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CITY OF FORT BRAGG
COMMUNITY DEVELOPMENT DEPT

APPEAL OF PLANNING COMMISSION DECISION

APPELLANT(S): Edward Oberweiser

MAILING ADDRESS: 19244 Benson Lane

CITY: Fort Bragg STATE & ZIP CODE: CA 95437

TELEPHONE #: 964-7965 FAX #: —

Describe the action being appealed and state the reasons for the appeal.

(You may attach a letter or other exhibits to describe or justify this appeal.)

Describe the action being appealed

The approval on Jan. 28, 2015, of a Resolution by the Fort Bragg Planning Commission to adopt a Mitigated Negative Declaration to meet CEQA (California Environmental Quality Act) requirements on a project, identified as the "Hare Creek Center."

State the reasons for the Appeal

California Public Resource Code provides that, when faced with a discretionary project which is not exempt from (CEQA), a Lead Agency must prepare an initial study to determine whether the project may have a significant adverse effect on the environment. If such an effect may occur, the Lead Agency must prepare an Environmental Impact Report (EIR).

The City of Fort Bragg is the Lead Agency and its Planning Commission prepared an initial study, produced a Staff Report, and approved a Mitigated Negative Declaration (MND) at their Jan. 28 hearing for the Hare Creek Center project. The Mitigated Negative Declaration on the Hare Creek Center is inaccurate and erroneous, with mitigation measures that are infeasible and undesirable. Significant adverse effects on the environment are either not identified, or will not be mitigated by the actions recommended in the MND, and therefore an EIR is required.

- further documentation for this appeal is attached -

APPELLANT(S) SIGNATURE: Edward Oberweiser DATE: 2/9/15

Annemarie Weibel Annemarie Weibel DATE: 2/9/15

Bruce Broderick Bruce Broderick DATE: 2/9/15

David Gurney David Gurney DATE: 2/9/15

Daney Dawson Daney Dawson DATE: 2/9/15

_____ DATE: _____

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FINANCE DEPARTMENT

Notice of Public Hearing:
Mailed (_____) Date: _____
Published (_____) Date: _____
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CITY COUNCIL ACTION: DATE:

Approve: _____
Deny: _____
Table: _____ Until _____
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APPEAL OF PLANNING COMMISSION DECISION

Describe the action being appealed

The approval of a Resolution by the Fort Bragg Planning Commission to adopt a Mitigated Negative Declaration to meet CEQA (California Environmental Quality Act) requirements on a project, identified as the "Hare Creek Center."

State the reasons for the Appeal

California Public Resource Code provides that, when faced with a discretionary project which is not exempt from CEQA, a Lead Agency must prepare an initial study to determine whether the project may have a significant adverse effect on the environment. If such an effect may occur, the Lead Agency must prepare an Environmental Impact Report (EIR).

The City of Fort Bragg is the Lead Agency, and its Community Development Department prepared an initial study, and produced a Staff Report and Mitigated Negative Declaration (MND) for the Hare Creek Center project. At their Jan. 28th meeting, the Fort Bragg Planning Commission approved the MND for this project. The MND is inaccurate, erroneous and incomplete, with mitigation measures that are infeasible and undesirable. Significant adverse effects on the environment are either not identified, or will not be mitigated by the actions recommended in the MND, therefore an EIR is required.

According to the California Public Resource Code
21002.1. In order to achieve the objectives set forth in Section 21002, the Legislature hereby finds and declares that the following policy shall apply to the use of environmental impact reports prepared pursuant to this division:
(a) The purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided.
(b) Each public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so.

And,

Public Resource Code
21080
(d) If there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment, an environmental impact report shall be prepared.
(e) (1) For the purposes of this section and this division, substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.
(2) Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.
(f) As a result of the public review process for a mitigated negative declaration, including administrative decisions and public hearings, the lead agency may conclude that certain mitigation measures identified pursuant to paragraph (2) of subdivision (c) are infeasible or otherwise undesirable. In those circumstances, the lead agency, prior to approving the project, may delete those mitigation measures and substitute for them other mitigation measures that the lead agency finds, after holding a public hearing on the matter, are equivalent or more effective in mitigating significant effects on the environment to a less than significant level and that do not cause any

