

Public Comments

Agenda Item # 10



August 24, 2020
City Council Meeting

From: [Rebecca Davis](#)
To: [Martin, Deirdre](#); [Beckmeyer, Sue](#); [Vaterlaus, Sue](#); [Bier, Mary](#); [O'Neill, Mike](#); [Coffey, Sarah](#); [Public Comment](#)
Subject: Comments on Aug. 24, 2020 CC Agenda Item No. 10 - Appeal of MND for Lots 4-12 Oddstad Way Project
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Dear Mayor Martin, Mayor Pro Tem Beckmeyer, and Honorable Councilmembers:

Please find the attached letter supplementing and in support of Christine Coppola's appeal of the Planning Commission's June 15, 2020 decision approving an initial study and mitigated negative declaration as well as various permits for Lots 4-12 Oddstad Way Project. The appeal is listed as Agenda Item No. 10 on the City Council's August 24, 2020 agenda. Please feel free to contact me if you have any questions.

Sincerely,

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August 20, 2020

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**Re: Appeal of Planning Commission's Approval of Initial Study/Mitigated
Negative Declaration for Lots 4-12 Oddstad Way Project**

Dear Mayor Martin, Mayor Pro Tem Beckmeyer, and Honorable Councilmembers:

I am writing on behalf of Christine Coppola, the Rockaway Beach Neighborhood Association, and other Pacifica residents living in the Rockaway Beach neighborhood concerned about the proposed Lots 4-12 Oddstad Way Project ("Project") and the inadequacy of the initial study and mitigated negative declaration (collectively, "MND") prepared for the Project. On June 15, 2020, the Pacifica Planning Commission approved the Project and the MND. Ms. Coppola timely appealed the Planning Commission's decision on June 25, 2020. This letter supplements Ms. Coppola's June 25, 2020 appeal, and the comments submitted therewith.

After reviewing the MND together with our expert, it is clear that the document fails to comply with CEQA and fails to adequately analyze and mitigate the Project's impacts. Without adequate analysis and mitigation, the Project will have a real and significant negative impact on the lives of everyone living in the Rockaway Beach neighborhood, as well as on the biological resources that make the neighborhood and Pacifica what it is.

Accordingly, because of the Project's significant impacts on biological resources, the neighborhood, traffic, land use, and water quality, among others, we respectfully request that the City Council grant the Appeal, deny the Project, and require staff and the applicant to prepare an

environmental impact report (“EIR”) to fully analyze the Project’s impacts, and to implement additional mitigation measures that ensure protection of the environment and the neighborhood.

PROJECT DESCRIPTION

The applicant proposes to construct a 3,800 square foot, three story single-family home with a 787 square foot attached two-car garage on Lots 4-12, Oddstad Way in Pacifica. The Project site is located on a hillside with an average slope of 34.98 percent, raising toward the rear of the site in the direction of Fassler Avenue. To handle the steep grade, portions of the yard would be bordered by a series of retaining walls, ranging from 2.5 to 10 feet. The Project site is currently undeveloped and covered with dense vegetation. Rockaway Creek is located approximately 80 feet north of the Oddstad Way public right-of-way.

To provide access, the Project includes a 360-foot extension of Oddstad Way from its existing terminus west of the Project site. The roadway extension would be 20 feet wide and would include an attached three-foot-wide sidewalk on the east side of the road. The Project also includes sewer and water utility improvements and stormwater control measures.

Construction of the Project would also require removal of 39 trees of varying size. More than 28 of which have diameters of 6 inches or greater at 12-inches above grade. Three of these trees are heritage trees.

LEGAL BACKGROUND

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report (“EIR”) except in certain limited circumstances. *See, e.g.*, Pub. Res. Code § 21100. The EIR is the very heart of CEQA. *Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652. Since “[t]he adoption of a negative declaration . . . has a terminal effect on the environmental review process,” by allowing the agency “to dispense with the duty [to prepare an EIR],” negative declarations are allowed only in cases where “the proposed project will not affect the environment at all.” *Citizens of Lake Murray v. City Council of San Diego* (1982) 129 Cal.App.3d 436, 440. A negative declaration may be prepared instead of an EIR when, after preparing an initial study, a lead agency determines that a project “would not have a significant effect on the environment.” *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597; § 21080(c). Such a determination may be made, however, only if “[t]here is no substantial evidence in light of the whole record before the lead agency” that such an impact may occur. *Id.*, § 21080(c)(1) (emphasis added).

A negative declaration is improper, and an EIR is required, whenever substantial evidence in the record supports a “fair argument” that significant impacts may occur. Even if other substantial evidence supports the opposite conclusion, the agency nevertheless must prepare an EIR. *Stanislaus Audubon v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens*, 29 Cal.App.4th 1597. The “fair argument” standard creates a

“low threshold” favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754. As a matter of law, “substantial evidence includes . . . expert opinion.” Pub. Res. Code § 21080(e)(1); 14 Cal Code Regs § 15064(f)(5). An agency’s decision not to require an EIR can be upheld only when there is no credible evidence to the contrary. *Sierra Club v. County of Sonoma*, (1992) 6 Cal.App.4th, 1307, 1318.

Here, substantial evidence indicates that the Project is likely to cause numerous significant impacts for which the City has either failed to identify or offer measures to mitigate those impacts to less than significant levels. These impacts include, but are not limited to, the following significant adverse effects: (1) impacts on biological resources; (2) water quality; (3) traffic impacts; (4) water quality impacts; (5) land use impacts, and (6) cumulative impacts. When these errors are corrected, it is apparent that the Project will likely cause significant adverse environmental impacts that have not been adequately evaluated or effectively mitigated in the MND.

We reviewed the MND for the Project with the help of expert ecologist, Shawn Smallwood, Ph.D. Dr. Smallwood’s comments and curriculum vitae are attached hereto as Exhibit A.

I. AN EIR IS REQUIRED BECAUSE SUBSTANTIAL EVIDENCE SUPPORTS A FAIR ARGUMENT THAT THE PROJECT WILL HAVE SIGNIFICANT EFFECTS ON THE ENVIRONMENT

CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the fair argument standard. Under that standard, a lead agency must prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment. Pub. Res. Code § 21082.2; *Laurel Heights Improvement Ass’n v. Regents of the University of California* (1993) (“*Laurel Heights II*”) 6 Cal. 4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 75, 82; *Quail Botanical, supra*, at 1602.

Under both CEQA and its Guidelines, if a project may cause a significant effect on the environment, the lead agency must prepare and EIR. Pub. Res. Code §§ 21100, 21151; CEQA Guidelines §§ 15064(a)(1), (f)(1). “Significant effect upon the environment” is defined as “a substantial or potentially substantial adverse change in the environment.”¹ Pub. Res. Code § 21068; 14 Cal. Code Regs. § 15382. A project “may” have a significant effect on the environment if there is a “reasonable probability” that it will result in a significant impact. *No Oil, Inc., supra*, at 83, fn 16; *Sundstrom v. City of Mendocino* (1988) 202 Cal.App.3d 296, 309.

¹ Under the Guidelines, “significant effect on the environment” means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise and objects of historic or aesthetic significance. . .” 14 Cal. Code Regs § 15382.

If any aspect of the project could result in a significant impact on the environment, an EIR must be prepared even if the overall effect of that project is beneficial. 14 Cal. Code Regs. § 15063(b)(1).

A lead agency may elect not to prepare an EIR only when it finds there is no substantial evidence in the initial study, or elsewhere in the record, indicating the project may have a significant effect on the environment. This standard sets a low threshold for requiring preparation of an EIR. If substantial evidence supports a “fair argument” that a project may have a significant environmental effect, the lead agency must prepare an EIR even if it also possesses other substantial evidence that indicates the project will have no significant effects. 14 Cal. Code Regs. § 15064(f)(1); *Friends of “B” Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002. Substantial evidence includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. Pub. Res. Code § 21082.2(c). Under the CEQA Guidelines, substantial evidence means

enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. . .

14 Cal. Code Regs. § 15384(a).

Substantial evidence supporting a fair argument that a project may have significant environmental impacts can be provided by technical experts or members of the public. 14 Cal. Code Regs. § 15063(a)(3); *Uhler v. City of Encinitas* (1991) 227 Cal.App.3d 795, 805; *Gabric v. City of Rancho Palos Verdes* (1977) 73 Cal.App.3d 183, 199.

Under both CEQA and the Guidelines, an EIR must be prepared when certain types of environmental impacts could result from a project. Pub. Res. Code § 21083(a); 14 Cal. Code Regs. § 15065. In effect, a finding by the lead agency that such conditions exist makes the project’s environmental effects “significant” as a matter of law. Under the Guidelines, an agency *must* find that a project may have a significant environmental effect, and thus prepare an EIR, if, *inter alia*, the possible environmental effects of the project are cumulatively considerable.² Pub. Res. Code § 21083(b)(2); 14 Cal. Code Regs. § 15065(c).

Here, substantial evidence presented in this comment letter, and the supporting technical comments, supports a fair argument that the Project will have significant environmental impacts on biological resources, traffic, and water quality, growth inducing impacts, cumulative impacts,

² “‘Cumulative considerable’ means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects as defined in Section 15130.” 14 Cal. Code Regs. § 15065(c).

and other environmental impacts. For these reasons, the City should grant the Appeal, withdraw the MND, and prepare an EIR for the Project.

A. The MND Fails to Adequately Analyze and Mitigate the Project's Impacts on Biological Resources.

Expert ecologist Shawn Smallwood, Ph.D., visited the Project site on August 8, 2020 to conduct a wildlife survey, and he has also reviewed the MND's discussion of biological resources, as well as the supporting Biological Resource Assessment. *See* Smallwood Comments, attached as Exhibit A. Drawing on his site visit, as well as his decades of studying and surveying many of the species encountered at the site, Dr. Smallwood has prepared a critique of the MND, pointing out numerous shortcomings in the baseline assessment of the presence of species at the site, failures to evaluate impacts that will result from the Project, and numerous instances where the MND's assertions are insufficient or not supported by substantial evidence.

1. The MND fails to establish an accurate baseline for sensitive biological resources.

Establishing an accurate baseline is the sine qua non to adequately analyzing and mitigating the significant environmental impacts of a project. (*See* 14 Cal. Code Regs. § 15125(a); *Save Our Peninsula*, 87 Cal.App.4th at 121-123. Unfortunately, the MND's failure to thoroughly investigate and identify the occurrences of sensitive biological resources at the Project site results in a skewed baseline. Such a skewed baseline ultimately "mislead(s) the public" by engendering inaccurate analyses of environmental impacts, mitigation measures and cumulative impacts for biological resources. *See San Joaquin Raptor Rescue Center*, 149 Cal.App.4th at 656; *Woodward Park Homeowners*, 150 Cal.App.4th at 708-711. The MND's failure to acknowledge the abundance of special status species that likely will be adversely affected by the extensive building proposed in the Project "lacks analysis" and "omits the magnitude of the impact" to biological resources. *Sierra Club v. Cty. of Fresno*, 6 Cal.5th at 514. As a result, the MND is insufficient as a matter of law.

An accurate baseline of biological resources was not established, in part because the site assessment itself was completely insufficient. The consulting firm WRA visited the Project site twice to conduct reconnaissance-level surveys, the most recent of which was conducted three years ago, and the prior survey being conducted six year ago. The Biological Resources Assessment ("Biological Assessment") prepared for the MND is based off these two site visits. Dr. Smallwood explains that there are numerous problems with the Biological Assessment, with the result being that it does not provide an accurate environmental setting and masks numerous potentially significant impacts to biological resources.

First, the Biological Assessment does not report which biologists visited the site, how long they were at the site, or what time of day the site visit took place. Smallwood, p. 5. Not only does the Biological Assessment leave out these fundamental details regarding methodology, it also leaves out basic results. *Id.* The Biological Assessment does not even list the animal

species that were detected while on site. *Id.* These shortfalls caused Dr. Smallwood to question WRA's ability to detect wildlife or assess habitat of multiple special-status species even before he visited the site himself. *Id.*

Dr. Smallwood's suspicions of the inadequacy of the Biological Assessment upon visiting the Project site. Dr. Smallwood visited the site for less than three hours, yet he observed eight special-status species on site. While WRA does not disclose how long its two site visits were, both visits combined resulted in WRA detecting only one special-status species on site. As a result, Dr. Smallwood "is skeptical that any serious effort was made to survey the site for wildlife." *Id.*

Second, in addition to the inadequacy of the site visits, the WRA report is further flawed in that it impurely dismisses or understates the occurrence potential of numerous species. Of the 46 special-status species of vertebrate wildlife that Dr. Smallwood determined potentially use the site, WRA and the MND only assessed the occurrence potential of 18 of them. In other words, WRA failed to analyze the potential for occurrence of 61% of the special-status species that Dr. Smallwood includes may be impacted by the Project. *Id.*

Moreover, of the 18 species that are addressed in the Biological Assessment, WRA dismisses 15 (83%) as either having no occurrence potential or as being unlikely to use the site. *Id.* at 8. Dr. Smallwood does not dismiss the potential for occurrence of any of these 15 species. In fact, Dr. Smallwood detected two species on the Project site that WRA had dismissed as having no potential to occur on site (yellow warbler and yellow-breasted chat) and detected another nearby (peregrine falcon). *Id.*

In another example, the Biological Assessment explains that San Francisco common yellowthroats require "*low, dense stands of willows*," which are said to not be available at the project site. But Dr. Smallwood attests that low dense stands of willows **are** available at the project site, and habitat for this species is broader than claimed by the Biological Assessment. Smallwood, p. 9. Dr. Smallwood explains that "[a]ccording to Cornell Lab of Ornithology (https://www.allaboutbirds.org/guide/Common_Yellowthroat/lifehistory), common yellowthroat habitat includes '*thick, tangled vegetation in a wide range of habitats—from wetlands to prairies to pine forests—across North America.*' And they live in '*dry upland pine forests, palmetto thickets, drainage ditches, hedgerows, orchards, fields, burned-over oak forests, shrub-covered hillsides, river edges, and disturbed sites.*' WRA pigeon-holes common yellowthroats into a narrow margin of the environment and then claims that margin does not exist on the project site. The same misleading tactic is applied to yellow warbler and yellow-breasted chat." Smallwood, p. 9.

