

Response to Comments on McGregor Initial Study/Mitigated Negative Declaration (IS/MND) – PLM2014-00490

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There were 6 comments letter received during the public comment period which ended on September 7, 2020. Two letters were from the same person. As shown below, comments are categorized by content, summarized, and Staff's response has been added after the comment.

Comments regarding Process:

1. As I understand it, this project qualifies for CDX? Is this the first time CDRC has certified a Neg/Dec? In checking with Lisa Aozasa (Deputy Director), who is one of the longest serving employees of the department, Planning believes this may be the first time the CDRC is the decision maker on a project that both requires a Negative Declaration and does not require any other permits other than a Design Review Permit. Because an IS/MND is required, the California Environmental Quality Act (CEQA) requires that the decision maker, CDRC in this case, before approving a project, certify the IS/MND subject to required findings.
2. This proposed project should require at a minimum, a full Environmental Impact Report (EIR) or be completely stopped because of the improper subdivision and in direct conflict with the County of San Mateo Local Coastal Program Policies June 2013: The IS/MND describes the impacts of the projects which can be mitigated adequately. The analysis can be provided in an IS/MND or an EIR, which is typically for larger more impactful projects. An EIR is not required unless the project requires a Statement of Overriding Considerations (a finding that not all impacts can be mitigated but that the benefits of the project outweighs the impacts).
3. Many of the submitted concerns and studies were either ignored or minimized. Specifically, 1)In 2015, we submitted to the SMCO signatures from over 117 taxpayers and residents of Montara and Moss Beach who signed a petition to oppose this ill conceived development. 2)We submitted a certified Biological Report dated March 17, 2015 raised many concerns and negative impact of this proposed project on the riparian corridor, bufer zone, wetland, endangered species, significant and heritage trees. 3)Midcoast Community Council's letter to Dennis Aguirre and Steve Monowitz of SMCO on April 8, 2015: Staff reviewed the 2015 biological letter and the MCC's letter. The IS/MND is an environmental analysis and does not consider public support or opposition to the project but only potential specific impacts and mitigation.
4. Responsible Agencies should include and not be limited to the following: Regional Water Quality Control Board, San Francisco Bay Conservation and Development Commission (BCDC), Sewer/Water District: MWSD, State Department of Fish and Wildlife, State Department of Public Health, State Water Resources Control Board, The Sierra Club, Army Corps of Engineers.: Relevant agencies with jurisdiction for this project were consulted by Planning staff, specifically MWSD from the provided list. They are not considered a responsible agency under CEQA as they do not require a separate permit.

5. The county record shows that the parcel in question had been subdivided from a larger legal parcel to satisfy a tax default in years past. As such, it does not appear the subdivision had been done according to the San Mateo County Subdivision Regulations: As stated in the IS/MND, the parcel is legal with a recorded Certificate of Compliance (Type A).
6. Change initial evaluation to state an "Environment Impact Report" is required due to wildlife presence and negative impact to Heritage/Significant trees and existing wilderness scenery. A full Environmental Impact Report is deemed required by the neighboring residents of the proposed project. We regularly see deer, kit foxes, cougars and owls who use the rear of our property and the county easement as walking paths through the wilderness area. Some of these species may have endangered status, which needs to be investigated and addressed prior to approval: See response to Comment 2 above.
7. Not noted on the MND is which party would bear the future responsibility of the proposed driveway on the county easement and paper street. Utilities are to be connected to county services and run in a joint trench under/along the driveway. The majority of this driveway is elevated above our property. If a rupture occurs and our land and house or neighbor's houses are flooded, who will bear that responsibility? Will the county or future owners of the development? How will this be documented and memorialized. Ownership/responsibility needs to be addressed prior to project entitlement.: The Department of Public Works has added a condition of approval to require the applicant to execute and record a maintenance agreement, in a form approved by the County, to maintain, repair, remove, and replace the driveway and its associated facilities which are located in the road easement of East Avenue, at no cost to the county.
8. While the address of this property has been described alternatively as "15th Street and East Ave," and "1900 East Ave," neither of these roads nor this address exists. East Avenue ends 5 blocks to the north at the intersection with 10th Street, and "15th Street" is an undeveloped public right-of-way that is completely wild without so much as a trail. In reality, this property would be accessed from 14th Street, the nearest county road. It would be the only house on 14th Street that is not adjacent to any county road. Its design is unprecedented and out of character with 14th Street and the town of Montara.: The project is located within an existing residential neighborhood, as designated by the Zoning Regulations, County General Plan, and Local Coastal Program. The driveway proposal minimizes project disruption and impacts while providing adequate access to the property. The project will be provided a street address according to addressing guidelines at the building permit stage.

