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DEVELOPMENT AGREEMENT

BY AND BETWEEN

CITY OF NAPA

AND

NAPA VISTA TULOCAY, LLC

Effective Date: _____

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DEVELOPMENT AGREEMENT

This Development Agreement (“**Agreement**”), dated as of the Effective Date, is entered into by and between the City of Napa, a California municipal corporation (“**City**”) and Napa Vista Tulocay, LLC, a California limited liability company (“**Developer**”). Developer and City may be referred to individually in this Agreement as a “**Party**” and collectively as the “**Parties.**”

R E C I T A L S

This Agreement is entered into on the basis of the following facts, understandings and intentions of the Parties. The following recitals are a substantive part of this Agreement; capitalized terms used herein and not otherwise defined are defined in Article 1 of this Agreement.

A. In order to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs and risks of development, the Legislature of the State of California enacted section 65864 *et seq.* of the Government Code (“**Development Agreement Statute**”) which authorizes a city and a developer having a legal or equitable interest in real property to enter into a binding, long-term development agreement establishing certain development rights in the property.

B. In accordance with the Development Agreement Statute, the City Council of the City of Napa enacted Municipal Code section 17.52.160 and has adopted City of Napa Resolution Number 93-267 (which amended City of Napa Resolution Number 83-176)(“**Development Agreement Regulations**”), which authorize the execution of development agreements and set forth the required contents and form of those agreements. The provisions of the Development Agreement Statute and the City’s Development Agreement Regulations are collectively referred to herein as the “**Development Agreement Law.**”

C. Developer is the owner of that certain real property located within the Gasser Master Plan in the southeast quadrant of the City of Napa and more particularly described and depicted in Exhibit A attached hereto and incorporated herein (the “**Property**”). The Gasser Master Plan permits the construction of between 380 and 500 residential units on the entire Property (the “**Project**”, inclusive of Phase I and Phase II and Project Approvals as hereafter defined). The Project may be constructed in two (2) or more phases. The Project, including phasing, is more fully described in Exhibit B, Project Description, and incorporated herein by reference.

D. In connection with the Project, Developer has applied to City for a design review permit for a 282 unit multifamily residential apartment complex on that portion of the Property consisting of approximately 11.01 net acres as shown on Exhibit C attached hereto (“**Phase I**”). The remaining portion of the Property is approximately 7.12 net acres as shown also on Exhibit D attached hereto (“**Phase II**”). Concurrently with the design review permit application for Phase I, Developer has submitted to the City (i) an Affordable Housing Alternative Equivalent proposal for the entire Project, (ii) an application for a lot line adjustment, (iii) certain revisions and clarifications to the existing conditions of approval for the Gasser Master Plan, and (iv) an application for approval of this Development Agreement.

E. The Project is within the scope of environmental analysis that was the subject of an Environmental Impact Report (“**EIR**”) prepared pursuant to the California Environmental Quality Act (“**CEQA**”) (Public Resources Code section 21000 *et seq.*) and certified by Resolution No. R2006-193 adopted by the City Council on November 21, 2006 and an Addendum to that EIR adopted by the City Council on _____ by Resolution No. _____ (collectively, the “**Prior CEQA Analysis**”).

F. Prior to or concurrently with approval of this Agreement, the City has or will take several actions to review and plan for the future development and use of the Project (“**Existing Approvals**”). These include:

1. Ordinance No. 2007-1 amending the Napa Municipal Code by amending Chapter 17.28, and amending the Zoning District Map and Zoning Overlay Districts;
2. Resolution No. R2006-212 adopting a Mitigation Monitoring Program, and adopting CEQA findings for the Gasser Master Plan Rezoning;
3. Resolution No. R2006-213 adopting the Gasser Master Plan Design Guidelines, Landscape Guidelines and Implementation Section including Conditions of Approval and a Mitigation Monitoring Program;
4. Resolution No. R2006-214 approving an Inclusionary Ordinance “Alternative Equivalent Action” for the Gasser Master Plan Zoning Project;
5. Resolution No. R _____ approving the Modifications to the Conditions of Approval of the Gasser Master Plan, approving the Major Design Review Application, approving the “Alternative Equivalent Action” for the Gasser Master Plan Zoning Project, approving the Lot Line Adjustment, and approving the CEQA Addendum to the Gasser Master Plan EIR; and
6. Ordinance No. _____, amending the Napa Municipal Code deleting the requirement for on-street parking on Entry Way and North Drive.

A copy of the Existing Approvals are attached hereto as Exhibit D.

G. It is the intent of City and Developer to establish certain conditions and requirements related to review and development of the Project, which are or will be the subject of subsequent development applications and land use entitlements.

H. City finds that the Agreement will promote orderly growth and quality development in accordance with the goals and policies set forth in the General Plan; is compatible with the uses authorized in, and the regulations prescribed for, the district in which the Property is located; will promote the public convenience, general welfare, and good land use practice; will not be detrimental to the health, safety and general welfare; will not adversely affect the orderly development of property or the preservation of property value; and will promote and encourage the development of the Project by providing a greater degree of requisite certainty.

I. City and Developer have reached mutual agreement and desire to voluntarily enter into this Agreement to facilitate development of the Project subject to the conditions and requirements set forth herein.

J. City has given the required notice of its intention to adopt this Agreement and has conducted public hearings thereon pursuant to Government Code section 65867 and Napa Municipal Code sections 1.12.010 and 17.68.070. The City has reviewed and evaluated this Agreement in accordance with the Development Agreement Law and found that the provisions of this Agreement and its purposes are consistent with the Development Agreement Law and the goals, policies, standards and land use designations specified in the General Plan.

K. On _____ the City Council introduced Ordinance No. _____ approving this Agreement and authorizing its execution, and adopted that Ordinance on _____. That Ordinance became effective on _____.

A G R E E M E N T

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other valuable consideration, the Parties hereby agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Definitions.

“*Affiliated Party*” is defined in Section 10.1.

“*Agreement*” shall mean this Development Agreement between City and Developer, including all Exhibits hereto.

“*Applicable Law*” is defined in Section 3.2.

“*Assignee*” is defined in Section 10.1.

“*Assignment*” is defined in Section 10.1.2.

“*CEQA*” means the California Environmental Quality Act, California Public Resources Code section 21000, *et seq.*, as amended from time to time.

“*CEQA Guidelines*” means the State CEQA Guidelines (California Code of Regulations, Title 14, section 15000, *et seq.*), as amended from time to time.

“*Changes in the Law*” is defined in Section 3.7.

“*City*” means the City of Napa, a municipal corporation.

“*City Council*” means the City Council of the City of Napa.

“*City Manager*” means City’s City Manager or his or her designee.

“**City Parties**” means and includes City and its elected and appointed officials, officers, employees, attorneys, contractors and representatives.

“**Claims**” means liabilities, obligations, orders, claims, damages, fines, penalties and expenses, including attorneys’ fees and costs.

“**Community Development Director**” means City’s Community Development Director or other designee of either the Community Development Director or City Manager.

“**Connection Fees**” means those fees charged by City on a citywide basis or by a utility provider to utility users as a cost for connecting water, sanitary sewer, and other applicable utilities, except for any such fee or portion thereof that constitutes an Impact Fee, as defined below.

“**Default**” is defined in Section 12.1.

“**Developer**” means Napa Vista Tulocay, LLC, a California limited liability company and its permitted successor and assigns.

“**Development Agreement Law**” is defined in Recital B.

“**Development Agreement Regulations**” is defined in Recital B.

“**Development Agreement Statute**” is defined in Recital A.

“**Discretionary Action**” or “**Discretionary Approval**” means an action which requires the exercise of judgment, deliberation or a decision on the part of the City, including any board, commission or department or any officer or employee of the City, in the process of approving or disapproving a particular activity, as distinguished from an activity which merely requires the City, including any board, commission or department or any officer or employee of the City, to determine whether there has been compliance with statutes, ordinances or regulations.

“**Effective Date**” means the date that this Agreement becomes effective as determined under Section 2.1.

“**EIR**” is defined in Recital E.

“**Enacting Ordinance**” refers to the Ordinance identified in Recital K.

“**Exactions**” means exactions that may be imposed by the City as a condition of developing the Project, including requirements for acquisition, dedication or reservation of land; and obligations to construct on-site or off-site public and private infrastructure improvements such as roadways, utilities or other improvements necessary to support the Project, whether such exactions constitute subdivision improvements, mitigation measures in connection with environmental review of the Project, or impositions made under Applicable Law. For purposes of this Agreement, Exactions do not include Impact Fees.

“Existing Approvals” means and includes those permits and approvals for the Project granted by City to Developer as of the Effective Date as set forth in Recital F.

“Extension Term” is defined in Section 2.2.1.

“General Plan” means the City of Napa’s General Plan, as amended from time to time.

“Impact Fees” means the monetary amount charged by City in connection with a development project for the purpose of defraying all or a portion of the cost of mitigating the impacts of the development project or development of the public facilities related to the development project, including, any “fee” as that term is defined by Government Code section 66000(b).

“Initial Term” is defined in Section 2.2.

“Litigation Challenge” is defined in Section 9.2.

“Major Amendment” is defined in Section 8.2.

“Minor Amendment” is defined in Section 8.2.

“Mortgage” means any mortgage, deed of trust, security agreement, and other like security instrument encumbering all or any portion of the Property or any of the Developer’s rights under this Agreement

“Mortgagee” means the holder of any Mortgage, and any successor, assignee or transferee of any such Mortgage holder.

“Municipal Code” means and refers to the City of Napa’s Municipal Code, as amended from time to time.

“New City Laws” means and includes any ordinances, resolutions, orders, rules, official policies, standards, specifications, guidelines or other regulations, which are promulgated or adopted by the City (including but not limited to any City agency, body, department, officer or employee) or its electorate (through their power of initiative or otherwise) after the Effective Date.

“Notice of Breach” is defined in Section 12.1.

“Other Agency Fees” is defined in Section 4.3.

“Other Agency Subsequent Approvals” means Subsequent Project Approvals to be obtained from entities other than the City.

“Permitted Delay” is defined in Section 13.3.

“Planning Commission” means the City of Napa Planning Commission.

“Processing Fees” means all fees for processing development project applications, including any required supplemental or other further environmental review, plan checking and inspection and monitoring for land use approvals, design review, grading and building permits, General Plan maintenance fees, and other permits and entitlements required to implement the Project, which are in effect at the time those permits, approvals or entitlements are applied for, and which are intended to cover the actual costs of processing the foregoing.

“Project Approvals” means the Existing Approvals and all Subsequent Approvals.

“Project” is defined in Recital C.

“Property” is defined in Recital C.

“Subdivision Map Act” means California Government Code sections 66410 through 66499.58, as it may be amended from time to time.

“Subsequent Approvals” is defined in Section 7.1.

“Term” means the Initial Term plus any Extension Term, if such Extension Term is granted under the terms of this Agreement.

ARTICLE 2 EFFECTIVE DATE AND TERM

2.1 **Effective Date.** The Effective Date of this Agreement shall be the later of (a) the date that is thirty (30) days after the date that the Enacting Ordinance is adopted, or (b) the date this Agreement is fully executed by the Parties. The Effective Date is inserted at the beginning of this Agreement. The Parties acknowledge that section 65868.5 of the Development Agreement Statute requires that this Agreement be recorded with the County Recorder no later than ten (10) days after the City enters into this Agreement, and that the burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement.

2.2 **Initial Term of Agreement.** The **“Initial Term”** of this Agreement shall commence on the Effective Date and shall expire on the tenth (10th) anniversary of the Effective Date, unless earlier terminated.

2.2.1 **Extension of Initial Term.** The Initial Term of this Agreement may be extended by the City, in accordance with Section 8.2, from the date of the expiration of the Initial Term until the date which is five (5) years following the expiration of the Initial Term (**“Extension Term”**), provided that at the end of the Initial Term: (a) Developer is not, at the time, in Default of any of its obligations hereunder following notice and expiration of applicable cure periods; (b) the applicable Developer warranties and representations in Section 2.4 below continue to be true and correct; and (c) no event has occurred which with the passage of time or giving of notice or both would constitute a Default by Developer hereunder. Following the expiration of the Term, or the earlier completion of development of the Project and satisfaction of all of Developer’s obligations in connection therewith, this Agreement shall be deemed terminated and of no further force and effect; provided, however, that this termination shall not affect any right or duty arising

from entitlements or approvals, including the Project Approvals concurrently with, or subsequent to, the Effective Date. The Initial Term or Extension Term, as applicable, shall automatically be extended for the period of time of any actual delay resulting from any enactments pursuant to New City Laws that are necessary to protect the physical health and safety of the public that are uniformly applied on a City-wide basis.

2.2.2 Memorandum of Extension. If the Extension Term is granted, City and Developer agree to execute, acknowledge and record in the Official Records of Napa County a memorandum evidencing approval of the Extension Term.

2.3 City Representations and Warranties. City represents and warrants to Developer that, as of the Effective Date:

2.3.1 City is a municipal corporation, and has all necessary powers under the laws of the State of California to enter into and perform the undertakings and obligations of City under this Agreement.

2.3.2 The execution and delivery of this Agreement and the performance of the obligations of the City hereunder have been duly authorized by all necessary City Council action and all necessary approvals have been obtained.

2.3.3 This Agreement is a valid obligation of City and is enforceable in accordance with its terms.

During the Term of this Agreement, City shall, upon learning of any fact or condition which would cause of any of the warranties and representations in this Section 2.3 not to be true, immediately give written notice of such fact or condition to Developer.

2.4 Developer Representations and Warranties. Developer represents and warrants to City that, as of the Effective Date:

2.4.1 Developer is duly organized and validly existing under the laws of the State of California, and is in good standing and has all necessary powers under the laws of the State of California to own property interests and in all other respects enter into and perform the undertakings and obligations of Developer under this Agreement.

2.4.2 The execution and delivery of this Agreement and the necessary performance of the obligations of Developer hereunder have been duly authorized by all necessary company action and all necessary member approvals have been obtained.

2.4.3 This Agreement is a valid obligation of Developer and is enforceable in accordance with its terms.

2.4.4 Developer has not (a) made a general assignment for the benefit of creditors; (b) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Developer's creditors; (c) suffered the appointment of a receiver to take possession of all, or substantially all, of Developer's assets; (d) suffered the attachment or other judicial seizure of all,

or substantially all, of Developer's assets; or (e) admitted in writing its inability to pay its debts as they come due.

During the Term of this Agreement, Developer shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 2.4 not to be true, immediately give written notice of such fact or condition to City.

ARTICLE 3 DEVELOPMENT OF THE PROPERTY

3.1 Vested Rights. The Property is hereby made subject to the provisions of this Agreement. Developer shall have the vested right to develop the Property and the Project in accordance with and subject to the Existing Approvals, the Subsequent Approvals, Applicable Law and this Agreement, which shall, among other things, control the permitted uses, density and intensity of use of the Property, requirements for on- and off-site infrastructure and public improvements, the Exactions, and the maximum height and size of buildings on the Property.

3.2 Applicable Law. City and Developer acknowledge and agree that City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions contained in this Agreement are intended to reserve to City all of its police power that cannot be so limited. Notwithstanding the foregoing reservation of City, it is the intent of City and Developer that this Agreement be construed to provide Developer with rights afforded by law, including but not limited to, the Development Agreement Statute. Therefore, the laws, rules, regulations, official policies, standards and specifications of City applicable to the development of the Property and/or the Project shall be (collectively, "**Applicable Law**"):

3.2.1 Those rules, regulations, official policies, standards and specifications of the City set forth in the Project Approvals and this Agreement. For purposes of convenience and clarity and provide a centralized set of Vested Rights reference documents, Exhibit E describes and attaches portions of the Project Approvals and the Applicable Law for both for Phase I and II, which sets forth the applicable development standards, including permitted uses, density and intensity of uses, maximum size and height of buildings, impact fees and exactions that are vested through this Agreement. The parties do not intend for Exhibit E to limit any Vested Rights or other rights or obligations specifically contemplated or conferred by this Agreement;

3.2.2 With respect to matters not addressed by and not otherwise inconsistent with the Project Approvals and this Agreement, those laws, rules, regulations, official policies, standards and specifications (including City ordinances and resolutions) governing permitted uses, building locations, timing and manner of construction, densities, intensities of uses, heights and sizes, requirements for on- and off-site infrastructure and public improvements, in force and effect on the Effective Date;

3.2.3 New City Laws that revise City's uniform construction codes, including City's building code, plumbing code, mechanical code, electrical code, fire code, grading code and other uniform construction codes, as of the date of permit issuance, provided, that such New City

Laws are uniformly applied on a City-wide basis to all substantially similar types of development projects and properties;

3.2.4 New City Laws that are necessary to protect physical health and safety of the public; provided, that such New City Laws are uniformly applied on a City-wide basis to all substantially similar types of development projects and properties; New City Laws that do not conflict with this Agreement or the Project Approvals, provided such new City Laws are uniformly applied on a City-wide basis to all substantially similar types of development projects and properties; and

3.2.5 New City Laws that do not apply to the Property and/or the Project due to the limitations set forth above, but only to the extent that such New City Laws are accepted in writing by Developer in its sole discretion.

3.3 Development Timing. City and Developer acknowledge that Developer cannot at this time predict what portions of the Project will be included within any phase of the Project, when or the rate at which the phases will be developed or the order in which each phase will be developed. Such decisions depend upon numerous factors that are not within the control of Developer, such as market orientation and demand, interest rates, absorption, completion, availability of financing and other similar factors. In particular, and not in any limitation of any of the foregoing, since the California Supreme Court held in *Pardee Construction Co. v. The City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development prevailing over such parties' agreement, it is the desire to avoid that result by acknowledging that, unless otherwise provided for in this Agreement, Developer's vested rights under this Agreement include the right to develop the Property and the Project in such order and at such rate and at such times as Developer deems appropriate in the exercise of its discretion, subject to the terms, requirements and conditions of the Project Approvals and this Agreement. Notwithstanding the foregoing, Developer shall (a) submit a complete application for building permit(s) for Phase I within five hundred and forty seven (547) days after the Effective Date, (b) commence construction on Phase I within three hundred and sixty five (365) days after issuance of building permits for Phase I, and (c) submit an application for design review for Phase II (and any other required Discretionary Approvals) within nine hundred and twelve (912) days after the issuance of building permits for Phase I (collectively, the "Development Timeframes"). If Developer fails to satisfy the Development Timeframes, then the limitation under Section 4.1 of the Development Agreement on the City imposing additional Exactions beyond those set forth in the Existing Approvals shall not apply to Subsequent Approvals applied for after the Effective Date. Notwithstanding the foregoing, Developer may submit a written request, prior to the end of any of the Development Timeframes, for City to extend a Development Timeframe. Following review of the request, City may agree in writing to extend any Development Timeframe for a reasonable period of time mutually agreeable to the Developer and City upon Developer's documentation and demonstration of (I) Permitted Delays, and/or (II) Developer's diligent, good faith and commercially reasonable efforts to satisfy the Development Timeframes. The City shall extend the Development Timeframe for a time period of not less than one day for every day of delay if the delay is caused by the failure of any applicable governmental agency to issue a permit, authorization, consent, or approval

required for development or construction of the Project or portion thereof within typical, standard or customary timeframes.

3.4 Regulation by Other Public Agencies. City and Developer acknowledge and agree that other governmental or quasi-governmental entities not within the control of City possess authority to regulate aspects of the development of the Property and the Project and that this Agreement does not limit the authority of such other public agencies. City shall reasonably cooperate with Developer in Developer's effort to obtain such permits and approvals as may be required by other governmental or quasi-governmental entities in connection with the development of, or the provision of services to, the Property and/or the Project; provided, however, City shall have no obligation to incur any costs, without compensation or reimbursement, or to amend any City policy, regulation or ordinance in connection therewith.

3.5 Life of Project Approvals. The term of any and all Project Approvals shall automatically be extended for the longer of the Term or the term otherwise applicable to such Project Approval. Without limiting the generality of the foregoing, pursuant to the Subdivision Map Act, any vesting or tentative maps heretofore or hereafter approved in connection with development of the Project or the Property, shall be extended for the Term (and may be subject to other extensions provided under the Subdivision Map Act).

3.6 Developer's Right to Rebuild. City agrees that Developer may renovate or rebuild portions of the Project at any time within the Term should it become necessary due to any casualty, including natural disaster or changes in seismic requirements. Such renovations or reconstruction shall be processed as a Subsequent Project Approval consistent with all prior Project Approvals and Applicable City Law. Any such renovation or rebuilding shall be subject to all design, density and other limitations and requirements imposed by this Agreement, and shall comply with the Project Approvals, Applicable City Law, and the requirements of CEQA.

3.7 State and Federal Law. As provided in Section 65869.5 of the Development Agreement Statute, this Agreement shall not preclude the applicability to the Project of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in State or Federal laws or by changes in laws, regulations, plans or policies of special districts or other governmental entities, other than City, created or operating pursuant to the laws of the State of California ("**Changes in the Law**"). In the event Changes in the Law prevent or preclude, or render substantially more expensive or time consuming, compliance with one (1) or more provisions of this Agreement, the City and Developer shall meet and confer in good faith in order to determine whether such provisions of this Agreement shall be modified or suspended, or performance thereof delayed, as may be necessary to comply with Changes in the Law. Nothing in this Agreement shall preclude City or Developer from contesting by any available means (including administrative or judicial proceedings) the applicability to the Project any such Changes in the Law. If Changes in the Law preclude or substantially prevent or preclude, or render substantially more expensive or time consuming, performance of this Agreement in a manner that makes the Project economically infeasible, Developer, in its sole and absolute discretion, may terminate this Agreement by providing written notice thereof to City.

3.8 Subsequent Development Review. The City shall not require Developer to obtain any approvals or permits for the development of the Project in accordance with this Agreement other

than those permits or approvals that are required by the Applicable Law. However, any subsequent Discretionary Action or Discretionary Approval initiated by Developer that is not otherwise permitted by or contemplated in the Project Approvals, which changes the uses, intensity, density, building height or timing of the Project, or decreases the lot area, setbacks, yards, parking or other entitlements permitted on the Property shall be subject to the rules, regulations, ordinances and official policies of the City then in effect.

3.9 Effective Development Standards. The City agrees that it is bound to permit the uses, intensity of use and density on the Property which are permitted by this Agreement, insofar as this Agreement and the Project Approvals so provide or as otherwise set forth in the Applicable Law. The City hereby agrees that it will not unreasonably withhold or unreasonably condition any Discretionary Action or Discretionary Approval which must be issued by the City in order for the Project to proceed, provided that Developer reasonably and satisfactorily complies with all preliminary procedures, actions, payments of Processing Fees, and criteria generally required of developers by the City for processing applications for developments and consistent with this Agreement.

3.10 Moratoria. In the event an ordinance, resolution or other measure is enacted, whether by action of the City, by initiative, or otherwise after the Effective Date, which relates to the rate, timing, or sequencing of the development or construction on all or any part of the Property, including, without limitation, any ordinance, resolution or other measure restricting or precluding the issuance of building permits, the City agrees that the ordinance, resolution or other measure shall not apply to the Property or this Agreement, unless the changes are both (a) found by the City to be necessary to protect the health and safety of the residents of the City, and (b) generally applicable on a Citywide basis.

ARTICLE 4 FEES

4.1 Impact Fees and Exactions. City may charge and, subject to Developer's right to protest and/or pursue a challenge in law or equity to any new or increased Impact Fees, Developer shall pay any and all Impact Fees imposed by City, including new Impact Fees adopted after the Effective Date; provided, however, City shall only require Developer to pay new Impact Fees (including increases in Impact Fees) that are uniformly applied by City to all substantially similar types of Development Projects and properties; provided, further, however, that the City shall not charge any Affordable Housing Impact Fees for all or any portion of the Project provided, further, however, that the City shall not charge any Street Improvement Fees for all or any portion of the Project; provided further that the City shall not charge or impose any other fees for the purposes of traffic mitigation, street improvements or affordable housing. In addition, City may impose and Developer shall comply with those Exactions required by this Agreement and the Project Approvals. Notwithstanding anything to the contrary contained in this Section 4.1, except as otherwise specifically provided in Section 3.3 above, in no event shall the City impose any additional Exactions (beyond those set forth in the Existing Approvals) in connection with the development of the Project, as long as such development is substantially consistent with the Project Approvals. For purposes of this Agreement, any fee imposed on the Project that meets both the definitions of an Impact Fee and an Exaction will be considered to be an Exaction.

4.2 Processing Fees. Subject to Developer’s right to protest and/or pursue a challenge in law or equity to any new or increased Processing Fee, City may charge and Developer agrees to pay any and all Processing Fees which are in effect on a City-wide basis at the time those permits, approvals or entitlements are applied for, and which are intended to cover the actual costs of processing the foregoing.

4.3 Other Agency Fees. Nothing in this Agreement shall preclude City from collecting fees from Developer that are lawfully imposed on the Project by another agency having jurisdiction over the Project, which the City is required to collect pursuant to Applicable Law (“**Other Agency Fees**”).

4.4 Connection Fees. Subject to Developer’s right to protest and/or pursue a challenge in law or equity to any new or increased Connection Fee, City may charge and Developer shall pay any Connection Fee that is lawfully adopted.

ARTICLE 5 PUBLIC BENEFITS

5.1 Public Benefits Obligations. In consideration of the rights and benefits conferred by City to Developer under this Agreement, Developer shall perform the public benefit obligations and pay to City the contributions set forth in this Article 5.

Developer shall fulfill all obligations and comply with all requirements regarding satisfaction of affordable housing obligations as described in Exhibit E “Affordable Housing Equivalent” and approved as the Alternative Equivalent Action under Resolution No. R2016 - ___ and the Alternative Equivalent Action under Resolution No. R2006-214, and all within the times set forth therein (“Housing Benefit”). As a result of the Housing Benefit, (a) Developer has satisfied all affordable housing requirements under Chapter 15.94 and 17.36 of the Napa Municipal Code with respect to the Property, and (b) the requirements of and regulations under the City’s Affordable Housing Overlay District (NMC Chapter 17.36) have been satisfied and no other requirements shall apply with respect to the Property as long as development of the Property is substantially consistent with the Project.

5.1.1 Developer shall provide funds directly to the party or parties constructing the Gasser Drive Bridge and Extension, consistent with Gasser Master Plan Condition of Approval 24 as contained Exhibit E (“Gasser Drive Bridge Benefit”). As a result of the Gasser Drive Bridge Benefit, (a) Developer has satisfied all Street Improvement Fee requirements with respect to the Property, and (b) the requirements of and regulations under the City’s Street Improvement Fee (Ord. 4127, Ord. 93-017) have been satisfied and no other Street Improvement Fee requirements shall apply with respect to the Property as long as development of the Property is substantially consistent with the Project.

5.1.2 .

5.2 City of Napa Business License. Developer, at its expense, shall obtain and maintain a City of Napa business license at all times during the Term, shall include a provision in all general contractor agreements for the Project requiring each such general contractor to obtain and maintain a City of Napa business license during performance of the work of construction, and

shall otherwise comply with all requirements imposed under Title 5 of the City of Napa Municipal Code.

ARTICLE 6 ANNUAL REVIEW

6.1 Annual Review.

6.1.1 Purpose. As required by California Government Code section 65865.1, Municipal Code section 17.52.150 and Section E of the City's "Procedures and Requirements for Consideration of Development Agreements," as established under City Resolution number 83-176, City and Developer shall review this Agreement and all actions taken pursuant to the terms of this Agreement with respect to the development of the Project every twelve (12) months solely to determine good faith compliance with this Agreement. Specifically, City's annual review shall be conducted for the purposes of determining compliance by Developer with its obligations under this Agreement. Each annual review shall also document: (a) the status of the Project development, and (b) any extension of the Initial Term of this Agreement pursuant to Section 2.2.

6.1.2 Conduct of Annual Review. The annual review shall be conducted as provided in this Section 6.1.2. By December 1st of each year, Developer shall provide documentation of its good faith compliance with this Agreement during the calendar year, and such other information as may reasonably be requested by the City Manager. Within ninety (90) days after receipt of Developer's documents of good faith compliance with this Agreement, the City Manager shall make a determination regarding whether or not Developer has complied in good faith with the provisions and conditions of this Agreement. This determination shall be made in writing with reasonable specificity, and a copy of the determination shall be provided to Developer in the manner prescribed in Section 13.2. If the City Manager finds good faith compliance by Developer with the terms of this Agreement, Developer shall be notified in writing and the review for that period shall be concluded. If the City Manager is not satisfied that Developer is performing in accordance with the terms and conditions of this Agreement, the City Manager shall prepare a written report specifying why the Developer may not be in good faith compliance with this Agreement, refer the matter to the City Council, and notify Developer in writing at least fifteen (15) business days in advance of the time at which the matter will be considered by the City Council. This notice shall include the time and place of the City Council's public hearing to evaluate good faith compliance with this Agreement, a copy of the City Manager's report and recommendations, if any, and any other information reasonably necessary to inform Developer of the nature of the proceeding. The City Council shall conduct a public hearing at which Developer must submit evidence that it has complied in good faith with the terms and conditions of this Agreement. Developer shall be given an opportunity to be heard at the hearing. The findings of the City Council on whether Developer has complied with this Agreement for the period under review shall be based upon substantial evidence in the record. If the City Council determines, based upon substantial evidence, that Developer has complied in good faith with the terms and conditions of this Agreement, the review for that period shall be concluded. If the City Council determines, based upon substantial evidence in the record, that Developer has not complied in good faith with the terms and conditions of this Agreement, or there are significant questions as to whether Developer has complied with the terms and conditions of this

Agreement, the City Council, at its option, may continue the hearing and may notify Developer of the City's intent to meet and confer with Developer within thirty (30) days of such determination, prior to taking further action. Following such meeting, the City Council shall resume the hearing in order to further consider the matter and to make a determination regarding Developer's good faith compliance with the terms and conditions of this Agreement. In the event City determines Developer is not in good faith compliance with the terms and conditions of this Agreement, City may give the Developer a written Notice of Breach, in which case the provisions of Article 12, below, shall apply. The City Manager conduct of the annual review in accordance with the provisions of this Section 6.1.2 shall be in lieu of the Planning Commission review identified in City of Napa Resolution 93-267

6.1.3 Failure to Conduct Annual Review. Failure of City to conduct an annual review shall not constitute a waiver by the City of its rights to otherwise enforce the provisions of this Agreement nor shall Developer have or assert any defense to such enforcement by reason of any such failure to conduct an annual review.

