



**City of St. Helena
Planning Commission
Regular Meeting
Tuesday, May 19, 2020 @ 6:00 PM**

In accordance with Executive Orders N-25-20, N-29-20, and guidance from the California Department of Public Health on gatherings, remote public participation is allowed. We will address the Order in the following ways: Members of the public may not physically attend meetings. The Planning Commission meeting will be live-streamed on Comcast Channel 28 and on the City's website, barring technical difficulties. Those members of the public wishing to participate must do so remotely via Zoom electronic meetings in the following ways; by either logging onto the Zoom link located on the meeting agenda (please download the app to your computer or mobile device) and enter the meeting ID or by calling a listed number and enter the meeting ID. Public comment for Planning Commission meetings will be accepted via email to publiccomment@cityofstheleena.org.

Please see the end of the agenda for detailed PUBLIC PARTICIPATION instructions.

Please click the link below to join the meeting:

<https://us02web.zoom.us/j/89478914909>

Or iPhone one-tap :

US: +16699006833,,89478914909# or +13462487799,,89478914909#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592

Meeting ID: 894 7891 4909

International numbers available: <https://us02web.zoom.us/j/89478914909>

PLEASE NOTE: Any person who wishes to speak regarding an item on the agenda or make a comment under the "Oral Communication" portion of the agenda may do so, but please observe the time limit of four minutes.

Page

1. PLEDGE OF ALLEGIANCE
2. CALL TO ORDER AND ROLL CALL
Chairperson: Lester Hardy
Vice Chair: John Ponte
Commissioners: Autumn Anderson, Daniel Hale and Bobbi Monnette
City staff present at the meeting will be noted in the minutes.
3. PUBLIC FORUM:
This is an opportunity for the public to address the Commission on items of interest to the public that are NOT listed on the agenda. Because of restrictions imposed by the Brown Act, the Commission may not engage in discussion nor

take action on matters not described on the agenda. **Please observe the time limit of four minutes.**

4. CONSENT ITEMS

Members of the Commission or the public may ask that any items be considered individually for purposes of considering alternative action, for extended discussion, or for public comment. Unless that is done, one motion may be used to adopt all recommended actions. (Roll Call Vote)

- 4.1. Approval of Minutes: January 21, 2020, February 4, 2020 and May 5, 2020. 7 - 16

[Commission Minutes 1.21.2020](#)

[Commission Minutes 2.04.2020](#)

[Joint CC & PC Minutes 5.05.2020](#)

5. PUBLIC HEARINGS

- 5.1. Recommendation that the City Council adopt an Ordinance amending Chapter 17.116, Section 17.116.030 of the St. Helena Municipal Code relating to accessory dwelling units. 17 - 42

CEQA Determination: Exempt pursuant to CEQA Guidelines Section 15303.

Prepared By: Aaron Hecock, Senior Planner

Recommendation:

Staff recommends that the Planning Commission:

1. Recommend that the City Council adopt an ordinance amending Chapter 17.116, Section 17.116.030 of the St. Helena Municipal Code relating to accessory dwelling units and junior accessory dwelling units; and
2. Determine that the ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15303.

[Ordinance amending Chapter 17.116, Section 17.116.030 of the St. Helena Municipal Code - Staff Report](#)

6. SCHEDULED MATTERS

- 6.1. Consideration and proposed approval of a resolution determining that the FY 2020/21 Capital Improvement Program (CIP) is in conformance with the General Plan 43 - 60

CEQA Determination: Categorically Exempt Sections 15301, 15302, 15303. Each project proposes to modify or improve to existing facilities, replace or reconstruct existing facilities and/or construct or convert small facilities or structures. Individual projects will have separate CEQA action.

Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer

Recommendation:

Adopt the attached resolution determining that Fiscal Year 2020/21 Capital Improvement Program is in conformance with the General Plan.

[FY 2020/21 Capital Improvement Program \(CIP\) - Staff Report](#)

7. DEPARTMENT REPORTS

This is an opportunity for staff to report on or update the Commission on any relevant matters.

8. AGENDA FORCAST

Below is a link to a list of pending and upcoming projects which may be of interest to the community.

This is also an opportunity for the Commission as a whole to request items be placed on future agendas for discussion. These items should be consistent with, and work to implement adopted Council Goals.

A list of all current planning projects is available on our city website in the link below:

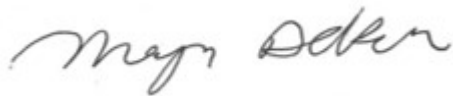
http://www.cityofsthelena.org/projects?term_node_tid_depth=21

Please contact the assigned project Planner for additional questions.

9. ADJOURNMENT

The next Regular Planning Commission meeting is scheduled for June 2, 2020, at 6:00 p.m.

I do hereby certify that a copy of the foregoing agenda was posted on the City website on Friday, May 8, 2020.



Maya DeRosa, Planning & Building Director

Appeal. A person who is dissatisfied with a decision of the Planning Commission may appeal that decision to the City Council pursuant to Municipal Code Section 17.08.180, Appeal procedure. Actions of the Planning Commission will be listed on the City Council agenda the following Tuesday to give the City Council opportunity to review the Planning Commission's decision. Absent of an appeal by the City Council or by a citizen, the appeal period will terminate two weeks after the Planning Commission hearing.

Special Assistance for the Disabled. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Clerk's Office (707) 967-2792. Notification 48 hours prior to the meeting will enable City to make reasonable arrangements to ensure accessibility to this meeting (28 CFR35.102-35.104 ADA Title II). However, City staff will attempt to assist at any time with accessibility. The City Clerk has equipment to assist those with a hearing impairment.

PUBLIC TESTIMONY PROCEDURES

Pursuant to the Government Code Section 54954.3, the public may address the Commission on each agenda item during the Commission's consideration of that item. Each speaker has the option to state his or her name for the

record before testifying. Depending on the number of speakers or the interest of the item, the Planning Commission Chairman may also restrict, at his/her discretion, the speaker's time to three minutes. The Chairman may also restrict public comments if they become irrelevant to the agenda item or repetitious of prior comments. All persons interested may appear and be heard or submit written statements prior to the Planning Commission meeting. Please note that if you challenge the City's decision on any of these matters in court, you may be limited to raising only those issues you or someone else raised at the meeting or in written correspondence delivered to the City at, or prior to, the meeting.

CHALLENGING DECISIONS OF CITY ENTITIES

The time limit within which to commence any lawsuit or legal challenge to any quasi-adjudicative decision made by the City of St. Helena is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitation period is specified by any other provision, including without limitation Government Code section 65009 applicable to many land use and zoning decisions, Government Code section 66499.37 applicable to the Subdivision Map Act, and Public Resources Code section 21167 applicable to the California Environmental Quality Act (CEQA). Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred. Government Code section 65009 and 66499.37, and Public Resources Code section 21167, impose shorter limitations periods and requirements, including timely service in addition to filing.

If a person wishes to challenge the above actions in court, they may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the City of St. Helena, at or prior to the meeting. In addition, judicial challenge may be limited or barred where the interested party has not sought and exhausted all available administrative remedies.

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

Any supplemental writings or documents distributed to a majority of the City Council regarding any item on this Agenda, after the posting of the Agenda, will be available for public review in the City Clerk's Office located at 1480 Main Street, St. Helena, California, during normal business hours. In addition, such writings or documents will be made available on the City's web site at <https://sthelena.civicweb.net> and will be available for public review at the respective meeting.

THE CITY OF ST. HELENA ENCOURAGES ONLINE PUBLIC PARTICIPATION IN VIRTUAL PLANNING COMMISSION MEETINGS

St. Helena, CA— The City of St. Helena is committed to public participation in City government in a manner that is consistent with guidance provided by the Napa County Public Health Official and Governor Newsom's Executive Order N-25-20. These guidelines relate to social distancing, and are intended to protect everyone by limiting the spread of COVID-19 in our community. In adherence to these guidelines, the St. Helena Planning Commission will host a Virtual Commission Meeting on Zoom; a free teleconferencing tool that

enables users to watch and/or call into the meeting from their computers or phones. This meeting will be open to public and allows for live public comment. The meeting will also be recorded, livestreamed, and posted on the City's website after the adjournment of the meeting if technical difficulties occur: <https://sthelena.civicweb.net/Portal/>

The ZOOM web link, meeting ID, and phone number will be listed at the top of the Planning Commission Meeting Agenda. You will be required to enter the meeting ID, but there will be no password or participant ID.

How to Watch or Listen to Planning Commission Meetings:

1. Watch on Comcast Channel 28
2. Watch the livestreaming video on the City's website
3. Watch and Listen on Zoom.us by clicking on the link in the Planning Commission Agenda
4. Listen only by calling the Zoom number listed on the Planning Commission Agenda

Watch Planning Commission Meeting by Joining the Zoom Meeting:

1. **By Computer, Tablet, or Smart Phone:**
 - a. Before joining the virtual Planning Commission Meeting, it is highly encouraged that you download the Zoom App. To sign up for your own free account, visit zoom.us/signup and enter your email address. You will receive an email from Zoom (no-reply@zoom.us). In this email, click Activate Account.
 - b. If you are logged into your account, Enter the **Meeting ID** listed on the Planning Commission Agenda. If you have not created an account go to: <https://zoom.us/join> and enter the **Meeting ID**
 - c. Select if you would like to connect audio and/or video and tap **Join Meeting**.
 - d. For specific instructions for your device, go to: <https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>
2. **Listen Only by Telephone:**
 - a. **Dial** the number listed on the Planning Commission Agenda.
 - b. At the prompt, enter the **Meeting ID** provided on the top of the Planning Commission Meeting Agenda and **Press #. A participate ID is not required.**
 - c. To disconnect from the meeting, hang up the phone.

