COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT X

green foothills

February 24, 2020

Erica Adams, Project Planner
San Mateo County Planning and Building
455 County Center, Second Floor
Redwood City, CA 94063

Re: Re-Circulated Initial Study and Mitigated Negative Declaration: Zmay 3-Lot Minor Subdivision, Grading Permit and Resource Management (RM) Permits, County File Number: PLN 2014-00410, Project Location: 1551 Crystal Springs Road, San Mateo unincorporated Baywood Park Area, APN: 038-131-110.

Dear Erica,

Thank you for the opportunity to comment on the above-referenced project. Shute Mihaly and Weinberger is also submitting comments on behalf of Green Foothills, focusing on the IS/MND's inadequacy and omissions, and lack of evidentiary support for its conclusions that the Project will not have adverse impacts to land use, water quality, utilities and service systems, and wildfire hazards.

As drafted and re-circulated, Green Foothills finds that the IS/MND is incorrect, incomplete and inadequate with respect to the following environmental factors: Project Description, Aesthetics, Biological Resources, Geology/Soils, Hydrology/Water Quality, Land Use/Planning, and Utilities/Service Systems.

Item 10: Description of the Project, page 1, is incorrect, and contrary to State and County Subdivision Regulations. Specifically the second sentence states: "The applicant proposes a Minor Subdivision of a 60.3 acre parcel into three lots and a reminder (sic) parcel". The term "Remainder Parcel" is defined in both the County Subdivision Regulations and State Subdivision Map Act as "***that portion of an existing parcel which is not included as part of a subdivision for the purpose of sale, lease, or financing***." In this case, the "Remainder Parcel" is already developed with a single family residence. This existing 3,790 sq. ft., 5-bedroom, 3-bath residence at 1551 Crystal Springs Drive is clearly a major asset that is undoubtedly already financed, and due to its value as a large, developed property, would also be eligible for sale, lease or financing. Please delete the term "Remainder Parcel" and designate this parcel as "proposed Lot 4" and indicate that one density credit is allocated to this parcel, which already is developed with one single family residence. Please also correct the term "Remainder Parcel" elsewhere in the document (in Item 2.b, page 8, Item 13.a, page 44, Items 15.b, and 16.a, page 46, Item 16.c., page 47, and Item 18.g, page 52).

Items 2.a. and 2.b. Agricultural and Forest Resources, pages 7 and 8, Discussion of potential impacts to agricultural resources incorrectly bases the conclusion of Less than Significant Impact or No Impact in part on the recordation of a Conservation Easement (C.E.) that would allow agricultural uses among others. The C.E., included as Attachment N, is woefully inadequate in the following respects: Section 9 Reservation of Rights includes the right to develop agricultural uses and accessory structures, temporary on-site sales of agricultural products; as well as livestock raising and grazing, "in order to maintain eligibility under the Williamson Act". These uses should be prohibited, as they have the potential to create significant impacts to biological resources, water quality, soil and vegetation resources, In particular the IS/MND identifies one special status natural community (wetlands), six plant special-status species, one fully protected raptor (white tailed kite), ten special-status bird species, six special-status bat species, and one special status mammal (S.F. dusky-footed woodrat) in the response to Item 4 Biological Resources, pages 13-19. The IS/MND only analyzes potential impacts from construction of three homes on the three new residential parcels to these species of concern and relies on the C.E. to protect the 48.88 acres that are proposed to be covered by the C.E. Absent prohibition of agricultural uses, and others cited below, the C. E. has the potential to adversely impact .

Green Foothills also recommends <u>prohibition of the following additional uses</u> that have the potential to impact the biological resources, water quality, soil and vegetation resources special status species, and scenic resources (based on the Vallemar Bluffs Conservation Easement approved by the County in 2019): (a) building, construction, or other improvements other than storm water quality facilities, drainage facilities and utility facilities existing as of the date of the Easement, (b) any activity that has the potential to cause significant soil degradation or erosion or significant impacts on surface or subsurface waters, (c) dumping or other disposal of wastes, refuse, debris, inoperable vehicles or equipment, (d) any use or storage of motor vehicles, including but not limited to: off-road vehicles and boats, other equipment, storage facilities, or modular buildings, (e) use of fertilizers, pesticides, biocides, herbicides or other agricultural chemicals or unseasonable water, weed abatement activities except to enhance Conservation Values (such as removal of non-native invasive species), (f) incompatible fire protection activities, planting or introduction of non-native or exotic plant or animal species, (e) any other activities or uses that may impair or interfere with the purposes of the Easement.

Reserved Rights and Dispute Resolution: Green Foothills also recommends that the County, as Grantee of the C.E., shall have the right to enter the area covered by the C.E. to investigate any complaints. If the County determines that Grantor or Grantor's successor in interest of the area covered by the C.E. is conducting or allowing a use, activity, or condition in the Easement Area that is prohibited by the terms of the C.E., or that a violation is threatened, the County shall give 30-days written notice to Grantor or Grantor's successor of such violation and demand corrective action sufficient to cure the violation, and where the violation involves injury to the Easement Area, inconsistent with the purposes of the C.E., to restore the portion of the Easement Area within a reasonable period of time.

Item 4 Biological Resources, pages 13-21, Please refer to comments regarding the inadequacies of the C.E., as detailed above. For example, the C.E. does not prohibit cutting of the oak woodlands or native oaks on the subject property other than the cited 7 trees within the proposed three residential lots. Native oak woodlands are one of the richest broad habitats in the state with well over 300 terrestrial vertebrates utilizing woodlands at some time of the year. (see: https://oaks.cnr.berkeley.edu.) Unless specifically protected, potential loss of oaks and oak woodlands is a significant unmitigated impact.

Item 6: Geology and Soils, pages 23-32, Item 8: Hazards and Hazardous Materials, pages 35-38, and Item 9: Hydrology and Water Quality, pages 38-40: Please see applicable comments under Land Use Planning and also the comment letter on behalf of Green Foothills from Shute, Mihaly and Weinberger.

Item 10: Land Use and Planning, pages 40-42: Under 10.b, Please also refer to the comment letter from Shute, Mihaly and Weinberger in addition to the following regarding the project's inconsistency with the General Plan and Resource Management (RM) zoning regulations:

1. **Inconsistency with General Plan Natural Hazards Policies:** The IS/MND is incomplete and inadequate in that it failed to identify or discuss any "potentially significant impact" or "significant impact unless mitigated" factors under Land Use/Planning. The proposed project is inconsistent with General Plan Policy 15.1 Minimizing Risks from Natural Hazards: "Minimize the potential risks resulting from natural hazards, including but not limited to, loss of life, injury, damage to property, litigation, high service and maintenance costs, and other social and economic dislocations."
2. **Inconsistency with Resource Management (RM) Zoning**: The purpose of the RM zoning district is to carry out the State-mandated Open Space and Conservation Element of the General Plan, per Chapter 20A, Section 6310 "Purposes of Resource Management District". Section 6314 Maximum Permitted Development states: "The following provisions relating to use, density, and intensity of development ensure that development is consistent with levels of services which reasonably can be provided, will conserve natural features and scenic values, and that areas hazardous to development or life are left in open or limited use (emphasis added). These provisions are maximum limits (emphasis added) and, where applicable, more restrictive requirements imposed by the application of review criteria under Chapter 20A.2 shall supersede Sections 6315-6317.
    a. The proposed location of three new lots at the top of the property along Parrott Drive is inconsistent with the conservation of natural features. These natural features include highly steep slopes (30-50%) and native vegetation that would have to be extensively graded and existing landslide areas remediated in order to reduce landslide hazards. Changes in surface and groundwater hydrology from landslide remediation and stitch pier walls designed to stabilize the slope where the homes will be developed have the potential to significantly impact the Army Corps-designated wetlands located adjacent to and directly below Lots 2 and 3. These wetlands are likely being supported by surface

runoff and sub-surface seepage from Parrott Drive and drains that have been installed on parcels across Parrott Drive from the property as detailed in comments by Dr. Gary Trott.

b. Locating three lots and associated houses at the highest elevation of the property is inconsistent with the conservation of scenic values. The proposed parcels and homes would be on the most visible area of the property as viewed from many vantage points within the surrounding area. Future houses are proposed to be located within 20 feet of Parrott Drive, and garages within 10 feet, through granting of an exception to the required 50-foot setback. A second exception is to allow a 10-foot side yard setback where 20 feet is required. The resulting residential structures, if built as close to the requested setbacks, and built to the allowable 36 foot height limit, would effectively wall off scenic views from Parrott Drive and would be highly visible from many locations within the surrounding area. The expansive views from Parrott Drive are enjoyed by many motorists, cyclists and pedestrians who often stop to admire the vista that includes Skyline Ridge, Hillsborough, and the canyon below Crystal Springs Dam.

c. The RM zoning district (Section 6310) directs that areas hazardous to development or life shall be left in open or limited use. Hazardous areas of the property include very steep slopes, that are subject to landslide hazards. The area proposed for new development (Lots 1-3) is primarily 30-50% slopes. The mapped landslide between Lots 1 and 2 will undoubtedly have to be remediated and extraordinary engineering measures would also be necessary to ensure stability of the houses on proposed Lots 1,2, and 3.

d. Hazards also include designation by CalFire of the entire property as "Very High Fire Hazard Severity Zone" – the most hazardous State designation. Location of the proposed three new homes at the top of a 30-50% slope and greater, covered with dense fire-prone vegetation, is inconsistent with RM zoning requirements to leave areas hazardous to development in open or limited use. Building on three lots at the top of these steep slopes would expose homes at the top to extraordinary fire hazards due to the "chimney effect" – if a fire ignites at the bottom of a steep slope, it will spread much more quickly upwards because it can pre-heat the upslope fuels with rising hot air, and upward drafts are more likely to create spot fires. Even with maintenance of the 100-foot Defensible Space below and on both sides of the proposed houses, as required by CalFire, these parcels at the top of steep, fire-prone slopes would still be the most vulnerable area to wildfire on the subject property, in violation of RM zoning Section 6310 and 6324.6

3. **Inconsistency with Hazards to Public Safety Criteria** (Section 6324.6) which states (in relevant part): "(c) Notwithstanding the permitted development density under this Ordinance, areas shall not be used for placement of structures: 1) which are severely hazardous to life and property due to soils, geological, seismic, hydrological, or fire factors, 2) whose development would pose a severe hazard to persons or property outside the proposed development, or 3) for which elimination of such hazards would require major modification of existing land forms, significant removal or potential damage to established trees or exposure of slopes which cannot be suitably revegetated"and "(f) No land shall be developed which is held unsuitable by the Planning Commission for its proposed use for reason of exposure to fire, flooding, inadequate

drainage, soil and rock formations with severe limitations for development, susceptibility to mudslides or earthslides, severe erosion potential, steep slopes, inadequate water supply or sewage disposal capabilities, or any other feature harmful to the health, safety or welfare of the future residents or property owners of the proposed development or the community-at-large. To determine the appropriateness of development the following shall be considered:

a. The danger to life and property due to the designated hazards caused by excavation, fill, roads, and intended uses.
b. The danger that structures or other improvements may slide or be swept onto other lands or downstream to the injury of others.
c. The adequacy of proposed water supply and sanitation systems, and the ability of those systems to prevent disease, contamination and unsanitary conditions during or following a hazardous event or condition."

In addition to the serious deficiencies in the project's conformity with the RM Zoning, as detailed in paragraph 2 above, the project proposes to connect to the Parrott Drive Sanitary Sewer system for sewage disposal. The Harris and Associates February 2003 Report titled "Parrott Drive Sanitary Sewer Alternatives Study" concluded that the 3,000 foot long 6" sanitary sewer transmission line that the project would connect to has been failing for many years. The Report states (in relevant part): "Subsequent to the 1952 initial construction, the first sections of pipe immediately below Parrott Drive began to fail almost immediately." "Over the years, additional manholes began to slide down the hill and sections of pipe would fail." "In approximately 1995, a number of sections of pipe ultimately had to be "temporarily" bypassed with over 600 l.f. of 4" PVC pipe which was installed above ground. In order to maintain somewhat of a constant slope, much of this pipe was supported by fence posts and wire…Much of this PVC pipe has significantly deteriorated due to constant exposure to sunlight and is currently becoming brittle and subject to failure." "The 4" bypass between MH 11 and MH 14, which lays directly on top of the ground, is of particular concern in that it lies outside the existing easement as it runs cross country. The area is completely overgrown with vegetation making any monitoring for leaks almost impossible." "The result is a temporary, unmonitored system which is highly subject to small sewage spills of unknown quantity or duration."

Green Foothills has confirmed with Mark Chow of the Crystal Springs County Sanitation District that nothing has been done to replace this "temporary, unmonitored" sewage transmission line on Billy Goat Hill. Clearly, it would be inconsistent with RM Zoning Section 6324.6.c and an irresponsible dereliction of environmental duty to allow connection to this demonstrably failed sewage transmission line. The proposed Mitigation Measures that purportedly address this problem are wholly inadequate. Therefore the project cannot be approved, as currently proposed.

In summary, the IS/MND does not adequately describe the proposed Project and its setting and fails to provide a thorough analysis of impacts from the Project and feasible mitigation measures.

Green Foothills recommends that due to the significant environmental impacts from the proposed project, it should be denied. An EIR for the proposed subdivision is required, in light of the identified significant environmental impacts. As part of the EIR, alternative locations for the three proposed new parcels must be identified and analyzed. The three parcels (of three acres or less) should be located in the least hazardous and least environmentally-sensitive location on the property.

We believe the most appropriate and feasible area is generally in the area of the existing house at 1551 Crystal Springs Road. The remaining fourth parcel (48-acres MOL) that includes the existing house at 1551 Crystal Springs Road, its driveway and other improvements, should be covered by a Conservation Easement that prohibits future residential development, except within a 3-acre or less "development envelope" that includes the existing residence and other associated development (including the driveway, septic system, any outbuildings), at 1551 Crystal Springs Road. The approximately 3-acre parcels should avoid building on known landslide areas and on the mapped area in the north-western corner where the San Mateo Woolly Sunflower (a federal and state protected species) is located. This is the only species of concern in this area that was identified and mapped by Wood Biological Consulting (2007). If necessary, these parcels could use on-site septic systems, as allowed in the RM Zoning District; and as utilized by the single family residence at 1551 Crystal Springs Road. There is an eight inch water main line on the adjacent property to the north that runs along the property line; extension of this line to serve the new parcels should be considered; LAFCo approval would likely be required. If connection to this line is not feasible, the existing domestic water supply line for 1551 Crystal Springs Road could be upgraded to serve the new parcels. Previous development of the subject property, including the residence at 1551 Crystal Springs Road and the Odyssey School (which had been part of the property until it was subdivided off) has been successfully located along Crystal Springs Road. County Scenic Corridor policies that are applicable to this property do NOT prohibit new development; indeed many new homes and even commercial developments have been approved within County Scenic Corridors over the years.

Thank you again for the opportunity to comment.

Sincerely,

Lennie Roberts

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February 24, 2020

Via Email

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Re: Recirculated Initial Study/ Mitigated Negative Declaration for Zmay 3-Lot Minor Subdivision, Grading Permit, and Resource Management Permits

Dear Erica Adams:

On behalf of Green Foothills, we have reviewed the Recirculated Initial Study and Mitigated Negative Declaration ("IS/MND") prepared in connection with the proposed Zmay 3-Lot Minor Subdivision ("Project") in San Mateo County. We submit this letter to express our legal opinion that: (1) the IS/MND for the proposed Project fails to comply with the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 *et seq.*, and the CEQA Guidelines, California Code of Regulations, title 14, § 15000 *et seq.* ("Guidelines"), and (2) the County must prepare an environmental impact report ("EIR") before proceeding with the Project.

As detailed below, numerous inadequacies and omissions in the IS/MND render it insufficient as an environmental review document. The document lacks the necessary evidentiary support for its conclusions that the Project will not have adverse impacts to land use, water quality, utilities and service systems, and wildfire hazards, among others. In the absence of an enforceable and proven plan for mitigating these significant environmental impacts, there is ample evidence in the record to support a fair argument that the Project will have significant environmental effects not analyzed or even

acknowledged in the IS/ MND. In addition, many of the mitigation measures proposed in the IS/MND are inadequate and will not address the Project's significant environmental impacts. Rather, the IS/MND defers analysis and mitigation, substantially understating the severity and extent of a range of environmental impacts. All of these impacts must be more fully addressed before the County may approve the Project. While the Project might appear to be small-scale, its impacts are outsized. This is due in part to the extremely steep slopes ranging from 30-50 percent, which will severely impact wildfire hazards, and in part to a long history of compromised sewage lines in the area that the Project seeks to continue using without adequate repair.

The Project is also fundamentally inconsistent with the San Mateo County General Plan and Zoning Code. Thus, approval of the Project and adoption of the IS/MND would violate not only CEQA, but also the State Planning and Zoning Law, Government Code section 65000 *et seq.* For all of these reasons, the County cannot approve the Project as currently proposed.

I. Approval of the Project as Proposed—Which Is Inconsistent with the County's General Plan and Zoning Requirements—Would Violate Planning and Zoning Law.

The state Planning and Zoning Law (Gov't Code § 65000 et seq.) requires that development approvals be consistent with the jurisdiction's general plan. As reiterated by the courts, "[u]nder state law, the propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements." *Resource Defense Fund v. County of Santa Cruz* (1982) 133 Cal.App.3d 800, 806. Accordingly, "[t]he consistency doctrine [is] the linchpin of California's land use and development laws; it is the principle which infuses the concept of planned growth with the force of law." *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1336.

It is an abuse of discretion to approve a project that "frustrate[s] the General Plan's goals and policies." *Napa Citizens for Honest Gov't v. Napa County* (2001) 91 Cal.App.4th 342, 379. The project need not present an "outright conflict" with a general plan provision to be considered inconsistent; the determining question is instead whether the project "is compatible with and will not frustrate the General Plan's goals and policies." *Napa Citizens*, 91 Cal.App.4th at 379. Here, the proposed Project does more than just frustrate the General Plan's goals. As discussed in more detail below, the Project is directly inconsistent with numerous provisions in the General Plan and Zoning Code.

A. The Project Conflicts with the County's General Plan.

The question of consistency between the Project and the applicable plans and ordinances plays two distinct roles in the environmental review and project approval process. First, under CEQA, a conflict between a plan or ordinance and the Project is a significant impact that must be disclosed and analyzed in the IS/MND. *See Pocket Protectors v. City of Sacramento* (2005) 124 Cal.App.4th 903, 929-36. The environmental document's conclusions regarding these impacts, like those for any other impact, must be supported by substantial evidence.

Second, as discussed above, under the State Planning and Zoning Law, the Project may not be approved in the face of such inconsistencies. The Project requires approval of a tentative map, the associated RM Permit, and a grading permit for landslide repair. State law clearly requires these approvals to be consistent with the County's General Plan. "The propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements." *Citizens of Goleta Valley v. Board of* Supervisors (1990) 52 Cal.3d 553, 570. Specifically, State law bars the grant of a permit for an activity that would be inconsistent with a general plan. *See Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1184. As discussed in the following sections of this letter, the proposed Project is clearly inconsistent with the County's General Plan and Zoning Code. Thus, the County cannot legally grant the tentative map and associated permits for this Project or any iteration of the Project unless it is revised to comply with the General Plan.

