

## CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT  
455 MARKET STREET, SUITE 300  
SAN FRANCISCO, CA 94105  
PHONE: (415) 904-5260  
FAX: (415) 904-5400  
WEB: [WWW.COASTAL.CA.GOV](http://WWW.COASTAL.CA.GOV)



# Th12a

A-2-SMC-11-041-A1-EDD (Hodge)

JUNE 13, 2024

CORRESPONDENCE



May 29, 2024

**SUPPORT STAFF**

Chair Caryl Hart and Members of the  
California Coastal Commission  
455 Market Street, Suite 300  
San Francisco, CA 94105

Re: **Item Th12a on June 13, 2024 Agenda:**  
**Dispute Resolution: Application No. A-2-SMC-041-A1-EDD**

Dear Chair Hart and Commissioners,

On behalf of Green Foothills (formerly Committee for Green Foothills), I write **in support** of the Staff Recommendation that you Concur with the Executive Director's Denial of the proposed Weakening Amendment to the original CDP issued by the Coastal Commission on December 11, 2013 (CDP A-2-SMC-11-041).

Green Foothills was one of two Appellants of the above-referenced original County-approved CDP for the subject property (approved by the San Mateo County Board of Supervisors on November 1, 2011).

Despite extensive unpermitted grading and destruction of wetland and riparian vegetation, Mr. and Mrs. Hodge received significant benefits from the Commission's 2013 approval of their 2,081 square foot two-story single-family residence with lot coverage of 1,414 square feet.

Commission Staff had thoroughly investigated the history of the parcel and adjacent County-owned parcels; and was concerned about the potential issue of a takings if the Commission had denied the project — despite well-documented non-compliance with the certified County LCP and Coastal Act.

In the Commission's 2013 Appeal Staff Report, there was extensive discussion and analysis of unpermitted activities, including a Biological Impact Form prepared in 2005 for the Mirada Surf Coastal Trail Extension Project, and a comparison of aerial photographs taken in 2005 (prior to vegetation clearance). Also, per Commission Biologist Dr. John Dixon's Memo, there was a comparison of the results of biological surveys of the site conducted by the County's Biologist in June 2005 and June 2010, which provided incontrovertible evidence that the filling of wetlands had taken place on the Hodges property.

Mr. and Mrs. Hodge accepted the required terms and conditions, including the establishment of an open space deed restricted area and restoration area covering the rest of the property, and built their single-family residence in 2016.



The Hodges have enjoyed the very substantial benefits of construction of the single-family residence on a parcel that was previously entirely comprised of wetlands, riparian areas and buffers, all of which are LCP-protected environmentally sensitive habitat areas (ESHA). As the Staff Report points out, there is no new information that would support any further incursions into the deed-restricted protected areas.

Moreover, violations of the deed-restricted protected areas have apparently occurred. These include: (1) a fenced-in yard area filled with ornamental plants and what appear to be concrete patios, (2) the garage was apparently converted into living space without authorization, (3) additional unauthorized vegetation clearance was apparently done within the open space deed restricted and habitat restoration area, (4) failure to adhere to the required restoration plan, and (5) complete failure to implement the landscape screening plan requiring the house to be screened from public views from the nearby Coastal Trail and Highway 1.

Accordingly, we strongly support the Staff Report's recommendation that you Concur with the Executive Director's Denial of the Proposed Weakening Amendment to the Original CDP.

With deep appreciation and thanks for all you do to protect the California coast,

A handwritten signature in black ink that reads "Lennie Roberts".

Lennie Roberts, San Mateo County Legislative Advocate and Former Coastal Commissioner

**CALIFORNIA COASTAL COMMISSION**

455 MARKET STREET, SUITE 300  
SAN FRANCISCO, CA 94105-2421  
VOICE (415) 904-5200  
WEB: WWW.COASTAL.CA.GOV



May 16, 2024

Via E-mail: pprows@briscoelaw.net

Peter Prows  
Briscoe Ivester & Bazel LLP  
235 Montgomery Street, Suite 935  
San Francisco, California 94104

**Re: 201 Magellan Avenue – CDP Amendment (Hodge)**

Dear Mr. Prows:

As you are aware, your clients, David and Hi-Jin Hodge, have submitted a coastal development permit (CDP) amendment application to the Commission for a detached ADU at 201 Magellan Avenue in the unincorporated Miramar area of San Mateo County, which the Commission's Executive Director rejected as a weakening amendment (under California Code of Regulations Section 13166). Your clients have appealed the Executive Director decision to the Coastal Commission. As you are aware, we have been prepared to take your clients' appeal to the Commission, but you've requested that we wait to do so, and we have thus far agreed. In the interim, your clients apparently now want to pursue a different ADU, this one attached to the existing residence, but still extending into a similar area as the detached ADU. You have argued that that application should not be a CDP amendment application to the Commission, but rather that it should be a CDP application to San Mateo County. This letter sets out: (1) why your clients' proposed attached ADU development also must be the subject of a CDP amendment application to the Commission, and (2) why that proposed development is inconsistent with the Commission's underlying CDP here (CDP A-2-SMC-11-041), and thus would also be rejected by the Executive Director for similar reasons as apply to your clients' proposed detached ADU.

In 2013 the Commission approved CDP A-2-SMC-11-041 that authorized your clients' residence via a takings override, where the Commission made clear the residence allowed was minimized to the degree possible to avoid a potential regulatory taking, and where everything outside of the residence's footprint was required to be restored as wetland, riparian, and related habitat (save for a small strip between the residence footprint and Magellan Avenue, which is located outside of the area proposed to be used for either ADU, and thus inapplicable in this discussion). In that CDP action, it was clear that the Commission only approved your clients' residence in the footprint allotted, and that the Commission required your clients to restore and restrict the remainder of their property as

wetland, riparian and related habitat, to be maintained in this manner in perpetuity. In the Commission's adopted findings on page 38, the Commission states:

*To achieve consistency with the LCP's policies in light of constitutional takings issues, the Commission ... approves development of the single-family residence with special conditions to minimize adverse effects on sensitive habitats and visual resources.*

The Commission's adopted findings continue on page 39 and states:

*While the project would still **be located within a wetland**, it would not be possible to develop a residence outside the wetland area that is reasonable in size and meets the other LCP setback requirements. (emphasis added)*

And finally, the Commission's adopted findings also state:

*To ensure ongoing conformity of the project with the certified LCP, Special Condition 2 requires submittal of a Habitat Restoration Plan ... Finally, Special Condition 7 restricts future development in the open space restricted area depicted on Exhibit 12.*

First, CDP Special Condition 2 requires implementation of an approved Habitat Restoration Plan, that required "[a]ll riparian and wetland areas shall be restored, in place, to their 2004 boundaries. . . except for the area of the approved single family residence, including the driveway." And that area would be the 1,410 square foot building footprint shown in the final plans received on September 30, 2015. Thus, and like the detached ADU proposal, your clients proposed attached ADU would be sited in a restoration area required by Special Condition 2.

The fact that your client's allowed residence was limited to the identified footprint by the CDP is further evidenced by the fact that the CDP's mitigation ratios were quite specifically detailed – to the individual square foot – by the Commission based on the precise square foot dimensions of the identified residence footprint. In other words, the Commission only allowed residential development within that precise footprint and required restoration everywhere else on your clients' property as well as additional restoration offsite, keyed precisely to the dimensions of the residence footprint to the square foot, and no larger. Therefore, just like the proposed detached ADU, the proposed attached ADU would be sited in a restoration area, which is inconsistent with Special Condition 2, the Habitat Restoration Plan, and the CDP's terms and conditions overall. And this makes logical sense as the entire CDP action – a takings override – was based on the premise of minimizing the residence footprint to minimize LCP-prohibited development in a wetland, and restoring essentially everything else, where that area would be protected as habitat in perpetuity as a requirement of the CDP. Put another way, the CDP allowed your clients the benefit of the residence, but that came with the requirement to mitigate the impacts of the residence by restoring and protecting essentially the entire remainder of their property as habitat. In fact, your clients initially sought approval from the San Mateo County Planning

Commission for a larger residence, which the Planning Commission did not approve,<sup>1</sup> and the reasons why such larger residence wasn't approved still exist today, and apply to both recent ADU proposals.

Second, Special Condition 7 required an Open Space Restricted Area on your clients' property, as depicted in the Commission's Exhibit 12, where your client wasn't (and still isn't) authorized to build anything, and where such development is prohibited (with the exception of habitat restoration and landscaping activities allowed pursuant to Special Conditions 2 and 3, and stormwater runoff and erosion control measures allowed pursuant to Special Condition 5). While the exhibit includes a label pointing to the light-grey shaded area as the "Approximate Open Space Restricted Area", the Exhibits' legend refers to that same area as the "Open Space Restricted Area", which is the way in which the restriction area is defined by Special Condition 7(a), and there is no question from the Commission's findings (including as discussed above) that the light-grey shaded area is the area that the CDP requires to be restricted. The exhibit does mention the "approximate" area of the deed restriction, and the open space restriction that was recorded differs slightly from the light-grey shaded area shown on Exhibit 12. This deviation only exists because of San Mateo County Building Code requirements, as was explained in an email to your clients on August 20, 2014, before the house was even constructed (I'm attaching that email as reference here as well). In that email exchange, Commission staff explained:

*With respect to the recorded easement, yes, the boundaries of the easement were modified to provide space around the house perimeter to allow for emergency ingress/egress as identified by the San Mateo County Building code. However, **these changes do not allow you to develop in those emergency ingress/egress areas.** (emphasis added)*

In that same exchange, Commission staff clarified any potential questions regarding future development outside the approved building footprint:

*The Commission approved a specific footprint to minimize wetland and riparian impacts (you'll recall that the LCP would have required denial of your project based on these impacts, but the Commission found an approval of some sort necessary to avoid a potential takings), and required restoration of the area outside of this footprint.*

And further stating to your client:

*Yes, these areas can be used for emergency ingress/egress, but they are still subject to restoration requirements and are not allowed to be developed otherwise.*

Your client disagreed, and suggested that Commission staff should provide some "discretion", and Commission staff again made clear to your client:

---

<sup>1</sup> Your clients appealed the Planning Commission's denial to the Board of Supervisors and offered three alternative proposals for the residence. The smallest of these alternative proposals was approved by the Board of Supervisors in 2011, and the same development footprint was approved under CDP A-2-SMC-11-041.

*Just to clarify one point, the boundaries of the easement do not define the house setbacks or the development footprint, nor do they alter the area of restoration required. These are two separate things.*

As you can see, it is quite clear that your clients' residence footprint was the only area in which the permit allows development, and that everything else was to be restored and restricted as habitat, and where other types of development – including residential development – were prohibited. That restricted habitat area is the area in which your clients now propose ADU development, which is inconsistent with the CDP.

And third, and regardless of the above restrictions, both your clients' proposed detached and attached ADUs would require an amendment to the project plans required by CDP Special Condition 1. And, in fact, the proposed attached ADU would expand the dimensions of the house itself. Therefore, your client would need to amend the approved plans to show such development under the CDP.

In conclusion, the Commission's CDP terms and conditions both require habitat restoration and prohibit residential development outside the approved building footprint. Put another way, your clients proposed ADUs – both of them – conflict with Special Conditions, 1, 2, and 7 of CDP A-2-SMC-11-041, and thus they can only be approved by the Commission as an amendment to that CDP. Thus, any such proposed ADU can only be processed by the Commission, and not the County. And just as applied to your clients' proposed detached ADU CDP amendment application, your clients' proposed attached ADU would also be considered a weakening amendment under CCR Section 13166, so please be advised in advance that the Executive Director would also be required to reject this new CDP amendment as it conflicts with and weakens the requirements of the base CDP.

Based on the information in this letter, please advise as to how you would like to proceed with your pending appeal to the Commission. We would advise that you withdraw your pending CDP amendment and not submit any CDP amendments that weaken the CDP. We are still prepared to go forward if you do not.

Lastly, from our review of the permit we were not able to identify information that the permit was exercised prior to its expiration. Development of the approved home should have commenced within 2 years of the date on which the Commission voted to approve the permit (that is, on or before December 11, 2015). In fact, it appears that construction did not commence until sometime in 2016 (including because the Commission has an e-mail indicating that a building permit was not issued until 2 years and 5 months after the Commission's December 2013 approval), which is beyond the 2-year expiration period. Please, as soon as possible, provide evidence that development legally commenced, and the CDP was legally exercised prior to December 11, 2015. As you are aware, if the CDP was not legally exercised before it expired, all development approved under CDP A-2-SMC-11-041 is unauthorized.

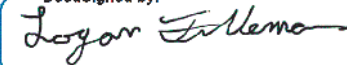
In addition, our research also shows that there are potentially several violations on the site. For example, the parcels appears to have a fenced-in yard area filled with ornamental plants and what appear to be concrete patios in the required habitat restoration and deed restricted area; the garage appears to have been converted to a living space; there has apparently been additional and unauthorized vegetation clearance within the deed



restricted habitat restoration area; there appears to be a failure to adhere to the required restoration plan; and failure to comply with the landscape screening plan (which required the house to be screened from public views as seen from the nearby public trail and from Highway 1, but the house is actually quite visible in such views). All of these are issues that we've referred to our enforcement unit, and we hope you can provide information explaining your clients' justification for these actions or demonstrating that our research is incorrect.

Please let me know of your intention with respect to the CDP amendment(s) and the appeal of the Executive Director's CCR Section 13166 determination no later than May 24, 2024.

Best,

DocuSigned by:  
  
58393E0B72FE4F2...

Logan Tillema  
Attorney  
California Coastal Commission

Enclosure: August and September 2014 emails between Commission staff and your clients

cc: Angela Chavez, San Mateo County Planning Department  
Tim Sullivan, San Mateo County Code Compliance



## Cooper, Isobel@Coastal

---

**From:** Lavine, Ethan@Coastal <IMCEAEX-\_O=MMS\_OU=EXCHANGE+20ADMINISTRATIVE+20GROUP+20+28FYDIBOHF23SPDLT+29\_CN=RECIPIENTS\_CN=LAVINE+2C+20ETHAN6C6A4B1A-CAEC-4C6C-A55C-066010FC61DB0F8@namprd09.prod.outlook.com>  
**Sent:** Monday, September 8, 2014 9:41 AM  
**To:** 'david hodge'  
**Subject:** FW: I checked...

David,

I got your voicemail from Friday requesting a few blocks of time that would work to talk. I am available this afternoon at any point prior to 4:30. I am also fairly open tomorrow (Tues) afternoon, and Wednesday morning.

Let me know if there's a time in these blocks that work for you.

Ethan

---

**From:** Lavine, Ethan@Coastal  
**Sent:** Thursday, September 04, 2014 11:31 AM  
**To:** 'david hodge'  
**Cc:** Manna, Jeannine@Coastal; Cave, Nancy@Coastal  
**Subject:** RE: I checked...

David,

I have reviewed the set of plans that you submitted last Thursday, 8/28. Thank you for reducing the ground-floor footprint of the house. In the revised plans, the house itself fits within the approved footprint and would no longer displace the required restoration area surrounding the house.

However, these plans do propose development of a fence, pergola structure, and walkways with large stone pavers within the required restoration area. As we've discussed and as Jeannine indicated in her emails, we are not able to approve any permanent development in this restoration area. I realize what is proposed here is a reduction in the area covered by stone pavers from your previous design, but this does not change the fact that we are unable to permit any such development in this area as it would displace square footage required to be restored through Special Condition 2. The Commission's approval limits allowable development within this area to habitat restoration and landscaping allowed pursuant to Special Conditions 2 and 3, and stormwater and erosion control measures allowed pursuant to Special Condition 5.

I am available to discuss this further if you have any additional questions about how to comply with the Prior to Issuance conditions that must be satisfied before we are able to issue the coastal development permit.

Ethan Lavine  
North Central Coast District  
California Coastal Commission  
45 Fremont St., Suite 2000  
San Francisco, CA 94105-2219  
(415) 904-5267

---

**From:** david hodge [<mailto:david@hodgears.com>]  
**Sent:** Thursday, August 28, 2014 4:34 PM  
**To:** Manna, Jeannine@Coastal; Cave, Nancy@Coastal  
**Cc:** Carole Groom; Carl, Dan@Coastal; David Byers; Hi-Jin Hodge; Lavine, Ethan@Coastal  
**Subject:** Re: I checked...

Hi Jeannine and Nancy,

Thank you for your call last Thursday. I felt we were able to clarify a number of issues that were unclear. In response to your requests I have been able to modify the house to meet the criteria you described and accomplish what I was hoping for architecturally. It took a bit of work but Hi-Jin and I are happy with result and think we got to a place that will allow approval for the architectural portion the project. As I mentioned I would like to get our structural engineer started on the project as soon as possible.