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potentially significant effect on the environment. If those new mitigation measures are made conditions of project approval or are otherwise made part of the project approval, the deletion of the former measures and the substitution of the new mitigation measures shall not constitute an action or circumstance requiring recirculation of the mitigated negative declaration.
(g) Nothing in this section shall preclude a project applicant or any other person from challenging, in an administrative or judicial proceeding, the legality of a condition of project approval imposed by the lead agency. If, however, any condition of project approval set aside by either
14an administrative body or court was necessary to avoid or lessen the likelihood of the occurrence of a significant effect on the environment, the lead agency"s approval of the negative declaration and project shall be invalid and a new environmental review process shall be conducted before the project can be approved, unless the lead agency substitutes a new condition that the lead agency finds, after holding a public hearing on the matter, is equivalent to, or more effective in, lessening or avoiding significant effects on the environment and that does not cause any potentially significant effect on the environment.

The California Environmental Quality Act (CEQA) applies to the proposed Hare Creek Center project, located in a Scenic View area within the Coastal Zone, regulated by the Coastal General Plan of the City of Fort Bragg. The City of Fort Bragg is the Lead Agency, designated to administer Public Resource policy for the State of California.

Statement of Fact:

Public opposition to the project, including over 78 letters and emails against, and 32 public comments opposed to the project, were presented before the City of Fort Bragg Planning Commission at their Jan 28th public hearing. Significant effects to the environment were identified by these letters and comments during the public review process. The hearing was attended by an overflow crowd of over 135 people, with many unable to find seating inside the building to properly take part in the public review process.

Significant effects to the environment were not considered or evaluated by the Planning Commission, either in their Staff Report, their Mitigated Negative Declaration (MND), nor in their response to written and verbal comments on the project. Many who provided letters, emails and comments asked the Commission to require an Environmental Impact Report (EIR). The Planning Commission approved the Hare Creek Mitigated Negative Declaration at their Jan. 28 meeting immediately after this public review, without adequate discussion or deliberation.

The Hare Creek Center project is in the Coastal Zone of the City of Fort Bragg, subject to provisions of the California Coastal Act, as administered under Fort Bragg's Coastal General Plan (CGP). Elements of the CGP relevant to the project include:

I. AESTHETICS

a.) Would the project have a substantial adverse effect on a scenic vista?

The Community Design (CD) element of Fort Bragg's Coastal General Plan states:

"The City's appearance is essential to the quality of life in Fort Bragg. Visual quality and amenities go hand-in-hand with long-term economic development strategies, and strengthen the stability and desirability of the community. To be attractive to residents, visitors, and businesses, the City must be concerned about its appearance, physical character, and livability. Existing residential real estate values and the desirability of businesses that depend on tourism are closely tied to the visual character of the community."

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The Hare Creek Center grossly violates important Community Design elements of Fort Bragg's Coastal General Plan (CGP), and the mitigations in the MND fail to correct these violations which are serious effects on the environment.

Policy CD-1.1: Visual Resources: Permitted development shall be designed and sited to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance scenic views in visually degraded areas.

Page 9 of the Planning Commission's Staff Report incorrectly states: "The proposed project will not interfere with views to or along the ocean from the public rights of way. The ocean is not visible across the proposed site from within City Limits."

Along an approximately 100-yard section of Highway 1, south of the Emerald Dolphin Mini Golf, passers-by have a clear view of the Pacific Ocean within the City Limits of Fort Bragg from a public right of way. The project would block this view of the ocean from within City Limits. The views of the ocean blocked by the project are in a specially designated area, "Scenic Views in the Coastal Zone" that contains "Potential Scenic Views Toward the Ocean," shown in blue on Map CD-1, page 5, of the Mitigated Negative Declaration.

The project would cause visual blight, as travelers approach Fort Bragg from the south on Highway 1. It would be visible from approximately one-half mile away. The line-of-sight view of the project from the highway, currently blocked by a bushy leaning tree on the west side of Highway 1 near the Hare Creek Bridge, would be the prominent feature on the horizon as travelers approach Fort Bragg from the Simpson Lane traffic circle, once this tree is gone.

b.) Would the project substantially degrade existing visual character or quality of the site and its surroundings?

The project would destroy a prominent landform, identified on topographical maps by the United Sates Geological Service (USGS) and in surveys by the California Department of Highways. The landform is identified in the Mitigated Negative Declaration as a "small knoll" with a 120 foot elevation. The knoll, or hill, rises approximately forty feet above the road surface of Highway 1 at the project location.

