



Agenda

Planning Commission Meeting

7:00 P.M. on Tuesday, June 8, 2010

Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

- 1A. Review of agenda items.
- 1B. Vice Chair Johnson to report at the City Council meeting on June 15, 2010.

Public Comment

Approval of Minutes

2. Approval of minutes from the meeting of May 25, 2010.

Public Hearings

3. **Creekside Terrace Mixed Use Project, City of Clayton**, 1005 Oak Street, 1007 Oak Street, and a third non-addressed parcel west of and upslope from Mitchell Creek (APNs 119-050-009, 119-050-034, and 119-050-008). The project site is located on the west side of Oak Street between High Street and Center Street. The project involves the redevelopment of two properties, which are currently developed, generally level, and serviced by utilities. The third parcel, located immediately to the west, is an up sloping undeveloped property with Mitchell Creek traversing the eastern edge of that parcel near the toe of slope. The proposed project involves the construction of a two-story mixed-use building, incorporating a western-style frontage characteristic of architectural themes suggested in the *Clayton Town Center Specific Plan*. The first floor is comprised of approximately 7,200 square feet of retail commercial space with a 20-foot ceiling. The second floor includes seven (7) residential units. The residential units are one-bedroom and several of the units contain dens. A terrace is proposed on the creek (west) side of the second story. The proposed project includes the following entitlements:

- **ENV 01-08, Environmental Review.**
- **DP 01-08, Development Plan.**
- **MAP 02-09, Vesting Tentative Map.**

Continued from the meeting of May 25, 2010.

Proposed Action: Recommend City Council Approval.

Old Business

4. None.

New Business

5. None.

Communications

- 6A. Staff.
6B. Commission.

Adjournment

7. The next regular meeting of the Planning Commission is scheduled for **Tuesday, June 22, 2010.**

Most Planning Commission decisions are appealable to the City Council within ten (10) calendar days of the decision. Please contact Community Development Department staff for further information immediately following the decision. If the decision is appealed, the City Council will hold a public hearing and make a final decision. If you challenge a final decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing(s), either in oral testimony at the hearing(s) or in written correspondence delivered to the Community Development Department at or prior to the public hearing(s). Further, any court challenge must be made within 90 days of the final decision on the noticed matter. If you have a physical impairment that requires special accommodations to participate, please contact the Community Development Department at least 72 hours in advance of the meeting at 925-673-7340. An affirmative vote of the Planning Commission is required for approval. A tie vote (e.g., 2-2) is considered a denial. Therefore, applicants may wish to request a continuance to a later Commission meeting if only four Planning Commissioners are present. Any writing or documents provided to the majority of the Planning Commission after distribution of the agenda packet regarding any item on this agenda will be made available for public inspection in the Community Development Department located at 6000 Heritage Trail during normal business hours.

Minutes
Clayton Planning Commission Meeting
Tuesday, May 25, 2010

Call to Order

Chair Bob Armstrong called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton.

Present: Chair Bob Armstrong, Vice Chair Sandra Johnson, Commissioner Tuija Catalano, Commissioner Ted Meriam, Commissioner Dan Richardson

Staff: Community Development Director David Woltering
Assistant Planner Milan Sikela
Nick Pappani, Raney Planning and Management

Administrative

1A. Review of agenda items.

1B. Chair Armstrong to report at the City Council meeting on June 1, 2010.

Public Comment

None.

Approval of Minutes

2. Approval of minutes from the meeting of April 13, 2010.

Commissioner Meriam moved and Commissioner Catalano seconded the motion to approve the minutes from the meeting of April 13, 2010, as amended. The motion passed 5-0.

Public Hearings

3. **Creekside Terrace Mixed Use Project, City of Clayton**, 1005 Oak Street, 1007 Oak Street, and a third non-addressed parcel west of and upslope from Mitchell Creek (APNs 119-050-009, 119-050-034, and 119-050-008). The project site is located on the west side of Oak Street between High Street and Center Street. The project involves the redevelopment of two properties, which are currently developed, generally level, and serviced by utilities. The third parcel, located immediately to the west, is an up sloping undeveloped property with Mitchell Creek traversing the eastern edge of that parcel near the toe of slope. The proposed project involves the construction of a two-story mixed-use building, incorporating a western-style frontage characteristic of architectural themes suggested in the *Clayton Town Center Specific Plan*. The first floor is comprised of approximately 7,200 square feet of retail commercial space with a 20-foot ceiling. The second floor includes seven (7) residential units. The residential units are one-bedroom and several of the units contain dens. A terrace is proposed on the creek (west) side of the second story. The proposed project includes the following entitlements:

- **ENV 01-08, Environmental Review.**
- **DP 01-08, Development Plan.**
- **MAP 02-09, Tentative Map.**

Commissioner Meriam recused himself from the meeting to address a conflict of interest, given his residence is within 500 feet of the proposed project site. He then announced that, since no other items were on the agenda, he would leave the meeting chambers and not be returning.

Director Woltering introduced the agenda item and indicated that the Planning Commission was being asked to make a recommendation to the City Council on the entitlements requested for approval to allow this project to move forward. He provided a summary of the history of the project and indicated that Project Architect Robert Staehle would follow with a more detailed description of the project followed by Environmental Consultant Nick Pappani who would provide an overview of the environmental document prepared for the project

Mr. Staehle described the project thoroughly, indicating that the facade of the building was designed with offsets, a varied color palette, and a variety of architectural elements to give the appearance of a series of individual attached buildings and small storefronts. He described points of access; landscape treatments; the proposed flood proofing, given the project is within a 100 year floodplain; parking considerations; the interaction of the property owner associations, given that there is both a residential component and a commercial component to the project; and, how trash would be handled.

Mr. Pappani summarized the environmental analysis and related findings. He stated that an Initial Environmental Study/Mitigated Negative Declaration had been prepared for the proposed project and that although a potential for significant environmental impacts had been identified in the analysis, changes to the project and mitigation measures agreed to by the project sponsor, mitigated all potential impacts identified to a less than significant level. He referenced the Creekside Terrace Project Initial Environmental Study/Mitigated Negative Declaration, dated May 2010, in support of his presentation.

Commission comments and questions included:

- Would the community room on the second floor be accessible to the commercial tenants on the ground floor? Mr. Staehle responded that the CC&Rs will address accessibility to the community room, but it is anticipated that the community room will only be accessible for the use of the second floor residences.
- Will the roof-mounted mechanical equipment be visible behind the parapet? Mr. Staehle indicated that the parapets would be tall enough to shield the roof-mounted equipment from view.
- Will the combining of individual retail spaces be allowed? Mr. Staehle indicated, yes, a retailer could combine retail spaces as long as the outside facade maintains the appearance of being several storefronts in a row.
- Is the interpretive area at the end of Center Street part of the project? Mr. Staehle indicated that the interpretive area at the end of Center Street will be a part of the project but will require an encroachment permit because it will be located in an unused portion of the Center Street right-of-way.
- The location of the stairway seems hidden and may pose safety issues in terms of crime. Mr. Staehle indicated that a security gate would be installed in order to increase the safety in that area.
- The Greenhouse Gas Emission analysis was a welcome addition to the project's environmental document.

- The Greenhouse Gas Emission analysis could be broken into two distinct analyses: the first during demolition and construction; the second for after the building is occupied and in operation.
- When is the parking waiver in effect until? Director Woltering indicated that the parking waiver is in effect until June 30, 2010; however, an extension of the parking waiver period until June 30, 2013 is currently being proposed.
- When all three parcels are united, will there be a lot line adjustment? Director Woltering indicated, yes, the parcels will be merged as part of the Vesting Tentative Map
- Who will maintain the sump pump? Director Woltering indicated that the property owner(s) would maintain the sump pump.
- Will pervious concrete be used for the garage driveway aprons? Mr. Staehle indicated that percolation in the area is not good because of the close proximity of Mitchell Creek and the resulting high water table. Consequently, pervious concrete will not be used.

The Commission requested clarification on the locations of the trash enclosures and mailboxes, to which Mr. Staehle provided the requested information.

The public hearing was opened.

Gloria Utley, 5950 High Street, indicated the following:

- I live directly west of the project site.
- When is construction of the project scheduled to begin? Director Woltering indicated a construction date is not known at this time because the project still has to be taken through the entitlement process and a developer has to be found to build the project if the entitlements are approved.
- Will there be a problem with commercial/retail customers parking on the driveway aprons of the garages? Mr. Staehle indicated the driveway aprons will be properly signed to alert those customers that parking on the driveway aprons is for the residences only and, additionally, there should be adequate on-street parking available in the surrounding area.
- How would deliveries to the commercial/retail tenants be handled? Mr. Staehle indicated that hours of delivery would be restricted so as not to interfere with Mt. Diablo Elementary School student pickup and delivery times. Restrictions would allow delivery vehicles to only park on Oak Street.

Bob Jorgenson, 6026 Mitchell Creek Place, indicated the following:

- Support the project.
- Would be nice to see this project replace the existing modular buildings on the project site.
- There is public benefit to the project being constructed which includes the restoration of Mitchell Creek and the establishment of an interpretive area at the west end of Center Street.
- Will the car lifts go below the ground level? Mr. Staehle indicated that the lifts will not be subterranean.
- Will there be any area for barbecuing to occur? Mr. Staehle indicated that there is an outdoor patio adjacent to the community room where gas barbecues would be allowed.

During the public hearing, the Commission acknowledged receiving, for the record, an e-mail regarding the project from Norma Caro and Kevin Beyrodt at 6008 High Street.

There being no further public comment, the public hearing was closed.

Commission comments and questions included:

- Who reviews the CC&Rs for the project? Director Woltering indicated that staff and the City Attorney review that document.
- There should be restrictions on what can take place on the two balconies facing Oak Street since they are highly visible.
- I concur that the encroachment permit is the best mechanism for establishing the interpretive area.
- Will the CC&Rs cover ongoing landscaping and maintenance? Director Woltering indicated that, yes, the CC&Rs will cover landscaping and maintenance. Mr. Staehle added that there will be three aspects of the CC&Rs: CC&Rs that apply to the entire project, CC&Rs that apply only to the commercial/retail component of the project, and CC&Rs that apply to the residential component of the project.
- There should be a review of the different references within the Conditions of Approval regarding applicant, property owner, project sponsor, and successor of interest to assure these terms accurately represent the intent of the condition.
- Condition 1 should be modified so that the City Engineer is not responsible for implementation.
- Conditions 3 and 12 should be amended to state “prior to construction commencement”.
- Condition 5a should be amended to include pruning frequencies and pruning deadlines. Mr. Pappani indicated that the primary intent of Condition 5a is to take some weight off the existing trees and to establish ongoing maintenance of the trees.
- Condition 13 should specify a timeframe for implementation.
- Condition 17 should specify a timeframe for implementation.
- Condition 25 should be amended to cover owners/operators.
- Condition 30 should be clarified as to whether the condition refers to the developer or property owner and should list the timing and deadlines required.
- The wording in Condition 49 should be clarified.
- If affordable housing is applicable to the project, please add a condition that addresses this requirement. Director Woltering indicated that, yes, one affordable housing unit will be required.
- Would like to see the southeast corner modified. It appears somewhat modular and lacking of visual interest, architectural presence, and curb appeal. Mr. Staehle indicated that belly banding, dental molding, and trellises were added to soften and embellish the southeast corner.
- Staff and Mr. Staehle should work together to provide some southeast corner design options for Commission review at the next meeting.