Ways to Provide Public Comment:

While attending the virtual Planning Commission Meeting, the public will have the opportunity to provide live public comment during Public Forum and after each agenda item. When it is the appropriate time for public comment the Mayor will verbally open public comment. At this time each individual is permitted 4 minutes to speak.

1. **Send a Public Comment in Advance to** publiccomment@cityofsthelena.org

The easiest way to provide public comment is to email your public comment. Public comments may be emailed to publiccomment@cityofsthelena.org. Please include in the subject line "COMMENT TO PLANNING COMMISSION and the AGENDA ITEM". Any public comment is required to be submitted no later than 1 hour

before the scheduled meeting and will be included as an attachment to the agenda.

2. **Provide Comment through Zoom meeting from a computer, tablet, or smart phone**

This option allows the public to virtually attend the meeting as a muted 'attendee' with no video or screen sharing capabilities. You will be able to see and hear those participating in the meeting, but they will not be able to hear you until the host unmutes you.

If you wish to provide public comment during a specific agenda item or during public forum, you can use the **"raise hand"** feature located in the control panel at the bottom of your screen. The icon is a small blue hand. In Windows you can also use the Alt+Y keyboard shortcut to raise or lower your hand. In Mac you can also use the Option+Y keyboard shortcut to raise or lower your hand.

The host will be notified that you've raised your hand and you will be placed in a queue with all incoming requests.

When it is your turn to speak, you will be notified that the host has unmuted you. To be removed from the queue, just click the **'raise hand'** button again.

3. **Call in to the ZOOM meeting from a cell phone or landline phone only**

This option allows the member of the public with the opportunity to verbally participate in public comment.

If you wish to speak during public comment time dial ***9** on your telephone.

The host will be notified that you would like to speak and you will be placed in a queue with all incoming requests.

When it is your turn to speak, you will be notified that the host has unmuted you. You may press ***9** again if you wish to be removed from the queue.

You will be notified at the end of your statement that you have been muted.

MINUTES
City of St. Helena
Planning Commission Meeting
Tuesday, January 21, 2020 @ 7:10 PM
Vintage Hall Board Room - Second Floor
465 Main Street, St. Helena

A complete video recording of this meeting, except for closed session, can be found at <https://stheleena.civicweb.net/Portal/> or by calling the City Clerk at (707) 967-2792. The City Council video is the official record of the Council meeting.

Present: Chair Lester Hardy, Commissioner Daniel Hale, Commissioner Bobbi Monnette, Vice Chair John Ponte, and Commissioner Autumn Anderson

Absent: None

Staff Present: Maya DeRosa, Planning & Building Director, Erica Smithies, Public Works Director & City Engineer, Aaron Hecock, Senior Planner, and Xinia Gamero, Permit Technician II

1. PLEDGE OF ALLEGIANCE

2. CALL TO ORDER AND ROLL CALL

3. PUBLIC FORUM:

No public comment was received.

4. CONSENT ITEMS

Commissioner Monnette pulled the minutes on the consent agenda.

4.1 Approval of Minutes: December 17, 2019

Commissioner Bobbi Monnette moved to approve the minutes of December 17, 2019 on the consent calendar. The motion was seconded by Commissioner Daniel Hale and on roll call carried by the following vote:

AYES: Daniel Hale, Bobbi Monnette, John Ponte, and Autumn Anderson

NOES: None

ABSENT: None

ABSTAIN: Lester Hardy

RECUSE: None

5. PUBLIC HEARINGS

- 5.1** The applicant is proposing to demolish an existing two-bedroom, one-bath residence in order to construct a new two-story, three-bedroom, three-bath residence with a total of 2,204 square feet at 1620 Spring Street in the Medium

Density Residential District.

CEQA Determination: Exempt pursuant to CEQA Guidelines Sections 15301 and 15303.

Prepared By: Chris Gustin, Contract Planner

Recommendation:

The Planning Department recommends that the Planning Commission adopt a resolution finding that:

1. The project is exempt from the requirements of CEQA pursuant to CEQA Section 15301 and 15303, and
2. Accepting the required findings and approving the requested Demolition Permit and Design Review for a new single family residence at 1620 Spring Street.

Senior Planner Aaron Hecock reported on the item.

Applicant representative Ted Smith addressed the Planning Commission.

Chair Hardy opened the public hearing.

Ted Shuel addressed the Planning Commission.

Chair Hardy closed the public hearing.

Chair Hardy re-opened the public hearing.

Ted Smith addressed the Planning Commission.

Chair Hardy closed the public hearing.

Vice-Chair John Ponte moved to approve the item as amended. The motion was seconded by Commissioner Autumn Anderson and on roll call carried by the following vote:

AYES: Lester Hardy, Daniel Hale, Bobbi Monnette, John Ponte, and Autumn Anderson

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

- 5.2 The City of St. Helena Public Works Department requests Demolition Permit and Design Review approval in order to demolish and reconstruct the Crinella Pump Station facility at 1758 Crinella Drive in the Medium Density Residential

district.

CEQA Determination: The project is exempt from the requirements of CEQA pursuant to Section 15302.

Prepared By: Aaron Hecock, Senior Planner

Recommendation:

For the reasons stated above, staff recommends that the Planning Commission:

1. Determine that the project is exempt from the requirements of CEQA pursuant to Section 15302; and
2. Accept the required findings and approve a demolition permit and design review for the proposed reconstruction of the Crinella Pump Station facility on 1758 Crinella Drive in the MR: Medium Density Residential district.

Public Works Director and City Engineer Erica Smithies reported on the item.

Chair Hardy opened the public hearing.

Mike Griffin, Anthony Micheli and Ken Larson addressed the Planning Commission.

Chair Hardy closed the public hearing.

Chair Hardy re-opened the public hearing.

Anthony Micheli and Mike Griffin addressed the Planning Commission.

Chair Hardy closed the public hearing.

Chair Hardy re-opened the public hearing.

Anthony Micheli addressed the Planning Commission.

Chair Hardy closed the public hearing.

Commissioner Bobbi Monnette moved to approve staff recommendation. The motion was seconded by Commissioner Autumn Anderson and on roll call carried by the following vote:

AYES: Lester Hardy, Daniel Hale, Bobbi Monnette, John Ponte, and Autumn Anderson

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

6. SCHEDULED MATTERS

7. DEPARTMENT REPORTS

Maya DeRosa, Planning & Building Director reported on the following:

- Planning staff working on SB 330 Preliminary Housing Development checklist
- Comprehensive Zoning Code update- public stakeholder meetings planned for February

8. AGENDA FORCAST

9. ADJOURNMENT

Chair Hardy adjourned the meeting at **8:24 p.m.**

The January 21, 2020 minutes were approved at the _____
Planning Commission meeting.

APPROVED:

ATTEST:

Lester Hardy, Planning Commission Chair

Maya DeRosa, Planning and Building Director

MINUTES
City of St. Helena
Planning Commission Meeting
Tuesday, February 4, 2020 @ 6:00 PM
Vintage Hall Board Room - Second Floor
465 Main Street, St. Helena

A complete video recording of this meeting, except for closed session, can be found at <https://sthelena.civicweb.net/Portal/> or by calling the City Clerk at (707) 967-2792. The City Council video is the official record of the Council meeting.

Present: Chair Lester Hardy, Vice Chair John Ponte, Commissioner Daniel Hale, Commissioner Bobbi Monnette, and Commissioner Autumn Anderson
Absent: None
Staff Present: Maya DeRosa, Planning & Building Director, Aaron Hecock, Senior Planner, Erica Ahmann Smithies, Public Works Director and City Engineer (*joined meeting via conference call*), and Xinia Gamero, Permit Technician II

1. PLEDGE OF ALLEGIANCE

2. CALL TO ORDER AND ROLL CALL

3. PUBLIC FORUM:

No public comment was received.

4. CONSENT ITEMS

- 4.1 Approval of Special Joint City Council and Planning Commission Minutes: January 21, 2020

Commissioner John Ponte moved to approve the minutes on the Consent Calendar. The motion was seconded by Commissioner Bobbi Monnette and on roll call carried by the following vote:

AYES: Lester Hardy, Daniel Hale, Bobbi Monnette, John Ponte, and Autumn Anderson

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

5. PUBLIC HEARINGS

- 5.1 The applicant is requesting Demolition Permit and Design Review approval in order to demolish an existing single-family home in order to accommodate construction of a new home.

CEQA Determination: Exempt pursuant to CEQA Guidelines Sections 15301 and 15303.

Prepared By: Chris Gustin, Contract Planner

Recommendation:

The Planning Department recommends that the Planning Commission adopt a resolution finding that:

1. The project is exempt from the requirements of CEQA pursuant to CEQA Sections 15301 (L)(1) and 15303 (A), and
2. Accepting the required findings and approving the requested Demolition Permit and Design Review for a new single family residence at 222 Pope Street.