Comments regarding Aesthetics:

1. The project will have Significant Impact on adjacent properties whose view is currently forest to the rear of their properties. The proposed house and driveway will greatly impact the current scenery and current privacy. Significant Tree #6 from the arborist's report is also to be removed which impacts the current scenery. The removal of Trees 14, 15 and 16 means that the proposed house will be directly visible from the adjacent existing house. The newly proposed trees will not provide adequate privacy that currently exists.: The project is located within an existing residential neighborhood, as designated by the Zoning Regulations, County General Plan, and Local Coastal Program. As discussed in the IS/MND and as shown in the Landscape Plan, the applicant proposes to plant five (5), 15-gallon Monterey Cypress trees. Due to the

removal of 17 Monterey Cypress trees and the retention of 10 significant trees, the applicant's proposal to replace the removed trees with 5 Monterey Cypress trees is appropriate to the surrounding environment. Planting of additional trees may result in tree overcrowding and reduction of daylight to the proposed residence, which would impede the effectiveness of required solar panels without further tree removal.

Comments regarding Biological Resources:

1. Please note that West Ave (p. 10 & 23) should be East Ave.: Correction noted.
2. The proposed project is within the riparian corridor and buffer zone.: As shown in Figure 1 of the 2015 WRA Report in the IS/MND, the project site is outside of the mapped edge of riparian vegetation and associated riparian buffer zones.
3. The project conflicts with LCP policies and states that the potential negative impact to the environment and surrounding neighborhood is irreparable.: The commentor does not provide evidence to support this statement. The project is located within an existing residential neighborhood, as designated by the Zoning Regulations, County General Plan, and Local Coastal Program.
4. Site should be visited by biologist after periods of heavy precipitation to review drainage and wildlife. This section mentions endangered species including the red-legged frog and the San Francisco garter snake. The red-legged frog can disperse into upland habitats 300 ft from aquatic and riparian habitat.: The IS/MND states that, given the project site is within the known dispersal distance from a cited occurrence and Montara Creek, there is potential for CRLF to disperse on to the site. Biological Mitigation Measure 4 requires surveying of protected species prior to project-related land disturbance: Mitigation Measure 4: A pre-construction survey for CRLF [CA red-legged frog] and SFGS [SF Garter Snake] shall be conducted prior to initiation of project activities within 48 hours of the start of ground disturbance activities. Surveys are to be conducted by approved qualified biologist with experience surveying for each species. If CRLF or SFGS is found on the project site it shall be allowed to leave the area on its own. If the animal does not leave the area on its own, work shall remain halted and USFWS and CDFW shall be contacted.
5. A migratory bird survey is required to be performed between Feb 1 to Aug 31 prior to construction. Please make this plan available to the public with the schedule.: Please coordinate with the project planner for these documents at the building permit stage of the project.
6. The mushroom species at issue are the following: saffron milkcap (Lactarius deliciosus), fly agaric (Amanita muscaria), slippery jack (Suillus pungens), rosy russula (Russula sanguinea), king bolete (Boletus edulis var. grandedulis), and bleeding brown agaricus (Agaricus brunneofibrillosus). Also attached are photos I have taken of some of the mushrooms in these locations (Attachment 2). Mushroom patches such as these are not common or temporary; they

are special places and important fixtures in our coastal ecology. However, there is no mention of fungi or mushrooms of any kind in the biological reports commissioned by Mr. McGregor.: Fungi have not been identified as a Federal or State protected plant species.

