond the confines of the building. Any materials stored/used on-site, that may pose a hazard, shall comply with all requirements of the Monterey County Health Department and the City's Fire Department. The placement of a self-contained portable storage unit/pod on-site, beyond the confines of the building, is hereby prohibited; and the need of the Applicant to do so shall be considered by the City as justification that the Applicant's Use has expanded beyond the Subject Property's ability to sufficiently accommodate the Applicant's Use; and thus be sufficient reason for the City to amend or terminate CUP 653.
8. Property Maintenance: The Subject Property shall be maintained in a clean, orderly, weed-free, and litter-free condition. There shall be no storage of waste material or debris on-site, except as otherwise allowed by CUP 653. The Applicant and/or the Subject Property's owner shall be responsible for maintenance and upkeep of the Applicant's leased/occupied area of the Subject Property.
9. General Waste: Trash, litter, boxes, crates, pallets, debris, and/or other used and/or discarded materials generated/used by the Applicant's Use shall be stored in an appropriate waste collection bin or dumpster and shall not occupy or impede on-site parking or any public right-of-way. Except on a designated trash collection day, said bin(s) or dumpster(s) shall be stored/maintained within the building or within a City approved enclosure. An enclosure may be established on the Subject Property only after approval by the City's Planning Department. The Applicant shall work and coordinate with the City's franchised waste hauler to implement material recycling and organic waste collection as part of the Applicant's operation to the maximum degree feasible.
10. Hazardous Waste: Any and all hazardous materials and/or waste used/generated by the Applicant's Use shall be legally stored and disposed of in accordance with the regulations of the City, the County of Monterey, and the State of California. The Applicant shall concede to any direction of the City's Fire Department, City Code Enforcement Officer, and/or the Monterey County Health Department regarding the storage and/or handling of hazardous materials on the Subject Property. Any illegal material storage, dumping, and/or disposal shall be sufficient grounds for City termination of CUP 653.

11. Signs: Any commercial sign on the exterior of the building or anywhere on the Subject Property, identifying the Applicant's Use, shall be reviewed and approved by the Sand City Design Review Committee (DRC) in the issuance of a sign permit prior to the establishment of any sign such. Signs attached to the building shall also obtain a City building permit prior to installation. The Applicant shall not place any free-standing sign anywhere within City limits without City Planning Department approval.
12. Water Runoff: The Applicant's Use shall not create water run-off within the City in accordance with SCMC Chapter 13.05 regarding Storm Water Management. There shall be no washing of vehicles on the Subject Property or within any public right-of-way by the Applicant or Applicant's Use.
13. Water: Issuance of CUP 653 does not grant the Applicant and/or Subject Property's owner any right or privilege to any allocation of water from the City of Sand City or other entity; and the Applicant's Use shall be limited to that water credit currently available to the Subject Property in accordance with the regulations of the Monterey Peninsula Water Management District (MPWMD), unless and until additional water is allocated at the City's discretion.
14. Local/Regional Compliance: All requirements of the City's contracted Building and Fire Departments, the City Engineer, the Sand City Police Department, the Sand City Code Enforcement officer(s), the Seaside County Sanitation District, Monterey One Water (formerly 'Monterey Regional Water Pollution Control Agency'), and Monterey County Health Department, shall be implemented to the satisfaction of each department and inspector thereof.
15. Air District: The Applicant shall be responsible for complying with applicable rules and regulations of the Monterey Bay Air Resources District. Failure to comply shall be sufficient grounds for City termination of CUP 653.
16. Fire Department: The Applicant's use of the Subject Property, as authorized by CUP 653, must conform to storage and operational requirements specified in the California Building and Fire Codes and to the satisfaction of the City's Fire Department inspector and City's Building Official. The Subject Property shall be available and open for Fire Department and/or City code enforcement inspections during CUP 653 specified hours of operation. Failure to comply with Fire Inspector and/or code enforcement requirements may be sufficient grounds for City issuance of a 'Cease and Desist' order for closure of the Applicant's Use and City amendment or termination of CUP 653.
17. Nuisance: The Applicant's use of the Subject Property shall be conducted as to not constitute a nuisance to abutting units, surrounding properties, and/or the occupants thereof. The Applicant shall be considered responsible for the impacts created by the Applicant's Use and activities. The Applicant shall implement all mitigation necessary to inhibit any noise, vibration, dust, fumes, odors, overflow parking, and/or other negative impacts that the Applicant's Use may or will generate. If the City Council finds at any time that the Applicant's Use and any activity associated thereof on the Subject Property constitutes a nuisance, or is otherwise detrimental to the

neighborhood or to the community, such use shall be discontinued or modified as may be required by the City. Failure to effectively implement mitigation required by this Permit, or other direction/notification by the City deemed necessary to abate negative impacts generated by the Applicant's Use, may be adequate grounds for the City to amend or terminate CUP 653. Failure to comply with such City direction may result in the amendment or revocation of CUP 653.

18. Violation/Termination: If the City determines that any term or condition of CUP 653 has been violated, and/or the Applicant's Use at the Subject Property constitutes a nuisance or is otherwise detrimental to neighboring units, properties, and/or community, notice shall be issued by the City to the Applicant, that if such violation is not corrected or removed within a specified time, a public hearing may then be scheduled where the City Council may consider amending or revoking CUP 653, and may then order said Permit amended or revoked. The Applicant and the Subject Property's owner/manager shall be notified of any such public hearing, and provided an opportunity to address the City Council prior to any action by the City Council to amend or terminate CUP 653.
19. Interpretation: Any questions of intent or interpretation regarding any condition of CUP 653 shall be subject to, and resolved by, the Sand City Planning Department.
20. The issuance of CUP 653 shall not supersede or override any applicable requirements of any other City, County, State, or Federal agency.
21. Indemnification: To the extent permitted by law, the Applicant shall indemnify and hold harmless the City, its City Council, its officers, employees, contractors, and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the Applicant to attack, set aside, or void, any permit or approval authorized hereby for the Project, including (without limitation) reimbursing the City for its actual attorney's fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its own choice.
22. Business License: The Applicant shall acquire, maintain, and annually renew a Sand City business license for the duration of the Applicant's Use at the Subject Property. Failure to maintain a current Sand City business license may be sufficient grounds for termination of CUP 653.

PASSED AND ADOPTED, CUP 653, inclusive of all specified conditions/requirements for the Applicant's Use at the Subject Property, is hereby approved by the City Council of Sand City, this ___ day of July 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Connie Horca, City Clerk

Mary Ann Carbone, Mayor

This is to certify that Conditional Use Permit 653 contains the conditions specified by the City Council in approving said Permit.

Charles Pooler, City Planner

APPLICANT ACCEPTANCE (CUP 653)

Conditional Use Permit 653 is hereby accepted upon the express terms and conditions hereof, and the undersigned agrees to strictly conform to and comply with each and all of the said terms and conditions.

DATED: _____

BY: _____
Applicant

CONSENT OF OWNER (CUP 653)

Consent is hereby granted to the permittee to proceed with the City approved use, in accordance with the terms and conditions of Conditional Use Permit 20-03.

DATED: _____

BY: _____
Property Owner

**AGENDA ITEM
8B.**

**Consideration of City RESOLUTION
Approving Conditional Use Permit 652 for
Jayson Fann to Conduct Open Yard Art
Creation**

CITY OF SAND CITY

STAFF REPORT

JUNE 1, 2022
(For City Council Review on July 5, 2022)

TO: Mayor and City Council

FROM: Charles Pooler, City Planner

SUBJECT: Conditional Use Permit for Jayson Fann Sculpture Activities in Fenced Yard fronting the 500 Block of Ortiz Avenue

BACKGROUND

An application for a conditional use permit was submitted by Jayson Fann of 'Artist is Residence' (the "Applicant") to use a fenced vacant property fronting the 500 block of Ortiz Avenue (APNs 011-232-021, 022, 027) in Sand City (the "Subject Property") for the creation of large-scale art sculptures (the "Applicant's Use"). The majority of art sculptures will consist of intertwined / interlinked wood branches and similar wood materials. The Subject Property has a General Plan land use and Zoning map designation of "Planned Mixed-Use" (MU-P). The Applicant's Use of an existing fenced property qualifies for a Categorical Exemption under CEQA (California Environmental Quality Act) Guidelines, Section 15301 as it utilizes the site in its current fenced open commercial yard condition and involves activities of less potential impact than the previous commercial vehicle parking use of the Subject Property.

Site Description:

The Subject Property is approximately 11,250 square feet in area (75'x150'), abutting 'The Independent' mixed use development. The fenced area is slightly smaller in area. The site is currently vacant, unscreened, and unpaved with dirt and gravel surface and chain link fencing around the perimeter. The fencing is about five to six feet in height. There are no environmentally sensitive species or habitat on the Subject Property. The site was previously used for commercial vehicle parking. The Subject Property has a General Plan land use designation of "Mixed Use Development" and a zoning map designation of "Planned Mixed-Use" (MU-P).

DISCUSSION

Project Description:

The Applicant proposes to utilize the Subject Property for the creation of large-scale, mostly natural wood, art sculptures. The Applicant also proposes exhibitions of art with public engagements of open studio and community participation/learning through local community organizations and educational programming. The Applicant intends to exhibit work on the Subject Property during the City's annual West End Celebration festival. The

Applicant initially proposed a 20'x75' (1,500 sq.ft.) open event tent be placed at the rear of the site; however, the Applicant now proposes a 400 square foot tent to address Fire Code issues applicable to larger tents. The Applicant also proposes outdoor bench seating that would also accommodate the concealed storage of tools and other items. Mostly hand-tools will be used for the wood sculpting on-site. According to the Applicant, there will be two (2) employees. Intended hours of operation are 9:00 a.m. to 5:00 p.m. Monday through Friday, and 10:00 a.m. to 3:00 p.m. on weekends. The Applicant has two (2) trucks and four (4) utility trailers to be stored on the Subject Property. According to the Monterey County Hazardous Material Questionnaire (Exhibit G), no hazardous substances will be used or stored on the Subject Property.

Land Use: The Subject Property has a General Plan land use designation of "Mixed Use Development" and a zoning map designation of "Planned Mixed-Use" (MU-P). The surrounding properties have the same General Plan and Zoning designation. Municipal Code section 18.13.040(E) lists "Art/craft studios" as allowed subject to the issuance of a conditional use permit. General Plan Policy 2.1.1 encourages the establishment of new land uses within the West End District (referred to as "Old Town" in the General Plan) that contribute to a diversity of activities that include artisans, ethnic markets, restaurants, entertainment, and incubator industries that is considered to include the Applicant's artistry activities.

Hours of Activities: The Planning Department considers the standard business hours in Sand City's West End District to be approximately 7:00 a.m. to 6:00 p.m. on weekdays and 10:00 a.m. to 5:00 p.m. on weekends; which is regarded as compatible for general low impact commercial uses in a mixed residential/commercial mixed-use neighborhood. The Applicant's intended hours of operation are 9:00 a.m. to 5:00 p.m. Monday through Friday, and 10:00 a.m. to 3:00 p.m. on weekends, which are compatible with the aforementioned business hours. Staff recommends the standard hours be a condition of the permit for consistency with other permits issued and to mitigate potential impacts to surrounding residential units.

Parking: The Municipal Code does not have a specific parking requirement for commercial storage or production yards. Therefore, parking requirements for the Applicant must be evaluated upon the type of use and scale of operation. The Applicant states that he has two (2) trucks and four (4) utility trailers to be stored on the Subject Property and that there are two (2) employees with their vehicles. This is a total of eight (8) vehicles (including trailers).

The permit should require an area of sufficient size on the Subject Property, within the fenced yard, be designated and used for parking the Applicant's trucks and trailers and employee vehicles. Such parking should be aligned/organized side-by-side perpendicular to a property line to minimize a blighted appearance with markers to delineate the parking area/arrangement. The final parking layout should be subject to the City Planner's and/or City Building Official's review and approval of a site plan to be provided by the Applicant. Furthermore, there are few curbside street parking spaces available along Ortiz Avenue that should not be used for company vehicle/trailer parking as a condition of permit approval.

Loading/Unloading: The Applicant states that there will be infrequent shipping and receiving conducted by the Applicant. No large truck deliveries to the Subject Property are anticipated. Ortiz Avenue is a central street corridor that should be maintained open for through traffic. If the Applicant does have a large truck delivery/shipment that can not be accommodated on-site, then a minimum of one lane on Ortiz Avenue should be kept open for traffic and only occur during permit specified hours of operation with loading/unloading activities taking no longer than one (1) hour. This should be a condition of permit approval.

Storage: All storage associated with the Applicant's use at the Subject Property should be confined to the interior of the fenced yard as a condition of permit approval. Excessive, randomly placed, and/or piled storage of materials, equipment, or other items can have a visually blighting impact if not screened from public view. Typically staff would recommend screening be added to the existing chain-link perimeter fence; however, as the intent is to make the sculpture process publicly visible, such a condition would be counter-productive. Additionally, there is a City sponsored mural on the adjacent building that should not be visually blocked. Therefore, staff recommends storage containers or other screening methods (i.e., tarp, tent, enclosure, etc.) be incorporated into areas of the site where equipment and raw materials are to be stored while keeping view of the mural and the Applicant's sculpture activities open. Storage containers would provide concealment and security without completely obscuring public view of sculpting activities.

Trash: The Applicant did not specify any method of refuse/waste storage within the yard. Staff recommends the permit for the Applicant's Use require all refuse, debris, trash, packaging debris, or other discarded items stored on the Subject Property, be contained in trash and/or recycling dumpsters/bins; and that those dumpsters/bins be maintained within the fenced yard with screening. There should be no arbitrarily discarded material or packaging of any kind lying about the Subject Property as that would be visually blighting and subject to wind potentially blowing such materials onto other properties or public streets. Empty pallets, if any, should be neatly stacked to a height not exceeding the height of the perimeter fence and be recycled (or returned to suppliers) as soon as possible. Dumpsters/bins should only be outside the fenced yard on designated trash collection days. The Applicant should work with the City's franchised waste hauler (Greenwaste Recovery) to get the most appropriate refuse service to accommodate the Applicant's operation as a condition of approval.