*** Public Works Director and City Engineer Erica Ahmann-Smithies joined the meeting via conference call. ***

Chris Gustin, Contract Planner reported on the item.

Chair Hardy opened the public hearing.

Architect, Toby Long and applicants, Jennifer and Mario Trinchero addressed the Planning Commission.

Chair Hardy closed the public hearing.

Chair Hardy re-opened the public hearing.

Jennifer Trinchero and Toby Long addressed the Planning Commission.

Chair Hardy closed the public hearing.

Commissioner John Ponte moved to approve the item as amended. The motion was seconded by Commissioner Autumn Anderson and on roll call carried by the following vote:

AYES: Lester Hardy, Daniel Hale, Bobbi Monnette, John Ponte, and Autumn Anderson

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

6. SCHEDULED MATTERS

7. DEPARTMENT REPORTS

Planning and Building Director Maya DeRosa reported on the following:

- Comprehensive zoning code update

8. AGENDA FORCAST

9. ADJOURNMENT

Chair Hardy adjourned the meeting at **6:41 P.M.**

The February 4, 2020 minutes were approved at the _____
Planning Commission meeting.

APPROVED:

ATTEST:

Lester Hardy, Planning Commission Chair

Maya DeRosa, Planning and Building Director

MINUTES
City of St. Helena
Special Joint City Council and Planning Commission Meeting
Tuesday, May 5, 2020 @ 6:00 PM

In accordance with Executive Orders N-25-20, N-29-20, and guidance from the California Department of Public Health on gatherings, remote public participation is allowed. We will address the Order in the following ways: Members of the public may not physically attend meetings. The Planning Commission meeting will be live-streamed on Comcast Channel 28 and on the City's website, barring technical difficulties. Those members of the public wishing to participate must do so remotely via Zoom electronic meetings in the following ways; by either logging onto the Zoom link located on the meeting agenda (please download the app to your computer or mobile device) and enter the meeting ID or by calling a listed number and enter the meeting ID. Public comment for Planning Commission meetings will be accepted via email to publiccomment@cityofstheleena.org.

A complete video recording of this meeting, except for closed session, can be found at <https://stheleena.civicweb.net/Portal/> or by calling the City Clerk at (707) 968-2742. The City Council video is the official record of the Council meeting.

Present: **City Council:** Mayor Geoff Ellsworth, Vice Mayor Paul Dohring, Council Member Anna Chouteau, Council Member David Knudsen, and Council Member Mary Koberstein

Planning Commission: Chair Lester Hardy, Vice Chair John Ponte, Commissioner Autumn Anderson, Commissioner Bobbi Monnette, and Commissioner Daniel Hale

Absent: None

Staff Present: Mark Prestwich, City Manager, Maya DeRosa, Planning & Building Director, Ethan Walsh, City Attorney, Aaron Hecock, Senior Planner, and Xinia Gamero, Permit Technician II

- 1 **CALL TO ORDER**
- 2 **PLEDGE OF ALLEGIANCE**
- 3 **ROLL CALL**

Mayor Ellsworth provided an update on meetings between local officials, federal and state representatives regarding COVID-19 recovery phases.

4 PUBLIC FORUM:

No public comment was received.

5 NEW BUSINESS

- a) Comprehensive Zoning Code Update-Stakeholder Engagement Discussion

CEQA Determination: Not a Project

Recommendation:

No action is necessary.

Planning and Building Director Maya DeRosa, Consultants Lisa Wise and Monica Szydluk, showed presentation and reported on the item.

Chair Hardy opened the public comment.

Erica Sklar and Eric Sklar addressed the City Council and Planning Commission.

Chair Hardy closed the public comment.

6 SCHEDULED MATTERS

7 ADJOURNMENT

Chair Hardy adjourned the meeting at **7:54 p.m.**

The May 5, 2020 minutes were approved at the _____ Planning Commission meeting.

APPROVED:

ATTEST:

Lester Hardy, Planning Commission Chair

Maya DeRosa, Planning and Building Director



PLANNING COMMISSION REPORT

Planning Commission Meeting of May 19, 2020

SUBJECT: Recommendation that the City Council adopt an Ordinance amending Chapter 17.116, Section 17.116.030 of the St. Helena Municipal Code relating to accessory dwelling units.

PREPARED BY: Aaron Hecock, Senior Planner

REVIEWED BY: Maya DeRosa, Planning & Building Director

APPROVED BY: Maya DeRosa, Planning & Building Director

APPLICATION FILED:

LOCATION OF PROPERTY: Citywide

BACKGROUND

In 2019, the California Legislature approved, and the Governor signed into law a number of bills ("New ADU Laws") that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs. The New ADU Laws took effect January 1, 2020. As the City's ADU ordinance does not comply with the New ADU Laws, the City's ordinance is currently null and void as a matter of law.

PROJECT DESCRIPTION

The proposed ordinance amends Chapter 17.116, Section 17.116.030 of the St. Helena Municipal Code to impose new limits on local authority to regulate Accessory Dwelling Units and Junior Accessory Dwelling Units in compliance with the provisions of Government Code sections 65852.2 and 65852.22 as amended by recently approved legislation that took effect on January 1, 2020.

ANALYSIS

Failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020 renders the City's ordinance regulating ADUs

and JADUs null and void, thereby limiting the City to the application of the few default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs. The attached resolution and the draft ordinance (Attachment A to the resolution) include changes to St. Helena Municipal Code Chapter 17.116, Section 17.116.030 substantially in the form attached.

CEQA

Under California Public Resources Code section 21080.17, the California Environmental Quality Act ("CEQA") does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California's ADU law and which also regulates JADUs, as defined by section 65852.22. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State's ADU law.

In addition to being statutorily exempt from CEQA, the proposed ordinance is also categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts from CEQA, among other things, the construction and location of new, small structures and the conversion of existing small structures from one use to another. Section 15303 specifically lists the construction of appurtenant accessory structures and garages as examples of activity that expressly falls within this exemption. Here, the ordinance is categorically exempt under the Class 3 exemption because the ordinance regulates the conversion of existing structures into, and the new construction of, ADUs and JADUs, which are, by definition, structures that are accessory to a primary dwelling on the lot.

ISSUES

As permitted by the newly adopted state legislation, the ordinance as drafted currently only allows two-story ADUs, including ADUs constructed above an existing garage with approval of a Use Permit. Staff has concerns that this may not be the best approach to deal with ADUs over the 16 foot maximum. As such, the Commission may wish to consider allowing two-story ADUs as long as they are under the maximum height of the primary dwelling on-site while also meeting the required setbacks of the primary dwelling. Typically, this is a 25 foot height maximum with 10 foot sideyard and 20 foot front and rear setbacks (the setbacks increase if the structure is over 25 feet in height up to a 30 foot maximum).

CORRESPONDENCE

Staff had not received any correspondence related to this ordinance amendment at the time of report publication.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission:

1. Recommend that the City Council adopt an ordinance amending Chapter 17.116, Section 17.116.030 of the St. Helena Municipal Code relating to accessory dwelling units and junior accessory dwelling units; and
2. Determine that the ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15303.

ATTACHMENTS

[Resolution ADU Ordinance Amend.](#)

[April 2020 Draft ADU Ordinance Amend.](#)

[April 2020 ADU Ordinance](#)

[April 2020 ADU Ordinance - Clean](#)

CITY OF ST. HELENA PLANNING COMMISSION

RESOLUTION NO. PC2020-

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF ST. HELENA, CALIFORNIA,
RECOMMENDING THAT THE CITY COUNCIL ADOPT AN
ORDINANCE AMENDING CHAPTER 17.116, SECTION
17.116.030 OF THE ST. HELENA MUNICIPAL CODE
RELATING TO ACCESSORY DWELLING UNITS AND
JUNIOR ACCESSORY DWELLING UNITS AND
DETERMINING THE ORDINANCE TO BE EXEMPT FROM
CEQA**

Recitals

WHEREAS, the Planning and Zoning Law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”); and

WHEREAS, in 2019, the California Legislature approved, and the Governor signed into law a number of bills (“New ADU Laws”) that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, the New ADU Laws took effect January 1, 2020, and as the City’s ADU ordinance does not comply with the New ADU Laws, the City’s ordinance became null and void on that date as a matter of law; and

WHEREAS, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22; and

WHEREAS, failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020 rendered the City’s ordinance regulating ADUs and JADUs null and void, thereby limiting the City to the application of the few default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs; and

WHEREAS, the approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, landscape, architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety.

WHEREAS, staff and the City Attorney prepared the proposed ordinance, including the proposed language and terminology, and any additional information and documents deemed necessary for the Planning Commission to take action; and

WHEREAS, the City gave public notice of the public hearing for the proposed ordinance by publishing in the Napa Valley Register; and

WHEREAS, on May 19, 2020, the Planning Commission held a duly-noticed public hearing and considered the staff report, recommendations by staff, and public testimony concerning the proposed ordinance.

Resolution

NOW THEREFORE, THE PLANNING COMMISSION OF THE CITY OF ST. HELENA DOES RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:

Section 1. Under California Public Resources Code section 21080.17, the California Environmental Quality Act (“CEQA”) does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California’s ADU law and which also regulates JADUs, as defined by section 65852.22. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State’s ADU law.