ARTICLE 7 COOPERATION AND IMPLEMENTATION

7.1 Subsequent Approvals. Certain subsequent land use approvals, entitlements, and permits other than the Existing Approvals, will be necessary or desirable for implementation of the Project ("**Subsequent Approvals**"). The Subsequent Approvals may include, without limitation, the following: amendments of the Existing Approvals, grading permits, building permits, design review permits, sewer and water connection permits, certificates of occupancy, lot line adjustments, site plans, development plans, land use plans, building plans and specifications, parcel maps and/or subdivision maps, and any amendments to, or repealing of, any of the foregoing. Except as otherwise expressly provided herein, the City shall not impose requirements or conditions upon the development and construction of the Project that are inconsistent with the Project, Project Approvals, Existing Approvals, Vested Rights and the terms and conditions of this Agreement. The City acknowledges and agrees that except as otherwise specifically provided in Section 3.3 above, as long as development of the Project sought in the Subsequent Approvals is substantially consistent with the Project, in no event shall the City impose any additional Exactions (beyond those set forth in the Existing Approvals) in connection with the development of the Project approved in the Subsequent Approvals.

7.2 Processing Applications for Subsequent Approvals.

7.2.1 Timely Submittals by Developer. Developer acknowledges that City cannot begin processing applications for Subsequent Approvals until Developer submits complete applications on a timely basis. Developer shall use diligent good faith efforts to (a) provide to City in a timely manner any and all documents, applications, plans, and other information necessary for City to carry out its obligations hereunder; and (b) cause Developer's planners, engineers, and all other consultants to provide to City in a timely manner all such documents, applications, plans and other materials required under Applicable Law. It is the express intent of Developer and City to cooperate and diligently work to obtain any and all Subsequent Approvals.

7.2.2 Timely Processing by City. Upon submission by Developer of all appropriate applications and Processing Fees for any pending Subsequent Approval, City shall, to the full extent allowed by Applicable Law, promptly and diligently, subject to City ordinances, policies and procedures regarding hiring and contracting, commence and complete all steps necessary to act on Developer's currently pending Subsequent Approval applications including: (a) providing at Developer's expense and subject to Developer's request and prior approval, reasonable additional staff and/or staff consultants for concurrent, expedited planning and processing of each pending Subsequent Approval application (Developer shall pay such costs at cost); (b) if legally required, providing notice and holding public hearings; and (c) acting on any such pending Subsequent Approval application.

ARTICLE 8 AMENDMENT OF AGREEMENT AND PROJECT APPROVALS

8.1 Amendment by Written Consent. Except as otherwise expressly provided herein (including Section 6.1 relating to City's annual review and Section 12.1 relating to termination in the event of a breach), this Agreement may be terminated, modified or amended only by mutual written consent of the Parties hereto or their successors in interest or assignees and in accordance with the provisions of Government Code sections 65867, 65867.5 and 65868.

8.2 Major Amendments to Agreement. Any amendment to this Agreement which affects or relates to (a) the Term; (b) permitted uses of the Property; (c) provisions for the reservation or dedication of land; (d) conditions, terms, restrictions or requirements for subsequent discretionary actions; (e) the density or intensity of the use of the Property or the maximum height or size of proposed buildings; or (f) monetary contributions by Developer, shall be deemed a "**Major Amendment**" and shall require giving of notice and a public hearing before the Planning Commission and City Council. Any amendment which is not a Major Amendment shall be deemed a "**Minor Amendment**" and shall not, except to the extent otherwise required by Applicable Law, require notice of public hearing before the Parties may execute an amendment hereto. The City Manager or his or her designee shall have the authority to determine if an amendment is a Major Amendment or a Minor Amendment.

8.3 Minor Amendment. The City Manager or his or her designee shall have the authority to review and approve amendments to this Agreement provided that such amendments are not Major Amendments.

8.4 Requirement for Writing. No modification, amendment or other change to this Agreement or any provision hereof shall be effective for any purpose unless specifically set forth in a writing which refers expressly to this Agreement and is signed by duly authorized representatives of both Parties or their successors in interest.

8.5 Subsequent CEQA Review. No additional CEQA documentation shall be required unless Developer proposes substantial changes in the Project that result in unmitigated environmental impacts beyond those analyzed in the Prior CEQA documents or in the Prior CEQA Analysis. In the event that any additional CEQA documentation is legally required for any discretionary Subsequent Approval, then the scope of such documentation shall be focused, to the extent possible consistent with CEQA, on the specific subject matter of the Subsequent Approval, and

the City, at Developer's expense, shall conduct such additional CEQA review as expeditiously as possible.

ARTICLE 9 INDEMNITY AND COOPERATION IN THE EVENT OF LEGAL CHALLENGE

9.1 Indemnity and Hold Harmless. Developer shall indemnify, defend (with counsel reasonably acceptable to City) and hold harmless City Parties from and against any and all Claims, including Claims for any bodily injury, death, or property damage, resulting directly or indirectly from the development or construction of the Project by or on behalf of Developer, and/or from any other acts or omissions of Developer under this Agreement, whether such acts or omissions are by Developer or any of Developer's contractors, subcontractors, agents or employees, except to the extent such Claims arise from the sole active negligence or willful misconduct of City or City Parties.

9.2 Defense and Cooperation in the Event of a Litigation Challenge. City and Developer shall cooperate in the defense of any court action or proceeding instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, or the Project Approvals ("**Litigation Challenge**"), and the Parties shall keep each other informed of all developments relating to such defense, subject only to confidentiality requirements that may prevent the communication of such information. To the extent Developer desires to contest or defend such Litigation Challenge, (a) Developer shall take the lead role defending such Litigation Challenge and may, in its sole discretion, elect to be represented by the legal counsel of its choice; (b) City may, in its sole discretion, elect to be separately represented by the legal counsel of its choice in any such action or proceeding with the reasonable costs of such representation to be paid by Developer; (c) Developer shall reimburse City, within ten (10) business days following City's written demand therefor, which may be made from time to time during the course of such litigation, all reasonable costs incurred by City in connection with the Litigation Challenge, including City's administrative, legal, and court costs and City Attorney oversight expenses; and (d) Developer shall indemnify, defend, and hold harmless City Parties from and against any damages, attorneys' fees or cost awards, including attorneys' fees awarded under Code of Civil Procedure section 1021.5, assessed or awarded against City by way of judgment, settlement, or stipulation. Any proposed settlement of a Litigation Challenge shall be subject to City's approval not to be unreasonably withheld, conditioned or delayed. If the terms of the proposed settlement would constitute an amendment or modification of this Agreement or any Project Approvals, the settlement shall not become effective unless such amendment or modification is approved by City in accordance with Applicable Law, and City reserves its full legislative discretion with respect thereto. If Developer opts not to contest or defend such Litigation Challenge, City shall have no obligation to do so.

ARTICLE 10 ASSIGNMENT AND TRANSFER

10.1 Assignment. Developer shall have the right to sell or transfer its fee interest, or ground lease its interests in the Property, in whole or in part (provided that no such partial transfer shall violate the provisions of the Subdivision Map Act) to any person, partnership, joint venture, firm,

company, corporation or other entity (any of the foregoing, an “Assignee”) without the consent of the City. Assignees shall succeed to the rights, duties and obligations of Developer only with respect to the parcel or parcels, or portion of the Property so purchased, transferred, ground leased or assigned, and Developer shall continue to be obligated under this Agreement with respect to any remaining portions of the Property retained by Developer and not assigned.

10.2 Successive Assignment. In the event there is more than one Assignment under the provisions of this Article 10, the provisions of this Article 10 shall apply to each successive Assignment and Assignee.

ARTICLE 11 MORTGAGEE PROTECTION

11.1 Mortgagee Protection. Neither entering into this Agreement nor a breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value. Nothing in this Agreement shall prevent or limit Developer, at its sole discretion, from granting one or more Mortgages encumbering all or a portion of Developer’s interest in the Property or portion thereof or improvement thereon as security for one or more loans or other financing, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against and shall run to the benefit of Mortgagee who acquires title or possession to the Property, or any portion thereof, by foreclosure, trustee’s sale, deed in lieu of foreclosure or otherwise. Developer shall provide the City with a copy of the deed of trust or mortgage within ten (10) days after its recording in the official records of Napa County; provided, however, that Developer’s failure to provide such document shall not affect any Mortgage, including without limitation, the validity, priority or enforceability of such Mortgage.

11.2 Mortgagee Not Obligated. No Mortgagee (including one who acquires title or possession to the Property, or any portion thereof, by foreclosure, trustee’s sale, deed in lieu of foreclosure or otherwise) shall have any obligation to construct or complete construction of improvements, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Property to any use except in full compliance with this Agreement and the other Project Approvals nor to construct any improvements thereon or institute any uses other than those uses or improvements provided for or authorized by this Agreement, or otherwise under the Project Approvals. Except as otherwise provided in this Section 11.2, all of the terms and conditions contained in this Agreement and the other Project Approvals shall be binding upon and effective against and shall run to the benefit of any person or entity, including any Mortgagee, who acquires title or possession to the Property, or any portion thereof.

11.3 Notice of Default to Mortgagee. If City receives a notice from a Mortgagee requesting a copy of any Notice of Default given Developer hereunder and specifying the address for service thereof, then City agrees to use its diligent, good faith efforts to deliver to such Mortgagee, concurrently with service thereon to Developer, any Notice of Default given to Developer. Each Mortgagee shall have the right, but not the obligation, during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the event of Default claimed or the areas of noncompliance set forth in City’s Notice of Default. If a Mortgagee is required to obtain possession in order to cure any Default, the time to cure shall be tolled so long as the Mortgagee is attempting to obtain possession, including by appointment of a receiver or

foreclosure, but in no event may this period exceed 365 days from the date the City delivers the Notice of Default to Developer.

11.4 No Supersedure. Nothing in this Article 11 shall be deemed to supersede or release a Mortgagee or modify a Mortgagee's obligations under any subdivision or public improvement agreement or other obligation incurred with respect to the Project outside this Agreement, nor shall any provision of this Article 11 constitute an obligation of City to such Mortgagee, except as to the notice requirements of Section 11.3.

ARTICLE 12 DEFAULT; REMEDIES; TERMINATION

12.1 Breach and Default. Subject to Permitted Delays or by mutual consent in writing, and except as otherwise provided by this Agreement, breach of, failure, or delay by either Party to perform any term or condition of this Agreement shall constitute a "**Default**." In the event of any alleged Default of any term, condition, or obligation of this Agreement, the Party alleging such Default shall give the defaulting Party notice in writing specifying the nature of the alleged Default and the manner in which the Default may be satisfactorily cured ("**Notice of Breach**"). The defaulting Party shall cure the Default within thirty (30) days following receipt of the Notice of Breach, provided, however, if the nature of the alleged Default is non-monetary and such that it cannot reasonably be cured within such thirty (30) day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure, provided that if the cure is not diligently prosecuted to completion, then no additional cure period shall be provided. If the alleged failure is cured within the time provided above, then no Default shall exist and the noticing Party shall take no further action to exercise any remedies available hereunder. If the alleged failure is not cured, then a Default shall exist under this Agreement and the non-defaulting Party may exercise any of the remedies available under this Agreement.

12.2 Failure to Cure Default Procedure. If after Default or Notice of Breach, the Community Development Director finds and determines that Developer remains in default and that the City intends to terminate or modify this Agreement, or those transferred or assigned rights and obligations, as the case may be, the Director shall make a report to the Planning Commission and then set a public hearing before the Commission in accordance with the notice and hearing requirements of Government Code Sections 65867 and 65868. If after public hearing, the Planning Commission finds and determines, on the basis of substantial evidence, that Developer, or an Assignee, as the case may be, has not cured default pursuant to this Section, and that the City shall terminate or modify this Agreement, Developer shall be entitled to appeal that finding and determination to the City Council in accordance with Section 12.10 below. In the event of a finding and determination that all defaults are cured, there shall be no appeal by any person or entity.

12.3 Termination or Modification. The City may terminate or modify this Agreement, or those transferred or assigned rights and obligations, as the case may be, relating solely to the defaulting Developer or transferee and such defaulting party's portion of the Property after the final determination of the City Council or, where no appeal is taken, after the expiration of the appeal periods described in Section 12.01 relating to the defaulting parties rights and obligations

hereunder. There shall be no termination or modification of this Agreement unless the City Council acts pursuant to Government Code section 65867.5 and 65868, irrespective of whether an appeal is taken as provided in Section 12.10.

12.4 Specific Performance for Violation of a Condition. If City issues a Project Approval pursuant to this Agreement in reliance upon a specified condition being satisfied by Developer in the future, and if Developer then fails to satisfy such condition, City shall be entitled to specific performance for the purpose of causing Developer to satisfy such condition. If City issues a Project Approval pursuant to this Agreement and Developer fulfills its obligations under this Agreement in reliance upon a specified condition being satisfied by the City in the future, and if the City then fails to satisfy such condition, Developer shall be entitled to specific performance for the purpose of causing City to satisfy such condition.

12.5 Legal Actions.

Institution of Legal Actions. In addition to any other rights or remedies and subject to the limitation of damages in Section 12.7, a Party may institute legal action to cure, correct or remedy any Default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation thereof, or to obtain any other remedies consistent with the purpose of this Agreement. Any such legal action shall be brought in the Superior Court for Napa County, California, except for actions that include claims in which the Federal District Court for the Northern District of the State of California has original jurisdiction, in which case the Northern District of the State of California shall be the proper venue.

12.5.2 Acceptance of Service of Process. In the event that any legal action is commenced by Developer against City, service of process on City shall be made by personal service upon the City Clerk of City or in such other manner as may be provided by law. In the event that any legal action is commenced by City against Developer, service of process on Developer shall be made by personal service upon Daniel Rosenthal, Developer's registered agent for service of process, or in such other manner as may be provided by law, in accordance with the requirements of Section 13.2.

12.6 Rights and Remedies Are Cumulative. The rights and remedies of the Parties are cumulative, and the exercise by a Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default by the other Party, except as otherwise expressly provided herein.

12.7 No Damages. In no event shall a Party, or its boards, commissions, officers, agents or employees, be liable in damages, including without limitation, actual, consequential or punitive damages, for any Default under this Agreement. It is expressly understood and agreed that the sole legal remedy available to a Party for a breach or violation of this Agreement by the other Party shall be an action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement by the other Party, or to terminate this Agreement. This limitation on damages shall not preclude actions by a Party to enforce payments of monies or the performance of obligations requiring an obligation of money from the other Party under the terms of this Agreement including, but not limited to, obligations to pay

attorneys' fees and obligations to advance monies or reimburse monies. In connection with the foregoing provisions, each Party acknowledges, warrants and represents that it has been fully informed with respect to, and represented by counsel of such Party's choice in connection with, the rights and remedies of such Party hereunder and the waivers herein contained, and after such advice and consultation has presently and actually intended, with full knowledge of such Party's rights and remedies otherwise available at law or in equity, to waive and relinquish such rights and remedies to the extent specified herein, and to rely to the extent herein specified solely on the remedies provided for herein with respect to any breach of this Agreement by the other Party.

12.8 Resolution of Disputes. With regard to any dispute involving the Project, the resolution of which is not provided for by this Agreement or Applicable Law, a Party shall, at the request of another Party, meet with designated representatives of the requesting Party promptly following its request. The parties to any such meetings shall attempt in good faith to resolve any such disputes. Nothing in this Section 12.8 shall in any way be interpreted as requiring that Developer, City and/or City's designee reach agreement with regard to those matters being addressed, nor shall the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to in writing by the parties to such meetings.

12.9 Remedies upon Transfer or Assignment. Notwithstanding anything to the contrary contained in this Article 12, if Developer has transferred all or a portion of its interest in the Property pursuant to Section 10.1 above, then the City may only exercise its remedies under this Article 12 against the defaulting Developer or Assignee and such party's portion of the Property.

12.10 Appeals to City Council. Where an appeal by Developer to the City Council from a finding and/or determination of the Planning Commission is created by this Agreement, that appeal shall be taken, if at all, within twenty (20) days after the mailing of the finding and/or determination to Developer. The City Council shall act upon the finding and/or determination of the Planning Commission within eighty (80) days after the mailing, or within any additional period as may be agreed upon by Developer and the Council.

12.11 Surviving Provisions. In the event this Agreement is terminated, neither Party shall have any further rights or obligations hereunder, except for those obligations of Developer set forth in Article 9.

ARTICLE 13 GENERAL PROVISIONS

13.1 Covenants Binding on Successors and Assigns and Run with Land. Except as otherwise more specifically provided in this Agreement, this Agreement and all of its provisions, rights, powers, standards, terms, covenants and obligations, shall be binding upon the Parties and their respective successors (by merger, consolidation, or otherwise) and assigns, and all other persons or entities acquiring the Property, or any interest therein, and shall inure to the benefit of the Parties and their respective successors and assigns, as provided in Government Code section 65868.5.

13.2 Notice. Any notice, demand or request which may be permitted, required or desired to be given in connection herewith shall be given in writing and directed to the City and Developer as follows:

If to the City: City Clerk
City of Napa
City Hall, 955 School Street, South Wing
Napa, CA 94559
Telephone: (707) 257-9503

with a copy to: City Attorney
City of Napa
City Hall, 955 School Street, South Wing
Napa, CA 94559
Telephone: (707) 257-9516

If to Developer: Napa Vista Tulocay LLC
433 Soscol Avenue, Suite A-100
Napa, CA 94559
Telephone: (707) 265-0500
Attn: Shawn Guttersen

with a copy to: BLT Enterprises
1714 16th Street
Santa Monica, CA 90404
Telephone: (310) 314-0800
Attn: Daniel Rosenthal

Notices are deemed effective if delivered by certified mail, return receipt requested, or commercial courier, with delivery to be effective upon verification of receipt. Any Party may change its respective address for notices by providing written notice of such change to the other Parties.

13.3 Permitted Delays. Performance by either of the Parties of an obligation hereunder shall be excused during any period of “**Permitted Delay**.” Permitted Delay shall mean delay beyond the reasonable control of a Party caused by (a) calamities, including without limitation earthquakes, floods, and fire; (b) civil commotion; (c) riots or terrorist acts; (d) strikes or other forms of material labor disputes; (e) shortages of materials or supplies; or (f) vandalism. A Party’s financial inability to perform or obtain financing or adverse economic conditions generally shall not be grounds for claiming a Permitted Delay. The Party claiming a Permitted Delay shall notify the other Party of its intent to claim a Permitted Delay, the specific grounds of the same and the anticipated period of the Permitted Delay within thirty (30) business days after the occurrence of the conditions which establish the grounds for the claim. If notice by the Party claiming such extension is sent to the other Party more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice. The period of Permitted Delay shall last no longer than the conditions

preventing performance. In no event shall any Permitted Delay extend the Term of this Agreement.

13.4 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

13.5 Waivers. Notwithstanding any other provision in this Agreement, any failures or delays by any Party in asserting any of its rights and remedies under this Agreement shall not operate as a waiver of any such rights or remedies, or deprive any such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies. A Party may specifically and expressly waive in writing any condition or breach of this Agreement by the other Party, but no such waiver shall constitute a further or continuing waiver of any preceding or succeeding breach of the same or any other provision. Consent by one Party to any act by the other Party shall not be deemed to imply consent or waiver of the necessity of obtaining such consent for the same or similar acts in the future.

13.6 Construction of Agreement. All Parties have been represented by counsel in the preparation and negotiation of this Agreement, and this Agreement shall be construed according to the fair meaning of its language. The rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement. Unless the context clearly requires otherwise, (a) the plural and singular numbers shall each be deemed to include the other; (b) the masculine, feminine, and neuter genders shall each be deemed to include the others; (c) “shall,” “will,” or “agrees” are mandatory, and “may” is permissive; (d) “or” is not exclusive; (e) “includes” and “including” are not limiting; and (f) “days” means calendar days unless specifically provided otherwise.

13.7 Headings. Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, or conditions of this Agreement.

13.8 Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a specific situation, is found to be invalid, or unenforceable, in whole or in part for any reason, the remaining terms and provisions of this Agreement shall continue in full force and effect unless an essential purpose of this Agreement would be defeated by loss of the invalid or unenforceable provisions, in which case any Party may terminate this Agreement by providing written notice thereof to the other Party.

13.9 Time is of the Essence. Time is of the essence of this Agreement. All references to time in this Agreement shall refer to the time in effect in the State of California.

13.10 Extension of Time Limits. The time limits set forth in this Agreement may be extended by mutual consent in writing of the Parties in accordance with the provisions of this Agreement.

13.11 Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Developer and the City.

13.12 Entire Agreement. This Agreement (including all exhibits attached hereto, each of which is fully incorporated herein by reference), integrates all of the terms and conditions mentioned herein or incidental hereto, and constitutes the entire understanding of the Parties with respect to the subject matter hereof, and all prior or contemporaneous oral agreements, understandings, representations and statements, and all prior written agreements, understandings, representations, and statements are terminated and superseded by this Agreement.

13.13 Estoppel Certificate. Developer or its lender may, at any time, and from time to time, deliver written notice to the City requesting the City to certify in writing that: (a) this Agreement is in full force and effect; (b) this Agreement has not been amended or modified or, if so amended or modified, identifying the amendments or modifications; and (c) Developer is not in Default of the performance of its obligations, or if in Default, to describe therein the nature and extent of any such Defaults. Developer shall pay, within thirty (30) days following receipt of City's invoice, the actual costs borne by City in connection with its review of the proposed estoppel certificate, including the costs expended by the City Attorney's Office in connection therewith. The Community Development Director shall be authorized to execute any certificate requested by Developer hereunder. The form of estoppel certificate shall be in a form reasonably acceptable to the City Attorney. The Community Development Director shall execute and return such certificate within thirty (30) days following Developer's request therefor. Developer and City acknowledge that a certificate hereunder may be relied upon by tenants, transferees, investors, partners, bond counsel, underwriters, bond holders and Mortgagees. The request shall clearly indicate that failure of the City to respond within the thirty-day period will lead to a second and final request. Failure to respond to the second and final request within fifteen (15) days of receipt thereof shall be deemed approval of the estoppel certificate.

13.14 Recordation of Termination. Upon completion of performance of the Parties or termination of this Agreement, a written statement acknowledging such completion or termination shall be recorded by City in the Official Records of Napa County.

13.15 City Approvals and Actions. Whenever a reference is made herein to an action or approval to be undertaken by City, the City Manager or his or her designee is authorized to act on behalf of City, unless specifically provided otherwise or the context requires otherwise.

13.16 Negation of Partnership. The Parties specifically acknowledge that the Project is a private development, that no Party to this Agreement is acting as the agent of any other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in the businesses of Developer, the affairs of the City, or otherwise, or cause them to be considered joint venturers or members of any joint enterprise.

13.17 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the signatory Parties and their successors and assigns, including

Mortgagees. No other person shall have any right of action based upon any provision in this Agreement.

13.18 Governing State Law. This Agreement shall be construed in accordance with the laws of the State of California, without reference to its choice of law provisions.

13.19 Recordation. As provided in Government Code Section 65868.5, the City Clerk of Napa shall record a copy of this Agreement with the Registrar-Recorder of the County of Napa within ten (10) days following its execution by both Parties. Developer shall provide the City Clerk with the fees for recording prior to or at the time of recording.

13.20 Exhibits. The following exhibits are attached to this Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

- Exhibit A: Property Description
- Exhibit B: Project Description
- Exhibit C: Phase I and Phase II Property Map
- Exhibit D: Existing Approvals
- Exhibit E: Vested Rights Reference Documents

IN WITNESS WHEREOF, the City and Developer have executed this Agreement as of the Effective Date.

CITY:

CITY OF NAPA, a municipal corporation

By: _____
Mike Parness, City Manager
[Signature must be notarized]

ATTEST:

By: _____
Dorothy Roberts, City Clerk

APPROVED AS TO FORM:

By: _____
Michael Barrett, City Attorney

DEVELOPER:

Napa Vista Tulocay, LLC a California limited liability company

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

[Signatures must be notarized]

NOTARY ACKNOWLEDGEMENT TO BE ATTACHED

EXHIBIT A
PROPERTY DESCRIPTION

**EXHIBIT A
LEGAL DESCRIPTION**

The land referred to in this report is situated in the City of Napa, County of Napa, State of California, and is described as follows:

TRACT ONE:

PARCEL ONE: (Adjusted Parcel One of LLA)

All that real property situate in the City of Napa, County of Napa, State of California, being a portion of Parcel "A" as described in the grant deed recorded November 27, 2012 as Instrument Number 2012-0032579, Napa County Records, more particularly described as follows:

Beginning at the southwest corner of said Parcel "A"; said point of beginning also being the intersection of the easterly line of the Napa Valley Wine Train and the northerly line of the remaining lands of the Gasser Foundation as shown on the parcel map filed June 16, 2011 in Book 26, Parcel Maps, page 65, Napa County Records; thence along said easterly line of the Napa Valley Wine Train, North $00^{\circ}11'43''$ East, 520.05 feet to a point on the easterly line of the re-aligned Napa Valley Wine Train right-of-way as described in the Grant of Real Property and Easements recorded November 18, 2008 as Instrument Number 2008-0028850, Napa County Records; thence along said easterly line of said re-aligned Napa Valley Wine Train right-of-way, North $12^{\circ}58'00''$ East, 1,385.90 feet to a curve concave to the West having a radius of 600.00 feet; thence northerly along said curve 56.71 feet through a central angle of $5^{\circ}24'55''$ to the northwest corner of said Parcel "A"; thence leaving said easterly line of said re-aligned Napa Valley Wine Train right-of-way along the northerly line of said Parcel "A", North $81^{\circ}11'47''$ East, 124.42 feet; thence leaving said northerly line of Parcel "A", South $40^{\circ}29'23''$ East, 121.04 feet to the beginning of a curve concave to the West having a radius of 373.00 feet; thence southerly along said curve, 197.87 feet through a central angle of $30^{\circ}23'41''$ to the beginning of a reverse curve concave to the East having a radius of 577.00 feet; thence southerly 46.59 feet along said curve through a central of $4^{\circ}37'36''$; thence on a non-tangent line, South $61^{\circ}28'52''$ West, 200.69 feet; thence South $28^{\circ}31'08''$ East, 581.55 feet to point on the easterly line of said Parcel "A", said point also being on the westerly line of the Napa County Flood Control & Water Conservation District, as described in the document recorded January 14, 2009 as Instrument Number 2009-0000815, Napa County Records; thence southwesterly along said easterly line of said Parcel "A" and said westerly line of the lands of the Napa County Flood Control & Water Conservation District, South $27^{\circ}45'09''$ West, 209.39 feet; thence South $18^{\circ}16'27''$ West, 285.32 feet; thence South $29^{\circ}24'34''$ West, 68.70 feet; thence South $22^{\circ}20'11''$ West, 39.75 feet; thence South $13^{\circ}21'04''$ West, 140.05 feet; thence South $20^{\circ}51'32''$ West, 121.92 feet; thence South $39^{\circ}52'08''$ West, 80.13 feet; thence South $21^{\circ}14'10''$ West, 77.91 feet; thence South $18^{\circ}27'39''$ West, 117.39 feet to the North line of said remaining lands of the Gasser Foundation; thence leaving said westerly line of said lands of the Napa County Flood Control & Water Conservation District, along said North line of the remaining lands of the Gasser Foundation, North $79^{\circ}24'50''$ West, 21.93 feet to the beginning of a curve concave to the South having a radius of 1177.08 feet; thence westerly along said curve 213.41 feet through a central angle of $10^{\circ}23'17''$; thence North $89^{\circ}48'07''$ West, 57.21 feet to the point of beginning.

PARCEL TWO:

A non-exclusive easement 40 feet in width for private access and public utility purposes, more particularly described as follows:

All that real property situate in the City of Napa, County of Napa, State of California, being a portion of Parcel "A" as described in the grant deed recorded November 27, 2012 as Instrument Number 2012-0032579, Napa County Records, more particularly described as follows:

Commencing at the most easterly corner of Parcel "A" as described in the grant deed recorded November 27, 2012 as Instrument Number 2012-0032579, Napa County Records, said point being the most northwesterly corner of the Napa County Flood Control & Water Conservation District as described in the grant deed recorded January 14, 2009 as Instrument Number 2009-0000815, Napa County Records; thence northwesterly along the easterly line of said Parcel "A", North 28°31'08" West, 300.41 feet and North 33°15'00" West, 8.22 feet to the point of beginning of the herein described easement, said point being the most southwesterly corner of the existing 40 foot wide private access and public utility easement, as described in the grant deed recorded November 27, 2012, as Instrument Number 2012-0032579; thence leaving said easterly line of Parcel "A", South 61°28'22" West, 265.53 feet; thence North 28°31'08" West, 40.00 feet; thence North 61°28'22" East, 262.22 feet to a point on said easterly line of Parcel "A", said point being the most northwesterly corner of said 40 foot wide private access and public utility easement; thence southeasterly along said easterly line of Parcel "A", South 33°15'00" East, 40.14 feet to the point of beginning.

PARCEL THREE:

A non-exclusive easement for private access, utilities and incidental purposes granted as Parcel Three in the deed recorded November 27, 2012 as Instrument Number 2012-0032579, Napa County Records.

PARCEL FOUR:

A non-exclusive easement for private access, utilities and incidental purposes granted as Parcel Four in the deed recorded November 27, 2012 as Instrument Number 2012-0032579, Napa County Records.

