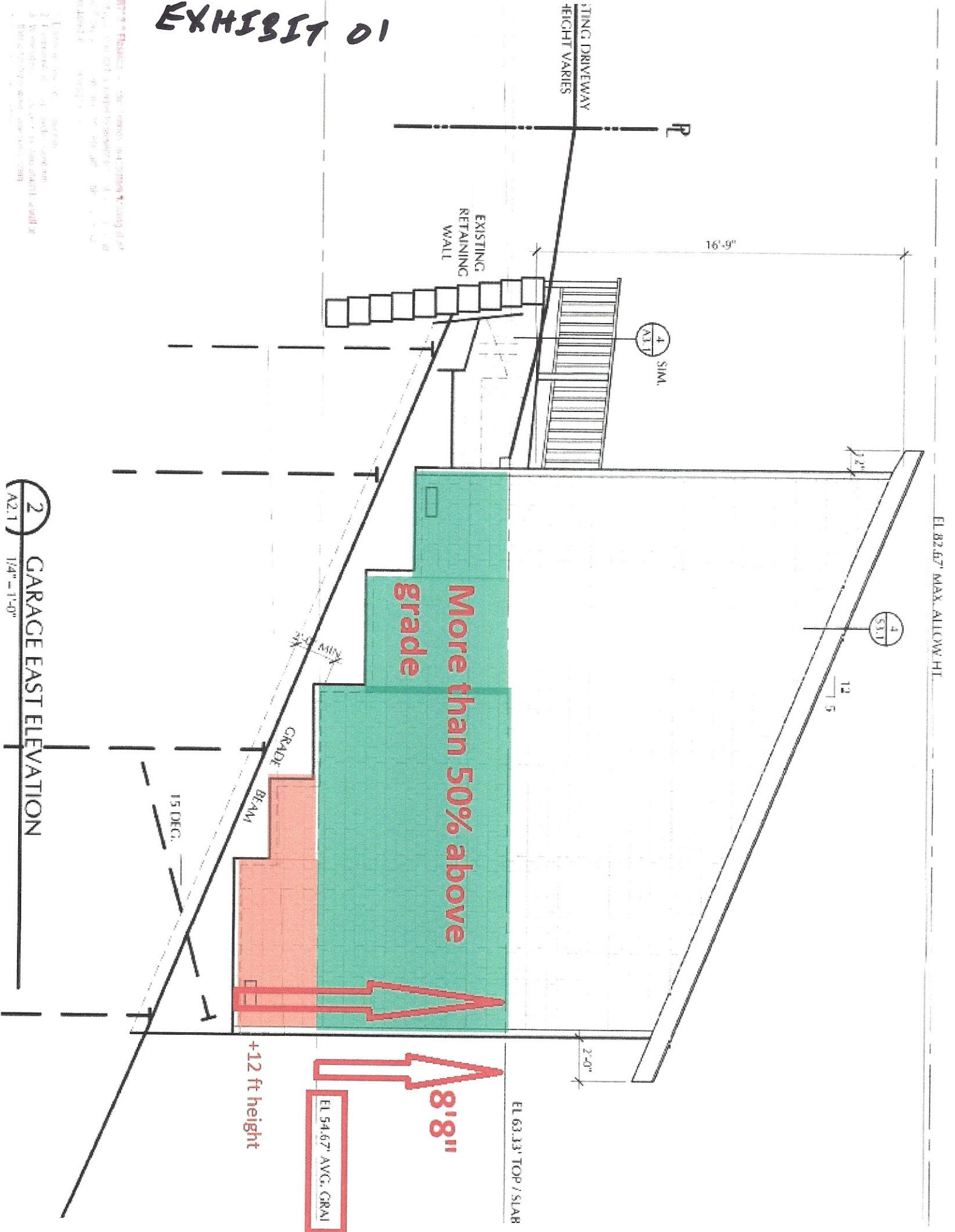


## AA# 22-01 Harrison Exhibits

1. Lot 4 Garage - East Elevation showing more than 50% of lower space above grade and over 6 ft in height.
2. Lot 4 Garage - North Elevation showing more than 50% of lower space above grade and over 6 ft in height.
3. Living Wall – Submitted unsigned estimate accepted instead of, “executed contract with landscape professional” with “timeline for the establishment of plantings on the wall”.
4. Harrison prepared statement – City Council 06/05/2018.
5. Harrison letter to Planning Commission re: “living wall”, 06/25/2020.
6. Shared Access and Maintenance Agreement – Open Space easement uses and allowed improvements.







# EXHIBIT 03

VASQUEZ YARD & TREE WORK INC

P.O BOX 273  
Hillsboro, OR, 97123

## Estimate

| Date      | Estimate # |
|-----------|------------|
| 9/11/2016 | 1370       |

| Name / Address                                       |
|--|
| JEFF Nicholson<br>4413 SE 39 th<br>portland OR 97202 |

|   |     |          | Project     |
|---|-----|----------|-------------|
| Description   | Qty | Rate     | Total       |
| Estimate Only   |     | 0.00     | 0.00        |
| JOB 532 N Laurel street Cannon Beach OR 97110   |     | 0.00     | 0.00        |
| Buy 102 3 Gal mahonia Repens cost   | 102 | 24.99    | 2,548.98    |
| and 113 3 Gal Gaultheria shalon Salal   | 113 | 24.99    | 2,823.87    |
| Buy 23 yards of composted soil  | 23  | 45.00    | 1,035.00    |
| Labor for planting all plants and Graden  |     | 0.00     | 0.00        |
| to finish this project fee  | 1   | 7,875.00 | 7,875.00    |
| <i>includes maintenance &amp; follow up monitoring</i><br><i>includes obtain business license in OR.</i><br><i>X [Signature]</i>  |     |          |             |