Dr. Smallwood concludes that the Biological Assessment "reported an inadequate assessment of species' occurrence likelihoods." *Id.* Specifically, he states that:

Too many species in Table 2 were not addressed by WRA (2017) nor the IS/MND. Mountain lions have been seen in the area. Having begun my research of this species in

1985, I testify with confidence that the site exemplifies mountain lion habitat. Coast range newts have been detected nearby, and I have found this species in environments similar to the project site. Cooper's hawk was another obvious species to assess, and one that I confirmed present on site, but WRA missed it. Long-eared owl is another. There were too many omissions from the CEQA analysis; the preparation of an EIR is warranted.

Smallwood, p. 9.

Dr. Smallwood's comments demonstrate that the MND, having been based on an inadequate Biological Assessment, lacks reliable information on the Project site's existing biological resources. It is not possible to effectively analyze the extent of the Project's impacts on biological resources without knowing what resources use the Project site. Without an adequate baseline, there is no way for the City to determine the true scope of the Project's impacts on biological resources. There is no way for the City to rule out the potential for the Project to have an unmitigated significant impact on special-status species.

2. The Project may have a significant impact on numerous special-status species.

Dr. Smallwood's observations reveal that Project impacts will be greater than what the MND has disclosed. Based on Dr. Smallwood's site visit, review of relevant wildlife databases, and his more than 30 years of experience, he concludes that the Project may have a significant impact on 46 special-status species. Smallwood, pp. 1-12. As Dr. Smallwood explains in his comments, and as discussed below, each of the 46 species he identified may be significantly impacted as a result of the Project through: direct habitat loss, habitat fragmentation, loss of reproductive capacity, window collisions, and interference of movement, among others.

As an expert, Dr. Smallwood's comments constitute substantial evidence that the Project will have a significant impact on biological resources. An EIR is required to analyze and mitigate this potentially significant impact.

3. The Project will have a significant impact on wildlife movement.

According to the MND, an analysis of the Project's potential to impact wildlife movement depends on the Project impinging on the dimensions of species-specific wildlife corridors. MND, p. 47. But this is not the standard. "[T]he CEQA standard goes to wildlife movement regardless of whether the movement is channeled by a corridor." Smallwood, p. 10. The CEQA Guidelines explain that a project will have a significant biological impact if it would "[i]nterfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites." CEQA Guidelines, App. G.

Based on his analysis of the Project and the site, Dr. Smallwood concludes that “[t]he project would block east-west movement of wildlife along the north face of the ridge, thereby interfering with wildlife movement in the region.” Smallwood, p. 8. He explains that:

A site such as the proposed project site is critically important for wildlife movement because it composes a diminishing patch of natural cover within a growing expanse of anthropogenic land uses, forcing more volant wildlife to use the site as stopover and staging habitat during migration, dispersal, and home range patrol ... The project’s jutting out from the existing neighborhood also cuts terrestrial wildlife off from east-west movement.

Smallwood, p. 10.

The MND also dismisses the potential for the Project to impact wildlife movement because “[t]he proposed project would serve as an extension of the existing residential neighborhood.” MND, p. 48. The implication of this statement being that a mere extension of a neighborhood would not interfere with wildlife movement. Smallwood, p. 11. But as Dr. Smallwood explains, “this is no mere extension; it is a perpendicular extension from a linear row of homes, and it is a much larger home than those along Rockaway Beach Avenue (based on my review of Google Earth imagery and Figure 1 in WRA 2017). The project would extend south of the existing neighborhood another 85 meters, and would take more than half of the distance from homes along Rockaway Beach Avenue to the crest of the ridge.” Smallwood, p. 11.

In a final attempt to improperly dismiss the Project’s impact on wildlife movement, the MND claims that the Project has no impact on wildlife movement because “the proposed project site has been previously planned for development with single-family residential uses per the City’s General Plan.” MND, p. 48. This explanation violates CEQA as it relies on a hypothetical future baseline, rather than the actual conditions that exist when the Project is being approved. The question is whether the Project will have an impact on wildlife movement when compared to the current physical environment. The question is not whether the Project will have an impact on wildlife movement compared to some unknown future time when dozens more houses may or may not be built nearby.

Dr. Smallwood’s expert comments constitute substantial evidence that the Project may have a significant impact on wildlife movement. CEQA requires the City prepare an EIR to analyze and mitigate this potentially significant impact.

4. The Project will have a significant impact on wildlife as a result of window collisions.

“A prominent feature of the project plans depicted in WRA (2017: App. D) is the abundant use of transparent and reflective glass windows.” Smallwood, p. 11. As a result of the amount of glass and the Project location, Dr. Smallwood concludes that the Project may have a significant impact on birds as a result of window collisions. *Id.* “Installed as proposed, where

proposed, this glass would kill many birds, not only because of the types and extent of glass, but also because the area is home to many birds and these birds must fly quickly from point to point to avoid predation.” *Id.* The City has not analyzed or mitigated these potential impacts to special-species birds.

Dr. Smallwood has reviewed reports of bird collisions at 181 buildings and facades in order to calculate the number of bird collisions that would likely occur annually as a result of the Project. Smallwood, p. 11. According to his calculations, each m² of glass would result in 0.077 bird deaths per year. *Id.* Dr. Smallwood then looked at the building design for the Project and estimated that the Project would include at least 203.3 m² of glass windows. *Id.* at 12. Based on the estimated 203.3 m² of glass windows and the 0.077 bird deaths per m² of glass windows, Dr. Smallwood estimates that the project could result in 15.7 bird deaths per year, which would continue until the home was either renovated to reduce bird collisions, or demolished. *Id.*

“The vast majority of these deaths would be of birds protected under the Migratory Bird Treaty Act and under the recently revised California Fish and Game Code section 3513, thus causing significant unmitigated impacts.” Smallwood, p. 12. These bird deaths constitute a significant impact that must be analyzed. *Id.* The City must prepare a project-level EIR to disclose, analyze, and mitigate the full scope of the Project’s impact resulting from window collisions.

To mitigate these impacts, Dr. Smallwood suggests adherence to available guidelines on building design intended to minimize collisions hazards to birds, such as those by the American Bird Conservancy (“ABC”). Smallwood, p. 13. ABC recommends: (1) minimizing use of glass; (2) placing glass behind some type of screening (grilles, shutters, exterior shades); (3) using glass with inherent properties to reduce collisions, such as patterns, window films, decals or tape; and (4) turning off lights during migration seasons. *Id.* Dr. Smallwood also suggests that the City look to the guidelines developed by the City of San Francisco, based on guidelines produced by the New York City Audubon Society, to minimize injuries and fatalities to bird species. *Id.*

5. The Project will have a significant impact on lost reproductive capacity, which has not been analyzed or mitigated.

The MND does not analyze the lost reproductive capacity of birds that would result from the Project. Smallwood, p. 10. While habitat loss results in the immediate decline in birds and other animals, it also results in a permeant loss of reproductive capacity. *Id.* Given that the Project site’s vegetation, the site maintains a large capacity for producing birds. *Id.* Dr. Smallwood cites two studies show that total bird nesting densities were between 32.8 and 35.8 nests per acre, for an average of 34.3 nests per acre. *Id.* When multiplied by the Project’s 1.16 acres of habitat that would be lost, Dr. Smallwood predicts a loss of 40 bird nests per year. *Id.* This loss would repeat each year. *Id.* Based on an average of 2.9 fledglings per nest, the Project would prevent generating 116 new birds per year. *Id.*

The potential loss of hundreds of nests and birds each year is a significant impact that has not been analyzed. An EIR is required to fully analyze the Project's impact on lost breeding capacity, and to mitigate that impact.

6. The MND's conclusion that the project will have no cumulative biological impact is not supported by substantial evidence because the MND fails to analyze the Project's cumulative impact on biological resources.

The MND does not contain an analysis of the potential cumulative impacts to biological resources resulting from the Project, together with past, present, and reasonably foreseeable future projects. As a result, there is no evidence to support the MND's conclusion that the Project will not have a significant cumulative impact on biological resources.

An initial study and MND must discuss a Project's significant cumulative impacts. 14 Cal. Code Regs. § 15130(a). This requirement flows from CEQA section 21083, which requires a finding that a project may have a significant effect on the environment if "the possible effects of a project are individually limited but cumulatively considerable. . . . 'Cumulatively considerable' means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

"Cumulative impacts" are defined as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." 14 Cal. Code Regs. § 15355(a). "[I]ndividual effects may be changes resulting from a single project or a number of separate projects." *Id.* "The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." *Comm. for a Better Env't v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 117; 14 Cal. Code Regs. § 15355(b). A legally adequate cumulative impacts analysis views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable probable future projects whose impacts might compound or interrelate with those of the project at hand.

The CEQA Guidelines allow two methods for satisfying the cumulative impacts analysis requirement: the list-of-projects approach, and the summary-of-projects approach. Under either method, the MND must summarize the expected environmental effects of the project and related projects, provide a reasonable analysis of the cumulative impacts, and examine reasonable mitigation options. 14 Cal. Code Regs. § 15130(b). The MND contains no such analysis of the Projects potential to contribute to a cumulative impact on biological resources. The MND does not even contain a discussion of potential impacts on biological resources from development of the Westerly or Easterly lots, which the MND claims to include as part of its cumulative impact analysis on page 18 of the MND. The City needs to investigate the biological resources on the Westerly and Easterly lots to determine the potential cumulative impacts of the Project together

with these reasonably foreseeable future projects. As a result, there is no evidence to support the MND's conclusion that the Project will not have a significant cumulative impact on biological resources.

An EIR is needed to analyze this potentially significant impact, and to require all feasible mitigation measures.

B. The Project Will Cause Significant Growth-Inducing Impacts that Have Not Been Analyzed or Disclosed.

CEQA requires a lead agency analyze any growth-inducing impacts of a proposed project. Pub. Res. Code §21100(b)(5); 14 Cal Code Regs §15126(d). It must discuss the ways in which a project could directly or indirectly foster economic or population growth or the construction of new housing in the surrounding environment. 14 Cal. Code Regs. §15126.2(e). The discussion must also describe growth-accommodating features of the project that may remove obstacles to population growth.

Growth-inducing impacts differ from cumulative impacts in that growth-inducing impacts relate to project characteristics that may directly or indirectly induce growth. The CEQA Guidelines provide two examples of the types of projects that might be growth inducing. One example is an expansion of a wastewater treatment plant that may remove wastewater treatment capacity as a constraint on growth in its service area. 14 Cal. Code Regs. § 15126.2(e).

Here, the project characteristics that may induce growth is the extension of Oddstad Way and various utilities. The road and utility extensions are growth-accommodating features. Just as expansion of a wastewater treatment plant removes treatment capacity as an obstacle to growth, the 360-foot extension of Oddstad Way and the utilities removes accessibility and lack of utilities as an obstacle to population growth and construction of additional housing in the surrounding neighborhood. The City must disclose the amount of additional housing and population growth that could be accommodated by the extension of Oddstad Way even if building permits have not yet been applied for on these lots.

While growth inducing impacts of a project need not be labeled as adverse, the secondary impacts of growth (e.g., biological impacts, traffic, air pollution, etc.) may be significant and adverse. In such cases, the secondary impacts of growth inducement must be disclosed as significant secondary or indirect impacts of the project. The analysis required is similar in some respects to the analysis required to analyze impacts associated with population and housing.

There is no question that the extension of Oddstad Way by 360 feet will allow substantial growth in the neighborhood. These new residences will bring more traffic, will require additional public services, will result in additional construction in the neighborhood. Yet the MND neither discloses nor analyzes these impacts.

An updated analysis is needed that includes: 1) an estimate of the amount and time frame for

construction of houses east of the Project along Oddstad Way, 2) analysis of whether the new population would place additional demand on public services such as fire, police, recreation, emergency, health, child care, or schools; (3) analysis of the environmental impacts that would result from this growth inducement; and (4) identification of mitigation measures to reduce identified significant impacts.

C. The Project will have Significant and Unmitigated Traffic Impacts that are not Adequately Analyzed.

The Project's construction traffic will cause a major bottleneck's on Fassler turning on to SR-1. The MND fails to acknowledge that this intersection operates at LOS F during AM and PM peak hours. Currently operating at LOS F, the addition of more than 500 trucks as part of Project construction will make an unacceptable traffic problem even worse.

The 2017 Traffic Impact Analysis ("TIA") states that during construction, the Project will result in up to 68 daily PCE trips onto Rockaway Beach Avenue. TIA, p. 1. Since there is only a single point of ingress/egress from Rockaway Beach Avenue, all of these construction vehicles and trucks will back up at the egress intersections, like Fassler and SR-1.

To mitigate some of this traffic impact, the TIA provides that "truck activity could be limited to 9:00 a.m. to 4:00 p.m. in order avoid adding trucks to the peak commute hours and to minimize trips during times when residents are more likely to be at home. construction traffic volumes. Rather than adopting this sensible measure, the MND ignore this recommendation completely.

The other inadequacy of with the TIA and MND is that neither analyze the impact of Project construction on the valley. Instead, the scope of review was improperly limited to the small area directly around the Project. The City attempts to dismiss the need to analyze traffic impacts on the grounds that the Project is consistent with the General Plan land use designation, and "[a]s such, buildout of the site has already been assumed in cumulative buildout traffic forecasts that have been used in the design of roadway and freeway facilities in the area." But the General Plan is 40 years old. It tells the public and decisionmakers nothing about the current state of traffic, or the Project's potential cumulative impact. An up to date picture of current traffic in the valley and the Project's traffic impact must be disclosed.