In addition to being statutorily exempt from CEQA, the proposed ordinance is also categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts from CEQA, among other things, the construction and location of new, small structures and the conversion of existing small structures from one use to another. Section 15303 specifically lists the construction of appurtenant accessory structures and garages as examples of activity that expressly falls within this exemption. Here, the ordinance is categorically exempt under the Class 3 exemption because the ordinance regulates the conversion of existing structures into, and the new construction of, ADUs and JADUs, which are, by definition, structures that are accessory to a primary dwelling on the lot.

Section 2. Based on the entire record before the Planning Commission, and all written and oral evidence presented, the Planning Commission hereby finds that the proposed ordinance is consistent with the City’s adopted General Plan as the purpose of the proposed ordinance is to comply with the amended provisions of Government Code sections 65852.2 and 65852.22. The proposed ordinance does not otherwise conflict with any of the General Plan’s goals or policies.

Section 3. The Planning Commission hereby recommends that the City Council adopt the attached proposed ordinance (Attachment A) entitled: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. HELENA AMENDING CHAPTER 17.116, SECTION 17.116.030 OF THE CITY OF ST. HELENA MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA.

Section 6. The proposed ordinance entitled: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. HELENA AMENDING CHAPTER 17.116, SECTION 17.116.030 OF THE CITY OF ST. HELENA MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA is on file and

has been available for public review for at least ten days prior to the date of this Resolution, in the Planning Department, at St. Helena City Hall, 1572 Railroad Avenue.

I HEREBY CERTIFY that the foregoing recommendation to the City Council was duly and regularly approved by the Planning Commission of the City of St. Helena at a regular meeting of said Planning Commission held on May 19, 2020, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Lester Hardy
Chair, Planning Commission

Maya DeRosa, AICP
Planning and Building Director

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. HELENA AMENDING CHAPTER 17.116, SECTION 17.116.030 OF THE CITY OF ST. HELENA MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA

WHEREAS, the City of St. Helena, California ("City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, the Planning and Zoning Law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units ("ADUs") and junior accessory dwelling units ("JADUs"); and

WHEREAS, in 2019, the California Legislature approved, and the Governor signed into law a number of bills ("New ADU Laws") that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, New ADU Laws took effect January 1, 2020, and as the City's ADU ordinance does not comply with the New ADU Laws, the City's ordinance became null and void on that date as a matter of law; and

WHEREAS, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22; and

WHEREAS, failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020 rendered the City's ordinance regulating ADUs and JADUs null and void, thereby limiting the City to the application of the few default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs; and

WHEREAS, the approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, landscape, architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety; and

WHEREAS, the City Council has reviewed and considered the public testimony and agenda reports prepared in connection with this ordinance, including the policy considerations discussed therein, and the consideration and recommendation by the City's Planning Commission; and

WHEREAS, in accordance with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) ("CEQA") and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), the City has determined that the revisions to the St. Helena Municipal Code are exempt from environmental review.

NOW, THEREFORE, the City Council of the City of St. Helena does ordain as follows:

Section 1. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. Under California Public Resources Code section 21080.17, the California Environmental Quality Act ("CEQA") does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California's ADU law and which also regulates JADUs, as defined by section 65852.22. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State's ADU law.

In addition to being statutorily exempt from CEQA, the proposed ordinance is also categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts from CEQA, among other things, the construction and location of new, small structures and the conversion of existing small structures from one use to another. Section 15303 specifically lists the construction of appurtenant accessory structures and garages as examples of activity that expressly falls within this exemption. Here, the ordinance is categorically exempt under the Class 3 exemption because the ordinance regulates the conversion of existing structures into, and the new construction of, ADUs and JADUs, which are, by definition, structures that are accessory to a primary dwelling on the lot. Moreover, the City Council finds that none of the "exceptions" to the use of the Class 3 exemption, set forth in State CEQA Guidelines section 15300.2, apply here.

Section 3. Chapter 17.116, Section 17.116.030 of the St. Helena Municipal Code is hereby amended and restated as provided in Exhibit "A", attached hereto and incorporated herein by reference.

Section 4. This ordinance shall take effect 30 days following its adoption.

Section 5. The City Clerk shall either: (a) have this ordinance published in a newspaper of general circulation within 15 days after its adoption or (b) have a summary of this ordinance published twice in a newspaper of general circulation, once five days before its adoption and again within 15 days after its adoption.

Section 6. The City Clerk shall submit a copy of this ordinance to the Department of Housing and Community Development within 60 days after adoption.

Section 7. The City Council hereby directs staff to prepare, execute and file with the Napa County Clerk a Notice of Exemption within five working days of first reading of this ordinance.

Section 8. If any provision of this ordinance or its application to any person or circumstance is held to be invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this resolution are severable. The City Council declares that it would have adopted this resolution irrespective of the invalidity of any portion thereof.

Section 9. The documents and materials that constitute the record of proceedings on which this Ordinance and the above findings have been based are located at City Hall (1572 Railroad Avenue).

PASSED, APPROVED AND ADOPTED by the City Council of the City of St. Helena, California, at a regular meeting of the City Council held on the ____ th day of _____, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ST. HELENA

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

City Attorney

EXHIBIT A

Amendments to Municipal Code

(follows this page)

EXHIBIT A

Section 17.116.030 Accessory Dwelling Units

- (A) **Purpose.** The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code sections 65852.2 and 65852.22.
- (B) **Effect of Conforming.** An ADU or JADU that conforms to the standards in this section will not be:
 - (1) Deemed to be inconsistent with the City's general plan and zoning designation for the lot on which the ADU or JADU is located.
 - (2) Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
 - (3) Considered in the application of any local ordinance, policy, or program to limit residential growth.
 - (4) Required to correct a nonconforming zoning condition, as defined in subsection (C)(7) below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.
- (C) **Definitions.** As used in this section, terms are defined as follows:
 - (1) "Accessory dwelling unit" or "ADU" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:
 - (a) An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
 - (b) A manufactured home, as defined by Section 18007 of the California Health and Safety Code.
 - (2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
 - (3) "Complete independent living facilities" means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.
 - (4) "Efficiency kitchen" means a kitchen that includes each of the following:
 - (a) A cooking facility with appliances.

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EXHIBIT A

- (b) A food preparation counter or counters that total at least 15 square feet in area.
 - (c) Food storage cabinets that total at least 30 square feet of shelf space.
 - (5) “Junior accessory dwelling unit” or “JADU” means a residential unit that
 - (a) is no more than 500 square feet in size,
 - (b) is contained entirely within an existing or proposed single-family structure,
 - (c) includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and
 - (d) includes an efficiency kitchen, as defined in subsection (C)(4) above
 - (6) “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
 - (7) “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.
 - (8) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
 - (9) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
 - (10) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
 - (11) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
- (D) **Approvals.** The following approvals apply to ADUs and JADUs under this section:
- (1) **Generally.** Except as described in subsection (D)(2) below, an ADU is allowed with only a building permit if it complies with each of the requirements in subsections (E), (F), and (G) below.
 - (2) **Partial Exemption for Certain ADUs and JADUs.** An ADU or JADU in any of the four scenarios that are described in subsections (D)(2)(a)–(d) below is exempt from the design and development standards in subsection (F) and is allowed with only a building permit if it complies with each of the requirements in subsections (E) and (G) below.

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- (a) **Converted on Single-family Lot:** Only one ADU or JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - (i) Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress. For purposes of this paragraph, “within the existing space” includes a structure that is constructed in the same location and to the same dimensions.
 - (ii) Has exterior access that is independent of that for the single-family dwelling.
 - (iii) Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
- (b) **Detached on Single-family Lot:** One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (D)(2)(a) above), if the detached ADU satisfies the following limitations:
 - (i) The side- and rear-yard setbacks are at least four-feet.
 - (ii) The total floor area is 800 square feet or smaller.
 - (iii) The peak height above grade is 16 feet or less.
- (c) **Converted on Multifamily Lot:** Multiple ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. At least one converted ADU under this paragraph is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.
- (d) **Detached on Multifamily Lot:** No more than two detached ADUs on a lot that has an existing multifamily dwelling if each detached ADU satisfies the following limitations:
 - (i) The side- and rear-yard setbacks are at least four-feet.
 - (ii) The peak height above grade is 16 feet or less.

Commented [A1]: BBK: State law prevents the city from applying any front-yard setback to any of these BP-only ADUs.

The city may apply a front-yard setback to other ADUs (those approved under D.2.

Cities are challenged on the front-yard setback if they try to apply one to these BP-only ones.

Commented [A2]: BBK: Same comment as re D.1.b.i. State law prevents the city from applying a front-yard setback to detached on MF if the side and rear setbacks are 4 ft and the height is 16 ft or less.

Commented [A3]: BBK: This is a requirement of state law. The city can decide to be more generous to ADUs by raising this height limit or by eliminating it entirely, as was done in the prior revision, but that would result in the city being more generous than state law allows ... in essence, the city would be cutting itself off from applying any of its objective design and development criteria in subsection F (including front-yard setback) to any detached ADU on a MF lot as long as it is four feet from side and rear property lines ... regardless of height. (I.e., there would be no height limit on them.)

State law does not allow the city to impose a floor area limit on a BP-only detached on MF lot.