TRACT TWO:**PARCEL ONE: (Adjusted Parcel Two of LLA)**

All that real property situate in the City of Napa, County of Napa, State of California, being a portion of Parcel "A" as described in the grant deed recorded November 27, 2012 as Instrument Number 2012-0032579, Napa County Records, more particularly described as follows:

Commencing at the most easterly corner of Parcel "A" as described in the grant deed recorded November 27, 2012 as Instrument Number 2012-0032579, Napa County Records, said point being the most northwesterly corner of the Napa County Flood Control & Water Conservation District as described in the grant deed recorded January 14, 2009 as Instrument Number 2009-0000815, Napa County Records; thence easterly along the northerly line of said Napa County Flood Control & Water Conservation District and the southeasterly line of said Parcel "A", South 78°14'51" West, 6.39 feet to the point of beginning of the herein described Parcel "2"; thence continuing along said northerly and northwesterly line of the Napa County Flood Control & Water Conservation District and the southeasterly line of said Parcel "A", South 78°14'51" West, 126.68 feet, South 22°35'35" West, 159.00 feet and South 27°45'09" West, 18.07 feet; thence leaving said northwesterly line of the Napa Flood Control & Water Conservation District and said southeasterly line of Parcel "A", North 28°31'08" West, 581.55 feet; thence North 61°28'52" East, 200.69 feet to a point on a non-tangent curve concave to the northeast having a radius of 577.00 feet and to which point a radial line bears South 75°16'42" West; thence southerly along said curve 118.74 feet through a central angle of 11°47'26" to the beginning of reverse curve concave to the northwest having a radius of 10.00 feet; thence southwesterly along said curve 9.98 feet through a central angle of 57°12'09" to the beginning of a reverse curve concave to the northeast having a radius of 65.00 feet; thence southeasterly along said curve 144.72 feet through a central angle of 127°34'10" to the beginning of a reverse curve concave to the southwest having a radius of 10.00 feet; thence southeasterly along said curve 9.98 feet through a central angle of 57°12'09" to the beginning of a reverse curve concave to the northeast having a radius of 577.00 feet; thence southeasterly along said curve, 54.82 feet through a central angle of 5°26'37"; thence South 45°07'12" East, 148.12 feet to the beginning of a curve concave to southwest having a radius of 223.00 feet; thence southerly along said curve, 51.71 feet through a central angle of 13°17'14" to a non-tangential line; thence South 31°49'59" East, 13.03 feet to the point of beginning.

PARCEL TWO:

A non-exclusive easement 40 feet in width for private access and public utility purposes, more particularly described as follows:

All that real property situate in the City of Napa, County of Napa, State of California, being a portion of Parcel "A" as described in the grant deed recorded November 27, 2012 as Instrument Number 2012-0032579, Napa County Records, more particularly described as follows:

Commencing at the most easterly corner of Parcel "A" as described in the grant deed recorded November 27, 2012 as Instrument Number 2012-0032579, Napa County Records, said point being the most northwesterly corner of the Napa County Flood Control & Water Conservation District as described in the grant deed recorded January 14, 2009 as Instrument Number 2009-0000815, Napa County Records; thence northwesterly along the easterly line of said Parcel "A", North 28°31'08" West, 300.41 feet and North 33°15'00" West, 8.22 feet to the point of beginning of the herein described easement, said point being the most southwesterly corner of the existing 40 foot wide private access and public utility easement, as described in the grant deed recorded November 27, 2012, as Instrument Number 2012-0032579; thence leaving said easterly line of Parcel "A", South 61°28'22" West, 265.53 feet; thence North 28°31'08" West, 40.00 feet; thence North 61°28'22" East, 262.22 feet to a point on said easterly line of Parcel

"A", said point being the most northwesterly corner of said 40 foot wide private access and public utility easement; thence southeasterly along said easterly line of Parcel "A", South 33°15'00" East, 40.14 feet to the point of beginning.

Excepting from Parcel Two any portion thereof lying within Parcel One above.

PARCEL THREE:

A non-exclusive easement for private access, utilities and incidental purposes granted as Parcel Three in the deed recorded November 27, 2012 as Instrument Number 2012-0032579, Napa County Records.

PARCEL FOUR:

A non-exclusive easement for private access, utilities and incidental purposes granted as Parcel Four in the deed recorded November 27, 2012 as Instrument Number 2012-0032579, Napa County Records.

EXHIBIT B
PROJECT DESCRIPTION

Project Description

PROJECT LOCATION

The proposed Vista Tulocay Apartment project ("Project") is planned on an 11.01 (net) acre portion of the 18.12 (net) acre Tulocay Village District (Zoning District MP-G4) and Tulocay Place District (Zoning District MP-G3) site located in the southeast area of the City of Napa, approximately 0.5 miles from the downtown district along Soscol Avenue and south of Oil Company Road. The City of Napa is located in southern Napa County, situated along Highway 29, approximately 50 miles northeast of the City of San Francisco (see sheet A0-2, Site Context Map). The project is bordered by Oil Company Road to the north, auto dealerships to the east that front Soscol Avenue, Tulocay Creek to the south and the Napa Wine Train and Napa River to the west (see sheet A0-5, Arch Site Plan). The site is one of the largest undeveloped parcels in the City of Napa.

This is a Major Design Review Application for Phase I of the residential component of the north area of the Gasser Master Plan, Chapter 17.28 of the Napa Municipal Code, and as further identified as the Tulocay Village District (Zoning District MP-G4) and a portion of the Tulocay Place District (Zoning District MP-G3).

This application does not include the zoning districts known as Tulocay Place District (other than the portion located west of North Drive) or the Creekside District of the Gasser Master Plan, nor does it include the approximate 7.12 (net) acre portion of the Tulocay Village District located immediately to the south of the Project identified as "Future Residential Phase II" on the plans included herewith.

PROJECT BACKGROUND

In 1975, the City of Napa established a Rural Urban Limit (RUL) line, an urban growth boundary identifying a limited area for urban development in order to contain urban growth and control Napa's outward expansion. As a result, all of Napa's future development is designated in existing neighborhoods within the RUL. The City has been divided into a total of 12 planning areas that are planned for future development. The City's 1998 General Plan maintained the RUL with little change from that adopted by the City in its 1982 General Plan. The project site is located within the Soscol #9 planning area within the RUL.

In October 2002, the preliminary Master Plan application materials for the site were submitted to the City of Napa for review. In June 2004, the Gasser Foundation presented its Master Plan concept to the Planning Commission. In August 2004, the Gasser Master Plan Rezoning application materials were submitted for review and work commenced on the Draft Environmental Impact Report for the Master Plan property. On November 15, 2004, a Notice of Preparation of the Draft Environmental Impact Report for the Gasser Master Plan was mailed to all responsible and affected agencies as well as interested organizations and individuals, and a scoping session was held on November 18, 2004.

The City of Napa filed a Notice of Completion of the Draft EIR with the State Office of Planning and Research on December 15, 2005, circulated the Draft EIR for review and comment by the public and public agencies which have jurisdiction by law with respect to the project between December 15 and January 30, 2006, and held a public hearing to solicit comments on the Draft EIR on January 12, 2006. The Final EIR, incorporating comments received, responses to those comments, and changes to the Draft EIR was published and circulated to commenting agencies and persons on August 17, 2006.

The Gasser Foundation published a refined Master Plan in September 2006 that provides more explicit zoning regulations consistent with other chapters of the City of Napa Zoning Ordinance; no specific site residential layouts for the north area were provided at that time; however, the Master Plan allowed for a greater mix of residential types and densities and designated the residential portion of the site as Tulocay Village.

In October 2006, following discussions among Napa County Flood Control and Water Conservation District staff, City staff and the environmental consultants, text changes to the published Final EIR were published as an Errata Sheet to be incorporated into the Final EIR. On October 17, 2006, joint notice was published as a 1/8 display ad in the Napa Register and on October 15 notice was mailed to interested agencies and groups and nearby property owners of the Planning Commission Public Hearing on the EIR and Project on October 26, 2006 and of the City Council Public Hearing on November 21, 2006. On October 23, 2006, the applicant requested that the Planning Commission continue the public hearing on the EIR and Master Plan to November 2 to provide added time to investigate certain floodway issues. A courtesy notice was mailed on October 23, 2006 to those agencies, groups and individuals receiving earlier notice that the applicant had requested a continuance to November 2, and that Commission would consider that action at their October 26 meeting. The Planning Commission considered the request for a continuance at their October 26 meeting, and continued the item to November 2, 2006.

The Planning Commission of the City of Napa, State of California, held the continued hearing on November 2, 2006, on the subject Final EIR and Master Plan and recommended City Council certification of the EIR, incorporating certain Errata and an "equally effective" mitigation measure for Hydro-5a and approval of the Master Plan project with various changes to the Master Plan Rezoning and Conditions of Approval. The City Council of the City of Napa, State of California, held a noticed public hearing on the Final EIR on November 21, 2006, accepted public testimony on the Final EIR and certified the EIR. The City Council of the City of Napa, State of California, held a noticed public hearing on the Master Plan rezoning and affordable housing "in lieu equivalent action" on December 12, 2006.

On May 15, 2014, the Project was presented at a Planning Commission Workshop. At this Workshop, the Project included Future Residential Phase II and consisted of a total of 483 residential apartment homes.

This is an application for a Major Design Review for Phase I of the Tulocay Village District which consists of 282 residential apartment homes on 11.01 (net) acres. This application is in substantial conformance with the approved Gasser Master Plan for the Tulocay Village District (2006), subject to certain clarifications and equivalency findings pertaining to the approved Conditions of Approval (see below).

PROJECT SITE CHARACTERISTICS

Existing Uses and On-Site Characteristics

Previously, the site was in the flood plain. Fill by the Napa County Flood Control District raised the site out of the flood plain. Then a Letter of Map Revision was approved based on the fill and work to date on the Napa River Flood Protection Project (the "NRFPP"), and thus, is no longer subject to the development regulations associated with the flood plain zone.

The Project is immediately adjacent to the Napa County Flood Control and Water Conservation District detention basin to the east of the Project property line.

On-site vegetation includes a fallow field dominated by ruderal and non-native grasses with other non-protected tree species and shrubs.

There is an existing Quonset hut located partially within the proposed Public Street that is immediately adjacent to the Project. The building is currently under lease by Vine Towing located at 931 Oil Company Road. As a result of the overall Gasser Master Plan project, the Gasser Foundation is seeking a demo permit to remove this building. The Current tenant shall be vacated prior to commencement of demolition.

A handful of existing trees are to be removed for the proposed north/south public road..

- There are 5 walnut trees (6"-12" dia) located west of the Gasser Foundation Building, see Sheet C-9
- Adjacent to the existing Quonset hut are a cluster of 6 eucalyptus trees (10"-14" dia) and a single walnut tree (10" dia), see Sheet C-10
- Miscellaneous cluster of trees (6"-12") located west of the existing car dealer building, see Sheet C-10

Historic Uses

Historic uses of the project site include fallow land and river-adjacent flood plains. The general area around the project site was used for cattle grazing in the early 1900s.

Surrounding Land Uses

The Project site is located within a mixed-residential and commercial area of the City of Napa, and is southwest of the Silverado Trail and adjacent to the Soscol Avenue commercial corridor. The Project site is generally bounded by developed land to the east with the Gasser Foundation Building; commercial uses including automobile service and sales, food service, and storage services along Soscol Avenue to the northeast; the Napa Wine Train and Napa River to the west; the undeveloped Creekside District of the Gasser Master Plan; the Napa County Flood Control and Water Conservation District detention basin to the east and southeast, and to the south, the project site is bounded by Tulocay Creek, as shown on sheet A0-3, Site Photos. Further south is the newly developed Century Theatre multi-plex commercial project in the South River Place District of the Gasser Master Plan.

PROJECT DESCRIPTION

The project site is identified by the Napa County Assessor's Office as Assessor's Parcel Numbers 046-190-065 & 066 and encompasses an 11.01 (net) acre portion the Tulocay Village District (MP-G4) and Tulocay Place District (MP-G3) Zoning designations.

The General Plan designation for the Project is MU-532 and CC 533 with a density of 10-40 units per acre. The Affordable Housing Overlay sets 25 units/acre as a minimum density for Tulocay Village. However, residential density is required to vary within the site which means that residential densities are required to be averaged over the area (Section 17.28.040).

The Project application seeks to develop the 11.01 (net) acre site with 282 residential apartment homes with an average density of 25.62 units per net acre calculated in accordance with Section 17.52.120 of the Napa Municipal Code (see A0-1 Project Data). This excludes the net acreage dedicated to the Napa Sanitation District (NSD) easement and the wetland buffer areas lying within the Project property.

The area identified as "Future Residential Phase II" on the plans attached hereto are not a part of this application for Major Design Review.

Proposed Development Plan

The Project is proposing to develop 282 residential apartment homes with an average density of 25.62 units per acre (See sheet A0-4, Scope of Work/Phasing Plan). A total of 9 residential apartment buildings with five different building configurations are proposed. The total number of apartment homes in each building range from 17 to 46 units. The residential buildings will be three-story walk-ups with attached, tuck-under one car garages. Multiple open-air breezeways are provided at each building to increase horizontal circulation and have been placed at key points of each building as vertical tower elements to be quickly identifiable to residents and guests.

A leasing and business center available for use by the residents will be situated near the entry of the Project to provide guests and future residences an iconic building that will become the “gateway” into the Tulocay Village residential community. A lush, landscaped plaza at the building entry will welcome residents and visitors. Residents will be encouraged to share the building’s conference room and business center with Wi-Fi for their needs while working from home to promote live/work lifestyles at Tulocay Village. A central mailroom for the entire community will be provided along with a do-it-yourself bike repair area, which will be conveniently located along one of the many pedestrian linkages tying together all uses throughout the site, see sheets A1-21 & L-2. There will be a designated walking trail for all residents and the general public as shown on sheet A0.5 Arch Site Plan and L-9 Pedestrian Circulation.

An iconic and highly visible amenity building will also be provided in the middle of the Project along the Project’s main internal road. This will have class “A” amenities for the residents such as a community room, state of the art fitness center and yoga room, outdoor kitchen, dining and bar, outdoor fireplace, bocce courts, swimming/lap pool with spa and outdoor cabanas, see sheets A1-23 & L-3

As shown on sheet A0-5 Arch Site Plan, the Project is proposing to construct internal roadways and parking areas around the perimeter of the project, with the exception of the units adjacent to the southeasterly wetland area. The east/west road and head-in parking adjacent to the Future Residential Phase 2 boundary will act as a loop road to connect the Main Drive and perimeter roadway running along the NSD easement with connection back to Oil Company Road and ultimately Soscol Avenue.

The apartment home buildings would be wood-framed, with stucco finish, Hardie board siding, vinyl windows, and composition roofs. At three-stories, the buildings would be approximately 36 feet tall at the highest point (under the 45 foot maximum height limit). The setbacks from the project boundary are also shown on sheet A0-5 Arch Site Plan.

The design team of Dahlin Group Architecture Planning, VanderToolen Associates, and Foulk Civil Engineering has created a “signature” style for the Project, which will help to reinforce a modern village feel for the entire property and effectively bridge neighboring uses, massing, and architectural styles. The buildings reflect great attention to material, massing, articulation, roof forms, building entries, and pedestrian-level detailing.

The architectural style proposed is a blend of contemporary and traditional architectural forms and materials. The Project proposes to “theme” the residential community in a more contemporary vernacular since it will be located behind regional serving retail in the future. Our design approach would be to use the commercial retail as a “gateway” to the residences at the Tulocay Village District. See sheets A2-1 thru A2-23 for proposed building elevations.

The Project is proposing a total of 77 one-bedroom units (27.3%), 186 two-bedroom units (66.0%), 11 three-bedroom units (3.9%), and 8 three-bedroom townhome style units (2.8%) units. The square footage for the one-bedroom units range from 625 to 866 sf, the

two-bedroom units range from 968 to 1,220 sf and the three-bedroom units range from 1,275 to 1,325 sf.

Each apartment unit is designed to include low volatile organic compounds (VOC) Green Label wall-to-wall carpeting and/or wood flooring, formaldehyde-free cabinets, and central heating and air. In addition, ultra-low-flow toilets will be included in all the units (Chapter 13.09, Napa Municipal Code). The buildings are designed to exceed Title 24 energy standards and would incorporate Energy-Star-rated appliances, energy-efficient lighting, double-pane windows, and energy-efficient insulation. The clubhouse includes one natural gas fireplace. The project also includes on-site bicycle racks.

The project provides 485 off-street parking spaces, which includes 185 single-car garages, 103 carports, and 197 open spaces. All parking is provided on site. Each apartment home will have at least one dedicated, covered stall adjacent to their building. In addition, the project site is located within walking distance to bus routes along Soscol Avenue.

Landscaping/Exterior Improvements

The project's landscaping plan is designed to maximize communal outdoor space using drought-tolerant, low-water usage plants in compliance with Chapter 17.52 of the City's Municipal Code and the City's Standard Plans and Specifications that address landscaping. The project's proposed Landscaping Plan is shown on sheet L-1. The project would plant trees in compliance with the City's ordinance that oversees the identification, removal, and protection of trees on private property (Chapter 12.45). According to the project's landscaping plan, the Project will plant new trees including red maple, magnolia, eastern redbud, Chinese pistache, London plane, and flowering pear. All onsite landscaping and irrigation plans would be designed by a licensed landscape architect or landscape contractor and approved by the City of Napa Public Works Department Water Division, prior to the approval of Improvement Plans and issuance of building permits for the project.

As noted earlier, the project site is located at a higher elevation than adjacent lands. The grade differential at the project boundaries are primarily made up by existing slopes. Project development areas are predominantly above the existing slopes but a few short retaining walls will be required at isolated locations along the eastern boundary of the site to provide flat area for buildings and pedestrian walkways. Along the eastern boundary of the project site, the project is proposing a 4-foot high fence. Vegetation, including trees and shrubs, would be planted along the exterior of the boundary walls where applicable in compliance with the City's ordinance (17.08.040 D) that requires a landscape buffer.

If the project is approved, development of the site would require site clearing and grub removal, as well as removal of other trees and vegetation.

Circulation/Infrastructure Improvements

Primary access to the project site would be from Soscol Avenue through Tulocay Place on a new public road (Main Entry Road) located approximately half way between Oil Company Road and Silverado Trail. Secondary project access is to be provided via Oil Company Road to the north and Gasser Drive to the south. A new public road (North/South Road) is to be constructed along the project's easterly boundary connecting Oil Company Road to Gasser Drive.

The internal project circulation provides access to the units and parking areas, as shown on sheet L9.

The project site is located entirely within the Napa city limits and would be served by the City for the provision of water. The Napa Sanitation District would provide wastewater services. The proposed project would include new water, sewer, and storm drain infrastructure on site to serve the residential development designed in compliance with the City's Standard Plans and Specifications. Water infrastructure for the project would be connected to the water pressure zone 3 main lines that are to be installed and converted as part of the Gasser Master Plan. Sewer infrastructure for the project will be connected to Napa Sanitation District's 54" trunk main located along the westerly project boundary. Project drainage is to be routed to the Napa County Flood Control District's detention basin along the south easterly boundary of the project. The project's on-site water, sewer, and storm drain lines are proposed to be located within driveway and landscaped corridors within the project site.

The project includes separate water connections (domestic water, fire, and irrigation) to the converted zone 3 water main in Soscol Avenue, and to the zone 3 water main near the end of Hartle Court. A 12" public water main is to be installed in the main project driveway running along the westerly portion of the site. Water, fire and irrigation services are to be provided to each parcel off of this public water main.

The on-site sewer lines for the project would connect to Napa Sanitation District's 54" trunk main along the westerly project boundary at two locations. The public and private on-site sewer network is comprised of 8" and 6" diameter sewer mains generally routed to each building along the project driveways.

The project's storm drain infrastructure consists of 3 primary drainage areas each tributary to the Napa County Flood Control District's detention basin. Storm water treatment is to be provided by vegetated swales incorporated into the project grading design at each of the three outlets to the detention basin. The main storm drain lines within the project are to be routed along the driveways and through landscape areas to collect runoff from the driveways, parking areas, landscaped areas and roof tops.

The project also includes natural gas, electrical, cable television, and telephone to serve the project site. All new utilities would be installed underground, per Chapter 16.36 of

the City's Municipal Ordinance. Each of these utilities would connect to infrastructure along Soscol Avenue, Oil Company Road and Gasser Drive. The project is designed to have four electrical transformers on the site that would serve all the buildings and the individual units with electricity.

The project includes on-site sidewalks that would serve residents of the project and provide access to the new project entrance road, the north/ south road between Gasser Drive and Oil company road and to the Tulocay Creek levee south of the project. The North/South road is to have a 4-foot wide separated sidewalks along both sides of the project's frontage, and a 6-foot wide attached sidewalk on the east side of the North/South Road south of the project main entry road. The main project entry road is to have 6-foot wide separated sidewalks on each side, and Oil company Road is to have a 6-foot wide separated sidewalk along its southerly side. The landscape/planter strip between the sidewalk and roadways would be landscaped with trees and drought-resistant plants.

REQUIRED PROJECT APPROVALS

City of Napa

The following approvals are required to develop the property as described in this submittal:

- Major Design Review
- Lot Line Adjustment to reconfigure the property line between two existing parcels that make up the project site.
- Zoning Amendment to remove the requirement of on-street parking within North Drive and Entry Road.
- Development Agreement
- An "alternative equivalent action" to satisfy the affordable housing inclusionary requirements.

Affordable Housing Requirement

In November, 2003, the Project site was designated with the AH Affordable Housing Overlay. Chapter 17.36 of the City's zoning ordinance requires that designated mixed-use sites with an Affordable Housing Overlay must provide ten percent of total units constructed on-site affordable to very-low income households, and an additional ten percent of total units constructed on-site to be affordable to low-income households, unless an alternative equivalent proposal is approved pursuant to Napa Municipal Code Section 15.94.050(B).

In conjunction with the approval of the Gasser Master Plan in 2006, the Gasser Foundation submitted a request for approval of an alternative equivalent proposal in lieu of the requirement to construct 10% of the units affordable to very low income

households on-site. The City Council approved the request by adoption of Resolution R2006-214.

Subsequent to the adoption of Resolution R2006-214, the City updated its inclusionary housing program and replaced the requirement to construct a certain percentage of affordable units on-site with the requirement to pay an Affordable Housing Impact Fee. This occurred on July 24, 2012 with the adoption of Chapter 19.54 of the Napa Municipal Code "Affordable Housing Impact Fees," which repealed the City's prior inclusionary housing ordinance "City of Napa Housing Trust Fund, Housing Impact Fee and Inclusionary/In Lieu Fee Requirements". The inclusionary rental housing requirements of the Affordable Housing Overlay zone are no longer applicable to this site.

In response to the City's new Chapter 15.94 "Affordable Housing Impact Fees" ordinance and the fact that the requirement to build on-site rental housing has been removed from the Napa Municipal Code, Project applicant intends to satisfy the City's affordable housing requirements set forth in the AH Affordable Housing Overlay District and Chapter 15.94 "Affordable Housing Impact Fees" ordinance for the entire Gasser Master Plan by the "alternative equivalent proposal" under Chapter 15.94.070. As a result of the foregoing, the inclusionary rental housing requirements set forth in the Affordable Housing Overlay shall not be applicable to the Tulocay Village District.

The Gasser Master Plan provides for a residential density range of 380-500 residential units (See Napa Municipal Code Section 17.28.040). For purposes of satisfying the minimum density requirements applicable to the entire Tulocay Village District, in no case shall the combined number of residential units in the Project and the "Future Residential Phase II" be less than 380 residential units, regardless of the size of the overall residential development site.

Conditions of Approval

In connection with the approval of the Gasser Master Plan on December 12, 2006, the City Council imposed certain conditions of approval (COA). On December 18, 2012, the City Council approved modifications to the Conditions of Approval in conjunction with the Gasser North Modification application #11-0137. Project applicant shall comply with the Conditions of Approval applicable to the project site, subject to the following:

COA 1. In 2011, the California Legislature passed legislation barring redevelopment agencies from engaging in new business and providing for their dissolution (Assembly Bill 1X26 and Assembly Bill 1X27). As a result, redevelopment agencies were dissolved on February 1, 2012. Consequently, COA 1 is no longer applicable to any of the Gasser Master Plan Districts.

COA 2. Condition of Approval 2 required the Developer and any subsequent property owners of the Gasser Master Plan Districts to petition the City to institute the formation of a Communities Facilities District (CFD) pursuant to Government Code Section 53319 which will incorporate the area covered by the Gasser Master Plan. Due to the

modifications of Conditions of Approval 24 and 25, the funding provided by a CFD is not needed.

COA REVISIONS INCLUDE: 24, 25, 27, 28, 31, 33 & 46.

COA DEEMED COMPLETE: 30, 40, 43, 57 & 59.

Development Agreement

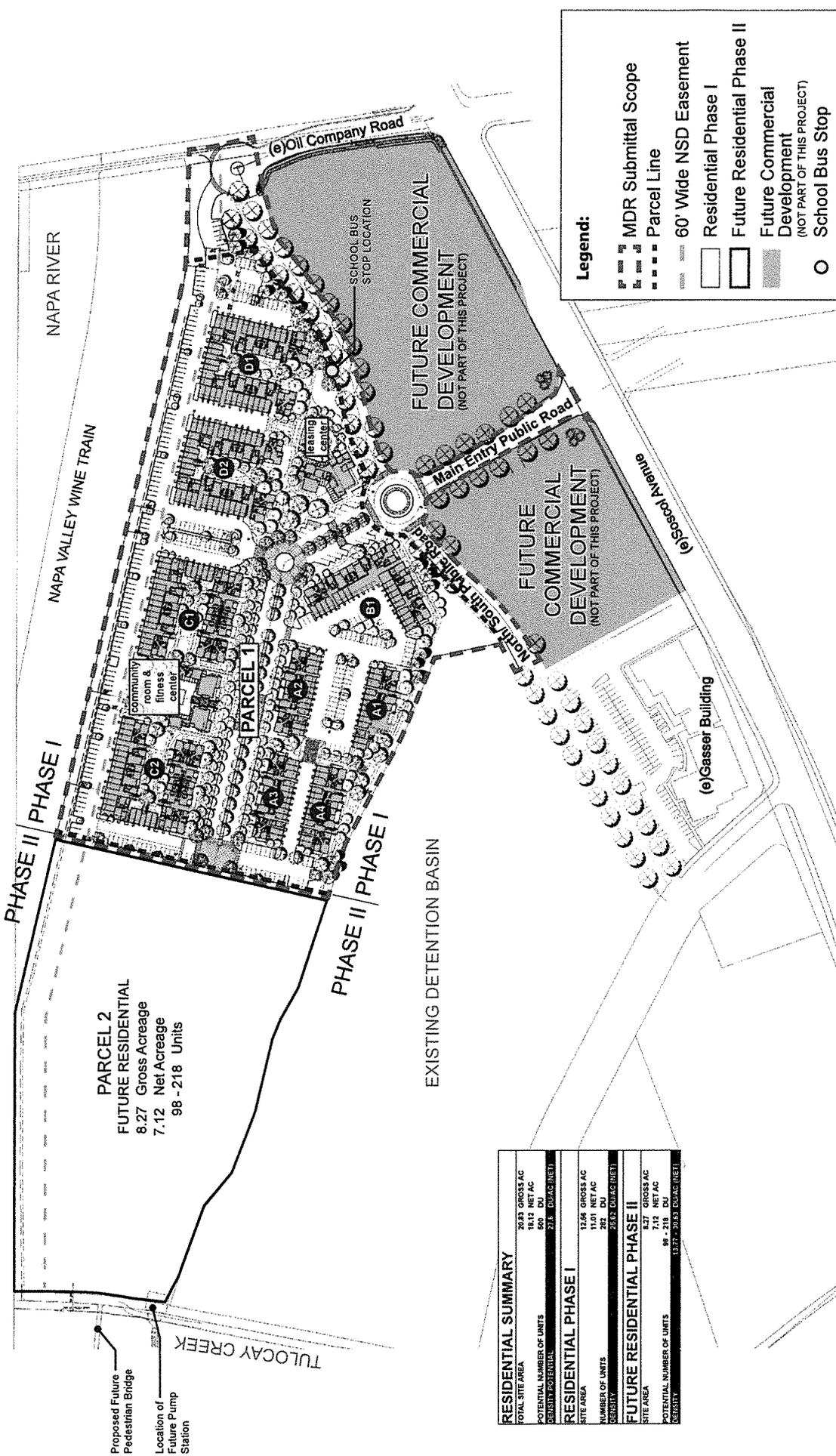
Pursuant to City Council Resolution 83-176 establishing the procedures required for a development agreement, Project applicant hereby applies for a Development Agreement vesting all existing and requested project approvals applicable to the Tulocay Village District. This Project Description and related application materials satisfies all application requirements under Section A.2 of City Council Resolution 83-176. Applicant proposes to use the City's form of development agreement attached hereto, as modified by agreement of the parties.

Zoning Standards

Entry Street (Main Entry Drive) and North Drive shall not have any curbside parking. Section 17.28.040 Footnote (5) to be amended to reflect the foregoing design decision.