The revised building footprint is 1,410 sq. ft. and the second floor is 563 sq.ft for a total of 1,973 sq.ft. This is 108 sq. ft. smaller what was approved. I have not counted the stair area on the second floor. (based on how SM County allows) and even if you were to include this area we would meet the approved square footage.

I have also removed most of the stone pavers around the house. I have a few of them to allow entry in the front of the house and in the south east corner to have a place to put garbage cans near the rear of the house. This will be further refined as we develop our restoration / landscape plan. We are hoping this plan will be ready to submit by the beginning of September.

Please find the revised drawing set attached. I will look forward to hearing from you after you have had a chance to review.

Thank you,  
David

[david@hodgears.com](mailto:david@hodgears.com) | <http://www.hodgears.com> | <http://www.davidandhijin.com> | Tel 650 726 4200 | stockholm +46 76 224 0375

On Aug 21, 2014, at 10:08 AM, Manna, Jeannine@Coastal <[Jeannine.Manna@coastal.ca.gov](mailto:Jeannine.Manna@coastal.ca.gov)> wrote:

Hi David,

Attached is an electronic version of the notice of intent (NOI) and Exhibits 2 and 10 which are referred to in **Special Conditions 1 and 2**. Please review in detail the requirements of **Special Condition 1 and 2** and the Exhibits they refer to. Your proposal to increase the square footage of the first floor and place development along the sides of the house will inhibit your ability to comply with **Special Condition 2** which requires that these areas be restored. We want to make sure that you are able to successfully comply with both of these conditions, in addition to the 5 other ?prior to issuance? conditions, so that we may issue the coastal development permit.

I do recall the discussion of the barn like structure which is not of issue here. I again did not agree to final development plans and I did not infer from our discussion that you were going to increase first floor square footage, reduce the front

yard setback, and displace all the restoration areas around the house. We were able to speak with the County regarding our interpretation of the LCP as written and will discuss that with you further today.

The North Central Coast District Manager, Nancy Cave, will be joining our call today so we will be calling you at 1pm. Thanks for your patience in waiting until today, I am still catching up on endless meetings and work after being on vacation.

Thank you,  
Jeannine

---

**From:** david hodge [<mailto:david@hodgearts.com>]

**Sent:** Wednesday, August 20, 2014 5:44 PM

**To:** Manna, Jeannine@Coastal

**Cc:** Carole Groom; Susan Hansch; Carl, Dan@Coastal; David Byers; Hi-Jin Hodge; Cave, Nancy@Coastal; Lavine, Ethan@Coastal

**Subject:** Re: I checked...

Hi Jeannine,

Yes you will have to explain what you are talking about regarding the boundaries of easements. And yes please send a copy of the notice of intent to issue. I can't seem to find my electronic version. I don't have the original you mailed with me in Stockholm.

I distinctly recall talking with you about making the changes to the building. If you recall we talked about making a single barn like structure instead of a form that was broken into two parts which were a vestige from the original design and that was compromised when did the quick revision for the Supervisors. I specifically recall asking if this would be allowable and what I heard was it would be if we stayed within the set backs we established. This is what I took away from our conversation. Also from my point of view it wasn't a revision because I thought we were finally designing the house from the ground up with a new, definitive set of parameters. We finally had the guidelines we'd been awaiting. This process has not been easy and I must say most confusing. I feel we have gotten a lot of mixed messages though out the process. We were designing using the counties guidelines which have been consistent as long as I have been working with them. And now you are telling me you have a different set of rules in the same county. This makes no sense to me.

I will look forward to talking tomorrow at 1pm.

Thanks,  
David

[david@hodgearts.com](mailto:david@hodgearts.com) | <http://www.hodgearts.com> | <http://www.davidandhijin.com> | Tel 650 726 4200 | stockholm +46 76 224 0375

On Aug 20, 2014, at 4:06 PM, Manna, Jeannine@Coastal <[Jeannine.Manna@coastal.ca.gov](mailto:Jeannine.Manna@coastal.ca.gov)> wrote:

Hi David,

Yes, lets discuss these details tomorrow. Just to clarify one point, the boundaries of the easement do not define the house setbacks or the development footprint, nor do they alter the area of restoration required. These are two separate things. I will explain this more tomorrow. Please have a copy of your notice of intent to issue the coastal development permit in hand so that we can walk through this. I can send you a copy electronically if you need one. I did not agree to any revised project plans as you indicate. Revised project plans must be reviewed and approved by the Executive Director pursuant to the special condition, which is the process we are currently undertaking.

Thank you,

Jeannine

---

**From:** david hodge [<mailto:david@hodgears.com>]

**Sent:** Wednesday, August 20, 2014 3:38 PM

**To:** Manna, Jeannine@Coastal

**Cc:** Carole Groom; Susan Hansch; Carl, Dan@Coastal; David Byers; Hi-Jin Hodge; Cave, Nancy@Coastal; Lavine, Ethan@Coastal

**Subject:** Re: I checked...

Hi Jeannine,

Yes I am frustrated with this. It's been in the CCC hands for a to long and as you said the the other day it's time to move this project forward so we can all get on with our lives.

For the record I am responding to some inaccuracies you describe in your email and how you are measuring things. According to David Holbrook head of planning at San Mateo County Building and Planning Department they only measure floor space not clear-story space which is what you are describing. They also only measure the space for the stairs once. Meaning they count the area on the first floor but not the second floor. As I said they don't count it twice. So according to the way the county measures things my measurement are correct. This is the information I was given when I called asked about this earlier this year. I just got off the phone with David Holbrook to reconfirm and he did confirm what I'm saying is correct. You are welcome to call him. he said he would be happy to talk with you about it. You can't have two set of rules in one county.

Regarding the first floor I am using the allowable floor space that fits within the setbacks. I asked you about this and you said this was okay. We are talking about a difference of 146 sq. ft on the first floor and to offset this we are decreeing the second floor by 167 square feet. So in effect we made the house 21 sq. ft smaller than what the commission approved.

The specific footprint you talk about to minimize wetland and riparian impact will not be affected in anyway if I increase the footprint by 146 sq. ft because we all can agree it would considered developed land. I doubt very much a wetland plant would survive in the 1 foot wide section of earth you are describing especially when there is concrete foundations, gravel, pavers, etcetera. If you recall we did agree that as long as I stayed within the setbacks I would be fine.

You also have to remember something. When the plans where modified 3 year ago they were done hurriedly to meet the request of the Board of Supervisors to simply shorten the building. We did our best in less than a week to modify an existing design. Then immediately after our approval we were appealed to the Coastal Commission so at that point we stopped working on the design until things settled and we understood the what the constraints we had to work within. This didn't happen until after our approval and until after we you and I negotiated the side, rear and front yard setbacks. That's when I began to design this house. Three later. And I did it based largely on our conversions. You admitted yesterday in your email that you may have not conveyed things properly. Should I be held accountable for this error? No I think you should offer a little discretion here. Hi-Jin and I have worked very hard to get the design to this stage and I will say it again?. We are not making a larger home. We are maintaining the roof heights and are meeting all of the criteria you have asked us from us. These changes do not impact the intention of the approval.

Let's talk tomorrow and see if we can find a way to resolve these issues. I will plan to call you at 1pm.

Thank you.  
David

On Aug 20, 2014, at 1:50 PM, Manna, Jeannine@Coastal <[Jeannine.Manna@coastal.ca.gov](mailto:Jeannine.Manna@coastal.ca.gov)> wrote:

Hi David,

I can see that you are frustrated, but I don't agree with what you indicate below. This response is provided to help clear the record, including in response to your email below (and similar phone messages left for Commission staff).

The Commission approved a single family residence with a first floor of 1,414 square feet, a second floor of 667 square feet, and a 20 foot front yard setback. The designs you submitted on July 19<sup>th</sup> show a first floor of 1,560 square feet, a second floor of approximately 696 square feet (not 500 square feet as the plans indicate, because the floor area should be measured from the inside face of walls enclosing the second floor, including the stairwell area under the second floor roofline), and a front yard setback of 18 feet. So, based upon your submittal, we have a discrepancy with what was approved and the design that was submitted. In particular, the footprint of the residence has expanded. The Commission approved a specific footprint to minimize wetland and riparian impacts (you'll recall that the LCP would have required denial of your project based on these impacts, but the Commission found an approval of some sort necessary to avoid a potential takings), and required restoration of the area outside of this footprint. Mr. Lavine simply communicated to you that what you show in your plans is in excess of what the Commission approved. We are not in a position to allow an expanded footprint (that would increase coverage and LCP inconsistency) because the Commission did not authorize any such thing.

With respect to the recorded easement, yes, the boundaries of the easement were modified to provide space around the house perimeter to allow for emergency ingress/egress as identified by the San Mateo County Building code. However, these changes do not allow you to develop in those emergency ingress/egress areas. Again, the footprint of allowed development did not change, nor did the restoration requirements that continue to apply to the area outside of the building envelope. Yes, these areas can be used for emergency ingress/egress, but they are still subject to restoration requirements and are not allowed to be developed otherwise.

Finally, we have worked closely with you to implement the Commission's approval. In fact, the plans in question were just received by Commission staff at the end of July, and we responded to them yesterday, before the end of August.

If you would like to discuss this further, please don't hesitate to contact me. As I mentioned, I am available tomorrow, Thursday, August 21<sup>st</sup> at 1pm. If, however, you would like to discuss options for an expanded building envelope, I would caution you that staff is not in a position to allow more coverage than was approved by the Commission, and such discussion would not be fruitful.

Thank you,  
Jeannine

---

**From:** david hodge [<mailto:david@hodgears.com>]  
**Sent:** Wednesday, August 20, 2014 2:55 AM  
**To:** Manna, Jeannine@Coastal  
**Cc:** Carole Groom; Susan Hansch; Carl, Dan@Coastal; David Byers; Hi-Jin Hodge  
**Subject:** Re: I checked...

Jeannine,

It's five thirty in the morning here in Stockholm. I was so upset first by Ethan Lavine's call and then your email below I couldn't sleep.

I don't understand what happened between our conversation from yesterday and today. You assured me there were very minor things to discuss related to the size of the second floor and that you would have your meeting and we could move forward with this project. Based on this conversation we were hoping to celebrate the design approval of our house. Instead it feels like we are back where we started.

So you can imagine my surprise when Ethan Lavine called me today to tell me I had to redesign the house again. Essentially bringing it back to a preliminary sketch we had made 34 months ago when the San Mateo County Board of Supervisors asked us to shorten the original design and come back with a revision. We told them at that time it was a preliminary design and we would do a final one once we knew what the exact parameters would be for the house. They agreed and gave us an approval with the understanding we would resubmit a final design. Then we were appealed again so the design sat as we waited for our hearing at the coastal commission which took 26 months. This was by no means a finished design then or when we presented to the Coastal Commission at our hearing. If you look at what I presented at the hearing last fall you will see it is very much in line with what we have created. Please see the attached presentation I made the day of our hearing. Please look at page eight. It shows the lot coverage, the square footage and a simple conceptual drawing of the house which offers no detail but gives an impressionist view of what we were thinking about for the design and its relative location on the lot. This is what was approved. There was a biggest concern that day centered around how big the house should be. If you recall our appellant Evely Smith proposed we build a 900 sq. ft. home which was ridiculous given the county's requirement for a 400 sq. ft. garage. In the end it was settled that we could build a home that was 2,081 sq. ft. with a maximum height of 28 feet. There were no discussions about the aesthetic of the home or whether or not it had to match exactly the "Concept" we proposed to the county almost 25 months prior.

In addition once we received the official approval or the "intent to issue" you told me we needed to record an easement that would not allow anything to be built outside of the building envelope and we agreed and mutually determined how this would be done. After much back and forth we agreed on a five foot setback for the side and rear yards and an eight foot setback in the front yard. (Please see the attached file) Once this was agreed upon I finally felt I had a clear understanding from you and the CCC that would allow me to begin the design of our home. From what I was told today that was not the case. Below in your email you say you "apologize if this was not conveyed properly"? Please? My understanding from you was clear as a bell based on the drawings we exchanged what the building envelope was and that we had to work with. I even told you at that time what our intentions were because we finally had clear understanding of the setbacks. At that time you agreed and said you didn't see a problem with these minor changes.

Based on this we carefully adhered to all of the things you and I discussed. We maintained the heights of 28 feet over the house area and 23 feet over the garage. (the actual height limit in that part of San Mateo is 28 feet). So we are offering a gesture of conformity here. We also slightly reduced the square footage by 20 or so square feet to be sure there would be no issue about size. With this we have come up with a much more pleasing design for this particular location. It's much simpler aesthetically and fits the vernacular of the area very well. I also allows for better functionality within the home. We felt quite satisfied that we had met your requirements and had created a beautiful home for our selves and our neighborhood. (Unlike the monstrosity across the street) This design has been seen by a number of our neighbors who are familiar with the project and they all like the direction we have taken it.

Please keep in mind an additional 9 months have been added to the clock during this process for a total of 34 months at counting with the Coastal Commission or a total of 75 months since we applied for our permit back in 2008. This further delay is completely unreasonable and it is beginning to effect our personal and work lives emotionally and financially. As you know we had hoped to begin construction late this year and are working hard to maintain this schedule because every day we wait to build this home it costs us money. We have acted in good faith to uphold the spirit of the CCC's approval and feel we have successfully done this. By asking us to again go back and redesign the house using a different set of guidelines than the ones you and I agreed to in



February is completely unjust. This "minor" change Ethan was insisting on will set us back months. Please understand what seems like a small alteration in this small house will ripple through the entire building and will mean an entire redesign.

I would like to set a time to talk to whom ever I have to come to a resolution in a timely manner. This week would not be soon enough. I'm sure you can understand I'm very upset by this unfounded delay.

David

[david@hodgears.com](mailto:david@hodgears.com) | <http://www.hodgears.com> | <http://www.davidandhijin.com> | Tel 650 726 4200 | stockholm +46 76 224 0375

On Aug 19, 2014, at 5:50 PM, Manna, Jeannine@Coastal <[Jeannine.Manna@coastal.ca.gov](mailto:Jeannine.Manna@coastal.ca.gov)> wrote:

Hi David,

Sorry to miss all your calls. I have been locked up in meetings all day until now. I am available to talk on Thursday from 1-1:30pm my time but will be conveying you the same message as Ethan did earlier today. You need to stay within the same building footprint that was approved by the Commission. This largely has to do with the adjacent sensitive habitats and the required Habitat Restoration Plan required by Special Condition 3 which specifies, "All riparian and wetland areas shall be restored, in place, to their 2004 boundaries (as illustrated in Figure 2 in Exhibit 7) except for the area of the approved single family residence, including the driveway." It had been a while since I looked back at the special conditions in detail, so I apologize if this was not conveyed properly. You can still put a walkway around the house if it is within that originally approved building footprint (i.e., reduce the size of the house to provide for the walkway so that the area restored around the house is still the same).

Please remember that the project was approved to provide for a reasonable use of the property that would avoid an unconstitutional taking of private property for public use. As the property is almost entirely covered with wetland and riparian habitat, we must be consistent with the permit conditions to protect the sensitive habitats in the coastal zone.

Thank you,

Jeannine

---

**From:** david hodge [<mailto:david@hodgears.com>]

**Sent:** Monday, August 18, 2014 6:10 PM

**To:** Manna, Jeannine@Coastal

**Cc:** Hi-Jin Hodge

**Subject:** I checked...

Hi Jeannine,

After our call I checked the actual dimensions. The roof is larger by 22 inches and the "wings" add an additional 12 inches on each end but this doesn't add any mass especially when you see them looking up from the ground which is the only view anyone will see them.

The revised house we did for the Supervisors hearing had a 2nd floor of 672 square feet. The latest version is 500 square feet. We reduced the second floor because we added some footage to the first floor and are still within the setback we agreed on.



I never did a finished set of design drawings that showed finished floor plans. I only showed some elevations and a roof plan to the Supervisors stating these were a work in progress because of the short window they gave us to come back with a revision.

I hope this helps and we can finalize this by the end of the day tomorrow. We really would like move forward with building our home.

Thanks again for your support on this project.