Although the IS/MND concludes that the Project does not conflict with applicable land use plans, policies, and regulations (IS/MND at 41), this is not the case. In reaching this conclusion, the IS/MND limits its discussion to allowable uses in the zoning designation for the Project site. (IS/MND at 41). The IS/MND neglects to evaluate the Project's consistency with General Plan policies relevant to Resource Management Districts. For example, the Project conflicts with GP Policy 15.1 Minimizing Risks From Natural Hazards, which requires projects to "[m]inimize the potential risks resulting from natural hazards, including but not limited to, loss of life, injury, damage to property, litigation, high service and maintenance costs, and other social and economic dislocations." (County of San Mateo General Plan Policies at 15.1P). The IS/MND fails to adequately address this policy or provide evidence that the Project is consistent with it. Without providing any substantial evidence, the IS/MND concludes that the Project will have no land use or hazards impacts. However, as discussed further below, the Project

will have potentially significant impacts to land use, water quality and wildfire hazards, that are not adequately addressed by the IS/MND.

B. The Project Conflicts with the County's Zoning Code.

Similarly, the Project conflicts with the County's Zoning Code. In particular, the Project conflicts with San Mateo County Zoning Regulation section 6324.6, which provides criteria for preventing hazards to public safety. As previously discussed, the IS/MND fails to provide any substantial evidence that the Project will not have any land use or hazards impacts. Yet, as discussed further below, the Project will have potentially significant impacts to land use, water quality and wildfire hazards, which are not adequately addressed by the IS/MND.

Further, the Project is inconsistent with the Resource Management District zoning designation of the Project site. In particular, the Project is inconsistent with the purpose of the Resource Management District, which is to carry out the state-mandated Open Space and Conservation Element of the General Plan (San Mateo County Zoning Regulation section 6310), and section 6314, which sets maximum limits on development in Resource Management Districts. Under section 6314, zoning pertaining to Resource Management Districts must ensure that "development is consistent with levels of services which reasonably can be provided, will conserve natural features and scenic values, and that areas hazardous to development or life are left in open or limited use."

Here, contrary to sections 6310 and 6314, the Project will be located in a hazardous area with very steep slopes that are subject to landslides. Additionally, locating three lots and associated houses at the highest elevation of the property is inconsistent with the conservation of natural features, including very steep slopes and native vegetation that would have to be extensively graded. Changes in hydrology from landslide remediation would also have the potential to significantly impact wetlands below the subject property. Similarly, the Project will be inconsistent with the conservation of scenic values. Accordingly, the proposed parcels and residential development would be on the most visible area of the property as viewed from many vantage points within the surrounding area. These proposed changes to the site of the Project directly conflict with the zoning standards for Resource Management Districts. Additionally, allowing residential development in this Resource Management area will set a precedent inviting more development in other Resource Management areas.

The Project's inconsistency with the County's General Plan and Zoning Code has two legal results. First, the IS/MND's analysis of land use impacts is profoundly flawed. The IS/MND provides no evidence to support the assertion that the Project does not conflict with applicable plans and policies, and thus its conclusion that land use impacts will have no impact is not supported by substantial evidence. Because the Project conflicts with applicable land use plans and ordinances, there is a fair argument that it would cause significant land use impacts, and the County must prepare an EIR that evaluates these and any other inconsistencies.

Second, these conflicts demonstrate that Project approval would also violate the State Planning and Zoning Law. Accordingly, the County may not approve the tentative map and associated permits.

II. The Project's Potentially Significant Impacts Require Preparation of an EIR.

It is well settled that CEQA establishes a "low threshold" for initial preparation of an EIR, especially in the face of conflicting assertions concerning the possible effects of a proposed project. *Pocket Protectors*, 124 Cal.App.4th 903, 928. CEQA provides that a lead agency may issue a negative declaration and avoid preparing an EIR only if "[t]here is *no* substantial evidence, in light of the whole record before the lead agency, that the Project may have a significant effect on the environment." Pub. Resources Code § 21080(c)(1) (emphasis added). A lead agency may adopt a mitigated negative declaration only when all potentially significant impacts of a project will be avoided or reduced to insignificance. *Id.* § 21080(c)(2); Guidelines § 15070(b). A mitigated negative declaration will also be set aside if the proponent's conclusions are not based on substantial evidence in the record. *See Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

An initial study must provide the factual basis, with analysis included, for making the *determination* that no significant impact will result from the project. Guidelines § 15063(d)(3). In making this determination, the agency must consider the direct and indirect impacts of the project as a whole (Guidelines § 15064(d)), as well as the project's cumulative impacts (see *City of Antioch v. City Council of Pittsburg* (1986) 187 Cal.App.3d 1325, 1332-33).

An agency must prepare an EIR whenever it is presented with a "fair argument" that a project may have a significant effect on the environment, even if there is also substantial evidence to indicate that the impact is not significant. *See No Oil, Inc. v. City*

of Los Angeles (1974) 13 Cal.3d 68; *see also Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988; Guidelines § 15064(f)(1). Where there are conflicting opinions regarding the significance of an impact, the agency must treat the impact as significant and prepare an EIR. *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; Guidelines § 15064(f)(1).

Here, the County must prepare an EIR because, as set forth below, there is a fair argument that the Project will cause significant impacts related to utilities and service systems, hydrology and water quality, and wildfire hazards. An environmental review document must include a detailed and thorough analysis of the Project's likely impacts to permit informed decisions about the Project, and identify effective mitigation measures and alternatives that could reduce these impacts.

A. The IS/MND Fails to Adequately Analyze and Mitigate the Project's Impacts on Utilities and Service Systems.

1. The IS/MND's Failure to Adequately Describe the Project's Existing Utilities and Service Systems Setting Results in a Serious Underestimation of the Project's Effects on Existing Infrastructure.

CEQA provides that one of the required components of an initial study is a description of the environmental setting of a project. Guidelines § 15063(d)(2). "[W]ithout such a description, analysis of impacts, mitigation measures and project alternatives becomes impossible." *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 953. Decision-makers must be able to weigh the project's effects against "real conditions on the ground." *City of Carmel-by-the-Sea v. Board of Supervisors* (1986) 183 Cal. App. 3d 229, 246. One initial study's "environmental setting" section that was held to be adequate set forth the existing site conditions, facilities, and recreational uses, and contained a description of the existing physical conditions, including the topography and types of habitats and vegetation. *Lighthouse Field Rescue v. City of Santa Cruz* (2005) 131 Cal. App. 4th 1170, 915-17. According to the court, the initial study's several-pages-long environmental setting discussion "met the minimum requirements of the Guidelines." *Id.* at 917.

In contrast to this type of thorough description of the environmental context in which a project is proposed, the IS/MND omits essential information about existing utilities and service systems and thus fails to meet CEQA's requirements. In order for the

public and decision-makers to be able to fully understand the environmental impacts of this Project, more information about the Project setting is needed.

Here, the IS/MND uses an improper baseline for assessing the Project's impacts on utilities and service systems. In particular, the IS/MND does not describe or analyze the existing condition of the Crystal Springs Sanitation District's Parrott Drive Sanitary Sewer System,[1] which the Project plans to connect to. However, as analyzed and described in the 2003 "Parrott Drive Sanitary Sewer Alternatives Study," the sanitary sewer transmission line has been failing for years. (IS/MND, Attachment P at 2). The Report states that "[s]ubsequent to the 1952 initial construction, the first sections of pipe immediately below Parrott drive began to fail almost immediately." (IS/MND, Attachment P at 2). Additionally, "[o]ver the years, additional manholes began to slide down the hill and sections of the pipe would fail," and "[m]uch of this PVC pipe has significantly deteriorated due to constant exposure to sunlight and is currently becoming brittle and subject to failure." (IS/MND, Attachment P at 2). Consequently, the Report concluded that the sanitary sewer transmission line is "subject to small sewage spills of unknown quantity or duration." (IS/MND, Attachment P at 2). Despite the Report's conclusion that the Parrott Drive Sanitary Sewer System will most likely lead to sewage spills without repair, the IS/MND fails to include an update to the report, effectively presenting an inadequate baseline of existing conditions.

An agency's choice of baseline must allow it to realistically describe *both* the existing environmental conditions and the impacts of the project. Thus, an agency's choice of baseline should both accurately characterize the existing environment and allow the agency to analyze and mitigate the full scope of a project's impacts. Given the inadequacies of the Project setting description, a member of the public would not be made aware of the impacts to utilities and service systems and thus violates CEQA

2. The IS/MND Fails to Adequately Identify the Project's Impact on Existing Infrastructure, Which Could Be Significant.

In addition to using an improper baseline for assessing the Project's impacts, the IS/MND fails to provide any analysis of how the Project's connection to the Parrott Drive Sanitary Sewer System may impact existing utilities and service systems. As required by CEQA, the IS/MND must provide an analysis of the significant effects the Project might

[1] The Parrott Drive Sanitary Sewer System is also known as the "Billy Goat Hill sewer line."

cause by bringing the development into the area affected. Given that the existing infrastructure is already degraded, there is a high likelihood that connecting additional pipelines and adding wastewater to the system will exacerbate the system's failures. Additionally, as further discussed below, there likely will be significant water quality and other impacts associated with connecting to a degraded sewer system, which the IS/MND fails to address. Thus, there is a fair argument that the Project would cause significant impacts to existing utilities and service systems, as well as to water quality, and the City must prepare an EIR that evaluates these impacts.

3. The IS/MND Fails to Identify Adequate Mitigation for the Project's Impacts on Utilities and Service Systems.

The IS/MND's mitigation measures for utilities and service systems impacts are vague and improperly defer important information to future studies. For example, the Crystal Springs Sanitation District added conditions as mitigation measures that must be satisfied prior to connecting to the existing sewer system in order to minimize impacts on the downstream systems. These include "capital improvement projects" to reduce inflow and infiltration and future demonstration that the District sewer mains utilized to transport sewage from the subdivision have the peak wet weather capacity for conveying the additional flow generated from the Project. These mitigation measures are vague and defer critical analysis needed for understanding the impact of the Project on utilities systems. The IS/MND fails to describe what capital improvement projects will be adopted, including whether the projects are planned, funded, or scheduled to be implemented. Without such information, it is impossible to fully understand how adoption of capital improvement projects will mitigate the potential impacts of the project. Under CEQA, the IS/MND must provide evidence that the mitigation measures will be effective and describe how much inflow and infiltration will be reduced. Finally, the County is deferring the analysis of whether the system has capacity to handle the added flow when there is ample evidence that the system is already over-capacity. These improper deferrals of mitigation violate CEQA. *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 915-16 ("Impermissible deferral of mitigation measures occurs when an EIR puts off analysis or orders a report without either setting standards or demonstrating how the impact can be mitigated in the manner described in the EIR."); *see also Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794 (requiring report without established standards is impermissible delay); *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1275 (requiring biological report and compliance with *any* recommendations in the report is impermissible deferral of mitigation measure).

Further, the IS/MND implies that compliance with local and state regulations will ensure that potential impacts will be avoided or mitigated. Under the analysis of utilities and service systems impacts, the IS/MND identifies meeting Energy Efficient Climate Action Plan goals and complying with the Green Building Ordinance as mitigation. (IS/MND at 52). However, under well-established case law, compliance with regulations does not excuse the agency from describing Project activities or from analyzing resulting impacts and appropriate mitigation. *Oro Fino Gold Mining Corporation v. County of El Dorado* (1990) 225 Cal.App.3d 872, 885. While a project may comply with regulations, this does not necessarily mean that its impacts will not be significant under CEQA and require further mitigation. *See e.g., Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 732. Thus, to comply with CEQA, the County must prepare a full EIR that describes the existing setting and proposed Project activities, analyzes anticipated impacts, and identifies appropriate mitigation.

B. The IS/MND Fails to Adequately Analyze and Mitigate the Project's Impacts on Hydrology and Water Quality.

1. The IS/MND's Failure to Adequately Describe the Project's Existing Hydrological Setting Results in a Serious Underestimation of the Project's Hydrological Effects.

As previously discussed, CEQA requires that an initial study provides a description of the environmental setting of a project, which serves as a baseline for evaluating a Project's impacts. Guidelines § 15063(d)(2). Here, the hydrology and water quality section lacks essential baseline information on existing hydrological and hydraulic conditions necessary for an understanding of how the Project would affect the existing environment. The IS/MND omits discussion of the existing environmental conditions. It provides no information on streams and other water features in the area, nor does it describe water quality of those features. Instead, the IS/MND outlines the Project's presumed compliance with permit conditions before concluding that there will be less than significant or no impacts. (IS/MND at 38-40).

For example, in analyzing whether the Project will significantly alter the existing drainage pattern of the site or area in a manner that would result in erosion or siltation, the IS/MND omits discussion of the existing setting (which is extremely steep and has experienced prolonged contamination resulting from numerous sewer spills) or potential impacts associated with development under these conditions. Instead, the IS/MND jumps straight to the proposed mitigation: "[c]ompliance with the County's Drainage Policy and

Provision C.3.i of the San Francisco Bay Region Municipal Permit is mandatory and would prevent the significant degradation of surface or groundwater quality." (IS/MND at 39). But CEQA requires disclosure of potential impacts without mitigation. (Guidelines § 15125.2). The IS/MND's failure to provide this analysis violates CEQA's mandate.

2. The IS/MND Fails to Adequately Identify the Project's Impact on Water Quality, Which Could Be Significant.

The IS/MND acknowledges that the Project has the potential to impact water quality during both the construction and operation phases. However, the IS/MND fails to adequately identify the extent of potential impacts and the cause of such impacts. Rather, the IS/MND merely makes conclusory statements about potential impacts (e.g., "there is the potential for sedimentation in on-site areas downslope from the Parrott Drive border of the parcel" or the Project "could potentially alter the existing drainage of the site or area") and then determines, absent any evidence, that implementation of a mitigation measure will reduce the potential impact to a less than significant level. Instead of providing facts or analysis to show that the Project's water quality impacts will not be significantly impacted, the IS/MND provides only unsupported conclusions.

Water quality impacts related to proposed connections to storm and sanitary sewers must be addressed, especially given that the Project proposes to use the Parrott Drive Sanitary Sewer system for sewage disposal. As previously discussed, the Parrott Drive Sanitary Sewer system has significantly deteriorated and is subject to sewage spills of unknown quantity and duration. (IS/MND, Attachment P at 2). However, the IS/MND has not provided any analysis of how the Project's connection to the sewer system may impact water quality. Thus, the IS/MND provides no basis to support its conclusions that the Project will have no impact or less than significant impacts to water quality. Given the existing condition of the Parrott Drive Sewer System, adding wastewater to the system would exacerbate the failure of the sewage system and exacerbate impacts to water quality. *(See e.g.,* "Why Control Sanitary Sewer Overflows?," U.S. Environmental Protection Agency, https://www3.epa.gov/npdes/pubs/sso_casestudy_control.pdf ["The longer sewer collection system problems go unresolved, the more serious they become, placing vital public assets at risk of further degradation, posing an unacceptable risk to human health and the environment, damaging public and private property, and impacting state and local economies."]; *see also* "Report to Congress: Impacts and Control of CSOs and SSOs," (2004) U.S. Environmental Protection Agency, https://www.epa.gov/sites/production/files/2015-10/documents/csossortc2004_full.pdf

[determining that sanitary sewage system overflows have contributed to public health and environmental concerns, including beach closures and contamination of drinking water supplies]). Thus, there is a fair argument that the Project would cause significant water quality impacts, and the City must prepare an EIR that evaluates these impacts.

3. The IS/MND Fails to Identify Adequate Mitigation for the Project's Hydrology and Water Quality Impacts.

The measures identified by the IS/MND for hydrological and water quality impacts improperly defer analysis and mitigation, requiring future studies to inform management plans. Under the hydrology and water quality analysis, the IS/MND requires the applicant to submit a permanent stormwater management plan and site drainage plan in the future, which are already required by the County's Drainage Policy and Provision C.3.i of the San Francisco Bay Region Municipal Regional Permit. (IS/MND at 39). As previously discussed, these improper deferrals of mitigation violate CEQA. *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 915-16; *see also Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794; *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1275.

Further, the IS/MND implies that compliance with local and state regulations will ensure that potential impacts will be avoided or mitigated. The IS/MND indicates that compliance with Municipal Regional Permit Provision C.3.i and the County's Drainage Policy will prevent significant alteration of existing drainage patterns of the site and area. (IS/MND at 39). However, compliance with regulations does not excuse the agency from describing Project activities or from analyzing resulting impacts and appropriate mitigation. *Oro Fino Gold Mining Corporation v. County of El Dorado* (1990) 225 Cal.App.3d 872, 885. Additionally, the IS/MND fails to demonstrate how compliance with local and state regulations will address the potential water quality impacts associated with developing in an area that has already been the subject of repeated sewage spills. Yet, grading and altering drainage will most likely result in further impacts to the wetlands below the subject property and other surrounding water bodies, including the San Mateo Creek and Polhemus Creek. Thus, to comply with CEQA, the County must prepare a full EIR that describes Project activities and analyzes resulting water quality impacts.

C. The IS/MND Fails to Adequately Analyze Fire Impacts.

The IS/MND's analysis of the Project's fire hazards is similarly inadequate. According to the IS/MND, the Project would result in a significant impact if it would expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands. (IS/MND at 36; CEQA Guidelines, Appendix G § IX(h).) The proposed Project site is located adjacent to undeveloped open space and is subject to severe fire risks. (IS/MND at 36). Given these conditions, one would expect the IS/MND to thoroughly examine the potential for the Project to exacerbate hazardous conditions and identify comprehensive measures to reduce this risk. Instead, the IS/MND fails to adequately evaluate the Project's potential impacts related to wildfire risk and concludes that "[t]he proposed subdivision may present a small increase in wildfire hazard, as human activity is the sources of most wildfires." (IS/MND at 36). As discussed below, this conclusion is not supported by substantial evidence.

As recent years have demonstrated, wildfires dramatically alter the environment in California, pose a tremendous risk of injury and death, and cause billions of dollars of damage to buildings and infrastructure. The Project site is designated by Cal Fire as Very High Fire zone. (IS/MND at 36). The majority of the site is comprised of very steep slopes ranging from 30-50 percent, which are covered with fire-prone vegetation. (IS/MND at 2). The site is adjacent to undeveloped lands that are heavily vegetated, which also increases fire risk. Further, the Project as proposed would situate the three residences at the top of the slope, which would create additional safety risks given that fire travels uphill at a greater speed. (*See*, https://www.nps.gov/articles/wildland-fire-behavior.htm ["[s]lope can determine how quickly a fire will move up or down hills."]) Thus, "if a fire ignites at the bottom of a steep slope, it will spread much more quickly upwards because it can pre-heat the upcoming fuels with rising hot air, and upward drafts are more likely to create spot fires." *Id*.

D. The County Has an Obligation Under CEQA to Conduct an Analysis of Alternatives to the Proposed Project.

Under CEQA, a proper analysis of alternatives is essential for the County to comply with CEQA's mandate that significant environmental damage be avoided or substantially lessened where feasible. Pub. Resources Code § 21002; Guidelines §§ 15002(a)(3), 15021(a)(2), 15126(e); *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433, 443-45. Given the Project's potential for significant impacts

as outlined above, the County must require an EIR to analyze the extent and severity of the Project's impacts related to utilities and service systems, hydrology and water quality, and wildfire hazards. The EIR must also consider feasible alternative sites for the new residential lots in order to avoid or minimize these impacts. Moreover, the County cannot make findings if there is an alternative that would reduce impacts to the surrounding community.