| <i>- Wall to be planted within 6 weeks of completion of wall</i><br><i>- Plantings to be established within 12 months of planting</i><br><i>X [Signature] 12 NOV 16</i> |     |          |             |
| Thank you for your business   |     | Total    | \$14,282.85 |



# EXHIBIT 04

6/5/18

Good evening,

My name is Jeff Harrison, and I'm here on behalf of myself and my wife, Jennifer Harrison. Our mailing address is 11445 NW Permian Dr, Portland, OR, 97229. We also have a home on N Laurel, directly across from the Nicholson Planned Unit Debauch. I'm here tonight to ask you about that issue.

I'm not going to give you a history lesson. On March 8, 2016, you gave your final approval for phase 3 of the development despite vociferous, widespread, and extensive opposition, excepting the pink-haired lady and the ship captain. You wrote and approved 17 conditions of approval for the project.

Over 2 years later, where there once a beautiful treed property, that fit the character of our neighborhood, we now see a neglected and mostly denuded lot, with rubble strewn from the demolished 101 year old "historic" cottage, the orange "protective" tree netting lying on the ground, and plastic pipe left out for months. But by far the ugliest component is the 125 foot long, 12 foot tall, interlocking concrete, industrial-looking wall. The wall was and is among the very top concerns we had then, and our fears and intuitions were well founded.

Nicholson promised this would be a living wall, that it would be planted and landscaped, and that you wouldn't even be able to see it. It hasn't been landscaped, it isn't living, and it is now a concrete focal point to the area and a visual testament to your approval. As we said then, it won't fit the character of our neighborhood, or any neighborhood, in Cannon Beach. It is a scar on what was once a beautiful neighborhood. Imagine if you lived next to it.