EXHIBIT C

PHASE I AND II PROPERTY MAP



Legend:

- MDR Submittal Scope
- - - Parcel Line
- 60' Wide NSD Easement
- Residential Phase I
- Future Residential Phase II
- Future Commercial Development (NOT PART OF THIS PROJECT)
- School Bus Stop

JOB NO. 1146.001
 DATE 09-19-14
 5965 Owens Drive
 Pleasanton, CA 94588
 925-251-7200

N
 0 50 100 150 200

DAHLIN
 GROUP
A0-4

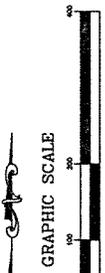
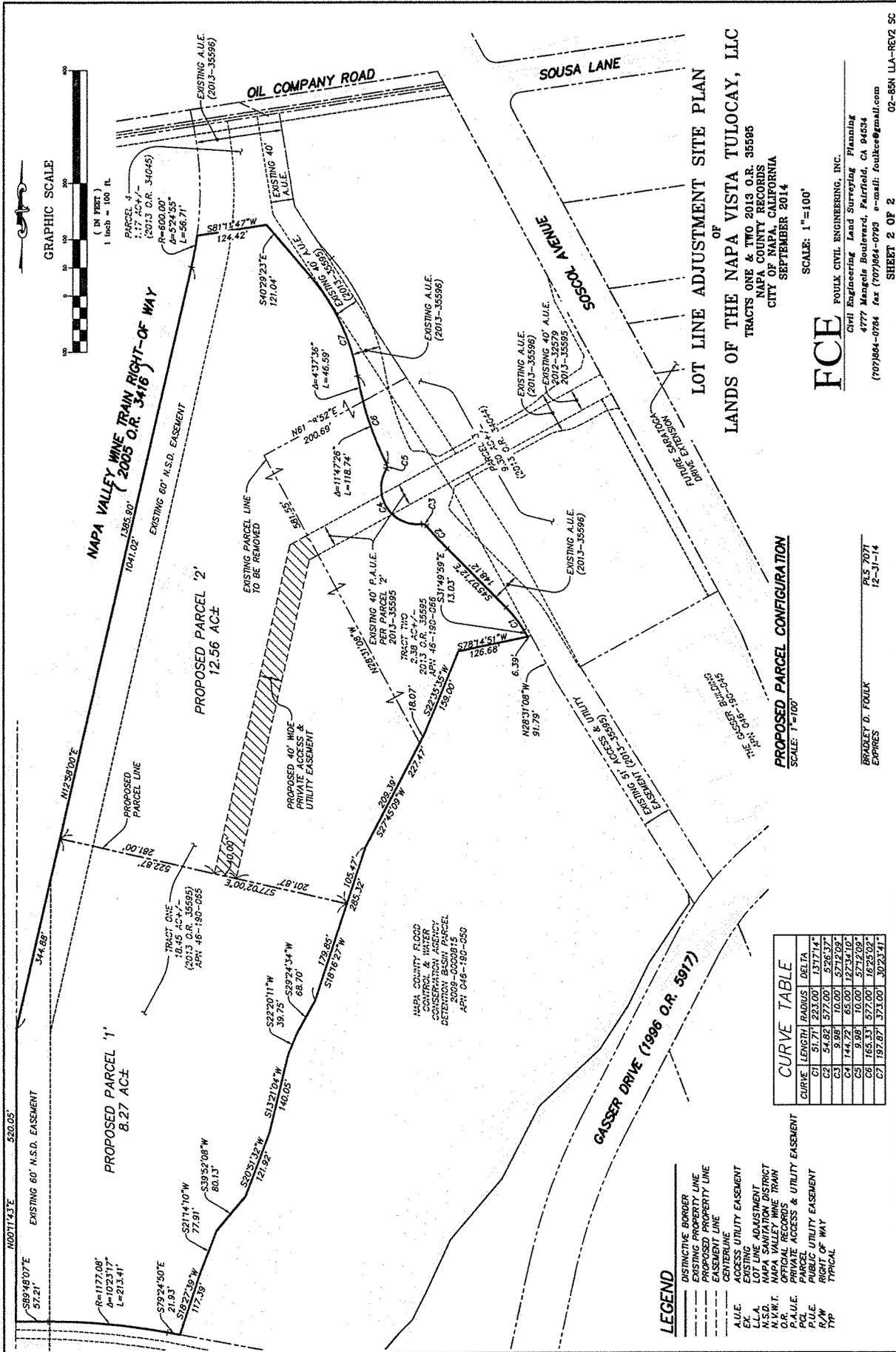
SCOPE OF WORK / CONSTRUCTION PHASING

PARCEL 2
 FUTURE RESIDENTIAL
 8.27 Gross Acreage
 7.12 Net Acreage
 98 - 218 Units

RESIDENTIAL SUMMARY	
TOTAL SITE AREA	20.87 GROSS AC 19.12 NET AC
POTENTIAL NUMBER OF UNITS	500 DU
DENSITY POTENTIAL	27.6 DU/AC (NET)
RESIDENTIAL PHASE I	
SITE AREA	11.66 GROSS AC 11.01 NET AC
NUMBER OF UNITS	292 DU
DENSITY	26.5 DU/AC (NET)
FUTURE RESIDENTIAL PHASE II	
SITE AREA	8.27 GROSS AC 7.12 NET AC
POTENTIAL NUMBER OF UNITS	98 - 218 DU
DENSITY	13.77 - 30.9 DU/AC (NET)

QUANTIRO
 DEVELOPMENT

VISTA TULOCAY APARTMENT HOMES
 NAPA, CA



GRAPHIC SCALE
(IN FEET)
1 inch = 100 ft

PROPOSED PARCEL '1'
8.27 AC±

PROPOSED PARCEL '2'
12.56 AC±

PROPOSED PARCEL '3'
12.56 AC±

PARCEL 4
1.17 AC±
(2013 O.R. 34045)
R=600.00'
Δ=524.35°
L=56.71'

TRACT ONE
18.45 AC±
(2013 O.R. 35585)
APN 48-180-065

TRACT TWO
2.39 AC±
(2013 O.R. 35585)
APN 48-180-066

TRACT THREE
13.03 AC±
(2013 O.R. 35585)
APN 48-180-067

TRACT FOUR
13.03 AC±
(2013 O.R. 35585)
APN 48-180-068

TRACT FIVE
13.03 AC±
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APN 48-180-069

TRACT SIX
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TRACT ELEVEN
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APN 48-180-192

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(2013 O.R. 35585)
APN 48-180-193

EXHIBIT D

PROJECT APPROVALS

- D1. Ordinance No. 2007-1 amending the Napa Municipal Code by amending Chapter 17.28, and amending the Zoning District Map and Zoning Overlay Districts;
- D2. Resolution No. 2006-212 adopting a Mitigation Monitoring Program, and adopting CEQA findings for the Gasser Master Plan Rezoning;
- D3. Resolution No. R2006-213 adopting the Gasser Master Plan Design Guidelines, Landscape Guidelines and Implementation Section including Conditions of Approval and a Mitigation Monitoring Program;
- D4. Resolution No. R2006-214 approving an Inclusionary Ordinance “Alternative Equivalent Action” for the Gasser Master Plan Zoning Project;
- D5. Resolution No. R_____ approving the Modifications to the Conditions of Approval of the Gasser Master Plan, approving the Major Design Review Application, approving the “Alternative Equivalent Action” for the Gasser Master Plan Zoning Project, approving the Lot Line Adjustment, and approving the CEQA Addendum to the Gasser Master Plan EIR; and
- D6. Ordinance No. _____, amending the Napa Municipal Code deleting the requirement for on-street parking on Entry Way and North Drive.

EXHIBIT D-1

Ordinance No. 2007-1 amending the Napa Municipal Code by amending Chapter 17.28,
and amending the Zoning District Map and Zoning Overlay Districts

ORDINANCE 02007 1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NAPA,
STATE OF CALIFORNIA, AMENDING THE NAPA MUNICIPAL CODE
BY AMENDING CHAPTER 17.28 AMENDING THE ZONING DISTRICTS
MAP AND ZONING OVERLAY DISTRICTS MAPS

WHEREAS, in October, 2002, preliminary Master Plan application materials were submitted to the City for review; and

WHEREAS, in June, 2004, the Gasser Foundation presented its Master Plan concept to the Planning Commission; and

WHEREAS, in August, 2004, the Gasser Master Plan Rezoning application materials (02-0134) were submitted for review and work commenced on the Draft Environmental Impact Report for the Master Plan property including APN's 046-190-050, -052, -053, -057; and 046-691-005.

WHEREAS, on November 15, 2004, a Notice of Preparation of the Draft Environmental Impact Report for the Gasser Master Plan ("Project") was mailed to all responsible and affected agencies as well as interested organizations and individuals, and a scoping session was held on November 18, 2004 in accordance with CEQA requirements; and

WHEREAS, a Draft Environmental Impact Report ("Draft EIR") was prepared for the Project; and

WHEREAS, the City of Napa filed a Notice of Completion of the Draft EIR with the State Office of Planning and Research on December 15, 2005, circulated the Draft EIR for review and comment by the public and public agencies which have jurisdiction by law with respect to the Project between December 15 and January 30, 2006, and held a public hearing to solicit comments on the Draft EIR on January 12, 2006; and

WHEREAS, the Final EIR, incorporating comments received, responses to those comments, and changes to the Draft EIR was published and circulated to commenting agencies and persons on August 17, 2006; and

WHEREAS, the Gasser Foundation published a refined Master Plan in September, 2006 that provides more explicit zoning regulations consistent with other chapters of the City of Napa Zoning Ordinance; no specific site layouts for the north area; a greater mix of residential types and densities in Tulocay Village; a land use shift in Tulocay Place from all retail to retail east of North Drive and mixed use west of North Drive; and an alternate site layout and use mix for South River Place; and

WHEREAS, in October, the Gasser Foundation provided details on a proposed affordable housing "in lieu equivalent action" to meet half of the site's AH Affordable Housing inclusionary requirement;

WHEREAS, notice was provided and a Joint City Council/Planning Commission Public Workshop was held on September 21, 2006 to provide an overview of the Master Plan Zoning and Environmental Impact Report, and for early identification of issues needing further resolution or information; and

WHEREAS, in October, 2006 following discussions among Napa County Flood Control and Water Conservation District staff, City Staff and the environmental consultants, text changes to the published final EIR were published as an Errata Sheet to be incorporated into the final EIR; and

WHEREAS, on October 17, 2006 joint notice was published as a 1/8 page display ad in the Napa Register and on October 15 notice was mailed to interested agencies and groups and nearby property owners of the Planning Commission Public Hearing on the EIR and Project on October 26, 2006 and of the City Council Public Hearing on November 21, 2006; and

WHEREAS, on October 23, 2006 the applicant requested that the Planning Commission continue the public hearing on the EIR and Master Plan to November 2 to provide added time to investigate certain floodway issues; and

WHEREAS, a courtesy notice was mailed on October 23, 2006 to those agencies, groups and individuals receiving earlier notice that the applicant had requested a continuance to November 2, and that the Commission would consider that action at their October 26 meeting; and

WHEREAS, the Planning Commission considered the request for a continuance at their October 26 meeting, and continued the item to November 2, 2006; and

WHEREAS, the Planning Commission of the City of Napa, State of California, held the continued hearing on November 2, 2006, on the subject Final EIR and Master Plan and recommended City Council certification of the EIR, incorporating certain Errata and an "equally effective" mitigation measure for Hydro-5a and approval of the Master Plan project with various changes to the Master Plan Rezoning and Conditions of Approval; and

WHEREAS, the City Council of the City of Napa, State of California held a noticed public hearing on the final EIR on November 21, 2006, accepted public testimony on the Final EIR and certified the EIR; and

WHEREAS, the City Council of the City of Napa, State of California, held a noticed public hearing on the Master Plan rezoning and affordable housing "in lieu equivalent action" on December 12, 2006; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City staff, and any information provided during public meetings; and

WHEREAS, the Council hereby finds that the Master Plan Zoning, along with its Design and Landscape Guidelines and Implementation Section is consistent with the General Plan and other City plans and policies that apply to the property; that it will establish development standards to create a future residential and non-residential environment of sustained desirability and stability that responds to its context; that it has identified the public facilities to serve the anticipated population and that the motor vehicle, bicycle and pedestrian traffic will provide for adequate onsite and area circulation connections; that it meets General Plan Mixed Use goals, policies and objectives that promote a mixed of uses and efficient use of larger vacant parcels, encourage a functionally integrated mix of uses including residential uses on key sites such as the Gasser property, that will create a mix of uses that respond to their context and complement each other; and that will facilitate shared parking and linkages among uses

WHEREAS, the City Council finds that an Environmental Impact Report was prepared for the Gasser Master Plan Zoning and certified on November 21, 2006; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City staff, and any information provided during public meetings.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Napa as follows:

SECTION 1. Napa Municipal Code Chapter 17.28 (MP—MASTER PLAN-[X] DISTRICT [RESERVED]) is hereby amended by repealing the previous language in its entirety, and adopting language to read as set forth on Exhibit A, attached hereto and incorporated herein by reference.

SECTION 2. The City of Napa Zoning Districts Map and two Overlay Districts Maps are hereby amended by adding the Master Plan ordinance number to the MP designation as required by 17.26.120; revising the MP Districts boundaries to correspond to a 2003 lot line adjustment and to incorporate sub-district boundaries MP-G1 through -G4; revising the schematic :AH Affordable Housing Overlay District rectangle to correspond to the Tulocay Village boundary; and by deleting the ":SC Soscol Corridor

Overlay District" from the Soscol frontage portion of the site as shown in Exhibit B, attached hereto and incorporated herein by reference.

SECTION 3. Severability. If any section, sub-section, subdivision, paragraph, clause or phrase in this ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this ordinance, irrespective of the fact that any one or more sections, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION 4. Effective Date. This ordinance shall become effective 30 days following adoption.

MAYOR
Julie Techel

ATTEST:

Sara J. Cox
CITY CLERK

STATE OF CALIFORNIA }
COUNTY OF NAPA } SS:
CITY OF NAPA }

I, Sara T. Cox, City Clerk of the City of Napa, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the regular meeting of the City Council on December 12, 2006, and had its second reading and was adopted and passed during the regular meeting of the City Council on January 9, 2007, by the following vote:

AYES: Councilmembers Inman, Mott, van Gorder, Vice-Mayor Krider, Mayor Techel

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST: Sara J. Cox
CITY CLERK OF THE CITY OF NAPA

Exhibit A
Gasser Master Plan Chapter 17.28
with Master Plan Exhibit 1

Chapter 17 28

MP 02007 1 — GASSER MASTER PLAN DISTRICTS

Sections

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17 28 010 Specific Purposes

In addition to the general purposes listed in Section 17 02, the specific purposes of the Gasser Master Plan Districts are

A To develop the Gasser Master Plan site as a high quality, sustainable development capable of being phased that supports the economic, housing and public service needs of the community

B To protect sensitive wetland and creek habitat areas in the District and facilitate public access to open space within and adjacent to the District and new trail connections to the Napa River Trail

C To create strong linkages among uses onsite, to the river and rest of the city through provision of pedestrian, bicycle and vehicle connections that will fit into the planned area-wide circulation system

D To assure distinctive districts providing a sense of place within this new neighborhood by providing buildings and uses that respond to their context and complement each other in their site connections, building design and street and natural features orientation

E To create Tulocay Village with a mix of attached residential types and densities, including affordable residential units, designed consistent with the City's Residential Design Guidelines A distinctive and direct main entrance leads to the neighborhood and the site layout makes the most of its unique location next to wetlands and riverfront open space Easy, direct pedestrian and bicycle routes are incorporated within the site and to adjacent areas

F To create Tulocay Place as an attractive community- and neighborhood-serving retail service district providing a pedestrian-friendly entry to the Tulocay Village residential neighborhood Tulocay Place includes a focal point gathering place, interconnected buildings oriented to adjacent streets and a seamless interface with the residential neighborhood East of North Drive, major community retail uses are encouraged West of North Drive, the emphasis is towards more neighborhood-serving retail and residential mixed use or multi family residential uses, the purpose of Use Permits for residential mixed use is to ensure internal use compatibility as well as compatibility with nearby residential uses

G To create the Creekside District as a high quality, unified office and retail district oriented primarily to Gasser Drive but also taking advantage of Tulocay Creek and wetlands

H To create South River Place as an entertainment and/or major community retail service district with uses complimentary to South Napa Marketplace, and integrated community-serving uses Buildings are designed to orient to Gasser Drive, Hartle Court and to the District's northern wetlands as well as parking areas The site layout encourages and includes retail buildings adjacent to Gasser Drive and Hartle Court to add value to the street and provide an attractive entryway to the River Trail Comfortable pedestrian and bicycle connections are thoughtfully incorporated within the site, to the River and to South Napa Marketplace Shared parking is required

17 28 020 Definitions

For purposes of this chapter, these specific definitions apply

Development Site for purposes of this chapter is a lot or a combination of lots used for proposed development, specifically excluding lots already dedicated for park or open space use or public rights of way

Gasser Master Plan refers to the document entitled "Gasser Master Plan" accompanying the Gasser Master Plan Districts Zoning, including Exhibit I that includes 7 pages of text and Map Exhibits 1-10 adopted by the City Council on December 12, 2006, pursuant to Ordinance 02007 1

Gasser Master Plan Design Guidelines refers to the document entitled "Gasser Master Plan Design Guidelines", adopted by City Council on December 12, 2006 pursuant to Resolution R2006 213

Gasser Master Plan Districts is the collective reference to all zoning districts identified in the Gasser Master Plan Each zoning "District" of the Gasser Master Plan is individually identified as South River Place District, Creekside District, Tulocay Place District and Tulocay Village District The Zoning Map, as defined by Section 17 06 17 is hereby amended to incorporate the Gasser Master Plan Districts, as shown on Gasser Master Plan Exhibit "B" adopted by the City Council on December 12, 2006, pursuant to Ordinance 02007 1

Gasser Master Plan Final EIR refers to the document entitled "Gasser Master Plan Final EIR" (State Clearinghouse Number 2003032055) including all documents incorporated therein by reference, including the Gasser Master Plan Draft EIR dated December 15, 2005, the Gasser Final EIR dated August 16, 2006, an undated Errata Sheet (published in October, 2006) and a change to Hydro-5a incorporated in the Certification Resolution The Gasser Master Plan Final EIR was certified by City Council on November 21, 2006, pursuant to Resolution R2006 193

Gasser Master Plan Implementation Section refers to the document entitled "Gasser Master Plan Implementation Section" including Conditions of Approval and a Mitigation Monitoring Program, adopted by City Council on December 12, 2006 pursuant to Resolution R2006 213

Gasser Master Plan Landscape Guidelines refers to the document entitled "Gasser Master Plan Landscape Guidelines" adopted by City Council on December 12, 2006 pursuant to Resolution R2006 213

Shared Parking Analysis refers to the July 26, 2004 memo from Mark Crane regarding "Projected Parking Demand" in the DEIR Appendix

Traffic Impacts are peak hour impacts of a project combined with other existing and planned uses in the Gasser Master Plan Districts when compared to the peak hour impacts of the uses approved for the Districts in the Gasser Master Plan and analyzed in the Gasser Master Plan FEIR (Table 4 3-11)

Zoning Districts	MP-G1 South River Place District	MP-G2 Creekside District	MP-G3 Tulocay Place District	MP-G4 Tulocay Village District	Added Use Regulations
Sporting goods, including rentals Stamp and coin shops	P P	P P	P* P*		*C if open after 10 pm or is >5,000 sq. ft. west of North Drive
Toy stores Variety stores Video sales and rentals	P P P	P P P	P* P* P*		
9. Visitor Accommodations					
Hotels, motels	C	C			
B. Industrial Uses					
"Boutique" food processing with retail sales	C				
C. Offices and Related Uses					
1. Financial Services					
Banks, savings and loans, credit unions and other financial institutions	P	P	P*		*C if open after 10 pm or >5,000 sf west of North Drive
Financial services offices	P	P	P		
2. Medical services (medical, dental, health-related services, accessory sales)					
Clinics	C	C	C		
Laboratories (excluding manufacture of pharmaceutical products for sale/dist.)	P	P	P*		*C if open after 10 pm or >5,000 sf west of North Drive
Medical, dental, health-related offices	P	P	P*		
3. Offices (Administrative, Business and Professional)	P**	P	P		**Second floor or above; ground floor offices prohibited
D. Public and Quasi-Public Uses					
1. General					
Clubs and lodges, including for youth Parks, open space and recreation facilities, including docks, piers, etc.	C C*	C C*	C C*		*P if part of approved public park plan or specific program approved by City Council
Public uses required by and planned as part of the Napa River Flood Protection Project.	P	P	P		
Other Public/Quasi-Public uses of an administrative, educational, religious, cultural, communications or public service nature, including community care facilities not otherwise listed, and excluding corporation yards and warehouses	C	C	C		

Zoning Districts	MP-G1 South River Place District	MP-G2 Creekside District	MP-G3 Tulocay Place District	MP-G4 Tulocay Village District	Added Use Regulations
2. Schools					
Public	P	P	P		*C if open after 10 pm or more than 18 students at any 1 time
Performing arts, art, martial arts, sports	P*	P*	P*		
Vocational, business trades	P	P	P*		
3. Transportation Facilities					
Parking facilities, commercial or municipal (5+ spaces)	C	C	C		
Taxi stations	C	C			
Transit or bus stations	C				
E. Residential Uses					
1. Residential and Mixed Uses*					*Residential projects of 5+ units or equivalent in :FP flood evacuation area see standards 17.38 See condominium standards 17.52 **As long as remains within traffic impacts of approved master plan See flag lot standards 17.52 See SRO standards 17.52 ***In residential units only ^west of North Drive
Single-family attached and condominiums			PS^	PS	
Multi Family Residential	C	C	C/P^	P	
Mixed Use developments consisting of residential and other uses allowed in this district	C**	C**	C**		
Subdivision with 1 or more flag lots				CS	
Group residential, including SRO's	CS	CS	CS	CS	
Live/work developments	C	C	C	C	
Residential care facilities					
Small (0-6 residents)	P***	P***	P***	P	
Large (7 or more residents)	C***	C***	C***	C	
2. Day Care					
Day care facility, child or adult (up to 14 children or 8 adults)	P*	P*	P*	P	*in residential units only
Day care center (15 or more children or 9 or more adults)	C	C	C	C	
F. Accessory Structures and Uses					
Accessory structures and uses customarily accessory to a permitted or conditional use and contained on the same site	PS*	PS*	PS*		*Residential accessory uses are as shown for the Tulocay Village district
Automatic Teller Machines	P**	P**	P**		**C if drive through
Fences, walls and hedges	PS	PS	PS	PS	See standards 17.52
Outdoor display or sales	PS	PS	PS		See standards 17.52
Outdoor storage (up to 5% of site)	PS	PS	PS		See standards 17.52
Recycling/solid waste areas	PS	PS	PS	PS	See standards 17.52
Recycling facility, small	PS	PS	PS		See standards 17.52
Satellite Dishes	PS	PS	PS	PS	See standards 17.52
Signs subject to Title 15	PS	PS	PS	PS	See Title 15, signs
Accessory Structures (garages, carports, pool houses, gazebos, patio covers, etc)				PS	See standards 17.52
Accessory Second Units (or living quarters)				PS	

Zoning Districts	MP-G1 South River Place District	MP-G2 Creekside District	MP-G3 Tulocay Place District	MP-G4 Tulocay Village District	Added Use Regulations
Home Occupations Household Pets Swimming pools, hot tubs Rooming or boarding in principal dwelling For 1 to 2 paying guests Other uses and structures customarily incidental and clearly subordinate to permitted and conditional uses pursuant to Chapter 17.04				PS P PS P^^ P	See standards 17.52 and Title 15 ^^More than 2 becomes group residential
G. Other Uses					
Conversions of residential rental units to non residential uses or condominiums Nonresidential condominiums Other similar permitted or conditional uses found consistent with the general plan and applicable district pursuant to Chapter 17.04 Temporary uses Temporary real estate offices Nonconforming Uses	CS CS P/C PS/CS PS/CS	CS CS P/C PS/CS PS/CS	CS CS PS/CS PS/CS	CS PS PS/CS	See standards 17.52 See standards 17.52 Determination as to whether use is permitted or conditional depends on requirements for similar use See standards 17.52 See standards 17.52 See standards 17.52

17.28.040 Gasser Mixed Use Districts Property Development Regulations

PROPERTY DEVELOPMENT STANDARDS	MP-G1 South River Place District	MP-G2 Creekside District	MP-G3 Tulocay Place District*	MP-G4 Tulocay Village District*	ADDITIONAL STANDARDS
<p>Density and Intensity (Floor Area Ratio or FAR)</p> <p>This table identifies approved general land uses for the Gasser Master Plan for purposes of determining maximum development intensities, and potential future modifications of development within districts and transfers of uses among sites.</p> <p>General Plan Density for MU-532 and CC 533 is 10-40 u/ac. The Affordable Housing Overlay sets 25 units/acre as a minimum density for Tulocay Village*</p> <p>General Plan Floor Area Ratio for MU-532 and CC-533 is 0.4 maximum. The average for the nonresidential development site in each of the three districts described in the Gasser Master Plan is calculated below:</p> <p>South River Place **, ***, ^ 101,500 sf theater/retail/retail service/office uses. (excludes existing 1 acre homeless shelter + transitional housing portion) 101,500 sf /487,872 sf site = .21 FAR</p> <p>Creekside **, ***, ^ 70,000 sf retail/retail service uses 70,000 sf /226,512 sf site =.31 FAR</p> <p>Tulocay Place**, ***, ^ 80,000 sf retail/office uses 80,000 sf/322,344 sf site= .25 FAR</p>	<p>2030 seat theater- (39,000 sf), 41,200 sf retail comm. 7,000 sf restaurant, 40,000 sf upper floor office, 59 bed Homeless Shelter, 6 units transitional housing and 18 units permanent housing for disabled + community building</p>	<p>35,000 sf Office 35,000 sf Retail comm.</p>	<p>80,000 sf retail comm. (Residential or resid. mixed use is encouraged west of North Drive as an alternative)</p>	<p>380-500 residential units depending on size of residential development site</p>	<p>*Residential density is required to vary within the Tulocay Village site, thus for purposes of implementing minimum density requirements set forth in 17.36.030(B)(4)(b), "residential portions of the site" is the Tulocay Village District, and minimum residential development densities shall be averaged over this area.</p> <p>In addition, if Master Plan public streets or public parks are subdivided prior to a residential tentative map approval (or for a rental development, a design review approval), the acreage of such streets shall not be included in the gross acreage.</p> <p>** FAR may vary from those shown as long as it does not exceed 0.4 in each of the 3 District's development sites</p> <p>***Square footages of general nonresidential uses (i.e., from retail to office uses) may be modified within districts, and transferred or modified among the 3 Districts within the approved Gasser Master Plan Districts totals as long as each District remains within a 0.4 FAR; as long as the overall PM peak-hour trip generation for the entire Gasser Master Plan Districts is not exceeded as analyzed in the Gasser Master Plan Draft EIR (Table 4.3-11); and other zoning standards are met. Such modifications or transfers shall occur through a Use Permit.</p> <p>^Residential uses may be incorporated at a density of 10-40 units/acre as long as the overall PM peak-hour trip generation for the entire Gasser Master Plan Districts is not exceeded as analyzed in the Gasser Master Plan Draft EIR (Table 4.3-11); and other zoning standards are met. Such modifications from nonresidential to residential or residential mixed use shall occur through a Use Permit.</p>
<p>Development site acres or square feet)</p>	<p>12.2 acres (531,432 sf)</p>	<p>5.2 ac. (226,512 sf)</p>	<p>7.4 ac.* (322,344 sf)</p>	<p>18.7 acres*</p>	<p>*May vary up to 15% based on future tentative map.</p>

PROPERTY DEVELOPMENT STANDARDS	MP-G1 South River Place District	MP-G2 Creekside District	MP-G3 Tulocay Place District	MP-G4 Tulocay Village District	ADDITIONAL STANDARDS
Height – Maximum (feet)	40	40	40/50*	45	*West of North Drive for residential or vertical residential mixed use
Theater parapet (feet)	45	NA	NA	NA	
Height bonus for pitched gable or non-shed sloped roof (feet)	8	8	8	8	
Height Bonus for subsurface Parking (feet) - where a subsurface parking structure extending no higher than 5 feet above finished grade is provided	5	5	5	5	
Minimum lot area – square feet	10,000	10,000	* (1)	* (1)	* Initial subdivision must be part of a unified Districts-wide site development plan; minimums to be set at time of subdivision; See (1) below
Lot Width (feet) at front setback line	100	100	70 (1)	50 (1)	See (1) below
Lot Frontage (feet) at front property line	100	100	50 (1)	50 (1)	Lot frontage may be reduced to 40 feet for on lots with divergent lot lines, such as cul de sac bulbs. See (1) below
Street frontage requirements Soscol Avenue Gasser Drive Other	NA (3) (3)	NA (4) NA	(2) NA (5)	NA NA 20 (6)	See standards (2) through (6) below
Side yard (feet)	NA	NA	NA/5*	5**	*West of North Drive for residential projects: 1 story; 10 feet for 2 stories; 15 feet for 3+ stories. Upper floor yards may be met by building stepbacks. 0 feet yards on sides where units are attached. **same as above
Rear yard (feet)	NA	NA	NA/15*	15**	* West of North Drive for residential projects: 1-2 stories; 20 feet for 3 stories. 3d or higher floor yard may be met by stepping back 3d or higher floor of building. **same as above
Usable Outdoor Area/unit (square feet)	NA	NA	NA/200*	200	*for residential projects - In private yards or common areas
Landscape areas	20%	20%	20%/NA*	NA	Excludes hardscape; *for residential projects west of North Drive
Tulocay Creek & Site Wetlands	*	*	*	*	*In addition to general creek and wetland zoning standards, EIR mitigation measures shall be met

Additional Standards – Footnotes for Table (continued next page)

Additional Standards – Footnotes for Table (continued)

- (1) Residential or nonresidential condominium, duet or triet development shall provide adequate frontage for the house, driveway and side yards/side setback; there is no specific lot size or width requirement. Flag lots are exempt from frontage requirements. See flag lot standards.
- (2) Soscol Avenue:
- Buildings fronting on Soscol Avenue shall have a minimum 15 feet (') setback from the edge of sidewalks (maximum setback is back of one bay parking);
 - Main entries shall face Soscol Avenue or a fronting building corner;
 - Up to one bay of onsite parking may be within the front setback provided there is a 2' wide ornamental wall or fence with vines-- or an equivalent approved through Design Review;
 - Corner buildings shall also have entries facing Entry Drive.
- (3) Gasser Drive and south side Hartle Court shall include:
- 8' wide curbside parking bays where there are adjacent commercial buildings, except Gasser Drive south of driveway;
 - 12' for landscaping/street trees and a separated sidewalk;
 - In the South River Place District, a cinema or retail uses may face north toward the parking lot, however, an important site layout objective is to incorporate buildings along Gasser Drive and Hartle Court that are designed to orient to Gasser Drive and Hartle Court (for example, including entrances, windows) as well as to parking facilities;
 - Buildings along Gasser Drive and Hartle Court shall incorporate a 10' minimum/20' maximum building setback from edge of sidewalk;
 - Where there are no buildings located within 20 feet of the edge of sidewalk along Hartle Court, the street tree/landscape strip, separated sidewalk, and landscape area behind the sidewalk shall be at least 25 feet wide to provide an attractive streetscape along this entrance to the River Trail.
- (4) Gasser Drive shall include:
- 10-12' of landscaping/street trees with a separated sidewalk; and
 - a 10' minimum/20' maximum building setback from the edge of sidewalk.
- (5) Entry Street and North Drive shall include:
- 10-12' of landscaping/street trees and a separated sidewalk;
 - Building setbacks for Entry Street and building and parking setbacks for North Drive: 0' minimum/10' maximum from edge of sidewalk;
 - Curbside parking shall be provided on Entry Street and North Drive except where wetland constraints preclude such parking.
- (6) Home setbacks (not including street facing garages) may be reduced to 10 feet (from back of sidewalk) where 10 feet is provided for a curb adjacent landscape area and separated sidewalk.

