



**CITY COUNCIL AGENDA ITEM NO. F.1  
10/24/2023**

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**SUBJECT:** Call for Review of the Planning Commission's decision to approve applications for a Vesting Tentative Subdivision Map and a Design Review with associated Mitigated Negative Declaration for the Hanson Lane single-family residential project.

**DEPARTMENT:** Community Development Department

**STAFF:** Alexis Morris, Director of Community Development  
Erik Nolthenius, Planning Manager  
Jennifer Hagen, Senior Planner

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### **TITLE/RECOMMENDATION**

Staff recommends that the City Council adopt resolutions affirming the Planning Commission approvals, thereby approving a Mitigated Negative Declaration (IS/MND), a Vesting Tentative Subdivision Map (VTSM 9547) to create 94 single-family residential lots, open space area, an emergency vehicle access (EVA), new internal roadway system, and other related improvements, and a Design Review (DR 21-006) for the 94 single-family homes to be constructed. The project qualifies for a density bonus pursuant to State law, but is not seeking to develop above the density allowed by the General Plan. Rather, the applicant seeks concessions and waivers from certain City standards, as allowed by the State density bonus law. The project is located at 251 Hanson Lane (APN 018-230-034).

The City prepared an IS/MND for this project in accordance with the requirements of the California Environmental Quality Act (CEQA, codified at Public Resources Code §§-21000, et seq., and as further governed by the State CEQA guidelines, found at 14 CCR §§ 1500, et seq.). All Mitigation Measures not addressed by the standard conditions of approval are included as conditions of approval where appropriate.

### **FISCAL IMPACT**

The project proponent, MLC Holdings Inc, has paid a total of \$89,667.50 for applications related to the project. There are no associated fees for a Call for Review.



## **BACKGROUND**

### **SUMMARY**

The item before the City Council is a call for review of the Planning Commission's decision to approve the subject applications on September 19, 2023. Overall the project is consistent with the General Plan and will help to provide a broad spectrum of housing types and community facilities with development occurring in a logical and orderly manner and contiguous with existing developments (Goal LU1, Policy LU 1-4, and Policy LU 1-5). In addition, the proposed affordable housing provided is greater than required within the City's Affordable Housing Ordinance applicable to the project helping to achieve multiple Housing Element goals and policies and assist in meeting the City's overall Regional Housing Needs Assessment (RHNA). A detailed analysis of the project is included as part of the September 19, 2023, Planning Commission staff report, which is attached for the City Council's review and reference.

The applicant, MLC Holdings, Inc., is requesting approval of an IS/MND (including a Mitigation Monitoring and Reporting Plan (MMRP)), a Vesting Tentative Subdivision Map (VTSM 9547), and a Design Review (DR 21-006) for a new 94-unit single family development that includes three estate residential lots, open space area, an EVA, and a new internal roadway system.

The proposed project would include the subdivision of the 19.73-acre property to develop 94 single-family residences including three estate residential lots ranging from 21,101 square feet (sf) to 21,200 sf, and 91 single-family residential lots ranging in size from 4,000 sf to 8,242 sf. The project includes four varying floor plans that will be distributed across all 94 lots.

As detailed below, a total of 12 below market rate units would be provided for very-low, low, and moderate-income families. As required by the City's inclusionary housing ordinance, the 12 below market rate units are spread throughout the development. Each residence would include a two-car garage and a private rear yard. Additionally, the applicant is proposing three larger lots that would provide the required density transition from the existing Ranchette Estate development adjacent to the project to the southwest.

### **PLANNING COMMISSION MEETING OF SEPTEMBER 19, 2023**

On September 19, 2023, the Planning Commission considered the Vesting Tentative Subdivision Map and Design Review for the Hanson Lane project. Prior to the meeting,



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staff received one public comment that was distributed to the Planning Commission for consideration. After presentation of the staff report and comments from the applicant, the Planning Commission opened public comment and took testimony from nine members of the public. Multiple speakers expressed concerns with the increased vehicle traffic and impact to the existing residences along Hanson Lane and Lone Tree Way. Specific concerns related to the transition of the new Lone Tree Way extension and the private driveway to the north at the current dead end, as well as the grade difference and fencing between the properties to the north.