You yourselves wrote an approval condition for this wall. It is # 17. It reads as follows:

*Before permits for the driveway retaining wall are approved the applicant shall provide to the City an executed contract with a landscape professional responsible for the installation and maintenance of plant materials on the wall and shall provide a timeline for the establishment of plantings on the wall. If plants are not established within those timelines, the City may take any necessary enforcement actions to assure that the requirements of the final plan and this condition are met.*

While we were never given an explanation on why the city chose to go such great lengths to accommodate Nicholson's wishes, at a minimum, we expected you to keep your word and fulfill your promises.

Here are the salient points, and what has happened:

1. Nicholson was to submit an executed agreement with a landscape professional. Mayor Steidel, you may recall the applicant stating that Beth Holland was to be the landscaper. Your response was, "Well, that's good enough for me".
2. Instead, you accepted an unsigned estimate, from a lawn care person, who had no business license.

I think it's pretty fair and reasonable that we should at least be able to expect that you would enforce your own approval conditions and that Nicholson would at least have to follow some of the rules like the rest of us.

I don't want to hear about current letters, or the concept of giving him more time. We have lost confidence. I am here tonight to ask why the permit was issued to build this abomination, when the requirements of your own approval condition, that you wrote, and that you approved, were so clearly not met.

Thank you.

# EXHIBIT 05

Jeff and Jennifer Harrison  
P.O. Box 742  
Cannon Beach, OR 97110

06/25/2020

Planning Commission – Cannon Beach  
PO Box 368  
Cannon Beach, OR 97110

Dear Cannon Beach Planning Commission,

It has been over 4 years since City Council approved the Nicholson PUD. As we predicted, our Cannon Beach experience continues to be degraded as a result. The ugliest component by far is of course the 125 foot long, 12 foot tall, interlocking concrete, industrial-looking wall. The wall was among the very top concerns we had then, and our fears and intuitions were well founded. We appreciate the Planning Commissioners reviewing this issue.

From our perspective, directly across the street from this PUD, here is what has happened since the approval.

1. We were threatened by Nicholson's lawyer with a demand letter, declaring our driveway a hazard. Our driveway has been in its present configuration for 20+ years, and has never been an issue. Nicholson withdrew the letter, but reserved the right to re-instate his threat.
2. Nicholson's big trucks damaged our driveway, so we asked Jeff Adams for relief under PUD Approval Condition #1. After 2 months and 4 emails, we were told we were on our own. We had to pay to fix the damage caused by Nicholson.
3. The PUD was approved for 4 buildings by City Council, but Jeff Adams administratively approved a 5<sup>th</sup> building, 24 feet tall, with 2 stories and 860 sq feet.
  - a. The easement that is being used here was passed out, with small print, to Councilors during the final hearing. It was not disclosed.
  - b. Many of the questions we posed to the City about this structure remain unanswered.
  - c. Our view of the west sunsets is even more obstructed than it should have been.
  - d. Despite CBMC 17.40.080 requiring PUD changes to go through PC, Jeff Adams approved this building administratively.
    - i. It is notable that Bruce St Denis told the Planning Commissioners that when the applicants presented Jeff Adams with a list of 7 approval conditions (which were preliminary), Jeff "wisely went to the files" and discovered the full list of final Approval Conditions. This just isn't true. Jeff Adams initially accepted the incorrect list of 7 preliminary conditions as gospel and issued permits for a garage and studio apartment. It was only when Adams was looking into my complaint re: our driveway



damage that he somehow discovered the LUBA file and the final list of Approval Conditions. See attached email (Adams to St Denis, dated 4/17/2019).