Fence: The site currently has a chain-link perimeter fence approximately five to six feet in height. It appears the fence may have at one time had barbed wire along the top; however, it has been removed as is not currently present. The City has discouraged new chain-link fencing and prohibited barbed or razor wire as these are considered blighting influences. Considering the Applicant's Use is an interim use of the site until future improvement(s) of additional parking for The Independent is realized, staff is not recommending the chain link be removed or replaced at this time; but barbed or razor wire should be prohibited and not installed and as a condition of the permit.

Building & Fire Codes: The Fire Department and Building Official expressed concerns in response to the advisory agency notices distributed on this application and the originally proposed 1,500 square foot tent and length of time (1-year approximate) that it would have been erected. The Fire Department states that the California Fire Code (Chapter 31) regulates tents, special event structures, and other membrane structures. Tents larger than 400 square feet must obtain a tent permit from the Fire Department, and it can only be erected for 180 days or less within a cumulative 12-month period. Additionally, tents cannot be within 20-feet of property lines, must be inspected by the fire inspector at regular intervals, and must have exits clearly marked. There cannot be any portable, unvented, gas-fire heating appliances under the tent structure. Depending upon the type of tent to be used, additional fire code regulations may be applicable. See Exhibit H of this report for a complete listing of the Fire Department's comments. The Applicant was informed of these concerns during the review of the use permit application, and has since proposed to reduce the tent size to 400 square feet or less.

The Building Official commented that the 1,500 square foot tent would be considered 'habitable space', which requires a water permit, sewer connection, electrical service for lighting, and accessible ADA path to and around occupied areas. The Planning Department does not recommend an allocation of water to the Subject Property for a temporary use and temporary improvements (i.e., tents, etc.). The Building Official added that accessible parking and path of travel from such parking to the front entrance of use could also be required. With the Applicant now proposing a 400 square foot (or less) tent, those issues should be resolved. In order to move this application forward, Planning staff recommends the permit include a condition that states the following:

"The Applicant shall coordinate and work with the City's Building Official and Fire Department to ensure that all applicable Building and Fire Codes for the Applicant's use at the Subject Property are implemented prior to commencement of operation. The Applicant shall acquire all necessary building permits, at the determination of the Building Official, to address improvements (permanent or temporary) at the Subject Property. Variation of use and site layout shall be subject to final Building Official approval."

Signs: The Applicant states that he does not intend to have signs on the Subject Property. If in the future the Applicant decides to place a sign on the Subject Property regarding his use of the site, the sign(s) would be subject to the City's Design Review Committee (DRC) in the issuance of a sign permit. This should be a condition of use permit approval.

Impacts: The primary negative impact anticipated from a commercial fenced yard is its potential for imposing a blighting influence. Chain-link fencing is considered a visually blighting influence and not conducive towards creating a vibrant community. The City has endeavored to eliminate, or at least limit, commercial fenced (particularly chain-link) yards over the past 25+ years for this reason. As for the Applicant's activities, noise and dust are the two potential impacts that are of most concern to the Planning Department. However, the Applicant's primary use of hand tools over power tools will

minimize noise and audibly blend in with the surrounding commercial daytime noise of neighboring commercial activities. The permit should include a requirement for the Applicant to minimize dust generation, either from sculpting activities or disturbance of the site's dirt/gravel surface. With these conditions and restrictions, staff feels the Applicant's Use can occur at the Subject Property on an interim basis without necessarily presenting a nuisance or blighting influence until the Subject Property is properly developed.

Water:

The Subject Property does not have a water meter, water service, or any water credit. A general fenced commercial yard does not typically require a water allocation per the regulations of the Monterey Peninsula Water Management District (MPWMD), unless the activities conducted on-site utilize water and a water meter needs to be installed. The Applicant's art sculpture activities are not identified as having to utilize water. Therefore, a water allocation is not deemed necessary at this time to accommodate the Applicant's Use. However, public accessibility to the site and the establishment of large tents or other structures on-site may trigger building code requirements for water amenities. This will have to be a determination by the Building Official.

Stormwater Control:

The Subject Property is a fenced vacant yard without pavement, consisting of a dirt and gravel surface. No permanent impervious surface treatments that would impact the current water permeability of the site are proposed as part of this application. The previously intended 1,500 square foot tent would not have been large enough to trigger Post-Construction Requirement mitigation measures, nor the now proposed 400 square foot tent. Therefore, storm water control regulations are deemed to not apply to this application.

Covid-19 Pandemic:

Issuance of a conditional use permit does not override any Federal, State, or County orders that may impact the Applicant's Use in terms of operating during a pandemic. The conditional use permit outlines the authorized land use and the conditions and restrictions upon which the Applicant may conduct operations during normal circumstances. The Applicant will have to coordinate with the Monterey County Health Department as to determine the conditions and restrictions that would impact and/or limit the Applicant during the current pandemic.

Advisory Agencies:

Information on the Applicant's project was circulated to the City's advisory agencies. The Fire Department states that the California Fire Code (Chapter 31) regulates tents, special event structures, and other membrane structures. Tents larger than 400 square feet must obtain a tent permit from the Fire Department, and it can only be erected for 180 days or less within a cumulative 12-month period. Additionally, tents cannot be within 20-feet of property lines, must be inspected by the fire inspector at regular intervals, and must have exits clearly marked. There cannot be any portable, unvented, gas-fire heating appliances under the tent structure. Depending upon the type of tent to be used, additional fire code

regulations may be applicable. See Exhibit H of this report for a complete listing of the Fire Department's comments. The Building Official commented that the 1,500 square foot tent would be considered 'habitable space', which requires a water permit, sewer connection, electrical service for lighting, and accessible ADA path to and around occupied areas. Additionally, accessible parking and path of travel from such parking to the front entrance of use could also be required. No other comments were received at the time of preparing this report.

CONCLUSION

It is anticipated that the Applicant will positively contribute to the artist community of Sand City. The primary use of hand tools will minimize potentially negative noise impacts. The Applicant should be required to implement dust control as part of this use. It should be noted that this property was acquired by the property owner in a land swap arrangement with Ream Construction and the City's Carroll Property for the purpose of creating additional parking for the Independent to facilitate a restaurant or other food service use, as stated in the Long Range Property Management Plan. Until such time as parking improvements are ready to proceed, the Applicant's activities can provide a positive art influence as an interim use.

RECOMMENDATION

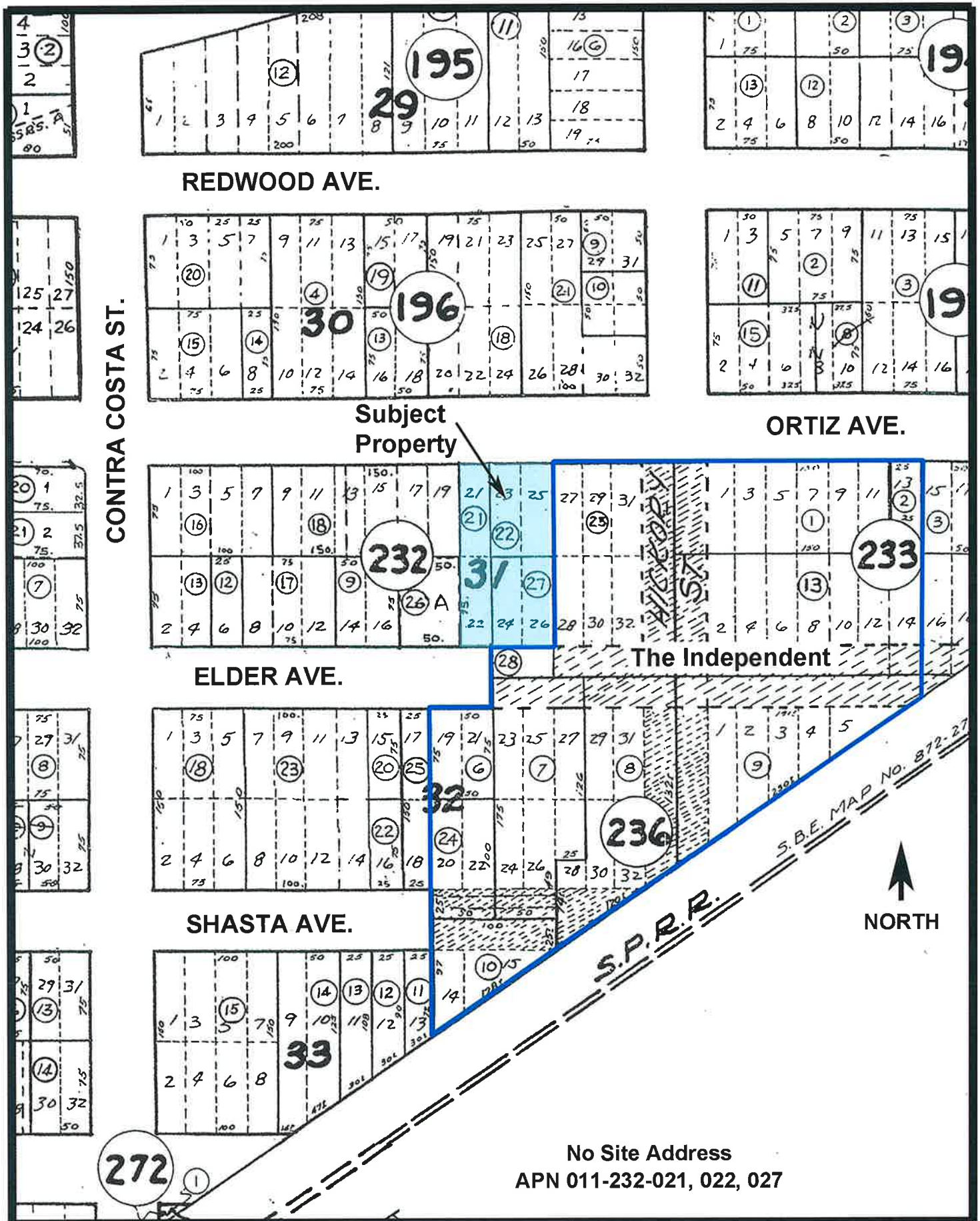
Staff recommends **APPROVAL** of a conditional use permit for the Applicant's Use as an interim use of the Subject Property until such time the site can be improved to provide additional on-site parking for the Independent.

Exhibits:

- A. Location Map
- B. Aerial Map
- C. Site Photograph (via Google Earth)
- D. Site-Aerial Plan (via Google Earth)
- E. Visual samples of the Applicant's sculptures
- F. Applicant's Letter of Intent
- G. Mont. Cnty. Health Dept. Hazardous Material Questionnaire
- H. Monterey Fire Department CUP Review Comments (dated 06/06/22)

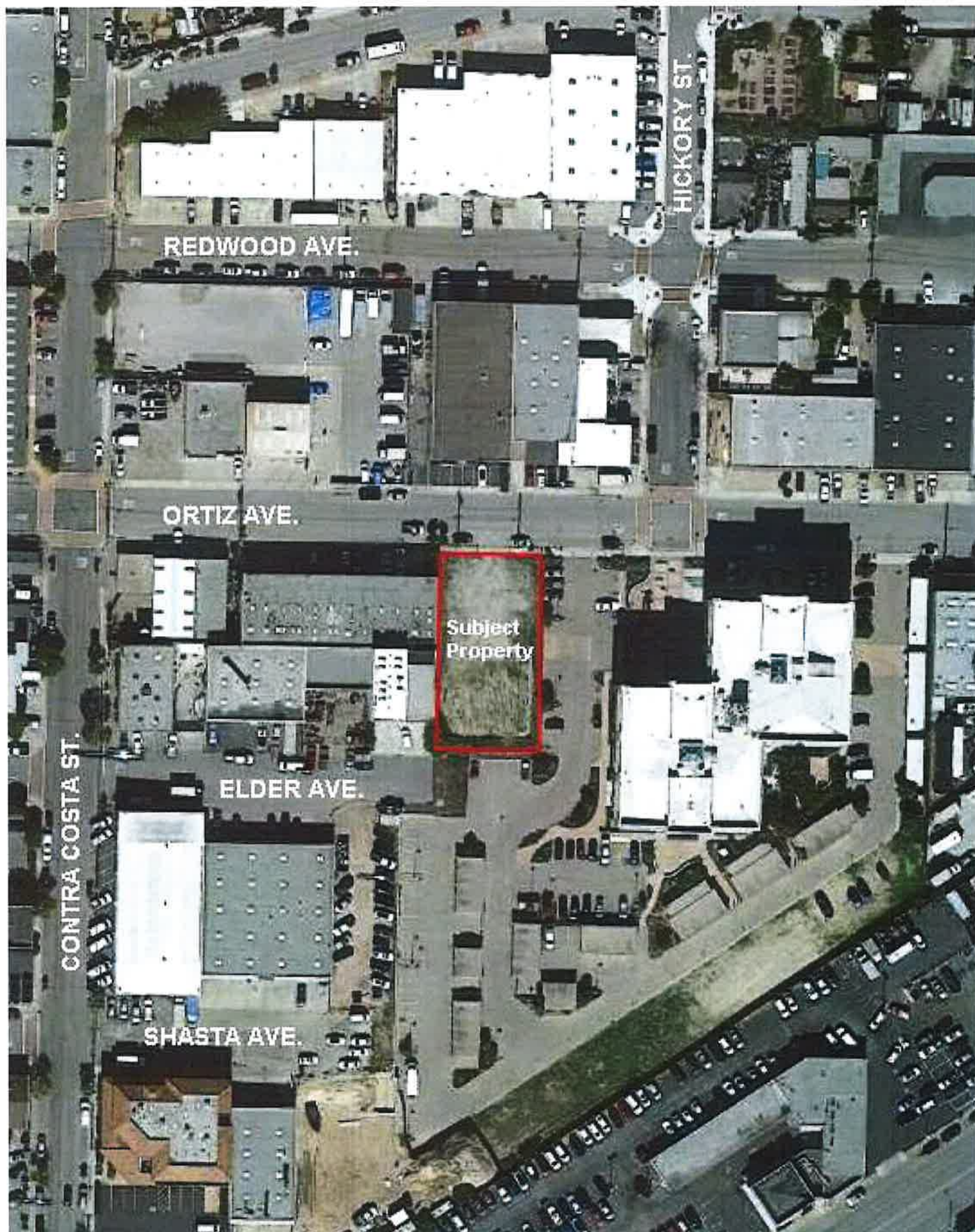
Attachments:

- Draft Resolution to approve a Conditional Use Permit



Location Map

EXHIBIT A



Aerial Map

EXHIBIT B



Site Photograph (via Google Earth)



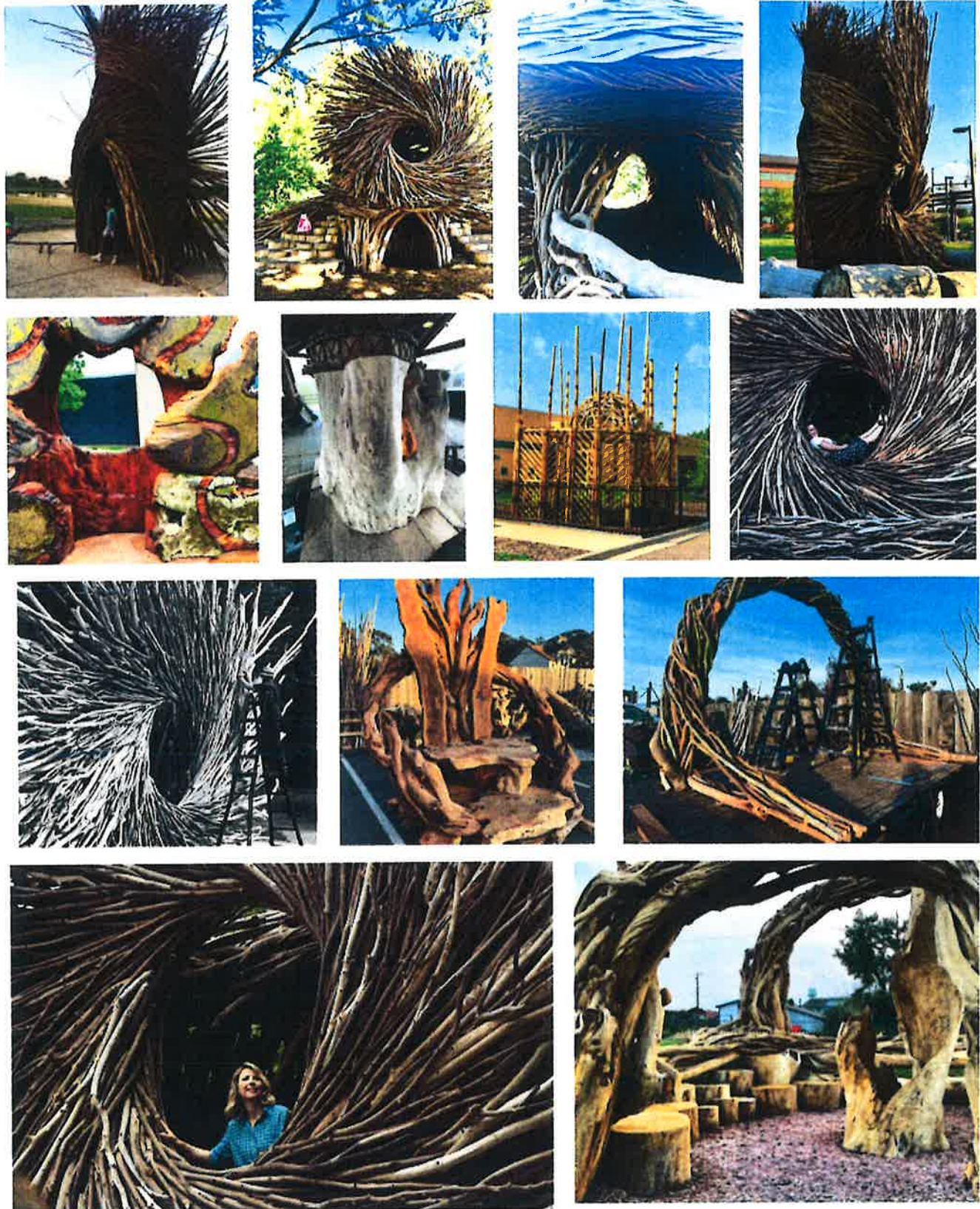
Outdoor bench seating storage
for tool storage



Site-Aerial Plan

EXHIBIT D

Examples of kind of work to be constructed and displayed at location



Samples of Applicant's Art

EXHIBIT E

JAYSON FANN

may16,2022

P.O. Box 2421
Monterey, Cal. 93920

✉ jaysonfann@gmail.com
🌐 www.spiritnestcreation.com
📞 831-238-1056

Prepared for Mr. Chuck Pooler
Chuck@SandCityCA.org
Sand City Planning Dept.

Below is a description of the work proposed on the lot next to the Independant market place

*Development of an exhibition of work of large-scale sculptures in the lot with public engagement opportunities including open studio and opportunities for community participation and learning through public workshops and classes.

* Featured exhibition at West End festival.

*Hands on opportunities for public learning independently and in collaboration with local community organizations and the Arts Council of Monterey County educational programming. visual and performing arts presentations, workshops presented by myself and collaborating artist.

*Development of musical sculptural work to be featured with The Monterey Symphony as part of my work as a soloist with internationally acclaimed composer John Wineglass. These works will be constructed at the Sand city location and will be on display leading up to the featured performance at the carmel forest theatre with Monterey symphony.

* Incorporating and Connecting the Sand City Community with The Nest Building and story telling project that is currently happening in 10 u.s. cities across the U.S. including Nebraska, Colorado, Kentucky, Minnesota to name a few. This project involves building public art story telling spaces that present world class international multicultural productions and educational programs.

Best Regards,

Jayson Fann

Jayson Fann
831-238-1056

Monterey County Health Department
1270 Natividad Road, Room B301
Salinas, CA 93906
(831) 755-4511
Fax (831) 755-8954

Jurisdiction Name Sand City
Use Permit # CUP 652
Or
Building Permit # /
Contact Name /
Phone # /

HAZARDOUS MATERIAL QUESTIONNAIRE

Business Name Jayson Fann Type of Business Arts & cultural
Site Location Parcel # 011-232-021,022,027 City Sand City APN: 011-232-021,022,027
Mailing Address po box 2421 monterey, Cal 93942
Business Contact Jayson Fann 831-238-1056
Property Owner Urban Atelier LLC 831-238-1056

1. Will your business/proposed project be using any hazardous materials such as oil, fuels, solvents, compressed gases, acids, corrosives, pesticides, fertilizers, paints or other chemicals?
☐ Yes ☒ No
2. Will your business/proposed project be using hazardous materials in quantities of 55 gallons and above for liquids, 500 lbs. and above for solids and/or 200 cubic feet and above for compressed gases?
☐ Yes ☒ No
3. Will your business/proposed project be using any quantities of acutely hazardous materials such as ammonia, chlorine, sulfuric acid, formaldehyde, hydrogen peroxide, methyl bromide or other restricted pesticides?
☐ Yes ☒ No
4. Will your business/proposed project be using underground storage tanks to store hazardous materials?
☐ Yes ☒ No
5. Will your business/proposed project be generating any quantities of hazardous waste such as waste oil, waste solvents, etc?
☐ Yes ☒ No
6. Will your business/proposed project be emitting any hazardous air emissions?
☐ Yes ☒ No

CERTIFICATION:

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct to the best of my knowledge and belief.

ANY QUESTIONS REGARDING THIS FORM CAN BE DIRECTED TO:
Monterey County Health Department
Division of Environmental Health
1270 Natividad Road, Room B301
Salinas, CA 93906
(831) 755-4511

Executed AT:

Monterey, Cal. 93920

City, State

Print Name of Owner/Operator: Jayson Fann

Signature of Owner/Operator: Jayson Fann

For Local Jurisdiction Use Only:

1. Is there a known or proposed school, hospital, day care, or long term care facility within 1,000 feet of this site location?
☐ Yes ☒ No
2. Is there a known or proposed school, hospital, day care, or long term care facility 1/4 mile of this site location?
☐ Yes ☒ No

Health Department Clearance

Signature: _____ Date: _____

Print Name and Title: _____

Air Pollution District Clearance

Signature: _____ Date: _____

Print Name and Title: _____

EXHIBIT G



**CITY OF MONTEREY
FIRE PREVENTION DIVISION
CONDITIONAL USE PERMIT REVIEW**

Date: June 6, 2022
Project Name/Description: Conditional Use Permit – Jayson Fann, Sculpture Artist
Street Address: 500 block of Ortiz Ave, Sand City, CA
APN #: 011-232-021, 022, 027
Reviewer: Carmyn Priewe, Deputy Fire Marshal

The Advisory Agency Notice was reviewed only for its conformance to the provisions of the 2019 California Fire Code (including local amendments and municipal codes), National Fire Protection Association (NFPA) standards, and Monterey Fire adopted Fire Prevention Standards. Any questions regarding the comments may be directed to the Monterey Fire Prevention Bureau at (831) 646-3908 or priewe@monterey.org.

The California Fire Code devotes an entire chapter (31) to Tents, Temporary Special Event Structures and Other Membrane Structures. Applicable codes are outlined below; more detailed code requirements can be applied when information regarding the specific type of tent to be used is available.

1. Tents larger than 400 q. ft. must obtain a permit and approval from the fire code official.
2. Temporary tents shall not be erected for a period of more than 180 days within a 12-month period.
3. For an occupant load of 50 or more, detailed site and floor plans for the tent shall be provided.
4. The entire tent shall be inspected at regular intervals.
5. Tents shall not be located within 20 feet of lot lines.
6. Documentation of structural stability shall be furnished to the fire code official.
7. There are exiting and egress size requirements that must be addressed based on the type of tent used. Exits must also be clearly marked/signed if occupant load is 50 or more.
8. Flame propagation performance treatment of the tent material must be provided and certified.
9. The fire code official shall establish an occupant load for the event site.
10. Portable fire extinguishers shall be provided and placed in approved locations.
11. Portable, unvented, gas-fire heating appliances (e.g. "mushroom" heaters) shall not be used under the tent structure.

Sincerely,

Carmyn Priewe
Deputy Fire Marshal

priewe@monterey.org

EXHIBIT H

CITY OF SAND CITY

RESOLUTION SC _____, 2022

**RESOLUTION OF THE CITY COUNCIL OF SAND CITY APPROVING
CONDITIONAL USE PERMIT 652 FOR JAYSON FANN TO CONDUCT
OPEN YARD ART CREATION**

WHEREAS, Jayson Fann of 'Artist is Residence' (the "Applicant") submitted a conditional use permit application to the City of Sand City (the "City") for approval to use the site as an artist work area to create large-scale art sculptures (the "Applicant's Use") within an approximate 11,250 square foot (75'x150') vacant fenced property fronting the 500 block of Ortiz Avenue (APNs 011-232-021, 022, 027) in Sand City (the "Subject Property") in Sand City; and

WHEREAS, the Subject Property is currently vacant with chain link fencing around the perimeter, previously used for commercial vehicle parking, and was acquired in a land swap arrangement to provide future parking of the adjacent Independent mixed-use building; and

WHEREAS, the Planned Mixed Use zoning of the Subject Property requires conditional use permit approval by the City Council for commercial/light manufacturing uses to ensure land use compatibility with residential uses in the area; and

WHEREAS, General Plan Policy 2.1.1 encourages the establishment of new land uses within the West End District (referred to as "Old Town" in the General Plan) that contribute to a diversity of activities that include artisans, ethnic markets, restaurants, entertainment, and incubator industries; and

WHEREAS, a venue that promotes and supports the arts, at a scope and scale appropriate for the location to which such activities would occur, is deemed consistent with General Plan Policy 2.1.1 and beneficial and necessary to enhance the artist community of the City; and

WHEREAS, noise, vibration, or other potentially negative impacts are not anticipated to be detrimentally excessive or beyond that of impacts of other daytime commercial activities occurring in the West End Planning District where such activities during daytime business hours are considered acceptable; and

WHEREAS, certain aspects of the Applicant's use may trigger applicable Building and Fire Codes requiring the Applicant's cooperation with the City's Building Official and Fire Department prior to and during the activities of the Applicant at the Subject Property; and

WHEREAS, the Applicant's Use qualifies for a Categorical Exemption under CEQA (California Environmental Quality Act) Guidelines, Section 15301 as it utilizes the site in its current open fenced yard condition and involves activities with potential impacts less than the previous commercial vehicle parking use of the Subject Property; and

WHEREAS, the City Council of the City of Sand City, on _____, 2022, has found and determined that the Applicant's Use, as identified by the Applicant and appropriately conditioned, will not adversely impact the character of the surrounding neighborhood, nor be injurious or detrimental to adjoining properties or the rights of the owners or tenants therein, and thus Conditional Use Permit 652 shall be granted upon the conditions hereinafter set forth; and

WHEREAS, the City Council of the City of Sand City accepts and adopts the findings for approving Conditional Use Permit 652 (hereinafter "CUP 652") as outlined in the City staff report, dated June 1, 2022.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sand City to hereby grant and issue CUP 652 upon the following terms and conditions:

1. Execution & Acceptance: CUP 652 is not valid, and the Applicant's Use of the Subject Property shall not commence unless and until two copies of this Resolution/Permit, signed by the permittee and the Subject Property's owner, acknowledging receipt of the Permit and acceptance of the terms and conditions, is returned to the City's Planning Department. Failure to return said signed/executed document may be grounds for City termination of CUP 652.
2. Purpose: CUP 652 is for the express purpose of authorizing, at the scope and scale described by the Applicant, an open yard work area for the creation of art related sculptures, exhibitions of art with public engagements of open studio and community participation/learning through public workshops and classes, and exhibition of work on the Subject Property during the City's annual West End Celebration festival. Public access to the site shall be at the discretion of the City's Building Official for compliance with applicable public safety codes. There shall be no expansion to the scope or intensity of the Applicant's Use at the Subject Property beyond that activity authorized by CUP 652 without either an amendment of said Permit or the issuance of a new land entitlement permit by the City.
3. Hours of Activity: Authorized hours of activity on the Subject Property are 7:00 a.m. to 6:00 p.m. Monday through Friday and 10:00 a.m. to 5:00 p.m. on weekends. All loading/unloading activities and shipments/delivery activities for the Applicant's Use at the Subject Property shall only occur during this Permit's daytime authorized hours of operation.
4. Parking: An area of sufficient size on the Subject Property shall be designated and used for the parking and storage of the Applicant's two (2) truck's and three (3) trailers and for two (2) employee vehicles for a total of seven (7) spaces. Such parking shall be aligned side-by-side perpendicular to the property line with markers to delineate that parking area/arrangement. The delineated final parking arrangement shall be subject to the City Planner's review and approval of a site plan provided by the Applicant.