After closing the public hearing, the Planning Commission discussed the potential health risks and hazards at the project site as a result of the nearby existing uses to the east (i.e., the City of Brentwood Wastewater Treatment Plant and Antioch Building Materials) and asked staff to provide clarification. Consulting staff reiterated the analysis presented in the IS/MND regarding health risks (i.e., air quality impacts), which essentially concluding that, with implementation of the mitigation measures set forth within the IS/MND, the proposed project itself would not increase health risks, but, rather, the project site is located in an area already subject to existing health risks. This would be considered an impact of the existing environment on the project, as opposed to the project's impact on the environment, which is not required to be analyzed under CEQA. Nonetheless, because the proposed project may be subject to health risks associated with existing uses in the vicinity, the Planning Commission requested that a condition of approval consistent with the recommendation in the IS/MND be included. Specifically, the condition of approval would require a refined health risk assessment to more accurately estimate the health risks at the project site and disclosure of the health risks to future homebuyers prior to purchase. In addition, the applicant agreed to a new condition of approval requiring buyers within the Project be notified of the identified air quality findings (see below).

The Planning Commission also discussed the agricultural and rural nature of the properties to the north, which are located just outside the city limits in the unincorporated portion of the County, and questioned how the properties' existing character would be protected. The applicant clarified that there would be a low retaining wall on the northern property line. The applicant also agreed to work with City staff on providing a visual and safety barrier on the northern property line of the project, as well as working with staff on project entry details to include clear delineation of private and public access points along Lone Tree Way.

Lastly, the Planning Commission requested clarification on the elimination of the park that was shown in the original CEQA documents and whether staff was supportive of the project paying in-lieu fees instead of providing an on-site park. Staff confirmed



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that based on the location of the project within ½ mile of multiple parks and the extension of the March Creek trail to make nearby parks easily accessible, staff was supportive of the project paying in-lieu fees and not including onsite amenities. This is explained in greater detail below. Based on continued concerns that on-site amenities should be provided, the applicant suggested the potential to redesign the on-site stormwater treatment area in order to allow for additional square footage that may be used for on-site gathering. Since the Planning Commission hearing, the applicant has provided a revised tentative map exhibit illustrating that with the reconfiguration, they would be able to accommodate an approximately .6 acre park parcel.

After deliberation, including the discussion as mentioned above, the Planning Commission unanimously approved the vesting tentative subdivision map and design review applications with the following added conditions listed below.

**Conditions added by Planning Commission to Resolution No. 23-030 (tentative map resolution):**

23. Permittee shall engage a qualified air quality specialist to conduct a site-specific air quality analysis of PM<sub>2.5</sub> on the site using dispersion modeling, and the results of this analysis shall be provided to homebuyers within the Project prior to purchase.
24. Permittee shall work with staff to reconfigure the bioretention areas to maximize open space area to include a gathering space and play equipment east of Lots 59 and 60, to the satisfaction of the City Engineer and the Director of Parks & Recreation.

**Conditions added by Planning Commission to Resolution No. 23-031 (design review resolution):**

26. Permittee shall work with City staff to develop and provide a visual and safety barrier on the northern property line of the project, to the satisfaction of the City Engineer and the Director of Community Development.
27. Permittee shall work with City staff on project entry details to include clear delineation of private and public access points along Lone Tree Way, to the satisfaction of the City Engineer.



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### CALL FOR REVIEW

On September 19, 2023, shortly after the project was approved, Council Member Mendoza filed a timely Call for Review per Brentwood Municipal Code (BMC) [Section 17.880.030](#). Within the call for review, Council Member Mendoza requested additional information on several specific items, as summarized below:

- Affordable Housing and Density Bonus calculations and the location of the affordable units;
- City park requirements, in-lieu fee payments, and equipment specifications;
- Site Access; and
- Perimeter wall heights around the development.

Per BMC [Section 17.880.030](#), a call for review is required to be heard before the appellate body within 45 days of being filed, unless both the applicant and appellant consent in writing to a later date. In this case, the call for review is being considered 35 days from when it was received, within the required timeframe.