Best,  
David

[david@hodgearts.com](mailto:david@hodgearts.com) | <http://www.hodgearts.com> | <http://www.davidandhijin.com> | Tel 650 726 4200 | stockholm +46 76 224 0375

BRISCOE IVESTER & BAZEL LLP

235 MONTGOMERY STREET, SUITE 935  
SAN FRANCISCO, CALIFORNIA 94104  
(415) 402-2700

*Peter Prows*  
(415) 402-2708  
pprows@briscoelaw.net

23 May 2024

Logan Tillema  
California Coastal Commission  
455 Market Street, Suite 300  
San Francisco, CA 94105

Dear Mr. Tillema:

I write in response to your letter of 16 May 2024, in which you assert that staff will not support approval of a modest ADU in San Mateo County, and that you are investigating whether the existing house on the Hodge property, which the Coastal Commission permitted in 2013, is in fact unpermitted. The Coastal Commission applies the wrong standard to this application, and its other allegations are wrong.

It is disappointing that Coastal Commission staff are taking this opportunity to try to find new ways to tear down existing housing in the San Mateo County Coastal Zone, rather than working with the Hodges to build the new housing that this County desperately needs and is required by State law to ensure gets built.

As you are relatively new to this matter, I am hopeful that this letter can help correct some of the misunderstandings contained in your letter—and proposes some potential paths forward.

**Background: The Coastal Commission Makes A Mistake About Wetlands**

This whole situation can be traced back to a critical mistake the Coastal Commission made in 2013 but for some reason has never admitted. Perhaps you can help the Coastal Commission do the right thing.

BRISCOE IVESTER & BAZEL LLP

Logan Tillema

23 May 2024

Page 2

The mistake the Coastal Commission made was overlooking a CDP that San Mateo County had issued itself in 2005 to fill the “kidney shaped” wetland on the Hodge property found there in 2004. When the Coastal Commission issued the Hodges their permit in 2013 to build their house, the Coastal Commission missed that County CDP to fill that wetland and instead accused the Hodges of proposing to build their house on an illegally filled wetland. The Coastal Commission was mistaken.

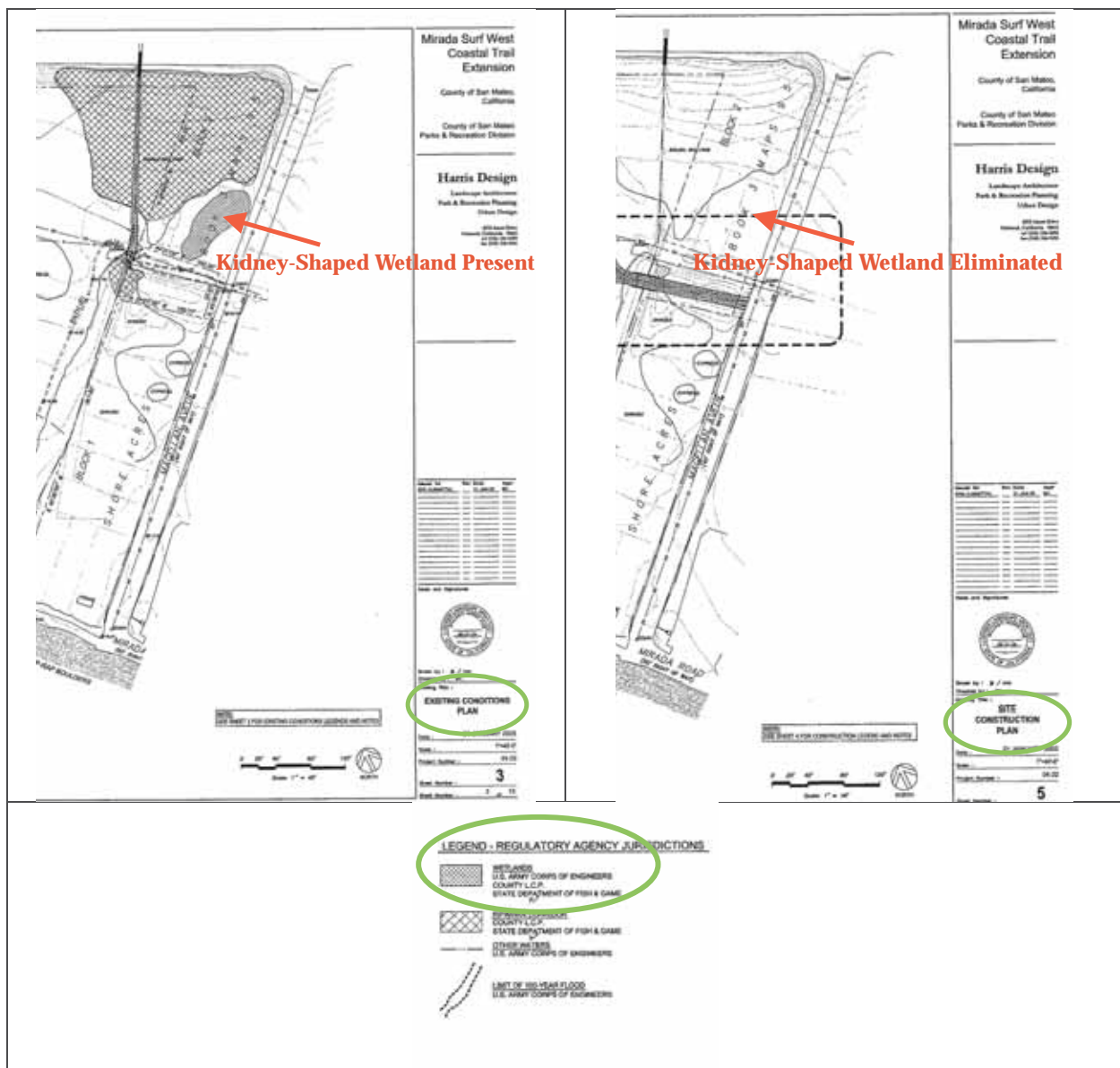
In 2005, San Mateo County issued itself a CDP (PLN2005-00078) to construct the Mirada Surf West Coastal Trail Extension, immediately to the south of the project site. The ‘Existing Conditions Plan’ for that CDP documented the kidney-shaped wetland, but the ‘Site Construction Plan’ unambiguously proposed to eliminate that wetland:

BRISCOE IVESTER & BAZEL LLP

Logan Tillema

23 May 2024

Page 3



BRISCOE IVESTER & BAZEL LLP

Logan Tillema

23 May 2024

Page 4

In accordance with its 2005 CDP, San Mateo County proceeded to fill this kidney-shaped wetland on the Hodge property:<sup>1</sup>



*Figure 1: Dr. Dixon Memorandum, Exhibit 7 to Hodge staff report*

The 2005 CDP to fill wetlands was reported to the Coastal Commission, but the Coastal Commission never objected.

---

<sup>1</sup> The staff report for the 2013 CDP incorrectly reported that the Hodges bought their property in April 2008 and that the County later filled the wetland with the Hodges' permission. This is incorrect. The Hodges closed on their purchase in July 2008, but were out of the country or California until September—when the fill was already there. The fill was the County's idea from the very start, and the County is solely responsible for filling that kidney-shaped wetland pursuant to the permit the County gave itself.

BRISCOE IVESTER & BAZEL LLP

Logan Tillema

23 May 2024

Page 5

In 2010, the County issued itself another CDP (PLN2010-00356), to construct a public restroom in the same area as the former kidney-shaped wetland. Nowhere in that 2010 permit did the County believe it was building this public restroom atop an illegally filled wetland. By authorizing new development atop a filled wetland, the County was demonstrating its understanding of the 2005 CDP it had issued itself that permitted the filling of that wetland.

This 2010 CDP to build a public restroom atop a now-filled wetland was also reported to the Coastal Commission, but the Coastal Commission never objected.

In 2013, however, when the Hodges applied to build a house, the Coastal Commission incorrectly accused the Hodges of proposing to build atop unpermitted fill in that kidney-shaped wetland. But the County had permitted that wetland fill in 2005. The Coastal Commission's incorrect allegation in 2013 tainted the Commission's entire analysis of the Hodges' application: "the fill of wetlands ... were undertaken without the required CDP", and so the application had to be viewed "based on the resources that existed prior to unpermitted activities", i.e., "based on the assumption that the [kidney-shaped wetland] ... still exist[s]". This incorrect allegation led the Commission to conclude that it could only approve the Hodge's CDP through a "takings analysis".

Nowhere in the staff report for the Hodges' 2013 CDP did staff or the Commission ever address the County's 2005 CDP to fill that wetland, or the 2010 CDP to build atop that filled wetland. The Coastal Commission simply overlooked the 2005 and 2010 CDPs that authorized the fill and development on this wetland.

### **The Hodges seek to build an ADU**

Pursuant to Commission staff's direction, in December 2022 the Hodges applied to the Commission to amend the 2013 CDP: (i) to build a detached ADU for

BRISCOE IVESTER & BAZEL LLP

Logan Tillema

23 May 2024

Page 6

Mr. Hodge's then-99-year-old mother in the "Open Space Restricted Area" defined by the deed restriction recorded against the Hodges' property as a condition of the 2013 CDP, and (ii) to create and enhance new wetlands on the Hodges' property and the County's adjacent property.

The Hodges' amendment application was based on the Commission's mistake in overlooking the 2005 CDP that had authorized the wetland fill that the Coastal Commission incorrectly believed, in 2013, had been filled without a permit. The Hodges had not been aware of that 2005 CDP until they received it in 2022 in response to a Public Records Act request. Obviously the Coastal Commission, with its reasonable diligence, also had not been aware of the 2005 CDP at the time it issued the 2013 CDP to the Hodges, because the 2005 CDP was not analyzed in the 2013 CDP.

In January 2023, staff sent a letter reporting that the Executive Director had rejected the Hodges' amendment application, under Section 13166(a) of the Commission's regulations. The staff letter did not explain why the 2005 CDP's authorization for the wetland fill was not new information relevant to the Commission's previous conclusion (which didn't address the 2005 CDP) that there was unpermitted wetland fill. The staff letter also did not express any concern for having treated the Hodges differently than the County with respect to the filling of the kidney-shaped wetland. No letter from the Executive Director herself was ever provided and the Executive Director never responded to the Hodges' requests to meet and discuss the matter.

In early February 2023, the Hodges timely appealed pursuant to the Commission's regulations. Although your letter reports that "we have been prepared to take your clients' appeal to the Commission", by June 2023 the appeal still had not been scheduled with the Commission—in violation of the requirement of the regulation



BRISCOE IVESTER & BAZEL LLP  
Logan Tillema  
23 May 2024  
Page 7

staff cite that the hearing be scheduled “for the next commission hearing or as soon thereafter as practicable”.<sup>2</sup>

Frustrated by staff’s unlawful delay in scheduling this appeal, in late June 2023 the Hodges asked that their application be held in abeyance so that the Hodges could regroup.

By December 2023, the Hodges had developed a new plan that, they hoped, would avoid any need to amend the existing CDP and would let the Coastal Commission off the hook for the mistakes it made in the 2013 CDP. That new plan was a small attached ADU that stayed out of the Open Space Restricted Area in the recorded deed restriction.

Now, however, Coastal Commission staff are taking the position that even the attached ADU entirely outside the Open Space Restricted Area requires an amendment to the 2013 CDP. Staff cite the same concerns about the “unpermitted” filled wetland to explain their position, though they still do not recognize that this wetland was filled pursuant to a permit staff have not acknowledged. Staff also raise new concerns about whether the Hodges’ house—which has been built for nearly a decade—is itself legal.

---

<sup>2</sup> In the meantime, the Commission held hearings on numerous matters filed after the Hodges, including permitting a fireworks display, proposed in May 2023, by the Naples Restaurant Group, LLC (no. 5-23-0383). While the Hodges’ appeal languished for months, the Coastal Commission set that fireworks matter for hearing on June 8, 2023—a mere 22 days after the permit application for it was filed.

BRISCOE IVESTER & BAZEL LLP

Logan Tillema

23 May 2024

Page 8

### **The Attached ADU Proposal Is Not An Amendment**

Your letter takes the position that the attached ADU proposal seeks to amend Special Conditions 1, 2, and 7 of the existing permit. This is incorrect.

Special condition 1 simply required the submission of Revised Project Plans and required development to be undertaken in accordance with those Revised Project Plans. Nothing in Special condition 1 prohibits or limits future applications for additional development. The Hodges submitted Revised Project Plans and built their house in accordance with the Revised Project Plans. The attached ADU seeks to build a new project, not go back in time and get a different house authorized to build in the first place.

Special condition 2 required submission and implementation of a habitat restoration plan. The Hodges timely submitted, got approval for, and implemented that plan. They also submitted a “Year 5 Monitoring Report” in October 2022 that the Coastal Commission has never responded to. Nothing in the attached ADU proposal affects any of the habitat restoration work required or implemented by that plan, and your letter does not suggest otherwise.

Special condition 7 prohibited development in an “Open Space Restricted Area” that was generally shown in the staff report but actually specifically defined, according to subparagraph (b), by “a formal metes and bounds legal description and corresponding graphic depiction drawn to scale and prepared by a licensed surveyor”. Your letter does not cite the actual deed restriction, including the legal description and graphic depiction, that was prepared by a surveyor, approved by the Commission, and then recorded against the property – and so perhaps you do not have that document. I am attaching that approved deed restriction to this letter for your reference.

BRISCOE IVESTER & BAZEL LLP  
Logan Tillema  
23 May 2024  
Page 9

The attached ADU does not propose any development in the Open Space Restricted Area formally depicted in the approved and recorded deed restriction. The staff emails, statements, and other extrinsic materials you do cite do not change the unambiguous terms of the Open Space Restricted Area formally depicted in the actual deed restriction the Commission approved.

Because the attached ADU proposal does not constitute an amendment, the County is the permitting authority for this project under its LCP.

### **The Commission Is Applying The Wrong Legal Standard**

Even if either ADU proposal constituted a CDP amendment, your letter continues to apply the wrong standard. Your letter cites section 13166(a) of the Commission's regulations as applying here. But according to the certified implementing provisions of the San Mateo County LCP, permit amendments are processed in the "same manner" as "initial approval" of a local CDP:

PERMIT AMENDMENT. Upon application by the permittee, a Coastal Development Permit may be amended by the approving authority. Application for and action on an amendment shall be accomplished in the same manner specified by this Chapter for initial approval of a Coastal Development Permit. All sections of this Chapter shall apply to permit amendments.

(San Mateo County Zoning Code, ch. 20B, section 6328.18, emphasis added.)

Neither Section 13166 of the Commission's regulations, nor anything like it, is part of Chapter 20B of the San Mateo County Code. This means that any permit amendment here needs to be judged by the San Mateo County LCP's standards for

BRISCOE IVESTER & BAZEL LLP

Logan Tillema

23 May 2024

Page 10

issuance of an initial permit, not by the permit amendment standards and procedures of Section 13166(a) of the Commission's regulations. Yet your letter, and Commission staff, continue to apply the wrong legal standard and procedures to this ADU application.

There are no provisions in the LCP analogous to the requirements of Section 13166(a) for the Coastal Commission's Executive Director, or staff, to "reject" an initial CDP application. Instead, if the Coastal Commission insists on treating the Hodges' application as an amendment request, then it must treat it as a request for initial approval of a CDP and judge that application against the LCP, not Section 13166(a).

### **If The Hodges' ADU Is An Amendment, The Application Is Deemed Complete**

The Permit Streamlining Act applies to initial permit approvals for development projects. (Government Code § 65943(a).) Because the Commission insists that the Hodges' December 2022 detached ADU application seeks an amendment, and amendments must be processed as initial approvals, the Permit Streamlining Act applies to that application. But the Commission has not complied with any of the timing requirements of the Permit Streamlining Act for permit applications, including the 30-day deadline to decide on the completeness of the application. The detached ADU application is deemed complete.

### **The Suggestion That The Existing House Is Unpermitted Is Troubling And Wrong**

Your letter questions whether the permit to build the Hodge's existing house expired before vesting, and thus whether the house is actually unpermitted. This is a troubling suggestion that should not be made so casually.

BRISCOE IVESTER & BAZEL LLP

Logan Tillema

23 May 2024

Page 11

Your letter is the first time anyone at the Coastal Commission has made this suggestion that the existing house is unpermitted. This house has been built for nearly a decade. Is the Coastal Commission so against housing in the Coastal Zone that it not only is opposed to ADUs but also wants to find new ways to try to tear down *existing* housing?

The suggestion in your letter raised concerns about retaliation. In pursuing their ADU project, the Hodges have pointed out that Coastal Commission staff made a mistake in 2013, which the Hodges (who are filmmakers) have made clear they intend to publicize in their forthcoming film, *The Impossible House*, about the regulatory hurdles ordinary people trying to build new housing face from agencies like the Coastal Commission. Rather than admit error and do the right thing, staff first tried to ignore their mistake and bury the Hodges' application, and now are rooting around for new ways to hurt the Hodges. We recognize First Amendment retaliation when we see it.

