



THE CITY OF  
NOVATO  
CALIFORNIA

Public Works  
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## MEMORANDUM

DATE: April 15, 2019

TO: Marie Hoch and Nancy Kawata, Hamilton HOA

FROM: Russ Thompson, PE, Assistant City Manager  
David Damuller, PE, Senior Civil Engineer

SUBJECT: Discussion of Hamilton Perimeter Wall Maintenance Needs

### I. Updated Survey

In February 2019 City staff re-evaluated the subject perimeter walls for damage needing structural or cosmetic repair, using the 2015 original City assessment as the baseline. Based on this recent field work the following summarizes the locations in need of repair, and the apparent responsible party.

110 Total Wall Damage Locations

No. Damage Location

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- 31 **CFD maintained street tree** (*6 trees removed already*)
- 28 Combined **CFD street tree** and **property owner tree**
- 39 Private **property owner tree** only
- 6 **HOA maintained** entry areas / signs (*with pergolas attached to walls*)
- 6 Private property owner - **ground settlement** (no cause determined)
- 3 No damage - original assessment identified damage - assume "repaired by others"

### II. Perimeter Wall Maintenance Research:

City staff has reviewed the files at City Hall and found the documents noted below describing the maintenance obligations of the various entities in Hamilton. The intent of the review was to determine which entity was legally designated with the maintenance obligation of the perimeter walls.

There is no documentation on file that the maintenance responsibility of the Hamilton Perimeter walls was transferred to the Community Facility District (CFD). There is no documentation indicating that the perimeter walls were transferred by the developer to the Home Owners Association (HOA) or the CFD. CFD 1994-1 was formed by City of Novato Resolution 79-95 and amended 6 times for annexations into the CFD, namely:

- Annexation Map No. 1, Resolution 92-96,
- Annexation Map No. 2, Resolution 142-97,
- Annexation Map No. 3, Resolution 49-99,

- Phase II Annexation Map No. 3, Resolution 78-99,
- Phase II Annexation Map No. 4, Resolution 111-99, and
- Phase II Annexation Map No. 5, Resolution 151-99).

Section IV (Services Special Tax) of the **CFD Formation Documents**, defines how the tax will be calculated and collected for the maintenance of the CFD. Exhibit A of the CFD formation documents lists the authorized facilities and services to be provided by the CFD (Attached). Wall maintenance is not listed in the CFD as an authorized activity. Further, cost estimates for the CFD maintenance did not include funds for maintaining the perimeter walls (see attached landscape, pump station and levee estimates).

The **Hamilton CC&Rs** (Hamilton Field, Traditions, South Gate, Chapel Hill, Hamilton Meadows and The Landing) as recorded with the County of Marin Document No. 97-067248, list HOA Maintenance Responsibilities, namely:

Section 4.2 Association's Maintenance Responsibility states: "The Association shall maintain each of the following in good condition and repair at all times."

Section 4.2(ii) "Privacy Wall: The approximate three-foot privacy wall installed along Nave Drive, adjacent to Lanham Village situated in the area described in Exhibit B attached."

Section 4.2(iii) "Main Gate Structure: The main gate structure, including wood frame, stucco finish and signage, situated in the area described in Exhibit C attached" are the listed maintenance responsibilities.

Section 4.4 Maintenance and Encroachment Easements states: "the Property Owner shall have the right to maintain rear yard fencing if it encroaches into the public right of way".

The CC&Rs do not list the maintenance of perimeter walls as a responsibility of the HOA or CFD (CC&R Attached).

The **Bayside CC&Rs** as recorded with the County of Marin Document No 96-020684, list HOA Maintenance Responsibilities, namely:

Section 3.1, Association's Maintenance Responsibilities. The Association shall maintain each of the following in good condition and repair at all times:

Section 3.1(ii) "Privacy Wall: The approximate three-foot privacy wall installed along Nave Drive, adjacent to Lanham Village situated in the area described in Exhibit B attached."

Section 3.1(iii) Main Gate Structure: The main gate structure, including wood frame, stucco finish and signage, situated in the area described in Exhibit C attached.

The CC&R does not list the maintenance of perimeter walls as a responsibility of the HOA or CFD (CC&R Attached)

The **Hamilton Park CC&Rs** as recorded with the County of Marin Document No 1998-0056526, list HOA Maintenance Responsibilities, namely:

Section 4.3, Association's Maintenance Responsibilities: "The Association shall maintain each of the following in good condition":

Subsection (iv), "The masonry walls situated along the perimeter of Lots 33 through 36, 39 through 56 and 91 through 114 adjacent to Palm Drive, Hangar Avenue and Hamilton Parkway. The Association's maintenance responsibilities shall include structural repairs and the periodic repainting and maintenance and repairs to the exterior side of the wall."

There is no other document on file indicating the wall maintenance was transferred from the HOA to the CFD. (CC&R Attached).

There is no documentation in the City files that shows the transfer of maintenance responsibilities from the HOA to the CFD. The CFD lists the maintenance responsibilities for landscaping, pump stations and the levee. Estimates were generated to determine costs for maintenance and the special service tax was developed to cover the costs of the maintenance duties listed as in Exhibit A. No money has been, or can be collected for perimeter wall maintenance.

### III. Conclusion

The CFD does not have a mechanism in place at this time to maintain the perimeter walls. Options for the maintenance of the perimeter walls could be:

1. Take a vote to the property owners to **amend the CFD** to take on perimeter wall maintenance and increase funding through an additional assessment. An estimate will need to be developed for the cost of repairs and long term maintenance.
2. Take HOA Board action, or conduct a vote of the property owners to possibly amend the **Home Owners Association** to take on perimeter wall maintenance, perhaps triggering an additional assessment.
3. Take a vote to the property owners to **create a Landscape and Lighting District (L&LD)** to take on perimeter wall maintenance and increase funding through an assessment, and maintenance would be administered by the City. An estimate will need to be developed for the cost of repairs and long term maintenance.
4. Notify the property owners that perimeter wall maintenance is the **responsibility of the property owner**.

Should a vote be taken for any of the first three options, and fail to receive the required majority vote, the maintenance obligation would fall on the fronting property owner. This memorandum is intended to facilitate the initial discussion of the long-term strategy for wall maintenance. The city staff remains committed to working with the HOA Board to find an acceptable solution to the long-term maintenance needs of the perimeter walls.

**Attachments:**

A: Map of Hamilton Subdivisions	4
B: Hamilton Field Subdivision Index	5
C: City of Novato Reso.79-95 Creating Community Facilities District No. 1994-1	6
C1: Exhibit A: List of Authorized Facilities and Services for CFD No. 1994-1	9
C2. Exhibit B: Incidental and Bond Issue Costs for CFD No. 1994-1	11
C3. Exhibit C-1: CFD No.1994-1 Rate and Method of Apportionment of Special Tax	12
D. Estimated Annual Costs for Operation and Maintenance of CFD	42
E. Hamilton CC&Rs	55
F. Bayside CC&Rs	112
G. Hamilton Park CC&Rs	154