### APPLICABLE STATE HOUSING LAW

The applicant submitted a preliminary application for this project under [Senate Bill \(SB\) 330](#); that preliminary application was deemed consistent with [Government Code §65941.1](#) in January 2022. SB 330 made numerous changes to the Permit Streamlining Act and the Housing Accountability Act. SB 330 requires that, if the application complies with the applicable objective general plan, zoning, and subdivision standards and criteria, including design review standards, the City cannot deny or condition the project in a manner that would lessen the intensity of housing, such as decreasing the density or number of units ([Government Code section 65589.5\(j\)](#)). In addition, under SB 330 and pursuant to [Government Code §65589.5\(o\)](#), a project shall be subject only to the ordinances, policies, and standards adopted and in effect when a preliminary application was submitted (January 2022).

### ANALYSIS

The September 19, 2023, Planning Commission staff report, draft meeting minutes, and public comments received are attached for the City Council's review and reference. The attached staff report explains in detail how the Project is consistent and complies with the City's General Plan and zoning requirements. Additionally, the adopted Planning Commission resolutions approving the IS/MND, MMRP, Tentative Subdivision Map, and Design Review are also attached.



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Within the requested call for review, Council Member Mendoza requested additional information on and analysis of a number of items as previously listed. Staff has provided additional information and analysis on each of these in the following sections.

**AFFORDABLE HOUSING AND DENSITY BONUS CALCULATIONS AND LOCATION**

The project's preliminary application was deemed complete in January 2022, and therefore is subject to the City's Affordable Housing Ordinance that was in effect at that time. That ordinance requires the project to provide ten percent (10%) of total units as affordable units. Under the State Density Bonus Law (SDBL) ([Government Code § 65915 \(f\)\(2\)\(B\)\(1\)\(b\)](#)), the project is required to provide at least five percent (5%) of the units for very-low income households in order to qualify for Density Bonus benefits. State law allows projects to "double dip," or to allow units required by the City's Affordable Housing Ordinance to also qualify as affordable units for purposes of the SDBL. This was affirmed in a 2013 case, [Latinos Unidos del Valle de Napa y Solano v. County of Napa](#) (2013) 217 Cal.App.4th 1160, that held that inclusionary units required by a local agency's affordable housing ordinance must also be credited toward satisfying the affordable units necessary to obtain a density bonus under the SDBL. In addition, in 2021, the State Legislature clarified that for purposes of qualifying for a density bonus, the "total units" in a housing development include affordable units that are designated to satisfy local inclusionary housing requirements.

The project is proposing to provide 12 affordable units, with five reserved for very low-income households, four reserved for low-income households, and three reserved for moderate-income households. The designs of the affordable units are comparable to the exterior designs of the market rate units, materials, architectural elements, and overall construction quality, as well as the number of bedrooms and proportion of bedroom types. The applicant has submitted the attached revised plot plan that includes the location and types of units within the project, illustrating that the units will be dispersed throughout the residential development, consistent with the requirements of the applicable City Affordable Housing Ordinance.

Based on the application proposal, staff has provided more detailed calculations below illustrating how the project qualifies under the provisions of both the SDBL and the City ordinance.



**City Affordable Housing Ordinance Requirements**

The project application was deemed complete in January 2022, and therefore is subject to the City’s Affordability Housing Ordinance that was in effect at that time. That ordinance requires the project to provide ten percent (10%) of total units as affordable units. In applying the City’s Affordable Housing Ordinance requirements to residential development consisting of ten or more dwelling units, any decimal fraction less than 0.50 dwelling units is disregarded and any decimal fraction equal to or greater than 0.50 dwelling units must be construed as one dwelling unit.

<b>Affordability Level</b>	<b>Required</b>	<b>Provided</b>	<b>Does the project meet minimum qualifications</b>
Very-low	3% (2.82 units rounded to 3 units)	5/94 = 5.3%	<b>Yes</b>
Low	4% (3.76 units rounded to 4 units)	4/94 = 4.2%	<b>Yes</b>
Moderate	3% (2.82 units rounded to 3 units)	3/94 = 3.1%	<b>Yes</b>
Total	10% (9.4 units rounded to 9 units)	12/94 = 12.7%	<b>Yes</b>

**State Density Bonus Affordability Requirements**

According to the SDBL, no additional affordable units are required to satisfy State law or the City’s regulations. Under the SDBL ([Government Code § 65915 \(f\)\(2\)\(B\)\(1\)\(b\)](#)), the project is required to provide at least five percent (5%) of the units for very-low income households in order to qualify for SDBL benefits. In applying the SDBL, all density calculations resulting in fractional units must be rounded up to the next whole number.