III. Approval of the Project Would Violate the Subdivision Map Act.

Given that the Project is inconsistent with General Plan policies, it will also be in violation of the Subdivision Map Act. The proposed Project requires approval of a tentative subdivision map. (IS/MND at 1). As a result, the County must comply with the Subdivision Map Act. This statute requires that a tentative map approval be consistent with the local general plan. See Gov. Code §§ 66473.5; 66474; *see also Friends of "B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 998 (Subdivision Map Act expressly requires consistency with general plan). Approval of a project that is inconsistent with the general plan violates the Subdivision Map Act and may be enjoined on that basis. *See Friends of "B" Street*, 106 Cal.App.3d at 998 ("City approval of a proposed subdivision … may be enjoined for lack of consistency of the subdivision map with the general plan.").

As detailed above and throughout this letter, the Project is inconsistent with various goals and policies set forth in the County's General Plan and Zoning Ordinance. Because approval of the Project would violate the general plan consistency requirements of the Subdivision Map Act, the Project application must be denied.

IV. Conclusion

As set forth above, the IS/MND does not come close to satisfying CEQA's requirements. It fails to describe the Project setting and fails to provide a complete analysis of Project impacts and feasible mitigation measures. At the same time, ample evidence demonstrates that a fair argument exists that the Project may result in significant environmental impacts. In light of this evidence, CEQA requires that an EIR be prepared. For this reason, and because the Project conflicts with core policies of the County's General Plan and Zoning Ordinance, our clients respectfully request that the tentative map and associated permits be denied at this time. The Project should not be reconsidered until a legally adequate EIR is prepared and certified.

Sincerely,

SHUTE, MIHALY & WEINBERGER LLP

Winter King

THE SAN MATEO HIGHLANDS COMMUNITY ASSOCIATION
1851 Lexington Avenue San Mateo, CA 94402

February 24, 2020

Erica Adams, Project Planner
San Mateo County Planning and Building
455 County Center, Second Floor
Redwood City, CA 94063

Re: Re-Circulated Initial Study and Mitigated Negative Declaration: Zmay 3-Lot Minor Subdivision, Grading Permit and Resource Management (RM) Permits, County File Number: **PLN 2014-00410**, Project Location: 1551 Crystal Springs Road, APN: 038-131-110.

Dear Erica,

Thank you for the opportunity to comment on the above-referenced project.

On behalf of the San Mateo Highlands Community Association, we request that the IS/ Negative Declaration be denied, as inadequate. The Negative Declaration is incomplete and incorrect. There is an obligation for the County to require a real analysis of **alternative locations for the proposed lots.** We endorse the correspondence you have received from the community and from Green Foothills, containing numerous concerns that this Negative Declaration does not comply with CEQA regulations, San Mateo County General Plan, nor San Mateo County RM zoning rules.

Quite concerning, is the lack of compliance with the San Mateo County **RM Zoning requirements;** such as **Hazards to Public Safety Criteria (Section 6324.6).** County must enforce the RM zoning requirements and not ignore the significant environmental impacts in this project that put existing residents and their property in danger.

There is no actual evidence provided to show that this subdivision will be safe for the existing residents, property and the environment. County rules and RM zoning regulations must be enforced to prevent hazards to public safety. This Negative Declaration does not comply to all rules and regulations and must be denied. We ask the County to enforce analysis of alternative locations for the proposed subdivision lots.

Thank you for the opportunity to comment.

Liesje Nicolas

Liesje Nicolas
Highlands Community Association, President

February 22, 2020

Erica Adams, Project Planner
San Mateo County Planning and Building
455 County Center, Second Floor
Redwood City, CA 94063

RE: Notice of Intent to Adopt Mitigated Negative Declaration: Zmay 3-lot Minor Subdivision, Grading Permit and Resource Management (RM) Permits, County File Number: PLN 2014-00410, Project Location: 1551 Crystal Springs Road, San Mateo Highlands area of Unincorporated San Mateo County, APN: 038-131-110

Dear Erica Adams, Project Planner

Thank you for the opportunity to comment on the above referenced project.

This letter is written to comment on the flaw, inconsistency, incompleteness of the Intent to Adopt Mitigated Negative Declaration

Firstly, the repair of landslide and the future residences supported by the piers as described in your Intent to Adopt Mitigated Negative Declaration:

1. In your project Description you stated, “repair of the landslide area is proposed to be achieved with stitch pier retaining walls.”
2. Mitigation Measure 28,29,38 mentioned the stitch pier retaining wall into competent material of at least 8 feet, and to be supported by underlying bedrock, and to the satisfaction of the County’s Geotechnical Section.

This statement has many flaws in it. As the Rainbow Drive properties (APN: 038171200, 038171210, 038171160, 038171170, 038171180) had received approval for piers and tieback in 1996, the wall’s engineer report requested a 24”diameter and 14’ depth as noted in, Michelucci & Associates Geotechnical report dated September 20, 2006 Jobs No 93-1718,96-2350, 96-2375 and 96-2416. The actual piers was dug even deeper (up to 37 feet) than the county plans required, but still ended up failing causing the Polhemus landslide in 1997/1998.

Secondly, the Crystal Springs Sanitation reported in your Attachment P, noted that the report was done February 2003, and there have not been any update since that report. In that report the sewer line in question, “Billy Goat Hill” has many temporary bypasses, “hillside has a long history of slippage...slides, broken pipelines and manholes disconnecting from pipelines…”. If in 2003 there were already so many issues with the existing sewer system, how is the sewer system now that it is 17 years later? In 2013, the Department of Public Works did write a letter to the Zmay in Attachment Q of your report, however there had been no mention of the failing sewer system in Intent to Adopt Mitigated Negative Declaration and how is another three homes are to add their discharge to this failing sewer system. Mitigation measure #62 states that “the project shall minimize its impact on the downstream system by completing capital improvement

projects...”; however there is no set timeline by Crystal Springs Sanitation District to repair it, plus the addition of three homes will cause detrimental load to the existing failing sewer system. As each person in the new homes will discharge between 75-150 gallons addition to this failing sewer system. Even on average if these homes will have an average of four people, that is an additional 300-600gallons of discharge to this failing sewer system.

Department of Public Works info of existing sanitation sewer overflow of the “ billy goat hill” sewer system had documented seven SSO’s since 2007. The current estimated cost to update this failing sewer system is at approx one million, and this does not but in consideration the additional sewer discharge from the requested subdivision in question.

Finally, the following from the RM zoning by San Mateo County Planning department shows that the Intent to Adopt Mitigated Negative Declaration does not comply with RM zoning requirements.

The following does not comply with the neighborhood as none of the homes directly within the proposed property have a 20 ft setback and also the permit is to allow to build homes on a steep, landslide prone and high fire area will cause adverse impact to the community.

> *SECTION 6319B. MINIMUM YARDS. In the absence of more restrictive provisions within this ordinance and with the exception of setbacks determined under the provisions of Section 6319C of this Ordinance Code, the minimum yards required in the RM District shall be as follows:*
> *Front: 50 feet,*

but your Intent to Adopt Mitigated Negative Declaration only required 20 feet. Which this project does not comply to all section 6319c requirements!

> *SECTION 6319C. CRITERIA FOR REDUCTION OF REQUIRED SETBACKS FOR RESIDENTIAL PROJECTS IN URBAN AREAS THAT PRESERVE OPEN SPACE.*
> *(b) The front setback (yard) may be reduced to a minimum of 20 feet, and side setback(s) (yards) may be reduced to a minimum of 10 feet, if **all** of the following apply*
> *(4) The reduced setbacks are appropriate to conform the proposed development to existing development, thereby helping to integrate the new development into the surrounding neighborhood.*
> *(8) The reduction of required setbacks does not adversely impact community character, public health, safety or welfare*
>
> *SECTION 6324.2. SITE DESIGN CRITERIA.*
> *(a) Development shall be located, sited and designed to carefully fit its environment so that its presence is subordinate to the pre-existing character of the site and its surrounding is maintained to the maximum extent practicable.*

(f) The applicant shall demonstrate that the development will not contribute to the instability of the parcel or adjoining lands and that all structural proposals including excavation, and proposed roads and other pavement have adequately compensated for adverse soil engineering characteristics and other subsurface conditions.

The Following does not comply with RM zoning requirement to maintain the current water flow, wetlands, and the safety of the existing neighborhoods:

SECTION 6324.1. ENVIRONMENTAL QUALITY CRITERIA. All development shall comply with all applicable criteria and standards of this Chapter and of local, State and federal agencies and must secure all required permits.

(a) All developments should be designed and located to conserve energy resources, and thereby reduce the impacts of energy consumption on air, land, water, and living resources. Such efforts might include the clustering or location of development to reduce paving, grading, runoff, and driving times, and structural designs which maximize use of solar energy and reduce use of electricity and fossil fuels.

SECTION 6325.4. PRIMARY WATER RESOURCES AREA CRITERIA. The following criteria shall apply within Primary Water Resources Areas as defined or designated in the Open Space and Conservation Element of the San Mateo County General Plan:

(b) Construction, including placement of impermeable surfacing or compaction, shall not significantly disrupt or diminish natural patterns of groundwater recharge.

With the existing failing sewer system as mentioned above and attachment P and Q, the intent to adopt the mitigated negative declaration violates the following RM zoning requirements

SECTION 6324.3. UTILITIES.

(d) Suitability for septic tank installation or other treatment facility must be demon- strated where no sewer system exists. Where a development is proposed to utilize an existing public or community sewer system, it must be demonstrated that sufficient capacity exists to serve the proposed development

This specific lot and it's neighboring lots has documented landslides and it violates the RM zoning requirements as stated:

SECTION 6324.6. HAZARDS TO PUBLIC SAFETY CRITERIA.

(a) Reasonable and appropriate setbacks from hazardous areas shall be provided within hazardous areas defined within the Conservation, Open Space, Safety, and Seismic Safety Elements of the San Mateo County General Plan.

(b) No development shall disrupt the natural erosion and transport of sand or other beach material from coastal watersheds into the coast's littoral circulation system where such disruption will significantly accelerate shoreline erosion.

(c) Notwithstanding the permitted development density under this Ordinance, areas shall not be used for placement of structures: 1) which are severely hazardous to

life and property due to soils, geological, seismic, hydrological, or fire factors; 2) whose development would pose a severe hazard to persons or property outside the proposed development; or 3) for which elimination of such hazards would require major modification of existing land forms, significant removal or potential damage to established trees or exposure of slopes which cannot be suitably revegetated.

(f) No land shall be developed which is held unsuitable by the Planning Commission for its proposed use for reason of exposure to fire, flooding, inadequate drainage, soil and rock formations with severe limitations for development, susceptibility to mudslides or earthslides, severe erosion potential, steep slopes, inadequate water supply or sewage disposal capabilities, or any other feature harmful to the health, safety or welfare of the future residents or property owners of the proposed development or the community-at-large. To determine the appropriateness of development the following shall be considered:

1. The danger to life and property due to the designated hazards caused by excavation, fill, roads, and intended uses.

2. The danger that structures or other improvements may slide or be swept onto other lands or downstream to the injury of others.

3. The adequacy of proposed water supply and sanitation systems, and the ability of those systems to prevent disease, contamination and unsanitary conditions during or following a hazardous event or condition.

4. The susceptibility of the proposed facility and its contents to potential damage, and the effect of such damage to the property.

5. The importance of the services provided by the proposed facility to the community.

SECTION 6326.4. SLOPE INSTABILITY AREA CRITERIA. The following criteria shall apply within all areas defined as highly unstable on the Landslide Susceptibility Areas Map:

(b) This area may contain areas suitable for low-density residential uses, such as single-family detached residential dwellings. However, such developments shall not be permitted unless the applicant demonstrates that no other locations less susceptible to such hazards are reasonably available on the site for develop- ment, and through detailed geologic site investigations and adequate engineering design, that proposed locations are suitable for the uses proposed, and that direct damage to such uses or indirect threat to public health and safety would be unlikely.

(c) The applicant shall demonstrate that the development will not contribute to the instability of the land and that all structural proposals including excavation, access roads and other pavement have adequately compensated for soils and other subsurface conditions.

All the above violations of RM zoning requirements are relevant to this parcel. Therefore I deem that the Intent to Adopt Mitigated Negative Declaration, is incomplete, inaccurate and insufficient.

Tania Leung (1127 Parrott Drive, San Mateo CA 94402)

Dr. Gary Trott
1215 Parrott Dr
San Mateo, CA, 94402
Member of Baywood Park Homeowners Assoc.

21-February-2020

To: Erica D. Adams, Planner III
Planning and Building Department
455 County Center, Second Floor
Redwood City, CA 94063

Re: San Mateo County PLN2014-00410 Zmay Development Project. Notice of Intent

This is a public response for the recently released Mitigated Negative Declaration (MND) on January 21, 2020 for project PLN2014-00410. There are many RM zoning environmental codes describing the requirements (shown below) that are not explicitly addressed in the current version of the MND. Environmental repercussions due to the local active hydrology *supporting* the wetlands and *inducing* landslides are missing from the MND dated January 21, 2020. The result is the Zmay project will have multiple and strong negative impacts on the local environment not addressed by any of the mitigation measures. Thus, the MND should be returned to the planning staff for reanalysis. As noted in the Notice of Intent [1A, pg2] this is an environmental assessment. The identified site does have environmental hazardous. Therefore, according to the RM zoning codes Sec 6325.6(f)7, a critical environmental review of alternative, less hazardous sites, must also be included, without consideration of building costs.

Summary

The recently released "Notice of Intent to Adopt Mitigated Negative Declaration" (MND) from San Mateo County Planning staff [1A] for the project number PLN2014-00410 (Zmay development) is incomplete and fails to correctly address specific RM environmental zoning requirements as described below. The MND fails to incorporate any analysis of the active hydrology on the Zmay parcels. The active sub-surface hydrology, ground water, is the source water for the wetlands and maintains them through drought years. In addition, the ground water in conjunction with downslope grading and construction activities increases the risk of inducing potential landslides impacting the uphill roads and homes. The result is a failure to correctly identify and evaluate the environmental risk, and risk analysis called for in the RM zoning code. There are risks to the wetlands and landslide hazards to roads and structures.

The proposed project consists of grading and construction activities on three proposed house pads and a stitched pier wall on lot number two for assessor's parcel no. 038-131-110. In the biological [3A, pg 68] and geotechnical reports [5A, pg 2], including updates, provided by the developer there is no discussion or analysis with respect to the local, active hydrology, soil conditions, and the uphill topology. The existing reports do not consider how the subsurface water flow pathways from uphill sources will be negatively impacted by construction activities nor the consequences to the environmentally sensitive wetlands, or any downstream water source. In addition, because of the active hydrology, should the fill material under Parrott Drive and associated landslides already identified, be activated by construction activities or subsequent extreme weather wet events over the subdivision lifetime, it will put the Parrott Drive roadway and uphill homes in a highly perilous situation. This has already happened next door to the parcel in question during the winter of 1997/98 with the Polhemus slide event [11]. Thus, the project is not in compliance with San Mateo RM zoning codes as described below.

Finally, there are some missing documents from the MND. These are:

a) The bore hole log date for the 4 parcels in question and laboratory analysis.
b) County approved geotechnical reviews and construction drawings details for the stitched pier walls.
c) Any written peer review of the updated geotechnical analysis of the stitched pier wall by Cotton, Shire, and Associates, Inc. (CSA) has not been included. So, it is not known if CSA have already discussed the active hydrology and the new plans from Zmay.

Below I will provide focus and details for my comments on the environmental analysis in the following areas:

A) Detail description of the local active hydrology not addressed in the biological or geotechnical reports
B) Identification of specific environmental RM zoning code requirements and consequences to
    1. The wetlands that will be negatively impacted.
    2. Activation of local landslides by active hydrology and construction grading.
C) Other environmental impacts.

So, I respectfully would recommend the MND must go back to the planning staff to reevaluate the local hydrology. There are environmental consequences of source water disruption resulting in the demise of the wetland and riparian areas which are under Federal, State, and local water boards protection. In addition, the active hydrology was not incorporated into the geotechnical engineering analysis. So, the designs for the stitched piers walls, and anticipated house pad retaining walls under the garages are incomplete and could fail during wet and multi-year wet seasons. Extreme wet, and multi-year wet seasons will become more severe as climate change effects increase over the lifetime of the subdivision. By disturbing the soil conditions on the downhill slopes, the grading activities will create new conditions, beyond the scope of the current geotechnical reports, promoting landslides encompassing Parrott Drive and possibly the uphill homes. All references are located at the end of this report.

A) Identification of the active hydrology elements

Consider the question, where does the source water come from to support the Federal and State regulated waters identified in the biological [4A, pg.105] report revised in 2015 and again in 2017[3A, pg.97]? The identified wetlands are shown in Figure 1 below.

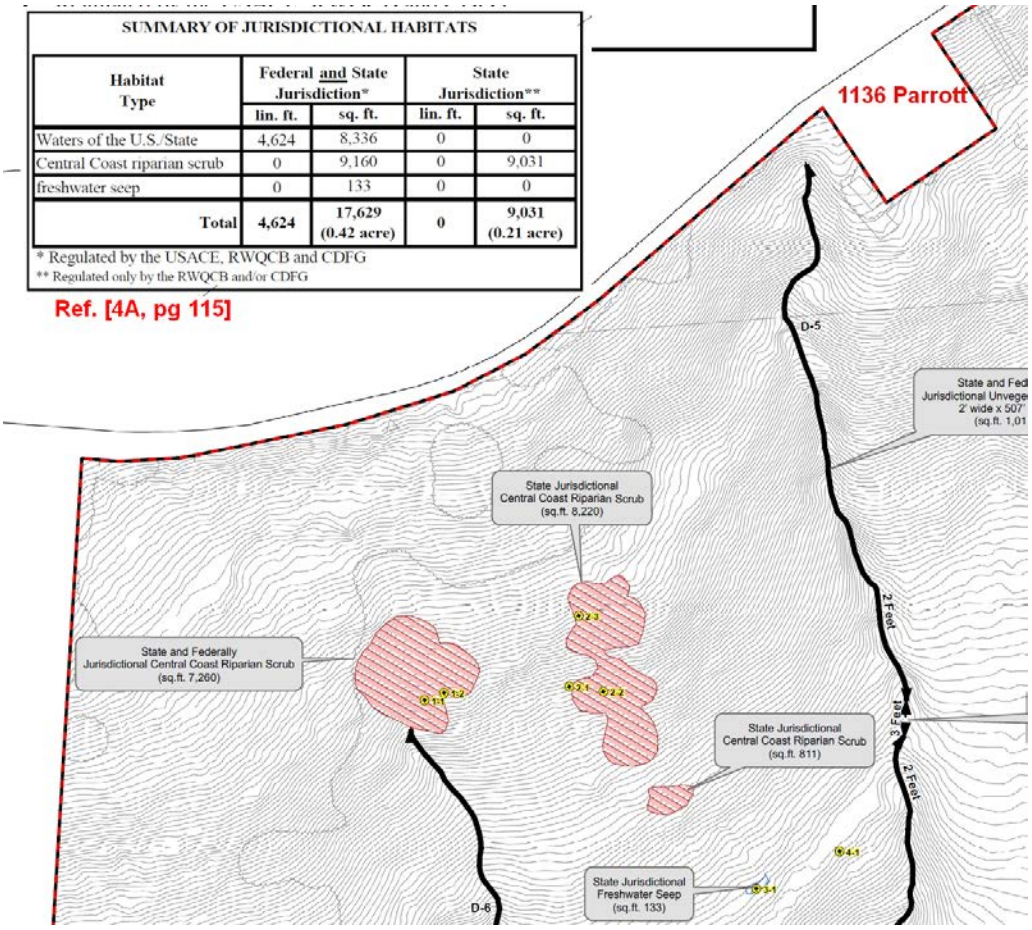

Figure 1. Wetlands identified from ref [4A, pg. 115]

According to the biologist report from Wood Biological Consulting, Inc the groundwater source is "… nuisance water (ie, run off from irrigation or leaking storm/sewer lines)" [4A, pg.17]. In the geotechnical reports by Murry Engineering Inc., there was ground water observed in various bore holes B-4, B-5 and B-6 that are located within the house parcels. Even though the bore holes were done in the middle of summertime CA when everything is dry the source of the was never explained. However, they did note there could be fluctuations in the level of groundwater due to variations in rainfall, temperature, and landscaping [5A, pg.18]. Yet somehow, the wetlands have survived, on a steep hillside, facing the western sun, over the course of multiple years, from the first survey and all of the updates including recent California drought times. This is a lack of attention to the environment, an omission by San Mateo County and is contrary to the Planning Department mission statement.