D. The MND Relies on an Improper Baseline to Determine Whether the Project will have Significant Environmental Impacts.

Every CEQA document must start from a "baseline" assumption. The CEQA "baseline" is the set of environmental conditions against which to compare a project's anticipated impacts. Section 15125(a) of the CEQA Guidelines states in pertinent part that a lead agency's environmental review under CEQA:

...must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time [environmental analysis] is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant.

See also, Save Our Peninsula Committee v. County of Monterey (2001) 87 Cal.App.4th 99, 124-125. As the court of appeal has explained, “the impacts of the project must be measured against the ‘real conditions on the ground,’” and not against hypothetical permitted levels. *Id.* at 121-123.

For numerous impacts, the MND concludes that the Project will not have a significant impact because the impact will be less than those under a full buildout of the General Plan. For example, the MND claims that the Project will not have an impact on wildlife movement because “the proposed project site has been previously planned for development with single-family residential uses per the City’s General Plan.” MND, p. 48. It also says “modifications to the visual character of the site and surrounding area as a result of the proposed project would not constitute a substantial degradation of such character. The proposed project would be consistent with the level of development anticipated for the site per the City’s 1980 General Plan.” MND, p. 26. Similarly, the MND states: Given the relatively small number of homes that could be developed on the Westerly Lots as a result of the proposed project, the project would not be anticipated to create a large number of jobs or result in a large influx of new residents to the project area beyond what has been anticipated in the City’s General Plan EIR.” MND, p. 85.

Each of these are examples of the City comparing the Project’s impacts to what is expected at some future time when the General Plan is fully built out. But CEQA requires the Project’s impacts be compared to the existing level of physical development on the ground, not a hypothetical future baseline that is allowed under a general plan. The impact analysis must be revised to disclose the Project’s true impacts when compared to existing environmental conditions.

E. The Project will have a Significant Cumulative Land Use Impact.

A project will have a significant impact if it would “[c]onflict with any applicable land use plans, policies, or regulations of any agency with justification over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. CEQA Guidelines, Appendix G.

The MND admits that the four “Westerly Lots” are reasonably foreseeable future projects, that will likely be developed as a result of the proposed Project’s extension of Oddstad Way. While the Project’s land use designation is consistent with the City’s zoning, three of the four Westerly lots are inconsistent. MND, p. 16-17. These three lots are too small to be developed in a manner consistent with their General Plan land use designations. As a result,

development of each lot would require a General Plan amendment. *Id.* at 17-18. According to the MND, it is a “reasonable assumption that the City would likely grant approval” of the required General Plan amendments. As a result, the present Project, together with these reasonably foreseeable Westerly Lot developments, would conflict with the General Plan, which was adopted for the purpose of avoiding or mitigating environmental impacts. This constitutes a significant impact under CEQA that must be disclosed and analyzed in an EIR.

II. MANY OF THE PROPOSED MITIGATION MEASURES VIOLATE CEQA BECAUSE THERE IS NO EVIDENCE THAT THEY ARE EFFECTIVE OR FEASIBLE, AND THEY CONSTITUTE DEFERRED MITIGATION.

CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring “environmentally superior” alternatives and mitigation measures. 14 Cal. Code Regs. § 15002(a)(2) and (3). Mitigation measures must be designed to minimize, reduce, or avoid an identified environmental impact or to rectify or compensate for that impact. 14 Cal. Code Regs. § 15370. Mitigation measures must be feasible, enforceable, and effective. A public agency may not rely on mitigation measures of uncertain efficacy or feasibility. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727 (finding groundwater purchase agreement inadequate mitigation measure because no record evidence existed that replacement water was available). “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors. 14 Cal. Code Regs. § 15364. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. 14 Cal. Code Regs. § 15126.4(a)(2). A lead agency may not make the required CEQA findings unless the administrative record clearly shows that all uncertainties regarding the mitigation of significant environmental impacts have been resolved.

A. There is no Evidence that the Project’s Water Quality Impacts have been Mitigated to a Less-Than-Significant Level.

Mitigation Measure (“MM”) IX-4 requires the Project applicant to submit a Final Stormwater Control Plan “fully addressing the requirements of the City’s Municipal Regional Stormwater NPDES Permit, and including proper treatment of stormwater runoff from DMA-R2 to the satisfaction of the City Engineer.” MMRP, p. 11. This mitigation measure violates CEQA because there is no evidence of its feasibility.

The MND states that “Due to the steepness of the existing grades along Oddstad Way and the need for the proposed roadway extension to meet the grades at the existing pavement, treatment of the runoff from DMA-R2 at the proposed bio-retention basin is not feasible.” MND, p. 68. This is consistent with the Storm Water Control Plan prepared for the Project, which also states that stormwater discharges from drainage management area R-2 cannot be captured and treated in the bioretention area prior to discharge into Rockaway Creek because the steepness of the westernmost section of the street extension prevents capture and treatment of stormwater in this area.

In the June 15, 2020 Staff Report, Planning Commission staff dismiss these conclusions, stating that “Staff’s assessment of this issue does not support the conclusion in the SCP. Staff has included a condition of approval to require that the DMA-R2 stormwater discharges are captured and treated before discharge into Rockaway Creek.”

Based on the record, there is simply no evidence that this is feasible. As a result, the City cannot rely on MM IX-4 as a mitigation measure, and the Project’s water quality impacts remain significant and unmitigated. An EIR is required to analyze and mitigate this impact.

B. There is no Evidence that the Project’s Indirect Impacts to Special-Status Species have been Mitigated to a Less-Than-Significant Level.

Mitigation measures IV-1, IV-2(a), IV-2(b), IV-2(c), IV-3(a), IV-3(b), and IV-4 all operated in a similar manner. They require preconstruction surveys to detect special-status species, and then if any species or nest is detected, a period of avoidance is required. But once a bird or bat has matured and vacated a nest, or hibernation is complete for bats, these measures allow Project construction to continue.

Dr. Smallwood explains that:

[P]reconstruction surveys, which are also often referred to as take-avoidance surveys, are really just last-minute salvage efforts to prevent injury or death of the most readily detectable individuals. Preconstruction surveys detect only a small fraction of bird nests and special-status species occurring on a project site. Bird nests are usually concealed so that they are not predated. Locating hummingbird nests, for example, can be nearly impossible. Locating roosting bats is very difficult. Preconstruction surveys fail to prevent the deaths of most of the animals at risk, nor do they do anything to prevent habitat destruction and lost reproductive capacity.

Smallwood, p. 12.

All of the measures included in the MND to mitigate impacts to biological resources focus solely on preventing the direct take of species. While this is a concern, no less significant are the impacts on special-status species resulting from the loss or fragmentation of habitat. Without additional measures that address loss of habitat, there is no evidence that the Project’s impacts on special-status species will be mitigated to a less-than significant level.

C. Many of the Proposed Mitigation Measures Constitute Improperly Deferred Mitigation.

CEQA disallows deferring the formulation of mitigation measures to post-approval studies. 14 Cal. Code Regs. § 15126.4(a)(1)(B); *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309. An agency may only defer the formulation of mitigation measures

when it possesses “‘meaningful information’ reasonably justifying an expectation of compliance.” *Sundstrom* at 308; *see also Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028-29 (mitigation measures may be deferred only “for kinds of impacts for which mitigation is known to be feasible”). A lead agency is precluded from making the required CEQA findings unless the record shows that all uncertainties regarding the mitigation of impacts have been resolved; an agency may not rely on mitigation measures of uncertain efficacy or feasibility. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727 (finding groundwater purchase agreement inadequate mitigation because there was no evidence that replacement water was available). This approach helps “ensure the integrity of the process of decision making by precluding stubborn problems or serious criticism from being swept under the rug.” *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935.

Moreover, “mitigation measure[s] [that do] no more than require a report be prepared and followed” do not provide adequate information for informed decisionmaking under CEQA. *Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th 777, 794; 14 Cal. Code Regs. § 15126.4(a)(1)(B). By deferring the development of specific mitigation measures, the City has effectively precluded public input into the development of those measures. CEQA prohibits this approach. As explained by the court in *Communities for a Better Env’t v. Richmond* (2010) 184 Cal.App.4th 70, 92:

[R]eliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA’s goals of full disclosure and informed decisionmaking; and[,] consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment.

Mitigation Measure IV-5(c) (“MM IV-5(c)”) constitutes just this type of deferred mitigation. MM IV-5(c) requires, in part, that the Project applicant “obtain permit authorization to fill wetlands under Section 404 of the federal CWA (Section 404 Permit) from USACE [U.S. Army Corps of Engineers].” MMRP, p. 4. It goes on to state that:

The Section 404 Permit application shall include an assessment of directly impacted, avoided, and preserved acreages to waters of the U.S. Mitigation measures shall be developed as part of the Section 404 Permit to ensure no net loss of wetland function and values. Mitigation for direct impacts to waters of the U.S. associated with the proposed outfall structure at Rockaway Creek would occur at a minimum of 1:1 ratio for direct impacts; however, final mitigation requirements shall be developed in consultation with USACE.

As an initial matter, the time to assess directly impacted, avoided, and preserved waters of the US is now, not after the Project has been approved. According to the MND, there are no wetlands on site that will be impacted. This inconsistency needs to be addressed.

Putting that aside, assuming there will be an impact, the mitigation measure defers formulation of mitigation until after completion of CEQA review, without providing for any public review, and subject to changes made by USACE.

While MM IV-5(c) does purport to require mitigation of wetland impacts at a minimum of 1:1 ratio, there is no evidence that this is feasible. There is no evidence it is feasible because there is no evidence that there are sufficient wetlands in the watershed to preserve or create wetlands within the impacted watershed. This is particularly true given that the amount of wetlands and waters created or preserved will not be determined until after the Project is approved. Moreover, interested parties are precluded from commenting on the adequacy of the wetland mitigation plan, even though CEQA requires that they be permitted to do so. There is also no evidence that MM IV-5(c), including requiring mitigation of impacts to wetlands only at a 1:1 ration is sufficient to reduce impacts to a less-than significant level.

Deferral of mitigation is also impermissible if it removes the CEQA decision-making body from its decision-making role. The City may not delegate the formulation and approval of mitigation measures to address environmental impacts because an agency's legislative body must ultimately review and vouch for all environmental analysis mandated by CEQA. *Sundstrom v County of Mendocino* (1988) 202 Cal.App.3d 296, 306-308. Thus, the MND may not rely on programs to be developed and implemented later without approval by the City. Yet that is precisely what MM IV-5(c) does.

Here, the lead agency has improperly delegated its legal responsibility of determining what constitutes adequate mitigation to USACE. MM IV-5(c) calls for USACE to have a final say in mitigation requirements, while the public is given no opportunity to comment. The MND may not rely on a wetland mitigation plan to be developed, approved, and implemented later, at some future time after the Project has been approved. Without valid mitigation, the Project's significant impact on wetlands remains significant.

Similarly, mitigation measure IX-1 also violates CEQA and defers formulation of mitigation. MM IX-1 provides that during construction, the contractor shall implement BMPs to reduce pollutants in storm water discharges "to the maximum extent practicable, which may include but are not necessarily limited to the following practices." MMRP, p. 9. A list of possible BMPs is then provided.

The uncertainties regarding this mitigation measure have not been resolved. If the applicant determines that it is not practicable to do any of the listed BMPs, per the terms of the MND, the applicant does not have to do anything. It is up to the City to develop specific mitigation measures that will effectively reduce impacts to a less than significant level. Providing a list of BMPs that the applicant may or may not follow does not ensure mitigation and violates CEQA. Moreover, since the determination of what mitigation will take place is deferred until after Project approval, the public is given no opportunity to comment, in violation of CEQA.

CONCLUSION

For the foregoing reasons, we request the City Council grant the Appeal and direct staff to prepare an EIR to address the inadequacies described above.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rebecca L. Davis', with a long horizontal flourish extending to the right.

Rebecca L. Davis

EXHIBIT A

Shawn Smallwood, PhD
3108 Finch Street
Davis, CA 95616

Christian Murdock, Associate Planner
City of Pacifica
Planning Department
1800 Francisco Blvd.
Pacifica, CA 94044

14 August 2020

RE: Lots 4-12 Oddstad Way Project

Dear Mr. Murdock,

I write to comment on potential biological impacts of residential development described in a biological resources report (WRA 2017) and an Initial Study / Mitigated Negative Declaration ("IS/MND") prepared for an extension of Oddstad Way, Pacifica (City of Pacifica 2018). I understand the site is 0.89 acres according to City of Pacifica (2018) or 1.16 acres according to WRA (2017). To prepare my comments, I also consulted eBird -- an online database of bird observations managed by the Cornell Lab of Ornithology, and iNaturalist -- another online data base of animal and plant observations. I also visited the site of the proposed project.

My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from the University of California at Davis, where I subsequently worked for four years as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, habitat restoration, interactions between wildlife and human infrastructure and activities, conservation of rare and endangered species, and on the ecology of invading species. I perform research on wildlife mortality caused by wind turbines, electric distribution lines, agricultural practices, and road traffic. I authored numerous papers on special-status species issues. I served as Chair of the Conservation Affairs Committee for The Wildlife Society -- Western Section. I am a member of The Wildlife Society and the Raptor Research Foundation, and I've been a part-time lecturer at California State University, Sacramento. I was an Associate Editor of wildlife biology's premier scientific journal, *The Journal of Wildlife Management*, as well as of *Biological Conservation*, and I was on the Editorial Board of *Environmental Management*. I have performed various types of wildlife surveys in California for thirty-four years, including at many proposed project sites. My CV is attached.