7. On April 12, 2020, I observed a California red-legged frog at the end of 14th Street. It was at the edge of the county road, about 500 feet north of Montara Creek and less than 150 feet directly uphill from the proposed development. This was during the time of year that these frogs disperse to upland habitat. My observation contradicts Sol Ecology's assertion that "no suitable aquatic or upland habitat is present." The location of the frog I observed is shown on the map in Attachment 1, and a photo of the frog is attached below (Attachment 3).: See response to Comment 4 above.

8. I have personally seen California Red Legged Frogs (CRLF) on that property dozens of times over the past 10 years. For some reason the biological report for the proposed construction seems to omit that these frogs exist on that property. I was under the impression that these frogs are protected and threatened. If so, I urge the planning department to reconsider approval of this project based on an incomplete or misleading biological report. Another more thorough report should be commissioned to reveal the true biological diversity of that land, including the existence of the CRLF.: See response to Comment 4 above.

Comments regarding Trees (also see Aesthetics and Biological Section):

1. Near the end of Attachment I, arborist report & correspondence, you mention a General Plan Amendment with PC/BoS hearing. What was that about? The project with the General Plan Amendment was another one of Paul McGregor's projects (PLN2018-00036 on Le Conte) which is incomplete.

2. Yes, the proposed project is looking to obliterate at least 18 or more significant or heritage trees while potentially damage many more.: As proposed and mitigated, the significant trees proposed for removal will be replaced and existing trees would be protected per Mitigation Measures 8-10.

3. LCP policies call for protection of habitats, Riparian corridors for perennial and intermittent streams, minimize removal of vegetation, and specifically PROHIBITS structural development which will adversely affects the habitats, Riparian corridor and PROHIBIT the removal of trees and protect trees specifically for their visual prominence and their important scenic and scientific qualities.: As stated in the IS/MND, biological and tree protection mitigation measures have been included to minimize impacts to these resources.

4. The main focus is on the 40" Monterey Cypress Heritage Tree #5, which is located on the property of 390 14th street. The proposed driveway is to route under the tree drip line and over the tree's root line. This is unacceptable as damage will certainly occur to the tree's roots, which could cause death to the Monterey Cypress Tree #5. This tree is not owned by the project or the

county easement. Also, the proposed construction path would require low limbs up to 15 feet cut for access. This will disturb the current natural look and feel of the area. (See Picture below). Mitigation Measures 8, 9 and 10 do not adequately address the risk proposed to a Heritage/Significant tree which is not owned by the project or the county. Heavy construction and delivery traffic will also put previously unseen forces on the root structure of the tree causing damage.: The tree trunk is located on the subject property. The Project Arborist and County Arborist have reviewed the project, proposed protection measures, added additional protection measures as necessary, and determined that the measures should adequately protect the tree from project construction and grading activities.