5. Truck & Trailer Street Parking: In accordance with City Municipal Code Chapter 10.08, the Applicant's Use, or any participant thereof, shall not park or store trucks, trailers, or other large vehicles, as listed in Chapter 10.08, within any City street at any time unless actively involved with loading/unloading or otherwise has a valid City issued annual parking permit. Violation of this condition may result in the issuance of citations in accordance with City Municipal Code Chapter 10.08.
6. Loading/Unloading: All deliveries/shipments and/or loading/unloading of any item associated with the Applicant's Use at the Subject Property shall only occur during those hours specified for such activity by CUP 652. Large truck and/or trailer-truck shipments/deliveries to/from the Subject Property may park along the Subject Property's Ortiz Avenue frontage for loading/unloading purposes for a period no longer than one (1) hour while also maintaining one travel lane open on Ortiz Avenue during that time. Short term (approximately 5-minute) loading/unloading via private shipment companies (i.e. Federal Express, UPS, etc.) is exempt and allowed, provided such action does not impede traffic circulation of public streets.
7. Storage: All materials, parts, tools, equipment, packaging, pallets, and/or any other item(s) used and/or stored on the Subject Property shall be maintained within the confines of the existing fenced yard. Storage containers or other forms of visual screening methods (i.e., tarp, tent, enclosure, etc.) shall be effectively incorporated into the site where equipment and raw materials are stored on the Subject Property. Items stored in the yard shall not exceed the height of the fence, with exception of the Applicant's sculptures (in progress or completed).
8. Fence: The Subject Property's perimeter fence shall be maintained in good condition. The determination of "good condition" shall be subject to City interpretation. Said fence shall be maintained to be no higher than eight feet (8') in height. Barbed or razor wire for any of the site's perimeter fencing on the Subject Property is prohibited.
9. Signs: Signs on the Subject Property, identifying the Applicant's Use, shall be reviewed and approved by the Sand City Design Review Committee (DRC), in the issuance of a sign permit, prior to the establishment of any such sign on the Subject Property. The Applicant shall not place any free-standing sign anywhere within City limits without the City's Planning Department approval.
10. Property Maintenance: The Subject Property shall be maintained in a clean, orderly, weed-free, and litter-free condition. There shall be no storage of waste material or debris on-site, except as otherwise allowed by CUP 652. The Applicant and/or the Subject Property's owner shall be responsible for maintenance and upkeep of the Applicant's leased area for the duration of the allowed Use at the Subject Property.
11. General Waste: Trash, litter, boxes, crates, pallets, debris, or other used and/or discarded materials generated/used by the Applicant's Use on the Subject Property shall be stored in an appropriate waste collection bin or dumpster. Except on a

designated trash collection day, said bin(s) or dumpster(s) shall be maintained within the fenced yard, or within a City approved enclosure on the Subject Property. An enclosure may be established only after approval by the City's Planning Department. The Applicant shall implement recycling and organic material recycling as part of this operation's regular routine whenever feasible. The Applicant shall contact and work with the City's franchised waste hauler (Greenwaste Recovery) and incorporate most appropriate refuse service(s) of the City's hauler to accommodate the Applicant's operation.

12. Hazardous Waste: Any and all hazardous materials and/or waste used/generated by the Applicant's operation at the Subject Property shall be legally stored and disposed of in accordance with the regulations of Sand City, the County of Monterey, and the State of California. The Applicant shall concede to, and abide by, any direction of the City's Fire Department and/or City's Code Enforcement officer in the storage and/or handling of hazardous materials on the Subject Property. Any illegal storage, dumping, and/or disposal shall be adequate ground for termination of CUP 652.
13. Water Runoff: The Applicant and/or the Applicant's Use, and employees and patrons thereof, shall not create water run-off within the City in accordance with Chapter 13.05 of the Sand City Municipal Code regarding Storm Water Management. The Applicant is prohibited from washing dust, debris, or particulate into the street, storm drain, and/or sewer system. There shall be no washing of vehicles on the Subject Property or within any public right-of-way in Sand City.
14. Water: Issuance of CUP 652 does not grant the Applicant and/or the Subject Property's owner any right or privilege to any allocation of water from the City of Sand City or other entity. This operation shall be limited to those water credits currently available (if any) to the Subject Property in accordance with the regulations of the Monterey Peninsula Water Management District (MPWMD).
15. Local/Regional Compliance: All requirements of the City's contracted Building and Fire Departments, the City Engineer, the City's Building Official, the City Police Department, the Sand City Code Enforcement officer(s), the Seaside County Sanitation District, Monterey One Water, the Monterey Bay Air Resources District, and Monterey County Health Department, that are applicable to the Applicant's Use, shall be implemented to the satisfaction of each department/agency and inspector thereof. Failure of the Applicant to comply shall be sufficient grounds for City amendment or termination of CUP 652.
16. Building & Fire Codes: The Applicant shall coordinate and work with the City's Building Official and Fire Department to ensure that all applicable Building and Fire Codes for the Applicant's Use at the Subject Property are implemented prior to commencement of operation. The Applicant shall acquire all necessary building permits, at the determination of the Building Official, to address improvements (permanent or temporary) at the Subject Property. Variation of use and site layout shall be subject to final Building Official approval.

17. Fire Department: The Applicant's Use of the Subject Property, as authorized by CUP 652, must conform to all applicable requirements specified in the California Building and Fire Codes and the City's Municipal Code to the satisfaction of the City's Building Official, Fire Department inspector, and/or City Code Enforcement Officer. The Subject Property shall be available and open for Fire Department, City Building Official, and/or City code enforcement inspections during Permit specified hours of activity (see Condition No. 3). Failure to comply with Building Official, Fire Inspector, and/or code enforcement requirements may be sufficient grounds for City issuance of a 'Cease and Desist' order for closure of the Applicant's Use and/or City amendment or termination of CUP 652.
18. Air District: The Applicant shall be responsible for complying with applicable rules and regulations of the Monterey Bay Air Resources District. Failure to comply shall be sufficient grounds for City termination of CUP 652.
19. Nuisance: The Applicant's Use shall be conducted as to not constitute a nuisance to surrounding properties or the occupants thereof. The Applicant shall be considered responsible for the impacts created by the Applicant's Use and activities thereof. The Applicant shall implement all mitigation necessary to inhibit any noise, dust, vibration, particulate, odors, and/or other negative impact(s) that the Applicant's Use may or will generate from becoming a public nuisance. Any mitigation to abate negative impacts of the Applicant's Use, as directed by the City, shall be implemented by the Applicant to the City's satisfaction as to effectively mitigate such negative impacts. If the City Council finds at any time that any of the Applicant's activities/uses of the Applicant's Units and/or Subject Property constitutes a nuisance, or is otherwise detrimental to the neighborhood or the community, such activity/use shall be discontinued or modified as may be required by the City. Failure to effectively implement mitigation required by this Permit, or other direction/notification by the City deemed necessary to abate negative impacts generated by the Applicant's Use, may be adequate grounds for the City to amend or terminate CUP 652. Failure to comply with such City direction may result in the amendment or revocation of CUP 652.
20. Violation/Termination: If the City determines that any term or condition of CUP 652 has been violated, and/or use of the Applicant's Unit and/or Subject Property constitutes a nuisance or is otherwise detrimental to the neighborhood or the community, written notice shall be issued to the Applicant, that if such violation is not corrected or removed within a specified time, a public hearing may then be scheduled where the City Council may consider amending or revoking CUP 652 and may then order said Permit amended or revoked. The Applicant shall be notified of any such public hearing, and provided an opportunity to address the City Council prior to any action by the City Council to amend or terminate CUP 652.
21. Interpretation: Any question of intent or interpretation regarding any condition within CUP 652 shall be resolved by the City's Planning Department.
22. The issuance of CUP 652 shall not supersede or override any requirement of any

other City, County, State, or Federal agency.

23. Indemnification: To the extent permitted by law, the Applicant and Property Owner shall indemnify and hold harmless the City, its City Council, its officers, employees, consultants, and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties, the Applicant, and/or Property Owner in connection with this Permit, including but not limited to any such action to attack, set aside, or void, any permit or approval authorized hereby, including (without limitation) reimbursing the City for its actual attorney's fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its own choice.
24. Business License: The Applicant shall acquire, maintain, and annually renew a Sand City business license for the duration of the Applicant's Use within Sand City. Failure to maintain a current City business license may be sufficient grounds for termination of CUP 652.

PASSED AND ADOPTED by the City Council of Sand City this ____ day of July, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Connie Horca, City Clerk

Mary Ann Carbone, Mayor

This is to certify that the Conditional Use Permit (CUP) 652 contains the conditions specified by the City Council in approving said Permit.

Charles Pooler, City Planner

APPLICANT ACCEPTANCE (CUP 652)

The Conditional Use Permit is hereby accepted upon the express terms and conditions hereof, and the undersigned agrees to strictly conform to and comply with each and all of the said terms and conditions therein.

DATED: _____

BY: _____

Applicant

Signatures continued on following page...

Signatures continued from previous page.

CONSENT OF OWNER (CUP 652)

Consent is hereby granted to the permittee to carry out the terms and conditions of the Conditional Use Permit.

DATED: _____

BY: _____
Property Owner

**AGENDA ITEM
8C.**

**SECOND READING: of Ordinance of the
City of Sand City Replacing the Existing
General Purpose Transactions and Use Tax
at a Rate of One Percent and Imposing a
General Purpose Transactions and Use Tax
at a Rate of One and One-Half Percent, to
be Administered by the California
Department of Tax and Fee
Administration, subject to Adoption by
the Electorate**



City of Sand City

Agenda
Item

8C

Staff Report

TO: Honorable Mayor and City Council Members
FROM: Vibeke Norgaard, City Manager
DATE: June 28, 2022 (For July 5, 2022 City Council meeting)
SUBJECT: Transactions and Use Tax Measure

Discussion/Background:

On June 21, 2022, the Council introduced and conducted a first reading of the attached Transactions and Use Tax Ordinance ("Ordinance") which would raise the transaction and use tax in Sand City by one half of one percent to 1.5%. Currently, the transaction and use tax in Sand City is 1.0%.

Transaction and use taxes are "sales taxes" in common parlance but have a slightly different tax base. Under state law, cities may impose transaction and use taxes at a rate of 0.125%, or a multiple of that amount, of retailers' gross receipts from the sale of tangible personal property. (Rev. & Tax Code sections 7285.9, 7285.92). The combined rate of sales and transaction and use taxes at the local/county level may not exceed 2%. (Rev. & Tax Code section 7251.1).

The current sales tax rate in Sand City is 8.75% which includes the Statewide rate of 7.25%, Sand City's existing transaction and use tax (Measure J) rate of 1.00%, the Transportation Agency for Monterey County rate of 0.375%, and Monterey-Salinas Transit rate of 0.125%. The proposed tax increase of 0.50% would bring the City to a 9.25% tax rate. Unlike the regular sales tax, 100% of the transaction and use tax goes directly to the City. Sand City's transaction & use tax is currently .5% lower than that of most other cities on the Monterey peninsula, which all are currently most all at the 9.25% tax rate.

If passed, the tax is projected by HDL to add an additional \$1.4 million to the City's general fund. That infusion of funds would be particularly helpful in light of the loss of an \$850,000 lease payment from California American Water Company (Cal Am) starting next fiscal year (FY22-23). In addition, the City may use revenues from the proposed tax to improve streets and sidewalks in the City; improve trails and beach access; develop affordable housing; public safety and emergency preparation; and provide other needed community services.

All revenue received from the Transaction and Use tax will stay in the City and not be shared with the State. It should also be noted that most of the added revenue would not

come from Sand City residents, but from residents from the surrounding areas who shop in the City's regional shopping centers.

An additional discussion has been scheduled at the July 5th City Council meeting to discuss informing residents and answering questions about the measure. The public will be responsible for any advocacy in favor of or opposition to the measure. City funds, facilities, staff time and resources may not be allocated for this purpose, and staff may not be assigned to this responsibility.

Procedure:

The ordinance proposing the tax must be approved by a two-thirds vote of all members of the City Council and approved by a majority vote of the qualified voters voting on the issue at the November election.

CEQA:

This General Purpose Transactions and Use Tax is a general tax that can be used for any legitimate governmental purpose, the revenues from which are not committed to any particular action. As such, under CEQA Guidelines 153789(b)(4) and 15060(c)(2) & (3) the tax is not a project within the meaning of CEQA because it creates a governmental funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. (Public Resources Code Sections 21000 et seq, "CEQA", and 14 Cal. Code Reg. Sections 15000 et seq, "CEQA Guidelines"). If revenue from the tax were used for a purpose that would have such effect, the City would undertake the required CEQA review for that particular project. Therefore, under CEQA Guidelines 15060, review of this ordinance under CEQA is not required.

Fiscal Impact:

It is anticipated that if the measure passes, it will produce approximately \$1,400,000 additional revenue to the City's general fund annually. However, in FY 22-23, Sand City would receive only about three months of the revenue after the implementation of the ballot measure, or approximately \$350,000.