SITE VISIT

I visited the site of the proposed project on 8 August 2020. I started at 07:53 hours and finished 2 hours and 49 minutes later. The sky was initially covered the Marine Layer, but cleared over the last hour. The project site is heavily forested in mature Blue Gum Eucalyptus, Monterey Pine and Arroyo Willow, and covered by blackberry and ivies and

a thick organic layer (Photo 1). The site is bordered by an ephemeral streambed to the north and scrub/chaparral to the south. Trees included many visible cavities, which serve as important refugia for bats and birds. Many of the cavities had been excavated by woodpeckers of at least five species. Nesting substrate was amply available.



Photos 1 and 2. View west (top) east (bottom) of the project site, 8 August 2020.

I detected 28 species of vertebrate wildlife on and around the project site (Table 1). Among other species, I detected Anna's hummingbird (Photo 3), chestnut-backed chickadee (Photo 4), downy woodpecker (Photo 5), hairy woodpecker (Photo 6), Lincoln's sparrow (Photo 7), and song sparrow (Photo 8). Only 1 species was non-native, indicating high ecological integrity (Smallwood 1994). I detected 8 species with special-status (Table 1), although the peregrine falcon sounded as though it was offsite closer to the coast. I also found two trees with large nest platforms, one likely used by great horned owls (based on feathers found below), and the other likely used by Cooper's hawk (I saw a Cooper's hawk fly to it).

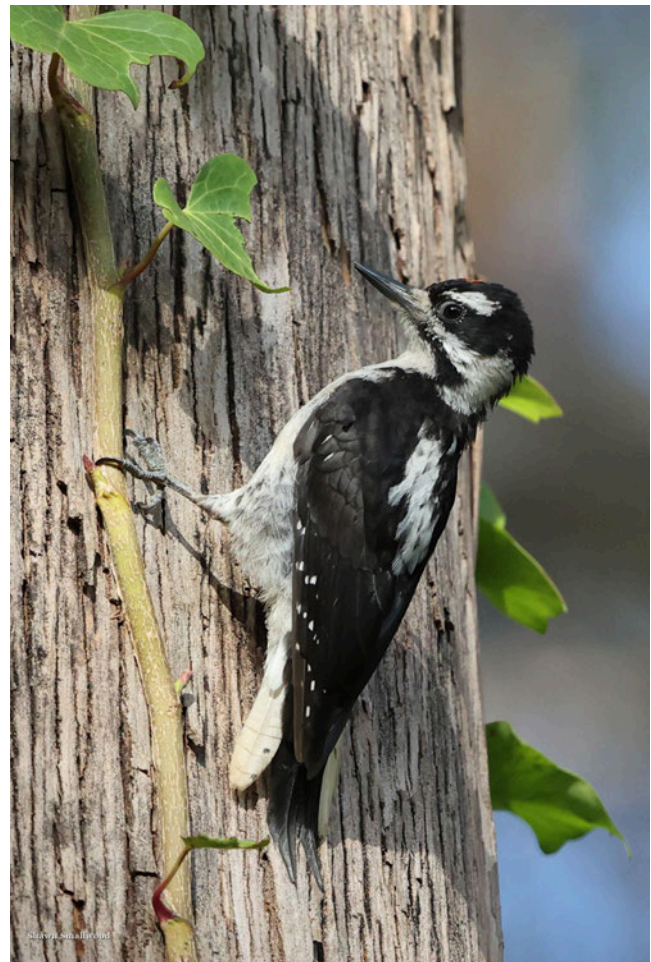
Table 1. Species of wildlife I observed during my site visit on 8 August 2020.

Species	Scientific name	Status ¹	Note
California quail	<i>Callipepla californica</i>		
Red-tailed hawk	<i>Buteo jamaicensis</i>	FGC 3503.5	
Cooper's hawk	<i>Accipiter cooperii</i>	TWL, FGC 3503.5	And possible nest
Peregrine falcon	<i>Falco peregrinus</i>	CE, CFP, FGC 3503.5	Call
Mourning dove	<i>Zenaida macroura</i>		
Eurasian collared-dove	<i>Streptopelia decaocto</i>	Non-native	
Great horned owl	<i>Bubo virginianus</i>	FGC 3503.5	And nest site
Anna's hummingbird	<i>Calypte anna</i>		multiple
Northern flicker	<i>Colaptes auratus</i>		call
Acorn woodpecker	<i>Melanerpes formicivorus</i>		colony
Downy woodpecker	<i>Dryobates pubescens</i>		
Hairy woodpecker	<i>Dryobates villosus</i>		
Nuttall's woodpecker	<i>Picoides nuttallii</i>	BCC	
Chestnut-backed chickadee	<i>Poecile rufescens</i>		many
California scrub-jay	<i>Aphelocoma californica</i>		
Common raven	<i>Corvus corax</i>		
American crow	<i>Corvus brachyrhynchos</i>		
Wrentit	<i>Chamaea fasciata</i>		
Bewick's wren	<i>Thryomanes bewickii</i>		
Bushtit	<i>Psaltiriparus minimus</i>		
Yellow-rumped warbler	<i>Dendroica coronata</i>		
Yellow-breasted chat	<i>Icteria virens</i>	SSC3	
Yellow warbler	<i>Setophaga petechia</i>	SSC2	
Lincoln's sparrow	<i>Melospiza lincolnii</i>		
Song sparrow	<i>Melospiza melodia</i>		
Coyote	<i>Canis latrans</i>		scat
Western gray squirrel	<i>Sciurus griseus</i>		
San Francisco dusky-footed woodrat	<i>Neotoma fuscipes annectens</i>	SSC	Stick-house den

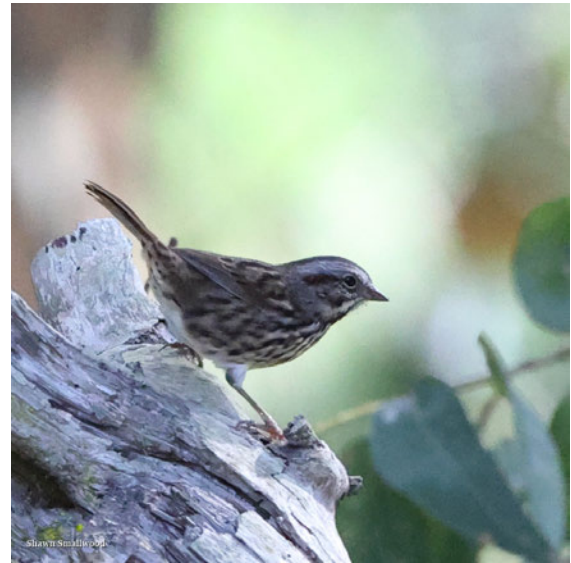
¹ BCC = US Fish and Wildlife Service's Birds of Conservation Concern, CE = California Endangered, CFP = California Fully Protected, SSC = California Species of Special Concern with priority levels 1, 2 and 3, FGC 3503.5 = California Department of Fish and Wildlife Code -- Birds of prey, TWL = CDFW Taxa to Watch List (Shuford and Gardali 2008).



Photos 3 and 4. Anna's hummingbird (left) and chestnut-backed chickadee (right) on the project site, 8 August 2020.



Photos 5 and 6. Downy woodpecker (left) and hairy woodpecker (right) on the project site, 8 August 2020.



Photos 7 and 8. *Lincoln's sparrow (left) and song sparrow (right) on the project site, 8 August 2020.*

I also found a stick-house den of San Francisco dusky-footed woodrat, a California Species of Special Concern. I twice detected the call of yellow warbler, and once a Nuttall's woodpecker. I also heard the call of a yellow-breasted chat. In my experience it is rare to find a site with so many special-status species available to be found during one visit, and only one non-native species of wildlife. It is rich in native wildlife species, and busy with birds.

BIOLOGICAL IMPACTS ASSESSMENT

WRA visited the site to perform reconnaissance-level surveys on 3 June 2014 and 23 October 2017. However, WRA (2017) did not report which biologists visited the site, nor how long they visited nor their arrival time. Not only were fundamental methods missing from the report, but so too were basic results. WRA (2017) did not list the species they detected while on site. The reporting shortfalls impinge on the readers' assessment of WRA's likelihood of detecting wildlife or of their ability to assess habitat of multiple special-status species. Nevertheless, WRA detected only one of eight of the special-status species I detected while on site (San Francisco dusky-footed woodrat), so I am skeptical that any serious effort was made to survey the site for wildlife.

Of the 46 special-status species of vertebrate wildlife I determined potentially use the site, at least on occasion (Table 2), WRA assessed the occurrence potential of only 18 (39%) of them. Sighting records in publicly available data bases indicate the potential likelihood of 28 additional species, 4 of which I detected. Some of the species neglected by WRA seem rather obvious candidates for using the site to breed, forage, or find refuge during migration.

Table 2. Occurrence likelihoods of special-status species as determined by WRA (2017) and by sightings reported on data bases including eBird (<https://eBird.org>) and iNaturalist (<https://www.inaturalist.org/observations>) at or near project site extending from Oddstad Way, Pacifica. Bold font under ‘Data bases’ identifies those species I detected.

Species	Scientific name	Status ¹	Occurrence likelihood	
			WRA 2017	Data bases
Double-crested cormorant	<i>Phalacrocorax auritus</i>	TWL	Unlikely	Nearby
Red-tailed hawk	<i>Buteo jamaicensis</i>	FGC 3503.5		Very close
Red-shouldered hawk	<i>Buteo lineatus</i>	FGC 3503.5		On site
Sharp-shinned hawk	<i>Accipiter striatus</i>	FGC 3503.5, TWL		Nearby
Cooper’s hawk	<i>Accipiter cooperi</i>	FGC 3503.5, TWL		Very close
Northern harrier	<i>Circus cyaneus</i>	SSC3, FGC 3503.5		Very close
White-tailed kite	<i>Elanus leucurus</i>	CFP, TWL, FGC 3503.5	Moderate	Very close
American kestrel	<i>Falco sparverius</i>	FGC 3503.5		Very close
Merlin	<i>Falco columbarius</i>	FGC 3503.5, TWL		Very close
Peregrine falcon	<i>Falco peregrinus</i>	CE, CFP, BCC, FGC 3503.5	Unlikely	Nearby
Barn owl	<i>Tyto alba</i>	FGC 3503.5		Nearby
Great-horned owl	<i>Bubo virginianus</i>	FGC 3503.5		Very close
Long-eared owl	<i>Asio otus</i>	SSC3, FGC 3503.5		Nearby
Western screech-owl	<i>Megascops kennicotti</i>	FGC 3503.5		Nearby
Vaux’s swift	<i>Chaetura vauxi</i>	SCC2	Unlikely	Nearby
Purple martin	<i>Progne subis</i>	SCC2		Very close
Allen’s hummingbird	<i>Selasphorus sasin</i>	BCC		Nearby
Rufous hummingbird	<i>Selasphorus rufus</i>	BCC	Unlikely	Very close
Nuttall’s woodpecker	<i>Picoides nuttallii</i>	BCC		Nearby
Olive-sided flycatcher	<i>Contopus cooperi</i>	SSC2	Unlikely	On site
Willow flycatcher	<i>Empidonax traillii</i>	CE, BCC		Nearby
Oak titmouse	<i>Baeolophus inornatus</i>	BCC		Regional
Loggerhead shrike	<i>Lanius ludovicianus</i>	BCC, SSC2		Nearby
Yellow warbler	<i>Setophaga petechia</i>	SSC2, BCC	Unlikely	Nearby

Species	Scientific name	Status ¹	Occurrence likelihood	
			WRA 2017	Data bases
Yellow-breasted chat	<i>Icteria virens</i>	SSC3	Unlikely	Nearby
San Francisco common yellowthroat	<i>Geothlypis trichas sinuosa</i>	SSC3, BCC	Unlikely	Nearby
Bryant's savannah sparrow	<i>Passerculus sandwichensis alaudinus</i>	SSC3		Nearby
Tricolored blackbird	<i>Agelaius tricolor</i>	CT, BCC		Nearby
Lawrence's goldfinch	<i>Carduelis lawrencei</i>	BCC		Regional
California red-legged frog	<i>Rana draytonii</i>	FT, SSC	Unlikely	Nearby
Coast range newt	<i>Taricha torosa</i>	SSC		Regional
Western pond turtle	<i>Actinemys pallida</i>	SSC	None	Nearby
San Francisco garter snake	<i>Thamnophis sirtalis tetrataenia</i>	FE, CE, CFP	Unlikely	Nearby
Pallid bat	<i>Antrozous pallidus</i>	SSC	Unlikely	In range
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	SSC	Unlikely	In range
Western red bat	<i>Lasiurus blossevillei</i>	SSC	Moderate	Nearby
Fringed myotis	<i>Myotis thysanodes</i>	WBWG	Unlikely	In range
Yuma myotis	<i>Myotis yumanesis</i>	WBWG: High		Nearby
Long-legged myotis	<i>Myotis volans</i>	WBWG: Mod		In range
Long-eared myotis	<i>Myotis evotis</i>	WBWG		In range
Western small-footed myotis	<i>Myotis cililabrum</i>	WBWG: Mod		In range
Hoary bat	<i>Lasiurus cinereus</i>	WBWG: Mod		Nearby
Ringtail	<i>Bassariscus astutus</i>	CFP		In range
American badger	<i>Taxidea taxus</i>	SSC	Unlikely	Nearby
Mountain lion	<i>Puma concolor</i>	SSC		Nearby
San Francisco dusky-footed woodrat	<i>Neotoma fuscipes annectens</i>	SSC	High	Nearby

¹ Listed as BCC = U.S. Fish and Wildlife Service Bird Species of Conservation Concern, CE = California endangered, CT = California threatened, CFP = California Fully Protected (California Fish and Game Code 3511), FGC 3503.5 = California Fish and Game Code 3503.5 (Birds of prey), and SSC1, SSC2 and SSC3 = California Bird Species of Special Concern priorities 1, 2 and 3, respectively (Shuford and Gardali 2008), and TWL = Taxa to Watch List (Shuford and Gardali 2008).