Fortunately, it is not too late for Commission staff to change course, drop this suggestion, and do the right thing. Under the implementation provisions of the San Mateo County LCP, CDPs do not expire until "the latest expiration date applicable to any other permit or approval required for the project". (San Mateo County Zoning Code, ch. 20B, section 6328.17.) As your letter acknowledges, the house was built pursuant to a building permit, so the CDP did not expire before the house was built according to that building permit.

Even if the Commission could validly have specified in the 2013 CDP that it could have expired earlier, the Hodges undertook development within the first two years after approval by the Commission: on 7 October 2014 their consultant dug soil borings for the geotechnical investigation required for engineering the house (see page 13 of the attached geotechnical report), and on 27 August 2015 they recorded the approved deed restriction changing the intensity of the allowed use of the site.

BRISCOE IVESTER & BAZEL LLP

Logan Tillema

23 May 2024

Page 12

Of course, if the Commission persists with this suggestion, it should follow it through to its logical end: if the CDP was never effective, then the deed restriction, by its own terms, is invalid. (See Deed Restriction, paragraph 1(a) (“This Deed Restriction shall remain in full force in effect ... during the period ... the Permit, or any modification or amendment thereof, remains in existence”).) If the deed restriction is invalid, then there is no need for the Hodges to obtain any permit amendment and they are free to pursue an after-the-fact permit *from San Mateo County* for the existing house, and a regular CDP for either of their proposed ADUs.

Please confirm that the Commission agrees the 2013 CDP is vested, or else that the Deed Restriction is invalid and the Hodges are free to pursue their entire project from the County.

### **The Other Violation Allegations Are Wrong**

Your letter rehashes various other violation allegations that Mr. Hodge and I, together with our biologist, already comprehensively addressed with enforcement staff in a meeting last August. We apparently resolved enforcement staff’s concerns, because we have heard nothing further from them in over 9 months. Your letter adds nothing to those previously resolved allegations and will not be commented on further here.<sup>3</sup>

---

<sup>3</sup> Coastal Commission staff’s refusal to ever formally withdraw violation allegations, even when the issues have been resolved (including by the statute of limitations), allows staff to indefinitely chill First Amendment conduct by threatening applicants and Coastal Commissioners with punishment should they have certain ex parte communications. There must be a constitutional limit to how long staff can hold violation allegations over an applicant’s head as grounds to restrict the applicant’s otherwise protected communications with Commissioners.

BRISCOE IVESTER & BAZEL LLP

Logan Tillema

23 May 2024

Page 13

## The Way Forward

The Hodges want to get an ADU permitted and have demonstrated significant flexibility so far in how that happens, including redesigning the project to be an attached ADU. This effort has been faced with resistance, misapplication of the law, and now retaliation. I hope you can help get the Coastal Commission back on track.

There are several options for a productive path forward:

- Coastal Commission staff accept the existing detached ADU proposal, or commit to accepting the current attached ADU proposal, and agree to process it according to the standards of the LCP rather than Section 13166(a).
- Coastal Commission staff agree that the detached ADU proposal is not a permit amendment and that it may be processed by the County under its original jurisdiction.
- Coastal Commission staff agree that the deed restriction is void and that the County may process an after-the-fact application for the existing house and a new application for the ADU.

We are also open to additional suggestions from you on a constructive path forward.

If staff do not agree to these options, or retaliate further, the Hodges reserve their right to withdraw the pending appeal (which the Coastal Commission lacks jurisdiction over anyway because this appeal procedure is not contemplated by the governing LCP provisions) or request that the appeal again be held in abeyance. I also request,



BRISCOE IVESTER & BAZEL LLP

Logan Tillema

23 May 2024

Page 14

pursuant to the Public Records Act, all documents (including correspondence) related to the Hodges, their property, or the adjacent County property since 2005.

I look forward to your response.

Sincerely,

BRISCOE IVESTER & BAZEL LLP

A handwritten signature in black ink, appearing to read 'P. Prows', with a long horizontal stroke extending to the right.

Peter S. Prows

Authorized agent for the applicants

Enclosures

cc (by email only): Angela Chavez, San Mateo County Planning Department  
Camille Leung, San Mateo County Planning Department  
Assemblymember David Alvarez  
Assemblymember Joe Patterson

**Attachment 1:**  
**Coastal-Commission-Approved**  
**Deed Restriction**

2015-091250

11:05 am 08/27/15 DR Fee: 72.00

Count of Pages 20

Recorded in Official Records

County of San Mateo

Mark Church

Assessor-County Clerk-Recorder



1 RECORDING REQUESTED BY:

2 WHEN RECORDED MAIL TO:

3 California Coastal Commission

725 Front Street, Suite 300

4 Santa Cruz, CA 95060-4508

Attn: Legal Division

9 **DEED RESTRICTION**

10 DAVID HODGE and HYI-JIN KANG HODGE, trustees of the

DAVID HODGE and HYI-JIN KANG HODGE REVOKABLE

11 I. WHEREAS, TRUST AKA THE HODGE 2007 TRUST

12 \_\_\_\_\_ (hereinafter referred to as "Owner(s)") is/are the record owner(s) of  
13 the real property described in Exhibit A, attached hereto and incorporated herein by reference  
14 (hereinafter referred to as the "Property"); and

15 II. WHEREAS, the California Coastal Commission (hereinafter referred to as the  
16 "Commission") is a public agency created and existing under the authority of section 30300 of the  
17 California Public Resources Code (hereinafter referred to as the "PRC"), a section of the California  
18 Coastal Act of 1976 (Division 20 of the PRC; hereinafter referred to as the "Act"); and

19 III. WHEREAS, the Property is located within the coastal zone as defined in the Act (PRC  
20 § 30103); and

21 IV. WHEREAS, pursuant to section 30600(a) of the PRC, Owner(s) applied to the  
22 Commission for a coastal development permit to undertake development, as defined in the Act (PRC  
23 § 30106), on the Property; and

24 V. WHEREAS, on December 11th, 2013, the Commission conditionally approved  
25 coastal development permit number A-2-SMC-11-041 (hereinafter referred to as the "Permit"),  
26 subject to, among other conditions, the conditions listed under the heading "Special Conditions" in the  
27 Notice of Intent to Issue Permit dated March 27, 2014, attached hereto as EXHIBIT B

20.

1 and incorporated herein by reference (hereinafter referred to as the "Special Conditions"), for the  
2 reasons stated in the "Findings and Declarations" adopted by the Commission in support of its action,  
3 which findings and declarations (along with any other documents that the Permit required to be  
4 submitted to the Commission and with which the Permit requires compliance) are available from the  
5 Commission upon request; and

6 VI. WHEREAS, the Commission found that, but for the imposition of the Special  
7 Conditions, the proposed development could not be found consistent with the provisions of the Act and  
8 that a permit could therefore not have been granted; and

9 VII. WHEREAS, Owner(s) has/ve elected to comply with the Special Conditions, which  
10 require, among other things, execution and recordation of this Deed Restriction, so as to enable  
11 Owner(s) to undertake the development authorized by the Permit;

12 NOW, THEREFORE, in consideration of the issuance of the Permit to Owner(s) by the  
13 Commission, the undersigned Owner(s), for himself/herself/themselves and for his/her/their heirs,  
14 assigns, and successors-in-interest, hereby irrevocably covenant(s) with the Commission that the Special  
15 Conditions (shown in Exhibit B hereto) shall at all times on and after the date on which this Deed  
16 Restriction is recorded constitute for all purposes covenants, conditions and restrictions on the use and  
17 enjoyment of the Property that are hereby attached to the deed to the Property as fully effective  
18 components thereof.

19 1. DURATION. (a) This Deed Restriction shall remain in full force and effect and shall  
20 bind Owner(s) and all his/her/their assigns or successors-in-interest during the period that either the  
21 development authorized by the Permit, or any part or modification thereof, or the Permit, or any  
22 modification or amendment thereof, remains in existence on or with respect to, and thereby confers  
23 benefit upon, the Property.

24 (b) Furthermore, in the event of a termination or extinguishment of this Deed Restriction  
25 other than pursuant to a Commission-approved amendment to the Permit, the Special Conditions shall,  
26 notwithstanding any such termination or extinguishment, continue to restrict the use and enjoyment of  
27 the Property as they did prior to that termination or extinguishment and to bind Owner(s) and

1 his/her/their successors-in-interest, so long as either or both of the conditions described in paragraph (a)  
2 continue to exist on or with respect to the Property.

3 2. TAXES AND ASSESSMENTS. It is intended that this Deed Restriction is irrevocable  
4 and shall constitute an enforceable restriction within the meaning of a) Article XIII, section 8, of the  
5 California Constitution; and b) section 402.1 of the California Revenue and Taxation Code or successor  
6 statute. Furthermore, this Deed Restriction shall be deemed to constitute a servitude upon and burden to  
7 the Property within the meaning of section 3712(d) of the California Revenue and Taxation Code, or  
8 successor statute, which survives a sale of tax-deeded property.

9 3. RIGHT OF ENTRY. The Commission or its agent may enter onto the Property at times  
10 reasonably acceptable to Owner(s) to ascertain whether the use restrictions set forth above are being  
11 observed.

12 4. REMEDIES. Any act, conveyance, contract, or authorization by Owner(s) whether  
13 written or oral which uses or would cause to be used or would permit use of the Property contrary to the  
14 terms of this Deed Restriction will be deemed a violation and a breach hereof. The Commission and  
15 Owner(s) may pursue any and all available legal and/or equitable remedies to enforce the terms and  
16 conditions of this Deed Restriction. In the event of a breach, any forbearance on the part of either party  
17 to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding  
18 any subsequent breach.

19 5. SEVERABILITY. If any provision of these restrictions is held to be invalid, or for any  
20 reason becomes unenforceable, no other provision shall be affected or impaired.

21  
22 Dated: Aug. 26<sup>th</sup>, 2015

23 Business Name (if property is owned by a business): \_\_\_\_\_  
24

25 Signed: \_\_\_\_\_

26 PRINT/TYPE NAME & CAPACITY OF ABOVE

27 DAVID HODGE  
trustee of the DAVID HODGE and HYI-  
JIN KANG HODGE REVOKABLE  
TRUST AKA THE HODGE 2007 TRUST

Signed: \_\_\_\_\_

PRINT/TYPE NAME & CAPACITY OF ABOVE

HYI-JIN KANG HODGE  
trustee of the DAVID HODGE and HYI-  
JIN KANG HODGE REVOKABLE  
TRUST AKA THE HODGE 2007 TRUST

1   \*\* NOTARY ACKNOWLEDGMENT ON THE NEXT PAGE \*\*

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

1 State of California

2 County of \_\_\_\_\_

3 On \_\_\_\_\_ before me, \_\_\_\_\_, a Notary Public, personally appeared  
4 \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s)  
5 whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
6 his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity  
7 upon behalf of which the person(s) acted, executed the instrument.

8 I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is  
9 true and correct.

10 WITNESS my hand and official seal.

11  
12 Signature

*see attached for  
updated Ack. wording*

(Seal)

14 State of California

15 County of \_\_\_\_\_

16 On \_\_\_\_\_ before me, \_\_\_\_\_, a Notary Public, personally appeared  
17 \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s)  
18 whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
19 his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity  
20 upon behalf of which the person(s) acted, executed the instrument.

21 I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is  
22 true and correct.

23 WITNESS my hand and official seal.

24  
25 Signature

*see attached for  
updated Ack. wording*

(Seal)



# Coastal Development Permit # A-2-SMC-11-041

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of San Mateo )

On Aug 26, 2015 before me Dawn A. East, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared David Nassea Hodge and  
Name(s) of Signer(s)

Hyi Jin Kang Hodge

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Dawn A. East  
Signature of Notary Public

Place Notary Seal Above

### OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

#### Description of Attached Document

Title or Type of Document: Deed Restriction Document Date: 8/26/15  
Number of Pages: 8 Signer(s) Other Than Named Above: \_\_\_\_\_

#### Capacity(ies) Claimed by Signer(s)

Signer's Name: David Nassea Hodge Signer's Name: Hyi Jin Kang Hodge

☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☒ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☒ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

## **EXHIBIT A**

(Legal Description of Property)

**Exhibit A - Hodge - For CDP No. A-2-SMC-11-041**

Legal Description:

Lots, 1,2,3, in block 2, as shown on that certain Map entitled, "Shore Acres Half Moon Bay, Cal, First Addition to the City of Balboa, filed in the office of the County Recorder of San Mateo County on December 18th, 1905, in Book "B" of Maps, at Page 12, and copied into Book 3 of Maps, Page 95.

## **EXHIBIT B**

(Notice of Intent to Issue Permit)

**CALIFORNIA COASTAL COMMISSION**

North Central Coast District Office  
45 Fremont Street, Suite 2000  
San Francisco, California 94105-2210  
PH (415) 804-5260 or (415) 804-5200 FAX (415) 804-5400



Page 1

Date: March 27, 2014

Permit Application No.: **A-2-SMC-11-041****NOTICE OF INTENT TO ISSUE PERMIT**

(Upon satisfaction of special conditions)

THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM THE APPLICANT OF THE STEPS NECESSARY TO OBTAIN A VALID AND EFFECTIVE COASTAL DEVELOPMENT PERMIT ("CDP"). A Coastal Development Permit for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. In order for the CDP to be effective, Commission staff must issue the CDP to the applicant, and the applicant must sign and return the CDP. **Commission staff cannot issue the CDP until the applicant has fulfilled each of the "prior to issuance" Special Conditions.** A list of all the Special Conditions for this permit is attached.

The Commission's approval of the CDP is valid for two years from the date of approval. To prevent expiration of the CDP, you must fulfill the "prior to issuance" Special Conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below. You may apply for an extension of the permit pursuant to the Commission's regulations at Cal. Code Regs. title 14, section 13169.

On December 11, 2013, the California Coastal Commission approved Coastal Development Permit No. **A-2-SMC-11-041** requested by **David & Hi-Jin Hodge** subject to the attached conditions, for development consisting of: **For new 2,692 sq/ft (reduced to 2,081 s/f) single-family residence with attached 2-car garage, on a 10,800 sq/ft parcel** more specifically described in the application filed in the Commission offices. **Commission staff will not issue the CDP until the "prior to issuance" special conditions have been satisfied.**

The development is within the coastal zone at **Corner of Magellan and Alameda Avenues, Miramar (San Mateo County).**

If you have any questions regarding how to fulfill the "prior to issuance" Special Conditions for CDP No. A-2-SMC-11-041, please contact Ethan Lavine, North Central Coast District Coastal Program Analyst.

Sincerely,  
CHARLES LESTER,  
Executive Director

## **NOTICE OF INTENT TO ISSUE PERMIT**

(Upon satisfaction of special conditions)

Date: March 25, 2014

Permit Application No.: A-2-SMC-11-041

Page 2

Nancy Cave  
Coastal Program Manager

### **ACKNOWLEDGMENT**

The undersigned permittee acknowledges receipt of this Notice and fully understands its contents, including all conditions imposed.

August 24th 2015                      [Signature]                      16  
Date    Permittee

Please sign and return one copy of this form to the Commission office at the above address.

### **STANDARD CONDITIONS**

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, then permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission and affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## **NOTICE OF INTENT TO ISSUE PERMIT**

(Upon satisfaction of special conditions)

Date: March 25, 2014

Permit Application No.: A-2-SMC-11-041

Page 3

### **SPECIAL CONDITIONS:**

NOTE: IF THE **SPECIAL CONDITIONS** REQUIRE THAT DOCUMENT(S) BE RECORDED WITH THE COUNTY RECORDER, YOU WILL RECEIVE THE LEGAL FORMS TO COMPLETE (WITH INSTRUCTIONS). IF YOU HAVE ANY QUESTIONS, PLEASE CALL THE DISTRICT OFFICE.

This permit is granted subject to the following special conditions:

1. **Revised Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicants shall submit two full size sets of Revised Project Plans to the Executive Director for review and approval. The Revised Project Plans shall be substantially in conformance with the proposed project plans (see **Exhibit 2**) except that they shall be revised and supplemented to comply with the following requirements:
  - (a) **Height.** The revised project plans shall illustrate that the height of the residential development is no greater than 28 feet for the main residence portion, and 23 feet for the garage portion.
  - (b) **Lighting.** There shall be no exterior night lighting, other than the minimum lighting necessary for pedestrian and vehicular safety purposes. All lighting shall be downward directed and designed so that it limits the amount of light or glare visible from the Miranda Surf Trail, the public restroom, and riparian and wetland habitats on the property and adjacent to the property to the maximum extent feasible, including through directing all interior lighting away from windows to the maximum extent feasible. Lighting plans shall be submitted with documentation associated with chosen lighting features demonstrating compliance with this condition.
  - (c) **Site Maintenance.** All site maintenance activities, including those associated with maintaining landscaping and/or restored site areas, shall be clearly identified, and shall only be allowed consistent with the terms and conditions of this coastal development permit.