<b>Affordability Level</b>	<b>Required</b>	<b>Provided</b>	<b>Does the project meet minimum qualifications</b>
Very-low	5% (4.7 units rounded to 5 units)	5/94 = 5.3%	<b>Yes</b>

Staff has carefully reviewed in detail all affordable housing calculations and has confirmed that, as proposed, the project will provide the appropriate number of affordable units at the appropriate income levels to qualify in accordance with both State law and the City’s Affordable Housing Ordinance.



**PARK REQUIREMENTS, IN-LIEU FEE PAYMENTS, AND EQUIPMENT SPECIFICATIONS**

The project is located 1,500 feet from Homecoming Park and is located within 1-mile of 15 additional parks, including Sunset Athletic Complex.

The General Plan provides a framework that guides policy and decisions on growth, development, community services and facilities, conservation and open space, circulation, economic development, land use, and resources in a manner that is consistent with the quality of life desired by the city's residents. The Parks, Trails, and Recreation Master Plan (Master Plan) articulates the vision for the quality of life of Brentwood residents as it relates to parks, trails, and recreation opportunities. It reflects the current needs and desires of Brentwood residents and serves as the specific planning document that is used to implement the policies and action items outlined in the General Plan. The cornerstone of ensuring proper implementation of the Parks, Trails, and Recreation Master Plan is Brentwood's ability to secure stable funding for the development and operation of parks, recreation facilities, and programs.

Brentwood Municipal Code Section Chapter [16.150 Dedication, Park Land or Fees-In-Lieu](#) details that all projects must dedicate land, pay a fee in-lieu thereof, or both, at the option of the city, for park or recreational purposes at the time pursuant to the standards and formula set forth in the chapter. Based on the park dedication formula, the amount of land to be dedicated for park purposes and the basis for calculating the fee-in-lieu shall be based on the average number of persons per dwelling unit x .0050.

The Parks and Recreation Department uses 3.2 as the average number of persons per dwelling unit for this calculation, consistent with the General Plan.

$$\text{Average Number of Persons/unit (3.2) X .0050} = .0160 \text{ acres per unit}$$

$$94 \text{ units x .0160 acres} = 1.504 \text{ acres}$$

Based on this, the project would be required to provide a total of 1.5 acres in land to be dedicated or to pay a fee in-lieu of dedication.

When reviewing new residential development projects and applying General Plan and Master Plan policies to new development as well as [BMC Chapter 16.150](#), the Parks and Recreation Department considers the following:

- Project size, location, and proposed residential unit count in relation to existing parks in the vicinity of the new development, as well as future development and planned park facilities in the vicinity of the new development, for the purposes of determining whether park land dedicated or in-lieu fees would be appropriate for the project.





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- Whether or not a project should be subject to providing both the Neighborhood Park and Community Park components of the park acreage requirement, or if some combination of the park acreage component(s) and in-lieu fee would be appropriate for the project.
- Offers of dedication for land not suitable for residential development, or land that does not qualify for park dedication credit, where said land would otherwise remain undeveloped or inaccessible, in order to augment city-wide park system and open space acreage.
- Programming and use of park land and facilities required by new development based on park, open space, and recreation needs city-wide.

In addition, when determining whether to support payment of in-lieu fees for new developments, the Parks and Recreation Department analyzes and considers the following:

- Proximity of the new development to existing neighborhood parks (i.e., 1/4-mile or 1/2-mile) to potentially satisfy the neighborhood park needs of the residents of the new development with an existing neighborhood park.
- Policies to provide at least 5 acres of improved public park land per 1,000 residents.
- Proximity of the new development to other future areas of new development where a single planned neighborhood park could satisfy the park land and residents needs of two or more smaller new developments in an area.
- Physical site or off-site constraints such as major roads, railroad tracks, terrain, or existing land uses that act as barriers or create safety concerns for residents of the new development attempting to utilize a nearby existing neighborhood park.
- Opportunities to expand the City's trail system by completing previously identified unfinished trail segments, adding new trail segments that provide connectivity, and expanding the trail system with future trail connectors and trail heads.
- Analyze the community need for larger scale facilities identified in the master plan such as community parks, sports complexes, sports facilities, and community centers such as the Sand Creek Sports Complex and during the new development process, and when appropriate, condition the entitlements to pay in-lieu fees for the benefit of the community and to satisfy the requirements of the project.
- Carefully consider the cost and maintenance needs of future park facilities and amenities in order to maximize benefit to the community and minimize future capital replacement and maintenance cost with the operation of these facilities.