Of the 18 species in Table 2 that were addressed by WRA, WRA (2017) dismissed 15 (83%) as either having no occurrence potential or unlikely to use the site. I dismiss none of these 15 species. In fact, I detected two of them on site (yellow warbler and yellow-breasted chat), and another was nearby (peregrine falcon). The only species WRA (2017) determined to have a high likelihood of occurrence was San Francisco dusky-footed woodrat, probably because they detected it. WRA (2017) reported an inadequate assessment of species' occurrence likelihoods.

The project area includes 23 Heritage Trees. These and other trees were perforated by cavities excavated by at least 5 species of woodpeckers, and they supported nests of birds large and small. Interspersed among them were stick-house dens built by San Francisco dusky-footed woodrats. All of these trees and nests provide substrate for many other species of wildlife, including refugia for multiple special-status species of bats (Table 2; and see Kunz and Lumsden 2003). For all of the species listed in Table 2, the site provides more reasons to determine likely use of the site than reasons to determine unlikely use of the site.

For example, even though the site does not include aquatic habitat elements used by western pond turtle and California red-legged frog, the site provides ample cover needed by members of these species for dispersal. Even though the site provides no foraging habitat for double-crested cormorants, it does provide opportunities for colony-nesting and roosting. Vaux's swift, another species WRA (2017) determined to be unlikely, nest in cavities excavated by woodpeckers, and otherwise little is known of their migration stopover habitat needs. There is no reason to dismiss the likelihood of occurrence of Vaux's swift. American badger was determined as unlikely, but I have found breeding dens of American badgers in dense vegetation complexes very much like that of the project site (Photo 9).

Photo 9. *An American badger emerges from her den to greet me within a woodland with dense understory, near Prunedale, California. The den burrow was surrounded by poison oak and a dense copse of trees, much like the stands of poison oak and woodland on the project site. Photo by K. Shawn Smallwood.*



In another example, WRA (2017:C-18) explains that San Francisco common yellowthroats require “*low, dense stands of willows*,” which are said to not be available at the project site. But low dense stands of willows **are** available at the project site, and habitat for this species is broader than claimed by WRA. According to Cornell Lab of Ornithology (https://www.allaboutbirds.org/guide/Common_Yellowthroat/lifehistory), common yellowthroat habitat includes “*thick, tangled vegetation in a wide range of habitats—from wetlands to prairies to pine forests—across North America*.” And they live in “*dry upland pine forests, palmetto thickets, drainage ditches, hedgerows, orchards, fields, burned-over oak forests, shrub-covered hillsides, river edges, and disturbed sites*.” WRA pigeon-holes common yellowthroats into a narrow margin of the environment and then claims that margin does not exist on the project site. The same misleading tactic is applied to yellow warbler and yellow-breasted chat.

In the cases of yellow warbler, olive-sided flycatcher, and peregrine falcon, WRA (2017) further misleads by arguing the site might provide foraging habitat, but not nesting habitat. Distinction between nesting and foraging habitat is more artifice than real, because no animals can successfully breed without also successfully foraging. To breed successfully, yellow warblers, olive-sided flycatchers, and peregrine falcons must find sufficient forage and they must survive migration and non-breeding seasons by finding suitable stopover habitat and all the other habitat elements needed. Arguing that the habitat value of a place used by a species is somehow lesser than those places specifically used for nesting is fallacious.

WRA (2017:C-19) reasons that San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), which is listed as endangered under both California and federal Endangered Species Acts, is unlikely to occur at the project site because the site “*provides low-quality habitat overall for this species, because of the lack of ponds within 300 feet and the barriers to dispersal from known occurrences*”. WRA implies that the known occurrences are the only occurrences for this species., but WRA cannot know this to be true. WRA also implies that any place beyond 300 feet from ponds is unsuitable for the species – a threshold presented without any regard to the dispersal requirements of the species.

Too many species in Table 2 were not addressed by WRA (2017) nor the IS/MND. Mountain lions have been seen in the area. Having begun my research of this species in 1985, I testify with confidence that the site exemplifies mountain lion habitat. Coast range newts have been detected nearby, and I have found this species in environments similar to the project site. Cooper’s hawk was another obvious species to assess, and one that I confirmed present on site, but WRA missed it. Long-eared owl is another. There were too many omissions from the CEQA analysis; the preparation of an EIR is warranted.

The project would block east-west movement of wildlife along the north face of the ridge, thereby interfering with wildlife movement in the region. The project would

remove potential stopover habitat for migratory wildlife (Runge et al. 2014, Taylor et al. 2011), and it would remove potential staging habitat (Warnock 2010). The project would not only remove habitat, but it would fragment remaining habitat. Habitat loss and habitat fragmentation are widely recognized as the principal threats to most special-status species (Smallwood 2015). These threats factor into the recently reported 29% decline in overall avian abundance across North America over the last 48 years (Rosenberg et al. 2019). Rosenberg et al. (2019) also specifically reported that these and other threats act during both breeding and non-breeding seasons to reduce bird abundance. Any project that disrupts a species' ability to move between habitat patches will contribute to habitat fragmentation. A few of the species listed in Table 2, including tricolored blackbird and Bryant's savanna sparrow, can be adversely affected by the project's disruption of movement between breeding and foraging areas.

The impact of habitat loss on reproductive capacity can be predicted. Fortunately, studies have been done in environments where birds were abundant, similar to the situation at the project site. For example, a grassland/wetland/woodland complex at one study site had a total bird nesting density of 32.8 nests per acre (Young 1948). In another study on a similar complex of vegetation cover, the average annual nest density was 35.8 nests per acre (Yahner 1982). Averaged at 34.3 nests per acre, these densities multiplied against the project's habitat loss of 1.16 acres would predict losses of 40 bird nests per year. These losses would continue for as long as the project exists.

The average number of fledglings per nest in Young's (1948) study was 2.9. Assuming Young's (1948) study site was typical of bird productivity in similar environments, the project site would cease generating 116 new birds per year. After 100 years, the lost capacity of both breeders and annual chick production would total 13,200 birds, assuming an average generation time of 5 years ((nests/year × chicks/nest × number of years) + (2 adults/nest × nests/year × (number of years ÷ years/generation))). Given this level of impact, a reasonable argument can be made for the need to prepare a project-specific Environmental Impact Report to appropriately analyze impacts and formulate mitigation for minimizing and offsetting impacts to biological resources.

Wildlife Movement

According to City of Pacifica (2018), an analysis of a project's potential impacts on wildlife movement in a region depends on the project's impingement of the dimensions of wildlife movement corridors, which are species-specific. However, the primary phrase of the CEQA standard goes to wildlife movement regardless of whether the movement is channeled by a corridor. A site such as the proposed project site is critically important for wildlife movement because it composes a diminishing patch of natural cover within a growing expanse of anthropogenic land uses, forcing more volant wildlife to use the site as stopover and staging habitat during migration, dispersal, and home range patrol (also see my earlier discussion). The project's jutting out from the existing neighborhood also cuts terrestrial wildlife off from east-west movement.

City of Pacifica (2018) characterizes the project as an extension of the existing neighborhood, implying that a mere extension would not interfere with wildlife movement. But this is no mere extension; it is a perpendicular extension from a linear row of homes, and it is a much larger home than those along Rockaway Beach Avenue (based on my review of Google Earth imagery and Figure 1 in WRA 2017). The project would extend south of the existing neighborhood another 85 meters, and would take more than half of the distance from homes along Rockaway Beach Avenue to the crest of the ridge.

City of Pacifica (2018) also implies that previous planning for the area prevents any determination of significance of project impacts on wildlife movement. It says the area of the project site *“has been previously planned for development with single-family residential uses per the City’s General Plan”* and therefore *“the project would have a **less-than significant** impact with respect to interfering substantially with the movement of any resident or migratory fish or wildlife species...”* If there is a CEQA standard that supports this finding, then City of Pacifica should cite it.

Window Collisions

A prominent feature of the project plans depicted in WRA (2017: App. D) is the abundant use of transparent and reflective glass windows. I estimate the project would use 203.3 m² of glass on the building façades. This amount of glass would be nearly an order of magnitude more glass than conventional residential homes in the USA. A typical residential home kills about 2 birds per year unless measures are taken to reduce bird-window collision mortality. Installed as proposed, where proposed, this glass would kill many birds, not only because of the types and extent of glass, but also because the area is home to many birds and these birds must fly quickly from point to point to avoid predation. Exactly how many birds the project would kill by window collision is difficult to say, due to the project’s location and its extensive use of reflective glass – a known factor that can greatly increase collision risk. Fortunately, however, I have developed the basis for robustly predicting window collision mortality after reviewing reports of fatality monitoring among structures in a wide variety of environmental settings, types of structures, and types of glass on structural façades.

I have reviewed reports of bird collision monitoring at 181 buildings and façades for which bird collisions per m² of glass per year could be calculated and averaged (Johnson and Hudson 1976, O’Connell 2001, Somerlot 2003, Hager et al. 2008, Borden et al. 2010, Hager et al. 2013, Porter and Huang 2015, Parkins et al. 2015, Kahle et al. 2016, Ocampo-Peñuela et al. 2016, Sabo et al. 2016, Barton et al. 2017, Schneider et al. 2018). These study results averaged 0.077 bird deaths per m² of glass per year (95% CI: 0.04-0.11). This average and its 95% confidence interval provide a robust basis for predicting fatality rates at a proposed new project.

Renderings of the project in WRA (2017) depict ample use of transparent and reflective windows. Looking over the drawings, I estimate the structures would include at least 203.3 m² of glass windows, which applied to the mean fatality rate would predict **15.7 bird deaths per year (95% CI: 8.1-22.4)**. The 100-year toll from this average annual fatality rate would be **1,565 bird deaths (95% CI: 813-2,236)**, which would continue until the structures are either renovated to reduce bird collisions or they come down. The vast majority of these deaths would be of birds protected under the Migratory Bird Treaty Act and under the recently revised California Fish and Game Code section 3513, thus causing significant unmitigated impacts. A fair argument can be made for the need to prepare an EIR to appropriately address this impact and to formulate measures to mitigate the impact.

Cumulative Impacts

City of Pacifica (2018) provides no cumulative impacts analysis specific to biological resources, which is a shortfall. Discussion of cumulative impacts was actually of the project's growth-inducement along the extended Oddstad Way. City of Pacifica (2018) does not even provide a list of existing and foreseeable projects that would contribute cumulative effects on wildlife. Furthermore, City of Pacifica (2018) mischaracterizes cumulative impacts as merely residual impacts of mitigation that was incompletely effective. A fair argument can be made for the need to prepare an EIR to appropriately address the project's contribution to cumulative impacts and how to mitigate them.

MITIGATION

Measures IV-1 and IV-2(a) and IV-3(a): Preconstruction surveys for raptors, nesting birds, bats, and San Francisco dusky-footed woodrats

Preconstruction surveys should be performed. However, it needs to be understood that preconstruction surveys, which are also often referred to as take-avoidance surveys, are really just last-minute salvage efforts to prevent injury or death of the most readily detectable individuals. Preconstruction surveys detect only a small fraction of bird nests and special-status species occurring on a project site. Bird nests are usually concealed so that they are not predated. Locating hummingbird nests, for example, can be nearly impossible. Locating roosting bats is very difficult. Preconstruction surveys fail to prevent the deaths of most of the animals at risk, nor do they do anything to prevent habitat destruction and lost reproductive capacity.

Preconstruction surveys perform better when they are informed by detection surveys, which have been carefully designed by species' experts and natural resource agency biologists. Detection surveys should precede preconstruction surveys, not only to inform the preconstruction surveys, but also to provide the bases for impact estimates and the formulation of mitigation measures, including compensatory mitigation for those impacts that cannot be avoided.

Recommended Measures

Detection surveys are needed to (1) support negative findings of species when appropriate, (2) inform preconstruction surveys to improve their efficacy, (3) estimate project impacts, and (4) inform mitigation, especially compensatory mitigation. Detection survey protocols and guidelines are available from resource agencies for most special-status species. Otherwise, professional standards can be learned from the scientific literature and species' experts.

Appropriate wildlife habitat should be protected in perpetuity at another site, preferably near the project site.

If the project goes forward, it should at a minimum adhere to available guidelines on building design intended to minimize collision hazards to birds. The American Bird Conservancy (ABC) produced an excellent set of guidelines recommending actions to: (1) Minimize use of glass; (2) Placing glass behind some type of screening (grilles, shutters, exterior shades); (3) Using glass with inherent properties to reduce collisions, such as patterns, window films, decals or tape; and (4) Turning off lights during migration seasons (Sheppard and Phillips 2015). The City of San Francisco (San Francisco Planning Department 2011) also has a set of building design guidelines, based on the excellent guidelines produced by the New York City Audubon Society (Orff et al. 2007). The ABC document and both the New York and San Francisco documents provide excellent alerting of potential bird-collision hazards as well as many visual examples.

Compensatory mitigation ought also to include funding contributions to wildlife rehabilitation facilities to cover the costs of injured birds that will be delivered to these facilities for care. The project's windows would injure birds, which the home owners should deliver to wildlife rehabilitation facilities for care. But the project's impacts can also be offset by funding the treatment of injuries to animals caused by other buildings, power lines, cars, and house cats.

Thank you for your attention,



Shawn Smallwood, Ph.D.

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Curriculum Vitae

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Born [REDACTED] in
Sacramento, California.
Married, father of two.