NOTES: See 17.52 (Site and Use Regulations) for additional regulations pertaining to creeks and watercourses, noise, outdoor storage, recycling areas, wetlands and other site development standards. See Chapter 17.56 (Exceptions) for limited adjustments to zoning standards. See Chapter 17.38 (Floodplain Management Overlay District) and Chapter 17.48 (Traffic Impact Overlay District) for standards applicable to most or all properties, and Chapter 17.36 for the :AH Affordable Housing Overlay District applicable to Tulocay Village.

17.28.050 Other Development Standards and Requirements

A. Design Guidelines. New nonresidential and vertical mixed use development in the South River Place, Creekside and Tulocay Place Districts shall meet the Gasser Master Plan Design Guidelines. Residential development in Tulocay Village shall meet the City's Residential Design Guidelines and

address Gasser Master Plan Landscape Guidelines. House plans shall be part of any residential development application.

B. Parking. On-site parking and loading shall be provided in accord with 17.54. In South River Place District, shared parking is required for the nonresidential sites; reciprocal parking easements or an equivalent mechanism approved by the City shall be required of future development. Parking demand for the South River Place District has been identified through a Shared Parking Analysis. Any variations shall require a revised shared parking analysis in accordance with 17.54.

C. Accessory Structures. Accessory structures for residential uses shall meet standards in Chapter 17.52; nonresidential structures shall meet standards for principal buildings. In the nonresidential districts, walks or similar types of surfaced areas constructed at grade, fences (see 17.52 standards) and signs (see Title 15) may be located in setback areas.

D. Screening of trash, outdoor storage. See 17.52 for outdoor storage screening requirements.

E. Rooftop Equipment. Rooftop equipment shall be screened and integrated into the building architecture. Screens shall not disproportionately increase the mass of the building

F. Landscaping. All planting strips, yards, setbacks and other required open space areas shall be landscaped in accordance with the *Gasser Master Plan Landscape Guidelines* and meet City standards, approved by the decision-making body as part of the design review or other discretionary permit. All landscaping shall be maintained in a healthy, weed-free condition. Landscape maintenance agreements may be required by the Community Development Director for sites determined to be sensitive sites. The area north of the southernmost pond shall receive particular attention for attractive screening from Imola Avenue.

G. Street Trees. Street trees in right of ways shall be installed if the Community Resources Director determines they are required in accordance with the *Gasser Master Plan* or City standards.

H. Public Works Improvements. Curb, gutter, sidewalk, street, drainage, utility undergrounding and similar improvements shall be installed if the Public Works Director determines they are required in accordance with the *Gasser Master Plan*, the *Gasser Master Plan FEIR*, Policy Resolution 27 or Public Works Department standard specifications.

I. Lighting. Exterior lighting shall be directed or shielded so as to prevent glare onto public streets and abutting residential properties.

J. Noise. See 17.52 Noise standards.

K. Property Management. Residential rental property shall comply with NMC Sections 8.16.015B, C and D regarding property management.

L. Theater. The theater shall provide shared parking with other nonresidential District uses. In addition, when Design Review Permit applications for the initial site development are considered, the applicant shall provide a plan for operations that establishes overall hours of operation, as well as any timing conditions related to peak hour trip generation to the satisfaction of the city.

17.28.060 Design Review Required

New nonresidential or mixed use structures, additions and exterior remodels and residential development or the subdivision of any lot shall require Design Review by the Community Development Director, Planning Commission or City Council as described in Chapter 17.62 (Design Review Permits). The painting of walls with murals, wall graphics or unusual paint colors incompatible with their context shall also require review in accordance with Chapter 17.62.

Signs require review in accordance with Title 15.

17.28.070 Administration

A. The requirements of this Chapter 17.28 are specific to the Gasser Master Plan Districts, and where there is a conflict between this chapter and other requirements of Title 17, the requirements of this chapter shall prevail. Where not addressed, general zoning requirements apply.

B. General zoning provisions shall apply for administration of the Gasser Master Plan Districts in accordance with the Master Plan Zoning Administrative Regulations section in Section 17.26.110.

C. A unified site development plan providing a site plan and building design for all buildings, parking, landscape and open space areas, streets, pedestrian and bicycle paths and utilities is required prior to any development occurring within each of 1) South River Place District, 2) Creekside District, 3) Tulocay Place

and 4) Tulocay Village. Pedestrian and vehicular connections between Tulocay Place and Tulocay Village shall be provided with the site development plan submitted for Tulocay Place and Tulocay Village. In addition, these districts shall each be designed to provide a complementary interface between the districts through their building design and site layout. Such unified site development plan shall be provided by submittal of a Design Review application as described in Chapter 17.62 approved by the Planning Commission and Council.

D. The requirements and standards of the Gasser Master Plan are hereby incorporated by reference into this Chapter 17.28. All development projects within the Gasser Master Plan Districts shall comply with the Gasser Master Plan.

E. Amendments to this chapter, including the Gasser Master Plan, shall be processed in accordance with Chapter 17.66. Amendments to the Gasser Master Plan Design Guidelines or the Gasser Master Plan Landscape Guidelines may be approved by resolution of the City Council.

Gasser Master Plan

I. Site and Master Plan Overview:

The property identified in the *Gasser Master Plan* is one of the largest undeveloped areas within the City of Napa. It lies between Oil Company Road to the north, Soscol Avenue and South Napa Marketplace to the east, Imola Avenue to the south, and the Napa Valley Wine Train tracks and the Napa River to the west. The property is flat and lies within the Napa River flood plain. A portion of the property is within the floodway. The property is divided north-south by Tulocay Creek. These natural and man made features provide important habitat areas and significant opportunities for open space enjoyment, integrated with proposed development. The site also contains a storm detention basin along the north side of Imola Avenue which was developed as a condition of approval of the South Napa Marketplace.

The property has been or will be modified by several major construction projects including the Napa River Flood Protection Project, replacement of the Maxwell Bridge; relocation of the Napa Valley Wine Train tracks; relocation of the Napa Sanitation District trunk sewer, relocation of Hartle Court, and extension of Gasser Drive north to Soscol Avenue. The City's General Plan anticipates the realignment of the intersection of Soscol Avenue and Silverado Trail with Gasser Drive.

The General Plan identifies the property as "mixed use". The mix of uses in the Master Plan is divided into four sub-districts: the South River Place retail, entertainment and community-serving district south of Tulocay Creek; the Creekside office/retail area along Gasser Drive extension north of the Creek; the Tulocay Place retail/mixed-use village along Soscol Avenue, and the Tulocay Village residential neighborhood bounded by the northern wetlands, Tulocay Creek, the Wine Train tracks and Napa River terraces, and retail/mixed uses fronting on Soscol Avenue.

Development of the *Gasser Master Plan* will be phased to be coordinated with Flood Project construction and other infrastructure needs. In addition, Soscol Gateway area drainage studies completed in 2005 indicate the culverts designed for Gasser North which route residual flood flows across Gasser North to the north wetlands/detention basin could be oversized (or an equivalent alternative) to handle the implementation of a city-initiated area storm drain system to handle residual overland flows after completion of the Flood Project.

Although the Master Plan neither proposes, nor does approval of the Master Plan require a particular phasing schedule, lands south of Tulocay Creek are expected to proceed first, thus a site plan concept and description is provided for this area. The *Gasser Master Plan* establishes more general land use, open space and circulation parameters for lands north of Tulocay Creek. *Gasser Master Plan Design Guidelines*, based largely on the Soscol Guidelines, are included for the 3 nonresidential Districts, while Tulocay Village and the residential or residential mixed uses in Tulocay Place will utilize the City's *Residential Design Guidelines*. General landscape guidelines are also included that identify plant lists and landscape objectives for the entire Master Plan site.

The *Gasser Master Plan* and *Gasser Master Plan Design and Landscape Guidelines and Implementation Section* accompany and supplement the *Gasser Master Plan Zoning District*. The Master Plan and Exhibits are adopted as part of the zoning. Exhibits include -- the *Gasser Master Plan* Exhibit 1a, The South River Place Concept Detail Exhibit 1b, the Zoning Districts and Zoning Overlay Districts Map Exhibits 2 a and 2b , , the Land Use Map Exhibit 3, the Pedestrian/ Bike Circulation Plan Exhibit 4, the Vehicular Circulation Plan Exhibit 5 and Street Cross Sections Exhibits 6 through 10 and are incorporated as part of the Master Plan Zoning. The *Gasser Master Plan Design Guidelines*, *Gasser Master Plan Landscape Guidelines* and Implementation Sections, while a part of the Master Plan, are adopted separately by resolution.

II. District Land Uses

A more detailed description of each District in the *Gasser Master Plan* follows.

A. South River Place:

Acreage: Approximately 25 acres total. Wetlands and detention basins south of Tulocay Creek approximately 12.6 acres
 District Development Area:
 3.9 acres north of (relocated) Hartle Court
 8.3 acres south of Hartle Court

Master Plan Development: Theater, retail, retail services, offices; non-profit office, existing 60 bed Homeless Shelter and 24 unit transitional housing project; protected wetlands

Surrounding Uses: North: Tulocay Creek; other vacant Gasser Master Plan lands
 East: South Napa Marketplace
 South: Imola Avenue (Hwy 121) and Napa Valley College lands
 West: Napa Sanitation District lands; other County lands housing Animal Shelter; protected Napa River flood terraces and the proposed Napa River Trail; Wine Train tracks

South River Place will include new retail commercial, entertainment and community-serving facilities with retail and entertainment uses complementary to South Napa Marketplace. This area provides a highly visible entrance to the City that will gain in importance as Gasser Drive is extended through the Master Plan property to Soscol Avenue and a planned intersection realignment with Silverado Trail is completed. This District will also provide a main southern entrance to the Napa River Trail from Hartle Court, thus design quality is important throughout.

Retail buildings along Gasser Drive will orient both to Gasser Drive (through display windows, entries and signage) as well as to parking lots behind, where feasible. A theater building will have its primary entrance oriented to a shared parking lot, but building design and landscape screening facing Hartle Court will be thoughtfully conceived. Hartle Court will provide a comfortable, attractive bicycle and pedestrian connection to the River Trail.

Community Serving Facilities are clustered along and fronting on the north side of Hartle Court. The Gasser Foundation provided land for the new 60 bed County Homeless Shelter, completed in 2006. Needed transitional housing units for some of those served by the homeless shelter is planned, along with an approximately 30,000 sq. ft office building that anticipates bringing together many of the non-profit organizations and allow for collaborative provision of services. (The office space may be provided elsewhere in this district at the option of subsequent developers.)

The Master Plan proposes two main vehicle access points to South River Place: a relocated Hartle Court and a private access between Hartle Court and Imola Avenue (in the existing Hartle Court alignment.) Hartle Court, originally constructed as access to the Napa Sanitation District offices, county lands and the planned Napa River Trail to the west, will be relocated further north adjacent to the City Fire Station for improved primary access. Building locations within the development area are limited by wetland locations, a 60 foot wide Sanitation District easement along the western edge and the utility easements within the existing Hartle Court alignment. The parking lot layout will not preclude a future vehicle connection to the north.

B. Creekside District:

Acreage: Approximately 5.2 acres total, 2.2 acres west and 3.0 acres east of the northern extension of Gasser Drive

Master Plan Development: Offices anticipated west of Gasser Drive; retail and offices east of Gasser Drive

Surrounding Uses: North, West and South: Protected wetlands and Tulocay Creek
 East: Retail uses along Soscol Avenue

Creekside District is a triangular office and retail commercial development site bisected by the Gasser Drive extension and adjacent to protected wetlands and Tulocay Creek. Buildings east of Gasser Drive will be oriented to and fronting on Gasser Drive with parking to the side or rear; and buildings west of Gasser Drive may be

oriented to take advantage of wetland and Tulocay Creek views. Off street bicycle/pedestrian trail amenities are planned along Tulocay Creek but there shall be no trail on the west side of the parcel which is west of Gasser Drive. The intent is to create a coordinated site layout, building design and landscape plan within this district. Uses will be either offices or a mix of office and retail uses. Gasser Drive will contain a landscaped median including turn lanes to facilitate access to District buildings.

C. Tulocay Place District:

Acreage: Approximately 4.1 acres east of North Drive and 3.0 acres west of North Drive

Master Plan Development: Community retail commercial uses east of North Drive and community and neighborhood serving retail commercial uses west of North Drive, providing a community entrance and focal point gathering place, and residential mixed uses or residential west of North Drive.

Surrounding Uses: North and south: Soscol Avenue retail and office uses;
wetlands to the southwest owned and maintained by Napa County Flood Control & Water Conservation District
West: Vacant Tulocay Village residential lands
East: Soscol Avenue; retail across Soscol Avenue

Tulocay Place fronts on Soscol Avenue and will also provide a pedestrian-oriented street to the Tulocay Village residential neighborhood. The intent is to create an attractive community- and neighborhood-serving retail commercial/service district with interconnected storefronts oriented to adjacent streets and a community gathering place. Multi-storied buildings may include office or residential uses above. West of North Drive, residential mixed use, with retail uses on the ground floor, and residential uses are encouraged.

D. Tulocay Village:

Acreage: Includes 13.6 acres of wetlands/detention basin owned by the Napa County Flood Protection & Water Conservation District, and approximately 18.7 acres residential.

Master Plan Development: Varied attached residential uses--apartments, condominiums; Wetlands/detention basin and Tulocay Creek

Surrounding Uses: North: Oil Company Road, Wine Train Maintenance Yard, mobile home park
East: Soscol Avenue retail and Tulocay Square
South: Protected wetlands and Tulocay Creek
West: Napa River terraces and River Trail and Wine Train tracks

Tulocay Village will provide a variety of housing types and densities. Given its size, flat topography and location near services, the City has designated this residential portion of the *Gasser Master Plan* property with an "AH affordable housing" overlay. The AH overlay is to achieve a higher density (minimum 25 units/acre) and a higher degree of affordability (20% very low and low income or an alternative equivalent proposal rather than 10%) than is found in most parts of the city to help meet future housing needs within the City's Rural Urban Limit. "

The project proposes an overall density of 25 units/acre, with 10% of the dwelling units to be affordable to low income families. The additional 10% very low income requirement will be met through an "alternative equivalent proposal" of constructing a 24 unit transitional housing project and providing a site for the County homeless shelter. This is "equivalent" in that it will serve an equal or greater number of very low income individuals; 2) provides services to very low income individuals in addition to housing; and 3) provides an unusual housing type not otherwise available within the city.

Vehicle entrances will be from North Drive, Tulocay Place via Soscol Avenue and Oil Company Road. The Entry Street entrance provides a direct connection to Soscol Avenue and an attractive community entrance and focal point

The neighborhood has a unique natural setting, framed by wetlands to the south and east, and the Napa River and its open space terraces and Wine Train tracks to the west. Second floor and higher windows may have river

views. The Master Plan does not include or approve a site plan for the residential units in Tulocay Village. The Tulocay Village internal street circulation will include a public street along the wetland and river edges through all or part of the site that encourages physical and visual access to these resources and allows fronting buildings. The street system will also provide a secure public buffer between homes and public trails, and address fire and safety concerns. A potential direct, narrow street connection between Tulocay Village and South River Place over Tulocay Creek shall be evaluated for feasibility.

Off street pedestrian and bicycle trails will provide a key recreation resource to residents and the public. A system of linked off street multi use trails is planned along the site's River open space edge, around much of the north wetlands, along the north side of Tulocay Creek and over Tulocay Creek to South River Place by way of the City of Napa's crossing of the Napa Valley Wine Train bridge. The Master Plan supports and is consistent with City efforts to provide a connection across the railroad tracks at Tulocay Creek to the citywide River Trail for resident and community access.

While two to four story buildings are anticipated in Tulocay Village, higher buildings could potentially occur if the added height 1) provides for subsurface parking and 2) provides for pitched roofs.

Zoning Land Uses

Land Uses that are permitted or conditionally permitted under the broad headings of "retail", or "residential" are more fully described in the Gasser Master Plan Zoning Ordinance. The Master Plan Zoning Map identifies the boundaries of each district. However, the boundaries between Tulocay Place and Tulocay Village are intended to be seamless with Tulocay Place uses west of North Drive providing a transition to the Village neighborhood.

III. Open Space and Circulation

A. Open space:

The Master Plan is organized around the natural landscape which includes five distinct, protected areas of open space on and off site:

- Tulocay Creek, which bisects the Master Plan area
 - Owned by the Gasser Foundation and maintained by Napa County Flood Control & Water Conservation District
- The wetlands and detention basin north of Tulocay Creek;
 - Owned and maintained by Napa County Flood Control & Water Conservation District (NCFWCWD)
- The wetlands/detention basin south of Tulocay Creek;
 - Owned and maintained by the Gasser Foundation.
- The stormwater treatment ponds just north of Imola Avenue
 - Owned by the Gasser Foundation; maintained by the South Napa Marketplace which has an easement for drainage
- The Napa River terraces and Napa River adjacent to the Master Plan property
 - Owned by NCFWCWD and the State of California

A first step in planning the site was to take note of the location, extent and physical characteristics of each area of open space, and to site development respectful of, and enhanced by, these open space areas.

The Napa River provides an open expanse of space to the west while the wetlands, storm water retention pond and Tulocay Creek provide internal open spaces and view opportunities.

The Plan's basic design concept has been to develop the upland parcels around the central open spaces and use these open spaces to create a memorable larger "place" which also orients to the Napa River and its terraces. Subsequent specific developments will also be encouraged to link private open space areas visually and physically with these prominent spaces. One or more bicycle staging areas for public access to the Napa River Trail will be provided in Tulocay Village in locations convenient to the public trail access. The Master Plan has tentatively located public parking at the end of Oil Company Road and south of Tulocay Creek accessed via Hartle Court. If consistent with the regulations of the Department of Fish and Game and other regulatory agencies, enhancement of the edges of onsite wetland areas with substantial trees and plantings is planned to give these currently flat grass/shrub covered areas more presence and identity.

B. Pedestrian and Bicycle Circulation

The Master Plan proposes to construct off-street public pedestrian and bicycle trail access to these enhanced open space areas including

- A trail along the north side of Tulocay Creek. The Tulocay Creek trail will jog west at Gasser Drive to Kansas Avenue, cross at a light and jog back.
- A trail surrounding Tulocay Village from Oil Company Road south to Tulocay Creek and along the north bank of the north wetlands to North Drive

A trail from Hartle Court to Tulocay Creek connecting with the City's proposed railroad and Creek crossing.

The Gasser Foundation will provide an easement or fee title over trails on its property to ensure public access. Trails shall be a minimum 10' wide with 2' shoulders on each side, consistent with City standards. It is recognized there may be small segments of these trails where environmental constraints may require some flexibility.

In addition, the *Gasser Master Plan* proposes bicycle lanes on Gasser Drive, Hartle Court, Oil Company Road and North Drive. Bicycle lanes shall be a minimum 5 feet wide. Except where the multi use pedestrian/bicycle trail adjoins streets, streets will also incorporate sidewalks for pedestrian circulation.

This system of clearly marked multi use trails, bicycle routes and sidewalks within the *Gasser Master Plan Zoning Districts* is intended to promote regular pedestrian and bicycle travel, and allow connections to nearby destinations. Elements to be included in pedestrian/bicycle circulation routes are: consistent paving; themed directional and informational signage; plant materials denoting the pedestrian/bicycle routes; easy linkages to on and offsite destinations and ADA compliance. The *Gasser Master Plan Landscape Guidelines* provide more trail details.

C. Vehicle Circulation

There is a hierarchy of streets in the Master Plan Districts. Public Streets are shown in the *Gasser Master Plan* Exhibit 1 and the Circulation Map Exhibit 3. Streets form the backbone of a neighborhood and community. While internal street circulation for Tulocay Village is yet to be determined, it will maximize physical and visual access to area resources and front buildings towards these resources. This is intended to allow the wetlands and River terraces to be prominent features well integrated with the neighborhood.

City policy also promotes connections between neighborhoods throughout the city for ease of use and emergency access. Connecting streets include the Gasser Drive extension, North Drive, the entry street into Tulocay Place which connects to Tulocay Village, and Oil Company Road. A potential direct, narrow street connection between Tulocay Village and South River Place over Tulocay Creek shall also be evaluated for feasibility.

Gasser Master Plan public streets include:

1. Hartle Court – a street to be relocated and improved to City standards with bicycle lanes
2. Existing Gasser Drive
3. The Gasser Drive bridge and street extension to Soscol Avenue, to be improved to City standards (but without parking) with bicycle lanes and a landscaped median. Pads for public art should be included in the landscape median
4. North Drive- This street aligns over major stormwater culvert(s) critical to site and area drainage. Between the existing Gasser Office Building and the north wetlands, the right of way is constrained and does not include parking.
5. Tulocay Village internal circulation – a pedestrian-oriented public street within the residential village. A small number of public access parking spaces would be provided near the public trail.
6. Oil Company Road- a street to be improved to City standards with bicycle lanes. A small public parking area at the end of Oil Company Road would facilitate public access to the public trail.
7. Tulocay Place Entry Street to Tulocay Village – a pedestrian-oriented street providing entrance to Tulocay Village from Soscol Avenue.

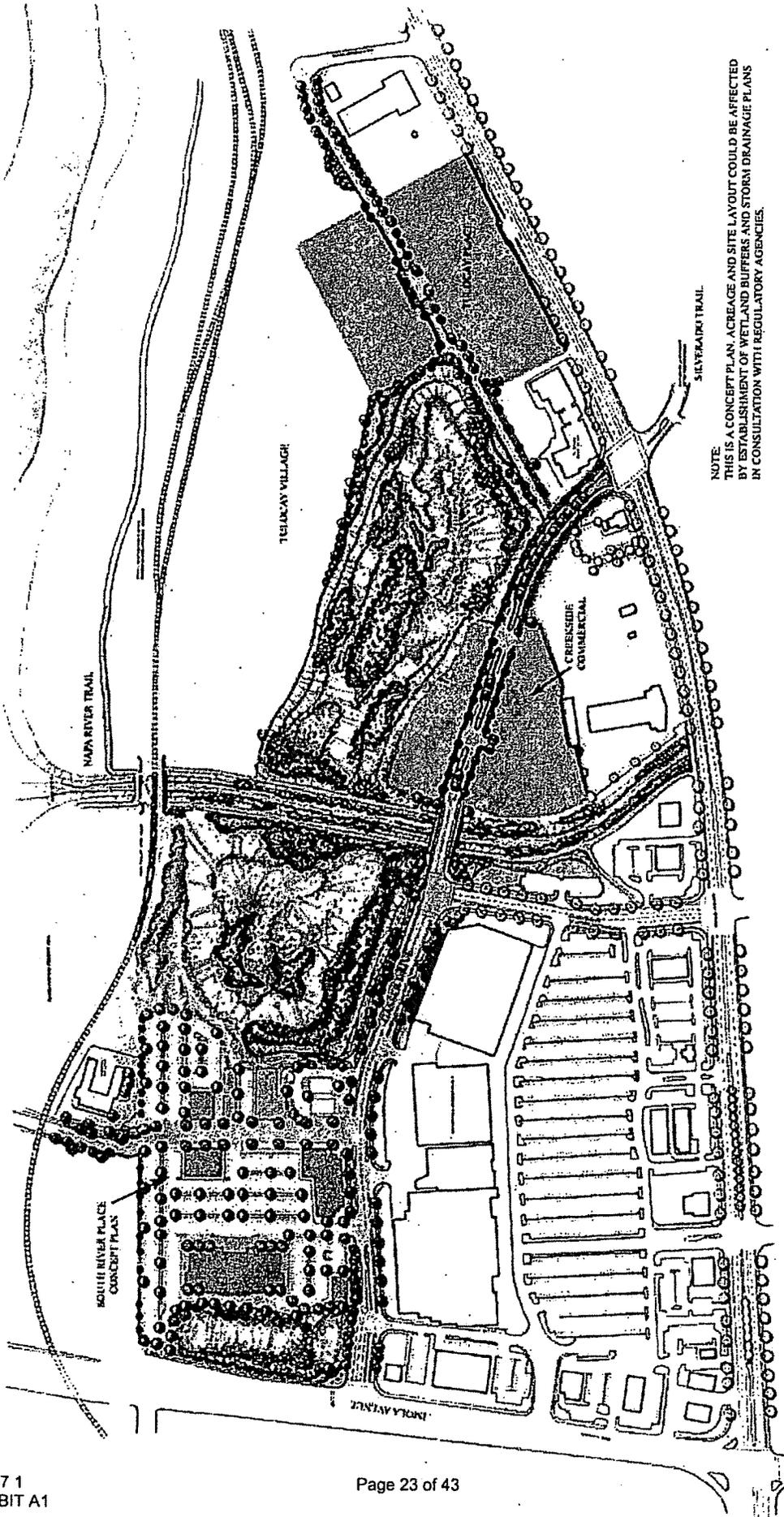
Exhibits show planned street sections for the Gasser Drive Extension, Gasser Drive Bridge, North Drive (constrained/unconstrained), Oil Company Road, the public street within Tulocay Village and Hartle Court.

The Gasser Drive bridge and street extension to Soscol Avenue is identified in the Transportation Element of the City of Napa General Plan and is a primary Master Plan Street providing the only onsite linkage between the north and south neighborhoods and access to substantial adjacent site development. This street is also located and

planned to provide a future connection to Silverado Trail through the Soscol/Silverado realignment identified in the Transportation Element of the City of Napa General Plan and on the list of those capital improvements eligible for reimbursement from Street Improvement Fees. The Soscol/Silverado realignment is a major improvement for adequacy of planned area circulation that will need several years to design, fund and construct. The entire Gasser project contributes to the need for this project, although construction need is not triggered until Gasser development north of Tulocay Creek occurs, assuming that this part of the project develops after the southern part of the site.

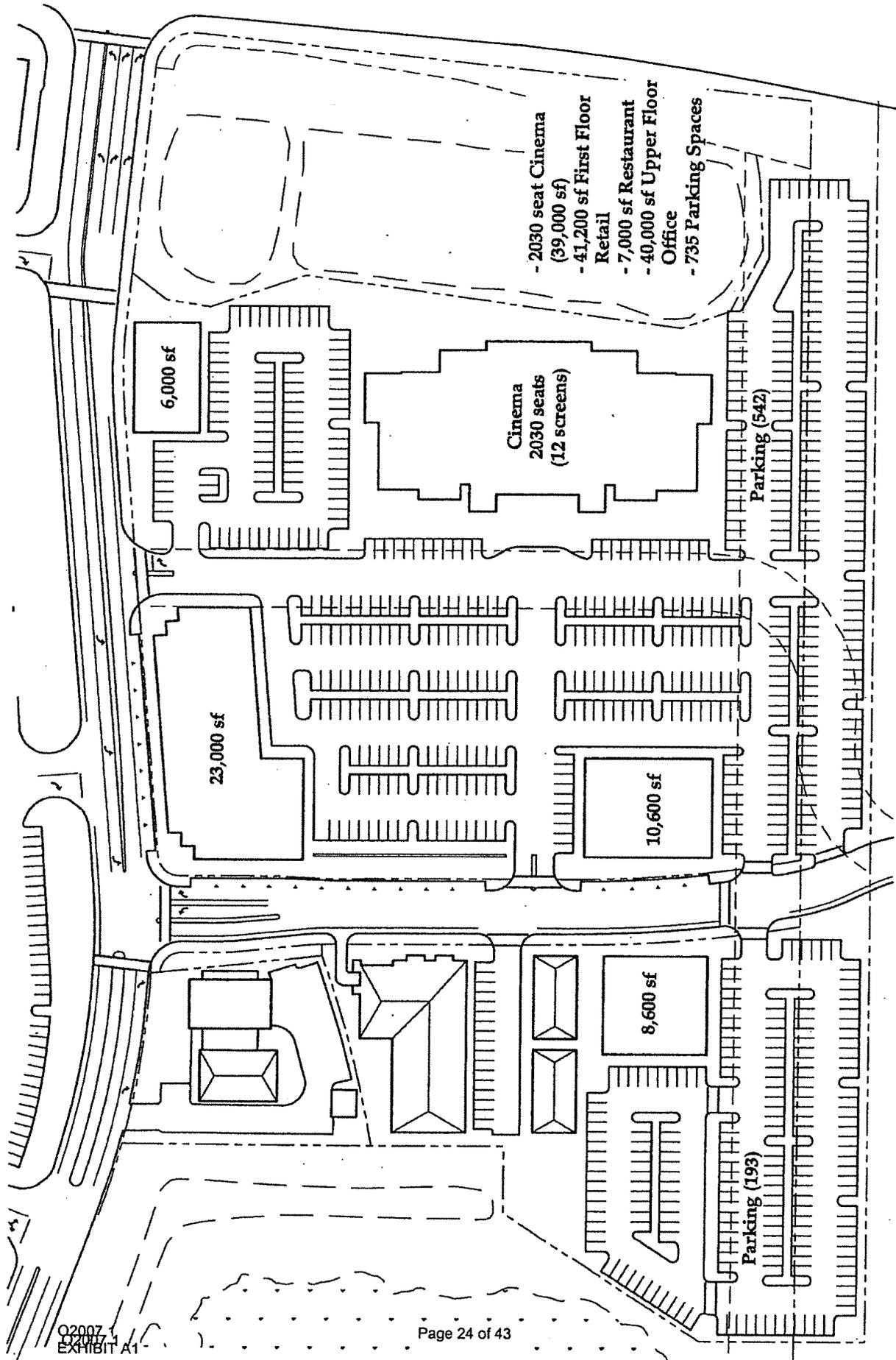
Through use of planting strips with street trees and separated sidewalks, medians and enhanced pedestrian crossings, as well as potential traffic calming measures on residential neighborhood streets, the *Gasser Master Plan* encourages a peaceful and pedestrian friendly character.

Incorporation of transit stops along Gasser Drive and the Soscol Avenue frontage is anticipated.