Commissioner Richardson moved and Commissioner Catalano seconded the motion to:

- 1. Support recommending that the Clayton City Council adopt the Creekside Terrace Project Initial Environmental Study/Mitigated Negative Declaration (IES/MND), dated May 2010, and approve the Development Plan and Vesting Tentative Map, based on the Creekside Terrace Mixed Use Project Land Use Entitlement Submittal Package and based on the findings and subject to the Creekside Terrace Draft Conditions of Approval and Advisory Notes presented in the staff as amended by the Commission; and,**
- 2. Continue the item to the next regularly scheduled meeting on June 8, 2010, to enable staff to prepare the necessary resolutions and ordinances to support the Commission's action.**

The motion passed 4-0.

Old Business

4. None.

New Business

5. None.

Communications

- 6A. Staff.

Director Woltering indicated that the Flora Square building had been sold for \$1.7 million, although the unpaid debt together with costs had been estimated at approximately \$2.8 million. The bidder was New Urban Community Partners, LLC.

- 6B. Commission – None.

Adjournment

7. The meeting was adjourned at 9:00 p.m. The next regular meeting of the Planning Commission is scheduled for **Tuesday, June 8, 2010.**

Submitted by
David Woltering, AICP
Community Development Director

Approved by
Bob Armstrong
Chair

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PLANNING COMMISSION STAFF REPORT

Meeting Date: June 8, 2010

From: David Woltering, Community Development Director 
Milan Sikela, Assistant Planner 
Nick Pappani, Environmental Planning Consultant

Subject: Creekside Terrace Mixed Use Project
(ENV 01-08, DP 01-08, and MAP 02-09)

REQUEST

Adoption of an Initial Environmental Study/Mitigated Negative Declaration (IES/MND) and approval of a Development Plan and a Vesting Tentative Map to allow the construction of a two-story, mixed-use commercial/residential building with approximately 7,200 square feet of commercial retail on the first floor and seven residential units on the second floor.

PROJECT INFORMATION

Applicant/Location: City of Clayton
West side of Oak Street and North of High Street
APNs 119-050-034, 119-500-009, and 119-050-034

Property Owner: City of Clayton

General Plan Designation: Town Center Commercial; Public Facility

**Town Center Specific
Center Plan Designation:** Town Center Commercial

Zoning: Planned Development (PD); Public Park/Public Open Space

Public Notice: On May 13, 2010, a public hearing notice was mailed to property owners within 300 feet of the site and posted on the project site.

BACKGROUND

The Planning Commission considered this item at its May 25, 2010 meeting, receiving the staff report and public testimony, then closing the public hearing before discussing the item. The Commission then continued the item to a date certain, June 8, 2010, requesting staff to prepare the needed resolutions and ordinances to recommend City Council approval of the proposed project, based on its directives. The Commission generally was quite supportive of this two-story, mixed used development proposal with seven residential units on the second floor and approximately 7,200 square feet of commercial space on the ground floor. However, the Commission did direct the staff to continue to work with Project Architect, Robert Staehle, to

further enhance the second floor southeast elevation. The general consensus of the Commission was this elevation appeared modular and lacked the same level of architectural interest of the remainder of the building.

Accordingly, staff has prepared the needed resolutions and ordinances to recommend City Council approval of this proposed project based on the Planning Commission's directives. The resolutions pertain to recommending City Council approval of the Initial Environmental Study/Mitigated Negative Declaration (IES/MND), Development Plan, and Vesting Tentative Map. The ordinances pertain to the Development Plan and the related extension of the Waiver Period for parking in the Town Center area.

Additionally, staff has worked with Mr. Staehle to develop several options for the Commission to consider for the southeast second floor (corner) elevation.

ARCHITECTURAL ANALYSIS

Project Architect Staehle has prepared a total of six options for Commission review and consideration to address the Commission's and staffs' concerns regarding the need to enhance the southeast corner elevation of the proposed project (see **Attachment 7**).

Options 1, 1a, and 1b are all variations on a second-story rectangular protrusion which provides some increased level of visual interest for the southeast corner. Option 1 shows the inclusion of a wrap-around trellis feature with a hipped gable end at the southern terminus of the Oak Street walkway canopy. Options 1a and 1b show omission of the trellis with a straight gable end at the southern terminus of the Oak Street walkway canopy; however, Option 1b shows the second-story protrusion being extended to ground level. Option 2 shows a recessed balcony. Options 3 and 3a show variations on a five-sided second-story bay window projection with Option 3a showing the second-story bay window projection being extended to ground level.

From staff's perspective, Option 3 provides the highest level of articulation while still retaining curb appeal from the High Street and Oak Street elevations. Initially, staff supported Option 3a, but concerns were raised by the project architect that the interface between the easternmost garage door and the five-sided projection would be difficult to blend with the easternmost garage door entrance. Option 3 provides a more integrated appearance along the garage façade. Furthermore, staff believes Option 3 punctuates the southeast corner, fostering a unique and dynamic addition to the project, and counterbalances the pitched triangular roof at the northeast corner of the project. This serves to benefit the entire Oak Street elevation, as both elements provide strong architectural "bookends" for the project.

Staff notes that the Town Center Specific Plan provides the following guidelines relative to architecture in the Town Center:

- "Avoid flat roofs...except in small areas and those that are not visible." (Page 47)
- "Offsets, projections, overhangs, and recesses all may be used to produce effective shadow interest areas. Long unbroken expanses of wall of facade should be avoided along street frontages and corners." (Page 52)

Based on these guidelines, staff believes the elevation provided in Option 3 most closely complies with the intent of the Town Center Specific Plan with regard to architecture. Option 3 also provides a straight gable end at the southern terminus of the Oak Street walkway canopy, which provides visual continuity with the straight gable end at the northern terminus of the walkway canopy.

The five-sided projection of Option 3 will extend outward from the corner of the building beyond the property line into the City's right-of-way as do the overhang and columns that extend along the Oak Street frontage above the sidewalk. As a result, an encroachment permit will be required from the City Engineer for the portions of this element that project into the right-of-way.

RECOMMENDATION

Adopt the resolutions prepared by staff to recommend City Council adoption of the Creekside Terrace Project Initial Environmental Study/Mitigated Negative Declaration (IES/MND), dated May 2010, and approve the Development Plan and related Parking Waiver Extension and Vesting Tentative Map for the Creekside Terrace Mixed Use Project.

ATTACHMENTS

1. Resolution Recommending City Council Adoption of the IES/MND
2. Resolution Recommending City Council Approval of the Development Plan, Zoning Ordinance Amendment for the Waiver Extension, and the Vesting Tentative Map (To be provided under separate cover prior to the meeting.)
3. Draft Ordinance for the Development Plan (To be provided under separate cover prior to the meeting.)
4. Draft Ordinance for the Waiver Extension (To be provided under separate cover prior to the meeting.)
5. May 25, 2010 Planning Commission staff report
6. Creekside Terrace Conditions of Approval and Advisory Notes (ENV 01-08, DP 01-08, and MAP 02-09)
7. Architectural Analysis Options

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**CITY OF CLAYTON PLANNING COMMISSION
RESOLUTION NO. 01-10**

**RECOMMENDING CITY COUNCIL ADOPTION OF THE CREEKSIDE TERRACE
PROJECT INITIAL ENVIRONMENTAL STUDY/MITIGATED NEGATIVE
DECLARATION (IES/MND), MAY 2010, FOR THE CREEKSIDE TERRACE MIXED
USE PROJECT
(ENV 01-08)**

Whereas, the Planning Commission held duly-noticed public hearings on May 25, 2010, and June 8, 2010 to consider entitlements, including a Development Plan with an associated Zoning Ordinance Amendment, and a Vesting Tentative Map, for the Creekside Terrace Mixed Use Project; and

Whereas, the Creekside Terrace Mixed Use Project involves the proposed construction of a two-story building, with seven residential units above approximately 7,200 square feet of commercial space on the west side of Oak Street between Center and High Streets in Clayton's Town Center area; and

Whereas, the draft Creekside Terrace Project Initial Environmental Study/Mitigated Negative Declaration (IES/MND), May 2010, was prepared and circulated for this project for a 30-day public review period from March 2, 2009 to April 2, 2009, and a public hearing was held before the Planning Commission on March 10, 2009 during this review period; and

Whereas, a total of six (6) public comment letters were received during the review period and, subsequently responded to in the IES/MND; and

Whereas, there have been changes to the project as noted in Appendix F and mitigation measures agreed to by the project sponsor in the final draft IES/MND; and

Whereas, the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the project sponsor has made revisions to the project and has agreed to mitigation measures listed in the IES/MND.

Whereas, the Planning Commission considered all relevant information, including the IES/MND, staff reports, background information, the March 8, 2010 Creekside Terrace Mixed Use Project Land Use Entitlement Submittal Package including the updated, April 29, 2010, Vesting Tentative Map Sheets TM1 through TM 5, and public testimony at the above-cited hearings.

Now, Therefore, Be it Resolved That:

Section 1. The Planning Commission determines the proposed project, assuming implementation of the mitigation measures in the project IES/MND and recommended conditions of approval, incorporated herein by reference, will not result in a significant adverse environmental impact and will conform with the City's General, Town Center Specific Plan, Zoning Ordinance, and would be in the public interest as well as support the public necessity, convenience, and general welfare.

Now, Therefore, Be it further Resolved That:

Section 1. The Planning Commission recommends that the City Council adopt the Creekside Terrace Project Mitigated Negative Declaration (IES/MND), May 2010.

Adopted by the Planning Commission on _____.

APPROVED

ATTEST

Bob Armstrong
Chair

David Woltering, AICP
Community Development Director

Attachments:

1. Creekside Terrace Project Initial Environmental Study/Mitigated Negative Declaration (ENV 01-08)
2. Creekside Terrace Conditions of Approval and Advisory Notes (ENV 01-08, DP 01-08, and MAP 02-09)

PLANNING COMMISSION STAFF REPORT

Meeting Date: May 25, 2010

From: David Woltering, Community Development Director
Milan Sikela, Assistant Planner
Nick Pappani, Environmental Planning Consultant

Subject: Creekside Terrace Mixed Use Project
(ENV 01-08, DP 01-08, and MAP 02-09)

REQUEST

Adoption of an Initial Environmental Study/Mitigated Negative Declaration (IES/MND) and approval of a Development Plan and a Vesting Tentative Map to allow the construction of a two-story, mixed-use commercial/residential building with approximately 7,200 square feet of commercial retail on the first floor and seven residential units on the second floor.

PROJECT INFORMATION

Applicant/Location: City of Clayton
West side of Oak Street and North of High Street
APNs 119-050-034, 119-500-009, and 119-050-034

Property Owner: City of Clayton

General Plan Designation: Town Center Commercial; Public Facility

**Town Center Specific
Center Plan Designation:** Town Center Commercial

Zoning: Planned Developed (PD); Public Park/Public Open Space

Public Notice: On May 13, 2010, a public hearing notice was mailed to property owners within 300 feet of the site and posted on the project site.