To answer the question of "Where does the water come from?". One must step back, look uphill and outside of the sub-division boundaries. The uphill topography is complicated by the prior historical subdivision development of Parrot Drive and the Tobin Clark estate at the top of the hill along Tournament Drive.

Figure 2 below, from reference [2], shows the sub-division plots from the Tobin Clark Estate and Parrot Drive houses built in the early 1950's. These are the top of hill properties that are located above the two swales that span the two wetlands in the Zmay parcels. Note in particular there is a Public Utilities Easement (P.U.E) along the back of the Tournament Drive houses. Visiting the area on foot one observes

that the P.U.E is an open surface drain trench along the hill top leading to a culvert drain with top grate behind lot seven on Parrott Drive. At that point the culvert goes under ground to exit on the north side of 1136 Parrott Drive.

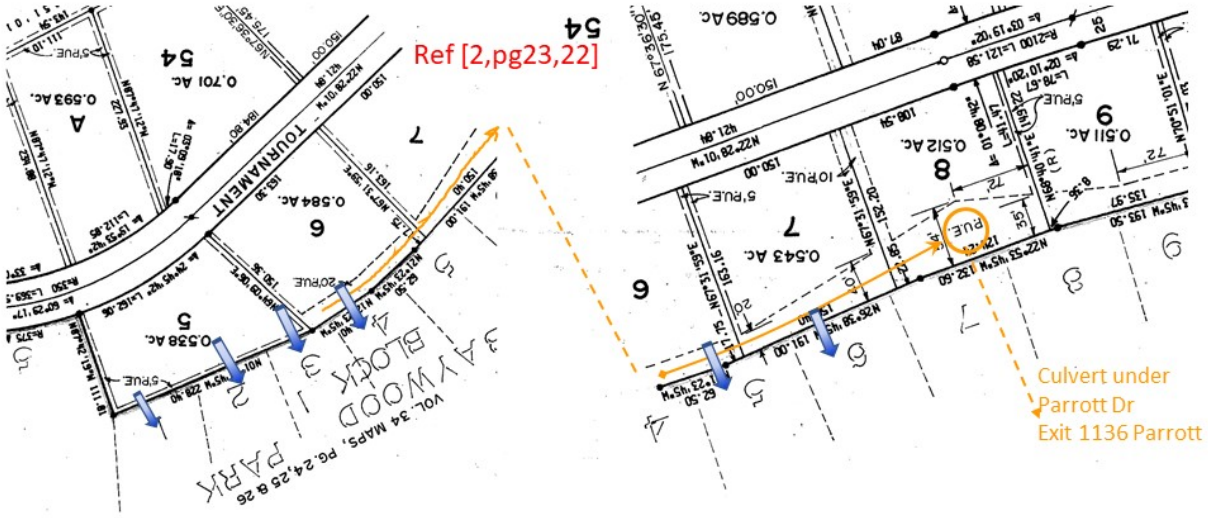

Figure 2. Subdivision plots from the Tobin Clark estate and Parrot Drive subdivisions built in the early 1950's with storm water flow pathways. Orange was the initial flow path. Blue arrows are current flow.

Over the ensuing ~70 years the open drainage trench has been filled with natural debris and flow along the P.U.E. restricted from back yard fences that have been installed. Consequently, the current storm water flow, from the very hilltop, is now over the hillside into the steeply sloped backyards of the residences along Parrott Drive as shown with the blue arrows in figure 2. In discussion with local neighbors, five out of six of the lots along Parrott Drive bordering the Zmay sub-division development have experienced surface debris landslides. The new retaining walls can be seen from Parrott Drive roadway.

Consequently, in the permitting process to repair those slides the San Mateo County Water Services department, following the regulations of the California Regional Water Quality Control Board, San Francisco Bay Region storm water runoff requirements, has required each house to install a dry well as part of the repair of the backyard landslides. Storm water from the back hillsides and any other impervious surface, roof top, driveway etc., is directed into the dry well for short term, onsite retention. A common location for the dry well is the lowest downhill location. For the houses east of Parrot Dr this is the front yard near the Parrott Drive road easement. The dry well locations are as shown in Figure 3 below.

Figure 3, is from an aerial overview image with biological constraints superimposed onto the image. [4A, pg.12]. Street numbers have been added in yellow, current water flow in light blue, and dry wells as the light blue rectangles. The culvert to 1136 Parrott is in orange.

Figure 3 Ariel overview with biological & wetlands overlay. The blue arrows show the water flow coming down from the Tournament Dr. into the dry wells on the east side of Parrott Dr. In more recent updated drawings, the 2nd house pad from the left has been removed.

The storm water flowing over the back hillsides and other impervious surfaces, is captured and directed to the dry wells. It is held in the dry well storage volume until it leaches out into the underground soil structures over time. Which means it is leaching downhill under Parrott drive right through the areas identified as “fill” (labeled in black) created during the original construction of Parrott Drive road. This is in addition to any leakage from sewer, storm drains, or water piping. The sub-ground flow is following the natural downhill topology lines of the original swales to the wetlands.

Figure 3 also shows the jurisdictional habitat locations of the Federal and California state regulated wetlands as identified in the biology report [4A, pg.115]. For clarity, the habitats were shown in stand-alone image Figure 1 above. What is unknown is how much those riparian boundaries very from dry years to wet years. The biological surveys, updates and bore hole data all were collected during the summer months, not at the peak of the rainy season. This is especially important in multi-year rainy events like 1861/62, 1997/98 and 2016/17. The winter of 97/98 was particularly active as San Mateo county experienced over $55M in landslide damages [11]. Including, a local neighborhood, damaging mudslide on Polhemus road with damages up to $20M. See Polhemus landslide in 1998[11]. There was a more recent landslide at Seneca Lane which damaged a sewer line 2017[12]. Construction during a high-water, wet season would be especially damaging to the riparian areas, soft surrounding soils.

Finally, by walking along the west side of Parrott Drive, opposite to the house at 1111 Parrott drive, one can observe a few Elderberry bushes. They extend down the hill in a line towards the wetland areas. See Figure 4. Elderberry bushes require a large amount of water to grow successfully. Also, their roots are rather shallow. So, the only source of water for these plants is the underground moisture flow from the east, uphill side, of Parrott Drive. The various Parrot Drive dry wells are clearly uphill from the riparian habits. Thus, as the sub-surface water travels down the sun parched, west hillside from Parrott Drive it must be relatively near the surface as evidenced by the Elderberry bushes

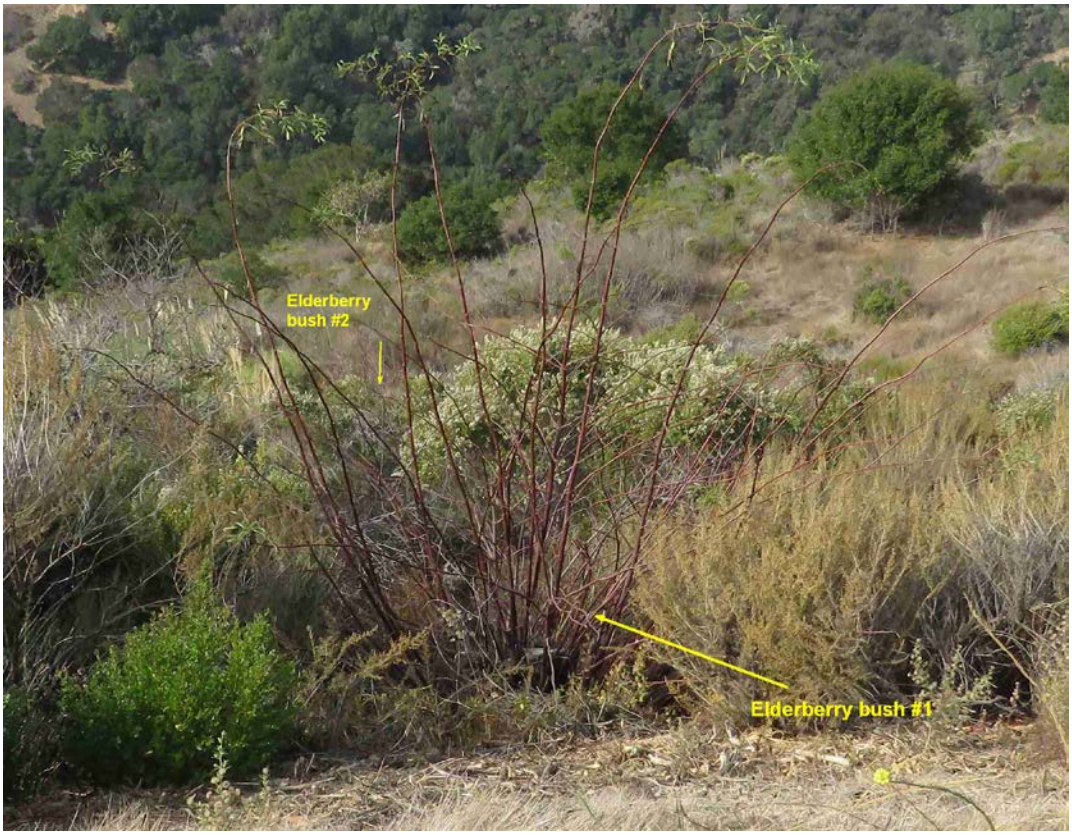

Figure 4. Photograph standing on the west side of Parrott Dr looking down towards the wetlands. One can observe several Elderberry bushes in the direction towards the wetlands. (just out of view)

With respect to the geotechnical data, within the proposed final three lot boundaries, there are only a very few bore holes. As mentioned above, there was ground water observed in a few bore holes, B-4, B-5 and B-6 [5A, pg.18]. These are located within the new parcels in Figure 5 below [3, pg.159]. However, there is very little hydrological information presented. Furthermore, the specific rock structure of the bore holes has been omitted from all reports from these important parcels. So, the specific layers transporting the water cannot be determined. Only generalizations based on widely dispersed bore holes which are not very helpful. However, bore hole #B-4 explicitly is mentioned to have hit "bedrock" at 18" [5A, pg.15 bottom]. Because of the shallow bedrock depth, it can be concluded any and all nearby grading activities can potentially disrupt the below ground water flow. All of which depends greatly on the subsurface topology and of porosity for the various Franciscan soil complexes that make up the general site area. It is interesting to note, the source of the water in the bore holes was never explained, even considering the bore holes were done in the middle of summertime of normal CA dryness

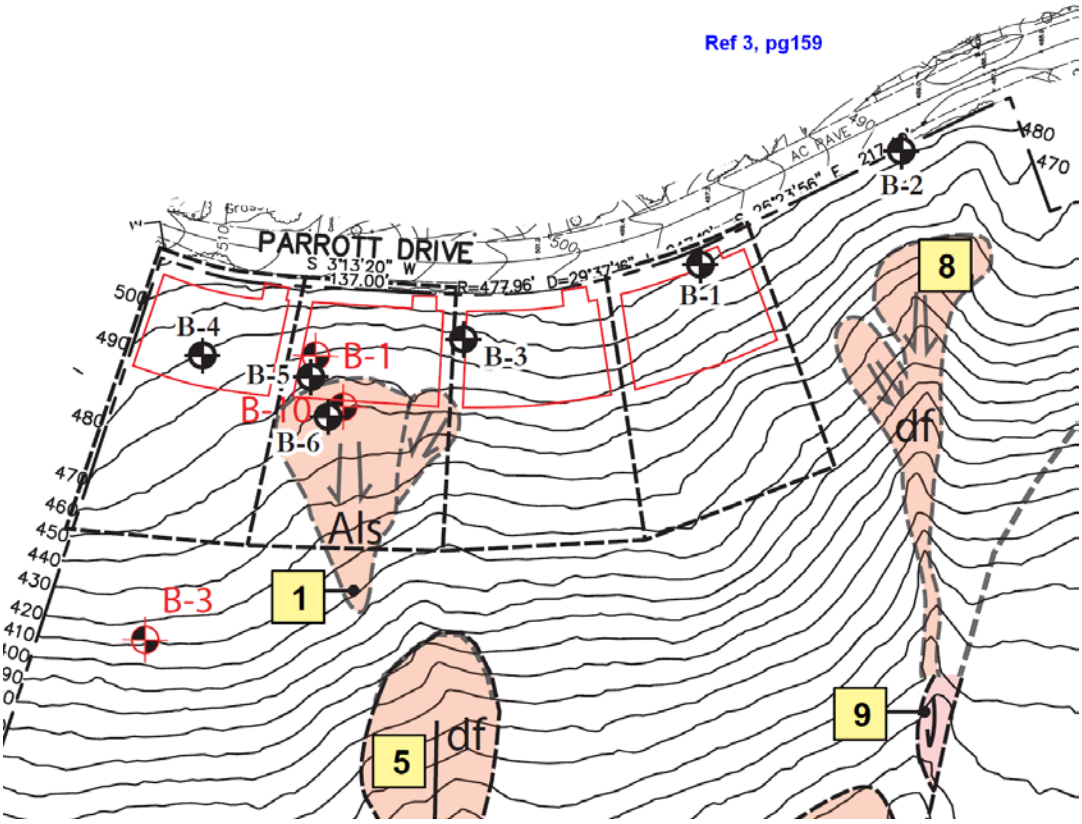

Figure 5. Bore Holes near parcels 1 through 4. No house pad on 2nd from left in updates

So clearly there is self-staining, and active sub-surface hydrology, on the Zmay parcels underdevelopment which have not been analyzed. Furthermore, the source of the water for the wetlands encompasses a large collection area from uphill surface topology, which are explicitly being injected into the below ground topology. Given the bench like, stepped topography, of Parrott Drive road bed, the Parrott Drive east side house pads, and the top of the hill Tournament properties there could be local underground pools providing year over year, source water for the wetlands. It then

travels through the fill material of Parrott Drive road bed, and down the steep slopes of the Zmay property to the wetlands and the below freshwater seeps 3-1 and 4-1[4A, pg.115] in Figure 1.

B1) Environmental Impact to the Wetlands

The relevant San Mateo County RM zoning codes with highlights to note in red are shown here:

Sec 6324.1 Environmental Quality Criteria. *All development shall comply with all applicable criteria and standards of this Chapter and of local, State and federal agencies and must secure all required permits.*

(h) When an extensive change in vegetative cover is proposed, it must be demonstrated that the change will provide for minimal adverse impact on microclimatic conditions, and similar protection from erosion as that provided by the existing vegetation.

(i) No use or development shall have a significant adverse environmental impact upon primary wildlife or marine resources. Development shall clearly demonstrate a high degree of compatibility with, and minimal adverse impact on, wildlife habitat areas

Sec. 6324.4 Water Resources Criteria.

(c) To ensure minimal impact on hydrologic processes, grading and other landscape alteration shall be kept to a minimum and the present configuration of landforms shall be maintained to the maximum extent practicable.

(f) Development, with the exception of agricultural uses and public works and public safety projects, which might cause significant adverse impacts upon the natural course or riparian habitat of any stream, shall not be permitted. All developments shall be required to perform all feasible measures to mitigate possible impacts upon such areas.

Sec 6324.6 Hazards to Public Safety

(c) Notwithstanding the permitted development density under this Ordinance, areas shall not be used for placement of structures: 1) which are severely hazardous to life and property due to soils, geological, seismic, hydrological, or fire factors; 2) whose development would pose a severe hazard to persons or property outside the proposed development; or 3) for which elimination of such hazards would require major modification of existing land forms, significant removal or potential damage to established trees or exposure of slopes which cannot be suitably revegetated.

Sec 6325.4 Primary Water Resources Area Criteria.

(b) Construction, including placement of impermeable surfacing or compaction, shall not significantly disrupt or diminish natural patterns of groundwater recharge.

(d) No use, development or alteration shall be undertaken unless the applicant demonstrates that such use, development or alteration will not interfere with the existing capacity of any water body, will not substantially increase erosion, will not increase the amounts of silt or chemical nutrient pollutants, or do anything else that will contribute to the deterioration of the quality of water in any water body

So, the RM zoning codes clearly indicate the wetlands, their source of water, their water quality, and their physical status must be protected. This is much more than erosion control stipulated in the

mitigation measures 4, 9, 42, 46, 47, 54. For example, grading activities uphill or around the canopy of the willow trees will compact the soil [**6325.4**(b)], damaging the subsurface of the moist soils. Who wants to see tire tracks from grading operations in the riparian areas from the approved limits described in mitigation measure #6? There are even more severe impacts from grading operations that have not been considered in this MND as described below.

Given the source water for the wetlands is uphill, potentially all grading activities can divert critical source water away from the wetlands as depicted in the construction drawings. The Grading and Landslide drawings [5A, pg.155] are not very specific with respect to the grading depth. But notice in Figure 6a below how the grading area identified for the two stitched pier retaining walls is directly in line with the downhill gradient, sub-ground water flow, to the riparian areas. As previously mentioned, the depth of the loose colluvium soil on top can be as shallow as 18" [5A, pg.15] as described in the geotechnical report for bore hole B-4. It is most likely the grading activities for the stitched pier walls will be deeper than 18 inches. Furthermore, the cut depth for any grading activities may be up to 5ft in height [1B pg.10 Mitigation measure 34] for parcels 1, 3 and 4 and unlimited on parcel #2 for the stitched pier walls. In addition, if one looks at the typical concept driveway example shown in Figure 6b it can been seen there is a 10-foot retaining wall associated with the driveway profile due to the steep slopes next to Parrott Drive. The 10 foot retaining walls high up the hillside near Parrot Drive on all three house pads will block and disturb or divert the sub ground flow patterns. Thus, any of grading activities where the depth of the grading cut is unspecified could easily cut, block, or divert the ground water flow paths. A clear violation of zoning codes Sec. **6324.1,6324.4, 6325.6**

Also notice in Figure 6a, the outlets for stitched pier subdrains, circled in red, are clearly directed off northward into open spaces. No longer on a downward gradient to the wetlands. Thus, diverting vital ground water flowing down the central fall line away from the wetlands.