Long, sweeping, panoramic views from the top of the hill, with views to Shelter Cove and Cape Mendocino to the north to, Highway 20 to the east, and Hwy 1 and Hare Creek to the south, would be destroyed by the destruction and degradation of this hill.

The project is not "visually compatible with the character of surrounding areas." The site is characterized by beautiful areas of rolling meadows, with views of unspoiled and previously undeveloped open land.

The Mitigation Measures 1, 2, and 3 of the project's Mitigated Negative Declaration, that specify the type of trees to be planted, requires a five foot setback and five feet of vegetative area around "Building C," mandates climbing plants on buildings, and requires murals on rain water tanks, in total do nothing to address the significant impacts on the environment the project would impose.

Policy CD-1.3: Visual Analysis Required. A Visual Analysis shall be required for all development located in areas designated "Potential Scenic Views Toward the Ocean or the Noyo River" on Map CD-1

The project is directly within the area identified by Map CD-1 of the Coastal General Plan as "Scenic Views in the Coastal Zone", containing "Potential Scenic Views Toward the Ocean and Noyo." A visual

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analysis if in this zone is mandatory, and has not been done. The photographs of the project site, on Pages 6,7,8, and 9 of the MND, are lifted directly from the online source "Google Maps." The project is a signifiant impact on the environment that will require a valid visual analysis beyond Google Maps.

Policy CD-1.5: All new development shall be sited and designed to minimize alteration of natural landforms by:

1. **Conforming to the natural topography.**
2. **Preventing substantial grading or reconfiguration of the project site.**
3. **Minimizing flat building pads on slopes. Building pads on sloping sites shall utilize split level or stepped-pad designs.**
4. **Requiring that man-made contours mimic the natural contours.**
5. **Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.**
6. **Minimizing grading permitted outside of the building footprint.**
7. **Clustering structures to minimize site disturbance and to minimize development area.**
8. **Minimizing height and length of cut and fill slopes.**
9. **Minimizing the height and length of retaining walls.**

The project would involve the extensive grading, and the degradation and possible removal of a significant topographical, geographic, scenic, cultural, archeological, and recreational feature of the natural landscape, a significant adverse effect on the environment. Specified on Page 3 of the MND as a "small knoll" that rises to "120 feet above sea level," this hill, hereafter referred to as "Hare Creek Hill," is directly to the west of, and adjacent to the proposed project. The project would require substantial grading and reconfiguration of the area, the exact details of which are not properly specified in the MND.

The grading of this natural landmark and geographic feature into 20,229 cubic yards "fill" is a significant adverse effect on the environment, conflicting with elements 1-9 of Coastal General Plan CD-1.5. This significant effect on the environment is proposed within a specially protected "Scenic View Area" of Coastal Zone, and will require an EIR.

The project is also a significant effect on the environment in violation of Coastal General Plan elements CD-1.10; CD-2.1; CD-2.2; CD-2.5; CD-2.5.1; and CD-2.8, which are further subjects of this appeal.

GRADING FOR "HARE CREEK DRIVE"

The project's Grading Plan includes a proposed paved street, "Hare Creek Drive," behind and to the west of the Hare Creek Center project, to connect Harbor Avenue with Bay View Avenue, that would bisect or completely remove Hare Creek Hill. The MND does not properly address planning for this street, nor does it specify the cut bank and fill that would be left, or if the hill is to be completely removed. This is a major negative alteration of the natural topography of the area. The incomplete disclosure by planners for this projected street is a significant oversight by the Planning Department, that is overlooked in both the Staff Report and the Mitigated Negative Declaration for the project. Since the area is located in the Coastal Zone, the proposed street, along with the stated intent to remove 20,229 cu. yards of fill, is a significant adverse effect on the environment, regulated by elements of the Coastal General Plan for projects as defined by the California Coastal Act. The plan for this street needs to be fully addressed by an EIR before this project can continue.

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c.) Would the project create a new source of substantial light or glare which would adversely affecter day or nighttime views of the area?

According to the City's Mitigated Negative Declaration (pages 11 and 12), there will be 107 outdoor lights around the project. The assumption by the MND that there will be no significant light leaving the property boundaries is questionable, especially if these outdoor lights are on from dawn to dusk as most outdoor lighting is. Since we don't know what other businesses will be situated in the Hare Creek Mall, estimating the possible light pollution with any accuracy is nothing but speculation.