BACKGROUND

The City holds public title to the underlying land and improvements on three (3) parcels located on the west side of Oak Street between High and Center Streets in the Town Center area. Two of the properties have now vacant modular buildings on them (APN 119-050-034, 119-050-009). The third parcel is primarily in open space condition (APN 119-050-008). Immediately adjacent to the north of the proposed development site is the largely-unused right-of-way extension to Center Street. It is not anticipated that Center Street will be extended, given the location of Mitchell Creek and the hillside to the west.

On January 29, 2008, the City Council and Planning Commission held a joint study session to review a mixed-use retail/residential project proposed for the two improved parcels referred to as the “Rivulet” project. The City Council subsequently determined to work with a developer to process this proposed project for needed Planning entitlements.

The proposal was for seven/eight residential units on the upper floor and approximately 7,000 square feet of commercial space on the ground floor. A lift system was proposed for parking spaces so that 14 parking spaces could be provided on-site in seven garages for the seven residential units determined feasible for this site. This proposed project, with its “Western” architectural style was reviewed by staff and the Planning Commission at five noticed public meetings during the subsequent 12 plus months and refined in terms of architectural features, assuring at least the current setback to Mitchell Creek, adding driveway pads in front of the garages to accommodate guest parking, and assuring creek bank restoration, removal of non-native vegetation, and installation of riparian vegetation to both sides of Mitchell Creek in the vicinity of the proposed project. In-lieu fees were proposed for the seven parking spaces required for the commercial component of the project in accordance with the “parking waiver” provisions allowed in Section 17.37.030.C and related sections of the Clayton Municipal Code. The proposed project also includes the developer enhancing the presently unimproved terminus of Center Street with riparian vegetation and creating a seating area with environmental education boards describing the Mitchell Creek natural setting. Additionally, the developer would be responsible for creating a conservation easement and maintaining the parcel immediately adjoining and west of Mitchell Creek. The improvements to and on-going responsibility to maintain the areas of the terminus of Center Street and the parcel westerly of Mitchell Creek along with active open space areas within the proposed development would satisfy the City’s open space requirements.

In addition to the meetings for the purpose of reviewing and refining the project plans as described above, an Initial Environmental Study/Mitigated Negative Declaration (IES/MND) was prepared and reviewed for the project. A copy of the IES/MND is provided with this report and its findings summarized in the Environmental Review section below. The public review period for the IES/MND extended from March 2, 2009 through April 2, 2009. The planning entitlements associated with this application are a Development Plan approval in accordance with Chapter 17.28 of the Clayton Municipal Code given the project is in a Planned Development Zoning District and a Vesting Tentative Map approval to create seven residential condominium units and four or five commercial condominium units on the ground floor.

The developer associated with this proposed project failed to replenish the deposit account and the project did not move forward in terms of processing during the latter portion of 2009. The Clayton Redevelopment Agency decided to assume the position of project sponsor and entered into a contract with VIZf/x for professional services to assist with preparing, assembling, and processing plans and information for consideration of planning entitlements for a renamed and slightly modified version of the Rivulet project. The new project is named Creekside Terrace and involves a reallocation of 200 square feet of residential entry space to increase the commercial ground floor space to 7,200 square feet from approximately 7,000 square feet of space.

ENVIRONMENTAL REVIEW

The original development application for the subject properties was for a very similar mixed use project, entitled "Rivulet." For this original development application, the City, in concert with its environmental consultant for the project, prepared an IES/MND to adequately evaluate the potential environmental impacts of the proposed "Rivulet" Project. The IES/MND was released for a 30-day public review period from March 2, 2009 to April 2, 2009. A total of six (6) public comment letters were received during the 30-day review period and one public comment hearing on the IES/MND was held before the Planning Commission during the review period. The meeting minutes from this public hearing are included in the list of comment letters attached as Appendix F to the Creekside Terrace IES/MND (see below paragraphs for a description of this document). As noted above, after the original developer failed to move forward with this project, the Clayton Redevelopment Agency assumed the position of project sponsor, slight modifying the project, and renaming it to Creekside Terrace.

Creekside Terrace IES/MND

In order to reflect the most recent project application, the Rivulet Project IES/MND has been revised in strike-through, underline format, and appropriately renamed to "Creekside Terrace IES/MND." Since the changes to the original Rivulet project design are very minor, and generally include a reallocation of 200 square feet of ground floor residential entry space to retail space and revisions to the storm drain system design, the revisions reflected in the Creekside Terrace IES/MND do not affect the adequacy of the previous environmental analysis contained in the Rivulet Project IES/MND, which determined that the project would result in potentially significant impacts in the following areas: air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology, and public services. However, the original findings presented in the Rivulet Project IES/MND remain applicable for the Creekside Terrace IES/MND – that is, all impacts could be reduced to a less-than-significant level with implementation of required mitigation measures.

The Creekside Terrace IES/MND also includes changes resulting from the responses to public comments submitted on the March 2009 Rivulet Project IES/MND (see Appendix F). Also attached, as Appendix G to the Creekside Terrace IES/MND, is an Errata Sheet, which includes a listing of all changes to the IES/MND as a result of public comment or in response to the most recent development application.

In addition to the changes made to the IES/MND in order to provide clarification concerning the current development application, other changes were made in response to the public comments submitted on the original Rivulet Project IES/MND. Most of the changes made to the IES/MND in response to comments are a result of Planning Commissioner comments, which are included in Letter 1 of Appendix F to the Creekside Terrace IES/MND. Many of the comments submitted by the Commissioners regard requests for further details concerning the methodology of certain mitigation measures. In response to these comments, minor text additions have been made to select mitigation measures for purposes of methodological clarification. Regarding the addition of Section 4, *Greenhouse Gas Emissions*, to the IES/MND, this section has been added per the State's recent amendment of Appendix G of the CEQA Guidelines. The climate change information added to the Creekside Terrace IES/MND does not result in any new significant impacts associated with the proposed project. The included analysis is for informational purposes, most specifically, in order to demonstrate how the Creekside Terrace project achieves many of the design objectives identified by various authorities to reduce greenhouse gas emissions. In summary, the changes to

the previous IES/MND do not result in any new significant impacts; subsequently, there is no need to recirculate the Creekside Terrace IES/MND.

DEVELOPMENT PLAN

The Development Plan is being processed in accordance with the provisions of Chapter 17.28 of the Clayton Municipal Code. It should be noted that the establishment of a conservation easement over the westerly parcel, the restoration and enhancement of the Mitchell Creek corridor associated with this proposed project, the development of a seating area and environmental information opportunity site for the community, and the on-going responsibility to maintain these areas are proposed along with more active recreation areas within the project to satisfy the open space requirements for the project as allowed under 17.28.100 of the Clayton Municipal code.

The project also proposes the extension of the Waiver Period provisions for parking as described in the Background section of this report. This extension is addressed in proposed Condition 19 in the attached Draft Conditions of Approval.

Finally, the attached Draft Conditions of Approval include proposed conditions related to Site Plan, Architectural, and Landscape Architectural issues/concerns starting at Page 6.

VESTING TENTATIVE MAP

This Vesting Tentative Map is being processed in accordance with Chapter 16.40 Vesting of Tentative Maps of the Clayton Municipal Code. Vesting Tentative Map applications as compared to standard Tentative Map applications require more detailed information from applicants, such as information regarding actual project construction and architectural details, landscape treatments, and exterior colors and materials. This specificity is required because, in return for more specific control over what an applicant is intending to do, the local community is generally agreeing the ordinances, policies, and standards in place at the time of approval of the Vesting Tentative Map will apply to the project. The expiration and extension period are the same for both the Tentative Map and Vesting Tentative Map pursuant to 16.40.080 of the Clayton Municipal Code. The initial approval period for both types of maps is 24 months.

Starting at Page 8 of the attached “Creekside Terrace Draft Conditions of Approval and Advisory Notes (ENV 01-08, DP 01-08, and MAP 02-09)” are the Engineering Conditions that are recommended to apply to the mapping aspect of this proposed project.

RECOMMENDATION

The Planning Commission recommend that the Clayton City Council adopt the Creekside Terrace Project Initial Environmental Study/Mitigated Negative Declaration (IES/MND), dated May 2010, and approve the Development Plan and Vesting Tentative Map, based on the Creekside Terrace Mixed Use Project Land Use Entitlement Submittal Package, dated March 8, 2010 (Planning Commission Submittal) and the findings stated below, and subject to the Creekside Terrace Draft Conditions of Approval and Advisory Notes (ENV 01-08, DP 01-08, and MAP 02-09).

Findings

Based on the evidence in the staff report and project file, as well as testimony at the hearing, the Planning Commission makes the following findings regarding the subject Creekside Terrace Mixed Use Project, subject to the Creekside Terrace Draft Conditions of Approval and Advisory Notes:

1. Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case since the Project proponent has made revisions to the Project and has agreed to mitigation measures listed in the IES/MND. Further the mitigation measures and the information in the IES/MND constitute a Mitigated Negative Declaration in accordance with Section 15071 of the State CEQA Guidelines.
2. Is consistent with the respective designations and policies of the *General Plan* and *Town Center Specific Plan*.
3. Meets the standards and requirements of the *Zoning Ordinance*.
4. Is consistent with the architectural guidelines of the *Town Center Specific Plan*.
5. Is consistent with the State Subdivision Map Act requirements and local *Subdivision Ordinance*.
6. Preserves general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards since flood proofing will be provided for those portions of the building below one-foot above the 100-year flood surface elevation.
7. Maintains solar rights of adjacent properties.
8. Reasonably maintains the privacy of adjacent property owners and/or occupants.
9. Reasonably maintains the existing views of adjacent property owners and/or occupants since the project incorporates appropriate visual screening structures to ensure rooftop equipment does not detract from off-site viewpoints.
10. Is complementary, although not identical with adjacent existing structures in terms of materials, colors, size, and bulk.
11. Is compatible with the neighborhood and surrounding land uses.
12. Is consistent with the intent of the *Town Center Specific Plan* landscape guidelines regarding landscaped open space on project sites.

ATTACHMENTS:

1. Creekside Terrace Mixed Use Project Land Use Entitlement Submittal Package, dated March 8, 2010 (Planning Commission Submittal), comprised of the following: Title Sheet, Tentative Map Title Sheet, Vesting Tentative Map, Preliminary Grading and Drainage Plan, Preliminary Unit Layout, Storm Water Control Plan, Preliminary Landscape Plan, Architectural Site Plan, First Floor Plan, Second Floor Plan, Roof Plan, TM – Layout and Cut Sheets, Elevations, Sections, Wall Sections and Details, View from Flora Square, View from High Street, Flood Data, and Building Signage Plan (April 23, 2010), and Color Material Board (Color Material Board to be presented at May 25, 2010 meeting).
2. Creekside Terrace Project Initial Environmental Study/Mitigated Negative Declaration (IES/MND), May 2010.
3. Creekside Terrace Draft Conditions of Approval and Advisory Notes (ENV 01-08, DP 01-08, and MAP 02-09).