Ecologist

Expertise

- Finding solutions to controversial problems related to wildlife interactions with human industry, infrastructure, and activities;
- Wildlife monitoring and field study using GPS, thermal imaging, behavior surveys;
- Using systems analysis and experimental design principles to identify meaningful ecological patterns that inform management decisions.

Education

Ph.D. Ecology, University of California, Davis. September 1990.
M.S. Ecology, University of California, Davis. June 1987.
B.S. Anthropology, University of California, Davis. June 1985.
Corcoran High School, Corcoran, California. June 1981.

Experience

- 477 professional publications, including:
 - 81 peer reviewed publications
 - 24 in non-reviewed proceedings
- 370 reports, declarations, posters and book reviews
- 8 in mass media outlets
- 87 public presentations of research results at meetings
- Reviewed many professional papers and reports
- Testified in 4 court cases.

Editing for scientific journals: Guest Editor, *Wildlife Society Bulletin*, 2012-2013, of invited papers representing international views on the impacts of wind energy on wildlife and how to mitigate the impacts. Associate Editor, *Journal of Wildlife Management*, March 2004 to 30 June 2007. Editorial Board Member, *Environmental Management*, 10/1999 to 8/2004. Associate Editor, *Biological Conservation*, 9/1994 to 9/1995.

Member, Alameda County Scientific Review Committee (SRC), August 2006 to April 2011. The five-member committee investigated causes of bird and bat collisions in the Altamont Pass

Wind Resource Area, and recommended mitigation and monitoring measures. The SRC reviewed the science underlying the Alameda County Avian Protection Program, and advised the County on how to reduce wildlife fatalities.

Consulting Ecologist, 2004-2007, California Energy Commission (CEC). Provided consulting services as needed to the CEC on renewable energy impacts, monitoring and research, and produced several reports. Also collaborated with Lawrence-Livermore National Lab on research to understand and reduce wind turbine impacts on wildlife.

Consulting Ecologist, 1999-2013, U.S. Navy. Performed endangered species surveys, hazardous waste site monitoring, and habitat restoration for the endangered San Joaquin kangaroo rat, California tiger salamander, California red-legged frog, California clapper rail, western burrowing owl, salt marsh harvest mouse, and other species at Naval Air Station Lemoore; Naval Weapons Station, Seal Beach, Detachment Concord; Naval Security Group Activity, Skaggs Island; National Radio Transmitter Facility, Dixon; and, Naval Outlying Landing Field Imperial Beach.

Fulbright Research Fellow, Indonesia, 1988. Tested use of new sampling methods for numerical monitoring of Sumatran tiger and six other species of endemic felids, and evaluated methods used by other researchers.

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Brooks, Elizabeth

From: Stephanie McAuliffe [REDACTED]
Sent: Sunday, August 23, 2020 4:03 PM
To: Public Comment
Subject: Agenda Item # 10

[CAUTION: External Email]

My name is Stephanie McAuliffe and I am a Rockaway Beach Avenue resident. I support this appeal and respectfully suggest the Council recognize that the extensive road and utility extensions in this project will result in growth that requires further traffic and safety study.

Rockaway Beach is narrow (19 feet at one point). I fear that our ability to depart in an emergency will continue to dwindle as projects are approved one by one. Neighbors and delivery trucks must pull over for one another. There are many steps that could be taken, for example an up to date traffic study and area specific EIR.

I am sure you have reviewed the biologist's report that indicates that the valley is a rich riparian habitat. It appears that much more care was taken in creating this report than the one provided by the developer. I think Pacifica deserves careful processes and hope the Council will take leadership in holding developers to high standards.

--

Best Wishes
Stephanie McAuliffe

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Brooks, Elizabeth

From: Susan Miller [REDACTED]
Sent: Sunday, August 23, 2020 5:05 PM
To: Public Comment
Subject: Appeal or MND for lots 4-12 Oddstad way

[CAUTION: External Email]

Dear City Council members,

First of all let me thank all of you for your service to our community. It is not lost on me how much time you all spend in service of the Citizens of Pacifica and I am so appreciative.

The Rockaway Beach Neighbors are asking you to uphold the Appeal for the following reasons:

Documentation by and independent Biologist who visited early in the morning for over 2 hours found 8 special status species that the original WMA biological study did not identify, in reference to Dr. Smallwood's report:

WRA visited the site to perform reconnaissance-level surveys on 3 June 2014 and 23 October 2017. However, WRA (2017) did not report which biologists visited the site, nor how long they visited nor their arrival time. **Not only were fundamental methods missing from the report, but so too were basic results.** WRA (2017) did not list the species they detected while on site. The reporting shortfalls impinge on the readers' assessment of WRA's likelihood of detecting wildlife or of their ability to assess habitat of multiple special-status species. Nevertheless, WRA detected only one of eight of the special-status species I detected while on site (San Francisco dusky-footed woodrat), so I am skeptical that any serious effort was made to survey the site for wildlife.

This is just one of the inconsistencies pointed out in Dr. Smallwood's finding.

I am also very concerned about the Cumulative impact of the Oddstad way project. Once this road and the utilities have gone in, the barriers to future growth are removed, which creates a growth inducing impact. The MND does not contain an analysis of the potential cumulative impacts to biological resources resulting from the Project, together with past, present, and reasonably foreseeable future projects. As a result, there is no evidence to support the MND's conclusion that the

Project will not have a significant cumulative impact on biological resources.

An **EIR needs to be completed for the area prior to any development.**

My neighbors and I urge you to uphold the Appeal until many of our concerns can be addressed.

Again thank you for your service,

Susan Miller

[REDACTED]
Pacifica, Ca

and additionally habitat that is a wildlife corridor that was not adequately mitigated in the MND.

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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Monday, August 24, 2020 10:40 AM
To: Public Comment
Subject: FW: Letter re: Appeal Lots 4-12 Oddstad Way -- Agenda Item #10 (8/24/2020)
Attachments: Appeal Lot 4-12 Oddstad Way_letter from Andrea Aiello.pdf

From: Andrea Aiello [REDACTED]
Sent: Monday, August 24, 2020 10:34 AM
To: Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: Letter re: Appeal Lots 4-12 Oddstad Way

[CAUTION: External Email]

Good Morning Sarah,
Attached is my letter to the city council re: my comments on the appeal for lots 4-12 Oddstad way. Please distribute it to all members of the city council.
Thank you very much,
Andrea

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August 23, 2020

Dear Mayor Martin and Council Members,

I am writing this letter as the wife of the appellant, Chris Coppola. We live at [REDACTED] [REDACTED]. I urge you to approve this appeal and implement an EIR. An EIR is necessary for this project because the project will cause significant growth inducing impacts that have not been analyzed or disclosed.

Removing Barriers and Inducing Growth

It is clear that installing the road will result in removing barriers to population growth. The pressure on single family homes just outside of San Francisco will continue to grow. The coronavirus and the desire to have more space will only make this pressure increase. Any incremental improvement on an undeveloped street will make it just that much easier to build the next house. The minutes of the June 15, 2020 Planning Commission hearing attribute the following comments to Commissioner Bigstyk: *He feels that he has to consider the impact that developing all the lots could have but at some point it does become speculative while he is trying to figure out whether or not this one should be developed, fully acknowledging and appreciating that it definitely opens the door for the other four lots to be developed and it certainly creaks the door open a little bit more at least for the easterly lots to be developed.* This was said before the recent SF Chronicle articles documenting the increase in home prices outside of San Francisco. We know that every step towards reducing barriers will be another step towards inducing growth.

The staff report states that it is not probable or foreseeable that these improvements in the public right of way (building the road) will induce growth. The staff report states that they had to figure out at what point would the improvements for this house not induce growth. They decided to use the connection of lots to utilities, namely the sewer system. Assuming that if there was no connection, it would be too expensive to develop the lots even with the road. But, after a public records request documented that there was no financial analysis done, no market analysis done or any studies or documents of any kind available in the public record, to back up this assumption, it is just an assumption. The real estate market in Pacifica is very “hot” right now and within the next five years, the pressure on the real estate market for single family homes will only intensify. **As the market intensifies, applications for development of the undeveloped easterly lots will increase, there already is an incomplete application in for three easterly lots, and the installation of the road will remove a barrier to development and growth.** Inducements for growth will lead to the negative secondary impacts of increased growth including increased traffic, increased habitat loss and ecologic loss resulting in increased loss of protected raptors and other birds and wildlife, increased negative impacts on the aesthetic of the valley. Therefore, an EIR is necessary.

Traffic and the 1980 General Plan

The IS/MND also states that in the 1980 General Plan, it accounts for the increased traffic resulting from a build out of the valley. It states that Rockaway Beach Avenue can accommodate this level of increased traffic, because the General Plan says so. However, I am sure, and I am sure you will agree, that the 1980 General Plan did not account for the current size of the vehicles we drive in 2020, or the number of vehicles per household. The fact that every home has 2 3 vehicles, and generally at least one of these vehicles is an SUV and/or large truck, the fact that there are Airbnb's on the street with guests arriving in their own vehicles resulting in multiple cars for a single home, there was no way that the 1980 General Plan was able to predict our lifestyle today. **The increased traffic, induced by removing barriers to growth, calls for an EIR.**

Biologic Resource Assessment

Finally, the Rockaway Neighbors hired an ecological specialist, Dr. Shawn Smallwood to inspect the project site and to document what he observed. Dr. Smallwood went to the site early in the morning, by himself to ensure there was no human noise and to decrease the human presence during his visit. Dr. Smallwood spent about 2.5 hours on site and he found a significant number of special status species, including eight special status birds. Significantly, he found a cooper's hawk fly into a nest. He also heard a peregrine falcon that seemed just off the project site, but, birds do fly. Cooper's hawks and peregrine falcons are raptors and all raptors are protected under state law (<https://wildlife.ca.gov/conservation/birds/raptors>), (See Fish and Game Code, Sections 3503, 3503.5, 3505 and 3513, and California Code of Regulation, Title 14, Sections 251.1, 652 and 783 786.6). Peregrine falcons are fully protected under state law as is the white tailed kite which, though Dr. Smallwood did not observe in his 2.5 hours, the WRA report even documented that the site has the potential to support.

Dr. Smallwood twice detected the call of yellow warbler, and once a nuttall's woodpecker (both of which are protected under the Migratory **Bird** Treaty Act (MBTA). He also heard the call of a yellow breasted chat, a bird species of special concern (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=10428&inline>).

He states, "in my experience it is rare to find a site with so many special status species available to be found during one visit, and only one non native species of wildlife. It is rich in native wildlife species, and busy with birds." "Nevertheless, WRA detected only one of eight of the special status species I detected while on site (San Francisco dusky footed woodrat), so I am skeptical that any serious effort was made to survey the site for wildlife." (To note, the SF dusky footed woodrat is very easy to find because their nests are very large, older nests often up to 6 7 ft. tall.)

Dr. Smallwood's report is extensive, well documented and important to read. In fact, I hope the applicant also reads this report so he can understand the extensive wildlife on his property, particularly protected bird species and his responsibility to be a good steward to the land, the birds and other wildlife and plants. One of the critical mitigation measures to adopt, which have not been adopted is installing measures to prevent bird collision and bird death resulting from

the window glare. Dr. Smallwood states that, "Installed as proposed, where proposed, this glass would kill many birds, not only because of the types and extent of glass, but also because the area is home to many birds and these birds must fly quickly from point to point to avoid predation. Exactly how many birds the project would kill by window collision is difficult to say, due to the project's location and its extensive use of reflective glass – a known factor that can greatly increase collision risk. **He estimates about 16 birds a year will be killed from glass collisions** at this site and that most of them will be protected under the Migratory Bird Treaty Act. An EIR is needed to appropriately address this impact and to formulate measures to mitigate the impact.

Dr. Smallwood documents significant biologic issues in his report and this documentation causes one to question how exactly WRA conducted their investigation. **Throughout the biologic assessment there were too many omissions from the CEQA analysis; therefore, the preparation of an EIR is warranted.** To do otherwise is to deny Dr. Smallwood's extensive and well documented report.

For the safety of the residents and visitors to Rockaway Beach valley and to protect the varied and significant, protected biologic resources in the valley a EIR is warranted to adequately address the negative secondary impacts of growth induced by building the road and installing the associated utilities.

Thank you for your consideration.

Sincerely,



Andrea Aiello



Brooks, Elizabeth

From: H P [REDACTED]
Sent: Monday, August 24, 2020 10:52 AM
To: Public Comment
Subject: Oddstad Way Project / Agenda Item #10 - Mtg 8/24/2020

[CAUTION: External Email]

I am very concerned about the proposed project for Oddstad Way, off of Rockaway Beach Ave. Item #10 on the agenda for the city council meeting on 8/24/2020.

The EIR needs to be more thorough. There is a bigger impact to the wildlife in the area than mentioned in the report.

Traffic is another concern on Rockaway Beach. The number of cars is a lot for a small narrow street with no sidewalks. It is an issue for pedestrians in addition to an issue in case of emergency as there are numerous areas where two cars cannot pass at the same time.

I am also concerned about traffic in the mornings for when schools and office buildings open again. Fassler and Hwy 1 can be very challenging, esp for someone that is safely trying to go east up Fassler in the mornings to get their kids to school.

Another concern is that there are at least 11 children between the ages of 5-10 that play daily outside right where all of the construction trucks would be coming in and out to work on this project. This is a HUGE safety concern.

Road and hillside erosion is another concern. A house up the street that was built per instruction from the city, has left a stream running down the street that is a hazard and causes erosion. What will this project do to the street and creek and surrounding homes??

On a completely personal note, we moved to Pacifica 8 years ago thinking that this area would not be built out, because who would build on these beautiful hillsides or tear down all of these trees and wildlife habitat? It's so sad and disappointing that the city is allowing this. Please do a better job of researching the impact of this build out on our community.