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The project would include constructing trail improvements along the west side of Marsh Creek to the Marsh Creek Trail bridge crossing and Homecoming Park, located approximately 1,500 feet to the south of the property. Homecoming Park is an approximately one acre park that currently includes play equipment and a sports court. The City Council has approved replacement of the playground equipment as part of the 2023/24 – 2027/28 CIP.

Nearby parks and their distances from the project are identified in the following tables:

<b>Parks</b>	<b>Distance from Subject Property</b>
Homecoming Park	.32 mile
Sunset Athletic Complex	.34 mile
Bosk Park	.48 mile
Daytona Park	.49 mile
Dakota Park	.53 mile
Big Basin Park	.57 mile
Marsh Creek Vista Park	.58 mile
Live Oak Park	.72 mile

<b>Parks</b>	<b>Distance from Subject Property</b>
Sparrow Park	.78 mile
Hummingbird Park	.79 mile
Dragonfly Park	.89 mile
Sycamore Park	.92 mile
Dolphin Park	.94 mile
Portofino Park	.95 mile
Pelican Park	.97 mile

Based on the above mentioned policies and considerations, including General Plan Policy CSF 2-9 to continue to collect development impact fees in order to fund the acquisition of parkland and construction of new facilities (such as the Sand Creek Sports Complex), the location of the project and ease of access to other parks within 1-mile, and the continued prioritization of the Sand Creek Sports Complex, staff has been supportive of allowing the project to not construct a park and pay its fair share of in-lieu fees.

Based on the Planning Commission's added condition requiring the project to reconfigure the bioretention areas to maximize open space area to include a gathering space and play equipment east of Lots 59 and 60, the applicant has submitted a new preliminary plan that illustrates that an approximately 0.6 acre park



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can be achieved. Based on the revised plan, the park would meet the minimum park size requirements to qualify for park credits and therefore would be required to be dedicated to the City. Since the park is not large enough to satisfy the project's entire park requirement, the project would still be required to pay the balance in in-lieu fees, allowing the project to include both park amenities to be dedicated to the City as well as the balance of in-lieu fees to go towards future park projects.

It should be noted that as conditioned by the Planning Commission, the project was only required to reconfigure existing open space area and was not conditioned in a manner that would lessen the intensity of housing, such as decreasing the density or number of units, which would not be permitted in accordance with [Government Code section 65589.5\(j\)](#)). The City cannot deny or condition the project in a manner that would require the reduction of units to accommodate a larger 1.5 acre park which would result in decreasing the density and number of units.

Based on the revised plan, the City has added conditions #25-30 to the VTSM Resolution to address the park dedication, timing and fees. As currently conditioned, the park would include gathering space and play equipment. The City's design review and tentative map applications do not require design and programming details (e.g., types of play structures) for proposed parks as part of the entitlement package. Since that information is not required in order for a project to be deemed complete, the City cannot make approval dependent on that information. If the project is approved, the final park design/programming would be reviewed and approved by the Parks and Recreation Commission.

Although the applicant has submitted a revised plan that includes a .6 acre park based on Planning Commission direction, if the City Council is supportive of allowing the project to not construct a park and pay its fair share of in-lieu fees in its entirety, conditions could be included to revert back to the original plan or a smaller "gathering area" only, with few amenities to be maintained by the subdivision and not dedicated to the City.

**SITE ACCESS**

As designed, the project meets all City requirements for access and circulation by providing two access points into the development.