**CREEKSIDE TERRACE
CONDITIONS OF APPROVAL
AND ADVISORY NOTES
(ENV 01-08, DP 01-08, and MAP 02-09)**

These conditions of approval and mitigation measures apply to the following:

- Creekside Terrace Mixed Use Project Land Use Entitlement Submittal Package, dated March 8, 2010 (Planning Commission Submittal), comprised of the following: Title Sheet, Vesting Tentative Map Sheets TM1 – TM5 (Revised April 29, 2010), Preliminary Landscape Plan, Architectural Site Plan, First Floor Plan, Second Floor Plan, Roof Plan, TM – Layout and Cut Sheets, Elevations, Sections, Wall Sections and Details, View from Flora Square, View from High Street, Flood Data, Building Signage Plan (April 23, 2010), and Color Material Board.
- Creekside Terrace Project Initial Environmental Study/Mitigated Negative Declaration (IES/MND), May 2010.

CEQA MITIGATION MEASURES (Creekside Terrace Project IES/MND, May 2010)

1. The following measures shall be adhered to during all construction phases of the Project:
 - Earthmoving or other dust-producing activities shall be suspended during periods of high winds, (i.e., instantaneous wind gusts of 25 mph or greater);
 - All exposed or disturbed soil surfaces shall be watered at least twice daily on any day of high winds or when construction activities occur, including weekends and holidays;
 - Stockpiles of debris, soil, sand or other materials that can be blown by the wind, shall be watered with a soil stabilizer or covered;
 - Construction areas, adjacent streets, and routes for construction traffic shall be swept of all mud and debris by a water sweeper on a daily basis (minimum) on any day when construction activities occur, including weekends and holidays;
 - All trucks hauling soil, sand, or other loose materials shall be covered or maintain at least two feet of freeboard;

A compliance officer (City Engineer unless otherwise identified as part of the grading permit process) shall be responsible for assuring implementation and monitoring of the above requirements. (Air Quality).

2. Pre-construction nesting surveys for raptors and migratory birds protected under the federal Migratory Bird Treaty Act shall be conducted if initial grading and building demolition is to be conducted during the months of March through August. A qualified biologist shall conduct the surveys no more than fourteen (14) days prior to initiation of grading, building demolition, or tree removal. If any of these species are found within the construction area after April of the construction year, grading and construction in the area shall either stop or continue only after the nests are protected by an adequate setback

approved by a qualified biologist. If permanent avoidance of nests is not feasible, impacts on raptor and migratory bird nests shall be minimized by avoiding disturbances to the nest location during the nesting season unless a qualified biologist verifies that the birds have either a) not begun egg-laying and incubation, or b) that the juveniles from those nests are foraging independently and capable of independent survival at an earlier date. No preconstruction surveys are required if grading, building demolition, or tree removal occurs outside the nesting season (September through February). (Biological Resources).

3. A preconstruction survey shall be conducted by a qualified biologist within seven (7) days prior to construction to confirm absence of any fish, amphibian, or reptile species of concern along the project reach of Mitchell Creek. In the remote instance that listed California red-legged frog or steelhead individuals are encountered, the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NOAA Fisheries) shall be consulted to determine appropriate avoidance measures prior to initiation of any construction activities. Any western pond turtle encountered shall be relocated to secure pool habitat selected by the qualified biologist. (Biological Resources).
4. A qualified biologist shall be retained to oversee construction and ensure that no inadvertent take of California red-legged frog, steelhead, or western pond turtle occurs as a result of short-term disturbance near Mitchell Creek. This shall include the following provisions:
 - a) Prior to any grading or grubbing of the site, the qualified biologist shall conduct a preconstruction survey to confirm absence of any California red-legged frog, steelhead, or western pond turtle on the site, as called for in Mitigation Measure 3. A report summarizing the survey results shall be submitted to the Community Development Director.
 - b) Silt fencing shall be installed at the west edge of the construction zone and to the east and west of the top of bank, buried a minimum of six inches and extending a minimum of two feet above grade, to serve as a barrier to keep ground mobile wildlife dispersing along the creek corridor from entering the construction zone. The fencing shall remain in place during the entire construction period.
 - c) Construction workers shall be trained by the qualified biologist regarding the potential presence of California red-legged frog and western pond turtle, that these species are to be avoided, that the foreman must be notified if they are seen, and that construction shall be halted until appropriate measures have been taken. For California red-legged frog, work shall be halted until authorization to proceed is obtained from the USFWS. Harassment of California red-legged frog is a violation of federal law.
 - d) During the construction phase of the project, a qualified biologist or an on-site monitor (such as the construction foreman trained by the qualified biologist) shall check the site in the morning and in the evening of construction activities for the presence of California red-legged frog and western pond turtle. This includes checking holes, under vehicles and under boards left on the ground. If any California red-legged frog are found, construction shall be halted, and the monitor shall immediately notify the qualified biologist in charge and the USFWS. Construction shall not proceed until adequate measures are taken to prevent dispersal of any individuals into the construction zone, as directed by the USFWS. Subsequent recommendations made by the USFWS shall be followed.

No one shall handle or otherwise harass any individual California red-legged frogs encountered during construction, with the exception of a Service-approved biologist. The qualified biologist in charge shall train the on-site monitor in how to identify California red-legged frog. (Biological Resources).

- 5A. The Tree Preservation Guidelines called for in the Tree Report (HortScience, 2008) shall be followed to preserve native oaks and other noteworthy trees on the site. Of particular concern is the large valley oak (Tree #272), which must be heavily pruned to prevent toppling and reduce the risk to humans and property. This tree shall be retained, and recommended pruning shall be performed under the supervision of a certified arborist. The pruning shall occur prior to demolition of the existing structures on the property. (Biological Resources).
- 5B. The project shall conform with the City of Clayton Tree Protection Ordinance (Chapter 15.70 of the Zoning Code), through adherence to the Tree Preservation Guidelines called for in the Tree Report and provisions for replacement plantings, which will be incorporated into the Final Landscape Plan. (Biological Resources).
6. Prior to commencement of construction-related activities for the project including, but not limited to, grading, staging of materials, or earthmoving activities, an archaeological monitor shall be retained by the applicant and approved by the City to train the construction grading crew prior to commencement of earth-grading activity in regard to the types of artifacts, rock, bone, or shell that they are likely to find, and when work shall be stopped for further evaluation. One trained crew member shall be on-site during all earth moving activities, with the assigned responsibility of "monitor." Should archeological, historical, or Native American artifacts or remains be discovered during construction of the Project, work in the vicinity of the find shall stop immediately until the resource(s) are evaluated and the appropriate means of curation is determined. Project personnel shall not collect or alter cultural resources. Identified cultural resources shall be recorded on forms DPR 422 (archeological sites) and/or DPR 523 (historic resources). (Cultural Resources).
7. Prior to the approval of building foundation plans, the plans shall indicate the anchoring of project structures to the bedrock or the construction of a subterranean retaining wall, for review and approval by the project soils engineer and the County Building Department. (Geology and Soils).
8. Prior to issuance of a grading permit, the Developer shall submit, for the review and approval by the City Engineer, an erosion control plan that utilizes standard construction practices to limit the erosion effects during construction of the proposed project. Actions should include, but are not limited to:
- Hydro-seeding;
 - Placement of erosion control measures within drainageways and ahead of drop inlets;
 - The temporary lining (during construction activities) of drop inlets with "filter fabric";
 - The placement of straw wattles along slope contours;

- Use of a designated equipment and vehicle “wash-out” location;
 - Use of siltation fences;
 - Use of on-site rock/gravel road at construction access points; and
 - Use of sediment basins and dust palliatives. (Geology and Soils).
9. Prior to issuance of a demolition permit by the City for any on-site structures, the Developer shall provide a site assessment, which determines whether any structures to be demolished contain asbestos. If any structures contain these materials or any other hazardous materials, the Developer shall submit an abatement plan consistent with local, state, and federal standards, subject to approval of the Contra Costa County Building Inspection Department. In addition, the site assessment shall include a site inspection and records review to determine the historic uses of the property, and whether any hazardous substances release(s) have occurred. If the assessment detects the presence of contaminated soils, a remediation plan consistent with local, state, and federal standards, shall be submitted for approval by the Contra Costa County Environmental Health Department. The abatement and remediation plan(s) shall identify the necessary measures that the applicant must comply with to fully remove any existing on-site hazards to the satisfaction of the Contra Costa County Environmental Health Department. (Hazards and Hazardous Materials).
10. Prior to the issuance of building permits, the developer shall prepare a Storm Water Control Plan that includes both construction stage and permanent storm water pollution prevention practices to be submitted to the City Engineer for review. (Hydrology).
11. All project contractors shall conform to the requirements of the “Best Management Practices for Construction Sites” required by the City, including detention and/or filter materials to preclude an increase in water quantity and quality impacts from debris and sediments entering the stormwater system over “pre-development” conditions. The BMPs shall be included in the construction contracts for the review and approval by the City Engineer. (Hydrology).
12. Prior to construction, the developer shall provide proof of State general permit coverage related to construction for stormwater.
13. Prior to final map recordation, the property owner shall commit the future property owners to fully fund the construction and perpetual maintenance of the storm drain system, including monitoring of the storm drain facilities. The funding mechanism shall be acceptable to the City and shall address costs for capital replacement, inflation, and administration. This shall include the preparation of an Operation and Maintenance Plan (OMP) consistent with the model proposed by the Contra Costa Clean Water Program. Any related review or administrative fees resulting from the OMP shall be the responsibility of the property owner. The OMP will “run with the land” and be enforceable on subsequent property owners of all residential and commercial lots. Maintenance activities may include but not be limited to:
- Inspect planters for channels, exposure of soils, or other evidence of erosion. Clear any obstructions and remove any accumulation of sediment. Soils and plantings must be maintained.
 - Inspect planters regularly and after storms.

- Observe soil at the bottom of the planters or filter for uniform percolation throughout. If portions of the planter or filter do not drain within 48 hours after the end of a storm, the soil should be tilled and replanted. Remove any debris or accumulations of sediment.
 - Examine the vegetation to insure that it is healthy and dense enough to provide filtering and to protect soils from erosion. Replenish mulch as necessary, remove fallen leaves and debris, prune large shrubs or trees and mow turf areas. Confirm that irrigation is adequate and not excessive. Replace dead plants and remove invasive vegetation.
 - Abate any potential vectors by filling holes in the ground in and around the planters and by insuring that there are no areas where water stands longer than 48 hours following the storm. If mosquito larvae are present and persistent, contact the Contra Costa County Vector Control District for information and advice. Only a licensed individual or contractor should apply mosquito larvicides only when absolutely necessary.
 - All hardscape, walks, patios, driveways, parking areas, creeks, drainage inlets, gutters, etc. and trash and recycling areas to be routinely inspected, cleared of debris, and thoroughly cleaned every three months, or as required in the City's NPDES permit.
 - All inlets to be inspected for debris twice a year, with one of those inspections held on October 1st.
 - Planters should be checked for plant and landscape health. They should also be checked for removable amounts of silt. The landscape and planter soils should also be checked for aeration. (Hydrology).
14. All lots shall include deed restrictions, which provide City and other public agency personnel with the right of access to inspect all on-site stormwater control devices. The language in the deed shall be reviewed and approved by the City Engineer and City Attorney. (Hydrology).
 15. The developer shall provide for flood proofing of those portions of the building below one-foot above the 100-year flood surface elevation. The method of flood proofing shall include operating procedures and be subject to the approval by the City's Floodplain Administrator. (Hydrology).
 16. The developer shall pay a fair share contribution to the City of Clayton for impacts to police staffing directly related to impacts of the Creekside Terrace Project for a five-year period. The calculation and payment shall be made at the time of issuance of building permit for each of the Project's units (including residential and commercial units) and shall be approved in advance by the Clayton Police Chief and City Manager. (Public Services).
 17. Prior to final map recordation, the property owner shall agree to the recordation of a conservation easement on the third parcel located west of Mitchell Creek, and shall assume full responsibility for the ongoing maintenance and upkeep of the parcel as well as the terminus of Center Street. The conservation easement shall preclude future development of said parcel while still allowing limited improvements, such as the

proposed infiltration planter associated with the Creekside Terrace project. (Public Services).