Recommendation:

It is recommended that the City Council Conduct a public hearing, consider and adopt the General Purpose Transactions and Use Tax Ordinance.

Exhibits:

Exhibit A: Transaction and Use Tax Ordinance

CITY OF SAND CITY

ORDINANCE NO. 22 -, 2022

AN ORDINANCE OF THE CITY OF SAND CITY REPLACING THE EXISTING GENERAL PURPOSE TRANSACTIONS AND USE TAX AT A RATE OF ONE PERCENT AND IMPOSING A GENERAL PURPOSE TRANSACTIONS AND USE TAX AT A RATE OF ONE AND ONE-HALF PERCENT, TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, SUBJECT TO ADOPTION BY THE ELECTORATE

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAND CITY:

SECTION 1. FINDINGS.

A. On November 2, 2004, the voters of the City of Sand City adopted a General Purpose Transactions and Use Tax with a rate of one-half of one percent.

B. On November 4, 2014, the voters of the City of Sand City adopted a General Purpose Transactions and Use Tax with a rate of one percent.

C. Additional revenue to the City of Sand City's general fund would provide much needed revenues to improve the City's streets and sidewalks and fund its additional capital needs including parks, trees, trails, and beach access; public safety and emergency preparation; and invest in community facilities; and provide general City services.

D. All funds from a local transactions and use tax must stay in the City of Sand City and cannot be taken by the State.

E. This General Purpose Transactions and Use Tax is a general tax and must be approved by at least a simple majority of affirmative votes of the qualified voters of Sand City at an election to be held on November 8, 2022 to become effective.

SECTION 2. AMENDMENT OF SAND CITY MUNICIPAL CODE. Chapter 3.36 "General Purpose Transactions and Use Tax" of the Sand City Municipal Code is hereby amended to read in its entirety as follows:

"Section 3.36.010 Title. This ordinance shall be known as the City of Sand City General Purpose Transactions and Use Tax Ordinance. The City of Sand City hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

Section 3.36.020 Operative Date. "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

Section 3.36.030 Purpose. This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

Section 3.36.040 Contract with State. Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 3.36.050 Transactions Tax Rate. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 1.5% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

Section 3.36.060 Place of Sale. For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall

include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

Section 3.36.070 Use Tax Rate. An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 1.5% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 3.36.080 Adoption of Provisions of State Law. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

Section 3.36.090 Limitations on Adoption of State Law and Collection of Use Taxes. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

1. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

Section 3.36.100 Permit not Required. If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

Section 3.36.110 Exemptions and Exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code,

aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Section 3.36.120 Amendments. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Section 3.36.130 Enjoining Collection Prohibited. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Section 3.36.140 Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 3.36.150 Effective Date. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately if the tax is imposed by a simple majority of the voters voting on the question at the November 8, 2022 election.

Section 3.36.160 Annual Audit, Committee. Annually the City Council retains an independent auditor to conduct an audit of and provide audited financial statements for all of the City's financial activities. The auditor shall include an accounting of the revenue received from the tax in the audited financial statements. The auditor's report shall be presented to the Council and made available to the public.

SECTION 3. REPEAL OF EXISTING GENERAL PURPOSE TRANSACTIONS AND USE TAX. The existing one percent General Purpose Transaction and Use Tax will not be repealed by this ordinance unless this Ordinance is approved by a simple majority of the affirmative votes of the qualified voters of Sand City at the election to be held on November 8, 2022. If this ordinance is approved by a simple majority of the affirmative votes of the qualified voters of Sand City at the election to be held November 8, 2022, the existing one percent General Purpose Transaction and Use Tax will be repealed effective on the Operative Date set forth in SECTION 2 (Section 3.36.020) of this Ordinance.

SECTION 4. CEQA DETERMINATION. This General Purpose Transactions and Use Tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose, the revenues from which are not committed to any particular action. As such, under CEQA Guidelines 15378(b)(4) and 15060(c)(2) & (3) the tax is not a project within the meaning of CEQA because it creates a governmental funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. (Public Resources Code Sections 21000 et seq, "CEQA", and 14 Cal. Code Reg. Sections 15000 et seq, "CEQA Guidelines"). If revenue from the tax were used for a purpose that would have such effect, the City would undertake the required CEQA review for that particular project. Therefore, under CEQA Guidelines 15060, review of this ordinance under CEQA is not required.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sand City held on this ____day of____, 2022 by the following vote:

AYES: Council Members
NOES:
ABSENT:
ABSTAIN:

APPROVED:

Mary Ann Carbone, Mayor

ATTEST:

Connie Horca, City Clerk

APPROVED by the following vote of the people on November 8, 2022:

Yes: ____ No: ____

Connie Horca, City Clerk

5115280.3

**AGENDA ITEM
8D.**

**SECOND READING: of Ordinance to
Establish Standards, Procedures and Fees
for Short-Term Rental of Property in Sand
City (Short-Term Rental Ordinance)**



City of Sand City

Agenda
Item

8D

Staff Report

TO: Honorable Mayor and City Council Members
FROM: Vibeke Norgaard, City Manager; Adam Lindgren, City Attorney
DATE: June 30, 2022 (Meeting date: July 5, 2022)
SUBJECT: Short-Term Rentals Ordinance

Background:

At its May 9, 2022 council meeting, the City Council considered and conducted a first reading of a Short-term Rental ordinance in order to adopt a permit process to regulate Short Term Rentals operating in the City ("Ordinance"). The Ordinance is attached to this Staff Report as **EXHIBIT A**. On July 7, 2022, the Ordinance is before the Council to consider for adoption.

The Ordinance:

The Ordinance regulates short term rentals of privately owned residential dwellings rented for occupancy for thirty consecutive days or less ("STRs"). Short-term rentals include hosted and un-hosted rentals.

The provisions of the Ordinance include the following:

- That the STR not adversely affect the residential character of the neighborhood (e.g., by generating noise, odors, illegal parking).
- That the STR not be occupied by more than two occupants per bedroom plus a total of two additional Occupants.
- It prohibits group gatherings in excess of the occupancy limit of the dwelling.
- It prohibits signs on the exterior of the property advertising the Short-Term Rental use.
- Requires the STR is in a property approved for residential use (no trailers, yurts etc.), that bathroom facilities be accessible to the occupants and that sufficient parking be provided (one space for every two occupants over 16).
- Provides that no STR may occur in an affordable housing unit and/or workforce housing unit.
- Requires that a Short-Term Rental Site Manager be appointed and on

- call 24/7 when rented out to address concerns.
- Requires that transient Occupancy tax (TOT) be collected by the host and remitted to City.
- Requires that the Host indemnify and hold the City harmless.
- Established that STR permits will be in the name of the Owner of the real property and will be non-transferable.
- Establishes that the City will inspect all STR properties before issuing a permit.
- Establishes that the Council will set a cap on number of STRs in the City by resolution.
- Establishes a Short-Term Rental Permit Waitlist; applications received will be placed in order received.
- Establishes a priority on the waitlist for STRs operating within one year prior to March 1, 2022 – such STRs have sixty days from the effective date of the Ordinance to submit an application and will be required to pay 6 months of TOT.
- Permits expire one year after issuance and must be renewed annually before expiration.
- Allows for revocation under certain circumstances, including violations of the City Municipal Code; charges for criminal activity filed by the Monterey County District Attorney against an occupant; or the failure to timely respond to two complaints.
- Establishes procedures for a hearing when a person is denied a Short-Term Rental Permit, or has had a permit revoked (section 5.20.100).
- Allows the City Council to establish fees and charges to effectuate the purpose of the Ordinance.

CEQA:

The action to consider the Ordinance Amending the Sand City Municipal Code to Add Chapter 5.20 – Short-Term Rentals - is exempt from the California Environmental Quality Act (“CEQA”) under the general rule under Guidelines Section 15061(b)(3) because CEQA only applies to projects that have the potential for causing a significant effect on the environment and the Ordinance does not involve a commitment to any specific project that may cause a potentially significant physical effect on the environment.

Fiscal Impact:

No negative fiscal impact is expected, other than the time necessary for staff to prepare this report, and the administrative costs associated with processing of Short-Term Rental Permit applications, and performing inspections. The application and inspection fees, as well as permit renewal fees are intended to offset these costs. The collection of transient occupancy tax (TOT) will provide a positive fiscal impact in an amount that is difficult to determine at this stage as it depends on the number of short-term rental permits that are issued and the number of nights the rentals are rented out and at what price.

Recommendation:

Staff recommends Council adopt the Ordinance attached to this staff report as Exhibit A

Exhibits/Attachment:

A: Ordinance

CHAPTER 5.20
TO ESTABLISH STANDARDS, PROCEDURES, AND FEES FOR SHORT TERM
RENTALS OF PROPERTIES IN SAND CITY

Sections:

- 5.20.010 Purpose and Intents**
- 5.20.020 Prohibition of Transient Use**
- 5.20.030 Definitions**
- 5.20.040 Short-Term Rental Regulations**
- 5.20.050 Short-Term Rental Permit Application Requirements**
- 5.20.060 Short-Term Rental Permit Selection Process**
- 5.20.070 Expiration and Renewal of Short-Term Rental Permits**
- 5.20.080 Revocation of Short-Term Rental Permit**
- 5.20.090 Enforcement**
- 5.20.100 Hearing and Appeal of Denial or Revocation**
- 5.20.110 No Property Rights Conferred**
- 5.20.120 Fees**
- 5.20.130 Administration**
- 5.20.140 Severability**

5.20.010 Purpose and Intent

This Chapter authorizes short-term rental use of a dwelling unit for remuneration for less than thirty (30) consecutive days and establishes short-term rental permit requirements and limitations. This Chapter also sets regulations to enforce these requirements and limitations and collection and payment of fees and transient occupancy tax (“TOT”). For purposes of this Chapter, a short-term rental is intended to meet the definition of “Hotel” found in Section 3.24.020 of the Sand City Municipal Code.

5.20.020 Prohibition of Transient Use

The transient use or short-term rental of residential property by any owner, representative, responsible tenant, person acting as an agent, real estate broker, real estate sales agent, property manager, reservation service, or anyone who otherwise uses, arranges, or negotiates for the use of residential property for remuneration is prohibited, except as otherwise expressly permitted by this Chapter, and for which a short-term license is issued under this Chapter. The short-term rental of residential property without a license is a violation of this Chapter and enforced under Chapter 1.18 of the Sand City Municipal Code.

5.20.030 Definitions

“Advertising” means signs, circulars, cards, telephone books, newspapers, magazines, posters, email, mobile applications, television, radio, internet websites, social media, or any other representation implying or stating that a property is available for short-term rental use.

“Affordable Housing unit” means any property qualifying for affordable housing cost under Health & Safety Code § 50052.5.

“City Manager” means the City Manager of the City of Sand City or his or her designee.

“Host” means an owner or entity that rents out a Hosted rental to third parties for short-term rental use.

“Hosted rental” means a home-sharing activity whereby a portion of a primary residence is rented.

“Hosting platform” means a marketplace in whatever form or format that facilitates the short-term rental activity through advertising, match-making, or any other means, using any medium of facilitation, and from which the operator of the hosting platform derives revenues, including booking fees or advertising revenues, from providing or maintaining the marketplace.

“Occupant” means any person who is on or in a short-term rental property other than service providers or the Owner, whether or not the person stays overnight.

“Owner” means the person(s) or entity(ies) that hold legal or equitable title to a dwelling.

“Short-term rental” or “STR” means a privately owned residential dwelling, such as but not limited to a single-family detached or multiple family attached dwelling, apartment house, condominium, cooperative apartment, duplex, mobile home on permanent foundation, or a manufactured home on permanent foundation, or any portion of such dwellings, rented for occupancy for dwelling, lodging or sleeping purposes for any period of thirty (30) consecutive days or less. Short-term rentals include Hosted and Un-hosted rentals.

“Short-term rental use” or “short-term occupancy” means the use, by any person, of residential property for transient lodging where the term of occupancy, possession, or tenancy of the property by the person entitled to such occupancy, possession, or tenancy is less than thirty (30) consecutive calendar days.

“Short-term Rental Permit” or “STR Permit” shall authorize the short-term rental use of an entire dwelling unit.

“Short-term Rental Permit Cap” or “Cap” means the maximum number of Short-Term Rental Permits allowed to be issued under this Chapter.

“Short-Term Rental Permit Waitlist” or “Waitlist” means the list on which applications will be placed by the Planning Department when the number of permits issued by the City exceeds the Cap, and which will be used when permits for issuance become available.

“Short-term rental site manager” or “Site Manager” means the representative of the person or entity that owns a Short-term rental.

“Un-hosted rental” means a home-sharing activity whereby the Host remains off-site during the Occupant’s stay.

5.20.040 Short-Term Rental Regulations

- A. Short-Term Rentals shall not adversely affect the residential character of the neighborhood, nor shall the use generate noise, vibration, glare, odors, excessive foot traffic, excessive or illegal parking, or other effects that unreasonably interfere with any person’s reasonable enjoyment of his or her residence.
- B. It shall be unlawful for any person to advertise, undertake, maintain, authorize, book, or facilitate any renting to a transient Occupant on a Hosting Platform or otherwise, without first procuring and remaining in compliance with all conditions of a valid STR permit and any other requirement of this Chapter.
- C. No person shall advertise or rent any STR without a City issued STR Permit number depicted in a visible location on the advertisement, including any listing on a Hosting Platform. No advertising of the STR is permitted on site.
- D. STRs shall not be occupied by more than two (2) Occupants per bedroom plus a total of two (2) additional Occupants at one time. Except as otherwise prohibited by law, the maximum occupancy set forth in this section may be reduced in order to provide sufficient paved parking for Occupants. Sufficient paved parking means that there shall be one (1) paved parking space available at the property for every two (2) occupants sixteen (16) years of age or older.
- E. All STRs shall have bathroom facilities accessible to Occupants.
- F. Events, parties, or group gatherings in excess of the occupancy limit set in Section 5.20.040 D of the Sand City Municipal Code, including but not limited to weddings, banquets, and corporate events, are prohibited as part of any Short-Term Rental use.
- G. No signs shall be posted on the exterior of the dwelling or on the property advertising the Short-Term Rental use.
- H. No person shall offer or engage in a Short-Term Rental in any part of the property not approved for residential use, including but not limited to a vehicle parked on the property, a storage shed, shipping container, trailer, mobile home, garage, or temporary structure such as a tent or yurt.
- I. Affordable housing units and/or workforce housing units shall not be eligible for a STR Permit.
- J. Each Host must either act as or appoint a Short-Term Rental Site Manager who shall be on call 24/7, including holidays, when an occupant is renting the Short-Term Rental unit, to manage the Short-Term Rental unit and who shall respond to reported issues, contact the tenants

regarding complaints received, and/or be physically present at the Short-Term Rental unit to address reported concerns.