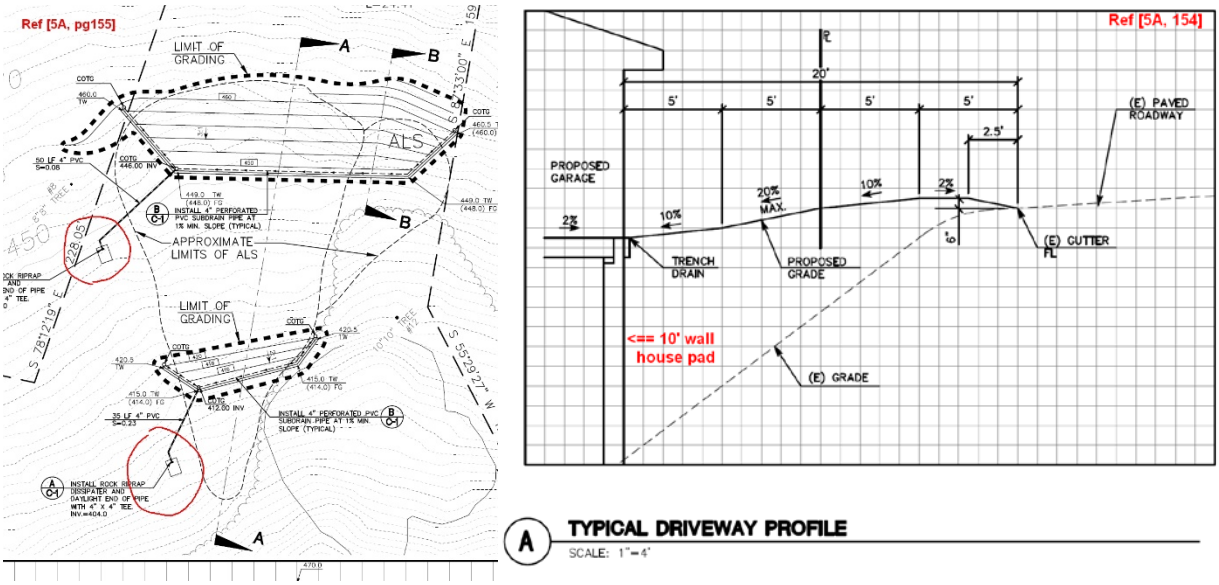

Figure 6a Pier stitched drainage areas, and 6b and house pad 10' walls typical

Finally, the initial grading and ground preparation process will be installing water detention drainage piping on the three house pads, which will divert the water without consideration for the wetlands. See Figure 7 [5A, pg 154] where the detention drainage is shown in the red circles. Again, the impact to the sub-surface water flow feeding the riparian areas has not been evaluated. So, without careful consideration for the sub-surface, ground water flow pattern, the water source, and flow channels, essential for the survival of the wetlands and riparian areas could easily be blocked or diverted due to grading or detention drainage. Thus, leading to the demise of the wetlands.

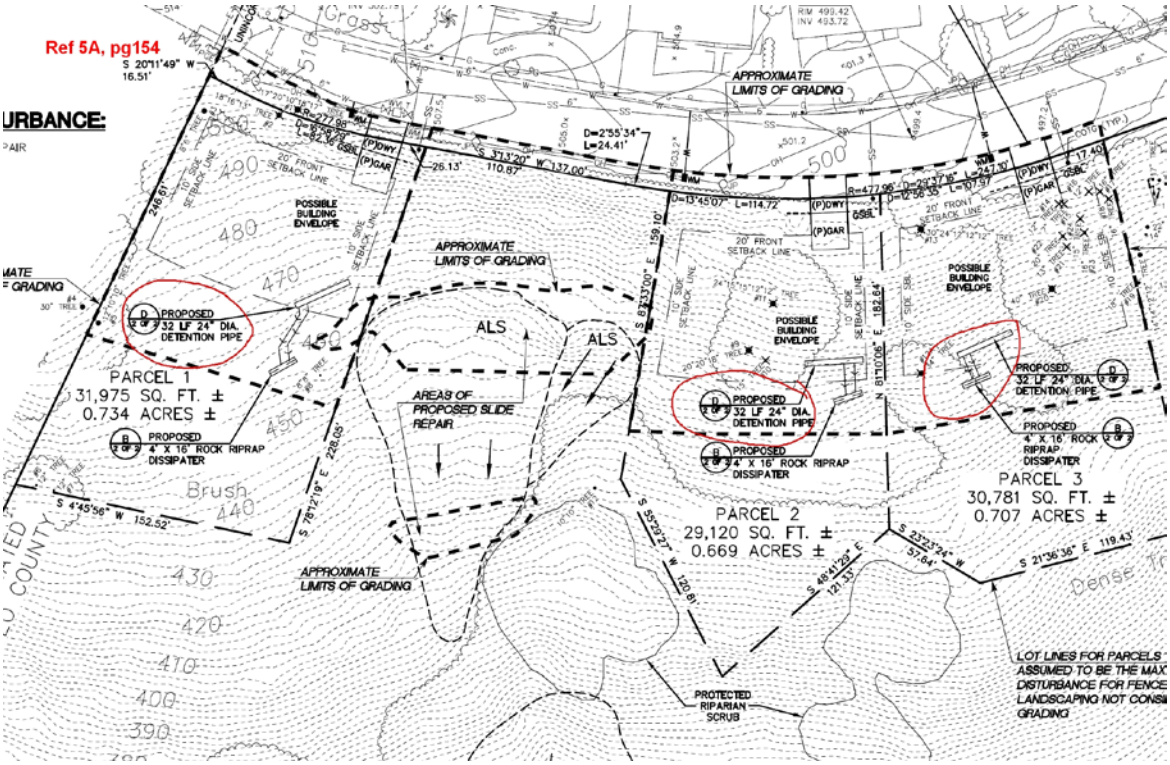

Figure 7. Drainage piping (in red) for each lot installed during the initial grading process.

In summary, the natural flow of water from Parrott Drive at the top of the swale, containing each of the riparian areas and downward is the source of water for the wetlands. Blocking of this source water with retaining house walls, any change in water quality, or diversion from drainage piping for the house parcels, or the two stitched pier walls drain piping, or disturbance of the flow pattern from grading cuts, or tire tracks from equipment, has not been analyzed in terms of what changes may be brought on by the various direct or indirect effects of grading activities and arbitrarily installed storm drainage.

Allowing these grading activities to proceed violates many of the environmental RM zoning codes listed above. See **Sec. 6324.1,6324.4, 6325.6.** Therefore, the Mitigated Negative Declaration should be sent back for further review and analysis and/or alternative sites seriously evaluated.

B2) Environmental Impacts resulting in hazardous landslides conditions.

The relevant San Mateo County RM zoning codes with highlights in red are shown here:

Sec. 6324.2. SITE DESIGN CRITERIA.

(a) Development shall be located, sited and designed to carefully fit its environment so that its presence is subordinate to the pre-existing character of the site and its surrounding is maintained to the maximum extent practicable.

(f) The applicant shall demonstrate that the development will not contribute to the instability of the parcel or adjoining lands and that all structural proposals including excavation, and proposed roads and other pavement have adequately compensated for adverse soil engineering characteristics and other subsurface conditions.

Sec. 6325.6 Hazards to Public Safety Criteria.

(c) Notwithstanding the permitted development density under this Ordinance, areas shall not be used for placement of structures: 1) which are severely hazardous to life and property due to soils, geological, seismic, hydrological, or fire factors; 2) whose development would pose a severe hazard to persons or property outside the proposed development; or 3) for which elimination of such hazards would require major modification of existing land forms, significant removal or potential damage to established trees or exposure of slopes which cannot be suitably revegetated.

(f) No land shall be developed which is held unsuitable by the Planning Commission for its proposed use for reason of exposure to fire, flooding, inadequate drainage, soil and rock formations with severe limitations for development, susceptibility to mudslides or earthslides, severe erosion potential, steep slopes, inadequate water supply or sewage disposal capabilities, or any other feature harmful to the health, safety or welfare of the future residents or property owners of the proposed development or the community-at large. To determine the appropriateness of development the following shall be considered:

1. *The danger to life and property due to the designated hazards caused by excavation, fill, roads, and intended uses.*
2. *The danger that structures or other improvements may slide or be swept onto other lands or downstream to the injury of others.*
3. *The adequacy of proposed water supply and sanitation systems, and the ability of those systems to prevent disease, contamination and unsanitary conditions during or following a hazardous event or condition.*
7. *The availability of alternative locations, not subject to hazards.*

Sec. 6326.4 Slope Instability Area Criteria.

(b) This area may contain areas suitable for low-density residential uses, such as single-family detached residential dwellings. However, such developments shall not be permitted unless the applicant demonstrates that no other locations less susceptible to such hazards are reasonably available on the site for development, and through detailed geologic site investigations and adequate engineering design, that proposed

locations are suitable for the uses proposed, and that direct damage to such uses or indirect threat to public health and safety would be unlikely.

(c) The applicant shall demonstrate that the development will not contribute to the instability of the land and that all structural proposals including excavation, access roads and other pavement have adequately compensated for soils and other subsurface conditions.

SM County Geotechnical Report Guidelines [21 pg.11]

(c) Sufficient soil samples to represent a true cross-section of the cut and fill areas and of the material to be used as fill shall be classified in accordance with the Unified Soil Classification system. Reports, including all test reports by the geotechnical consultant, shall be submitted covering the following:

(4) Any potential groundwater condition which may affect soil strength, consolidation, or slope stability shall be defined and evaluated.

The San Mateo County RM zoning codes are quite clear that detached single-family residential dwellings shall not be permitted unless the application contains detailed geotechnical review of *alternatives*, which is lacking in this MND. **Sec 6325.6(f)7.** In fact, the geotechnical engineers have proposed alternative sites [6A, pg.20] but there is no detailed geotechnical analysis in this MND. Furthermore, the RM zoning code requires the risks associated with building upon steep hillsides be done only if it can be shown there are no direct or indirect threats to public health and safety. **Sec. 6326.4(b)**.

Murry Engineering Inc. in their geotechnical reports has claimed the feasibility of building residential units on parcels 1, 3, and 4 [5A, pg.3], updated September 28, 2018 [8a]. Their claim is based upon "geotechnical engineering principles and practices generally accepted at this time and location" [8a pg.1]. And they are so confident in the result there is "no warranty, either expressed or implied" [8a pg. 2]. However, in their original response to the Cotton and Shire Comment No1 regarding "offsite impacts" [5A, pg.51] there is no mention or thought regarding the impact on uphill structures like Parrott Drive road and the houses on the east side of the parcel. So, while standard engineering principles and practices are the norm in geotechnical engineering, there are often geotechnical failures that result from elements and factors not accounted for in a standard analysis [14]. Given the high risk to public structures at the chosen site it is essential to have external factors incorporated into the geotechnical reports. Here below, is a discussion of those critical missing elements.

From the above discussion in part A, it was established there is downhill, subsurface groundwater flows on the Zmay parcels under development. There is enough flow to sustain the riparian and wetland areas on a dry, sunlit, western slope, year upon year, and through drought times. The specific water flow pattern has not been assessed because there are too few bore holes. However, ground water was discovered in bore holes B-4, B-5, and B-6 [5a, pg.18]. Similar to the lack of analysis in the biology reports, this MND has no analysis of how the hydrology will affect the holding strength of the stitched pier wall, or the environmental consequences of a landslide and repercussion on surrounding uphill structures. This is a violation of the **San Mateo County Geotechnical Report (c)4** requirements [21 pg 11]

It is well known that for over 600 years California historical weather has cycled through periods of drought and wet years [15(a) pg.17]. This can be easily seen in Figure 8 on the next page.

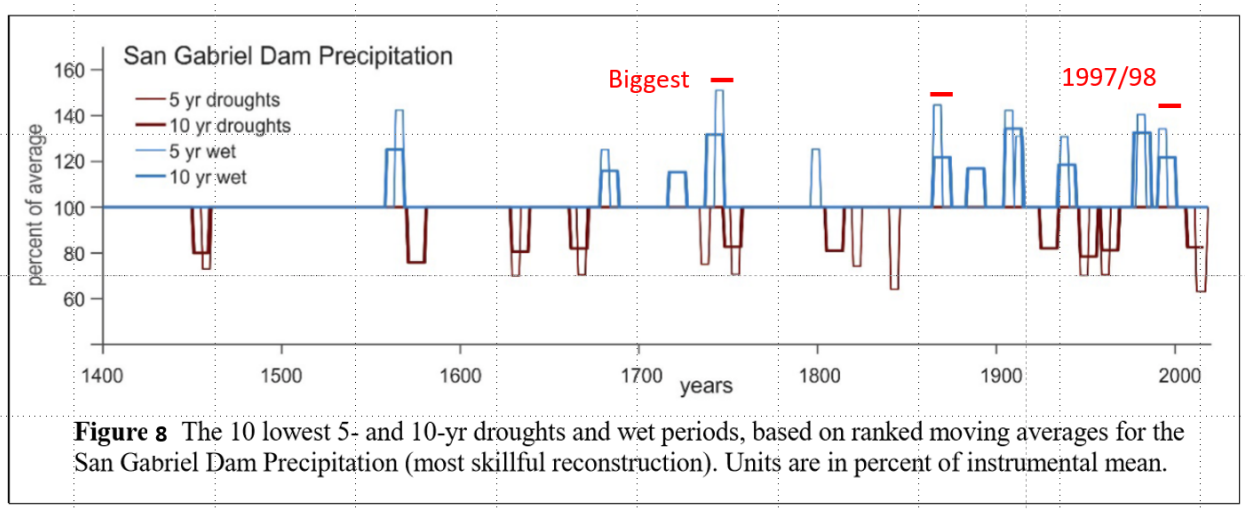

Figure 8 The 10 lowest 5- and 10-yr droughts and wet periods, based on ranked moving averages for the San Gabriel Dam Precipitation (most skillful reconstruction). Units are in percent of instrumental mean.

Figure 8 Historical weather dry/wet cycles from tree ring data [15a, pg.17]

The same is true for San Mateo County rain fall data shown below in Figure 9. Although the data does not go back as far and it is not as easy to see the weather cycle swings. The critical importance of ground water can be considered by observing recent local landsides are driven by ground-soaked hillsides during wet, and multi-year wet events. During the winter of 1997/98 there was $55M dollars of landslide damage which occurred in San Mateo County [17]. The most recent Seneca Lane landslide was in the winter of 2016/17 [12].

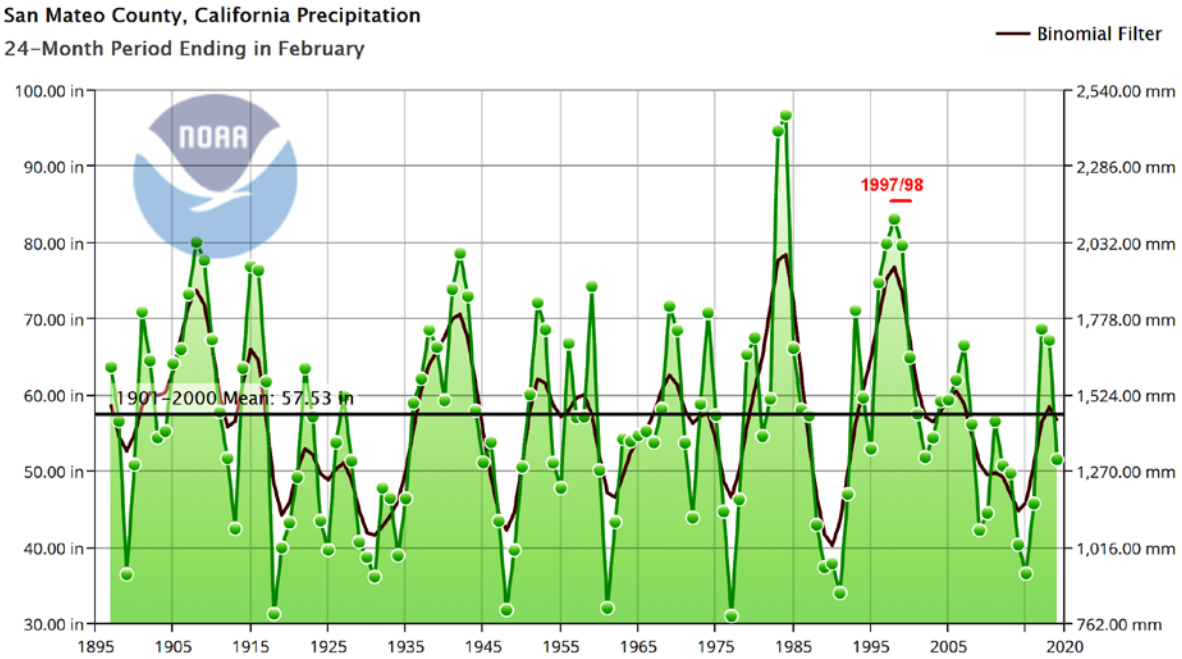

Figure 9 Historical time series rainfall for San Mateo County [16]

It is expected from climate change modeling that wet single year, and multi-year wet events will continue. As shown in Figure 10, Predictions are the intensities will become more than twice as strong as the oceans absorb more heat and evaporates more moisture resulting in bigger storm rainfall. [18] Thus over the lifetime of this Zmay subdivision, the geotechnical structures must withstand the stress of high levels of ground water.

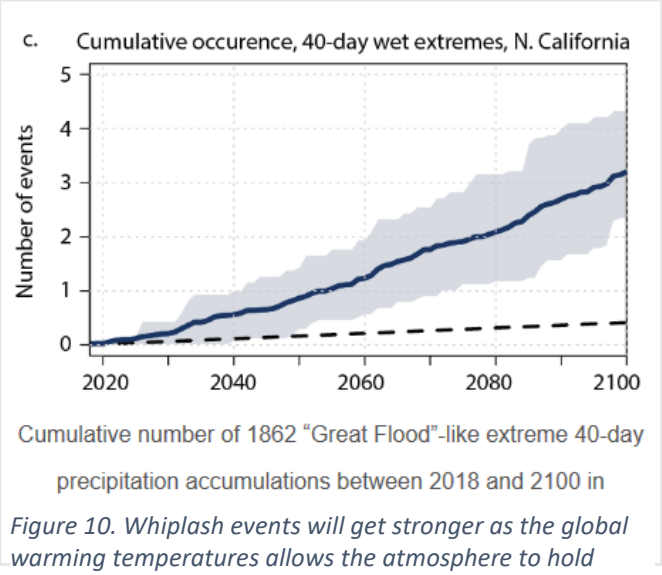

Figure 10. Whiplash events will get stronger as the global warming temperatures allows the atmosphere to hold more water [18]

Landslides occur at many times and many reasons, but they can be driven by ground water. The ground water provides lubrication for slip planes and adds to the overall weight of the unstable soil. There also may be external trigger events like earthquakes or grading operations at the toe of a hill, as was the case in the Polhemus landside event.[19]

The Polhemus landslide event is of particular concern as that event occurred in the south end of the Zmay property and the adjacent parcel to the south. The Polhemus event shares the exact same geology, hydrology, and type of stitched pier retaining wall as the Zmay subdivision and cost the San Mateo County taxpayers $20M dollars to repair.

If one looks at the image in Figure 11 below there are a few items that can be immediately noticed and they share common factors with the stitched pier wall on the Zmay development. First "standard engineering principles" in the design and construction of the stitched pier retaining wall were insufficient to protect the public structures, roads and homes. That is an ***absolute requirement*** of the San Mateo County RM zoning codes. **Sec 6326.4.**

Figure 11 Polhemus landslide behind 1406 Rainbow Drive which blocked Polhemus Road.