- e. Despite Approval Condition #16, which states no 2 story garages are allowed on the PUD, and none with living space, Jeff Adams approved this 24 ft tall "garage. Does anyone believe a 2-story, 860 sq ft, ocean view structure, with tall picture windows, finished drywall interior (including ceilings), skylights, 100K BTU furnace, heated floors, over-sized ceiling fan, shower, and toilet, and dryer vent is to be used to park a car and for storage?
  - f. Despite approval condition #15 clearly stating a geo-tech report is required prior to building permits being issued, Jeff Adams approved the building permit without requiring a geo-tech report.
  - g. Accessory structures are not supposed to be allowed on a vacant lot. Councilor Ogilvie was forced to tear down his garage when he divided his property, leaving a garage on a vacant lot. Jeff Adams approved this accessory structure on a vacant lot.
  - h. Despite our code requiring accessory structures to be limited to 120 sq ft and be only 12 ft tall when in a rear yard, Jeff Adams determined the garage was not in the rear yard, even though Approval Condition #16 requires the future house on Lot 1 to face South. How does it make sense for this lot (544 N Laurel St) to have the yard facing N Laurel be the "rear" yard?
  - i. Despite our code requiring accessory structures to be located on the same lot as the "main use", Jeff Adams approved it to be built on a lot with different ownership. The "main use" for this accessory structure is on a different lot with different ownership. CBMC 17.04.010
  - j. Despite the PUD "Shared Access and Maintenance Agreement" stating that common space is to be usable by all owners, the Harding's easement states that anyone on their easement can be cited for trespassing....including the owner of the lot.
4. The 125 ft long, industrial looking concrete abomination referred to as the "Living Wall" is exactly what we feared and predicted. Nicholson promised that you wouldn't even be able to see it because it would be all green. It isn't. It is an ugly concrete eyesore and is a visual testament to Council's approval. As we said then, it won't fit the character of our neighborhood, or any neighborhood, in Cannon Beach. It is a scar on what was once a beautiful neighborhood. Imagine if YOU had to live next to it.
- a. Our Comprehensive Plan says, "the characteristics of a village are fostered and promoted". It also says we will foster, "A rustic streetscape". How could anyone think a massive concrete wall fits these descriptors?
  - b. PUD Approval Condition #17 reads as follows:  
*BEFORE permits for the driveway retaining wall are approved the applicant SHALL provide to the City an EXECUTED contract with a landscape professional responsible for the installation and maintenance of plant materials on the wall and SHALL provide a timeline for the establishment of plantings on the wall. If plants are not established*



*within those timelines, the City may take any necessary enforcement actions to assure that the requirements of the final plan and this condition are met.*

- i. Here is what has happened instead.
  - 1. Nicholson was required to submit an executed agreement.
    - a. Instead, he submitted, and the City accepted, an unsigned estimate. The City issued the permit to build the wall using an estimate....not an executed contract.
  - 2. Nicholson was required to execute an agreement with a landscape professional. When Mayor Sam asked Nicholson who would do the landscaping, Nicholson stated Beth Holland was to be the landscaper. Mayor Sam said, "Well, that's good enough for me!", and Nicholson got Mayor Sam's vote. (audio, 3/1/2016)
    - a. Instead, the City accepted an unsigned estimate, from a lawn care person, who didn't even have a business license.
  - 3. Nicholson's signed agreement was required to have a timeline for the establishment of plantings.
    - a. Instead, there is no timeline because there is no executed agreement.
- c. The wall was built in 2016.
  - i. In June of 2018, I appeared before City Council asking for relief because **NO** plantings had been planted. Soon after, "some" plants appeared.
  - ii. It is now 2020, and we still see mostly concrete.
  - iii. When I asked Jeff Adams about this, he told me he believes they wall **WILL** be all green in 2-3 more years. We were promised 9 months. Now he is suggesting that we wait a total of 7 years.

We have been disappointed, but not surprised, that Nicholson did not keep so many promises. What has truly been surprising and even more disappointing is the failure of the hired City employees and contractors to enforce even the approval conditions or follow our code on multiple issues for this property. We think the citizens of Cannon Beach deserve better.

Jeff Adams wrote the following in his staff report for this meeting:

|   |
|---|
| Considering the limited details given in the Conditions of Approval and Shared Access & Maintenance Agreement, and the condition of the planted materials, there appears to be little grounds for any enforcement actions. Planning staff will continue to monitor the site annually, with a planting audit of each of the plant cells, and document with photos for at least another three seasons. If the wall continues to show a successful trajectory, the City can downgrade its monitoring status. |
|---|

We felt betrayed by our City when this development was approved, and we have been continually disappointed re: decisions involving this property ever since.