K. Each Host or STR Site Manager shall respond within thirty (30) minutes from the time of notification of any issue to address concerns or complaints pertaining to, but not limited to: unreasonable use of the STR property, unreasonable noise or disturbance, disorderly or unlawful conduct, overcrowding of the STR unit, or any other requirement or limit in this Chapter or in the City's administrative policies and procedures.

L. Each Host or STR Site Manager must inform at least (1) responsible Short-Term Rental occupant regarding occupancy, parking, noise, trash collection schedules, and any other requirements or limits in this Chapter or in the City's administrative policies and procedures.

M. Each Host shall post a City-issued placard in a location visible at the front entrance. The placard shall prominently display the Site Manager's contact information, the STR Permit number, and occupancy limits. It shall be the responsibility of the Host to immediately notify the City and obtain an updated placard whenever there is a change in contact information or a change in any material fact upon which the STR Permit was issued.

N. Each Host shall maintain a valid STR Permit at all times and shall agree to collect and remit TOT (as described by Chapter 3.24 of the Sand City Municipal Code) on all gross receipts from Short-Term Rental use of the property.

O. Each Host shall sign an indemnification and hold harmless agreement in a form approved by the City Attorney, agreeing to indemnify, save, protect, hold harmless, and defend the City of Sand City, the City Council of City of Sand City, individually and collectively, and the City of Sand City representatives, officers, officials, employees, agents, and volunteers from any claims, demands, damages, fines, obligations, suits, judgments, penalties, causes of action, losses, liabilities, or costs received, incurred, or accrued as a result of, or arising out of the Host's or Site Manager's actions or inaction in the operation, occupancy, use, and/or maintenance of the STR.

P. Transient Occupancy Tax (TOT) shall be assessed for Short-Term Rentals under Chapter 3.24 of the Sand City Municipal Code.

5.20.050 Short-Term Rental Permit Application Requirements

To obtain a STR Permit, the STR Owner shall apply on forms provided by the City. Short-Term Rental Permit applications shall comply with all the terms, conditions, and requirements of this Chapter, including:

A. A STR permit application shall be in the name of the Owner of the real property proposed to be rented under this Chapter.

B. A STR shall be non-transferable, shall not run with the land, and shall be valid only at the site described in the application.

C. Each STR Permit application shall be signed by the Owner and include the following information:

1. Address of the Short-Term Rental unit.
2. Name, address, phone, and email contact information of the Owner of the Short-Term Rental unit.
3. Name and phone number of the Site Manager whose contact information is to be placed on a placard to be posted within the Short-Term Rental under Section 5.20.040 M of this Chapter.
4. A floor plan and site plan which shows the proposed use of each room in each building and structure.
5. Maximum occupancy of the Short-Term Rental Unit.
6. Number of paved parking spaces on the property.
7. A declaration that any applicable covenants, conditions, and restrictions are consistent with and would not prohibit issuance of a Short-Term Rental Permit for the proposed property.
8. Proof that the City has verified smoke and carbon monoxide alarms are installed and fire extinguishers and inaccessible locations.

D. Every application for a STR Permit shall be accompanied by the STR Permit Application Fee and Inspection Fee in the amounts established by resolution of the City Council.

E. The Director of the Planning Department, or his or her designee, shall inspect all properties in all STR Permit applications, including renewal applications before issuing a permit. STR Permit applicants may have to make improvements or changes to the proposed STR property to ensure that the proposed STR property conforms with all plan area statements and building code standards that were in effect at the time of construction of the STR property and that no health and safety violations are present at the STR property.

F. The City Manager may deny an application for a STR Permit for any of the following reasons:

1. The application is incomplete or the full application fee has not been paid;
2. The application contains a false or misleading statement or omission of material fact;

3. The dwelling is subject to an enforcement action under any provision of the Sand City Municipal Code;
4. The applicant is delinquent on any payment to the City of any fees, penalties, taxes, or any other monies related to the property;
5. Within twenty-four (24) months of application, the applicant had a Short-Term Rental Permit revoked at the property subject to the application or any other property in the City;
6. The operation of a Short-Term Rental at the dwelling is a threat to the public health, safety, or welfare;
7. The number of Short-Term Rental Permits issued by the City has reached the Cap; and/or
8. Inspection of the Short-Term Rental property has shown that the proposed Short-Term Rental property does not conform with all plan area statements and building code standards that were in effect at time of construction of the Short-Term Rental property or that health and safety violations are present at the Short-Term Rental property that threaten the wellbeing of Occupants, neighbors or the community.

5.20.060 Short-Term Rental Permit Selection Process

- A. The Cap shall be set and amended by resolution of the City Council.
- B. All persons or entities interested in operating a STR may pay the application fee and apply for a STR Permit.
- C. The filing date of the Short-Term Rental Permit application shall be the date when the Director of Planning officially received the last submission of information, payment, or materials required by subsections C and D of Section 5.20.050 of the Sand City Municipal Code. If the Director of the Planning Department, or his or her designee, determines an application submittal is incomplete, a Short-Term Rental Permit applicant shall be notified of such incompleteness within thirty (30) calendar days of receipt of the Short-Term Rental Permit application by the Planning Department. If the Director of the Planning Department does not receive a complete application within an additional thirty (30) days after notification, the application shall be deemed abandoned and shall not be reviewed, and the applicant will not be placed on the Short-Term Rental Permit Waitlist.
- D. All Short-Term Rental Permit applications, which have been deemed complete by the Director of the Planning Department, shall be placed on the Short-Term Rental Waitlist in the order of the application's filing date. Short-Term Rental Permit applications shall only be

reviewed by the Development Services Director in the order of ranking as established by the Short-Term Rental Waitlist.

E. Upon the effective date of the Ordinance codified in this Section, any person or entity operating a Short-Term Rental within one year of and before March 1, 2022, shall have sixty (60) days from the effective date of the Ordinance to submit a Short-Term Rental Permit application in conformance with Section 5.20.050 of the Sand City Municipal Code to establish priority on the Short-Term Rental Waitlist. Short-Term Rental Permit applications submitted within sixty (60) days of the effective date of the Ordinance shall be deemed incomplete unless accompanied by all TOT required to be remitted to the City by the applicant from the six (6) months prior to the date the application is received by the City. For sixty (60) days from the effective date of the Ordinance, only Short-Term Rental Permit applications from persons or entities operating a Short-Term Rental within one year of and before March 1, 2022, will be accepted. Upon the expiration of this sixty (60) day period, all other persons or entities may submit a Short-Term Rental Permit application.

F. The Director of the Planning Department shall review Short-Term Rental Permit applications and inspect Short-Term Rental properties in the order received until all applications on the Short-Term Rental Permit Waitlist have been reviewed or until the City determines the Cap has been reached.

5.20.070 Expiration and Renewal of Short-Term Rental Permits

A. A STR Permit shall expire one (1) year from issuance.

B. STR Permits must be renewed annually before expiration by filing a renewal application accompanied by the renewal fee (as established by resolution of the City Council) and the Inspection fee with the Director of the Planning Department.

C. If a timely renewal application is filed, the STR Permit shall not expire until the date that the Director of the Planning Department approves or denies the renewal application. If a timely renewal application is not filed, the STR Permit shall expire and shall be considered null and void.

D. A STR may not be renewed if the STR Host does not meet the renewal requirements, including:

1. The timely filing of a renewal application;
2. payment of the renewal fee;
3. payment of the inspection fee;

4. payment of the business license tax as described more fully in Chapter 5.04 of the Sand City Municipal Code.
5. the Host is deemed to have substantially conformed with this Chapter for the preceding year;
6. the Host documents and provides any changes that have occurred to the information in the current STR Permit or application; and
7. completion of a rental inspection as described in this Chapter; and
8. remittance of TOTs due from the STR use of the property.

5.20.080 Revocation of Short-Term Rental Permit

A. A STR Permit issued under the terms of this Chapter may be revoked by the Director of the Planning Department at any time if he or she concludes any of the following:

1. The Host or property owner is not current on TOTs and has not paid all said taxes to the City in full by the date upon which said taxes became due.
2. There have been two (2) or more upheld citations for violations of the City Municipal Code which citations were issued during two (2) separate events and/or calls for service for violations of the City Municipal Code at the Short-Term Rental Unit, on two (2) different dates within any twenty-four (24) month period. For purposes of this Section, upheld citations means citations, which were neither overturned on appeal nor dismissed.
3. Any event occurs at a Short-Term Rental property in which charges for criminal activity are filed by the Monterey County District Attorney against an Occupant of the Short-Term Rental property.
4. The Host submitted a Short-Term Rental Permit Application containing a material misrepresentation or omission of a material fact.
5. There has been a transfer or attempt to transfer a STR Permit to another person, entity, or property.
6. A change occurs in any material fact upon which the STR Permit was issued where the change was not reported to the City within fourteen (14) days.
7. The Host failed to timely respond to two (2) complaints pertaining to any of the following: unreasonable use of the Short-Term Rental property, unreasonable noise or disturbance, disorderly or unlawful conduct, overcrowding of the Short-Term Rental unit, or any other requirement or limit in this Chapter.

8. The Host fails to post and maintain a City-issued placard in a location visible at the front entrance displaying the Short-Term Rental Host's contact information, the Short-Term Rental Permit number, and occupancy limits or advertises the Short-Term Rental without identifying the STR Permit number.

5.20.090 Enforcement

- A. Any use or condition caused or permitted to exist in violation of this article shall be and is declared a public nuisance and may be summarily abated by the City under Code of Civil Procedure Section 731, Sand City Municipal Code Section 1.16.010, or any other remedy available to the City.
- B. Any use or condition caused or permitted to exist in violation of any provision of this Chapter shall be charged as a misdemeanor pursuant to Section 1.16.020 of the Sand City Municipal Code.
- C. Where a Short-Term Rental Host or Site Manager of the Short-Term Rental alone reports a violation of any provision of this Article, which violation was caused or permitted to exist by the Short-Term Rental occupants, the City shall not issue a citation to said Short-Term Rental Host or Site Manager and shall only issue a citation, where warranted, to the occupants.
- D. Owners or their agents found operating a Short-Term Rental without a permit after October 31, 2022 shall be fined according to a schedule established by resolution of the City Council.

5.20.100 Hearing and Appeal of Denial or Revocation

- A. Any person denied a Short-Term Rental Permit, or any person whose Short-Term Rental Permit has been revoked may request a hearing from the City Attorney. The request for a hearing must be in writing and must be made within ten (10) calendar days from the decision denying or revoking the Short-Term Rental Permit. Upon receiving a written request for a hearing, the City Attorney or his/her delegate shall set the matter for a hearing within twenty-one (21) days thereafter and shall set forth in writing and send to the applicant or permittee by registered mail, certified mail, or hand delivery, notice of the date, time, and place of the hearing at least five (5) days before the hearing date. The hearing shall be conducted to determine the existence of any facts which constitute grounds for the denial or revocation of a Short-Term Rental Permit. The hearing shall be conducted by a hearing officer, appointed by the City Attorney. The applicant or permittee may have the assistance of counsel or may appear by counsel and may present evidence. If the applicant or permittee fails to appear at the hearing, the evidence or the existence of facts which constitute grounds for denial or revocation of the license or permit shall be considered un rebutted. A copy of the decision of the Hearing Officer specifying findings of fact and the reasons for the decision shall be furnished to the applicant or licensee. The Hearing Officer shall inform the Party against whom the decision is rendered of his or her right of appeal under Section 5.20.100.C of the Sand City Municipal Code.

B. The effect of a decision by the Hearing Officer shall be stayed while an appeal to the City Council is pending or until the time for filing such appeal has expired. If an appeal is not timely filed, the decision of the Hearing Officer shall be final.

C. Within ten (10) days after receipt of the decision of the Hearing Officer, any Party affected by the decision may file with the City Clerk a written request for a public hearing before the City Council. Upon filing such a request, the City Clerk shall within twenty-one (21) days thereafter set the matter for a hearing and shall notify the applicant of the date, time, and place of such hearing at least five (5) days before the hearing date. At the hearing, any person may present evidence opposing, or in support of, appellant's case. At the conclusion of the hearing, the City Council shall either grant or deny the appeal. The decision of the City Council shall be final.

5.20.110 No Property Rights Conferred

Short-Term Rental Permits shall not be construed as providing property rights or vested interests and entitlements in continued operation of a Short-Term Rental. Short-Term Rental Permits are revocable licenses, which expire annually.

5.20.120 Fees

The City Council may establish and set by resolution all fees and charges as may be necessary to effectuate the purpose of this Chapter.

5.20.130 Administration

The City Manager, or designee, shall have the authority to establish administrative rules and regulations consistent with this Chapter for interpreting, clarifying, carrying out, furthering, and enforcing the requirements and provisions of this Chapter.

5.20.140 Severability

If any provision or clause of this Chapter or the application thereof to any person or circumstances is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other section provisions or clauses or applications, and to this end, the provisions, sections, and clauses of this ordinance are declared to be severable.