18. The developer shall be responsible for all fees and environmental review costs, including those charged by the California Department of Fish and Game.

Site Plan Conditions

19. Section 17.37.030C. Waiver Period pertaining to Parking and Loading Requirements and related sections of the City's Municipal Code shall be extended through June 30, 2013. Accordingly, prior to issuance of a certificate of occupancy, the developer shall pay in-lieu parking fees for seven (7) parking spaces given that 21 parking spaces are provided, whereas 28 parking spaces are required for this project.
20. Outdoor vending machines (except newspaper vending machines) are prohibited.
21. The electrical transformer for the project shall be installed in an underground vault.
22. The refuse and recycling container storage to be enclosed and connected to the sanitary sewer.
23. Refuse/recycling area shall be sized large enough to comply with State recycling requirements. Details of the refuse/recycling area shall be shown on site plan prior to recordation of map.
24. The property owner shall be responsible for placing the refuse and recycling containers in a location accessible to the refuse/recycling service provider on pick-up days. Once the service provider empties the refuse and recycling containers, the property owner shall promptly return the refuse and recycling containers to the designated enclosure. Additionally, waste containers shall be provided for the daily use of customers of the commercial component of the project.
25. All tenant leases and rental agreements shall stipulate that delivery truck unloading/loading activity, including, but not limited to, that unloading/loading activity of the owners and operators within the project from the travel lanes on High Street and Oak Street are prohibited during the time periods listed below. Delivery truck unloading/loading activities during the time periods listed below may take place from marked parking spaces. The restricted time periods are the thirty minutes prior to and following the normal start and end of classes on days when Mt. Diablo Elementary School is in session. This stipulation does not apply to common carriers such as United Parcel Service, Federal Express, etc.

Architectural Conditions

26. The architectural elevations shall be revised to show the following modifications:
 - a. The interior sides of all parapets shall be faced with cement plaster which is identical to the material and color used on the cement plaster areas of the exterior (i.e., outward-facing) elevations of the building.

- b. The Oak Street elevation of the first-story garage shall incorporate enhanced architectural features (e.g., recessed, obscure, or high windows; or trellis with landscaping).
- c. The garage doors shall utilize a carriage-appearing sectional roll-up design.
- d. All windows shall be recessed a minimum of three inches.
- e. All rooftop equipment shall be screened from roads, the trail system, adjacent properties, and pedestrian areas to the maximum extent possible. The rooftop equipment shall be painted to match the color of the interior parapet.
- f. All minor and secondary rooftop equipment shall be clustered together and screened from roads, the trail system, adjacent properties, and pedestrian areas to the maximum extent possible.
- g. Any future re-painting of the project's Oak Street and High Street frontages shall provide for color distinction for the individual storefronts.
- h. All utility meters shall be properly screened.

Landscaping Conditions

- 27 The landscape plans shall have overall dimensions of 24" x 36"; shall be approved by the Community Development Director and Maintenance Department; shall satisfy and/or include the following:
- a. Conform to the requirements of the State Department of Water resources "Model Water Efficient Landscape Ordinance", dated September 10, 2009, or locally adopted replacement ordinance in effect at the time of application for a building permit.
 - b. Trees in the public right-of-way shall comply with the City street tree list or as otherwise approved by City Maintenance.
 - c. All landscaped areas shall be planted at the following planting densities: five-gallon shrubs shall be at an average density of 1 shrub/5 feet; and one-gallon groundcover plantings shall be at an average density of 1 shrub/3 feet.
 - d. All trees shall be 24-inch box containers.
 - e. All trees shall be planted at least ten feet away from any public water, sewer, or storm drain lines. All trees shall be installed with support staking. All nursery stakes must be removed from trees. All trees planted within eight feet of a sidewalk or driveway shall be installed with root guards.
 - f. All anti-siphon water valves and ground-mounted utility equipment shall be screened with landscaping.
 - g. All on-site walkway hardscape areas shall be paved with a colored and wood-stamped paving surface which matches the color and texture of the sidewalks in the Town Center.
 - h. A layer of mulch two to four inches shall be applied and maintained in all landscape areas until groundcover plantings are fully established so as to cover exposed soils.
 - i. Show all existing and proposed public utilities within the project limits, including adjacent public right-of-way affected by the project.

28. Three sets of the Landscape and Irrigation Plans shall be submitted with the building plans for review and approval by the Community Development Department, Engineering Department, and the Maintenance Department. These plans shall be approved prior to issuance of building, grading, or encroachment permits.
29. Landscaping shall be installed in conformance with approved plans prior to approval for occupancy.
30. Successor-in-interest property owners/lessees shall enter into an agreement with the City which ensures they permanently maintain the on-site landscaping as well as the trees installed in the public right-of-way on Oak Street and High Street.

Engineering Conditions

Subdivision Number

31. While this is a one lot subdivision, its ultimate disposition will create at least eight separate ownerships, therefore it would qualify as a major subdivision and require the filing of a Final Map as opposed to a Parcel Map. Prior to the preparation and submittal of the Final Map, the developer shall obtain a subdivision number from the County.

Subdivision Boundary

32. The proposed boundary shown on the tentative map includes a portion of the Center Street right of way west of Oak Street. In lieu of abandoning the right of way, the City intends to close that portion of Center Street to traffic and issue a special encroachment permit for use by the Project. The developer shall modify the boundary on the Final Map to exclude any existing public street right-of-way.

Use of Public Street Right of Way

33. Prior to approval of the final map and/or any construction documents, the developer shall obtain a special encroachment permit allowing the uses and improvements shown on the tentative map over the northerly 19' of the High Street right of way, west of Oak Street.
34. Prior to approval of the final map and/or any construction documents, the developer shall obtain a special encroachment permit allowing the uses and improvements shown on the tentative map over the portion of the Center Street right of way, west of Oak Street, presently shown as being within the project boundary.
35. Prior to approval of the final map and/or any construction documents, the developer shall obtain a special encroachment permit allowing the uses and improvements shown on the tentative map over the portion of the Oak Street right of way, adjacent to project boundary.

Homeowners Association

Note: A developer has not indicated a preference regarding future ownership and maintenance responsibilities. For the purposes of these conditions of approval, it is assumed that all of the property will be "common area" with the exception of partition walls within each unit, either residential or commercial. Future owners (either commercial or residential) will have sole fee title interest only in the "airspace" within their units and will have a prorated share interest in all of the common areas and common area improvements (including the building itself). Maintenance of all common area improvements will be the responsibility of a Homeowners Association funded by the property owners. Should the developer wish to propose a different approach, any change would have to be approved by the City of Clayton City Council.

36. Prior to approval of the final map, the developer shall submit the proposed Covenants, Conditions, and Restrictions (CC&Rs) for review and approval by the City. Prior to issuance of any certificate of occupancy, the developer shall have the City-approved CC&Rs recorded in the County Recorder's Office and a copy of the recorded documents submitted to the City. The CC&Rs shall include a provision barring any changes or revisions without prior approval by the City.
37. Prior to issuance of any certificate of occupancy, the developer shall form a Homeowners Association comprised of all the project property owners, both commercial and residential. The Homeowners Association shall be responsible for the operations and maintenance of all common area improvements and facilities, including stormwater, trash, and creek maintenance, monitoring, and reporting necessary to comply with NPDES requirements. Further, the Homeowners Association shall be responsible for the maintenance of all improvements located on existing street rights of way being utilized by the project under special encroachment permits and as shown on the tentative map.
38. The developer shall record disclosure statements with the deeds for the project's lots. The disclosure statements shall be reviewed and approved by the City Attorney and the Community Development Director and shall address the following issues.
 - a. Special events occur throughout the year in the downtown area and at Endeavor Hall, which may temporarily increase noise levels at the residential properties as well as increase traffic and demand for parking.
 - b. Special events occur throughout the year in the downtown area which result in the closure of adjacent streets except for emergency vehicle access. During these events vehicular access to and from the project may be prohibited (i.e., Oak, High, Center, and Main Streets). Vehicular access to and from Oak Street via Roundhill Place will remain open.
 - c. Commercial land use and zoning designations on adjacent properties to the east of the project site allow a variety of commercial activities, including parking lots and multi-story commercial buildings. It is the policy of the City of Clayton to encourage commercial development of the commercially-zoned properties in the Town Center.

- d. The City of Clayton owns the parcel (APN 119-016-005) at the northwest corner of High Street and Diablo Street. The property will initially be developed as a parking lot for the general public. In the future, the property may be developed as a multi-story parking structure or a multi-story commercial building.

Condominium Plan

39. Prior to issuance of any certificate of occupancy, the developer shall have prepared and recorded a condominium plan delineating the proposed commercial and residential units. The condominium plan shall be submitted to the City for review prior to recordation. A certified copy of the recorded condominium plan shall be provided to the City prior to issuance of any certificate of occupancy.

General Engineering Conditions

40. All work shall be designed and constructed in accordance with the Municipal Code, as well as the City's Standard Plans and Specifications, and to the satisfaction of the City Engineer.
41. Upon approval of the final map, the subdivision shall be annexed into the existing City of Clayton Street Light Assessment District.
42. Upon recording of the final map, the City shall be given a full size, reproducible, photo mylar copy of the recorded map and an electronic file of the map in a form which can be imported into AutoCAD, and configured as directed by the City Engineer. Upon completion of the improvements and prior to City Council acceptance, the City shall be given a full size, reproducible, photo mylar copy of the improvement plans, and an electronic version in AutoCAD, annotated to reflect any changes that occurred during construction and signed by the Project Engineer.
43. The developer shall ensure that all project contractors shall conform to the requirements of the "Best Management Practices for Construction Sites" required by the City, including detention and/or filter materials to preclude an increase in water quantity and quality impacts from debris and sediments entering the stormwater system over "non-development" conditions.
44. The developer shall identify the Best Management Practices for protection of air quality to minimize the generation of dust during construction. Such measures shall be included within the project grading plan and shall be approved prior to issuance of project grading permits.
 - a. Earthmoving or other dust-producing activities shall be suspended during periods of high winds (i.e., instantaneous wind gusts of 25 mph or greater);

- b. Equipment and manpower for watering of all exposed or disturbed soil surfaces shall be provided at least twice daily on any day of high winds or when construction activities occur, including weekends and holidays. A dust suppressant, added to the water before application, shall be used;
 - c. Stockpiles of debris, soil, sand or other materials that can be blown by the wind, shall be watered or covered;
 - d. Construction area and adjacent streets shall be swept of all mud and debris, since this material can be pulverized and later re-suspended by vehicle traffic;
 - e. A compliance officer, responsible for implementation and monitoring, shall be identified as part of the grading permit process.
45. The developer shall connect to the sanitary sewer system, obtain applicable permits, and pay applicable fees required by the City of Concord Public Works Department.
46. If archeological, historical or Native American materials are uncovered during any construction or pre-construction activities on the site, all work within 100 feet of these materials shall be immediately stopped. The Community Development Department and a qualified professional archeologist shall be notified. Work within this area shall not recommence until the archeologist has had an opportunity to evaluate the significance of the find, and outline appropriate mitigation measures, if they are deemed necessary.
47. Grading permits and stormwater permits shall be obtained from the City Engineer.
48. Construction sequencing and work times shall be adjusted as may be required by the City Engineer to minimize impacts and inconveniences during school drop-off and pick-up times.
49. Access to and over the High Street bridge at Mitchell Creek shall be maintained at all times for those residents located on the west side of the bridge. In the event that access must be restricted for some limited period, the contractor shall coordinate the closure with residents west of the bridge to the satisfaction of the City Engineer.