All requirements above and all requirements of the approved Revised Project Plans shall be enforceable components of this coastal development permit. The Permittees shall undertake development in accordance with the approved Revised Project Plans.

2. **Habitat Restoration Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicants shall submit two sets of a Habitat Restoration Plan to the Executive Director for review and approval. The plan shall at a minimum include:
  - (a) **Restoration Area.** A detailed site plan of all restoration areas with habitat acreages identified shall be provided, based on Exhibit 10, where all areas noted as "Riparian Impact" on Exhibit 10 shall be restored with riparian vegetation and all areas noted as "Proposed Wetland" on **Exhibit 10** shall be restored as wetland/riparian areas, where the objective is to maximize biological value in relation to the creek feature (running along the northwest property line) and related riparian areas both on and offsite at this location, and to maximize screening value (to protect public viewsheds). If the County does not allow for such restoration on adjacent County property, then the required restoration area shall be limited to the Permittee's property and the



## **NOTICE OF INTENT TO ISSUE PERMIT**

(Upon satisfaction of special conditions)

Date: March 25, 2014

Permit Application No.: A-2-SMC-11-041

Page 4

Permittee shall submit a fee of \$11,328 to the County to provide for offsite restoration of San Vicente Creek at the County's Fitzgerald Marine Reserve facility. If the County allows for some such restoration on their adjacent property, then such fee shall be commensurately reduced.

- (b) **Baseline.** The ecological assessment of the current condition of the restoration and mitigation areas.
- (c) **Success Criteria.** Goals, objectives, and performance standards for successful restoration and mitigation.
- (d) **Restoration Methods.** The final design and construction methods that will be used to ensure the habitat plan achieves the defined goals, objectives, and performance standards.
- (e) **Initial As Built.** Provisions for submittal, within 30 days of completion of initial restoration and mitigation work, of "as built" plans demonstrating that initial restoration and mitigation area activities have been completed in accordance with the approved plan.
- (f) **Monitoring and Maintenance.** For each habitat type, provisions for monitoring and maintenance, including a schedule, maintenance activities, a quantitative sampling plan, fixed photographic points, interim success criteria, final success criteria for native and non-native vegetative cover, biodiversity and wetland hydrology, and a description of the method by which success will be evaluated.
- (g) **Reporting.** Provision for submitting, for the review and approval of the Executive Director, monitoring reports prepared by a qualified specialist that assess whether the restoration is in conformance with the approved plan, beginning the first year after initiation of implementation of the plan, and annually for at least five years. Final monitoring for success will take place no sooner than 3 years following the end of all remediation and maintenance activities other than weeding. If the final report indicates that the restoration project has been unsuccessful, in part or in whole, based on the approved success criteria, the Permittees shall within 90 days submit two sets of a revised or supplemental restoration program for the review and approval of the Executive Director. The revised or supplemental restoration program shall be processed as an amendment to the coastal development permit unless the Executive Director determines that no permit amendment is required. The program shall be prepared by a qualified specialist, and shall be designed to compensate for those portions of the original restoration that did not meet the approved plan's success criteria.

All requirements above and all requirements of the approved habitat plan shall be enforceable components of this CDP. The Permittees shall undertake development in accordance with this condition and the approved habitat restoration plan.

3. **Landscape Screening Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicants shall submit two sets of a Landscape Screening Plan to the Executive Director for review and approval. The plan shall provide for landscaping (at maturity) capable of screening the approved single-family residence for the life of the project. The plan shall identify all plant materials (size, species, quantity, etc.), all irrigation systems, and all proposed maintenance measures, including providing for vegetation as necessary to achieve required screening. The plan shall be in conformance with and complimentary to the Habitat Restoration Plan identified in



## **NOTICE OF INTENT TO ISSUE PERMIT**

(Upon satisfaction of special conditions)

Date: March 25, 2014

Permit Application No.: A-2-SMC-11-041

Page 5

**Special Condition 2**, using native vegetation to screen the surrounding area. All plant materials shall be native and non-invasive species selected to be complimentary with the mix of native species in the project vicinity, prevent the spread of exotic invasive plant species, and avoid contamination of the local native plant community gene pool. All landscaped areas shall be continuously maintained by the Permittees; all plant material shall be continuously maintained in a litter-free, weed-free, and healthy growing condition, and shall be replaced as necessary to maintain compliance with this CDP. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist. All requirements above and all requirements of the approved Landscape Screening Plan shall be enforceable components of this CDP. The Permittees shall undertake development in accordance with the approved Landscape Screening Plan.

4. **Construction Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicants shall submit two sets of a Construction Plan to the Executive Director for review and approval. Minor adjustments to the following construction requirements may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources. The Construction Plan shall, at a minimum, include the following:
  - (a) **Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, all storage areas, all construction access corridors (to the construction site and staging areas), and all public pedestrian access corridors. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to minimize construction encroachment on sensitive habitats and public use areas and to have the least impact on coastal resources, including public access, overall.
  - (b) **Construction Methods and Timing.** The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separated from sensitive habitat and public recreational use areas. All erosion control/water quality best management practices to be implemented during construction and their location shall be noted. The timing/work seasons restrictions for the various construction components shall be limited from 7am to 6pm, Monday through Friday, and 9am to 5pm on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.
  - (c) **Construction Requirements.** The Construction Plan applies to initial construction as well as future maintenance. The Construction Plan shall include the following construction requirements specified by written notes on the Construction Plan.
    1. Prior to the commencement of any development authorized under this CDP, the Permittee shall ensure that all on-site workers and contractors understand and agree to observe the standards for work outlined in this CDP and in the detailed project description included as part of the application submittal as revised by these conditions.
    2. Prior to commencement of ground-disturbing activities, erosion, sediment, and runoff control measures shall be deployed in accordance with the final Storm Water Pollution Prevention

## **NOTICE OF INTENT TO ISSUE PERMIT**

(Upon satisfaction of special conditions)

Date: March 25, 2014

Permit Application No.: A-2-SMC-11-041

Page 6

Plan approved pursuant to **Special Condition 5**, and all measures shall be properly maintained throughout the duration of construction activities.

3. Prior to the commencement of construction, the limits of the work areas and staging areas shall be delineated in consultation with a qualified biologist, limiting the potential area affected by construction and ensuring that all wetlands and other habitats adjacent to construction areas are avoided during construction. All vehicles and equipment shall be restricted to pre-established work areas and haul routes and to established or designated staging areas.
4. All trash shall be properly contained, removed from the work site, and disposed of on a regular basis to avoid contamination of habitat during construction activities. Any debris inadvertently discharged into coastal waters shall be recovered immediately and disposed of consistent with the requirements of this CDP.
5. Topsoil removed by grading operations shall be stockpiled for reuse and shall be protected from compaction and wind or erosion during stockpiling.
6. Equipment staging, materials storage, and stockpiling areas shall be limited to the locations and sizes specified in the approved construction plans. Construction vehicles shall be restricted to designated haul routes. Construction equipment and materials shall be stored only in designated staging and stockpiling areas as depicted on the approved construction plans.
7. Any fueling and maintenance of construction equipment shall occur within upland areas outside of habitat areas or within designated staging areas. Mechanized heavy equipment and other vehicles used during the construction process shall not be refueled or washed within 100 feet of streams.
8. Fuels, lubricants, and solvents shall not be allowed to enter coastal waters, riparian areas or wetlands. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site, and a registered first-response, professional hazardous materials clean-up/remediation service shall be locally available on call. Any accidental spill shall be rapidly contained and cleaned up.

All requirements above and all requirements of the approved Construction Plan shall be enforceable components of this CDP. The Permittees shall undertake development in accordance with this condition and the approved Construction Plan.

5. **Final Storm Water Pollution Prevention Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicants shall submit two sets of a final Storm Water Pollution Prevention Plan (SWPPP) to the Executive Director for review and approval. Minor adjustments to the following requirements may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources. The final SWPPP shall include provisions for all of the following:

## **NOTICE OF INTENT TO ISSUE PERMIT**

(Upon satisfaction of special conditions)

Date: March 25, 2014

Permit Application No.: A-2-SMC-11-041

Page 7

- (a) **Sedimentation Controlled.** Runoff from the project site shall not increase sedimentation in coastal waters or wetlands post-construction. During construction, runoff from the project site shall not increase sedimentation in coastal waters beyond what is allowable under the final Water Quality Certification approved for the project by the Regional Water Quality Control Board.
- (b) **Pollutants Controlled.** Runoff from the project site shall not result in other pollutants entering coastal waters or wetlands during construction or post-construction.
- (c) **BMPs.** Best Management Practices (BMPs) shall be used to prevent the entry of polluted stormwater runoff into coastal waters and wetlands during construction and post-construction, including use of relevant BMPs as detailed in the current California Storm Water Quality Best Management Handbooks (<http://www.cabmphandbooks.com>).
- (d) **Spill Measures.** An on-site spill prevention and control response program, consisting of BMPs for the storage of clean-up materials, training, designation of responsible individuals, and reporting protocols to the appropriate public and emergency services agencies in the event of a spill, shall be implemented at the project to capture and clean-up any accidental or other releases of oil, grease, fuels, lubricants, or other hazardous materials, including to avoid them entering coastal waters or wetlands.
- (e) **BMP Schedule.** A schedule for installation and maintenance of appropriate construction source-control BMPs to prevent entry of stormwater runoff into the construction site and to prevent excavated materials from entering runoff leaving the construction site.

All requirements above and all requirements of the approved SWPPP shall be enforceable components of this CDP. The Permittees shall undertake development in accordance with this condition and the approved SWPPP.

6. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees shall submit to the Executive Director for review and approval documentation demonstrating that the Permittees have executed and recorded against the property governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description and graphic depiction, prepared by a licensed surveyor, of the property governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the property.

### **7. Open Space Restriction**

- (a) No development, as defined in Section 30106 of the Coastal Act, shall occur in the open space area depicted in **Exhibit 12** as the "Open Space Restricted Area" except for habitat restoration

## **NOTICE OF INTENT TO ISSUE PERMIT**

(Upon satisfaction of special conditions)

Date: March 25, 2014

Permit Application No.: A-2-SMC-11-041

Page 8

and landscaping allowed pursuant to Special Conditions 2 and 3, and stormwater runoff and erosion control measures allowed pursuant to Special Condition 5.

- (b) PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOTICE OF INTENT TO ISSUE COASTAL DEVELOPMENT PERMIT NO. A-2-SMC-11-041, the Applicants shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal metes and bounds legal description and corresponding graphic depiction drawn to scale and prepared by a licensed surveyor of the portions of the subject property affected by this condition, as generally described above and generally shown in **Exhibit 12** as the “**Open Space Restricted Area**,” attached to this staff report.
8. **Permission From County. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT**, the Applicants shall provide evidence, for the review and approval of the Executive Director, that the County has provided the Applicant with permission to use and develop their property for restoration purposes as conditioned herein.
9. **County Conditions.** All conditions of approval of the local approvals imposed on the project by San Mateo County pursuant to an authority other than the California Coastal Act remain in effect, but do not alter the Permittee's responsibility to satisfy all conditions of approval as specified herein. The Permittees shall be responsible for satisfying all terms and conditions of this coastal development permit in addition to any other requirements imposed by other local conditions.



**EXHIBIT ONE TO NOI  
FOR CDP NO. A-2-SMC-11-041  
OPEN SPACE DEED RESTRICTION AREAS**

A portion of the real property situated in the County of San Mateo, State of California, described as follows:

*Lots, 1,2,3, in block 2, as shown on that certain Map entitled, "Shore Acres Half Moon Bay, Cal, First Addition to the City of Balboa, filed in the office of the County Recorder of San Mateo County on December 18th, 1905, in Book "B" of Maps, at Page 12, and copied into Book 3 of Maps, Page 95.*

Said portion being more particularly described as follows:

**Parcel A**

BEGINNING at the most easterly corner of Lot 3;

1. Thence along the southeasterly line of said Lot, and Lot 2, South 45°39'00" West, a distance of 52.00 feet;
2. Thence leaving the southeasterly line of said Lot 2, North 44°21'00" West, a distance of 34.00 feet, to the northwesterly line of said Lot;
3. Thence along said line, North 45°39'00" East, a distance of 12.00 feet, to the most northerly corner of said lot, being a point on the southwesterly line of Lot 3;
4. Thence along said southwesterly line, North 44°21'00" West, a distance of 32.00 feet, to the most easterly corner of Lot 1;
5. Thence along the southeasterly line of said Lot, South 45°39'00" West, a distance of 100.00 feet, to the most southerly corner of said Lot;
6. Thence along the southwesterly line of said Lot, North 44°21'00" West, a distance of 34.00 feet, to the most westerly corner of said Lot;
7. Thence along the northwesterly line of said Lot, and Lot 3, North 45°39'00" East, a distance of 140.00 feet, to the most northerly corner of said Lot 3;
8. Thence along the northeasterly line of said Lot, South 44°21'00" East, a distance of 100.00 feet, to the Point of Beginning.

**Parcel B**

BEGINNING at the most southerly corner of Lot 2;

1. Thence along the southwesterly line of said Lot, North 44°21'00" West, a distance of 34.00 feet, to the most westerly corner of said Lot;

2. Thence along the northwesterly line of said Lot, North 45°39'00" East, a distance of 12.00 feet;
3. Thence South 44°21'00" East, a distance of 34.00 feet, to the southeasterly line of said Lot;
4. Thence along said line, South 45°39'00" West, a distance of 12.00 feet, to the Point of Beginning.

The herein described parcels are shown on the attached map and are made a part hereof.

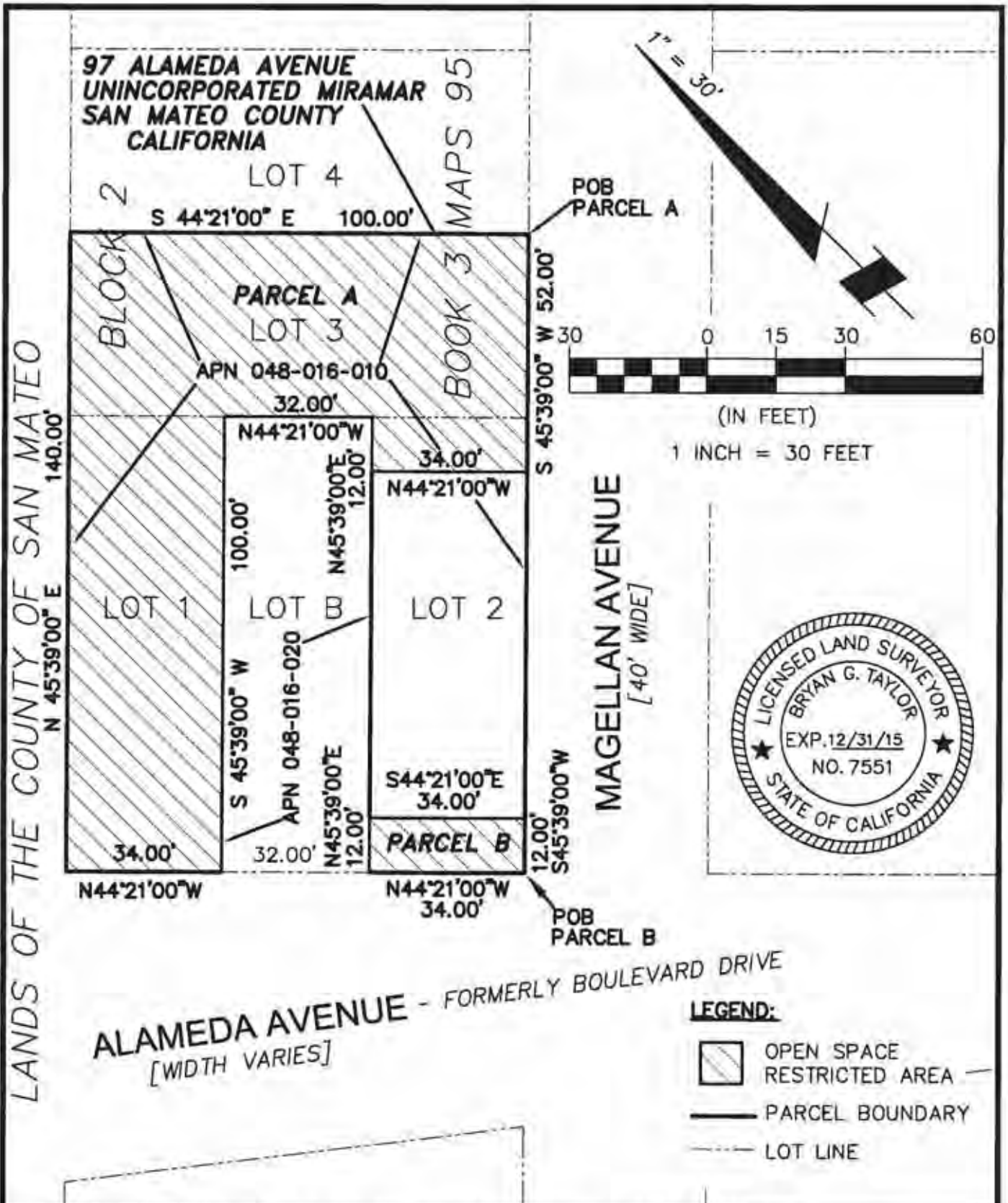
Containing a total area of 8,216 square feet, more or less.