Secondly, the stitch pier near the center has obviously slid forward in

the mud. It did not break. So, whatever the civil engineer and geotechnical engineer considered bedrock, it was susceptible to ground water, and did not provide the restraining force necessary to hold back the saturated ground. Third, it is clear the geotechnical firm was not able to accurately predict the slip plane from their data. Finally, the piers look about the same diameter width as the patio doors in the image of Figure 8. This puts the Polhemus piers at about 30 inches diameter. Which is the diameter of the piers specified in the Zmay pier design drawings using normal concrete. [8(b)]

Upon further examination, the design similarities are even closer to the Zmay stitched pier design. Under the Freedom of Information Act the construction documents from the Polhemus wall were reviewed.[7] The Polhemus site does have the exact same geology as the Zmay project. The Polhemus piers were designed to be 30 inches in diameter the same as the Zmay project[8(b)]. It was also true that some of the Polhemus bore holes were moist with ground water. And finally, based on the Civil engineer decision during the construction the holes for some piers were actually drilled deeper than the geotechnical report required. Some of the piers were dug up to 37 feet into the ground. Whereas the Zmay design only suggests a maximum depth of 24 feet on some of the piers.

So, there are a great number of factors in the Zmay stitched pier wall design that are common to the retaining wall involved in the Polhemus landslide event of 1997/98. The failure of that stitched wall behind the Rainbow Drive houses was precipitated by lack of consideration of other elements, specifically groundwater, and associated related stress factors during seasonally wet years. Thus, it is a violation of **Sec. 6324.4(c).**

Another factor that seems surprising about the Polhemus land slide is the overall size. While not described in any available Zmay geotechnical reports the Association of Bay Area Governments (ABAG), of which San Mateo County is a member, has published a map showing areas of historical landslides. See Figure 12. Also, they have published a map showing potential landslides due to rainfall. See figure 13 below.

Figure 12 Areas of historical landslides

Figure 12 where the blue oval was placed does show that the Polhemus landslide involved a historically known landslide area. The red dashed circle shows the Zmay subdivision under development. Between the blue oval and the red dashed circle is all part of the Zmay open space. As both the blue oval and red circle share the same historical landslide characteristics, this raises the level of concern for the Zmay parcels under development. Moreover, it can be seen there are other locations, not evaluated by the MND that are free of any historical landslide data. The environmental aspects of those sites ought to be critically evaluated according to **Sec. 6325.6(f)7**.

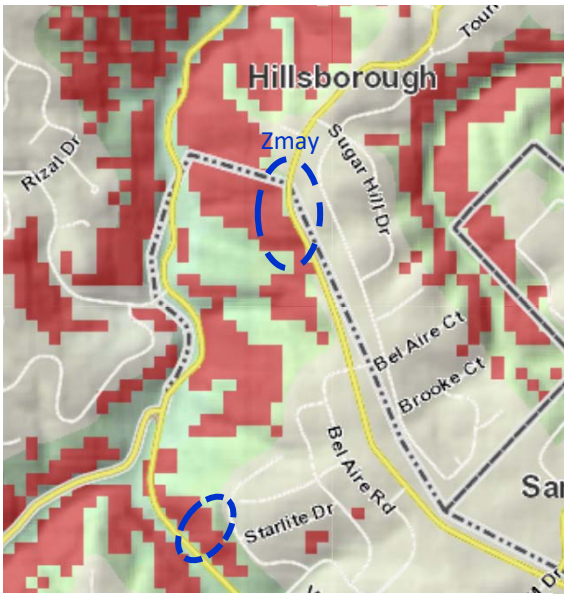

Figure 13 Areas of potential rainfall induced landslide

In addition, in Figure 13 in the blue dashed circles, it shows both the Polhemus slide and the Zmay parcels are susceptible to rainfall induced landslides.

So, if we take the historical landslide data from ABAG Figure 12 above and overlay it onto the drawing for the Zmay stitch pier walls we can get an idea of scale of the landslide problem due to ground water. See Figure 14 below.

The amount of ground volume targeted to be held in place by the stitched pier walls on the Zmay property is shown by the blue rectangle. It is scaled to be 160 ft wide by 200 ft long with a depth of 10 feet (not shown)[8a pg.1]. However, the historical slide area shown in the ABAG image on the right-hand side extends across Parrott Drive and in one small area all the way up to Tournament Drive in Hillsborough. The red dashed rectangles are copied to be the same size as the blue rectangle.

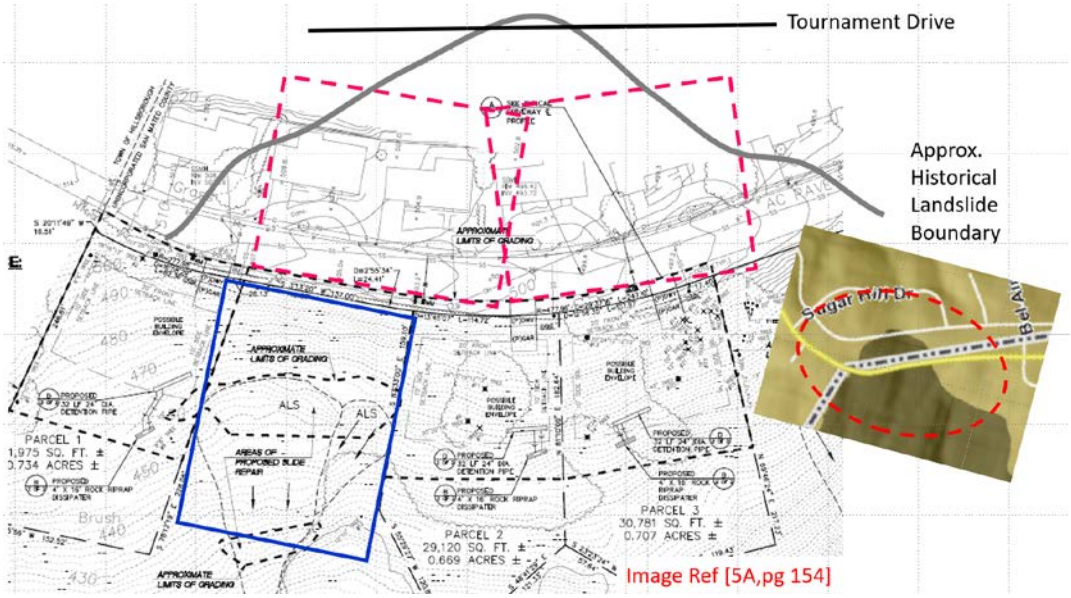

Figure 14 Overlay showing size of potential landslides

As can be seen, they show the potential landslide volume could be 3 times larger (Blue + 2xRed) than the original design (Blue). Thus, the design safety factor of 1.3 [8b pg2] used for the Zmay stitched pier walls is not adequate due lack of analysis from external factors.

Furthermore, just as in the case of the Rainbow Drive homes involved in the Polhemus landslide, Parrott Drive road and the homes on the east side of Parrott Drive are susceptible a large landslide on the Zmay property during a wet or multi-year wet season.

As was shown during the December 4, 2018 neighborhood community meeting Parrott Drive road along the Zmay properties is showing asphalt cracks on the down slope side of the road. These cracks are consistent with the wedge of fill material under the road bed slumping with time and moisture. Murry Engineering Inc even commented on the unknown stability of the wedge of filled material under the Parrott Drive road bed [5A pg.20]. The stitched pier walls are too small for the potential size of the landslide. Also, the proposed piers under the slab on grade for the house pads are too shallow to restrain the Parrott drive road bed. So, elements outside of the original design scope which are important for public safety, were not considered. Again, this violates the RM zoning code **Sec. 6324.4.**

Finally, there is no data in this MND that Cotton and Shires has not had the opportunity to review all the changes in the Zmay design.

So, in summary, the geotechnical reports were incomplete as they failed to account for the effects of groundwater on the soil stability. The proposed building parcels are extremely sensitive to landslides. In the Murry Engineering Inc report they identified a small landslide that occurred as a result of the historical small construction road created across the parcels [5A, pg.9]. Finally, it is well known in the San Mateo County that grading operations at the toe of a hillside, such as will happen for the stitched pier walls, are the most egregious ways to destabilized the hill side. See the lawsuit against San Mateo County the residents of Rainbow Drive. [19]

Furthermore, there are examples nearby, the Polhemus event, with the same geology, hydrology and geotechnical engineering designs which resulted in the catastrophic failure of the stitched pier retaining wall during a wet weather event. Even Murry Engineering Inc recognizes that more analysis may be required in the future [5A pg54] for subsurface mapping. Thus, the MND should be returned for re-analysis.

C. Other items with environmental concerns

Section 6324.3 Utilities

(d) Suitability for septic tank installation or other treatment facility must be demonstrated where no sewer system exists. Where a development is proposed to utilize an existing public or community sewer system, it must be demonstrated that sufficient capacity exists to serve the proposed development.

The sewer connection is something that is needed for the houses, not the grading. So, it will be deferred. However, the developer chose the site for the new development in part due to the availability of utility and sewer connections [5A, pg 133]. According to the Sanitary Sewer Overflow (SSO) Incident

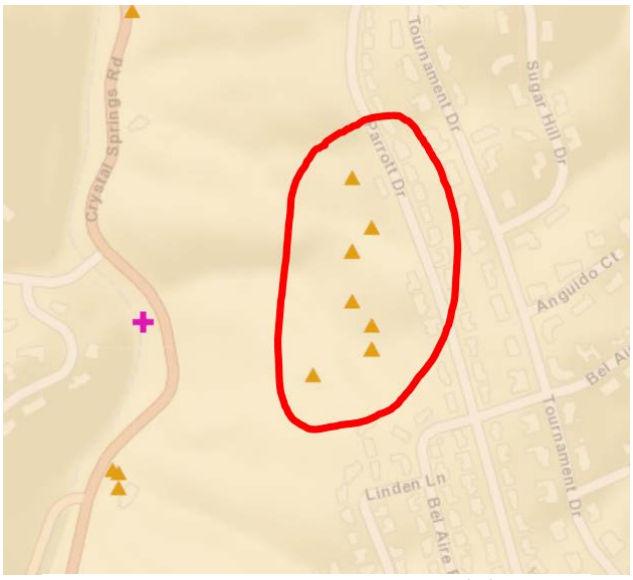

Figure 15 Sanitary Sewer Overflows since 1/1/2007

Map shown in Figure 15, [5] the "Billy Goat Hill" gravity sewer pipe connection has had more than seven SSOs since 2007 due to storm water ground motion on the open space parcel. The MND has no information regarding the plan to meet the San Mateo County Dept. Public Works requirements for sewer attachment due to the increase volume requirement from the three new parcels.

Summary Conclusions

In summary the recently released 21-January-2020 Notice of Intent to Adopt Mitigated Negative Declaration fails to achieve the required objectives of the California Environmental Quality Act (CEQA) Guidelines.[22 Sec. 14 CA ADC § 15002(a)] It is incomplete and therefore fails to inform government decision makers and the public:

a) About potential, significant environmental effects from the proposed grading activities
b) About mitigation measures for the missing information.
c) About preventing significant, avoidable damage to the environment.
d) To disclose why San Mateo County approved the MND given the significant environmental effects.

As shown above, the biological and geotechnical reports failed to include significant active hydrology in the Zmay parcels in their analysis. There was no discussion with respect to the local, active hydrology, soil conditions, and the uphill topology, and consequences to the environment. The existing reports do not consider how the subsurface water flow from uphill sources will be negatively impacted by construction activities, nor the consequences to the environmentally sensitive wetlands, or any downstream water source. In addition, because of the active hydrology, should the fill material under Parrott Drive and associated landslides already identified, be activated by construction activities or subsequent extreme weather wet events over the subdivision lifetime, it will put the Parrott Drive roadway and uphill homes in a highly perilous situation.

Finally, there are missing documents from the MND. Specifically, ones that address the San Mateo County RM zoning codes and geotechnical report requirements. These are:

1) Bore holes in sufficient quantity to map the sub-surface topology over the parcels in question along with log data and laboratory testing for ground water.
2) Geotechnical information of:
    a) County approved drawings for the stitched pier walls for parcel #2.

b) Peer review comments by Cotton, Shires, and Associates of the new stitched pier walls.

3) Critical review by San Mateo County of alternate sites less hazardous to the environment without consideration of cost.

So, I respectfully would recommend the MND must go back to the planning staff to reevaluate the local hydrology. There are environmental consequences of source water disruption resulting in the demise of the wetland and riparian areas which are under Federal, State, and local water boards protection. In addition, the active hydrology was not incorporated into the geotechnical engineering analysis. So, the designs for the stitched piers walls, and house pad retaining walls under the garages are incomplete and could fail during wet and multi-year wet seasons. Extreme wet, and multi-year wet seasons will become more severe as climate change effects increase over the lifetime of the subdivision. By disturbing the soil conditions on the downhill slopes, the grading activities will create new conditions promoting landslides encompassing Parrott Drive and possibly the uphill homes.

References

Note: Because the references are collections of individual reports with internal page numbers all page numbers below refer to pdf page numbers

https://planning.smcgov.org/ceqa-document/zmay-3-lot-minor-subdivision-grading-permit-and-resource-management-rm-permits

[1A] Notice of Intent
[2A] Initial Study / Mitigated Negative Declaration
[3A] Attachments A-E
[4A] Attachments F-J
[5A] Attachments K-R
[6A] Attachments S-T

[2] San Mateo Property Maps Portal.
Search for 1120 Tournament Dr. Subdivision Maps. All recorded Maps.
Tobin Clark Estate Unit No 4 Vol 91, pg 23 & 24
https://gis.smcgov.org/Html5Viewer/?viewer=raster

[3] Planning Staff report 9-May-2018
https://planning.smcgov.org/sites/planning.smcgov.org/files/events/PLN2014-00410Final.pdf

[4] Initial Mitigated Negative Declaration PLN2014-00410. 7-April-2018.
https://planning.smcgov.org/ceqa-document/mitigated-negative-declaration-zmay-minor-subdivision

[5] Sanitary Sewer Overflow (SSO) incident map
https://www.waterboards.ca.gov/water_issues/programs/sso/sso_map/sso_pub.shtml

[6] San Mateo County Storm Drainage Policy ca 2006
https://planning.smcgov.org/sites/planning.smcgov.org/files/documents/files/DPW%20Drainage%20Policy.pdf

[7] Freedom of Information Act documents from the failed Rainbow Drive, stitched pier retaining wall at the top of the Polhemus landslide from Ms Sherry Liu. Associate Civil Engineer, SMC planning department.

[8] Preliminary Stitched Pier Retaining Walls. Murray Engineers Inc and Morris Shaffer Engineering. Private Email.
(a) Zmay_1847-1LS_SuppRecs_StitchPierRetaingingWall.pdf letter dated September 28,2018
(b) 18190-Zmay Landslide – final.pdf Schaffer Engineering, Landslide Repair drawings SO.1, SO1.0 and SO.1A 2-October-2018.

[9] Community meeting on Zmay development, December 4, 2018
Public Comment Presentation by Dr. Gary Trott

[10] San Mateo County Zoning codes 2019
https://planning.smcgov.org/sites/planning.smcgov.org/files/SMC_Zoning_Regulations.pdf

[11] USGS Polhemus and other San Mateo County landslides 1998
https://pubs.usgs.gov/mf/1999/mf-2325-h/mf2325h.pdf
Polhemus landslide images and movie.
https://archive.usgs.gov/archive/sites/walrus.wr.usgs.gov/elnino/landslides-sfbay/photos.html

[12] Letter to Residents of Seneca Lane from James C. Porter, Director of San Mateo County Public Works. November 21, 2018 and other related documents.
https://publicworks.smcgov.org/crystal-springs-county-sanitation-district

[13] Cummings, David and Kenton, Frank J., "Eleven Case Studies of Failures in Geotechnical Engineering, Engineering Geology, and Geophysics: How They Could Have Been Avoided" (2004). *International Conference on Case Histories in Geotechnical Engineering*. 1..
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[14] Simpson, B. (2011). Reliability in geotechnical design – some fundamentals. Third international symposium on geotechnical safety and risk.
https://izw.baw.de/e-medien/geotechnical-safety-and-risk-2011/PDF/3%20Risk%20and%20Reliability%20in%20Geotechnical%20Engineering/3_25.pdf

[15] (a) Ca Dept of Water Resources: Tree Ring News Release 12-Mar-2018
https://water.ca.gov/News/News-Releases/2018/March-18/Tree-Ring-Study-Reveals-Historical-Drought-Record-in-Southern-California

(b)Tree Ring Data Study. Univ. of Arizona Southern Ca Tree-Ring Study 31-Dec-2017 D.M.Meko etal
https://science.kjzz.org/sites/default/files/UofAZ%20SoCal%20tree%20ring%20report%20dec%202017.pdf

(c) Blue Oak Tree Ring study for Ca drought. Geophysical Research Letters vol 41#24 12/23/2014 ppg 9017-9014 Griffin etal Univ MN & Woods Hole Ocean. Instit.
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https://www.ncdc.noaa.gov/cag/county/time-series/CA-081/pcp/24/2/1895-2020?base_prd=true&begbaseyear=1901&endbaseyear=2000&filter=true&filterType=binomial

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https://pubs.usgs.gov/mf/1999/mf-2325-h/mf2325h.pdf

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Nature Climate Change volume 8, pages 427–433 (2018) Daniel L. Swain et al Univ Ca Los Angeles
https://www.nature.com/articles/s41558-018-0140-y

[19] San Francisco Chronicle published June 17, 1998 by Marshall Wilson.
https://www.sfgate.com/bayarea/article/S-F-San-Mateo-Counties-Settle-Suit-Over-Mudslide-3003517.php

[20] Association of Bay Area Governments hazard maps
http://gis.abag.ca.gov/website/Hazards/?hlyr=debrisFlowSource

[21] San Mateo County Planning and Building Division
Grading Permit Standards Handbook 2006 JKEQ0908_WKR.DOC

[22] California Code of Regulations. Title 14 Natural Resources. Division 6. Resources Agency. Chapter3. Guidelines for Implementation of the California Environmental Quality Act. Article 1. General Concepts. February 7, 2020
https://govt.westlaw.com/calregs/Document/I96C1AF10D48811DEBC02831C6D6C108E?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)

Raphael Holtzman
1103 Parrott Drive
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94402

February 20, 2020

Erica Adams, Project Planner
San Mateo County Planning and Building
455 County Center, Second Floor
Redwood City, CA 94063

Re: Re-Circulated Initial Study and Mitigated Negative Declaration: Zmay 3-Lot Minor Subdivision, Grading Permit and Resource Management (RM) Permits, County File Number: PLN 2014-00410, Project Location: 1551 Crystal Springs Road, San Mateo unincorporated BaywoodPark Area, APN: 038-131-110.

Dear Erica,

This is a public response for the recently released Mitigated Negative Declaration (MND) for project PLN2014-00410. The "Notice of Intent to Adopt Mitigated Negative Declaration" (MND) is inaccurate, incomplete and inadequate. The MND must be returned to the planning staff in order to address these to prevent the potentially critical failures of the project.