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EXHIBIT A

- (3) **Process and Timing.**
 - (a) An application for an ADU or JADU is considered and approved ministerially, without discretionary review or a hearing.
 - (b) The City must act on an application to create an ADU or JADU within 60 days from the date that the City receives a completed application, unless either:
 - (i) The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay; or
 - (ii) In the case of a JADU, when the application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the JADU until the City acts on the permit application to create the new single-family dwelling, but the application to create the JADU will still be considered ministerially without discretionary review or a hearing.
- (E) **General ADU and JADU Requirements.** The following requirements apply to all ADUs and JADUs:
 - (1) **Zoning.** An ADU or JADU may be created on any lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use (i.e., residential, mixed-use, and agriculturally zoned parcels).
 - (2) **Fire Sprinklers.** Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
 - (3) **Rental Term.** No ADU or JADU may be rented for a term that is shorter than 30 days.
 - (4) **No Separate Conveyance.** An ADU or JADU may be rented, but no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot).
 - (5) **Septic System.** If the ADU or JADU will connect to an onsite water-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.
 - (6) **Owner Occupancy.**
 - (a) All ADUs created before January 1, 2020 are subject to the owner-occupancy requirement that was in place when the ADU was created.

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EXHIBIT A

- (b) An ADU that is created after that date but before January 1, 2025, is not subject to any owner-occupancy requirement.
- (c) All ADUs that are created on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.
- (d) All JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.
- (7) **Deed Restriction.** Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:
 - (a) The ADU or JADU may not be sold separately from the primary dwelling.
 - (b) The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
 - (c) The deed restriction runs with the land and may be enforced against future property owners.
 - (d) The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
 - (e) The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the

Commented [A4]: BBK: State law requires a deed restriction for a JADU. We recommend a deed restriction with all ADUs, as it provides some of the only passive enforcement mechanisms available to the city. We have a sample deed restriction that you can use as a template if you need one.

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EXHIBIT A

use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

- (8) **Income Reporting.** In order to facilitate the City's obligation to identify adequate sites for housing in accordance with Government Code sections 65583.1 and 65852.2, the following requirements must be satisfied:

- (a) With the building-permit application, the applicant must provide the City with an estimate of the projected annualized rent that will be charged for the ADU or JADU.
- (b) Within 90 days after each yearly anniversary of the issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the City does not receive the report within the 90-day period, the City may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the City may enforce this provision in accordance with applicable law.

Commented [A5]: BBK: This was not in the original template, but we've recently added it in response to clients' requests, to help cities get the data that they need to get RHNA credit for ADUs that are developed. State law leaves HCD with significant discretion in whether and how to count ADUs, and HCD has indicated that it will count them based on reported income of tenants and that cities may require income reporting as part of the approval process.

This isn't a legal requirement, but the city might find it helpful.

- (F) **Specific ADU Requirements.** The following requirements apply only to ADUs that are approved under subsection (D)(1) above

(1) **Maximum Size.**

- (a) The maximum size of a detached or attached ADU subject to this subsection (F) is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two bedrooms. No more than two bedrooms are allowed.
- (b) An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling.
- (c) Application of other development standards in this subsection (F), such as FAR or lot coverage, might further limit the size of the ADU, but no application of FAR, lot coverage, or open-space requirements may require the ADU to be less than 800 square feet.

Commented [A6]: BBK: State law prevents the city from referring to or applying any other local regulation besides the ADU ordinance itself and the city's building and fire codes. So the FAR and lot coverage standards for ADUs need to be here in the ADU ordinance itself. If the city's general FAR regulation varies from zone to zone or based on some other criteria and is too cumbersome to include here, don't. Just include a simplified version. A simple number suffices.

45 percent is a placeholder. Replace with a number of your choice.

Commented [A7]: BBK: Same comment.

Commented [A8]: BBK: This might be different from what was in the first template that I shared with you, which was more generous to ADUs than what state law required. State law does not require the city to allow a second-story or two-story ADU. The city may cap height of an ADU at 16 feet above grade. Period.

At first, many of our city clients wanted to allow second-story (e.g., above-garage) or two-story ADUs, hence our first template, but most quickly moved away from that once they realized that the state law prevents any side or rear setback greater than 4 feet. They recognized that a two-story ADU four feet from the property line is significantly different than one set back by 15 or 20 feet.

So we dialed this back to restrict height as much as state law allows — with the understanding that someone may still apply to do a second-story or two-story ADU ... just not through this ministerial process. They can pursue that through the discretionary-approval alternative identified in subsection H below. Then the city can condition the second-story with appropriate setbacks, etc.

I'm including it here for the city's consideration.

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- (5) **Setbacks.**
 - (a) No part of any ADU may be located within 20 feet of the front property line.
 - (b) No part of any ADU may be located within four feet of a side or rear property line.
- (6) **Passageway.** No passageway, as defined by subsection (C)(8) above, is required for an ADU.
- (7) **Parking.**
 - (a) Generally. One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined by subsection (C)(11) above.
 - (b) Exceptions. No parking under subsection (F)(7)(a) is required in the following situations:
 - (i) The ADU is located within one-half mile walking distance of public transit, as defined in subsection (C)(10) above.
 - (ii) The ADU is within an architecturally and historically significant historic district.
 - (iii) The ADU is part of the proposed or existing primary residence or an accessory structure under subsection (D)(2)(a) above.
 - (iv) When on-street parking permits are required but not offered to the occupant of the ADU.
 - (v) When there is an established car share vehicle stop located within one block of the ADU.
 - (c) No Replacement. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.
- (8) **Historical Protections.** Exterior modifications to a listed historical property to accommodate construction of an ADU must comply with the Secretary of the Interior's objective Standards for the Treatment of Historic Properties.
- (G) **Fees.**
 - (1) **Impact Fees.**
 - (a) No impact fee is required for an ADU that is less than 750 square feet in size.

Commented [A9]: BBK: This reflects the language of the statute, which is arguably broader than what you wrote ("on a listed historic property").

Recommend leaving the language in the code like this, to reflect the statute and avoid the possibility of voiding the entire ordinance if the "listed" language is deemed to be inconsistent with the statute But in practice, when it comes to how you interpret and apply this provision, feel free to look to historic-property listings as your touchstone. That way, if you're wrong, you only face an as-applied challenge to that interpretation, not a wholesale attack on the validity of your entire ordinance.

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EXHIBIT A

- (b) Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the floor area of the primary dwelling, divided by the floor area of the ADU, times the typical fee amount charged for a new dwelling.) "Impact fee" here does not include any connection fee or capacity charge for water or sewer service.
- (2) **Utility Fees.**
 - (a) If an ADU or JADU is constructed with a new single-family home, a separate utility connection directly between the ADU or JADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.
 - (b) Except as described in Subsection (G)(2)(a) above, converted ADUs and JADUs on a single-family lot that are created under Subsection (D)(2)(a) above are not required to have a new or separate utility connection directly between the ADU or JADU and the utility. Nor is a connection fee or capacity charge required.
 - (c) Except as described in subsection (G)(2)(a) above, all ADUs and JADUs that are not covered by subsection (G)(2)(b) require a new, separate utility connection directly between the ADU or JADU and the utility.
 - (i) The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU or JADU, based on either the floor area or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system.
 - (ii) The portion of the fee or charge that is charged by the City may not exceed the reasonable cost of providing this service.
- (H) **Nonconforming ADUs and Discretionary Approval.** Any proposed ADU or JADU that does not conform to the objective standards set forth in subsections (A) through (G)(2) of this section may be allowed by the City with a conditional use permit, in accordance with the other provisions of this title.

Commented [A10]: BBK: As drafted, this was more generous to ADUs than what state law requires. Is that the intent?

If not, consider this alternative, which is as strict as state law permits.

Commented [A11]: As currently written, this Ordinance prohibits second story ADUs (i.e., above a garage etc.) without use permit approval. The Commission may wish to consider second story ADUs that meet the same height and setback requirements of the primary dwelling without a use permit requirement.

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EXHIBIT A

Section 17.116.030 Accessory Dwelling Units

- (A) **Purpose.** The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code sections 65852.2 and 65852.22.
- (B) **Effect of Conforming.** An ADU or JADU that conforms to the standards in this section will not be:
- (1) Deemed to be inconsistent with the City's general plan and zoning designation for the lot on which the ADU or JADU is located.
 - (2) Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
 - (3) Considered in the application of any local ordinance, policy, or program to limit residential growth.
 - (4) Required to correct a nonconforming zoning condition, as defined in subsection (C)(7) below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.
- (C) **Definitions.** As used in this section, terms are defined as follows:
- (1) "Accessory dwelling unit" or "ADU" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:
 - (a) An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
 - (b) A manufactured home, as defined by Section 18007 of the California Health and Safety Code.
 - (2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
 - (3) "Complete independent living facilities" means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.
 - (4) "Efficiency kitchen" means a kitchen that includes each of the following:
 - (a) A cooking facility with appliances.