This description was prepared by me or under my direct supervision.

  
Bryan G. Taylor, PLS  
License No. 7551, Expires 12/31/15



08/21/15  
Date



PLAT ACCOMPANYING LEGAL DESCRIPTION



OPEN SPACE RESTRICTED AREAS

97 ALAMEDA AVE., UNINCORPORATED MIRAMAR  
SAN MATEO COUNTY  
CALIFORNIA

SCALE 1"=30' PAGE 3 OF 3  
DATE 08/21/15 JOB 05-107

**Attachment 2:**  
**Geotechnical report, including soil boring**





**Sigma Prime Geosciences, Inc.**  
Effective Solutions

October 28, 2014

David Hodge  
100 Coronado Avenue  
Half Moon Bay, CA 94019

Re: Geotechnical Report: 97 Alameda Avenue, Miramar (APN 048-016-010)  
Sigma Prime Job No. 08-155

Dear Mr. Hodge:

As per your request, we have performed a geotechnical study for your proposed residence at 97 Alameda Avenue in Miramar, California. The accompanying report summarizes the results of our field study, laboratory testing, and engineering analyses, and presents geotechnical recommendations for the planned structure.

Thank you for the opportunity to work with you on this project. If you have any questions concerning our study, please call.

Yours,

Sigma Prime Geosciences, Inc.

Charles M. Kissick, P.E.



**GEOTECHNICAL STUDY  
97 ALAMEDA AVENUE  
MIRAMAR, CALIFORNIA  
APN 048-016-010**

**PREPARED FOR:  
DAVID HODGE  
100 CORONADO AVENUE  
HALF MOON BAY, CA 94019**

**PREPARED BY:  
SIGMA PRIME GEOSCIENCES, INC.  
332 PRINCETON AVENUE  
HALF MOON BAY, CALIFORNIA 94019**

**OCTOBER 24, 2013**



## TABLE OF CONTENTS

	Page No.
1. INTRODUCTION .....	1
1.1 PROJECT DESCRIPTION .....	1
1.2 SCOPE OF WORK .....	1
2. FINDINGS .....	2
2.1 GENERAL .....	2
2.2 SITE CONDITIONS.....	2
2.3 REGIONAL AND LOCAL GEOLOGY .....	2
2.4 SITE SUBSURFACE CONDITIONS .....	2
2.5 GROUNDWATER .....	2
2.6 FAULTS AND SEISMICITY .....	2
2.7 2013 CBC EARTHQUAKE DESIGN PARAMETERS.....	3
3. CONCLUSIONS AND RECOMMENDATIONS .....	4
3.1 GENERAL.....	4
3.2 GEOLOGIC HAZARDS.....	4
3.3 EARTHWORK.....	5
3.3.1 Clearing & Subgrade Preparation .....	5
3.3.2 Fills.....	5
3.3.3 Compaction .....	5
3.3.4 Surface Drainage .....	5
3.4 FOUNDATIONS.....	6
3.4.1 Lateral Loads .....	6
3.5 CONSTRUCTION OBSERVATION AND TESTING .....	6
4. LIMITATIONS.....	7
5. REFERENCES.....	8

### TABLES

TABLE 1 - HISTORICAL EARTHQUAKES

TABLE 2 - SEISMIC PARAMETERS

### FIGURES

FIGURE 1 - SITE LOCATION MAP

FIGURE 2 - SITE MAP

### APPENDICES

APPENDIX A - FIELD INVESTIGATION

APPENDIX B - LABORATORY TESTING



## 1. INTRODUCTION

We are pleased to present this geotechnical study report for the proposed residence at 97 Alameda Avenue in Miramar, California, at the location shown in Figure 1. The purpose of this investigation was to evaluate the subsurface conditions at the site, and to provide geotechnical design recommendations for the proposed construction.

### 1.1 PROJECT DESCRIPTION

We understand that you plan to construct a new home at 97 Alameda Avenue in Miramar. Figure 2 shows the approximate location of the house site. The house is expected to be of wood frame construction. Structural loads are expected to be relatively light as is typical for this type of construction.

### 1.2 SCOPE OF WORK

In order to complete this project we have performed the following tasks:

- Reviewed published information on the geologic and seismic conditions in the site vicinity;
- Geologic site reconnaissance;
- Subsurface study, including 1 soil boring at the site;
- Engineering analysis and evaluation of the subsurface data to develop geotechnical design criteria; and
- Preparation of this report presenting our recommendations for the proposed structure.



## 2. FINDINGS

### 2.1 GENERAL

The site reconnaissance and subsurface study were performed on October 7, 2014. The subsurface study consisted of advancing 1 soil boring with continuous drive sampling. Both soil boring was advanced to a depth of 9.5 feet. The approximate location of the boring, numbered B-1, is shown in Figure 2, Site Plan. The boring log and the results of the laboratory test on a soil sample is attached in Appendix A.

### 2.2 SITE CONDITIONS

At the time of our study, the site was undeveloped. The lot is very level and mostly covered with thick blackberry brambles.

### 2.3 REGIONAL AND LOCAL GEOLOGY

Based on Brabb et al (1998), the site vicinity is underlain by Holocene age younger alluvial fan deposits. It is described as unconsolidated fine sand, silt, and clay.

### 2.4 SITE SUBSURFACE CONDITIONS

Based on the soil boring, the subsurface conditions at the site consist of 6 feet of very stiff sandy clay, overlying clayey sand. The clay has low to moderate plasticity, with a plasticity index of 17.

### 2.5 GROUNDWATER

Free groundwater was not encountered in the borings. Groundwater is not expected to impact the proposed construction.

### 2.6 FAULTS AND SEISMICITY

The site is in an area of high seismicity, with active faults associated with the San Andreas fault system. The closest active fault to the site is the San Gregorio fault, located about 2 km to the west. Other faults most likely to produce significant seismic ground motions include the San Andreas, Hayward, Rodgers Creek, and Calaveras faults. Selected historical earthquakes in the area with an estimated magnitude greater than 6-1/4, are presented in Table 1 below.

**TABLE 1**



## HISTORICAL EARTHQUAKES

<u>Date</u>	<u>Magnitude</u>	<u>Fault</u>	<u>Locale</u>
June 10, 1836	6.5 <sup>1</sup>	San Andreas	San Juan Bautista
June 1838	7.0 <sup>2</sup>	San Andreas	Peninsula
October 8, 1865	6.3 <sup>2</sup>	San Andreas	Santa Cruz Mountains
October 21, 1868	7.0 <sup>2</sup>	Hayward	Berkeley Hills, San Leandro
April 18, 1906	7.9 <sup>3</sup>	San Andreas	Golden Gate
July 1, 1911	6.6 <sup>4</sup>	Calaveras	Diablo Range, East of San Jose
October 17, 1989	7.1 <sup>5</sup>	San Andreas	Loma Prieta, Santa Cruz Mountains
(1)	Borchardt & Topozada (1996)		
(2)	Topozada et al (1981)		
(3)	Petersen (1996)		
(4)	Topozada (1984)		
(5)	USGS (1989)		

## 2.7 2013 CBC EARTHQUAKE DESIGN PARAMETERS

Based on the 2013 California Building Code (CBC) and our site evaluation, we recommend using Site Class Definition D (stiff soil) for the site. The other pertinent CBC seismic parameters are given in Table 2 below.

**Table 2**  
**CBC SEISMIC DESIGN PARAMETERS**

<b>S<sub>s</sub></b>	<b>S<sub>1</sub></b>	<b>F<sub>a</sub></b>	<b>F<sub>v</sub></b>	<b>S<sub>MS</sub></b>	<b>S<sub>M1</sub></b>	<b>S<sub>DS</sub></b>	<b>S<sub>D1</sub></b>
2.221	0.955	1.0	1.5	2.221	1.433	1.481	0.955

Because the S<sub>1</sub> value is greater than 0.75, Seismic Design Category E is recommended, per CBC Section 1613.5.6. The values in the table above were obtained from a USGS software program which provides the values based on the latitude and longitude of the site, and the Site Class Definition. The latitude and longitude were 37.4969 and -122.4617, respectively, and were accurately obtained from Google Earth™. These same values can be obtained directly from maps in the CBC, however the scale of the map makes it impractical to achieve satisfactory accuracy. The map in the CBC was derived from the same work that led to the USGS software. The remaining parameters were also obtained by the same USGS program.



### 3. CONCLUSIONS AND RECOMMENDATIONS

#### 3.1 GENERAL

It is our opinion that, from a geotechnical standpoint, the site is suitable for the proposed construction, provided the recommendations presented in this report are followed during design and construction. Detailed recommendations are presented in the following sections of this report.

Because subsurface conditions may vary from those encountered at the location of our borings, and to observe that our recommendations are properly implemented, we recommend that we be retained to 1) Review the project plans for conformance with our report recommendations and 2) Observe and test the earthwork and foundation installation phases of construction.

#### 3.2 GEOLOGIC HAZARDS

We reviewed the potential for geologic hazards to impact the site, considering the geologic setting, and the soils encountered during our investigation. The results of our review are presented below:

- Fault Rupture - The site is not located in an Alquist-Priolo special studies area or zone where fault rupture is considered likely (California Division of Mines and Geology, 1974). Figure 1 indicates that the site is between the special studies zones for the San Andreas fault and the Hermit fault. Active faults are not believed to exist beneath the site, and the potential for fault rupture to occur at the site is low, in our opinion.
- Ground Shaking - The site is located in an active seismic area. Moderate to large earthquakes are probable along several active faults in the greater Bay Area over a 30 to 50 year design life. Strong ground shaking should therefore be expected several times during the design life of the structure, as is typical for sites throughout the Bay Area. The improvements should be designed and constructed in accordance with current earthquake resistance standards.
- Differential Compaction - Differential compaction occurs during moderate and large earthquakes when soft or loose, natural or fill soils are densified and settle, often unevenly across a site. The site soils



are stiff to very stiff, and medium dense. Therefore, the likelihood of significant damage to the structure from differential compaction is low.

- Liquefaction - Liquefaction occurs when loose, saturated sandy soils lose strength and flow like a liquid during earthquake shaking. Ground settlement often accompanies liquefaction. Soils most susceptible to liquefaction are saturated, loose, silty sands, and uniformly graded sands. Loose, saturated silty sands are not expected at the site. Therefore, in our opinion, the likelihood of liquefaction occurring at the site is low.

### 3.3 EARTHWORK

#### 3.3.1 Clearing & Subgrade Preparation

All deleterious materials, including topsoil, roots, vegetation, designated utility lines, etc., should be cleared from building and driveway areas. The actual stripping depth required will depend on site usage prior to construction, and should be established by the Contractor during construction. Topsoil may be stockpiled separately for later use in landscaping areas.

#### 3.3.2 Fills

There are no fills on the site and no fills anticipated, except for utility trench fills. Compaction is discussed below

#### 3.3.3 Compaction

Scarified surface soils should be moisture conditioned to 3-5 percent above the optimum moisture content and compacted to at least 95 percent of the maximum dry density, as determined by ASTM D1157-78. All trench fills should be placed in loose lifts not exceeding 12 inches in height, and compacted to at least 92% of the maximum dry density, as determined by ASTM D1157-78.

#### 3.3.4 Surface Drainage

The finish grades should be designed to drain surface water away from foundations and slab areas to suitable discharge points. For permeable surfaces, slopes of at least 5 percent within 10 feet of the structures are recommended. For impermeable surfaces, slopes of at least 2 percent within 10 feet of the structures are recommended. Ponding of water should not be allowed adjacent to the structure.





### 3.4 FOUNDATIONS

A foundation utilizing a slab on-grade with deeper perimeter footings will be suitable. We recommend that slabs-on-grade be underlain by at least 12-inches of non-expansive granular fill. Where floor wetness would be detrimental, a vapor barrier, such as 15 mil visqueen or Stego wrap, should be placed over the gravel. The slabs should be structurally tied to the perimeter footings, either as a continuous pour or separate pours with dowels connecting the two, or an equivalent method.

The perimeter footings should be at least 15 inches wide and extend at least 18 inches below exterior grades. The excavation for the footings may slope up to the interior slabs at a slope of 1:1. An allowable bearing capacity of 2500 psf may be used in design.

#### 3.4.1 Lateral Loads

Resistance to lateral loads may be provided by passive pressure acting against the sides of the footings, below a depth of 1 foot. We recommend that an equivalent fluid pressure of 350 pcf be used in design. A skin friction value of 0.3 may be used.

### 3.5 CONSTRUCTION OBSERVATION AND TESTING

The earthwork and foundation phases of construction should be observed and tested by us to 1) Establish that subsurface conditions are compatible with those used in the analysis and design; 2) Observe compliance with the design concepts, specifications and recommendations; and 3) Allow design changes in the event that subsurface conditions differ from those anticipated. The recommendations in this report are based on a limited number of borings. The nature and extent of variation across the site may not become evident until construction. If variations are then exposed, it will be necessary to reevaluate our recommendations.



#### **4. LIMITATIONS**

This report has been prepared for the exclusive use of the owner for specific application in developing geotechnical design criteria, for the currently planned residence on 97 Alameda Avenue in Miramar, California (APN 048-016-010). We make no warranty, expressed or implied, except that our services were performed in accordance with geotechnical engineering principles generally accepted at this time and location. The report was prepared to provide engineering opinions and recommendations only. In the event that there are any changes in the nature, design or location of the project, or if any future improvements are planned, the conclusions and recommendations contained in this report should not be considered valid unless 1) The project changes are reviewed by us, and 2) The conclusions and recommendations presented in this report are modified or verified in writing.

The analyses, conclusions and recommendations contained in this report are based on site conditions as they existed at the time of our investigation; the currently planned improvements; review of previous reports relevant to the site conditions; and laboratory results. In addition, it should be recognized that certain limitations are inherent in the evaluation of subsurface conditions, and that certain conditions may not be detected during an investigation of this type. Changes in the information or data gained from any of these sources could result in changes in our conclusions or recommendations. If such changes do occur, we should be advised so that we can review our report in light of those changes.



## 5. REFERENCES

- Borchardt, G. and Topozada, T.R., 1996, Relocation of the “1836 Hayward Fault Earthquake” to the San Andreas Fault, Abstracts, American Geophysical Union Fall Meeting, December, San Francisco.
- Brabb, E. E., Graymer, R.W., and Jones, D.W., 1998, Geology of the Onshore Part of San Mateo County, San Mateo County, California, USGS OFR 98-137.
- California Building Code, 2013. California Code of Regulations. Title 24, Part 2 Volume 2, Effective January 1, 2014.
- Jennings, C.W., 1996, Preliminary Fault and Geologic Map, State of California, California Division of Mines and Geology, Scale 1:750,000.
- International Conference of Building Officials, April, 1997, 1997 Uniform Building Code, Volume 2 Structural Engineering Design Provisions.
- International Conference of Building Officials, February, 1998, Maps of Known Active Fault Near-Source Zones in California and Adjacent Portions of Nevada. (To be used with 1997 Uniform Building Code)
- Petersen, M.D., Bryant, W.A., Cramer, C.H., Cao, T., Reichle, M.S., Frankel, A.D., Lienkaemper, J.J., McCrory, P.A., and Schwartz, D.P., 1996, Probabilistic Seismic Hazard Assessment for the State of California, USGS Open File Report 96-706, CDMG Open File Report 96-08, 33p.
- Topozada, T.R., Real, C.R., and Park, D.L., 1981, Preparation of Iseisismal Maps and Summaries of Reported Effects for pre-1900 California Earthquakes, CDMG Open File Report 81-11 SAC.
- Topozada, T.R., 1984, History of Earthquake Damage in Santa Clara County and Comparison of 1911 and 1984 Earthquakes.
- United States Geological Survey, 1989, Lessons Learned from the Loma Prieta, California Earthquake of October 17, 1989, Circular 1045.
- United States Geologic Survey, 11/20/2007, Earthquake Ground Motion Parameters, Version 5.0.8.
- Working Group on California Earthquake Probabilities, 1999, Earthquake Probabilities in the San Francisco Bay Region: 2000 to 2030 – A Summary of Findings, U.S. Geological Survey Open File Report 99-517, version 1.