5105734.2

**AGENDA ITEM
9A.**

**Consideration of City RESOLUTION
Establishing a Short-Term Rental Permit
CAP and Adopting a Short-Term Rental
Permit Application Fee and Inspection Fee
and a Short-Term Rental Renewal Fee**



City of Sand City

Agenda
Item

9A

Staff Report

TO: Honorable Mayor and City Council Members
FROM: Vibeke Norgaard, City Manager
DATE: June 28, 2022 (For July 5, 2022 City Council meeting)
SUBJECT: Resolution establishing a short-term rental permit cap and adopting fees

Discussion/Background:

At its May 9, 2022 council meeting, the Council considered and conducted a first reading of a Short-term Rental ordinance to adopt a process for permitting Short Term Rentals operating in the City. ("Ordinance"). On July 5, 2022, the Council will consider the Ordinance for adoption.

The Ordinance, if adopted, will authorize the City Council to establish a maximum number of Short-Term Rentals operating in the City by setting a cap on the number of Short-Term Rental Permits issued by the City. It will also authorize the City Council to establish fees to offset the cost of providing the permits.

Cap on Permits:

Staff has analyzed the existing number of short-term rentals and consulted with the City Attorney regarding the recommended cap on short term rentals. While the exact number is not easy to establish, there are approximately 14-15 short term rentals operating in Sand City. Staff is recommending setting the cap at 15.

Fees:

The Ordinance also authorizes that Council establish by resolution all fees and charges necessary to effectuate the purpose of the Ordinance including a Short-Term Rental Permit Application and Inspection Fee, to defray the costs of the City to administer and enforce the Short-Term Rental rules.

Staff has analyzed the potential cost to administer and enforce the Short-Term Rental rules, including the cost of inspecting the rentals.

Based on that analysis, staff is recommending that the fees be established in the following amounts:

- \$638 for the Short-Term Rental Permit Application and Inspection Fee; and
- \$197 for the Short-term Permit Renewal Fee.

The detailed cost analysis is available upon request.

CEQA:

The action to consider a resolution establishing a short-term rental cap and setting of fees is exempt from the California Environmental Quality Act (“CEQA”) under the general rule under Guidelines Section 15061(b)(3) because CEQA only applies to projects that have the potential for causing a significant effect on the environment and the Ordinance does not involve a commitment to any specific project that may cause a potentially significant physical effect on the environment.

Fiscal Impact:

There is no fiscal impact associated with this action. The fees established would offset any cost associated with providing the permits.

Recommendation:

It is recommended that if the Ordinance is adopted on July 5, 2022, that Council approve the resolution attached to this staff report as **Exhibit A**.

Exhibits:

Exhibit A: Resolution

**CITY OF SAND CITY
RESOLUTION SC 22-___, 2022**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAND CITY ESTABLISHING A SHORT-TERM RENTAL PERMIT CAP AND ADOPTING A SHORT-TERM RENTAL PERMIT APPLICATION FEE AND INSPECTION FEE AND A SHORT-TERM RENTAL RENEWAL FEE

WHEREAS, on July 5, 2022, the City of Sand City Council considered Ordinance SC 22-02 to adopt a process for permitting Short Term Rentals operating in the City; and

WHEREAS, Ordinance SC 22-02 authorizes the City Council to establish a maximum number of Short-Term Rentals operating in the City by setting a cap on the number of Short-Term Rental Permits issued by the City; and

WHEREAS, the City Council desires to set the cap on the number of Short-Term Rental Permits issued by the City at fifteen (15); and

WHEREAS, Ordinance SC 22-02 authorizes the setting by resolution of all fees and charges necessary to effectuate the purpose of the Short-term rental ordinance including a Short-Term Rental Permit Application and Inspection Fee, to defray the costs of the City to administer and enforce the Short-Term Rental rules; and

WHEREAS, the City has analyzed the staff time required in order to administer the Short-term Rental Permit Program and desires to establish such fees in the amount of Six Hundred and Thirty-Eight Dollars (\$638) for the Short-Term Rental Permit Application and Inspection Fee and in the amount of One Hundred and Ninety-Seven Dollars (\$197) for the Short-term Permit Renewal Fee; and

WHEREAS, the proposed permit fees that are the subject of this Resolution were considered by the City Council at a duly noticed public meeting on July 5, 2022, at which all interested persons were afforded an opportunity to be heard on such proposed fees; and

WHEREAS, after receiving the evidence and any testimony presented at the public hearing, the City Council found that the fees established by this Resolution do not exceed the estimated reasonable costs of providing the services for which the fees are charged.

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

1. The City Council of Sand City establishes that the number of valid Short-Term Rental Permits issued by the City at any one time shall not exceed fifteen (15).
2. The City Council of Sand City approves the Short-Term Rental Permit Application Fee in the amount of \$638.
3. That the City Council of Sand City approves the Inspection Fee in the amount of \$197.

PASSED AND ADOPTED, at a regular meeting of the City Council of the City of Sand City, this 5th day of July, 2022 by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Mary Ann Carbone, Mayor

ATTEST:

Connie Horca, City Clerk

**AGENDA ITEM
9B.**

**Consideration of City RESOLUTION Naming
the City Park Easement within the South
of Tioga Project and Rescinding Resolution
SC 22-51, 2022**



City of Sand City

Memorandum

TO: Mayor and City Council
FROM: Vibeke Norgaard, City Manager
DATE: June 28, 2022 (For meeting July 5, 2022)
SUBJECT: Consideration of Rescinding Resolution SC 22-51, 2022 and Naming the City Park in the South of Tioga Project.

Background:

On June 5, 2018, the City Council approved a Vesting Tentative Map ("**VTM**") submitted by DBO Development No.30, LLC ("**Developer**") for the development of the "South of Tioga" project. The Developer has dedicated to the City an easement for a City park within the Project area made up of 0.07 acres on the R-1 Parcel and 0.12 acres on the R-2 Parcel, and as identified and depicted on **Attachment 1** to the resolution attached to this staff report. ("**Park Easement**" or "**Park**"). On April 19, 2022, the Council accepted the Park Easement.

The Council previously considered this item at its regularly scheduled meetings on May 3, 2022 and again on June 7, 2022. On June 7, 2022, Resolution 22-51 was passed to name the park "Buckwheat Park". On June 21, 2022 at the regular council meeting, Council voted to add the item on the July 5th council agenda to reconsider and to rescind the prior resolution.

Fiscal Impact:

There is no fiscal impact associated with this action.

CEQA:

This action does not constitute a "project" as defined by the California Environmental Quality Act (CEQA) guidelines section 15378.

RECOMMENDATION:

Staff recommends that Council rescind Resolution SC 22-51, 2022 and consider a name for the Park.

ATTACHMENTS

Exhibit A: Resolution SC 22-51
Attachment 1: Park Easement map

CITY OF SAND CITY
RESOLUTION SC 22-51, 2022

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAND CITY NAMING THE
CITY PARK EASEMENT WITHIN THE SOUTH OF TIOGA PROJECT**

WHEREAS, the City Council approved a Vesting Tentative Map ("**VTM**") submitted by DBO Development No.30, LLC ("**Developer**") in June 2018 for the development of the "South of Tioga" project to develop property in the approximately 10.64-acre area bounded by Tioga Avenue to the northeast, California Avenue to the southeast, East Avenue to the southwest, and the Merle street right-of-way to the northwest in the central portion of the City, and

WHEREAS, an easement for a City park within the South of Tioga project area of 0.07 acres on the R-1 Parcel and 0.12 acres on the R-2 Parcel was dedicated to the City by the Developer for a Park Easement, and on April 19, 2022, the City accepted the Park Easement; and

WHEREAS, at the January 18, 2022 Council meeting, the City Council approved a conceptual design and amenities to be included in the Park Easement that will be constructed by the Developer on behalf of the City; and

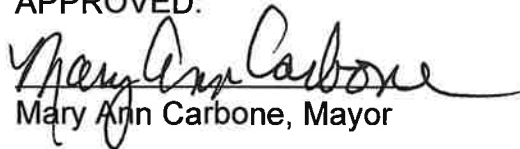
WHEREAS, the Developer requested the City choose a name for the park, and at the May 3, 2022 Council meeting, the City Council was presented with several names has now determined that the name for the Park Easement shall be Buckwheat Park.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sand City that the City Park Easement within the South of Tioga project shall be named Buckwheat Park.

PASSED AND ADOPTED, by the City Council of the City of Sand City this 7th, day of June, 2022, by the following vote:

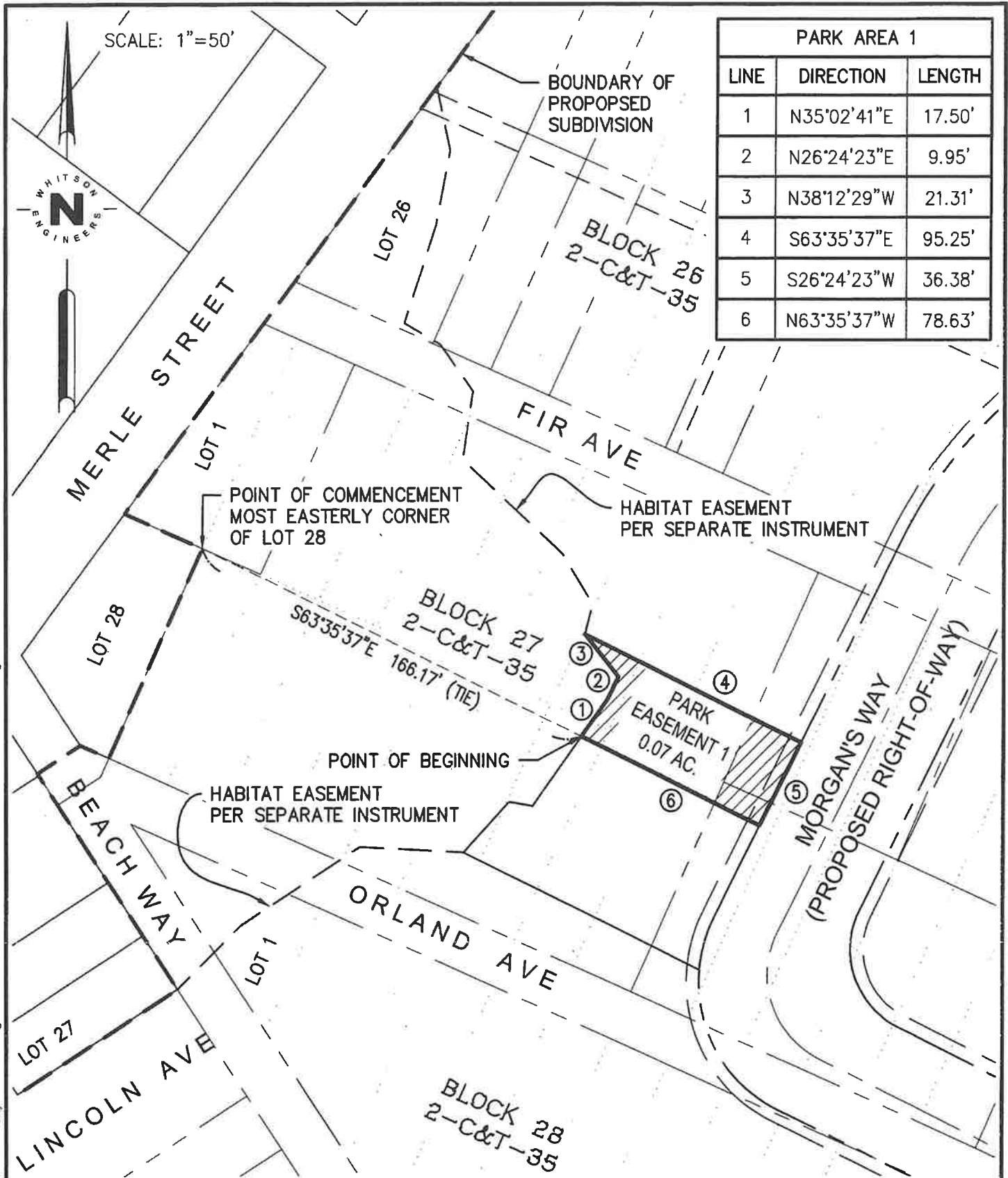
AYES: Council Members Blackwelder, Carbone, Hawthorne, Sofer
 NOES: None
 ABSENT: None
 ABSTAIN: Council Member Cruz

APPROVED:


 Mary Ann Carbone, Mayor

ATTEST:


 Connie Horca, City Clerk



PLAT TO ACCOMPANY DESCRIPTION PARK EASEMENTS

PARK 1
SAND CITY, CALIFORNIA
APRIL 6, 2020



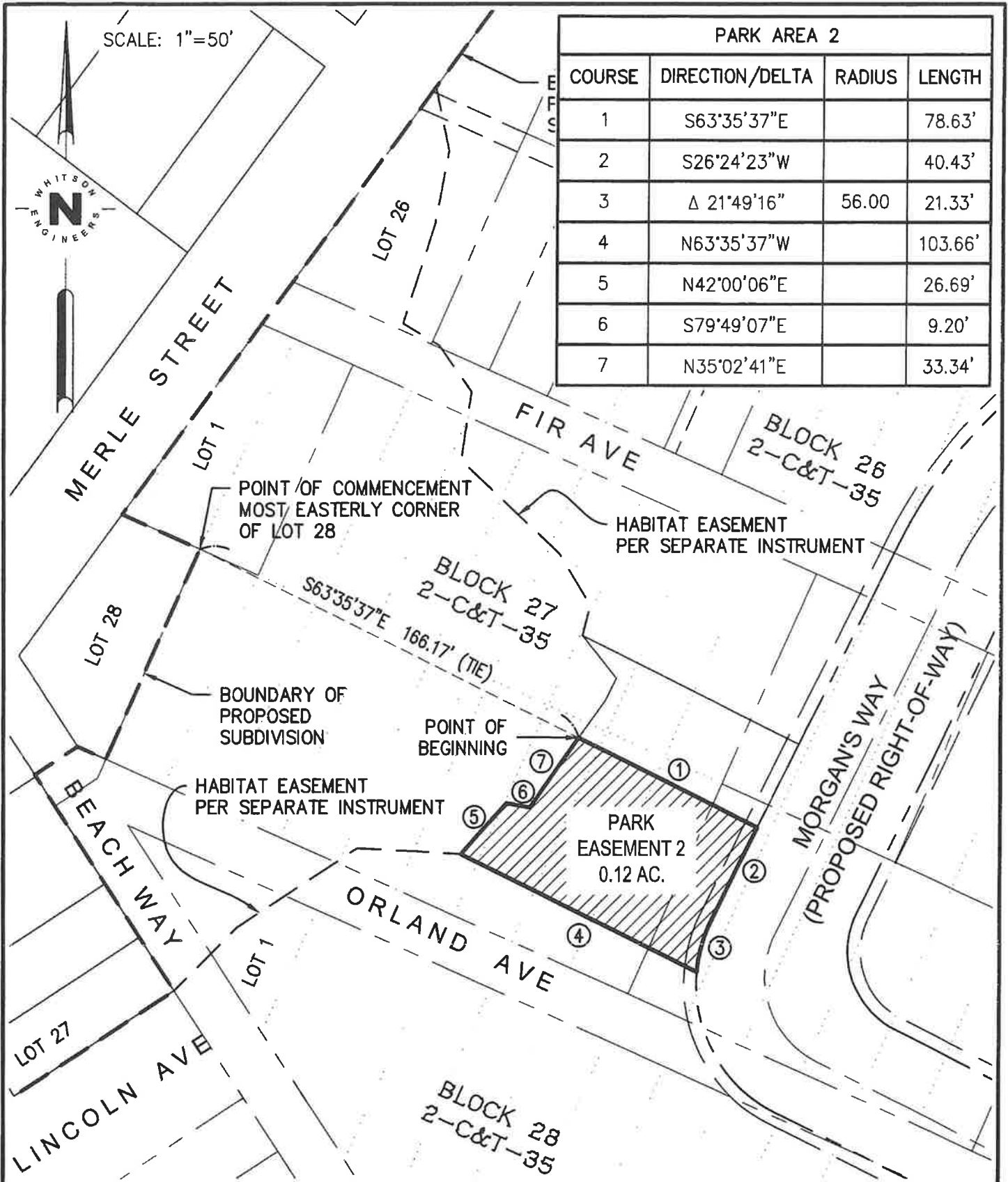
Civil Engineering +
Land Surveying
6 Harris Court
Monterey, CA 93940
831.649.5225
whitsonengineers.com

T:\Monterey Projects\3571 - Sand City South of Tioga\3571.00 DBO\SURVEY\LEGAL DESCRIPTION\PLAT-HABITAT.dwg

SCALE: 1"=50'

PARK AREA 2

COURSE	DIRECTION/DELTA	RADIUS	LENGTH
1	S63°35'37"E		78.63'
2	S26°24'23"W		40.43'
3	Δ 21°49'16"	56.00	21.33'
4	N63°35'37"W		103.66'
5	N42°00'06"E		26.69'
6	S79°49'07"E		9.20'
7	N35°02'41"E		33.34'



**PLAT TO ACCOMPANY DESCRIPTION
PARK EASEMENTS**

PARK 2
SAND CITY, CALIFORNIA
APRIL 6, 2020



Civil Engineering +
Land Surveying
6 Harris Court
Monterey, CA 93940
831.649.5225
whitsonengineers.com

T:\Monterey Projects\3571 - Sand City South of Tioga\3571.00 DBOISURVEY\LEGAL DESCRIPTION\PLAT-HABITAT.dwg

**CITY OF SAND CITY
RESOLUTION SC ____, 2022**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAND CITY NAMING THE
CITY PARK EASEMENT WITHIN THE SOUTH OF TIOGA PROJECT AND
RESCINDING RESOLUTION SC 22-51, 2022**

WHEREAS, on June 5, 2018, the City Council approved a Vesting Tentative Map (“VTM”) submitted by DBO Development No.30, LLC (“Developer”) for the development of the “South of Tioga” project (“Project”); and

WHEREAS, the Developer has dedicated to the City an easement for a City park within the Project made up of 0.07 acres on the R-1 Parcel and 0.12 acres on the R-2 Parcel, as identified and depicted on Attachment 1 to this resolution (“Park Easement” or “Park”); and

WHEREAS, at the January 18, 2022 Council meeting, the City Council approved a conceptual design and amenities to be included in the Park Easement that will be constructed by the Developer on behalf of the City; and

WHEREAS, the Park Easement was accepted by the Council on April 19, 2022; and

WHEREAS, at its regularly scheduled meetings on May 3, 2022 and June 7, 2022, the City Council considered potential names for the Park and voted to name it “Buckwheat Park”; and

WHEREAS, the Council now desires to rescind the prior resolution 22-51 and to instead name the Park _____.

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

- 1) The City Park Easement within the South of Tioga project shall be named _____.
- 2) The Council's prior June 7, 2022 Resolution SC 22-51, 2022 Naming the City Park Easement within the South of Tioga Project is hereby rescinded.

PASSED AND ADOPTED, by the City Council of the City of Sand City this ____, day of July, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Mary Ann Carbone, Mayor

ATTEST:

Connie Horca, City Clerk

**AGENDA ITEM
9C.**

**Consideration of City RESOLUTION
Authorizing Cost of Living Adjustment for
Regular (Miscellaneous) Employees**



City of Sand City

STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: VIBEKE NORGAARD, CITY MANAGER

SUBJECT: MISCELLANEOUS EMPLOYEES' COLA

DATE: JUNE 27, 2022

FOR: JULY 5, 2022 COUNCIL MEETING

Discussion:

On June 7, 2022, in closed session the City Council considered a cost-of-living adjustment (COLA) to the base salary of all the City's regular non-POA employees ("Miscellaneous Employees"). The Council authorized a COLA of 4% to be granted to the City's Miscellaneous Employees.

CEQA:

This action does not constitute a "project" as defined by the California Environmental Quality Act (CEQA) guidelines section 15378.

Fiscal Impact:

The cost to the City for the COLA will be \$32,553.54 annually. The City's approved FY 2022-2023 budget will need to be amended by \$32,553.54 to reflect that increase in the City's expenditures.

Recommendation: Staff recommends approval of the attached resolution.

**CITY OF SAND CITY
RESOLUTION SC ____, 2022**

**RESOLUTION OF THE CITY COUNCIL OF SAND CITY AUTHORIZING COST OF
LIVING ADJUSTMENT FOR REGULAR (MISCELLANEOUS) EMPLOYEES**

WHEREAS, the City Council of Sand City ("Council") desires to ensure that Sand City's salaries and benefits are competitive with other cities on the Monterey Peninsula to attract and retain high quality City employees; and

WHEREAS, good faith bargaining with the Police Officers Association ("POA") remains ongoing and is not yet resolved; and

WHEREAS, the Council is aware of the rising cost of living due to inflation and desires to alleviate the financial burden inflation places on the City's valued employees while also remaining fiscally responsible; and

WHEREAS, on June 7, 2022, the City Council held a closed session to consider the salaries of the City's non-POA regular employees as that term is defined in the Sand City Personnel manual section A(3)(c) ("Miscellaneous Employees"); and

WHEREAS, the Council desires to provide such Miscellaneous Employees a four percent (4%) cost-of-living adjustment ("COLA") to their base salaries.

NOW, THEREFORE, BE IT RESOLVED by the Sand City Council as follows:

1. A four percent (4%) cost of living adjustment is granted to all Miscellaneous Employees, effective on July 1, 2022.
2. The City Council hereby approves the attached revised Sand City Salary Schedule reflecting the 4% cost of living adjustment.
3. The City Manager is directed to add the expense of the 4% cost of living adjustment to the FY 22-23 approved budget, subject to the Council's approval of a budget amendment.

PASSED AND ADOPTED by the Sand City Council on this 5th, day of July, 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Mary Ann Carbone, Mayor

Connie Horca, City Clerk

2022-2023 Miscellaneous Employees

Range Placement Table
2.5% Between Ranges; 5% Between Steps

*Employees who have worked for the City for at least 7 years shall receive a 5% longevity increase. Employees who have worked for the City for at least 10 years shall receive an addition 5% longevity increase.

Range #	Recommended Title	Pay Period	Step 1	Step 2	Step 3	Step 4	Step 5	Maxium Step 6	Longevity * 1 2
36	Maintenance Worker II	Hourly	25.4588	26.7317	28.0683	29.4717	30.9453	32.4926	34.1172 35.8231
		Monthly	4,417.23	4,638.09	4,870.00	5,113.50	5,369.17	5,637.63	5,919.51 6,215.49
		Annual	53,006.62	55,656.95	58,439.80	61,361.79	64,429.88	67,651.37	71,033.94 74,585.64
39	Community Services Coordinator	Hourly	26.1170	27.4229	28.7940	30.2337	31.7454	33.3326	34.9993 36.7492
		Monthly	4,530.37	4,756.89	4,994.73	5,244.47	5,506.69	5,782.03	6,071.13 6,374.69
		Annual	54,364.13	57,082.34	59,936.45	62,933.28	66,079.94	69,383.94	72,853.13 76,495.79
40	Maintenance Worker III	Hourly	26.1704	27.4789	28.8529	30.2955	31.8103	33.4008	35.0708 36.8244
		Monthly	4,535.87	4,762.66	5,000.80	5,250.84	5,513.38	5,789.05	6,078.50 6,382.42
		Annual	54,430.37	57,151.89	60,009.48	63,009.96	66,160.45	69,468.48	72,941.90 76,589.00
46	Records Coordinator	Hourly	31.0689	32.6223	34.2535	35.9661	37.7644	39.6527	41.6353 43.7171
		Monthly	5,385.17	5,654.43	5,937.15	6,234.01	6,545.71	6,872.99	7,216.64 7,577.47
		Annual	64,621.87	67,852.96	71,245.61	74,807.89	78,548.29	82,475.70	86,599.49 90,929.46
48	Deputy City Clerk	Hourly	34.2293	35.9408	37.7378	39.6247	41.6059	43.6862	45.8705 48.1641
		Monthly	5,940.68	6,237.71	6,549.60	6,877.08	7,220.93	7,581.98	7,961.08 8,359.13
		Annual	71,288.02	74,852.42	78,595.04	82,524.79	86,651.03	90,983.59	95,532.76 100,309.40
50	Public Works Supervisor	Hourly	36.6481	38.4805	40.4045	42.4248	44.5460	46.7733	49.1120 51.5676
		Monthly	6,360.31	6,678.33	7,012.24	7,362.85	7,731.00	8,117.55	8,523.42 8,949.59
		Annual	76,323.57	80,139.75	84,146.74	88,354.07	92,771.78	97,410.37	102,280.88 107,394.93
51	Acting City Clerk Temporary position	Hourly	35.9875	37.7869	39.6762	41.6600	43.7430	45.9302	48.2267 50.6380
		Monthly	6,237.72	6,549.61	6,877.09	7,220.94	7,581.99	7,961.09	8,359.14 8,777.10
		Annual	74,852.68	78,595.31	82,525.08	86,651.33	90,983.90	95,533.10	100,309.75 105,325.24
52	Finance/HR Specialist	Hourly	40.6240	42.6552	44.7880	47.0274	49.3787	51.8477	54.4400 57.1620
		Monthly	7,049.21	7,401.67	7,771.75	8,160.34	8,568.36	8,996.78	9,446.62 9,918.95
		Annual	84,590.27	88,819.78	93,260.77	97,923.81	102,820.00	107,961.00	113,359.05 119,027.00
54	City Planner	Hourly	39.7086	41.6940	43.7787	45.9677	48.2661	50.6794	53.2133 55.8740
		Monthly	6,889.38	7,233.85	7,595.54	7,975.32	8,374.08	8,792.79	9,232.43 9,694.05
		Annual	82,672.23	86,805.84	91,146.13	95,703.44	100,488.61	105,513.04	110,788.70 116,328.13
57	City Clerk	Hourly	42.7537	44.8914	47.1360	49.4928	51.9674	54.5658	57.2940 60.1587
		Monthly	7,410.50	7,781.03	8,170.08	8,578.58	9,007.51	9,457.88	9,930.78 10,427.32
		Annual	88,925.56	93,371.84	98,040.43	102,942.45	108,089.57	113,494.05	119,168.76 125,127.19
71	Dir. Of Admin. Services Dir of Community Dev	Hourly	66.6890	70.0235	73.5246	77.2009	81.0609	85.1139	89.3696 93.8381
		Monthly	11,540.52	12,117.55	12,723.42	13,359.59	14,027.57	14,728.95	15,465.40 16,238.67
		Annual	138,485.44	145,409.71	152,680.20	160,314.21	168,329.92	176,746.41	185,583.73 194,862.92
72	Dir. Of Community Dev./ Assistant City Manager	Hourly	68.3519	71.7695	75.3580	79.1259	83.0822	87.2363	91.5981 96.1780
		Monthly	11,829.03	12,420.48	13,041.51	13,693.58	14,378.26	15,097.17	15,852.03 16,644.63
		Annual	141,947.58	149,044.96	156,497.21	164,322.07	172,538.17	181,165.08	190,223.33 199,734.50

Exempt Employees	Pay Period	Rate
City Manager	Monthly	16,625.00
	Annual	199,500.00
City Attorney	Monthly	16,032.89
	Annual	192,394.65

Amended: Resolution SC - 29, 1991; 94-08, 1994; 97-66, 1997; 99-51, 1999; 01-61, 2001; 02-53, 2002; 05-49, 2005; 07-99, 2007; 10-75, 2010; 15-46, 2015; 18-87, 2018; 18-92, 2018; 20-86, 2020; 21-46, 2021; 22-13, 2022; SC- effective July 1, 2022

**AGENDA ITEM
9D.**

**Council Discussion on the Process for
Organizing Campaign to Support the
Transaction and Use Tax Measure**

**AGENDA ITEM
9E.**

**Consideration of Cancelling Future City
Council meeting scheduled for August 2,
2022**

**AGENDA ITEM
9F.**

**Comments by Council Members on Items
of Interest to Sand City**

**AGENDA ITEM
9G.**

Upcoming Meetings/Events