- **The MND ignores RM zoning section 6319B**
  - **SECTION 6319B. MINIMUM YARDS**. In the absence of more restrictive provisions within this ordinance and with the exception of setbacks determined under the provisions of Section 6319C of this Ordinance Code, the minimum yards required in the RM District shall be as follows:

    Front: 50 feet
    Side: 20 feet
    Rear: 20 feet
  - House front setback is required to be 50 feet.
  - The project has a front setback of 10-20 feet and a side of 10 feet!
  - The project does not meet the requirements to reduce the 50 feet setback.
    - The project does NOT preserve an area of open space that significantly enhances the protection of visual, habitat, or open space resources.
    - The reduced setbacks are NOT appropriate to conform the proposed development to existing development, thereby helping to integrate the new development into the surrounding neighborhood.

- **The project will significantly degrade the aesthetic quality of the area and is violating one of the main purposes of the RM zoning which is to preserve open space, including views.**

    - Allowing the project to have such minimal set back is damaging to the aesthetics of the area.
    - The requirements are " The reduction of required setbacks does not adversely impact community character, public health, safety or welfare "
    - No other houses in the area have such a minimal setback and this minimal setback does not integrate well with the current neighborhood structure.
    - Locating the houses so close to Parrott drive will result in loss of public views of open space.
    - The minimal setback will further prevent the community from accessing the open areas view many enjoy on a daily basis.
    - Sec 6319C the setback can be reduced if ***all*** conditions are met b(1-8) See pg 394 San Mateo County zoning code 2019 (https://planning.smcgov.org/sites/planning.smcgov.org/files/SMC_Zoning_Regulations.pdf) Sec 9319C b(8)
        - *(8) The reduction of required setbacks does not adversely impact community character, public health, safety or welfare.*
        - That is not true and another code violation.

- **We strongly disagree with the MND statement that the project has less than significant impact.**
    - This is a obviously very significant impact and not “Less than Significant impact” as stated in the MND.

View from Parrott Drive - Before

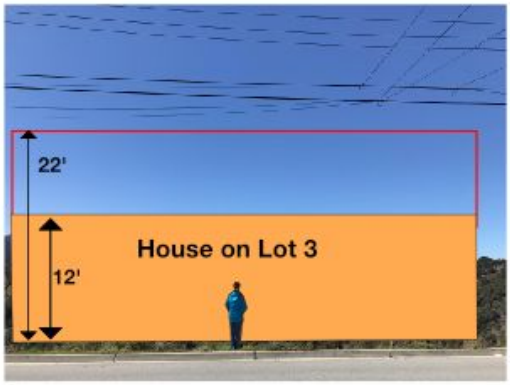
View from Parrott Drive - After

- A very significant impact for anyone in the community walking the dog, jogging or driving on Parrott Drive.

Lot 1 - Before

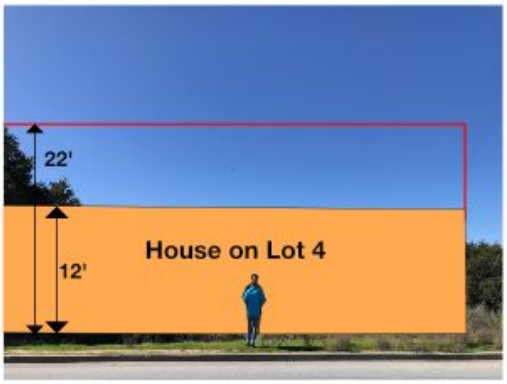
Lot 1 - After

Lot 3 - Before



Lot 3 - After

Lot 4 - Before



Lot 4 - After

- This is a very significant impact from across the valley.

View from across the valley - Before

View from across the valley - After

  - Unlike the stated “Less than Significant impact” in the MND, the project will obviously, have a significant Impact on vista, views from existing residential areas, public lands,Parrot Drive and scenic routes all across the valley.

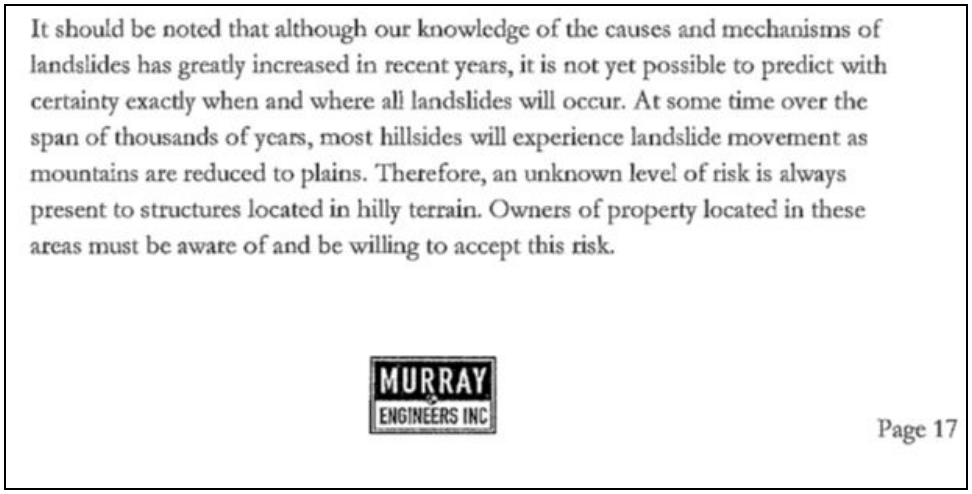
1.	**AESTHETICS**. Would the project:				
		Potentially Significant Impacts	***Significant Unless Mitigated***	***Less Than Significant Impact***	***No Impact***
1.a.	Have a significant adverse effect on a scenic vista, views from existing residential areas, public lands, water bodies, or roads?			X	

- **The area is a rare community resource and we collected over 400 signatures within a few days of residents who are worried about the project on this site.**
    - Hundreds of people pass by every day and many just stop and enjoy the view which is one of the main purposes of the RM zoning - to preserve open space, including views.

Current views from Parrott Drive

- **There are multiple active landslides on the proposed site**
  - RM zoning section **6324.6c. & 6324.6f(1-2,7) Do not build on geohazards or landslides.**

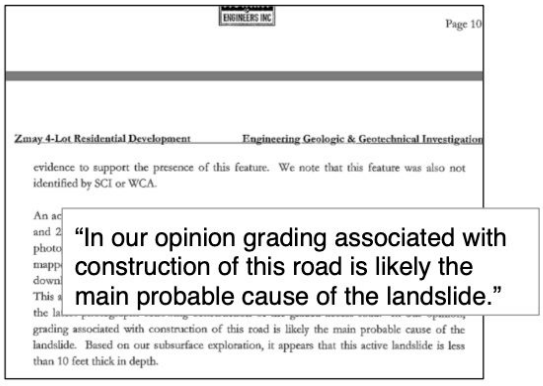
  - **“Therefore, an unknown level of risk is always present to structures in hilly terrain. Owners of property located in these areas must be aware of and be willing to accept this risk”**



It should be noted that although our knowledge of the causes and mechanisms of landslides has greatly increased in recent years, it is not yet possible to predict with certainty exactly when and where all landslides will occur. At some time over the span of thousands of years, most hillsides will experience landslide movement as mountains are reduced to plains. Therefore, an unknown level of risk is always present to structures located in hilly terrain. Owners of property located in these areas must be aware of and be willing to accept this risk.

MURRAY ENGINEERS INC

Page 17



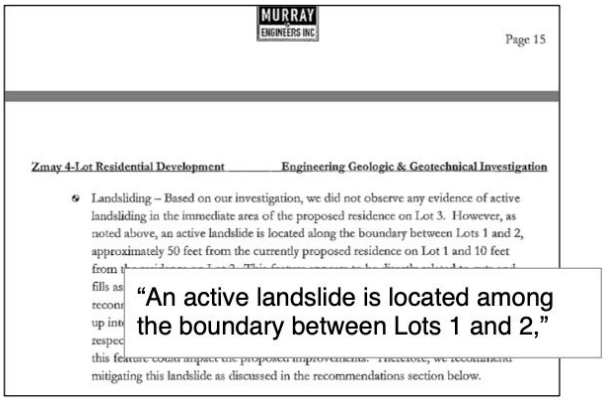
Page 10

Zmay 4-Lot Residential Development Engineering Geologic & Geotechnical Investigation

evidence to support the presence of this feature. We note that this feature was also not identified by SCI or WCA.

grading associated with construction of this road is likely the main probable cause of the landslide. Based on our subsurface exploration, it appears that this active landslide is less than 10 feet thick in depth.

“In our opinion grading associated with construction of this road is likely the main probable cause of the landslide.”



MURRAY ENGINEERS INC

Page 15

Zmay 4-Lot Residential Development Engineering Geologic & Geotechnical Investigation

- Landsliding – Based on our investigation, we did not observe any evidence of active landsliding in the immediate area of the proposed residence on Lot 3. However, as noted above, an active landslide is located along the boundary between Lots 1 and 2, approximately 50 feet from the currently proposed residence on Lot 1 and 10 feet

mitigating this landslide as discussed in the recommendations section below.

“An active landslide is located among the boundary between Lots 1 and 2,”

  - **We refuse to accept the risk involved in this development, as stated in the engineering report.**

- **The site is the exact location of the greatest ever fire in the county.**
    - The MND is inconsistent with RM zoning section 6324.6c. & 6324.6f(1-2,7) Do not build on geohazards or landslides.
        - ***"areas shall not be used for placement of structures: 1) which are severely hazardous to life and property due to soils, geological, seismic, hydrological, or fire factors"***
    - The property is in the area designated by CalFire as a very High Fire Hazard Severity Zone.

HILLSBOROUGH
4TH QUARTER 2009

THE DAY OF FIRE

The treasured rural settings of Hillsborough's lovely homes are both desired and dangerous. The fire, building and public works departments try to protect beauty and maintain safety, often conflicting goals. Thirty-nine years ago, flames erupted, and the story remains as a warning. Below is a shortened version of an article by publisher Gene E. Malott that ran in the Hillsborough Boutique on July 25, 1972.

The heat had lingered for almost a week. Around the Bay Area, thousands of acres of woodlands stood ready to burn. The statistics were stacked like kindling – 105 degrees, humidity at 22 percent.

Thursday, July 13, was a Day of Fire. At 3:45 p.m. it started, and before it was over, more than 200 men from eight county fire departments were on the lines; 51 acres of thick woodlands had been laid bare; and a Hillsborough fireman was hospitalized.

But it could have been worse, according to Hillsborough Fire Chief William Stremme. It could have moved north, racing into Hillsborough's residential areas and through the Tobin Clark Estate, uncontrollable, and threatening Polo Terrace. It could have wiped out the 20 or so homes along the 1100 block of Parrott Drive, instead of leaping over them.

The difference was organization...luck... the right weather conditions...and guts.

The first call came to the State Division of Forestry reporting a small brush fire in the Quarry on Crystal Springs Road near Merner Road. But the real fire was a mile south, on the other side of Crystal Springs Road, and by the time Hillsborough Captain Robert Sheehan and his first unit arrived at 3:49 p.m., "It was well beyond us," Sheehan said. The pillar of smoke was visible from the Bayshore Freeway and more than 170 calls poured into the fire department switchboard before dispatchers quit counting.

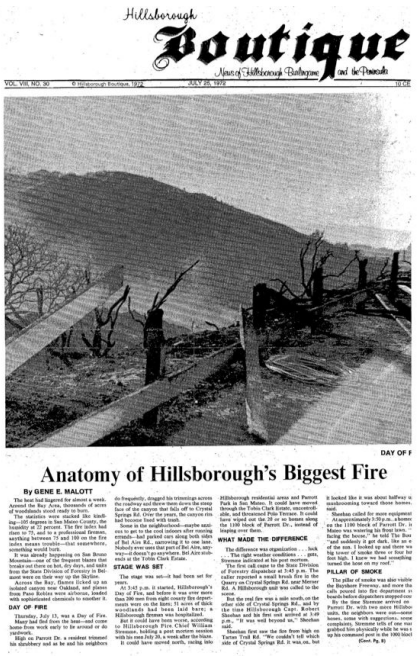
Stremme set up firelines on two flanks of the fire. The northern flank, guarded by firemen from Hillsborough and the Forestry Division, was most critical, Stremme said, because if the fire had broken through there it would have raged into Hillsborough. Three times it had broken through the north flank before it was finally halted.

Hillsborough Fire Engineer Boyd Plane describes how he and Captain Joseph Quadt, clearing people from an area, spied two youngsters on a rooftop and went to get them down. Suddenly the fire across Parrott Drive exploded, leapt 22 feet over the roadway, across rooftops, gulping every atom of oxygen. Plane rolled into a ball on the ground; Quadt jumped a picket fence, then collapsed. Quadt had suffered second degree burns and smoke inhalation. All night at Mills Hospital, his condition was listed as "fair, but under intensive care."

Stremme at the command post had his forces marshaled and moved the units like chessmen. Temperatures rose to 190 degrees in places. Nine firefighters were treated for burns after their clothing caught fire.

Stremme worries that Hillsborough's first Day of Fire may not be its last.

Above, Fire Chief William Stremme, right, conducted a post-mortem of the big fire, showing Captain Joe Quadt, left, the area where he (Quadt) was caught in the blaze. Center is the cover page of the Hillsborough Boutique newspaper devoted to the story of the Town's biggest fire. The photo on the far right was taken along Parrott Drive where the fire leapt 200 feet out of a canyon, over a fence and onto the property of the Tobin Clark estate, leaving behind a scarred path.



Hillsborough Boutique
News of Hillsborough Burlingame and the Peninsula

Anatomy of Hillsborough's Biggest Fire

By GENE E. MALOTT

Day of Fire

The Cracker Barrel

- **Other RM zoning sections being ignored include:**
  - **Sec. 6324.2** Blend into RM zoned site.
  - **Sec 6324.6c. & 6324.6f(1-2,7)** Do not build on geohazards or landslides
  - **Sec 6325.2** Save the Habitat
  - **Sec 6325.4**Protect surface and groundwater
  - **Sec 6326.4b,c** Slope instability. Build on geohazards, if and only if, no threat to the public and there are no alternate, safer sites.

- **Climate change means that the proposed site risks will increase in the future.**

  "The consequences of climate change pose risks to life, safety and critical infrastructure in San Mateo County."

  (*Supervisor Dave Pine***)**

  - *The MND is ignoring the direction* ***"The project will not create impacts which are individually limited, but cumulatively considerable."***

- The proposed site at the highest point of the lot, with unstable slopes of 78%-61%, extreme fire hazards and active landslides on and around the site is probably the location that creates the most negative effects on the environment, the RM zone and the community.
- We ask that the planning department will re-examine the MND for all the mentioned issues. Most of them should have a critical effect on the decision to move the project to a safer location.
- We are asking the developer to build at a safer location that will have less negative impact on the landslide and fire risks, the wetlands, plants and animals and the community enjoyment of the beauty of the valley and the scenic view from Parrott Drive.

Regards,
Raphael Holtzman

Shlomit Mimon
1103 Parrott Drive
San Mateo, California
94402

February 20, 2020

Erica Adams, Project Planner
San Mateo County Planning and Building
455 County Center, Second Floor
Redwood City, CA 94063

Re: Re-Circulated Initial Study and Mitigated Negative Declaration: Zmay 3-Lot Minor Subdivision, Grading Permit and Resource Management (RM) Permits, County File Number: PLN 2014-00410, Project Location: 1551 Crystal Springs Road, San Mateo unincorporated BaywoodPark Area, APN: 038-131-110.

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This is a public response for the recently released Mitigated Negative Declaration (MND) for project PLN 2014-00410. The “Notice of Intent to Adopt Mitigated Negative Declaration” (MND) is inaccurate, incomplete and inadequate.
The MND must be returned to the planning staff in order to address these and to prevent the potentially critical failures of the project.

Below are few of the misleading, incorrect and missing facts concerning the proposed site:

Slopes on the suggested site are almost twice as steep as stated in the MND (78%-61% and not 37% as stated in the MND, (Initial Study, page 2)).

- **These differences have a critical impact on the amount of work to be done on the site, safety impact and indeed the validity of the whole project at this location.**
- **The scope of work, the size and volume of earth that will need to be filled is much larger than the current estimates.**
- **This project will potentially make the land more prone to future landslides and might have further impact on the whole area.**

We have asked the engineer, George Jemmott to measure the slopes at the proposed sites with the following results:.

From the "Initial Study / Mitigated Negative Declaration", Page 2:
“The portion of the parcel along Parrott Drive where three new lots are proposed, has an approximate slope of 37%”

- **Among 8 data points taken at the suggested development next to Parrot Drive, none measured less than 61%.**
- **We measured slopes of up to 78% within 15 feet of the road.**

Furthermore, The "Initial Study / Mitigated Negative Declaration" claims:
"*The property is generally steep **with slopes varying from 2:1 to 3:1** (horizontal to vertical)*"

- **We measured slopes as steep as 1.27:1 without going more than 15 feet from Parrott Drive.**
- In terms of degrees, **the MND says the property slopes vary between 18 and 27 degrees**, and we found slopes as high as **38 degrees** within 10 feet of Parrott Drive, continuing down the hill for 50 feet or more.

These measurements are a clear indication that the numbers given in the MND are inaccurate, incomplete and misleading.

In fact in Attachment K, page 12 it is clearly stated:
“We note that ***due to the dense vegetation and steep slope conditions, only portion of the site was accessed***”
And in Attachment F-J, page 5 there is a similar comment:
"*The recent survey **did not include a 100 percent visual inspection of the reduced study area due to the steepness of the slopes** and the dense vegetation.*"

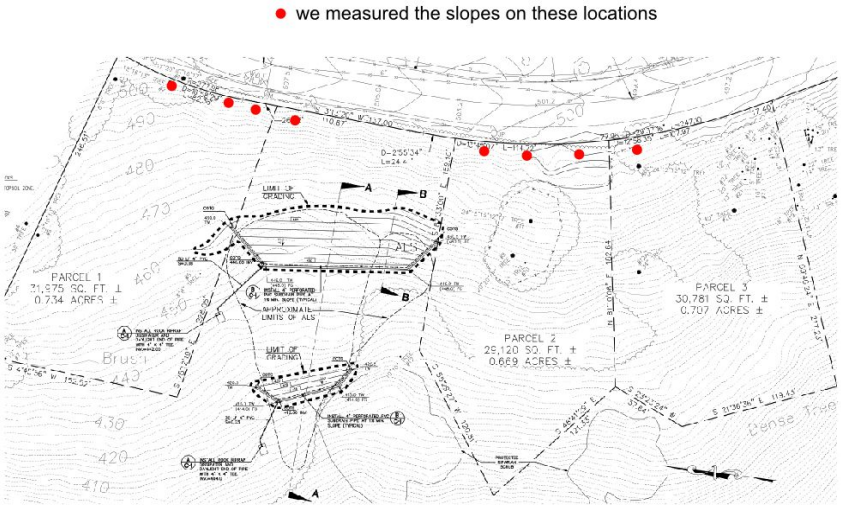

Figure 1 - Locations where we measured the slopes - approximated.

Figure 2 - Demonstrates in a simple way the difference between the mentioned 37% (the red line) to the actual slope (the blue diagonal line).