All creatures have a biological clock that determines when they rest, hunt, migrate and mate. Bright lights create confusion in many species by disrupting this internal biological clock. Insects, reptiles, mammals, birds and amphibians can be negatively impacted in many ways.

There is a herd of deer that moves around this wildlife corridor that will definitely be affected by the lighting from 107 outdoor lights. The wild turkeys that move around the area at Todd Point will also be adversely affected by 107 outdoor lights. Nocturnal animals that could be affected include skunks and raccoons.

American robins exposed to high levels of artificial light will initiate their morning songs significantly earlier (in relation to the onset of dawn) than those exposed to less light, sometimes up to 100 minutes earlier (Miller 2006). Prolonged singing could result in higher energy demands, greater predation risk, or earlier yearly feeding times. Threatened and vulnerable species especially may not be able to cope with these changes.

While deer, wild turkeys and the White Tailed Kite are not special status wildlife, they are part of the attraction of this area for hikers along with observing the migration of the Gray Whales from Todd Point. These animals' movements will be curtailed by the lights leaving the project property at night.
The MND's assumption that there will be no significant lighting leaving the project boundaries is an unwarranted assumption. Some light from these 107 outdoor lights will reflect off the buildings, parking lot and any parked vehicles in the parking lot while the businesses are open. A question to be asked is: will the light leaving the project interfere with the ability of nearby residents to observe the night sky. Fort Bragg is famous for the incredible views of the stars and planets at night visitors can experience. This project will diminish these views for both visitors and residents.

III. AIR QUALITY

c) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

Based on the incomplete MND, air quality effects cannot be completely addressed without a complete EIR.

IV. BIOLOGICAL RESOURCES

The project would have significant adverse effects on the environment that impact (a.) (b.) (c.) of the MND.

Wildlife Corridor

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Paving and development of a proposed street, "Hare Creek Drive," between Harbor Avenue and Bay View Avenue, would cut off a wildlife corridor between the Hare Creek watershed, and the Todd Point Headlands. The proposed street is nearly adjacent to Open Space and Environmentally Sensitive Habitat Areas, and the Coastal Trail, identified on Map OS-1 of the Coastal General Plan.

The Conservation and Open Space Elements of the General Plan provide:

Goal OS-1 Preserve and Enhance the City's Environmentally Sensitive Habitat Areas

Policy OS-1.1: Definition of ESHA. "Environmentally sensitive habitat area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Protection of environmentally sensitive habitat areas is one of the essential aspects of the Coastal Act. Fort Bragg has several environmentally sensitive habitat areas including, but not limited to, portions of coastal bluffs, biologically rich tide pools, nesting grounds, kelp beds, wetlands, riparian habitats, and rare, threatened, or endangered plants or plant communities.Areas that may contain environmentally sensitive habitat areas include, but are not limited to, areas indicated by Map 0S-1: Open Space and Environmentally Sensitive Habitat Areas.

Policy OS-1.7 Development in areas adjacent to Environmentally Sensitive Habitat Areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

A list of animals seen on the Todd Point headlands includes:

- great blue herons
- rafters of wild turkeys and chicks
- gaggles of geese
- herds of deer
- skunks, opossums, and raccoons
- frogs and salamanders
- garter snakes and lizards
- gophers and mice
- ospreys
- owls
- red tailed hawks
- turkey vultures
- woodpeckers
- flocks of robins and meadowlarks
- flickers
- chickadees, stellar's jays, hummingbirds, swallows, finches, wrens and all kinds of songbirds
- gulls, ravens
- peregrine falcons
- white-tailed kites
- egrets
- hares

The project is nearly adjacent to environmentally sensitive habitat areas, and severing the Hare Creek wildlife corridor by a developed street "Hare Creek Drive," is a significant effect on the environment, and needs to be addressed in an EIR. Animals listed above, as well as an established populations of deer and wild turkey that have become a common sight for tourists and locals, would be gone from Todd Point by significant degradation of habitat.

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V. CULTURAL RESOURCES

a. Would the project cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?

There is a possibility buried historical resources exist at the site. Per Title 14, Chapter 3, Article 5, Section 15064.5 of CEQA, the MND does not address the need for an on-site archeologist that is required during excavation of the entire site.

b. Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?