As currently designed, site access would be provided by way of Hanson Lane and Lone Tree Way, which (at this location) are minor local streets that will be extended as part of the proposed project. A Traffic Analysis was completed for the project which indicates the project is consistent with the impacts analyzed in the General Plan and



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anticipated for the project site. As proposed, emergency vehicle access is included connecting to Bonita Way, but a full access connection is not included through this neighborhood since it is not required by the Municipal Code, the General Plan or any other City standards/requirements and is not recommended by the City Traffic Engineer. In addition, including a connection to Bonita Way would provide additional traffic through an existing neighborhood that could otherwise be avoided.

### **PERIMETER WALL HEIGHTS AROUND THE DEVELOPMENT**

Based on comments and concerns raised regarding the perimeter wall heights surrounding the property, the applicant has provided an additional edge condition exhibit which is attached for reference. As shown on the attached exhibit, the maximum height of retaining walls surrounding the property would be approximately 4-feet along the northern and western property lines. The applicant has agreed to work with City staff on providing a visual and safety barrier on the northern property line of the project, as well as working with staff on project entry details to include clear delineation of private and public access points along Lone Tree Way. There will be a new 6-foot tall good neighbor fence along the western perimeter property lines.

### **CONCLUSION**

According to the Municipal Code, a call for review results in a 'de novo' or new hearing. The City Council, sitting as the appellate body, is thus required to make specific findings supporting its decision, be it upholding the lower body's decision, modifying it, or reversing it.

The following outlines the options for Council when considering the call for review:

1. If the call for review results in a project approval, the existing entitlement would be affirmed, as it was originally approved by the Planning Commission on September 19, 2023. The Council would formally approve the project by adopting the Council resolutions as attached.
2. If the call for review results in a project approval with additional or revised conditions imposed by the Council, the Council would formally approve the project by adopting the attached Council resolutions with additional or revised conditions, such as revised park conditions per the discussion above.
3. If the call for review results in a project denial, the Council would provide findings for the denial and the item would return to the Council at a subsequent meeting to formally deny the project.



## **CITY COUNCIL STRATEGIC INITIATIVE**

Not Applicable.

## **PREVIOUS ACTION**

Previous Action by the City Council is included in Attachment 1.

## **DATE OF NOTICE**

As required, the City published a public hearing notice in the Brentwood Press and mailed it to property owners within 300 feet of the site on October 13, 2023, and the project site is posted with the required signage. As of the agenda publication, staff has not received any public comments on the application.

## **ENVIRONMENTAL DETERMINATION**

The City prepared a mitigated negative declaration for this project in accordance with the requirements of the California Environmental Quality Act (CEQA, codified at Public Resources Code 21000, et seq., and as further governed by the State CEQA Guidelines, found at 14 CCR 15000, et seq.). Several potentially significant impacts are identified; however, mitigation measures are incorporated to reduce those impacts to less than significant levels. All mitigation measures not addressed by the standard conditions of approval are included as conditions of approval where appropriate.

The public review period for the proposed IS/MND began on April 21, 2023, and ended on May 22, 2023. Staff did not receive any comment letters during this public review period.

An Errata Sheet has been prepared for the IS/MND to provide consistency for the numbering of the proposed mitigation measures. The revisions do not result in modifications to the conclusions of the IS/MND and do not result in significant new information. Therefore, pursuant to CEQA, recirculation of the IS/MND is not required. The IS/MND, Mitigation Monitoring and Reporting Program (MMRP) and the IS/MND Errata Sheet may be reviewed by clicking on the link below and scrolling to "Hanson Lane:"

<https://www.brentwoodca.gov/government/community-development/planning/ceqa-documents>



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**ATTACHMENT(S)**

1. Previous Action
2. Resolution Hanson Lane MND and MMRP
  - A. Hanson Lane IS/MND (see link embedded in the staff report)
  - B. Hanson Lane MMRP (see link embedded in the staff report)
  - C. Hanson Lane Errata Sheet (see link embedded in the staff report)
3. Resolution Hanson Lane VTSM
4. Resolution Hanson Lane DR
5. Revised Hanson Lane Exhibits
6. Hanson Lane Design Review and Vesting Tentative Subdivision Map Package
7. Hanson Lane Project Description
8. Public Comment
9. September 19, 2023 Planning Commission Agenda Packet w/o attachments
10. Approved Planning Commission Resolutions
11. Affordable Housing Ordinance – January 2022