EXHIBIT A

- (b) A food preparation counter or counters that total at least 15 square feet in area.
 - (c) Food storage cabinets that total at least 30 square feet of shelf space.
- (5) “Junior accessory dwelling unit” or “JADU” means a residential unit that
 - (a) is no more than 500 square feet in size,
 - (b) is contained entirely within an existing or proposed single-family structure,
 - (c) includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and
 - (d) includes an efficiency kitchen, as defined in subsection (C)(4) above
- (6) “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
- (7) “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.
- (8) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- (9) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- (10) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
- (11) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
- (D) **Approvals.** The following approvals apply to ADUs and JADUs under this section:
 - (1) **Generally.** Except as described in subsection (D)(2) below, an ADU is allowed with only a building permit if it complies with each of the requirements in subsections (E), (F), and (G) below.
 - (2) **Partial Exemption for Certain ADUs and JADUs.** An ADU or JADU in any of the four scenarios that are described in subsections (D)(2)(a)–(d) below is exempt from the design and development standards in subsection (F) and is allowed with only a building permit if it complies with each of the requirements in subsections (E) and (G) below.

EXHIBIT A

- (a) **Converted on Single-family Lot:** Only one ADU or JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - (i) Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress. For purposes of this paragraph, “within the existing space” includes a structure that is constructed in the same location and to the same dimensions.
 - (ii) Has exterior access that is independent of that for the single-family dwelling.
 - (iii) Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
- (b) **Detached on Single-family Lot:** One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (D)(2)(a) above), if the detached ADU satisfies the following limitations:
 - (i) The side- and rear-yard setbacks are at least four-feet.
 - (ii) The total floor area is 800 square feet or smaller.
 - (iii) The peak height above grade is 16 feet or less.
- (c) **Converted on Multifamily Lot:** Multiple ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. At least one converted ADU under this paragraph is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.
- (d) **Detached on Multifamily Lot:** No more than two detached ADUs on a lot that has an existing multifamily dwelling if each detached ADU satisfies the following limitations:
 - (i) The side- and rear-yard setbacks are at least four-feet.
 - (ii) The peak height above grade is 16 feet or less.

EXHIBIT A

(3) **Process and Timing.**

- (a) An application for an ADU or JADU is considered and approved ministerially, without discretionary review or a hearing.
- (b) The City must act on an application to create an ADU or JADU within 60 days from the date that the City receives a completed application, unless either:
 - (i) The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay; or
 - (ii) In the case of a JADU, when the application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the JADU until the City acts on the permit application to create the new single-family dwelling, but the application to create the JADU will still be considered ministerially without discretionary review or a hearing.

(E) **General ADU and JADU Requirements.** The following requirements apply to all ADUs and JADUs:

- (1) **Zoning.** An ADU or JADU may be created on any lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use (i.e., residential, mixed-use, and agriculturally zoned parcels).
- (2) **Fire Sprinklers.** Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
- (3) **Rental Term.** No ADU or JADU may be rented for a term that is shorter than 30 days.
- (4) **No Separate Conveyance.** An ADU or JADU may be rented, but no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot).
- (5) **Septic System.** If the ADU or JADU will connect to an onsite water-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.
- (6) **Owner Occupancy.**
 - (a) All ADUs created before January 1, 2020 are subject to the owner-occupancy requirement that was in place when the ADU was created.

EXHIBIT A

- (b) An ADU that is created after that date but before January 1, 2025, is not subject to any owner-occupancy requirement.
 - (c) All ADUs that are created on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.
 - (d) All JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.
- (7) **Deed Restriction.** Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:
- (a) The ADU or JADU may not be sold separately from the primary dwelling.
 - (b) The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
 - (c) The deed restriction runs with the land and may be enforced against future property owners.
 - (d) The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
 - (e) The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the

EXHIBIT A

use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

- (8) **Income Reporting.** In order to facilitate the City's obligation to identify adequate sites for housing in accordance with Government Code sections 65583.1 and 65852.2, the following requirements must be satisfied:
 - (a) With the building-permit application, the applicant must provide the City with an estimate of the projected annualized rent that will be charged for the ADU or JADU.
 - (b) Within 90 days after each yearly anniversary of the issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the City does not receive the report within the 90-day period, the City may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the City may enforce this provision in accordance with applicable law.
- (F) **Specific ADU Requirements.** The following requirements apply only to ADUs that are approved under subsection (D)(1) above
 - (1) **Maximum Size.**
 - (a) The maximum size of a detached or attached ADU subject to this subsection (F) is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two bedrooms. No more than two bedrooms are allowed.
 - (b) An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling.
 - (c) Application of other development standards in this subsection (F), such as FAR or lot coverage, might further limit the size of the ADU, but no application of FAR, lot coverage, or open-space requirements may require the ADU to be less than 800 square feet.
 - (2) **Floor Area Ratio (FAR).** No ADU may cause the total FAR of the lot to exceed 45 percent, subject to subsection (F)(1)(c) above.
 - (3) **Lot Coverage.** No ADU subject to this subsection (F) may cause the total lot coverage of the lot to exceed 40 percent, subject to subsection (F)(1)(c) above.
 - (4) **Height.** No ADU may exceed 16 feet in height above grade, measured to the peak of the structure.

EXHIBIT A

(5) **Setbacks.**

- (a) No part of any ADU may be located within 20 feet of the front property line.
- (b) No part of any ADU may be located within four feet of a side or rear property line.

(6) **Passageway.** No passageway, as defined by subsection (C)(8) above, is required for an ADU.

(7) **Parking.**

- (a) Generally. One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined by subsection (C)(11) above.
- (b) Exceptions. No parking under subsection (F)(7)(a) is required in the following situations:
 - (i) The ADU is located within one-half mile walking distance of public transit, as defined in subsection (C)(10) above.
 - (ii) The ADU is within an architecturally and historically significant historic district.
 - (iii) The ADU is part of the proposed or existing primary residence or an accessory structure under subsection (D)(2)(a) above.
 - (iv) When on-street parking permits are required but not offered to the occupant of the ADU.
 - (v) When there is an established car share vehicle stop located within one block of the ADU.
- (c) No Replacement. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.

(8) **Historical Protections.** Exterior modifications to a listed historical property to accommodate construction of an ADU must comply with the Secretary of the Interior's objective Standards for the Treatment of Historic Properties.

(G) **Fees.**

(1) **Impact Fees.**

- (a) No impact fee is required for an ADU that is less than 750 square feet in size.

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EXHIBIT A

- (b) Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the floor area of the primary dwelling, divided by the floor area of the ADU, times the typical fee amount charged for a new dwelling.) “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.
- (2) **Utility Fees.**
 - (a) If an ADU or JADU is constructed with a new single-family home, a separate utility connection directly between the ADU or JADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.
 - (b) Except as described in Subsection (G)(2)(a) above, converted ADUs and JADUs on a single-family lot that are created under Subsection (D)(2)(a) above are not required to have a new or separate utility connection directly between the ADU or JADU and the utility. Nor is a connection fee or capacity charge required.
 - (c) Except as described in subsection (G)(2)(a) above, all ADUs and JADUs that are not covered by subsection (G)(2)(b) require a new, separate utility connection directly between the ADU or JADU and the utility.
 - (i) The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU or JADU, based on either the floor area or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system.
 - (ii) The portion of the fee or charge that is charged by the City may not exceed the reasonable cost of providing this service.
- (H) **Nonconforming ADUs and Discretionary Approval.** Any proposed ADU or JADU that does not conform to the objective standards set forth in subsections (A) through (G)(2) of this section may be allowed by the City with a conditional use permit, in accordance with the other provisions of this title.



PLANNING COMMISSION REPORT

Planning Commission Meeting of May 19, 2020

AGENDA SECTION: Scheduled Matters

SUBJECT: Consideration and proposed approval of a resolution determining that the FY 2020/21 Capital Improvement Program (CIP) is in conformance with the General Plan

PREPARED BY: Erica Ahmann Smithies, Public Works Director and City Engineer

REVIEWED BY: Maya DeRosa, Planning & Building Director

APPROVED BY: Maya DeRosa, Planning & Building Director

APPLICATION FILED: 04/01/20

LOCATION OF PROPERTY: Citywide

APPLICANT: City of St. Helena Public Works Department

BACKGROUND

Sections 65401 and 65402 of the California Government Code require that the Capital Improvement Program (CIP) be in conformance with the General Plan. State Law also mandates that this determination of conformance be made by a designated planning agency. For the City of St. Helena, the designated planning agency is the Planning Commission. The purpose of this staff report is to have the Planning Commission make a determination of consistency with the adopted General Plan.

PROJECT DESCRIPTION

The Planning Commission is tasked with reviewing the planned CIP for fiscal year 2020/2021 and making the finding that the activities proposed for inclusion in the CIP are in conformance and consistent with the General Plan.

General Plan conformity can best be described as furthering the eventual achievement of the goals, policies, and infrastructure identified in the General Plan. For example, the

construction of a roadway would be consistent with the General Plan if the roadway is depicted on the Circulation Element, identified in the goals and policies, or listed as an implementation program/activity.

Staff has reviewed the proposed FY 2020/2021 capital projects and has evaluated the proposed improvements for consistency with the classifications contained in the General Plan. As shown in the Attachment 2, these activities are consistent with the policies contained in the General Plan.

Once the Planning Commission makes the finding that the 2020/2021 CIP is consistent with the General Plan, it will be brought to City Council for adoption along with anticipated expenditures and projects over a five-year period at a meeting in June 2020.

ANALYSIS

The City's 2020/2021 CIP consists of 48 projects in four divisions. 42 of the CIP projects are actively in progress, with approximately 2 new projects being added to Fiscal Year 2020/2021. The fiscal impact of the CIP will be identified in the operating budget for fiscal Year 2020/2021 which will be heard at City Council later this year.