Those of us who were paying close attention during the Nicholson PUD proceedings remember Nicholson promising what you hear on the attached audio. He said the wall would be all green in 9 months, and we wouldn't even see any concrete. Almost four years later, that is far from the truth. We still see mostly concrete.

On 1/14/2020, Bill Kabeiseman (city land use attorney and principal architect of the Nicholson PUD) said,

*"Certain developments that get tagged for whatever reason early on, and this seems like it was one of them for a variety of different reasons."*

We find it inconceivable that he still doesn't seem to understand why this was just a very bad idea to begin with, and has been compounded by broken promises and little to no enforcement follow-through. The result is just a mess, and we have to live with it.

Tonight, we are asking our Planning Commission to do what our hired officials will not. Fix this wall. It's been almost 4 years. Enough is enough.

**Please enforce Approval Condition #17, and require Nicholson or the current PUD owners to submit an executed agreement with a professional landscaper.**

If the concrete cannot be covered up by plantings, as promised, within 9 months, please declare it a blight.

In general, what we are frequently seeing from our hired officials these days is "approval by omission": "if our code doesn't specifically say you can't do it, then we're going to let you do it." We are also seeing slippery-slope arguments as to why our code somehow doesn't apply. We think that's a big change from the stewardship that used to keep CB special, and we think it's dangerous.

Thank you,

Jeff & Jennifer Harrison  
539 N Laurel St  
PO Box 742  
Cannon Beach, OR 97110

**Attachments:**

- Audio from CC 2/10/2015
- Email (Adams to St Denis) dated 4/17/2019

\*\*\* Please include this in the public record \*\*\*

**Jeff Nicholson speaking to CC, 2/10/2015, regarding the "wall"**

"... in terms of the retaining wall, there is going to be sections of the driveway that feeds the homes and also will go up to Victor and Jane's home also. On that driveway there will be sections where there will be retaining walls. There is some sections where they are going to be a couple ... sections – at least there was one section that was 8 or 9 feet which in a middle of a big space, at first glance, it sounds huge plopped in the middle next to a driveway in the middle of large open space. I went down there with a stick that was that tall and it is amazing how scale has a way of shrinking when in you're in a big open space. Not only that – there is examples of retaining walls that are that tall in the area around ... closer to ... office they have the retaining wall that's taller than that. **One unique, I plan on living at this site – retiring there. I care about what it looks like. The site retaining wall unlike ... Oak Street in Chapman Point where it is like a cement wall that's 5 feet tall, the type of retaining that I would use in the sections that need to have the retaining wall adjacent to the driveway is a wall that has literally built in planters ... nine months the whole thing is going to be green. Literally just meant to just be. ... green with planting. ... unlike anywhere else in nine months I think it is going be green – not going be any cement ... anything else.** Basically I want it to look nice because that's where I am going to live."



2. **Grant of Common Open Space Easement.** Declarant hereby declares a nonexclusive and perpetual Common Open Space Easement on, over, under, and across the portion of the Grantor Property labelled "Common Open Space Easement" on the Plat for the benefit of the Benefitted Parties. Benefitted Parties may use the Common Open Space Easement areas only for purposes of removing non-native vegetation. If agreed upon by all owners of the Four Lots, the Common Open Space Easement areas may also be used by Benefitted Parties for purposes of planting with additional native vegetation, improving with an access trail or other shared facilities, or using in conjunction with outdoor events. The owner of a lot burdened with a Common Open Space Easement area may not construct a building over the Common Open Space Easement area, or fence it, but may generally plant that area or improve it with a trail, patio, deck, or similar non-exclusionary improvement consistent with the terms of this Easement.