Thank you for reading.

Heather Page

[REDACTED] Pacifica

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Brooks, Elizabeth

From: Gillian Briley [REDACTED]
Sent: Monday, August 24, 2020 12:28 PM
To: Public Comment
Subject: Agenda Item #10 - Mon. 8/24/20

[CAUTION: External Email]

Dear Mayor Martin and Council Members,

The letters sent by Rebecca Davis of Lozeau Drury, LLP and Shawn Smallwood, Ph.D, outlining the many issues and the specific requests being made with regard to the 4-12 Oddstad Way project adequately cover my concerns. In addition, I would like to expand on the issue of our limited evacuation routes, and the need for this to be addressed in terms of this project's direct impact on that. As many of us witnessed a few years ago during the evacuation due to the fire at the back of Rockaway, we are already in a very precarious situation. The General Plan from 1980 was most certainly never intended to address the realities 40 years into the future. While we have been told that there are currently no resources available for updating a development plan for Rockaway, it does seem incumbent upon our City Council and our Planning Commission to address this issue when possible. I hope you agree that this is the issue and this is the moment.

Thank you for your consideration,

Gillian Briley

[REDACTED] Pacifica

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Brooks, Elizabeth

From: J.S. Brych [REDACTED]
Sent: Monday, August 24, 2020 2:17 PM
To: Public Comment
Cc: Jarda Brych
Subject: agenda item 10 public comment "10.Consideration of an appeal of the Planning Commission's approval with conditions of Site Development Permit PSD-788-14, Heritage Tree Removal Authorization, and Logging Operation Approval, filed by Javier Diaz-Masias"
Attachments: Oddstad Letter City Council letter_Brych.docx

[CAUTION: External Email]

Hi there,

I've attached my public comments for agenda item number 10 at tonight's City Council meeting.

Thanks.

Jen Brych

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8/23/20

Dear City Council Members,

I'm assuming you've read my original letter to the City Planning Commission as part of the public comments on the project. So, I'll be brief.

We moved our family to [REDACTED], a creek-side house, a little over a year ago. I'm very concerned about the impact of the Oddstad project (Lots 4-12 Oddstad Way). This huge development opens up the area for even more additional development. I'm worried about the impact of the project's drainage on the creek. I'm scared that we will lose our land/property if the creek floods.

After reading all of these reports, which are disturbing in terms of drainage and runoff impact, I am respectfully asking for more assurance from the city and from the developer. I am requesting that the City complete an independent report on the impact of this project on our property and on creekside properties/the neighborhood *before* this project is allowed to move forward. I think it should be known, for example, whether the creek flow needs to be altered, and other potential impacts, *first*, and not *after* the project is approved.

I'm asking the City to consider the total impact of the development of not only this lot, but of the surrounding Westerly and Easterly lots on the neighbors in Rockaway. Frankly, I find all of this pretty terrifying since the creek in our backyard will likely be forced to accept the runoff from all of this development.

As I said in my previous letter, a neighbor informed me that the creek already rises to the top of the culvert under the bridge (adjacent to our property) during heavy storms. I'm also told that some people living along the creek had to buy flood insurance, and that, during a heavy rainy season, their land (and the land on our property) gets very spongy and saturated. It terrifies me that this proposed project would add even more drainage and runoff into the creek (How much? Where exactly would it hit the creek? How will the flow be directed? Will the creek flow be altered? What will the impact be? Again, it's not clear, in the hundreds of pages that I've read. In fact, there are many more unanswered questions: How will removing 20 trees and tons of dirt alter many natural drainage routes off the hill? Will it cause more drainage issues and flooding downstream from the project, onto my property and others? Etc.

On a related note, before we bought our house, when I asked the staff at the Planning Department if there were any neighborhood issues, they said that when it rains in Rockaway, water can run down the street right into various people's yards and cause problems. So, I'm very concerned that this project will add even more to that flow of water in the neighborhood.

I am also disturbed after reading the report of biologist Dr. Smallwood. He points out that a lot of the mitigation measures for this project are deferred, and his analysis is that, in some cases, the developer could choose to do no mitigation.

For example: I'm disturbed by quotes like this: **"Mitigation Measure ("MM") IX-4 requires the Project applicant to submit a Final Stormwater Control Plan 'fully addressing the requirements of the**

City's Municipal Regional Stormwater NPDES Permit, and including proper treatment of stormwater runoff from DMA-R2 to the satisfaction of the City Engineer.' MMRP, p. 11. This mitigation measure violates CEQA because there is no evidence of its feasibility.

The MND states that 'Due to the steepness of the existing grades along Oddstad Way and the need for the proposed roadway extension to meet the grades at the existing pavement, treatment of the runoff from DMA-R2 at the proposed bio-retention basin is not feasible.' MND, p. 68. This is consistent with the Storm Water Control Plan prepared for the Project, which also states that stormwater discharges from drainage management area R-2 cannot be captured and treated in the bioretention area prior to discharge into Rockaway Creek because the steepness of the westernmost section of the street extension prevents capture and treatment of stormwater in this area."

Again, what is the impact of additional drainage running off of this project (which "cannot be captured") into the creek and/or my property/my neighbors' properties? It is unknown, and it's not clear that the developer will be held accountable.

Here is another worrisome quote from Dr. Smallwood's letter:

... Similarly, mitigation measure IX-1 also violates CEQA and defers formulation of mitigation. MM IX-1 provides that during construction, the contractor shall implement BMPs to reduce pollutants in storm water discharges "to the maximum extent practicable, which may include but are not necessarily limited to the following practices." MMRP, p. 9. A list of possible BMPs is then provided. The uncertainties regarding this mitigation measure have not been resolved. If the applicant determines that it is not practicable to do any of the listed BMPs, per the terms of the MND, the applicant does not have to do anything. It is up to the City to develop specific mitigation measures that will effectively reduce impacts to a less than significant level. Providing a list of BMPs that the applicant may or may not follow does not ensure mitigation and violates CEQA. Moreover, since the determination of what mitigation will take place is deferred until after Project approval, the public is given no opportunity to comment, in violation of CEQA.

I am disturbed by Dr. Smallwood's analysis that, if the developer is allowed to defer a lot of the mitigation, the public won't be able to comment on it, which results in a less-than-democratic process. I'm similarly disturbed that the developer/applicant may not do any mitigation in terms of this drainage issue.

Again, I am respectfully asking the city for some reassurances that I won't lose my land, and that my neighbors won't lose theirs either.

I respectfully ask that the city please consider the total impact of the development of this house, plus the entire buildable area, on the neighbors, especially in terms of drainage and runoff, before approving this project.

Thanks for your consideration and time.

Jen Brych



Brooks, Elizabeth

From: Carol [REDACTED]
Sent: Monday, August 24, 2020 2:44 PM
To: Public Comment
Subject: Support of Appeal Lot 4-12 Oddstad Way

[CAUTION: External Email]

Dear Mayor Martin and City Council Members,

I am writing in support of the appeal and EIR request submitted by our neighborhood in concern of issues regarding the development of Lot 4-12 Oddstad Way.

The very nature of what makes Rockaway Beach Avenue unique and appealing to all of us, including the people wishing to build here, will be destroyed by what is being proposed.

In considering the short-term and long-term effects of the construction---on the natural environment, on the infrastructure, and on the roadway itself---this plan is flawed.

This project, infinitely bigger than anything that has been done here in recent years, will change the neighborhood permanently and, if approved in any configuration, will take a very long time to complete.

Whenever major construction is done, a neighborhood is disrupted and negatively impacted. While the builders and residents doing the projects benefit in the end, there is no compensation for the neighbors who suffer during the process.

In the past, I have suggested an escrow account that builders and developers pay into to mitigate damage to roads and areas affected by construction. If approved even in modified form, this project should absolutely be required to do that, but first, the damage to the environment must be assessed.

To the people planning the building, let me say: There is a very nice house for sale up the street. It is on the creek side, has lots of land, allows for parking of many cars, and is already built.

The time, money, and effort spent on this project, which is controversial and stress-inducing for everyone, could be spent making that house into your dream home, and we would welcome you as neighbors.

I will join the Zoom meeting tonight to say some of this in person but wanted to get this on record first.

Thank you for taking the time to read my letter.

Carol Fregly

[REDACTED]
Pacifica, CA 94044

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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Monday, August 24, 2020 3:59 PM
To: Public Comment
Subject: FW: Appeal of Lots 4-12 Oddstad Way Project -- Item 10 - 8/24/2020

From: Joanne Wilson [REDACTED]
Sent: Monday, August 24, 2020 3:54 PM
To: Coffey, Sarah <coffeys@ci.pacifica.ca.us>; _City Council Group <CityCouncil@ci.pacifica.ca.us>
Subject: Appeal of Lots 4-12 Oddstad Way Project

[CAUTION: External Email]

Dear Mayor Martin and Council Members:

My name is Joanne Wilson and I have lived in the Rockaway Beach neighborhood for about 15 years. I urge you to approve this appeal and implement an EIR for the above-referenced project.. An EIR is necessary for this project because the project will cause significant growth-inducing impacts that have not been analyzed or disclosed. In addition, a report based on a site visit from a qualified biologist hired by the appellant indicates the occurrence of several protected bird species and their habitat on the subject property that were not disclosed and analyzed in the Initial Study/Mitigated Negative Declaration (IS/MND) for the proposed project.

The City's staff report and other documents related to the proposed project state that the development of the 21 easterly lots (that were not included in the cumulative analysis of the proposed project in the IS/MND) is not reasonably foreseeable. In recent years, however, we have seen more site development permit applications filed to develop hillside parcels in Rockaway Beach. Currently, there appears to be 3 such proposed projects in our neighborhood (not including the proposal being considered tonight). These applications include a proposal to develop three single family homes east of the proposed project, requiring further extension of Oddstad Way and associated utilities. **What exactly is the tipping point for the City to finally pay attention to the significant safety and infrastructure issues associated with hillside development in Rockaway Beach?**

I will end my comments with an appeal for protecting the safety of our community. Please learn from past tragedies where inadequate roadway systems and fast moving fires contributed to fatalities such as the 1991 Oakland Hills fire that killed 25 people and destroyed nearly 3000 homes.

Sincerely,
Joanne Wilson

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Brooks, Elizabeth

From: Jeneane Crawford [REDACTED]
Sent: Monday, August 24, 2020 4:01 PM
To: Public Comment
Subject: Rockaway Beach Ave - "Oral Communications"

[CAUTION: External Email]

Thank you for taking my comments on the development on Oddstad in Rockaway Beach. I have been a resident of Rockaway Beach Ave for three years, and before that I lived in Linda Mar for 15 years. Compared with other areas in Pacifica, Rockaway Beach Ave is poorly maintained, has a surprisingly high volume of traffic and is very narrow. The street will have a tough time accommodating construction traffic. There was a *2017 Traffic Impact Analysis* which calls for a mitigation to the impact of the trucks during construction, saying they should start at 9 a.m. and end at 4 pm. I would ask you to ensure that recommendations from the Traffic Impact Analysis be adopted.

This is the first of many parcels of land to be developed. This project will surely induce growth and that fact has not been adequately addressed in the IS or the Mitigated Negative Declaration. I would ask for an environmental impact report that takes this future growth into account.

With the evacuations happening right now due to wildfires, I am extremely concerned about our ability to evacuate if a more serious fire happens here. The growth of the neighborhood should not be at odds with our safety.

Jeneane Crawford
[REDACTED]

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J C • ENGINEERING



848 Burns ct. Pacifica, CA 94044 - 650-355-0615 [-mail@jcengineering.us](mailto:mail@jcengineering.us)

August 21, 2020

Christian Murdock
Planning department
City of Pacifica

Re: Lots 4-12 Oddstad Way

Dear Christian,

As part of the submittal documents required for this application, we prepared a Hydrology analysis to estimate the runoff expected at the discharge point of the proposed drainage system.

The total tributary area for project as defined by the topography of the area is 3.67 Acres. With the current conditions of undisturbed vegetation the coefficient of runoff based on the criteria given by the Rational Method is 0.22. Therefore, the calculated total runoff imposed by the current condition is 3.23 c.f.s.

The condition of the tributary area is modified by the project which creates impervious areas by the construction of the roof for the new building and the paved area for driveways and roadway. The proposed impervious area is 0.37 Acres with a coefficient of runoff of 0.90 resulting from using a coefficient of 0.95 for roofed areas and 0.84 for paved areas. The total weighted coefficient of runoff for the entire basin increases to 0.28. Therefore, the calculated total runoff imposed by the basin including the proposed improvements is 4.11 c.f.s

The additional runoff of 0.88 c.f.s created by the project is managed on site by the use of flow thru planters, areas of permeable pavement and detention elements with a capacity to regulate the flow to prevent excess runoff to reach the discharge point. Thus, the project complies with the C3 – C6 regulations which ensure that post development runoff is equal or less than pre-development runoff. The calculated total runoff post development is 3.11 cfs.

If you have any questions, please contact our office.

Regards,

Javier M. Chavarria, P.E

Public Comments

Agenda Item # 11



August 24, 2020
City Council Meeting

From: [Linda Popielak](#)
To: [Public Comment](#)
Subject: 8/24 council meeting item #11
Date: Friday, August 21, 2020 3:25:47 PM

[CAUTION: External Email]

My husband and I have lived in Pacifica for 50 years, and raised two children here. I remember in the early 70's the city approved an ordinance prohibiting camper shells, trailers, and motor homes from being parked in one's own driveway. Some people did not like this but respected it to keep eye sores to a minimum.

Now I understand there is interest to allow RV's to be parked in private driveways with people living in them!

This is a terrible idea for so many reasons. What if one neighbor wants to host an RV and property owners nearby don't want it? What will be the effect on property values?