Refer to item (a.) A complete archeological study needs to be done in an EIR.

c. Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

The project would destroy a prominent landform, identified on topographical maps by the United Sates Geological Service (USGS) and in surveys by the California Department of Highways. The landform is identified in the Mitigated Negative Declaration as a "small knoll" with a 120 foot elevation. The knoll, or hill, rises approximately forty feet above the road surface of Highway 1 at the project location.

d. Would the project disturb any human remains, including those interred outside of formal cemeteries?

It is possible that the "mounds" to be graded could be midden sites. Removing 20,000 cu yds. of soil for the Hare Creek Center project itself is an extensive ground disturbance. Removing many more yards of material to place a street complete with curved gutters, and sidewalks must be monitored not only by a Native American monitor, but needs the presence of an archeologist whenever any ground disturbing activities are happening. (refer to item (a.))

VI. GEOLOGY AND SOILS

A full geotech report is essential because the soil geology in the project area is unknown. Earth moving for both the project itself and the street behind it, to leave an alleged 20,000+ cu. yards. of material (not including grading for the street) is a significant adverse effect on the environment within the Coastal Zone, that will require a full EIR.

(Please see "Grading for Hare Creek Drive" under **I. AESTHETICS**)

VII. GREENHOUSE GAS EMISSIONS

a) Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

b) Would the project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

The MND declares that: "This project could have a significant effect on the environment". The LCP states that "potential" impacts are significant. The Fort Bragg City Climate Action Plan requires a 7%

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reduction in GHG emissions by 2020. This project will increase emissions by 2.5%, and therefore is in violation of the Climate Action Plan adopted by the City.

Mitigation Measure 17 (building of sidewalks), and the promise to build bicycle racks to encourage alternate forms of transportation are irrelevant because the proposed project is not near any significant residential areas, and is in fact surrounded by busy 4 lane traffic which does not encourage walking or bicycling. As the center would be serving the greater Fort Bragg area, it would necessarily generate vehicular traffic, over 3000 visits per day.

IX. HYDROLOGY AND WATER QUALITY

a) Would the project violate any water quality standards or waste discharge requirements?

Although The MND addresses the permit requirement from National Pollution Discharge Elimination System (NPDES) with regards to potential pollution to Hare Creek and the Pacific Ocean. It does not address the potential pollution of the groundwater sources to the Todd Point residential area to the immediate west of the proposed development that is entirely served by both shallow and deep wells. Even minimal pollution of the groundwater to this area would be catastrophic to the entire neighborhood as this is an unincorporated area that is not served by the City of Fort Bragg Water District. The Todd Point community has no alternative water source. This could lead to lowered property values and litigation due to contaminated water sources.

b) Would the project substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby well(s) would drop to a level which would not support existing land uses or planned uses for permits have been granted)?

The MND does not take into consideration the many shallow wells in use on Todd Point. These shallow (riparian) wells have not been considered in the MND nor were they considered in the study used from 1995. This type of well called a hand dug well, or bored well were popular around Fort Bragg and the entire Mendocino Coast until the 1970's. Although shallow wells are not permitted in current regulations, these grandfathered shallow wells are still recognized by the building authority as a suitable water source for existing residences and businesses that are outside the city limits of Fort Bragg. They vary in depth from 15' to 35' depending on the groundwater source.
Pollution of these shallow wells with even the smallest amounts of hydrocarbons and other pollutants from the proposed Hare Creek Center development would be devastating for the property owners and the environment. It would also inevitably lead to legal issues between the City of Fort Bragg, the developers, and the affected property owners that live outside the city limits on Todd Point.

Furthermore, the water report used in this MND is from 1995 (twenty years old) and is not reflective of current conditions with regards to water tables and soil conditions.

c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off site?

The MND does not address this question at all and suggests that there is "a less than significant impact". The city also does not address the adjacent street that is to be created behind the proposed shopping center that would have to be designed to come dangerously close to Hare Creek itself. The excavation, compaction, asphalting and subsequent runoff from the proposed street that will connect Ocean View Drive with Bay View Ave. by removing the remainder of Hare Creek Hill to the same

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elevation as proposed Hare Creek Center is significant. If the excavation and street construction that would connect the south side of Todd Point to Ocean View Ave. were taken into the equation the evaluation would have to change from "Less than Significant" to "Potentially Significant". This does not include the new traffic added to Bay View Drive from the street connection that will create more hydrocarbon runoff from Bay View Drive from visitor activity in vehicles directly above Hare Creek Beach.

d) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off site?