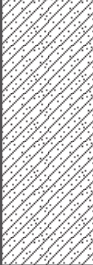
## **APPENDIX A**

### **FIELD INVESTIGATION**

The soils encountered during drilling were logged by our representative, and samples were obtained at depths appropriate to the investigation. The samples were taken to our laboratory where they were carefully observed and classified in accordance with the Unified Soil Classification System. The logs of our borings, as well as a summary of the soil classification system, are attached.

Several tests were performed in the field during drilling. The standard penetration resistance was determined by dropping a 140-pound hammer through a 30-inch free fall, and recording the blows required to drive the 2-inch (outside diameter) sampler 24 inches. The standard penetration resistance is the number of blows required to drive the sampler the last 12 inches of an 18-inch drive. Because the sampler was driven 24 inches instead of 18 inches, the blow counts are a modification of a standard penetration test. Accordingly, we use engineering judgment when evaluating the soils. The results of these field tests are presented on the boring logs.

The boring logs and related information depict our interpretation of subsurface conditions only at the specific location and time indicated. Subsurface conditions and ground water levels at other locations may differ from conditions at the locations where sampling was conducted. The passage of time may also result in changes in the subsurface conditions.

Project Name <b>Hodge</b>					Project Number <b>08-155</b>		 <b>Sigma Prime Geosciences, Inc.</b>		
Location <b>Middle of house site</b>									
Drilling Method	Hole Size	Total Depth	Soil Footage	Rock Footage	Elevation	Datum			
Cont. Sampling	4"	9.5'	9.5'	0'	--	--	<b>Boring No.</b>	<b>B-1</b>	
Drilling Company <b>Access Soil Drilling, Inc.</b>				Logged By: <b>C. Kissick</b>		<b>Page</b>		<b>1 of 1</b>	
Type of Drill Rig <b>N/A</b>		Type of Sampler(s) <b>MC, SPT, 2.5" ID</b>		Hammer Weight and Fall <b>140 lb, 30"</b>		<b>Date(s)</b>		<b>10/7/14</b>	
Depth (feet)	Description			Graphic Log	Class	Blow Count	Sample No.	Sample Type	Comments
5	0'-6': <u>Sandy Clay</u> : dark brown w/ white specks; very stiff; dry.				CL	6		MC	<u>Lab. Sample #1:</u> Moisture%=9.3% Dry Density= 100.1 pcf LL=45, PL=28, PI=17
						20			
						26	1		
						25			
						11	2	2.5" ID	
						12			
						14			
						15			
						12	3	2.5" ID	
						14			
15									
22									
6-9.5'	6'-9.5': <u>Clayey Sand</u> : olive brown; medium dense; moist.				SC	9	4	SPT	
						8			
						11			
						12			
						11	5	SPT	
						10			
11									
10	Bottom of Hole @ 9.5' No groundwater encountered.								
15									
20									

# UNIFIED SOIL CLASSIFICATION (ASTM D-2487-85)

MATERIAL TYPES	CRITERIA FOR ASSIGNING SOIL GROUP NAMES			GROUP SYMBOL	SOIL GROUP NAMES & LEGEND	
COARSE-GRAINED SOILS > 50% RETAINED ON NO. 4 SIEVE	GRAVELS  > 50% OF COARSE FRACTION RETAINED ON NO. 4 SIEVE	CLEAN GRAVELS < 5% FINES	Cu > 4 AND 1 < Cc < 3	GW	WELL-GRADED GRAVEL	
			Cu < 4 AND/OR 1 > Cc > 3	GP	POORLY-GRADED GRAVEL	
		GRAVELS WITH FINES > 12% FINES	FINES CLASSIFY AS ML OR CL	GM	SILTY GRAVEL	
			FINES CLASSIFY AS CL OR CH	GC	CLAYEY GRAVEL	
	SANDS  > 50% OF COARSE FRACTION RETAINED ON NO. 4 SIEVE	CLEAN SANDS < 5% FINES	Cu > 6 AND 1 < Cc < 3	SW	WELL-GRADED SAND	
			Cu < 6 AND/OR 1 > Cc > 3	SP	POORLY-GRADED SAND	
		SANDS WITH FINES > 12% FINES	FINES CLASSIFY AS ML OR CL	SM	SILTY SAND	
			FINES CLASSIFY AS CL OR CH	SC	CLAYEY SAND	
FINE-GRAINED SOILS > 50% PASSING NO. 200 SIEVE	SILTS AND CLAYS  LIQUID LIMIT < 50	INORGANIC	PI > 7 AND PLOTS > "A" LINE	CL	LOW-PLASTICITY CLAY	
			PI > 4 AND PLOTS < "A" LINE	ML	LOW-PLASTICITY SILT	
	SILTS AND CLAYS  LIQUID LIMIT > 50	ORGANIC	LL (oven dried)/LL (not dried)<0.75	OL	ORGANIC CLAY OR SILT	
		INORGANIC	PI PLOTS > "A" LINE	CH	HIGH-PLASTICITY CLAY	
			PI PLOTS < "A" LINE	MH	HIGH-PLASTICITY SILT	
			ORGANIC	LL (oven dried)/LL (not dried)<0.75	OH	ORGANIC CLAY OR SILT
HIGHLY ORGANIC SOILS		PRIMARILY ORGANIC MATTER, DARK COLOR, ORGANIC ODOR		PT	PEAT	

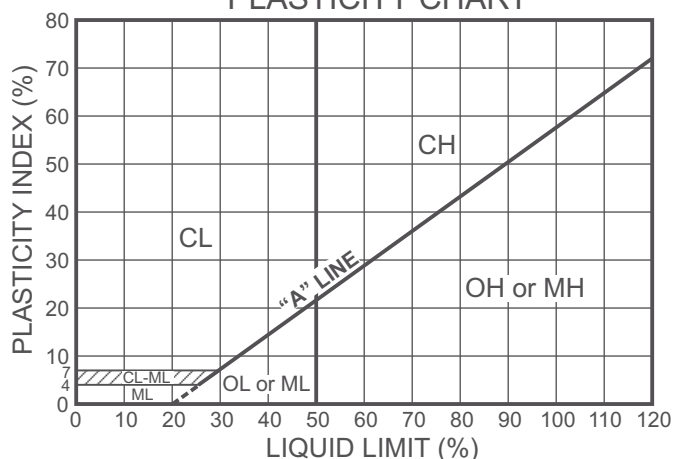
## SAMPLE TYPES

- B BULK SAMPLE
- ST PUSHED SHELBY TUBE
- SPT STANDARD PENETRATION
- MC MODIFIED CALIFORNIA
- P PITCHER SAMPLE
- C ROCK CORE

## ADDITIONAL TESTS

- CA - CHEMICAL ANALYSIS
- CN - CONSOLIDATION
- CP - COMPACTION
- DS - DIRECT SHEAR
- PM - PERMEABILITY
- PP - POCKET PENETROMETER
- Cor. - CORROSIVITY
- SA - GRAIN SIZE ANALYSIS
- (20%) - (PERCENT PASSING #200 SIEVE)
- SW - SWELL TEST
- TC - CYCLIC TRIAXIAL
- TU - CONSOLIDATED UNDRAINED TRIAXIAL
- TV - TORVANE SHEAR
- UC - UNCONFINED COMPRESSION
- WA - WASH ANALYSIS
- WATER LEVEL AT TIME OF DRILLING AND DATE MEASURED
- LATER WATER LEVEL AND DATE MEASURED

## PLASTICITY CHART



## LEGEND TO SOIL DESCRIPTIONS



FIGURE A-1



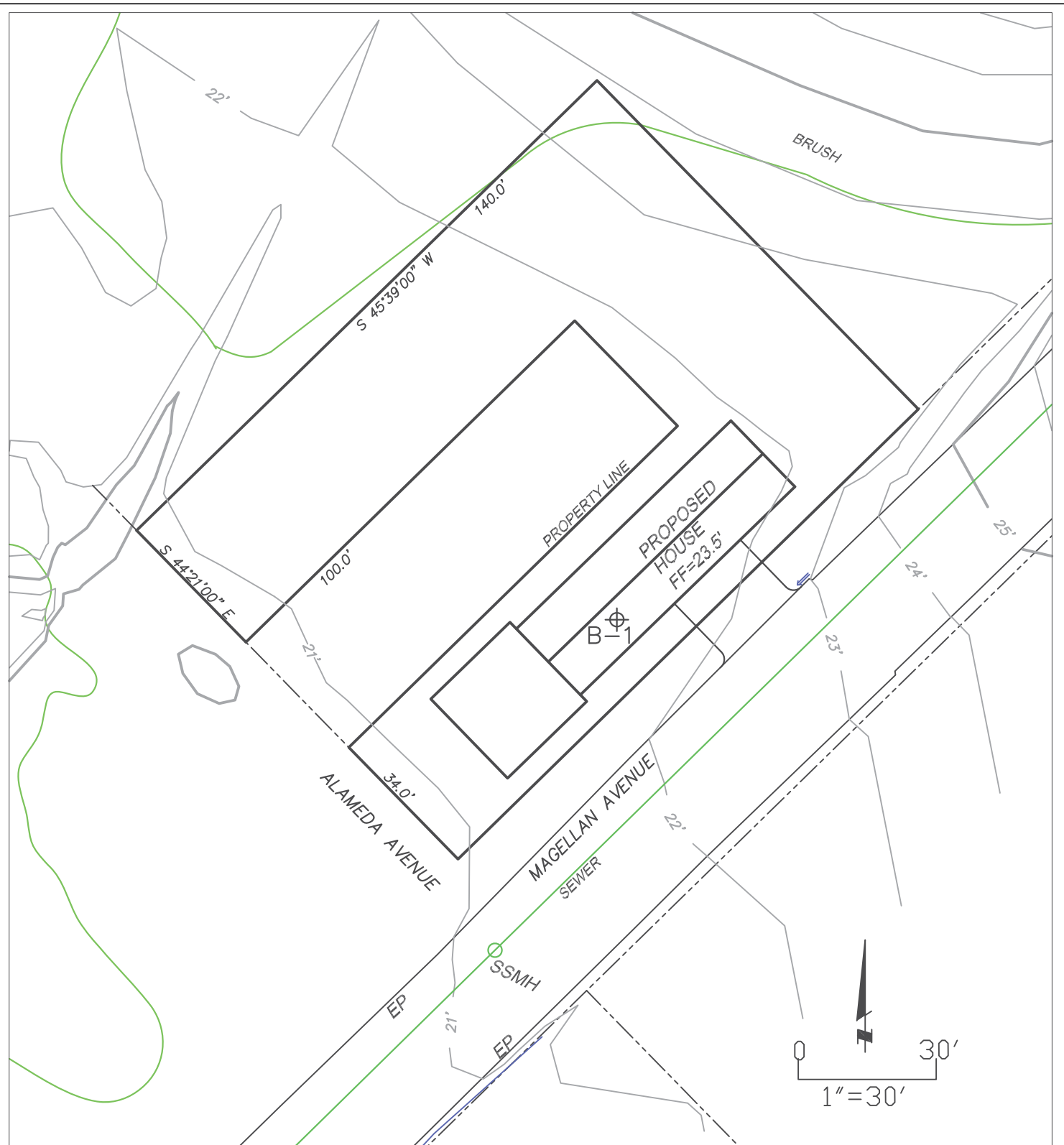
## **APPENDIX B**

### **LABORATORY TESTS**


Samples from the subsurface study were selected for tests to establish some of the physical and engineering properties of the soils. The tests performed are briefly described below.

The natural moisture content and dry density were determined in accordance with ASTM D 2216 on selected samples recovered from the borings. This test determines the moisture content and density, representative of field conditions, at the time the samples were collected. The results are presented on the boring logs, at the appropriate sample depth.

The plasticity of selected clayey soil samples was determined on one soil sample in accordance with ASTM D 422. These results are presented on the boring logs, at the appropriate sample depth.



## Explanation

	B-1 Soil Boring Drilled 10-7-14
---	------------------------------------



Sigma Prime Geosciences, Inc.

Figure	2
Date:	10/24/14
Job No.:	08-155

**Site Map**  
Hodge Property, 97 Alameda Ave., Miramar



**From:** Peter Prows <pprows@briscoelaw.net>  
**Sent:** Thursday, May 30, 2024 8:55 AM  
**To:** Tillema, Logan@Coastal  
**Cc:** tjsullivan@smcgov.org; achavez@smcgov.org; Cooper, Isobel@Coastal; Ringuette, Oceane@Coastal; Rexing, Stephanie@Coastal; cleung@smcgov.org; Assemblymember.JoePatterson@assembly.ca.gov; Assemblymember.Alvarez@assembly.ca.gov; David Hodge; Hijin Hodge  
**Subject:** Re: Letter from the California Coastal Commission

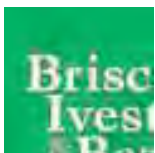
Mr. Tillema:

The US Supreme Court's unanimous decision this morning in *NRA v Vullo* (attached) serves as a useful reminder of the seriousness of direct or indirect threats by enforcement agencies, such as the Coastal Commission, that are reasonably construed by the recipient as threats against First Amendment conduct of the sort Mr. Hodge has engaged in. Mr. Hodge's protected conduct of pursuing permit applications from the County, and of making a film about the obstacles that agencies like the Coastal Commission put in the way of building needed housing in the Coastal Zone, is being met by Coastal Commission staff now by new threats that maybe-somehow the house the Hodges built a decade ago with a CDP is really unpermitted, and that long-ago-resolved allegations of even-more-ancient alleged violations are really still hanging out there as an indefinite cloud on title and on communications with Commissioners. No reasonable person would see that as anything but a threat.

We've proposed reasonable and constructive paths forward together in our letter and hope the Commission takes this opportunity to do the right thing.



22-842\_6kg7  
PDF Document · 189 KB



**PETER PROWS**  
235 Montgomery Street, Suite 935  
San Francisco, California 94104  
Direct: (415) 402-2708 Cell: (415) 994-8991

On May 23, 2024, at 17:43, Peter Prows <pprows@briscoelaw.net> wrote:

Mr. Tillema:

Please see the attached letter responding to Coastal Commission staff's opposition to the Hodge family's effort to build an attached ADU in the San Mateo County Coastal Zone.

---

**From:** Tillema, Logan@Coastal <logan.tillema@coastal.ca.gov>  
**Date:** Thursday, May 16, 2024 at 12:49  
**To:** Peter Prows <pprows@briscoelaw.net>  
**Cc:** tjsullivan@smcgov.org <tjsullivan@smcgov.org>, achavez@smcgov.org <achavez@smcgov.org>, Cooper, Isobel@Coastal <isobel.cooper@coastal.ca.gov>, Ringuette, Oceane@Coastal <oceane.ringuette@coastal.ca.gov>, Rexing, Stephanie@Coastal <Stephanie.Rexing@coastal.ca.gov>  
**Subject:** Letter from the California Coastal Commission

Mr. Prows,

Please find the attached letter from the California Coastal Commission regarding 201 Magellan.