GASSER DISTRICT MASTER PLAN- EXHIBIT 1A

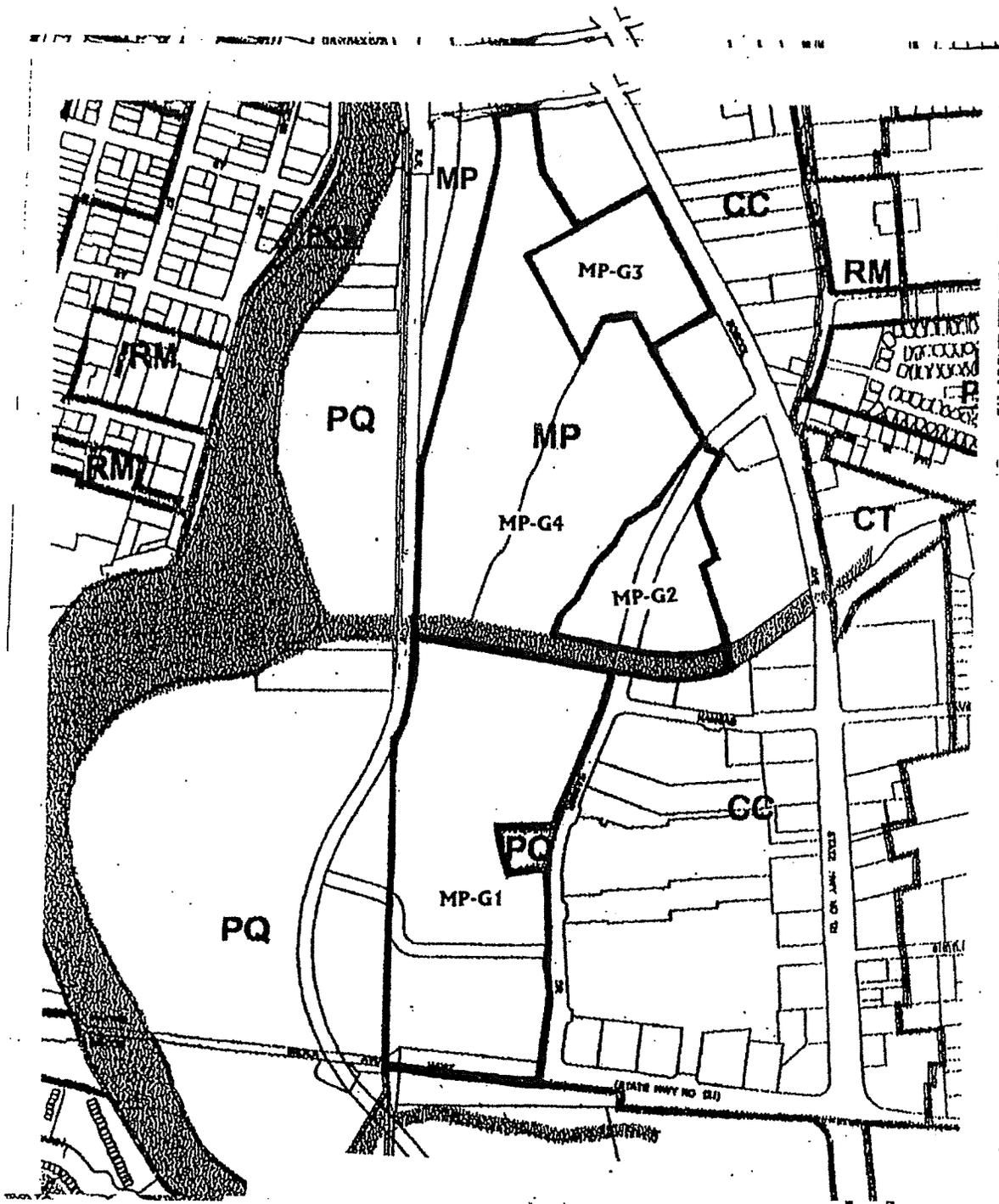
EXHIBIT 1A



NOTE:
THIS IS A CONCEPT PLAN, ACEPAGE AND SITE LAYOUT COULD BE AFFECTED
BY ESTABLISHMENT OF WETLAND BUFFERS AND STORM DRAINAGE PLANS
IN CONSULTATION WITH REGULATORY AGENCIES.

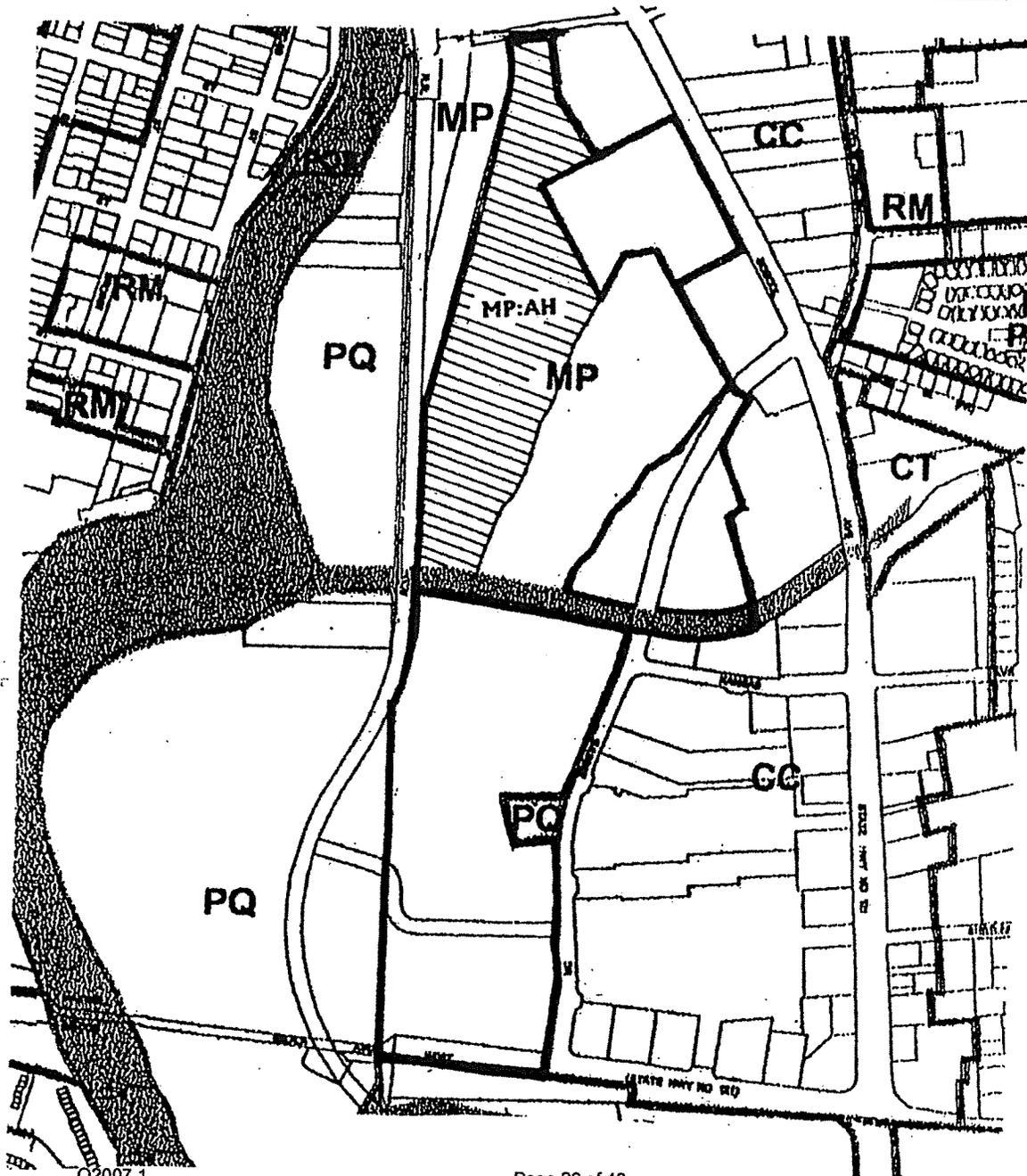
SOUTH RIVER PLACE CONCEPT DETAIL - EXHIBIT 1B

EXHIBIT 1B



Entire Project is subject to:
 FP Flood Plain Overlay
 IT Traffic Impact Overlay

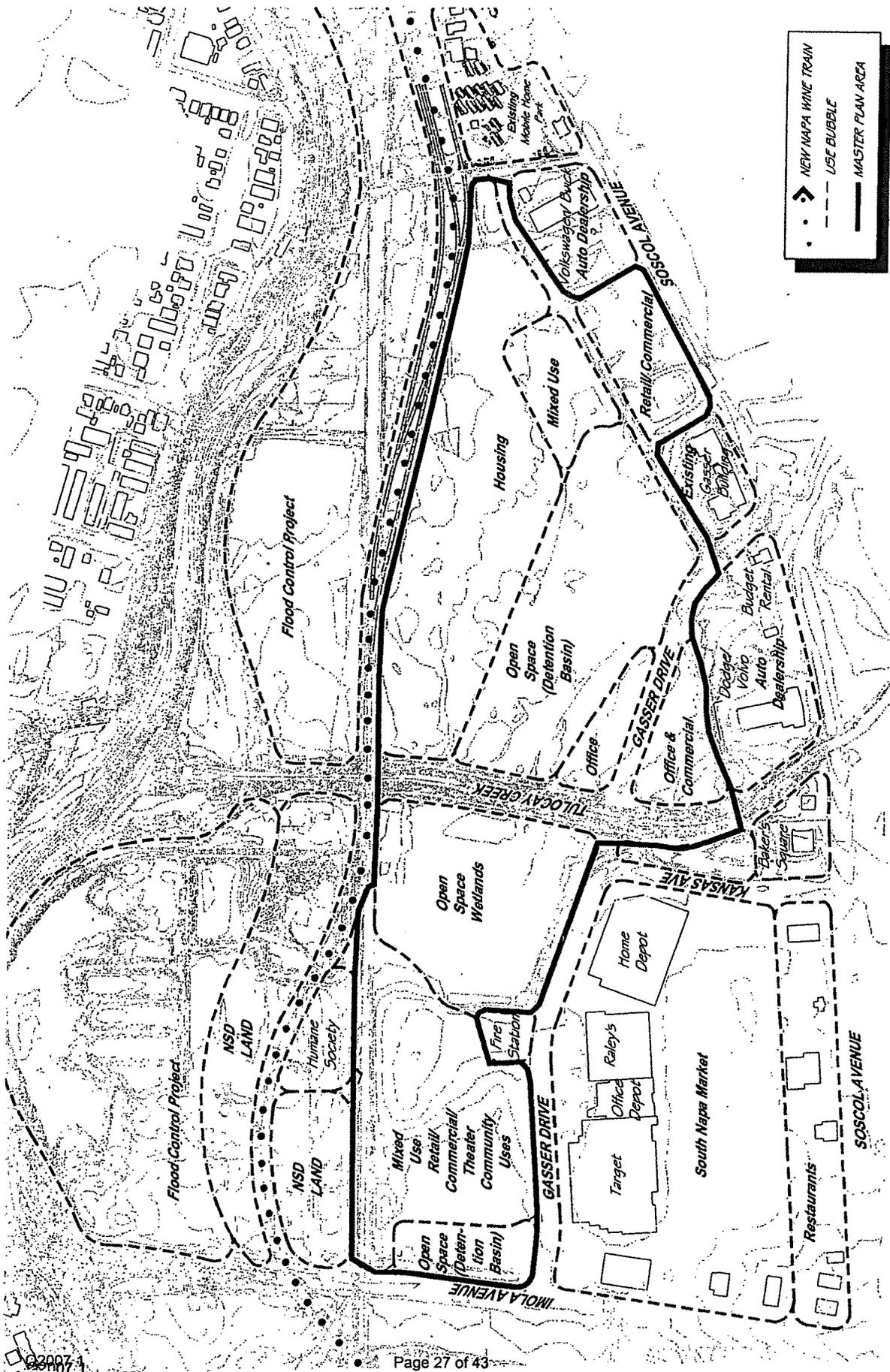
Tulocay Village or MP-GA excluding wetlands is subject to:
 AH Affordable Housing Overlay



O2007 1 EXHIBIT A1

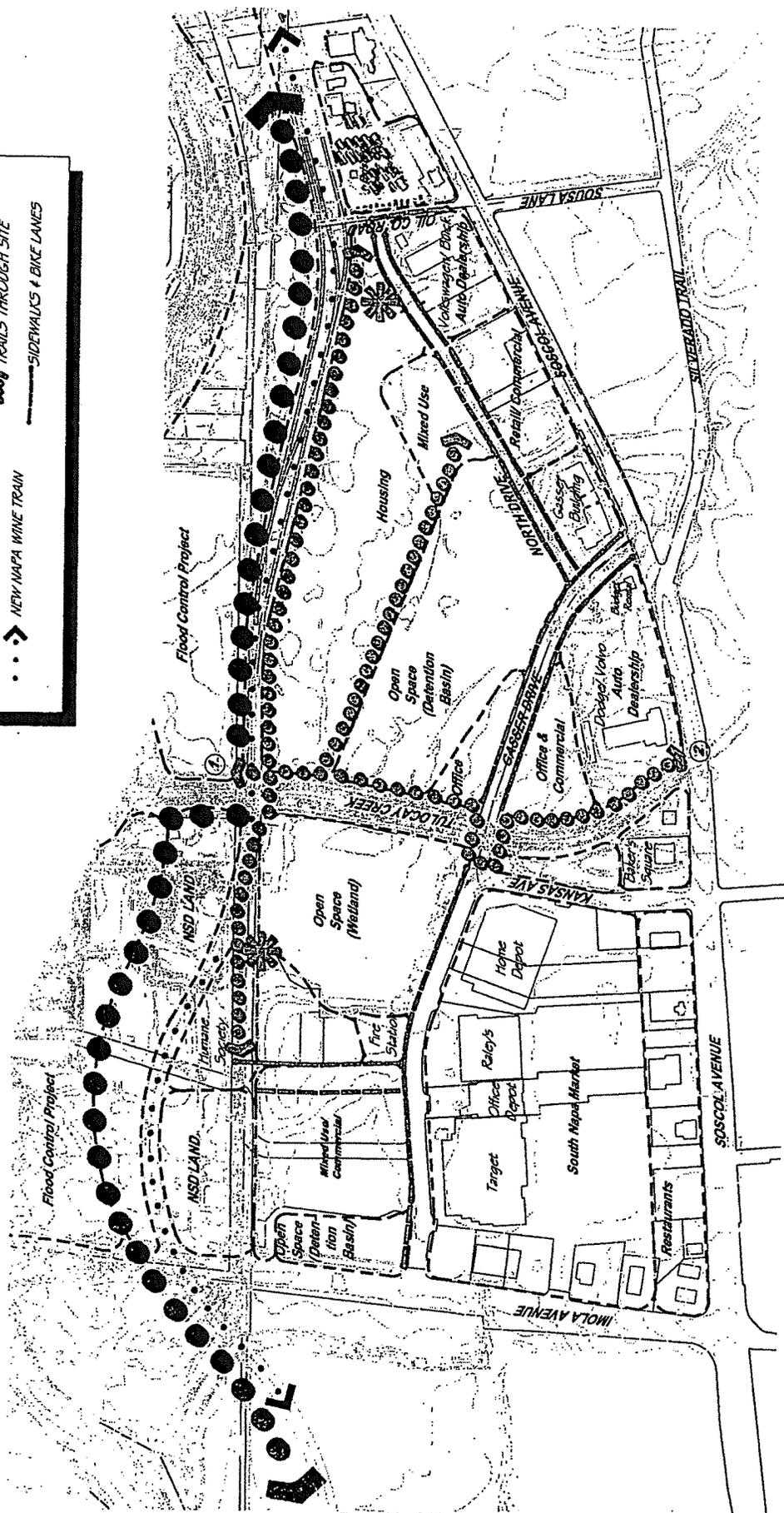
GASSER MASTER PLAN-EXHIBIT 2B
 ZONING OVERLAY DISTRICTS MAP

EXHIBIT 2B



LAND USE MAP
EXHIBIT 3

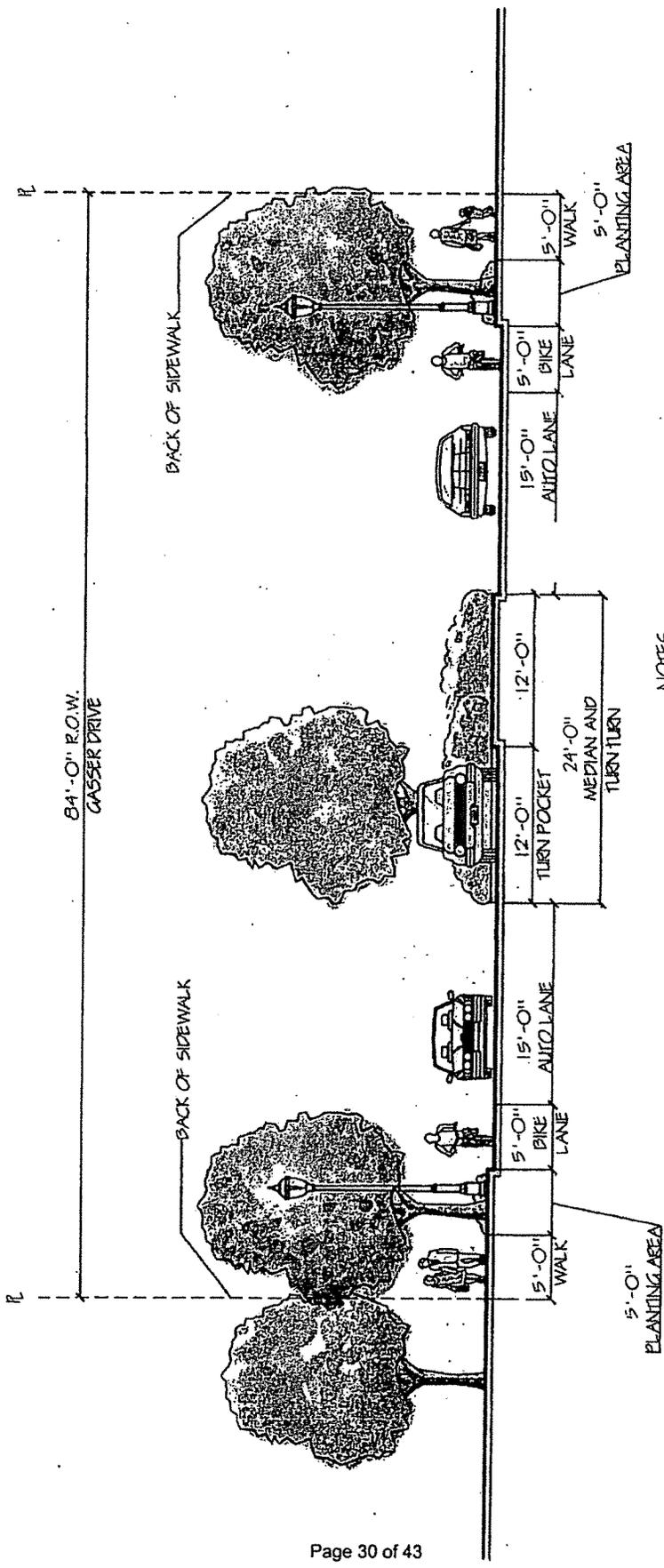
PUBLIC PARKING & TRAIL ACCESS
 NEW NAPA WINE TRAIN
 RIVER BIKE TRAIL & MAINTENANCE ROAD
 TRAILS THROUGH SITE
 SIDEWALKS & BIKE LANES



- NOTES:
 ① RR CREEK CROSSING BY CITY
 ② SOSCUL TRAIL CONNECTION SUBJECT TO CALTRANS BRIDGE DESIGN

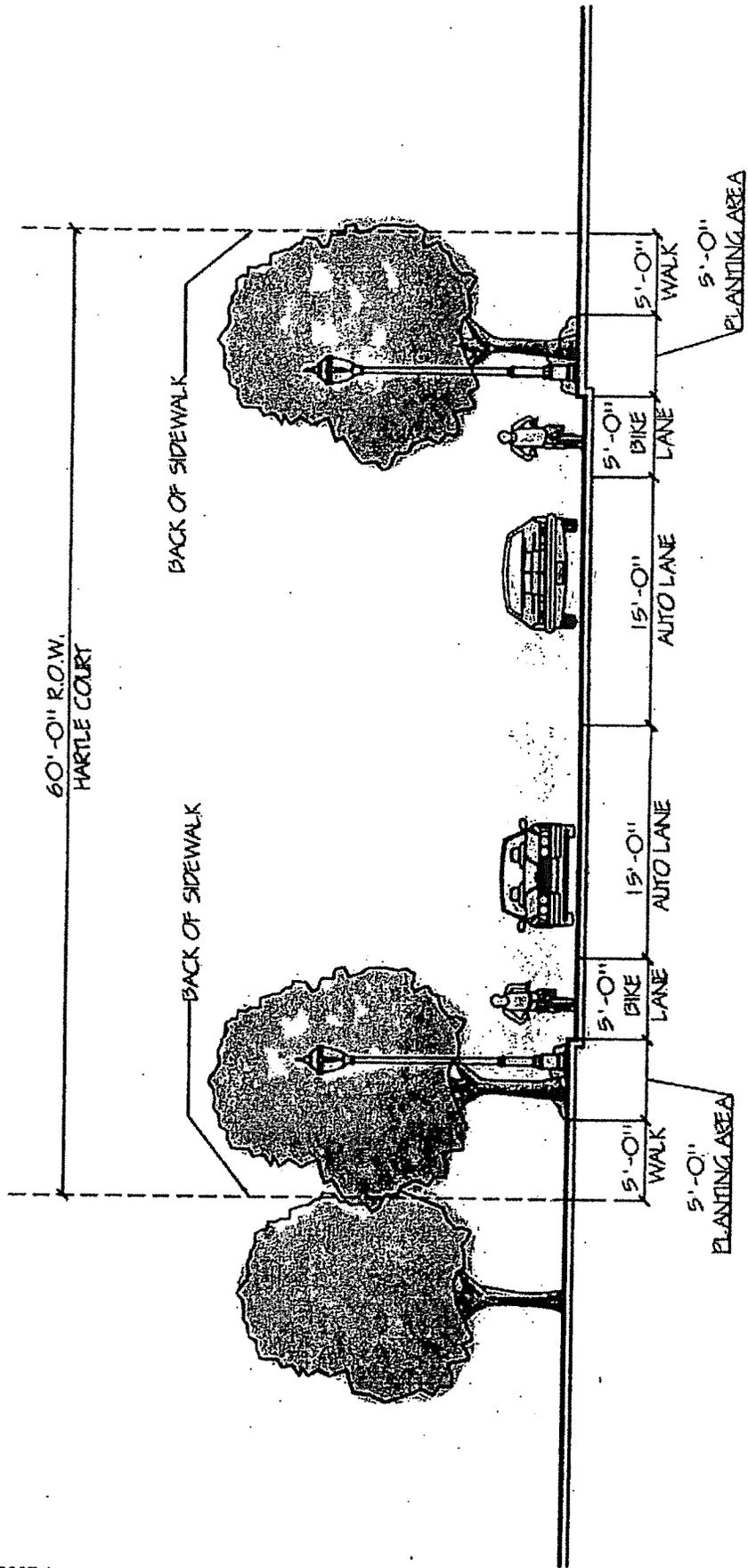


PEDESTRIAN/ BIKE CIRCULATION PLAN
 EXHIBIT 4



NOTES:

1. GASSER PROPOSAL CAN BE MODIFIED TO 4 LANES OF TRAVEL IF DESIRED IN THE FUTURE.
2. GASSER DRIVE CONNECTS TO SILVERADO TRAIL WHICH WILL HAVE 2 THROUGH LANES AND A TURN LANE.
3. THIS STREET WILL EITHER BE SHIFTED FURTHER FROM THE WETLAND, REVISED, OR AN AMENDMENT MADE TO THE 9/23/02 FINAL SOIL DISPOSAL PLAN BOARD ORDER. THE R.O.W. SHALL REMAIN 84 FEET. THE RESPONSIBILITY FOR THESE CORRECTIONS LIES WITH THE CURRENT APPLICANT.

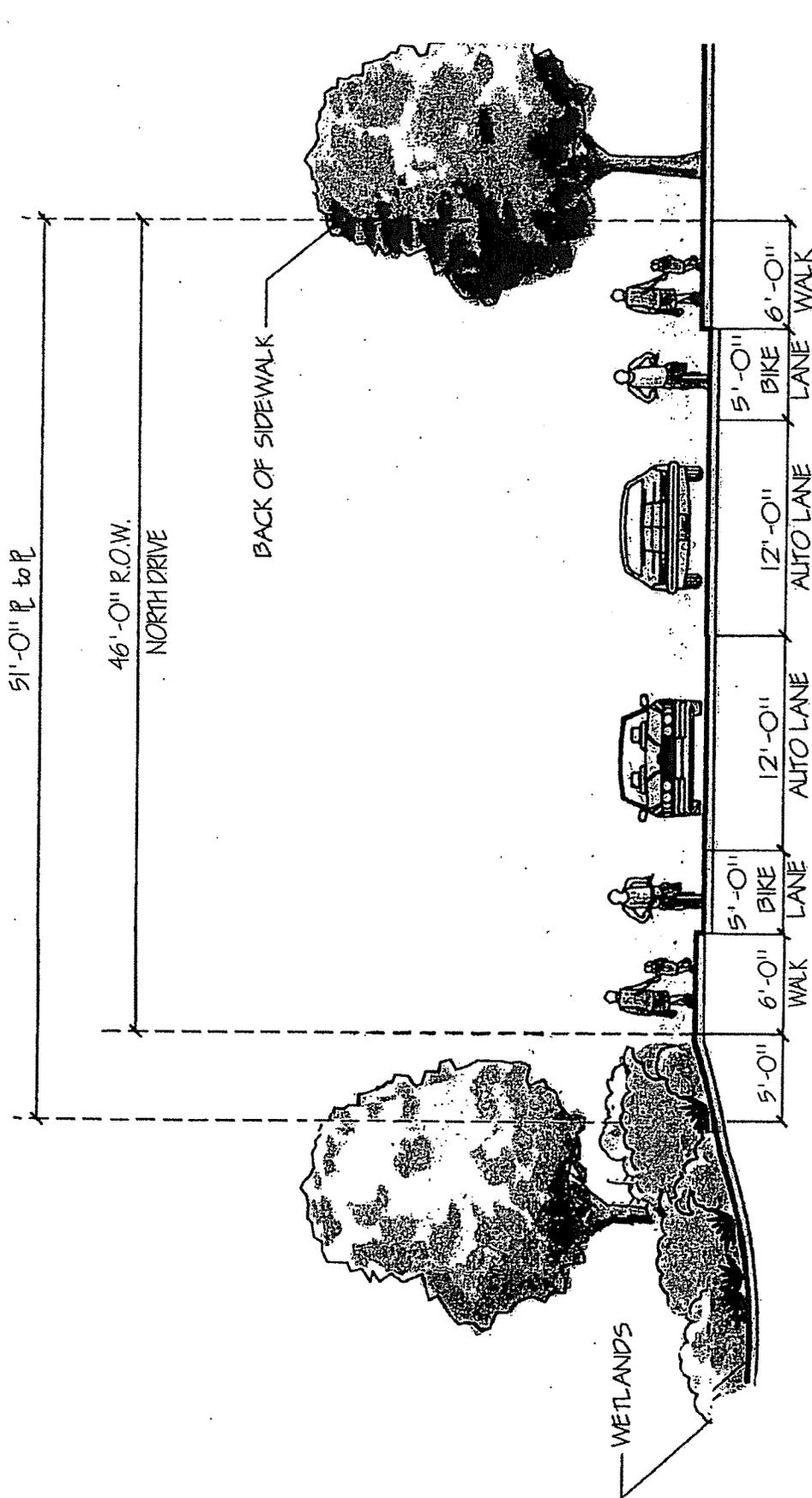


- NOTES:
1. PARKING BAYS MAY BE ADDED ON THE SOUTH SIDE OF HARTLE DEPENDING ON THE FINAL PLAN.
 2. TURN LANES TO BE ADDED AS REQUIRED AT INTERSECTIONS.