The MND does not address this question at all and suggests that there is "a less than significant impact". The city also does not address the adjacent street that is to be created behind the proposed shopping center that will be designed to come dangerously close to Hare Creek itself. The excavation, compacting, asphalting and subsequent runoff from the proposed street that will connect Ocean View Drive with Bay View Ave. by excavating the remainder of Hare Creek Hill to the same elevation as proposed Hare Creek Center is significant. If the excavation and street construction that would connect the south side of Todd Point to Ocean View Ave. were taken into the equation the evaluation would have to change from "Less than Significant" to "Potentially Significant".

Furthermore, street construction standards require that the street have curb, gutter and sidewalks along both sides of the street. The curb, gutter and sidewalk(s) would create a new water flow that has the potential of flooding into the Todd point residential area as well as creating a toxic runoff into Hare Creek itself.

e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?

The MND does not address this question at all and suggests that there is "a less than significant impact". The city also does not address the adjacent street that is to be created behind the proposed shopping center that will be designed to come dangerously close to Hare Creek itself. The street construction has the potential to create a polluted runoff into Hare Creek.

f) Would the project otherwise substantially degrade water quality?

The MND addresses this question and incorrectly classifies it as "No impact". While it is true that there would be precautionary measures taken during the construction of the shopping center, the through traffic that would be created by means of a southern annex road to Todd Point residential area would have an adverse effect on the water quality in general and create polluted runoff to Hare Creek and Hare Creek Beach.

k) Would the project substantially alter the existing drainage pattern of the site or area, or add water features that could increase habitat for mosquitoes and other vectors as a potential for increased pesticide use.

The MND does not answer the effect of the new street, that would be adjacent to the parking lot of the shopping center. It would be impossible to determine whether or not there would be a water feature such as puddling or rain produced streaming until a complete engineering report of the street and its relationship to the parking lot is done and submitted.

X. LAND USE AND PLANNING

c) Would the project conflict with any applicable habitat conservation plan or natural

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community conservation plan?

The project would have a significant effect on the environmentally sensitive habitat areas nearby, as well as the Coastal Trail, all in the Fort Bragg Coastal Zone.

XII. NOISE

a.) Would the project result in exposure of persons to or generation of noise levels in exess of standards established in the local general plan or noise ordinance or of applicable standards of other agencies?

The Mendocino College is considered a sensitive noise receptor in the Coastal General Plan (Map N-1). Students there, at two nearby pre-schools and a charter school, as well as local residents would be adversely affected by trucks and deliveries at the project.

XIV. PUBLIC SERVICES

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

There will be an increase in fire danger due to the close proximity of alcohol and tobacco products sold at the mall encouraging people to buy these goods and use them while hanging out in the neighborhood. In addition the mall would attract the more people to the neighborhood. In summertime when the grass is dry the fire risk could be elevated. There would be a need for more help from the local fire department to help people who might not be careful while watching the ocean. Having the mall there will attract more people to the neighborhood.

Similarly there will be more police protection needed at a time when the police department is already understaffed. To have a property zoned for commercial purposes next to a highly sensitive environmental area, a college, a charter school, two preschools and a residential neighborhood, as well as a park with ocean views for tourists and locals - is not a good mix. There would be a need for increased police presence in the neighborhood, and at Pomo Headlands Park.

XV. RECREATION

a.) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

The project would have a significant effect on the environment by bringing more people to Pomo Park and to the now quiet neighborhood. There would be a need for increased police presence for the neighborhood, and Pomo Park.

The citizens of Fort Bragg have used this site for many years for logging shows, carnivals, circuses, the kite and animal festivals, frisbee golf, dogs walks, hiking, bird watching, fireworks viewing and other open space activities. The project would have a significant effect on the environment by depriving the public of these open space access activities..

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Mitigation 14, to provide lock-out technology on shopping carts, does nothing to address recreational concerns.

XVI. TRANSPORTATION/TRAFFIC

a) Would the project cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?

The study cited in the report was done prior to the opening of the Dollar Tree store in the Boatyard Center, which has significantly increased traffic in the area, so is outdated. An analysis of the existing new traffic conditions must be done. Moreover, the study uses data from August 2013, when the nearby college and other schools were not in session.

The report states that even with Mitigation Measure 15, "the impact of this project on already under-performing driveway/highway intersections may be problematic." It also states that the increase in traffic would exceed LOS standards at relevant intersections as established by the County Congestion Management Agency.