5. I am concerned about the removal of native forest. The removal of 18 significant native trees, as posted, understates the amount of forest that will be lost if this project proceeds. There are at least a dozen additional, large and healthy Monterey pines in the proposed path of the driveway that are not included in the arborist's report, presumably due to their insufficient diameters. There are also several "protected trees" in the arborist's report that would likely be killed during grading and construction well within their driplines, despite the proposed mitigations. These trees are Monterey pines #1, #2, #3, #4, #8, and #17, and the 40" Monterey cypress #5.: See response to Comment 4 above and response to Aesthetics Comment 1.
6. Attached is a 2019 photo of tree #5, the Monterey cypress at SW corner of East & 14th, slated for major root disruption and major branch removal to accommodate a new driveway on 2 sides of it. I first visited the project site in 2015 and noted the crowded tangle of pine & cypress where individual trees had no space to develop significant branches or individual sturdiness. The one magnificent exception is this low-branching cypress that grew to maturity with all the space it needed to develop its beautiful characteristic form. Clearly height and trunk diameter actually say very little about the aesthetic and environmental value of a tree when considering tree protection priorities during construction. One well-formed tree can far exceed the beauty and habitat value of a crowded grove. Pruning off the large lower branches will greatly diminish the special character of the tree. Apparently County tree protection regulations cannot address this, although I do appreciate your (Camille and Dan's) efforts to preserve this tree.: Comment noted. Mitigation Measure 9 requires that the applicant provide adequate clearance over the proposed driveway a low large lateral limb of the 40" Cypress (Tree 5) and potentially other low branches will need to be removed. It requires that tree limb removal shall be performed by a certified arborist. Documentation demonstrating compliance with this mitigation measure shall sent to the Project Planner prior to any land disturbance. With this mitigation measure, the tree form will be maintained to the extent feasible.
7. Driveway & Utility Plans indicate there will be 3 separate trenches under the new roadway near the tree (water, sewer, and electric) with no indication exactly where or how deep. Mitigation Measure #8 calls for tree #5 protection measures during grading for the new driveway, but under Utilities it simply states that water/sewer extension plans will be subject to MWSD permitting requirements. It's not clear to me whether the utility trenching was considered in the arborist recommendations and whether Mitigation Measure #8 applies to the utility trenching permits.: For utility trenching, the Arborist Report requires that for any utility trenches that must be excavated through any TPZ area, either directional boring or Air-spade® (or equivalent) excavation is required. The County Arborist agrees with this approach and had determined that this is adequate mitigation. Mitigation Measure 10 requires that, prior to any land disturbance and throughout the grading operation, the applicant shall implement the tree protection

measures of the Arborist Report and Tree Protection Plan for 1900 East Avenue, Montara, Ca. and said protections shall remain in place undisturbed throughout construction, as described in the Arborist Report and Tree Protection Plan, dated January 11, 2019.

Comments regarding Land Use and Planning:

1. The undersized 14th Street is already over parked. Adding another Street and not provide access to emergency vehicle or fire access or turn around will cause even more life and safety danger to all residents of the street. The law governing paper street does not allow it to be used solely for private benefit without the consent of adjoining property owners. East street is a paper street on the county's recorded plan and is not to be developed, and accordingly, if the property owners abutting the street and the land do not agree to re-open the dormant unimproved street, the County cannot unilaterally decide to give the easement solely for the purpose of private use. Instead, an easement should be created for the benefit of the public over the "paper street, " which is consistent to the Local Coastal Program Policies 7.4 Permitted Use in Sensitive Habitats, 7.9 Permitted Uses in Riparian Corridors, 7.10 Performance Standards in Riparian Corridors, 7.11 Establishment of Buffer Zones, 7.12 Permitted Uses in Buffer Zones, and 7.16 Permitted Uses in Wetlands.: The Department of Public Works and the Coastside Fire Protection District have reviewed the proposal for a new driveway within the public rights-of-way and provided preliminary approval to the design.
2. The proposed project will destroy the natural beauty of the forest scenery and replace it with an out of scale and out of character building.: The project is located within an existing residential neighborhood, as designated by the Zoning Regulations, County General Plan, and Local Coastal Program.
3. The proposed project also is in conflict with San Mateo County zoning regulations, Section 6565.1 Design Review Districts: 28.1.32 Site Planning and Structural Placement- project shall integrate structure with the natural setting. The goal shall be to disturb as little vegetations as possible. Retain heritage and significant trees. SMC0 should not allow the removal of 18+ significant and heritage trees when the regulations call for protection. 28.1.34 Streams and other Drainage Features- Avoid building near all streams and natural drainage features. The project is adjacent to Riparian Corridors, Buffer Zones, intermittent and seasonal streams. 28.1.37 Privacy - The proposed structure has detrimental impact on adjacent neighbors privacy 28.1.39 Views- The proposed structure will negatively impact enjoyment of view. Reduce mass and density 28.1.41 Scale - The proposed structure is out of scale and proportion with the surrounding neighborhood.: See above responses regarding trees and natural drainage features. The CDRC will determine project compliance with applicable design review standards.