HARTLE COURT

EXHIBIT 7

MASTER PLAN DESCRIPTION

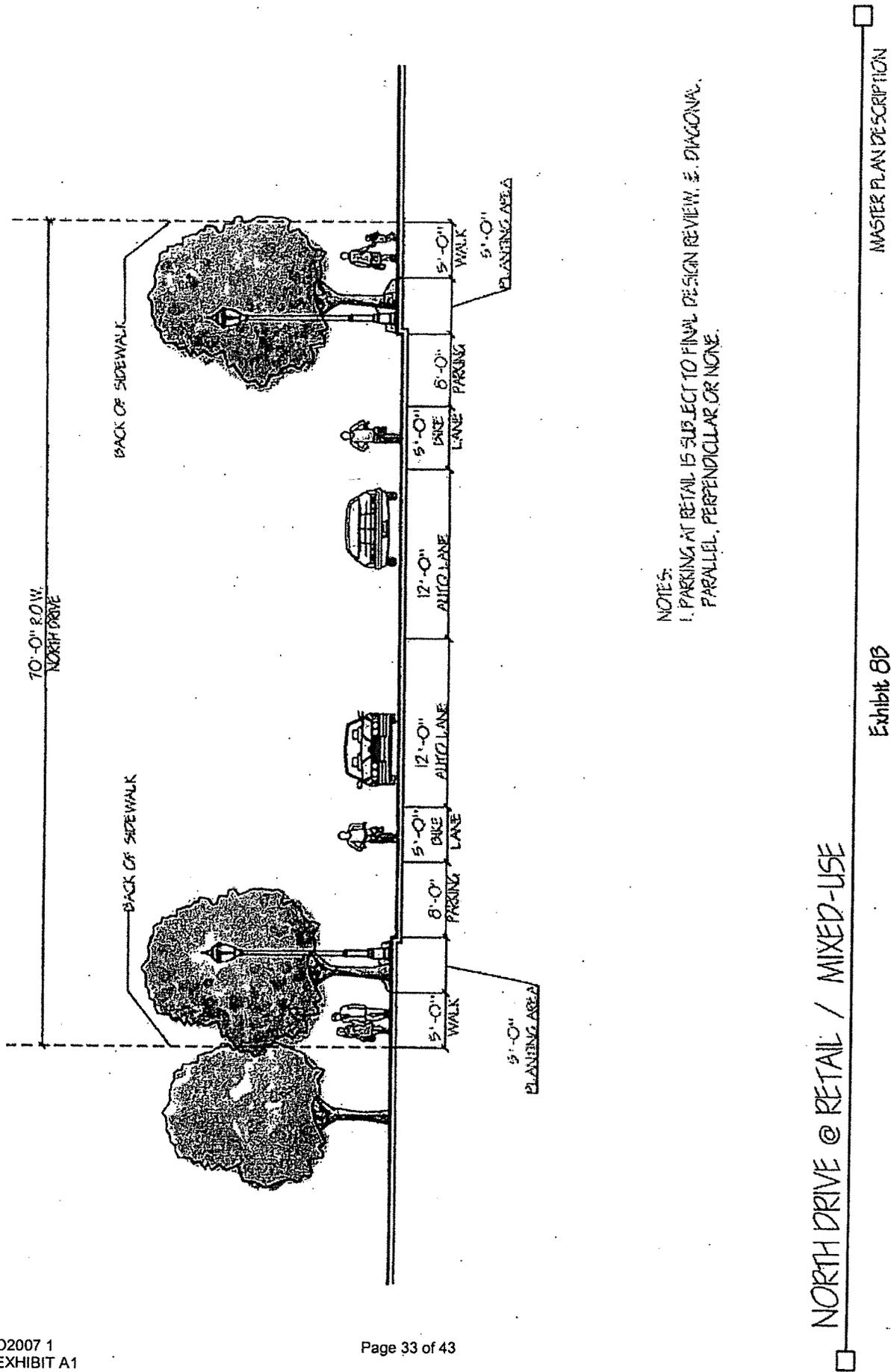


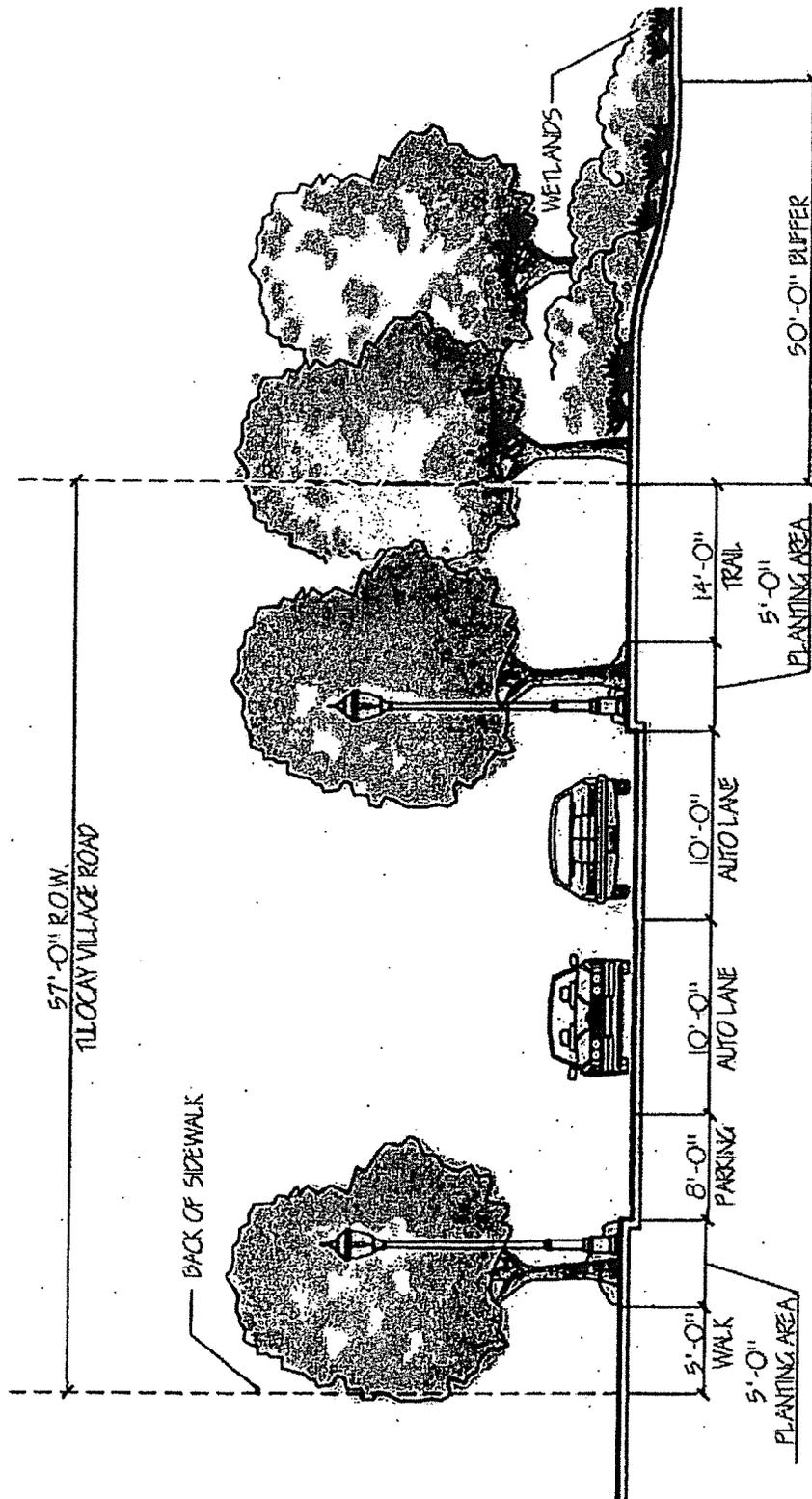
NOTES:
 1. THIS STREET SECTION WILL EITHER BE SHIFTED FURTHER FROM THE WETLAND, REVISED, OR AN AMENDMENT MADE TO THE 9/23/02 FINAL SOIL DISPOSAL PLAN BOARD ORDER. THE RESPONSIBILITY FOR THIS CORRECTION LIES WITH THE CURRENT APPLICANT.

NORTH DRIVE @ WETLANDS

EXHIBIT 8A

MASTER PLAN DESCRIPTION

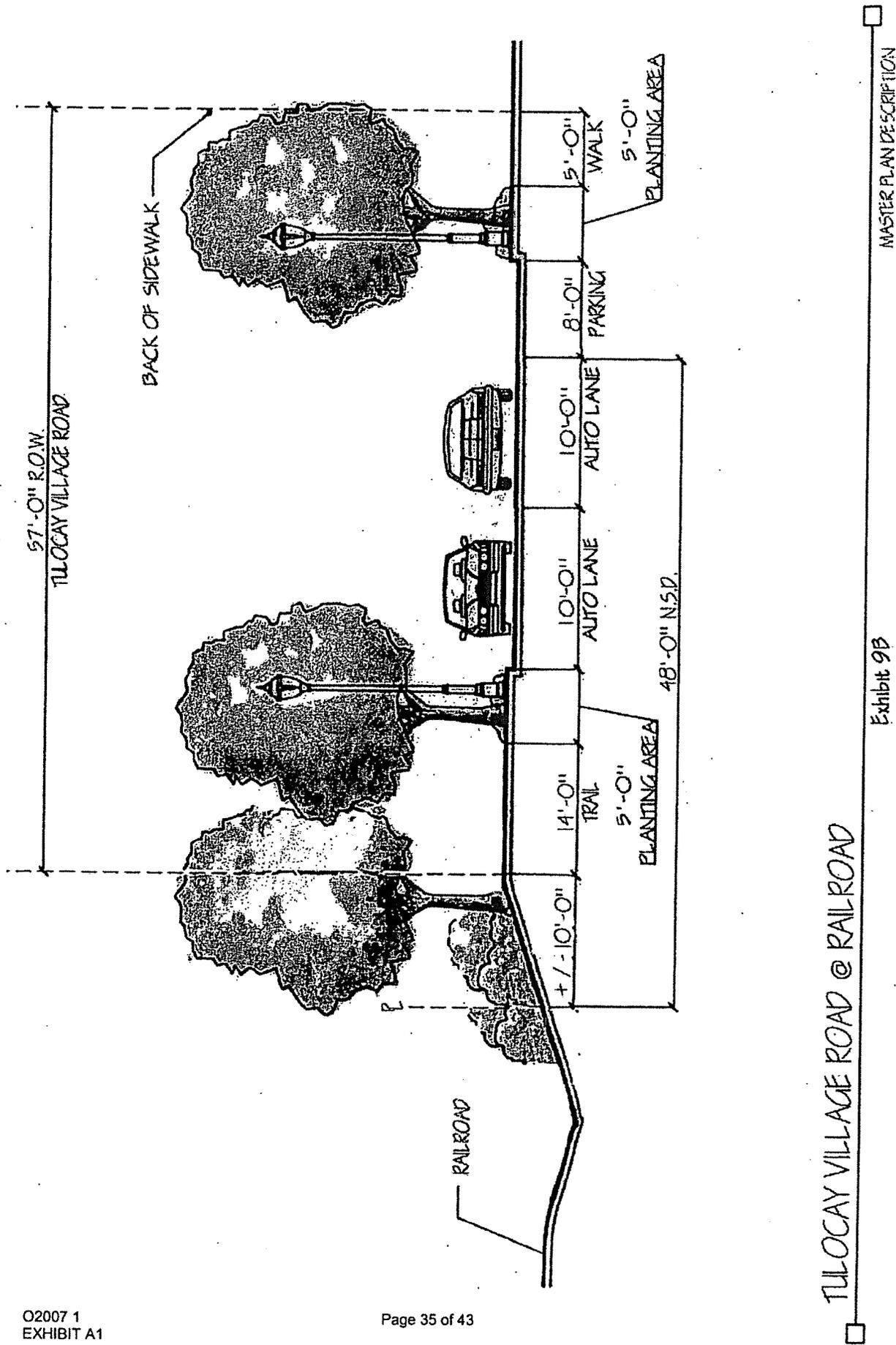


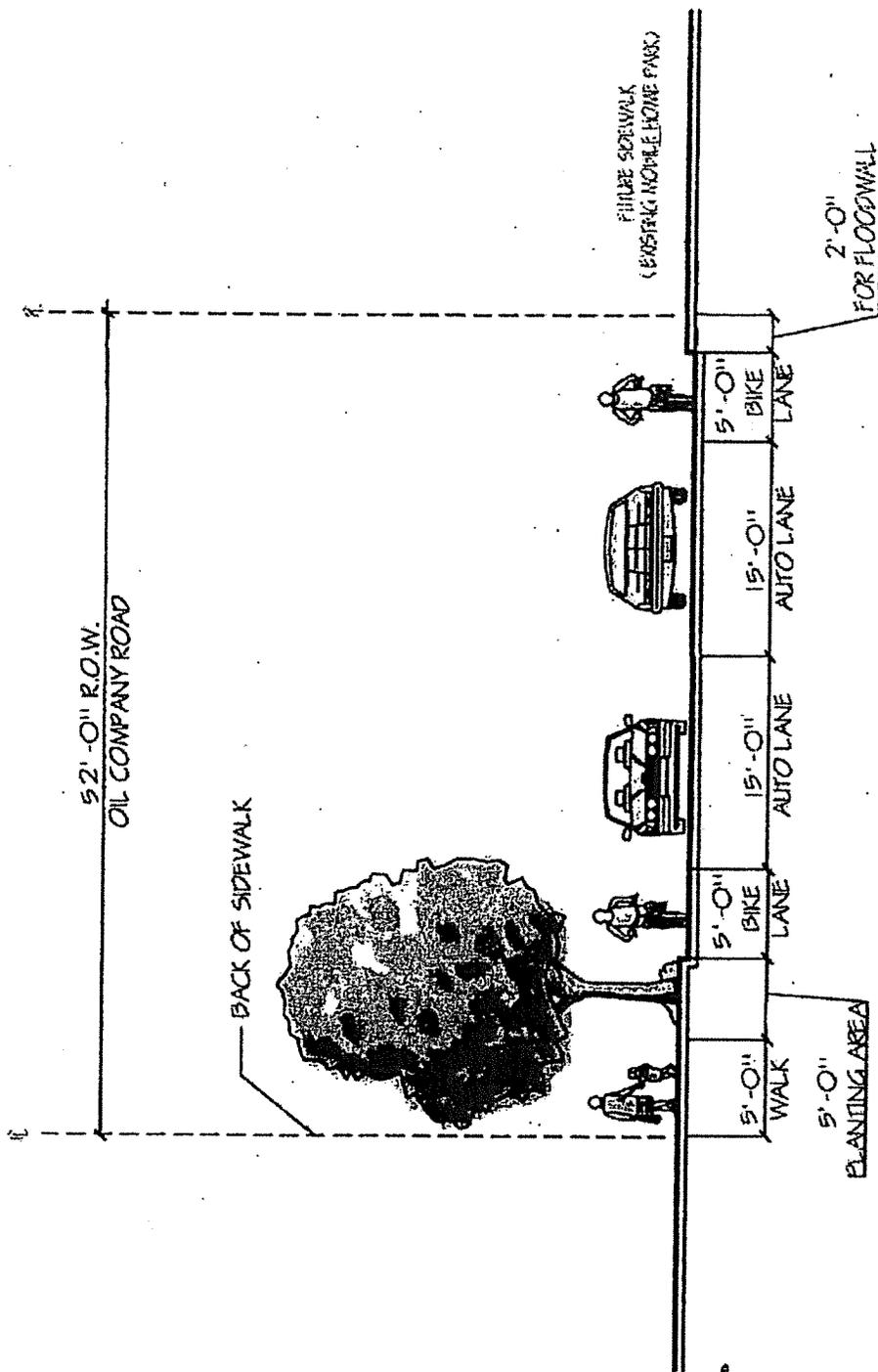


TULOCAY VILLAGE ROAD @ WETLANDS

Exhibit 9A

MASTER PLAN DESCRIPTION





NOTE:
1. TURN LANES TO BE ADDED AS REQUIRED AT INTERSECTIONS.

OIL COMPANY ROAD

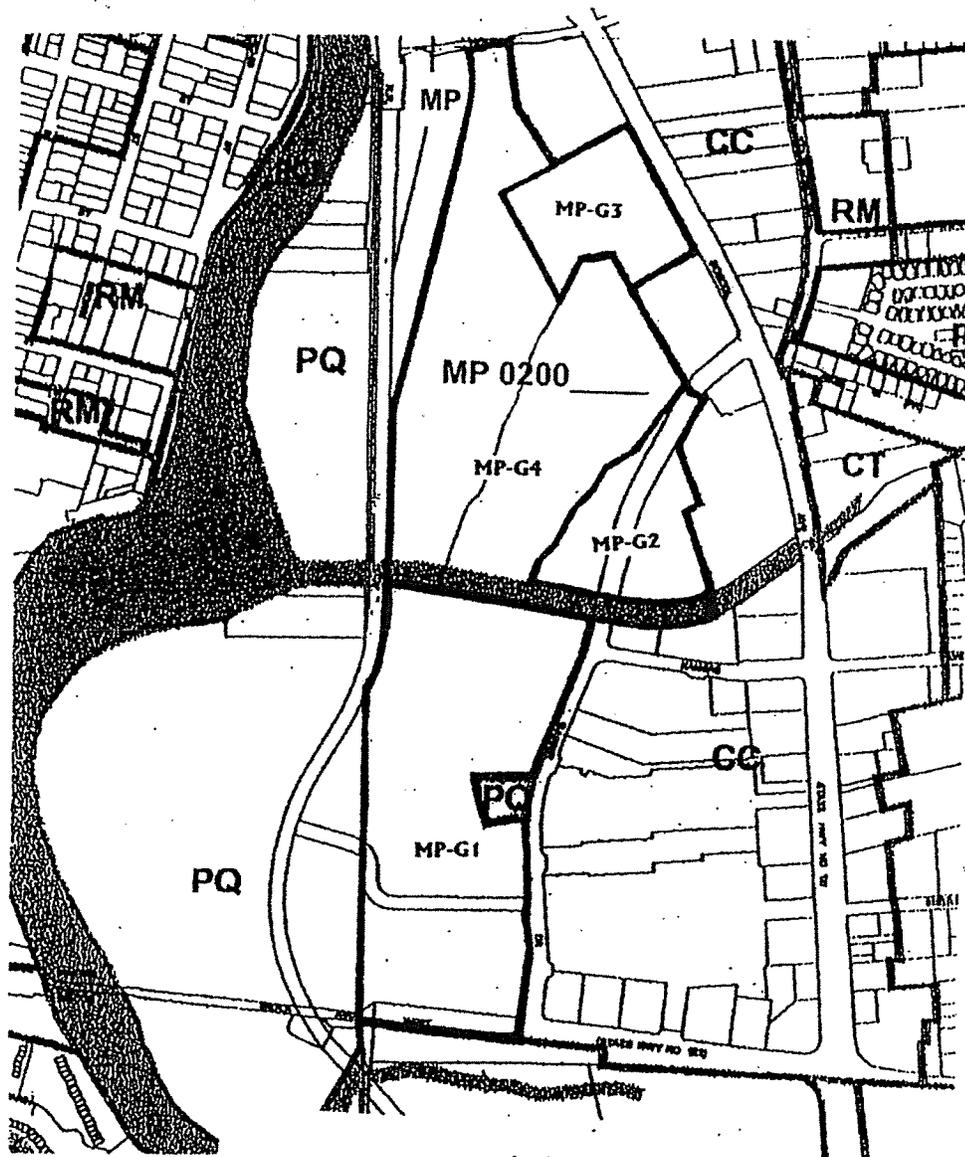
Exhibit 10

MASTER PLAN DESCRIPTION

Exhibit B
Zoning Districts and Overlay Districts
Maps Amendment

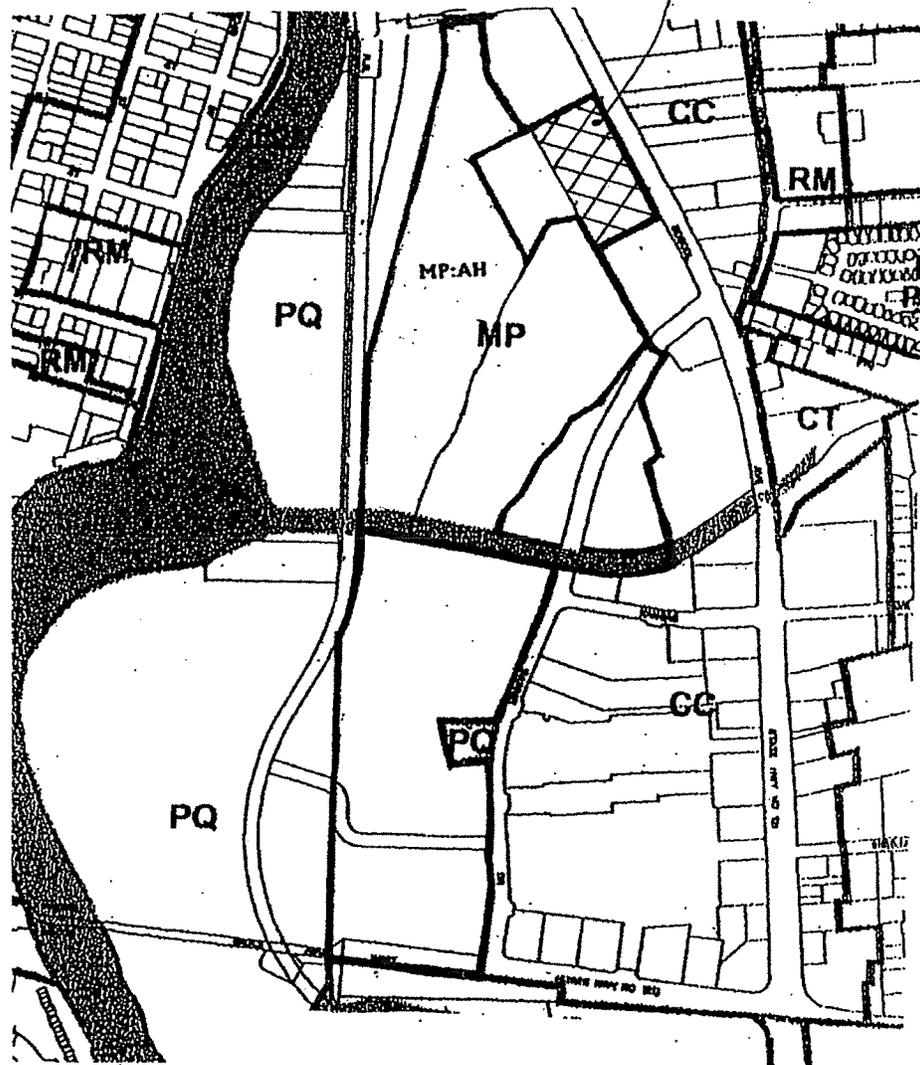
Exhibit B

Gasser Master Plan
Zoning Districts Map
As Amended



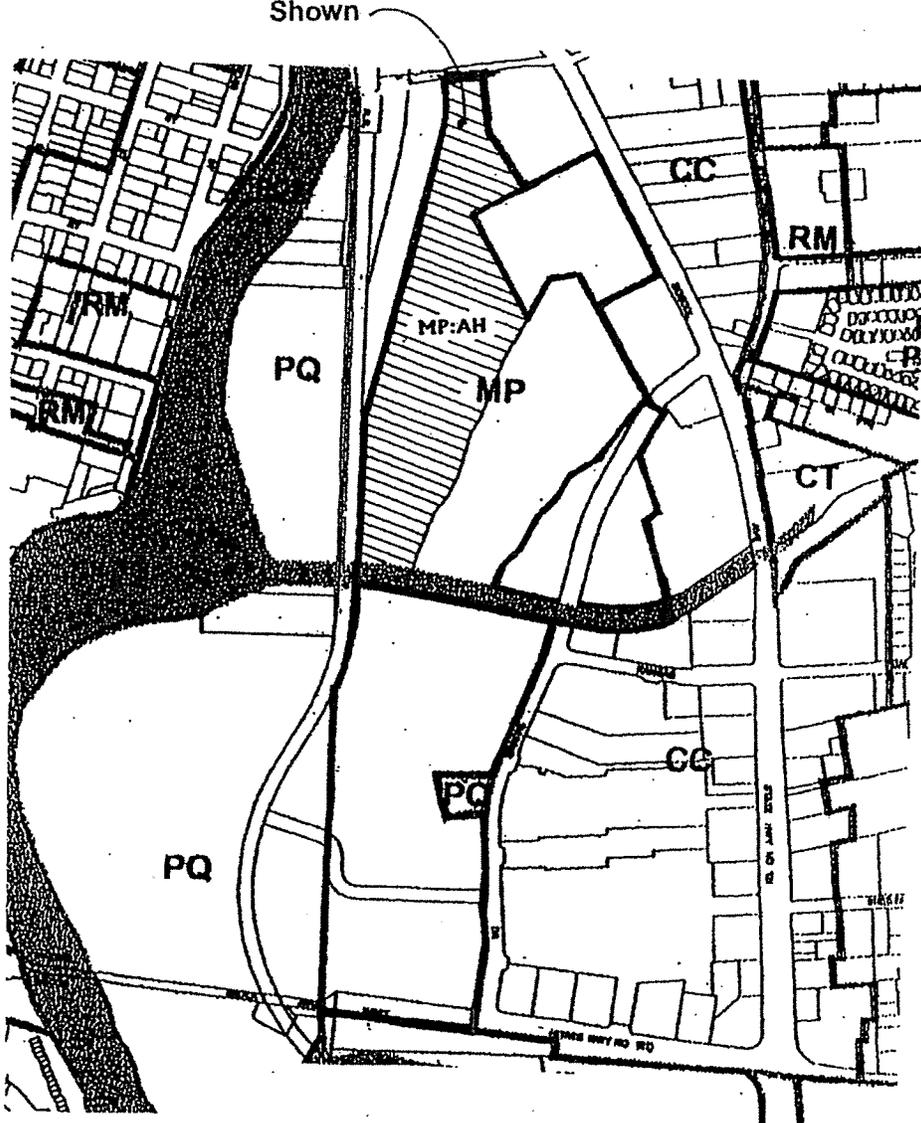
Gasser Master Plan
Overlay Zoning Districts Map 1

- :TI Traffic Impact Overlay-
No change from existing map
- :SC Soscol Corridor Overlay-
Remove from portion of Gasser
Master Plan site as indicated



Gasser Master Plan
Overlay Zoning Districts Map 2

- :FP Floodplain Overlay-
No change from existing map
- :AH Affordable Housing Overlay
Revised Boundaries as
Shown



Current Zoning Districts Map (portion)



CITY of NAPA

ZONING DISTRICTS

RESIDENTIAL

- RS 40 Single Family Residential, Minimum lot size 40,000 sq. ft.
- RS 20 Single Family Residential, Minimum lot size 20,000 sq. ft.
- RS 10 Single Family Residential, Minimum lot size 10,000 sq. ft.
- RS 7 Single Family Residential, Minimum lot size 7,000 sq. ft.
- RS 5 Single Family Residential, Minimum lot size 5,000 sq. ft.
- RS 4 Single Family Residential, Minimum lot size 4,000 sq. ft.

- RI 20 Single Family Infill, Minimum lot size 20,000 sq. ft.
- RI 10 Single Family Infill, Minimum lot size 10,000 sq. ft.
- RI 7 Single Family Infill, Minimum lot size 7,000 sq. ft.
- RI 5 Single Family Infill, Minimum lot size 5,000 sq. ft.
- RI 4 Single Family Infill, Minimum lot size 4,000 sq. ft.

- RT 7 Traditional Residential Infill, Minimum lot size 7,000 sq. ft.
- RT 5 Traditional Residential Infill, Minimum lot size 5,000 sq. ft.
- RT 4 Traditional Residential Infill, Minimum lot size 4,000 sq. ft.