Sincerely,

Logan Tillema  
Attorney, Legal Division  
California Coastal Commission  
<May 2024 ltr to Coastal Commission re Hodge ADU.pdf>

From: Peter Prows <pprows@briscoelaw.net>

Sent: Friday, June 7, 2024 11:20 AM

To: Bochco, Dayna@Coastal <dayna.bochco@coastal.ca.gov>; Turnbull-Sanders, Effie@Coastal <effie.turnbull-sanders@coastal.ca.gov>; Hart, Caryl@Coastal <caryl.hart@coastal.ca.gov>; Lowenberg, Susan@Coastal <Susan.Lowenberg@coastal.ca.gov>; Notthoff, Ann@Coastal <ann.notthoff@coastal.ca.gov>; Escalante, Linda@Coastal <linda.escalante@coastal.ca.gov>; Wilson, Mike@Coastal <mike.wilson@coastal.ca.gov>; Rice, Katie@Coastal <katie.rice@coastal.ca.gov>; Aguirre, Paloma@Coastal <paloma.aguirre@coastal.ca.gov>; Harmon, Meagan@Coastal <meagan.harmon@coastal.ca.gov>; Uranga, Roberto@Coastal <roberto.uranga@coastal.ca.gov>; Cummings, Justin@Coastal <justin.cummings@coastal.ca.gov>

Cc: Huckelbridge, Kate@Coastal <Kate.Huckelbridge@coastal.ca.gov>; David Hodge <david@hodgearts.com>; Hi-Jin Hodge <hijin@hodgearts.com>; Tillema, Logan@Coastal <logan.tillema@coastal.ca.gov>

Subject: Hodge: Thursday, 12.a (A-2-SMC-11-041-A1-EDD)

Dear Coastal Commissioners:

I represent the Hodge family, which applied to build a small ADU on their lot in San Mateo County for Mr. Hodge's 99-year-old mother. This matter will be coming to a hearing before you next Thursday. The Hodges are documentary filmmakers, and they are making a film ("*The Impossible House*") that explains the regulatory struggle they and others in the Coastal Zone face when trying to build the housing that State law requires be built.

Director Huckelbridge has applied the incorrect legal standard to refuse to even consider the application. Director Huckelbridge has not responded to requests going back more than a year to meet.

Staff's main justification for why this application should not even be considered is that it will "lessen" wetland protections on the property. But San Mateo County long ago filled the wetlands on the property with a CDP from 2005. Staff continue to overlook that the wetlands on this property were legally filled long ago, and to characterize the current application as seeking to build atop illegal wetland fill.

The facts matter. This hearing presents an opportunity for you to do the right thing and allow a very modest ADU project to proceed to build new housing in a County that desperately needs it.

Staff also make various vague and unsubstantiated assertions that there are violations on the property, but we met with enforcement staff last summer to explain that there are no violations and we have not heard back from them in the 9 months since. It is past time for staff to drop such allegations.

Staff also misread the unambiguous provisions of a deed restriction they previously approved.

I sent a letter to Coastal Commissions staff on these issues, which they have not responded to or provided you. My letter is attached.

I am currently planning to attend the meeting in person and would be happy to meet and discuss this matter with any of you beforehand.

Sincerely,

Peter Prows  
Counsel for Hodge family



**PETER PROWS**

235 Montgomery Street, Suite 935

San Francisco, California 94104

Direct: (415) 402-2708 Cell: (415) 994-8991

## Cooper, Isobel@Coastal

---

**From:** Peter Prows <pprows@briscoelaw.net>  
**Sent:** Tuesday, June 11, 2024 1:50 PM  
**To:** Bochco, Dayna@Coastal; Turnbull-Sanders, Effie@Coastal; Hart, Caryl@Coastal; Lowenberg, Susan@Coastal; Notthoff, Ann@Coastal; Escalante, Linda@Coastal; Wilson, Mike@Coastal; Rice, Katie@Coastal; Aguirre, Paloma@Coastal; Harmon, Meagan@Coastal; Uranga, Roberto@Coastal; Cummings, Justin@Coastal  
**Cc:** Huckelbridge, Kate@Coastal; David Hodge; Hi-Jin Hodge; Tillema, Logan@Coastal; Cooper, Isobel@Coastal; Rexing, Stephanie@Coastal  
**Subject:** Re: Hodge: Thursday, 12.a (A-2-SMC-11-041-A1-EDD)  
**Attachments:** Letter\_toCCC\_History\_061324.pdf; 2010 County bathroom permit--no wetland left.pdf; 2005 trail CDP--wetland to be eliminated.pdf; May 2024 ltr to Coastal Commission re Hodge ADU.pdf

Dear Coastal Commissioners:

The staff report in this matter contains a number of unsupported assertions about the history of the County's permitted fill of wetlands on the Hodge property in 2008. Staff suggest that the County's fill of this property, pursuant to the CDP the County gave itself years before the Hodges purchased it, was the Hodges' idea and that the County had no idea what was going on. This version of history cannot be squared with the documentary evidence from the time: The County's permit plans from 2005 unambiguously depict that the County's public trail project would remove the wetland at issue, and the County's subsequent CDP to itself for the public restroom in the same area as that wetland shows no wetland remaining. Excerpts from the actual project plans from the County's 2005 CDP (showing the wetland proposed for elimination) and 2010 CDP (showing a bathroom being built atop a now non-wetland area) are attached.

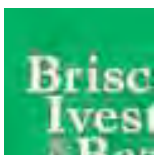
The County fully understood that filling this wetland was part of the permit it gave itself. Staff have presented no evidence otherwise.

A letter from my client (attached) explains the actual history of this fill, and what the Hodges and County knew and when they knew it.

My client's letter also notes a significant part of this ADU project that staff haven't told you about: the Hodges have proposed creating new wetlands on their property. This is not a "weakening amendment"; in fact, the Hodges' proposal will improve the environment and create new wetlands where the County long ago had filled them. I plan to address this omission on Thursday.

I look forward to Thursday's hearing.

Thank you.



**PETER PROWS**  
235 Montgomery Street, Suite 935  
San Francisco, California 94104  
Direct: (415) 402-2708 Cell: (415) 994-8991

On Jun 7, 2024, at 11:20, Peter Prows <pprows@briscoelaw.net> wrote:

Dear Coastal Commissioners:

I represent the Hodge family, which applied to build a small ADU on their lot in San Mateo County for Mr. Hodge's 99-year-old mother. This matter will be coming to a hearing before you next Thursday. The Hodges are documentary filmmakers, and they are making a film (*"The Impossible House"*) that explains the regulatory struggle they and others in the Coastal Zone face when trying to build the housing that State law requires be built.

Director Huckelbridge has applied the incorrect legal standard to refuse to even consider the application. Director Huckelbridge has not responded to requests going back more than a year to meet.

Staff's main justification for why this application should not even be considered is that it will "lessen" wetland protections on the property. But San Mateo County long ago filled the wetlands on the property with a CDP from 2005. Staff continue to overlook that the wetlands on this property were legally filled long ago, and to characterize the current application as seeking to build atop illegal wetland fill.

The facts matter. This hearing presents an opportunity for you to do the right thing and allow a very modest ADU project to proceed to build new housing in a County that desperately needs it.

Staff also make various vague and unsubstantiated assertions that there are violations on the property, but we met with enforcement staff last summer to explain that there are no violations and we have not heard back from them in the 9 months since. It is past time for staff to drop such allegations.

Staff also misread the unambiguous provisions of a deed restriction they previously approved.

I sent a letter to Coastal Commissions staff on these issues, which they have not responded to or provided you. My letter is attached.

I am currently planning to attend the meeting in person and would be happy to meet and discuss this matter with any of you beforehand.

Sincerely,

Peter Prows  
Counsel for Hodge family

June 13, 2024

## **The Purchase and Development of 201 Magellan Avenue (Formerly 97 Alameda Avenue)**

On May 1, 2008, we made an initial offer on the property at 201 Magellan Avenue. The seller soon accepted our offer, and we had a short contingency period in the agreement to conduct our due diligence. On May 13, 2008, we met with David Holbrook from the San Mateo County Planning Department to inquire about any potential issues with building on this parcel. Here is his email summary following our meeting:

*"The good news is that LCP Policy 7.18 expressly allows the mandated 100' buffer to be reduced to 50' when no reasonable alternative exists. In that context, your project appears to have exhausted all other reasonable options. The project's setback from the creek is OK. One of the two required side yard setbacks (along Magellan; you're proposing 5' where 10' would be the minimum required) would likely qualify for a variance, so I don't see a critical issue there. So, barring anything I'm not seeing or missing here, this proposal appears feasible to submit as part of the required CDP/Variance application."*

Following this confirmation, we removed our contingency and closed escrow on the property on July 7, 2008. At the time, the seller was asking for a higher price but needed a quick sale due to an estate liquidation. We did not have a lot of money but offered a lower price, which the seller accepted, allowing us time to gather resources for building a home and navigating the permitting process, including obtaining necessary variances.

After purchasing the lot in mid-July 2008, we were busy with personal commitments, including my oldest daughter's wedding in Atlanta in August and preparations for an artistic exhibition of our work in Tokyo opening in October. Although we were developing concepts for the house, we had not finalized anything. We anticipated needing 5-foot side yard setbacks and a 20-foot front yard setback, and we were working on designs that would fit within this basic footprint.

On August 21, 2008, we complied with the fire marshal's request to cut the grass on our lot. (This request was confirmed by the Coastal Commission.) In early September 2008, we noticed dirt and large earth-moving equipment on our lot, related to the Coastal Trail extension and a planned bridge spanning the drainage ditch. A large sign was posted on-site stating this was a publicly funded project by the "STATE OF CALIFORNIA" and "SAN MATEO COUNTY." The contractor assured us that the equipment would not cause any issues and would be removed once the project was complete. We allowed this, thinking we were being good neighbors and citizens—and that we might get in trouble from the State or County if we said no.

June 13, 2024

Signage, dirt and equipment on our property.



The County was fully aware of the staging and use of dirt for this project, as the County had an employee stationed on the project nearly every day and the County's plans for the project proposed filling the wetland there. If the County is now claiming that it was unaware of this fill, that is not consistent with what it knew and did in 2008.

At that time, we were unaware that in 2005 the county had obtained a Coastal Development Permit (CDP) to place dirt on our parcel. Please note this was three years before we owned the property. This CDP was never referenced during the multi-year permitting process for our house. We only learned about this permit through a Public Records Request in 2022, after we applied for a permit for an ADU. The bridge construction and dirt placement caused more problems than anticipated. Had we known the implications, we would have insisted that the county remove the dirt immediately.



June 13, 2024

In 2013, the county issued itself another CDP to build a public bathroom on the adjoining lot while at the same time our project was being scrutinized by the Coastal Commission for allegedly building on illegally filled soil. The Coastal Commission blamed us for destroying wetlands, which was actually caused by the county's actions. The county proceeded with the bathroom construction without mentioning the permit for the soil placement, indicating a double standard in regulatory enforcement.

Initially, we were unaware that a public toilet was planned for the adjoining lot. We had attempted to purchase the adjacent lot from two brothers who had inherited it from their grandfather. Although we eventually agreed on a price, the brothers decided at the last minute to donate the land to the Peninsula Open Space Trust (POST) in honor of their grandfather. Unbeknownst to them, POST later deeded the land to the county for a public bathroom. We only discovered this transaction around 2012 or 2013. To mitigate the impact, we screened the bathroom with plants, making it not visible from our home.

The permitting process for our main house was excessively long. It took 41 months with the county, 25 months with the Coastal Commission, an additional 29 months to sort out details, and 13 months for construction, totaling 108 months or nine years. We ended up with a deed restriction that now prevents us from building an ADU. Currently, we are in the third year of attempting to gain permission to build the ADU and have spent tens of thousands of dollars on various specialists and legal fees, with no progress.

We have identified mistakes made by both the county and the Coastal Commission during this process. We propose a win-win solution: allow us to build the ADU, and we will add a housing unit to the community and address issues caused by the bridge and toilet construction, including flooding, the spread of invasive plant species, due to the county's lack of maintenance, which goes against the requirement. We request that the county and the Coastal Commission approve our ADU project to resolve these ongoing issues and benefit all parties involved.

Thank you,

David and Hi-Jin Hodge



**Kidney-Shaped Wetland Present**

### Mirada Surf West Coastal Trail Extension

County of San Mateo, California

County of San Mateo Parks & Recreation District

#### Harris Design

Landscape Architecture  
Park & Recreation Planning  
Urban Design

2000 Avenue 100  
San Francisco, CA 94104  
Tel: 415.774.1000

Area	Size	Notes
Wetlands	1.00	
Other Waters	0.00	
Other	0.00	
<b>Total</b>	<b>1.00</b>	

Scale: 1" = 40'



Drawn by: J. Smith  
Checked by: J. Smith  
Date: 1/1/2000  
Scale: 1" = 40'  
Project Number: 3  
Sheet Number: 3 of 10

#### EXISTING CONDITIONS PLAN



**Kidney-Shaped Wetland Eliminated**

### Mirada Surf West Coastal Trail Extension

County of San Mateo, California

County of San Mateo Parks & Recreation District

#### Harris Design

Landscape Architecture  
Park & Recreation Planning  
Urban Design

2000 Avenue 100  
San Francisco, CA 94104  
Tel: 415.774.1000

Area	Size	Notes
Wetlands	0.00	
Other Waters	0.00	
Other	0.00	
<b>Total</b>	<b>0.00</b>	

Scale: 1" = 40'



Drawn by: J. Smith  
Checked by: J. Smith  
Date: 1/1/2000  
Scale: 1" = 40'  
Project Number: 3  
Sheet Number: 5 of 10

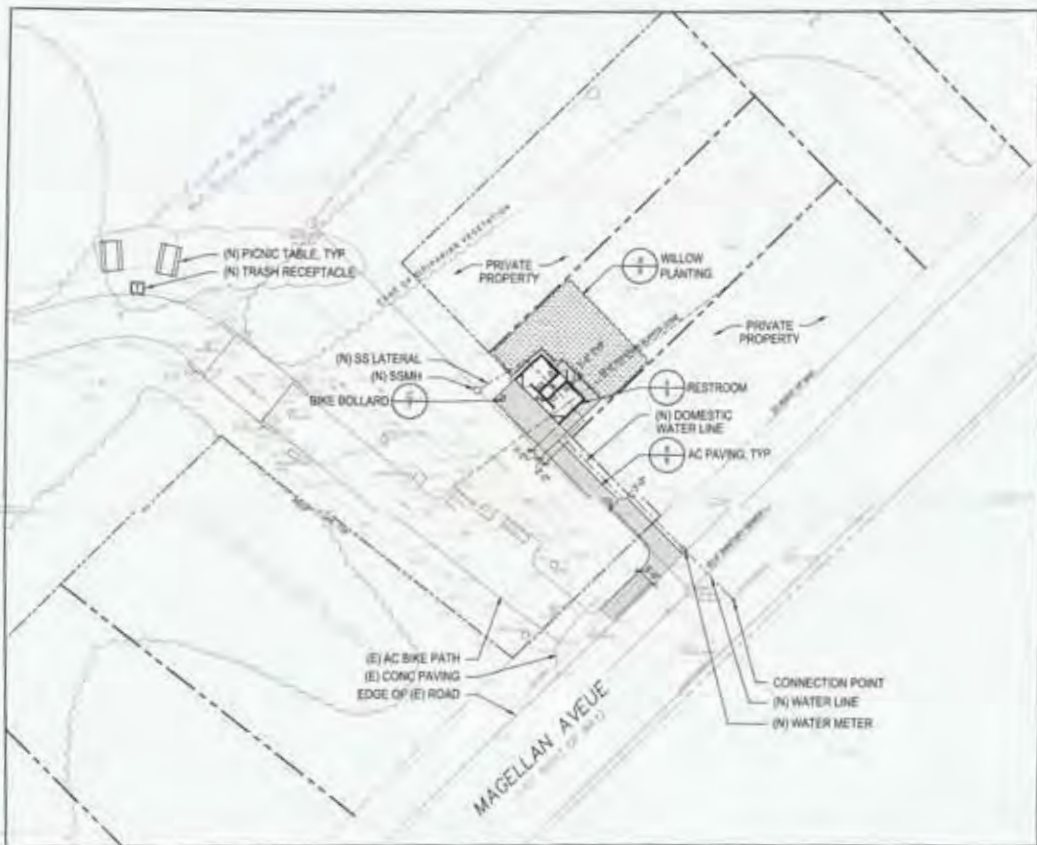
#### SITE CONSTRUCTION PLAN

#### LEGEND - REGULATORY AGENCY JURISDICTIONS

- WETLANDS  
U.S. ARMY CORPS OF ENGINEERS  
COUNTY L.C.P.  
STATE DEPARTMENT OF FISH & GAME
- OTHER WATERS  
U.S. ARMY CORPS OF ENGINEERS  
COUNTY L.C.P.  
STATE DEPARTMENT OF FISH & GAME
- LIMIT OF 100-YEAR FLOOD  
U.S. ARMY CORPS OF ENGINEERS

RECEIVED  
 APR 22 2011  
 SAN JOSE  
 PUBLIC WORKS

PLAN 2010-00356



1 SITE CONSTRUCTION PLAN

0 10 20 30 40 50 Scale: 1" = 20'