- **ALL 4 houses across the road from the development had significant landslides.**
- **Lot 1 and lot 2 have landslides.**
- **There are at least 6 landslides in the immediate area.**
- **The potential for more landslides on all lots, especially with the grading, construction and addition of tons of earth for the filling, is severe...**

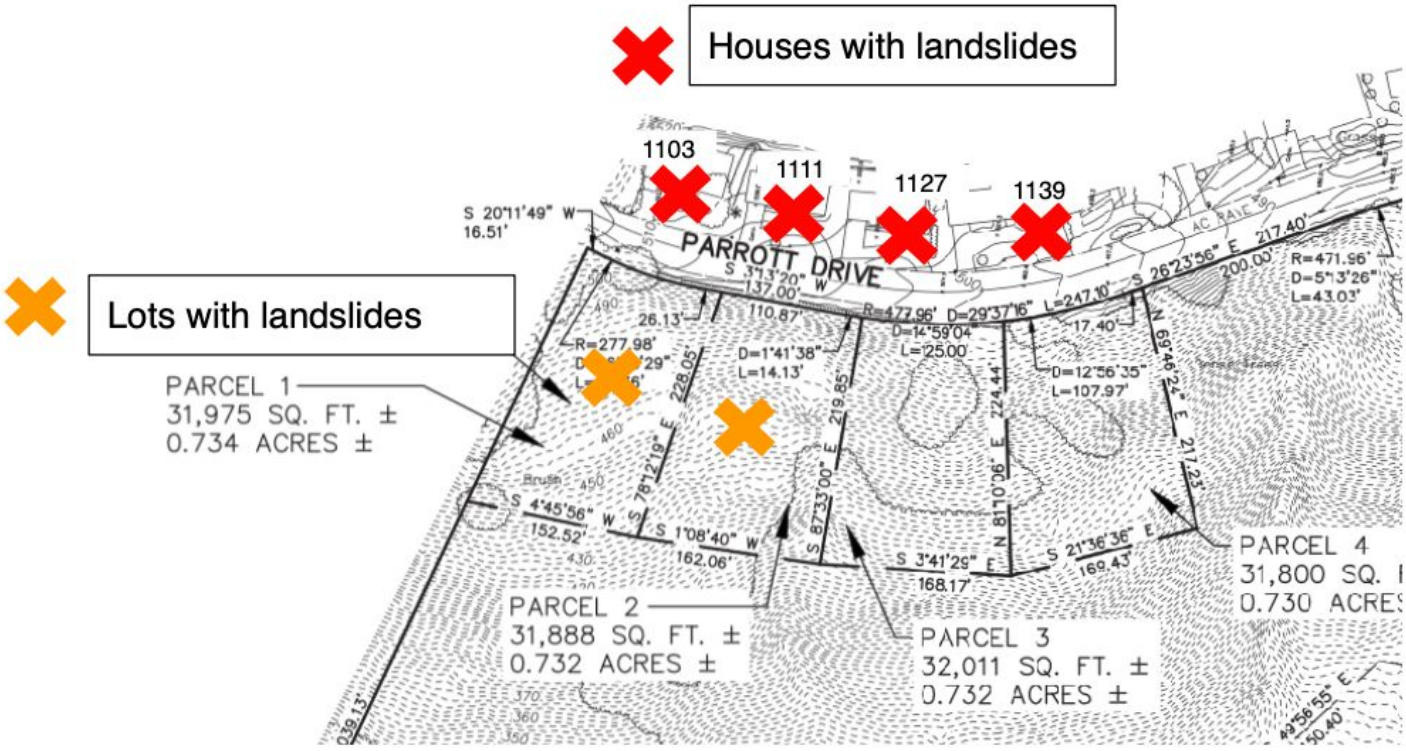

Figure 3 -Landslides on and next to proposed site

- **The landslide on lot 1, though mentioned on many pages of the MND (for example *"within the active landslide on lot 1" Attachment K, Page 18*), is not shown on the maps in the MND!**
- **See below a map from an older application of this project.**

Figure 4 - Showing Landslide on Lot 1

- **From Bay Area Geotechnical Group (BAGG) geotechnical and engineering geologic Investigation that was done in 2007, MND Attachment K page 12. BAGG claims that their slope stability analysis yielded factors of safety against sliding in excess of 1.01 under saturated conditions while factor of safety less than 1.0 indicate an unstable condition. The difference of .01 should be reconsidered taking into account the Global Climate Change.**

- **BAGG also recommended drilling piers of at least 25 feet. The mere act of drilling these deep piers can cause the hill to become unstable especially considering the crumbly rocks of the hill that extend all the way to and include the bedrock.**

From Murray Engineers INC report in the MND:
"It should be noted that although our knowledge of the causes and mechanisms of landslides has greatly increased in recent years, it is not yet possible to predict with certainty exactly when and where all landslides will occur…."
"Owners of property located in these areas must be aware of and be willing to accept the risk."

We, the community, are not willing to accept this risk that may cause havoc in our lives and may cost the community unnecessary pain and expenses.

The MND must be returned to the planning staff in order to obtain the missing and correct facts and review the project with information in hand.

Thank you for the opportunity to comment on the report. I hope you remember that your responsibility is to protect the public and choose a safer location on this big lot.

We will be happy to talk to you again about the better, safer location as we already suggested over a year ago in a recorded public meeting with the developers and representatives from the county.

Sincerely,

Shlomit Mimon

Raphael Holtzman
1103 Parrott Drive
San Mateo, California
94402

February 20, 2020

Erica Adams, Project Planner
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  - The project has a front setback of 10-20 feet and a side of 10 feet!
  - The project does not meet the requirements to reduce the 50 feet setback.
    - The project does NOT preserve an area of open space that significantly enhances the protection of visual, habitat, or open space resources.
    - The reduced setbacks are NOT appropriate to conform the proposed development to existing development, thereby helping to integrate the new development into the surrounding neighborhood.

- **The project will significantly degrade the aesthetic quality of the area and is violating one of the main purposes of the RM zoning which is to preserve open space, including views.**

    - Allowing the project to have such minimal set back is damaging to the aesthetics of the area.
    - The requirements are " The reduction of required setbacks does not adversely impact community character, public health, safety or welfare "
    - No other houses in the area have such a minimal setback and this minimal setback does not integrate well with the current neighborhood structure.
    - Locating the houses so close to Parrott drive will result in loss of public views of open space.
    - The minimal setback will further prevent the community from accessing the open areas view many enjoy on a daily basis.
    - Sec 6319C the setback can be reduced if ***all*** conditions are met b(1-8) See pg 394 San Mateo County zoning code 2019 (https://planning.smcgov.org/sites/planning.smcgov.org/files/SMC_Zoning_Regulations.pdf) Sec 9319C b(8)
        - *(8) The reduction of required setbacks does not adversely impact community character, public health, safety or welfare.*
        - That is not true and another code violation.

- **We strongly disagree with the MND statement that the project has less than significant impact.**
    - This is a obviously very significant impact and not “Less than Significant impact” as stated in the MND.

View from Parrott Drive - Before

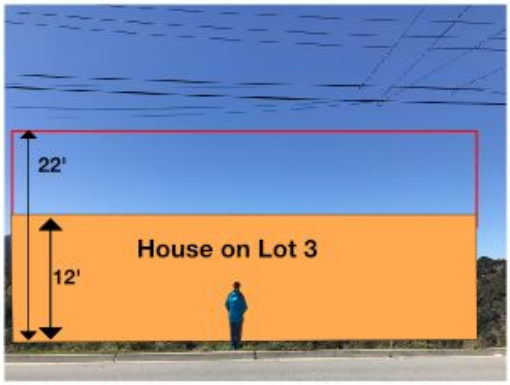
View from Parrott Drive - After

- A very significant impact for anyone in the community walking the dog, jogging or driving on Parrott Drive.

Lot 1 - Before

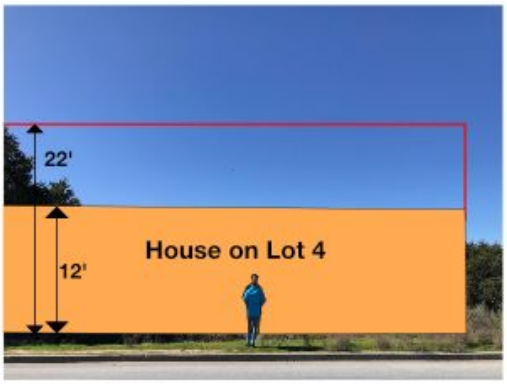
Lot 1 - After

Lot 3 - Before



Lot 3 - After

Lot 4 - Before



Lot 4 - After

- This is a very significant impact from across the valley.

View from across the valley - Before

View from across the valley - After

  - Unlike the stated “Less than Significant impact” in the MND, the project will obviously, have a significant Impact on vista, views from existing residential areas, public lands,Parrot Drive and scenic routes all across the valley.

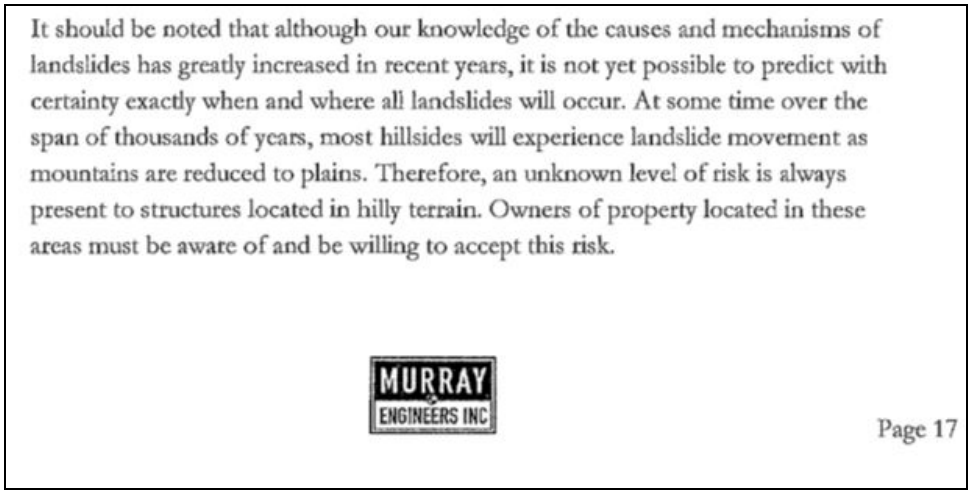
1.	**AESTHETICS**. Would the project:				
		Potentially Significant Impacts	***Significant Unless Mitigated***	***Less Than Significant Impact***	***No Impact***
1.a.	Have a significant adverse effect on a scenic vista, views from existing residential areas, public lands, water bodies, or roads?			X	

- **The area is a rare community resource and we collected over 400 signatures within a few days of residents who are worried about the project on this site.**
    - Hundreds of people pass by every day and many just stop and enjoy the view which is one of the main purposes of the RM zoning - to preserve open space, including views.

Current views from Parrott Drive

- **There are multiple active landslides on the proposed site**
  - RM zoning section **6324.6c. & 6324.6f(1-2,7) Do not build on geohazards or landslides.**

  - **“Therefore, an unknown level of risk is always present to structures in hilly terrain. Owners of property located in these areas must be aware of and be willing to accept this risk”**



It should be noted that although our knowledge of the causes and mechanisms of landslides has greatly increased in recent years, it is not yet possible to predict with certainty exactly when and where all landslides will occur. At some time over the span of thousands of years, most hillsides will experience landslide movement as mountains are reduced to plains. Therefore, an unknown level of risk is always present to structures located in hilly terrain. Owners of property located in these areas must be aware of and be willing to accept this risk.

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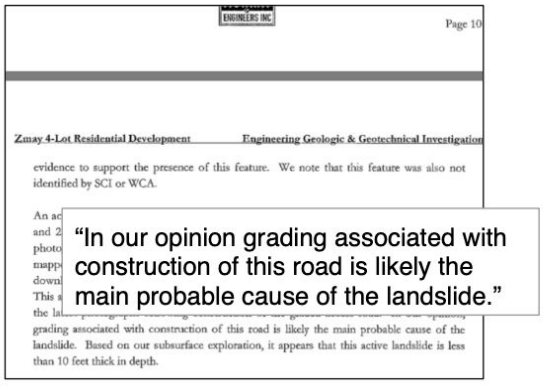

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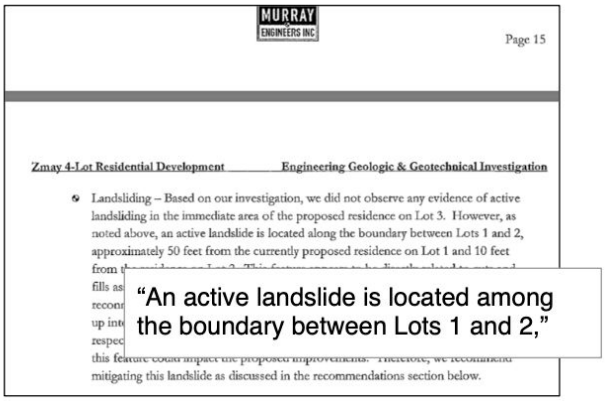
Zmay 4-Lot Residential Development Engineering Geologic & Geotechnical Investigation

evidence to support the presence of this feature. We note that this feature was also not identified by SCI or WCA.

grading associated with construction of this road is likely the main probable cause of the landslide. Based on our subsurface exploration, it appears that this active landslide is less than 10 feet thick in depth.

“In our opinion grading associated with construction of this road is likely the main probable cause of the landslide.”



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Zmay 4-Lot Residential Development Engineering Geologic & Geotechnical Investigation

- Landsliding – Based on our investigation, we did not observe any evidence of active landsliding in the immediate area of the proposed residence on Lot 3. However, as noted above, an active landslide is located along the boundary between Lots 1 and 2, approximately 50 feet from the currently proposed residence on Lot 1 and 10 feet

mitigating this landslide as discussed in the recommendations section below.

“An active landslide is located among the boundary between Lots 1 and 2,”

  - **We refuse to accept the risk involved in this development, as stated in the engineering report.**

- **The site is the exact location of the greatest ever fire in the county.**
    - The MND is inconsistent with RM zoning section 6324.6c. & 6324.6f(1-2,7) Do not build on geohazards or landslides.
        - ***"areas shall not be used for placement of structures: 1) which are severely hazardous to life and property due to soils, geological, seismic, hydrological, or fire factors"***
    - The property is in the area designated by CalFire as a very High Fire Hazard Severity Zone.

HILLSBOROUGH
4TH QUARTER 2009

THE DAY OF FIRE

The treasured rural settings of Hillsborough's lovely homes are both desired and dangerous. The fire, building and public works departments try to protect beauty and maintain safety, often conflicting goals. Thirty-nine years ago, flames erupted, and the story remains as a warning. Below is a shortened version of an article by publisher Gene E. Malott that ran in the Hillsborough Boutique on July 25, 1972.

The heat had lingered for almost a week. Around the Bay Area, thousands of acres of woodlands stood ready to burn. The statistics were stacked like kindling – 105 degrees, humidity at 22 percent.

Thursday, July 13, was a Day of Fire. At 3:45 p.m. it started, and before it was over, more than 200 men from eight county fire departments were on the lines; 51 acres of thick woodlands had been laid bare; and a Hillsborough fireman was hospitalized.

But it could have been worse, according to Hillsborough Fire Chief William Stremme. It could have moved north, racing into Hillsborough's residential areas and through the Tobin Clark Estate, uncontrollable, and threatening Polo Terrace. It could have wiped out the 20 or so homes along the 1100 block of Parrott Drive, instead of leaping over them.

The difference was organization...luck... the right weather conditions...and guts.

The first call came to the State Division of Forestry reporting a small brush fire in the Quarry on Crystal Springs Road near Merner Road. But the real fire was a mile south, on the other side of Crystal Springs Road, and by the time Hillsborough Captain Robert Sheehan and his first unit arrived at 3:49 p.m., "It was well beyond us," Sheehan said. The pillar of smoke was visible from the Bayshore Freeway and more than 170 calls poured into the fire department switchboard before dispatchers quit counting.

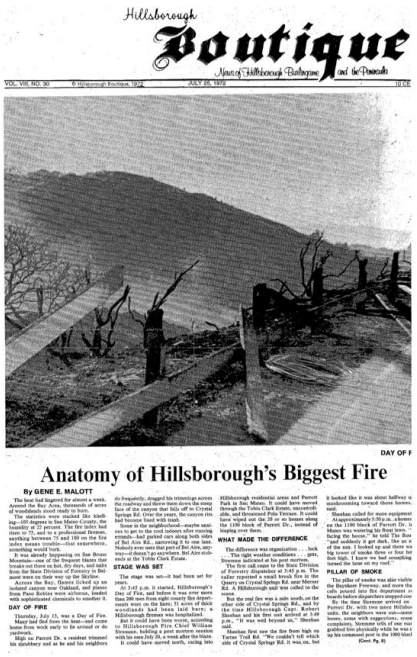
Stremme set up firelines on two flanks of the fire. The northern flank, guarded by firemen from Hillsborough and the Forestry Division, was most critical, Stremme said, because if the fire had broken through there it would have raged into Hillsborough. Three times it had broken through the north flank before it was finally halted.

Hillsborough Fire Engineer Boyd Plane describes how he and Captain Joseph Quadt, clearing people from an area, spied two youngsters on a rooftop and went to get them down. Suddenly the fire across Parrott Drive exploded, leapt 22 feet over the roadway, across rooftops, gulping every atom of oxygen. Plane rolled into a ball on the ground; Quadt jumped a picket fence, then collapsed. Quadt had suffered second degree burns and smoke inhalation. All night at Mills Hospital, his condition was listed as "fair, but under intensive care."

Stremme at the command post had his forces marshaled and moved the units like chessmen. Temperatures rose to 190 degrees in places. Nine firefighters were treated for burns after their clothing caught fire.

Stremme worries that Hillsborough's first Day of Fire may not be its last.

Above, Fire Chief William Stremme, right, conducted a post-mortem of the big fire, showing Captain Joe Quadt, left, the area where he (Quadt) was caught in the blaze. Center is the cover page of the Hillsborough Boutique newspaper devoted to the story of the Town's biggest fire. The photo on the far right was taken along Parrott Drive where the fire leapt 200 feet out of a canyon, over a fence and onto the property of the Tobin Clark estate, leaving behind a scarred path.



Hillsborough Boutique
News of Hillsborough Burlingame and the Peninsula

Anatomy of Hillsborough's Biggest Fire

By GENE E. MALOTT

Day of Fire

The Cracker Barrel

- **Other RM zoning sections being ignored include:**
  - **Sec. 6324.2** Blend into RM zoned site.
  - **Sec 6324.6c. & 6324.6f(1-2,7)** Do not build on geohazards or landslides
  - **Sec 6325.2** Save the Habitat
  - **Sec 6325.4**Protect surface and groundwater
  - **Sec 6326.4b,c** Slope instability. Build on geohazards, if and only if, no threat to the public and there are no alternate, safer sites.

- **Climate change means that the proposed site risks will increase in the future.**

  "The consequences of climate change pose risks to life, safety and critical infrastructure in San Mateo County."

  (*Supervisor Dave Pine***)**

  - *The MND is ignoring the direction* ***"The project will not create impacts which are individually limited, but cumulatively considerable."***

- The proposed site at the highest point of the lot, with unstable slopes of 78%-61%, extreme fire hazards and active landslides on and around the site is probably the location that creates the most negative effects on the environment, the RM zone and the community.
- We ask that the planning department will re-examine the MND for all the mentioned issues. Most of them should have a critical effect on the decision to move the project to a safer location.
- We are asking the developer to build at a safer location that will have less negative impact on the landslide and fire risks, the wetlands, plants and animals and the community enjoyment of the beauty of the valley and the scenic view from Parrott Drive.

Regards,
Raphael Holtzman