The determination of conformity with the General Plan pursuant to Government Code Sections 65401 and 65402 is not considered a "project" under the California Environmental Quality Act (CEQA). Furthermore, actions implementing the adopted 2019 General Plan are consistent with the certified 2019 General Plan Environmental Impact Report (EIR). Specific projects proposed as part of the CIP will require their own CEQA determination at the time of project implementation.

STAFF RECOMMENDATION

Adopt the attached resolution determining that Fiscal Year 2020/21 Capital Improvement Program is in conformance with the General Plan.

ATTACHMENTS

[Attachment 1: Fiscal Year 2020-2021 CIP Resolution](#)

[Attachment 2: Exhibit A to Resolution 2020-21 CIP List \(revised 5/14/2020\)](#)

[Public Comment Belt](#)

[2020.05.19 20-21 CIP-Planning Commission](#)

ATTACHMENT 1

CITY OF ST. HELENA

RESOLUTION NO. _____

**DETERMINING THAT FISCAL YEAR 2020/21 CAPITAL IMPROVEMENT
PROGRAM IS IN CONFORMANCE WITH THE CITY OF ST. HELENA
GENERAL PLAN**

RECITALS

- A. The City of St. Helena adopted its General Plan on May 14, 2019.
- B. The City Council of the City of St. Helena has designated the City Planning Commission as the planning agency for the City of St. Helena.
- C. State Law requires that designated planning agencies review their agency's capital improvement plan to ensure compliance with the adopted General Plan.
- D. The City has identified a number of capital improvement projects, including civic, street, water, and wastewater improvements for implementation in fiscal year 2020/2021.
- E. On May 19, 2020, the Planning Commission, during a regularly scheduled meeting, considered the projects and programs for FY 2020/21 in the City's Capital Improvement Program and their conformity to the adopted City General Plan.
- F. The determination of conformity with the General Plan pursuant to Government Code Sections 65401 and 65402 is not considered a "project" under the California Environmental Quality Act (CEQA).

RESOLUTION

The Planning Commission of the City of St. Helena hereby makes the following finding:

- A. The proposed Fiscal Year 2020/21 capital improvement projects and programs, as attached in Exhibit A, are consistent with the City of St. Helena's adopted General Plan by furthering the goals and policies as discussed in the staff report dated May 19, 2020.

Approved at a Regular Meeting of the St. Helena Planning Commission on May 19, 2020 by the following vote:

AYES:

NOES:

ABSENT:
ABSTAIN:

APPROVED:

ATTEST:

EXHIBIT A**FISCAL YEAR 2020-2021 CAPITAL IMPROVEMENT PROGRAM**

Number	Name	Description	General Plan Policy and Goals
Civic Projects (Buildings and Parks)			
C-82	Downtown Restrooms	Construct public restrooms in parking lot on Money Way	LU6.D Public Facilities, Install community amenities
C18-83	ADA Transition Plan - Facilities	ADA upgrades to existing City public facilities	LU6.1 & PR1.2 High quality City public facilities & accessible parks to all residents
C19-01	Lyman Park Improvements	Rehabilitate the existing park	PR4.4 & PR4.5 Ensure that all parks and recreational facilities are attractive, safe, and well-maintained & Prioritize park improvements
C19-02	Rehabilitate Crane Park Tennis Courts	Rehabilitate the existing tennis courts at Crane Park	PR4.4 Ensure that all parks and recreational facilities are attractive, safe, and well-maintained
C19-03	Crane Park Lighting Improvements	Retrofit existing park lights fixtures and upgrades to electrical equipment.	PR4.4 Ensure that all parks and recreational facilities are attractive, safe, and well-maintained with adequate lighting
C20-01	Library Roof Repair	Replace the Library roof	4.4 Maintain high standard of quality for facilities and infrastructure
C20-02	Repaint Fire Station #1	Repaint the Fire Station	4.4 Maintain high standard of quality for facilities and infrastructure
C20-04	Baldwin Park Fence Repair	Remove and replace fence as needed	PR4.4 Ensure that all parks and recreational facilities are attractive, safe, and well-maintained
C20-06	Emergency Back-up Power	The project will provide for the purchase and installation of emergency generator power to the Library, Madrone Knoll Pump Station, Stonebridge Wells, and Flood Control Project site	9.4 & PS6.1 Maintain High Levels of Public Health and Safety & Ensure that City emergency procedures are adequate
C20-08	Public Works Corporation Yard Fuel Tank	The project will provide for dual gas/diesel fuel tanks at the Corporation Yard	9.4 & PS6.1 Maintain High Levels of Public Health and Safety & Ensure that City emergency procedures are adequate
Streets Projects (including stormwater)			
R18-81	Downtown Sidewalk Improvements	This is a sidewalk improvement project funded by One Bay Area Grant II program and local funds. The project will replace sidewalks, trees, and implement traffic calming devices on Main Street between Mitchell Drive and Pine Street.	5.6 & CR2.5 Safe and Well-Maintained Circulation System & Improve the pedestrian experience through streetscape enhancements, focusing improvements where there is the greatest need, and by orienting development toward the street.

EXHIBIT A**FISCAL YEAR 2020-2021 CAPITAL IMPROVEMENT PROGRAM**

Number	Name	Description	General Plan Policy and Goals
R19-79	Year 2 Pavement Restoration	Rehabilitate streets throughout the City with various surface treatments (i.e. slurry seal, microsurface and overlay). Curb ramp upgrades may be part of projects as needed.	CR4.1 Ensure adequate maintenance of transportation facilities such as streets, sidewalks, and multi-use paths.
R19-01	Stormwater Master Plan	The Stormwater Master Plan will not only update the 2000 document, but will be integrated with the Water Master Plan and the Stormwater Master Plan which will include recommendations for system improvements, replacement and estimated project costs.	PF3.D Update the City's Stormwater Master Plan to include changes and upgrades since the last plan and to help streamline the approval process
R19-03	Sulphur Creek Erosion Repair	This project will implement bank repairs that were caused during the 16/17 storm year and identified in the 2017 Flood Control Project post-construction monitoring and reporting year. The repairs will be made utilizing funds from the Flood Control Project adaptive management program.	PF3.4 & PS5.6 Consider efforts to prevent risk to structures and property along Sulphur Creek & maintain protocols and funding for the regular inspection and maintenance of flood control facilities in the city
R19-04	Sulphur Creek Sediment Removal	This project will remove sediment build-up in Sulphur Creek beneath the bridge structure at Valley View and the City owned creek section in front of the City Public Works Corporation Yard on Charter Oak. The City plans to coordinate permitting and work efforts with private landowners along Sulphur Creek between the Valley View bridge and the City Corporation Yard.	PF3.4 & PS5.6 Consider efforts to prevent risk to structures and property along Sulphur Creek & maintain protocols and funding for the regular inspection and maintenance of flood control facilities in the city
R19-05	Grayson and South Crane Rehabilitation (Design Only)	This project will reconstruct Grayson and South Crane Avenues. Accessibility improvements to sidewalks and curb ramps will be included as part of the project whenever applicable.	CR4.1 Ensure adequate maintenance of transportation facilities such as streets, sidewalks, and multi-use paths.
R19-07	Silverado Trail Guardrail Replacement	Replace guardrail and pavement markings/stripping on Silverado Trail within the City limits.	CR4.1 Ensure adequate maintenance of transportation facilities such as streets, sidewalks, and multi-use paths.
R20-02	Mills Lane Storm Drain	Install new storm drain along Mills Lane that outfalls to the Napa River	OS3.2 Reduce stormwater runoff in developed areas to protect water quality in creeks.

EXHIBIT A**FISCAL YEAR 2020-2021 CAPITAL IMPROVEMENT PROGRAM**

Number	Name	Description	General Plan Policy and Goals
R21-01	Pratt and Elmhurst Crosswalk Improvements on Main Street/Highway 29	This project will upgrade curb ramps as well as improve crosswalk markings and signage.	CR2.F Improve street crossings and gaps in the sidewalk system through development review and capital improvement projects
Wastewater Projects			
S-52	WWTRP Upgrades Phase 1	Feasibility study, workplan and Phase 1 improvements as required by CDO Regional Board Order R2-2016-0004	PF2.B Continue wastewater treatment system upgrades
S-53	Reclamation Field Improvements	Improve irrigation system at wastewater reclamation field	LU6.1 & PF1.S Provide high-quality wastewater systems & provide for capital needs of wastewater systems.
S-61	Pond 2 & 3 Levee	Repair levees around Ponds 2 and 3	LU6.1 & PF1.S Provide high-quality wastewater systems & provide for capital needs of wastewater systems.
S-62	Facilities Automation: Supervisory, Control and Data Acquisition System (SCADA)	Integrate system controls with SCADA to monitor and control plant and/or equipment	LU6.1 & PF1.S Provide high-quality wastewater systems & provide for capital needs of wastewater systems.
S-66	Install Replacement Well	Install replacement well at wastewater treatment facility to serve employees	LU6.1 & PF1.S Provide high-quality wastewater systems & provide for capital needs of wastewater systems.
S-67	Sludge Removal	Remove sludge in Ponds 1 and 2	LU6.1 & PF1.S Provide high-quality wastewater systems & provide for capital needs of wastewater systems.
S18-70	Replace 1% Sewer Mains Annually	Replacement of City sewer mains	PF2.D & PF2.4 Reduce sewer system inflow and infiltration through repair and replacement of sewer pipes and protection from inflow sources & Increase sewer collection system efficiency by ensuring proper maintenance of sewer pipes
S18-71	Crinella Pump Station Upgrade	Update the structure and pumping systems as well as including a filter system to control odors	LU6.1 & PF1.S Provide high-quality wastewater systems & provide for capital needs of wastewater systems.