RM Multi Family Residential

COMMERCIAL

- CL Local Commercial
- CT Tourist Commercial
- CC Community Commercial
- CD Downtown Commercial
- CDP Downtown Pedestrian Commercial

RESIDENTIAL OFFICE AND OFFICE

- RO Residential Office
- OC Commercial Office
- OM Medical Office

INDUSTRIAL

- IL Light Industrial
- IP Industrial Park (Areas A, B and C)

OTHER

- PQ Public/Quasi Public
- POS Park/Open Space
- AR Agricultural Resource

MIXED USE

- MU-T Mixed Use (Tannery Bend)
- MU-G Mixed Use (Gateway)

MP Master Plan

PD-x Planned Development Overlay District

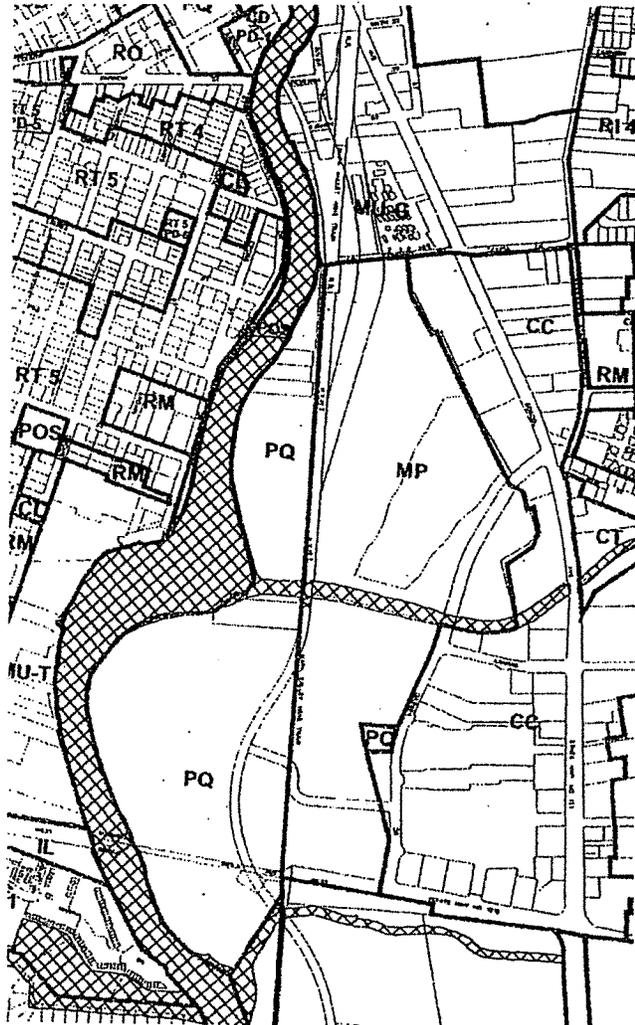
- Number refers to specific ordinance

Note: Zoning of areas outside city limits is pre-zoning

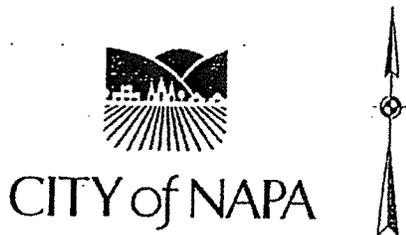
—:River and Creeks

—:City of Napa Boundary

Date Printed: 3/22/05 File Name: M:\p4\planring\zoning\Napa_Zo



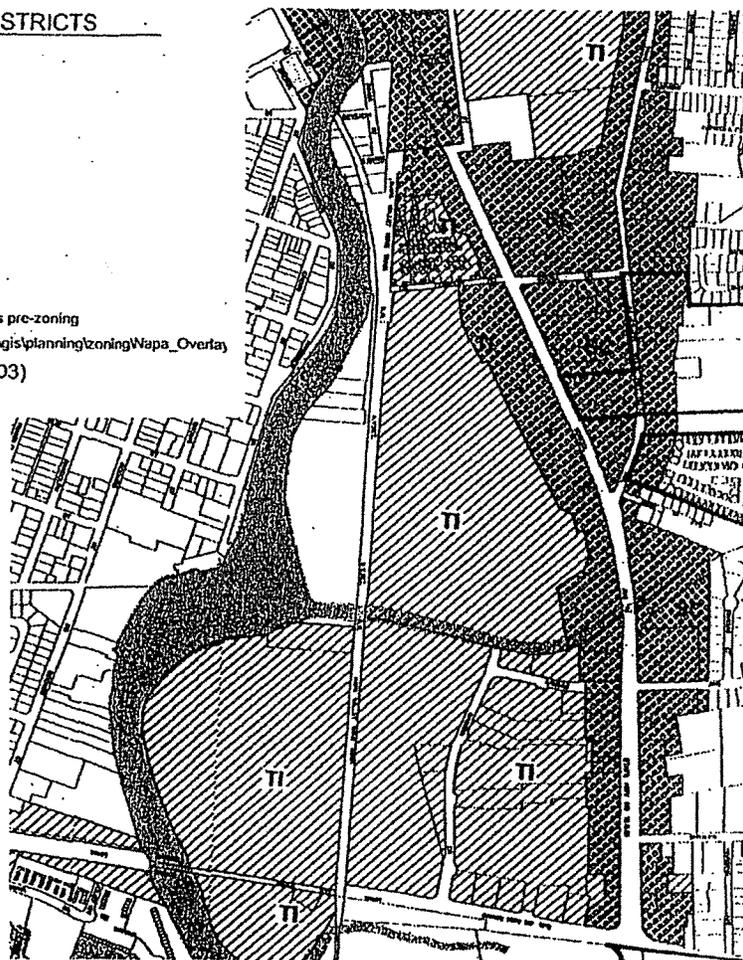
Current Overlay Zoning Districts Map 1 (portion)



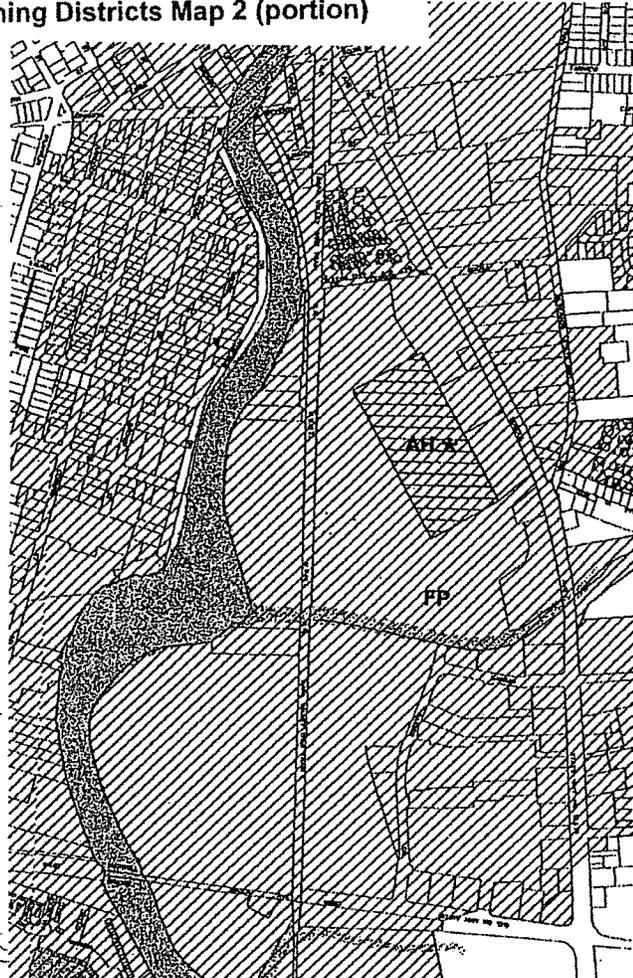
OVERLAY ZONING DISTRICTS

- :AC Airport Compatibility Overlay
- :SC Soscol Corridor Overlay
- :TI Traffic Impact Overlay
- :PE Parking Exempt Overlay
- :WS Water Setback Overlay
- :River and Creeks
- :City of Napa Boundary

Note: Zoning of areas outside city limits is pre-zoning
 Adopted 8/12/03 File Name: M:\gis\planning\zoning\Wapa_Overlay
 O2003 12 (Effective 10/16/03)



Current Overlay Zoning Districts Map 2 (portion)



CITY of NAPA

OVERLAY ZONING DISTRICTS

-  :AH Affordable Housing Overlay
-  :FP Floodplain Overlay (Portion is also Flood Evacuation Area)
-  :HS Hillside Overlay
- ★ Represents Portion of Site (Schematic)
-  :River and Creeks
-  :City of Napa Boundary

Note: Zoning of areas outside city limits is pre-zoning

Date Printed: 6/13/03 File Name: M:\gis\planning\zoning\Napa_Overlays5-7.dwg

Adopted 8/12/03 O2003 12 (Effective 10/16/03)

EXCEPT NOTE: The :AH Overlay for the 6 southern and easternmost sites was not adopted; Council decision is delayed until 11/18/03*. The 3 low density :AH sites in Browns Valley and North Napa WERE adopted.

*ADAPTED 1/18/03

EXHIBIT D-2

Resolution No. 2006-212 adopting a Mitigation Monitoring Program, and adopting CEQA findings for the Gasser Master Plan Rezoning

RESOLUTION R2006 212

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA,
STATE OF CALIFORNIA, ADOPTING A MITIGATION MONITORING
PROGRAM, AND ADOPTING CEQA FINDINGS FOR THE GASSER
MASTER PLAN REZONING (02-0134)

WHEREAS, in October, 2002, preliminary Master Plan application materials were submitted to the City for review; and

WHEREAS, in June, 2004, the Gasser Foundation presented its Master Plan concept to the Planning Commission; and

WHEREAS, in August, 2004, the Gasser Master Plan Rezoning application materials were submitted for review and work commenced on the Draft Environmental Impact Report for the Master Plan property including APN's 046-190-050, -052, -053, -057; and 046-691-005.

WHEREAS, on November 15, 2004, a Notice of Preparation of the Draft Environmental Impact Report for the Gasser Master Plan ("Project") was mailed to all responsible and affected agencies as well as interested organizations and individuals, and a scoping session was held on November 18, 2004 in accordance with CEQA requirements; and

WHEREAS, a noticed Public Scoping session was held to solicit comments on the scope of the Environmental Impact Report on November 18, 2004; and

WHEREAS, a Draft Environmental Impact Report ("Draft EIR") was prepared for the Project in accordance with Public Resources Code Section 21000 et seq. and CEQA Guidelines Section 15000 et seq.; and

WHEREAS, the City of Napa filed a Notice of Completion of the Draft EIR with the State Office of Planning and Research on December 15, 2005, circulated the Draft EIR for review and comment by the public and public agencies which have jurisdiction by law with respect to the Project between December 15 and January 30, 2006, and

WHEREAS, a noticed public hearing on the Draft EIR was held to solicit comments on January 12, 2006; and

WHEREAS, the written and oral comments concerning the Draft EIR were received and responses to those comments were prepared in the form of the Final EIR; and

WHEREAS, the Final EIR was published and circulated to commenting agencies and persons on August 17, 2006; and

WHEREAS, the Gasser Foundation published a refined Master Plan in September, 2006 that provides more explicit zoning regulations consistent with other chapters of the City of Napa Zoning Ordinance; no specific site layouts for the north area; a greater mix of residential types and densities in Tulocay Village; a land use shift in Tulocay Place from all retail to retail east of North Drive and mixed use west of North Drive; and an alternate site layout and use mix for South River Place; and

WHEREAS, notice was provided and a Joint City Council/Planning Commission Public Workshop was held on September 21, 2006 to provide an overview of the Master Plan Zoning and Environmental Impact Report, and for early identification of issues needing further resolution or information; and

WHEREAS, in October, the Gasser Foundation provided details on a proposed affordable housing "alternative equivalent action" to meet half of the site's AH Affordable Housing inclusionary requirement;

WHEREAS, in October, 2006 following discussions among Napa County Flood Control and Water Conservation District staff, City Staff and the environmental consultants, text changes to the published final EIR were published as an Errata Sheet to be incorporated into the final EIR; and

WHEREAS, on October 17, 2006 joint notice was published as a 1/8 page display ad in the Napa Register and on October 15 notice was mailed to interested agencies and groups and nearby property owners of the Planning Commission Public Hearing on the EIR and Project on October 26, 2006 and of the City Council Public Hearing on November 21, 2006; and

WHEREAS, on October 23, 2006 the applicant requested that the Planning Commission continue the public hearing on the EIR and Master Plan to November 2 to provide added time to investigate certain floodway issues; and

WHEREAS, a courtesy notice was mailed on October 23, 2006 to those agencies, groups and individuals receiving earlier notice that the applicant had requested a continuance to November 2, and that the Commission would consider that action at their October 26 meeting; and

WHEREAS, the Planning Commission considered the request for a continuance at their October 26 meeting, and continued the item to November 2, 2006; and

WHEREAS, the Planning Commission of the City of Napa, State of California, held the continued hearing on November 2, 2006, on the subject Final EIR and Master Plan and recommended City Council certification of the EIR, incorporating certain Errata and an "equally effective" mitigation measure for Hydro-5a and approval of the Master Plan project with various changes to the Master Plan Rezoning and Conditions of Approval; and

WHEREAS, the City Council of the City of Napa, State of California held a noticed public hearing on the final EIR on November 21, 2006, accepted public testimony on the Final EIR, and certified the EIR pursuant to R2006 193 finding that 1. The final EIR has been completed in compliance with CEQA; 2. The final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the final EIR prior to taking action on the project; and 3. The final EIR reflects the lead agency's independent judgment and analysis; and

WHEREAS, R2006 193 inadvertently omitted parcel 046-190-052 which is a small parcel in the middle of and always part of the Master Plan site; and refers to the Undated Errata Sheet that includes 6 pages of text as well as map attachment that was not specifically mentioned; and

WHEREAS, the City Council of the City of Napa, State of California, held a noticed public hearing on the Master Plan rezoning and affordable housing "alternative equivalent action" on December 12, 2006; and

WHEREAS, the approval of the Project must be supported by mitigation findings pursuant to CEQA Guidelines, as set forth in Exhibit A, attached hereto and incorporated herein; and

WHEREAS the Mitigation Monitoring Program is attached hereto as Exhibit B and incorporated herein; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City staff, and any information provided during public meetings.

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

(1) The Gasser Master Plan rezoning EIR certified by the Council on November 21, 2006 pursuant to R2006 193 consists of the Draft EIR dated December 2005; the Final EIR with responses to comments dated August, 2006; an Errata (undated) consisting of 6 text pages and a map attachment

incorporated herein as Exhibit C for ease of reference; and a revision to HYDRO-5a incorporated as an equally effective mitigation measure in the certification resolution as follows:

Mitigation Measure HYDRO-5a: *Phasing*. Before the City can approve grading permits for any proposed development at the project site, flood hazard reduction measures must be implemented as indicated in Table 4.4-3, with all items in the column on the left preceding or occurring concurrently with the action in the column on the right.

As an alternative, if a Letter of Map Revision (LOMR) or Conditional Letter of Map Revision (CLOMR) is approved by FEMA for the Gasser South development per Hydro 4a, not all of Gasser South will be removed from the FEMA regulatory floodplain once the development is complete. The requirements in Hydro 4b-4f shall be met prior to the issuance of grading and building permits.

(2) Pursuant to CEQA Guidelines, Mitigation Findings are adopted, as set forth in Exhibit A and incorporated herein by reference.

(3) Pursuant to CEQA Guidelines, The Mitigation Monitoring Program for the Project is adopted, as set forth in Exhibit B and incorporated herein by reference.

(4) This Resolution shall take effect immediately upon its adoption.

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City Council of the City of Napa at a public meeting of said City Council held on the 12th day of December, 2006, by the following vote:

AYES: Councilmember Inman, Vice-Mayor Krider, Mayor Techel

NOES: None

ABSENT: Councilmember van Gorder

ABSTAIN: Councilmember Mott

ATTEST: Sara J. Cox
CITY CLERK OF THE CITY OF NAPA

EXHIBIT A**CITY COUNCIL OF THE CITY OF NAPA****FINDINGS OF FACT AND
STATEMENT OF OVERRIDING CONSIDERATIONS****GASSER MASTER PLAN****I.
INTRODUCTION****A. INTRODUCTION**

The Gasser Foundation has proposed a Master Plan rezoning of its approximately 80 acre property. The Master Plan would preserve existing creek and wetland resources on the property, while creating a mix of 380 to 500 residential units on 16-19 acres; and up to 277,200 square feet of retail commercial, office, and entertainment uses, a homeless shelter, and transitional housing on about 25 acres. Assessor Parcel Numbers include 046-190-050, -052, -053, -057 and 046-691-005.

The City prepared and certified an Environmental Impact Report ("EIR") for the Gasser Master Plan on November 21, 2006, as further described in Resolution No. 2006 193, which resolution is incorporated by reference. The general and specific findings set forth in this document provide the City Council's written analysis and conclusions with respect to the potential environmental impacts.

B. THE FINAL ENVIRONMENTAL IMPACT REPORT

Prepared to satisfy the requirements of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) ("CEQA"), the Final EIR for the Gasser Master Plan consists of the Draft EIR released in December 2005, the Final EIR issued in August 2006, the EIR Errata Sheet made public in October, 2006, and the equally effective alternative for Mitigation Measure HYDRO-5a recommended by the Planning Commission on November 2, 2006. (See also Cal. Code Regs., tit. 14, div. 6, ch. 3 ("CEQA Guidelines"), § 15132.) The Final EIR evaluates the effects of adopting and implementing the Gasser Master Plan and associated activities, including rezoning land within the Gasser Master Plan site to reflect proposed land uses. The Final EIR is a "Program EIR" within the meaning of CEQA Guidelines section 15168 (see DEIR, pages 1-4 through 1-6).

**II.
USE OF THE FINAL EIR IN
CONNECTION WITH LATER APPROVALS**

Because the Gasser Master Plan EIR, as noted above, is a Program EIR, subsequent environmental review may be required for future City actions implementing the project. However, the Gasser Master Plan EIR also functions as a "first tier" EIR. Thus, future site-specific approvals may also be narrowed pursuant to the rules for tiering set forth in CEQA Guidelines section 15152.

III. PROJECT DESCRIPTION

A. REGIONAL AND PROJECT LOCATION

The Gasser Master Plan site is located in the southeast quadrant of the City of Napa, and is owned primarily by the Gasser Foundation, a Napa based non-profit organization. The Foundation has transferred ownership of a north wetlands parcel to the Napa County Flood Control and Water Conservation District (NCFWCWD), and Fairfield West Partners, LLC has purchased one of the Creekside Commercial parcels (3.27 acres).

The site is a gateway location near the intersection of Soscol and Imola Avenues (State Routes 221 and 121). Surrounding uses include South Napa Marketplace and Soscol frontage commercial to the east; Napa Valley College lands to the south across Imola Avenue; the County Animal Shelter, Napa Sanitation District lands, Napa River floodplain terraces and the Wine Train tracks to the west; and a mobile home park across Oil Company Road to the north. The Wine Train maintenance yard is north east of Oil Company Road. While parts of the site are currently visible from heavily traveled Imola and Soscol Avenues, the site will become more prominent in the future once Gasser Drive is extended to Soscol and Silverado at a realigned intersection.

B. SITE CHARACTERISTICS

1. Natural Features

The site is divided by Tulocay Creek, which crosses the site from east to west, and two adjacent wetlands. There are also two constructed stormwater treatment ponds at the south end of the site adjacent to Imola Avenue. The property is currently within the Napa River floodplain and a portion is within the floodway. The site is flat, mostly vacant land or jurisdictional wetlands. Development of the project site has historically been problematic, but the property is currently being modified by a number of major construction projects, especially the United States Army Corps of Engineers Napa River Flood Protection Project (Flood Project). The ongoing Flood Project will enable this site to become available for development, as it will largely eliminate Napa River flood hazards at the site.

C. PROJECT OBJECTIVES

1. Applicant's Objectives

- To establish development on the remaining acreage of the Gasser property that will provide the Gasser Foundation with continuing revenue to support annual donations to the many programs and organizations in the community, with a goal to double the Foundation's annual giving capacity.
- To improve and enhance the natural features of the District which dominate its landscape – Tulocay Creek and the wetlands and detention pond both north and south of Tulocay Creek – by incorporating them into a sustainable mixed use project.
- To establish an exemplary standard for development within the Soscol Gateway Area that will begin the transformation of the area into an entrance to the City of Napa that is in keeping with

the image of the Napa Valley and the City of Napa.

- To provide a home for important public-serving facilities and services in a configuration that provides opportunities for collaboration among non-profit corporations.
- To combine land use regulation, property development standards, and design guidelines that create a sense of place, an identifiable address in South Napa.

2. The City's Objectives

- Establish a Master Plan for development of the remaining acreage of the Gasser Property that will provide for high quality, sustainable development within the City's RUL that will support the housing, commercial service and public service needs of the community.
- Protect open space and habitat on the Gasser Property and facilitate public access to open space within the project and new trail connections to the Napa River Trail.
- Ensure that the Master Plan will provide sufficient standards for future component development so that the project as a whole will maintain design integrity and contribute to the aesthetic goals for the Soscol Corridor Gateway area.
- Ensure that the Master Plan will effectively coordinate site design and infrastructure components with the infrastructure planning that the City is undertaking for the Soscol Gateway area.
- Provide a site for the relocation of the downtown cinema necessitated by construction of the NRPFP through the downtown reach, freeing up downtown sites for economic development opportunities more in keeping with the vision for waterfront development.
- The Master Plan applicant will undertake construction and funding of important infrastructure and transportation improvement projects that have project and city-wide benefits.
- Provide affordable housing pursuant to the AH overlay requirements that will help the City achieve housing objectives for the next housing element cycle.
- Provide a location for public-serving uses such as the homeless shelter, transitional housing units and office facilities for non-profit organizations.
- Improve the City's fiscal health, and achieve a mix of uses with a net-positive fiscal impact for the City.

D. PLAN FEATURES

Proposed land uses:

The Gasser Master Plan divides the property into four Districts:

South of Tulocay Creek is:

- The South River Place District- a retail, theater and community serving facilities district. New retail uses are expected to be complementary to South Napa Marketplace. North of a relocated Hartle Court this District includes a newly constructed exemplary 60 bed homeless shelter, a proposed 24 unit transitional housing development, and non-profit offices.

North of Tulocay Creek are three Districts:

- Creekside Commercial, an office and retail District that will take advantage of its creekside setting and Gasser Drive location;
- Tulocay Place, a District expected to provide community retail uses along Soscol Avenue, a pedestrian friendly entry and seamless transition to the residential neighborhood behind, through provision of neighborhood serving retail, retail/residential mixed uses and residential uses west of North Drive; and
- Tulocay Village, a mixed density residential neighborhood designed to take advantage of its unique setting that includes wetlands, Tulocay Creek and Napa River open space features. The City has placed an "Affordable Housing Overlay District" on this portion of the site to help meet overall housing needs. The Overlay requires a minimum average density of 25 units/acre (the mid point of the 10-40 unit/acre General Plan density range) and 20%, rather than 10% of the units to be affordable—or an alternative equivalent. The Gasser Foundation has proposed that the added 10% requirement be met by its providing sites for a newly completed 60 bed County Homeless Shelter, as well as a 24 unit transitional housing project.

Due to Flood Project timing, the South River Place District is expected to develop first, thus a site plan concept has been provided for this area. City staff requested the development of several alternative site plan concepts for this area to identify the most appropriate site layout and mix of uses, and an alternate site and use concept has been incorporated. As the northern Districts, particularly Tulocay Village and Tulocay Place, may not develop for several years given the timing and extent of Flood Project improvements, the Master Plan reflects more general land use and circulation parameters for these areas.

Proposed Circulation:

The Draft Master Plan proposes the following streets within or adjacent to the site:

- A relocated public Hartle Court just south of the City Fire Station;
- Existing Gasser Drive;
- The extension of public Gasser Drive to Soscol Avenue, including a bridge across Tulocay Creek;
- North Drive, a public local street running between Gasser Drive and Oil Company Road;
- Oil Company Road, an existing public street that will be improved;
- An Entry Drive through Tulocay Place from Soscol Avenue through to Tulocay Village;
- Tulocay Village will include a public street along all or portions of the wetland and river edges;
- Bike lanes are proposed on Hartle Court, Gasser Drive, North Drive and Oil Company Road.
- Separate multi use trails are included from Oil Company Road south to Hartle Court (including a city connection across Tulocay Creek and to the River Trail), along the north bank of Tulocay Creek and the north side of the north wetlands.

Evolution/Refinement of Master Plan:

The Gasser Master Plan Project was submitted in 2002, resubmitted in August, 2004 and has gone through an extensive environmental review process over the past two years. The master plan evaluated by the EIR has evolved in the following ways:

- No community center or specific "square" at Tulocay Place.
- No specific site layouts for the development areas north of Tulocay Creek.
- Focus on vehicle, pedestrian and bicycle circulation.
- Land use shift in Tulocay Square from all retail to retail east of "North Drive" and retail, retail/residential mixed use and/or residential west of "North Drive".
- Greater mix of residential types and densities in Tulocay Village.
- Revised site and use concept for South River Place.
- More explicit Zoning Regulations consistent with format in zoning ordinance.

E. RELATIONSHIP OF THE GASSER MASTER PLAN TO THE GENERAL PLAN, ZONING AND OTHER CODES

1. General Plan

The General Plan is the City's primary policy document; all future development must be found to be consistent with it. *Envision Napa 2020*, adopted in December, 1998, designates south Soscol Avenue for Community Commercial uses and recognizes the area's importance for City economic development. The Plan also identifies many properties in the Soscol Gateway area as "Mixed Use" with commercial and higher density housing potential. The Napa River is to become a central defining feature of the City. Policies speak to integrating the urban environment with the City's natural features, and protecting wetlands and creek corridors. The Housing Element encourages a mix of housing types and densities, and urges residential uses on key mixed use sites, such as the Gasser property. The Transportation Element establishes "level of service" policies to be used when new development is proposed and identifies Soscol and Imola Avenues as "crucial corridors" for communitywide circulation. The General Plan specifically calls for added planning to guide development along the riverfront.

2. Soscol Gateway Vision and Implementation

In response to the General Plan and the Flood Project that is creating opportunities for future change, the City began work in 2002 on the *Soscol Gateway Vision*. Soscol Gateway Planning has been a high Council priority to encourage appropriate and desired change, to facilitate infill housing and long term economic development. The 2003 NCLOG City and County Housing Memorandum of Understanding (MOU) also recognized the area's key economic and housing roles and agreed to create a financing district to allow for land cleanup, assembly and infrastructure upgrades.

On August 3, 2004, the City Council endorsed the *Soscol Gateway Vision*. The *Vision* is a result of several community workshops from 2002-2004. A major intent of the *Vision* is to think of the area as a group of neighborhoods that have a clear identity or "sense of place" and are well-connected to the rest of the City. The *Vision* refined community ideas about circulation and how to integrate area resources with development.

The *Vision* Land Use concept foresees:

- A vibrant commercial corridor along Soscol Avenue south of 8th St;
- A mixed use “transit village” north of 8th Street anchored by a new transit center;
- A mixed density residential neighborhood at Gasser North
- New commercial and business centers south along Gasser Drive;
- A public reserve for community uses on Napa Sanitation District lands.

The *Vision* Open Space concept creates an accessible, connected system of open spaces including trails, marshes and common open spaces integrated with neighborhoods. The Circulation concept emphasizes a multimodal inter-connected system (vehicles, bus, rail and waterborne transit, pedestrians and bicyclists are all important)

Several *Vision* concepts important to the Gasser Master Plan include:

- Providing a mix of attached housing types and densities in Tulocay Village
- Improving visual and physical access to the Napa River;
- Fronting and orienting development towards the River so that the River becomes part of the City's “front yard” and other natural open space features-- to take advantage of them as defining amenities, provide security and to facilitate appropriate use
- Providing pedestrian friendly districts that support a pedestrian-oriented lifestyle
- Using infrastructure, especially new streets, as ways to connect neighborhoods and organize neighborhoods
- Providing a connected system of open spaces, plazas and parks
- Designing development to also provide social, man made focal points
- Orient Creekside Commercial towards Gasser Drive and the creek/open space

The *Vision* was a preliminary planning study that needed follow up with infrastructure studies, financing mechanisms, formal plan changes and environmental documents to become reality. Implementation is currently underway. The first phase, completed in early 2006 and assisted by a broad-based Stakeholder's Committee, evaluated area infrastructure needs, costs and financing mechanisms, as well as General Plan changes. Recommended financing mechanisms to accomplish needed infrastructure included redevelopment tax increment financing and a community facilities district. The Implementation Plan coordinated with the ongoing Gasser Master Plan regarding infrastructure needs. Currently, the City is conducting environmental studies and evaluating formation of a redevelopment project area.

3. Zoning Ordinance: Master Plan Zoning, Floodplain, Affordable Housing and Traffic Impact Overlays.

The site has a “Master Plan” zoning in the city's zoning ordinance. The reasons for the Master Plan Zoning District are several:

- To *design the site as a whole*, rather than incrementally, enabling governmental bodies to develop an integrated response to immediate and long range impacts of such developments;
- To *cluster development and avoid sensitive areas* of a property;
- To accommodate various types of *complex, mixed use, phased developments*;
- To *encourage innovative design* on large sites by allowing flexibility in property development standards; and
- To *implement Mixed Use Development objectives* that include promoting linkages among uses on and offsite, and creating a complementary mix of uses that respond to their context.

The current *general* Master plan zone requires the Master Plan to be undertaken. Once a Master Plan is completed, the site is rezoned to a *tailored* Master Plan District.

The Floodplain Overlay District will remain on the property until FEMA remaps the area outside of a floodplain. The Floodplain District establishes regulations for all new development occurring within a floodplain. Portions of the floodplain are also subject to more stringent floodway or Flood Evacuation Area regulations.

An Affordable Housing Overlay District was added to the residential portion of the site in 2003 to help meet overall housing needs. This Overlay requires a minimum average density of 25 units/acre (the mid point of the site's 10-40 unit/acre General Plan density range) and 20% of the units to be affordable, rather than the citywide 10% standard—or an alternative equivalent.

The Traffic Impact Overlay implements the crucial corridor policies of the General Plan by establishing development standards to minimize traffic conflicts and limiting location of traffic intensive uses (such as fast food, drive through uses) on such routes.

While the Soscol Corridor Overlay District, which establishes specific design guidelines and development standards, has applied to the Soscol frontage properties in Tulocay Place, the Master Plan rezoning would delete this area from the Soscol Corridor, and instead apply the Gasser Design Guidelines, which are derived from the Soscol Corridor Guidelines.

IV. PLANNING BACKGROUND

A. General Plan and Master Plan Overview

Envision Napa 2020, adopted in December, 1998, designates south Soscol Avenue for Community Commercial uses and recognizes the area's importance for City economic development. The Plan also identifies many properties in the Soscol Gateway area as "Mixed Use" with commercial and higher density housing potential. The Napa River is to become a central defining feature of the City. The Gasser Master Plan is intended to enable mixed-use development in the portion of the Soscol Gateway area owned by the Gasser Foundation.

B. Environmental Impact Report

On November 15, 2004, in accordance with CEQA requirements, the City issued a Notice of Preparation ("NOP") and Initial Study, informing public agencies of the City of Napa's intent to prepare an EIR for the Gasser Master Plan. The NOP solicited input from federal, state, regional, and local agencies, as well as interested organizations and individuals. Comments on the NOP were received from 7 agencies: the California Department of Fish and Game, the California Department of Toxic Substances Control, Caltrans District 4, Napa Valley College, Napa County Transportation Planning Agency, Napa Sanitation District, and the California Department of Health Services, as well as 4 private citizens.

During the period from December 2004 through December 2005, City consultants and Staff prepared the Draft EIR, which was released December 15, 2005.

The 45-day public review period on the DEIR ran from December 15, 2005, until January 30, 2006, during which time a public hearing was held on January 12, 2006. By the close of the comment period, the City received 15 letters on the Draft EIR from two state and regional agencies and 13 local agencies, organizations, and members of the public. In the Final EIR, City consultants and Staff prepared written responses to all significant environmental issues raised in written comments on the Draft EIR and oral comments provided at the public hearing.

V.
RECORD OF PROCEEDINGS

For purposes of CEQA and these Findings, the Record of Proceedings (or "administrative record") of the City Council shall include, at a minimum, the following documents, in addition to those identified in Public Resources Code section 21167.6, subdivision (e):

1. The Draft EIR dated December 15, 2005 including Appendices A-D; the Final EIR dated August 16, 2006; the EIR Errata Sheet (undated but provided October 16, 2006) and an "equally effective Mitigation Measure alternative for MM HYDRO-5a.
2. All non-draft and/or non-confidential reports and memoranda regarding the Project prepared by City staff and the City's consultants.
3. Minutes and verbatim transcripts, if any, of the discussions regarding the Project at public hearings or meetings held by the City Council and Planning Commission.
4. Any documentary or other evidence submitted to the City either through the mail or at the public hearings and public meetings on the Gasser Master Plan.
5. All documents specifically referenced or relied on in the Draft and Final EIRs for the Gasser Master Plan, and in the Gasser Master Plan itself.
6. The Gasser Master Plan (July 2004).
7. Policy Resolution No. 27 (November 21, 1995).
8. Matters of common knowledge to the city, including, but not limited to:
 - a. the City of Napa General Plan,
 - b. the City of Napa Zoning Code,
 - c. the Napa County General Plan,
 - d. all other policies, ordinances, and resolutions formally adopted by the City that are relevant to the development of the Gasser Master Plan, and
 - e. federal and state laws and regulations relevant to the development of the Gasser Master Plan.
9. Any other documents specifically cited in these Findings or in the Findings adopted by the City Council pursuant to Public Utilities Code section 21676.

The custodian of the materials constituting the Record of Proceedings is City Clerk Sara T. Cox. Her address is 955 School Street, Napa, CA 94559.

The City Council has relied on all of the documents listed above in reaching its decisions on the Gasser Master Plan and related approvals, even if not every document was formally presented to the Council or City Staff as part of the City files generated in connection with the Gasser Master Plan. Without exception, any documents set forth above not found in the Project files fall into one of two categories. Many of them reflect prior planning or legislative decisions with which the Council was aware in approving the Gasser Master Plan. (See City of Santa Cruz v. Local Agency Formation Commission (1978) 76 Cal.App.3d 381, 391-392 [142 Cal.Rptr. 873]; Dominey v. Department of Personnel Administration (1988) 205 Cal.App.3d 729, 738, fn. 6 [252 Cal.Rptr. 620].) Other documents influenced the expert advice