We've enjoyed many good years here and are now very concerned about the direction things are going in.

Please do not bring any changes to the recently approved regulations concerning occupied RV's.

Linda Popielak
East Sharp Park

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From: [David Whitney](#)
To: [Public Comment](#)
Subject: Agenda Item 11 - Pacifica Council Meeting 24 Aug 2020, RV parking permits residential driveways
Date: Friday, August 21, 2020 8:38:05 PM

[CAUTION: External Email]

Sent from [Mail](#) for Windows 10

Hello,

Just read Tribune article: Homeless RVs on home driveways, and I am opposed to importing homeless to our residential areas. I live in District 1, Fairmont, our FSIA CCRs read:
NO TRAILER, BASEMENT, TENT, SHACK, GARAGE, BARN, OR OTHER OUTBUILDINGS SHALL AT ANY TIME BE USED AS A RESIDENCE, TEMPORARY OR PERMANENT, NOR SHALL ANY RESIDENCE OF TEMPORARY CHARACTER BE PERMITTED ON SAID PROPERTY UNLESS IT SHALL CONFORM TO AND BE IN HARMONY WITH EXISTING STRUCTURES IN THE AREA OF THE PROPOSED LOCATION THEREOF.

David Whitney



Pacifica, Ca 94044

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From: [Jane Herman](#)
To: [Public Comment](#)
Cc: [Jane Herman](#)
Subject: 8/24/20 Council Meeting/item# 11
Date: Friday, August 21, 2020 9:07:17 PM

[CAUTION: External Email]

I trust the members of the Pacifica City council as well as the City Manager can read and accept these comments with an open and compassionate mind - as has been said to me when I have written to you on this issue before.

Once again, a proposal has been forwarded to amend the municipal code regarding the parking of inhabited RV's (oversized vehicles) in personal host driveways, and to exempt CEQA guidelines from this proposal. All I can surmise is that the intent here is to NOT allow nearby residents any due notification or response to such action. This appears to be a legal over-reach denying nearby residents of the enjoyment of one's property in all manners, and expectation of reasonable accrual of value of one's property. The allowance of inhabited (and not necessarily temporary) RV's in private host driveways challenges the legal rights of nearby neighbors, as well as existing municipal code which was arrived at for very good reasons. It also exposes the City to lawsuits to do with such, including safety issues of all kinds, the result of which if challenged would be borne by the City, and all its taxpayers. This is simply flawed public policy driven by a hidden agenda that has become mistrusted by many. The Pacifica Resource Center serves its purpose to many in need, but seems to be driven by a desire to solve larger regional problems than Pacifica can accommodate or afford.

This issue has divided our community - one that is driven by vigorous interest and volunteerism that sustains this beautiful coastal town - I know because I am one of them - have donated over 1,000 hours to a non profit over ten years that serves the PRC directly.

This proposal is leading towards a very slippery slope with many unanswered questions, and mis-truths displayed while listening to the four hours of public comment recently. It's not predominately families who live in RV's (which was said over and over), there is a certain cost to the City, environmental and safety concerns, and the culmination of what I heard was a 4 to 1 consensus against the sanctioning of inhabited RV's in this City.

It's time for the City Council to listen and respond to the valid concerns of many long term residents, and newer homeowners who feel similarly to represent the people of this City and reject this proposal and amendment to the existing ordinance, which was arrived at after tremendous discourse and participation. It's your job and why you were elected to serve.

Thank you for listening.

Jane Herman
Linda Mar



Virus-free. www.avg.com

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From: [Aaron Read](#)
To: [Public Comment](#)
Subject: Oppose RV Hosts
Date: Friday, August 21, 2020 9:35:25 PM

[CAUTION: External Email]

RV's again. Really? I am writing to you to oppose the proposed ordinance of RV hosts in residential neighborhoods. It is bad policy for a number of reasons and I have to say I am annoyed that the council repeatedly is not listening to the majority of their constituents and continues to push an agenda from a vocal minority and UP Task Force that does not truly represent the diverse views of our community. I am compassionate and see that there is a need and would be ok with a limited voucher system in an established trailer park but NOT RESIDENTIAL HOSTS. This is unacceptable. I am required to pay property tax, pull permits when needed and maintain my property.

I did not purchase a home in Pacifica to have a view from my front window of a dilapidated RV parked on the street or in a driveway. Not to mention the value of my property decreasing if one of these, exempt from the ordinance that you just passed, is allowed to park in view of my home. And this still does nothing to resolve the issue of where these vehicles are dumping their waste. This proposed change and exemption to a recent ordinance favored by a majority of most taxpayers in Pacifica shows the dysfunction of our council and City Manager.

Unfortunately it appears the PRC is becoming more of an activist organization looking to expand its budget and mission at the expense of the rest of us. Stop looking for a band aid to a bigger regional problem. The City of Pacifica does not have the budget, resources or buy in from the taxpayers who will ultimately foot the bill.

Background

I have lived in the Bay Area my whole life and Pacifica for the past 14 years. I am a homeowner, taxpayer, work in public safety and I am raising a school aged child in Pacifica. The RV issue continues to spiral out of control due to the city councils lack of action. We need to keep our new ordinance strong and give it a chance to work. It is impacting our quality of life and is not a compassionate solution to our regions jobs and housing imbalance.

Reasons

1. Pedestrian Safety

As a pedestrian and bike rider cars can not see me around the size of these vehicles. I have nearly been hit multiple times due to not being visible. As a city we should value the environment and health of our citizens by encouraging walking and bike riding.

2. Environmental Degradation

RVs frequently leak and dump hazardous materials such as oil, fuel and sewage that all drain into our creeks. If a homeowner has to replace a sewer lateral due to environmental concerns then we should not allow the same pollution from RVs either.

3. Budget

Pacifica is a small coastal city that largely has not benefited from our region's job boom. We still continue to struggle to pay for schools, infrastructure and basic city services. Our city employees work hard and are some of the lowest paid in the county.

4. Lifestyle

RV dwellers are not necessarily from Pacifica and we do not need to create a climate that encourages others to come here, use city services and not contribute.

5. Loss of Tourism and Property Value

Pretty self explanatory. Does anyone want to come to a town with a bunch of RVs, strip malls and garbage? Probably not. I don't see anyone wanting to open a tourist dependent business or move here with this issue not solved in a focused meaningful way.

6. Complete failure of homeless and RV policies in larger cities that have budgeted funds. I would be supportive of spending funds if these policies improved the quality of life for all residents but they have only led to the creation of a "Homeless Industrial Complex" where there is money in keeping things status quo and not really solving the problems of mental health, drug use and housing.

7. Regional Problem

Housing is a regional problem due to our region's strong job growth and allowing RV living on our streets is not a viable solution. Unfortunately Pacifica has largely not benefited from the region's job growth and revenue creation due to being primarily a bedroom community. Ironically I do not see this problem in areas like Millbrae, San Mateo and Burlingame who have benefited and do not allow RVs in residential neighborhoods. Pacifica does not need to feel responsible for the housing imbalance when other cities benefit from job growth and Pacifica receives nothing in return.

I appreciate you taking the time to hear my concerns and will be looking for action from the city council.

Respectfully,
Aaron Read

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Brooks, Elizabeth

From: Jaclyn K Yu [REDACTED]
Sent: Saturday, August 22, 2020 1:46 PM
To: Public Comment
Subject: Agenda Item 11 - Pacifica Council Meeting 24 Aug 2020, RV parking permits residential driveways

[CAUTION: External Email]

Hello,

Just read Tribune article: Homeless RVs on home driveways, and I am opposed to importing homeless to our residential areas.

I live in District 1, Fairmont, our FSIA CCRs read:

NO TRAILER, BASEMENT, TENT, SHACK, GARAGE, BARN, OR OTHER OUTBUILDINGS SHALL AT ANY TIME BE USED AS A RESIDENCE, TEMPORARY OR PERMANENT, NOR SHALL ANY RESIDENCE OF TEMPORARY CHARACTER BE PERMITTED ON SAID PROPERTY UNLESS IT SHALL CONFORM TO AND BE IN HARMONY WITH EXISTING STRUCTURES IN THE AREA OF THE PROPOSED LOCATION THEREOF.

Jaclyn Chu
[REDACTED]
Pacifica, CA 94044

Sent from my iPhone

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From: Lynn Shimamoto [REDACTED]
Sent: Monday, August 24, 2020 2:42 PM
To: Public Comment
Cc: Martin, Deirdre
Subject: Proposed Amendment to Article 12 of Chapter 7 of Pacifica Municipal Code Relating to Regulation if Parking Oversized Vehicles Hosted by Private Property Owners

[CAUTION: External Email]

Greetings Mayor Martin and City Council Members:

I, Lynn Shimamoto, am addressing you directly in writing to express the strong objections of myself and my husband, Gary Shimamoto to the above captioned proposed amendment on tonight's City Council Meeting agenda.

Our reasons for opposition to this amended are:

1. The amendment allows property owners in Pacifica, or renters who are authorized by property owners, to apply for a Host Site permit for RV or Camper "temporary" parking. However, the permit would be 12 months and can be renewed by the City for another 12 months; this is hardly temporary!
2. The individual or entity permit holder would, according to this proposal, be responsible for "confirming" every week that RV or camper has utilized a "dumping facility for toilet water and trash". My question is: to whom are they confirming this and why is the City of Pacifica not involved in enforcement of regulations?
3. The appeal process by which residential neighbors within 500 ft. radius can object to an approved "RV host site permit" is skewed unfairly in favor of permit holder. And permit holder can appeal City decision to side with residential neighbors who then have no recourse.
4. What is the legal liability to the host permit holder for any damages resulting from their hosting a parked RV or camper? Will the City of Pacifica issue a "hold harmless certificate" to each property owner that applies for a permit?
5. We are concerned about the cost of each permit because at the last July Special Meeting, the cost was quoted as \$11,000 per permit and if no grants came through then the "city would pay for it". So total cost for 20 RV's permits was \$220,000! This means property owners in Pacifica would be asked to approve property tax increases to pay for RV parking permits. We will not vote to increase property taxes for this RV parking permit program.

In conclusion, we are opposed to any RV or oversized vehicle dwellers parking program in Pacifica because our city will just quickly turn into a bigger RV camp than it is already. As other nearby cities (South San Francisco, San Francisco, Half Moon Bay) with a lot more resources than Pacifica have barred oversized vehicles used as dwellings in past year the RVers/campers have migrated to Pacifica in droves overwhelming the city with raw sewage and household trash. Pacifica is a small city ill-equipped to handle all the problems of sanitation and safety of RV/camper dwellers

Therefore we respectfully request that this ordinance revision be voted down by the City Council and the RV/camper dwellers be immediately required to relocate to a community where they can afford to rent a space in a bonifide RV park.

Best regards,

Lynn and Gary Shimamoto

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Brooks, Elizabeth

From: Eleanor Natwick [REDACTED]
Sent: Monday, August 24, 2020 5:06 PM
To: Public Comment
Subject: RV's (agenda item 11)

[CAUTION: External Email]

No. No. No.

Live-in RV parking in driveways and Live-in RV encampments in parking lots which are located in heavily residential neighborhoods should not be allowed.

There should not be a CEQA exemption.

I've written to all of the council members, with a list of my objections multiple times in the past.

Live-in RV's should be limited to areas with designated facilities specifically to meet their requirements for health and safety.

Vote No.

Eleanor Natwick
[REDACTED]

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Public Comments

Agenda Item # 12



August 24, 2020
City Council Meeting

From: Sunil Bhat [REDACTED]
Sent: Monday, August 24, 2020 11:52 AM
To: Public Comment
Subject: 8/24 City Council Meeting, Agenda item 12

[CAUTION: External Email]

From: Dr. Sunil Bhat, Park Pacifica

I fully support Pacifica's move to support the global pollinator crisis and increase the ability of residents to keep bees. As we bring more critically important living things to our beautiful city, we should ensure that we are protecting their safety, and our own, and preventing them from experiencing behavior disruption, aggression, or colony collapse that could be preventably caused by our city.

Bee Behavior has been shown to be Disrupted by Cell Phone Radiation

Bees operate in about a 5 kilometer radius and typically find their way without difficulty. [Sharma](#) et al published a paper in the journal "Current Science" by the Indian Academy of Sciences in 2010 that looked at bee behavior placing a cell phone near a hive. They found worker bees returned less and less frequently to the beehive after the installation of a mobile phone. There was a significant decline in colony strength and the rate of queen egg laying.

[Kumar](#) et al published a paper in the journal "Toxicology International" by the Society of Toxicology in 2011 that looked at physiologic changes in bees exposed to cell phone radiation and found it creates a stress response, **increased agitation** and increase in carbohydrate metabolism.

[Favre](#) et al published a paper in "Journal of Behavior" in 2017 that clearly demonstrated that bee behavior is disrupted by exposure to cell phone radiofrequency radiation and **caused worker bees to emit a piping signal to swarm**. Bees have also demonstrated **aggression after 30 minutes of cell phone exposure**. Dr. Favre notes, "Mobile phone companies and policy makers point to studies with contradictory results." However, his study distinctly demonstrated adverse effects.

[Cammaerts](#), a biologist and author of 54 peer reviewed publications on insects, also published a paper in the Journal of Behavior in 2017 which observes that the sharp decline of bees did not start with the use of insecticides but much later and removal of pesticides has not been accompanied by the expected rise in bee populations. While she does not discount a role for insecticides causing bee decline, she advises beekeepers to consider that radiofrequency radiation could also have an impact, and they protect their hives by locating these in a low EMF environment or placing them in a Faraday cage or enclosure.

--

Sunil Bhat D.O.
Osteopathictouch.com

Board Certified Osteopathic Family Medicine
Board Certified Osteopathic Neuromusculoskeletal Medicine

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