EXHIBIT A**FISCAL YEAR 2020-2021 CAPITAL IMPROVEMENT PROGRAM**

Number	Name	Description	General Plan Policy and Goals
S18-74	Update GIS Maps of Sewer System	Update the current GIS Maps of the City sewer system	LU6.1 & PF2.4 Provide high-quality wastewater systems & Increase sewer collection system efficiency by ensuring proper maintenance of sewer pipes
S18-75	Sewer Master Plan	Estimate sewer collection capacity, the age and capability of the existing collection system; including recommendations for system improvements, replacement and estimated project costs	LU6.1, PF2.1 & PF2.4 Provide high-quality wastewater systems, ensure adequate sewage treatment capacity at the City treatment plant to meet the needs of population growth & Increase sewer collection system efficiency by ensuring proper maintenance of sewer pipes
Water Projects			
W-26	Upper York Creek Ecosystem Restoration	Remove Upper York Creek Dam, improve fish passage, and revegetate	OS1.A & OS1.Q Protection, restoration, and enhancement of creek corridors & carry out the removal of the Upper Dam on York Creek sufficient to allow the passage of fish
W-27	Meadowood Tank Upgrades	Replace three existing water tanks and upgrade water delivery systems	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.
W-80	Dwyer Road Booster Station	Contribute a fair share to a project to construct a booster station that will increase water system pressure	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.
W-85	Bell House Valve Replacement	Replace the bell house valve at the base of the Bell Canyon dam per the requirements of the Division of Safety of Dams	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.
W-86	Spring Mountain Pressure Zone Improvements (Holmes Tank Upgrade)	Upgrade pressure zone pumps on Spring Mountain Road, piping that feed Holmes Tanks, and emergency back-up power	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.
W-91	Bell Canyon Creek Inflow	Install device to measure inflow from Bell Canyon Creek into Bell Canyon Reservoir	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.

EXHIBIT A**FISCAL YEAR 2020-2021 CAPITAL IMPROVEMENT PROGRAM**

Number	Name	Description	General Plan Policy and Goals
W-101	Tank 2 Rehabilitation	Rehabilitate Tank 2	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.
W-106	Pump Station Upgrades	Upgrade existing pump stations with back-up power in the event of a power outage as required by the State Department of Health.	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.
W-108	Lower Reservoir Dam Rehabilitation	Replace valves and perform geotechnical investigation as required by Division of Dam Safety	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.
W-109	Bell Canyon Intake Tower Replacement	Replace intake tower at Bell Canyon Reservoir	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.
W-110	Rutherford Pump Upgrade	Upgrade electrical equipment and install a permanent structure	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.
W18-112	Spill Containment at Bell Creek	Develop spill containment at the chemical building located at the base of the Bell Canyon Dam	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.
W18-114	Spill Containment at the Stonebridge Wells	Develop spill containment at the chemical building located adjacent to the Stonebridge Wells	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.
W18-115	Remove Restriction at Rutherford Pump Station	This project will locate and remove the restriction(s) in order to maximize water delivery	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.
W18-117	Water Master Plan Update	Update the 2006 comprehensive study and identify recommendations for system improvements, replacement and estimated project costs	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.
W18-119	Bell Canyon Phreatic Surface Monitoring and Assessment	A new requirement of the Division of Dam Safety as a direct result of the 2017 Oroville Dam incident	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.

EXHIBIT A**FISCAL YEAR 2020-2021 CAPITAL IMPROVEMENT PROGRAM**

Number	Name	Description	General Plan Policy and Goals
W18-120	Bell Canyon Spillway Stability Assessment	A new requirement of the Division of Dam Safety as a direct result of the 2017 Oroville Dam incident. Work will include a reconnaissance-level assessment of the spillway reviewing the geologic, structural or performance issues that could jeopardize its ability during a flood event.	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.
W20-01	Bell Canyon Spillway Repairs	Make repairs to the spillway based on the initial spillway assessment completed in 2018.	LU6.1 & PF1.S Provide high-quality water systems & provide for capital needs of water systems.
W21-01	Kearney and Andrea Water Main Replacement (Design in FY 20/21 and construction in FY 21/22)	The 4" water main on Kearney between Hillview Place and Adams Street needs to be replaced as well as the main on Andrea from Kearney to Oak Avenue.	PF1.S & PF1.B Provide for capital needs of water systems & replace undersized water mains

May 11, 2020

Subject: Approval of 2020-2021 Capital Improvement Projects to be in Conformance with St. Helena's General Plan.

Dear St. Helena City Planning Commissioners,

On March 19, 2020, St. Helena's Planning Commission is being asked to approve a multi-million-dollar Resolution designating a long list of Capital Improvement Projects (CIP) to be in conformance with St. Helena's General Plan. Among this list, two Water CIPs warrant extra scrutiny because of the way our city is planning to finance the projects. The two CIPs are W-27 (Replacing Meadowood Water Tanks) and W-86 (Upgrading Holmes tank).

CIP W-27: Includes upgrades to the Meadowood and Madone Knoll pump stations along with the replacement of three Meadowood water tanks to increase storage capacity from 65k to 200k gallons.

CIP W-86: An upgrade to the Holmes tank located above the city's Lower Reservoir.

Both CIPs are currently being financed through the city's water enterprise with the project costs shared by all 2600 St. Helena water customers. According to a Government Litigation Attorney, if these two projects are financed in this manner, St. Helena will likely be out of compliance with California's Proposition 218. This proposition was passed by California voters in 1996 to protect taxpayers by limiting the methods by which local governments can create or increase taxes, fees, and charges without taxpayer consent. While being extremely broad in scope, this new constitutional amendment considered local municipal water and wastewater billing to be included in the amendment.

Pursuant to Proposition 218, all water and wastewater rates must be based upon:

1. The actual cost of delivery.
2. Prohibition of customer subsidies and.
3. Fees and charges shall not exceed the proportional cost of service to each property.

Prior to St. Helena's 2016 utility rate study the Meadowood Country Club was required to pay a \$50,000/year surcharge to the city for the extra costs associated with providing water service to the country club. This included the annual cost to maintain the water system, pumping charges, and water storage at a higher elevation than most other St. Helena water customers.

During St. Helena's 2016 utility rate meetings Steve Palmer (Public Works Director) explicitly stated, in addition to the Meadowood Country Club, there were two additional high elevation zones in St. Helena where additional expenses for pumping, water storage, and equipment maintenance were occurring. These zones included the Madone Knoll customers and the customers benefitting from the Holmes water tank. When asked why these customers were not paying a surcharge like Meadowood, Mr. Palmer replied it was not the city's policy to charge these water customers with the extra expense.

At the conclusion of the utility rate study, this city policy resulted in city council concluding that St. Helena's water enterprise is one continuous recirculating system whereby all water customers should share in the higher cost to deliver water to a few customers. Accordingly, city council approved Meadowood's past annual \$50K surcharge to be shared by all St. Helena water customers.

This city policy conflicts with Proposition 218 for two reasons:

1. All water customers are being required to subsidize the utility rates for the Meadowood Country Club, Madrone Knoll, and Upper Spring Mountain water customers.
2. The current fees and charges to most water customers are exceeding the proportional cost of service to those customers.

In summary, the cost to complete these two CIPs is estimated to be approximately \$2 million. While it may be easier to require all 2600 water customers to subsidize the Meadowood and Holmes Tank upgrades, it would be out of compliance with California's Proposition 218 to do so.

Within the next 18 months, the city of St. Helena will likely be undertaking a new utility rate study. At the time of this study, our city should correct its past city policy to bill all water customers for the higher cost of providing water service to a few customers. Especially, since most customers benefiting from the subsidy are located outside city limits.

Respectfully submitted,

Tom Belt

1520 Hillview Place,

St. Helena CA 94574

cc: St. Helena City Council Members

St. Helena City Manager



Capital Improvement Program

2020-2021

By: Erica Ahmann Smithies
Public Works Director/City Engineer

Public Works Department

May 19, 2020 Planning Commission



Introduction

- **48 CIP projects proposed in FY 20/21 budget**

Category	Number of Projects
Civic	10
Streets	9
Wastewater	10
Water	19
Total Number of CIP Projects	48



CIP Program Summary

- **42 of the projects are currently in progress**
- **2 new projects proposed in FY 20/21**
 - R21-01 Pratt and Elmhurst Crosswalk Improvements on Main Street/Highway 29
 - W21-01 Kearney and Andrea Water Main Replacement (Design in FY 20/21 and Construction in FY 21/22)



General Plan Consistency

- **Applicable 2040 General Plan Goals and Policies have been identified on the proposed CIP program for fiscal year 20/21 attached in Exhibit A to the Resolution**



Next Steps

- **Planning Commission finds the proposed CIP program for fiscal year 20/21 is consistent with the City of St. Helena's adopted General Plan**
- **City Council adoption anticipated June 2020**



Questions?