Street Construction Conditions

50. High Street - All existing improvements are to be removed and new improvements constructed generally as shown on the tentative map and to the satisfaction of the City Engineer.
51. Oak Street - All existing improvements are to be removed and new improvements constructed generally as shown on the tentative map and to the satisfaction of the City Engineer, except for the proposed planter within the parking lane which is not approved.
52. The sidewalk along Oak Street shall be colored, stamped concrete and shall match the color and pattern of the Town Center sidewalks.

53. Upon completion of building construction, the existing pavement on Oak Street from Center Street to High Street, including the intersections and other areas as may be determined by the City Engineer, shall be slurry sealed and restriped to the satisfaction of the City Engineer.
54. Any existing street, sidewalk, curb, gutter, or other existing improvement which, in the sole opinion of the City Engineer, is damaged by any party at any time, either on or adjacent to the project site, shall be repaired by the Developer, at his sole cost, to the satisfaction of, and in the manner required by, the City Engineer.

Stormwater Control and Treatment Conditions

55. The improvement plans shall reflect that all on-site storm drain inlets shall be labeled “No Dumping – Drains to Creek” using thermoplastic stenciling or equivalent permanent method, subject to City approval.
56. Prior to issuance of any construction permits, a final Storm Water Control Plan, satisfying all of the latest requirements of the terms of the City’s Stormwater Discharge Permit, shall be submitted for review and approval by the City.
57. The volume and rate of stormwater runoff from the site shall be comparable to pre-development conditions to the maximum extent practicable. The project shall bear the financial responsibility of the construction and perpetual maintenance (including monitoring and reporting) of these facilities with a funding mechanism acceptable to the City that addresses costs for capital replacement, inflation, and administration.
58. Any exterior building washing/cleaning, exterior window washing/cleaning or sidewalk washing/cleaning shall comply with Best Management Practices (inlets protected and water vacuumed) and be done only by a certified surface cleaner. Such certification shall be recognized by the Contra Costa Clean Water Program. In addition any contracts for such cleaning by the property owner or tenants shall also include language requiring the compliance with Best Management Practices and certification. Documentation, monitoring, and reporting shall be included in the Stormwater Operation and Maintenance (OMP).
59. All pest management practices for the site and building by the property owner and or tenants shall also and done by company that is Integrated Pest Management (IPM) Certified. Such certification shall be recognized by the Contra Costa Clean Water Program. In addition any contracts for such cleaning by the property owner or tenants shall also include language requiring the compliance with Best Management Practices and certification. Documentation, monitoring, and reporting shall be included in the OMP.

60. The Property Owner shall be responsible for the perpetual maintenance of the site's storm drain system, including the monitoring of the storm drain facilities. In addition, the Property Owner shall be responsible for any future stormwater quality and quantity reporting requirements by the Regional Water Quality Control Board.
61. The Mosquito and Vector Control District and its contractors shall have the right of access to conduct inspections and maintenance of all on-site drainage devices. Such rights shall be conveyed in the property owner documents and any property rental or lease documents.
62. The developer shall remove the existing curb cut and driveway apron across the sidewalk on the Oak Street frontage of the project site and shall restripe the pavement as required by the City Engineer. The replacement sidewalk shall be paved with a colored and wood-stamped paving surface which matches the color and texture of the sidewalks in the Town Center.
63. All work shall be designed and constructed in accordance with the *Municipal Code*, as well as the City's Standard Plans and Specifications.
64. The improvements to be installed by the Developer shall generally conform to those shown on the site plan, as said improvements may be modified by these conditions of approval and/or the City Engineer.
65. The developer shall be solely responsible for obtaining any right of way and/or easements necessary to permit the construction of the proposed improvements.
66. The ramp across the sidewalk at the northwestern corner of the site, which is for refuse and recycling pickup purposes, shall meet ADA requirements as the ramp will cross the public sidewalk.
67. Prior to the issuance of the certificate of occupancy for the fourth residential unit, the developer shall provide one of the residential units affordable to low-income households with deed restrictions in accordance with the City of Clayton Housing Element and Redevelopment Agency requirements to the satisfaction of the Community Development Director.

Agency Conditions

68. The developer shall connect to the sewer system and obtain applicable permits required by the City of Concord Public Works Department.
69. The Developer shall satisfy Contra Costa County Fire Protection District requirements as follows:
 - a. Access must be capable of supporting the imposed fire apparatus loading of 37 tons. (503) CFC.

- b. Access roadways (High Street) of less than 28-feet unobstructed width shall have signs posted or curbs painted red with the words *NO PARKING – FIRE LANE* clearly marked. (503.3) CFC.
- c. The developer shall provide an adequate and reliable water supply for fire protection with a minimum fire flow of 1750 GPM. Required flow must be delivered from not more than one (1) hydrant flowing for a duration of 180 minutes while maintaining 20-pounds residual pressure in the main. (508.1, (B105) CFC.
- d. The developer shall provide one (1) hydrant of the East Bay type. Final placement of hydrant(s) shall be determined by the Fire District. (C103.1) CFC.
- e. The developer shall submit three (3) copies of site improvement plans indicating all existing or proposed hydrant locations and fire apparatus access for review and approval prior to obtaining a building permit. (501.3) CFC.
- f. The required hydrant shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site. (501.4) CFC.
- g. The building proposed shall be protected with an approved automatic fire sprinkler system. Submit three (3) sets of plans to the Fire District for review and approval prior to installation. (903.2) CFC, Contra Costa County Ordinance 2007-47.
- h. Vegetation clearance requirements in urban-wildland interface areas shall be in accordance with the *International Wildland-Urban Interface Code*. (304.1.2) CFC.
- i. The developer shall submit three (3) complete sets of building plans and specifications of the subject project, including plans for the following required submittals, to the Fire District for review and approval prior to construction to ensure compliance with minimum requirements related to fire and life safety. Plan review fees will be assessed at that time.
 - Private underground fire service water mains
 - Fire sprinklers

Plans are to be submitted to: Contra Costa County Fire Protection District
2010 Geary Road
Pleasant Hill, CA 94523

The Fire District reference for this project is as follows:

CCCFPD Project No.: 113977-PL

- 70. The Developer shall provide an adequate number of hydrants of the “East Bay” type at locations determined by the Fire Protection District.
- 71. Prior to approval of building permit, the Developer shall obtain written approval from Allied Waste Services that the facility can be serviced and the waste container options that would be acceptable given the range of tenant occupancies within the project and submit such written documentation to the Community Development Department.

72. The property owner is responsible for ensuring refuse and recycling pickup services are provided as often as necessary in order to ensure refuse and recycling receptacles do not overflow. Documentation, monitoring, and reporting shall be included in the OMP.
73. Prior to building permit approval applicant/developer shall provide documentation that the waste/recycling area can meet state regulations regarding mandatory space for recycling.
74. The Developer shall obtain a building permit from the Contra Costa Building Department in accordance with applicable California Building Code (CBC) requirements prior to commencement of the construction of the project.
75. The Developer shall satisfy Contra Costa Water District (CCWD) requirements as follows:
 - a. Treated and Untreated water service is governed by CCWD Code of Regulations Section 5 (Reg 5).
 - b. The two existing services will need to be relocated from their current locations (which will become a sidewalk/walkway) to a better location at the side of the building.
 - c. New meters should be “banked” at one location, each serving individual units.
 - d. A separate meter for landscape irrigation may be required (Reg. 5.32.020).
 - e. A common fire service will be required for the building.
 - f. Water service will likely require backflow prevention devices, which could reduce water pressure. Proper planning is necessary to ensure backflow prevention devices are located appropriately.
 - g. Location of all new and relocated services must be coordinated with developer to ensure acceptable installations for CCW, the City, and the developer.

Standard Condition

76. The developer agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including, but not limited to, attorney’s fees, costs, and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, and any environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.

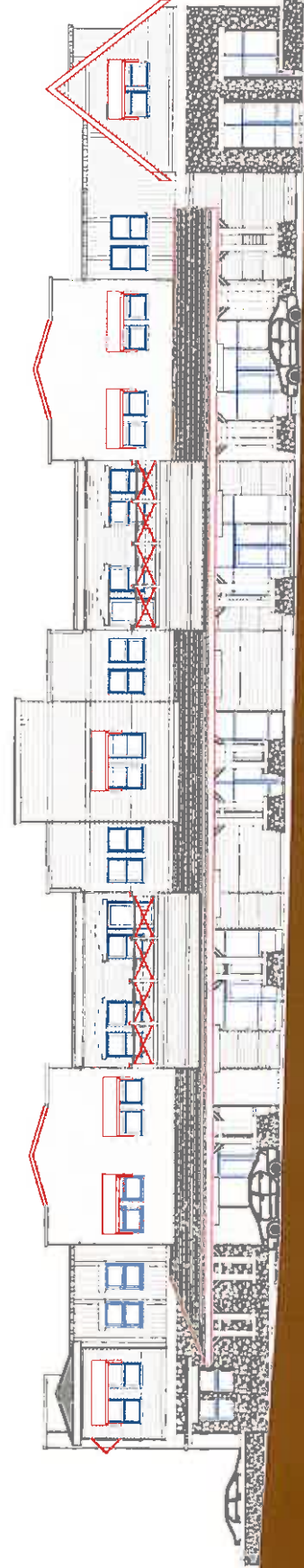
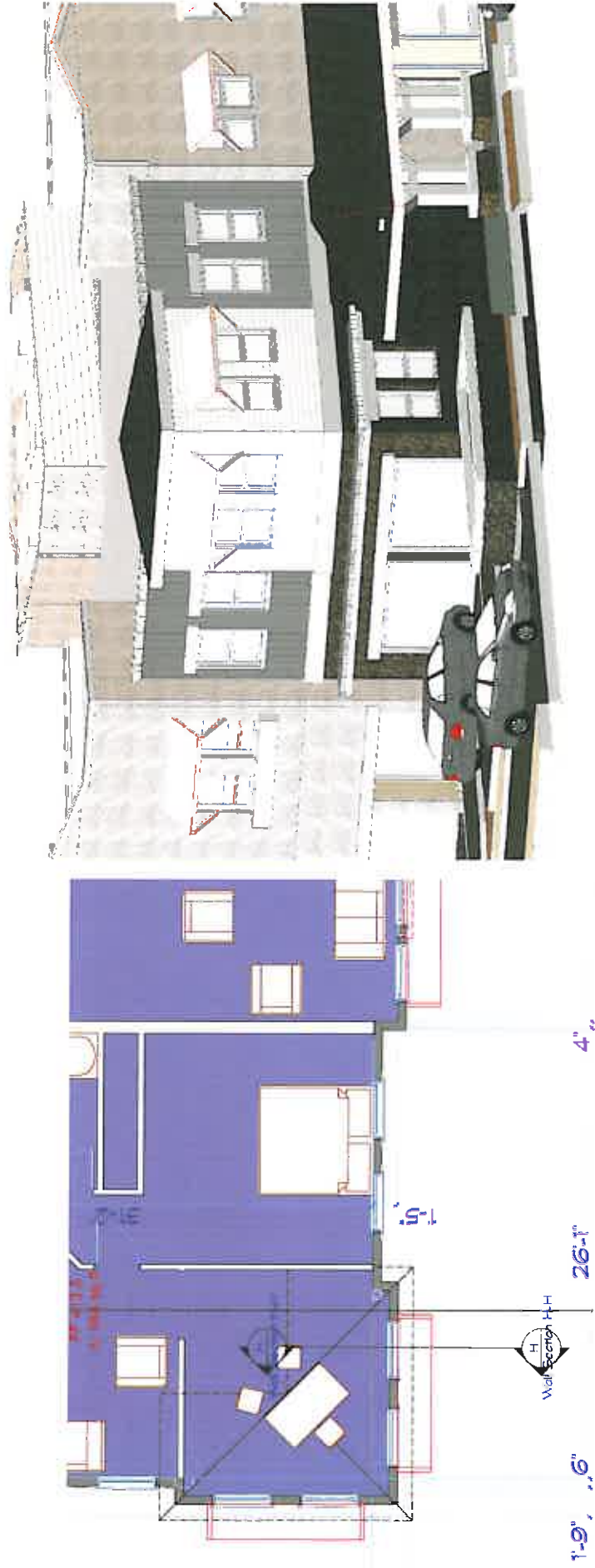
Advisory Notes