Increased congestion caused by the proposed mall will likely cause substantial traffic back-ups, up to and across the dangerously dilapidated and unsafe Hare Creek Bridge, which is two lanes, and constrains traffic in and out of Fort Bragg, creating a dangerous bottleneck in event of emergencies. The guardrails of Hare Creek Bridge, built in 1947, are crumbling and in a state of disrepair. The span is extremely unsafe for pedestrian and bicycle traffic, with 36-inch wide pedestrian sidewalks and 12-inch curbs. The California Coast is a famous tourist destination for long-distance bicycle tours. People from Europe and all over the world come here to ride the coast and Mendocino County's fabulous systems of haul roads and off road trails. These cyclists leave many tourist dollars in the Fort Bragg economy. If the Hare Creek Mall, as planned and presented at the Planning Commission Meeting and online were to be passed, the bottlenecked and dangerous Hare Creek Bridge situation will worsen and discourage many cycle tourists.

The developers have also minimized the effect of an access road connecting Ocean View to Bay View, which would significantly affect the noise and traffic levels in the residential areas of Todd Point, and remove the project from Coastal Commission purview.

XVII. UTILITIES AND SERVICE SYSTEMS

b) Would the project require or result in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

While some of the project plans with regards to water usage are moderately addressed in the MND, it is believed that they are incomplete. What is not addressed is; if the City of Fort Bragg has an adequate water supply at this time to expand in such a large way without any additions to infrastructure then why was there a recent increase of water/sewer rates for infrastructure? And, where is that infrastructure? Shouldn't it be in place prior to the addition of such a large burden on the system?

Furthermore, it has come to light that the current wastewater facility that is located in a coastal sensitive area is working with a skeleton staff. It is believed that the small staff is tasked with keeping the outdated and undersized waste treatment plant operational. And that currently they are burdened with frequent bacteria die off that helps to break down the sewage. This is most likely caused from a fairly new addition of large concentrations of commercial chemicals entering the waste stream into the plant.

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It is believed that this is why there is now an occasional strong odor from the waste treatment facility. Adding 1.8 million gallons annually to an already over burdened system may not be in the best interests of the community and could result in inadequate service to the entire town.

Furthermore, it is well known throughout the community that the existing sewer pipes in a large portion of the town are still old clay pipes and have considerable leakage. It is joked about that Fort Bragg's sewer system is like a giant septic system because a large portion of the effluent doesn't make it to the waste treatment plant. It leaches into the soil under the old pipes, making the streets of Fort Bragg a large leach field. (Comments by City workers in late 2011 while covering a new sewer tie in on East Laurel St.).

Furthermore, the City of Fort Bragg may be promising services based on an incomplete reservoir project that may or may not be built, depending on the amount of fly ash (dioxin) or other pollution at the current proposed reservoir site. This could lead to potential legal issues between the developer and The City of Fort Bragg.

Furthermore, an increase in the amount of sewage of this magnitude (1.8 million gallons annually) would require an increase in the need to pump the sewage to the plant which would require an increase in pumping capacity in the uphill lines to the waste treatment facility.

c) Would the project require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which would cause significant environmental effects?

Since the proposed street behind the proposed shopping center has not been addressed in the MND it is unknown as to whether or not there would need to be an expansion or construction of storm water drainage facilities. Since it is unknown this question may not be correctly addressed in the MND.

d) Would the project have sufficient water supplies available to serve the project from existing entitlements and resources or are new expanded entitlements needed?

The City of Fort Bragg is willing to come within 2.5% of minimum reserves of fresh water to service this shopping center. These calculations could be based on a false premise that is in conflict with California Department of Fish and Wildlife. Current conversations with that agency make it clear that Fort Bragg continues to bypass their guidelines to extract more water than is allowed to be taken in the fragile river ecosystems. This could be potentially harmful to the native species of fish as well as cause future legal problems with California Fish And Wildlife and the developers of the shopping center for failing to deliver on a large water promise when the community may be suffering from a water shortage.

e) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the providers existing commitments?

Listed as "Less than Significant Impact" in MND. Explained in the response to item b). Would elevate to "Potentially Significant Impact".

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

Mitigation measures 1-21, *prima facie,* are inadequate, marginally addressed, and insufficient to mitigate the many *serious adverse effects on the environment* addressed in this document and during public review.

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Based on the factual information outlined in this appeal, an Environmental Impact Report is mandatory for the Hare Creek Center project to meet CEQA guidelines.

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