Advisory notes are provided to inform the applicant of: (a) *Clayton Municipal Code* requirements; or (b) requirements imposed by other agencies. The advisory notes are not part of the conditions of approval.

1. Prior to obtaining a building permit, the developer shall prepare an erosion and stormwater control plan for review and approval by the City Engineer (CMC § 13.12.050).
2. Prior to commencement of grading, demolition or construction activities the developer shall obtain City approval of a construction and demolition recycling plan (CMC § 15.80.040).
3. Prior to performing any work in the public right of way, the developer shall obtain an encroachment permit from the City Engineer.
4. Prior to any grading or construction, the developer shall obtain a Stormwater Permit from the City Engineer.
5. An administrative use permit from the Community Development Director is required for any outdoor seating.
6. A master sign plan must be approved by the Planning Commission prior to installation of any signage.
7. A tree removal permit is required prior to removing any trees with a single or multiple trunk diameter of six inches or greater (CMC §15.70.020).
8. All grading, construction, and other work shall occur only between 7:00 a.m. and 5:00 p.m. Monday through Friday. Any such work beyond these hours and days is strictly prohibited unless previously authorized in writing by the City Engineer (CMC §15.01.010) located at 1005 Oak Street, 925-672-9700.
9. The developer shall obtain the necessary building permits from the Contra Costa County Building Inspection Department.
10. The developer shall comply with all applicable state, county, and city codes, regulations, and adopted standards.
11. Additional requirements may be imposed by the Contra Costa County Fire Protection District. Before proceeding with the project, it is advisable to check with the Fire District located at 2010 Geary Road, Pleasant Hill, 925-930-5500.

12. Development impact and related fees (including, but not limited to, community facilities development, off-site arterial improvement, childcare, parkland dedication, open space in-lieu, and habitat conservation fees) shall be paid per applicable City Code regulations and resolution.

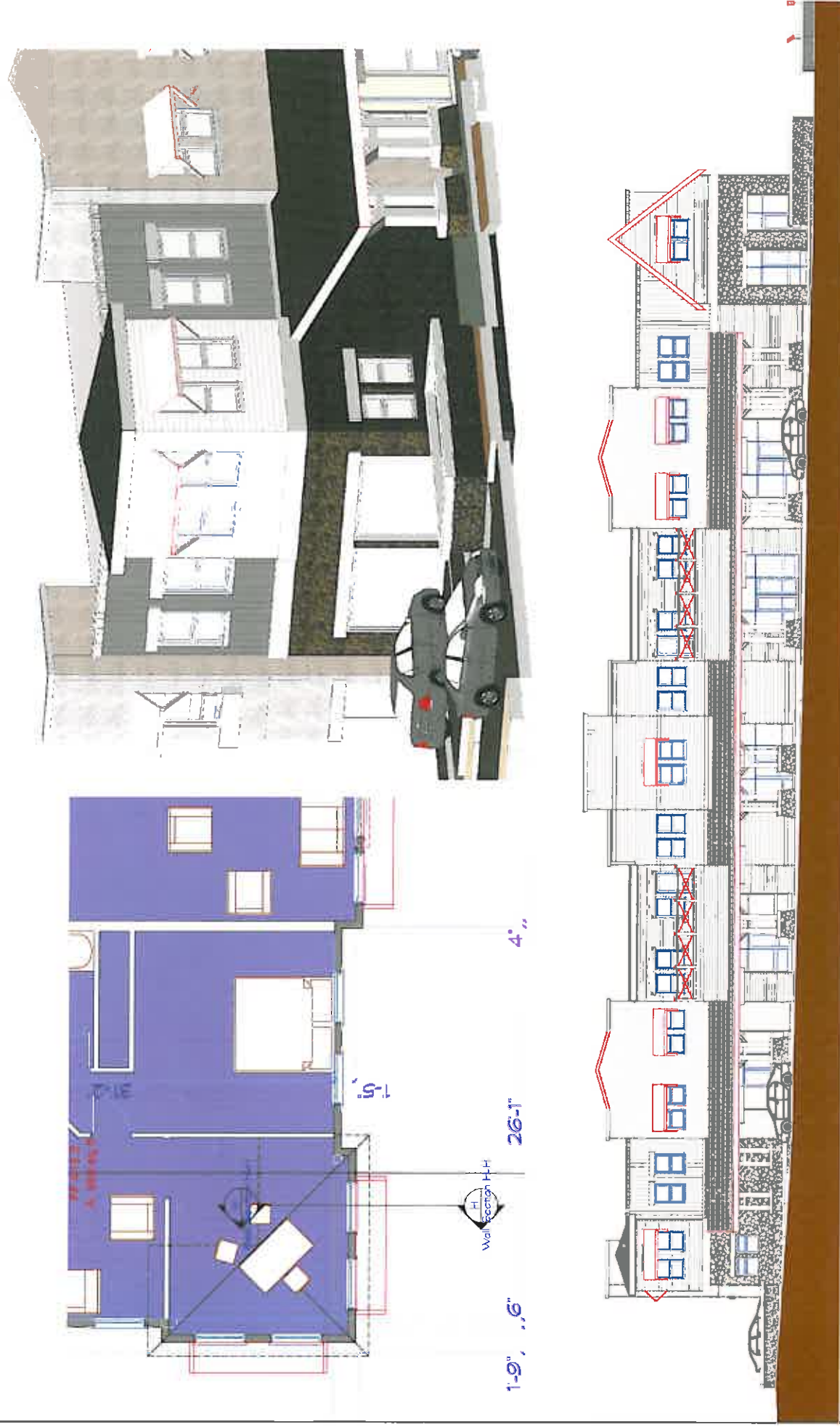
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Creekside Terrace - South East Corner Studies

Option 1

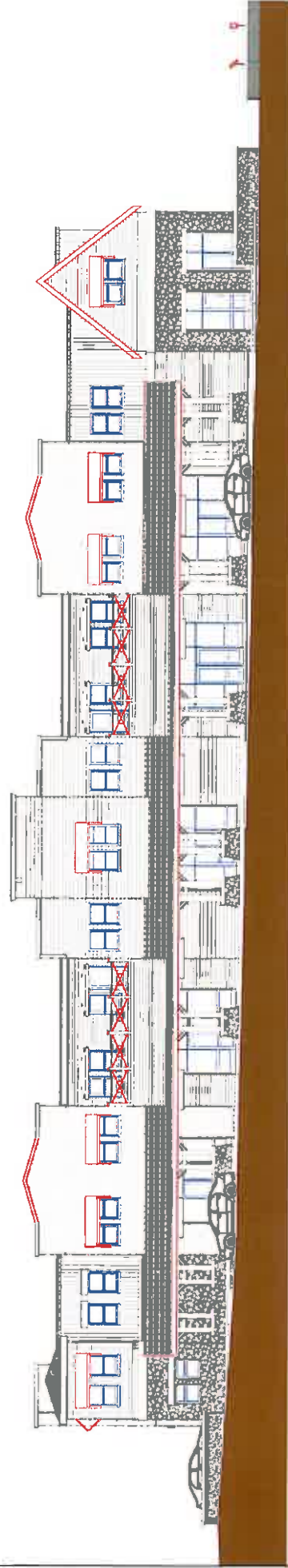
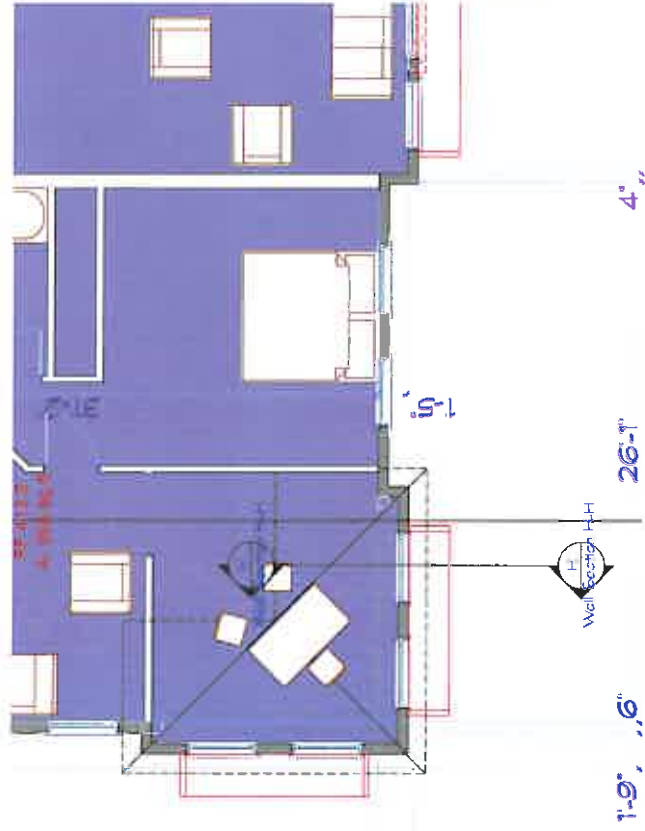
4 June 2010



Creekside Terrace - South East Corner Studies

Option 1a

4 June 2010



Creekside Terrace - South East Corner Studies

Option 1b

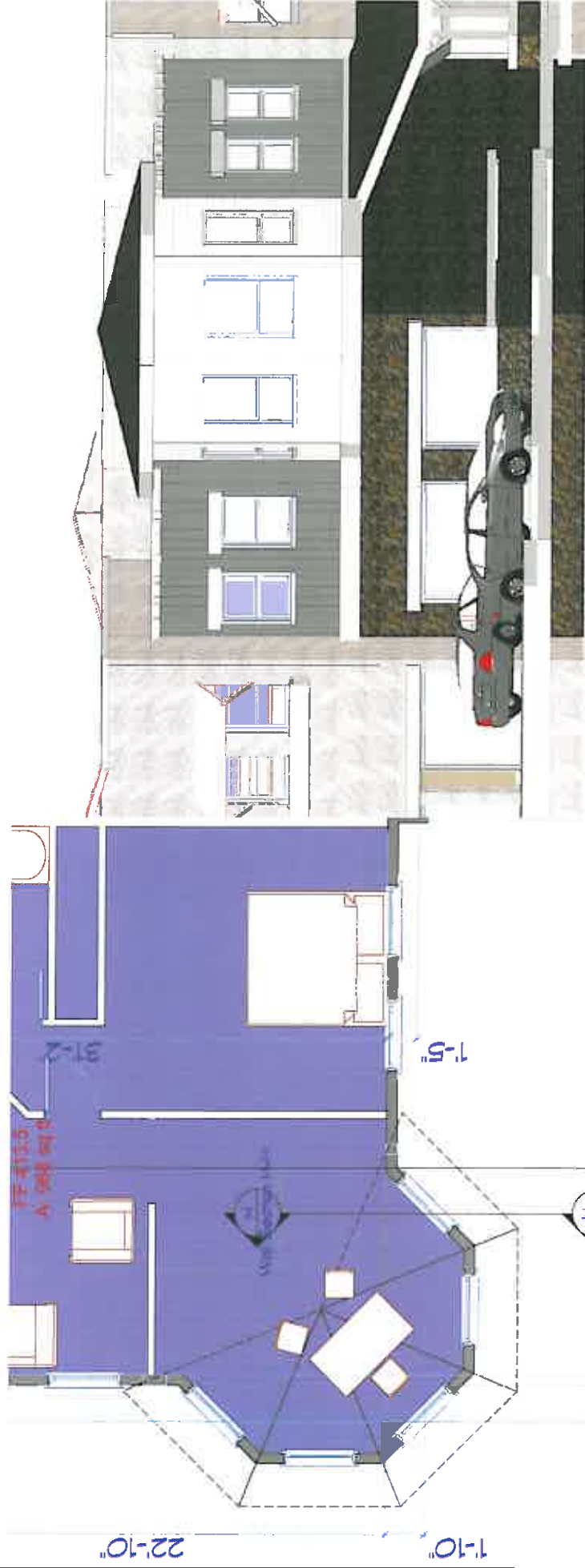
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Creekside Terrace - South East Corner Studies

Option 2

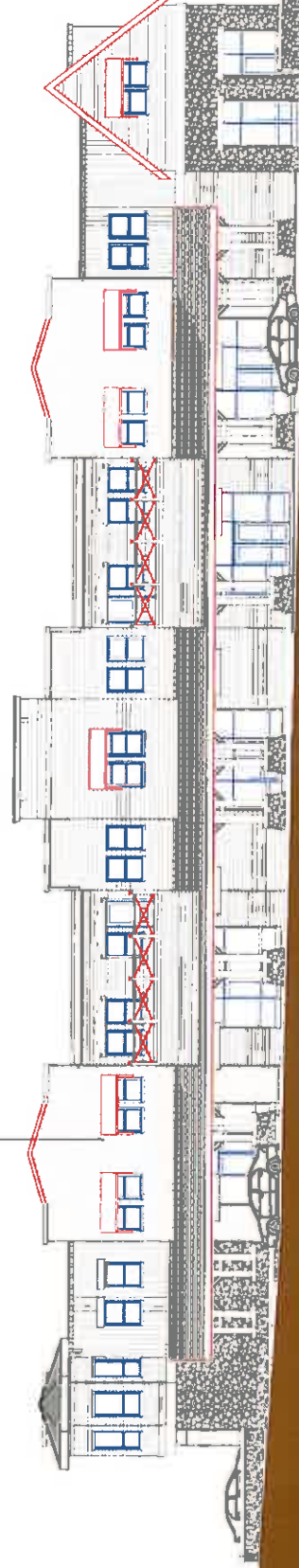
4 June 2010



4"

26'-1"

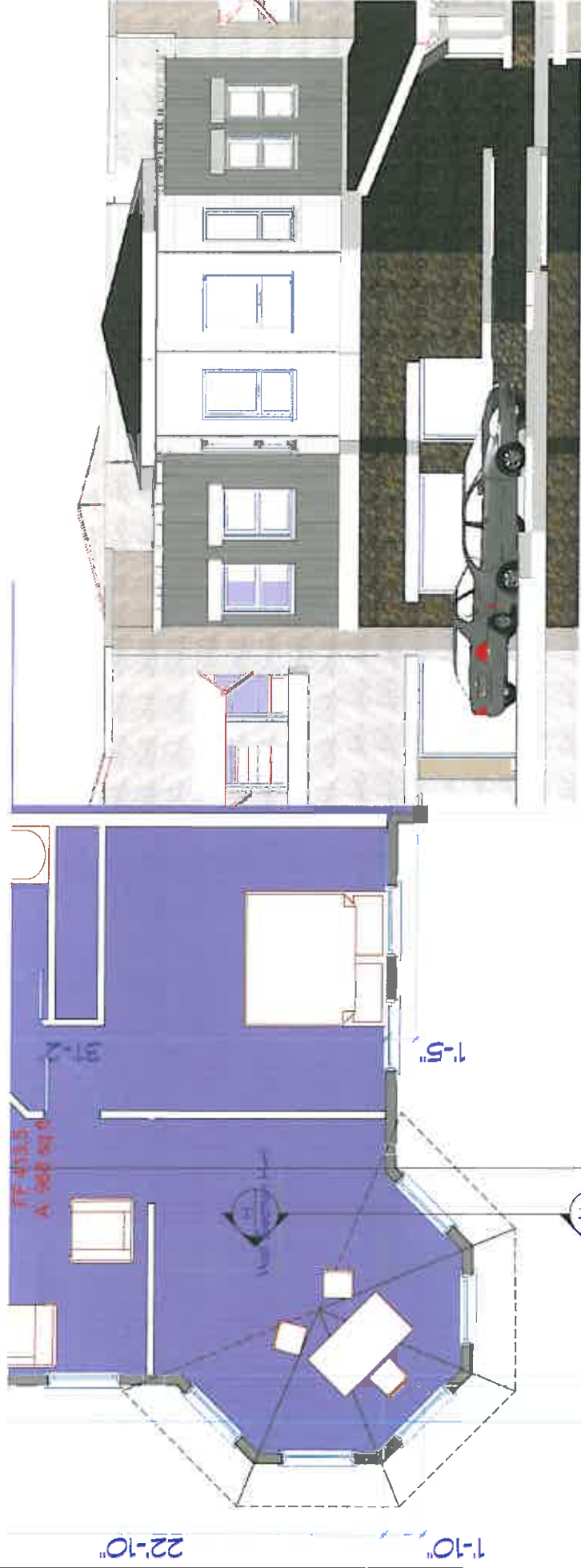
1'-9" 6"



Creekside Terrace - South East Corner Studies

Option 3

4 June 2010

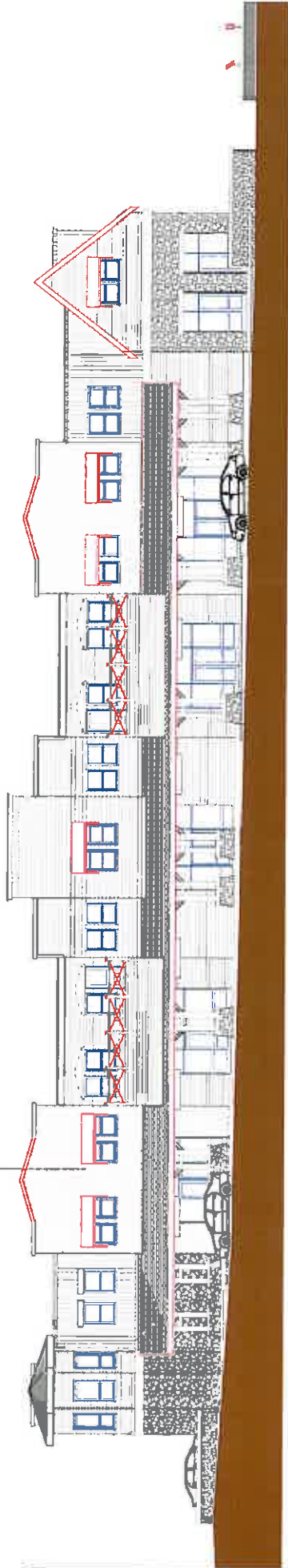


Wall Section H-H

1'-9" 6"

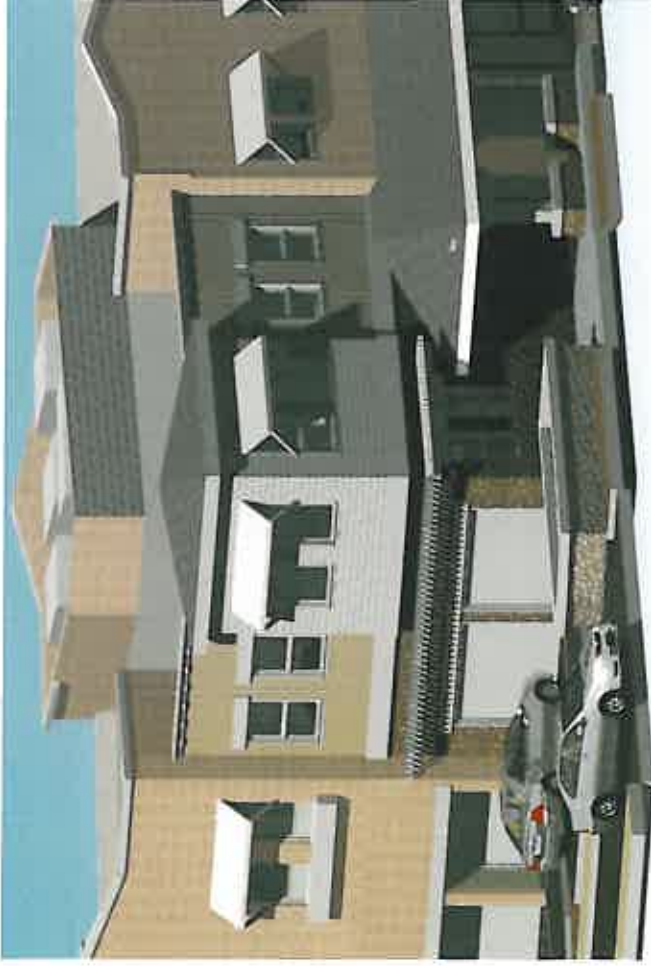
26'-1"

4"



Creekside Terrace - South East Corner Studies

Option 3a



Option 1



Option 1b



Option 1a



Option 2



Option 3a



Option 3